

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Marlboro County

Honorable Steven H. John, Circuit Court Judge

THE STATE,

V.

PHILLIP ANTONIO STACKHOUSE

ORIGINAL
RECEIVED
JAN 31 2019
RESPONDENT,
SC Court of Appeals

APPELLANT

APPELLATE CASE NO 2017-002048

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF MARLBORO

IN THE COURT OF GENERAL SESSIONS
4th JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
PLAINTIFF)
)
V.)
)
PHILLIP A. STACKHOUSE)
DEFENDANT.)
_____)

ARREST WARRANT#: 2016A3410100082

MOTION FOR DISMISSAL ON VIOLATION
OF SPEEDY TRIAL RIGHTS BASIS

COMES NOW the Defendant, Phillip Antonio Stackhouse, respectfully motioning for the dismissal with prejudice of ARREST WARRANT# 2016A3410100082 for violation of the Defendant's SPEEDY TRIAL rights secured under the U.S. Constitution and S.C. Constitution. The Plaintiff State of South Carolina has deprived the Defendant of his SPEEDY TRIAL rights and this deprivation has resulted in irrevocable prejudice in the Defendant's ability to constitutionally investigate and develop a defense, to constitutionally confront the state's evidence, to constitutionally have assistance of effective counsel and to constitutionally be afforded due process to a fair trial and impartial jurors. The Defendant asserts that dismissal with prejudice is the appropriate remedy pursuant to Barker v. Wingo, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972).

The Defendant first asserted his SPEEDY TRIAL rights at the arraignment proceedings. The Defendant again asserted his SPEEDY TRIAL rights at the bond/bail proceedings. These assertions on behalf of Defendant were asserted as early as February 2016.

The Defendant has satisfied the following prima facie showing the four (4) factors courts are to consider under *Barker v. Wingo*:

- (1) There has been a length of more than eight (8) months of pretrial delay and pretrial incarceration on this arrest warrant, which meets the "oppressive" threshold of delay since the Defendant first made his demand for SPEEDY TRIAL rights pursuant to *Barker v. Wingo's* analysis.
- (2) The anxiety and concern of the Defendant in resolving this case at trial has been exacerbated in that he has written numerous request to the Plaintiff State of South Carolina to relinquish BRADY and RULE 5 material, police investigative evidence and SPEEDY TRIAL yet has not been answered at all from the Plaintiff State of South Carolina.
- (3) The Defendant's defense and confrontation rights have been impaired in that witnesses that were once available have now become unavailable, evidence once available have now become unavailable and records once available has now become unavailable.

The above factual occurrences have culminated in actual prejudice upon the Defendant, and dismissal with prejudice of the ARREST WARRANT#: 2016A3410100082 is warranted pursuant to Barker V. Wingo, the U.S. Constitution and the S.C. Constitution.

Respectfully Submitted,

Date: 10-10-16



PHILLIP ANTONIO STACKHOUSE

State of South Carolina.,) Court of General Sessions
) Of Bennettsville
)
) Case No. 2016-GS-36-00426
) 2016-GS-36-00427
 County of Marlboro.)

State of South Carolina.,)
)
 Plaintiff.,)
)
 -vs-) Transcript of Record
) Motion For Speedy Trial
 Phillip Antonio Stackhouse.,)
)
 Defendant.)

March 22, 2017
 Bennettsville, South Carolina

B E F O R E:

The Honorable Daniel D. Hall, Judge.

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

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 Elizabeth R. Munnerlyn, PA
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Wanda S. Nelson, CVR-M
 Circuit Court Reporter
 Sixteenth Judicial Circuit
 Union and York Counties
 To the Honorable Daniel D. Hall

I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

WITNESS

BY:

PAGE NO.

No witnesses were called.

Court Reporter Certificate Page P.12

I-N-D-E-XE-X-H-I-B-I-T-SNO.DESCRIPTIONIDEVD.

No Exhibits were received into the record.

1 (COURT IN SESSION IN THE MATTER OF STATE VERSUS
2 PHILLIP ANTONIO STACKHOUSE, WEDNESDAY, MARCH 22, 2017 AT
3 11:02 A.M.)

4 THE COURT: All right, Solicitor.

5 SOLICITOR MANNERLYN: Your Honor, before the Court at
6 this time is Phillip Antonio Stackhouse here on Indictment
7 No's 2016-GS-34-426 and 427. Those are indictments for
8 murder and possession of a weapon during a violent crime.

9 He is represented actually by Michael Stevens and we
10 had scheduled this, Mr. Stevens had filed a Motion for a
11 Speedy Trial, and of course with everything happening Ms.
12 Rivers is going to stand in for Mr. Stevens today for that
13 motion.

14 THE COURT: All right. Thank you.

15 Ms. Rivers, I'll be glad to hear from you.

16 MS. RIVERS: Yes, your Honor. Mr. Stackhouse was
17 incarcerated at Evans when this happened, your Honor,
18 therefore we have jurisdiction over this, he is now being
19 held in Columbia, and he had requested a speedy trial.

20 Your Honor, before any of this happened he was up for
21 release from Evans on October the 1st of 2016 and this
22 happened in February, so --

23 THE COURT: February of?

24 MS. RIVERS: It happened in February of 2016.

25 THE COURT: 2016?

1 MS. RIVERS: Yes, just months before he was due to be
2 released from Evans. So now he is being held on this
3 charge only. He's already served out his time on the
4 other one. And he had ask for a speedy trial, or in the
5 alternative for a bond to be set, and therefore we are here
6 today, the charge was murder as the Solicitor has stated.

7 THE COURT: All right. Solicitor, what's the State's
8 position?

9 SOLICITOR MANNERLYN: Okay. We need to back up just a
10 little bit because I was not under the impression that we
11 were here for bond. It's my understanding that he is not
12 scheduled for release until October of this year, and so
13 we are not prepared to go forward on bond.

14 We were prepared to respond to the speedy trial
15 motion, we are preparing this for trial. We hope to call
16 it during our May term but certainly no later than our next
17 summer term. We don't have the July and August terms yet
18 because they just haven't been set, but we plan to either
19 have it tried in May or in our next term following that.

20 THE COURT: And that would likely be July?

21 SOLICITOR MANNERLYN: I would think so.

22 MS. RIVERS: And, your Honor, I just stated that
23 because the speedy trial Motion states that the Defendant
24 respectfully ask this Court to set a reasonable bond, if
25 the State doesn't meet that deadline. So were we hearing

1 that the State's --

2 THE COURT: Well here's what I'm gonna do. I'm gonna
3 deny the motion for Speedy Trial. The case even though it
4 is a little bit over a year old that is -- in South
5 Carolina that is not a burdensome delay. In fact often
6 times cases are much older than a year, year and a half
7 before they get tried. He is incarcerated on a sentence at
8 this time so it doesn't appear to be any prejudice to him.
9 As far as his standing in the community and his release
10 he's not to be released immediately.

11 There is some discrepancy and I believe the defense is
12 that he should have already been released and I think the
13 State's indicated he's not scheduled for release until this
14 fall. However, still it's a very serious charge and the
15 State has indicated that they will be prepared to call it
16 for trial in May, or no later than July, and so I will deny
17 the request for the bond also at this time and based on the
18 allegations on where he is being currently held, the nature
19 of the offense. And if there needs to be included upon an
20 order if there's an order - written order prepared, this
21 Court would certainly not be opposed to a -- rehearing a
22 motion for a speedy trial if it's not tried by July.

23 MS. RIVERS: Thank you, your Honor.

24 THE COURT: I'm sorry, does anything need to be put

25 --

1 MS. RIVERS: He's thinking that she said he was slated
2 to be released in 2017 and he's saying it's 2016 he was
3 slated to be released from Evans for the other charge.

4 THE COURT: Well, regardless, I'm not gonna set a bond
5 on a murder charge that happened in Evans, South Carolina
6 Department of Corrections, and also, the case where it
7 appears to be ready for trial within the next three, no
8 longer than four months. All right. Thank you.

9 MS. RIVERS: Okay. Thank you, your Honor.

10 SOLICITOR MANNERLYN: Thank you, your Honor.

11 (END OF TRANSCRIPT OF RECORD.)
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CERTIFICATE OF REPORTER

State of South Carolina)
County of York)

I, Wanda S. Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the General Sessions Court of Marlboro County, South Carolina, on 22nd day of March, 2017.

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

Wanda S. Nelson, CVR-M
Certified Verbatim Reporter,
Circuit Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: _____/_____/_____

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

FOURTH JUDICIAL CIRCUIT

COUNTY OF MARLBORO

MOTION TO DISMISS

THE STATE

Indictment/Warrant No(s)

-Vs-

2016-GS-34-00426; 2016-GS-34-00427

Murder;

Possession of a Weapon During a Violent Crime

Phillip Antonio Stackhouse,
Defendant

TO: William B. Rogers, Solicitor, Fourth Judicial Circuit

Please take notice that the defendant will move before the presiding judge of the Fourth Judicial Circuit at the next term of court, or at another time which is mutually convenient for the parties and the court, for an order Dismissing these charges in this case.

It appears the Defendant was arrested on 2/25/2016 and charged with the above referenced charge(s).

1. Defendant requested a Preliminary Hearing in this matter. The said Preliminary Hearing was never held depriving the Defendant of that right. Therefore, these charges should be dismissed.

2. The Defendant was convicted and punished for these charges by the South Carolina Department of Corrections. Therefore, these charges should be dismissed because to move forward would violate the bar against Double Jeopardy as found in the Constitutions of South Carolina and the United States, applicable Statutes and Case Law.

Respectfully submitted.


 A.C. Michael Stephens
 Marlboro County Public Defender
 Fourth Circuit Public Defender's Office
 Counsel for the Defendant

July 19, 2017

FILED
 2017 JUL 19 PM 2:08
 MARLBORO COUNTY S.C.

State of South Carolina))
County of Marlboro))

In Circuit Court of the
Fourth Judicial Circuit
2016-GS-34-0426
2016-GS-34-0427

THE STATE,

Plaintiff,

VS.

PHILLIP ANTONIO STACKHOUSE,

Defendant.

Transcript of Record

Marlboro, South Carolina
July 24, 2017

B E F O R E:

The Honorable Paul M. Burch

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

Mrs. Elizabeth Munnerlyn, Esquire
Attorney for Plaintiff

Mr. Michael Stephens, Esquire
Attorney for Defendant

Lisa Carter
Circuit Court Reporter

I N D E X

WITNESSESPAGE

(NO WITNESSES INTRODUCED DURING HEARING)

(NO EXHIBITS INTRODUCED DURING HEARING)

1 MS. MUNNERLYN: Your Honor, before you at this time
2 we have Philip Antonio Stackhouse. Here on indictment
3 number 2016-GS-34-426. That is an indictment for murder.

4 Your Honor, we had originally scheduled this trial for
5 this week but ran into a little bit of an issue with
6 scheduling with some of our witnesses. So we have moved
7 the trial back to our next term of court which is September
8 18th and so I think, technically, we had set it this week
9 pursuant to a motion for a speedy trial by the defendant.
10 So at this time we would make a motion for continuance to
11 reschedule it for the week of September 18th. Our primary
12 problem was with Erin Presnell, who performed the autopsy,
13 she had a conference scheduled for the entire week in
14 Washington DC and was not going to be able to be present
15 this week and so that is the reason why we're asking for
16 the matter to be rescheduled for trial September 18th.

17 THE COURT: Mr. Stephens?

18 MR. STEPHENS: Your Honor, on behalf of my client we
19 would oppose the motion for a continuance. And I guess
20 would make the oppose motion for continuance but at the
21 same time renew our motion for speedy trial. We had made a
22 motion for speedy trial and the matter was heard in March
23 of this year. I think I had to be out. I had a death in
24 the family. But I think this Mrs. Rivers handled it and I
25 believe it was Judge Hall. And at that time Judge Hall

1 indicated that this matter should be set by June or July
2 and the matter should be heard.

3 And, therefore, we would oppose the matter being
4 continued this week. And we would renew a motion for
5 speedy trial because it's been over a year and a half and
6 my client wishes to get this over with because he has
7 suffered prejudice because his time has been extended in
8 the department of corrections. He was scheduled to be
9 released from the department of corrections and that time
10 has been extended because this matter is still pending.
11 And, therefore, we would ask that if this case cannot be
12 tried this date that this matter be dismissed because of
13 the violation of a speedy trial, right to a speedy trial.
14 This is the second time the matter was scheduled and has
15 been -- the State has sought to continue it past this term
16 of court.

17 Therefore, I guess, we would move to oppose this
18 continuance and at the same time we would renew our motion
19 for a speedy trial. And if it can't be tried, we would ask
20 that it be dismissed and in the alternative we would then
21 ask that a reasonable bond be set. Actually, this is the
22 third time this matter has been scheduled.

23 MS. MUNNERLYN: Your Honor, that is incorrect. This
24 is the first time that we actually scheduled this for
25 trial. It hasn't previously been scheduled for trial.

1 This is the first time it's been scheduled for trial. And
2 then, of course, we ran into this issue with our witness,
3 but we do plan on proceeding with the September 18th. In
4 fact, we have had a meeting. We have done all of our
5 pretrial preparations. We have met. We have reviewed the
6 evidence. We met at sled with Mr. Stephens in reviewing
7 that evidence. So everything has been done in preparation
8 for this trial and all the witnesses have been notified
9 that the subpoenas will be re-issued for the September 18th
10 and so we do plan proceeding that week. And this incident
11 happened on February 23, 2016 so it was not a year old
12 until February of this year. He was arrested February
13 25th. He is still incarcerated at South Carolina
14 Department of Corrections on some other charges that he was
15 convicted of. If he is there any additional time it's for
16 off of some good time or some other administrative penalty
17 they have within the South Carolina Department of
18 Corrections. But it is not related to anything
19 specifically stemming from these charges that I'm aware of.

20 THE COURT: Well, what further complicates the
21 matter it seems like every year it rolls along with the
22 massive scheduling that court administration is faced with
23 every six months not to get a quick of notice of when the
24 terms are going to be. The fourth circuit sought. There
25 are verily substantial cutback in the number of terms so

1 that's something that's beyond all of our control. That
2 comes out of Columbia. All right. I will grant the
3 continuance. However, I would strongly suggest that the
4 state immediately contact all of these critical witnesses
5 and let them know, conference or no conference, whatever,
6 they better do some better planning with that September
7 term because if the case is not disposed of there, I'm
8 granting the continuance motion but I'm also granting the
9 speedy trial motion. Again, if this case is not disposed
10 of in September then a bond hearing, a bond setting will
11 occur.

12 MS. MUNNERLYN: Your Honor, we were actually going to
13 ask that the court -- it's not real clear to me whether or
14 not he will come up -- when I initially looked at the
15 website, the South Carolina Department of Corrections, it
16 appeared that he will come up for parole on and released on
17 September 4th which would be prior to our term of court.
18 But when Mr. Stephens pulled it up, he was getting a
19 different date. He's telling me it's January. I'm not
20 sure if it's going to occur before September 18th term or
21 not. We were going to actually ask the court to go ahead
22 and set bond or go ahead and deny bond based upon the
23 circumstances in the case until we can reach trial on
24 September 18th.

25 THE COURT: What saith the defense on that?

1 MR. STEPHENS: Well, if he's going to be released in
2 September, we would ask that a reasonable bond be set at
3 this time.

4 THE COURT: What's the charge?

5 MS. MUNNERLYN: Murder.

6 THE COURT: Well, that's a serious offense. Bond
7 will be set at \$100,000, then. Is this the first time up
8 for parole?

9 MR. STEPHENS: He was supposed to be finishing in
10 October until this charge came up, Your Honor. And we have
11 two more motions too.

12 THE COURT: Okay. But was this -- is this the
13 first parole hearing coming up?

14 MR. STEPHENS: I'm not sure, Your Honor. I don't
15 think -- I don't think what he was sentenced to, I don't
16 think he can get paroled. He would've been finished with
17 the time.

18 THE COURT: I gotcha. All right.

19 MR. STEPHENS: I think the way they got it now, is
20 he's got to do every day. The way they have it set up now.

21 THE COURT: No offensive contact with the victim's
22 family. Can't leave the state.

23 MS. MUNNERLYN: Would that include potential
24 witnesses also, Your Honor?

25 THE COURT: No contact with any witnesses either,

1 the state's witnesses, excuse me.

2 (Whereupon, the defendant needed some time to talk to his
3 lawyer)

4 THE COURT: Yes, sir?

5 MR. STEPHENS: Yes, sir, Your Honor. And at this time
6 we would ask that this matter be dismissed because my
7 client was denied his preliminary hearing under Rule 2. He
8 was charged in February of 2016 and immediately made a
9 request for a preliminary hearing with the magistrate. He
10 tells me the magistrate actually went to Evans and they
11 serve the warrants on him and at that time he was given a
12 request for a preliminary hearing. He made his request for
13 a preliminary hearing. He never received the preliminary
14 hearing. He wasn't indicted until October of that year.
15 There was plenty of time to have a preliminary hearing but
16 he was denied that under Rule 2 and we would ask that this
17 matter be dismissed because he was denied his right to --
18 well, he was denied a preliminary hearing.

19 MS. MUNNERLYN: Your Honor this matter, of course,
20 has been presented to the grand jury and was true billed on
21 October 18, 2016. So we would, of course, argue that, that
22 is the same consideration for that preliminary hearing. It
23 has now been true billed. He would not, thereafter, be
24 entitled to a preliminary hearing and we'd ask that his
25 motion be denied.

1 THE COURT: I think that's pretty well established
2 now how that works. That motion will be denied based on
3 the true bill of the indictment.

4 MR. STEPHENS: Thank you, Your Honor. And, Your
5 Honor, we would ask that this matter be dismissed under
6 double jeopardy. My client tells me that he was convicted
7 of homicide and had time added to him in the Department of
8 Corrections. He would've been out by now, but because, I
9 think, his record reflects that he was actually had a
10 homicide on his record that he was being convicted and
11 punished for this offense and, therefore, it would violate
12 his constitutional rights that band or bar to double
13 jeopardy.

14 Your Honor, he's provided me of several cases and one
15 when case is State v. Blick and that case, Your Honor, the
16 trial judge was presented an indictment for escape of
17 someone from the department of corrections. The judge
18 threw the case out because of double jeopardy. He said he
19 that he had, had some time taken away in the department of
20 corrections and, therefore, it was double jeopardy. The
21 Court of Appeals held, it was double jeopardy and they
22 reverse it and this trial judge remanded it. We make the
23 distinction that in this case, time wasn't taken away from
24 him, my client, but time was actually was added to his
25 sentence and, therefore, that's a conviction and a sentence

1 and, therefore, that would contribute double jeopardy.

2 Your Honor, just for the record, he's also provided me with
3 the case State v. Jolly, and in that case the defendant was
4 charged, he was held in contempt in a matter involving some
5 fraudulent mortgage scheme. He was later tried in general
6 sessions for the mortgage scheme and the Court of Appeals
7 in that case held, it did not violate double jeopardy while
8 there were two distinct sentencing or two distinct crimes
9 and in the case of Elders vs. State the defendant had pled
10 guilty to carjacking and was later tried for kidnapping and
11 the Court of Appeals held in that case that these were two
12 separate distinct offenses and did not violate double
13 jeopardy. Just for the record, State v. Blick, Frank Rion
14 Blick, it's 325 SC 636, State v. Jolly, it's 405 SC 622;
15 and, State v. Elders it's 386 SC 474. He also provided me
16 a case of 424, Mass. 1004 McGuinness Commonwealth. This
17 one had to do with a sentencing of the Department of
18 mental, the Massachusetts Correctional Institution and the
19 Department of Mental Disciplinary hearing they revoked 115
20 days of "accrued good time" which would seem on track of
21 the Blick case from South Carolina.

22 But again what we're saying in this case is not that
23 they took good time from him but they actually added to his
24 sentence. He would've been released by now but he had time
25 added last year when this matter went before the department

1 of corrections where he was convicted of homicide and
2 actually had time added to his sentence. That's how we
3 would make the distinction in this matter.

4 THE COURT: Mrs. Munnerlyn?

5 MS. MUNNERLYN: Your Honor, I think all the cases
6 that he's quoted support our argument. This is not double
7 jeopardy. He has not been tried on this set of factual
8 circumstances yet. He has not gone before a trial judge.
9 He has not had a jury trial on it and there hasn't no
10 punishment handed down by any court in relation to the
11 criminal charges before you today. He -- any punishment
12 that has been given to him by the South Carolina Department
13 of Corrections has been administrative punishment only and
14 that is only available to them within the department of
15 corrections. I have not seen any evidence from him
16 regarding what, if any, additional convictions. The only
17 way that the department of corrections could do anything is
18 administratively through loss of good time or and it
19 probably is they probably do make a finding of this
20 specific incident which would be the incident which is the
21 homicide, in finding that he should loose his good time and
22 now have to max out his sentence that he's currently
23 serving at the department of corrections. But certainly he
24 has not had a trial on these charges. We plan to proceed
25 on that in September. And under the case law that's

1 presented I believe it certainly supports our argument that
2 this is certainly not double jeopardy.

3 THE COURT: All right. Administrative sanctions by
4 the department of corrections has absolutely nothing to do
5 with double jeopardy, the divisions of our constitution and
6 the court system. So that motion will have to be
7 respectively denied. Anything else?

8 MR. STEPHENS: Nothing from -- nothing from the
9 defense, Your Honor.

10 MS. MUNNERLYN: Nothing else, Your Honor.

11 THE COURT: Okay.

12 MS. MUNNERLYN: Thank you, Your Honor.

13 MR. STEPHENS: Thank you, Your Honor.

14 (CONCLUSION OF THE HEARING ON JULY 24, 2017)
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CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit Court for Marlboro County, South Carolina, on the 24th day of July, 2016.

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

s/ Lisa S. Carter

Lisa S. Carter

Circuit Court Reporter

December 30, 2017

State of South Carolina)	In Circuit Court of the
)	Fourth Judicial Circuit
County of Marlboro)	2016-GS-34-0426
	2016-GS-34-0427

THE STATE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Transcript of Record
	)	
PHILLIP ANTONIO STACKHOUSE,	)	
	)	
Defendant.	)	
	)	
	)	

Marlboro, South Carolina
September 18-22, 2017

B E F O R E:

The Honorable Steven H. John

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

Mrs. Elizabeth Munnerlyn, Esquire
Attorney for Plaintiff

Mr. Michael Stephens, Esquire
Attorney for Defendant

Lisa Carter
Circuit Court Reporter

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1 security number?

2 MS. QUICK: 251-13-5694.

3 THE COURT: All right. Very good. Did you, this
4 was back in 1993, convicted of some drug cases?

5 MS. QUICK: No, sir.

6 THE COURT: In Dallas County?

7 MS. QUICK: Oh, yes, sir, in Dallas.

8 THE COURT: In Dallas?

9 MS. QUICK: Mmm, hmm.

10 THE COURT: All right. That will disqualify you
11 from jury service. All right. Thank you, ma'am.

12 MS. QUICK: Okay.

13 THE COURT: Thank you, ma'am. Madam Solicitor?

14 MS. MUNNERLYN: That's it.

15 THE COURT: All right. Ladies and gentlemen, what
16 we're going to do now is we're going to pick the jury for
17 the first case, do we have the indictments?

18 MS. MUNNERLYN: Would you like me to announce it?

19 THE COURT: Yes, ma'am. If you would please.

20 MS. MUNNERLYN: Your Honor, in the matter of the State
21 versus Phillip Antonio Stackhouse, docket number 2016-GS-
22 34-426, indictment for murder. The State is ready for
23 trial.

24 THE COURT: All right. Is defense ready?

25 MR. STEPHENS: Yes, Your Honor.

1 VOIR DIRE:

2 THE COURT: All right. Very good. All right.
3 Ladies and gentlemen, in this particular matter the State
4 of South Carolina has charged the defendant, Phillip
5 Antonio Stackhouse, with the crime of murder. Now,
6 regarding this I'm going to read to you the charge that is
7 in the indictments. Now, before I do that I'm going to
8 tell you the indictment is not evidence. It is the
9 charging document which brings the matter to court so it
10 can't be considered by anybody as evidence. It's how the
11 matter comes to court and to that indictment, to that
12 charge, the defendant has pled not guilty and requested a
13 jury trial. So the State of South Carolina has alleged
14 that Philip Antonio Stackhouse did in Marlboro County on or
15 about February 23, 2016, willfully, feloniously, an
16 intentionally killed the victim, Oliver Johnson, with
17 malice aforethought, malice aforethought either expressed
18 or implied by means of stabbing and the victim did die as a
19 result, thereof, on or about February 23, 2016 in Marlboro
20 County in violation of the Code of Laws of the State of
21 South Carolina, 1976, as amended.

22 Is there any member of the jury panel that knows
23 anything about this particular case, has any information
24 about this case that you need to bring to the Court's
25 attention at this time?

1 close personal friends, acquaintances, knows that
2 individual, if so, please stand?

3 (Whereupon, no one is standing)

4 THE COURT: Very good. Further questions from the
5 State?

6 MS. MUNNERLYN: Yes, Your Honor, I am also in private
7 practice and there may be individuals on the jury that I
8 have previously represented.

9 THE COURT: All right. So if you would please,
10 again, introduce yourself to the jury please.

11 MS. MUNNERLYN: Thank you, Your Honor. My name is
12 Elizabeth Munnerlyn and I am the prosecutor in this case
13 today, here on behalf of the State of the Fourth Circuit
14 Solicitor's Office. I am in that capacity on a contract
15 basis and also have a private law firm here on Main Street.
16 My office is right across from the post office here in
17 Bennettsville.

18 THE COURT: Very good. And for the defense, sir,
19 if'd stand up and identify yourself to the jury please.

20 MR. STEPHENS: My name is Michael Stephens and I work
21 full time for the public defender here in Bennettsville.

22 THE COURT: Very good. Is there any member of the
23 jury panel that's related by blood or marriage, close
24 personal friends, acquaintances of, knows these lawyers in
25 any capacity or been represented by them in the past in any

1 got another matter that we need to take care of and so
2 we'll do that first. And then before lunch we'll try and
3 address the motions as best we can. If we can finish them
4 before, that would be good, but if not then we'll finish
5 them afterwards. All right. Thank you very much.

6 MS. MUNNERLYN: Thank you, Your Honor.

7 THE COURT: We'll take a short break.

8 (Whereupon, there is a break in the proceedings from 11:42
9 a.m. until 3:46 p.m.)

10 **MOTIONS WAS HEARD ON BEHALF OF THE STATE AND DEFENSE**

11 THE COURT: All right. So can we bring Mr.
12 Stackhouse out.

13 (Whereupon, the defendant is brought into the courtroom)

14 THE COURT: All right. This is 2016-GS-34-426, the
15 State of South Carolina, County of Marlboro. The State
16 versus Phillip Antonio Stackhouse regarding the indictment
17 for murder. As I understand it there are several motions.
18 Is there -- first are there any matters from the State at
19 this time?

20 MS. MUNNERLYN: Your Honor, it has been brought to my
21 attention that the defendant's middle name is incorrect on
22 the indictment. The indictment indicates his name is
23 Phillip Antonio Stackhouse. But I believe his middle name
24 maybe Antoine but I have a couple of different spellings.
25 I'm not exactly sure of the correct spelling.

1 THE COURT: All right.. Mr. Stephens, what is the
2 correct spelling of your client's middle name?

3 MR. STEPHENS: He tells me, Your Honor, is A-n-t-o-i-
4 n-e.

5 THE COURT: I-n-e?

6 MR. STEPHENS: Yes, sir.

7 THE COURT: So it's A-n-t-o-i-n-e, is that correct?

8 MR. STEPHENS: Yes, sir.

9 THE COURT: All right. Solicitor, I'll be glad to
10 hear any requests that you have?

11 MS. MUNNERLYN: That's all we would have, Your Honor.

12 THE COURT: So you're requesting the indictment to
13 be amended to correct the spelling of the defendant's
14 middle name, is that correct?

15 MS. MUNNERLYN: That's correct, Your Honor.

16 THE COURT: Any objection to that, Mr. Stephens?

17 MR. STEPHENS: Well, of course, my client wants the
18 indictment dismissed because that's not his name.

19 THE COURT: I do not find that to be a proper
20 request. This is a typographical error, clerical error and
21 there's no question that Phillip Stackhouse, the proper
22 individual to be that the indictment was issued, is
23 properly before the Court. The Court will amend the
24 indictment to correct a clerical error. Thank you very
25 much.

1 MR. STEPHENS: Thank you, Your Honor..

2 THE COURT: Anything further from the State?

3 MS. MUNNERLYN: Nothing further from the State, Your
4 Honor.

5 THE COURT: Mr. Stephens?

6 MR. STEPHENS: Yes, sir. If it pleases, the Court?
7 Your Honor, on July 24th of this year Judge Burch was here
8 in Marlboro County holding General Sessions Court. We, at
9 that time, we -- he heard four motions from us to dismiss
10 the indictment. One was for the lack of a preliminary
11 hearing. One was for dismissing the indictment for
12 delaying the indictment from having it true billed.
13 Another was to dismiss the indictment because this charge
14 constituted double jeopardy. And another motion to dismiss
15 the indictment for violation of Speedy Trial Act. And
16 Judge Burch denied all those motions and told us to proceed
17 to trial. At this time, we would just like to have those
18 motions made a part of this record, that they were made and
19 denied on July 24th and have them noted in this record and
20 become a part of this record.

21 THE COURT: Any objections to that from the State?

22 MS. MUNNERLYN: No, Your Honor.

23 THE COURT: All right. They are a part and parcel
24 of this matter, 2016-GS-34-426 without further necessity of
25 the defense to raise them again. They are a part and

1 parcel of this trial, the previous motions and the rulings
2 of the presiding judge at that point in time regarding the
3 motions. Further matters?

4 MR. STEPHENS: Yes, sir, Your Honor. On last Thursday
5 I was informed by the solicitor's office that they had a
6 new witness and this witness is an inmate at Broad River
7 Correctional Institute. We would ask that any testimony
8 from that witness be suppressed or not allowed because of
9 the lateness of notifying of this witness and it would be
10 prejudicial to my client to have a new witness come to
11 light two days before trial, Your Honor.

12 THE COURT: All right. Solicitor, be glad to hear
13 from you.

14 MS. MUNNERLYN: Thank you, Your Honor. Yes, this was a
15 witness that came forward and through his attorney, a week
16 before last, we were not provided any detailed information
17 about what information he had provided only that he had
18 information to provide about this case. And he wished to
19 schedule a meeting with sled and my office. We did
20 schedule that. We were going to attempt to schedule that
21 last Tuesday but because of the storm it could not be
22 scheduled, SCDC was not scheduling anything at that time.
23 So we scheduled it for Thursday of last week. We met with
24 this particular witness, I, along with Mike Anderson with
25 sled, and the witness's attorney and at that time the

1 witness did give us certain information regarding this
2 case. That was on Tuesday afternoon. I mean, excuse me,
3 Thursday afternoon, last week. When we left the facility
4 it was approximately 5 o'clock, I was driving home to
5 Bennettsville. I attempted to call Mr. Stephens actually
6 that evening to advise him of the content of what the
7 witness would testify to but was unable to reach him. But
8 I did come and see Mr. Stephens Friday morning and advised
9 him of what substance of that particular witness
10 identification and the substance of his statement at that
11 time. He did not give a written statement, simply, an oral
12 statement. And we revealed it as soon as we knew it. And,
13 basically, it is a jailhouse confession that the defendant
14 confessed to the crime to this other inmate.

15 THE COURT: All right. I understand that it was
16 not a written statement by this individual, did the agent
17 from State Law Enforcement Division take notes as to what
18 the inmate said?

19 MS. MUNNERLYN: Yes, sir. And a report was issued and,
20 actually, he brought it this morning and I provided that to
21 Mr. Stephens this morning. He brought it to me and to Mr.
22 Stephens and I provided it to Mr. Stephens, a copy at the
23 same time as I was receiving a copy from the agent.

24 THE COURT: All right. Very good. All right. Mr.
25 Stephens, are there any other arguments?

1 MR. STEPHENS: Yes, sir. It appears from the
2 statement that I was provided this morning that this
3 witness would have, works in the law library in the, at
4 Broad River and he was helping Mr. Stackhouse with a, with
5 some matters related to this case as well as to another
6 case, an injury case. My client feels like there was some
7 type of confidentiality that about this relationship and
8 for this person to now use what any information he may have
9 gained would be a violation of that confidentiality.

10 THE COURT: All right, sir. So do you have any
11 case law to support that of any kind?

12 MR. STEPHENS: No, sir. I just got this, this morning
13 and I can try to come up with something.

14 THE COURT: All right, sir. I'll give you the
15 opportunity to do so but, I mean, is he trying to say that
16 there's some, something kin to some attorney/client
17 privilege regarding a person working in a law library or
18 what library there may be at a correctional facility,
19 that's what he's trying to argue?

20 MR. STEPHENS: Yes, sir.

21 THE COURT: All right. Well, I'll give you an
22 opportunity to present anything that you might be able to
23 find regarding any case law before we start tomorrow
24 morning but ---

25 MR. STEPHENS: Or before he testifies?

1 THE COURT: Before he testifies.

2 MR. STEPHENS: Yes, sir. Thank you.

3 THE COURT: That would be fine. Before he
4 testifies regarding that particular issue.

5 MR. STEPHENS: I understand.

6 THE COURT: But barring some legal justification of
7 which the Court is currently unaware of. I know of no
8 legal justification that would establish such type of
9 confidentiality ---

10 MR. STEPHENS: Yes, sir.

11 THE COURT: --- as described but barring the
12 establishment of that, I am going to allow the witness to
13 testify as to the conversation that was had. I'm leaving
14 open this issue of the confidentiality argument. So I'm
15 not making a final ruling, but I am telling you to be
16 prepared, assuming there is no legal justification for
17 that, for the witness to testify in this particular matter.

18 MR. STEPHENS: All right, sir.

19 THE COURT: All right. Solicitor, the attorney for
20 the witness, who is that?

21 MS. MUNNERLYN: Jonathan Gasser, Your Honor.

22 THE COURT: All right. And is that individual
23 going to be present when his client testifies?

24 MS. MUNNERLYN: Yes, sir.

25 THE COURT: All right. She just confirmed that and

1 make sure that he is present in the courtroom when his
2 client testifies please.

3 MS. MUNNERLYN: Yes, sir.

4 THE COURT: All right. Further motions are
5 matters, Mr. Stephens?

6 MR. STEPHENS: Yes, sir. As far as this, continued on
7 this same witness, we would ask that the prosecution reveal
8 any promises or any deal they've made with this witness for
9 his testimony.

10 THE COURT: All right. Solicitor, if there is any
11 type of arrangement of any kind, not just as to a, you
12 know, something might have to do with his sentence, if
13 there is any kind of benefit to the witness from
14 testifying, I don't know, more favorable housing in the
15 detention facility or transferred to another facility or
16 some type of benefit that would come to him from
17 testifying, I want that disclosed to the defense so that
18 would be available to them for cross-examination. If
19 there's any kind of benefit and I'm trying to be expansive
20 as I can so that's why I want it to be clear, um, not just
21 sentences, any kind of benefit. I don't care if he gets an
22 extra meal, whatever -- whatever and I'm not trying to be
23 facetious there, just any kind of benefit of any kind that
24 he might get from his testimony, I want that disclosed to
25 the defense.

1 MS. MUNNERLYN: Yes, sir.

2 THE COURT: All right. Thank you. Yes, sir, Mr.
3 Stephens?

4 MR. STEPHENS: And one other matter, my client informs
5 me that at this law library there are two law librarians --
6 well, there are several, judge, but this particular one and
7 then there's another one -- he can't tell me his name but
8 if they bring this witness, he wants to bring the other law
9 librarian to refute anything that this witness may say.

10 THE COURT: Well, you're going to have to figure
11 out who that person is ---

12 MR. STEPHENS: He tells me there's only ---

13 THE COURT: --- and subpoena him.

14 MR. STEPHENS: He tells me there's only two. We would
15 have to get the ---

16 THE COURT: All right. Solicitor, if you can aid
17 Mr. Stephens in trying to discover that information as to
18 who that individual may be and then I'm going to leave it
19 to you, Mr. Stephens, to do whatever is necessary to
20 present, you know, an order of transport or whatever,
21 subpoena, whatever it is you deem proper ---

22 MR. STEPHENS: All right, sir.

23 THE COURT: --- to bring that individual but I'm
24 going to ask the State to see if they can aid you in
25 discovering the name. That's all I'm asking the State to

1 do is to figure out who this person might be and if it's
2 possible for you to do so, solicitor. Thank you.

3 MS. MUNNERLYN: Yes, sir.

4 THE COURT: All right.

5 MR. STEPHENS: Your Honor, just for the record, I've
6 ask my client if there's any additional motions or any
7 additional items he would like for me to place on the
8 record at this time and he tells me there is not.

9 THE COURT: All right. Very good. All right. We
10 will start trial tomorrow morning at 9:30. It's my
11 intention to call the jury out at 9:30 and get started at
12 that point in time. If there are any matters beforehand,
13 obviously, I'd appreciate it if you would bring those up
14 before that. I'll be here I expect by 9 o'clock. So if
15 anything comes up y'all communicate with the Court about
16 the matter. All right?

17 MR. STEPHENS: Certainly, will, Your Honor. Thank you
18 too.

19 MS. MUNNERLYN: Yes, sir.

20 THE COURT: Thank you very much. See y'all
21 tomorrow morning, then.

22 MS. MUNNERLYN: Thank you, Your Honor.

23 THE COURT: Thank you.

24 (Whereupon, Court adjourned at 4:00 p.m. for the day)

25

1 TUESDAY, SEPTEMBER 19, 2017 AT 9:36 A.M

2 THE COURT: All right. So with that, is the State
3 ready to proceed?

4 MS. MUNNERLYN: Yes, Your Honor.

5 THE COURT: And defense?

6 MR. STEPHENS: Yes, sir. Just two, briefly two
7 matters, Your Honor. One is, and I've talked to the
8 solicitor this morning, to make sure they don't have any
9 more evidence inculpatory or exculpatory at this point.

10 THE COURT: All right.

11 MR. STEPHENS: They found another witness and they've
12 added a witness to the trial, to the witness list I believe
13 but I need to know if they've got anything else?

14 THE COURT: Is there anything else, solicitor,
15 other than what's already been turned over to the defense?

16 MS. MUNNERLYN: No, Your Honor. That is it. The only
17 other thing I told him this morning is James Gainey will be
18 coming to testify. He was just the individual who
19 transported the body and he was aware of this, it was in
20 the Rule 5, from McLeod Health Cheraw Hospital to MUSC for
21 the autopsy and that's it. Just a chain of evidence
22 witness.

23 THE COURT: All right. Is that -- is that
24 something that the defense is requiring them to do, to do
25 that?

1 MS. MUNNERLYN: Yes, Your Honor.

2 THE COURT: Okay. All right. And that's fine. I
3 mean, if defense wants you to do that then that's fine.
4 It's not a problem. All right. Other than that, Mr.
5 Stephens, is there anything else?

6 MR. STEPHENS: Yes, sir. To revisit, just for a
7 moment yesterday when we were talking about this new
8 witness ---

9 THE COURT: Mmm, hmm.

10 MR. STEPHENS: --- Mr. Martin -- Mr. Thompson,
11 Clifford Thompson?

12 MS. MUNNERLYN: Yes.

13 MR. STEPHENS: The law librarian.

14 THE COURT: Yes, sir.

15 MR. STEPHENS: And at some point, we would like to
16 make a proffer. We don't have to do it right this second
17 but just before he testifies, a proffer, they may have
18 existed some type of fiduciary relationship between Mr.
19 Thompson and my client as to guard his files, the discovery
20 that Mr. Thompson had access to.

21 THE COURT: I'm sorry, sit, I'm not really
22 understanding you. You're saying that the person in the
23 law library had access to the defendant's records at the
24 institution?

25 MR. STEPHENS: That's correct.

1 THE COURT: Okay.

2 MR. STEPHENS: His discovery file and that my client
3 paid him three different times to perform legal services
4 for him and a matter of fact there is a ---

5 THE COURT: All right. Is he a licensed lawyer in
6 the State of South Carolina?

7 MR. STEPHENS: No.

8 THE COURT: Then there is no attorney-client
9 privilege.

10 MR. STEPHENS: I said a fiduciary relationship. He to
11 guard ---

12 THE COURT: So do you have some law that
13 substantiates the confidentiality and some fiduciary
14 relationship that prevents him from testifying?

15 MR. STEPHENS: We would submit that I don't know if it
16 would prevent him from testifying, but it would be a higher
17 standard than just the two individuals. It would be a
18 relationship founded on trust and confidence and he has due
19 regard to protect the interests of those imposing the
20 confidence.

21 THE COURT: All right. Well, before he testifies
22 I'll be glad to put that on the record.

23 MR. STEPHENS: All right.

24 THE COURT: And certainly you're welcome to cross-
25 examine him as to any kind of special relationship you

1 think they had regarding this or what the defendant
2 might've asked him to do or not do at any point in time.
3 You're freely to fully explore that on cross-examination.

4 MR. STEPHENS: All right.

5 THE COURT: But again I know of no law not only in
6 South Carolina, not only in South Carolina but in the
7 United States, that was set up some type of privilege that
8 would prevent this witness from testifying. But I'm
9 telling you, if you are aware such type of case law that
10 exist anywhere in the United States not only in South
11 Carolina, I don't think it exist anywhere, but if you have
12 found something I'll be glad to look at it.

13 MR. STEPHENS: I'm still looking, Your Honor.

14 THE COURT: All right. Very good. All right. So
15 with that, are you ready for the jury to come in?

16 MR. STEPHENS: Yes, sir, I ready.

17 THE COURT: All right. Very good. Asked the jury
18 to come in please.

19 (Whereupon, the jury enters the courtroom at 9:40 a.m.)

20 THE COURT: All right. Good morning, ladies and
21 gentlemen.

22 (Whereupon, the jurors all greet the judge)

23 THE COURT: Mr. Dupree, the jury has selected you
24 to be the foreperson for this jury, is that correct?

25 MR. DUPREE: Yes, sir.

1 MR. STEPHENS: Solicitor.

2 MS. MUNNERLYN: Ladies and gentlemen of the jury, good
3 morning.

4 (Whereupon, the jury greets the solicitor)

5 **OPENING STATEMENT- MS. MUNNERLYN**

6 MS. MUNNERLYN: My name is Elizabeth Munnerlyn and I am
7 here own behalf of the State of South Carolina and more
8 specifically the victim, Oliver Johnson and his family who
9 are here today. And you have heard the judge give to you
10 in his opening remarks some information and we'll be more
11 specific of the law in the closing arguments, but the case
12 today is about murder. It's about an incident that
13 happened on February 23, 2016 here in Marlboro County. A
14 murder is the unlawful killing of another with malice
15 aforethought. And I as a representative for the State of
16 South Carolina, the solicitor's office, has the burden of
17 proving to you that this defendant, Phillip Stackhouse, is,
18 in fact, guilty of that crime. Now, beyond a reasonable
19 doubt, he'll again tell you about that too, but that
20 doesn't mean I have to resolve any doubt in your mind but I
21 have to resolve any reasonable doubt and firmly convince
22 you that he is guilty. And I think once you hear all of
23 the evidence, you will be firmly convinced.

24 And let me tell you, just give you an outline of what
25 occurred so as my witness testified that you can understand

1 what's happening and put it all together. As I said the
2 incident happened on February 23rd of last year and it
3 happened at Evans Correctional Institution here in Marlboro
4 County. And that is, as we all know, is a State
5 Correctional Facility a state prison. The victim, Oliver
6 Johnson, was an inmate there. The defendant, Phillip
7 Stackhouse, was also an inmate there. And on this day you
8 will heard from a number of witnesses, some who were there,
9 some who handed evidence, and some who had a conversation
10 with the defendant after the fact and you have to take all
11 of that. What the evidence and the witnesses are going to
12 show I think is that this is what happened. That morning
13 they go to breakfast early, 5:30, 6 o'clock. And Oliver
14 Johnson, the victim, and this defendant were in the same
15 unit. They were in the C wing, the Cherokee wing, C wing.
16 They both went to breakfast but Oliver Johnson left early
17 and went back to the dorm and the defendant did also. And
18 when they got back there they got into -- they had some
19 conversation and the defendant and the victim began to have
20 a fight, a fist fight, actually. And they were in the
21 victim's cell at that time. No weapons were involved at
22 that time, just a fight. Then the defendant left the
23 victim cell and he, which was on the top tier, went
24 downstairs, went all the way down to the other end of the
25 unit, went to his cell and got a knife or shank, as they

1 often refer to it, prison knife, came back up the steps
2 back to the victim cell and proceeded to stab him multiple
3 times. He -- he fell. He fell face down and bled an
4 immense amount on the floor and you'll see, you'll see the
5 pictures of the scene and you'll hear testimony from the
6 defendant's roommate who came up when this was occurring.
7 He will tell you what he saw. You will -- you will hear
8 testimony of the correctional officer who was in the
9 control room monitoring that wing at that time. She'll
10 tell you that she saw this defendant, Phillip Stackhouse,
11 wildly attacking Oliver Johnson and that Oliver Johnson
12 fell and never got back up. So you're going to have to
13 listen real close to what everybody says. This is like a
14 puzzle and every witness and every piece of evidence is a
15 piece so you need to stay awake and aware and listening to
16 everything that said because somebody might say something
17 that is real important. And if the twelve of you are all
18 listening then it's up to the twelve of you to hear it all
19 and put it all, put the puzzle together and determine what
20 really happened. But I think once you hear the testimony
21 from the witnesses. We'll bring you every witnesses we
22 have at our disposal. Everyone who is at the Department of
23 Corrections. The medical personnel who saw the victim.
24 And the inmates who came forward and gave information. And
25 I think once you hear that and you see the physical

1 evidence because you're also going to have to -- not only
2 will you have eyewitness testimony but you also have
3 physical evidence and one of those pieces will be the
4 defendant shirt which he took off and put in the trash can
5 in the unit. And you'll hear from a sled agent who will
6 testify that she did some testing to shirt and that the
7 victim's blood was, in fact, on that shirt and that it was
8 Phillip Stackhouse's shirt. His DNA was on that shirt.
9 You'll also hear some testimony about the defendant's
10 shoes. They got those from his cell after the fact, his
11 tennis shoes. They did test positive presumptuously for
12 blood as well. What you won't see is a knife because I
13 never found it. It's not unusual. You're in a prison and
14 the testimony will be that after the defendant stabbed the
15 victim that he went around and try to get somebody else to
16 take the knife. But none of the other inmates in unit
17 would take it. So he passed it under the door to another
18 inmate in the next unit and it was never recovered. That
19 doesn't mean he didn't have it. You're also going to hear
20 the testimony of the doctor who did the autopsy on the
21 victim, Oliver Johnson, and she will tell you and describe
22 those wounds and tell you how they would've happened and
23 what all would've happened from the stabbing with an
24 object. So I think once you hear all of that and you will
25 have everything that's submitted into evidence, physical

1 evidence you will have it with you. It will come in, it
2 will go back there in the, the pictures, the shirt,
3 everything, you will have it in the jury room with you and
4 you will have the opportunity to look at it, fill it,
5 whatever you want to do with it and discuss it and
6 determine how does this puzzle fit together. But I think
7 once you go through everything and you look at all these
8 reports, you look at the pictures and you consider the
9 testimony of the witnesses, that you will agree that this
10 defendant, Phillip Stackhouse, is, in fact, guilty of
11 murder and I thank you. Thank you for your service. We'll
12 try to move quick and move along efficiently as we can but
13 I want to make sure get all the evidence that you need and
14 have in this case. Thank you.

15 THE COURT: Mr. Stephens?

16 MR. STEPHENS: May it please, the Court?

17 THE COURT: Yes, sir.

18 MR. STEPHENS: Solicitor?

19 **OPENING STATEMENT- MR. STEPHENS**

20 MR. STEPHENS: As I told you yesterday, I'm Michael
21 Stephens and I'm a full-time public defender. Like the
22 judge told you that right now Phillip Stackhouse is not
23 guilty. And he will be not guilty until, as the judge told
24 you again, the State and their case proves him guilty
25 beyond a reasonable doubt. What the solicitor just told

1 you is not evidence. And what I'm telling you is not
2 evidence. These are just our thoughts on the way the case
3 will go. And the judge will tell you or, excuse me, I'll
4 tell you that reasonable doubt means "any kind of doubt
5 that will cause a reasonable person to hesitate to act" and
6 that means before you can convict him you've got to be
7 sure, convinced beyond a readable doubt.

8 Now, what the solicitor just told you is her theory.
9 She has to prove to you everything she just told you for
10 Phillip Stackhouse to be guilty. And that will come from
11 the witness stand. All of the evidence will come through
12 the witness stand, either through testimony or they will
13 introduce exhibits. And this case has to be decided on the
14 evidence. As the clerk just said, "you will well and truly
15 try and true deliverance make between the State of South
16 Carolina and Philip Stackhouse and a true verdict render
17 according to the law and evidence" and that means you're
18 not going to decide this on sympathy, or fear, or bias or
19 prejudice but you're going to decide on the evidence. And
20 that's the only job the solicitor has is to prove this case
21 beyond a reasonable doubt and that's the only job you have.
22 You're not judging Philip Stackhouse. You're not judging
23 any of the witnesses. Well, you can judge their
24 credibility, but you don't decide on the way a witness
25 looks or testifies. You decide this case based on the

1 evidence that the solicitor presents and it has to be
2 beyond a reasonable doubt. They have to prove each and
3 every allegation. They have to prove that not only was
4 there a fight that morning, they have to prove if Philip
5 Stackhouse stabbed Oliver Johnson. They have to prove that
6 and it can't be maybe or probably or could've been, it has
7 to be beyond a reasonable doubt. They have to prove to you
8 that this shirt in this trash can, she just told you Philip
9 Stackhouse put it there, they have to prove that to you.
10 They have to prove who put that shirt in that trash can.
11 And I think once you see what the evidence says and what
12 the evidence is not that Philip Stackhouse will be not
13 guilty when you come back with your verdict. Thank you
14 very much.

15 THE COURT: All right. Solicitor, your first
16 witness please?

17 MS. MUNNERLYN: Thank you, Your Honor. I would call
18 Patrice McQueen.

19 THE COURT: Come around all the way around here.
20 Come around the front and go all the way around and meet
21 the clerk over there please.

22 THE CLERK: Place your left on the Bible and raise
23 right. Do you swear to tell the truth, the whole truth,
24 and nothing but the truth so help you God?

25 MS. McQUEEN: Yes, ma'am.

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1 THE CLERK: Have a seat and state your full name?

2 MS. McQUEEN: Patrice Nicole McQueen.

3 THE COURT: All right. You need to speak up,
4 ma'am. If you'll pull now and if you can pull that
5 microphone right in front of you.

6 MS. McQUEEN: Patrice Nicole McQueen.

7 THE COURT: Is that -- is the system on?

8 COURT REPORTER: That one is not working. These
9 two don't work.

10 THE COURT: All right. Well, you're going to have
11 to speak up, ma'am, because the jury over there, all those
12 people over there you're going to need to turn towards them
13 and speak as loud as you can and tell them the answers,
14 okay?

15 MS. McQUEEN: Okay.

16 THE COURT: All right. Madam?

17 PATRICE McQUEEN, first being
18 duly sworn, testified as follows:

19 **Direct Examination by Ms. Munnerlyn:**

20 Q. What is -- what is your full name?

21 A. Patrice Nicole McQueen.

22 Q. Speak up real loud for me.

23 A. Patrice Nicole McQueen.

24 Q. Okay. And where are you employee, Ms. McQueen?

25 A. Evans Correctional Institution.

1 Q. Okay. And how long have you been employed there?

2 A. October will be seven years.

3 Q. Okay. And in what capacity -- what is your position
4 there at Evans?

5 A. A correctional officer.

6 Q. Okay. And do you know the defendant, Phillip
7 Stackhouse?

8 A. Yes.

9 Q. Okay. And how long have you known him?

10 A. A couple of years.

11 Q. Okay. And did you know Oliver Johnson, who is the
12 victim in this case?

13 A. I didn't. I knew of him.

14 Q. Okay. All right. But you knew who he was?

15 A. Yes.

16 Q. Okay. All right. And were you working on February
17 23rd of last year?

18 A. Yes.

19 Q. Okay. In what wing were you working?

20 A. I was in the control room in the Cherokee unit.

21 Q. Cherokee unit or C wing, C unit, I guess they call it.

22 A. It's just Cherokee. You have A, B, C, and D.

23 Q. Okay. And C in Cherokee?

24 A. Yes, ma'am.

25 Q. Okay. All right. And you were working in the control

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1 room?

2 A. Yes.

3 Q. Now, where is that?

4 A. It's in the middle -- Cherokee unit is like a circle
5 almost and it's up top. It's like you walk up some
6 stairs, it's in the middle of all of the wings.

7 Q. And describe that room for me if you would? What's in
8 the room?

9 A. The control room?

10 Q. Yes.

11 A. It has two panels to operate A and B wing and it has
12 two panels on this side to operate C and D wing and its
13 glass all the way around with bars covering the windows so
14 they can't get inside to you where I'm that.

15 Q. So can you see C wing?

16 A. Yes.

17 Q. All right. And this is on the second floor?

18 A. Yes.

19 Q. All right. I'm going to show you -- I'm show you
20 what's marked as State's Exhibits 1 and 2, do you recognize
21 what's in those photos?

22 A. Yes.

23 Q. Okay. And do you know where they were taken?

24 A. Where they were taken?

25 Q. Where, yes?

1 A. Yes.

2 Q. Okay. And where were they taken? What do they show?
3 Just in general terms, what do they show?

4 A. They show the cells on C wing.

5 Q. All right. Did they reflect the control room?

6 A. Yes.

7 Q. Okay. And do they -- is that how it appeared back on
8 February 23rd of last year?

9 A. Yes.

10 Q. Okay. All right. And can you see cell 219 from where
11 you're located in the control room?

12 A. Yes.

13 Q. And is 219 on the first or the second tier?

14 A. It's on the second tier.

15 Q. Okay. Explain ---

16 A. Up top.

17 Q. Explain to the jury just the basic set up of the C
18 wing there?

19 A. C wing from the perspective of being in the control
20 room or just

21 Q. Yes.

22 A. Well, from the control room you can see straight on to
23 C wing. When you walk in, you have the bottom tier
24 starting with 100 and the top tier start with 200 numbers.

25 Q. Okay.

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1 A. And it's just you go upstairs and that's the top tier.

2 Q. And it's all open, isn't it?

3 A. Yes.

4 Q. So you can see the doors of all the cells?

5 A. Mmm, hmm.

6 Q. And that's a yes, I'm sorry?

7 A. Yeah. Yeah.

8 MS. MUNNERLYN: You have to say yes or no because she
9 can't take down huh, huh or a uh, uh.

10 Q. Okay. All right. And so these two photos reflect
11 where you were in the control room and looking out toward
12 cell 219?

13 A. Yes.

14 Q. All right. And early -- what time do they generally
15 go to breakfast?

16 A. It's different times. Whatever -- it depends on what
17 place they're eating.

18 Q. Okay.

19 A. Some -- they usually start feeding around 4:30 and
20 they can go all the way up until maybe like 7:30.

21 Q. Okay.

22 A. So anytime in between then.

23 Q. And generally they would let an entire wing go at one
24 time?

25 A. The entire wing?

1 Q. Yes. That wing?

2 A. Mmm, hmm.

3 Q. Yes.

4 A. Yes, I'm sorry.

5 Q. Okay. And did you see Phillip Stackhouse and Oliver
6 Johnson that morning?

7 A. Yes.

8 Q. Where were they when you first saw them?

9 A. When I first saw them, Oliver Johnson was sweeping the
10 floor when a very first saw him that morning.

11 Q. Was sweeping the floor?

12 A. Yes.

13 Q. Okay.

14 A. He was cleaning up.

15 Q. Was that -- do you know if he had already been to
16 breakfast or had come back from breakfast?

17 A. No. This is prior to breakfast.

18 Q. Prior to breakfast.

19 A. Yes.

20 Q. He was sweeping the floor out in the unit or ---

21 A. C wing ---

22 Q. --- where?

23 A. C wing Unit. The second tier.

24 Q. Okay. And did you see Phillip Stackhouse?

25 A. Later on that morning.

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1 Q. Okay. And so when Oliver Johnson was sweeping the
2 floor he was just by himself?

3 A. Yes, he was by himself.

4 Q. Okay. And then when did you see him again after that?

5 A. When he was laying on the floor in a pool of blood.

6 Q. All right.

7 A. That wasn't the first time, I'm sorry, when he was
8 fighting.

9 Q. Okay.

10 A. That's the next time I saw him.

11 Q. Okay. Tell us about the next time that you saw him,
12 what did you see?

13 A. When I looked up they were in cell in 219, Oliver
14 Johnson's back was the first thing I saw and they was
15 fighting, hands were going everywhere and it moved pretty
16 fast. So they came out and Stackhouse was on him. They
17 was fighting, fighting - - -

18 Q. Who is Stackhouse, now?

19 A. Phillip Stackhouse is right there.

20 MS. MUNNERLYN: Let the record reflect, Your Honor, she
21 has pointed out the defendant.

22 THE COURT: Yes, ma'am.

23 Q. And Stackhouse was doing what?

24 A. They was fighting.

25 Q. Okay.

1 A. They both were fighting. Both swinging.

2 Q. Okay. And just with their hands?

3 A. From what I could see, yes.

4 Q. All right. What happened?

5 A. Johnson swung a couple more times and he started
6 stumbling like sideways and backwards and Stackhouse was
7 still on him and then he just ---

8 Q. Stackhouse was what?

9 A. He was still fighting and when he started stumbling he
10 just fell and he ---

11 Q. Oliver Johnson started stumbling?

12 A. Yes.

13 Q. Okay. And where was he when he started stumbling?

14 A. He was right outside of 219. Right where the, the
15 railing is.

16 Q. I'm going to show you what's been marked as State's
17 Exhibit 3, you recognize that photograph?

18 A. Yes.

19 Q. Do you recognize what's in it?

20 A. Yes.

21 Q. And where is that?

22 A. This is C wing.

23 Q. That's C wing. Does it accurately reflect as it
24 appeared that morning?

25 A. Yes.

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1 Q. Okay.

2 MS. MUNNERLYN: Your Honor, I want to go ahead and
3 admit these three photographs as 1,2 and ---

4 MR. STEPHENS: I didn't see the last one.

5 MS. MUNNERLYN: --- 3.

6 THE COURT: Any objection, Mr. Stephens?

7 MR. STEPHENS: No, sir, Your Honor.

8 THE COURT: All right. State's 1,2, and 3 without
9 objection.

10 MS. MUNNERLYN: Thank you, Your Honor.

11 (Whereupon, the Photo has been marked and entered into
12 evidence as State's Exhibit No. 1)

13 (Whereupon, the Photo has been marked and entered into
14 evidence as State's Exhibit No. 2)

15 (Whereupon, the Photo has been marked and entered into
16 evidence as State's Exhibit No. 3)

17 Q. Okay. If you can point out in State's Exhibit 3,
18 where, can you tell from that picture, where Oliver Johnson
19 and Phillip Stackhouse were?

20 A. Yes. They -- when they started ---

21 Q. If you'll -- if you can show the jury.

22 A. When they started fighting, when I saw them fight,
23 they was coming out of cell 219. They came on out and they
24 was still fighting. And then when he started stumbling he
25 was right up here. Not this railing but the railing that

1 goes like that. He was right there when he finally fell.

2 Q. Okay. All right. And what was Stackhouse doing?

3 A. After he fell?

4 Q. No, before he fell?

5 A. He was still swinging on him.

6 Q. Swinging at who?

7 A. Oliver Johnson.

8 Q. Okay. And how was he swinging?

9 A. Just real wild. Just really wild.

10 Q. Okay. Where -- what else was going on around him?

11 Was there anybody else involved in this altercation?

12 A. I didn't see anybody else. Now, the inmates that were
13 there they, of course, their attention was on them and
14 people just started running everywhere.

15 Q. Okay. But they were the ---

16 A. --- trying to see the fight.

17 Q. --- only two involved in the altercation were these
18 two?

19 A. Yes.

20 Q. And you saw Oliver Johnson fall?

21 A. Yes.

22 Q. And how did he fall?

23 A. Well, when he fell he just landed, he just landed,
24 like, on his stomach area.

25 Q. Okay. And did he -- after he fell, did he move?

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1 A. No.

2 Q. Did he ever get up?

3 A. No.

4 Q. Did he ever say anything?

5 A. No.

6 Q. And what did Phillip Stackhouse do once he fell?

7 A. He just started doing, like that, and started coming
8 down the stairs.

9 Q. Coming down the stairs, which stairs?

10 A. These stairs right here.

11 (Whereupon, pointed it on the photo)

12 Q. Now, where were you in relation to the stairs, where
13 would you be sitting when you're watching this?

14 A. I wasn't sitting. I was standing ---

15 Q. Standing ---

16 A. --- inside the control room.

17 Q. Okay. So inside the control room which would be
18 inside here?

19 A. Right here.

20 Q. Okay. Which is in, I believe, Exhibit 1? State's
21 Exhibit 1?

22 A. Yes.

23 Q. Okay. And so he wa -- started shaking his hands, you
24 said like this ---

25 A. Yes.

1 Q. --- coming down those stairs right there. So he would
2 be coming back towards where you were, right?

3 A. Yes.

4 Q. Okay. And what did he proceed to do at that point?

5 A. Well, whenever I -- when I finally came on the wing he
6 was, I met him and I ---

7 Q. So you -- what -- how do you get on the wing?

8 A. You go from the control room you walk down a set of
9 stairs, a couple of stairs and you go through too little
10 push doors and you come around and they open the door for
11 you to get into the sally port ---

12 Q. Huh, huh.

13 A. --- and then she opened the door for me to enter the
14 wing.

15 Q. Okay. And is that a glass door or partially glass?

16 A. Which door?

17 Q. --- you can see through part of that ---

18 A. C wing ---

19 Q. --- the glass door?

20 A. C wing door? Yes, you can see all the way through.

21 Q. Okay. All right. And so you entered the wing, where
22 was he when you entered the wing?

23 A. He was coming down the steps and he had just hit the
24 bottom, I think -- yeah, just hit the bottom when we met
25 and I was like, I hate to say it, but "what the fuck is

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1 wrong with you", I said, "what the fuck or what the hell",
2 "what the hell is wrong with you", or something like that.

3 Q. Huh, huh.

4 A. And he was just like daze, "what I ain't do nothing",
5 that's what he said to me. And I didn't stay to talk to
6 him. I just ran up the steps.

7 Q. Okay. Do you know where he went?

8 A. He walked off and went towards his cell.

9 Q. And where was his cell?

10 A. On the bottom tier. That last room right there.

11 (Whereupon, the witness pointed to it on the photo)

12 Q. Okay. So he had to come down those stairs, turn
13 around and go back to the end of the unit?

14 A. Yes.

15 Q. So it's the last one?

16 A. It's the very last door on that side.

17 Q. Okay. And where did you go from that point?

18 A. Upstairs.

19 Q. Okay.

20 A. To this point where Johnson was laying.

21 Q. All right. And when you got there what did you do?

22 A. I looked because it was just so much blood, so I was
23 like shocked and the inmates started yelling. I started
24 yelling who is this, you know, trying to figure out his
25 name because I had just met him that night at roll call, so

1 I wasn't familiar with his face. So I was trying to get
2 them to tell me who he was so I could relay that back to
3 medical through my radio. But by the time I got to him
4 really my sergeant was running up behind me and he took
5 over from that point because he saw that I was just
6 shocked.

7 Q. Okay. And again, did he ever get up or move?

8 A. No.

9 Q. And you said there was a lot of blood?

10 A. Yes.

11 Q. On the floor?

12 A. Yes.

13 Q. Around him?

14 A. Yes.

15 Q. Okay. And he was laying on his stomach?

16 A. Yes.

17 Q. So that would be face down?

18 A. Yes. The blood was coming from under him and pushing
19 out towards the wall.

20 Q. Pooling around?

21 A. Pooling -- yes.

22 Q. And the cell in front that they can come out of but
23 you saw them and all this happening?

24 A. Yes.

25 Q. At cell, 219?

1 A. Yes.

2 Q. That was his cell?

3 A. Yes.

4 Q. Okay.

5 A. Oliver Johnson.

6 Q. Oliver Johnson's cell. Okay. So after that, what did
7 you do? Your sergeant arrives and what did you do?

8 A. He helped me to start locking all the doors, securing
9 all the doors.

10 Q. Okay. What you mean by securing all the doors?

11 A. Get the inmates in their room and close them and make
12 sure the door locks, because you can close it and it may
13 not lock sometimes.

14 Q. Okay. So put all the inmates in that particular wing?

15 A. Yes. He started saying, locked the whole unit, the
16 whole unit needs to be locked down.

17 Q. Okay. And so where were the inmates at that point?

18 A. They were still out.

19 Q. Okay. So you began to get them in their rooms?

20 A. Mmm, hmm. Yes.

21 Q. And make sure the doors were locked?

22 A. Yes.

23 Q. So they couldn't come out of their rooms?

24 A. Yes.

25 Q. Okay. You know about how long it took?

1 A. I'm not sure. It took a minute because everybody was
2 so riled up.

3 Q. Okay.

4 A. In trying to see what was going on.

5 Q. Did you see -- did you at any point see why you were
6 locking the wing down, Ethrum Jenkins?

7 A. Yes.

8 Q. Where did you see him?

9 A. I saw him come out of Stackhouse's room.

10 Q. He came out the defendant's cell?

11 A. Yes.

12 Q. Do you know why he was in there?

13 A. He had -- he came out. I don't know why he went in
14 but he came out with something circular and rusted.

15 Q. Circular and rusted. Did you know what that was?

16 A. No.

17 Q. Where did he go when you saw him come out?

18 A. To his room.

19 Q. And where was -- where was his cell?

20 A. Ethrum Jenkins lived in I believe it's 127, here.

21 (Whereupon, the witness points to the cell from photo)

22 Q. Okay. So right there on the first tier?

23 A. Yes.

24 Q. All right. And he took this rounds circular object in
25 his cell with him?

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1 A. Yes.

2 Q. Okay. And did you lock him in his cell at that point,
3 then or he was he in lock down at some point?

4 A. I think so. I can't remember if I started locking at
5 the bottom -- yes, I was locking him in his room because I
6 was like where is he at. He wasn't in his room when I got
7 to his room for lock down. That's when I noticed him
8 coming out of Stackhouse's room.

9 Q. All right. And then did you -- what about cell 219,
10 did you see anybody in cell 219?

11 A. I saw somebody in there but I can't say for sure who
12 it was.

13 Q. Okay. He had a roommate, though?

14 A. Yes.

15 Q. Oliver Johnson had a roommate?

16 A. Yes.

17 Q. Do you know who his roommate was?

18 A. Russell.

19 Q. Gabriel Russell?

20 A. Yes.

21 Q. All right. And do you know what he was doing in
22 there?

23 A. I'm not sure. I saw somebody cleaning up blood and I
24 can't really say for sure that it was him. I'm not sure.

25 Q. Somebody was cleaning up blood ---

1 A. Yes.

2 Q. --- in that cell?

3 A. Yes.

4 Q. All right. And it was Gabriel Russell who shared that
5 cell with Oliver Johnson?

6 A. Yes.

7 Q. Are you sure or was there anybody else that was
8 involved in this altercation with Oliver Johnson?

9 A. The only thing that I -- the only people that I saw
10 fight were Stackhouse and Oliver Johnson. I didn't see
11 anybody else attacking Oliver Johnson.

12 Q. And you never saw anything in Oliver Johnson's
13 possession as far as any kind of weapon or anything, did
14 you?

15 A. No. Not from what I could see. The hands was just
16 moving so fast.

17 Q. Okay.

18 A. So I don't know ---

19 Q. And when you approached the body there was no weapon?

20 A. No.

21 Q. Okay. And he was still laying face down?

22 A. Yes.

23 Q. Now, what -- what happened with his body? What was --
24 where was he taken?

25 A. He was taken to medical but at that point I wasn't on

1 that wing. I was at another wing locking down.

2 Q. Okay. So you were still locking down, your sergeant
3 was still the one who's there with Oliver Johnson?

4 A. Yes. My sergeant and ---

5 Q. You knew ---

6 A. --- McClellan, Officer McClellan.

7 Q. Okay.

8 A. But I wasn't on that wing at that point in time. I
9 had done went to the next wing and was continuing to lock
10 down the rest of the inmates.

11 MS. MUNNERLYN: The Court's indulgence just one moment.

12 THE COURT: Yes, ma'am.

13 Q. Now, tell me again, when you initially saw them, did
14 you, fighting -- when you were in the control room ---

15 A. Yes.

16 Q. --- could you identify them at that point? Did you
17 know who was involved?

18 A. Yes. I recognized Stackhouse because I've known him
19 for years but I did not know who Oliver Johnson ---

20 Q. You just didn't know the name of Oliver Johnson?

21 A. Yes. Like I said, I just had met him that night just
22 before roll call.

23 Q. But you knew who he was?

24 A. Yes.

25 Q. All right. Was there any question that Phillip

1 Stackhouse was the one involved in ---

2 A. No.

3 Q. And you didn't see anybody else?

4 A. Nobody else.

5 MS. MUNNERLYN: All right. I don't have any further
6 questions. Please answer any questions the defense counsel
7 might have.

8 THE COURT: Mr. Stephens?

9 MR. STEPHENS: May it please, the Court, Your Honor?

10 THE COURT: Yes, sir.

11 **Cross Examination by Mr. Stephens:**

12 Q. Good morning, Ms. McQueen.

13 A. Good morning.

14 Q. Now, Ms. McQueen, you just testified that you had a
15 conversation with Philip Stackhouse when he came down the
16 stairs?

17 A. Yes.

18 Q. Do you remember giving a statement to sled Agent
19 August and sled Agent Creech?

20 A. Yes. C

21 Q. Do you -- I'd like to show you that statement and see
22 if you recognize that. Is that your statement?

23 A. Yes.

24 Q. And in that statement you never say you had a
25 conversation with Phillip Stackhouse, did you?

1 A. No.

2 Q. And do you remember doing incident, South Carolina
3 Department of Corrections incident report that morning?

4 A. Yes...

5 Q. I like to see if that's it. Is that it?

6 A. Yes. It's the first ---

7 Q. And in that incident report, you never said you had a
8 conversation with Phillip Stackhouse when he came down the
9 stairs that morning, did you?

10 A. No.

11 Q. Okay. Now, you said you been at Evans for seven
12 years?

13 A. It will be seven years in October.

14 Q. Okay. And in the Cherokee, I think you were trying to
15 tell us that includes four wings?

16 A. Oh the -- yes.

17 Q. A, B, C, and D?

18 A. Yes. And then you have the control in the middle.

19 Q. Is this -- if I show you something, can you identify
20 that?

21 A. This is the control room.

22 Q. I'm sorry?

23 THE COURT: I'm sorry, ma'am, I can't ---

24 A. That's the control room.

25 Q. That's the control room?

1 A. Yes.

2 Q. And you told the solicitor that there were two panels
3 on each side?

4 A. One panel on each side.

5 Q. Okay. And one panel looks out over C wing and D wing?

6 A. Yes.

7 Q. And then when you turn your back you got a panel and
8 you look at a A wing and B ing ---

9 A. Yes.

10 Q. --- is that correct? So if you're looking out over C
11 wing and D wing, you can't really tell what's going on in A
12 and B at that time?

13 A. You don't have to turn your back on it, you can just
14 look sideways.

15 Q. So you can see all four wings at one time?

16 A. No. But the whole control room is made out of glass -
17 --

18 Q. I understand that.

19 A. --- so you can look, both sides.

20 Q. Okay. If you look from this side, you can't tell
21 what's behind you, right?

22 A. No.

23 Q. Okay. And so you were the only one at the control
24 panel that morning?

25 A. No. I was training another officer.

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1 Q. Okay. She was at the control panel?

2 A. No, she was in a chair ---

3 THE COURT: Mr. Stephens, is that photograph and
4 evidence?

5 MR. STEPHENS: Umm ---

6 THE COURT: You can't be showing it to the jury
7 unless it's in evidence.

8 MR. STEPHENS: I'd like to introduce that.

9 MS. MUNNERLYN: No objection, Your Honor.

10 MR. STEPHENS: All right. So that's Defendant's 1,
11 then?

12 MR. STEPHENS: Yes, sir.

13 THE COURT: All right. There's no objection.

14 Defendant's 1 is in evidence without objection.

15 (Whereupon, the Photo has been marked and entered into
16 evidence as Defendant's Exhibit No. 1)

17 Q. So who were you training that morning?

18 A. Officer Lockey. I'm not sure of her first name.

19 Q. Lockey?

20 A. Yes.

21 Q. But you said she wasn't at the control panel?

22 A. She was in a chair. Right out of this picture there
23 is a chair that sits you side.

24 Q. And which way was she facing?

25 A. She would've been facing towards C and D.

1 Q. She would've been facing towards the end D?

2 A. Yes.

3 Q. Could she see over through the glass?

4 A. Yes.

5 Q. From where she was seated?

6 A. Yes.

7 Q. Okay. Now, -- thank you ---

8 MR. STEPHENS: May I give this to the jury, Your
9 Honor?

10 THE COURT: If you would like to publish it I'll be
11 glad for you to do so.

12 MR. STEPHENS: Not at this time.

13 THE COURT: All right, sir.

14 Q. Have you ever worked anywhere other than Evans for the
15 Department of Corrections?

16 A. No. Evans is the only place.

17 Q. How long had you been at work that day?

18 A. How long had I been at work?

19 Q. Yes.

20 A. We got there at 7:45 that night.

21 Q. Okay. So you had been working all night?

22 A. Yes.

23 Q. Okay. So you were getting ready to go home?

24 A. We would not have gotten off until about 8:30, 9
25 o'clock.

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1 Q. Okay. And this happened about what time?

2 A. About 5:55, somewhere around there.

3 Q. And did you work at other places at Evans?

4 A. Other post at Evans?

5 Q. Yes.

6 A. Yes.

7 Q. How long did you work at Cherokee?

8 A. A long time.

9 Q. Okay. How many days did you work that week?

10 A. I'm not sure.

11 Q. Do you remember what day of the week it was?

12 A. No.

13 Q. Okay. Do you know how many inmates are in Cherokee?

14 A. There's sixty-four on each -- there's sixty-four beds
15 on each wing.

16 Q. Okay.

17 A. All the beds don't have to be full so the numbers
18 range.

19 Q. I gotcha.

20 A. Vary.

21 Q. Two to 250?

22 A. Yes.

23 Q. Okay. Now, on these four wings, you can close -- you
24 can close the door and they can't get out of C wing, right?

25 A. Yes.

1 Q. During the day, are those doors opened?

2 A. Which ones? Which doors?

3 Q. That goes into the wing.

4 A. Yes. We can open and close it. That's what the
5 control room controls is the door.

6 Q. I understand that. But are they open during the
7 daytime? Say if everybody's going to breakfast, are the
8 doors just left open?

9 A. No, they're not just left open. You can only open one
10 door at a time. So that doors open, the inmate comes out,
11 the door shuts.

12 Q. And they can't walk from A wing to B wing?

13 A. No. No. Not with the door shut.

14 Q. You can't walk from C wing to D wing?

15 A. No.

16 Q. Okay. And there's not a video camera in Cherokee?

17 A. No.

18 Q. There's cameras in the other dorms, though, right?

19 A. No. Not and all of them. I think maybe two.

20 Q. So there's cameras in some of the dorms?

21 A. Yes.

22 Q. Are there certain kinds -- were there certain inmates
23 assigned to Cherokee as far as discipline problems or
24 anything like that?

25 A. No.

1 Q. Okay. And you said you didn't -- how about, like, did
2 they try to segregate the different gang members from each
3 other?

4 A. I don't know anything about that.

5 Q. You don't know anything about gang members?

6 A. I know some gang members but I don't -- that's not my,
7 job.

8 Q. Okay.

9 A. So I couldn't tell you about them.

10 Q. Right. And what did -- when you -- you say you first
11 noticed my client and Mr. Johnson fighting?

12 A. Yes.

13 Q. Okay. Nobody had to come tell you they were fighting?

14 A. Nobody came and told me anything. I was already
15 standing up. I was already facing C and D wing. What
16 caught my attention was it was a guy -- it was a guy at the
17 microwave on C wing right there by the glass. The
18 microwave is not there anymore, I don't think. But he
19 snatched his head up and that's what really caught my
20 attention.

21 Q. Okay.

22 A. And then I saw them fighting up there at the top
23 coming out. When I first noticed, I saw Oliver Johnson's
24 back and Stackhouse was on him coming out of the room.

25 Q. So the first thing you saw was somebody at the

1 microwave look up?

2 A. Yes, his attention was ---

3 Q. And that's when you looked up and then saw them ---

4 A. Yes.

5 Q. --- fighting? Okay. And you said there were other
6 inmates around, they weren't involved in the fight, they
7 were standing on the walkway?

8 A. Yes.

9 Q. Do you remember how many?

10 A. No. Everybody was out because they were coming back
11 from chow that morning.

12 Q. Okay. And so half of them had to go upstairs to their
13 rooms?

14 A. No. Most of them -- when they walk on the wing they
15 automatically walk onto the bottom tier but like I said
16 they were coming back from chow so they come in like, in
17 mass groups.

18 Q. Okay. How many people were upstairs?

19 A. I'm not sure how many people were upstairs.

20 Q. Was it more than five?

21 A. Yes.

22 Q. More than ten?

23 A. I don't think so.

24 Q. Now, you said that -- how long did you stand in the
25 booth and watch them fight?

1 A. Maybe two, two minutes.

2 Q. Okay.

3 A. From the point where I seen the fight was going on
4 because I couldn't leave the new hire in the control room
5 by herself because she's not certified.

6 Q. Okay. So how long did it take for somebody to get
7 there so you could leave?

8 A. My partner, Tillman, was right outside. So I radioed
9 her as soon as I seen the fight was going on I notified my
10 lieutenant and everybody and she came on up ---

11 Q. Let me stop you just one second. You said she was
12 outside ---

13 A. On the walkway. You have to have somebody right
14 outside on the walkway to monitor the movement that's coming
15 back from chow.

16 Q. Now, when you say -- you're talking about outside the
17 entire Cherokee?

18 A. Right outside the door.

19 Q. So she was outside, she had to come back into
20 Cherokee?

21 A. Yeah, is just a door that you open up right there.

22 Q. I understand that.

23 A. She came right there ---

24 Q. I'm not trying to trick you. I just want to know, she
25 was inside Cherokee?

1 A. No.

2 Q. She was outside Cherokee?

3 A. Yes.

4 Q. She had to come in and y'all have to let them, is that
5 correct?

6 A. Yes.

7 Q. The door closes behind her. She has to go up the
8 stairs and you have to open another door for her, is that
9 correct?

10 A. No.

11 Q. Tell me how.

12 A. You open a door, it's like a small little corner, no
13 more -- the door is no bigger than the space right here.
14 You open the door and then you open another door and you
15 walk up like maybe six steps and you're right there next to
16 her.

17 Q. Okay. So you open the outside door, and she comes in
18 and it closes?

19 A. As soon as it close, you can pop the other door and
20 she comes on up.

21 Q. And then she comes upstairs and you wait for her to
22 get all the way up the stairs before you can leave?

23 A. Yes.

24 Q. Okay. So she got behind the control panel and then
25 you went out the same way she came in?

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1 A. Yes.

2 Q. Okay. So you went down the stairs and then go through
3 two doors?

4 A. Went through -- once you go down the stairs you go
5 through that door. That door close. You go out another
6 door and then she pops the sliding door for me to go in.

7 Q. I understand. So you go ---

8 A. So that's three doors.

9 Q. --- downstairs, go through one door and another door
10 and then your outside?

11 A. Yes.

12 Q. And then she opens the sliding door and you walk in?

13 A. Yes.

14 Q. And when you first walk in, you go by which wing?

15 A. You go by D wing.

16 Q. D wing. So you have to go by D wing and then you get
17 to C wing, did she have to let you in the C wing?

18 A. Yes. But like I said all of that is glass so you can
19 see the whole time.

20 Q. I understand. She had to open the door for you to go
21 into the C wing?

22 A. Yes.

23 Q. Okay. And then you started upstairs?

24 A. Yes.

25 Q. And that's when you say you saw Phillip Stackhouse

1 coming down the stairs?

2 A. He was coming down the stairs when we met. We met as
3 soon as we started going up.

4 Q. Okay.

5 A. And that's when I said what I said to him and I
6 continued on up the stairs.

7 Q. So it's your testimony that you were in the control
8 room, you saw Oliver Johnson fall?

9 A. I saw them fighting, then he fell.

10 Q. I understand. You were in the control room?

11 A. Yes.

12 Q. Okay. And it's your testimony that Phillip Stackhouse
13 stood there until you got all the way out until Tillman
14 came in and you went down to see ---

15 A. No. That's not what I said. I said we was coming --
16 we met at the stairs.

17 Q. Okay.

18 A. He was already almost down. He wasn't at the top of
19 the stairs.

20 Q. Okay. And you saw him, he was shaking his hands?

21 A. Yes.

22 Q. And I think you had previously said you didn't see any
23 blood on him?

24 A. I said there could have been. I don't know. I wasn't
25 looking for that.

1 Q. You didn't see any?

2 A. I said I wasn't looking for it. So I don't know if it
3 was blood or not.

4 Q. You didn't put in your statement there was blood on
5 him, did you?

6 A. No, I didn't.

7 Q. You didn't see a weapon?

8 A. No. I seen him shaking his hands, like this.

9 Q. You didn't see any weapon at all, did you?

10 A. I can't say if he had a weapon or not ---

11 Q. That ain't what I ask you. I ask you did you see one?

12 A. No. I seen him shaking his hand, like this.

13 Q. Okay. But you didn't see one by Mr. Johnson either,
14 did you?

15 A. No, I did not.

16 Q. Okay. So when Sergeant Heyward arrived, you were
17 still in the control room and ---

18 A. No, I was not, sir.

19 Q. Who -- who came that ---

20 A. I told you when Sergeant Heyward arrived, I was
21 standing with Oliver Johnson's body..

22 Q. Who let -- who came and relieved you in the control
23 room?

24 A. Tillman.

25 Q. Tillman, okay. Now, you said Heyward came up, up the

1 stairs?

2 A. Yes.

3 Q. How long before he got there?

4 A. Like right after I got there. Because, like I said,
5 whenever I called for help I called before I was even on
6 the wing ---

7 Q. I understand.

8 A. --- when I saw the fight so that's why he got there so
9 quickly.

10 Q. Okay. Now, you said -- you told the solicitor you
11 went to 219 and you saw somebody cleaning up?

12 A. Yes.

13 Q. What did you tell that person to do?

14 A. I was running by the door. I didn't tell that person
15 anything because I was more worried about Johnson.

16 Q. You didn't tell that person to stop cleaning that
17 blanket?

18 A. I didn't tell that person -- I can't remember if I
19 told that person anything.

20 Q. Okay.

21 A. Because my focus was mainly on Johnson because I
22 hadn't seen him move.

23 Q. I understand. So you didn't tell Gabriel Russell to
24 stop cleaning the blanket and go sit on the bench?

25 A. I can't -- I can't remember.

1 Q. You could have?

2 A. I could have but I can't remember. It's been so long
3 ago.

4 Q. Okay. Did you ever see Phillip Stackhouse praying?

5 A. Praying? No.

6 Q. Not just that day, anytime?

7 A. Anytime? Since I've known him?

8 Q. Yes.

9 A. Yes.

10 Q. Okay. Is there a place on the second tier where they
11 go pray?

12 A. Usually when I see these, some of them Muslims pray,
13 they pray at the end.

14 Q. Is that on the second tier?

15 A. Yes. But it's, right here, this is a better picture
16 of it. Sometimes they'll go to the end where there's a lot
17 of space over here. Right there.

18 (Whereupon, the witness points to it on the photo)

19 Q. You see him go down there?

20 A. When?

21 Q. Anytime? The seven years you've been there, have you
22 ever seen him down there praying?

23 A. He may have, but I can't say for sure.

24 Q. But that's where the Muslims go to pray?

25 A. Some of them. Not all of them.

1 Q. Do you know how many Muslims are in that dorm?

2 A. No, I do not.

3 Q. More than ten?

4 A. I have no idea, sir. I don't know their religion.

5 Q. All right. Now, you called for a lock down. Did you
6 later go get Phillip Stackhouse?

7 A. Did I later go, do what?

8 Q. Get Phillip Stackhouse?

9 A. He was in his room when I got to his room.

10 Q. I understand. I'm talking about later, did you go get
11 him out and take him to lock up?

12 A. I didn't take him to lock up. No.

13 Q. You and go with them to get him out of lock up, to get
14 him out of his cell?

15 A. I think I may have but I'm not -- I can't remember.

16 Q. You don't remember who went to get him?

17 A. I can't -- it's been so -- no, I can't remember.

18 Q. Do you remember going to get anybody to take them to
19 lock up that morning?

20 A. No, I can't remember.

21 Q. So you didn't take anybody to lock up?

22 A. I didn't leave my post, no. I didn't take anybody to
23 lock up. No.

24 Q. I'm talking about after you locked everybody down?

25 A. I didn't take anybody to lock up.

1 Q. Okay. So you didn't go to his cell?

2 A. I went to his cell but I didn't take anybody to lock
3 up. I didn't leave my post at all.

4 Q. Okay.

5 A. Until I was relieved that morning.

6 Q. You stayed in C wing?

7 A. No. There are other pods there, A, B, C and D had to
8 be locked down.

9 Q. So you were locking everybody down?

10 A. Yes. Everybody had to be locked down.

11 Q. Have you ever been to -- do you know Philip
12 Stackhouse's roommate, Jason Goins?

13 A. Not really. I just know his name and what he looks
14 like, but other than that, no, I don't know him.

15 Q. You've never been to their cell?

16 A. Have I ever did what?

17 Q. Been to their cell?

18 A. Have I ever. -- yes, I've been inside their cell.

19 Q. You knew he had a hotplate?

20 A. I don't know. I don't recall -- now.

21 Q. You've never seen him cook fish sticks?

22 A. I can't tell you, I mean, I don't know.

23 Q. You've been there for seven years?

24 A. Yes.

25 Q. How many times have there been assaults while you were

1 working?

2 MS. MUNNERLYN: Your Honor, I would object as to
3 relevance.

4 A. Yeah, cuz I don't know.

5 MS. MUNNERLYN: It's just a general question.

6 MR. STEPHENS: It goes to other of ---

7 THE COURT: I'll allow you to ask that question
8 without any follow-up.

9 MR. STEPHENS: I'm sorry, Your Honor.

10 THE COURT: You can ask that one question.

11 MR. STEPHENS: Could I be heard on the matter?

12 THE COURT: Ladies and gentlemen of the jury, go to
13 your jury room please.

14 (Whereupon, the jury exits the courtroom at 10:42 a.m.)

15 THE COURT: All right. Mr. Stephens the objection
16 to your question is relevance. You're talking about other
17 fights that Mr. Stackhouse has been involved in or just
18 fights in general?

19 A. Well, fights in general. Fights that the victim or
20 any of the other witnesses have been involved in, but as a
21 whole, Your Honor, to show there's other assaults and other
22 weapons that have been confiscated to show that there is a
23 dorm full of suspects. That a dorm full of people who
24 could have had a weapon that who could've committed this
25 crime while the officer was not looking.

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1 THE COURT: The officer was what, sir?

2 MR. STEPHENS: Not observing Mr. Johnson. She was
3 going down the stairs, when there was a blind spot and some
4 of the other inmates gathered around who had the
5 opportunity to commit this assault and shows ---

6 THE COURT: You mean after he was on the ground
7 laying face down on his stomach that somebody else
8 assaulted him, is that what you're ---

9 MR. STEPHENS: Yes ---

10 THE COURT: --- is that what you're saying?

11 MR. STEPHENS: Yes, sir.

12 THE COURT: All right. What's your response,
13 solicitor?

14 MS. MUNNERLYN: Your Honor, I would object. Just in a
15 general nature as to any other assaults that occurred
16 specifically as to any other incident that this -- this --
17 this case is about a fight that occurred between Phillip
18 Stackhouse and Oliver Johnson. It doesn't involve any
19 other individuals. There isn't any testimony to any other
20 individuals were there. Certainly he can argue at closing,
21 you know, that somebody else could have been involved but I
22 don't think the fact that other assaults occur at any point
23 with other individuals or either between Oliver Johnson and
24 other individuals or either perhaps Mr. Stackhouse at other
25 times. That is not necessarily relevant to what happened

1 on this particular day at that particular time.

2 THE COURT: Fights in general are not relevant.
3 Now, if there -- if you're going to ask this witness about
4 fights that Johnson and Stackhouse had, that fights that
5 Stackhouse had with other inmates, that he was known to
6 fight with other inmates, Mr. Johnson was known to fight
7 with other inmates, I'll allow you to ask that. Just in
8 general, I'm not going to allow you to be asking about
9 fights occur, okay? About the individuals involved here,
10 I'll allow you to question the witness about that.

11 MR. STEPHENS: Your Honor, I can't just ask a general
12 question about assaults that have occurred over the years
13 period, yes or no?

14 THE COURT: That Mr. Stackhouse has been involved
15 in, that Mr. Johnson has been involved in, yes, sir, you
16 can.

17 MR. STEPHENS: How about weapons being confiscated out
18 at Evans?

19 THE COURT: From Mr. Stackhouse and Mr. Johnson,
20 yes, sir.

21 MR. STEPHENS: But not of the general population?

22 THE COURT: No, sir.

23 MR. STEPHENS: Okay. All right.

24 THE COURT: You haven't qualified this witness to
25 have that kind of knowledge. That she's in some kind of

1 supervisory capacity. That she conducts sweeps. What
2 happens. That's a question that this witness has not been
3 qualified by reason of their experience to answer your
4 questions. If you want to ask those questions, I'll be glad
5 for you to do so at this point in time.

6 MR. STEPHENS: All right, sir.

7 THE COURT: Okay. You want to ask her what she's
8 done and what she's observed?

9 MR. STEPHENS: That's all I'm asking.

10 THE COURT: All right. Go ahead and do it now.

11 MR. STEPHENS: That's all I'm asking.

12 THE COURT: And we'll see if it's relevant or not.

13 Q. I'm just asking have you observed -- have you observed
14 or reported other assaults in your seven years at Evans?

15 A. Other assaults, yes.

16 Q. Okay. Do you know how many?

17 A. That I?

18 Q. Yes. Just you?

19 A. Maybe two.

20 Q. Okay. Have you ever confiscated a weapon?

21 A. No.

22 MR. STEPHENS: That's all I wanted to ask her, Your
23 Honor.

24 THE COURT: All right. So you want to ask her
25 those three questions?

1 MR. STEPHENS: Yes, sir.

2 THE COURT: I'll be glad for you to ask those three
3 questions. Bring the jury ---

4 MR. STEPHENS: I'm sorry I wasn't clear.

5 THE COURT: --- back in.

6 MR. STEPHENS: I just wanted her personal knowledge.

7 THE COURT: Well, then -- I did not understand
8 that.

9 MR. STEPHENS: I'm sorry. I'm not ---

10 THE COURT: It was not clear to me that's what you
11 were asking about her personal knowledge. You were just --
12 it appeared to me you're asking about things in general
13 that whether she knew or didn't know.

14 MR. STEPHENS: No, sir.

15 THE COURT: All right.

16 MR. STEPHENS: I'm sorry.

17 THE COURT: Ask the jury to come back in place.

18 MR. STEPHENS: Can I ask her one other question before
19 they come in?

20 THE BAILIFF: One is in the bathroom.

21 THE COURT: All right. Yes, sir. What is that?

22 Q. Are you part of the shakedown team?

23 A. Everybody does shakedown.

24 Q. You are part of the shakedown team?

25 A. Shakedown team? That would be contraband but, no.

P. McQueen- Cross Examination by Mr. Stephens

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1 Q. You're not a part of that?

2 A. Every night we have to shakedown an area.

3 Q. Okay. And you do that?

4 A. Yes. If I'm working a post that requires that, yes.

5 Q. Okay. How many times have you worked that?

6 A. Worked what?

7 Q. Shakedown?

8 A. Multiple times. It's not called shakedown. I mean,
9 I'm not on the shakedown team.

10 Q. Okay.

11 A. No.

12 Q. All right.

13 MR. STEPHENS: Thank you.

14 THE COURT: Whenever they're ready, ma'am.

15 (Whereupon, the jury enters the courtroom at 10:48 a.m.)

16 THE COURT: Go ahead, Mr. Stephens.

17 MR. STEPHENS: Thank you.

18 Q. Ms. McQueen, now, I believe I ask you, did you
19 personally ever witnessed any assaults or reported any
20 other assaults in your seven years at Evans?

21 A. Yes.

22 Q. How many times?

23 A. Maybe two.

24 Q. Okay. Have you ever confiscated a weapon?

25 A. No.

1 Q. Okay. Now, have you -- did you ever know Gabriel
2 Russell to be assaulted?

3 MS. MUNNERLYN: Objection, Your Honor. Relevance.

4 MR. STEPHENS: He's a witness.

5 THE COURT: May or may not be. If you want to
6 recall her after that person becomes a witness. Once they
7 have testified I'll be glad for you to recall her and ask
8 her.

9 MR. STEPHENS: All right, sir.

10 Q. Have you ever known Oliver Johnson to ever get
11 assaulted or assault anybody?

12 A. Personally, no.

13 MR. STEPHENS: That'd be all.

14 THE COURT: Redirect?

15 MS. MUNNERLYN: Just a couple of question, Your Honor.

16 **Redirect Examination by Ms. Munnerlyn:**

17 Q. Officer McQueen, now, when you saw the fight you
18 immediately radioed for help?

19 A. Yes.

20 Q. For backup?

21 A. Yes.

22 Q. And they -- and you said Officer Tillman was right
23 outside the door at the walkway?

24 A. Yes.

25 Q. She came in very quickly?

P. McQueen- Redirect Examination by Ms. Munnerlyn 112

1 A. Yes.

2 Q. And so then you proceeded, as soon as she was in the
3 control room, to go down to the unit?

4 A. Time she hit that top step, I was going out because
5 all she had to do was walk around the corner and press the
6 button and let me out.

7 Q. So all that happened very quickly?

8 A. Very quickly.

9 Q. And you can see -- all of that is glass?

10 A. Yes. And, I, specifically told her keep an eye up
11 there by 219 we've got one on the floor and Stackhouse was
12 the person that could have done it.

13 Q. But when you came out -- when you came out onto the
14 unit, Stackhouse was still coming down the steps?

15 A. Yes.

16 Q. You met him at the bottom of the steps?

17 A. Yes.

18 Q. Okay. And you didn't see any other inmates involved
19 in the altercation with Oliver Johnson?

20 A. No.

21 Q. Okay.

22 MS. MUNNERLYN: I don't have any further questions,
23 Your Honor.

24 THE COURT: Any questions on those questions just
25 asked by the solicitor?

C. Tillman- Direct Examination by Ms. Munnerlyn

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1 MR. STEPHENS: No, sir, Your Honor.

2 THE COURT: All right, sir. Very good. All right.
3 Ma'am, you may step down. Mr. Stephens, do you want her to
4 remain under subpoena?

5 MR. STEPHENS: Yes, sir.

6 THE COURT: All right. Very good. You're next
7 witness, solicitor?

8 MS. MUNNERLYN: Thank you, Your Honor. Let's see, will
9 have Courtney Tillman.

10 THE CLERK: Do you solemnly swear or affirm that
11 the testimony you shall give the Court and the jury in this
12 case shall be the truth, the whole truth, and nothing but
13 the truth so help you God?

14 MS. TILLMAN: Yes, ma'am.

15 THE CLERK: If you'll be seated right here and
16 state your full name.

17 THE COURT: State your full name please, ma'am.

18 MS. TILLMAN: Courtney Tashonda Tillman.

19 THE COURT: Go ahead, solicitor.

20 MS. MUNNERLYN: Thank you, Your Honor.

21 COURTNEY TILLMAN, first being
22 duly sworn, testified as follows:

23 **Direct Examination by Ms. Munnerlyn:**

24 Q. Officer Tillman, where are you employed?

25 A. I'm employed with Evans Correctional Institution and

C. Tillman- Direct Examination by Ms. Munnerlyn 114

1 the South Carolina Army National Guard.

2 MS. MUNNERLYN: Okay. I want to let you know that,
3 that microphone is not working.

4 THE COURT: So, yeah, it's not going to help.
5 Basically, if you'll just remember to speak up and speak
6 directly to the jury, okay?

7 MS. TILLMAN: Yes, sir.

8 THE COURT: All right. Thank you, ma'ma.

9 MS. MUNNERLYN: And so if you'll just speak really loud
10 so everybody can hear.

11 MS. TILLMAN: Okay.

12 Q. Okay. So your employed at Evans Correctional
13 Institution?

14 A. Yes, ma'am.

15 Q. How long have you been employed there?

16 A. I've been employed there since August of 2015.

17 Q. Okay. And what do you do there?

18 A. I'm a corrections officer.

19 Q. And were you working on February 23, 2016?

20 A. Yes, ma'am.

21 Q. And were you working on C wing or Cherokee unit?

22 A. Yes, ma'am, I was working Cherokee unit.

23 Q. And did you know, at that time, did you know Phillip
24 Stackhouse?

25 A. Yes, ma'am, I did.

1 Q. Did you know Oliver Johnson?

2 A. Yes, ma'am, I did.

3 Q. Okay. And that morning when you were working -- do
4 you remember where you were when you received a call for
5 assistance?

6 A. I was outside the unit monitoring the inmates coming,
7 going to and from chow.

8 Q. So this was in the morning to where they were going,
9 in which y'all call chow, it's breakfast?

10 A. Yes, ma'am, this was breakfast.. Yes, ma'am.

11 Q. Okay. And you were outside the unit?

12 A. Yes, ma'am. I was outside on the walkway.

13 Q. On the walkway?

14 A. Yes, ma'am.

15 Q. Okay. And so to reenter the unit, how -- you have to
16 come through how many doors?

17 A. You come through -- to get into the control room, you
18 come through two doors.

19 Q. All right. And how -- so you received a radio
20 transmission that help is needed in C unit ---

21 A. Yes, ma'am.

22 Q. --- or that would be the C unit, right?

23 A. It's B pod.

24 Q. Okay.

25 A. Cherokee is the unit. It's B pod.

C. Tillman- Direct Examination by Ms. Munnerlyn

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1 Q. Okay. And what did you proceed to do?

2 A. I proceeded back to the unit. At that time Officer
3 McQueen was coming down from the control room.

4 Q. Now, when you're out on the sidewalk, can you let
5 yourself in that door?

6 A. No. No, ma'am. It's controlled by a controller.

7 Q. So whoever's in the control room, would open that door
8 for you to come in?

9 A. Yes. Yes, ma'am.

10 Q. Okay. So once you're in you go through a second door?

11 A. Yes, ma'am.

12 Q. And then you go up a few steps?

13 A. Yes, ma'am. I think it's like three or four steps.

14 Q. And then you're in the control room?

15 A. You're inside the control room at that time.

16 Q. And you said you met Officer McQueen where?

17 A. Officer McQueen was going down, was leaving the
18 control room going down to C pod.

19 Q. So you pass each other, essentially?

20 A. Yes.

21 Q. Okay. All right. And what did you do?

22 A. She, Officer McQueen, asked me to go and get the
23 stretcher which was upstairs in the employee restroom.

24 Q. Okay. Was there when there?

25 A. There was not a stretcher.

1 Q. Okay. So what did you do then?

2 A. I took the control room over from the new hire which
3 was Officer Lockey.

4 Q. So Officer Lockey was in the control room and you went
5 in there with her?

6 A. Yes, ma'am.

7 Q. She was not completely trained yet?

8 A. She wasn't certified. She hadn't been to the academy.

9 Q. All right. So you went on into the control room and
10 took over that?

11 A. Yes, ma'am.

12 Q. And were you able to see into the C unit?

13 A. Yes, ma'am.

14 Q. C wing?

15 A. Yes, ma'am.

16 Q. Okay. And what did you see when you looked at C wing?

17 A. When I looked on the C wing I saw a bunch of, like,
18 several inmates just standing around Oliver Johnson who was
19 face down on the floor.

20 Q. Oliver Johnson was face down where?

21 A. He was face down on the top tier in front of room 219.

22 Q. Okay. All right. And there was some other inmates
23 just standing around?

24 A. They were just standing around.

25 Q. Okay. No one was touching him or doing anything to

C. Tillman- Direct Examination by Ms. Munnerlyn

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1 him?

2 A. No one touched him.

3 Q. And did you see Phillip Stackhouse?

4 A. I did not see Stackhouse.

5 Q. Okay. Did you see McQueen when she came out and ---

6 A. Yes. McQueen was walking ---

7 MR. STEPHENS: Your Honor, the solicitor is leading --

8 -

9 A. --- was walking in the ---

10 THE COURT: Hold on one second. As best you can
11 don't suggest your or do not suggest an answer in your
12 questions, solicitor.

13 MS. MUNNERLYN: Certainly, Your Honor.

14 THE COURT: You may proceed.

15 Q. And so what did you do from that point forward?

16 A. From that point, Officer McQueen was already in what
17 we call the horseshoe. I let her on the C wing ---

18 Q. She was in where?

19 A. She was inside the unit at what we call the horseshoe
20 which is the hallway.

21 Q. Okay.

22 A. And I let her on the C wing.

23 Q. Okay. And what did you observe from that point?

24 A. At that point, all of the inmates began to, like,
25 disperse and go into their rooms.

1 Q. Okay. And you remained in the control room?

2 A. I remained in the control room at that point.

3 Q. And was the unit, thereafter, locked down?

4 A. Yes.

5 Q. What did you observe in or around Oliver Johnson while
6 you were sitting in the control room?

7 A. I didn't observe anything from the control room just
8 him laying on the floor face down.

9 Q. Okay. So while you were -- now, did somebody
10 eventually come in and get him?

11 A. Yes. Sergeant Heyward eventually ended up coming down
12 to help Officer McQueen lock down the unit at that point.
13 But as far as observing anything that was all I observed
14 Oliver Johnson laying face down on the floor.

15 Q. Okay. And so once Sergeant Heyward got there, between
16 the time you got into the control room and the time you saw
17 Sergeant Heyward arrived to where Oliver Johnson was lying
18 face down, did you see anyone approach or do anything to
19 Oliver Johnson?

20 A. No.

21 Q. Now, you said the inmates again disperse, where did
22 they go?

23 A. They went inside their cells.

24 Q. Their individual cells?

25 A. Their individual cells, yes, ma'am.

C. Tillman- Cross Examination by Mr. Stephens

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1 Q. You said you didn't see Phillip Stackhouse?

2 A. I did not see Stackhouse at that time.

3 MS. MUNNERLYN: Court's indulgence just one moment.
4 That's all we have at this time. Please answer any
5 questions that Mr. Stephens may have.

6 A. Okay.

7 THE COURT: Cross examination?

8 MR. STEPHENS: May it please, the Court?

9 **Cross Examination by Mr. Stephens:**

10 Q. Officer Tillman?

11 A. Yes, sir.

12 Q. I was trying to listen but, you were outside of
13 Cherokee?

14 A. Yes, sir. I was outside in the walkway.

15 Q. And then you, I believe, do you remember giving a
16 statement to sled Agent August?

17 A. Yes, sir, I do.

18 Q. Okay. Do you remember filling out a SCDC incident
19 report?

20 A. Yes, sir, I do.

21 Q. Can I just show you those?

22 A. Yes, sir.

23 Q. And see if that is yours?

24 A. Yes, sir, these are mine.

25 Q. And in, I believe, in your statement you said you were

C. Tillman- Cross Examination by Mr. Stephens

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1 outside the C wing and you copied a transmission from
2 Officer McQueen that two inmates were fighting?

3 A. Yes, sir.

4 Q. Okay. And you told the solicitor, she ask you to go
5 get a stretcher?

6 A. Yes, sir.

7 Q. Okay. How did you have to go get the stretcher?

8 A. The stretcher -- the control room -- the restroom
9 where the stretchers are kept is in the restroom behind the
10 control room. They're inside the control room but the
11 restroom is like a door right here that you go in.

12 Q. So you had to go up into the control room?

13 A. Yes, sir. I went up into the control room. Then
14 there's a restroom right, right inside the control room,
15 but right behind the desk.

16 Q. Okay.

17 A. There is a restroom right there.

18 Q. And was -- officer, the officer that called you, was
19 she still in there, Officer McQueen?

20 A. Officer McQueen? Officer McQueen, at that time, she
21 was on the wing when I went to get her the stretcher.

22 Q. I'm sorry, I didn't hear you.

23 A. She was already down out of the control room ---

24 Q. Okay.

25 A. --- when I went to get the stretcher.

C. Tillman- Cross Examination by Mr. Stephens

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1 Q. Okay. Where, exactly, was she?

2 A. She was in the -- she was in hallway.

3 Q. In the hallway?

4 A. Yes.

5 Q. And I believe you told the solicitor you had to open
6 the door to the C wing for her to go in?

7 A. Yes, sir.

8 Q. Okay. And you saw -- you saw -- did you know who it
9 was that was laying down?

10 A. I did not know who it was at that time.

11 Q. So you didn't know at that time who he was?

12 A. No, sir.

13 Q. Okay. But you saw the other inmates up there?

14 A. Yes, sir. There were several inmates up there.

15 Q. More than five?

16 A. Yes, sir. I am going to say more than five.

17 Q. More than ten?

18 A. I ain't going to say more than ten.

19 Q. Okay.

20 A. But there was more than five.

21 Q. Okay. So how long were you -- when you copied the
22 transmission that there were two inmates fighting, were you
23 right outside the door?

24 A. Yes, sir, I was right outside the door.

25 Q. All right.

1 A. Coming back through chow or breakfast.

2 Q. Now, when they go into chow like that, do they, or any
3 day, are the doors to the different wings left opened?

4 A. No, sir. Those doors operate one door at a time.
5 They're not ---

6 Q. On each -- you can only open one wing at a time?

7 A. We can only open one door at a time. That's it.

8 Including the control room doors, the outside doors, and
9 all, we can only open one at a time.

10 Q. And that's the door to the wing too?

11 A. Yes, sir.

12 Q. So you can only open one door at a time?

13 A. One door at a time.

14 Q. So they had to let you in through the outside door?

15 A. Yes, sir.

16 Q. Then you come into a little hall ---

17 A. And then there's another door.

18 Q. --- and then you go upstairs ---

19 A. Then you go like three or four steps and you're
20 inside the control room at that time.

21 Q. And when you first got up there, she was still there?

22 A. No. Officer Lockey, the new hire, was ---

23 Q. So she left Lockey up there?

24 A. Yes, sir.

25 Q. Okay. Did you meet her when you were going up?

C. Tillman- Cross Examination by Mr. Stephens

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1 A. I met her in the little hallway.

2 Q. Okay. And then when you got up there, you looked for
3 a stretcher and there wasn't a stretcher ---

4 A. There wasn't a stretcher in the restroom.

5 Q. So then you took over the control panel?

6 A. Yes, sir.

7 Q. And you stayed there?

8 A. I stayed there the entire time.

9 Q. Okay. Did you ever -- you didn't never go out into
10 the wing that morning?

11 A. No, sir.

12 Q. You didn't go out and lock anybody up?

13 A. No, sir, I didn't.

14 Q. You stayed in the control ---

15 A. Yes, sir.

16 Q. --- room until you left the premises?

17 A. Yes -- well, I left and went up front, yes, sir.

18 Q. To the front?

19 A. Yes, sir.

20 Q. To give your statement?

21 A. To speak to the sled agent, yes, sir.

22 Q. Gotcha.

23 MR. STEPHENS: That'd be all I have, Your Honor.

24 THE COURT: Any redirect?

25 MS. MUNNERLYN: Just a couple questions, Your Honor.

Redirect Examination by Ms. Munnerlyn:

Q. Now you -- he asked about Miranda Locky being in the room with you, she was not certified, you already testified to that, correct?

A. No, ma'am, she's not certified.

Q. Now does Miranda Locky even work at Evans anymore?

A. She doesn't.

Q. Okay.

MS. MUNNERLYN: I don't have any further questions, Your Honor.

THE COURT: All right. Thank you. Do you wish this witness to be excused?

MS. MUNNERLYN: Yes, please.

THE COURT: Any objection?

MR. STEPHENS: No, sir.

THE COURT: All right. Ma'am, your release from your subpoena. You may go back to your regular duties.

MS. TILLMAN: Thank you.

THE COURT: You're next witness please, ma'am.

MS. MUNNERLYN: Anthony McClellan.

THE COURT: All right, sir. Please come all the way around. Meet the clerk right there please.

THE CLERK: Do you solemnly swear or affirm that the testimony you give the court and jury in this this case shall be the truth, the whole truth, and nothing but the

A. McClellan- Direct Examination by Ms. Munnerlyn 126

1 truth so help you God?

2 MR. McCLELLAN: I do.

3 THE CLERK: Thank you. If you'll be seated and
4 state your full name.

5 THE COURT: All right. The microphone does not
6 work Mr. McClellan so what you need to do is speak up and
7 speak directly to the jury over there, all right?

8 MR. McCLELLAN: All right.

9 THE COURT: Thank you, sir. Go ahead.

10 ANTHONY McCLELLAN, first being
11 duly sworn, testified as follows:

12 **Direct Examination by Ms. Munnerlyn:**

13 Q. You are Anthony McClellan?

14 A. Yes, ma'am.

15 Q. And where are you employed?

16 A. Evans Correctional Institution.

17 Q. And how long have you been employed there?

18 A. Three and half years.

19 Q. And what you do there?

20 A. Correction officer.

21 Q. Were you working back on February 23, 2016?

22 A. Yes, ma'am.

23 Q. What shift do you normally work and what were you
24 working then?

25 A. The night shift and lockup.

A. McClellan- Direct Examination by Ms. Munnerlyn 127

1 Q. And so when you work night shift, what hours is that?

2 A. 8 PM to 8 AM.

3 Q. All right. And do you know -- do you know the
4 defendant, Phillip Stackhouse?

5 A. No. I know as an inmate at Evans at the time.

6 Q. You know he was an inmate at Evans at the time, okay.

7 And did you know -- are you familiar the victim, Oliver
8 Johnson?

9 A. I know him as an inmate too.

10 Q. Okay. All right. And did you receive a call that
11 morning in regards to the C wing of the Cherokee unit?

12 A. Yes, sir. I was the second respondent.

13 Q. You were the second respondent?

14 A. Yes, ma'am.

15 Q. Tell us what happened?

16 A. I had a call saying to report to Cherokee C wing.

17 Q. Okay. Where you at that time?

18 A. In lockup. I'm an officer in lockup.

19 Q. You were the officer in lockup. Now, where is that?

20 A. It's another building outside the main building.

21 Q. Okay. So it's a separate building from where Cherokee
22 unit is located?

23 A. Yes, ma'am.

24 Q. And so you responded pretty quickly?

25 A. Yes, ma'am.

A. McClellan- Direct Examination by Ms. Munnerlyn 128

1 Q. Okay. How long did it take you to get to Cherokee
2 unit, do you think?

3 A. About thirty seconds to a minute, something like that.

4 Q. Okay. And when you arrived they had to -- how do you
5 get in?

6 A. They open the door. They push the button and open the
7 door.

8 Q. The control room opens the door?

9 A. Yes, ma'am.

10 Q. Okay. All right. And so you entered the wing, where
11 did you go?

12 A. To C wing.

13 Q. And when you got to C wing, where did you go?

14 A. Up top near room 220.

15 Q. Okay. Up top?

16 A. Yes, ma'am. On the top tier.

17 Q. On the top tier?

18 A. Yes, ma'am.

19 Q. Okay. And where on the top tier, did you go?

20 A. Between 219 and 220, the room.

21 Q. Okay.

22 A. Upstairs.

23 Q. What was -- why did you go there?

24 A. Because that's where Sergeant Heyward was with
25 officer, I mean, inmate, Oliver Johnson, was laying on the

1 floor.

2 Q. Okay. So when you arrived -- when you arrived at C
3 wing, tell me what you observed?

4 A. There was nobody out. I just see sergeant on the top
5 tier standing there and so I walked up there.

6 Q. All right. So they were already no inmates out in the
7 general area and in the open area?

8 A. Not at that time.

9 Q. They were all in their cells at that point?

10 A. (Shaking of the head, yes)

11 Q. That's a yes?

12 A. Yes, ma'am.

13 Q. I'm sorry, she can't take a nod.

14 A. Oh, yes, ma'am.

15 MS. MUNNERLYN: She has to hear you say yes or no. Q.

16 Okay. And so the only person you could see when you
17 entered into the wing was, who?

18 A. Sergeant Heyward.

19 Q. Okay. And he was where?

20 A. On the top tier.

21 Q. Okay. And that's where you proceeded?

22 A. Yes, ma'am.

23 Q. Okay. And when you got up there tell me what you saw?

24 A. Inmate Johnson laying on the floor ---

25 Q. Laying on ---

A. McClellan- Direct Examination by Ms. Munnerlyn 130

1 A. --- in a pool of blood. Laying on the floor in a pool
2 of blood.

3 Q. In a pool of blood, okay. What did y'all proceed to
4 do?

5 A. When I got there my sergeant, my lieutenant-- I was
6 there as he was on the floor and then we put him -- took
7 him downstairs and put him on the gurney.

8 Q. Got a gurney?

9 A. Yes, ma'am.

10 Q. From the time you arrived, did you ever see Oliver
11 Johnson move or make any kind of response?

12 A. Nah. I didn't. No, ma'am.

13 Q. Okay. Did he appear to be conscious?

14 A. I couldn't tell. I looked at him and I just started
15 to, um, ask my lieutenant and sergeant what do you want me
16 to do.

17 Q. Okay. So then y'all got the gurney?

18 A. Yes, ma'am.

19 Q. Okay. And you put him on the gurney?

20 A. Yes, ma'am.

21 Q. Was there anybody else who assisted you or just the
22 two of you?

23 A. Lieutenant Watson and Sergeant Heyward.

24 Q. Lieutenant Watson assisted as well?

25 A. Yes, ma'am.

1 Q. Okay. All right. And the gurney was it on rollers?
2 Is it one that you push?

3 A. Yes, ma'am.

4 Q. Okay. So you had it up on the top tier?

5 A. On the bottom tier.

6 Q. So how did you get him there?

7 A. Me, Lieutenant Watson and Sergeant Heyward took him
8 down the stairs.

9 Q. You carried him?

10 A. Carried him down the stairs. Yes, ma'am.

11 Q. Okay. And then where did you -- where did you take
12 him on the gurney?

13 A. Out of Cherokee up to medical.

14 Q. Up to medical?

15 A. Yes, ma'am.

16 Q. The three of you?

17 A. Yes, ma'am.

18 Q. Okay. And so how do you get -- you have to go outside
19 of the Cherokee unit, right?

20 A. Yes, ma'am.

21 Q. Actually, outside on to the sidewalk, correct?

22 A. Yes, ma'am.

23 Q. And then you go -- how far as medical?

24 A. Ah ---

25 Q. Is it very close to Cherokee unit?

A. McClellan- Direct Examination by Ms. Munnerlyn

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1 A. It's one of the further unit.

2 Q. It's one of the further ---

3 A. Yes, ma'am.

4 Q. --- away units?

5 A. Yes, ma'am.

6 Q. Okay. All right. And so he was transported to
7 medical and then was he turned over to medical staff there?

8 A. Yes, ma'am.

9 Q. Okay. During the time that y'all were transporting,
10 carrying him down the steps, putting him on this gurney and
11 taking him to medical, did you ever see any signs of life?

12 A. Nah, I never seen him move.

13 Q. You never saw him move?

14 A. No, ma'am.

15 Q. Did he ever make a sound? Could he talk or anything
16 like that?

17 A. No, ma'am.

18 Q. Did you see any weapons ---

19 A. No ---

20 Q. --- of any sort?

21 A. No, ma'am.

22 Q. Around him?

23 A. No, ma'am.

24 Q. Or on him?

25 A. No, ma'am.

A. McClellan- Cross Examination by Mr. Stephens

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1 Q. Okay. You didn't look specifically at -- did you look
2 at his injuries or his wounds?

3 A. No, ma'am.

4 Q. Okay.

5 MS. MUNNERLYN: Court's indulgence.

6 THE COURT: Yes, ma'am.

7 MS. MUNNERLYN: I don't have any further questions.
8 Answer any questions that Mr. Stevens might have.

9 THE COURT: Cross examination?

10 MR. STEPHENS: Thank you, Your Honor.

11 **Cross Examination by Mr. Stephens:**

12 Q. Good morning, Mr. McClellan.

13 A. Morning.

14 Q. Officer McClellan. I didn't understand, you said you
15 were -- what kind of duty did you have that day?

16 A. I'm the officer in lock up.

17 Q. Officer in lockup?

18 A. Yes, ma'am. Yes, sir.

19 Q. Now -- and so it took you how long to get there to the
20 C wing?

21 A. I ran down there so it was like a minute, probably two
22 minutes.

23 Q. Okay. And did you see -- do you know Phillip
24 Stackhouse?

25 A. I know him as an inmate at Evans?

A. McClellan- Cross Examination by Mr. Stephens

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1 Q. That's what I mean.

2 A. Yes, sir.

3 Q. And did you see him that morning?

4 A. No, sir. I ain't see him -- well, when I had got to
5 the dorm room it was locked down. I ain't seen him. I
6 work in lock -- I don't really see inmates on the yard.

7 Q. Did you see him at any time that morning?

8 A. Yes. I seen him when we went back down there to bring
9 him up.

10 Q. Okay. You went down there to get him out of his cell?

11 A. Yes.

12 Q. Okay. You went and got him out of his cell and take
13 him to lockup?

14 A. Mmm, hmm.

15 Q. Okay. Who was with you when you did that?

16 A. I forgot. I can't remember who the officer was.

17 Q. I can't hear you.

18 A. I can't remember who the officer was who was with me.

19 Q. How many officers were with you?

20 A. I want to say one.

21 Q. Officer Tillman?

22 A. No.

23 Q. Officer Heyward?

24 A. Nah. No. An officer from earlier because another
25 shift was coming on by then.

1 Q. So you took them to lockup but you don't know the
2 other person, who the officer was with you?

3 A. Nah. Because the other officers were coming on shift.

4 Q. And did you take anybody else to lockup?

5 A. No, sir.

6 Q. You didn't take anybody else to lockup that morning?
7 You didn't take Gabriel Russell?

8 A. No, sir.

9 Q. Ethrum Jenkins?

10 A. None of those names sound familiar.

11 Q. Jason Goins?

12 MS. MUNNERLYN: Your Honor, I would object. He's
13 already answered he didn't take anybody else to lockup.

14 THE COURT: I appreciate that. You can ask him the
15 names if he took them to lockup.

16 Q. Did -- do you know what they call Phillip Stackhouse
17 at Evans? You know his nickname out there?

18 A. No, sir.

19 Q. You don't know. How long have you been working?

20 A. Three and half years.

21 Q. Okay. Have you ever been in the dorms? You ever
22 worked in the dorms?

23 A. Yes, sir.

24 Q. Okay. Have you, personally, yourself, have you ever
25 witnessed any assaults or reported any other assaults other

A. McClellan- Cross Examination by Mr. Stephens

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1 than this?

2 A. Like murder or anything like that? No, I haven't.

3 Q. Not necessarily murder, somebody getting beat up or
4 stabbed?

5 A. Um, ---

6 Q. Have you ever had to take anybody else to medical?

7 A. Yeah. I take people to medical when I work on the
8 yard. I actually assist at times but I've never witness no
9 inmate or nobody getting assaulted.

10 Q. You assist in taking people to medical?

11 A. If I'm on the yard. I have to walk with them -- walk
12 with them and assist them to medical.

13 Q. I gotcha.

14 A. But not assault ---

15 Q. Have you personally ever confiscated any weapons?

16 A. When we do shake down. We ---

17 Q. You do shake down?

18 A. We do shake down every night.

19 Q. Okay. How many times have you participated in that,
20 personally, yourself?

21 A. We got to do one every night.

22 Q. You do it every night?

23 A. Yes.

24 Q. Every night that you work?

25 A. Yes. But now I'm on lockup. I don't do it.

1 Q. So when you're just working, not on lockup, you use to
2 do shake down every night?

3 A. Yes.

4 Q. Have you confiscated weapons?

5 A. If there's a weapon in there but most of the time you
6 hardly see.

7 Q. I can't -- I can hardly hear you.

8 A. Not every night.

9 Q. I understand. I'm not saying every night. It's not a
10 trick question. I just want to know if you've ever
11 confiscated any weapons, yes or no?

12 A. Oh, yes.

13 Q. More than five?

14 A. Sometimes.

15 Q. I'm talking about altogether, not necessarily just
16 seen five?

17 A. Oh, the whole time working there?

18 Q. Yeah.

19 A. Yes.

20 Q. More than ten ?

21 A. No.

22 Q. Okay. And now you said you went and got Phillip
23 Stackhouse out of his cell and took him to lockup?

24 A. I assisted another officer.

25 Q. Okay. But you don't remember who the officer was?

A. McClellan- Cross Examination by Mr. Stephens

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1 A. I can't remember.

2 Q. Okay. And do you remember anything about going to his
3 cell?

4 A. No, sir. I never went in his cell.

5 Q. You didn't go into his cell?

6 A. No, sir.

7 Q. The other officer?

8 A. Open the door ---

9 Q. Now, they have to open from the control room?

10 A. Yes.

11 Q. So they have the radio to tell them to open the door?

12 A. Yes.

13 Q. And it slides open?

14 A. Yes.

15 Q. And y'all ask him to come out, did you handcuffing?

16 A. Yes.

17 Q. Okay. Do you remember anything about him that night?

18 A. I wasn't there that night. The morning ---

19 Q. He came out the cell ---

20 A. He came out the cell that morning.

21 Q. Well, excuse me, when he came out of his cell that
22 morning, do you remember anything about him when he came
23 out that morning?

24 A. No, sir.

25 Q. Okay. He seemed calm?

A. McClellan- Redirect Examination by Ms. Munnerlyn 139

1 A. Yes, sir.

2 Q. And you didn't really get there until after everything
3 was over?

4 A. Yes, sir.

5 MR. STEPHENS: Thank you, Officer McCellan.

6 THE COURT: Any redirect?

7 **Redirect Examination by Ms. Munnerlyn:**

8 Q. Is it part of your job from time to time to take
9 inmates to medical if they're injured whether an assault or
10 some other way?

11 A. Yes. If they asked me, I just take them up there and
12 I give them over to another officer who work in medical.

13 Q. Okay. But you said you had transported a couple of
14 inmates from the field or the Rec field, I guess, to
15 medical?

16 A. Yes. If I'm a first or second responder at the time.

17 Q. Okay. Okay.

18 MS. MUNNERLYN: I don't have any further questions,
19 Your Honor.

20 THE COURT: Anything on those questions just asked?

21 MR. STEPHENS: No, sir, Your Honor.

22 THE COURT: All right. Do you wish this witness to
23 be excused?

24 MS. MUNNERLYN: Yes, please, Your Honor.

25 THE COURT: Any objection?

M. Watson- Direct Examination by Ms. Munnerlyn

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1 MR. STEPHENS: No, sir.

2 THE COURT: All right, sir. You are released from
3 your subpoena. You may go back to your regular duties.
4 Who's your next witness, ma'am?

5 MS. MUNNERLYN: Just one moment, Your Honor. Michael
6 Watson.

7 THE COURT: Please come around right up here to
8 where the clerk is. Right around in front'.

9 THE CLERK: Do you solemnly swear or affirm that
10 testimony you shall give the Court and jury in this case
11 shall be the truth, the whole truth, and nothing but the
12 truth so help you God?

13 MR. WATSON: Yes.

14 THE CLERK: If you'll be seated and state your full
15 name.

16 THE COURT: When you sit down Mr. Watson, if you
17 would state your full name. That microphone doesn't work
18 so you have to speak up and talk directly to the jury
19 please.

20 MR. WATSON: My name is Michael Watson.

21 MICHAEL WATSON, first being
22 duly sworn, testified as follows:

23 **Direct Examination by Ms. Munnerlyn:**

24 Q. Officer Watson, where are you employed?

25 A. Evans Correctional Institution.

1 Q. Okay. And how long have you been employed there?

2 A. Sixteen years..

3 Q. And what do you do there?

4 A. I'm a correctional officer supervisor, lieutenant..

5 Q. Okay. Are you familiar with the defendant, Phillip
6 Stackhouse?

7 A. Yes.

8 Q. All right. And are you also familiar with the victim,
9 Oliver Johnson?

10 A. Yes.

11 Q. And were you working on February 23rd of last year?

12 A. Yes, ma'am.

13 Q. Do you remember what shift you were working? You were
14 there early in the morning, correct?

15 A. I was assigned to that night shift. It was called B-2
16 to shift at the time.

17 Q. It was called a what?

18 A. B-2.

19 Q. B-2?

20 A. Yes.

21 Q. Okay.

22 MS. MUNNERLYN: The microphones are not working so I
23 just want to remind you to speak real loud so everybody on
24 the jury and everybody can hear you.

25 A. Okay.

M. Watson- Direct Examination by Ms. Munnerlyn

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1 Q. Okay. So do you remember where you were early that
2 morning? Where would you have been working?

3 A. I was on the yard at the time. The inmates was going
4 to the cafeteria for the breakfast.

5 Q. Okay. And when were you first notified that something
6 was going on? Do you remember or how you were notified
7 something was occurring?

8 A. I was notified by Sergeant Heyward that something was
9 going on -- well, Officer McQueen when she assigned back
10 there, we heard her on the radio saying there was something
11 going on but we had Sergeant Hayward there at the time, he
12 was the first responder, he had responded. And when he got
13 back there he had notified me that it was an inmate, you
14 know, laying down.

15 Q. Okay. And y'all communicate by radio?

16 A. Yes.

17 Q. All right. And so what did you do in response to
18 that?

19 A. I went inside the medical once I was informed by
20 Sergeant Heyward that it was an inmate down at the Cherokee
21 unit. Went and informed the nurses of what was going on
22 and responded down there with the gurney.

23 Q. Okay. So you actually got a gurney?

24 A. Yes.

25 Q. And took it to C wing, Cherokee unit?

1 A. Yes.

2 Q. And tell us when you arrived to the scene unit of the
3 Cherokee wing, what did you, or the C wing of Cherokee
4 unit, what did you find?

5 A. When I arrived to the wing I saw the inmate, Oliver
6 Johnson, was face down on the ground, well, on the top
7 tier, he was face down.

8 Q. Does ---

9 A. Appeared to be unresponsive.

10 Q. No response?

11 A. No.

12 Q. Did anyone check in for a pulse or anything at that
13 point?

14 A. No, ma'am.

15 Q. Okay. Did anyone attempt to give him any orders to
16 get up or anything that you are aware of?

17 A. Not that I'm aware of.

18 Q. Okay. Was there any indication that he was
19 conscience?

20 A. No, ma'am.

21 Q. Did you ever see him move?

22 A. No, ma'am.

23 Q. And when you arrived you said he was face down?

24 A. Yes.

25 Q. On the floor?

M. Watson- Direct Examination by Ms. Munnerlyn

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1 A. Yes.

2 Q. Okay. All right. And so you arrived with the gurney
3 and tell us what y'all did at that point?

4 A. When we arrived with the gurney and we saw that, we
5 immediately, you know, we lift him up, placed him on the
6 gurney and took him to medical.

7 Q. All right. And so medical is a separate building?

8 A. Yes.

9 Q. Okay. And it takes you how long to get there?

10 A. Maybe seven minutes tops from back there.

11 Q. Did you have to go through doors that have to be open
12 for you?

13 A. Yes.

14 Q. And then you actually go outside, correct?

15 A. Yes.

16 Q. On the sidewalk to a whole another building?

17 A. Yes.

18 Q. And who accompanied you in taking Oliver Johnson on
19 the gurney to medical?

20 A. I remember Officer McClellan being with me at the
21 time.

22 Q. All right. And during the time that you were
23 transporting Oliver Johnson on the gurney was there ever
24 any indication that he was awake or conscience?

25 A. No, ma'am.

1 Q. Okay. When y'all transferred him from the floor to
2 the gurney, did you see anything in or around him?

3 A. No, ma'am.

4 Q. Did you ever see any where around there any sort of
5 weapon?

6 A. No, ma'am.

7 Q. When you got to the medical, what did y'all do?

8 A. We got to medical the nurses took over then. I think
9 they immediately started performing CPR. I can't remember
10 but we just got him there and we just put him in their
11 hands.

12 Q. Okay. When you entered C wing, did you see any other
13 inmates?

14 A. I mean, there were inmates out but they were being
15 locked down during that time. I can't recall -- I ain't
16 see none around him at the time.

17 Q. There weren't any around who?

18 A. Inmate, Oliver Johnson.

19 Q. Okay. Did you at any point after arriving on C unit,
20 C wing, did you see Phillip Stackhouse?

21 A. No, ma'am, not during that time.

22 Q. Did you go back -- okay, after you dropped off Johnson
23 at medical, were you involved in transporting any inmates
24 or getting any inmates and taking them to locked up?

25 A. No, ma'am.

M. Watson- Cross Examination by Mr. Stephens

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1 Q. Okay.

2 MS. MUNNERLYN: I don't have any other questions.

3 Answer any questions that Mr. Stephens may have.

4 THE COURT: Cross examination?

5 MR. STEPHENS: Thank you, Your Honor.

6 **Cross Examination by Mr. Stephens:**

7 Q. Lieutenant Watson?

8 A. Yes.

9 Q. You're still lieutenant?

10 A. Yes, sir.

11 Q. It's been bout a year and a half ago I didn't know if
12 you got a promotion or not. Did you ever see Phillip

13 Stackhouse anytime that morning?

14 A. No, sir.

15 Q. How about Gabriel Russell?

16 A. I don't recall who that is.

17 Q. How about Jason Goins?

18 A. I don't recall who that is.

19 Q. Okay. Now, when you saw the person on the second tier
20 lying down, did you know who it was?

21 A. I was informed by the officers who it was.

22 Q. Somebody told you who it was?

23 A. Yes.

24 Q. And do you know Phillip Stackhouse?

25 A. Yes.

1 Q. And you've been there twenty-seven years?

2 A. No, sir. Sixteen.

3 Q. I'm sorry, sixteen. Do you know his nickname? You
4 know what they call him out there?

5 A. Just Stackhouse.

6 Q. That's all you ever heard him called?

7 A. Mmm, hmm.

8 Q. Now in your sixteen years, have you personally ever
9 witnessed or reported any assaults on inmates or officers?

10 A. I can't recall at this time. Not right now.

11 Q. In sixteen years?

12 A. Sixteen years.

13 Q. Okay. In sixteen years, have you ever confiscated a
14 weapon?

15 A. Yes. Several.

16 Q. More than five?

17 A. Something like that.

18 Q. So you've confiscated weapons?

19 A. Yes.

20 Q. But you were -- now, after you took Mr. Johnson to
21 medical, did you go back to Cherokee?

22 A. No, sir.

23 Q. And you went on over to the administration to give a
24 statement or whatever?

25 A. Yes.

E. Heyward- Direct Examination by Ms. Munnerlyn

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1 Q. But you never went back to Cherokee, did you?

2 A. No, sir.

3 Q. So you went in, you helped put him on the gurney ---

4 A. Yes.

5 Q. --- rolled him to medical and you never went back?

6 A. No, sir.

7 Q. And so you didn't really see anybody?

8 A. No, sir.

9 MR. STEPHENS: Thank you. That's all I have.

10 THE COURT: Redirect?

11 MS. MUNNERLYN: Nothing else, Your Honor.

12 THE COURT: You wish the witness to be excused?

13 MS. MUNNERLYN: Please.

14 THE COURT: Any objection?

15 MR. STEPHENS: No, sir.

16 THE COURT: All right, sir. Your release from the
17 subpoena. You may go back to your regular duties. Thank
18 you.

19 MS. MUNNERLYN: Eugene Heyward.

20 THE CLERK: Do you solemnly swear or affirm that
21 the testimony you should give the Court and jury in this
22 case will be the truth, the whole truth, and nothing but
23 the truth so help you God?

24 MR. HEYWARD: I do.

25 THE CLERK: Please be seated and state your full

E. Heyward- Direct Examination by Ms. Munnerlyn

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1 name.

2 THE COURT: Mr. Heyward, when you sit down the
3 microphone is not working so after you sit down, give your
4 full name, you need to speak up and talk directly to the
5 jury over there, okay?

6 MR. HEYWARD: Okay.

7 THE COURT: Thank you, sir. Go ahead.

8 MR. HEYWARD: My name is Eugene Robert Heyward.

9 EUGENE HEYWARD, first being
10 duly sworn, testified as follows:

11 **Direct Examination by Ms. Munnerlyn:**

12 Q. Mr. Heyward, were you working at Evans Correctional
13 Institution last February?

14 A. Yes, ma'am.

15 Q. February of 2016?

16 A. Yes, ma'am.

17 Q. Okay. And in what capacity were you working there?

18 A. Ma'am?

19 Q. What were you doing there?

20 A. I was the sergeant on the yard at night.

21 Q. Okay. Now, you're no longer employed at Evans now are
22 you, you're working somewhere else?

23 A. Yes, ma'am.

24 Q. Okay. So you were working the early morning hours of
25 February 23rd of last year, 2016?

E. Heyward- Direct Examination by Ms. Munnerlyn 150

1 A. Yes, ma'am.

2 Q. Okay. And you said you were working the yard?

3 A. Yes, ma'am.

4 Q. When you say you're working the yard, what does that
5 mean? Explain to the jury what exactly you mean by that.

6 A. Well, at night my job was to as the yard sergeant,
7 make sure all the doors are locked, make sure all the dorms
8 were straight and in the morning feed the units, unit by
9 unit, to feed them chow in the morning and then get them
10 ready for count down.

11 COURT REPORTER: Get the ready for what?

12 A. For count down.

13 Q. And so you coordinate taking each wing or each unit
14 over to chow, to the cafeteria?

15 A. Yes, ma'am.

16 Q. And they go one by one?

17 A. Yes, ma'am.

18 Q. So when you're doing this are you primarily outside or
19 you in the facility or where are you?

20 A. Yeah, I'm outside.

21 Q. You're outside?

22 A. Yes, ma'am.

23 Q. Coordinating all of the ---

24 A. Yes, ma'am.

25 Q. --- the movement between the cafeteria and the various

1 units?

2 A. Yes, ma'am.

3 Q. All right. Let me ask you this, did you know, at that
4 time, did you know Phillip Stackhouse?

5 A. Yes, ma'am.

6 Q. Okay. And did you know Oliver Johnson?

7 A. Yes, ma'am.

8 Q. All right. Well, tell us how you became involved in
9 what happened that morning? You were advised something was
10 going on?

11 A. Yes, ma'am. The control room dispatched that there
12 were inmates fighting in Cherokee so that's where I
13 responded to.

14 Q. Okay. And when you arrived, what did you find?

15 A. I found the officer, I forgot her name, but, um, the
16 officer was standing over the body and I relieved her and
17 told her to go lock down, lock the rest of the wing down.

18 Q. Okay.

19 A. And I stood there and watch the body until further
20 notice.

21 Q. So you relieve the female officer, was that officer
22 McQueen?

23 A. Yes, ma'am.

24 Q. All right. And so when you arrived on the unit, you
25 saw her standing over the body ---

E. Heyward- Direct Examination by Ms. Munnerlyn

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1 A. Yes, ma'am.

2 Q. --- the victim?

3 A. Yes, ma'am.

4 Q. And who's body was it?

5 A. It was Oliver Johnson.

6 Q. Was there anybody else out in the unit at that time?

7 A. Well, yeah, because they just came back from chow.

8 Q. Okay.

9 A. So that's when everybody came back that's when it

10 initially happened. And when I responded, once I got there

11 I told her to go ahead and lock the rest of the unit down

12 and I watched him.

13 Q. So you -- you and she were the only two officers

14 actually inside that wing?

15 A. Yes, ma'am.

16 Q. Okay. So you stay with the body of Oliver Johnson?

17 A. Yes, ma'am.

18 Q. And she proceeded to, what you call, locked down the

19 unit?

20 A. Yes, ma'am.

21 Q. What exactly does she do when she locks down the unit?

22 A. Make sure each door to each cell is secure and locked.

23 Q. And where are the inmates?

24 A. They're inside the cells.

25 Q. They're inside their individual cells?

1 A. Yes, ma'am.

2 Q. Okay. Now, are they one or two or have any inmates to
3 a cell?

4 A. Two.

5 Q. Typically, two?

6 A. Two.

7 Q. There are two beds in a cell?

8 A. Yes, ma'am.

9 Q. Okay. So she proceeded to lock down the unit and do
10 you know how long it took for her to secure everybody in
11 their cells?

12 A. It didn't take -- I can't give you an approximate time
13 but it didn't take that long because a lot of them didn't
14 want to have nothing to do with it so they just went into
15 their rooms.

16 Q. When you arrived an Officer McQueen was standing over
17 the body, were there any other inmates in/or around where
18 she and that body was?

19 A. No. They just looking but they didn't come towards
20 him.

21 Q. All right. And during the time that you were standing
22 there with Oliver Johnson, did you -- first of all, did you
23 giving any directives ---

24 A. Yeah ---

25 Q. --- like, get up or anything like that?

E. Heyward- Direct Examination by Ms. Munnerlyn

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1 A. I told him to get up a couple of times.

2 Q. Did it appear that he had the ability to do that?

3 A. Did it appear? No.

4 Q. Okay. Did you ever see any signs of life?

5 A. No.

6 Q. Ever see any movement?

7 A. No, ma'am.

8 Q. Did he appear to be conscious at all?

9 A. No, ma'am.

10 Q. Did you check him for a pulse?

11 A. No, I ain't touched him.

12 Q. Okay. So you didn't touch him at that point?

13 A. No, ma'am.

14 Q. You simply stood there beside him?

15 A. Yes, ma'am.

16 Q. Did anyone else approach the body while you were
17 there?

18 A. No, ma'am.

19 Q. Okay. And so what happened next?

20 A. Well, after that I called for assistance and then a
21 few minutes later then we had Officer Watson and Officer
22 McClellan come.

23 Q. And they -- what did they assist you in doing?

24 A. Later, once everything was done with assistance and
25 when they brought the gurney down and assisted me in

1 helping me get him on, the inmate on the gurney.

2 Q. And that would be Oliver Johnson?

3 A. Yes, ma'am.

4 Q. Okay. So the three of you transferred him to the
5 gurney?

6 A. (Shaking of the head, yes)

7 Q. You have to say yes or no.

8 A. Yes, ma'am. I'm sorry. Yes.

9 Q. Okay.

10 MS. MUNNERLYN: Sorry. She just can't take down a nod.

11 Q. And once he was on the gurney, what did y'all do?

12 A. Take him to medical.

13 Q. Okay. And to get to medical you have to exit the
14 unit, the entire building, correct?

15 A. Yes. Yes, ma'am.

16 Q. Okay. And about how long did it take you to get to
17 medical?

18 A. Just a couple of minutes because it's on wheels so it
19 was just easy to push. It's not that far.

20 Q. Okay. When y'all were transferring Oliver Johnson's
21 body from the floor to the gurney, did you see anything on
22 the floor?

23 A. No -- well, besides his blood?

24 Q. Okay. You did see blood?

25 A. Oh, yes. Plenty of it.

E. Heyward- Direct Examination by Ms. Munnerlyn

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1 Q. Other than the blood, did you see anything else?

2 A. Yeah, where he urinated.

3 Q. So you have blood and urine on the floor but other
4 than that, anything else?

5 A. No, ma'am.

6 Q. You didn't see any weapons?

7 A. No, ma'am.

8 Q. When you transferred him, on his body did you see
9 anything other than the blood?

10 A. No, ma'am.

11 Q. Okay. You didn't see any weapons on him?

12 A. No, ma'am.

13 Q. Did you see Phillip Stackhouse when you entered the
14 unit?

15 A. No, ma'am.

16 Q. Until they got there and you transferred him to the
17 gurney, you said no one else approached the body and you
18 never touch the body?

19 A. Right. Correct.

20 Q. Okay. During the time y'all transferred him to the
21 gurney and you were taking him medical, did you or any of
22 the other officers do anything to the body?

23 A. No, ma'am.

24 Q. Other than moved him onto the gurney?

25 A. That's all.

1 Q. That's it. And then when you got to medical, what did
2 you do?

3 A. Let the nurses do what they had to do.

4 Q. You turned him over to them?

5 A. Yes, ma'am.

6 Q. Did you have any further involvement from that point
7 then ---

8 A. Um ---

9 Q. --- with -- not with Oliver Johnson?

10 A. No, ma'am.

11 Q. Did you have any involvement with Phillip Stackhouse
12 after that?

13 A. Yes, ma'am.

14 Q. What did you do?

15 A. Later me and Officer McClellan went and got him from
16 the unit and brought him up front.

17 Q. So he was still actually on C wing in the Cherokee
18 unit?

19 A. Mmm, hmm. He was in his cell.

20 Q. He was in his cell?

21 A. Mmm, hmm.

22 Q. Okay. And I guess it was still on lock down at that
23 point, correct?

24 A. Yes, ma'am.

25 Q. You and Officer McClellan went and got Phillip

E. Heyward- Cross Examination by Mr. Stephens

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1 Stackhouse from his cell?

2 A. Yes, ma'am.

3 Q. And where did you take him?

4 A. Up front to the -- up front towards the
5 administrator's office.

6 Q. Okay. And when you got to the administrator's office
7 where did you put him?

8 A. I think we put him in a holding cell.

9 Q. Okay. All right. Did you have any further
10 interactions with him at that point?

11 A. After that, no.

12 Q. Were you involved in any processing of any of the
13 evidence or anything at that point?

14 A. No. I wasn't.

15 MS. MUNNERLYN: I don't have any further questions. If
16 you would answer any questions Mr. Stephens has.

17 THE COURT: Cross examination?

18 MR. STEPHENS: Thank you, Your Honor.

19 **Cross Examination by Mr. Stephens:**

20 Q. Officer Heyward, where do you work now?

21 A. Novant Presbyterian in Charlotte, hospital.

22 Q. Okay. Now, you said you were out making sure they ate
23 breakfast that morning, when you got a call?

24 A. Yes, ma'am. Yes, sir.

25 Q. And how long did it take you to get to C wing?

1 A. It don't take me long because I'm a runner.

2 Q. I understand.

3 A. About a minute or less.

4 Q. Okay. A minute. And did you know who it was when you
5 first saw him laying there?

6 A. Yeah, because his face was turned. I could notify
7 him.

8 Q. Okay. So you recognized him?

9 A. Yes, sir.

10 Q. Okay. And you helped load, put him on the gurney?

11 A. Yes, sir.

12 Q. And take a him to medical?

13 A. Yes, sir.

14 Q. Did you go with them to medical?

15 A. Yes, sir.

16 Q. And then you came back and you -- did you come
17 straight back and get him?

18 A. No, we didn't come straight back. We talked for a
19 minute and then we came, then we went back and got him.

20 Q. And you got Mr. Stackhouse and brought him up to the
21 lock up, right?

22 A. Yes, sir.

23 Q. Was anybody else in his cell?

24 A. Yeah. There was, I don't remember who the man name
25 was but, yeah, there was somebody else in the cell.

E. Heyward- Cross Examination by Mr. Stephens

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1 Q. His roommate? His roommate?

2 A. Yes, sir.

3 Q. And did you notice anything unusual about Mr.
4 Stackhouse?

5 A. No, because he was just sitting on the bed.

6 Q. All right. And how long did you work at Evans?

7 A. Fifteen years.

8 Q. Okay. And did you know Mr. Stackhouse?

9 A. Yes, sir.

10 Q. Do you know what his nickname is or what they call
11 him?

12 A. No.

13 Q. In the fifteen years you were there, did you ever
14 witness or report any assaults on other inmates or
15 correctional officers?

16 A. Of course.

17 Q. Do you know how many?

18 A. No. That's a long time.

19 Q. More than five?

20 A. Huh?

21 Q. More than five?

22 A. Oh, yes, sir.

23 Q. Did you personally ever confiscate any weapons?

24 A. Yes, sir.

25 Q. More than five?

E. Heyward- Cross Examination by Mr. Stephens

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1 A. Oh, yes, sir.

2 Q. More than ten?

3 A. Oh, yes, sir.

4 Q. Did you know Oliver Johnson?

5 A. Yes, because he was an inmate when I was over at my
6 dorm, Waxhall, he was one of my inmates in there.

7 Q. Did you ever known him to be involved in incident at
8 the Waxhall?

9 MS. MUNNERLYN: Objection, Your Honor, as to relevance.

10 THE COURT: Ladies and gentlemen, go to your jury
11 room please.

12 (Whereupon, the exits the courtroom at 11:42 a.m.)

13 THE COURT: Ask the question again, Mr. Stephens?

14 Q. When you were -- did you ever known Oliver Johnson to
15 be involved in an assault?

16 A. In an assault, um ---

17 THE COURT: I didn't understand your answer, sir,
18 I'm sorry.

19 A. I don't think so, no.

20 Q. When he was in Waxhall ---

21 A. Yes, sir.

22 Q. You never knew him to assault Phillip Stackhouse?

23 THE COURT: Rephrase that question please.

24 Q. Did you ever -- were you ever aware Oliver Johnson
25 assaulted Philip Stackhouse while they were both at the

E. Heyward- Cross Examination by Mr. Stephens

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1 Waxhall?

2 A. I don't seem to recall. Okay. If you don't know, you
3 don't know. He doesn't know.

4 THE COURT: All right, sir. So based on that then
5 I'm not going to allow the questions and answers ---

6 MR. STEPHENS: All right.

7 THE COURT: --- based on that. All right. Are you
8 going to have further questions for Mr. Heyward?

9 MR. STEPHENS: I think that would wind it up, Your
10 Honor.

11 THE COURT: You going to ask for redirect?

12 MS. MUNNERLYN: No, Your Honor.

13 THE COURT: All right. Let's take a short break
14 then. Can Mr. Heyward be excused?

15 MS. MUNNERLYN: Yes, please.

16 MR. STEPHENS: Yes, sir.

17 THE COURT: All right, sir. You are released from
18 your subpoena. You may go back to your regular duties.

19 Thank you, sir. We'll take a break for about five or ten
20 minutes. Who might you'd be calling after that, solicitor?

21 MS. MUNNERLYN: I will be calling the nurses that were
22 in medical. It would be -- the next would be Jodi Cutchin.

23 THE COURT: Okay. All right. So how many of those
24 -- how many nurses are there?

25 MS. MUNNERLYN: Three, I believe, Your Honor.

1 THE COURT: Three. Okay.

2 MS. MUNNERLYN: They'll move quickly.

3 THE COURT: Okay. Well, will try and get all three
4 of those done and then we'll see where we are. Okay?

5 MR. STEPHENS: Thank you, Your Honor.

6 THE COURT: All right. Very Good.

7 MS. MUNNERLYN: Thank you, Your Honor.

8 THE COURT: A short break. Thank you.

9 (Whereupon, a break is taken at 11:44 a.m. to 12:06 p.m.)

10 THE BAILIFF: Thank you very much. You may be
11 seated. Thank you. All right. Is the State ready for the
12 jury to come in?

13 MS. MUNNERLYN: The State's ready, Your Honor.

14 THE COURT: Defense?

15 MR. STEPHENS: Yes, sir.

16 THE COURT: Ask the jury to come in please.

17 (Whereupon, the jury enters the courtroom at 12:07 p.m.)

18 THE COURT: All right. Solicitor, your next
19 witness please?

20 MS. MUNNERLYN: Jodi Cutchin, Your Honor.

21 THE COURT: Come around, ma'am. Just come right
22 around the front, over here, right in front of the clerk.

23 THE CLERK: Do you solemnly swear or affirm that
24 the testimony you shall give the Court and jury in this
25 case shall be the truth, the whole truth, and nothing but
26 the truth so help you God?

J. Cutchin- Direct Examination by Ms. Munnerlyn

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1 MS. CUTCHIN: I do.

2 THE CLERK: Please be seated and state your full
3 name.

4 MS. CUTCHIN: Jodi Cutchin.

5 MS. MUNNERLYN: Is the microphone working?

6 THE COURT: You can't pull it closer and speak
7 directly into it? It's going to fall off now.

8 MS. CUTCHIN: Jodi Cutchin.

9 THE COURT: Thank you, ma'am. Go ahead, solicitor.

10 MS. MUNNERLYN: Thank you, Your Honor.

11 JODI CUTCHIN, first being
12 duly sworn, testified as follows:

13 **Direct Examination by Ms. Munnerlyn:**

14 Q. Ms. Cutchin, where are you employed?

15 A. South Carolina Department of Corrections, Evans
16 Correctional.

17 Q. And in what capacity, what do you do there?

18 A. I'm a nurse.

19 Q. So you work in the medical unit at Evans?

20 A. Yes.

21 Q. Okay. How long have you been employed there?

22 A. Six and half years.

23 Q. Six and half years. Okay. And were you working the
24 morning of February 23, 2016?

25 A. Yes, ma'am.

1 Q. Do you recall an inmate coming in, and injured inmate,
2 coming in to medical that morning?

3 A. Yes, ma'am.

4 Q. Okay. Tell us what happened.

5 A. He -- when I came to work they rolled him up there on
6 the stretcher with the other two nurses that were there and
7 he had no signs of life, so we did CPR and bandaged up his
8 wounds until EMS arrived and turned care to them

9 Q. Okay. Do you know the name of the inmate?

10 A. Yes, Oliver Johnson.

11 Q. Okay. And do you recall the officers who were pushing
12 the gurney and brought him to medical?

13 A. Yes. Lieutenant Watson and Sergeant Heyward.

14 Q. And when he arrived, he was on the gurney, correct?

15 A. Yes, ma'am.

16 Q. On wheels?

17 A. Yes, ma'am.

18 Q. And how was he laying on the gurney or the stretcher?

19 A. Face down.

20 Q. Did you notice anything particular about him when they
21 brought him on the gurney face down?

22 A. Just blood everywhere.

23 Q. Blood everywhere. Okay. And you said there were two
24 other nurses there with you?

25 A. Yes, ma'am.

1 Q. And who were they?

2 A. Stokes and McQueen.

3 Q. And what did y'all do first?

4 A. Ms. Stokes felt for a pulse and then listen to see if
5 you had a heartbeat.

6 Q. And was there any pulse or heartbeat?

7 A. She said, no.

8 Q. All right. And then what did you proceed to do at
9 that point?

10 A. Place the AD on him and initiate CPR.

11 Q. Now, did you have to turn him over to do that?

12 A. Yes. Sergeant Heyward helped us turn him over to his
13 back.

14 Q. So you flipped him around to his back?

15 A. Mmm, hmm. Yes, ma'am.

16 Q. And you did -- tell us what you did at that point?

17 A. We put the AD on him and ---

18 Q. And what's the AD?

19 A. Automatic defibrillator and analyzes for a heart
20 rhythm and he didn't have a heart rhythm, so it recommended
21 CPR, so we initiated CPR. And I did chest compressions and
22 Ms. Stokes put a bag-valve-mask and gave air.

23 Q. And you continued CPR for how long?

24 A. Until EMS arrived so maybe fifteen minutes. I don't
25 recall an exact time.

1 Q. But y'all continued CPR continuously from the point he
2 was brought into medical until EMS arrived?

3 A. Yes.

4 Q. And was there ever a pulse or a heart rate that you
5 are aware of?

6 A. No.

7 Q. Okay. And you said that there was blood everywhere?

8 A. Yes, ma'am.

9 Q. Was any -- did you notice anything about him other
10 than his clothing, was there anything else on him other
11 than the blood?

12 A. He actually didn't have a shirt on. He had multiple
13 stab wounds and that's where the blood was coming from.

14 Q. Do you recall how many stab wounds?

15 A. Six.

16 Q. Do you know where approximately they were?

17 A. He had one on the left side of his face. One in the
18 middle of his neck. One in the middle of his chest. And
19 two to the shoulder.

20 Q. And did you note any other injuries other than those
21 stab wounds?

22 A. Just some bruising to his neck and a busted lip.

23 Q. And you said it took about fifteen minutes or so for
24 EMS to arrive?

25 A. Yes, ma'am. I don't recall an exact time but....

J. Cutchin- Cross Examination by Mr. Stephens

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1 Q. And did you -- during the time that y'all had been
2 working on him and performing CPR all this period of time,
3 did you ever see anywhere on him, around him on that
4 gurney, any evidence of any sort of weapon?

5 A. No, ma'am.

6 Q. Okay. And when EMS arrived, what did you do?

7 A. We gave over care to them so they started CPR and took
8 him out.

9 MS. MUNNERLYN: I don't have any further questions.
10 Answer any questions Mr. Stephens has.

11 THE COURT: Cross examination?

12 MR. STEPHENS: Thank you, Your Honor.

13 **Cross Examination by Mr. Stephens:**

14 Q. Ms. Cutchin, you said there were stab wounds on him,
15 you -- were they stab wounds or just cuts?

16 A. No, 'sir. They were stab wounds.

17 Q. And tell us a little bit about how you, your training?

18 A. I went to nursing school.

19 Q. Okay. Four years?

20 A. No, one. I'm an LPN so I went to nursing school for

21 ---

22 Q. LPN?

23 A. Mmm, hmm.

24 Q. Did you take any courses in identifying wounds?

25 A. Yes. You have them wound care -- you have to do wound

1 identification in nursing school.

2 Q. Okay. And the wound on his chest, do you remember how
3 deep that was?

4 A. I do not recall.

5 Q. Okay. You know how long it was?

6 A. It was just a round....

7 Q. And the one on his head ---

8 A. Mmm, hmm.

9 Q. --- was it -- what kind of wound was it?

10 A. I mean, I don't -- it was -- it was a stab wound but I
11 don't know really how to explain it to you.

12 Q. Was it round?

13 A. No, it wasn't. It was long ---

14 Q. Okay.

15 A. --- and deep.

16 Q. Long and deep.

17 A. Mmm, hmm.

18 Q. Now, in your six and half years at SCDC, you've treat
19 other inmates for being assaulted?

20 A. Yes, sir.

21 Q. Okay. Did you ever treat Oliver Johnson before that
22 night?

23 A. Not that I recall.

24 Q. How about Phillip Stackhouse?

25 A. Not that I recall.

J.. Cutchin- Redirect Examination by Ms. Munnerlyn

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1 Q. Lots of stab wounds?

2 A. Yes, sir.

3 Q. Okay.

4 MR. STEPHENS: That's all I have, Your Honor.

5 THE COURT: Any redirect?

6 MS. MUNNERLYN: May we approach, Your Honor?

7 THE COURT: Yes, ma'am.

8 (Whereupon, a bench conference was held off the record)

9 **Redirect Examination by Ms. Munnerlyn:**

10 Q. I'm going to show you what's been marked as State's
11 Exhibits 36 and 44 and see if you ---

12 THE COURT: That's for identification at this
13 point.

14 (Whereupon, State's Exhibits No. 36 and 44 were introduced
15 for Identification Purposes only)

16 MS. MUNNERLYN: Correct. For identification only.

17 Q. Do you recognize what's in the photograph?

18 A. Yes, ma'am.

19 Q. And from where do you recognize what's in the
20 photograph?

21 A. Can you -- how -- what makes me know his wound?

22 Q. Yes.

23 A. The wound here in the head and the wound in the chest.

24 Q. Okay. And who was the individual shown in the
25 photograph?

1 A. Oliver Johnson.

2 Q. Do the injuries reflected in those photographs, do
3 they accurately reflect the injuries as you saw them that
4 day?

5 A. Yes, ma'am.

6 Q. They are consistent with how you observe them the day
7 that he came to medical February 23, 2016?

8 A. Yes, ma'am.

9 Q. Okay.

10 THE COURT: Give those ---

11 MS. MUNNERLYN: I don't have anything further

12 THE COURT: All right. Those exhibits, give those
13 to the court reporter. All right. Thank you. Further
14 questions then?

15 MS. MUNNERLYN: No more questions from the State, Your
16 Honor.

17 THE COURT: All right. Cross examination on those
18 questions?

19 MR. STEPHENS: No, sir.

20 THE COURT: All right. Very good. All right. Do
21 you wish the witness to be excused?

22 MS. MUNNERLYN: Please, Your Honor.

23 THE COURT: Any objection?

24 MR. STEPHENS: No objection.

25 THE COURT: All right, ma'am. You are released

S. Stokes- Direct Examination by Ms. Munnerlyn

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1 from your subpoena. You may go about your regular duties.

2 Who's your next witness please, ma'am?

3 MS. MUNNERLYN: Shelly Stokes.

4 THE CLERK: Do you solemnly swear or affirm the
5 testimony you shall give the Court and the jury in this
6 case shall be the truth, the whole truth, and nothing but
7 the truth so help you God?

8 MS. STOKES: I do.

9 THE CLERK: Please be seated and state your full
10 name.

11 THE COURT: Just kinda of scoot up as close to the
12 microphone as you can but don't touch it because apparently
13 it will fall over.

14 MS. STOKES: Okay. My name is Shelly Ray Stokes.

15 THE COURT: Go ahead.

16 SHELLY STOKES, first being
17 duly sworn, testified as follows:

18 **Direct Examination by Ms. Munnerlyn:**

19 Q. Ms. Stokes, where are you employed?

20 A. Evans Correctional Facility.

21 Q. And what do you do there?

22 A. I'm an RN.

23 Q. Okay. Were you working back on February 23, 2016?

24 A. Yes, ma'am.

25 Q. Early that morning?

1 A. Yes, ma'am.

2 Q. Were you in medical when an inmate was brought in on a
3 gurney?

4 A. Yes. I was standing outside. I had just got to work.

5 Q. Okay.

6 A. And the other nurse was standing outside waiting for
7 them to bring him so we met them on the yard and then
8 carried him inside.

9 Q. So you knew there was an inmate coming in?

10 A. Yes, ma'am.

11 Q. Okay. And you met them actually on the sidewalk?

12 A. Mmm, hmm. Yes, ma'am.

13 Q. Yes, okay. All right. Tell us what you observed when
14 you first saw him?

15 A. He was face down on the gurney. I couldn't really
16 tell who he was or what his injuries was -- were. So we
17 ran him into medical and then we all flipped him over, and
18 then we just observed, then, a whole bunch of blood and
19 that he wasn't -- he wasn't breathing or anything.

20 Q. He was not breathing

21 A. He was not breathing.

22 Q. Was there any pulse or ---

23 A. No. I checked his pulse, I didn't have a pulse. And
24 we checked -- he wasn't breathing. So we have an AED that
25 we hooked up to him and we started CPR.

S. Stokes- Direct Examination by Ms. Munnerlyn

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1 Q. And there was how many other nurses with you?

2 A. There was, the two nurses on the night shift working,
3 and then I had just got there. And then we had like a CNA.
4 So it was really me and the two nurses from night shift
5 working on him and then we had another nurse come in. We
6 were having day shift nurses steadily coming in because it
7 was our time -- our shift change.

8 Q. Okay.

9 A. So I know Ms. Cutchin came in so it was four of us,
10 really, working on him.

11 Q. All right. And so once you flipped him over and began
12 CPR, did y'all evaluate what his injuries were?

13 A. Yes, ma'am. He had like multiple ---

14 Q. What injuries did you observe?

15 A. He had multiple -- well, he had blood all over but the
16 first one we seen was like to the left side of the head.
17 It look like it went from the top all the way down the
18 face. It was just kind of an open wound and we were trying
19 to close that up. He had multiple injuries on his chest.
20 And then a real good one, like, to the middle of the chest
21 to the right side. But they were all in the upper, in the
22 face, and the upper chest part.

23 Q. Okay. And did he have any clothing on?

24 A. Yes. I'm pretty sure he had his uniform on.

25 Q. Okay. But you could see his -- the wounds?

1 A. Yeah, because we like pulling stuff off. Pull it, cut
2 it, whatever we got to do.

3 Q. Okay. All right. And y'all continued CPR, do you
4 know how long it took for the EMS to arrive?

5 A. I don't know exactly how long it took them. They were
6 pretty fast that morning. It don't usually take that long.
7 They have to come to the gates and everything so it takes a
8 little while but I think fifteen or twenty minutes.

9 Q. Okay. But you continued CPR until they arrived?

10 A. Yes, ma'am. Yes, ma'am.

11 Q. And what happened when they arrived?

12 A. They just took over. They hooked their machines up
13 and then they began CPR and then they take him out and put
14 him on the van and then they do what they got to do to try
15 and get him to the hospital.

16 Q. Did you ever see any signs of life?

17 A. No, ma'am.

18 Q. Okay. During the time y'all were flipping him over on
19 the gurney and you began to evaluate the situation, did you
20 see anything in or around his body in a form of any sort of
21 weapon or anything like that?

22 A. No, ma'am.

23 Q. I'm going to show you what's been marked as State's
24 Exhibits 36 and 44 and see if you recognize, this is only
25 for identification only right now, do you recognize what's

S. Stokes- Cross Examination by Mr. Stephens

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1 in those photographs?

2 A. Yes, ma'am.

3 Q. And from where do you recognize what's in that photos?

4 A. You mean as far as where it's at in medical?

5 Q. No. No. Who was in that photograph?

6 A. Oh, Oliver Johnson.

7 Q. Okay. When's the last time you saw him?

8 A. The morning that they brought him up there.

9 Q. Do the injuries reflected in this photos, are they
10 consistent with what you saw that morning?

11 A. Yes, ma'am.

12 Q. Okay.

13 MS. MUNNERLYN: No further questions, Your Honor.

14 Please answer any questions that Mr. Stevens has.

15 THE COURT: Cross examination?

16 MR. STEPHENS: Thank you, Your Honor.

17 **Cross Examination by Mr. Stephens:**

18 Q. Nurse Stokes, how long have you been at Evans?

19 A. Ten years.

20 Q. Ten years. Have you treated a lot inmates for
21 injuries?

22 A. Yes, sir.

23 Q. Beating and stabbing?

24 A. Yes, sir.

25 Q. Thank you.

1 MR. STEPHENS: That's all.

2 THE COURT: Anything on those questions?

3 MS. MUNNERLYN: No, Your Honor.

4 THE COURT: All right. Do you wish for the witness
5 to be excused?

6 MS. MUNNERLYN: Please, Your Honor.

7 THE COURT: Any objection?

8 MR. STEPHENS: No, sir.

9 THE COURT: All right. Ma'am, your released from
10 your subpoena. You may go back to your regular duties.

11 MS. STOKES: Thank you.

12 THE COURT: Thank you. Next witness?

13 MS. MUNNERLYN: Felicia McQueen.

14 THE COURT: If you'll just come right around and
15 meet the clerk right over here please, ma'am.

16 THE CLERK: Do you solemnly swear or affirm that
17 the testimony you shall give the Court and jury during this
18 case is the truth, the whole truth, and nothing but the
19 truth so help you God?

20 MS. McQUEEN: I do.

21 THE CLERK: Please be seated and state your full
22 name.

23 MS. McQUEEN: Felicia McQueen.

24 THE COURT: If you can center yourself, ma'am,
25 please and if you could kinda of turn a little bit towards

F. McQueen- Direct Examination by Ms. Munnerlyn

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1 the jury. There you go. Good deal. Go ahead.

2 MS.. MUNNERLYN: Thank you, Your Honor.

3 FELICIA McQUEEN, first being
4 duly sworn, testified as follows:

5 **Direct Examination by Ms. Munnerlyn:**

6 Q. You are Felicia McQueen?

7 A. Yes.

8 MS. MUNNERLYN: You've got to speak ---

9 THE COURT: You've -- speak up.

10 A. Yes.

11 MS. MUNNERLYN: --- up real loud for me -- I'm sorry.
12 Because I want everybody to hear what you have to say. The
13 microphone is working now so you can talk into it.

14 Q. Where are you employed?

15 A. South Carolina Department of Corrections at Evans.

16 Q. Okay. And what do you do there?

17 A. I'm a nurse.

18 Q. And how long have you worked there?

19 A. Since 2012.

20 Q. Since 2012. All right. And were you working on the
21 morning of February 23, 2016?

22 A. Yes, ma'am.

23 Q. And were you present when the call came in that they
24 were bringing an inmate into medical?

25 A. Yes.

1 Q. And what did you do?

2 A. I waited on them to bring him up and then I went down
3 on the yard and met them bringing him up.

4 Q. You met them on their way in?

5 A. Mmm, hmm.

6 Q. That's a yes, I'm sorry.

7 A. Yes.

8 Q. Okay. So you went out, actually, outside onto the
9 sidewalk?

10 A. Yes.

11 Q. Okay. And how was he being transported there?

12 A. He was on the stretcher.

13 Q. On the stretcher. On wheels and rolling?

14 A. Yes.

15 Q. Okay. And when you first saw him, what did you
16 observe?

17 A. He was just laying face down.

18 Q. On the stretcher?

19 A. Yes.

20 Q. Could you see any of his injuries at that time?

21 A. No. I just saw a lot of blood.

22 Q. And when you first saw him outside, when they were
23 bringing him out over at medical, did y'all do anything
24 outside?

25 A. No.

F. McQueen- Direct Examination by Ms. Munnerlyn 180

1 Q. Okay. You proceeded on to medical?

2 A. Yes.

3 Q. And when he arrived at medical, what did y'all do?

4 A. We started CPR and kind of cleaning off the wounds and
5 applying pressure.

6 Q. What did you do -- to you start CPR, what did you have
7 to do with his body?

8 A. We turned him over.

9 Q. Okay. And when you turned him over, did you -- did
10 you see evidence of his injuries?

11 A. Yes.

12 Q. And what sort of injuries did you see?

13 A. We had -- a lot of wounds. We -- the first one that
14 was apparent was the one on the side of his face, left
15 side. And then he had wounds in his chest and shoulder.

16 Q. All right. And so was there any problem with bleeding
17 on those wounds at that point?

18 A. They were all bleeding.

19 Q. Okay. And did -- was there any pulse or heart rate?

20 A. No.

21 Q. And so y'all immediately began CPR?

22 A. Yes.

23 Q. You continued until when?

24 A. Until EMS arrived.

25 Q. Okay. And then y'all transferred him over to EMS?

1 A. (Shaking of the head, yes)

2 THE COURT: You need to answer out loud please,
3 ma'am.

4 A. Yes.

5 Q. I'm going to show you what's been marked as State's
6 Exhibits 36 and 44, do you recognize, just yes or no, do
7 you recognize what's in those photographs?

8 A. Yes.

9 Q. And who is shown in those photographs?

10 A. Oliver Johnson.

11 Q. And from when do you recognize this photo? When did
12 you last see him?

13 A. When he was given over to EMS to take him out.

14 Q. Okay. In medical that day?

15 A. Yes.

16 Q. Are the injuries shown in these photos consistent with
17 what you saw that day?

18 A. Yes.

19 THE COURT: You need to answer out loud again
20 please, ma'am.

21 A. Yes.

22 Q. When y'all turned him over and began to evaluate his
23 injuries and start CPR, did you see any sort of -- did he
24 have anything on him, like, a weapon or anything like that,
25 that could be used as a weapon?

F. McQueen- Cross Examination by Mr. Stephens

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1 A. I don't recall one.

2 Q. All right.

3 MS. MUNNERLYN: I don't have any further questions. If
4 you would answer any questions Mr. Stephens has.

5 THE COURT: Cross examination?

6 MR. STEPHENS: Thank you, Your Honor.

7 **Cross Examination by Mr. Stephens:**

8 Q. Nurse McQueen, how long have you worked at Evans?

9 A. Since 2012.

10 Q. And you've treated a lot of inmates from being
11 assaulted or stabbed?

12 A. Yes.

13 MR. STEPHENS: Thank you. Nothing further.

14 THE COURT: Any redirect?

15 MS. MUNNERLYN: No, Your Honor.

16 THE COURT: Do you wish the witness to be excused?

17 MS. MUNNERLYN: Yes, Your Honor.

18 THE COURT: Any objection?

19 MR. STEPHENS: No objection.

20 THE COURT: All right, ma'am. You are released
21 from your subpoena. You may go back to your regular
22 duties. Thank you.

23 MS. McQUEEN: Thank you.

24 THE COURT: All right. Ladies and gentlemen of the
25 jury, we're going to break for lunch. I'm going to ask that

1 you be back in your jury room -- so if you'll be back,
2 apparently that was a little fast, so it's apparently
3 12:30, be back in your jury room at 1:45 please. Be back
4 in the jury room, 1:45. We will resume the trial at that
5 point in time. Remember don't talk about the case. Don't
6 allow anybody to talk to you about it. All right. See you
7 back at 1:45. Thank you.

8 (Whereupon, the jury exits the courtroom at 12:31 p.m.)

9 THE COURT: Anything from the State before we break
10 for lunch?

11 MS. MUNNERLYN: No, Your Honor.

12 THE COURT: From the defense?

13 MR. STEPHENS: No, sir.

14 THE COURT: All right. I'll see y'all back at
15 1:45, then. Thank you very much.

16 MR. STEPHENS: Thank you, Your Honor.

17 MS. MUNNERLYN: Thank you, Your Honor.

18 (Whereupon, the court took lunch from 12:31 to 1:52 p.m.)

19 THE COURT: Yes, solicitor?

20 MS. MUNNERLYN: Your Honor, it was reported to me that
21 one of the alternate jurors was out in the yard speaking to
22 a member of the defendant's family and I don't really know
23 what the discussion was about. I think it was about a
24 cigarette or something but I don't know.

25 THE COURT: Okay.

26 MS. MUNNERLYN: So I would ask the Court to question

1 about that. And Sabrina, in my office as well one of the
2 jailers, I think, saw the contact.

3 THE COURT: All right. Very good. Ma'am, if you
4 would stand up please.

5 MS. FIELDS: Yes, sir.

6 THE COURT: And raise your right hand. Do you
7 solemnly swear or affirm to tell the truth, the whole
8 truth, and nothing but the truth so help you God?

9 MS. FIELDS: Yes, sir.

10 THE COURT: All right. Could you tell me your name
11 first?

12 MS. FIELDS: Sabrina Fields.

13 THE COURT: All right, ma'am. And you're employed
14 by the ---

15 MS. FIELDS: The Fourth Circuit Solicitor's Office.

16 THE COURT: The solicitor's office. Okay. And so
17 you're aware of this particular matter that's going on this
18 week, the State of South Carolina versus Phillip
19 Stackhouse, correct?

20 MS. FIELDS: Yes, sir.

21 THE COURT: And the jury panel, you know who's on
22 the jury panel then, correct?

23 MS. FIELDS: Yes, sir.

24 THE COURT: All right. And can you tell me what
25 you observed regarding a member of the jury panel then,
26 please?

1 MS. FIELDS: Yes, sir. As I was in our back office
2 I got up to get ready to go lunch and noticed that two
3 gentlemen had stopped in front of a juror. At that time, I
4 immediately came to try and find Elizabeth. I came to that
5 door but that door was locked so I came on around and just
6 advised her that one of the jurors was talking to a family
7 member and she told me to find out who it was. So I
8 immediately went downstairs to find out who it was. I did
9 speak to the juror. I just -- well, I told her that she's
10 not supposed to be speaking with anybody.

11 THE COURT: Okay.

12 MS. FIELDS: And when I told her that, I also spoke
13 with the two gentlemen and they both said the same thing
14 that the juror said, that she just ask for cigarette.

15 THE COURT: Okay. Now, the juror is -- do you know
16 the jurors name?

17 MS. FIELD: The jurors name is Thomas.

18 THE COURT: Sherman Thomas?

19 MS. FIELD: Sherman Thomas.

20 THE COURT: Okay. All right. And you indicated
21 that this juror spoke to persons related to the defendant,
22 do you know who or how they might be related?

23 MS. FIELDS: It's the cousin of the defendant.

24 THE COURT: Okay. Cousin of the defendant. Okay.
25 Very good. All right. Do you have any questions,
26 solicitor?

1 MS. MUNNERLYN: No, sir.

2 THE COURT: Mr. Stephens?

3 MR. STEPHENS: No, sir.

4 THE COURT: All right. Thank you, ma'am. And you
5 indicated that someone else indicated that they saw that?

6 MS. MUNNERLYN: The jailer right here did. I don't
7 know what all he saw but I know he saw some of that from
8 the window, Your Honor.

9 THE COURT: Could you stand up please? Raise your
10 right hand. Do you solemnly swear or affirm to tell the
11 truth, the whole truth, and nothing but the truth so help
12 you God?

13 THE OFFICER: Yes, sir.

14 THE COURT: Could you first state your name please,
15 sir?

16 THE OFFICER: Bryon Connor

17 THE COURT: By whom are you employed?

18 THE OFFICER: Marlboro County Sheriff's Office.

19 THE COURT: All right, sir. Can you just tell me
20 what you observed, then?

21 THE OFFICER: I had seen them talking but I have no
22 idea what they said. I just seen -- now I know, when we
23 broke for lunch, I did see her go down and talk to the guys
24 and let them know, hey, you can't talk to jurors.

25 THE COURT: Okay. So you did see there was some
26 kind of interaction between a juror and persons related to

1 the defendant?

2 THE OFFICER: Yes, sir.

3 THE COURT: All right. Very good. Thank you. You
4 can have a seat. All right. Madam Bailiff, could you ask
5 juror number 203, Sherman Thomas to come out please. Just
6 that one juror.

7 (Whereupon, the bailiff complies and has that one juror
8 come in the courtroom)

9 THE COURT: Right there is great. Yeah, yeah,
10 right there is fine. That will be good. You can have
11 seat.

12 MR. THOMAS: Okay.

13 THE COURT: You're Sherman Thomas, is that correct

14 MR. THOMAS: That's correct.

15 THE COURT: All right. Now, it's been reported
16 that -- first, do you know the defendant in this particular
17 matter, Phillip Stackhouse?

18 MR. THOMAS: No, sir, I do not.

19 THE COURT: Okay. And it's been reported that you
20 had a conversation with one or two individuals that the
21 Court understands are related to the defendant during the
22 lunch break, did that take place?

23 MR. THOMAS: Um, no, it actually didn't.

24 THE COURT: Okay. Did you speak to anyone in the,
25 around the grounds of the courthouse?

26 MR. THOMAS: Well, actually, what happened was, I

1 had asked him for a cigarette and that was it. And when he
2 handed me the cigarette I thanked him and that was it.

3 THE COURT: Okay.

4 MR. THOMAS: So when the person came outside and
5 they told me who he was it was an honest mistake because I
6 did not know that, that was the defendant's brother. It
7 was an honest mistake. I did not know.

8 THE COURT: So you didn't -- did you talk about the
9 case or---

10 MR. THOMAS: No, sir.

11 THE COURT: --- did they try to talk to you about
12 it in any manner?

13 MR. THOMAS: No. No, sir.

14 THE COURT: All right. Very good. All right. If
15 you want to go back and have a seat in the jury room.
16 Thank you very much.

17 MR. THOMAS: Thank you.

18 (Whereupon, the juror complies)

19 THE COURT: Any request from the State to remove
20 the juror?

21 MS. MUNNERLYN: Your Honor, since we do have two
22 alternates I would request, just in an abundance of
23 caution, that the juror be released.

24 THE COURT: Mr. Stephens, what's your position?

25 MR. STEPHENS: We don't take a position, Your Honor.
26 It's up to the Court.

1 THE COURT: Out of an abundance of caution and
2 mainly for that reason because though it appears to have
3 been innocent and without malicious intent there was
4 contact between an alternate juror in this particular case
5 and person or persons related to the defendant, we need to
6 have a jury that is without question untainted by the
7 appearance of any kind of impropriety and, therefore, what
8 I'm going to do is remove juror number 203, Sherman Thomas,
9 as an alternate in this particular matter. I'm not
10 imposing any kind of sanctions of any kind so I don't think
11 those are warranted. But to preserve the integrity of this
12 trial, I am going to remove that juror from the panel. And
13 I think -- I don't think there's any necessity that we keep
14 this particular juror any further. I don't know what other
15 trials that we might be able to conduct this week so I
16 don't know if we need the panel anymore after this trial is
17 concluded. There will be other business but not with the
18 jury. So Madam Bailiff, if you would -- if you would just
19 tell -- well, that's not the best way to do it. Have that
20 juror come back out and talk to me again, okay. I should
21 do that.

22 (Whereupon, the bailiff brings the juror back to courtroom)

23 THE COURT: All right. In this particular matter
24 it's the Court's job to make sure that the results of a
25 trial are not, as best I can, questioned or tainted in any
26 way. I understand and find the reasons that you gave to me

1 regarding the contact to be innocent and, you know, without
2 any kind of malicious intent of any kind.

3 MR. THOMAS: Right.

4 THE COURT: But to preserve the integrity of the
5 trial and make sure there can be no question about that,
6 I'm going to remove you from the jury. I don't think there
7 are any other jury trials that we're going to conduct this
8 week so I will be able to excuse you from jury service for
9 this particular week. All right?

10 MR. THOMAS: Okay.

11 THE COURT: Thank you. I appreciate it very much.

12 MR. THOMAS: Okay.

13 (Whereupon, the juror leaves the courtroom)

14 THE COURT: All right. We'll take a very short
15 break. I'm gonna -- I need to get another pen, apparently.
16 So let me go do that and then we'll come right back in and
17 get started. All right. Thank you.

18 (Whereupon, a short break was taken at 2:04 p.m.)

19 THE COURT: All right. Is the State ready for the
20 jury to come in?

21 MS. MUNNERLYN: Yes, Your Honor.

22 THE COURT: All right. And defense?

23 MR. STEPHENS: We're ready.

24 THE COURT: All right. Ask the jury to come in
25 please.

26 (Whereupon, the jury enters the court at 2:05 p.m.)

1 THE COURT: All right. Solicitor, your next
2 witness please.

3 MS. MUNNERLYN: Charles West.

4 THE COURT: All right. If you come around right
5 over here in front of the clerk please, sir.

6 THE CLERK: Do you solemnly swear or affirm that
7 the testimony you shall give the Court and jury in this
8 case shall be the truth, the whole truth, and nothing but
9 the truth so help you God?

10 MR. WEST: I do.

11 THE CLERK: Have a seat and state your full name
12 please.

13 THE COURT: State your name please, sir.

14 MR. WEST: Charles West.

15 THE COURT: All right. Go ahead, solicitor.

16 MS. MUNNERLYN: Thank you, Your Honor.

17 CHARLES WEST, first being
18 duly sworn, testified as follows:

19 **Direct Examination by Ms. Munnerlyn:**

20 Q. Officer West, where are you employed?

21 A. Evan Correctional Institution.

22 Q. And how long have you been employed there?

23 A. I've been at Evans six and half years.

24 Q. And what do you do there?

25 A. I am the head of security. I'm the major.

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1 Q. And were you working -- first of all let me ask you,
2 do you know the defendant Phillip Stackhouse? Are you
3 familiar with him?

4 A. I am.

5 Q. Okay. And did you know the victim, Oliver Johnson?

6 A. I am familiar with him.

7 Q. Okay. And were you working back on February 23, 2016?

8 A. Yes, I was.

9 Q. Early that morning?

10 A. Not when the incident took place. I came in
11 afterwards.

12 Q. All right. And so you were not actually at Evans when
13 the incident actually occurred?

14 A. That's correct.

15 Q. Okay. And when you arrived, were sled investigators
16 already there?

17 A. Yes.

18 Q. Okay. And what, if anything, was your involvement in
19 this investigation?

20 A. I pretty much isolated everything. Made sure the unit
21 was locked down. Made sure that their cells were locked
22 down. Made sure nobody entered any of the cells. And made
23 sure people were in the proper sections.

24 Q. Okay. And so particularly that unit where the
25 incident occurred which would be Cherokee unit, C wing, did

1 you accompany officers or were you present when they were
2 processing the crime scene there?

3 A. The sled agent's?

4 Q. Yes.

5 A. Pretty much so. Yes.

6 Q. Okay. And -- now, the defendant, actually, was at the
7 time the scene was being processed, where was he?

8 A. He was taken to lockup.

9 Q. And that is in a different building, correct?

10 A. Yes, it's in a different building.

11 Q. Okay. And his cell was actually processed, was it
12 not?

13 A. It was.

14 Q. And did you remove any items from his cell?

15 A. I believe we packed up all of his items. We tried to
16 pack up all of his items.

17 Q. Okay. And you also obtain some items from actually
18 the defendant himself, didn't you remove his clothes and
19 transfer those to Tiffany ---

20 A. That's correct.

21 Q. Did you transfer those to Tiffany Hezel with sled?

22 A. That's correct.

23 Q. And where was he when you obtain his clothing?

24 A. He was in RHU unit. RHU -- the lockup unit.

25 Q. The lockup unit. And where exactly -- you said the RH

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1 unit?

2 A. That's correct. That's toward the front of the
3 institution. When you come in it's to the left.

4 Q. And so he was in a -- is that a single cell or would
5 he be by himself?

6 A. He was in a single cell.

7 Q. Okay. All right. And so that was where he was when
8 you obtain his clothing?

9 A. That's correct.

10 Q. When you took his clothes what did he put on then, do
11 you recall?

12 A. Lock up uniform or jumpsuit.

13 Q. What does that look like?

14 A. A yellow jumpsuit, one piece.

15 Q. Okay. And then you also were asked to obtain tennis
16 shoes from his cell, were you not, from the defendant cell?

17 A. That's correct.

18 Q. All right. And you actually went to his cell and you
19 said you had already tried to gather his belongings
20 together?

21 A. That's correct.

22 Q. And you obtained the New Balance tennis shoes from his
23 cell?

24 A. We did, yes.

25 Q. And you transfer those to whom?

1 A. To an agent, to a sled agent.

2 Q. To a sled agent. Female or male?

3 A. I believe it was a male.

4 Q. A male agent. Okay. There, at the facility?

5 A. At the facility, yes.

6 Q. All right. And did you have any other involvement
7 with this case?

8 A. No. Nothing particular. Nothing out of the usual.

9 Q. Okay. Let me ask you this, before you took possession
10 of the defendant's clothes from him at lockup and his shoes
11 from his cell, did you do anything to change those are
12 altar those items ---

13 A. No.

14 Q. --- in anyway ---

15 A. No.

16 Q. --- while they were in your custody?

17 A. No.

18 Q. And they were transferred to the agent just as ---

19 A. As is.

20 Q. --- you took them?

21 A. That's correct.

22 MS. MUNNERLYN: All right. I don't have any further
23 questions. Answer any questions that Mr. Stephens might
24 have.

25 THE COURT: Cross examination?

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1 MR. STEPHENS: Thank you, Your Honor.

2 Cross Examination by Mr. Stephens:

3 Q. Major West?

4 A. Yes, sir.

5 Q. You said that you packed up all of ---

6 A. I believe we packed up -- we packed up everything.

7 Q. What you thought belonged to Phillip Stackhouse?

8 A. That's correct.

9 Q. All right. Thank you. Now, you say you went down to
10 lockup and removed his or got his clothes ---

11 A. What he had left on, yes.

12 Q. Yeah. Put them in a bag or whatever?

13 A. Yes, sir.

14 Q. Did you do that for anybody else that morning?

15 A. No, sir.

16 Q. Okay. He was the only one?

17 A. He was.

18 Q. Okay. And you say you didn't get there until after

19 ---

20 A. Approximately 8 o'clock.

21 Q. Eight o'clock.

22 MR. STEPHENS: That's all. Thank you.

23 THE COURT: Any redirect?

24 MS. MUNNERLYN: No, Your Honor. That's all we would

25 have.

1 THE COURT: All right. Do you wish the witness to
2 be excused?

3 MS. MUNNERLYN: Yes, please.

4 THE COURT: Any objection?

5 MR. STEPHENS: No objection.

6 THE COURT: All right, sir. You're released from
7 your subpoena. You may go back to your regular duties.

8 MR. WEST: Thank you, Your Honor.

9 THE COURT: You're next witness, solicitor.

10 MS. MUNNERLYN: Thank you, Your Honor. My next witness
11 will be Larry Cutchin.

12 THE COURT: All right, sir. If you'll just come
13 around here, up front, right in front of the clerk please.

14 THE CLERK: Do you solemnly swear or affirm that
15 the testimony you should give the Court and jury in this
16 case shall be the truth, the whole truth, and nothing but
17 the truth so help you God?

18 MR. CUTCHIN: I do.

19 THE CLERK: Thank you. Be seated and please state
20 your full name.

21 MR. CUTCHIN: Larry Cutchin.

22 THE COURT: Please if you can remember to keep your
23 voice up and you speak directly to the jury, all right?
24 Thank you.

25 MS. MUNNERLYN: Thank you, Your Honor.

L. Cutchin- Direct Examination by Ms. Munnerlyn

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1 LARRY CUTCHIN, first being
2 duly sworn, testified as follows:

3 **Direct Examination by Ms. Munnerlyn:**

4 Q. You are Larry Cutchin?

5 A. That is correct.

6 Q. Where are you employed?

7 A. Marlboro County Rescue.

8 Q. How long have you been employed with Marlboro County
9 Rescue Squad?

10 A. Ten years.

11 Q. Ten years. And what do you do at the rescue squad?

12 A. I'm an advanced EMT.

13 Q. Okay. And were you working on February 23, 2016?

14 A. Yes, ma'am.

15 Q. Did you receive a call to come to Evans Correctional
16 Institution early that morning?

17 A. I did. First call went out to a medic unit which was
18 in Wallace and being that I was closer I responded first.
19 I was the first EMS personnel on the scene.

20 Q. Okay. And when you responded, where exactly did you
21 go?

22 A. I went straight to medical.

23 Q. Did you have anyone with you?

24 A. I did. I had a driver.

25 Q. You had a driver with you?

1 A. Yeah. And I did pick up an officer that rode back to
2 the back.

3 Q. Okay. So you actually drove the ambulance inside the
4 fence into the facility?

5 A. Yes, ma'am.

6 Q. Okay. And so you went directly to medical?

7 A. That's correct.

8 Q. Tell us when you arrived at medical what you found?

9 A. When I arrived the medical personnel there at Evans
10 were working trauma code on a patient.

11 Q. When you said they were working a trauma code on a
12 patient, please explain to the jury what you mean?

13 A. Trauma code involves when a patient has trauma, not
14 your ordinary cardiac arrest patient. In this case, the
15 patient had multiple stab wounds and they -- he had an
16 injury to his head as well.

17 Q. Okay. All right. So they were working this trauma
18 code and what did you proceed to do?

19 A. I took care over from them. We put him on our
20 stretcher, transported him to our ambulance. The ambulance
21 that was coming from Wallace I just told them to wait
22 outside. I continued CPR on the gentleman and then I
23 turned my care over to the medic unit waiting outside.

24 Q. Okay. Did you see any signs of life of this
25 particular victim at the time you picked him up?

L. Cutchin- Direct Examination by Ms. Munnerlyn

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1 A. Absolutely not.

2 Q. His -- you've already indicated that he had a number
3 of wounds?

4 A. That's correct.

5 Q. What type wounds were these?

6 A. They were stab wounds.

7 Q. Was the bleeding controlled, uncontrollable at the ---

8 A. There wasn't any bleeding.

9 Q. No bleeding at this point. All right. And you
10 continued CPR until when?

11 A. Until I got outside and met the medic unit. We just
12 basically swapped stretchers, put him in their truck and
13 they went to their ALS protocols as well, continued with
14 the CPR and intubation.

15 Q. Okay.

16 A. And transported to Cheraw.

17 Q. So you placed him in your ambulance within Evans?

18 A. Yes.

19 Q. And drove him outside the fence?

20 A. That's correct.

21 Q. And then transferred him over to another ambulance?

22 A. Yes, ma'am.

23 Q. The entire time, you were performing CPR?

24 A. Yes, ma'am.

25 Q. When you -- during the time that you were

1 administering CPR attending to this particular victim, did
2 you notice anything in or around him in the way of weapons
3 or could be used as a weapon?

4 A. Nah. Not to my knowledge. I didn't see anything as
5 that.

6 Q. Okay. And you made mention when he was transferred to
7 the second ambulance they continued ALS, what is -- what
8 are you referring to?

9 A. It's advance life support.

10 Q. So they continued CPR?

11 A. They continued the CPR, intubation and tried to give
12 him medications as well.

13 Q. Okay. But up until the time you turn him over to the
14 second ambulance there was never any signs of life?

15 A. None whatsoever.

16 Q. Okay. Do you know the identification of the
17 individual you picked up?

18 A. I do not.

19 Q. Okay.

20 A. That wasn't a big concern of mine at the time. My job
21 was to try to save his life.

22 Q. All right. But he was the only -- was he the only
23 individual you picked up from Evans that day?

24 A. In the back with me, yes. We did have a guard that
25 was supposed to ride in the back being that my unit is so

L. Cutchin- Cross Examination by Mr. Stephens

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1 small, I had to put him up front with my driver because I
2 didn't have no room to work with him in the back.

3 Q. So because you were transporting an inmate a guard had
4 to ride with you?

5 A. Correct.

6 Q. But he didn't actually get in until you transferred
7 him to the second ambulance or he got in the front?

8 A. He got in the front with us and rode outside.

9 Q. Okay.

10 A. And then he transferred over to the ambulance along
11 with the victim.

12 Q. All right.

13 MS. MUNNERLYN: I don't have any further questions.
14 Please answer any questions that Mr. Stephens has.

15 THE COURT: Cross examination?

16 MR. STEPHENS: Thank you, Your Honor.

17 **Cross Examination by Mr. Stephens:**

18 Q. Mr. Cutchin, I believe you initially told the
19 solicitor when you saw the individual you were picking up,
20 that he had multiple stab wounds and an injury to the head?

21 A. That is correct.

22 Q. Thank you.

23 MR. STEPHENS: That's all.

24 THE COURT: Anything else?

25 MS. MUNNERLYN: No, Your Honor.

1 THE COURT: Do you wish the witness to be excused?

2 MS. MUNNERLYN: Please.

3 THE COURT: Any objection?

4 MR. STEPHENS: No objection.

5 THE COURT: You're released from your subpoena.

6 You may go back to your regular duties, sir.

7 MR. WEST: Thank you, sir.

8 THE COURT: All right. Next witness?

9 MS. MUNNERLYN: Virginia Purvis.

10 THE COURT: You just come around to where the clerk
11 is here please, ma'am.

12 THE CLERK: Do you solemnly swear or affirm that
13 the testimony you should give the Court and jury in this
14 case shall be the truth, the whole truth, and nothing but
15 the truth so help you God?

16 MS. PURVIS: Yes, ma'am.

17 THE CLERK: Be seated and state your full name
18 please.

19 THE COURT: Kinda of scoot the chair up just a
20 little bit and remember to keep your voice up and speak to
21 the jury over there, okay? Thank you. Go ahead,
22 solicitor?

23 MS. MUNNERLYN: Thank you, Your Honor.

24 VIRGINIA PURVIS, first being
25 duly sworn, testified as follows:

Direct Examination by Ms. Munnerlyn:

Q. You are, Virginia Purvis?

A. Yes, ma'am.

Q. I think you go by Jenny?

A. Yes, ma'am.

Q. Okay. Where are you employed?

A. Marlboro County Rescue.

Q. And what do you do at Marlboro County Rescue?

A. As of now I am a paramedic.

Q. Okay. And were you -- how long have you worked there?

A. Going on twelve years.

Q. And were you working on February 23, 2016?

A. Yes, ma'am.

Q. Okay. And do you recall if you received a call to come pick up someone at Evans Institute, Evans Correctional Institution?

A. Yes, ma'am.

Q. And what did you do when you received that call?

A. Went in route, got dispatched out to the call. One of our trucks were already on the scene before us because they were in town. When we got there we were the ambulance truck so we got transferred, the patient got transferred to us.

Q. Okay. And ALS, tell the jury what that is?

A. Advance life support.

1 Q. Okay. All right. And so when you arrived you didn't
2 actually enter Evans ---

3 A. No, ma'am.

4 Q. --- Institution?

5 A. No, ma'am. We did not enter. We were on the
6 property, though, in the parking lot when we switched.

7 Q. All right. So the other ambulance came out of the
8 gate and that's when you made the switch?

9 A. Yes, ma'am.

10 Q. Okay. Tell us what happened and what you observed
11 about the victim?

12 A. Okay. We transfer the patient from their ambulance to
13 ours. Started doing ALS procedures on the patient.
14 Continuing CPR. There was no pulse. The patient was on
15 the monitor, cardiac monitor and consistently flatline the
16 whole time. Just continued doing CPR chest compressions is
17 what I did.

18 Q. Okay.

19 A. My partner did the other. You'll have to talk to him.

20 Q. All right. And did you -- did you see his wounds or
21 where his injuries were?

22 A. I can't remember them. It's been so long ago I can't
23 remember the exact ones. I know there was one on the
24 chest. I can't remember exactly where.

25 Q. Okay. But you were busy administering CPR chest

1 compressions?

2 A. Yes, ma'am.

3 Q. All right. And y'all continued that the entire --
4 well, where did you transport him?

5 A. To McLeod Cheraw. McLeod Health Cheraw Hospital.

6 Q. Okay. About how long does it take y'all to get there
7 from Evans?

8 A. From Evans it probably took us about sixteen to
9 eighteen minutes maybe more.

10 Q. Okay. But you remained in the back?

11 A. Yes, ma'am.

12 Q. The entire time?

13 A. The entire time doing chest compressions.

14 Q. All right. And when you arrived at the Cheraw
15 Hospital, what did y'all do with the patient?

16 A. We transferred him over to the staff there. We
17 continued CPR until the staff took over.

18 Q. All right. And now was there anyone else who rode
19 along with you with this inmate?

20 A. Yes, my partner, Rob Garland. Robert Garland.

21 Q. And anybody else?

22 A. We had a driver.

23 Q. Was there anybody from the institution?

24 A. One of the guards, I can't remember their names.

25 Q. Okay.

1 A. But one of them was in the back with us.

2 Q. Okay. They stayed in the back while y'all were ---

3 A. Yes, ma'am.

4 Q. --- administrating care?

5 A. Yes, ma'am.

6 Q. Okay.

7 MS. MUNNERLYN: That's all we have, Your Honor. If you
8 answer any questions that Mr. Stephens has?

9 THE COURT: Cross examination?

10 MR. STEPHENS: I don't believe I have any questions
11 for this witness.

12 THE COURT: All right. Very good. Do you wish the
13 witness to be excused?

14 MS. MUNNERLYN: Please.

15 THE COURT: Any objection?

16 MR. STEPHENS: No, sir.

17 THE COURT: All right, ma'am. You're released from
18 your subpoena. You may go back to your regular duties.

19 MS. PURVIS: Thank you.

20 MS. MUNNERLYN: Robert ---

21 THE COURT: Next witness?

22 MS. MUNNERLYN: Robert Garland.

23 THE CLERK: Do you solemnly swear or affirm that
24 the testimony you shall give the Court and jury in this
25 case shall be the truth, the whole truth, and nothing but

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1 the truth so help you God?

2 MR. GARLAND: I do.

3 THE CLERK: Have a seat and state your full name.

4 THE COURT: Go ahead say your name.

5 MR. GARLAND: Robert Tedder Garland, II.

6 THE COURT: All right. If you would just keep your
7 voice up and speak to the jury please.

8 MR. GARLAND: Okay.

9 THE COURT: All right. Go ahead, solicitor.

10 MS. MUNNERLYN: Thank you, Your Honor.

11 ROBERT GARLAND, first being
12 duly sworn, testified as follows:

13 **Direct Examination by Ms. Munnerlyn:**

14 Q. Where are you employed, Mr. Garland?

15 A. Marlboro County Rescue Squad.

16 Q. And how long have you been employed there?

17 A. Five years.

18 Q. And what you do at the rescue squad?

19 A. I am a paramedic crew chief.

20 Q. A paramedic?

21 A. Crew chief.

22 Q. Crew chief. Okay. And you said how many years?

23 A. Five

24 Q. Five years. All right. Were you working on February

25 23, 2016?

1 A. Yes.

2 Q. And did you respond to a call to come to Evans?

3 A. Yes.

4 Q. And who were you riding with in the ambulance?

5 A. Virginia Purvis on medic three.

6 Q. All right. And when y'all arrived tell us what
7 happened?

8 A. We responded from Wallace. We went to the front gate
9 of Evans. Another crew had already gotten there first.
10 They had gone to the infirmary to get the patient. They
11 brought him out to us at the front gate. We transferred
12 the patient to our truck. We were a higher level of care.
13 And we just provided care, advance level care, and
14 transported to Cheraw Hospital.

15 Q. And you remained in the back?

16 A. I did. I was in the back the whole time.

17 Q. And what exactly were you doing? Jenny Purvis just
18 testified that she was conducting CPR and chest
19 compressions, tell us what you are doing with this
20 particular patient?

21 A. I established airway for ventilation. Established IV
22 access and gave medication per our protocol for cardiac
23 arrest.

24 Q. And did you ever see any signs of life?

25 A. No, ma'am. There were never any signs. He was

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1 asystole the entire time on the cardiac monitor, placing
2 the patient on a cardiac monitor.

3 Q. And did you have an opportunity to review what sort of
4 injuries he had?

5 A. I did a quick glance from where I was sitting. I saw
6 some, I want to say, I saw some stab wounds to the chest
7 and neck and I think there was one laceration to the side
8 of the face.

9 Q. Okay.

10 A. No bleeding was present.

11 Q. No bleeding at this time?

12 A. No, ma'am.

13 Q. I'm going to show you what's been marked as State's
14 Exhibit's 36 and 44, and see if you, just for
15 identification at this point, do you recognize what's in
16 those photographs, just yes or no?

17 A. Yes.

18 Q. Okay. And do you recognize the person in the
19 photographs?

20 A. I re -- vaguely -- I don't ---

21 Q. Okay. I'm not asking you to identify ---

22 A. Yeah.

23 Q. --- him by name or anything, but do you recognize the
24 person?

25 A. Yes.

1 Q. Okay. From where?

2 A. From this call.

3 Q. From this particular call?

4 A. Yes.

5 Q. And the injuries which are shown on him in these
6 particular photographs, are those injuries that you
7 observed that morning when you picked him up?

8 A. As best as I can remember, yes.

9 Q. Okay. And they're consistent in these pictures with
10 what you saw?

11 A. Yes, ma'am.

12 Q. All right. And -- now, when he was transferred into
13 your ambulance or while you were transporting him, was
14 there also a guard riding along with y'all?

15 A. I think there was a guard -- I think there was one in
16 the front because there was so much going on in the back.
17 There's not a lot of room in the ambulance.

18 Q. And while y'all are attending to the patient, did you
19 ever see anything in or around him in regards to any sort
20 of weapon or anything that could be used as a weapon?

21 A. I don't recall.

22 Q. Okay. All right.

23 MS. MUNNERLYN: I don't have any further questions of
24 him, Your Honor.

25 THE COURT: Cross examination?

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1 MR. STEPHENS: I don't think I have any questions for
2 Mr. Garland.

3 THE COURT: All right. Do you wish the witness to
4 be excused?

5 MS. MUNNERLYN: Please, Your Honor.

6 THE COURT: Any objection?

7 MR. STEPHENS: No objection.

8 THE COURT: All right, sir. You're released from
9 your subpoena. You may go back to your regular duties.

10 MR. GARLAND: Thank you, sir.

11 MS. MUNNERLYN: Eric Favor.

12 THE COURT: All right. Solicitor?

13 MS. MUNNERLYN: I'm sorry. Eric Favor.

14 THE COURT: Please come around and meet the clerk.
15 right up front over here, sir.

16 THE CLERK: Do you solemnly swear or affirm that
17 the testimony you should give the Court and jury in this
18 case shall be the truth, the whole truth, and nothing but
19 the truth so help you God?

20 MR. FAVOR: Yes, I do.

21 THE COURT: Have a seat and state your name for the
22 record.

23 MR. FAVOR: Sergeant Eric Favor.

24 ERIC FAVOR, first being
25 duly sworn, testified as follows:

Direct Examination by Ms. Munnerlyn:

Q. Where are you employee, Sergeant Favor?

A. Currently at Palmer Prerelease Center.

Q. And back in February of 2016, where were you employed?

A. Evans Correctional in Bennettsville.

Q. Okay. And what was your position when you were at Evans?

A. At that time I was a labor crew sergeant.

Q. Okay. And do you recall -- were you working on February 23, 2016?

A. Yes, ma'am.

Q. And did you have some involvement in this particular case regarding the victim, Oliver Johnson?

A. My involvement was escorting him to the emergency room.

Q. So you were -- you accompanied him in the ambulance to the hospital?

A. I was the escort officer. I drove a separate man behind the ambulance.

Q. Was there an officer inside the ambulance?

A. Yes.

Q. Okay. And who was that?

A. Sergeant Lewis.

Q. All right. So you and she were the two escort officers?

E. Favor- Direct Examination by Ms. Munnerlyn

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1 A. That's correct.

2 Q. And when you arrived at Cheraw, the hospital in
3 Cheraw, what did you do?

4 A. I, basically, sat with the body when the doctor came
5 in and examined. After he made the determination we sat
6 with the body until sled came. Sled did their processing
7 of the body. We escorted the body to the morgue and we sat
8 with the body in the morgue until someone came from the
9 funeral home to claim the body.

10 Q. All right. So you were there until the transport
11 company came to pick up the body?

12 A. Correct.

13 Q. And did anyone other than medical personnel have any
14 contact with Mr. Johnson?

15 A. Just the sled agents after the doctor made his
16 determination.

17 Q. When you said the doctor made a determination, to what
18 are you referring?

19 A. That he was deceased.

20 Q. Okay. So he pronounced him dead while you were
21 present?

22 A. Correct.

23 Q. Okay. And how quickly did that happened after you
24 arrived at the hospital?

25 A. I'm sure within a few minutes. We were there shortly.

1 It was only a few minutes and then the doctor came in and
2 pronounced him dead, you know, almost two minutes after he
3 was in the room.

4 Q. But you remain with the body until transport service
5 arrived?

6 A. Correct.

7 Q. Okay.

8 MS. MUNNERLYN: The Court's indulgence just one moment.

9 THE COURT: Yes, ma'am.

10 MS. MUNNERLYN: I don't have any further questions,
11 Your Honor.

12 THE COURT: Cross examination?

13 MR. STEPHENS: I don't have any questions of Officer
14 Favor.

15 THE COURT: All right. Very good. Do you wish the
16 witness to be excused?

17 MS. MUNNERLYN: Yes Your Honor.

18 THE COURT: Any objection?

19 MR. STEPHENS: No objection.

20 THE COURT: All right, sir. You're released from
21 your subpoena. You may go back to your regular duties,
22 sir. Who is your next witness please, ma'am?

23 MS. MUNNERLYN: Constance Lewis.

24 THE COURT: If you'll just come right around,
25 ma'am, and meet the clerk right up here. All the way

C. Lewis- Direct Examination by Ms. Munnerlyn

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1 around, right up here.

2 THE CLERK: Do you solemnly swear or affirm that
3 the testimony you should give the Court and the jury in
4 this case shall be the truth, the whole truth, and nothing
5 but the truth so help you God?

6 MS. LEWIS: Yes.

7 THE CLERK: Have a seat and state your full name.

8 THE COURT: State your full name please, ma'am.

9 MS. LEWIS: Constance Marie Lewis.

10 THE COURT: Go ahead, solicitor.

11 MS. MUNNERLYN: Thank you, Your Honor.

12 CONSTANCE LEWIS, first being
13 duly sworn, testified as follows:

14 **Direct Examination by Ms. Munnerlyn:**

15 Q. Ms. Lewis, where are you employed?

16 A. Evan Correctional.

17 Q. And how long have you been employed there?

18 A. Nine years.

19 Q. Okay. And what do you do at Evans?

20 A. At this current moment I work in the commissary.

21 Q. And back in February of 2016, what were you doing?

22 A. I was working yard detail.

23 Q. And did you have any involvement in this particular
24 case on February 23, 2016?

25 A. Yes, I did.

1 Q. And what was that?

2 A. Escort EMS in at that, that morning.

3 Q. Okay. You escorted, when the ambulance first arrived,
4 you escorted them into the institution?

5 A. Yes, I did.

6 Q. And where did you take them?

7 A. I took them to the back of medical. That's the
8 procedure that we does. (sic) Take EMS to the back of
9 medical.

10 Q. Okay. And do you know -- did they pick up an inmate
11 there?

12 A. Yes, they did.

13 Q. Do you know who the inmate was?

14 A. Oliver Johnson.

15 Q. Okay. And you accompanied -- did you accompany
16 anywhere else?

17 A. To Cheraw Hospital.

18 Q. So once he was loaded into an ambulance and ready to
19 go then you -- did you ride in the ambulance or in a
20 separate vehicle?

21 A. No, I rode in the ambulance.

22 Q. All right. And you and who else, there was a second
23 escort officer?

24 A. Yes.

25 Q. And who is that?

C. Lewis- Direct Examination by Ms. Munnerlyn

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1 A. That was Sergeant Favor.

2 Q. Okay. And you and he -- how long did y'all remain
3 with the body?

4 A. It was from about 6, 6:08, something like that until
5 about 2 o'clock, 2:30, something like that.

6 Q. So 6 o'clock, 6:08 in the morning?

7 A. Mmm, hmm, A.M. until about 2 P.M.

8 Q. Okay.

9 A. Approximately.

10 Q. And where -- do you know who picked up the body when
11 y'all left it?

12 A. The -- his name was Gainey, I think it was, Gainey.

13 Q. All right. The transport service?

14 A. Right.

15 Q. Okay. And during the period of time that you were
16 with Oliver Johnson other than medical personnel, did
17 anyone have contact with his body?

18 A. No.

19 MS. MUNNERLYN: I don't have any further questions,
20 Your Honor.

21 THE COURT: Cross examination?

22 MR. STEPHENS: No questions.

23 THE COURT: Do you wish for the witness to be
24 excused?

25 MS. MUNNERLYN: Yes, Your Honor.

1 THE COURT: Any objection?

2 MR. STEPHENS: No objection.

3 THE COURT: All right. You're released from your
4 subpoena. You may go back to your regular duties. Thank
5 you. Your next witness.

6 MS. MUNNERLYN: Patrick Oliphant.

7 THE COURT: Come right around and come right in
8 front of where the clerk is please, sir.

9 MR. OLIPHANT: Yes, sir.

10 THE CLERK: Do you solemnly swear or affirm that
11 the testimony you should give the Court and jury in this
12 case shall be the truth, the whole truth, and nothing but
13 the truth so help you God?

14 MR. OLIPHANT: I do.

15 THE CLERK: Be seated and state your full name
16 please.

17 MR. OLIPHANT: Patrick Steven Oliphant.

18 THE COURT: Go ahead, solicitor.

19 MS. MUNNERLYN: Thank you, Your Honor.

20 PATRICK OLIPHANT, first being
21 duly sworn, testified as follows:

22 **Direct Examination by Ms. Munnerlyn:**

23 Q. Where are you employed, pronounce your last name for
24 me again?

25 A. Oliphant.

P. Oliphant- Direct Examination by Ms. Munnerlyn 220

1 Q. Officer Oliphant, where are you employed?

2 A. Sled. South Carolina Law Enforcement Division.

3 Q. And how long have you been employed with sled?

4 A. Approximately four years.

5 Q. And what are your duties at sled?

6 A. I'm currently a criminal investigator in arson
7 investigation unit. At the time of this incident, I was in
8 the crime scene unit part of the forensics laboratory.

9 Q. And did you have an opportunity to participate in this
10 particular case?

11 A. Yes.

12 Q. In fact, you were present -- you went down on February
13 24, 2016 and you were present for the autopsy of the
14 inmate, Oliver Johnson, is that correct?

15 A. Yes, ma'am.

16 Q. And I'm going to show you what's been marked as
17 State's Exhibit 38 and see if you recognize that document?

18 A. Yes.

19 Q. And what is that document?

20 A. It's a chain of custody form filled out for one set of
21 postmortem major case prints from Oliver Johnson signed
22 over from myself to Agent Tiffany Hezel.

23 Q. Okay.

24 A. Which is another agent in the crime scene unit.

25 Q. Okay. And so you obtained the postmortem major case

1 prints from the victim, Oliver Johnson?

2 A. Correct.

3 Q. And this form indicates that you transferred them over
4 to Agent Hezel?

5 A. Yes.

6 Q. All right. And I also want to show you what's been
7 marked as State's Exhibit 39 and see if you recognize that
8 document?

9 A. Yes. It's an evidence ledger that has a number of
10 items that were collected by MUSC forensic autopsy suite
11 personnel. So they made a list of all of these items.
12 They were collected at the victim's autopsy. Signed over
13 from, I don't recognize her name from MUSC pathology, but
14 signed over to myself and then I signed it over to Agent
15 Hezel.

16 Q. Okay. So you received all of the items that are
17 listed on this form at the actual autopsy, correct?

18 A. Yes.

19 Q. And you were present for that?

20 A. Yes.

21 Q. Where -- during the autopsy, where are you normally
22 present?

23 A. At MUSC they have in the autopsy suite usually have
24 two stretchers and they perform the autopsies inside this
25 room. And then there's a tall glass window where criminal

P. Oliphant- Direct Examination by Ms. Munnerlyn

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1 investigators and police personnel wait.. So you can see
2 into the autopsy room but I don't physically go in and
3 stand next to the doctor while they're cutting.

4 Q. But you can view while it's occurring?

5 A. Yes.

6 Q. All right. And you received all of these items and
7 there listed which includes two white and blue New Balance
8 sneakers, one white sock, one tan pants (Department of
9 Corrections) x 2, one tan pants partially torn, white
10 boxers, tan sheet, string bracelet, paper bag (left hand),
11 paper bag (right hand), left hand fingernail clippings,
12 right hand finger no clippings, pulled scalp root, one
13 blood spot and CD with the images?

14 A. Yes.

15 Q. All those items you took, you received that day and
16 this form confirms you transferred them over to Tiffany
17 Hezel?

18 A. Correct.

19 Q. And during the time they were in your care and
20 custody, you made no changes to them, did you?

21 A. No.

22 Q. Okay. And they were transferred over to Tiffany Hezel
23 in the same condition as when you receive them?

24 A. Correct.

25 MS. MUNNERLYN: Your Honor, I'd move to admit State's

1 Exhibits 38 and 39.

2 THE COURT: Any objection?

3 MR. STEPHENS: No, sir.

4 THE COURT: All right. So 38 and 39 are in
5 evidence without objection.

6 (Whereupon, the Sled Chain of Custody (Pants) has been
7 marked and entered into evidence as State's Exhibit No. 38)
8 (Whereupon, the MUSC Dept. Of Pathology- Evidence and
9 Personal Effects Transfer Sheet has been marked and entered
10 into evidence as State's Exhibit No. 39)

11 Q. Did you have any other involvement in this particular
12 case?

13 A. No.

14 MS. MUNNERLYN: I don't have any other questions. If
15 you would answer any questions that Mr. Stephens might
16 have.

17 THE COURT: Cross examination?

18 MR. STEPHENS: No questions.

19 THE COURT: All right. Do you wish the witness to
20 be excused?

21 MS. MUNNERLYN: Yes, Your Honor.

22 THE COURT: All right. Any objection?

23 MR. STEPHENS: No, sir.

24 THE COURT: All right, sir. You're released from
25 your subpoena. You may go back to your regular duties.

M. Creech- Direct Examination by Ms. Munnerlyn

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1 MR. OLIPHANT: Thank you.

2 THE COURT: Your next witness, ma'am?

3 MS. MUNNERLYN: Yes, Your Honor, the next witness would
4 be Mark Creech.

5 THE COURT: All right, sir. If you could come
6 right around, right here to where the clerk's
7 representative is. Stand right there please.

8 THE CLERK: Do you solemnly swear or affirm that
9 the testimony you shall give in this case shall be the
10 truth, the whole truth, and nothing but the truth so help
11 you God?

12 MR. CREECH: I do.

13 THE CLERK: Have a seat right there and state your
14 full name.

15 THE COURT: Just come right around on this side,
16 sir, and have a seat. Thank you. State your full name.

17 MR. CREECH: John Mark Creech, C-r-e-e-c-h.

18 THE COURT: Very good. Solicitor?

19 MS. MUNNERLYN: Thank you, Your Honor.

20 MARK CREECH, first being
21 duly sworn, testified as follows:

22 **Direct Examination by Ms. Munnerlyn:**

23 Q. Mr. Creech, where are you employed now?

24 A. I am a jack of all trades. At my brother-in-law's
25 eighteen wheeler place. He runs eighteen wheelers and I

1 kind of just, I'm a gofer for him. I'm retired.

2 Q. Okay. You're retirement?

3 A. Yes.

4 Q. And where were you employed in 2016?

5 A. With the South Carolina Law Enforcement Division as a
6 senior agent at the PD region. I retired June 30th this
7 year.

8 Q. Okay. And you were a senior agent with the South
9 Carolina Law Enforcement Division?

10 A. Yes, ma'am.

11 Q. How long were you with them?

12 A. Almost eighteen years. I had over thirty in the
13 system when I retired.

14 Q. All right. And so on February 23, 2016, were you
15 called out to come to Evans Correctional Institution
16 regarding this particular case?

17 A. Yes, ma'am. Myself and Agent Michael August. I was
18 assisting him. He was the young case agent on this case.

19 Q. Okay. And when you arrived what was your involvement
20 at the institution?

21 A. Basically, sitting with Michael on interviews and
22 stuff and witnessing. He was the case agent and I was the
23 backup and I was just sitting with him.

24 Q. And there was also separately a crime scene agent that
25 was processing the scene, is that correct?

M. Creech- Direct Examination by Ms. Munnerlyn

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1 A. That is correct.

2 Q. But did you have the opportunity to take possession of
3 one particular piece of evidence?

4 A. Yes, ma'am.

5 Q. Okay. I'm going to show you what's been marked
6 State's Exhibit 37, and see if you recognize that document?

7 A. Yes, ma'am. This is a forensic service laboratory
8 chain of custody. They had found -- some guards had found
9 some shoes or shoes in a cell. They called and ask one of
10 us to come down. I went down. I don't know who the guard
11 was but I picked up the shoes, took them to Tiffany Hezel,
12 she's the crime scene agent, and she filled out this
13 paperwork and it's my signature right there.

14 Q. Okay. And they were retrieved from cell 122 in C
15 wing, correct?

16 A. Yes, ma'am.

17 Q. Okay. And you have indicated that on this form?

18 A. She did. She filled out the form.

19 Q. Okay.

20 A. But, yes, that's my signature in the box.

21 Q. And that's you're signature there.

22 A. Mmm, hmm.

23 Q. And you did transfer those over to Tiffany Hezel.

24 Were they in the same or similar condition when you

25 transferred them to her as when you received them from the

1 SCDC Officer?

2 A. Yes, ma'am. They were in my possession probably just
3 a few minutes. Long enough for me to walk to where she was
4 at.

5 Q. Okay.

6 A. Where the crime scene lady was at.

7 Q. Okay.

8 A. Probably five minutes or less.

9 Q. All right.

10 MS. MUNNERLYN: Your Honor, I'd move to admit State's
11 Exhibit 37.

12 THE COURT: Any objection?

13 MR. STEPHENS: I would object, Your Honor. He can't
14 tell us who he got the shoes from.

15 THE COURT: That's not necessary. It's necessary
16 for the State to establish a proper chain. It's not
17 necessary for this witness to identify the particular
18 person only that as he did that he received them from a
19 guard at the correction institute and who he transferred
20 them to. Any further objection to State's 37?

21 MR. STEPHENS: No. Just note that on the record.

22 THE COURT: It's noted. In evidence over the
23 objection of the defense.

24 MS. MUNNERLYN: Thank you, Your Honor.

25 (Whereupon, the Sled Chain of Custody (Shoes) has been
26 marked and entered into evidence as State's Exhibit No. 37)

1 MS. MUNNERLYN: No further questions of this witness,
2 Your Honor.

3 THE COURT: Cross examination?

4 MR. STEPHENS: No questions.

5 THE COURT: Do you wish for the witness to be
6 excused?

7 MS. MUNNERLYN: Yes, Your Honor.

8 THE COURT: Any objection?

9 MR. STEPHENS: No objection.

10 THE COURT: All right, sir. You're released from
11 your subpoena. You may go back to your regular duties.

12 MR. CREECH: Thank you so much.

13 THE COURT: Next witness please, ma'am?

14 MS. MUNNERLYN: Your Honor, may we approach briefly?

15 THE COURT: Certainly. Come around to this side if
16 you would please.

17 (Whereupon, a bench conference was held off the record)

18 THE COURT: All right. Mr. Foreman, ladies and
19 gentlemen of the jury, we're going to take a short break to
20 allow for some exhibits to be marked so that we don't have
21 to do that before or we have to do that before the witness
22 testifies. So if you'll just go to the jury room I'll call
23 you out just as quick as I can. Thank you.

24 (Whereupon, the jury exits the courtroom at 2:48 p.m.)

25 THE COURT: All right. We'll take a short break
26 and we'll come back in. Just let my clerk know when you're

1 done please.

2 MS. MUNNERLYN: Thank you, Your Honor.

3 THE COURT: Thank you very much.

4 (Whereupon, the court took a break from 2:49 until 3:11
5 p.m.)

6 THE COURT: All right. Solicitor, are you ready to
7 proceed?

8 MS. MUNNERLYN: Yes, Your Honor. I'm actually going to
9 call one very brief chain of custody witness and then,
10 agent to get them in and out of here.

11 THE COURT: All right. Very good. Is the
12 defendant ready for the jury to come in?

13 MR. STEPHENS: Yes, sir.

14 THE COURT: All right. Ask the jury to come in
15 please, ma'am.

16 (Whereupon, the jury enters the courtroom at 3:13 p.m.)

17 THE COURT: All right. Solicitor, your next
18 witness please?

19 MS. MUNNERLYN: James Gainey.

20 (Whereupon, the witness was unable to be located at the
21 time)

22 MS. MUNNERLYN: Your Honor, while they're locating that
23 witness I can proceed with my other witness.

24 THE COURT: All right. Very good.

25 MS. MUNNERLYN: Tiffany Edwards.

T. Edwards- Direct Examination by Ms. Munnerlyn

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1 THE CLERK: Do you solemnly swear or affirm that
2 the testimony you shall give the Court and jury in this
3 case shall be the truth, the whole truth, and nothing but
4 the truth so help you God?

5 MS. EDWARDS: Yes, ma'am.

6 THE CLERK: Have a seat right there and state your
7 full name please.

8 MS. EDWARDS: Tiffany Hezel, H-e-z-e-l, Edwards.

9 THE COURT: Go ahead, solicitor. Have a seat now.
10 Have a seat over there. Go ahead, solicitor.

11 MS. MUNNERLYN: Thank you, Your Honor.

12 TIFFANY EDWARDS, first being
13 duly sworn, testified as follows:

14 **Direct Examination by Ms. Munnerlyn:**

15 Q. Where are you employed -- you're an agent, correct?

16 A. Yes, ma'am.

17 Q. Agent Hezel or Edwards, now?

18 A. Yes, ma'am.

19 Q. Where are you employed?

20 A. I'm employed at the South Carolina Law Enforcement
21 Division which is commonly referred to as sled.

22 Q. And how long have you been employed there?

23 A. I have been employed there just over six years.

24 Q. And what do you do?

25 A. Currently, I am assigned to the latent print

1 department but I just transferred there in January of this
2 year. Prior to that I worked in the crime scene unit at
3 sled.

4 Q. And you were -- you were working crime scene then in
5 February of 2016?

6 A. Yes, ma'am, I was.

7 Q. And were you -- did you receive a call to come to
8 Evans Correctional Institution to process a scene there?

9 A. Yes, I did.

10 Q. Okay. And tell us, if you can, when you arrived, when
11 you got that call and when you arrived at Evans?

12 A. Judge, may I consult my notes first few times?

13 THE COURT: Yes, ma'am. You may do so.

14 A. I was contacted on February 23rd to assist in a
15 homicide that had occurred at Evan Correctional Institute.
16 We arrived -- the first scene we were requested to respond
17 to McLeod Health in Cheraw, I'm sorry, I'm northern and I
18 can't really pronounce that town correctly, and we arrived
19 there at 9 that morning on the 23rd.

20 Q. Okay. And when you arrived there at McLeod Regional
21 Hospital in Cheraw, what did you do?

22 A. We arrived on scene we consulted with the emergency
23 room staff to find out where the victim had been
24 transported to within the facility. We responded to the
25 room where he was being held where he had been pronounced

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1 deceased and we then photographed the victim to include the
2 injuries that were present in the condition of which he was
3 in and we also received verification from the ER staff that
4 the coroner had been notified as well and received
5 information when an autopsy was planned to be held on the
6 victim.

7 Q. Okay. Did you take photographs of the victim at that
8 time?

9 A. Yes. Photographs were taken by myself and my
10 responding partner at the time, Melinda Worley.

11 Q. Okay. I'm going to show you what's been marked now as
12 State's Exhibit 44 and see if you recognize that photo?

13 A. Yes, ma'am. This was the victim's condition at the
14 time we responded to the emergency room with all therapies
15 still in place.

16 Q. Okay. So this is how you found him at approximately 9
17 o'clock that morning when you arrived in Cheraw?

18 A. Yes, ma'am, it is.

19 MS. MUNNERLYN: Your Honor, I would like to move to
20 admit, now, State's Exhibit 44.

21 THE COURT: Any objection?

22 MR. STEPHENS: No, sir, Your Honor.

23 THE COURT: All right. State's 44 in evidence
24 without objection.

25 (Whereupon, the Photo has been marked and entered into

1 evidence as State's Exhibit No. 44)

2 Q. And once when you were there at the hospital with the
3 victim other than photographing his injuries, what other
4 things did you do there with him?

5 A. That was all we done at that time. We did not want to
6 disturb any evidence that might be present on the victim at
7 that time. We wanted to preserve everything for autopsy so
8 we just did photographs. We did not try to remove any
9 therapies and then we left the hospital to respond to the
10 correctional institute and the victim was prepared for
11 transport for autopsy.

12 Q. All right. And so you left the hospital and went
13 where?

14 A. We left the hospital at about 9:47 that morning and we
15 responded to Evans Correctional Institute where we arrived
16 at approximately 10:08 that morning.

17 Q. Okay. And when you arrived there, what did you
18 proceed to do?

19 A. When we arrived on scene we were given a general
20 briefing by personnel who were present that included sled
21 agents and also correctional employees at the time, just
22 kind of a brief encounter of what had happened and what
23 kind of scene we were walking into. We don't want to get a
24 whole lot of information because we want the evidence to
25 talk to us. We just wanted to document the scene as it is

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1 without any kind of information in our minds. So we were
2 just kind of told the general cellblock we were going to be
3 going to, that they were multiple cells that needed to be
4 documented and searched and that we had one deceased victim
5 and that there was one suspected individual who had been
6 moved to a solitary holding facility pending our
7 investigation.

8 Q. And when you arrived -- and this was on the Cherokee
9 unit, C wing, is that correct?

10 A. Yes, ma'am. The block C gate.

11 Q. And did you document that with photographs when you
12 arrived?

13 A. Yes, ma'am. Photographs were taken of the entire wing
14 as well as the cell, the individual cells, that we went in
15 and searched.

16 Q. Okay. I'm going to show you what's been marked as
17 State's Exhibit 4 through 32, and see if you recognize
18 those. You can flip through those. Do you recognize
19 those?

20 A. Yes, ma'am.

21 Q. Where do you recognize these from?

22 A. Those are photos that clearly and accurately document
23 the scene as we saw it the day on February 23rd of the C
24 block of the Evans Correctional Institute.

25 Q. And you took these photos?

1 A. They were taken by Melinda Worley in my presence at
2 the time.

3 Q. Okay. And they accurately depict that scene?

4 A. Yes, ma'am.

5 MS. MUNNERLYN: Your Honor, I'd move to admit items 4
6 through 32.

7 THE COURT: Any objection?

8 MR. STEPHENS: Did you show them to me?

9 (Whereupon, the solicitor takes photos over to the defense
10 table for his review)

11 MR. STEPHENS: No objection.

12 THE COURT: All right, sir. Four through 32 are in
13 evidence without objection.

14 MS. MUNNERLYN: Thank you, Your Honor.

15 (Whereupon, the Photos has been marked and entered into
16 evidence as State's Exhibits Nos. 4 through 32)

17 Q. If you can using the photos show the jury what you
18 found there at the scene and processed?

19 A. This photograph here depicts the bottom floor of the
20 cellblock. This back wall here would be the very rear wall
21 of the block. The guard tower would be directly opposite
22 of that. Cell 122 was reported to be Mr. Stackhouse's
23 assigned quarters. We not only went through and documented
24 and search that cell but in this photograph we also
25 documented a suspected blood droplet not only on the bench

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1 but also on the floor in front of where the benches began.
2 And the blood from the, the suspected blood, from that
3 floor was swabbed and collected and submitted to the
4 forensics lab for further analysis.

5 Q. Okay. Before you go on, can you tell us which
6 photograph that is?

7 A. This is State's Exhibit Number 4.

8 Q. And you said that the cell number in the very corner
9 there is one of the cells that you processed?

10 A. Correct. Cell 122.

11 Q. And do you know whose cell that was?

12 A. We were advised that Mr. Stackhouse and a roommate
13 were signed to that living quarters.

14 Q. All right. Go ahead.

15 A. This again is that same bottom floor of the wing. You
16 can see the yellow tape here that shows where 122 was.
17 This is just moving you now further and in reality it's
18 this way, the guard tower is up here, we're moving up
19 towards that just documenting the hallway kind of as a
20 whole.

21 THE COURT: If you -- every time you talk about an
22 photograph you need to say what exhibit that is please,
23 ma'am.

24 A. Yes, sir. I apologize. And that was exhibit number
25 5.

1 Q. Yes. Thank you.

2 A. On exhibit number 6, we have the middle steps that's
3 that were documented that basically connected the first
4 floor of the cellblock to the second floor and there are
5 red stains present on the steps indicating suspected blood
6 trail. Exhibit 7, is another photograph again of those
7 steps leading up to the second floor. This is going to be
8 exhibit 8, this, is going to be the top landing of those
9 steps where you can still see the metal flooring and this
10 is going to move on to the walkway of the first floor. You
11 can see the red droplets of suspected blood continue to
12 kind of fulfill that trail that is now connecting the first
13 floor with the second floor. State's Exhibit 9, again this
14 is the floor of the first, the top floor hallway, or steps
15 are right here, you can see the silver steel. More
16 droplets connected to and back up here at the top of the
17 photograph, you can see a large red pooling that is
18 suspected blood pool that now is linking your trail down to
19 the first floor and down the steps. State's Exhibit 10,
20 just moving closer to that suspected blood pool and also
21 now you're seeing the yellow tape that is kind of stopping
22 the scene from extending back any further and also securing
23 cellblock 218, I believe, 219, where the victim was
24 reportedly to reside or to have been assigned to that.
25 State's Exhibit 11, again, we're just moving closer. We're

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1 showing that blood pool and again the secured door.

2 Q. And again that is cell 219 which was the victim cell,
3 correct?

4 A. Correct. Yes, ma'am. State's Exhibit 12, as again
5 just showing that same view from just back a little further
6 showing a more complete documentation of that blood pool in
7 front of door. State's Exhibit 13, is really just a focus
8 shot on the blood pool itself on the floor right there
9 outside of cellblock 219. State's Exhibit 14, this is
10 going to be the base of those steps. So if you were coming
11 down the steps towards the guards viewing area here, and we
12 were moving backwards towards those benches, this is going
13 to be right there at the curve. Here you can see the
14 bottom of the steps and we're moving the blood trail back
15 toward those benches where we began with a series of
16 photographs. Cellblock or, um, excuse me, State's Exhibit
17 15, is just a close up of one of those suspected
18 bloodstains. State's Exhibit 16, even a closer view of
19 that same stain depicted image in previous photos. State's
20 Exhibit 17, this is the entrance to the cellblock. The
21 guards viewing area is just on the opposite side of this
22 horizontal bars and this is depicting a trash can that's
23 present right there at the entrance to the cellblock.
24 State's Exhibit 18, shows a photograph of a khaki in color
25 SCDC shirt that was collected from that trash can right

1 there at the entrance to the cellblock.

2 Q. Before you go any further with that I'm going to ask
3 you, did you collect that shirt that's shown in that
4 particular picture?

5 A. Yes, ma'am, I did.

6 Q. I'm going to show you what's been marked as State's
7 Exhibit 48, what is in that box?

8 A. At the time that the shirt was collected and submitted
9 into evidence and logged in, the way the sled laboratory
10 works is, we have a database wherein we enter the evidence
11 and it's automatically assigned a unique case number and
12 the individual items are assigned a unique item number. So
13 at this time when the shirt was logged in it was given the
14 item number of 4. So this box containing my initials and
15 the date of collection is going to be, one khaki SCDC
16 uniform shirt from trash can of C block with suspected
17 blood and 122 written in blue ink within the collar. It
18 then stays sealed until it goes to the next unit within the
19 laboratory for additional processing.

20 Q. Okay. And you have a chain of custody which reflects
21 all of the items including the shirt that you collected
22 where they go and what happens to them while they are at
23 sled, correct?

24 A. Yes, ma'am. Also on this sticker you can see kind of
25 like the barcode like you have on your groceries or if you

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1 go to Target and you scan something, the movement of all
2 the evidence within sled is tracked by this barcode. So
3 every individual examiner who works with his evidence will
4 scan it into their custody. If, at any time, this evidence
5 is not being handled or analyzed and it has to go into a
6 storage facility it is scanned to that secured storage
7 location as well. So the movement is tracked throughout
8 its traveling within the laboratory.

9 Q. And that is reflected on the chain of custody that's
10 kept in your department ---

11 A. Yes ---

12 Q. --- or kept within sled, correct?

13 A. Yes.

14 Q. I'm going to show you what's been marked as State's
15 Exhibit 40, do you recognize that document?

16 A. Yes, ma'am. This is a certified chain of custody for
17 evidence related to the sled case that was giving L16-
18 02614.

19 Q. So it documents all items of evidence including the
20 shirt that you've just been testifying to and what happened
21 to them within the South Carolina Law Enforcement Division,
22 correct?

23 A. Yes, ma'am.

24 MS. MUNNERLYN: Your Honor, I would move to admit
25 State's Exhibit 40 as well as State's Exhibit, shirt, which

1 is State's Exhibit 48, them, at this time, Your Honor?

2 THE COURT: Any objection?

3 MR. STEPHENS: No objection, Your Honor.

4 THE COURT: All right. Both of those 40 and 48 are
5 in evidence without objection.

6 (Whereupon, the Sled Chain of Custody L16-02614 has been
7 marked and entered into evidence as State's Exhibit No. 40)

8 (Whereupon, the Shirt has been marked and entered into
9 evidence as State's Exhibit No. 48)

10 Q. Okay. And so let's proceed with the pictures. You
11 found this shirt in the trash can there at sort of, a
12 distance from the bottom of the stairs?

13 A. Yes, ma'am. The steps ended and then there was like
14 several feet and then it was kind of the entrance to the
15 whole block itself.

16 Q. Okay. And was there anything significant about that
17 shirt that you found in that trash can?

18 A. State's Exhibit 19, just shows the back a bit
19 confirming that it is an issued SCDC uniform shirt. And
20 then State's Exhibit 20, shows a blue lettering there the
21 numbers 122 which at the time I collected it. I assumed
22 that to mean it was assigned to someone residing in that
23 particular cellblock room. There was also some red in
24 color stains present on the shirt that at the time we
25 collected we assume to be suspected blood so, therefore, we

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1 collected it and made sure that any analysis to check for
2 that was placed on the item.

3 Q. Okay. And who -- and again who is in cell 122 as
4 reported to you?

5 A. As reported to me it was Mr. Stackhouse and his
6 roommate.

7 Q. All right. You can proceed with the photographs then.

8 A. State's Exhibit 21, again, is just showing -- hold on
9 one second let me get my bearings -- okay; State's Exhibit
10 21, this is the entrance to cellblock 122. This is
11 actually a sheet that has a lot of belongings stacked up on
12 it. So just as you open the door all of this had been
13 pushed up against the door. So this is that sheet and
14 there was some red discoloring on that. State's Exhibit
15 22, is a better photograph showing how items had been
16 placed upon that sheet at the entrance to that cell.

17 Q. Okay. I want to ask you a little bit further about
18 this particular photograph, this was in cell 122, correct?

19 A. Yes, ma'am.

20 Q. Okay. And whose cell is that?

21 A. We were advised that Mr. Stackhouse and his roommate
22 were assigned to this cell.

23 Q. Okay. And shown in this photograph, are a pair of New
24 Balance tennis shoes, is that right?

25 A. Yes, ma'am.

1 Q.. Okay. And were those tennis shoes later collected?

2 A. Yes, they were. I received them via chain of custody
3 from sled special Agent Mark Creech.

4 Q. I'm going to show you what's been marked as State's
5 Exhibit 49, do you recognize -- do you know what's in that
6 box? You brought that with you today, correct?

7 A. Yes, ma'am, I did. State's Exhibit 49, reflects the
8 pair of white and navy New Balance athletic shoes with
9 suspected blood from cell 122. Again, having the unique
10 identifier of the case number, the item number, and again
11 my date and initials from the time in which this item was
12 collected on the scene.

13 MS. MUNNERLYN: Your Honor, I would move to admit,
14 then, State's Exhibit 49, which is the tennis shoes.

15 THE COURT: Any objection?

16 MR. STEPHENS: No objection.

17 THE COURT: It's in evidence without objection.

18 (Whereupon, the Shoes has been marked and entered into
19 evidence as State's Exhibit No. 49)

20 Q. Okay. If you would continue to explain how you
21 processed the scene.

22 A. Continuing with the photos?

23 Q. Yes.

24 A. Okay. I just -- bear with me I just need to get my
25 bearings on which cell we are currently in. There was

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1 another cell that we were requested to look into and that
2 was cell 127. That was also on the first floor on the
3 opposite side of the, um, 122 was reared near the end, 127
4 was more near the front of where the guards, could, the
5 guard tower was located. So 127 was closer to where the
6 trash can was located and I believe that this is just
7 depicting some items present within that cell.

8 Q. Do you know whose cell was, was cell 127?

9 A. I was never given the occupants of that cell.

10 Q. Okay.

11 A. There was just reports that there had been some
12 entries and exits by various persons in and out of that
13 cell throughout that, that time where the incident was
14 happening.

15 Q. Okay.

16 A. Now, this is going to be State's Exhibit 24, and this
17 is actually going to be from cell 219 which was the cell
18 where Mr. Johnson was assigned. And this is going to show
19 the bare mattress with some red discoloration that was
20 presumed to be blood. Also within cell 219 with State's
21 Exhibit 25, this is going to show a khaki in color blanket
22 located within a trash can and down here towards your
23 bottom right you can see some red discoloration assumed to
24 be blood. We were advised that before they could secure
25 the cell upon our arrival, Mr. Johnson's roommate had begun

1 to kind of move some stuff and clean up a little bit so we
2 are assuming that the blanket had been placed there.

3 Again, that's an assumption. State's Exhibit 26, again,
4 just another shot of that blanket kind of manipulating it
5 out of the trash can. Again, you can see the red
6 discoloration. State's Exhibit 27, is going to show the
7 wall kind of above that bare mattress that we've already
8 talked about. You can see some linear blood or suspected
9 blood present meaning it kind of makes some line patterns
10 on the wall so that was documenting those. State's Exhibit
11 28, this is going to be another wall within that cell where
12 you can see some faint red discoloration on the wall.

13 Q. Now, all of these are within the victim cell?

14 A. Yes, ma'am, cell 219. All right. We're still in cell
15 219 on State's Exhibit 29, this is the sink that is
16 standard within the facility cells and that's just showing
17 that there is a white cloth with a faint red discoloration
18 present which was consistent with us being told from
19 cleanup had, had started. I apologize, I just need to make
20 sure that I don't misspeak on the cell number on them. This
21 actually is going to be back in cell 122 and this is just
22 going to be a photograph of the commode where you can see
23 that there's some debris present and this is State's
24 Exhibit 30. Appears to be some paper and maybe a piece of
25 plastic just kind of showing some contents present within

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1 the commode.

2 Q. And that's cell 122 which it was the defendant's cell;
3 correct?

4 A. Yes, ma'am.

5 Q. Okay.

6 A. This is the one we were advised that Mr. Stackhouse
7 and a roommate were assigned to.

8 Q. Okay. And that was what picture? What exhibit?

9 A. State's Exhibit 30.

10 Q. Okay.

11 A. All right. We're still going to be in cell block 122
12 on exhibit, State's Exhibit 31, and this is gonna be just
13 kind of an overall view of the, as you enter that cell, as
14 you can recall there was that mattress and the sheet, and
15 all those contents placed up against the door. So you can
16 clearly see who's ever property that was had been removed
17 from the top bunk within these living quarters. And
18 State's Exhibit 32, will just give you that overall
19 perspective of the personal items and assigned items at the
20 front and how it had been removed and there was, yet,
21 another individual still kind of moved into the room, so to
22 speak, with all of their items still in the order that they
23 had been left.

24 Q. So you collected, based upon the photographs you've
25 testified to as far as suspected blood drops and various

1 items there, you collected all of those?

2 A. I collected several swabs of suspected blood and in
3 addition to the shirt from the trash can and the shoes
4 which I collected via chain of custody.

5 Q. Okay. I'm going to show you what's been marked as
6 State's Exhibits 45, 46, and 47, if you go through each of
7 those, what those are?

8 A. State's Exhibit 45, our two swabs of suspected blood
9 from pool outside of cell, um, the 218 area and these are
10 sealed with the date, time, and my initials at the time of
11 collection.

12 Q. And they were submitted for further testing at sled?

13 A. Yes, ma'am, they were.

14 MS. MUNNERLYN: Your Honor, I would move to admit
15 State's Exhibit 45.

16 THE COURT: Any objection?

17 MR. STEPHENS: No, sir.

18 THE COURT: In evidence without objection.

19 (Whereupon, the Buccal Swabs From Pool of Blood Near Cell
20 218 has been marked and entered into evidence as State's
21 Exhibit No. 45)

22 Q. Okay. State's 46?

23 A. Forty-six, are going to be two swabs of suspected
24 blood from floor near bench 1 and I designated the benches
25 by numbers within my notes to correlate and again it has

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1 the date, time, initial in which I collected those swabs.

2 MS. MUNNERLYN: Your Honor, I would move to admit

3 State's Exhibit 46.

4 THE COURT: Any objection?

5 MR. STEPHENS: No, sir.

6 THE COURT: In evidence without objection.

7 (Whereupon, the Swab From Pool of Blood Near Bench has been
8 marked and entered into evidence as State's Exhibit No. 46)

9 Q. Thank you, Your Honor. State's Exhibit 47?

10 A. These I did not collect. Those were collected ---

11 Q. Those were the clippings ---

12 A. --- by the serologist -- yes.

13 Q. Okay. I want to show you, now, State's Exhibit 41,
14 see if you recognize that?

15 A. This is a copy of crime scene sketch that I prepared
16 to just kind of document the overall layout of the
17 cellblock and where suspected blood evidence was present in
18 relation to the three cells that we documented and
19 searched.

20 MS. MUNNERLYN: Your Honor, I would ---

21 Q. And you prepared this document?

22 A. Yes, ma'am.

23 Q. And it accurately reflects the set up there at Evans
24 as it was when you did your investigation?

25 A. Yes, ma'am. It is not just -- it's just a visual aid.

1 MS. MUNNERLYN: Your Honor, I would move to admit
2 State's Exhibit 41.

3 THE COURT: Any objection?

4 MR. STEPHENS: No, sir.

5 THE COURT: State's 41 is in evidence without
6 objection.

7 (Whereupon, the Crime Scene Sketch has been marked and
8 entered into evidence as State's Exhibit 41)

9 Q. And so if you could just briefly explain ---

10 MS. MUNNERLYN: Your Honor, May she get up before the
11 jury and point out how she got this diagram set up?

12 THE COURT: Yes, ma'am. Just remember, now, you've
13 got to keep your voice up because the court reporter has
14 got to take all of your answers down.

15 (Whereupon, the witness complies to explain to the jury the
16 sketch and how it was laid out)

17 A. Yes, sir. Right here is the entrance to the block
18 where the guards quarters would set back here. As you
19 enter that C block, here's that trash can we talked about
20 being at the front entrance. These are the metal steps
21 right here that go up to the second floor. The red dash
22 line is depicting the suspected blood trail from the first
23 floor to the second floor. Right here outside of cell 218
24 you can kind of see where the location of the blood pool
25 was right by the victim's cell which was 219. Mr.

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1 Stackhouse was assigned to the living quarters at cell 122.
2 We have that depicted on the first floor. The two
3 suspected blood droplets on those benches are depicted by
4 red dripples here. The other cell that we've discussed was
5 cell 127 which is going to be in front of cell on the first
6 floor and that would've been the one that was opened that
7 had some traffic in and out that they had access to
8 documented search in addition to the other two.

9 Q. Now, after you processed the scene, did you do
10 anything else while you were at Evans?

11 A. No, ma'am. We documented the overall cell block and
12 those three cells individually and at that time we verified
13 that everything of question had been documented and we left
14 and reported back to sled to submit the evidence and log it
15 in.

16 Q. Now, did you have any interaction with the defendant
17 before you left Evans?

18 A. Yes, I did.

19 Q. Okay. What did you do with regard to him?

20 A. I obtain a consent from Mr. Stackhouse to document him
21 with photographs to include his front face and torso and
22 also his hand and forearms and also to obtain a buccal swab
23 or a known DNA standard which is a cheek swab from him and
24 he complied and signed the consent.

25 Q. Okay. I'm going to show you what's been marked as

1 State's Exhibit 54, and see if you recognize that?

2 A. Yes, ma'am. This is the consent form where Mr.
3 Stackhouse gave me permission to collect photographs of his
4 person as well as buccal swabs. It was signed by myself,
5 Mr. Stackhouse and a witness who was an SCDC agent.

6 Q. Now, explain to the jury what you mean by buccal
7 swabs?

8 A. A buccal swab is a fancy term for a known DNA
9 standard. The way in which we collect those, we have these
10 sterile, they look like long Q-tips, but they're sterile
11 and we open those up at the time for use and we, basically,
12 take them and apply them to the inside of your cheek and we
13 swap them around not very vigorously, we don't cause any
14 injury, but just to kind of saturate them with your saliva.
15 I usually try to do both size of the cheek. And then those
16 are packaged in a sterile envelope where they are allowed
17 to dry and then they're submitted to DNA.

18 Q. And, then, I'm also going to show you what's marked as
19 State's Exhibit 33, 34, and 35, and see if you recognize
20 what's in those?

21 A. Yes, ma'am. These are the photographs that I took of
22 Mr. Stackhouse the date that I had responded to the
23 correctional institute.

24 Q. Okay. And those were taken where?

25 A. These were taken in a different block where he was

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1 being held for the duration of our processing of C block.

2 I don't necessarily recall exactly where he was moved to

3 but we responded to his location to complete these

4 photographs and obtain buccal swab. We were escorted there

5 by a SCDC agent.

6 Q. Okay. And those photographs include both the top side

7 and the bottom side of his hands and arms, correct?

8 A. Yes, ma'am.

9 Q. And from viewing him and from these photographs, did

10 he appear to have any injuries that day?

11 A. No, ma'am, he did not.

12 Q. And these were taken on February 23, 2016 shortly

13 after this incident occurred, correct?

14 A. It was several hours later. We had completed

15 processing the C block and all three of those individual

16 cells in question prior to the time we went and documented

17 Mr. Stackhouse. It was the same day but I can't tell you

18 how approximate to the time than it was?

19 A. Okay.

20 MS. MUNNERLYN: Your Honor, I would move to admit

21 State's Exhibits 54, as well as photographs 33, 34 and 35.

22 THE COURT: Any objection.

23 MR. STEPHENS: No, sir.

24 THE COURT: State's 54 and State's 33, 34, and 35

25 are in evidence without objection. You may proceed.

1 (Whereupon, the Sled Consent Form by Phillip Stackhouse has
2 been marked and entered into evidence as State's Exhibit
3 No. 54)

4 (Whereupon, the Photos has been marked and entered into
5 evidence as State's Exhibits Nos. 33, 34 and 35)

6 MS. MUNNERLYN: Court's indulgence just one moment.

7 THE COURT: Yes, ma'am.

8 Q. Okay. I'm going to show you State's Exhibit 50, and
9 see if you recognize that?

10 A. State's Exhibit 50, is going to be the buccal swab
11 collected from Phillip Stackhouse having the date, time,
12 and my initials of which it was collected.

13 Q. And you collected that, submitted that to sled and it
14 is documented on that chain of custody for further testing
15 there, is that correct?

16 A. Yes, ma'am.

17 MS. MUNNERLYN: Your Honor, I'd move to admit, then,
18 State's Exhibit 50.

19 THE COURT: Any objection?

20 MR. STEPHENS: No, sir.

21 THE COURT: It's in evidence without objection.

22 (Whereupon, the Sled- Blood Standard Buccal Swab From
23 Stackhouse has been marked and entered into evidence as
24 State's Exhibit No. 50)

25 Q. Okay. I'm going to show you what's been marked as

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1 State's Exhibit 47, if you could tell us what's included in
2 that package?

3 A. These are going to be the swabs and cuttings that were
4 taken by serology.

5 Q. Okay. And those were from the shoes and from the
6 shirt, correct?

7 A. Yes, ma'am. They have corresponding sub items related
8 to those items.

9 Q. Okay. And those were further analyzed in other
10 testing at sled?

11 A. Yes, they were. They were collected by one of the
12 technicians within the serology department. Her name and
13 date of which she signed this, is present.

14 Q. Okay.

15 THE COURT: What number was that again?

16 MS. MUNNERLYN: That was State's Exhibit 47.

17 THE COURT: Thank you, ma'am.

18 Q. Did you -- after you left the scene that afternoon,
19 that day, did you have any further involvement with this
20 particular case until today when you brought this evidence
21 back?

22 A. No, ma'am, I did not.

23 Q. All right.

24 MS. MUNNERLYN: I don't have any further questions. If
25 you would answer any questions that Mr. Stephens has.

1 THE COURT: Cross examination?

2 MR. STEPHENS: Thank you, Your Honor.

3 **Cross Examination by Mr. Stephens:**

4 Q. Agent Edwards, did you process any other individuals
5 that morning?

6 A. The only two individuals that I documented with
7 photographs were Mr. Stackhouse and the deceased victim at
8 the hospital.

9 Q. Did you process Mr. Jason Goins or Gabriel Russell?

10 A. No, sir, I did not.

11 Q. Are you familiar with them?

12 A. No, sir, I am not.

13 Q. Did you ever learn who Mr. Stackhouse's roommate was?

14 A. No, sir, I did not.

15 Q. Did you ever learn who Mr. Johnson's roommate was?

16 A. No, sir, I did not. There were no roommates present
17 within the cellblocks at the time we were documenting or
18 searching them. They had already been moved elsewhere.

19 Q. And I believe you said on room, cell number 122, the
20 only thing you took, you took a sheet?

21 A. Let me verify. I collected one piece of a torn sheet
22 with suspected blood from the mattress that was reportedly
23 assigned to Mr. Stackhouse that was associated with the
24 mattress that had been pushed against the door on cell 122.

25 Q. That was all you took from 122?

1 A. I also obtained the tennis shoes but I received those

2 ---

3 Q. But you ---

4 A. --- via chain of custody.

5 Q. --- didn't take those?

6 A. No, sir. I did not collect those directly.

7 Q. Somebody else got those. So the only thing you
8 personally took was a piece of sheet?

9 A. Yes, sir, I believe that to be correct.

10 Q. A blanket or whatever?

11 A. Yes, a part of the sheet.

12 Q. And number 30, photograph number 30 or exhibit number
13 30, here, you said that was from room 122?

14 A. Yes, sir.

15 Q. Okay. And you said that appears to be paper and
16 plastic?

17 A. From the best I can recall from looking at the photo
18 it looks like a small piece of plastic from perhaps from a
19 disposable razor of some sort and then a crumbled white
20 material.

21 Q. Now, on this one exhibit number 32, I believe you told
22 the solicitor it appeared someone else was moving in?

23 A. I believe I was trying to just kind of show that the
24 person who was -- there is someone's belongings that

25 appeared to be kind of packed up and moved to the front

1 door. The other resident within this living quarters, all
2 of their belongings are still in place. That was just the
3 kind of relationship I was trying to infer.

4 Q. And -- but, now, you said you didn't get to Evans
5 until about after 10 o'clock that morning, is that correct?

6 A. Yes, sir. We arrived at, I want to say it was, 10:08.

7 Q. And on -- and on exhibit number 25, you said that is a
8 blanket and a bucket or a trash can?

9 A. Yes, sir.

10 Q. Twenty-six is just a -- is it a closer look?

11 A. Yes, sir. That's when we kind of started to pulled
12 the blanket out just to verify if there were any other
13 contents within, within that holding container.

14 Q. And it appeared that somebody was trying to clean up?

15 A. Well, we had been advised that there had been some
16 movement of items within that cell by Mr. Johnson's
17 roommate prior to them moving him out of the cell and the
18 blood that was, suspected blood present on that blanket
19 could have been from an attempt to kind of soak up any kind
20 of saturation or it could have just been from being upon
21 the mattress itself and then kind of bundled up and placed
22 into the trash can.

23 Q. You don't really know?

24 A. I don't really know. It's a blanket with suspected
25 blood in the trash can.

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1 Q. You didn't test the blood, though?

2 A. I did not.

3 Q. And you don't know who Mr. Johnson's roommate is?

4 A. I do not know that.

5 Q. And I believe you said in your report that Mr.

6 Stackhouse, when you photographed him and took his clothes,
7 he didn't have any physical injuries or blood on him?

8 A. That is correct.

9 Q. I also noticed in your report that you referenced the
10 view from the guard tower on page 174, "the view from the
11 guard tower where SCDC personnel had witnessed the
12 incident, the incident was documented", what did you mean
13 by that?

14 A. When we first had gotten there the portion of
15 information that we had been provided was that, kind of
16 the, the incident had been kind of noticed. There were
17 some happenings up there and we just took some photographs
18 showing what, could specifically, may have been seen from a
19 guard's perspective.

20 Q. I gotcha. Did you run a -- did you, at any time that
21 morning, run a laser to, what is it, to see for a sighting
22 from the control room?

23 A. Specifying a distance or capturing a 3D documentation?

24 Q. Any of them. Did you run ---

25 A. We did not run a laser to document any kind of 3D

1 rendering. Let me consult my notes about the measurement.

2 No, sir, I do not have the measurement documented.

3 Q. I didn't understand you.

4 A. I did not have a measurement documented from the guard
5 tower.

6 Q. How about anything else, whether if there was, as far
7 as it could be sighted or it was a clear view or anything
8 like that?

9 A. The photographs that we took from that viewing area
10 are solid pane windows but they are horizontal and vertical
11 bars on the opposite side of that so there is view but,
12 however, those bars are, are present.

13 Q. And the only thing you actually got out of room 122,
14 yourself, was a piece of blanket or sheet?

15 A. Yes. I tore ---

16 Q. Torn a piece ---

17 A. --- a piece of the sheet with, had some red
18 discoloration.

19 Q. But you didn't take anything out of 219? You didn't
20 take any items out of 219?

21 A. Not that I see, sir.

22 Q. You didn't take any blood samples or anything?

23 A. No, sir.

24 Q. No blood swab or anything -- did the -- the shirt that
25 you got from the trash can, did you find that or did

T. Edwards- Cross Examination by Mr. Stephens

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1 somebody tell you it was in there?

2 A. We were advised that prior to us coming that they had
3 kind of locked down everything and the field agents kind of
4 had advised me that there were some contents in the trash
5 cans and that was one of the contents located within the
6 trash can.

7 Q. Okay. And on the shirt, you don't know who put 122 on
8 it?

9 A. No, sir. The 122 was written in the collar of the
10 shirt at the time I collected it and I can only infer that
11 it was referencing a cell within that block.

12 Q. And there were two people in that cell?

13 A. To my knowledge, yes, they were two persons assigned
14 to that living quarters.

15 MR. STEPHENS: Thank you. That's all.

16 THE COURT: Redirect?

17 MS. MUNNERLYN: No redirect, Your Honor.

18 THE COURT: All right. Do you wish this witness to
19 be excused?

20 MS. MUNNERLYN: Yes, Your Honor.

21 THE COURT: Any objection?

22 MR. STEPHENS: No, Your Honor.

23 THE COURT: All right, ma'am. You're released from
24 your subpoena. You may go back to your regular duties.

25 Make sure you don't take any exhibits with you.

1 MS. EDWARDS: No, sir.

2 THE COURT: I think you have someone sitting over
3 there.

4 MS. MUNNERLYN: Oh, yes. Your Honor, I would go ahead
5 and call Mr. Gainey.

6 THE COURT: All right. Please come around, sir.
7 Meet the clerk right over there.

8 THE CLERK: Do you solemnly swear or affirm that
9 the testimony you shall give the Court and jury in this
10 case shall be the truth, the whole truth, and nothing but
11 the truth so help you God?

12 MR. GAINNEY: I do.

13 THE CLERK: Have a seat right there and state your
14 full name please.

15 JAMES GAINNEY, first being
16 duly sworn, testified as follows:

17 **Direct Examination by Ms. Munnerlyn:**

18 Q. State your full name for the record.

19 A. James L. Gainey.

20 THE COURT: Before you start, solicitor, can you
21 collect those exhibits and give them to the court reporter
22 please.

23 (Whereupon, the solicitor complies)

24 THE COURT: Thank you, ma'am. You may proceed.

25 MS. MUNNERLYN: Thank you, Your Honor.

J. Gainey- Direct Examination by Ms. Munnerlyn

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1 Q. You are James Gainey?

2 A. Yes, ma'am.

3 Q. Back in February of 2016, you were doing some work for
4 Palmetto Professional Services, is that right?

5 A. Yes, ma'am.

6 Q. And, in fact, you are a transport officer for them, is
7 that correct?

8 A. Yes, ma'am.

9 Q. Okay. And did you, in fact, -- were you requested to
10 transport a body from the McLeod Health Cheraw Hospital in
11 Cheraw to MUSC on February 23rd ---

12 A. Yes, ma'am.

13 Q. --- of 2016?

14 A. Yes, ma'am.

15 Q. Okay. And when you arrived to pick the body -- where
16 was the body at the hospital, in the morgue?

17 A. It was in the morgue.

18 Q. Okay. And there were still two guards present with
19 the body, isn't that correct, from the South Carolina
20 Department of Corrections?

21 A. Yes, ma'am.

22 Q. And you retrieved the body from them, correct?

23 A. Yes, ma'am.

24 Q. Okay. And where did you deliver the body at MUSC?

25 A. I took him to the, to get the autopsy.

1 Q. The autopsy department?

2 A. Yes, ma'am.

3 Q. And you delivered it there to the officials there,
4 correct?

5 A. Yes, ma'am.

6 Q. And during the time the body was in your possession,
7 did you or anyone else have any contact with the body and
8 make any changes to anything related to the body or
9 anything all or around the body?

10 A. No, ma'am.

11 Q. Okay. So he was delivered to MUSC in the same or
12 similar condition as to when you picked him up from McLeod
13 Hospital in Cheraw, correct?

14 A. Yes, ma'am.

15 Q. Okay.

16 MS. MUNNERLYN: I don't have any further questions,
17 Your Honor. So please answer any questions Mr. Stephens
18 might have.

19 THE COURT: Cross examination?

20 **Cross Examination by Mr. Stephens:**

21 Q. You just took him down there and you left and came
22 back?

23 A. No, sir.

24 Q. You waited?

25 A. Yes, sir.

V. Herrera- Direct Examination by Ms. Munnerlyn

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1 Q. Did you bring him back?

2 A. Yes, sir.

3 Q. And where did you take him?

4 A. McLeod's Hospital back to -- released him to the
5 guards.

6 Q. At McLeod's?

7 A. Yeah, at McLeod's.

8 Q. And how -- when was that, later that day?

9 A. It was over in the evening.

10 MR. STEPHENS: Thank you.

11 THE COURT: Anything on those questions, solicitor?

12 MS. MUNNERLYN: No, Your Honor.

13 THE COURT: All right. Do you wish the witness to
14 be excused?

15 MS. MUNNERLYN: Yes, please.

16 THE COURT: Any objection?

17 MR. STEPHENS: No, sir.

18 THE COURT: All right, sir. You're released from
19 your subpoena. You may go back to your regular duties.
20 Could you come over here, both of y'all come talk to me
21 just for second please.

22 (Whereupon, a bench conference was held off the record)

23 MS. MUNNERLYN: Your Honor, my next witness would be
24 Verona Herrera.

25 THE CLERK: Do you solemnly swear or affirm that

1 the testimony you shall give the Court and jury in this
2 case shall be the truth, the whole truth, and nothing but
3 the truth so help you God?

4 MS. HERRERA: I do.

5 THE CLERK: Sit right there and state your full
6 name.

7 MS. HERRERA: My name is Verona Herrera.

8 VERONA HERRERA, first being
9 duly sworn, testified as follows:

10 **Direct Examination by Ms. Munnerlyn:**

11 Q. Agent Herrera, where are you employed?

12 A. The South Carolina Law Enforcement Division.

13 Q. And how long have you been employed there?

14 A. A little over nine years.

15 Q. And what you do at sled?

16 A. I'm a forensic technician in the Serology Department
17 which is part of the DNA casework department.

18 Q. Okay. And do you have any special education and
19 training?

20 A. I have two associates degree. One from Greenville
21 Technical College and one from Tri-County Technical
22 College. I have a Bachelors of Science in Criminal Justice
23 and Forensics from Liberty University. And I've gone
24 through sled's in-house training in two different levels.
25 First there's evidence processing which I've completed that

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1 and then several years later completed the serology in-
2 house training at sled.

3 Q. Okay. And have you been qualified to testify as an
4 expert witness in court before?

5 A. Yes, ma'am.

6 Q. How many times?

7 A. Approximately fifteen.

8 Q. Okay.

9 MS. MUNNERLYN: Your Honor, I would move at this time
10 you have this witness qualified as an expert witness in the
11 field of forensic serology.

12 THE COURT: Do you wish to voir dire the witness or
13 challenge her qualifications?

14 MR. STEPHENS: Just a couple of questions, Your Honor.

15 THE COURT: Yes, sir.

16 MR. STEPHENS: How long did you say you been at sled?

17 MS. HERRERA: I'm sorry.

18 MR. STEPHENS: How long have you been at sled?

19 MS. HERRERA: A little over nine years.

20 MR. STEPHENS: Nine years. And how long have you been
21 taking in-house training?

22 MS. HERRERA: My first in-house training happened
23 nine, nine or so years ago. The second part of it was
24 completed of approximately a year ago.

25 MR. STEPHENS: I'm not sure -- what is she being

1 qualified as expert ---

2 MS. MUNNERLYN: For serology.

3 MR. STEPHENS: Okay. That's blood?

4 THE COURT: If you wish to ask her questions about
5 it, you can.

6 MR. STEPHENS: Exactly what is forensic serology?

7 MS. HERRERA: Forensic serology is body fluid
8 identification as it relates to the criminal justice field.

9 MR. STEPHENS: Okay. And what body fluids?

10 MS. HERRERA: In our laboratory we definitively
11 identify semen and blood. We presumptively can identify
12 semen, blood, and saliva.

13 MR. STEPHENS: And how long have you been doing that?

14 MS. HERRERA: The serology portion of it?

15 MR. STEPHENS: Yeah.

16 MS. HERRERA: I was deemed competent a year ago to do
17 work on my own in the serology department.

18 MR. STEPHENS: Okay. And have you testified as an
19 expert in the last year?

20 MS. HERRERA: In evidence processing, yes, sir.

21 MR. STEPHENS: How about in serology?

22 MS. HERRERA: Not in serology.

23 MR. STEPHENS: So you've never testified as an expert
24 in serology before?

25 MS. HERRERA: No, sir. This is the first one in

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1 serology.

2 MR. STEPHENS: And -- and the sled in-house training
3 is the only training you received in serology?

4 MS. HERRERA: I have also attended a training in
5 Charleston that was ---

6 MR. STEPHENS: I'm sorry. Somebody coughed.

7 MS. HERRERA: I'm sorry. There was a week long
8 training in Charleston that I also attended that was given
9 by NFSTC that was a serology training as well.

10 MR. STEPHENS: Tell us what NFSTC is?

11 MS. HERRERA: It's a company out of Florida that does
12 training for a lot of overseas or DNA in serology groups in
13 the United States.

14 MR. STEPHENS: Is it a private company?

15 MS. HERRERA: Yes, sir, it is.

16 MR. STEPHENS: Now, are you certified by any
17 organization?

18 MS. HERRERA: Our laboratory is accredited.

19 MR. STEPHENS: You personally?

20 MS. HERRERA: Me, personally, I'm not certified.

21 MR. STEPHENS: And we would -- I think, Your Honor, we
22 would object her being qualified as an expert in serology
23 at this time.

24 THE COURT: Do you wish to ask her any further
25 questions, solicitor?

1 MS. MUNNERLYN: Yes, Your Honor. So you had your
2 training in serology, the in-house training, was
3 approximately a year ago, you said?

4 MS. HERRERA: Correct.

5 MS. MUNNERLYN: Okay. And you have been working solely
6 in the serology department since that time?

7 MS. HERRERA: Serology and evidence processing kind
8 of merged together with the creation of the serology
9 department. So a serologist, forensics serologist at sled
10 performs evidence processing and serology duties. So we
11 presumptively test for blood and process for ownership in
12 touch DNA, but we also do identify body fluids. So those
13 two kind of merged into one.

14 MS. MUNNERLYN: So -- so how long have you been doing
15 all of that?

16 MS. HERRERA: The evidence processing I have been
17 doing for over nine years.

18 MS. MUNNERLYN: Right.

19 MS. HERRERA: The serology, the body fluid
20 identification, has been in the last year ---

21 MS. MUNNERLYN: Okay.

22 MR. HERRERA: --- that I've completed.

23 MS. MUNNERLYN: Okay. How many cases do you think you
24 might have worked on in the last year regarding forensic
25 serology? Approximately?

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1 MS. HERRERA: Two hundred, maybe.

2 MS. MUNNERLYN: Okay. And how many reports have you
3 issued in regards to those test?

4 MS. HERRERA: It would've been two hundred. We issue
5 a report for every case that we work.

6 MS. MUNNERLYN: Okay. And so in the last -- you
7 haven't actually been called to testify?

8 MS. HERRERA: Not to serology, no, ma'am.

9 MS. MUNNERLYN: But you have in evidence processing?

10 MS. HERRERA: Correct.

11 MS. MUNNERLYN: Okay. Your Honor, I still would move
12 to have her admitted in the field. She has had training in
13 this. She's been working in the field for the last year in
14 serology. Although she's been in evidence processing for
15 nine years those departments have joined and she has had
16 additional training in serology and has worked two hundred
17 cases, issued reports. Everybody has to testify a first
18 time. And so I would move to have her admitted. She's
19 certainly qualified.

20 THE COURT: Any further objection, Mr. Stephens?

21 MR. STEPHENS: Well, yeah -- well, I still object.

22 THE COURT: I understand that but since the
23 solicitor made the statement, I was giving you the
24 opportunity to state your objection if you wanted to.

25 MR. STEPHENS: Well, I just don't think that there's a

1 been a sufficient showing that she is an expert and there's
2 been no showing that she has been certified by any
3 organization or, the lab certified but I think she told me
4 she hasn't been certified as an expert in serology. She's
5 issued some reports. We don't know what those reports are
6 or what they contain. We just think in a matter like this
7 it's better to err on the side of caution and we would just
8 ask that she not be deemed an expert in this matter.

9 THE COURT: All right, sir. Thank you. Ms.
10 Herrera is it possible to certify someone in that field of
11 forensic serology?

12 MS. HERRERA: I don't know of an outside agency that
13 would certify me, personally.

14 THE COURT: All right. So does the State of South
15 Carolina issue such certification?

16 MS. HERRERA: I don't know of anyone who does. No
17 one in my office is certified by the State of South
18 Carolina except through sled as competent to perform
19 independent testing.

20 THE COURT: Thank you, ma'am. I'm going to allow
21 Ms. Herrera to give her opinion. The ultimate decision as
22 to anyone's, any witnesses, credibility and believability
23 is up to the jury. I am allowing the testimony to be
24 presented to the jury for their consideration. I believe
25 that she has sufficient credentials to allow her to give

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1 her opinion. Again, ultimate credibility and believability
2 is up to the jury. Thank you very much.

3 MS. MUNNERLYN: Thank you, Your Honor.

4 Q. Ms. Herrera, so did you receive certain evidence
5 through sled for analysis by you in terms of serology?

6 A. Yes, ma'am.

7 Q. Okay. And did you conduct certain tests and
8 examinations and issue a report regarding this test?

9 A. I did, yes, ma'am.

10 Q. Okay. I'm going to show you what's been marked as
11 State's Exhibit 42, and see if you recognize that?

12 A. Yes, ma'am. This appears to be a copy of the report
13 that I issued.

14 Q. And that is your signature on it?

15 A. That is, yes, ma'am.

16 Q. Okay.

17 MS. MUNNERLYN: Your Honor, I would move to admit the
18 report. I'm going to question her further about the
19 results.

20 THE COURT: Objection to State's 2, (sic), Mr.
21 Stephens?

22 MR. STEPHENS: No, sir, Your Honor.

23 THE COURT: All right. State's 2 (sic) is in
24 evidence without objection.

25 (Whereupon, the Sled Serology Analysis- Herrera has been

1 marked and entered into evidence as State's Exhibit No. 42)

2 Q. All right. So what did you receive and processed in
3 this particular case?

4 A. I received a piece of sheet located on the floor of
5 cell 122. A shirt from the trash can on the C block.
6 Shorts from Phillip Stackhouse. And shoes from cell 122.

7 Q. Okay. And what did you do with these items and what
8 sort of examinations did you conduct?

9 A. The request from these items was for blood processing
10 and ownership processing on a few of them. So we do a
11 visual examination on the item. If they are areas that
12 appear to be a bloodstain, they're tested with a quick two-
13 part pillar change test. If there is a bright pink color
14 change, that indicates there's a possibility that
15 substances is blood and it would be forwarded for further
16 testing.

17 Q. Okay. And so tell us in regards to the sheet that was
18 located on the floor of cell 122, what was the results of
19 your testing in regards to it?

20 A. It was negative.

21 Q. It was negative from blood, okay. And at number 4,
22 now, there are actually two sub items from item 4, 4.1 and
23 4.2?

24 A. That is correct.

25 Q. Can you explain to the jury about that?

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1 A. Yes, ma'am. The shirt was visibly examined and there
2 were areas that tested positive for that quick color change
3 test. One of those areas was cut out with a pair of
4 scissors just to make the swatch. That was forwarded on to
5 the DNA. That is item 4.1. So the apparent item is 4, any
6 items taken off of that would be .1, .2, .3. There was
7 also a swab taken for ownership. The neck and the underarm
8 areas were scraped to collect any potential skin cells of
9 the person that wore the item. Then there was swabs of
10 those scrapings and that was forwarded for DNA as well.

11 Q. Okay. All right. Now, on the cutting from 4.1, the
12 cutting from the front left sleeve of the shirt, what were
13 the results of your testing ---

14 A. The presumptive -- I'm sorry ---

15 Q. --- of that item?

16 A. The presumptive test for blood was positive on that
17 item, on that cutting.

18 Q. And it was forwarded to the DNA, right?

19 A. Yes, it was.

20 Q. All right. And then in regards to item 5, which was
21 the shorts that were taken from the defendant, what was the
22 testing you conducted on those?

23 A. That was blood testing as well and the presumptive
24 test of blood was negative on that item.

25 Q. These were like boxer shorts?

1. A. According to my notes they appear to be SCDC pants
2 that were cut off.

3 Q. All right. And then item 9, is the shoes taken from
4 cell 122. They are two sub items related to those shoes,
5 correct?

6 A. That is correct.

7 Q. And so you tell us what you did with those two items?

8 A. The item -- the shoe was item 9. So 9.1 was a swab
9 from the tongue and the strings of the left shoe that
10 tested positive for the presumptive test for blood and that
11 was forwarded to DNA. And the swab from the interior of
12 the shoes, again, we collected the skin cells of the person
13 who wore the item and that was forwarded to DNA.

14 Q. So to determine ownership that really has to go to
15 DNA?

16 A. Yes, ma'am.

17 Q. All you did was presumptive testing which tells you
18 presumptively it either looks like it's blood or it's not
19 blood?

20 A. There's -- well, the chemical test says that there are
21 elements there that are reacting that could be blood so it
22 needs further testing.

23 Q. And that's when you sent that off?

24 A. We -- for items that don't involve animals or could
25 just be some other substance, we don't do definitive

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1 testing for blood usually. It's just an extra step that
2 consumes sample. So we usually just forward those on to
3 DNA. If there is an indication there could be an animal
4 involved or something then we do more testing because the
5 presumptive test does react for animal blood as well. So
6 in this case there wasn't an indication of an animal so we
7 didn't do definitive testing for blood, we just allowed it
8 to go forward for DNA.

9 Q. Okay. So your report simply shows that there was
10 potentially blood from the cutting from the sleeve that was
11 taken ---

12 A. Correct.

13 Q. --- from the shirt?

14 A. Correct.

15 Q. Okay. And, of course, that's going to address further
16 by DNA?

17 A. Yes, ma'am.

18 Q. Okay.

19 MS. MUNNERLYN: I don't have any further questions.

20 Please answer any questions that Mr. Stephens has.

21 THE COURT: Cross examination?

22 MR. STEPHENS: Thank you, Your Honor.

23 Cross Examination by Mr. Stephens:

24 Q. So the item -- what item is the sheet from cell 122?

25 A. That was sled's item 3.

1 Q. Three, okay. It tested negative for blood, is that
2 correct?

3 A. For the presumptive test for blood, yes, sir.

4 Q. And nothing further was done?

5 A. No, sir.

6 Q. And the shirt tested presumptive for blood but it was
7 sent to sled, I mean, to DNA for further testing?

8 A. It was positive for the presumptive test, yes, sir.

9 Q. And the only other would be, let me see, you tested
10 some shorts that were negative for presumptive test for
11 blood, number 5 ---

12 A. Yes, sir.

13 Q. --- or yes, number 5? And the shoes were positive for
14 presumption and sent to DNA?

15 A. There was one area, yes, sir, that was positive.

16 Q. And that was on the tongue or the laces?

17 A. Of the left shoe, yes, sir.

18 Q. On one shoe?

19 A. (Shaking of the head, yes)

20 MR. STEPHENS: That's all, Your Honor.

21 THE COURT: Redirect?

22 MS. MUNNERLYN: Nothing further, Your Honor.

23 THE COURT: Do you wish the witness to be excused?

24 MS. MUNNERLYN: Please.

25 THE COURT: Any objection?

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1 MR. STEPHENS: No objection.

2 THE COURT: All right, ma'am. You're excused from
3 your subpoena. You may go back to your regular duties.
4 Your next witness.

5 MS. MUNNERLYN: Maryann Boehm.

6 THE COURT: Just come around there and meet the
7 clerk's representative right up here.

8 THE CLERK: Do you solemnly swear or affirm that
9 the testimony you shall give the Court and jury in this
10 case shall be the truth, the whole truth, and nothing but
11 the truth so help you God?

12 MS. BOEHM: I do.

13 THE CLERK: Have a seat and state your name.

14 MR. BOEHM: My name is Maryann E. Boehm.

15 THE COURT: You may proceed, solicitor.

16 MS. MUNNERLYN: Thank you, Your Honor.

17 MARYANN BOEHM, first being
18 duly sworn, testified as follows:

19 **Direct Examination by Ms. Munnerlyn:**

20 Q. Agent Boehm, where are you employed?

21 A. I am employed at the South Carolina Law Enforcement
22 Division commonly known as sled.

23 Q. And how long have you worked there?

24 A. Approximately eleven and a half years.

25 Q. And what do you do there?

1 A. I am assigned to the DNA case work department. I
2 process evidence and known standards for DNA analysis.

3 Q. And tell us a little bit about your education and any
4 special training in that particular field?

5 A. I received a Bachelor of Science from James Madison
6 University. That's in Harrisonburg, Virginia. And
7 integrated science and technology with a concentration in
8 biotechnology. When I was employed by sled I was trained
9 for approximately a year by a court qualified analyst in
10 the proper procedures and techniques used in the lab before
11 I was certified to perform independent casework.

12 Q. And how long have you been certified?

13 A. Approximately ten and a half years.

14 Q. And have you been qualified as an expert witness in
15 the past in this particular field of DNA?

16 A. Yes, ma'am.

17 Q. Okay. You know approximately how many times you've
18 been qualified?

19 A. Approximately sixty times.

20 Q. Okay.

21 MS. MUNNERLYN: Your Honor, I would move to have this
22 witness qualified as an expert in the field of serology and
23 DNA analysis.

24 THE COURT: All right. Mr. Stephens, you wish to
25 voir dire the witness or challenge qualifications?

M. Boehm- Direct Examination by Ms. Munnerlyn

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1 MR. STEPHENS: No questions. We'll stipulate to her
2 qualifications.

3 THE COURT: All right. The Court qualifies her to
4 give her opinion. You may proceed.

5 MS. MUNNERLYN: Thank you, Your Honor.

6 Q. Agent Boehm, did you receive certain items of evidence
7 in this particular case which is sled lab number L16-02614
8 relative to State versus Phillip Stackhouse?

9 A. Yes, I did.

10 Q. And upon receiving those items, did you perform
11 testing and certain examinations upon those and issue a
12 report?

13 A. I did.

14 Q. Okay. I'm going to show you what's been marked
15 State's Exhibit Number 43, and see if you recognize that?

16 A. This appears to be a copy of the report I issued.

17 Q. And that is your signature on it?

18 A. That is correct.

19 Q. Okay.

20 MS. MUNNERLYN: Your Honor, I would move to admit
21 State's Exhibit 43, at this time.

22 THE COURT: Any objection?

23 MR. STEPHENS: No objection.

24 THE COURT: All right. It's in evidence without
25 objection. You may proceed.

1 (Whereupon, the Sled Serology Analysis DNA- Boehm has been
2 marked and entered into evidence as State's Exhibit No. 43)

3 Q. Okay. Let's look first of all, at the serology
4 analysis you made on those items which were submitted to
5 you which were sled items 1 and 2, if you can tell us what
6 you did in regards to those items of serology analysis?

7 A. Yes, ma'am. There was a DNA blood request on those
8 two items. And so I tested for the possible present of
9 blood on those items.

10 Q. Okay. And so item 1, are swabs from outside of cell
11 218?

12 A. That's correct.

13 Q. And what were the results of that presumptive testing
14 for blood in regards to that swab?

15 A. It was positive.

16 Q. Okay. And on item 2, which was a swab from floor near
17 the bench designated number 1, what was the results of
18 presumptive testing for blood?

19 A. It was also positive.

20 Q. All right. And did you do further analysis based upon
21 this positive presumptive testing?

22 A. Yes, ma'am. I performed DNA analysis on both of those
23 items.

24 Q. And if you can explain, before we go any further, if
25 you could explain to the jury exactly what DNA is?

M. Boehm- Direct Examination by Ms. Munnerlyn

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1 A. DNA stands for deoxyribonucleic acid. It is a
2 chemical found in all of the cells of our body except for
3 our red blood cells. It is important to pass along traits
4 from generation to generation. It gives us our physical
5 traits such as our hair color or height. With the
6 exception of identical twins, no two individuals have the
7 same DNA. In forensic science you are interested in the
8 portion of the DNA that differ between individuals. We
9 test twenty-three different locations and a combination of
10 those results make up a DNA profile.

11 Q. All right. So you analyzed a number of items for DNA,
12 is that correct?

13 A. That is correct.

14 Q. Let's start first with item 10 -- first of all, you
15 were submitted items, sled items 10 and 24, those were
16 buccal swabs from the defendant and the blood standard from
17 the victim, you use those to do what?

18 A. These are what we call are known standards. They come
19 from a known source of DNA. We can label those from an
20 individual and compare that to the unknown evidence
21 profiles that were generated in the case.

22 Q. And so you use those to make comparisons to the other
23 items which were submitted, is that correct?

24 A. That is correct.

25 Q. Okay. So let's look then at the items which were

1 submitted for comparison and that would be first of all
2 item 1 which was the swab from outside of cell 218, what
3 determination, if any, did you make in regards to that
4 particular item?

5 A. I did all the DNA profile from that item and it
6 matches the DNA profile of Oliver Johnson.

7 Q. All right. And so what about item 2 which was the
8 swab from the floor near the bench designated number 1?

9 A. I also was able to develop a DNA on that item and it
10 also matched the DNA profile of Oliver Johnson.

11 Q. Okay. And what about item 4.1 which is the cutting
12 from the front left sleeve off the shirt?

13 A. I was also able to develop a DNA profile from that
14 item and it also matches DNA profile of Oliver Johnson.

15 Q. Okay. Now, those three items together you gave a
16 determination as to the probability of selecting an
17 unrelated individual, tell us about that determination?

18 A. Yes, ma'am. Anytime we make a match or cannot be
19 excluded statement, we have to give weight to that match to
20 give some meaning behind how rare that matches. So for the
21 DNA develop from items 1, 2 and 4.1 the probability of
22 randomly selecting an unrelated individual having a DNA
23 profile matching these items is approximately 1 in 16
24 nonillion.

25 Q. One in 16 nonillion?

M. Boehm- Direct Examination by Ms. Munnerlyn

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1 A. Yes, ma'am.

2 Q. And that is really, really high, is it not?

3 A. Yeah. Those are very rare.

4 Q. All right. And so let's move on to item 4.2 which was
5 the swab from the scraping of the neck and underarm areas
6 of the shirt. Now, this is actually a determination of
7 ownership, is that correct?

8 A. That is correct. We wanted to figure out who had been
9 wearing that item of evidence.

10 Q. Okay. So this is from the shirt and this is a
11 scraping from the neck and the underarm and tell us what
12 your determination was in regards to that?

13 A. All right. The DNA profile developed from item 4.2,
14 is a mixture of at least three individuals. The partial
15 DNA profile of the major contributor to this mixture
16 matches the DNA profile of Phillip Stackhouse.

17 Q. And, now, explain to us what you mean by major
18 contributor when you've got more than one standard here?

19 A. Absolutely. In instances more than one person can
20 leave DNA on an item and sometimes if there's multiple
21 people that have left DNA, someone had left more DNA than
22 others and we are able to pull out that profile and deem it
23 a major contributor to that mixture.

24 Q. When you're trying to determine ownership typically
25 that is the major contributor?

1 A. The major contributor would be the person who left the
2 most DNA behind.

3 Q. Okay. All right. So the major contributor on this
4 particular item which was the cutting from the shirt is
5 Phillip Stackhouse?

6 A. That is correct.

7 Q. All right. And then can you tell us about the results
8 on 9.1 which is the swab from the tongue and strings from
9 the left shoe taken from cell 122?

10 A. The partial DNA profile developed from item 9.1 is a
11 mixture of at least two individuals. Due to the inability
12 to calculate a statistic, no comparisons will be offered.

13 Q. Okay. Now, explain that?

14 A. Like I said before, whenever we can match or say
15 someone cannot be excluded from an item, we have to give a
16 rare statistic. In this case I was unable to perform a
17 statistic, therefore, I cannot make any comparisons.

18 Q. And why is that?

19 A. It's due to our protocol. It's such a low level of
20 DNA where we are not comfortable in saying, making any
21 comparisons to that item.

22 Q. So even though the presumptive test on the tongue in
23 the shoe and the string of the shoe was positive for blood,
24 you can have a positive test for blood and yet not be able
25 to get a sufficient amount to make a DNA analysis?

M. Boehm- Direct Examination by Ms. Munnerlyn

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1 A. That is correct. The test we use for the presumptive
2 test for blood is very, very, sensitive where you only need
3 a very small amount of a sample to test positive. We need
4 more for DNA analysis.

5 Q. Okay. All right. It doesn't mean that it's not
6 somebody's DNA, you just don't have sufficient amount to
7 make a determination?

8 A. Right. There is DNA on that item, there's just not
9 enough for me to make a any kind of comparisons to it.

10 Q. All right. Then, let's move on to 9.2, this is the
11 swab from the interior of the shoes and I believe again
12 this is an ownership determination to determine who shoes
13 these actually were?

14 A. That is correct.

15 Q. Tell us the results of that analysis?

16 A. The DNA profile develop from item 9.2 as a mixture of
17 at least two individuals. The DNA profile of the major
18 contributor to this mixture matches the DNA profile of
19 Phillip Stackhouse.

20 Q. All right. And what's the probability of the major
21 contributor?

22 A. The probability of randomly selecting an unrelated
23 individual having a DNA profile matching the major
24 contributor to this item is approximately 1 in 240
25 septillion.

1 Q. Again that's very, very rare?

2 A. That is correct.

3 Q. All right. Let's move on, then, to item 21 which is
4 the right hand fingernail clippings from Oliver Johnson,
5 tell us about what you did in regards to those?

6 A. I generated a DNA profile from that item. The results
7 are that no DNA profile foreign to Oliver Johnson was
8 developed from item 21.

9 Q. So those fingernail clippings are Oliver Johnson's and
10 there aren't any other DNA on them?

11 A. That is correct.

12 Q. Now, I want to ask you, why would you do this? Would
13 there be other DNA on his fingernail clipping?

14 A. It's possible. If you scratch someone you can collect
15 DNA from that individual so we consider fingernail
16 scrapings an intimate item so we're looking for foreign
17 DNA. We expect the person whose fingernails they are to
18 have that, their DNA profile on them. We're looking for
19 someone else's DNA on them. That's why it says there's no
20 foreign DNA to that item.

21 Q. Okay. So even though you know you're going to find
22 the owners individuals DNA on there, you're looking for
23 somebody else's potentially for if they in defense
24 scratched somebody and gotten somebody else's DNA?

25 A. Right. And any way of coming into contact with

M. Boehm- Direct Examination by Ms. Munnerlyn

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1 another individual.

2 Q. Okay. And so as to the 21 which is the right hand
3 fingernail clippings, there isn't anything foreign. So as
4 to item 22 that's the left hand fingernail clippings, what
5 were the results of your examination?

6 A. The DNA profile develop from item 22 is a mixture of
7 at least two individuals. The DNA profile of the major
8 contributor to this mixture is consistent with the DNA
9 profile of Oliver Johnson. The partial DNA profile of the
10 minor contributor is insufficient for interpretation.

11 Q. So there was some foreign DNA on those left hand
12 fingernail clippings just not a sufficient amount for
13 anybody to determinate whose they were?

14 A. That's correct.

15 Q. Is there anything you need to add to this report?

16 A. Upon reviewing this, preparing for my testimony today
17 I did notice that there was a typo. That does not affect
18 any of my conclusions or results. For item 9.1 which was
19 swab from the tongue and strings of the left shoe there is
20 a typo in the table of the report, but again it does not
21 affect any of the interpretation.

22 Q. Okay. And so you still stand behind your report we've
23 now admitted into evidence and it's accurate?

24 A. Yes, I do.

25 Q. I'm going to show you what's marked as State's Exhibit

1 52, 51 and 52, and see if you recognize those?

2 A. Exhibit 52 is the blood standard from Oliver Johnson.

3 And 51 is the fingernail clippings from Oliver Johnson.

4 Q. And so you did the examinations on these and they're

5 all included in the chain of custody that's already in

6 evidence?

7 A. That is correct.

8 MS. MUNNERLYN: Your Honor, I'd move to admit 51 and

9 52.

10 THE COURT: Any objection?

11 MR. STEPHENS: No, sir.

12 MS. MUNNERLYN: Your Honor, I'd also move to admit

13 State's Exhibit 47 ---

14 THE COURT: All right. Well, hold on a second, 51
15 and 52 are in evidence without objection. You may proceed.

16 MS. MUNNERLYN: Okay. And we'd also move to admit

17 State's Exhibit 47.

18 MR. STEPHENS: No objection.

19 THE COURT: All right. State's 47 is in evidence
20 without objection.

21 (Whereupon, the Sled- Fingernail Clippings has been marked
22 and entered into evidence as State's Exhibit No. 51)

23 (Whereupon, the Sled- Blood Standard from Victim has been
24 marked and entered into evidence as State's Exhibit No. 52)

25 (Whereupon, the Sled- Cuttings from shirt and shoes has

M. Boehm- Cross Examination by Mr. Stephens

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1 been marked and entered into evidence as State's Exhibit
2 No. 47)

3 MS. MUNNERLYN: No further questions. If you would
4 answer any questions Mr. Stephens has.

5 THE COURT: Cross examination?

6 MR. STEPHENS: Thank you, Your Honor.

7 Cross Examination by Mr. Stephens:

8 Q. Now, when you're getting ready to run your test you
9 run some controls?

10 A. That is correct.

11 Q. And when you ran your controls for this test, you have
12 two controls, is that right?

13 A. We have several controls. It depends on what part of
14 the test you're talking about.

15 Q. You have like something called a negative amp, a
16 negative control?

17 A. Yes. That is one of the controls we use.

18 Q. Now, when you ran that this time, did it show -- it
19 should show an even line, did it show some very minor,
20 minor peaks in it?

21 A. It had no called peaks. Now, with the instrument the
22 amount of time that is on the instrument it may have a
23 little bit of peak type activity but we have that threshold
24 that nothing under that level is called because that was
25 proven in validation that they are artifacts and just a

1 product of instrumentation and chemicals.

2 Q. So it's possible he could show some very, very, minor,
3 minor contamination, could it not?

4 A. It wouldn't be called contamination. It's just
5 artifacts or peaks from various breakdown of the chemicals.
6 That's why we have a calling threshold. Anything above a
7 certain value is what we know and believe are true peaks
8 versus anything underneath that we essentially ignore.

9 Q. Now, on item 4.1 and 4.2, was there a mixture of
10 several alleles in those two items?

11 A. Item 4.1, I reported as single source and item 4.2, is
12 a mixture which would mean that there are multiple alleles.

13 Q. So you're saying 4.1 did not have any?

14 A. Let me find -- right, 4.1 has multiple alleles but
15 each -- an allele is a test result. And each person can
16 have one to two test results depending on if they have the
17 same number, then they'll have one number or if they have
18 two different numbers in their DNA, then they'll have two
19 different test results.

20 Q. So they did have several mixtures of alleles in 4.1
21 and 4.2, is that correct?

22 A. No, sir, 4.1 was not a mixture.

23 Q. 4.2 is?

24 A. 4.2 is a mixture.

25 Q. And -- now, when you -- in 4.2 I believe is the shirt,

M. Boehm- Redirect Examination by Ms. Munnerlyn

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1 you said Phillip Stackhouse was the major contributor but
2 when several people show up and there were at least three
3 individuals, you said there were at least three
4 individuals, so when several people show up being
5 contributors that means that other people could have worn
6 the shirt or could've handled the shirt?

7 A. That is correct.

8 Q. Okay. And you can't say -- you're not saying the one
9 that's the major contributor is the last person to wear the
10 shirt?

11 A. That is correct. I cannot tell you how or when any of
12 the DNA got there just that it is there.

13 Q. Okay. And DNA it doesn't reflect the activity levels
14 as far as who wore the most or anything like that?

15 A. It depends on a few factors especially when it comes
16 to touch or ownership DNA. The more you wear something the
17 more opportunity you'll have to leave your skin cells
18 behind. That's where we're going to get our DNA from. How
19 often the item is cleaned would also be a factor. How hard
20 the object is touched. If I just brush up something
21 lightly I may not leave any DNA behind but if I really rub
22 on an item there's more potential for me to leave DNA
23 behind. There is also the phenomenon where some people
24 just fluff off more DNA cells than other people. We call
25 them known shedders. We have a few of those in our lab

1 where they just have, they leave more DNA behind than
2 others.

3 Q. So some people leave less behind?

4 A. That is correct.

5 Q. So you can't -- you can't say who the last -- this DNA
6 doesn't say who was the last person to wear the shirt or
7 who was the person who handled it the most?

8 A. That is correct.

9 Q. Okay. And this doesn't -- this test doesn't prove how
10 the DNA got on the shirt?

11 A. No, I cannot, it cannot tell you that.

12 Q. Okay.

13 MR. STEPHENS: That's all I have, Your Honor.

14 THE COURT: Any redirect?

15 MS. MUNNERLYN: Just a couple of questions, Your Honor.

16 **Redirect Examination by Ms. Munnerlyn:**

17 Q. But you can say the most DNA on the shirt is from
18 Phillip Stackhouse?

19 A. That is correct.

20 Q. And this is coming from the scrapings from the neck
21 and the underarm, correct?

22 A. That is correct.

23 Q. All right.

24 MS. MUNNERLYN: I don't have any further questions, Your
25 Honor.

M. Boehm- Re-cross Examination by Mr. Stephens

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1 THE COURT: Any on those two questions?

2 MR. STEPHENS: Yes, sir.

3 **Re-cross Examination by Mr. Stephens:**

4 Q. But you don't know if it was just one scrape on the
5 neck and the same thing was used on the underarm, they
6 didn't use two scrapings they just did one scraping?

7 A. Right. For ownership processing they will use a
8 sterile scraper and scrape both areas. Areas where your
9 skin has a lot of contact to the clothing which would be
10 the neck or underarms and they scrape both of those areas
11 and then swab it and that's what is sent to me for DNA.

12 Q. So what I think I am getting at is, all of the DNA
13 could have come from the neck or all of it could've come
14 from the underarm?

15 A. Right. It came from both of those locations. I can't
16 tell you what came from each.

17 Q. I understand.

18 MR. STEPHENS: Thank you.

19 MS. MUNNERLYN: No further questions, Your Honor.

20 THE COURT: Do you wish the witness to be excused?

21 MS. MUNNERLYN: Yes, please.

22 THE COURT: Any objection?

23 MR. STEPHENS: No, sir.

24 THE COURT: All right, ma'am. You're released from
25 your subpoena. You may go back to your regular duties.

1 All right. Ladies and gentlemen, we're going to stop for
2 today. We will come back and start the trial tomorrow
3 morning at 9:30 so the bailiffs may have you come back a
4 little bit earlier so that we can start at 9:30. Now,
5 please remember don't talk to anybody about this case,
6 don't allow anybody to talk to you about it. You go home
7 and you see your husband, wife, boyfriend, girlfriend,
8 person down the street, you can't talk about this case.
9 Y'all should not be talking about it. So it's important
10 that you not allow any outside influence of any kind so
11 that you are deciding this case solely and completely on
12 the facts and evidence you hear in the courtroom and from
13 no other source. So with that, I'll see you back tomorrow
14 morning and we'll start at 9:30. Thank you very much.

15 (Whereupon, the jury exits the courtroom at 4:49 p.m.)

16 THE COURT: Anything further from the State at this
17 time?

18 MS. MUNNERLYN: No, Your Honor.

19 THE COURT: From the defense?

20 MR. STEPHENS: No, sir.

21 THE COURT: All right. I'll see y'all tomorrow
22 morning, 9:30. Thank you very much.

23 (Whereupon, Court adjourned at 4:50 p.m. for the day)

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1 WEDNESDAY, SEPTEMBER 20, 2017 AT 9:33 A.M

2 THE COURT: All right. Is the State ready for this
3 jury?

4 MS. MUNNERLYN: Yes, Your Honor.

5 THE COURT: Defense?

6 MR. STEPHENS: Yes, sir. Just for the record, I've
7 talked with my client, we don't have nothing further to put
8 on the record at this time this morning.

9 THE COURT: All right. Very good.

10 MR. STEPHENS: We're ready to go.

11 THE COURT: All right. Good. Ask the jury to come
12 in please.

13 (Whereupon, the jury enters the courtroom at 9:34 a.m.)

14 THE COURT: Good morning, ladies and gentlemen.

15 (Whereupon, the jury greets the judge)

16 THE COURT: All right. Solicitor, your next
17 witness please, ma'am.

18 MS. MUNNERLYN: Thank you, Your Honor. I would call
19 Erin Presnell to the stand.

20 THE COURT: All right.

21 THE CLERK: Do you solemnly swear or affirm that
22 the testimony you shall give the Court and jury in this
23 case shall be the truth, the whole truth, and nothing but
24 the truth so help you God?

25 MS. PRESNELL: Yes, ma'am.

1 THE CLERK: Have a seat right there and state your
2 full name.

3 MS. PRESNELL: Good morning. My name is Susan Erin
4 Presnell, P-r-e-s-n-e-l-l.

5 THE COURT: All right, ma'am. If you just try and
6 remember to speak up and talk directly to the jury. All
7 right. Go ahead, solicitor.

8 MS. MUNNERLYN: Thank you, Your Honor.

9 SUSAN ERIN PRESNELL, first being
10 duly sworn, testified as follows:

11 **Direct Examination by Ms. Munnerlyn:**

12 Q. Where you employed, Dr. Presnell?

13 A. I'm a forensic pathologist at the Medical University
14 of South Carolina in Charleston.

15 Q. And how long have you been employed there?

16 A. I've been on faculty since 1999 so eighteen years.

17 Q. And tell us a little bit about your education and your
18 training?

19 A. Well, I'm a forensic pathologist. So I went to -- so
20 to get to that spot I went to Clemson University for
21 college, majored in microbiology. And then I moved to
22 Charleston to go to MUSC for medical school. So I did my
23 four years there. I graduated and decided to go into
24 pathology as my specialty. That was a five year training
25 program called residency. And then after that I decided to

S. Presnell- Direct Examination by Ms. Munnerlyn 298

1 sub-specialize in forensic pathology which was additional
2 year. And along the way you have to take boards, so I am
3 board certified medical doctor and I'm also board certified
4 in general pathology as well as the sub-specialty of
5 forensic pathology.

6 Q. And have you testified as an expert witness in court
7 before?

8 A. Yes, I have.

9 Q. And how many times have you been qualified as an
10 expert witness?

11 A. As an estimate of maybe, one hundred and twenty'ish.

12 Q. Okay.

13 MS. MUNNERLYN: Your Honor, I would move at this time
14 to have this witness qualified as an expert witness to give
15 opinion testimony relative to forensic pathology.

16 THE COURT: Do you wish to voir dire the witness or
17 challenge the qualifications, Mr. Stephens?

18 MR. STEPHENS: No, sir.

19 THE COURT: All right. So I will qualifying Dr.
20 Presnell to give her opinion in the field of forensic
21 pathology. You may proceed now.

22 MS. MUNNERLYN: Thank you, Your Honor.

23 Q. Dr. Presnell, did you receive a request to perform an
24 autopsy on Oliver Johnson?

25 A. Yes. At the request of the Marlboro County Coroner.

1 I performed an autopsy on Mr. Oliver on February 24, 2016.

2 Q. And that took place where?

3 A. So the coroner will arrange transportation to MUSC in
4 Charleston. So in the autopsy room in Charleston.

5 Q. And you, as a result of the autopsy, did you issue a
6 report including your findings and your opinion as to the
7 cause of death?

8 A. Yes, I did.

9 Q. I'm going to show you what's been marked as State's
10 Exhibit 53 and see if you recognize that document?

11 A. Yes. This is a copy of the autopsy report. The final
12 autopsy report.

13 MS. MUNNERLYN: Your Honor, I would like to admit at
14 this time State's Exhibit 53.

15 THE COURT: Any objection.

16 MR. STEPHENS: No, sir.

17 THE COURT: All right. State's 53 is in evidence
18 without objection.

19 (Whereupon, the Autopsy Report has been marked and entered
20 into evidence as State's Exhibit No. 53)

21 Q. Tell us, if you would, -- well, first of all, when the
22 victim comes in and an autopsy is requested, is there any
23 evidence processed -- when is the evidence processed?

24 A. Well, just the standard protocol for autopsy is that
25 the decedent, the deceased person, will come in, we'll

S. Presnell- Direct Examination by Ms. Munnerlyn 300

1 photograph the person as is. Then I will, if it is
2 something that is possibly not a natural death, we may do
3 evidence collection such as fingernail clippings, pull head
4 hair just for DNA hair sample. Then we'll remove the
5 clothing. Photograph those. Examine them. And then bag
6 them all up. And then there's other things we do like get
7 blood for toxicology testing, etc. And so all this
8 evidence collection is done at the time we're doing the
9 autopsy.

10 Q. Okay. I'm going to show you what's already in
11 evidence as State's Exhibit 39 and see if you recognize
12 that?

13 A. Yes. This is a copy of our evidence transfer sheet
14 that we fill out during the autopsy as we're collecting
15 materials and it signed and dated by my assistant who is in
16 the autopsy room with me transferring it over to the law
17 enforcement officer that was there at the time of autopsy.

18 Q. And that was Ashley Wooldridge, is your assistant?

19 A. Yes.

20 Q. And she transferred that over, according to that form,
21 to Patrick Oliphant?

22 A. Yes.

23 Q. Okay. All right. And that list all the items which
24 you went through and documented that was in and all around
25 the body of the decedent, correct?

1 A. Correct.

2 Q. So tell us how, when you perform an autopsy, how you
3 go through that process in general and then if you could
4 tell us what you found when you actually perform the
5 autopsy on Oliver Johnson?

6 A. Okay. So again when the person comes to autopsy, we
7 photograph, document how that person looks when we receive
8 them. Then we remove the clothing. We will clean him if
9 there's inherent debris or blood on his body so that we can
10 better evaluate any injuries or other text marks that we
11 might need to see. We document all of the external
12 findings, external injuries. And then after that we will
13 open the body with a Y-shaped incision. Look at all the
14 internal organs. See if there's been anything damaged.
15 And, particularly, in this case, with stab wounds we'll
16 follow the track of the stab wounds. Document, again,
17 what's been damaged. We also, I made reference to this
18 earlier, we will draw blood to look for drugs and alcohol
19 in the system. Part of the exam also includes examination
20 of the brain. So all the internal organs are examined.
21 The findings are documented. And then what we called the
22 gross autopsy, that person of the procedure is done, and
23 then usually within a couple of weeks we'll get results
24 back from toxicology and any other ancillary studies we
25 might have done. And so we would've followed that protocol

S. Presnell- Direct Examination by Ms. Munnerlyn 302

1 in this case. And in this case, we found multiple sharp
2 forced injuries to Mr. Johnson and what might be easier if
3 I could stand up to demonstrate on my body where they were.

4 Q. Okay. I want, first of all, let me ask you about one
5 other thing. Let me show you what's been marked as State's
6 Exhibit 34 and ask you if you recognize that photograph?

7 A. Yes. This is a picture of Mr. Johnson in our autopsy
8 room on the autopsy table at the time of the autopsy prior
9 to us getting started.

10 Q. So this was taken the day of the actual autopsy,
11 correct?

12 A. Yes.

13 Q. At your facility?

14 A. Correct.

15 Q. And does it document his injuries consistent with what
16 you've indicated in your report?

17 A. I mean, you can see a number of injuries on this
18 photograph although not all of them.

19 Q. Okay.

20 MS. MUNNERLYN: Your Honor, I would move to admit
21 State's Exhibit 36, I think this is 36, Your Honor -- 36,
22 Your Honor.

23 THE COURT: All right. Any objection?

24 MR. STEPHENS: Is that the one that was marked for
25 identification yesterday?

1 THE COURT: Yes, sir.

2 MR. STEPHENS: No objection.

3 THE COURT: All right. State's 36 is now in
4 evidence without objection.

5 MS. MUNNERLYN: Thank you, Your Honor.

6 (Whereupon, the Photo has been marked and entered into
7 evidence as State's Exhibit No. 36)

8 Q. Okay. So if you can then explain the specific
9 injuries you found on Oliver Johnson when you performed the
10 autopsy?

11 THE COURT: Did you want to stand up, ma'am?

12 A. Yes. Although, I just remembered I wanted to define
13 two terms that I'm going to use or maybe three terms. The
14 terminology of a cut and the terminology of a stab. These
15 are both injuries that are classified something sharp and
16 this is comparison to something blunt. Blunt trauma versus
17 sharp force trauma. Blunt trauma might result in something
18 like a bruise or a fracture. Sharp trauma will typically
19 cut the tissues. Now, the difference between a cut and a
20 stab is just the configuration of the injury on the body.
21 So a stab wound has a smaller surface, a smaller dimension
22 on the surface of the skin and it goes deeper into the
23 body. So something deep and short on the surface is a
24 stab. If that makes sense. And a cut is longer on the
25 surface and not as deep. So those are the two terms I'm

S. Presnell- Direct Examination by Ms. Munnerlyn 304

1 using. One other term is abrasion or a scratch and in some
2 instances if you have something sharp and you pull it
3 against, across the skin, it may not be deep enough to
4 actually put a cut marked there. It might just scratch it.
5 So in several instances some are more superficial injuries
6 on Mr. Johnson, I couldn't say if it was actually a cut or
7 just a scratch and so I just kinda group those together,
8 those real superficial ones. But now I'll go ahead and
9 stand up and demonstrate his major findings.

10 Q. And if you would like to come down right here in front
11 of the jury ---

12 THE COURT: You just have to remember to keep your
13 voice up, okay.

14 A. Yes, sir. All right. I will start with the cut in
15 the neck and work my way down. First he, Mr. Johnson, has
16 two cuts on the left side of his head. There in front of
17 the ear, so one cut, two cuts. The top cut goes in and
18 goes to the skull and scrapes the skull. The cut to the
19 left side of the face kind of goes forward towards the
20 cheekbone. He also has -- so these are two major, two
21 relatively deep cuts on his face. Then he has stab wounds
22 to the left neck, to the left shoulder, two to the left
23 armpit area, one in the left chest, and one to the right
24 chest. So that's one, two, three, four, five, six. So six
25 stab wounds to the neck and arm and chest area. The one to

1 the neck, the shoulder, around the armpit area, these all
2 go relatively short distance into the underlining tissue.
3 Don't damage anything vital. The ones to the left chest
4 goes to one of the ribs and touch the ribs but does not go
5 any further. The one to the right chest, however, goes
6 through the rib, through the right lung, and into the
7 heart. And because of that injury he has about a half of
8 liter of blood in his left chest cavity, right chest cavity
9 and about 100 mL of blood in the sack that's around the
10 heart. That is the fatal injury. So two cuts, six stabs.
11 Now, they are a number of superficial cuts/abrasions. I
12 would be more than happy to go through ---

13 Q. If you would explain those too as well?

14 A. Okay. There are six to the left side of the face and
15 neck area. There's one, and these are superficial, they
16 don't really go much beyond the skin and just the
17 underlining soft tissue just a little bit. So there's one
18 behind the ear. One on the side of the left chin. One on
19 the side of the neck, excuse me, two on the side of the
20 neck. One in front of the neck and one in the collarbone
21 area. So that's six superficial cuts/abrasions to this
22 side of the face. Then there is three on the torso.
23 There's one down the right chest. There's one down the
24 left chest. And there's one across the back. And then we
25 have five to or four to the left arm and one to the back of

S. Presnell- Direct Examination by Ms. Munnerlyn 306

1 the right finger. So the left arm is one here, two here
2 and, sorry, one on the outside of the upper arm. One on
3 the middle of the upper arm. One on the wrist. And then
4 again on the back of the right middle finger. So a total
5 of six to the face and neck around. Three to the torso and
6 five total to the arms. So those of the sharp force
7 injuries. There were a couple of other findings. He did
8 have some bruising around the left eye area and he also has
9 a laceration to his left lip. A laceration is a split in
10 the skin not caused by a sharp injury but by some type of
11 blunt force whether he was hit or whether he hit something
12 solid -- solid.

13 Q. All right. You can have a seat again please. So you
14 have indicated there were a number of cuts, stabs and
15 abrasions which all indicate the result of some sort of a
16 sharp object, I'm assuming?

17 A. Correct.

18 Q. All right. So those injuries could not have been
19 caused by, I guess ---

20 MR. STEPHENS: Your Honor, I object to the solicitor
21 leading this witness. She's an expert.

22 THE COURT: Don't, um, don't suggest your answer in
23 the question please, ma'am.

24 Q. Okay. What could have caused those injuries? What
25 sort of object?

1 A. So by definition these are two types, they are two
2 different types of injuries. One is the sharp force
3 injuries which are the cuts and the stabs. That is caused
4 by something sharp such as a knife. The blunt injuries,
5 the lacerations, some of the bruising is caused by
6 something that's not sharp, that's blunt injuries.

7 Q. Could any of those injuries have been, have resulted
8 from simply a fist fight?

9 A. Well, the blunt injuries, the lacerations to the lip
10 and some of the bruising around the eye.

11 Q. What about the cuts and the abrasions?

12 A. Those -- the cuts and -- not necessarily abrasions
13 because abrasions could be a fingernail or something that
14 maybe not quite as sharp but the stabs and the definite
15 cuts, the one to the side of the head, that's from
16 something sharp. Like a sharp piece of glass, something
17 sharp.

18 Q. Now, let me ask you specifically about the wound in
19 the middle of the chest which I believe you described as a
20 stab wound?

21 A. On the right side of the chest.

22 Q. Okay. The right side of the chest. All right. I
23 think you testified that it went through the rib, the lung
24 and into the heart?

25 A. Yes.

S. Presnell- Direct Examination by Ms. Munnerlyn 308

1 Q. Can you give any kind of opinion as to what size
2 object would have or could have caused this injury or this
3 type of injury?

4 A. Well, so we do measure the dimensions and on his chest
5 the length of the stab wound is .8 inch so not quite an
6 inch and the depth is at least 3.9 inches and that's just
7 an estimate on trying to put things back together and
8 measure how long that pathway was. Certainly, that's not
9 necessarily the dimensions of the object that did it
10 because, and just use a knife as an example, a lot of times
11 the knife, well most often the knife is, it has a -- it's
12 pointed at the end and then it gets bigger towards the
13 handle. So if you don't put the knife all the way in then
14 the dimension on the skin is going to be less than the
15 maximum width of that knife. Also if you put all the way
16 in and then pull it or move it or saw it, you're going to
17 get a dimension on the skin that could be bigger than the
18 width of the blade. Likewise, the depth depends on how far
19 the knife actually goes in as to whether it could actually
20 represent the full length of the blade and then also on the
21 flipside of that, the tissues are compressible so you could
22 press a knife all the way in or a sharp object all the way
23 in, compress the tissues and when it came back out that
24 length could actually be longer than the length of the
25 object. So with all those caveats being said I can offer

1 you that the link on the skin was .8 inch and the depth of
2 the injury was 3.9 inches.

3 Q. So, although, you can not tell me the size, you can
4 tell me it was caused by a sharp object?

5 A. Yes.

6 Q. Okay. And, now, did you have any other --, as you were
7 doing the autopsy through the interior organs, were there
8 any other findings on the interior organs which further
9 supported the stab wounds as you have described them?

10 A. Well, the left, excuse me, the right lung and the
11 heart and actually the aorta too, which is your main vessel
12 leading the heart, they're disrupted along the pathway of
13 the stab wound.

14 Q. And I think you've already testified to the amount of
15 blood within certain cavities within the body?

16 A. Yes. So there is 500 mL of blood in the right chest
17 cavity and 100 mL in the sack pack around the heart.

18 Q. And is that normal to have that large amount of fluid
19 and blood in those particular cavities?

20 A. There should not be any blood in your chest cavity.
21 It should all be in your vessels.

22 Q. Okay. All right. And so what would have caused that?

23 A. The stab wound to the heart and the lung.

24 Q. So as a result of your autopsy of Mr. Johnson, were
25 you able to reach an opinion to a reasonable degree of

S. Presnell- Cross Examination by Mr. Stephens

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1 medical certainty as to his cause of death?

2 A. Yes. It's the stab wound to the heart and the aorta
3 due to the stab wound to the chest.

4 Q. And that is documented in the report that's already in
5 evidence?

6 A. Yes.

7 Q. Now, I think you've indicated the opinion as to the
8 cause of death, did you also indicate the manner of death?

9 A. So in our field of medicine, we will list manner of
10 that but for us it's a medical term and this, you can
11 choose from four manners of death which one is natural,
12 one's accident, one's suicide, and once homicide, and
13 homicide is death at the hands of another. So in this case
14 we classified this as a homicide.

15 MS. MUNNERLYN: I don't have any further questions. If
16 you would answer any questions that Mr. Stephens has.

17 THE COURT: Cross examination?

18 MR. STEPHENS: May it please, The Court, Your Honor.

19 **Cross Examination by Mr. Stephens:**

20 Q. Dr. Presnell, good morning.

21 A. Good morning.

22 Q. You said the death was caused by the stab wound to the
23 right chest with disruption of the second rib, right lung,
24 aorta and heart?

25 A. Yes.

1 Q. That was the cause of death. And now, you said there
2 were some other injuries that appeared, they could have
3 been caused by something other than a knife, a fist fight
4 or some other type object other than a knife?

5 A. Yes.

6 Q. And that would've been the lip laceration,
7 incision/abrasions to the left chin, left perlorbital
8 contusions, right leg abrasions, those kind of things?

9 A. Yes.

10 Q. Okay. And, now, as far as the, you can tell us the
11 size of this wound that was the cause of death?

12 A. Yes. The ---

13 Q. But you can't tell us the size of the object that did
14 it?

15 A. The weapon -- correct.

16 Q. Is it possible that these other stab wounds they could
17 have been caused by more than one object?

18 A. Yes.

19 Q. And I want to ask you about the injury on the, the two
20 in size wounds to the head, you said it cuts like a knife
21 but it could've been something sharp, like a piece of
22 glass, like a piece of metal, that kind of thing?

23 A. Correct. Something sharp.

24 Q. Now, is it possible that, that could be caused by like
25 a sharp corner if somebody was to fall?

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1 A. These the in size wounds are also called cuts to the
2 left side of the head are long. For something like a sharp
3 corner we would expect more of a threshing injury, I mean,
4 it could have disrupted the skin but more localized not of
5 the length of, I'd have to look up the language, but there
6 are a couple of inches.

7 Q. Are you saying it's impossible?

8 A. It is highly unlikely. It doesn't have the look, the
9 cuts to the left side of the forehead look like sharp
10 injuries. There's a component of blunt injury on a corner,
11 blunt injuries are typically -- if it splits the skin, are
12 typically -- what typifies them is what we called tissue
13 bridging, where the skin splits, there's some nerves and
14 blood vessels that you can see traversing the split. And a
15 sharp injury, those things are cut. And blunt injury
16 because they're more elastic, those things are usually
17 intact and that's called tissue bridging. So his injuries
18 to the side of the head don't have that tissue bridging.
19 They have more of a sharp in size or cut appearance.

20 Q. So it's highly unlikely but not impossible?

21 A. I can't see where it would match those injuries.

22 Q. Okay. But it could be caused by something other than
23 a knife, it could have been caused by glass or metal?

24 A. Correct.

25 Q. And I believe I ask you there's some injuries

1 consistent with something other than short object?

2 A. Yes.

3 Q. And the injuries could be caused by more than one
4 object?

5 A. Correct.

6 MR. STEPHENS: Thank you. That's all.

7 THE COURT: Redirect?

8 MS. MUNNERLYN: Just a couple of questions, Your Honor.

9 **Redirect Examination by Ms. Munnerlyn:**

10 Q. Dr. Presnell, Mr. Stephens asked you could these
11 injuries have been caused by different objects but could
12 they also be caused by one, the same object?

13 A. The sharp force injuries could be caused by one
14 object, yes.

15 Q. All six stab wounds and the various other cuts and
16 wounds and the abrasions, all could've been caused by one
17 in the same object?

18 A. Correct.

19 Q. Okay.

20 MS. MUNNERLYN: All right. No further questions, Your
21 Honor.

22 THE COURT: Anything on that question just asked?

23 **Re-cross Examination by Ms. Stephens:**

24 Q. But you can't say?

25 A. No, I cannot.

S. Presnell- Redirect Examination by Ms. Munnerlyn 314

1 MR. STEPHENS: Thank you.

2 THE COURT: Solicitor, you had mentioned State's
3 Exhibit 39, you did not offer it. Did you want to offer
4 that?

5 MS. MUNNERLYN: Thirty-nine. Oh, it was 36, Your
6 Honor, the photo?

7 THE COURT: No, not the photograph. That was the
8 evidence report sheet, 39.

9 MS. MUNNERLYN: I think it's already in evidence, Your
10 Honor. Thirty-nine should already be in evidence. It's
11 the ---

12 THE COURT: Do you have that marked ---

13 MS. MUNNERLYN: --- transfer sheet?

14 THE COURT: Madam court reporter, do you have that
15 marked in evidence already?

16 COURT REPORTER: Yes, sir.

17 THE COURT: All right. Very good. All right.
18 Regarding this witness do you wish the doctor to be
19 excused?

20 MS. MUNNERLYN: Yes, Your Honor.

21 MR. STEPHENS: Any objection?

22 MR. STEPHENS: No objection, Your Honor.

23 THE COURT: All right, ma'am. You are release from
24 your subpoena. You may go back to your regular duties.

25 DR. PRESNELL: Thank you.

1 THE COURT: Before you go to your next witness,
2 solicitor, yesterday there was a witness that testified,
3 Veronica (sic) Herrera and you placed two in evidence, an
4 exhibit, and I thought you said two and not forty-two. All
5 I heard was two so I said State's 2 was in evidence. So to
6 correct that the evidence that was introduced through
7 Veronica (sic) T. Herrera was 42 and 42 is now in evidence.
8 Thank you very much. Your next witness please.

9 MS. MUNNERLYN: Your Honor, if I could step into the
10 back of the courtroom to get my other witness.

11 THE COURT: Yes, ma'am.
12 (Whereupon, the solicitor step out of the courtroom to
13 retrieve the witness)

14 MS. MUNNERLYN: May we approach, Your Honor?

15 THE COURT: Yes, ma'am. Y'all come around to the
16 side please.

17 (Whereupon, a bench conference was held off the record)

18 THE COURT: Ladies and gentlemen of the jury, if
19 you would go to your jury room for a few minutes please.
20 Thank you.

21 (Whereupon, the jury exits the courtroom at 10:06 a.m.)

22 THE COURT: All right. Solicitor, you wanted a
23 matter before the court?

24 MS. MUNNERLYN: Yes, Your Honor. My next witness is an
25 inmate from the South Carolina Department of Corrections.
26 He has given a written statement in this matter. The

1 defendant is well aware of what his testimony will be but
2 he is from Dillon which is where the defendant is from and
3 the defendant has some family members seated in the
4 courtroom. They were not here until just now. They just
5 walked in and were seated and I was preparing to call him.
6 And I would just offer to the Court that he may be fearful
7 and intimidated by these particular family members and I
8 would just ask -- well, not maybe, he is and I would just
9 ask they be asked to exit the courtroom during his
10 testimony.

11 THE COURT: Mr. Stephens, what's the position of
12 the defense?

13 MR. STEPHENS: We would object, Your Honor, his
14 family, my client's family member has been here all week
15 and they've made no threats and the solicitor has not
16 identified any threat they have made against Mr. Goins. I
17 think my client is entitled to a public trial and I think
18 his family is entitled to be here. I don't think it would
19 be an interest of justice to allow ---

20 THE COURT: All right, sir. Thank you. I don't
21 think that there's any reason to exclude any members of the
22 public from this trial. If for some reason the witness
23 becomes uncooperative, you have his written statement for
24 which you can then examine him upon. I will caution any
25 member of the audience and this is not for just this
26 particular matter, this is for any matter, I do not

1 tolerate any type of activity that is not conducive to the
2 conduct of this trial. Therefore, any words, motions
3 indications, that would disrupt this trial or try to impact
4 this trial in any manner will not be tolerated. If that
5 happens you will be immediately detained by a member of the
6 Marlboro County Sheriff's Office. I will conduct a
7 contempt of court hearing, thereafter, at the time that is
8 convenient to the Court and through that you can be sent to
9 the Department of Corrections for a period of one year for
10 violating this Court directly. Proceed with your next
11 witness please.

12 MR. STEPHENS: Your Honor, can we have just a minute?

13 THE COURT: Do you want to take a short break?

14 MR. STEPHENS: Yes, sir.

15 THE COURT: All right. Short break. Thank you.

16 MS. MUNNERLYN: Thank you, Your Honor.

17 (Whereupon, the court took a break from 10:00 a.m. to 10:17
18 a.m.)

19 THE COURT: Solicitor, are you ready to proceed?

20 MS. MUNNERLYN: Yes, Your Honor.

21 THE COURT: And defense?

22 MR. STEPHENS: Yes, sir.

23 THE COURT: All right. Ask the jury to come in
24 please.

25 (Whereupon, the jury enters the courtroom at 10:17 a.m.)

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1 THE COURT: All right. Solicitor, your next
2 witness please, ma'am.

3 MS. MUNNERLYN: Your Honor, I'd call Jason Goins.

4 THE COURT: All right.

5 THE CLERK: Do you solemnly swear or affirm that
6 the testimony you shall give the Court and jury in this
7 case shall be the truth, the whole truth, and nothing but
8 the truth so help you God?

9 MR. GOINS: Yes, ma'am.

10 THE CLERK: Have a seat and state your full name
11 please.

12 MR. STEPHENS: Can we get them a chair, Your Honor.

13 THE COURT: I think they have their assigned
14 duties.

15 MR. STEPHENS: Okay.

16 THE COURT: Thank you. Go ahead, solicitor.

17 MS. MUNNERLYN: Thank you, Your Honor.

18 JASON GOINS, first being
19 duly sworn, testified as follows:

20 **Direct Examination by Ms. Munnerlyn:**

21 Q: You are Jason Goins?

22 A: Yes, ma'am.

23 Q: I'm going to need you to scoot up and speak real loud
24 so the jury can hear you, okay. You are currently
25 incarcerated at the South Carolina Department of

1 Corrections, is that correct?

2 A. Yes, ma'am.

3 Q. Okay. And you are serving a sentence there for
4 burglary second degree and criminal conspiracy, is that
5 right?

6 A. Yes, ma'am.

7 Q. And you have one previous conviction for burglary and
8 grand larceny, is that right?

9 A. Yes, ma'am.

10 Q. All right. How old are you?

11 A. Twenty-eight.

12 Q. And where are you from?

13 A. Dillon, South Carolina.

14 Q. All right. And do you have a nickname?

15 A. Polo.

16 Q. Polo. And you've had that name for some time?

17 A. Yes, ma'am.

18 Q. Okay. And do you know the defendant, Phillip
19 Stackhouse?

20 A. You mean before this incident or....

21 Q. Yes.

22 A. (Shaking of head, no.)

23 Q. How did you know him when this incident happened?

24 A. He was my roommate.

25 Q. He was your roommate at the time it happened?

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1 A. Mmm, hmm.

2 Q. How long had he been your roommate?

3 A. Probably about three or four months.

4 Q. Three or four months, okay. And y'all were roommates
5 and that was when you were housed here at Evan, correct?

6 A. Yes, ma'am.

7 Q. And y'all were roommates on the C wing of Cherokee
8 unit?

9 A. Yes, ma'am.

10 Q. Okay. And that was in cellblock 122?

11 A. Yes, ma'am.

12 Q. All right. And did you know Oliver Johnson?

13 A. I mean, I didn't know him before that. We used to
14 play cards and stuff together. I ain't really -- he was a
15 cool dude, though. I ain't really know him like that,
16 though.

17 Q. Okay. But you knew who he was?

18 A. Yeah.

19 Q. Okay. All right. And was he also housed in Cherokee

20 ---

21 A. Mmm, hmm.

22 Q. --- unit, C wing?

23 A. Yes, ma'am.

24 Q. Okay. And, now, do you know if, you have a nickname,
25 Polo, did the victim, Oliver Johnson, have a nickname?

1 A. Yes, ma'am.

2 Q. What was that?

3 A. Sincere.

4 Q. Sincere?

5 A. Yes, ma'am.

6 Q. Okay. And what about the defendant, Phillip
7 Stackhouse, did he have a nickname?

8 A. I use to just call him Stackhouse.

9 Q. Stackhouse, okay. All right. Now, y'all were
10 roommates but did y'all really hang out together?

11 A. Me and my roommate?

12 Q. You and -- you and Stackhouse?

13 A. My roommate was in the room a lot. He ain't really
14 used to be on the rock like that.

15 Q. Okay. You say on the rock, where is that?

16 A. It's like was the TV's at, the day room. You got to
17 go on the rock to go out the door.

18 Q. Okay.

19 A. So the rock would be like where the showers at, you
20 know, outside of your room, it ain't your living area, it's
21 outside the room.

22 Q. Okay. But you didn't spend very much time in the
23 room, you were mostly out on what you called ---

24 MR. STEPHENS: Your Honor, object to leading the
25 witness.

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1 THE COURT: At this stage, I'm going to allow the
2 solicitor some lead way to ask some questions but,
3 solicitor, in general, please try not to suggest the answer,
4 all right. Thank you, ma'am.

5 MS. MUNNERLYN: Thank you, Your Honor.

6 Q. Where did you spend most of your time?

7 A. Playing ball. Playing dominoes.

8 Q. All right. And where would that be?

9 A. On the rock.

10 Q. On the rock, okay. All right. So tell me -- let's go
11 to the day of this particular incident, February 23, 2016.
12 Now, y'all go to breakfast, where?

13 A. In the cafeteria.

14 Q. Is it in a different building or the same building?

15 A. It's in a different building.

16 Q. Okay. So do you have to exit your particular dorm to
17 go there?

18 A. Right.

19 Q. Okay. All right. And did you go to breakfast that
20 morning?

21 A. Yes, ma'am.

22 Q. Okay. And do you recall seeing Oliver Johnson or
23 Phillip Stackhouse?

24 A. In the cafeteria?

25 Q. Yes.

1 A. Yes, ma'am.

2 Q. Okay. So they were both at breakfast as well?

3 A. Yes, ma'am.

4 Q. Do you recall if anybody left early for breakfast?

5 A. Both of them left early.

6 Q. Both of who?

7 A. My roommate and Sincere.

8 Q. Your roommate and Sincere, is Sincere ---

9 A. They just both put their tray down and left.

10 Q. Both of their trays down and left.

11 A. Mmm, hmm.

12 Q. At the same time?

13 A. Basically.

14 Q. Okay. Did you know where they were going at that
15 time?

16 A. I mean, you can't go but one place back to the dorm.

17 Q. All right. And who -- were you eating breakfast with
18 anybody in particular?

19 A. Yes, ma'am.

20 Q. Who were you eating with?

21 A. There's another dude named, Polo, too. I used to
22 chill with him everyday.

23 Q. Do you know what his real name is?

24 A. Gabriel something.

25 Q. Gabriel, Gabriel Russell?

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1 A. Yes, ma'am.

2 Q. Okay. All right. And his nickname is also, Polo?

3 A. Yes, ma'am.

4 Q. So there's actually two individuals that go by the
5 name Polo?

6 A. Yes, ma'am.

7 Q. Do y'all typically use nicknames in the Department of
8 Corrections?

9 A. Yeah.

10 Q. All right. So you were eating breakfast with this
11 other inmate that you refer to as Polo?

12 A. Yes, ma'am.

13 Q. And it just happened to be Gabriel Russell?

14 A. Yes, ma'am.

15 Q. Do you know who Gabriel Russell's roommate was?

16 A. Sincere.

17 Q. Sincere.

18 A. Mmm, hmm.

19 Q. Who was Oliver Johnson, correct?

20 A. Mmm, hmm.

21 Q. All right. So when you see Oliver Johnson and Phillip
22 Stackhouse leave, did you know why?

23 COURT REPORTER: Did he answer, I'm sorry, did he
24 answer?

25 Q. I'm sorry, you have to say yes or no.

1 A. No, ma'am. I didn't know who they I wouldn't know
2 where they was going.

3 Q. All right. So what happened next? Did you leave
4 breakfast ---

5 A. I didn't leave right then I just finished eaten. When
6 I got back to the unit somebody was outside the wing
7 telling me that my roommate and him was fight'in in the
8 dorm.

9 Q. Your roommate and who?

10 A. And Sincere was fight'in in the unit.

11 Q. And your roommate is Stackhouse, right?

12 A. Stackhouse.

13 Q. So Stackhouse and Oliver Johnson were fighting in the
14 dorm?

15 A. Yes, ma'am.

16 Q. And so what did you do?

17 A. I waited for her to open the door and when she opened
18 the door I went up there, you know, when you got something
19 going on like that it can lead, one thing can lead to
20 another and the whole unit can be locked down. But I
21 looked at -- my roommate he cool, he from where I'm from,
22 so I was trying to break it up before anybody got involved
23 because you never know who, who, you know what I mean, he
24 messing with and who gonna come and save him. So my whole
25 thing was just let it be a one on one and let it be over

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1 with.

2 Q. Okay. Okay. So where -- when you came in, where did
3 you go? Where was the fight taking place?

4 A. It was in Oliver Johnson's room.

5 Q. In Oliver Johnson's room?

6 A. Mmm, hmm.

7 Q. Which was on -- where was it located in the dorm?

8 A. Upstairs.

9 Q. Upstairs. So on the top, what we refer to, as the top
10 tier?

11 A. It's the top tier.

12 Q. Okay. Do you know what his room number was?

13 A. No, ma'am. I can't really remember.

14 Q. All right. But it was in his room?

15 A. Mmm, hmm.

16 Q. Did you go directly into the room?

17 A. I went straight to the room.

18 Q. All right. And you said you've known Stackhouse and
19 so you tried to stop it?

20 A. Yes, ma'am.

21 Q. And what happened when you tried to stop it?

22 A. He told me to get the fuck out the way, I ain't got
23 nothing to do with this.

24 Q. Who told you this?

25 A. Stackhouse.

1 Q. All right. And so what happened?

2 A. I got the fuck out the way.

3 Q. All right. And what happened with Oliver Johnson and
4 Stackhouse?

5 A. I mean, I was basically telling him like the man can't
6 beat you, you might as well, you know what I mean, just let
7 him get up. It's over with. He can't beat you.

8 Q. What are you talking about?

9 A. Stackhouse was sitting on him punching him repeatedly
10 and I was telling like, man, that man can't beat you, man.
11 Just go ahead. It's over with.

12 Q. Okay.

13 A. But ---

14 Q. So Stackhouse had already had Oliver Johnson on the
15 floor and he was sitting on top of him?

16 A. Yes, ma'am.

17 Q. Okay. And what was he doing?

18 A. He was beating him.

19 Q. With what?

20 A. His hands.

21 Q. All right. Did you see any kind of weapon at that
22 point?

23 A. Nah.

24 Q. All right. And you said that to him, what happened?

25 A. I mean, they just kept fight'in so I just close the

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1 door.. Made sure nobody didn't run in because, you know,
2 people like to be nosy and looking in and they gonna run
3 and go tell who was in here fight'in. Then them boys was
4 gonna get in trouble or whatever or whatever else. So I
5 just tried to kill all that and just let it be what it is
6 and it be over with. Which I thought it was over with.

7 Q. But what happened?

8 A. That man told my roommate he was gonna stab him.

9 Q. Okay.

10 A. He was like ---

11 Q. Who told him?

12 A. Sincere told my roommate that he was going to stab
13 him.

14 Q. Okay. But did you see any weapon?

15 A. No, ma'am.

16 Q. All right. And so what happened?

17 A. So my roommate told him he ain't the only one that can
18 stab somebody.

19 Q. Okay.

20 A. I can stab too.

21 Q. Okay. And what did he do?

22 A. He left the room.

23 Q. And what happened next?

24 A. And I, basically, like, I was basically trying to tell
25 Sincere, like, because I didn't know, I ain't know, I ain't

1 thank my roommate was capable of, you know what I mean,
2 like, just going AWOL like that, like, you know, like, just
3 like biking like that, so I'm telling him, man, it ain't
4 noth'in, I mean, he about to kill him right here because I
5 know this dude, like, I done heard that he would stab you
6 and done meet people he done stab before so I'm basically
7 trying to talk to him to get him not to stab my roommate.

8 Q. Okay.

9 A. And I guess my roommate know he'll stab too so, you
10 know what I mean, like....

11 Q. So you try to calm Sincere down?

12 A. Yes, ma'am.

13 Q. So y'all just stayed in his room?

14 A. Yes, ma'am.

15 Q. Okay. And what happened next?

16 A. My roommate came back with the knife. I didn't even
17 know he had a knife, though. I didn't even -- I didn't
18 even see the knife at first and I'm thinking he's just
19 coming back and he still want to fight or whatever or
20 whatever or whatever. Even when he was, even when he was
21 hitting him I didn't think he had a knife in his hand.

22 Q. Okay.

23 A. He just looked like he was punching him.

24 Q. Well, what -- so what happened when he came back? So
25 Stackhouse came back all the way -- y'all were still in

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1 where?

2 A. We was still in Sincere's room.

3 Q. You're still in Sincere's room?

4 A. Mmm, hmm.

5 Q. Was the door open or closed at that point?

6 A. It was kind of like halfway.

7 Q. Okay.

8 A. I just didn't want nobody to see me telling him or see
9 him all beat up like that so I was kinda of trying to block
10 people out from seeing him because he was, he was messed up
11 and I didn't want him to see, you know what I mean, cuz you
12 know how it is, like, you done lost, you don't really want
13 to be -- it ain't going to do nothing but enrage you even
14 more to see people laughing at you. You already done got
15 beat up.

16 Q. Yeah.

17 A. So I was, basically, trying to make him feel
18 comfortable about the situation.

19 Q. Okay. All right. So -- so where -- when Stackhouse
20 came back, where did you first see him?

21 A. Ma'am?

22 Q. Where was Stack -- when he came back, you were still
23 in the room you said?

24 A. Yes, ma'am.

25 Q. And then what did Stackhouse do?

1 A. He told him you ain't got your knife yet. The dude
2 was like, he was just froze, cuz he -- he ain't expecting,
3 not expecting so he, like, he ain't even ask him -- he
4 ain't had time to answer him.

5 Q. And what happened?

6 A. My roommate just started stabbing him.

7 Q. Okay. And what did Oliver Johnson do or Sincere do
8 when he started stabbing him?

9 A. He was, basically, fighting for his life.

10 Q. Okay.

11 A. He was trying to get out of the room.

12 Q. He was trying to get out of the room?

13 A. He can't really -- I don't know what he was trying to
14 do, he was just trying to defend himself, really.

15 Q. And did you ever see Sincere with any type of weapon?

16 A. No.

17 Q. All right. And you did you know -- could you tell how
18 many times Stackhouse stabbed Sincere?

19 A. After, like, two or three times I just really turned
20 my head cuz he -- cuz I knew -- cuz I knew, like, I knew he
21 was about to die.

22 Q. How did you know that?

23 A. Because he's -- the sounds he was, like, -- like,
24 he's, like, every blow was, like, taking life from him. At
25 first he had his hands up, flipping, trying to get him off

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1 and then his arms just dropped and he just was helpless.

2 Q. Okay. And then what happened?

3 A. Then my roommate stabbing, kept stabbing and he just
4 fell in the floor.

5 Q. And where did he fall?

6 A. He fell, like, kinda, like, in between inside the room
7 and outside the room.

8 Q. Okay.

9 A. And he was, like -- but he still was crawling, though,
10 onto the rock. I guess he was thinking he could get away
11 still, you know, that last energy in you. You still want
12 life but it was over with.

13 Q. Okay. Once he fell, then -- so you said he was on the
14 floor, partly in the room and partly out?

15 A. (Shaking of head, yes)

16 Q. Is that yes or no?

17 A. Yes, ma'am.

18 Q. Okay. All right. And that would be whose room?

19 A. His room.

20 Q. His room?

21 A. Yes, ma'am.

22 Q. And when he fell what did Stackhouse do?

23 A. He was just, like, it didn't even happen, like, he
24 just went downstairs and he was just telling everybody,
25 fuck that nigga, fuck this, you know what I mean, cuz

1 everybody was, like, man, what the hell you do that for and
2 he was, like, man, fuck that. Y'all don't be talkin shit
3 when we be gett'in locked down for stupid shit. And in my
4 head I'm, like, dude, what you talkin about, you just
5 killed this man. This ain't no fightin when we go to
6 locked down. This is just this dude is dead.

7 Q. Did you see the knife?

8 A. Yeah.

9 Q. What did he do with it?

10 A. He gave it to somebody.

11 Q. Do you know who he gave it to?

12 A. No, ma'am.

13 Q. Was it somebody in the unit?

14 A. It was somebody that was at the door.

15 Q. Somebody at the door. Inside the unit or outside?

16 A. Outside the unit.

17 Q. Outside the unit. So how did he get it to them?

18 A. You could slide it under the door.

19 Q. Slid it under the door. After you saw him slide it
20 under the door to this other inmate, what did he do?

21 A. The officer, Ms. McQueen, started telling everybody to
22 go to the room. Because I guess she has seen what was
23 going on. She was like everybody go to the room.
24 Everybody go to the room. So everybody started going to
25 the room.

1 Q. So did you -- where did you go?

2 A. I went to the room.

3 Q. All right. And what about Stackhouse?

4 A. He went to the room.

5 Q. Where was Oliver Johnson or Sincere at this point?

6 A. He was on the top rock. He just, he's dead. He
7 probably wasn't dead then but to me he was dead because I
8 knew by the time medical got down there he was gonna, he
9 was gonna to bleed to death.

10 Q. Okay. Did you -- did you ever see him move from the
11 place where he fell?

12 A. Yeah. He was still moving.

13 Q. He was still moving?

14 A. Mmm, hmm.

15 Q. When was the last time you saw him move?

16 A. Like, right before she said go to the room.

17 Q. Okay.

18 A. Because everybody was just still looking at him and he
19 still was, like, kind of moving and spitting out the mouth
20 and kind of squinting up and balling ---

21 Q. But where was he when he was doing this?

22 A. He was, like, crawling from his room. He was really
23 going in the wrong direction. He couldn't go down the
24 steps anyway, he'd fell. So he's really, like, going
25 towards the right and, um, but he's crawling, though.

1 Q. Did he ever get up?

2 A. No.

3 Q. Okay. All right. And so you went in your room and
4 did Stackhouse, where did he go?

5 A. He came in the room.

6 Q. And when came into the room, what happened?

7 A. Hell, I was in the bed under the cover. I ain't gonna
8 lie.

9 Q. Okay.

10 A. I was, like, damn, I was sayin to myself, damn, like,
11 there's no way.

12 Q. Well, after y'all had been in there, did you see him
13 do anything?

14 A. Yeah, he was getting rid of his clothes.

15 Q. Getting rid of his clothes?

16 A. Mmm, hmm.

17 Q. And how -- what was he doing?

18 A. Just ripping it up and flushing it down the toilet.

19 Q. Okay. Tell me more about that, what you mean? What
20 clothes?

21 A. The clothes that he had on.

22 Q. The clothes that he had on. You said he was ripping
23 them up?

24 A. Mmm, hmm.

25 Q. And putting them where?

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1 A. Flushing them down the toilet.

2 Q. Flushing them down the toilet?

3 A. Yes, ma'am.

4 Q. Okay. And you have a toilet in your room?

5 A. Yes, ma'am.

6 Q. And do you recall what all clothes he did this to?

7 A. It was just what he had on.

8 Q. Just what he had on?

9 A. Yes, ma'am.

10 Q. And when he did that to what he had on, what did he -
11 - he just took all those clothes off? Was he standing
12 there naked or what did he do?

13 A. I mean, when he took his shirt off and ripped it up
14 and flushed it down the toilet he grabbed another shirt.

15 Q. Okay.

16 A. And he took his pants off and flushed them down the
17 toilet, he put on some more pants.

18 Q. All right. Was there any conversation between the two
19 of you at that point?

20 A. Not really.

21 Q. So he didn't tell you about why that had just happened

22 ---

23 MR. STEPHENS: Objection. Leading the witness, Your
24 Honor, he answered the question.

25 THE COURT: I'll allow the question.

1 MS. MUNNERLYN: Thank you, Your Honor.

2 Q. So did he tell you about why that happened or anything
3 like that?

4 A. He was just, like, the nigga gonna, talkin about I'm
5 fake. The nigga gonna say I'm fake. He just kept saying
6 that.

7 Q. They're going to say I'm what?

8 A. No, he was, like, nigga talking about I'm fake.

9 Q. Fake?

10 A. Mmm, hmm.

11 Q. What was he referring to?

12 A. I guess his religion.

13 Q. What is his religion?

14 A. He's a Muslim.

15 Q. He's a Muslim?

16 A. Mmm, hmm.

17 Q. Okay. And he was talking -- he said he was talking
18 about I was fake?

19 Q. All right ---

20 COURT REPORTER: Did he answer?

21 Q. Is that a yes or no?

22 A. Oh, yes, ma'am.

23 Q. Okay. I'm sorry. You have to answer yes or no.

24 A. Okay.

25 Q. So the court reporter can take it down. Okay. So he

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1 said that Oliver Johnson was talking about him being a fake
2 Muslim?

3 A. Yes, ma'am.

4 Q. And any other discussion?

5 A. By that time the lady was already at the door.

6 Q. Who's the lady?

7 A. Officer McQueen.

8 Q. And what happened then?

9 A. She was just telling him that she seen what he did and
10 she wanted his ID.

11 Q. Did she say anything else to him?

12 MR. STEPHENS: Objection. Kinda of hearsay, Your
13 Honor.

14 THE COURT: It's not hearsay. It's taken place in
15 his presence. As long as he was present and it occurred in
16 his presence then he can say that occurred. It's not
17 hearsay. You may go forward.

18 Q. Any other discussion?

19 A. No, ma'am.

20 Q. So when she talked to him about what had just
21 happened, what did Stackhouse say?

22 A. Oh, he was, like, I don't know what you talkin about.

23 Q. You said she asked for his ID card?

24 A. Yes, ma'am.

25 Q. And then what else, what happened?

1 A. The first response was coming.

2 Q. Okay.

3 A. So by the time she was, got ready to close the door
4 back, they was already there opening the door back up and
5 telling him to put his hands behind his back.

6 Q. And so what happened?

7 A. They locked him up.

8 Q. Where was he locked up, do you know?

9 A. On lockup.

10 Q. And where is lockup?

11 A. It's at Evans.

12 Q. But is it in a Cherokee unit in C wing?

13 A. No.

14 Q. Okay. So it's a separate building?

15 A. Mmm, hmm. Yes, ma'am.

16 Q. All right. And once he was taken, handcuffed and
17 taken, did you see him again?

18 A. No, ma'am.

19 Q. Now, before he was handcuffed and taken, did anything
20 happen to Stackhouse's stuff, his belongings in the cell?

21 A. What you mean?

22 Q. Were they all -- were all of his belongings still in
23 the cell?

24 A. Yeah.

25 Q. Did he do anything with his belongings?

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1 A. No, ma'am.

2 Q. Did you do anything with his belongings?

3 A. No, ma'am.

4 Q. All right. Was there anything packed up in the front
5 part of your cell?

6 A. Oh, yeah. He packed up. He already knew he was gone.

7 Q. Okay. Who packed up?

8 A. He packed up.

9 Q. When did he start packing up?

10 A. When they said everybody go to your room.

11 Q. So as soon as he came in the cell ---

12 A. He started -- when he flushed his clothes he started
13 packing up.

14 Q. He flushed the close down the toilet ---

15 A. He started packing up.

16 Q. --- then he started packing up?

17 A. Mmm, hmm.

18 Q. Was that all of his stuff, pretty much?

19 A. Nah. He had, like, some stuff up under the bed. Some
20 stuff that was left around the room that wasn't really
21 nothing. He packed up his main stuff, like, he didn't pack
22 up all of his stuff, he just put his bed at the door. He
23 just packed up his books, stuff that he be reading and
24 stuff.

25 Q. So when you said he put his bed at the door, what you

1 mean?

2 A. His mattress.

3 Q. His mattress?

4 A. Mmm, hmm.

5 Q. Most of his other stuff?

6 A. He just grabbed his important stuff, I guess.

7 Q. The important stuff.

8 A. I guess that's what it was, his mail and a couple of
9 books, he put in a laundry bag.

10 Q. Why do you think he was doing this?

11 MR. STEPHENS: Your Honor, objection ---

12 THE COURT: That calls for speculation as to the
13 reason.

14 Q. Okay. And so where was all his stuff when they came
15 to get him?

16 A. When they took him, I had went ahead and packed up the
17 rest of his stuff.

18 Q. Okay. So once he was gone you finished packing up the
19 rest?

20 A. Yes, ma'am.

21 Q. Where did you put it?

22 A. At the door.

23 Q. And did anything else happen after that?

24 A. Well, they came back and told -- they came and got his
25 stuff and then the next morning they asked me why I was

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1 still in the room. I was, like, I don't know nothing
2 about, you know what I mean, why I can't be in the room,
3 this is where I live at. And he was, like, well, they was
4 supposed to took you too. And he locked me up and he took
5 me.

6 Q. All right. And you were questioned about this
7 particular incident, were you not?

8 A. Yes, ma'am.

9 Q. And you gave a written statement at that time?

10 A. Yes, ma'am.

11 Q. When you were, going back now, you testified that you
12 came back from breakfast, you went upstairs and Oliver
13 Johnson and Phillip Stackhouse were fighting?

14 A. Yes, ma'am.

15 Q. Okay. You were in the room when Oliver Johnson
16 continuously from that point until Stackhouse returned with
17 the knife?

18 A. Yes, ma'am.

19 Q. Okay. Did you ever have a fight with Oliver Johnson?

20 A. No.

21 Q. At any point?

22 A. No.

23 Q. While you were in the room or before after Stackhouse,
24 had a fight with him?

25 A. For what?

1 Q. I'm just asking.

2 A. No, ma'am.

3 Q. Okay. Did you see anybody else have a fight or attack
4 Oliver Johnson in any way that morning?

5 A. No, ma'am.

6 Q. Okay. So who did you see Oliver Johnson have a fight
7 with?

8 A. Stackhouse.

9 Q. Okay. And then was there anybody else in the room
10 besides you when that was taking place?

11 A. Yeah, his, um, Sincere roommate had came into the room
12 too.

13 Q. And that is Gabriel Russell?

14 A. Yes, ma'am.

15 Q. All right. And ---

16 A. He's, basically, telling them, y'all ain't about to do
17 this shit in my room. Well, they was already fight'in, you
18 know what I mean.

19 Q. Okay. And when you said you went into your room after
20 the incident happened, where was Oliver Johnson?

21 A. He was on the top tier.

22 Q. Where on the top tier?

23 A. Laying down in front of his room.

24 Q. Okay. Now, we have talked a lot about Phillip
25 Stackhouse and he was your roommate, correct?

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1 A. Yes, ma'am.

2 Q. Is he present in the courtroom today?

3 A. Yes, ma'am.

4 Q. Can you point him out for the Court?

5 A. He's right there.

6 MS. MUNNERLYN: Your Honor, let the record reflect that
7 he is pointing out the defendant, Phillip Stackhouse.
8 Court's indulgence just one moment.

9 THE COURT: Yes, ma'am.

10 MS. MUNNERLYN: I don't have any further questions, Mr.
11 Goins. If you would answer any questions that Mr. Stephens
12 has.

13 A. Okay.

14 THE COURT: Cross examination?

15 MR. STEPHENS: Thank you, Your Honor.

16 **Cross Examination by Mr. Stephens:**

17 Q. Good morning, Mr. Goins.

18 A. All right.

19 Q. You testified when you left breakfast or you left the
20 cafeteria somebody approached you and said there was a
21 fight up there and that your roommate and Oliver Johnson
22 were upstairs in 219 fighting?

23 A. Yes, sir.

24 Q. When you got there, were there other people around?
25 Other inmate?

1 A. I can't really remember. I went straight to the room.
2 I wasn't really looking who was around or none of that. I
3 just knew my roommate was in the room and I was going in
4 the room to try to stop it.

5 Q. I understand that. You can't remember if anybody else
6 was standing there watching?

7 A. Nah.

8 Q. But you said somebody came out on the yard and told
9 you they were fighting?

10 A. No. They met me at the door. Somebody was at the
11 door.

12 Q. What door?

13 A. At the front door. The door that slides open and
14 let's us on the wing.

15 Q. It's not the one that let's you in the dorm but the
16 one that let's you in the wing?

17 A. Yes, sir.

18 Q. And did you see Gabriel Russell at the time you came
19 on to the wing?

20 A. No, sir.

21 Q. When was the first time you saw Gabriel Russell?

22 A. When he walked up and say y'all ain't about to do this
23 shit in my room.

24 Q. You were already in the room?

25 A. Yes, sir.

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1 Q. So you were already in the room, how long after you
2 got in there did Gabriel Russell come in?

3 A. I couldn't even -- I ain't gonna lie to you I wasn't
4 really timing it or nothing like that.

5 Q. I understand but it wasn't like an hour ---

6 A. No, it wasn't ---

7 Q. Was it right after you went in?

8 A. Yes, sir. It was probably like a couple of minutes
9 after I went there.

10 Q. Did you see -- how long before you saw Officer
11 McQueen?

12 A. What you mean?

13 Q. How long after you got in the room did you see Officer
14 McQueen?

15 A. It was probably like right after the incident.

16 Q. Did she come upstairs?

17 A. I don't know. She said go to your room and I went to
18 the room. I don't know if she ---

19 Q. Where was -- where was she standing when she told you
20 that?

21 A. She was at the door. She was just standing at the
22 door. She was like everybody go to your room.

23 Q. The door to the wing?

24 A. Mmm, hmm.

25 Q. Okay. So she was standing in the door to the wing and

1 she told everybody to go to their room?

2 A. Yes, sir.

3 Q. Where was Phillip Stackhouse at that time?

4 A. I don't know.

5 Q. Had he already gone down the stairs?

6 A. I don't know.

7 Q. Was he standing beside you?

8 A. No, sir.

9 Q. Where was Gabriel Russell ---

10 A. I don't know.

11 Q. --- when Officer McQueen said go to your room?

12 A. I wasn't -- I was really just in awe about what had
13 just happened ---

14 Q. Where were you?

15 A. I was at my room door.

16 Q. So you were already downstairs?

17 A. You said when she said go to the room?

18 Q. (Shaking of the head, yes)

19 A. Yeah. Once that incident happened I was already going
20 to my room.

21 Q. Okay. So once ---

22 A. Because I already knew what was about to happen.

23 Q. Okay. So once it happened, you went to your room and
24 by the time you got to your room that's when Officer
25 McQueen says, go to your room?

1 A. Yes, sir.

2 Q. When you went in the room?

3 A. I mean, I was standing by the room. I wasn't already
4 in the room.

5 Q. I understand that but you went in the room when she
6 said go?

7 A. Yeah.

8 Q. When you went in the room, was Phillip Stackhouse in
9 there?

10 A. Excuse me?

11 Q. When you went in your room, your room ---

12 A. Mmm, hmm.

13 Q. What is that 118, 119?

14 A. I can't really remember.

15 Q. 122?

16 A. Mmm, hmm.

17 Q. When you went in your room, was Phillip already in
18 there?

19 A. No.

20 Q. So he left upstairs before you did?

21 A. I can't -- I mean, I ain't even going lie, I just ---

22 Q. It's not a trick question, Mr. Goins. I'm not trying
23 to trick you.

24 A. I mean, I know that but I can't really remember all
25 that, man. It was just like if you would've seen that it's

1 like everything just blacked out, like, you just, like ---

2 Q. I understand but there some things you seem to
3 remember real well and others you having trouble with.
4 Now, I'm just trying to get it straight.

5 A. I mean, I just went straight to the room, sir. I
6 didn't look to see who was where or none of that. Once I
7 seen that and I knew what was about to happen next because
8 I know the woman done seen because you can hear first
9 response over the loudspeaker. I went straight towards my
10 room and by the time I got to my room, she was like go in
11 the room and I'm just -- I'm following orders.

12 Q. But you -- you said, you Phillip Stackhouse, Gabriel
13 Russell and Oliver Johnson were up in 219?

14 A. Yes, sir.

15 Q. You said, Oliver Johnson falls out on the walkway?

16 A. Yes, sir.

17 Q. I'm just asking when that happened, where were you?
18 Where was Phillip Stackhouse? Where was Gabriel Russell?

19 A. Well, I know when he fell out that door I walked out
20 the door right behind him.

21 Q. Okay.

22 A. I was trying to, you know what I mean, get out the
23 door the whole time but I didn't want to -- you feel what
24 I'm saying -- just -- I don't know, man, I guess I was just
25 fuckin traumatized, man, I couldn't even move I was just --

1

-

2

Q. I understand. Where was Gabriel Russell was he ---

3

A. So I just started standing at the top of the stairs

4

and I was just looking down at him, then ain't no way -- I

5

just kept saying they ain't no way, ain't no way.

6

Q. Okay. So you were standing at the top of the stairs?

7

A. Like, they room right here -- like, if is they room

8

right here, the top of steps is right where she at.

9

Q. I understand. You were standing at the top of the

10

stairs?

11

A. Yes, sir.

12

Q. Where was Gabriel Russell?

13

A. I don't know.

14

Q. Did you see him come out of the room?

15

A. I couldn't tell you.

16

Q. Where was Phillip Stackhouse? You've got to answer.

17

A. I mean, I don't know.

18

Q. Okay.

19

A. I was just looking at this man and just I wasn't

20

paying attention to nobody else.

21

Q. I gotcha.

22

A. And once I seen him, you know what I mean, like that,

23

I went straight towards my room cuz I knew he wasn't going

24

to make it.

25

Q. But you don't know if Phillip was in there when you

1 got your room?

2 A. No, he wasn't in there when I got to my room.

3 Q. So he wasn't in there when you got to the room?

4 A. No, sir.

5 Q. Okay. Well, you said earlier you were having
6 breakfast with Gabriel Russell?

7 A. Yes, sir.

8 Q. And you saw Oliver Johnson walk in with somebody else?

9 A. Excuse me?

10 Q. Did you see Oliver Johnson walk into the cafeteria?

11 A. He came in with my roommate.

12 Q. You saw him come in with Phillip?

13 A. One after another.

14 Q. I'm sorry?

15 A. He came one after another.

16 Q. So one came in and then the other one came in?

17 A. Yes, sir.

18 Q. Did you -- you ever seen Phillip praying?

19 A. Yes, sir.

20 Q. Okay. And where do they pray?

21 A. On the top tier.

22 Q. Down from 219?

23 A. Yes, sir.

24 Q. I believe there was -- you go pass the showers, is
25 that correct?

J. Goins- Cross Examination by Mr. Stephens

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1 A. Yes, sir.

2 Q. Now, do you know where the dorm keepers place is?

3 A. What do you mean?

4 Q. Isn't there a dorm keeper that keeps the brooms and
5 the mops and the buckets?

6 A. Yes, sir.

7 Q. Do you know where that is?

8 A. It's right there where they pray at.

9 Q. Right where they pray?

10 A. Yes, sir.

11 Q. There's not one downstairs?

12 A. The showers are downstairs. The ---

13 Q. So the showers aren't upstairs?

14 A. They got showers up and down stairs.

15 Q. But the dorm keeper is only upstairs?

16 A. You mean like where they keep the brooms and stuff at?

17 Q. Yeah.

18 A. The brooms is usually in somebody's room, though.

19 They don't really just have it closet like that.

20 Q. Okay. That's what I'm asking. You know who was
21 taking care of that?

22 A. The dorm worker, basically.

23 Q. Yeah. Was it you, yourself?

24 A. Yeah. I was one of the dorm workers.

25 Q. Huh?

1 A. Yeah, I was a dorm worker. I was a dorm worker. Dorm
2 keeper.

3 Q. Did you keep the buckets and stuff? Mop buckets ---

4 A. Yeah.

5 Q. You were in charge of the mop buckets?

6 A. No, I wasn't in charge of it but I had it sometimes.
7 I cleaned the showers early in the morning.

8 Q. Now, the night before this incident happened -- you
9 said you'd played cards with Oliver Johnson on occasion?

10 A. The day before?

11 Q. No. I'm sorry. Let me start over. You said you'd
12 played cards with Oliver Johnson from time to time?

13 A. Yeah.

14 Q. Did y'all play for money?

15 A. No. We played spades. Nobody was really gambling
16 like that.

17 Q. Did you owe Oliver Johnson some money?

18 A. No.

19 Q. Do you deny that he came to your cell the night before
20 this incident and said that you had owed him money and that
21 he was there to collect it?

22 A. Me?

23 Q. Yes, sir, you.

24 A. You say I owe him money?

25 Q. Yes, sir.

1 A. No.

2 Q. Okay. So you deny that?

3 A. Yeah.

4 Q. You deny that he, um, y'all were arguing and he try to
5 get into your locker?

6 A. Man, nah. He ain't try to do that.

7 Q. And do you deny that y'all were arguing and Phillip
8 Stackhouse told y'all to take it outside?

9 A. I don't remember that.

10 Q. Well, how about you and Gabriel Russell, were y'all
11 close?

12 A. Yes, sir.

13 Q. You are?

14 A. Mmm, hmm.

15 Q. Did y'all -- y'all in the same gang?

16 A. Same gang?

17 Q. Yes.

18 A. I'm not in a gang, sir.

19 Q. So you deny that you and Gabriel are in the Crips?

20 A. Yes.

21 Q. Do you know how many Muslims are in the Cherokee dorm?

22 A. No, sir.

23 Q. You got an idea?

24 A. No, sir.

25 Q. Do you know them?

1 A. No, sir.

2 Q. How many fights have you been in while you've been in
3 corrections?

4 MS. MUNNERLYN: Your Honor, I would object as to
5 relevance. There was no indication that he was in any
6 fights in this particular incident.

7 THE COURT: I will allow that particular question.
8 We'll see about any follow-up.

9 Q. How many times -- how many fights have you been in
10 since you been in corrections?

11 A. You gonna fight in prison, man.

12 Q. I understand that. That's what I'm asking you. How
13 many times have you had to fight?

14 A. I couldn't tell you, man. I've been there since 2008.

15 Q. More than ten?

16 A. More than ten.

17 Q. More than twenty?

18 A. I don't know.

19 Q. Did -- about two years ago, did you and Phillip
20 Stackhouse get into a fight?

21 A. No.

22 Q. You deny that?

23 A. Yeah.

24 Q. Now, have you ever been accused of stabbing someone in
25 the Department of Corrections?

J. Goins- Cross Examination by Mr. Stephens

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1 A. No.

2 Q. Never?

3 A. No.

4 Q. You deny that?

5 A. Mmm, hmm.

6 Q. Have you ever been stabbed while you've been in the
7 Department of Corrections?

8 A. Yes, sir.

9 Q. How many times?

10 A. About thirty-five.

11 Q. On one incident or more than one incident?

12 A. More than one incident.

13 Q. How many different incidents?

14 A. About three.

15 Q. Did you know if Oliver Johnson had beaten up Gabriel
16 Russell?

17 A. Beat him up?

18 Q. (Shaking of the head, yes)

19 A. No, I don't know about that.

20 Q. You've got to speak up.

21 A. No, I ain't never heard of that.

22 Q. Did -- the door to the wings always closed?

23 A. Yes, sir.

24 Q. And you said they came and locked you up that same
25 morning or the next morning?

1 A. The next morning.

2 Q. Was that when -- when did they take a statement from
3 you?

4 A. I think it was the next morning.

5 Q. The next morning?

6 A. (Shaking of the head, yes)

7 Q. Okay. And when they locked you up, did they take your
8 clothes, take pictures or anything?

9 A. Yeah.

10 Q. They processed you?

11 A. I mean, they took me and they interrogated me. Asked
12 me questions. Asked me what happened. There was,
13 basically, -- they didn't know which one us did it,
14 basically.

15 Q. I understand.

16 A. They didn't know what was going on. They was just
17 trying to get to the bottom of it.

18 Q. So they were asking you what was going on?

19 A. Yeah. So they treated me like, you know what I mean,
20 they took - - -

21 Q. I'm sorry, somebody coughed. You said, what? They
22 treated you, what?

23 A. They treated both of us like we did it.

24 Q. Okay. And you told them that you didn't do it though,
25 right?

J. Goins- Cross Examination by Mr. Stephens

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1 A. Of course.

2 Q. Now, you said that you didn't know who the Muslims
3 were?

4 A. Yes, sir.

5 Q. Now, in your statement to, I believe Agent August and
6 somebody from the police services, you said that he passed
7 a knife to another Muslim?

8 A. Right.

9 Q. Do you know who that was?

10 A. I don't know his name.

11 Q. But you know he's on Muslim?

12 A. Right.

13 Q. Did you -- you didn't -- did they try to identify the
14 Muslim, the officers, the police?

15 A. I don't know.

16 Q. Now, you said -- you indicated that Phillip Stackhouse
17 beat up Oliver Johnson and that you kind of closed the door
18 little bit or try to get Oliver Johnson to straighten up
19 before anybody saw him or something like that?

20 A. Right.

21 Q. Okay. Was Gabriel Russell in there at that time?

22 A. No, sir.

23 Q. So he didn't come in right after that?

24 A. He had already came in and said what he had to say but
25 what he was saying was them boys was already fight'in.

1 Q. They were already fighting and when they stopped
2 fighting, where did Gabriel Russell go?

3 A. I guess he went -- I don't know. He went somewhere.

4 Q. So he wasn't in there with you?

5 A. No, sir.

6 Q. But he had been in there when they were fighting?

7 A. Yes, sir.

8 Q. Okay.

9 A. He wasn't in there the whole time. He just said what
10 he said and then he just -- I don't know where he went.

11 Q. But you and Gabriel are good friends?

12 A. Right.

13 Q. And how long have you known Gabriel?

14 A. The same amount of time that I known all of them..

15 Q. Since you been there?

16 A. Yes, sir.

17 Q. Now, how long have you been in Cherokee? How long had
18 you been in Cherokee?

19 A. Probably about four or five months.

20 Q. Four or five months. Had you -- and how about
21 Phillip, how long had he been in Cherokee?

22 A. I don't know, sir.

23 Q. I'm sorry?

24 A. I couldn't tell you.

25 Q. How about Oliver Johnson, you know how long he had

J. Goins-- Cross Examination by Mr. Stephens

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1 been there?

2 A. I couldn't tell you.

3 Q. How about Gabriel Russell?

4 A. I couldn't tell you.

5 Q. But you were already all the way back to your room
6 before McQueen said locked down?

7 A. Excuse me?

8 Q. You didn't make it all the way back to your room when
9 McQueen yelled for everybody ---

10 A. I mean, the wing ain't nothing but probably big as
11 that right there.

12 Q. We've seen ---

13 A. You can take ten steps and you're right back at your
14 room.

15 Q. We've seen the pictures of it. I'm just trying to
16 decide ---

17 A. Yeah.

18 Q. --- to see where you were ---

19 A. Right.

20 Q. --- it's not a trick question, Mr. Goins ---

21 A. Right.

22 Q. --- I'm not trying to trick you.

23 A. Right.

24 Q. I'm just trying to get where you were. You said
25 Phillip wasn't there and you don't know where Gabriel

1 Russell was?

2 A. Yes, sir.

3 Q. Did you see Gabriel Russell later?

4 A. Later on that day?

5 Q. Yeah.

6 A. No, sir. We was in lock down.

7 Q. And you stayed locked down until the next day when
8 they came and got you?

9 A. Yes, sir.

10 Q. And they took you and questioned you but did they take
11 pictures of your hands or take your clothes or anything?

12 A. I don't think so.

13 Q. You don't remember?

14 A. No. I don't remember them taken no pictures.

15 MR. STEPHENS: Indulge me for just one second.

16 Q. Did Gabriel Russell come to your room before lock
17 down?

18 A. I can't really remember. I don't think he did.

19 Q. I'm sorry I can't hear you.

20 A. I don't -- I don't think he did, sir.

21 Q. You don't know?

22 A. I can't really remember him coming into my room, sir.

23 Q. Okay. Gabriel -- did Gabriel Russell ever make a
24 statement to you after this about ---

25 A. About what?

J. Goins- Cross Examination by Mr. Stephens

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1 Q. --- somebody's got to be twenty-one for this or
2 whatever?

3 A. Yeah.

4 Q. He did say that?

5 A. Yeah.

6 Q. And what you say in reply?

7 A. I was like, shit, they seen what happened.

8 Q. And what does that mean somebody's got to be twenty-
9 one?

10 A. That mean somebody got to man up.

11 Q. Okay. So he did come by your cell?

12 A. Excuse me?

13 Q. So he did come by your cell that day or was that later
14 ---

15 A. I mean, he was just saying it out loud. He was just
16 like somebody got to be twenty-one. He -- everybody knew
17 who he was talking to. He just didn't want to say it
18 directly to that man, because he already see that, that man
19 will kill you. So he just saying it out loud, "somebody
20 gotta be twenty-one."

21 Q. I understand.

22 A. That man know he kill that man. Playing all these
23 games.

24 MR. STEPHENS: That's all we have at this time, Your
25 Honor.

1 THE COURT: Any redirect?

2 MS. MUNNERLYN: Yes, Your Honor, a few questions.

3 **Redirect Examination by Ms. Munnerlyn:**

4 Q. Mr. Goins?

5 A. Yes, ma'am.

6 Q. Mr. Stephens was just asking you about Gabriel
7 Russell?

8 A. Yes, ma'am.

9 Q. Now, Gabriel Russell was Oliver Johnson's roommate,
10 right?

11 A. Yes, ma'am.

12 Q. He comes up after this happened and says to --
13 everybody's out there and he says, "somebody's --
14 somebody's gotta be twenty-one"?

15 A. He was just saying directly.

16 Q. Everybody standing around and he says -- and that
17 means, somebody's gotta man up, ---

18 A. Right.

19 Q. --- somebody's gotta say who did this?

20 A. Right.

21 Q. Okay. So that was his roommate, right?

22 A. Right. So the first thing they was, you know what I
23 mean, think it was him because this is your roommate and it
24 happened in your room. So if nobody didn't see what
25 happened then the police is going to say it was you. So

J. Goins- Redirect Examination by Ms. Munnerlyn

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1 that's why he's already saying, man, somebody gotta be
2 twenty-one about this, do you know what I mean.

3 Q. Who was he talking to?

4 A. He was talking Stackhouse.

5 Q. Okay. And you gave a statement, you were asked or
6 questioned by the police, you gave a statement about what
7 you saw?

8 A. Yes, ma'am.

9 Q. And you've testified here today about what that
10 statement was and what you saw that day, correct?

11 A. Yes, ma'am.

12 Q. Now, Mr. Stephens ask you had you been stabbed?

13 A. Yes, ma'am.

14 Q. And you said three different times?

15 A. Yes, ma'am.

16 Q. Were you stabbed after this happened?

17 A. Yes, ma'am.

18 Q. What happened?

19 A. Well, some type of way somebody got a message to the
20 yard saying that I got in a black-and-white which had to
21 have been Stackhouse cuz he the only one who can get his
22 black-and-white by asking for your Rule 5 to see who was
23 against you cuz you already knew he was going to trial. So
24 that's how he got the black-and-white of me that I had said
25 what I had said and ---

1 Q. Okay. Now, who's he? He got it in black-and-white --

2 -

3 A. Stackhouse had it in black-and-white.

4 MR. STEPHENS: Your Honor?

5 A. He's the only one that can get it.

6 MR. STEPHENS: We'd objection. This is rank hearsay.

7 THE COURT: I appreciate that but you ask him the
8 question. Now, the solicitor you need to be more specific
9 in your questions please, ma'am. Thank you. You asked
10 for, what happened ---

11 Q. Yes, sir.

12 THE COURT: --- not a general description so ask
13 your question again, solicitor.

14 Q. Okay. Tell me -- you indicated that you got stabbed
15 twenty-seven times following this incident, tell me what
16 happened?

17 A. Some type of way the message came back to the yard
18 that I had told on Stackhouse and who else could tell them
19 that besides Stackhouse.

20 Q. Okay.

21 A. And he knew by sending that word out there that
22 something was going to happen to me.

23 Q. All right. And when did you get stabbed twenty-seven
24 times?

25 A. Probably a couple of weeks after that.

J. Goins- Redirect Examination by Ms. Munnerlyn

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1 Q. And where did it happen?

2 A. In Keywa unit.

3 Q. And do you know who did it?

4 A. I don't know.

5 Q. And where was Stackhouse when you were stabbed that
6 twenty-seven times?

7 A. He was in lock up.

8 Q. Where?

9 A. At the facility. At Evans.

10 Q. At Evans.

11 A. Yes, ma'am.

12 Q. He was still at Evan in lock up at that point?

13 A. Mmm, hmm. Yes, ma'am.

14 Q. Now, you said there was a message or something that
15 came from him, what are you talking about?

16 A. It's like a kite -- he sent a kite to one of his home
17 boys that was on our wing, I can't think of his name right
18 now, a baldheaded dude. But he told him, he wrote him a
19 letter and told him, hey, man, Polo, wrote a statement on
20 me. Tell everybody. So when he told him he told
21 everybody.

22 Q. Okay. And then this happened?

23 A. And I knew -- I knew it was about to happen so I was
24 writing security -- I was writing security for like two
25 weeks straight telling them to get me off the yard but

1 nobody ever came and I guess they felt like I was trying to
2 get off the yard or whatever or whatever. Nobody ever came
3 to check. My mother was calling the major. He was always
4 telling her he about to go home but he would come down
5 there and check on me. Nobody ever came and check on me.
6 Nobody ever got me at a danger.

7 Q. Okay. Now, you just refer to a kite, is that a
8 letter? Is that what you mean by ---

9 A. It's like a letter. It's like a note.

10 Q. Okay. All right. But going back to the incident, who
11 was the one who stabbed Oliver Johnson?

12 A. Stackhouse.

13 Q. Any question in your mind?

14 A. No doubt in my mind.

15 Q. Anybody else who could have done it?

16 A. I watched him do it.

17 THE COURT: Anything else, solicitor?

18 MS. MUNNERLYN: No further questions, Your Honor.

19 THE COURT: Questions, Mr. Stephens?

20 **Re-cross Examination by Mr. Stephens:**

21 Q. You said you don't know who stabbed you?

22 A. No, sir.

23 Q. And when -- and what date was that?

24 A. March 26th.

25 Q. March 26th of last year or this ---

J. Goins- Re-cross Examination by Mr. Stephens

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1 A. Yes, sir.

2 Q. I'm sorry?

3 A. Last year.

4 Q. 2016?

5 A. Yes, sir.

6 Q. And this happened in February?

7 A. This happened in March.

8 Q. This incident happened in March?

9 A. My stabbing, when I got stabbed?

10 Q. (Shaking of the head, yes)

11 A. Yes, sir.

12 Q. But this incident with Oliver Johnson happened in
13 February, right?

14 A. Yes, sir.

15 Q. The same year?

16 A. Yes, sir.

17 Q. Thirty days before?

18 A. Something like that.

19 Q. When you -- you pled guilty to your charge?

20 A. What charge?

21 Q. The charge you're serving time for? The charge you're
22 in the Department of Corrections ---

23 A. Oh, plea -- oh, yeah. Yeah. Yeah.

24 Q. --- you pled guilty?

25 A. Yes, sir.

1 Q. Did you stay in the county jail for any period of
2 time?

3 A. Yes, sir, about ten months.

4 Q. Okay. Did you ever get your discovery and Rule 5?

5 A. No, sir.

6 Q. So you were there for ten months and didn't get your
7 discovery or Rule 5?

8 A. I never asked for. I knew I had did it.

9 Q. I understand.

10 A. Do you know -- do you ever hear from the fella's out
11 there grumbling about not having their discovery or Rule 5

12 - - -

13 MS. MUNNERLYN: Objection, Your Honor. I don't know
14 the relevance of all of this.

15 MR. STEPHENS: He said the discovery had come out
16 through the statement.

17 MS. MUNNERLYN: But whether or not ---

18 THE COURT: I appreciate that. You've asked him
19 about his own situation, I allowed you to do that. In
20 general I'm not going to allow you to ask. Thank you.

21 MR. STEPHENS: Thank you, Your Honor.

22 THE COURT: All right. You may step down, sir.
23 Take him back into custody. Who is your next witness?

24 MS. MUNNERLYN: Ethrum Jenkins.

25 THE COURT: All right. Go ahead and call your next

E. Jenkins- Direct Examination by Ms. Munnerlyn

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1 witness.

2 MS. MUNNERLYN: Ethrum Jenkins.

3 THE CLERK: Do you solemnly swear or affirm that
4 the testimony you shall give the Court and jury in this
5 case shall be the truth, the whole truth, and nothing but
6 the truth so help you God?

7 MR. JENKINS: Yes, ma'am.

8 THE CLERK: Have a seat right there and state your
9 full name.

10 MR. JENKINS: Ethrum Jenkins.

11 THE COURT: All right, sir. You need to speak up
12 just a little bit. The jury over there to your right needs
13 to hear you. All right.

14 MR. JENKINS: Ethrum Jenkins.

15 THE COURT: Go ahead, solicitor.

16 MS. MUNNERLYN: Thank you, Your Honor.

17 ETHRUM JENKINS, first being
18 duly sworn, testified as follows:

19 **Direct Examination by Ms. Munnerlyn:**

20 Q. You are Ethrum Jenkins?

21 A. Yes, ma'am.

22 Q. You are currently housed at Evans Correctional
23 Institution?

24 A. Yes, ma'am.

25 Q. Okay. And you are there serving a sentence for armed

1 robbery and entering a bank with intent to steal and
2 kidnapping, is that correct?

3 A. Yes, ma'am.

4 Q. Now, were you back in February of 2016, last year,
5 were you housed in the Cherokee, um, Cherokee unit C wing?

6 A. Yes, ma'am.

7 Q. And do you recall what your cell number was at that
8 time?

9 A. Nah.

10 Q. Do you recall your roommate was?

11 A. Yeah.

12 Q. Who was it?

13 A. He had a funny name I couldn't -- he was a foreigner,
14 I couldn't pronounce his name.

15 Q. Okay. Well, did you know Phillip Stackhouse?

16 A. Yes, I did.

17 Q. Okay. Did you know Oliver Johnson?

18 A. Yes, I did.

19 Q. And where were they housed at that time?

20 A. On the same wing, Cherokee C wing.

21 Q. The same -- in the same unit?

22 A. Yes, ma'am.

23 Q. Now, does -- Oliver Johnson had a nickname, correct?
24 You don't know ---

25 A. I couldn't tell you.

E. Jenkins- Direct Examination by Ms. Munnerlyn

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1 Q. Okay. What about Stackhouse, does he have a nickname?

2 A. That's his name.

3 Q. Stackhouse?

4 A. Yeah.

5 Q. All right. Now, were you present when the incident
6 happened which led to Oliver Johnson's death?

7 A. No, I wasn't.

8 Q. Okay. Where were you?

9 A. At the time of the situation?

10 Q. Yes.

11 A. I was pill line, insulin.

12 Q. I'm sorry. Speak up real loud.

13 A. I was at pill line, insulin.

14 Q. You were getting some insulin?

15 A. No. I used to push the people in the wheelchairs to
16 pill line, insulin.

17 Q. Okay. So you were pushing another inmate who was in a
18 wheelchair?

19 A. (Shaking of the head, yes)

20 Q. Who had to go get insulin?

21 A. (Shaking of the head, yes)

22 COURT REPORTER: Is that a yes or no?

23 A. Yes.

24 Q. All right. And so had you already been to breakfast
25 when you were going to do this?

1 A. Yeah. We were going to breakfast -- I go take them to
2 pill line, insulin, then I take them to the cafeteria to
3 eat they breakfast.

4 Q. Okay. All right. So you had taken another inmate
5 over there to get insulin and then gone to breakfast?

6 A. Yes, ma'am.

7 Q. And then you came back to the C wing?

8 A. Yes, ma'am.

9 Q. Or to the C unit?

10 A. Yes, ma'am.

11 Q. All right. When you got back there, what was going
12 on?

13 A. The situation had already done took place.

14 Q. The situation had already taken place?

15 A. Yes.

16 Q. What situation was that?

17 A. The situation that you're speaking about, Mr. Oliver,
18 whatever happened to him happened to him.

19 Q. Speak up real loud for me because I'm having a hard
20 time hearing you and all these people right here have got
21 to hear you, okay?

22 A. Okay.

23 Q. So when you got back to the wing where was Oliver
24 Johnson?

25 A. Laying on the top rock dead.

E. Jenkins- Direct Examination by Ms. Munnerlyn

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1 Q. Okay. And what did you do?

2 A. I went to Mr. Stackhouse's room where he was standing
3 in his door drinking a cup of coffee like he always does
4 and got my hot pot from him so I can take it to my room.

5 Q. And you did what?

6 A. Went to Mr. Stackhouse's room to get my hot pot. He
7 was standing in his doorway drinking a cup of coffee like
8 he always do.

9 Q. Okay.

10 A. And I went to get my hot pot so I could go to my room
11 because we was getting locked down because a man was
12 upstairs dead.

13 Q. Okay. So you were getting your hot, you call it a hot
14 pot?

15 A. It's like a coffeepot we warm water up with.

16 Q. Okay. And it was in Stackhouse's cell?

17 A. Yes, ma'am.

18 Q. Why did you go to Stackhouse's cell to get ---

19 A. Because he usually come get it for me every morning to
20 drink his coffee.

21 Q. Okay. And so you were going to retrieve it?

22 A. Yes.

23 Q. What were you going to do with it?

24 A. Cook my food, you know, drink coffee. Do what we do
25 with it.

1 Q. Now, had you eaten breakfast? Did you eat breakfast
2 in the cafeteria?

3 A. Yeah.

4 MS. MUNNERLYN: Court's indulgence just one moment.

5 Q. So you went -- do you recall where Stackhouse's cell
6 was?

7 A. Straight down from mine. About like, you can just
8 walk out the room and just walk straight down toward the
9 end.

10 Q. And now were you on the first tier or the second tier?

11 A. We on the bottom.

12 Q. You were on the bottom. And so where was he?

13 A. Who?

14 Q. Stackhouse's cell?

15 A. If you use this is a measurement, my room is right
16 there just, and his room was at the other end.

17 Q. So if your room is right here ---

18 A. Yes.

19 Q. --- his room would be a about right here?

20 A. Yes.

21 Q. Okay. Describe this hot pot that you're talking
22 about? What is it made of?

23 A. Mine -- mine wasn't a regular standard hot pot. It
24 was broken down to just the element and it sits on top of a
25 can so I can fry things in it.

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1 Q. Okay. So it was just, basically, a can?

2 A. Yeah and a element. Like the element that comes out
3 on the hot pot to heat it up.

4 Q. Okay. And you use it to do what?

5 A. Fry things. Heat up water. Cook food. It got many
6 different task.

7 Q. And so after all of this had happened, you go to
8 Stackhouse's room to get this and you remove it from his
9 room?

10 A. Yes, I did. Well, actually he handed it to me. He
11 was, you know I'm saying.

12 Q. Okay. And what did you do with it?

13 A. I went to my room and put it in my room.

14 Q. You took it to your room?

15 A. Yes.

16 Q. Okay. So when after all of this happened was your
17 cell searched?

18 A. Yes.

19 Q. And do you know why?

20 A. I was told that one of the officers had assumed that
21 he gave me a weapon or something like that.

22 Q. Okay. But did you see a weapon?

23 A. Nah. Never saw him with one.

24 Q. Did you take a weapon from him---

25 A. No, I didn't.

1 Q. And you weren't there when it happened?

2 A. No, I wasn't.

3 Q. The only thing you remove from his room was this hot
4 pot?

5 A. Yes, ma'am.

6 Q. Okay. As you were -- after you got the hot pot, that
7 you refer to, from Stackhouse's room and where you were
8 returning to your room, were you -- did any of the
9 correctional officers ask you about what you had or
10 anything like that?

11 A. Nah. She didn't ask me anything. I walked into my
12 room passed her, she locked me in.

13 Q. Okay.

14 MS. MUNNERLYN: I don't have anymore questions. Please
15 answer any questions that Mr. Stephens might have.

16 THE COURT: Cross examination?

17 MR. STEPHENS: No questions, Your Honor.

18 THE COURT: All right. You can go take him back
19 into custody. All right. Ladies and gentlemen, were going
20 to take a short break for about five minutes. Go to your
21 jury room. We'll come back out and resume the trial.
22 Thank you. Everyone else remain seated by the jury
23 retires.

24 (Whereupon, the jury exits the courtroom at 11:23 a.m.)

25 THE COURT: All right. We'll take a short break

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1 for about five minutes. Thank you.

2 (Whereupon, the court took a break at 11:23 a.m. to 11:34
3 a.m.)

4 THE COURT: Solicitor, are you ready for the jury
5 to come back in?

6 MS. MUNNERLYN: Yes, Your Honor.

7 THE COURT: And the defense?

8 MR. STEPHENS: Yes, sir, judge.

9 THE COURT: All right. Very good. Ask the jury to
10 come in please.

11 (Whereupon, the jury enters the courtroom at 11:35 a.m.)

12 THE COURT: All right. Solicitor, your next
13 witness please, ma'am.

14 MS. MUNNERLYN: Gabriel Russell.

15 THE CLERK: Do you solemnly swear or affirm that
16 the testimony you shall give the Court and jury in this
17 case shall be the truth, the whole truth, and nothing but
18 the truth so help you God?

19 MR. RUSSELL: I do.

20 THE CLERK: Have a seat right there and state your
21 full name.

22 THE COURT: Just go and have a seat, sir. Can you
23 scoot that chair up just a little bit if you don't mind?
24 Thank you. All right.

25 MS. MUNNERLYN: Thank you, Your Honor.

1 GABRIEL RUSSELL, first being
2 duly sworn, testified as follows:

3 **Direct Examination by Ms. Munnerlyn:**

4 Q. You are Gabriel Russell?

5 A. Yes.

6 Q. Okay. If you would speak up real loud because all the
7 jurors ---

8 A. Yes.

9 Q. --- and everybody needs to hear you.

10 A. Yes.

11 Q. Gabriel you are currently housed at Evans Correctional
12 Institution?

13 A. Yes, ma'am.

14 Q. And that is for the charges of burglary second, common
15 law robbery and kidnapping?

16 A. Yes, ma'am.

17 Q. Were you housed at Evans back in February of last
18 year, 2016?

19 A. Yes, ma'am.

20 Q. Speak up real loud for me.

21 A. Yes, ma'am.

22 Q. Okay. And who was your roommate at that time?

23 A. Oliver Johnson.

24 Q. Oliver Johnson?

25 A. Yes, ma'am.

G. Russell- Direct Examination by Ms. Munnerlyn

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1 Q. Okay. And does Oliver Johnson have a nickname, did he,
2 at that time?

3 A. We weren't roommates too long. I don't really know
4 him like that.

5 Q. Okay. All right. How long had you known Oliver
6 Johnson?

7 A. Maybe two weeks.

8 Q. Two weeks?

9 A. Maybe.

10 Q. Y'all had only been roommates a very short period of
11 time?

12 A. Yes, ma'am.

13 Q. Okay. All right. Did you know Phillip Stackhouse

14 A. Yes, ma'am?

15 Q. How long had you known Phillip Stackhouse?

16 A. Maybe a year and some change. Got broke up in some
17 dorms or whatever maybe a year and some change ---

18 Q. A year and some change. Had y'all ever been
19 roommates?

20 A. No, we ain't never been roommates.

21 Q. How long have you and he lived on the same unit?

22 A. I'm guessing when I say it probably about five, six
23 months maybe.

24 Q. Okay. All right. Well, let's go back to the date
25 this happened. Back on February 23, 2016, did you go to

1 breakfast that morning?

2 A. Yes, ma'am.

3 Q. Okay. Do you recall whether or not Oliver Johnson and
4 Phillip Stackhouse went to breakfast?

5 A. I know my roommate went.

6 Q. You remember seeing Oliver Johnson there?

7 A. Yeah, he was the reason why my went to breakfast.

8 Q. He was the reason you went?

9 A. Yes.

10 Q. All right. And did anything in particular happened
11 while y'all were at breakfast?

12 A. Not that I seen. No.

13 Q. Okay. Did you and Oliver Johnson leave at the same
14 time or different times?

15 A. Different times.

16 Q. When did he leave?

17 A. As soon as he left before me because I was last one
18 out the kitchen.

19 Q. So he left, Oliver Johnson left before you?

20 A. Yes, ma'am.

21 Q. And you were the last one to leave?

22 A. Yes, ma'am.

23 Q. Okay. Do you recall who you were eating breakfast
24 with that morning?

25 A. Just by myself.

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1 Q. All right. When you left breakfast, where did you go?

2 A. I walked back to the dorm.

3 Q. Went back to the dorm. And when you walked back to
4 the dorm, what did you find?

5 A. I sat in the sally port for a little while and then I
6 look up, I see everybody at my room. I look to see if CO
7 would let me in there on the wing.

8 Q. And you ---

9 A. Once I got her attention to let me on the wing I went
10 on the wing.

11 Q. Okay. You said you sat in the sally port for a while?

12 A. Yeah, it been a while.

13 Q. What is the sally port?

14 A. It's before you get into the dorm.

15 Q. It's where you get in the dorm. Is that inside or
16 outside?

17 A. It's inside.

18 Q. Inside. So you had already come through one door to
19 get into the sally port?

20 A. Yes, ma'am.

21 Q. But there was another door to get onto the unit?

22 A. Yes, ma'am.

23 Q. So you were in between those two doors?

24 A. Yes, ma'am.

25 Q. In an area that you call a sally port?

1 A. Yes, ma'am.

2 Q. Were there any other inmates in the sally port with
3 you?

4 A. Yeah maybe about four.

5 Q. I'm sorry?

6 A. Yeah maybe four.

7 Q. Maybe four?

8 A. Yes, ma'am.

9 Q. Do you remember who those people were?

10 A. Not really. They done went home now. They ain't had
11 no time.

12 Q. Okay. All right. And so what drew your attention to
13 the unit?

14 A. Everybody standing in my room.

15 Q. You saw a bunch of people standing at your room?

16 A. Yes.

17 Q. And so what did you do?

18 A. I banged on the window so I can get on the wing so I
19 can see what was going on in my room.

20 Q. You wanted the control room to open the door so you
21 could get in?

22 A. So I could get in, yes.

23 Q. Okay. And did they open the door?

24 A. Yeah.

25 Q. And so what did you do after they open the door?

G. Russell- Direct Examination by Ms. Munnerlyn

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1 A. I ran into my room.

2 Q. And when you ran up to your room what would you find?

3 A. Just blood everywhere. Just blood everywhere.

4 Q. Blood everywhere. And who did you see?

5 A. I ain't see nobody in my room. There was nobody in my
6 room. It was just a blood scene in my room. That's it.

7 Q. And did you see Oliver Johnson?

8 A. Yeah, outside of my room.

9 Q. And where was he?

10 A. On my right, right outside my room.

11 Q. On the right, right outside of your room. Where on
12 the right, right outside of your room?

13 A. On the floor.

14 Q. On the floor?

15 A. Yes, ma'am.

16 Q. What was he doing?

17 A. He wasn't doing anything. He was just laying there.

18 Q. He was just laying there. Did you ever see him move?

19 A. No.

20 Q. Did you know what had, had happened?

21 A. No.

22 Q. Did you see Phillip Stackhouse when you entered the
23 unit?

24 A. No.

25 Q. Did you see him at any point while you were in the

1 unit when you were going up to your room and when you saw
2 Oliver Johnson, did you see Phillip Stackhouse in any of
3 that timeframe?

4 A. I can't -- I can't say I did or not cuz so much was
5 going on that morning. It was a lot of chaos I can't say I
6 seen him or not.

7 Q. A lot of chaos, you're not sure. You could have or
8 maybe you didn't, you're not sure?

9 A. If I did -- if I did it definitely wasn't in my room
10 or nowhere near my room.

11 Q. If you did what?

12 A. If I did see him, he wasn't in my room ---

13 Q. Okay.

14 A. --- is when I first came in the door.

15 Q. All right. And so what did you do at that point? You
16 see blood in your room, you see Oliver Johnson on the
17 floor, what did you proceed to do?

18 A. I went to go tell Ms. McQueen that we needed help on
19 the wing.

20 Q. Okay.

21 A. And I went to go clean my stuff up.

22 Q. And you were going to clean your stuff up?

23 A. Yeah.

24 Q. And what do you mean by that?

25 A. Just get the blood out of my sheets and blankets,

G. Russell- Direct Examination by Ms. Munnerlyn

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1 that's it.

2 Q. So there was blood on your blanket?

3 A. Yes.

4 Q. And what did you do to attempt to clean that up?

5 A. Got a bucket of cold water.

6 Q. Where did you have to go to get a bucket of cold
7 water?

8 A. The shower.

9 Q. And how far is the shower?

10 A. Not far, may be ---

11 Q. If you're sitting in your room right there, how far
12 would you have to go to get into the shower?

13 A. Probably about here to that third row right there.

14 Q. To the third row back here?

15 A. Yeah.

16 Q. Okay. So not a very long distance. So you went to
17 the shower and got some cold water in a bucket, you say?

18 A. Yes, ma'am.

19 Q. Where did you get the bucket?

20 A. The head dorm keeper. From the head dorm keeper.

21 Q. Head dorm keeper.

22 A. Yes, ma'am.

23 Q. Now, who is the head dorm keeper?

24 A. I can't remember his name. He went home too.

25 Q. Okay. You don't remember who it is, but what does the

1 head dorm keeper do?

2 A. Keep the dorm clean.

3 Q. Keeps the dorm clean. So what do they -- do they keep
4 buckets?

5 A. Yes, buckets.

6 Q. Anything else?

7 A. Brooms.

8 Q. Brooms?

9 A. Whatever you need to clean the dorm.

10 Q. Whatever they need to clean the dorm?

11 A. Yes.

12 Q. Okay. All right. So you went to the head dorm keeper
13 and got a bucket, do you remember how far away that was?

14 A. Two rooms away.

15 Q. Two rooms away?

16 A. Yeah.

17 Q. And then you proceeded to go the shower to get the
18 water?

19 A. Yes, ma'am.

20 Q. And once you had the water, what did you do?

21 A. I came back over into my room and I put my sheets and
22 blanket in there.

23 Q. Put your sheets and blankets in there?

24 A. Yes.

25 Q. And then what happened?

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1 A. That's when Ms. McQueen came in our room.

2 Q. That's when Ms. McQueen came to your room?

3 A. She came in into my room and told me to stop.

4 Q. And she told you to stop?

5 A. Yes.

6 Q. Told you to stop doing what?

7 A. Stop cleaning my blanket.

8 Q. Stop cleaning up?

9 A. Yes.

10 Q. And what did you do then?

11 A. Hold my hands up and I walked out and sat on the
12 bench.

13 Q. Sat on the bench where?

14 A. Downstairs on the rock area.

15 Q. Do you remember what bench?

16 A. The first bench.

17 Q. The first bench you come to?

18 A. Yes.

19 Q. When you come down the stairs, the first bench you
20 come to?

21 A. The first bench right in front of the TV.

22 Q. The first bench where?

23 A. Right in front of the TV.

24 Q. right in front of the TV?

25 A. Yes.

1 Q. Do you recall if the TV was on?

2 A. Yes.

3 Q. It was on. Is it normally on?

4 A. Yes.

5 Q. Okay. All right. And what did you do after that?

6 A. I waited on them to put handcuffs on me to bring me to
7 the holding cell.

8 Q. And then they put handcuffs on you and took into a
9 holding cell?

10 A. Yes.

11 Q. Where was the holding cell?

12 A. Operations.

13 Q. Which is a separate building?

14 A. Yes.

15 Q. And you gave a statement when the investigators came
16 around, did you not?

17 A. Yes.

18 Q. And did you ever see Phillip Stackhouse again after
19 that?

20 A. Yeah, when we was walking up to the operations
21 together.

22 Q. When he was going to lock up as well?

23 A. We was going operations together.

24 Q. When you were going ---

25 A. We had handcuffs on ---

G. Russell- Direct Examination by Ms. Munnerlyn

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1 Q. --- to operations you saw him?

2 A. --- together.

3 Q. I'm sorry?

4 A. We got our handcuffs put on together.

5 Q. You got your handcuffs put on together?

6 A. Yes.

7 Q. Did you know why they were handcuffing Phillip
8 Stackhouse?

9 A. No.

10 Q. Did you know what had, had happened?

11 A. No.

12 Q. Had there been problems between Oliver Johnson and
13 Phillip Stackhouse?

14 A. I mean, I can't say there was problems as fighting or
15 nothing like that but, you know, everybody had their little
16 arguments every now and again. I had, had my arguments
17 with Phillip Stackhouse. He ain't never been ---

18 Q. You had your arguments with Philip Stackhouse?

19 A. Yeah. Everybody can have arguments in the
20 penitentiary. There's a lot of animosity in the dorm.
21 This just happens.

22 Q. But nothing in particular?

23 A. It's nothin -- it's nothin -- it's nothin to serious.

24 Q. Okay. When you came back and saw Oliver Johnson
25 laying on the floor, did that -- how did you feel? Did you

1 expect that to happen?

2 A. No.

3 Q. Did you anticipate that in any way?

4 A. No.

5 Q. Did you have any sort of fight with Oliver Johnson?

6 A. No.

7 Q. Did you have any physical altercation with him that
8 morning?

9 A. No.

10 Q. Did you stab Oliver Johnson?

11 A. No.

12 Q. Where was he when you arrived back from breakfast?

13 A. On the ground in front of my room.

14 MS. MUNNERLYN: I don't have any further questions,

15 Your Honor. If you will please answer any questions that

16 Mr. Stephens has.

17 THE COURT: All right. Cross examination?

18 MR. STEPHENS: Thank you, Your Honor.

19 **Cross Examination by Mr. Stephens:**

20 Q. Good morning, Mr. Russell.

21 A. Good morning.

22 Q. Now, you, I believe you told the solicitor that you
23 went and got a bucket in the dorm keeper and went to the
24 shower and got water and you had started cleaning your
25 blanket?

G. Russell- Cross Examination by Mr. Stephens

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1 A. Yes.

2 Q. You've got to answer because that lady with her back
3 to you, she's got to hear you. I can see you shaking your
4 head. And when you had started cleaning your blanket
5 that's when Officer McQueen came by and told you to stop?

6 A. Yes, sir.

7 Q. And you put your hands up and walked down the stairs?

8 A. Yes, sir.

9 Q. And you walked over and sat down on the bench?

10 A. Yes, sir.

11 Q. And you stayed there until, you said they came and
12 handcuffed you?

13 A. Yes, sir.

14 Q. They took you to lock up?

15 A. Nah, I went to operations in the holding cell.

16 Q. Operations. Did they question you up there and
17 operations or did they take you ---

18 A. Yeah.

19 Q. They did? Is that where you write your statement?

20 A. Yes, sir.

21 Q. Now, you said I believe you told the solicitor that
22 when you got back from breakfast you saw some folks
23 gathering up there around your room?

24 A. Yes, sir.

25 Q. And you had to get the attention of the control room

1 to let you into the wing?

2 A. Yes, sir.

3 Q. How many people were up there?

4 A. Maybe ten.

5 Q. Ten. And when you got up there did you see Jason
6 Goins?

7 A. Nah, I ain't seen him either.

8 Q. Okay. So when you got up there nobody was in your
9 room?

10 A. Nobody was in my room.

11 Q. But you saw a bunch of blood and that's when you went
12 to clean your blanket there, correct?

13 A. Yes, sir.

14 Q. So when you -- it's your testimony that when you got
15 back from breakfast you saw a crowd around your room but
16 nobody was in your room?

17 A. Yes, sir.

18 Q. Okay. And when you came out of the room is that when
19 you saw Mr. Johnson?

20 A. Yes, sir.

21 Q. Okay. Did you do anything?

22 A. No. I went to -- I went downstairs to get the
23 attention of the officer to let them know we needed help,
24 that's it.

25 Q. So when you got back -- when you went in the room and

G. Russell- Cross Examination by Mr. Stephens

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1 you saw all the blood, you came out and saw Mr. Johnson ---

2 A. Mmm, hmm.

3 Q. --- and then you went down the stairs to get the
4 attention of the control booth?

5 A. Yes, sir.

6 Q. Okay. And then you went back upstairs to the dorm
7 keeper to get your bucket and your water?

8 A. Yes, sir.

9 Q. Okay. By the time you got to your room and started
10 cleaning the blanket that's when Officer McQueen came out
11 and told you to stop?

12 A. Yes, sir.

13 Q. Okay. All right. And nobody was in your room at all?

14 A. Nobody was in my room.

15 Q. You didn't have a conversation with anybody inside the
16 room?

17 A. No.

18 Q. And it's your testimony I believe you told the
19 solicitor when you went to breakfast you were there and you
20 ate by yourself?

21 A. Yes.

22 Q. And when you came up -- you didn't have any
23 conversation with anybody when you came back from breakfast
24 other than ---

25 A. No, sir. I was walking back by myself.

1 Q. Okay. And you don't know where Phillip was or Jason
2 Goins was?

3 A. I ain't no clue.

4 Q. Okay. And you said at some point you an argument with
5 Phillip Stackhouse?

6 A. Yeah, he is that

7 Q. I understand. Did you know if Phillip prayed in the
8 mornings?

9 A. Yeah, he did.

10 Q. And where do -- where did they go pray?

11 A. Upstairs in the corner.

12 Q. Is that pass the showers and the dorm keeper?

13 A. Yes, sir.

14 Q. Okay. And you say you've only known Oliver Johnson
15 for two weeks?

16 A. Yeah, roughly.

17 Q. You know if -- do you know if he kept a weapon in his
18 room? Do you know?

19 A. I hope he didn't.

20 Q. You don't know?

21 A. No.

22 Q. And have you ever make a statement that Oliver Johnson
23 liked Officer Tillman?

24 A. Yeah.

25 Q. You made that statement?

G. Russell- Cross Examination by Mr. Stephens

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1 A. (Shaking of the head, yes)

2 Q. Do you know if Oliver Johnson owed Jason Goins any
3 money?

4 A. Did he what?

5 Q. Did Oliver Johnson owed Jason Goins money?

6 A. I ain't really deal with them like that so I ain't
7 really know who would be owning ---

8 Q. I'm sorry I got that backwards. Did Jason Goins owe
9 Oliver Johnson any money?

10 A. I ain't got nothing to do with that. I don't know.

11 Q. You don't know, okay. Do you know how many Muslims
12 are in the Cherokee?

13 A. Sorry. (Shaking of the head, no)

14 Q. You've got to answer for her.

15 A. No.

16 Q. And do you know any nickname they call Phillip
17 Stackhouse?

18 A. I called him Stackhouse.

19 Q. That's all you've ever heard anybody call him?

20 A. That's it.

21 MR. STEPHENS: Indulge me one minute, Your Honor.

22 That's all we would have at this time, Your Honor.

23 THE COURT: Redirect?

24 MS. MUNNERLYN: No questions, Your Honor.

25 THE COURT: All right. You can take him back into

1 custody. Your next witness, solicitor.

2 MS. MUNNERLYN: Clifford Thompson.

3 THE CLERK: Do you solemnly swear or affirm that
4 the testimony you shall give the Court and jury in this
5 case shall be the truth, the whole truth, and nothing but
6 the truth so help you God?

7 MR. THOMPSON: Yes.

8 THE CLERK: Have a seat right there and state your
9 full name.

10 THE COURT: Go ahead, solicitor.

11 MS. MUNNERLYN: Thank you, Your Honor.

12 CLIFFORD THOMPSON, first being
13 duly sworn, testified as follows:

14 **Direct Examination by Ms. Munnerlyn:**

15 Q. You are Clifford Thompson?

16 A. My is Clifford Thompson, yes.

17 Q. Okay. And you are currently housed at Broad River
18 Correctional Institution?

19 A. Yes. Broad River in Columbia, South Carolina.

20 Q. Okay. And that's within the South Carolina Department
21 of Corrections, correct?

22 A. Yes, it is.

23 Q. You are serving a sentence for kidnapping and armed
24 robbery, is that correct?

25 A. That's correct.

C. Thompson- Direct Examination by Ms. Munnerlyn

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1 Q. And you have been incarcerated for how long?

2 A. Close to eighteen years, now. Close to eighteen
3 years.

4 Q. Close to eighteen years?

5 A. Close to eighteen.

6 Q. And how long have you been housed at Broad River
7 Correctional Institution?

8 A. About twelve years. About twelve years, I think.

9 Q. Okay. And do you know approximately when you are
10 scheduled to be released?

11 A. 2021, 22.

12 Q. Okay. All right. And while -- you been at Broad
13 River approximately twelve years, you say?

14 A. About that much time.

15 Q. Okay. And while you have been there, have you had any
16 specific duties?

17 A. Yeah. I'm a law clerk there. I'm the senior law
18 clerk there.

19 Q. You're the senior law clerk?

20 A. Yes.

21 Q. And where do you work?

22 A. I work in the education building. I work in the
23 education building.

24 Q. Okay.

25 A. But while I work there I have different

1 responsibilities. One of them is I have to make sure I
2 get the reading material to people who can not come to the
3 education building. So I take books and reading material
4 to dormintories, they lock down, and I take it to the lock
5 up unit. You know, we have a set schedule to do that.

6 Q. Okay. So you go -- you work in the law library?

7 A. Mmm, hmm.

8 Q. And you -- part of your duties are that when people in
9 lock down who wish to have cases or ---

10 A. Legal material ---

11 Q. --- books ---

12 A. --- or assistance, if they want advice, you know, to
13 research or, you know, books on stuff like that, that's
14 where I will come from physically over there and contact
15 them.

16 Q. Okay. And -- so you go out to their cell ---

17 A. I go to wherever the people are, yeah, their cell.
18 I'm allowed to do that. I'm authorized to do that.

19 Q. All right. And whatever they need you get for them
20 and you bring it to them?

21 A. Yes.

22 Q. Are there ever, excuse me, are there ever an occasions
23 where the inmates come to the law library or come to you to
24 meet with you?

25 A. Yeah. If they are on the yard and have no

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1 restrictions, they can freely come to the law library, no
2 problem.

3 Q. Okay.

4 A. It's not -- you don't have to have anything just if
5 you want to study or just come to read, you are allowed to
6 do that. That's peoples rights to do that.

7 Q. And how long have you worked in the law library?

8 A. About, about eleven years, ten years. For a length of
9 time.

10 Q. Okay.

11 A. I started there I was a volunteer. I was actually
12 working on the kitchen but I volunteer evening. Then I
13 moved and got a PI, private industry, but I would still
14 volunteer and work on evening. And then I eventually took
15 the job as assignment. So all together about eleven years
16 about that much.

17 Q. Okay. While you have been the senior law clerk there
18 at Broad River, have you had the opportunity to meet the
19 defendant, Phillip Stackhouse?

20 A. Yes.

21 Q. And do you recall when you met him?

22 A. Well, like I said, I'm assigned to go there and take
23 the material so I'm allowed to go on the wing. And the way
24 it works is I can walk from my building and the unit is
25 maybe about two hundred and fifty yards away. So I got to

1 pass several clearance fences, control booths. So when you
2 come into the unit you actually on a wing. They have rooms
3 at the top, they have rooms at the bottom. So I'm allowed
4 to go to the door, pick up, you know, any request forms and
5 issue books. The doors have slots on them.

6 Q. Slots?

7 A. Slots.

8 Q. Okay.

9 A. They call them flaps. They slots. Maybe three
10 quarters width on the door and it's a slot where a tray and
11 books can go through. So when I go put up the request or
12 whatever, I have opportunities to when people ask me
13 questions and they say listen I want to ask you a question,
14 I always stop, you know, if I have the time I will stop.
15 Sometimes the conversation can last two minutes, sometimes
16 it can last ten minutes. Depending if I have the
17 opportunity and there's no situation going on, the other
18 cells, you know, they kinda of let me have movement. They
19 don't really give me a problem.

20 Q. So you have a lot of flexibility in moving through
21 that unit ---

22 A. Yes.

23 Q. --- helping people?

24 A. Yeah.

25 Q. So you move from cell to cell as people need

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1 information from you?

2 A. Yeah. And normally people would call, I'd say law
3 clerk, I would listen for that. Or if I meet them from the
4 week before I will write down a note to myself so when I
5 come back make sure I stop by this individual, sat and talk
6 to him or, you know, whatever the circumstance may be. So
7 I did not know Stackhouse previously. I just know him from
8 his request forms. So he ---

9 Q. So he has sent some request forms?

10 A. Yeah, like anybody else can send me request forms.

11 Q. Okay.

12 A. So it's through there that, you know, that we
13 interact.

14 Q. Okay.

15 A. And he would ask me questions like what books to look
16 at or how to use certain books or certain questions, so I
17 would answer question to him generally speaking.

18 Q. Okay. And so do you remember -- so he was in this
19 unit, the lock up unit?

20 A. Yes. And that was maybe I don't really remember the
21 month but it was, but it was like summer time. So it was
22 either June, it could be as later as July. June maybe near
23 ---

24 Q. This summer or last ---

25 A. Last year. Last year.

1 Q. Last year?

2 A. Last year.

3 Q. 2016?

4 A. Mmm, hmm.

5 Q. Okay. So sometime in the summer is when you first
6 became acquainted with Phillip Stackhouse?

7 A. Yes.

8 Q. Okay. And he sent a request form to you for some
9 materials?

10 A. Yeah.

11 Q. And did you respond, did you bring him some material?

12 A. Yeah. Frequently. Frequently. You know, and that
13 was maybe a length of a couple of weeks, couple months. So
14 I was just familiar with his name because I have a list of
15 people and some people request things, you know, routinely.
16 Some people request three books. The maximum amount is
17 three books. Some people request one book, two books. So
18 sometimes with people that would request three books then
19 they list like seven books. And if you don't have the top
20 three selection, you know, I go into the other selections.
21 But I just try to make sure everybody receive what they
22 suppose to receive. So it's during that interaction -- it
23 was during that interaction that he told me that a situation
24 happened when he got assaulted.

25 Q. Okay. Before we go to that, let me just ask you a

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1 few more questions. So how often had you met with him
2 before this conversation that you're getting ready to tell
3 me about, how long had you known him before you had that
4 conversation?

5 A. It was close to November sometime, I want to say.

6 Q. Okay. When you had the conversation with him?

7 A. When I had the conversation where he got assaulted.

8 Q. Okay.

9 A. Yeah.

10 Q. So you met him in the summer of 2016, so you had then
11 communicated with him providing him material from June,
12 July until about November?

13 A. Till about November. November sticks in my mind,
14 until about November.

15 Q. Okay. And that date sticks in your mind because what
16 particular had, had happened around that date to make you
17 remember it? What had, had happened when he told you?

18 A. Well, he told me that a nurse kicked him on hand and
19 arm so, you know, we started and he said I need some help.
20 A nurse kicked me on my hand and my arm. So while he was
21 telling me it was just a shocking, a shocking to me that it
22 would happen.

23 Q. Okay.

24 A. He said the nurse kicked the flap and injured his arm
25 too.

1 Q. Kicked the flap?

2 A. Yeah, the metal flap.

3 Q. In the door?

4 A. In the door. The nurse was doing her rounds and she
5 was upset with someone and he must have said something to
6 her like it's not that serious like he was trying to calm
7 the situation. Whatever he said she just lock in on him
8 and then she started, she kickin on him.

9 Q. Okay. And so his hand was injured?

10 A. His hand was injured.

11 Q. Okay. So what was Stackhouse asking you for in
12 regards to this hand injury?

13 A. He was asking me -- well, let me tell you about the
14 situation.

15 Q. Okay.

16 A. So when he told he got injured and the officer tried
17 to restrain the nurse, she kicked him still. So then he
18 told me the nurse came back again on the unit somehow and
19 him antagonizing him, you understand me, so he want to know
20 what could he do. Did he have a suit he can sue or who
21 could he contact to make sure that he's good. So it was
22 about, you know, a civil action. He was wondering if it
23 could be a civil action ---

24 Q. Okay.

25 A. --- filed on the assault that the nurse did on him.

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1 Q. Okay.

2 A. I can't remember the nurse name, I want to say Morgan
3 or Miller or Merritt or something but I can't remember.

4 Q. The nurse name?

5 A. Yeah, it begins with an M but I don't really remember
6 the name.

7 Q. Either Morgan or Miller or you don't know?

8 A. Morgan, Miller, or Merritt or something like that.

9 Q. Okay. So when he had this claim, this particular
10 claim regarding his hand, did y'all begin meeting in a
11 different atmosphere or was it still you going to the lock
12 down cells?

13 A. Well, this is what happened, he ask me, you know, how
14 could he pursue it or whatever so I told him I don't know.
15 It could be a state claim, maybe a federal claim, I don't
16 know. So I suggest to him to write the district people for
17 federal paperwork to file a law suit. And he ask me is
18 there a way I could talk to him. He talked to the unit
19 supervisor and I said I don't know let me talk to her
20 because I'm okay with her and I ask her if I can talk to
21 you separately they know this happened to you. So I went
22 in and talked to the lady and she said, well, yeah, that
23 would be good. I wanted to meet maybe on a Thursday but --

24 -

25 Q. On a Thursday?

1 A. I wanted to ---

2 Q. Huh, huh.

3 A. --- but they couldn't work out because on the other
4 side of the unit is protective custody and it's a lot of
5 stuff going on Thursday where they move up and down the
6 hallway so I couldn't come over there. So in the talking
7 we settled on Wednesday because Wednesday was the best for
8 me because that is the time where there's least amount of
9 work for me. The only really big work I have to do is come
10 down and check the law library computer so I would have a
11 majority in the morning to sit where I can talk to him and
12 deal with him.

13 Q. Okay. So you would have a relatively open schedule to
14 be able to meet with him on a Wednesday?

15 A. Wednesday was the only really free time I could have.

16 Q. Okay. So did that get worked out so he could come and
17 meet with you on that Wednesday?

18 A. Yeah.

19 Q. Okay. Where did y'all meet?

20 A. Well, before that, it wasn't just this next Wednesday,
21 it wasn't just the next Wednesday ---

22 Q. Mmm, hmm.

23 A. --- because I think that yard nigga went on lock down
24 so it either was one more one more week after that.

25 Q. Okay.

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1 A. I'm not sure the date. I just know it was, I want to
2 say it was after Thanksgiving. I don't know. That's in my
3 head. So ---

4 Q. And when you met with him it was, you think it was
5 after Thanksgiving?

6 A. Yeah. I want to say that.

7 Q. Of last year?

8 A. Of last year. Yeah.

9 Q. Okay. All right.

10 A. So the day I was supposed to -- the day I did come
11 down there I came through the clearance and everything. I
12 had my notebooks and my two pens. When I came in there I
13 actually was going to go see somebody first before I go see
14 him because I had to drop off some, what is that, some sour
15 gum candy some to somebody.

16 Q. Sour gum candy?

17 A. Yeah.

18 Q. So I was thinking if they, by the time they take him
19 out I could go downstairs and talk to somebody on the
20 bottom tier, but when I went down there they must been
21 doing chow or feeding the food. So I couldn't go over
22 there and the officer tell me that Stackhouse is already in
23 that law library computer room. So I said well, I don't
24 want him to wait I'll just deal with this other thing
25 later. So I went over there to talk to him.

1 Q. So y'all met in the computer room in the law library?

2 A. No. No. No.. It's not in the law library.

3 Q. Okay.

4 A. Now, let me explain to you, right. When you come on
5 the wing, when you come on the sally port or the wing,
6 right, you're in a lobby area, right, so there's an officer
7 in there. You can go right and get buzz in or you can go
8 left and get buzz in. I go left because the right is the
9 state protective custody, I cannot go over there. So when
10 you come into the unit you're on like a third step, you
11 step down to the lower tier so I am on the top. You can,
12 when you walk straight back it goes to the back door that
13 lets out to the rec field, okay?

14 Q. Okay.

15 A. So once I come to the door maybe two feet is the steps
16 that goes down.

17 Q. Okay.

18 A. When I turn right it's maybe twelve feet and then
19 there's a staircase that goes up. Now, at the base of the
20 staircase the hall that goes to the rec field is maybe
21 about ten feet long but Well, in that hallway is where the
22 computer room is to the left. It's like a room. It's
23 maybe, maybe six foot by five foot, something like that.

24 Q. A small room?

25 A. Yes. But ---

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1 Q. Six by five?

2 A. Something like that, yeah. And it has like a diamond
3 screen on it, like a diamond mesh gating on it and it has a
4 flap there. It has to be locked and open by the officer.

5 Q. Okay. So there's a door and it has to be opened ---

6 A. Yeah.

7 Q. --- by the officer?

8 A. Yeah. But is not like a sealed door. It's got
9 diamond cuts in it.

10 Q. Okay.

11 A. Meaning that I could, you know, take a pen and push
12 through it.

13 Q. Okay.

14 A. I could see you, air could flow freely, but the flap
15 there I can't pass through it because of the gate, I got a
16 pass it through the flap ---

17 Q. Through the flap.

18 A. --- when the flap is down.

19 Q. Okay. So this is where you and he met?

20 A. Yeah. He was there, yeah.

21 Q. He was already in the room when you got there?

22 A. Yeah.

23 Q. Okay.

24 A. Remember when I said I come in I wanted to go see
25 somebody first ---

1 Q. Right.

2 A. --- And I was thinking that I had enough time but it
3 was so much officer serving food or whatever they were
4 doing that I wanted to wait and then the officer had said
5 he's already in there I said I will see this guy later.

6 I'll go Stackhouse now. I said that's what I will work on.

7 Q. All right. So you proceeded into the computer room?

8 A. Uh, uh. No.

9 Q. What did you do?

10 A. Say the computer room is where this lady is here,
11 okay?

12 Q. Right.

13 A. And this is the front mesh that I'm telling you about.

14 Q. Huh, huh.

15 A. From here -- from here right here to the wall is the
16 walkway. ---

17 Q. Right.

18 A. --- the hallway. So the officers, they bring me a
19 chair to sit in the hallway so I'm actually not in there
20 with him, I'm in the hallway.

21 Q. Okay.

22 A. But I can see him right here and, you know, we're
23 right here close like ---

24 Q. So he is sitting like right here in the computer room

25 ---

1 A. It's closer.

2 Q. Closer ---

3 A. Like right here.

4 Q. Like right here?

5 A. Yeah. I just got the gate right here in front of us.

6 Q. Okay.

7 A. I'm up like this from him and, you know, we just
8 talking.

9 Q. This is this gate that you're referencing that you can
10 like, could put a pen through.

11 A. Put a pen through because it's got little diamond
12 cuts. You know those grated kind of gates ---

13 Q. Yeah. Just sort of like a mesh.

14 A. A mesh. It's a mesh gate.

15 Q. But there are holds in it?

16 A. Exactly.

17 Q. Okay. So you can pass him a pen?

18 A. Exactly.

19 Q. Or a piece of candy or something?

20 A. Exactly.

21 Q. But you can't pass him this unless do it through the
22 flap?

23 A. Exactly. But it's open. They leave it open there.

24 Q. Okay.

25 A. So I freely ---

1 Q. So you can pass him stuff through the flap?

2 A. Yeah. I can see to pass it right there to him.

3 Q. So you're in the hallway?

4 A. Mmm, hmm.

5 Q. He's in the room?

6 A. Mmm, hmm.

7 Q. Are there are other people around?

8 A. No.

9 Q. So you and he can, basically, have a private
10 conversation?

11 A. Exactly.

12 Q. Okay.

13 A. But the officers know we're there because, you know,
14 they know that's what I'm there for and that's why they
15 pull him down for because it's Wednesday and they know that
16 the supervisor, you know, ---

17 Q. Okay.

18 A. --- want me to meet with him so I can help with the
19 situation.

20 Q. Okay. Do remember this particular day when y'all met
21 like this, how long did y'all meet?

22 A. I want to say maybe like ninety minutes, a little more
23 than ninety minutes.

24 Q. So a good long meeting?

25 A. Yeah, cuz we was -- when I first come I never, you

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1 know, he start -- he told about what happened with the
2 nurse but like I tell you it's so bizarre. I never think
3 he was lying but, you know, it just sounds so bizarre.
4 It's like unbelievable but another officer told me it
5 happened like that. So when I come -- when I come to the
6 window we talking, he said I got my papers back from where
7 he filed, he filed a grievance.

8 Q. Okay.

9 A. Which is where you report, you know, what happened.

10 Q. A grievance against the nurse or ---

11 A. Against the nurse and the situation.

12 Q. Okay. So he said I got my papers back because when he
13 was telling me he did not have the papers. He turned in
14 the original. There was no way he can photo copy anything.

15 Q. Gotcha.

16 A. So when he told me I'm just taking his word of what
17 happened, you see?

18 Q. Okay.

19 A. So when I come there he said I got the papers, papers
20 back, I got them. So he got some papers with some,
21 somebody's senior administration responded to his claim.
22 So I'm taking my time reading it.

23 Q. Okay.

24 A. So when he passed me the paper I'm looking at the
25 paper and he asked me if I can have a pen because he want

1 to do work, he don't -- they don't really give pens or
2 nothing up there like that so I gave him one of my pens.

3 Q. You had two pens?

4 A. I had two pens.

5 Q. And you gave him one?

6 A. I gave him one because normally when I go up there,
7 there's always somebody ask me, do I have a pen. So I gave
8 him a pen..

9 Q. Okay.

10 A. So I gave him the pen. So when I reached in my pocket
11 to get the pen he seen the bag, he said, let me have one of
12 those. So I ---

13 Q. The bag of what?

14 A. It's just some sour candy.

15 Q. Okay. The sour candy ---

16 A. Sour gum.

17 Q. --- that you're going to take to ---

18 A. Yeah. Sour gum candy that you chew, yeah. So I just
19 say go ahead and take one out. I said just take one
20 because it really not for him I was suppose to give it to
21 somebody else. So he took one out and was chewing it up.
22 So he wrapped it back. It was in Saran wrap.

23 Q. Okay.

24 A. He gave it back to me and I put it in my pocket.

25 Q. Okay.

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1 A. So I'm looking at the paper work and he said, see I
2 told you that the lady assaulted me. I said, yeah I see. So
3 when I was reading he just kind of kick backed and relaxed.
4 So I'm reading over the scenario of what happened and stuff
5 like that. So he asked me can he get the documents from
6 police forces because on there somewhere it got turned over
7 to police forces but I didn't know who were those people
8 whether they were, you know, city police or something
9 within the Department of Corrections.

10 Q. Yeah. Let me ask you, now, when you say police
11 forces, did you know -- who was he talking about within the
12 Department of Corrections?

13 A. No. No. What I'm saying is I don't know, the paper
14 said it was a response from the warden and the warden said
15 we understand what happened to you, blah to blah, we turned
16 it over to the police forces.

17 Q. Gotcha.

18 A. So Stackhouse wanted me to obtain the papers for him
19 but I didn't know who the police force -- I'm just telling
20 you what we was talking about.

21 Q. Okay.

22 A. So that's why when I said we spoke ninety minutes we
23 spoke on a lot of, lot of different things but that was
24 like the initial talk. He was asking about police forces
25 and I'm kind of thinking in my head what is police forces,

1 you know, so I asked him did the Columbia police come to
2 you and talk to you. He said, no, I don't know who has it.
3 So I'm telling him well, I don't know where you can get it
4 from but I'm sure we can find it. So that was the
5 beginning of the conversation.

6 Q. Okay.

7 A. So as he's leaning back just relaxing, you know, he's
8 chewing his gum and I'm going through the paperwork so, you
9 know, I see in there where he request like he said, you
10 know, where it ask you what you want for remedies or
11 whatever?

12 Q. Yes.

13 A. So I just remember he had a part in there where he
14 said that he would like the lady to have court appointed
15 anger management and sensitivity classes.

16 Q. Okay.

17 A. So it's just certain things that stuck out to me.

18 Q. So he wanted the nurse to get some anger management?

19 A. And sensitivity classes ---

20 Q. Okay.

21 A. --- for what she did. So now we're kinda of
22 discussing like how to clean his language up because I
23 don't know where to go with it whether state or federal.
24 So then he ask me he said, do you know why I'm in here for?
25 And I said, no. So he ask me, do you know what people I am

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1 in here for? I said, no. He said well, they say I killed
2 somebody at Evans. He said but they not telling the truth,
3 on me. Then I said ---

4 Q. Who's not telling the truth on him, did he explain?

5 A. He explained it ---

6 Q. Okay. What did he say.

7 A. --- after he said that. I didn't know who he was
8 talking about.

9 Q. Okay.

10 A. He said he had a cell mate, roommate, who said that he
11 confessed to him and Stackhouse said that's not true.

12 That's not true. He said, you already know I barely talk
13 to you. So I'm just listening to what he saying. I'm not
14 asking any questions, I'm just listening. So he said he's
15 lying on me I never told that guy anything like that. He
16 just made it lying to the people. He just told the
17 investigator I made a confession to him and that's
18 absolutely not true. So I'm just listening to him. So he
19 said anyway the guy came to fight me so they was fighting
20 on the top.

21 Q. On the top?

22 A. Yeah.

23 Q. You know what he was referring to?

24 A. Well, when he say top, the only thing I could think of
25 is top tier because that's what we say. In prison you've

1 got the bottom and you got the top tier. So when he said
2 he was fighting on the top I assumed the top tier. I don't
3 know.

4 Q. Okay.

5 A. I have never seen a prison with three tiers so I'm not
6 thinking middle tier I'm thinking up top, like, top tier.

7 Q. Okay.

8 A. Yeah.

9 Q. And did he go on?

10 A. Huh?

11 Q. Did he -- what else did he say?

12 A. Yeah. So he said they was fighting with each other.
13 So he said he had to wet the man, he wet the man up. He
14 stabbed a man.

15 Q. He said what, now?

16 A. He told me he stabbed a guy.

17 Q. He stabbed a guy?

18 A. He stabbed a guy.

19 Q. And then he uses some specific terms?

20 A. He said he wet the guy up.

21 Q. He wet the guy up?

22 A. Yeah.

23 Q. And what does that mean, do you know what that means?

24 A. In prison that mean stabbing up.

25 Q. Stabbing up?

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1 A. When you stab somebody, yeah. You stabbed him up.

2 Q. So you refer that -- you wet him up when you stab
3 somebody?

4 A. When you stab somebody.

5 Q. Is that referring to lots of blood or what, do you
6 know?

7 A. It's like when you make somebody skin wet. Yeah, like
8 somebody wet with blood.

9 Q. Wet with blood, okay. So -- and who told you this?

10 A. Stackhouse told me that.

11 Q. Stackhouse?

12 A. Yeah.

13 Q. And did he give you any more information?

14 A. Well, he said he passed the knife off and then he walk
15 away.

16 Q. He passed the knife off and walked away.

17 A. Yes.

18 Q. Do you know who he passed the knife off to?

19 A. He didn't tell me and I did not ask him.

20 Q. Did he say where he passed the knife off?

21 A. He didn't tell me and I did not ask him.

22 Q. Passed it off to another inmate or to a guard or who?

23 A. My assumption would be ---

24 MR. STEPHENS: Objection, Your Honor. Asked and
25 answered.

1 THE COURT: You can't speculate as to who it
2 might've been. If you know you can say, otherwise, you
3 can't speculate, okay. Go ahead.

4 A. You talking to me.

5 Q. No -- I'm just -- yes, don't speculate either you do
6 know or you don't know?

7 A. No, I don't know. He never told ---

8 Q. Okay.

9 A. --- I never ask him.

10 Q. Okay. So he just said he passed it off to someone?

11 A. Yes.

12 Q. And you don't know who that was?

13 A. No.

14 Q. Or -- did he say where he was when he passed it off to
15 this person?

16 A. I assume he was still on the top because he never tell
17 me he went anywhere else. But he never said I was
18 standing, you know, by the block. But the only time he
19 told me they was fighting by the door, by the door to a
20 room.

21 Q. They were fighting by the door to the room?

22 A. Yeah. But as far as the way he passed the knife,
23 where he passed it to, who he passed it to, he never told
24 me that and I never ask him that.

25 Q. Did he tell you any more about why the fight took

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1 place or what happened after he stabbed him up, wet him up?

2 A. No, he did not.

3 Q. Did he say where he went after he passed the knife
4 off?

5 A. No, he did not tell me. I did not ask him either.

6 Q. You didn't ask him any questions?

7 A. I didn't ask him anything. I was there -- I was there
8 to talk about his situation. But Stackhouse was
9 comfortable with me like most people that know me, they
10 comfortable with me, do you understand me? They
11 comfortable with me because they feel that I'm trustworthy,
12 you understand me?

13 Q. Yes.

14 A. My reputation, anybody know me, is like I'm a
15 bottomless well. When you toss something in, it never come
16 back up.

17 Q. Okay.

18 A. So people feel comfortable, you know, but I never -- I
19 never ask any questions about that. I never ask anybody,
20 you know, what they in jail for, what they do. I never ask
21 no specific. That's just how I am. You know? I would ---

22 Q. He just volunteered this information and told you?

23 A. Yeah.

24 Q. You didn't ask him to tell you, did you?

25 A. I did not ask him and I never ask anybody. Anybody --

1 anybody whoever I talk to about their situation or their
2 case, I don't ever ask it's not my concern. I don't want
3 to know. And I just, that's my personality. I'm a person
4 that is, I mind my own business. It not my business, it
5 not my business. I don't pry. I don't, you know, I just
6 don't.

7 Q. Okay. All right. And when did you come forward with
8 this information?

9 A. Last week.

10 Q. Okay.

11 A. Last week.

12 Q. And why did you wait until last week to tell anybody?

13 A. Well, actually -- like I say, I mind my own business,
14 is not my concern, you understand me? I don't know -- it's
15 not my concern. That's how I just live my life. You
16 understand me? So this year I took a bad loss and I lost a
17 family member, you understand me? So it kinda of, it cut
18 me real deep and it kinda of give me, it give me a
19 different prospective on life on certain things. So I kind
20 of empathize more with people who suffer. So just in that
21 situation it just like I -- I empathize more with people
22 who took a loss, you know, the man family. So sometimes
23 just knowing what happened is better than not knowing, you
24 suffer a little less, you know, I know that's how it was
25 for me. But not knowing it could hurt me a little more

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1 than with knowing, you now, just eases everything. But ---

2 Q. So you came forward and provided this information last
3 week, correct?

4 A. Last week.

5 Q. And have you been promised anything to come forward
6 and provide this information?

7 A. No. The solicitor's office never promised me
8 anything.

9 Q. Have you told anybody else about this information
10 before you provided it to law enforcement?

11 A. I told my mother about it. I told my mother about it.
12 But, you know, unfortunately, she passed. She passed in
13 January. She's the only one that I spoke to it about it.
14 That was before she passed away.

15 Q. Now, I want to be clear about who we we're talking
16 about now, you just indicated that Stackhouse is the one
17 who told you that he stabbed this man up or wet him up,
18 correct?

19 A. Yes.

20 MR. STEPHENS: Asked and answered, Your Honor.

21 THE COURT: Thank you, sir. You may continue,
22 solicitor.

23 Q. Is the person that you refer to as Stackhouse in the
24 courtroom today?

25 A. Yes, he is.

1 Q. Can you please point him out?

2 A. He's over there.

3 MS. MUNNERLYN: Your Honor, if the record can reflect
4 that he has pointed out the defendant sitting at the
5 defense table. Court's indulgence just one moment.

6 Q. Now, you just said that the solicitor's office didn't
7 promised you anything to testify today, did anybody else
8 promise you anything for testifying today?

9 A. No.

10 Q. Did anybody promised you anything to come forward and
11 testify today?

12 A. No, they did not.

13 Q. Okay. Were you promised any jail privileges or any,
14 any additional privileges ---

15 A. I wasn't ---

16 Q. --- for exchange ---

17 A. I wasn't promised ---

18 Q. --- for coming forward?

19 A. No, I was not.

20 Q. Okay.

21 MS. MUNNERLYN: No further questions, Your Honor.

22 THE COURT: All right. Cross examination?

23 MR. STEPHENS: Thank you, Your Honor. May it please,
24 The Court?

25 THE COURT: Yes, sir.

Cross Examination by Mr. Stephens:

Q. But you expect to get something for this testimony, aren't you?

A. Is there a question you're asking me?

Q. I said, you expect to get something for this testimony?

A. I have no expectations.

Q. Well, you got your lawyer here today, don't you?

A. Yes, my attorney is here.

Q. Your lawyer is out there?

A. Mmm, hmm.

Q. Mr. Gasque. (sic) Now, you said Mr. Thompson, that the first time you talk to Mr. Stackhouse was in November?

A. No, I didn't say that.

Q. You said that's the first time ---

A. I said -- no, I did not ---

Q. Go ahead. I'm sorry.

A. I did not say that.

Q. Okay, what did you say?

A. I said the first time I interact with Mr. Stackhouse was in summer of last year.

Q. Summer?

A. Summertime.

Q. And you say he was at Broad River last summer?

A. I want to say that.

1 Q. You want to say that but you're not sure, now?

2 A. I met with him in the summer. It had to have been
3 last year.

4 Q. Okay.

5 A. It wasn't this year. This year summer was just a
6 couple months ago.

7 Q. When you say summer, now, you're talking about June,
8 July, and August?

9 A. Yeah.

10 Q. Okay. So you ---

11 A. It could be early as May but like I say I just want to
12 remember that it was summertime.

13 Q. Okay. No later than August?

14 A. No. It should not have been no later than August.

15 Q. Okay.

16 A. Because I known him a couple of months by then and I
17 want to say he got hurt during near the Thanksgiving time
18 that was in November and I want to say I known him at least
19 five or five months, at least, before that.

20 Q. Okay.

21 A. That's my recollection.

22 Q. Okay. And you said that he filed a grievance about
23 this injury?

24 A. I want to say -- yeah, yeah, I did.

25 Q. And when did you see that?

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1 A. I seen it when we met in November.

2 Q. Okay.

3 A. After -- whenever I met him in that cage is when he
4 showed me the grievance; the grievance paper and Warden
5 Washington, I want to say, replied.

6 Q. You saw the grievance ---

7 A. Whatever ---

8 Q. --- when he got it back?

9 A. I don't know when he got it back but I saw the
10 grievance and the warden's response, I believe, was from
11 Warden Washington.

12 Q. And that's when you saw it after he had gotten it
13 back?

14 A. I want to say that.

15 Q. Well, is that what you're gonna to say?

16 A. Listen to me, I seen the grievance when ---

17 Q. When he got it back?

18 A. Yeah.

19 Q. And you think that was in November?

20 A. I want to say it was November.

21 Q. Okay. Was this the grievance?

22 A. Yes, it is.

23 Q. Okay. And when does it say he got it back?

24 A. This is the emergency grievance that was -- listen --
25 no, let me qualify this ---

1 A. Okay.

2 Q. --- because you're trying to ---

3 Q. Well, before you do that ---

4 A. No. No. No. No. I'm not going to let you do that -
5 --

6 THE COURT: All right. Both of you stop. Okay.
7 Don't interrupt him. You've ask him a question. You allow
8 him to answer ---

9 MR. STEPHENS: All right, sir.

10 THE COURT: --- the question until he is done and
11 then you can ask another question. Continue.

12 A. All right. You see this grievance form here, he send
13 in a grievance before, that signature -- that writing right
14 there is my handwriting. I advise him to do an emergency
15 grievance. So this is not the first grievance he sent in.
16 Okay. There's another grievance with this ---

17 Q. I'm listening. I'm listening.

18 A. That's my handwriting right there. I advise him to do
19 an emergency grievance to protect himself because he said,
20 he didn't hear anything about the grievance that he filed
21 and I told him they can't wait, if you file an emergency,
22 then they will make it priority. So you showing me this as
23 if this is the original first grievance he filed that's not
24 correct.

25 Q. I understand.

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1 A. Okay. So again I seen the one with Washington's
2 response. So if you show me the grievance that has Warden
3 Washington's response then I would agree but this doesn't
4 have Warden Washington's response.

5 Q. I thought you said he never heard from the first
6 grievance?

7 A. By the time I did this one. Listen when I first spoke
8 to him about the injury, don't mix my words, when I spoke
9 to him about the injury, okay, he told me he filed some
10 papers, okay, he did not hear anything back from them.
11 When he told me what happened to him and the officer told
12 me that, that was true, I advised him to go ahead because
13 in an emergency there is a clause in our grievance system
14 where they make it priority number one that he shouldn't be
15 waiting because his concern was that they did not take him
16 for x-ray and they were trying to make him heal up so they
17 can say that he didn't have any injuries when he really was
18 injured.

19 Q. Okay.

20 A. Okay. So that is the first one ---

21 Q. I'd like to ---

22 A. You asked me the question but I don't want you to
23 switch my answer.

24 Q. I understand. You're saying he didn't hear from the
25 first one?

1 A. Exactly. I'm saying that is the not the first one
2 right there.

3 Q. I understand.

4 A. Because when he filed the first when I wasn't nowhere
5 around. That has my handwriting on it, okay. The top
6 emergency grievance that's written in my handwriting. I
7 cannot authenticate that.

8 Q. I understand.

9 MR. STEPHENS: Can I have this marked, defendant's 2 -
10 - 2, Your Honor?

11 MS. MUNNERLYN: No objection, Your Honor.

12 MR. STEPHENS: I'd like to have this introduced.

13 THE COURT: All right. Is there no objection to
14 defendants 2?

15 MS. MUNNERLYN: That's correct, Your Honor, no
16 objection.

17 THE COURT: All right. It's in evidence without
18 objection.

19 (Whereupon, the SC Department of Corrections Grievance Form
20 has been marked and entered into evidence as Defendant's
21 Exhibit No. 2)

22 Q. Now, that was the first thing you helped him with?

23 A. I want to say so. But I told him to write the federal
24 people for, for the application for the lawsuit.

25 Q. Okay.

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1 A. The same time I talked to him about that.

2 Q. So that was the first legal matter you helped him
3 with?

4 A. No. I helped him look up cases since I met him in the
5 summer.

6 Q. Okay.

7 A. So that was May, June. This is after the incident
8 happened I helped him. So it had been several months I
9 assisted him in finding case laws and stuff.

10 Q. Okay. Now, you know what the Rule 5 and discovery is,
11 right?

12 A. Yeah, I know what it is.

13 Q. And did you help Mr. Stackhouse prepare a motion for
14 dismissal for violation of a speedy trial rights?

15 A. I think I gave him some advice on that.

16 Q. Let me ask you did -- does this look familiar to you?
17 Did you type that up?

18 A. Yeah, that looks familiar. Yeah, this looks familiar
19 to me.

20 Q. Okay. And could you tell the Court what date is on
21 this?

22 A. October 10, 2016.

23 Q. So you did this work for Mr. Stackhouse in October of
24 '16?

25 A. Yeah, I assisted him with that.

1 Q. Did he pay you for doing that?

2 A. No, he did not.

3 Q. Okay. You deny that he paid you \$25 to do that?

4 A. I was never paid any money ---

5 Q. Okay.

6 A. --- for that.

7 Q. Now -- and then you did -- you helped him this
8 paperwork for this, for the injury?

9 A. Yeah.

10 Q. You helped -- you advised him on some paper ---

11 A. I didn't write that.

12 Q. I understand.

13 A. I advised him that. He told me the problem was that
14 he was concerned he was injured and they wanted to hide it
15 by not taking him for x-ray, MRI, or whatever it was. So I
16 was doing that to assist him out to make sure he get
17 treated fairly.

18 Q. I understand.

19 A. That's why I did that. I wasn't motivated by any
20 money.

21 Q. Okay. And then you helped him with another motion in
22 February?

23 A. What month -- I don't know what you're talking about.

24 Q. You helped him with another speedy trial motion ---

25 A. I don't know.

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1 Q. --- this pass February?

2 A. Unless you can show me that, I don't know what you're
3 talking about, sir.

4 Q. How about in July of this year, did you helped him
5 with -- were you going to help him appeal the denial of the
6 some motions by Judge Burch?

7 A. I don't know any denial by Judge Burch and I didn't
8 prepare anything about a motion with Judge Burch.

9 Q. Did you prepare ---

10 A. I never seen anything about Judge Burch.

11 Q. Okay. Did you prepare some subpoenas for him?

12 A. I helped, yeah, I helped him.

13 Q. Okay. You helped him prepare subpoenas for this week
14 of court?

15 A. He asked me.

16 Q. I understand.

17 A. You don't understand if you don't let me talk.

18 Q. Okay. I'm sorry.

19 A. Okay. How can you understand if I don't answer the
20 questions ---

21 THE COURT: All right. All right. Again, let's
22 just go over the rules again, okay?

23 A. I'm just being honest ---

24 THE COURT: Sir! The attorney will ask the
25 question, if it calls for a yes or no answer then you would

1 give a yes or no answer and then you're able to fully
2 explain the answer. Mr. Stephens, you will allow him to
3 fully explain his answer before you ask another question.
4 Proceed.

5 A. I don't remember the question you asked me. Please
6 repeat it.

7 Q. Did you prepare some subpoenas for Mr. Stackhouse for
8 this week of court?

9 A. No. What Mr. Stackhouse asked me was that he wanted
10 some witnesses to come. He ask his attorney could he bring
11 some witnesses and the attorney said, no the judge is not
12 going to let them come. He said what can I do? I said,
13 you can do your own subpoenas. Subpoenas make people come.
14 I was at the mail room posting my stuff out for mail. So
15 we was discussing it so while I was there I said well,
16 here's some form I've got extra and we did the subpoena
17 papers. So he came from a question of him wanting to help
18 himself. So that's the answer to the question.

19 Q. He told you he wanted to subpoena some people for this
20 week of court?

21 A. He told me how could he get witnesses in for himself
22 that he wanted to come in that nobody was helping him with.

23 Q. I understand.

24 A. That's what he told me and that's what I helped him to
25 do. I said the only thing I can think of is a subpoena is

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1 a document that makes that happen. It don't matter who
2 files it. So if I was him, if you want something just file
3 it to the court.

4 Q. Did you know he wanted them for this week?

5 A. Sir, unless you showed me, I don't know about what
6 date was on it.

7 Q. Okay.

8 A. But I'm sure that the date, cuz you have to put in the
9 request where you want the witness to appear and the time.
10 I don't recall the time nor the date. But if you have the
11 paper I'm sure it's written on there when he said he wanted
12 to have the people, the name of the people and where he
13 wanted the people to appear.

14 Q. Now, Mr. Thompson, how long have you been working in
15 the law library?

16 A. I've been working there like I say I used to work in
17 the kitchen and I volunteered in the law library and I
18 started working in the kitchen, 2005 or so. So when I
19 finish with the kitchen I would help in the law library as
20 a volunteer. So I first was assigned as a volunteer in,
21 like 2005, I think. When I went to get a job, PI, which is
22 public industry, they pay you money. I went to work as my
23 primary job. So when I get off work, I work from 7 to 3.
24 When I don't I go to the law library from 4:30 to 8 PM. So
25 I did that for years and then I think I officially got

1 assigned in there in either 2007 or 2008, officially when
2 that was just my one job. But I always had two job. So to
3 answer your question, unofficially, was a couple of years.
4 From 2005, I want to say. So if you show on my record I
5 work for the kitchen I actually did volunteer work in the
6 law library. But maybe 2007 or 2008 I got assigned in
7 there.

8 Q. Okay..

9 A.. I want to say, I'm not sure.

10 Q. Okay. I believe you told the solicitor that the
11 reason you're in the Department of Corrections is for
12 charges out of Richland, Lexington and Berkeley Counties,
13 is that correct?

14 A. Yes.

15 Q. And that was armed robbery and kidnapping?

16 A. Multiple armed robbery, multiple kidnapping's, I was
17 accused of and I was convicted of.

18 Q. I understand. And -- now, you -- in connection with
19 those cases, you filed a case in Berkeley County and it
20 went all the way to Supreme Court?

21 A. I -- yeah, I don't remember because I filed multiple
22 stuff since I've been in prison ---

23 MS. MUNNERLYN: Your Honor, I would just object as to
24 the relevance to this action.

25 THE COURT: All right. Y'all come over here and

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1 talk to me please.

2 (Whereupon, a bench conference was held off the record)

3 THE COURT: Ladies and gentlemen of the jury, go to
4 the jury room please.

5 (Whereupon, the jury exits the courtroom at 12:46 pm)

6 THE COURT: All right. Ask the questions you want
7 to ask, Mr. Stephens.

8 Q. You filed an action in Berkeley County that went all
9 the way to the Supreme Court? Let me show you the ---

10 THE COURT: You're talk about the South Carolina
11 Supreme Court?

12 MR. STEPHENS: South Carolina Supreme Court.

13 THE COURT: All right, sir.

14 A. Yeah, that's the declaratory judgment.

15 Q. Okay.

16 A. Yeah, when you said appellate I thought you was
17 talking about criminal stuff because I had a case that went
18 to the Court of Appeals out of Berkeley County.

19 Q. This one?

20 A. No. It went -- in 2003, I got my case overturned, two
21 of my cases overturned. I thought you were talking about
22 that. This is ---

23 Q. This is the declaratory judgment and what does that --
24 tell the Court what that's for?

25 A. I challenged the court -- I challenged the prison

1 saying I would have to -- that my charge qualifies for
2 sexual offender registry.

3 Q. Right.

4 A. I asked the prison -- what happened was my family --
5 my family came from Jamaica to see me and one of my
6 brothers went on the Internet just to look where I was out
7 and stuff. So he sees that there is a sexual registry. So
8 when I talked to him he ask me what I'm doing with my life?
9 Who am I raping? And I said I don't know what you're
10 talking about. So he said on your computer it says, sex
11 offender. So I went to the prison people and I asked them
12 to remove that because I don't have a sexual charge. I'm
13 not a molester. I don't rape people. Remove it. They
14 refused. They say if I want to remove it I need to file
15 with court and let the judge tell them to remove it. They
16 did not remove anything off of it.

17 Q. Okay.

18 A. So that's the basis, because one of my family members
19 thought I was just living a trashy life and my brother
20 didn't want to deal with me because he didn't understand
21 that in this state they can list you but it doesn't tell
22 the whole scenario of what's going on. So my brother
23 thought I was a rapist or a molester and it caused a
24 problem between me and him. He didn't want to deal with me
25 anymore.

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1 Q. Okay.

2 A. So I had to deal with it to show, you know, to show my
3 family, you know, I'm in jail but the things, I didn't do
4 that.

5 Q. Okay.

6 A. So that's it, you know.

7 Q. So you want that off your record?

8 A. They took it off.

9 Q. It's already off?

10 A. Yes. I had to go to court, the Supreme Court, and
11 they can take it off. You didn't read the case?

12 Q. So when did they take it off?

13 A. They took it off whenever the, the time frame for the
14 rehearing, I guess, after the Supreme Court you can have a
15 rehearing. So after that time frame it was removed.

16 Q. Okay.

17 A. So thirty days or sixty days after they issued the
18 opinion from the oral argument it was removed.

19 THE COURT: Mr. Stephens, help me here. What you
20 want to do is ask this witness a question that, to the
21 essence that, due to your current status with the South
22 Carolina Department of Corrections based upon your
23 testimony here today, you can ask for a reduction in your
24 sentence pursuant to South Carolina Code of Laws, is that
25 what you want to ask him?

1 MR. STEPHENS: Yes, sir.

2 THE COURT: You can ask him that. You don't have
3 to go through that he had a wrongful classification by the
4 South Carolina Department of Corrections to get there. You
5 can certainly ask him. That goes to whether or not he has
6 any benefit from testifying. You can certainly ask him
7 that in the fashion that I told you. There's no necessity
8 to go through this extraneous stuff to get to that point.
9 The point is whether or not there's some benefit from him
10 testifying. Whether there could be some benefit from him
11 testifying. You are certainly welcome to ask him about
12 that but the fact that he, the Department of Corrections
13 wrongfully had him classified and he had to go through the
14 South Carolina Supreme Court to get that cleared up this
15 extraneous, has nothing to do with this case, nor whether
16 or not he, his testimony will give him the benefit or not,
17 okay?

18 MR. STEPHENS: Thank you, Your Honor.

19 Q. So you're familiar with Section 17-25-65?

20 A. No, sir.

21 Q. You know that if, you have been in the law library for
22 a good while and you've helped inmates, you know by
23 testifying you can receive a sentence reduction for
24 testimony?

25 A. No, sir, I was not aware of that statute.

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1 Q. You've never testified in court before against ---

2 A. On my own cases. I testify on my own behalf.

3 Q. Did you go to Greenville for court?

4 A. I went to a federal habeas corpus on my case.

5 Q. Okay.

6 A. I was fighting my conviction.. Judge Herlong had a

7 evidentiary hearing for me. I testified on my behalf

8 against my criminal, own criminal case. That was of

9 federal habeas corpus, a 2254 petition. I never testified

10 against anybody before in my life.

11 Q. So you denying you knowing anything about the statute

12 that you can receive assistance in your sentence for

13 testimony?

14 A. No, sir.. I do not know every statue ---

15 Q. You don't ---

16 A. --- in the law library and I don't know that's that

17 statute specifically.

18 Q. All right.

19 A. I never filed anything under that statute. There's

20 many statue that I'm not aware of.

21 Q. Okay. But as much as you've done in the law library

22 and going to the Supreme Court and working with inmates,

23 you're telling us, you're telling us you don't know

24 anything about the statute?

25 A. There's many statutes I'm not aware of.

1 Q. I'm asking you about this one.

2 A. I'm telling you I don't know that one.

3 Q. That's fine.

4 A. My knowledge is limited. Even though I worked there,
5 I don't know everything.

6 Q. I understand. Okay. And you denied that Mr.
7 Stackhouse ever paid you?

8 A. No, he did not pay me.

9 THE COURT: All right. So when the jury comes back
10 Mr. Stephens, what is it that you want to ask this witness?

11 MR. STEPHENS: I want to ask him if -- I'd like to ask
12 him if he's ever, without getting into the specifics, if
13 he's ever taken a case to the South Carolina Supreme Court.

14 MS. MUNNERLYN: And I'll object to that, Your Honor.

15 THE COURT: And what would be the purpose of asking
16 him that question?

17 MR. STEPHENS: It would show his knowledge of the law
18 his familiarity with the law. That he just, you know, he
19 just testified that he's had a federal habeas corpus. He
20 works at the law library assisting inmates and I want ---

21 THE COURT: And again, so assuming all of that,
22 what is the purpose of asking him that question? Why is it
23 that you want the jury to know that?

24 MR. STEPHENS: Because I don't think he is being
25 truthful.

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1 THE COURT: Okay. The fact that he filed an action
2 that went to the South Carolina Supreme Court, the fact
3 that he filed a federal habeas corpus action, would show
4 the jury in some way that he's not being truthful?

5 MR. STEPHENS: No, sir. It shows his level of
6 knowledge in the legal system. It shows that he has a good
7 deal of experience in the legal system. You know, he's
8 testified here about subpoenas, motions and habeas corpus,
9 and rehearing, oral arguments, and he works in the law
10 library in the Department of Corrections and this sentence,
11 the statute that would substantially affect an inmate
12 sentence. He claims not to have any familiarity with it
13 when he's here today taken advantage of.

14 THE COURT: All right. Well, you can certainly ask
15 him and I've told you this before, you can ask him that
16 based upon his current classification by the South Carolina
17 Department of Corrections the crimes for which he is, has
18 been convicted and serve the sentence, that pursuant to the
19 South Carolina Law, he can file an application for relief
20 from his sentence. You can ask him that question because
21 that goes to whether or not there some benefit for his
22 testimony. You can certainly ask him that, okay. Now,
23 whatever answer he gives you is whatever answer he gives
24 you, okay. And then you can ask him, well, you've worked
25 in the law library for how many years, whatever many years

1 he said, okay, and you filed actions in your own case,
2 that's fine.

3 MR. STEPHENS: Okay..

4 THE COURT: You can ask him those questions but to
5 get into the specifics, to get into the details of those
6 I'm not letting you do it because it has nothing to do with
7 illuminating the jury in any fashion as to the matter. But
8 you can ask him those questions because it goes to whether
9 or not there's a benefit for his testimony and the jury has
10 the right to know that.

11 MR. STEPHENS: Thank you, Your Honor.

12 THE COURT: All right. Ask the jury to come back
13 in.

14 (Whereupon, the jury enters the courtroom at 12:57 pm)

15 THE COURT: You may continue, Mr. Stephens.

16 MR. STEPHENS: Thank you, Your Honor.

17 Q. Mr. Thompson, do you understand that by testifying
18 here today under the laws of the State of South Carolina,
19 you may be entitled to have your sentence reduced?

20 A. No, sir. Nobody made me to understand that.

21 Q. Okay. Now, you've testified that you work in a law
22 library?

23 A. Yes, sir.

24 Q. And have worked there for some time?

25 A. Yes, sir.

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1 Q. Okay.

2 A. About ten or eleven years.

3 Q. Ten or eleven years.

4 A. Yeah.

5 Q. Now, you have file -- you filed a case in Berkeley
6 County, Court of Common Pleas on your own, pro se?

7 A. Yes, sir.

8 Q. And it went all the way to the State Supreme Court?

9 A. Yes, sir, it did.

10 Q. Okay. It went through the Court of Appeals to the
11 Supreme Court, is that correct?

12 A. It did.

13 Q. And you've testified that you had typed up this motion
14 for Phillip Stackhouse?

15 A. I never said I typed it.

16 Q. You advised him?

17 A. Yes, I did advise him.

18 Q. You advised him on filling out subpoenas?

19 A. I don't know advised I just say he asked me -- I'm
20 just telling how it happened.

21 Q. I understand.

22 A. People tell me to speak honestly, okay.

23 Q. I understand.

24 A. So I'm just speaking honestly. I'm not trying to be
25 difficult with you; okay. He asked me how can he help his

1 self if he wanted some people to come. So I told him the
2 best way to do it, if I was you, just do the subpoena
3 because the court recognizes the subpoena. They don't
4 worry about who the person who filed it. They will
5 recognize that document.

6 Q. Okay. And you have advised other inmates in the
7 Department of Corrections?

8 A. I have assisted them about ---

9 Q. Okay. Thank you.

10 A. But let me say because I don't want to be difficult
11 with you, okay. They're some people when they ask me
12 question I just go over the top, not over the top, but like
13 I glance over. I don't take -- I don't take like always,
14 always, days, days going over things with them. Then
15 there's certain people where they learning for themselves
16 and then it gets a little more deeper. That is what I
17 consider advisement when they go a little deeper and then
18 we're talking about different things. But I don't normally
19 do it. I don't just advise people. I don't do that.

20 Q. Okay.

21 A. But I help everybody I can help.

22 Q. You've assisted?

23 A. I would assist them.

24 Q. And you assisted them in preparing motions, that kind
25 of thing?

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1 A. I assisted them in finding the information that will
2 help them do the motions.

3 Q. Now, have you filed an action in Richland County
4 against Joel Stroud in Common Pleas?

5 A. Yes. That's the ---

6 MS. MUNNERLYN: Objection, Your Honor.

7 MR. STEPHENS: I'm not gonna get into the details.

8 THE COURT: I'm going to allow him to ask the
9 question whether or not the matter has been filed but not
10 as to any particular's. You may proceed, Mr. Stephens.

11 Q. You filed that?

12 A. That's a lawyer who, who I'm suing him to return funds
13 that he stole from me.

14 Q. Okay.

15 A. That's why I'm suing him.

16 Q. And that's pro se, you're doing that yourself, right?

17 A. I'm doing that myself.

18 Q. All right. Now, -- and you -- I believe you told me
19 that you're familiar with what Rule 5 and discovery is?

20 A. I said I know what it is. It's a Brady motion.

21 Q. Okay.

22 A. It's basic law. I understand that.

23 Q. And just for the jury, what does that mean?

24 A. The Brady -- the Rule 5?

25 Q. Yes.

1 A. The Rule 5 is when, like, when you get arrested
2 whatever the police compile against you, you have a right
3 to receive it. It's like the open book but you have to
4 request it. Once it's requested, anything they think, they
5 don't give you everything, you know, they just give you
6 everything they feel is incriminating against you. The
7 inculpatory or exculpatory something like that.

8 Q. So that would be warrants, incident reports?

9 A. It could be a number of anything.

10 Q. Statement by witnesses?

11 A. Some things are included ---

12 Q. The whole, your whole file, correct?

13 A. I don't -- yeah.

14 Q. Okay. And at some point when you were advising or
15 assisting Phillip Stackhouse you had his Rule 5, didn't
16 you?

17 A. No, sir.

18 Q. You never had it?

19 A. No, sir.

20 Q. You deny you had it?

21 A. I never touch his Rule 5.

22 Q. Okay. And you're telling us that you're not aware of
23 the statute 17-25-65 that says, someone upon the State's
24 motion, the court may reduce a sentence of the defendant --

25 -

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1 A. No, sir.

2 Q. --- for substantial assistance investigating or
3 prosecuting another person?

4 A. No, sir.

5 Q. Okay.

6 A. Listen, I'm going to be honest with you, all right. I
7 didn't know about that. Even if you look at that speedy
8 trial motion, okay, the one you showed me that I assist him
9 with, you understand, I don't even know what the man was in
10 jail for. Even in that speedy trial motion it don't even
11 have what he charge for. It don't have what he charged
12 for. I did not know. I never ask him. I never ask him.
13 I wasn't concerned. It not my business.

14 Q. But you deny you ever had his Rule 5 ---

15 A. I did not have his Rule 5.

16 MS. MUNNERLYN: That's all I have, Your Honor.

17 THE COURT: Any redirect?

18 MS. MUNNERLYN: Just a couple of questions, Your Honor.

19 **Redirect Examination by Ms. Munnerlyn:**

20 Q. So he was just asking you about that motion for a
21 speedy trial that you assisted Mr. Stackhouse with?

22 A. Yeah.

23 Q. That was actually filed in October of 2016, correct?

24 A. I don't -- if you look at it, I don't remember.

25 Q. But ---

1 A. I think so. I think so.

2 Q. Okay. So that was prior to the time when this
3 defendant told you this information about what he did and
4 what he's charged with today?

5 A. Exactly.

6 Q. Okay. So you didn't even know what he was charged
7 with?

8 A. No. Like I was telling him, you understand me, when I
9 spoke with him at the gate that day, you understand me,
10 when I spoke with him at the gate that day, the only -- I
11 didn't know what he was charged for or anything, you
12 understand me. I don't know what -- I don't know what made
13 him say that to me, you understand me.

14 Q. Yes.

15 A. I don't know what made him say that to me but, you
16 know, I don't ---

17 Q. You weren't asking him, tell me about why you're here
18 or anything like that, he just told you that information?

19 A. The only -- no, I did not -- the only thing I gave him
20 was, I gave him the pen, you understand me, then I gave him
21 some of that sour, sour taffy, the sour gum thing, you
22 understand me, but like I say I didn't know what was on it.
23 So I didn't know.

24 Q. But you have talked with him about a number of other
25 things for several months leading up to that? You would

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1 have assisted him in obtaining cases and legal materials
2 for him on various issues, correct?

3 A. Yeah.

4 Q. And so y'all had met numerous times?

5 A. Yeah.

6 Q. Okay.

7 A. But like I say, that day before I went to see
8 Stackhouse he wasn't suppose to get that sour taffy gum.

9 It was not for him. It was for somebody else, you
10 understand me. So I got to tell everything that happened.
11 So when he got that taffy, that taffy gum, I don't know if
12 he got sick from it or what but I didn't know what was on
13 that taffy gum.

14 Q. You just shared it with him because you had it?

15 A. Yeah. But it wasn't for him. It was for somebody
16 else.

17 Q. Right.

18 A. It wasn't for him.

19 Q. Okay.

20 A. Do you understand me, so later on someone told me
21 there was something on that gum that wasn't suppose to be
22 there. There was ice on that gum. That's what he was
23 chewing.. But I didn't know that. I didn't know that.

24 THE COURT: Anything else, solicitor?

25 MS. MUNNERLYN: Nothing further, Your Honor.

1 THE COURT: Mr. Stephens?

2 MR. STEPHENS: No, sir.

3 THE COURT: Remand him back to your custody. Thank
4 you. I'm remanding him back to your custody. You can go
5 and get up and go back with the officers please. All
6 right. Ladies and gentlemen, we're going to break for
7 lunch at this point in time. We're going to resume the
8 trial at 2:30. The bailiff may have you back a little bit
9 earlier so we can start at 2:30. Remember don't talk about
10 the case. Don't allow anybody to talk to you about it,
11 okay. Thank you very much, 2:30. Everyone else remain
12 seated while the jury retires please.

13 (Whereupon, the jury exits the courtroom at 1:08 p.m.)

14 THE COURT: All right. Anything from the State
15 before we break for lunch?

16 MS. MUNNERLYN: No, Your Honor.

17 THE COURT: From the defense?

18 MR. STEPHENS: Nothing, Your Honor.

19 THE COURT: All right. Very good, 2:30. Thank you
20 very much.

21 (Whereupon, the court broke for lunch from 1:09 to 2:30
22 p.m.)

23 THE COURT: All right. Solicitor, are you ready
24 for the jury?

25 MS. MUNNERLYN: Yes, Your Honor.

26 THE COURT: The Defense?

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1 MR. STEPHENS: Yes, sir, Your Honor.

2 THE COURT: All right. And you have other
3 witnesses, solicitor?

4 MS. MUNNERLYN: I just have one very brief witness,
5 Your Honor, and then I will rest.

6 THE COURT: All right. Ask the jury to come in
7 please, ma'am.

8 (Whereupon, the jury enters the courtroom at 2:32 p.m.)

9 THE COURT: All right. Solicitor, your next
10 witness please, ma'am.

11 MS. MUNNERLYN: Thank you, Your Honor. I'd call
12 Michael August.

13 THE COURT: Okay.

14 THE CLERK: Do you solemnly swear or affirm that
15 the testimony you shall give the Court and jury in this
16 case shall be the truth, the whole truth, and nothing but
17 the truth so help you God?

18 MR. AUGUST: I do.

19 THE COURT: Have a seat and state your full name
20 please.

21 MR. AUGUST: Michael August.

22 MICHAEL AUGUST, first being
23 duly sworn, testified as follows:

24 **Direct Examination by Ms. Munnerlyn:**

25 Q. Where are you employed now?

1 A. I'm employed with the City of Darlington Police
2 Department currently.

3 Q. And where were you employed in February of 2016?

4 A. February of 2016 with the South Carolina Law
5 Enforcement Division up until a week ago and I went back to
6 the City of Darlington.

7 Q. All right. And what capacity were you working for
8 sled back in February of 2016?

9 A. Special agent criminal investigation in the PD region
10 which consist of twelve counties throughout the PD region.

11 Q. And does that include Marlboro County?

12 A. It includes Marlboro County and Evans Corrections and
13 it's in the jurisdiction of Marlboro County.

14 Q. Okay. And did you receive a call to come for
15 assistance in an investigation here at Evans on February
16 23rd?

17 A. Yeah, the morning of February 23, 2016 I received a
18 call from, at the time, Lieutenant Abraham, to respond to
19 Evans in reference to a stabbing that had occurred.

20 Q. And so were you the only agent who responded initially
21 or was anyone else responding?

22 A. No. Mark Cry (sic) was the initial responding agent
23 and I live fairly close but Mark Creech was right behind me
24 he also testified here this week.

25 Q. All right. And the testimony has shown that this

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1 incident happened at Evans Correctional Institution?

2 A. Yes, here in Marlboro County.

3 Q. And that is located here in Marlboro County?

4 A. Yes.

5 Q. And what do you do when you came and began your
6 investigation, just in general tell us what you did?

7 A. The crime scene was already on the way. When I
8 arrived at the scene, the correctional institute here at
9 Evans, I met with the warden. After meeting with the
10 warden, Mark Creech was shortly behind me and crime scene
11 showed up also. Actually they went -- instructed them to
12 go to the hospital because the victim, Mr. Johnson, had
13 already been moved out and he was at Evans, I mean, McLeod
14 Cheraw, he had already been moved to that particular
15 location so I sent crime scene to that location.

16 Q. And so what did you proceed to do once you arrived at
17 the facility?

18 A. Started interviewing witnesses.

19 Q. Okay.

20 A. And many of the witnesses testified here this week,
21 took witness statements from them.

22 Q. Okay. And as a result of your investigation, did you
23 develop a suspect in this particular case?

24 A. Yes.

25 Q. And who was that?

1 A. Phillip Stackhouse.

2 Q. Was he the sole suspect?

3 A. Not initially until I started interviewing witnesses.

4 We started out with correctional officers first and after
5 interviewing, you know, they alleged that he committed ---

6 MR. STEPHENS: Objection, to anything considered
7 hearsay, Your Honor.

8 THE COURT: All right. Just talk about what you
9 did, not what somebody else told you, okay. Go ahead.

10 A. Okay. Yes. I gathered a suspect by, through witness
11 statements, through witness statements.

12 Q. Okay. And so you narrowed it to one suspect?

13 A. I finally narrowed it down to one suspect.

14 Q. And that was who?

15 A. Phillip Stackhouse.

16 Q. Okay. All right. Now, I just want to ask you about
17 one piece of evidence. I want to -- I want to show you
18 what's been marked as State's Exhibit 44, do you recognize
19 what's in the photograph?

20 A. Yes. That's a photograph of Oliver Johnson.

21 Q. The victim in this case?

22 A. The victim in this case.

23 Q. Okay. And now, he has handcuff's on him in that
24 particular picture?

25 A. That is correct.

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1 Q. And do you know where that picture was taken?

2 A. I believe the testimony was that it was taken at the
3 Cheraw Hospital.

4 Q. Okay. All right. And do you know why the handcuffs
5 are on the inmate?

6 A. My investigation reveals that it's SCDC policy to
7 handcuff any inmate that comes out of the prison whether
8 they are alive or deceased. Anybody who leaves the prison
9 unless they've been released through the prison system that
10 they're to be handcuffed.

11 Q. Okay. So even if he was not conscious he would been
12 handcuffed ---

13 A. Even if he's not ---

14 Q. --- when he left the facility?

15 A. That's correct.

16 Q. You did not process the crime scene?

17 A. I do not process the crime scene.

18 Q. Okay. You're primary responsibilities were taking
19 witness statements?

20 A. Taking witness statements. Correct.

21 Q. And you turned in your report and that was the extent
22 of your investigation?

23 A. That is the extent of my investigation. After
24 reviewing my report I would like to amend that at sometimes
25 I called it Lee Corrections in some of the places in the

1 report and that's from, because I work cases in Lee County
2 also and it was just a clerical error in the report. So
3 there was like two or three mistakes in there for that.

4 Q. But everything relative to this investigation occurred
5 at Evan Correctional?

6 A. Everything -- correct. Everything occurred at Evans.
7 Nothing happened at Lee.

8 Q. Okay. All right.

9 MS. MUNNERLYN: I don't have any further questions. If
10 you would answer any questions Mr. Stephens has.

11 THE COURT: Cross examination?

12 MR. STEPHENS: Thank you, Your Honor.

13 **Cross Examination by Mr. Stephens:**

14 Q. Agent August, do you know how many inmates were
15 assigned to Cherokee that day?

16 A. No, sir. I don't know the exact number. I know it's
17 a wing.

18 Q. Do you know how many were in that wing?

19 A. Nope. No, sir, I don't.

20 Q. Do you know how many Muslims were in the dorm?

21 A. No, sir, I don't.

22 Q. Did you interview Officer Miranda Lockey?

23 A. Yes. There was a statement taken from Miranda Lockey.

24 Q. Did you search any cells?

25 A. Did I personally search these cells, no, sir, crime

M. August- Cross Examination by Mr. Stephens

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1 scene does that.

2 Q. Did you search any individuals?

3 A. No, sir. Crime scene or -- no, sir, I didn't search
4 anybody.

5 Q. And you never tried to determine how many Muslims were
6 in the dorm?

7 A. No, sir.

8 Q. Okay.

9 MR. STEPHENS: That's all, Your Honor.

10 THE COURT: Any redirect?

11 MS. MUNNERLYN: No, Your Honor.

12 THE COURT: All right. You may step down, sir.

13 MR. AUGUST: Thank you, sir.

14 THE COURT: Further witness by the State?

15 MS. MUNNERLYN: That's all the witnesses the State
16 would have, Your Honor. The State would rest.

17 THE COURT: All right. Very good. Are there
18 matters of law at this point in time from the defense, Mr.
19 Stephens?

20 MR. STEPHENS: Yes, sir, Your Honor. We would make
21 our ---

22 THE COURT: All right. Hold on one second.

23 MR. STEPHENS: I'm sorry.

24 THE COURT: Mr. Foreman, ladies and gentlemen of
25 the jury, at this stage of the trial in any general

1 sessions or criminal court case, at this point when the
2 State rest, there are always matters of law that must be
3 brought up and I need to discuss those with the attorneys
4 outside of your presence. We'll do that and then I'll call
5 you back in as we resume the trial. I'll try to do it as
6 quickly as possible. So if you'll go to your jury room.
7 please. Thank you.

8 (Whereupon, the jury exits the courtroom at 2:41 p.m.)

9 THE COURT: All right. Mr. Stephens, I'll be glad
10 to hear from you, sir.

11 MR. STEPHENS: Thank you, Your Honor. If it pleases,
12 The Court? Your Honor, at this time I would just like to
13 renew all motions and objections previously made and I
14 would also like to move for a directive verdict of not
15 guilty ---

16 THE COURT: Okay. Before you can do the motion for
17 directive verdict, regarding the renewing of any motions
18 previously made those have been noted for the record and
19 the Court reaffirms all of it's rulings in those prior
20 motions. All right. Very good.

21 MR. STEPHENS: Thank you, sir. And then I would also
22 like to make a directive verdict motion that there has not
23 been any competent evidence shown to intend to show any
24 guilt on the part of my client and we would ask for
25 directed verdict of not guilty.

26 THE COURT: All right. In moving for a directed

1 verdict, the defendant, any defendant, would be entitled to
2 a directed verdict if the State fails to produce evidence
3 of the offense charged. I'm concerned with the existed of
4 evidence not with it's weight. I'm not judging the
5 credibility or believability, whether or not, just whether
6 or not the evidence exist and I'm looking at whether or not
7 there's any direct evidence or substantial circumstantial
8 evidence reasonably tending to prove the guilt of the
9 accused. In regards to a directed verdict motion if there
10 was only mere speculation that the defendant was guilty of
11 the offense then the directed verdict motion would be
12 proper. But here I find that the State has produced
13 certainly direct evidence testimony of persons who were
14 present as to what they saw and observed, as well as
15 substantial or circumstantial evidence upon which the State
16 is reliant, you combined all of that and I do find there's
17 more than sufficient evidence to deny the motion for
18 directed verdict regarding the evidence proving the
19 defendant guilty of the crime charged. Again I'm not
20 judging the credibility or believability, that's the jury's
21 job to do that, I'm only ruling that the evidence does
22 exist and there's more sufficient evidence that exist that
23 the matter should properly go before a jury and, therefore,
24 denying the motion for a directed verdict. Further motions
25 from the defense, if any?

26 MR. STEPHENS: No. I don't have any further motions.

1 THE COURT: All right, sir. Regarding this
2 particular matter, is it the intention of the defense to
3 present witnesses?

4 MR. STEPHENS: Yes, sir, Your Honor.

5 THE COURT: All right. I had listed an individual
6 other than the defendant, Mr. Stackhouse, will there be
7 testimony of any witness or witnesses other than the
8 defendant?

9 MR. STEPHENS: Mr. Willie Eagleton, I think.

10 THE COURT: All right, sir. The reason I'm asking
11 that is rather than talk to your client about his
12 constitutional rights now, I want to give him the benefit
13 of the presentation of all of the case before he makes a
14 decision whether or not he wants to testify or not. He may
15 have already made that decision, but I want to make sure
16 that all the evidence is in except for the possibility of
17 him testifying before he makes that decision. So what we
18 will do is we'll call the jury back in, you can present
19 your witness or witnesses other than the defendant, when
20 you're at that point in time when the remaining person to
21 be called, if it is to be called, the defendant, then we'll
22 take a short break and I'll talk to him about his
23 constitutional rights at that point in time.

24 MR. STEPHENS: That's fine, Your Honor.

25 THE COURT: All right.

26 MR. STEPHENS: Mr. Eagleton will be short. My client

1 has made up his mind.

2 THE COURT: And I appreciate that. I mean, if you
3 want me to do it right now and there is no question, why
4 don't you ask him and if he just for the process of the
5 trial, if you want to do that, I'll be glad for you to do
6 it.

7 MR. STEPHENS: He said let's just go ahead and do the
8 one witness.

9 THE COURT: All right. Very good. All right. So
10 ask the jury if they are ready to come back in and if they
11 are bring them back and please, ma'am.

12 (Whereupon, the jury enters the courtroom at 2:47 p.m.)

13 THE COURT: All right. Mr. Stephens?

14 MR. STEPHENS: Yes, sir, Your Honor. At this time
15 we'd call Mr. Willie Eagleton to the stand.

16 THE COURT: All right. Very good. Where is -- Mr.
17 Eagleton, come around, sir. Come right up here and meet
18 the clerk right up here please, sir.

19 THE CLERK: Do you solemnly swear or affirm that
20 the testimony you shall give the Court and jury in this
21 case shall be the truth, the whole truth, and nothing but
22 the truth so help you God?

23 MR. EAGLETON: I do.

24 THE CLERK: Have a seat right there and state your
25 full name.

26 THE COURT: All right. State your full name

1 please, sir.

2 MR. EAGLETON: Pardon me?

3 THE COURT: State your full name?

4 MR. EAGLETON: Willie Lee Eagleton.

5 THE COURT: All right. Go ahead, Mr. Stephens.

6 WILLIE EAGLETON, first being
7 duly sworn, testified as follows:

8 **Direct Examination by Mr. Stephens:**

9 Q. Good afternoon, Mr. Eagleton, where you live?

10 A. I live here in Bennettsville, [REDACTED] Ebenezer Road.

11 Q. At the present time, are you employed?

12 A. I'm retired.

13 Q. Where did you retire from?

14 A. I retired from the Department of Corrections. I've
15 been employed by the Department of Corrections since 1978
16 and retired as of September 2, 2017.

17 Q. And at any time were you out at Evans Correctional?

18 A. Yes, sir.

19 Q. Okay. How long were you there?

20 A. I've been a warden at Evans since December of '99.

21 Q. You were warden since 1999?

22 A. Yes, sir.

23 Q. And a couple of questions I want to ask you, as far as
24 assaults at the Evans Correctional Institute, in the last
25 couple of years, what's that situation been like?

W. Eagleton- Direct Examination by Mr. Stephens

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1 A. There's been an increase because I'm saying the thing
2 about it is that over the years you have more millenniums
3 and now are different generations. You have people who do
4 things differently, totally different now. So I'm saying I
5 see there is a lack of discipline whenever the individuals
6 come into the Department of Corrections so there's a slight
7 increase.

8 Q. Okay. Now, how about confiscation of weapons, can you
9 tell us about how that works or how many would be
10 confiscated in a week or month?

11 A. The shifts conduct searches on a daily basis, you know
12 what I'm saying. The accountability on weapons I don't
13 actually see the amount on a daily basis. When searches
14 are conducted most the time it's involving an incident. I
15 normally review that because were required to do a
16 management information note and the warden is required to
17 follow that to the central office.

18 Q. So you can't give us a number?

19 A. I would -- if I gave a number it would be incorrect.
20 I could really give you a number because our searches, and
21 like I'm saying, contraband in a facility range from
22 anything from weapon, it might be clothing or anything else
23 that's related.

24 Q. All right.

25 A. That's what searches entail, contraband.

1 Q. In the Department of Corrections how are inmates
2 identified? Are they identified by ---

3 A. The inmate has a number. He is identified by a number.

4 Q. So an inmate could be identified by their SCDC number?

5 A. Right.

6 Q. And not by their room number?

7 A. Not by what?

8 Q. Room number?

9 A. No. And I'm saying that's a living assignment. The
10 room number is the living assignment.

11 Q. Now, did you -- were you working in August, in August
12 of this year when there was a video posted to Facebook
13 while an inmate at Evans with a knife?

14 MS. MUNNERLYN: I would object to that, Your Honor as
15 being relevant. He said it occurred in August of ---

16 THE COURT: All right. Y'all come over here and
17 talk with me please. Thank you..

18 (Whereupon, a bench conference was held off the record)

19 THE COURT: You may proceed, Mr. Stephens.

20 Q. Over the years y'all have confiscated weapons at
21 Evans, haven't you?

22 A. Yes, sir.

23 Q. And you've got someplace you keep him?

24 A. Where we keep them?

25 Q. Mmm, hmm.

W. Eagleton- Direct Examination by Mr. Stephens

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1 A. Well we have a evidence locker that those weapons are
2 kept in.

3 Q. Okay.

4 A. All confiscation is kept.

5 Q. And over the last two years have there, I believe you
6 answered that for me, didn't you, about assaults have
7 increased?

8 A. Yes, somewhat, definitely increased.

9 Q. And that includes inmates and officers, right?

10 A. Yes.

11 Q. Do you know Phillip Stackhouse?

12 A. Yes, I do.

13 Q. Have you ever had any dealings with him?

14 A. Yes, as a resident I dealt with him many times.

15 Q. Was that interaction positive?

16 A. Well, my dealings with him in my position and what I
17 would say it's was a respectful work relation with the
18 individual. As far as him I didn't have any issues with
19 him. I only dealt with him whenever there was a situation
20 or problem, maybe or a disciplinary issue.

21 Q. You always had a positive experience with him?

22 A. Pardon me?

23 Q. It was always -- he was always respectful ---

24 A. Yeah.

25 Q. --- I believe you said?

1 A. Yeah.

2 MR. STEPHENS: That would be all that I'll have.

3 THE COURT: Cross examination?

4 MS. MUNNERLYN: Just a couple of things, Your Honor.

5 **Cross Examination by Ms. Munnerlyn:**

6 Q. Mr. Eagleton, you testified that you only dealt with
7 the defendant on disciplinary issues?

8 A. Yes. Huh, huh.

9 Q. That would be disciplinary issues within the
10 institution?

11 A. Many times when there is a concern or question about a
12 disciplinary that an inmate or resident might be have a
13 conviction or file a grievance on it and I normally bring
14 them in and maybe talk to them about it. If there was an
15 incident that someone was unsure about I would interview
16 the individual to find out what was going on.

17 Q. Okay. So what are -- what type things involved
18 disciplinary issues just to

19 A. It could be out of place, you could've been out of
20 place, you could have been involved in an assault, you
21 could have been involved in possession of a weapon or
22 number of things, even contraband.

23 Q. Okay. And you testified you had number of dealings
24 with him involving these type things?

25 A. Right.

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1 Q. Okay.

2 MS. MUNNERLYN: No further questions, Your Honor.

3 THE COURT: Redirect, Mr. Stephens?

4 **Redirect Examination by Mr. Stephens:**

5 Q. But you never had a problem with Mr. Stackhouse, did
6 you?

7 A. Pardon me?

8 Q. You never had a problem with Mr. Stackhouse?

9 A. No, not personally. There were never any personal
10 problems with him.

11 MR. STEPHENS: Thank you.

12 THE COURT: All right. Any reason the witness to
13 be excused from his subpoena, Mr. Stephens?

14 MR. STEPHENS: No, sir.

15 THE COURT: Solicitor?

16 MS. MUNNERLYN: No, Your Honor.

17 THE COURT: All right, sir. You're released from
18 your subpoena. You may go back to your regular duties,
19 sir.

20 MR. EAGLETON: Okay. Thank you.

21 THE COURT: Whatever you are doing and retirement.
22 All right. I know we just had a short break for you ladies
23 and gentlemen. There is a matter that I need to discuss
24 with the lawyers. Again, I have to do that outside of your
25 presence. It's going to take five minutes. I'm going to

1 call you back and then we'll proceed, okay. Thank you.

2 (Whereupon, the jury exits the courtroom at 3:08 p.m.)

3 THE COURT: All right. Mr. Stackhouse, would you
4 stand please, sir. Madam, clerk, place him under oath.
5 Just tell him to raise his right hand from there.

6 THE CLERK: Raise your right hand.

7 MR. STEPHENS: He affirms, Your Honor.

8 THE COURT: Very good. Ask him if he -- I'll do
9 it. Sit down. Do you swear or affirm to tell the truth,
10 the whole truth, and nothing but the truth so help you God?

11 MR. STACKHOUSE: I promise to speak very truthfully
12 and direct.

13 THE COURT: And you do affirm so?

14 MR. STACKHOUSE: Yes.

15 THE COURT: Sir, you have to speak up. I can't
16 hear you.

17 MR. STACKHOUSE: Yes.

18 THE COURT: All right. Very good. Make sure that
19 I hear you and this is going to be the first thing we talk
20 about. If I can't hear you I don't know what you're
21 telling me and if for some reason you don't understand what
22 I'm saying or you have a question about what I'm saying,
23 you need to indicate that to me. All right. You can raise
24 your right hand, you can tell your attorney, but if you've
25 got a problem issue question unless you tell me or indicate
26 it to me I don't know that. Are we clear about that?

1 MR. STACKHOUSE: Right.

2 **DEFENDANT'S RIGHT TO TESTIFY:**

3 THE COURT: All right, sir. I'm going to talk to
4 you now about certain of your constitutional rights. And,
5 again, if there's anything you don't understand, you stop
6 me. You have the right and we've reached the stage of the
7 trial where you can claim protection given to you by the
8 Fifth Amendment to the Constitution of the United States of
9 America. And that states in part that no person shall be
10 compelled in any criminal case to be a witness against
11 themselves. That means nobody can make you testify in this
12 case. You can testify if you want to but nobody can make
13 you do so, do you understand that?

14 MR. STACKHOUSE: Yes, sir.

15 THE COURT: All right. Now, if you decide to
16 testify you will be, it will be just like the other
17 witnesses that have come before the court. You will be
18 placed under oath. You'll answer questions from your
19 attorney. You'll be able to be cross-examined by the
20 solicitor about any issues the Court deems proper or
21 relevant. If you have a prior criminal record, so, the
22 solicitor what would you intend to ask the defendant about
23 regarding a prior criminal record?

24 MS. MUNNERLYN: Yes, Your Honor, he has a conviction
25 for assault and battery with intent to kill that he's

1 currently serving time for. Then he also has an additional
2 conviction, Your Honor, from '98 that, that is a common-law
3 a robbery and petty larceny.

4 THE COURT: All right. So do you intend to ask him
5 about that?

6 MS. MUNNERLYN: Yes, Your Honor. I would argue that,
7 that those two crimes fall within the crimes of dishonesty
8 and I think I can go beyond the ten year time limit.

9 THE COURT: Well, certainly beyond the ten year
10 time limit.

11 MS. MUNNERLYN: Yes.

12 THE COURT: Okay. What's your position, Mr.
13 Stephens, about those being a crime of dishonesty?

14 MR. STEPHENS: I would say, you know, assault and
15 batter with intent to kill, she can certainly ask him about
16 that, but as far as common-law robbery, we'd say that was
17 past the ten years and we don't believe it falls under the
18 exception.

19 THE COURT: I'm sorry, you're not objecting
20 regarding the larceny charge but you are about the strong
21 armed robbery, is that what I heard you to say or not? I'm
22 just ---

23 MR. STEPHENS: No. I'm objecting to anything from
24 1998.

25 THE COURT: No matter what it is?

26 MR. STEPHENS: Right.

1 THE COURT: All right. Very good. I'll have to
2 look this up. I know, unless, y'all have it right in hand
3 within the past two years there's a Supreme Court case
4 about what's classified as a crime that involves
5 dishonesty. Do y'all have that at hand?

6 MS. MUNNERLYN: I don't have that -- I don't have that
7 case to which you are referring, Your Honor. I'm looking
8 at the rule book and there is -- there is a site to an
9 older case.

10 THE COURT: No, ma'am. It's within the last ---

11 MS. MUNNERLYN: Okay.

12 THE COURT: --- two years or so.

13 MS. MUNNERLYN: No, I don't have that.

14 THE COURT: The Supreme Court has made a decision
15 and it was such that crimes we had all thought were crimes
16 that would involve dishonestly, the Supreme Court said they
17 were not. We need to find that and I need to look at that.
18 Hold on a second.

19 (Whereupon, the judge to a moment to look up case law)

20 THE COURT: All right. This is State versus
21 Broadnax 215, I mean, sorry, in 2015 the South Carolina
22 Supreme Court stated in that case that, "we hold that for
23 impeachment purposes, crimes of "dishonesty or false
24 statement" are crimes in the nature of *crimen falsi* "that
25 bear upon the witness's propensity to testify truthfully."
26 And regarding that, "its broadest sense, the term 'crimen

1 falsi' has encompassed only those crimes characterized by
2 an element of deceit or deliberate interference with a
3 court's ascertainment of truth." "Armed robbery,
4 therefore, is not per se probative of truthfulness." They
5 go on to say that -- hold on one second -- they take this
6 opportunity to overrule Al-Amin, and reaffirm the rule
7 formulated in I think it's State versus Bryant again that
8 armed robbery is not a crime of dishonesty or false
9 statement for purposes of impeachment. While many states
10 have adopted a broader interpretation of the Rule, we find
11 the analysis to be more nuanced than undertaken by the
12 Al-Amin court. And based upon that then, and the
13 interpretation that the Supreme Court has set forth in State
14 versus Broadnax, I will not allow the State to ask him
15 about those two crimes of burglary or larceny. Thank you.
16 All right. So he is currently in jail for what again,
17 solicitor?

18 MS. MUNNERLYN: Assault and battery with intent to
19 kill, Your Honor, and that was a conviction in the court
20 date was 2009.

21 THE COURT: All right. Very good. All right. So
22 regarding that then -- and you don't challenge that, do
23 you, Mr. Stephens?

24 MR. STEPHENS: No, sir.

25 THE COURT: All right, sir. So you understand
26 then, Mr. Stackhouse, that the State will be able to ask

1 you if you have been convicted of that particular crime,
2 you understand that?

3 MR. STACKHOUSE: Yes, sir.

4 THE COURT: And if you admit that you've been
5 convicted of that particular crime in the past then that
6 will be the end of it. The State can't go further and go
7 into any of the details, you understand that?

8 MR. STACKHOUSE: Yes, sir.

9 THE COURT: All right, sir. Now, regarding this
10 decision to testify, obviously, it's got to be your
11 decision. You can ask your attorney, get his advice but
12 you've got to make the decision based upon what we've
13 talked about and the explanation of your rights under the
14 Constitution of the United States of America, you
15 understand that?

16 MR. STACKHOUSE: Yes, sir.

17 THE COURT: If your decision was not to testify I
18 would instruct the jury that they can't give that fact any
19 consideration whatsoever. I'll tell them, they can't talk
20 about it. They can't use it mentally. That it is not part
21 of this case and emphasis that and tell them it's not in
22 anyway part of the particular case, you understand that.

23 MR. STACKHOUSE: Yes, sir.

24 THE COURT: All right, sir. Now, do you understand
25 everything we've talked about so far?

26 MR. STACKHOUSE: Yes, sir.

1 THE COURT: Do you have any questions that you need
2 to ask?

3 MR. STACKHOUSE: No, sir.

4 THE COURT: Would you like to ask your attorney
5 anything before I ask you what you want to do?

6 MR. STACKHOUSE: No, sir.

7 THE COURT: All right, sir. With that then, do you
8 wish to testify in this case?

9 MR. STACKHOUSE: Yes, sir.

10 THE COURT: Very good. All right. Have a seat.
11 All right. So -- now, as I understand it then, Mr.
12 Stephens, that would be the defense's last witness for this
13 particular matter, is that correct?

14 MR. STEPHENS: Yes, sir, that's correct.

15 THE COURT: All right. Very good. All right.
16 Before we do that and the jury has gone out twice, do y'all
17 want a real short break or not?

18 MS. MUNNERLYN: Yes, please.

19 MR. STEPHENS: Yes, we would, Your Honor.

20 THE COURT: All right. Very good. We'll take a
21 very short break and we'll come back. Thank you very much.
22 (Whereupon, the court takes a short break at 3:10 to 3:14
23 p.m.)

24 THE COURT: All right. Is the State ready for the
25 jury to come in?

26 MS. MUNNERLYN: The State's ready, Your Honor.

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1 THE COURT: And defense?

2 MR. STEPHENS: Yes, sir, we're ready.

3 THE COURT: Very good. Ask the jury to come in
4 please.

5 (Whereupon, the jury enters the courtroom at 3:15 p.m.)

6 THE COURT: All right. Mr. Stephens, your next
7 witness please, sir.

8 MR. STEPHENS: Thank you, Your Honor. I'd like to
9 call Phillip Stackhouse.

10 THE COURT: All right, sir. Please come around up
11 to the front to be sworn.

12 THE CLERK: Do you affirm that the testimony you
13 shall give the Court and jury in this case shall be the
14 truth, the whole truth, and nothing but the truth?

15 MR. STACKHOUSE: Yes.

16 THE CLERK: Have a seat and state your name.

17 THE COURT: If you would state your full name
18 please, sir.

19 MR. STACKHOUSE: Phillip Stackhouse.

20 THE COURT: All right. Go ahead, Mr. Stephens.

21 PHILLIP STACKHOUSE, first being
22 duly sworn, testified as follows:

23 **Direct Examination by Mr. Stephens:**

24 Q. Where are you orginially from, Phillip?

25 A. Dillon, South Carolina.

1 Q. Where do you currently live?

2 A. Broad Rivers Correctional Institution.

3 Q. Okay. And why are you in the Department of
4 Corrections?

5 A. ABWIK.

6 Q. Is that assault and battery with intent to kill?

7 A. Yes, sir.

8 Q. And did you plead guilty to that?

9 A. Yes, sir.

10 Q. Do you remember when you pled guilty for that?

11 A. Back in May of 2009 or February, I'm thinking February
12 of 2009.

13 Q. Okay. And, of course, you have been here all week
14 just like I have and the jury and everybody else. On the
15 date that this incident occurred, tell me what happened to
16 you?

17 A. What happened to me?

18 Q. Speak up.

19 A. Tell me what happened to me?

20 Q. Tell me what you did?

21 A. Oh, that morning when this happened?

22 Q. Yes.

23 A. I went upstairs to offer prayer ---

24 Q. Now, you got to speak up so they can hear you.

25 A. On the morning of February 23rd I went up stairs to

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1 offer prayer. As I was getting ready to begin to offer
2 prayer, Oliver Johnson and Jason Goins told me I was in the
3 way because the officer was in the booth and they wanted to
4 masturbate. So I didn't move but I went on over there to
5 continue to offer prayer. And after finishing offering
6 prayer, he was -- Johnson -- Oliver Johnson was standing in
7 his door and he said I need to see you Stackhouse. So I
8 goes down there to see what he want and he swings on me, we
9 start to fight. Then, I hit him again in the chin he fell.
10 I started walking down the steps, went to my room because I
11 had some coffee waiting on me. And probably like two
12 minutes later the guys on the rock started screaming Ms.
13 McQueen was coming and they started moving around.

14 Q. I want to show you exhibit's 2 and 3 and see if you
15 recognize those?

16 A. Yes, sir.

17 Q. And what is that? And you got to speak up.

18 A. This is Cherokee C wing.

19 Q. Okay. And -- now, this is exhibit number 3 and what
20 does that show? Talk to the jury.

21 A. This is the top stairs and right here is where I was
22 praying at and after I finished prayer Oliver Johnson, they
23 was standing in the door, he wanted to holler at me, I go
24 down there and we fight. He fall and I leave to go down
25 the steps to my room.

1 Q. And is this exhibit number 2, is that another picture
2 of the same thing?

3 A. Yes.

4 Q. And where would you -- where would you be praying?

5 A. Right here. I was standing right there.

6 Q. Down at the end, thank you. And so you did fight
7 with ---

8 A. Yes, we ---

9 Q. --- Oliver Johnson? ---

10 A. --- did have a fight for about thirty seconds.

11 Q. When y'all were fighting were other people around?

12 A. They came up because they always standing up there.
13 There's always guys out.

14 Q. Okay. And tell me again after y'all fought, where did
15 you go?

16 A. I exit the steps and went to my room because I have
17 some coffee waiting on me when I get finishing praying.

18 Q. Okay. And did you see Oliver Johnson the night before
19 this happened?

20 A. Yes.

21 Q. Where did you see him?

22 A. He had came downstairs and asked my roommate about
23 some money that he owed him during the card game.

24 Q. And who is your roommate?

25 A. Jason Goins.

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1 Q. You said a card game?

2 A. Yes.

3 Q. Now, after this incident there's been testimony that
4 you were locked up at Evans, lock up segregation or
5 something ---

6 A. Yes, sir.

7 Q. --- is that correct?

8 A. Yes, sir.

9 Q. When did you get moved to Broad River?

10 A. September 26, 2016.

11 Q. September 26, 2016. And there's also been some
12 testimony about your discovery packet?

13 A. Yes, sir.

14 Q. When did you actually received your discovery?

15 A. I did receive my discovery until like March when you
16 came, March or February, when you came to see me at Broad
17 River Correction.

18 Q. What year?

19 A. 2017.

20 Q. So you received it in March of this year?

21 A. Right.

22 Q. And then there was some testimony from Mr. Thompson, I
23 believe, at some point did he have your discovery packet?

24 A. Yes, sir.

25 Q. Okay. And we did he get your ---

1 MS. MUNNERLYN: Objection, Your Honor, I do not believe
2 there was any such testimony.

3 THE COURT: Rephrase your question, Mr. Stephens.

4 Q. Mr. Thompson denied that he got your discovery packet,
5 did he actually get your discovery?

6 A. Yes, sir.

7 Q. And when did he get your discovery packet?

8 A. When you brung it to me and I told him I got the
9 discovery back. He asked to see it and go over it.

10 Q. Okay. So he had it in his possession?

11 A. Yes, sir.

12 Q. And that -- and what Mr. Thompson said about discovery
13 is it includes all the allegations against you?

14 A. It's the whole case.

15 Q. Okay. Now, Mr. Thompson had testified he did some
16 work for you?

17 A. Yes, sir.

18 Q. Did you pay him or did your sister pay him?

19 A. My sister was paying him.

20 Q. And did he help you prepare subpoenas for this week?

21 A. Yes, sir.

22 Q. And how many Muslims are in Cherokee?

23 A. With me I'd say nine.

24 Q. Okay.

25 A. That's the whole building though.

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1 Q. I gotcha. That's all four wings?

2 A. All four wings.

3 Q. And did you tell Mr. Thompson that you stabbed ---

4 MS. MUNNERLYN: Objection. Leading, Your Honor.

5 A. No, sir.

6 THE COURT: I'm going to allow it. Go ahead ask
7 your question.

8 Q. Did you tell Mr. ---

9 A. No, sir.

10 Q. And why didn't you tell him that?

11 A. Why didn't I tell him that?

12 Q. Yes.

13 A. Because I wasn't speaking on no case that was open
14 like that anyway.

15 Q. Did you stab Mr. Johnson?

16 A. No, sir.

17 Q. I'm sorry?

18 A. No, sir. I did not stab Oliver Johnson.

19 MR. STEPHENS: That's all I have, Your Honor.

20 THE COURT: All right. Cross examination?

21 **Cross Examination by Ms. Munnerlyn:**

22 Q. Mr. Stackhouse, you testified that Mr. Thompson did
23 assist you with some legal work, correct?

24 A. Yes.

25 Q. But you didn't pay, you claim your sister paid him?

1 A. My sister did pay him.

2 Q. Is your sister here?

3 A. No, sir -- no, ma'am.

4 Q. You stated that you did have contact with Oliver
5 Johnson that morning, in fact, you and he did fight?

6 A. We did have a fight.

7 Q. And where was the fight?

8 A. In front of his door.

9 Q. In front of his door. And you went back down and he
10 was fine when you left him?

11 A. Yes, ma'am.

12 Q. And you went back downstairs to get some coffee?

13 A. I went back to my room. The coffee was already
14 boiling.

15 Q. In your room?

16 A. Right.

17 Q. Which was downstairs?

18 A. Right.

19 Q. So when you came down those stairs, Oliver Johnson was
20 still in his room?

21 A. I just told you he was in the hallway in front of his
22 door.

23 Q. Okay. Doing what?

24 A. When I left I can't tell you what he was doing after I
25 left.

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1 Q. Okay.

2 A. I went to my room.

3 Q. He was standing up breathing, talking, living?

4 A. He was in the hallway. That's all I can tell you. We
5 fought. I left. That's why the officer also told you I
6 went down the steps and went to my room.

7 Q. So when you left him, he didn't have any injuries?

8 A. Not that I know of.

9 Q. But moments later he was, he was dead?

10 A. When I was in that room when they said they lady was
11 coming, she pronounced everything.

12 Q. Now, how long did y'all fight when he ---

13 A. About thirty seconds. He hit me, I hit him like three
14 times and left.

15 Q. He hit you once, you hit him three times?

16 A. About three times.

17 Q. And that was it?

18 A. That was it.

19 Q. And you are one of nine Muslims?

20 A. Yes.

21 Q. And y'all typically pray on the second tier?

22 A. That's the only spot we can pray at because it's a
23 little small little area so up there in the corner they
24 know the Muslims go up there and pray.

25 Q. And that's closest to the control room?

1 A. It's the closest to the control room. The control
2 room would be right here, where she can see everything. So
3 I'm standing right here and his room is right here so he
4 can see and she in the booth and he wanted to masturbate at
5 that time but I was offering prayer so I could not get out
6 the way.

7 Q. He wanted to what?

8 A. Masturbate.

9 Q. Who wanted to masturbate?

10 A. Oliver Johnson.

11 Q. When?

12 A. The morning this happened. I was offering prayer at
13 5:50, prayer come in at morning time. We call it foggy
14 prayer. Every morning I goes up there to offer this prayer
15 and at this time it's an opportunity for him to masturbate
16 but I'm right there and at this time I'm going to offer my
17 prayer.

18 Q. All right. And you fought with him after that?

19 A. Right. After I finished prayer, he's standing up
20 pissed. He said, Stackhouse let me hollow at you for a
21 minute. I goes down there.

22 Q. Why did you fight with him?

23 A. I just told you he hit me.

24 Q. Why did he hit you?

25 A. He was mad, obviously.

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1 Q. About what?

2 A. He couldn't masturbate. I was in the way. I was
3 praying.

4 Q. So he goes out where y'all pray to masturbate?

5 A. He was in his door. It's -- can I see that picture.

6 Q. I think you testified y'all pray up here toward the
7 control room, correct?

8 A. The other one is a little better. This is where the
9 CO was looking at right here. Well, she can see his room
10 right there. See where his room at, if the female working
11 the wing in prison, the guys will masturbate off of her and
12 right here will be a straight shot where she can see him
13 directly. Just like I'm looking at you, she will be able
14 to see but you notice I would be standing right here
15 praying in his way. Like I can't see this young man right
16 here behind you now, so I'm in the way. So he said,
17 Stackhouse can you move out the way? And, I told him I'm
18 about to offer my prayer. So now he's mad because he ain't
19 going to be long before the lady can move because they
20 switches out.

21 Q. And you got made because he was telling ---

22 A. I didn't not get mad ---

23 Q. --- you quite praying ---

24 A. Listen -- listen, I did not ---

25 Q. --- you got mad because he was telling ---

1 A. Why would I get mad ---

2 Q. --- you to quite praying ---

3 A. I'm a ---

4 Q. --- and you were a fake Muslim ---

5 THE COURT: All right. Both of you ---

6 A. See now, you trying -- I'm not gonna ---

7 THE COURT: Sir! Sir! Mr. Stackhouse, sit down.

8 A. I'm explaining to her the situation.

9 THE COURT: Sit down, sir. Solicitor, go back to
10 your podium. Now, let's go over the rules again. The
11 attorney ask the questions, the witness will answer them.
12 If it calls for a yes or no, yes or no, you may fully
13 explain your answer. Stay seated. Solicitor ---

14 MS. MUNNERLYN: Thank you, Your Honor.

15 THE COURT: You let him fully answer his questions.
16 Do not interrupt him. Proceed.

17 Q. Isn't it true you got mad because he wouldn't let you
18 pray?

19 A. No, ma'am, I did not get mad.

20 Q. And he called you a fake Muslim and that ---

21 A. He never -- he never said that.

22 Q. Let me finish my question. And he called you a fake
23 Muslim and that upset you?

24 A. Jason Goins told you that. He never said that.

25 Q. Excuse me?

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1 A. Oliver Johnson never said that. He ask me to move out
2 the way. I pray everyday right there in that position.
3 Five times a day. I don't have no beef with nobody in that
4 institution. I would not come out my character that way.
5 The only thing I did was pray. He got mad. So you trying
6 to make me mad but I'm not.

7 Q. He got mad and then y'all fought shortly thereafter?

8 A. After I finished praying, he ask me to come to him.
9 Once I get up from right there, he right there, I goes
10 right there, he get mad at me, hit me and we fought for
11 about thirty seconds. I'm quite sure you heard the officer
12 told you I went down there shaking my hand down the steps.

13 Q. And you said you don't have any beef with anybody
14 there but you have a number of disciplinaries within the
15 institutions, don't you?

16 A. Out of places -- yeah, within the institution but with
17 no inmates, if you read them. Little -- simple charges.

18 Q. But you had a number, enough that the warden is
19 familiar with you and he knows who you are because you have
20 been before him with your disciplinaries?

21 A. He said positive. I've been at that jail for about
22 ten years.

23 MS. MUNNERLYN: I don't have any further questions,
24 Your Honor.

25 THE COURT: Redirect?

Redirect Examination by Mr. Stephens:

Q. Mr. Stackhouse?

A. Yes, sir.

Q. You didn't stab Jason Goins?

A. No, sir, I did not stab ---

Q. I mean, Oliver Johnson?

A. --- Oliver Johnson.

Q. When you came by Oliver Johnson was in the room, who else was in the room?

A. Jason Goins.

MR. STEPHENS: That's all, Your Honor.

THE COURT: All right. You may step down, sir.
Further witness by the defense?

MR. STEPHENS: That's all -- That's all the witnesses,
Your Honor.

THE COURT: All right. Does the defense rest at
this time?

MR. STEPHENS: Yes, sir.

THE COURT: Any reply witnesses by the State?

MS. MUNNERLYN: No, Your Honor.

THE COURT: All right. Matters of law from the
defense at this point in time?

MR. STEPHENS: Just renew everything I made earlier,
Your Honor.

THE COURT: All right, sir. All right. Ladies and

1 gentlemen, I need to discuss some matter with the attorneys
2 at this point in time and go to your jury room please.

3 Thank you.

4 (Whereupon, the jury exits the courtroom at 3:31 p.m.)

5 THE COURT: All right, Mr. Stephens?

6 MR. STEPHENS: Yes, sir, Your Honor. I just would
7 renew all the motions for the record ---

8 THE COURT: All right, sir.

9 MR. STEPHENS: --- I made earlier.

10 THE COURT: Very good.

11 MR. STEPHENS: And I expect the same outcome.

12 THE COURT: Very good. Again regarding all the
13 motions you made prior either to the start of the trial,
14 those ones made before Judge Burch which you mentioned to
15 me, any motions made at the beginning of these proceedings,
16 the Court reaffirms my prior rulings as to the directed
17 verdict motion. I'm not going to go through that standard
18 again but I do so find that based upon the matters
19 presented, the evidence presented, that there is evidence
20 that if the jury believes that evidence that would
21 substantiate a conviction of the defendant of the crime
22 charged beyond a reasonable doubt. Again I'm not making
23 credibility or believability judgments just whether or not
24 the evidence exist and it does so exist. All right. So
25 let's talk about where we are, the verdict form, the charge
26 on the law. The State has charged the defendant with the

1 crime of murder, is there any other crime that should be
2 submitted to the jury, Mr. Stephens, other than that?

3 MR. STEPHENS: We don't have any at this time.

4 THE COURT: I'm sorry, I didn't hear you.

5 MR. STEPHENS: I don't have any it at this time.

6 THE COURT: All right. So you agree that the only
7 charge that should go before the jury is the crime of
8 murder, is that correct?

9 MR. STEPHENS: Give me one second.

10 THE COURT: Yes, sir.

11 MR. STEPHENS: Yes, sir. Your Honor, I forgotten I had
12 talked to my client about a charge of either a simple
13 assault or assault and battery second if there's been
14 evidence presented that my client and Mr. Johnson may have
15 fought and then there's, which can be believed that it's by
16 itself. Of course, there is also evidence that's been
17 presented that Mr. Johnson and my client fought and then my
18 client stabbed Mr. Johnson. You can believe one and not
19 believe the other and we think based on this that a charge
20 of simple assault or assault and battery second degree
21 would be appropriate.

22 THE COURT: What's the State's position?

23 MS. MUNNERLYN: Your Honor, we believe it should either
24 be a charge of murder or not guilty. Of course, our
25 evidence is that there was an assault but that it ended in
26 death of the victim and it only involved the defendant. So

1 I would just maintain that the only charge should be
2 murdered, guilty or not guilty.

3 THE COURT: All right. Mr. Stephens, the State has
4 charged the defendant with the crime of murder. For the
5 court to charged some other offense it would have to be a
6 lesser included offense of the crime of murder and, as you
7 know, the lesser included offense must contain all the
8 elements that would be in the crime of murder. So they
9 can't be any element of simple assault or any element of
10 assault and battery second that is not contained in the
11 crime of murder, the definition of murder. So what's your
12 argument there that assault and battery second, simple
13 assault are lesser included of the crime of murder? The
14 State hasn't charged him with assault and battery second.
15 They haven't charged with simple assault. The State has
16 charged him with murder. So if there's going to be a
17 lesser or if there's going to be another crime presented to
18 the jury it would have to be a lesser included crime.

19 MR. STEPHENS: Well, if is not a lesser included
20 crime, Your Honor, we don't want anything else.

21 THE COURT: All right. So whether -- I mean,
22 that's what I'm asking you, I mean, are you arguing to me
23 that it is a lesser included crime? And if it is, I need
24 for you to explain to me, go over the elements of assault
25 and battery second, go over the elements of simple assault,
26 and tell me why there lesser included of murder?

1 MR. STEPHENS: Well, Your Honor, from what you're
2 saying it appears to me that probably not. I don't have
3 anything in front of me that I can argue right now that it
4 is a lesser included.

5 THE COURT: All right, sir. I certainly don't see
6 that they are. I don't -- looking at the elements of
7 assault and battery second and looking at the elements of
8 assault and battery, I don't see that they would be lesser
9 included crimes of murder and the State didn't charge him
10 with any such, any such crimes. So that can't be charged
11 to the jury nor give them an opportunity to convict him of
12 such crime when the State has not charge him with such,
13 such offense. Certainly, it's not, you know, any lesser
14 included crime of murder often times either might be
15 voluntary manslaughter or involuntary manslaughter.
16 Obviously, neither one of those apply here to the facts and
17 circumstances presented so they can't be charged to the
18 jury. So what we have is either the jury is going to find
19 him guilty or not guilty of the crime of murder. There's
20 no -- there is -- he has denied the offense and its
21 entirety. There's no element of self-defense or anything
22 else or accident or anything else. It's just the State
23 says that he did it and he denies it and its totality.
24 That regarding the crime charged that he willfully and
25 feloniously intentionally killed the victim, Oliver
26 Johnson, with malice aforethought either expressed or

1 implied by means of stabbing and the victim did die as
2 approximate result, thereof; on or about February 23, 2016
3 in Marlboro County in violation of the Code of Laws of the
4 State of South Carolina, 1976. So that's what they charged
5 and he has explicitly denied that so it will be the jury's
6 decision one way or another on that.

7 MR. STEPHENS: Thank you, Your Honor.

8 THE COURT: All right. So with that -- hold on a
9 second, let me make a couple of notes here. All right.
10 How long do you think your closing arguments are going to
11 be, solicitor, just give me your best ballpark
12 approximation. Don't tell it's going to be fifteen minutes
13 when it's going to be in hour. I'm really asking for you
14 to tell me. How long do you think it's going to be?

15 MS. MUNNERLYN: I would not think it would be more than
16 fifteen or twenty minutes, Your Honor.

17 THE COURT: Mr. Stephens?

18 MR. STEPHENS: That's about all I'll be able to talk.

19 THE COURT: All right. Well, I don't have a
20 problem with arguments and charge but it's approximately
21 like a quarter till four right now, I think that clocks a
22 little fast, but it's approximately a quarter to four. We
23 can go forward -- I'm not keeping this juror here tonight
24 until they reach a decision. I just don't see that's a
25 necessary thing so if you want to go forward with the
26 arguments and charge this afternoon and not wait until

1 tomorrow morning and I'm not breaking them up, we're going
2 to do arguments, charge, and give it to the jury. We're
3 not going to break it up anyway. Knowing that I'm not
4 keeping them here, okay. It gets somewhere close to 5,
5 5:30, I'm sending them home. So if they deliberated five
6 minutes, they go home. So knowing that, do you want to
7 continue on this afternoon or do you want to come back in
8 the morning to do closing arguments, charge, give it to the
9 jury, solicitor, what's your choice?

10 MS. MUNNERLYN: Your Honor, my choice is that we wait
11 until in the morning. I would prefer that the jury have
12 plenty of time to deliberate immediately following our
13 arguments and your charge.

14 THE COURT: Mr. Stephens?

15 MR. STEPHENS: I finally agree with the solicitor,
16 Your Honor.

17 THE COURT: All right. Very good. That's -- I
18 think that's also the best thing to do. I don't want to
19 speed them along, but I don't want to keep them to the
20 captive audience late in the night either. So, we'll
21 recess for the day. I call them back in and tell them that
22 we're going to do that and tell them what remains and then
23 we'll go forward with the -- we'll come back in, do closing
24 arguments, the charge, give it to the jury, and it will be
25 theirs until they reach a unanimous verdict after that.

26 MR. STEPHENS: I assume you're going to give a

1 standard charge?

2 THE COURT: Yes, sir. My intention is, you know,
3 I'll talk to them about the things that we normally talk
4 about, you know, credibility and believability, you know,
5 we had expert witness, I'll just tell them that, you know,
6 that doesn't give them any special status, you judge all of
7 the witnesses the same. You judge the credibility and
8 believability even though I allowed them to testify.
9 Presumption of innocence I'll go back over that. The
10 defendant is presumed innocent and presumed innocent then
11 until, if and until, the State can prove the defendant
12 guilty beyond a reasonable doubt. Define reasonable doubt.
13 The kind of doubt that cause an ordinary reasonable person
14 to hesitate to act. They have to be firmly convinced that
15 the defendant is guilty of the crime charged, to find him
16 guilty beyond a reasonable doubt and if they're not firmly
17 convinced then they must give him the benefit of the doubt
18 and find him not guilty. So and then regarding murder, I
19 will give them the charge regarding murder. There's one
20 thing I want to go over with you -- all right. Now, I do
21 not intend to talk about that malice can be inferred from
22 conduct showing a total disregard for human life. Infer
23 malice can arise when the deed is done with a deadly
24 weapon. I do not intend to charge that to a jury. I will
25 stick with the basic definition of murder and with that,
26 that would be the intention of the Court. Anything further

1 from the State?

2 MS. MUNNERLYN: No, Your Honor.

3 THE COURT: Anything further from the defense?

4 MR. STEPHENS: No, sir.

5 THE COURT: All right. Very good. All right.

6 Let's have the jury come back in please, ma'am.

7 (Whereupon, the jury enters the courtroom at 3:46 p.m.)

8 THE COURT: All right. Ladies and gentlemen of the
9 jury, where we are now you have received all of the
10 evidence in this case. There will be no evidence presented
11 in this particular matter. What remains are the closing
12 arguments of the attorney, the charge on the law, and then
13 the submission of the case to you for your deliberations
14 and your unanimous decision. Now, once I send the case to
15 you, it is yours until you reach a unanimous decision for
16 whatever time period that may take, for however long that
17 may be. If we proceed on this afternoon with the closing
18 arguments, the charge and the submission of the jury,
19 you're here until you reach a unanimous decision. You're
20 going to stay with us for however long that may take. So
21 with that, I don't intend to do that because of the hour.
22 We're going to come back tomorrow morning and we're going
23 to start with the closing arguments, the charge on the law
24 and then I'm going to get the case to you for your
25 deliberations and a unanimous decision and then you'll have
26 all the time you deem necessary to deliberate and reach

1 your unanimous decision in this particular matter. Now,
2 please remember when you go home don't talk about it, don't
3 allow anybody to talk to you about it. Again, you're not
4 researchers, you're not investigators, you can't look up
5 anything. If you happen to see somebody that's on the
6 jury, you can wave at them, you can't talk about the case
7 until I give it to you and then when all of you are
8 together. So with that, I'll see you back tomorrow
9 morning. I want to start at 9:30 so whatever the bailiffs
10 tell you to do that so we can start at 9:30, please be back
11 then. All right. I'll see you back tomorrow morning.
12 Thank you very much.

13 (Whereupon, the jury exits the courtroom at 3:48 p.m.)

14 THE COURT: Counsel, just so that you know, it's
15 clear the verdict forms will be pretty straightforward.
16 It's just going to have the caption of the case, "State of
17 South Carolina versus Phillip Stackhouse, defendant," and
18 it has murder. "On the charge of murder, we the jury by
19 unanimous consent find the defendant, Phillip Stackhouse",
20 and then check one of the following and I've got, you know,
21 one before the other, I put one before the other, not
22 guilty or guilty. A place for the foreperson signature and
23 it's got a place to put the date and it will have a note at
24 the bottom that says, "once you've reach your unanimous
25 verdict knock on the door and let the bailiffs know." So
26 that's going to be what I would call a straight forward

1 verdict form that I will present to the jury. All right.

2 MR. STEPHENS: Thank you, Your Honor.

3 MS. MUNNERLYN: Thank you, Your Honor.

4 THE COURT: All right. So anything else from the
5 State at this point in time?

6 MS. MUNNERLYN: No, Your Honor.

7 THE COURT: From the defense?

8 MR. STEPHENS: No, sir.

9 THE COURT: All right, sir. I'll see both of y'all
10 tomorrow morning. We're start at 9:30. All right. Thank
11 you very much.

12 MR. STEPHENS: Thank you.

13 MS. MUNNERLYN: Thank you.

14 (Whereupon, Court adjourned at 3:48 p.m. for the day)

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3 THURSDAY, SEPTEMBER 21, 2017 AT 9:29 A.M

4 THE COURT: All right. Solicitor, are you ready
5 for the jury to come in?

6 MS. MUNNERLYN: Yes, Your Honor. And I have talked to
7 the defendant about our arguments and he is not going to
8 require me to open on the law and it would be my preference
9 to just make one argument.

10 THE COURT: Okay.

11 MS. MUNNERLYN: Unless he would require me to open on
12 the law.

13 THE COURT: Okay. Well, I think our Supreme Court
14 has stepped in.

15 MS. MUNNERLYN: And said that I have to ---

16 THE COURT: And I think they have, by that case,
17 have made it mandatory that the State open and that the
18 defense, once the defendant has presented evidence ---

19 MS. MUNNERLYN: Yes, sir.

20 THE COURT: --- that the State open and that the
21 defense give their full argument and you may reply to that
22 argument as to new material or a short rebuttal.

23 MS. MUNNERLYN: Okay. We'll do it that way.

24 THE COURT: So I'm going to follow that. All
25 right.

1 MS. MUNNERLYN: Okay.

2 THE COURT: So with that, are you ready for the
3 jury to come in?

4 MS. MUNNERLYN: I am.

5 THE COURT: And defense?

6 MR. STEPHENS: Yes, sir. And have spoken with my
7 client and there's nothing further that we need to put on
8 the record at this time.

9 THE COURT: All right. Very good. Ask the jury to
10 come in please, ma'am.

11 (Whereupon, the jury enters the courtroom at 9:30 a.m.)

12 THE COURT: All right. Good morning, ladies and
13 gentlemen.

14 (Whereupon, the jury greets the judge)

15 THE COURT: As I told you yesterday we had
16 concluded the evidentiary portion of the trial. And what
17 we're going to go into now, are the closing arguments and
18 then the charge of the law and then I'll submit the case to
19 you for your deliberations and unanimous decision. I just
20 remind you again, the evidence has already come in. The
21 closing arguments by the attorneys that's not evidence but
22 it's important. It's each side's summation to you of what
23 they believe the evidence has shown to you. Remembering,
24 of course, that you are the judges of the facts in this
25 case. And after that I will give you the law and then the
26 case will be yours for your decision. So with that,

1 solicitor?

2 MS. MUNNERLYN: May it please, The Court, Your Honor?

3 THE COURT: Yes, ma'am.

4 MS. MUNNERLYN: Mr. Stepehens?

5 MR. STEPHENS: Solicitor.

6 MS. MUNNERLYN: Ladies and gentlemen of the jury, good
7 morning.

8 (Whereupon, the jury greets the solicitor)

9 **CLOSING ARGUMENTS- MUNNERLYN:**

10 MS. MUNNERLYN: Well, we're finally at the conclusion
11 of this case and we're here now for me to argue to you.
12 And so there's quite a few things I want to say to you,
13 though, and I'll keep it brief.

14 As you know I represent the State and so I'm here on
15 behalf of the State of South Carolina, but more,
16 specifically, for Oliver Johnson and his father who has
17 been in the courtroom this week. And so this is an
18 important case to them and to the State and I want you to
19 remember that throughout this case. It has been a
20 relatively short trial with relatively a short number of
21 witnesses. We have quite a few items of evidence for you
22 to review but we have moved through it quickly and I know
23 you have been attended and have been listening and so it's
24 very important for you to remember everything that we said
25 and for you to fully review everything that's been

1 presented. But I want to just say one thing before I
2 proceed. We all know this happened in a prison. We know
3 the victim was an inmate in the prison. The defendant was
4 an inmate in the prison. That should not change the fact
5 that he is still a victim. That does not give anyone the
6 right to kill him within the prison system. Okay. So
7 remember that and I think once you consider all of the
8 evidence, if you believe I have proven that the defendant
9 did this, then you must convict him regardless of the
10 situation.

11 So let's talk about the crime. The crime that the
12 defendant is indicted for is the crime of murder. We know
13 that crime to be the unlawful killing of another person
14 with malice aforethought. Okay. So we have the elements
15 of that crime and the judge is gonna explain this more
16 specifically to you in his charge after we complete our
17 arguments but I'm just going to address it briefly because
18 it's my burden to prove that to you. So murder is the
19 unlawful killing so that means there's no legal
20 justification for the killing. So we've heard no legal
21 justification for it so it's unlawful killing and it's of
22 another person. We know that Oliver Johnson died as a
23 result of this incident and these injuries and that it was
24 committed with malice aforethought. Malice is simply, can
25 be a wicked or depraved spirit. It can be shown by an
26 intent to do serious bodily injury and we know that the

1 victim died from multiple stab wounds. So he was stabbed
2 with a sharp object in the chest, neck, cut on the side of
3 the face and these are what caused his death. So I believe
4 that would be your intent to do your malice. Your intent
5 to do serious bodily harm. Aforethought simply meaning
6 that it was in the mind of the defendant before he
7 committed it. So if you believe the State's case there was
8 a fight between the victim and the defendant. He left and
9 went down the stairs to his cell. Retrieved a knife or
10 shank or some sharp object. He came back up and proceeded
11 to stab the victim multiple times. So it was in his mind
12 prior to actually committing the crime. So those are the
13 elements of your crime of murder. Okay.

14 And I am the State so it's my burden to prove to you,
15 as the judge told you the defendant doesn't have to prove
16 to you anything. It's my burden to prove to you that this
17 happened and that he's the one that did it. Okay. But my
18 burden -- and my burden of proof in this court is the
19 highest burden because it is a criminal court and it's
20 appropriate that it should be the highest burden and that
21 burden is beyond a reasonable doubt.

22 Now, that doesn't mean I have to answer every question
23 in your mind. It doesn't mean I have to remove any doubt
24 from your mind. It means I have to remove reasonable doubt
25 and what is reasonable doubt? Well, reasonable doubt is a
26 doubt which would cause a reasonable person to hesitate to

1 act. To hesitate to act. Okay. If the evidence that I
2 have presented leaves you firmly convinced that the
3 defendant murdered the victim in this case, then I have
4 proven to you beyond a reasonable doubt that he is guilty
5 of murder. Okay. So if you are firmly convinced then I've
6 met my burden of proof.

7 So let's talk about the evidence, let's talk about
8 what happened. We know it happened at Evans Correctional
9 Institution. We know it happened on February 23, 2016.
10 And it was early that morning and they had all gone to
11 breakfast in the cafeteria and were returning. We know it
12 happened in the C unit of the Cherokee wing, and they were
13 returning from breakfast. So it was around, somewhere
14 around 6 o'clock in the morning. And you've heard from a
15 number of witnesses and remember I told you this is like a
16 puzzle and you've got to put it together and there are
17 several key pieces of the puzzle that I'm going to talk
18 about. Those are the key pieces. There's many, many,
19 many, pieces but they're five that make it work. Okay.
20 But let's talk with these in mind. Let's talk about what
21 happened. So that morning Oliver Johnson, testimony from
22 various witness shows, Oliver Johnson left breakfast early.
23 He went back to the unit. The defendant, Phillip
24 Stackhouse, also left breakfast early and went back to the
25 unit. So most of the inmates were still at breakfast.
26 They go back early. While they're there something happens

1 between them. And then the inmate start coming back and
2 start seeing and hearing things. And the one closest to
3 the action was Jason Goins. Now, you've heard from him.
4 He sat right there and he's still an inmate. He's also
5 still an inmate and you have to judge credibility of all of
6 these witnesses. But again remember how they all fit
7 together. In determining credibility you can, you can
8 consider how does his testimony fit with the testimony of
9 other witnesses. Okay. So Jason Goins says he went back,
10 heard there was a fight between the two of them,
11 immediately went up to cell 219 which was Oliver Johnson's
12 cell. And they were, they were fighting and he tried to
13 stop it. Remember he tried to stop his roommate, who was
14 the defendant, from fighting with Oliver Johnson. And
15 Phillip Stackhouse was having none of that. Remember what
16 he told him, he told him, "get the fuck away." And what
17 did he do? He did. Okay. I'm not part of this, go ahead.
18 And he closed the door little bit. He knew it was between
19 the two of them. He didn't think there were any weapons
20 involved. Okay. Just let it be between the two of them
21 and that's what it was for then. But then what happened?
22 Phillip Stackhouse got up, he leaves and he goes downstairs
23 all the way to his room, gets a short object -- Jason Goins
24 is still up with Oliver Johnson remember. He still in the
25 cell with Oliver Johnson trying to calm him down. Okay.
26 Just let this go. Okay. All of a sudden where's Phillip

1 Stackhouse? He comes back, back in, attacks Oliver
2 Johnson. Oliver Johnson didn't have an opportunity to do
3 anything. He didn't have a weapon. It happened so quickly
4 he didn't have time to do anything before he started just
5 hitting him. And you remember he said he tried to push
6 him, try to push him. And then he pushed him out of the
7 doorway and what happened when he pushed him out of the
8 doorway into the hallway? This is when Patrice McQueen
9 comes into play. She then sees everything happening.
10 She's the correctional officer. She doesn't have a dog in
11 this fight. She has nothing to gain, nothing to lose by
12 coming up here and sitting and telling you what she saw.
13 She tells you that she sees Phillip Stackhouse wildly
14 attacking -- I think if you, you remember you've got
15 twenty-four years between you, I've only got two but I
16 think her words were, wildly attacking Oliver Johnson and
17 he's the only one. She doesn't see anybody else. There is
18 other inmates around but Phillip Stackhouse is the only one
19 having contact with Oliver Johnson. She doesn't know
20 what's going on. All she sees, when she sees the fellow at
21 the microwave look up, she says, uh oh, something's going
22 on. She looks and what does she see? Phillip Stackhouse
23 just going to town on Oliver Johnson and what happens?
24 Oliver Johnson falls right there. She's looking right at
25 him. Look at the pictures. Look at your evidence. How
26 does it fit with the testimony? Does it support what they