STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Charleston County

Honorable J. C. Buddy Nicholson, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

HENRY JAMES FICKLING, JR.,

APPELLANT

APPELLATE CASE NO. 2018-000515

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RECORD ON APPEAL

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| COUNTY OF CHARLESTON | DOCKET NO. 2017-GS-10-0439 |
| STATE OF SOUTH CAROLINA | |
| vs. | |
| HENRY JAMES FICKLING, JR. | |
| Defendant | |
| | TRANSCRIPT OF RECORD |

March 12, 2018
Charleston, South Carolina

**Volume 1 (of 4)**

B E F O R E:

THE HONORABLE J.C. NICHOLSON, JUDGE

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OPENING STATEMENTS

BY MR. WARING:

Financial gain, unspeakable cruelty, total disregard for the value of human life and a plan to cover it all up; that's what this case is about. Now in the defendant's trailer there are four people; the defendant, his wife her name is Allura Boyd, the victim Jeff Shiver, and a fourth person a girl named Jaimie Lunney.

Now leading up to September 13, 2016, which is the day Jeff Shiver was killed the defendant had been doing some interesting things. He had been taking out money from Jeff's bank account. And in fact the defendant was captured on two different surveillance systems withdrawing money from Jeff Shiver's debit card.

Now the defendant directed his wife Allura Boyd to change the Wi-Fi so Jeff can't check his account. She did so. And at one point things started to get dicey for the defendant so he picked up a crowbar and a taser and marched into Jeff's room. While in that room this defendant [indicates] brutally murdered the victim, Jeff Shiver.

He came back to his bedroom where his wife was hanging out and cooked up a story and told her to stick to that story in an alibi and also confess to doing this murder. Now, they waited approximately 12 hours before

calling the authorities, before calling 911. During that time, during those 12 hours Jeff Shiver was in that room deceased with horrendous injuries. On the 911 call, which you will hear which will be in evidence, that will be available to you the defendant makes a self-serving statement in that alibi.

When the police arrive he does the same thing. Now the police find Jeff in his room laying halfway off the bed bludgeoned to death. And the official cause of death as will be testified by the pathologist is blunt force trauma to the trachea; specifically a fractured trachea, which takes a certain amount of force to crush.

In addition he had major incapacitating blows, specifically he had a major gash above his eye, a major gash under his chin, contusions to his lower back, blunt trauma to the torso, to the extremities, to his arm, to his shoulder, a potential taser wound to one of his shoulders, defensive wounds to his hands. You're going to hear about all that. And that's important information.

And in fact in the defendant's room he did have a couple tasers and one of those tasers had blood on the end of it. And guess whose blood was on the end of it? Jeff Shivers. Now you're going to hear about some other evidence as well in this case and I want you to pay close

attention to how that evidence applies to the elements of the charge of murder and how it applies to this defendant committing the murder. The evidence is there. Each piece of evidence has meaning. It's all connected if you look for it.

Now the State has to prove the defendant guilty beyond a reasonable doubt. And that just means fancy words for we have to leave you firmly convinced of his guilt. In South Carolina murder is the unlawful killing of another with malice aforethought. And malice just means ill will or intent to injure another without just cause. And the aforethought means it has to occur right before and at that time of the blow.

Now again, there is meaning in each piece of evidence that proves he's guilty. Look for the meaning, look for the connection. If you do that it will determine that we have carried our job and find this defendant guilty of the murder of Jeff Shiver.

THE COURT: Mr. King?

MR. KING: Thank you, Your Honor.

OPENING STATEMENTS

BY MR. KING:

There were some characters who lived in this trailer. I just want to give you an overview of what is going on at this home. This is where Hank lives in this trailer and he had with him his common law wife. She referred to them as husband and wife but I guess they were common law married. She was there. She is going to testify at some point too. She stayed in her room pretty much all the time. She didn't leave her room very much; much less leave the trailer.

Jeffrey Shiver, the man who was killed, he stayed in his room and he hardly ever left. He was, I guess you could say a raging alcoholic. He drank a lot of vodka every day and he stayed in his room and he drank. At some point he couldn't even really drive because he's so drunk all the time. There was another roommate in there named Jaimie and she wasn't there very much. She was working a lot or at her boyfriend's.

And then we have Hank. They are going to try to prove to you that Hank was stealing money from this guy. Well Hank gets a check every month. He gets a little over 700 dollars. He rents out the two rooms so he gets money from each of those two rooms that are staying there. His house is -- if you see the pictures it's kind

of like a little junk yard. So he kind of collects junk, fixes things up, scrap metal and things like that. Now Jeffrey Shiver was a severe alcoholic. I think that will come out through the evidence in this case, pretty bad. And Hank had to take care of him basically. He would have to go in the room and clean up vomit. It smelled like urine.. It was really a bad situation.

He tried to help, he tried to call Jeffrey Shiver's family to let them know and try to get them involved to do something about the situation. But it just kept getting worse. Now since Jeffrey Shiver rarely left his room and Hank's wife rarely left her room and Jaimie is rarely there it was Hank who had to go out and get things.

And he was the one who would go out and get the vodka for Jeffrey Shiver. And he would get food and he would get cash out of an ATM machine where you have to have the PIN number. So he did those things for Jeff. Now I've got to admit that Hank and Jeff they smoked crack together. It's not good but that's going to come out in this case. And that's also where money was going.

Jeff was generous with his money. He helped pay bills at the place. He helped one of the roommates, Jaimie Lunney pay her rent or he paid her rent for her. He paid for crack cocaine. So Jeffrey Shiver was going

downhill. He was trying to stop drinking but when he would try to stop drinking he was such an alcoholic that he would have seizures. So there were two times when the EMS came out there about a month before all this happened and then maybe a few days to a week before. They responded out there for him having seizures. I think Jeffrey Shiver went to the hospital for a little bit the first time they came.

So that's the situation Hank is dealing with. He's got this guy staying in his house that he is trying to help but the guy is drinking himself to death basically and spending all his money. I don't know if you've seen the movie Leaving Las Vegas but that's what it reminds me of; somebody who is basically going to drink and spend their money without a care in the world.

So there was a confrontation between those two; between Hank and Jeff. It happened on September 13th. And Hank did end up killing Jeffrey. He did kill Jeffrey Shiver but it was self-defense. Just because he killed him doesn't mean it's murder. Murder has a specific definition. And Hank has a right to defend himself.

Hank works around the place fixing up the junk that he finds around and if he finds something on the side of the road he'll fix that up. He was building a shed in the yard. And that day he was working around the

trailer. Now they're going to say that Hank killed Jeffrey Shiver with a big crow bar. What he had that day was called a cat's paw or a nail puller. It's kind of like a crow bar but it's short. It's basically like a crow bar if you cut one end of it off about maybe a foot long or so. He had that when he was working all along the house.

And he did have a taser. He had bought a taser but it has a flashlight on it. It was a chargeable taser with a flashlight on the front and he would use that when he would walk his dog or when he would ride on his moped with his dog. And he had that so he could -- the taser was if any other dogs would come after him he had that for protection there and he used it as a flash light.

So that day he had a cat's paw in his hand and he had the taser in his pocket. And he had been using the flashlight on the taser to look around at the things he was working on. And Jeffrey Shiver called Hank into his room. And at this point Hank had been doing the best that he could but I think at this point Hank can only do so much and the situation is getting pretty bad.

So during that time Jeffrey Shiver attacked him. And we know what his blood alcohol content was, Jeffrey Shiver at the time he died because they did the autopsy and tested his blood. His blood alcohol level then was

pretty low so he wasn't really drunk then. He wasn't drunk, incapacitated and stumbling around. His blood alcohol level was pretty low, which in a serious alcoholic can cause some problems too. When they stop drinking that's when they can cause problems. It seemed like Jeffrey Shiver had to keep drinking just to keep from having these seizures and the effects of this withdrawal of alcohol.

So he hits Hank. Hank is hit in the mouth at some point. And Hank, he's not a young man; he was 58 when this happened. And Jeffrey Shiver was maybe in his early 40's but he was significantly younger and Hank defended himself. But he had the tool in his hand. He had the pry bar in his hand as he was talking to Jeff. And when he was attacked he defended himself and that's what ended up causing these injuries. There was a fight and a struggle in that room.

And Hank's blood is on the door. Jeffrey Shiver's blood is on the ceiling and on I think a spot outside in the hall. But they didn't test a lot of the blood so there is a lot of blood there that we don't necessarily know who that came from. But Hank's blood -- there is a spot of Hank's blood right on the door. And Hank had Jeff's blood on him so at some point he did get it on the taser. The pathologist may testify that there was a

wound on Jeffrey Shiver consistent with a taser but they're not going to be able to tell you that's a taser wound. There is something there that could be but it might not be. They are going to talk about defensive wounds. They are going to use that word defensive. He doesn't have injuries on his palms; Jeffrey Shiver. There are some injuries on his fist basically and on his arms.

So they are going to call them defensive wounds but if he is attacking Hank and Hank is defending himself those aren't defensive wounds because Jeffrey Shiver was on the offense then. And the scene of the crime is not pretty. Death is not pretty. There is blood in that room.

After this happens Hank makes a mistake. He does not do the right thing at that point; he doesn't call the police. He ends up calling 911 later that night maybe 12 hours later or so. And he lies; he does call 911 and says he just found him in the room. Hank maybe thinks he could just -- he doesn't want to go to jail. He doesn't understand self-defense law at the time.

So in his mind he thinks he's going to go to jail and he thinks well if I call the police and tell them I just found him in there, he's been having seizures maybe they will think he just died. That didn't work. That

was not a very good plan and it didn't work. The police end up interrogating his wife, Ms. Boyd, and she's going to testify. She's the one that never leaves the house. And she is interrogated by the police for over ten hours she's in the room there. And she was trying to cover for Hank telling the story about them riding around on the moped. So she was going along as well and she ends up admitting that. So now she's admitted to the police that she is lying.

She is in this room, she's got back pain, and she just wants to go home. And she's pacing back and forth and she's rubbing her back over ten hours. She tries to tell them she doesn't know anything. They accuse her of being involved and they keep asking her and she ends up after ten and half hours, and I'm hoping to show some of that interrogation, that she said what they wanted to hear. She told the police exactly what they wanted to hear.

Now she ends up going to jail as well. And she has pled guilty at this point. So she's already pled guilty to the crime of accessory after the fact. She hasn't been sentenced yet. They are deferring the sentence until after this trial. And she signed an agreement to cooperate and she's going to get up there and say whatever she has to say to make them happy so that she

doesn't go to prison. And no one knows what happened in that room except for Hank and Jeffrey Shiver. And I don't have to prove, Hank doesn't have to prove that he defended himself. They have to prove, they have to disprove that. The State has to prove that beyond a reasonable doubt that it wasn't self-defense. They have the burden. So at the end of this trial I think after you've heard all the evidence that you will find Hank not guilty. Thank you.

THE COURT: If you will, call your first witness please?

MR. WARING: Thank you, Your Honor. The State calls Officer McGowan.

[Whereupon, Officer McGowan comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Once seated, if you will state your first and last name and spell your last name for the record.

THE WITNESS: Leigh-Anne L-E-I-G-H-A-N-N-E McGowan M-C-G-O-W-A-N.

- - - - -

LEIGH-ANNE MCGOWAN,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good afternoon Officer McGowan.

A. Good afternoon, sir.

Q. Can you tell the jury where you work?

A. I work for the City of North Charleston Police Department.

Q. And what is your job at North Charleston?

A. I'm a patrol officer at the City of North Charleston. I handle 911 calls, I enforce traffic laws, I'm a field training officer, member of the Mobile Field

Force unit and the Negotiator unit.

Q. And how long have you worked for North Charleston PD?

A. For six years.

Q. Were you involved in this case, the Henry Fickling case?

A. Yes.

Q. And can you tell the jury how you got brought into this case?

A. I responded to a 911 call that was placed by the defendant that his roommate Mr. Shiver was not responsive.

Q. Okay. And where did you respond to?

A. I responded to [redacted].

Q. Is that in Charleston County?

A. Yes, sir.

Q. And can you tell us what the date and time of that call was?

A. It was -- I responded at approximately 2:46 in the morning on September 14th.

Q. Okay. And do you know what time the actual call came into Consolidated Dispatch?

A. I do not. I could look at the CAD detail report and I could tell you from that.

Q. But you're testifying that you responded soon after

the ---

A. --- it would have been before; yes shortly before.

MR. WARING: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. [Mr. Waring] I'm now going to play what has already been admitted into evidence as exhibit 1, which is the 911 call.

[Whereupon, the audio plays]

[Whereupon, the audio pauses]

[Not taken down]

Q. Can you tell us who is talking?

A. That's Mr. Fickling, the defendant.

[Whereupon, the audio plays]

[Whereupon, the audio stops]

[Not taken down]

Q. Now Officer McGowan you heard the 911 call. Was there anything in there about the defendant claiming he was in fear for his life?

A. No.

Q. Was there anything about how he had to defend himself because he was being attacked by the victim?

A. No.

Q. Nothing or anything like that?

A. No.

Q. Can you tell the jury what happened once you arrived?
A. When I arrived at the residence Mr. Fickling was standing outside. It's a trailer. It was raining outside. I asked him where Mr. Shiver was and he told me that he was in the bedroom inside. So I walked into the house at that point to attempt to locate Mr. Shiver.
Q. Can you tell the jury what the defendant's demeanor was like when you got there?
A. Much like he sounded on the 911 call. The thoughts in his head were kind of -- they didn't really string together. He was talking about recent renovations that he had done on the property there. He was moving a microwave around outside to a little workbench area.

He was talking about needing to clean up Mr. Shiver's bedroom but he couldn't do it; he was going to try to find someone else that would remove all the furniture from the room and that he could pay them with something from the yard.

Q. Did you go inside the trailer?
A. I did.
Q. Did you take a look at the victim's room?
A. Yes.
Q. Can you tell the jury what you saw?
A. Mr. Shiver's room was to the left as I walked in.

The door was closed. I opened up the bedroom door and I saw Mr. Shiver was partially on the bed and partially on the floor. As you walk into the bedroom the bed is on the left side closest to the doorway and Mr. Shiver's feet were up on the bed.

And across from that on the left wall if you were standing in the doorway -- I'm sorry on the right wall if you're standing in the doorway there is a stuffed chair and Mr. Shiver's head and shoulder were pushed up against the chair.

Q. At that point when you first got in the house and took a look at the room and saw Mr. Shiver hanging off the bed did you notice any injuries at that point?

A. I would see a lot of blood but I couldn't see his face. I wasn't able to tell where the blood was coming from at that point.

Q. Did you move him in any way at that point?

A. I did not move him. I did check for a pulse. I did touch his right forearm and his skin was cold and I couldn't feel a pulse.

Q. Did his body feel stiff at all?

A. Yes.

Q. Now back to the defendant himself did you notice any injuries on him, any facial injuries or anything like that?

A. No.
Q. Did he complain of any injuries?
A. No, he did not.
Q. Did you notice anything about the defendant's clothes?
A. The defendant changed shirts partway through. I was on scene there for probably close to two hours. And sometime around 5 o'clock in the morning the defendant changed from -- when I got on scene he had on a blue shirt that had dark blue sharks on it and about 5 o'clock kind of unprovoked I'm not sure why he decided to change but he changed to a blue and orange shirt.
Q. What about the wife Allura Boyd did you ever see her during this encounter?
A. I did not. She was in their bedroom.
Q. Did she while you were there ever come out of that room?
A. She did not come out of the room. She was talking to me through the door and I tried to get the next of kin information for Mr. Shiver.
Q. Did the defendant say anything that struck you as unusual?
A. The coroner and I were standing in the living room of the trailer and the defendant started talking about that there was a murder that happened. And I was kind of

taken back because at that point the coroner had not moved the body yet; so even the coroner didn't know the extent of the injuries on Mr. Shiver.

So using the word murder -- I believed when I arrived on scene the defendant told me that Mr. Shiver had a history of alcoholism and seizures and that he had possibly fallen and that led to his death.

There wasn't any mention about any kind of disturbance that was either in self-defense or not but he used the term murder before we even saw what the injuries were on Mr. Shiver.

Q. Now you mentioned the coroner and that she hadn't flipped the body over yet. Did the coroner's unit eventually do that?

A. Yes.

Q. And what did you notice at that point?

A. When Mr. Shiver was turned over I noticed two very large lacerations; one above his eye and one across his chin and lower jaw.

Q. Did the whole vibe or feeling of your call when you responded change or did it stay the same after Jeff's body were flipped over and the injuries were viewed?

A. It changed after his body was turned over. It was very clear that the injuries that were sustained were not consistent with striking the edge of a dresser, not

consistent with a fall; nothing that would have if he had a seizure and bumped something in that room nothing would have caused the injuries that he had.

Q. Now were you wearing a body camera during this whole incident?

A. Yes.

Q. Okay. And you mentioned the comment about the murder. Did this body camera record every single thing?

A. No, it did not.

Q. Do you have any explanation for that to the jury?

A. There were -- the body cameras that we have the battery on them lasts a finite amount of time. The battery could die on them. There is a toggle switch on the front of the camera that's easily bumped, could be easily bumped to turn it off.

And also I believe at one point in the video I got on the ambulance with the paramedics to try and locate some more information for Mr. Shiver and not wanting to expose his medical history on the video camera I believe it was also stopped at that point. But that was the only intentional time that it was stopped.

Q. So other than that would you have intentionally turned it off for that comment?

A. No.

Q. Now do you deal with these body cameras on a regular

basis?
A. Yes.
Q. Are the videos generated in the normal course of business?
A. Yes.
Q. Is it a regularly conducted business activity for y'all as North Charleston Police officers to record these videos?
A. Yes.
MR. WARING: May I approach the witness, Your Honor?
THE COURT: Yes, sir.
Q. [Mr. Waring] I'm now showing you what has been marked for identification purposes only as State's exhibit 2 and 3. Would you take a look at those please?
[Whereupon, the witness is shown exhibits]
Q. Do you recognize those?
A. Yes.
Q. And can you tell us what they are?
A. They are two videos from my body camera; one is the complete video and the other one is specific clips for trial.
Q. And have you had a chance to look at those videos?
A. Yes.
Q. And does exhibit 3, the clip shortened condensed

version does it contain the same videos from the original full length?

A. Yes.

Q. In any way have they been manipulated other than being condensed?

A. No.

Q. Do they fairly and accurately depict your body cams from that night?

A. Yes.

MR. WARING: Your Honor, at this point the State moves to have exhibit 3 moved into evidence.

THE COURT: Any objection?

MR. KING: No, Your Honor.

THE COURT: All right. 2 and 3 admitted without objection.

[Whereupon, State's exhibit numbers 2 and 3 are entered into evidence by the court]

MR. WARING: I would caution the audience that portions of this video are slightly graphic.

[Whereupon, the video plays]

[Whereupon, the video ends]

[Not taken down]

Q. [Mr. Waring] Now Officer McGowan who are you asking about the stretcher or talking to about the stretcher?

A. The paramedics.

Q. Okay. So they did respond?
A. They did.
Q. Was the victim eventually escorted off or taken away?
A. Yes.
Q. Now in your encounter with the defendant, obviously we've already played the 911 call, in person did he ever mention anything about being attacked by the victim?
A. No.
Q. Ever mention anything about being in fear for his life and having to kill the victim?
A. No.
Q. Based on your interaction is it your understanding that the defendant's basic story was that some humble man came while they went out riding on mopeds and that guy was the last one to see Jeff?
A. Yes.

MR. WARING: Court's indulgence.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. [Mr. Waring] Please answer any questions the defense has.

THE COURT: Cross-Examination.

MR. KING: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. KING:

Q. Officer McGowan I just have a few questions. I don't know if that was playing it forward. When you first arrived is that when you go straight back into the room and look?

A. Yes.

Q. So we saw another part first and then we saw the very beginning of the video when you're walking in and looking into the room, right?

A. Correct.

Q. So when you look into the room, and I think you note in your report there was a television overturned and a microwave overturned?

A. Yes.

Q. There appeared to be some sort of physical altercation that happened inside the room?

A. I don't know that there was a physical altercation. It was my understanding that there was possibly a seizure that had happened.

Q. Okay. And while you're there the wife, Lynn Boyd, she never came out of the room?

A. No.

Q. Did you try to talk to her?

A. I did. I spoke to her -- I tried to speak with her

through the door. The defendant said that she has anti-social some sort of personality disorder that she doesn't come out of the room.

Q. So she just talked to you through the door; you never really saw her I guess?

A. Right.

Q. And you went into that room and you observed the body, right; the body of the deceased?

A. Yes, in his room.

Q. And you noticed that there was a strand of grey hair stuck to one of his right fingertips isn't that right?

A. Yes.

Q. Now, Jeffrey Shiver was the deceased man. He didn't have grey hair right, he had brown hair?

A. Correct.

Q. Hank has grey hair?

A. Yes.

Q. He had a lot longer grey hair at the time, right?

A. I couldn't tell you the length of it; I'm sorry, sir.

Q. But you made a point of noting that in your report too that he had this ---

A. --- yes ---

Q. --- that this guy on the ground had a grey hair stuck to his right finger.

A. Correct.
Q. You said that you didn't observe any injuries on Hank, right?
A. Correct.
Q. You didn't check inside his mouth to see if he had any cuts inside his mouth did you?
A. I did not.
Q. And you said that Hank starts talking about a murder, right?
A. Yes.
Q. You have a body cam on the whole time you were there, right?
A. Yes.
Q. But that's not on the body cam.
A. Correct.
Q. You had to give a little sort of explanation. It seems like of weird right; it's not on the body cam. But what is on the body cam is you and another guy talking about murder, do you remember that?
A. [No response]
Q. Maybe four minutes into -- when you first get there maybe four and half minutes into it and it's when you're talking about the stretcher. I don't think it was played by the State but right after you're saying about the stretcher you could leave the stretcher because it's

raining. You tell the guy I need to go get some information from this guy, meaning Hank. You're talking to maybe another officer or crime scene or somebody there. And that guy says make sure he didn't murder him. Do you remember that?

A. I do not.

MR. KING: Your Honor, can I play that portion? I think he's already moved it into evidence.

[Whereupon, the video clip plays]

[Whereupon, the video pauses]

Q. [Mr. King] I'm going to stop it right here. I know you can't see much of it but do you happen to know who that person is that you're talking to? Maybe if you heard his voice but do you recognize it just from that?

A. I believe its Sergeant Evans.

Q. And you said I've got to go get some information from this guy, right?

[Whereupon, the video clip plays]

[Whereupon, the video pauses]

Q. Right?

A. Yes.

Q. And you're talking about Hank, getting some information from him, right?

A. Correct.

Q. And then listen to what this guy says.

[Whereupon, the video clip plays]

[Whereupon, the video pauses]

Q. It's kind of quiet but -- let me play it again.

[Whereupon, the video plays]

[Whereupon, the video ends]

Q. And he says make sure he didn't murder anybody and it's kind of a joke.

A. I can't hear what he is saying.

[Whereupon, the video plays]

[Whereupon, the video ends]

Q. Would it help if you listened to it with headphones on?

A. I can't understand what he's saying.

MR. WARING: Objection, Your Honor.

THE COURT: What's your objection?

MR. WARING: Your Honor, I think if she's going to listen to it with headphones I think the entire jury would have to have headphones.

THE COURT: I'm sorry, what?

MR. WARING: I think if she was going to listen to it with headphones I think the jury would have to have headphones for that as well.

THE COURT: What's the objection? If she didn't understand, she doesn't understand.

MR. WARING: The objection is more to the question,

Your Honor.

THE COURT: Pardon?

MR. WARING: Objection is more to the question; it's improper.

THE COURT: Overruled. Go ahead.

Q. [Mr. King] Would it help if you listened to it with headphones? I know it may be difficult to hear in here. You think that would help at all?

A. I don't know. It doesn't sound audible to me. It's not that I can't hear the volume of it; I don't understand to what he's saying.

Q. Okay. Well, it's in evidence. But you didn't think it sounded like -- you said I've got to get some information from this guy and you don't think he said make sure he didn't murder him?

A. No, I couldn't hear that.

Q. Those are all the questions I have.

THE COURT: Any redirect?

MR. WARING: Just a few questions.

REDIRECT EXAMINATION

BY MR. WARING:

Q. Now Officer McGowan do you know whether the hair from the victim's hand -- let me ask you first off; did the defendant have any cats?

A. Yes.

Q. Did you see how many cats he had?

A. There was one that sat in the living room the entire time. I think there might have been one more.

Q. Did you see his other cats?

A. I couldn't say for sure.

Q. Okay. So do you really have any idea whose hair that is or whether it's even human hair?

A. No.

Q. And again, did Mr. Fickling mention anything ever at all about the victim attacking him?

A. No.

Q. He mentioned the victim trying to pull his hair?

A. No.

Q. Being punched or anything like that?

A. No.

Q. But did he give you a story?

A. He did.

MR. WARING: Court's indulgence.

[Whereupon, Mr. Waring and Mr. Osborne confer]

MR. KING: Just one question, Your Honor.

MR. WARING: Your Honor, I still have a couple of questions.

Q. [Mr. Waring] Now the defense was asking you about the defendant's mouth. Did the defendant say that he had a cut mouth?

A. No.

Q. Where was the defendant when you were talking to Sergeant Evans?

A. He was outside. He periodically moved around the house while I was there. He was outside smoking at the time.

Q. Now was the defendant part of that conversation?

A. No.

Q. Please answer any questions the defense has.

THE COURT: Any further questions?

MR. KING: Just a couple, Your Honor.

THE COURT: You may step down.

MR. KING: Your Honor, I have a couple more questions ---

THE COURT: --- we're not going to do recross. Thank you. Officer, you may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Y'all want to call your next witness?

MR. WARING: May we approach, Your Honor?

THE COURT: Yes, sir.

[Whereupon, the witness is excused and exits the witness stand]

[Whereupon, an off the record bench conference is held]

MR. OSBORNE: The State calls Lisa Bloodworth.

[Whereupon, Ms. Bloodworth comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Once seated if you could state your first and last name and spell your last for the record please.

THE WITNESS: My name is Lisa Bloodworth, L-I-S-A B-L-O-O-D-W-O-R-T-H.

- - - - -

LISA BLOODWORTH

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Thanks for coming in Ms. Bloodworth. This won't take too long. Where do you work?

A. At the Sheriff Al Cannon Detention Center.

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

A. Eight years now.

Q. And what do you do? What's your job?

A. I work with the security threat analysis division.

Q. And what is that? What do you do there?

A. We deal with subpoenas, we deal with video visitation, inmate phone calls; different types of things

like that.
Q. Okay. And do you also keep track of inmate transaction logs?
A. Yes, we do.
Q. Okay. Explain to the jury what that means?
A. Anytime there is any type of inmate movement whether they if they are moving from one area to another area, if they are checked out to the court, if they move to medical, if they purchase something on a canteen they have like a transaction record that follows them throughout their whole stay.
Q. Okay. And that is categorized by inmate?
A. Yes.
Q. And the transaction logs they are kept and recorded at the time or near the time that the actual transaction occurs?
A. Yes. Actually once the officer puts it in it logs it right in so it is dated and time stamped.
Q. So a person who has knowledge is the person who is entering it.
A. Correct.
Q. Who knows about the transaction?
A. Correct.
Q. And the Al Cannon Detention Center maintains these logs during the normal course of business?

A. Yes, we do.
Q. And you have access to those logs?
A. Yes, I do.
Q. Okay. So let me ask you this. If I were to ask you a question to say if I want to know if an individual is housed with another individual could you look at the transaction logs and find out if they were housed together at any particular time?
A. Yes, I can.
Q. Okay. Now in preparation for this trial did I ask you to see if two inmates were housed together at the detention center at any time they were there?
A. Yes, you did.
Q. And who did I ask you to look into do you remember?
A. I don't.
Q. Okay. Does the name Henry Fickling sound familiar?
A. Yes; and Mr. Bellinger.
Q. George Bellinger?
A. Yes, those two.
Q. After reviewing those logs can you tell the jury if indeed Mr. Fickling and Mr. Bellinger were ever housed together at the detention center?
A. Yes, they were.
Q. And do you remember the dates?
A. That I do not.

Q. If I were to show you the transaction logs could you take a look at it and would it help refresh your memory on what dates they were together?
A. Yes.
MR. OSBORNE: May I approach, Your Honor?
THE COURT: Yes, sir.
Q. [Mr. Osborne] I'm showing you what has been marked as State's exhibit 115. Just take a look at it and tell me if looking at it helps refresh your memory as to what the dates are and then I'll take it back and ask you questions.
[Whereupon, the witness reviews document]
A. Yes.
Q. Do you have the dates?
A. Yes, 10-20-2017.
Q. 10-20 of 2017?
A. Yes.
Q. Was it just that one day or was it over a period of time?
A. That looks like when they were first put together was at that point in time. That appears to be when they were first put together on 10-20-17.
Q. And they were together for some time after that?
A. I believe so.
Q. Now individuals that are housed together in the same

unit can they talk to one another?
A. Yes. This particular unit is what we call an open bay. It's like -- almost like a dorm style room. We have the officer's desk at the back and we have 16 pods with four beds in each pod. And there is literally like a small half wall like this [indicates] in between each pod. So it's a big open dorm room.
Q. And so they can sort of come and go, right?
A. Pretty much, yes.
Q. Kind of a new way of doing things at the jail?
A. Yes.
Q. Then lastly, and this won't take too long, as part of your normal duties do you also honor subpoenas or requests for video visitations?
A. Yes, I do.
Q. And in this case did you receive a request for video visitations?
A. Yes, I did.
Q. And are all visitations when an individual comes to visit an inmate are all of those visitations recorded?
A. Yes, they are.
Q. Okay.
MR. OSBORNE: Beg the court's indulgence.
[Whereupon, Mr. Waring and Mr. Osborne confer]
MR. OSBORNE: Your Honor, may I approach?

THE COURT: Yes, sir.

Q. [Mr. Osborne] Just for I.D. purposes I'm showing you 16 and 17. Can you take a look at those and tell me if you recognize them?

[Whereupon, the witness is shown exhibits]

A. Yes, I do.

Q. And what are they?

A. They are video disks that I made.

Q. And those are video disks from whom?

A. From Mr. Fickling.

Q. So those are visitations from Mr. Fickling and you captured those ---

A. --- yes I did ---

Q. --- as requested by us at the Solicitor's office?

A. Correct.

Q. And again, just in case we use them those are stored by the Al Cannon Detention Center?

A. Yes.

Q. And you have access to those?

A. Yes, I do.

Q. Not everyone does?

A. No, they do not.

Q. Are they kept and stored at the time of the visitation? Are they recorded at that moment?

A. Yes, they are.

Q. And how when we requested those visitations, how were you able to pull those?
A. We have a system called Renovo and that's the system that that works on. I go back in and I look for the inmate and the time period requested and then I can pull up all of his logs.
When they first have to come in to visit they have to sign in with their I.D. so we have all of the person's I.D. that's visiting and the times they come when they check in. And then we will keep a running log and then it also records the visits so you can get it two ways.
Q. Okay. And the date of that visitation I think was on January the 10th of this year?
A. I believe so, yes.
Q. And we had the opportunity to view that or at least you did and you initialed it?
A. Yes I did, and yes.
Q. Thanks so much. Please answer any questions Mr. King might have.
THE COURT: Cross-Examination.
MR. KING: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. KING:

Q. Ms. Bloodworth, you testified a little bit about the open bay and the dorm style rooms?

A. Yes.

Q. Just a few questions about that. So each inmate gets a little bed, a little cot or something?

A. Correct.

Q. What else do they have in their little area? What do you give them?

A. Well, there are four beds in each of the pods. When they first come in from down in dress-out they get like a pair of boxers and a pair of socks and they're dressed out. They have like a little cup that they get that has a spoon, their cup, and some toiletries; toothbrush, toothpaste, soap.

And then once they get to the unit they are issued out a mattress cover and a towel, washcloth and blanket and then that's everything that they have for when they first come in.

Q. So if I were an inmate there where would I put my stuff, my legal papers ---

A. --- they have like a drawer underneath like a drawer.

Q. Does that drawer lock?

A. No, it does not.
Q. So if I were an inmate at the jail and I had my legal papers with me I'd have to put them in that drawer right?
A. Yes.
Q. And anybody else in that dorm potentially could have access to them, right?
A. Correct.
Q. No way to prevent other inmates from looking at your stuff?
A. No.
Q. Those are all the questions I have.
THE COURT: Any redirect?
MR. OSBORNE: No, Your Honor.
THE COURT: You may step down. Thank you very much.
[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Mr. Foreman and ladies and gentlemen of the jury we're going to stop taking testimony at this time. The next witness they are going to call is going to be rather lengthy. And normally we will run from 9:30 to probably 1 o'clock and then take a lunch break. And then we will run after lunch to somewhere around 5 or 5:30. But we're quitting a little early today because the witness is going to be very lengthy and I don't want to get into a witness that is going to take an hour or hour and half at this time of day.

I don't want you doing any electronic examination about this case, about any murder; about anything. I want you to make a decision based upon what you hear in the courtroom; not what you hear on Facebook or doing any research or doing any blogs. So no electronic research at all about this case by computer, phones or anything electronically do not do, period.

If you bring in your phones that's fine bring your phones but you will not take them in the jury room with you, computers and other information you might as well leave at home because you're not going to be able to use it during the day. If you will be back in the jury room at 9:30 in the morning we will get started at this time. The bailiff will show you where to come. When you come to the courthouse come straight to the jury room and we

will get started after all of you are here. If y'all get here at 9:30 we'll probably get started at 9:35 or 9:40; somewhere in that neighborhood. So be here in the morning at 9:30. Please don't discuss the case with anyone and I'll see you at 9:30. Have a good evening.

[Whereupon, the jury exits at 4:36 p.m.]

THE COURT: Anything from the State before we?

MR. WARING: No, Your Honor.

THE COURT: Anything from the defendant?

MR. KING: No, Your Honor.

THE COURT: Okay. See you at 9:30. Thank you very much.

MR. WARING: Thank you, Your Honor.

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of 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 Court of General Sessions for Charleston County, South Carolina on the 12th day of March, 2018.

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

May 27, 2018

Joyce C. Rueger, CVR-M
Court Reporter

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| STATE OF SOUTH CAROLINA | ) | COURT OF GENERAL SESSIONS |
| | ) | |
| COUNTY OF CHARLESTON | ) | DOCKET NO. 2017-GS-10-0439 |
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| STATE OF SOUTH CAROLINA | ) | |
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| | ) | |
| vs. | ) | |
| | ) | |
| | ) | |
| HENRY JAMES FICKLING, JR. | ) | |
| | ) | |
| Defendant | ) | |
| | ) | |
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| | ) | |
| | ) | TRANSCRIPT OF RECORD |

March 13, 2018
Charleston, South Carolina

**Volume 2 (of 4)**

B E F O R E:

THE HONORABLE J.C. NICHOLSON, JUDGE

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PROCEEDINGS

THE COURT: Anything from the State before we bring in the jury?

MR. OSBORNE: No, Your Honor. Mr. Waring just stepped out for a second?

THE COURT: Pardon?

MR. OSBORNE: Mr. Waring just stepped out for a second.

THE COURT: Okay. Anything from the defense before we bring the jury?

MR. KING: I did have one hearsay issue Judge on a witness that comes later. I don't know if you want to take it up now or?

MR. OSBORNE: I have Lunney so I can address that.

THE COURT: I'm sorry?

MR. KING: There is a witness that is going to testify later today, Your Honor. It's the other roommate in the trailer named Jaimie Lunney. And I think they are intending to admit a hearsay statement or a statement from the victim. And the statement is that...

THE COURT: What's the statement? What's the roommate going to say?

MR. WARING: Which one, Judge?

THE COURT: I don't know. Which one?

MR. OSBORNE: The Statement is, Your Honor, Ms.

Lunney is speaking to the defendant and they're speaking about the victim. And Ms. Lunney became aware that the defendant had or was having a disagreement with the victim. And so then the defendant says about a month and half before the victim's death the defendant said that the victim was acting weird. The defendant then went on to say that the victim was accusing the defendant of stealing 15,000 dollars from him.

THE COURT: Okay. That's the statement that the defendant said?

MR. OSBORNE: That's correct, Your Honor.

THE COURT: Okay. What's your objection?

MR. KING: I understand his statements come in. His statements come in. That statement contains another statement that is hearsay within hearsay. So within that statement is what the victim said.

THE COURT: What about the 15,000?

MR. OSBORNE: The defendant said that the victim thinks that he took 15,000 dollars from him.

THE COURT: That's what the defendant told this witness?

MR. OSBORNE: That's correct.

THE COURT: Okay. And you say he thinks the victim thinks? Where is the other statement you're talking about? I mean he just said apparently what your client

told this witness that the victim thinks he stole 15,000 dollars.

MR. KING: I think if it is phrased that way that may be okay. I thought it was going to be phrased that the victim told him.

THE COURT: From what he said your motion is denied, okay.

MR. KING: I understand. It depends on how it's worded. And I may have a contemporaneous objection depending on the witness words it.

THE COURT: Now if he says the victim said it it might have been a different problem. But if that's what your client said I'm going to admit it.

MR. OSBORNE: I mean obviously the defendant is not a mind-reader so at some point the victim must have relayed it in some fashion.

THE COURT: I know. But the statement he's admitted is still admissible.

MR. OSBORNE: I just don't want to misrepresent.

THE COURT: Okay. Anything else?

MR. KING: No, Your Honor.

THE COURT: Bring us the jury please.

[Whereupon, the jury enters at 9:43 a.m.]

THE COURT: As far as the alternate is concerned if you are still an alternate when the jury begins

deliberations the alternates will not deliberate. But if you're put on the jury between now and then you will deliberate. Now who would like to take notes; raise your hands?

[Whereupon, various jurors raise their hands]

THE COURT: Mr. Clerk, would you give these parties notepads and pens. If the people who want to take notes raise your hands. Raise your hand and he'll give you a notepad and a pen.

[Whereupon, the Clerk provides notepads and pens to the jury]

THE COURT: Does everybody who wants to take notes have a notepad and pen?

[Whereupon, the jurors respond]

THE COURT: Write your name inside the notepad. What we will do with the notepads the Clerk will maintain the notepads during the trial. Once you begin your deliberations your notepads can go to the jury room with you. So when you leave the courtroom leave your notepads in your chairs and the Clerk will maintain control over those until you begin your deliberations. Is the State ready to call their next witness?

MR. WARING: Yes, Your Honor.

THE COURT: If you will call your next witness please.

MR. WARING: Thank you, Your Honor. The State calls Allura Boyd.

[Whereupon, Ms. Boyd comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last name for the record.

THE WITNESS: Allura A-L-L-U-R-A Boyd B-O-Y-D.

- - - - -

ALLURA BOYD,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good morning Ms. Boyd.

A. Hello.

Q. Ms. Boyd, can you tell the jury how long you've known this defendant?

A. I've known him about 11 years.

Q. Are you all married?

A. Common law.

Q. And where did y'all live?

A. We lived at [redacted], North Charleston 29405.

Q. Did you know the victim, Jeff Shiver?

A. Yes, I did.
Q. And did he live in the same trailer?
A. Yes.
Q. Do you recall about the time he first moved in with you all?
A. It was about July of 2016.
Q. And do you know if he paid his rent beforehand or when he got there?
A. He paid for May and June after he answered the ad in May and he arrived in July.
Q. Did you say he paid for May and June?
A. Yes, sir.
Q. Okay. Did he have his own room?
A. Yes, sir.
Q. And so that's the three of y'all; you the defendant and the victim. Was there a fourth person?
A. Yes, there was.
Q. And who was that?
A. That was Jaimie Lunney. She was renting the back bedroom.
Q. So she had her own room too?
A. Yes, sir.
Q. And can you tell us how much the overall rent was for that trailer?
A. The overall rent I think was 250 maybe.

Q. Two hundred fifty dollars?
A. Two hundred fifty dollars; I'm not really sure about that.
Q. But around that?
A. Yes, sir.
Q. Now when Jeff first moved there did he have a drinking problem?
A. Yes, he did.
Q. As time progressed did it get better or worse?
A. It got worse.
Q. Now leading up to the end of Jeff's life what was his physical state like?
A. Most of the time he was intoxicated. He wasn't able to walk straight. His equilibrium was off due to the intoxication. His speech was slurred but other than that he was just Jeff.
Q. Now you mentioned that he was unsteady. Was he able to stand?
A. He was able to stand but he would walk sideways back and forth.
Q. Do you recall any specific instances where you saw him unable to walk towards the end of his life?
A. When he was heading to the bathroom and back to his room.
Q. Did he have to hold onto things when he walked

around the house?
A. No.
Q. But he was unsteady?
A. Yes, sir.
Q. What about bodily functions? Was he able to make it to the bathroom by himself all the time?
A. Sometimes he would go to the bathroom and sometimes he would not get up.
Q. What about in his room?
A. He would go in his room; I'm sorry.
Q. Now was he known at any point to have seizures?
A. Yes, he was.
Q. Do you recall about how many times he had those?
A. No sir, I don't remember.
Q. A couple of times; one time?
A. No, it was more than a couple; maybe three or four.
Q. Okay. Now on each one of those occasions do you ever remember him -- do you recall whether he had any injuries after each one of those seizures?
A. Not to my knowledge, no.
Q. Now do you know if the defendant smoked crack?
A. Yes, he did.
Q. Have you ever seen him do that?
A. Yes.
Q. And when would he do this?

A. During the day, at night; whenever he was able to buy some.

Q. Okay. Now how about the victim Jeff Shiver? Do you recall ever seeing him smoke crack?

A. No, I don't.

Q. Okay. Did Jeff own a vehicle?

A. Yes, he did.

Q. Do you recall what kind?

A. It was a four door silver SUV; as to the make and model no sir.

Q. Towards the end of his life leading up to the incident on September 13, 2016 did you ever in that last week leading up to it did you ever see him drive that vehicle?

A. Who drive the vehicle, sir?

Q. Did you ever see Jeff drive that vehicle?

A. No, sir. No, sir.

Q. Now did Mr. Fickling ever buy things for Jeff?

A. He would buy him alcohol, he would buy him cigarettes, he would buy the mixer for the alcohol.

Q. Who provided the funding for those items?

A. Jeff did.

Q. Now do you know if the defendant was allowed to withdraw money from Jeff's account?

A. I don't know, sir. I don't think so.

Q. Ms. Boyd, do you recall telling detectives at North Charleston Police Department on September 14th, 2016 that the defendant said quote, if Jeff got online and looked at his bank account he would go to jail for taking money.
A. Yes.
Q. Okay. So you did say that?
A. Yes, sir.
Q. So the answer to the question is no, he did not have permission to withdraw money from Jeff's account ---
A. --- right, right. But I'm saying I don't know if Jeff himself had said anything about it to him, about the money, yes sir ---
Q. --- the defendant ---
A. --- but he did take the money without permission.
Q. Ms. Boyd, I'm going to play a video for you now. It's already been admitted into evidence, exhibit 4. In each one of these I want you to tell me if you can identify the person that we are talking about.
[Whereupon, the video plays]
[Whereupon, the video pauses]
Q. Do you recognize that person?
A. Yes, sir.
Q. And who is that?
A. That's the defendant Henry Fickling.
[Whereupon, the video plays]

[Whereupon, the video pauses]
Q. Do you recognize that person?
A. Yes sir that was Hank, Henry Fickling.
Q. The defendant?
A. Yes, sir.
[Whereupon, the video plays]
[Whereupon, the video stops]
Q. How about that?
A. Yes, sir. It's Henry Fickling, the defendant.
Q. Okay. Now, next I'm going to show you a different exhibit that has already been marked into evidence and admitted; exhibit 5. We're going to play that for you in a second.
[Whereupon, the video plays]
[Whereupon, the video pauses]
Q. Do you recognize that person that just walked in?
A. Yes, sir.
Q. And who is that?
A. Henry Fickling, the defendant.
Q. Okay.
[Whereupon, the video plays]
[Whereupon, the video stops]
Q. And the man that just walked up to the ATM right there who was at that machine who is that?
A. That's also the defendant Henry Fickling.

Q. Ms. Boyd, did the defendant make any purchases leading up to Jeff's death?
A. He bought the moped that was shown on the video. He bought a laptop for me. There were dog food, cat food, clothing for him, cigarettes, cigars, toilet paper; things of that nature.
Q. Okay. Ms. Boyd, I'm going to need you to speak a little bit louder.
A. I'm sorry.
Q. When did those purchases begin do you recall?
A. No sir I don't, but it was within the last couple of weeks before Jeff died.
Q. So if he died on September 13th would that have been late August or early September?
A. Yes, sir.
Q. Was it unusual at that time for the defendant to be making those kinds of purchases?
A. Yes sir, it was.
Q. Because at that time were you working?
A. No, sir.
Q. And was the defendant making a lot of money?
A. No, sir. He was on social security disability.
Q. How much was he pulling in a month about?
A. About 750 maybe close to 800.
Q. Were both of y'all living on that check?

A. Yes, sir.
Q. Did you guys have animals?
A. We had a dog and three cats.
Q. Three cats?
A. Three cats.
Q. And each one of those four animals needed to eat?
A. Yes, sir.
Q. Did y'all have to pay bills electricity, water, etcetera?
A. Yes sir, we did.
Q. And did you have to eat?
A. I had a food stamp card and he had one also so that's where the groceries came from.
Q. But you had expenses bills and things of that nature?
A. Yes, sir.
Q. How about Internet?
A. We did have Internet with Wi-Fi.
Q. Did you pay for that with food stamps?
A. No, sir. That was paid for out of his check.
Q. How about Wi-Fi; did you guys have that?
A. Yes sir, we did.
Q. Did the defendant ever mention anything about the Wi-Fi?
A. He told me to change the Wi-Fi password so that Jeff

couldn't get online. He didn't want him checking the bank account and that was told to me two days before.

Q. Two days before what?

A. Before Jeff's death.

Q. So what day of the week would that have been?

A. That would have been Sunday, September 11, 2016.

Q. Did you in fact change the Wi-Fi that day?

A. No sir, I did not. I had fallen earlier that morning so I did it on Monday as he had told me to do.

Q. So that would have been Monday the 12th ---

A. --- the 12th, yes sir.

Q. And do you recall about when the defendant started using Jeff's debit card?

A. No sir, I don't.

Q. Would it help refresh your memory if I showed you a copy of the transcript that refers to an August 11th hospital visit where you discussed the defendant using that card without permission the last time Jeff was in the hospital? Would that help refresh your memory if I showed you that?

A. Yes sir it would because I do not remember that. I'm so sorry.

MR. WARING: Your Honor, may I approach the witness?

THE COURT: Yes, sir.

[Whereupon, the witness is shown document]

Q. [Mr. Waring] And so the question is how long had Hank been using the debit card, you and Hank been using the debit card what was your response?

A. I said for about a couple of weeks.

Q. Now Ms. Boyd, let's fast forward to the actual incident, the day of the incident. What time did you wake up that day?

A. I got up about 7. I had to go to the bathroom. Hank had just come back from in there. I went to the bathroom. Jeff was in the living room sitting on the futon watching the TV.

Q. What was Jeff's state at that point?

A. Intoxicated.

Q. Heavily or just a little bit?

A. Heavily; his speech was slurred. And he had stopped me on the way back and that's when I realized he was intoxicated because he asked me a question and it took me a couple of tries to figure out what he was saying, which was what's wrong with the Wi-Fi; I can't get online. So I told him I would talk to them in a little while and that I was going back to bed.

Q. Ms. Boyd, I need you to kind of enunciate and talk a little bit louder.

A. Okay. I'm sorry, sir.

Q. Did you talk with the defendant about this?
A. The defendant? Yes. He got up about 10:15 that morning and I told him what had been said to me that Jeff wanted to know about the Wi-Fi and he told me that he would take care of it.

And as far as I knew that was all there was to it. He got up and he was in and out of the trailer and in our room all day long.

Q. Do you recall about what time the defendant said I'll take care of it?
A. Between 10:15 a.m. and 10:30 a.m. that morning because it was right when he got up.
Q. Okay. And so what transpired after that? What took place?
A. I stayed in the room and worked. He was in and out and after I had laid down again for a nap something happened. He came into the bedroom while I was sleeping and made a lot of noise. He got a crowbar and his taser and left the room again.
Q. Okay. Ms. Boyd, at that point what do you -- was that unusual for him to come get a crowbar and a taser?
A. Not necessarily because he would do things outside build and whatnot so it really didn't strike me as strange and the taser was for protection.
Q. So at that point nothing really struck you as

unusual?
A. No sir, it did not.
Q. Okay. Now was the light off in the room?
A. Yes it was. The light was off. He accidentally hit the flashlight switch on it and it shown in my eyes because I had opened them when he gotten the crowbar and taser but I didn't really wake up.
Q. When you mean shown in your eyes would it have a flashlight on it?
A. It had a flashlight on it, yes.
Q. Now did he actually test the electric portion ---
MR. KING: --- objection, leading.
A. Not until that night ---
Q. --- Ms. Boyd, hold on one second.
MR. WARING: Your Honor, Mr. King made an objection.
THE COURT: What's your legal objection?
MR. KING: I'm going to object to the leading but I think he got the whole question out so I'll withdraw the objection.
THE COURT: All right. Go ahead.
MR. WARING: Thank you, Your Honor.
Q. [Mr. Waring] You may proceed.
A. I'm sorry?
Q. You mentioned something about the taser.

A. Oh, the flashlight. It had a flashlight on it and as he was moving it around or something I don't know what he hit the light for the flashlight part of it and it shown in my eyes. So that's how I knew he had the taser. The crowbar made a lot of noise; the taser not so much.

Q. What happened after that?

A. He left the room and I went back to sleep. At about 2:30 my alarm went off so I could get up and before I got up he apparently changed clothes because when I was up he asked me where the laundry detergent was.

I told him where it was and he got it and took the basket and went back to the bathroom. He loaded the washing machine up and I know because I heard the lid fall. And the first set of commercials I went and turned the washer on; set the cycle and turned it on so.

Q. Okay. So you helped in the laundry too?

A. Right. I did.

Q. Now did he mention anything else?

A. No sir, not until a few minutes later and he came in and told me if anybody asks between one and two we went for a moped ride to see the U.S.S. Hunley and around the neighborhood and hit all the potholes.

But while we were gone Jeff had a visitor who showed up just as we were walking out the door. And he repeated it three, four, five times. I can't remember exactly how

many but he was very adamant about it. So I finally said okay, fine, whatever. And then he left the room again, came back and handed me Jeff's ATM debit card and said here, call and get the balance.

So I made two calls. The first one I did not have the PIN number; I didn't know I needed one. And then the second one I did have the PIN number and gave Hank the balance.

And when he had left the bedroom to go load up the washer he had mumbling to himself. I didn't know what he was saying until much, much, much later and it was I killed him.

Q. So he admitted to killing Jeff?

A. Yes sir, he did. And then while EMS was there and he was in the room with me on his side of the bed he was mumbling the same thing over and over. And like I said it was low. I didn't realize what he was saying until much later.

Q. Ms. Boyd, was there any mention of seizures?

A. He had mentioned to me that if anyone suspected anything I was to say he had seizures, that that's what the problem was.

And I didn't comprehend what was going on. It was just mind blowing what I had been told and I didn't realize it so I was just kind of being led on; I didn't

know, not consciously.
Q. Did he mention anything specifically about blaming the death on a seizure?
A. He said that we could blame it on that if necessary. It could be blamed on seizures because he did have them. EMS had been called a few times to come get him and check him out and take him to the hospital.
Q. Okay Ms. Boyd, did he at any point mention anything about being attacked by Jeff, having to kill him in self-defense being in fear for his life?
A. No, sir. Nothing was said to me about that at the time.
Q. And you admitted a little while that you participated in cleaning up?
A. I did help do the laundry, yes sir. And I had changed the password which had precipitated what happened and I'm sorry.
Q. Did Mr. Fickling have any injuries on him?
A. Not that I could tell, no sir.
Q. No cut wounds or anything on his face?
A. No, sir. I didn't see anything on him.
Q. Was there any mention of Jeff's laptop?
A. Oh yes sir, I forgot; thank you. He did bring Jeff's laptop into the bedroom to me. I don't recall him saying anything about it but I plugged it in and charged

it. I did not open it at all. It was kept closed. But I did put it on the charger.

Q. That wasn't your laptop?

A. No sir, it was not. That was Jeff's laptop. Mine had already been charged; the laptop that Hank had bought me.

Q. What did you personally do after all this after you helped clean up?

A. I didn't do anything, which I should have done but I didn't.

Q. So you admit you didn't call 911?

A. No sir, I did not call 911. I did not call the police. When the police arrived I didn't say anything about it.

Q. How about when you spoke with the police at the station. Were you honest with them then?

A. Not to begin with. I did give Hank's alibi and then I did tell them the truth. It took a little bit but I did tell them the truth.

Q. But you admit you lied?

A. I did lie; yes sir.

Q. Were you read your Miranda rights?

A. Yes, sir.

Q. Did you understand your rights at that time?

A. Yes, sir.

Q. Were you intoxicated?
A. No, sir.
Q. How about education? Do you have any education?
A. Yes, sir.
Q. What do you have?
A. I have about a year and half of college. I dropped out to have a family.
Q. Were you specifically threatened in order for you to get your statement?
A. No, sir.
Q. Was your statement freely and voluntarily given?
A. Yes, sir.
Q. Did anybody promise you anything or make any misrepresentations or anything of that nature?
A. No, sir.
Q. Did you understand what you were doing?
A. Yes, sir.
Q. Now Ms. Boyd, you've got a charge of your own, don't you?
A. Yes sir, accessory after the fact of murder.
Q. And have you pled to that charge?
A. Yes, sir.
Q. Have you been sentenced?
A. No, sir.
Q. Now tell the jury are you expecting some kind of

relief for that for your testimony?
A. No, nothing. I don't expect anything for this.
Q. I'm not saying whether we've offered you anything but ---
A. --- no ---
Q. --- you're hoping for some leniency.
A. I'm hoping for it but things happen the way they happen.
Q. Have we, the State, promised you anything?
A. No, sir.
MR. WARING: Court's indulgence, Your Honor.
[Whereupon, Mr. Waring and Mr. Osborne confer]
Q. [Mr. Waring] Ms. Boyd, just a couple other questions. We already kind of briefly went over them. You admit that you changed the Wi-Fi?
A. Yes, sir.
Q. And you admit that you called Jeff's bank?
A. Yes, sir.
Q. You had his PIN number?
A. Yes, sir.
Q. You checked his balance?
A. Yes, sir.
Q. You admitted you cleaned up?
A. Yes, sir.
Q. Is it your position today that you had no idea the

defendant was going to kill the victim?
A. I had no idea but he did keep saying that Jeff had to go, he had to leave, he had to get rid of him. And I thought he meant kicking him out and making him move somewhere else. I didn't know that killing Jeff was in his mind.
Q. You admit though that you're not clean in this process so to speak, right?
A. No, I'm not.
Q. You had a hand in cleaning up and otherwise being an accessory, correct?
A. Inaction, yes sir.
Q. But your day in court is still coming, right?
A. Yes sir, it is.
Q. Please answer any questions the defense has.
THE COURT: Cross-Examination.
MR. KING: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. KING:

Q. Hey, Ms. Boyd how you doing?

A. Nervous, but I'm here.

Q. You said -- I noticed during the testimony you had there was a time when you first started when he asked you about permission to use the card.

A. Yes, sir.

Q. And I felt like the first time he asked you you said I don't know, I don't think so.

A. Right, yes sir.

Q. Then he had to read some statement that you said in the past to kind of bring you back to get you to say what he wanted you to say, right?

A. Well, he did have permission to use the card to buy Jeff's drinks and his alcohol and his cigarettes. He did not have permission to use the card to withdraw large amounts of money from the bank account, which is why there was hesitation along that line. And I apologize for the confusion.

Q. Well, there was another time he had to refresh your memory too when he came up there and had to refresh it at least twice, right?

A. Yes, sir. I'm real nervous.

Q. It's hard to remember a lot of the details too,

right?
A. Yes, it is hard.
Q. And you're not making them up ---
A. --- no ---
Q. --- that would make it hard to remember too if you're making things up.
A. No sir, I'm not making them up.
Q. I mean it seems like you would remember this stuff; I mean this is serious.
A. Yes, I know it is.
Q. Your freedom could be on the line, right?
A. It is.
Q. A man died and this is serious, right?
A. Uh Huh.
Q. So you've known Hank for how long, 11 years?
A. Yes, sir.
Q. Y'all were together 11 years?
A. Well, just over 11 years yes sir.
Q. And you lived on [redacted] for nine?
A. Yes sir -- no for seven years. We were together for nine years.
Q. And you didn't work, right?
A. No sir, I did not.
Q. I think you said and this was in your statement you stayed in your room most of the time, is that right?

A. Yes sir, I did.
Q. You didn't go out into the world a whole lot.
A. No, sir.
Q. Why is that?
A. I just wanted to be at home. That's all I wanted was to be at home; a homemaker.
Q. Do you have anxiety or anything about going outside around other people?
A. In very large groups of people yes, I get very anxious. And I'm really nervous now. This is the most I've been around except for in the detention center. But there is more space there.
Q. So you like your privacy?
A. Yes, sir.
Q. Is it fair to say you rarely left that trailer to go out?
A. Right. I did leave one time. Hank drove. I had earned some gift cards doing surveys online and earned enough points to get about 55 or 60 dollars worth of gift cards.

Hank said he had never been to Red Lobster so for our nine year anniversary even though it was late he drove Jeff's vehicle to the Red Lobster and we ate dinner there and then we went home. And that was about the only time I had left the trailer in many years. It had been a

long time.
Q. Years?
A. Yes, sir.
Q. So liking your privacy and liking to be home jail must be pretty hard on you, right?
A. It is.
Q. You don't have privacy there do you?
A. Not really, no sir. But I've had to adjust.
Q. All right. So you testified Hank gets a check every month, right?
A. Yes, sir.
Q. You said it was close to 800?
A. I believe so, yes sir between 7 and 8 between the two of them combined.
Q. Hank pays the bills.
A. Yes, sir.
Q. He gets rent money from the two tenants?
A. Yes, sir.
Q. Do you know how much he gets from Jaimie Lunney?
A. I don't remember, sir.
Q. Do you know how much you got from Jeff Shiver?
A. He was supposed to get either 200 or 250 from Jeff. I honestly cannot remember this date. I am sorry.
Q. But you think Jaimie's would have been at least that much as well?

A. Yes, sir.
Q. And doesn't Hank collect scrap metal?
A. He does.
Q. And do odd jobs and things?
A. Yes, he does.
Q. Fixes things up that he finds?
A. Uh Huh. He's very handy.
Q. And you said you get food stamps?
A. Yes, sir.
Q. How much money in food stamps did you get?
A. 300 hundred and something and Hank got a hundred and something; almost 200.
Q. So that's almost 500 dollars for food, right? That should feed you all month, right?
A. Yes, sir.
Q. And he's getting money from the tenants to cover or more than cover the rent for the trailer, right?
A. Yes, sir.
Q. And he's getting you said between 7 and 800 dollars a month coming in every month, right?
A. Yes, sir.
Q. And I guess the fact that you really don't know everything that he does because you never leave the trailer.
A. Right.

Q. So you don't really know, if he goes out you don't know what he's doing, right?
A. Exactly. Don't know what he's doing, don't know where he's going.
Q. You don't know if he is working odd jobs and making extra money.
A. No sir, I don't.
Q. And you testified that Hank was buying some things before Jeff's death.
A. Yes, sir.
Q. Cat food?
A. Yes sir, cat food.
Q. Hank never bought cat food before?
A. He had bought cat food but not in the quantity. He actually brought in everything at one time from one trip out where usually it would be a little bit here, a little bit there; he wouldn't get it all at one time.
Q. And you said he bought ---
A. --- laptop and the moped and he got those from Money Man Pawn but even at that I don't think either one was less than 100 dollars, especially a moped.

So I don't know how he could have gotten it other than withdrawing money from an ATM to get it or something because the odd jobs that he did never paid that much at one time.

Q. How do you know? You never left the house.
A. But I saw what he would usually bring in from those odd jobs and it was never that much; maybe a small four pack of toilet paper, one pack of cigarettes apiece for each of us, a couple of three cans of cat food maybe.
And that's what he would usually bring with the odd jobs. I'm talking like went to Walmart and spent about two or three hundred dollars. Like I said the moped was expensive.
Q. He didn't buy you any jewelry or anything fancy did he?
A. No, sir.
Q. He didn't buy a car?
A. No, sir.
Q. He bought a moped.
A. Right.
Q. Now let's talk about Jeffrey Shiver for a minute, okay. You testified that he drank a lot, right?
A. Yes sir, he did.
Q. What did he drink?
A. Vodka and he would drink it straight; mix it with cola or Gatorade, generic Gatorade drink.
Q. How much vodka would he drink a day?
A. I believe a gallon a day. A half in the morning and half through the afternoon and evening.

Q. Like a big bottle?
A. Oh yes sir, very big.
Q. Every day?
A. Every day just about.
Q. And Jeff didn't leave the house very much either, right?
A. Right.
Q. And toward the end he was always drunk.
A. Yes, sir.
Q. And towards the end he was too drunk to even drive his car, right?
A. Yes, sir.
Q. His truck?
A. Yes, sir.
Q. You testified that he would just go to the bathroom in his room sometimes?
A. Yes, sir.
Q. Like on the bed or like?
A. Yes, sir. The bed and in the chair he sat in he'd fall asleep watching T.V. in the chair and urinate on himself while he was asleep. And the only way I know that is Hank had told me.
Q. And vomit in the room?
A. That I don't know about but it's possible.
Q. And Hank had to clean that up?

A. Yes, sir.
Q. So you didn't go out and get things for Jeff ever?
A. No, sir.
Q. Because you only left the house that once?
A. Right, that one time.
Q. Now did Jaimie Lunney the other tenant did she go out and get things for Jeff?
A. That I don't know. Whatever happened between the two of them I was not privy to.
Q. Is it true that Jaimie was hardly ever there?
A. Yes, it's true.
Q. She worked a lot?
A. Yes sir, she did.
Q. And she spent time with her boyfriend or something?
A. Yes, sir. She had friends outside of the trailer.
Q. So she's not there very much and you never leave the house. Jeff can't -- he never leaves the house right?
A. Yes, sir.
Q. So Hank is the one who has to go out and get everything, right?
A. Yes, sir.
Q. He's the only one going out.
A. Yes, sir.
Q. He took care of Jeff while he was going through this problem he was having?

A. We both did the best we could.
Q. Now Jeff was generous with his money wasn't he?
A. Yes, he was; very generous.
Q. Did you know that he paid Jaimie's rent one month for her?
A. I had heard that. I didn't know that for a fact.
Q. He helped pay some of y'alls bills?
A. Yes he did, he did pay them one month.
Q. Did you ever see him give Hank cash?
A. No, I did not.
Q. Do you remember in your statement that you testified about your statement to the police?
A. About money? No, I don't remember.
Q. Well, you remember giving a statement to the police, right?
A. Yes, I remember that. It's been 18 months sir, I'm sorry.
Q. Right. And that was...
A. He may have. He gave Hank his debit card; I know that.
Q. I want to go back to your statement that you gave back on I guess it was September 14th by this time about -- it started about 6:38 in the morning. You were in there from about 6:38 in the morning until about 5 p.m.?
A. Yes sir, a long time.

Q. And do you remember you talked to some different detectives that day, right?
A. Yes, sir.
Q. One of them was named Jellico, Detective Jellico; you remember him?
A. Oh, yes.
Q. Do you remember he asked you he said, referring to Jeff; did he give Hank a lot of money? And you said there were times when he did; yes, he dropped a couple of hundred.
A. Yes, sir.
Q. Do you remember that?
A. Yes, I do remember ---
Q. --- so you actually remember the cash ---
A. --- yes sir, I told you it has been 18 months. It's hard to remember a lot of things I guess.
Q. You testified Jeff had seizures.
A. Yes, he did.
Q. Do you know if there was any pattern on those? Would they come about when he would stop drinking or try to stop drinking?
A. No sir, I didn't notice any pattern.
Q. And the EMS and the firemen came out there at least twice, right?
A. Yes, sir.

Q. One time they came out there in August and Jeff went to the hospital?
A. Yes sir, I remember that.
Q. And he stayed at the hospital maybe for a day or so?
A. I'm not sure how long. I just know he was there and Hank called his father and told his father. And then Mr. Shiver called Jeff and when Jeff got home he was not happy with Hank.
Q. I was going to get to that; I was kind of leading up to that. So he went to the hospital?
A. Uh Huh.
THE COURT REPORTER: Is that yes?
A. Yes; I'm sorry.
Q. [Mr. King] You said Hank called Jeff's father.
A. Yes, sir.
Q. To relay that your son is in the hospital.
A. Yes, sir.
Q. And had you been talking to Jeffrey's family about this condition that Jeff had?
A. Yes, he had.
Q. You were trying to get the family to maybe get involved and help?
A. Right, yes sir.
Q. And so Jeff found out when he got back from the hospital that Hank had called his dad.

A. Yes, sir.
Q. And he got really mad about that, right?
A. Yes, he did. He reamed Hank. Basically he just went ballistic on him and starting yelling and screaming about calling his family. He was not happy.
Q. They also -- did Hank and Jeff also argue about him having to go get vodka?
A. Yes, sir.
Q. Because I mean he's drinking a gallon a day, right?
A. Yes, sir. He was definitely drinking a lot every day.
Q. So Hank is constantly buying liquor day after day, right?
A. Yes, sir.
Q. Maybe that's why he had to get a moped?
A. It's a possibility. I know he was having problems with his bicycle.
Q. You didn't know anything about Jeff and Hank smoking crack?
A. No sir, I did not.
Q. Did you know anything about a prostitute ever being there?
A. I know there were people there. I don't know if you would call them prostitutes; I mean I don't know. I know there were a couple of girls there who stayed a little

bit but other than that no.
Q. Did you ever see Jeff with a girl?
A. No. He talked to Jaimie. He talked to one of the girls that was there but other than that no.
Q. Now so when you're testifying about these events on September 13th, right, you weren't drunk when all this was happening?
A. No, sir.
Q. But you drink right?
A. I did, yes sir.
Q. You did drink. A few days before Jeffrey Shiver and when all that happened you fell off the steps and hit your head, right?
A. I fell down the steps and hit my head and gashed it really deep.
Q. You had been drinking.
A. I had been drinking, yes sir.
Q. When the police took you down to the police station to talk to you down there ---
A. --- yes sir ---
Q. --- you took a 40 ounce bottle of Steel Reserve beer in your purse, didn't you?
A. I took it thinking that I was going to actually be outside talking to the detectives and the police. I hadn't comprehended what was going on at the time. I did

take it, yes.

Q. You took a 40 with you to talk to the police ---

A. --- yes, I did, I did. And colas as well; I had both.

Q. Now let's talk about the taser for a minute. You mentioned that Hank had a dog, right or y'all had a dog, right?

A. We had a little dog.

Q. What kind of dog was she?

A. She was a Jack Russell terrier mix with husky and she was little. She stood maybe a foot and half high. You know little thing; lap dog basically. And we got her when she was a puppy. We spoiled her rotten.

Hank got a basket and attached it to the front of his bicycle and taught her to ride in it with a leash on of course so she couldn't jump out the basket. And he would take her to the store and ride around the neighborhood.

I mean that was fun for her. That was her treat. She wanted to go riding all the time. And if she couldn't she'd skip out the door Hank would chase her and pick her up and put her back on the bike and bring her home. I miss her.

Q. What was her name?

A. Her name was Heather.

Q. What happened to her?
A. Heather has been adopted out to a family. My daughter got her from the SPCA and took her part-way home to Georgia and spent the night with some friends, talked it over and they decided to adopt her out.
Q. So isn't it true that Hank had the taser for protection when he was walking Heather?
A. Yes sir, he did.
Q. And it was really a flashlight as well, right?
A. Yes sir, it was.
Q. You didn't even consider it a weapon did you?
A. No.
Q. So we talked about you going to the police station. They took you down there and put you in a room.
A. Yes, sir.
Q. And you were in there for maybe over 10 hours, is that right?
A. Yes, sir.
Q. They did let you go out a few times to the bathroom, right?
A. Yes, sir.
Q. They gave you a pack of crackers to eat?
A. Yes sir and I couldn't eat them. I could not eat them.
Q. That's all you had?

A. That's all.
Q. Do you remember what that room looked like?
A. It was square room. There was a two-way window -- one way -- mirror window in there. They had a table and there were chairs in there.

MR. KING: Your Honor, may I admit a brief portion of her statement to show the surroundings of the interrogation room.

MR. WARING: Objection, Your Honor.

THE COURT: What's your objection?

MR. WARING: Your Honor, she answered the question. I don't see any basis for admitting the surroundings of the interview room.

THE COURT: Let me see the statement?

MR. KING: The video, Your Honor?

THE COURT: Do y'all have a written copy of it?

MR. KING: May I approach?

[Whereupon, Mr. King provides documents to the court]

[Whereupon, an off the record bench conference is held]

THE COURT: Mr. Foreman, ladies and gentlemen of the jury under the rules of evidence I'm not permitted to comment on any of the facts in the case during the course of the trial. And whenever there is an objection being made about some type of evidence under the rules of evidence I'll send you out of the courtroom so I'll be free to comment on those facts and make a determination of whether the evidence is admissible under the rules of evidence.

So what I'm going to ask you to do is please go to the jury room. We've been going for about an hour. What we'll do is go ahead and take our morning break after I finish this. If we have any smokers let the bailiff know and they will take you to the appropriate place for smoking.

So y'all plan on about a 20 to 25 minute break while I attend to this and then we're going to take a break. So it probably will be about 20 or 25 minutes before I get you back in the courtroom. Please don't discuss the case amongst yourselves and leave your notepads in your chairs.

[Whereupon, the jury exits at 10:36 a.m.]

THE COURT: To summarize what transpired at the bench the defense counsel has the transcript of the interview with the police which apparently lasted quite a

while plus you've got the video of the transcript. You want to offer some excerpts of that video and the defense -- the State has not seen those videos so I am going to give you time for the two of you to talk to let the State look at those videos to see if he has any objection, okay.

MR. KING: Yes, Your Honor.

THE COURT: So please do that and if you have any objections let me hear them before we bring the jury back, okay. We'll take a break and give y'all an opportunity to do that. Ma'am, you may step down and go with the officers okay. Be careful stepping down.

[Whereupon, the witness exits the witness stand]

[Whereupon, all counsel review the video]

[Whereupon, court is in recess from 10:38 a.m. until 11:06 a.m.]

THE COURT: Solicitor, have you had an opportunity to review them?

MR. WARING: Yes, Your Honor.

THE COURT: Do you have any objection?

MR. WARING: Yes, Your Honor, we do.

THE COURT: First of all do you agree with any of them?

MR. WARING: Your Honor, I think I'm just going to have a blanket objection for all of them based on

hearsay. They're using these videos and these statements by the police officers and the non-verbal activity of Ms. Boyd testifying ---

THE COURT: --- do you have video of what the police officer is saying?

MR. WARING: Yes, Your Honor.

THE COURT: Okay.

MR. WARING: But they're going to be using that -- they're claiming they are not bringing that in for the truth of matter about what the police officer is saying but in a way they are because they are arguing volatility. And those statements are going to be used for the truth of the matter in their minds that this was a volatile environment for her. So I think that goes directly to the definition of hearsay. And the remedy I think is they could just call the detectives to testify and ask them those questions.

THE COURT: I'll be glad to hear you, Mr. King. My inclination is not to -- if I am going to do it at all with no sound.

MR. KING: I need to ask Ms. Boyd about the effect that these interrogation tactics had on her.

THE COURT: Okay. I mean that may lay the proper foundation. I don't know if it will or not but it may. But even if the sound and the police officer talking I

understand your argument that you're not offering it for the truth of the matter asserted but I think you are. You are offering it for the truth of the matter asserted that they put pressure on her and she's lying.

MR. KING: Right. But there is no statement -- that is not the statement being said. The statement being said ---

THE COURT: --- I understand ---

MR. KING: --- the police threatening to arrest her and telling her she is going to be charged and they have to be convinced as to why they shouldn't arrest her for obstruction of justice. They scream. One screams at the top of his lungs at her. How is the jury going to understand that if ---

THE COURT: --- I think you're going to have to -- as far as them screaming and doing this sort of thing you're going to have to ask her and bring the police officer in the court so they will have an opportunity to cross-examine the police officer. Now if you want to show some of these excerpts without the video I'll listen to that.

MR. KING: You mean just ---

THE COURT: --- it's going to be silent.

MR. KING: Oh, show silent on the video?

THE COURT: Right. It will just show what's going

on in the room. I haven't seen the excerpts; I don't know.

MR. KING: Can I proffer it?

THE COURT: Pardon?

MR. KING: Can I proffer the excerpts so we can go through it with Ms. Boyd ---

THE COURT: --- I'm not going to -- you can proffer it if you want to but I'm not going to do it right now because I've got a jury sitting out there. Whenever we have a break before lunch or something I'll let you proffer whatever you want to proffer, okay. I'm just not going to take the time to do it right now. But I'll be happy for you to do that.

MR. KING: Can I ask her questions ---

THE COURT: --- you can ask her whatever you want and if there is something on those videos you can impeach her with that's a different story, okay.

MR. KING: Yes, Your Honor.

THE COURT: Anything else?

MR. WARING: No, Your Honor.

THE COURT: You can ask her whatever you want and then if there is something on the video you want to show to impeach her I'll be happy to listen to that, okay.

MR. KING: Yes, sir.

[Whereupon, the witness retakes the stand]

MR. KING: Your Honor, may I show -- you said I can show it silent?

THE COURT: I'm sorry?

MR. KING: You said I could show a video with no sound? The first thing I wanted to show her is just a still, the paused video of the room and her sitting in there.

THE COURT: I'll let you show it without sound, yes.

MR. KING: And then the second one is her pacing back and forth.

THE COURT: I'll let you show it without sound. Are you ready?

MR. KING: Yes, Your Honor.

THE COURT: Do you understand what I'm saying when I say when you're questioning her and there is something on those videos to impeach her with I'll let you do that.

MR. KING: An inconsistent statement ---

THE COURT: --- right or inconsistent with what transpired. If she denies whatever you were going to ask her about then you can show it, okay.

MR. KING: Yes, Your Honor.

THE COURT: Do you understand?

MR. KING: I do.

THE COURT: I just want to make sure we're clear

and on the same page.

MR. KING: I do, Your Honor, and I'll try to approach it carefully if I'm getting ready to ask ---

THE COURT: --- anything else before we bring the jury?

MR. WARING: No, Your Honor.

THE COURT: Bring us the jury please.

[Whereupon, the jury enters at 11:12 a.m.]

THE COURT: Thank you very much. Please proceed.

CROSS-EXAMINATION (resumes)

BY MR. KING:

Q. Ms. Boyd, I was asking you about when the police questioned you at the police station, okay.

[Whereupon, the video plays-no sound]

Q. Do you see that on the screen there?

A. Yes, sir.

Q. Do you recognize that?

A. Yes, sir.

Q. Who was that in that room?

A. That's me.

Q. And that's that room you were put in?

A. Yes sir, it is.

Q. Doesn't appear to be anything on the walls; it's a very plain room?

A. Right. And in the bottom right corner, where you can't see it, is the two-way mirror.

Q. Okay. And just that table and what kind of chair is that, do you remember? Did it have padding, was it a hard chair?

A. It was like an office chair like the one I'm sitting in now it seemed like.

Q. And you were in there -- now you see the start time on there [indicates]?

A. Yes, sir.

Q. So this starts at 6:38 a.m., is that right?
A. Yes, sir.
Q. So you had I guess there was some things going on at the trailer, right? There were some questions there for a little while and then eventually they brought you down and this is it is 6:38 before you got in interrogation, right?
A. Right.
Q. You had back pain back then?
A. I still do. It's chronic back pain, yes.
Q. How long have you had that?
A. Since I was born. It's a genetic defect that I was born with.
Q. Does it affect your ability to sit for periods of time?
A. It does, yes sir.
Q. I want to show you another one.
[Whereupon, the video plays-no sound]
Q. You were pacing back and forth a lot in that room, right?
A. Yes, sir.
Q. Rubbing your back?
A. Yes, sir.
Q. You recognize that?
A. Yes, sir.

Q. And that's you walking back and forth?
A. Yes, it is.
Q. You were using a cane back then. Are you using that now?
A. No, I'm not.
Q. So you were in worse condition then than you are now?
A. Yes, sir.
Q. You're rubbing your back right there?
A. Yes.
Q. So it's 6:38 and your back is already hurting? I'm sorry, that at 8:40 a.m.
A. Yes, sir.
Q. So your back is hurting there, right?
A. Right. It hurt all day long.
Q. You wanted to go home?
A. Yes, sir.
Q. Because you rarely left the house so this is -- you don't go out much so this is kind of a big deal to be out especially at the police station, right?
A. Right.
Q. You were worried about your cats?
A. My cats and my dog, yes. Well, Hank had Heather with him so not so much about her as the cats.
Q. Do you know what happened to the cats?

A. I'm sorry?
Q. Do you know what happened with the cats?
A. I know one was caught and SPCA adopted her out. And the other two I don't know.
Q. So they have you in there. And first you're telling them the story about riding around on the moped, right?
A. Right.
Q. That wasn't true?
A. Right. It's what Hank had told me to say.
Q. They asked you questions, right?
A. Uh Huh.
Q. And then get up and leave a little bit?
A. Yes, they were in and out.
Q. And came back in and asked you more questions, right?
A. In and out, in and out.
Q. And when they leave the room you're pacing the whole time, right?
A. Right.
Q. Because sitting in that chair was painful for you?
A. Uh Huh. Yes, it was.
Q. And later on you're in there all morning and it gets maybe closer to 11 and you remember asking them kind of different periods about how long it's going to be.
A. Yes, sir.

Q. My back is killing me; I've got to lay down.
A. Yes, sir.
Q. I've got to get home.
A. Yes, sir.
Q. But they wouldn't let you go?
A. No, sir.
Q. They were nice at first, right?
A. Yes, sir.
Q. They were kind of asking you questions and everything was nice?
A. Yes, sir.
Q. Now at some point in that interview did the tone start to change and it got a little less nice?
A. A little more pushy, more forceful like we know what's going on.
Q. Do you remember when it was Detective Benton who was interviewing you first, right? Do you remember him Detective Benton?
A. Vaguely, vaguely; I'm sorry.
Q. And at some point he comes in and says you know a lot more ---
MR. WARING: Objection, Your Honor.
THE COURT: What's your legal objection?
MR. WARING: Hearsay, Your Honor.
THE COURT: Pardon?

MR. WARING: Hearsay, Your Honor.

THE COURT: Overruled. Go ahead.

Q. [Mr. King] Detective Benton said you remember you know a lot about what is going on in that house than you are trying to let on. You've got this whole poor pitiful me I stay in the bedroom and I don't know anything. Stop with that crap. Do you remember that?

A. Yes, I remember that statement, yes sir.

Q. And his tone changed a little bit when he started saying stop that crap, right?

A. Yes sir, it did.

Q. But you do stay in the bedroom, right?

A. Yes, I do.

Q. You were telling the truth about that but he doesn't believe you.

A. No, he didn't.

Q. They confront you about your name. You told them you were Lynn Fickling, right?

A. Yes, sir.

Q. And then -- but your real name is Allura Lynn Boyd, right?

A. Yes, sir.

Q. So they were accusing you of giving a fake name. Why didn't you give your real name? Do you remember that?

A. Yes, sir.
Q. And then it gets around noon and they read you your rights, do you remember that?
A. I don't remember what time it was.
MR. KING: May I approach, Your Honor?
THE COURT: Yes, sir.
[Whereupon, defendant's exhibit number 1 is marked by the court reporter]
Q. [Mr. King] I'm going to show you what has been marked as defendant exhibit 1 and see if you recognize that?
[Whereupon, the witness is shown document]
A. Yes, I do.
Q. Now that's the rights form that they read you, right?
A. Yes, sir.
Q. That has your signature on it?
A. Yes, sir.
Q. What happened when they filled that out? Do you remember how that went?
A. He read them to me and I signed it.
Q. He read that you have the right to remain silent.
A. Right.
Q. And he said anything you say can be used against you?

A. Right.
Q. Those classic rights that you hear when you're getting arrested.
A. Yes, sir.
Q. And what time did you sign that saying that you are waiving your rights?
A. It showed 12:10 p.m. in the afternoon.
Q. Does that seem accurate to you?
A. I believe so. Like I said I didn't look at any of my cell phones to find out what time it was. I don't wear a watch.

MR. KING: Your Honor, I would move to admit defendant's exhibit 1 into evidence.

THE COURT: Any objection?

MR. WARING: No, Your Honor.

THE COURT: Admitted without objection, defendant's number 1.

[Whereupon, defendant's exhibit number 1 is entered into evidence by the court]

Q. [Mr. King] So it is 12:10 p.m. when they read you your rights, right?
A. Yes, sir.
Q. The tone really changed then, right?
A. Yes, sir.
Q. Now they have gone from being nice to confronting

you a little bit you know about stopping the crap to now you're being read your rights.

A. Yes, sir.

Q. So you tell them your brain is messed up from too many car wrecks?

A. Yes sir, I've been in too many accidents plus I also fell down the steps two days, three days before.

Q. Do you think that had an effect on ---

A. --- yes, I do ---

Q. --- your thinking and your perception of things?

A. Oh, yes definitely. But I knew what I was doing; unfortunately then I knew.

Q. And you ended up telling the police that you lied. The moped isn't true ---

A. --- right ---

Q. --- somebody being with Jeff isn't true?

A. Right.

Q. You tell them that, right?

A. Yes, sir.

Q. So now they've got you in a lie now, right?

A. Yes.

Q. They confront you that you changed the Wi-Fi password, right? You remember that?

A. I do and I did admit to that.

Q. Do you remember there were more than one detective.

You started off with Detective Benton, right?
A. Right.
Q. You remember Detective Jellico came in at some point?
A. Yes.
Q. Detective Niemiec remember him?
A. I remember the name. I don't remember the face.
Q. And they were accusing you of lying, right?
A. Yes, sir.
Q. And threatening to arrest you if you lied?
A. Right.
Q. Telling you that Jeff's balance was checked from your phone, right; you remember that?
A. Yes sir, I do.
Q. And Jeff's laptop was in your room.
A. Yes, sir.
Q. They accused you of using the card.
A. Yes, sir.
Q. So it gets a little later in the day maybe about 1:30 and now Detective Jellico is coming. Do you remember that at some point Benton leaves, they sort of tag team and then Detective Jellico comes in?
A. Yes, sir.
Q. And you lied in a murder investigation, right?
A. Right.

Q. That's what they are telling you.
A. Uh Huh.
Q. And that you could be arrested for obstruction of justice.
A. Yes.
Q. And you remember Detective Jellico saying you've got to convince me why I should not put you in jail for obstruction of justice.
A. Yes.
Q. In a homicide investigation coming to us and lying to us off the bat, right?
A. I remember that.
Q. He's telling you, you got to convince him why he shouldn't arrest you.
A. Yes, sir.
Q. And then Detective Niemiec comes in. You remember he was a more rounder guy. Jellico I think was wearing a suit.
A. Yes, sir.
Q. Niemiec was the one that yelled at you. You remember him?
A. I remember being yelled at. At the moment I couldn't tell you which one it was. I'm sorry, I just don't remember.
THE COURT: Ms. Boyd, speak up a little bit okay so

we can hear you.

THE WITNESS: I'm trying. I'm sorry.

Q. [Mr. King] But do you remember it was about 1:30, 1:36 and Niemiec comes in. And he's being nice at this point and he says I want you to look at my face and I want you to understand something.

You seem like a good person. You seem like a good person but good people get put in bad spots, you remember that little speech he gave you.

A. Yes, sir.

Q. He took your hat off. You remember he took your hat off and he made you look in his eyes.

A. Yes, sir.

Q. And he said you were in a bad spot, right? You remember that?

A. Yes sir, I do.

Q. And he said here's the thing about bad spots. You have the opportunity to get yourself out of a bad spot, right?

A. Yes, sir.

Q. And then a few minutes later Detective Niemiec said it's not going to go away. You remember when he was telling you that it's not going to go away. The only way it can go away is for you to become 100 percent honest about exactly what you know and what he's told you and

what he said. Here's the deal. There are two ways this happens okay? Either it's you and him, or it's just him or it's just you. Do you remember that?

A. Yes, sir.

Q. He's trying to get you to separate yourself from Hank at that point, right?

A. Yes, sir.

Q. Now at some point Detective Niemiec stops being nice and he starts getting a little mean, right. Do you remember when his tone started to change?

A. No, I just know the whole tone changed.

Q. Do you remember when he yelled at you and said you're going to tell me what happened, how it happened and what he told you about it and what your part in helping him clean up was and you're going to do it now. Do you remember that?

A. I remember that statement.

Q. He yelled that, right?

A. Oh yes, he did.

Q. And then you remember a little bit after that, and this is getting along to 2 o'clock, he said you want to go to jail or you want to go home, what's your choice? And you said I'd like to go home.

A. Exactly.

Q. You been wanting to go home the whole time since

6:38 a.m., right?
A. Yes, sir.
Q. And he says well you better start telling the truth because right now it's not looking good. Do you remember that?
A. Yes, I do.
Q. Now it's getting a little bit later after you've been yelled at by Niemiec, you remember Detective Niemiec said I'm asking you about the events that occurred that just occurred when Jeff was killed and after Jeff was killed and you have consistently lied about it.

So I'm going to leave unless you're going to tell me the truth about those events I'm going to walk out the door. Do you remember him saying that?
A. Yes, sir.
Q. And what he means by that is I'm going to leave and you're going to get arrested and going to jail, right?
A. Yes, sir.
Q. And then you looked at him and said I can lie if you -- and then there is sort of some back and forth. Do you remember saying that to him?
A. Oh, yes ---
Q. --- you were like I can lie if you want me to, right?
A. Right.

Q. At that point you're desperate to try to -- whatever would make them stop yelling at you.
A. That and just get them to believe. But they didn't.
Q. So you could go home?
A. No, I didn't go home.
Q. Now you keep going on with Niemiec. You remember a little bit later about 2:11 he said I'm talking about the last go around, he said we keep talking about this is the last go around. This is your booking sheet. This is what I'm going to put you in jail for. Do you remember when he did that? He went and got a booking sheet and a pen?
A. Vaguely I remember that.
Q. And he sat down and he started filling it out. What's your last name and he started filling out that booking form to book you in, right?
A. Yes, sir.
Q. Then he stopped.
A. Right.
Q. Now a little bit after that Niemiec says it can go good that you go home or you could go to jail. It all depends on after I get done what I present the Lieutenant and the Captain. I'm the Sergeant all right; the buck stops with me with all the other investigators. You remember him telling you that?

A. Yes sir, I do.
Q. The buck stops with him. It's going to be what he says that determines whether you go home or whether you go to jail, right?
A. Yes, sir.
Q. And then there is one point when he just screams at the top of his lungs when you say three days ago Hank went to the store and bought and then he interrupts you and says what did you do? Do you remember that?
A. Yes, sir.
Q. It was at the top of his lungs he screamed what did you do, you, you, no one else, you. What did you use the card for? It's over, it's over. Do you remember when he said that?
A. Yes, sir.
Q. And what did he mean by it's over?
A. I was going to jail.
Q. Now we get after 2:30 and now you're kind of desperate at this point. They're yelling at you.
A. Yes, sir.
Q. They won't believe what you're telling them.
A. No, they don't.
Q. And you say that's when he said, and you're talking about Hank, that's when he said he went in there and beat him and tased him and all that stuff, right?

A. Yes, sir.
Q. And Niemiec said did he tell you that?
A. And you said no, he didn't.
A. Uh Huh.
Q. So from that point you just made something up.
A. Yes sir, I did.
Q. You told them that Hank went in there and tased and beat him.
A. Uh Huh.
Q. And then when he asks you if that's true you at that point you're willing to tell him whatever he wants to hear and not go to jail, right?
A. Yes, sir.
Q. But you went to jail, right?
A. Yes, sir.
Q. And you've been in there this whole time?
A. Yes sir, tomorrow will be 18 months to the day.
Q. And you have no bond?
A. No bond.
Q. And now you've agreed to cooperate, right, in this investigation?
A. Yes, sir.
Q. You signed an agreement, do you remember?
A. Yes, sir.
Q. And you agree to cooperate, right?

A. Yes, sir.
Q. And you agree to plead guilty to accessory after the fact?
A. Yes, sir.
Q. And you met with Mr. Waring a couple of times, right?
A. Yes, sir.
Q. And he has agreed to inform the sentencing judge about your cooperation when you are going to be sentenced, right?
A. Yes, sir.
Q. Now if he thinks you're lying then all bets are off, right?
A. Yes, sir.
Q. And according to the agreement he could argue for maximum sentence for which you've pled guilty, right?
A. Yes, sir.
MR. KING: May I approach, Your Honor?
THE COURT: Yes, sir.
[Whereupon, defendant's exhibit number 2 is marked by the court reporter]
Q. [Mr. King] I'm going to hand you defendant's exhibit number 2.
[Whereupon, the witness is shown document]
THE COURT: What is it, Mr. King?

MR. KING: This is defendant's exhibit 2, a sentencing sheet, Your Honor.

THE COURT: All right.

Q. [Mr. King] Do you recognize that?

A. Yes, sir.

Q. And that's the sheet you signed when you went and pled guilty?

A. Yes, sir.

Q. You didn't get sentenced though when you pled guilty, right?

A. No, I didn't.

Q. You see there is a stamp on there that says you went in front of Judge Dennis?

A. I don't know.

Q. You see they stamped it on there deferred sentence?

A. Yes sir, down on the right hand side.

Q. So that means that they didn't sentence you right then. They are going to wait until this trial to see what happens and you're going to get sentenced when this trial is over, right?

A. Yes, sir.

Q. And how well you cooperate with the State is what is going to determine what sentence you get, whether you go to prison or not maybe, right?

A. Right.

THE COURT: Mr. King, that's not exactly correct, okay. So put it correctly, okay. Let me explain something to the jury. I don't want him to mislead the jury. When there is a deferred sentence the judge still has the authority to sentence the individual whether they cooperated or didn't cooperate. That's the judge's decision, not the State's decision. The State can make certain recommendations to the court but the court makes the decision on the sentence.

So the fact that she doesn't cooperate and is going to jail is not necessarily true because there are an awful lot of other factors involved in sentencing someone. So I just wanted to explain that to you. Please proceed.

MR. KING: I didn't mean to mislead, Judge.

THE COURT: Pardon?

MR. KING: I didn't mean to mislead or misrepresent incorrectly.

THE COURT: I understand.

Q. [Mr. King] If you don't cooperate then Mr. Waring can ask the judge to give you the maximum sentence.

A. Yes, sir.

Q. Or if he doesn't think you're being honest and cooperative today he can ask the judge to give you the maximum sentence.

A. Yes, sir.

MR. KING: Those are all the questions I have.

THE COURT: Okay. Redirect.

MR. WARING: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. WARING:

Q. I've just got a few more questions Ms. Boyd. Did anybody, the detectives or anybody tell you to lie during your interview?

A. No sir, they didn't.

Q. Did anybody ever tell you exactly what to say?

A. No, sir.

Q. In fact isn't it true that the detectives only told you to tell the truth, isn't that right?

A. That's what they said; tell the truth.

Q. Has anybody ever told you to do anything other than tell the truth?

A. No, sir.

Q. Now there was a lot of mention about the setting, the environment, the length of the interview, etcetera, etcetera. Was your statement voluntarily given despite all that?

A. Yes sir, it was.

Q. Now you said your back hurt. Did your back hurt so much that you didn't know what you were saying or what was being asked of you?

A. No, sir.

Q. Now you've also admitted that you did lie, correct?

A. Yes sir, I did.

Q. So in a sense would you say you were kind of prolonging your own interview?
A. That's a very good possibility and I didn't realize it at the time but yes, it's a good possibility.
MR. WARING: Court's indulgence, Your Honor.
[Whereupon, Mr. Waring confers with Mr. King]
Q. [Mr. Waring] Ms. Boyd, I'm going to put something on the overhead. This is defendant's exhibit 1.
[Whereupon, the exhibit is shown]
Q. Can you read what that paragraph says to the jury, please?
A. [Reading] Having these rights in mind I wish to waive these rights and answer questions. No threats, force, or promises of any kind have been made to me by anyone to cause me to waive these rights and or answer questions.
Q. And whose signature is that?
A. That is my signature, Allura Boyd.
Q. So you mentioned that you were yelled at.
A. Yes, sir.
Q. And I'm sure that wasn't pleasant, is that right?
A. No sir, it was not.
Q. But did it rise to the level of making your statement involuntary?
A. No, sir.

Q. Now the defense did something interesting. They asked you and elicited testimony that you said that quote Jeff dropped a couple of hundred on the defendant is that right?
A. Yes sir, he did.
Q. But is that the whole context of your statement?
A. No, sir. I believe that was July rent. It may have been August; I'm not sure. But I know it was for rent that he dropped a couple of hundred down.
Q. So Jeff wasn't just handing out hundreds of dollars of cash to the defendant?
A. No, sir.
Q. And let's get back to the incident real quickly. Is it true, is it your statement today the defendant picked up a crowbar and a taser and went into Jeff's room?
A. He picked up the crowbar and taser and left our bedroom. I don't where he went with it after that. I know he took it out of the bedroom.
Q. Okay. Well ---
A. --- and ---
Q. --- to follow up is it true that he came back in and said I killed him?
A. Yes he did when he was leaving the room taking the laundry to the bathroom.
Q. And did he ever mention anything about being

attacked by the victim?

A. No, sir.

MR. WARING: Court's indulgence, Your Honor.

[Whereupon, Mr. Waring and Mr. Osborne confer]

MR. WARING: No further questions, Your Honor.

THE COURT: Ma'am, you may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Call your next witness, please.

MR. WARING: The State calls Deputy Sanders.

[Whereupon, Mr. Sanders comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: Christopher A. Sanders.

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CHRISTOPHER SANDERS,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good morning, deputy. How you doing today?

A. Good.

Q. Could you tell the jury where you work?

A. Charleston County Sheriff's Office.

Q. And can you tell them what your role is there?

A. I'm an investigator in the Forensic Services unit.

Q. At the time of September 13, 2016 was that your same role then as well?

A. No, sir.

Q. What did you do then?

A. I was a patrol deputy.

Q. And were you in fact on patrol the night of

September 13, 2016?
A. I was.
Q. Did you have the occasion to come into contact with the defendant?
A. I did.
Q. And how did that come about?
A. I made a traffic stop. The defendant was driving on Dorchester Road, driving a moped pulling a trailer. The trailer didn't have any lights on it and I couldn't see the lights on the back of the moped so I made a traffic stop right there at Dorchester and Ranger.
Q. Do you recall what the time of that stop was?
A. Yes. It was after 8. I believe about 8:14.
Q. P.M.?
A. Yes, sir.
Q. Do you recall what his demeanor was?
A. He was cooperative in answering my questions but he did seem a little maybe heightened or amped up a little bit; just fast responses to my questions.
Q. Was he alone or was he with someone else?
A. He had a dog in a crate that was attached to the back of the moped.
Q. And did you speak with him during that time?
A. I did.
Q. Was he under arrest?

A. No, sir.
Q. Was he otherwise freely carrying on a conversation with you?
A. Yes, sir.
Q. When you spoke with him did you notice any signs of visible injury to his face or anywhere else?
A. No, sir.
Q. During that time were you wearing a body camera?
A. Yes, sir.
Q. And was it turned on?
A. Yes, sir.
Q. Did it in fact record this incident?
A. Yes, sir.
Q. And now do you deal with these body cameras on a regular basis?
A. I do.
Q. And are they generated in the normal course of business?
A. They are.
Q. And is it a regularly conducted business activity to generate these body cameras?
A. Yes, it is.
MR. WARING: May I approach, Your Honor?
THE COURT: Yes, sir.
Q. [Mr. Waring] Deputy, I'm now handing you what has

been marked for identification purposes only as State's exhibit 6. Do you recognize that?

[Whereupon, the witness is shown exhibit]

A. I do.

Q. And can you tell us what it is?

A. It's my body camera and video from that evening.

Q. And does it fairly and accurately depict your body camera from that evening?

A. Yes, sir.

MR. WARING: Your Honor, at this point the State moves to have exhibit 6 admitted into evidence.

THE COURT: Any objection?

MR. KING: No, Your Honor.

THE COURT: Okay, 6 is admitted without objection.

[Whereupon, State's exhibit number 6 is entered into evidence by the court]

[Whereupon, the video plays]

[Whereupon, the video ends]

Q. [Mr. Waring] Deputy, was he pretty amped up during that stop?

A. He seemed it, yes sir.

Q. And did you hear him say on that video at one point quote, I ain't got no money I get a disability check?

A. I don't remember hearing him say that.

Q. If we played it would that refresh your memory?

A. Absolutely.
Q. Okay. Now do you remember him saying that he just bought the moped for 920 cash?
A. Yes, sir.
Q. And did he even throw in a joke at the end about his birthday?
A. Yes. I had asked him for his date of birth again and he said he ruined everybody's Christmas.
Q. And any point did he ever mention anything about being attacked by the defendant -- excuse me, by the victim?
A. No, sir.
Q. Nothing about a death at his trailer?
A. No, sir.
Q. Please answer any questions the defense has.
MR. KING: I have no questions for the witness, Your Honor.
THE COURT: You may step down. Thank you very much.
[Whereupon, the witness is excused and exits the witness stand]
THE COURT: Call your next witness please.

MR. OSBORNE: The State calls Jaimie Lunney.

[Whereupon, Ms. Lunney comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: Jaimie Lunney, J-A-I-M-I-E L-U-N-N-E-Y.

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JAIMIE LUNNEY,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Ms. Lunney, let's start by introducing yourself to the jury, okay. Where are you from?

A. I'm from Charleston.

Q. Born and raised?

A. I was born in Dallas, Texas and raised in Charleston.

Q. When did you move here? How old were you?

A. Very young.

Q. Okay. So this has been pretty much your home?

A. Yes.

Q. Where did you go to high school?

A. I went to North Charleston High School.
Q. Graduate?
A. Yes.
Q. And did you go to college?
A. I had some college at Trident Tech.
Q. Okay. Any children?
A. No.
Q. Married?
A. No.
Q. What have been some of the jobs that you've had?
A. Food Lion, Merle Norman, Frankie at Seaside.
Q. And I think you are actually a manager now at Food Lion?
A. Yes.
Q. So let's into why you're testifying here today. At a certain point you became the tenant or a tenant at [redacted], is that correct?
A. Yes.
Q. And how did that come about or how did you first learn there was a place to rent there?
A. I found it on Craig's List.
Q. Okay. And then when you saw the ad on Craig's List what did you do next?
A. I gave him a call and he was willing to waive a deposit for me so this was actually going to be a quick

move. I didn't really have much time to prepare.
Q. At what point did you call and make this conversation about moving into [redacted]?
A. I'm sorry; repeat the question please.
Q. Do you recall when it was?
A. It was I believe either the last week -- I believe it was the first week of June.
Q. And you said you spoke to him. Who did you speak to?
A. Hank.
Q. Okay. The defendant in this case?
A. Yes.
Q. What was the agreement? What were you going to pay for rent?
A. Three hundred dollars a month and like I said he was going to waive a deposit for me.
Q. Okay. So tell the jury [redacted] what type of home is it?
A. It's a three bedroom one bath home, mobile home. Not in the best condition.
Q. Okay. Now when you moved in who were all the occupants there?
A. It was Henry Fickling here, Lynn Boyd, Jeff Shiver and myself.
Q. The victim in this case Mr. Shiver?

A. Yes.
Q. So just to clarify when you moved in did you know any of them?
A. No, not at all.
Q. Okay. So you got to know them once you moved in?
A. Right.
Q. After you moved in were you aware that the home had Wi-Fi setup?
A. Yes.
Q. And were you given a password to access that Wi-Fi?
A. Yes.
Q. Do you remember who gave it to you?
A. I believe it was Lynn Boyd.
Q. A little bit out of order here but at some point did you notice while you were staying there that the Wi-Fi didn't work anymore?
A. Yes. About three days before this incident possibly more; it might have been four days.
Q. Okay. So three of four days and when you say this incident I assume you mean Jeff's death?
A. Right.
Q. Okay. So three or four days before that you noticed it wasn't working. How did you notice it wasn't working?
A. It popped up that I needed to put a new password in or that I was putting in the incorrect password.

Q. Okay. So I don't know the terminology but when you -- on your phone I assume?
A. On my laptop.
Q. On your laptop? So you could see where the Wi-Fi still existed but you were unable to access it?
A. Correct.
Q. Okay. Well, did you ask the defendant what happened to it?
A. I actually asked Hank and he told me to speak to Lynn who I never ended up getting to speak to about it --
Q. And would that be -- I'm sorry, go ahead.
A. Because of conflicting schedules you know on the way to work and what have you and she was sleeping.
Q. And we've heard some testimony I guess she spent a lot of time in her room too?
A. Yes.
Q. Didn't come out much?
A. No.
Q. But up until then the Wi-Fi worked fine, is that fair to say?
A. I'm sorry, repeat the question.
Q. I said but up until that the Wi-Fi worked fine?
A. Right.
Q. Okay. Let's talk about Jeff for a moment. How long was it before you actually met Jeff when you moved in?

A. It was over a week before I actually met him.
Q. And why was that?
A. He would hide in his room. I think he was embarrassed with his drinking; that's what he told me.
Q. So from your observation did you see or did you believe that Jeff had a drinking problem?
A. Yes.
Q. And what did he mostly drink?
A. Vodka.
Q. Did he drink anything else?
A. Not that I know of.
Q. Okay. How about drug usage? Did you ever see Jeff smoking crack cocaine?
A. Yes.
Q. How many times?
A. Maybe once or maybe twice.
Q. Okay. Now was Jeff alone when he smoked crack or was someone with him?
A. Someone was with him.
Q. And who was that?
A. The defendant.
Q. The defendant? Now did you ever see the defendant smoking crack?
A. Yes.
Q. Would you say from your observations -- well, did

you see him smoke crack more than two or three times?
A. Yes.
Q. So from your observations you would say the defendant was a more heavy crack smoker than the victim?
A. Right, more frequent.
Q. You would see the defendant smoking without the victim but you would never see the victim smoking without the defendant, is that fair to say?
A. Yes.
Q. And when you did see the victim it was only a couple of times?
A. Correct.
Q. Let's talk about Jeff's health. You said that he was a heavy drinker. From your observations would you say that he was in good health?
A. No.
Q. And why do you say that?
A. He had trouble getting up to go and use the restroom. His room had I could tell that he vomited and maybe urinated in there. So incontinence and he had trouble getting up to go even to the fridge to open the fridge. I would see him almost fall down trying to open the fridge.
Q. Had a hard time getting around so not the most agile individual?

A. Right.
Q. Okay. And would you say that his health improved, deteriorated, stayed the same throughout your time there?
A. It got worse and worse.
Q. Did you express any concerns about Jeff's health to the defendant or Ms. Boyd?
A. Almost daily.
Q. Okay. Now let's talk about the defendant and the victim's relationship. Now you said you'd seen them smoking crack together a couple of times. Is it fair to say that in the beginning their relationship was okay?
A. Yes.
Q. Did you notice a change in that?
A. Other than just a couple of comments here and there that maybe the defendant was unhappy with him being there.
Q. The defendant was unhappy with Jeff being there?
A. Right.
Q. And why do you say that?
A. He never really went too much into it but he just seemed unhappy that he was there. Nothing over the top; just that he expressed that he might want him to move.
Q. Did you ever learn of any disagreement between the two individuals regarding money?
A. I know of at least a couple of times. As far as I

know it was just a discussion. It wasn't anything violent or anything like that.

Q. Okay. A discussion?

A. Right.

Q. And did you learn that from the defendant?

A. Yes.

Q. And what did he say?

A. He just expressed -- he just mentioned it to me coming home from work that he kind of wished he would move out and that they had an argument or that they had words.

Q. Were the words about money?

A. I'm not 100 percent sure about that.

Q. Okay. Let's move to the day of Jeff's death. How did you first find out that Jeff had died?

A. I found out the Wednesday morning when the detective called me and I was at my boyfriend's house where I stayed the night.

Q. Okay. Did the detective inform you when Jeff had died in relation to your conversation with the detective?

A. No. He just informed me that he found one of my roommates deceased.

Q. Did he say like it was weeks earlier or the day before?

A. I believe he said that day.

Q. All right. So let's talk about that day, the day that Jeff died. Did you wake up at the house that day?
A. No. On the day before on the Tuesday prior ---
Q. --- it gets a little bit confusing ---
A. --- sorry ---
Q. --- because the police came out later that night.
A. So technically it would have been in the middle of the night.
Q. So technically the day before during that morning did you wake up on [redacted]?
A. Yes.
Q. Okay. And about what time do you think you woke up?
A. I want to say around 9 a.m. or something like that.
Q. Okay. And I assume you left?
A. Yes. I got ready and got dressed and packed an overnight bag and I believe I left sometime around 10:20 or something like that.
Q. Prior to leaving did you see the defendant?
A. Yes.
Q. Tell the jury about that conversation or that interaction.
A. As I was walking out to go use the restroom and I had just woken up he came down the hallway and seemed as if he had something to talk to me about. I have no idea what it was; I never ended up getting to talk to him

later. I just shut the door in his face. When I came back out I didn't see him around. I finished getting ready and then looked for him again before I left but I never saw him. It seemed that he had something important to tell me; I'm not sure what it was.

Q. And why did it seem that way? What was he doing that would make you ---

A. --- he just seemed flustered.

Q. He seemed flustered?

A. Uh Huh.

Q. What was he doing that made him look flustered?

A. Just kind of out of breath and excitable.

Q. And you saw him down the hallway?

A. Yes. He came down the hallway towards me.

Q. Okay. So he's excited ---

A. --- pretty quickly ---

Q. --- he's flustered. He's out of breath?

A. Yes.

Q. He's coming towards you ---

A. --- it seemed like he had something important to say.

Q. Something important to say to you and you slammed the door in his face?

A. Technically, yes.

Q. Why did you do that?

A. I wasn't in a very good mood that morning. I had just woken up and I wasn't ready to talk to anybody. I just needed to use the restroom.

Q. Okay. Prior to leaving did you ever have the opportunity to talk to the defendant and find out what he needed to say that was so important?

A. No.

Q. All right. Did you know Jeff had a vehicle?

A. Yes.

Q. And what kind of vehicle did he have?

A. A silver I believe Chevy, SUV.

MR. OSBORNE: May I approach, Your Honor?

THE COURT: Yes, sir.

Q. [Mr. Osborne] I'm showing you what has been marked as State's exhibit 7, 8, and 9. Can you take a look at those and see if you recognize them?

[Whereupon, the witness is shown photographs]

A. This is Jeff's vehicle.

Q. Seven, 8 and 9 are?

A. I'm sorry?

Q. Each one of those photographs are photographs of Jeff's vehicle?

A. I'm sorry; 7, 8, and 9 yes.

MR. OSBORNE: Your Honor, at this time we would seek to admit 7, 8, and 9 and publish to the jury.

THE COURT: Any objection?

MR. KING: Relevance, Your Honor.

THE COURT: Pardon?

MR. KING: Relevance.

Q. [Mr. Osborne] When you left the house that day did you see Jeff's vehicle there when you left?

A. I believe so.

Q. Okay.

A. Although I can't be 100 percent sure.

MR. OSBORNE: Your Honor, we're going to tidy that up in a minute with our crime scene unit.

THE COURT: All right. I'll mark it right now for identification only and see if it is tied up. Seven, 8, and 9 are marked for I.D. only.

Q. [Mr. Osborne] Do you remember where it was parked?

A. He always parked in the same spot close to the front door.

Q. Now I just want to ask one last question and bring it back to the victim and the defendant and a conversation that you may have had with the defendant. Do you recall meeting with me on one occasion at least, right?

A. Yes.

Q. And Mr. Waring on a couple of different occasions?

A. Yes.

Q. And do you recall during those meetings being asked questions about any disagreement between the defendant and the victim?
A. Yes.
Q. And do you recall specifically being asked questions concerning the victim or missing money from the victim?
A. Yes.
Q. Do you recall being asked were you aware of any disagreements between the victim and the defendant concerning missing money?
A. Yes.
Q. Do you recall being asked about the defendant saying that there was a belief from Jeff ---

MR. KING: --- objection. Hearsay.

THE COURT: Overruled. Go ahead.

Q. [Mr. Osborne] There was a belief from Jeff that the defendant took a large sum of money?
A. Yes.
Q. And that he was acting weird as a result of that.
A. Correct.

MR. OSBORNE: No further questions, Your Honor.

THE COURT: Cross-Examination?

CROSS-EXAMINATION

BY MR. KING:

Q. I just want to ask you a few questions. How much did you rent the room for?

A. Three hundred a month was the agreement.

Q. Now, you weren't really there that much, is that right?

A. Correct.

Q. Did you work at the time?

A. Yes.

Q. Did you have a boyfriend that you stayed with him sometimes?

A. Correct.

Q. You weren't there when all this happened, right? You were gone and staying somewhere else then as well, right?

A. Yes.

Q. And when you were there Lynn -- you know Lynn right?

A. Yes.

Q. She stayed in her room all the time, is that right?

A. Correct.

Q. Did you ever see her go outside?

A. Maybe one time.

Q. She drinks?

A. Occasionally.

Q. Do you know about her falling down the steps and hitting her head?
A. Yes.
Q. Did you help fix her gash on her head?
A. Correct.
Q. Now Jeff you said he drank vodka, right?
A. Yes.
Q. He drank a lot, right?
A. Correct.
Q. You testified he was always drunk basically when you would see him?
A. I know that he was consuming alcohol. But I wouldn't honestly call it drunk. I believe this was a maintenance thing actually.
Q. You saw him stumbling around, right?
A. Right.
Q. You saw him stumbling and having trouble standing and all that stuff?
A. Yes.
Q. You don't think that was because he was drunk?
A. I'm not really sure. And I'm not sure that he actually ate that often either.
Q. He rarely left his room, right?
A. Right. Correct.
Q. He was trying to wean himself off alcohol?

A. Correct.
Q. Do you know about his seizures?
A. Yes.
Q. He had seizures?
A. Correct.
Q. But if he wasn't drunk there were times when he wasn't drunk that you would see him up and moving around like normal?
A. I've never seen him walk in a normal way. He always seemed weak.
Q. Do you remember you were interviewed by the police, correct?
A. Correct.
Q. And that would have been September 14th about 11:20 a.m. or somewhere around there, does that sound right?
A. I believe so, yes.
Q. And you were interviewed by Detective Riedel?
A. Yes.
Q. And you said something different then than what you're saying now. Do you remember telling Detective Riedel about a time you said I was totally surprised to see him up.

I mean when he didn't have enough alcohol in his system it was like a weird thing where he would get up and he would be doing stuff and I'd be like I saw him one

time messing around in this room. Do you remember saying this?

A. Correct.

Q. And it looked like ---

A. --- there was ---

Q. --- he was cleaning his room or something. You told him he was kind of sprightly, right?

A. Correct. You're actually right. There was actually once or twice that he seemed somewhat capable. That was pretty early on.

Q. When he didn't have enough alcohol in his system, right? When he wasn't drunk he could move around sprightly, right? That's what you said.

A. Maybe in -- what's the word -- comparatively; compared to the way he normally was I wouldn't necessarily say that he was ever really 100 percent.

Q. But you used the word sprightly, right? It makes it kind of sound like he's up and moving around kind of quickly. I mean what did you mean by sprightly?

A. As I said in comparison to the way that he normally was.

Q. But you said he needed to go ---

THE COURT: --- give her a chance to answer before you fire another question, okay?

MR. KING: Yes, Your Honor.

THE COURT: Ma'am, you can answer the question yes, no, you don't understand, or you don't know. And you have a right to explain it, okay.

THE WITNESS: Thank you.

THE COURT: And I'll make sure he gives you the time to do that, okay. Please proceed.

A. As far as I can recall he was never really truly at 100 percent. If he had -- he did better than other times I guess would be how I would describe it now so.

Q. [Mr. King] Was Jeff generous with his money?

A. Oh absolutely.

Q. He paid your rent one time, right?

A. Correct.

Q. Did he give you money to go get beer or food or snacks and stuff like that?

A. Yes.

Q. You know he paid Hank like three months in advance?

A. As far as I know he was paid up. His rent was paid up for a few months.

Q. And you testified you had seen Jeff smoking crack, right?

A. Correct.

Q. Hank and Jeff smoking crack?

A. Correct.

Q. Do you remember one time Jeff had a prostitute?

A. Yes.
Q. And you ---
A. --- I'm sorry, may I rephrase that? Jeff did not have the prostitute over. It was a friend of the defendant's was over under the guise that she was going to clean the house and ended up staying for a few days. So technically it wasn't Jeff's company.
Q. We'll go back to your statement that you gave Detective Riedel back on September 14th all right?
A. Okay.
Q. Do you remember telling Detective Riedel that there was a girl there one time?
A. Correct.
Q. But Detective Riedel had asked you if there had ever been a disagreement or altercation between Jeff and anyone that you are aware of, right?
A. Yes.
Q. And you mentioned there was a girl over there one time like a prostitute or something like that, right?
A. Yes.
Q. You used the word prostitute.
A. She was.
Q. And you hardly saw Jeff in the last couple of weeks, right?
A. Correct.

Q. He was staying in his room more and more?
A. Correct. I did check on him from time to time.
Q. Let's talk about Hank. You called him Uncle Hank, right?
A. True.
Q. This place was kind of like a little junk yard, right?
A. Yes.
Q. He had all kinds of little things tools and junk around that he would fix on and things, right?
A. Right.
Q. Do you remember him getting the moped?
A. Yes.
Q. Do you remember when that was compared to ---
A. --- I don't remember what day.
Q. He used it to carry junk around and to go to the store?
A. Yes.
Q. So, Lynn never leaves the place; never leaves the home, right?
A. No.
Q. And Jeff hardly ever leaves the home, right?
A. Correct.
Q. So Hank is the one who is going out getting things, right? He's the one who goes out.

A. Correct.
Q. You see him go out and get the food and vodka for Jeff?
A. Yes.
Q. Did you go get things for Jeff?
A. A couple of times I did, yes.
Q. But it was primarily Hank taking care of it?
A. Correct.
Q. Now you saw Hank more than you saw Jeff, is that right?
A. Right.
Q. Because Jeff is in his room most of the time, right?
A. Yes.
Q. Because you testified that you saw Hank smoking crack more than you saw Jeff smoking crack, right?
A. Right.
Q. But you saw Hank more than you saw Jeff, right?
A. Right.
Q. And you wouldn't know if Jeff was smoking crack in his room?
MR. OSBORNE: Objection, Your Honor. Calls for speculation.
THE COURT: I'll sustain the objection.
Q. [Mr. King] But there were times Jeff was in his room and you had no idea what he was doing?

A. If I may? I actually had a conversation with Jeff once about that, about his drug use. And it was something that we spoke about that he said he was going to quit.

It wasn't something that he liked to do. It was just something I guess that he tried out and he had never tried it before until he moved into that house.

Q. He smoked crack a few times and didn't really like it is that what you're saying?

A. It's just something -- I don't believe it was something that was his thing.

Q. Now you mentioned that he asked you if there were any problems or any disagreements between Jeff and Hank, right.

And you testified about -- well, he had to refresh your memory about Hank saying something about stealing money or Jeff thinks I'm stealing money or Jeff thinks I stole money from him. Is that something like what you stated about what Hank said?

A. I'm sorry; I don't understand the question.

Q. What did Hank say about the money, Jeff and the money?

A. About which money?

Q. Did Hank ever say anything about Jeff thinking he was taking money?

A. Yes or he implied it.
Q. That he took a large amount of money?
A. From what I understand Jeff said that he was missing a large sum of cash money from his room and ---
Q. --- now -- I'm sorry; you can finish.
A. I'm finished.
Q. Now wasn't there some belief that the girl who was there took that money?
A. That's actually what I was going to go into. That was a separate occasion; a completely separate occasion. So those are two different things from the time that I mentioned that maybe possibly she took the money.

And the other incident where he was supposedly missing up to 15,000 dollars in cash from his room was the number he gave me. But those would have been two completely separate incidents. And this woman also did try to steal his vehicle.

Q. So did you feel like that was a problem between Jeff and Hank that there was some sort of problem there?
A. It's something I'm sure that made Hank uncomfortable, seeing that he was uncomfortable about this.
Q. Uncomfortable about what?
A. Uncomfortable about maybe possibly being accused of stealing money.

Q. Now Hank took care of Jeff, right?
A. That's the way it seemed to me.
Q. He would go out and get his vodka for him, right?
A. Correct.
Q. Now did you ever see inside of Jeff's room?
A. Yes.
Q. How would you describe that?
A. It was a mess. There was obviously the smell of urine and vomit. It was in disarray. He had an easy chair that he bought and he sat there and watched T.V. and drank vodka all day as far as I know. So he was not well.
Q. And Hank would have to clean that up, right? Hank is the one who cleaned that up?
A. I've never seen him clean anything.
Q. But at some point Hank expressed to you that he wanted Jeff to move out?
A. He mentioned it in passing a couple of times.
Q. That's probably because this guy is staying in his home ---
A. --- right and maybe was a burden ---
Q. --- right, right; urinating in the room. I mean you wouldn't want that in your home, right?
A. Absolutely not. I would have had him put in a hospital.

Q. Do you know about Hank calling Jeff's family to try to get them involved?
A. I believe if I'm not mistaken maybe his father had tried to call a couple of times but I'm not really sure other than that.
Q. Those are all the questions I have.
THE COURT: No more questions? Redirect?
MR. OSBORNE: Yes, Your Honor, briefly.

REDIRECT EXAMINATION

BY MR. OSBORNE:

Q. So I guess it's true Hank could have wanted Jeff gone because he was a heavy drinker, right? I mean you've acknowledged that.

A. Right.

Q. Because he urinated on himself.

A. Uh Huh.

Q. Because he was an alcoholic?

A. Uh Huh.

Q. He could have also wanted him gone because Jeff found out he was stealing from him. I guess that's true too, right?

A. Right, maybe a little bit of both.

Q. And I think you've covered it but I want to make sure we understand. When you were interviewed by police you had described Jeff as being sprite or at least his movements as being sprightly when he wasn't drinking. But that is compared to the normal Jeff, right, when Jeff is drunk.

A. Exactly. And I can't remember him not -- it was maybe two different times that I saw him not drinking.

Q. So during those months that you lived there there were only two occasions in which you can recall that Jeff wasn't drinking and during those times comparatively

speaking he could get around a lot better.
A. Right.
Q. Okay. But during either one of these states of Jeff while being drunk or not was he like a very agile individual?
A. Not at all.
Q. Okay. In fact he just had a hard time getting around period, is that fair to say?
A. Right. He was fairly quiet. He didn't really get agitated very easily.
Q. All right. Let's talk about this prostitute for a moment. How do you know that it was the defendant who brought the prostitute to the house?
A. He introduced me to her as an old friend of his.
Q. The defendant introduced the prostitute as being an old friend of his?
A. Correct.
Q. Okay. So I guess what Mr. King was saying is true. The defendant did provide things to Jeff; alcohol, correct?
A. As far as I understand he only went to the store for him.
Q. Right. He went ---
A. --- I wouldn't say he provided because...
Q. Well, he would get it for him.

A. He would get it for him.
Q. And he brought a prostitute to the house?
A. Yes.
Q. And he'd bring crack to Jeff.
A. Yes.
Q. In fact I think you had said that Jeff during cross you said that Jeff expressed regrets in smoking crack with the defendant.
A. Yes.
Q. In what way?
A. He cried. We prayed together a couple of times. Even after this prostitute incident. You could tell that he was really sorry.
Q. No further questions.
THE COURT: You may step down. Thank you very much.
[Whereupon, the witness is excused and exits the witness stand]
THE COURT: Could I see the attorneys up here just a second?
[Whereupon, an off the record bench conference is held]
THE COURT: If you will call your next witness please, sir.
MR. WARING: Thank you, Your Honor.

MR. WARING: The State calls Tiffany Adams.

[Whereupon, Ms. Adams comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record, please.

THE WITNESS: Tiffany Adams, T-I-F-F-A-N-Y A-D-A-M-S.

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TIFFANY ADAMS,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Tiffany, can you tell the jury where you work?

A. I'm employed as a crime scene investigator at North Charleston Police Department.

Q. And can you give us some of your common duties and responsibilities there?

A. We respond to anything that is deemed a crime in the white collar such as bank robberies, property crimes, breaking and entering of residences, cars, businesses.

And also person's homicides, attempted murders, assaults and also with the special victim unit as far as like rape. And we go to respond and we photograph for

documentation purposes and collect evidence.
Q. How long have you worked there?
A. Five years.
Q. And can you tell us how you got brought into this specific case?
A. I was on shift. I was working the night shift. A call came out and I responding to [redacted].
Q. And is that in Charleston County?
A. Yes.
Q. Can you tell us what happened once you got there?
A. When I arrived on scene I put on my gloves, grabbed my camera and met with the responding officer as to what is going on with the incident. I went inside and started to take my photographs, my overall photographs.
Q. Did you actually go into the victim's room?
A. I stayed to the door because I was advised that the coroner was on scene so I stood to the door and I did my photographs from there until the coroner arrived on the scene and then entered into the room with her.
MR. WARING: May I approach, Your Honor?
THE COURT: Yes, sir.
Q. [Mr. Waring] I'm now showing you what has been marked for identification purposes only as State's exhibit 10 through 14.
[Whereupon, the witness is shown photographs]

Q. Do you recognize those?
A. Yes. These are the photographs that I took of the victim when I arrived on scene.
Q. And do they fairly and accurately depict the photos you took of the victim?
A. Yes.
MR. WARING: Your Honor, at this point the State moves to have exhibits 10 through 14 admitted.
THE COURT: I'm sorry; what number?
MR. WARING: 10 through 14, Your Honor.
THE COURT: 10 through 14 any objection?
MR. KING: No objection, Your Honor.
THE COURT: Okay. 10 through 14 admitted without objection.
[Whereupon, State's exhibit numbers 10 through 14 are entered into evidence by the court]
Q. [Mr. Waring] I'm going to put some of these photos on the overhead. I would caution some of the audience that a few of these photos may be graphic.
[Whereupon, the photograph is shown]
Q. What are we looking at in this photo?
A. I'm standing at the door. The victim's head is facing the recliner here and the top half of the body is still on the bed.
Q. Is this in the state that you found him in when you

got there?

A. When I got there that's how he was, yes.

[Whereupon, another photograph is shown]

Q. And how about this one? What are we looking at here?

A. The T.V. is flipped down. His legs are on top of the bed and there was a credit card and a hat.

[Whereupon, another photograph is shown]

A. This is the coroner holding the victim's hand showing the injuries.

Q. Okay. And is that his left hand?

A. Yes.

[Whereupon, another photograph is shown]

A. Showing more injuries.

Q. And which hand is that?

A. Right.

Q. Now did you have any occasion to hear anything that the defendant said while you were there?

A. It was a rainy day, it was pouring down really bad. So while we were waiting on transport he did while he was standing outside just a little piece from the entranceway there is a little awning from the rain.

He was smoking a cigarette and was just talking about his cat and how his cat was feisty and scratched him.

Q. Did you see this injury?

A. I glanced over and did see scratches.

Q. Okay.

MR. WARING: Court's indulgence, Your Honor.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. [Mr. Waring] Please answer any questions the defense has.

THE COURT: Cross-Examination?

CROSS-EXAMINATION

BY MR. KING:

Q. So you responded mainly just responded and took photographs, right.

A. Yes.

Q. You don't collect any of the swabs or anything like that, right?

A. We also do swabs but at that point I did photographs and assisted the coroner.

Q. Did you collect any physical evidence or anything like that?

A. I did not. By this time it was almost the end of my shift and the morning crime scene techs came over and took over.

Q. And you testified that Hank had scratches on him?

A. Yes.

Q. Do you know where you saw the scratches?

A. On his hands.

Q. Those are the only questions I have.

THE COURT: Any redirect?

MR. WARING: No further questions, Your Honor.

THE COURT: Okay. You may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Ladies and gentlemen of the jury we're going to stop at this time. If you will be back in the jury at 2 o'clock we'll get started at that time. Please leave your notepads in your chairs and please don't discuss the case with anyone else. When you come to -- don't discuss the case with anybody, not anyone else; anybody. When you come back to the courthouse, come straight to the jury room. I'll see you at 2 o'clock.

[Whereupon, the jury exits at 12:34 p.m.]

THE COURT: Mr. King, you want to proffer those videos. How are you going to do this? Are you going to do the excerpts, you going to re-do it, you going to put in the whole video or how are you planning on proffering them? And you can mark them as court's exhibits but how are we going to -- I'm not going to mark that whole stack of paper.

MR. KING: Right, right. I can ---

THE COURT: --- or the whole video.

MR. KING: I can put my clips on a disk and then the ---

THE COURT: --- why don't you put your clips on a disk and then we'll mark them as court's exhibit number 2 as your proffer, okay.

MR. KING: Yes, Your Honor.

THE COURT: Anything else you want to put on the

record concerning your proffer?

MR. KING: No, Your Honor. I think if I have this in evidence as a court's exhibit and it can be viewed then ---

THE COURT: --- I'm not going to sit here and look at them on the proffer, okay.

MR. KING: I understand. As long as it's available for ---

THE COURT: --- get me the disk that you want marked and I'll mark it court's exhibit number 2.

MR. KING: Yes, Your Honor. I'll have it at 2 o'clock if that's all right.

THE COURT: That's no biggie; whenever you get it ready. We're going to be here for another day or two looking at the witness list okay. You may have more things to do between now and 2 to mess with that. Whenever you want to get it to me that's fine.

MR. KING: Yes, Your Honor.

THE COURT: Anything from the State?

MR. WARING: No, Your Honor.

THE COURT: Okay. We'll see you at 2 o'clock. Thank you.

[Whereupon, court is in recess from 12:34 p.m. until 2:11 p.m.]

THE COURT: Anything from the State before we bring

the jury?

MR. WARING: No, Your Honor.

THE COURT: Anything from the defense?

MR. KING: No, Your Honor.

THE COURT: Bring us the jury, please sir.

[Whereupon, the jury enters at 2:36 p.m.]

THE COURT: If you will, call your next witness please?

MR. WARING: The State calls George Bellinger.

[Whereupon, Mr. Bellinger comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record, please.

THE WITNESS: George Bellinger.

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GEORGE BELLINGER,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good afternoon Mr. Bellinger.

A. Good evening.

Q. Can you tell the jury, do you know the defendant?

A. No, sir.

Q. Have you ever spoken with the defendant?

A. No sir, not as of when he came in my unit.

Q. Mr. Bellinger, have you ever communicated with this defendant in any way?

A. Yes, sir.

Q. Can you tell us how you did that; I mean were you in the same unit with him?

A. Yes sir, we was in the same unit.

Q. Were y'all cellmates?
A. Yes, sir.
Q. Did you live in the same pod or you said you were cellmates?
A. Yes sir, we lived in the same pod.
Q. Okay. Which one is it; were you cellmates or did you live in the same pod?
A. We was in the same pod. It's an open dorm.
Q. Okay. So not cellmates?
A. No.
Q. Has the defendant ever mentioned to you anything about this case?
A. Yes, sir.
Q. Can you tell the jury what the circumstances were and what he said?
A. As in?
Q. As in about the murder of this victim. What did he say and what were the circumstances, where were you, etcetera.
A. We was at Sheriff Al Cannon Detention Center on Leeds Avenue. And when he first came on the unit he told me that he was a murderer and he didn't know if he was supposed to be in that unit because it's an open pod and people with violent charges would be in the old jail behind the doors.

Q. That's all he said?
A. At that time, yes sir.
Q. Okay. What about later times?
A. Later times he told me how he had the victim's card and how he bought a laptop and a moped, and how he had wanted -- how they had partied all weekend and how he had wanted the victim to get out of the house because he had wanted his money for the rent and he know the victim wouldn't have had the money.

And he had somebody else who was going to pay him for the room. So he told the victim if he didn't have the money that he had to leave and he said the victim looked at him and he was like nobody shouldn't feel fear inside his house.

So he said he hit the victim with the crowbar in his face and his throat and in his body area. And then he said when he crushed the victim's windpipe he was gasping for air and he keep beating the guy with the crowbar.
Q. Did he say who threw the first blow?
A. He threw the first blow, sir.
Q. Did he say anything about whether the victim had a chance of getting at him or fighting back?
A. No, sir.
Q. Now you mentioned gasping for air so he admitted he hit him in the throat?

A. Yes, sir.
Q. And again, he never mentioned anything about being in fear for his life by this victim?
A. He just said nobody should be able to feel fear inside his house.
Q. But did he ever mention that the victim had attacked him?
A. No, sir.
Q. Now Mr. Bellinger, you're wearing a jail outfit, is that right?
A. Yes, sir.
Q. And do you have pending charges right now?
A. Yes, sir.
Q. What do you have pending?
A. Drug charges, federal drug charges.
Q. Federal charges?
A. Yes, sir.
Q. Is our office handling those charges?
A. No, sir.
Q. How much time are you facing on those charges?
A. Fifteen years.
Q. That's a long time isn't it?
A. Yes, sir.
Q. And you don't want to get those full 15 years do you?

A. No, sir.
Q. Are you hoping for assistance with those charges?
A. Yes, sir.
Q. Have we promised you anything on your case?
A. No, sir.
Q. Now this isn't your first rodeo is it, Mr. Bellinger?
A. No, sir.
Q. And in fact you got a prior criminal history.
A. Yes, sir.
Q. Involving drugs and other things, right?
A. Yes, sir.
Q. And in fact you've cooperated before haven't you?
A. Yes, sir.
Q. And was that federal?
A. Yes, sir.
Q. Okay. And what did you cooperate on before?
A. It was like an east side thing. It was like an east side gang thing and I cooperated in getting them information about they was dealing the drugs and getting the drugs out of the community.
Q. Have you ever testified as a jail house informant?
A. No, sir.
Q. Do you recall the defendant mentioning anything specifically about how best to kill somebody?

A. Yes, sir.
Q. What did he say?
A. He said crush their windpipe.
Q. Did he mention anything about how the victim was oriented when he got hit or anything like that?
A. Yes, sir.
Q. What did he say?
A. He said he was gasping for air.
Q. But I mean as far as his body was he leaning back or what was he doing?
A. He was leaning back. But he was leaning back and he was demonstrating how the guy had sound and how the guy was acting when he was chopping the guy with the crowbar. He said he was leaning back like that [indicates] and putting him down and his body been jumping.

MR. WARING: Court's indulgence, Your Honor.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. [Mr. Waring] Please answer any questions the defense has.

THE COURT: Cross-Examination?

MR. D'ANGELO: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. D'ANGELO:

Q. Good afternoon Mr. Bellinger.

A. Good afternoon.

Q. So as you stated you're currently in on three counts of federal charges, correct?

A. [No response]

Q. You're currently at Sheriff Al Canon Detention Center for federal drug charges, right?

A. Yes, sir.

Q. Okay. You have two counts of distribution of heroin and a count of conspiracy to distribute heroin, right?

A. Yes, sir.

Q. And as you stated to the Solicitor a moment ago this is not your first time around with drug charges, correct?

A. Yes, sir.

Q. Back in 2005 you actually pled to possession with intent to distribute heroin, right?

A. No, sir.

Q. Is it your testimony that you did not back in 2005 plead guilty for a probationary sentence to possession to distribute heroin?

A. No sir, it was crack.

Q. I apologize. So you pled to possession with intent to distribute crack cocaine?

A. Yes, sir.
Q. And for that sentence you received a break; you received probation.
A. Yes, sir.
Q. Then again in 2011 at that time the DEA and feds brought charges against you again, correct?
A. Yes, sir.
Q. And you pled guilty at that time. So again a felony charge from what I show possession with intent to distribute cocaine, right?
A. Yes, sir.
Q. Now with that being your second felony drug charge you were looking at the possibility of 130 to 162 months, right?
A. Yes, sir.
Q. But as just stated to Mr. Waring you cooperated with the government in the prosecution of that case, right?
A. Yes, sir.
Q. You provided information on other drug dealers, right?
A. Yes, sir.
Q. Information actually on your brother, Arnold Bellinger, isn't that correct?
A. Yes, sir.
Q. And because of that the government gave you a

substantial reduction in your sentence?
A. Yes, sir.
Q. You actually ended up receiving a sentence of only 72 months; cut in half from what you could have potentially received, right?
A. Yes, sir.
Q. You served time on that?
A. Yes, sir.
Q. And then you were released on what is called supervisory release?
A. Yes, sir.
Q. And then again in 2017 you find yourself in the same position once again.
A. Yes, sir.
Q. This time you're now looking at potentially your third felony drug charge, right?
A. Yes, sir.
Q. And again as I'm sure has been explained to you with your third under the federal guidelines with your third felony drug charge you would be classified as a career offender, correct?
A. Yes, sir.
Q. And as you know with drug charges sentences are enhanced with every continuous drug charge, right?
A. Yes, sir.

Q. So in actuality under the U.S. Code for your third drug charge you're actually looking at a possibility of 30 years on just one of these distribution charges aren't you?
A. Yes, sir.
Q. And again you understand that the last time you were able to receive a significant break for working with the government, right?
A. Yes, sir.
Q. And this time you find yourself in the same situation but with a worse charge.
A. Yes, sir.
Q. So you understood that your only way out was to find someone to give information on who had a worse charge than you?
A. Yes, sir.
Q. And as you stated to Mr. Waring in the past and again just now you're hoping for some kind of assistance?
A. Yes, sir.
Q. And what you said to Mr. Waring when you originally spoke to him is you're hoping for some type of relief, correct?
A. Yes, sir.
Q. Now you stated that you were pod mates with Mr. Fickling or Hank, correct?

A. Yes, sir.
Q. Now Hank is an older man, you would agree, right.
A. Yes, sir.
Q. And when he came in you said he was being very vocal right off the bat that he had a murder charge.
A. Yes, sir.
Q. I believe you stated he would talk about it frequently?
A. Yes, sir.
Q. You would agree with me that in jail, in prison, people will often times get into fights with other people, correct?
A. Yes, sir.
Q. And generally people are trying to avoid that right?
A. Yes, sir.
Q. And people get reputations though as being people who will get into fights?
A. Yes, sir.
Q. But again, most people are trying to keep their head down?
A. Yes, sir.
Q. Not trying to challenge other people.
A. No.
Q. And that's what you stated to Mr. Waring in the past when you met with him that you believed Hank was just

trying to scare people, right.
A. Yes, sir.
Q. You stated that he was just trying to intimidate others so that they wouldn't mess with him, right?
A. Yes, sir.
Q. Now Mr. Waring was just asking you some questions about Hank was wanting this man out of his house.
A. Yes, sir.
Q. And you had stated to Mr. Waring that he wanted this man out of his house because he couldn't pay because he didn't have the money to pay the rent, right?
A. Yes, sir.
Q. And you had stated previously to Mr. Waring that he asked the man for his rent money and he didn't have it and he told him to leave and that's when everything transpired.
A. Yes, sir.
Q. So that's what you had told Mr. Waring that Hank had said to you in the past?
A. Yes, sir.
Q. So that when he asked for the money that's when everything transpired between him and the victim?
A. Yes, sir.
Q. Now you just stated a moment ago to Mr. Waring, Mr. Waring asked you who threw the first blow and you said he

threw the first blow just now.
A. Yes, sir.
Q. But Mr. Bellinger back when you initially spoke to Mr. Waring did you not say to Mr. Waring that Hank told you he had a crowbar and that he hit the man in the face with the crowbar because the man hit him first; the man hit him.
A. No, I never said that. I said he hit -- Hank hit the guy with the crowbar.
Q. And again, you remember initially meeting with Mr. Waring, right?
A. Yes, sir.
Q. At that time you were able to speak with him and give your statement to Mr. Waring at that time.
A. Yes, sir.
Q. Okay. And it was recorded?
A. Yes, sir.
Q. And would hearing the statement that you had provided to him at that time help refresh your recollection?
A. Yeah.
MR. D'ANGELO: Brief moment, Your Honor.
THE COURT: Pardon?
MR. D'ANGELO: Your Honor, permission to bring a laptop up to Mr. Bellinger so that he can listen to the

recording of his statement so we're not playing it in open court?

THE COURT: You don't have it transcribed?

MR. D'ANGELO: I do have a transcript if the State would consent to using a transcript.

THE COURT: You got a transcription?

MR. WARING: Your Honor, if he can go through all the standard hoops that are required for prior inconsistent statements.

THE COURT: Come up here for just a second.

[Whereupon, an off the record bench conference is held]

Q. [Mr. D'Angelo] Mr. Bellinger on January 18, 2018 you met with Assistant Solicitor Richard Waring, correct?

A. Yes, sir.

Q. And at that time you sat down with him and gave a statement, right?

A. Yes, sir.

Q. And it was a recorded statement?

A. Yes, sir.

Q. And in that statement Mr. Bellinger you stated Sunday I think it's been the truth he said he had a crowbar. Sunday he be like he had a crowbar, he hit the man in the face with the crowbar because he hit him, is that correct?

A. I never -- I don't recall that.

MR. D'ANGELO: Your Honor, permission to approach the witness?

THE COURT: Yes, sir.

[Whereupon, defendant's exhibit number 3 is marked by the court reporter]

Q. [Mr. D'Angelo] I'm handing you defense exhibit 3. Mr. Bellinger, can you take a look at this document?

[Whereupon, the witness is shown document]

Q. Do you see on the document there the line that I just read to you?

THE COURT: If you would step up there and show it to him, please the page and the line.

Q. [Mr. D'Angelo] If I direct your attention starting at line 14 to line 19 did I read that correctly?

A. Yes, sir.

Q. Again, that's prior to what you had told Mr. Waring, correct?

A. Yes, sir.

Q. Now Mr. Bellinger, you stated that Hank would talk to you about what happened, right?

A. Yes, sir.

Q. But obviously you were never interrogating him, right?

A. No.

Q. You were never sitting him down and asking him for all the details and all the facts of what happened?
A. No.
Q. You stated a moment ago to Mr. Waring something about a card, right?
A. A card?
Q. A card, a debit card.
A. Yes.
Q. And you stated that Hank had mentioned a debit card.
A. Oh, I don't know if it was a debit card or credit card; I don't know. I just said a card.
Q. But you never stated anything that Hank ever said he was stealing money.
A. He said he would go swipe the card and get money off the card and they can't say that he steal the money because he had the code, the PIN.
Q. Well, he told you he had the PIN number, right?
A. Yes. He told me he had the PIN.
Q. But you specifically told Mr. Waring that he never said he was -- I wouldn't say verbally that he stole the money; he said he was swiping the card. That's what you told him, correct?
A. Yes.
Q. Again, you stated that you were pod mates with Hank.
A. Yes, sir.

Q. And in that pod you had essentially a storage locker under your bed, right?
A. Yes, sir.
Q. There was no lock on that locker.
A. No.
Q. Which is again why when you met with Mr. Waring you signed a proffer agreement at that time, didn't you?
A. Yes, sir.
Q. And you didn't take that proffer agreement back to the jail.
A. No.
Q. Because you know at the jail people will go through your belongings.
A. Yes, they would.
Q. People try to go through other people's legal documents to try to get information.
A. Yes, they would.
Q. And again you slept just a few feet away from Hank's bed.
A. Yes, sir.
Q. You slept just a few feet away from Hank's locker.
A. Yes, sir.
Q. Where Hank would keep his items.
A. Yes, sir.
Q. Again, you're here in court today because you're

seeking some type of type of relief.
A. Yes, sir.
Q. Because you haven't pled to your charges yet.
A. No, sir.
Q. And you know that you had to come to court today to say whatever you needed to say to get some type of relief, right?
A. Yes, sir.
[Whereupon, Mr. King and Mr. D'Angelo confer]
MR. D'ANGELO: No further questions at this time, Your Honor]
THE COURT: Any redirect?
MR. WARING: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. WARING:

Q. Just a couple of questions, Mr. Bellinger. Mr. Bellinger, you read from the transcript he hit him in the face with the crowbar because he hit him. Who were you talking about; you talking about the defendant hitting the victim?

A. Yes, sir.

Q. Okay. So when you say he hit the man in the face with a crowbar because he hit him you're talking about the defendant hitting the victim?

A. No. I was talking about the defendant hitting the victim.

Q. Yes, that's what I'm asking you.

A. Yes, sir.

Q. Okay. Now you cooperated before, right?

A. Yes, sir.

Q. Did you lie then?

A. No, sir.

Q. And are you lying today?

A. No, sir.

Q. Now the defense brought up looking at the defendant's papers. One of the whole reasons you're here today is because you're hoping to get some help, right?

A. Yes, sir.

Q. And you've got a bunch of time pending?
A. Yes, sir.
Q. That you're facing, right?
A. Yes, sir.
Q. And so can you get in trouble in jail for messing with somebody's else stuff causing trouble?
A. Yes, sir.
Q. Could that theoretically put you in a more serious predicament that you're in right now?
A. Yes, sir.
Q. So is that something that you would entertain; stealing somebody's else papers?
A. No, sir.

MR. WARING: No further questions, Your Honor.

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

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Ladies and gentlemen I said something to you earlier but I want to make sure the jury understands and it is clarified. The fact that this gentleman thinks he is going to get some benefits that may be true and it may not be true. The only benefit will be is whenever he is sentenced the State will come forward and say he cooperated. There are other factors involved in sentencing someone. That is the court's

obligation; not the State. The State is not going to tell the court reduce his sentence because he cooperated. That's just one factor. And on the deferred sentences there are many reasons sentences can be deferred. For instance I've deferred sentences where I want to get a psychological report prepared on the defendant before I actually sentence him.

There was another case where there was a victim from out of state that could not be there on the day we took the plea so I deferred the sentence so the court could hear from the victim. That's just one factor that the court has to consider.

But just because he cooperated I don't want you to think the court is going to automatically going to reduce his sentence. That is one factor. The State has no control over that other than appearing before the court and saying he did cooperate. I want to make sure that is perfectly clear to the jury. Call your next witness.

MR. OSBORNE: The State calls Investigator Amanda Hiouel.

[Whereupon, Ms. Hiouel comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name spelling your last for the record.

THE WITNESS: Amanda Hiouel. The last name is H-I-O-U-E-L.

- - - - -

AMANDA HIOUEL,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Where do you work ma'am?

A. I work at the Solicitor's office here.

Q. And what do you do there?

A. I'm an investigator.

Q. Okay. And briefly tell the jury what are some of your duties and responsibilities as an investigator.

A. I help get cases ready for trial. I speak to witnesses, I find witnesses, I talk to victims. I do whatever we need to do to get the case ready.

Q. Okay. And you are assigned to Investigator Waring?

A. Yes.
Q. And I have my own investigator which is now you?
A. Yes.
Q. So I was not there but you were there during both of these meetings with George Bellinger on January 18th and February 27th, is that correct?
A. Correct. We met with him twice.
Q. Well, you've heard the testimony. During both of those interviews with George Bellinger were you ever left with the impression that George told you that the victim swung first?
A. George never said that the victim swung at him first.
Q. In fact having said that would you have been a proponent of calling him as a witness for us?
A. No.

MR. OSBORNE: No further questions.

THE COURT: Cross-Examination?

CROSS-EXAMINATION

BY MR. KING:

Q. So you were present during the interview, right? You just testified you were with Mr. Bellinger?

A. Yes, twice.

Q. And you don't have any recollection of -- so you're saying Mr. Bellinger didn't say he hit the man in the face with a crowbar because he hit him? You don't remember him saying that?

A. Say that again?

Q. [Reading] Sunday he been like he had a crowbar. He hit the man in the face with the crowbar because he hit him.

Do you remember him saying that?

A. He hit the man in the face?

Q. He hit the man in the face with the crowbar ---

A. --- right. He hit Jeff in the face with a crowbar, correct he said that.

Q. Because he hit him.

A. Because?

Q. The problem is there is he and he. But he said he hit the man in the face with the crowbar because he hit him.

A. He always said that Hank hit Jeff. He never said that Jeff hit him.

Q. Do you remember him saying this exact statement; he hit the man in the face with a crowbar because he hit him.
A. Because Hank hit him.
Q. Hank hit the man ---
A. --- he never said that exact sentence to me.
Q. He never said he hit the man in the face with a crowbar ---
A. --- yes, he said Hank hit the man in the face with a crowbar.
Q. Because he hit him? That sentence; did he say that or didn't he?
A. I don't recall that sentence because he hit him. He had always said Hank hit him.

MR. KING: May we approach, Your Honor?

THE COURT: Yes, sir.

[Whereupon, an off the record bench conference is held]

Q. [Mr. King] I'm just going to play this clip and see if you remember this.

[Whereupon, the video plays]

[Whereupon, the video ends]

Q. Let me play it one more time.

[Whereupon, the video plays]

[Whereupon, the video ends]

Q. Do you remember him saying that? Does that sound like the interview?
A. Yes. When he's saying he hit him he's talking about Hank hitting Jeff.
Q. I'll just do it one more time.
[Whereupon, the video plays]
[Whereupon, the video ends]
A. See, he said he said he hit him. He's talking about Hank.
Q. He didn't say because he hit him?
A. What?
Q. He didn't say because he hit him?
A. Play it again.
[Whereupon, the video plays]
[Whereupon, the video ends]
A. He said he hit him. That's what he said. He's referencing Hank when he says he.
MR. KING: No further questions, Your Honor.
THE COURT: Any redirect?
MR. OSBORNE: Yes, Your Honor, just one.

REDIRECT EXAMINATION

BY MR. OSBORNE:

Q. If there had been any doubt during your entire interview with him on these two different occasions as to what was said on that one word wouldn't you have just clarified it with him?

A. Of course.

MR. OSBORNE: No further questions, Your Honor.

THE COURT: You may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. WARING: Thank you, Your Honor.

MR. WARING: The State calls Lisa Kubicsko.

[Whereupon, Ms. Kubicsko comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: Lisa Kubicsko, K-U-B-I-C-S-K-O.

- - - - -

LISA KUBICSKO,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good afternoon Lisa, how are you?

A. Good. How are you?

Q. Could you tell the jury who you were working for back in September 2016?

A. Yes. I was working with the North Charleston Police Department as a crime scene technician.

Q. At that point in time how long had you been a crime scene technician at North Charleston?

A. A little over six and half years.

Q. And were you involved in this case, the Henry Fickling case?

A. Yes.

Q. What got you brought into this case?
A. I was at that point in time I was working the day shift 7 to 3 so I received a phone call that CST Adams was on the scene of a homicide and she requested that myself and another crime scene technician who was working day shift come and relieve her.
Q. And who was that other crime scene technician?
A. MPO Michael Cook.
Q. Did you actually respond to the scene?
A. Yes.
Q. And once you got there what did you do?
A. I first met with Tiffany Adams to go over what information she had on the case and what she had done so we wouldn't duplicate any work and knew where we needed to start off at.
Q. Did you take some photographs?
A. Yes.
Q. And did you collect evidence?
A. Yes.
Q. Did y'all find any tools or weapons or anything that could be used as a weapon?
A. Yes.
Q. Can you tell the jury kind of what you found?
A. Yes. We weren't sure what exactly the murder weapon was. We knew it was some sort of heavy object that could

cause the injuries we observed on the victim. So we searched the residence for any type of heavy tool, blade, kitchen knives. So in a shed on the property we did find a large red crowbar and also another tool that I just described as a pry tool; I'm not exactly sure what it was.

We found several switchblades throughout the residence, kitchen knives in the sink. There was a hammer on the living room floor. And there was also a toolbox next to the stairs leading up to the entryway into the trailer. And in there was a hammer, a pipe wrench, and a ratchet.

Q. What about blood evidence? Did y'all see anything like that?

A. Yes. I observed visible blood in the victim's room, on the floor, as you're looking in the room on the left wall was the main bloodstain pattern.

There was also several outliers throughout the room on the exterior and interior of the victim's bedroom door and also in the hallway.

MR. WARING: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

[Whereupon, Mr. Waring confers with Mr. King]

Q. [Mr. Waring] Lisa, I'm now going to show you what

has been marked for identification purposes as State's exhibit 18 through 81. Would you take a look at those please?

[Whereupon, the witness views photographs]

Q. Do you recognize those?

A. Yes. These are the crime scene photos from the incident.

Q. Are you able to identify those crime scene photos?

A. Yes.

Q. And do they fairly and accurately depict the crime scene photos and evidence involved in this case?

A. Yes.

MR. WARING: Your Honor, at this point the State moves to have exhibits 18 through 81 admitted into evidence.

THE COURT: Eighteen through?

MR. WARING: Through 81, Your Honor.

THE COURT: Any objection?

MR. KING: No, Your Honor.

THE COURT: All right. 18 through 81 admitted without objection.

[Whereupon, State's exhibit numbers 18 through 81 are entered into evidence by the court]

Q. [Mr. Waring] Lisa, I'm going to put some of these on the overhead. I just want you to briefly talk about each

one just for the jury's benefit.

[Whereupon, the photograph is shown]

A. This is a photograph of the mailbox of the residence on [redacted] facing the residence is the mailbox to your left.

[Whereupon, the photograph is shown]

A. This is a picture of the residence. You have a I guess makeshift shed with tarps around it and inside was actually a bed and a chair. You also have a small wooden shed closer to the trailer.

[Whereupon, the photograph is shown]

A. That shows it appears the grey shed and the white iron gate which leads to the entryway into the front door of the trailer.

Q. Okay. That [indicates] is the shed you're referring to?

A. Yes.

Q. And that's [indicates] the trailer?

A. Yes.

[Whereupon, the photograph is shown]

A. This is a blue moped that was located outside of the trailer. In a compartment of the moped we did find a wallet with an identification card for Henry Fickling.

Q. How about this one?

[Whereupon, the photograph is shown]

A. This is a photo pointing to the entry door of the trailer. So right ahead of you you have the refrigerator from the kitchen and that kind of makes an L shape of the kitchen, which also includes a very small area for the living room. They had a futon there which you can kind of see right by where the fan is. And the futon faced the T.V.

Q. And what is this back here [indicates]?

A. That is the victim's bedroom.

[Whereupon, the photograph is shown]

A. And that is the victim's bedroom with the door closed.

Q. How about this one?

[Whereupon, the photograph is shown]

A. That is a photo from the entryway of the victim's bedroom pointing towards the floor. You can see the bloodstain from where the victim's head was.

[Whereupon, the photograph is shown]

A. This is a closet that was in the victim's room.

Q. Is that facing the right wall from the door?

A. Yes.

[Whereupon, the photograph is shown]

A. And this is a photo of the right room, the right wall of the room. So you had the chair, and above it you have that wooden counter. And then you have a small like

nightstand and then the closet.

[Whereupon, the photograph is shown]

A. And this is the backside of the door. We had placed several stickers on the door to identify individual spots of blood that was located. And the wall appears black because we did process for latent fingerprints with black powder.

[Whereupon, the witness is shown photograph]

A. This is the back wall of the bedroom. So you see the chair, the closet, then there was a mini-fridge and a microwave that appears to have been pushed from on top of the refrigerator. And then there is also at the foot of the bed a dresser with the T.V. on top.

[Whereupon, the photograph is shown]

A. And this is a photo of the card that was found on the victim's bed with the name Jeffrey Shiver on it.

Q. Okay. How about this one?

[Whereupon, the photograph is shown]

A. This is a photo of the bed and the main bloodstain that was located.

[Whereupon, the photograph is shown]

A. This is a photo of -- in number 4 we identified a white pillow with a bloodstain on it. And I also wanted to note the cord of the microwave that is over the pillow.

[Whereupon, the photograph is shown]
Q. And is this just a closer picture of the pillow?
A. Yes.
Q. And this next view?
[Whereupon, the photograph is shown]
A. Again these are the alphabetical stickers that we use to identify each individual blood spot that was located in several locations. So the sticker contains a scale and an arrow which faces the upward direction.
[Whereupon, the photograph is shown]
Q. So is this the back of the door?
A. Yes.
Q. And each one of those represents a single lone blood spot?
A. Yes.
[Whereupon, the photograph is shown]
A. This is the exterior side of the victim's door. We observed this orange reddish color stain on the door. So using a swab we did swab the area and labeled it G. So we took a photograph showing the spot in which we were going to swab and the swab itself.
[Whereupon, the photograph is shown]
A. And this is another blood drop that was on the exterior side of the door.
[Whereupon, the photograph is shown]

A. This is a picture of the wall in the victim's room. So if you're looking in the doorway of the victim's room this would be this front side of the wall above the mattress.

And this [indicates] is a small grouping of blood drops that was labeled I and there is another small grouping next to it, which was labeled J. So we took swabs from both of those blood drops.

Q. Now Lisa can you tell us what these next couple are?

[Whereupon, the photograph is shown]

A. This is what appears to me is a swiping of blood in the hallway. I cannot confirm that it is blood. It is a red orange color stain in the hallway.

Q. And what are we looking at here?

[Whereupon, the photograph is shown]

A. This is the hallway which leads back -- that door is for the female third roommate who was not there. And to your left is a sliding door that enters the bathroom and laundry room.

[Whereupon, the photograph is shown]

A. This is the bathroom and laundry room. So you have the washer, then the dryer, the toilet, the shower on the left side and then a sink.

[Whereupon, the photograph is shown]

A. This is the inside of the washing machine. There

were wet clothes in the washing machine that were all collected.

Q. And what is this [indicates]? What color does that look like?

A. It's a reddish orange stain.

Q. How about this picture?

[Whereupon, the photograph is shown]

A. This is a picture of the defendant's room.

[Whereupon, the photograph is shown]

A. This is the picture of the box to a stun gun that was located in the defendant's room.

Q. How many volts does that say it has in it?

A. Eight million, eight hundred thousand.

[Whereupon, the photograph is shown]

A. And this is a stun gun that was on the charger in the room. And we did observe a red substance on the stun gun.

Q. Is that [indicates] what you're referring to?

A. Yes.

[Whereupon, the photograph is shown]

A. This is again the stain on the stun gun. In order to presumptively test for blood we use a chemical called phenolphthalein.

THE COURT REPORTER: What is it called?

A. Phenolphthalein. So what that does is it reacts

with the hemoglobin in blood and hydrogen peroxide which it reacts and causes that pink color which is what we determine a positive result.

The test is not human specific so it doesn't let you know whether it is human or animal blood. It just tells you that it is presumptive for blood. So that would require further testing to then determine if it is human blood.

[Whereupon, the photograph is shown]

A. This is the victim's laptop that was located in the defendant's room.

[Whereupon, the photograph is shown]

A. This is a bloodstain that was located -- like I said there was an L shaped kitchen so the backside the L shape ended with a kitchen cabinet.

Then you had the beginning of the hallway, so this bloodstain is located on the wall to the left of the last kitchen cabinet and as you're going into the hallway.

Q. Okay Lisa, what's going on here?

[Whereupon, the photograph is shown]

A. So we saw the visible blood in the house. We also used a product called BLUESTAR to look for blood that we could not see. There are small traces that could have been wiped away or cleaned up. So what this process does is we spray the product using a spray bottle, usually dim

the room so it's dark and this product also reacts with the hemoglobin and causes fluorescence, a blue fluorescence. So this is showing us spraying the sliding door to the bathroom and having a faint reaction on the doorframe.

[Whereupon, the photograph is shown]

A. This is a photo of the sink in the bathroom and we can see a faint reaction on the edge of the sink.

Q. So if something shows up blue that means it's presumptive for blood?

A. Right.

Q. And are there any false positives that ever happen?

A. Yes. There have been false positives. Different metals such as copper could and also bleach could also cause a false positive.

Based on your experience they say you can kind of tell the difference because it may react one, not as bright and two, it will dissipate fast whereas a true blood stain will fluoresce and stay fluoresce for longer.

[Whereupon, the photograph is shown]

A. This is another photo of the edge of the sink, just darker.

Q. How about this one?

[Whereupon, the photograph is shown]

A. This is a spot that fluoresced on the top of the

washing machine.
Q. Is that [indicates] the ---
A. --- yes.
Q. Now can you tell the jury where you found presumptive blood throughout the house?
A. Yes. So we sprayed the victim's room and there was a spot on the mini-fridge that was seen. We sprayed the hallway and we saw a faint reaction in the corner of where the floor meets the wall in one spot.

We sprayed the bathroom and we had the reaction on the sink and the washer and also the laundry basket that was on top of the washer.

[Whereupon, the photograph is shown]

A. This is the I.D. card for Henry Fickling that was found in the moped.
Q. And can you tell us what his height and weight are?
A. Five eleven, 225.

[Whereupon, the photograph is shown]

A. This is the large red crowbar that was located in the shed.
Q. And lastly Lisa, what are we looking at here?

[Whereupon, the photograph is shown]

A. So there was a big trash can outside. This is a photo into that trash can. So there is a white box up and to the left of the bleach bottle you see. There is a

package that the address and name has been blacked out. But you can still see the address on it which is the same address for this residence. So we assume that this trash can does belong to this residence because of that.

So in it we found multiple items of clothing and bedding that appeared to have been soiled; and of course the bleach bottle.

Q. Now did you collect the taser in this case?

A. Yes.

Q. How about that debit card?

A. Yes.

Q. I'm now showing you what has been marked for identification purposes only as 82 and 83.

[Whereupon, the witness is shown exhibits]

Q. Do you recognize these?

A. Yes.

Q. And can you tell the jury what we're looking at?

A. So this first envelope I can recognize because it has my initials and dated on when I sealed the package. And each item is described and bar coded for our property room to keep track of it.

So this is the debit card that was located on the bed. It is black because it was processed for latent fingerprints with black powder. The second one again, my initials and dated and this is the stun gun that was

located on the charger with the red substance that was presumptive positive for blood. You don't see it on there now because it was swabbed off and sent to be tested for the blood.

Q. Are those items in substantially the same condition as when you last saw them?

A. Yes.

Q. And are they the same debit card and stun gun you collected from the crime scene?

A. Yes.

Q. Is that the stun gun that had blood on the end?

A. Yes.

Q. Have they been altered in any way?

A. No.

Q. Now what did you do with this stuff after you collected it; those particular items?

A. So after we collected it we brought it back to our lab there and that is when I processed the card with black powder and took the complete swab of the possible blood from the stun gun.

I then processed the stun gun by placing it in a super glue chamber we use to process the fingerprints and did not recover anything from it.

Q. What is the evidence procedure for turning in these items?

A. So once we're done processing the items we then want to package them in a way that will withhold the integrity of that item. In this case and in most cases we often use black bags.

It keeps the items from if they are in plastic and they are wet at all they could mildew over time. So this allows the items to breathe. So these items are placed in the proper package, sealed, initialed, dated, identified with the bar code and identifiers on it.

In our office we have double sided lockers so we're able to put things in and then the property unit is able to take things out. And that's how we pass things back and forth. And all items are submitted with a chain of custody therefore I release these items and the property room can sign that they received these items.

Q. Did you comply with the procedures of the North Charleston Police Department?

A. Yes.

Q. I'm now showing you what has been marked --

MR. WARING: Your Honor, at this point the State moves to have exhibits 82 and 83 admitted into evidence.

THE COURT: What numbers?

MR. WARING: 82 and 83.

THE COURT: 82 and 83 any objection?

MR. KING: No, Your Honor.

THE COURT: All right 82 and 83 admitted without objection.

[Whereupon, State's exhibit numbers 82 and 83 are entered into evidence by the court]

Q. [Mr. Waring] I'm now showing you what has been marked as State's exhibit 85 through 88.

[Whereupon, the witness is shown exhibits]

Q. Do you recognize those?

A. Yes.

Q. Can you tell the jury what they are?

A. This one contains five items of DNA that were sent off to SLED for examination. Some of it -- but it contains DNA blood swabs from the top of the washing machine developed with BLUESTAR.

It also contains the DNA swab from the ceiling of the victim's room. And the blood spot of the victim that was collected at autopsy. And I believe it is also the blood swab that was on the exterior side of the door.

Q. Does that also contain the blood swab from the wall and the dartboard?

A. Yes.

Q. Okay. And do those items fairly and accurately depict the blood swabs from the stun gun, the victim's bloodspot from the autopsy, DNA blood swabs from the victim's room ceiling and DNA bloodspot under the

dartboard near the kitchen?
A. Yes.
Q. To your knowledge have those items been tampered with in any way?
A. Not besides what was necessary for testing those items.
Q. Do you know who else from North Charleston Police Department this evidence has passed through their custody?
A. I do not other than I assume someone from the property room who would take these items from myself.
Q. Would it refresh your memory if I showed you a copy of the chain of custody sheets?
A. Yes.
[Whereupon, the witness is shown document]
A. So all items were intake by Glenn Meza who is a member of the North Charleston property unit.
Q. And as far as who took those items to SLED?
A. That would be Hannah Wethington who is also a member of the North Charleston property unit.
Q. Okay. Did Sergeant Ledford also take some items to SLED as well?
A. Yes.
Q. Would those be the main people who dealt with those items?

A. Yes. And there was also another individual who returned those items from SLED.
Q. But on the way to SLED it was just you, Hannah Wethington, Glenn Meza, and Sergeant Ledford?
A. Yes.
Q. Would any of those individuals have tampered with the evidence in any way?
A. No.
Q. Would the items have still been sealed when they passed through each of those individual's custody?
A. Yes.
Q. What's the procedure for collecting and turning in that kind of evidence, DNA evidence?
A. It's similar in that we want to package it in the best way to keep the integrity of the evidence. For DNA swabs the biggest concern is we want to make sure the swabs are dry before they are packaged.

They are also packaged in a paper envelope that way if they are still a little bit damp they will dry and they won't have mildew growing over time, which could happen. So it's the same process we submit all of our evidence through those double sided lockers with a chain of custody.
Q. Okay. And did those items in fact go to SLED?
A. Yes.

Q. From the time it was driven up to SLED was there any tampering with it?
A. No.
Q. In the victim's room did you discover any weapons?
A. No.
Q. Now the victim's vehicle did you process that in this case?
A. Yes.
Q. And did you take photos of that car as well?
A. Yes.
Q. Was that car located at the trailer or elsewhere?
A. Elsewhere.
Q. Did you take photos at the crime scene or was it elsewhere?
A. It was taken in the NCPD warehouse, which is where we tow all of our vehicles from the crime scene. We have a little area in there where we do all of our processing of the vehicles.
Q. I'm now handing you exhibits 7 through 9 marked for identification purposes.
[Whereupon, the witness is shown photographs]
Q. Do you recognize those?
A. Yes. This is the victim's vehicle.
Q. And do those photos fairly and accurately depict the victim's vehicle?

A. Yes.

MR. WARING: Your Honor, at this point the State moves to have exhibits 7 through 9 admitted into evidence.

THE COURT: Any objection?

MR. KING: It's to relevance at this point?

THE COURT: Pardon?

MR. KING: Relevance at this point.

THE COURT: Let me see the lawyers up here.

[Whereupon, an off the record bench conference is held].

THE COURT: The objection at this point in time is sustained. Ladies and gentlemen when the attorneys make an objection I either rule it is overruled, which means I disagree with the attorney's that has submitted them. If I used the word sustained I agree with the objection the attorney is making and it will not be admitted at this time. Are you finished with this witness?

Q. [Mr. Waring] Please answer any questions the defense has.

THE COURT: Cross-Examination?

MR. KING: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. KING:

Q. Ms. Kubicsko is it?

A. Ms. Kubicsko yes.

Q. You took a lot of photographs.

A. Yes.

Q. It's quite a stack.

MR. KING: Your Honor, may I approach the witness?

THE COURT: Yes, sir.

[Whereupon, Mr. Kings views photographs]

Q. [Mr. King] I'm going to hand you State's exhibit number 27 and 28.

[Whereupon, the photograph is shown]

Q. So this is the exterior door of where the body was found, is that right?

A. Yes.

Q. And this was the first -- this [indicates] was letter A the first blood swab that you took, is that right? It may be a little hard to see but it's right there [indicates]?

A. Yes.

[Whereupon, the photograph is shown]

Q. And this is State's exhibit 28; this may be a better close up of it because you can see it right here [indicates], is that right?

A. That's correct.
Q. And that's not the only swab you took off of that door, right?
A. Correct.
Q. I think there were -- these are some photos of the door and I want to kind of go through them. This is State's exhibit 33.
[Whereupon, the photograph is shown]
Q. Do you remember this one?
A. Yes.
Q. So there was a blood stain F as you can see right here [indicates], right?
A. Yes.
Q. There is a blood stain B that goes back around the interior side of the door?
A. Correct.
Q. And then there is C which is now in the lower?
A. Yes.
Q. And then towards the bottom of the door there is another one E. This is still the same interior door?
A. Yes.
Q. And then D as well, right?
A. Yes.
Q. So B, C, D, E, and F all are taken from around the side, right? Are you aware that blood spot B was not

tested at all?
A. Yes.
Q. It was not sent to the DNA lab to be tested, right?
A. Right.
Q. And neither was blood spot C?
A. Correct.
Q. Or blood spot D?
A. Correct.
Q. Or E?
A. Correct.
Q. Or F?
A. Correct.
Q. So the only blood spot tested on that door was the one on the exterior that number A, right?
A. Correct. It is a little different than B. We know we have a victim in the victim's room. We know we have a main blood stain pattern on the wall and we have the blood on the interior side of the wall, which would be B, C, D, E, and F. So having the blood A on the exterior door raised some question as to why that would be.
Q. But if those items were tested we would know what it was, correct?
A. Correct.
Q. Now there is also you testified about State's exhibit 41, the bloody pillow, right?

[Whereupon, the photograph is shown]
A. Right.
Q. That wasn't tested was it?
A. No, sir.
Q. There was a G, which I believe is more of a blood stain on the exterior of the door?
A. Correct. I don't know if it is blood.
Q. That wasn't tested?
A. No, sir.
Q. You collected it as if it were blood, right?
A. I collected it because it was a reddish orange stain so possibly it could be blood.
Q. But we didn't test it so we don't know.
A. Correct.
Q. Then there were some little blood spots that you labeled as I in State's exhibit 52.
[Whereupon, the photograph is shown]
A. Yes.
Q. And those weren't tested?
A. No, sir.
Q. And State's exhibit 53, J?
[Whereupon, the photograph is shown]
Q. More blood spots on the wall?
A. Correct.
Q. And those weren't tested?

A. Correct. They were in the victim's room, yes.
Q. And it probably seems pretty obvious but you didn't even really test the main blood spot, right, the main blood stain?
A. Correct.
Q. And there were a lot of those little blue spots that you talked about right? All those weren't tested either; the ones that showed up with the BLUESTAR?
A. Correct.
Q. I think maybe one of those was tested on the washing machine?
A. I would have to see the SLED report. I don't recall.
Q. Do you remember a little mug on the ground that had some blood on it?
A. Yes. I do believe that when Tiffany Adams was there at the scene that was a little bit closer to the victim's head so I believe it was assumed that that was contact from the ground and the blood that was on the ground.
Q. So out of all those blood stains taken basically A, B, C, D, E, F, G, I, J, blood on the can, bloody pillow only really five items were sent up to the tested, right?
A. Correct. And that is the maximum that can be sent to SLED for DNA testing. We have to wait until we get the results back from those five DNA items that have been

sent up to then send additional items.
Q. Do you remember seeing the deceased with his hands or photographs of his hands?
A. I've seen photographs, yes.
Q. And there was blood on the hands, right?
A. Yes.
Q. Did you test that blood to see if it was his blood or Hank's blood?
A. I was not on scene while the victim was present.
Q. So as far as you know that wasn't collected? No swab was collected off Mr. Shiver?
A. I do not believe so.
Q. Those are all the questions I have.
THE COURT: Any redirect?
MR. WARING: Just a couple briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. WARING:

Q. Lisa, in this case to your knowledge who had the massive fatal injuries?

A. The victim, Jeffrey Shiver.

Q. Who had actual physical blood on them to your knowledge?

A. Jeffrey Shiver.

Q. If there were any evidence the defendant were injured would y'all have probably tested it?

A. Yes, sir.

MR. WARING: No further questions, Your Honor.

THE COURT: You may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. WARING: The State calls Donna Money.

THE COURT: Mr. Foreman and ladies and gentlemen of the jury we are going to take about a ten minute break. Please don't discuss the case amongst yourselves and I'll get you back in about ten minutes. Leave your notepads in your chairs.

[Whereupon, the jury exits at 3:51 p.m.]

[Whereupon, court is in recess from 3:51 p.m. until 4:22 p.m.]

THE COURT: Anything before we bring the jury?

MR. WARING: No, Your Honor.

MR. KING: No, Your Honor.

THE COURT: Bring the jury please. You're calling Donna Money?

MR. WARING: Yes, Your Honor.

[Whereupon, the jury enters at 4:23 p.m.]

THE COURT: Call your next witness.

MR. WARING: Thank you, Your Honor.

MR. WARING: The State calls Donna Money.

[Whereupon, Ms. Money comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: Donna Money, D-O-N-N-A M-O-N-E-Y.

- - - - -

DONNA MONEY,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good afternoon, Donna.

A. Good afternoon.

Q. Can you tell the jury where you work?

A. I'm employed at the South Carolina Law Enforcement Division known as SLED.

Q. How long have you worked there?

A. Over five years.

Q. And what do you do at SLED?

A. I am a forensic scientist in the DNA casework department.

Q. Can you describe to the jury some of your duties and responsibilities?

A. I perform forensic DNA analysis on submitted evidence items and known standards. I write reports and testify in court.

Q. Can you break it down for the jury as far as what the process is for DNA analysis?

A. DNA analysis is a four step process. So we will first extract the DNA from the submitted item; for instance a swab. After that we will determine how much DNA is present. From there we will amplify or make copies of the DNA to have more to work with.

And then that extract is then put through a machine that will separate the DNA based on size. And that information gets translated into a visual known as a DNA profile.

Q. Now, is there any procedure to make sure items don't get contaminated?

A. Yes. We wear gloves and lab coats throughout the entire process. The gloves are changed between every step and every item that is handled.

Any surface that is used during analysis is wiped down with a bleach solution and any tools we use like scissors, scalpel, tweezers are also wiped down with bleach as well.

Q. What about packaging? Can you tell us anything about that?

A. Evidence is typically submitted to us in a heat sealed pouch. The item itself could be submitted by the submitting agency in an envelope or a tube and those items are sealed.
Q. And do these items get labeled?
A. When an item arrives at SLED and it's placed in a SLED heat sealed pouch it will receive a SLED barcode which will have the SLED lab number, the item number or container letter assigned to that item and then the submitting agency name and their case number.
Q. Would you test something if the heat sealed pouch had been tampered with?
A. If I receive an item and it appears that that pouch is open or there is a tear I would not start analysis.
Q. And have you testified before?
A. Yes.
Q. Approximately how many times?
A. Approximately 20.
Q. Have you been declared an expert before?
A. Yes.
Q. About how many times for that?
A. Twenty.
Q. And have you participated in any type of training while at SLED?
A. When I started my employment at SLED I underwent a

year and half long training program within the casework department under a qualified DNA analyst. And every year I have to maintain a minimum of eight hours of continuing education as per the FBI.

MR. WARING: Your Honor, at this point the State moves to have Ms. Money declared an expert in the field of forensic DNA analysis ---

THE COURT: --- do you have any objections to the court finding she is a forensic scientist qualified in DNA analysis?

MR. KING: No objection.

THE COURT: The court so finds. Thank you.

Q. [Mr. Waring] Now Ms. Money were you involved in this case, the Henry Fickling case?

A. Yes.

Q. How did you get brought into that case?

A. I was assigned to do DNA analysis for this case.

Q. And what kind of work did you do?

A. I performed forensic DNA analysis on evidence items and pre-known DNA standards.

Q. And on what date and time did you receive these items?

A. May I refer to the chain of custody?

A. Yes.

[Whereupon, the witness reviews document]

A. There are two separate submissions of items for this case. The first submission came to SLED and I received the items on January 10, 2017 and then the second submission I received the items on August 22, 2017.
Q. Can you tell us who you received these items from?
A. The forensic technician Amy Stevens -- of the control department.
Q. Now prior to Amy's possession of those items can you tell us which SLED employees would have handled that evidence before her?
A. According to the chain of custody the forensic technician Doris Yarborough accepted these items when they were initially submitted by the submitting agency and then she placed them on the DNA intake shelf.
Q. Okay. And were the heat sealed pouches intact when you received them?
A. Yes.
MR. WARING: Your Honor, may I approach the witness?
THE COURT: Yes, sir.
Q. [Mr. Waring] I'm now showing you what has been marked for identification purposes as State's exhibit's 85 to 88.
[Whereupon, the witness is shown exhibits]
Q. Do you recognize those?

A. Yes.
Q. And can you tell us what each one is?
A. State's exhibit 85 is SLED number 4, which is swab of stun gun with light from RM-2. State exhibits 86 and 87 is SLED container B. It has multiple items present in it. I can see our SLED item 11, item 9, item 12. The other items are stuck together; I can't see the numbers.
Q. Does that bag contain the blood spot from the ceiling and the blood spot on the dartboard?
A. Yes. Item 9 is the swab from the ceiling and SLED item 10 is the swab from on the wall under dartboard.
Q. Okay. And how about exhibit 88.
A. State's exhibit 88 is SLED item 1, which was blood spot from victim.
Q. Have any of those items exhibits 85 through 88 been tampered with in any way?
A. No. All seals are intact and I see my initials and the date that I entered these pouches on all three of these packages.
Q. Okay. And do those items labeled as blood spot Jeffrey Shiver swab, stun with light swab, ceiling room 1 swab and swab wall under dartboard do those fairly and accurately depict those items that were collected and tested in this case?
A. Yes.

Q. And did you in fact do DNA testing on those items, those four items?
A. Yes.
Q. Did you end up generating a report?
A. I did.
Q. Were you able to make any conclusions on those four items?
A. Yes.
Q. And what did you conclude?
A. May I read my report?
Q. Yes.
[Whereupon, the witness reviews document]
A. The DNA profile developed from items 4, 9, and 10 match the DNA profile of Jeffrey Shiver.
Q. Okay. So does that mean -- which items are those?
A. Item 4 were swabs of stun gun with light. Item 9 was swabs from ceiling RM-1, and item was 10 was swabs wall under dartboard.
Q. Okay. So just for the jury's benefit the swab from the end of the stun gun, the DNA blood swab from the ceiling of the victim's room and the blood swab under the dartboard those are the victim's blood?
A. Yes.
Q. And how about the other item, the fourth item?
A. Are you referring to the victim's standard?

Q. Yes.
A. That is the profile that matches the evidence items. It's just not assigned an item number and result.
Q. Now do y'all generate statistics for these?
A. Yes.
Q. And can you tell the jury what the statistics are for these items?
A. The probability of randomly selecting an individual having a DNA profile matching these items is approximately one in five --
THE COURT REPORTER: One in?
THE WITNESS: Five octillion.
MR. WARING: Your Honor, at this point the State moves to have exhibits 85 through 88 admitted into evidence?
THE COURT: Any objection?
MR. KING: No, Your Honor.
THE COURT: Admitted without objection.
[Whereupon, State's exhibit numbers 85 through 88 are entered into evidence by the court]
Q. [Mr. Waring] Were you ever brought any weapons on this case?
A. I did not receive any actual weapons in this case?
Q. Any tools?
A. No.

Q. You don't remember getting a crowbar?
A. I received swabs from a red crowbar.
Q. Okay. I apologize; that's what I meant; a swab from a crowbar?
A. Yes.
Q. And did you get other swabs that were sent up there, blood swabs?
A. Yes.
Q. Okay. Was any DNA found on that crowbar swab?
A. The partial profile that was developed from that item was insufficient for any interpretation.

MR. WARING: Court's indulgence, Your Honor.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. [Mr. Waring] Please answer any questions the defense has.

THE COURT: Cross-Examination?

CROSS-EXAMINATION

BY MR. KING:

Q. Ms. Money, so SLED provides a service to local law enforcement, is that right? They can make a request for you to test blood swabs and blood samples and y'all provide that to agencies around the State, right?

A. That's correct.

Q. And in this case you only test what they send you, right?

A. That's correct.

Q. That's all you can test?

A. Yes.

Q. So you never received -- you received in addition to what you've testified to there was also a swab of an exterior of Room 1 door A, item 11, right?

A. Yes, SLED item 8.

Q. Okay.

MR. KING: Your Honor, may I approach the witness?

Q. [Mr. King] So what did -- whose blood did that test or whose DNA did swab A come back as?

A. The profile developed from SLED item 8, which was swabs from exterior RM-1 door matched the DNA profile of Henry Fickling.

Q. I want to show you State's exhibit number 28.

[Whereupon, the photograph is shown]

Q. There has been testimony that this is bloodspot A. And that was you said Mr. Fickling's blood?
A. Yes.
Q. Henry Fickling. Now, you said you received those swabs that you testified to A, H, K you testified on August 22, 2017?
A. Yes.
Q. And you wrote a report on September 29, 2017?
A. Yes.
Q. Now if North Charleston Police Department had wanted you to further investigate like assuming there were other blood swabs labeled B, C, D, E, F if they had wanted to after receiving this report learning new information they could have sent a request and had you test further blood swabs, right?
A. Yes, that's their decision to make.
Q. But if they decided to do that you would do that for them?
A. Yes.
Q. Those are all the questions I have.
THE COURT: Redirect?
MR. WARING: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. WARING:

Q. Now Ms. Money are you able to date blood?

A. No.

Q. So this blood spot that was on the exterior of the victim's Room 1 door that was tested and tested positive for the defendant's blood do you have any way of knowing whether that is from four years ago or the day of the murder?

A. No.

MR. WARING: No further questions, Your Honor.

THE COURT: You may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. WARING: Your Honor, the State calls Lieutenant Crooks.

[Whereupon, Lieutenant Crooks comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: Jeffrey Crooks, J-E-F-F-R-E-Y C-R-O O-K-S.

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JEFFREY CROOKS,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good afternoon Lieutenant.

A. Afternoon.

Q. Lieutenant please tell the jury where you work?

A. I work for the South Carolina Law Enforcement Division commonly referred to as SLED.

Q. How long have you worked there Lieutenant?

A. A little over 20 years.

Q. Can you tell us what your job is at SLED?

A. My current job is I am a lieutenant of the SLED latent print department. We receive evidence submitted

by local agencies to process for the presence of fingerprints. We also conduct fingerprint comparisons to known standards.

Q. Now do you also in your duties at SLED deal with bloodstain analysis?

A. Yes sir, I do. I'm currently the acting subject matter expert in the field of footwear, tire tread as well as bloodstain pattern analysis and crime scene reconstruction for the crime scene department.

Q. Can you tell the jury what your duties and responsibilities with regard to bloodstain analysis are?

A. Yes, sir. Prior to 2014 the latent print crime scene department was one unit. In 2014 it divided into two separate departments which is why I'm no longer in the crime scene department.

From 2009 to 2014 I supervised the latent print crime scene department; again until 2014. Bloodstain pattern analysis is the analysis of bloodstain patterns at a crime scene in an effort to try and determine events that caused bloodletting as well as events that may have occurred after bloodletting.

Q. Have you ever testified before?

A. Yes, sir. I testified 50 times as an expert in the areas of latent prints, footwear tire tread, crime scene investigation and bloodstain pattern analysis. I

testified twice in regards to bloodstain pattern analysis as an expert.

Q. Now as far as specific training and experience do you have any of that as far as bloodstain pattern analysis goes?

A. Yes sir, I do. I have a Bachelor of Science degree in Business Administration from the Citadel. I have 24 years of law enforcement experience in total.

I have successfully completed the SLED crime scene in-house training program which is approximately a one and year program under a qualified crime scene investigator.

I've investigated approximately 300 crime scenes during my 12 year career as a crime scene investigator for SLED. Approximately 250 of those were death investigations. The majority of those were violent deaths.

I have also completed approximately 112 hours of external bloodstain pattern analysis training. By external I mean attending courses outside the SLED training program that the agency sent me to.

Approximately 70 or so hours were basic bloodstain courses and also I completed an advanced BPA course as well.

MR. WARING: Your Honor, at this time the State

moves to have Lieutenant Crooks declared an expert in the field of bloodstain pattern analysis.

MR. KING: No objection, Your Honor.

THE COURT: Okay.

Q. [Mr. Waring] Lieutenant, for this case have you had the occasion to take a look at the bloodstain patterns?

A. Yes, sir. I was provided crime scene photographs as well as the case investigation documents to include the North Charleston investigative summary, the Coroner's report as well as the autopsy report.

Q. And did you perform an analysis?

A. Yes sir, I did.

Q. Now can you take the jury through what you analyzed and I can put some photos up if that will assist you?

A. Yes, sir.

Q. I'm now showing you what has been admitted as State's exhibit 39.

[Whereupon, the photo is shown]

Q. Can you tell us anything about this Lieutenant?

A. Yes, sir. That is a copy of one of the photographs that I received as part of the evidence submitted for bloodstain analysis.

Q. And did you use this specific photo when coming to any kind of analysis?

A. Yes sir, that's one of the photographs that I

examined.

Q. Can you tell the jury anything about what you see in this photo?

A. Yes, sir. Actually depicted in that area and for the purpose of my examination I refer to this as the primary stain area. It's actually multiple types of bloodstains present. There are what we call transferred stains.

The areas of blood that look kind of like smears that's when blood either is on a surface and another object comes into contact with that surface or vice versa a bloody surface contacts a clean surface. As a result of that contact there is transferred blood from one surface to the other.

Also present in that area are what we call spatter stains. Spatter stains occur when force is applied to blood. You end up with smaller stains that tend to indicate a direction of travel. The direction of travel is due to the force applied to the blood bearing surface.

Also present in this primary stain area is what we call expirated blood. Expirated blood is blood that is expelled from the body either through coughing or some other avenue that would result in blood and saliva mixed. And it tends to have a particular appearance as well as certain characteristics that identified as expirated

blood.

Q. Now you mentioned directionality. Are you able to use that device up there to indicate which direction this bloodstain is going in?

A. Yes, sir.

THE WITNESS: Your Honor, may I refer to my notes?

THE COURT: Yes, sir.

[Whereupon, the witness reviews documents]

A. Is there another image that displays more of the upper portion of that stain area?

Q. I can find one for you Lieutenant.

[Whereupon, Mr. Waring reviews photographs]

[Whereupon, the photograph is shown]

A. Should I touch the screen?

Q. Yes, Lieutenant.

THE COURT: What number is that?

MR. WARING: I apologize, Your Honor that is State's exhibit 38.

THE COURT: Okay.

A. Throughout the stain area there are smaller stains. You can see some fairly large physical stains and then there is some much smaller stains mixed throughout the same area.

In this particular area going that way [indicates] the hook indicates the -- at the top indicates the

direction of travel so there is stains that are traveling towards the top part of the lines that I drew. The stains are what I would consider more of an acute angle of stain and by that I mean it is less than a 45 degree trajectory from the surface.

The more acute the stain angle the closer to the surface the bloodletting object tends to be. And that's dependent on the distance from where the bloodletting object is to the surface as far as how far out away they would be.

Q. [Mr. Waring] Does this photo indicate acuteness?

A. Yes, sir. There are stains there that are consistent with 90 degree impacts particularly stains in this area [indicates] as well as stains throughout here [indicates], some smaller stains.

The larger stains that you can clearly see along with the stains that tend to run down that it looks like blood running down the wall those are not spatter stains. Those are consistent; some of those stains are the ones that are consistent with blood being coughed up.

But the smaller stains throughout the area where I marked as well as where I circled the ones circled look more like a 90 degree impact, which means the blood impact of the wall is straight on versus the stains towards where I indicated the lines going upward. It

impacted the wall at an acute angle to the surface of the wall going upwards in the directional lines that I indicate.

Q. So does that tend to indicate or would that be consistent with the victim being fairly close to that wall?

A. In order to create the stains depicting the more acute angles you would have to be fairly close to that surface.

Considering where this primary stain is in relationship to the bed it would be my expectation that when those stains were created the bloodletting surface was on that bed fairly close to the wall.

Q. Now following up on that if the directionality is kind of up and outward would that be consistent with the victim being slightly lower than that stain?

A. Well, the bloodletting surface would have to be below where the stains are. If the stains are travelling upward then the bloodletting surface would have to be below where the stains are present.

Q. So would you say that that stain is pretty close to the surface of the bed?

A. Yes, sir. I would say that surface would have to be on that mattress fairly close to the wall in order for those types of angles to be achieved.

Q. Now you mentioned briefly expiration. Can you tell the jury if you've made any conclusions or come to any thoughts about what type of bloodstain this is?

A. Outside of the transfer stains which are the result of an object touching that surface and blood being transferred in this area [indicates] and in this area [indicates] and also this indication right there [indicates].

The remaining stains it's possible that all of the remaining stains could be the result of blood being coughed up. There are definitely stains in that primary stain area that are expirated blood. I saw evidence of blood mixed with saliva based on its appearance.

I also saw the appearance of what we call bubble rings. When blood is coughed it is mixed with air from the lungs and when the blood hits the surface it's possible to create -- that there be air bubbles present in those stains.

Eventually as the blood dries those air bubbles are going to burst leaving small circles in that stain. That is indicative of blood being expirated. Some of the stains present in that primary stain area contain those bubble rings. It is not necessary that all the stains depict bubble rings. Expirated blood and impact patterns both exhibit spatter stains.

Q. Okay. So you mentioned expiration and cough up. Are those essentially the same thing?
A. Yes. Coughing up blood is one way to expirate. There is also indication that there was blood present in the lungs from the autopsy report which further lends towards the blood being expirated.
Q. Can you describe impact stains and the difference between expiration and impact?
A. An impact stain is not actually referring to the blood impacting the wall. It's referring to an object impacting a bloody surface. So if you have a bloody surface and you struck it with an object blood is going to be dispersed from the blood surface outward.

If there is an object close enough like a wall it will disperse onto that wall and those stains will indicate the direction in which they came from. If the stains are shaped kind of like a tadpole more like a teardrop shape with a spine at the end the spined end indicates the direction of travel.
Q. So can you point on here what the tadpole looks like?
A. No, sir. You can't see it in that image. You would need a close up photograph of the individual stains. When I was conducting my examination I received digital images and I was able to enlarge those images to identify

some of the characteristics I described such as the bubble rings and also look at the stain shapes for the spatter stains.

Q. Okay. And you mentioned that some of that is definitely expiration and some of that is definitely cough up?

A. Yes, sir. There are definitely expirated stains throughout that primary stain area. Expirated stains don't always exhibit the mix of saliva or the air bubbles so it's possible that some of the stains that don't exhibit those characteristics are also expirated blood.

Because of the nature of the victim's injuries and the appearance of the stains in the primary stain area as well as the fact that it was clear that there are multiple events, multiple bloodletting events in this area I could not rule out that some of those stains were what we refer to as an impact pattern. It's a pattern created when someone strikes a blood bearing surface with force.

Q. But it's your opinion today that you think it's most likely more consistent with expiration?

A. It could be both. It could be all expirated blood or it could be expirated blood and impact pattern.

Q. Would you tend to lean more towards one of those conclusions?

A. No, sir. I'm not able to clarify or get any more specific than that. There are multiple events that occurred here. You have bloodstains that overlap each other and because of that I cannot tell you how many events occurred there. All I can tell you is there are multiple events that occurred there, multiple bloodletting events.

For that reason I can't rule out -- since both impact pattern and expirated blood exhibit some of the same characteristics I cannot rule out one of the other. I can definitely tell you that some of it is expirated.

Q. So it is definitely expiration and could be partial expiration and partial impact?

A. That's correct.

Q. Now you mentioned transfer earlier. Did you see some transfer indications?

A. Yes sir, I did. In this area [indicates] where it looks like the blood is smeared as well as in this area [indicates]. There are also some smaller indications right here [indicates] and right here [indicates] that there was some transfer either a bloody surface touched the wall in those areas or a clean surface could have touched the wall when the blood was already deposited.

I do know that some of the stains particularly in this area [indicates] this is all transfer and then there

is some individual drops here [indicates] which indicates that those drops were deposited after the transfer, which is one of the reasons I felt like there were multiple events there.

Q. Hypothetically is it possible that somebody could have in this case the victim could have wiped his arm on the wall and caused that transfer?

A. Yes sir, that's possible.

Q. Now switching gears a little bit can you tell the jury what castoff is?

A. Yes, sir. Castoff is when a blood bearing surface is moved with enough velocity where the blood cannot overcome the centrifugal force resulting in the blood being dispersed from that swinging object onto other surfaces.

If you have for example a paintbrush with paint on it and you fling that brush if there is enough paint on that brush you're going to fling paint off that brush. The same principle applies to blood on a blunt object.

Q. Now in the packet that you received that you used to analyze the bloodstain pattern analysis in this case did you learn of the fact that there were bloodspots behind the door and on the ceiling?

A. Yes, sir. I received photographs of blood that was documented as being on the room side of the door to the

bedroom that appeared to be spatter stains. There were other images of blood outside the room. Those stains were not considered as part of my examination.

I was requested to try to answer a specific investigative question which was the reason for my BPA examination and the blood outside the room did not factor in to attempting to answer that question.

Q. Now on the top of the castoff the bloodspots on the back of the door and the ceiling and the other portions of the wall in the victim's room is it possible that those are castoff from ---

A. --- yes sir, it could be. I could not rule out the possibility that it is castoff.

Q. So hypothetically if the defendant were using an object and in his backswing could that have caused those bloodspots?

A. Yes sir, it is possible.

Q. Lieutenant, did you do a report for this case?

A. Yes sir, I did.

Q. And did you document your findings in there?

A. Yes sir, the result of my examination I did.

MR. WARING: Court's indulgence.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. [Mr. Waring] Now Lieutenant, are there certain injuries that are so devastating that are impact stains

that could cause something like that; a blunt trauma?
A. Typically when you have impact patterns created and even castoff created you're repeatedly striking an object. The first blow tends to cause bloodletting. And then repeated blows once the surface is a blood bearing surface that's when you typically expect to see impact pattern stains, castoff stains.

In this particular case from my understanding of the pathology report there was no specific area that received multiple repeated blows in the same area, which is what we would expect to see.

However, due to the extent of the injuries I felt like I could not rule out the possibility that bloodletting could have occurred during that initial impact just due to the severity of the devastation that occurred in the two bloodletting areas that were indicated; the one over the left eyebrow and the other one under the chin.
Q. So based on that rationale is it possible if the victim were hit hard enough with an object by the defendant could either one of those blows cause partial impact stains on there?
A. I felt like I couldn't rule out that possibility, yes sir.
Q. Thank you.

MR. WARING: No further questions, Your Honor.

THE COURT: Cross-Examination.

MR. KING: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. KING:

Q. Mr. Crooks, you were asked and you testified to this you were asked a specific question.

A. Yes sir, I was.

Q. That's what got you involved in this case?

A. Yes sir, I was.

Q. You were asked does the blood spatter tend to indicate that the victim was lying down when the blows were struck.

A. That's correct.

Q. And your conclusion was that you don't know, right?

A. That's right. My conclusion was it cannot be conclusively determined that the victim was lying down when the blows that resulted in the bloodletting were struck.

Q. So the blood patterns that you looked at could be consistent with -- the guy who died is Jeffrey Shiver so I'm going to refer to him as Jeffrey Shiver and Hank is the defendant.

So you looked at those blood patterns and that would be consistent with Jeffrey Shiver standing up and getting hit and then falling back on the bed at some point; it could be consistent with that?

A. Based on the angle some of the stains could not have

occurred in that manner. Some of the stains particularly the expirated blood he could have been in a different position. When I said it could not be conclusively determined what I was referring to is I cannot state that that is the only possible scenario.

In other words I can't tell you that yes he was definitely lying down when the blows that caused bloodletting occurred. It's a possibility but I can't say that's the only possibility.

Q. And he could have been standing?

A. He could have been on his hands and knees. He could have been on the bed in a different posture other than lying down. Definitely some of the stains he would have had to have been -- I do think with all the stains he would have to have been on the bed in some manner.

But lying down I mean I can't say he was lying down unaware of being impacted. There are also other injuries indicated in the autopsy report other than the bloodletting injuries.

I could not tell what order they occurred in. So yes sir, I'm not ruling out a possibility he was lying down; I'm just saying I cannot say based on the blood evidence that's the only scenario.

Q. So it's possible he could have been standing taking a hit and there have been no bloodletting, right?

A. Yes, sir. I cannot say anything from the standpoint of any injuries that did not cause bloodletting as far as how they occurred.
Q. And you talked about castoff?
A. Yes, sir.
Q. And did you include -- you looked at bloodstains that were on the interior of the door, right?
A. Yes, sir.
Q. Did you consider that part of what you would call castoff or could it be castoff?
A. It could be castoff. Again, castoff could come from a blunt object or it could come off of someone's hand if they moved their hand quick enough and had blood on their hand it could cause castoff.

Castoff merely means that the blood was disbursed from the object in motion. It doesn't necessarily mean what that object was. I can't tell you what that object was. The fact of where it was at in relationship to the rest of the stains it was not transfer. It was spatter stains.

Also there are other characteristics that allow us to say yes, it is definitely castoff. Those characteristics were not present so I cannot say for a fact its castoff but it definitely could have been. Those stains on the door could have been castoff stains.

Q. And you're operating under the assumption that all of these bloodstains come from Jeffrey Shiver, right?
A. Yes, sir. I do not know -- the only DNA that I was aware of from the DNA report that belonged to the victim was the stain on the ceiling. The rest of the stains I did not have any information on whose blood it was.
Q. So the only spot of blood in there that you know for sure was Jeffrey Shiver's was one spot on the ceiling?
A. Yes sir, that's correct.
Q. And if it turned out that those bloodstains on the interior of the door belong to Mr. Fickling here, Hank Fickling that would change your analysis, right. That would complicate things?
A. No sir, it wouldn't change my answering the investigative question. It may have indicated that there are additional events that occurred but whose stains on the door those belong to wouldn't have changed my result for answering the question I was asked to answer.
Q. The conclusion that you can't tell if he was standing -- laying down or not?
A. That's correct.
Q. That's all the questions I have.
THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. WARING:

Q. Is the bloodstain itself consistent with the victim being below the bloodstain when the blood ended up on the wall?

A. There is some stains yes that are definitely consistent with the blood bearing surface being below those stains that depict directionality.

Q. In other words when that bloodstain ended up on the wall would the victim most likely been low down on the bed?

A. If it was an impact pattern the blood bearing surface would have had to have been below. Based on where those stains are on the wall compared to the mattress and also where the two bloodletting injuries are I would expect that the blood bearing surface would have to have been on the bed in that area below the wall where those stains are.

If it was expirated blood showing directionality the same location would have had to have occurred but it could have been in a position other than lying down potentially. But he still would have been coughing -- his mouth would have to have been below where these stains are projecting upward.

Q. What characteristics would make you more confident

in saying that something was castoff in this instance the blood spots throughout the room?

A. Classic castoff appears to be linear in fashion more than one drop. They all show the same directionality. When the surface where the blood is releasing from is nine degrees from the wall you're going to see nine degree stains.

As the blunt object swings upward you're going to see an increase in an angle of impact. In other words the stains are only going to get thinner and longer because the angle to the wall changes. Same thing as it goes down. The stains on the door are individual stains. They were individual events.

They don't all show the same directionality. They are not in line so that's why I can't say yes to castoff because I would have expected to see numerous stains showing an increase of an angle of impact and all showing the same directionality.

Q. So hypothetically could each one of those bloodspots on the back of the door and various parts of the room have been from individual separate blows to the victim?

A. No, sir. It's more stains than there are bloodletting injuries. Now if he was hit with an object that had blood on it say in the torso and there was no blood and that impact didn't cause bleeding I guess it

would be possible that there would result in castoff during some of those blows.

MR. WARING: Court's indulgence.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. [Mr. Waring] If the object was saturated with blood would you expect to see more of a linear pattern?

A. Yes, sir. The more blood that is on the surface the more castoff you expect to see. You can see on occasions -- there have been occasions where castoff is been deposited on a wall and then all the way up onto the ceiling to the point where we can actually count the blows that occurred because it is so linear and the lines of blood are so distinct from each other.

Sometimes you may only get a couple of stains and you're not able to do that. If you've got blood showing directionality and it's away from the initial bloodletting event it tends to be castoff.

Now what it's coming off of I can't tell you how it got there. When it got there I can't tell you other than it was dispersed from a blood bearing surface.

MR. WARING: No further questions, Your Honor.

THE COURT: You may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: May I see the attorneys up here for just a second.

[Whereupon, an off the record bench conference is held]

THE COURT: Mr. Foreman and ladies and gentlemen of the jury we're going to quit at this time. Leave your notepads in your chairs. Please don't discuss the case amongst yourselves or do any electronic research on the case and I'll see you in the morning at 9:30. Have a good evening.

[Whereupon, the jury exits at 5:13 p.m.]

THE COURT: Anything from the State before we break?

MR. WARING: No, Your Honor.

THE COURT: Anything from the defendant?

MR. KING: No, Your Honor.

THE COURT: Let me see the lawyers up here for just a moment. We'll adjourn until 9:30 in the morning.

[Whereupon, an off the record bench conference is held]

[Whereupon, court adjourns at 5:20 p.m.]

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of 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 Court of General Sessions for Charleston County, South Carolina on the 13th day of March, 2018.

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

May 27, 2018

Joyce C. Rueger, CVR-M
Court Reporter

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| STATE OF SOUTH CAROLINA | ) | COURT OF GENERAL SESSIONS |
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| COUNTY OF CHARLESTON | ) | DOCKET NO. 2017-GS-10-0439 |
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| STATE OF SOUTH CAROLINA | ) | |
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| vs. | ) | |
| | ) | |
| | ) | |
| HENRY JAMES FICKLING, JR. | ) | |
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| Defendant | ) | |
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March 14, 2018
Charleston, South Carolina

**Volume 3 (of 4)**

B E F O R E:

THE HONORABLE J.C. NICHOLSON, JUDGE

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PROCEEDINGS

THE COURT: Anything from the State before we bring the jury?

MR. WARING: No, Your Honor.

THE COURT: Anything from the defendant?

MR. KING: No, Your Honor.

THE COURT: Okay. Bring the jury please.

MR. KING: Your Honor, I'm sorry, I may have one thing and I apologize. Mr. Fickling has been wearing the same shirt since Monday. We took some clothes down there. Could I have one moment just to check and see if I can get a different shirt for him?

THE COURT: What?

MR. KING: Mr. Fickling has been wearing the same clothes since Monday; every day. He should have some clothes down there to change into. Could I have just a minute to see if I could straighten that out and maybe and get him just a different shirt for him, Your Honor?

THE COURT: You can do it later on when you take a break.

MR. KING: Well, there won't be any point then. The jury will have already seen him wear the same shirt.

THE COURT: Pardon?

MR. KING: There won't be any point then. The jury will have already seen him wear the same shirt three days

in a row.

THE COURT: I'm not going to stop now to go find a shirt.

MR. KING: Okay.

THE COURT: You can do it during lunch if you want to.

[Whereupon, the jury enters at 9:32 a.m.]

THE COURT: Thank you very much. You can call your first witness, please.

MR. WARING: Thank you, Your Honor.

MR. WARING: The State calls Captain Willi.

[Whereupon, Captain Willi comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: David Willi, D-A-V-I-D W-I-L-L-I.

- - - - -

DAVID WILLI,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good morning, Captain.

A. Good morning, sir.

Q. Please tell the jury where you work?

A. I work for the City of North Charleston Fire Department.

Q. How long have you worked for the Fire Department?

A. I've worked for them starting on year number '16.

Q. And what was your role back in September of 2016?

A. I was a Captain of the fire station I was assigned to as well as the engine I was on.

Q. Is that the same role that you have now?

A. That's correct.

Q. Now do you have any special training or education with the Fire Department?

A. With the Fire Department yes, sir I do. I've gone to South Carolina Fire Academy. I've taken courses there that I needed to become a fireman as well as to promote in my ranks per our standard operating guidelines.

We have certain courses we have to take to continue on to make rank as well as a first responder with the Fire Department.

Q. Did you have the occasion to go to [redacted] on September 8, 2016?

A. That's correct.

MR. WARING: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

MR. WARING: Court's indulgence, Your Honor.

[Whereupon, Mr. Waring reviews photographs]

Q. [Mr. Waring] I'm now going to pass up to you State's exhibit 114.

[Whereupon, the witness is shown document]

Q. This has already been admitted into evidence. Can you tell us what that is?

A. This would be the detailed report for that call. That's an incident report per that call.

Q. And what date was that on?

A. 9/8 of 2016 at 17:08.
Q. And for the layman what time is that; 5:08 p.m.?
A. That's correct.
Q. Who was the caller on that?
A. The caller was Henry Fickling; I apologize if I mispronounced it.
Q. Do you know what the purpose of the call was for going out there?
A. It came out to us as a seizure call.
Q. Okay. And what happened when you got there?
A. As we respond to an EMS call like that on our grid we have a computer that gives us all kinds of details that dispatch has given to us. And in that detail there is for a seizure call.

So we went to the call. As we approached the home we actually pull past the home to give space for an ambulance to pull in. It's closer for them to get the stretcher off at that time.

As we approached the home for this call I observed Mr. Fickling pacing in the front yard. He seemed to be in a little bit of an aggravated state at that time.

So after we stopped, the driver stopped I exited the vehicle on the right side, that's where I sit. Mr. Fickling walked straight up to me and it was a little stranger than how our normal calls go. Normally when you

pull up whoever is waiting for you they kind of grab you or lead you to where the patient is at that time telling you what is going on with the patient, who they are, any kind of medical questions at that point. It didn't happen this way at this call this time.

I got off the truck and Mr. Fickling he meets he out at the truck and right off the bat he is saying that he needs his money. He wants Jeff out of the house. He wants him gone, he wants his money. He was saying that as we walked toward the home.

At one point I had kind of stopped and I told him I said we're not police officers here; we're here for fire. Can you give me a description and tell me what's going on with the patient inside at this time.

So as we approached the home he finally tells us that he is having a seizure, that Jeffrey was combative and swung at him and that he hasn't been drinking for two days at that point.

So as we approached the doorway I just had an uneasy feeling because of how we first met at the truck. So I made entry into the home. At that time my engineer came right after me.

My driver -- my fireman had stopped at the door which we normally do that when there is some type of unease going on just so that we know we have a clear way,

a path to get out if we have to exit for our own safety. As we did make entry we went to the room where the patient was at. Mr. Fickling was behind us and he was continuing to talk. I really was not paying any attention to what he was saying at that time; I was more concerned with what was going on with the patient.

As we entered a door where the patient was he was laying in the bed just straight laying down. He was not seizing at that time. We called his name out. We reached over and touched him to wake him up. And he did finally wake up. He woke up in a defensive posture where it wasn't a 90 degree straight up. It was more of a he kind of sat up awake.

He had balled his fists like just waking up out of a deep sleep not knowing where he was at confused look, which is pretty normal in a seizure patient to be combative or to wake up in that state.

Q. Okay Captain I'm going to stop you for a second. Now during this time what is the defendant's demeanor? Is he angry; is he in a good mood?

A. He's angry. He was quite angry.

Q. Was he concerned for the victim's safety at all?

A. Not at any time. Like I said the only information I had asked him for and to get him was when he told us he was seizing and combative swung at him as well as he

hasn't drunk for two days. That was the only thing he told us. He was not concerned for the patient at all.

Q. Now you mentioned defensive posture when the victim was kind of coming to. Did you feel threatened in any way?

A. No sir, not at all. That's pretty typical normal for a seizure patient as well as a diabetic coming out of a coma or even a drug induced overdose.

It's kind of normal after we give them Narcan for them to come out in a defensive mechanism because they're not sure where they're at and not sure what is going on at first. So it wasn't threatening. That was not threatening toward us.

Q. Was he combative towards y'all?

A. No, sir.

Q. Did he take a swing at you?

A. No, sir.

Q. Was he able to answer basic questions such as name, where he was, etcetera?

A. Yes sir, he was. He was able to do that. In order for us to see what kind of state of mind he is and if he remembers anything we ask basic questions as what is your name, where are you at, who is present. If I give you four quarters how much is that. He was able to answer all those questions to us as well as when we asked him if

he'd like to be transported and be taken care of and for us to take some vitals he denied us all that.

Q. Did he in fact go to the hospital that day?

A. I am not sure. After we arrived EMS arrived shortly after us. We gave our turnover to Charleston County EMS and they relieved us. We went out and stood by the rig just to make sure that EMS was going to be all right; that's something that we normally do.

Q. So was the gist and your understanding of the defendant's position was that he was saying the victim owed him money and he wanted him out of the house?

A. That was clear as day. He said that several times; I want my money back and I want him out of my house.

MR. WARING: Court's indulgence, Your Honor.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. Please answer any questions the defense has.

MR. KING: May it please the court?

CROSS-EXAMINATION

BY MR. KING:

Q. Captain Willi, how you doing sir?

A. Good morning, sir.

Q. You just said that Mr. Fickling, he goes by Hank, wasn't concerned at all about the patient that you came over to see, is that what you said?

A. That's correct. When I came on scene he did not appear to be concerned.

Q. You don't know him, right? You've never met him before?

A. No sir, I have not.

Q. And you don't know anything about what was going on really in that trailer that you responded to?

A. No sir, that's the first time I recall ever going to that trailer.

Q. So you don't know anything about Hank taking care of that guy?

A. No, sir.

Q. When he was having a seizure, cleaning up his urine and his vomit?

A. No, sir.

Q. Buying vodka for him?

A. No, sir ---

Q. --- constantly?

A. No, sir.
Q. And he called you right?
A. He called the CDC which is dispatch center. The call taker wrote that that's who the caller was, that's correct.
Q. So he didn't just leave him in the room to have a seizure and not call anybody?
A. I do not know. I was not there when he called.
Q. So he was concerned enough to call the right people to come check on him, right?
A. I would say that he called.
Q. And you said you never met him before.
A. No, sir.
Q. So you don't know his personality.
A. No, sir.
Q. But he's kind of a loud guy who talks a lot and rambles, right? You didn't know his personality ---
A. --- I know absolutely nothing about the gentleman over there, no sir.
Q. So you don't know if you had gone some other time that he might have acted the same way.
A. I can only tell you what I observed when I pulled up on scene and how his behavior was.
Q. You believed he was having a seizure, right?
A. I was told by our dispatch there was a seizure. So

when we go in I observe. If there was a seizure at that time he was laying still at that time. He could have been just coming out; could have been postictal.
Q. But the way he was acting was consistent with someone who had had a seizure or coming out of a seizure?
A. He was -- like I stated when we got there Jeff was laying on the bed. He was not having any kind of movements at all. He wasn't like what people call flapping around. He was still.
Q. But he was confused?
A. Yes, he was confused.
Q. Balling up his fists?
A. Yes, sir. That's normal after coming out like I stated coming out of a seizure you're unaware of your surroundings at that time as to what has just happened to you. It's normal.
Q. Did you testify it is normal in a seizure or it can be normal in a seizure to be confused or combative?
A. That is also correct. Having a seizure people misconstrue as being combative. That is just part of a seizure. The body does jerking movements that sometimes appears to be like a swing. They have no control over their body at the time.
Q. And did you try to take him to the hospital?
A. After he woke up he realized where he was. He was

able to answer our standard questions. Yes, he told us he did not want to be transported to the hospital. We can't just make somebody go and take them because that is considered kidnapping if they say no.

Q. Did you encourage him to go? Did you try to get him to go?

A. Yes, sir. We do ask, we do ask several times. But like I said I cannot force somebody when they are answering all the correct -- give us the correct answers and they deny to transport we can't make them go.

MR. KING: I have no further questions, Your Honor.

THE COURT: Redirect?

MR. WARING: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. WARING:

Q. Did the defendant ever say anything about how y'all really needed to help the victim?

A. No, he never said anything about helping the victim. Like I stated he just kept saying he wanted his money, he wanted him out.

And as I approached the door again I was able to get some information about the patient from him so we would have a little bit of an idea before we went in if he was still having seizures or not and that's when he told me what he told me.

Q. And was the defendant angry with the victim?

A. Oh, yes sir. Apparently he was angry with the victim; his tone of voice, loudness. Like I said when we pulled up he was pacing in the front yard. His tone of voice was loud with me.

Q. So he may have made the call but was he actually concerned?

A. I don't believe so, sir. He did make the phone call but I don't believe he was concerned at all.

Q. Now you mentioned the word postictal. Was the victim combative?

A. No, sir.

Q. Okay. Now you hesitated a little bit.

A. No sir, I had to think for a second of when we approached on scene. When we came on scene he was not combative. When we walked into the room he was not combative.

Q. So your only knowledge of the victim being combative was coming from the defendant?

A. That's correct.

Q. Who was angry at the victim?

A. That's correct.

THE COURT: You may step down. Thank you Captain Willi.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. WARING: The State calls Jenson Swofford. Your Honor, may we approach?

THE COURT: Yes, sir.

[Whereupon, an off the record bench conference is held]

THE COURT: Mr. Foreman, ladies and gentlemen of the jury Mr. Swofford is apparently just going through security downstairs. I don't know how long it is going to take for him to get through security and up here but he is in the courthouse but he's not ---

MR. WARING: --- Your Honor, he is here.

THE COURT: He's here? Okay.

MR. WARING: The State calls Jenson Swofford.

[Whereupon, Mr. Swofford comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: From a driver's license perspective my first name is spelled Aubrey A-U-B-R-E-Y, my middle name is Jenson J-E-N-S-O-N and last name is Swofford S-W-O-F-F-O-R-D.

- - - - -

JENSON SWOFFORD,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good morning Mr. Swofford.

A. Good morning.

Q. Can you tell the jury where you work?

A. I'm a vice president with SunTrust Bank. I'm the branch manager of the Summerville branch in Summerville, South Carolina.

Q. How long have you worked there?

A. It's coming up on five years in September of this year.

Q. And do you deal with customer bank statements?

A. Yes, I do.

Q. Did you deal with them regularly?

A. Yes, I do.

Q. Are SunTrust bank statements typically generated in the normal course of business?

A. Yes, sir.

Q. And is it a regularly conducted business activity for those records to be generated?

A. Yes, sir.

Q. And are they generated at or near the time of transaction?

A. Yes, sir.

Q. Now for this case did you have the occasion to deal with the bank records for a man named Jeffrey Shiver?
A. Yes, sir.
Q. And have you had a chance to look at those records?
A. Yes, I have.
Q. Were those specific records generated in the normal course of business?
A. Yes, they were.
Q. And was it a regularly conducted business activity at that time for those records to be generated?
A. Yes, sir.
Q. And were those specific records generated at or near the time of those transactions?
A. Yes, they were.
MR. WARING: May I approach the witness, Your Honor?
THE COURT: Yes, sir.
Q. [Mr. Waring] Mr. Swofford, I'm showing you what has been marked for identification purposes as State's exhibit 89. Would you take a look at that please?
[Whereupon, the witness is shown exhibit]
Q. Do you recognize that?
A. Yes sir, I do.
Q. And can you tell the jury what it is?
A. This particular document on top here is a notification we send to clients when we suspect

suspicious activity on the debit card. That could be anywhere from fraud to just find out an unusual activity that the client may have had in the past.

Q. The documents as a whole do those fairly and accurately depict Mr. Shiver's bank statements, not just the top sheet ---

A. --- not the top sheet? Yes sir, these do.

MR. WARING: Your Honor, at this point the State moves to have State's exhibit 89 admitted into evidence.

THE COURT: Any objection?

MR. KING: No, Your Honor.

THE COURT: Okay. 89 without objection.

[Whereupon, State's exhibit number 89 is entered into evidence by the court]

Q. [Mr. Waring] Mr. Swofford, could you tell the jury what kind of accounts Jeffrey Shiver had?

A. He had a checking and savings account, sir.

Q. And can you tell the jury what the date range is for the records you just had in your hands before?

A. Yes, sir. Those are from April 2016 through September of 2016.

Q. I'm now going to put exhibit 89 on the overhead different documents at a time and I'll just ask you some questions about them.

[Whereupon, the documents are shown]

Q. Now looking at that document are you able to determine when it appears the first transactions occurred in Charleston, South Carolina for this debit card?
A. In Charleston, South Carolina specifically there was a transaction on May 26th at the Buffalo Wild Wings.
Q. Okay. And before that it appears it was elsewhere out of state, is that right?
A. Well there is one prior that is like on May 26th as well and it states Walmart Supercenter at Indian Land, South Carolina. So there is that one as well.
Q. But as far as Charleston the beginning ones appear to be in late May?
A. Correct, sir.
Q. Now based on that as well can you tell us what Jeff Shiver's checking account balance was at the end of May?
A. Based on this document here it was 1,854 dollars and 29 cents.
[Whereupon, a document is shown]
Q. Okay. Is this for his savings account?
A. This appears to be it's a combination of checking and savings; a combined statement if you will.
Q. Okay. And can you tell the jury what his balances were at the end of the month for his savings account of May?
A. The combined or the savings specifically?

Q. The savings?
A. That appears to be 13,024 dollars.
Q. Now for Jeff's debit card was that linked to just his savings or just his checking or both?
A. Both.
Q. So hypothetically whoever had access to that card and had the PIN number could they have withdrawn from either savings or checking?
A. Correct, sir.
Q. Now do you have any knowledge from the time of late May 2016 when the transactions started in Charleston, South Carolina until August 2016 were there any ATM cash withdrawals?
A. From my recollection there may have been one or either none.
Q. I'm now going to put on a different document.
[Whereupon, another document is shown]
Q. Is this the transaction you are referring to in August?
A. Yes. There is one there that the activity was actually on where you see 80828 that's the date it actually transpired on. Of course it typically will post to the account on the 29th which you see to the far left.
Q. And is that the same one I'm pointing to?
A. Correct, sir.

Q. And what's the amount of the withdrawal?
A. Its 503. It's technically just for definition it's 500 actually cash received and three dollars is an ATM surcharge accessed.
Q. Okay. And does it say what the location of that is?
A. Yes it does, North Charleston.
Q. And how about the business?
A. Yes. CPM Federal Credit Union; it's a financial institution.
Q. Mr. Swofford, I'm now showing you a different document.

[Whereupon, another document is shown]

Q. This is September 2016. When did the next ATM transaction occur?
A. On 9/8.
Q. And are you getting that from this column over here [indicates] as far as the date?
A. Correct, sir.
Q. What amount was that for?
A. 203 from an ATM there at Kwik Stop.
Q. And was that in?
A. North Charleston it reads.
Q. Okay. How about the next transaction?
A. The very next transaction was technically 9/9 over there to the far right again transaction date and that

was for 203.25 at a location in North Charleston. I'm unable to determine based on the cardtronics where that is specifically.

Q. Was there any debit card activity that is indicated on that record, not necessarily withdrawals that you can see?

A. Yes, sir.

Q. After those transactions?

A. After those two? No, they were subsequently on 9/8 and 9/9. There is just going to be different posting dates to your far left based on the time or how the card was utilized whether it be for a point of sale purchase or an ATM.

Q. What I'm referring to is these [indicates]?

A. Inquiries?

Q. Yes.

A. Yes, sir. Those were done on 9/9 as well.

Q. So what is an inquiry?

A. You are checking to see what your balance is at that juncture; what the available balance may be there for you.

Q. Were there any other cash withdrawals?

A. Yes, sir.

Q. Okay. And when were those?

A. On 9/9 there were two of them; 203 at CPM Federal

Credit Union and then 203.25 at -- again, both locations in North Charleston, the second I cannot determine based on the cardtronics used.

Q. Now looking at that specific document from September 8th to September 10th how many ATM cash withdrawals took place from Jeff's checking account?

A. That would be four, sir.

Q. Including other balance inquiries and other miscellaneous transactions?

A. Correct. Including the balance inquires a total of seven.

[Whereupon, another document is shown]

Q. Now are we looking at his savings account here [indicates]?

A. Yes, sir.

Q. Now in September looking at that document were there any withdrawals from Jeff's savings account?

A. Yes, sir.

Q. And can you tell us about those?

A. Yes. There were two of them. They both occurred on September 10th; one for 303 and one for 403 at the same location in North Charleston at a CPM Federal Credit Union.

Q. And are those actual successful withdrawals?

A. Yes, sir.

Q. Now I'm going to put back on the document that deals with his checking account withdrawals in September.

[Whereupon, another document is shown]

Q. Can you tell the jury during the course of those two days September 8th through September 10 how much cash was withdrawn with Jeff's debit card?

A. 800 dollars was withdrawn; again minus the surcharge fees you see there.

Q. Okay. And then how much was withdrawn from his savings on the date of September 10th?

A. That's 700 dollars.

Q. So during those two days combined with his checking account and his savings account ATM cash withdrawals using that debit card, Jeff's debit card how much cash was withdrawn?

A. A total of 1,500, sir.

[Whereupon, another document is shown]

Q. Now you referenced this earlier when you first took the stand. Can you tell the jury what we're looking at here [indicates]?

A. Yes, sir. Again, this is a letter that as a courtesy we mail out to clients letting them know that we have detected unusual or suspicious activity. It's a vague letter as you can read it. However, often times by the time clients receive these they have obviously have

understood that their debit card is no longer working so they would have obviously typically called our 800 number well before this letter would be even received.

Q. For what types of reasons would this be generated?

A. Various reasons. It could be again multiple ATM withdrawals, websites that we feel the card has been compromised and a variety of other reasons.

Q. Would doing eight different transactions in the course of two days for hundreds of dollars each time withdrawing from one debit card would that be considered a reason?

A. Yes, sir.

Q. And can you tell the jury when that letter was dated?

A. Yes, sir. The letter was dated September 11, 2016.

Q. And was it for the victim Jeffrey Shiver's debit card?

A. Yes, sir.

MR. WARING: Court's indulgence, Your Honor.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. [Mr. Waring] Please answer any questions the defense has.

THE COURT: Cross-Examination?

MR. KING: I have no questions for this witness, Your Honor.

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

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. OSBORNE: The State calls Investigator Dan Eckert.

[Whereupon, Investigator Eckert comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: My first name is Daniel, that's D-A-N-I-E-L and my last name is Eckert E-C-K-E-R-T.

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DANIEL ECKERT,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Investigator Eckert go ahead and tell the jury while I try to find this photo where you work?

A. Currently I am employed with the 9th Circuit Solicitor's Office. I'm an investigator for the prosecutor's office.

Q. And what are your duties and responsibilities?

A. Several different duties and responsibilities. To sum it up we assist the trial attorneys in preparing matters that come into the court and go -- matters that get set for trial whether it's tracking down witnesses,

gathering evidence, reviewing evidence, attending meetings, interviewing people; just numerous different duties are encompassed on a daily basis.

Q. Okay. And in this case did you assist Assistant Solicitor Waring in reviewing some evidence?

A. I did.

Q. And where did you do that?

A. We reviewed the evidence in our office here; our office is attached to the courthouse. We're at 101 Meeting Street on the fourth floor in the County Office Building.

Q. Okay. And you did that in this case, reviewed some of the evidence in this case.

A. That's correct. It got picked up from North Charleston Police Department, transported over to our office where it is stored in a safe secure facility. As we prepared for the trial we looked over the evidence.

Q. All right, so we're going to do this a little quicker than I thought. So we'll just talk about that incident. When you started going through the evidence was there a particular piece of evidence that you were concerned with?

A. We looked at a -- I was asked to look at a taser.

Q. Okay.

MR. OSBORNE: Your Honor, may I approach?

THE COURT: Yes, sir.

Q. [Mr. Osborne] I'm showing you what has been marked as State's exhibit number 83. Can you take a look at that and tell me if you recognize it?

[Whereupon, the witness is shown exhibit]

A. Yes, I do recognize it.

Q. And what is that?

A. That is the taser that I looked at with Mr. Waring as well as yourself.

Q. Okay.

MR. OSBORNE: Your Honor, I don't know if that has been moved in yet and if not ---

THE COURT: --- I think it has.

THE COURT REPORTER: It has.

MR. OSBORNE: It has? Okay, thank you.

Q. [Mr. Osborne] So we looked at the taser. When you as investigator were looking at the taser what were you interested in?

A. We were interested to see if it worked and if it was still functioning.

Q. Okay. And what did you do to test that?

A. We turned it on and engaged it to see if it would spark and arc as a taser does.

Q. Okay. And did it work?

A. It did at the time. That was in late February first

part of March that we examined this piece of evidence.
Q. Now you can go ahead and open it up and show it to the jury.
[Whereupon, the witness complies]
A. It is a Small Fry eight million eight hundred thousand volt taser. It has a little flashlight on it. There is an on off switch and this [indicates] is where it arcs at.
Q. Okay. I won't ask you to test it today.
A. Okay.
Q. But it worked when you tested it?
A. That is correct it did work when we tested it.
Q. And you said it has eight million or at least it claims to be an eight million volt stun gun.
A. Correct.
Q. Do you have any idea what is standard issue taser for a police officer?
A. Yes. When I was in the Mount Pleasant Police Department prior to coming to the Solicitor's Office I did 15 years with the Mount Pleasant Police Department. My last stint was in the criminal investigations division and it was standard for our officers to have tasers.
I was never issued a taser but my understanding from going through certain training classes a standard taser is about fifty thousand volts.

Q. And this claims eight million?
A. That's correct.
[Whereupon, Mr. Waring and Mr. Osborne confer]
Q. Did you test the flashlight?
A. Yes, it was all working when we tested it to the best of my recollection everything on it was working and functioning correctly.
MR. OSBORNE: No further questions, Your Honor.
THE COURT: Any questions?
MR. KING: No, Your Honor.
THE COURT: You may step down. Thank you.
[Whereupon, the witness is excused and exits the witness stand]
THE COURT: Call your next witness.

MR. WARING: The State calls Sergeant Glenn.

[Whereupon, Sergeant Glenn comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: Jonathan Glenn, J-O-N-A-T-H-A-N last name Glenn, G-L-E-N-N.

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JONATHAN GLENN,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GLENN:

Q. Good morning, Sergeant.

A. Good morning.

Q. Please tell the jury where you work?

A. I work for the North Charleston Police Department.

Q. And what was your role back in September of 2016? What was your title?

A. In 2016 I was a person's crime detective.

Q. And as a detective can you just give them a few of your duties and responsibilities?

A. I get assigned cases and be called out to cases involving violent crimes be it armed robbery, assaults,

kidnappings, home invasions, attempted murders, and murders. I would talk to witnesses, suspects, and obtain search warrants and things of that nature.

Q. Were you involved in this case, the Henry Fickling case?

A. I was.

Q. How did you get brought into that?

A. It was September the 14th I was called about 4:50 in the morning by Sergeant Lawless on a suspicious death at [redacted]. From there I get dressed and obviously go out to the scene.

Q. And you said [redacted]?

A. Yes.

Q. Is that Charleston County?

A. It is.

Q. Who was there when you got there?

A. It was Deputy Coroner Meyers and Officer Carraway was there on scene.

Q. Did you see the victim?

A. I did.

Q. And what did he look like?

A. He had lacerations to the face. There was a large one on the chin and above the eye. Obviously it was very troubling wounds like that.

Q. And up until that point where the injuries were

viewed what direction had this investigation been taking?
A. What we were told was there was a seizure that the victim was in the room and had a seizure and he was found in that state. But obviously looking at the wounds and viewing the room that went a different direction to a possible homicide.
Q. Was evidence collected?
A. Yes sir, it was.
Q. And what about Jeff's computer was that found?
A. It was, yes sir.
Q. Do you know where that was found?
A. It was found in the defendant's room.
Q. Did your investigation involve anything about Jeff's debit card?
A. It did.
Q. And how so?
A. We learned the debit card was used in several locations; one being the Kwik Stop on North Rhett Avenue in North Charleston. And it was also used at the Circle K on Remount Road.
Q. Did y'all indeed track down those video surveillance systems?
A. Yes, we did.
Q. And did you get copies of those?
A. Yes.

Q. In anticipation for this trial have you had a chance to look at those ATM surveillance videos?
A. Yes, I did.
MR. WARING: May I approach the witness, Your Honor?
THE COURT: Yes, sir.
Q. [Mr. Waring] I'm now going to show you what has already been admitted into evidence -- before I do that I'm going to show you State's exhibit 90 and 91. Would you please take a look at these and tell us what they are?
[Whereupon, the witness is shown exhibits]
A. Exhibit 90 is the transaction detail from the Kwik Stop in North Charleston. And 91 is ---
Q. --- for the ATM?
A. Yes, sir. And 91 is for the Circle K on Remount Road.
Q. For the ATM?
A. Yes, sir.
Q. Okay. So those records are ATM transaction records?
A. Correct.
Q. Okay. And do those records contain any kind of certifications?
A. Yes sir, they do.
Q. And do those certification letters certify that the

records are kept in the regular course of business, that it is a regularly conducted business activity to generate them, that they were made at or near the time of the transaction by a person with knowledge?

A. Yes, they do.

Q. Do those documents fairly and accurately depict both the ATM records for the Kwik Mart and the Circle K?

A. They do, yes sir.

MR. WARING: Your Honor, at this point the State moves to have exhibits 90 through 91 admitted.

THE COURT: Any objection?

MR. KING: No, Your Honor.

THE COURT: Okay. 90 and 91 admitted without objection.

[Whereupon, State's exhibit numbers 90 and 91 are entered into evidence by the Court]

Q. [Mr. Waring] Do you know what time system both sets of ATM records use?

A. They are both in Central Standard Time.

Q. Can you inform the jury what that means?

A. It's an hour behind Eastern Standard Time. So if it's 10 o'clock here it would be 9 o'clock on these balances here, the reports.

Q. All right. I'm now going to show you what has already been admitted into evidence, each of these

videos; first exhibit 4 which is the Kwik Mart.

[Whereupon, the video plays]

Q. Just for starters Sergeant can you tell us what date this is?

A. It says September the 8th 2016.

Q. And is this the Kwik Mart we're looking at here?

A. Yes, sir.

Q. And were you in here previously when Ms. Boyd identified that individual as the defendant?

A. I was.

Q. And is that the defendant approaching the ATM?

A. It is, yes sir.

Q. And you've got the records up there, correct?

A. Correct.

Q. Okay. Does the time on that ATM video does that sync up with the records that you have in front of you?

A. It does, yes sir.

Q. For the Kwik Stop; they are consistent?

A. Yes, sir.

Q. And what does it say that the defendant is doing at that time?

A. This transaction is a withdrawal of 200 dollars was requested with a fee of three dollars and he was given 200 dollars -- it was approved and given to him at this time.

Q. Was it a successful withdrawal?
A. It was, yes sir.
[Whereupon, the video stops]
Q. Okay, Detective I'm now going to show you what has already been admitted as State's exhibit 91, which is the Circle K.
[Whereupon, the video plays]
Q. Is this the Circle K we're looking at?
A. Yes, it is.
Q. And were you present in the courtroom when Ms. Boyd identified this individual as the defendant?
A. I was.
Q. And what is the date for this?
A. The date is September the 9th of 2016.
Q. And referring to the ATM records for the Circle K for September 9th 2016 does the time of the ATM records link up with the time that you're seeing on the video screen?
A. It does, yes sir.
Q. Now can you take the jury through what is taking place?
A. At this time there is a balance inquiry out of the checking account. After that there is a withdrawal from the credit card account, the amount is 300 dollars, which was not approved.

Q. And in a bit Sergeant I'll actually put that on the overhead.
A. Okay.
Q. What is the defendant doing right now?
A. He's leaving the store.
Q. What's he doing now?
A. Coming back in and approaching the ATM.
Q. Okay. Sergeant, I'm now going to put on exhibit 91, which is the Circle K records.
[Whereupon, the document is shown]
Q. Now beginning on September 9th 2016 at 22:33:28 what is occurring at that time?
A. It's a balance inquiry from the checking account.
Q. Okay. And is this one of the transactions that occurred while the defendant was on screen?
A. Yes sir, it is.
Q. Is that checking or savings?
A. Checking account.
Q. How about the next transaction below it?
A. It's a withdrawal from the credit card account and the requested amount is 300 dollars which was not approved.
Q. Okay. So is that what that zero denotes under approved amount?
A. Yes sir, it is.

Q. What about the next transaction?
A. There is a withdrawal from the savings account. The requested amount is 200 which is not approved as well denoted by the zero next to it on the right.
Q. Okay. So first was the balance inquiry checking?
A. Yes, sir.
Q. Then there was a withdrawal attempt from the credit card?
A. Yes, sir.
Q. Then another failed withdrawal from the savings?
A. Correct.
Q. Okay. And now what is going on next?
A. There is another balance inquiry into the checking account.
Q. Okay. And then lastly what happens here?
A. There is a withdrawal from the checking account in the amount of 200 dollars which was accepted.
Q. So after all these failed attempts and balance inquires while the defendant was on there he did get one successful withdrawal?
A. Correct.
Q. And was all this taking place while he was on the video that we just saw?
A. Yes, it was.
Q. Do you know if Jeff's vehicle was ever found?

A. It was, yes.
Q. Do you know where it was found?
A. The Sunoco that is on Rivers Avenue near Tipson [phonetic] Street and it was located there actually September 14th about 8:20, 8:30 that morning.
Q. So is that the day after the death of Jeffrey Shiver?
A. Yes, sir.
Q. And what kind of vehicle was it?
A. It's a grey Chevy Trailblazer.
MR. WARING: Court's indulgence.
[Whereupon, Mr. Waring and Mr. Osborne confer]
Q. [Mr. Waring] Now initially when you responded to the scene and when North Charleston responded to the scene to your knowledge was the victim's vehicle on scene?
A. No sir, it wasn't.
Q. Okay. And when y'all found it you said it was at the Sunoco?
A. Yes, sir.
Q. The next day?
A. Correct.
Q. And is that after the victim had died?
A. It was.
MR. WARING: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. [Mr. Waring] I'm now showing you State's exhibit 7 through 9. Do you recognize those?

[Whereupon, the witness is shown photographs]

A. Yes, sir. These are pictures of the victim's vehicle that were taken for a search warrant for the vehicle.

Q. Do those photos fairly and accurately depict the victim Jeff Shiver's vehicle that was found at the Sunoco?

A. Yes, they do.

MR. WARING: Your Honor, the State moves to have exhibits 7 through 9 admitted into evidence.

THE COURT: Any objection?

MR. KING: Relevance, Your Honor.

THE COURT: Okay. 7, 8, and 9 admitted without objection.

MR. KING: Your Honor, I did make a relevance objection.

THE COURT: Pardon?

MR. KING: I did make a relevance objection.

THE COURT: You did make a relevance objection?

MR. KING: Yes, sir.

THE COURT: Okay. Overruled. I'll admit 7, 8, and 9 with objection.

[Whereupon, State's exhibit numbers 7, 8, and 9 are entered into evidence by the Court]

[Whereupon, the photograph is shown]

Q. [Mr. Waring] Is that Jeff's car that y'all found?

A. Yes, sir.

Q. Okay. Now, I'd like to go through a timeline of events here. As detective on this case were you the case agent?

A. Yes.

Q. And can you enlighten the jury what that means?

A. As a case agent whoever was doing interviews or anybody taking part in this investigation would feed that information back to me. I would keep the timelines and case notes and kind of be the gatherer of the information and review all the information for the case.

Q. I'm going to need you to speak up just a tiny bit louder.

A. Yes.

Q. Now let's go back through the timeline. Based on your investigation when did this murder take place?

A. It was September the 13th in the afternoon hours. The coroner was saying it was 12 hours before we arrived or were dispatched.

Q. Okay. About what time was the defendant pulled over by Charleston County on his moped?

A. It was September the 13th and it was about 8:15 that night on the 13th.
Q. Based on your investigation that would have been after the murder?
A. Correct.
Q. About what time was the 911 call?
A. It was 2:40 in the morning on September the 14th.
Q. And about what time was the victim's vehicle found?
A. It was 8:20 that morning September the 14th.
Q. Now have you had the occasion for this case to pull up a photo of the defendant?
A. I have, yes.
Q. I'm now going to show you what has been marked for identification purposes as State's exhibit 92.
[Whereupon, the witness is shown photograph]
Q. Do you recognize that?
A. I do, yes.
Q. And is that a photo of the defendant?
A. It is.
Q. And does that fairly and accurately depict what the defendant looked like when he was arrested?
A. It does, yes.
MR. WARING: Your Honor, State moves to have exhibit 92 admitted into evidence.
THE COURT: Any objection?

MR. KING: No, Your Honor.

THE COURT: Okay. 92 admitted without objection.

[Whereupon, State's exhibit number 92 is entered into evidence by the Court]

[Whereupon, Mr. Waring and Mr. Osborne confer]

[Whereupon, the photograph is shown]

Q. [Mr. Waring] Sergeant, do you see any injuries on the defendant?

A. No, sir. I do not.

MR. WARING: Court's indulgence.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. [Mr: Waring] Sergeant, do you know the date and time that photo was taken?

A. This photo is September the 14th around 5:00 p.m.

Q. A.M?

A. P.M.

Q. Please answer any questions the defense has.

THE COURT: Cross-Examination.

CROSS-EXAMINATION

BY MR. KING:

Q. Detective Glenn, you got that video of Hank using the ATM, using the card at the ATM right? That was part of your investigation?

A. Yes, sir.

Q. And you've used an ATM before right?

A. Yes sir, I have.

Q. So you know you can't just put someone's card in the ATM machine and get money out, right?

A. Correct.

Q. You have to have a PIN number?

A. Yes, sir.

Q. And unfortunately you're not able to question Mr. Shiver to find out if he had given Hank permission to use that card or not, right?

A. I don't know.

Q. You heard testimony about the Wi-Fi?

A. Yes sir, I have.

Q. Did you inquire into that at all to see from I guess the cable company if the Wi-Fi password had been changed? Did you investigate that at all?

A. I did not call the cable company, no sir.

MR. KING: Those are all the questions I have, Your Honor.

THE COURT: Redirect?

MR. WARING: No further questions, Your Honor.

THE COURT: You may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Can I see the attorneys up here just a second?

[Whereupon, an off the record bench conference is held]

THE COURT: Mr. Foreman, ladies and gentlemen of the jury things are moving along sort of rapidly this morning and so we're going to take a break at this time because our next witness may be rather lengthy and I want to go ahead and take our morning break. In about 15 or 20 minutes we will get you back. Please leave your notepads in your chair and don't discuss the case amongst yourselves.

[Whereupon, the jury exits at 10:34 a.m.]

THE COURT: We'll take about a 15 or 20 minute break.

[Whereupon, court is in recess from 10:35 a.m. until 11:03 a.m.]

THE COURT: Solicitor, you got the doctor here?

MR. WARING: Yes, Your Honor, we do.

THE COURT: Okay. Bring us the jury. Were you able to get the other doctor on the way?

MR. KING: Yes, Your Honor. He's supposed to be here at 11:30.

[Whereupon, the jury enters at 11:05 a.m.]

THE COURT: Call your next witness please.

MR. WARING: Thank you, Your Honor. The State calls Doctor Phillips.

[Whereupon, Doctor Phillips comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last name for the record.

THE WITNESS: Angelina Phillips, A-N-G-E-L-I-N-A P-H-I-L-L-I-P-S.

- - - - -

ANGELINA PHILLIPS,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WARING:

Q. Good morning, doctor. How are you doing today?

A. I'm okay; I have some allergies.

Q. Doctor, please tell the jury where you work?

A. I work at MUSC; Medical University of South Carolina.

Q. How long have you worked at MUSC?

A. I've worked there for three years.

Q. And what is your occupation?

A. I am a forensic pathologist.

THE COURT: Let me interrupt you for a second. Do

you have any objection to Doctor Phillips qualification as a forensic pathologist?

MR. D'ANGELO: I do not, Your Honor.

THE COURT: I'll so find but please introduce her to the jury. I'm not trying to stop you from doing that. Please proceed.

MR. WARING: Your Honor, do you want me to go ahead and declare her an expert?

THE COURT: I'm going to declare her as a qualified pathologist, forensic pathologist. But go ahead and introduce her to the jury and ask her questions, okay.

MR. WARING: Yes, Your Honor.

Q. [Mr. Waring] Doctor Phillips, were you involved in the autopsy of the victim in this case Jeff Shiver?

A. Yes.

THE COURT: Go into her qualifications. I'm not trying to stop you from doing that. Just shorten it a little bit.

MR. WARING: Yes, Your Honor.

Q. [Mr. Waring] What are your qualifications, doctor?

A. I am trained in forensic pathology. By that I mean that I have completed an undergraduate education in pathology. I've gotten a Master's degree in nutrition and then I completed my medical education in medicine at SUNY in New York. Then I completed a residency certified

in anatomic and clinical pathology. Then I completed fellowships and certified in forensic pathology.

Q. Can you please tell the jury what forensic pathology is?

A. Forensic pathology is a subsection of the overall field of pathology. It's generally dealing with autopsy and the use of medicines as applicable to the law for determining cause and manner of death.

Q. How about what an autopsy is?

A. An autopsy is the external and internal examination of the body. And I use that to determine the cause of death.

Q. Have you performed autopsies before?

A. Yes.

Q. Approximately how many?

A. Over 600.

Q. Can you tell the jury how an autopsy is performed?

A. Yes. So an autopsy is performed initially we get a case sent to us. Usually the coroner in the state of South Carolina will refer someone who has died for autopsy.

And we perform an external examination documenting the external surface of the body; any natural disease that we can identify, injuries that we can identify and basic information pertaining to the identification of

that person. Then we open up the body and examine the internal organs individually looking for any natural disease or injuries.

Q. How did you get brought into this specific case?

A. In this case it was referred to our department by the Charleston County Coroner's office.

Q. Do you know the date and time that this victim was brought to MUSC?

A. I'd have to refer to my report.

[Whereupon, the witness reviews document]

A. He was brought to the autopsy department on the day it was reported, which would have been on the 14th of September and we performed the autopsy on the 15th.

Q. Is that 2016?

A. 2016.

Q. When you received the victim's body was he already deceased?

A. Yes.

Q. And did you personally conduct the autopsy?

A. I did.

Q. Did you notice any injuries right off the bat?

A. The decedent did have several injuries that were clearly visible, yes.

Q. Can you describe for the jury all of his injuries please?

A. The main injuries the decedent had were to the head and neck region. He had a laceration over the left eyebrow forehead region and a laceration is basically a tear in the tissue akin to what you would consider a cut.

He also had fractures underlying that, fractures to the nasal bridge so the nose and the eyebrow and the bone around the eye. The left orbit or eye had collapsed. The other injury that he had was a laceration to the chin in the midline of the chin.

Then the neck area had a lot of subcutaneous hemorrhage, contusion wasn't visible on the skin surface but once we reflected the skin we were able to see that. And in that region he also had a fracture or a crack of the larynx.

And that's the area of the throat and the region that was fractured is the interior portion of what we consider the Adam's apple; so right down the middle of the front of that.

Additionally -- I'll have to refer to my report here -- there was some hemorrhage to the tissues of the neck, the muscles surrounding the neck. The hyoid bone was fractured and he had hemorrhaged in the anterior tip of the tongue. Those were the main injuries.

Additionally he had contusions on the chest, abdomen and back. There were areas of hemorrhage in the muscles

of his chest. His ribs on the right and left were fractured. He had one fractured rib on the right and two on the left.

Additionally to that on the extremities he had contusions on his right shoulder muscle deltoid, left forearm, and the bi-lateral lower extremities or legs.

Q. Can you take us through procedurally how you proceeded with this autopsy?

A. Yes. When the body came to us it is placed on a table. We begin taking photographs as it is on the table. I documented his external injuries so the lacerations, contusions, and abrasions; blunt trauma that I could see visibly on the surface of the body.

Additionally I performed the basic external examination looking at his hair color, height, weight, basic features.

And once that was completed a second set of photographs was taken. The skin was reflected and then the rib cage was removed and I examined the internal organs after that.

Q. Did these injuries, all the ones you described, did those look natural?

A. No.

Q. Were you able to make any kind of determination about what kind of injuries those were?

A. Those were blunt trauma injuries.
Q. And can you go into detail about what that means?
A. Yes. So blunt trauma consists of your abrasions or scrapes, lacerations tears in the tissue, fractures, a break of tissue usually bone and contusion, which is bruising. The decedent had all of those in his autopsy examination.
Q. Were you able to come to any conclusion about the cause of death?
A. Yes.
Q. And what was that?
A. Blunt trauma to the head and neck.
Q. Now you referenced a blow above the eye and below the chin. Could either of those blows have been incapacitating?
A. Yes.
Q. Are there different types of blunt trauma?
A. As I said the types of blunt trauma are contusions, abrasions, lacerations, and fractures.
Q. I guess what I'm asking is, is there a difference between -- is there such a thing as velocity blunt trauma?
A. How the trauma is inflicted is different from -- so the category of blunt trauma really is just describing the type of trauma as compared to sharp trauma, which

would involve a sharp instrument. Both can have different ways of being inflicted; so crushing, velocity, different mechanisms so to speak.

Q. Now if you had to come to a conclusion about one specific blow that was the fatal injury what would that be?

A. The injury to his neck including the fracture of the larynx.

Q. And you mentioned velocity and crushing what does the larynx or trachea injury appear to be? Does that appear to be caused by velocity or crushing?

A. It could be either but in my opinion it's more likely a crushing injury.

Q. How about the injuries above, the one above the eye and the one below the chin?

A. That could be more consistent with a velocity type injury or a swing.

Q. Is it easy to fracture a trachea?

A. No.

Q. Can you fill in the jury on what might be required to do such a thing?

A. To fracture the trachea you would require a heavy crushing pressure or weight. The range that I have seen is between 35 and 45 pounds or a swing with a velocity of over 11 miles per hour. These are enough to create the

force required to crush or fracture the larynx.
Q. So in other words somebody would have to really be trying to fracture their trachea when they do that?
A. Yes.
Q. Now if somebody's trachea is fractured is that instantaneous death?
A. No.
Q. What might happen?
A. The fracture of the trachea obstructs the airway so you have an airway that is compromised. And additionally there is hemorrhage or bleeding which may also compromise the airway blocking the flow of oxygen in the lungs.
Q. Could that cause somebody to spit up blood?
A. Yes.
Q. And did the victim in this case have blood in his throat?
A. Yes, he did.
Q. How about defensive wounds?
A. The decedent had contusions to the back of I believe the left forearm and that could be consistent with a defensive type wound. That is the region you would see defense wounds.
Q. What is a defensive wound?
A. A defensive wound is something we locally classify as wounds to the backs of the forearms or the palms of

the hands. And it is when a person is trying to protect themselves from an oncoming blow so they will hold up their extremities to protect themselves.

Q. Now do you recall whether anybody from North Charleston Police Department attended the autopsy?

A. Yes. We had investigators who attended.

Q. And did they bring anything with them?

A. They brought a crowbar to show and ask if it was compatible with the injuries.

Q. Did they bring other possible weapons as well?

A. A picture of a taser or possible taser too.

Q. Did they bring other tools other than the crowbar?

A. No.

Q. That you recall? You don't remember whether they brought a pry tool or anything like that?

A. Just the crowbar to my memory.

Q. Okay. Now were photos taken during the autopsy?

A. Yes.

Q. And have you seen those photos?

A. Yes.

Q. In your opinion would it assist you in explaining to the jury your testimony, the extent of the injuries if you refer to those photos?

A. It could, yes.

Q. Would they help explain the cause of death?

A. Yes.
Q. Now did you also do a diagram for the victim's injuries?
A. I did.
Q. Would the actual photos assist you in explaining in a better manner than just referring to the diagram?
A. The photographs do highlight it clearer than my diagram.
MR. WARING: May I approach the witness, Your Honor?
THE COURT: Yes, sir. Are those the diagrams?
MR. WARING: Your Honor, this is the diagram with the actual photos.
THE COURT: Which photos do you have objections to? I believe we've got 95 through 103 is that correct?
MR. D'ANGELO: Yes, Your Honor.
THE COURT: Just tell me which photos you have objection to by number?
MR. D'ANGELO: Your Honor, I would just renew our earlier objection ---
THE COURT: --- I know but I want to put on the record which specific photos you have an objection to.
MR. D'ANGELO: Yes, Your Honor, it was 98 and 99.
THE COURT: Okay. You've got an objection to 98 and 99? Any of the other photos?
MR. D'ANGELO: 95, Your Honor, and 96.

THE COURT: 95 and 96. Okay, do you have objection to the diagram of the full body diagram of the head?

MR. D'ANGELO: That's exhibit 93? No, Your Honor.

THE COURT: That's 93 and 94 do you have an objection to those?

MR. D'ANGELO: No, Your Honor.

THE COURT: Okay. 93 and 94 admitted without objection, 97 without objection, 100 without objection, 101 without objection and 102 without objection. And I believe 103 without objection, is that correct?

MR. D'ANGELO: To be clear Your Honor, the objection is from 95 to 100.

THE COURT: Okay. So you object from 95 to 100?

MR. D'ANGELO: Yes, Your Honor.

THE COURT: And now you're changing it; okay. What's your objection to 95 through 100 photos?

MR. D'ANGELO: Again, I would just state under 403, Your Honor.

THE COURT: Okay. Having previously reviewed the photos in camera the court admits 95, 96, 97, 98, 99, 100 with objection. 93, 94, 101, 102, and 103 are admitted without objection. Does that cover them all?

MR. WARING: Your Honor, 93 to 103 I believe so.

THE COURT: All right. Thank you, sir.

[Whereupon, State's exhibit numbers 95 through 100

are entered with objection into evidence by the court]

[Whereupon, State's exhibit numbers 93, 94, 101, 102 and 103 are entered into evidence by the court]

Q. [Mr. Waring] Doctor, I'm going to put some photos on the overhead. I'd caution the audience that these are graphic. First your diagrams.

[Whereupon, the diagram is shown]

Q. I'm referring to exhibit 93. What are we looking at here?

A. This is a diagram of the male body that I documented the injuries and external findings in the decedent.

Q. Okay. And can you kind of take us through what is going on up here [indicates] with the head?

A. So on the head we have, and obviously it does not photocopy very well, a laceration I have designated A on the left forehead. That is just along the eyebrow so it doesn't show up very well.

And that extends on to the nasal bridge. And I have documented its size, location and any pattern injuries that I see with that and how deep it is.

The other injury I have is a laceration to the mid chin on the left side of the diagram; again documenting its size, location and depths and any other injuries associated with it; small abrasions and contusions on the side of the face on the right. And then we have the

injuries to the neck which is the band like contusion its size, a dried abrasion to the right shoulder along the clavicle, at the end of the clavicle. And an aggregate of contusions that was visible or bruising on the right shoulder. And that's the main upper body injuries that I could see on the skin.

And as you go further down the contusions on the lower aspect of the back and the left lower quadrant of the abdomen, and we also see the contusions I described on the back of the left forearm.

And with that we go further down and we have the injuries to his lower extremities which are ecchymosis another word for bruising, and contusions.

Q. Doctor, I'm now going to show you next one of the autopsy photos State's exhibit 95.

[Whereupon, the photograph is shown]

Q. Please tell us what we are looking at here?

A. This is a photograph of the decedent's face and head. And that is showing the laceration to his forehead or eyebrow region and the associated abrasions and contusions with that. The laceration to his chin is not visible because of his beard.

[Whereupon, the photograph is shown]

A. And that is a picture of the laceration to his chin after it had been shaved.

Q. And that's exhibit 96, Doctor. I'm now showing you State's exhibit 97.

[Whereupon, the photograph is shown]

A. This is a picture of the right shoulder region highlighting the dried abrasion I see at the clavicle and the shoulder and the faint contusions that were visible on his shoulder region.

Q. Doctor, have you had an opportunity to take a look at the taser involved in this case?

A. I saw a picture of a taser tip and I did see a taser was presented to me, yes.

Q. Okay. And do you recall looking at the end of the taser?

A. Yes.

Q. Do you remember any distinguishing characteristics about the end of it?

A. At this time, no.

Q. Would it help if I put a picture on the overhead?

A. Yes.

Q. I'm now referring to State's exhibit 64.

[Whereupon, the photograph is shown]

Q. Does that look like the taser that you took a look at at some point?

A. Yes.

Q. And do these [indicates] appear to be triangular

shaped configurations?
A. They look that way, yes.
Q. Now does that wound appear to be consistent with the end of a taser?
A. It could be consistent. I would not know for sure.
Q. But it looks consistent; is that what you're saying?
A. Yes.
Q. I'm now referring you to State's exhibit 98.
[Whereupon, the photograph is shown]
Q. What can you see in that photo?
A. This photo is of the decedent's back. And what we see here are some faint contusions to the lower back; additionally livor pattern which is a settling of the blood.
Q. Are those contusions blunt trauma?
A. Yes.
Q. I'm now showing you State's exhibit 99.
[Whereupon, the photograph is shown]
Q. What are we looking at here?
A. We are looking at the decedent's forearm. I believe it is the left and that is highlighting the contusions described on the forearm and small lacerations to the back of the hand.
Q. And you had mentioned earlier, are those defensive wounds?

A. Those could be consistent with defensive wounds, yes.

Q. Next I'm showing you State's exhibit 100.

[Whereupon, the photograph is shown]

Q. What are we looking at here?

A. This image is showing the decedent's torso and the congestion blanching pattern over the interior surface of the chest and the absence of that on the abdomen.

Q. Now you mentioned the word livor. Can you explain to the jury what livor is?

A. Livor is a postmortem change. It is the settling of blood. Once a person dies and their heart stops beating the blood stops flowing and it settles in the vessels and eventually settles into the tissues.

And we describe livor as either fixed or unfixed. Unfixed is when it is relatively new and it can still be blanched. Fixed is I cannot blanch that; it is now settled into the tissues.

Q. So is this blanching of the livor is that what you call it?

A. Yes.

Q. Does that occur postmortem?

A. That occurs -- well livor is a postmortem finding. The pattern that we see depends on the position the body was in.

Q. Okay. Now for example if I showed you State's exhibit 38.

[Whereupon, the photograph is shown]

Q. Do you see the remote and what looks to be a Gatorade bottle there [indicates]?

A. Yes.

Q. Does the orientation of those two objects as far as proximity look consistent with the patterns on the victim's shoulder and stomach?

A. That could explain the pattern in those two positions, yes.

Q. Would that be consistent with the victim lying on his stomach?

A. The livor pattern is consistent with the victim lying face down at the time of death.

Q. Doctor, I'm now going to refer you to State's exhibit 10.

[Whereupon, the photograph is shown]

Q. There was testimony that this was the orientation of the victim's body at the time the police responded. Based on your testimony about the livor and the remote and the Gatorade pattern that he was lying down on his stomach does it appear that the victim's body was moved?

A. It is possible that the victim's body was moved. I cannot say for sure. The livor pattern that I have at

autopsy livor is also shiftable in the postmortem period until it becomes fixed. The blanching could be consistent with him laying on the remote and that leaving the imprint. However, the pattern I see at autopsy also is consistent with this position.

Q. Okay. But it's possible based on the photos that we have put up and the pattern on the stomach and shoulder that he could have been moved?

A. Correct.

Q. Postmortem?

A. Correct.

Q. Now I'm showing you State's exhibit 101.

[Whereupon, the photograph is shown]

Q. What are we looking at here?

A. This is a close up image of the decedent's neck and it's highlighting the bruising that is visible on the skin.

Q. And does this indicate the fatal blow?

A. That is the region of the fatal blow, yes.

Q. Doctor, I'm next going to put up State's exhibit 102.

[Whereupon, the photograph is shown]

Q. What are we looking at here?

A. This is an image of the skin and neck muscles after they had been reflected. And it's highlighting again the

bruising and hemorrhage into the soft tissue or subcutaneous tissue of the neck.

Q. Does this illustrate the fractured trachea?

A. I don't believe this -- I cannot tell by the picture but it might. What I can see, it's a little blurry as a black and white; I'm sorry.

But I can see the thyroid gland; it's the butterfly gland in the neck. And just above that should be where the fracture is.

Q. And again you testified earlier that that takes approximately 35 to 45 pounds of pressure?

A. Correct.

Q. If it were a crushing blow?

A. Right, yes.

Q. Okay Doctor, I'm going to show you State's exhibit 103.

[Whereupon, the photograph is shown]

Q. Please tell us what we're looking at here.

A. This is another picture of the skin reflected. And that is highlighting the hemorrhage into the soft tissues and muscles of the shoulder and chest region on the right.

Q. And that hemorrhaging, those dark areas, is that something easily accomplished or is that the result of blunt trauma?

A. That is blunt trauma. It is deep tissue contusion or bruising. It's just not visible on the skin at the time of autopsy.
Q. So the darker the area the more indicative of blunt trauma?
A. The darker the area the more indicative of areas of hemorrhage. It's associated with blunt trauma.
Q. Do you know what the height and weight of the victim were?
A. Yes. The victim decedent was 181 pounds and he was 69 inches in length or 5'9".
Q. Okay. And when y'all do autopsies do you do toxicology reports?
A. Yes.
Q. And what's a toxicology report?
A. In this decedent we sent urine and cardiac blood obtained at the time of autopsy. And the toxicology lab analysis reported a positive or presumptive positive of benzodizepines in the urine and cardiac blood had caffeine and alcohol.
Q. Now you said alcohol. What was his blood alcohol level?
A. His blood alcohol level was 26 milligrams per deciliter which is a blood alcohol content of zero point two six percent.

Q. Was that point 0 two six or zero point two six?
A. Point 0 two six, zero point 0 two six.
Q. Now hypothetically if the victim had a higher blood alcohol level at the time of his death could that have gone down to that point 0 two six at the time between his death and two days later when the autopsy was?
A. That is possible, yes.
Q. Now you mentioned benzodizepines. What is benzodizepines?
A. It is a class of drugs medications that is used for sedative or anxiety treatment.
Q. Can it also be used as an anticonvulsant?
A. It is also used for management of people who have seizures yes.
Q. And can its presence dissipate after death possibly?
A. It can, yes.
Q. So hypothetically could the victim have had a higher dosage of benzodizepines in his system at the time of death?
A. That is possible.
Q. What are typical affects of being on benzodizepines?
A. It is a sedative medication so it will relax a person and just generally reduce anxiety and that's the main treatment effect that it has.
Q. Was there any crack found in the victim's system?

A. No.
Q. Now there was some mention by the defense in their opening statement that the defendant smoked crack. Can you tell the jury what symptoms somebody might express while smoking crack?
A. A person who has smoked crack cocaine which is a stimulant drug would have -- it has a stimulant affect on the body so it increases or heightens the awareness, can make one aggressive; just active, increased activity.
Q. Doctor, have you ever heard the term overkill?
A. Yes.
Q. Can you tell the jury what it is?
A. It is a general layperson term that designates a case where there is over the number of injuries that is necessary to kill a person.
Q. Do you know what instances typically constitute overkill?
A. Generally when someone is referring to overkill they are referring to someone who's got a reason for anger or an increased emotional reason behind their I guess crime.
Q. Is one of the other typical ways of having overkill somebody who is high on crack?
A. That is something that could cause that presentation, yes.
Q. So hypothetically if the defendant were high on

crack at the time of the incident would that help explain the vast extreme nature of the injuries?

A. I could not say how it would affect the defendant. That is beyond my expertise. However, in persons who do crack that is something you could see.

Q. So it could help explain, and I'm not talking about necessarily the defendant, but it could help explain if somebody were high on crack the extreme nature of overkill injuries?

A. Yes.

Q. Please answer any questions the defense has.

MR. D'ANGELO: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. D'ANGELO:

Q. Good morning, doctor. It's good to see you again. I have a couple of questions. In regards to the body's conditions, I believe we just heard some of these, but you were able to describe the body and you wrote a report on that, correct?

A. Correct.

Q. Okay. And you stated that in examining the body the body seemed well developed?

A. Yes.

Q. Well nourished?

A. Yes.

Q. I believe he was 181 pounds 41 year old?

A. Correct.

Q. And again in looking at the condition of the body the muscles didn't appear to be atrophied at all or anything?

A. No.

Q. He seemed healthy?

A. Yes.

Q. In regard to the toxicology report that was done and again, simplifying this greatly is testing the blood to see what is in the blood, correct?

A. Right.

Q. And again he had alcohol, alcohol in the blood?
A. Alcohol and caffeine.
Q. Okay. And the alcohol you stated was zero point zero two six.
A. Correct.
Q. And you're familiar with the legal limit to drive?
A. Yes.
Q. Zero point zero eight?
A. Yes.
Q. So obviously this is well below that?
A. That's correct.
Q. And you also mentioned, and let's see if I am pronouncing this correctly, benzodizepines?
A. Benzodiazepine.
Q. Okay. And you stated that was in his system as well?
A. That was detected in the urine.
Q. In his urine. And obviously it would not be recommended to be taking a drug like that and mixing it with alcohol?
A. No.
Q. Again, that could have very adverse effects on the body?
A. Correct.
Q. Now, I know from speaking with you prior you're

familiar with alcohol withdrawal syndrome?
A. From my medical education, yes.
Q. And I understand that's been a while but you did during your medical education, your time in med school, you did learn about that, correct?
A. Correct.
Q. And again I'm probably incredibly simplifying this down but you would agree that someone who would be considered an alcoholic when they have a drop in the alcohol levels in their system it can have a negative effect on their body?
A. A chronic alcoholic with a drop of alcohol could have a negative effect, yes.
Q. And this can exhibit itself in a handful of different symptoms, right?
A. Correct.
Q. They could experience seizures?
A. Yes.
Q. They could also and while various people they could experience anxiety, right?
A. Yes.
Q. Agitation?
A. Yes.
Q. Aggression?
A. Correct.

Q. Confusion?
A. Yes.
Q. Now you were talking about that the body showed defensive wounds, right?
A. Yes.
Q. Now the term defensive wounds that's essentially just a classification that you use to describe, right?
A. It is a category that we use to describe the location.
Q. Exactly. So again obviously you don't know whether they were defensive wounds or offensive wounds. You don't know how those wounds happened?
A. I do not know that.
Q. Again, for example if a man was to have injuries on the back of his arm because he was swinging his arm and someone was using a metal object to block it you would expect to see injuries on the back of his arm, correct?
A. Yes.
Q. Also injuries to a person's knuckles that could be considered an offensive wound as well, right?
A. It could be, yes.
Q. Again, from looking during the autopsy again there was no wounds to the palms of the hands, right?
A. There were not.
Q. Now you mentioned a number of injuries to the head.

I believe the Solicitor asked you a question that you had been provided a crowbar, correct?
A. Yes.
Q. Were you provided with a picture or the actual crowbar?
A. They showed me the actual crowbar.
Q. Okay. And you would agree that that crowbar was roughly about three feet long or so?
A. From my recollection that would be correct.
Q. Okay. But I notice in your report you had stated that you believe that object could be consistent to cause the injuries, right?
A. Yes.
Q. Because primarily you stated that the injuries were caused by a long narrow object.
A. That is the likely object that would have caused these injures.
Q. Okay. Something that had to be a long narrow object, right?
A. Yes.
Q. So again no necessarily assurative with that particular crowbar but it could be consistent.
A. Correct.
Q. And I know when we had spoken last time hypothetically if you were to use a tool that is called a

cat's paw and again it's essentially a third of that size but the tip of this tool cat's paw would still have that long narrow end that could also cause these injuries, correct?

A. Having not seen what a cat's paw looks like I can just say that if it's a narrow blunt object it's possible.

Q. Again, if this tool was consistent with a crowbar except it's literally just a third. It's a foot long; it could possibly cause this injury, right?

A. Yes.

Q. Now I believe you stated essentially the fatal blow in your opinion would have been to the larynx?

A. Yes.

Q. Again, in layman's terms it's the Adam's apple?

A. The Adam's apple.

Q. And you described it as in your opinion it was more consistent with a crushing blow, right?

A. Yes.

Q. But again it could be either a crushing blow or it could be from I believe the term is velocity?

A. Velocity or multiple swings, yes.

Q. Which again that would all depend on essentially the speed it is being swung at, correct?

A. Yes.

Q. And the item itself?
A. Yes.
Q. So for example if I were using this tissue box for example that is on the table that's not a very heavy object, right?
A. Correct.
Q. If I was swinging it no matter how hard I'm swinging it might not still cause that same injury, right?
A. It would require a lot more ---
Q. --- it would cause a tremendous amount of velocity ---
A. --- you would have to -- it's going back to your physical physics class, the calculation for force. I don't do those calculations but.
Q. Certainly. So again obviously if you have a very heavy object swinging it's going to cause that injury more likely than a light object, right?
A. Correct.
Q. And again a large man swinging a heavy object could certainly cause the crushing of that larynx, right?
A. It's possible, yes.
Q. You also stated it's possible that you don't know how the body was orientated when it received these injuries?
A. I do not.

Q. Certainly the man could have been standing and received this blow to his neck, correct?
A. That is possible, yes.
Q. Could have received the blow to the chin and the blow to the eyebrow?
A. Correct.
MR. D'ANGELO: A moment, Your Honor.
THE COURT: Yes, sir.
[Whereupon, Mr. King and Mr. D'Angelo confer]
Q. [Mr. D'Angelo] Lastly Doctor again I'm just going to simplify down this benzo [phonetic] drug that was found, that was in his urine correct?
A. Yes.
Q. So not in his blood?
A. Correct.
Q. So that would mean it is already metabolizing out of his body, right?
A. Yes.
Q. So it wouldn't be having the same effect on his body had it been in the blood still, correct?
A. I couldn't speak to the effect. All I can say from it being in the urine and not in the blood is that at sometime in the past he had taken a benzodizepines medication.
Q. Okay. And again the fact that it is in the urine is

that the body is already processing it out, correct?
A. Correct.
MR. D'ANGELO: Thank you, Your Honor.
THE COURT: Redirect?
MR. WARING: Thank you, Judge.

REDIRECT EXAMINATION

BY MR. WARING:

Q. Doctor, back on the topic of benzodiazepines the autopsy was done how many days later?

A. Two days.

Q. Okay. So is it possible that the victim had a higher amount at the time he died?

A. That is possible, yes.

Q. And one of the uses for benzodiazepines is anticonvulsant?

A. Correct.

Q. Now on the topic of the weapon you were brought that crowbar but do you really know if it was that exact crowbar?

A. I don't know that.

Q. Because you weren't there, right?

A. I was not.

Q. Okay. Is it your testimony that it would have had to have been some type of weapon kind of like that but not necessarily that crowbar?

A. Correct.

Q. Okay. Would each of the blows to the eye and the chin and the neck in and of themselves have been incapacitating?

A. Yes.

Q. And how about the taser? There was testimony it generated eight million eight hundred thousand volts. Could a jolt from that taser in and of itself possibly have been incapacitating as well?
A. Yes.
Q. So is it your testimony that this victim sustained, and we're just talking about those few wounds, those wounds just in and of themselves each one of them would have been incapacitating, is that right?
A. Correct.
[Whereupon, Mr. Waring and Mr. Osborne confer]
MR. WARING: No further questions, Your Honor.
THE COURT: You may step down, Doctor. Thank you so very much.
[Whereupon, the witness is excused and exits the witness stand]
THE COURT: Call your next witness.
MR. WARING: Your Honor, the State rests.

THE COURT: Mr. Foreman, ladies and gentlemen of the jury I am going to have to take up certain motions with the attorneys at this time. I don't know how long it will take but it probably should not take very long. If you will leave your notepads in your chairs I'll get you back hopefully in about five or ten minutes.

[Whereupon, the jury exits at 11:52 a.m.]

THE COURT: Does the State have any motions?

MR. WARING: No, Your Honor.

THE COURT: Any motions from the defendant?

MOTION FOR DIRECTED VERDICT

MR. KING: Yes, Your Honor. I'd make a motion for a directed verdict. There has been some testimony from his wife on the stand. There may have been some testimony about she said that he had been stealing money. But as far as a murder goes all she could say is he was walking out the room with a crowbar and a taser. She didn't know where he was going. No one witnessed what happened in the room. So I think that's some circumstantial evidence but I don't think it's enough to go to the jury.

We had some testimony from Mr. Bellinger the jailhouse snitch who testified to some statements. But I think his creditability he admitted that he is trying to do whatever he can to help himself get a better sentence in federal court. And his testimony has no creditability; there is not enough evidence to go to the jury, Your Honor.

THE COURT: Okay. Anything the State would like to put on the record?

MR. WARING: Your Honor, there has been substantial evidence that has come out through this whole trial that this was murder. And I think there is enough to give it to the jury, Your Honor with it in the light most favorable to the State we would ask you to deny that motion.

THE COURT: All right. Motion denied.

THE COURT: Do you have Doctor Saef; is he around or is he here?

MR. KING: He's here.

THE COURT: He's here? Okay, anything before we bring the jury back?

MR. WARING: Not from the State, Your Honor.

THE COURT: Anything from the defendant?

MR. KING: No, Your Honor.

THE COURT: What I'm going to do is listen to his testimony on behalf of the defendant and the State is going to cross and at some point after that I will talk to your client about his Fifth Amendment Rights, okay?

MR. KING: Yes, Your Honor.

THE COURT: Bring us the jury.

[Whereupon, the jury enters at 11:56 a.m.]

THE COURT: All right. Mr. King, you can call your first witness, please.

MR. KING: Thank you, Your Honor. The defense calls Doctor Steven Saef.

[Whereupon, Doctor Saef comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record.

THE WITNESS: Steven, S-T-E-V-E-N Saef, S-A-E-F.

- - - - -

STEVEN SAEF,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KING:

Q. Doctor Saef, where are you currently employed?

A. Medical University of South Carolina.

Q. What kind of education and experience do you have in the medical field?

A. Medical School, University of Miami class of '83, residency in Internal Medicine finished in 1986, residency in Emergency Medicine and finished in 1988.

Q. What was your position back on August 11, 2016?

A. Faculty at Medical University of South Carolina.

Q. You treated patients back then?

A. Oh yes, emergency medicine.

Q. How many years experience in emergency medicine?
A. Thirty years.
MR. KING: Your Honor, at this time I'd offer Doctor Saef as an expert in emergency medicine.
THE COURT: Any objection?
MR. OSBORNE: No, Your Honor.
THE COURT: All right, court so finds.
Q. [Mr. King] Doctor Saef did you have an occasion to treat a patient named Jeffrey Shiver?
A. Yes. According to the record I took care of him.
Q. Do you remember when that was, what date that was?
A. I don't have the chart in front of me but it was the date on the chart I took care of him.
Q. If you had the medical records would that help refresh your memory?
A. I could read it directly off the chart, yes.
MR. KING: May I approach, Your Honor?
THE COURT: Yes, sir.
[Whereupon, defendant's exhibit number 4 is marked by the court reporter]
THE COURT: Are you going to introduce those records?
MR. KING: For I.D. purposes only.
Q. [Mr. King] I'm showing you defendant's exhibit 4 for identification only.

[Whereupon, the witness reviews document]

Q. After reading that do you remember the date that Jeffrey Shiver was treated?

A. Yes, August 11, 2016.

Q. Why was he there? Why was he at the hospital?

A. He came in by EMS because bystanders had called EMS and stated he had had two seizures.

Q. And when you treated him did he have any sort of conditions? What was -- how did you treat him?

A. He was initially brought into a room on, from reviewing the chart he was brought in as a patient with a seizure, placed in a treatment room, seen by one of our providers who presented the patient to me and we treated him according to our medical knowledge for a seizure.

Q. Can you explain what might cause seizures? Or do you know what could have caused a seizure in Mr. Shiver?

A. According to the chart the most likely cause of his seizure was alcohol withdrawal.

Q. Can you explain those types of seizures and what happens to someone when they have those seizures?

A. Someone who is chronically dependent on alcohol and drinks it on a regular basis the central nervous system becomes adapted to it. It's as if they are continually living under the effects of a drug that is a sedative. When you withdraw the sedative the central nervous system

becomes hyperactive and can seize spontaneously.
Q. So seizures can be a symptom of a withdrawal from alcohol?
A. Absolutely.
Q. And it's your opinion I guess to a reasonable degree of certainty in your field that Mr. Shiver's seizures were caused by alcohol withdrawal?
A. Yes.
Q. Are there other symptoms of alcohol withdrawal other than seizures?
A. It's a progression. There is a spectrum of symptoms. It starts with a tremor and then a worsening tremor followed by progressive delirium, a confused state that is due to a medical illness of the central nervous system. The term delirium tremens is shakes of delirium. Delirium is a confusional state that is a consequence of the illness.
Q. Can one of the symptoms of alcohol withdrawal to be agitation?
A. Yes.
Q. Can someone be aggressive or combative if they are having these withdrawal symptoms?
A. Yes.
Q. Did you assess his overall health like as far as whether he was malnourished or any other problems going

on? Did you assess that?
A. We did a general assessment in the chart under physical exam.
Q. How did he appear? Did he appear weak and frail or what was his I guess constitutional; is that how you describe that?
A. I don't remember him specifically so I'm going entirely off the chart. There is no general description of him. Constitutional says he is oriented to person, place and time. He appears well developed and well nourished. No distress.
Q. So he wasn't -- his body hadn't deteriorated where he was so weak he couldn't walk or move or anything like that right? There is nothing wrong with -- he was well nourished and well developed you said?
A. According to the chart that's correct.
Q. Have you dealt with in your experience people who are alcoholics like this before?
A. Yes.
Q. Now if someone in that condition does that make them weak or frail or can they when they are not drinking do you think Mr. Shiver would have had any problems standing or walking or anything?
A. It's possible. Alcoholics are chronically malnourished because typically they don't eat. Alcohol

itself becomes their food.
Q. But you examined him and he was well nourished, right?
A. That's what it says on the chart, correct.
Q. Any correlation between someone being an alcoholic and their physical strength?
A. Well, they are going to be malnourished. They are going to be not robust. They can be powerful but they are not healthy people especially if they are chronic, they are missing vitamins, they are missing protein; they don't have a balanced diet.
Q. But you said they can be powerful?
A. They can be, yes they can be very strong.
MR. KING: Thank you, Your Honor. No further questions.
THE COURT: Cross-Examination?
MR. OSBORNE: Just briefly.

CROSS-EXAMINATION

BY MR. OSBORNE:

Q. Doctor, benzodiazepines is that a medication that is prescribed to individuals who are going through alcohol withdrawals?

A. It is.

Q. Why?

A. We use it in the emergency room typically intravenously because as I said before the central nervous system is adapted to a chronic sedation from alcohol.

And when people start to withdraw we can replace that sedation to quiet the central nervous system with benzodiazepines which sedate the brain through a pharmacological mechanism that replaces the alcohol.

Q. Okay. And I don't know; is benzodiazepines also used to treat anxiety?

A. Yes.

Q. So it's an anti-anxiety sedative used to relax them?

A. I believe it is classified as a sedative hypnotic.

Q. Okay. Mr. King asked you about delirium tremens. And you have the victim's medical records from August the 11th?

A. I do.

Q. Just to familiarize us go into a little bit more

detail about delirium tremens. I've read a couple different things on this. Is this something that starts to show or surface after as soon as eight hours of alcohol not reaching an alcoholic's system?

A. It's possible. It depends on how much the person has been drinking and how quickly they stopped. If they tapered alcohol they can have a more gradual onset. If they stopped abruptly it can happen very quickly.

Q. And in those kinds of two steps you did mention the tremens being the handshakes or shakes?

A. The classic situation for an alcoholic who has become dependent is they need an eye opener because they wake up shaky. Just that period of sleep is enough to cause them to develop tremors.

Q. And delirium means the confusion state?

A. Correct.

Q. And Mr. King says that sometimes when individuals suffer from DT's or delirium tremens they become combative.

A. That's correct.

Q. And I know I'm putting you in an awkward spot but can you look through the 150 pages of medical records and see if on August the 11th Mr. Shiver was diagnosed or treated for DT's; delirium tremens?

A. You know I'm only familiar with the portion that was

in the emergency department.
Q. Okay. And in the emergency department he was actually treated for seizures, is that correct?
A. Well, his treatment for seizures included the treatment of alcohol withdrawal. So the development of delirium tremens it's not just from one moment to the next. It's a gradual spectrum -- progression on a spectrum of disease.

So by coming in with seizures in the setting of alcohol withdrawal he is already classified as a patient who is just as ill as someone with delirium tremens. He is already in that spectrum of severe withdrawal; that part of the spectrum.
Q. So you can't have one without the other though or am I wrong?
A. Yes, absolutely you can have one without the other. You can be delirious and not seize or you can seize and not be delirious.
Q. All right. Seizures; let's just go through that in a little bit more detail. Earlier in the trial and you weren't in here but the term postictal phase came up.

So is it fair to say that when an individual has a seizure they go through various stages ending in the postictal phase?
A. It actually ends with recovery of a normal mental

state. Postictal phase is part of the process.

[Whereupon, State's exhibit number 116 is marked by the court reporter]

THE COURT: What number; 115?

MR. OSBORNE: 116. Your Honor, may I approach the witness?

THE COURT: Yes, sir.

Q. [Mr. Osborne] I'm showing you now what has been marked as exhibit number 116. This is for demonstrative purposes. I believe my investigator showed you this chart earlier?

A. Yes.

Q. Would this help you explain to the jury some of the different phases that an individual goes through having a seizure?

A. Yes.

Q. Would you agree with the representation on that chart of what happens during a seizure; the symptoms that are displayed there?

A. Yes. There would be another picture showing the patient coming back to normal but those are the parts that we see in a seizure.

MR. OSBORNE: Your Honor, at this time I would seek to publish 116 for demonstrative purposes?

THE COURT: Okay.

[Whereupon, the chart is shown]

Q. [Mr. Osborne] We're not going to harp on this too long, doctor. So the first couple of phases is called a tonic-clonic phase?

A. Right, the patient collapses and will shake.

Q. And I think sometimes that is referred to as general mal?

A. Grand mal.

Q. So there is a loss of consciousness and this is the convulsions that you see sometimes or that you would see in this phase?

A. Right. The tonic-clonic is sort of simultaneous. They're shaking, you know going both ways.

Q. And do you recall -- I see that sometimes an individual might clench their jaw and they might have a tongue injury?

A. Oh, yes definitely.

Q. Do you recall if Mr. Shiver did have a laceration to his tongue?

A. I don't have any specific recollection but it's well-documented on the chart.

Q. Okay. Incontinence?

A. I think that was documented also. I'd have to look; I don't remember.

Q. And now it's postictal phase. So we have

drowsiness, confusion ---

THE COURT: --- you told him to look at his chart. Give him the opportunity to look at it.

Q. [Mr. Osborne] Are you looking for the tongue laceration?

A. No, I know he had a tongue laceration. I just don't remember if it was documented that he was incontinent.

[Whereupon, the witness reviews document]

A. Yes, urinary incontinence was documented.

Q. Okay. And then I see we have confusion, temporary and mild and then postictal phase?

A. That's correct.

Q. And lastly we have weakness.

A. Right. When people recover from a seizure they have these loud snoring respirations and they remain unconscious. So that's what the colloquialism of swallowing your tongue comes from.

It's not from the seizure itself; it's from the noisy postictal phase where they just snore so heavily and they're unconscious. It's like in a deep sleep and then they gradually wake up.

Q. According to this it can last for as much as a day or two.

A. It can last longer than that. Sometimes it lasts days. It depends on how much the brain has been

stressed.

[Whereupon, Mr. Waring and Mr. Osborne confer]

MR. OSBORNE: No further questions, Your Honor.

THE COURT: You want to collect your 116 please and give it to the court reporter.

[Whereupon, Mr. Osborne complies]

THE COURT: Thank you very much. Any redirect?

MR. KING: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. KING:

Q. Doctor Saef, it's after the seizure is over and later that someone is tired and weak is that what you were testifying to?

A. As they recover they gradually wake up. And they will generally be exhausted and they will go to sleep a lot of times.

Q. But seizures are only one symptom of withdrawal from alcohol.

A. That's correct.

Q. There are other symptoms you can have without a seizure.

A. Absolutely, yes.

Q. And you testified those could be being agitated, aggressive, combative?

A. That's right.

MR. KING: That's all the questions I have.

THE COURT: Doctor, you may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Mr. Foreman, ladies and gentlemen of the jury I've got to take up some matters with the attorneys before we break for lunch but I'm going to let you go to lunch at this time. I don't know how long it's going to take us to do that, probably 15 or 20 minutes; I'm not sure. But I'm going to send you to lunch at this time. If you will be back in the jury room at 2 o'clock we'll get started at that time. Please leave your notepads in your chairs and don't discuss the case with anybody.

[Whereupon, the jury exits at 12:14 p.m.]

FIFTH AMENDMENT RIGHTS

THE COURT: Mr. Fickling if you will please stand and raise your right hand.

[Whereupon, the defendant complies]

[Whereupon, the witness is duly sworn by the Court]

THE COURT: I'm going to advise you of your Fifth Amendment Rights, okay. If you don't understand the question please tell me ---

MR. FICKLING: --- yes sir ---

THE COURT: --- or if you want to discuss any of the questions with your attorney before you answer please let me know and I'll give you an opportunity to do that. Do you understand?

MR. FICKLING: Yes, sir.

THE COURT: Do you understand in a criminal case no one can compel you to be a witness against yourself. In other words no one can compel you to testify in a criminal case. Do you understand?

MR. FICKLING: Yes, sir.

THE COURT: It is the State's responsibility to find you guilty. It's not your responsibility to find you innocent. Do you understand?

MR. FICKLING: Yes, sir.

THE COURT: And no one can compel you to do it. That's a right and privilege that extends only to you.

It's a personal privilege that you have. Do you understand?

MR. FICKLING: [No response]

THE COURT: Do you understand?

MR. FICKLING: Yes, sir.

THE COURT: You have the right to testify or not testify. Do you understand?

MR. FICKLING: Yes, sir.

THE COURT: Not your attorney but you; do you understand?

MR. FICKLING: Yes, sir.

THE COURT: I will grant you a right to talk to your attorney before you make a decision on whether you want to testify or not testify. Do you understand?

MR. FICKLING: I need to testify.

THE COURT: I understand. We'll get to that in a minute. If you elect not to testify your failure to testify cannot be used against you as an inference of guilt and your failure to testify cannot be considered by the jury in the deliberations and I will so instruct the jury. Do you understand?

MR. FICKLING: I trust the jurors --

THE COURT: Pardon?

THE COURT REPORTER: --- I'm sorry; I didn't ---

THE COURT: --- I didn't ask you that. Listen to

my question and answer it please sir, okay. I told you that your failure to testify cannot be used by the State as an inference of guilt and your failure to testify cannot be considered by the jury in their deliberations. Do you understand that?

MR. FICKLING: Now I understand, yes sir.

THE COURT: That's all I'm asking you; do you understand it?

MR. FICKLING: Yes, Your Honor.

THE COURT: Do you understand if you elect to testify you will be obligated to answer the questions. You can't sit on the stand and refuse to answer one question because of the Fifth Amendment and answer another, do you understand? It's not like television. You either decide not to testify or you get on the stand and answer all the questions. Do you understand that?

MR. FICKLING: Yes, sir.

THE COURT: Has anybody forced you or threatened you or intimidated you to make you testify?

MR. FICKLING: Oh, no sir.

THE COURT: Pardon?

MR. FICKLING: No, sir.

THE COURT: Has anybody forced you or threatened you or intimidated you so you would not testify?

MR. FICKLING: No sir ---

THE COURT: --- has anybody tried to force you not to testify?

MR. FICKLING: No, sir.

THE COURT: Have you talked with your attorney about testifying?

MR. FICKLING: Yes, sir.

THE COURT: Have you understood those conversations?

MR. FICKLING: Yes, sir.

THE COURT: Do you understand what I have explained to you?

MR. FICKLING: Yes, sir.

THE COURT: Do you have any questions about what I have explained to you?

MR. FICKLING: No, sir.

THE COURT: Do you want to talk to your attorney about your right to testify or not testify before you make a decision?

MR. FICKLING: My decision is already made. I need to testify.

THE COURT: So you want to testify, is that correct?

MR. FICKLING: Yes, sir.

THE COURT: Do you have any questions at all about the testimony or what's going to happen during the

testimony?

MR. FICKLING: No, sir.

THE COURT: Do you have any questions about what I just explained to you?

MR. FICKLING: No, sir.

THE COURT: Mr. King, anything you would like to put on the record on his right to testify under the Fifth Amendment and his waiver of that right?

MR. KING: No, Your Honor.

THE COURT: Have you explained it to him?

MR. KING: I have.

THE COURT: Did he appear to understand?

MR. KING: Yes, Your Honor.

THE COURT: Do you think there is any question that he understands his right to remain silent?

MR. KING: No question, Your Honor.

THE COURT: I don't know if -- are there any criminal cases which he could be impeached with?

MR. KING: I don't think so, Your Honor. I think his record is outside the ten years.

THE COURT: Does the State plan on impeaching him with any criminal history?

MR. WARING: Your Honor, not unless it becomes relevant with him opening the door.

THE COURT: What's his prior criminal history?

MR. WARING: Your Honor, he has a CSC with a Minor from the 90's.

THE COURT: CSC 1st?

MR. WARING: I believe it is second degree, Your Honor ---

THE COURT: --- second with a minor? When?

MR. WARING: Back in 1993, Your Honor.

THE COURT: '93?

MR. WARING: Yes, Your Honor.

THE COURT: What was the sentence on that?

MR. WARING: He got 20 years Your Honor but he only did I think 11.

THE COURT: He did 11?

MR. WARING: Yes, Your Honor.

THE COURT: Okay. Well that's outside the timeframe.

MR. WARING: I'm not seeking to bring in any of that unless he opens the door, Your Honor.

THE COURT: I understand. Any other criminal history that you may be able to impeach him with?

MR. WARING: Not that I can tell, Your Honor.

THE COURT: Pardon?

MR. WARING: Not that I can tell, Your Honor.

THE COURT: All right. Thank you very much. I appreciate it.

MR. FICKLING: I didn't check I.D.'s. I apologize.
THE COURT: I'm sorry?
MR. FICKLING: I didn't check the I.D. I apologize. I got it wrong --
THE COURT: Okay. Thank you, sir.
MR. FICKLING: But yes sir, I did.
THE COURT: All right. Thank you, sir. We'll adjourn until 2 o'clock.
MR. WARING: Thank you, Judge.
[Whereupon, court is in recess from 12:20 p.m. until 2:32 p.m.]

[Whereupon, defendant's exhibit numbers 5 and 6 are marked by the court reporter]

[Whereupon, court's exhibit number 2 is marked by the court reporter]

THE COURT: Anything from the State before we bring the jury out?

MR. WARING: No, Your Honor.

THE COURT: Anything from the defendant?

MR. KING: No, Your Honor.

THE COURT: Bring us the jury please.

[Whereupon, the jury enters at 2:34 p.m.]

THE COURT: If you will call your next witness, please.

MR. KING: Thank you, Your Honor. The defense calls Henry J. Fickling, Jr.

[Whereupon, Mr. Fickling comes forward]

[Whereupon, the witness is duly sworn by the Clerk of Court]

CLERK OF COURT: Please state your first and last name and spell your last for the record, please?

THE WITNESS: Henry James Fickling, Jr.

- - - - -

HENRY FICKLING,

Having been first duly sworn,

Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KING:

Q. You go by Hank?

A. Yes, I do.

Q. How old are you Hank?

A. I'm 58.

Q. And where were you born?

A. The old Baker Hospital in 1959.

Q. Where did you go to school in your early years?

A. I went to Fishburne and then I went to Horizon House and then I didn't go to school. I went to work really early.

Q. Let me ask you, what is the highest grade you

completed in school?
A. Probably not even sixth.
Q. Sixth grade?
A. Yes. I'm self-educated but I'm pretty educated.
Q. Tell us about what kind of work you did? You said you went to work after you got out of school. What kind of work did you do?
A. My father owned a few sewing machine stores around town. I started out working in them. I worked on sewing machines, I sold sewing machines, I cleaned the toilets because we owned the store. I didn't like the window washer but he wouldn't let me wash the windows. He still paid a window washer. I just you know...
Q. Where were you living in 2016?
A. I was living on [redacted].
Q. And who were you living with?
A. Me, my girlfriend of nine years, Jaimie Lunney, and Mr. Shiver.
Q. Tell us about what kind of income -- well first --
MR. KING: May I approach, Your Honor?
THE COURT: Yes, sir.
Q. [Mr. King] I'm going to show you defendant's exhibit number 6 and I want you to take a look at that.
[Whereupon, the witness reviews document]
A. Yes, sir.

Q. Do you recognize that?
A. Yes, sir.
Q. What is that?
A. That is a summary of my disability.
Q. Okay. That's how much money you get every month?
A. Yes, it is.
MR. KING: Your Honor, the defense would offer to move in defendant's exhibit 6 at this time.
THE COURT: Any objection?
MR. WARING: No, Your Honor.
THE COURT: Okay. Defendant's number 6 admitted without objection.
[Whereupon, defendant's exhibit number 6 is entered into evidence by the court]
Q. [Mr. King] About how much income would you get from your check?
A. It was like 735 after I paid my child support out of it.
Q. So you had that money coming in every month. How much did you pay for the trailer and the land you were staying on?
A. I bought the trailer from the lady and I never did transfer it but I was in an agreement that I paid 200 dollars. I had like a half acre. It was a lot of work and I had to keep up the maintenance on the trailer so.

Q. So 200 dollars is what you paid?
A. That's all I paid her. She wanted a little more but I did a lot of work.
Q. And you had tenants as well. You rented those two rooms out.
A. Yes, I rented the two rooms out because I do get a little check. I draw disability a little early. I fell off a building on Meeting Street.
Q. How much did Jaimie pay in that?
A. Jaimie was paying 425 dollars. It was 420 because she had her own furniture so I give her five dollars a month. And then Jeff was paying he started out paying 250 and then his rent went up about a week before this bad incident happened.

And it was going to go to 350 because the room I had it painted, a refrigerator put in there and a microwave put in there and I had a smart T.V. going in behind his T.V. He did have a T.V.

Q. Jaimie said she paid less than that.
A. Huh?
Q. Are you sure Jaimie didn't pay less? She said she paid less and you said 425.
A. I don't know what she says but she was paying me -- I let her come in there with no deposit. Jeff was the same way; he came in with no deposit.

Q. So you had your disability check coming in, you had your tenant's rent coming in.

A. And I have a junk business which it does pretty good most of the time. I got a little dog I ride around with. People will pet the dog and they give me all the junk in their yard because I'm cleaning up their yard.

Some people making 50,000 dollars a year old washing machine and dryers they love when you -- they almost paid me to come get them. So I cash all that in at the scrap yard. I separate them, the motor is worth something.

If you take it apart it's worth a lot more. So you've got to separate the steel from the copper to the aluminum to the brass to the iron and the stainless steel.

Q. Were you and Lynn getting any other sort of benefits?

A. She got 200 dollars a month food stamps and I got 140 dollars a month food stamps.

Q. Did you have money saved away or anything?

A. Yes, I saved money because I actually rode a bicycle and pulled a cart around for years and would save the money. I had no insurance.

My driver's license is as clean as a pen. The insurance ain't no problem but I felt that if I got off that bike that I was going to get fat. And then I laid

up in this place and look at me. I look like a balloon, man. I really looked a lot better and I felt a better. And then...

Q. Tell us about Jeffrey Shiver. How did you meet him?

A. I had an ad on Craig's List. I started using Craig's List. I used to get guys and help them out. I've even given them a couple of weeks to get on their feet and find a job and pay me ten dollars a day for that same room.

I used to actually get more money for that room. And it kind of went down a little bit so I just put on there -- I was going to -- I took that money and fixed it up a little bit and came back you know. But I do save my money.

Q. How did you meet Jeffrey Shiver?

A. On Craig's List. He called and answered the ad. And at first I rejected him because he was an out of towner. Out of towners are like fly by nights to me. They leave something to come to something you know.

And they're kind of hard to check up on and all that. So you know I have animals, I have girls and I just -- you know there are just certain factors that you have to worry about you know.

Q. You said you rejected him at first. Why did you agree to take him?

A. He said on the phone he said why won't you rent to me? I'm a good guy and all that there. I said why you want to come here. He said because I have a job at Hyman's Seafood.

And I know of the Hymans of Greenville and here because I've been around. So I said okay, you've got a job at Hymans Seafood that's fine. He said he closed out a house and he was getting out. He had part of a bar.

And then I asked him why do you want to rent here and he said because it looked like a good deal. He said all I want is a bed. And I do put in my ad come and go as you please and mind your own business and I'll mind mine; stuff like that you know. I treat people like I like to be treated.

Q. Now how was Jeff -- did he have money?

A. He sent money on Lynn's pay pal. I told him I said -- he said can you hold it and I said no, I've got an open ad going first come first served. He first sent me 50 dollars. Then a few days went by and I couldn't get a hold of him.

And I said look man you don't answer your phone; that's something I don't -- I answer my phone. You call me I answer the phone. I told him I can't find you for days and he said oh, I'm sorry. I said what's going on? When are you going to be here? Well, I ain't going to be

able to be here but I'm going to send you some money.
Q. How much did he send you?
A. Oh God, about 800 dollars.
Q. What was that for?
A. Not 800 dollars; it was 600 dollars or something like that. It was a large amount. It was a three months. He paid the three months.
Q. Okay. He paid three months in advance?
A. Yes.
Q. How was Jeff? When he moves in there and starts living there how was he with his money? Was he stingy?
A. How was he with his money?
Q. Yes.
A. All I seen was we'd ride around in the truck. He had me showing him everything. And he had a card and he used his card. I've got a debit card.
Q. Did Jeff ever buy you anything?
A. Yes. He bought me and Lynn cigarettes and stuff. And I told him I said I started taking a list and taking it off the rent. If I could bring my other tenant they will tell you I've very fair about stuff.
When you do something I take it off or whatever. I gave Jaimie 20 dollars off her rent to put a band aid on Lynn one day you know. It's just the way I do things you know.

Q. Did you like Jeffrey?
A. Yes, I did like him. He laughed at all my jokes. Most people who laugh at my jokes I kind of like. He was all right at first and then the drinking started. And then the first thing he did was he threw up on a very expensive hide a bed I had in the living room. That's why we had a little raggy futon and he actually paid for that.

But I had to throw away a Broyhill. I threw it away because he threw up and it got all in the mattress and all this stuff so I took it out and threw it away. And I was going to put a futon in there.

I was thinking about getting a futon anyway because the thing was light anyway. So anyway I said that's all right; I kind of forgave it because I did acquire it with money. I did acquire it but it still was an expensive piece you know.

So I ended up going all the way downtown and buying a futon from a little college girl and it had a little hole in it. She first wanted 50 dollars for it. I said well I'll give you 40 dollars for it and I'll haul your junk off for you so she let me get it for 40 dollars.
Q. Okay. So once Jeff had moved in you noticed the problem with drinking?
A. Yes. And I said something about it and he said

don't make fun or whatever. I said look, you've got to calm down a little bit you know. And we was in the truck one day and he'd wake up and say let's go get some breakfast.

I said man; I can't eat out every day like you. I said I don't know what you can do but I know I can't eat out. I have to make my own omelets. And he liked to go out.

I introduced him to Pappy's on Remount Road. He liked it. He tried to go down into the heart of Charleston and hang out with the big shots and that's gets expensive when you start hanging out with those big shots you know. You've got to kind of like -- so he said how about lets go. And then he was drinking ---

MR. WARING: --- objection, Your Honor. I'm going to have to object to all this hearsay.

THE COURT: I'm sorry what?

MR. WARING: I'm going to object to all this hearsay he keeps mentioning.

THE COURT: I'll sustain the objection.

Q. [Mr. King] Don't talk about what other people said. I'm going to ask you the questions. What did Jeffrey's room look like after he was staying there a while?

A. It was all right. He hung his shirts up and it was clean. He wasn't that bad. He took showers. Really he

actually took more showers that I did and I kind of was embarrassed because I work and I fall asleep and then I would take a shower.

But anyway he was real clean at first yes. And he talked with diplomacy, a little education. And then he got drunk one day and he said something about money, give me some money ---

Q. --- let's not talk about what he said.

A. Okay.

Q. You said he was clean at first. Did that change?

A. Yes.

Q. How did that change?

A. He urinated on himself, he soiled himself. I washed his -- I would pick up his clothes and wash his clothes. And he would buy me things. I waited on him hand and foot and yes he did buy me a few things.

But I'm not -- when I finally seen that he was just going to go through everything and then he was going to be a burden on me that's when I started talking to him. And it just got out of hand. I even -- I didn't know what to do you know.

Q. Let's talk about something else that has come out; the crack cocaine. Tell us about that. Why were you using that?

A. I really wasn't on it until he got to talking about

stuff around the bars and stuff. And somehow he said can you get anything ---

Q. --- let's not talk about what he said. Let's talk about ---

A. --- anyway I got some one night and it escalated from there to do you want some more. And he would send me out because all you have to do is go right around the corner and it's like 20 of them you know. And you know ...

Q. So both of you used crack?

A. Yes, we did.

Q. Would you smoke it together?

A. Mostly yes, you had to because he would take it from me and put it in a book. And I told him I said only get what you're going to do. I don't want it hanging around the house because I don't ever know when that policeman is going to knock on the door looking for another tenant or something. I was very paranoid, yes.

Q. Now you've heard throughout the trial some testimony about Jeff not going out very much, is that right?

A. No, he got really bad about that. Driving the truck he almost ran -- on Remount Road he did this [indicates]. He pulled right in traffic and I grabbed the wheel from him and I saved us. I saved us because I am a driver; my record speaks for itself. So anyway we got across and I

said get out. I said let me take this truck home now and he said okay. So I took the truck home even though I had expired driver's license. Not nothing wrong with it I just didn't go get it renewed so it expired because I was riding on bikes you know.

So anyway I got the truck home and next thing you know he'd tell me to take the truck. I mostly rode my bike and made most of the errands and stuff. And then my bicycle tore up. And my bicycle actually cost as much as the moped I bought. They cost 800 -- it's a Riley Sportster. It's a really expensive bike if you go to a bike shop.

Anyway so I bought the little scooter out of my truck money. I was saving up for a truck. Well, I got a lien and levy in the mailbox and my ex-wife says I can take anything you got.

Q. So anyway why ---

A. --- so I got a lien and levy so I bought a moped to go around her and I rode the moped. That's when I got the moped and I got the receipt before that man's money ever come into any kind of play.

Q. We're getting there ---

A. --- okay.

Q. So how much vodka was Jeffrey drinking?

A. Oh he would send me out for a gallon. If you check

the liquor store around the corner I was always in there. I made so many runs. Of course he would buy me a pack of cigarettes. I go around the corner I make four bucks, you know.

Q. So he would get his vodka -- how did you say he got his vodka?

A. Yes, until I told him no on the 13th and that's when he tried to go get it himself.

Q. Hold up. We're -- how would Jeffrey get -- let me ask this can you buy crack with a credit card, with a card?

A. No, he would send me out to get money.

Q. How did Jeffrey get his cash?

A. He handles it up until I got the thing over there. I only went and drawed exactly 1,300 dollars of what he told me. I couldn't swipe the card anywhere to buy a pack of cigarettes or nothing.

I had to bring him back exactly the cash and the receipt and he checked his balance. He checked his balance. He was in the truck actually he was in the truck one time when he checked the balance he was outside that gas station; not the Kwik Stop.

I tried to go in the Kwik Stop because they all know me. I do their cars and stuff. I detail cars. I do their BMW's in the parking lot. I do their parking lot

too. I work. I make money.
Q. How much does crack cost?
A. We got slabs at a time and then it escalated to -- I bring in a slab and it don't take long to -- you break it up and it's just -- it's a bad thing.
Q. How much is a slab?
A. A hundred dollars.
Q. How long does that last?
A. Not long, maybe an hour or 30 minutes. It don't last long. It's a very -- not long because it's -- I don't drink and I never got hooked on nothing. It grabbed me. I got to admit, it did grab me. So yes we was -- but it didn't grab me to where I didn't pay my bills. I paid my bills.
Q. What about prostitutes? Were there ever any prostitutes ---
A. --- oh yeah, I picked up girls.
Q. What about Jeff?
A. Oh, Jeff gave them money for shoes and this and that.
Q. Did he ever -- did you ever see him pay money to a prostitute?
A. Oh yeah, he gave them money. He had them in the room. Any girl that come along and looked kind of good Jeff was all over them. He was all over Jaimie but he

couldn't -- you know Jaimie is way out of his class.
Q. Now you've seen that video of you going to those ATM machines, right?
A. Huh?
Q. You've seen that surveillance video where you go into the Kwik Mart and you ---
A. --- I know they got surveillance. That's why I go there.
Q. Now were you stealing from Jeffrey?
A. No, I wasn't stealing. I don't steal from nobody. All my life I don't steal from old people or people like that.
Q. Did you have the PIN number?
A. Yes, he gave me the PIN number.
Q. Let's talk about Jeffrey's seizures. Do you remember the first time he had a seizure?
A. Yes. It wasn't as bad as the second one but it was pretty bad. I called the -- he had bite his lip and stuff and actually some of that blood in the room could have come from them seizures. I'm serious because he -- and that's when he started getting -- everything started going really downhill.
Q. How many times did EMS respond to ---
A. --- well, the first time the room was changed around different before he ordered -- he ordered this chair for

his room from Walmart. It cost 140 something dollars. He had it shipped right on my doorstep. I didn't even know he dropped it.

I went out there and almost stepped on it and I said what's this? And he said that's a chair for my room. And I said well you got to ask me before you bring furniture into my house you know.

So anyway he was in between the nightstand and the bed. And he was actually choking, he was like choking. I luckily heard him and I swear he sounded like one of my cats in trouble.

So I ran in the house and that was him. Lynn couldn't do it; she just froze. And I helped him and everything and I said call 911 and I held him. I held this man, okay.

I've seen people with seizures before because I've been in a boarding home before and they had them and when I got sick one time when I was downtown in a place.

Q. So did he ever go to the hospital?

A. No, they came there and he wouldn't go that time. And the second time he had one I was mad. I said look you're going to go to the hospital or I'm going to put you out now; I don't care. I did everything -- I just wanted him to go to the hospital, okay because I don't know what to do ---

Q. --- do you remember ---
A. --- so he went to the hospital.
Q. Do you remember when that was?
A. I forgot. It wasn't long but I forgot. Anyway ---
Q. --- how did he end up at the hospital?
A. How did he get home?
Q. How did he end up at the hospital?
A. Took the ambulance. The truck was in the yard.
Q. Well, why did he go to the hospital; what reason?
A. Because he had that seizure and I convinced him he had to go to the hospital that time.
Q. So he went to the hospital?
A. Yes, sir.
Q. Do you know how long he stayed?
A. Friday, Saturday and he come Sunday -- no, Thursday, I think it was Thursday and Friday. It wasn't long; just a couple of days but he came home on a Sunday.
Q. Did you ever talk to Jeffrey's family?
A. No, it was Saturday. He came home was it Saturday? It was Saturday because I went to the junk yard. Yes, it was a Saturday. He was in there for about two and half days anyway.

And the first thing I did was I did call his father because they wouldn't let me see him or inquire about him. So I called because his people had already called

that number. We traced the number back through my phone and through the house phone and I called his father and informed him that he was up there. And I did tell him he was drinking and stuff. His father apparently got a hold of him and I kept trying to ask him about him.

He popped up at the house. He got MUSC to give him cab money or they gave him a cab like some kind of welfare thing and he popped up at the door. I said why you home? How come you come home so early? And he said I ain't paying ---

Q. --- let's don't talk about what he said.

A. Okay.

Q. How did he feel about you calling his family; calling his father?

A. Oh, he was mad. He didn't say nothing at first and then he went out and got drunk. He actually went to the bar and everything. He went to Smokey's.

You can look on his records he went to a lot of bars. He spent a lot of money in bars. He would take people to bars except me because I don't drink.

Q. So how did he react when he found out that you called his father?

A. After he got drunk he lit into me and -- Lynn, she got part of her story straight, he did lit into me. And I took it. I kind of took it. I knew if I -- I just

wanted to let him rub me and I was like whatever and he said don't ever do that again. He made me feel like I'm a snitch and all that there. So I said okay whatever.

Q. How many times did EMS have to respond to your house total?

A. They came again after that.

Q. Was that three times?

A. I think a three on there. No, the last time they come was the 13th. Anyway I'm having trouble; I have to look on the records.

Q. That's okay. We can find it. So let's talk about the Wi-Fi. The Wi-Fi has come up a little bit.

A. Oh, my gosh ---

Q. --- can you tell the jury what's going on ---

A. --- my girl has went nuts over the years. I just put up with her. I take care of her. Her imagination is just -- and everything is about -- she is fascinated with computers. She sits in front of them all day long. And she does make a little survey things and all that on them.

But the Wi-Fi got messed up because I got mad at her, him, Jaimie; nobody would even help me run the vacuum cleaner. I took the wire and I snatched it out of the back of the thing. And I left it alone and she was out there going the computers broke. And I said oh well,

you know. I could have done it outside but I did it inside so I could just put it right back in. All I had to do was plug it back up. They didn't know what I did. So anyway they start saying stuff and I said I don't need him ordering no more furniture and why don't you -- I plugged it back in and I said there.

So then I came in the next day and she said well I changed the password so nobody else can use it because it's in my name. I said fine. So I don't know what she is talking ---

Q. --- let's not talk about ---

A. --- I don't know all this stuff she is talking. I hadn't done nothing illegal on his financial. I can prove it.

Q. Well, tell us about the moped. There has been some testimony about you buying a moped ---

A. --- you got the receipt that I bought that moped.

MR. KING: Your Honor, may I approach?

THE COURT: Yes, sir.

Q. [Mr. King] I'm going to show you what has been marked as defendant's exhibit number 5. It's a photocopy and I want to see if you recognize that.

[Whereupon, the witness reviews document]

A. Yes. Which one is this? I actually bought two of them the same day. This is from -- this is from Mega

Pawn.
Q. Okay. How much ---
A. --- no, this ain't Mega Pawn. He wrote it up -- is this the little blue one? One was a 150 and one was a 50. No, this is a 50 -- yes, yes.
Q. And what's the charge on it? How much was it?
A. It was 920 dollars.
Q. And what date did you buy it?
A. 8/17/16.
MR. KING: Your Honor, I'd move to admit defendant's exhibit number 5 into evidence.
THE COURT: Any objection?
MR. WARING: No, Your Honor.
THE COURT: It's admitted without objection.
[Whereupon, defendant's exhibit number 5 is entered into evidence by the Court]
Q. [Mr. King] There has been some testimony about you buying a lot of things around this time like cat food ---
A. --- if you call cat food -- I quit buying it in bulk because one time somebody stole some of it. I was really weird; it just disappeared. So I started bringing home five or six cans a day.
My main buys around the house is I pay my bills with my check, okay so I ain't got to worry about them; I've got all month. I got to go find the rest of it. If I

want to smoke a cigarette Hank's got to go to work so Hank goes to work. So when somebody pays me I go to the store. You can call the Kwik Stop because I've been going there for seven -- as long as he has been open and I'd buy cigarettes. I'd buy Lynn beer.

And if you tell Lynn you've got money she wants to drink five and six beers a night, which will kill you. And I cared about her. I lied a lot about money but I put it up. It ain't nobody's business what I make you know.

Q. What do you mean you lied about money, to Lynn?

A. I had to. She wanted to drink beer. She would do this here every time I leave the house well get me this here. She could drink five King Cobra's a night. They will kill you. I've seen a lot of boys die from that stuff.

And she drinks Steel Reserve. They cost two dollars and nine cents. When I first started buying them they were like 1.39. But she would want five a day. Now you're upping it to almost 200 dollars a month. She got two a day at least and a pack of cigars.

I've got to say her smoking was cheaper than mine okay. But I had to spend about five dollars on her a day. That's 150 dollars. So I spent -- and I smoke regular cigarettes. I'd smoke a pack and half a day.

I've been a chronic smoker since I been 13 or 14. So I smoke a pack and half a day. I spent about six bucks but I don't drink. I drink iced tea. I'm a coffee fiend, a really bad coffee fiend.

Anyway so I had to make -- my goal was to make 15 dollars a day. If I made 15 dollars a day -- the cats; oh they were spoiled rotten. I did spend about 100 dollars a month on them cats. But their cat food costs -- they'd holler and I'd feed it to them. I mean they was fat you know.

Q. Let's go ahead and get down to September 13th, the reason we're here ---

A. --- the reason I bought it in bulk is because I had the scooter and I could get to Walmart. Maxway's cat food is higher than Walmart. So when I got to go to Walmart I took out of my slush fund, okay.

I've got to have a slush fund. If my hot water heater breaks I've got tenants; I've got to have 500 dollars bam that's got to come back.

Q. Where is your slush fund?

A. Under the trailer in the steps. And the possum -- I used to feed the possum to kind of be there so everybody would be scared to go around to the back of the house.

Q. You hid it under your trailer?

A. Yes.

Q. And the possums guarded it?
A. Yes. I wasn't scared of them.
Q. What were you doing that day September 13th? Do you remember what you were doing that day starting off?
A. What was I doing?
Q. Yes. How did this day start?
A. I got up. The first thing I do when I get up I fix coffee. I drink my coffee, I smoke cigarettes, after I go to the bathroom then I'm ready to move toward outside. I get outside and I start cleaning up my yard.

Tuesday is pickup day, okay. That's the day -- the day before I done went around and got what I can and now I've got to get this stuff out of my yard before the code man comes and gives me that 1,000 dollar fine, which I do keep a 1,000 dollars just because that man scares the hell out of me. They will put you in jail; trust me. If they find junk in your yard you are gone.

So I had to go clean my yard up. That's why I was building this other shed to hide stuff. But anyway I ended up going to the junk yard, okay. When I come back from the junk yard I was standing in the yard.

I had a trailer hooked up to the new moped. And I could really get around. I started making more money and I said I should have done it a long time ago. Like I said I needed the exercise. I can pedal a bike 25 miles

an hour pulling a cart. Anyway so Jeff came out and his pants were soiled and he looked like he slept in his clothes, peed on himself. And I looked at him and said where are you going.

And I already knew his car didn't work; it hadn't worked for two days but he ran out -- but he had booze. I actually bought some booze with cash just to shut him so I could go on about my business. He was supposed to straighten out his car.

He sent me out and I drew it and the thing popped up and then I found out later that SunTrust said he was drawing too much money but I only drawed what he told me to. But anyway I said where are you going? And he said I'm going to get ---

Q. --- let's not talk about what anybody is saying. What did he do?

A. He got in his truck.

Q. Okay. Did he go anywhere?

A. Yes. He went to -- actually he went to the end of my driveway that faced the street and he took a left. So I figured he went to the Barrel House but there is another liquor store that he likes to go to that is beside Maxway.

And he did get confused around the neighborhood and he would make me drive. He'd ask me to drive him around

because he didn't want to get lost. Jeff didn't want to get lost. And he'd say well let's just stay right around the neighborhood. He started closing in you know so it made sense.

He stayed in his room and drink and he wouldn't want his truck to go this far or that far. So if I used the truck I could only go to the liquor store and various things.

And then when we went to Red Lobster as Lynn mentioned the man gave me a hundred dollar bill because I moved the washing machine and I put a dryer in there earlier. I told him I had to do some extra work. He said -- I had to take the door down and all this here.

So he was drunk and he said here's for doing all that work and he gave me 100 dollars to take Lynn. And he said you take my truck and y'all go have a good time. And like I said he seemed like a really good person and a nice person and I feel really bad and I don't want to hurt nobody. I was honestly fighting for my life.

Q. I understand. We're building up to that. So did Jeff come back that day? You said he drove down and took a left. Did he come back?

A. Yes, he come back. He wasn't gone long.

Q. Okay. What did he do then?

A. He went straight into the house.

Q. Did he have anything with him?
A. No, he had nothing.
Q. He didn't have vodka or anything?
A. He had nothing. He called me in there and what it was he said I need some vodka. And I said the party is over. I said the party is over.
Q. So you said you were cleaning up the yard. What were you doing around the house then?
A. Oh before that I was still loading my trailer. I was going back to the scrap yard. I had been to the scrap yard but my trailer ain't but so big and I was going to take -- I came back with like -- they got the receipt in there.

I didn't make but like three or four dollars and I need more money so I started scraping out the yard for more. And plus I had to get rid of the code man too you know. I was going to clean the yard out, get the money and be done with it.

Q. Well, tell us about the taser. We got a taser here that had Jeffrey's blood on it. How did you end up with the taser that day?
A. I toted a taser way before Jeff ever showed up.
Q. Why did you have a taser?
A. Believe it or not I had a dog take Heather out the basket with his mouth and I had to jam my hand and break

the hold. The dog jumped the fence and came after us and I slowed down because I didn't want to run over the dog and the dog didn't look that fearful. And then he jumped and he was a smart dog, it grabbed Heather. They was barking at each other for like six months.

And he grabbed Heather and he had Heather and he was going to do that shake. And I jammed my hand, I had a leather jacket and I gammed my hand in there like that there [indicates] okay.

I'm a man, I can get around. I can take a hit and I boxed in the ring and I boxed in County Hall. You don't push me around in the street.

Q. Well, I was asking about the taser. Did you have a taser that day? What were you doing with the taser that day?

A. That day I got it because I had to check a leak in the thing and I was going back to the junk yard. I fixed me a cup of coffee in between there.

Q. Now before you go you end up going into Jeffrey's room at some point, right? Before you went into the room what ---

A. --- he wanted me to come in there ---

Q. --- before you went in the room what were you doing? Before anything happened what ---

A. --- before I gave him my phone?

Q. No, before you ever went inside the room before you ever went in Jeffrey's room what were you doing around the house?
A. Oh, before I went in Jeffrey's room? I had already put -- I was going to take the medicine cabinet out because it was metal and it has glass in it. But somebody gave me a really nice one.

And when I pulled this medicine cabinet it had two nails. Somebody put two big 16 penny nails in it. I knew when I pulled these nails out that was going to bend it all up anyway. So I was just going to scrap it and put it on my -- that was going too. Everything is going.

The only thing I'm working on is I'm grabbing any kind of piece of metal, whatever's got to be demoed you know a little bit of demo and I was going to put that medicine cabinet in and have it ready for Jaimie. Jaimie used to fix up really good. I mean she's...
Q. What kind of tools were you using on the medicine cabinet?
A. Well, I first I had a crowbar in my hand off and on and I said it was too big so I threw it down in the yard and I went and got the cat paw.
Q. Tell us what a cat paw is.
A. A cat paw is nail puller that mostly framers use that build condos and whatever. They usually pull nails

-- it's a nail puller. You take it and you put it behind the nail and you hit it with a hammer and you pull it and you pry. It digs into the wood for whatever thing -- in that case I had a piece of metal was like tin to get into. So I was going to pull the two 16 penny nails, okay. I couldn't get the crowbar in there. I took the crowbar but I was going to bang it around.

Like my house is sheetrock. So anytime -- I've messed up sheetrock with the same crowbar before so I threw it back in the yard. I changed my mind, okay. That's when Lynn seen the crowbar. It wasn't -- when you working like that there you grab this and grab that and then you get intelligent. Sometimes you get stupid and sometimes you get intelligent. And I was kind of like intoxicated a little bit you know.

Q. What do you mean by that?

A. I got some earlier because I cashed in five batteries and I actually sold the batteries. Before I got home I had done spent that money around the corner. But I didn't spend my slush money and I didn't spend my savings. I have to save so much money. Every three dollars I make I save a dollar, okay. And that's mine.

Q. What were you intoxicated on?

A. I smoked some crack. But I came down. It don't last that long. It don't last that long. But I got a

pinched sciatic nerve and it seems to work you know. I can't take pain pills. I don't take pain medicine and I don't take nothing else. It just seems to let me go to the bathroom better and it just seems to help a little better. But like I said it's expensive. That's the most thing about it. I mean I'm not out of control.

Q. Well, tell us about the cat's paw. Can you describe what a cat's paw is? How big is it ---

A. --- it's that long [indicates] and it's got a hook on it like here [indicates]. And actually the one I had if you put it to my crowbar it's got the same like square all the way around. It was the same thing.

Q. Is it heavy?

A. Yes, it's got some weight to it, yes.

Q. What's it made of?

A. It's solid steel.

Q. So you were working with this cat's paw?

A. Yes, sir.

Q. So at some point you end up -- you end up going into Jeffrey's room that day when this all this happens. How did you end up going into his room?

A. He wanted to use the house phone and I told him he could use -- I threw the little phone at him. Lynn was sleeping or something and I said don't mess with her. It was beside Lynn's bed, that's what it was, it was beside

Lynn's bed. Lynn is kind of a pack rat and it's hard to get around her. She's got her computer and all this here. She's got a lazy boy in there. She has gotten strange and she wouldn't even let me sit in the lazy boy. I own everything. I bought that lazy boy and you're going to tell me I can't sit in it. I used to get -- I didn't know what I was going to do with that girl. Anyway -- so I gave him the phone.

Now I had a phone but my phone was going to the shop. I couldn't turn it off and on good so I carry Lynn's little -- she's got a food stamp phone and it's free. So she don't got -- the only phone she's got is a food stamp phone and we got a house phone that goes with the Wi-Fi.

So anyway I gave him the phone and then I left. And I heard him call SunTrust -- that's why when she said she made a few calls she ain't called the bank. He's the one that called the bank. I'll take a polygraph.

So anyway I heard SunTrust bank. I smiled -- I said to myself oh Lord, here we go again. Here we go with Jeff's party again. So I'm trying to do something so the next thing I know the phone don't work -- he called me back in there. I walk straight in there and he's sitting at the end of the bed with his leg crossed in. I can't do it for some reason; yes I can. He's sitting like this

[indicates] on the bed okay. I'm sitting right here [indicates] and the T.V. is like where this [indicates] is. I'm standing there talking to him this way [indicates] because when he rearranged the room the door opens this way [indicates]. That's the door [indicates].

So says -- and he has his hands all wet from power drinks. That's why he's got all that stuff in his system that caffeine, power drinks. He had the power drinks in his hands and he was messing up Lynn's phone okay. Lynn don't let me sit in her chair. What do you think she's going to do to me about the phone being all sticky and messy? She's going to raise hell.

So I grabbed the phone and said hey man, that's Lynn's phone and you're messing it up and you're going to get me in trouble you know. After nine years women think they can -- and they do; they beat the hell out of you if you mess with them. They control you. No offense but anyway -- but I respect her property just like I want my property respected.

So I wiped it off because you know that's my girl and you don't mess my girl's stuff up. So I put it in my pocket and I said we ain't having no more parties. I said we ain't having no more beer in here -- I mean no more vodka in here and all this drinking. He goes well -- he did say something about well Lynn drinks; everybody

says Lynn drinks. And I said yes, but that's my problem. So I'm looking around and he has been throwing up behind the bed like here [indicates]. I'm looking over there and it's all over the place. And so I -- anyway while I'm looking around all I know is I told him that I done talked to his father and he got mad and he went grumbling like this here.

And then I told him I said you're going to have to go someplace else because this has got to stop. I said I like you but I can't have this ambulance come and collect you. I said you're going to get drunk and then the ambulance is going to come. I said I can't have an ambulance at my door every day. I got neighbors. I got a lady I have to answer to about this property.

So anyway I'm saying all this here and I'm looking down and I'm seeing this mess. And the next thing I know I'm hit in the mouth. My collar, I had a t-shirt on, I'm being choked. I'm getting a knee in my groin and I'm basically in some kind of shock.

I had the nail puller in my hand scratching my leg with it because I got bit up from mosquitoes and all out there. Anyway I plowed him in the back. And then like I said I have a lot of boxing training and all this pow, pow, pow, pow, pow, pow, pow, pow, pow, pow and the next thing I know when I hit -- I guess I meant to hit him but

I was boxing him. Not trying to go for nothing; boxing him. And then the next thing when I pulled my hand back his chin, I grabbed his chin on this side [indicates]. I grabbed his chin and that's where the gash in the chin come from. And then I was horrified. And he fell back and when he fell back he hit the bed.

He turned to his side, to his left side here [indicates], and then he coughed and that's when the blood hit the wall. And then he just like stopped breathing. And I was kind of shocked and I was real shocked but I was mostly exhausted. You know you can play football all day and you can play soccer all day but you're not going to swing your hands all day like that.

Q. What kind of condition, physical condition were you in back then?

A. Huh?

Q. Were you thinner then than you are now? Were you in a little better shape or not?

A. I was in a lot better shape, yes sir. I could pick up a washing machine and walk around with it, yes. I'm hurt from my same -- my balls and my shoulders from that thing I'm hurt now. I can't hardly raise -- I'm on Tylenol and it's going to eat me up. Yes, I'm really hurt from it. That and the policeman did jack me up over the handcuffs. Newsome [phonetic] jacked me up because I

was already hurting and he went on top of my injuries.

Q. So you said you know how to box.

A. My father was a fighting coach. My oldest brother is in the Hall of Fame. He beat me on Spinks [phonetic]. He was the middle weight champion of the United States back in the 70's.

Q. What's his name?

A. Russell Fickling. And he don't mess with me. Nobody hits Hank. Anybody that knows Hank don't hit Hank.

Q. So did you use a taser on him?

A. I didn't use no taser. I keep a taser because I got dogs that come after me on the bikes and more than once. They come up in the yard looking for the cats. And a lot of people they get these pit bulls. And the next thing you know they're in the backyard and the next thing you know -- and we got some bad kids over there; they will unchain them and let them go.

Next thing you know if you look on the thing I've got an iron gate. That fence is not to keep us in; that fence is to keep them dogs from coming in to eat my cats. I've got -- and that taser I've actually had to use that taser. I've opened the door and had one at my doorstep before I built that fence and pit bull rescue came and got it because they heard the call. Somehow they know

when to come. But I've had to use that taser to run them out my property. All I do is hit it; I don't have to hurt the animal. I'm an animal lover. I will hurt you if I see you hurt an animal.

I will get mad. I'm sorry; but I'll kick your butt. Don't hurt no animal around me. But I didn't want to hurt the animals. But they're mistreating them -- they just don't handle them right. Pit bulls have no business in the city.

Q. But you're a good fighter. You said you could fight. So Jeff came at you and what did he do? Did he hit you in the mouth?

A. Yes. He did hit me in the mouth. And then when I checked his pulse I was tasting blood, okay. I checked his pulse and I checked for air coming from him.

When I grabbed him arm to check his pulse his body kind of fell -- that's how it ended up with -- it kind of like fell into me, okay. And it was just like horrible and I realized he was dead.

I'm the type of guy I don't like to go to funerals and hospitals. I don't like -- I fight in self-defense. That's different. I'm not trying -- that's different.

I can't -- and then I spit the damn blood. I just spit, that's what I did. I been hit in the mouth before and I spit. But anyway I spit and that's how the blood

got on the door because I did spit on that door. It was my door and I didn't care. And I shut the door and I didn't realize what I was doing. I was in the living room and then I went into my bedroom.

And all I know is I wanted to change clothes and change clothes. And Lynn was in there. I put my taser -- I didn't know I had blood, that much blood on my hands. The cat paw was already in my pocket; I took it out too. But I throwed it out the door.

Before I went in my door I threw the cat paw out in the yard out in my pen. I just threw it out the yard. It's a tool. I can pick it up later. I just threw it out the yard. Then I went in my room and I pulled the taser out and then I told Lynn stick it on the charger by her.

I had to go by her. The charger is over there by her computer and other stuff. So I changed clothes and then I went out the door and I went to the water spigot and I started washing my arm. I took soap and washed my arm and everything.

And I admit that I did plot to deceive everybody and not be in that fight because I did not want to go anywhere. I didn't want to be put in no holding cell for one hour. I was scared about my animals and everything that I thought that could happen it happens. I lost my

animals, I lost my house, I lost everything and now I'm in here fighting for my life.

Q. Well, you've heard some testimony -- Jaimie was saying that Jeff could barely even walk, that he would stumble all around ---

A. --- yeah right.

Q. Is that right?

A. No.

Q. So ---

A. --- sometimes yes, if he got drunk he would like any drunk. He wasn't drunk. His blood shows that; he wasn't drunk.

Q. How -- was he stumbling around?

A. Because Hank cut him off. I just let it go too times time. I know when to straighten up.

Q. So did you feel like you were in danger when he came at you ---

A. --- No, I was in danger -- he did jump me and he was handling me. He was doing a good job but them little ---

Q. --- you didn't have a black eye or anything like that. They showed your photo up there.

A. He hit me in my mouth. But when he hit me I slipped it like that [slaps himself]. Talking about marks [slaps himself] where you going to see marks? Sir, I'm tough. I don't mark up.

Q. So did you mean to kill him?
A. No. I fight back. I've been in fights before. I fight back. It wasn't murder. I ain't stupid enough to go mess up my own house that I fixed up and murder somebody in. Come on.
Q. What about the laptop? They say they found ---
A. --- it was in the way. I picked it up and gave it to Lynn. It was tiny it was in the way. It was in the way of the door.
Q. You talked a little bit about ---
A. --- I took my smart T.V. out of there too. I own the smart T.V. I took my smart T.V. and put it back in my bedroom. Yes, I did do that before I knew I was going to have to call somebody that was coming.

I didn't know how I was going to tell the story or what to do but I swear that I was just preparing for them to come. That's all I was doing. It ain't nothing to do with stealing; it was just preparing.

Q. You ---
A. --- when he went to the hospital and all his stuff stayed there and he got his stuff.
Q. Did you say you checked his pulse?
A. Sir?
Q. Did you say you checked his pulse?
A. He was dead. I listened for his breath and

everything. He was dead. All I know is Hank got panicked. I did the wrong thing. I apologize. But the man was dead and Hank had to be alive. Hank's got to survive. That's all it was. My survival mode fell in; that's all that was.

Q. But you didn't call the police?

A. I didn't understand stand your ground law. I didn't understand a lot of things okay about self-defense. Then when I found out that I could just kick back and I could have did a self-defense then you got to prove self-defense then it's costly. You know you got to buy -- I have a public defender. I ain't got no money or nothing. Luckily I got a good one.

Q. Thank you Hank. So you didn't call the police and tell them exactly what happened, right? What did you end up doing after that? So you said you washed your clothes, you washed your hands?

A. Yes.

Q. You changed clothes and put the taser on the charger.

A. Yes. And I coached Lynn a little bit about that we went somewhere -- I knew that he died between one o'clock and two o'clock okay. I tried and I made sure that she was not on premises at that time when we made up the story about the moped ride okay that she went out, okay.

And if it helps anything Lynn don't do nothing but do what Hank tells her to do. And that's bad and so she was under my duress. I do take that responsibility. But like I said Lynn hides from Georgia. She owes money in Georgia. She hides from that. If you get her in jail they got an old warrant.

It don't pop up now but it used to pop up, and for some reason it don't pop up. But if you check deep enough she owes a lot of child support and a warrant used to pop up. That's why she hides. And if she goes to jail for one thing she's got ---

MR. WARING: --- objection, Your Honor.

THE COURT: What's your objection?

MR. WARING: Relevance, Your Honor, and narrative.

THE COURT: What?

MR. WARING: Narrative, relevance.

THE COURT: Overruled. Go ahead.

Q. [Mr. King] Let me ---

A. --- yeah, I understand. I don't mean to do that ---

Q. [Mr. King] --- it's okay ---

THE COURT REPORTER: --- could you speak a little bit slower, sir?

THE WITNESS: Slower, yes ma'am. You're saying I'm a fast talker. Okay, yes ma'am.

Q. [Mr. King] We saw body cam video from a deputy that

pulled you over on a moped.

A. Oh, yes.

Q. What's going on there?

A. Yes, because somehow a friend of mine he dropped off a dryer and it's sitting in the middle of the yard. And I had to have a dolly and my dolly I don't what happened to it. So I went down Dorchester Road right down there to a friend of mine behind the Harley shop and picked up the dolly because I had to move the dryer out the way.

I couldn't -- the washing machine -- I mean it was a dryer. I need a dolly to move it around so the code man wouldn't see it sitting in the middle of the yard. He gave the neighbor 1,000 dollar fine for a washing machine.

Q. Where were you going? Were you going or coming back when you got pulled over?

A. I was coming back. And he had actually said hey, the police don't bother you or nothing? And I said no, they see Heather on the back and they think I'm funny; they think I'm cool. The next thing I know he was on me.

I seen him on me and I was dancing the bike missing the pot holes and listening to the music. I was dancing that bike. So anyway he pulled me so I pulled. And as you see the video he's talking about the safety of the dog and all that. I said this dog has been riding for

nine years. I said I had one back in the 80's and I ain't never had a wreck because like I said my license is perfect. I ain't wrecked no motorcycles or cars or anything.

Q. Now when he pulled you over were you going somewhere or coming back from somewhere?

A. I was coming back going home.

Q. Where were you coming from ---

A. --- going back to the house. I picked up a dolly and I was going back to the house.

Q. What did you do then after you got back to the house?

A. I started smoking reefer that I bought in between. I didn't want to say exactly where but I did buy some reefer too. That's why I was kind of nervous around the cop.

The cop said I was nervous and that's why I was nervous because I actually hid it in the pull-up under Heather's thing. I was going to calm down and smoke some reefer and try to come down.

Q. Marijuana is what you're talking about?

A. Yes. I was trying to come down and I needed something else. I was going to quit that other stuff because I couldn't afford it anyway. But I've smoked a little bit of reefer since the 70's. That's a thing that

everybody done. They going to legalize it. I mean come on, give me a break.

Q. Well, did something end up happening with Jeffrey's truck that night?

A. Yes. The guy called -- how that got started was a guy asked me about the truck. I know everybody around there. I fix their bicycles and I do all kind of stuff. Anyway a guy asked me about the truck. They like to rent trucks to go work out of; trucks, cars or whatever. So anyway they like to trade their product for your vehicle.

Q. What product?

A. For cocaine. Anyway, he called me and said hey man let me get the truck again. He's done did it several times before. You can check with him. But this was Jeff's deal. I told him at first no, ain't nobody getting that truck because I don't play that game with them.

And Jeff told me that wasn't for me to tell for him. He said why should we buy it when we can just rent the truck. He said the guy drives good, right. I said yes, he's got a clean driving license and everything. I said that's not the problem. He said well, if I'm not in the truck I'm not responsible for nothing. I said yes, you're right you're not responsible. So he said ---

Q. --- don't tell me what people say. Just tell us

what happened with the truck.

A. Okay. Anyway he calls up so I didn't want him asking where Jeff was because I had closed the door okay. I'm still trying to figure out what to do and I'm inbetween. So I told him yes, you can get the truck so he gave me some crack.

So I ended up smoking that and the reefer. I wasn't looking for crack but it came and dropped in my hand and the devil jumped on my shoulder and the next thing you know Hank is smoking crack again. So I smoked the crack.

Q. Had that happened before where this person had called and traded some crack to use the vehicle for a period of time? Had that happened before?

A. Yes. When Jeff was alive yes, he used to rent the truck. That was part of it.

Q. You rented Jeff's truck out for crack ---

A. --- under Jeff's -- I actually didn't want to. Jeff said that that's his stuff and I had to bring it to him and he put it in the book. Jeff was just trying to be Mr. -- he had a saying that the guy who owns the bar always gets the girls and all at there.

I don't know where he got his mathematics or his thinking. All I know is you know as long as I was getting what I needed I was kind of happy for a while.

Q. How much did you get for the truck?

A. A 100 dollars of crack.
Q. What was his end of the deal? How long was he supposed to use the truck?
A. Until 6 o'clock in the morning.
Q. So you didn't sell the car?
A. Oh no. And then I called him to retrieve after Jellico said we need the truck. I said okay. That's the first thing they said is Jeff had a truck when I called them. He said where's the truck and I said a guy borrows it and works and uses it. He said where ---
Q. --- let's not talk about what people say. Did the police find the truck?
A. I told them where the truck would be, yes. And the guy said I'm not bringing the truck back to you with all the police. He said I'm leaving at the Sunoco with the keys under the mat and he split.
Q. So now you're high on crack, right?
A. What now?
Q. You got 100 dollars worth of crack?
A. I got 100 dollars worth of crack, yes sir. That's what took me from about 10 o'clock to even start thinking. Then when I came down that's when I had to do something about this person deceased in my house. I'm sorry for everything but the thing about it is I didn't know what to do. And I was under -- I had already I

didn't think right. This don't happen every day. I didn't know. The only thing I know is I did defend myself because I had to defend myself. I messed up my own world not by my calling.

All I know is I just wanted to get away from it and my girl not to be bothered. And the next thing I know we get in the police department and this is where I'm at you know.

Q. You saw that guy George Bellinger testify right about he said you said some things ---

A. --- I'll take a polygraph and they need to start polygraphing the people they bring in this courtroom because that is an outright lie.

Q. Did you say those things he said you said?

A. No, not like that, no.

Q. What do you mean not like that?

A. I tell everybody the man hit me first in the mouth, tried to choke me and hit me and I fought back. I missed his chin and hit him in the throat and I killed the man. I apologize. I'm sorry but I didn't mean to do it. But I did not throw the first punch. I did not go in there for a confrontation.

MR. KING: Those are all the questions I have, Your Honor.

THE COURT: Cross-Examination?

CROSS-EXAMINATION

BY MR. WARING:

Q. Good afternoon Mr. Fickling.

A. Yes, sir.

Q. All right Mr. Fickling, so Ms. Boyd y'all are married?

A. No, sir.

Q. But common law you've lived together for ---

A. --- not according to her. She's testifying against me. That's not common law to me.

Q. But you've lived together for nine years?

A. Yes sir, we did.

Q. Now she didn't work, right?

A. No, sir.

Q. And you weren't working?

A. Yes sir, I do work.

Q. What were you doing at that time?

A. I'm known as the hustler's hustler. I wash cars and I do a lot of things for rich people.

Q. Did you have a full-time job is what I'm asking you?

A. I probably do better than a full-time job.

Q. So no you didn't.

A. I work under the table.

Q. Mr. Fickling, did you have a full-time job?

A. Oh no sir, I was on disability.

Q. Okay. You were on disability.
A. Okay.
Q. Now you said you get a check that is about 700 and some change per month, right?
A. Yes, sir.
Q. And you and Ms. Boyd were living off that check, right?
A. That and food stamps, yes sir, and the two rentals of the rooms.
Q. Okay. So let's get into that. You had to pay rent for the trailer you said about 200 bucks a month?
A. 200 dollars I paid for that property. I did own the trailer but I didn't get the papers. It's an old trailer and you can't move it.
Q. Okay. Now you said despite that you were charging Jaimie and Jeff you said 425 to Jaimie but she testified to something different but that's what you said, and then Jeff 250 a month, right?
A. Yes, Jeff was 250 a month.
Q. And you said the week before you killed him you upped it to 350 right?
A. Yes, I did because his three months was over with; the three months he paid for.
Q. Now you smoke cigarettes?
A. Yes, I do.

Q. And that costs money too, right?
A. I find a lot of money. I work. I get all the beer cans from the bars around the corner. I've got certain days I do certain things and I make 50 to 100 dollars ---
Q. --- Mr. Fickling, I'm asking you if the cigarettes cost money not what ---
A. --- yes sir, they cost me about four dollars a pack. I smoke six dollars a day.
Q. Okay. And you had bills?
A. I got a light bill, a cable bill, lot rent, and the water bill.
Q. Internet?
A. That's the cable bill.
Q. Okay. And you guys had three cats and a dog, right?
A. Yes.
Q. And those animals had to eat?
A. Oh, they eat good.
Q. They eat good ---
A. --- but they're on a food program ---
Q. --- Mr. Fickling, just answer the questions ---
A. --- they're on a food program. I get free food from the SPCA. Ninety percent of the food they get I get for free from the SPCA.
Q. Mr. Fickling, just focus on the questions.
A. Okay.

Q. You smoke crack? You said that.
A. Yes.
Q. Yes or no?
A. When somebody else buys it I love it.
Q. So you smoke crack?
A. I don't have to but when somebody else is buying it, yes I get it.
Q. And you said when you smoke crack you pay about 100 bucks for that and that lasts you about 30 minutes, right?
A. Not every day, yes sir.
Q. But you admit that you said that earlier, right?
A. The thing about it is that people smoke around there sometimes. That's what it's all coming out too. It's -- I didn't get in no trouble. I didn't have the law at my door every day. I have no records for that kind of stuff.

MR. WARING: May we approach, Your Honor?

THE COURT: Yes, sir.

[Whereupon, an off the record bench conference is held]

CROSS-EXAMINATION (resumes)

BY MR. WARING:

Q. Okay Mr. Fickling, back to the crack issue. You smoke crack?

A. Sometimes, yes.

Q. Okay. And you testified that typically the amount you do is 100 bucks and it lasts you about half an hour?

A. Not all the time, no sir.

Q. But you testified to that, right?

A. I have -- that was that instance, that night.

Q. Did you testify to that?

A. I said 100 dollars, yes sir.

Q. Okay. And you mentioned there was something about prostitutes. You will get prostitutes from time to time?

A. Oh I don't pay for girls, no sir.

Q. So the bottom line was you weren't exactly swimming in money, right?

A. Oh no. I'm not swimming in money, no.

Q. Okay. So you needed money?

A. Everybody needs money.

Q. So you're admitting you needed money?

A. Not to do nothing that drastic, no.

Q. I'm just asking you a simple question, did you need money?

A. I just do what he's leading and I apologize. But

I'm not that you know, no.
Q. No what? No, you didn't need money?
A. I was raised around money. I don't need money like that. I know what money is.
Q. Mr. Fickling, did you need money?
A. I always try to make money, yes. But I didn't do nothing to make money ---
Q. --- Mr. Fickling, you're not answering the question. Did you need money? You were making a 720 dollar check a month ---
A. --- yes ---
Q. --- plus a few hundred bucks from your other tenants, you were paying for multiple bills and your wife and your crack and your dog and cats; did you need money?
A. Yes, I always need money. That's why I go out there and look for money and I work.
Q. But somehow as you mentioned to Deputy Sanders in that body cam footage when you got pulled over you were able to pay for a 920 dollar moped.
A. Okay. I got an 800 dollar bicycle.
Q. Okay. So you got an 800 dollar bicycle, 920 dollar moped and you actually said you bought two of them the same day, right?
A. I bought a 700 dollar used 150 out of Mega Pawn yes. But I was saving money for a truck and I got a lien and

levy in the mailbox and that meant that I had to get a moped and go around my ex-wife because I pay child support but I'm behind.

Q. Okay. You're behind in child support.

A. I pay it every month; I'm paying it.

Q. But you said you were behind in it, right?

A. I'm 17,000 dollars behind, yes sir.

Q. Okay. So you needed money?

A. I'm not going to go to jail for it. I pay it every month. It comes out my check. I don't even see it.

Q. Mr. Fickling, you just said you're 17,000 in the hole so you need money?

A. I always say that to people so I get stuff.

Q. And you mentioned at one point you specifically said I lie a lot about money. You said that?

A. I lie a lot about money?

Q. You said that on direct examination when your attorney was asking you about something you said I lie a lot ---

A. --- yes I don't tell my girl what I got because she wants this and that and that and this and I don't want to buy this and that and that and this; mostly beer. She don't want nothing but beer and that computer. But the bottom line is the girl is going to kill herself. She looks like hell now. She looked good when I first met

her. She looks bad and she's been in here 18 months but that's the fact. I'm trying to get along plus I didn't want to spend that kind of money. I was saving my money; I had a little money.

Q. Okay, Mr. Fickling ---

A. --- I spent nine grand since I been in here.

Q. Mr. Fickling, you admit that you were caught on surveillance video at at least two ATM cameras ---

A. --- yes sir, with his permission and the PIN number. That's why I didn't swipe it and buy no cigarettes. I didn't buy no beer. And when the thing didn't -- I took his money and his receipts back to him.

Q. And you did testify actually that you withdrew 1,300 bucks?

A. That's all I touched, yes sir.

Q. Okay. So you're on video surveillance for those two occasions ---

A. --- yes sir ---

Q. --- when you withdrew 400 but you're admitting today that you actually withdrew more than that up to 1,300 bucks.

A. Up to 1,300 bucks. The only receipts I got with my picture on it is 1,300 bucks.

Q. So you took that money out from Jeff's account?

A. For Jeff, yes, and took it back to him with his

receipt. I even did a balance request one time and he was in the truck when that happened but he was drunk and I was driving.

Q. Mr. Fickling, we played a video for you that was from September 9th at the Circle K and there was testimony that while you were in there there were a couple of failed withdrawal attempts from various accounts that Jeff had linked to his credit card.

A. Yes, because one time I went back and told him because I don't know what happened. That's when I heard that too much money was being drawed out. And that's when I returned his card to him and it was like a couple of days before this incident because the card was cut off for a couple of days.

And I told him and he was -- actually when I went in there he was sleeping. I put his card on the shelf. There used to be a shelf in there but then I put in a cabinet.

But I put the card on the shelf and I told him later I said look, I don't know what I did; I punched the wrong number and I messed it up. And he said I'll fix it later. But he had plenty of booze and everything. I even went and bought him some booze with cash.

Q. Okay Mr. Fickling now that you are talking about that you gave testimony that you were kind of a caretaker

to him, right?
A. What are you talking about?
Q. To Jeff. I think you testified that you were kind of ---
A. --- oh I used to babysit -- I was scared he was going to -- at first I was trying to help him and everything but he just got to be a handful, you know.
Q. Okay ---
A. --- that's when I asked him -- that's when it was time for him -- but it was after he got drunk and groped Lynn. Lynn runs around half-naked, he was drunk and he even hit me one time before the EMS got there. I forgave him. He was drunk.
Q. Okay Mr. Fickling, just focus on the questions that I ask. So, Jeff had a drinking problem, right?
A. Severe.
Q. And you were kind of like his caretaker?
A. I was kind of like yes, I'd go get something and I got something. Yes, I'd care for anybody ---
Q. --- Mr. Fickling ---
A. --- all my animals are rescue ---
Q. --- just answer the question, okay. Don't talk over me. Focus on the question and respond after I'm done asking the question, okay?
A. Okay.

Q. You admit you kept buying him gallons of liquor up until his death, right?
A. Then I decided not to do it anymore, yes.
Q. Because he was dead.
A. No, before he died. He didn't get no liquor out of me the day before. No, he got his own. He had that...
Q. You said you were trying to help him but yet you admit ---
A. --- we gave him shots ---
Q. --- he had D.T.'s ---
Q. Mr. Fickling, listen to the question. Don't interrupt me. Listen to the full question.
A. Okay.
Q. Do you admit that you were still buying him booze essentially every day a gallon of booze even though he had a problem?
A. Yes, until his D.T. thing.
Q. Taking care of Jeff all the time like you say you did I'm guessing that was probably a pretty tough job wasn't it?
A. He would fill up a trash can full. I mean he did try to use the trash can a lot of times then I had to take them out. They was full of vomit. After a while I couldn't even eat in my own house because I eat outside on the patio because I didn't want to be you know -- I

cleaned up. And I know Jaimie said I didn't clean up a lot. But I clean.

Q. So are you telling me that it was a tough job?

A. Oh yeah.

Q. Okay. And I'm guessing it got tedious over time?

A. It got that and cheaper. In other words he wasn't splurging -- he was...

Q. You gave testimony that he was essentially urinating on himself, vomiting, etcetera. So you would admit that he was essentially kind of helpless, right?

A. He wasn't helpless on the day he died, no sir. He had drove his truck and he went looking for booze. He come home and he attacked me.

Q. And in fact you were actually getting tired of having to deal with his problems, weren't you?

A. I'm tired of a lot of things. That don't mean I react in a violent way or anything.

Q. Now do you remember when Captain Willi got on the stand and testified that when you called him out for Jeff that when he arrived that you were angry and you were accusing Jeff of actually owing you money and you wanted him gone, right? Do you remember that?

A. Yes because he told me to go get something and I went and got something and then I owed the guy around the corner and I had to pay for it myself. I didn't want to

tell the man that. I don't know why he told him anything. The bottom line is I was -- the seizures and it was the ambulance coming to the house. I have to answer to a lady, okay the neighbors and everything, okay.

I can't afford -- I didn't want to go nowhere. So that's when after that time then I was contemplating on when he had paid up or the money thing cleared up or whatever, you know.

Q. But he didn't actually owe you money did he?

A. He owed me for one transaction I made that I did by face. I have credit around -- I have credit everywhere.

Q. You had free reign of his debit card, right?

A. Not all the time, no sir.

Q. So you mean you had it some of the time. You had free reign of his ---

A. --- I had it when he gave it to me to use it. And I told him the only way I'll use your debit card that I have to use the PIN number and I'm only using the PIN number because I know the law. I do know the law a little bit. I've heard of people getting jammed up.

Q. Mr. Fickling, you admitted you owned a taser, right?

A. I've had them -- I've been carrying them for a few years yes, sir.

Q. And there was testimony that Jeff's blood was on the

end of it, right?
A. What?
Q. That Jeff's blood was on the end of your taser that was in your room.
A. That's what they found, yes.
Q. Okay.
A. It come from my hand and the cat paw when I put it in my pocket. The taser was not used in that room.
Q. Mr. Fickling, I'm showing you what has been marked as exhibit 63.
[Whereupon, the photograph is shown]
A. Yes, sir.
Q. Now you said you got the blood, you got Jeff's blood on the taser when you what put it in your pocket? Is that what you said?
A. I pulled it out my pocket, yes. I pulled it out my pocket.
Q. Now ---
A. --- as long as you don't hit the button it won't hurt you. But I had the safety on. There is a safety on that thing, too. I had the safety on and I don't take the safety off until I pull it out and look and see what I'm doing.
But there is a flashlight and a safety and you want to get because one time -- I have another taser too that

they found and I picked it up backwards and hit the button and tased myself. But I didn't fall luckily.
Q. Mr. Fickling, there was testimony that the blood, Jeff's blood, was just on the end of the taser. Now did you pick up the taser by the end like that [indicates] with your fingertips and hold it?
A. I can't tell you what I did.
Q. But there was no blood ---
A. --- I can't tell you. The only thing I know is I removed it and handed it to Lynn to put on the charger because when it ain't in my pocket it goes on the charger.
It has a light that tells you it's charged and it stops automatically -- and because I play with it so much and use the flashlight and play with it ---
Q. --- Mr. Fickling, you admit that Jeff's computer was found in your room?
A. I removed it. It was in the way of the door. I picked it up and handed it to Lynn. I got my smart T.V. set out of there and that's what I did, yes.
Q. So you used his debit card and took his computer, right?
A. His computer I didn't need -- I couldn't get into it anyway. I didn't need his computer. I just moved it out the way because it was in the way.

Q. Okay. And ---
A. --- I stored it.
Q. You took his computer; you used his debit card ---
A. --- I stored it.
Q. And you admit that you traded his car after he was dead for crack?
A. Yes, because that was a steady kind of thing going on. It's been done before and done before; twice before. At least once; I know once.
Q. Okay. And ---
A. --- I'll say once. I don't know what he's going to say but once.
Q. When you found Jeff according to your story he was hanging off the bed as indicated in that picture right where he was hanging halfway off the bed on the floor?
A. What now?
Q. Is that how you found him as indicated in that picture where he is laying halfway off the bed onto the floor. Is that how you found him?
A. I didn't find him that way.
Q. Okay.
A. I told them I found him that way.
Q. Okay, but you moved him though, right?
A. No. When he spit the blood, when he coughed the blood on the side of the wall by the air conditioner I

was coming out of my -- I was tired from fighting and stuff. It was like I was exhausted and I almost fell out. Anyway I hit the T.V. set and my arm print is on the T.V. set and I knocked his T.V. set on his foot.

When I went to him to check him his breathing, first his pulse, and then when I was grabbing his arm his body kind of like fell because of the way his feet was his body kind of like was limp. He died, he was dead. He limped and he just fell into the floor and I checked his breath.

And before I left out I spit blood -- I spit on the door because I tasted blood and I was furious, and I was confused and I didn't know -- it's something you have to go through to understand and I done been fighting and I'm tired and I'm old and I'm out of breath. I smoke a pack and half cigarettes a day. I'm surprised I could even get out the door.

I had to step over him and I shut the door and then I just went to Lynn and I told her what to say. I thought about it for a minute, I did think and I told her what to say because I just didn't want to deal with -- I couldn't deal with the -- I just didn't know how to deal with it.

Q. Okay. Mr. Fickling, on the 911 call you mentioned you saw a guy earlier with Jeff... That didn't actually

happen, right?
A. Oh no, I made up a whole story and everything, yes. I didn't want to see the inside of -- I didn't know what was going on.
Q. Okay. But when police showed up and were hanging out at your trailer trying to figure out what was going on you gave another story and that wasn't true either, right?
A. I gave the story about the man and all that before I got to the police station. When I got to the police station I tried to tell that story again but ---
Q. --- but Mr. Fickling when they arrived at your trailer you gave a story and that wasn't true, right?
A. No, it wasn't true. That's right. I lied, yes.
Q. Okay. And you admitted that you cleaned up, right?
A. I didn't really clean up. I took my clothes off and I put them in the washing machine and I asked -- I told Lynn to set the timer on it.

I had just put a washing machine in and for some reason she was better at -- my hands were shaking so bad and stuff and I asked her I said please go set the washer because I couldn't set the timer on the washing machine right.

I never do it good enough for her and she says I put it on the wrong setting. She always says I put it on the

wrong setting.
Q. Okay.
A. So I told her -- I asked her to go set the -- the only thing she done was turn the washing machine on. She didn't do no kind of cleaning or nothing and I didn't do no kind of cleaning.
The only thing I've done is throw the cat paw in the yard. Then when I went out and when I found the cat paw it was over there by another project across the yard. They didn't find it. They should have found it but it was there. I had several tools on a table covered up with a tarp.
Q. Okay Mr. Fickling, you admitted that you were high on crack at the time of the incident, right?
A. No, I wasn't really that high. I did some earlier but I had already come down. I was all right. I did a dime.
Q. Do you not remember saying earlier that you were intoxicated at the time?
A. Well, I might have been a little bit.
Q. Okay.
A. That's what I told -- I was because I dip and dab all day long it seemed like, you know.
Q. So you picked up ---
A. --- I was going through my own money. After Jeff

come and got me started I was going through my own money a little bit. My slush fund was going down. What I saved up for like five years was trickling down to nothing. I been saving for five years.

Q. Okay Mr. Fickling, when you went into Jeff's room you were high. You had the cat paw like you said and the taser when you went in there, right?

A. Yes, sir.

Q. Okay. Now why don't we go through this? You admit that you inflicted that massive incapacitating blow that was above his eye right?

A. I hit him and the cat paw sticks out and that's what hit him in the eye. I believe that's what -- as much as I know. Some of it is kind of like a blur. Like I said I was intoxicated myself. I was more disabled than he was, do you understand. I was more disabled than he was.

Q. You were more disabled?

A. Disabled. Yes, I've got pinched nerves and everything. I'm more disabled than he was. I've got to be; I draw disability for it. I've got 20 doctors say I'm disabled.

Q. Well clearly not because you're alive and he's not, right?

A. Well, they say when people drink and stuff they feel ten feet tall so I guess he was ten feet tall. I don't

know what to say. He ain't the first one that ever jumped me.

Q. How about right after that injury that you inflicted, the massive incapacitating blow above his eye were you in fear for your life at that moment after you inflicted that damage?

A. When he had me by the throat and I'm very sensitive right there and he kicked me -- hit me in my groin he really hurt me.

Q. How about after the major incapacitating blow below his chin? You did that, right?

A. That's when he fell back.

Q. Were you in fear for your life at that moment after you inflicted that blow?

A. All I know is I fight until the fight is over. I don't know what to say. I fight until somebody -- it's called a knockout. You got to knock them out. They knock out or you knock out. It's just like fighting in a ring; same thing. Somebody falls and somebody stands.

Q. Okay. And how about the fatal blow, the fractured trachea you admit you inflicted that?

A. Yes, I inflicted that.

Q. And were you in fear for your life after you struck that blow?

A. I was in fear for everything the whole time. Like I

said I was just fighting back.
Q. Now you mentioned boxing a little while ago. You said you used to box?
A. My father was a well-known coach of Park Circle, Hanahan and all that there. Yes, I ---
Q. --- so you come from a family of fighters?
A. Yes, sir.
Q. And nobody messes with Hank, right? Nobody hits Hank right? That's what you said?
A. That's what I say, yes sir. And hopefully they believe it and they don't try it.
Q. So I mean you're kind of a tough guy, right?
A. I got a hell of a reputation, yes sir.
Q. You got a hell of a reputation; you're a tough guy?
A. Yes, sir.
Q. So you're not worried about some sickly, vomit you know urinating on himself person, right?
A. I clean up shit all the time. My dog shits all over the -- excuse me, craps all over the place and pisses. I clean that up too.
Q. So you're not worried about this guy? You're not worried about Jeff?
A. Oh, I don't like -- what do you mean I'm not worried about him?
Q. You're a tough guy. You're not worried about him.

He's in his room all day ---
A. --- it gets tough after a while yes. But the bottom line was I seen his -- when we checked his balance his money was running out. I don't want a burden on my front door. I don't want the ambulance there no more and I was ---
Q. --- you don't want a burden so you killed him, right?
A. You're trying to make me like -- that don't go right. That's my house. I'm not going to kill people in my house.
Q. Isn't that what you did?
A. I was -- it was self-defense. That's stand your ground. It's in the statute. But I didn't understand even stand your ground. I didn't know. I was like I said -- I just panicked. I don't like -- you know I just panicked. I ain't never killed nobody before.
Q. Now you testified ---
A. --- now I've got to live with this the rest of my life.
Q. Mr. Fickling, just focus. You testified earlier that you hit him in the back, right?
A. The first blows were straight down.
Q. So the first blows that you inflicted on Jeff were to his back, is that what you're saying?

A. Uh Huh --

THE COURT REPORTER: I'm sorry; I didn't hear your answer, sir. What was your answer to his question?

A. The first blows was straight down to his back. In other words I tried to -- I thought I could just like break his collar bone or something and drop him you know. I know how to fight; I'm sorry.

Q. [Mr. Waring] So he's not facing you when you hit him for the first time?

A. Yes, he was facing me.

Q. You just said a second ago that the first blow ---

A. --- when he was facing me -- the first blow was to his shoulders and stuff.

Q. You just said a minute ago the first blows you inflicted was when he was turned around ---

A. --- I hit is back right here [indicates] because he's shorter than me. When I hit him like this here [indicates] he had me so the only thing I know to do was I went down like this here [indicates] and then I went up like this here [indicates] and then I did this here [indicates], I did this here [indicates] here [indicates] here [indicates], here [indicates], and here [indicates].

Q. So did you have two cat paws to go down like that?

A. No.

Q. So you went down with the cat paw in your fist is that how it worked?
A. I only had one cat paw. I can't -- I don't the only thing I know is I went into the fighting mode and I was fighting. And it took a while for him to let my throat go because he kept hanging onto it and he had this look on his face like this here [indicates]. And I couldn't get -- I even hit his hand several times.
Q. Okay Mr. Fickling, I'm now going to show you State's exhibit 92.

[Whereupon, the photograph is shown]

Q. Now you testified that you got hit in the mouth, right?
A. On the inside of my lip right here [indicates]. I slipped it but I did get a little cut and I had blood in my mouth.
Q. Can you point on there where exactly the cut was?
A. Underneath my lip. You can't see it from the outside. It was under -- I even have a little scar tissue right here [indicates].

It's underneath and I spit it out and I went and got a cool pop on my way out. I had cool pops in the refrigerator. I keep them for my grandkids when they come around.

Q. Can you at least point on that device where, was it

on the left or right side?
A. Right there [indicates].
Q. Okay. Mr. Fickling, you don't want to be convicted of this do you?
A. Nobody would.
Q. And you're doing what you have to do to get out of this aren't you?
A. No, I'm innocent. I wouldn't have messed up my house. I don't fight in my house like that. I was attacked.
Q. But you admit nobody hits Hank, right?
A. I admit that I say that?
Q. Yes?
A. That's what I've been saying for the last few years. Nobody will hit Hank. You can take it anyway you want to.

[Whereupon, Mr. Waring and Mr. Osborne confer]

Q. Please answer any questions the defense has.

THE COURT: Redirect?

MR. KING: No, Your Honor.

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

[Whereupon, the witness is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. KING: The defense rests, Your Honor.

THE COURT: All right, defense rests. Let me see the attorneys up here just a second.

[Whereupon, an off the record bench conference is held]

THE COURT: Mr. Foreman, ladies and gentlemen of the jury we're not going to take any further testimony at this point in time. So if you will be back in the jury room in the morning. I have to take something up with the lawyers and I'm going to do that at 9:30. If you will be in the jury room at 10 o'clock and we'll get started and -- excuse me, the case we will finish tomorrow, okay. Please don't discuss the case amongst yourselves and I'll see you in the morning at 10 o'clock.

[Whereupon, the jury exits at 4:52 p.m.]

THE COURT: Do you want to renew your motions at this time or do you want to wait and see if he has any rebuttal and do it after rebuttal? What is your preference?

MR. KING: Mr. Waring said ---

THE COURT: --- pardon?

MR. KING: Mr. Waring said he's not going to call any other witnesses so I'll renew my motion for directed verdict at this time.

THE COURT: You want to renew it at this time?

MR. KING: Yes, Your Honor. I don't think he is going to -- he said he is not going to put in any rebuttal witnesses.

THE COURT: You're going to put in any rebuttal tomorrow?

MR. WARING: No, Your Honor.

THE COURT: Oh, you're not?

MR. WARING: No, Your Honor.

THE COURT: Okay. Let me hear you on your motion, then.

MR. KING: I just renew my previous directed verdict motion.

THE COURT: Anything else you want to put as far as the record is concerned?

MR. KING: I'm sorry?

THE COURT: Anything you want to put in as far as the record is concerned?

MOTION FOR DIRECTED VERDICT

MR. KING: I guess now that he has testified he has given his explanation for what happened. There is not much to contradict that but maybe George Bellinger. I don't think what Lynn Boyd testified to necessarily contradicts anything he said as far as what happened in that room. So he is the only witness of what happened in that room other than George Bellinger saying that he made certain comments. I'd ask for a directed verdict of self-defense.

THE COURT: Okay. Anything the State wants to put on the record?

MR. WARING: Your Honor, we think there is enough evidence to submit it to the jury for a murder charge, Your Honor and we'd ask that it be denied.

THE COURT: Okay. Motion denied.

THE COURT: I understand the State wants to charge voluntary. Does the defense want to charge voluntary?

MR. KING: No, voluntary gets him life in prison.

THE COURT: Pardon?

MR. KING: I believe voluntary would get him life in prison.

THE COURT: I understand that. I'm not concerned about whether he ---

MR. KING: --- I don't want ---

THE COURT: --- life in prison or not or he may not even be convicted. But my question to you is real simple. Do you want me to do a charge on voluntary?

MR. KING: No, Your Honor.

THE COURT: You do not want that?

MR. KING: No, Your Honor. They never offered anything below murder. They've been seeking murder the whole time. Voluntary is a strike that would result in a life sentence for him. There is no benefit to voluntary so we do not want voluntary.

THE COURT: I'm not worried about the sentence. I'm worried about whether facts have come out to justify a voluntary charge and that's what I want to hear you on. You keep talking about his sentence and I don't know if he is going to get convicted so that's immaterial at this point in time. My question to you do the facts justify

in your opinion a voluntary charge? The State has asked for it.

MR. KING: No, Your Honor. No, I don't believe so. I believe based on what he said he did say once he was hit he fights back and I think he's entitled to do that. He's entitled to fight back until the threat has ended. And maybe he gets angry because he was hit but I don't think there is any evidence that he did this in the heat of passion. He didn't testify to that so no I don't think there is any evidence that he did this ---

THE COURT: --- let me hear from the State on why you think you should have a charge of voluntary?

MR. WARING: Your Honor ---

THE COURT: --- I mean what testimony has come out that would justify a voluntary defense?

MR. WARING: Your Honor, his own testimony he said that he got hit once in the face or in the mouth and that he slipped it and that nobody hits Hank. He's a boxer. It's pretty clear that he's not concerned about the victim. I'm pretty sure we've already disproven self-defense. All we need to do is disprove one element. So it's arguable that it could be viewed as voluntary, Your Honor.

THE COURT: It could be what?

MR. WARING: It could be viewed as voluntary.

THE COURT: Okay.

MR. WARING: You know killing another without just cause or in the heat of passion. And I think that the jury could potentially see that.

THE COURT: Okay. I'll meet with the attorneys in the morning at 9:30. We'll have an informal charge conference and we'll get started at 10 tomorrow.

MR. WARING: Thank you, Judge.

[Whereupon, court is adjourned at 5:10 p.m.]

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official Circuit Court Reporter for the Ninth Judicial Circuit of 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 Court of General Sessions for Charleston County, South Carolina on the 14th day of March, 2018.

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

May 27, 2018

Joyce C. Rueger, CVR-M
Court Reporter

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| STATE OF SOUTH CAROLINA | ) | COURT OF GENERAL SESSIONS |
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| COUNTY OF CHARLESTON | ) | DOCKET NO. 2017-GS-10-0439 |
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| STATE OF SOUTH CAROLINA | ) | |
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| vs. | ) | |
| | ) | |
| | ) | |
| HENRY JAMES FICKLING, JR. | ) | |
| | ) | |
| Defendant | ) | |
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March 15, 2018
Charleston, South Carolina

**Volume 4 (of 4)**

B E F O R E:

THE HONORABLE J.C. NICHOLSON, JUDGE

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PROCEEDINGS

[Whereupon, an informal charge conference is conducted off the record at the bench]

MR. D'ANGELO: I would state that while I'm not aware of any case that necessarily states counselors are not allowed to do that I believe again as the State is opening in full, the defense opens in full, the State is merely rebutting. I would liken that to the State doing a direct, myself cross-examining and then them splitting a redirect. Again, I believe it does fall within the discretion of the court, discretion of Your Honor to make that determination.

Typically, I believe judges have looked at it as essentially lawyers tag-teaming which is not allowed. I have had a case in front of Judge Hughston where Judge Hughston did not allow the Solicitors to do that. But I do believe there is precedent in judges not allowing Solicitors to do that.

THE COURT: All right. I will allow it okay.

MR. D'ANGELO: Thank you, Your Honor.

THE COURT: Anything else we need to put on the record as a result of the bench conference?

MR. WARING: No, Your Honor.

THE COURT: Mr. King, let me know when you're ready okay.

MR. KING: Yes, Your Honor.

[Whereupon, court is in recess from 10:17 a.m. until 10:33 a.m.]

THE COURT: Is the State ready for closing arguments?

MR. WARING: Yes, Your Honor.

THE COURT: Is the defense ready?

MR. KING: Yes, Your Honor. I did find a case I was going to do after --

THE COURT: I'm sorry?

MR. KING: I did find a case about the invited guest. Did you want to do that now or after the jury has been charged?

THE COURT: What does the case say?

MR. KING: It's State v Osborne. It is an older case that says --

THE COURT: --- what's the name of the case, State what?

MR. KING: State v Osborne, the site is 202 S.C. 473. The language in there talks about I believe it's an invited guest. It says he had no greater or less rights in the house where he was a guest than in his own house.

THE COURT: Okay.

MR. KING: First of all I think it's his own home and he has no duty to retreat inside his home. And even

if this room belonged to the victim he was an invited guest in that room and he still had no duty to retreat from being an invited guest. There is no testimony that he was asked to leave. He was just attacked in the room.

THE COURT: Well, I don't remember exactly what was said about why he went in the room. It was something about a phone. So to be perfectly honest with you I don't know if he was an invited guest or trespasser, or licensee or what.

MR. KING: I thought there was testimony that the victim called him in the room to talk to him.

THE COURT: I don't remember. Does anybody from the State remember?

MR. WARING: Yes, Your Honor. I think what he said is correct.

THE COURT: Okay. Then how would you suggest that the -- I think the fourth element of self-defense you have to prove. And I don't think stand your ground modifies that element of self-defense. It needs to be proven by you or disproven by the State.

Now if in fact there was a stand your ground situation then you would go into the law about stand your ground. I don't view this as a stand your ground situation. So I'm not going to change what I've got but you can take exception after I give the charge okay, to

whatever words I use that you want to take exception to okay?

MR. KING: Yes, Your Honor.

THE COURT: And at that time I'll let you fully put on the record whatever you want to put, okay.

MR. KING: Yes, Your Honor.

THE COURT: Anything else?

MR. WARING: No, Your Honor.

THE COURT: Anything else from the defendant?

MR. KING: No, Your Honor.

THE COURT: Okay. Bring us the jury please sir. Let me see the attorneys up here real quick.

[Whereupon, an off the record bench conference is held]

[Whereupon, the jury enters at 10:37 a.m.]

THE COURT: Yes sir, Solicitor.

MR. WARING: Yes, Your Honor. May it please the court?

CLOSING ARGUMENTS

BY MR. WARING:

Good morning everybody. Financial gain, unspeakable cruelty, total disregard for the value of human life, and a plan to cover it all up. I mentioned those things at the beginning of the trial because that's what this case is all about. Now I want to take y'all back through what actually proves this defendant is guilty once and for all. Look for the connection. Look for the meaning in the evidence and you will see that it only points to one conclusion; murder.

Now let's talk about Jeff's debit card a little bit. The defendant did have permission to use Jeff's debit card to buy him liquor and maybe food every now and again. But as you heard Allura Boyd testify he did not have permission to withdraw hundreds of dollars or thousands of dollars from Jeff's bank account.

You saw the two videos from the Kwik Mart and from the Circle K where the defendant was withdrawing money from Jeff's bank account. Those instances were corroborated by both the bank statements of Jeff's accounts and the ATM records. The defendant himself took the stand and admitted to taking out 1,300 dollars over the course of two days. Based on Allura Boyd's testimony we know the defendant did not have permission to do that.

And of course the defendant as I mentioned claims he got permission to do so. Yes, to buy liquor but to withdraw 1,300 bucks in the course of two days? I think not.

Now the SunTrust bank employee custodian he testified that between the time of late May when the first transactions started popping up in South Carolina on Jeff's account when he first moved here and late August there were no ATM cash withdrawals.

Now starting in late August that's when the first withdrawals took place. And that's around the time of when Allura Boyd testified this defendant came home with a brand new moped, a computer, some dog and cat food and other various items making purchases. And it was unusual for him to do that at that time because he was making 720 bucks a month on social security and disability.

What happened was the defendant got away with these withdrawals. He found his golden ticket. And that brings us to motive. The whole motive for this whole thing was financial gain. The defendant was afraid he was going to get in trouble. Once Jeff found out that the Wi-Fi was changed he was going to see that this defendant had been stealing from him. So he was in jeopardy of losing that golden ticket. That's why when his wife told him that Jeff was making inquiries about the Wi-Fi the defendant knew he had a problem and the

only way to solve that problem was to silence Jeff permanently. Now let's talk about Allura Boyd's testimony a little bit. She testified that Jeff was drinking a lot and in general could barely walk and had trouble standing. She said the defendant did have permission to use his card but for liquor as I mentioned; not to withdraw money.

The defendant was buying up a bunch of stuff. She testified that a few days before the murder the defendant had asked her to change the Wi-Fi password and she did so. And then when she told him that Jeff was asking about it he said he would take care of it. Well he did because he picked up a crowbar and the taser according to Ms. Boyd and he marched into Jeff's room.

When he came back in he gave her that story that she testified about; they were out riding mopeds and somebody came to see Jeff. And the defendant also admitted to killing him. And one of the first things the defendant had Ms. Boyd do was call the victim's bank. He had just brutally murdered him and he wanted her to call the bank to check the balance. Financial gain; that's the motive. They cleaned up around the house. Her testimony is also corroborated by George Bellinger's testimony. And her testimony about some kind of crowbar and taser being used is supported by the pathologist. Now the defendant's

encounter with Charleston County during the moped stop. According to Allura Boyd the defendant killed the victim sometime in early afternoon on September 13, 2016 on that Tuesday.

Now the defendant called 911 approximately 12 hours later at 2:40 a.m. the following morning, Wednesday morning. In between those 12 hours the defendant got pulled over on his moped. Now that in and of itself isn't that interesting but his behavior during that traffic stop certainly is. He rambled on about various matters about how he had been riding around with his dog since the 80's to how he just recently bought that particular moped for 920 cash.

And the defendant was proven to have withdrawn cash from Jeff's account on multiple occasions. And he admitted that he took out 1,300 bucks cash. How is he going to pay for a 920 dollar moped for cash when he is raking in just over 700 bucks a month? He's got to pay for his rent, bills, feed his crack habit, pay for cigarettes, provide for the four animals. And they eat good, you remember that.

He's got to provide for himself and his wife. How's he going to do all that on a 720 dollar check? The simple answer he's not; that's where the money from Jeff came in. So let's break it down. While the victim is

laying dead in his room with horrendous injuries having been brutally murdered the defendant was just out and about joy riding with his dog on his brand new moped; not a care in the world. Even threw in a little joke at the end about his birthday born on Christmas day. He ruined everybody's Christmas that year; remember that?

And what is possibly the most indicative detail of this entire stop do you recall hearing anything about a deceased person in his house, anything about being attacked by Jeff, anything about being in fear for his life having to kill him? No.

The 911 call. We're led to believe by the defendant that a man was last seen with the defendant excuse me, with the victim. He had just been doing a welfare check on the victim and that's the state he found him in. Now this is the same story that he told Boyd to stick to and she testified to that and that was all proven to be false. Then the defendant testified that he made all that up.

Now the defendant mentions that he is running the washing machine in the 911 call. That's pretty interesting because in fact there was evidence that he cleaned up. Now the 911 operator at one point asked him if any weapons were involved and he almost gets offended and says no, no. There are no weapons involved. He's

almost insulted. But we know some weapons were used. Now towards the end the defendant tries a different story about how he thinks the victim may have had a seizure and fallen and hit his head. That didn't work. Needless to say we know who the Oscar award won't be going to this year.

The defendant's behavior when responding officers arrived right off the bat he rattles off a story similar to what he said on the 911 call that the last time he saw Jeff was with some mysterious humble man. You remember that part? He was really humble. And then when Jeff came back from the liquor store he was with that man. And that's when he says he and his wife went out riding mopeds.

Also tells the police that he calls 911 immediately. Well, 12 hours later isn't immediately. What he doesn't mention anything about when the police officers arrive is self-defense, Jeff attacking him, being in fear for his life, etcetera. The list goes on. He was also seen changing shirts and no injuries were observed on his person at that time. He did have a little scratch on his hand but he said the cat did that.

What's also interesting is at on one point he said that there was a murder. But as testified to by Officer McGowan who responded nobody mentioned anything about a

murder because at that point they were potentially buying his story. The victim hadn't been flipped over yet and they didn't see those injuries. The defendant said it was a seizure possibly and that another man was with him. The victim earlier that day they had no reason to suspect that. Nobody mentioned murder in front of him at least.

Let's look at the physical evidence. The largest bloodspot on the wall just above and right next to the head of the bed as Lieutenant Crooks testified to the victim would have been lowdown on the bed when that stain was caused. And while he said it could have been partial expiration or coughed up blood and partial blunt trauma he thinks that it is most likely consistent with expiration; the spitting up blood.

Now this is corroborated by the fractured trachea that the pathologist testified to. In the defendant's own testimony he admitted right up there [indicates] he delivered that fatal wound. So it's looking more and more like that is expiration and Jeff was lowdown on the bed right there [indicates] and spitting up on the wall. If he's lowdown on the bed like that he's not a threat period.

Jeff's blood DNA was found on the end of the taser in the defendant's room. If Jeff did jump the defendant like he says did Fickling have the taser in his hand

already ready to go? What about that crowbar or the cat paw as he refers to it as? Is that already in his hand too or was it just scratching his leg like he said. He had the cat paw and he brought it in there so he could scratch his leg. Does that make any sense? I don't think so.

When the defendant went into Jeff's room he went in there for one reason; to kill him. He was ready to kill. Now we don't have any DNA on the crowbar or any of those other potential weapons. But as you saw earlier there was evidence that he cleaned up the house. But he sure messed up by not cleaning the taser off.

The crime scene techs testified that they sprayed the house with that BLUESTAR that presumptively indicates the presence of blood. And they found it in a few different spots, one of which was on top of the washing machine. Well, he admitted he was cleaning clothes. That makes sense. It was also found in other areas in the house and on the walls.

How about Jeff's computer? There was testimony that the victim's computer was found in the defendant's room. And Allura Boyd, the defendant's wife testified that he had brought it into their room after the murder. Now what's he doing with Jeff's computer? I guess at that point he had already taken Jeff's cash out of his bank

account. He had traded Jeff's car for crack, why not take his computer. That brings us to the whole vehicle for crack situation.

The defendant had just brutally murdered Jeff then he traded his vehicle for crack. How do we know this? Because the defendant got up on the stand and told us. It would seem kind of odd for somebody claiming self-defense to take the victim's vehicle after he had killed him and then trade it for crack.

Our jailhouse informant, snitch, whatever you want to call him Mr. Bellinger testified that the defendant was bragging about killing somebody with a crowbar. Bellinger also said that the defendant said he himself threw the first blow and that the victim was laying back. Now according to Bellinger the defendant said he had been swiping the victim's card, and this is corroborated by the fact that the defendant was in fact captured on ATM surveillance video using those cards.

Now obviously Mr. Bellinger doesn't appear to be the most credible person at first glance. He walked in here in a jail uniform. He's got a record, he's got a checkered past, he's got pending charges. But his testimony can be corroborated by other evidence in this case namely Allura Boyd's testimony and by the pathologist. The pathologist testified that most likely

a crowbar type weapon was used. In addition as testified to by Lisa Bloodworth of the jail Mr. Bellinger and Mr. Fickling were in fact pod mates so they had access to each other. That further corroborates Mr. Bellinger's testimony.

In addition perhaps the most telling detail that Mr. Bellinger testified to is how the defendant said he hit Jeff's windpipe and how Jeff was gasping for air. That's directly corroborated by the pathologist's testimony and by SLED about the blood spatter on the wall being expiration or spit up. The defendant also admitted that the victim was spitting up. This is all corroborated.

The bottom line what George Bellinger said the defendant said is backed up by the evidence. And y'all remember how the defense tried to trip you up with that transcript claiming that Mr. Bellinger said the defendant said the victim hit him first. Well we all listened to that recording and he didn't say that on there.

Let's talk about the injuries. Doctor Phillips from MUSC testified that these wounds on Jeff's hands were indicative of defensive wounds. So as Jeff was being attacked by a man with a crowbar type weapon and a taser naturally he tried to defend himself. Now the pathologist testified that the major blows above the eye and over the chin were caused by blunt force trauma and

that either one of those blows could have been incapacitating. Why keep going with the barrage of blows on the victim if those wounds were in fact each one incapacitating, why keep going? It's simple; the defendant was trying to end Jeff's life. Now the doctor also testified that the triangular shaped abrasion on Jeff's right shoulder looked consistent with the end of the taser.

You're going to have access to these photos and to this evidence. Take a close look of the photo of Jeff's shoulder and then take a close look at the end of the taser. On each side at the top of the taser is a triangular configuration. Taking that into account with the fact that Jeff's blood was found on the end of the taser I think it's safe to say this defendant tased him; that in and of itself could have been incapacitating.

Now Jeff sustained blunt force trauma to his lower back as well. That's huge because if the victim's back is faced to the defendant he wasn't a threat at that time. That goes completely against self-defense. Now after listening to the testimony of the pathologist pertaining to the remote and Gatorade bottle found on Jeff's bed it's pretty clear that Jeff at some point was lying on his stomach. She testified about the livor patterns and the buildup of blood and how that was post

mortem and that buildup. Now that indicates that at some point this defendant moved the body to the position where you saw those crime scene photos where Jeff was laying halfway off the bed.

And as the doctor discussed the fatal blow would have been blunt force trauma to the trachea most likely a crushing trauma. He also had multiple broken ribs. Now I mentioned malice up there [indicates]. Jeff's injuries were so extensive that they indicate malice. They indicate that the defendant intended to kill Jeff. This was not self-defense. This was overkill. This was murder. And the pathologist testified that if the defendant were high on crack that could explain this overkill nature of the injuries.

So what really happened? Based on Jeff's injuries and the location of the blood spatter as well as the defendant's statement to George Bellinger and the other evidence that the victim was laying back this is most likely happened. The defendant went into Jeff's room with the weapon and a taser. Jeff was lying down on his bed minding his own business or possibly sitting up on the bed. Maybe he was sleeping. The defendant wanted to make sure the defendant couldn't fight back. So right from the get go he grabbed the crowbar or the cat paw like he says and swung it at Jeff either right above the

eye or right below the chin. That was most likely one of the first blows. Jeff no doubt would have fallen back as either one of those blows was incapacitating but the defendant kept going. The second blow was the second of those blows.

At that point he most likely jumped on top of him possibly that's where the broken ribs came from or kept beating his torso and at that point he may have pulled him up and maybe pulled the cat paw under Jeff's throat and that's where the crushing came from. And during that process that's where Jeff expirated on the wall. Now we know from those patterns on Jeff's stomach that he was on his stomach at some point. So at some point the defendant shoved him down on the bed face first stomach first and that's where those patterns came from.

But at that point the doctor testified that he could have still been alive. It's not necessarily instantaneous death when your trachea is fractured. He could have still been alive. It's at that point most likely that the defendant took the taser to see if he was still alive and tased him. And that's why there is blood on the end of that taser.

Now the contusions to the lower back at that point the defendant is getting up and he hits him in the back after he is dead. This whole thing is a wild murderous

rage. Now at that point is when another interesting thing happened. After he had just brutally beat Jeff all over he tells Boyd to check the bank account and he goes back in there and tells her the story and the alibi to stick too. This was murder plain and simple.

Let's talk about the defendant's own testimony. The defendant eventually admitted on the stand during cross-examination that he did in fact need money. And he volunteered some information. He said he was 17,000 dollars in the hole for child support and was only collecting a little over 700 dollars a month in social security and disability. He admitted all this. He gives us the motive, which is financial gain.

He also admitted he was high on crack at the time of the murder. And, as I already mentioned before, with the pathologist that could explain the overkill nature of the injuries. And his story that he testified to was that he went to Jeff's room and told him the party was over and tried to get his wife's phone back for some reason from Jeff who then got mad and attacked him bringing up a need to brutally murder him. Does that make sense? None whatsoever.

Remember the defendant took the stand and he informed you that he as a boxer; he came from a family of boxers. Nobody hits Hank; that's what he said. Those

were his words. And he can take a hit he said. He's a tough guy. So is it realistic that he is in fear for his life from Jeff who could barely walk and was urinating in his bed and could barely stand at that time in his life during a weakened state in his life? Absolutely not.

As long as I get what I need I'm happy. That's what he testified to and that's what the defendant said because he said he checked Jeff's balance on his bank account and the money was running out so he didn't want some freeloader hanging around. He said all that.

And this [indicates] is the photo of the defendant that was taken at the time of the arrest. Do you see any injuries on there? He testified that he got punched in the face, in the mouth and choked. I don't see any injuries on there.

Now the Judge is going to instruct you on all this but I briefly want to touch on it. Murder is the killing of any person with malice aforethought. And malice is the wrongful intent to injure another and indicates a wicked or depraved spirit intent on doing wrong.

Now in this case the malice aforethought is overwhelming. The defendant took advantage of Jeff. He stole money from him and realized he was going to get in trouble and made a conscious decision to end his life. Just as Allura Boyd testified once the defendant found

out that Jeff was asking about the Wi-Fi password the defendant said I'll take care of it. And that's what he did; he took care of it. It's at that point that the malice aforethought began, at that moment.

He picked up the crowbar or the cat's paw and the taser and went into Jeff's room and killed him. The injuries that Jeff sustained are overkill and incredibly harsh and those injuries show that the defendant not just trying to harm him; he intended to kill him.

This is murder pure and simple. Jeff was going to find out that the defendant was stealing his money and that means the defendant could possibly face getting arrested and in the defendant's mind Jeff could not be allowed to leave that room alive. The defendant had a choice; face the music, deal with the consequences of stealing from Jeff instead he chose murder. Jeff never had a chance.

Don't be fooled by the defendant's red herrings. They brought up a few points here and there that are intended to distract you. Stay focused on the bigger picture here and the bigger picture here is that there is too much evidence that indicates murder. Now self-defense; with this case we have the defendant on video surveillance withdrawing money from Jeff's bank account; stealing from him. He told his wife to change the Wi-Fi

password. This is what prompted Jeff to ask Boyd what's up with the Wi-Fi. She told her husband who said I'll take care of it. He picked up the weapon, the taser and went into his room. Without question the defendant was at fault bringing on this difficulty. Without question he did not have to take a crowbar or a cat's paw or whatever you want to call it and a taser into Jeff's room. He simply didn't have to do it.

And in this story the defendant claims he grabbed his wife's phone out of Jeff's hand which is what started this fight. So either you look at it he was not without fault in bringing on the difficulty. That means he had a hand in bringing on the difficulty. Now the analysis stops right there since we've already disproven the first element for self-defense. But for argument sake I'm going to go through the other elements as well.

With regard to the second element in order to satisfy that the defendant would have to believe he was in imminent danger of losing his life or sustaining serious bodily injury. Both Jaimie Lunney and Allura Boyd testified that the defendant could barely walk and he kept to himself and stayed in his room and drank all day long. Jeff was not in a stage in his life unfortunately at that point where he was a danger to anybody. He wasn't a threat to anybody so it's simply

not believable that Jeff was somehow able to miraculously gain mobility and his balance enough to inflict a barrage of attacks on the defendant. It's just not believable.

On top of that as Lieutenant Crooks from SLED testified about Jeff was most likely low down on the bed when this occurred. The defendant himself told George Bellinger that Jeff was laying back. Bottom line he wasn't a threat. In addition the defendant said he is a boxer. Nobody messes with him in the street and he can take a punch. So what does that mean? It means he's not worried about Jeff who could barely stand. The defendant is trying to dupe you.

With regard to the third element a reasonable person would not have considered Jeff at that point in his life a threat. He kept to himself, liked to drink excessively, couldn't walk. It's just not reasonable to think based on the testimony that Jeff was any kind of a threat at that time.

Lastly, with regard to the fourth element the defendant could have avoided this situation completely. He could have owned up to it. The financial stuff he could have faced the music and owned up to it. He could have taken responsibility for his actions but instead he decided to go in Jeff's room with a weapon and a taser and kill him. He didn't have to do that; he could have

avoided it. So the defendant's theory of self-defense has been refuted. We've disproven the first element, which is all we need, but we've also disproven the other three as well.

Now if for whatever reason you believe parts of the defendant's story then it's possible the next option would be voluntary manslaughter. But I'm arguing today that this was not manslaughter. This was murder plain and simple. Now the State has carried its burden of proving the defendant guilty of murder beyond a reasonable doubt. The connections are there. The meaning in the evidence is there. When you get back to the jury room and you begin deliberations I'm confident you will know what to do.

Now in a minute the defense will get to do their closing argument and after that if we deem it necessary we are allowed to respond to their closing argument. We don't have to but we can if we deem it necessary. But let's get one thing straight. This man does not get to walk out of here today. I'm asking you to find him guilty of murder.

THE COURT: Mr. King?

CLOSING ARGUMENT

BY MR. KING:

Mr. Waring left one important thing off that statement of the law the Judge is going to charge you the defendant must be without fault in bringing on the difficulty. The Judge is going to charge that the defendant's conduct was the type that you would reasonably calculate it to didn't provoke a deadly assault then the defendant would be at fault.

So the point of that is you can't go pick a fight with somebody and then claim self-defense. You can't start a fight. It has to be something that would be reasonably calculated and then provoke a deadly attack. And that's if you believe he was even stealing money. I've been a little skeptical about this Small Fry. Let me show a picture of that; it's been admitted into evidence.

[Whereupon, the photograph is shown]

They were putting up a witness, the investigator from the Solicitor's office Mr. Eckert talking about how the police issued tasers are 50,000 volts but this little 25 dollar Small Fry has 8 million 800,00 volts. I'm thinking why in the world are we giving our law enforcement officers those weak tasers when we could be giving them a 25 dollar Small Fry? That doesn't make any

sense. I don't know if the voltage is the same thing as power or current. Then I looked at the picture and I didn't even see the word volt. Then I looked a little closer and it says 8 million 800,000 and there is a little asterisk up there beside it. I thought that sounds like an advertising gimmick to me. I think Streetwise Security Products are trying to get people to buy the Small Fry by putting 8 million 800,000 on the front of it.

And Mr. Waring is now trying to sell you some Streetwise Security Products telling you how powerful that is. I don't think you have to know a lot about electricity to think that through that that's not going to be more powerful than what the police carry around. And I started thinking that through about this sort of advertising gimmick and how that might relate to other things in this case. And so I'm asking you not to buy what they are selling. I don't want you to buy this taser.

What they are trying to sell you is they put up McGowan who is the responding officer. I'll just kind of go through some things. This is the first one I thought of. She gets up there and says Hank was walking around talking about a murder when she responds to the scene at [redacted]. He's talking about a murder; Hank. She is

wearing a body camera the whole time but Hank talking about a murder is not going to be on that body cam. But if you listen, and you've got to listen for yourself, there is a point where McGowan says I just need to get some information from this guy talking about Hank. And if you listen and see if you agree that there is another guy that says make sure he didn't murder him.

So they're trying to say Hank is saying murder but it's not on the body cam that she is wearing the whole time. And there may be somebody else on that video talking about murder. And this is one little thing. Another thing they are trying to sell you is that Jeffrey was laying in the bed and Hank just walked in there and beat him to death with the crowbar. So they bring Crooks down, he's a blood spatter expert from Columbia. He comes all the way down here and testifies. And he was presented the question by Mr. Waring whether you can determine that Mr. Shiver was lying down when the fatal blows occurred and his conclusion was it cannot be conclusively determined that he was lying down.

What he said was he talked about a bloodletting event. And he talked about where Mr. Shiver would have had to have been when the bloodletting event occurred but he can't tell whether he was lying down or standing when the first blows happened. He can't tell that he was

standing and he was knocked back onto the bed when the bloodletting event happened. And Doctor Phillips, medical doctor pathologist she said you can't tell if he was standing or lying down when these blows happened. So there is just no evidence for that.

The taser wound; he asked Doctor Phillips to look for a taser wound. She's a doctor and a pathologist. That's what she does for a living; she examines bodies and injuries and she said she can't be sure. She said maybe it could be consistent with it but she can't be sure.

So Mr. Waring is asking you to look at it and determine it when a pathologist can't even determine it. How are you guys going to know more than what she knows? So look at it for yourself but Doctor Phillips testified that it is consistent with that but she can't say for sure.

The other thing they are trying to sell you is that Hank was stealing money because Hank is on video using Jeffrey Shiver's card. Now nobody knows but Hank and Jeff if he had permission or not to use it. Lynn never left the house; we know that, except to go to the Red Lobster. Jaimie was rarely there. Jeff rarely left. He was too drunk to drive. Hank is the one who went out. And Jeff was generous with his money. There has been

testimony from Jaimie about that. He spent it freely. There is testimony from Jaimie that he smoked crack. She saw him at least twice in the few times, the rare times that she was there and the rare times that Jeff would come out of his room. She saw him twice.

She told the police about a prostitute being there. Now you can't buy crack and you can't buy a prostitute by swiping a card. You've got to have cash for that. And if Jeff couldn't go out and get vodka how is he going to go to the ATM machine. How is he going to get this cash? And Hank obviously had the PIN number because that's the only way you can get cash out of the ATM machine.

They're trying to sell you Lynn as a credible witness, Lynn Boyd. Now she was asked on direct by Mr. Waring if Hank had permission to use the card. If you were listening her answer was I don't know; I don't think so. But that answer wasn't good enough. So if you remember he approached her and she showed her the transcript of her 10 hour interview with police to remind her that she did say that to the police who yelled at her, threatened to arrest her.

And she even admitted on the stand that she lied to the police so they would stop so that she could go home and go back to her room and check on her cats. And she admitted that she was willing to say anything to get them

to stop. She admitted it. Now she's pled guilty so she's just waiting to be sentenced by a judge. And she said she was hoping she's hoping Mr. Waring will put in a good word for her at her sentencing. I can't imagine someone who wouldn't leave the house for years except to go to a Red Lobster could enjoy jail or prison at all.

That must be very tough on her and a person who likes their privacy and doesn't like to be around a lot of people. So you can't trust -- I wouldn't trust anything that comes out of her mouth. I don't think you can trust what she told the police back then and I don't think you can trust what she says now.

They're trying to sell you George Bellinger. Now this guy he's convicted of felony drug offense around 2005, a drug conviction. In 2013 he gets another felony drug conviction in federal court where he is looking at 132 months. And back then he cooperates with the government.

He ratted out his own brother, Arnold Bellinger is what he testified to in order to get his sentence or in order to get some benefit and get his sentence cut almost in half down to 72 months. So he knows what he needs to do to get his sentence reduced. Supervisory release he's still on it so now he is on the supervisory release for the 2013 crime and he gets arrested for more felony

federal drug charges. And now because he has two prior felony convictions on his record he is considered a career offender under federal law. He knows that; he knows what he is looking at. And that's going to increase the time he is looking at. He's looking up to 30 years. And he testified he is looking for some type of relief.

And all he needs are some facts about the case to be able to pretend that he knows something. So I wouldn't be surprised if Hank was at the jail talking about his case. You saw him on the stand and he's a talker. So if he's in the jail and saying they're trying to say I beat the man to death with a crowbar because I was stealing his money. I didn't do that. Well, then Bellinger hears that and he says okay I need to tell the police he said he beat the man with a crowbar because he was taking his money.

The other thing is Hank doesn't have any privacy. Nobody has any privacy in that dorm to keep any of their paperwork or anything from another inmate looking at it. So all he needed was some information about the case to feed to them and tell them what they want to hear. You can't trust anything that guy says. He has all the motive in the world to make up a lie, to try to get some benefit for himself. What he said he's hoping for some

type of relief. I bet. They're trying to sell you that Jeff was weak and couldn't stand. He wouldn't have been able to do this. He's unsteady on his feet. There is no way he could ever fight back, right. Now Jaimie told the police when she met with them after this that when he wasn't drinking he was sprightly. She used the word sprightly.

And she testified this week and she seemed to back off from that and say oh no that was just compared to how bad he really was. She made it seem like he was weak and sick and unable to do anything. The few times that she saw him I guess when she was there and when he came out of the room.

But we heard testimony from Doctor Saef who actually examined Jeffrey Shiver, fully examined his body and said that he was fine; and that alcoholics can be powerful and very strong. And he also said that Mr. Shiver has a condition of alcohol withdrawal which does cause seizures, which we know he went to the hospital for seizures.

But it causes other symptoms too. So here we have this alcoholic who is physically fine. There is nothing wrong with his body; he is healthy and he has a condition that can make his agitated, aggressive, and combative and he's powerful and very strong. So are you going to

believe Jaimie, Mr. Waring or are you going to believe Doctor Saef who has 30 years of experience in emergency medicine. Whose word do you think you want to take on that on Jeffrey's health? His blood alcohol content we know from Doctor Phillips when she examined him was .026, which is not very high. So if he wasn't drunk that day then he could have been sprightly. He could have been agitated, aggressive and combative and according to Doctor Saef nothing physically weak about him.

So what supports what Hank says? McGowan said she saw a grey hair on Mr. Shiver's finger when she responded to the scene. There has been no other testimony about that so I'm assuming no one collected that or anything was done with that. Maybe that's a cat hair like Mr. Waring said, maybe the cat did it; I don't know. But that's one piece of evidence because Hank has grey hair that there was some sort of fight or struggle.

Hank's blood is on the door. He was bleeding. Out of all of the blood that you see in those photographs they only tested a few spots. They tested the back of the door where they found Hank's blood and inside that room they only tested one spot on the ceiling and that's it. There are blood spots on that door that are not tested that are close to where Hank's blood was found. So if we knew whose blood that was we might have more

information about that. It's their job to test that. In a murder case they test a few spots of blood? There is a cut on Mr. Shiver's fist. There is a photograph of it. They're called defensive wounds. It's a cut on his fist. There is not a cut on his hand; there is a cut on his fist. The room is in disarray. It looks like there is a struggle in there.

Hank had a simple life. Hank is Hank. He's who he is. You saw him on the stand. You got at least a bit of his personality how he is. He was living his life working in his yard collecting junk, fixing things up. He doesn't have a lot of money. No, he's not a rich man but his rent is only 200 dollars for what he pays.

They're getting food stamps. I think Lynn gets 200 and he gets maybe 100. There is money for food. He is getting an over 700 dollar check every month. He's getting rent from two tenants in the trailer. And he testified he does odd jobs and everything to make extra money. He's got some money coming in.

And he's not buying a brand new car and he's not buying fancy jewelry. He bought a moped that he probably needed to get around to get back and forth to the store to buy this stuff. And he took the stand and he told you what happened. He didn't have to take the stand. He's not required to prove anything or testify but he took the

stand. He got up there. And I know it looks bad what he did afterwards. But what he did afterwards wouldn't change the fact that he defended himself. He made some bad decisions; high on crack. He lied; he tried to make up some story.

I don't know why he thought it would ever work that if he just called the police and said he found him like that. And that's his thinking. He doesn't know self-defense law; that's what he said. He doesn't want to go to jail; he knows that. So he made some bad decisions. But that doesn't mean that he's guilty of murder or that what he is telling you isn't true that what happened in that room.

And yes, he loaned the guy's car out for some crack. And I agree that doesn't look good but I guess if you're going to smoke some crack I imagine the way he's feeling if you need that rush and you need that high what better time to have that than after something terrible like this. So he consumed a drug that made him feel better. Maybe that's why the way he was acting on that body cam and the way he is on the 911 call.

But just because he smokes crack doesn't mean he's a murderer that he killed this guy not in self-defense. It just means crack is involved in this but Mr. Shiver was smoking crack too. It's just tied up in this. But he

has a right to defend himself. He doesn't have to calculate the exact degree of force that he needs to defend himself. He was attacked. He said he hit him, he grabbed him by the throat, he kneed him in the groin and he's fighting for his life. And this is a terrible tragedy. It's bad; it's a sad, sad thing that happened. But you can't let sympathy for Mr. Shiver -- you can't let those photos that you are going to see you can't let sympathy or these kind of feelings and emotion interfere with the job that you have to do which is to apply the evidence, apply the law to the evidence.

They have the burden, not me. They have the burden to prove beyond a reasonable doubt that this was not self-defense. They've got to prove that. And they can't do that. They can't prove that Hank was stealing money; they can't prove he hit him with that crowbar. They can't prove he hit him while he was lying down. They can say it and they can put witnesses up who say maybe that happened but that's not proof. And this is a man's life we're dealing with and this is a hard job being a juror. That's why you have to take an oath. So I'm asking you to do the difficult job, to listen to the Judge's instruction, to remember the testimony and remember Hank's testimony and find him not guilty.

THE COURT: Solicitor?

CLOSING ARGUMENT REPLY

BY MR. OSBORNE:

I'll try not to take up too much time here. Let's kind of go backwards with what Mr. King brought up. The first thing he talked about was bringing about the difficulty. By his own testimony when he went into Jeff's room Jeff was in there on the bed, unarmed. Who brought the weapons? He did. He brought the crowbar. He brought the stun gun.

And then he talked about the Small Fry. I had Investigator Eckert, and you heard the way that I phrased the question; Small Fry is claiming this amount of voltage. We don't know for sure; I mean that's what was on the voltage but what we do know, or what was on the box. But what we do know is that the injury that is to Jeff's shoulder is consistent with a burn mark and it is triangular shaped. When you're back there, put on the gloves take a look at the stun gun and see how it is going to be triangular shaped.

And just briefly Mr. King talked McGowan and this murder comment that was made by Sergeant Evans. Sergeant Evans was called to the scene to assist. Sergeant Evans was talking to McGowan. They were having a private conversation. He was whispering and he was saying it so softly he didn't want anyone else to hear; especially the

individual that could be responsible for the murder. He wouldn't be broadcasting it for him to hear; that's why we were having a hard time hearing it. Mr. King talked about permission to use his card. Did the victim give the defendant permission to use his card? Well, that would be true; the only two people that would really know that for sure would be the victim and Hank.

But what we do know is this. Remember Captain Willi from the North Charleston Fire Department. He said that he responded to [redacted] on September the 8th just five days before the murder. And what did the defendant say? Well, he said I've been in an argument. I've been in an argument with the victim and the argument was over money. So we know there was a dispute between the two individuals regarding money.

Next you heard from him. He said there was an argument over money. He said that he was fronted some crack to give to Jeff and that he wanted his money back. So while we don't know exactly what the agreement was between the two individuals we knew there was an ongoing dispute involving money.

And now so the Judge is going to talk to you about corroboration and what you believe and what you don't believe regarding a witness. Creditability it's all yours. You can decide what to believe from that witness

stand. What I would suggest is you corroborate. You corroborate what the witness is telling you to the evidence in the case. Then you can find out the truth. Then you can find out what is believable. Mr. King says that he doesn't believe you can believe anything that Lynn Boyd said. Well, let's see what Lynn testified to.

She said that the defendant had a crowbar. Well, he admitted that he had a crowbar. Lynn said that the defendant had a stun gun. He admitted he had a stun gun. She said that after the incident would occur he was trying to wash his clothes. He admitted to trying to wash his clothes after the incident.

And then Ms. Boyd told you that they checked the victim's balance. Well, he admitted to that as well. It was kind of quick and he said it during one of his times in which he was kind of going off but he said that he checked the victim's balance and he saw that it was running out of money. He doesn't want a freeloader there. In other words the victim had used up his need for him. He didn't need him anymore.

All right George Bellinger. George Bellinger testified that he, the defendant, told him that the victim was gasping for air. Well, we have physical evidence to show that. Lieutenant Crooks said that the air bubbles that were on the wall and that major

bloodstain were consistent with expiratory blood. And then he said that the defendant said the best way to kill someone is by crushing their windpipe, which is exactly what happened to the victim. And then there is Doctor Saef. Doctor Saef said that alcoholics can be powerful, can be very strong. I would submit to you that he is probably referring to their will to live, not their physical strength.

I don't think anyone has ever seen anyone getting drunk while they are working out or an alcoholic working out. It just doesn't make any sense. I think he's saying comparatively speaking they have a strong will to live. But then he did make some other comments ---

MR. KING: --- Your Honor, I'm going to object. That's mischaracterizing Doctor Saef's testimony.

THE COURT: Overruled. Go ahead.

MR. OSBORNE: And then he made some other comments too. He said yes an individual going through alcohol withdrawals can become combative. But he mentioned a bunch of other things as well. He said that an individual can become lethargic, can become sleepy and in fact that can go on for two days he said. And that's one of the dangers to seizures and individuals coming out of that postictal phase; they can fall asleep, swallow their tongue and suffocate. Now Mr. King said that the

defendant told you what happened. So I'm going to briefly go through what the defendant said and tell you or at least submit to you where you can give him the benefit of the doubt up to a certain point and then the physical evidence doesn't work anymore.

Now he said he told police he told Officer McGowan that he went to the door and it was locked and that he had a key and that he opened the door. He changed that whenever he was on the stand to say that Jeffrey called him into his room and he walked in; of course armed with the crowbar and the stun gun. He had to change that.

The complexion of this entire case changes if he goes to a locked door and uses a key to open it. But let's give him the benefit of the doubt. Let's say the door was open and Jeffrey called him into his room. What do we know? He said the victim was on the phone with the bank. Well, why would the victim have been on the phone with the bank?

[Whereupon, State's exhibit 89 is shown]

This letter right here is dated on September the 11th, two days before the defendant would kill him. This is State's exhibit 89. SunTrust reviews the credit card activity on a regular basis. We recently noticed unusual activity on this card. As a precaution we have temporarily blocked the status of your card until we can

validate the activity with you. He was on the phone with the bank because his card wasn't working. How do you know his card wasn't working? Because he said, the defendant told you that Jeffrey left that morning to try to go get alcohol. When he came back he didn't have any. He didn't have any because his card wasn't working.

So did the victim call the defendant into his room? Probably so. Why is my card not working? Why are you withdrawing all this money from my account? Where was he when he was making those conversations when he was talking to him about it? He was sitting on the bed. So let's just give him the benefit of the doubt. Let's say it went down just like that.

When he walked into that room he knew what was coming. That's why he brought the crowbar with him and that's why he brought the stun gun. Not that he needed it; I mean Jeffrey wasn't a threat to him but he was going to make sure. Where did he hit him? Where were the first blows struck? Was he standing when he did it or was he on the bed? Who knows? I mean he was on the bed at one point.

But if you notice when he held his hands, and this is a boxer and you saw it, when he stood up and started doing that shadow boxing that's a man who knows how to use his fists. And he punched him and he punched him

twice. One of them fractured the orbital over his eye. The other one was right there on his chin. And you can tell when you look at the photographs and the doctor told you, those were consistent with having occurred with a crowbar. He was holding a crowbar with his fist with those two blows. Those two blows alone she told you were incapacitating. He's done. The fight is out of Jeffrey right there. But he's not through.

How do you account for the other injuries? All right, because he's hit by my account between nine to 13 more times after that. He's hit on his ribs, he's hit on the back of his legs, and he's hit on his back. The only one that he can account for is the one on his bank. And he said it went like this. Jeffrey charged him and he came down on him once and twice.

But that's not consistent with what Doctor Phillips told you either. Those wounds that were to his back were from a thin heavy object. That's a blow like this [indicates] not like this [indicates]. And he hit him and it came down at an angle. Now I would submit to you that those two blows along with the blows that are on his lower extremities on the back of his leg occur while he is trying to get away. After those two first blows Jeffrey knows he's in trouble. He's facing a man that knows how to carry himself; he knows how to fight. And

when Jeffrey gets down and he tries to get away he's hit over and over again. The defensive wounds occur when Jeffrey turns around and he puts his hands up. You're going to see the wound right there [indicates] on his hand; that's another blow right there. He is trying to cover himself.

And then the trachea. How do you get the force to break his trachea, his windpipe? Now the doctor said it was most consistent with pressure, 30 to 40 pounds I think she said. Not from a blow, most consistent with pressure. How do you get that pressure? You get down on top of him while he's on the bed and you choke him out. You kill him. And that's why you see the expiration on the wall because while he is being choked out he turns his head and he coughs up.

I know Mr. King would like you to believe that he was standing. The blood pattern doesn't support it. The blood pattern is from the bed up, not standing up. This defendant never feared for his life. He was never afraid of that alcoholic. This is nothing but murder. Find him guilty of murder.

JURY CHARGE

THE COURT: Mr. Foreman and ladies and gentlemen of the jury I will give you a copy of these instructions in written form. During your deliberations you may refer to the instructions to guide your decision-making. You must consider the instructions as a whole and not follow some and ignore others. Please return the instructions to the court after you have reached a verdict.

I have allowed you to take notes during the trial of this case. However, please remember that some people are better note takers than others. Juror notes should not be given any great weight than the recollection of the other jurors. The recollection of the individual jurors should be considered as reliable as notes taken by other jurors. I also warn you that when you are taking notes you may not have noticed the body language of a witness which could be used by you in determining the witnesses' creditability.

Under our Constitution and Code of Laws only you, the jury, can make findings of facts in this case. I am not permitted to indicate to you how I may feel about the testimony and evidence which has been presented throughout this trial. It has been my intention to be fair and impartial toward each of the parties involved. Necessarily you must determine the creditability of the

witnesses who have testified in this case. Creditability simply means believability. It is your duty as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth. As you decide whether or not to believe a witness's testimony about a particular matter you may consider the following:

1) The manner and appearance of the witness while on the witness stand. Was he or she straightforward or hesitant in answering?

2) The testimony of the witness was it consistent or inconsistent?

3) How the witness came to know the facts that he or she testified to. Was the witness present during the incident or did the witness happen on the scene after the incident occurred?

4) The reason the witness would want to give testimony which could help or hurt one side or the other. Has the witness exhibited to you any interest, bias, prejudice or other motive in this case? Thus, you may consider whether a particular witness may gain some reward, payment, personal advantage, or vindication through his or her testimony.

5) The strength of the testimony of the witness. Was the testimony of the witness strengthened or weakened by other testimony or evidence?

6) The duration and length of time between the incident and when they were reported. Would the duration and length of time weaken or strengthen the witness's memory.

7) All prior statements; were prior statements made by the witness consistent or inconsistent with the witness's testimony?

In determining the believability of the witnesses who have testified in this case you may believe one witness over several witnesses or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. Of course you should not determine the truth by merely counting the number of witnesses testifying for each side.

As finders of the facts this does not mean you are at liberty to fabricate facts. You must determine the facts based on evidence you hear in the courtroom alone. You may not draw conclusions from facts that do not exist or are not supported by any evidence at all. You may however draw reasonable conclusions from facts you find are supported by evidence presented in the courtroom. The same Constitution and laws which designate and make

you the finders of the fact make me the sole instructor of the law. It is my duty to charge you the law applicable to this case and it is your duty as jurors to accept and apply the law as I state it to you now.

The lawyers are not the instructors of the law. You must accept the law and apply the law exactly as I state it to you. You must not base your decision on your idea of what the law is or what you think the law should be.

The defendant has pled not guilty to these indictments, which places the burden on the State to prove the defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent.

I charge you that it is a vital important rule of the law that the defendant in a criminal trial no matter what the seriousness of the charge may be must always be presumed to be innocent until his guilt has been proven beyond a reasonable doubt.

This presumption of innocence remains with the defendant at all times from the moment he appears in this court throughout the trial and until you, the jury, reach a verdict of guilty beyond a reasonable doubt based on the testimony and evidence presented. The presumption of innocence is a substantial right to which every defendant is entitled unless and until you reach a verdict of

guilty beyond a reasonable doubt. If you, the jury, do not find the defendant guilty beyond a reasonable doubt it is your duty to acquit the defendant.

Now what is reasonable doubt? A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true such as the greater weight or the preponderance of the evidence.

In criminal cases the State's proof must be more powerful than that. It must be beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty and in criminal cases the law does not require proof that overcomes every possible doubt.

If based on your consideration of the evidence you are firmly convinced that the defendant is guilty of the crime charged you must find the defendant guilty. If on the other hand you think there is a real possibility that the defendant is not guilty you must give the defendant the benefit of the doubt and find the defendant not guilty. The evidence or lack of evidence from which you

are to decide the facts includes the following:

1) The sworn testimony of the witnesses, both on direct and cross-examination regardless of which side called the witness;

2) The exhibits that have been received into evidence by the court; and

3) Any facts agreed or stipulated to by all the lawyers.

The following things are not evidence and you may not consider them in deciding the facts:

1) Arguments and statements made by the lawyers are not evidence. The lawyers are not witnesses. Their opening statements, closing arguments and other statements are intended to help you interpret the evidence but are not evidence. If the facts as you remember them differ from the lawyer's statements your memory controls.

2) Questions and objections by the lawyers are not evidence. Lawyers have a duty to their clients to make objections when they believe a question is improper under the rules of evidence. You should not allow any objection or the court's ruling on the objections to influence you.

3) Testimony that has been stricken or that you have been instructed to disregard is not evidence and

must not be considered.

4) Anything that you may have seen on television, read in the newspaper or on the Internet or heard from others when court is not in session is not evidence. You should base your testimony [sic] solely on the sworn testimony of the witnesses, exhibits received into evidence by the court and any facts agreed or stipulated to by all the lawyers.

5) The fact the defendant was arrested, charged and indicted in this case is not evidence and cannot be considered as evidence of guilt nor does it create any presumption or inference of guilt. The indictment is simply the written instrument which contains the charges made against the defendant.

There are two types of evidence which are generally presented during a trial; direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.

Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. However, to the extent the State relies on circumstantial evidence all of the circumstances must be consistent with

each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious the proof has failed.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence or some combination of the two.

In determining the guilt or innocence of the defendant you cannot consider any possible penalty for any particular crime. The punishment for the crime is a matter for me to determine and should never be considered by you in any way whatsoever in arriving at an impartial verdict as to the guilt or innocence of the defendant.

Murder. The defendant is charged with murder. The State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought. Malice is hatred, ill-will, or hostility towards another person.

It is the intentional doing of a wrongful act without just cause or excuse and with the intent to inflict an injury or under circumstances that the law will infer an evil intent. Malice aforethought does not require that malice exists for any particular time before

the act is committed, but malice must exist in the mind of the defendant just before and at the time of the act is committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought may be express or inferred. These terms express and inferred do not mean different kinds of malice but merely the manner in which malice may be shown to exist. That is either by direct evidence or by inference from the facts and circumstances which are proven.

Express malice is shown when a person speaks words which express hatred or ill-will for another or when the person prepared beforehand to do the act which was later accomplished. For example lying in wait for a person or any other acts of preparation going to show that the deed was within the defendant's mind would be express malice. Inferred malice arises from conduct showing a total disregard for human life.

Voluntary Manslaughter. If you find that the State has failed to prove beyond a reasonable doubt that the defendant committed murder you may consider whether the defendant [sic] has proven beyond a reasonable doubt that the defendant committed voluntary manslaughter. To prove voluntary manslaughter the State must prove beyond a reasonable doubt that the defendant took the life of

another in the sudden heat of passion based on sufficient legal provocation. Both heat of passion and sufficient legal provocation must be present at the time of the killing to constitute voluntary manslaughter.

Sudden heat of passion may for a time effect a person's self-control and temporarily disturb a person's reason. The sudden heat of passion must be the type that would make an ordinary person unable to coolly reflect on his actions and would produce an uncontrollable impulse to do violence.

Sufficient legal provocation must be the type that would make a person of ordinary reason and caution become enraged and to lose control temporarily. The provocation needed for voluntary manslaughter must come from the act or related to the victim. Words alone, however vulgar or insulting, are not enough to be legal provocation. Where death is caused by the use of a deadly weapon the words must be accompanied by some overt threatening act which could have produced the heat of passion.

The exercise of a legal right, no matter how offensive it is to another, is never sufficient legal provocation for voluntary manslaughter. If the heat of passion had cooled or if there was enough time between the provocation, if any, and the killing for the passion of a reasonable person to cool the killing would not be

voluntary manslaughter. In deciding whether a reasonable person would have had enough time to cool off you should consider all the circumstances surrounding the killing. You may consider the nature of the provocation, if any, the defendant's mental and physical state and the circumstances and relationships between the parties.

Self-defense. The defendant has raised the defense of self-defense. Self-defense is a complete defense and if it is established you must find the defendant not guilty. The State has the burden of disproving self-defense by proof beyond a reasonable doubt. That does not mean the State must disprove each element of self-defense beyond a reasonable doubt. It needs only to disprove one of the elements beyond a reasonable doubt in order to satisfy this burden.

Nevertheless, if you have a reasonable doubt of the defendant's guilt after considering all the evidence including the evidence of self-defense then you must find the defendant not guilty. On the other hand if you have no reasonable doubt of the defendant's guilt after considering all the evidence including the evidence of self-defense then you must find the defendant guilty. The following elements are required to establish self-defense:

1) First the defendant must be without fault in

bringing on the difficulty. If the defendant's conduct was the type which was reasonably calculated to and did provoke a deadly assault the defendant would be at fault in bringing on the difficulty and would not be entitled to an acquittal based on self-defense.

2) The second element of self-defense is that the defendant was actually in imminent danger of death or serious bodily injury or that the defendant actually believed he was in imminent danger of death or serious bodily injury.

If the defendant was actually in imminent danger it must be shown that the circumstances would have warranted a person of ordinary firmness and courage to strike the fatal blow to prevent death or serious bodily injury.

If the defendant believed that he was in imminent danger of death or serious bodily injury it must be shown that a reasonably prudent person of ordinary firmness and courage would have had the same belief. In deciding whether the defendant actually was or believed he was in imminent danger of death or serious bodily injury you should consider all the facts and circumstances surrounding the crime, including the physical condition and characteristics of the defendant and the victim.

This does not require the defendant to show that he was actually in danger. It is enough if the defendant

believed he was in imminent danger and a reasonably prudent person of ordinary firmness and courage would have had the same belief.

The defendant has the right to act on appearances even through the defendant's beliefs may have been mistaken. It is for you to decide whether the defendant's fear of immediate danger of death or serious bodily harm was reasonable and would have been felt by an ordinary person in the same situation.

Evidence of prior difficulties between the defendant and the victim may be considered in deciding whether a threat existed, whether the defendant had a reason to believe a threat existed and how serious that threat was. The relative sizes, ages, and weights of the defendant and the victim may also be considered in deciding the apparent or actual need for force in self-defense and the amount of force needed.

No other probable means of avoiding danger. The final element of self-defense is that the defendant hand no other probable way to avoid the danger of death or serious bodily injury than to act as the defendant did in this particular instance.

A person cannot be required to make an exact calculation as to the degree or amount of force which may be needed to avoid death or serious bodily harm.

Therefore, in self-defense the defendant has the right to use the force needed to avoid death or serious bodily harm. The force used in self-defense does not have to be limited to the degree or amount of force used by the victim.

The defendant has the right to use so much force as appeared to be necessary for complete self-protection and which a person of ordinary reason and firmness would have believed to be needed to prevent death or serious bodily harm. The rule is that ordinarily one is not justified in employing a deadly weapon after the adversary has been disarmed or disabled. However the rule is also that when a person is justified in using a deadly weapon he is justified in continuing to use such force until it is apparent that the danger to his life and body has ceased.

Voluntary intoxication. Insanity caused by the use of drugs or alcohol may be a defense if the insanity is permanent and destroys the defendant's ability to know right from wrong. However, when voluntary intoxication has not produced permanent insanity it is not a defense to a crime. A person who voluntarily becomes intoxicated is just as responsible for the acts committed while intoxicated as when the person is not intoxicated.

You have been selected as fair and impartial jurors whose purpose is to impartially find and determine the

facts of this case. You are to decide this case from the testimony you have heard and any other evidence that has been presented. I charge you that as jurors you must decide the issues in this proceeding without bias and without prejudice to any party. You cannot allow yourself to be governed by sympathy, by prejudice, by passion, by public opinion, or by any other arbitrary factor.

Both the plaintiff and the defendant have the right to expect that each of you will carefully and impartially consider all of the evidence in the case and that you will follow the law as I have explained it to you. If you render your decision in accordance with what I have just charged you no one will have a right to criticize your verdict and you will have fully discharged your duty as jurors.

Mr. Foreman, I have prepared a verdict form. At the top it says State of South Carolina versus Henry James Fickling, Jr. with the case number, Charleston County and it says as to the indictment for murder we, the jury, unanimously find the defendant is not guilty or guilty of murder.

If you find the defendant not guilty of murder proceed to question two. Question two, as to the lesser included charge of voluntary manslaughter we, the jury,

unanimously find the defendant guilty or not guilty and a place for you to sign dated March the 15th, 2018.

Now ladies and gentlemen as I said in the verdict form the verdict has to be unanimous. All 12 of you have to agree. I would ask you to please consider each other's opinions. It is a collective reasoning process on your part in arriving at a fair and just verdict and I would ask you to examine the evidence and discuss the case and reach a fair verdict based on the facts presented in this courtroom.

Mr. Foreman, I'm going to ask you to go to the jury room but before you begin your deliberations wait until the bailiff has brought the charge book and the verdict form as well as all the exhibits that have been admitted into evidence and tells you to begin your deliberations. I have to take my charge up with the attorneys. I may have to bring you back and correct something or add something based upon their arguments or whatever they are going to tell me.

So I don't want you to begin your deliberations until I've had an opportunity to discuss my charge with the attorneys. So Mr. Foreman and members of the jury you may take your notepads with you. The two alternates just keep your seats while the 12 jurors go to the jury room.

[Whereupon, the jury exits at 12:00 p.m.]

THE COURT: Any exception to the charge from the State?

MR. WARING: No, Your Honor.

THE COURT: Any from the defendant?

MR. KING: Yes, Your Honor. I would object to the voluntary manslaughter charge. I think we argued about that yesterday. I don't think the evidence fits that. They've argued that he went in there beat him to death, murdered him. Hank testified that it was in self-defense and he was fighting for his life.

I don't think there is any evidence this was a voluntary manslaughter. I would also request a charge of that he has no duty to retreat if he is on his own premises or if he is an invited guest into the victim's room according to the ---

THE COURT: --- as we said before the victim rented the room and it was his premises; even though he didn't -- it was his premises and the defendant had no right to enter that room without permission.

MR. KING: Right. I think the jury should be charged ---

THE COURT: --- pardon?

MR. KING: That if he was invited into the room as Mr. Fickling testified ---

THE COURT: --- do you have a particular charge on invitee you would like to offer to the court? If you don't have it please put it in writing and I will mark it as a court's exhibit, okay?

MR. KING: Yes, Your Honor.

THE COURT: Anything else? Go ahead; I didn't mean to interrupt you?

MR. KING: I would also request a charge on accident and involuntary manslaughter. And I handed up a case yesterday State v Burriss.

THE COURT: Pardon?

MR. KING: I think I handed up a case yesterday to your law clerk State v Burriss ---

THE COURT REPORTER: --- are you saying Burriss?

MR. KING: Burriss, B-U-R-R-I-S-S. This is a case involving struggling over a weapon that talks about if someone arms himself in self-defense they struggle over the weapon and the weapon accidentally goes off then they are entitled to a charge of self-defense, involuntary manslaughter and accident. And I think the way Mr. Fickling testified ---

THE COURT: --- if you will give me a voluntary manslaughter charge you like I will mark it as a court's exhibit, okay?

MR. KING: Yes, Your Honor.

THE COURT: And also an accident charge I'll mark it as a court's exhibit. Anything else?

MR. KING: I think that's it, Your Honor.

THE COURT: Pardon?

MR. KING: That's it, Your Honor.

THE COURT: As far as those requests to charge that is denied, okay.

MR. KING: Yes, Your Honor.

THE COURT: Now will y'all come forward and make sure all the exhibits are present and there is nothing that has been marked for identification only that goes back to the jury room and put that on the record please. Can I get the bailiff to get the charge book and gather the exhibits?

[Whereupon, counsel and the court reporter review the exhibits]

THE COURT REPORTER: Does everybody agree that everything is here?

MR. OSBORNE: Yes.

THE COURT REPORTER: You do?

[Whereupon, evidence out to the jury at 12:09 p.m.]

[Whereupon, court is in recess awaiting further word from the jury]

[Whereupon, court's exhibit numbers 5, 6, and 7 are marked by the court reporter]

THE COURT: Mr. King, do you have copies of those charges that you made exception to what you want me to charge? I would be happy to mark them as court's exhibits if you have them ready.

MR. KING: I did. I've given Mr. Waring a copy ---

THE COURT: --- pardon?

MR. KING: I think she has marked them in. I can tell you what I submitted.

THE COURT: Have you already submitted them?

MR. KING: I have, Your Honor.

THE COURT: Have you marked them?

THE COURT REPORTER: I've marked them.

THE COURT: They've already been marked court's exhibit?

THE COURT REPORTER: Yes.

THE COURT: That's fine. I just wanted to make sure it had been done.

MR. KING: I abandoned the argument about the guest in someone's home so I just submitted the duty to retreat if you're on your own premises. So if Your Honor is right about the landlord tenant law ---

THE COURT: --- about what?

MR. KING: I abandoned the argument I was trying to

make if like you're a guest in somebody else's home that you can still stand your ground but the more I read the case I don't think that was correct. So I just submitted a duty to retreat if you are on your own premises. So if you are right about the landlord with him renting a room that may not be an issue. So that's what I submitted.

THE COURT: Okay.

MR. KING: And the voluntary manslaughter and accident, Your Honor.

THE COURT: Is there anything from the State before we bring the jury?

MR. WARING: No, Your Honor.

THE COURT: Anything else from the defendant before we bring the jury?

MR. KING: Nothing from the defense.

THE COURT: Anything else from the defendant?

MR. KING: No, Your Honor.

THE COURT: Okay. Bring us the jury please.

[Whereupon, the jury enters at 4:50 p.m.]

VERDICT

THE COURT: Mr. Foreman, I understand you've reached a verdict, is that correct?

THE FOREPERSON: Yes, sir.

THE COURT: Would you mind handing it to the bailiff please, sir.

[Whereupon, the Foreperson complies]

THE COURT: Thank you, sir. Mr. Foreman, as I said earlier about the indictment I have filled out your verdict based on the verdict form and dated it today March the 15th, 2018 and I'm going to ask you to sign if I could get the bailiff to get it to the Foreman to sign. Do you have a pen to sign it with or do you need a pen?

[Whereupon, the Foreperson signs the indictment]

THE COURT: Thank you so very much. Sir, you may publish the verdict.

CLERK OF COURT: The State of South Carolina versus Henry James Fickling, Jr. as to the indictment for murder we, the jury, unanimously find the defendant guilty of murder; signed by the Foreperson dated March 15, 2018. If this is your verdict please say yes.

[Whereupon, all jurors reply]

THE COURT: Anything from the defendant as far as the jury is concerned? Do you want the jury polled?

MR. KING: Yes, Your Honor.

THE COURT: Anything that the defense counsel would like to add?

MR. KING: No, Your Honor.

THE COURT: Mr. Fickling, on the charge of murder you're sentenced to the State Department of Corrections for a period of life without parole. Do you understand?

MR. FICKLING: I understand.

THE COURT: Yes, sir. Thank you very much.

MR. FICKLING: I see nobody can fight for their life no more.

THE COURT: Mr. Foreman, if you will go to the jury room please, sir.

[Whereupon, the jury exits at 5:00 p.m.]

THE COURT: I'll give you the ten days to file your post trial motions, okay?

MR. KING: Yes, Your Honor.

THE COURT: I'll give you ten days. Thank you very much.

[Whereupon, court's exhibit numbers 3, 4, and 8 are marked by the court reporter]

[Whereupon, the jury trial concludes at 5:02 p.m.]

## DUTY TO RETREAT

IF THE DEFENDANT WAS ON HIS OWN PREMISES, THE DEFENDANT HAD NO DUTY TO RETREAT BEFORE ACTING IN SELF-DEFENSE.

State v. Jackson, 227 S.C. 271 (1955)



TRW/0321607
**WITNESSES**

North Charleston Police Department

**AGENCY CASE NUMBER**

2016-028093

**ARREST WARRANT NUMBER**

2016A1010204290

**DATE OF ARREST**

09/14/2016

**ACTION OF GRAND JURY**

**TRUE BILL**

*Foreperson of Grand Jury* FEB 7 2017 *Date:*

**VERDICT**

Guilty

*Foreperson of Petit Jury* 3/15/18 *Date:*

**DOCKET NO. 2017-GS-10-00439**

**The State of South Carolina**

**County of Charleston**

**COURT OF GENERAL SESSIONS**

**FEBRUARY TERM 2017**

**THE STATE**

**VS.**

**HENRY JAMES FICKLING, JR**
**W/M DOB:** [redacted]

**Indictment for**

**MURDER**

SC Code: § 16-03-0010
CDR Code: 0116

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened February 2017, the Grand Jurors of Charleston County present upon their oath:

**MURDER**

That in Charleston County, South Carolina on or about September 13, 2016, the defendant, Henry James Fickling Jr, with malice aforethought, did kill and murder Jeffrey Shiver by means of causing blunt force trauma with an object or weapon, and Jeffrey Shiver did die in Charleston County as a proximate result thereof on or about September 13, 2016; in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

**T. RICHARD WARING**
ASSISTANT SOLICITOR

RECEIVED
FEB 26 2019
SC Court of Appeals



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 26th day of February, 2019.