

ORIGINAL

VOLUME II OF II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

G. Thomas Cooper, Jr., Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

v.

STEVEN KRANENDONK,

APPELLANT

APPELLATE CASE NO. 2012-210207

RECORD ON APPEAL

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****DEFENDANT'S EXHIBIT #1, (PHOTOGRAPH), IS BEING
TRANSPORTED TO THE COURT OF APPEALS. ****

1 Thank you, Your Honor.

2 MS. SAMPSON: I'm not sure I heard what he said, I'm
3 sorry.

4 THE COURT: He said go ahead and qualify her over --

5 MS. SAMPSON: Okay.

6 THE COURT: -- his objection.

7 MS. SAMPSON: Do you want me to do it now or in front
8 of --

9 THE COURT: Yeah, I want you to do it now.

10 MS. SAMPSON: Okay.

11 THE COURT: I don't want you to do it in front of the
12 jury.

13 MS. SAMPSON: All right, Your Honor.

14 I know we started this earlier. Walk me through,
15 what's your educational background?

16 THE WITNESS: Well, to begin with, I've been a boater
17 my entire life. I started early. South Carolina is a
18 boating state, and I have boated my entire life.

19 MS. SAMPSON: When was your first boat class that you
20 received?

21 THE WITNESS: The first class would have been for my
22 father now. The first class, organized class, would have
23 been when I was hired with DNR.

24 MS. SAMPSON: And when was that?

25 THE WITNESS: That was the first one, 1990.

1 MS. SAMPSON: And how many other courses have you
2 taken since that time?

3 THE WITNESS: I have attended the Federal Law
4 Enforcement Training Center for advanced marine law
5 enforcement. I had a captain's license by the US Coast
6 Guard.

7 MS. SAMPSON: What do you have to do to get a
8 captain's license?

9 THE WITNESS: You have to have taken training
10 classes, plot courses on a chart, know the rules of the
11 road for several types of vessels, be able to interpret
12 light configurations so that you know what type of vessel
13 it is, what type of action would that vessel be partaking
14 in and what your responsibilities are when you're looking
15 at that type configuration.

16 MS. SAMPSON: And you said you had that license.
17 What --

18 THE WITNESS: Well --

19 MS. SAMPSON: Do you have to keep it up?

20 THE WITNESS: Yes, you do, and I was unable to do the
21 renewal at the time because of the TWIC card that's
22 required in port, and I did not get my TWIC card to renew
23 my Coast Guard captain's license.

24 MS. SAMPSON: How long did you have that license?

25 THE WITNESS: I'm going to have to approximate here.

1 I probably had it eight years.

2 MS. SAMPSON: What other type training have you had?

3 THE WITNESS: Federal Law Enforcement Training
4 Center, advanced marine law enforcement.

5 MS. SAMPSON: Anything else?

6 THE WITNESS: The training that I got from the
7 Department of Natural Resources when I was hired.

8 MS. SAMPSON: What, if any, classes have you taught?

9 THE WITNESS: I taught boater education for the
10 Department of Natural Resources.

11 MS. SAMPSON: For how long?

12 THE WITNESS: To the public and to other law
13 enforcement officers that have marine patrol units.

14 MS. SAMPSON: How long have you been doing that?

15 THE WITNESS: I've been doing that -- when did I get
16 started?

17 (Pause).

18 I would say anywhere from 12 to 14 years that I have
19 been teaching and training law officers.

20 MS. SAMPSON: And how often do you teach courses?

21 THE WITNESS: The courses are taught now by law
22 enforcement agencies that request DNR to come out to teach
23 the boating law enforcement course, so we -- I teach that,
24 along with other officers, when we're requested to do so.

25 When the Department of Natural Resources hires new

1 officers, they actually attend a marine law enforcement
2 boating school that I am primary instructor for that
3 school.

4 MS. SAMPSON: Did you have to get certification to do
5 this instruction?

6 THE WITNESS: Not -- not certification in the fact
7 that DNR certified me in teaching this course.

8 MS. SAMPSON: How did that happen?

9 THE WITNESS: My supervisor -- I'm trying to put this
10 into the right words. My supervisor saw that I excelled
11 in wanting the knowledge about boating because I -- I
12 loved it, and I have applied myself in trying to find out
13 as much about boating as I possibly could, not only on my
14 own but in attending these other classes that I've taken.

15 MS. SAMPSON: And so were you approached to get
16 certified, or what did -- you said your supervisor --

17 THE WITNESS: Well, the certification, that's --
18 that's a question I have for --

19 MS. SAMPSON: Okay.

20 THE WITNESS: -- you is I don't, I guess,
21 understand --

22 MS. SAMPSON: Is there a certification for teaching?

23 THE WITNESS: Yes, I went to -- I did go to the
24 Criminal Justice Academy where I was certified as a basic
25 instructor.

1 I took a specific skills class at the Criminal
2 Justice Academy while I was with DNR, and I have to
3 maintain that certification as a basic instructor for
4 anything I teach through the academy.

5 MS. SAMPSON: And what specific courses do you teach?

6 THE WITNESS: I teach boating under the influence. I
7 teach the boater education courses. I teach marine law
8 enforcement school where you're actually applying state
9 statutes in the boating environment.

10 I teach safety equipment requirements on those. I
11 teach the rules of the road or navigation rules of the
12 road to those local law enforcement agencies, to our basic
13 officers, and anyone that requests that -- the course, the
14 course that I teach, Marine Law Enforcement Boating
15 School, and we get the approval through our department to
16 teach it.

17 MS. SAMPSON: Are there any associations that you're
18 a member of or that you can be a member of?

19 THE WITNESS: The National Association of State Boat
20 Law Administrators. I'm a member of that, and I'm
21 there -- several of us are.

22 MS. SAMPSON: At this time, Your Honor, that's her
23 qualifications to be an expert in boating rules and
24 regulations.

25 THE COURT: Any voir dire or objection?

1 MR. HARVEY: You're currently certified as an
2 instructor?

3 THE WITNESS: Yes, sir.

4 MR. HARVEY: The captain -- you mentioned the license
5 has expired. Is that your captain's license --

6 THE WITNESS: Yes.

7 MR. HARVEY: -- as an expert in this area?

8 THE WITNESS: No.

9 MR. HARVEY: Have you published any articles in this
10 area?

11 THE WITNESS: No.

12 MR. HARVEY: Have you ever had any of your expert
13 opinions or anything that you've done subject to a peer
14 review?

15 THE WITNESS: No.

16 MR. HARVEY: You're a teacher, correct? You're an
17 instructor, and you instruct your pupils about the
18 navigation rules based on the body of knowledge that you
19 yourself learned from school, correct, from a school?

20 THE WITNESS: Yes.

21 MR. HARVEY: You haven't published any articles about
22 navigational rules?

23 THE WITNESS: No.

24 MR. HARVEY: Have you presented any to any peer
25 groups, any publications or presentations about

1 navigational rules?

2 THE WITNESS: Well, I've presented information to
3 peer groups which are other officers --

4 MR. HARVEY: Okay.

5 THE WITNESS: -- but no publications.

6 MR. HARVEY: And you -- when you say other officers,
7 do you mean other DNR officers that you're teaching your
8 students?

9 THE WITNESS: Including other officers and local law
10 enforcement agencies, county sheriff's department, city
11 police agencies.

12 MR. HARVEY: But that's been as an instructor. That
13 hadn't been as a special presentator--- presenter at a
14 seminar? You're not a -- you don't --

15 THE WITNESS: I'm trying to think back. I can't
16 recall at this time if I was a presenter at a seminar.

17 MR. HARVEY: Thank you. That's all I have.

18 THE COURT: Objection to her qualification?

19 MR. HARVEY: Renew my objection.

20 THE COURT: All right. Well, although this is not
21 scientific testimony, I think she qualifies under 702.

22 She said -- whatever opinion she may offer, may
23 assist the tier of fact, the jury, to understand the
24 evidence or to determine a fact at issue.

25 The fact in issue certainly is the recklessness or

1 lack of recklessness charged in the indictment. That is a
2 fact in issue.

3 I think she has at least specialized knowledge to
4 assist the trier of fact to understand the evidence to
5 determine a fact in issue. I'm going to allow her
6 testimony.

7 MR. HARVEY: Your Honor, if I may, Your Honor's
8 ruling is with respect to navigational rules and not to
9 reconstructing the accident or evidence as to the
10 occurrence of the accident other than the limited area
11 which she testified to as navigational rules.

12 The State is offering her as an expert with respect
13 to navigational rules. I want to make sure that --

14 THE COURT: Well, she can offer an opinion based on a
15 hypothetical that if ABC and D occurred, is that within
16 the navigational rules or does it comply with the
17 navigational rules in that the State of South Carolina. I
18 think she can offer that.

19 MR. HARVEY: I -- based on Your Honor's ruling, I
20 concur. I can't say I agree with it, but I concur with
21 Your Honor's ruling. I just want to make sure we don't
22 run afar.

23 THE COURT: Well, you know, it's certainly not a
24 bright line, it's a line that she should not be able to
25 cross, but I hope counsel can examine her within the rules

1 of evidence.

2 Bring the jury.

3 I note your objection.

4 MR. HARVEY: Thank you, Your Honor.

5 (WHEREUPON, the jury came into open court at
6 approximately 5:15 p.m.)

7 THE BAILIFF: Your Honor, the jury is present.

8 THE COURT: All right.

9 Ms. Sampson, you may have continue.

10 MS. SAMPSON: Thank you, Your Honor.

11 BY MS. SAMPSON:

12 Q Investigator Camlin, could you please give us your
13 schooling, your training?

14 A I came to DNR. I was trained with --

15 MR. HARVEY: Your Honor.

16 THE COURT: I've admitted her.

17 MS. SAMPSON: Your Honor, I believe that we're
18 allowed to let the jury know what her qualifications are.
19 I understand.

20 THE COURT: All right. Go ahead.

21 THE WITNESS: I was hired with DNR. I attended the
22 DNR boating school. As I went through DNR, I attended the
23 Federal Law Enforcement Training Center in Glynco, Georgia
24 and took an advanced marine law enforcement school there.

25 I am certified through the South Carolina Criminal

1 Justice Academy as a basic instructor. I also took
2 courses on specific skills.

3 I have to maintain my certification as a basic
4 instructor to teach academy-approved courses. I had my
5 Coast Guard captain's license, and I did not renew it.

6 There is a requirement of a TWIC card so that you can
7 move back and forth in some of our shipping ports, and I
8 did not receive that TWIC card and did not go to get
9 recertified with that.

10 BY MS. SAMPSON:

11 Q How long were you a Coast Guard captain -- or had
12 that license, rather?

13 A I'm approximating here, eight years, probably more.

14 Q Okay. And how long --

15 A Approximately.

16 Q How long have you been an instructor?

17 A I've been an instructor probably 12 -- approximating
18 again, 12 years with DNR.

19 Q And what courses did you teach?

20 A I teach our basic marine law enforcement school to
21 new officers coming in. I teach our marine law
22 enforcement school to fellow law enforcement agencies,
23 whether it be sheriff's department or city police officer,
24 agencies at their request.

25 Q So you teach other agencies about boating?

1 A Yes.

2 MS. SAMPSON: At this time, Your Honor, we'd offer
3 Investigator Camlin as an expert in the field of boating
4 rules and regulations.

5 MR. HARVEY: Subject to my earlier objection.

6 THE COURT: Over the defendant's earlier objection,
7 she can testify.

8 BY MS. SAMPSON:

9 Q I'm sorry, Your Honor.

10 All right. So going back to your conversation with
11 Mr. Kranendonk, why did you start telling me the first
12 thing he told you that was a violation of the rules and
13 regulations?

14 A Well, the first thing was he -- he didn't keep a
15 proper look out.

16 Q And what would have been keeping a proper look out?

17 MR. HARVEY: Your Honor, again, it has to be more of
18 a basis than this. I object.

19 THE COURT: What's the foundation?

20 MS. SAMPSON: I can lay a foundation, if you like.

21 THE COURT: Well, you're going to have to do it very
22 carefully throughout this testimony.

23 MS. SAMPSON: I'll do my best, Your Honor.

24 BY MS. SAMPSON:

25 Q Based on your experience, what is keeping a proper

1 look out?

2 A Keeping a proper look out is a navigation rule that
3 is in the US Coast Guard Navigation Rules book. It is a
4 rule of boat operation for all boats, commercial or
5 recreational, in inland waters on the Great Lakes and in
6 international waters.

7 Q And do boaters boating on Lake Murray have to follow
8 those regulations?

9 A Yes.

10 Q Okay. Based on that, what did -- was Mr. Kranendonk,
11 based on what he told you, keeping a proper look out?

12 MR. HARVEY: Your Honor, it has to be more than that
13 with specificity.

14 THE COURT: What did he tell you --

15 MR. HARVEY: Object, leading.

16 MS. SAMPSON: Specifically, in I mean, I --

17 THE COURT: What did he tell you? Do I --

18 BY MS. SAMPSON:

19 Q Okay. What did he tell you?

20 A He told me that he saw the boat at 100 yards.

21 Q And why is that not keeping a proper -- or is that
22 keeping a proper lookout?

23 A Not just in and of itself.

24 Q Why --

25 A You have to in Rule 5, Rule 5 of the Navigation Rules

1 book, you have to maintain a proper look out, sight and
2 sound, and when you interpret whatever your circumstance
3 is, you have to see it early enough to take --

4 MR. HARVEY: Your Honor, how can she testify to what
5 he's interpreting?

6 THE COURT: I'm -- overruled. Go ahead.

7 BY MS. SAMPSON:

8 Q Continue.

9 A That when he sees it, he has to see it, know what it
10 is and interpret it and take action to avoid a collision
11 based on what he interpreted.

12 MR. HARVEY: Your Honor, I object. There is nothing
13 -- they didn't ask him about his interpretation. There is
14 no fact --

15 THE COURT: She said he did. Overruled.

16 BY MS. SAMPSON:

17 Q What did -- how far away was the boat when
18 Mr. Kranendonk told you he saw it?

19 A 100 yards.

20 Q And what, if anything, did he tell you about seeing
21 it on the radar?

22 A That he saw the blip on the radar. He saw the blip
23 on the radar at a quarter of a mile.

24 Q And based on what he told you, and I don't want to --
25 are you saying that all of that together is what makes you

1 say it's not a proper look out?

2 A Well, it's not a proper look out because he used the
3 tools that he needed to determine there was a boat there,
4 how close that boat was, and he didn't -- he didn't do
5 what he was supposed to do based on one, seeing it and on
6 what to do.

7 Q What --

8 A And seeing the lights.

9 Q What should he have done?

10 A He should have -- if he could not interpret what it
11 was, how far it was exactly and what he should do at all,
12 he has to come all the way off of his throttles
13 completely.

14 Q And did he ever tell you he came all the way off his
15 throttle?

16 A He didn't tell me he came all the way off his
17 throttle.

18 Q Was there -- is there -- was there anything else
19 about his statement that violated a -- first, tell me what
20 rule you think he violated, I guess is what I should say.

21 A Well, he violated Rule 6 in the safe speed.

22 Q What is Rule 6?

23 A Rule 6 states that boats have to maintain a safe
24 speed. That's based on the circumstances, and there are
25 lot of things that go into the circumstances; that they

1 are to operate their boats so that if a risk of collision
2 exists, they can slow their boat down. They can stop
3 their boat to avoid the collision.

4 Q Was that done, based on his statement and based on
5 the evidence that you have before you and by
6 Mr. Kranendonk?

7 A No.

8 Q Why do you say that?

9 A I say that because Mr. Kranendonk saw the boat on
10 his -- he saw it at 100 yards. He also confirmed that he
11 saw it on his radar. He didn't take action. He didn't
12 come all the way off. He actually continued going the
13 direction he was going at the rate he was going until it
14 was too late.

15 Q All right. And what is the next rule that you -- or
16 is there a next rule you go by?

17 A There is a next rule, and it is risk of collision.

18 Q Okay. And what is that rule?

19 A Taking into consideration with all prevailing
20 circumstance to include -- it was nighttime -- to include
21 other lights.

22 He had to make that determination that a risk of
23 collisions was imminent, and he should have taken a
24 positive response and ample time to prevent a collision.

25 Q Was that done in this case?

1 A No.

2 Q Is there another rule?

3 A There is another rule.

4 Q What is the next rule?

5 A The action that he should have taken to avoid
6 collision.

7 Q Okay. And what is that? Is that a rule number?

8 A Sure. And I mean, I can -- the action to avoid
9 collision is Rule 8. I mean, it's in the Navigation Rules
10 book. He didn't alter his course in time or slow down in
11 time to avoid a collision.

12 Q Okay.

13 A And he has to take that action.

14 Q Is there another rule?

15 A Rule 15 states what he looks at during a crossing
16 situation that when he gets in the crossing situation
17 where there is a boat approaching from his right, he is to
18 change his course or slow down or take all the way off,
19 allow the boat approaching from the right to maintain
20 their course and speed without interfering with their
21 direction of travel or their speed.

22 Q And in your conversation or what you overheard -- I
23 shouldn't say overheard. You were watching an interview
24 by Mr. Lewis and were participating in that.

25 A Uh-huh.

1 Q Whether it was a red light or a green light he saw,
2 was there any difference about what direction the boat was
3 coming from?

4 A No. The boat was always coming from the right, from
5 the right and, you know, two o'clock, 2:30, which was
6 consistent in numerous things.

7 Q All right. Any other rules?

8 A Rule 16, the action by the give-way vessel is --

9 Q The action by the give-way vessel?

10 A Yes.

11 Q What does that mean?

12 A That the give-way vessel does not take early and
13 substantial action to remain clear of the possibility of
14 the collision.

15 Q And was that done in this case?

16 A No.

17 Q Okay. Is there another rule?

18 A That's what I have.

19 Q That's all?

20 A Uh-huh.

21 Q Okay. Mr. Harvey started talking about miles per
22 hour. I went to law school for a reason, because I can't
23 do math. I have no idea what those numbers mean. Have
24 you ever done the figures as far as how many miles you
25 travel per feet or second or any of that?

1 A No.

2 Q But he got up here, and he drew this. If this were a
3 clock --

4 A Uh-huh.

5 Q -- where would this be, this arrow that he drew?

6 A That would be two, 2:30.

7 Q And on this one?

8 A Well, it could be maybe one o'clock.

9 Q I just wanted -- so is this similar to what the
10 drawing that Mr. Kranendonk mentioned?

11 A No.

12 Q Or different?

13 A Yes.

14 Q Beg the Court's indulgence.

15 (Pause).

16 Can you stand up and show me where you would put
17 2:30 on here based on this being a clock?

18 MR. HARVEY: Your Honor, they have to lay a little
19 bit of a foundation as to why, where, the orientation,
20 2:30. I think that the question is improper without a
21 foundation.

22 MS. SAMPSON: I can lay a foundation.

23 THE COURT: 2:30 on what?

24 MS. SAMPSON: On a clock.

25 THE COURT: Well, we can look at a clock.

1 MS. SAMPSON: I can do it on this, Your Honor.

2 MR. HARVEY: Your Honor, I'm objecting to --

3 THE COURT: I understand. I'm sustaining your
4 objection.

5 BY MS. SAMPSON:

6 Q Okay. And I will attempt to lay a foundation.

7 We've talked about -- and Mr. Harvey talked about --
8 that people give you directions based on a clock. Is that
9 fair to say?

10 A Yeah, try to keep it --

11 MR. HARVEY: I don't think that is with my line of
12 questioning, Your Honor.

13 THE COURT: No more speaking objections, please.

14 MR. HARVEY: Yes, Your Honor.

15 MS. SAMPSON: I'm sorry. Did you rule, Your Honor?

16 THE WITNESS: He ruled.

17 THE COURT: Draw a clock.

18 MS. SAMPSON: Okay.

19 THE COURT: Put 2:30 and that's -- that's the answer
20 to the question.

21 BY MS. SAMPSON:

22 Q Okay. So where would -- show me -- draw -- draw
23 that. Where would 12 clock be?

24 A If this were a clock, okay. I mean, this would be
25 twelve o'clock.

1 Q Okay.

2 A Six, three, nine; 2:30 would be here (indicating).

3 Q Okay. And that is what Mr. Kranendonk told you the
4 boat was coming from, around 2:30?

5 A Correct.

6 MS. SAMPSON: Okay. No further questions, Your
7 Honor.

8 THE COURT: Cross? Recross?

9 REXCROSS-EXAMINATION:

10 BY MR. HARVEY:

11 Q Now, you testified earlier that you made bullet point
12 memorandum about this interview, correct?

13 A Yes.

14 Q And in your bullet point memorandum, when you were
15 asked about rules of navigation by the prosecutor, none of
16 those rules are cited in your bullet point memorandum, are
17 they?

18 A No.

19 Q And one of the -- and you were given a statement. Do
20 you have the statement Mr. Bickley?

21 A (Indicating.)

22 Q Now, you had testified that based upon your
23 information that -- and I can't remember the particular
24 rule, but you cited a rule that he took no action; is that
25 correct? That there was a rule that you testified to that

1 when Mr. Kranendonk made a perception of the other boats,
2 that he took no action at all, correct? What rule number
3 was that?

4 A Well, there's several rule numbers that incorporate
5 that not taking any action at all or not taking
6 substantial or positive action.

7 Q Okay. Which action says -- which rule says no action
8 at all?

9 A Well, the --

10 Q Which rule says no action at all, please?

11 A The proper look out?

12 Q No, ma'am.

13 A The --

14 Q You testified that there is a rule that you claimed
15 he violated because he took no action at all. That was
16 your phraseology. Tell me which specific rule you're
17 referring to.

18 A He did note give -- Rule 15.

19 Q All right. And Rule 15 is the rule -- state Rule 15
20 for us again.

21 A Rule 15 is the rule of the crossing situation that a
22 boat that is approaching from the right will be the
23 stand-on boat, and Mr. Kranendonk's boat would have been
24 the give-way boat.

25 Q Okay. And your testimony was that you thought he

1 didn't take any action at all. Now, you have a bullet
2 point memo to the file, correct?

3 A I do have a bullet point.

4 (Pause).

5 Okay.

6 Q And you will agree with me that one, two, three,
7 four, fifth bullet point down, you wrote other boat was
8 coming at Steven's boat from side, correct?

9 A Correct.

10 Q According to Steven, he was going approximately 35
11 miles per hour before pulling the throttle back. Those
12 are your words, correct?

13 A Yes, seconds before impact.

14 Q About five to ten seconds before impact, correct?

15 A Yes.

16 Q So you'll agree with me you documented, he pulled the
17 throttle back, correct?

18 A This has to do with him --

19 Q No, ma'am.

20 A -- giving way.

21 Q I want you to explain your answer, ma'am, but I asked
22 you the question.

23 When you testified earlier, you said he didn't take
24 any action. My question to you is, ma'am, on the fifth
25 bullet point down, you'll agree with me you documented,

1 based upon your observation, he pulled the throttle back.

2 Those were your words, correct?

3 A That's what I bulleted.

4 Q So --

5 A But --

6 Q Ma'am, my question to you is are those your words?

7 MS. SAMPSON: Your Honor, I'd like for her to be able
8 to finish her answer.

9 THE COURT: Let him finish the question, and then she
10 can answer.

11 Finish your question.

12 BY MR. HARVEY:

13 Q You used the words pull the throttle back in your
14 recollection of what was told, correct?

15 A Yes.

16 Q All right. Now, the next bullet point down, your
17 bullet point is moved -- and it's eight, ten to 12 MPH
18 after pulling the throttle back, correct?

19 A Correct.

20 Q So you will agree, he did take some action that you
21 documented. He pulled the throttle back, and his speed
22 had decreased from 35 miles an hour to ten to 12 miles an
23 hour based upon your recorded recollection of what he
24 said, isn't that so?

25 A Yes.

1 Q All right. That's a different proposition than
2 taking absolutely no action, correct?

3 A Yes.

4 Q He throttled down, correct?

5 A Yes.

6 Q Throttling down means de-accelerating, correct?

7 A Yes.

8 Q You'll agree with me that in your bullet point,
9 Steven said he could see both red and green bow lights on
10 the other boat, correct?

11 A Yes.

12 Q So Steven told you he saw multi colored lights,
13 correct?

14 A Red and green.

15 Q He saw two colors, according to your recollection,
16 red and green?

17 A Yes.

18 Q Now, you also noted that Steven's left ribs and
19 forehead were injured, correct?

20 A Correct.

21 Q Were you able to and determine from your interaction
22 with Mr. Lewis that Steven had been treated at the
23 hospital?

24 A No.

25 Q Did you inquire with Mr. Kranendonk if he had -- did

1 you overhear Mr. Lewis -- or since you're a training
2 officer and you teach officers and you're certified to
3 teach officers and you want to teach other officers,
4 someone that had been involved in an accident -- and it is
5 a serious accident -- did you bother to inquire with Mr.
6 Lewis, hey, has this guy been in the hospital?

7 A No. I didn't ask if he was in the hospital.

8 Q And had you inquired with Mr. Lewis had he been in
9 the hospital, would you then have inquired, "Hey, do you
10 think this guy maybe has gotten some pain medicine?" If
11 you had known he was in the hospital, would that have been
12 a prudent next inquiry?

13 A When are you saying that I'm speaking with Mr. Lewis?

14 Q You testified that you accompanied Mr. Lewis to
15 Mr. Kranendonk's home --

16 A Yes.

17 Q -- and you made bullet point notes at about
18 1:10 p.m., and you observed Mr. Lewis' interview. You're
19 telling the jury you wouldn't have talked to Mr. Lewis at
20 all when you accompanied him to this interview?

21 A I'm not saying that.

22 Q You're an instructor. You're an experienced person,
23 so you would have had the occasion to talk to Mr. Lewis,
24 wouldn't you?

25 A Yes.

1 Q And this was a pretty big deal, this case, wasn't it?

2 A Sure.

3 Q It's important to everybody.

4 A Yes.

5 Q Okay. Now, in your bullet point notes, if we look at
6 the bullet point notes counting up from the bottom: One,
7 two, three, four, five, six, seven, eight, nine, the tenth
8 bullet point from the bottom, you documented that you
9 heard Mr. Kranendonk say, "Saw the green light from other
10 boat come around", correct?

11 A Correct.

12 Q All right. So you'll agree with me when you answered
13 questions posed to you by the prosecutor, the truth of the
14 matter is the conversation that you heard from
15 Mr. Kranendonk involves him articulating that he observed
16 multiple colors of lights, meaning red and green, correct?

17 A Red and green, and then he changed to red. Then he
18 changed back to red and green, and this -- this green
19 light was when the impact was ultimate.

20 Q Well, that isn't what it says in your bullet note,
21 does it?

22 A I did not --

23 Q It just says --

24 A -- record that.

25 Q -- "saw green light from other boat come around,"

1 correct?

2 A Correct.

3 Q And you'll agree with me that your recollection of
4 what happened that day would have been freshly in your mind
5 when you made these bullet points, wouldn't it?

6 A Yes.

7 Q Okay. Now, the questions that you were asked by the
8 prosecutor are posed to you based on your observations of
9 what Steven recalled happening, correct?

10 A Yes, from what he told us.

11 Q All right. So the truth of the matter is you weren't
12 on that water, were you?

13 A No.

14 Q The truth of the matter is the best people who can
15 give the best evidence about what happened at that time
16 were the operators of the vehicles, correct?

17 A Yes. They can give the best evidence.

18 Q Right. And you'll agree with me that when you, as
19 the instructor -- and you teach classes and you teach
20 these law enforcement officers -- you tell officers to
21 look at a lot of things.

22 When you investigate a case or someone makes an
23 investigation into an incident, not only do you look at
24 what the people say, but you also look at the physical
25 evidence or the terrain, correct?

1 A Yes.

2 Q And sometimes people just happen to say things what
3 about they observed that when you look at the terrain or
4 the configuration of, let's say, peninsulas or points, it
5 just doesn't match up with what they say happened,
6 correct?

7 A Yes. There are times that it doesn't match up to
8 what they say happened.

9 Q Okay. And you'll agree with me that your answers to
10 the prosecutor's questions are all based upon your
11 recollection of what Steven said, correct?

12 A Yes.

13 Q Now, and your --

14 A And other statements.

15 Q And you'll agree with me that oftentimes,
16 recollections of both operators in an incident, sometimes
17 you have to synthesize what both say to determine what
18 happened, correct?

19 A You consider all evidence that you have.

20 Q All right. And all operators, no matter whether
21 you're the give-way driver or not, one of the rules you
22 talked about was under the then-existing circumstance,
23 every boat operator, whether -- and it could be
24 Mr. Kranendonk or if the other operator is
25 Mr. Christofoli, under some of the rules that you read,

1 both operators are charged with operating safely under the
2 then-existing conditions, correct?

3 A Yes.

4 Q So every operator on Lake Murray, whether you're the
5 give-way vessel or the stand-away vessel has that
6 obligation to make sure that they operate their boat
7 safety, correct?

8 A Yes.

9 Q Now, you don't have any bullet notes -- let me back
10 up.

11 Were you able to determine -- or did you have any
12 information about -- well, let me ask you this: You had
13 talked about your knowledge of boating regulations and
14 boating.

15 A Uh-huh.

16 Q And you're pretty well versed in that, correct?

17 A I feel I am.

18 Q And in those navigational rules that you cited, is
19 there -- are there any navigational rules that have to do
20 with non-authorized seating in a boat?

21 A No.

22 Q In other words -- so it's okay to put -- if a boat
23 has a console --

24 A Uh-huh.

25 Q Now, you've seen the other boat in this case.

1 There's a Sylvan and a Key West boat, correct?

2 A Yes.

3 Q And you've had the opportunity to view both boats?

4 A Yes.

5 Q And the Sylvan boat has a console and a built-in
6 chair next to the console, correct?

7 A Yes.

8 Q Now, the Sylvan boat was modified, really, to
9 accommodated fishing, correct? It was modified to some
10 extent where the space beyond the console didn't have
11 built-in accommodations for other occupants, did it?

12 A Not that I can recall.

13 Q Okay. And when an operator has this duty to make
14 sure that the operator has to operate the boat for the
15 safety of others on the water and the operator has to
16 operate the boat with reasonable safety for the occupants
17 of his boat, correct?

18 A Yes.

19 Q So an operator has two duties: One to other boats
20 and one to the occupants of his boat, correct?

21 A Yes.

22 Q Now, is this boat -- do you teach, in your class,
23 that lawn chairs in the back of a boat at night is a
24 preferred way of transporting occupants?

25 A I don't talk about lawn chairs in my course at all.

1 Q Have you seen lawn chairs on a boat at night?

2 A I have.

3 Q Does that give you some pause for concern?

4 A Not in and of itself that there's a lawn chair on the
5 boat.

6 Q Well, if the boat is traveling at a high rate of
7 speed at night in open water, is that more risky than an
8 ordinary situation?

9 A I wouldn't know that.

10 Q You wouldn't know that. So you wouldn't say it is,
11 and you wouldn't say it isn't, would you?

12 A Correct.

13 Q Beg the Court's indulgence one moment.

14 (Pause.)

15 Now, when you talk about Rule 5, which is a proper
16 look out for sight and sound --

17 A Uh-huh.

18 Q -- he said he saw the boat at 100 yards away, and
19 what was improper with that?

20 A Well, what he saw, he didn't interpret as a -- as him
21 needing to be aware of it to interpret it and to take
22 action with it.

23 Q All right. So your fault is with his -- that you'll
24 agree with me he saw the boat, right?

25 A He stated he saw the boat.

1 Q Okay. And you'll agree with me if he's maintaining a
2 proper lookout, he's going to see the boat, yes or no?

3 A No.

4 Q So you won't agree with me that he's driving a boat,
5 sees a boat 100 yards away, and he's not maintaining a
6 proper look out?

7 A Well, he sees the boat.

8 Q All right. He saw the boat.

9 A He just sees the boat.

10 Q Okay. Now, your contention is it's a two-part deal,
11 so he passed the first part, right?

12 A Yeah. He sees the boat.

13 Q All right. So he sees the boat. Your contention is
14 that in the interim between the time he saw the boat, even
15 though you documented he pulled back the throttle and even
16 though you documented he responded to the boat, I guess
17 his response wasn't sufficient enough in your subjective
18 opinion, correct?

19 A There wasn't ample time because they collided.

20 Q No, ma'am. My question is to you, you said --

21 MS. SAMPSON: Objection, Your Honor.

22 BY MR. HARVEY:

23 Q -- there's two parts to it --

24 MS. SAMPSON: It's argumentative. He has asked it.

25 She has answered it.

1 THE COURT: Overruled.

2 MR. HARVEY: Your --

3 THE COURT: Overruled. Go ahead.

4 BY MR. HARVEY:

5 Q Your answer was one part is seeing it, correct?

6 A Yes.

7 Q And there's no doubt he saw it, correct?

8 A He said he saw it.

9 Q The second part is he's got to take some response.
10 You noted in your bullet report, he said he pulled back on
11 the throttle, correct?

12 A Yes.

13 Q So in your subjective opinion, your opinion is his
14 response, even though he throttled back after he saw the
15 boat, that wasn't good enough for you in your opinion?

16 A That wasn't good enough for the boats that he --

17 Q No, ma'am. My question is to you in your opinion,
18 you testified as an expert after being qualified by the
19 prosecutor that he did something wrong in a two-part rule.

20 My question is to you, ma'am, he passed part one of
21 the rule. You testified he pulled back on the throttle,
22 and my question is to you, ma'am, is his response and your
23 subjective opinion not enough?

24 A It's not.

25 Q Okay. So it's your opinion.

1 Now, Rule 6, maintain a safe speed based on the
2 circumstances. You testified to that.

3 Your same bullet points, when we talk about speed,
4 you documented Mr. Kranendonk de-accelerated to ten to 12
5 miles an hour, correct?

6 A At the last second.

7 Q No, ma'am. Your bullet notes don't say at the last
8 second, do they, ma'am?

9 A Seconds before impact.

10 Q It says ten to 15 seconds, correct?

11 A In the fifth bullet, it says, "Before pulling the
12 throttle back, about five to ten seconds before impact."

13 Q So I stand corrected, five to ten seconds. You'll
14 agree with me, that that is not a -- that is not an
15 instantaneous action immediately prior to impact, correct?

16 A Would you repeat that?

17 Q His throttling back that you documented was not an
18 instantaneous action on his part immediately before the
19 collision. He slowed down five to ten seconds before
20 impact, correct?

21 A Correct.

22 Q Okay. And in your subjective opinion, slowing down
23 to 10 to 12 miles an hour, in your opinion, wasn't
24 maintaining a safe speed based on the circumstances,
25 correct?

1 A Based on what he said he saw and interpreted it.

2 Q And that's your opinion?

3 A That's what he said.

4 Q No, ma'am. The opinion that you gave to the
5 prosecutor is your opinion, correct?

6 A Is in the rules of --

7 Q No, ma'am.

8 A -- the --

9 Q My question is to you, it's your opinion. Your
10 opinion is slowing down to ten to 12 miles an hour under
11 the circumstances wasn't good enough, in your subjective
12 judgment, correct?

13 A Correct.

14 Q Okay. Now, you also mentioned another rule, the risk
15 of collision based on all circumstances and a duty to
16 mitigate, correct?

17 A I don't think I used the word "mitigate".

18 Q Well, there's a rule that requires an operator of a
19 vessel to avoid the risk of collision based upon all
20 circumstances, and you have to take some action to try and
21 avoid the collision, correct?

22 A Correct.

23 Q You'll agree with me, again, those bullet points
24 document Mr. Kranendonk's reaction after he saw the
25 vessel, correct?

1 A (There was no response).

2 Q Yes or no?

3 A No.

4 Q So -- oh. So that bullet point that you wrote that
5 you documented that said Mr. Kranendonk throttled back to
6 ten or 12 miles an hour doesn't document him taking an
7 action in response to seeing the boat?

8 A That's what he stated that he did.

9 Q Okay. And you gave an opinion when you were asked by
10 the prosecutor about the violation of the rule that he
11 violated the rule because he didn't take any action,
12 correct?

13 A The rule states that he has to take the action.

14 Q You'll agree with me he took some action, didn't he?

15 A Yes.

16 Q Okay. Now, when you talked about Rule 8, that was
17 collision avoidance, correct?

18 A Yes.

19 Q We talked about collision avoidance.

20 Now, you talked about Rule 15, which is the crossing
21 rule, and you talked about Rule 16, which is action by
22 give-way vessel, correct?

23 A Yes.

24 Q Now, again, based upon -- you were asked some
25 questions about -- by the prosecutor about State's

1 Exhibit 54, and you were asked to review State's
2 Exhibit 54 before you gave your opinion. Do you remember
3 that?

4 A Yes.

5 Q All right.

6 May I approach the witness, Your Honor?

7 THE COURT: Yes, sir.

8 BY MR. HARVEY:

9 Q Now, you had an opportunity to review page one of
10 State's Exhibit 54, correct?

11 A Yes.

12 Q Now, Mr. Kranendonk stated, "I saw that they were
13 heading in our direction, and I immediately put the boat
14 in neutral to slow down and to give them right of way."
15 Isn't that what he said?

16 A Yes.

17 Q And you'll agree with me that's a response, correct?

18 A Yes, on this segment.

19 Q Right. And you'll agree with me, based upon your
20 expertise, and what you teach and what you know, that's a
21 proper response, isn't it?

22 A If he gave way, it is a proper response.

23 Q What's written in that statement? On that statement
24 as you read the contents of those sentences, the contents
25 of those sentences are a proper response to that

1 situation, correct, those circumstances?

2 A Yes, but he slowed -- he put his boat in neutral,
3 slowed down and gave way.

4 Q Okay. Now, you -- I believe your duty station is not
5 Lake Murray, correct?

6 A Correct.

7 Q So with respect to the area in which this incident
8 occurred, it's not an area that you're very familiar with,
9 is it?

10 A I'm not very familiar with it, but I know where the
11 area is.

12 Q Okay. And you know that there are two marinas out
13 there?

14 A Yes.

15 Q And do you know the names of the marinas?

16 A There is Lake Murray Marina, and there's Lighthouse
17 Marina.

18 Q Okay. And when you were asked about this, this
19 document right here where this 12 is written on it --

20 A Uh-huh.

21 Q -- and this six written on it --

22 A Uh-huh.

23 Q -- and you said that was different than the drawing
24 that Mr. Kranendonk provided, correct?

25 A Yes, it's different.

1 MR. HARVEY: Okay. No further questions.

2 THE COURT: All right. Thank you, ma'am.

3 You may come down.

4 THE WITNESS: Thank you.

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, that will conclude the testimony for today. Let me
7 ask, does anybody have a problem getting here at
8 nine o'clock in the morning instead of 9:30? Anybody that
9 would have any particular problem with that?

10 (There was no response).

11 Everybody okay? Nine o'clock.

12 (Indicating).

13 Okay. I'm counting heads. All right. Thank you
14 very much. Let's reconvene at nine o'clock in the
15 morning. Sounds like we've got a big day tomorrow, so --
16 a full day anyway.

17 Again, don't discuss the case among yourselves when
18 you return to your jury room or with anyone else over the
19 evening hours.

20 Please don't try to do any independent research about
21 this case. Thank you very much. Have a pleasant evening.
22 We'll see you at nine o'clock in the morning.

23 (WHEREUPON, the jury left open court at approximately
24 5:56 p.m.)

25 (WHEREUPON, Court's Exhibit No. 2 was marked for

1 identification only.)

2 THE COURT: Ms. Camlin?

3 THE WITNESS: Yes, sir, Your Honor.

4 THE COURT: Next time somebody asks you to be an
5 expert, you might want to think twice about it.

6 THE WITNESS: I didn't agree to it, Your Honor.

7 THE COURT: All right. Nine o'clock.

8 THE WITNESS: Thank you.

9 MS. SAMPSON: Thank you, Your Honor.

10 (Whereupon, There was an overnight recess).

11 (Whereupon, the proceedings were concluded.)

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) 2010-GS-40-4106, 4109, 4110
 COUNTY OF RICHLAND) 2011-GS-40-5469, 5472

The State of South Carolina,)
)
 vs.) TRANSCRIPT OF RECORD
)
 Steven Michael Kranendonk,)
)
 Defendant.)
 _____)

March 8 and 9, 2012
 Columbia, South Carolina

B E F O R E:

HONORABLE G. THOMAS COOPER, JR., JUDGE AND JURY.

A P P E A R A N C E S:
 CARTER R. POTTS, ESQUIRE
 APRIL W. SAMPSON, ESQUIRE
 FOSTER M. MATHEWS, ESQUIRE
 Attorneys for the State

JONATHAN M. HARVEY, ESQUIRE
 Attorney for the Defendant

Crystal Holmes
 Official Court Reporter

	<u>E X H I B I T S</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
1				
2				
3	S-44	Photograph of Inside of Sylvan		
4		Aluminum Boat		71
5	S-45	Photograph of Inside of Sylvan		
6		Aluminum Boat		71
7	S-46	Photograph of Vinyl Covered		
8		Cushion Sheet		71
9	S-47	Photograph of Vinyl Covered		
10		Cushion Seat		
11	S-58	Light from Boat	23	
12	S-59	Light from Boat	23	
13	S-60	Light from Boat	23	
14	S-61	Light from Boat	23	
15	S-62	Light from Boat	25	26
16	S-63	Light from Boat	25	26
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18	S-65	Light from Boat	25	26
19	S-66	Flash Drive Containing Video		
20		from Lake Murray Marina		117
21	D-2	G P S Photograph		93
22	D-3	G P S Photograph		93
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24	D-2B	Diagram	159	
25				

	<u>I N D E X</u>			
WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS
1				
2				
3	MARY MOBLEY			
4	By Mr. Potts	5		
5	TIM GRAMBOW			
6	By Mr. Potts	7		
7	By Mr. Harvey		16	
8	JENNIFER N. STONE			
9	By Ms. Sampson	20		
10	By Mr. Harvey		32	
11	RAY LEWIS			
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17	CLOSING ARGUMENT			
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23	SENTENCE OF THE COURT		286	
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25				

MARY MOBLEY -- DIRECT BY MR. POTTS:

6

1 records for this case?

2 A Yes sir, I have.

3 Q Okay. Did you administer morphine to Robert
4 Christofoli around 2:20 in the morning?

5 A Yes, sir, I did.

6 Q On May 2nd?

7 A Yes sir.

8 MR. POTTS: Thank you, no further questions.

9 THE COURT: Cross-examination?

10 MR. HARVEY: Good morning, thank you for being
11 here.

12 THE WITNESS: Yes, sir.

13 MR. HARVEY: I don't have any questions.

14 THE COURT: Witness be excused?

15 MR. POTTS: Please, Your Honor.

16 THE COURT: You may come down, thank you very
17 much, ma'am.

18 THE WITNESS: Okay.

19 (The witness leaves the witness stand.)

20 THE COURT: Call your next witness.

21 MR. POTTS: The State calls Tim Grambo.

22 (TIM GRAMBOW, having first been duly sworn,
23 testified as follows:)

24 THE CLERK: Have a seat in the witness box.

25 State your name for the record and spell it, please.

STATE V. KRANENDONK

TIM GRAMBOW -- DIRECT BY MR. POTTS:

7

1 THE WITNESS: Tim Grambow, G-r-a-m-b-o-w.

2 DIRECT EXAMINATION

3 BY MR. POTTS:

4 Q Mr. Grambow, where are you currently employed?

5 A I work with the South Carolina Law Enforcement
6 Division.

7 Q And what is your role there?

8 A I am a forensic toxicologist.

9 Q Would you please tell the jury some of your education
10 and experience?

11 A Sure. I have a bachelor of science degree in
12 chemistry from Wake Forest University. From there I
13 began working at SLED 10 years ago and since then I
14 went through their full training program in forensic
15 toxicology, was certified through them. I've become
16 board certified nationally. I've attended numerous
17 schools and -- such as the Borkenstein School at
18 Indiana University on Alcohol and Traffic Safety I
19 believe is the full title, numerous meetings,
20 national and internationally, workshops around the
21 country, the Society of Forensic Toxicologists.

22 Q Have you been qualified as an expert before?

23 A Yes, I have been qualified as an expert in forensic
24 toxicology, in General Sessions, Municipal, City
25 Courts, Magistrate's Court, approximately 20 times.

TIM GRAMBOW -- DIRECT BY MR. POTTS:

8

1 MR. POTTS: At this time, Your Honor, I would
2 like to offer Tim Grambow as an expert in forensic
3 toxicology.

4 THE COURT: Any voir dire or objection?

5 MR. HARVEY: No objection.

6 Q Mr. Grambow, how long have you been working at SLED?

7 A 10 years.

8 Q Okay. Were you working at SLED -- you were working
9 at SLED 10 years ago, you were working at SLED back
10 in 2010?

11 A Yes, sir.

12 Q All right. Have you had a chance to examine anything
13 from this case?

14 A Yes.

15 Q Okay. I'm going to show you what's been marked as
16 State's Exhibit number 52 and 53. What are these?

17 A These are two blood samples that were analyzed in the
18 toxicology lab that my initials and dates appear on
19 these bags themselves.

20 Q Did have a chance to exam those vials?

21 A Yes.

22 Q Did you perform any tests on them?

23 A Yes.

24 Q Explain to the jury just briefly what kind of test
25 you do in a case like this.

TIM GRAMBOW -- DIRECT BY MR. POTTS:

9

1 A These two samples got our normal battery of tests for
2 a DUI or a BUI type case which would include an
3 analysis for alcohols in the blood, a panel, a drug
4 screen, looking for major classes of drugs and a
5 comprehensive drug screen where we look for a lot of
6 miscellaneous types of drugs.

7 Q Now, what sort of -- like how do you do these tests?
8 Are they -- do you just put them in a machine and let
9 it go or what ---

10 A Each test is different for the different type of
11 compounds that you're going to analyze. In this
12 case, the alcohols, they are performed using a gas
13 chromatic -- gas chromatography with the F I D
14 detector for the quantitation and we run it again for
15 the confirmation with gas -- headspace gas
16 chromatography and a G C mass spec.

17 And each test we run on these alcohols has a
18 series of quality control measures that everything
19 has to meet for -- to ensure that the instruments are
20 working properly and that the quality of the sample
21 is good. And when we get a number, a value for a
22 type of alcohol, that is actually tested twice on two
23 different runs and those numbers have to be within a
24 certain percentage of -- you know, and then we take
25 -- record the lower number. And then we run a

1 secondary test on a different type of instrument to
2 make sure that absolutely, without a doubt, that was
3 the compound that we identified.

4 Q You did that in this case?

5 A Yes, sir.

6 Q Do you have -- did you make a report in this case?

7 A Yes.

8 Q Do you have a report with the results for those two
9 different samples?

10 A For the -- I think I have a copy of the reports here.
11 We did issue reports for alcohol values on both
12 subjects in this case.

13 Q What was the results of your report?

14 A For the alcohol analysis for Steven Kranendonk, I
15 believe it was a 0.117 percent ethanol. And the
16 alcohol test for the Robert -- what was his last
17 name, Christofoli, his was reported as negative for
18 alcohol.

19 Q So that would be 0.0?

20 A Or less than 0.01 which is our threshold, which
21 anything below that is deemed toxicologically
22 insignificant.

23 Q Now, what does that number mean, that 0.117?

24 A When we report that, that means that at the time that
25 the sample is taken from the body, that there were

TIM GRAMBOW -- DIRECT BY MR. POTTS:

11

1 0.117 grams of ethanol per deciliter of blood in that
2 person's body. So basically that is a concentration
3 of the amount of alcohol in a person's body at the
4 time that the -- in this case, the blood was drawn
5 into the tube.

6 Q What -- let me ask you this, how does alcohol in the
7 blood -- if I drink a beer right now, would that make
8 my blood alcohol level right now a .03 or .04?

9 A Probably not quite that high actually. But when you
10 consume alcohol, the process that occurs is what we
11 refer to as A D M E. It's the process of absorption,
12 distribution, metabolism and elimination.

13 So essentially a person is going to drink
14 alcohol and it is going to enter down their esophagus
15 and into their stomach. And from there your stomach
16 empties into the small intestine. And the majority
17 of alcohol, upwards of over 95 percent of alcohol, is
18 absorbed in the small intestine. So that's the
19 absorption.

20 And now it's going to be distributed to the rest
21 of the body. And through the small blood vessels
22 around your small intestines, take it to the liver
23 and then on to your heart where it gets pumped out
24 around your body and starts cycling. And that's the
25 distribution.

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1 And then as that's occurring, every time the
2 blood with the alcohol in it passes through your
3 liver, that's where enzymes are going to help
4 metabolize it. So your body is going to be breaking
5 it down because it's a foreign substance.

6 And then from there, the -- the breakdown
7 products and some residual alcohol is then collected
8 in your kidneys and taken to your bladder and --
9 until you eliminate it.

10 There you go, more or less.

11 Q More or less. So, when you first drink, your blood
12 alcohol level first goes up?

13 A Yes.

14 Q And then goes down later?

15 A Yes. I like to equate it as if you can think of a
16 bathtub that you are getting ready to run. And you
17 have the faucet and the water is coming down and
18 entering the bathtub. That's kind of like your body
19 absorbing the alcohol. And then if more of the water
20 is coming out of the faucet than is going down the
21 drain, which would be the elimination, that level of
22 the water in the tub is going to go up. That would
23 be equivalent to your blood alcohol level going up.

24 And as you stop the faucet, then -- so you have
25 stopped absorbing more so that level is not going to

TIM GRAMBOW -- DIRECT BY MR. POTTS:

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1 increase anymore and then it's just going to
2 continually go down at a steady rate until you no
3 longer have any left in the tub.

4 Q Okay. Now, if someone has an alcohol level of .117,
5 what sort of effects would that have on them?

6 A Well, it's -- as you start from zero and increase up
7 to a .117 or higher, there is a series of effects
8 that occur starting at the lower levels because
9 alcohol, as it's cycling around in your body, it's
10 going to go and hit your brain and that's where a lot
11 of the effects are going to occur. And it hits the
12 frontal -- it affects the frontal lobe of your brain
13 first which is a lot of your higher levels, your
14 thought processes. And then it starts working its
15 way back to your more primordial effects, if you
16 will, more of just your being able to breath and do
17 things like that.

18 So your higher functions are going to be what
19 are affected first. So things along those lines, even
20 at low levels at less than .05, you're going to lose
21 some of your inhibitions.

22 Q So .05 you start losing, start losing inhibitions.
23 What else?

24 A You're going to, you know, possibly become maybe a
25 little -- a little braver. You may do things that

TIM GRAMBOW -- DIRECT BY MR. POTTS:

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1 you may not ordinarily do. And that may be -- even at
2 low levels be, I'm going to say something to somebody
3 that I might not normally say or I may go talk to
4 somebody that I wouldn't normally go talk to. So it
5 can be very subtle type things at very low levels.

6 You -- and at your levels -- as it increases,
7 alcohol level, you're going to start losing your
8 ability to process data ---

9 Q So it impairs your processing of data?

10 A Yes. And along with that goes the speed at which you
11 process data.

12 Q Okay. That includes speed.

13 A Your ability to multitask is going to be greatly
14 affected at levels between .05 and .1.

15 Q That's between .05 to 0.1.

16 A That's right and we have to remember too that this is
17 a bit of a sliding scale. These effects start at the
18 lower levels and are going to increase as you go
19 higher and not -- these effects to occur but they're
20 not going to -- there's not one set point, at .05
21 it's going to happen, this is immediately going to
22 start. It could be, you know, at a .04, it could be
23 a .06, just general range. It's a bit of a sliding
24 scale but these are generally the levels that these
25 things start to occur.

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1 So -- in multitasking and multitasking can be
2 described as trying to do multiple things at one
3 time. So that could mean trying to do, you know,
4 multiple physical tasks at the same time, whether it
5 be -- it doesn't apply to this particular case, with
6 driving car, but driving a boat, there are some
7 multiple things you do at the same time. That could
8 be as far as maintaining your visual acuity straight
9 ahead and then worrying about speed or shifting or
10 things along that were you have multiple things going
11 on at one time and trying to manage all the processes
12 and be able to do each one at a high level. You may
13 be able to do one, focus on one at one time, but that
14 will make the other ones suffer a little bit. It's
15 hard to do them simultaneously.

16 Q Any other effects?

17 A And as the levels go on, you can -- higher, even
18 higher than a .1, your visual acuity starts to go
19 down, you start to lose peripheral vision.

20 Q Visual acuity, peripheral vision.

21 A So that is your ability to kind of see things out of
22 the corner of your eye, that window is going to start
23 to narrow to where you will just start focusing on
24 what's in front of you.

25 At levels of like .15 you can even develop

TIM GRAMBOW -- DIRECT BY MR. POTTS:

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1 double vision. And as you continue on and as more
2 parts of your brain are affected, you're going to get
3 to just respiratory depression and toxic levels and
4 death, you know, at .4, so as the scale goes up.

5 But those are some of the main effects.
6 Basically alcohol is a depressant so it's affecting
7 your central nervous system and it's affecting your
8 ability to act at a top level.

9 Q Okay ---

10 MR. POTTS: Beg the Court's indulgence, one
11 second.

12 (Pause.)

13 MR. POTTS: Thank you, no further questions at
14 this time. Answer any questions Mr. Harvey has for you.

15 CROSS-EXAMINATION

16 BY MR. HARVEY:

17 Q Good morning.

18 A Morning.

19 Q And you describe -- the prosecutor drew a chart up
20 there, you see the chart?

21 A Yes.

22 Q And he described, as the alcohol level in that
23 individual increases or decreases, he asked you about
24 certain effects, right?

25 A Yes.

JENNIFER STONER -- CROSS BY MR. HARVEY:

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1 Q Okay.

2 MR. HARVEY: Thank you for coming today. That's
3 all I have, Your Honor.

4 THE COURT: Redirect?

5 MS. SAMPSON: No, sir, Your Honor.

6 THE COURT: All right, ma'am, you may come down.

7 (The witness leaves the witness stand.)

8 THE COURT: This witness be excused?

9 MS. SAMPSON: Without objection.

10 THE COURT: Without objection.

11 Next witness.

12 MR. POTTS: The State calls Ray Lewis.

13 (RAY LEWIS, having first been duly sworn,
14 testified as follows:)

15 THE CLERK: Have a seat in the witness box.

16 State your name for the record please.

17 THE WITNESS: My name is Ray Lewis, R-a-y L-e-w-
18 i-s.

19 DIRECT EXAMINATION

20 BY MR. POTTS:

21 Q Investigator Lewis, where are you currently employed?

22 A I work for the South Carolina Department of Natural
23 Resources.

24 Q And what ---

25 A With the law enforcement investigation section.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 Q And what's your role there?

2 A I'm a investigator responsible for a number of
3 things. First and foremost is boating and hunting
4 accidents that involve fatalities. I deal with
5 stolen boats, motors, jet skis. I deal with title
6 fraud issues, registration and title fraud issues. I
7 deal with aids to navigation which could be buoys, so
8 on and so forth. And I am on a saturation patrol
9 team that from Memorial Day to Labor Day we are on a
10 body of water just about every other weekend
11 patrolling.

12 Q And what was your role in this case specifically?

13 A I was the lead investigator.

14 Q All right. So back on May 1st of 2010, how did you
15 find out about this incident?

16 A At approximately 10:55, I believe it was, p.m. I
17 received a page, it's a text message that comes out
18 over the cell phone from our communications center,
19 our radio room for lack of a better word, about an
20 accident that possibly involved fatalities on Lake
21 Murray.

22 Q So why did they call you?

23 A I was the on -- one of two on call investigators for
24 the state that weekend. There's five of us in the
25 state that are investigators. And the way we work

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1 our call schedule is three weekends off, two weekends
2 on call. And, you know, we're all on call Monday
3 through Friday but on the weekend, two of us are on
4 call and essentially split the duties and cover half
5 of the state for any incident that might arise.

6 Q Okay. Where were you when the call came in?

7 A I was at home.

8 Q Where's home?

9 A Home is in Oconee County, way up in the hills.

10 Q Okay. So you're not stationed here in Richland
11 County?

12 A No, sir, I'm not.

13 Q You're not stationed in Lexington County?

14 A No, sir.

15 Q Lake Murray is a ways from Oconee?

16 A Two and a half, three hours away, yes, sir.

17 Q Just describe what information you learned and how
18 you learned it.

19 A Well, of course, there's, you know, a multitude of
20 phone calls, you know, that go on immediately
21 following the -- the initial page. You know, I'm --
22 you know, I called the radio room to find out, you
23 know, what information they have. I was notified
24 that Kevin Roosen was the responding officer. And I
25 can't speak for every single phone conversation I had

1 because, you know, obviously when I find out it's a
2 fatality, I'm immediately throwing my uniform on,
3 grabbing my stuff, getting in the truck, hitting the
4 road, getting down here as quickly as I can. It did
5 not take me two and half to three hours to arrive at
6 Lake Murray, I can assure you of that.

7 I can't speak for every phone conversation I had
8 on the ride down but I can assure you I was on the
9 phone the vast majority of the time. I'm talking to
10 my supervisor, talking to other officers who
11 responded to the scene, you know, gaining as much
12 information as I could possibly gain about what's
13 going on and trying to take notes and drive at the
14 same time, you know, figuring out what I've got to do
15 when I get there, so.

16 Q Okay. So, where did you respond to first?

17 A I responded to Lake Murray Marina which is also known
18 as Dockside Marina.

19 Q All right.

20 A Where Dockside Restaurant is located.

21 Q I'm going to show you what's been marked as State's
22 Exhibit Number 56.

23 A Sure.

24 Q Can you indicate to me which marina was it? Was it
25 this one or was it ---

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 A I've got to stand up.

2 Q --- this one over here?

3 A This was right here is Lake Murray Marina.

4 Q That's also known as Dockside. What else, any other
5 names on that one?

6 A Those are the only two I know of.

7 Q So that's where you went first?

8 A Yes, sir.

9 Q And what did you find there?

10 A When I arrived, my supervisor, Lieutenant Sullivan
11 was already there. And within five minutes of me
12 pulling up and getting out of the truck, Officer
13 Camlin or Investigator Camlin I should say, arrived
14 on the scene as well.

15 And I guess I should back up a little bit and
16 say, you know, on the -- there was a lot of confusion
17 on the drive down because we -- you know, I'm told
18 about an accident with fatalities, you know, then
19 turned into two fatalities. And my supervisor later
20 called me and said he was on the way which is -- I
21 thought was kind of odd because he doesn't normally
22 respond to each and every incident that we respond
23 to.

24 And he said the other accident, you know, that
25 he had -- he said he was sending Dale (phonetic) and

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1 he was sending Robin and all the other investigators
2 was coming. And, you know, I said, what other
3 accident and he informed me that there had been a
4 second accident involving fatalities, you know, we
5 were piecing together that we actually had two
6 instead of one, anyway. That's why Robin Camlin and
7 my lieutenant were on the scene because it was such a
8 big event, so.

9 When I pulled up in the parking lot, there's a
10 23-foot Key West with name Peacemaker on the side of
11 it on a trailer in the parking lot. And that's kind
12 of where we all met up, so that's what I saw when I
13 first got there.

14 Q Okay. Approximately how big is that boat?

15 A It's big. I mean it's 23 feet and, you know, when
16 boats are manufactured, they -- you -- it can be 23
17 feet and then you add a pulpit with -- this
18 particular boat had what's called a pulpit which on
19 the front of the boat you've got a little rounded
20 section that sticks out an extra couple of feet.
21 Then you add a motor off the back of it that adds one
22 to two extra feet in overall length. A 23 foot boat
23 can be varying widths which would make the actual
24 size of the boat, you know, bigger. You could have a
25 narrower boat, you can have a larger boat or a wider

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1 boat.

2 Then the 23 foot boat is or this particular 23
3 foot Key West was a substantial size boat. And then
4 add to that you've got it's a center console which I
5 think was explained earlier. Essentially a center
6 console if you've got a -- where you can walk all
7 around the inside of the boat. And then you've got
8 something about yay big, or close to this, in the
9 center of the boat where the driver stands, who
10 drives the boat, in the center.

11 Attached to that you've got what's called a t-
12 top which is an aluminum structure that is attached
13 to the console, the roof over the top of it... So you
14 add all this stuff in together, you know, it makes
15 it, you know, a pretty substantial size boat, so.

16 Q I'm going to show this in this regard, State's Number
17 24. Will this picture help you describe some of
18 those features?

19 A Yes, sir, absolutely.

20 Q And does that describe ---

21 A Absolutely. This is a -- this is a head-on shot of
22 this 23 foot Key West. And some of the items I'm
23 describing, the first thing you see right here is the
24 anchor. And you'll see that there's a section that
25 the anchor is attached to that protrudes out a little

1 bit and that's what I call the pulpit, you know,
2 almost like a pulpit that a preacher would stand at.

3 You've got a handrail that goes around and the
4 handrail kind of outlines the outside of the -- it
5 sticks out here showing the pulpit. Then back behind
6 that you see the t-top structure. You can't really
7 see the console that much but you see the t-top
8 structure which, you know, resides right over the top
9 of the console.

10 And then you've got a little, you know,
11 structure on top that is some bracing and some canvas
12 stretched over to give you a little -- a little
13 protection from the sun, not a whole lot. And then
14 on top of the t-top you see the -- the all around
15 white light on top of that, so.

16 Q All right. So when you encountered this vessel, what
17 was the first thing you do about it?

18 A Well, we -- you know, I immediately talked with my
19 lieutenant and Investigator Camlin and we kind of
20 split up duties. We -- I immediately get the camera
21 out and start taking pictures of the boat and
22 identifying damage on the front of the boat, taking
23 pictures of that. And then he asked me to -- he
24 being my lieutenant, asked me to go with Officer
25 Robbie Barnes who had showed up after we arrived, and

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1 go to the location of the second boat that was
2 involved in this -- in this accident.

3 Q All right. I'm going to show you what's been marked
4 as State's Exhibits Number 12, 13, 14, 15, 16, 17, 18
5 and 19.

6 A Sure.

7 Q Are these the pictures you took of the damage?

8 A Yes, sir.

9 Q All right, if you can describe ---

10 A Well, let me review all of them ---

11 Q Yeah, review all of them, please.

12 A Sure, sure.

13 (Pause.)

14 A Yes, sir, I took these picture.

15 Q Would you mind describing to the jury the damage you
16 saw on that boat?

17 A Sure. The first picture here was taken from the port
18 or the left side of the bow and it showed -- and of
19 course the boat is sitting on a trailer at this time
20 so this metal structure ---

21 THE COURT: All right. Excuse me.

22 MR. POTTS: Yes, Your Honor?

23 THE COURT: Some of the jurors on the back row
24 are having a hard time seeing.

25 MR. POTTS: Do you mind stepping down so we can

1 get closer.

2 THE WITNESS: Sure.

3 (The witness steps down from the witness stand.)

4 Q When you pick up each picture, please say what
5 exhibit number you are using.

6 A Okay.

7 Q It will help out the court reporter.

8 A Can I sit them right here?

9 Q Sure.

10 A All right. This first picture is this exhibit --
11 marked as Exhibit Number 12. Can y'all hear me and
12 see everything?

13 JURORS: (Affirmative response.)

14 A All right. The structure you see right here is part
15 of the trailer so it has no bearing on the boat, so.
16 This is the left side of the bow of the 23 foot Key
17 West. You'll notice this area protruding out here is
18 part of the pulpit area and then this is the anchor
19 attached to it.

20 Right up underneath the pulpit you've got some
21 raw fiberglass exposed. And underneath that you've
22 got some -- some transfer, what we call transfer
23 marks, scrapes, scratches, you know, to use basic
24 terminology. And you see that on the left side
25 there, okay.

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1 Q Put them all down for right now. Just go through
2 them one by one, if that's all right.

3 A All-right. The second picture is Exhibit Number 13
4 which is actually upside down, so if I can, I'm going
5 to flip it right side up. I am taking a picture
6 directly up underneath the pulpit area showing an
7 overall damage. And again, you've got raw fiberglass
8 exposed. You see more transfer marks going to the
9 right and to the left.

10 And then directly underneath there you see some
11 more of the scrapes and scratches and transfer marks
12 up under here; you know, it looks gray in color,
13 maybe black in color but, you know, it's -- the white
14 you see if not actually paint but it's gelcoat. And
15 the gelcoat is scratched, you know, I can't tell
16 really what the thickness is but sometimes you'll
17 have, you know, scratches that go, you know, through
18 the gelcoat all the way down to the fiberglass and
19 sometimes it's just on the surface of the gelcoat. I
20 hope I'm explaining that well enough to everybody.
21 But, anyway, this is just showing, you know, the
22 overall damage to the front of the boat.

23 This picture is Exhibit Number -- marked Exhibit
24 14. Again, more of the same from a different angle,
25 just showing scrapes and scratches, chunks of gelcoat

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1 that are -- that are knocked off. And then the large
2 area directly up underneath the pulpit shows raw
3 fiberglass that is exposed.

4 And Exhibit 15 is more of the same, just from
5 different angles, you know, just trying to show --
6 you see a good black transfer mark here, looks like
7 maybe something black plastic, rubber, whatever it
8 may be, you know, leaves a scrape mark on that side
9 there.

10 Exhibit Number 16 is close up of more of the
11 same. You see this blue roller here, again it's part
12 of the trailer. It has nothing to do with the boat
13 itself. Again, it shows closer, the transfer marks,
14 the scraping and the direction in which it's going on
15 both sides. You'll see some on this side as well.
16 And then you've got chunks of gelcoat that are
17 knocked off this -- you know, this is -- this is --
18 you heard testimony earlier talking about the keel of
19 the boat. The keel of the boat describes, you know,
20 the exact center line up underneath the boat that
21 actually starts up here, you know, where the boat
22 comes to a point and works its way down up underneath
23 the boat. So when I say keel, this is the area I'm
24 referring to right here.

25 Exhibit Number 17 is a backside view that shows

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1 the boat on the trailer. Now we're down below the --
2 the pulpit and we're looking at the -- essentially
3 the waterline of the boat. Now, we're down here,
4 this is what we call bottom paint, all this black
5 paint. That's where a boat that sits in the water
6 all the time, it protects the bottom of the boat,
7 they paint it in black, a special kind of black
8 paint. So that's why you see the line here. That's
9 usually that paint is ended at the waterline.

10 Q And what does the waterline mean?

11 A The waterline would just essentially be where, you
12 know, if that boat was sitting in the water at dock,
13 where the water is going to come up to that boat.
14 And a lot of times on a lot of boats you'll have a
15 discoloring, may be brownish, reddish brownish line
16 down the side of that boat, you know, where it's just
17 stained from the water. And you see some of that
18 right here.

19 But again, this is just showing some more chunks
20 of the gelcoat that's been knocked off. And then you
21 get out here where the keel comes on down and you see
22 a lot of black paint and a lot of chunks that have
23 been knocked away right here on the keel of the boat.
24 That's what that picture's showing.

25 Exhibit No. 18, is more of the same, only

1 closer. And you're seeing -- I'm sorry?

2 Q Make sure that everyone is able to see it.

3 A I'm sorry. - You see more of the same. You're getting
4 -- you know, you're starting to see a lot more black
5 paint, a lot more chunking. You've actually got a
6 lot of -- this pinkish color you see right here raw
7 fiberglass that is exposed. You know, it take -- to
8 knock that thickness of gelcoat off and to get all
9 the way down to the fiberglass, you know, it takes a
10 good amount of force to do, so.

11 The last picture, and to me the most important
12 one, this is Exhibit 19. Again, this is a close up
13 of the bow. This structure here is part of the
14 trailer so it's -- has no bearing here. You see, you
15 know, the keel -- the pulpit would be up here. This
16 would be looking at the left side of the boat, okay.
17 The pulpit's up here and the keel starts and you see
18 two items right here. Originally these items would
19 have been one item which is what's called a bow eye.
20 A bow eye is essentially a U-bolt. If everybody
21 knows what a U-bolt is, the main factors, they drill
22 two holes and bolt that U-bolt through the bow of the
23 boat. They have reinforcing on the backside of it,
24 washers and nuts, tighten it down. And then the U-
25 bolt part is right here. And that's essentially what

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1 the cable or the strap from the trailer is hooked on
2 to when you drive the boat up on the trailer and you
3 tighten it up, okay. That U-bolt is typically about
4 a three-eighths inch -- three-eighths inch thick bolt
5 usually. You know, it may be smaller on smaller
6 boats but it's a thick piece of metal.

7 And I see here that the U-bolt was sheared off
8 flush with the boat, okay. Probably only one time in
9 my life before have I seen that. That -- that's --
10 that's not something that you just bang it against
11 the dock and knock it off every day.

12 MR. HARVEY: Objection, Your Honor. He can
13 certainly testify to what he observed. Other than his
14 observation, he has no knowledge of what it looked like
15 before he observed it. He can only talk about what it
16 looked like when he observed it, he can't hypothesize as
17 to how the observation came about. I object.

18 THE COURT: Sustained. He can testify that he'd
19 never seen that condition before.

20 MR. HARVEY: Yes, sir.

21 THE COURT: Go ahead.

22 A I understand. So, again, that's what the picture's
23 of, just in terms of me trying to explain the
24 picture, that is what that is of.

25 Q All right. Thank you, take your seat again.

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1 A Yes, sir.

2 (Witness returned to the witness stand.)

3 Q So you've had a chance the take photographs of the --

4 I'm sorry, I'm already confused with what that was.

5 That was -- that's the Key West?

6 A That is the Key West, that is correct.

7 Q Okay.

8 A There's only one fiberglass boat involved here and

9 that is the Key West.

10 Q That's what happens to fiberglass?

11 A Yes, sir.

12 Q Now, you took pictures of it. What did you end up

13 doing next?

14 A Again, Officer Robbie Barnes shows up and I'm

15 directed by my lieutenant to go to get with Officer

16 Barnes and go to the scene of the second boat that is

17 involved in this particular collision and to go, you

18 know, to document it and take a look at it and see if

19 we can figure out what's going on with it, so.

20 Robbie had come by boat to Lake Murray Marina so

21 we get in his boat and we go to the address which --

22 forgive me what the address was, Cottonwood

23 (phonetic), or whatever the address

24 was where the house where the other boat was located.

25 When I get -- when we get there, we pull up to

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1 the dock, tie the boat off, get out of the boat, walk
2 up and we're walking in the man's front yard to the
3 edge of the water where the riprap -- you heard that
4 terminology earlier I believe, and we -- and I see a
5 boat there that is -- that is up on the rocks.
6 Deputy Glenn Davis is there. He meets us there.
7 He's kind of keeping watch over that scene. There's
8 nobody else there when I get there. There's me and
9 Robbie and Glenn Davis.

10 I take a look at that boat, you know, I'm rather
11 stunned at what I see. I was trying to decipher what
12 I was looking at to begin with. And of course I had
13 my camera with me. I immediately started snapping
14 pictures. The first thing -- it's obviously
15 nighttime now. This was at roughly 2 a.m. By the
16 time I had driven all the way down here and done
17 everything, it was about 2 a.m. in the morning time.

18 The first thing I see -- and the boat is sitting
19 on the rocks with the bow pointing towards the house,
20 towards the land. And the first thing I see is the
21 bow lights of the boat are on which, you know, it
22 attracts my attention because the boat is half
23 submerged in the water and crushed and the lights are
24 still on. I looked further in the boat and I see a
25 -- what looks like a boombox or a radio of some sort

1 that -- I don't know if it was a radio face, you
2 know, like a removable stereo face or something like
3 that, it was illuminated as well.

4 So obviously, you know, there's still power in
5 the battery, there's still, you know, some current
6 going to the boat.

7 I document the registration numbers and the name
8 that's on the side of the boat which the name on the
9 side of the boat is Lucky Strike. There are some
10 items laying on the ground, on the grass right by the
11 edge of the river that Glenn tells me that he has
12 pulled out of the water and sat there. And I -- I
13 take pictures of all that stuff as well and we
14 collect that.

15 Q You take photos that night?

16 A I did.

17 Q Okay. I'm going to show you State's Exhibits Number
18 32 through 43.

19 (Pause.)

20 A May I get some water?

21 Q I'll get you a glass.

22 A Yes.

23 Q Let's take a look at these first. Let me know when
24 you're done looking at them.

25 A Thank you.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 Q My pleasure.

2 (Pause.)

3 A All right, sir.

4 Q Now, those have already been entered into evidence?

5 A Okay.

6 Q But do those pictures accurately reflect the damage
7 you saw that evening?

8 A Yes, they do.

9 Q And some of them in fact were actually taken by you?

10 A Yes.

11 Q All right.

12 A But with the understanding that not of all these
13 pictures were taken that night.

14 Q Not all the pictures were taken that night?

15 A But they accurately reflect what I saw.

16 Q All right. Not all of them were taken by you, were
17 they?

18 A I don't believe so.

19 Q Okay ---

20 MR. HARVEY: They're in evidence, we don't have
21 a problem.

22 THE COURT: All right.

23 MR. HARVEY: They're in evidence.

24 Q Would you mind stepping down again ---

25 A Sure.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 Q --- just showing the jury.

2 (The witness steps down from the witness stand.)

3 Q Explain what those pictures show and ---

4 A Sure.

5 Q --- what the damage was.

6 A Well ---

7 Q And once again, state the exhibit number.

8 A I am going to kind of go in order here.

9 All right; Exhibit Number 33 is going to be a
10 good representation of the first thing that I saw
11 when I walked up there. What you see is the 21 foot
12 Sylan boat belonging to -- I didn't know this at the
13 time, it belonged to Mr. Christofoli. And you see
14 it's pulled up there, there's rocks down here in the
15 bottom of the picture, it's pulled up on the riprap.
16 It's half submerged. It's barely recognizable as a
17 boat. It has a rope that somebody has attached to it
18 and tied off just to keep it from floating away or
19 whatever. You see that the combination red and green
20 light on the bow is on, it's illuminated. That
21 caught my attention early on.

22 Exhibit 34 is a close up of the same thing.
23 Again you see the light is on from that angle.

24 Exhibit 32 is a picture of the boat taken from a
25 different side.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 Q And what side of the boat is that that's facing us?

2 A That side of the boat is the port side that you're
3 seeing right there, or the left side and ---

4 Q You're ---

5 A --- that's port on the left side of the boat. And
6 you see a, you know, a very indented, you know, a
7 good one third of that boat is dented in.

8 Exhibit 35 is again just like the similar --
9 similar to the first two pictures I showed you but
10 again showing the lights are on on the boat. There
11 are items that are -- you can pick out a cooler and I
12 think maybe a chair and a bunch of metal.

13 Exhibit 36 is a close-up of the left side.
14 Exhibit 36 also shows -- it shows the registration
15 numbers and it shows Lucky Strike on the side of the
16 boat. 36 is a very telling picture. That tells me a
17 lot of information right there. I don't know how
18 well you can see it in this picture -- I'll tell you
19 what, let me see if you can see it better in the next
20 picture. You see a lot of damage in that picture.

21 Q Once again that's the port side?

22 A Yes, sir. Exhibit 37 is -- is close up that again is
23 very telling to me. Again, I see the identifiers on
24 the boat, as far as the registration and name. But I
25 start looking a little closer at the damage here, I

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 see stripes on the side of the boat and I see dents
2 and gouges and holes and transfer marks of paint and
3 I see a lot going on here.

4 But I see two marks on this boat that look like
5 railroad tracks and I can't for the life of me
6 understand what that is, you know -- that, you know
7 ---

8 MR. HARVEY: Your Honor, if he can't understand
9 what they are, he can't ---

10 THE WITNESS: Well, at the time, I can't
11 understand what they are ---

12 THE COURT: That's what he said. That's not an
13 objection.

14 MR. HARVEY: Thank you Your Honor.

15 THE COURT: All right.

16 A Directly underneath those two gouges -- I mean, I
17 recognized them as gouges. But I don't understand at
18 that point in time what may have caused them.

19 I look further below that, I see a hole that's
20 probably, I don't know, an inch and a half, two
21 inches wide in the -- in the aluminum. And directly
22 beneath that hole I see a half crescent indentation in
23 the metal directly underneath that hole and it looks
24 kind of odd to me. And I frame my head and I look a
25 little closer at it. I've already taken pictures of

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 the Key West at this point in time. It's obvious to
2 me that ---

3 MR. HARVEY: Your Honor, again this calls for a
4 conclusion arising out of the collision that he hasn't
5 laid the proper foundation for. He's about to give an
6 opinion with specificity about an observation and the
7 cause of ---

8 THE COURT: All right. I understand, overruled.

9 MR. HARVEY: Thank you, Your Honor.

10 THE COURT: Go ahead.

11 A I see damage to the sides of the boat and I can tell
12 something has hit it. I see this dimple mark here
13 and I realize that what I'm looking at is that's
14 where the bow light that I previously look at was
15 broken off, the bow light of the Key West boat has
16 hit right here and that being a U-bolt and being
17 rounded, has caused an indentation in that aluminum and
18 further gone in and punched a hole in the side of the
19 boat, broken off, and those two sheared off studs
20 create two gouges. If you measure those, the widths
21 of those cracks is going to match the width of those
22 studs ---

23 MR. HARVEY: If he -- unless he's measured --

24 THE COURT: Sir, I've overruled your objection,
25 I'm going to overrule this one.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 MR. HARVEY: Thank you, Your Honor.

2 THE COURT: Go ahead.

3 A So it's evident to me that that's what I'm seeing
4 here. And that tells me a lot about the angle of
5 impact, where the -- where the Key West boat has hit
6 this boat, the angle it came from.

7 And then I go on to look at this -- this black
8 paint here. I see a lot of black paint that
9 obviously doesn't belong on the side of this boat and
10 I see that all this black paint it angled, it's going
11 in an upward motion like somebody had smeared
12 something across the top of this metal. And it's
13 evident to me that this black paint is transfer paint
14 from the bottom of that Key West because ---

15 MR. HARVEY: Your Honor, he's reaching a
16 conclusion ---

17 THE COURT: Sir ---

18 MR. HARVEY: He has not matched ---

19 THE COURT: Sir, I'm going to -- you have a
20 continuing objection at this time ---

21 MR. HARVEY: Yes, Your Honor.

22 THE COURT: --- his testimony but it's based on
23 his observation and I'm going to allow it.

24 MR. HARVEY: Yes, Your Honor. May I add one
25 matter to my continuing objection in this particular

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 objection. He's testified about paint and there's been
2 no testimony of any scientific testing or reliability to
3 match that paint. And I believe that's a different
4 improper position.

5 Thank you, Your Honor.

6 THE WITNESS: I said it looked like paint.

7 A So, again, this is a telling picture, it gives me a
8 lot of information.

9 Here you see the same picture from a different
10 angle. It shows a lot of the same -- the same things
11 I'm looking at. I see a lot of damage here, I see a
12 lot of metal, things are broken, a lot of things are
13 bent. And again, these two prominent marks stand out
14 to me, you know, looking at it from a different
15 angle. It's fresh metal, it's -- it's not oxidized
16 so it tells me this recently happened, it hadn't
17 happened over -- you know, it wasn't there
18 necessarily previously. It's just fresh -- fresh
19 damage.

20 And again, I see the hole again. Underneath
21 that I see the dimple mark and again I see a lot of
22 transfer marks here on the side of the boat. And
23 again, that's the left side of the boat.

24 Again, more of the same. This was taken the
25 following day. The boat has been put on a trailer at

1 this point in time, it's daylight, you know, we've
2 taken -- documenting the boat again, we're taking
3 more pictures of the damage that is -- that exists on
4 that boat. And again, you see those marks, you see
5 the hole and directly underneath that you see the
6 dimple and again, more of the transfer and you see
7 the direction of the transfer marks and how they go
8 up. That's what I'm seeing.

9 Exhibit Number 40 is a close-up so it gives you
10 a real good idea of what I'm looking at here because
11 I've started to hone in on, you know, what I'm
12 seeing.

13 Again, you see a clearly defined circular dimple
14 mark right here. You see a hole that's been
15 punctured in and the hole goes -- well, like I said,
16 it's approximately an inch and a half to two inches
17 wide, I didn't measure it. Then you've got two gouge
18 marks that go up. Again, fresh shiny metal that
19 shows -- shows me that it is a -- it's fresh damage,
20 it hasn't oxidized over time.

21 Exhibit 41, a close-up of the transfer. You see
22 down here at the bottom that -- what I see is the --
23 that's a seam where you have a bunch of rivets where
24 this boat -- how this boat is built and two different
25 sections together, rivets and all that. And that

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 seam is just completely folded in half where this is
2 the whole left side of that boat that's completely
3 folded in. And it's the -- I guess the pinpoint of
4 that folding motion is right at the seam where the
5 two pieces of metal come together.

6 Again, this damage is in a -- in almost a V type
7 pattern, you know, with all the black in the middle.
8 So you've actually got a bit of a crease right here.

9 Exhibit 42, again more of the damage taken from
10 a different angle.

11 Exhibit 43, again very telling to me. This is
12 the all around white light that is on the back of the
13 Sylvan boat. Some boats have permanently affixed
14 lights, some boats have removable poled lights so you
15 can put the light in during the nighttime, take the
16 light out during the daytime. This is a pole that's
17 obviously in so -- but it's obviously bent over.
18 Just more of the damage that, you know, that I see to
19 this boat. And the light pole is bent. When I took
20 a picture of it, you know, that light was not on at
21 the time that I got there, you know, I didn't see
22 this light on. But it's obvious to me that this
23 light has been damaged, the pole is bent over. But
24 it tells me the pole was in the light, the light was
25 in, you know, when the boat was last in use.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 Q Thank you.

2 A Yes, sir.

3 (The witness returns to the witness stand.)

4 Q I'm going to show you four other pictures that are
5 not currently in evidence, State's Exhibits Number
6 44, 45, 46, 48. Take a look at those, please.

7 MR. HARVEY: Your Honor, the prosecutor has
8 shared ---

9 THE COURT: Let's let him look at them.

10 MR. HARVEY: Yes, sir.

11 Q Do those truly and actual depict what you saw that
12 evening?

13 A Yes, sir.

14 Q Okay. Are they pictures you took?

15 A Yes, sir.

16 Q All right.

17 MR. POTTS: At this time I would like to offer
18 State's Exhibits Number 44, 45, 46 and 48.

19 THE COURT: Show them to Mr. Harvey.

20 MR. HARVEY: Your Honor, I have seen the
21 exhibits and I have an objection under 403. There's been
22 ample testimony ---

23 THE COURT: All right. You don't have to
24 explain. I know what 403 is.

25 MR. POTTS: And, Your Honor ---

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 THE COURT: All right. Let me take this up with
2 the attorneys. Members of the jury, just relax for a few
3 minutes in the jury room. I'll call you when we're
4 ready.

5 (The jury retires from the courtroom at
6 approximately 10:42 a.m.)

7 THE COURT: What's the objection?

8 MR. HARVEY: Your Honor, we -- these photographs

9 ---

10 THE COURT: Let me see them.

11 MR. POTTS: May I approach, Your Honor?

12 THE COURT: Sure.

13 (Pause.)

14 THE COURT: Go ahead.

15 MR. HARVEY: Your Honor, there's been ample

16 testimony about what different individuals observed ---

17 THE COURT: What ---

18 MR. HARVEY: What different individuals have
19 observed at the scene of when the Sylvan boat was docked
20 at the residence, beached at the residence. This witness
21 has testified greatly about the damage to the boat. I
22 don't see how photographs of items that he found -- we
23 don't know how those items got to where they were when he
24 observed them. I think it would be misleading and
25 dangerously prejudicial for the jury to get an impression

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 that somehow this incident or the collision itself, the
2 collision itself was -- was the cause of these items
3 being found outside the boat.

4 It just -- it has no probative value. We've got
5 ample testimony, it's unduly cumulative and 403 also has
6 a provision that addresses the waste of time.

7 MR. POTTS: Your Honor, those ---

8 THE COURT: I understand what 403 is.

9 MR. POTTS: Most of those pictures are from
10 inside the boat. One's an example of a folding chair
11 that was off the bow. One's an example of some
12 fiberglass that had no reason to be in the boat and in
13 the boat ---

14 THE COURT: Had what -- did what, say that
15 again?

16 MR. POTTS: Your Honor, if I may see the photos.

17 THE COURT: Yeah.

18 MR. POTTS: Exhibit number 44, Your Honor, is
19 just some fiberglass and ---

20 THE COURT: What?

21 MR. POTTS: It's fiberglass.

22 THE COURT: A piece of fiberglass?

23 MR. POTTS: Yes, sir.

24 THE COURT: What's the brown thing?

25 THE WITNESS: It's like a coat, a camouflage,

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 like if you were duck hunting or something, you have a
2 camouflage warm coat on.

3 THE COURT: Let's proffer his testimony.

4 MR. POTTS: Certainly, Your Honor.

5 (Pause.)

6 MR. POTTS: May I proffer his testimony, Your
7 Honor?

8 THE COURT: Yeah, go ahead.

9 DIRECT EXAMINATION CONTINUES (IN CAMERA)

10 BY MR. POTTS:

11 Q What do these photos indicate to you?

12 A The first two photos are of seats, cushions of seats
13 that would normally be found permanently affixed in a
14 boat. These particular ones were at the scene of the
15 Sylvan boat so, you know, right there along with all
16 the other evidence, you know.

17 THE COURT: Is that the way you found them, you
18 found it that way?

19 THE WITNESS: Well, Officer Glenn Davis found
20 them in the water and -- floating with some other items
21 and he had picked them up out of the water and set them
22 on the shoreline right beside the rocks. That's how I
23 found them when I got there.

24 THE COURT: What's the relevance of that?

25 Q Why is that photograph relevant?

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 A This photo is relevant because it shows more damage.
2 I mean, it's got glass imbedded in it. It's got
3 transfer marks across the vinyl of the seat. It --
4 you know, it goes to show more of the extent of
5 damage to the boat, you know. These are items from
6 inside the boat, they're not outside the boat. The
7 damage that has been shown thus far shows damage to
8 the outside of the boat. This goes to show that, you
9 know, the damage further extends on into the inside
10 of the boat.

11 THE COURT: Is that chair part of the original
12 equipment or ---

13 THE WITNESS: Yes, sir.

14 THE COURT: --- affixed within ---

15 THE WITNESS: Yes, sir.

16 MR. HARVEY: Well, how does he know that, Your
17 Honor, if he hadn't seen the boat before the accident?

18 THE COURT: You want to do it or you want me to
19 do it?

20 MR. HARVEY: I apologize, Your Honor.

21 THE WITNESS: I mean I can say that based on
22 later interviews, you know, with other people that, you
23 know, I can verify that this is a piece ---

24 THE COURT: That you -- interviews with you?

25 THE WITNESS: Yes, sir -- well, with ---

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 Q Did you do the interviews?

2 A Yes -- yes, sir.

3 THE COURT: You interviewed somebody that told
4 you that that seat was permanently affixed to the boat?

5 THE WITNESS: I cannot specifically recall
6 asking about the seat itself of any of the subjects that
7 were in that boat.

8 A I cannot specifically recall asking about the seat
9 itself of any of the subjects that it were in that
10 boat.

11 THE COURT: Okay. Well ---

12 MR. POTTS: Your Honor, I think that in
13 particular, Your Honor ---

14 THE WITNESS: There was other pictures, if I can
15 ---

16 MR. POTTS: Yeah, photo number 45 and 44, Your
17 Honor ---

18 Q Tell me what 45 and 44 are?

19 A All right. 45 is a picture of the back cockpit of
20 the boat, the cockpit being the open inside area of
21 the boat and it shows a plastic lawn chair and it
22 shows a red folding camp chair that are both laying
23 over on their sides.

24 44 shows a -- in the background is the bottom of
25 the boat, laying on that is a -- a camouflage jacket,

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 like a raincoat -- camouflage raincoat. There are
2 pieces of glass laying on the raincoat and then there
3 -- a clear glass and then there is a piece of raw
4 fiberglass that is laying on top of the raincoat.
5 And the raw fiberglass, there's no raw fiberglass in
6 this aluminum boat. It has no reason to be in that
7 boat.

8 THE COURT: That's the way you found it?

9 THE WITNESS: Yes, sir.

10 THE COURT: Just the way it is in the picture?

11 THE WITNESS: Yes, sir.

12 THE COURT: It's not -- the other officer
13 brought it -- put it there.

14 THE WITNESS: No, sir, absolutely not. He would
15 have no reason to, sir.

16 THE COURT: Well, you just said that another
17 officer moved the chair.

18 THE WITNESS: Right, but the chairs were
19 floating in the water. These were items that were inside
20 the boat and they're inside the boat when I took a
21 picture of them. These items haven't been touched. The
22 only items that were touched were items that were
23 floating in the water in the vicinity of the boat and
24 then removed from the water and put in -- on the
25 shoreline.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 THE COURT: All right. What's the objection
2 again?

3 MR. HARVEY: Your Honor, 403 with -- he can only
4 testify to what he observed when he got there. There's
5 no information through this witness as to what other
6 officers did. He didn't know the condition of that
7 fiberglass or those items before he arrived because
8 nobody else has testified or he's not testified, that I
9 interviewed Officer A who secured the scene, it was in
10 this condition until I arrived. So we don't know and ---

11 MR. POTTS: I think that it goes to weight, Your
12 Honor.

13 THE WITNESS: I did say that Deputy Davis was at
14 the scene ---

15 MR. HARVEY: He ---

16 THE COURT: Wait a minute, I understand.

17 They're relevant, first. Secondly, either --
18 under either prong of 403, I think they're probative of
19 something. They may be prejudicial but I don't think the
20 prejudicial value outweighs the probative value. And
21 third, they're not cumulative, which is the second prong
22 of 403, because they're new, the jury's never seen or
23 known anything about this other than your cross-
24 examination about the lawn chairs.

25 I'm going to overrule the objection.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 MR. HARVEY: Thank you, Your Honor.

2 MR. POTTS: Thank you, Your Honor.

3 THE COURT: Try to make an analysis.

4 MR. POTTS: I appreciate it, Your Honor.

5 THE COURT: All right, bring the jury in,
6 please.

7 (The jury returned to the courtroom at
8 approximately 10:52 a.m.)

9 BAILIFF: The jury's seated, Your Honor.

10 THE COURT: You may continue, Mr. Potts.

11 MR. POTTS: At this time, Your Honor, the State
12 would offer Exhibits Number 45, 46, 44 and 48 into
13 evidence.

14 THE COURT: Over Defense objection.

15 (Whereupon, State's Exhibit Numbers 44,
16 Photograph Inside of Sylvan Aluminum Boat, was
17 admitted into evidence.)

18 (Whereupon, State's Exhibit Numbers 45,
19 Photograph of Inside of Sylvan Aluminum Boat,
20 was admitted into evidence.)

21 (Whereupon, State's Exhibit Numbers 46,
22 Photograph of Vinyl Covered Cushion Seat, was
23 admitted into evidence.)

24 (Whereupon, State's Exhibit Numbers 48,
25 Photograph of Vinyl Covered Cushion Seat, was

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 admitted into evidence.)

2 Q Investigator, would you mind stepping down for a
3 minute and explaining these to the jury?

4 (The witness steps down from the witness stand.)

5 A All right, exhibit 48 -- let me back up, I'm sorry.
6 Exhibit 46 is a picture of a vinyl covered cushion
7 seat that when I arrived on the scene was found on
8 the shoreline beside the riprap rocks. This is right
9 beside the boat. I see on this -- I take a picture
10 of this seat and I'm told by Deputy Glenn Davis who
11 was on the scene, you heard from him -- so he got
12 there, there were items floating in the water. He
13 removed the items from the water and placed them on
14 the shoreline. I took pictures of it.

15 And I see in this picture that there are pieces
16 of glass laying on the seat down in the crevices but
17 more importantly I see some markings on the left side
18 of the seat that appear to be transfer marks to me.

19 So I zoom in a little closer, Exhibit 48 shows
20 again a close-up shot of the seat. There's glass
21 down here in the crevices of the seat. But I look at
22 this -- this -- these markings on the side of this
23 vinyl and it looks to me to be heat transfer. In
24 other words, if you ---

25 MR. HARVEY: I'm going the object to that, Your

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 Honor.

2 THE COURT: Sustained.

3 A Exhibit 45 shows the inside of the Sylvan aluminum
4 boat and this is a picture taken from the left side
5 of the boat down on the inside of the cockpit area,
6 the open part of the inside of the boat. And it
7 shows a -- you see the other vinyl cushion seat up
8 here which would be on the driver's side. And behind
9 it you see a plastic lawn chair that's laid over on
10 its side and you see a read folding camp chair that's
11 folded up laying in the floor.

12 Q Now, let me ask you about that real quick.

13 A Yes, sir.

14 Q Is there any problem with putting that in the boat?

15 A Absolutely not.

16 Q That would be okay to have a folding lawn -- a
17 folding chair and a plastic lawn chair, that would be
18 okay to have in the boat?

19 A Sure.

20 Q Okay.

21 A Sure, there's no law against it.

22 Exhibit 44 is a picture that I took and this is
23 -- this is a close-up shot of the bow -- the inside
24 of the boat, the bow area, the bow being the front,
25 the very front area of the boat, inside of the boat.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 This is the floor part of it in the background.
2 You've got a camouflage jacket like a raincoat,
3 something you might wear if you're out duck hunting,
4 something like that. There are couple of pieces -- a
5 couple of shards of glass but the most prominent
6 feature in this photograph is there's a raw piece of
7 fiberglass laying right on top of this jacket, you
8 know, and again, this is in an aluminum boat so it
9 catches my eye. It doesn't belong in this boat.
10 It's an aluminum boat, it's not made of fiberglass so
11 that's what I see in the photograph.

12 Q Thank you, please sit back down.

13 (The witness returns to the witness stand.)

14 Q After you take the photographs, what do you do next?

15 A I received a written statement from Officer Davis who
16 -- and that was from the homeowner, Mr. Francis
17 Burriss who lived at the house where the boat was
18 located and they had contacted him and gotten a
19 written statement from him. Officer Davis handed me
20 his statement and I put it with my stuff to make it a
21 part of my file.

22 From this point till roughly, I don't know, 5:00
23 in the morning, there -- we're in contact with a
24 company called Agnew Lake Service and Agnew has -- I
25 mean, we know, we have knowledge, the local officers

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 have knowledge that Agnew has a barge. They do a lot
2 of dock building and stuff like that and they've got
3 a barge with a frame on it. Again, we've got a
4 second accident that other officers are working
5 unrelated to this one with a damaged boat. There's
6 no way -- this boat is not seaworthy anymore.

7 There's no way ---

8 Q This boat being?

9 A The Sylvan, the 21 foot Sylvan that I'm looking at is
10 not Seaworthy anymore so I can't float it back to the
11 Marina and put it on a trailer. So we contact Agnew
12 Lake Service. They come out -- and this is over the
13 course of the next couple of hours. We were
14 coordinating with them, you know, they've got to get
15 out of bed, come, you know, do all that stuff.

16 They -- I go back to the marina with Robbie
17 Barnes and Agnew comes with some other -- other
18 officers there take this boat, load it on their barge
19 and they go to the second scene, grab the other boat
20 from the other accident and put it on there. And we
21 instruct them to go across the lake to -- to Bundrick
22 Island which is a -- it's a D N R/Lexington County
23 facility that officers -- got a boat ramp there, we
24 keep our patrol boats there, so on and so forth.
25 It's not really an island, it's more of a peninsula.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 It's on -- it's on the Lexington County side of the
2 lake, sorry.

3 Q Yeah. Would it be fair to say that from that time on
4 until about 1 p.m. the next day, you were working on
5 coordinating, getting statements from people who had
6 taken statements?

7 A Yes, that's correct. At approximately 7 a.m., after
8 we get the boats back to Bundrick, Officer Camlin and
9 I start our inventory of the boats, a thorough
10 inventory which I know they -- I think her and Kevin
11 Roosen had gone through the boats initially at Lake
12 Murray Marina but now that we've got both boats back
13 up under, we want to account for every single item
14 that is on both boats. So we do a thorough inventory
15 of both boats.

16 After that, after we finished our inventory, we
17 had -- everybody who's involved in this incident up
18 to this point, including Officer Bickley, he comes
19 from the hospital, and we all meet at Bundrick Island
20 and try to catch our breath and get our bearings
21 about us. It had been a long night, everybody was
22 tired, our adrenaline levels maxed out and we've got
23 a lot of mess that we need to start preparing, you
24 know, and start assigning people to do different
25 things.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 Q Then go interview Robert Christofoli and Colt Lax?

2 A That's correct. We go to the hospital. Camlin and I
3 go to the hospital. We interview Colt Lax in the
4 emergency room. We obtain a written statement from
5 Mr. Lax and the diagram which I believe his mother
6 did -- wrote most of that for him because he was on a
7 gurney at the time.

8 Q Who did you speak to next?

9 A I'm sorry?

10 Q Who did you speak to next.

11 A Let me back up -- I'm sorry, I apologize. We did
12 talk with Rob Christofoli first and that was at 10:45
13 we got his statement. 11:45, roughly, we got Colt's.

14 1 p.m. we -- we try to find out -- you know,
15 we've identified the Key West as belonging to Michael
16 Kranendonk. We -- we find out about Steven and we go
17 -- we go and find out his address, we go to his
18 house. Officer Camlin and I, we knock on the door,
19 knock on door, nobody comes to the door. You know,
20 we don't know what he's doing, whether he's hiding or
21 what or if he's not home ---

22 MR. HARVEY: Your Honor, I object and ask that
23 that be stricken from the record and ---

24 THE COURT: All right, strike that.

25 THE WITNESS: I apologize.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 THE COURT: Nonresponsive. Just say what you
2 did and saw.

3 Q Tell me again.

4 A We knocked on the door, he doesn't come to the door.
5 We call his mother -- we call the phone number we
6 have for his parents. His mother answers, we speak
7 with her. She's a very nice lady, very cooperative.
8 She says, you know, he should be home. He might be
9 sleeping. She said, let me call him. So she calls
10 him and he does, he gets up and he comes to the door,
11 and...

12 Q And did you talk to him?

13 A We did, yeah -- you know, we told him we were there,
14 we needed to talk with him, ask him a couple of
15 questions. And he -- he was very cooperative, let us
16 in. I noticed that he had a bandage on his head, you
17 know, gauze of some sort and he moved real slow.
18 Said his ribs were hurting pretty bad and, you know,
19 he let us come in and sit down and talk to him.

20 Q And was he responsive to your questions?

21 A Well we -- you know, we asked him, you know, a series
22 of questions, you know, where -- where had he been
23 that night, you know. And normally when I do invest
24 -- an interview, I ask somebody, you know, kind of
25 back up and tell me -- tell me what you had for

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 breakfast, back up before that, you know, what --
2 tell me what you did last night, tell me what did you
3 have for breakfast and try to play the whole day out,
4 you know, what they did and, you know.

5 He explained about meeting the girls in the
6 parking lot and meeting up with Hair. He explained
7 about going to Tow the Line (phonetic). He explained
8 about getting the boat, going out on the lake. We --
9 we get into specifics of the accident and, you know,
10 we're asking what did he do.

11 He said that they left the no wake zone at the
12 marina, you know, they're coming out. And he says he
13 -- when we first ask him, he said he sees the -- we
14 ask him if he sees the other boat. He says, I see
15 the lights -- saw the lights of the other boat. And
16 we said, what did you see? He said, I saw -- he
17 said, I saw red -- I remember him saying, I saw red.
18 And -- and Officer Camlin specifically asked him,
19 what do you see when you see red? And he -- he
20 paused for a good 30 seconds. And he said, I'm not
21 sure. And so we, you know, certainly made a notation
22 of that.

23 He said I did see the boat on the radar. He
24 said, I saw -- I saw his blip on the radar and so we
25 made note of that. And then he explains how they are

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 ejected out of the boat and then he says, you know,
2 he thinks it's a hit and run, somebody hit him and
3 then left the scene. And he didn't see any other
4 boats after -- after that time.

5 He says that Hair remains in the boat and gets
6 the boat stopped, comes back, picks him and the girls
7 up out of the water. He said when Hair got back,
8 Hair was on the cell phone talking to 911, hands him
9 the phone. He said he gets on -- on VHF radio which
10 would be -- VHF radio would be a radio that boaters
11 would talk back and forth with on the lake or on any
12 waterway. Then he makes a mayday call.

13 And once they got back in the boat, he takes
14 control of the boat again. And I ask him, you know,
15 early on I ask him, I said, were you operating the
16 boat. He said, yeah, he admitted to operating the
17 boat.

18 And, you know, he gets back in the boat out of
19 the water, talks to 911, gets on VHF, takes back
20 control of the boat. This is all according to him.
21 They drive back to Lake Murray Marina. He -- he -- I
22 do believe the 911 operator patched him through to
23 the D N R radio room and he spoke with one of the
24 D N R dispatchers which told him to go to the closest
25 marina and get help for his friend who at the time he

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 thought had broken arms.

2 Q Okay. Did you have him do some diagrams at that
3 point?

4 A We did. Do you have them or I have them?

5 Q Those would be the diagrams that are already in
6 evidence, correct?

7 A Okay, yes, sir, I believe so.

8 Q You mentioned the radar. I'm going to show you
9 what's marked as State's Exhibit Number 20 which
10 would already be in evidence.

11 A Okay.

12 Q Do you see the radar on there?

13 A I see the screen, the radar would be displayed. I
14 don't see the radar in and of itself.

15 Q But you see the screen, the radar would be displayed
16 on there?

17 A Yes.

18 Q Okay. And please point that out ---

19 A Sure, absolutely. This is Exhibit 20. Again, this
20 is a shot from the back of the boat showing the back
21 of the boat console, the t-top. The radar itself
22 would be mounted on the top of the t-top and would
23 spin around and it would be displayed on this display
24 here. Up here this is an electronics box with VHF
25 radio. So it would be something you'd have to look

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 up at.

2 Q Did the other boat have anything like that?

3 A No, sir.

4 Q Okay. All right. After talking with Kranendonk,
5 what did do you next?

6 A We met with the -- we contacted the two girls that
7 were with him, Mallory and Jenna, and went and met
8 them at an apartment downtown and interviewed both of
9 them, got statements. They also gave us diagrams.
10 We try to get diagrams from each and every person
11 involved in the incident, whether they were operators
12 or passengers.

13 Q And did you interview Keith Corley?

14 A We did interview Keith Corley at his -- where he was
15 working, talked with him, got a written statement and
16 a diagram from him as well.

17 Q Now, let's just fast forward to 10:30 on the 3rd.

18 All of that happened on the 2nd, correct?

19 A That's correct, yes, sir.

20 Q So from the moment you arrived at Lake Murray Marina
21 until finishing up with Keith Corley, all that
22 happened on one day?

23 A Right.

24 Q So what happens at 10:30 p.m. the next day?

25 A Yeah, that's right because I didn't get to the marina

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 until early in the morning on the 2nd.

2 Q It's the long day?

3 A Oh yeah.

4 Q So what happens at 10:30 p.m. the next day?

5 A 10:30 p.m., I receive a call from the cell phone from
6 Brent Paccene, Baccene, whatever his name is. Stated
7 that -- and he -- somebody had given him my number.
8 He stated that he was the person ---

9 MR. HARVEY: Object to anything that Brent says,
10 hearsay, he's testified.

11 THE COURT: He's already testified, correct?

12 MR. POTTS: Yes.

13 THE COURT: Hasn't he already testified?

14 MR. HARVEY: Yes, he has, Your Honor.

15 THE COURT: All right, overruled.

16 A Okay. He tells me that he's the first person on the
17 scene -- let me back up. He's the first person to
18 arrive at Mr. Kranendonk's boat once it had pulled up
19 to the marina. There's a crowd of people start
20 gathering after they arrived and he's one of the
21 first ones there. He said immediately the operator
22 of the boat, you know, got his attention and he told
23 him that he had several bottles of liquor on the boat
24 and he asked if he would take them and hide them for
25 him or whatever. And then had -- the whole time

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 people are arriving and so -- and so Brent takes the
2 bottle and according to him, he said, you know, it
3 was evidence, you know, just the simple fact that
4 somebody's asking him ---

5 MR. HARVEY: Object. ---

6 A He takes the bottle ---

7 THE COURT: I sustain that objection.

8 Q We'll move on so ---

9 A He takes the bottle and he puts it in a box.

10 Q Did you have opportunity to go with Mr. Baccene and
11 get what was in the box?

12 A Yes, I did.

13 Q Okay. I'm going to show you what's been marked as
14 State's Exhibit Number 1. Is that the bottle?

15 A Yes, it is.

16 Q Mr. Baccene said?

17 A Yes.

18 Q And you collected this?

19 A Yes, I did.

20 Q So, at that point are you just continuing to gather
21 information?

22 A Yes, we had a lot of people to interview, there was
23 lots of people at the marina, you know, we find out
24 are witnesses and we're, you know, trying to meet
25 with each and every person we can over the course of

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 the day, get as many interviews and statements as we
2 can and so.

3 Q Do you try to get -- do you examine the Defendant's
4 motor at all?

5 A Yes -- yes, we did exam his motor.

6 Q What if anything were you able to tell from that?

7 A One of the main pieces of information that I was
8 trying to determine was if we could determine the
9 speed of the boat. We initially looked at the G P S,
10 obtained a search warrant for any electronic data
11 that might be on the boat that we could download that
12 might help us with determining, you know, what
13 happened in this accident. And we -- we obtained a
14 warrant, served a warrant on the boat. We looked at
15 the G P S and got data from the G P S.

16 And then the next thing I want to do -- and the
17 G P S, you know, told us some things but not all the
18 things but...

19 Q Did it have any speed on the G P S?

20 A No because they don't have speed on G P S.

21 Q Does it have distance over time?

22 A No.

23 Q Okay. So then you went -- what was your next step?

24 A The next step was -- we're thinking, okay, I know
25 that a motor has -- newer motors have what are called

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 black boxes or control monitors, computers, whatever
2 you want to call it, that record data. And I was
3 hoping -- usually what those -- usually the data that
4 those motors record is your -- your last 30 seconds
5 to a minute of -- and I guess it varies from motor to
6 motor but they record your last R P M operating
7 range. And I know that if I could get that data base
8 and, you know, go to the manufacturers of the motor
9 and the boat and then based on the weight of the boat
10 and based on what pitch prop was on the motor, so on
11 and so forth, we could -- we could establish a -- you
12 know, a close idea of what the speed of the boat was
13 during, you know, the last 30 seconds to a minute of
14 operation of that boat.

15 Q How did that pan out?

16 A It didn't work out too well. The guy told me that it
17 was -- if it had been one year newer, it would have
18 had the computer on it. But as that motor stood,
19 that particular model of motor did not record any
20 data. So I was not able to get any R P M operating
21 range out of the boat.

22 MR. POTTS: Beg the Court's indulgence one
23 second.

24 (Pause.)

25 Q All right. Investigator Lewis, why don't you tell me

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 -- from your experience, how is Lake Murray at night
2 different from Lake Murray during the daytime?

3 A Lake Murray during the daytime, Lake Murray is a --
4 you know, we're here in the midlands, relatively
5 somewhat flat and you can see for long distances
6 across the lake. The -- the southern end or the
7 eastern end of the lake, I guess we would say, is
8 pretty wide open. In certain places you can see for,
9 you know, approximately up to 10 miles, you know,
10 just depending on haze or what have you. But it's a
11 vast lake.

12 So during the day you've got some -- you know,
13 some really good visibility. Now, once you start
14 getting into nighttime, you know, again I guess it
15 depends on moonlight, so on and so forth, your
16 visibility is vastly restricted. I mean, you're not
17 going to be able to see, you know, from pitch black
18 dark. You don't have -- because of the vastness of
19 the lake and the vast expanse, whatever background
20 lights you may have, they would be so far away that
21 it's not going to illuminate what's -- what's around
22 you and what you're looking at. So it makes things
23 that are, you know, out in front of you, you know,
24 much darker, refer to it as a black hole out in front
25 of you, so.

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 (Pause.)

2 Q Just a couple more questions for you.

3 A Sure.

4 Q Based on your investigation, were you able to
5 determine how -- how much the fiberglass boat
6 weighed?

7 A No, I did not get a specific number on that weight.

8 Q What was the about?

9 A I'm sorry?

10 Q What was the proximation?

11 A Approximately 3500 pounds.

12 Q Okay. And what about the Christofoli boat?

13 A Approximately 2,000 to 2200 pounds.

14 Q Now, you talked about getting some information from
15 the G P S, correct?

16 A Yes, sir.

17 Q Explain that whole process to me?

18 A Well, we knew that -- okay, we -- we got the search
19 warrant for the G P S just to make sure we were legal
20 on the data that we would be downloading. Some
21 G P S's record -- you know, they record saved tracks,
22 you know, anywhere a boat may have gone in the past,
23 you can save that track. They might record man
24 overboard locations or, you know, wave points. And a
25 lot of times they'll record more specific data in

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 reference to those tracks such as your speed, time,
2 distance between, you know, points and how fast, you
3 know, the boat went from one point to another.

4 So we -- we saw that -- we saw that the boat --
5 that that G P S had a card in there so we were -- we
6 were certainly hopeful that we were going to find
7 that information in the G P S and that it might tell
8 us exactly how fast the boat was going, so on and so
9 forth.

10 We contacted -- the model of the -- manufacturer
11 of the G P S is Lowrance (phonetic), is the -- that's
12 the manufacturer. There's a lot of different
13 manufacturers but Lowrance was this one.

14 So we wanted to make sure we did everything
15 correctly. We contacted Lowrance, talked with some
16 specialist there, I think Officer Camlin did that.
17 And we got directions on exactly what to do to
18 download that data. And we were informed by Lowrance
19 that we weren't going to -- that model G P S was too
20 old. That it didn't record that data and that we
21 weren't going to be able to glean of that information
22 from the G P S.

23 So we went ahead and tried. We had an S D chip
24 I think is what it was. We put it in there, followed
25 the directions and it didn't -- it gave us -- it gave

RAY LEWIS -- DIRECT BY MR. POTTS:

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1 us man overboard locations. And when I mean man
2 overboard locations, what that means is if you've got
3 a spot like a good fishing hole where you want to
4 mark that on G P S and store it, you hit -- you can
5 hit man overboard. I mean, there's different ways to
6 mark things but man overboard is what a lot of people
7 hit because it's just a -- you push the M O B button,
8 man overboard button and it'll -- it'll mark, you
9 know, immediately where your location is, you know.
10 And it was obvious that they had stored a bunch of
11 man overboard locations for fishing holes or
12 whatever. But none of that that I was looking for
13 was going to be helpful determining speed with all
14 about the boat that was in there.

15 MR. POTTS: Thank you, no further questions.

16 CROSS-EXAMINATION

17 BY MR. HARVEY:

18 Q Good -- I started to say good afternoon but good
19 morning, Mr. Lewis.

20 A Good morning, sir.

21 Q You want another glass of water, you've been talking
22 for a long time?

23 A No, sir.

24 Q I know when I talk for a long time I need water.

25 A Well, I'll let you know if I need some.

1 Q Okay. Now, you had ended the questions to the
2 prosecutor -- from the prosecutor about G P S,
3 correct?

4 A Yes, sir. Yes, sir.

5 Q And you were actually -- you had testified that the
6 G P S was unable to give you the speed of the boat,
7 correct?

8 A That's correct.

9 Q However, you were able to glean some information from
10 the G P S that would show a route of travel of the
11 2300 -- 23 foot Key West, is that correct?

12 A Yes, sir, that's correct.

13 Q And you actually photographed?

14 A Yes, sir, I did.

15 Q And you had that photograph enlarged, is that
16 correct? Or is this real ---

17 A Well, what it was is when we -- when we turned the
18 G P S on to download the data, that screen popped up.

19 Q All right and this is the screen that popped up and
20 this is the photograph of the G P S data you
21 obtained, as you said, legal, with a search warrant,
22 from the Key West boat, correct?

23 A Correct.

24 Q And it ---

25 A It's just a picture of the screen.

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 Q A picture of the screen and on the screen is depicted
2 -- that G P S -- there are purple lines on the G P S
3 document?

4 A Yes, sir.

5 Q And those would be -- what does those purple lines
6 represent?

7 A That tells me where that boat has been.

8 Q All right. And does this reasonably and accurately
9 depict the photograph that you had made and you had
10 reviewed with the prosecutor prior -- prior to coming
11 to court?

12 A Yes, sir.

13 Q And I hand you another photograph. In the first
14 photograph I showed you, near the number 60, it has a
15 -- looking at it from top to bottom, a route of
16 travel that moves from -- in this direction, correct,
17 towards the number 60?

18 A Yes, sir, that's what it does.

19 Q And then it goes back. So both of these photographs
20 reasonably and accurately depict what you
21 photographed and what you observed in the G P S?

22 A Yes, sir.

23 MR. HARVEY: Your Honor, I would like to move
24 these into evidence as Defense Exhibit 2 and 3.

25 MR. POTTS: No, objection.

1 THE COURT: Without objection.

2 (Whereupon, Defendant's Exhibit Number 2, G P S
3 Photograph, was admitted into evidence.

4 (Whereupon, Defendant's Exhibit Number 3, G P S
5 Photograph, was admitted into evidence.)

6 Q Now, Defense Exhibit Number 2, if you will ---

7 A Yes, sir, I am sorry.

8 Q This is Susie Ebert Island, correct?

9 A That's correct.

10 Q Lake Murray -- if we had -- if we had another picture
11 or a quadrant of the lake the same size as this, Lake
12 Murray Marina would be in this direction, correct?

13 A Yes, sir, that's correct.

14 Q Lake Murray Marina's on this side of this point,
15 correct?

16 A Yes, sir. I would call it right about here.

17 Q Okay. And Lighthouse Marina is back here, correct?

18 A That's correct.

19 Q So from your examination of the G P S information,
20 you're able to glean that the boat operated by Mr.
21 Kranendonk had traveled in this direction?

22 A Correct.

23 Q And at some time had traveled in this direction. And
24 there is a vertical dotted line, do you see that
25 vertical dotted line?

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 A I do.

2 Q And it intersects with a horizontal dotted line on
3 Susie Ebert Island, do you see that?

4 A I do.

5 Q And if we follow that dotted line straight we'll
6 notice that there is a route of travel in the Key
7 West boat where it traveled past this point, correct?
8 You'll agree with me that this route of travel is
9 past this point? In other words, this boat right
10 here is beyond what I call the Fox Sports 10 yard
11 line between these two points, correct?

12 A Yes, sir.

13 Q Okay. And Lighthouse Marina is right back here,
14 correct?

15 A Yes, sir. Yes, sir, I'm sorry.

16 Q Lake Murray is over here?

17 A Yes, sir.

18 Q And it appears that we know from your taking a
19 statement from Steven, that Steven said after the
20 impact, he was ejected, Mallory was ejected and Jenna
21 was ejected and Harrison remained in the boat,
22 correct?

23 A That's what he told me.

24 Q And the G P S shows a route of travel in a very odd
25 kind of -- it goes off towards -- it comes back and

1 then it goes to Lake Murray Marina, doesn't it?

2 A It appears so on this G P S, yes, sir.

3 Q And you'll agree with me that that particular point
4 is some distance, we don't know the exact distance,
5 but you'll agree with me it's a considerable distance
6 beyond that line between the two?

7 A I -- are you asking me the distance between ---

8 Q No, sir. I'm asking you that this spot on this map
9 is beneath an imaginary plane ---

10 A Yes, sir. Yes, sir.

11 Q Okay -- and please sit down.

12 (Witness complies.)

13 Q Now, you were the chief investigating officer on the
14 case, correct?

15 A Yes, sir.

16 Q And as a matter of fact, you know as the chief
17 investigating officer, I guess to use the phrase
18 impounded, the Key West was impounded from Lake
19 Murray Marina, right, it was taken into custody?

20 A That's correct.

21 Q And actually the Kranendonks provided the trailer and
22 his dad gave you the trailer hitch to use to tow the
23 boat, didn't he?

24 A Not to me but to another officer.

25 Q Right. So the Kranendonk family, when asked for

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 assistance by D N R, said, sure, we'll give you the
2 trailer and we'll help you tow the boat, didn't they?

3 A That's correct.

4 Q All right. And then you'll agree with me, Steven was
5 interviewed by Mr. Davis of the Lexington County
6 Sheriff's Department?

7 A I believe -- yes, sir.

8 Q He was interviewed ---

9 A Wait a minute now.

10 Q He interacted with Mr. -- Deputy Davis at the Marina,
11 right?

12 A I believe -- yes, yes, sir.

13 Q Okay. Then he talked with Mr. Roosen at the marina,
14 right?

15 A Yes, sir.

16 Q And he talked with Mr. Bickley, right, at the
17 hospital?

18 A That's correct.

19 Q And then the next day -- and we know that his
20 interview with Mr. Bickley terminated, what, about
21 4:30 in the afternoon -- 4:30 in the morning,
22 something like that?

23 A I believe that's correct ---

24 Q All right. So we know Steven had to leave the
25 hospital some time after 4:30 in the morning, right?

1 A Correct.

2 Q And we know that from your observations, Steven told
3 you he had a bandage on his head and his ribs were
4 hurting when you talked to him, right?

5 A That's what he -- yes, sir, that's correct.

6 Q You saw him about 1 a.m. -- 1 p.m., I'm sorry, on May
7 2nd?

8 A Yes, sir.

9 Q At his house?

10 A Yes, sir.

11 Q At first you couldn't get in touch with him, you
12 contacted his mom and the essence of your
13 conversation with mom, well, sure, let me see if I
14 can get Steven for you, correct?

15 A That's correct.

16 Q Steven's mom called and Steven meets you, he comes to
17 the door, correct?

18 A He does.

19 Q In your notes, you don't reflect or make any
20 notation, because it would be important, that Steven
21 was uncooperative and said, I don't want to talk to
22 you or anything like that, do you? He was fully
23 cooperative, wasn't he?

24 A Yes, he was cooperative.

25 Q Okay. All right. Now -- and in your observations

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 about the interview with Steven, you made some bullet
2 points, right?

3 A That's correct.

4 Q Now, Officer Camlin was present with you and she made
5 bullet points as well, correct?

6 A That is correct.

7 Q Now, Officer Camlin is a highly qualified officer,
8 correct?

9 A She is.

10 Q Very experienced, correct?

11 A Very.

12 Q And you wouldn't have any reason to doubt her ability
13 to accurately recall what was stated, do you?

14 A No, I wouldn't have any doubt about her statement,
15 no.

16 Q All right. So if Officer Camlin noted in her notes
17 that Steven saw green lights, you wouldn't have any
18 doubt, any reason to say that's an incorrect
19 recollection by Officer Camlin, would you?

20 A No, I wouldn't doubt that.

21 Q Okay. Now ---

22 A I mean, are you asking me about her statement because
23 I don't recall ---

24 Q No, sir, I just asked question. I've got to go on
25 to another question.

1 A Got you.

2 Q Now, you were able to determine that in this incident
3 the boats involved, the Sylvan was actually owned by
4 Mr. Christofoli's dad, right?

5 A That's correct.

6 Q And you were able to learn, during the course of your
7 investigation, that the Key West was owned by
8 Steven's dad, Mr. Mike Kranendonk, correct?

9 A That is correct.

10 Q You were able to determine through your investigation
11 that these boats were fairly, at the time of the
12 incident, they were kind of old boats, one was 10
13 years old, correct, the Key West?

14 A That's correct.

15 Q And the Sylvan was about 20 years old, correct?

16 A I believe so, yeah.

17 Q Okay.

18 A Well, I mean it's older, yes, sir.

19 Q And you heard testimony that Steven goes to --
20 frequents Sandy Beach?

21 A Correct.

22 Q And you know that over 10 years of using a boat,
23 there is some wear and tear that occurs on a boat,
24 correct?

25 A That there's what ---

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 Q Wear and tear that occurs on a boat?

2 A Wear and tear, yes, sir.

3 Q All right. And there's no -- there's no question you
4 observed, as you testified to, some damage to both
5 boats, correct?

6 A (No response.)

7 Q Both boats were damaged, weren't they?

8 A Yes, but not equally.

9 Q I didn't ask you if they were equally damaged. I
10 just simply asked were they both damaged?

11 A Okay.

12 Q I will agree with you that the damage ---

13 A They ---

14 Q --- to the Sylvan boat was considerably more than the
15 damage to the Key West boat. Would you agree with me
16 about that?

17 A Are we talking about -- you were talking about wear
18 and tear?

19 Q No, sir?

20 A The damage which was ---

21 Q No, sir. I'm asking if you will agree with me that
22 the damage to the Sylvan boat was substantially more
23 than the damage to the Key West boat that you
24 observed, that's all I asked?

25 A Most definitely.

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 Q Okay. I agree with you, okay?

2 A Yes, sir.

3 Q My question is, over time and over usage -- over
4 consistent usage of a boat like 10 years, boats get
5 normal wear and tear, correct?

6 A Yes, they do.

7 Q And the bottom of a boat gets normal wear and tear
8 from many activities, correct?

9 A Sure.

10 Q And if you beach your boat, the bottom of the boat's
11 going to be subjected to normal wear and tear, that's
12 all I'm asking.

13 A Oh, yes, sir.

14 Q Okay.

15 A Quite possible.

16 Q All right. Now, during the course of the
17 investigation you -- you learn that Steven advised
18 your agents that he and his occupants were going to
19 leave the Lighthouse Marina and return to Pine
20 Island, correct?

21 A Yes, sir, that's what he says in his statement.

22 Q And you've been able to learn that -- weren't you
23 able to learn through the course of your
24 investigation that Steven was employed at SCE&G and
25 Pine Island is the SCG -- SCE&G ---

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 MR. POTTS: Objection, Your Honor, relevance.

2 THE COURT: Go ahead, overruled.

3 A I never asked that question. I think later -- on
4 down the road a ways I found out he worked for SCE&G,
5 yes, sir.

6 Q Did you find out at the time of this incident he was
7 working in the nuclear division of SCE&G, correct?

8 A Again, later on down the road I found that
9 information out.

10 Q All right. And Pine Island is a facility where SCE&G
11 employees can use for recreational purposes out at
12 the lake, right?

13 A Yes, sir.

14 Q Okay. And when we were talking about the center
15 console boat -- a center console boat isn't that
16 unusual on a big body of water like Lake Murray, is
17 it?

18 A Not at all.

19 Q You guys have center console boats, correct?

20 A Yes, sir.

21 Q And 23 foot isn't -- they're fairly common on Lake
22 Murray, aren't they?

23 A 23 foot boat or a 23 foot center console boat or?

24 Q Well, let's talk about a 23 foot boat.

25 A Okay.

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 Q Common on Lake Murray?

2 A I would say yes.

3 Q 23 foot console?

4 A I would say probably not really common. I mean, I
5 would say pontoon boats are probably more common on
6 the lake than center consoles are.

7 Q But they're not ---

8 A I mean, there's more than one out there, sure.

9 Q All right. And it's not an extraordinary thing?

10 A No, sir.

11 Q All right. As a matter of fact, didn't Mr. Corley say
12 he was operating a 23 foot console boat?

13 A He did.

14 Q Okay. Now ---

15 MR. HARVEY: Beg the Court's indulgence one
16 moment.

17 (Pause.)

18 Q Now, when you interviewed Steven, and in your bullet
19 points, you made the determination that Steven told
20 you his boat was traveling between 30 and 33 miles
21 per hour, is that correct?

22 A That's correct.

23 Q All right. And you had testified earlier about your
24 investigative technique and you like to start it at
25 breakfast and go through the day, correct?

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 A Sure.

2 Q But yet on your bullet points, you don't denote or
3 you don't have in bullet points the chronology of the
4 day's events on your bullet points, do you?

5 A Not on the bullet points, no.

6 Q All right. So on your bullet points, your bullet
7 points really aren't a representation of the entire
8 chronology of the interview, correct?

9 A I would say it's not an entire chronology of the day.
10 It might be a chronology of the interview. You're --
11 you're -- I know what you're saying, it doesn't start
12 at breakfast.

13 Q All right. Okay. And in the interview, Steven
14 discusses with you -- he mentions he sees a boat
15 about a hundred yards off, correct?

16 A That's correct.

17 Q All right. And Steven tells you that his best
18 recollection, because it's 1:00 at his house after
19 he's been released from the hospital at 4 in the
20 morning, he says, hey, I'm going to tell you guys
21 what happened and this is what I think happened, when
22 he tells you he sees a boat 100 yards off, right?

23 A He does, yes, sir.

24 Q All right. He tells you at the time he sees that
25 boat, he's going 30 to 33 miles per hour, right?

- 1 A Correct.
- 2 Q Steven's recollection is that he throttles back,
3 correct?
- 4 A He says, we hit about five to 10 seconds after I
5 pulled the throttle back.
- 6 Q All right. And that's Steven's recollection that day
7 after you've woken him up when he's come home from
8 the hospital, correct?
- 9 A Correct.
- 10 Q All right. Now, do you doubt that Steven was being
11 sincere?
- 12 (Pause.)
- 13 A I believe Steven was being sincere.
- 14 Q All right. And do you doubt Steven was being
15 earnest?
- 16 A Give me the definition of earnest.
- 17 Q He was trying to be cooperative?
- 18 A He was trying to be cooperative, yes, sir.
- 19 Q All right. Now, you will agree with me that there's
20 a difference in that in spite of Steven's sincerity
21 and in spite of Steven's earnestness, you -- you've
22 come to another conclusion. And that conclusion is
23 for the occurrence of the accident, you looked at
24 some -- you looked at them both, right, you looked at
25 the Sylvan boat?

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 A I did.

2 Q And you looked at the Key West boat?

3 A I did.

4 Q And you looked at the boats and you've concluded that
5 the Sylvan boat had damage to the right -- to the
6 port side?

7 A I concluded it had damage to the right side.

8 Q Based on your -- port side?

9 A Yes, based on my observations, on the port side, it
10 was damaged heavily.

11 Q All right. And based upon your looking at the Key
12 West ---

13 A Yes, sir.

14 Q --- you concluded that the Key West had damage in the
15 areas depicted that were photographed by either you
16 or someone in conjunction with your investigation,
17 correct?

18 A Yes, sir.

19 Q Okay. And Steven, in his earnest sincere belief,
20 never denied, or in his sincere earnest statements,
21 never denied being involved in a collision, did he?

22 A No.

23 Q Okay. And you had testified earlier that you had
24 interviewed Mr. Harrison Hair, correct?

25 A Correct.

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 Q And Mr. Harrison Hair described what he did after the
2 collision, correct? And Mr. Harrison Hair, in your
3 interview of Harrison, told you that he was -- after
4 the impact he was the remaining occupant of the
5 vessel, correct?

6 A That's what he told us.

7 Q All right. And Mr. Harrison Hair told you that he
8 regained the helm and returned to where -- an
9 approximate location or a location that was
10 approximately in the vicinity of the collision,
11 correct?

12 A That's what he told us.

13 Q All right. And this G P S, Defendant's Exhibit
14 Number 3, shows a route of travel, or the G P S
15 document a route of travel where the Key West comes
16 into the area approaching Susie Ebert Island, travels
17 in a -- in this direction and then returns. It's
18 going like this, correct?

19 A That's what the picture depicts.

20 Q Right and that would be consistent with Harrison
21 Hair's version of what happened out on the waterway,
22 wouldn't it? A collision took place, Harrison
23 returned to find three other occupants in the water
24 and then the boat traveled to Lake Murray Marina,
25 correct?

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 A You can make that correlation, yes, sir.

2 Q Now, in your duties as chief investigating officer,
3 you come to learn that there was a video at Lake
4 Murray Marina, correct?

5 A I did.

6 Q And that video camera, just like instant replay,
7 would provide a reasonable and accurate depiction of
8 Steven's operation of his vessel as it approached a
9 dock at Lake Murray Marina, correct?

10 A Correct.

11 Q And it would provide a reasonable and accurate
12 depiction of the events that took place on the dock
13 at Lake Murray Marina, correct.

14 A Correct.

15 Q Okay. Now, you will agree with me that
16 unequivocally, based upon your bullet notes and your
17 recollection of your interview with Steven -- and by
18 the way, you guys didn't have -- you and Officer
19 Camlin used a different investigative technique that
20 day. You only had Steven draw a diagram, correct?

21 A That's correct.

22 Q You didn't have Steven make a written statement,
23 correct?

24 A Correct.

25 Q You didn't -- after you had determined that Steven

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 was an operator in a vessel involving two fatalities,
2 you didn't record his statement?

3 A Being that he was sincere and earnest, he had given a
4 written statement already that I had already read.

5 Q Okay. But did you think it would aid in the
6 investigation and be able to more accurately record
7 or present the information he gave you if he had
8 provided a written statement or a recorded statement?

9 A He had already given a written statement. I just
10 needed answers to a few other questions.

11 Q All right. And you'll agree with me then your
12 recollection and documented by your bullet points,
13 there's mentioned green and red lights, correct?

14 A We know that there are green and red lights on the
15 bow of the Sylvan boat.

16 Q And we know from your observation, because you had
17 testified, that the lights were working. And now,
18 fishing boats, and we know the Sylvan is a fishing
19 boat, sometimes -- do fishermen put trolling motors
20 on the front or on the back?

21 A Sometimes they do.

22 Q And a trolling motor sometimes is mounted?

23 A It is.

24 Q Okay. And when -- and you'll agree with me that in
25 State's Exhibit -- in State's Exhibit 35, there's an

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 object on the bow of the Sylvan fishing boat, isn't
2 there?

3 A There is.

4 Q And what does that appear to be to you?

5 A It's a mounting plate.

6 Q All right and ---

7 A For a trolling motor.

8 Q And can you -- and you will agree with me that when
9 looking at this mounting plate for the trolling
10 motor, it's got sides that are vertical, correct?

11 A (No response.)

12 Q It's not a flat piece of metal, is it?

13 A No, it's not.

14 Q And as we look at that piece of metal on either side,
15 there are edges that are raised, correct?

16 A That's correct.

17 Q All right. And in State's Exhibit 35, the bow or
18 where the two -- the port side and the starboard side
19 meet is actually that point, right, right above the
20 letter T in State's Exhibit?

21 A You're asking me if that's where they meet?

22 Q Yes, sir?

23 A Yes, that's correct.

24 Q And you'll agree with me that the directional light
25 on the Sylvan boat is not placed exactly on the bow,

1 it's a little bit to the side of the bow, correct?

2 A Do we have any other pictures we can look at?

3 Q No, sir, I'm asking you about ---

4 A You're asking about in this particular picture?

5 Q In this part -- it wouldn't change from that picture
6 to any other picture, would it?

7 A Well ---

8 Q The light's not going to move?

9 A Well, the tip that you're talking about is covered up
10 with stickers so I'd like to make a good
11 representation there.

12 Q All right. Well, let's move the sticker to another
13 part of the...

14 A All right.

15 Q And maybe I'm asking in an inartful way. If I am, I
16 apologize.

17 A No, I -- I think I understand what your question is.
18 I just want to be able to look at the picture and
19 show it.

20 Q Let's get another picture. That was a good
21 suggestion. Let's get another picture.

22 A Thank you.

23 Q I'm going to hand you State's Exhibit Number 34.

24 A Okay.

25 Q Why don't we look at it together. Would you please

RAY LEWIS -- CROSS BY MR. HARVEY:

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1 step down?

2 A Sure.

3 (The witness steps down from the witness stand.)

4 Q I'm going to get the pointer. Right here what I'm
5 pointing to, that would be the intersection of the
6 port side and the starboard side.

7 A That's correct.

8 Q Okay. And that's on the bow, the front of the boat?

9 A That's correct.

10 Q This is the multi-directional navigational light?

11 A Right.

12 Q This is the fishing motor -- what did we call that?

13 A It's called the mounting plate.

14 Q The mounting plate. The fishing motor, the mounting
15 plate, depicted in State's Exhibit 34, this part of
16 it right there, it's vertical, it goes up, correct?

17 The motor has to slide in it, correct?

18 A That's correct.

19 Q It has to be secured on the side, correct?

20 A Correct.

21 Q And you will agree with me on either side, this
22 portion of this mount rises from the -- what do we
23 call this, is this called the deck?

24 A Sure, we'll call it the deck.

25 Q It rises from the deck, correct?

RAY LEWIS -- CROSS BY MR. HARVEY:

113

1 A Barely rises.

2 Q Well, we're unable to determine the exact altitude
3 that it rises but in this photograph it's clear that
4 it rises. And it's clear, from your testimony, it
5 has to rise enough to secure a trolling motor which
6 is on the moving boat, correct?

7 A That's correct.

8 Q You can sit down.

9 A Can I sit down?

10 Q Please.

11 A Thank you.

12 (The witness returns to the witness stand.)

13 MR. HARVEY: That's all the question I have.

14 Thank you, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. POTTS:

17 Q All right, in those photos he showed you, was there a
18 trolling motor on that vessel?

19 A There was not.

20 Q Would that trolling motor plate block the visibility
21 of the red light?

22 A Obviously it didn't.

23 Q Why do you say that?

24 A Because he said he saw the red light.

25 Q Now, Mr. Harvey talked to you about seeing both the

RAY LEWIS -- REDIRECT BY MR. POTTS:

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1 red and the green light.

2 A That's correct.

3 Q Explain how, for the jury, please, when a boat's a
4 hundred yards away, you could see a red and a green
5 light.

6 A Okay. At a hundred yards away -- the only thing I
7 can compare a hundred yards to is a football field,
8 use a football field, Williams Brice Stadium, so.
9 I'm at one end of Williams Brice Stadium, you know,
10 according to Defense the boat's at 2:30, you know, at
11 the other end of Williams Brice Stadium, I'm going to
12 be able to see the red and green light. Now,
13 actually requirements for the light are -- by the
14 Coast Guard are it has to have a certain arc that it
15 has to be visible within.

16 Q What arc is that?

17 A I'm sorry.

18 Q What ---

19 MR. HARVEY: Your Honor, unless he knows from
20 his own knowledge. ---

21 THE COURT: Asked him if he knew, explain that
22 he knows what it is.

23 Q What arc is that?

24 A It's called arc of the horizon.

25 Q And how wide is that?

- 1 A It's 112 and a half degrees.
- 2 Q All right. Please continue.
- 3 A Okay. So, you know, at 100 yards away, yes, he's
4 going to be able to see both red and green of that
5 boat coming, okay. And as these boats get closer,
6 it's coming from a 2:30 as a clock is, a 2:30 angle.
7 You're going to get to a point where you're going to
8 see less of the green and more of the red. And the
9 closer they get, the lesser the green you're going to
10 see to a point where you're not going to see any
11 green at all and all you're going to see is red, so.
- 12 Q And what does that tell you?
- 13 A What does that tell me?
- 14 Q Well, what does it tell you when all you see is red?
- 15 A It tells me as a boat operator, when all I see is red
16 that I am -- when I see red and green away, then I
17 see it becoming more red, and then all red, I know
18 that I am the giving way vessel, and that's give way
19 and this is the stand on. And what that means to me
20 is the stand on vessel gets to continue on in his
21 direction of travel, I as the give way vessel, seeing
22 a red light, means that I have to take caution and I
23 have to alter my course to avoid a collision.
- 24 Q Now, Mr. Kranendonk told you he saw another vessel at
25 about a hundred yards?

RAY LEWIS -- REDIRECT BY MR. POTTS:

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1 A That's correct.

2 Q Did he tell you if he had any indication of a vessel
3 before that?

4 A Did he what, I'm sorry?

5 Q Had any indication of the vessel before that?

6 A Well, he says -- other than seeing a hundred yards,
7 he says he sees it on the radar screen.

8 Q And what was the radar set at? How far away would
9 you think it would pop up on the radar?

10 A Well it tells us it's set to a quarter of a mile with
11 a -- with a range that are on the screen. You can
12 dial that in or dial it out, so.

13 Q Okay. Now, when you said Defendant was sincere and
14 earnest, what did you mean by that?

15 A Well, he asked me if he was being sincere and earnest
16 with me in answering my questions. I meant that, you
17 know, I assumed he had been sincere and earnest with
18 Officer Bickley in giving his written statement so I
19 had no real reason to, you know, think that he wasn't
20 going to be sincere and earnest when he gave a
21 statement. So I just asked the questions that I
22 wanted to ask pertaining to the statement that
23 Officer Bickley had collected, so.

24 MR. POTTS: Beg the Court's indulgence.

25 (Pause.)

RAY LEWIS -- REDIRECT BY MR. POTTS:

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1 Q There was some talk about your collection of a video
2 from Lake Murray Marina, correct?

3 A Yes, sir.

4 Q Do you have that video?

5 A I do.

6 Q And this -- is this a video, what is this?

7 A That's a flash drive that was provided by the manager
8 of Lake Murray Marina.

9 Q And this flash drive shows the video?

10 A The flash drive has some files on it, some data files
11 on it that are video files.

12 Q Okay. That's not actually a video tape?

13 A No, sir.

14 MR. HARVEY: Without objection, Your Honor.

15 MR. POTTS: We would offer it into evidence as
16 State's Exhibit Number 66.

17 THE COURT: Without objection.

18 (Whereupon, State's Exhibit Number 66, Flash
19 Drive Containing Video from Lake Murray Marina,
20 was admitted into evidence.)

21 Q Have you watched the video?

22 A I have.

23 Q About approximately how long is it?

24 A Oh ---

25 Q It's long, correct?

RAY LEWIS -- REDIRECT BY MR. POTTS:

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1 A Yeah, we'll call it -- I don't know, I can't say
2 exactly. It's more than half an hour.

3 Q Is it high quality?

4 A It's a night vision camera so it's not HD.

5 Q It's pretty grainy?

6 A Yeah.

7 MR. POTTS: No further questions at this time.

8 THE COURT: Recross-examination?

9 MR. HARVEY: I do have more questions.

10 RECCROSS-EXAMINATION

11 BY MR. HARVEY:

12 Q You were asked by Mr. Potts about the radar setting?

13 A Yes, sir.

14 Q And the radar setting -- a radar set for a quarter
15 mile, what that means is if I'm the radar, there's a
16 radius of a quarter mile and when something gets
17 inside that quarter mile, the radar pings or detects
18 it. I'm using layman's vernacular.

19 A No, that won't be exactly correct.

20 Q So ---

21 A The range just depict -- it gives you an idea of how
22 far an object away ---

23 Q All right.

24 A --- is away from you. It doesn't -- doesn't ping
25 when a certain object comes into play. It just ---

RAY LEWIS -- RE-CROSS BY MR. HARVEY:

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1 Q I may have inartfully asked the question.

2 A All right.

3 Q The radar's set for a quarter of a mile.

4 A Yes, sir.

5 Q In order for the radar to detect -- and detect and
6 object within that range, okay, it's either a quarter
7 mile away or closer, correct?

8 A That would be correct.

9 Q All right. So if his -- if Mr. Kranendonk's boat,
10 according to your statement, is moving 30 to 33 miles
11 an hour, correct?

12 A Correct.

13 Q In -- and we know that the Sylvan boat is moving,
14 according to Mr. Christofoli's testimony, 20 to 25
15 miles an hour, once the other boat gets within the
16 radar range, that's when the radar detects it or
17 notices it, correct, or acknowledges it? You have to
18 be within the range?

19 A Right.

20 Q And the range is fluid because both boats are moving.
21 It's not like -- you know, I love history and I love
22 World War II movies. On the coast of England during
23 the battle of Britain, they always show those radar
24 ranges on the coast. And as those German planes were
25 flying to London, those radar stations were constant.

RAY LEWIS -- RECROSS BY MR. HARVEY:

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1 They were sitting still. So the distance at which
2 they first detected them, there was no closing
3 distance between the British radar station on the
4 coast and the German plane coming to England.

5 In this instance ---

6 MR. POTTS: Your Honor, is there a question or
7 we're going to talk about British radar, planes?

8 THE COURT: Go ahead.

9 Q In this instance, Mr. Kranendonk's boat is moving.
10 And in this instance, Mr. Christofoli's boat is
11 moving. So it's conceivable that Mr. Kranendonk's
12 radar or Mr. Kranendonk detects the boat within the
13 range? It's not necessarily a quarter of a mile, it
14 could be less than a quarter of a mile, correct?

15 A You're not accurately representing what that radar
16 screen displays.

17 Q My question is, the radar's ability to detect an
18 object. I didn't ask about the radar screen. I
19 asked about the radar's ability to detect an object
20 and is it necessarily you detect the object at the
21 quarter mile range. That's my question.

22 A I'm sorry. You're going to have to rephrase that
23 question. I...

24 Q The radar can detect ---

25 A You're asking me if the radar has the ability to

1 detect a boat within a quarter of a mile range, is
2 that what you're asking me?

3 Q Yes and also has the ability to detect a boat within
4 the quarter of a mile range, correct?

5 A Sure.

6 Q Okay. And Mr. Kranendonk said he saw the boat within
7 the quarter of a mile range at 100 yards, correct?

8 A No. What he said was, he had his screen -- this is
9 what he said. His screen was dialed in to a quarter
10 of a mile. He didn't say anything about where the
11 boat was on the screen, he just says, I saw the boat
12 on the radar and I had the radar dialed in to a
13 quarter of a mile. That's all he said.

14 Q All right ---

15 A He didn't say where he detected the boat on the
16 radar.

17 Q But that necessarily doesn't mean he detected the
18 boat a quarter of a mile away is my question.

19 A Well, you have to understand how the radar, and part
20 of the radar being the screen in which you are
21 determining what the radar is detecting, is showing.
22 Okay, it's showing a blip, and that blip's not
23 sitting there moving towards you, okay. It's like on
24 a weather radar. And the weather radar back with the
25 British bombers and all, when it sweeps around, okay,

RAY LEWIS -- RECROSS BY MR. HARVEY:

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1 a storm cell may be here and it's going to sweep back
2 around and that storm cell is going to be down here.

3 Q Correct.

4 A So that blip on the radar screen, that boat's going
5 to be here, when that radar arm sweeps back around,
6 that boat's now going to be down here.

7 Q Exactly.

8 A Right.

9 Q Both boats are closing.

10 A Well, that's obvious, they're closing, yes, sir.

11 Q Okay. So both boats are closing.

12 Now, the video that the prosecutor asked you
13 about, it depicts Mr. Kranendonk's operation of the
14 boat as he approached Lake Murray Marina, correct?

15 A Are we talking about the G P S now?

16 Q No, sir, the video ---

17 A The video.

18 Q The flash drive.

19 A I'm sorry. Yes, it depicts him pulling up to the
20 dock at Lake Murray Marina.

21 Q And you will agree with me that that video would
22 present a reasonable and accurate depiction of Mr.
23 Kranendonk's ability to operate that boat in a time
24 and close proximity to the incident, correct?

25 A Sure.

STATE V. KRANENDONK

- 1 Q And the questions that the prosecutor asked you about
2 what certain things mean to you as a boater, you
3 weren't on the lake that night, were you?
- 4 A I was two and a half, three hours away in Oconee
5 County.
- 6 A Right. So the truth of the matter is, of your own
7 personal knowledge, your own personal knowledge, you
8 can't tell this jury what happened on the lake that
9 night?
- 10 A Oh, I can tell you what ---
- 11 Q No, of your own personal knowledge?
- 12 A No, no, no ---
- 13 Q Sir, my question is ---
- 14 A I can tell you of my own personal knowledge what
15 happened on the lake that night involving this
16 incident.
- 17 Q You were there? You were on the lake at 10 a.m.
18 (sic) ---
- 19 A I wasn't there at the time of the collision, no, sir.
20 That's not what you asked me.
- 21 Q I ask you, of your own personal knowledge?
- 22 A My own personal knowledge.
- 23 Q Were you on the lake at 10:00 p.m.?
- 24 A No, I was not on the lake at 10:00 p.m.
- 25 Q Okay, thank you.

RAY LEWIS -- RECROSS BY MR. HARVEY:

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1 A Okay.

2 THE COURT: All right, sir, you may come down.

3 THE WITNESS: Thank you.

4 (The witness leaves the witness stand.)

5 THE COURT: Approach the bench, counsel, please
6 approach.

7 (Whereupon, a bench conference was held off the
8 record, in the presence of the jury, but out of the
9 hearing of the jury.)

10 THE COURT: Next witness.

11 MR. POTTS: Your Honor, at this time the State
12 rests.

13 THE COURT: All right, ladies and gentlemen.
14 That completes the case on behalf of the State. And as I
15 told you at the beginning of this trial, the Defense now
16 has an opportunity to present a defense, if they wish to
17 do so. There is no obligation, absolutely no obligation
18 on the Defense to present any evidence.

19 So, we're going to take our lunch break at this
20 time. There are still some matters I need to take up
21 with the attorneys before we continue. The Clerk tells
22 me that your lunch is in transit.

23 So, I'm going to ask you just to go to the jury
24 room. Please don't discuss the case while you're in the
25 jury room. The procedure for lunch today will be that

1 we're going to reconvene probably about 1:30. Now, once
2 you've consumed your lunch -- well, let me put it this
3 way. You can take it with you, you can sit and eat it
4 with your fellow jurors, and then you can leave the
5 courthouse. There's no reason why you can't go out,
6 assuming it's a pretty day although you and I haven't had
7 much chance to even see if the sun is shining this week.
8 But you may want to take a walk or run some errands. I
9 want you to be back in the jury room at 1:30, at which
10 time we will continue the trial.

11 Again, you're dismissed to go to lunch now or
12 for the lunch hour and please don't discuss the case
13 among yourselves or when you return to the jury room.

14 Thank you very much.

15 (The jury retires from the courtroom at
16 approximately 12:12 p.m.)

17 THE COURT: Any motions?

18 MR. HARVEY: Yes, Your Honor. The Defendant has
19 a motion for a directed verdict.

20 Your Honor, the matter is before the Court on
21 two counts of reckless homicide by operation of a motor
22 vehicle -- by operation of a water craft or boat. I
23 believe the indictment reads boat, if I am correct, Your
24 Honor.

25 Viewing -- even viewing the evidence in the

1 light most favorable to the State, the State's evidence
2 which truly indicates that an accident occurred, truly
3 indicates that two boats collided, truly indicates that
4 unfortunately as a result of this collision, there were
5 injuries and fatalities.

6 The charge is reckless homicide which involves a
7 showing under the statute of conscious disregard for the
8 safety of others. But with respect to all the elements
9 of reckless homicide by operation of a boat, clearly
10 they've established he's the operator of the vessel. We
11 don't contest that. Clearly they've established that
12 unfortunately a fatality occurred within three years from
13 the date of the incident.

14 The salient issue is whether or not, taking all
15 of the evidence in the light most favorable to the State,
16 the State's evidence shows a -- the requisite level of
17 state of mind for recklessness.

18 We heard evidence from Ms. Camlin and Ms. Camlin
19 addressed what I believe is a neglect of duties as
20 imposed by law as opposed to the conscious disregard for
21 the safety of others. Her testimony from -- I'll just
22 use the witness's first name, if I may, Your Honor,
23 witness Jenna about the operation of the boat prior to
24 the collision. You heard testimony from witness Harrison
25 about the operation of the boat prior to the collision.

1 You heard testimony from the State about rules of
2 navigation that I would respectfully submit there's a --
3 it's a different proposition to neglect a duty or deviate
4 from what may be imposed as a duty of care from a
5 conscious, wanton, reckless disregard from that duty.

6 I would -- I'm confident the Court is paying
7 careful attention to the evidence that's been presented
8 to it -- not it but to the jury and to the Court, Your
9 Honor. I believe at this stage in the proceeding, you
10 would be taking the light -- the evidence in the light
11 most favorable to the State. There isn't enough evidence
12 even to go to the existence of the elements of the cause
13 of action.

14 I understand that if that -- that is a different
15 proposition than being told that evidence exists and it's
16 a matter of weight for the jury to decide, I believe in
17 this instance we don't even have that requisite
18 threshold.

19 Thank you, Your Honor.

20 THE COURT: What's the State's position?

21 MS. SAMPSON: May it please the Court, Your
22 Honor.

23 The State's position is that in the -- looking
24 at the evidence in the light most favorable to the State,
25 that we have given enough evidence to give it to the

1 jury. Clearly Mr. Kranendonk was operating the boat.
2 Everyone states that. Clearly injuries were caused and
3 that the deceased died almost instantaneously. So that's
4 four of the five elements.

5 As to the reckless disregard, I believe if you
6 take it in the totality of the circumstances, I don't
7 believe you just take into account -- you take into
8 account actually all of the duties he neglected as far as
9 the rules and regulations. But also Mr. Harvey did not
10 even mention the fact of the blood -- of the alcohol that
11 was involved and the fact that he had a .117 after the
12 accident occurs.

13 And therefore, based on taking all that in the
14 light most favorable to the State, and taking all that
15 evidence into account, I do think we have given enough to
16 give this case to the jury and that you should deny the
17 motion for a directed verdict.

18 THE COURT: All right. As to the motion for a
19 directed verdict, I feel that the evidence as presented
20 thus far in the trial goes beyond that of mere conjecture
21 or suspicion. There's evidence, either direct or
22 circumstantial, a lot of the evidence in this case is
23 circumstantial, or some combination of both, which
24 reasonably tends to prove the guilt of the Defendant or
25 from which that guilt might be logically and reasonably

1 deduced if that evidence is taken in the light most
2 favorable to the State. So I must respectfully deny your
3 motion for a directed verdict.

4 And at this time we will take our lunch break
5 and reconvene at 1:30.

6 (The Court was in recess.)

7 THE COURT: Approach the bench. Counsel,
8 approach the bench.

9 (Whereupon, a bench conference was held off the
10 record.)

11 THE COURT: State ready for the jury?

12 MS. SAMPSON: Yes, sir.

13 MR. POTTS: Yes, sir.

14 THE COURT: The Defense ready for the jury?

15 MR. HARVEY: Yes, Your Honor.

16 THE COURT: Bring -- bring the jury.

17 (The jury returned to the courtroom at
18 approximately 1:37 p.m.)

19 BAILIFF: Jury's seated, Your Honor.

20 THE COURT: All right. Thank you very much,
21 ladies and gentlemen. I hope you had a pleasant lunch
22 and now we're ready to continue with the trial.

23 Mr. Harvey:

24 MR. HARVEY: Jeffrey Lee Harrell.

25 If we may approach real quick, Your Honor.

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1 (Whereupon, a bench conference was held off the
2 record, in the presence of the jury, but out of the
3 hearing of the jury.)

4 (JEFFERY LEE HARRELL, having first been duly
5 sworn, testified as follows:)

6 THE CLERK: Have a set in witness box. State
7 your name for the record and spell it, please.

8 THE WITNESS: Jeff Harrell, J-e-f-f H-a-r-r-e-l-
9 l, Junior.

10 DIRECT EXAMINATION

11 BY MR. HARVEY:

12 Q Good afternoon, Jeffery.

13 A Good afternoon.

14 Q Jeffery, where are you employed?

15 A The City of Columbia Police Department.

16 Q And what are your duties with the City of Columbia
17 Police Department?

18 A I'm a Patrolman that deals with anything from a
19 stalled car in the roadway to a fight in progress.

20 Q All right. And what's your educational background?

21 A I have a bachelor's degree from Limestone College in
22 business administration and computer science software
23 and a graduate of the Criminal Justice Academy of
24 South Carolina.

25 Q All right. And what other types of training and jobs

1 have you had?

2 A I was a bouncer, bartender and bar back in Five
3 Points at Doctor Rocco's and Chubby's Two by Four.

4 Q All right. And where did you go to high school?

5 A I went to Irmo High School.

6 THE COURT: Just hold on a minute. Can y'all
7 hear him okay?

8 JURORS: (Negative response.)

9 THE COURT: The jury can't hear what you're
10 saying. You're going to have to speak up a little bit,
11 pull up a little closer to the microphone and speak a
12 little slower.

13 Thank you very much.

14 Q Okay. And you went to -- where did you go to school
15 after high school?

16 A I went to Spartanburg Methodist College for a year
17 and a half and then transferred to Limestone College.

18 Q And when did you graduate from Limestone?

19 A 2008.

20 Q All right. Now, after you graduated from Limestone,
21 what did you do?

22 A I couldn't find a job with my degree so I was working
23 construction, working about four different jobs,
24 trying to get by.

25 Q All right. Now, back in May of 2010, what was your

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1 employment status?

2 A May 2010 I was starting the hiring process with the
3 City of Columbia and I was working in Five Points as
4 a bouncer and bartender.

5 Q All right. Now, do you know two girls named Jenna
6 and Mallory?

7 A Yes, sir, I do.

8 Q What are their full names?

9 A Jenna Breland and Mallory Collins.

10 Q All right. And how did you meet them?

11 A I met them -- they were regulars at the bars that I
12 worked at. I became friends with them.

13 Q All right. When -- when did you first meet Steven?

14 A I met Steven through a friend of mine, Harrison, Eric
15 Harrison Hair. In high school they were friends,
16 they went to Dutch Fork High School.

17 Q All right. You met Steven when he was in high school
18 at Dutch Fork?

19 A Yes, sir.

20 Q And you knew Steven was in the honors orchestra in
21 high school at Dutch Fork ---

22 MS. SAMPSON: Objection, Your Honor.

23 THE COURT: Don't lead your witness, please.

24 Q All right. Now, on May 1, 2010, when did you first
25 contact Jenna and Mallory?

1 A We went and had lunch in Harbison at Rush's.

2 Q All right. And after you ate lunch with Jenna and
3 Mallory at Rush's, what did you do?

4 A I -- they proceeded to go be with everyone else, to
5 go on the boat and I proceeded to my parent's house.
6 I didn't have swim trunks to go out on the boat, so I
7 went over there and I was going to get with them
8 later.

9 Q Now, you went to Irmo High School. So do your
10 parents live in the Irmo area?

11 A They live in Chapin out in the Ballentine area.

12 Q Chapin and Ballentine, when you say they all went to
13 the boat or went somewhere else, who do you mean by
14 they all?

15 A Jenna and Mallory were going to meet Harrison and
16 Steven.

17 Q And you went home, right?

18 A Yes, sir.

19 Q And then what happened when you got home?

20 A I had been working all night and went home to get my
21 swim trunks and realized I was extremely tired and
22 went to bed.

23 Q All right. So you took a nap?

24 A Yes, sir.

25 Q After you took your nap, when did you next see Jenna,

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1 Mallory, Harrison and Steven?

2 A I got a phone call from Mallory asking where I was.
3 I said just taking a short nap and didn't realize the
4 time. They said that they were at the Lighthouse
5 Marina and asked where I was and told them what
6 happened and went to go meet them.

7 Q All right. Now how far is the Lighthouse Marina from
8 your parent's house?

9 A Roughly about a mile away.

10 Q All right. And the next -- so you drove -- how did
11 you get to the Lighthouse Marina?

12 A I got in my car and drove down there.

13 Q All right. About what time was this when you arrived
14 at the Lighthouse Marina?

15 A (No response.)

16 Q Was it light or was it dark?

17 A If not dark, it was very close to dark.

18 Q All right. What if anything did you notice Mallory
19 have to drink?

20 A I noticed they had a beer, a bottle of beer.

21 Q What if anything did you notice Steven having to
22 drink?

23 A At the time, when I pulled up, I don't recall if they
24 did have anything in their hand.

25 Q Over the course of your interaction with them in the

1 evening, did you see Steven consume any kind of
2 beverage? And if you did, tell us what you saw.

3 A Not to my recollection while I was there, no, sir.

4 Q All right. How about Jenna?

5 A I believe she had a beer as well.

6 Q And what if anything did you notice Harrison have to
7 drink?

8 A Not to my recollection while I was there did I see
9 him have anything.

10 Q Tell us when if ever you saw any beer on the boat.

11 A I don't remember seeing beer on the boat.

12 Q Now, how long did you stay at the Lighthouse Marina?

13 A Between one and two hours.

14 Q All right. Now, when you were at the Lighthouse
15 Marina, did you have occasion to listen to music?

16 A I'm sorry?

17 Q When you were at the Lighthouse Marina, did you have
18 an occasion to listen to music?

19 A Yes, sir.

20 Q What -- where and when did you listen to music at the
21 Lighthouse Marina?

22 A There was a band playing while we were there and also
23 later on in the night Seven had his iPod hooked up to
24 the boat and we were sitting there listening to music
25 on the boat.

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1 Q So Steven was playing music on the boat through his
2 iPod?

3 A Yes, sir.

4 Q Okay. You had known them, Jenna and Mallory, before
5 this evening, correct?

6 A Yes, sir.

7 Q And did you discuss any other plans with Jenna and
8 Mallory for that evening?

9 A Besides going out on the boat, no, sir.

10 Q Okay. As a result of your conversations with Jenna
11 and Mallory, were you informed about their plans to
12 ride with Steven on the boat and then ride with
13 Steven in his car and go somewhere else?

14 A I knew that they were going to be on the boat. I
15 didn't know they were riding anywhere else.

16 Q All right. Knowing that Jenna and Mallory, who are
17 your friends and -- knowing that Jenna and Mallory
18 had plans to go on the boat with Steven, what if any
19 reservations did you have, based upon your
20 observations of Steven's condition, that you had
21 about your friends going on the boat with him?

22 A I didn't have any reservations. I felt that they
23 would be safe on the boat with Steven.

24 Q Now, when you were at the -- you had been informed
25 by Jenna and Mallory that they were going to go

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1 somewhere else after they left the lake, correct?

2 A They were going to go to their vehicles.

3 Q All right. Were you invited to come along with them?

4 A Yes, sir.

5 Q All right. Now -- and you didn't go on the boat
6 because you were tired, correct?

7 MS. SAMPSON: Objection to all the leading, Your
8 Honor.

9 THE COURT: Yes, sir. Ask him the question,
10 don't lead, please, suggesting the answer.

11 Q Tell us the reason why you declined the invitation to
12 go on the boat?

13 A Besides being tired, my car was already at the marina
14 and it was only a mile to drive back home. I didn't
15 see the point in going way out that way to come back
16 to my car then drive.

17 Q All right. Now, tell us -- tell us what role you
18 played, if any, in Steven's -- in assisting Steven at
19 his vessel from leaving Lighthouse Marina. Tell us
20 what you did.

21 A Whenever they were ready to leave after they had
22 asked me to come and declined, I helped him untie the
23 boat from the dock and pushed them off and watched
24 them troll out into the water.

25 Q As you watched the boat troll off into the water,

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1 what observation if any do you recall making about
2 the lights on the boat?

3 A The lights were working on it.

4 Q Now, you testified that you met Steven through
5 Harrison back in high school, correct?

6 A Yes, sir.

7 Q And you are aware that this is his dad's boat, right?

8 A Yes, sir.

9 Q Now, have you been on a boat with Steven before?

10 A No, sir.

11 Q Okay. And have you been on a boat with Harrison
12 before?

13 A Many times, yes, sir.

14 Q Okay. Now, what if anything about Steven's demeanor
15 at the time he left the dock gave you any concern
16 about his ability to operate the boat?

17 A I had no concerns. He's always been very safe on the
18 water.

19 Q If you weren't tired and your car wasn't out there,
20 would you have had any reservation about getting on
21 the boat with Steven?

22 A Not at all.

23 Q Now, after you said you pushed -- helped push
24 Steven's boat off, right?

25 A Yes, sir.

- 1 Q And you watched it troll through the no wake zone,
2 when did you hear from either Mallory or Jenna again?
- 3 A After that, I went home and I went back to sleep. It
4 was about 15 minutes or so after I had gone back to
5 sleep, my phone rang, Mallory called me.
- 6 Q All right. As a result of your call from Mallory,
7 what did you do?
- 8 A I drove immediately to the Lake Murray Marina where
9 she said they were.
- 10 Q Now, how far is your house from Lake Murray Marina?
- 11 A Approximately 15 minutes away.
- 12 Q And when you arrived at Lake Murray Marina, did you
13 see Jenna?
- 14 A Yes, sir.
- 15 Q When you arrived at Lake Murray Marina, did you see
16 Mallory?
- 17 A Yes, sir.
- 18 Q Please describe what you observed concerning Jenna's
19 condition when you arrived at Lake Murray Marina.
- 20 A She didn't have a scratch on her. She looked fine.
21 She was somewhat concerned about Mallory and the rest
22 of the people on the boat.
- 23 Q All right. Please describe Mallory's condition.
- 24 A Mallory was in the same condition, concerned about
25 the people, also had a laceration under her eye. I

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1 don't remember which eye but she had a laceration up
2 under her eye that required stitches.

3 Q Did you see Harrison?

4 A Yes, sir.

5 Q Please describe his condition.

6 A Harrison was sitting -- sitting on the dock on a
7 beanbag holding his right arm. On looking at it, it
8 looked like was broken and his feet were lacerated
9 with blood everywhere on his feet.

10 Q Did you speak with Steven on arriving at Lake Murray
11 Marina?

12 A I asked how everyone, how they were doing ---

13 Q You said you asked, tell us who you asked and you're
14 speaking with.

15 A I asked all four of them individually short simple
16 questions because they all seemed to be in a state of
17 concern, asking if everyone was okay which he concern
18 -- he said that they were hurt but they were okay.

19 Q Now, at any time when you spoke with Steven at Lake
20 Murray Marina, did you have any reason to believe he
21 was intoxicated?

22 A No, sir.

23 Q Now, you were present at Lake Murray Marina -- excuse
24 me, let me ask the question again. When you were
25 present at Lake Murray Marina after the accident, did

1 you have an occasion to see law enforcement officers?

2 A I don't remember.

3 Q Okay.

4 A I'm sure law enforcement officers were there as well
5 as E M S.

6 Q All right. And going back to the night when they
7 were at Lake Murray Marina, Steven's boat was moored
8 to the dock, was tied up?

9 A Yes, sir.

10 Q Okay. And when -- and you don't recall seeing any
11 law enforcement officers there at the time?

12 A No, sir.

13 Q All right. Now, you're still employed by the City of
14 Columbia Police Department, correct?

15 A Yes, sir.

16 Q And this incident happened a while back, correct?

17 A Yes, sir.

18 Q And between the incident date and today, nothing has
19 happened to change your mind or your opinion about
20 Steven's condition when you saw him leave Lighthouse
21 and when you saw him at Lake Murray Marina, is there?

22 A Correct.

23 Q And what is that -- what's your opinion of his
24 condition?

25 MS. SAMPSON: Objection, Your Honor, to his

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1 opinion. He's not an expert.

2 THE COURT: Sustained.

3 Q You have an observation about Steven, correct?

4 A Yes, sir.

5 Q And your -- what is your observation about Steven
6 being intoxicated at Lighthouse Marina?

7 A I did not think he was intoxicated.

8 Q What is your opinion about him being intoxicated at
9 Lake Murray Marina?

10 MS. SAMPSON: Again, about the opinion, Your
11 Honor.

12 Q Excuse me, what is your observation?

13 A I did not believe him to be intoxicated.

14 MR. HARVEY: Thank you, that's all I have.

15 THE COURT: Cross-examination.

16 MS. SAMPSON: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. SAMPSON:

19 Q So, Mr. Harrell, you only saw them while you were at
20 the Rusty Anchor?

21 A And after the collision.

22 Q And after the collision?

23 A Before and after the collision.

24 Q You weren't with them on the beach?

25 A No, ma'am.

1 Q So you don't know how much they drank on the beach?

2 A No, ma'am.

3 Q You weren't with them on the boat on their way to
4 Rusty Anchor?

5 A No, ma'am.

6 Q So you don't know if they drank on their way there?

7 A No, ma'am.

8 Q You weren't on the boat with them from Rusty Anchor
9 until the time they got in the collision?

10 A No, ma'am.

11 Q So you don't know if they drank then?

12 A No, ma'am.

13 Q And you said you didn't see any beer on the boat?

14 A I did not, ma'am.

15 Q Did you see this bottle of Vodka on the boat?

16 A No, ma'am.

17 Q And ---

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

19 (Pause.)

20 MS. SAMPSON: No further questions.

21 MR. HARVEY: Nothing further.

22 THE COURT: All right, sir, you may come down.

23 (The witness leaves the witness stand.)

24 THE COURT: This witness be excused?

25 MR. HARVEY: Your Honor, he may be excused if he

1 so wishes.

2 MS. SAMPSON: Without objection.

3 THE COURT: Okay.

4 THE COURT: You're free to go, sir, if you so
5 wish.

6 MR. HARRELL: Yes, sir.

7 THE COURT: All right, approach the bench,
8 please.

9 (Whereupon, a bench conference was held off the
10 record, in the presence of the jury, but out of the
11 hearing of the jury.)

12 THE COURT: All right, ladies and gentlemen of
13 the jury, counsel raised an issue that I need to take up
14 with them on the record. It will just be a minute.

15 So please go to the jury room and don't -- don't
16 get too comfortable.

17 (The jury retires from the courtroom at
18 approximately 1:55 p.m.)

19 THE COURT: All right. Mr. Kranendonk, will you
20 please stand with your lawyer.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Mr. Kranendonk, at this time I'm
23 going to explain certain of your rights to you. If you
24 do not understand anything I say, please let me know. If
25 you want me to explain anything in more detail, please

1 couple of housekeeping matters that I ---

2 THE COURT: Yes, ma'am, let me find out if the
3 Defense is ready. Is the Defense ready to proceed?

4 MR. HARVEY: I am, Your Honor.

5 THE COURT: All right, Ms. Sampson.

6 MS. SAMPSON: Just for the record, Your Honor,
7 after meeting with Your Honor and going over the charges
8 that you were planning to present to the jury, we met
9 with Mr. Harvey and discussed the charges and what we
10 might have objected to, what he might have objection to.
11 Based and our communications, it's our understanding that
12 we did not oppose any lesser included charge that Mr.
13 Harvey wanted for reckless operation and his choice was
14 not to oppose our request to have operating a boat under
15 the influence of intoxicants in our charges.

16 MR. HARVEY: That's correct, Your Honor, and
17 that's where we are.

18 MS. SAMPSON: I just needed to put that on the
19 record.

20 THE COURT: All right, Mr. Harvey.

21 MR. HARVEY: Yes, Your Honor, if I may, since
22 the jury is not in the courtroom, I would ask the Court's
23 permission to be able to utilize this time because this
24 motion would be have to made out of the presence of the
25 jury anyway. I would renew my motion for a directed

1 verdict and just reincorporate my previous argument and
2 ask that the Court note that my motion at that time is
3 contemporaneous and I would reincorporate by reference my
4 previous argument.

5 THE COURT: All right. Yes, sir, you've made it
6 for the record and I still feel that there's sufficient
7 evidence in this case to go to the jury and I
8 respectfully deny your motion for a directed verdict.

9 MR. HARVEY: Yes, Your Honor, and in addition if
10 I may address the Court on another matter.

11 THE COURT: Yes, sir.

12 MR. HARVEY: Your Honor, I had marked for
13 identification, the Defense -- excuse me, the State
14 objected and Your Honor sustained an objection, to
15 exhibits that were marked as Defendant's Exhibit 2 and 3.

16 May I approach the court reporter, Your Honor?

17 THE COURT: Absolutely.

18 MR. HARVEY: Your Honor, if I may, for purposes
19 of the record and with the Court's permission, to ask
20 that Madam Court Reporter mark this as Defense Exhibit 2A
21 for identification and Defense Exhibit 3A for
22 identification. And I understand they're not in
23 evidence, Your Honor.

24 THE COURT: I think they were probably
25 incorrectly marked.

1 THE COURT: All right, thank you very much.

2 Mr. Foreman and members of the jury, I hope we
3 didn't prolong your stay back in the jury room. I might
4 just tell you that while you were out, the attorney --
5 I'm sorry, the Lieutenant Governor of the State of South
6 Carolina resigned his office based on several indictments
7 from the State Grand Jury. He appeared before me at 2:00
8 and pled guilty to those charges and was sentenced.
9 You'll probably see it on the evening news but that's
10 what was going on if we held you up. It was no intention
11 to delay your report.

12 Mr. Foreman, has the jury reached a verdict?

13 FOREMAN: We have, Your Honor.

14 THE COURT: Hand it to the Bailiff.

15 (Complied.)

16 THE COURT: Clerk, will you publish the verdict,
17 please.

18 VERDICT OF THE JURY:

19 THE CLERK: The State of South Carolina versus
20 Steven Kranendonk, indictment numbers 2011-GS-40-5469,
21 2011-GS-40-5472.

22 We, the jury, by unanimous verdict find as
23 follows, as to the Defendant Steven Kranendonk, as to the
24 charge of reckless homicide of Kelli N. Bullard by
25 operation of boat, indictment number 2011-GS-40-5469, we

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1 find the Defendant Steven Kranendonk guilty.

2 Signed by foreperson on March 9th, 2012, Juror
3 Number 33.

4 As to the charge of reckless homicide of Amber
5 B. Golden by operation of boat, indictment number 2011-
6 GS-40-5472, we find the Defendant Steven Kranendonk
7 guilty.

8 Signed by foreperson, Juror Number 33, on March
9 9th, 2012.

10 Mr. Foreman, is this the -- is this your verdict
11 and the verdict of the entire jury?

12 FOREMAN: It is.

13 THE CLERK: Thank you.

14 THE COURT: Any desire to poll the jury?

15 MS. SAMPSON: Nothing from the State, Your
16 Honor.

17 MR. HARVEY: Your Honor, my client, I've
18 explained to him his right to have the jury polled and he
19 would like for the jury to be polled.

20 THE COURT: Madam Clerk, poll the jury.

21 THE CLERK: Ladies and gentlemen of the jury, as
22 I call your number, I'm going to ask you two questions
23 and I need you to respond yes or no, please.

24 Juror number 33, was this your verdict?

25 JUROR: Yes.

1 THE CLERK: Is this still your verdict?

2 JUROR: Yes.

3 THE CLERK: You can remain seated.

4 Jury number 222, was this your verdict?

5 JUROR: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR: Yes.

8 THE CLERK: Juror number 237, was this your
9 verdict?

10 JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR: Yes.

13 THE CLERK: 246, was this your verdict?

14 JUROR: Yes.

15 THE CLERK: Is it still your verdict?

16 JUROR: Yes.

17 THE CLERK: 217, was this your verdict?

18 JUROR: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR: Yes.

21 THE CLERK: 302, was this your verdict?

22 JUROR: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR: Yes.

25 THE CLERK: 51, was this your verdict?

1 JUROR: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR: Yes.

4 THE CLERK: 211, was this your verdict?

5 JUROR: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR: Yes.

8 THE CLERK: 215, was this your verdict?

9 JUROR: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR: Yes.

12 THE CLERK: 286, was this your verdict?

13 JUROR: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR: Yes.

16 THE CLERK: 238, was this your verdict?

17 JUROR: Yes.

18 THE CLERK: Is it still your verdict?

19 JUROR: Yes.

20 THE CLERK: 277, was this your verdict?

21 JUROR: Yes.

22 THE CLERK: Is it still your verdict?

23 JUROR: Yes.

24 THE CLERK: The jury's been polled, Your Honor.

25 THE COURT: All right. Thank you very much,

1 ladies and gentlemen, of the jury.

2 Now, the remainder of this trial will consist of
3 the sentencing of the Defendant. Unfor -- well, unlike
4 television shows when there's a verdict, you never know
5 what the sentence was because they don't show it, the
6 shows over. But because of the rush and the number of
7 cases we have here in Richland County, we don't have the
8 luxury to delay sentencing. So sentencing will take
9 place in about 15 minutes, once the paperwork, necessary
10 paperwork is done by the attorneys.

11 You can stay and witness that sentencing
12 procedure if you wish. The Bailiffs will escort you from
13 the jury box to a seat in the gallery so you can observe.
14 But you don't have to stay either. It's -- it's probably
15 about a 30 minute process.

16 If you choose not to stay or if even if you do
17 stay, I want to take this opportunity to thank you for
18 your service. I know the attorneys thank you in their
19 closing remarks but your service is so important to this
20 system. I've told jurors, you've probably heard me told
21 -- tell the entire jury venire the system can do without
22 me, without these attorneys, can't do without you. Your
23 role in this process that was written into the
24 Constitution of the United States is so important that
25 citizens come listen to these cases and decide these very

1 difficult cases in our community.

2 It's -- I know perhaps it hasn't been a pleasant
3 experience. I hope it's been somewhat of an educational
4 experience and that you will find as you go your separate
5 ways that it was somewhat of a rewarding experience to be
6 a part of and see the process that goes on here in
7 Richland County every week. Sad cases, yes, hard cases,
8 yes, but we have to do it.

9 Thank you very much. You're now excused. Madam
10 Clerk will be with for your -- to get your badges and
11 your work excuses. Good look to all of you.

12 Thank you very much.

13 (The jury retires from the courtroom at
14 approximately 3:53 p.m.)

15 THE COURT: Any motions?

16 MR. HARVEY: Your Honor, I would renew my motion
17 -- well, I have made a motion -- two motions based on
18 general sufficiency of the evidence. I would renew those
19 motions.

20 I also renew my motion with respect to the
21 prosecutor's argument with reference to 08, again
22 reiterating the same grounds as stated before. I ask
23 that -- I ask that the previous grounds stated and the
24 additional ground including my argument be incorporated
25 at this time, Your Honor.

1 THE COURT: All right, sir, thank you very much
2 but I must respectfully deny your motion. I think the
3 jury was in -- within -- well within the parameters of
4 the law to do what they did. I respectfully deny your
5 motion.

6 MR. HARVEY: Thank you, Your Honor.

7 THE COURT: All right. We'll stand at ease for
8 about 10 minutes. You may want to do some preparation.

9 MR. HARVEY: Thank you, Your Honor.

10 (The Court was in recess.)

11 THE COURT: Your client may want to remain
12 seated. I'm not sure how long the State's presentation
13 is going to be.

14 MR. HARVEY: With the Court's permission, may we
15 stay ---

16 THE COURT: Yes, that's what I'm offering.

17 All right, Solicitor.

18 MR. POTTS: One brief second, Your Honor.

19 (Pause.)

20 THE COURT: You may proceed.

21 MR. POTTS: Thank you, Your Honor. We're here
22 for the sentencing of Mr. Steven Kranendonk ---

23 THE COURT: Yes, sir.

24 MR. POTTS: --- reckless homicide. As far as
25 prior record, Your Honor, the Defendant has no prior

1 charged with a much more serious offense, that being
2 boating under the influence where death occurs, this
3 statute that the state chose to proceed on, the reckless
4 homicide with use of a boat is a much more lenient
5 statute than the State could have proceeded under. And I
6 want to say that because I feel that the sentence range
7 for this charge, being considerably less than the other
8 charge, weighs in my judgment and I cannot ignore that
9 fact.

10 I agree with everything you've said. I agree
11 with everything the State has said. It's a tragedy.
12 These -- these type of cases are perhaps the most trying
13 for myself and other members of the judiciary. When we
14 meet and discuss issues to the -- to the -- man or woman,
15 they will tell you these are the hardest cases to deal
16 with because they're good people, good people that do bad
17 things and they often, most always, have tragic
18 consequences.

19 So I realize that your client is educated. I
20 believe he would be remorseful but I can't ignore the
21 enormity of the suffering that has been placed on this
22 community by his actions.

23 SENTENCE OF THE COURT:

24 Mr. Steven Kranendonk, on both charges, the
25 sentence of the Court, that you be committed to the State

1 Department of Corrections for a period to 10 years, both
2 sentences to run concurrent. If he has served any jail
3 time he will get credit for time served.

4 Thank you very much, counsel. This Court's
5 adjourned.

6 ----- END OF TRANSCRIPT OF RECORD -----

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WITNESSES

(S) RAY LEWIS - DNR

ARREST WARRANT NUMBER

DP11194

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury
Date:

NOV 02 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS4005472

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2011

150

THE STATE
vs.

Steven Michael Kranendonk

Indictment for
RECKLESS HOMICIDE BY OPERATION
OF A BOAT

SC Code: 50-21-0115

CDR Code: 3096

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeanette Williams
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on November 2, 2011,
the Grand Jurors of Richland County present upon their oath:

RECKLESS HOMICIDE BY OPERATION OF A BOAT

That Steven Michael Kranendonk did in Richland County on or about May 1, 2010, operate a boat in reckless disregard of the safety of others, and that the death of Amber B. Golden ensued as a proximate result of injury received by the defendant's operation of such a boat, in violation of Section 50-21-115, S. C. 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.



DAN JOHNSON, SOLICITOR

NOV 10 2011
RICHLAND COUNTY

WITNESSES

(S) Ray Lewis - DNR

ARREST WARRANT NUMBER

DP11195

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

NOV 02 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS4005469

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

November TERM 2011

150

THE STATE

vs.

Steven Kranendonk

**Indictment for
RECKLESS HOMICIDE BY OPERATION
OF A BOAT**

SC Code: 50-21-0115

CDR Code: 3096

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Shanette Williams
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND

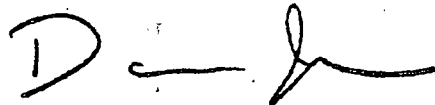
INDICTMENT

At a Court of General Sessions, convened on November 2, 2011,
the Grand Jurors of Richland County present upon their oath:

RECKLESS HOMICIDE BY OPERATION OF A BOAT

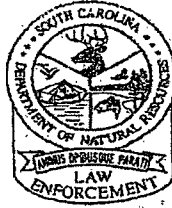
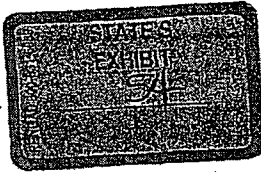
That Steven Kranendonk did in Richland County on or about May 1, 2010,
operate a boat in reckless disregard of the safety of others, and that the
death of Kelli N. Bullard ensued as a proximate result of injury received by
the defendant's operation of such a boat, in violation of Section 50-21-
115, S. C. 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.



DAN JOHNSON, SOLICITOR

P.O. Box 167
Columbia, SC 29202



Voice: (803) 734 - 4002
Fax: (803) 734 - 3962

LAW ENFORCEMENT STATEMENT

Case Number: 18-5-4438

County: (443) RICHLAND

I, Steven Kranendonk, make the following statement freely and voluntarily to SGT. RHETT BECKLEY JR. who has identified themselves as an official of the South Carolina Department of Natural Resources, Law Enforcement Division.

Boarded boat and left Pine Island around 5:00 pm. Went to Little Sandy Beach (Backside of Bunrick Island) and rafted up with friends. I had 3 drinks while on the water while rafted up. The weather was looking like it might rain so we went to Lighthouse Marina to go the opposite way of the storm. I was also told there was a live band playing so it sounded like a good idea. We hung out there for an hour or so and decided to go home (back to Pine Island). As we left the no-wake zone I got the boat on plane and proceeded towards the direction of Pine Island. As soon as we passed the point on the starboard side I noticed a boat coming in our direction. I saw that they were heading in our direction and I immediately put the boat in neutral to slow down and give them

I have read this statement consisting of 3 page(s) and have initialed all corrections. I fully understand its entire contents and solemnly swear (or affirm) that it is true and correct to the best of my knowledge and belief. No threats or promises have been made to obtain this statement.

Described and sworn to (or affirmed) before me, this 2nd day of MAY, 2018.

Signature of Officer	<u>BECKLEY RHETT JR.</u>	Affiant	<u>Steven Kranendonk</u>
Witness	<u>Melissa A. Ellis</u>	Address	<u>190 Stoddard Rd.</u>
	<u>Melissa A. Ellis</u>		<u>Columbia, SC 29212</u>

WAS INTERVIEW TAPED? (NO) YES AUDIO ONLY AUDIO & VIDEO

P.O. Box 167
Columbia, SC 29202



Voice: (803) 734 - 4002
Fax: (803) 734 - 3962

LAW ENFORCEMENT STATEMENT

Case Number: 16-E-1133

County: (A9) Richland

I, Steven Kronendank, make the following statement freely and voluntarily to Sgt R. H. Beckley Jr who has identified themselves as an official of the South Carolina Department of Natural Resources, Law Enforcement Division.

right of way. After I had come off plane and slowed down, they proceeded to steer into us and then hitting our boat. I was tossed into the water along with the two girls on board. One guy remained on the boat but was injured. As our boat went away, I swam down under the water and pulled over of the girls. back up to the surface. The other girl was already on the surface and I yelled for her to swim over to us. When we were grouped together I started yelling and waving my hands in the air to get the attention of the one guy still on board. He drove the boat over to us and we all got back on when we were ~~at~~ back on the boat he had already dialed 911 and handed me the phone to direct EMS where to go. I never saw another boat or anyone in the water after we hit. After not being able to see anyone we drove on plane through.

I have read this statement consisting of 3 page(s) and have initialed all corrections. I fully understand its entire contents and solemnly swear (or affirm) that it is true and correct to the best of my knowledge and belief. No threats or promises have been made to obtain this statement.

Described and sworn to (or affirmed) before me, this 2nd day of MAY, 2016.

Signature of Officer <u>R. H. Beckley Jr</u>	Affiant <u>Steven Kronendank</u>
<u>BECKLEY R. H. JR</u>	<u>Steven Kronendank</u>
Witness <u>Melissa H. Ellis</u>	Address <u>190 Stockman Rd.</u>
<u>Melissa H. Ellis</u>	<u>Columbia, SC 29210</u>

WAS INTERVIEW TAPED? (NO) YES AUDIO ONLY AUDIO & VIDEO

P.O. Box 167
Columbia, SC 29202



Voice: (803) 734-4002
Fax: (803) 734-3962

LAW ENFORCEMENT STATEMENT

Case Number: 145-5-418 JB County: (418) Rockland

I, Steven Kraenendark, make the following statement freely and voluntarily to Sgt RICHIE S. BECKLEY JR who has identified themselves as an official of the South Carolina Department of Natural Resources, Law Enforcement Division.

the no-wake zone headed to Lake Murray Marina because it was an emergency. EMS met us at the dock along with DNR and Lexington Deputy Sheriff. From there they bandaged my head and later gave me a field sobriety test. After that my father drove me to the hospital where I am now giving this statement. In addition, before we left the dock at Lighthouse Marina I checked the nav. lights and they were in proper working order. I also was using the ~~Furano~~ ST Furano radar as a nav. tool on the way home. — NOTHING FOLLOWS ~~PK~~ ST

I have read this statement consisting of 3 page(s) and have initialed all corrections. I fully understand its entire contents and solemnly swear (or affirm) that it is true and correct to the best of my knowledge and belief. No threats or promises have been made to obtain this statement.

Described and sworn to (or affirmed) before me, this 2nd day of MAY, 20 14.

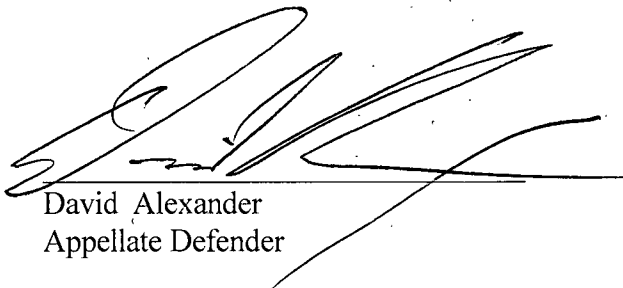
Signature of Officer	<u>R.S. Beckley Jr</u>	Affiant	<u>Steven Kraenendark</u>
Witness	<u>Beckley Richie S. Jr</u> <u>Melissa H. Ellis</u>	Address	<u>Steven Kraenendark</u> <u>190 Stackhammer Rd</u> <u>Columbia SC 29212</u>

WAS INTERVIEW TAPED? NO YES AUDIO ONLY AUDIO & VIDEO

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 18th, 2013

A handwritten signature in black ink, appearing to read "David Alexander", is written over a horizontal line. The signature is stylized and extends to the right of the line.

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF APPEALS

Appeal from Richland County

G. Thomas Cooper, Jr., Circuit Court Judge

RECEIVED

SEP 18 2013

SC COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

STEVEN KRANENDONK,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 18th day of September, 2013.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 18th day of September, 2013.

Paloma King (L.S.)

Notary Public for South Carolina
My Commission Expires: July 24, 2022.