Vol. I of III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Cherokee County

Honorable Grace Gilchrist Knie, Circuit Court Judge

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S.C. SUPREME COURT

JOEY CLARK,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-001627

APPENDIX

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Pages 1- 500

INDEX

INDEX i

TRIAL TRANSCRIPT DATED MARCH 17, 2014 1

INDICTMENT AND SENTENCING SHEET 703

APPLICATION FOR POST-CONVICTION RELIEF FILED JULY 20, 2016 706

RETURN AND PARTIAL MOTION TO DISMISS FILED MAY 18, 2017 756

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 19-21, 2018 763

APPLICANT'S EXHIBIT NO. 2 (CV- ELBERT T. LANDRETH, JR.) 1242

APPLICANT'S EXHIBIT NO. 3 (CV- MEGHAN E. CLEMENT) 1245

APPLICANT'S EXHIBIT NO. 4 (CV- JOHN THORP) 1250

APPLICANT'S EXHIBIT NO. 8 (REPORT) 1252

APPLICANT'S EXHIBIT NO. 13 (STATE'S WITNESS LIST) 1253

APPLICANT'S EXHIBIT NO. 14 (DEFENSE'S WITNESS LIST) 1255

APPLICAN'T EXHIBIT NO. 15 (MOTION TO RECONSIDER) 1256

APPLICANT'S EXHIBIT NO. 16 (LETTER- MOTION TO RECONSIDER) 1259

APPLICANT'S EXHIBIT NO. 18 (EMAIL) 1261

APPLICANT'S EXHIBIT NO. 19 (EMAIL) 1262

APPLICANT'S EXHIBIT NO. 21 (EX PARTE ORDER) 1263

APPLICANT'S EXHIBIT NO. 22 (INVOICE) 1264

APPLICANT'S EXHIBIT NO. 23 (INVOICE) 1265

ORDER OF DISMISSAL FILED AUGUST 29, 2018 1266

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHEROKEE)

THE STATE)
)
-vs-) TRANSCRIPT OF RECORD
) 2013-GS-11-01167
JOEY LYNN CLARK,)
) MARCH 17, 2014
DEFENDANT. GAFFNEY, SOUTH CAROLINA

FILED IN THE OFFICE
CLERK OF COURT
2017 MAY 18 A 11:05
CHEROKEE COUNTY, SC

B E F O R E:

THE HONORABLE HOWARD P. KING, JUDGE.

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

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JENNIFER JORDAN, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

H. CHASE HARBIN, ESQUIRE
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

2

INDEX

WITNESSES	PAGE
(NO WITNESSES CALLED)	

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
(NO EXHIBITS MARKED)			

4

(PROCEEDINGS, MARCH 17, 2014)

THE COURT: Yes, ma'am.

MS. LESKANIC: Thank you, Your Honor.

May it please the court, we are on the record on Indictment 2013-GS-11-1167. That is the State versus Joey Clark on an indictment for murder.

The State is represented by Jennifer Jordan and Kim Leskanic.

The defendant, Joey Clark, is present in the courtroom and represented by his attorney Chase Harbin.

This matter is set to begin trial tomorrow with the jury coming in in the morning. However, we had several matters we wanted to place on the record today, the first of which is the arraignment of the defendant on the indictment that was just announced. He was originally indicted on Indictment 2011-GS-11-252, and has since been directly indicted on Indictment 2013-GS-11-1167.

Mr. Harbin was made aware of this indictment at the time it went to the Grand Jury, which was in November of 2013. However, I have a certified copy of that indictment that I would hand to Mr. Harbin and his client, Mr. Clark.

I would ask the court to see if they want to be formally arraigned on that charge.

THE COURT: All right, Mr. Harbin, I do note that the assistant solicitor has given to you a certified copy of

the indictment. Does your client wish to be formally arraigned, or does he waive arraignment?

MR. HARBIN: Judge, we would waive arraignment.

THE COURT: I'm sorry, waive?

MR. HARBIN: We can waive it, judge.

THE COURT: All right. So the court would recognize then that he has waived formal arraignment and a not guilty plea has been entered, and he does have a copy of the indictment dated November the -- the indictment presented to the Grand Jury on November the 7th, 2013, and has notice of the charges against him.

All right, Ms. Leskanic.

MS. LESKANIC: Thank you, Your Honor.

The next motion filed by the State is a third-party guilt motion. We filed the motion in limine to prevent the defense from introducing any evidence or mentioning anything in openings, closings about any third-party guilt in this case. I don't believe there is anything that would show that the defendant is not guilty of this crime. At the least, it may cast bare suspicion on someone, and as the Supreme Court has held in the past, that's not enough to allow the defense to go into any third-party guilt.

I do not know what the defense's intention is, but we wanted to address this beforehand, so that nothing is

stated in opening or when direct or cross-examination of witnesses and nothing improper is placed before the jury.

THE COURT: All right. I'll be glad to hear from you, Mr. Harbin.

She is really basically making a motion in limine to prevent the introduction of any evidence or questioning with regard to any evidence regarding third-party guilt, unless it meets the requirements of the law, and, that is, that it would be evidence that's inconsistent with the defendant's guilt or innocence and would tend to exculpate him from the charges, but I'll be glad to hear from you.

MR. HARBIN: Thank you, judge.

May it please the court, to start I believe that the request made in the form of a motion by the solicitor's office in this particular case is over broad. And specifically by that I would say that I'm aware of no case law that mentions restrictions on closings, openings and cross-examination.

THE COURT: Well, the problem with that is, we can talk about it, most people's opening in full, and I get this from both sides, whether it's from the State or from the defendant, the motions in limine that once that door is open, there is no way to close it and we can't unring the bell, and so that's what the fear is, I think.

And what I have done, and maybe in this case, and

I'm not saying that I am, but what I have often done is prohibit any comment in opening statements until we find out what the evidence is, and then when you get ready to ask the question, I know about it ahead of time and I rule on it at that time, but go ahead.

MR. HARBIN: Well, judge, for that small housekeeping matter, I do not plan on mention anything in my opening, so at least we have that going for us so far.

THE COURT: All right.

MR. HARBIN: But I would further state that -- and this just to give you a little overview, is my client is accused of killing his girlfriend/ex-girlfriend, depending on who you believe. The victim also has a girlfriend of her own. That I believe is probably the focus of the State's worry that I might paint that girlfriend as culpable.

It happens that I do not and that I don't believe that the winning argument involves me arguing to the jury that this particular girlfriend is actually the person who committed the crime. However, during the course of my cross-examination, that I can very easily imagine of the investigators, of which there are many in this case, the order and the method by which evidence was collected, it's kind of a rush-to-judgment type of defense, rush-to-judgment type of collection of the case. I don't want to be restricted from simply asking questions that touch upon that

8

person's name.

And I would be even happen in, and it's probably going a little too far and giving in too soon, but I'm happy to stipulate that I'm not asking the questions for the purpose of showing that -- Anna Mooney is her name, that she's guilty, because that would not be the purpose for which it's presented and I believe that's is actually, if I was a little bit more eloquent, perhaps, I could tell you why that's actually an exception to what a Gregory restriction would be anyway. It's not for the kind -- it's not for the truth of the matter asserted. It's not for proving that Anna, or I believe the other worry might be where the truck was located right in front of a known drug dealer's house. He's not guilty. He was at work. I know he didn't do it, and I'm not arguing that he did it, but if I'm asking the investigators, "well, at what point did you know this; at what point did you know this; at what point did you talk to these folks, or this fellow right, prior to you taking this step, such as the search warrant for my client, or an arrest warrant for my client, or a search warrant for records involving Anna Mooney, for instance?"

So I need to be able to tell the jury the order of events, how the investigation proceeded, and to tell, to narrate to them exactly what happened and when through cross-examination.

9

THE COURT: Let me ask you this. This is my first blush with this case. Of course, y'all been living with it probably for a year --

MR. HARBIN: Yes, sir.

THE COURT: -- or more.

The two individuals are who?

MR. HARBIN: The two individuals that could be the subject of third-party guilt -- and my -- this is kind of my guess. It would be Anna Mooney, who was the girlfriend of the victim; and the guy named Nathan Hollis.

THE COURT: He's the --

MR. HARBIN: He is a -- apparently a drug dealer that --

THE COURT: What's the last name?

MR. HARBIN: H-O-L-L-I-S.

THE COURT: All right. And I believe you said that in your argument to me a few minutes ago that it was not your contention at any point that Ms. Mooney is guilty of the murder?

MR. HARBIN: Correct.

THE COURT: And the same things with Mr. Hollis?

MR. HARBIN: That's correct, and I wouldn't be asking questions directly related, because I don't believe it's --

THE COURT: Is there any reason that you and the

State cannot enter into a stipulation that any cross-examination -- or any questions regarding -- or answers regarding these two individuals words to the effect -- stipulations require that they be written, is not being as to the purpose of complying that they are the perpetrators? Could y'all enter into that sort of stipulation?

MR. HARBIN: And I'll speak to the State, judge, but to the extent that the testimony develops, what I understand the discovery to be, which is that --

THE COURT: That's the first thing. While we break for lunch I'm going to require to see if y'all can enter into a stipulation to that effect.

Then I'm going to go to the next question. What's the relevance of the testimony, otherwise?

MR. HARBIN: Well, judge, that's what I was apparently unsuccessfully trying to describe. What it would be is if I -- let's say, for instance, if one of the five, or six, or seven investigators in this case are on the stand and I'm asking them what the first thing they did was? Well, you know, in this particular case there is a missing person report filed by my client and the victim's mother. And so they may search the house. They may do whatever they do.

Now, at some point they find out that the victim

has a girlfriend, and at some point that girlfriend is questioned, which is, of course, later than my client was questioned. At some point thereafter the girlfriend's phone records are requested and then received. That would -- and I'm -- I may not get all this exactly, but that may or may not be before or after my client was already arrested.

In other words, judge, if I'm to present the case to the jury that this -- that you don't have proof beyond a reasonable doubt, and part and parcel of that argument is that the law enforcement agents in this case picked their guy, build the case around it, worried about the rest later, then I need to be able to ask them when they did X, Y, and Z. It would not necessitate an inference or any discussion of why -- or, I'm sorry, if those two people were guilty. It really just goes to ask about their credibility as investigators about --

THE COURT: It's challenging the State's evidence is basically what you are doing?

MR. HARBIN: Yes, sir.

THE COURT: All right. I understand what your position is.

Let me hear from you, Madam Solicitor.

MS. LESKANIC: Your Honor, I don't think we would have any objection -- I mean, he certainly -- I want him to have an opportunity to cross-examine the investigators about

what they did and why they did it, as long as it does not end up with him pointing the finger at a third party. I think we are all clear on that. If we get close to that, we may object and ask to approach and make sure that we are still on the same page, but we are just trying to eliminate any mention of that from these witnesses.

THE COURT: Okay.

MR. HARBIN: And, judge, just for the record, one of the cases that was provided to the court by the State in their motion, State v. Mansfield, in that case there is a paragraph that reads "defense counsel -- and this is -- this is -- Mansfield basically doesn't let this third-party evidence in. That's the holding of the case, but there is a paragraph that says, "defense counsel repeatedly asked the officers on cross-examination whether they had investigated any suspect named Guan," who is the subject of the third-party evidence, "including asking the fingerprint expert whether he had compared the fingerprints found on James' door to Guan Perry's fingerprints."

Nowhere in that case does either the State object. The court mentioned that this would be important or objectionable. It certainly was allowed in that case. And then the case that directly touched on exactly the issue that we have, which is, you know, the potential to touch on third-party guilt, which I don't -- I'm trying not to do,

13

but I am trying to alert the court ahead of time that it's going to tangentially touch on that, but not for that purpose.

THE COURT: All right. Here is what I want to do in this matter. Over the lunch recess I want y'all to see if y'all can come up with a stipulation that can be published to the jury that questions regarding the involvement, or lack of involvement -- questions involving involvement, or lack of involvement, in this matter of Anna Mooney and/or Nathan Hollis are not being asked for purposes of trying to establish that either of these did or were the perpetrators of this crime, but are being asked to put before the jury the entire sequence of events regarding the investigation, words to that effect:

I'll let y'all work out the language, but I need a stipulation that both of you can sign that can be published to the jury that the questions are not being asked for purposes of establishing that either of them are guilty of this crime and that there is no question of third-party guilt.

Y'all work out that language. That would be the first thing. That would be a stipulation, because I, like the solicitor, do not think that I can restrict your cross-examination. That would deny the right of the defendant to challenge the State's evidence, and which is

what I really think you are really trying to do, is just basically challenge the State's evidence; or, that would in any way be a violation of the defendant's Constitutional Rights of confrontation. I think that he's got those rights and he has the right to ask those questions.

I would order that there not be any reference -- of course, y'all hopefully are going to be able to enter tis stipulation before we even make opening statements, but not make any statements with regard to any third-party guilt or inference of third-party guilt.

But if we can get the language of this stipulation before the jury, then the only questions would come would be that the purpose of the questions being asked and the purpose of challenging the State's evidence, the sequence of events, and whether the police did their job or didn't do there job, whether they got the fingerprints or they didn't get the fingerprints, or whatever it may be, and I think he has that right to ask those type of questions, but I think if we can get that stipulation in, we resolve that problem.

MS. LESKANIC: Yes, sir.

MR. HARBIN: Judge, I'm fine with almost copying your words. I was scribbling them down. I think it's something that --

THE COURT: Well, I'll let y'all work out the exact language, but let's try to do that and have that for

15

over the lunch recess.

MS. LESKANIC: Yes, sir.

THE COURT: Okay. What else have you got, Ms. Leskanic, on this matter?

MR. HARBIN: The security measure, the taser belt we just consented to, judge.

THE COURT: Okay. So that's by consent then, the matter of the defendant's security. He will, of course, be allowed to wear civilian clothes in court. No mention will be made of the fact that he is presently incarcerated.

Mr. Clark, what I'm telling the lawyers in this case is this, and I'll tell you the same thing. You will be allowed to be in civilian clothes without chains and without visible restraints, but that I am going to order and allow that the State equip you or have you wear a taser belt. That would mean that if there is any disturbance caused or anything like that, that the taser belt would keep you under control. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. And I'm also going to tell you that throughout the trial of this case -- and I know nothing about it. I'm from 150 miles away, and the first time I have heard anything about this case is this morning, but I will tell you that this will be an order -- order and decorum will be maintained in the courtroom. And if there

16

is any disturbance in the courtroom, for any reason whatsoever, then the court will deal with that, whether it comes from you, or anybody else, by way of contempt of court. Do you understand that?

THE DEFENDANT: Yes, sir. Thank you, sir.

THE COURT: All right. What else, Ms. Leskanic?

MS. LESKANIC: Your Honor --

THE COURT: You may be seated, Mr. Clark.

MS. LESKANIC: The defendant was actually arrested on December 3rd of 2010 for some traffic offenses, but -- and was not released from jail, and he was served with the warrant for murder on December 6th of 2010. It's important for the State's case setting a timeline to be able to state that he was in jail from the 3rd through the 6th, because we believe that he had intimate knowledge of the crime that was not available to the general public and certainly wouldn't have been available to someone incarcerated in the Cherokee County detention center.

THE COURT: Can't y'all enter into a stipulation on that?

MR. HARBIN: We can do it right now on the record.

THE COURT: No, I don't do it that way. We are not going -- I want stipulations to be written and signed.

MR. HARBIN: Yes, sir. We can stipulate to that.

THE COURT: So y'all are going to work out that

17

stipulation that he was incarcerated for reasons unrelated to the charges here during whatever of period of time, and y'all work out a written stipulation on that.

MR. HARBIN: Yes, sir.

Judge, I had served today Ms. Leskanic with a supplemental discovery motion that basically asked if any exists for confidential informant files for the jail informants that will be involved in this case. I don't know necessarily that there are any that exists, and I assume that if there are any, then Ms. Leskanic would inform me. And I believe this may have kind of been covered in discovery, because she did certainly provide me with the criminal records. To the extent that I have not explicitly asked for it, and now I have, and I have every confidence that Ms. Leskanic will provide that information, if any exists.

MS. LESKANIC: Just for the record, Your Honor, he's specifically asking for entire confidential informant files relating to particular individuals. I certainly don't have any. I don't know if these individuals have ever worked through narcotics or worked through the police agencies. Those would be the agencies that would actually keep a confidential informant file, so I could try to get that information, but I was just served with this today. I certainly don't have anything in my office and I don't have

18

any personal knowledge that any of these individuals have confidential informant --

THE COURT: Do you have the individuals named?

MS. LESKANIC: Yes, sir, he has provided me with the name of Bryant Phillips, Michael Stillwell, Michael Covington, John Austin, and Ridge Crosby. He's asking for present and past work agreements, whether implied or expressed, written or oral, charges worked off, dismissals, reductions in charges, and any monetary or other consideration given in exchange for information and/or cooperation.

I guess I need to specify whether this was information and/or cooperation in this case?

MR. HARBIN: I believe that it's relevant, even if it's not related to this case. In other words, if -- there is five folks that gave statements from the jail.

THE COURT: Well, first of all, it's relevant only if she's going to call these witnesses.

MR. HARBIN: Yes, sir, and that's --

THE COURT: All right. And if you are not going to call the witnesses, you don't need to worry about it.

MS. LESKANIC: And we may call the witnesses, Your Honor. I just do not have access to this information.

THE COURT: Then the second thing is that what I would ask is that check with law enforcement. Of course,

19

under the discovery rules -- I know you don't have anything, but under the discovery rules, Rule Five actually, and the cases interpreting it actually say that an agency under your control who has them. So if the agency under your control has them, they are discoverable, and so just check to see what you can find out. We have got this afternoon to work on that. We can look at it later on this afternoon.

MS. LESKANIC: And I will, Your Honor. I will beep happy to ask. I just want to be completely candid with the court, I will be happy to check and see if they have any confidential -- if they ever worked CRI. I'm not even sure if they were, if there is a file, but as far as whether charges were reduced, I mean, I would have to pull every single disposition to see --

THE COURT: No, I don't know that as whether the charges would be. What you need to know is is whether they acted as confidential informants and whether they were given any consideration to pending charges as a result of being confidential informants.

MS. LESKANIC: Okay.

THE COURT: But I don't know how individuals cases would make any difference, but they -- just see what you can find out.

MS. LESKANIC: Yes, sir.

THE COURT: Okay.

20

MR. HARBIN: And, judge, I apologize for the late arrival of that, but it was my understanding that the State would not be obligated to give me that kind of information until now, anyway, because of the nature of trying to keep that information for law enforcement purposes, but --

THE COURT: Okay.

MR. HARBIN: -- I have total confidence that --

THE COURT: Any further motions on behalf of the State pretrial at this time, Ms. Leskanic?

MS. LESKANIC: The only thing that we have, Your Honor, Mr. Harbin has had an opportunity to look at the exhibits that we have marked. There are certain things are not here that are still in custody of our evidence custodian, such as swabs and other items that were collected, but as far as our photographs and things, I believe he's looked through that and does not have any objection --

MR. HARBIN: No objection.

MS. LESKANIC: -- to what we have marked so far. We have provided him with a copy of our exhibit list which gives the number and a description of each item and he's had an opportunity to look at that, so we will have those marked by the court reporter, and we can also move those in, I believe, by stipulation with the court when we have these other stipulations ready for Your Honor.

21

THE COURT: All right. That would be fine. And as I mentioned in chambers this morning, what I would like, if at all, to save as much time as possible. I'd like all exhibits given to the court reporter and have him mark them into evidence, or just mark them in, and if there are any things that are objected to, just show them as an ID at this time. And then when it comes up, we will take it up at the time of introduction.

All right. The other thing that I would like to have this afternoon is, say, by about four o'clock would be witness lists from both sides and proposed voir dire.

MS. LESKANIC: Yes, sir, the State will have that for you.

THE COURT: Okay.

Yes, sir.

MR. HARBIN: And the only other thing that I don't believe -- well, I'm hoping to avoid it, and we have discussed this, the prior bad acts or criminal records. I think that's something that we can save to at the close of the State's case that we would be contemplating putting in of the defense, but right now it might just be premature.

THE COURT: Yeah, I usually -- that's when -- the prior bad acts or criminal records, 609 -- Rule 609 matters of inquiry will usually not come up until -- unless and until the defendant takes the stand, and so we will address

22

that at that time.

You do not anticipate any Lyle issues, do you, Ms. Leskanic?

MS. LESKANIC: I do not, Your Honor. We have discussed that. Mr. Harbin and I have been working on this for a long time and have had a lot of communications.

There are some prior incidents of violence between this defendant and the victim in the case. We don't intend on bringing that up, but certainly some of the witnesses that are going to testify have knowledge about that, so I just caution everyone in their questions, because if the door is opened. I would certainly tell them on my questioning not to step through that door and try to avoid it on Mr. Harbin's as well, but if pressed they do have information about some prior --

THE COURT: Okay.

MS. LESKANIC: -- violence.

THE COURT: Well, if that's the case, you will have to be careful about opening that door, Mr. Harbin, as you can well understand, but the State has indicated that it is not going to try to utilize the provisions of State v. Lyle, as far as introducing any prior bad acts.

MS. LESKANIC: That is correct, Your Honor.

THE COURT: Okay.

And then as to whether they would be impeachable

23

offenses or impeachable matters, we could take that up at the end of the State's case.

MS. LESKANIC: Yes, sir.

THE COURT: Okay. And I think we have discussed this already, and I think the court already has an understanding about the expert witnesses situation. We don't really anticipate any State v. Council or Dalbert issues, as far as experts are concerned, that we would have to exclude the jury to qualify the experts. Do you a agree with that, Mr. Harbin?

MR. HARBIN: I do agree with that, judge.

THE COURT: Okay. Does anybody know of anything else that we need to take up?

MS. LESKANIC: I think that's everything from the State, Your Honor.

THE COURT: Mr. Harbin?

MR. HARBIN: Nothing further.

THE COURT: All right. I tell you what. Y'all don't out of pocket and plan to be back here around four o'clock this afternoon as a last -- to make sure we got the stipulations put together and all that sort of stuff.

I assume the State got some more pleas and things you want to take up at 2:30?

MS. LESKANIC: Yes, sir.

THE COURT: And we will do that.

24

24

At around four, or whenever we finish with the pleas, let's take up the rest of these preliminary matters, including the stipulations, and make sure that we are ready to go in the morning with jury qualification and selection. All right.

MR. HARBIN: Thank you.

MS. LESKANIC: Thank you, Your Honor.

THE COURT: We will be in recess until 2:30.

(END OF REQUESTED TRANSCRIPT OF RECORD)

25

CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for CHEROKEE County, South Carolina, on the 17th day of March, 2014.

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

SEPTEMBER 13, 2014

Michael R. Watts
Circuit Court Reporter

26

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHEROKEE)

THE STATE)
)
-vs-) TRANSCRIPT OF RECORD
) 2013-GS-11-01167
JOEY LYNN CLARK,)
) MARCH 18, 2014
DEFENDANT. GAFFNEY, SOUTH CAROLINA

(VOLUME I)

B E F O R E:

THE HONORABLE HOWARD P. KING, JUDGE. ; And a Jury.

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

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JENNIFER JORDAN, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

H. CHASE HARBIN, ESQUIRE
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

27

INDEX

(MARCH 18, 2014)

WITNESSES	PAGE
JURY VOIR DIRE -- PAGE 30	
JURY SWORN -- PAGE 75	
OPENING STATEMENT BY MS. LESKANIC -- PAGE 83	
OPENING STATEMENT BY MR. HARBIN -- PAGE 88	
BEVERLY PATRICK (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	98
CROSS EXAMINATION BY MR. HARBIN	134
REDIRECT EXAMINATION BY MR. LESKANIC	146
ANNA MOONEY (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	153
CROSS EXAMINATION BY MR. HARBIN	174
JASMIN HILL (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	180
CROSS EXAMINATION BY MR. HARBIN	184
ROBERT BRACKETT (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	186
(NO CROSS EXAMINATION)	
SHANESE DAWKINS (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	188
CROSS EXAMINATION BY MR. HARBIN	190

INDEX

(MARCH 18, 2014)

WITNESSES	PAGE
AACESHON BRIGGS (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	190
CROSS EXAMINATION BY MR. HARBIN	194
JAMES WILKERSON (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	196
CROSS EXAMINATION BY MR. HARBIN	199
CLARENCE TAYLOR (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	201
CROSS EXAMINATION BY MR. HARBIN	204
INVESTIGATOR JIMMY HENSON (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	206

29

INDEX

(MARCH 19, 2014)

WITNESSES	PAGE
INVESTIGATOR JIMMY HENSON (SW) (CONT'D)	
DIRECT EXAMINATION BY MS. LESKANIC	259
CROSS EXAMINATION BY MR. HARBIN	302
REDIRECT EXAMINATION BY MS. LESKANIC	333
RECROSS EXAMINATION BY MR. HARBIN	339
INVESTIGATOR BILLY ANTHONY (SW)	
DIRECT EXAMINATION BY MS. JORDAN	341
CROSS EXAMINATION BY MR. HARBIN	349
REDIRECT EXAMINATION BY MS. JORDAN	350
DETECTIVE LINDSEY MCGRAW (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	350
(NO CROSS EXAMINATION)	
OFFICER CHRIS BLAKE (SW)	
DIRECT EXAMINATION BY MS LESKANIC	358
CROSS EXAMINATION BY MR. HARBIN	360
DETECTIVE RICHARD BURGESS (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	364
CROSS EXAMINATION BY MR. HARBIN	374
REDIRECT EXAMINATION BY MS. LESKANIC	409
RECROSS EXAMINATION BY MR. HARBIN	423

INDEX

(MARCH 19, 2014)

WITNESSES	PAGE
DR. JANICE E. ROSS (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	430
CROSS EXAMINATION BY MR. HARBIN	446
REDIRECT EXAMINATION BY MS. LESKANIC	449
CORONER DENNIS FOWLER (SW)	
DIRECT EXAMINATION BY MS. JORDAN	451
CROSS EXAMINATION BY MR. HARBIN	456
REDIRECT EXAMINATION BY MS. JORDAN	460
SLED AGENT MELISSA SKIPPER WALLACE (SW)	
DIRECT EXAMINATION BY MS. JORDAN	461
CROSS EXAMINATION BY MR. HARBIN	473
SLED AGENT MICHAEL MOSKAL (SW)	
DIRECT EXAMINATION BY MS. JORDAN	475
CROSS EXAMINATION BY MR. HARBIN	491

31

INDEX

(MARCH 20, 2014)

WITNESSES	PAGE
SLED AGENT CATHERINE LEISY (SW)	
DIRECT EXAMINATION BY MS. JORDAN	517
CROSS EXAMINATION BY MR. HARBIN	550
REDIRECT EXAMINATION BY MS. JORDAN	567
RECROSS EXAMINATION BY MR. HARBIN	577

STATE RESTS -- PAGE 581

DEFENSE RESTS -- PAGE 598

CLOSING ARGUMENT BY MS. LESKANIC -- PAGE 599

FINAL ARGUMENT BY MR. HARBIN -- PAGE 614

COURT'S JURY INSTRUCTIONS -- PAGE 645

JURY VERDICT -- PAGE 666

SENTENCING -- PAGE 674

REPORTER'S CERTIFICATE PAGE 677

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-1	U.S. NAVAL OBSERVATORY TIME SHEETS		58
S-2	PHOTOGRAPH OF [redacted] FRONT PARKING AREA		58
S-3	PHOTOGRAPH OF [redacted] FRONT OUTSIDE		59
S-4	PHOTOGRAPH OF [redacted] SIDE PORCH		59
S-5	PHOTOGRAPH OF [redacted] BACKYARD		59
S-6	PHOTOGRAPH OF GUEST ROOM		59
S-7	PHOTOGRAPH OF BEVERLY'S ROOM		59
S-8	PHOTOGRAPH OF BEVERLY'S CAR		59
S-9	WINTER WINGARD'S POCKETBOOK AND CONTENTS		59
S-10	WINTER WINGARD'S CELLPHONE		59
S-11	REMOTE AND KEY TO GMC		59
S-12	PHOTOGRAPH OF WINTER WINGARD'S CLOSET		59
S-13	PHOTOGRAPH OF WINTER WINGARD'S CLOSET AND BOOTS		59
S-14	WOLVERINE BOOTS - SW2/SLED		59
S-15	ANNA MOONEY AND WINTER WINGARD'S TEXT MESSAGES		59
S-16	ANNA MOONEY AND JOEY CLARK'S TEXT MESSAGES		59

33

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-17	ANNA MOONEY AND BEVERLY PATRICK'S TEXT MESSAGES		60
S-18	911 CALL FROM WINTER WINGARD		60
S-19	911 CALL FROM BEVERLY PATRICK		60
S-20	DEFENDANT'S CELLPHONE		60
S-21	WINTER WINGARD'S TEXT RECORDS		60
S-22	WINTER WINGARD'S PHONE RECORDS FROM ALLTEL		60
S-23	DEFENDANT'S PHONE RECORDS		60
S-24	DEFENDANT'S TEXT RECORDS		60
S-25	PHOTOGRAPH AT MIKES CREEK BRIDGE		60
S-26	PHOTOGRAPH AT MIKES CREEK BRIDGE OF BODY AND SWEATSHIRT		60
S-27	PROTOGRAPH AT MIKES CREEK BRIDGE OF LEFT SIDE BODY & BRIARS		60
S-28	PHOTOGRAPH AT MIKES CREEK ROAD ANGLE SHOWING SOIL COLOR		61
S-29	PHOTOGRAPH AT MIKES CREEK OF RED DIRT ON BODY AND BLOOD ON INNER LEFT THIGH		61
S-30	PHOTOGRAPH AT MIKES CREEK VIEW		61
S-31	PHOTOGRAPH OF MIKES CREEK OF A CLOSER VIEW FROM CREEK WITH HOODIE		61
S-32	PHOTOGRAPH MIKES CREEK THROUGH BARBED WIRE		61

INDEX

NO.	DESCRIPTION	ID.	EV.
S-33	PHOTOGRAPH AT MIKES CREEK OF LEFT SIDE OF ARM THROUGH BARBED WIRE		61
S-34	PHOTOGRAPH AT MIKES CREEK ARM OF BARBED WIRE AND BLOOD SPATTER		61
S-35	PHOTOGRAPH AT MIKES CREEK OF ABRASION TO LEFT KNEE AND RED DIRT ON BODY		61
S-36	PHOTOGRAPH AT MIKES CREEK OF RED DIRT ON LEFT HAND AND BLOOD DROPS		61
S-37	PHOTOGRAPH OAT MIKES CREEK OF CLOSER VIEW OF LEFT HAND		61
S-38	PHOTOGRAPH AT MIKES CREEK OF BRIAR		61
S-39	PHOTOGRAPH AT MIKES CREEK OF INJURY AND CONTUSIONS		61
S-40	PHOTOGRAPH AT MIKES CREEK OF FACIAL INJURIES WITIH BLOOD DROPS ON ARM		61
S-41	PHOTOGRAPH AT MIKES CREEK OF BLOOD ON BARBED WIRE		62
S-42	PHOTOGRAPH AT MIKES CREEK WITH SUBSTANCE FROM MOUTH		62
S-43	PHOTOGRAPH AT MIKES CREEK WITH CONTUSION TO HEAD		62
S-44	PHOTOGRAPH AT MIKES CREEK WITH BLOOD SOAKING INTO GROUND		62

35

INDEX

NO.	DESCRIPTION	ID.	EV.
S-45	PHOTOGRAPH AT MIKES CREEK WITH MARKERS		62
S-46	PHOTOGRAPH AT MIKES CREEK WITH MARKERS		62
S-47	PHOTOGRAPH AT MIKES CREEK OF CLOSER OF DRAG		62
S-48	PHOTOGRAPH AT MIKES CREEK OF CLOSE ON DRAG		62
S-49	PHOTOGRAPH AT MIKES CREEK OF AREA AFTER BODY IS REMOVED		62
S-50	PHOTOGRAPH OF HOODIE AND T-SHIRT		62
S-51	PHOTOGRAPH OF LEFT SIDE OF HOODIE		62
S-52	PHOTOGRAPH OF HOODIE		62
S-53	PHOTOGRAPH OF BACK OF HOODIE		63
S-54	PHOTOGRAPH OF NECK OF HOODIE		63
S-55	WINTER WINGARD'S RED HOODIE - S14/SLED 16		63
S-56	WINTER WINGARD'S WHITE T-SHIRT		63
S-57	PHOTOGRAPH OF SWEAT PANTS		63
S-58	PHOTOGRAPH OF FRONT OF SWEAT PANTS AT TOP		63
S-59	PHOTOGRAPH OF BLOOD AND RED DIRT ON LEG OF SWEAT PANTS		63
S-60	PHOTOGRAPH OF BLOOD ON SWEAT PANTS		63
S-61	PHOTOGRAPH OF THE BACK OF SWEAT PANTS		63
S-62	PHOTOGRAPH OF LOWER BACK OF SWEAT PANTS		63

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-63	PHOTOGRAPH OF INSIDE WAISTBAND OF SWEAT PANTS		63
S-64	WINTER WINGARD'S SWEAT PANTS		63
S-65	BRIAR - (S17/SLED 19)		63
S-66	BRIAR - (S19/SLED 31)		64
S-67	TREE LIMB - (S21/SLED 23)		64
S-68	TOP STRAND OF BARABED WIRE - (S25/SLED 27)		64
S-69	2ND STRAND OF BARBED WIRE - (S26/SLED 28)		64
S-70	LEAF FROM MIKES CREEK - (S6/SLED 15)		64
S-71	PHOTOGRAPH OF [redacted] BACKYARD		64
S-72	PHOTOGRAPH OF [redacted] BACKYARD ROAD VIEW		64
S-73	PHOTOGRAPH OF [redacted] WITH PHONE CASE WITH MARKER		64
S-74	PHOTOGRAPH OF [redacted] OF PHONE CASE CLOSE-UP		64
S-75	WINTER WINGARD'S CELLPHONE CASE		64
S-76	PHOTOGRAPH OF [redacted] LOCATION OF VICTIM'S CELLPHONE		64
S-77	PHOTOGRAPH OF [redacted] CLOSE-UP OF VICTIM'S CELLPHONE LOCATION		64
S-78	PHOTOGRAPH OF [redacted] CLOSE-UP OF VICTIM'S CELLPHONE		65

37

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-79	PHOTOGRAPH OF [redacted] KEYS AND REMOTE LOCATION		65
S-80	PHOTOGRAPH OF [redacted] KEYS AND REMOTE WITH MARKER		65
S-81	PHOTOGRAPH OF [redacted] KEYS AND REMOTE CLOSE-UP		65
S-82	SWAB FROM CAR REMOTE - (SW3.18/SLED 39)		65
S-83	SWAB FROM KEY TO GMC - (SW3.19/SLED 40)		65
S-84	PHOTOGRAPH OF THE VICTIM'S CELLPHONE BATTERY WITH MARKER		65
S-85	PHOTOGRAPH OF THE VICTIM'S CELLPHONE BATTERY CLOSE-UP		65
S-86	WINTER WINGARD'S CELLPHONE BATTERY		65
S-87	PHOTOGRAPH OF RED HAIRBAND		65
S-88	PHOTOGRAPH OF RED HAIRBAND		65
S-89	RED HAIRBAND - (SW3-1)		65
S-90	PHOTOGRAPH OF THE DRIVER'S SIDE OF GMC		65
S-91	PHOTOGRAPH OF THE DRIVER'S SIDE CLOSE-UP OF THE GMC		66
S-92	PHOTOGRAPH OF THE DRIVER'S SIDE CLOSE-UP OF UNIDENTIFIED OF GMC		66
S-93	PHOTOGRAPH OF THE PASSENGER'S SIDE REAR DOOR OF GMC		66

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-94	PHOTOGRAPH OF THE PASSENGER'S SIDE REAR DOOR OF GMC		66
S-95	PHOTOGRAPHP OF THE LABELED PRINTS ON DRIVER'S SIDE		66
S-96	PHOTOGRAPH OF THE LABELED PRINT ON PASSENGER'S REAR SIDE		66
S-97	PRINT - (WINTER DOOR - LEFT)		66
S-98	PRINT - (DEFENDANT - DRIVER'S DOOR)		66
S-99	PRINT - (WINTER - DOOR HANDLE)		66
S-100	PRINT - (SMUDGE)		66
S-101	PRINT - (DEFENDANT PASSENGER SIDE)		66
S-102	PHOTOGRAPH OF GMC INSIDE DRIVER'S SIDE		66
S-103	PHOTOGRAPH OF GMC INSIDE PASSENGER'S SIDE		67
S-104	PHOTOGRAPH OF GMC PASSENGER'S SIDE CLOSE-UP		67
S-105	PHOTOGRAPH OF GMC PASSENGER'S SIDE SEAT		67
S-106	PHOTOGRAPH OF GMC BLOOD SPATTER INSIDE GMC		67
S-107	PHOTOGRAPH OF GMC CLOSE-UP OF PASSENGER'S INSIDE DOOR HANDLE WITH SPATTER		67
S-108	PHOTOGRAPH OF GMC GLOOD SPATTER NEAR RADIO KNOB		67
S-109	SWAB NEAR STEERING WHEEL - (WINTER'S DNA)		67
S-110	SWAB FROM INSIDE PASSENGER SIDE FRONT DOOR GLASS - (WINTER'S DNA) - (V23/SLED 12)		67

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-111	WITNER WINGARD'S FINGER AND PALM PRINTS		67
S-112	DEFENDANT'S FINGER AND PALM PRINTS		67
S-113	DEFENDANT'S EARLY-OUT TICKET		67
S-114	GOOGLE MAP PRINTOUT		67
S-115	DEFENDANT'S DNA STANDARD -(SW BY RICHARD SLED-37)		67
S-116	SKETCH BY DR. ROSS		68
S-117	PHOTOGRAPH OF AUTOPSY FACIAL WITH BLUNT FORCE TRAUMA		68
S-118	PHOTOGRAPH AT AUTOPSY OF EYE		68
S-119	PHOTOGRAPH OF CHEST TRAUMA		68
S-120	PHOTOGRAPH OF PETECHIAE		68
S-121	PHOTOGRAPH OF THE LOWER BACK DRAG MARKS		68
S-122	PHOTGRAPH OF A HAND SCRATCH		68
S-123	PHOTOGRAPH OF FEET		68
S-124	PHOTOGRAPH OF ARM WITH BLOOD DROPS		68
S-125	PHOTOGRAPH OF NECK WOUNDS		68
S-126	WINTER WINGARD'S DNA STANDARD - (SLED L10-13550.2) (WITDRAWN)	28	
S-127	WINTER WINGARD'S VAGINAL SWAB - (SLED L10-13550-4.3)		69
S-128	WITNER WINGARD'S VAGINAL SWAB - (SLED L10-13550-4.4)		69

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-129	WINTER WINGARD'S ORAL SWAB - (SLED L10-13550-4.5),		69
S-130	WINTER WINGARD'S ORAL SWAB - (SLED L10-13550-4.6)		69
S-131	CUTTING FROM HOODIE - (SLED 16.2, 16.3, 16.4, 16.5, 16.6)		69
S-132	SWAB FROM LEAF - (WINTER WINGARD'S DNA) (S6/SLED 15.1)		69
S-133	HAIR FROM LEAF - (WINTER WINGARD'S DNE) (S6/SLED 15.2.1)		69
S-134	SWAB FROM BRIAR - (S17/19.1)		69
S-135	SWAB FROM BRIAR - (WINTER WINGARD/MAJOR CONTRIBUTOR AND DEFENDANT/MINOR CONTRIBUTOR (1 IN 96) DNA, (S19/SLED 21.1)		69
S-136	SWAB FROM BROKEN POINT OF TREE LIMB - (WINTER WINGARD AND DEFENDANT CANNOT BE EXCLUDED 1 IN 3,700)		69
S-137	FIBER FROM TOP STRAND OF BARBED WIRE - (SLED 27.2) - (CONSISTENT WITH WOLVERINE BOOTS), AND FIBER FROM TOP STRAND OF BARBED WIRE - (SLED 28.2) (CONSISTENT WITH WOLVERINE BOOTS)		69

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-138	DNA SLIDES		74
S-139	FIBER FROM RIGHT WOLVERINE BOOT PADDED AREA - (SLED 33.3.3)		69
S-140	SWAB FROM THE OUTSIDE RIGHT SOLE OF BOOT - (SLED 33.1) - (DNA OF JOEY CLARK AND WINTER WINGARD 1 IN 16)		69
S-141	SWAB FROM THE OUTSIDE LEFT SOLE OF BOOT - (SLED 33.2) - (DNA - DEFENDANT 1 IN 3.3 MILLION)		69
S-142	SWAB FROM THE INTERIOR LEFT BOOT - (SLED 33.4)		70
S-143	SWAB FROM THE INTERIOR RIGHT BOOT - (SLED 33.5)		70
S-144	JOEY CLARK AND WINTER WINGARD TEXT MESSAGES)		70
S-145	WRITTEN STATEMENT OF BRYANT PHILLIPS		422
S-146	WRITTEN STATEMENT OF JOHN RAYMOND AUSTIN		422
S-147	WRITTEN STATEMENT OF RIDGE CROSBY		422
S-148	WRITTEN STATEMENT OF MICHAEL STILLWELL		422
S-149	WRITTEN STATEMENT OF MICHAEL COVINGTON		422
S-150	PHOTOGRAPH OF WINTER WINGARD		455
CT-1	WRITTEN STIPULATION	72	
CT-2	WRITTEN STIPULATION	94	

(PROCEEDINGS, MARCH 18, 2014)

(U.S. Naval Observatory Time Sheets marked as State's Exhibit No. 1 for identification).

(Photograph of [redacted] Front Parking Area, marked as State's Exhibit No. 2 for identification).

(Photograph of [redacted] Front Outside, marked as State's Exhibit No. 3 for identification).

(Photograph of [redacted] Side Porch, marked as State's Exhibit No. 4 for identification0.

(Photograph of [redacted] Backyard, marked as State's Exhibit No. 5 for identification).

(Photograph of Guest Room marked as State's Exhibit No. 6 for identification).

(Photograph of Beverly's Room marked as State's Exhibit No. 7 for identification).

(Photograph of Beverly's Car marked as State's Exhibit No. 8 for identification).

(Winter Wingard's Pocketbook and Contents marked as State's Exhibit No. 9 for identification).

(Winter Wingard's Cellphone marked as State's Exhibit No. 10 for identification).

(Remote and Key to GMC marked as State's Exhibit No. 11 for identification).

(Photograph of Winter Wingard's Closet marked as State's Exhibit No. 12 for identification).

(Photograph of Winter Wingard's Closet and Boots marked as State's Exhibit No. 13 for identification).

(Wolverine Boots - SW2/SLED 33- marked as State's Exhibit No. 14 for identification).

(Anna Mooney and Winter Wingard's Text Messages marked as State's Exhibit No. 15 for identification).

(Anna Mooney and Joey Clark's Text Messages marked as State's Exhibit No. 16 for identification).

(Anna Mooney and Beverly Patrick's Text Messages marked as State's Exhibit No. 17 for identification).

(911 Call from Winter Wingard marked as State's Exhibit No. 18 for identification).

(911 Call from Beverly Patrick marked as State's Exhibit No. 19 for identification).

(Defendant's Cellphone marked as State's Exhibit No. 20 for identification).

(Winter Wingard's Text Records - Lindsey McGraw - marked as State's Exhibit No. 21 for identification).

(Winter Wingard's Phone Records from Alltel marked State's Exhibit No. 22 for identification).

(Defendant's Phone Records marked as State's Exhibit No. 23 for identification).

(Defendant's Text Records marked as State's Exhibit No. 24 for identification).

(Photograph at Mikes Creek Bridge marked as

State's Exhibit No. 25 for identification).

(Photograph at Mikes Creek Bridge of Body and Sweatshirt marked as State's Exhibit No. 26 for identification).

(Photograph at Mikes Creek's Bridge of Left Side Body & Briars were marked as State's Exhibit No. 27 for identification).

(Photograph at Mikes Creek Road Angle Showing Soil Color marked as State's Exhibit No. 28 for identification).

(Photograph at Mikes Creek of Red Dirt on Body and Blood on Inner Left Thigh marked as State's Exhibit No. 29 for identification).

(Photograph at Mikes Creek Creek View marked as State's Exhibit No. 30 for identification).

(Photograph at Mikes Creek of a Closer view from Creek with Hoodie marked as State's Exhibit No. 31 for identification).

(Photograph at Mikes Creek Through Barbed Wire marked as State's Exhibit No. 32 for identification).

(Photograph at Mikes Creek of Left Side of Arm Through Barbed Wife marked as State's Exhibit No. 33 for identification).

(Photograph at Mikes Creek Arm of Barbed Wire and Blood Spatter marked as State's Exhibit No. 34 for identification)

45

(Photograph at Mikes Creek of Abrasion to Left Knee and Red Dirt on Body marked as State's Exhibit No. 35 for identification).

(Photograph at of Mikes Creek of Red Dirt on Left Hand and Blood Drops marked as State's Exhibit No. 36 for identification).

(Photograph at Mikes Creek of Closer View of Left Hand marked as State's Exhibit No. 37 for identification).

(Photograph at Mikes Creek of Briar marked as State's Exhibit No. 38 for identification).

(Photograph at Mikes Creek of Injury and Contusions marked as State's Exhibit No. 39 for identification).

(Photograph at Mikes Creek of Facial Injuries with Blood Drops on Arm marked as State's Exhibit No. 40 for identification).

(Photograph at Mikes Creek of Blood on Barbed Wire marked as State's Exhibit No. 41 for identification).

(Photograph at Mikes Creek with Substance From Mouth marked as State's Exhibit No. 42 for identification).

(Photograph at Mikes Creek with Contusion to Head marked as State's Exhibit No. 43 for identification).

(Photograph at Mikes Creek with Blood Soaking Into Ground marked as State's Exhibit No. 44 for identification)

(Photograph at Mikes Creek with Markers marked as

State's Exhibit No. 45 for identification).

(Photograph at Mikes Creek with Markers marked as State's Exhibit No. 46 for identification).

(Photograph at Mikes Creek of Closer of Drag marked as State's Exhibit No. 47 for identification).

(Photograph at Mikes Creek of Close on Drag marked as State's Exhibit No. 48 for identification).

(Photograph at Mikes Creek of Area After Body is Removed marked as State's Exhibit No. 49 for identification).

(Photograph of Hoodie and T-Shirt marked as State's Exhibit No. 50 for identification).

(Photograph of Left Side of Hoodie marked as State's Exhibit No. 51 for identification).

(Photograph of Hoodie marked as State's Exhibit No. 52 for identification).

(Photograph Back of Hoodie marked as State's Exhibit No. 53 for identification).

(Photograph of Neck of Hoodie marked as State's Exhibit No. 54 for identification).

(Winter Wingard's Red Hoodie - S14/SLED16 - marked as State's Exhibit No. 55 for identification).

(Winter Wingard's White T-Shirt marked as State's Exhibit No. 56 for identification).

(Photograph of Sweat Pants marked as State's

Exhibit No. 57 for identification).

(Photograph of Front of Sweat Pants at Top marked as State's Exhibit No. 58 for identification).

(Photograph of Blood and Red Dirt on Leg of Sweat Pants marked as State's Exhibit No. 59 for identification).

(Photograph of Blood on Sweat Pants marked as State's Exhibit No. 60 for identification).

(Photograph of the Back of Sweat Pants marked as State's Exhibit No. 61 for identification).

(Photograph of Lower Back of Sweat Pants marked as State's Exhibit No. 62 for identification).

(Photograph of Inside Waistband of Sweat Pants marked as State's Exhibit No. 63 for identification).

(Winter Wingard's Sweat Pants marked as State's Exhibit No. 64 for identification).

(Briar - (S17/SLED 19) - marked as State's Exhibit No. 65 for identification).

(Briar - (S19/SLED 31) - marked as State's Exhibit No. 66 for identification).

(Tree Limb - (S21/SLED 23) - marked as State's Exhibit No. 67 for identification).

(Top Strand of Barbed Wire - (S25/SLED 27) - marked as State's Exhibit No. 68 for identification).

(2nd Strand of Barbed Wire - (S26/SLED 28) - marked as State's Exhibit No. 69 for identification).

(Leaf from Mike's Creek - (S6/SLED 15) - marked as State's Exhibit No. 70 for identification).

(Photograph of [redacted] Backyard marked as State's Exhibit No. 71 for identification).

(Photograph of [redacted] Backyard Road View marked as State's Exhibit No. 72 for identification).

(Photograph of [redacted] with Phone Case with Marker marked as State's Exhibit No. 73 for identification).

(Photograph of [redacted] of Phone Case Close-up marked as State's Exhibit No. 74 for identification).

(Winter Wingard's Cellphone Case marked as State's Exhibit No. 75 for identification).

(Photograph of [redacted] Location of Victim's Cellphone marked as State's Exhibit No. 76 for identification).

(Photograph of [redacted] Close-up of Victim's Cellphone Location marked as State's Exhibit No. 77 for identification).

(Photograph of [redacted] Close-up of Victim's Phone marked as State's Exhibit No. 78 for identification).

(Photograph of [redacted] Keys and Remote Location marked as State's Exhibit No. 79 for identification)

(Photograph of [redacted] Keys and Remote with

marker marked as State's Exhibit No. 80 for identification)

(Photograph of [redacted] Keys and Remote Close-up marked as State's Exhibit No. 81 for identification).

(Swab from the Car Remote - (SW3.18/SLED 39) - marked as State's Exhibit No. 82 for identification).

(Swab from the Key to the GMC - (SW3.19/SLED 40 - marked as State's Exhibit No. 83 for identification)

(Photograph of the Victim's Cellphone Battery with Marker marked as State's Exhibit No. 84 for identification).

(Photograph of the Victim's Cellphone Battery Close-up marked as State's Exhibit No. 85 for identification).

(Winter Wingard's Cellphone Battery marked as State's Exhibit No. 86 for identification).

(Photograph of Red Hair band marked as State's Exhibit No. 87 for identification).

(Photograph of Red Hair band marked as State's Exhibit No. 88 for identification).

(Red Hair band - (SW3-1) - marked as State's Exhibit No. 89 for identification).

(Photograph of the Driver's Side of the GMC marked as State's Exhibit No. 90 for identification).

(Photograph of the Driver's Side Close-up of the GMC marked as State's Exhibit No. 91 for identification).

50

(Photograph of the Driver's Side Close-up of Unidentified of GMC marked as State's Exhibit No. 92 for identification).

(Photograph of the Passenger's Side Rear Door of GMC marked as State's Exhibit No. 93 for identification).

(Photograph of the Passenger's Side Back Panel with Defendant's Print of the GMC marked as State's Exhibit No. 94 for identification).

(Photograph of the Labeled Prints on Driver's Side marked as State's Exhibit No. 95 for identification).

(Photograph of the Labeled Print on Passenger's Rear Side marked as State's Exhibit No. 96 for identification).

(Print - (Winter Door - left) - marked as State's Exhibit No. 97 for identification).

(Print - (Defendant - driver's door) - marked as State's Exhibit No. 98 for identification).

(Print - (Winter - door handle) - marked as State's Exhibit No. 99 for identification).

(Print - (smudge) - marked as State's Exhibit No. 100 for identification).

(Print - (defendant passenger side) - marked as State's Exhibit No. 101 for identification).

(Photograph of the GMC Inside Driver's Side marked as State's Exhibit No. 102 for identification).

51

(Photograph of the GMC Inside Passenger's Side marked as State's Exhibit No. 103 for identification).

(Photograph of the GMC Passenger's Side Close-up marked as State's Exhibit No. 104 for identification).

(Photograph of the GMC Passenger's Side Seat marked as State's Exhibit No. 105 for identification).

(Photograph of the GMC Blood Spatter Inside GMC marked as State's Exhibit No. 106 for identification).

(Photograph of the GMC Close-up of Passenger's Inside Door Handle with Spatter marked as State's Exhibit No. 107 for identification).

(Photograph of the GMC Blood Spatter Near Radio Knob marked as State's Exhibit No. 108 for identification).

(Swab Near Steering Wheel - (Winter's DNA) - (V8/SLED 11) - marked as State's Exhibit No. 109 for identification0.

(Swab from Inside Passenger Side Front Door Glass - (Winter's DNA)(V23/SLED 12) - marked as State's Exhibit No. 110 for identification).

(Winter Wingard's Finger and Palm Prints marked as State's Exhibit No. 111 for identification).

(Defendant's finger and Palm Prints marked as State's Exhibit No. 112 for identification).

(Defendant's Early Out Ticket marked as State's Exhibit No. 113 for identification).

(Google Map Printout marked as State's Exhibit No. 114 for identification).

(Defendant's DNA Standard - (SW by Richard) (SLED 37) - marked as State's Exhibit No. 115 for identification).

(Sketch by Dr. Ross marked as State's Exhibit No. 116 for identification).

(Photograph of Autopsy Facial with Blunt Force Trauma marked as State's Exhibit No. 117 for identification).

(Photograph at Autopsy of Eye marked as State's Exhibit No. 118 for identification).

(Photograph of Chest Trauma marked as State's Exhibit No. 119 for identification).

(Photograph of Petechiae in the Eye marked as State's Exhibit No. 120 for identification).

(Photograph of the Lower Back Drag Marks marked as State's Exhibit No. 121 for identification).

(Photograph of a Hand Scratch marked as State's Exhibit No. 122 for identification).

(Photograph of Feet marked as State's Exhibit No. 123 for identification).

(Photograph of Arm with Blood Drops marked as State's Exhibit No. 124 for identification).

(Photograph of Neck Wounds marked as State's Exhibit No. 125 for identification).

(Winter Wingard's DNA Standard - (SLED L10.13550-2) - marked as State's Exhibit No. 126 for identification).

(Winter Wingard's Vaginal Swag - (SLED L10-13550-4.3) - marked as State's Exhibit No. 127 for identification).

(Winter Wingard's Vaginal Swab - (SLED L10-13550-4.4) - marked as State's Exhibit No. 128 for identification).

(Winter Wingard's Oral Swab - (SLED L10-13550-4.5) - marked as State's Exhibit No. 129 for identification).

(Winter Wingard's Oral Swab - (SLED L10-13550-4.6) - marked as State's Exhibit No. 130 for identification).

(Cutting from Hoodie - (SLED 16.2, 16.3, 16.4, 16.5, 16.6) - marked as State's Exhibit No. 131 for identification).

(Swab from Leaf - (Winter Wingard's DNA) - (S6/SLED 15.1) - marked as State's Exhibit No. 132 for identification).

(Hair from Leaf - (Winter Wingard's DNA) - (S6/SLED 15.2.1) marked as State's Exhibit No. 133 for identification).

(Swab from Briar - (Winter Wingard's DNA) - (S17/SLED 19.1)- marked as State's Exhibit No. 134 for identification).

(Swab from Briar - (Winter Wingard/Major Contributor and Defendant/Minor Contributor (1 in 96) DNA - (S19/SLED 21.1) - marked as State's Exhibit No. 135 for identification).

(Swab from Broken Point of Tree Limb - (Winter Wingard and Defendant Cannot be Excluded 1 in 3700) - marked as State's Exhibit No. 136 for identification).

(Fiber from Top Strand of Barbed Wire - (SLED 27.2) - (Consistent with Wolverine Boots) - and Fiber from Top Strand of Barbed Wire - (SLED 28.2) (Consistent with Wolverine Boots) - marked as State's Exhibit No. 137 for identification).

(Fiber from Right Wolverine Boot Padded Area - (SLED 33.3.3) - marked as State's Exhibit No. 139 for identification).

(Swab from the Outside Right Sole of Boot - (SLED 33.1) - (DNA of Joey Clark and Winter Wingard 1 in 16) - marked as State's Exhibit No. 140 for identification).

(Swab from the Outside Left Sole Boot - (SLED 33.2) - (DNA - Defendant 1 in 3.3 million) - marked as State's Exhibit No. 141 for identification).

(Swab from the Interior Left Boot - (SLD 33.4) - marked as State's Exhibit No. 142 for identification).

(Swab from the Interior Right Boot - (SLED 33.5) - marked as State's Exhibit No. 143 for identification).

(Joey Clark and Winter Wingard Text Messages marked as State's Exhibit No. 144 for identification)

THE COURT: All right. Madam Solicitor, what's the first matter for trial?

MS. LESKANIC: May it please the court?

THE COURT: Yes, ma'am.

MS. LESKANIC: Before Your Honor is the State of South Carolina versus Joey Clark. He is here on an indictment for murder, which is Indictment 2013-GS-11-1167.

THE COURT: All right. If the attorneys then would get their necessary parties and necessary people in the courtroom, we will be at ease for just a minute.

We might want to take a break before we go into jury selection, ladies and gentlemen of the jury, but we are going to take just a moment to get everybody a chance to get organized.

MS. LESKANIC: Thank you, Your Honor.

(Off the record)

(Back on the record)

THE COURT: You have heard the State call the matter of the State of South Carolina versus Joey Clark.

What I'm going to tell you now is a restatement from the indictment, which I hold in my hand. The indictment is not evidence of anything. It is simply the allegations or the charges made by the State of South

Carolina, but you cannot consider what is in the indictment as evidence of anything. You will decide this case based on the evidence you hear in this courtroom from the witness stand and from any exhibits that are introduced into evidence.

But the State does allege that Joey Clark did, in Cherokee County, on or about December 2, 2010, feloniously, willfully and with malice aforethought kill one Winter Delane Wingard by causing blunt force injury to her head and/or sharp and blunt force injury to her neck and that she died as a result of that and the charge is one of murder.

To this indictment and to this charge the defendant, Mr. Joey Clark, has pled not guilty and is entitled to a jury trial.

The defendant, Mr. Clark, is represented by Mr. Harbin. Mr. Harbin, would you stand and introduce yourself to the jury, and have your client stand and face the jury for us, please?

MR. HARBIN: My name is Chase Harbin and I represent Mr. Clark.

Sitting beside me is going to be Christine Lewis. She is my paralegal. She's taking notes and kind of hanging around court.

THE COURT: Thank you. You may be seated.

You will recall that I told you that the

57

prosecutors in this state are called solicitors or assistant solicitors. There are two assistant solicitors who will be involved in the prosecution of this case.

Ms. Leskanic, would you stand and introduce yourself and your assistant to the jury panel, please?

MS. LESKANIC: Yes, Your Honor. Thank you. If it please the court?

My name is Kim Leskanic and I'm one of the assistant solicitors here in Cherokee County. I also prosecute cases in Spartanburg County.

MS. JORDAN: My name is Jennifer Jordan. I'm also an assistant solicitor and I prosecute cases in Spartanburg and Cherokee County also.

THE COURT: Thank you.

All right. Before we select a jury I need to ask a number of questions to determine whether you are qualified to serve as a juror in this case. Please give your attention to these questions and if any of them apply to you, then respond accordingly.

Is any member of the jury panel related by blood or connected by marriage to the defendant Joey Lynn Clark? If so, please stand.

(No response).

THE COURT: Thank you.

The following individuals may appear as witnesses

in this case, and the witness list is quite extensive, so I'm going to go over this witness list with you.

If the witnesses are present in court, I would ask that they stand when their name is called. You may be seated after your name is called. You don't need to continue to stand, but if the witnesses are present, I would ask that you stand so that the jurors may see who you are.

Joyce Beverly Patrick.

Anna Mooney.

Thank you.

A representative from Verizon.

A representative -- or Robert Brackett from 911 Communications. Mr. Brackett.

A representative from Upstate Carolina Medical Center.

Lindsey McGraw from the Spartanburg County Sheriff's Office.

And I'm going to need some help with this name. It looks like Aaceshon J. Briggs, but it would be spelled A-A-C-E-S-H-O-N J. Briggs.

James Wilkerson.

Clarence Taylor.

CSI Jimmy Henson of the Cherokee County Sheriff's Office.

CSI Billy Anthony of the Cherokee County Sheriff's

59

Office.

Deputy Chris Blake with the Cherokee County Sheriff's Office.

Detective Richard Burgess of the Cherokee County Sheriff's Office.

Michael Stillwell.

Ridge Crosby.

Michael B. Covington.

John R. Austin.

Bryant Phillips.

Dr. Janice E. Ross, a forensic pathologist from Newberry.

Dennis Fowler.

Verona Gibson.

Melissa Skipper Wallace from SLED.

Michael Moskal from SLED.

Catherine Leisy, L-E-I-S-Y, from SLED.

Captain Tim Clark of the Cherokee County Sheriff's Department.

Detective Tracy Fowler of the Cherokee County Sheriff's Department.

Agent Harvey Owens from SLED.

Investigator Richard Duckett from the Cherokee County Sheriff's Department.

Agent Darrell Betsill, B-E-T-S-I-L-L, of SLED.

Deputy Mark Vanderburg of the Blacksburg City Police Department.

Nathan Hollis.

Lauren Mitchell.

Jeff Shipley.

Thomas Talbert.

Ashley Bell from SLED.

A possible representative from the Cherokee County Detention Center.

And possible representatives from T-Mobile, Alltel, and AT&T.

Dr. Daniel Demers, D-E-M-E-R-S.

Chris Robinson.

Is any member of the jury panel related by blood or connected by marriage to any of these proposed witnesses? If so, please stand.

All right. Yes, ma'am, give me your name, please.

JUROR NUMBER 5: Delicia Baxter.

THE COURT: Do you remember your number?

JUROR NUMBER 5: 5.

THE COURT: 5?

JUROR NUMBER 5: Yes, sir.

THE COURT: All right. Ms. Baxter, what's your situation?

JUROR NUMBER 5: Bryant Phillips, one of the

witnesses, is my cousin.

THE COURT: Okay. All right. Mr. Phillips is listed as a witness on the witness list.

He's a first cousin, or further down the line?

JUROR NUMBER 5: First cousin.

THE COURT: First cousin. Okay.

Would this fact prevent you from giving to the State and the defendant a fair and impartial trial in this matter?

JUROR NUMBER 5: I don't think so.

THE COURT: Ma'am?

JUROR NUMBER 5: I don't feel that I should be on this trial because I do know one of the witnesses and I wouldn't want to be biased either way.

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

You have met the assistant solicitors in this matter.

Is there any member of the jury panel represented now or been represented in the last ten years by either of the assistant solicitors in this case or by any member of the Seventh Circuit Solicitor's Office here in Cherokee County or in Spartanburg County? Represented now or been represented by either of the two solicitors in this case or any member of the Seventh Circuit Solicitor's Office in the last ten years? If so, please stand.

(No response).

THE COURT: You have met the defense lawyer Mr. Harbin.

Is there any member of the jury panel represented now or been represented in the last ten years by the defense lawyer in this case? If so, please stand.

(No response).

THE COURT: All right. Thank you.

Is any member of the jury panel close personal friends of any of the parties, their lawyers, or any of the witnesses whom I have read off to you? If so, please stand.

(No response).

THE COURT: I asked the question with regard to being represented by the -- or prosecuted by the --

Well, let me ask you this question. Is there any member of the jury panel or a member of your immediate family, and I define immediate family as spouse, parent, brother, sister, or child.

Is any member of the jury panel or a member of your immediate family currently being prosecuted by the Cherokee County or Spartanburg County solicitor's office? If so, please stand.

(No response).

THE COURT: Does any member of the jury panel currently have charges pending against them, have they been

arrested, that is, by -- a member of the jury panel or a member of your immediate family by the Cherokee County Sheriff's Office and have those charges pending? Is there anybody that falls into that category?

All right, come up, please, ma'am.

(Whereupon, the following was an on-the-record discussion out of the hearing of the jury panel).

(Juror Number 126 approached the bench)

THE COURT: Give me your name again.

JUROR NUMBER 126: Anna Williams.

THE COURT: Ms. Williams?

JUROR NUMBER 126: I'm not sure if it pertains, but my brother is being held in the Cherokee County detention center for -- Todd Melton, Jeffrey Todd Melton for -- I'm not sure what -- breaking and entering or --

THE COURT: Okay.

JUROR NUMBER 126: -- some sort of serious charge.

THE COURT: He's under current charges and currently being held in the detention center?

JUROR NUMBER 126: Uh-huh.

THE COURT: All right. That's the kind of information we want. Thank you for coming forward.

JUROR NUMBER 126: You are welcome.

THE COURT: Wait just a minute.

Would that prevent you from giving to both the

State and the defendant a fair and impartial trial based on the evidence in this case?

JUROR NUMBER 126: No, sir.

THE COURT: Would you be able to put that aside and decide this case based upon what you hear in the courtroom?

JUROR NUMBER 126: Yes, sir.

THE COURT: And would you do that?

JUROR NUMBER 126: Yes, sir.

THE COURT: Okay. Thank you.

(Juror Number 126 returned to the jury venire panel)

(Whereupon, the on-the-record bench conference was concluded)

THE COURT: Is anyone on the jury panel a member of any organization that does not recognize the government of the United States or of the State of South Carolina? If so, please stand.

(No response).

THE COURT: Now, ladies and gentlemen, there are, as you know, a number of witnesses in this case with varied and different professional, ethnic, race, religious and gender backgrounds and not all of these witnesses will be presented, but some of them will be. Is there any juror who would give more credibility to a witness of a particular

professional, ethnic, race, religious, or gender than they would any other witness and would be unable to weigh that witness' testimony fairly and objectively? If so, please stand.

(No response).

THE COURT: Thank you.

Has any member of the jury panel or a member of your immediate family, as I have defined that term, that is, parents, spouse, brother, sister, or child, a member of the jury panel or a member of your immediate family been a victim of a violent crime? If so, please stand.

THE COURT: All right. Yes, ma'am.

Wait just a minute. Do you want to come on up?

JUROR NUMBER 62: Yes, sir.

THE COURT: All right, come on up.

(Whereupon, the following were on-the-record bench conferences out of the hearing of the jury panel).

(Juror Number 62 approached the bench)

THE COURT: First of all, let get your name.

JUROR NUMBER 62: Cynthia Howard, number 62.

THE COURT: Okay. All right, what's your situation?

JUROR NUMBER 62: An older sibling in an electric wheelchair was beaten severely.

THE COURT: Wait just a second. He's got to be

able to hear you.

JUROR NUMBER 62: A physical attack on my older sibling, who was in a wheelchair. Two months later said nephew attacked my oldest brother. He actually committed suicide. It was very violent.

THE COURT: Okay. How long ago was that?

JUROR NUMBER 62: Two weeks.

THE COURT: Okay. Is that here in Cherokee County?

JUROR NUMBER 62: Yes.

THE COURT: Okay. All right. Would that prevent you from -- would you be able to put that aside and decide this case based on the evidence that you hear in this courtroom?

JUROR NUMBER 62: I could try, but I cannot guarantee because I'm a little sensitive. I would be honest, I am a psychology major.

THE COURT: That's what I would need to know.

JUROR NUMBER 62: Yes, sir.

THE COURT: Thank you for coming forward.

JUROR NUMBER 62: Yes, sir.

(Juror Number 62 returned to the jury venire panel)

THE COURT: I'm going to excuse her.

(Whereupon, the on-the-record bench conferences

were concluded)

THE COURT: Does any member of the jury panel know anything about the facts of this case as I have briefly recited them to you? If so, please stand.

(No response)

THE COURT: Has any member of the jury panel formed or expressed an opinion as to the guilt or innocence of the defendant Joey Clark? If so, please stand.

(No response)

THE COURT: Is any member of the jury panel aware of any interest, any bias, or any prejudice for or against the defendant Joey Clark? If so, please stand.

(No response)

THE COURT: Thank you.

Can each member of the jury panel -- other than what has already been disclosed to me now, can each member of the jury panel give to the State and the defendant, Joey Clark, a fair and impartial trial? If not, please stand.

(No response)

THE COURT: Other than what has been disclosed to me, does any member of the jury panel know of any reason whatsoever why he or she should not serve as a juror in this case? If so, please stand.

(Whereupon, Juror Number 62 stood).

THE COURT: All right. Yes, ma'am, I understand

your situation. Thank you very much. You have already -- we already had your situation on the record. Thank you.

Is any member of the jury panel close personal friends with a law enforcement officer to the extent that they would not be able to put that aside and decide the case, based on the information that you hear in this courtroom? If so, please stand.

(No response)

THE COURT: And I think I have asked this question, but I'll ask it one more time just to make sure. Does any member of the jury panel know of any reason, other than what has already been disclosed to me, why they cannot give to both the State and the defendant a fair and impartial trial, based on the evidence that you hear in this courtroom? If so, please stand.

(No response).

THE COURT: Are there additional questions on behalf of the State, Madam Solicitor?

MS. LESKANIC: No, Your Honor.

THE COURT: On behalf of the defense?

MR. HARBIN: No, sir.

THE COURT: All right. Come up please, counsel.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: All right, ladies and gentlemen, we

69

are now ready to go forward with the selection process. The names of all of the qualified jurors will be put into the computer and the computer will randomly select the jurors.

When your name is called, please come through the front here, up to the front of the -- right in front of the clerk, turn around with your back toward me and face the back of the courtroom.

If you are acceptable to the State, the State will indicate by saying present the juror.

If you are acceptable to the defense, the defense will indicate accept or seat the juror and you would have a seat in the jury box to my left.

We will go through that process until we have selected twelve jurors.

If either side excuses you, have a seat back out with the remainder of the jury panel.

In addition to that we will draw two alternate jurors.

Madam Clerk, you may give us a jury.

THE CLERK: Juror 108, Ashley Sprouse.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse the juror.

THE CLERK: You have been excused.

Juror 105, Joyce Smarr.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse the juror.

THE CLERK: You have been excused.

Juror 80, Kay McCraw.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse Ms. McCraw.

THE CLERK: You have been excused.

Juror 43, Levern Flowers.

What says the State?

MS. LESKANIC: Please excuse the juror from service in this case.

THE CLERK: You have been excused.

Juror 116, Claudette Thompson.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse Ms. Thompson.

THE CLERK: You have been excused.

Juror 7, Deandria Benton.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Ms. Benton.

THE CLERK: Please take a seat in the jury box.

Juror 22, Lawrence Camp.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please present Mr. Camp.

THE CLERK: Please take a seat in the jury box.

Juror 114, Mark Terwilliger.

What says the State?

MS. LESKANIC: Please excuse the juror from service in this case.

THE CLERK: You have been excused.

Juror 67, Hazel Jolley.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse Ms. Jolley.

THE CLERK: You have been excused.

Juror 55, Billy Helms.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Mr. Helms.

THE CLERK: Please take a seat in the jury box.

Juror 44, Anita Foxx.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MS. HARBIN: Please excuse Ms. Foxx.

THE CLERK: You have been excused.

Juror 123, Mary White.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Ms. White.

THE CLERK: Please take a seat in the jury box.

Juror 122, Constanza White.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Ms. White.

THE CLERK: Please take a seat in the jury box.

Juror 25, Brian Casey.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Mr. Casey.

THE CLERK: Please take a seat in the jury box.

Juror 56, Reginald Herndon.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Mr. Herndon.

THE CLERK: Please take a seat in the jury box.

Juror 128, Robert Wolfe.

What says the State?

MS. LESKANIC: Please excuse the juror from service in this case.

THE CLERK: You have been excused.

Juror 16, Charles Bright.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse Mr. Bright.

THE CLERK: You have been excused.

Juror 103, Anita Simmerson.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Ms. Simmerson.

THE CLERK: Please take a seat in the jury box.

Juror 19, James Byers.

What says the State?

MS. LESKANIC: Please excuse the juror from service in this case.

THE CLERK: You have been excused.

Juror 42, Terry Falls.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Mr. Falls.

THE CLERK: Please take a seat in the jury box.

Juror 29, Sharon Crosby.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please present Ms. Crosby.

THE CLERK: Please take a seat in the jury box.

Juror 40, Terry Endicott.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Mr. Endicott.

THE CLERK: Please take a seat in the jury box.

Juror 35, Thomas Dover.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse Mr. Dover.

THE CLERK: You have been excused.

Juror 61, Tammy Horne.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse Ms. Horne.

THE CLERK: You have been excused.

Juror 112, Gloria Tate.

What says the State?

MS. LESKANIC: Please excuse the juror from service in this case.

THE CLERK: You have been excused.

Juror 124, Brad Wilkins.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Mr. Wilkins.

THE CLERK: Please take a seat in the jury box.

THE COURT: All right, counsel, first alternate.

THE CLERK: Juror 38, Walter Edwards.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Mr. Edwards.

THE CLERK: Please take a seat in the jury box.

THE COURT: All right, second alternate.

THE CLERK: Juror 115, Wendy Tessnair.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please excuse Ms. Tessnair.

THE CLERK: You have been excused.

Juror 84, Christopher Mullinax.

What says the State?

MS. LESKANIC: Please excuse the juror from service in this case.

THE CLERK: You have been excused.

Juror 72, Lamar Ledford.

What says the State?

MS. LESKANIC: Please present the juror.

THE CLERK: What says the defense?

MR. HARBIN: Please seat Mr. Ledford.

THE CLERK: Please take a seat in the jury box.

THE COURT: All right. Thank you.

Anything with regard to the selection of the jury on behalf of the State, Ms. Leskanic?

MS. LESKANIC: Nothing, Your Honor.

THE COURT: On behalf of the defense?

MR. HARBIN: No, sir.

THE COURT: All right. Ladies and gentlemen selected in the trial of this case, I am going to ask you to go to your jury room for just a few minutes. We have some preliminary matters that we need to take care of before we can go forward.

As we told you in the video, and also in some of my opening remarks, I will tell you now that it would be improper for you to discuss this case while you are there in the jury room. You can talk about anything you want to talk about - weather, sports, children, grandchildren, anything at all - but don't talk about this case. In fact, this admonition will apply throughout the trial of this case until you have reached a verdict and been excused, or until I tell you it's appropriate for you to begin discussion of this matter. But, if you would, just go to your jury room for a few minutes and relax while we do some administrative matters that we need to do before we get started and we will be ready to start very shortly. But if you will go with the bailiff to your jury room.

Oh, one other thing before you go -- just a couple of things. Later on in this case I will allow the twelve members of the principle jury to select a foreperson in the jury. That foreperson should always sit in the first seat here on the front row. The alternate should always sit in

the seats where they are seated. The rest of the seats in the jury box are not reserved and it does not matter what order you come and go from the courtroom, reserving the first seat on the front row for -- I mean on the front row of the box for the foreperson, when that foreperson is selected, but I'm not going to have you to select a foreperson right now. So the members of the principle jury can sit anywhere in the jury box when you return. And it does not matter what order that you come and go from the courtroom. I would simply ask that you go all the way down so it wouldn't be a situation of crawling over one another, but you can sit anywhere in the jury box.

The alternates should always be seated out here, and either one of the seats out here would be where the alternates would always be seated.

So with those admonitions then I'll ask you to go to your jury room. We will send you very shortly. Thank you.

(The following takes place outside the presence of the jury panel)

THE COURT: Madam Solicitor, let me talk to you a minute about scheduling.

(Off the record)

(Back on the record)

THE COURT: All right. Ladies and gentlemen not

selected in the trial of this case, I am going to excuse you for the rest of the day and allow you to go about your business for the rest of the day. Each of you should have received a jury pamphlet that looks like this when you came in. On the front of that jury pamphlet there is a number that is a telephone number, jury information call-in number. Please call that number after six o'clock tonight. It is an answering machine, very much like the one that you have at home, and will have your reporting instructions for tomorrow. If this case is still going and we are not going to need you for tomorrow, that will be the instruction that we won't need you tomorrow. We may have you call Wednesday night, but it's often very difficult for us to estimate exactly how long a matter is going to take, and the call-in system is a system that all of the courthouse have gone to that prevents us from having to run the jurors back and forth to the courthouse more than is absolutely necessary. So if you would call that number after six o'clock tonight. You can call at anytime all night long. It's just an answering machine, like the one that you got at home, and your reporting instructions for tomorrow will be on that answering machine. With that I will excuse you for the rest of the day and I may or may not see you tomorrow. Have a pleasant day.

(Whereupon, the jury venire panel left the

courtroom)

THE COURT: All right, Ms. Leskanic, are there any pretrial matters that we need to address at this time, on behalf of the State?

MS. LESKANIC: I would like to put a few things on the record, Your Honor, from yesterday --

THE COURT: All right.

MS. LESKANIC: -- if I may.

When we were in court yesterday we were dealing with the third-party guilt motion, as well as the issue with the defendant being in jail beginning on December 3rd of 2010. The court advised that we may want to look into doing a written stipulation. After discussing that over the break yesterday, we met in chambers and discussed with Your Honor that the State was fearful that giving a written stipulation on third-party guilt to the jury would, in fact, raise that issue to the jury, so we have elected not to do a written stipulation on third-party guilt.

We still maintain our motion that the defense cannot point the finger at a particular third party. Mr. Harbin has assured us that that is not his intent during the presentation of his case, so we are going to maintain our motion, but not put a written stipulation into the record.

THE COURT: All right. Mr. Harbin, I understand your position is that it is not your intention to raise the

issue of third-party guilt, but do intend to cross-examine the witnesses regarding the extent of or correctness of the investigation?

MR. HARBIN: Yes, sir.

THE COURT: But that you are not raising that for the purposes of creating third-party guilt, is that correct?

MR. HARBIN: That is absolutely correct.

THE COURT: Thank you, sir.

MS. LESKANIC: The second matter, Your Honor, was the fact that we wanted to discuss the defendant was in jail beginning December 3rd, although he was not served with the murder warrant in this case until December 6th, while he was still incarcerated at the Cherokee County detention center.

In speaking with Mr. Harbin, I believe he wants to possibly elaborate on this even further through questioning, so it's my understanding that he does not object to the State asking that question. We just didn't want to appear we were trying to prejudice him by saying that he was arrested on unrelated traffic offenses and that he was in jail beginning December 3rd and was not released from jail prior to being served with the murder warrant on December the 6th.

It's my understanding we were not going to do a written stipulation on that as well, because it would not encompass all of the information that Mr. Harbin wanted to

extract from witnesses.

THE COURT: Is it your position, Mr. Harbin, then that you do not object to the statement introducing evidence that the defendant was incarcerated for a three day period on unrelated traffic offenses? You don't have any objection to that?

MR. HARBIN: That's correct, we do not have any objection.

THE COURT: Thank you.

MS. LESKANIC: Additionally, Your Honor, the State has prepared, and I have provided the defense, the court reporter, the clerk's office, and Your Honor with a potential exhibit list --

THE COURT: Yes.

MS. LESKANIC: -- or evidence list from the State. There are a total of 144 exhibits. We have --

THE COURT: I had it earlier on. Just a minute.

(Off the record)

(Back on the record)

THE COURT: All right, I have it.

MS. LESKANIC: We have premarked those exhibits. I believe Mr. Harbin has had an opportunity to review those and does not object to the admission of those exhibits.

I will state to the court that No. 137 and 138 are actually one exhibit, so we are deleting number 138. So it

will go from 137 to 139, because 137 will encompass both of the fibers from the top strand of the barbed wire.

Additionally, we may have a few other exhibits, once we receive the evidence from the coroner, items that were taken from the sexual assault kit. We have also talked to Mr. Harbin about that. We have Dennis Fowler, the coroner, present, so we will get those marked as soon as we can, but just so the court knows, we have all these exhibits premarked. The defense has had an opportunity to review them and I don't believe there are any objections to the proposed exhibits, but I'll let Mr. Harbin address that further.

THE COURT: All right. How about that, Mr. Harbin? With regard to the list of exhibits that have been marked 1 through 144, with the exception of 138, do you have any objection to any of those?

MR. HARBIN: We do not, judge.

THE COURT: All right. Then State's Exhibits 1 through 137 and 139 through 144 are admitted into evidence without objection and it will not be necessary that they be further authenticated.

(Whereupon, State's Exhibit No. 1 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 2 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 3 was entered into the record as evidence).

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(Whereupon, State's Exhibit No. 15 was entered

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into the record as evidence).

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into the record as evidence).

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(Whereupon, State's Exhibit No. 137 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 139 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 140 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 141 was entered

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into the record as evidence).

(Whereupon, State's Exhibit No. 142 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 143 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 144 was entered into the record as evidence).

MS. LESKANIC: Thank you, Your Honor.

Finally, we are preparing a stipulation with regard to the telephone numbers. We have text messages that we are putting in and those text messages we have written out the name of the person that is sending the message and who is receiving the message, but we also have some phone records that we are putting in. The phone records only have the telephone number, so we have agreed with Mr. Harbin to present a written stipulation to the jury that will set forth what telephone number goes with which person in this case. There's just a number for Beverly Patrick, a number for Winter Wingard, a number for Anna Mooney, and a number for Joey Clark.

THE COURT: Any comment on that at this time?

MR. HARBIN: None, Your Honor. I think that will be very helpful to the jury. We have no objection.

THE COURT: Whenever they get these stipulations prepared, that will be admitted as well.

MS. LESKANIC: Thank you, Your Honor.

THE COURT: Anything else?

MS. LESKANIC: I believe that's all from the State, Your Honor.

THE COURT: All right.

Yes, sir.

MR. HARBIN: I don't think we have anything further either, judge.

THE COURT: All right. All right, from the standpoint of scheduling, counsel, I would propose we take a brief recess. We have been in the courtroom a couple of hours before we actually get started and then we make opening statements.

Is there a particular witness that you want to get before lunch, or would you like to stop after opening statements and begin testimony after lunch? What are your preferences, Ms. Leskanic?

MS. LESKANIC: Your Honor, our first witness is going to be the victim's mother, so that may take a little bit of time to develop, so I don't mind if we do that before or after lunch. She's going to be here throughout the entire trial, but it may be somewhat of a long --

THE COURT: Why don't we come in, I'll make my opening remarks to the jury and we will do opening statements and then we will recess for lunch and begin with

97

the testimony the first thing after lunch?

MS. LESKANIC: That would be fine, Your Honor.

THE COURT: Agreeable?

MR. HARBIN: Yes, sir.

THE COURT: All right. Let's take ten minutes, counsel, and we will be ready to go.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

(Stipulation marked as Court's Exhibit No. 1 for identification).

(Three DNA Slides Performed on Winter Wingard marked as State's Exhibit No. 138 for identification)

THE COURT: We are back on the record with regard to the matter of the State versus Joey Clark.

Mr. Clark is present in the courtroom with his counsel.

The State is present and represented by the Seventh Circuit Solicitor's Office.

Ms. Leskanic, anything before we bring the jury and have the jury sworn?

MS. LESKANIC: Yes, Your Honor, two matters.

First of all, before the break we discussed the stipulation for the phone numbers for four particular people; Anna Mooney, Winter Wingard, Joey Clark, and Beverly Patrick. We have prepared a written stipulation and marked

it as Court's Exhibit 1. It has been signed by myself, Ms. Jordan, Mr. Harbin, and Mr. Clark. I will present that to the court.

THE COURT: All right. At what stage do you want me to present this to the jury, or do you just want to wait until you get in the trial and say you are ready to publish it?

MS. LESKANIC: If that would be okay, Your Honor, we will see where we think it fits best with the records.

THE COURT: All right. The court will receive -- this is Court's Exhibit No. 1, stipulation number one. That is the phone numbers for four individuals and the service provider, signed by the assistant solicitors and the defendant and the defense attorney in this matter, and at the appropriate time the stipulation will be published to the jury.

MS. LESKANIC: Thank you, Your Honor.

Finally, Mr. Harbin filed a motion yesterday requesting any confidential informant file that may exists with regard to Bryant Phillips, Michael Stillwell, Michael Covington, John Austin, and Ridge Crosby. The investigator with our office, Greg Phillips, checked with both the Gaffney City Police Department and the Cherokee County Sheriff's Department. None of these individuals have ever worked as confidential informants for either of those

agencies.

THE COURT: All right. Mr. Harbin, that seems to resolve the Rule Five request.

Is there anything further that you would like to put on that?

MR. HARBIN: No, sir.

THE COURT: All right. Fine. Thank you.

MS. LESKANIC: Thank you, Your Honor.

THE COURT: All right. Anything from the defense, Mr. Harbin, before we bring the jury in?

Oh, you got something else?

MS. LESKANIC: One more matter, Your Honor.

THE COURT: Okay.

MS. LESKANIC: I'm sorry, we have added to the exhibit list. Where we deleted No. 138 --

THE COURT: All right.

MS. LESKANIC: -- we have now added 138 and it will be three DNA slides from the sexual assault kit performed on Winter Wingard.

THE COURT: All right. Is that then agreed to be admitted without objection, Mr. Harbin?

MR. HARBIN: Yes, sir.

THE COURT: All right.

All right. So Exhibit 138 will now become the exhibit identified by the State as admitted without

objection, so that the exhibits on the exhibit list 1 through 144 are all admitted without objection and we can go forward without further authentication.

(Whereupon, State's Exhibit No. 138 was entered into the record as evidence)

THE COURT: All right, Mr. Harbin, anything before we bring the jury in?

MR. HARBIN: No, sir.

THE COURT: All right.

All right. Mr. Bailiff, if you will bring the jury in for me, please.

(The following takes place in the presence of the jury panel).

THE COURT: All right. Thank you, ladies and gentlemen. We are now ready to proceed and we have taken care of the preliminary matters that we needed to do.

At this time, Madam Clerk, you may swear the jury.

THE CLERK: Ladies and gentlemen of the jury, please stand and raise your right hand.

Do you solemnly swear that you will truly try the issues joined in this case and a true verdict render according to the law and evidence, so help you God?

JURY PANEL: (Collectively said I do).

THE CLERK: You may be seated.

THE COURT: All right. Before we begin the actual

trial of this case I thought it might helpful if I explained to you basically how a trial proceeds. I know all of you have seen trials on television, but I think that you will find that it is a great deal different in real life.

First of all, the State will make an opening statement. An opening statement is not evidence. It is simply an outline to help you understand what the State expects the evidence will show.

The defendant may, if he wishes to, present an opening statement, but he doesn't have to for reasons that I will explain later.

Following the opening statements you will hear the testimony and evidence in this case. This will consists of testimony from the State's witnesses, as well as any physical exhibits which will be introduced into evidence. And, in fact, I have already admitted a number of physical exhibits. And I will tell you now that it may be during the course of this trial the party offering the exhibit may ask permission to publish the exhibit, that is, to show the exhibit to the jury, and I will likely grant that motion and allow you to view the exhibit while you are sitting there in the jury box. Do not be concerned if you do not have long to look at an exhibit as you would like to while you are sitting there in the jury box and passing it around. Anything that is admitted into evidence will go with you to

the jury room when you retire to reach a verdict in this case and you will have ample opportunity to look at it and study it for as long as you might like.

Following the completion of the testimony the attorneys will again have an opportunity to make what is called a closing statement or summation to you. This is an opportunity for the attorneys to summarize the case from their respective points of view. Again, these arguments are not evidence.

Following the closing statements by the attorneys I will instruct you on the law in South Carolina as it pertains to the issues that have arisen in this case.

When I have completed my instructions to you, you will be permitted to begin your deliberations in order to reach a verdict.

Now, ladies and gentlemen, you are now the jury in this case and I want to take a few minutes to tell you something about your duty as jurors and to give you some preliminary instructions. At the end of this trial I will give you more detailed instructions and those instructions will control your deliberations.

It will be your duty to decide from the evidence what the facts are. You, and you alone, are the judges of the facts. You will hear the evidence, decide what the facts are, and then apply those facts to the law which the

court will give to you. That is how you reach a verdict. In doing so you must follow the law, whether you agree with it or not. The evidence will consist of the testimony of witnesses, documents, and other things received into evidence as exhibits and any facts on which the lawyers agree or which I may instruct you to accept.

You should not take anything that I may say or do during the trial as indicating what I think of the evidence or what your verdict should be. The law does not permit me to have an opinion about the facts.

The same law that makes you the judge of the facts makes me the judge of the law. You must take the law as I give it to you, regardless of what you think the law is or what the law ought to be. If I'm wrong on the law, there is another time and place for that error to be corrected, but in this case you must accept the law as I charge it to you.

This is a criminal case brought by the State of South Carolina. The State charges the defendant, Joey Clark, with the offense known in the law as murder. The charge against the defendant is contained in the indictment which I hold in my hand. The indictment is not evidence of anything. It is simply the description of the charge made by the State against the defendant.

The defendant has pled not guilty to the charge and is presumed innocent, unless and until proven guilty

beyond a reasonable doubt. A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act.

A defendant has the right not to testify and never has to prove innocence or present any evidence. The burden of proof is always on the State of South Carolina.

Now, there are things that are not evidence and you must not consider them as evidence in deciding the facts of this case. Statements and arguments of the attorneys are not evidence. Questions and objections of the attorneys are not evidence, and testimony that I instruct you to disregard is not evidence.

Evidence may be direct or circumstantial.

Direct evidence is testimony by a witness about what that witness personally saw, or heard, or did.

Circumstantial evidence is indirect evidence.

The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any of the evidence.

There are Rules of Evidence which control what could be received in court. When a lawyer asks a question or offers an exhibit into evidence and a lawyer on the other side thinks that it is not permitted by the rules, that lawyer may object.

If I overrule the objection, the question may be

answered or the exhibit may be received.

If I sustain the objection, the question cannot be answered, or the exhibit cannot be received.

Whenever I sustain an objection to a question or deny a motion to admit an exhibit into evidence, you must ignore the question or the existence of the exhibit and you must not guess what the answer would have been or what the exhibit would have shown.

Sometimes it may be necessary for me to request that you leave the courtroom while I discuss with the attorneys legal questions that come up during a trial. If this occurs, you should not speculate about our discussions or the reasons that you were asked to leave the room. This is simply a procedure that the law requires when certain legal issues arise.

There also may be occasions when I ask the attorneys to approach the bench so that I can discuss a legal issue with them in private. I will do this as often as possible so that you will not be required to leave the courtroom more than is absolutely necessary.

Again, if I ask the attorneys to step up to the bench or I ask you to leave the courtroom, please don't think that anybody is trying to hide anything from you or keep any evidence from you. This is simply a procedure used by all lawyers and by all courts to determine and decide

legal questions.

In deciding the facts of this case you may have to decide which witnesses to believe and which witnesses not to believe. This is called credibility. You may believe everything that a witness says, only part of it, or none of it.

In deciding what to believe, you may consider a number of factors, including the witness' ability to see or hear or know the things the witness testified to; the quality of the witness' memory; the witness' manner or demeanor while testifying; whether the witness has an interest in the outcome of the case or any motive, bias, or prejudice; whether the witness was contradicted by anything the witness said or wrote before the trial or by other evidence in the case; and, finally, how reasonable was the witness' testimony, when considered in the light of other evidence which you do believe.

Now, just a few words to you about your conduct as jurors, some of which I have already mentioned, but they are important enough that they bear repeating.

First of all, do not talk to each other about this case until the end of the case when you go to the jury room to decide on your verdict.

Do not talk with anyone else about the case until the trial is ended following your verdict and you have been

discharged by me. This means do not discuss the case with members of your family, or your friends, or with anyone else. You may tell them that you are a juror, but don't tell them anything about the case until you have been discharged by me.

Do not let anyone talk to you about the case. If anyone should try to talk to you, get their name and their description and report it to the bailiffs, law enforcement, they will report it to me and I will deal with them.

Do not read any news stories or articles or listen to any radio or television reports about the case, or any research on the Internet, or any other source. You are not to consult dictionaries or any resources or other means of obtaining any information about this case. You must decide this case based upon what you hear in this courtroom.

And, finally, do not make up your mind about what your verdict should be until you have heard all of the testimony in this case and the arguments of counsel and the instructions on the law by the court. You will be instructed when to begin your deliberations by either me or the bailiff.

Are there any objections to my opening remarks on behalf of the State, Ms. Leskanic?

MS. LESKANIC: No, Your Honor.

THE COURT: Mr. Harbin?

MR. HARBIN: No, sir.

THE COURT: All right.

All right, ladies and gentlemen, the first order of business will be the matter of opening statements, and for that purpose the court will recognize the State.

Madam solicitor.

MS. LESKANIC: May it please the court?

THE COURT: Yes, ma'am.

MS. LESKANIC: Thank you, Your Honor.

Good afternoon, ladies and gentlemen. I'm Kim Leskanic. This is Jennifer Jordan, and together we represent the State of South Carolina.

We here are today because that man in the blue shirt murdered his girlfriend on December 2nd of 2010. It's our job to present to you the evidence that will allow you to come to that same conclusion and that's what we are going to do today.

Back in the very early morning hours of December 2nd, 2010, Winter Wingard, she was twenty-six years old, she was beaten about the head and face. She was strangled. She was put in the passenger's side of her mother's car. We know that from blood found inside the car, and she was taken out to Mikes Creek Road, which is here in Cherokee County. There her body was drug along Mikes Creek Road while she was either dead or taking her last breath. She was pulled up to

109

a barbed wire fence. When the body could not be pulled any further she was stabbed thirteen times in the neck. She was left almost completely nude and left there for a stranger to find.

Just a little bit of history about this case. Joey Clark is the ex-boyfriend. Winter Wingard ended her relationship with him. They lived together with Beverly Patrick. You are going to hear from Beverly. Beverly is Winter's mom and she has to come here to testify to all of you. They lived together for a little less than a year in Cherokee County at two different locations. The last location was [redacted] which is about two miles, or so, from Mikes Creek Road where the body was found. They lived there together, and in November of 2010 Joey Clark was told to move out of the house. And he did, but he kept coming back.

Winter was bisexual. She had a girlfriend by the name of Anna Mooney, a girl that she had met about a month before this. Anna lived in Georgia, and they were communicating and Winter wanted to pursue that relationship. She was done with Joey Clark.

You are going to hear a lot from phone records and text messages in this case. We have text messages that were sent between Joey and the girlfriend Anna, and Winter Wingard and Anna on December 1st and the early morning hours

of December 2nd, leading up to Winter's murder. And in those messages you will see that Joey Clark was doing whatever he could to get Anna Mooney to leave Winter Wingard alone, to the point that he told her that Winter had AIDS. "Don't use her any more, she's got AIDS."

Winter, although she is sick at home, in order to prove that he's lying says "I'll go to the hospital."

Now, at this time Joey is in the house. He's in [redacted] Winter is at [redacted] They are in the house together, and Beverly has gone to bed. She's asleep. This is about two o'clock in the morning. Winter called 911 at 2:03 a.m. and asked for the address and telephone number to the hospital, because she's going to go prove to Anna that he's lying and he is just trying to interfere with their relationship. She never makes it to the hospital. She's sending a text message to Anna Mooney at 2:14 a.m. and it's the word "I". And we have a CI technical phone man from the Spartanburg County Sheriff's Department that broke down the phone messages and can tell you that that "I" was sent, but it was never received on Anna Mooney's phone. It was an interrupted text message. Something happened to that phone at 2:14 a.m. that prevented that message from going through. At 2:14 a.m. that man was the only one awake that was with Winter Wingard.

Her body is found on the side of Mikes Creek Road

later in the afternoon on December the 2nd. Her body is covered in red dirt, the same type of red dirt that is outside her home.

Her mother's vehicle that she was going to get in is found between Mikes Creek Road and where the house sits, close enough for someone to park it and have to return home, because he's got to be at [redacted] in the morning because that's where he was when Beverly Patrick went to bed. It's within walking distance.

You are going to hear from people from the South Carolina Law Enforcement Division, from SLED, and they are going to testify that DNA consistent with Winter's and Joey's was found on the briars and a tree limb where her body was dumped on Mikes Creek Road, a place where there shouldn't be any human DNA.

Fibers found from a pair of his boots, fibers consistent with boots that were found in Winter's closet that belonged to him, were found on the top two strands of barbed wire above her head.

You are going to hear from crime scene investigators. They did a lot of work in this case and they are the ones that cut the briars and cut the tree limb. They also searched the house on [redacted] in order to find out where everything happened, because there are essentially three crimes scenes; the house, the vehicle, and

Mikes Creek Road, where the body was found.

But in the backyard of the house investigators did a grid search of the whole backyard. They find Winter's cellphone in one place, the battery to the cellphone in another place, and the keys to the vehicle. So whoever was driving that vehicle threw the keys in the field as he was walking back to [redacted] Can't come in the house with the keys. And all of those items were found in the backyard of the house.

Winter was finished with her relationship. When they did a sexual assault kit, semen, his semen, is in her mouth.

This is a murder, ladies and gentlemen. This isn't a case where we have self-defense or what's the charge going to be. The charge that you are going to be given is murder, guilty or not guilty. That's it.

When you see the photographs of what Winter Wingard went through on December the 2nd, there is no question it's murder. The question that would be posed for all of you is whether you are firmly convinced that that man did it.

We have a lot of exhibits to present to you. We have a lot of evidence. I ask just for you to pay attention. Use your common sense. Motive, opportunity, where items are found, DNA evidence, I believe it will point

you in the same direction it's pointed us and that is he's guilty of murder. Thank you.

THE COURT: Mr. Harbin, does the defendant care to make an opening statement?

MR. HARBIN: Yes, sir, please.

THE COURT: All right, you may.

MR. HARBIN: May it please the court?

THE COURT: Yes, sir.

MR. HARBIN: I'll apologize. I'm going to refer to my notes because I would rather look a little awkward than forget mentioning something.

I wanted to take a moment at the beginning of this and acknowledge that although we are in the business of conducting a trial today, something awful happened to Winter Wingard, and her friends and her family have suffered a great loss, and we are all, you know, part of the same community and it's okay to acknowledge that loss, and we are.

And along those lines, what happened to her was unforgivable, arguably an evil act. And I can't think of anything worse than being accused of something like that, except being falsely accused of something like that.

I would like to ask you to do me a favor and I would like y'all to take a moment and I want you to think of someone, not like a family member or a close friend, but

someone that you know, maybe in the community or in your church, whatever, someone that you have a great deal of respect for, someone that you admire. I want you to think of a specific person. They can be an old teacher, whatever. And once you have that person in mind, I want you to look over to that table. I want you to imagine them sitting there, where Joey is sitting, charged with a violent crime. I want you to think about how surprised you are, how shocked you are, what kind of doubt is running through your head. I want you to think about what kind or how much evidence would it take to convince you beyond a reasonable doubt, beyond any reasonable doubt, that that person that you have that great amount of respect for is actually guilty.

I say that to make a point that everyone that walks into this courtroom comes into this courtroom with that exact same amount of doubt due to them, even though you don't know Joey. The person that I asked you to imagine, of course, you know of them and you have -- you have this reason to give them that doubt, but the law says everybody gets that exact same amount of doubt. They are just as innocent when they walk in this courtroom. It's important to keep in mind.

The doubt that you have when I suggested this person that you have this great amount of respect for is arrested and perhaps even guilty of a crime that they are

charged with, that's a healthy doubt. That's a healthy skepticism and you are supposed to have that, and I want you to keep that throughout the trial.

I also want you to be able to look at my client, at Joey, right now and understand that under the law you look at him and you say he is innocent. Right now he is innocent, and he is. The law says he is, period, because the State has yet to prove anything, much less beyond a reasonable doubt. It sounds silly to make you confront that so straight on, but if you cannot look at Joey right now and say Joey is an innocent man, then you are not fulfilling your oath right now. You have to get your frame of mind around that fact right now. Factually he is innocent. He is yet to be proven guilty.

The burden of proof is on the State, as the solicitor mentioned. And the fact that he was arrested, the fact that we are in trial, as the judge mentioned, it's not evidence and he is innocent today.

I acknowledge that some of you may be looking at me, Mr. Harbin is crazy, "surely he's not innocent. We are in this trial. This whole thing, all these people are here, all these people are involved," and it's a natural reaction. We are all taught that law enforcement, police, are, you know, good folks doing good jobs, and they are. And thus you kind of default to, "well, surely they know what they

are doing. They are not wasting our time. What are we doing here? What is the real chance this guy is not guilty," right? Well, sometimes they get it wrong. They just do. And sometimes there are cases that simply don't have that much evidence and yet they are still brought to trial because that's what you do. You do what you can. You gather the evidence that you are able to get.

Keep in mind, however, that some of those that are watching the trial, some of your friends that may ask you about the trial, they may have the luxury of saying, "oh, well, the police know what they are doing. You know, I'm sure that he's guilty, don't worry about it." Well, they might have that luxury, but y'all don't, and it is a luxury. Your duty is to proclaim that he is innocent right now, and I'm harping on this because it's important.

I want you to keep in mind that throughout this trial you will hear bits and pieces of evidence. You will hear a lot, or you will see a lot. There is a lot of moving pieces to this, and they will be purported to be proof of my client's guilt. Be skeptical. Every piece of evidence is not proof. There are things that the State would have you oversimplify and assume that their explanation is the only explanation and that their possibility is the only possibility, when, in fact, that is not true. There is many possibilities to explain the existence of certain facts for

certain pieces of evidence, and sometimes they are trying to shoe-horn this into their theory.

Joey does not have to prove his innocence. I said this time and time again, and this makes sense. After all, it's difficult to prove a negative. If something happens during the sleeping hours of night or when you are alone, how are you to prove that you did not do something? And that makes sense why we call upon the State to be responsible for proving his guilt beyond a reasonable doubt.

Folks, this is not going to be about fancy lawyering. It is not going to be about loopholes and technicalities. It's just going to be about evidence that exists, or it doesn't exist. You don't have to find that a mistake, or a purposeful act, or a purposeful omission on the part of law enforcement, you don't have to find something like that to acquit Joey. Like I said, sometimes they simply get it wrong. Sometimes there is just not that much evidence. And it's your job to tell them if that's so, "there is just not enough evidence. We are not going to take someone's freedom if you don't prove it to us beyond all reasonable doubt."

I would humbly ask you to allow all of the evidence to come in before you make up your mind. Your natural instinct would be to seek justice for Winter, because she is the victim here, and that's a good thing. We

all need to feel that we are a part of the community doing what's right, but justice is not served by simply getting a conviction. Justice is served by convicting the right person. Joey Clark is not the right person. Thank you.

THE COURT: All right.

Thank you, ladies and gentlemen. It is 12:30, and after having conferred with counsel earlier, before we actually get into the testimony, if we do go into the testimony at this time, we will be running into the lunch hour, so I think it's appropriate that we break for lunch at this time and start back a little bit early, so that's what we are going to do.

Does an hour give everyone enough time to get lunch? If so, I would like to. If you need a little more time, I can do that, but let's shoot for 1:30 if you would be back in the jury room. That's an hour from now. Get your lunch and be back in the jury room, please, at 1:30, and we will be ready to go forward with the testimony in this case.

Again, do not discuss the case with anyone over the lunch hour and do not allow anyone to talk to you about the case and have a pleasant lunch and be back in the jury room, please, at 1:30. Thank y'all. We'll see you at that time.

(The following takes place outside the presence of

the jury panel)

THE COURT: We'll give the jury just a minute to get to their cars before we adjourn and we will adjourn for lunch.

(Off the record)

(Back on the record)

THE COURT: Just for the record, there would be no question, but Mr. Harbin, I believe your client is incarcerated, so there is no question of revoking his bond or anything of that nature, is that right?

MR. HARBIN: Correct, yes.

THE COURT: All right.

All right, counsel, we will be in recess until 1:30. Thank you.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

(Stipulation marked as Court's Exhibit No. 2 for identification)

THE COURT: We are back on the record with regard to the matter of the State of South Carolina versus Joey Clark.

Mr. Clark is present with his counsel.

The State is present and represented by the Seventh Circuit Solicitors Office.

One matter that came up over the lunch recess

concerned a juror, and I'm looking to get her number. Excuse me for just a minute.

THE CLERK: 29.

THE COURT: Juror number 29, Sharon Crosby.

When we broke for lunch we were waiting on the steps outside and during the course of her wait she spoke with someone. We are not even sure who it was, but somebody that had been in the courtroom. I'm not sure whether it is affiliated with the State's case or the defense case, and there was some concern, but she did speak to those individuals or that person. I brought this juror into my chambers and I asked her about it and she advised me the only thing she said was wanted to borrow their phone so that she could call her grandfather to come pick her up. She did not have a ride. Nothing was discussed about the case and she didn't even know exactly who the people were or that they were even affiliated with the case.

I don't see any problem or any -- I don't think any further action is necessary, but I wanted to put it on the record that this had been brought to the attention of the court.

Any objection to the way it was handled or any motions in connection with the matter, on behalf of the State?

MS. LESKANIC: No, Your Honor.

121

THE COURT: On behalf of the defense?

MR. HARBIN: No, sir.

THE COURT: All right. All right. We have resolved that matter.

All right, Madam Solicitor, I believe you have got another stipulation at some time in the future that would need to be published?

MS. LESKANIC: Yes, sir, we have marked it as Court's Exhibit 2. It's listed as stipulation number two. This references State's Exhibit 22, 23 and 24. Those three exhibits are text message records and phone records. They do not have the actual wording in them, but it has times and telephone numbers. So in order to help the jury understand that, we are just listing State's Exhibit 22 contains Winter Wingard's Alltel cellphone records for telephone calls; State's Exhibit 23 is Joey Clark's AT&T cellphone records for telephone calls; and State's Exhibit 24 contains Joey Clark's AT&T text messages from that phone as well, Your Honor, just again to facilitate the jury in understanding the information we will provide to them.

THE COURT: Do you have Court's Exhibit 1, or do I have it?

COURT REPORTER: I believe you have it, Your Honor.

THE COURT: I have Court's Exhibit 1 and 2. You

don't want to publish them at this time, do you, Madam Solicitor?

MS. LESKANIC: No, sir.

THE COURT: Just advise me when you wish to have them published.

MS. LESKANIC: The only other issue that I had, our first witness is the mother of the victim. We are going to have her identify some items that were actually recovered by the crime scene investigators. Those items are sealed in a box. I know that they have already been admitted into evidence by stipulation, but I don't want there to be any question in the jury's mind about contamination, if we just bring this stuff in and isn't properly sealed, that type of thing.

I have asked Mr. Harbin. He didn't have any objection, but what I would like is when I'm questioning Ms. Patrick and I need to put in one of those exhibits, to have one of the crime scene investigators just open that box. They are not going to state anything. I'm not going to ask them any questions. I just don't want there to be something in the jurors minds about some sort of contamination, that all these items are just thrown together on the table.

THE COURT: All right. That would be fine.

MS. LESKANIC: Thank you, Your Honor.

THE COURT: Okay. All right. Anything before we

bring the jury in, from the State?

MS. LESKANIC: Nothing further.

MR. HARBIN: Nothing from the defense, Your Honor.

THE COURT: All right. Bring the jury in, please.

(The following takes place in the presence of the jury panel)

THE COURT: All right. Thank you, ladies and gentlemen, and thank you for your promptness in getting back here. I apologize for keeping you waiting a few minutes, but there were a couple new matters that we had to deal with before I could bring you back into the courtroom, but we are now ready to go forward and the State is prepared to present their case.

You may call your first witness.

MS. LESKANIC: Thank you, Your Honor.

May it please the court, the State calls Beverly Patrick.

BEVERLY PATRICK, having been first duly sworn, testified as follows:

MS. LESKANIC: May it please the court?

THE COURT: Yes, ma'am.

MS. LESKANIC: Thank you, Your Honor.

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Will you begin by telling the jury your name?

A. Beverly Patrick.

Q. And Winter Wingard is the victim in this case. Who is is Winter?

A. My daughter.

Q. How old was Winter when she was killed?

A. She had just turned twenty-six.

Q. What was her birthday?

A. [redacted]-91 was when she was born.

Q. Were you living --

A. That was wrong. I'm sorry.

Q. That's okay. Go ahead.

A. Her birth date. [redacted] is when she was born.

Q. Okay. I'm sorry, take your time.

Were you and Winter living together in December of 2010?

A. Yes, ma'am.

Q. Okay. Had y'all lived together before that time?

A. Yes, ma'am.

Q. Okay. For how long?

A. She has been living on an off with me all of her life.

Q. Okay.

A. But she's been up here in the Carolinas with me for probably about the last eight or nine years.

Q. Where are you and Winter originally from?

A. Pensacola, Florida.

Q. What brought y'all to South Carolina?

A. My job. I work construction.
Q. Okay. Where did you work?
A. I worked at Cliffside for Shaw Group and -- well, Cliffside, North Carolina.
Q. Okay. How long did you work with Shaw?
A. Four and a half years on that site.
Q. Did Winter work there as well?
A. She had worked there. She was maybe there almost a year, if I'm right, about a year.
Q. All right. December 2nd, 2010, where were you and Winter living?
A. Songbird. In the doublewide off of Songbird.
Q. [redacted] is that here in Cherokee County?
A. Yes, ma'am.
Q. Was there anyone else that was living with you in that home when you first moved in?
Who was living at [redacted] when you first moved into that residence?
A. Nobody. We rented it and the three of us moved in.
Q. Okay. Who were the three of you?
A. Myself, Winter, and Joe Clark.
Q. Now, Joey Clark, do you see him in the courtroom?
A. I do.
Q. And what is he wearing?
A. A blue shirt.

Q. Okay. Is he seated at the defense table?
A. Yes, ma'am.
Q. Okay.
MS. LESKANIC: I would like the record to reflect that she's identified the defendant.
THE COURT: The record will so reflect.
MS. LESKANIC: Thank you, Your Honor.
BY MS. LESKANIC:
Q. So when you -- you were renting a doublewide mobile home on [redacted] here in Cherokee County?
A. Yes, ma'am.
Q. Okay. Whose name was that rental agreement in?
A. Mine.
Q. And Winter moved in with you.
Why did the defendant, Joe Clark, move in with you -- which --
A. He was living with us in the apartments when we moved to the doublewide.
Q. Okay. All right. So let's back up a little bit so that the jury understands.
How did you meet Joe Clark?
A. Winter met him. And then when they -- you know, she brought him over to the house, had invited him over and that's when I first met him.
Q. And that's when you were living in the apartments also

in Cherokee County?
A. Correct.
Q. Okay. And did he end up moving into that apartment with you and Winter?
A. Uh-huh. Yes, he did.
Q. And then there was a point in time when you decided to leave the apartment and you found a place at [redacted]
A. Correct.
Q. Were he, the defendant, and Winter involved in a romantic relationship at that time?
A. In the beginning, yes, ma'am.
Q. Okay. When -- how long did you live at [redacted] Before December the 2nd, how long had y'all lived there when this happened?
A. I don't know. About seven months, maybe.
Q. Was it less than a year?
A. Yes. Yes.
Q. Okay. Less than a year the three of you lived on [redacted]
A. Uh-huh.
Q. During that time did Winter and the defendant break up?
A. Yes.
Q. Do you remember when that was, or did it happen more than one time?
A. A couple times, but the last time it was, I guess,

before her birthday she had told him to leave. She was done.

Q. Okay. So that would have been in October?

A. Late October, somewhere around in there.

Q. Okay. Did you also tell him to move out of the house?

A. Yes, I did.

Q. Did he move?

A. He took some things and then he was gone about a week. He come back and said that he had nowhere to go, so she let him stay in the guest bedroom, but he wouldn't stay in there, so she slept with me half the time --

Q. Okay.

A. -- because he wouldn't leave her alone.

Q. All right. And tell us about that. After she had broken up with him somewhere in October --

A. Yes.

Q. -- he said that he had no place else to go and he wanted to come back to the house. Do y'all invite him back? I mean, do you call him and ask him to come back to the house?

A. No.

Q. Does Winter call him and ask him to --

A. No.

Q. -- come back to the home?

A. His excuse for -- when I came in from work one day I

asked him what he was doing there and he said, "well, Winter was sick and I figured she could use some medicine and stuff." He said he went to Wal-Mart for her and got her some medicine.

Q. Okay. After she broke up with him and he started still coming back to the home --

A. And I had --

Q. -- what was their relationship like at that point? What did you see between the two of them?

A. Distant. There was no romance involved whatsoever. It was hardly even a friendship. He just -- I don't know, like they wouldn't talk to each other.

Q. And based on what you saw, was Winter finished with her relationship with the defendant?

A. She had told him several times.

Q. And he made any statements to you about how he felt about his relationship with Winter, whether he was done?

A. Oh, he said he would forgive her of anything if she would just come back home, anything, including Anna Mooney.

Q. Okay. And who was Anna Mooney?

A. I have -- that was the girl that Winter was very fond of and I had never physically met her.

Q. Okay. You knew Winter was bisexual?

A. Yes.

Q. Okay. And was Anna Mooney someone that she was

romantically interested in, as far as you knew?
A. As far as I knew, yes.
Q. And how did you know that?
A. Because Winter had let me read her text messages and stuff.
Q. Okay.
A. And Winter had told me that. You know, she had no reason to lie to me.
Q. And she told you what?
A. That she was going to meet Anna and -- I believe that's where she went on Thanksgiving. I know she went to another friend of our's house and that's when she went to see Anna too. She told me she was going to see her for Thanksgiving.
Q. Okay. So this was in November, your finding out about Anna Mooney --
A. Uh-huh.
Q. -- and the fact that Winter was interested in pursuing things with her?
A. Uh-huh.
Q. Okay. After Winter broke up with Joey and y'all kicked him out of the house, he comes back, where does he sleep if he spends the night?
A. In the spare bedroom.
Q. Before they broke up where would he sleep?
A. In their bed.

Q. Okay.
A. In her bed.
Q. Did they share a room while they were dating?
A. Yeah. Yes, ma'am.
Q. Okay. And after she broke up with him, when he came back around he slept?
A. In the spare room.
Q. I'm just going to show you -- these have already been admitted into evidence. I'm going to show them to you before I show them to the jury. I'll just have you look at those and make sure that you recognize all of those and then I'll ask you about them individually.
A. (Witness reviewing exhibits).
Q. Do you recognize all of those?
A. Yes. Yes, ma'am.

MS. LESKANIC: And for the record, Ms. Patrick has just looked at State's Exhibit 2, 3, 4, 5, 6, 13, 12, 7 and 8.

BY MS. LESKANIC:

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

Can you see that okay, Ms. Patrick, or do you need to step down?

A. I can see.
Q. Can you please tell the ladies and gentlemen of the

jury what they are looking at here?
A. That was our doublewide. And that's the parking spot and then the walkway up to the front door.
Q. I'm going to hand you a little laser pointer. The button is right there, okay? And if you can just tell them just wherever you would park your vehicles, what you were just saying, if you can point out to the jury where you would normally park and where things are located?
A. Right there on that one.
Q. All right. And when you go inside the home, where is Winter's bedroom and your bedroom? Can you tell from looking at the outside?
A. If you walk straight through the front door you walked straight into my room.
Q. Okay. So if we go in the front door here, straight on would be your bedroom?
A. Exactly.
Q. Okay. And then what would her --
A. Her bedroom was down all the way on the right. That's the living room and that was her room.
Q. This is Winter's bedroom?
A. And then the spare bedroom was across from that.
Q. Across the hall from that on the right side of the home, looking at this photograph?
A. Right.

Q. Okay. Let me show you State's Exhibit 6. And can you tell us what we are looking at here?
A. That's the spare bedroom where Joe slept.
Q. Okay. And this is where he slept after he was told to leave the home, but he came back?
A. Correct.
Q. That's not Winter's bedroom?
A. No.
Q. Okay. Were there times that Winter slept with you?
A. Yes.
Q. Okay. Do you know why?
A. She said he wouldn't leave her alone.
Q. I'll show you State's Exhibit 7. Do you recognize that?
A. That was my room.
Q. Okay. Did anything unusual ever happen when Winter was sleeping in your room?
A. I woke up -- excuse me, I woke up one night after she had come in there crying.

The bathroom goes off to the right, the master bathroom, and he was standing over there over her.

Q. Which side of the bed was she sleeping on?
A. On the right-hand side.
Q. Over here?
A. Uh-huh.

Q. Okay. And what --
A. That's next to the bathroom.
Q. Okay. And where was the defendant?
A. Standing beside her while she was laying in the bed.
Q. In this area?
A. Uh-huh.
Q. Okay. And the door to leave the room is out this way, is that correct?
A. Correct.
Q. So when you walk in, you would walk into the foot of your bed?
A. Uh-huh.
Q. Okay. And he was standing over here while she was sleeping?
A. Right.
Q. Was that close in time to December 2nd?
A. Just before, yes, ma'am.
Q. Do you know how close in time to December 2nd?
A. No, ma'am.
Q. Weeks or days?
A. I can't remember.

Days. I mean, because I told him he needed to leave. I mean, he would call me at work and just -- call me all hours when I would be at work and she would be screaming and crying. He would be laughing and carrying on, throwing

stuff. And I told her I was going to lose my job. You know, I couldn't run home every time to try to see what was going on. But, yes, I -- right before that I had told -- I finally told him after that, I said "you have got to go."

Q. Okay.

A. But then he was right back over there that night, so --

Q. All right. I'm going to take you to December the 1st of 2010, and that's the last day that you saw your daughter alive?

A. Uh-huh.

Q. I want to start with that morning.

Do you know if Joe spent the night on November 30th? That would have been the night before December 1st. Y'all went to work together that day?

A. I don't know.

Q. All right. Did the defendant work at Shaw Construction also?

A. Yes, he did.

Q. And what were your arrangements on getting to work? Did y'all ride together?

A. No.

Q. Or --

A. No, I drove my own vehicle.

Q. What type of vehicle did you have?

A. A 2002 Envoy.

Q. I'll show you State's Exhibit 8. Is that a picture of your 2002 Envoy?
A. Yes, ma'am.
Q. And you drove that to work, and what did the defendant drive do work?
A. A white -- I think it was a Blazer. It's an SUV.
Q. But something that he drove himself?
A. Right.
Q. Was Winter working during this time in December?
A. No.
Q. So she would stay at home when you left for work?
A. Uh-huh, unless she needed -- I needed her to run errands or ask her to go do something, then she would take me to work --
Q. Okay.
A. -- and use my vehicle.
Q. On December 1st do you know if you drove yourself to work that day?
A. Yes, I did.
Q. Did you normally see the defendant at work? Did y'all work in an area where you might have contact with one another?
A. No.
Q. Did he --
A. I seen him that day leaving the gate, you know, when we

were walking out.

Q. Okay. And did y'all talk about him coming over that night, or did he show up that night?

A. He came over because he was going to JC's. We was going -- I think he had to pick up somebody a quart of moonshine, and I said "well, I'm going to get pizza," so he rode in my car with me.

Q. Did you go home first?

A. Yes, I did.

Q. All right. So you go home after work and then he comes over to your house?

A. And then we drove to JC's in my vehicle.

Q. Okay. Are you driving?

A. Yes.

Q. Did you drive?

A. Yes.

Q. Who is JC?

A. He's a friend of ours.

Q. Where does he live?

A. In Mooresboro. Cliffside, Mooresboro. It's right there on the line, North Carolina.

Q. Is that in North Carolina?

A. Uh-huh.

Q. Okay. So y'all go to JC's house and pick up a quart of moonshine?

A. Yes, ma'am.
Q. And a pizza?
A. A pizza on the way home and then go back to the house.
Q. Okay. So he's with you. Y'all go back to the house. And what happens when you get to your house? What's going on?
A. I didn't realize Winter was as sick as she was and I offered her pizza. We were going to have pizza and she said her throat was too sore to have pizza, and she was mad because the moonshine was there. She said -- she told him, "you know how you get." But I said, "you know, I think it's going to be all right." I said Winter -- we only had like three shots apiece, but she was still upset about that.
Q. Okay.
A. She didn't want him drinking.
Q. What's wrong with Winter? Do you know what -- did she have the flu or --
A. Bronchitis again and tonsils. She has always had a real bad time with that.
Q. Okay. There is going to be some mention of some text messages about Winter having HIV or AIDS. Did Winter have HIV or AIDS?
A. No.
Q. All right. So you get back home, you have the moonshine and the pizza, and you and Joe are partaking in

that. Is Winter having anything to drink?
A. No. No.
Q. Anything to eat?
A. No. I gave her --
Q. What is she doing?
A. I fixed her some Gatorade. She was laying on the couch. She had a 104 temperature and I offered her some soup. She didn't want soup. She didn't want anything. But I -- and before I went to bed I gave her some medicine and fixed her some more Gatorade and she was burning up with the fever.
Q. Okay. Were they having any sort of conversation, or was Winter a part of what you and the defendant were doing that night?
A. No.
Q. Where were you and he?
A. Sitting at the kitchen table.
Q. And you had about three shots?
A. Uh-huh.
Q. You saw him take about three shots?
A. Yes.
Q. Was there still some moonshine left in the jar?
A. Yes, there was. That's when I went to bed. You know, that was after about three and I ate a piece of pizza.
Q. Do you remember what time that you went to bed on

December the 1st?

A. It had to be around ten. I wouldn't say any later than ten.

Q. During the time that Winter was up and the defendant was there, did you think he was going to stay the night?

A. No, not really. I mean, he didn't have no work clothes with him or anything, any clean clothes, unless he had something in that room that I wasn't aware of.

Q. Do you know if he had anything inside his vehicle?

A. I didn't look. No, ma'am, I don't.

Q. Okay. Did you invite him to spend the night?

A. No, I didn't.

Q. Did Winter invite him to spend the night?

A. I wouldn't think so. I didn't hear it if she did.

Q. And what was Winter doing when you went to bed?

A. Laying on the couch, napping. You know, she had a fever and stuff, but I made her take some medicine and I told her if she needed anything to call me. I mean, she's right there out the foot of my bed.

Q. Okay. Did you hear anything else that night?

A. No, I did not.

Q. Let's go to December 2nd. Were you awakened differently than normal?

A. My alarm went off and I hit snooze.

Q. What time does your alarm go off?

A. Four. Four a.m..

Q. Four a.m.?

A. Four a.m..

And when I wake up Joe is standing at the foot of my bed and he said "Bev, you need to get up. The clock is going off."

And I said "I know what time my clock goes off."

And he said "and Winter didn't come home last night."

And I said "that's all right, she knows what time I have to leave for work," you know, because she knows if she runs to the store or anything, she knew how I was about getting to work on time.

And he said "no." He said "she said last night that she was going to get cigarettes." And he said "and I have a feeling she went to meet Anna." And he said "but she hadn't come back yet and she will not answer my text or my phone calls."

Q. All right. And this was at four -- four a.m.?

A. Uh-huh.

Q. Was he normally up at four a.m.?

A. No, not all the time.

Q. What was the usual routine for him when he stayed at the house when he was going to work? Was he the first one up dressed and ready?

A. No, uh-uh. We had to keep on him to get him up.

Q. Was he dressed at four a.m. standing at the foot of your bed?
A. Yes, he was.
Q. Did you try to get in touch with Winter?
A. Yes, ma'am. I couldn't get an answer either and I text her and I never spoke to her again.
Q. Is it unusual for her not to respond to you?
A. Yes, it was.
Q. Were you close with Winter?
A. Very close.
Q. Did you go on to work that day?
A. Yes, ma'am.
Q. How did you -- well, let me ask you this.
Your car, we have seen -- we have got a picture of it up here on the screen. Was that at the house?
A. No.
Q. Was it there when you went to bed?
A. Yes, ma'am.
Q. Okay. It was parked in the driveway where you pointed out to the jury?
A. Yes, ma'am.
Q. All right. So you get up and your vehicle isn't back and your daughter isn't home?
A. I didn't look out the window. He just told me she wasn't back, but I -- you know.

And then I said "well, if you are going -- "do you mind if I ride with you to work?" I couldn't imagine why Winter wasn't there and wasn't answering me, and so I rode to work with him. I still didn't have a clue anything was wrong with her.

Q. And then tell me about your day at work.

A. He text me several times during the day, and where I was working at I couldn't -- I could read the text, but I couldn't get out. And the next thing I know -- well, he had text me and told me he had to leave. He went home, but he would come back and pick me up.

Q. All right. Went home. Where was home? Where was he going?

A. I guess to our house.

Q. Okay. So home was [redacted] but he didn't live there anymore?

A. No.

Q. And do you know what time he left work?

A. I was told he left before eleven o'clock, because his foreman had left him there as lead man.

Q. Okay. And he sent you a text and he told you that he had left work early?

A. Uh-huh.

Q. And how did you --

A. Said he did.

Q. -- get home, since you rode to work with him?
A. He said he would come back and pick me up, which he did.
Q. All right. Where do the two of you go after he picks you up from work?
A. We start back home and he turns down a different road and said he had to run by Tom's.
Q. Who is tom?
A. Tom Talbert was his foreman, supervisor, or something.
Q. Is that where he was supposed to be living?
A. That's where he was supposed to be.

And he said he had to get something. He would run inside. I thought he was putting stuff away or -- I don't know what he was doing. He said he would be back in just a minute. He didn't bring nothing back with him, and then we went straight on to the house.

Q. Okay. Did he take anything into the home that you saw?
A. No, not that I'm aware of.
Q. And then you go back to your house?
A. Yes.
Q. On Songbird?
A. Yes.
Q. Winter still isn't there?
A. Right.
Q. What do you and the defendant do at that point?

A. Getting the tomato plants, trying to get rid of -- you know, they were dead.

Q. Okay.

A. So he was going to help me do that, because they were big. They were heavy.

Q. You had tomato plants around your house?

A. I had some big pots sitting out there, yes, ma'am.

Q. Okay. And tell me again what --

A. I was pulling up the tomato plants, because I couldn't lift the pots, and Joe was going to -- Joe was taking them to the back and throwing them over in the weeds, and that's when he said "Beverly, there is your vehicle over there."

And I said "do what?"

He said "there is your vehicle across the road over there," and it was -- I don't know. I mean, it would have -- I couldn't tell you how far, but it was -- I would have never looked up and said "yeah, that's my vehicle over there."

Q. So you didn't recognize it?

A. No.

And he said "I'm going to look," and he runs up in his truck, his vehicle, and rode around there and come back and he said "I told you that was your vehicle."

And I said "hold on," and I went in the house and got my spare key. And he took me back around and I got to my

vehicle and seen that the back window was down, her purse was in the front seat. No keys nowhere. For the life of me I couldn't figure out why her purse was there, why it was left open like that.

And so I went up and knocked on the neighbors window, on their door, and he said "ma'am, that truck has been out there since before daylight this morning."

And I said did "Winter -- "did a young lady come up here? Did -- you know.

And he said "no, ma'am, I haven't seen anybody. He said "that truck was out -- "your truck was out there when we got up this morning."

Q. What time was it that the defendant sees this vehicle? Do you know what time it would have been out there?

A. I guess maybe about 5:30, somewhere around in there, because once I brought my truck back around, I called the -- I called 911, because I couldn't find her.

Q. So you go back, you get the -- knocked on the neighbors door?

A. Right.

Q. Find out she hasn't been there?

A. Right.

Q. And then you come back home and that's when you make the call to 911?

A. Yes, ma'am.

Q. Do you remember where he was standing or where the two of you were standing when he saw this vehicle?
A. Right there by the side -- the side steps. I was --
Q. Let me show you State's Exhibit 4. Does that --
A. That was the back door, and I had my plants all against the front like that in big pots.
Q. Okay. And don't let me tell -- do you want to step down? Can you step down for just a moment?

(Witness off the witness stand)

BY MS. LESKANIC:

Q. All right. And where were the tomato plants? Were they --
A. They were on the side.
Q. On the side?
A. And then --
Q. Or in front of the house?
A. I had an L-shaped like this.
Q. So here and along the front of the home?
A. Yes, ma'am.
Q. And where were you and the defendant standing?
A. I was right in this corner there pulling out the plants and he was taking them to the back.
Q. Was he walking all they way back here, or how far was he going, do you know?
A. I really -- I really didn't watch how far he walked,

but I know that's where he was taking them.
Q. Okay.
A. I was up here pulling -- you know, pulling them out.
Q. All right. And let me just show you, while you are still standing there, State's Exhibit 5. This is on the side of your house also.
Your home is on this side and this is the neighbor's house, is that correct?
A. Uh-huh. Yes, ma'am.
Q. Okay. And where was your vehicle?
I'm going to let you use this. It's okay if you hand shakes a little bit.
A. Right in there.
Q. Okay. So is there a road here?
A. Yes, ma'am. There is a -- it's got a curve right there.
Q. Okay.
A. It's -- there is a -- it's a crossroad thing right there.
Q. Okay.
A. And my truck was across and pulled up in a little short driveway.
Q. All right. Now, what is this here? Can you tell what that is?
A. (No response).

Q. Is that the home that you went to?
A. I don't know. They have a -- that don't look like a doublewide.
Q. Okay. I might have a photograph a little bit closer.
Okay. I'm going to show you State's Exhibit 72, and it's been admitted.
Can you tell anything more from this? Is this taken standing at the back of your home on Songbird?
A. Yes, ma'am.
Q. And is this approximately where you and the defendant were when he saw your vehicle at 5:30, or so, on December 2nd?
A. I never went to the back of the house.
Q. Is this the side area of the home?
A. Yes.
Q. Okay. And the vehicle was found somewhere over in here --
A. It was around on the other side of that trailer.
Q. The other side of this trailer?
A. Yeah, it was down the road and pulled up in a driveway, right in there.
Q. Okay.
A. And there is a doublewide sitting across the street which --
Q. Maybe --

A. I don't -- that don't look like a doublewide, but --
Q. Okay. But there is a home?
A. But there was one there, yes.
Q. There is a home sitting there, okay.
And from where you were, could you tell -- you can have a seat back, Ms. Patrick.
(Witness back on the witness stand)
BY MS. LESKANIC:
Q. From where you were standing and after he said "look, there is your vehicle," could you tell that that was your car?
A. No. Just going out there and walking and looking, he said "well, I'm going to go see," and then he comes back and tells me that it is mine.
Q. All right. But after he pointed it out to you, at that point could you still tell that that was your car --
A. No.
Q. -- that you drove every day?
A. No.
Q. Now, he told you that Winter left to go and get cigarettes and maybe see that girl Anna, is that right?
A. That's what he figured that -- she did say that she was going to get cigarettes, he said.
Q. Okay.
A. And he said "but since she's not back, I figure she

went to meet that girl Anna."

Q. All right. And she had a 104 temperature when you went to bed?

A. When I went to bed, yes.

Q. Were there any cigarettes in the home when you woke up that morning?

A. There was cigarettes in there.

Q. Were there cigarettes in the house when you went to bed?

A. Yes.

Q. And were those same cigarettes still in the home when you woke up in the morning?

A. Yes, ma'am.

Q. How was the moonshine bottle?

A. Empty.

Q. So you got your spare key, got your vehicle, came home and called 911?

A. Yes, ma'am.

Q. I want to show you State Exhibit 9.

I'm going to show you what's been marked and sealed as State's Exhibit 9. Do you recognize that?

A. Yes, ma'am.

Q. And what is this?

A. It's Winter's purse.

Q. And where did you find this purse?

A. In my front seat passenger side.
Q. I'm going to wait for just a moment for the train to go by.
A. Okay.
(Off the record)
(Back on the record)
BY MS. LESKANIC:
Q. Did you look through her purse?
A. No. I got my card out of her little wallet thing right on the top, but, no, I didn't go through her purse.
Q. Okay. But this was sitting in the front seat passenger side?
A. Open.
Q. Open, of your vehicle?
A. Uh-huh.
Q. Did you notice anything right off that was missing out of it?
A. No, I have never really looked in her purse. I knew her little case that like she kept her cash or my card in it when she went somewhere.
Q. And after you called 911, police officers came out to your home, did you give this to Detective Richard Burgess --
A. Yes.
Q. -- to show him what you found in the vehicle?
A. Yes, ma'am.

Q. I'm going to show you what's been marked State's Exhibit 10 and ask you to take a look at that and tell me if you recognize that?
A. It's her phone.
Q. It's whose phone?
A. Winter's phone.
Q. Is that the phone that she was using on December the 2nd -- on December the 1st?
A. Yes, ma'am.
Q. State's Exhibit 11. I'll show you what's been marked State's Exhibit 11. It has already been admitted as evidence. Do you recognize these?
A. That's my key ring.
Q. Now, is this your spare set of keys --
A. No.
Q. -- that you used when you went to get the vehicle?
A. No.
Q. Were these the missing keys?
A. That's the missing keys.
Q. Is this the keys that you would normally use for the vehicle?
A. Yes, ma'am.
Q. Would these be the keys that Winter would use for the vehicle?
A. Yes, ma'am.

Q. Where did you normally keep the keys to your vehicle?
A. Laying on my bedside. You know, the table in my bedroom.
Q. Did Winter know where you kept them?
A. Oh, yeah.
Q. Did the defendant know where you kept them?
A. I would imagine he had seen them. I mean, I didn't hide them.
Q. When police came to your home to file a missing person's report -- did you file a missing person's report for your daughter? Is that why you called the police?
A. No, ma'am, I --
Q. On December 2nd when y'all came --
A. Oh, I called them because I couldn't find her, but I think they already knew something at the time.
Q. Okay. But you didn't know anything at the time?
A. No.
Q. Did the police search your home inside [redacted]
A. Yes, ma'am.
Q. Did that search include Winter's closet?
A. Everything.
Q. Okay. I'm going to show you what has been marked State's Exhibit 12 and 13. I think you have already looked at these, but --
A. That's her closet.

Q. State's Exhibit 12, what are we looking at here?
A. The bedroom closet.
Q. Whose bedroom closet?
A. That's Winter's closet.
Q. So this is Winter's bedroom closet?
A. Yes, ma'am.
Q. All right. I'm going to turn your focus right here and show you State's Exhibit 13. Do you recognize those boots?
A. Those belonged to Joe.
Q. All right. Those are not Winter's boots?
A. No, ma'am.
Q. I show you State's Exhibit 14. I just want to show you. I know you saw them in a photograph, but I want you to have an opportunity to look at the actual boot.

Looking at them now, now do you recognize these and who they belong to?
A. They are Joe's boots.
Q. And how certain are you that these are his boots?
A. Because of the toes and I know what his boots looked like.
Q. Do you know why they would be in Winter's closet?
A. No, ma'am.
Q. Do you remember seeing all this dirt on your daughter's purse?
A. No, she had just gotten that purse.

Q. When the officer came out to your home, I think you and the defendant told them that you had been trying to get in touch with Winter?
A. Yes, ma'am.
Q. Did he ask you for your cellphone?
A. Yes, ma'am.
Q. And did he ask the defendant for his cellphone, if you know?
A. I'm sure -- I -- I don't know.
Q. Did you turn your phone over?
A. I gave him everything. And my vehicle. They took my vehicle.
Q. Okay.
A. I gave all that to him.
Q. So you gave them your phone, access to your home?
A. Yes, ma'am.
Q. And your GMC that we saw the photograph of, they took all of that?
A. Uh-huh.
Q. Okay. Did you find out later that night that Winter had passed away?
A. Yes, ma'am.
Q. How did you find out?
A. In the office with an investigator. I can't remember what his name was. I know he was in there at one time. I

seen him that night, but he is the one that told me.
Q. Did you find out any details about her death at that time?
A. No, nothing was told to me. But when they let us go out and smoke out of that building and Joe told me that I was the one that he felt real sorry for, and then he was crying and he said "somebody that would do his baby like that and throw her out on the side of the road like a piece of trash."
Q. And at that time did you know where --
A. I didn't.
Q. -- she had been found or anything, any details?
A. I didn't even know anything had happened to her at this time. So I don't know, because I was upset with them that they didn't tell me before they would tell somebody else. I didn't understand that statement.
Q. Did you ask the investigators whether they told him something that they didn't tell you?
A. I believe I did, because I was upset about that.
Q. And what was their response?
A. And he said that they still hadn't identified -- they didn't know if that was Winter or not. There was still -- there wasn't no proof of anything yet, so I still wasn't told until a couple hours, at least, after that that it was, in fact, Winter.

Q. So at the time Joe said that "it's awful that she's been thrown out like garbage" --
A. On the side of the road.
Q. -- you didn't even know if that was Winter on the side of the road?
A. No, I did not.
Q. Were you asked to identify her at a later time?
A. Yes, ma'am.
Q. And did they ask you to do that by viewing her body or a photograph?
A. He showed me a picture at the hospital, Mr. Fowler. They showed me --
Q. The coroner showed you a photograph?
A. Yes, ma'am.
Q. On December 1st, 2010, when you went to bed, who was Winter interested in having a relationship with?
A. Anna Mooney.
Q. Was she at all interested in having a relationship with the defendant, based on what you had seen --
A. No.
Q. -- based on your daughter's demeanor and what you saw inside the home?
A. Not at all.
Q. Thank you. If you will, please answer any questions that Mr. Harbin has for you.

A. Okay.

THE COURT: Cross-examination, Mr. Harbin?

MR. HARBIN: Thank you, judge.

If it please the court.

CROSS EXAMINATION BY MR. HARBIN:

Q. Ms. Patrick, if you need to take a break or anything, please let me know. I know this is probably rough for you and I want to make sure that you are okay throughout this.

Even though y'all worked on the same shift, you didn't normally ride together?

A. No.

Q. The morning that you rode together is out of necessity, is that fair --

A. Correct.

Q. -- because you didn't have a truck.

A. Correct.

Q. And I'll apologize if I jump around a little bit I. Can barely read my own chicken scratch sometimes, so I have to kind of go and back forth.

You had mentioned you and Joe taking a ride to someone named JC's house. JC was a friend of yours, a boyfriend, or maybe an ex-boyfriend, maybe not?

A. A long time family friend, yes.

Q. So y'all were not boyfriend or --

A. No.

Q. I'm sorry, y'all were not in a particular relationship?
A. No.
Q. Did you and Winter once live with JC --
A. Yes.
Q. -- awhile back and --
A. Uh-huh.
Q. -- I guess that was sometime ago and obviously don't live there any more?
A. It's been a couple years, or so.
Q. Okay. So on December 1st, and this would be the night before Winter was killed, that was the night that you accompanied -- you correct me if I'm wrong, so if I'm saying something that doesn't sound like a question, it's really intends to be a question, if you would correct me if I'm wrong, but that was the night that you drove to North Carolina?
A. Uh-huh.
Q. And I guess that's not really a huge trip around here?
A. No, it's not.
Q. Ten miles, or so, I guess. It's not that far, I guess.
And went to a home that Joey had some stuff at, or went to Tom's -- I forgot his name, Tom Talbert, is that right?
A. Yes.
Q. Okay. And what was your understanding of that? Was it Tom's house, or Tom and Joe's house, or what?

A. It was Tom's place and Joe was staying with him.
Q. Okay. All right.
And you said that you didn't see him take anything in or bring anything out, so you really don't know what the errand was --
A. I really don't, no.
Q. -- that was there.
And then you said that Joe had wanted to stop by -- or maybe it was not Joe, but that you picked up some moonshine. Was that after Tom's house?
A. Before.
Q. Before Tom's house?
A. No, no, that was the day after work that he stopped by Tom's house.
Q. Okay.
A. The moonshine was the night before, the day before.
Q. Oh, okay. So I'm getting the days wrong then.
So Tom's house was on December 2nd?
A. Correct.
Q. Okay. So -- back up.
So he went to get the moonshine. So you were not with him when you went to get the moonshine, or you were?
A. Yes.
Q. You were?
A. Uh-huh.

Q. I apologize, but please correct me when I'm wrong.

So you got the moonshine. Then y'all came back to the house. Did you do anything before you went back to the house after he got the moonshine?

A. We went by and got a pizza.

Q. Bought a pizza, and that's when you ate pizza and you had a few shots and then went to bed by ten.

Did you have anything else to drink other than the three shots of moonshine?

A. No. Maybe a beer beforehand. I don't --

Q. Okay. And so you were -- and what I'm getting at is you wouldn't consider yourself totally inebriated or anything on three --

A. No.

Q. Moonshine is powerful, but I guess three shots still would leave you -- you are all right, I guess. Is that fair to say, or not?

A. Yeah.

Q. You didn't go to bed passed out?

A. No.

Q. Okay. And Joe was -- y'all were both sitting at the -- I believe you said at the table drinking --

A. Uh-huh.

Q. -- and eating pizza.

All right. I want to -- well, I don't know if this is

backing up or going forward. I guess it's going toward.

After you discovered your truck -- I don't call it a truck here, your SUV, and you went and got it and brought it back, I believe that in a statement to law enforcement you said that you called the hospital and called the law, or called the police?

A. I done both.

Q. You are checking to make sure. You know, obviously you were trying to find her, right?

A. Right.

Q. After the police got there and then -- that was at your house, obviously, the first time that you talked to the police, correct?

A. Right.

Q. And then was it true that they asked you to come down to the station to give a statement?

A. Yes.

Q. And, of course, you did --

A. Of course.

Q. -- right?

And do you remember who took the statement from you?

A. No, I do not.

Q. Do you see -- I don't know if he happens to be in here, the law enforcement officer that did take the statement?

A. I don't think so.

Q. Okay. And do you remember how long you were there?

Well, tell us -- you know, what time of night was it? How long? Do you remember? Was it -- were you in there forever, or was it a quick talk, or what do you remember about it?

A. We was down there for a long time. I mean, maybe, what -- I don't know, a few hours, and then they took us back to my house. And the CSI, they had all the lights and everything on the house, and went back in, after they let us back in, and then left again that morning early to go identify her body.

Q. You said that they finally let you back in. How late was it by the time that they actually -- I assume they were done doing what they needed to do and then allowed you back into the house?

A. Yes.

Q. But do you remember how late that was?

A. No, I don't.

Q. That's okay.

When the police came to your house after you called and reported that Winter was missing, did you go basically straight from your house over to -- like did you follow them down to the station, or did it -- did they say "just meet us down at the station later on," or how soon thereafter did you go from your home down to the station to give the

statement?
A. Right with them.
Q. Okay. Do you recall when that was?
A. That would have been 7:00, 7:30.
Q. Again, I'm sorry, I'm trying to make sure I'm not going to confuse you any more than I need to.
And during that statement -- and I'm trying to make sure I'm getting these in order here. You gave more than one statement, is that true?
A. Correct.
Q. And did you give multiple statements to the same officer again and again, or did they switch you up and you were talking to different officers?
A. I talked to a few different officers, but there was one that was -- you know, they were all there with me, so -- and they were all writing, so I'm assuming everybody was writing something down.
Q. Yes, ma'am.
Now, but did -- when you gave a statement, did you write your own statement in your own handwriting, or did somebody write it for you?
A. He wrote it for me.
Q. So you just read over it and signed it to make sure it was what you meant it to say?
A. Yes, we did.

Q. Okay. And do you recall how -- and this may be repetitive, but I kind of want to try to specify this.

Do you recall how long you spent giving that first statement?

A. (No response).

Q. And if you don't, that's okay.

A. I don't.

Q. Do you remember your first statement was a long, long statement, or just a page, or three, or five?

A. I told him everything that I could think of.

Q. So, to your knowledge, you saw the GMC at 5:30 and then very soon thereafter called the law to report Winter missing, is that right?

A. Ten minutes. Ten minutes.

Q. Okay. Now, up until that point was that what made you kind of worry, as opposed to just kind of maybe -- is that what kind of escalated, like "now, I mean, this was serious and I need to call the law now."

A. Yes, it was, because it was -- it wasn't like her. That was not her character not to call me or answer me back.

Q. And had you made any -- well, before that -- and the reason I'm asking that is before that I believe it was mentioned somewhere that you were telling Winter "get on home or I'm going to call the law. I mean, you got to bring my truck back to me."

I know you were -- I don't know if you were late for work that morning or not, but I understand your work badge, your hard hat and stuff, that was in your truck, and I assume that caused you some kind of grief when you got to work, not having that stuff with you?

A. Yeah.

Q. Is that right?

A. But I did tell her and I left her a voicemail that if she didn't have my truck back home, I would call the law. I said "you do not have to talk to me. I know what you two -- "you two were fighting and if you don't want to come home right now, just let me know, you are okay, but bring me my truck."

Q. Yes, ma'am.

And, again, going back to finding the truck, now it's something you realized something was really serious --

A. Right.

Q. -- when you see this truck. You called the law, like any mother would.

On the -- and I'm trying to make sure I get my dates right. On December 2nd I believe you testified just now that Joe left work early?

A. Uh-huh.

Q. And I believe in your first statement you specifically said "he left after he got his per diem." What does that

mean exactly?

A. That's when you get your per diem and it's one o'clock. If it's after eight hours, and that's what I understood him to say because --

Q. Okay.

A. -- he said he wasn't feeling well. Well, one of his foreman that I worked with on the job I'm on, he said he left before eleven o'clock, because he had left Joe as lead man, which he had done times before, you know, to keep the people -- to lead them, because he was going to be gone and he said that's not true, he left before eleven okay.

Q. Before eleven.

So somebody had told you --

A. I don't know when he left.

Q. Yeah, you can't say. Somebody just -- okay. I got you.

And I believe that you had mentioned -- you were asked about cigarettes at the home. If there were cigarettes at the home, why was Joe bringing you cigarettes at work that day?

A. I had cigarettes in my truck.

Q. Uh-huh.

A. He said that -- Joe said that Winter went to the truck -- to the store to get them cigarettes.

Q. Yes, ma'am. Let me clarify that.

The next day, on December 2nd, when you were at work you received a text from Joe that said "I have got -- "I have got your cigs," or, "I have got cigs for you," when you are at work. Why is he bringing you cigarettes if you already have cigarettes?

A. Because I didn't have cigarette. I didn't have my truck.

Q. Okay.

A. And he borrowed a pack from the girl down wherever the area was he was working and he brought me a pack.

Q. I got you. That makes sense.

The tomato plants that you had mentioned, and Ms. Leskanic helped show the jury where they were, were they dead tomato plants?

A. They had frozen and I wanted it cleaned up.

Q. I got you.

So you were just throwing them out back in the brush, or something, where they would be out of the way, or -- is that essentially -- that was the only point of moving the tomato plans then?

A. Pulling them up and he was taking them to the back for me and throwing them over the fence, or whatever, back in there.

Q. I got you. Okay.

MR. HARBIN: All right. Judge, if I could have

one moment?

THE COURT: All right, six.

(Off the record)

(Back on the record)

BY MR. HARBIN:

Q. Ms. Patrick, how --

Okay. You gave, I believe, three different statements to the -- or three different times you gave statements to law enforcement, is that correct?

A. I'm sure.

Q. Okay. And -- I mean, if you don't remember, that's okay. I don't want to -- if that sounds right, you can say that sounds right, but I'm not going to hold it to you, if you don't remember.

The mention that you made of Joey standing over Winter in your bedroom, could you explain exactly what -- is that -- and I apologize. That sounds kind of like a very weird big deal. I mean, that sound likes something that would be -- that's a big deal, some dude standing over your bed when you wake up in the morning. What did you do after that? I mean, did that invoke a particular response from you? I mean, was it --

A. Yeah, I said -- I asked him what was he doing in my room.

Q. Okay. What did he say?

A. He went back out in the living room and went to the bathroom, or the bedroom, or wherever he went.

Q. And did you do anything thereafter, because I guess you were still in bed, right? So after you get up and you get moving, you get going during the day, you go back to Joe, can't come in my room, what is this about, anything like that?

A. Sure, he was talking, trying to talk to Winter. I don't know if he was trying to wake her up, or get her cellphone, or what he was doing.

MR. HARBIN: One second. I believe I'm done.

THE COURT: All right.

(Off the record).

(Back on the record)

BY MR. HARBIN:

Q. Ms. Patrick, I know that it's tough and I appreciate you answering my questions and I hope I wasn't too confusing. Thank you very much.

MR. HARBIN: I no have further questions.

THE COURT: Redirect, Ms. Leskanic?

MS. LESKANIC: Yes, Your Honor. Thank you.

REDIRECT EXAMINATION BY MS. LESKANIC:

Q. Briefly, Ms. Patrick, you said that you would have called 911 within ten minutes of when y'all located the vehicle?

A. Yeah, because you get home at five, you know, ten after five, start pulling up plants and then all of the sudden he sees my truck, my vehicle. And then he goes around there and comes back and gets me and drives me around there and come back and I go straight in the house and call 911.

Q. Y'all went to Tom's that day, is that correct? That's the day that he went by Tom's house on the way home from work?

A. On the way home from work.

Q. You went to JC's on December 1st?

A. Yes.

Q. But on December 2nd he went by Tom's house?

A. Uh-huh.

Q. Would that have put you home later if you went by his home?

A. No, because he went right -- he didn't stay in there. It wasn't like he was moving anything. I don't know what he did. He went in and out.

Q. All right. Let me just ask you this. If your call went through to 911 at 6:59, that's what time you made the call to 911, it was 6:59 p.m., what time do you think that y'all found the vehicle, or he saw the vehicle?

A. I don't know. 6:30, 6:25, something -- something like that, because we were out there working in the yard. You know, I didn't real look at the clock, but --

Q. And I know it's difficult and that's why I'm asking you to work backwards.

If the call was at 6:59, then how long do you think it was before you called 911 when the defendant sees your vehicle?

A. It couldn't have been twenty-five, thirty minutes, because he run right around the corner and back, you know.

Q. All right. And you just testified --

A. Thirty, maybe. Thirty-five minutes, something like that.

Q. So somewhere between twenty-five and thirty-five minutes?

A. Yes.

Q. And I know it's just your best estimate.

You said when he was in the bedroom, was that bizarre behavior for the defendant to be in there when Winter was asleep in your bedroom?

A. I felt like he was probably trying to wake her up to get her to come back in there or trying to get her cellphone.

Q. And why do you say that? Were there times that --

A. Because --

Q. -- he had got her cellphone?

A. Oh, all the time. They had --

Q. Tell me about that.

A. Because he would get in it and read her texts and do all kind of stuff like that. She -- she even changed phones and new passwords and he had figured that out. It was just a war with the cellphones.

Q. A war with the cellphones?

A. About her cellphone.

Q. Okay.

A. Who she was talking to, what time she called, this and that, who she text.

Q. Would you describe the behavior as jealous-type behavior, in looking at that?

A. Childish jealousy. Childish, you know, over a cellphone, or who are you talking to.

Q. I think that's all I have. Thank you, Ms. Patrick.

THE COURT: Recross?

MR. HARBIN: Nothing further, judge.

THE COURT: All right. Thank you, Ms. Patrick. You may step down.

Counsel come up just a moment, please.

(Whereupon, the attorneys approached the bench for an off-the-record discussion)

THE COURT: All right, ladies and gentlemen of the jury, you have been in the courtroom now about an hour and fifteen minutes. We have been in the courtroom for a little longer than that. I am advised that the next witness may be

lengthy too, so I think it's appropriate that we take our afternoon break at this time. We are going to do that for about ten minutes.

I'm going to allow you to go to your jury room. Just relax for a few minutes. Do not the discuss the case among yourselves. It's still premature for you to begin any discussions in the case among yourselves. Just go in and relax for about ten to fifteen minutes and we will return you to the courtroom and resume the testimony.

Thank you. You may go with the bailiff.

(The following takes place outside the presence of the jury panel)

THE COURT: All right, counsel, let's be prepared to resume at ten after three.

MS. LESKANIC: Yes, Your Honor.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: All right. Back on the record with regards to the matter of the State versus Joey Clark.

Mr. Clark is present with his counsel.

The State is present and represented by the Seventh Circuit solicitor's office.

Anything before we bring the jury in, Madam Solicitor?

MS. LESKANIC: Yes, Your Honor.

We have marked State's Exhibit 1, one of our stipulations as to time of sunset and beginning of civil twilight on December 2nd of 2010. I didn't know if this court wanted to read that to the jury, or how you wish for us to handle that.

THE COURT: Okay.

I would be glad to publish it to the jury, Mr. Harbin. This is a matter that the court could take judicial notice of. What is it that you want particularly? The whole thing, or just particular times?

MS. LESKANIC: I would say sunset and the end of civil twilight.

THE COURT: All right. Sunset would be 5:15 p.m., and the end of civil twilight would be 5:42 p.m.?

MS. LESKANIC: Yes, sir.

THE COURT: All right. I will publish it.

The court will take judicial notice of those two facts and will tell the jury that there is a State's Exhibit No. 1 that the parties agree to that they would be able to take into the jury room with them.

Is there any objection to that, Mr. Harbin?

MR. HARBIN: No, sir.

THE COURT: Okay. Is that all right with you?

MS. LESKANIC: Yes, Your Honor. Thank you.

THE COURT: All right. Anything, Mr. Harbin,

before I bring the jury in?

MR. HARBIN: No, sir.

THE COURT: All right. Bring the jury in, please.

(The following takes place in the presence of the jury panel)

THE COURT: Okay. Thank you, ladies and gentlemen. We are ready to resume.

I will tell you at this time that the court has taken judicial notice of a certain fact. That means that this fact can be accepted by you as true.

The court has a copy of a U.S. Naval Observatory Astronomical Applications Department regarding the sun and the moon data for the date of December the 2nd of 2010.

And the court has taken judicial notice of the fact that on that date that sunset occurred at 5:15 p.m., and the end of civil twilight was at 5:42 p.m..

This exhibit has been admitted by the State -- or has been introduced by the State and admitted by the court into evidence as State's Exhibit No. 1 and you will have that when you go to your jury room. And the court will return the exhibit to the court reporter.

All right, you may call your next witness.

MS. LESKANIC: The State calls Anna Mooney.

ANNA MOONEY, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Would you please state your name?

A. Anna Mooney.

Q. Where do you live, Ms. Mooney?

A. In Georgia.

Q. How long have you lived in Georgia?

A. Four years.

Q. At one time did you live in North Carolina?

A. I did.

Q. And was that just prior to moving to Georgia?

A. Yes.

Q. Did you ever live in South Carolina?

A. Never.

Q. Did you know Winter Wingard?

A. Yes.

Q. How did you and Winter meet?

A. Through a mutual friend.

Q. Who was that?

A. Mary.

Q. How did Mary introduce the two of you?

A. She saw me in Wal-Mart. She was with Winter, and I got a message on my Facebook that night that Winter wanted my number, so I told her to give it to her and we started talking thereafter.

Q. Okay. And how close was that in time to December 2nd

of 2010? How long had you known Winter before she was killed?

A. A month. A month or two, at the very most.

Q. Okay. Can you describe for the jury your relationship with Winter?

A. She was my girlfriend.

Q. Okay. And how often did you get to see each other? Since she lived here in South Carolina and you were in North Carolina, how did y'all get together?

A. She came to my house a couple of times. I went to her house. We saw each other maybe four times.

Q. Okay. Overall was the relationship pretty good?

A. It was at first and then he came into the picture and, you know --

Q. He being who?

A. Joey Clark.

Q. Okay. And how did that affect the relationship?

A. I was always accusing her with being with him, and he was always texting my phone, so it was just not very good thereafter.

Q. Did you ever meet him?

A. Never.

Q. Have you ever seen him before today?

A. Never.

Q. Okay. How did you first find out about the defendant

Joey Clark?

A. I think I asked the lady that introduced us.

Q. Mary?

A. Mary.

Q. Okay.

A. If she was still with the guy that, you know, she told that she kicked out, and she said "well, don't get too close because I think he's still over there living with them, but I don't know," and that's when I brought it up to Winter.

Q. Okay. And what was Winter's reaction to that?

A. "We're not together. I don't want nothing to do with him." I mean, she never -- that was always her response.

Q. And what were your communications with him?

A. He would try to talk me out of being with her and telling me, you know, "she had AIDS and welcome to the AIDS family." He would just always try to talk me out of being with her.

Q. Now, I know y'all had text messages on December 1st and December 2nd of 2010. Was that the first time that you had contact with the defendant?

A. No, he probably -- he called a week or two prior to that and tried to talk me out of being with her and talking to her, but that was it.

Q. What types of things would he say then?

A. She gave me a bear and he told me that he's the one

that bought that for her, and she said that that was a lie. I had carried a pillow case around all the time and he said he had it that I left at her house that she wanted, but that was it.

Q. Okay. So is it correct that your relationship was pretty good until --

A. Yes.

Q. -- until Joey Clark would get involved?

A. Yes. Yes, ma'am.

Q. Okay. I'm going to show you -- we'll start with State's Exhibit 16.

Were you texting or Joey Clark texting you on December 1st and December 2nd?

A. Yes.

Q. And is this a typed-up data showing the conversation just between you and Joey Clark on December 1st and December 2nd of 2010?

A. Yes, ma'am.

Q. Have you had an opportunity to review that?

A. I have.

Q. All right. And does that seem to be accurate as to the conversations that took place?

A. Very accurate.

Q. Okay.

I'm going to ask you to read that in just a second.

MS. LESKANIC: Your Honor, I have another copy of that I would like to put up on the board and publish so the jury wants to read along. They may. If you have no objections, Mr. Harbin?

THE COURT: Any objection?

MR. HARBIN: No, sir.

THE COURT: We will handle it that way. You may put it on the board and publish it to the jury.

BY MS. LESKANIC:

Q. And I believe it starts on page 20 at the bottom of page, is that correct?

A. That's correct.

Q. It starts at 12:41. And what is the first message that you get that day from the defendant?

A. It says "check ur voicemail."

And I asked "who is this." That's what I text back to him.

And then I text him and asked, I said "I jus checked my messages. What was on my voicemail? And wats really going on? Pls tell me."

Q. All right. And do you remember that voicemail "wats going on" at that point?

A. Not really, no.

Q. Okay.

A. I remember, after reading some of this, a couple of the

voice mails. It was like a porn -- sounded like a porn. He was trying to have me believe that they were having sex and that I was listening to it.

Q. Okay. And did he say anything about you needed to go to the doctor?

A. Yes.

Q. All right. What was that about?

A. Because I -- she gave me one of her tongue rings and he said "welcome to the AIDS family," because I slept with her and put one of her tongue rings in.

Q. Okay. If you will, just continue. The jury can read along with who is saying what. If you will just read the content of the text messages --

A. Okay.

Q. -- please?

A. "U call winter or say anything before I call u ull never see it and ill never tell its up too u how bad u want to no okay I want to let u play me this time." I won't let you play me this time.

"Too late i'm on the phone with her now cussin her the Fuk out."

"You aint gotta tell me. I already kno. I aint worried bout it anymore. Fuk it. Be wit her. I'm done wit her."

"U said that the last time.

"If she wants you by all means.

"Are you living back in her house?

"Pick up not mad happen to me too.

"O didn't kno that was callin. Sorry.

"Call back i'm at work had to walk outside.

"Hey, I put a tongue ring in my tongue outta her tongue. Wat do I need to get checked for? I mean that's serious shit.

"Just go ok im sorry don't make it bad for me its bad enough already can I trust u swear."

Keep going?

Q. Yes, please.

A. "I mean is it hiv or hep c? Pls jus tell me that much. And no I wont make it rough on u I swear it.

"Pls jus tell me if its hiv or hep c. Pls. And i give u my word ill change my number and she will never hear from me again.

"Pick up ur phone.

"I cant I'm inside salon. Cant answer calls till I go outside on break to smoke. Pls just tell me. My nerves are a wreck.

"?.

"How short did u cut ur hair cant text this is what times ur brake got a deal for u so I can trust u if I find out u talk to her u on ur on I share no fault in ur problem

whast time.

"My hair is shoulder length. I'll go smoke at 215 or so. Soon as I get done shampooin 3 more women k.

"K.

"O and by the way I did text winter and told her I was just jokin bout the phone calls and the voicemails to get her reaction and I guess she believes it Just told her that so there would be no problems between you and her.

"Pls give me ten mins ok.

"Ok.

"And jus so you kno I'm not strait gay. I'm bi.

"Stop talkin about a vampire had a deal don't brake it."

Q. Let me stop you there. That's at -- you got a text at 14:33, and then there is a break until 18:22. What is that about the vampire?

A. I think we were watching a movie --

Q. Okay.

A. -- together.

Q. Were you and Anna -- I mean you and Winter texting at the same time?

A. I'm sure I was telling her everything that he was saying. I was trying to keep the peace between him and her and everybody. I mean, that's all I tried to do.

Q. To your knowledge, was he in the house with her while

he was sending you these text messages?
A. I don't think so.
Q. On December 1st?
A. I don't know. I don't remember.
Q. Okay.
A. I don't remember her telling me that.
Q. All right. This was the night that rolls into December the 2nd. Do you know if he was at her home that night?
A. Yes, he was.
Q. Okay. So that would be on December 1st.
During part of this time do you think he's at work?
A. Yeah, when it says 14:14, that's what, 2:14?
Q. Yes, ma'am.
A. I was assuming he was at work, but --
Q. And then we have got the 4:22 text, right?
A. Right.
Q. Or 6:22 text, sorry. "Stop talkin about a vampire had a deal don't brake it."
And you said you and Winter were talking about --
A. I think we were watching a movie.
Q. Okay.
A. And it was about a --
Q. You think you were talking about the movie?
A. Right.
Q. So he somehow finds out that you two are texting about

this movie?

A. Or we were on the phone and talking about it and he heard her talking to me, yeah.

Q. Okay. All right. Go ahead. Sorry.

A. It was 18:30?

Q. 18:23?

A. "Ok sry.

"Not textin her anymore. Did she not tell you that I told her I been wit my ex and im back wit her? Hell its true I got pics.

"I said no talkin u just got hung up on right so pls lev us alone for awhile.

"No I didn't get hung up on. I havent called. I got called from a private number and I ignored it.

"Oh. Do me a favor n call me so I hear her in the back gound so I kno for sure youre not lyin to me. Like jus call me and lay the phone down so I can hear yal talkin to each other.

"Pls stop u no I ask u not to even talk to her at all u swore.

"Thought you were at jcs wit her mom? Im not talkin to her I'm not going to talk to her but I had to make arrangements to get my pillow case back and to give her the bear you got her back.

"Uno that so jc u still talkin pick up ur phone her mom

wants to talk.

"Wats her mom wanna say? My phone will be free after 9. I'm bout outta mins. I can answer after 9. I love winter but I jus want her happy. And I wana know wat u gotta tell me so ill keep my word.

"See was anna ok. We got through som shit and was getting married and then marry hook yall up and I made one mistake and she cried and I didn't hold her and she looked to u so she lettin u know im there what the lies im gone to here and u done want ur case or maybe u do u its got me on it but at this point she got u hooked again so I feel for u welome to the family m

"Welcome to what family?

"I told u ill show u my papers and hers but u cant quit so fuckin ask her dum ass.

"She told me she has to take shots and has an immune deficiency problem. So hiv?

"See if you get the truth.

"Well tell me wat yu have. You aint gotta tell me wat she's got."

And I guess he sent a blank test.

So I re-sent the text "well, tell me wat you have. You aint gotta tell me wat she's got.

"Are u realy back with ur girl friend.

"Tell me pls.

"Are.

"Yea.

"Welcome to the aids family bitch.

"I dont have aids."

And then it starts December 2nd.

"I told u to let it go but no just like always.

"So you have aids?

"And u have hiv that comes first merry christmas I was gone wish u happy new year mom said hard head makes soft ass and damn u do look better than her and.

"I have a soft ass an no rubber call me in 6 months k happy nowll u no.

"Could of found out later but I have no time for games an u hard headed win the truth is in ur face so u love pain u will have.

"I dont have hiv.

"Leave us alone dumb ass talk to winter shell tell u the truth am just a damn dumb ass like u I though I could trust someone if I give them proof u h.

"You had it 2 times if only u would of listin the first time and im so cool but I still have ur real girl friend haha.

"Well I hope what youre saying bout hiv is a lie.

"18435239117 My ex family if u cant wait like like u cant swear call them ill go home for chrisx and send to ur

dumb ass and then leave us alone or fuck us both ok.

"U told me u were strait gay bi im layin with her reading all just texted her right u wantn some phone sex call m.

"Youre laying wit her now?

"Ask her ur so gulible u make me feel good just wiped with ur pillow case again 15 mins ago check it when u make them arrangements in the bathroom got to.

"Go stupid after all y no u still wont stop u a brim swimming with sharks im here were u at ill let u here more tonite open ur mough and u can.

"Wounder from the way it looks ull wounder.

"Stupid stupid.

"I'll wonder what?

"No answer m.

"Never been apart dumb ass an u getting text from her nowll hah.

"Yea.

"Ohhhhhh u just got me n trouble.

"How.

"Keep forwardin i love it m.

"Not forwardin shit.

"Love the address and 1544 stupid.

"Wat address and wats 1544?

"U love pain more than me ill send u something in the

mornin.

"See was ok we got through some shit and was getting married and then marry hook all up and I made one mistake and she cried and I didn't hold her a.

"Nd see looked to u so she letting u know im there what the lies im gone to here and u alone want ur case or maybe u do u its got me o.

"Tell winter to come home see said u were in gaffney an she had to say good bye tell her quit play with her feeling and let her go me and bevs got to go to work.

"She wants to be with me.

"Winter with you don't lie.

"Nope.

"Well why u say it like that.

"Im in ga.

"Gaffney or georgia.

"Gaffney."

"She said u were im georgia so yall are to gether.

"I only live an hour and a half from Gaffney i'm visitin family in Gaffney today. And Winter.

"Tell her to call me now call me now.

"Did u tell her ineed to tak her.

"I'm not around her right now.

"Did you talk to her.

"No she want answer.

"She wont answer for me either.

"Winter were u at baby damn pickup ur phone.

"She's not your baby.

"I WAS SENDING THAT TO WINTER SORRY.

"She got it.

"Did you talk to her yet.

"Fuck u bitch.

"Why you cussin at me.

"I winter delane pierce tak you Anna marie mooney to be my wife, soul maste, the mother of my child for as long as this world keeps spinning.

"She made love to me last nite bitch best we ever did I got.

"It all she had me so hot I let her stick her finger in my ass so I hope yu had fun kissing her eating her out did u lick her ass I got that to.

"Hows my pussy taste on her lips.

"She went out and had sex with y last nite she was going to tell u bye so yal had sex instead.

"Shell never tell me bye.

"Did you find Winter." That's it.

Q. All right. Now, in these messages you tell him she got the message. Did you ever speak to Winter on December 2nd?

A. No, I was just playing it. I thought -- I honestly thought she just wanted a break from him, wanted a break

from me, everybody, and I just played right into that.
Q. Okay. Were you even in Gaffney on December 1st?
A. No.
Q. Or December 2nd?
A. No.
Q. When did you first come back to Gaffney?
A. When the police called me and I had to make a statement.
Q. Okay. I think that was on December --
A. The 5th or 6th.
Q. December 5th, 2010, that was the first time that you came back?
A. That's the first time I came back.
Q. Okay. I'm going to ask you -- and I'm sorry you had to read a lot of these.

State's Exhibit 15, these are the text messages between you and Winter. If you would just start with December 2nd. The records contain December 1st and December 2nd.

If you will give me just a moment. I believe you are looking at page 15?
A. Yes.
Q. All right. And these are the text messages between you and Winter on December 2nd.
A. "And I've fallin love wit yu. I'd be wit you even if you did have aids.

"I told you he had been drinking moon shine. But damn I was just laying there talking to you and you just hung up on me.

"And I've fallin in love wit you. I'd be wit you even if yo did hav aids.

"Baby I don't stop saying that please! Damn I just wanted for once for yo to fall asleep on me.

"I will.

I just wanted to hear my wife breathe. That's all I wouldn't of went to time out.

"Wat are you talking about.

"I was in the preocess of goin to time out when you hung up on me but if I would've known you was that sleepy. That's all you had to say. Baby I love you so much.

Love you too.

"Swear?

"Swear.

"Well then nite nite baby I hope you sleep well. I'll be thinking bout you before I go to sleep and as soon as I wake up.

"You alone in bed.

"Gettin Trixi now then headed vial way she was hyper."

Q. What is Trixi?

A. Her dog.

Q. Thank you.

A. "Everyone shut Trixi outta their room so i had to wait till she calmed down to bring her into mine.

"O.

"Well, joe shut her out off the extra room where her Pee pads are so I had to bring her into my room.

"Come get in my bed I'm freezing.

"Man.

"What's wrong?

"Youre boyfriend says I got hiv from puttin your tongue ring in my tongue. Man i swear to god i'm bout to flip.

"Oh my god he's number 1 not my boyfriend and number 2 he's lying.

"Ok well i'm gonna need to see some updated blood work on you. Sorry but I can't even god Damn sleep worryin bout this shit.

"Fine I cant' believe you'd believe him over me.

"I'm not believin either one of yal. I'm just not trying to get burnt.

"I wouldn't do that as a matter of fact i'm bout to call the cops.

"I mean there aint no need in involvin the police jus get tested and show me the papers pls.

"Fine. Will do where is gaffney hop.

"Don't kno.

"I'll go tonight.

"WTF.

"I love you. I'll be wit you no matter what. I believe you. I don't want no tests done. Fuk it if we got it we got it.

"Hello.

"Guess it is true you really are laying wit him.

"Sorry I was falling asleep i'm up now getting dressed.

"Gettin dressed for wat.

"Joe's been blowin my phone up wit texts.

"To go to the hospital n get tested i'm tired of this.

"Na Fuk it.

"Saying what.

"I wanna prove to you.

"I'm done wit this drama.

"Done with me, Thats not fair shit I was half asleep.

"I hate this. Yal r Fukin wit my head. Thats cool. Now i'll Fuk wit yals head.

"I'm on the way to the er and i'm not fukin with no ones head I was half asleep.

"Call me.

"He just came in my room and said she's so mad at you i'm loving this shit and I didn't do a Damn thing.

"Why did he come in your room and I thought you was on the way to the er? Liar.

"I was getting the address.

"Marry me winter.

"I."

"Marry me winter.

"Marry me winter.

"Just got outta my po appt.

"Call me asap.

"Pretty worried bout cha. Text me.

"Whats up yo.

"Joe send this to me FWD (above msg from Joey).

"I luv u.

"Man you got your Fukn mon and god Damn joe thinkin ive done somethin to you or Im hidin you or something you need to Fukin cal them now Fuk this shit.

"Dont even talk to me anymore Peace.

"You ok."

That's it.

Q. What was Joe's, the defendant's, attitude towards you when you had phone conversations with him?

A. It was always pretty shitty towards us. I -- I tried to make it civil, like I wasn't going to talk to her any more, and I told her just to tell him if he came over there that we weren't talking any more so they wouldn't fight, but, you know, we didn't like each other at all.

He didn't like our relationship and I didn't like him coming back to her house. That's just how it was.

Q. Did she ever give you any indication of anything that she said to you that she was back with him on wanted to be back with him?

A. Never. Never.

(Off the record)

(Back on the record)

BY MS. LESKANIC:

Q. Just to clarify, when you said that on the vampire question that you and Winter were watching a movie, y'all weren't actually together?

A. No, no, we just watched movies over the phone all the time.

Q. So you would both turn on the same channel in your house?

A. Yeah, get on like On Demand and find a movie that we wanted to watch and we would text about it and we were watching it, or talk on the phone as it was on. No, we weren't together.

Q. Okay. Who initiated the first contact between you and the defendant? Did you contact him about leaving Winter alone, or did he contact you?

A. He called me. I guess he got my number out of the phone.

Q. Thank you very much. Please answer any questions that the defense has.

THE COURT: Cross-examination, Mr. Harbin.

MR. HARBIN: Yes, sir.

If it please the court.

CROSS EXAMINATION BY MR. HARBIN:

Q. Ms. Mooney, you referenced someone named Mary had put you and Winter together. Who is Mary?

A. She was a friend of mine.

Q. Okay. What's her full name, do you know?

A. Mary Couch. I don't know her middle name.

Q. She was a friend of yours, not Winter's, or vice versa?

A. She was I guess a mutual friend of ours. Just Winter and I didn't know each other.

Q. At the time -- right about the time, I guess, all these texting battles were happening, or whatever, you were actually dating a girl named Misty, correct?

A. I would just throw her up in Winter's face when he would text me saying he was laying with her and I wasn't with her.

Q. So you were, or were not?

A. I was not.

Q. You were not.

You were just trying to make Winter feel bad?

A. Right.

Q. Okay. You said you had been together -- well, actually I'm not sure if you said exactly how long you had been

together. Can you clarify. I believe you said you had actually seen each other maybe four times total?

A. Yes.

Q. Over what period of time?

A. A month, month and a half.

Q. But you met her, I guess, when you are physically in Gaffney? It's not like --

A. No.

Q. I'm sorry.

A. No, the first time I met her she came to my house.

Q. Okay. And what did she come to your house for?

A. To meet me.

Q. Well, she would have met you before that, right?

A. Well, we met in Wal-Mart, but I didn't really speak to her. They saw me. I spoke to Mary and then, you know, Mary messaged me and said "she wants your number. She thought you were hot."

Q. She came to your house in Georgia?

A. No, in North Carolina.

Q. In North Carolina.

When -- so you live in Georgia, and then North Carolina, or vice versa, or --

A. North Carolina and then Georgia.

Q. Okay. So if y'all were only together for a month, so you had only recently moved to Georgia?

A. Right.
Q. And somewhere I believe I read that you had some family here in Gaffney?
A. I have family -- no, I don't even -- I just played into his crap about after he -- or whatever happened to her. I thought she was, you know, trying to get away from both of us, and he made it seem like she was with me, but she was not.

No, I don't have -- I have got family in North Carolina, not far from here.
Q. Okay. But you were trying to explain -- I believe there was a text that you had sent to Joey somewhere in this, and I know that we didn't read every text. I'm not sure if we read that one or not. I don't want to make you go back, but -- so you were just lying to get at him, or --
A. Yeah, I was just --
Q. Or needle him, or --
A. I just wanted him to think that she was with me.
Q. You wanted --
A. I just wanted him to think that she was with me.
Q. Okay. You said that he made contact initially and was trying to get you to stop seeing Winter?
A. Right.
Q. Right.

Y'all had -- so y'all had phone calls, not just like

missed phone calls, but y'all actually spoke on the phone?
A. Yes.
Q. And it was your testimony, I believe, that you were attempting to be civil and try to work this out and I guess at one point in time even willing to kind of walk away, if that made everybody happy or --
A. Right.
Q. -- whatever.
I don't mean to put words in your mouth. Is that somewhat accurate?
A. That's about right.
Q. Okay.
A. I just wanted her to be happy.
Q. The conversation that you had with Joey, and I believe we read all this, and I think -- am I understanding correctly you were at work when Joey is texting you? I believe this was at 13:56, so 1:56 in the afternoon?
A. Yes.
Q. I believe this would be December 1st. Yeah. Let me check that so I'm not telling you wrong. December 1st, that's right.
So you are at work and you are texting him back and forth?
A. Right.
Q. And at some point you text Joey "oh, and by the way I

did text Winter. I told her I was just joking about the phone calls and the voice mails to get her reaction and I guess she believes it. Just told her that so there would be no problems between you and her."

So on several times you are finding yourself having to lie to Joey and on other times you are finding yourself having to lie to Winter?

A. No, I would always forward the messages from me and him to her, because she always knew what was going on.

Q. Okay. And right after that text Joey said "please give me ten minutes.

."Ok -- you say "ok."

And then you interject about twenty minutes after that and it seems to be unprovoked. You say "and jus so you kno I'm not strait gay. I'm bi."

A. Right.

Q. Do you recall sending that text?

A. I do.

Q. And do you have -- why did you send that text?

A. I -- I don't know. I was just trying to keep the peace.

Q. And you had texted between yourself and Winter, and I believe there are several texts involved in reference to texts that you sent back and forth from Joey about, you know -- I believe you said something like "turn the phone on

and lay it down so I can hear you guys."

And I believe there was quite a conversation with you and Winter about you essentially implying or calling her a liar, that she wasn't admitting that she was with Joey, and that went on for some time, is that right? And I believe specifically you referenced "I heard y'all. I know what your voice is. That was you."

A. Yeah.

Q. Is that correct?

A. Yeah.

Q. Okay. And that was on -- I believe that was on December 1st as well.

MR. HARBIN: May I have one moment, please?

THE COURT: Yes, sir.

(Off the record)

(Back on the record)

BY MR. HARBIN:

Q. One of those text, and I believe it's to Winter, you referenced you just got out of your PO appointment. What's that?

A. My probation appointment.

Q. Okay. So you were on probation for something?

A. I was.

Q. And is it fair to say that you have had a few run-ins with the law?

A. Yeah.

MS. LESKANIC: Objection, Your Honor.

THE COURT: All right, come up.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

MS. LESKANIC: Thank you, Your Honor.

BY MR. HARBIN:

Q. Ms. Mooney, one last question. Why you were on probation for?

A. I used my aunt's credit card without permission.

Q. Thank you very much.

MR. HARBIN: No further questions, judge.

THE COURT: Okay.

Redirect?

MS. LESKANIC: Nothing further, Your Honor.

THE COURT: All right. Thank you. You may step down. Give the exhibits back to the court reporter, please.

All right. Madam Solicitor, you may call your next witness.

MS. LESKANIC: The State calls Jasmin Hill.

JASMIN HILL, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Will you please state your name for the ladies and gentlemen of the jury?

A. It's Jasmin Hill.
Q. Where are you employed, Ms. Hill?
A. Verizon Wireless.
Q. How long have you worked with Verizon?
A. Eight and a half years.
Q. And what is your duties with Verizon?
A. I'm a records custodian, so I perform the court testimony. I also attend small claims, arbitration, and mediation hearings.
Q. What telephone number are you here for today, what Verizon account?
A. The target telephone number is (404[redacted]
Q. And can you tell us who the listed account holder was for that phone in November and December of 2010.
A. Yes. The telephone subscriber was Tiffany Ferguson.
Q. And does that tell who the bill is going to, or how does that information --
A. That's the account owner, so that would be the person financially responsible for the account.
Q. All right. Have you had an opportunity to review your records for this number for December 1st and December 2nd, 2010?
A. Yes.
Q. If you would please look at your records for December 2nd at 2:14 a.m., looking specifically for text messages.

A. So you want to know if there were a text message at 2:14 a.m.?

Q. Yes, ma'am.

A. I didn't find a text message at 2:14 a.m.. I just took a second for this telephone number.

Q. Okay. What is the -- I guess going backwards, what time is the text message prior to 2:14 that you have?

A. I have one at 2:12 a.m. on December 2nd.

Q. All right. So 2:12 a.m. on December 2nd, 2010. Do you have the contents of that text?

A. Actually I do, but it's over in my bag.

Q. Okay. That's all right. We actually have it entered through other text messages.

A. Okay.

Q. But after the 2:12 a.m., what time is the next text message that you are showing was a completed message?

A. Give me a second.

Q. Take your time.

A. The next message was at 5:16 a.m..

Q. And was that a sent text message, or a received text message, or can you tell?

A. Off of this record I cannot tell.

Q. Okay. But from 2:12 to 5:16 there is no text activity on the Verizon account for (404) [redacted]

A. No, ma'am.

Q. All right. Can you tell on December 1st and December 2nd where this phone is, based on what towers are being used?

A. Yes, the towers used on those dates were in Georgia.

Q. Do you know where in Georgia?

A. I can give you the addresses of the cell towers, or I can give you the city.

Q. The city will be fine. The city in Georgia for December 1st and December 2nd.

A. Yes. So there is going to be a couple of different cell towers. There was one in Wilburn, Georgia, and then Stone Mountain, Georgia.

Q. Okay. Are any of the calls for December 1st and December 2nd, 2010, the calls or text messages, are they coming from Gaffney, South Carolina, or everything from Georgia?

A. Everything is from Georgia.

Q. Okay. On some of the text messages that we received from Verizon there were messages that were not intelligible.

A. Yes.

Q. Could you explain why we would not be able to read the text on those messages?

A. Yes. At times the message is lengthy or very long and so our network transports it in code and it just doesn't appear on the records. We don't know what it says. It was

transposed to a code.
Q. So if we were looking at the actual records in order to provide something for court, we wouldn't be able to read that data to provide the actual language of the text message, is that correct?
A. Correct, yes.
Q. But it doesn't mean a message wasn't sent? It was just too lengthy?
A. Yes, that's correct.
Q. That's all I have. If you will, please answer any of Mr. Harbin's questions.
THE COURT: Cross-examination, Mr. Harbin?
MR. HARBIN: Just very briefly.
CROSS EXAMINATION BY MR. HARBIN:
Q. I'm trying to make sure I understand the lengthy text messages. So when my wife text me, you know, say in eighteen pieces that comes in, and I may be confused, but it maybe a little bit different and you can tell me, is that like -- is it just a lengthy text that's even longer than what she sends me, because it comes through. So does it just have to be just ridiculously long and then it causes problem, or is it something that just occasionally happens in the system, because that's, you know, just occasionally stuff happens?
A. Occasionally, unless the message will be so long it's

transposed to code.

Q. Okay. So the computer kind of freaks out and doesn't know what to do, so --

Does the person actually see the gibberish, or is that just what's on the record that you can go back and get over time?

A. The code is on the message. They -- the person receiving the message will receive the details, but if it says hello, then they will get that.

Q. Okay. That's I all have. Thank you.

THE COURT: Anything further of this witness?

MS. LESKANIC: No, Your Honor. We would ask that she be released.

THE COURT: Objections?

MR. HARBIN: No, sir.

THE COURT: All right. Thank you. You are excused and you are released.

THE WITNESS: Thank you.

THE COURT: Thank you very much for coming.

Call your next witness.

MS. LESKANIC: Your Honor, at this time we would ask for stipulation number one to be published to the jury.

THE COURT: All right.

All right, ladies and gentlemen, the parties to this case, the assistant solicitors, the defense attorney

and the defendant have agreed to the following stipulation, which is being published and you are to accept this as a fact in this case.

The State and the defense stipulate to the following phone numbers as belonging to the listed individuals during the time period in question in this case:

Anna Mooney, (404) [redacted] Verizon.

Winter Wingard, (864) [redacted] Alltel.

Joey Clark, (843) [redacted] AT&T.

And Beverly Patrick, (850) [redacted] T-Mobile.

Those are stipulated facts between the parties in this case and are to be accepted by you.

All right.

MS. LESKANIC: Thank you, Your Honor.

The State calls Robert Brackett.

THE COURT: All right, Mr. Brackett, come around, please.

ROBERT BRACKETT, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Please state your name for the ladies and gentlemen of the jury.

A. Robert Brackett.

Q. And where are you employed, Mr. Brackett?

A. Cherokee County 911.

Q. How long have you been with 911?
A. Eighteen years.
Q. All right. What are part of your duties with 911?
A. I am the assistant director. I am over all twenty-four employees, plus I make copies of tapes that have been subpoenaed to court.
Q. And does 911 keep a copy of the calls in the regular course of business?
A. Yes, we are required by law to keep them ninety days.
Q. All right. I'm going to show you what's been marked State's Exhibit 18 and 19. They have already been admitted, but just so we understand, can you take a look at these two and tell me if you recognize them?
A. Yes.
Q. All right. And are these two calls that you made copies of?
A. Yes.
Q. Related to this case?
A. Yes.
Q. Okay.

MS. LESKANIC: Your Honor, at this time I would ask to publish State's Exhibit 18.

THE COURT: Permission granted.

(Whereupon, State's Exhibit No. 18 was played to the jury panel).

MS. LESKANIC: I'm now going to publish State's Exhibit No. 19.

THE COURT: Permission granted.

(Whereupon, State's Exhibit No. 19 was played to the jury panel).

MS. LESKANIC: That's all I have for this witness, Your Honor.

BY MS. LESKANIC:

Q. If you would please answer any questions that Mr. Harbin may have.

MR. HARBIN: Nothing for this witness, judge.

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

MS. LESKANIC: Could he be excused, Your Honor?

THE COURT: Any objection?

MR. HARBIN: No, Your Honor.

THE COURT: Yes, sir, you are excused. Thank you for coming.

All right, you may call your next witness.

MS. LESKANIC: The State calls Shanese Dawkins.

SHANESE DAWKINS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Would you please state your name for the jury?

A. Shanese Dawkins.

Q. Ms. Dawkins, where are you employed?
A. Novant Health, Gaffney Medical Center, formerly Upstate Carolina Medical Center.
Q. And how long have you been employed with Upstate Carolina?
A. Seventeen years.
Q. And what are your current duties?
A. I manage the health information management department and I also am the person to appear in court to authenticate records.
Q. And were you asked to look at any records to see if Winter Delane Wingard went to Upstate Carolina Medical Center on December 2nd, 2010?
A. I was.
Q. And were you able to retrieve any data?
A. No, she was not seen in our facility on that date.
Q. Would that include the emergency room or being admitted to the hospital?
A. It would include any emergency, outpatient, admission, any -- any visit there, it would include it all.
Q. All right. So on December 2nd of 2010, Winter Delane Wingard did not go to Upstate Medical Center?
A. She did not.
Q. Thank you very much. Please answer any questions that defense may have.

THE COURT: Cross-examination, Mr. Harbin?

MR. HARBIN: Yes, sir, one question.

CROSS EXAMINATION BY MR. HARBIN:

Q. Ma'am, I don't know if you were called upon to look at these records or not, but do you have any knowledge of whether Winter had ever received treatment?

A. She had. She has been in our facility once and that was on November the 12th, 2010.

Q. No further questions. Thank you very much.

A. Uh-huh.

THE COURT: Anything further?

MS. LESKANIC: Nothing further, Your Honor. I just ask that the witness be excused.

THE COURT: Any objection?

MR. HARBIN: No, sir.

THE COURT: All right. Thank you. You are excused and thank you for coming.

All right, Madam Solicitor, you may call your next witness.

MS. LESKANIC: The State calls Aaceshon Briggs.

AACESHON BRIGGS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Will you please state your name for the record?

A. Aaceshon Briggs.

Q. Mr. Briggs, where do you live?

A. [redacted], Gaffney, South Carolina.

Q. All right. And is that where you were living in December of 2010?

A. Yes.

Q. All right. Is that close to [redacted] Do you know where Songbird Lone is?

A. Not exactly.

Q. Okay. I'm going to show you a photograph that has been marked State's Exhibit 72 and ask you to take a look at that.

A. Oh, yeah, you are right.

Q. Tell me --

A. You can see my house from here.

Q. Okay. All right. I'm going to put it up on the screen so you can take a look at it.

All right. Looking at this photograph -- here is my pointer. Push that button there.

A. Okay.

Q. Can you show the jury -- and if you need to step down, Mr. Briggs, you may, and show the jury where your home is in this photograph.

A. Right there.

Q. Okay. Where were you working in December of 2010?

A. Dollar General Distribution.

Q. And what were your work hours?
A. Anywhere between five p.m. to -- I get off at 1:30 p.m., or any time between there and 3:30 p.m. -- I mean, a.m., I'm sorry a.m..
Q. Okay. Do you remember the police coming and talking to you about this particular case?
A. Yes.
Q. All right. And did you give them a statement?
A. Yes.
Q. Tell the jury what information you had for police regarding this case.
A. That particular night I got off around --
Q. And, I'm sorry, would this have been December 2nd, 2010?
A. Yes, December 2nd.
Q. Okay.
A. I got off around 2:20 a.m., and I got home about three o'clock a.m., and when I pulled in my yard I seen a vehicle parked between my yard and my uncle's yard and I didn't know -- I didn't know the vehicle, so I looked out my back door and I could see clearly -- I didn't see anybody in it, so I waited the next day and asked my uncle did he know whose it was and he said no.
Q. All right. When you got you up, and I guess it would be later the same day, you went to bed -- you got home about

three o'clock and the vehicle was there?
A. Uh-huh.
Q. When you got up to start your day, later that day, was the vehicle still there?
A. Still there.
Q. Okay. And looking at this photograph, can you tell us where it was parked? Can you see the area where it was parked?
A. Right off in there.
Q. Okay. So across the -- what road is that that runs by your house?
A. Gramling Ferry, I believe.
Q. And was it on this side of Gramling Ferry or your side of the road?
A. My side.
Q. All right. And was it a burgundy GMC vehicle?
A. Yes.
Q. Did you walk up to the car?
A. I walked maybe ten yards from it. I didn't get close to it and I could see a person wasn't in it, so I turned around and went back in the house.
Q. So you got close enough to tell that no one was inside the vehicle?
A. Yes.
Q. Okay. And you got home about three a.m. on December

2nd of 2010, coming home from work?

A. Yes.

Q. Thank you. If you will please answer any questions Mr. Harbin may have.

THE COURT: Cross examination, Mr. Harbin?

MR. HARBIN: Briefly, judge.

CROSS EXAMINATION BY MR. HARBIN:

Q. Good afternoon, Mr. Briggs.

Where did you say that you worked?

A. Dollar General Distribution.

Q. And where is that located exactly?

A. Jonesville, South Carolina.

Q. Jonesville.

So it would take time for you to get from there to home?

A. Yeah.

Q. And is that how you are estimating time? Do you know exactly when you got home, or are you just kind of figuring it always takes me "x" number of minutes to get home. Therefore --

A. I -- I remember the night it happened. I looked to see what time it was when I got there.

Q. Okay. And you said you didn't -- you went near it, so you didn't touch it, or anything?

A. No, sir.

Q. Do you know your neighbors across the street, across Gramling Ferry?

A. Yes.

Q. And who are they?

A. The only other name is Ron Hollis and he had a son that lives there too and a wife.

Q. And, to your knowledge, did Mr. Hollis and Mrs. Hollis have a son?

A. Uh-huh.

THE COURT: That's a yes?

A. Yes, sir.

THE COURT: Thank you.

MR. HARBIN: No further questions, judge. Thank you, Mr. Briggs.

THE COURT: Redirect?

MS. LESKANIC: Nothing further, Your Honor.

THE COURT: All right. Thank you. You may step down.

Would you like to have the witness excused?

MS. LESKANIC: Yes, Your Honor.

THE COURT: Any objection?

MR. HARBIN: No, sir.

THE COURT: All right, you are excused. Thank you for coming.

THE WITNESS: All right.

THE COURT: All right. You may call your next witness.

MS. LESKANIC: The State calls James Wilkerson.

JAMES WILKERSON, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Could you please state your name for the jury?

A. James R. Wilkerson.

Q. All right. And where do you live, Mr. Wilkerson?

A. [redacted], Gaffney, South Carolina.

Q. How far is [redacted] from Mikes Creek Road, approximately?

A. A mile.

Q. Okay. And what do you do for a living, Mr. Wilkerson?

A. I work for Pike Electric.

Q. Pike Electric?

A. Yes, ma'am.

Q. And how long have you been employed with Pike?

A. About twelve years.

Q. All right. Did you happen to be on Mikes Creek Road on December 2nd of 2010?

A. Yes, ma'am.

Q. Do you remember approximately what time that was?

A. Roughly 3:30.

Q. Can you please tell the ladies and gentlemen of the

jury what you saw and what you did on December 2nd, of 2010?
A. Excuse me.
Q. And why you were on Mikes Creek Road, can you explain to them why you were there and what you saw?
A. I usually go down Mikes Creek because you can see deer, turkey. Lemaster used to have their cows and horses out there. And that particular day I just got off work, decided to go through there and look and found Ms. Wingard.
Q. All right. Describe Mikes Creek Road for us. Is that a heavily traveled road, or a paved road, dirt road? What is Mikes Creek like?
A. It's a dirt road. It ain't really heavy traveled. A lot of people come out there to party, whatever.
Q. Okay. And when you were going down the road, what did you see or what did you do?
A. I found Ms. Wingard. First I went by her and then I said something wasn't right and then I backed up. First I thought it was a doll. Then I backed up.
Q. Like some sort of blowup doll?
A. Yeah, a blowup doll.
Then I backed up and I looked out of the window of the truck.
Q. When you were looking at her body, are you looking out your driver's side window or passenger's side window?
A. My driver's side window.

Q. Okay.
A. And her head was kind of to the left and I could see something looked like blood. I said something ain't right and that's when I left. I didn't have no cellphone service down in there and then I left and that's when I met Mr. Taylor.
Q. Okay. Did you ever get out of your vehicle?
A. No, ma'am.
Q. So you didn't walk up to the body?
A. No, no, no.
Q. Where did you go as you drove up Mikes Creek Road? How did you run into Mr. Taylor?
A. Going down the driveway -- the road going to my house and where Mr. Taylor has got his horses.
Q. And what was your conversation with Mr. Taylor?
A. I asked him would he go over there and see if it's what I thought it was.
Q. Okay. How did it make you feel to see this?
A. I didn't like it. I mean, it scared me. I mean, I didn't know what to do.
Q. Okay. So you told -- you asked Mr. Taylor -- was Mr. Taylor with anyone else?
A. I believe his wife.
Q. And you told them that you thought you had seen something?

A. I thought I had found a woman dead.
Q. Okay. And asked them to go and look?
A. Yeah.
Q. All right. Did you find out later on that evening what, in fact -- that it was, in fact, a body?
A. Yeah, uh-huh.
Q. How did you find out?
A. The detective come to my house that night.
Q. And did you talk to the detective and give him a statement?
A. Yes, ma'am.
Q. Okay. And was this a -- I think you said it was 3:30. I just want to clarify. Was it 3:30 in the morning or 3:30 in the afternoon?
A. Afternoon.
Q. Okay. So 3:30 p.m. on December 2nd, 2010, after you got off of work?
A. Yes, ma'am.
Q. All right. Thank you very much. Please answer any questions that Mr. Harbin would have.

THE COURT: Cross-examination, Mr. Harbin?

MR. HARBIN: Briefly, judge.

CROSS EXAMINATION BY MR. HARBIN:

Q. Mr. Wilkerson, you had mentioned a party spot or a gathering spot of some sort, so -- I guess you live pretty

close to this area, so you know from personal experience?

A. Yes.

Q. Or some type of observation.

To your knowledge, has there ever actually been -- you know, have you had to run people out of there, or whoever owns the land? I don't know if you know the person who owns the land right around there or not.

A. I know the person that owns the land, but I have went through there and there's kind of like a pull-off and I have seen people there. I mean, not every day or nothing like that. It's just spur of the moment thing, I reckon.

Q. Okay. That's all. Thank you very much.

THE COURT: Redirect?

MS. LESKANIC: Nothing further for this witness, Your Honor.

THE COURT: All right. Thank you, Mr. Wilkerson, you may step down.

Are you asking this witness be excused, solicitor?

MS. LESKANIC: Yes, Your Honor.

THE COURT: Any objection?

MR. HARBIN: No, sir.

THE COURT: You are excused. Thank you for coming.

THE WITNESS: Thank you.

THE COURT: All right, you may call your next

witness.

MS. LESKANIC: The State calls Clarence Taylor.

CLARENCE TAYLOR, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Would you please start by introducing yourself to the ladies and gentlemen of the jury?

A. I'm Clarence Taylor.

Q. And where do you live, Mr. Taylor?

A. [redacted].

Q. All right. And is that close to [redacted] and Mikes Creek Road?

A. Probably about two miles.

Q. Now, what do you do for a living, Mr. Taylor?

A. I'm retired.

Q. From where?

A. Retired from Timken, retired from the Army National Guard.

Q. Did you see Mr. Wilkerson on December 2nd of 2010?

A. Yes, ma'am.

Q. All right. Was it a little after 3:30 in the afternoon?

A. Yes, ma'am.

Q. And where were you?

A. We were -- we had left our horse pasture on Millies

Road and we were starting up the road and I met him coming down and he stopped.

Q. Who was with you?

A. My wife.

Q. All right. And what did Mr. Wilkerson tell you and your wife?

A. He just said he seen something over there and he wasn't sure what it was, and kind of upset real bad, looked kind of, you know, funny, so I said okay.

Q. When you looked at him, could you tell something didn't look right?

A. He looked a little shocked, a little strange.

Q. Okay. So did you and your wife go down to Mikes Creek Road --

A. Yes, ma'am.

Q. -- and take a look at what he told you about?

A. Yes, ma'am.

Q. All right. What did you find when you arrived?

A. A dead body.

Q. Okay. Did you get -- what did you do?

A. Well, we were starting down the road there and my wife said "where is Jim?"

I said, "well, he's -- I don't know. He's not back there." We thought he was going to follow us down there.

And she said "oh, he's pulling a joke on you."

We come over the still starting down there and I said "well, there is something. That's looks like a dummy." And I said "no, I don't know."

We pulled up and I got out and walked over there and I walked back and I says "that's a dead body."

She said "no, it's not."

And I said "well, it is."

And I said "well, get out and look." She got out and made the front of the truck and come back in.

Q. Okay. Did you call 911?

A. Yes, ma'am.

Q. And how did you find the body? What did the body look like when you --

A. It was nude, sweat pants pulled down to her ankles, a leg folded backed under it. It's been, you know, a good while.

Q. All right. So you called 911. You did get out of your vehicle at one point?

A. Yes, ma'am.

Q. All right. And was that at the request of the 911 operator also to identify for sure that it was a human?

A. Well, I got out of the vehicle and I never really got back in the vehicle after I got out. I just told my wife "hand me the gun out of the dash." I didn't know if there was anybody else around there or not.

Q. Okay. Did you wait at Mikes Creek Road until the police arrived?

A. Yes, ma'am.

Q. And did you and your wife speak to police?

A. Yes, ma'am.

Q. Mr. Taylor, later on in the police investigation did they ask you to come back in so they could take a look at the bottom of your shoes?

A. Yes, ma'am, they took me and my wife's shoes. They came and picked them up, or she took them down there, or something, one or the other.

Q. But there was a point in time later in the investigation they wanted to take a look at your shoes, or was it that night, if you remember?

A. I believe it was the next day they called. They asked me if we walked around. I had walked around there.

Q. Okay. All right. Thank you very much, Mr. Taylor. Please answer any questions that Mr. Harbin has.

THE COURT: Mr. Harbin?

MR. HARBIN: Yes, sir. Thank you.

May it please the court.

CROSS EXAMINATION BY MR. HARBIN:

Q. Mr. Taylor, you heard me ask Mr. Wilkerson about the folks gathering down at that area of Mikes Creek Road. Is your knowledge of that area consistent with his?

A. Yes, sir.

Q. And do you have any more specific knowledge about whether or not there has been trouble, like having to shoe people out of there specifically, or -- if you don't know, fine.

A. Not as far as shoeing people out. I have seen people there when I go through occasionally.

Q. Okay.

A. I don't go through there that much any more.

Q. You avoid the place now?

A. I always have.

Q. Could you be specific as to why you avoid the place?

A. You just meet people parked down there and I prefer not to run up on them, or, you know, nothing like that.

Q. All right.

MR. HARBIN: No further questions. Thank you, sir.

THE COURT: Redirect?

MS. LESKANIC: Nothing further, Your Honor.

THE COURT: All right. Thank you, sir. You are released -- you are excused for --

Do you want to have him released as well?

MS. LESKANIC: Please, Your Honor.

THE COURT: Any objection?

MR. HARBIN: No.

THE COURT: You are free to leave. Thank you very much for coming.

MS. LESKANIC: May we approach, Your Honor?

THE COURT: Yes.

(Whereupon, the lawyers approached the bench for an off-the-record discussion).

MS. LESKANIC: Thank you, Your Honor.

THE COURT: All right. Proceed. Call your next witness.

MS. LESKANIC: The State calls Jimmy Henson.

INVESTIGATOR JIMMY HENSON, having been first duly sworn, testified as follows:

THE COURT: All right.

MS. LESKANIC: Thank you, Your Honor.

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Will you please state your name for the record?

A. Jimmy Henson.

Q. And where are you employed, Mr. Henson?

A. Cherokee County Sheriff's Office.

Q. How long have you been employed with the sheriff's office?

A. Thirty-four and a half years.

Q. Okay. And what is your current position?

A. Crime scene investigator and evidence technician.

Q. Okay. How long have you been the crime scene

investigator and evidence tech at the sheriff's office?
A. Since 1995.
Q. Okay. What are your duties as the CSI investigator and a crime scene technician?
A. Crime scene technician, we get called out to a crime scene. Our duty is to make sure that the scene is secured. Usually our officers -- we teach our officers how to secure a scene and usually they have got it secured by the time we get there. If it's not secure enough for us, we make sure that we get the perimeter set up and it is secured.

And once we go in on a scene we do a walk-thru to see what we got. We will come back and photograph the scene just as it was when we got there. And as we are doing our photographing of the scene we try to determine what could be potential evidence that may be needed.

We will come back, label the evidence or mark the evidence and go back and take photographs of the evidence again inside the scene with it marked. We take far-off shots, medium shots, and close-up shots of the evidence.

We come back, we draw sketches of the scene, take measurements of any evidence that's on the scene, and we will collect the evidence. Each piece of evidence gets collected in a separate package and secured, so we don't have any kind of cross-contamination with evidence.

Once we get the evidence packaged and collected off the

scene we will turn -- we will go through one more time to be sure that we have got everything that we think may be evidence and then we will turn the scene back over to whoever is in charge of the property, or whatever.

Q. And what type of training -- of course, there is a lot of experience, but what time of training have you had in crime scene investigation?

A. I have had a lot of different classes. I hadn't been to one college and got it all. I have got a lot of it, if you want me to read it.

Q. Please.

A. It started in 1979. I graduated the South Carolina Criminal Justice Academy in Columbia, South Carolina. In that training we had approximately thirty-two hours of fingerprint and crime scene investigations.

1995, when I was asked to start the crime scene unit in the sheriff's office, I attended a public agency training council. They put on a program in Atlanta, Georgia, practical homicide investigations, homicide investigation tactics, procedures and forensic techniques. It was a twenty-four hour class.

I have to be Polaroid School of Law Enforcement Imaging, Greenville, South Carolina. Crime and accident scene photography, July of '95, for five hours.

Public Agency Training Council in Myrtle Beach, South

Carolina. Practical crime scene techniques, March of 1996, sixteen hours.

South Carolina Criminal Justice Academy in Columbia, South Carolina. Basic fingerprint, August of 1996 for forty hours.

Greenville, Technical College, Greenville, South Carolina, forensic pathology and medical/legal death investigations, April of '97, for sixteen hours.

The South Carolina Criminal Justice Academy, Columbia, South Carolina, law enforcement photography, June of '97, for eighty hours.

South Carolina Criminal Justice Academy, Columbia, South Carolina, ID technician, October of 1997, for forty hours.

The FBI was taught at the -- taught by the FBI in South Carolina Criminal Justice Academy, Columbia, South Carolina, ID technician, February of '98, for forty hours.

FBI taught class at the South Carolina Criminal Justice Academy in Columbia, South Carolina, latent print development techniques, April of 1998, for twenty-four hours.

Powerphone, a continuing education through the Board of Emergency Medical Services, in Gaffney, South Carolina, emergency crime scene responders, June of 1998, for eight hours.

FBI taught class in Spartanburg Public Safety Department, Spartanburg, South Carolina, latent print identification, December of 1998, for twenty-four hours.

FBI taught International Association For Identification South Carolina State Division in Columbia, South Carolina, chemical development and enhancement of latent prints, June of 2000, for eight hours.

Lincoln Health Consultants, South Carolina Coroners Association, Columbia, South Carolina, Medicoloegal Death Investigation in Forensic Medicine, December of 2000, for sixteen hours.

SLED International Association For Identification South Carolina State Division, Columbia, South Carolina, forensic applications of DNA, February of 2000, for eight hours.

Taught by Ernie Hamm, Jacksonville. He's from the Jacksonville crime lab, International Association for Identification. South Carolina State Division put this program on. Footwear and tire track evidence, February 7th, 2003, for eight hours.

Attended Limestone College Criminal Justice Department, Gaffney, South Carolina, Introduction to Forensic Science. That was forty hours. I had three hours of college credit. This was April 8th, 2003. I finished that with a 4.0 grade average.

U.S. Bureau of Alcohol, Tobacco and Firearms,

International Association For Identification. The South Carolina State Division put it on. Scene processing; a safe and systematic approach, June the 27th, 2003, for eight hours.

Edward Hueske taught the class. The University of North Texas Department of Criminal Justice is where he was from. The International Association for Identification. South Carolina State Division put this program on in Columbia, South Carolina. Shooting reconstruction workshop July the 16th, 2004, for eight hours.

John Black taught this. He was a SLED agent for years. He taught it at the South Carolina Law Enforcement Division in York, South Carolina. We did an on-site training there at York Training Grounds. Bloodstain pattern analysis, September the 15th, 2005, for three hours.

Emily Reinhart from SLED. Carolinas Institute for Community Policing is where she taught this and it was DNA evidence identification, collection, and preservation, November the 15th through the 16th, 2005, for sixteen hours.

David Witzke, Foray Technologies, International Association for Identification. The South Carolina State Division put this program on in Columbia, South Carolina. Principals of Digital Imaging, June the 9th, 2006, for eight hours.

Jerry Findley of Findley Consultants, put on by the

International Association for Identification, South Carolina State Division Conference in Columbia, South Carolina. Crime scene reconstruction, September the 27th through the 29th, 2006, twenty-two and a half hours.

Emily Reinhard with SLED, Carolinas Institute for Community Policing in Union, South Carolina. Union County Sheriff's Office put the program on. It was DNA evidence identification, collection and preservation, October the 23rd through the 24th, 2006, for twelve and a half hours.

Lieutenant Rita Shuler and Lieutenant Roy Pascal with SLED, International Association for Identification. The South Carolina State Division put this program on in Columbia, South Carolina February the 23rd, 2007. It was eight hours of forensic photography and forensic art.

Jerry Findley of Findley Consultants, International Association for Identification. The South Carolina State Division put the program on in Columbia, South Carolina. Advanced blood pattern analysis, November the 16th, 2007, for eight hours.

International Association For Identification, South Carolina State Division, Dr. Gray Amick and Dr. Keene Garvin, DNA overview and forensic pathology, May the 23rd, 2008, for eight hours.

This was a computer program. It was President's DNA Initiative, Bureau of Justice Assistance, What Every Law

Enforcement Office Should Know about DNA Evidence: First Responding Officers, September the 7th, 2008, four hours.

President's DNA Initiative, Bureau of Justice Assistance, What Every Law Enforcement Should Know About DNA Evidence: Investigators and Evidence Technicians, September the 8th, 2008, for four hours.

President's DNA Initiative, Bureau of Justice Assistance, Advanced and Emerging DNA Techniques and Technologies, September the 9th, 2008, for four hours.

John Wiggins, North Carolina Justice Academy, Edneyville, North Carolina, Suicide Investigation, December the 2nd, 2008, for sixteen hours.

This was all training I have had before December 2010, a total of 559 hours of training, and then I have got like 150 more hours after.

Q. Okay. And then years of experience, as well as doing crime scene investigation?

A. Yes, ma'am.

Q. Okay. Were you called out to Mikes Creek Road on December 2nd, 2010?

A. Yes, ma'am.

Q. How does that call come in to you?

A. I think my partner and I were in our office and we were dispatched by 911.

Q. And your partner, who is that?

A. Billy Anthony, sitting there.
Q. Okay. And he's also a crime scene investigator with the sheriff's department?
A. Yes, ma'am.
Q. Do you typically work crime scenes together?
A. Yes, ma'am, we do.
Q. All right. So did both of you go out to Mikes Creek Road on December 2nd, 2010?
A. Yes, ma'am.
Q. Do you know approximately what time that you arrived at Mikes Creek Road?
A. It was around four o'clock, 16:00 hours.
Q. Four o'clock p.m..
Mikes Creek Road is located here in Cherokee County?
A. Yes, ma'am, it is.
Q. And [redacted] is also in Cherokee County?
A. Yes, ma'am.
Q. Do you know how far away [redacted] where Ms. Patrick and Winter lived, is from the location of Mikes Creek Road where the body was found?
A. Just guessing, I never have clocked it to see what it was, probably five, six miles, something like that. I'm not real sure.
Q. All right. When you first arrived at Mikes Creek Road what do you and CSI Anthony do? How do you approach the

crime scene?
A. When we first arrived on the crime scene we made sure that the scene was secure. When we got there patrol officers had each end of the road blocked off so no one could get through.
Q. Okay.
A. We parked our vehicle before we got to Mikes Creek bridge and got out and walked down to the scene.
Q. All right. And what's the purpose of walking down to the scene instead of driving to the scene?
A. Well, if there is any tire tracks or shoe prints, we don't want to run over evidence in the road.
Q. Did you see anything, any tire tracks or shoe prints, walking the road?
A. We checked on the side of the road where the body was found. The evidence -- the ambulance had already been down in there and we could see where they had pulled over just a little bit to the side of the road, and there wasn't any other tire tracks there that we could find.
Q. Okay. All right.
So what do you do after you walked down to the scene? How do you begin your investigation?
A. We kind of walked down there and saw what we had. We surveyed the scene and then we start looking for evidence. We start photographing so the scene will be seen by the jury

just like we saw it when we walked up on the scene.

Q. Okay. Do you want to step done?

MS. LESKANIC: May he step down, Your Honor?

THE COURT: Yes, ma'am.

MS. LESKANIC: Thank you.

THE COURT: You may step down, sir.

THE WITNESS: Thank you.

THE COURT: Keep your voice up. I don't think that's going to be a problem. Sometimes people get away from the microphone and it's real hard to hear.

(Witness off the witness stand)

BY MS. LESKANIC:

Q. Detective Henson, I'm going to start by showing you Exhibit 25. I'm just going to let you look at these. I believe these are photographs that either you or Investigator Anthony took?

A. Yes, ma'am.

Q. And if you could just tell the jury what we are looking at here?

A. This is Mikes Creek bridge right here. The creek runs under it this way.

Q. All right. And is this the way that you came in? Where -- and I know we can't see the body here, but where will the body be, so we can get the direction?

A. The body would be down here.

Q. Okay.
A. We came in from this direction, stopped before we got to the bridge and walked across here.
Q. I'm now showing you Exhibit 26.
A. This is walking off the end of the bridge onto the dirt portion of the road. This is the little pull-off. You can actually pull off the road here and cars can still come by on the main road here. And this is our body that we have on the side of the road.
Q. State's Exhibit No. 27?
A. This is showing where the location was that the body had been. We had drag marks from the side of the road over here to the fence, the barbed wire fence right here.
Q. State's 28?
A. The same thing. The body on the side of the road, the barbed wire fence behind it, and some of the vegetation that's around.
Q. State's 29?
A. This is our body. You can see the head and one arm is on the other side of the barbed wire fence. This arm is down by her side.
Q. And what is that on the inside of her left thigh?
A. This is a drop of blood right here.
These -- this red looking portion here is red dirt. If you have ever played around in red dirt, you know how it

will get on you, and it's on her clothes, on her sweat pants. It's also on her body.

Q. And is there any red dirt like that on Mikes Creek Road?

A. No, ma'am, all this dirt in here is black dirt. It's -- well, it's real fertile dirt. All of it is black.

Q. I'll show you State's Exhibit 30.

A. This is a photograph taken from inside the fence. Here is the fence. The road is over here. In fact, Detective Anthony took this picture.

You can see me over here putting cones out on the side of the road. The coroner here with me.

This is the fence, and this is from inside the fence. Detective Anthony went about thirty feet up the road here and crossed over the fence to get in here and take photographs.

Q. Why did he go thirty feet up that road before he crosses the fence?

A. We don't want to take any chances of messing any evidence up, so we go way down below and then cross over.

Q. State's Exhibit 31?

A. This is our body. And I put cones out and we are still inside the fence here, and this is the victim's red hooded sweatshirt and a white T-shirt underneath it.

Q. State's 32?

A. This photo is still from inside the fence in the area. There is a barbed wire fence. You can see the arm is outstretched underneath the fence.

Q. All right. And, Detective Henson, can you explain to the jury where the creek is in relation to where the body is found?

A. The creek would be on down the road here running this way.

Q. I'm showing you -- using that photograph, would there be any --

A. The creek would be back over here and it runs this way. The bridge would be this way and the road comes right up through here. The creek is back over here.

And, again, there was the hoodie.

Q. I'll show you State's Exhibit 33. What do you see in that photograph?

A. In this photograph you can see the vegetation that's over the body. You can also see the barbed wire fence and how the arm is outstretched under the fence.

Q. 34.

A. This is the arm that's under the barbed wire fence, the barbed wire itself, and you can see blood drops on the victim's arm.

Q. Did you notice anything about her hand?

A. Ma'am?

Q. The dirt on the hand?

A. The dirt, yes, ma'am. This is the red dirt that's all over her body. It's also on her hands too.

Q. And this is State's Exhibit 35?

A. Again you will see the red dirt on this hand, also the left hand, and the red dirt that's on the body. You see it on her legs here, on the belly.

Q. And how about the left knee?

A. The left knee has a small cut on it here and bruising, like maybe she had fell down on her left knee pretty hard.

Q. State's 36?

A. Got blood drops on the arm and again the red dirt on the hand.

Q. State's 37?

A. Blood drops on the arm and you have got the vegetation that's over the body and the dirt on the hand.

Q. State's 38?

A. Vegetation over the body again. You can still see the blood drops on the arms and the blood on her face.

If you will notice, the blood is running down the side of her face and this tells us that her head hadn't been moved since this bleeding took place. She's been laying in this same position, because the blood ran straight down and didn't change directions at all.

Q. State's 39?

A. Again, this is showing some of the vegetation and it's showing the arm outstretched under the fence itself and the wounds on the neck area right here.

Q. State's 40?

A. A closer-up view of the wounds on the neck. The blood spatter all around.

Again, you can tell this blood spatter when it hit, it's running straight down. This arm hadn't been moved or this blood would have changed directions.

Q. Would that tell you that the arm was already in that position when the blood hit the arm, or just --.

A. Yes, ma'am, blood was -- the arm was in this position when this blood spatter happened, because it's running straight down. The arm hadn't changed position since that blood hit and run down.

Q. State's 41?

A. I think what I was focusing on here was the barbed wire and the vegetation, and this would be out of focus. This is what I was focusing on, the barbed wire and vegetation.

Q. And State's 42?

A. The victim's face. And, again, you can see from the nosebleed how it bled down the side of her face and out of the mouth also.

This is -- I think this is a bruise, actually.

Q. And the way that the blood is running from her nose and

substance from the mouth, what does that indicate to you?
A. That this happened and her head had not been moved since then.
And you can see also the blood spatter you got on whatever is laying on the ground right there.
Q. State's Exhibit 43?
A. Bruising on the face and under the chin, and you have got blood spatter here, and actual cut wounds down in here.
Q. State's 44?
A. This is showing the cut wounds here. The stab wounds or cut wounds. I forget how many, like thirteen of them, and then you have got the blood spatter all around on her body.
Q. Can you tell anything about the -- and I'm not sure if you can see it on there, about the direction or where she may have been at the time she was stabbed, based on the blood flow or saturation in the hair?
A. All the blood was flowing down the side of her head here into the hair onto the ground. And if her body -- you know, if her body had been changed, the position at all, the head had been turned, the blood flow would have went a different direction, but the head is still laying in the same position and all the blood flow is down the hair and pooling underneath her head right here.
Q. Okay. State's Exhibit 45? Kind of go over it and if

you have to refer to your notes, please feel free to. There are several things marked here. If you could just explain what you had marked and why?

A. Originally I put these out to keep anybody from walking over in this area so we could search it real close and see if we had any shoe prints or anything, tire prints, or anything. And what we did was actually got on our hands and knees and covered this whole area.

And here is number 11, this is a casting frame. We casted this print. I'm pretty sure it was 11 that we cast, made a cast of. It was some identifying marks on that shoe print. It was -- I can't remember, like a horseshoe, or something in it, that we could identify.

These other shoe prints -- this was another shoe print, this was another shoe print, but these were so vague, there wasn't much there. You couldn't tell size. You couldn't tell the shape. There was no pattern of the shoe in these whatsoever. We cleared them out and inspected them real close to be sure that we couldn't be able to get anything out of the print itself.

This one did have some detail of the bottom of the shoe, so went we ahead and cast that shoe print.

Q. And were you able to determine who that shoe print belonged to?

A. It belonged to the gentleman that got out and looked at

the body and called 911. I can't remember his name.
Q. Clarence Taylor?
A. Clarence Taylor.
Q. Okay.
A. Yes, they brought the shoes up to the lab a couple of days later and we compared it with this cast that we had made and it was his shoe.
Q. Okay. All right. Now, you stated that you saw drag marks?
A. Yes, ma'am.
Q. I think we have other photographs, but if someone -- if the body was being dragged, what would that do to the footprint, if they were walking and dragging the body and the body has the drag marks?
A. The drag marks could be covering up the shoe prints, if there was any there. You could tell where something went on in this area right here, and then you have leaves disturbed all the way to her feet right here. This was in December and all this area was covered with leaves that had fallen off these trees.
Q. State's Exhibit 46?
A. Again, this is some of the cones that we had out. I think there probably should be some more pictures with cones that have got numbers on them that we found actual blood and hair on some of these leaves.

Q. Okay. And let me back up then to State's Exhibit 45. That's the 10 and 18?

A. Yeah, you can see the --

Q. 7.

We see some other numbers. Can you tell looking at this or tell us what other items you found?

A. Well, the ones we have the numbers on them would be blood, or hair, or blood and hair, on the leaves that we found on the ground here.

Q. And I'll show you now State's Exhibit 47.

A. I think what we are showing here is the drag marks. You can tell something has gone on in this area and then the drag marks to her feet.

Q. State's Exhibit 48 is a little bit closer-up photo of that?

A. This is the drag marks.

Q. And State's Exhibit 49. Was that after the body has been removed?

A. The body had been removed, yes. This would have been the left side of -- the right side of her head where the blood was running down and pooling on the side of her head.

Q. State's Exhibit 50?

A. This is back in our lab. This is the red hoodie with the T-shirt on the inside of it that was found inside of the fence. I think it was like 11'6" from her body.

Q. State's Exhibit 51?
A. Again, this is the red hoodie.
Q. What's on the front of the sweatshirt?
A. It's got blood on the front of the sweatshirt. You can see the red dirt here. Some of the red dirt here. Little bit over here too.
Q. State's 52?
A. Red hoodie again. You can see the blood here and the red dirt.
Q. State's 53?
A. This is the back of the shirt. The red dirt on the back of the shirt.
Q. State's 54?
A. The back of the hoodie. Again, you have got the red dirt here.
Q. State's 57?
A. This is her sweat pants. The red dirt on the sweat pants. You got some blood right here. The red dirt and the blood right here.
Q. State's 58?
A. Again, sweat pants and this is blood drops. Red dirt.
Q. State's 59?
A. This is the legs of the sweat pants, the bottom legs of it. Got some blood here with the red dirt also. Here is some more blood.

Q. State's 60?
A. Sweat pants still. This is the blood close-up shot of it.
Q. State's 61?
A. Still on the sweat pants. I believe this was the back side of them with the red dirt and the back side of them.
Q. State's 62?
A. Again, the sweat pants with the red dirt. A little bit of blood right here it looks like, and red dirt.
Q. And State's 63?
A. The waistband on the sweat pants. This is the red dirt. This would have been -- I believe that was -- yeah, that's the back of them. There is a tag. The back of them. This is front of them.
Q. And, again, you didn't see any red dirt consistent with that found on the hoodie, the body, or the sweat pants at Mikes Creek Road?
A. No, ma'am, all the dirt on Mikes Creek Road is real fertile soil. It's black.
Q. All right. If you will have a seat, please.

(Witness back on the witness stand)

BY MS. LESKANIC:

Q. I know that you had to work several different scenes. I just want to kind of cover everything at Mikes Creek. We will go on to some of the evidence.

Now, we saw pictures of vegetation hanging over Winter's body?

A. Yes, ma'am.

Q. What did you do with your knowledge and experience when you saw that?

A. Whoever drug the body there had to get into this vegetation. This is what we call -- it's what I call when I was a little boy saw briars. It's a long stem with sharp points on it like a briar, and when we was kids we would run through the woods and these things would get wrapped around your arm and it would cut you. So all these saw briars were over the body.

We also had some tree limbs over the body, small tree limbs. We collected those for possible DNA.

We couldn't get to the body without getting into it. In fact, I hit my head on one of the limbs. And if I hit my head on it, maybe the suspect that drug this body here had got into it too, so we collected them for some possible DNA.

Q. So how high up was the tree limb and the briar that you collected, or how do you go about collecting that?

A. We cut them off or broke them off. I'm pretty sure I used my pocket knife and cut the limbs off and cut the briars.

Q. And how high up were these items? Were they low to the ground or waist high?

A. The briars you see were not high at all.

The tree limbs were a little bit the higher than that. In fact, I hit my head on some, like I said, so they were a little bit higher. They were off the ground.

The briars actually -- I think some of them ran up a little cedar tree right there and then drooped back down over the body.

Q. Okay. Detective Henson, I'm going show you what's been marked State's Exhibit 67. Do you have a pair of gloves? Do you want a pair of gloves?

A. I got some in my pocket.

Q. Okay.

A. Okay, State's Exhibit 67 --

Q. Yes, sir.

A. -- is the limb of a tree that was on the left side of the body.

Q. All right. And you collected that limb of the tree? Is that the one that you hit your head on?

A. I'm not sure if this is the one I actually hit my head on, but, yes, I did collect this one here.

Q. Okay. And then what do you do with that item? Do you attempt to get any DNA off of it personally, or do you send it to the South Carolina Law Enforcement Division?

A. We package it. We package each thing separately so there is no cross-contamination whatsoever, and it's carried

down to our State Law Enforcement Division lab. We can't do DNA testing in our lab ourselves.

Q. And how do you collect this and package it before it is sent to SLED?

A. After I cut it off, it would be put into this bag and sealed. Once we collect it off of the scene we put it in the truck and bring it back to our lab. We check and make sure everything is sealed properly, packaged properly. It will go into our evidence system. Everything has a number on it. This number is the incident number of the case itself. The initial officer on the scene will get this case number. This case number will follow this piece of evidence through everything, through all the lab tests, even into the courtroom.

Q. And how do you package that? I mean, how do you seal it before it's sent to SLED?

A. This is sealed with an evidence tape. And if you try to open the package, you can see the tape is -- you can't pull this tape off without tearing it. It will tear. It's so easy to tear.

Q. So it's in a tamper-evident package? If somebody tampers with it, it's evident to the naked eye that somebody has opened this package?

A. Yes, ma'am. Yes, ma'am, we will know it.

Q. All right. I'll show you State's Exhibit 65 and 66.

If you will take a look at these and tell me what that is? And if you can open it.

A. State's Exhibit 65 is a saw briar that was hanging over the left side of the body. We cut and put it into this package.

Do you want me to take it out?

Q. Yes, sir, please.

A. I don't have my knife on me.

THE COURT: While we are doing that, counsel, come up just a minute and let's talk.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

BY MS. LESKANIC:

Q. Can you hold that up for the jury to see, or --

Okay. And that's one of the saw briars that you cut that was close to Winter's body, or --

A. Yes, actually hanging over the body, yes, ma'am.

Q. Hanging over the body?

A. Yes, ma'am.

Q. Okay. And was that also packaged in a tamper-evident package and sent to South Carolina Law Enforcement Division in Columbia?

A. Yes, ma'am, it was. The seal has been broken and I have my date on it and my initials on it. It's sealed, so --

Q. Okay.

A. State's Exhibit 66 is another saw briar that was hanging over the left side of her body.

The seal has been broken on it -- my seal has been broken on it.

Once my seal is broken on it, you see this writing on the tape, this is SLED's lab. Whoever the agent was at SLED's lab was -- the Law Enforcement Division lab resealed this -- or sealed it, because they broke my seal and put his seal on it, and now I'm breaking his seal.

This is a saw briar.

Q. All right. So that was another briar that was hanging over her body?

A. Yes, ma'am.

Q. You collected that, sealed it and sent it to South Carolina Law Enforcement Division for testing?

A. Yes, ma'am, I did.

Q. All right. I'm going to show you now what's been marked State's Exhibit 68. If you will take a look at that and we will move these.

A. State's Exhibit 68 is the top strand -- or the first strand of the barbed wire that was above the head of the body?

Do you want me to open this up too?

Q. Yes, sir, please. And why did you -- why did you

collect that?
A. Why did I collect this?
Q. Yes, sir.
A. Whoever pulled the body up to this fence had to back into that barbed wire fence, and then they had to cross over and get her arm and try to pull her under the fence. Her arm wouldn't be outstretched like that, unless someone was pulling on it. And you see the left arm is down by her side like somebody -- she's been drug and the left arm is just down by her side, while this arm is being pulled on.
Q. Do you think someone may have crossed over the fence at that point?
A. Yes, ma'am, I thought that at least they had to back into the fence. And you figure it's probably dark when they were there from the time her body was put there. And once they backed into the fence, they crossed over it and tried to pull her on under it.
Q. And at would it be difficult, if not impossible, to see this barbed wire fence?
A. Oh, it would be pitch black. There is no light around anywhere.
Q. So can you describe Mikes Creek Road?
A. It's just a country dirt road.
Q. Single lane, double lane.
A. It's a single lane with just one little pull-off there.

Q. Okay.
A. The top strand of the barbed wire.
Q. And that was collected, the top strand right above Winter's head? Not -- not the first strand on the bottom, but at the very top?
A. The very top strand, yes, ma'am.
Q. Right at her body?
A. Yes, ma'am.
Q. And then that was sealed and sent to SLED?
A. Yes, ma'am.
Q. All right. Now, did y'all do -- I'm going to continue, but did you do all of this collecting on December 2nd, 2010? Did you do most of the collection of this evidence at that time?
A. Yes, ma'am.
Q. And I assume it was dark at some point. How did y'all continue to work, if it's pitch black at Mikes Creek?
A. I think we had our lights brought in. Our emergency -- our emergency preparedness department has a set of flood lights that runs off a generator. And if we are going to be on the scene at night like that, we usually -- and we know we are going to be there awhile, we will have it brought in and set up and it's humongous flood lights that lights up the whole area.
Q. So you keep your scene secure and you continue working

until you are done?
A. Yes, ma'am, we don't leave until we are finished.
Q. Okay. I'm going to show you State's Exhibit 69.
A. State's Exhibit 69 is the second strand of the barbed wire at the head of body.
This is the top strand that we just showed you. This would be the strand right under it. That would be the second strand of the barbed wire.
Q. And after you collected that, you then sealed it in a tamper-evident package and it was taken to SLED?
A. Yes, ma'am.
Q. Now I'm going to show you State's Exhibit 70.
A. State's Exhibit 70 is a hair on a leaf with what appears to be blood collected at 19:08 in the afternoon and this is from some of the leaves on the side of the road that we took this off of.
Q. And what is that? What exactly did you collect?
A. A hair. A hair was on the leaf with some blood in it.
Q. So did you collect the entire leaf?
A. We took the whole leaf, yes, ma'am.
Q. That had hair and blood on it?
A. Yes, ma'am.
Q. Okay. State's Exhibit 64.
A. State's Exhibit 64, the victim's gray sweat pants. The name on them is Premier, size extra large.

Can I stand up?

Q. Please.

(Witness off the witness stand).

A. Front of them and then the back of them.

BY MS. LESKANIC:

Q. And these are the pants that we see on Winter on the photographs on Mike Creeks Road that are down around her knees and ankles?

A. Yes, ma'am.

Q. And those -- were those sent to SLED for any testing?

A. Yes, ma'am, they were.

Q. All right. You can stay down, if you would like.

Let me show you State Exhibit 56.

A. It's -- State's Exhibit 56 is the victim's white T-shirt. The name in it is Gilden, 5 extra large with stains on it.

Q. Where was this recovered, Detective Henson?

A. This was on the inside of the fence. It was actually inside of the red hooded sweatshirt. It's turned inside out. This is the front. This is the back.

Q. Okay. State's Exhibit --

A. It was also sent to SLED.

Q. Okay. State's Exhibit 55, please.

A. State's Exhibit 55 is the victim's red sweatshirt. This is the red sweatshirt that was found inside the fence.

The white T-shirt was actually inside of this. That's the front of it.

Q. Now, there are cuts now on that sweatshirt, Detective Henson. Were those there, or is that something that has happened for testing purposes?

A. This is where SLED's lab took testing patches out of it. They tested these areas that's been cut out. That wasn't on there before we sent it down.

Q. In looking at State's Exhibit 31 that's on the screen, that's the location where you found the white T-shirt and the red sweatshirt in relation to her body?

A. That's right. Yes, ma'am.

(Witness back on the witness stand)

BY MS. LESKANIC:

Q. Detective Henson, out at Mikes Creek Road you were able to identify one shoe print that belonged to Clarence Taylor, the gentleman who called 911?

A. Yes, ma'am.

Q. Did you see any other possible shoe prints out there?

A. There was a couple more that, like I said earlier, that wasn't enough detail in them. You couldn't tell size, shape. We could tell somebody had stepped there, but the whole shoe print wasn't there. You might have had a piece this big. No kind of detail off the bottom of the shoe in it that would have been identifiable whatsoever.

263

Q. All right. In all of the exhibits that we have talked about today that you collected from Mikes Creek Road, they were sealed in tamper-evident packaging and then sent to SLED for processing?

A. That's right. Yes, ma'am.

Q. Okay.

MS. LESKANIC: Your Honor --

THE COURT: Is that it?

MS. LESKANIC: For today, thank you.

All right, ladies and gentlemen of the jury, while the witness was opening one or two of the exhibits I conferred with counsel and this is a good breaking point for the afternoon. We are not through with this witness' testimony. There are other things that he did, but this is the matters that he did at the scene at Mikes Creek Road, and so we have concluded that this is a good stopping place for the afternoon, so we are going to recess for the afternoon at this time.

Now, I am going to excuse you and allow you to go to your homes and families. There are a couple of admonitions that I want to tell you. Please do not discuss the case with anyone over the evening recess when you see your family or your friends. You can tell them that you are serving on a jury, but you can't talk about the case. The reason for that are pretty apparent. You have got to decide

this case based upon what you hear in this courtroom and not what you might say to anyone else, or what they might say to you, so do not talk with anyone else about this case over the evening recess, and don't allow anyone to talk with you about it.

Also when you are reassembling in the jury room tomorrow morning do not discuss the case among yourselves. It's still premature for you to begin any discussion about this matter in any matter whatsoever.

You can talk about anything you want to; family, friends, weather, children, grandchildren, or anything at all, but don't talk about this case.

And also do not view any news stories or read any newspaper accounts or -- I don't know whether there would be any, or any television or broadcast media reports about this matter, but irrespective to all my friends in the broadcast media sometimes they don't always get exactly straight in the broadcast media what is said in court and you have got to base this, your decision, based upon what you have heard here in court.

So basically just forget about this matter over the evening recess. Have a good dinner and a restful evening and report back tomorrow morning at 9:30 and we will be ready to resume at that time.

If there is anyone on the jury that needs any

265

assistance with transportation, we can arrange that. If you would tell the bailiff, we can make arrangements to either help you get home this afternoon or get back here to the courthouse in the morning, if you need any assistance for transportation.

Mr. Bailiff, if you would check with them and see if there is anybody that needs any assistance for transportation so that we can have everybody here and be ready to start promptly at 9:30 tomorrow morning.

With that then I will excuse you. You are free to go for the rest of the evening and I will see you tomorrow at 9:30. Thank you. Have a pleasant evening.

Everyone else stay in place, please.

(The following takes place out of the presence of the jury panel)

THE COURT: All right, Mr. Henson, you can step down.

And while we are waiting I wanted to keep everybody here for a couple of minutes while we give the jurors an opportunity to get to their cars. And if y'all would like to straighten up and put the exhibits back together and make sure that you have got everything while we waiting in here before we adjourn, you may do so.

(Whereupon, proceedings were adjourned to March 19, 2014)

266

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHEROKEE)

THE STATE)
)
-vs-) TRANSCRIPT OF RECORD
) 2013-GS-11-01167
JOEY LYNN CLARK,)
:) MARCH 19, 2014
DEFENDANT. GAFFNEY, SOUTH CAROLINA

(VOLUME II)

B E F O R E:

THE HONORABLE HOWARD P. KING, JUDGE. ; And a Jury.

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

KIMBERLY L. LESKANIC, ASSISTANT SOLICITOR
JENNIFER JORDAN, ASSISTANT SOLICITOR
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CIRCUIT COURT REPORTER

2267

INDEX

(MARCH 18, 2014)

WITNESSES	PAGE
JURY VOIR DIRE -- PAGE 30	
JURY SWORN -- PAGE 75	
OPENING STATEMENT BY MS. LESKANIC -- PAGE 83	
OPENING STATEMENT BY MR. HARBIN -- PAGE 88	
BEVERLY PATRICK (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	98
CROSS EXAMINATION BY MR. HARBIN	134
REDIRECT EXAMINATION BY MR. LESKANIC	146
ANNA MOONEY (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	153
CROSS EXAMINATION BY MR. HARBIN	174
JASMIN HILL (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	180
CROSS EXAMINATION BY MR. HARBIN	184
ROBERT BRACKETT (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	186
(NO CROSS EXAMINATION)	
SHANESE DAWKINS (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	188
CROSS EXAMINATION BY MR. HARBIN	190

INDEX

(MARCH 18, 2014)

WITNESSES	PAGE
AACESHON BRIGGS (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	190
CROSS EXAMINATION BY MR. HARBIN	194
JAMES WILKERSON (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	196
CROSS EXAMINATION BY MR. HARBIN	199
CLARENCE TAYLOR (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	201
CROSS EXAMINATION BY MR. HARBIN	204
INVESTIGATOR JIMMY HENSON (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	206

269

INDEX

(MARCH 19, 2014)

WITNESSES	PAGE
INVESTIGATOR JIMMY HENSON (SW) (CONT'D)	
DIRECT EXAMINATION BY MS. LESKANIC	259
CROSS EXAMINATION BY MR. HARBIN	302
REDIRECT EXAMINATION BY MS. LESKANIC	333
RECROSS EXAMINATION BY MR. HARBIN	339
INVESTIGATOR BILLY ANTHONY (SW)	
DIRECT EXAMINATION BY MS. JORDAN	341
CROSS EXAMINATION BY MR. HARBIN	349
REDIRECT EXAMINATION BY MS. JORDAN	350
DETECTIVE LINDSEY MCGRAW (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	350
(NO CROSS EXAMINATION)	
OFFICER CHRIS BLAKE (SW)	
DIRECT EXAMINATION BY MS LESKANIC	358
CROSS EXAMINATION BY MR. HARBIN	360
DETECTIVE RICHARD BURGESS (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	364
CROSS EXAMINATION BY MR. HARBIN	374
REDIRECT EXAMINATION BY MS. LESKANIC	409
RECROSS EXAMINATION BY MR. HARBIN	423

INDEX

(MARCH 19, 2014)

WITNESSES	PAGE
DR. JANICE E. ROSS (SW)	
DIRECT EXAMINATION BY MS. LESKANIC	430
CROSS EXAMINATION BY MR. HARBIN	446
REDIRECT EXAMINATION BY MS. LESKANIC	449
CORONER DENNIS FOWLER (SW)	
DIRECT EXAMINATION BY MS. JORDAN	451
CROSS EXAMINATION BY MR. HARBIN	456
REDIRECT EXAMINATION BY MS. JORDAN	460
SLED AGENT MELISSA SKIPPER WALLACE (SW)	
DIRECT EXAMINATION BY MS. JORDAN	461
CROSS EXAMINATION BY MR. HARBIN	473
SLED AGENT MICHAEL MOSKAL (SW)	
DIRECT EXAMINATION BY MS. JORDAN	475
CROSS EXAMINATION BY MR. HARBIN	491

271

INDEX

(MARCH 20, 2014)

WITNESSES	PAGE
SLED AGENT CATHERINE LEISY (SW)	
DIRECT EXAMINATION BY MS. JORDAN	517
CROSS EXAMINATION BY MR. HARBIN	550
REDIRECT EXAMINATION BY MS. JORDAN	567
RECROSS EXAMINATION BY MR. HARBIN	577

STATE RESTS -- PAGE 581

DEFENSE RESTS -- PAGE 598

CLOSING ARGUMENT BY MS. LESKANIC -- PAGE 599

FINAL ARGUMENT BY MR. HARBIN -- PAGE 614

COURT'S JURY INSTRUCTIONS -- PAGE 645

JURY VERDICT -- PAGE 666

SENTENCING -- PAGE 674

REPORTER'S CERTIFICATE -- PAGE 677

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-1	U.S. NAVAL OBSERVATORY TIME SHEETS		58
S-2	PHOTOGRAPH OF [redacted] FRONT PARKING AREA		58
S-3	PHOTOGRAPH OF [redacted] FRONT OUTSIDE		59
S-4	PHOTOGRAPH OF [redacted] SIDE PORCH		59
S-5	PHOTOGRAPH OF [redacted] BACKYARD		59
S-6	PHOTOGRAPH OF GUEST ROOM		59
S-7	PHOTOGRAPH OF BEVERLY'S ROOM		59
S-8	PHOTOGRAPH OF BEVERLY'S CAR		59
S-9	WINTER WINGARD'S POCKETBOOK AND CONTENTS		59
S-10	WINTER WINGARD'S CELLPHONE		59
S-11	REMOTE AND KEY TO GMC		59
S-12	PHOTOGRAPH OF WINTER WINGARD'S CLOSET		59
S-13	PHOTOGRAPH OF WINTER WINGARD'S CLOSET AND BOOTS		59
S-14	WOLVERINE BOOTS - SW2/SLED		59
S-15	ANNA MOONEY AND WINTER WINGARD'S TEXT MESSAGES		59
S-16	ANNA MOONEY AND JOEY CLARK'S TEXT MESSAGES		59

273

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-17	ANNA MOONEY AND BEVERLY PATRICK'S TEXT MESSAGES		60
S-18	911 CALL FROM WINTER WINGARD		60
S-19	911 CALL FROM BEVERLY PATRICK		60
S-20	DEFENDANT'S CELLPHONE		60
S-21	WINTER WINGARD'S TEXT RECORDS		60
S-22	WINTER WINGARD'S PHONE RECORDS FROM ALLTEL		60
S-23	DEFENDANT'S PHONE RECORDS		60
S-24	DEFENDANT'S TEXT RECORDS		60
S-25	PHOTOGRAPH AT MIKES CREEK BRIDGE		60
S-26	PHOTOGRAPH AT MIKES CREEK BRIDGE OF BODY AND SWEATSHIRT		60
S-27	PROTOGRAPH AT MIKES CREEK BRIDGE OF LEFT SIDE BODY & BRIARS		60
S-28	PHOTOGRAPH AT MIKES CREEK ROAD ANGLE SHOWING SOIL COLOR		61
S-29	PHOTOGRAPH AT MIKES CREEK OF RED DIRT ON BODY AND BLOOD ON INNER LEFT THIGH		61
S-30	PHOTOGRAPH AT MIKES CREEK VIEW		61
S-31	PHOTOGRAPH OF MIKES CREEK OF A CLOSER VIEW FROM CREEK WITH HOODIE		61
S-32	PHOTOGRAPH MIKES CREEK THROUGH BARBED WIRE		61

INDEX

NO.	DESCRIPTION	ID.	EV.
S-33	PHOTOGRAPH AT MIKES CREEK OF LEFT SIDE OF ARM THROUGH BARBED WIRE		61
S-34	PHOTOGRAPH AT MIKES CREEK ARM OF BARBED WIRE AND BLOOD SPATTER		61
S-35	PHOTOGRAPH AT MIKES CREEK OF ABRASION TO LEFT KNEE AND RED DIRT ON BODY		61
S-36	PHOTOGRAPH AT MIKES CREEK OF RED DIRT ON LEFT HAND AND BLOOD DROPS		61
S-37	PHOTOGRAPH OAT MIKES CREEK OF CLOSER VIEW OF LEFT HAND		61
S-38	PHOTOGRAPH AT MIKES CREEK OF BRIAR		61
S-39	PHOTOGRAPH AT MIKES CREEK OF INJURY AND CONTUSIONS		61
S-40	PHOTOGRAPH AT MIKES CREEK OF FACIAL INJURIES WITIH BLOOD DROPS ON ARM		61
S-41	PHOTOGRAPH AT MIKES CREEK OF BLOOD ON BARBED WIRE		62
S-42	PHOTOGRAPH AT MIKES CREEK WITH SUBSTANCE FROM MOUTH		62
S-43	PHOTOGRAPH AT MIKES CREEK WITH CONTUSION TO HEAD		62
S-44	PHOTOGRAPH AT MIKES CREEK WITH BLOOD SOAKING INTO GROUND		62

275

INDEX

NO.	DESCRIPTION	ID.	EV.
S-45	PHOTOGRAPH AT MIKES CREEK WITH MARKERS		62
S-46	PHOTOGRAPH AT MIKES CREEK WITH MARKERS		62
S-47	PHOTOGRAPH AT MIKES CREEK OF CLOSER OF DRAG		62
S-48	PHOTOGRAPH AT MIKES CREEK OF CLOSE ON DRAG		62
S-49	PHOTOGRAPH AT MIKES CREEK OF AREA AFTER BODY IS REMOVED		62
S-50	PHOTOGRAPH OF HOODIE AND T-SHIRT		62
S-51	PHOTOGRAPH OF LEFT SIDE OF HOODIE		62
S-52	PHOTOGRAPH OF HOODIE		62
S-53	PHOTOGRAPH OF BACK OF HOODIE		63
S-54	PHOTOGRAPH OF NECK OF HOODIE		63
S-55	WINTER WINGARD'S RED HOODIE - S14/SLED 16		63
S-56	WINTER WINGARD'S WHITE T-SHIRT		63
S-57	PHOTOGRAPH OF SWEAT PANTS		63
S-58	PHOTOGRAPH OF FRONT OF SWEAT PANTS AT TOP		63
S-59	PHOTOGRAPH OF BLOOD AND RED DIRT ON LEG OF SWEAT PANTS		63
S-60	PHOTOGRAPH OF BLOOD ON SWEAT PANTS		63
S-61	PHOTOGRAPH OF THE BACK OF SWEAT PANTS		63
S-62	PHOTOGRAPH OF LOWER BACK OF SWEAT PANTS		63

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-63	PHOTOGRAPH OF INSIDE WAISTBAND OF SWEAT PANTS		63
S-64	WINTER WINGARD'S SWEAT PANTS		63
S-65	BRIAR - (S17/SLED 19)		63
S-66	BRIAR - (S19/SLED 31)		64
S-67	TREE LIMB - (S21/SLED 23)		64
S-68	TOP STRAND OF BARABED WIRE - (S25/SLED 27)		64
S-69	2ND STRAND OF BARBED WIRE - (S26/SLED 28)		64
S-70	LEAF FROM MIKES CREEK - (S6/SLED 15)		64
S-71	PHOTOGRAPH OF [redacted] BACKYARD		64
S-72	PHOTOGRAPH OF [redacted] BACKYARD ROAD VIEW		64
S-73	PHOTOGRAPH OF [redacted] WITH PHONE CASE WITH MARKER		64
S-74	PHOTOGRAPH OF [redacted] OF PHONE CASE CLOSE-UP		64
S-75	WINTER WINGARD'S CELLPHONE CASE		64
S-76	PHOTOGRAPH OF [redacted] LOCATION OF VICTIM'S CELLPHONE		64
S-77	PHOTOGRAPH OF [redacted] CLOSE-UP OF VICTIM'S CELLPHONE LOCATION		64
S-78	PHOTOGRAPH OF [redacted] CLOSE-UP OF VICTIM'S CELLPHONE		65

277

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-79	PHOTOGRAPH OF [redacted] KEYS AND REMOTE LOCATION		65
S-80	PHOTOGRAPH OF [redacted] KEYS AND REMOTE WITH MARKER		65
S-81	PHOTOGRAPH OF [redacted] KEYS AND REMOTE CLOSE-UP		65
S-82	SWAB FROM CAR REMOTE - (SW3.18/SLED 39)		65
S-83	SWAB FROM KEY TO GMC - (SW3.19/SLED 40)		65
S-84	PHOTOGRAPH OF THE VICTIM'S CELLPHONE BATTERY WITH MARKER		65
S-85	PHOTOGRAPH OF THE VICTIM'S CELLPHONE BATTERY CLOSE-UP		65
S-86	WINTER WINGARD'S CELLPHONE BATTERY		65
S-87	PHOTOGRAPH OF RED HAIRBAND		65
S-88	PHOTOGRAPH OF RED HAIRBAND		65
S-89	RED HAIRBAND - (SW3-1)		65
S-90	PHOTOGRAPH OF THE DRIVER'S SIDE OF GMC		65
S-91	PHOTOGRAPH OF THE DRIVER'S SIDE CLOSE-UP OF THE GMC		66
S-92	PHOTOGRAPH OF THE DRIVER'S SIDE CLOSE-UP OF UNIDENTIFIED OF GMC		66
S-93	PHOTOGRAPH OF THE PASSENGER'S SIDE REAR DOOR OF GMC		66

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-94	PHOTOGRAPH OF THE PASSENGER'S SIDE REAR DOOR OF GMC		66
S-95	PHOTOGRAPHP OF THE LABELED PRINTS ON DRIVER'S SIDE		66
S-96	PHOTOGRAPH OF THE LABELED PRINT ON PASSENGER'S REAR SIDE		66
S-97	PRINT - (WINTER DOOR - LEFT)		66
S-98	PRINT - (DEFENDANT - DRIVER'S DOOR)		66
S-99	PRINT - (WINTER - DOOR HANDLE)		66
S-100	PRINT - (SMUDGE)		66
S-101	PRINT - (DEFENDANT PASSENGER SIDE)		66
S-102	PHOTOGRAPH OF GMC INSIDE DRIVER'S SIDE		66
S-103	PHOTOGRAPH OF GMC INSIDE PASSENGER'S SIDE		67
S-104	PHOTOGRAPH OF GMC PASSENGER'S SIDE CLOSE-UP		67
S-105	PHOTOGRAPH OF GMC PASSENGER'S SIDE SEAT		67
S-106	PHOTOGRAPH OF GMC BLOOD SPATTER INSIDE GMC		67
S-107	PHOTOGRAPH OF GMC CLOSE-UP OF PASSENGER'S INSIDE DOOR HANDLE WITH SPATTER		67
S-108	PHOTOGRAPH OF GMC GLOOD SPATTER NEAR RADIO KNOB		67
S-109	SWAB NEAR STEERING WHEEL - (WINTER'S DNA)		67
S-110	SWAB FROM INSIDE PASSENGER SIDE FRONT DOOR GLASS - (WINTER'S DNA) - (V23/SLED 12)		67

279

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-111	WITNER WINGARD'S FINGER AND PALM PRINTS		67
S-112	DEFENDANT'S FINGER AND PALM PRINTS		67
S-113	DEFENDANT'S EARLY-OUT TICKET		67
S-114	GOOGLE MAP PRINTOUT		67
S-115	DEFENDANT'S DNA STANDARD -(SW BY RICHARD) SLED-37)		67
S-116	SKETCH BY DR. ROSS		68
S-117	PHOTOGRAPH OF AUTOPSY FACIAL WITH BLUNT FORCE TRAUMA		68
S-118	PHOTOGRAPH AT AUTOPSY OF EYE		68
S-119	PHOTOGRAPH OF CHEST TRAUMA		68
S-120	PHOTOGRAPH OF PETECHIAE		68
S-121	PHOTOGRAPH OF THE LOWER BACK DRAG MARKS		68
S-122	PHOTGRAPH OF A HAND SCRATCH		68
S-123	PHOTOGRAPH OF FEET		68
S-124	PHOTOGRAPH OF ARM WITH BLOOD DROPS		68
S-125	PHOTOGRAPH OF NECK WOUNDS		68
S-126	WINTER WINGARD'S DNA STANDARD - (SLED L10-13550.2) (WITDRAWN)	28	
S-127	WINTER WINGARD'S VAGINAL SWAB - (SLED L10-13550-4.3)		69
S-128	WITNER WINGARD'S VAGINAL SWAB - (SLED L10-13550-4.4)		69

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-129	WINTER WINGARD'S ORAL SWAB - (SLED L10-13550-4.5)		69
S-130	WINTER WINGARD'S ORAL SWAB - (SLED L10-13550-4.6)		69
S-131	CUTTING FROM HOODIE - (SLED 16.2, 16.3, 16.4, 16.5, 16.6)		69
S-132	SWAB FROM LEAF - (WINTER WINGARD'S DNA) (S6/SLED 15.1)		69
S-133	HAIR FROM LEAF - (WINTER WINGARD'S DNE) (S6/SLED 15.2.1)		69
S-134	SWAB FROM BRIAR - (S17/19.1)		69
S-135	SWAB FROM BRIAR - (WINTER WINGARD/MAJOR CONTRIBUTOR AND DEFENDANT/MINOR CONTRIBUTOR (1 IN 96) DNA, (S19/SLED 21.1)		69
S-136	SWAB FROM BROKEN POINT OF TREE LIMB - (WINTER WINGARD AND DEFENDANT CANNOT BE EXCLUDED 1 IN 3,700)		69
S-137	FIBER FROM TOP STRAND OF BARBED WIRE - (SLED 27.2) - (CONSISTENT WITH WOLVERINE BOOTS), AND FIBER FROM TOP STRAND OF BARBED WIRE - (SLED 28.2) (CONSISTENT WITH WOLVERINE BOOTS)		69

281

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
S-138	DNA SLIDES		74
S-139	FIBER FROM RIGHT WOLVERINE BOOT PADDED AREA - (SLED 33.3.3)		69
S-140	SWAB FROM THE OUTSIDE RIGHT SOLE OF BOOT - (SLED 33.1) - (DNA OF JOEY CLARK AND WINTER WINGARD 1 IN 16)		69
S-141	SWAB FROM THE OUTSIDE LEFT SOLE OF BOOT - (SLED 33.2) - (DNA - DEFENDANT 1 IN 3.3 MILLION)		69
S-142	SWAB FROM THE INTERIOR LEFT BOOT - (SLED 33.4)		70
S-143	SWAB FROM THE INTERIOR RIGHT BOOT - (SLED 33.5)		70
S-144	JOEY CLARK AND WINTER WINGARD TEXT MESSAGES)		70
S-145	WRITTEN STATEMENT OF BRYANT PHILLIPS		422
S-146	WRITTEN STATEMENT OF JOHN RAYMOND AUSTIN		422
S-147	WRITTEN STATEMENT OF RIDGE CROSBY		422
S-148	WRITTEN STATEMENT OF MICHAEL STILLWELL		422
S-149	WRITTEN STATEMENT OF MICHAEL COVINGTON		422
S-150	PHOTOGRAPH OF WINTER WINGARD		455
CT-1	WRITTEN STIPULATION	72	
CT-2	WRITTEN STIPULATION	94	

(PROCEEDINGS, MARCH 19, 2014)

THE COURT: All right. Good morning.

We are back on the record with regard to the matter of the State versus Joey Lynn Clark.

Mr. Clark is present with his counsel.

The State is present and represented by the Seventh Circuit Solicitor's Office.

I have been advised that all jurors are present.

Madam Solicitor, is there anything before we bring the judge in?

MS. LESKANIC: Yes, Your Honor.

One matter. On page six of the State's Exhibit list, item number 126.

THE COURT: Yes, ma'am.

MS. LESKANIC: We are actually deleting item 126. We have that listed as Winter Wingard's DNA standard.

THE COURT: Yes.

MS. LESKANIC: However, her blood -- there was not a buccal swab done. Her blood was drawn at autopsy. It was transported by the coroner to SLED and they used up her entire sample in processing the evidence. We actually do not have a physical piece of evidence to place into evidence, so we wanted to delete item 126, and I discussed that with Mr. Harbin.

THE COURT: Any objection, Mr. Harbin?

283

MR. HARBIN: No, sir.

THE COURT: All right. That item would be then withdrawn as an exhibit.

MS. LESKANIC: Thank you, Your Honor.

THE COURT: All right. Anything else?

MS. LESKANIC: The State is ready.

THE COURT: Mr. Harbin?

MR. HARBIN: No, Your Honor.

THE COURT: All right. Let's bring the jury in, please.

(The following takes place in the presence of the jury panel)

THE COURT: All right. Good morning, ladies and gentlemen, and thank you for your promptness in being back here.

I do need to ask you now if anyone has tried to contact you or talk with you about this case in any manner whatsoever over the evening recess, I would need to know about it now.

(No response).

THE COURT: Negative response and that's good.

The other thing that I would need to ask you if anybody has read any news stories or seen any broadcast media reports about this case over the evening recess, I would also need to know about that now.

(No response)

THE COURT: Again a negative response and that's good.

All right. Yesterday, ladies and gentlemen, we were in the middle of Mr. Henson's testimony.

Mr. Henson, you may come back around and we will resume your testimony of CSR James Henson.

MS. LESKANIC: If it please the court.

THE COURT: Yes, ma'am.

MS. LESKANIC: Thank you, Your Honor.

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Detective Henson, when we were finishing up yesterday we were discussing your investigation at Mikes Creek Road?

A. Yes, ma'am.

Q. Which is the first scene that you were called out to, is that correct?

A. Yes, ma'am.

Q. All right. And we introduced the photographs how you found Ms. Wingard's body and what you and Investigator Anthony did during your investigation, and the items that you collected?

A. Yes, ma'am.

Q. After the body was removed from the scene by the coroner, did you continue to search that area for any other evidence, look for weapons, or anything else? How do you

finish up when you are finished up with a crime scene?
A. After the body was moved from the crime scene, we will go back and do another thorough search to make sure that we didn't miss anything that could possibly be evidence later on. We look again and make sure that we have covered everything.
Q. What does that -- what did that search entail at Mikes Creek Road?
A. We searched up and down the road. I couldn't tell you. How far we walked the whole road just about, up and down and checked the side ditches, if somebody had thrown something out. We checked the edges of the road, back so far into the woods, all the way up and down the road. We just checked the whole area and the whole road to make sure that nothing had been discarded that we might have missed.
Q. And approximately how long would that search take?
A. We did -- that night we checked the edges of the road. We went back the next day during daylight. We also did it during daylight. You are talking several hours.
Q. Okay. And checked the creek area also?
A. Yes, ma'am.
Q. How close is the creek? We didn't really have a photograph of it, but how close is Mikes Creek, the creek that runs through to where Ms. Wingard's body was found?
A. I believe I have got it in my notes.

It's approximately seventy-five feet from the bridge to where the body was.

Q. And if the barbed wire fence was not where it was located, would that have been a position that the body could have been drug, to the creek? I mean, was that heading towards the creek where her body was being drug?

A. The body wasn't positioned toward the creek. It was positioned off the side of the road.

Q. Okay. And then -- I guess where is the creek in relation to where her body was, is what I'm trying to understand?

A. The body was positioned off the side of the road. The road comes like this and the creek is down here.

Q. Okay. And you have the bridge that you crossed that has the metal rails on it?

A. Yes, ma'am.

Q. Okay. And is this the first place that there is a pull-off on Mikes Creek Road?

A. Yes, ma'am.

Q. All right. Now, after you left Mikes Creek Road, what is your next step in your investigation? What are you told next?

A. After we left Mikes Creek Road, I believe our next step was a search warrant at the residence.

Let me make sure.

Q. While you are looking for that, you did this thorough search, did you find any other evidence? Did you find a weapon, a knife, anything of that nature during your search?

A. No, we didn't.

Q. Okay. So the only evidence that you found at Mikes Creek, the sweat shirt and T-shirt that were together and then the blood drop and the victim's body?

A. The victim's body, yes, ma'am.

Q. And then the shoe print that we linked to Clarence Taylor?

A. Yes, ma'am.

Q. The gentleman that called 911?

A. Yes, ma'am.

Q. Okay.

A. And the vegetation that we took from the scene also.

Q. Yes, sir.

A. At 1:35 in the morning on December the 3rd we executed a search warrant at [redacted]

Q. Okay. 1:35 a.m.

The body is found on December the 2nd at about --

A. About 16:00 hours.

Q. Okay. And by the time that you finished up at Mikes Creek Road, do you know approximately what time that you finished processing the crime scene on December the 2nd?

A. We went straight from the crime scene to the search

warrant at the house. We finished up at the crime scene itself probably 1:20. Ten minutes to drive from there to the house.

Q. And why did they call you out to the house?

A. Investigators had been in the house talking to Beverly Patrick and Joey Clark.

Q. Was that in regard to Ms. Patrick calling 911 and reporting her daughter missing?

A. Yes, ma'am.

Q. Okay. So officers had responded to the home. I believe the 911 call said that she called at 6:58 p.m.?

A. Uh-huh.

Q. So an officer responds to her home while you are out processing the scene at Mikes Creek Road?

A. Yes, ma'am.

Q. And then you get a call that you need to come out to [redacted] is that correct?

A. One of the detectives called me up and said when we finished the crime scene, to come by there, come out to [redacted]

Q. Okay.

A. They had a search warrant for that residence.

Q. Okay. And what was entailed in that search warrant or what did they want you to look at?

A. They wanted us to look at the -- there was some blood

spot on the carpet runner right at the front door.
Q. Okay.
A. They wanted us to get a sample of that blood spot.
Q. And was that the extent of what they wanted from that search warrant?
A. Yes, ma'am, that's all we did do.
Q. All right. And so did you search the rest of the house at that time --
A. No, we did not.
Q. -- on December 3rd at 1:35 a.m.?
A. No, ma'am, we did not.
Q. So you just took a sample of blood on the runner?
A. On the runner.
Q. A little plastic runner at the front door?
A. Yes, ma'am.
Q. All right. And was that sample sent off to SLED?
A. Yes, ma'am.
Q. And do you know what the result of that blood, whose blood that was?
A. I'm pretty sure it came back as Patrick Beverly.
Q. Beverly Patrick?
A. Beverly Patrick, yeah.
Q. Okay.
A. I'm not certain about that, but I think it was.
Q. Okay. Do you go back then to execute another search

warrant at [redacted] at a later time?

A. Yes, ma'am, on December the 3rd, at 16:00 hours in the afternoon, we executed another search warrant at [redacted].

Q. So that's at four p.m. on December 3rd you go back out to the house?

A. Yes, ma'am.

Q. Do you know why at that point you are going back out to the home?

A. We went back out to the home because Detective Anthony had went to the autopsy. And he called us back and let us know that she had blunt force trauma to the head and that it was probably what killed her, and so we went back to look.

I went back -- there was an open field behind the residence. It's the residence, the backyard, and then there is some tall grass and some trees, and then you go into an open field. It's like a hay field out in the open -- open -- behind the house. I went back there to look to see if I could see anything back there that hadn't been thrown away from the house. And as we were looking we found a cellphone laying in the hay field.

Q. All right. Let me -- I'm just going to start with State's Exhibit 2, kind or orient you and the jury to [redacted]

Can you just briefly -- and if you need to step down,

Detective Henson, please freely free to do so. I believe I gave you the laser pointer.

A. Okay.

(Witness off the witness stand).

BY MS. LESKANIC:

Q. Just explain how you would begin your search and I would take you to the backyard as well.

A. On the second search warrant we were in the back, back here in this open field in the back.

Q. All right. Let me just -- let me take you there then.

All right. I'm going to start with State's Exhibit 4. If you can just tell us what we are looking at here?

A. This is the side of the residence. I guess you would call this the back door. It's actually on the side of the residence.

This is the tall weeds. This is the open backyard. The tall weeds and there is some trees back here. And then you have the open field that's on behind there.

Q. Okay. I'll just show you again -- this is State's 71. See if we can get this clearer for you.

Tell us what we are looking at here, please.

A. This is the backyard.

All the red dirt here. You have spots of grass growing. Most mostly red dirt.

This is the tall weeds with some trees that's in here.

And the open field I'm talking about is back here behind those tall trees. You can see it coming on out here. It goes all the way back through here, open field.

Q. And based on your experience and what you had seen with Winter's body at Mikes Creek Road, was there anything that caught your attention about the backyard of the residence or the soil at the residence?

A. Yeah, based on what was on the victim's body, we figured a scuffle took place in this yard somewhere, because this is the red dirt type that was smeared all over her body, all over her clothes.

The road where she was found, like I stated yesterday, was black dirt. It was real fertile soil. There wasn't any red dirt on the road where she was found at all.

Q. Is that type of red dirt in the front of the residence, as well as the back of the residence?

A. Yes, ma'am.

Q. State's Exhibit 5, another angle.

A. This is from the back of the house, I'm thinking.

Q. The left side coming out of the door?

A. It would be over here, I think, because you are looking back towards -- Pleasant School Road is right back here. Where the vehicle was found was back in here. The tall weeds would be over here.

Q. And what was the first item that you found during the

search of the backyard?

A. We found the phone in the open field.

Q. Okay. All right. I'm going to show you State's Exhibit 76, 77, and 78. They have been stapled together. I'm going to show you these one at a time. If you can tell the jury what they are looking at here?

A. This is the open field itself. The trees, the tall weeds.

The residence, [redacted] is right here. That's it.

We had pulled into this open field from -- I can't remember the name of the road there, but the road back here on -- it would have been on this side. Gramling Ferry, maybe.

Q. Gramling Ferry?

A. We pulled into that open field. We just got out and started searching the open field here where they had cut the hay off of.

He is pointing to the cellphone that's laying right here on the ground.

Q. All right. Let me show you the next exhibit a little bit closer. Do you see the telephone in that photograph?

A. I can't really see it.

Well, yeah, there it is. I believe it's blue. That was it right there, I believe.

Q. Okay.
A. It looks blue.
Q. Okay.
A. That's even a closer-up photograph of it.
Q. All right. But that's where you found Winter's cellphone?
A. Yes, ma'am.
Q. All right. When you found it, was the back on the phone?
A. No, it wasn't.
Q. All right. Was there any battery in the phone?
A. The battery was missing.
Q. Did you ever locate the back of the phone? Do you know if there was a back of the phone?
A. Yes, ma'am, we located the back of the phone and also the battery and the clip that you carry it on your side with.
Q. All right. And then what is the next item or what's the next part of your search?

If you need to refer back to your notes, please free to do that.

(Witness back on the witness stand).

BY MS. LESKANIC:

Q. And just to be clear, Detective Henson, I'm going to show you State's Exhibit 10. And is this the cellphone that

you found in that field behind [redacted]

A. Yes, it is.

Q. And y'all linked that phone to Winter Wingard?

A. Yes, ma'am, we did.

Q. Okay.

A. After we received the search warrant we entered the residence and searched the residence, along with the backyard there where we found the cellphone at, to see if we could find any more parts of the cellphone.

Q. Okay. Did you -- and you said that you found the cellphone case, is that correct?

A. Yes, ma'am.

Q. Let me show you State's Exhibit 73 and 74, which is stapled together. I believe you used a yellow tape measure for clarity.

Can you tell, looking at this picture, where y'all located the phone case?

(Witness off the witness stand).

A. It's kind of hard on that one. It was -- the cellphone --

BY MS. LESKANIC:

Q. Let me bring you up to the closer picture and it may help.

A. Okay.

Q. Is that the cellphone case?

A. That's the cellphone case, yes, ma'am. It's laying in the -- if you flip it back around.

It was laying in these tall weeds.

Q. Let me ask -- may I borrow the pointer for just a second and ask, because I see something yellow in that area. Is that possibly it?

A. That's it right there.

Q. Is that where it was located?

A. Yes, ma'am.

Q. And, again, I apologize. I know the clarity of the photographs are --

A. It's pretty bad.

Q. -- difficult on the big screen.

Okay. So this yellow marker here is the tape measure that we see here --

A. Yes, ma'am.

Q. -- is that correct?

A. Yes, ma'am.

Q. Okay. And where is that -- can you point out where the house is, where that was located in regards to the house?

A. This is [redacted]

And what we did, we got to looking from the open field. We started covering the area straight back towards the yard, backyard of [redacted] and that's when we found the case laying here.

Q. Okay. If you would, could you please -- this is State's Exhibit 75. Do you mind opening that so we can take a look at that?

A. State's Exhibit 75 is the black cellphone case that was found in the backyard.

Q. Okay. And is the back of the phone with that, or is it just the case?

A. Just the case itself.

Q. Okay. And it's not a type of case that you can put it on the phone and still use the phone? You would have to have the phone outside of the case, is that correct?

A. The phone slides out, yes, ma'am.

Q. Okay. Thank you.

(Witness back on the witness stand).

BY MS. LESKANIC:

Q. So after you located the cellphone missing the battery and the cellphone case, did you then begin to search inside the home?

A. Yes, ma'am, we did.

Q. Can you tell us how you began the search of the home or what you did?

A. Inside the home we searched each room. Recovered from the room we got -- from the house we got a black pullover long sleeve shirt. Found some clothes in the dryer. A black pullover long sleeve shirt, a black T-shirt we took

out of the dryer, and one pair of brown Wolverine boots taken from Winter's bedroom closet.

Q. Let me show you -- talking about that, Detective Henson, State's Exhibit 13, which was already identified by the mother, but is this where you located the Wolverine boots?

A. Yes, ma'am. That would be the Wolverine boots right there.

Q. Okay. And those are the ones that we pulled out yesterday and you saw Ms. Patrick look at? Those are the boots that you collected?

A. Yes, ma'am.

Q. Okay. The clothes that were in the dryer -- how much was in the dryer?

A. There was two shirts, a black pullover long sleeve shirt and a black T-shirt.

Q. And that was it in the dryer?

A. Yes, ma'am.

Q. Did you also collect -- yesterday when you saw Winter's pocketbook, did you collect that and take that into evidence?

A. That was turned over to me by Detective Richard Burgess on December 3rd at 19:30 hours. He brought it to the lab and turned it over to us.

Q. And this is State's Exhibit 9. When you received -- is

this the pocketbook that you received from Detective Richard Burgess?

A. Yes, ma'am.

Q. Okay. And Beverly Patrick testified that she had turned it over to him and this was found inside the vehicle?

A. Yes, ma'am.

Q. Did you inventory the purse when you received it?

A. Yes, ma'am, we did.

Q. All right. And what did you find, as far as money or items, inside the pocketbook?

A. There was one black pocketbook with contents. It's the cards, credit cards and stuff, identification cards. And in the billfold was $92.50 in cash. That's all I got logged down, just other personal stuff that was in the pocketbook itself.

Q. Okay. So it still contained credit cards, cash, ID, a wallet? Everything was still inside the pocketbook?

A. Yes, it was.

Q. Now, did you go back and execute another search warrant on December 7th of 2010, at the residence? Yeah, December 7th.

A. We received a search warrant on December 6th, 2010. It was executed on December 7th, 2010, at 9:05 hours.

Q. All right. So at 9:05 a.m. you go back out to [redacted]

[redacted]

A. Yes, ma'am.
Q. And why did y'all go back again to the residence?
A. Let me see.
Detectives kept getting information, and I believe they had gotten some information from inmates from the jail where Joey Clark was locked up, and they got enough information that we needed to go back out and look into the kitchen area. Supposedly an attack took place in the kitchen area of the home. We wanted to go back and check and see if we could find any blood that had been cleaned up or anything. We use a chemical to put on it so we can see it.
Q. Okay. So during your first search warrant of the home they focused on this drop of blood that turned out to be Beverly Patrick's that's on the runner?
A. Yes.
Q. The little plastic runner at the front door?
A. Yes, ma'am.
Q. When you go back for the second search warrant, it's photographing, you take the boot, and you do the search of the outside of the home?
A. That's when we found the phone, yes, ma'am.
Q. Okay. And investigators are continuing the investigation and they provide you with additional information and bring you a search warrant to search again on December the 7th?

A. Yes, ma'am.
Q. Okay. And you checked the kitchen area for any blood or evidence of blood, is that correct?
A. Yes, ma'am.
Q. All right. What did you find?
A. We didn't find any blood in the kitchen area whatsoever. We checked -- we processed the whole kitchen. We use what we call it's leucocrystal violet.. You just spray it on it. It turns real deep dark purple and you can tell where blood has been cleaned up.

We processed the whole kitchen. We processed the laundry room. The laundry room is behind the kitchen where you go out the side door at. We processed the all out the side door, down the steps, and we processed the front door on the front porch, front steps, the walkway, and the driveway.

Q. Okay. And what did that turn up?
A. We didn't find any blood whatsoever.
Q. Okay. All right.

Now, was that the extent of what the purpose of your search was inside the home, to rule out information that had been received as to whether or not there would be blood inside the kitchen area of the home?
A. Yes, ma'am. While we were there we did a thorough search of all the grounds and all the house also.

Q. All right. How did the search of the grounds differ on this search December 7th than it did on December the 3rd, where you found the cellphone case and the phone? What was different about this search of the outside of the home?

A. This search on the outside of the home, we did what we call a grid search. We had several officers that we lined up shoulder to shoulder and we walked every bit of the property, even behind the property out into the open field again, to make sure that we had got everything that we possibly could have gotten.

Q. And did your search turn up anything?

A. Yes, ma'am, it did.

Q. All right. What did you find during the grid search?

A. We started in the front yard, started at the driveway, where we turned off the road into the driveway.

In the front we found one red hair band found on the ground the left side of the driveway. Collected it at 9:05 hours.

We found -- we did trace taping of some hair on the north edge of the drive.

We found an unknown red substance that we didn't think was blood. It didn't look enough to be even tested, I don't think.

Trace taping of hair on each side of the driveway towards the front of the residence.

The cigar paper from the front yard.

Cigar tip from the front yard.

Cigar tip from the front yard.

The backyard we found a set of keys and #2 GM 15008009 remote for vehicle. It was found in the tall grass in the backyard.

Q. All right. I'm going to stop you right there just for a second and talk about the red hair band that was found and I'm going to show you State's Exhibit 87 and 88. If you can see from this, and if you can remember, can you remember where the red hair band was recovered?

A. I can't see that.

(Witness off the witness stand).

A. I'm not sure, but we got this piece of assimilate laying here for some reason. I'm not sure if that was it or not. It may be the red hair bow there.

BY MS. LESKANIC:

Q. Okay. And you also have another marker in the yard?

A. Another flag right here.

Q. I'm going to show you State's Exhibit 88, because I know you collected a lot in this case. Does that help identify where you found the red hair band?

A. Yes, ma'am; this is our marker.

Q. Okay.

A. That little flag that we got right here.

Q. Okay. So that flag here represents where you found the red hair band?
A. Yes, ma'am, it does.
Q. And does this area of the yard, does this have the same red dirt that we saw in the back of the home as well here where the vehicles would be parked?
A. Yes, ma'am, it does. The grass is spotty. You can see a big spot of red dirt here. All this grass is just spotty. I think that's frost on the grass right here, what little bit there is, and it's red dirt.
Q. All right. And then you said that you found the keys and remote during the grid search in the backyard?
A. Yes, ma'am.
Q. Okay. I'm going to show you State's Exhibit 79, 80, and 81, which is you start at a distance and move closer. Can you tell where your orange marker is in this photograph? If not, I'll bring you a little closer.
A. Maybe one here.
Q. Okay.
A. Little red -- little orange flag that we stick into the ground. That's going to be -- that's going to be it.
Q. Okay. Can you see in this picture where the keys are?
A. They are going to be right here. You see the clip right here for them.
Q. Okay. Then I'll bring you up closer with State's

Exhibit 81.

A. That's your keys right there. There is a clip for them.

Q. Okay. So we are looking back at the first photograph, can you point to, this is our marker, where that is in relation to [redacted]

A. This is [redacted] right here, [redacted] back of the house.

Q. Okay. And the keys and the remote that Ms. Patrick identified yesterday as being hers, State's Exhibit 11, is this the item that you found at that location behind [redacted]

A. Yes, ma'am, it is.

(Witness back on the witness stand)

BY MS. LESKANIC:

Q. All right. What did you do with the remote and key after you collected it?

A. After we collected it it was packaged to --

Q. Did you take any swabs from it?

A. Yes, so we wouldn't cross-contaminate it with anything. Once we got back to the lab and started working on some of our stuff, I did a swab of the remote and a swab of the key itself for any possible DNA.

Q. All right. I'm going to show you State's Exhibit 82 and 83. If you can take a look at those and tell me if

those are the two swabs that you took and explain to the jury how you take a swab and where it goes after it leaves your hand.

A. Yes. State's Exhibit 82 is a swab from the car remote. Remote #2 GM 15008009. I'll need my glasses today.

THE COURT: Welcome to the club.

THE WITNESS: Yes, sir.

A. State's Exhibit 83 is a swab from the GM key on the key ring or the remote number #2 GM 15008009.

To do the swabs for a DNA test we use sterile Q-Tips that come in separate packages. They are sterile. We use distilled water that comes in a sterile package. We wet the tip of the Q-tip and we will rub it all over the item that we want to try to get DNA off of.

BY MS. LESKANIC:

Q. Okay.

A. And once we get it, we will package that inside the box and the box is packaged inside of the envelope.

Q. All right. And then that is sent to SLED for testing. You don't do the DNA testing here at the Cherokee County Sheriff's Department?

A. No, we don't. We send it to the state lab to be checked for DNA.

Q. Did you attempt to get any fingerprints off of the remote?

A. Let me check my notes.
Q. Let me get this out of your way.
A. You can try to get fingerprints sometimes if you don't swab the whole thing, but if you swab it you are going to do away with any fingerprints, as long as you don't mess them up by swabbing it. If I didn't swab the whole thing I would have.

Yes, I did test for latent prints by fuming and then used the fingerprint powder on them trying to discover any prints on them.

Q. And could you pull any prints or see any prints on the --
A. No identifiable prints were found on that.
Q. But you did look?
A. Yes, ma'am.
Q. Okay. We know that you found the keys and the remote during the grid search. Was there another item that you also found outside during your grid search?
A. We found the cellphone battery. It was an LG found in the tall grass in the backyard.
Q. Let me show you State's Exhibit 84 and 85. They are stapled together. This area here with the yellow flag.

(Witness off the witness stand).

A. I believe this is our flag right here.

BY MS. LESKANIC:

Q. Is that your marker that you used to indicate where you found the battery?
A. Yes, ma'am. The battery was into the trees that was there, and this is the battery. A little closer-up photo of it.
Q. And I'm going to show you State's Exhibit 86. Take a look at that.
A. Cellphone battery, LG, found in tall grass in the backyard. Yes, ma'am.
Q. Okay. So State's Exhibit 86 is the battery that we see in that photograph there?
A. That's it right there.
Q. Were you able to determine what phone this battery worked in or belonged to?
A. As far as I know, it fit the phone of Winter Wingard.
Q. And her phone was found without a battery?
A. Right.
Q. And without a back to it?
A. Right. Yes, ma'am.
Q. And you didn't recover a back to the phone, just the cellphone case battery and the cellphone itself?
A. Cellphone and the carrier.
Q. Okay.

(Witness back on the witness stand)

BY MS. LESKANIC:

Q. All right. Now, State's Exhibit 89 you talk about the red hair band that was found on the ground near where the vehicle was parked. Could you take a look at that and tell me if you recognize it and if I have described that accurately?

A. Yes, ma'am, this is the red hair band found on the ground left side of the drive we collected that morning at 9:05.

Q. Okay. Thank you very much.

That's State's Exhibit 89. That's in evidence.

Okay. After you finished the search of the home, at what point did you perform the search warrant on the 2002 GMC Envoy that belonged to Beverly Patrick?

A. 12-4. December the 4th, 2010, at 09:30 hours. Detective Anthony and myself executed the search warrant on the GMC -- the 2002 GMC Envoy.

Q. Now, when you first -- how did you come into possession of the vehicle?

A. Once our investigators went back to the residence and talked with people that lived at the residence, they told them that he had a found a car up the road when he arrived home. Investigators took control of the vehicle and had it towed to our impound lot and was locked up inside of the building in our impound lot.

Q. Do you know if that was towed on December the 2nd? Can

you tell us what day that was towed to the impound lot?
A. Okay. On December the 3rd I received a search warrant from Detective Richard Burgess for the 2002 Envoy.
Q. So it would have been in police custody at that time?
A. Yes, ma'am, so it was -- it had been towed already when he gave me the search warrant for it. It was already locked up in the impound.
Q. Okay. And then you and Detective Anthony actually began your search of the vehicle on December the 4th?
A. The following morning, yes, ma'am. 9:30 we started our search.
Q. All right. How do you begin a search of the vehicle, inside or outside of the vehicle? What do you do?
A. We take photographs of the vehicle all the way around it first. And we will take photographs of the inside before we move anything. That is the way we received the vehicle when it's brought to us or when it's locked up. Nothing has changed about it. And then we go back and start processing the outside of the vehicle for any kind of fingerprints.
Q. Okay. I'm going to start you with State's Exhibit 90. Is this the 2002 GMC Envoy that you and Detective Anthony processed?
A. Yes, ma'am.
This is the driver's door and the steering wheel.
Q. And you begin by just taking photographs of the entire

vehicle?

A. Yes, ma'am.

Q. Was there something at some point of this particular portion of the vehicle that caught your attention?

A. Yes, ma'am, we have some hand prints -- fingerprints that are along the edge of the top of the door here, and -- you can't see it in this one, but there is also in this molding down here. These prints are the same red dirt that's in the yard of the vehicle where -- in the yard at [redacted] where the vehicle was. It's also the red-type dirt that's on Ms. Wingard's body and her clothes. So we got the same red dust or dirt on her body or clothes on the vehicle here.

Q. And then when you were looking at photographs yesterday at Mikes Creek, was that dirt on her hands in the photograph?

A. Yes, she had this dirt, this red dirt, on her hands.

Q. I'm going to show you just another picture. This is State's Exhibit 91. It's another angle of that front -- well, is this the front driver's side door?

A. Yes, ma'am.

Q. Okay.

A. This is some of the prints here. This is some of the prints here. You also have some right here on this molding on the bottom of the door. That right there is just a flash

off of the camera.

Q. And just looking I guess more closely at the bottom of the door?

A. Yes, ma'am, this is the bottom molding of the door. Here is your prints. You will see them coming from the top of the molding sliding down across the silver looking molding.

Q. All right. And then looking at State's Exhibit 94, another angle of the vehicle on the other side, did you see anything on this side of the vehicle that caught your attention?

A. This is the passenger's side rear quarter panel. Right in here, you can see a little bit of it right there, is another hand print or fingerprint in this red dust or red dirt.

Q. All right. Now, you are saying that it's a fingerprint that -- how do you know if it's a print, you know if it's going to be a readable print, or what do you do when you see these things on the vehicle? What is the process?

A. When we see them on the vehicle, we are going to try to take photographs of them. We will try to get close-up photographs.

On this one I believe we used different alternate light sources trying to excite the fingerprints so we could get better pictures of it, or the hand print, whichever it was,

but it did have ridge detail in it. The palms of your hand, also your fingertips have ridge detail and this is what we are seeing. We know that they have ridge detail, but we don't know if it's enough to identify the print or not.

Q. And let me ask you this, because I know based on your training, you have done fingerprint training. Would you be more likely to get a better print if there was this red dust on your hand than if it's a clean hand? I mean, how does that change the possibility of getting a print?

A. If your hands are really, really clean -- the only way that you are going to get a print off of a hand is if you have got some sweat deposited on your hands or fingertips, or you have got oil all over your hands or fingertips from touching another part of your body or touching something oily.

You have got this dust on your hand and this is transferring to the paint on this car, which is giving you a pretty good print. Well, that's the way of enhancing it anyway whatsoever with fingerprint dust.

Q. Okay. Do you always get fingerprints? Are your fingerprints something that's easy to pull off of an object or --

A. No.

Q. We see it a lot on TV. Can you explain a little bit about fingerprints and if I touch something, have I

definitely left a readable print? Explain fingerprints a little bit more, please.

A. Fingerprints are not at all like you see on TV. They are hard to get. You don't get them very often. We fingerprint thousands of objects a year and we are lucky if we pull one or two fingerprints.

If you just walked up and touched something like that, possibly you don't leave a fingerprint at all. If your hands are clean -- like I say, if you haven't done any sweating or you washed your hands recently and you touch something, chances are you are not going to leave anything on it.

The only way that you get the residue on your palms is you are sweating. You do have sweat pores in the palms of your hands and fingertips. You don't have any oil glands, so you have got to pick up the oil from another part of your body touching it somehow or another.

Q. And how about smudges? Do you see a lot of smudges where there isn't sufficient ridge detail to determine who that belonged to?

A. Yes, ma'am, you see it most of the time it's a smudge where you can't read the ridge detail in it. You have got to be able to document the ridges in it and count the minutia that's in the ridge detail or the fine points in the detail of the ridge before you can actually read the

fingerprint.

Q. All right. And on these items that we have been talking about, on the driver's side door and the back quarter panel of the vehicle, were you able to get what you thought would be sufficient ridge detail to do a lift?

A. Yes, ma'am. Even if it's not sufficient ridge detail to do the lift, we will go ahead and lift it anyway, in hopes that we do get enough of it so that we can identify it.

Q. And what is the process for taking the lift off of the vehicle? In this case what did you do to actually pull the lift off of the vehicle?

A. We enhanced them I think with fingerprint powder a little bit before we tried to make the lift.

The way that you make the lift is actually put a piece of tape on it, smooth the tape down, try to get all your air bubbles out of it. And when you pick the tape up, it brings the lift up with it. That is the ridge detail of the print itself and you put that onto a white face backing card.

Q. All right. And then do you actually look at the print and try to identify it, or what do you do with the lift that you take?

A. We will -- sometimes we will look at them ourselves and identify them.

In a murder case like this and we had so much that we

was trying to process and so much we were trying to determine what needed to go to SLED and what needed to stay with us, we went ahead and packaged them and sent them to SLED to let them identify them.

Q. All right. I'm going to show you State's Exhibit 97, 99, 100, 101, and 98. Can you just take a look at those and tell me what those are, explain to the jury what those are?

A. State's Exhibit 97 is a print that has been dusted with fingerprint powder. This case from the driver's side front door.

As you can see, we kind of draw a diagram and we do the best that we can on the drawing. This is the front driver's door. This is where the first print came from. It would have been right in here. This one. That's what we got on here.

State's Exhibit 98 is another fingerprint lift. Driver's side front door. This looks like this is going to be our second lift from the same area here. If you notice, this is over to the right just a little bit. If you will notice on the door where we got it drawed out a little bit, it's a little bit more towards the center of the door. That's 98.

State's Exhibit 99, which is a print lift we made from the driver's side front door. This one is right over the door handle. It would be this one right here. You can see

that one pretty good.

100. State's Exhibit 100 is driver's side front door molding. It would be right here. We had dusted it and made the lift from that and got it.

State's Exhibit 101, passenger's side rear quarter panel. This was the fingerprints that we found the rear side -- the rear quarter panel on the right side of the vehicle and we made a left of it also. That's it. That was taken from --

Q. I'm going to show you some more. You can stand there.

A. Okay.

Q. After you -- you do not actually analyze the prints yourself? You send those to SLED, correct?

A. These we did send to SLED, yes, ma'am.

Q. All right. And then they have a latent examiner review the prints and send you the results?

A. Yes, ma'am.

Q. Okay. After you received the results, did you go back on some of your photographs -- I'm going to show you State's Exhibit 95 and 96, and did you actually write in the name of the individual that the prints matched?

A. Yes, ma'am, I did.

Q. Okay. I'll let you look at that for a moment in case it doesn't come up clear on the screen.

A. Okay.

Q. I'm going to start with State's Exhibit 95. Can you tell from that?

A. Yeah, a little bit. Here was Winter Wingard's print. This was Joey Clark's print. This was Winter Wingard's print. And these down here were unidentified.

Q. Now, was it sufficient ridge detail and it didn't match, or it was insufficient ridge detail?

A. It was insufficient ridge detail. It was smeared, so that they couldn't read it. Not enough ridge detail in it to get enough minutia points.

Q. It didn't belong to another person when you say that it was unidentified? It was just not sufficient to read the print?

A. Not sufficient to read it, right.

Q. Now I'm going to show you the passenger's side of the vehicle. Can you tell us who that print matches up to?

A. The rear quarter panel, this print was Joey Clark's. You can barely read Joey Clark. I have got it written in there and the arrow comes down here to where the print was taken off the vehicle right here.

Q. All right.

(Witness back on the witness stand).

BY MS. LESKANIC:

Q. Now, after you finished with -- and I know you said you

photographed it. You finished with the outside of the vehicle and then you go to the inside of the vehicle?

A. Yes, ma'am.

Q. And start by taking photographs?

A. Yes, ma'am.

Q. I'm going to start showing you State's Exhibit 102.

(Witness off the witness stand).

BY MS. LESKANIC:

Q. Can you talk about what you see inside the vehicle, the view from the driver's side?

A. Inside from the driver's side you can see you have got some of the red dirt on the front seat here. You see there is a little bit right here on this armrest of the console.

Q. I'll move to the photograph State's Exhibit 103.

A. 103, you still got some of the red dirt on the seat here.

I think this is Kleenex box that was on the floor.

Q. State's Exhibit 104.

A. You can see a little better here where you have got the red dirt in the passenger's seat also in this photo.

Q. Based on what you saw and seeing Winter's body at the scene, seeing the clothing, does the dirt that was on her sweat pants appear to be the same color dirt that you found in the passenger's seat of this vehicle?

A. Yes, it was.

Q. I'm going to show you State's Exhibit 105, a little closer up.
A. A little closer up you can see the tinting of it here, the tinting of the red dirt or the red smears.
Q. Now, did you notice anything when you started looking inside the vehicle, as far as to continue processing the vehicle, other than the red dirt?
A. There was some blood spatter on the passenger's door and a little bit on the dash.
Q. I'm going to show you State's Exhibit 106 and if you would tell the jury what they are looking at there, please?
A. All these markers are pointing to little blood droplets. It's blood spatter on the driver's -- or the passenger window and on the door itself here. Every one is pointing to a little bitty blood drop. You have got a little drop right here. You have got one on the dash. It didn't show it, but we had one over next to the -- under the steering wheel next to the radio knob also.
Q. I'll show you 108 for that.
A. Yes, that's the blood drop right here. You got another one right here.
Q. All right. But looking back at Exhibit 106, all of these markers indicate where there appears to be small blood drops?
A. Yes, ma'am.

Q. Were there any large amount of blood found in the vehicle, or were they all just small drops?
A. No, they were all real small. Real small.
Q. What did you do? Did you take swabs of that as well?
A. We took swabs of the blood drops that were inside the vehicle.
Q. I'm going to show you State's Exhibit 109 and 110.

(Witness back on the witness stand)

BY MS. LESKANIC:

Q. Can you tell what those are? I believe those were two swabs that were taken from inside the vehicle. One was near the radio dash that we looked out here that says V-8, is that correct?
A. V-8, yes, ma'am. We put this number on it so we can keep up with where it came from in the vehicle. This was our number 8 swab that we took.

State's Exhibit 109, a swab from the driver's side on the dash near the radio volume -- the radio volume knob. That's where it was taken.

Q. Okay. And then you also did a swab of V-28?
A. 23.
Q. 23, excuse me. Thank you.
A. State's Exhibit 110, our number for the sheriff's office was V for the vehicle, 23rd swab that we took. Swab from the passenger side front door. Front door glass.

Q. All right. Based on your experience and what you saw, did it appear that all of the blood was coming from one location?
A. Yes, ma'am.
Q. Okay. But you took a swab of the blood that was on the passenger side window and then one that was a small distance away, but a distance away of the radio knob?
A. Yes, ma'am.
Q. And how -- again, do you do these swabs the same way when you talked about before with distilled water, or --
A. Yes, ma'am, distilled water on our sterile Q-tip and we do the swab of the blood, put it in a box, close the box up, and the box goes inside the envelope and it's sealed and sent to SLED. SLED's lab will do the processing of it.
Q. All right. And did you receive a report from SLED giving the results of whose blood this was?
A. Yes, ma'am.
Q. And whose blood was this?
A. It was Winter Wingard's.
Q. Okay. Now, I know we have talked about the prints and that they were Winter's and Joey's. How did you get Winter's prints in order to compare with what you found on the vehicle?
A. Detective Anthony and myself went to the morgue and we got her prints while she was at the morgue.

Q. Does that include fingerprints and palm prints? How do y'all do that?

A. Yes, ma'am, fingerprints and palm prints.

Q. Okay. I'm going to show you State's Exhibit 111. Are these the fingerprints and palm prints that you took off of Winter Wingard when her body was at the morgue?

A. Yes, ma'am. The fingerprints themselves on the small cards, I did these while she was at the morgue. Detective Anthony was helping me do it. I helped him do the palm prints. We work together on about everything that we do.

Q. And then that information would have been sent to SLED, along with the lifts that you made, in order to get the determination that the prints belonged to Winter and Joey?

A. Yes, ma'am.

Q. Okay. And how did you get the defendant's prints to compare to what was on the vehicle?

A. His prints, I believe SLED got those.

We sent a copy of his jail prints when he was incarcerated. We got a copy of them and sent them with them. I couldn't tell you whether the bureau did the analysis at SLED, whether they used the prints that we sent or they pulled them out of AFIS, I don't know.

Q. Okay. And then those print cards are also sent down to compare?

A. Yes, ma'am.

Q. All right. Just a second.

(Off the record)

(Back on the record)

BY MS. LESKANIC:

Q. Detective Henson, did you also take a standard from the owner of the vehicle, Beverly Patrick?

A: Yes, ma'am, we did.

Q. And did you find any of her prints on the vehicle?

A. No, ma'am, we didn't.

Q. Did you find out what vehicle the defendant was driving during this time period? Not with her. The 2002 Honda, was that the vehicle that he drove on a regular basis, or he was driving at that time?

A. Yes, ma'am.

Q. And did you do a search of that vehicle?

A. Yes, ma'am, we did.

Q. I'm going to show you State's Exhibit 113. Could you tell the jury when you did the search of the vehicle and if this is an item that you found inside the vehicle?

A. December 10th, 2010, at eleven a.m., we collected this piece of evidence out of the vehicle. That's when the search would have been made of the vehicle.

Q. What type of vehicle was he driving?

A. Let me look. I'm not sure.

He was driving a Ford Explorer, green in color.

Q. And the exhibit that I handed you, can you open that up and tell is that an item that you found inside the green Ford Explorer he was driving?

A. Yes, ma'am, it was.

Q. Okay.

A. This is an early out ticket or a late arrival ticket from his employment.

Q. From whose employment?

A. Joey Clark.

Q. And is that an item that you recovered out of the vehicle?

A. Yes, ma'am, it was.

Q. Okay.

MS. LESKANIC: I'm going to ask to publish State's Exhibit 113, Your Honor?

THE COURT: Permission granted.

BY MS. LESKANIC:

Q. What's the date on this early out ticket?

A. December 2nd, 2010.

Q. And who is the employee that checked out early?

A. The employee was Joey Clark. Joe Clark.

Q. And what time does it say that he arrived at work that day?

A. He arrived at work at seven a.m..

Q. And what time does the ticket say he left work?

A. Time out was 1:30 p.m..
Q. The reason?
A. Sick.
Q. And then signed by a foreman?
A. Signed by his foreman.
Q. And you found this inside his vehicle?
A. Yes, ma'am, I did.
Q. Were the -- do you know where the vehicle, the GMC vehicle, Beverly Patrick's car, do you know where that was found?
A. Yes, ma'am.
Q. Okay. I know once you arrived it had already been returned to the home?
A. Yes, ma'am, it had, but --
Q. But in the location where it was found, was that walking distance to [redacted]
A. Yes, ma'am.
Q. And the keys, the cellphone, the battery, all of these items were found in the backyard area of [redacted]
A. In the tall grass, yes, ma'am, right in the backyard of [redacted]
Q. Thank you very much, Detective Henson.
If you will, please answer any questions that Mr. Harbin has.
THE COURT: Cross-examination, Mr. Harbin?

MR. HARBIN: Thank you, Your Honor.

CROSS EXAMINATION BY MR. HARBIN:

Q. How are you doing today?

A. I'm fine, sir. Thank you.

Q. I might jump -- start off in the middle and I might work backwards.

You went through the latent prints that you were able to pull from the GMC with Ms. Leskanic. And I'm wondering why it wasn't mentioned that there was a latent print pulled from the inside passenger front glass, which would presumably be where all that blood spatter was with all those orange arrows --

A. Yes, sir.

Q. -- that SLED results that I was given by y'all, or by the State, indicates that it did not belong to either Winter, Joey, or Beverly.

A. If I'm correct -- I think I'm correct. That's right, yes.

Q. That's right, okay.

So we have a fingerprint inside the vehicle right near all of this blood spatter activity that's unidentified, or it's identified as not coming from Joey, the victim Winter, or her mother Beverly Patrick?

A. Yes, sir.

Q. In addition to that, there is another print found at

the rear quarter panel and I believe the rear passenger's side quarter panel that is also apparently not Winter, not Joey, and apparently there was no conclusion reached as to whether it was Beverly, due to the quality of, I guess, Beverly's comparison sample, is that right?

This was item 9, I believe is what it's listed as on the SLED report. I don't know what your number might have been.

A. It's a totally different number.

Q. And I'm happy to let you glance at the sheet that I'm looking at, if it helps you, but -- you let me know.

A. Okay. It would be our number V-6, and you got that listed as partial latent fingerprint from the passenger side door of the front door. It's under V-5.

Q. Okay. And I believe we covered that, but then the next question that I had was the print that was the rear -- the passenger rear quarter panel that -- the information I have is from SLED was not identified with Winter, not identified with Joey, and for some reason there was no conclusion as to whether or not it might have belonged to Beverly. And the words they used, and you could tell us what this means, "no conclusion will be rendered due to the quality of item 45." Their item 45 I believe is Beverly's comparison or Beverly's fingerprint standard from Beverly Patrick.

So am I correct in saying that that report -- or the

testing indicated the fingerprint was not Joey, was not Winter, and they couldn't necessarily say conclusively it wasn't Beverly, due to some quality standard?

A. I'm not sure. Really you need to ask the agent that studied these fingerprints and --

Q. Well I figured I could -- I figured I could ask you because you were identifying the other fingerprints.

A. Oh, they need to straighten this out too, because SLED item 9, it's latent prints -- partial latent fingerprint that was found inside the rear quarter panel was a misprint. That is wrong. It should be the front door under V-5, because on the passenger side front door and it was underneath our evidence V-5.

Q. Where would that put it, do you know? Like physically as if you looking at a door, so we can then understand where that means it was?

A. V-5 was right under the molding under the window on the edge of the door of -- edge of the passenger door. So it's right under the molding of the window on the very edge of the door, and V-6 was right underneath that. It would be not in the middle of the door on the edge of it. It would be up more towards the top.

Q. So as I understand it then, these two unidentified fingerprints, one is on the inside glass and one is on the outside door of this front passenger door, where -- the same

area where this blood was found on the inside of the door?
A. Yes, sir.
Q. All right. And, again, I apologize if I'm skipping around here, but the blood sample that was drawn -- or not drawn, but taken from the -- I believe there was a plastic runner inside of the trailer --
A. Yes, sir.
Q. -- at [redacted]
What was the value of that evidence as -- I guess I'm asking you, you are kind of the expert, so there was blood found, I believe you said it matched Beverly Patrick. What's is the value of that particular evidence?
A. We wanted to find out whose blood it was.
Q. Right.
A. And it came back as Beverly's.
Q. What's that mean?
A. At some point she had bled right there at the front door.
Q. So is it fair to say there is no value to that evidence as it relates to what we are doing here today?
A. I would say there is no value to it.
Q. Okay. It doesn't fit with whatever theory of the case that you have then.
MS. LESKANIC: Objection, Your Honor. Is that a question? It sounded like a comment.

THE COURT: You made a comment. You can ask him about that, but the jury should disregard the comment. If he wants to put it in the form of a question to ask the witness, he may do so.

MS. LESKANIC: Thank you, Your Honor.

MR. HARBIN: I apologize, judge.

BY MR. HARBIN:

Q. Does it not have any evidentiary value because it does not fit your theory of the case?

A. Well, our theory of the case at that point was all the avenues were open.

Q. Since you bring that up then, the search warrant that you executed on the 7th of December, and I believe this would be -- and you can correct me if I'm wrong, but it might be the last search warrant that you executed, and this is the one particularly focused on the kitchen?

A. Yes, sir.

Q. And you mentioned that you were following up on information provided to you by a jailhouse informant that some activity had occurred in the kitchen, is that right?

A. The information came to me through one of our investigators.

Q. Okay. You have -- hold on one second.

(Off the record)

(Back on the record)

BY MR. HARBIN:

Q. So when you get to where -- when you execute a search warrant -- and did you execute that search warrant, the one on the 7th?

A. Detective Billy Anthony executed the search warrant. I was with him.

Q. And you were with him?

A. Yes.

Q. Okay. So you do have particular knowledge of that then?

A. Yes, sir.

Q. I believe that you said that you essentially didn't find anything. Was that kind of the sum total of the search result or the search warrant as it relates to evidence of something having happened in the kitchen?

A. We didn't find any evidence of any blood in the kitchen.

Q. Okay. And that was on December 7th that you checked this information out, correct?

A. Yes, sir.

Q. Okay. Come to find out that whatever that information was was apparently incorrect?

A. Yeah, we didn't find any blood in the kitchen. I can say that.

Q. Okay. I'm going to go back over -- y'all went through

many pictures and many exhibits, but I'm using your report, if you need to follow along. It's titled Crime Scene Investigations Investigative Report, but I wanted to ask you about other items that were collected that we haven't mentioned, or that haven't been mentioned yet, and it may be easier for me to just go through them and maybe some of them have been submitted and maybe some of them haven't, to let the jury know what the extent of the work that you were able to get done in this case was.

We will start with evidence number S-1 and I believe S stands for the scene at which the body -- at which the body was found, correct?

A. Yes, sir.

Q. Okay. So evidence number S-1, a piece of gold colored cigar wrapper.

And if you can basically just confirm for the jury that that evidence was collected, I guess bagged and tagged and, you know, properly processed for later -- presumably for preservation of testing later to be done, correct?

A. Yes, sir, it was. I'll agree it was.

Q. And so if you can just confirm with a yes or a no that is correct that these items were basically preserved for later testing?

A. Okay.

Q. Evidence S-1, a piece of gold colored cigar wrapper?

A. Yes, sir.
Q. S-2, a piece of gold colored cigar wrapper?
A. Yes, sir.
Q. S-3, the pull tab that opens the cigar wrapper and it was purple in color?
A. Yes, sir.
Q. S-14, one red hooded sweatshirt, size extra large with the words drunkn munky written on it?
A. Yes, sir.
Q. S-15, one Gildan white t-shirt, size extra large, with stains on it?
A. Yes, sir.
Q. S-4, hair from side of road collected at 19:05 hours?
A. Yes, sir.
Q. S-5, hair from the side of the road?
A. Yes, sir.
Q. S-6, hair on leaf with (possible blood?
A. Yes, sir.
Q. S-7, possible blood on a leaf?
A. Yes, sir.
Q. S-8, possible blood on a leaf?
A. Yes, sir.
Q. S-9, possible blood on a leaf?
A. Yes, sir.
Q. S-10, possible blood on a leaf?

A. Yes, sir.
Q. S-11, hair collected?
A. Yes, sir.
Q. S-12, possible blood on a leaf?
A. Yes, sir.
Q. And I'll skip over the shoe prints. I believe, if I'm correct, you were able to find one that actually was provided a cast, but I believe you later eliminated that as Mr. Taylor's shoe?
A. Yes, sir, that's correct.
Q. So essentially there is no evidentiary value in that particular -- in the shoe print area?
A. Right.
Q. We will go back to S-17, saw briar hanging over the left side of the victim?
A. Yes, sir.
Q. S-18, saw briar hanging over the left side of the victim?
A. Yes, sir.
Q. S-19, saw briar hanging over the left side of the victim?
A. Yes, sir.
Q. S-20, saw briar hanging over left side of the victim?
A. Yes, sir.
Q. S-21, limb of the tree that was hanging over the

victim?
A. Yes, sir.
Q. S-22, limb of tree that was hanging over the victim?
A. Yes, sir.
Q. S-23, limb of tree that was hanging over the victim?
A. Yes, sir.
Q. S-24, limb of tree that was hanging over the victim?
A. Yes, sir.
Q. S-25, top strand or first strand of barbed wire at the head of the victim?
A. Yes, sir.
Q. S-26, second strand of barbed wire?
A. Yes, sir.
Q. S-27, third strand of barbed wire?
A. Yes, sir.
Q. S-28, fourth strand of barbed wire?
A. Yes, sir.
Q. S-29, fifth strand of barbed wire?
A. Yes, sir.
Q. And we already discussed it -- and I'm following kind of page for page from your notes here, we have already discussed the plastic runner at Songbird.
Let's see, SW-2, which would be the second search warrant I believe at [redacted]
A. Yes, sir, that's right.

Q. #1, one blue and black Alltel cellphone?
A. Yes, sir.
Q. SW2-#2, one silver piece from cellphone found if the backyard?
A. Yes, sir. On this one we determined that the steel piece did not come from the cellphone.
Q. Did not come from the cellphone?
A. Yes, sir.
Q. Do you remember -- or was it indicated -- did you figure out what that was?
A. No, sir, we never did figure out what it came off of.
Q. Okay. SW-#3, one black cellphone case --
A. Yes, sir.
Q. -- found in the backyard.
#4, one Marlboro cigarette filter found in the backyard?
A. Yes, sir.
Q. #5, one black pullover long sleeved shirt, Puritan size 34/36 taken from the clothes dryer?
A. Yes, sir.
Q. #6, one black T-shirt, size two XL, taken from clothes dryer?
A. Yes, sir.
Q. #7, one pair of brown Wolverine boots taken from Winter's bedroom?

A. Yes, sir.
Q. Then we are moving on. I believe evidence V would indicate the vehicle, is that correct?
A. Yes, sir, the vehicles.
Q. That would be the GMC, I believe?
A. The GMC we were talking about.
Q. So we have evidence #1, partial latent palm print from outside driver's side front door?
A. Yes, sir.
Q. Evidence V-#2, partial latent palm print from outside the driver's side front door?
A. Yes, sir.
Q. Evidence V-#3, partial latent palm print from outside the driver's side front door?
A. Yes, sir.
Q. #4, partial latent fingerprint from outside the driver's side front door molding?
A. Yes, sir.
Q. #5, partial latent fingerprint from the passenger side front door?
A. Yes, sir.
Q. #6, partial latent fingerprint from the passenger side of the front door?
A. Yes, sir.
Q. #7, partial palm print from the passenger side rear

quarter panel?
A. Yes, sir.
Q. #8, swab from the driver's side on dash near radio volume knob?
A. Yes, sir.
Q. #9, swab from driver's side dash?
A. Yes, sir.
Q. #10, swab from driver's side floorboard?
A. Yes, sir.
Q. #11, swab taken from passenger side dash?
A. Yes, sir.
Q. #12, swab from the passenger side dash?
A. Yes, sir.
Q. #13, swab from Kleenex box on passenger side floorboard?
A. Yes, sir.
Q. #14, swab from the passenger side front door and front of armrest?
A. Yes, sir.
Q. #15, swab from passenger front door and front of door handle?
A. Yes, sir.
Q. #16, swab from passenger side front door on armrest and front of window?
A. Yes, sir.

Q. #17, swab from passenger side front door at top of door panel?
A. Yes, sir.
Q. #18, swab from passenger side front door above door handle?
A. Yes, sir.
Q. #19, swab from passenger side front door above V-20?
A. Yes, sir.
Q. #20, swab from passenger side front door between armrest and door handle?
A. Yes, sir.
Q. #21, swab from passenger side front door armrest?
A. Yes, sir.
Q. #22, swab from passenger side front door glass?
A. Yes, sir.
Q. #23, swab from passenger side front door glass?
A. Yes, sir.
Q. #24, swab from passenger side front door glass?
A. Yes, sir.
Q. #25, swab from passenger side front door glass?
A. Yes, sir.
Q. #26, swab from passenger side front door glass?
A. Yes, sir.
Q. #27, trace taken from passenger seat?
A. Yes, sir.

Q. #28, trace taken from driver seat?
A. Yes, sir.
Q. #29, swab from back of passenger front seat?
A. Yes, sir.
Q. #30, swab from outside rear passenger door?
A. Yes, sir.
Q. #31, swab of gear shift?
A. Yes, sir.
Q. I promise we are getting to the end here.
#32, swab from steering wheel?
A. Yes, sir.
Q. It says note: Swab was taken after using fingerprint powder?
A. Yes.
Q. What is the -- what is the significance of that, for the jury's information?
A. The significance of that would be the fingerprint powder is contaminated. We use it for all scenes we go to. So we didn't use an uncontaminated fingerprint powder on it. The simple reason being Mr. Clark and Ms. Beverly had been inside the vehicle after it was found. Their fingerprints could have been inside the vehicle and could have been contaminated, so we made note that we used fingerprint powder, you know, after -- the swab was taken after we used the fingerprint powder on it.

Q. And you present a good question there. Is it important for you to understand who the known occupants of the vehicle are as opposed to the unknown? In other words, if you are testing this vehicle for fingerprints and DNA, are you weighing the importance of who you already know owns the vehicle, drives the vehicle, has been in the vehicle, versus people that don't regularly have access to it?

A. Yes, sir, we will do it. We still have to test it.

Q. Sure. Just a few more.

#33, swab of inside driver door handle?

A. Yes, sir.

Q. #34, partial latent fingerprint from inside passenger side front door?

A. Yes, sir.

Q. #35, Tom Tom GPS?

A. Yes, sir.

Q. #36, trace tapings from the driver side floorboard?

A. Yes, sir.

Q. Skipping over page 14, I believe. I'm trying to make sure that it was you that received these and not your -- not a co-worker.

SW3, that's on page 15?

A. Yes, sir.

Q. SW3-#1, one red hair band? We talked about that.

A. Yes, sir.

Q. You got that?
A. Yes, sir.
Q. #2, trace taping of hair?
A. Yes, sir.
Q. #3, unknown red substance?
A. Yes, sir.
Q. Do you know what that was?
A. No, we never determined what it was. We determined it wasn't blood.
Q. It wasn't blood.
It wasn't blood and it wasn't mud, I guess?
A. No.
Q. #4, trace taping of hair on east side of drive edge?
A. Yes, sir.
Q. #5, cigar paper from front yard beside walkway?
A. Yes, sir.
Q. #6, one cigar tip from front yard on left side of walkway?
A. Yes, sir.
Q. #7, one cigar tip from front yard on the left side of the walkway?
A. Yes, sir.
Q. #8, keys and #2 GM remote?
A. Yes, sir.
Q. #9, one cellphone battery LG?

A. Yes, sir.
Q. #10, bottom sheet from bed in Joey Clark's bedroom?
A. Yes, sir.
Q. #11, Alltel cellphone box?
A. Yes, sir.
Q. #12, unknown substance from top of bed sheet in Joey Clark's bedroom?
A. Yes, sir.
Q. #13, unknown substance from floor beside bed in Joey Clark's bedroom?
A. Yes, sir.
Q. You had previously mentioned, I believe, if you could confirm, through your direct examination with Ms. Leskanic that I believe yourself and Detective Anthony processed the kitchen and I believe you might have mentioned that you processed the washer and dryer area, but negative results for any indication of blood?
A. Yes, sir, that's correct.
Q. We are moving to page 17, the evidence #20.01?
A. Yes, sir.
Q. Pajama pants.
20.02, Lee blue jeans?
A. Yes, sir.
Q. 20.03, faded Glory blue jeans?
A. Yes, sir.

Q. 20.04, Dickies blue jeans?
A. Yes, sir.
Q. 20.05, Wrangler blue jeans?
A. Yes, sir.
Q. 20.06, faded Glory blue jeans?
A. Yes, sir.
Q. 20.07, Dickie denim shirt?
A. Yes, sir.
Q. 20.08, gray pocket T-shirt?
A. Yes, sir.
Q. 20.09, blue pocket T-shirt?
A. Yes, sir.
Q. 20.10, white faded Glory pocket T-shirt?
A. Yes, sir.
Q. 20.11, green Shaw pocket T-shirt?
A. Yes, sir.
Q. I assume that Shaw is where they worked?
A. Yes, sir.
Q. Is that what that's understood to be?
A. Yes, sir.
Q. 20.12, gray pocket T-shirt?
A. Yes, sir.
Q. 20.13, brown pocket T-shirt?
A. Yes, sir.
Q. 20.14, black Fruit of the Loom pocket T-shirt?

A. Yes, sir.
Q. 20.15, one tan pocket T-shirt?
A. Yes, sir.
Q. 20.16, one light blue T-shirt?
A. Yes, sir.
Q. 20.17, gray T-shirt?
A. Yes, sir.
Q. 20.18, another gray T-shirt?
A. Yes, sir.
Q. 20.19, faded Glory blue jeans?
A. Yes, sir.
Q. Then evidence #18, swab from car remote #2 GM. So that's -- so I guess we had gone over the actual remote itself and now you are mentioning specifically the swab that was taken from the remote? Is that why there are two different?
A. That's right, yes.
Q. And then again you had a swab from the GM key on the key ring is #19?
A. Yes, sir.
Q. Okay. You also have evidence #4.01, eight trace tapings from the driver floorboard. And to make sure, that was actually from the Ford Explorer and you determined that Joey Clark owns the Ford Explorer, correct?
A. That's correct.

Q. And you can correct me if I'm wrong, but these next few items I assume were found in the Ford Explorer.

4.02, one black tire tool?

A. Yes, sir.

Q. 4.03, one welders chipping hammer?

A. Yes, sir.

Q. 4.04, one black tire tool?

A. Yes, sir.

Q. 4.05, one work early out ticket that we went over?

A. Yes, sir.

Q. 4.06, one paycheck stub with stain?

A. Yes, sir.

Q. 4.07, one Greenville detention center inmate propepty form?

A. Yes, sir.

Q. 4.08, one SCDMV -- Department of Motor Vehicle notice to Joey --

A. Yes, sir.

Q. It says Joey Cox.

A. Yes, sir.

Q. 4.09, one gray express sweater, size medium?

A. Yes, sir.

Q. 4.10, one gray T-shirt?

A. Yes, sir.

Q. 4.11, one gray jersey sweat shirt?

A. Yes, sir.
Q. 4.12, white cotton gloves?
A. Yes, sir.
Q. Evidence 005, one pair of brown Brahma boots?
A. Yes, sir.
Q. Now, just to be clear, that is not the same pair of boots that we have introduced into evidence?
A. That's correct.
Q. Is that correct?
A. Yes, sir.
Q. 006, one black McCabe's Industrial T-shirt?
A. Yes, sir.
Q. 6 point -- I'm sorry, 006.01, one gray long sleeved Saint Johns Bay thermal T-shirt?
A. Yes, sir.
Q. Okay. Then what I'm hoping is toward the last of this is appears to be clothes that were turned over to you -- I'm sorry, to Mr. Anthony so --
A. Detective Anthony.
Q. We'll reserve those for Mr. Anthony.
A. I was there when he turned them over to him.
Q. Okay. Well, if you feel comfortable having known that these are actually correctly preserved or taken into evidence, then I can go ahead and ask you, or I can wait for Mr. Anthony. That's fine.

A. Yes, sir, they are -- they are -- we was there together.
Q. Okay.
A. Everything --
Q. Let me go ahead and get these out of the way. Evidence JC12-#1, one pair of gray Hanes underwear?
A. Yes, sir.
Q. JC12-#2, one white striped USC ball cap?
A. Yes, sir.
Q. JC12-#3, one tan and yellow Sean John hoodie?
A. Yes, sir.
Q. JC12-#4, one brown Carhartt coat?
A. Yes, sir.
Q. JC12-#5, one black T-shirt?
A. Yes, sir.
Q. JC12-#6, one pair of blue jeans?
A. Yes, sir.
Q. Faded Glory blue jeans?
A. Yes, sir.
Q. And to your understanding these were the clothes that he was wearing when he was arrested?
A. Yes, sir.
Q. Okay. JC12-#7, one pair of brown faded Glory shoes?
A. Yes, sir.
Q. JC12-#8, one AT&T Samsung cellphone and battery?

A. Yes, sir.
Q. JC12-#9, one set of keys and remote?
A. Yes, sir.
Q. JC12-#10, one pair of white socks?
A. Yes, sir.
Q. JC12-#11, one pair of black thermal underwear Fruit of the Loom, size XLG?
A. Yes, sir.
Q. I know you probably wanted to go over more things, but I think we are at the end of the list here.

Now, we are going to change subjects here, but going back to the scene where the body was found, is it your job to do things like look at the, you know, a pattern of stab wounds or the depth of the stab wounds, or is that for another professional?

A. That would be for another professional, yes, sir.
Q. Okay. Did you take part in -- or are you part in the determination -- because I believe it was offered into evidence at some point, that -- or suggested, anyway, that Winter was stabbed at the location, at the Mikes Creek location. Do you have any part in that particular conclusion, or is that again for another professional?
A. We try to determine what happened in a particular area, as far as the crime scene goes, yes, sir.
Q. Could you expand upon that a little bit? And I'm sure

that you have to draw upon your experience and expertise to kind of let us know why it is you think that that particular -- why it happened there, or how you determined it would appear to have happened there?

A. From the blood that was spattered onto her body, I think the stabbing took place at -- on the side of the road at Mikes Creek, or right at the fence, one or the other. I can't say which place it took place or where it happened at, but it was the side of the road or up against the fence, one.

We do have blood drops on the side of the road and we know that she was bleeding in the car, possibly from the beating that she had taken. The blood was on the inside of the car. When she came out of the car, the blood drops still could be from the beating, or it could have been from the stab wounds that was taking place there.

Q. Okay. I believe that -- well, did you -- and I don't -- again, if this is a different professional, just tell me it's a different professional. What was the -- what was the size of the victim? What was the height and weight, do you know?

A. Of the victim?

Q. Yes, sir.

A. I don't know.

Q. Okay. You had made mention of the location of the body

and I guess how the body was laying, how the -- how her arms was laying. I believe you mentioned specifically about her right arm. And if I'm correct, you had stated previously that her right arm was kind of laying a little bit underneath the fence?

A. Yes, sir.

Q. And I believe, if I'm also correct, and correct me if I'm wrong, that your thought was that the body was being in the process of being -- or dragged under -- or pulled under the fence, is that what you think?

A. The way it appeared, yes, sir.

Q. Okay. I didn't see any pictures or any evidence of -- you have gone out of your way to say that there was disturbed leaves to kind of support a theory that she was drug?

A. Yes, sir.

Q. And if somebody was on the other side of the fence pulling Ms. Wingard through the fence, or, you know, maybe they figured out they couldn't, I don't know, but if they are on the other side of the fence and Ms. Wingard was not -- she was not a small woman.

A. No, sir.

Q. I haven't seen any evidence that there was a disturbance on the other side of the fence, you know. If I -- I mean, I'm a buck 80, so I don't if I could have done

anything anyway, but if I'm pulling, you know, a larger human by an arm, then it seems as if I'm going to disturb significant --

THE COURT: You are testifying now, Mr. Harbin. Ask him a question.

MR. HARBIN: I'm asking, judge, whether or not he did, in fact, document any disturbance that would indicate that.

THE COURT: That's fine, that's a good question.

A. No, sir, we did not document any kind of disturbance of the leaves on the other side of the fence. The leaves on the other side of the fence were a lot thicker than they were right there on the road.

BY MR. HARBIN:

Q. Who decides which items go to SLED for testing?

A. Detective Anthony, myself, and any of the investigators that are involved, we kind of get our heads together and we decide what we can send.

We can only send a limited amount. SLED does the testing for every county in the state, every city in the state, so they have to cut down on what we can send, and we did get the -- we sent a special request down to get more items analyzed by them on this particular type case.

Q. When you executed a search warrant, for instance, the very first search warrant that you executed on Songbird

Lane, was there anyone there to serve the search warrant on?
A. I can't remember if Ms. Beverly was there or not. I don't think there was anybody there. Let me check my notes to be sure, but I don't think that there was anyone there.
Q. Well, I could ask you this, sir, if it would help you. If somebody is not present at a home in which you were executing a search warrant, is it your standard practice to leave a copy of the search warrant somewhere for them to retrieve?
A. Yes, sir, we would, and that would be in the search warrant here. I have got a copy of it.
A copy was left with [redacted] so no one was home.
Q. You just leave it somewhere in the interior of the home, I guess?
A. Yes, sir, we leave it in an obvious place inside the home.
Q. And I believe the search warrant mentions specifically that you are looking for knives, or weapons, or anything that could have been used in the murder of Winter Wingard, correct?
A. Yes, sir.
Q. And did you find any?
A. No, sir, we just did a quick sweep of the home. We concentrated on the blood drop that was in the home.

Q. Did you find any grass stains on Ms. Wingard's clothing?
A. Grass stains?
Q. Yes, sir.
A. There may have been some on there, I'm not sure.
Q. You are not sure?
A. There was a lot of stains on it, the red dirt stains, the blood stains.
Q. Who did you determine, if anyone, was the last person to touch the keys to the GMC found behind the home?
A. The last person that touched them?
MS. LESKANIC: Objection. It's calling for speculation, unless he knows, Your Honor.
MR. HARBIN: Judge, if I can rephrase that, but --
THE COURT: Yes, sir, I would ask you to rephrase it. There is no way he can know the last the last person. He can -- well, see if he does. See if he has any -- rephrase the question.
BY MR. HARBIN:
Q. Based on your investigation, the amount of evidence that you were able to collect, your experience, and all of the information that you were able to gather, are you able to ascertain who should have -- or who was the last person to touch the keys?
A. No, sir.

MS. LESKANIC: Objection, Your Honor.

I guess I need clarification. Are we talking about the keys found behind the residence --

MR. HARBIN: Behind it.

MS. LESKANIC: -- or the keys that -- the spare set of keys that were used to move the vehicle? And, I'm sorry, I'm not understanding the question.

THE COURT: All right.

BY MR. HARBIN:

Q. Referencing back to the original question, the keys that were found behind the residence in the grid search.

A. The keys found behind the residence. And you are asking me what now? Can I could determine who the last person --

Q. Whether or not you were able to determine through your investigation who actually was the last -- whether you were able to determine from your investigation who actually held the keys last.

A. No, sir, I don't believe they got any DNA off of them.

MR. HARBIN: Your Honor, I believe I'm finished. One moment, please.

THE COURT: All right.

(Off the record)

(Back on the record)

BY MR. HARBIN:

Q. Mr. Henson, there was a picture of Winter on the side of the road at Mikes Creek and I believe specific mention of blood spatter on a piece of wood that was either laying -- she was laying on or beside. Do you recall that?

A. There is something -- I believe, yeah, there is something laying on the side of the road beside her head.

Q. Was that piece of wood looked at as a possible weapon, or does that piece of wood have any evidentiary value in this case?

A. No, we determined that it didn't have any evidentiary value on it. We didn't collect it.

Q. And how were you able to determine that it didn't have any evidentiary value?

A. It wouldn't have been the instrument that made the stab wounds in her neck. It wasn't that. There wasn't no blood smeared on it from that. We determined it was laying there when something was hit and it had blood spattered on it.

Q. Now, you did -- someone determined that she had died from a combination of blunt force trauma and some stab wounds. So was it ever looked at as a potential instrument of the blunt force trauma?

A. I don't think it was that big. It wouldn't have been able to have done the damage in the blunt force trauma.

MR. HARBIN: No further questions, judge.

THE COURT: Redirect?

MS. LESKANIC: Thank you, Your Honor.

REDIRECT EXAMINATION BY MS. LESKANIC:

Q. Detective Henson, I'm going to show you what's been marked State's Exhibit 38.

Looking particularly at the piece of wood that Mr. Harbin just referenced, seeing it now, can you determine why you did not think that that item was used in the attack?

A. It's got leaves all over it. It's got the blood spatter on it, on top of it. There is no blood smearing on it. You can tell it's been laying there on the ground. It hadn't been moved. Actually she was on top of it.

Q. So it appeared that it had been there before this occurred, possibly?

I'm going show you State's Exhibit 49.

A. Yes, ma'am.

Q. This is after the coroner has removed her body?

A. Yes, ma'am.

Q. Is that another photograph of the piece of wood?

A. Yes, ma'am.

Q. And is it actually under the leaves that are there?

A. Under the leaves, the twigs and stuff. It had been laying there awhile.

Q. Okay.

A. She was actually placed on top of it.

Q. Okay. Thank you.

I want to go over briefly some things that Mr. Harbin asked you about. He was talking about some items that you collected. I am looking at page 17 of your report.

A. Okay.

Q. Pajama pants, the Lee blue jeans, faded Glory blue jeans, Dickies blue jeans, Wrangler blue jeans, faded Glory blue jeans, Dickie denim shirt, gray pocket T-shirt, blue pocket T-shirt, white faded Glory pocket T-shirt, green Shaw pocket T-shirt, gray pocket T-shirt Fruit of the Loom, brown pocket T-shirt Fruit of the Loom, black Fruit of the Loom pocket T-shirt, one tan pocket T-shirt Gildan size XL, one light blue T-shirt, gray T-shirt, gray T-shirt, faded Glory blue jeans, where were these items found?

A. These items were found in Cleveland County, North Carolina, a residence that we determined -- or our investigators determined that Mr. Clark had been staying there on [redacted] in Mooresboro, North Carolina.

Q. So this was a residence in North Carolina where all of his clothes were found?

A. His clothes were found there, yes, ma'am.

Q. All right. Did you find his clothes at [redacted] I'm not talking about anything in the dryer. I know that hasn't been identified, but did you find anything in a bedroom, T-shirts, blue jeans, anything that indicated he lived at that address?

A. No, ma'am.
Q. Okay. Just the Wolverine boots?
A. The only thing was a pair the boots out of the closet.
Q. All right. And then you found -- you talked about the green Ford Explorer that you searched and you found items in that. Who was that vehicle registered to that the defendant was driving?
A. What page are you on?
Q. Page 18, I'm sorry.
A. 18.
Q. Did you find out who the registered owner was on that vehicle?
A. It was registered to a Michael Steven Cole, C-O-L-E.
Q. Okay. On page 19, Mr. Harbin read evidence #006. He said it was a one black McCabe's industrial T-shirt. Would you please finish what you wrote about that T-shirt?
A. 006, one black McCabe's industrial T-shirt with leaves and stains on same.
Q. Okay. Did you visually inspect that shirt?
A. Yes, ma'am.
Q. What determination, just based on your experience, were you able to derive from that?
A. From the T-shirt, it had what appeared to be -- it had the leaves on it. And the leaves in the backyard of the residence, it wasn't that many or anywhere around the

residence at [redacted] There was a few little small trees out there in the thick grass and tall grass, but these leaves -- my experience, these leaves looked like the same leaves that come off of Mikes Creek Road.

Q. Okay. And that shirt was found in the green Ford Explorer registered to Michael Steven Cole that the defendant was driving?

A. Yes, ma'am.

Q. And the same vehicle that you found the early out ticket in?

A. Yes, ma'am.

Q. Based on your training and evidence, seeing thirteen stab wounds, and I know you testified that you can't testify as to the death or the angle of the stab wounds, can you testify in your experience what that indicates to you when someone is stabbed thirteen times?

A. It indicates to me that someone was wanting to make sure she was dead.

Q. All right. You collected the red hooded sweatshirt, correct, that was found in the wooded area across the barbed wire fence?

A. Yes, ma'am.

Q. I'll show you first State's Exhibit 51.

All right, looking at State's Exhibit 51, do you believe that Winter was still wearing her sweatshirt at the

time she was stabbed, or could it have been removed?
A. Not while she was stabbed, I don't think so.
Q. Why not?
A. You would have more blood around the right side of the neck area if she had the hood on. Of course, it would have holes in it, but with the hood off you would have more blood around the right side area of the neck area.
Q. I'm going to show you State's Exhibit 54. This is a photograph of the hood of the sweatshirt. Do you see any blood on the hood of that sweatshirt, on the side of that sweatshirt?
A. I believe I photographed areas of the red dirt. I don't think there is any blood on it at all.
Q. There were just the blood I believe that you testified to on the front of the sweatshirt?
A. On the front of the sweatshirt, yes, ma'am.
Q. But not in the neck area?
A. Not in the neck area.
Q. Now, Mr. Harbin read through your entire report of everything that you collected, and you collected a lot of evidence in this case?
A. Yes, ma'am, we did.
Q. And many of items that he read out we already talked about and they were items that you testified to, as far as the latent prints, sweatshirt, T-shirt. Those were not --

were those additional items that we hadn't talked about, or was that inclusive of everything?

A. Say that again.

Q. I'm sorry.

When Mr. Harbin read your report --

A. Yes, ma'am.

Q. -- and read all of the items that you collected --

A. Uh-huh.

Q. -- did that include the items that you and I already discussed on direct examination?

A. Yes, ma'am.

Q. Many of the items that we already discussed?

A. Many of them were included in that, yes, ma'am.

Q. Okay. And can you tell me again about the SLED policy, what they -- what limitations they place on crime scene and different counties and why, as far as what could be tested?

A. They put a limit on what we can send to them, the items of evidence that we can send to them. We have to pick through the items of evidence that we collect off the scene and try to figure the most important that we need to send down there to them, because, like I said, SLED takes in every county, every city. Their lab gets items of evidence from every county and every city in the State of South Carolina, so you can imagine the quantity that they are getting in, so they have to limit, you know, what you are

able to send down.

We called down and got special permission to send more items than, you know, we were allowed to send on a normal case. Even a murder case you are limited to what you can send down to them.

Q. And you sent many items down for testing?

A. What?

Q. You sent a lot of items to them for testing, as many as you were permitted to send?

A. We sent extra, yes, ma'am.

Q. Okay. Now, Mr. Harbin also touched on clothes that were taken from the defendant when he was arrested?

A. (Shaking head yes.)

Q. Is it true that he was arrested on December 3rd of 2010, on the traffic offenses?

A. On the traffic offense, yes, ma'am.

Q. All right. So the clothes that were actually seized would have been clothes that he was wearing on December 3rd, 2010, not December 2nd of 2010?

A. Right, yes, ma'am.

Q. Okay. Thank you very much.

THE COURT: Recross?

MR. HARBIN: One followup question, judge.

RECROSS EXAMINATION BY MR. HARBIN:

Q. The black T-shirt that you noted some leaves and dirt

on, are you aware that there were some cuttings? I'm sorry, not they. That that T-shirt was actually sent for forensic testing down to SLED?

A. I'm pretty sure we sent it down to SLED. I don't know if any tests were done on it or not.

Q. I'll follow up with SLED. Thank you.

MR. HARBIN: No, further requires.

THE COURT: All right. Thank you, Mr. Henson, you may step down.

All right, ladies and gentlemen, you have been in the courtroom about two hours now and it is appropriate that we take a morning break at this time, so we are going to take about a ten or fifteen minute recess.

Please do not discuss the case among yourselves. It's still premature for you to begin any discussions in the matter, but just go to your jury room and relax for a few minutes and we will send for you very shortly. Thank you and you may go with the bailiff.

(The following takes place outside the presence of the jury panel)

THE COURT: All right. Let's take until 11:45. Be ready to start back at 11:45.

Make sure all the exhibits are in order and hasn't been mislaid. There's a couple of them up here.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: All right. Back on the record with regard to the matter of State v. Clark.

Mr. Clark is present with his counsel.

The State is present represented by the Seventh Circuit Solicitor's office.

Anything before we bring the jury in, Ms. Leskanic?

MS. LESKANIC: Nothing from the State, Your Honor.

THE COURT: Mr. Harbin?

MR. HARBIN: No, sir.

THE COURT: All right. Bring the jury in, please.

(The following takes place in the presence of the jury panel).

THE COURT: All right. Thank you, ladies and gentlemen, and we are now ready to proceed.

Madam Solicitor, you may call your next witness.

MS. JORDAN: Thank you, Your Honor.

The State calls Billy Anthony.

THE COURT: All right, Mr. Anthony, come around, please.

INVESTIGATOR BILLY ANTHONY, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. JORDAN:

Q. Would you state your name for the record?

A. Billy Anthony.
Q. Where are you currently employed?
A. Cherokee County Sheriff's Department.
Q. How long have you been employed there?
A. I have been employed there for twelve years.
Q. What is your current title or area that you work now?
A. I work crime scene investigations and evidence custodian.
Q. How long have you been in that position?
A. I have been doing that job for approximately four years.
Q. Were you in that position or did you hold that title back on December of 2010?
A. Yes, ma'am.
Q. Okay. I'm not going to go back through all the testimony, but were you present when Officer Jimmy Henson conducted all of the search and evidence collections that he spoke about over yesterday and today?
A. Yes, ma'am.
Q. Okay. I'm going to ask you a couple of questions, Investigator Anthony.

Did you take -- I'm going to show you what's been previously marked and admitted as State's Exhibit 115 and ask if you recognize this?
A. Yes, I did.

Q. Would you tell the jury what that is?
A. This is a buccal swab from Joey Lynn Clark.
Q. Okay. Would you tell them when you collected that?
A. I collected it on -- it's hard to see there.
It was collected December the 6th, 2010, at 15:10 hours, 3:10 p.m.
Q. Okay. And I guess I had jumped ahead. Would you tell the jury what a buccal swab is?
A. Yes, to get a buccal swab, when we are asked to take a DNA sample from someone, we take a sterile swab, take it out of the package and we swab the interior cheek area of the mouth.
Q. Do you follow procedures to make sure that it's not contaminated?
A. Yes, ma'am. Once we take the swab, we package it, just like we would any other swab. We put it in a box. We put it in an envelope and seal the envelope.
Q. I'm also going to just reference the items that have been placed into evidence already. Did you transport those items to SLED?
A. Yes, ma'am, I did.
Q. Could you tell the jury how you take care of the transport down there and what happens once you get to SLED?
A. Yes. When items of evidence, if they come through our evidence vault, or if myself or Detective Henson collects

the items, we seal them and store them in our evidence vault. From the evidence vault I will take the packages. We fill out a chain of custody to keep an active chain on where every package is. We take the packages, I put them in my vehicle. I drive them to SLED lab to the intake, evidence intake at SLED.

When I arrive there, you know, even though our evidence packages are previously sealed by us, they put another piece of tape or package it in another container, such as this swab. I had packaged it and sealed it. When they took the swab, I actually put it inside the bag. They heat seal it and I date and initial when SLED receives it. That way there is no question to who had handled the evidence, once I leave it there.

Q. Okay. So to help the jury understand, you take the items down there, and they are sealed when you take them, and then SLED either adds an additional seal or places them in a heat-sealed bag?

A. That's correct.

Q. Okay. I'm going to ask you a little bit about the difference between Songbird Land and Mike Creeks. To do that I'm going to reference State's Exhibit 114, which is just a Google Earth map.

I'm going to hand you this pointer.

(Witness off the witness stand)

BY MS. JORDAN:

Q. On the State's 114 could you show the jury so they can acclimate themselves to where [redacted] is?

A. It's a little bit difficult to see, but this is [redacted] It makes just a loop that comes back around. [redacted] is going to be in the horseshoe part here at the back.

Q. Could you now show them where Mikes Creek Road is that we have heard a lot about?

A. Yeah, Mikes Creek Road travels off of Ellis Ferry and right in here is where the bridge is. This is Mikes Creek that travels all the way thrpugh.

Q. Okay. Did you travel between [redacted] and Mikes Creek Road at our request?

A. Yes, ma'am, I did.

Q. Okay. Could you tell the jury -- I know that you took various routes, but could you give them an estimate of the route that you took and how long it took you to get there by miles and by time?

A. From the driveway of [redacted] Songbird, there is multiple ways you can go when you come out to actually come all the way. You can either come out and come up Ellis Ferry, or come down Gramling Ferry and travel up to Mikes Creek Road. But from the residence to Mikes Creek Road to the bridge it was approximately five and a half to six and a half minutes,

three to three and a half miles, depending upon which route that you take to Mikes Creek Road.

(Witness back on the witness stand).

BY MS. JORDAN:

Q. Would you state it's kind of a circle or an odd shaped circle between those two locations?

A. Yes, ma'am, because both roads -- when you come through Mikes Creek Road, you can travel back down and come back to the same location. You don't have to turn around. It's not like one dead-end road that you are going to have to turn around and come back out.

Q. And I'm going to briefly switch to what we have all seen already as State's Exhibit 72 and ask if you could use the pointer to show the jury a crossroad. I believe this is a picture from the backyard of Songbird.

(Witness off the witness stand).

A. Looking from the backyard of [redacted], this is going to be the cross street of Pleasant School Road that travels this direction, and then Gramling Ferry comes behind the hay field and travels up going back towards Mikes Creek Road.

Q. And as part of your investigation were you told where Ms. Beverly Patrick's GMC vehicle was found?

A. Yes, ma'am. We were told -- there is a little paved park right off of Gramling Ferry that looks like kind of

behind this mobile home here and that's where they stated the vehicle was parked.

Q. Okay. I'm going to now flip back to 114.

See if we can -- can you show the crossroads on 113 in relationship to Songbird?

A. This -- this is [redacted] This is where [redacted] is, and this is the cross street that you are looking at of Gramling Ferry and Pleasant School Road.

Q. Okay. Did you measure the distance between the back of the Songbird residence and the crossroads -- and the crossroads?

A. Yes, ma'am.

Q. And what that distance?

(Witness back on the witness stand).

A. I want to reference the note in the report.

The keys that were located on search warrant three, item number 8, the keys were found in the tall grass, it was 598 feet, 7 inches from the keys to the stop sign at the intersection of Pleasant School Road and Gramling Ferry Road.

Q. Okay. And would the location where the vehicle was found be beyond that somewhat?

A. Yes, it's approximately another 100 feet, or so.

Q. Okay. And I'm going to reference back to --

I'm going to switch to the GMC vehicle now and

reference back to a print that Mr. Harbin spoke to Mr. Henson about when he was on the stand, that he stated was an unidentified or not identified to Beverly, Winter, or Joey. I believe that print was inside the passenger's side front window. Please correct me if I'm wrong on that description.

A. Yeah, the evidence V-34.

Q. Okay.

A. It is the --

Q. Can you tell --

A. I'm sorry?

Q. No, go ahead.

A. It's listed as partial latent fingerprint from inside the passenger side front glass -- front door glass.

Q. Can you describe, I believe that Mr. Henson may have already done this, but what the print from the outside of the vehicle looked like or appeared --

A. Yes, ma'am.

Q. -- or how they appeared?

A. Yes, ma'am. When we are processing the vehicle, we took photographs inside the door. Also of the blood where you see the evidence markers as pointing to the small blood drops.

Inside the vehicle we -- it was not obvious to the naked eye that a latent print that was on the side of the glass. We only found it once we dusted, enhanced the prints

with fingerprint powder. That's when it showed up, as opposed to some of the prints on the exterior of the vehicle that you could see in the red dust dirt material.

MS. JORDAN: Your Honor, may I have one moment?

THE COURT: Yes, ma'am.

(Off the record)

(Back on the record)

BY MS. JORDAN:

Q. Please answer any questions that Mr. Harbin has.

THE COURT: All right, cross-examination, Mr. Harbin?

MR. HARBIN: Yes, sir, briefly.

CROSS EXAMINATION BY MR. HARBIN:

Q. Detective Anthony, did you receive a pocketknife from Detective Fowler purporting to be, I guess, a pocketknife belonging to Joey Clark?

A. Yes, sir, I did.

Q. And are you aware if it was processed or not?

A. I transported it to SLED also for processing.

Q. Okay. And are you aware of the results?

A. I do not have them in front of me. I would have to find SLED's report on it.

Q. Okay. Don't worry about it. I can ask SLED.

So you did receive a pocketknife that was taken from -- purported to be from Joey Clark? You received that from

Detective Fowler and basically packaged it the way it was supposed to be packaged and sent it off to SLED for testing?

A. That's correct.

Q. Thank you, sir.

MR. HARBIN: I have no further questions, judge.

THE COURT: Redirect?

MS. JORDAN: Just briefly, Your Honor.

REDIRECT EXAMINATION BY MS. JORDAN:

Q. When did you receive that knife?

A. On December the 10th, 2010, at 4:05 p.m..

Q. Thank you.

MS. JORDAN: Nothing further, Your Honor.

THE COURT: Anything further, Mr. Harbin?

MR. HARBIN: No, sir.

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

All right, Ms. Leskanic, you may call your next witness.

MS. LESKANIC: The State calls Lindsey McGraw.

DETECTIVE LINDSEY MCGRAW, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Will you please introduce yourself to the ladies and gentlemen of the jury?

A. I'm Detective Lindsey McGraw with the Spartanburg

County Sheriff's Office.

Q. How long have you been employed with the Spartanburg Sheriff's Department?

A. Since 2005.

Q. And what are your current duties there?

A. I'm the assigned computer forensics investigator.

Q. And what type of training and experience do you have to become a computer forensic investigator?

A. I have had specialized training with -- through the Federal Law Enforcement Training Center in the area of computer forensics. Also the National Computer Forensics Institute, which was sponsored by the Secret Service, and I have had specific training in the area of examination of cellphones.

Q. All right. Did you do computer forensics before you began your employment with the Spartanburg County Sheriff's Department, or has that been since 2005?

A. That's been since 2005.

Q. And in 2005, when you began, did you start in computer forensics, or what was your career with the sheriff's department?

A. I was specifically hired to be a computer forensics investigator.

Q. So you have been doing this type of work since 2005?

A. Yes, ma'am.

Q. And you had specific training in cellphones?
A. Yes, ma'am.
Q. All right. Were you asked in this case by Detective Richard Burgess to look at two cellphones?
A. Yes, ma'am, Detective Burgess provided me with a search warrant to examine the two cellphones in reference to this case.
Q. Okay. I'm going to show you State's Exhibit 10 and State's Exhibit 86. If you will just take a look at those two exhibits.
A. These items are the cellphone with the associated battery. It's an LGAX 265 cellphone which belonged to the victim Winter.
Q. Okay. And then the battery -- you received the cellphone and the battery?
A. Yes, ma'am.
Q. Okay. And did that battery work in that cellphone? Were you able to charge up the phone with that?
A. Yes, ma'am. I had to recharge it using the appropriate charger, but it did work.
Q. Okay. What the type of data were you asked to try to retrieve or were you able to retrieve off of this cellphone?
A. Well, primarily I was able to retrieve text messages. These -- the equipment I use is produced by Cellebrite. It's called Universal Forensic Extraction Device, or UFED is

what we call it. It does a good job on a lot of phones. It can't pull all data from all phones. There is some data that it's not able to pull.

In this particular case I have -- it wasn't able to pull up in parts or renew the text messages directly. I had to do that manually.

Q. I'm going to show you what has been marked State's Exhibit 21. If you would just take a look at this and tell me if you recognize that?

A. Yes, ma'am, this is a document that I produced which showed the SMS, or short message service, text messages from the victim's phone.

Q. Okay. And so that is a document that you prepared as you reviewed the cellphone?

A. Yes, ma'am.

Q. Okay. Were you able to determine what time text messages were sent and received on that phone on December the 1st and December the 2nd of 2010?

A. Yes, ma'am.

Q. All right. Were you able to retrieve the message content?

A. I was.

Q. Were you able to determine what number messages were sent to or from?

A. Yes, ma'am.

Q. In other words, who the person was talking to or what phone they were talking to?

A. The target telephone number, yes, ma'am.

Q. All right. Very good.

Looking at the records that you prepared, beginning on December 1st of 2010, can you tell how many different people Winter is texting or receiving texts from?

A. With just a couple of exceptions, the majority of numbers are a (404) [redacted] telephone number.

Q. Okay. And we have a stipulation in that that phone number belonged to Anna Mooney.

A. Yes, ma'am.

Q. So how many phone messages are to or from a number that does not relate to Anna Mooney's phone number?

A. It looks like an (803) [redacted] number. That's one, two, three, four instances. And the remainder are all to the (404) number, Anna Mooney's number.

Q. Very good.

Were you able to -- you said that you were able to recover sent messages?

A. Yes, ma'am.

Q. All right. What is the last sent message that you received, the time and the content of that last sent message from Winter Wingard's phone?

A. It would be -- the last sent message has a file name of

of outbox 017. That message was sent on December 2nd, 2010, at 2:14 a.m.. And the content of the message is "I," the letter I, and nothing further.

Q. Okay. Now, we had a -- I know you weren't here yesterday. We had a representative from Verizon who is the carrier for the (404) number testified that there was not a received message at 2:14 --

Let me ask you this. What phone number was that "I" sent to?

A. The (404) number.

Q. Okay. And we had a representative from Verizon here yesterday that stated that that "I" sent message was not received on the (404) phone. She did not have an incoming text message at 2:14 a.m..

Can you explain why in your extraction of the record there is a text that appears to be sent that said "I" and it would not show up as received on the (404) number?

A. Yes, ma'am. Well, the short answer to that is that text message was interrupted before it went out to the network.

When I did the examination of the cellphone, I found three categories of messages; inbox, outbox, and draft, and each of those three text message types has a unique file structure. In other words, data appears in certain places for a specific.

In all outboxes, all the messages, all the data will appear in certain places we will call file offset. So I can look at a message and determine by its size by the file offset that is a specific type of message.

The message that was sent on -- last text message, 2:14 a.m., corresponded to an outbound text message. It did not correspond to the draft message. So I was able to determine outbound text messages, inbound text messages, and draft. This one did correspond to an outbound, normal outbound text message. But, as I said, it doesn't appear -- or did not appear on the cellphone carrier records, it would appear that that text message was interrupted before it was picked up by the carrier.

Q. What could cause a cellphone message to be interrupted?

A. Usually it's just lost power, and that could occur if the battery was removed from the cellphone.

Q. Okay. Were you able to pull any additional data from Winter's phone after the 2:14 a.m. interrupted message?

A. No, ma'am. The only dated information would be that outbound message at 2:14 a.m. on the 2nd of December.

Q. So after that point you did not have anything that was received or sent from that telephone number, is that correct?

A. That's correct.

Q. All right. So if someone were sending her a message

after 2:14 a.m., and that does not appear in your extraction records, would that to be a loss of power battery out of phone possibly?

A. Sure, if it doesn't appear on the phone, the phone didn't receive the message. Somebody could have sent her a message, but if the phone is off, it's not going to show up in that phone data.

Q. Okay. And phone off. If you just turn your phone off, it won't show up?

A. Sure, if you -- if you -- well, if you turn the phone off and turn it back on, again, it's possible, if the service is still active.

In this case, it's been two years since the incident, but I had no indication of any other daytime event after that 2:14 a.m. text message.

Q. Okay.

MS. LESKANIC: Just one moment, please.

(Off the record)

(Back on the record)

BY MS. LESKANIC:

Q. That's all questions that I have for you. If you will, please answer any Mr. Harbin's questions.

A. Yes, ma'am.

THE COURT: Cross-examination, Mr. Harbin.

MR. HARBIN: No questions, judge.

THE COURT: Thank you. You may step down.

Would you like to have the witness excused?

MS. LESKANIC: Yes, please, Your Honor.

THE COURT: Any objection?

MR. HARBIN: No.

THE COURT: You are excused. Thank you for coming.

All right, you may call your next witness.

THE COURT: The State calls Officer Chris Blake.

OFFICER CHRIS BLAKE, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Could you please state your name for the jury?

A. Christopher Wayne Blake.

Q. And where are you employed?

A. Cherokee County Sheriff's Department.

Q. How long have you been with the Cherokee County Sheriff's Department?

A. For eight years.

Q. And what are your current duties?

A. Just answer calls for service daily. Patrol.

Q. Okay. Were you employed with the Cherokee County Sheriff's Department -- I guess you said eight years. You were back in December of 2010?

A. Yes, ma'am.

Q. And did you receive a call to respond out to [redacted] on December 2nd of 2010?

A. I did.

Q. Do you know how you received that call and what time?

A. Through 911 I received the call. I can't confirm the time. I don't have a CAD sheet here.

Q. All right. Does your report have a dispatch time?

A. It does, I apologize.

Q. That's okay.

A. I didn't see that. I can't read my writing.

18:58 hours.

Q. And what time is that to the rest of us?

A. That would be 6:58.

Q. So 6:58 p.m. you get a --

Now, what do you mean you get a 911 dispatch? How does 911 work with patrol officers? How do you know where you are supposed to go while you are on duty?

A. We just -- we just -- pretty much we always are riding around patrolling. They give us a call and whoever is closest to that call when they give it out, we usually just respond to it, whoever is closest one to that area.

They dispatched it out as a missing person, which is coded as a 1081 report. I responded to that location at [redacted]

Q. And that location is located in Cherokee County?

A. Yes, ma'am.
Q. Okay. And who was the person making that complaint?
A. It would be a Joyce Beverly Patrick.
Q. Okay. And the nature of the complaint was a missing person's report?
A. Yes, ma'am.
MS. LESKANIC: That's all that I have for you. Please answer any questions that Mr. Harbin has.
THE COURT: Cross-examination, Mr. Harbin.
MR. HARBIN: Yes, sir.
CROSS EXAMINATION BY MR. HARBIN:
Q. Mr. Blake, how are you doing?
A. Fine, sir.
Q. So you responded. Was it by yourself or with another officer to this I guess the original call for a missing person, right?
A. I was -- I was alone.
Q. Okay. And so when you arrived at the house, you knocked -- I mean -- it might sound silly, but you knock on the door and somebody answers the door. Who do you speak to immediately?
A. I spoke with Ms. Patrick and also Joey Clark.
Q. Okay. And can you describe, I guess their, for lack of a better term, their demeanor, how they were responding to you, how they were acting?

A. Just pretty much that they were concerned on her whereabouts.

Q. Okay. And did you begin to kind of -- I have got your report that kind of lays out that.

Did you begin kind of the investigative procedure, or did somebody come so quickly behind you that you didn't necessarily get too much into it?

A. I pretty much asked them the last time that they had seen her and just common questions.

Q. And you asked both of them, I guess, and got --

A. Well, they were both there at the same time as I was asking, yes.

Q. Okay. And just to be clear, so when you are addressing questions, I'm imagining, if this is correct, they are both standing in front of you, so both they are answering essentially at the same time?

A. Or together.

Q. Or together?

A. Yes.

Q. All right. And how long were you there, do you know?

A. About an hour.

Q. About an hour?

A. Yes.

Q. So what do you do for -- obviously it takes just a few minutes to say "hey, you know, my daughter is missing," but

what other things were you doing to take up that hour?
A. Just -- just basically asking questions. For instance, the last time that they had seen her, who she may be with. Anything of that nature that I could come up with.
Q. Okay.
A. A cellphone. If anybody tried to call her. Any contact with her.
Q. And what information did you gather at that time as to what amount of communication they had had with her or attempted to have with her?
A. Well, Ms. Patrick said that she had left around two o'clock that morning to get a pack of cigarettes, and basically that she had tried to contact her, you know, through the cellphone and she had no response.
Q. And did you also inquire as to whether Mr. Clark had attempted to communicate with Winter?
A. I asked him at the same time. He didn't -- he told me nothing.
Q. At any point in time did you examine or have the opportunity to look through either Ms. Patrick's phone or Mr. Clark's phone?
A. No.
Q. And -- okay. So I'm just lost a little bit in what the other part of the hour is being done, or -- are you -- at that point were you assigned to like begin your own

investigation, or are you just taking their statement and that was as far as your investigation is going?

A. All I did was take the initial report for a missing person, yes, sir.

Q. And once you get that report, what are you doing with that information?

A. I just tried to get all other deputies that, you know, on patrol to be on the lookout for the vehicle, the best description, clothing description that I was receiving from them and all that.

Q. Okay. Now, in this case they had already found the vehicle, right?

A. I think they had it, yes.

Q. And did other officers arrive while you were still on the scene?

A. I think that I had left -- actually left the scene about the time that the investigator got there.

Q. Okay. So basically you are kind of there by yourself just gathering --

A. For --

Q. -- basic information?

A. -- a missing person's report.

Q. And somebody is going to follow up on this report that you are creating?

A. Yeah.

Q. Okay. Thank you, sir.

MR. HARBIN: No further questions.

THE COURT: Redirect?

MS. LESKANIC: No redirect, Your Honor.

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

MS. LESKANIC: We would ask that he be excused.

THE COURT: Any objection?

MR. HARBIN: No, sir.

THE COURT: You are excused. Thank you for coming.

THE WITNESS: Thank you.

THE COURT: All right, call your next witness.

MS. LESKANIC: The State calls Detective Richard Burgess.

DETECTIVE RICHARD BURGESS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Can you please introduce yourself to the jury?

A. My name is Richard Burgess, investigator with the Cherokee County Sheriff's Office.

Q. All right. And how long have you worked with the Cherokee County Sheriff's Department?

A. I have been employed with Cherokee County since '96, so, what, eighteen years.

Q. All right. And how long have you been an investigator?
A. I have been an investigator since '09.
Q. All right. And what are the duties of an investigator with the sheriff's department?
A. We handle any criminal investigations, as far as -- it could be anywhere from a larceny, to a homicide, criminal sexual conduct. Just anything.
Q. Whatever comes across your desk --
A. Yes.
Q. -- you have to investigate?
A. Yes.
Q. All right. Were you called out in regards to a body found on the side of Mikes Creek Road? Is that how you first became involved in this case?
A. Yes, ma'am.
Q. All right. How did you get that call and -- how were you first informed about this?
A. I was first informed, I think officers had received a call of a suspicious -- or a body found on the side of a road. So I ended up getting a call and just responded out to the scene, along with crime scene.
Q. Okay. Did you arrive at approximately the same time as Detective Anthony and Detective Henson?
A. I think they arrived before I did.
Q. Okay. And what is your job at that point while --

because I know they are handling crime scenes. What do you do at that point in your investigation?

A. At that point just kind of -- I get statements from witnesses, as far as Mr. Clarence and the ones that maybe came up on the scene, maybe seen anybody, kind of canvass the area. Just --

Q. Was Clarence Taylor still there when you arrived on the scene?

A. He wasn't -- he wasn't down on the scene. I think he was still on the Creek Road, but it was on up the roadway.

Q. And did you take a statement from him?

A. Him and his wife.

Q. Is that the one who called 911?

A. Yes, ma'am.

Q. All right. And how about Mr. Wilkerson?

A. Yes, ma'am.

Q. Did you talk to him also, the first gentleman that saw the body?

A. Yes, ma'am.

Q. And did you take a statement from him?

A. Yes, ma'am.

Q. All right. At that point in time, and I just -- I want to understand. All you have is a dead body on the side of the road?

A. Yes, ma'am.

Q. You don't know any more about anything?
A. Not at that point, no, ma'am.
Q. So you start your investigation with the first people who saw the body, and then where do you go from there?
A. While we are -- while we are on the scene, at approximately seven p.m., that's when Deputy Blake gets the call about the missing person at [redacted]
Q. I need you to pull that microphone a little bit closer. I'm having a hard time..
Thank you.
So you get a call from Deputy Blake?
A. Yeah, we heard a call go out. Deputy Blake responded to it. And I can't remember who he called, whether he called me or one of the other investigators out there, but we ended up -- they just found -- they had a missing person. Kind of similarities on the description of what we had, and I think me and detective -- Detective Clark ended up responding to [redacted] at a little later time and spoke to Beverly and Joey in reference to the missing person's report.
Q. So based on the information that Officer Blake recovered from Songbird, and based on what you had on the scene at Mikes Creek Road, did you think the missing person's report was related to the body that had been found?
A. After -- yeah, I think -- I think after -- after an

identifying, yeah, we understood it pretty much would be the same one.

Q. All right.

A. The same body.

Q. Now, you say identifying. Who -- did somebody come and look at the body and identify it, or was this just law enforcement making this identification?

A. At this point, no, this was just law enforcement. They described like a tattoo on the body.

Q. Okay. And so you were able to get that information over the radio?

A. Uh-huh.

Q. And confirm that the victim, in fact, had the tattoo that they were describing?

A. Oh, yeah, on the cellphone. I don't believe it was across the radio, yeah.

Q. All right. But you are not at the same place? The victim's family and the defendant are not on the scene at Mikes Creek Road?

A. No.

Q. They are at Songbird Land with Officer Blake, is that correct?

A. Yes.

Q. So at that point do you think there is a high likelihood that this is the missing person, but you don't

know for sure?
A. Yes.
Q. Is that correct?
A. Yes.
Q. Okay. Do you then go to Songbird, or what's the next step in your investigation while crime scene is --
A. Yes.
Q. -- collecting --
A. Myself and Detective Clark go to Songbird.
Q. Okay. And while you were there, did you receive information about possibly the last place that Winter was? What do you do? What type of information are you trying to gather?
A. We just gather information about where she had -- we received information supposedly left around two the morning prior. She was -- she was supposedly leaving and hadn't been seen or heard from since. Said they had located the vehicle that she had supposedly left in and also located her pocketbook inside the vehicle.
Q. And did Winter's mom turn that pocketbook over to you?
A. Yes, ma'am.
Q. All right. And that's what we have looked at as State's Exhibit 9?
A. Yes, ma'am.
Q. This was the purse that you received --

A. Yes, ma'am.
Q. -- from her mother.
Was the vehicle at [redacted] when you arrived there?
A. Yes, ma'am.
Q. All right. So they told you that she had left in that vehicle and did not return, is that correct?
A. No, they said she hadn't returned. They located the vehicle down from the crossroads behind the residence.
Q. All right. And at that time did they say that they had been trying to get in touch with her?
A. Yes, they said that they had -- they had said they had tried to make contact with her. There were several phone calls and text messages.
Q. And did you ask for the cellphones of the defendant and --
A. Yes, I asked --
Q. -- Ms. Patrick?
A. I asked I think Beverly and Joey both for consent for the phones and just to confirm any message from Winter, but both of them willingly gave me the phones. Beverly also gave me her purse.
Q. Okay. At the time that you arrived at Songbird, did you have any suspects, or what are you doing? What is your job?

A. At this time it's still -- we are just trying to gather as much information as we can. No one suspect. It's still wide open.

Q. All right. So what did -- what is the next step in your investigation then?

A. I think we -- we got a statement -- we talked to -- we learned about Anna Mooney and just tried to just track everybody down and then just kind of get statements from everybody, just -- just the next part of it, just to confirm.

Q. So you had Anna Mooney come from Georgia I believe on December the 5th and give a statement --

A. Yes, ma'am.

Q. -- to you as well, because you found out through text messages that she had been involved in texting --

A. Uh-huh. Yes, ma'am.

Q. -- on December 1st and December 2nd.

Okay. What about the vehicle? Did y'all take that in, seize the vehicle?

A. Also seized the vehicle that she was in and had it towed to the office. I signed a search warrant on the vehicle.

Q. All right. And a search warrant had been done at the house as well?

A. Yeah, the search warrant on the residence had been

conducted, because -- the first one was because of the swab of blood there toward the doorway.

Q. Okay. And so you got the car. You have -- you believe you have a crime scene in the vehicle, or you know that's the last place she was supposed to be, is that correct?

A. Yes, ma'am.

Q. You have a body at Mikes Creek.

Did something else turn your attention to Songbird Lane? Do you work closely with your crime scene investigators in order to determine what steps need to be taken?

A. Yes, very close. Getting information from them just that the victim's clothes were covered in red dirt that matched the red dirt at Songbird.

And then also looked at the pocketbook that had the red dirt on it and -- it had the red dirt that seemed to match the -- that we had possibly -- like Detective Henson said, it seemed to me that we had three separate crime scenes; it was one at the Mikes Creek, one in the vehicle, and one on Songbird.

Q. Okay. Were you able to develop a suspect in this case?

A. Yeah, eventually we developed a suspect.

Q. All right. And I want to ask you. At what time was the warrant for the murder served on the defendant?

A. It was going to be after -- on December the 6th, after

398

three o'clock p.m..

Q. Where was he when he was served with the warrant?

A. He was actually incarcerated at the detention center.

Q. What day was he incarcerated?

A. I think it was December the 3rd when he was incarcerated.

Q. Do you know what he was incarcerated for?

A. He was incarcerated on traffic violations.

Q. Okay. So he was in jail on December 3rd of 2010 on traffic violations, and was still in jail December 6th when you served him with the warrant for murder in this case --

A. Yes.

Q. -- based on your investigation?

A. Yes, ma'am.

Q. Now, I know that you stated during your investigation trying to identify the body. You communicated via cellphone with law enforcement officers?

A. Yes, ma'am.

Q. Was the victim's mother, or the defendant, or anyone allowed to come down to the scene at Mikes Creek Road --

A. No, ma'am.

Q. -- and see what happened --

A. No, ma'am.

Q. -- to Winter?

Did you relay any of that information to Ms. Patrick

about how her daughter had died?

A. No, ma'am.

Q. Why not?

A. That would just -- I think it would destroy the integrity of the whole investigation --

Q. Okay.

A. -- as far as getting out information, pertinent information, that only certain people would know.

Q. Okay. Being law enforcement and --

A. And the responsible party.

Q. Okay. So you don't want to give too many details about the cause or manner of death --

A. Exactly.

Q. -- when you are going on with your investigation, is that correct?

A. Yes, ma'am.

Q. Okay. I think that's all I have for you. Please answer any questions of Mr. Harbin.

THE COURT: Cross-examination, Mr. Harbin?

MR. HARBIN: Yes, sir.

CROSS EXAMINATION BY MR. HARBIN:

Q. How are you doing?

A. Fine.

Q. So you said briefly that you had developed -- I'm sorry, you said that you felt there were three crime scenes;

presumably [redacted] where the vehicle was found, and then Mikes Creek, is that correct? In reference to that -- and I believe that your -- where I tried to write it down, but that you matched the red dirt stains on her clothing to the red dirt at [redacted].

A. I said yes, it seemed to match.

Q. Were you born and raised in this area?

A. Yes, sir.

Q. Okay. And I guess being born and raised in this area, you are familiar with that red dirt is literally everywhere around here, correct?

A. Yes, sir.

Q. I mean, everywhere.

The arrest -- you arrested Joey on December 6th, and I'm not sure if this actually has a time. Do you remember what time it was on December 6th?

A. According to --

Q. Maybe what time of day?

A. According to -- I think it was 3:08 is the actual time of arrest.

Q. Okay. And at that point what was the information that you used for probable cause that led you to believe at that point that Joey was arrestable for this offense?

A. Along with the other evidence from crime scene, as far as red dirt kept leading us back to Songbird, because there

is no red dirt on Mikes Creek Road. Along with that, and we also had received some statements that were from individuals that were also housed with Mr. Clark basically admitting guilt.

Q. Okay. So let's talk about that.

So you had received information from people in the jail that Joey had admitted that he had killed Winter, is that what --

A. Yes, sir.

Q. -- you are saying?

Joey was -- you had mentioned Joey was arrested on December 3rd for a traffic offense, is that right?

A. Yes, sir.

Q. Arrested for no driver's license, improper tag and no insurance. That was -- you were -- you were or were not aware when you first met with Joey that -- or at what point --

Let me rephrase. At what point did you become aware that Joey didn't have a driver's license?

A. I'm wanting to say I found out around -- I'm wanting to say it was around December 2nd or 3rd.

Q. Okay. That would be the day that -- obviously your investigation started on the 2nd, right?

A. Yes, sir.

Q. So the day of your investigation, maybe the next day.

And the person that was interviewing Beverly and Joey your first -- the first time that you went up to their trailer, that was Beverly and Joey, right? I'm sorry, Beverly Patrick and Joey Clark were at the home?

A. Yes, I'm sure.

Q. And that was yourself and Detective Clark?

A. Yes, sir.

Q. Okay. And you -- about how long did you spend at the trailer talking to them, that particular -- you know, that particular visit? And I'm not going to hold you to like minutes, but, you know, was it thirty minutes, or an hour, or three?

A. Let me get the interview.

I got to the scene probably I think 7:30 or 8:00, and -- just a rough estimate, and then I think we were probably at the residence until I'm going to say 8:00, 8:30.

Q. Okay. And subsequent to that interview did you ask Ms. Patrick and Joey to come down to the station to give a statement?

A. Yes.

Q. Okay. And to back up really quickly, you had asked if they would turn over their phones and they both did voluntarily?

A. Yes, sir.

Q. And they both voluntarily came down to the station to

give statements?
A. Yes, sir.
Q. Did you take either of their statements at that time?
A. No, sir.
Q. You did not?
A. No.
Q. Who did?
A. Detective Clark.
Q. Detective Clark did.
And did Detective Clark -- I'm sorry, did you -- did you -- he conducted those interviews, is that what you are saying?
A. Yes, sir.
Q. And did you participate or observe in any of those interviews?
A. No, sir.
Q. Okay. Who is the lead investigator on this case?
A. That would be me, yes, sir.
Q. Okay. So you didn't -- you didn't participate in any of the interview of Joey Clark and Beverly Patrick at the --
MS. LESKANIC: Your Honor, I'm going to object and ask if we can approach, Your Honor?
THE COURT: Yes, sir.
MS. LESKANIC: Thank you.
(Whereupon, the lawyers approached the bench for

an off-the-record discussion)

THE COURT: Based on the ruling of the bench, proceed on to another subject, Mr. Harbin.

BY MR. HARBIN:

Q. So you were the lead investigator on this case?

A. Yes, sir.

Q. All right. So does that mean that you kind of -- are you in control of the flow of information? You are keeping up with what leads y'all have, what evidence y'all have?

A. Yes, sir.

Q. Okay. The probable cause for the warrant at -- what led you to develop your case so that you focused on Joey Clark and ultimately arrested him, is it true that the tipping point essentially was this information that you received from folks at the jail? Is that a fair statement?

A. That would be -- yes, sir, that would be -- that would be added on to the records in the case, yes, sir.

Q. Okay. Well, could you describe whether the -- the extent to which you told the jury so far what the rest of the investigation, that I have heard, is red dirt on her clothing that matches the red dirt at their house.

A. Also when the search warrant of the -- locating the cellphone -- I mean, the -- yeah, the cellphone, the parts of the cellphone at the rear of the residence. And also locating the keys, which -- or -- I guess to me would be --

appeared to me to be a struggle at the residence. And then along with some of the -- I guess some of the information in the statements that was given by inmates.

Q. From what evidence did you deduce that there was a struggle at the residence?

A. I would think from the red dirt on the clothing there, again, at the [redacted] and no red dirt at the Mikes Creek address.

Q. Not to belabor the point, but we just went over the fact that there is red dirt everywhere in Cherokee County, so why is it particular to [redacted]

A. Not necessarily on Mikes Creek Road, as Detective Henson has said was black dirt.

Q. Right.

But so your argument right now is that you had deduced that she was assaulted or in some form had some kind of altercation on [redacted] because [redacted] has red dirt and Mikes Creek has black dirt?

A. Uh-huh.

Q. Okay. So you exclude the possibility that she was assaulted anywhere else in Cherokee County with red dirt?

A. No, I'm -- what I'm saying is there was -- we know she was at [redacted] because she made a phone call to 911 at 2:03 a.m..

After that phone call her vehicle was seen back on --

where it was located -- or her mother's vehicle at three o'clock a.m., by the other guy.

Q. One second.

(Off the record)

(Back on the record)

BY MR. HARBIN:

Q. So you got Mr. Briggs' statement -- or, I'm sorry, Mr. Briggs' statement was obtained it looks like on December 6th, at 1:05.

MS. LESKANIC: Your Honor, I'm going to object to hearsay if he's going to be reading in someone else's statement. I don't know what the intent is.

THE COURT: I don't believe -- I don't know what he's asking for, but let's hear the question, but don't answer any question yet.

Go ahead and ask the question and --

BY MR. HARBIN:

Q. Mr. Burgess, at what point did you get the information from Mr. Briggs that gave you that time frame about when the car was seen?

A. That was on the 6th at 1:05 p.m..

Q. Okay. 1:05 p.m..

And what was -- when did you receive information from your jail informants as to these alleged confessions?

A. The first one was December 5th at 1:07.

Q. Okay. And did you take that statement?
A. I did.
Q. You did.
Do you know the fellow that gave the statement?
A. Yes.
Q. What's his name?
A. Bryant Phillips.
Q. Does he have a nickname?
A. I think "Skeet".
Q. Do you know what Skeet means, why his nickname is "Skeet"?

MS. LESKANIC: Objection relevance.

MR. HARBIN: Judge, it's going to take some developing, but there is relevance here. I have to ask the question to get around to it.

THE COURT: All right, it's cross-examination. I'll allow him a little leeway, but let's get into the meat of the matter.

BY MR. HARBIN:

Q. Well, let's back up a little bit.
How well do you know Mr. Phillips?
A. I know him from school.
Q. You know him from school.
And did you -- who else was -- was anybody else working with you in interviewing Mr. Phillips or gathering this

information?
A. Detective Clark was also with me.
Q. Okay. And how did this information come to your attention?
A. To be honest with you, I do not remember, unless a jailer had brought it to our attention.
Q. So you don't know how -- a jailer may have brought it your attention, or to Detective Clark's, or who got you -- who said "Detective Burgess, we got some information?"
A. I can't -- I can't answer that. I don't remember who brought it to my attention, but I know I went over and talked to Mr. Phillips.
Q. So you just kind of appeared somehow in front of Mr. Phillips at the jail.

Is it often that somebody is put in jail for a traffic ticket and just magically in two more days he confesses to murder and you don't remember how this person came to your attention?
A. All I can tell you, Mr. Harbin, is I was -- I was told to go, I needed to speak to him, and I did.
Q. Okay. And what information did you develop from this interview of Mr. Phillips?

MS. LESKANIC: Objection, hearsay.

THE COURT: All right. Do you have a reason that that would not be hearsay, Mr. Harbin?

MR. HARBIN: Well, judge, the -- I don't know that it's necessarily for the truth of the matter asserted, because he is --

THE COURT: What's the purpose of it then?

MR. HARBIN: Well, because he has claimed that he -- and I'm trying to develop this, that he's using the information that he gained -- to

MS. LESKANIC: That's fine. I'll withdraw. I'll withdraw, Your Honor.

THE COURT: All right. Go ahead.

BY MR. HARBIN:

Q. So what was the -- what is the -- what was the content of this interview that led you to develop your case against Joey Clark, as opposed to anybody else?

A. Do you want me to read Mr. Bryant's statement?

Q. No, sir. No, sir. Just what is -- what is the pertinent information that you were able to gather through your investigation as it pertains to Mr. Phillips and his interview?

A. They said that -- when I asked him, he said that he and some other guys had asked him what he was in for and said they had got him for killing his girlfriend. He said they found her butchered to death. And with that being said, at that point he was not even charged with murder.

Q. That is true, he was charged with traffic offenses at

the time?
A. Yes, sir.
Q. So he was in jail charged with traffic offenses and Mr. Phillips statement is that he decided to confess to murder, when he was in there charged for traffic offenses.

Okay. And he was charged with -- I believe -- and -- I don't know. Did you do any, you know, roadwork before you were a detective? Did you write, you know, blue tickets before you became --
A. Yes, sir.
Q. -- a homicide investigator?

All right. In your experience when you write a blue ticket for no driver's license or improper tags, people stay in jail on those charges?
A. If they don't make bond.
Q. So Mr. Phillips comes forward and gives you this information.

Now, as a homicide investigator, when you get information from informants, is it your duty to kind of verify their veracity, their reliability, to figure out, you know, can I trust this dude, is this a -- this is kind of a big deal, he's a source of information on a murder case?
A. I -- I just got his information and be able to get back in contact with him.
Q. So it's your testimony that you didn't really check him

out at all?
A. No, sir.
Q. Is it true that it is well known at the detention center that Mr. Phillips is the type of fellow that you would not choose to believe?
MS. LESKANIC: Objection, Your Honor.
THE COURT: Sustained.
BY MR. HARBIN:
Q. You found Mr. Phillips to be a credible witness?
A. With his -- with his statement and others, yes.
Q. Okay. Well, let's -- we will come back to Mr. Phillips. Let's talk about the others.
Well, actually right before we do, Mr. Phillips was obviously incarcerated at the time, correct?
A. Yes.
Q. Okay. Do you know what charges he was in jail for at the time?
A. No, sir.
Q. Okay. Did you bother to check?
MS. LESKANIC: Objection. Asked and answered. He said he didn't know.
MR. HARBIN: Okay.
BY MR. HARBIN:
Q. Did you -- were you unable to find out, or you simply didn't bother to ask?

A. I didn't check.
Q. Okay. Are you aware --
So then I can presume, and you can correct me if I'm wrong, that you don't know the disposition of the cases that he was incarcerated for?
A. No, sir.
Q. The statement that Mr. Phillips gave, can you confirm whether he referenced that there were other people that supposedly witnessed this alleged confession?
A. Yes, sir.
Q. And how many other people did he say witnessed this alleged confession?
A. He -- he said that himself and three others.
Q. Would that be Arnold Banks, Drey Clark, and Ralph Smith?
A. Yes, sir.
Q. And in the voluminous discovery that I have received, I don't have any information about those three fellows. Where is the -- I presume that you immediately followed up and went to talk to those guys to confirm Mr. Phillips' statement?
A. I want to say not all people incarcerated are willing to give statements to law enforcement.
Q. Is it your testimony that you attempted to?
A. I want to say we did talk to, or tried to talk to them.

I can't say that I talked to each one of them.
Q. Well, this is a murder trial. That is a big deal. I need to you to tell me --
THE COURT: Well, no comment, please. Just ask questions.
BY MR. HARBIN:
Q. Did you or did you not talk to them? Either no, or you didn't?
A. No, I can't say that I got a statement from them.
Q. You got a statement from a dude name John Raymond Austin, is that correct?
A. Yes, sir.
Q. All right. Does his statement differ from Mr. Phillips statement in his recitation of this alleged confession?
A. It's similar. He -- they said they asked him what he was in for and he said murdering his wife.
Q. Did Mr. Austin reference who was sitting around when Mr. Clark allegedly confessed to all this stuff?
A. It was himself, "Skeet", Mike, Jack, and Ridge.
Q. Which is not the same folks that Mr. Phillips had described, is that correct?
A. Yes, sir.
Q. So essentially they are telling two different versions of the same story?
A. Yes.

Q. All right. Mr. Austin, in his statement does he reference having heard Mr. Phillips explain out the details of this alleged confession?

A. I'm sorry, repeat the question. I'm sorry.

Q. Well, Mr. Austin references -- does Mr. Austin reference Mr. Phillips and anything Mr. Phillips had said out loud to the folks in E-Unit?

A. He says when he walked away, a little while later "Skeet" went over and got to talking with him and "Skeet" came back and told us that he said she was stabbed up, and he also said none of us in there even knew how she had died.

Q. All right. Mr. Crosby is also another fellow that gave a statement.

By the way, Mr. Phillips gave a statement on December 5th, right?

A. Yes, sir.

Q. And these other fellows, they gave a statement on December 6th, is that right?

A. Yes, sir.

Q. So to the extent that you followed up, if at all, on Mr. Phillips, that would not have occurred for another twenty-four hours, is that right, or at least -- I'm sorry, at least the following day?

A. Yes, sir.

Q. Okay. Now, in the interim between the giving of the

statement from Mr. Phillips and these other fellows coming forward, if you want to call it that, at some point a SLED agent was called in to assist your investigation, is that correct?

A. Yes, sir.

Q. Now, can you tell the jury why Cherokee County Sheriff's Department is calling in for a fellow to come in from SLED?

A. It's just not uncommon after we have a case going on that needs some extra hands.

Q. And --

A. They come in because they are an assisting agency.

Q. I'm sorry?

A. I said because they are an assisting agency.

Q. Okay. And so you needed an extra set of hands and asked for them, is that correct?

A. Yes, sir.

Q. And received them, I guess?

A. Yes, sir.

Q. And that was Agent Darrell Betsill?

A. Yes, sir.

Q. Okay. Is it fair to say that Mr. Crosby's statement to you doesn't actually say that Joey Clark admitted anything, that he just answered a question about why he was in jail?

A. Yeah, he said he told Mr. Crosby that he was in for

murder for killing his girl.

Q. That's right.

So he didn't say "I did it." He said "I'm in here for it," right?

A. Yes.

Q. He said "what were you arrested for? Why are you in here?

"I'm in here for murder," fair enough?

MS. LESKANIC: Objection, Your Honor. He's testifying. He's putting a tone to what someone else said.

THE COURT: All right, let the witness just tell what he said, please.

MR. HARBIN: Okay.

THE COURT: You can ask him the question and if he can respond, please.

MR. HARBIN: Yes, sir.

BY MR. HARBIN:

Q. Is it fair to say that that statement doesn't say he admitted it? He just simply explained why he was in jail, under arrest, or --

A. Yes.

Q. -- in jail?

A. Yes.

Q. Okay. Now, Michael Covington is another fellow that came forward --

And let's -- let me back up.

On the 6th do you remember how you were informed as to the fact that there were fellows that wanted to come forward and give this information to you, or to law enforcement?

How did you find out that they were willing to give statements?

A. I think it was -- I think it was the same way that they had came forward.

Q. And could you be more specific? They came forward. How did they do that?

A. They notified -- they could either send a request form, or they could, you know, notify a jailer as to the context of the investigation.

Q. Okay. And so how were you notified?

A. On this particular one I do not remember.

Q. Isn't it true y'all went to the jail and y'all pulled folks out, based upon video surveillance that y'all had seen interaction with Joey? You picked them out and said "come here, I want to talk to you?"

A. They -- I can't say that I done that, no, sir.

Q. You have testified at a previous hearing that there was video surveillance available at the jail, correct?

A. May have. I don't remember that, but, yes, if I did.

Q. Okay. You don't know whether there is video surveillance?

A. Oh, I know there is video surveillance at the jail, yes, sir. I apologize.

Q. So you are aware that things, such as meetings with inmates, or whatever, can be verified or not through this video surveillance?

A. Yes, sir.

Q. Okay. At what point in time, if ever, did you attempt to verify that this activity had occurred by using the video surveillance available at the jail?

A. I -- I don't know. I don't remember that.

Q. Okay. So the easier question would be did you ever verify through the video system and perhaps save that information for the benefit of, say, a jury trial?

A. As far as me, no, sir, I didn't.

Q. To your knowledge, did anyone else?

A. Not to my knowledge.

Q. And, again, you are the lead investigator in this case, correct?

A. Yes.

Q. Okay. Let's skip over Mr. Covington's statement.

You had a statement giver came forward, Michael Stillwell, correct?

A. Yes, sir.

Q. And there was specific information in his statement that prompted the issuance of a search warrant, is that

correct, or the seeking of a search warrant rather?
A. Yes, sir.
Q. Okay. Could you tell the jury what that specific information was and what search warrant that you got as a result of it?
A. It would be the third search warrant on the residence. It was -- Stillwell said that -- referred to Joey said he had been -- the guy said he had been working on his wife or girlfriend for several days and finally had enough. So they were in the kitchen and he picked up a knife and started stabbing her. And then the guy said he put her body in the car and dumped it.
Q. So based upon that information you went and got a search warrant and -- are you aware of the results of that search warrant as your role as the lead investigator in this case?
A. Yes, sir.
Q. What were the results of that search warrant?
A. There was -- according to Mr. Henson's testimony, too, there was no blood located in the kitchen area.
Q. Is it fair to say Mr. Stillwell was incorrect?
A. Yes, sir.
Q. Would you go so far to say he was lying?
A. No, sir, I wouldn't go as far to say he was lying.
Q. How would one get that particular bit of information

wrong?
A. I would -- I would -- just from -- and I know we don't have any pictures of it, but I remember on our -- on the first time being there, the search warrant, there was a piece of paper that led -- that had the address of [redacted], what -- Ms. -- she had called or -- Winter had called 911 getting the address to the hospital. And after she called and got the address it was just jotted on a piece of paper in the kitchen area. And I feel like after receiving text messages, Mr. Clark seen that wrote down, he felt that Winter may be going to meet up with Anna at that address, and I just -- that's that was significance with it to me as the fight or the argument started actually inside the kitchen area of the home.
Q. So it made sense to you that that may have been a pretty decent idea of how this may have started, that once you saw those particular pieces of evidence, you put two and two together and the fight may have started in the kitchen? Is that what you intended to say to us now?
A. Yes.
Q. That the argument would have started in the kitchen?
A. Yes, sir.
Q. Okay. And at what point did you see that piece of paper, the 1544?
A. That would have been at the first night -- the first

night.
Q. First night, so --
A. December 2nd, that evening.
Q. The night of December --
A. Or the missing person report when we went out there, yes, sir.
Q. So you developed that potential theory December the 2nd?
A. But not at that -- at that point we hadn't received any of the text messages and --
Q. Right.
A. -- information back.
Q. All right. Do you have any information as to why Channel 7 was called, I guess, the sheriff's office to video Joey being arraigned on his blue tickets on December the 4th?
A. No, sir.
Q. Is it practice for you, or for somebody higher or in a different division than you, to release information to the press? Is that your call, or is that your boss' call, or just totally different?
A. That would normally come from the sheriff.
Q. Come from the sheriff?
A. Yes, sir.
Q. So you have no knowledge of the news crew being there?

A. No, sir.
Q. On the 4th. And, of course, he wasn't arrested for murder until the 6th, correct?
A. Yes, sir.
Q. Okay. And in verifying the statements from your snitches that didn't --
MS. LESKANIC: Objection, Your Honor, to the --
BY MR. HARBIN:
Q. The informants, did you look back into exactly -- did you verify that Joey was actually in the correct unit so that their versions of this would be, you know, possible?
A. Well, I'm -- whichever -- the jailer would have informed us, they would have told us he was in the same cell.
Q. Well, you previously testified that you don't remember exactly how you got this information. So you are telling us, if I'm correct, that you don't remember how you got the information that there were snitches available? And so then you would really have no ability to recall whether or not there was any particular reliability to their statements as it relates to their availability to hear anything that Joey said? In other words, were they in the right part of the jail?
A. I'm saying I didn't be advised of how I received it. I know I received information to go over there and talk to

them.

Q. Okay. All right. So you don't know anything about how you found the information. You don't know anything about the news people being called.

THE COURT: Don't repeat the testimony.

MR. HARBIN: Yes, sir.

BY MR. HARBIN:

Q. Were you there when Joey and Beverly ID'd Winter?

A. No, sir.

Q. Who did that, do you know?

A. The coroner.

Q. The coroner did it.

And you took, I believe, a statement later on from Beverly, is that right?

A. Yes, sir.

MR. HARBIN: One moment, Your Honor.

(Off the record)

(Back on the record)

MR. HARBIN: Do you mind if I confer with my client? I think I might be done.

THE COURT: All right.

(Off the record)

(Back on the record)

MR. HARBIN: Thank you. I appreciate it.

No further questions.

THE COURT: Counsel, come up.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: All right, ladies and gentlemen, we are really a little bit past the lunch hour, and while I do not normally like to interrupt with an extended recess in a witness' testimony, I think it's necessary at this point, so we are going to recess for lunch at this time and I'm going to allow you to go and get your lunch. And we are going to allow a little bit longer for lunch today because we have got some matters that we need to address, so what I'm going to ask you to do, please, is to get your lunch and be back in the jury room at 2:30.

Again, I would give you the same admonitions that I have given you before when you have left the courtroom; that is, do not discuss the case with anyone or allow anyone to discuss it with you. Do not discuss it among yourselves when you are reassembling in the jury room, and do not read any news stories or listen to any broadcasts reports, and do not do any research via the computer, or otherwise, and do not do any investigation into this matter on your own. Just forget about this matter for the next hour and fifteen minutes.

What I am going to ask you to do, though -- actually what I would like to ask you to do is please be

back in the jury room at, say, 2:25, and I would like for the twelve principle jurors to elect from among yourselves a foreperson for this jury. The two alternates should not participate in this process. The twelve of you, if you will select a foreperson. Advise the bailiff of who that foreperson is. And try to be back here at 2:25 to do that and we will be ready to start at 2:30. And then when that person is selected as the foreperson, they would always sit in the first seat here on the front row. The two alternates should not participate in the selection of that foreperson proceeding.

With those instructions then I would ask you to go to your -- go ahead and get lunch and be back in the jury room at 2:25. Elect the foreperson and we will be ready to start at 2:30. Thank you.

You may go with the bailiff.

(The following takes place outside the presence of the jury panel)

THE COURT: Mr. Burgess, I'm going to excuse you as a witness in this matter, but I will tell you that over the lunch recess, since you are still on the stand and your testimony has not been completed, that you are not to discuss your testimony or talk with anybody about this case over the lunch recess. That would be either anyone else in law enforcement, or anyone in the solicitor's office, or

426

anyone else over the lunch recess until your testimony is completed. So you are not to talk with anybody about this case whatsoever over the lunch recess. Do you understand?

THE WITNESS: Yes, sir.

THE COURT: All right, you may step down.

All right. There are two things that I think that I would like to just maybe look at, or we may have to do them a little bit more extensively after lunch, but my recollection is there was a discussion at the bench, a bench conference, with regard to questions that were asked or on cross-examination by defense counsel regarding cooperation of his client and the fact that he gave statements. And the State was concerned that it has now come out in the front of the jury that these statements were made, even though there was nothing in regard to the content of the statements and that the State feels that they may need to explain those statements.

I will be glad to hear from you, Ms. Leskanic, with regard to the State's position.

MS. LESKANIC: Your Honor, we instructed Detective Burgess not to mention the statement. We had not held a Jackson v. Denno hearing prior to trial. We did not intend on introducing his statement. His statement mentions prior bad acts and acts of violence where he pushed Winter. It also references him going to jail. I believe that was in

Greenville County, and the rest of the statement is pretty much a self-serving statement. However, now that door has been opened, we have the burden of proof and I don't want the jury to think that we are withholding something from them.

We have discussed at the outset of the trial that we were not seeking to put his statement in, that we were not requesting a Jackson v. Denno Hearing, so the defense was aware of that. However, now that they have opened the door, the jury is going to want to hear that statement. They now know the defendant gave a statement.

My position is that the entire statement comes in. It's not -- we didn't open that door. We specifically told our witnesses not to mention it, but now that the jury is aware of its existence, I think it's only fair that they get to see the statement in total and not just the self-serving parts of the statement that we may have been limited to, had we had a Jackson v. Denno Hearing.

THE COURT: All right.

Mr. Harbin?

MR. HARBIN: Judge, I think there are two separate matters. One is whether there is mention of the statement; and, two, whether the content of the statement has been offered for some particular purpose.

THE COURT: Well, what was your purpose in asking

the question?

MR. HARBIN: Simply to allow the jury to hear that Mr. Burgess is developing his case through -- well, the manner in which he was developing his case, I suppose.

THE COURT: Well, the problem I had with that is that you could have done that, and you tried to do that, through the cross-examination of Mr. Burgess about the jailhouse informants. That didn't have anything to do with the statement that this man made. That was even before you got into the testimony about the jailhouse informants. You asked -- I believe the question came up about the mother, Ms. Patrick, coming down to the jail and Mr. Clark going down to the jail and were they interviewed and did they make statements. And that didn't have anything to do with the jailhouse informants, so the impression before this jury is now that this gentleman made a statement, but nobody knows what he said.

MR. HARBIN: Well, judge, I would still argue that the contents -- if we get over one hurdle and the court has decided that the statement would be something that the State could get into, or the contents of the statement, then I think there is a second separate discussion about whether or not the specific mention of prior bad acts.

THE COURT: I know that, but -- I mean, we will deal with that in a minute, but I want you to address the

point about haven't you opened the door?

MR. HARBIN: Well, judge, I would respectfully submit that I haven't mentioned any of the content whatsoever.

THE COURT: You haven't what?

MR. HARBIN: Not self-serving or otherwise.

THE COURT: You haven't what?

MR. HARBIN: I haven't mentioned any of the content of the statements, self-serving or otherwise.

THE COURT: Well, that's true, but the fact that the statement exists is -- how is the state going to be able to unring that bell?

MR. HARBIN: Judge, from my perspective there hasn't been a bell rung, although I respectfully understand the point that's trying to be made by the State.

MS. LESKANIC: Your Honor, may I make one other brief comment?

THE COURT: Yes, go ahead.

MS. LESKANIC: Just that if Detective Burgess was able to fully answer his question, part of what he received from the defendant's statement did help him develop him as a suspect, because he admitted to assaulting Winter in the past, but we told him "you can't talk about that, as far as what information you had to develop the defendant as a suspect." So that's just the full view of what was going on

and what his testimony was. We specifically told him not to mention those reasons.

THE COURT: Is there a written statement that he made?

MS. LESKANIC: Yes, Your Honor.

THE COURT: All right. I want to see it.

MS. LESKANIC: Yes, sir.

THE COURT: And I want to review it before I rule on this matter.

All right, that's the first issue.

The second issue then I think we need to talk about is -- well, there were several questions in connection with the statement.

Number one is did he open the door?

The second is that it was exculpatory or self-serving matters in it?

Is it Jackson v. Denno?

What's the issue of voluntariness with regard to the statement? Do you contest that, Mr. Harbin?

MR. HARBIN: If I could have a moment?

(Off the record)

(Back on the record)

MR. HARBIN: No, sir.

THE COURT: You do not. So you would not require a Jackson v. Denno?

MR. HARBIN: No, sir.

THE COURT: All right. I don't know what the statement says about prior bad acts under 609. I've asked to be made a copy of it, and I'll read that and I want that addressed after lunch as well.

All right. Are there any other issues that we think we need to review before we take this matter up say at 2:15?

MS. LESKANIC: Nothing further from the State.

THE COURT: All right.

MR. HARBIN: No, sir.

THE COURT: All right. We'll be in recess until 2:15. I want to see counsel in chambers at that time.

MS. LESKANIC: Yes, Your Honor.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: All right. We are back on the record with regard to the matter of the State versus Joey Clark.

Mr. Clark is present in the courtroom with his counsel, Mr. Chase Harbin.

The State is present and represented by the Seventh Circuit Solicitor's Office.

There was an issue that came up with regard to an answer by Detective Burgess with regard to the defendant being brought into the police station and interviewed and a

statement was made -- that he made a statement. I prohibited the defendant at that time from going into the contents of the statement and we moved on to something else to decide how we were going to handle that matter.

I asked both counsel over the lunch recess to look into it and to give me their opinions, and we have had an in-chambers discussion of that matter.

And it is my understanding now, Madam Solicitor, that at this time the State does not wish to go into that statement, but wants to reserve or even inquire further with regard to that -- reserve the right to possibly visit the issue later on, is that correct?

MS. LESKANIC: That is correct, Your Honor.

THE COURT: Okay. Any problem with that, Mr. Harbin?

MR. HARBIN: No, sir.

THE COURT: Okay. All right.

Anything else then before we go forward? We need to bring -- you do have some matters on redirect of this witness, do you not?

MS. LESKANIC: I do, Your Honor.

THE COURT: All right, come back around, please, sir.

All right. I would remind you that you are still under oath.

433

Incidentally also, counsel, I have been advised by the jury that Mr. Brad Wilkins, juror number 26, has been selected by the jurors as the foreperson of this jury. So he will be the individual sitting in the first seat on the front row.

All right, bring the jury in, please.

(The following takes place in the presence of the jury panel)

THE COURT: Mr. Wilkins, I understand that your fellow jurors have selected you as the foreperson of the jury, is that correct?

JURY FOREPERSON: I was the winner, sir.

THE COURT: All right. Good. If you will wait around until after the case is over, we might send you out to buy lottery tickets.

Thank you, ladies and gentlemen, for your promptness in being back here. We did have a few things that we needed to do that delayed us in bringing you back into the courtroom. We have resolved those issues and we are prepared to go forward.

I do need to ask you now, as I have any time that you are away from the courthouse, if anyone has approached you or tried to talk to you about this case over the recess, the lunch recess, I would need to know about it now.

(No response)

THE CORUT: Negative response and that's good.

All right. We are prepared to go forward.

The witness is still -- Mr. Burgess is still on the stand. Mr. Harbin has finished his cross-examination and now the State has the right to ask him whatever they wish to ask on redirect examination.

All right.

MS. LESKANIC: May it please the court?

THE COURT: Yes, ma'am.

MS. LESKANIC: Thank you, Your Honor.

REDIRECT EXAMINATION BY MS. LESKANIC:

Q. Detective Burgess, did you call Channel 7 News and tell them to come to some bond hearing for traffic offenses?

A. No, ma'am.

Q. Do you have any idea whether someone called News Channel 7, or if Channel 7 called someone? Do you have any information about that?

A. No, ma'am.

Q. Were you present at the bond hearing --

A. No, ma'am.

Q. -- for the traffic offenses?

A. No, ma'am.

Q. All right. Going to the inmates at the jail that gave statements that Mr. Harbin asked you about. Could you briefly describe for the jury the setup at the jail, whether

everyone is in an individual cell, or how the pods are set up, so that they understand what the Cherokee County jail is like?

A. That cell individually, it's an open pod. They have open beds and each bed has a number. Each inmate has an assigned bed number, so it's not like any individual cell. They are all in a commons area. The cell has an upstairs and downstairs, but they are just one common area.

Q. Would it be similar to this courtroom, if that were the door to the jail cell and everyone in here is in the cell together? Are there individual cells inside, or is it just one room with beds?

A. Just one room with beds in that area.

Q. And then there is one door that locks to the outside of the hallway to the jail, is that correct?

A. Yes, ma'am.

Q. Okay. So you would have access to talk to other inmates that are in a unit with you?

A. Yes, ma'am.

Q. Okay. Mr. Harbin asked you about some statements.

The first one is from Bryant Phillips. Do you have that with you, or I have a copy, if you need it.

A. Yes, ma'am, I have it.

Q. Okay. You have that in front of you.

Can you tell me the date that you took that statement

from Mr. Phillips?
A. December the 5th.
Q. Of?
A. 2010, I apologize.
Q. That's okay. Was Mr. Phillips in jail at the time you took the statement?
A. Yes, ma'am.
Q. Okay. And Mr. Clark, the defendant, was in jail at the Cherokee County detention center at the same time, is that correct?
A. Yes, ma'am.
Q. Okay. Would you please read his statement to the jury that he gave you?
A. He stated that "yesterday a red headed guy with glasses was brought into my dorm. Me, Arnold Banks, Drey Clark and Ralph Smith was playing cards when the new guy came in he came over to the table. We asked him what he was in for and he said they got him for killing his girlfriend. He said they found her butchered to death. He said she was a twenty-six year old white female from Florida. He also said her name was Winter something. He said they found her near Mikes Creek Church. He said he had went to his girlfriend's mom's house to get the keys and when he was leaving in a cab he got put in jail for driving under suspension."
Q. Okay. So the first word of that statement that was

taken on December the 5th is "yesterday"?

A. Yes.

Q. So he had the conversation -- according to the statement, he had the conversation with him on December the 4th?

A. Yes, ma'am.

Q. All right. At the time, on December the 4th, 2010, had the defendant been arrested for murder?

A. No, ma'am.

Q. Was there any information available to the newspapers or the public that Winter Wingard had been butchered to death?

A. No, ma'am.

Q. Who had that information?

A. Just the investigators and the responsible party.

Q. Was there anything out there that she was a twenty-six year old white female from Florida, to your knowledge --

A. Not to my knowledge.

Q. -- on December the 4th?

A. Not to my knowledge.

Q. Okay. And, in fact, she was found near Mikes Creek Church, is that correct?

A. Yes, ma'am.

Q. Do you have the statement of John Raymond Austin?

A. Yes, ma'am.

Q. What is the date of that statement?
A. December 6th, 2010.
Q. Okay. And would you please -- was John Austin in jail on December 6th, 2010?
A. Yes, ma'am.
Q. And the defendant was in the Cherokee County jail on December 6th, 2010?
A. Yes, ma'am.
Q. Would you please read Mr. Austin's statement that he provided you?
A. It says "the other day a white guy came in the dorm wearing glasses and had red hair. Me, Skeet, Mike Jack, and Ridge were sitting at a table. When we saw him come in we asked to come over. We asked him if he had any cigarettes and he said no. Then we asked him what he was in here for and he said murdering my wife. Then he walked away. A little while later Skeet went over and got to talking to him. Then Skeet came over and told us that he had said she was stabbed up. None of us in there even knew how she had died."
Q. All right. That statement was December 6th of 2010?
A. Yes, ma'am.
Q. And it was taken at what time?
A. 12:40 p.m..
Q. Had the defendant been served with arrest warrant for

murder at 12:40 p.m. on December the 6th?

A. No, ma'am.

Q. I think you testified earlier he wasn't served with that until 3:08 p.m. on December the 6th, is that correct?

A. That's correct.

Q. So he was not in jail for murdering his wife, although that's what he told Mr. Austin?

A. Yeah.

Q. All right. And the statement was taken on December the 6th. The beginning of the statement says "the other day." So that indicates that he made that statement before December 6th, is that correct?

A. Yes.

Q. Again, it says "he said she was stabbed up." Before December 6th, 2010, was anyone aware that Winter Wingard had been stabbed thirteen times?

A. No, ma'am.

Q. Other than investigators and the responsibility party?

A. Yes.

Q. Okay. If you will look at Ridge Crosby's statement, please.

A. Okay.

Q. And what's the date of that statement?

A. This is December 6th, 2010.

Q. All right. Was Mr. Crosby in the Cherokee County

detention center at that time?
A. Yes, ma'am.
Q. All right. Will you please read his statement?
A. It says "in the last few days while I've been incarcerated at the county jail a white guy with glasses came in. I asked him what he was in for and he told me he was in here for murder for killing his girl. Later I found out his name was Clark. I haven't talked to him since."
Q. Okay. Do you have the statement of Michael Stillwell?
A. Yes, ma'am.
Q. All right. What is the date of the statement from Michael Stillwell?
A. December 6th, 2010.
Q. And was Mr. Stillwell in the Cherokee County detention center on December 6th, 2010?
A. Yes, ma'am.
Q. And what time is his statement given?
A. 11:20 a.m..
Q. Will you please read his statement?
A. It says "yesterday after supper I was sweeping up in E-unit. While I was sweeping there was a white guy with glasses and reddish colored hair talking. Someone asked him why he was in jail. The guy said it was for traffic offenses, but he had been questioned about his girlfriend getting killed. The guy said he had been arguing with his

wife or girlfriend for several days and he finally had enough. The guy said they were in the kitchen and he picked up a knife and started stabbing her. Then the guy said he put her body in the car and dumped it. I started moving away from him and I heard him say that he had told the police that his wife had left around 2:00 a.m. and she had been found around 5:00."

Q. This statement says that yesterday this occurred, which would be what day?

A. It would have been the 5th.

Q. December 5th of 2010.

Was it -- was there any information out to the public that the defendant and Winter Wingard had been arguing?

A. No, ma'am.

Q. Was there any information that something may have started in the kitchen of the home?

A. No, ma'am.

Q. Was the only information that may have been available Mikes Creek Road?

A. Yes, possibly. Possibly.

Q. But there was no mention of a separate crime scene starting inside the home in the kitchen?

A. No, ma'am.

Q. And at that time available to the public there was no news that a knife had been used in this murder?

A. No, ma'am.
Q. And there was no news that her body had been put into a vehicle?
A. No, ma'am.
Q. Do you have the statement of Michael Covington?
A. Yes, ma'am.
Q. And what is the date of his statement?
A. December 6th, at 2:20 p.m. -- or 12:20, I apologize.
Q. And what does his statement say?
A. It says "today is December 6th, 2010. About three days or so ago, I was in the Cell Block E when the jail guards brought a white guy in. I think it was at nighttime. The white guy was wearing glasses. I started talking to him the next day. I said what's up? He shook his head no. Later on we were sitting down at the table playing cards, we were playing spades. While sitting at the table asking him you were in here for, he said they trying to say I killed my wife. He looked like he was getting ready to tell me something, then he nodded his head no. We played six games of spades, and then walked towards the door after playing cards. The door was the one that leads open to the outside area. While we were standing near the door, just outside, I asked him how did she die, and he said he stabbed her, and said something about dropping her off at Mikes Creek. I told him I went to church there. He then cut off the

conversation like he didn't want to talk about it no more. We then talked about playing cards again, and we did go back in and play cards. He asked me why I was in jail and I told him. The only name I ever called him was Buddy, like in friend. I asked Agent Darrell Betsill to type my statement for me."

Q. All right. During these interviews that you conducted with these inmates, did you tell them what to say, or did they tell you what they had been told?

A. No, they told us, or told me, whoever took the statement.

Q. What promises did you make to them in order to give these statements?

A. We didn't make any promises.

Q. Did you offer them -- they were all in jail with pending charges. Did you offer to come talk to me about their charge and cut them some kind of deal, if they would write a statement against the defendant?

A. No, ma'am.

Q. Okay. So nothing was promised. They reported to you what happened, is that correct?

A. That's right.

(Off the record).

(Back on the record).

BY MS. LESKANIC:

Q. While she's making those copies for me, Detective Burgess, when you spoke with these individuals, did you take everybody into one room at one time, or how did the interviews take place?

A. No, we take them individually into a separate area.

Q. So they are not together when they give their statement?

A. No, ma'am.

Q. You meet with them one at a time individually?

A. Yes, ma'am.

Q. Okay. Now, Detective Burgess, Mr. Harbin was asking you about what evidence you had that led you to the defendant.

Now, at the time that he was arrested, I know a lot of evidence was heard from Investigator Henson and Anthony. They collected a lot of evidence. Do you get an immediate turnaround from SLED on December 6th? Did you have the results of fingerprints and DNA and all of that?

A. No, ma'am.

Q. Okay. What were you basing your investigation and your arrest warrant on at the time that you arrested the defendant for murder?

A. Basically it was on the statements and the other evidence, as far as like -- like I said earlier, the dirt

and --

Q. Were you able to determine during your investigation who the last person was that saw her?

A. During the investigation the last person was Joey Clark had seen her, spoke to.

Q. Were you able to determine approximately what time that was?

A. About 2:00 a.m..

Q. Okay. And you were able to determine what time the car was parked at the location that Mr. Briggs testified to?

A. Yes, three a.m..

Q. So you knew that you had approximately a one-hour window that this happened?

A. Yes, ma'am.

Q. Okay. And I know we have talked about the red dirt, and Mr. Harbin has asked you about red dirt. Was there a lot of red dirt at Songbird?

A. Yes, ma'am.

Q. Okay. Can you describe for us -- and the jury will have photos, but describe for us the red dirt at Songbird Lane.

A. The red dirt along the sides of the walkway and the park way and the backyard, and grass was just kind of sporadic, so dirt kind of showed through a good bit through where the grass was.

Q. Okay. And who -- were you able to determine who actually found the vehicle?
A. Yes, Mr. Joey Clark found the -- was the one that spotted the vehicle.
Q. And at the point that he was placed under arrest, I believe certain items had been found in the backyard at [redacted] that belonged to the victim?
A. Yes, ma'am.
Q. And then you received these statements from inmates containing case-sensitive information, is that correct?
A. Yes, ma'am.
Q. And that's before you have any fingerprint analysis?
A. Yes, ma'am.
Q. And that's before you have any DNA results?
A. Yes, ma'am.

MS. LESKANIC: Would you mark these, please?

(Written Statement of Bryant Phillips was marked as State's Exhibit No. 145 for identification).

(Written Statement of John Raymond Austin was marked as State's Exhibit No. 146 for identification).

(Written Statement of Ridge Crosby was marked as State's Exhibit No. 147 for identification).

(Written Statement of Michael Stillwell was marked as State's Exhibit No. 148 for identification).

(Written Statement of Michael Covington was marked

as State's Exhibit No. 149 for identification)

MS. LESKANIC: At this time the State would offer State's Exhibit 145, which is a statement by Bryant Phillips; State's Exhibit 146, a statement by John Raymond Austin; State's Exhibit 147, a statement by Ridge Crosby; State's Exhibit 148, a statement by Michael Stillwell; and State's Exhibit 149, a statement by Michael B. Covington into evidence.

MR. HARBIN: No objection, judge.

THE COURT: All right. It would be admitted into evidence without objection.

(Whereupon, State's Exhibit No. 145 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 146 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 147 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 148 was entered into the record as evidence).

(Whereupon, State's Exhibit No. 149 was entered into the record as evidence)

BY MS. LESKANIC:

Q. Detective Burgess, you know where the vehicle was found, is that correct?

A. Yes, ma'am.

Q. And I don't mean when it was at the house when you arrived, but where they told you that they had found it where Mr. Briggs stated he saw the vehicle?

A. Yes, ma'am.

Q. Is that a pretty direct route to [redacted]

A. Where the other -- are you talking about through the field?

Q. Yes, sir.

A. Yes, ma'am.

Q. Where the other items were found?

A. Yeah, where the other items were found basically on the way back to the residence.

Q. Thank you very much. Please answer any questions by Mr. Harbin.

THE COURT: Recross, Mr. Harbin?

MR. HARBIN: Yes, sir, please.

RECROSS EXAMINATION BY MR. HARBIN:

Q. Ms. Leskanic told -- or actually asked you to confirm that there was approximately a one-hour window for Winter, I assume, to be killed, transported to Mikes Creek, and the car deposited over there off of Gramling Ferry, is that right?

A. Yes, sir.

Q. Okay. That's only true if you assume that Winter was killed and transported with the GMC, right? That's where

that logic comes from?
A. Yes, sir.
Q. Okay. In other words, you have to assume first that that was the vehicle that was transported -- that transported Winter and that went to Mikes Creek and back?
A. Yes, sir.
Q. That excludes the possibility of every other car in the world, or every other car within close proximity to Cherokee County, or Gaffney, or that location, and every other person in the world as well?
A. Yes, sir.
Q. In other words, you have absolutely no evidence that actually puts Joey driving the truck that night?
A. We have -- we did have prints on the vehicle.
Q. Along with Winter's and Beverly's?
A. Winter's was inside the vehicle.
Q. Right.

Again, we are getting to kind of -- Winter's blood -- I understand now Winter's blood, granted, something certainly seems to have happened, but you were assuming, of course, that at that point Winter is dead, or never -- is removed from that car, gets out of the car, or anything alive, right? That's your assumption?
A. Yes, sir.
Q. Okay. So you make no room for the possibility that

Winter could have been attacked by anyone and then moved to Mikes Creek in another vehicle?

A. If we were going to do probabilities, I think the probability would be low to having an individual come up at that residence, attack her there, drug her body there, and then have moved the vehicle to Mikes Creek Road within a one hour window.

Q. I suppose I missed the part where we have any proof that she was actually attacked at the house.

A. There again, it goes back to what I feel like the red dirt, her cellphone was located at the residence.

Q. Okay. We will let the red dirt go for now.

The cellphone at the residence, though, was interesting. So working with your argument that we are working with probabilities apparently here, what is the explanation for the cellphone? How does the cellphone being behind the house have any effect on the probability, greater or less than, as to where Winter was killed and how she was transported to Mikes Creek and by whom?

A. You could tell by the text messages there was -- there appeared to be an altercation or an argument ensued and that's going to be around the two o'clock hour, from Anna's testimony yesterday is way -- from that point that's one of -- the text about the 1544 I think North Limestone Street comes in. I feel like at that point an argument had ensued.

There was an altercation what I feel like on the outside of the residence on Songbird and then she was transported to Mikes Creek Road and dropped off.

Q. What evidence do you have that there was an argument?

A. The text messages were in a sense where Anna ends up asking about the AIDS and the text message comes back across she's mad as hell now -- or she's mad.

Q. Who is mad?

A. I think Joey was. I will have to look back at it to make sure, but Joey says she's mad now.

Q. Okay. But referring to Anna kind of telling on him to Winter through text message --

A. Yeah.

Q. -- that he was messing with Anna over text message?

A. Yes.

Q. So your entire theory lays upon the idea that you just assumed that there was some kind of argument that grew into an altercation; that you further assumed grew into some kind of attack or assault; that you further assumed happened directly outside, or inside, and then carried over into outside of the house; that you further assume happened at the house because it the had red mud, and that everywhere in Cherokee County has red mud; and you further assume that he, he being Joey, I guess, Joey must have put her into this GMC and carried her to Mikes Creek and then put the car back,

without any witnesses or evidence to actually demonstrate that Joey drove the car, and that Joey went to Mikes Creek, and that Winter was actually transported to Mikes Creek in that car.

MS. LESKANIC: Your Honor, I'm just going to object. It seems like a lot of questions. I'm not sure which one --

THE COURT: It is a lot of questions. I'm not sure that the witness can answer the question.

MR. HARBIN: I would be happy to compartmentalize that, judge.

THE COURT: All right.

BY MR. HARBIN:

Q. Your assumption begins with the fact that you think an argument happened, right?

A. Yes, sir.

Q. Then you think because -- because you think an argument happened, you think it escalated into an altercation?

A. Yes.

Q. You then think that they moved, I guess at some point presumably from the house in this altercation, to outside the house?

A. (Shaking head yes).

Q. And you based those assumptions on the fact that she has red dirt on her clothes?

A. And also the statement of Michael Stillwell.
Q. Okay. All right.
So you are depending on the statement of Michael Stillwell for your case?
A. The totality of all the circumstances.
Q. One of the pieces of evidence that you are relying on is this statement from Michael Stillwell, correct?
A. Yes, sir.
Q. Okay. So after you get to this point in your thought processes that there is this altercation outside of the home, you then simply assume that she is put into the vehicle by Joey, right?
A. Yes, sir.
Q. And then you assume that that vehicle travels from [redacted] to Mikes Creek?
A. Yes, sir.
Q. Now, you have really no evidence that that vehicle actually traveled to Mikes Creek, other than the fact that you think that was the vehicle that was used to transport Winter, but you actually have no hard evidence to put that vehicle at Mikes Creek, correct?
A. No, not at Mikes Creek, but there was blood inside.
Q. And then it is -- is it simply an assumption that because you think Joey drove her to Mikes Creek and dumped her body, that Joey drove the car back to park in front of

their neighbor's house?

A. Yeah, I think so, and then -- whoever did it was coming back to [redacted]

Q. So you -- so -- okay. Fair enough.

Are you aware that --

Well, actually let me back up.

Who was your boss at the time? I know there was a different sheriff back then, right?

A. Yes, sir, it would be Bill Blanton.

Q. That was Sheriff Blanton back then?

A. Yes, sir.

Q. Are you aware that he gives statements -- I mean, well I guess his job details that he gives statements, public statements every once in a while, right?

Are you aware that he gave a statement that was published in --

MS. LESKANIC: Objection, Your Honor.

BY MR. HARBIN:

Q. -- the newspaper?

MS. LESKANIC: Objection, hearsay.

THE COURT: It's not for the truth of the matter asserted. It's is he aware of any statements made at the time.

MS. LESKANIC: I don't know what statements he's talking about, Your Honor.

THE COURT: Well, come up, counsel.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: Objection is overruled. You may proceed.

BY MR. HARBIN:

Q. Detective Burgess, this may be a short question here. Are you aware of any statements made by your boss at the time, Sheriff Blanton, to media outlets prior to Joey being arrested for murder?

A. No, sir.

Q. Okay.

MR. HARBIN: No further questions. Thank you.

THE COURT: All right.

All right. Thank you, sir. You may step down.

All right, Ms. Leskanic or Ms. Jordan, you may call your next witness.

MS. LESKANIC: Thank you, Your Honor.

The State calls Dr. Janice Ross.

THE COURT: Come around, Dr. Ross.

DR. JANICE E. ROSS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. LESKANIC:

Q. Good afternoon, Dr. Ross.

A. Good afternoon.

Q. Will you please introduce yourself to the ladies and gentlemen of the jury?

A. I'm Dr. Janice Ross and I'm a forensic pathologist and I work in Newberry, South Carolina.

Q. All right. And what is forensic pathology?

A. Well, first of all, a pathologist has gone through four years of college. I went to the University of South Carolina, and then four years of medical school and four years of training in the field of pathology, which is -- which trains a physician how to identify diseases, by looking at tissue under the microscope and by working with laboratory.

I further am certified in forensic pathology, which brings in legal matters in doing autopsies, identifying patterns of injury, formulate the cause of death and the manner of death.

Q. All right. And what type of education, training and experience do you have to go through to become a pathologist and a forensic pathologist?

A. Four years of college, four years of medical school, two or three years after that.

Q. Okay. And do you have to continue getting education hours each year, or how does that work? Do you continue to be certified?

A. Yes.

Q. All right. And how often do you do that? How often do you have to be re-certified?

A. Well, we accumulate thirty to fifty hours every two years.

Q. Okay. You are employed with Newberry Pathology Associates?

A. Yes.

Q. And one of your jobs there is to perform autopsies, is that correct?

A. Yes.

Q. Okay. Could you explain to the jury what an autopsy is and why a coroner would request that an autopsy be performed?

A. Yes. The coroner authorizes and requests us to do an autopsy on death by trauma or unidentified death to find the cause of death.

The body is transported to us at Newberry County Memorial Hospital in the morgue and brought in a body bag. I then further open the bag, identifying any clothing, do an external examination, and we do an internal examination of the body.

Q. All right. And when you have received the body, has it been cleaned up at all by law enforcement, or do you pretty much receive the body in the state it was found and taken from the crime scene?

A. We receive it in the state it is found.
Q. Okay. And then --
A. When I say unless they get some of the clothing sometimes.
Q. And then do you clean up the body as you do your exam?
A. Yes.
Q. Okay. Approximately how many autopsies have you performed throughout your time as a pathologist?
A. Over six thousand.
Q. Okay. And have been qualified as an expert in the field of forensic pathology in the performance of autopsies?
A. Yes.
Q. All right. Do you know how may times that you have been qualified as an expert?
A. At least seventy times.
Q. Okay.

MS. LESKANIC: Your Honor, at this time I would offer Dr. Janice Ross as an expert in the field of forensic pathology and autopsies.

THE COURT: Voir dire with regard to qualifications, Mr. Harbin?

MR. HARBIN: Nothing for Dr. Ross.

THE COURT: All right. The court would find Dr. Ross as -- qualify Dr. Ross as an expert in the field of forensic pathology autopsies.

Ladies and gentlemen of the jury, let me tell you what that means. Ordinarily a witness is not testifying as an expert, the witness' testimony is limited to those things that are within the perception of the witness or helpful to a clear understanding of the witness' testimony or the determination of a fact in issue and do not require special knowledge, skill, experience or training.

However, if scientific, technical, or other specialized knowledge will assist the trier of fact, and that's you in this case, to understand the evidence or to determine the fact at issue, a witness qualified as an expert by knowledge, experience, skill, training, or education may testify in the form of an opinion.

So basically the difference between a nonexpert witness and an expert witness is that an expert witness is allowed to give an opinion based upon their knowledge, skill, experience, education, or training.

I have qualified Dr. Ross as an expert in the field of forensic pathology and autopsies and she may be examined as such.

MS. LESKANIC: Thank you, Your Honor.

THE COURT: All right.

BY MS. LESKANIC:

Q. Dr. Ross, were you asked by Dennis Fowler, the Cherokee County coroner, to perform an autopsy on Winter Delane

Wingard?
A. Yes.
Q. And when did you perform that autopsy?
A. On December 3rd, 2010.
Q. All right. And was that autopsy performed at Newberry Pathology or the Memorial Hospital in Newberry?
A. Yes.
Q. And I know we have briefly touched on it, but in this particular case can you explain how you began the autopsy, what you first do when you receive the body?
A. We open the body bag and do an external examination. If there is any clothing, we identify that and take the record of it.

The only thing that was on this person was a pair of earrings and a lip piercing ring.

Q. Do you make any sort of diagrams and note what injuries or markings you find on the body?
A. Yes.
Q. I'm going to start by showing you State's Exhibit 116.

And there is a pointer in front of you, Dr. Ross. I don't know --

MS. LESKANIC: May she step down, Your Honor?

THE COURT: Yes, ma'am.

MS. LESKANIC: Okay.

(Witness off the witness stand)

BY MS. LESKANIC:

Q. If you could just step down and explain to the jury what they are looking at here, Dr. Ross?

A. Yes. This is a diagram of the front and back of the victim. And we have -- these are my own little marks, so that from this I can describe and dictate what my findings are.

Q. And what type of findings did you see on the body of Winter?

A. In this case we had a lot of bruising around the right lower cheek and the chin.

Some -- an abrasion pretty much right next to the left eyebrow. There was a lot of bruising around the collar bones, the surface. There was some scars on the inner wrist. There was a scratch abrasion of the back of the right hand, and there were some abrasions of the lower back. These indicates some tattoos.

There is another diagram that shows the stab wounds.

Q. Okay. And I'm going to move to a photograph and let you stick with what you have told the jury about. If we can start with State's Exhibit 117, Dr. Ross?

A. Yes, this is the left eyebrow and this is bruising and abrasion around it.

You can see some in the hairline here also. A little bit of abrasion next to the nose.

Q. Now, looking at this photograph, does it show or were you able to determine whether blunt force trauma was suffered by Winter on this side of her head?

A. This is consistent with blunt force trauma.

Blunt force trauma indicates injury caused by a weapon that's not sharp. This is in contrast to sharp force injury. We refer to in the forensic world as a blunt force injury and sharp force injury.

Q. All right. Could you tell from any sort of markings or patterns what type of instrument could have caused this injury?

A. There is no pattern here, so it could be, for instance, a fist.

Q. Okay. Would that blunt force trauma to the left side of her head cause her death, based on your autopsy?

A. Not necessarily. It could cause unconsciousness.

Q. I'll show you State's Exhibit 118.

A. That just further shows that there is a little cleaner shot of the injuries to the left eye and eyebrow.

Q. State's Exhibit 119.

A. Here we are looking at the chin. Mostly there is most bruises up here without any pattern. And we are starting to see some of the stab wounds down here in the right side of her neck.

Q. And how about the markings on the chest, Dr. Ross?

A. There is some bruising on both sides over both collarbones.

Q. And what does that indicate to you?

A. It could be that some kind of pressure on the upper chest, or it could be some kind of force, blunt force, like a fist.

Q. I'll show you now State's Exhibit 120.

A. This is the left eye and it's very difficult to tell. There is some bruising on the eyeball itself, and there is a little tiny red dots we call petechiae, which occur when somebody is partially asphyxiated or asphyxiated.

Q. Does that mean strangled or choked?

A. Yes, put pressure on the neck.

Q. All right. And how much pressure would have to be applied to cause petechiae?

A. Significant enough to close off blood vessels.

Q. Do you have any idea how long those blood vessels would have to be closed off before someone would be rendered unconscious?

A. When somebody asphyxiates by strangulation, they are unconscious within a few seconds, but it takes continuous pressure over four or five minutes for them to die.

Q. But could be unconscious within --

A. Within seconds.

Q. Within seconds.

And going back to the blunt force trauma, could -- how soon would that cause unconsciousness or possibly death?

A. Well --

Q. Do you want me to go back?

A. We will see that there were multiple injuries to both sides of the head and all those did cause some internal bleeding around the brain, which, number one, shows that the circulation was still going, blood was still pumping around there, and that there was enough blood there to cause brain death.

Q. So would that -- with the circulation to the brain, that shows that she was still alive at the time the blunt force trauma was applied?

A. Yes.

Q. Am I understanding you correctly?

A. Yes.

Q. Can you tell, was she still alive when the strangulation occurred causing petechiae?

A. I -- I don't -- I believe the strangulation was part of it but was not a cause of death.

Q. Okay. I'll show you State's 122.

A. This is the back of the right hand. It shows a scratch, or a very superficial incised wound, sharp wound, of the right hand.

Q. Could you tell what caused that injury?

A. It can be a defense wound, if she saw a knife coming at her and put her hand up, for instance.

Q. Exhibit 124.

A. This is the back of the left wrist. This is the hand. This is the thumb here. This is the left wrist and left forearm. Just splotches of blood, which indicates blood dropping down on top of the surface.

Q. Exhibit 123?

A. This is showing some -- some red staining of dirt on the bottom of the feet. At least that foot.

Q. Did you notice any other red dirt on her body when you received it for autopsy?

A. Yes, over the abdomen and the front of the thighs there was red staining of dirt.

Q. Exhibit 121? I'll try to get this clear for you.

A. Okay. This is -- this is the back. The head would be up this way. This is the lower back, and this is the buttocks area, and this is abrasion that looks -- it's not real red, so it was made by either at the time of death or after death.

Q. What would cause an abrasion like that, Dr. Ross?

A. It could be from dragging across the ground.

Q. And based on what you are looking at, she was either near death or had already passed, is that correct?

A. Correct, yes.

Q. I'll show you State's Exhibit 125.
A. This is the right ear. The back of the head is over here. The front of the head is up here. This is the right neck, and these are the stab wounds.
The stab wounds were all going from the right towards the left and downward.
Q. Can you tell from that what position the attacker would have been in?
A. No, you have got two moveable people and it's -- you can't.
Q. But they are all moving in the same direction?
A. Correct.
Q. Based on your autopsy, were you able to determine a cause of death for Winter?
A. Yes. One thing, these stab wounds, one of them partially cut the jugular vein on the right, and one of them went into the voice box, into the larynx, but there was no blood inside the airway, so I think this contributed to the death, but the cause of death is the blunt force injury of the head with the bleeding around the brain, with in addition the bleeding from these wounds.
Q. And how many stab wounds did you find on Winter?
A. Thirteen.
Q. And were they all located in this neck area?
A. Yes.

Q. And all of them were in the same direction as if they were delivered at the same time?
A. Yes.
Q. Can you make any determination whether she was close to death or had already passed at the time these stab wounds were delivered?
A. I think they came very close to the time of death, but I can't tell exactly, no.
Q. How much blood would you expect if those stab wounds were the first injury that was inflicted?
A. With the jugular vein being cut into, there should be a significant amount of blood, but not all of it would spill out, maybe -- venous blood is slower to get out than, for instance, arterial blood. An artery, blood from that would spurt.
Q. Okay. Just a minute, Dr. Ross.

(Off the record)

(Back on the record)

BY MS. LESKANIC:

Q. I'm going to let you look at State's Exhibit 49, where it's not on the screen first. We are showing you a picture that's been admitted into evidence and that is the place where Winter's body was laying and that is after they have removed her from the scene. Looking at that amount of blood that is left, would you expect those stab wounds to have

occurred before death, or close to the time of death, or after death, or can you state?

A. Most likely, in all probability, close to the time of death. There is some blood, but not a large amount.

Q. All right. I'm just going to put this up so the jury to see what we were talking about and explain that to them in looking at the photograph, please.

A. This blood here and here.

Q. But you would have expected more blood to have pooled if she had been alive and her circulation was good at that point in time, is that correct?

A. I believe so, yes.

Q. So it is your expert opinion concerning the cause of death that it was due to blunt force trauma and the sharp force trauma, is that correct?

A. Correct.

Q. If you want, you can have a seat. I'm going to ask you a few more questions about your exam of Winter.

(Witness back on the witness stand)

BY MS. LESKANIC:

Q. Is part of what you were asked to do in this case to perform a sexual assault kit on Winter?

A. Yes.

Q. All right. Can you explain how you performed the sexual assault kit?

A. Yes, we take samples from the mouth and the vagina and from the rectal area and we submit some fluid on a swab, plus we make slides to look for sperm, to look for a substance that is called acid phosphatase, which is in a high level in semen. We take those swabs and slides, let them dry appropriately, put them in containers, label them and seal them for evidence, and that's part of the evidence that went to SLED.

Q. I'm going to show you what's been marked State's Exhibit 130 -- excuse me, let me start 127, 128, 129, 130 and 138, and see if you recognize those?

A. Yes, these are samples from our rape kit on Winter Wingard from the time of autopsy.

Q. All right. When you start with the rape kit, is that a sealed package, or where do you get your rape kit in order to perform the examination?

A. Well, we use -- we put it together ourselves and it's all sterile containers to begin with. We -- obviously we use gloves and use everything sterily and without contamination.

Q. Okay. Based on your experience as a medical doctor, do you know approximately how long you would expect semen to stay in the mouth of a living person?

A. It can stay several hours, depending on the situation, if, you know, there is not a lot of swallowing or drinking

fluids.
Q. Okay. And would it stay a longer period of time or a shorter period of time on a deceased person?
A. The same.
Q. The same amount of time?
A. Yes.
Q. So the swallowing or drinking would not affect how long it would stay?
A. Yes, that would.
Q. And I'm asking whether it was deposited while they were living, or whether it was deposited when they were deceased.
A. Well, obviously swallowing or drinking would interfere with -- would decrease the amount of semen, or any semen.
Q. All right. And you did check Winter's mouth and you took a swab as part of your sexual assault kit, is that correct?
A. Yes.
Q. And you also did that of the vaginal cavity?
A. Correct.
Q. How long would you expect Winter to stay alive, based on the blunt force trauma to her head? How long could she stay alive with that trauma?
A. Minutes.
Q. Would the sharp force trauma, the neck wounds, would that have caused her death without the blunt force trauma,

or can you say?

A. Yes, that would.

Q. Was Dennis Fowler, our coroner in Cherokee County, was he present for the autopsy?

A. Yes.

Q. And did you turn over your sexual assault kit to him so that he could transport that to SLED?

A. Yes.

Q. Was it sealed in tamper-evident packaging before it was delivered to him?

A. Yes.

Q. In your examination of Winter, can you pinpoint a time of death?

A. No. Not exactly, no.

Q. Okay. Would what you viewed be consistent with a time of death between two and three a.m. on December 2nd, 2010?

A. It's consistent with, yes.

Q. Thank you very much.

Please answer any questions that Mr. Harbin has.

THE COURT: Cross-examination, Mr. Harbin?

MR. HARBIN: Thank you, Your Honor.

If it please the court?

THE COURT: Yes, sir.

CROSS EXAMINATION BY MR. HARBIN:

Q. Ms. Leskanic asked you whether or not two to three

o'clock is consistent with the time of death. The fact is you are unable, based upon the limited amount of information that you have, to offer a time of death, is that correct?

A. Correct.

Q. Did you perform a toxicological exam?

A. We took samples and sent that along with the rape kit to SLED for toxicology evaluation, yes.

Q. Okay. You didn't do that yourself? You just took the samples to be sent to -- I'm sorry, you didn't perform the test yourself? You just took the samples?

A. Exactly.

Q. Do you have knowledge in your field of expertise as to what particular levels of particular drugs exhibit themselves, or how they exhibit themselves in someone; for instance, what level of a particular kind of drug would cause drowsiness, or slurred speech, or anything like that?

I can give you an example, it if helps you, because I know there is a lot of different kinds of drugs, but, for instance, how much Lortab would you have to take to have slurred speech, as opposed to just for some type of therapeutic?

A. That would be a question for the toxicologist, but it probably depends on the tolerance and how long somebody has been taking that, for instance.

Q. Okay. And did you during the course of your exam weigh

the victim, weigh Winter, how much she weighed?
A. We don't have scales in the morgue, so we estimate the height and weight -- or weight. We had a height of I believe 5'7".
Q. What did you estimate the weight to be then?
A. 260 pounds.
Q. And did you take fingernail clippings?
A. Yes.
Q. You did.
And was that the same, you submitted them to SLED?
A. Correct.
Q. And are you able to offer any comment or expertise as to what, if anything, it means -- or what, if anything, can be drawn from the fact that the stab wounds are indicated to be shallow, fairly shallow? Does that tell you anything, or it's just --
A. Well, some of them were shallow. Some of them -- at least two of them were deep enough to reach the jugular vein and the voice box.
Q. How deep is deep and how shallow is shallow? Do you have that information there?
A. Shallow means close to the surface of the skin. So these were inserted one or two inches.
Q. Okay. And so -- it's sounds as if there is not a whole lot to be drawn from that, other than you simply measured

how deep it is. Is there a conclusion to be drawn from that at all?

A. Not really, because you can use just a very short knife because this area is bendable and flexible, so you can push a knife in further than you would think.

Q. Okay.

A. Further than the blade is long.

Q. Okay.

MR. HARBIN: No further questions. Thank you.

THE COURT: Redirect, Ms. Leskanic?

MS. LESKANIC: Just one question.

REDIRECT EXAMINATION BY MS. LESKANIC:

Q. Dr. Ross, did you also take a blood standard from Winter?

A. Yes.

Q. All right. And did you also seal that and turn that over to Coroner Dennis Fowler?

A. We do a blood smear on filtered paper, and we also sent a purple cup to the DNA, so we -- that was sent. Yes, that was sent to SLED.

Q. Thank you very much, doctor.

THE COURT: Anything further?

MR. HARBIN: No, sir.

THE COURT: All right, Dr. Ross, you may step down.

475

Would you like to have the witness excused?

MS. LESKANIC: Yes, Your Honor.

THE COURT: All right. You are excused, doctor. Thank you for coming.

All right. It's about mid-afternoon. This is probably a good time to take an afternoon recess, so for about ten minutes. We will take only ten minutes and we will go forward.

Please go to your jury room. Do not discuss the case among yourselves and be ready to start back at five minutes to four. Thank you.

(The following takes place outside the presence of the jury panel)

THE COURT: All right, counsel, we'll be in recess until five to four.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: We are back on the record with regard to the matter of State v. Clark.

Mr. Clark is present with his attorney.

The State is present and represented by the Seventh Circuit Solicitor's Office.

Ready to go forward, Ms. Leskanic?

MS. LESKANIC: Yes, sir.

THE COURT: Mr. Harbin?

MR. HARBIN: Yes, sir.

THE COURT: Anything before we bring the jury in?

MR. HARBIN: No, sir.

THE COURT: All right, bring the jury in.

(The following takes place in the presence of the jury panel)

THE COURT: All right. Thank you, ladies and gentlemen, and we are now ready to proceed.

You may call your next witness, Ms. Jordan or Ms. Leskanic.

MS. JORDAN: Thank you, Your Honor.

The State calls Coroner Dennis Fowler.

THE COURT: All right. Come around, please, sir.

CORONER DENNIS FOWLER, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. JORDAN:

Q. Could you state your name for the record?

A. Dennis Fowler.

Q. What is your current position?

A. I'm the Cherokee County coroner.

Q. How long have you held that position?

A. Since January 1st, 2007.

Q. Were you called out to Mikes Creek Road on December 2nd of 2010?

A. Yes, I was.

Q. Why were you called out?
A. There was a body that was located and I was notified by Cherokee County 911. Also EMS and the sheriff's office had been summoned there as well.
Q. Okay. As part of your job did you attend an autopsy of Winter Delane Wingard on December 3rd, 2010?
A. Yes, I did.
Q. As part of that did you take possession of a sexual assault kit from Dr. Janice Ross?
A. Yes, I did.
Q. Did you receive that sexual assault kit and take it to the State Law Enforcement Division in Columbia?
A. Yes, I did.
Q. Can you tell the jury when you took it to SLED?
A. The autopsy was performed at twelve noon on December the 3rd, 2010. Immediately after the autopsy and the evidence was signed over to me, I took it directly to SLED after leaving from there.
Q. Okay. As to the sexual assault kit, did you alter or tamper with it in any way while you had it in your possession?
A. Absolutely not. It was sealed.
Q. What happened to it once you got to SLED?
A. Logged it in with the SLED technicians, the intake office, and it was turned over to them.

Q. Okay. In logging it in, which process does SLED go through when they receive an item from individuals, such as yourself?

A. Well, there is a number of signatures that have to be obtained and they log each piece of evidence.

Q. Okay. Do they also place it inside of a plastic bag and seal it in your presence?

A. Yes, they do, and I sign on the back.

Q. Okay. I'm going to move you back one day and talk to you about December -- or move -- the same day, earlier in the morning.

A. Yes, ma'am.

Q. Did you -- were you present at -- or did you have Winter Wingard's mother and Joey Clark come to review photographs of her body for positive identification?

A. I asked her mother to come to the Gaffney hospital, which is then known as Upstate Carolina Medical Center --

Q. Yes, sir.

A. -- for positive identification. I do not recall who was with her.

Q. For an identification, what time did you meet them at the hospital?

A. Nine a.m.

Q. What did you show to them -- or to her mother and whoever may have been with her?

A. I showed her mother a digital photograph from my Nikon LCD screen of the facial shot of the decedent that we had in the morgue believed to be Winter Wingard at that time.

Q. Okay. Could you tell the jury how you prepared to have that picture?

A. Well, because of the injuries and in an effort not to -- two things, not to traumatize the mother, and also to protect any ongoing investigation that we had regarding the injuries that we were obviously trying not to get in the public's eye, the face was draped just with the face showing. Nothing beyond the chin, and nothing, you know, below, so it was draped with a towel.

Q. Okay.

A. A very tight head shot.

Q. Okay.

(Photograph of Winter Wingard marked as State's Exhibit No. 150 for identification)

BY MS. JORDAN:

Q. Coroner Fowler, I'm going to show you what's been marked --

MS. JORDAN: And we would ask to admit, without objection, is my understanding from the defense attorney State's 150.

MR. HARBIN: That's correct, no objection.

THE COURT: All right, admitted into evidence

without objection as State's Exhibit No. 150.

(Whereupon, State's Exhibit No. 150 was entered into the record as evidence)

BY MS. JORDAN:

Q. Could you describe to the jury what that's a photograph of?

A. That is a photograph of the decedent Winter Wingard that was photographed in the morgue at what was then Upstate Carolina Medical Center.

Q. Okay.

MS. JORDAN: Your Honor, at this time I would like to publish that to the jury.

THE COURT: Permission granted.

BY MS. JORDAN:

Q. Is this the photograph that was shown to --

I apologize, we don't have the overhead on right now.

Is this a photograph of what was shown to Winter Wingard's mother and whoever may have been present?

A. Yes, ma'am, it was. It was not a printed photo. It was only on the digital LCD screen of my camera.

Q. Okay. And around her head is the white is where you draped so that her neck was not shown?

A. Correct.

Q. At that time did you provide any details to Winter Wingard's mother, or anyone else present with her, about the

manner of the injuries that she had?

A. No, ma'am.

Q. Why not?

A. Well, the investigation was ongoing, and at that point, you know, here again, the sheriff's office and other investigators were working to determine -- to develop a suspect, and also we felt like that would damage the case.

Q. And you had actually at that point in time not -- you don't make the determination of the cause of death, do you?

A. Not until I confer with the pathologist.

It is my job by state law to determine cause or manner of death, but that's only after conferring with the sources that we utilize, and the pathologist being one of those and the autopsy.

Q. And at the time that you had the identification with her mother, the autopsy was scheduled for three hours later, is that correct?

A. That is correct.

Q. Okay. Please answer any questions Mr. Harbin may have.

THE COURT: Cross-examination, Mr. Harbin?

MR. HARBIN: Thank you, judge.

May it please the court?

THE COURT: Yes, sir.

CROSS EXAMINATION BY MR. HARBIN:

Q. Mr. Fowler, I briefly spoke with you earlier and showed

to you a document.

MR. HARBIN: May I approach?

THE COURT: Yes, sir.

BY MR. HARBIN:

Q. Could you tell me if you recognize that document?

A. Well, I do recognize --

Q. What it appears to be.

A. This obviously was an account from WYFF 4 News based on press release that we had released to them.

Q. Okay. And could you -- and there is -- there may be some editorial things in there. Could you tell the jury what details the WYFF attributed to you being the source of that I presume would have been part of the release?

MS. JORDAN: Objection, Your Honor, hearsay.

MR. HARBIN: Basically I'm -- I don't know if it's hearsay. I'm asking him what his words would have been to WYFF. I'm not sure.

THE COURT: Ask him to refresh his recollection and then you can ask him what his words would have been, but he can't read from it. It's not in evidence.

MR. HARBIN: I apologize. I understand.

BY MR. HARBIN:

Q. Could you -- if necessary, could you refresh your recollection about what your press release would have been on December 3rd?

A. Yes, sir, I can tell you that we released basic information, and that was the identity of the decedent, which had been confirmed through the positive ID of her mother on that morning. And we also gave a brief detail that she had been reported missing and that she was last seen around 1:30 a.m..

Q. Okay. And the article attributes to you the detail of a twenty-six year old woman. Does that jive with your recollection, or is that information that did not come from you?

A. That would be consistent.

Q. And that the manner of death was homicide?

A. That's correct.

Q. Okay. Also -- well, yeah, I believe you said that you had identified her and identified her by name?

A. That was after the mother positively identified her through the photograph, yes, sir.

Q. Yes, sir.

And her address and -- well, address, and obviously in the Gaffney here?

A. Which was confirmed by her mother.

Q. Okay. Thank you.

To expand on the last time she was seen, they also attribute to you that she had last been seen after leaving in her mother's vehicle, or -- I'm sorry, left home in her

mother's vehicle telling her she was going to the store?
A. That's what I was told.
Q. And also that attributed to you was that the body was found by a passerby lying on the side of the dirt road portion of Mikes Creek Road about five p.m.?
A. That is correct.
Q. Okay. And I showed you a similar article, but if recollection serves, basically the same amount of detail, or maybe not even that much detail in the Gaffney Ledger as well?
A. Yes.
Q. And that jives with what you recall your press release may have consisted of?
A. It was consistent with the press release, yes, sir.
Q. Okay. And you said that you didn't recall who was with Ms. Patrick. You do not recall that Mr. Clark was with her at the -- when you asked her to ID the body?
A. No, sir, I do not.
Q. And you submitted -- you submitted what I assume was a blood sample to SLED for testing, is that right?
A. Yes, sir.
Q. Are you aware of the results of that blood sample?
A. There were a lot of samples taken. Are you talking about the toxicology results?
Q. Yes, sir, thank you for being more specific than that.

A. Yes, sir.
Q. Yes, sir.
MS. JORDAN: Your Honor, I would object to the coroner being questioned about any of the results that were made. He wasn't the person who done it.
THE COURT: All right. If he is aware of it, but if the report is somebody else, he cannot testify to that report.
MR. HARBIN: I'll withdraw the next question.
No further questions, judge.
THE COURT: All right.
MS. JORDAN: Judge, just briefly, Your Honor?
THE COURT: Yes.
REDIRECT EXAMINATION BY MS. JORDAN:
Q. Coroner Fowler, did you state in any of your press releases that she had been stabbed to death?
A. No, ma'am.
Q. Isn't it true that you also told Channel 4 that "Coroner Dennis Fowler said Friday that the autopsy was complete, but that he would not release any of the details until the investigation is complete?"
A. That is correct.
Q. Okay. Just to confirm again, no details of the stabbing?
A. Correct.

MS. JORDAN: Nothing further, Your Honor.

THE COURT: Recross?

MR. HARBIN: No, sir..

THE COURT: All right. Thank you, sir. You may step down. Thank you for coming.

Do you want him to be excused, Ms. Jordan?

MS. JORDAN: Yes, sir.

THE COURT: Do you want him excused?

MR. HARBIN: No problem.

THE COURT: You are excused.

All right. Ms. Jordan, call your next witness.

MS. JORDAN: The State calls Melissa Skipper Wallace.

SLED AGENT MELISSA SKIPPER WALLACE, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. JORDAN:

Q. Please state your name for the record.

A. Melissa Skipper Wallace.

Q. Where are you currently employed?

A. I'm employed by the South Carolina Law Enforcement Division, commonly known as SLED.

Q. How long have you been employed there?

A. Almost nine years.

Q. Okay. What is your current position at SLED?

A. I am a field agent assigned to investigations in the

Piedmont Region investigations.

Q. Okay. Prior to being a field agent, what position did you hold?

A. I was assigned to the crime scene and latent print department within the forensic laboratory.

Q. Okay. What is your educational background?

A. I have a Bachelor of Science Degree in Mathematics from the University of South Carolina.

I have been a certified police officer for twelve and a half years.

I have successfully completed courses in basic fingerprint, ridgeology, advanced palm print comparison techniques, complex latent and footwear evidence collection and examination.

I have also successfully completed the SLED latent print crime scene department's two year in-house training program under court-qualified senior examiners. I have also trained other examiners in that department.

Q. Okay. And as part of your job you have to continue to -- or at the time that you were doing crime scene, did you have to continue to receive educational credits each year?

A. No, we took them as needed.

Q. Okay. Do you attend seminars and stuff like that, or did you back when you were in the crime scene?

A. I did.
Q. Okay. Have you ever been qualified as an expert before?
A. Yes, I have.
Q. In which courts?
A. General Sessions in the State of South Carolina for latent fingerprints and footwear.
Q. Okay. How many times?
A. About twenty times for fingerprints and about five for footwear.
Q. Okay. And in which counties, if you recall?
A. I have no idea.
Q. Okay. Throughout the state?
A. Yes.
Q. Okay.

MS. JORDAN: Your Honor, at this time we move Ms. Skipper Wallace into -- we move to admit her as an expert in the field of footwear and latent prints.

THE COURT: Voir dire with regard to qualifications, Mr. Harbin?

MR. HARBIN: No, sir.

THE COURT: All right. The court will qualify the witness, Ms. Wallace, as an expert in the field of footwear and latent prints.

Again, ladies and gentlemen, you will recall that

I told you that the witnesses qualified as an expert by education, experience, training, or otherwise is entitled to give an opinion, and I have qualified this witness as an expert witness.

All right, you may proceed, Ms. Jordan.

MS. JORDAN: Thank you, Your Honor.

BY MS. JORDAN:

Q. I'm going to start out with footwear, and I'm going to show you what's previously been marked into evidence as State's Exhibit 14, which is a pair of Wolverine boots, and ask if you recognize those?

A. Yes, I do.

Q. Okay. Did you have a chance to examine those as part of your work on this case?

A. I did.

Q. Okay. How did you receive those boots?

A. If I can refer to my notes?

Q. Yes, ma'am.

A. These boots, in particular, I received from Michael Moskal, who works in our trace department. I received them from him on April 8th, 2011, in a box.

Q. When you received them, what did you do once you had them in your possession?

A. Typically anything that comes into my custody, I will open it, make note of how it's packaged and sealed, and then

perform any examinations that need to be performed.
Q. Okay. As to these boots, what examination did you perform?
A. These boots, in particular, were sent over to our photo department to be documented. Once I received them back, I made test impressions on those boots. Those test impressions are so that I can make any footwear comparisons that I need to make. We made those by basically placing red powder on the bottoms of the shoes, or the soles, and then we actually will put the boots on and make a walking test impression on a clear transparency.
Q. Okay. Did you also take some swabs from the exterior soles of both shoes -- both boots?
A. Yes, I did. I did these swabs after they came back from our photo department. When we document any footwear, we want to document them as we receive them prior to once we made an examination.
Q. I'm going to show you what's previously been marked as State's Exhibit 140 and 141, and it's also been admitted into evidence, and ask if you recognize those two envelopes?
A. I do.
Q. How do you recognize them?
A. They are marked with the laboratory tape number, the item number that was assigned to the items, as well my initials.

Q. Would you tell the jury how you collected those two swabs?

A. Any type of swabs that we collect, unless the material is to be collected is wet, we will take sterile swabs, moisten them with deionized water, collect a sample and let them dry and package them and seal them.

Q. Once you collect the swabs, what do you do with those swabs at that point?

A. They are submitted to our DNA department.

Q. And you sealed those --

A. Yes.

Q. -- before they were submitted?

A. Yes.

Q. Now I'm going to move from the boots on to the fingerprints.

Did you -- did you receive in this case standards from Winter Wingard?

A. I did.

Q. Okay. I'm going to show you what's State's Exhibit No. 111 and ask if you recognize those?

A. I do.

Q. I tell you what, I'm going to step back for a moment and just go back to the boots and ask if you could pull those out, and I do have some gloves here, if you need them.

I will just ask you to show the jury where on those

boots you took the swabs from?
A. When I said the sole, that is the portion of the shoe that comes into contact with the ground. As you can see from the red color, that is going to be areas that I swabbed.
Q. And the red color that's there, that wasn't there when you did the swab, was it?
A. No, the red powder was placed by me.
Q. Could you also show them on the other boot?
A. And it's going to be the same thing.
Q. Okay. Did you swab the whole area?
A. Yes.
Q. Okay. Do you have any indication as to on this boot what this may be in this area, at the top of the heel?
A. Some kind of soil.
Q. Okay. Back to the fingerprints.
I have also handed you State's 112. Do you recognize that?
A. I do.
Q. Could you tell the jury what's contained in State's 112?
A. State's 112 are the complete inked fingers and palms belonging to Joey Lynn Clark.
Q. Did you receive any lifts from the Cherokee County sheriff's office in relationship to this case?

A. I did.

Q. I'm going to hand you --

We will start out with State's Exhibit No. 99 and I'll ask if you recognize that?

A. Yes.

Q. Could you take a moment and just explain to the jury what a latent print is?

A. The surfaces of the hands and fingers, as well as the soles of the feet and toes, are lined with raised portions of skin called friction ridge skin. The raised portions are called ridges and the depressions are called furrows.

The raised portions have pores on them that exude sweat. The sweat tends to flow along the ridges and collect, sometimes mixes with oils from the facial area or other parts of the body, which makes it possible to leave an outline of those ridges and that sweat or the moisture where an object is touched.

That fingerprint or that impression that's left is what we refer to as a latent fingerprint. And latent by definition means hidden or not easily visible. Latent prints are 99.5 to 99.9 percent moisture.

Q. How are you able to identify a specific print and relate it to an individual?

A. We use a method that's called ACEV. It stands for analyze, compare, evaluate and verify.

During the analysis phase the latent fingerprint or unknown is examined to determine if there is sufficient quality to make an identification. Things that we are looking for are pattern types; individual ridge characteristics, which are going to be bifurcations, ending ridges, or dots.

Bifurcations are ridges that flow alone and fork in two separate and distinct ridges.

An ending ridge is just what it sounds like, the ridge flows along and comes to a abrupt stop.

And a dot is exactly what it sounds like, a dot.

We look at those ridge characteristics in the relationship to each other when we are making a comparison.

Now, if there are sufficient ridge detail to make identification we move to the comparison phase. During the comparison phase we are comparing those ridge characteristics, and, again, their relationship to each other with some known standard or fingerprint card.

Once we make that comparison, we move to the evaluation phase. We are deciding whether or not there is sufficient correlation between the unknown and the known to make an identification, or a non-identification, or a no-conclusion.

Identification means that it was made by that particular finger, piece of the palm belonging to that individual.

A non-identification means it was not made by that individual finger or portion of the palm.

No-conclusion means there is something that is either missing from one or the other that makes it impossible for to us reach a definitive conclusion.

Once that evaluation phase is completed, that latent fingerprint will go to another independent examiner and they will go through the ACEV portion to come to the same conclusion.

Q. So there are sometime you have items that you are not able to get a value or an identification to, is that correct?

A. Right.

Q. Okay. As to State's Exhibit No. 99, could you tell the jury if you were able to make an identification as far as that print?

A. Yes. It was identified to Winter Wingard, her left palm.

Q. Now I'm going to move to State's Exhibit No. 97. Were you able to make an identification as to State's 97?

A. I was.

Q. What was that?

A. It was also identified to Winter Wingard, her left palm as well.

Q. Okay. And other than the diagram on there, you were

not present when this item was removed from the vehicle that it was taken from, were you?

A. No, I was not.

Q. So the only indication that you have, as far as location, is the drawing that's made on the opposite side?

A. That, and it is listed as being from the driver's side front door.

Q. Okay. What is the detailed description as to the location of the other State's Exhibit?

A. State's Exhibit 99 is listed as being from the driver's side front door.

Q. I'm going to hand you now State's Exhibit No. 98 and ask if you could identify the item contained within there? That's more than one sheet.

Would you like a pair of gloves or anything?

A. No.

Can I remove it?

Q. Yes, ma'am.

As to State's No. 98, were you able to make an identification?

A. I was.

Q. What was that identification?

A. It was identified to Joey Clark, his right palm.

Q. And what was given as the location for that palm print?

A. It's listed as the driver's side front door.

Q. Okay. I'm now going to show you State's Exhibit No. 100 and ask if you -- do you recognize that and if you were able to make an identification? And you are also welcome to open it, if need be.

A. Yes, I recognize it.

Q. Could you tell the jury if you were able to make identification as to that item?

A. No, it was insufficient for identification.

Q. Okay. Is there a location labeled on that card?

A. It's listed as the driver's side front door molding.

Q. Okay. Now I'm going to show you State's 101 and ask if you recognize this?

While you are looking at that, how do you recognize each one of these items? Did you make a specific marking on them to know that you were the one who looked at them?

A. I did. They were marked with the laboratory case number, the item number, and my initials.

Q. Okay.

A. Yes, I recognize State's Exhibit 101.

Q. Were you able to make an identification as to that item?

A. Yes, it was identified to Joey Clark, his right palm.

Q. Okay. Is there an indication on those prints where they were pulled from?

A. They are listed as being from the passenger's side rear

quarter panel.

Q. Thank you.

MS. JORDAN: Your Honor, may I have a moment?

THE COURT: Yes, ma'am.

(Off the record)

(Back on the record)

BY MS. JORDAN:

Q. I don't have any of the other prints here, but did you also receive additional prints in this case?

A. I did.

Q. As to those prints, were you able to make a specific identification, or even able to assign value to them?

A. Two of them was compared and not identified with anyone.

And there were additional latent lifts I received that were of no value for identification.

Q. Okay. Please answer any questions that Mr. Harbin may have.

THE COURT: Cross-examination Mr. Harbin?

MR. HARBIN: Yes, sir.

CROSS EXAMINATION BY MR. HARBIN:

Q. Just to clarify a little bit on the last question Ms. Jordan asked you. The two items that were not identified, am I understanding you correctly to mean that you compared them to Ms. Wingard's prints and Mr. Clark's prints and they

499

were not from either of those two people?

A. They were also identified with -- I mean compared to a Beverly Patrick. One of them she was eliminated from and one of them was no conclusion.

Q. Okay. And is that -- what is the no-conclusion? I know what that means, but what -- what does that practically mean for -- is there a reason why, particularly, or is it just not quite certain enough for you to offer an explanation, you know, kind of a certain opinion? Could you expand upon that a little bit?

A. It depends on a case. Sometimes there is a something that's missing from the standard. Sometimes it's something that's just not as clear on one being the standard or the unknown to make it a definitive conclusion.

Q. Okay. Thank you.

MR. HARBIN: That's all. Thank you, judge.

THE COURT: Redirect?

MS. JORDAN: No, Your Honor.

May this witness be excused?

THE COURT: Any objection, Mr. Harbin?

MR. HARBIN: No, sir.

THE COURT: All right. Thank you. You are excused.

Give the -- Ms. Jordan, if you will get these exhibits back off the bench here and make sure she doesn't

leave with any of them.

THE WITNESS: Thank you, judge.

THE COURT: All right. You may call your next witness.

MS. JORDAN: Thank you, Your Honor.

The State calls Michael Moskal.

SLED AGENT MICHAEL MOSKAL, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. JORDAN:

Q. Please state your name for the record.

A. Michael Moskal, M-O-S-K-A-L.

Q. Where are you currently employed?

A. Currently I'm employed by the South Carolina Law Enforcement Division, what is commonly known as SLED, and I'm assigned to the trace evidence department.

Q. If you could, tell the judge about your educational background.

A. I have a Bachelors of Science in Chemistry from the College of Charleston.

Once I was employed by SLED I began an in-house training.

Currently I'm trained in eight different disciplines. Each one of those disciplines was about a six month to a one year training period where I worked with a court-qualified analyst. I worked their cases with them.