

VOLUME I of II

STATE OF SOUTH CAROLINA IN THE COURT OF APPEALS

Appeal from Richland County
Honorable DeAndrea G. Benjamin, Circuit Court Judge

THE STATE,

V.

LATISHA RASHIONE TODD,

RECEIVED
MAY 14 2019
RESPONDENT
SC Court of Appeals

APPELLANT

APPELLATE CASE NO 2018-000348

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

COURT OF GENERAL SESSIONS

2017-GS-40-428

2017-GS-40-431

2017-GS-40-432

2017-GS-40-433

5 State of South Carolina,)

6 Plaintiff,)

7 vs.)

TRANSCRIPT OF RECORD

8 Latisha Rashione Todd,)

9 Defendant.)

10 July 17 - 21, 2017

11 Columbia, South Carolina

14 B E F O R E:

15 THE HONORABLE DEANDREA G. BENJAMIN, JUDGE; and a
16 jury.

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

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1 JULY 17, 2017

2 (WHEREUPON, the proceedings began at
3 11:50 a.m.)

4 THE COURT: All right. So this is the case of
5 Latisha Todd, Case Number 2017-GS-40-433, 432, 431,
6 and 428. And it is four indictments for ill
7 treatment of animals.

8 And representing the State is Mr. --

9 MR. BERRY: Joe Berry.

10 THE COURT: -- Joe Berry and Ms. Sandra Moser.
11 And Mr. Mark Schnee is representing the Defendant;
12 is that correct?

13 MR. SCHNEE: Afternoon, Your Honor.

14 THE COURT: Just a couple of housekeeping
15 matters. I do intend on picking the jury this
16 morning, then I think we can break and then go into
17 motions.

18 How many motions do you all have? How long do
19 you anticipate it taking?

20 MR. SCHNEE: Between one and two hours, I
21 would think.

22 THE COURT: One and two hours' worth of
23 motions?

24 MR. SCHNEE: Depending on how long the
25 testimony takes. I've got motions to suppress

1 back. The photographs, and then we have the -- do
2 we want to do the 702 so the witness can leave?

3 MR. SCHNEE: Sure.

4 THE COURT: What type of expert are you trying
5 to qualify him as?

6 MR. BERRY: As an expert in veterinary
7 forensics and veterinary services, veterinary care.

8 THE COURT: My court reporter needs to take
9 about a 5-minute bathroom break.

10 MR. SCHNEE: That's fine.

11 THE COURT: And then the only other motion you
12 have is to settle record, and we can do that.

13 MR. SCHNEE: Actually, Judge, Number 3, we can
14 just eliminate that one.

15 THE COURT: Okay.

16 MR. SCHNEE: I think with all the testimony --
17 even if I had any arguments, it wouldn't be an
18 issue we have to deal with.

19 Settling the record of my client, which is
20 virtually nothing.

21 Number 5, it sounds like we kind of already
22 dealt with.

23 THE COURT: Yes, we did.

24 MR. SCHNEE: So we kind of decided 6 at the
25 same time.

1 THE COURT: Another day. So nothing comes in
2 on the prior record; right? That's it.

3 All right. And then we have -- your witness
4 is here and ready?

5 MR. BERRY: Yes, Your Honor.

6 THE COURT: All right. Under 702, call your
7 witness.

8 MR. BERRY: The State calls Dr. Rebecca K.
9 Laster.

10 (Witness approaches.)

11 THE BAILIFF: Place your left hand on the
12 Bible, and raise your right hand, please.

13 (Witness complies.)

14 THE CLERK: Do you swear or affirm the
15 testimony you give in this case will be the truth,
16 the whole truth, and nothing but the truth, so help
17 you God?

18 THE WITNESS: I do.

19 THE CLERK: Thank you. Have a seat in the
20 witness stand, please.

21 (Witness seated.)

22 THE CLERK: State your name for the record.

23 THE WITNESS: Dr. Rebecca K. Laster.

24 REBECCA K. LASTER,
25 after being duly sworn, testified as follows:

DIRECT EXAMINATION

1
2 BY MR. BERRY:

3 Q Thank you for being here today, Dr. Laster. I
4 appreciate your time. Can you for the Court state
5 your current position, professional position?

6 A I am the animal services veterinarian for the City
7 of Columbia Animal Shelter. I also am a shelter
8 veterinarian for a private shelter in Manning,
9 South Carolina.

10 Q And how long have you been engaged in that capacity
11 for the City of Columbia?

12 A Since October of 2014.

13 Q And, in that capacity, what services do you
14 provide?

15 A I'm in charge of the health and well-being of
16 animals within the city shelter, so surgery, I
17 stipulate and organize preventive health
18 maintenance for the animals. I also assist with
19 the medical needs of animals that might be brought
20 in that are injured. And I also perform necropsies
21 on occasion.

22 Q And are there other veterinarians there as well?

23 A No, I'm the only veterinarian.

24 Q So you're the sole lead for the City of Columbia
25 Animal Shelter?

1 A Correct.

2 Q What you do in the private capacity in Manning, and
3 how long have you been doing that?

4 A I've been doing that since August of 2012. And
5 basically I consult on their preventive health
6 protocols. I do surgery once a month for them. So
7 animals that are getting adopted out, spay/neuter
8 surgeries, those sorts of things.

9 Q And for the City of Columbia, how many animals are
10 under your care at any given time?

11 A It varies from month to month. Our busiest months
12 are in the summer months, so May, June, July, and
13 August. During those months we can have up to 550
14 animals at any one time. In the winter months, it
15 is more like 250 animals.

16 Q And what sort of animals are you caring for?

17 A Primarily, dogs and cats. The greatest population
18 is of that -- of those species. We do occasionally
19 have pocket pets: Rabbits, gerbils, hamsters,
20 guinea pigs.

21 Q So you perform surgeries, do the medical evals?

22 A Correct.

23 Q And monitoring their health and well-being?

24 A Correct.

25 Q And you mentioned necropsies. What exactly do you

1 do in that capacity?

2 A A necropsy is basically an autopsy for animals. So
3 in those cases we are looking for why did the
4 animal die, what medical situations contributed to
5 their presentation to us. So was it shot, was it
6 hit by a car, was it -- did it have an illness that
7 caused its death.

8 Q And so is that in a law enforcement, like assisting
9 law enforcement capacity? Who are you doing those
10 necropsies for?

11 A Certainly we do them for law enforcement. And
12 that's part of an investigation in animal death
13 cases. But we also do them in cases where somebody
14 just doesn't understand why their animal died and
15 they want to know. And it's not necessarily just
16 because the animal is part of a legal case. It's
17 because they want to find out what killed the
18 animal.

19 Q So it varies?

20 A It does, quite a bit.

21 Q But you do assist law enforcement in that capacity?

22 A Correct.

23 Q Reports are used for law enforcement purposes?

24 A Correct.

25 Q And so that's the last several years you've been in

1 this role. Let's take a bigger step back to your
2 education. Can you describe your graduate level
3 education? Undergraduate, graduate? Higher
4 education.

5 A I received a Bachelor of Science degree in zoology
6 from North Carolina State University in 1994. I
7 went on to go -- sorry, 1990. I went on to do my
8 Doctorate of Veterinary Medicine Degree at the same
9 institution, and received that in 1994. And then I
10 have been for the last two years pursuing a
11 Master's of Shelter Medicine and a graduate
12 certificate in veterinarian forensics with the
13 University of Florida.

14 Q And back to that zoology bachelor, briefly, what
15 all does zoology cover? What all is your expertise
16 and knowledge from that?

17 A Zoology covers animals and their interaction with
18 the environment. So whether that be animals in
19 herd, on pasture, whether that be a wild animal in
20 its home environment, like a bear in the woods. It
21 just covers, basically, animals and their
22 interaction with the environment.

23 Q And you graduated summa cum laude, did you not?

24 A I did.

25 Q Is that the best one? Is that magna or summa,

1 which one's the best one?

2 A The best one is summa cum laude and magna is the
3 next.

4 Q 4.0, then, huh?

5 A Very close, yes.

6 Q Well done. See, I didn't even know which one was
7 which. And in your Doctorate of Veterinary
8 Medicine, that came four years later. That's when
9 you become a doctor, a veterinary doctor?

10 A Correct.

11 Q And what all does that entail? What all knowledge
12 comes with that?

13 A Basically what I tell people is that it allows me
14 to practice medicine on every animal species in the
15 entire world but one.

16 Q Humans?

17 A Humans are the only exception. So we have
18 knowledge and skills for anything from marine
19 mammals to domestic creatures that we deal with
20 every day.

21 Q And so in '94 when you graduated NC State, that's
22 when you began your career as a veterinarian;
23 correct?

24 A Correct.

25 Q Please describe for the Court how your career

1 started, what you did, and where all you went to.

2 A I initially practiced in Roanoke Rapids, North
3 Carolina. It was a mixed animal practice, so we
4 dealt with both agricultural animals -- sheep,
5 goats, cattle, horses -- as well as companion
6 animals -- dogs, cats, and pocket pets. We did
7 work with the local animal shelter there.

8 From there, I left and went to Spartanburg and
9 worked for the emergency clinic in Spartanburg for
10 four years. So I worked solely with animals in
11 critical conditions, basically.

12 I did some work -- the emergency clinic that I
13 worked for had a contract with the humane society
14 in that town. So I worked with shelter animals in
15 that capacity.

16 And then from there, I purchased my own
17 practice. Was in practice in Gaffney, South
18 Carolina for nine years. And then family
19 situations brought me to Columbia. And I worked
20 briefly for the Lexington Emergency Care,
21 Veterinary Emergency Care. And then went to work
22 for Palmetto Lifeline for two and a half years and
23 then the city shelter.

24 Q Okay. That brings us up to date?

25 A Correct.

1 Q In that capacity, you've done everything from basic
2 care or surgery; euthanasia, necropsies, you've
3 kind of crossed the gamut, I imagine?

4 A Very much so.

5 Q Could you even put a number on how many surgeries
6 you've performed?

7 A In the tens of thousands, yes.

8 Q So the animals you cared for and spent time with
9 is, I imagine, a quite higher number?

10 A Yes. I don't know that I could put a number on
11 that.

12 Q I'd like to bring you back to your recent formal
13 education with veterinary forensics. You said at
14 the University of Florida there was two separate
15 aspects you had been pursuing in regards --
16 specifically, veterinarian forensics, and then I
17 believe shelter medicine, Master's; is that
18 correct?

19 A Correct.

20 Q Please tell the Court what it means to have a
21 graduate certificate in veterinarian forensics.

22 A Veterinary forensics is a very new and developing
23 field in veterinary medicine. Basically, the
24 graduate certificate gives me education on the
25 various aspects of forensics. So we deal with

1 forensic medicine, so examining animals, performing
2 necropsies. We have legal cases, classwork, so we
3 have classwork that deals with the law and how that
4 applies to animal cruelty cases. We also have
5 classes on forensic entomology, which is the study
6 of insects as it relates to legal cases. And then
7 the classes on pathology, so what sorts of lesions,
8 what are you going to see in animals involved in
9 certain types of animal cruelty cases.

10 Q So with that training then -- I'm sorry, so that's
11 the veterinary forensics aspect?

12 A Correct.

13 Q You have received that certification; correct?

14 A I have.

15 Q And you are still in the process of getting your
16 Master's of Science in shelter medicine?

17 A Correct.

18 Q That's just an expansion of your veterinary skill
19 set; correct?

20 A Right.

21 Q Well, what's involved in shelter medicine?

22 A Shelter medicine deals with companion animal
23 species in a population environment. So typically
24 most veterinarians deal with dogs and cats on a
25 one-on-one basis. And in shelter medicine, you are

1 dealing with a population of animals. You are
2 dealing with a large number of animals in a small
3 area. So it becomes a little bit of a different
4 situation.

5 Q So dog behavior when around significant amount of
6 other dogs or other dogs?

7 A Correct. It involves behavior, it involves
8 preventive health, what diseases that we see in a
9 population of dogs versus when you're housing dogs
10 individually, or cats, those sorts of things.

11 Q So in your practice and in your studies, you have
12 the knowledge of what happens when, for example, a
13 dog is dehydrated, do you know what happens
14 directly -- literally what will happen to a dog's
15 body?

16 A Yes, we do learn that, yes. That's part of the
17 education.

18 Q And starvation?

19 A Correct. That's part of the education.

20 Q And can you just briefly kind of focus in on the
21 specific course work from that veterinary forensics
22 program that you covered?

23 A As far as dehydration goes?

24 Q Actually --

25 MR. BERRY: Beg the Court's indulgence.

1 (Pause.)

2 MR. BERRY: Your Honor, I'm not sure I want to
3 offer her right now or not. We intend to -- we
4 have some specific questions once we get into the
5 facts of this case that she would, I guess, apply
6 more specific knowledge as to how she knows that
7 without kind of asking all these questions. I'll
8 take a pause here and check in with y'all about how
9 you want to proceed.

10 THE COURT: I guess I'm not following. Her
11 testimony is regarding -- did she -- I mean, the
12 animals were dead and decomposed, is my
13 understanding. Did she do anything with the
14 animals in this case or is she just --

15 MR. BERRY: She is a blind -- essentially, a
16 blind expert. We have discussed with her before
17 hypotheticals, and that's what we intend to ask her
18 at trial, What would happen if a dog was left in a
19 room for X amount of days? What happens to the
20 body if you don't have access to water? What
21 happens to the body if you don't have access to
22 food? Is that changed by high amounts of heat? If
23 the room is unventilated, how would that make a
24 difference? We would discuss the physical
25 components of what actually would happen to the

1 animals. And then we would move on to address
2 other behaviors, how would they then act,
3 psychologically, how it would impact them. And she
4 can also -- as we go to the questions, we'll ask
5 where she draws her knowledge specifically from.
6 But that's the extent of kind of the general
7 background on her.

8 THE COURT: So she's not giving an opinion
9 regarding -- I'm assuming she's not giving an
10 opinion regarding these animals because she had at
11 no point treated the animals?

12 MR. BERRY: Correct. She will give her --

13 THE COURT: Or had anything to do with the --

14 MR. PERRY: At the point in which the animals
15 were, I mean, virtual goo, at the point of law
16 enforcement coming in, right. So she was unable to
17 perform any sort of necropsy or learn from the
18 animals themselves. What we would offer her expert
19 testimony as to what happens to an animal as it is
20 starving physically, pain and suffering, what
21 happens on that account. What happens to starving,
22 what happens when an animal is being dehydrated.
23 We would also ask about bug bites, other
24 circumstances from -- that will come out at trial,
25 how that will impact.

1 THE COURT: All right. Yes, sir? Any
2 questions?

3 MR. SCHNEE: Judge, I think I can help clarify
4 this whole issue. I'm not doubting that she's a
5 wonderful veterinarian and has lots of knowledge.
6 The meat of this case is -- under the statute, my
7 client is charged under Section B, which is defined
8 as a person who tortures, torments, needlessly
9 mutilates, cruelly kills, or inflicts excessive or
10 repeated unnecessary pain and suffering on the
11 animal.

12 THE COURT: And the last part.

13 MR. SCHNEE: Or by omission causes these acts
14 to be done. They are using this expert to
15 bootstrap how dogs feel in theory and concept as to
16 what these dogs may or may not have gone through
17 without any witnesses or anything else, without any
18 examination, as opposed to anything else. They are
19 essentially trying to create this as a Subsection
20 (b) case rather than a Subsection (a) case. And
21 this is the witness they are trying to do that
22 to -- or use to do this with.

23 So my argument isn't necessarily that she is
24 not a qualified veterinarian, it's that the science
25 or alleged science that they are trying to proffer

1 has never been done before, never even been
2 testified to. I don't even see how it's relevant
3 in this case since there's no examination of these
4 particular animals, no testimony from any live
5 witnesses describing anything. It's simply
6 decomposed bodies. And as I think you've already
7 heard, there are no laws in South Carolina about
8 dealing with animal remains. So it's not like it
9 would be relevant conduct for the issue of the
10 cause of death.

11 MR. BERRY: So -- are you finished? I didn't
12 want to interrupt.

13 Our theory of the case is these animals were
14 left in a room to die. That it was seemingly hot
15 in that room. It's an unventilated room. We will
16 have testimony to the fact that it was exceedingly
17 hot, that it was very poorly ventilated. That
18 adequate food and water were not left behind.
19 We'll have testimony to all of that. She will
20 admit to having left the animals in that location
21 for a month.

22 We were unable to perform a necropsy because
23 of the condition of the animals. There is -- we
24 have pictures of some of this, of the room and of
25 the environment, which we will have testimony to,

1 of what was found there.

2 And the purpose of the expert witness here
3 will be to explain things to the jury that the jury
4 would otherwise not know about how an animal dies
5 in this manner; right? Specifically, the statute,
6 as Mr. Schnee correctly points out, requires,
7 amongst other potential predicates, unnecessary
8 pain and suffering, excessive or repeated
9 unnecessary pain and suffering, or cruelly killed
10 or tortured, tormented.

11 So what this expert can testify to is what
12 happens to a body -- we know for a fact these
13 dogs -- well, we believe we will prove that these
14 dogs did not have adequate water and food. So she
15 will then be able to tell the jury what happens to
16 a dog when they don't have water, what happens to
17 the skin, what happens to the organs, what happens
18 when there is no food, how the body starts eating
19 itself, it starts eating its own muscle tissue.
20 She can testify to things of that nature, of how
21 the body responds, how that impacts a dog.

22 The room is filled with debris and other
23 nastiness. She can testify to that the dogs would
24 likely eat things that are around if there's paper,
25 any other object. When they run out of food, they

1 start eating other things. She can testify not
2 only that is what dog behavior is, what she knows
3 from her experience and studies, but also what
4 happens medically, that there will be a stoppage as
5 a result of the intestinal tract, what happens in
6 situations such as this.

7 There will be testimony at trial about urine
8 and feces being all throughout the room. She can
9 testify when a dog is out of water, will they drink
10 their own urine? What that then does to a dog. If
11 they drink their own urine, how does that impact
12 their physiology?

13 And, again, I take responsibility for kind of
14 awkwardly presenting this. I could have kept going
15 with my proffer and examination, but I'd like to
16 hear it directly from her. I'm happy to switch
17 back over to that. She would be able to testify
18 per academic studies and her learnings that
19 psychologically, they can sense death in each other
20 and so they will know that death is coming. We've
21 got studies to that effect, scientific knowledge to
22 that effect. And it's why at the shelter medicine
23 why we -- shelters have to euthanize. They do it
24 in an isolated area. So these are things --
25 because dogs can sense death in others. And then

1 the hypothetical with three dogs in a room, they
2 know each other is dying, how that would impact
3 them, and anxiety and others ways they would
4 behave. All of those types of information,
5 analysis, knowledge is beyond standard lay
6 knowledge. And we think her testimony would be
7 highly relevant and probative.

8 THE COURT: Let me ask a question, are you
9 objecting to the testimony -- are you objecting to
10 this witness's testimony all together, or are you
11 objecting to the testimony regarding dehydration,
12 general -- I think there has been some general
13 testimony that she wants to give regarding -- he
14 wants her to give regarding dehydration, not having
15 water, heat, what happens to -- it would be similar
16 to, I guess, someone testifying -- I'm a little
17 unsure, I'd have to hear the testimony regarding
18 this whole, the dog sensing -- I know you are
19 objecting to that -- the dog sensing other dogs
20 dying and going through anxiety, and that. I'm not
21 sure about that.

22 MR. SCHNEE: Judge, I object to any behavioral
23 aspects of it. I mean, without actually knowing
24 and examining, I think it's really hard to say that
25 it's even relevant testimony to say, Well, the dog

1 would die within three or four days without water
2 because dehydration causes this, this, and this.
3 We don't even know that happened or not without any
4 examination.

5 As to the psychological impact of other
6 animals, I'm going to need to see a lot of studies,
7 which nothing has been provided to me. And all
8 discovery is required to be provided to me. If
9 they're going to be talking about peer reviewed
10 things that are necessary -- and that's what the
11 Rule 702, the Jones factors and Y factors, require.
12 I am absolutely objecting to all that type of
13 testimony.

14 THE COURT: The psychological part. So maybe
15 you need to continue your -- to proffer your
16 testimony. She is not a fact witness. She's an
17 expert witness, is what he's trying to offer her
18 for. So I do think that she can probably testify
19 to dehydration and based on her studies how long it
20 takes a dog to -- you know, how often they need
21 water and what happens when they become dehydrated.
22 I think she can testify to that. My concern is the
23 psychological stuff that you just said, she hasn't
24 testified to it. I mean, but I would need to hear
25 about publications, peer review, you know, is this

1 conclusion reached by something that is a
2 recognizable scientific law in this area of science
3 as to dogs and anxiety and -- yes, I mean, I
4 haven't made a formal ruling as to the -- but I
5 think she's here to give opinion testimony just
6 maybe as to, you know, dogs. And then she can't
7 testify to these dogs and, of course, all that
8 goes, I think, to the weight because you'll be able
9 to get up and ask her, Did you see any of these
10 dogs? Did you treat any of these dogs? Did you
11 examine any of these dogs? And she's going to say
12 no. So I think that goes to weight. But I'm a
13 little concerned about the second half of
14 everything that you're trying to --

15 MR. BERRY: Well, I apologize to the Court. I
16 know I kind of awkwardly kind of paused in my
17 proffer here. So if I may continue where we were?

18 THE COURT: Yes.

19 MR. BERRY: Thank you, Your Honor.

20 BY MR. BERRY:

21 Q So, Dr. Laster, hypothetically, if a dog does not
22 have access to any water, how long could it
23 survive?

24 A There's a lot of variables in that. Complete
25 access to water versus partial access to water.

1 And when we think of access to water, we're not
2 only talking about just physical water, we're also
3 talking about the water that's contained in other
4 things, such as food. So canned dog food,
5 obviously, has greater water content. If there's
6 no access to water, then dehydration can occur over
7 just a few days. If you're talking about an
8 extreme heat, like a hot car, then dehydration can
9 occur very rapidly.

10 Q So if there was, say, dry food, would that be able
11 to prolong an animal's ability to survival or --

12 A Dry food has very limited water, so, no.

13 Q And what happens to a dog's body as it's
14 dehydrating?

15 A Well, hydration is maintained by a balance between
16 water and salt in the body. Okay? So as you lose
17 water, the salt goes up in your body. The salt
18 content of your body goes up. It causes weakness,
19 it causes disorientation. You get what's called
20 salt toxicity. So the nervous system is very prone
21 to salt toxicity. And it causes confusion,
22 disorientation. The inability to properly seek out
23 what you would normally -- if you're very thirsty,
24 you're going to seek out water. Well, as you
25 dehydrate, you lose the ability to think about that

1 and do what you need to do to find water.

2 Q And what would a dog do to find water?

3 A It's going to search its environment. Anything
4 that has any moisture content to it, they're going
5 to try and ingest.

6 Q Such as urine?

7 A Absolutely. Yes, they will drink urine. They will
8 drink any other liquid that's in the environment.
9 Antifreeze. Even if it's toxic, they'll drink it.

10 Q What would be the effects of, say, urine be on the
11 body? Would that help or hurt the matter?

12 A It would -- eventually, it would harm the dog
13 because urine is part water, but it's also part
14 toxins that the body is eliminating. So there are
15 things likes nitrogen that are eliminated -- that
16 are created through the breakdown of muscle tissue,
17 and that is then eliminated through the kidneys.

18 As you -- if you drink urine, then you're
19 reabsorbing that nitrogen. There are certain
20 others things -- potassium, magnesium, things like
21 that -- that your body uses the urine to keep in
22 balance. And then the more you drink urine, the
23 more those things are going to be out of balance.

24 Q So would drinking urine affect a dog the same way
25 it would affect a human, for example?

1 A Pretty much, yes. The consequences would be
2 similar.

3 Q Okay. And what about food, lack of food or no food
4 at all, what would happen to a dog that's starving
5 without access to food?

6 A Without access to food, the hunger first is what's
7 going to get to them, just like it would with
8 people, so we get very hungry. Dogs don't have the
9 capacity to understand that certain things are food
10 items and certain things are not, which is why we
11 occasionally get that dog that eats a blanket or a
12 mop, you know, in emergency medicine. It's
13 something that the owner has to keep an eye on. So
14 in dogs that are starving, one of the first things
15 they will do is they will try and curb their hunger
16 by eating abnormal objects. It's a condition known
17 as pica. So they'll eat trash, they'll eat mulch,
18 they'll eat grass, they'll eat a lot of different
19 things.

20 Q Does that satisfy their hunger?

21 A To an extent, it does, but the problem is that it
22 has no nutritional value, so it doesn't change the
23 negative energy balance that they're in.

24 Q And can it result in complications?

25 A It certainly can. They can form a blockage. The

1 garbage or the food becomes trapped in an area of
2 the intestinal tract. The intestinal tract tries
3 to move it forward, but it can't. And then the
4 animal gets to a point where it can't eat because
5 of the excessive amount of blockage.

6 Q And does that cause pain?

7 A It does. There are stretch receptors within the
8 intestinal tract, and as those blockages occur, it
9 stretches out that section of the intestinal tract
10 and causes pain.

11 Q And how would you describe pain and suffering in
12 dogs? Do they experience pain and suffering like
13 humans do?

14 A Yes. Pain is a physical manifestation, so pain
15 has -- basically, there are receptors within the
16 body that they sense pressure, they sense heat,
17 they sense cold. And then those receptors then
18 communicate with the central nervous system through
19 nerves and spinal cord and brain. And then there
20 is an emotional component to pain, which is why
21 different animals experience in the same amount of
22 pain will have different reactions to it.

23 Q So, in other words, different pain thresholds?

24 A Correct.

25 Q Just like humans have different pain thresholds?

1 A Correct.

2 Q And you said emotional pain. Tell me how you know
3 about emotional pain in dogs.

4 A Let me think how to answer this best. Animals show
5 their emotions in ways that are nonverbal. So, for
6 example, if we're looking at a critically ill
7 patient that has been hit by a car, they may not
8 sit there and vocalize constantly, just as if you
9 were in an automobile accident and you were in the
10 emergency, you're not going to sit there and
11 constantly go, Ow, ow, ow. You're going to --
12 there are other things that you're going to do. So
13 you're going to guard an area that's painful,
14 you're going to resist someone touching that area,
15 you're going to verbally tell somebody. Well,
16 animals can't do that. But they can do all of
17 these other things. They can resist palpation to
18 the area. They can move away from contact. They
19 can refrain from interacting with those who are
20 taking care of them.

21 Q And would not having access to adequate food and
22 water, would that cause any other mental effects on
23 dogs?

24 A There is distress when they can't achieve or cannot
25 get the things that they require. So in other

1 words, if we're hungry, we're going to go and
2 search out food, but if we can't get to food for
3 whatever reason, then we're going to become
4 distressed about that. Animals have the same
5 response.

6 Q And what about fleas and ticks. If a dog is bit by
7 a flea or a tick, does that irritate or hurt the
8 dog? Do they like that?

9 A Yes. It causes irritation to the skin. Fleas
10 create an inflammatory response in the skin, so
11 that itches. Eventually, if there's enough of an
12 itch, they'll get what's called hot spot, which is
13 where they've scratched the skin raw. And that is
14 painful.

15 Q What if there was, for example, a massive flea
16 infestation? Can they be kind of consumed by
17 fleas? Could fleas themselves kill a dog?

18 A Yes, they can. Fleas ingest blood, and so if you
19 have a sufficient number of fleas, then they can
20 cause anemia, and that in and of itself can cause
21 death.

22 Q So if a dog is in a closed room that's very hot,
23 poorly, if at all, ventilated without access to dog
24 food or water -- actually, let me ask you about dog
25 food. Say a large bag of dog food is left in a

1 room, would a dog ration that out, or what would a
2 dog do?

3 A Again, it's going to depend on circumstances. In
4 other words, the situation may be different if you
5 have a single dog versus multiple dogs. If you
6 have multiple dogs in an area and there's one bag
7 of dog food, there usually is some competitive
8 eating going on. So one dog will consume more food
9 than he regularly would because he wants to keep
10 that food from the other dogs. Versus if you have
11 an animal that's in a room by itself, then that
12 animal will typically eat what they need and then,
13 in a way, ration it, but they don't think of it as
14 rationing. So, no, they don't really ration per
15 se.

16 Q Same with water? Same phenomenon with water?

17 A Same phenomenon. They're going to drink when
18 they're thirsty, they're going to eat when they're
19 hungry.

20 Q So let's go back, then, to a scenario with a hot,
21 unventilated room with no food, with no water, with
22 the potential of having, you know, eaten debris,
23 it's not edible food, with an unknown, but
24 potentially significant amount of fleas and ticks
25 in the room, you know, how long could those dogs --

1 if they could not get out, how long could they
2 survive?

3 A With no water, you're talking a period of just a
4 few days. There have been cases where
5 cannibalization has happened. So if one animal
6 dies, the other animals will obtain food and water
7 through eating of that animal. But, overall,
8 you're talking in a very hot environment like that,
9 dehydration is going to get them first. And you're
10 talking a number of days.

11 Q So there are a lot of variables which can --

12 A Correct.

13 Q -- come to dogs and their access to what is in the
14 room.

15 And, psychologically, would a dog know that
16 another dog is in the process of dying, that itself
17 is dying?

18 A Dogs are going to sense the same way that we sense
19 that something is wrong. Are they going to
20 understand that it's death per se? Maybe, maybe
21 not. But they certainly are going to understand
22 that something is wrong and that their friend is
23 not acting normally.

24 There are studies that show that animals that
25 are in a group environment where one animal has

1 either died or is dying, the other animals show
2 increased levels of stress hormones.

3 Q Can you tell us more about those studies, how
4 you've learned that, what you've studied, what your
5 experience of that taught you as well?

6 A Right. Basically, the animal field, the veterinary
7 medical field, the American Veterinarian Medical
8 Association has a set of guidelines for euthanasia.
9 And one of the things that those guidelines look at
10 is how the best method is to do euthanasia. And
11 they bring in a whole bunch of different experts.
12 But part of these experts are experts on pain and
13 experts on physiology. So what are the things that
14 we see in animals who are stressed? And one of the
15 things that the AMA say is proper to do is to not
16 euthanize animals in the same room as other dead
17 animals.

18 MR. BERRY: Beg the Court's indulgence.

19 (Pause.)

20 BY MR. BERRY:

21 Q So, again, we touched on this briefly before, so
22 how, again, do you know about these physical and
23 psychological effects of starvation and
24 dehydration? What kind of experience and research?
25 Is that peer reviewed? Is it generally accepted in

1 the scientific community?

2 A Well, obviously, it is unethical to starve and
3 dehydrate an animal in a clinical study. So most
4 of the studies that have been done are on case
5 studies, so these are animals that have been
6 brought in that are part of cases of neglect. And
7 I'm not sure I'm answering the first part of your
8 question.

9 Q Well, I just asked you four questions, which is
10 improper, so I apologize. So what kind of
11 experience do you have with those situations and
12 knowing that?

13 A I've examined animals that have been the victims of
14 neglect that have come in that are undernourished,
15 their bones are sticking out, they are dehydrated,
16 those sort of things.

17 Q And what kind of research have you done and
18 reviewed on those matters?

19 A As part of the studies with the veterinarian
20 forensics degree, there is chapters on, you know,
21 what happens in cases of neglect, dehydration. We
22 read peer review articles on cases of neglect and
23 these case studies that I talked about.

24 Q This phenomenon that you described, the effects,
25 are those generally accepted in the scientific

1 community, the veterinary scientific community,
2 about how animals react in these situations
3 physically and physiologically?

4 A They are.

5 MR. BERRY: Nothing further, Your Honor.

6 MR. SCHNEE: I have a few questions, if I
7 could?

8 THE COURT: Yes.

9 CROSS-EXAMINATION

10 BY MR. SCHNEE:

11 Q I'll start off right where he left talking about
12 your treatment of animals in shelters.

13 A Yes.

14 Q And the studies that you've done for that. Now,
15 the studies that -- and peer reviewed articles, are
16 they dealing with how the dog is at the moment or
17 how are you supposed to treat and then help the dog
18 recover?

19 A There are peer review articles on both.

20 Q Okay. And what articles specifically have you read
21 dealing with the emotional aspects of all this, of
22 dogs specifically?

23 A Could you repeat the question? I'm sorry.

24 Q Yes. I'm talking about the emotional pain and
25 suffering --

1 A Correct.

2 Q -- that accompanies this type of death to a dog or
3 prior to it.

4 A Right.

5 Q Just any kind of neglect. What articles and peer
6 reviewed issues have you dealt with to that?

7 A There haven't been specific studies that look at
8 pain responses to neglect. Because in order for
9 you to do such a study, basically what you would
10 have to do is take a healthy animal and starve it
11 or not provide it with water. That is unethical.
12 So we don't do studies of that nature because you
13 would have to be observing the pain response as the
14 animal goes through the process. These are --
15 these are conclusions that are based on pain
16 studies in other situations.

17 Q What do you mean by pain studies in other
18 situations?

19 A Well, for example, we study pain and distress in
20 animals that are undergoing medical care, whether
21 it be from trauma or from disease. Okay? So we
22 look at the emotional response of animals to those
23 situations. We presume that the situation would be
24 similar, the pain, the distress would be similar in
25 animals that are undergoing stress for other

1 reasons, specifically neglect in this case.

2 Q Okay. So the emotional aspect of stress and pain
3 and suffering that you're talking about for dogs
4 being left in a room, that's just all conclusions
5 and assumptions based on psychology? Is that what
6 you're saying? I'm trying to understand.

7 A Basically, what we are doing is we are taking the
8 knowledge from other situations that create
9 distress for an animal and applying them to the
10 situation.

11 Q Okay. Do you have a degree in behavioral sciences?

12 A I do not. Although behavior is part of the
13 curriculum for the shelter medicine degree.

14 Q Which you're still taking? You're still taking --

15 A I have taken -- I have completed the behavior
16 class, yes, but I am still completing the Master's
17 Degree, yes.

18 Q How many classes did you take on behavioral science
19 during that -- for this Master's?

20 A There is one that is specifically on behavioral
21 medicine. There is a second class that a portion
22 of that class is related to behavior.

23 Q And you've done both of those?

24 A I have done.

25 Q So it is essentially like one and a half classes?

1 A That would be fair.

2 Q Okay. Have you done any clinical studies yourself?

3 A No.

4 Q Have you participated in clinical studies with a
5 professor or anyone else?

6 A No.

7 Q Have you published any articles on any subject
8 ever?

9 A No.

10 Q Have you ever testified in court?

11 A Yes.

12 Q In General Sessions or in Magistrate's Court?

13 A I believe it was Magistrate Court.

14 Q Okay. Have you ever testified about the
15 psychological pain and suffering anywhere?

16 A No.

17 Q Do you know of anyone who has?

18 A I can't answer that specifically, no.

19 Q Okay. Now, you talked briefly about
20 cannibalization between animals?

21 A Correct.

22 Q Have you reviewed anything in this case that
23 indicated anything of that nature happened here?

24 A I have not reviewed this case.

25 Q Have you even looked at pictures?

1 A No, I have not.

2 Q So you're simply here to testify to all this on the
3 broad knowledge that you have as someone who is a
4 practicing veterinarian and in school for forensic
5 veterinary sciences?

6 A I have actually achieved the graduate certificate
7 in forensics, veterinary forensics.

8 Q I'm sorry, shelter medicine Master's is what you're
9 doing?

10 A Correct. Correct, yes.

11 Q Okay. And in those one and a half classes about
12 behavioral science, I know you're talking about
13 shelters specifically, when you're talking about
14 shelter animals, usually, you're talking about a
15 very large number of animals in a confined space;
16 correct?

17 A Not always.

18 Q Such as a kennel?

19 A I mean, yes, we do talk about that, but we talk
20 about everything from the individual animal up
21 to -- the behavior of the individual animals all
22 the way up to animals in large groups. So we're
23 talking about animals individually, in small
24 groups, and in large groups.

25 Q And all those behaviors are different?

1 A There's a lot of -- yes, there's a lot of factors
2 that go into what creates a certain behavior.

3 Q Okay. For instance, the dogs themselves would
4 also -- such as the breed of the dogs could impact
5 that?

6 A The breed of the dogs, how familiar the dogs were
7 with each other, how many there are in the group,
8 yes, there are lot of factors that play in.

9 Q And you don't know anything about this case
10 whatsoever?

11 A I do not.

12 MR. SCHNEE: Judge, I have no further
13 questions. Thank you.

14 MR. BERRY: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. BERRY:

17 Q Dr. Laster, with respect to the classes you
18 mentioned at the University of Florida, how many
19 programs like this are there in the country?

20 A There are three that I'm familiar with. This is
21 the only one that offers an actual certificate, the
22 graduate certificate.

23 Q So you're going to the only place in the country
24 that is specializing in veterinary forensics?

25 A Correct.

1 Q And you completed that program?

2 A Correct.

3 Q And those classes, that's not like a day class;
4 correct? It's a full semester of class?

5 A There are -- in order to obtain the graduate
6 certificate, there are five classes that you have
7 to take. Each class is a semester long, so 12
8 weeks.

9 MR. BERRY: Nothing further, hopefully, Your
10 Honor.

11 THE COURT: All right. Ma'am, you may step
12 down.

13 (Witness steps down.)

14 THE COURT: I think -- based on what I've
15 heard, she is being offered as a blind witness,
16 she's not testifying as to the facts of this case,
17 no examination or any treatment of any animals in
18 this case.

19 I do find, the first thing, of course, in
20 looking at 702, it is a subject matter beyond the
21 ordinary knowledge of the jury, thus requiring an
22 expert to explain the matter to the jury, and I do
23 find that the expert testimony is beyond the
24 ordinary knowledge of the jury, thus requiring an
25 expert to explain the matter to the jury.

1 Is the witness qualified? I don't believe
2 there is any -- well, it's almost like two parts.
3 The witness is qualified to testify as to the
4 subject matter; however, this Court has concerns as
5 to whether or not the witness is qualified to
6 testify as to issues regarding behavioral science,
7 and particularly -- I think she can testify -- I
8 mean, the testimony she gave about fleas, I think
9 based on her experience and her knowledge, she can
10 testify as to flea bites irritating dogs. I think
11 she testified to that. She can testify to what
12 happens when a dog has no food or water and becomes
13 dehydrated and the heat and the effects of that on
14 a dog.

15 I'm concerned about the testimony regarding
16 the -- anything further than that regarding
17 behavioral science. I have not heard any testimony
18 regarding -- in terms of reliability, publications,
19 peer review, what specific publications and peer
20 reviews she has done to come to a conclusion as to
21 dogs sensing other dogs dying. And I think she
22 even said that they maybe could sense that
23 something is wrong with their friend or other dog.
24 But I don't believe there has been sufficient
25 testimony to rise to that level in terms of

1 reliability in terms of the psychological effect on
2 dogs and the anxiety on the dog.

3 She can testify as to, I know this is what
4 happens when a dog becomes dehydrated, I know this
5 is what happens when a dog has issues of, I guess,
6 infestation of ticks or fleas, because she has
7 treated dogs for that. But as far as anxiety in
8 the dogs and how the dogs may have felt in the last
9 days, I'm not sure if she can testify. Even, say,
10 for example, if we were talking about humans. You
11 would almost have to have a psychiatrist or a
12 psychologist come in and testify to that. Of
13 course, I know they are not psychiatrists and
14 psychologists for dogs -- maybe there are, I don't
15 know -- but, I mean, I think pain and suffering,
16 she can testify to that, but the mental state is
17 what gives me some pause.

18 MR. BERRY: This would be my request, Your
19 Honor, if you would consider it. We acknowledge
20 and understand this is an evolving area of science.
21 There are limitations on what scientifically can be
22 proven. Right? We're not going to go through
23 studies where we start starving dogs to learn these
24 things. What she did testify to that I think we do
25 have medical community support on was specific to

1 euthanasia and procedures and protocols. They're
2 national protocols that she testified to that are
3 industry standards. And that's how shelters go
4 about euthanizing because of this attempt to
5 minimize the impact on the dogs.

6 And for our purposes here, I think she could
7 and should be able to go into, We don't euthanize
8 dogs in front of each other because that's bad for
9 the dogs. And I think that -- I think we clearly
10 have some medical community standards for impact.

11 THE COURT: All right.

12 MR. SCHNEE: Judge, first, I agree with what
13 you've ruled so far, I just want to clarify that
14 you're talking about just the actual physical
15 medical aspects of dehydration, not the
16 run-around-the-room behavioral type things. It's
17 all behavior in general is what I'm objecting to.

18 As to the protocols for euthanasia, there have
19 been no studies presented here. I do not believe
20 she is qualified in behavioral sciences. Even if
21 that's the accepted protocol, that's just as likely
22 to be explained by our projecting emotions on
23 animals. I agree it is an evolving science. And
24 even if she's 100 percent right about everything,
25 that doesn't make it admissible here.

1 The standards under Rule 702 require it to
2 already be an established science with studies and
3 with provable and repeatable results. And we don't
4 have that.

5 THE COURT: I don't know of any testimony --
6 when you get into 702, it has to be -- there has to
7 be testimony as to what are the publications, what
8 is the peer review, what is acceptable, and I took
9 this course on this day and this is what we
10 learned. I mean, there has not been any testimony
11 to that effect. But I just want to make sure I'm
12 clear. Everything she testified to regarding
13 dehydration, that the dogs are like humans, they
14 become dehydrated, they become confused -- she
15 can -- I think they eat stuff that may later cause
16 them some pain. She can testify to that. My only
17 concern is more of the things she testified to
18 towards the ends regarding sensing death, the
19 anxiety.

20 MR. BERRY: I mean, there's two aspects of
21 this which I think are important for to shake out
22 here. The first is the psychological effects of
23 dehydration and starving. And she did talk about,
24 you know, they're going to be frantic. They're
25 going to be unsettled. And as someone who has been

1 a veterinarian for 30 years and sensing animals,
2 dealing with animals and treating animals,
3 observing animals, I think she is well beyond --

4 THE COURT: Well, I'm not saying that she
5 can't testify. My concern is not the dehydration.
6 What happens whenever an animal becomes dehydrated,
7 she can testify to that. I think she's even
8 treated animals that have been dehydrated. So she
9 can testify to that. What she can't testify to is
10 the other animals started sensing the death and
11 they became depressed or they became anxious. I
12 mean, those type of things. I just don't -- I have
13 not heard enough to satisfy 702 when it comes to
14 that.

15 MR. BERRY: So that I understand. So she can
16 talk about the psychological effects of the
17 dehydration and starving, it's just the sensing
18 death that we're a little too far afield on?

19 THE COURT: I'm trying to remember everything
20 she said. Didn't she just say that they become
21 confused, which would be a psychological effect?
22 What's your concern as to the dehydration?

23 MR. SCHNEE: My concern is anything dealing
24 with psychology and behavioral sciences. The
25 dehydration aspect of the salt toxicity and it

1 causing problems with the brain to function and
2 causing pain and then, obviously, you know, the
3 eating random objects, that is certainly clearly
4 established because that is something that's easy
5 to observe. The other aspects about anxiety --
6 anything dealing with anxiety, any emotional
7 attachment to any -- any action or inaction of
8 either any other dogs or what's going on, that's
9 kind of what I'm having a problem with. That's the
10 part the science does not have.

11 THE COURT: Okay.

12 MR. SCHNEE: And I guess the only other aspect
13 I would argue at this point is I don't see how any
14 of this is actually relevant to assist the jury.
15 The cause of death is actually not in dispute here.

16 THE COURT: Well, I think they have to, of
17 course, prove every element of the crime. And one
18 of them is they have to be able to prove
19 unnecessary pain or suffering upon the animal. So,
20 for probative reasons, that is -- I mean, I can't
21 prevent them from presenting or trying to present
22 elements of the crime. It's just a question of
23 what -- how far we are going to let them go.

24 She -- I guess what I'm asking, is there
25 something specific that she's testified to -- we've

1 already -- I've already determined she can't get
2 into the conversation regarding euthanization and
3 other animals sensing the death and we separate
4 them. I think I'm pretty clear on that part of the
5 ruling.

6 Now, we're back to the dehydration part and
7 what happens with dehydration.

8 MR. SCHNEE: It's just the psychological
9 aspects that she talked about. And most of that
10 testimony in the beginning, I had no problem with.
11 It wasn't until things that she talked about --
12 mostly, she did the physical pain and suffering and
13 then had the emotional pain and suffering that she
14 talked about about the anxiety and the fear and the
15 franticness. I'm not objecting to the physical
16 pain and suffering, which I think actually fits
17 within the statute, which would be the only thing I
18 think the statute describes, it doesn't actually
19 specify. But anything that deals with the
20 emotional pain and suffering, that's behavioral
21 sciences, we don't have any studies, and it is --

22 THE COURT: So this is the stuff -- and
23 Jasmine wrote everything -- she says
24 psychologically dogs can sense the same way we
25 sense something is wrong and that their friends are

1 acting abnormally. Stress hormone studies show the
2 increase in animals when animal is dying in front
3 of others. The veterinarian medical association
4 for euthanization don't euthanize animals in front
5 of another. Case studies of neglect, she read peer
6 review articles and issues. That is the stuff that
7 you are saying -- and I think that's my ruling.
8 That's the stuff that stays out.

9 MR. SCHNEE: Right. When it comes to just the
10 dehydration and lack of food issue technically,
11 it's the behavioral aspect and the anxiety and the
12 emotional -- any emotional phrase is what I'm
13 objecting to. All the physical effects, I have no
14 problem with those.

15 THE COURT: All right. Well, I think -- are
16 y'all clear?

17 MR. BERRY: I think I'm clear.

18 MR. SCHNEE: I'm not sure what your ruling is
19 on that.

20 THE COURT: The ruling is she can testify to
21 the dehydration, the confusion, eating the paper.
22 Did she say anything about them running around in
23 the room confused? I mean, I think that's all
24 physical -- I think that's physical. Some of it is
25 physical and probably the argument could be made

1 that some of it is psychological. But I'm going to
2 allow her to testify to what happens when a dog
3 becomes dehydrated. I'm going to allow her to
4 testify as to the issue with the fleas or insect
5 bites -- anything beyond that in terms of anxiety
6 and psychological behavioral science part of it --
7 I am not going to exclude that. But she can talk
8 about what happens to the dog if the dog becomes
9 dehydrated. Even -- I don't know -- I don't
10 remember her saying they run around in circles or
11 chase their tails. I don't remember her saying
12 anything like that. But if he starts objecting,
13 we'll deal with it then.

14 MR. SCHNEE: Yes, Your Honor.

15 THE COURT: Your objection is noted for the
16 record.

17 All right. Anything else? Let's see. On
18 702, anything else? So she will be qualified as an
19 expert -- you want to qualify her as an expert in
20 veterinary forensics and services?

21 MR. BERRY: Correct. Veterinary forensics and
22 veterinary care.

23 THE COURT: All right.

24 MR. SCHNEE: I would object to the veterinary
25 forensics. She has a certificate, which, as I

1 understand, it's just this year. She got it a
2 couple of months ago. She's done no work in the
3 field. And the rest of her studies are all
4 veterinary care and actual providing medicine.

5 THE COURT: What -- I think it is veterinary
6 medicine and veterinary care.

7 MR. BERRY: Well, as far as forensics, it is a
8 specific program at University of Florida, only one
9 of its kind in the country, specific to veterinary
10 forensics. She has performed necropsies, multiple
11 necropsies. She has examined cases in a law
12 enforcement context. Now, if that's not forensics,
13 understanding how a body dies, decomposes --

14 THE COURT: I think I'm going to allow her to
15 testify to veterinary forensics -- veterinary
16 medicine, veterinary forensics, and veterinary
17 care, but not behavioral science.

18 MR. SCHNEE: Judge, my only problem with
19 forensics is there is no forensic aspect in this
20 case. There's no examination. She hasn't looked
21 at anything. So any testimony regarding forensics
22 would be irrelevant. She hasn't performed any
23 forensic analysis here.

24 MR. BERRY: Not GSR, we're talking about what
25 happens to a body that's dying.

1 THE COURT: I think in order for her to
2 testify towards the dehydration and the dogs dying
3 from dehydration, that comes from her forensic
4 knowledge versus just veterinary. So she's
5 testified that she has education on aspects of
6 forensic examining animals and autopsies -- or they
7 don't call them autopsies, it's --

8 MR. BERRY: Necropsies.

9 THE COURT: Yes.

10 MR. SCHNEE: Which she didn't do here.

11 THE COURT: I know. But she's testifying as a
12 blind -- I guess, a blind witness.

13 MR. SCHNEE: I think it's really just the term
14 forensics indicates a lot more law enforcement, and
15 there's none in this case. So a certificate that
16 she got less than two months ago, or about two
17 months ago, is my understanding, I think it was
18 e-mailed to me from May of this year, and she
19 didn't do any of that in this case.

20 THE COURT: Yes, but she's been doing
21 examinations of -- forensic examinations of dogs
22 long before -- or animals long before she got the
23 certificate, is my understanding.

24 MR. BERRY: Right.

25 THE COURT: Based on what she testified to --

1 I mean, North Carolina, Spartanburg, somewhere
2 else, she says she's done it.

3 So I'm going to qualify her as an expert in
4 forensics, veterinary forensics, medicine, and
5 veterinary care. You can object again when I do it
6 for that.

7 MR. SCHNEE: Yes, Your Honor. And I probably
8 will want to voir dire her in front of the jury as
9 well.

10 THE COURT: Sure. We'll have to do this all
11 over. Maybe we'll end up trying the whole case
12 today and then trying it again tomorrow.

13 MR. BERRY: We can do photographs in the
14 morning. They'll be quick.

15 THE COURT: What's the issue on the photos?
16 You don't want them in at all or -- what the case
17 law says is -- of course, y'all are not going to
18 put 20 of them in, you know that; right? I can
19 already tell you that.

20 MR. SCHNEE: There are two different types of
21 photographs I object to. One is -- and I think
22 there are only one or two pictures of it -- is the
23 actual picture of the dog that you heard about
24 behind the toilet. You can look at that and you'll
25 see exactly why. We can go through that. I gave

1 will sit in that seat. The rest of you can sit
2 anywhere else throughout the trial, but that will
3 be your seat. You will be the spokesperson for the
4 jurors here in the courtroom. I will give you
5 further instructions later as to your duties
6 regarding the verdict and the verdict form at the
7 conclusion of the case.

8 In order to preserve everyone's rights, I will
9 give the parties an opportunity to object to
10 anything I have said.

11 Any objections or exceptions from the State?

12 MR. BERRY: None, Your Honor.

13 THE COURT: Any objection or exceptions from
14 the Defense?

15 MR. SCHNEE: No, Your Honor.

16 THE COURT: All right, ladies and gentlemen,
17 at this time, we will have opening statements.
18 First, you will hear from Mr. Berry, on behalf of
19 the State, and then you will hear from Mr. Schnee,
20 on behalf of the Defendant.

21 Thank you.

22 MS. MOSER: Thank you, Your Honor. May it
23 please the Court?

24 OPENING STATEMENT

25 MR. BERRY: Left behind. Left behind without

1 water. Left behind without food. Left behind in
2 an unventilated oppressively hot room in the middle
3 of last summer.

4 The Defendant, Latisha Todd, left her four
5 dogs behind in her home. She left them in
6 conditions that were bad. They were very bad.
7 There were lots of bugs that developed over the
8 course of this time. That heat was very bad. The
9 lack of food and water was very bad. Those dogs
10 died.

11 She now stands before you charged with four
12 counts of ill treatment of animals. In our state,
13 it is against the law to torture or torment or
14 cruelly kill or inflict excessively unnecessary
15 pain or suffering upon an animal by acts of
16 commission or acts of omission. In other words, by
17 your actions or by your lack of actions, you cannot
18 allow such suffering to occur.

19 Over the course of this trial, we will prove
20 to you that by her actions and her lack of actions
21 such suffering did occur, and we will ask that you
22 find her guilty.

23 We will prove this to you by introduction of
24 evidence. Evidence will come in various forms.
25 Witnesses, what they come and say on this stand,

1 what they tell y'all, that is evidence. It is
2 direct evidence and indirect, circumstantial
3 evidence, little bits and pieces of what this
4 person heard or saw and this person heard or saw.
5 The photographs here. All that coming together,
6 their testimony what they say to you, what they saw
7 or heard, experienced, all of that that comes in
8 will be the evidence that we'll present to you to
9 prove this case.

10 You'll hear how on July 1st of last year,
11 Roger Williamson, the maintenance man at In The
12 House Realty -- this was a rental house where the
13 Defendant lived -- he went to the house to go take
14 care of the grass. There was an issue with the
15 grass that needed to get taken care of. He goes to
16 do that. And when he's there taking care of the
17 yard, smells something awful. Knows something is
18 very wrong.

19 He approaches the house, sees some things that
20 concern him. He calls back to the company. Can I
21 go inside and figure out what's going on here?
22 This place is abandoned. He gets that permission.
23 He goes inside and finds a pretty gruesome scene.

24 He then calls the realty company. He calls
25 Animal Control to say, Hey, we've got some dead

1 dogs that need something to be done with. They
2 can't go in the house. They say call DHEC, that's
3 not our responsibility. They won't go in houses.
4 There's a little bit of confusion on who's handling
5 this. It's July 4th weekend coming around.

6 Meanwhile, Richland County Sheriff's
7 Department, through their Code Enforcement
8 Division, has been receiving complaints about the
9 location, the smell and the grass and issues there.

10 So Code Enforcement separately comes to the
11 house. At that time, Code Enforcement can also
12 smell something awfully wrong. They call for
13 backup and investigators arrive. The Defendant
14 arrives. They get consent to search the house.
15 They go in the house. Investigator Joe Clarke,
16 you'll hear from him, goes in the house, takes some
17 pictures, sees what's going on. They interview the
18 Defendant, Mirandize, talk to her. She gives a
19 statement. They then continue their investigation.
20 And after all the facts are in, all the analysis is
21 done, she is then charged and now brought before
22 you here today.

23 At the conclusion of this trial, when you've
24 heard all this evidence, my colleague, Ms. Moser,
25 will come before you in closing arguments and

1 she'll ask you to find the Defendant guilty, guilty
2 of the ill treatment of animals. We will have
3 proven to you that by her actions or her lack of
4 actions, those four dogs -- Midnight, Panda,
5 Sparkle, and Diamond -- that she left behind --
6 and I'm going to step forward again. I didn't tell
7 you about Prince. Prince was her other dog that
8 she took to a friend's house, that she left proper
9 care for Prince. She tells that to Investigator
10 Clarke. I had five dogs. One I took over here,
11 the other four were left. She left those four
12 behind.

13 She tells Investigator Clarke that she comes
14 to the house, she gets her mail, but she doesn't go
15 inside the house because she doesn't like it when
16 they jump on her. She doesn't go in the house.
17 She didn't like them to jump on her.

18 So you'll hear evidence like that throughout
19 the course of the trial. And then at the
20 conclusion when we come back, we will ask you to
21 find her guilty, guilty of ill treatment of
22 animals, of causing excessive unnecessary pain or
23 suffering to those four animals by her acts of
24 omission or commission.

25 Thank you.

1 THE COURT: All right. Thank you.

2 Yes, sir, Mr. Schnee.

3 OPENING STATEMENT

4 MR. SCHNEE: Good morning. There's no
5 question there were four dead dogs. And there's no
6 question that my client is guilty. She's not
7 guilty of what she is charged with, she's guilty of
8 trusting someone else that she has previously used
9 to watch her dogs, and they failed.

10 It's the summer. She had left in June. She
11 took her four kids up to her sister's place in
12 Pennsylvania for their summer vacation. And she
13 had someone arranged to watch her dogs and stay in
14 her house for the entire month. And you're going
15 to hear that. And you're going to hear that in the
16 first week, another friend of Latisha's came by the
17 house and saw that gentleman and the dogs,
18 everything is fine.

19 So what did she do? She really just failed to
20 follow up with him. I don't know what that guy did.
21 That guy is gone. He has disappeared. And Latisha
22 Todd trusted the wrong person, and now they charged
23 her with ill treatment of animals.

24 You're going to hear that she's had other
25 animals and, yes, she still has other pets. You're

1 going to hear her history and her family history.
2 Her sister is here. She's going to testify and
3 explain what type of care she gives all of her
4 animals. This is not the case of someone who
5 decided to leave their animals and torture them,
6 keep them in their house.

7 Let me ask you this. What makes more sense?
8 You have four young children that you take on
9 vacation. You're coming back to your house, and
10 this is where you live. Well, if for some reason,
11 you didn't want the dogs, why not just open the
12 door? No. You leave them in the house knowing, of
13 course, 30 days later, if nothing happened, they
14 are going to die. What, so your kids can come back
15 and see that their puppies are dead? Does that
16 make any sense?

17 Your job as jurors is to listen to the facts
18 and make decisions based on what they present, but
19 it is also to use your common sense. And that's
20 what I want you to pay attention to the most. What
21 makes actual sense here?

22 They're going to show you some terrible photos
23 and they're going to talk about a lot of emotional
24 things, about how terrible it was. And there's no
25 question that those dogs died in an unpleasant way.

1 But that's not the issue you're here to decide.
2 You're here to decide if she is the one responsible
3 for it. And at the end of this trial, you're going
4 to find out she is not.

5 Thank you.

6 THE COURT: Thank you.

7 I ask the State to call your first witness.

8 MR. BERRY: The State calls Roger Williamson.

9 (Witness approaches.)

10 THE BAILIFF: Place your left hand on the
11 Bible and raise your right hand, please.

12 (Witness complies.)

13 THE CLERK: Do you swear or affirm the
14 testimony you're about to give in this case will be
15 the truth, the whole truth and nothing but the
16 truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Thank you. Have a seat in the
19 witness stand, please.

20 (Witness seated.)

21 THE CLERK: State your name for the record.

22 THE WITNESS: Roger Williamson.

23 ROGER WILLIAMSON,
24 after being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. BERRY:

2 Q Good morning, sir. How are you?

3 A Pretty good.

4 Q Good. Thanks for being here today. Can you please
5 tell the jury what you do for a living currently?

6 A I'm the maintenance manager for In The House
7 Realty.

8 Q And what all does In The House Realty do? What all
9 do you do in that capacity?

10 A I do all their service work, yard work, repairs,
11 whatever else they have that needs to be done, you
12 know, in relation to the maintaining of property.

13 Q And how long have you been doing that?

14 A For that company, approximately about ten years.

15 Q And what did you do before all that?

16 A Well, I was in the military for approximately 30
17 years, a little over maybe.

18 Q And what was your role in the military?

19 A I was a combat medic.

20 Q A medic?

21 A (Witness nods affirmatively.)

22 Q Do you recall last summer around July 1st going
23 over to ■■■ Scarsdale Drive in Columbia?

24 A I do.

25 Q Why were you going over there?

1 A We had complaints about the yard. The property
2 management called up me, told me I needed to go by
3 there, check the yard, if it needs taken care of,
4 take care of it. They also mentioned a couple of
5 windows were broke and to replace the windows.

6 Q So you were going there to do that?

7 A Yes, sir.

8 Q What did you do when you got there?

9 A We started cutting the yard out. We got most all
10 the front yard done. We started cutting the bushes
11 back and that is where the window was busted out.
12 You could smell a real strong odor of decomp.

13 Q How did you know it was decomp?

14 A Well, after 30 years of military and seeing a lot
15 of dead people, you know what decomp smells like.

16 Q So what did you do next?

17 A I called back to the real estate company, explained
18 to them what was going on. They turned around and
19 said, Go in and see what's -- you know, what's the
20 source.

21 Q Had you checked the rest of the property before
22 going in?

23 A I had.

24 Q What did you see around the property?

25 A Well, the grass was grown up. The meter on the

1 electric had a red tag on it, which means it was
2 cut off because the bill hadn't been paid.

3 Q How do you know what that red tag means?

4 A SCE&G gave me a card that showed all the --

5 MR. SCHNEE: I am going to object to anything
6 SCE&G has given him.

7 THE COURT: Sustained.

8 BY MR. BERRY:

9 Q In addition to the meter, did you notice anything
10 else unusual about the house, other than obviously
11 the horrible smell?

12 A Well, like I said, you could tell hadn't nobody
13 been there for a few weeks because, like I said,
14 the grass was considerably high. And there was
15 debris in the yard, which was -- it could have come
16 from anywhere, it could have been from a wind
17 storm, but there was paper, trash in it, and we had
18 to pick that up.

19 Like I said, the windows were broken out. And
20 we went ahead and tried to repair what we could
21 repair. And we did cut the grass and trim the
22 bushes.

23 Q So please tell the jury what you saw and
24 experienced when you went in the house.

25 A Well, we went in the front door, went down the hall

1 trying to, more or less, follow the smell. And the
2 farther you went down the hall, the stronger it
3 got. We got near the bathroom and, of course,
4 then, right around by the bathroom door, it was
5 like -- I felt like I was stepping on bubble wrap
6 because it was like crunching. And I looked down
7 and it was just a mass amount of maggots was coming
8 out from the bathroom door. And I shined the light
9 up behind the toilet --

10 Q Was this daytime or nighttime?

11 A It was in the afternoon.

12 Q Why were you using a light?

13 A Because the house was dark inside.

14 Q What did you see then?

15 A I saw a dog behind the toilet, which was already
16 decomped to the point where it was nothing but skin
17 and bones and soup.

18 Q And where was the dog located?

19 A Behind the toilet.

20 Q Behind the toilet. Was there anything in the
21 toilet or the rest of the bathroom?

22 A No. No water in the toilet. No water in the
23 floor. Nothing.

24 Q What did you do next?

25 A I went on down the hall to the end, and I could see

1 an outline of a second one. And that's when I went
2 out the door, called back to the office, said, Hey,
3 we got a problem. We've got some dead dogs in the
4 house.

5 They advised me that they were going to call I
6 think Animal Control and maybe Code Enforcement,
7 because that was where the call originally
8 originated from was Code Enforcement.

9 Q You said you went down the hallway. You looked in
10 a back bedroom?

11 A It was the back bedroom on the back side. Would
12 be -- if I was facing it, the bedroom over on this
13 corner past the bathroom. It was the bathroom and
14 then was a bedroom. And that bedroom also had a
15 dead animal in it that I -- I didn't bother -- I
16 didn't even bother to go in. I just walked to the
17 door, seen that there was another one there, and
18 turned around and walked back out.

19 Q Can you briefly describe the layout of the house?
20 How large is this house?

21 A Probably about maybe 1,100 square feet. It's
22 got -- you walk in the front door, you hit the
23 living room, and then you head back, the kitchen is
24 behind the living room. And then go down a
25 hallway. You got a bedroom here, bedroom here,

1 bathroom, another bedroom, and then the master
2 bedroom with a bathroom attached to it.

3 Q And what was the condition of the house when you
4 were going on?

5 A Well, it needed some housekeeping. I don't know
6 how to elaborate on that too much because that's --
7 but, I mean, it needed some cleaning.

8 Q What about -- so let me ask, you took some
9 pictures; right?

10 A I did.

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

12 BY MR. BERRY:

13 Q I'm going to show you what's marked as State's 4,
14 7, 8, 5, 6 and 9. And if you could just one by one
15 take a look at these pictures and tell the Court if
16 you recognize them, if they fairly and accurately
17 represent what you saw that day.

18 A Yes, those are the ones I took.

19 Q Do they fairly and accurately represent?

20 A Yes, sir.

21 MR. BERRY: Your Honor, the State would offer
22 into evidence State's 4, 5, 6, 7, 8 and 9.

23 THE COURT: 4 through 9?

24 MR. BERRY: 4 through 9, yes, Your Honor.

25 THE COURT: All right. Any objection?

1 MR. SCHNEE: Just my prior one. I do renew
2 that.

3 THE COURT: All right. The Exhibits 4 through
4 9 will be entered over the objection of the
5 Defense.

6 MR. BERRY: Thank you, Your Honor.

7 (WHEREUPON, State's Exhibit Nos. 4 - 9
8 were marked for identification and
9 received into evidence.)

10 MR. BERRY: Permission to publish to the jury?

11 THE COURT: Yes, sir.

12 (Exhibits published.)

13 BY MR. BERRY:

14 Q This picture, what is this?

15 A That's the hallway.

16 Q Okay.

17 A That's right at the beginning of when you go in the
18 front door and you approach the hallway on the
19 right, that is at the very beginning of it.

20 Q So if you were to come in from the house, where
21 would you be coming from as you're walking down the
22 hallway?

23 A If you're coming from over here, hallway comes this
24 way and then turns this way. The kitchen is off in
25 that direction.

1 Q And what's that room right there?

2 A Bathroom door right there.

3 Q And this picture, State's Number 6, what does that
4 depict, sir?

5 A That is the bedroom in the front. Not the master,
6 but you've got two bedrooms on the front, two
7 bedrooms on the back. That's the first bedroom as
8 you come down the hall on the right-hand side.

9 Q So you wouldn't have found any dogs in there?

10 A No.

11 Q That's just one of the bedrooms. How about this
12 one, sir, State's 5? Do you recall --

13 A That was the one with the dog, the second dog, I
14 believe, was in. Should have been back a little
15 bit further.

16 Q And these pictures, State's 7 and 8?

17 A Those were actually the bathroom floor. Those are
18 the maggots on it.

19 Q This is after you've already walked around?

20 A Yes.

21 Q And I assume things were clear at that point?

22 A Like I said, those were the moving maggots on the
23 bathroom floor.

24 Q And, I apologize, I have to show this to you, but
25 State's 9?

- 1 A That's the dog behind the toilet.
- 2 Q That's the dog behind the toilet.
- 3 A He was extremely decomposed.
- 4 Q So after you took these pictures, you said you
- 5 stepped out and called the realty company?
- 6 A Well, no, I took -- I called the realty company,
- 7 and then they turned around and said that they were
- 8 going to contact somebody else and I needed to take
- 9 some pictures. So I took some pictures, and then I
- 10 came back out, and went back and secured the place
- 11 and left.
- 12 Q Did you send any of those pictures on afterwards?
- 13 Did you forward them to somebody else?
- 14 A I did.
- 15 Q Who did you forward them to?
- 16 A A lady from Animal Control, I think Cody somebody.
- 17 Q And did you go back to the house after that day?
- 18 A No. No, not for a while.
- 19 Q How much longer, a couple of days later?
- 20 A Probably about four days, maybe five days.
- 21 Q And what were you doing there four or five days,
- 22 later?
- 23 A I got a call about the toilet not working right.
- 24 Q Actually, let me step you back. I apologize.
- 25 While you were there, did you interact with anyone

1 else? Anyone else show up at the house? Did you
2 see the Defendant there?

3 A The first time?

4 Q The first time, July 1st?

5 A There was a guy that came up. I'm not sure who he
6 was. He says he was the --

7 Q Don't tell me what he said, just that you
8 interacted. But you did see somebody come up?

9 A Well, there was another individual who approached
10 and wanted to know why we were there.

11 Q And did you see the Defendant there at all?

12 A No.

13 Q And then four or five days later when you were back
14 at the house -- why were you at the house four or
15 five days later?

16 A We went to fix the toilet.

17 Q And tell me, what did you learn in that process?
18 Why are you fixing the toilet?

19 A Every time you went to flush it, it would run out
20 the back end of it, the water.

21 Q And did you interact with the Defendant at that
22 time? Was she there?

23 A Yeah.

24 Q Did she say anything to you?

25 A Yes, she did. She said that -- well, we kind of,

1 more or less, was -- kind of stayed away from the
2 conversation about the dogs, but she turned around
3 and said that she had paid an individual that lived
4 up the street to take care of them or this would
5 have never happened.

6 Q Did she give you that person's name?

7 A She did not.

8 Q Did she give you a contact number?

9 A She did not.

10 Q Address?

11 A Didn't either. She just said up the street. And
12 I -- that's kind of an open thing because the
13 street kind of goes like this. You know, one lane
14 goes this direction and one goes this direction.
15 She --

16 Q But no information about him?

17 A No.

18 MR. BERRY: Beg the Court's indulgence.

19 THE WITNESS: Now, I have seen a guy over
20 there before, but -- that she might have turned
21 around and had, but I don't know who he is.

22 MR. BERRY: Beg the Court's indulgence.

23 (Pause.)

24 BY MR. BERRY:

25 Q Thank you, Mr. Williamson. Please answer any

1 questions Defense counsel may have for you.

2 MR. SCHNEE: May it please the Court, Your
3 Honor?

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. SCHNEE:

7 Q So you were there on July 6th or 7th? That's when
8 Ms. Todd was there the same time as you?

9 A I'm not exactly positive of the date.

10 Q But it was four or five days after?

11 A Couple, few days afterwards.

12 Q Okay. And you said that she told you that there
13 was someone that was supposed to be watching the
14 dogs?

15 A She did.

16 Q Okay. And you, in fact, had seen a guy there
17 before?

18 A I had seen a guy there before, but I don't know if
19 that was the person that she was referring to or
20 what; but she seemed like she was, quote -- you
21 know, apparently, knew him well enough to have
22 trusted him to do something like that, but I don't
23 know if that was him. It was a kind of older
24 gentleman.

25 Q Did you ask Latisha what this guy's name was?

1 A I did not.

2 Q Okay. So she just didn't offer you a name or a
3 phone number, but you never asked her?

4 A She didn't offer any information and I didn't ask
5 her any.

6 Q It's not your job to ask, is it?

7 A No.

8 Q You were just being polite making conversation?

9 A That's it.

10 Q Okay. So when she said that, it didn't surprise
11 you or shock you that she didn't give you a name?

12 A No.

13 Q Okay.

14 A I usually don't -- I don't usually try to involve
15 myself with tenants too much because, I mean,
16 everybody wants to keep their privacy to
17 themselves.

18 Q Okay. Fair enough. And you've been doing
19 maintenance for a lot of different places for a
20 long time?

21 A Probably over ten years. Ever since I retired from
22 the military.

23 Q Okay. Had you been to Ms. Todd's house for other
24 dead animals?

25 A No.

1 Q You ever had complaints that there were dead
2 animals in her yard before?

3 A I have.

4 Q You had complaints that there were dead animals in
5 her yard before this?

6 A Yes.

7 MR. SCHNEE: Judge, I think we have a matter
8 of law now.

9 THE COURT: All right, ladies and gentlemen of
10 the jury, let me send you all out for a second.

11 (WHEREUPON, the jury retires to the jury
12 room at 10:35 a.m.)

13 MR. SCHNEE: Judge, very briefly, during the
14 course of discovery I had asked for all records
15 dealing with all the maintenance that was done on
16 this house while Ms. Todd was living there. I've
17 asked for all records dealing with any problems
18 with any Animal Control and everything else. Had
19 motions to compel and, in fact, even a motion to
20 close discovery, which was granted by Judge Lee.
21 None of this information has ever been turned over
22 to me, that there were other dead animals in the
23 yard.

24 MR. BERRY: Know nothing about -- we turned
25 over everything we've asked from Animal Control.

1 We got the lease -- you requested the lease from
2 the company, we got the lease from the company. We
3 gave you all Animal Control reports. I don't know
4 anything about it. I don't know what he's
5 referring to. I don't know any of the substance of
6 what he's getting into. This was your question
7 that you asked about some other random stuff, and
8 you opened the door to this conversation.

9 MR. SCHNEE: Well, we might as well proffer
10 the testimony right now, sir.

11 THE COURT: Yes, go ahead and proffer it,
12 because it appears that they -- when you asked the
13 question, they looked puzzled too. So I'm not
14 sure -- I understand that Brady and Riddle and --
15 but -- and Rule 5 -- but if they turned over
16 everything and this is information coming as a
17 result of a question that you asked --

18 THE WITNESS: Your Honor --

19 THE COURT: Hold on one second. Yes sir?

20 THE WITNESS: May I?

21 THE COURT: We will continue. We're going to
22 let you explain.

23 Go ahead and finish asking your questions.

24 IN-CAMERA EXAMINATION

25 BY MR. SCHNEE:

1 Q What other animals have you been there for?

2 A Could I clarify the question you asked me? You
3 asked me have we got complaints about dead animals
4 there before, and I said yes. All right, here's
5 the reason. The lady that lives next-door to
6 Ms. Todd is the one we got the complaint about the
7 dead animals in the yard from. I didn't put too
8 much faith in what this woman said because she
9 turned around and she complains about everything
10 and she makes up stuff.

11 So that particular question that you asked, I
12 answered it the way you wanted me to answer it
13 because I answered it truthfully. We did get
14 complaints, but burden of proof, there was no sight
15 of where there was dug up holes for animals to be
16 buried, or no evidence that there was ever any
17 animals buried there. So it's like you could take
18 it at face value.

19 Q Okay. Sir, I asked if you had been to the house
20 before. So you had been there looking because the
21 neighbor complained?

22 A (Nods affirmatively.)

23 Q Okay. And there are no other dead animals?

24 A None that I have seen.

25 Q Okay. That explains it a little better.

1 THE COURT: You asked if he received
2 complaints, and he answered it.

3 MR. SCHNEE: Fair enough.

4 THE COURT: He didn't see any, so I think you
5 need to -- you probably need to go back and clarify
6 that.

7 MR. SCHNEE: I certainly will, yes. I assumed
8 they just refused to give me records. My fault,
9 Your Honor.

10 THE COURT: All right. Bring them back in.

11 THE BAILIFF: Yes, Your Honor.

12 (WHEREUPON, the jury came into open
13 court at 10:39 a.m.)

14 MR. BERRY: Your Honor, may we approach?

15 (WHEREUPON, a bench conference was held
16 in the presence of the jury but out of
17 the hearing of the jury.)

18 THE BAILIFF: Your Honor, the jury is present
19 and seated.

20 CROSS-EXAMINATION CONTINUES

21 BY MR. SCHNEE:

22 Q Other than the July 1st and the July 5th, 6th, 7th,
23 whatever day it was, have you ever found any dead
24 animals at her house before?

25 A No.

1 Q Any dead animals in her yard before?

2 A No.

3 MR. SCHNEE: I've got no further questions.

4 THE COURT: Yes, sir?

5 MR. BERRY: No further questions, Your Honor.

6 THE COURT: All right. You may step down.

7 (Witness steps down.)

8 THE COURT: Any objection to this witness
9 being excused?

10 MR. BERRY: None from us.

11 THE COURT: All right. Sir, you are free to
12 leave.

13 (Witness excused.)

14 THE COURT: Call your next witness.

15 MS. MOSER: Thank you, Your Honor. The State
16 calls Karisa Williamson.

17 (Witness approaches.)

18 THE BAILIFF: Place your left hand on the
19 Bible, and raise your right hand, please.

20 (Witness complies.)

21 THE CLERK: Do you swear or affirm the
22 testimony you give in this case will be the truth,
23 the whole truth, and nothing but the truth, so help
24 you God.

25 THE WITNESS: Yes, ma'am, I do.

1 THE CLERK: Have a seat in the witness stand,
2 please.

3 (Witness seated.)

4 THE CLERK: State your name for the record.

5 THE WITNESS: Karisa Williamson.

6 MS. MOSER: May it please the Court?

7 THE COURT: Yes, ma'am.

8 MS. MOSER: Thank you, Your Honor.

9 KARISA WILLIAMSON,
10 after being duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. MOSER:

13 Q Ms. Williamson, where do you work?

14 A In The House Realty.

15 Q Okay. Roughly, how long have you worked there?

16 A About five years.

17 Q And what do you do for them?

18 A I'm an assistant.

19 Q You're an assistant?

20 A (Nods affirmatively.)

21 Q Assistant to what?

22 A I take calls, send service requests out, and pretty
23 much that's it.

24 Q Are you in a specific department?

25 A We do the property management department.

1 Q So you're an assistant to property management?

2 A Yes.

3 Q And while in that role, did you ever take any calls
4 about a property at [REDACTED] Scarsdale Drive?

5 A I did. We had got citations from the City of
6 Columbia about the yard being overgrown. And I
7 sent maintenance out to check on it to make sure --
8 because it's the tenant's responsibility to cut the
9 grass, so when you don't cut the grass, now we have
10 an issue because we don't know what's going on.

11 Q So is that your typical protocol?

12 A Yes.

13 Q Is to call maintenance?

14 A To go handle it if we can't get ahold of the
15 tenant.

16 Q And after you got that complaint, did you call
17 maintenance?

18 A I did. I tried to contact the tenant, and no
19 contact, and then we sent maintenance out.

20 Q Okay. So maintenance was sent to the property?

21 A Yes.

22 Q Okay. All right. Did you know who lived at that
23 property?

24 A Latisha Todd and her children.

25 Q Okay. How do you know that?

1 A The lease.

2 Q Okay. Have you seen the lease before?

3 A I have.

4 Q Are there any other occupants?

5 A There is no other male occupants there, like
6 another adult. There's only children and herself.

7 Q Okay. All right. And do you know this occupant?

8 A I do.

9 Q Okay. Would you recognize her?

10 A Yes, ma'am.

11 Q Is she in the courtroom today?

12 A Yes, ma'am.

13 Q Would you point her out for the jury?

14 A She's in the teal, turquoise blue kind of shirt.

15 Q Okay.

16 MS. MOSER: And let the record reflect the
17 witness has identified the Defendant.

18 THE COURT: Yes, ma'am.

19 BY MS. MOSER:

20 Q So have you had some interactions with Ms. Todd
21 before?

22 A I did. After the whole ordeal happened with the
23 dogs, she came into the office and told me that
24 somebody else was supposed to be caring for her
25 animals.

1 Q Okay. Did she ever say who that person was?

2 A She did not.

3 Q Did she give you any more information?

4 A Not that I can remember.

5 Q Did she tell you what happened to the dogs?

6 A No.

7 Q Did you learn at some point?

8 A I knew what happened because of the pictures and
9 because working in the office, you have to see the
10 stuff.

11 Q Okay. So you were well aware of what happened?

12 A Yes.

13 Q Okay. Did you have any further interactions with
14 her after that point?

15 A Just about the cleaning of the house and --

16 Q What do you mean the cleaning of the house?

17 A The animals and the other debris inside the home,
18 and whatnot.

19 Q Okay.

20 MS. MOSER: Beg the Court's indulgence.

21 (Pause.)

22 MS. MOSER: No further witnesses, Your Honor.

23 THE COURT: Please answer any questions

24 Mr. Schnee may have.

25 MR. SCHNEE: Judge, I have no questions for

1 this witness.

2 THE COURT: All right. Ma'am, you may step
3 down.

4 THE WITNESS: Thank you.

5 (Witness steps down.)

6 THE COURT: Call your next witness.

7 MS. MOSER: Thank you, Your Honor. The State
8 calls Officer Clemons.

9 (Witness approaches.)

10 THE BAILIFF: Place your left hand on the
11 Bible, and raise your right hand, please.

12 (Witness complies.)

13 THE CLERK: Do you swear or affirm the
14 testimony you give in this case will be the truth,
15 the whole truth, and nothing but the truth, so help
16 you God?

17 THE WITNESS: I do.

18 THE CLERK: Have a seat in the witness stand,
19 please.

20 (Witness seated.)

21 THE CLERK: State your name for the record.

22 THE WITNESS: Talmadge Clemons.

23 TALMADGE CLEMONS,
24 after being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. MOSER:

2 Q Mr. Clemons, how are you doing today?

3 A Pretty good. How you doing?

4 Q Good.

5 A All right.

6 Q Where do you currently work?

7 A Richland County Animal Care.

8 Q All right. Mr. Clemons, how long have you worked
9 with Animal Care?

10 A I've been with Animal Care for nine years and three
11 months.

12 Q And what is your job title there?

13 A My job title is to serve and protect the Richland
14 County community.

15 Q Okay.

16 A We respond out to different complaints, like animal
17 abuse, dogs at large, dog bites. We even assist
18 citizens like for personal cat traps, and different
19 things.

20 Q Are you an officer with Animal Care?

21 A I am.

22 Q All right. And did you respond out to the Meadow
23 Lake Subdivision, I believe [REDACTED] Scarsdale Drive, at
24 some point in July of last year?

25 A I did.

1 Q And why did you respond to that?

2 A I responded out -- I was out actually doing a
3 follow-up.

4 Q I'm going to stop you there. What is a follow-up?

5 A A follow-up is basically passed on from another
6 officer, she couldn't get to it, Officer Cody.

7 Q Okay.

8 A So I ended up making it, you know, on my first
9 shift. She was on night shift at the time. So
10 when I --

11 Q Sorry, I'm going to stop you again. So how does
12 this process work with responding to calls?

13 A Oh, responding to calls? I mean, we normally get
14 the call from our one-stop database and they
15 dispatch the officer out to the location, where we
16 need to go.

17 Q Okay. And I interrupted you, but I believe you
18 were talking about Officer Cody?

19 A Yes.

20 Q Did Cody receive the call?

21 A She did.

22 Q Okay. And what time -- do you recall what time the
23 call came in?

24 A I do not. I can't recall that time.

25 Q But at some point, you were the one that responded;

1 is that correct?

2 A Correct.

3 Q Okay. All right. And what did you see when you
4 went out to the scene?

5 A I know it was very hot, you know, getting out my
6 truck. You could smell the odor, you know, right
7 there from the driveway when you pulled in.

8 Q What did it smell like?

9 A You can tell that it was something dead inside of
10 the home.

11 Q Okay.

12 A Understanding, you know, I been dealing with, you
13 know, picking up deceased animals, and you going to
14 know that smell.

15 Q And where were you when you could first smell it?

16 A I was right there. I was on the pavement near the
17 mailbox.

18 Q Near the mailbox?

19 A Yes. As I got out, the smell just hit me.

20 Q Okay. Can you tell us roughly how far that was
21 from the house?

22 A It was about eight yards.

23 Q Okay. And this house is located at [REDACTED] Scarsdale?

24 A That's correct.

25 Q Is that in Richland County?

1 A It is in Richland County.

2 Q Okay. All right. Can you describe the house for
3 us a little bit?

4 A It was a brick house. It was overgrown, a grassy
5 area. A lot of stuff hanging around in the front,
6 you know, like bicycles. I do remember bicycles
7 like hanging out near the property, a lot of bikes.

8 MS. MOSER: Your Honor, may I approach the
9 witness?

10 THE COURT: Yes.

11 BY MS. MOSER:

12 Q Officer Clemons, I'm going to show you what has
13 been marked as State's Exhibit Numbers 11, 12, 13,
14 14, okay?

15 A Okay.

16 Q Do you recognize these pictures?

17 A Yes, ma'am, I do.

18 Q Okay. How do you recognize these pictures?

19 A I took these pictures.

20 Q You personally took these pictures?

21 A Yes, I took these pictures.

22 Q Do they fairly and accurately depict the scene as
23 it was that day?

24 A It does.

25 Q Okay.

1 MS. MOSER: Your Honor, at this time, if I
2 may, we would seek to enter into evidence State's
3 Exhibit Numbers 11 through 14.

4 MR. SCHNEE: Without objection.

5 (WHEREUPON, State's Exhibit Nos. 11 - 14
6 were marked for identification and
7 received into evidence.)

8 MS. MOSER: May we publish to the jury?

9 THE COURT: Yes, ma'am.

10 (Exhibits published.)

11 BY MS. MOSER:

12 Q I'm going to start with this picture. What is
13 this?

14 A That's the home address, [REDACTED] Scarsdale Drive.

15 Q Okay. Were you familiar with the owner or the
16 person living at this residence?

17 A I'm not.

18 Q Okay. And now looking at State's Exhibit Number
19 12, what is this?

20 A That's the window of the front of the house.
21 Actually, that window was actually shattered and
22 that's where I getting a loud odor coming out of.

23 Q Okay. You expressed or described it as a loud
24 odor. What do you mean by that?

25 A It was foul. You know, it smelled like something

1 was dead in the inside of that home.

2 Q This broken window that you just mentioned, can you
3 point it out on this picture? Can it be seen?

4 A It's right here.

5 Q Okay. So the front right, I guess, second from the
6 right?

7 A Yes.

8 Q All right. And I'm going to show you State's
9 Exhibit Number 13. What is this?

10 A That's the back yard area I was searching due to
11 the smell. I was trying to see if there were any
12 other dogs on the outside of that property. And I
13 didn't see any.

14 Q Okay. What is -- can you tell us what this is
15 right here?

16 A That's a doghouse.

17 Q Okay. And that was located on the property?

18 A It was.

19 Q Okay. You didn't find any dogs or remains of dogs?

20 A No dogs on the outside.

21 Q Okay. I'm going to show you State's Exhibit Number
22 14. What is this?

23 A It's a bag of dog food sitting in a blue bin.

24 Q Okay.

25 A I took that photograph.

1 Q Why did you take this picture?

2 A Basically, you know, as far as evidence that, you
3 know, it's a dog on the property and, you know, you
4 know what they was feeding the dog, different type
5 of dog food that they had for the dogs.

6 Q Okay. So at some point there was dog food on the
7 property?

8 A Yes, ma'am.

9 Q All right. And after you responded to the scene
10 and took these pictures, what did you do next?

11 A After I did that, I contacted my department and
12 informed them what was the outcome and I left a
13 violation notice of 5-9, animal care generally,
14 with contact information.

15 MS. MOSER: Beg the Court's indulgence.

16 (Pause.)

17 MS. MOSER: May I approach the witness, Your
18 Honor?

19 THE COURT: Yes, ma'am.

20 MS. MOSER: Thank you.

21 BY MS. MOSER:

22 Q I'm going to show you what has been marked as
23 State's Exhibit Number 15. Can you tell us what
24 that is?

25 A Yes, that's a Richland County Animal Care

1 Department violation notice.

2 Q Did you fill this notice out?

3 A Yes, I did.

4 Q Okay. And how did you fill it out?

5 A I filled it out, basically put the time, date, the
6 address location, checking off the reason for me
7 being on the property and the violation -- the
8 violation of the county ordinance, and a telephone
9 number for the officer to be reached.

10 Q Is that a standard notice that you leave for
11 people?

12 A It is.

13 Q Okay. And how did you know, I guess, to mark the
14 specific box you marked?

15 A Animal care, generally, cruelty and abandonment?

16 Q Yes. How did you decide on that?

17 A Basically from experience and knowledge of, you
18 know, the county ordinance and knowing that I know
19 something was inside the home address deceased.

20 Q Okay. And let me go back to this picture of the
21 dog food. Was there any dog food in here?

22 A No, those are empty bags.

23 Q Okay. And the smell, the odor that you smelled
24 when you arrived on scene, did that help in forming
25 your opinion about what happened?

1 A It did.

2 Q Did you have any contact with the person living at
3 this residence?

4 A No, ma'am.

5 Q And I know you mentioned it was fairly hot at this
6 time of year. Can you tell us roughly how hot it
7 was?

8 A It was over 90 degrees.

9 Q Over 90?

10 A Oh, yeah.

11 MS. MOSER: Beg the Court's indulgence.

12 (Pause.)

13 MS. MOSER: No further questions, Your Honor.

14 THE COURT: Answer any questions Mr. Schnee
15 has.

16 MR. SCHNEE: May it please the Court?

17 CROSS-EXAMINATION

18 BY MR. SCHNEE:

19 Q Good morning.

20 A Good morning.

21 Q I want to ask you about State's 14, the dog food.
22 Is this -- this is a blue bin?

23 A Yes.

24 Q Is that one the normal City of Columbia recycling
25 bins?

- 1 A It's not.
- 2 Q It's not? Okay. Now, these are -- well, tell me,
3 what size dog food bags are those?
- 4 A Those look like --
- 5 Q Does it say on one of the bags?
- 6 A Let me see it. Look at the picture. Yes.
- 7 Q What size bag does it say on there?
- 8 A Four pounds.
- 9 Q Four pounds? For the size dog or the size of the
10 bag of dog food?
- 11 A Dog food.
- 12 Q Okay. Can you tell me what that says right there?
13 The white lettering on the red?
- 14 A 36-pound bonus size.
- 15 Q Okay. That's a large bag of dog food; right?
- 16 A It says on there.
- 17 Q Okay. So 36 pounds of dog food, that's a decent
18 amount of food?
- 19 A It's two different size.
- 20 Q Okay. Now, this is left outside; right?
- 21 A Yes.
- 22 Q This is an outdoor picture; right?
- 23 A It's an outdoor picture.
- 24 Q Okay. In July?
- 25 A Correct.

1 Q Okay.

2 MR. SCHNEE: That's all I've got. Thank you.

3 THE COURT: Anything else?

4 MS. MOSER: Just briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. MOSER:

7 Q Officer Clemons, this picture of dog food, was this
8 outside the house?

9 A It was outside the house, near the back yard area.

10 Q Okay. And do you know when this was placed outside
11 the house?

12 A No, ma'am, I do not know.

13 Q Okay.

14 MS. MOSER: No further questions, Your Honor.

15 THE COURT: All right. You may step down.

16 (Witness steps down.)

17 THE COURT: Any objection to this witness
18 being excused?

19 MR. SCHNEE: No, ma'am.

20 THE COURT: All right, you are free to leave.

21 (Witness excused.)

22 THE COURT: All right. Call your next
23 witness.

24 MR. BERRY: Thank you, Your Honor. The State
25 calls Jesse Cody.

1 (Witness approaches.)

2 THE BAILIFF: Place your left hand on the
3 Bible and raise your right hand, please.

4 (Witness complies.)

5 THE CLERK: Do you swear or affirm the
6 testimony you're about to give in this case will be
7 the truth, the whole truth and nothing but the
8 truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Have a seat in the
11 witness stand, please.

12 (Witness seated.)

13 THE CLERK: State your name for the record.

14 THE WITNESS: Jesse Cody.

15 JESSE CODY,

16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BERRY:

19 Q Good morning, Ms. Cody. How are you?

20 A I'm fine. Thank you.

21 Q Good. Can you please tell the jury what your
22 current job is?

23 A I'm a Richland County animal care officer.

24 Q And how long have you been with Richland County
25 Animal Care?

1 A Two years.

2 Q What all do you do as a care officer?

3 A Well, as Officer Clemons explained, we deal with
4 the less serious animal complaints and care
5 concerns, such as nuisance animals or animals
6 running at large, and potentially reports of animal
7 abuse that don't need to be handled by the
8 Sheriff's Department.

9 Q And how did you get involved in this incident at
10 ■■■■■ Scarsdale Drive?

11 A On July 1st, the weekend before the Independence
12 Day, I received a call while I was working after
13 hours, which is after 4:30 p.m., that the
14 maintenance man at that address had gone inside and
15 found a deceased dog in the bathroom and wanted to
16 make a possible animal abuse complaint.

17 Q And what did you do next?

18 A I wasn't able to go out to the address at the time,
19 didn't know if the address had been abandoned or
20 not. And seeing as the dog was already deceased
21 and basically it needed to be cleaned up more than
22 anything, I put the call on hold for the officer
23 working during the day to follow up on it the
24 following business day.

25 Q Would it be your practice to go inside a home in a

1 situation like this?

2 A No, we are not authorized to do that.

3 Q So when -- so you received this information on July
4 1st, but you weren't able to go then. Then the 4th
5 weekend comes, then Officer Clemons goes to the
6 property; correct?

7 A Correct.

8 Q How do you get back involved in this case?

9 A Well, Clemons, I believe, actually closed the call
10 out, and then we received a call back from Ms.
11 Latisha Todd on July 6th and --

12 Q By we, you mean you?

13 A Animal Care.

14 Q Okay. But you spoke to her on July 6th?

15 A Yes.

16 Q She called you?

17 A They dispatched her call to me.

18 Q She called the office and spoke to you?

19 A Yes.

20 Q And what did she tell you on July 6th?

21 A She informed me that she was calling in reference
22 to the notice that was left on her door. She was
23 aware of the situation with -- to my knowledge, she
24 only mentioned the puppy that was found deceased in
25 the bathroom. And this was all the information

1 that she volunteered. That she had left a man
2 named John in charge of her dogs while she was on
3 vacation for two weeks, and she had found out from
4 somebody else before actually calling us back what
5 had happened.

6 Q So how many dogs did she reference on that call?

7 A When she spoke to me, she informed me she had two
8 dogs. She had the puppy that she left at the house
9 in the care of somebody else, and then another
10 elderly dog that she had taken to a friend's house
11 because she didn't think that would be okay with a
12 stranger looking after it.

13 Q And did she say anything about that stranger
14 looking after her dogs?

15 A She told me that his name was John. She said that
16 she didn't have his address or phone number,
17 because we would have asked that information to get
18 in touch with him if he was -- to follow up if he
19 was responsible for the puppy dying in the
20 bathroom.

21 Q And did she say how long she was away or how long
22 she had been in town?

23 A She told me that she had been gone for two weeks.

24 MR. BERRY: Beg the Court's indulgence.

25 (Pause.)

1 BY MR. BERRY:

2 Q Thank you, Officer Cody. Please answer any
3 questions Mr. Schnee may have for you.

4 THE COURT: Yes, sir?

5 MR. SCHNEE: May it please the Court?

6 CROSS-EXAMINATION

7 BY MR. SCHNEE:

8 Q The original call from the maintenance man,
9 Mr. Williamson?

10 A Uh-huh.

11 Q He said he found one dead dog in the bathroom?

12 A Uh-huh.

13 Q Okay. And that's the call he made to Animal
14 Control?

15 A Yes.

16 Q Okay. So another officer from Animal Control goes
17 out to the house?

18 A Yes.

19 Q Leaves a notice on the door?

20 A Yes.

21 Q With your phone number? Or to get in touch with
22 you?

23 A I don't know why they gave the call to me, I don't
24 recall. I think it's just because I'm the officer
25 that took the original complaint that they decided

1 to give the call to me. I don't know that she
2 actually requested me. Because, generally, what
3 they do, it just depends on the address. We're all
4 assigned different areas. So I'm assuming my
5 supervision dispatched the call to me because it
6 was in my area.

7 Q Okay. So the call gets forwarded to you?

8 A Uh-huh.

9 Q My client has seen the notice, and the complaint
10 was about one dog, one dead puppy in the bathroom?

11 A Uh-huh.

12 Q So she explains that someone was taking care --
13 supposed to be taking care of the dog?

14 A Uh-huh.

15 Q Did you ask her about other dogs?

16 A I did not. She told me that she had two dogs, and
17 I assumed that was -- if she had more, she would
18 have told me.

19 Q Okay. So she told you that she knew the situation
20 with the dead puppy?

21 A Uh-huh.

22 Q And she has another dog somewhere else? That's
23 what she told you?

24 A Yes.

25 Q But you didn't ask any other questions?

1 A Not about any more dogs.

2 Q All right. Thank you.

3 THE COURT: Anything else from the State?

4 MR. BERRY: Nothing further, Your Honor.

5 THE COURT: All right. You may step down,
6 ma'am.

7 (Witness steps down.)

8 THE COURT: Any objection to this witness
9 being excused?

10 MR. SCHNEE: No.

11 THE COURT: You are free to leave, ma'am.

12 (Witness excused.)

13 MR. BERRY: Your Honor, our next witness may
14 take a little more time. I don't know if -- we're
15 ready to move forward, but give the jurors a brief
16 break.

17 THE COURT: I don't know if they had the
18 opportunity to use the restroom.

19 Did y'all have an opportunity to use the
20 restroom? Does anybody need to use the restroom?

21 Well, let's take about a 10-minute break. I
22 might have to use the bathroom.

23 All right. We'll take our morning break, and
24 we'll receive you back in about 10 minutes.

25 (WHEREUPON, the jury retires to the jury

1 room at 11:05 a.m.)

2 THE COURT: All right, we will take 10
3 minutes.

4 (WHEREUPON, the proceedings resumed at
5 11:33 a.m.)

6 THE COURT: Are you ready to bring them back
7 in?

8 MS. MOSER: Yes, Your Honor.

9 THE COURT: Bring them on in.

10 MR. SCHNEE: Can we approach a second?

11 THE COURT: Yes, sir.

12 Hold on one second. Hold on one second.

13 Close the door, please.

14 (WHEREUPON, a bench conference was
15 held.)

16 THE COURT: Before we bring the jurors back
17 in, real quick. Please make sure your cell phones
18 are turned off so we will not have any issue
19 regarding cell phones going off during testimony.

20 Also, for those of you who are in the
21 audience, please refrain from talking, and also
22 please refrain from making any facial expressions.
23 If you cannot control your facial expressions, or
24 anything of that sort, just please step out of the
25 courtroom if you can't control your emotions or

1 your expressions.

2 All right. Thank you.

3 (WHEREUPON, the jury came into open
4 court at 11:36 a.m.)

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

6 THE COURT: All right, ladies and gentlemen of
7 the jury, we will continue with the State's case.

8 I will ask the State to call their next
9 witness.

10 MS. MOSER: The State calls Amanda Jordan.

11 (Witness approaches.)

12 THE BAILIFF: Place your left hand on the
13 Bible, and raise your right hand, please.

14 (Witness complies.)

15 THE CLERK: Do you swear or affirm the
16 testimony you give in this case will be the truth,
17 the whole truth, and nothing but the truth, so help
18 you God?

19 THE WITNESS: Yes, ma'am.

20 THE CLERK: Thank you. Have a seat in the
21 witness stand, please.

22 (Witness seated.)

23 THE CLERK: State your name for the record.

24 THE WITNESS: Amanda Jordan.

25 MS. MOSER: May it please the Court?

1 THE COURT: Yes, ma'am.

2 MS. MOSER: Thank you, Your Honor.

3 AMANDA JORDAN,
4 after being duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. MOSER:

7 Q Deputy Jordan, where do you currently work?

8 A The Richland County Sheriff's Department.

9 Q Okay. And how long have you worked for the
10 Richland County Sheriff's Department?

11 A I have been here for 13 years.

12 Q And what is your current job title?

13 A I'm assigned to the Community Service Division.
14 And under that division, there's a couple of
15 different units, and I'm currently assigned to the
16 Code Enforcement Unit.

17 Q And what does that entail, being part of the Code
18 Enforcement Unit?

19 A Okay. We do -- Richland County, the county has
20 different code laws, code violations. Basically,
21 it's different things, different, I guess,
22 organizations within the county, solid waste,
23 animal control. They basically govern different
24 codes. And the Richland County Sheriff's
25 Department has three codes that we, I guess, take

1 care of for the county. One is overgrown lot. Two
2 is unlicensed and inoperable vehicles. And then
3 the third one are tractor-trailers, not having them
4 parked in residential, listed as residential areas.

5 Q And you might have already mentioned this, but do
6 you have a specific region, like a jurisdiction
7 that you stick to?

8 A Yes. For our unit, the deputies that are assigned
9 to this unit, we each have a footprint within
10 Richland County. And I'm assigned to the Region 3
11 area, which is, if you're looking at a map,
12 Monticello, North Main, Fairfield, and Farrow Road,
13 from the city all the way up almost to our Region 6
14 border, which is -- I guess it would be like Koon
15 Store Road and Heyward Brockington, out that way.

16 Q All right. And I'm going to draw your attention
17 back to the summer of 2016, last summer,
18 specifically to a [REDACTED] Scarsdale Drive. Do you
19 recall ever going out there?

20 A Yes, ma'am.

21 Q Okay. And why did you go out there?

22 A The -- it started off -- for our unit, for
23 community service, we attend monthly, quarterly,
24 you know, bi-monthly annual meetings that are
25 generated by the community. So if they have any

1 neighborhood watch or crime watch or just, you
2 know, an association meeting, we attend those
3 meetings. And I had attended a meeting on June
4 28th for the Meadow Lake board meeting. And at
5 that meeting --

6 MR. SCHNEE: Judge, I'm going to object to
7 hearsay.

8 MS. MOSER: And, Your Honor, --

9 THE COURT: Sustained.

10 MS. MOSER: -- I think we can clean that up.

11 BY MS. MOSER:

12 Q So you attend these board meetings?

13 A Correct.

14 Q And is Scarsdale Drive, is that within the Meadow
15 Lake Subdivision?

16 A Yes, ma'am.

17 Q Okay. Is that in Richland County?

18 A Yes, in Richland County.

19 Q And specifically on July 7th --

20 A Uh-huh.

21 Q -- of last year, did you respond to that location?

22 A Yes, I did. I received community complaints about
23 the yard being overgrown.

24 Q All right. Was that the reason you went out there?

25 A Right. It was a mix between the yard being

1 overgrown and also about stench, an odor that was
2 emitting from the property. Fellow neighbors in
3 that area said that the strong odor had gotten so
4 bad they were worried about what had happened or
5 had transpired on the property. And they hadn't
6 seen the family that resides there and they were
7 getting concerned.

8 Q So it is sort of like a safety check?

9 A Right. We call them welfare checks a lot of times,
10 where we'll go by and check on the welfare of
11 families, elderly, children to make sure their
12 safety and well-being is okay.

13 Q Now, did you know the person who lived at that
14 residence?

15 A Yes, ma'am. I had been out there previously on two
16 separate overgrown lot cases that I had done and I
17 had met Ms. Todd.

18 Q Sorry, what was her name?

19 A Ms. Todd.

20 Q Okay. Is she here in the courtroom today?

21 A Yes, ma'am.

22 Q Can you point her out for the jury?

23 A Yes, ma'am. She's sitting with the green sweater
24 on.

25 Q All right. So you were familiar with Ms. Todd.

1 And when you went out to the scene, what did you
2 see?

3 A When I exited my vehicle, it was -- I parked on the
4 street in front of the home, kind of right before
5 the mailbox at the base of the driveway. And it
6 was really hot that day.

7 Q Do you remember how hot it was?

8 A Yes, I believe that was -- towards the end of June
9 and July, we were having upward 90s temperatures.
10 So with the heat index, it was well into the 100s.
11 We actually at our department had been told
12 multiple times to stay hydrated because of the heat
13 and the excessive heat, for us to be careful with
14 all the gear and equipment that we carry to make
15 sure we stay cool and hydrated.

16 And I remember getting out of the car, and it
17 was very hot. It was late afternoon, about
18 3:00 o'clock. And as soon as I opened the door to
19 my patrol car, I could smell the smell. And like I
20 say, I was parked on the street, I didn't even pull
21 onto the property. I normally just park in front
22 of people's home and not in their driveway. And
23 when I opened my patrol car, that smell of -- it is
24 a smell of death, like a decomp kind of smell.
25 It's very pungent, very strong. And then so I

1 walked up --

2 Q And let me stop you there. Was there anyone with
3 you?

4 A Yes.

5 Q Who was with you?

6 A Deputy Shanita Grimes.

7 Q Do y'all work together?

8 A Yes, we're both in community service. I'm assigned
9 to the Code Enforcement Unit, and she's assigned to
10 the Community Action Team.

11 Q Okay. If you can continue.

12 A But we both -- she parked just a little ways in
13 front of me and -- still on the street -- and so we
14 both walked up to the home. And the home appeared
15 to be vacant. It was dark. There was no activity.
16 There was no car in the driveway. And as we --
17 when you walk up to the house, the driveway is to
18 the left. And there's no fencing, so you can see
19 into the backyard. And the home sits to the left.
20 And there's a side door that goes into the side of
21 the house right off the driveway, and then you can
22 walk down the front sidewalk that goes into the
23 home. And we actually walked up onto the driveway.
24 We were standing in the center of the driveway, and
25 the smell was horrific. It was just so strong.

1 Q And let me bring you back a little bit. I know
2 that you were familiar with the property and the
3 person who lived there. Were you familiar with
4 anyone else living at that location?

5 A Yes. Well, when I had gone out for a previous case
6 dealing with the overgrown lot in March, I had
7 arrived. And when I knocked on the door, you know,
8 Ms. Todd, she had come out. We -- I never entered
9 the home or went into her home, but she actually
10 came out and we spoke on the driveway. And it
11 was -- I'd say not late afternoon, but
12 midafternoon, so the children -- the school bus was
13 coming around and the children were getting off the
14 school bus.

15 So, of course, you know, a patrol car parked
16 in front of the home and the children are running
17 up to the house, so I ended up, you know, meeting
18 and just, you know, friendly talking, police
19 officer talk to the children, and the children had
20 gone inside to put their book bags down, and when
21 they opened the door, one of the dogs ran out.
22 And, you know, Ms. Todd said the dog was friendly.
23 He was. And she introduced us. And I met Prince.

24 Q So that was one of Ms. Todd's dogs?

25 A Uh-huh, yes. One or two of the other dogs had come

1 out, but I didn't meet them. The children kind of
2 kept them over by the front porch. And then, you
3 know, Ms. Todd asked for them to go back in, so.
4 But Prince stayed outside with us and ran around
5 and played with the children and, like I said, was
6 friendly. I petted him and, you know, he was fine.
7 And I had, you know, a nice conversation with
8 Ms. Todd and the children. And I explained the
9 situation about the yard and how it needed to be
10 kept cut. You know, it is in a residential
11 neighborhood. And according to 18-4 of the county
12 code, there are certain regulations about making
13 sure that the yards are kept, you know, at a
14 standard.

15 Q So if we can go back, fast-forward to July 7th.

16 A Uh-huh.

17 Q You respond. And you're with Ms. Grimes from the
18 CAT team?

19 A Uh-huh.

20 Q And I believe you were telling us about going up to
21 the house. Can you explain, I guess, what you did
22 as you're approaching the house?

23 A Yes. As we -- like I said, we walked up onto the
24 driveway, and when we got to the middle of the
25 driveway -- I had talked to Shanita -- or Deputy

1 Grimes -- and I told her just to be mindful not to
2 step in the grass.

3 Q And why did you say that?

4 A I had been there previously, and they were having a
5 flea issue with the grass. And so I explained to
6 her not to go on the grass. Don't walk around in
7 the yard. I was scared that, you know, all those
8 fleas would get on us. And even while we stood in
9 the driveway, just in the driveway, I looked down
10 at our feet and there were fleas, little brown, you
11 know, dark-colored fleas that were actually jumping
12 up onto our pants and onto our shoes.

13 And so I told Ms. -- Deputy Grimes, you know,
14 for us to back away from the house. I said,
15 There's obviously a lot of bugs here on the
16 property, so we need to step back to the street.
17 And the smell -- like I said, because the smell was
18 so bad, I mean, I already knew that I was going to
19 step back anyway to notify supervisors that we had
20 some kind of incident happen at the house.

21 Q Is that typical, to notify a supervisor?

22 A Yes.

23 Q And who did you notify?

24 A I notified the regional captain and let them know
25 of what I had. I previously just, you know,

1 briefly just inside the office had told him I was
2 going to go by and check on this residence today.
3 And, you know, he just told me, Just let me know
4 what you get, you know, just call back to the
5 office and let us know what happened. And then
6 when we find out, I backed away, and that's when he
7 said, you know, Stand by and call for an
8 investigator, which is our protocol. So that's
9 when I got Investigator Joe Clarke's telephone
10 number, his direct number, and I called him.

11 Q And I know you said that's standard, but why would
12 you, I guess, in this case call for an
13 investigator?

14 A Due to the house appearing to be vacant. There
15 was -- when you looked at the front, there's a
16 window in the center, and the glass had been broken
17 out. And, like I said, the yard was all overgrown.
18 There was actually bikes that were chained up. And
19 Ms. Todd and I actually had spoke about the bikes
20 when I was previously there, so they were still
21 there chained up to the post on the side of the
22 house. And with the smell of decomp, I was worried
23 that we might have a crime scene on our hands.

24 Q And what happened next?

25 A Myself and Deputy Grimes, we actually walked to the

1 end of the driveway. And when we got to the end of
2 the driveway, like I said, I was calling for an
3 investigator. And it was -- like I said, it was so
4 hot outside that actually Deputy Grimes and I both
5 individually got into our patrol cars and turned
6 the air on to just cool down. In the front of the
7 house, there's no big trees. There's only one, I
8 say shade tree, is what I call them, but there's
9 only one shade tree that was down by the street in
10 between Ms. Todd's house and the neighboring house.
11 And so Deputy Grimes got in her patrol car and I
12 had gotten into my patrol car just to kind of get
13 away from the smell and have a visual on the house,
14 you know, to make sure for safety reasons if we
15 were to maybe contain the house that we had -- we
16 could see the house, we were out front, and also to
17 get into our cars to kind of get away from that
18 smell, that pungent smell.

19 Q So while you were in your vehicle, what happened?

20 A I had finished my conversation with Investigator
21 Clarke, and he advised me that he was leaving --
22 his office at the time was down on Pineview,
23 Garners Ferry and Pineview -- and he advised me
24 that -- it was about 4:00 o'clock. And he said,
25 It's going to take me anywhere 25, 30 minutes, you

1 know, to get across town to where you're at.
2 Because I was in Meadow Lakes off of Wilson
3 Boulevard.

4 And I said, That's fine.

5 Well, then, I guess, about, you know, 20
6 minutes had gone by, so I was just sitting there
7 waiting. And all of a sudden, a car pulled in
8 behind me. And I looked in the rearview mirror to
9 see who -- because the way the street is, the
10 street comes down and there's another street at the
11 end. And the house that we were at, [REDACTED], there's a
12 house and then [REDACTED]. This street right here is very
13 short and only has a house here on this corner and
14 then it rounds to go back out. So this is kind of
15 like a dead-end area.

16 And I noticed someone come in from behind me,
17 so they had come down a secondary street and come
18 around, which there's very little traffic on that
19 one little street. And I looked up and I
20 recognized the vehicle. And it was Ms. Todd's
21 vehicle. She had pulled in behind me.

22 Q What kind of vehicle was it?

23 A It was an SUV, dark green or a dark color.

24 Q Okay. And did she pull up behind you?

25 A Right. She was on the same side of the street as

1 I -- she parked on the same side of the street as I
2 was on, which was beside where her house was. But
3 she was, you know, behind me to my rear, to my
4 trunk. And she wasn't right up on me or anything,
5 she parked, you know, respectfully a little bit
6 back, and then she got -- she was getting out of
7 her vehicle, I saw the door open. So, you know, I
8 wasn't going to stay seated in my patrol car, so I
9 exited my car.

10 And like I said, I had already met Ms. Todd,
11 so I greeted her and said hello. And she had asked
12 if we were back out there -- if I was back out
13 there because of the grass being overgrown.

14 Q So she actually asked that?

15 A Right. She was, you know, just inquiring, you
16 know, what was going on, and everything else. I
17 mean, having two patrol cars sitting there, so.

18 Q And what was your response?

19 A I let her know that, yes, unfortunately, the yard
20 was back in violation and that it was overgrown.
21 And I said, But the more pressing issue is that we
22 have a horrible smell, like a decomp smell, a death
23 smell, coming from the house.

24 And I said, you know, Is everything okay?

25 Obviously I could see that she was there, you know

1 what I mean, so I knew she was safe. I knew she
2 was one of the people that was inside the house,
3 so, in my mind, was eliminating her as being in
4 danger. But I did not see the children or the dogs
5 with her.

6 Q Did you ask her about them?

7 A Yes, I did.

8 Q Okay.

9 A I quickly asked, you know, Where are the children?

10 And she said that they were not here, that she
11 had taken them to Pennsylvania to stay.

12 And I said, Okay. And then the next question
13 was, Well, where are the dogs?

14 And she said she didn't know.

15 Q She said she didn't know where the dogs were?

16 A My first time. And then when I asked her a second
17 time, Where are the dogs? And she got
18 teary-eyed -- like I said, she wasn't crying, it
19 wasn't like she was sobbing or weeping, she just --
20 she got teary-eyed and she pointed back at the
21 house.

22 Q Just in the general direction of the house?

23 A Uh-huh, just -- you know, the house sits kind of
24 like on a small incline. It's not like a hill, but
25 it's a small incline and, you know, she pointed

1 back up at the house.

2 Q Okay.

3 A And then --

4 Q And what happened next?

5 A Within -- after -- like I said, we were standing
6 actually on the street. We weren't on the property
7 on the grass or the driveway, we were actually
8 standing on the public road. And within, you know,
9 a minute of just those two questions, you know, to
10 Ms. Todd trying to figure out what's going on,
11 that's when Investigator Clarke actually pulled up.
12 And he pulled up in his pickup truck.

13 Q Okay.

14 A So.

15 Q Did he get out of his car and immediately come and
16 speak to you?

17 A Yes. Yes. He came over and -- he came over and
18 addressed me and, you know, said -- you know,
19 obviously, he smelled the smell and he -- I
20 introduced him to Ms. Todd and said, Actually, this
21 is the renter, the occupant of the house.

22 Q Okay.

23 A And I said, you know, it seems like in my short
24 conversation, you know, with Ms. Todd that the
25 dogs -- the smell is coming from the dogs. They

1 are back in the house.

2 Q Okay. And I guess what was the next move that you
3 all decided to make?

4 A Investigator Clarke did go back to his pickup truck
5 and he did retrieve a consent to search form. It's
6 a paper document that we use at the Sheriff's
7 Department. And I witnessed him explain, you know,
8 to Ms. Todd that -- he had first asked, you know,
9 Do you mind if we go into the home and get consent
10 to come into the home to check and see as to what
11 has happened, what has transpired, you know, what
12 has caused the smell, where are dogs, that kind of
13 thing.

14 And she said that was fine. And then she also
15 said she would go -- Investigator Clarke offered,
16 Do you want to come with us into the home or do you
17 want us to go by ourselves? And she actually
18 offered to go in the home with Investigator Clarke.

19 Q Did she sign that consent to search form?

20 A Yes.

21 Q And then you said she offered to take y'all into
22 the house?

23 A Right. We walked -- it was myself, Investigator
24 Clarke, Derek Fish, which is a road officer, he was
25 coming through the neighborhood. If we were going

1 to have a crime scene, then normally a road officer
2 will come over since myself and Deputy Grimes are
3 part of a specialized service. A lot of times they
4 try not to tie us up, you know, sitting on a crime
5 scene. They'll send the road officer over to kind
6 of relieve us. Well, Deputy Fish had shown up to
7 see if there was any assistance he could offer us.

8 And Investigator Clarke and him and, like I
9 said, myself and Deputy Grimes and Ms. Todd, we
10 walked up onto the driveway.

11 Q Okay.

12 A And we walked up to the driveway and she said she
13 had a key for the side door, which was right off
14 the driveway.

15 MS. MOSER: May I approach the witness?

16 THE COURT: Yes, ma'am.

17 BY MS. MOSER:

18 Q I'm going to show you State's Exhibit Number 11.
19 Do you recognize this?

20 A Yes, that's [REDACTED] Scarsdale.

21 Q Okay. And you were referring to a side door. Can
22 tell the jury where that was?

23 A Yes. The walkway, you know, to walk to the front
24 of home is here, this light-colored path. And it's
25 the same light-colored driveway that comes here on

1 the side of the house if this picture extended.
2 And as you come up, there's no fencing. It's just
3 the back of the house. And between this part and
4 the rear of the house, which is -- there's the side
5 door that goes into the side of the home. So we
6 didn't go through this front door. We went in
7 through the side, I guess, carport door if there
8 would be a carport or garage door.

9 Q Okay. So who all went up to that door?

10 A It was Investigator Clarke, Deputy Derek Fish, and
11 Ms. Todd. And she opened the door. I mean, she
12 had a key and she opened the door.

13 Q And what did you see when she opened the door?

14 A First thing, honestly, that hit all of us was the
15 heat that came out of the house. You know, like if
16 you open up a home that's been shut up for too
17 long, it's got like stale air in it. It was this
18 heat that came out of the home, and then the smell.
19 The smell was really bad, to the point where all of
20 us were, you know, putting our hands up to our
21 face, you know, I'd say not trying to gag, but, you
22 know, not trying to breathe in the smell.

23 And when the door opened, it was into a
24 kitchen area, so I could see -- just from where I
25 was standing, I could see in through the door.

1 frame. And there was like a white or maybe beige
2 linoleum flooring, you know, on the floor. And I
3 could see some cabinets, you know, along the wall.
4 And I know this sounds horrible, but when she
5 opened the door, the floor actually, I say, moved
6 where there were so many bugs and like critters,
7 you know, insects that it actually, you know, you
8 could see them kind of moving around, scurrying
9 around.

10 Q And did you physically go into the house?

11 A No.

12 Q You did not?

13 A No.

14 Q Okay.

15 A I actually -- Investigator Clarke actually asked me
16 to go in the home, and I said I couldn't. I said
17 that with the smell and the sheer amount of bugs, I
18 didn't want to go in the home. So, actually, him
19 and Deputy Fish went into the house with Ms. Todd.
20 She went into the house with them.

21 Q So while they are inside the house, what are you
22 doing?

23 A I was standing outside. Deputy Grimes and I were
24 standing in that driveway. You know, so the door's
25 here, we were standing just probably, I don't know,

1 10 feet from the house. And we were trying to --
2 every once in a while, there would be like a breeze
3 or like a -- I say breeze, it was hot air that, you
4 know, would blow. You know, in the summertime,
5 when it's so hot, it's like the breeze doesn't even
6 feel refreshing. And this wind would come.

7 And when we were standing there, I kept
8 looking over to the back yard, and there was a
9 doghouse.

10 Q Let me stop you right there.

11 MS. MOSER: May I approach?

12 THE COURT: Yes.

13 BY MS. MOSER:

14 Q I show you State's Exhibit Number 13. Can you tell
15 us what this is?

16 A Right. So that driveway comes right here. The
17 house is here and the driveway. So we're standing
18 here. And this is where I guess where fencing
19 would be if there was a back yard fence, but you
20 look into the back yard, and I was looking at that
21 tan doghouse.

22 Q It is pictured here?

23 A Right there, yeah. Uh-huh.

24 Q It's on the left side of picture there?

25 A Yes, doghouse.

1 Q And what did you notice about the doghouse,
2 anything?

3 A Yes. There was actually a plastic bag that was
4 inside like a larger, those clear trash bags, you
5 know, that go in trash cans, like a liner, and I
6 noticed the trash bag in there. But every single
7 time the wind -- Deputy Grimes and I were saying
8 how bad the smell was. And every time this wind
9 would blow, we would get just a more stronger, more
10 pungent smell coming from the house, but then I was
11 getting this cross smell from the back yard.

12 And inside the doghouse, I was looking -- like
13 I said, I didn't want to walk on the grass. I knew
14 there was a flea infestation, so I didn't step on
15 the grass. And I looked and I said, There's a bag
16 inside the doghouse. And what caught my eye or
17 what I heard was that crunching sound of the bag,
18 you know, blowing in the wind. And that's what
19 drew my attention to the doghouse. And every
20 single time the wind would blow to where it would,
21 you know, blow past the doghouse in the direction
22 of us, that smell would just -- I mean, it would
23 hit us.

24 Q Did you learn what was in the doghouse?

25 A Yes. It was the remains of the dogs. They had

1 been scooped up and put into those trash bags and
2 discarded into the doghouse.

3 Q How did you learn that?

4 A I learned that from Ms. Todd.

5 Q So while Investigator Clarke is in the house and he
6 is looking at the scene, taking pictures, you
7 noticed the back yard. And did you do anything
8 else while you were waiting for them to come out?

9 A At that time -- well, Deputy Grimes and I were
10 getting more fleas on us, but Investigator Clarke
11 and Deputy Fish and Ms. Todd, they did not stay in
12 the house long. They probably were in and out of
13 the house within -- I mean, I would say
14 respectively less than five minutes. I mean,
15 literally, it was a quick walk in and a quick walk
16 out just because of the heat inside the house, the
17 smell, and really because the bugs were biting all
18 of them. I mean, I could hear them, not I'd say
19 screaming, it wasn't like someone screaming out in
20 pain, but they were complaining that they were
21 getting bit and they were making, you know, sounds
22 of very uncomfortableness. They were getting bit.

23 Q And you say -- you're referring to who exactly?

24 A Oh, well, Ms. Todd and Derek Fish and Investigator
25 Clarke. So when they exited the house, basically

1 myself and Deputy Grimes were trying to decomp
2 them, trying to help them, you know, get the bugs
3 off them and stuff, so we started spraying them.

4 Q What were you spraying them with?

5 A We had a can of Raid.

6 Q Okay. So you actually sprayed that on them?

7 A Yes. That was the only way we could help relieve,
8 basically, the pain of them getting bit.

9 Q Okay.

10 A When Investigator Clarke came out, he was wearing a
11 white shirt, it was a white button-up like dress
12 shirt and a pair of light khaki pants and brown
13 shoes. And when he came out first, literally from
14 his cuff line all the way up to almost his waist
15 were dark brown specs all over him to where like
16 almost his khaki pants were covered. And so he was
17 trying to brush them off, and it was very hard for
18 him to get them off.

19 And then Ms. Todd was in a spaghetti strap
20 tank top, and she was, you know, wiping her arms
21 and, you know, trying to wipe her back. So I was
22 trying to help her and trying to get the bugs off
23 of her.

24 And then Deputy Fish, he was dressed like I
25 am, he was in a full uniform. And he started -- he

1 had to take his duty belt off, his bulletproof vest
2 off, and they actually -- we had to take him to the
3 regional office and completely, you know, take all
4 of his clothes off and he had to take a shower.
5 And we had to send his police uniform vest and
6 everything off to Michael's Cleaners for hazmat
7 cleaning.

8 Q So what happened after that? After you sprayed
9 each other down with Raid, what was the next step?

10 A Once we got everyone sprayed off and cleaned off,
11 we had moved everyone down to the street by the
12 cars, down at the end of the house. So that was
13 when -- you know, we weren't talking about
14 anything. We were just trying to get them cleaned
15 off, you know, so there was some kind of
16 comfortableness so we could all speak again. And
17 that's when Investigator Clarke Mirandized Ms. Todd
18 and, you know, explained her rights to her. And
19 she -- they -- she signed the Miranda form and then
20 he conducted a question-and-answer with her.

21 Q Okay. So you actually got to witness the Advice of
22 Rights?

23 A Right. I mean, I wasn't like a part of it when he
24 was conducting business with her, but I was
25 standing there. Visually, I could see everything

1 that was happening.

2 Q Okay. And how long did he speak with her, roughly?

3 A I would say, at most, 10 minutes, 12 minutes. It
4 wasn't long. I mean, you know, after he had come
5 out, you know, he advised her of her rights and
6 then started speaking to her about what transpired
7 at the house and conducted his business with her.

8 Q Okay. I know you said you were close by. Did you
9 take part in this at all or just overhear what was
10 happening?

11 A Right. I had walked back and forth between myself
12 and Deputy Grimes' car a couple of times, and then
13 I had come back to where Investigator Clarke was
14 conducting business. And towards the close of him,
15 you know, reviewing everything with her and
16 explaining to her that, you know, we would need to
17 further talk with her, I had continued my talk with
18 her, just, you know, asking her where she had been
19 as far as, you know, why she wasn't by the house to
20 take care of the dogs.

21 Q Did she explain where she had been?

22 A Right. Well, she said she had taken the kids to
23 Pennsylvania.

24 Q Okay.

25 A And then upon coming back from Pennsylvania, she

1 was working. She said she was doing some
2 after-hours cleaning with office building, you
3 know, cleaning and stuff. And she said that she
4 had been working and she had been going from like
5 Florence to Aiken to Orangeburg. She was, you
6 know, driving around doing some cleaning jobs.

7 Q So she had been back in town?

8 A Correct. She told me that she was staying with a
9 friend off of Monticello Road. And that was the
10 same person who she had taken Prince, to because I
11 had asked if those were the dogs here, where was
12 Prince. And she said Prince was with her friend
13 off of Monticello Road.

14 Q So she confirmed that Prince was alive?

15 A Correct. That's what she told me.

16 Q And did you gather how long she had been staying
17 with this friend?

18 A She didn't say like a timeframe. She just said
19 that she had been working. She was here in town.

20 And I explained to her that in speaking -- I
21 had learned or ascertained information from the
22 community that she --

23 MR. SCHNEE: Sorry. I'm going to object to
24 anything that the community is involved in,
25 anything at all.

1 MS. MOSER: Your Honor, we can move along.

2 MR. SCHNEE: Move to strike.

3 THE COURT: Objection sustained. Disregard
4 the last question and answer.

5 Please rephrase.

6 BY MS. MOSER:

7 Q In your conversation with her after she was advised
8 of her rights by Investigator Clarke, did you learn
9 anything else from her, I guess about the
10 situation?

11 A The only thing that she had told me was that her
12 and her uncle had gone inside the house and tried
13 to dispose -- you know, take care of cleaning up
14 the dogs. And she said that she had been inside
15 and they had scooped the dogs up, she said, with
16 shovels and put them in the bags, which was the bag
17 that was actually out in the doghouse.

18 Q Did she mention if she had had any help with these
19 dogs?

20 A The only person that she had referred to me was a
21 gentleman named John. She didn't give a last name.

22 Q Did she give you a phone number?

23 A Yes.

24 Q Address?

25 A She did provide his telephone number, which I

1 indicated in my police report, that the suspect did
2 state that she had a male friend, and his name was
3 John, to watch the dogs in the house. And then I
4 included the telephone number that she had given
5 me.

6 And when I had asked, Well, where is John?
7 Can he come here to talk to us about the situation?
8 She said she hasn't heard from John in a while and
9 John's not answering his phone and she doesn't know
10 how to get ahold of John. She couldn't give any
11 more details.

12 We were asking, Well, where does John live so
13 we can go talk to him? We wanted to -- if she was
14 saying that she had left the dogs in the care of
15 this person, then we wanted to follow up with that
16 person, you know what I mean, to help her situation
17 out. And she wasn't providing anything about John,
18 where John was, nothing.

19 Q And you were never able to get in touch with him?

20 A No.

21 MS. MOSER: Beg the Court's indulgence.

22 (Pause.)

23 BY MS. MOSER:

24 Q Deputy Jordan, can tell us what that phone number
25 was?

1 A Yes. Well, I can read it off the police report It
2 is area code (717)554-6504. That was what she gave
3 me.

4 Q No further questions. Please answer any questions
5 the Defense has.

6 Q Okay.

7 THE COURT: Yes, sir?

8 MR. SCHNEE: May it please the Court?

9 CROSS-EXAMINATION

10 BY MR. SCHNEE:

11 Q Good afternoon.

12 A Good afternoon.

13 Q You said you met Ms. Todd back in March?

14 A Yes.

15 Q Okay. And you were there for an overgrown yard?

16 A Yes.

17 Q Okay. You had been there actually a couple of
18 times for the yard; right?

19 A Correct. We had a few complaints that had
20 generated through our Ombudsman. It's called a
21 one-stop program. Very similar to what the animal
22 control officer was talking about, but the
23 Ombudsman's Office filters calls, complaints. You
24 can either stay anonymous or you can, you know, put
25 a name to the service request. And that's how I

1 had come to meet Ms. Todd.

2 Q So you met Ms. Todd in March?

3 A Yes, March.

4 Q And she told you that maintenance was supposed to
5 be done by the management company?

6 A Correct. When I met her that day and we spoke out
7 in front of -- in the driveway, she was explaining
8 to me that In The House Realty -- and she knew
9 them. She actually instructed me where they were
10 on North Main, and everything else. And she was
11 saying that they were supposed to be taking care of
12 the grass.

13 And, you know, I explained to Ms. Todd that,
14 unfortunately, that's between her and the
15 management company, you know, to hash that out, but
16 the way the code, the law is written for Richland
17 County, it says that the lessee, the occupant, the
18 renter, the owner of the home, any representative
19 of the house is in charge of taking care of the
20 yard. So, you know, even if she was the renter,
21 she can still be held responsible for not taking
22 care of the yard.

23 Q Right. But you talked to her and she said it was
24 their responsibility, and that they had agreed to
25 do that?

1 A Right.

2 Q Whether they did or not?

3 A Right. Yes, that was between them and management
4 company, yes.

5 Q Now, you said you saw her kids there that day,
6 right?

7 A Yes, they had gotten off the school bus.

8 Q Okay. Did they look healthy?

9 A Yes.

10 Q Happy?

11 A Happy children.

12 Q Normal?

13 A Uh-huh.

14 Q And you said you met Prince and actually got to pet
15 him?

16 A Right.

17 Q Anything wrong with him?

18 A Not that I could tell. I mean, I'm not an animal
19 expert, but, I mean, he looked like a nice,
20 friendly dog. And, like I said, I did pet him.

21 Q He wasn't starved, didn't stink, didn't -- the
22 fleas weren't on your hands when you went to pet
23 him?

24 A No. This was March, so, no, I didn't see any
25 issues.

1 Q Okay. And you, I guess, briefly saw a couple of
2 other dogs on the front porch?

3 A Yes. They had come out, but, like I said,
4 Ms. Todd -- they were smaller, and so Ms. Todd
5 actually asked for them to go back in. And while I
6 was -- when I had pulled up to talk with Ms. Todd,
7 Animal Control had actually pulled up. We were
8 there on the same service ticket. I was there for
9 overgrown lot and she was there for the dogs at
10 large. Someone had called in a complaint about the
11 dogs not being, you know, on the property.

12 Q So you didn't see any problems with kids or the
13 dogs?

14 A No.

15 Q You're there for an overgrown lot?

16 A Yes, I was there for the grass.

17 Q Now, when it comes to the bags in the back of the
18 house in the doghouse?

19 A Uh-huh.

20 Q As a matter of fact, Ms. Todd told you that it was
21 her and her uncle that bagged the dogs up and put
22 them outside?

23 A Uh-huh.

24 Q Right? So she told you that herself?

25 A Right. While we were standing there. And that's

1 what the bags were, was the bag in the doghouse,
2 was, I guess, the remains of the dogs.

3 Q Okay. Did you do anything with those bags?

4 A No.

5 Q Did you go over and take pictures of them or
6 anything?

7 A I didn't do anything with the bags.

8 Q And when you were talking to her, she gave you the
9 name of John and a phone number?

10 A Uh-huh.

11 Q Which you just read off?

12 A Right.

13 Q Did you ever call that phone number?

14 A I personally did not, but I did follow up with
15 Investigator Clarke, and he made multiple attempts
16 to try to contact.

17 Q Did you ever check the phone company records?

18 A I did not.

19 Q I'm asking what you did?

20 A Oh, I didn't do anything, no.

21 Q Okay. So what was your responsibilities in this
22 case after that?

23 A The case was turned over for, we call it the
24 follow-up investigation, to Investigator Clarke.

25 Q So he was the one that's responsible for

1 investigating everything afterwards?

2 A Correct. That was the initial -- we call it an
3 initial case officer. So I went out and did the,
4 you know, basic findings of the case on scene, and
5 then submitted my police report, which then, in
6 turn, got transferred over to Investigator Clarke
7 and the Special Victims Unit.

8 Q So your responsibilities ended on the 7th?

9 A Correct.

10 Q Okay.

11 A I was still, you know, attached to the case by
12 being the case officer, yes.

13 Q Your job to investigate or perform any tests ended
14 on the 7th?

15 A Correct.

16 Q Okay. That's all I want to know. Thank you.

17 THE COURT: Any other questions from this
18 witness?

19 MS. MOSER: None, Your Honor.

20 THE COURT: All right, you may step down.

21 THE WITNESS: Thank you.

22 (Witness steps down.)

23 THE COURT: Any objection to this witness
24 being excused?

25 MS. MOSER: No.

1 THE COURT: You may be excused.

2 (Witness excused.)

3 THE COURT: Call your next witness.

4 MS. MOSER: The State calls Deputy Shanita
5 Grimes.

6 (Witness approaches.)

7 THE BAILIFF: Place your left hand on the
8 Bible, and raise your right hand, please.

9 (Witness complies.)

10 THE CLERK: Do you swear or affirm the
11 testimony you are about to give in this case will
12 be the truth, the whole truth, and nothing but the
13 truth, so help you God?

14 THE WITNESS: Yes.

15 THE CLERK: Have a seat in witness stand,
16 please.

17 (Witness seated.)

18 THE CLERK: State your name for the record.

19 THE WITNESS: Shanita Grimes.

20 SHANITA GRIMES,
21 after being duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. MOSER:

24 Q Hey, Deputy Grimes. How are you?

25 A Good. How about you?

1 Q Good. So, Deputy Grimes, where do you work?

2 A I work for Richland County Sheriff's Department.

3 Q Okay. What do you do there?

4 A I'm a Community Action Team officer, liaison
5 between the communities I serve and the Sheriff's
6 Department.

7 Q Okay. So what does that look like as far as your
8 duties and responsibilities, that sort of thing?

9 A Sure. Any questions, concerns the communities
10 have, I attend monthly meetings as well as Deputy
11 Jordan, they bring those concerns and questions to
12 me and I'm able to take care of those needs with
13 the assistance of the rest of the department.

14 Q Deputy Grimes, I'm going to draw your attention
15 back to July 7th of last year. Did you have an
16 occasion to get out to Scarsdale Drive that day?

17 A Yes, ma'am. I was with Deputy Jordan earlier that
18 day, and she advised me of this concern that she
19 needed to take care of in Meadow Lakes. And we
20 often attend these incidents together, so I went
21 with her on this day.

22 Q So that was normal for you to accompany her?

23 A Yes, ma'am.

24 Q And what was your, I guess, your primary concern or
25 your goal going out there?

1 A Sure. As soon as we arrived, I pulled up first in
2 front of the [REDACTED] Scarsdale in the roadway. Deputy
3 Jordan parked behind me. One of the first things I
4 observed when we got out of the car is, I turned to
5 Amanda and said, Do you smell that? It was a very
6 pervasive odor in the air. Of course, we both
7 recognized it. Once you've been around the smell
8 of death, it's pretty recognizable. Did not know
9 where it was coming from exactly, though.

10 Q Okay. Could you tell roughly which direction it
11 was coming from?

12 A Yes, from the direction of the house.

13 Q Okay. And have you had experiences smelling that
14 type of odor before? It sounds like you've got
15 some experience, maybe more than the rest of us.

16 A Yes, ma'am. In our work experience, we also go to
17 sometimes natural death calls, so -- or welfare
18 checks and someone has happened to pass. So that
19 smell is pretty recognizable.

20 Q And what did you do when you first arrived?

21 A Initially walked up to the driveway. Like Deputy
22 Jordan said, she advised me not to go near the
23 grass. There were some fleas in there. So we
24 pretty much stayed in the driveway. It was
25 extremely hot this day, so it also made the smell

1 even stronger. But because of the heat, we pretty
2 much stayed in our vehicles.

3 Q Okay. Roughly, how long were you in your vehicle
4 for?

5 A I know we didn't stay outside too long, but most
6 likely from the time that we got there, we pretty
7 much stayed in the cars until time the investigator
8 showed up.

9 Q Okay. And so at that point you got back out of
10 your vehicle?

11 A Yes, ma'am.

12 Q And what did you do then?

13 A From there, it wasn't too much. I wasn't really
14 familiar with the Defendant or this particular
15 case. Like I said, I was just coming out for
16 officer safety.

17 Q All right. And how long did this whole thing take?
18 How long were you out there before you left the
19 scene?

20 A From start to finish?

21 Q Uh-huh.

22 A I'd say approximately two hours, maybe a hour and a
23 half to two hours.

24 Q Did you personally ever speak with the Defendant?

25 A No, ma'am.

1 Q Did you ever go inside the house?

2 A No, ma'am.

3 Q Why did you not go inside the house?

4 A It was extremely hot that day and the smell, the
5 combination of that -- if it was strong in the
6 roadway, I know it was going to be even stronger in
7 the house, as well as the fleas.

8 Q Were you able to overhear any conversations at all
9 between the Defendant and the investigator?

10 A No, ma'am. I pretty much stayed on -- he parked
11 kind of away from my vehicle, so I pretty much
12 stayed nearby.

13 Q All right.

14 MS. MOSER: Beg the Court's indulgence.

15 (Pause.)

16 MS. MOSER: No further questions for this
17 witness.

18 THE COURT: Yes, sir, Mr. Schnee.

19 MR. SCHNEE: I have no questions.

20 THE COURT: You may step down.

21 (Witness steps down.)

22 THE COURT: Any objection to this witness
23 being excused?

24 MR. BERRY: No, ma'am.

25 (Witness excused.)

1 MR. BERRY: May we approach, Your Honor?

2 THE COURT: Uh-huh.

3 (WHEREUPON, a bench conference was held
4 in the presence of the jury but out of
5 the hearing of the jury.)

6 THE COURT: All right, ladies and gentlemen of
7 the jury, we were up here conferring about lunch
8 and when to take a break. They tell me that the
9 next witness is going to probably take a little bit
10 of time, so instead of delaying lunch, we are going
11 to go ahead and take our lunch break. And we will
12 start back at 2:00 o'clock. We will start back at
13 2:00 and we will continue with the State's case at
14 that point.

15 Have a great lunch. Remember, do not discuss
16 the case. Do not do any independent research. Do
17 not do any social networking regarding the case.
18 Do not discuss it with each other or anyone else.
19 Keep your badges on. And have a great lunch.

20 Thank you.

21 (WHEREUPON, the jury is excused for
22 lunch 12:26 p.m.)

23 THE COURT: All right. See you at 2:00.

24 (WHEREUPON, a lunch break was taken.)

25 (WHEREUPON, the proceedings resumed at

1 2:11 p.m.)

2 THE COURT: Is everybody ready?

3 MR. SCHNEE: Yes, Your Honor.

4 THE COURT: Bring them in.

5 (WHEREUPON, the jury came into open

6 court at 2:12 p.m.)

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

8 THE COURT: Ladies and gentlemen of the jury,

9 I hope you had a nice lunch. At this time, we are
10 ready to proceed with the State's case.

11 I will ask the State to call their next
12 witness.

13 MR. BERRY: Thank you, Your Honor. May it
14 please the Court? The state calls Investigator Joe
15 Clarke.

16 (Witness approaches.)

17 THE BAILIFF: Place your left hand on the
18 Bible, and raise your right hand, please.

19 (Witness complies.)

20 THE CLERK: Do you swear or affirm the
21 testimony you are about to give in this case will
22 be the truth, the whole truth, and nothing but the
23 truth, so help you God?

24 THE WITNESS: So help me God.

25 THE CLERK: Thank you. Have a seat in the

1 witness stand, please.

2 (Witness seated.)

3 THE CLERK: State your name for the record.

4 THE WITNESS: Joseph Clarke.

5 JOSEPH CLARKE,

6 after being duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BERRY:

9 Q Good afternoon, Investigator Clarke.

10 A Good afternoon, Counselor.

11 Q How are you today?

12 A Very well.

13 Q Good. I want to start off by asking you to explain
14 to the jury who you are and what you do at the
15 Sheriff's Department.

16 A My name is Joseph Clarke. I am a 17-year member of
17 law enforcement. I worked at the -- getting out of
18 the army years ago. I drove a truck for a while
19 and went to use the GI bill to pay for college.
20 And between Midlands Tech and the University of
21 South Carolina, I got a degree in criminal justice.

22 I went to work for the University of South
23 Carolina Police Department in 2000. And I left
24 there gainfully employed and went to Richland
25 County Sheriff's Department in 2003, where I've

1 been ever since.

2 Since that time, I've worked the road at both
3 departments. And after leaving the road, I went
4 into investigations in late '06, early '07. I
5 worked property crimes mostly at that point. That
6 would be burglary and theft of motor vehicle,
7 things like that.

8 After that, I worked Major Crimes, got named
9 as a primary homicide investigator, and then a
10 stent as undercover in narcotics a couple of years.

11 Leaving that, I went to the Special Victims
12 Unit and worked Special Victims Unit crimes for
13 about three, three and a half years before I was
14 recently promoted the beginning of this year to
15 sergeant. And now currently my duties include
16 sergeant over motor vehicle theft and theft of
17 motor vehicle unit for Richland County Sheriff's
18 Department in investigations.

19 Q And you also have some specialty in animal cruelty
20 investigations; correct?

21 A Correct. I, along with another investigator,
22 Investigator Wagner, with the Sheriff's Department,
23 work all the animal abuse cases for the Sheriff's
24 Department. Mostly for felony level and we work in
25 concert with the Animal Control, City of Columbia

1 Animal Shelter, many of the rescue organizations
2 here in town, that kind of thing.

3 And in that time, I've received some training
4 on the job, mostly under the tutelage of
5 Investigator Wagner, but also under some codified,
6 you know, actual training through the University of
7 Missouri, where we are both considered certified
8 trained animal abuse investigators..

9 Q And in July -- June, July of last year, you were in
10 that capacity; correct?

11 A Correct.

12 Q And you were called out to [REDACTED] Scarsdale last year;
13 correct?

14 A I was.

15 Q Why were you called to the house? How did that go?
16 How did you get this call?

17 A I was working at the SVU office, working on those
18 cases -- just so you understand. My primary focus
19 at that point would be SVU-type cases, so that
20 would be things like elder abuse, child abuse, sex
21 crimes, sexual assaults, crimes against children.
22 But in addition to that, I'm tasked with one of --
23 me and the other investigator, Investigator Wagner,
24 to work these cases when they arise. And usually
25 one or the two of us get the call. In this case,

1 Investigator Wagner was out of state, and so the
2 call fell to me due to the fact of what we do, our
3 experience, our training, and this type of thing.
4 So I received the call that day from Amanda Jordan
5 to respond to the location.

6 Q Do you recall roughly about what time of day you
7 got that call?

8 A It would have been somewhere 3:00-ish in the
9 afternoon that day. I was finishing up some things
10 I was working on. And then when I got the call, I
11 explained to her, you know, I'm going to have to
12 get across from where my office was at Pineview and
13 Garners Ferry, had to get to Meadow Lakes is
14 directly opposite of where I was, I had to get
15 across the city. So I told her, I said, It's going
16 to take me a little while, there is some traffic.
17 Bear with me, I'm coming.

18 Q So around what time did you get to the scene?

19 A I'd say about 4:00 o'clock.

20 Q And do you recall who all was there at that time?

21 A When I pulled up on the street, at that point I
22 recognized Amanda Jordan. I saw a CAT team
23 vehicle. And that's who I remember at the time.
24 And there was another female there present speaking
25 with them, a civilian, I assumed, by her dress.

1 And that's what I remember when I pulled up.

2 Q And what does CAT team mean?

3 A Community Action Team. So those are the folks that
4 drive the Camaros. Now, they're driving the
5 Chargers, Challengers. I don't know. Anyway.

6 Q So you get there, and then what all do you -- you
7 see those folks there. What's the first thing you
8 do?

9 A Well, let me back up a little bit. When she --
10 when Amanda called me, I asked, What do you got,
11 you know, what's going on? And she gave me what
12 information she knew at the time. She said -- you
13 know, without saying what she exactly said, it was
14 things like she was familiar with the location and
15 she was familiar with the occupant or the woman
16 that lived there and that there was a bad odor.

17 I remember asking why was she there, because I
18 knew she worked -- she wasn't on a road unit, you
19 know, responding to calls per se. And she said, I
20 was there for a Code Enforcement issue and there's
21 been this bad odor, and we think there may be
22 something wrong at the house.

23 And they called me because I think at that
24 point they already determined that there was dogs
25 involved. So it immediately kicked into an animal

1 abuse type thing, or potential animal abuse thing,
2 so I became involved.

3 Once I arrived, I then made contact with
4 Amanda there in the roadway.

5 Q Okay. And, you know, what else are you observing
6 about this scene? What are your immediate
7 impressions?

8 A Well, no question, as soon as I got out of the
9 vehicle, I could I smell decomp. And being a
10 homicide investigator, plus, over the years,
11 working the road, and those things, you just know
12 what that is. You don't even have to be a police
13 officer to know that. You're going to know a
14 really bad smell and, you know, you smell it -- be
15 going down the road and you'll smell a deer in the
16 ditch or something like this. Well, we're all
17 mammals, you know, in that case, and so decomp has
18 a smell, a particular odor. So there was no
19 question when I got out of the vehicle that there
20 was decomp at this location.

21 Q And the heat?

22 A It was very hot. It was -- I'm hot all the time,
23 so that goes without saying, but when I got out of
24 the vehicle, it was one of those days, kind of like
25 today, where it's really hot. It was humid and

1 hot. It was July. And so very uncomfortable
2 outside and the sun was really beating down on us
3 right then, so.

4 Q And so you then talk to Amanda Jordan first or who
5 do you connect with for the down-low?

6 A Whenever -- it has been my custom whenever I
7 respond to a scene and deputies are there, the
8 first thing I like to do is either go to the road
9 unit that's in charge, somebody I recognize by
10 rank, or what have you, or whoever called me to
11 kind of find out kind of like, you know, basically,
12 What we got? What's going on? And so I made
13 contact with Amanda first.

14 Q And what did you do next?

15 A At that point she briefed me that they determined
16 the dogs were -- had been in the home, that there
17 was a situation where we didn't know where the dogs
18 were. You know, kind of this, that, and the other.
19 At that point, just on the decomp alone and just
20 what I had, I knew we were what I call search
21 warrant land. We were already at a point where I
22 could -- I could go to a local judge and say to
23 them look, We need to get in the house and make
24 sure that there's nothing else going on. We need
25 to be able to search this home and make sure

1 there's not any further dead bodies, perhaps
2 somebody else in distress, perhaps other animals,
3 et cetera. We've done that kind of thing before.

4 So at that point, I made contact with
5 Ms. Todd, introduced myself, explained why I was
6 there, why I had been called. And I asked would
7 she be willing to give us consent to enter her
8 home.

9 At this point, understand, whether she did or
10 didn't, I was probably going to go ahead and secure
11 a search warrant just for the -- an abundance of
12 caution. I always find it better if I can make
13 contact with somebody and reason with them and
14 speak with them, I'd rather get consent.

15 So at that point, that's what I spoke with her
16 about. I went and got the form. I read it to her
17 and explained it to her, and she agreed to give
18 consent for us to go in and look at the home.

19 MR. BERRY: If I may approach, Your Honor, the
20 witness?

21 BY MR. BERRY:

22 Q I'm going to hand you, Investigator Clarke, what's
23 been marked State's Exhibit 1. This is State's 1.
24 Actually, I apologize. Hold on one second. I
25 handed you the wrong one.

1 MR. BERRY: Beg the Court's indulgence.

2 (Pause.)

3 MR. BERRY: My apologies to the Court.

4 BY MR. BERRY:

5 Q I'll actually hand you State's 33. Do you
6 recognize this document?

7 A I do.

8 Q Can you please tell the jury what that document is?

9 A This is a standard form we use. There's many forms
10 we use during the course of our day. This is a
11 Richland County Sheriff's Department consent to
12 search form. And I would have -- most
13 investigators, most prepared deputies should have a
14 file full of blank forms for different things you
15 may need, to include this one. So that's what this
16 is.

17 Q And what does that inform her?

18 A It has a date and a location, and it has the
19 person's name where you enter it at. And it just
20 basically explains that we're going to -- we would
21 like to conduct a search of your premises or
22 automobile without a search warrant by whomever is
23 present. In this case, it's going to be myself at
24 the time, Investigator Joe Clarke, and other
25 officers of the Richland County Sheriff's

1 Department. These officers are authorized by me to
2 take from our premises and/or automobile letters,
3 papers, materials, or other property which they may
4 desire, and the description of the property to be
5 searched. In this case, I just did the generic
6 home and yard. I was basically just doing a
7 protective sweep, for lack of a better word.

8 And it says here: I am aware that any
9 evidence obtained as a result of this search can be
10 used against me in a court of law. This written
11 permission is being given to me to the above-named
12 officers freely, voluntarily, without threats or
13 promises of any kind.

14 And then I established that she was, in fact,
15 the leaseholder, the primary leaseholder, and I did
16 that by stating leaseholder down at the bottom with
17 her initials and that she had been the leaseholder
18 at this property for four years. So she clearly
19 was taking control or dominion of this property
20 saying this was primarily her property. I wanted
21 that to be quite understood.

22 And then I had that both witnessed and signed
23 by Ms. Todd. And I asked her to affix her phone
24 number there at the bottom as well.

25 Q And did she, in fact, sign that --

1 A She did.

2 Q -- consent to the search? And at the time, was she
3 in custody at this point?

4 A No. We were just having a -- you know, the brief
5 conversation, whatever it took to explain this form
6 to her, and really what my intentions were at that
7 time.

8 Q Okay. So she wasn't under any duress, coercion,
9 handcuffs, anything of that nature?

10 A None whatsoever. And she could have refused us.
11 She could have said, I don't want to do that, then
12 probably at that point my next course of action
13 would be to try to secure a search warrant.

14 Q So at that point, you then go into the house;
15 correct?

16 A I do.

17 Q You have consent to enter from the leaseholder.
18 Who all goes into the house?

19 A When I get consent, I always like the person that
20 signed it or gave consent, I prefer them to go with
21 me. Primarily, just because if they're going with
22 me, there's a good operation that whoever, if
23 there's a bad guy in there, that loved one of
24 theirs is going in with them. That's just a
25 tactical thing I like to do. I've had a bad

1 experience before in the past on that. And the
2 second thing is they also can answer any quick
3 questions like, Is this where the children sleep?
4 Is this where you primarily eat, the kitchen?
5 Basic things like that. If there's anything I need
6 to be aware of. If I have them with me and I'm
7 walking down the hallway, that plank of wood that's
8 fixing to give way, they've all known about it for
9 10 years and haven't fixed it, I don't go through
10 the floor. They give me a heads-up. Things like
11 that. So I like to have her with me -- or have
12 that person with me. So it was me, Ms. Todd, and I
13 believe Deputy Fish went in with me as well.

14 Q And that was her choice? She was free to go in
15 with you, but she didn't have to go in?

16 A Right. I absolutely ask. And I would prefer them
17 to go with me, and if they don't want to go, that's
18 fine. I just -- you know, I prefer them to go with
19 me.

20 Q So please now tell the jury what you saw inside the
21 house from the beginning. What were your
22 impressions walking in? What did you see, smell,
23 hear? What did you find?

24 A I parked down the street from this location. I
25 parked across the street from where the Richland

1 County vehicles were already that has been
2 testified to before, and just kind of down the
3 street a little bit. You could smell the
4 decomposition without any question whatsoever. It
5 was very present. I walked over to the door, made
6 contact with Ms. Todd, did my introductions,
7 whatnot, had this signed.

8 Once the decision was made to go in, and I
9 kind of did a roll call who was going to go in with
10 me, and I had no takers with my crew out there, so
11 I knew I was stuck. So we're going to go in
12 anyway. And so when we opened the door, Ms. Todd
13 unlocked the side door, and when she did, it was --
14 the floor was covered in bugs, moving bugs, that
15 kind of thing. I've seen a lot of bad scenes. I
16 wouldn't call this the worst, but this was
17 probably, just on bug infestation alone --

18 MR. SCHNEE: Objection to any description of
19 comparative scenes. Relevance. He can describe
20 what he saw in his experience as law enforcement.

21 THE COURT: I will sustain the objection.
22 Please rephrase.

23 BY MR. BERRY:

24 Q Without comparing it to other scenes, what did you
25 see as you walked in?

1 A Quite a bit of bug activity on the floor. And they
2 moved away. In fact, I said, Why don't we wait a
3 second and let them move out of the way? I
4 remember saying that out loud. They were that
5 quite pronounced. Once at that point, of course
6 the smell would increase because now we've opened
7 the door. And it's hot and it's nasty out there,
8 but, I mean, it's just what it is.

9 We then entered into the house and did a quick
10 walk-through. I could have gone back and done
11 vapor rub, things I've done before to deal with
12 smell, but I thought let's just do a quick cursory
13 look through. Let's just make sure there's not
14 anything in here we're going to miss, big time.
15 You know, another animal, God forbid, a human
16 being, anything like that. So we just did a quick
17 walk-through.

18 As I did, we had very minimal conversation. I
19 noticed that there was bug bombs in many of the
20 locations. I think I counted eight spread about.
21 And they were having little, if any, effect on
22 this. And the house was very hot.

23 And then we moved to the back room area where
24 the bathroom was in this bedroom. In there, I
25 could see a spot on the floor where I understood a

1 puppy or a small dog had already been removed. And
2 I could tell that a scrape had been used to get it
3 up, maybe a flat-tip shovel, or something like
4 that. So whatever this was was in a pronounced
5 state of decomposition, to the point where you
6 could not physically pick it up.

7 And then we opened up the back door --

8 Q Pause if you don't mind, sir.

9 A Yes, sir.

10 Q Did you say you were in the bathroom?

11 A Yes.

12 Q Where you saw -- I'm going to hand you State's
13 Exhibit 9. That's a picture of remains by a
14 toilet. So when you got there on July 7th --

15 A Uh-huh.

16 Q -- those remains were not there, that's correct?

17 A Correct. There was remnant, you could tell. In
18 relation now when I look at this photograph, there
19 was like an outline, if you will, a stain where,
20 you know, it just hadn't been completely cleaned
21 up. But you could clearly tell that was that
22 position where that animal had expired, so.

23 Q Any other observations about the bathroom area?

24 A Covered in dead maggots and other vermin, fleas,
25 bugs, whatnot.

1 Q So when you said bugs everywhere earlier, what kind
2 of bugs were you able to identify, if any?

3 A Cockroaches, fleas -- you know, I'm not an
4 entomologist, so I don't know, but they were
5 ground-walking bugs. But usually fly larvae, you
6 know, maggots, that kind of thing.

7 Q And you mentioned the heat earlier too. Were you
8 able to observe the status of ventilation in the
9 home?

10 A There was none. There was none. The air was not
11 moving. Nothing was moving in this house
12 whatsoever, so.

13 Q So I know we've heard about cracked -- or broken
14 windows before, but were windows open in general
15 or?

16 A I may have made a suggestion to open windows, but
17 we never got to that point. I figured, Let me get
18 in here and see what we've got. And this was
19 pretty bad. I knew if I was going to come back in
20 here, I'd probably go ahead and gear up, put my
21 stuff on and go back in. But at this point, it was
22 just, Let's do a quick look. Let's make sure we
23 don't have anything that we don't want to overlook
24 here right now, so.

25 Q And by stuff on, you mean like hazmat-type stuff?

1 A Yeah, Tyvec suits and respirators, and things like
2 that.

3 Q So after the bathroom, you checked the other rooms
4 of the house?

5 A I did. I did a quick cursory walk-through and went
6 to that back bedroom.

7 Q So describe where that back bedroom is and what you
8 found there?

9 A That back bedroom is off the hallway -- you go down
10 the hallway and it would be a back bedroom. And I
11 believe, I'm not 100 percent certain, but the door
12 either opened to the in -- it opened into the room.
13 And that room was, you know, for lack of a better
14 word, filthy. It was disgusting. It was -- you
15 know, fecal matter in some places was several
16 inches deep. There was fur. And the smell was at
17 this point just about overpowering.

18 And I remember distinctly three spots on the
19 floor. Two were like pillows -- or maybe another
20 one -- maybe three were pillows. And I could see
21 the outline of where something had been. And it
22 was pretty obvious in my experience, this is where
23 these dogs had expired.

24 Like any of us, if we lay in a hot room or a
25 hot house like that on anything, without being

1 disgusting, the body's going to find a way to open
2 itself. And that's what will happen. And the
3 effluence and the plasma and the blood in our
4 bodies will start to come out. And it will leave a
5 distinctive line. You can almost see in that line,
6 almost like the side of a cliff -- you know,
7 geologists will look at like the ancient side of a
8 geological period of time and they can look. You
9 can also tell what happened next as the body broke
10 down. We're no different than animals as far as
11 mammals go, so we do the same thing.

12 So in my experience, I realized these animals
13 had both expired at that location, their bodies had
14 opened, and they had basically reduced themselves
15 to -- I think someone said goo earlier. I think
16 that's a pretty safe assumption.

17 Q You took pictures; correct?

18 A I did.

19 Q I hand you what has been marked as State's Exhibit
20 16 to 32. This is 16 through 32. Just take a
21 minute, look through each of those, and tell me if
22 you took those pictures and if they fairly and
23 accurately represent what you saw in the house that
24 day, in and around the house that day.

25 A Yes, they do.

1 Q They do?

2 A Yes.

3 MR. BERRY: Your Honor, I'd like to offer
4 State's 16 through 32 into evidence.

5 THE COURT: Any objection?

6 MR. SCHNEE: Just based on pretrial motion,
7 Judge.

8 THE COURT: All right. Let me see them.

9 Those will be entered over the objection.

10 (WHEREUPON, State's Exhibit Nos. 16 - 32
11 were marked for identification and
12 received into evidence.)

13 MR. BERRY: Actually, Your Honor, I request
14 permission for Investigator Clarke to stand down
15 from the bench to refresh the jury, walk through
16 some of these, if that's okay?

17 THE COURT: Yes, sir.

18 (Witness steps down.)

19 BY MR. BERRY:

20 Q So one by one here. First up is State's 16.

21 Please tell the jury -- show and tell the jury what
22 that is.

23 A That would be the front of the home, [REDACTED] Scarsdale.

24 This would be the side door we both entered
25 into at the time. This would be the driveway, kind

1 of ends right here and walk across a little piece
2 of grass, and that's the -- would be the side door
3 we actually made entry in.

4 Q And that was State's 17. Next up is State's 18.

5 A This would be, again, just off of this picture
6 here, extending a little further out down the
7 house. And this is a doghouse in the back. Those
8 are bags. We later determined those bags were full
9 of the bodies of the animals that had been scraped
10 off of the floor.

11 Q And State's 23?

12 A This would be inside the house back bedroom. And
13 this is just -- I kind of did a panorama of what I
14 was seeing. And this is fecal matter and trash and
15 debris and some clothing and some -- looks like
16 some cleaners, household cleaner in a corner of the
17 back bedroom where we found remnants of where these
18 animals had expired.

19 Q I apologize. I was a little out of order. What
20 was that number?

21 A I did that. That was my fault.

22 Q So I want to step back from that back bedroom back
23 to the bathroom where you said you first went. I
24 want to hand you -- first, I'll hand you State's
25 29.

1 A Okay. This would be a bathroom here as I found it
2 that day. And there's some bug activity all around
3 here. You know, the resolution is off a little,
4 but these are all bugs, dead and sometimes crawling
5 and moving. Quite extensive in that bathroom.

6 Q State's 30?

7 A This is a bathtub of that same bathroom. This is
8 where the little dog was behind the toilet. And
9 that's bug activity. Cockroaches, fecal matter
10 from cockroaches and actual bugs. Some were
11 moving, some weren't.

12 Q And 27?

13 A Same thing. Little out of focus, but you can see
14 the spotting around this toilet, bug activity
15 moving, non-moving right around the toilet. And
16 there's things in the toilet. I don't remember
17 exactly -- there was bug carcasses in there, but I
18 don't remember anything profound in the water.

19 Q It does appear to be water in that picture?

20 A A little bit of water in the bottom.

21 Q And that was taken on July 7th; correct?

22 A Yes.

23 Q You took all these on July 7th?

24 A Yeah, while I was there.

25 Q And State's 28?

1 A And this would be as we came into -- coming down
2 the hallway, the broom was already there. I guess
3 that was where an effort was being made to clean up
4 the house. And that's just coming off the hallway,
5 looking in the bathroom. And the bedroom that I
6 took further pictures in is going to be right here.

7 Q And I'm going to hand you State's 31.

8 A This was a bedroom before you get to the bathroom,
9 as I remember it, and it was just a general -- you
10 know, there's a dog food bag in this room, but
11 there's just -- you know, just -- I just took a
12 picture. I don't know if I really had any thought
13 to it other than the house was in a bit of
14 disarray.

15 Q Likewise, State's 32?

16 A Same thing. And what you'll notice here, and I
17 don't know if you can see it here, I know one of
18 the things I was memorializing was the amount of
19 bug bombs. That's a bug bomb sitting right here in
20 this bedroom. I seen the master bedroom -- same
21 bedroom, I'm sorry, same bedroom. I just turned to
22 the left and took a photograph. So that is a bug
23 bomb that had been used there at that location. If
24 I go back, Counselor, I think on the toilet in the
25 bathroom, that's what that was. That's another bug

1 bomb in the bathroom.

2 Q And that's in State's 29?

3 A Yes, sir.

4 Q I'm going to hand you State's 24.

5 A Okay. This would be in the back bedroom that we
6 mentioned before. The fecal matter was quite
7 pronounced in different corners. That's not
8 uncommon for an animal to want to evacuate their
9 bowels in the corner. Cats do it. Dogs do it.
10 They don't like to do that where they have to
11 sleep. And it gets to a point in many of the
12 situations I've seen, much like this one, where it
13 gets the to point where nowhere else they can go
14 and they just start going where they are. So
15 that's a corner there. That's just all fecal
16 matter and trash. Some trash, looks like a juice
17 bottle, and a small bag of dog food looks like may
18 be put in there.

19 Q And 22?

20 A Okay. Here's one of the first examples of what I'm
21 talking about. There's some clothing and a pillow.
22 If you'll look here closely, what -- you know,
23 resolution is off, I apologize. That's a ring of
24 fur right there. And these are different rings
25 that come off the body from the different types of

1 fluids that come out of our bodies.

2 First, there's going to be clear fluid,
3 perspiration, whatnot. As the skin opens, you're
4 going to have plasma and then you will have
5 actually blood come out the body and like it will
6 pool, you'll have morbidity at the bottom. And
7 what happens is you have a really concentrated dark
8 spot at the bottom where the body has finally just
9 given up and that's where it just opens up. That's
10 post-mortem at that point. But you can actually
11 see the different lines, is what I'm trying to talk
12 about. And that's pretty much consistent any time
13 you find someone who has expired or animals that
14 have expired at a scene like that.

15 Q And you said -- I believe you found three different
16 locations?

17 A Three different locations.

18 Q State's 26?

19 A Correct. This would be another one. There's a
20 kennel in there as well. I looked in the kennel,
21 didn't see anything. This is going to be another
22 blanket or a pillow right here and then one here.
23 So the animals appeared as they slowly expired
24 would go to their safe spot, I guess their little
25 corner, what they liked, what made them

1 comfortable, and they would just lay down and that
2 would be it.

3 Q State's 20?

4 A Here's a better picture of what I was describing.
5 It's a little gruesome, I apologize. But it is
6 what it is. That's going to be more fur and the
7 outline of the animal. Okay? That's where the
8 contact of the animal is on the actual receptacle
9 in the case. So in this case, you've got bedding.
10 It looks like another pillow. And that's where
11 that animal had literally -- you can actually see
12 where the animal had laid down on its side and this
13 is its paw turned in like this as it laid down on
14 its side. And it slowly opened up, the body just
15 gave up.

16 Q Nineteen?

17 A Bug bomb, kennel. Now, we're coming back around
18 the corner. Here's that pillow again. Again, you
19 can see a pronounced stain where the animal slowly
20 expired. And that's where it just continued to
21 decompose inside that room.

22 Q Almost done here. Twenty-one.

23 A Better picture. I tried to get as high as I could.
24 I get up on my tiptoes and shoot down. Again, you
25 can see the debris strewn and the clothing strewn.

1 Then you can kind of see the animals were almost
2 kind of like in a semi-circle. So that's probably
3 how they liked to, you know, be next to each other.
4 Animals are pack animals --

5 MR. SCHNEE: Judge, I'm going to object to any
6 more behavioral --

7 THE COURT: Sustained.

8 MR. SCHNEE: Thank you.

9 A Okay.

10 Q And lastly, State's 25?

11 A Again, a back picture, another laundry basket and
12 this is looking back to the side, here's three
13 pillows in a group. And that's where the animals
14 laid down.

15 Q Thank you, Investigator. If you will, please,
16 return.

17 (Witness returns to witness stand.)

18 BY MR. BERRY:

19 Q Okay. So you've seen all this stuff. In the back
20 bedroom, you see the fecal matter. You said urine?
21 Could you tell the urine presence?

22 A You can definitely smell the ammonia from urine.
23 You can obviously smell the fecal matter. And you
24 could definitely smell the decomp. Decomp, of
25 course, took precedent.

1 Q What did you do next? At this point, what are
2 y'all going to do now?

3 A Well, at that point I realize, you know, we have an
4 issue here. We've got a problem. And at that
5 point I need to do what I need to do as far as
6 speaking to the homeowner or the lessee. That
7 obviously is Ms. Todd. Ms. Todd has rights. And
8 though this thing looks like it's kind of somewhat
9 self-explanatory at this point, I would like to
10 speak to her. So we leave the house and walk
11 outside. We walk outside.

12 I was not aware, but my co-workers were aware
13 of how covered, apparently, I was with fleas.
14 Though I don't wear a uniform, I'm pretty much a
15 creature of habit. I'm usually wearing khaki
16 pants, a white shirt or a blue oxford, and so
17 that's how I dress. And so when I looked down, not
18 to oversell it, okay, but it was pretty pronounced.
19 I mean, my pants were moving. And I wasn't
20 necessarily getting bitten yet, but it was alarming
21 my co-workers enough that they went and got a can
22 of Raid and literally doused me with Raid as we're
23 doing that. Meanwhile, I'm trying to keep my
24 composure. And Ms. Todd's upset. She's trying to
25 get them off of her. And Derek Fish, the deputy

1 that went in with me, he's got them all over him.

2 And, you know, so there was a little bit of a

3 jumble there for a second.

4 Once that was taken care of or assessed, I
5 realized, Let's just go ahead and see if we can get
6 a statement from Ms. Todd, let's speak to her. In
7 light of all that we had experienced and all that
8 we had done, I thought it best, Let's just try to
9 remove her as best I can from this particular spot
10 and walk her over to the hood of my county vehicle.
11 I drive a pickup truck. I'm one of the few -- I'm
12 one of the many investigators that does, not few,
13 but many that do. And I found that the hood of a
14 Ford pickup makes a great desk. So it also got us
15 down the street. And so we got out there and we
16 could spread our paperwork out and we started to
17 talk.

18 The first thing I want to do then is advise
19 her of her Miranda Warnings and get her to see if
20 she wanted to consent, and she did. She would
21 waive Miranda. Pursuant to waiving Miranda, she
22 would then speak with me. I basically just had a
23 few Q-and-A.

24 Q Can you hold on one second, sir.

25 A Okay.

1 Q I want to approach with now what has been marked as
2 State's Exhibit 1, and then State's Exhibit 2. I
3 want to first direct your attention to State's 1
4 and ask if you recognize this document?

5 A I do.

6 Q Explain that to the jury.

7 A Again, another form that we have. Many that we
8 have. This one in this case is a Richland County
9 Interrogation Advice of Rights form. And this is
10 something that -- interesting on TV, and things
11 like that, a lot of times you'll see them read it
12 off the card. This is our way of, quote, reading
13 it off the card. And we basically just get the
14 person to give us their full name and proper
15 spelling, who they are with, date, time. And then
16 I also -- again, I put the time, military time.

17 Q What time was that?

18 A That would be 1645 or 4:45. And then I --

19 Q You can please continue.

20 A Okay. Then I just publish this, Counselor. I
21 would just say: These are your rights. And they
22 go as follows:

23 Before we ask you any questions, you must
24 understand your rights. You have the right to
25 remain silent. Anything you say can be used

1 against you in court. You have the right to talk
2 to a lawyer for advice before we ask you any
3 questions and to have a lawyer with you during any
4 questioning. If you cannot afford a lawyer, one
5 will be appointed for you before any questioning if
6 you wish. If you decide to answer questions now
7 without a lawyer present, you still have the right
8 to stop answering at any time. You also have the
9 right to stop answering at any time until you talk
10 with a lawyer.

11 At that point, I say: Do you understand that?

12 In this case, there was no problem with
13 Ms. Todd. She was obviously an intelligent woman.
14 She understood what we were talking about. And
15 then she affixed her signature there.

16 Q She spoke English? She understood what you were
17 talking about?

18 A Yes. I mean, just in the brief -- it didn't take
19 two seconds to realize this was an intelligent
20 woman. I wasn't having a problem being understood,
21 or anything like that.

22 Q And where exactly are y'all at this point?

23 A At this point we were at the hood of my truck. So
24 we were away from the property, out of the grass to
25 keep the bugs off of us, because the fleas were --

1 that's when I really realized how bad the fleas
2 were. And so then we walked over to my truck, so
3 we were in the roadway.

4 Q And she's not under arrest at this point; correct?

5 A No. None, whatsoever.

6 Q She's not handcuffed?

7 A No.

8 Q And, you know, was she allowed to -- if she wanted
9 water, would you have given her water? Was she --
10 you know, did she ask for anything like that? I
11 mean, tell me more about this.

12 A There was no hurry here in this. This was just --
13 you know, we were all uncomfortable, mostly from
14 the heat, and then the odor, and then, of course,
15 the bugs. So I wasn't in any way trying to stress
16 her any more than she may have already -- any
17 stress she may have felt at the time. So it was
18 just a normal, regular conversation. I need to do
19 this. I want to make you aware of this. We talked
20 about it. And she signed the form.

21 Q Did you make any threats, any coercion, any
22 promises to her?

23 A Sir, no.

24 Q And so she did acknowledge that she did understand?

25 A She did. And she would waive those rights and

1 agree to speak with me.

2 Q Did she affix her signature to that document?

3 A She did.

4 Q Once she has been Mirandized, what happens next?

5 What did she tell you?

6 A Well, we just talked briefly at that point. And I
7 have a process of, you know, we talk for a little
8 bit, then we will do a Q and A. And I just need to
9 get the basic facts at this point. And what I'm
10 primary interested in at that point is, Is this
11 your property? Have you been living here? Are
12 these your animals? Are you responsible for these
13 animals? Et cetera. So that was why I limited the
14 questions very briefly to just what I asked her.

15 Q And what did you ask her?

16 A You want me to just go through the statement?

17 Q Please tell me what she told you.

18 A Certainly. Okay.

19 When I spoke to her, I said: Where do you
20 live?

21 She said: [REDACTED] Scarsdale Drive.

22 Question: For how long are you the primary
23 leaseholder?

24 She said: Four years.

25 I said, question: How many dogs did you have?

1 Her answer was: Five dogs. And she named
2 them for me, Prince, Panda, Midnight, Diamond, and
3 Sparkle.

4 Question: Which dogs were found dead in the
5 house?

6 She said: Panda was in the bathroom.
7 Midnight, Diamond, and Sparkle were in the back
8 bedroom.

9 I asked the question: When did you leave the
10 dogs and go to Pennsylvania?

11 She said: June 3rd of 2016.

12 Question: Did you leave food and water?

13 She said: Yes.

14 Question: When did you return to [REDACTED]
15 Scarsdale?

16 She said: Sunday, the 3rd of July, 2016.

17 Question: Did you go inside the house?

18 Answer -- and this is where it was

19 interesting: No, I just got my mail. I did not go
20 inside the house because they get so excited.

21 My follow-up question was: So you did not go
22 inside?

23 Question: No -- or, Answer: No.

24 Question: How did you learn the dogs were
25 dead?

1 Answer: My uncle told me about it. He found
2 out by the maintenance guy.

3 Question: Did you own the dogs found inside?

4 The answer is: Yes.

5 Q And she signed that statement?

6 A She did.

7 Q She didn't mention anything about John in that
8 statement?

9 A No.

10 Q Did she tell you anything about some guy named
11 John?

12 A I don't -- I remember it being said, kind of, you
13 know, I was hearing it from other folks. She had
14 been talking to Amanda Jordan, and I heard that
15 there may have been -- there was a story that there
16 may have been someone that was going to take care
17 of animals for her.

18 Q But she did not have that included in her
19 statement?

20 A No. I would certainly think that would be
21 something she wanted to tell me.

22 MR. SCHNEE: Objection. Speculation as to
23 what my client was thinking.

24 THE COURT: Sustained.

25 Q But you wrote this statement; correct?

1 A Correct. This is my standard protocol and what
2 most investigators -- all county investigators do
3 is -- the ideal situation would be to have her at
4 the office and sit down with my computer and go
5 through -- I have a template we would go through.
6 And in that case, I can actually turn the screen
7 and we can go through it. As we go through it,
8 I'll say, Is there any changes you want to make?
9 Did we get this right? Are we saying it the right
10 way? This is your statement, I want to make sure
11 it's the way you like it. At that point, we make
12 any corrections that are necessary and get them to
13 affix their signature.

14 In the field, it's a little different. We
15 have kind of a little bit of a chaotic situation
16 that we are trying to kind of bring under control.
17 And so at this point, I was just trying to get an
18 initial statement, knowing that I was probably
19 going to speak with her again.

20 And so at that point, I would read this to her
21 back. And if she would agree that's what, in fact,
22 she wanted to be memorialized, she would affix her
23 signature, and she did.

24 Q And after that process is done, I imagine you
25 continued talking. Anything else she told you

1 after that?

2 A You know, we just -- we just -- I guess -- you
3 know, my job I know at this point is to gather more
4 information. I didn't think -- I remember at the
5 time thinking, you know, it's probably there, but I
6 don't want to make an arrest here. There may be
7 some other things that are going on here that I'm
8 not aware of, some things I need to look into.
9 Certainly, if there was an alibi that she had, a
10 plausible alibi, I would like to provide her that.
11 She had a situation with a house that was very
12 unkempt and had an odor to it and that she was
13 somewhat -- she was responsible for that, so she
14 had other issues that she needed to resolve.

15 And at that point, I just explained to her --
16 gave her my card and explained to her you're
17 probably going to talk to me again. And so at that
18 point, any conversation we had, Counsel, would have
19 been just, you know, Hey, this is where we are
20 right now. You know, Can I reach you at this
21 number? You know, This is who I am, and if you
22 have any questions, you can call me. The things I
23 usually do.

24 Q So what did you do next?

25 A At that point, I -- specifically?

1 Q Yes.

2 A I took my pants off and I threw them in the toolbox
3 in the back of my truck and I drove home in my
4 underwear.

5 Q You got me there, Investigator. After you're done
6 talking with Ms. Todd, I guess it's time to leave;
7 right? You felt like, you just told the jury --

8 A Yeah, at this point, I had nothing further at that
9 point. In all fairness to Ms. Todd, she had other
10 things going on at that moment. And I thought, you
11 know, this is something that doesn't have to be
12 done right at this moment. There are some things I
13 need to follow up on. Let's find out. So at that
14 point, I left the scene.

15 Q And you take your pants off?

16 A And I really -- you know, at this point, I was not
17 in a position. The other folks were already
18 getting themselves squared away. I had a long
19 drive and I needed to get -- I really needed to get
20 out of these pants.

21 Q I understand. So you leave the scene at that point
22 and she's not under arrest?

23 A No.

24 Q Right. As part of your investigation, what you do
25 next?

1 A I wanted to speak with -- I wanted some follow-up
2 to come in because, understand -- or maybe you
3 don't understand -- this was not a -- this was
4 Amanda Jordan following up on, as has been
5 described, a maintenance issue with the yard. So
6 she's there for that, and this thing happens. So
7 really we have a fresh incident. We have an actual
8 fresh incident crime scene per se. So at that
9 point, there hasn't even been an initial incident
10 report done by the responding deputy. I'd like to
11 get that. I'd like to get that follow-up. I'd
12 like to make contact with the maintenance company
13 or the rental company. Certainly, give her time
14 with any potential alibi she has. I've given her
15 time to work on that if she needed to. And just
16 make some perfunctory phone calls. And then make a
17 determination at that point. I knew driving away
18 that she was -- her story --

19 MR. SCHNEE: Objection. Commenting on what my
20 client's version of what happened is is his
21 opinion.

22 THE COURT: Sustained.

23 Rephrase the question.

24 MR. BERRY: Certainly.

25

1 BY MR. BERRY:

2 Q So at this stage of the process, you have left the
3 scene, you are doing your follow-up. You said you
4 wanted to follow up with the maintenance company?

5 A Correct.

6 Q Doing follow-up I guess with Animal Control?

7 A Correct.

8 Q And with the Defendant, as accomplished, comes to
9 you, and all of that, did you do all those things?

10 A I did. What things I could work on, what needed to
11 be worked on to resolve this, particularly to get
12 the probable cause level of an arrest. I took care
13 of all that.

14 Q And you did, in fact, make an arrest here; correct?

15 A I did.

16 Q When was that?

17 A That would have been on the 19th. So this happened
18 on the 7th. I would make contact with Ms. Todd who
19 would turn herself in on the four warrants on the
20 19th.

21 Q Thank you, sir.

22 MR. BERRY: Beg the Court's indulgence.

23 (Pause.)

24 BY MR. BERRY:

25 Q Thank you, Investigator. Please answer any

1 questions that I'm sure Mr. Schnee has for you.

2 MR. SCHNEE: May it please the Court, Your
3 Honor?

4 THE COURT: Yes.

5 CROSS-EXAMINATION

6 BY MR. SCHNEE:

7 Q Investigator Clarke, when you got to the house, I
8 believe you described you got there and Ms. Todd
9 was there with Amanda Jordan and maybe one or two
10 other deputies?

11 A That's about fair.

12 Q And you walked up and within the first two minutes,
13 you essentially talked to Amanda Jordan, you talked
14 to my client and got a signed consent for a search
15 warrant?

16 A I don't know about two minutes, but it was brief.

17 Q Five minutes?

18 A Yes. It was brief.

19 Q She freely signed that form and then took you in
20 the house; right?

21 A She did.

22 Q And she opened the door for you?

23 A She did.

24 Q And she walked through it with you?

25 A She did.

1 Q And you had already been at least somewhat briefed
2 about this incident in terms of there were going to
3 be dead animals there?

4 A I had a general idea of what was going to -- what
5 was there, or possibly there, you know.

6 Q Okay. And you said kind of at the end of your
7 investigation after all this day, it involved
8 talking to people at maintenance and getting
9 reports from Amanda Jordan, things like that?

10 A Correct.

11 Q Okay. So at some point, you must have learned that
12 Latisha Todd and her uncle had gone to the house a
13 day or two earlier and actually cleaned up these
14 bodies, because she had told law enforcement that?

15 A Yeah. And I needed to kind of tighten up that
16 timeline just to kind of know what exactly had
17 happened prior to me getting there, that kind of
18 thing.

19 Q Okay.

20 A So, yes, I did learn that apparently was -- someone
21 identified as her uncle had actually gone in. She
22 told me as much, that he had removed the animals
23 from the house.

24 Q Okay. And Animal Control wasn't going to go in
25 there and take the animals out; right?

1 A I'm not sure what Animal Control, what they wanted
2 or didn't want to do. I remember hearing something
3 to the effect that the animals had already expired.
4 They have a policy, I understand, they will pick up
5 animals if they are put by the roadway, you know,
6 much like trash, you know. And, again, I did not
7 have that conversation. I gathered that that had
8 been spoken of. The animals could be packaged, if
9 you will, and they would come by and pick up the
10 bodies.

11 Q Okay. But unlike someone like in a normal murder
12 scene with a human, moving the body or removing the
13 body would be very, very bad. In a case like this,
14 removing the dead animals is the appropriate thing
15 to do?

16 A I would have preferred they were there. I would
17 prefer I would have been -- a deputy would have
18 gone to the house and discovered something and this
19 would have all been the first time, but I don't get
20 to pick that, so.

21 Q Okay.

22 A Yes.

23 Q However, removing the bodies and cleaning up the
24 house is the appropriate thing to do, just the
25 timing of it because you weren't involved with the

1 case yet is something that bothers you?

2 A Appropriate in what way?

3 Q Well, no one else was going to do it, essentially?

4 A Oh, as in Animal Control?

5 Q Yes.

6 A Other than hiring a professional company to do it?

7 Q Yes.

8 A Yes. To answer that one, yes. I got you.

9 Q So it's not surprising that Latisha and her uncle
10 had started to clean up the house?

11 A No. No.

12 Q Okay. Showing you Picture 31, Exhibit 31, you said
13 that was one of the bedrooms?

14 A Yes, sir.

15 Q That's not a bedroom one of the dogs were in?

16 A No, it's not.

17 Q Now, you mentioned there's a bag of dog food, I
18 believe, in the corner?

19 A I do.

20 Q Does it look like it's full or empty?

21 A That, I can't tell, but it is concave.

22 Q As in bulged out?

23 A Bulged out, but it also could be just opened and
24 empty, you know, how bags do sometimes.

25 Q Okay. But you didn't actually check it?

1 A Not that I remember, no.

2 Q Okay. But it doesn't look like it's torn open or
3 ripped to shreds or covered in dirt or anything?

4 A Not in that picture, not at that angle, no.

5 Q Do you have any other pictures of this bag?

6 A I do not.

7 Q Okay. And in your investigation, you also -- are
8 you familiar with Exhibit 14?

9 A I'm not. I had seen that when it got handed up a
10 minute ago and I didn't remember. That picture was
11 taken on July 5th at 2:44 in the afternoon, so, no,
12 I would not have taken that. I was not even aware
13 of the situation happened on July 5th.

14 Q Okay. So July 5th, if you recall, that's when
15 Animal Control was out there?

16 A I believe that's what I remember.

17 Q Officer Clemons?

18 A Yes.

19 Q Okay. So at that point -- you never got these
20 pictures as part of your investigation?

21 A No.

22 Q Okay. So you did follow up with Animal Control to
23 see if they had any pictures then?

24 A I followed up with Animal Control, but I don't know
25 about a specific question about pictures.

1 Q Okay.

2 A I did follow up with Animal Control, though.

3 Q Now, when you walked out of the house, you said you
4 immediately wanted to Mirandize Latisha, advise her
5 of her rights?

6 A No, I didn't say that. I didn't say when I
7 immediately -- when I walked out of the house, I
8 immediately wanted to Mirandize her.

9 Q Okay. After all the bug things, you wanted to talk
10 to her and knew you were going to advise her of her
11 rights?

12 A Yes, I knew I wanted to speak with her and,
13 therefore, I would need to waive -- advise her of
14 her rights.

15 Q And you have the Advise of Rights and the statement
16 up in front of you?

17 A I do.

18 Q On Exhibit Number 1, the Advice of Rights, what
19 time did you write down on that?

20 A 1645 is what I wrote here.

21 Q 4:45 p.m.?

22 A Correct.

23 Q And that's the time when you started filling out
24 the form; right?

25 A Yeah. I probably would have gone left to right,

1 top to bottom. And when I hit that one, I would
2 have gone 1645, and then I would have just read
3 those things and said, Do you understand? And
4 sign.

5 Q Right. So you would have looked at your watch or
6 your phone and wrote 4:45?

7 A Most likely, yes.

8 Q Okay. And then you would have read her rights and
9 talked to her for a second and then she would have
10 signed it?

11 A I would have read her rights. Do you understand?
12 And had her affix her signature.

13 Q Okay. Just like you did with the jury? You read
14 through each one one at a time?

15 A Yes.

16 Q And you check them off as you read them?

17 A Yes.

18 Q And you ask her if she understands?

19 A Yes.

20 Q And you would ask her, you know, basic information
21 about her education -- or how long she had stayed
22 there because you wrote that on the form?

23 A Actually, I wrote that on the consent to search
24 form, so that would have been prior to that.

25 Q So you already knew that. Okay.

1 A Yes.

2 Q So you asked her all those things. And what time
3 did you start writing the actual written statement?

4 A It would have been -- normally, the way I have them
5 packaged, I have them packaged for efficiency, and
6 I have -- usually, I have the front page of a
7 statement form and three open narratives just for,
8 you know, extra sheets, if you will. And a lot of
9 times I have done -- and I don't know if I did it
10 this time, I think I did because I see the actual
11 staple mark consistent with what I do -- I staple
12 an Advice of Rights form to the front. So the
13 first thing I do is advise somebody of their
14 rights. The next page I turn to is the starting of
15 the statement.

16 Q Okay. And you start filling it out by hand as
17 well?

18 A I do.

19 Q Okay. So after you go through Advice of Rights and
20 have Latisha sign it, you go to the next page,
21 which is the statement?

22 A Correct.

23 Q What time do you start getting the statement?

24 A 1647.

25 Q 4:47 p.m.?

1 A Correct. Two minutes after I --

2 Q It took two minutes to read through the form, sign
3 it, and then start filling out the next form?

4 A Yes.

5 Q Pretty quick?

6 A Yes.

7 Q Okay. Clearly, she is cooperating with you?

8 A Sure.

9 Q Answering all your questions?

10 A Sure.

11 Q And you're the one that wrote all those questions?

12 A Yes.

13 Q And you wrote all the answers?

14 A Everything on that piece of paper, I wrote, except
15 her signature.

16 Q Okay. I believe you also described it as just the
17 initial statement?

18 A Yes. I call it -- let's just get my first
19 statement from a potential Defendant, suspect.

20 Yeah, that's just a coin phrase I used, yeah,
21 initial statement.

22 Q Okay.

23 A Yeah, that's fair, initial statement. If there was
24 a second --

25 Q So you weren't concerned about getting every detail

1 in the world at that point?

2 A No. No. That's virtually impossible.

3 Q Okay. Well, the Solicitor was asking you if she
4 had mentioned anything about John watching the dogs
5 being in the statement?

6 A I don't remember how he -- what he said. He said,
7 Did she mention a guy named John or somebody named
8 John? And I said to the effect, I remember John
9 being discussed. But it was kind of just, you
10 know, around --

11 Q Right.

12 A -- the situation.

13 Q But it's not in the statement?

14 A No, it's not in the statement, no, sir.

15 Q Well, you didn't ask about that, did you?

16 A About John? No.

17 Q Or if anybody was watching the dogs?

18 A No.

19 Q Okay. Now, later, at some point, you get follow-up
20 from Amanda Jordan, right?

21 A Yes.

22 Q Okay. And in that follow-up, it lists a phone
23 number for John?

24 A It does.

25 Q Now, you've been an investigator and doing

1 homicides and various things for how many years
2 now?

3 A I have probably been doing homicides since, sake of
4 argument, let's say 2010, 2011.

5 Q Okay.

6 A Okay.

7 Q So six, seven years easy?

8 A Yes, sir.

9 Q And, in general, they are relatively complicated
10 investigations, aren't they?

11 A They can be, and then sometimes they can be very
12 simple.

13 Q Okay. And in most of the cases that you're dealing
14 with, you get reports from a lot of different
15 people? Different officers, different witnesses,
16 things like that; right?

17 A It's very possible, yes.

18 Q And you understand the importance of writing down
19 notes?

20 A Yes, sir.

21 Q Memorializing what you do and don't do?

22 A Certainly.

23 Q And you're a seasoned investigator, and you typed
24 up a report in this case; right?

25 A I did.

1 Q And you detailed pretty much every step that you
2 took; right?

3 A (Nods affirmatively.)

4 Q Where is it in your report that you tried calling
5 John?

6 A It doesn't.

7 Q Where is it in the report that you even looked up
8 the phone number to see if that was a phone number
9 associated with someone named John?

10 A Is it in the report?

11 Q Yes.

12 A No, it doesn't.

13 Q Okay.

14 MR. SCHNEE: I've got nothing further.

15 MR. BERRY: Briefly, Your Honor.

16 THE COURT: Yes, sir.

17 REDIRECT EXAMINATION

18 BY MR. BERRY:

19 Q You looked at some bags of food. This is State's
20 31, which I believe you said was in the other
21 bedroom. That picture was taken July 7th; correct?

22 A Correct.

23 Q Can you tell if it's open or not, if it's closed or
24 open?

25 A Actually, you can't. I mean, the back end looks

1 like it's closed, the bottom of the bag looks like
2 it's closed, but you can't really tell at the open.

3 Q Is it ripped to pieces?

4 A No.

5 Q Has it been eaten at at all?

6 A It has not.

7 Q I want to hand you State's 24. This is in the back
8 bedroom per your testimony where the three dogs'
9 remains, as they were, were found; correct?

10 A Correct.

11 Q And can you describe the -- there's a bag in there,
12 is there not?

13 A There is.

14 Q Does it appear to be open?

15 A It does.

16 Q Is it ripped to shreds?

17 A Not ripped to shreds per se, but it's open,
18 clearly.

19 Q Let me see this real quick. Thank you. And also I
20 hand you State's 14. This is the one taken before
21 you got there outside the house. Is that bag open
22 or closed?

23 A It's open.

24 Q Does that appear to have been opened by dogs or by
25 humans?

1 A If I was taking a guess, it looks like it got
2 opened by some cutting instrument.

3 Q And on the Miranda, the Advice of Rights, the form
4 that was signed that you wrote, I believe you
5 testified earlier, was Ms. Todd allowed to edit
6 that?

7 A Yes.

8 Q Was she allowed to revise it?

9 A Yes.

10 Q Did she do so?

11 A No, what's there is there.

12 Q She had a chance to review everything, go over all
13 of that. If she didn't want it, she didn't have to
14 sign it? She could have put other things in it?

15 A We flow as we move through and ask the questions
16 and she gives answers. At the end, before she
17 signs it, I will have someone -- I will read it
18 back to them. And I'll say, Do you understand
19 that? And we will go through each one, much like I
20 do with Miranda, and we will go through. Is that
21 what you mean? Is that what you want to say?
22 After it's done, we have her sign the signature --
23 sign the form. And if she signs it, then clearly,
24 she was comfortable with what I read back to her.

25 Q And that number, that 717 number, did you, in fact,

1 reach out to that number?

2 A I did --

3 MR. SCHNEE: Objection, Your Honor. There is
4 a matter of law.

5 THE COURT: All right. Ladies and gentlemen
6 of the jury, there is a matter of law that I need
7 to take up outside your presence, so I will send
8 you all out for a brief moment.

9 (WHEREUPON, the jury retires to the jury
10 room at 3:09 p.m.)

11 THE COURT: Yes, sir?

12 MR. SCHNEE: Very briefly, Your Honor.
13 Obviously, this being the State's lead
14 investigator, they are required to turn over all
15 information that they have. There is no
16 information that this investigator ever attempted
17 to try and call that number or do anything with
18 that number. There are no notes. There are no
19 reports. There is no nothing. The only mention of
20 that phone number at all is in Amanda Jordan's
21 report as in, name is John, here's a phone number.
22 Anything -- any testimony regarding him actually
23 calling or doing any further research would be a
24 discovery violation. And I'm asking it either be
25 excluded pursuant to Judge Lee's order or I ask for

1 a mistrial.

2 THE COURT: All right. Yes, sir?

3 MR. BERRY: Your Honor, we say that Mr. Schnee
4 opened the door to this line of questioning when he
5 asked about it not being in his report. This was
6 his questioning trying to make it appear as if it's
7 not a fully thorough investigation. He opened the
8 door. And Investigator Charge should have the --

9 THE COURT: But is there -- are there any --
10 but that's -- I think that's separate from him
11 being able to ask -- you being able to ask the
12 question. The issue is, was this disclosed to him
13 in discovery? I mean, I don't know what he's going
14 to say. You might want to finish the question.

15 IN-CAMERA EXAMINATION

16 BY MR. BERRY:

17 Q Investigator, did you call the number?

18 A I did.

19 Q And what happened?

20 A I got no answer. And I found out it was a
21 Pennsylvania area code, Harrisburg, I think,
22 somewhere in that range. It's her alibi, you know.

23 MR. BERRY: He asked about this. If he wants
24 to know about the phone number --

25 MR. SCHNEE: Judge, I asked about this

1 investigation. And the reason that I have a report
2 and the reason why Judge Lee closed the discovery
3 in this case -- and I have a Court order saying all
4 discovery must be complete by June of 2017. And I
5 specifically asked Mr. Berry, I was like, I need
6 absolutely everything they've done to not have any
7 surprises at trial. And that's why I filed that
8 motion and that's why it was granted by Judge Lee.
9 The fact that there is no reference in any report,
10 not a handwritten note, not a scrap of paper, I'm
11 absolutely allowed to ask about the integrity of
12 the investigation. That doesn't open the door to
13 allow him to now introduce evidence that has not
14 been turned over to me.

15 THE COURT: Was any of that information given?
16 Is it anywhere in his report?

17 MR. BERRY: Let me doublecheck, Your Honor.

18 (Pause.)

19 MR. BERRY: No, Your Honor, I don't believe
20 that was in the incident report, so that's not
21 information that was specifically detailed. We
22 turned over all reports, all conversations, all
23 statements as much as we knew at the time to turn
24 over. And this is just in response to his
25 questioning.

1 THE COURT: All right. I am going to exclude
2 that line of questioning. I'm going to deny the
3 motion for mistrial. I find that it doesn't rise
4 to the level of where it is necessary for the Court
5 to grant a mistrial in the case. However, I will
6 give them instructions to disregard the last
7 question and the attempted answer, because I don't
8 think he answered it in front of them before you
9 objected. And we'll just ask them to -- I'll just
10 give them instructions to disregard that last
11 question.

12 MR. BERRY: Okay.

13 THE COURT: Are you ready to bring them back
14 in?

15 MR. SCHNEE: Yes, Your Honor. Thank you.

16 (WHEREUPON, the jury came into open
17 court at 3:14 p.m.)

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

19 THE COURT: Ladies and gentlemen of the jury,
20 please disregard the last question, and, also, I
21 think he attempted to answer, but there was an
22 objection, and the objection was sustained.

23 Please rephrase the question. Yes, sir?

24 MR. BERRY: We have no further questions, Your
25 Honor.

1 THE COURT: All right.

2 MR. SCHNEE: Nothing further, Judge.

3 THE COURT: Sir, you may step down.

4 THE WITNESS: Thank you, Your Honor.

5 (Witness steps down.)

6 THE COURT: Call your next witness.

7 MR. BERRY: The State calls Dr. Rebecca
8 Laster.

9 (Witness approaches.)

10 THE BAILIFF: Place your left hand on the
11 Bible, and raise your right hand, please.

12 (Witness complies.)

13 THE CLERK: Do you swear or affirm the
14 testimony you are about to give in this case will
15 be the truth, the whole truth, and nothing but the
16 truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Thank you. Have a seat in the
19 witness stand, please.

20 (Witness seated.)

21 THE CLERK: State your name for the record.

22 THE WITNESS: Dr. Rebecca K. Laster.

23 REBECCA K. LASTER,
24 after being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. BERRY:

2 Q Good afternoon, Doctor. How are you?

3 A Good afternoon.

4 Q If you could, please tell the jury what your
5 current job is.

6 A I am the animal services veterinarian for the City
7 of Columbia. I am also a shelter veterinarian for
8 a small animal shelter in Manning, South Carolina.

9 Q And how long have you been serving in those
10 capacities?

11 A I've been with the City of Columbia since October
12 of 2014. I've been with the Manning shelter since
13 August of 2012.

14 Q And what do you do in your capacity as,
15 specifically the City of Columbia shelter?

16 A I am the veterinarian in charge of any medical care
17 that any of the animals undergo, so I'm in charge
18 of prescribing medication, making diagnoses,
19 looking at animals that are sick or ill,
20 performing autopsies on animals, which are called
21 necropsies, and performing surgery.

22 Q And, roughly, how many necropsies have you
23 performed?

24 A Over the course of my career, probably about a
25 dozen.

1 Q And how long is that career span now?

2 A Twenty-three years.

3 Q So take us back to the beginning of your career.

4 Actually, what's your education? Please tell the
5 jury where you got your undergrad degree.

6 A Okay. My Bachelor of Science is in zoology from
7 North Carolina State University, I received that in
8 1990.

9 Q And what next academically?

10 A After that, I went to veterinarian school at North
11 Carolina State University. I received my doctorate
12 of veterinarian medicine in 1994.

13 Q And that's when you are officially a vet?

14 A Correct.

15 Q And as a vet, what are you authorized to do? What
16 are you trained to do? What all do you do?

17 A We are -- as veterinarians, we practice medicine on
18 every species but one. So the only species we're
19 not allowed to practice on is humans. We do
20 medicine, surgery, everything from marine mammals
21 to pocket pets -- dogs and cats -- agricultural
22 animals, et cetera.

23 Q And so you said you graduated in '94? You got your
24 doctorate in '94?

25 A Correct.

1 Q And what -- then did you embark your career as a
2 veterinarian?

3 A I did?

4 Q Tell the jury about that, please.

5 A I first started out in a mixed animal practice.
6 Basically, a mixed animal practice is a practice
7 that not only includes companion animals, like dogs
8 and cats, but also agricultural animals, so cattle,
9 sheep, horses, those sorts of things. I was
10 practicing in Roanoke Rapids, North Carolina, so
11 that was three years there.

12 From there, I moved to Spartanburg, South
13 Carolina. I was a veterinarian at an emergency
14 clinic, so we saw after-hours emergencies for
15 primarily dogs and cats. I was with that company
16 for four years.

17 And then I focused my own practice and was in
18 Gaffney, South Carolina, for a period of nine
19 years.

20 Family situations and some job situations on
21 my husband's side brought us to Columbia. I
22 practiced at Lexington Emergency Care for one year.
23 Was a relief veterinarian, which is a locum tens
24 veterinarian. We go in and whenever somebody wants
25 to go on vacation, they need somebody to fulfill or

1 to fill in at their practice. We go in. So I did
2 that for a year.

3 And then I started working as a shelter
4 veterinarian at Palmetto Lifeline.

5 Throughout my career, however, I've been
6 working with shelters on the side. So I've done
7 work with the Spartanburg Humane Society for a
8 number of years, since 2001. And I've also worked
9 with the shelter in Gaffney.

10 Q And, again, currently, you're the veterinarian at
11 the city shelter?

12 A Correct.

13 Q Are there other veterinarians there?

14 A No, I'm the only veterinarian.

15 Q So what all are you responsible for there?

16 A Anything that requires a veterinarian. So there's
17 a legal definition of what a veterinarian is
18 required for. A veterinarian has to be there to
19 prescribe, diagnose, and treat, so that is -- my
20 sole responsibility is to take care of the animals
21 that come into our care. But in addition to that,
22 I also do some forensics work with -- and work with
23 law enforcement.

24 Q And what do you mean by forensics?

25 A Forensics is just taking the science of medicine

1 and applying it to legal cases. So in some
2 circumstances, you can deal with talking about
3 cases where you are talking about animal cruelty or
4 animal death scenes. In other cases, you are
5 talking about -- you can even talk about food
6 safety in this regard.

7 Q And you received additional education and training
8 on specifically the matter of forensics; correct?

9 A I have. In 2014, in the fall of that year, I began
10 a course of study with the University of Florida
11 for veterinarian forensic sciences. I'm also
12 pursuing a Master of Science in shelter medicine
13 with that same university.

14 Q What all is included in that shelter medicine
15 Master's?

16 A Shelter medicine looks at animals not only on an
17 individual basis, like a regular veterinarian
18 would. So if you took your dog or cat into a
19 veterinarian, they're looking at individual animal
20 health. When you get animals in groups like you do
21 in a shelter situation, it's more of a herd health
22 sort of situation, much like you would look at a
23 dairy cow in a dairy situation. So there's course
24 work in animal behavior. There's course work in
25 population medicine. There's also course work in

1 veterinarian forensics.

2 Q When you say course work, is that a one-night
3 thing? What is course work?

4 A No. There are a total of ten classes that you have
5 to have in order to meet the requirement for the
6 Master's of Science in shelter medicine. In the
7 graduate certificate in veterinarian forensics,
8 there's five courses that you have to take. Each
9 course is 12 weeks long, approximately. And so
10 it's just like going to college doing a Master's
11 Degree, but you're doing it online.

12 Q And University of Florida -- how many of these are
13 offered in the nation?

14 A There are a very small number of forensic sciences.
15 The University of Florida is the only one that has
16 an online program where you can earn a graduate
17 certificate and a Master's Degree. There are two
18 other programs that do offer some forensic
19 sciences, but they don't offer a degree in it.

20 Q And you said before that you have performed
21 necropsies and worked with law enforcement on
22 assessing such cases?

23 A I have.

24 Q And that you have almost a 30-year career now as a
25 practicing veterinarian and a variety of surgeries

1 and treatment and care?

2 A Correct.

3 MR. BERRY: Your Honor, at this time we would
4 offer Dr. Laster as an expert in veterinary
5 forensics, veterinary medicine, and veterinary
6 care.

7 THE COURT: Objection?

8 MR. SCHNEE: Brief voir dire, Your Honor.

9 THE COURT: Oh, yes, sir.

10 VOIR DIRE

11 BY MR. SCHNEE:

12 Q Doctor, I'd like to ask you about specifically just
13 the forensics aspect of it.

14 A Certainly.

15 Q I understand you got your graduate certificate?

16 A I did.

17 Q When was that?

18 A I received it in May of this year.

19 Q Okay. May 2017?

20 A Correct.

21 Q How many classes were involved to get that
22 certificate by itself?

23 A That certificate by itself required five classes.

24 Q Okay. And all those were dealing with forensics or
25 were there other topics as part of that?

1 A All pertain to forensics, but there were different
2 aspects of the forensics that it looked at, each
3 class looked at.

4 Q Okay.

5 A So, for example, one of them looked at entomology,
6 which is the study of insects and how they relate
7 forensically to cases. There was another class
8 that discussed the law and how that applied to
9 forensics cases. Those sorts of things.

10 Q Okay. Have you done any field work since you
11 obtained this certificate or while you were
12 obtaining that certificate?

13 A Could you define field work for me? What do you --

14 Q Working with forensics specifically?

15 A I have.

16 Q What forensic work have you done since you've
17 gotten the certificate?

18 A I have performed autopsies on several animals and
19 performed what we call forensic exams. A forensic
20 exam is different than an autopsy in that you're
21 dealing with a living animal. So you're looking at
22 a living animal in the light of a case potentially
23 going to court.

24 Q Okay. How many have you done since May of this
25 year?

1 A Forensic exams -- and this is having to make an
2 educated guess -- I've probably done seven or
3 eight. Forensic autopsies, two.

4 Q Okay. Have you ever testified in court as a
5 forensic veterinarian?

6 A No, I have not.

7 Q Have you ever been qualified as an expert in any
8 field in court?

9 A No, I have not.

10 Q Okay. Have you performed any forensic examination
11 of any type regarding this case?

12 A No, I have not.

13 Q Have you performed any examination regarding this
14 case?

15 A No, I have not.

16 Q All right.

17 MR. SCHNEE: Judge, that's all the voir dire I
18 have. I do have an objection.

19 THE COURT: All right. Yes, sir?

20 MR. SCHNEE: Judge, I would simply object to
21 the qualification for forensic veterinarian
22 sciences. I think clearly she's a very qualified
23 veterinarian. I think that the level of training
24 at this point is minimal. She's never been
25 qualified as an expert in any field in any court.

1 She has also performed no forensic case work in
2 this particular case. So I would object to that
3 part.

4 THE COURT: Yes, sir.

5 MR. BERRY: Just briefly, Your Honor. Just
6 that she's received training from one of the few
7 institutions available in the nation. She's
8 received extensive training and has had requisite
9 experience.

10 THE COURT: All right. Based on the testimony
11 given, the objection will be overruled.

12 Ladies and gentlemen of the jury, normally a
13 person cannot give opinion testimony. Normally
14 when a person testifies, they must testify as to
15 what they either saw, heard, or sensed by smell, or
16 something of that nature. However, there is an
17 exception when someone is qualified because of
18 education or experience. They are permitted to
19 give their opinion in certain areas if the Court
20 qualifies them that way.

21 This witness will be qualified in the area of
22 veterinary forensics, veterinary medicine, and
23 veterinary care to give opinion testimony in that
24 area. That does not mean that you must accept the
25 opinion, but it is evidence for you to use in any

1 way that you see fit and give it the weight and the
2 credibility you believe is appropriate.

3 Thank you.

4 Yes, sir, you may continue..

5 DIRECT EXAMINATION CONTINUES

6 BY MR. BERRY:

7 Q So, Doctor, what happens to a dog that is deprived
8 of water?

9 A Animals and humans, when we drink and eat, we're
10 maintaining -- there are various mechanisms to
11 maintain a balance between salt and water in our
12 body. So whenever you sweat, you lose some salt
13 and a lot of water. So you drink, and perhaps
14 drink Gatorade to rebalance that equation. Also,
15 mechanisms within your body change so that that
16 balance is kept intact.

17 In an animal that is dehydrated, the salt
18 content of the body increases while the water
19 content of the body decreases. So if you're
20 withheld from water for some reason or you are
21 unable to obtain water or liquids, whether it be a
22 liquid in a liquid form, like water out of bottle
23 or water contained in your food, when you're
24 withheld from that water, then the salt content of
25 your body rises. The dehydration, the loss of

1 water, causes weakness and eventually you go into
2 what's called salt toxicity. So salt toxicity,
3 basically, your brain can't function when you are
4 salt toxic and you get symptoms like confusion, you
5 get symptoms where you are disoriented, and
6 eventually you die.

7 Q How long could a mid-size dog last without water?

8 A If you're talking about total deprivation of water,
9 you're talking a very few numbers of days. If
10 you're talking about partial deprivation, then it
11 can extend that period.

12 Q So partial deprivation can be water from other
13 sources, such as wet food or Mountain Dew, would a
14 dog drink Mountain Dew?

15 A Sure.

16 Q And without water, does the dog -- what all would
17 the dog drink? Would a dog drink its own urine?
18 What would a dog do in that situation?

19 A A dog is going to search out any form of water that
20 it can find it, and it doesn't really care what
21 that form of water is. So you could have a liquid
22 that is toxic and they are going to drink that.
23 Antifreeze is a primary example of that. They're
24 going to drink dirty water. So they'll drink out
25 of a mud puddle or a nasty bowl that has been

1 sitting in the kitchen sink that's got stuff in it.
2 But they will also drink urine. They will drink
3 their own urine and they will drink other animals'
4 urine as well because that is a form of water to
5 them.

6 Q What physically does drinking urine do to a dog?

7 A Well, when you -- when an animal produces urine,
8 part of the reason that they produce urine is to
9 get rid of toxins in the body. There is -- until
10 you go into complete renal failure, there is a
11 certain amount of water that has to be eliminated
12 from the body. And so your kidneys continue to
13 produce urine even when you are dehydrated. That
14 urine also contains other substances. It contains
15 things likes nitrates and nitrogen, which is a
16 breakdown product of muscle, metabolism. And those
17 substances that the body is trying to get rid of,
18 now, if the animal is drinking urine, it's going to
19 be reabsorbing those same substances and producing
20 effects.

21 Q And what else would happen to the physical body?
22 The organs, the skin? What happens in the process
23 of dehydration?

24 A Everything begins to shrink. Your body is, you
25 know, 65 percent water, something like that. So

1 whenever you have dehydration, the skin loses its
2 flexibility. So when you pinch up the skin on an
3 animal that's dehydrated, it's going to stay
4 pinched up. It's going to stay tented. The
5 organs, primarily organs that have a high volume of
6 fluid in it, like the blood, the liver, the spleen,
7 all of those organs are going to shrink down.

8 Q And this can lead to death? How long, roughly,
9 would you say this would take for an animal to die
10 under these conditions?

11 A From --

12 Q Just the water?

13 A From total lack of water, within days.

14 Q Would a dog ration water out?

15 A No. They don't have the capacity to understand
16 rationing.

17 Q And what about food, the lack of food? How long
18 can a dog survive without food?

19 A Again, it depends on if we're talking about total
20 lack of food, but, in general, dogs can last weeks
21 without food. You can totally remove all food
22 items from the environment and a dog can go
23 several -- at least a couple of weeks.

24 Q And --

25 A Depending on their original body weight.

1 Q And what happens to the dog's body during this
2 process of not having access to food?

3 A Well, when you first have no food, within 24 hours
4 your body uses up its storage of sugar. So your
5 body stores sugar as a form of glycogen. And
6 glycogen is used within the first 24 hours. Once
7 that's gone, your body starts metabolizing things
8 like muscle and fat in order to produce the energy
9 that it needs to keep going.

10 Unfortunately, those metabolic processes have
11 by-products that are not good for the body. So in
12 the case of fat and the breakdown of sugar, you get
13 ketones, which is something that diabetics have to
14 be very careful of. And the breakdown of muscle
15 tissue, you get things likes nitrogen.

16 Q So does the body of a dog respond, would it respond
17 similarly to lack of food and water like the body
18 of a human?

19 A Correct.

20 Q And if a dog is in a room with all sorts of debris,
21 whether it's paper or other items, and the dog has
22 no food, would the dog eat said debris?

23 A It would. One of the common things that we see for
24 dogs to do when they are hungry is, if they cannot
25 obtain a source of food, they will eat non-food

1 items. So we have seen cases of mulch in the
2 intestinal tract. We've seen cases of paper and
3 plastic, and all sorts of things.

4 Q When you say in the intestinal tract, what do you
5 mean by that?

6 A Well, the intestinal tract is made up of the
7 esophagus, the stomach, the small intestines and
8 the large intestines, so it's your digestive tract.

9 Q And would such said debris move through or?

10 A It depends on the debris, but in a large number of
11 cases that debris will become stuck. It forms a
12 blockage and it can't move through. Even though
13 the intestinal track is having muscle contractions
14 and trying to move it through, it will get stuck.

15 Q And would such potential blockage cause pain or
16 suffering to a dog?

17 A Yes. Within the wall of the intestinal tract,
18 within the wall of the stomach, there are receptors
19 called stretch receptors. And as the debris is
20 trying to move through the intestinal tract, it
21 stretches out whatever location it's in. So small
22 intestines, primarily, is a big area where we find
23 it. As those stretch receptors are activated, they
24 produce a signal to the nervous system, which then
25 is interpreted by the brain as pain.

1 Q And what about the lack -- or inadequate water and
2 food, what you described happening to the organs,
3 would that cause pain and suffering as well?

4 A It would generally cause weakness. It would --
5 they would search out objects of food and water,
6 but eventually, as dehydration and malnourishment
7 progressed, then they would become so weak they
8 would not be able to search out anymore.

9 Q And would extreme heat, would that -- what would
10 that do to the process?

11 A Well, if you're in a hot environment, you are --
12 you have various mechanisms to try and cool down.
13 So in the case of people, if we're in a very hot
14 environment, we start sweating. That is a process
15 that takes energy.

16 Dogs can't sweat. So what dogs do is they
17 pant. When you increase your respiratory rate,
18 you're increasing the amount of energy that it
19 takes for you to survive. So there is a vicious
20 cycle that occurs, that as you try to cool down,
21 you're actually increasing your metabolic rate,
22 which increases your heat in your body. And so it
23 becomes this vicious cycle where you can't cool
24 down.

25 Q And fleas and ticks, if a flea is biting a dog,

1 does the dog like that, dislike that? How does
2 that work?

3 A Fleas are very irritating. They -- when fleas
4 bite, they inject an amount of their saliva
5 underneath the skin. And that is seen as a foreign
6 substance by the body, so that causes intense
7 irritation. If you've been bitten by a flea, you
8 start itching. It's very irritating. Ticks do
9 have a substance in their saliva that initially
10 numbs the area, so you don't feel a tick bite the
11 first time it bites, but as it stays there, then
12 inflammation occurs around that site and it is very
13 irritating.

14 Q So they respond similarly as humans would? Just
15 like with food and water, the effects on humans,
16 bites, they don't like that?

17 A Correct.

18 Q And could that itself alone cause death? What if
19 there's a massive amount of fleas?

20 A If you have a large enough number of fleas, you can
21 get anemia. Fleas feed on blood, and so when they
22 bite you, they ingest your blood. And if you have
23 a significant number of fleas, then you can have a
24 significant anemia that can cause and result in
25 death.

1 Q So with either inadequate or no water, inadequate
2 or no food, extreme heat, and potential for the
3 unknown, potentially a large amount of fleas, would
4 that cause pain and suffering to a dog?

5 A Yes.

6 MR. BERRY: Beg the Court's indulgence.

7 (Pause.)

8 BY MR. BERRY:

9 Q Now, how do animals physically show signs of pain
10 and suffering? What are their signs? How do they
11 react to such physical pain and suffering?

12 A When animals -- animals can't speak, so we, as
13 veterinarians, have to look for other symptoms that
14 indicate that they are either in discomfort,
15 distress, or pain.

16 One of the first things that animals will do
17 when they are in distress is they will withdraw
18 from social interaction. So if it's a normally
19 friendly dog, the dog will hide in the back of the
20 cage. Or if it's a cat, they will get in a box and
21 try and get away.

22 The second thing that they will do, if it's a
23 specific area where they're painful, say, they've
24 broken a leg or injured their face, or whatever it
25 is, they will start guarding that area, so they

1 don't want you to touch it. They move away when
2 you try and approach them to touch them. Those
3 sorts of behaviors.

4 Rarely do we see animals that vocalize. You
5 do see animals that vocalize for pain. But just
6 like in humans, it's not a major component. We
7 don't sit there in the doctor's office and go, Ow,
8 ow, ow constantly whenever we're hurting. We guard
9 the area. We don't want the doctor to touch it,
10 but we don't necessarily sit there and cry the
11 whole time. And dogs do the same thing.

12 Q And do dogs get desperate in situations like that?

13 MR. SCHNEE: Objection to the question. I
14 don't know --

15 THE COURT: Sustained.

16 Please rephrase the question.

17 BY MR. BERRY:

18 Q If a dog, around other dogs, say, several dogs, say
19 three dogs, or three or four dogs are in a room
20 together and they are running out of food and water
21 and it's hot and there's other debris everywhere --

22 MR. SCHNEE: I'm going to object to the
23 behavioral science aspect of this. She's not
24 qualified as an expert in that field.

25 MR. BERRY: I'm going to ask simply what would

1 they most likely do in such a situation.

2 THE COURT: What's the question again?

3 MR. BERRY: So absent adequate food and water
4 with high heat, potential bugs and debris
5 everywhere, if three dogs, three or four dogs are
6 trapped in a room, what would their behavior be
7 like? What physically would they be doing?

8 THE COURT: Objection is sustained.

9 Please rephrase the question.

10 MR. BERRY: Beg the Court's indulgence.

11 (Pause.)

12 BY MR. BERRY:

13 Q Thank you, Dr. Laster. Please answer any questions
14 Mr. Schnee has.

15 MR. SCHNEE: Judge, I have no questions.

16 THE COURT: All right, ma'am, you may step
17 down.

18 (Witness steps down.)

19 THE COURT: Any objection to this witness
20 being excused?

21 MR. SCHNEE: (Nods negatively.)

22 THE COURT: All right. You are free to leave.
23 (Witness excused.)

24 THE COURT: Call your next witness.

25 MS. MOSER: Your Honor, at this time the State

1 rests.

2 THE COURT: All right. Ladies and gentlemen
3 of the jury, at this time the State has rested
4 their case. There are some matters of law that I
5 do -- I will need to take up outside your presence.
6 And this is actually a good time for us to take our
7 afternoon break. I think it's about quarter till,
8 so we'll take about a 15-minute break for you to
9 refresh yourselves, and then we'll receive you back
10 into the courtroom.

11 Remember, you have only received the State's
12 case here. You have not received any arguments of
13 the parties or instructions on the law, so please
14 do not discuss the case until you have received
15 everything in the case.

16 All right. Thank you.

17 (WHEREUPON, the jury retires to the jury
18 room at 3:45 p.m.)

19 THE COURT: Any motions?

20 MR. SCHNEE: Yes, Your Honor. May it please
21 the Court? First, I would like to renew all prior
22 motions and objections. Second, I need to make at
23 this point a new motion for a mistrial based on
24 Photo Exhibit Number 9, which would be the major
25 one we had contention with. I believe it's 9.

1 THE COURT: It is 9.

2 MR. SCHNEE: Okay. Your Honor, the State made
3 it very, very clear it was necessary for that photo
4 to be used in order to aid the jury to describe how
5 the animal had suffered, various other things,
6 when, in fact, the only thing that photo has been
7 used to do is show a picture of the photo -- show a
8 picture that the dog was found behind the toilet.
9 It was only used in one witness. It was only shown
10 to the jury in one witness to identify, Yes, I took
11 this picture, and put it in evidence.

12 In terms of position, Investigator Clarke
13 actually took pictures of, I guess, the stain on
14 the floor and described, Yep, that's where he
15 assumed that the body was. He didn't even
16 reference the photo. Investigator Clarke looked at
17 it, never even showed it to the jury. There was no
18 discussion of injuries. There was no discussion of
19 damages. There was no discussion of fleas, ticks,
20 roaches biting, or anything on that picture. At
21 this point, the only thing it has been used to do
22 is show it to the injury to make them absolutely
23 upset.

24 There's no relative evidence that Your Honor
25 had ruled would be necessary. There has been no

1 discussion, no evidence presented to the jury about
2 that photo. And at this point I think it has
3 become unduly prejudicial with absolutely zero
4 probative value because Investigator Clarke
5 testified that he already -- he knew that the dog
6 was behind the toilet from overhearing things and
7 then finally seeing the room itself, not from ever
8 seeing that photo. So he didn't even do anything
9 with that investigation -- with that photo in his
10 investigation. So I would renew my motion for
11 mistrial based on that.

12 THE COURT: All right.

13 MS. MOSER: Your Honor?

14 THE COURT: Yes, ma'am.

15 MS. MOSER: In response. Your Honor, Roger
16 Williamson was the individual who took that picture
17 and he was the one that testified about it. He was
18 obviously the one who was there, who witnessed what
19 was left of the dog in that case. And so he was
20 able to explain to the jury what he saw. And I
21 think with the help of that picture, he was really
22 able to describe the scene as it was. And we
23 consider this -- this was a crime scene.

24 Your Honor, the expert in this case, she was a
25 blind expert. We did not have her review any of

1 the records. We obviously were not able to get a
2 necropsy done in this case. The purpose of her
3 testimony was to explain to the jury what the
4 physical ramifications are of a dog going through
5 starvation and dehydration. And our position is
6 that we were trying to keep this as clean as
7 possible by allowing her to testify as a blind
8 expert. And in closing we will explain to the jury
9 how the picture and how the testimony from the
10 expert connects and the fact that this picture
11 describes what the expert testified to, which Roger
12 Williamson, because he is not an expert on this
13 subject matter, he is not able to testify about the
14 biological and physical effects of starvation and
15 dehydration and the amount of bug bites and the --
16 just the general, I guess, issues that these dogs
17 had to deal with, the amount of heat. The effect
18 that that has on an animal's body.

19 So that was the purpose of that picture coming
20 in. We think it has served the jury well and it
21 will continue to serve the jury in closing
22 arguments by being able to explain what happened
23 here. There were no witnesses. This is one of the
24 most crucial pieces of evidence because of the fact
25 there was no one there watching these dogs die. So

1 we're relying on that and relying on the expert to
2 explain what happened in this case.

3 MR. SCHNEE: Judge, very briefly. The photo
4 of the dead dog does not help their case. The
5 testimony from Mr. Williamson that the dog was dead
6 behind the toilet bowl and it was, as I think
7 either he or Investigator Clarke described,
8 potentially a pile of goo and bones.

9 The visual representation is what we're
10 arguing about here, not the fact that the dog is
11 dead, that the dog is dead and where it is. It's
12 the actual visual representation. They have not
13 met the standard of what is necessary to use such a
14 gruesome photo.

15 The simple fact is if they plan on discussing
16 any of the theories of how it relates in closing,
17 none of that has been in evidence. No one has
18 testified. Their choice to use a blind expert is
19 that, their choice. That doesn't allow them to
20 then bootstrap and then posit theories to the jury
21 while waving this disgusting photo in front of
22 them. The reality is no one testified in any way
23 that made the admission of that photo or lack of
24 admission in any way beneficial to the jury. The
25 only thing it has done is now prejudice my client.

1 And that is the standard Your Honor is required to
2 follow.

3 If they wanted to do this trial differently,
4 that was their choice and they should have done it
5 differently. They should have had an expert review
6 the photos and explain why they couldn't do a
7 necropsy or anything else. But under the
8 standards, particularly in cases such as Torres --
9 and they are all in my brief, I raised all of
10 them -- nothing in that photo has actually been
11 used to describe or aid the jury. And that's
12 really the heart of the issue. It's the visual
13 representation to aid the jury, not a verbal
14 description, then they have all the other
15 descriptions they need. The visual representation
16 being shown to them is not being used as an aid.
17 It is merely to incite emotions. And I am moving
18 for mistrial on that.

19 THE COURT: All right. Thank you.

20 MS. MOSER: Your Honor, if I may just briefly
21 respond to that?

22 THE COURT: Yes.

23 MS. MOSER: He brought up some case law, and I
24 would just point to State vs. Collins, which is the
25 2014 case that Your Honor cited. That case

1 specifically lays out that this type of picture,
2 although prejudicial, it is not unduly prejudicial
3 because it serves a purpose. It serves a purpose
4 of explaining the location of the animal. It
5 explains the injuries that this animal sustained.
6 And that is highly relevant and highly probative to
7 our case. It is our prerogative to posit theories
8 however we would like. And I understand the
9 Defense believes we should have done it in a
10 different way, but we were trying to avoid any sort
11 of bolstering in this case with an expert taking
12 the stand after reviewing everything and trying to
13 give a specific opinion about what happened to an
14 animal where there was no witnesses. No one sat
15 there and watched this animal die, so we're -- we
16 are relying on the picture in that it shows the
17 location of the animal, it shows the dramatic
18 injuries to the animal's body, the decomposition of
19 its body. And through the use of the expert, we
20 are able to connect the dots and explain what
21 happened. That wouldn't be possible without this
22 picture.

23 THE COURT: All right. I am going to deny the
24 motion for mistrial, once again citing State v.
25 Collins. And in that case, our Supreme Court

1 stated that even the most gruesome photographs may
2 be admissible if they tend to shed light on any
3 issue to corroborate the testimony or if they are
4 essential in proving a necessary element of the
5 case, are useful to enable a witness to testify
6 more effectively or enable the jury to better
7 understand the testimony in the case.

8 As far as corroborating testimony, the photo
9 corroborates the testimony of Mr. Williamson, also
10 Officer Clarke. I believe the jury can find that
11 it corroborates, but -- or the State has presented
12 it to corroborate, I guess, the testimony of
13 Williamson and Officer Clarke. Officer Clarke
14 testified regarding where the body of the -- that
15 was in the photo was behind the toilet, if I
16 remember correctly.

17 Furthermore, it shows the injuries to the
18 animal, also the location. Because of the body of
19 the animal being decomposed, they were not able to
20 perform a necropsy. And those are all things that
21 the Court said are probative in terms of admitting
22 photographs. I do find that the probative value of
23 the photograph outweighs the prejudicial effect and
24 the motion for mistrial is respectfully denied.

25 You said a motion for directed verdict as to

1 all other motions that were made and renewing all
2 your objections; is that correct?

3 MR. SCHNEE: Judge, I do actually have a
4 separate directed verdict motion --

5 THE COURT: Okay.

6 MR. SCHNEE: -- that I would like to argue.
7 It is all four counts.

8 THE COURT: Okay.

9 MR. SCHNEE: Especially the three that the
10 only pictures we have are stains at this point.

11 Judge, under 47-1-40, Subsection (b) --

12 THE COURT: One more time. 47?

13 MR. SCHNEE: -1-40.

14 THE COURT: (b).

15 MR. SCHNEE: Subsection (b) is what my client
16 is charged with.

17 When a person is torturing, torments,
18 needlessly mutilates, cruelly kills, or inflicts
19 excessive or repeated unnecessary pain and
20 suffering or by omission causes those acts to
21 happen.

22 Under Subsection (a), it is describes as a
23 person who knowingly, intentionally overloads,
24 overdrives, overworks or ill treats an animal,
25 deprives an animal of necessary sustenance or

1 shelter. Necessary sustenance being food and
2 water.

3 Regardless of believability of witnesses, and
4 clearly you obviously are taking everything as the
5 State presents at this stage, in the light most
6 favorable to the State, the simple fact is they
7 presented nothing regarding anything for mutilation
8 or torture or -- I'm not even sure what they mean
9 by repeated unnecessary pain or suffering.

10 What they have presented for the case is
11 essentially four dogs that were abandoned in a
12 house, in the light most favorable to their
13 State -- to the State and the evidence they are
14 presenting.

15 And I would argue that the correct charge
16 should be under Subsection (a). And as a result, I
17 would ask for a directed verdict on all four
18 counts.

19 I would actually also argue that Subsection
20 (a) is not a lesser included, it is a lesser
21 offense. I think that there are separate and
22 unique elements within it. And I think it fails
23 the Blockburger test.

24 For example, the addition of overloading or
25 overdriving or overworks in Section (a) is not

1 contained in Subsection (b). So I don't even think
2 a lesser -- it is not a lesser included. It is
3 simply a lesser offense within the same statutory
4 section. So I would move for a directed verdict.

5 THE COURT: Yes, ma'am?

6 MS. MOSER: Thank you, Your Honor. First, as
7 far as the directed verdict motion goes, the
8 standard is obviously taken in the light most
9 favorable to the State. In this case we have -- we
10 believe we have provided direct evidence and
11 significant circumstantial evidence in the form of
12 several different witnesses who have testified
13 about the condition of the dogs. Obviously, Roger
14 Williamson was the first person on the scene. He
15 was able to describe in detail what the dogs looked
16 like. And Investigator Clarke was able to add to
17 that description as well as some of the other
18 testimony you heard from other law enforcement
19 officers.

20 Your Honor, by her own admission, the
21 Defendant left these dogs --- and she is admitting
22 that all four of these are her dogs -- that she
23 left them at her residence for an entire month.
24 That, combined with the fact that we know there was
25 not enough food, there was not enough water, and

1 the other conditions, lack of ventilation, the
2 extreme heat in the house, I think that provides
3 significant circumstantial evidence to take this
4 case to a jury. You are primarily -- Your Honor is
5 primarily concerned with the existence or the
6 nonexistence of evidence, not its weight at this
7 point.

8 And as far as the lesser included argument, we
9 can take that up separately. Our position is that
10 47-1-40(a) is a lesser included offense, but it
11 does pass the Blockberger test. And we can speak
12 to that further if you'd like. I don't know if you
13 want to handle that now. But as far as the
14 directed verdict motion, we do think there is
15 enough evidence of this point that has been
16 presented and taken in the light most favorable to
17 the State that this case should go to the jury.

18 Thank you.

19 THE COURT: All right. In reviewing all of
20 the evidence that has been presented by the State
21 in their case in chief and looking at the statute,
22 I do find that there is -- unless they are viewing
23 it in the light most favorable to the non-moving
24 party, there is an issue of fact as to whether or
25 not the Defendant did torture, have repeated

1 unnecessary pain and suffering upon animals by
2 omission.

3 And so therefore I would respectfully deny the
4 motion for directed verdict at this time.

5 As to the issue of the lesser included, I will
6 need to take a look at that. But I do not think it
7 is necessary to get a ruling on that at this point.
8 But I thank you all for bringing it up so I can go
9 ahead and start looking at it. And I will be glad
10 to hear further arguments and review any cases that
11 you may have probably later this afternoon or
12 either in the morning. All right.

13 All right. So, let's see. At this point, the
14 State has rested. And I am going to ask our clerk
15 to place the Defendant under oath.

16 THE CLERK: Raise your right hand, please.

17 (Defendant complies.)

18 THE CLERK: Do you swear or affirm to tell the
19 truth, the whole truth, and nothing but the truth,
20 so help you God?

21 THE DEFENDANT: I do.

22 THE COURT: All right. And, ma'am, you are
23 Ms. Latisha Todd, that's correct; right?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And, ma'am, at this time, I am

1 going to explain to you certain of your rights. If
2 you do not understand anything that I say, please
3 let me know. If you want me to explain anything in
4 more detail, please let me know. Do you
5 understand?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. We have now reached
8 the stage of the trial where you may present your
9 defense. You have a right to claim the protections
10 given to you by the Fifth Amendment to the
11 Constitution of the United States.

12 This amendment states in part: No person
13 shall be compelled in any criminal case to be a
14 witness against himself or herself. This means
15 that you cannot be required to testify in this
16 case. You have the right to testify on your own
17 behalf. However, no one can make you testify.
18 This is a personal right and no one can waive the
19 right except for you.

20 If you decide to testify, you will be subject
21 to the same rules that govern other witnesses and
22 you may be examined and cross-examined on any
23 relevant issue in this case. In addition, if you
24 have any convictions involving dishonesty or false
25 statement or for crimes punishable by imprisonment

1 for more than one year and the Court determines
2 that the probative value of admitting this evidence
3 outweighs it's prejudicial effect to you, the
4 Solicitor will be able to introduce your record to
5 attack your credibility.

6 It's my understanding based on settling of the
7 Defendant's record on yesterday that there is no --
8 that she -- for purposes of impeachment, there is
9 no -- she does not have a record; is that correct?

10 MR. SCHNEE: Correct.

11 MS. MOSER: That's correct.

12 THE COURT: All right. Ma'am, if you decide
13 to testify, the decision on your part must be
14 freely, voluntarily, and intelligently made with
15 knowledge of the protections given to you by the
16 Fifth Amendment and the consequences of your
17 decision to testify.

18 If you decide not to testify, I will instruct
19 the jurors that they cannot give the fact that you
20 did not testify any consideration whatsoever and
21 that there is to be absolutely no prejudice to you
22 because you did not testify.

23 It is left entirely up to you whether or not
24 you testify. You may talk with your attorney, your
25 family and friends, or anyone else, but the final

1 decision will be left entirely up to you.

2 Do you understand what I have explained to
3 you?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And do you have any questions
6 about what I have explained to you?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: Have you discussed with your
9 lawyer whether or not you should testify? And we
10 are going to take a break and I'm going to give you
11 another opportunity to speak with your attorney and
12 then we'll come back and then I'll just ask your
13 attorney at that time if you wish to testify, and
14 we'll go forward from there. All right?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right. So let's take -- I
17 know I had them out for a minute. Let's take about
18 five or ten minutes. Let's take a bathroom break
19 for us, then we'll come back with you saying if she
20 does wish to testify and if you wish to present any
21 evidence.

22 MR. SCHNEE: Thank you, Judge.

23 THE COURT: Thank you. Let's take about five
24 or ten minutes.

25 (WHEREUPON, a break was taken at 4:05

1 p.m.)

2 MR. SCHNEE: We can actually start by settling
3 the record of Mr. Frost.

4 THE COURT: Is he your first witness? I'm
5 just asking for purposes of scheduling the rest of
6 the afternoon, because she has to leave at 5:00.

7 MR. SCHNEE: Okay.

8 THE COURT: And so I'm guessing if your -- I
9 don't know, if your client is going to testify, she
10 might take more than an hour? Do you think?

11 MR. SCHNEE: I would not think that long, and
12 I'm actually planning on calling her last.

13 THE COURT: Okay.

14 MR. SCHNEE: So if we're just talking about
15 scheduling, I'm fairly confident I can do the other
16 two witnesses very quickly.

17 THE COURT: And her in the morning?

18 MR. SCHNEE: And if we don't have time, then
19 do her in the morning. If there's a firm 5:00
20 deadline, then, yes, absolutely.

21 THE COURT: Well, it is the court reporter, we
22 can't go forward without her.

23 MR. SCHNEE: I understand that.

24 THE COURT: So let's go ahead and get on the
25 record and settle the record as to --

1 MR. SCHNEE: Judge, obviously since Mr. Frost
2 is not the Defendant, the standard is quite a bit
3 different. What I'm showing -- I'm just going to
4 read out all the convictions. I know we had talked
5 about some of these in concept. We have a 2000
6 conviction for shoplifting, a 2001 shoplifting, a
7 2002 shoplifting third offense, so that was General
8 Sessions. There is a breach of trust magistrate
9 level in 2012, a burglary third in 2014, a
10 shoplifting in 2015, magistrate level. And then
11 there is some out-of-state unsubstantiated
12 convictions.

13 THE COURT: All right.

14 MR. SCHNEE: I am obviously going to argue
15 that none of those actually go to his truthfulness
16 for lying. The only one that is even remotely
17 qualified would be the breach of trust, and that's
18 a magistrate level offense. I don't think any are
19 inherently a crime of dishonesty. I would say the
20 things like burglary is not. And the burglary,
21 there isn't even a larceny charge, so -- there
22 wasn't even an arrest for it.

23 THE COURT: So the burglary?

24 MR. SCHNEE: The burglary third is -- I would
25 argue that is not inherently a crime of dishonesty.

1 It doesn't really go to his truth or veracity. It
2 was three years ago.

3 THE COURT: Three years?

4 MR. SCHNEE: Yes. It was in 2014.

5 MR. BERRY: Your Honor, may I hand this up to
6 you so you can see what we're talking about the
7 record here?

8 THE COURT: Yes.

9 I'll be glad to hear from the State. And
10 specifically as to the shoplifting charges, breach
11 of trust -- is it breach of trust? Trespassing, I
12 don't think that applies. Driving under
13 suspension, no. The petit larceny was dismissed.
14 Drug possession, no. The burglary -- I'm trying to
15 remember, is there a case that says burglary is not
16 a crime of dishonesty?

17 MR. SCHNEE: Judge, particularly -- normally,
18 the argument for burglary is always involved if
19 there is a theft along with it. And I think, as we
20 discussed in some of the shoplifting cases
21 yesterday, when it came to my client, at least in
22 the theory of it, that has kind of been taken away.
23 But specifically for the burglary third charge,
24 which is completely separate than the other
25 burglary seconds that were all dismissed, there

1 isn't even a larceny charge associated with it, so
2 the burglary by itself is just a zero to five year
3 non-violent felony. I would argue that is not any
4 way a crime of dishonesty.

5 THE COURT: But it, of course, falls under
6 the -- because in reading the rule -- in reading
7 Rule 609, it, of course, distinguishes between
8 attacking credibility of a witness, that the
9 credibility of a witness, it specifically says
10 other than the accused, so I think it makes -- it
11 distinguishes between the two. And it says a crime
12 punishable by death or imprisonment in excess of
13 one year. Under the law which the witness is
14 convicted and the evidence that the accused is
15 convicted of, such a crime shall be admitted if the
16 Court determines the probative value outweighs the
17 prejudicial effect. And then -- that's Number 1.
18 Then it goes to 2 and talks about -- well, it says
19 ... and evidence that any witness has been
20 convicted of a crime shall be admitted if it
21 involves dishonesty or false statement.

22 I'll be glad to hear from the State as to
23 which ones they intend to impeach him with.

24 MS. MOSER: Your Honor, I guess under
25 Rule 609, which is what you're referring to, it's a

1 little bit different than with the accused. It's
2 another witness, of course. So looking at that, it
3 has got to be a crime that is punishable in excess
4 of one year. And then it also has to have the
5 component that it involves dishonesty or false
6 statements. I mean, I think we would argue that a
7 burglary should come in so that we can impeach this
8 witness on credibility.

9 I can't at this moment point to a specific
10 case. I'm looking right now. But I believe just
11 based on the fact that it does carry over a year, I
12 think it does go to the credibility of the witness.
13 And that does come from essentially the argument in
14 State v. Johnson, a 2005 case.

15 Your Honor, as far as the other charges, I
16 understand the breach of trust was a magistrate
17 level charge, so I don't think that would come in.

18 THE COURT: Is he the first witness?

19 MR. SCHNEE: This will be my second witness,
20 Judge. Judge, my first witness will be Jazmin
21 Harris, and she is going to be relatively quick. I
22 would think Mr. Frost will be pretty quick as well.

23 THE COURT: All right. Once we get through
24 this rap sheet. It's going to take longer than the
25 testimony, I guess. So is it State vs. Aleksey

1 that says that -- I don't know that -- and, of
2 course, that came before Broadnax -- that a
3 conviction for robbery, burglary, theft, or drug
4 possession, it says that burglary is not a crime --
5 furthermore, conviction for robbery, burglary,
6 theft, and drug possession beyond the basic crime
7 itself is not focused on truthfulness. I'm
8 thinking, of course, the breach of trust would come
9 in.

10 MR. SCHNEE: Even though it's a magistrate
11 level offense?

12 THE COURT: Well, for impeachment purposes, if
13 you look at State v. Johnson, it says shoplifting
14 would be a magistrate level offense too. It says
15 crimes of dishonesty. And they say shoplifting --
16 and as you and I discussed yesterday, we haven't
17 heard anything else on that as to whether or not
18 shoplifting is a crime of dishonesty. They
19 specifically said in that other case burglary --
20 they say it's not probative. Now, the question is
21 whether or not it's for impeachment purposes. But
22 I -- it says in State v. Johnson cited in there, it
23 has State v. Shaw, it says the witness may be
24 impeached under Rule 609 (a)(2), which is the
25 second part, for a prior shoplifting conviction.

1 MS. MOSER: Your Honor, those are the cases
2 we're looking at too. And I think under 609
3 (a)(2), the breach of trust would come in as a
4 crime of dishonesty.

5 THE COURT: So the breach of trust and the
6 shoplifting, the burglary third.

7 MR. SCHNEE: Judge, the shopliftings are 15,
8 16, and 17 years old, so the time limits.

9 THE COURT: Over 10 years old. Oh, you didn't
10 tell me that part. Well, I'm looking at it. But
11 there's some -- there's a shoplifting from 2015.

12 MR. SCHNEE: 2015?

13 THE COURT: Uh-huh. And then one from 2002.

14 MR. SCHNEE: Yeah, the other shopliftings are
15 2000, 2001, and 2006.

16 THE COURT: So the one from '13, Colleton
17 County, shoplifting -- I'm sorry, 2015, Irmo P.D.
18 conviction for shoplifting.

19 MR. SCHNEE: Then the 2012 breach of trust.

20 THE COURT: And the 2012 breach of trust.

21 MR. BERRY: Judge, 2011 breach of trust.

22 MR. SCHNEE: The charge is. The conviction is
23 2012.

24 MR. BERRY: Oh, sorry, yes, the charge is '11,
25 the conviction '12.

1 Your Honor, if I may, we have some confusion
2 concerning our part. I want to make sure we're in
3 candor to the Court and making sure we're within
4 the law here.

5 Our concern about that shoplifting and breach
6 of trust, and understanding 609, is that it looks
7 like under 609 (a)(2) both would come in, but the
8 one and two, there's that operative "and" after the
9 end of Subsection (1), and we're not certain if
10 that -- that needs to be over one year and -- that
11 is what is throwing us a little bit. So we're not
12 certain about how we're going to argue this,
13 frankly. I just want to bring that to your
14 attention.

15 THE COURT: Well, y'all don't have to bring it
16 up if y'all don't want to. That's up to y'all. I
17 mean, to me, it is confusing because we have case
18 law that says that shoplifting is a crime of
19 dishonesty and admissible for impeachment. But the
20 way 609 -- we just had the same conversation.
21 609(a) reads, it says in (1) and then it says --
22 and even in (1) it says you have to weigh it and
23 see if the probative value outweighs the
24 prejudicial effect. And then it goes on and says,
25 and (2).

1 So your question is whether or not you have to
2 have one and two, which -- or can you look at those
3 separately. Is that what you're asking?

4 MR. BERRY: It is. And if you read the
5 statute directly, it seems like they are both
6 required, and if you look at the case law, State v.
7 Johnson and the like, it looks like it's
8 admissible. So the case law says the shoplifting
9 and breach will come in, so.

10 MR. SCHNEE: I will just go with no record at
11 all.

12 THE COURT: I do think -- well, let me ask
13 you, are you all asking to go forward on the
14 shoplifting and breach of trust?

15 MR. BERRY: We are.

16 THE COURT: All right. In reading, I guess,
17 the case law as it relates to 609(a)(1) and (2), it
18 does say "and," but in considering the cases -- for
19 example, the cases that say burglary or robbery,
20 there is two parts to (a)(1). You have to say
21 burglary or robbery, and then it says then you have
22 to weigh the probative value versus the prejudicial
23 effect.

24 And I think in looking at Broadnax and --
25 what's the other case we were looking at, Bryant,

1 the Court says in one that the probative value of
2 impeachment in (1), that's when they come in and
3 incorporate the dishonesty part and say there's no
4 probative value as to a burglary for purposes of
5 impeaching someone under (1). I think (2) would be
6 the shoplifting and breach of trust. And maybe
7 that's how they come to the conclusion in other
8 cases that those are -- well, shoplifting is a
9 crime of dishonesty and false statement --
10 dishonesty, not false statement. And here it says
11 regardless of the punishment. So it's -- which
12 means -- which I can only interpret it to mean that
13 it is not talking about -- you know, regardless of
14 if it is 30 days or 30 years if it's a crime of
15 dishonesty.

16 So I think the shoplifting and the breach of
17 trust will come in under (a)(2). The burglary is
18 excluded under (a)(1) based on State v. Bryant and
19 State v. Aleksey, which states that there is no
20 probative value as to dishonesty that would
21 outweigh any prejudicial effect under (a)(1),
22 which would exclude the robbery, burglary -- I
23 can't remember what else they said, firearms,
24 drugs, under a 609(a)(1), if you follow me. I'm
25 not sure if you follow me.

1 MR. BERRY: We obviously agree. And, again,
2 just for the record here, cases were comparable,
3 State v. Cheeseboro, 346 S.C. 526, a 2001 State
4 Supreme Court, as well as State v. McRae, 413 S.C.
5 76, Court of Appeals from 2015.

6 THE COURT: And those say what, that the
7 burglary comes in?

8 MR. BERRY: No, those are back to the crimes
9 of dishonesty no matter what they carry would come
10 in. They support that proposition, why we think
11 the breach of trust and shoplifting are
12 appropriate.

13 THE COURT: All right.

14 MR. BERRY: We also agree that burglary
15 doesn't.

16 THE COURT: All right. Anything else from
17 you, Mr. Schnee?

18 MR. SCHNEE: No, Your Honor.

19 THE COURT: All right. Are you ready to call
20 your first witness -- oh, let me ask. Well, we
21 probably won't get to it. Does your client wish to
22 testify?

23 MR. SCHNEE: Yes, Your Honor.

24 THE COURT: And you have gone over -- I know
25 you've gone over her rights with her.

1 Is that correct, ma'am? I have gone over them
2 and your attorney has also; is that correct?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: And you still wish to testify?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: All right. Thank you.

7 All right. Are we ready? Are we ready?

8 MR. SCHNEE: Yes, Your Honor.

9 THE COURT: Bring them on in.

10 (WHEREUPON, the jury came into open
11 court at 4:41 p.m.)

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

13 THE COURT: All right, ladies and gentlemen of
14 the jury, as you heard, the State has rested their
15 case. At this time we will see if the Defense has
16 any evidence to present. Once again, they do not
17 have to if they choose not to, but if they do, now
18 is the time to do so.

19 Mr. Schnee, do you have any witnesses?

20 MR. SCHNEE: Yes, Your Honor, if it please the
21 Court. We call Jazmin Harris to the stand.

22 (Witness approaches.)

23 THE BAILIFF: Place your left hand on the
24 Bible, and raise your right hand, please.

25 (Witness complies.)

1 THE CLERK: Do you swear or affirm the
2 testimony you are about to give in this case will
3 be the truth, the whole truth, and nothing but the
4 truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you. Have a seat in the
7 witness stand, please.

8 (Witness seated.)

9 THE CLERK: State your name for the record.

10 THE WITNESS: Jazmin Harris.

11 JAZMIN HARRIS,
12 after being duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SCHNEE:

15 Q Good afternoon, Jazmin.

16 A Good afternoon.

17 Q How are you related or how do you know Latisha?

18 A Latisha is my elder sister.

19 Q How old are you?

20 A I'm 31.

21 Q Okay. Where do you currently live?

22 A I currently live in Cayce, South Carolina.

23 Q Where did you live before that?

24 A Before that --

25 Q Past five years?

1 A Well, the past five years before I moved back to
2 South Carolina in 2014, I stayed in Cordele,
3 Georgia. And before that, I stayed in Abbeville
4 Georgia. Before that, I stayed in Harrisburg,
5 Pennsylvania.

6 Q Okay. How much older is Latisha than you?

7 A Latisha, she's about five years older than me.

8 Q Okay. So you kind of grew up together as kids?

9 A We grew up in the same household.

10 Q Okay. I mean, it's not like you are 12 years apart
11 where she left for college or something when you
12 were still young?

13 A Oh, definitely not.

14 Q Do you have any children?

15 A No, sir.

16 Q How many children does Latisha have?

17 A She has four.

18 Q Do you interact with those kids at all?

19 A All the time.

20 Q How old are they? Not to put you on the spot.

21 A I'm sorry, I do apologize, but I'm the youngest of
22 six kids, and all together I have 22 nieces and
23 nephews, so it's kind of difficult for me to keep
24 track of all their ages. I think the youngest is
25 six or seven. I think one is 10, 11, and one is

1 16.

2 Q Okay. When you were growing up, did you ever have
3 pets as a family?

4 A We have had pets ever since I was born.

5 Q What about Latisha? Do you know about her having
6 pets?

7 A I mean, the whole -- the house -- you know, my
8 parents always kept pets in the household. We've
9 always had two, three animals. One living in the
10 household, the other two living outside. Uh-huh.

11 Q Okay. In terms of caring for an animal or pet, do
12 you know if Latisha has ever taken her animals to
13 the vet, things like that?

14 A Oh, definitely. We definitely -- we always try to
15 keep the animals up to date on their shots and up
16 to date on their rabies shots and everything
17 because the animals of the household are animals
18 that do interact with kids. And, like, we've
19 always kept animals up to date on shots and
20 everything. Latisha, in particular, yes, she has
21 always kept her animals up to date with their
22 shots.

23 Q Okay. Have you ever known her to just throw a dog
24 out of a car window, or anything like that?

25 A She might throw me out first. Honestly, no, never.

1 Q Have you ever seen her harm an animal in any way?

2 A Never.

3 Q Ever treat an animal poorly?

4 A Never.

5 Q Would she ever knowingly leave four dogs in a
6 house --

7 MR. BERRY: Objection. Calls for speculation.

8 THE COURT: Sustained.

9 BY MR. SCHNEE:

10 Q Have you ever seen her leave dogs in the house
11 without having someone come watch then when she's
12 gone?

13 A Never.

14 MR. SCHNEE: That's all I have. Thank you
15 very much.

16 THE WITNESS: You're welcome.

17 CROSS-EXAMINATION

18 BY MR. BERRY:

19 Q Good afternoon, ma'am.

20 A Good afternoon, sir.

21 Q I'm sure it isn't easy being here. I know you've
22 been here all day and yesterday. You care about
23 your sister, don't you?

24 A Definitely, I do.

25 Q You're here to support her; right?

1 A Definitely.

2 Q And your testimony is that she does, in fact, know
3 what animals needs to be cared for and survive,
4 that she does understand what they need?

5 A Yes, sir.

6 Q Okay.

7 MR. BERRY: Beg the Court's indulgence.

8 (Pause.)

9 BY MR. BERRY:

10 Q You love your sister?

11 A Yes, sir.

12 Q I understand.

13 A All of them.

14 MR. BERRY: No further questions, Your Honor.

15 THE WITNESS: You're welcome.

16 THE COURT: Anything further?

17 MR. SCHNEE: No, ma'am.

18 THE COURT: All right, ma'am, you may step
19 down.

20 (Witness steps down.)

21 THE COURT: Any objection to this witness
22 being excused? All right. Ma'am, you are free to
23 leave.

24 (Witness excused.)

25 THE COURT: Call your next witness.

1 MR. SCHNEE: The Defense calls Ronald Frost.

2 (Witness approaches.)

3 THE BAILIFF: Place your left hand on the
4 Bible, and raise your right hand, please.

5 (Witness complies.)

6 THE CLERK: Do you swear or affirm the
7 testimony you are about to give in this case will
8 be the truth, the whole truth, and nothing but the
9 truth, so help you God?

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Thank you. Have a seat in the
12 witness stand, please.

13 (Witness seated.)

14 THE CLERK: State your name for the record.

15 THE WITNESS: Ronald Frost.

16 RONALD FROST,
17 after being duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SCHNEE:

20 Q Good afternoon, Ronald. How do you know Latisha?

21 A I've known Latisha over nine years now. She's like
22 my best friend. She's my godmother to my daughter
23 and my son. I met her actually by getting a dog.
24 Her dogs had a litter of puppies. And we clicked
25 like that ever since.

1 Q Okay. And that was about nine years ago?

2 A About nine years ago.

3 Q And have you been around her a lot since then?

4 A Just about every day. I hate to say it, just about
5 every day. I see her every day.

6 Q Okay. Could you describe how she cares for her
7 animals that you've seen?

8 A Lord, out of everybody I know in my whole life for
9 animal loving, Latisha is the 5-star. Like, the
10 other day we went to my daughter's mother house. I
11 came back outside -- I left her in the car. I come
12 back outside. She was gone. I finally called her,
13 I said, Where are you? She said, Oh, I'm walking
14 around helping this lady look for her dog. I was
15 like, Okay, cool, whatever, so. But to harm a dog
16 or to do anything to an animal or anything, that is
17 not in her nature at all, period.

18 Q Okay. I want to bring you kind of to the June,
19 July, August of last year timeframe.

20 A Yes.

21 Q Were you aware that Latisha was heading out of town
22 with her kids?

23 A Yes, sir.

24 Q Okay. Explain how you knew that.

25 A I knew it because she came to me and asked me to

1 watch the dogs. At that time I done made a trip to
2 go to Connecticut for my two weeks to go see my
3 daughter. I think I got back a day before she did.
4 The gentleman that was -- you know, John -- I call
5 him John. -- his name is John, everybody calls him
6 John.

7 Q Let me stop you there. Have you met John before?

8 A Yes.

9 Q When have you met him?

10 A I met him from her house, like, during -- I used to
11 go to her house just about every day. It came to
12 the point where her kids called me the dog trainer
13 when I pulled up. Oh, the dog trainer's here.
14 Because that's what I do, I train dogs.

15 And I'm like, Well, you done left them before.

16 She was like, Yeah.

17 I said, Well, okay, then do it again. Because
18 I can't do it. I was the first person she asked to
19 do it. And I turned her down because I already
20 booked my ticket to go see my daughter in
21 Connecticut.

22 Q Okay. So you are aware that John has watched these
23 same four puppies before?

24 A Not the same four.

25 Q Okay. But he has watched --

1 A He has watched dogs, her dogs personally before.

2 Q Okay. Do you -- how many years ago?

3 A That was two years ago. This happened last year --

4 I think the year before that.

5 Q Okay. And while he was watching them, did you know
6 of anything to happen to them?

7 A No.

8 Q Did you expect any problems with John watching the
9 dogs this time?

10 A No.

11 Q When Latisha first left, did you have any occasion
12 to go to her house while John --

13 A She left way before I did.

14 Q Okay.

15 A What happened was, she asked me to do it, and I
16 said, Well, no, I'm leaving the end, but I'll be
17 back the day before you.

18 She was like, Well, I'm going to ask John.

19 We asked John -- when she left, John had the
20 house key and everything to go. All I did while
21 she was gone, I would drive by the house, and that
22 was about it. There been a couple of times I drive
23 by the house and John been outside in the yard and
24 I'll stop and talk to him. He had the dogs out
25 there using the bathroom. After that, I talk and I

1 go. I went to Connecticut for my two weeks, came
2 back. And then all this happened.

3 Q Okay. So when you saw the dogs with John in the
4 yard two, two and a half weeks, whatever, before
5 all this, how did the dogs look?

6 A Like they normally did. There was no problem.
7 They all was running around the yard. The only one
8 that wasn't there was Prince, and Mr. Luther had
9 Prince.

10 Q Okay. But the four puppies?

11 A The puppies were fine.

12 Q They looked like they were fed?

13 A Yes.

14 Q Looked like they had water?

15 A Yes.

16 Q Did they have fleas on them?

17 A Not to my knowledge, no, sir.

18 Q Okay. Were there ticks biting them? Were they
19 scratching a lot?

20 A None of that. When I got out the car -- I parked
21 at the mailbox at the end of the road. When I got
22 out the car, all they did was run to the road
23 towards me, and then I walked up in the yard. I
24 sat on the porch and smoked a cigarette with him
25 and asked him if everything was all right. He

1 said, They're fine.

2 And I'm like, Well, I'm leaving. And I got in
3 my car and I left. I didn't even go in the house
4 at that time.

5 Q Okay. Do you know if John has watched the dogs for
6 more than just the previous year, or was it --

7 A Oh, no. I just met him about three, four years
8 ago. Yeah, I just met him.

9 Q Okay.

10 A Yes.

11 Q Did you have any reason to question when you left
12 that John would stay at the house and take care of
13 the dogs?

14 A No. No, because my best friend said he had done it
15 before, so, you know, I trust her with my life.
16 So, no.

17 Q Okay.

18 MR. SCHNEE: Judge, I've got no further
19 questions.

20 THE COURT: All right. Please answer any
21 questions that Ms. Moser has.

22 MS. MOSER: May it please the Court?

23 THE COURT: Yes.

24 MS. MOSER: Thank you, Your Honor.

25 CROSS-EXAMINATION

- 1 BY MS. MOSER:
- 2 Q Hello, Mr. Frost.
- 3 A Hello.
- 4 Q How are you?
- 5 A Tired.
- 6 Q Yeah? Mr. Frost, you have known the Defendant, I
- 7 think you said for nine years?
- 8 A Almost.
- 9 Q And you consider her like a best friend?
- 10 A Sister, best friend.
- 11 Q Okay.
- 12 A Someone, you know, I would do anything for, yes.
- 13 Q I'm sorry, what was that?
- 14 A Someone I would do anything for.
- 15 Q Do anything for? Anything for?
- 16 A Beside getting in trouble. I'm not getting in
- 17 trouble no more.
- 18 Q Okay. All right. So she's someone that you look
- 19 out for, is that fair?
- 20 A Yes.
- 21 Q Someone you care --
- 22 A Her kids are my godkids and my kids are her
- 23 godkids.
- 24 Q And she's someone that you really care for?
- 25 A Yes.

1 Q Okay. You said not only do you care for her a lot,
2 but you see her frequently?

3 A Just about every day.

4 Q I think you said you saw her every day?

5 A Just about every day.

6 Q Just about every day. Okay. So when this happened
7 last year, were you seeing her every day?

8 A She was gone.

9 Q She was gone?

10 A For that month, she left.

11 Q So she was gone for that entire month?

12 A Just about, I think so.

13 Q Okay. So for that month, you didn't see her?

14 A No, not at all.

15 Q Okay.

16 A The only person I seen that month at her house --
17 because we had a friend that stayed across the
18 street. And that's the only reason me being in the
19 neighborhood. We also have friends that stays on
20 that street.

21 Q Okay.

22 A That particular day when I seen Mr. John, I wasn't
23 actually going there to check on the house or the
24 dogs, I was going to go see my homegirl that stayed
25 across the street from her. And I just so happened

1 to see him across the street outside with the dogs.
2 So that what made me get out the car and walk over
3 and talk to him, and then I went back across the
4 street. After I got done doing what I was doing
5 there, I left.

6 Q So when was that exactly?

7 A I can't -- that's last -- I can't give you a
8 specific date. I know it was two weeks, a couple
9 of days before I left. I went to go pick up a
10 suitcase. I didn't have a suitcase. I went across
11 the street to, Lord, what's her name, Tracy house
12 to get a suitcase.

13 Q Okay. So went to go get a suitcase for your trip?

14 A Yes.

15 Q And when did you leave?

16 A I left two weeks before July -- was it June or
17 July? It was the end of June.

18 Q End of June?

19 A Two weeks -- it was two weeks before she got back.
20 Whenever she got back, I got back a day before her.

21 Q Okay.

22 A You know what I'm saying?

23 Q You said she was gone for an entire month?

24 A If I'm not mistaken, it was a whole month.

25 Q Okay. All right. So you're not exactly clear on

1 when she left, when you left?

2 A I can't remember the actual date when she left or
3 booked her trip.

4 Q That's okay. I know it's been a little while. You
5 said that you train dogs?

6 A Yes, like personal dogs. I don't do it for a
7 business, or anything like that. I'm just -- I'm
8 really good with dogs.

9 Q Okay. So you know how to take care of a dog,
10 obviously?

11 A Yes.

12 Q You know what it takes to keep a dog alive?

13 A Yes.

14 Q You know that a dog needs food, that a dog needs
15 water --

16 A Needs attention.

17 Q -- and a dog needs to go outside, that a dog can't
18 remain in a house for a month?

19 A Not by itself.

20 Q Right. But she was a 5-star animal lover?

21 A Yes. She loved dogs. She loves dogs, animals,
22 birds. Like her sister said, she would throw her
23 sister out the car before she threw a dog out.

24 Q Okay. But she would leave the dog for a month?

25 A No. Not intentionally, no.

1 Q This John person?

2 A John.

3 Q Do you know John's last name?

4 A No. I just -- like I said, I met him at a cookout
5 that was on the street. And she told me he watched
6 the dogs before. She was like, Who am I going to
7 get to do it? I'm like, I don't know. And she's
8 like, Oh, I can get John to do it.

9 Q So you've known John for three or four years, but
10 you don't know his last name?

11 A Who? No. I don't -- I don't consider him to be my
12 friend. I don't know him.

13 Q Okay.

14 A You know what I'm saying? I don't know him like
15 that. It's kind of weird for me, like, what's your
16 last name? In this day and age, if a person walk
17 up to me and like, you know, what's your last name?
18 I'm not going to tell them my last name. Who are
19 you?

20 Q All right. But the Defendant trusted him? That
21 was your understanding?

22 A Yes.

23 Q Okay. All right. So you mentioned Mr. Luca?

24 A His name is Luther.

25 Q I'm sorry?

1 A Luther.

2 Q Luther?

3 A Yes.

4 Q Mr. Luther had Prince?

5 A Yes.

6 Q Now, Prince was one of the Defendant's five dogs?

7 A Yes.

8 Q And Prince is, as far as we know, still alive?

9 A Yes, he's still very much alive, running around
10 right now.

11 Q Okay. All right. So Mr. Luther was actually the
12 one who was watching Prince while --

13 A Yes.

14 Q -- the Defendant was out of town? Okay. All
15 right.

16 And, Mr. Frost, you have been convicted of a
17 crime before; correct?

18 A Plenty. If you want to be -- I'm not hiding it.
19 I'm a man. I did wrong, you know. You do wrong,
20 you pay the time.

21 Q Okay. And you've been convicted of shoplifting?

22 A Yes.

23 Q In 2015?

24 A 2015, it was shoplifting. I took a family member
25 to a store. They actually shoplifted. They caught

1 us coming out the door. I didn't have anything,
2 but since I was with him while he was walking
3 around, they considered it, you know, hand of one,
4 hand of all.

5 Q Okay. But you pled guilty --

6 A I pled guilty just because I'm not about to go
7 through this. Yes.

8 Q Okay. All right.

9 A Not for a misdemeanor.

10 Q You were also convicted of breach of trust in 2012?

11 A Yes.

12 Q Okay. All right. And I imagine there's some
13 others, but okay?

14 A Yes.

15 MS. MOSER: Beg the Court's indulgence.

16 (Pause.)

17 MS. MOSER: Just briefly, Your Honor.

18 BY MS. MOSER:

19 Q You've never spoken to law enforcement about this;
20 right?

21 A About what?

22 Q About this incident?

23 A No. What I did? No.

24 Q That was my question. You've never spoken to
25 Animal Control about this; is that correct?

1 A No.

2 Q Okay. You've never really spoken to anyone about
3 this until --

4 A The maintenance man. I spoke to the maintenance
5 man. I was the first -- when I pulled up to the
6 house, the maintenance man was at the window fixing
7 the window.

8 Q Okay. So you talked to him about this?

9 A When I got there. When I got there, I was the
10 first one in the house.

11 Q Okay.

12 A He never -- when I got to the house, he was outside
13 fixing the window.

14 Q Okay.

15 A And he told me about the stench from the house.

16 Q Right. Did you smell that?

17 A Not when I got out the car. When I walked up to
18 the house and got to the actual house and me
19 standing from here to probably you where he had the
20 window up, yes.

21 Q You did smell it?

22 A Yes.

23 Q What did it smell like to you?

24 A Death. I guess if they want to call it decay.

25 Q Smelled like death?

1 A Yes.

2 Q All right.

3 MS. MOSER: All right. No further questions,
4 Your Honor?

5 THE COURT: Anything else?

6 MR. SCHNEE: Just briefly.

7 REDIRECT EXAMINATION

8 BY MR. SCHNEE:

9 Q Since she asked, so you talked to the maintenance
10 man?

11 A Yes.

12 Q July 3rd?

13 A I think so, yes, sir, it was on the 3rd.

14 Q Well, how did you get there?

15 A I drove.

16 Q Yeah, but why would you go to the house that day?

17 A Somebody called -- the girl across the street
18 called -- our friend across the street called and
19 said, you know, somebody look like they trying to
20 climb in the window. I was at McDonald's. She
21 stayed -- I can't remember the name of the
22 neighborhood, but from her house to McDonald's is
23 like three or four minutes. She was like, Somebody
24 look like they trying to climb in the window. I
25 jumped out of McDonald's line. I had ordered, but

1 I didn't pay, so I just jumped out the line and
2 went straight to the house.

3 When I got there, I jumped out the car, I
4 said, Who are you?

5 He was like, Oh, I'm the maintenance man. And
6 he started telling me he was here fixing to cut the
7 grass. Then he said, Well, I just called the
8 property manager and told them like there's
9 something bad in the house smelling.

10 I said, Well, have you been in the house?

11 He said, No, I haven't been in the house.

12 I said, Well, okay, I can go in the house if
13 you like. Because, you know, I have a copy of the
14 key to her house, she has a copy of key to my
15 house.

16 So what I did, I went in the house. I looked
17 around. I said, Okay, John is not even in here.
18 So I walked -- as far as I walked was to the
19 bathroom, because I didn't hear the dogs. So I
20 walked to the bathroom and I looked. And I went
21 back out. I said, Well, it looks like one of the
22 puppies died in the house.

23 He said, Okay. He called the property manager
24 and he went from there.

25 At that time, I'm like, Well, I'm going to

1 call Tisha. I called Tisha. I couldn't get in
2 contact. I don't think she got back yet from her
3 trip or not, I can't remember. But I called her
4 and left a message, and I left. I locked the door
5 back -- I locked the door back. I pulled the door
6 close. And I said, Okay, well, you do what you
7 have to do, and I'm going to call your tenant. And
8 that's what I did.

9 MR. SCHNEE: All right. Thank you.

10 MS. MOSER: Just briefly.

11 THE COURT: Yes, ma'am.

12 RECROSS-EXAMINATION

13 BY MS. MOSER:

14 Q So, Ronald, you actually went to the house, saw
15 this maintenance man, saw the dogs?

16 A And I made the call. He said he had already called
17 the proper people, and he said the police and
18 everything is on the way. So I jumped on the
19 phone. At that time I was getting ready for work.
20 So I could not just like stop and stay. I'm like,
21 okay, if anything -- I left my name, my number with
22 the maintenance man and everything. I said, If you
23 have any problem, please call. Nobody called me.
24 I got a call, I think, the next day from Tish
25 telling me about what all went on, if I'm not

1 mistaken.

2 Q Let me just get this straight. So you walk into
3 the house? You have a key?

4 A Uh-huh.

5 Q You can go check at any point on these dogs, if you
6 wanted to?

7 A Yes. I didn't have to. Because I work -- I work
8 almost nine hours a day, so.

9 Q And I know you're probably busy. But you walk into
10 this house, you see a dead dog, you smell death.
11 You don't call police?

12 A Why? When he said -- the maintenance man already
13 said he done called the proper people, why would I
14 call the police?

15 He said, I already called the tenant. He
16 said, I already called Animal Control. Because I
17 stood there while he called the property manager.

18 Q Okay.

19 A And they said, Okay, they going to handle it and
20 get in contact with her. I said, Well, I'm locking
21 the door, I have to go to work. If you have
22 problems, here's my name and my number.

23 Q Okay. Did you know Ms. Todd was in town?

24 A At that time, I'm not for sure, no.

25 Q Okay. Because you couldn't get in touch with her?

- 1 A Yes.
- 2 Q Right?
- 3 A Uh-huh.
- 4 Q You had tried to call her, but you couldn't get in
- 5 touch with her to tell her that her dogs were dead?
- 6 A At that time. And then I received a call the next
- 7 morning from her.
- 8 Q Okay. But she's a 5-star animal lover?
- 9 A You can't hold somebody -- if you leave somebody in
- 10 your house to do something, you can't hold that
- 11 against her. Why would you? If I'm leaving
- 12 somebody in my house to do this and I'm trusting
- 13 you to do this. I can't say everybody in the world
- 14 is a hundred percent trustworthy, because you have
- 15 your ups and your downs. So what happened with him
- 16 at that point in time, I don't know. But the
- 17 period of time I was driving by just to look and
- 18 make sure everything was still fine with the house,
- 19 that one time, he was outside with the dogs and
- 20 there was nothing wrong with them.
- 21 Q Okay. You're talking about responsibility. These
- 22 were her dogs; correct?
- 23 A And she left -- yes.
- 24 Q Okay.
- 25 A And she left somebody who she thought was

1 responsible enough to do what he had to do. And he
2 failed, so.

3 MS. MOSER: Beg the Court's indulgence.

4 (Pause.)

5 MS. MOSER: No further questions, Your Honor.

6 MR. SCHNEE: Judge, I certainly have no more
7 questions.

8 THE COURT: All right. Sir, you may step
9 down.

10 (Witness steps down.)

11 MR. SCHNEE: Judge, my only other witness is
12 Latisha, and I know we had a 5:00 o'clock deadline.
13 It's currently 5:05.

14 THE COURT: Yes, sir.

15 Ladies and gentlemen of the jury, it is
16 5:00 o'clock. I'm not sure how long the next
17 witness will take. But we will find out in the
18 morning because we are going to go ahead and take
19 our evening break.

20 I remind you, do not discuss the case. You
21 have not received all the evidence in the case. Do
22 not do any independent research on any issue in the
23 case.

24 We will start back tomorrow morning at 9:30.
25 Have a restful evening. And you can not think

1 about anything that happened here until tomorrow
2 morning at 9:30.

3 Thank you.

4 We will order lunch in the morning if anyone
5 has been bringing lunch.

6 (WHEREUPON, the jury is excused at 5:06
7 p.m.)

8 THE COURT: So you potentially have -- I'm not
9 holding you to it -- one more witness?

10 MR. SCHNEE: Yes. She will be my last
11 witness. I would expect my direct to be, rough
12 guesstimate, 15, 20, maybe 30 minutes tops.

13 THE COURT: I'm not holding you. I mean, it's
14 Tuesday. We have moved fast. Tomorrow is
15 Wednesday. We're good on time.

16 MR. BERRY: We may need to talk. We may want
17 to consider bringing a rebuttal witness at this
18 point. So we will need to talk about that.

19 THE COURT: That's fine. I'm going to order
20 the jurors lunch tomorrow because I'm guessing
21 somewhere in there we're going to land around them
22 deliberating sometime around lunchtime.

23 MR. SCHNEE: Yes, ma'am.

24 THE COURT: Maybe. That depends on how
25 long --

1 (Telephone rings.)

2 THE COURT: All right, we are going to take
3 that telephone. Go ahead and take it, since he
4 can't figure out how to turn it off.

5 Yes, I think we're going to order lunch. I'll
6 have Jasmine work on a jury charge. If y'all have
7 any proposed -- and the whole issue -- it will not
8 address the whole issue of lesser included, or
9 anything like that, because I haven't decided that.
10 So it's a jury charge, but it does not have any of
11 that in it. I'll take a look at that tonight.

12 You don't want lesser included -- you don't
13 want Subsection (a) charged? You want to think
14 about it? You do want it charged?

15 MR. SCHNEE: I do not believe it passes the
16 Blockberger test. Regardless of desire, I don't
17 think it's actually an applicable lesser included.
18 It is definitely a lesser offense.

19 THE COURT: Yes.

20 MR. SCHNEE: I just do not think it is lesser
21 included.

22 THE COURT: And I need to go back and look at
23 the elements of (a). I'll have to look at the
24 statute. I've been looking at (b).

25 Yes, sir? Do you want to say something?

1 MR. BERRY: Just seeing if you have any
2 questions for us.

3 THE COURT: No, I don't think so, but just be
4 prepared. I'll have her e-mail you all what she
5 has come up with so far. Let's be prepared maybe
6 to do closing in the morning sometime if we get
7 through all the testimony. I'm not rushing you
8 all, I'm just trying to strategically plan lunch
9 for the jurors.

10 MR. SCHNEE: Other than whatever rebuttal
11 witness that may or may not have any information
12 that's -- I don't know what they're planning yet, I
13 see absolutely no reason why we would not be
14 closing by 10:30ish, 11:00.

15 THE COURT: All right. So she'll get the
16 orders and then she'll call it in. All right.

17 MR. BERRY: Thank you, Your Honor.

18 THE COURT: All right. Y'all have a great
19 evening.

20 MR. SCHNEE: Thank you.

21 (WHEREUPON, the proceedings concluded at
22 5:09 p.m.)

23 JULY 19, 2017

24 (WHEREUPON, the proceedings began at
25 9:41 a.m.)

1 THE COURT: Good morning, you may be seated.
2 The jurors are all here and ordered their lunch, is
3 my understanding. We'll figure that part out
4 later.

5 Are you ready to get started?

6 MR. BERRY: Yes, Your Honor.

7 THE COURT: Are you ready, Mr. Schnee?

8 MR. SCHNEE: Yes, Your Honor. I don't know if
9 you want to take up a few minor issues.

10 MR. BERRY: Yes.

11 MR. SCHNEE: That way, if your law clerk is
12 doing any research while my client is testifying,
13 it kind of speeds it up.

14 THE COURT: Okay.

15 MR. BERRY: We do.

16 MR. SCHNEE: I got an e-mail last night
17 dealing with requests to charge I already had on
18 third-party guilt pursuant to State v. Gregory.

19 THE COURT: Are y'all objecting to that?

20 MR. BERRY: We are. And I also have a couple
21 of matters to raise to the Court.

22 THE COURT: What's your objection to the
23 third-party guilt?

24 MR. BERRY: So, third-party guilt, Your Honor,
25 under State v. Gregory, there are strict

1 limitations on admissibility of third-party guilt.
2 And the dispositive analysis is whether the
3 evidence offered by the Defendant is inconsistent
4 with the Defendant's guilt.

5 And here we submit that any evidence as it is
6 of this third-party guilt is not in any way
7 inconsistent with her guilt. They could both be
8 guilty, but they are very similar in that they
9 could both be guilty. And there is -- that any
10 evidence towards his guilt doesn't negate hers,
11 necessarily.

12 And I would direct the Court's attention to
13 State v. Cope to start with, Your Honor. In that
14 case, it was a --

15 THE COURT: C-O-P-E?

16 MR. BERRY: C-O-P-E. And if I may approach, I
17 have some copies. State vs. Cope --

18 THE COURT: And I don't want to argue this
19 part now, but I'll have her look into it. We'll do
20 this when the jury goes out. But I am aware -- she
21 told me you e-mailed her back and said you wanted
22 to add third-party guilt.

23 MR. SCHNEE: Okay.

24 MR. BERRY: Well, and if I just may give you
25 my cases, I have two others cases to present on

1 that. I'll just go ahead and pass that forward.

2 Your Honor, we'll also be referencing State
3 vs. Tindall and Miller v. State as to why
4 third-party guilt, we believe, is not appropriate
5 here.

6 And briefly, if I may, Your Honor, on the
7 draft charges that were e-mailed late last night,
8 we did have an issue to alibi being included in
9 there. Under State v. Robbins, we don't think
10 there should be any mention of alibi at all. An
11 alibi defense must cover the entire time for when
12 the Defendant's presence was required for the
13 accomplishment of the crime. This is clearly, I
14 wasn't there at all, someone else did it. It is an
15 alibi.

16 THE COURT: Like I told you, that's a proposed
17 jury charge. She just put that in there. I have
18 not made a decision as to alibi. We were talking
19 about the third-party guilt issue. But, I mean,
20 really, at this point we have to see what she says,
21 or any other alibi witnesses. Have you -- did you
22 serve them with alibi witness?

23 MR. SCHNEE: I did not. However, they never
24 served me with Reciprocal Rule 5, or anything of
25 the sort, so.

1 MR. BERRY: Yes, we have served you Reciprocal
2 Rule 5.

3 MR. SCHNEE: I don't remember -- actually, I
4 never requested anything about Rule 5, my only
5 request was under Brady. Regardless, I'm not
6 concerned about the alibi aspect of it. This is
7 much more of third party guilt to me.

8 THE COURT: Okay.

9 MR. BERRY: Just to let you know, we would
10 argue lesser included as well.

11 THE COURT: And we have already looked at
12 that, so I'll get back with you on that too. We
13 can talk about all of that. I don't think that's
14 important or pertinent to take care of right now.
15 We'll go ahead and bring the jury in and get
16 started. And then we can discuss all of that
17 before we -- when we have a charge conference.

18 MR. BERRY: Of course, we do have one motion
19 in limine for her testimony. We will do that here
20 right now. And that would be to strike any mention
21 of PTSD as it relates to the Defendant's actions.
22 That was brought up in pretrial. PTSD, that has no
23 probative value at all, we would assert. It's
24 purely for sympathetic reasons.

25 THE COURT: Who has PTSD?

1 MR. BERRY: During pretrial, the Defense
2 asserted that she has PTSD.

3 THE COURT: From what?

4 MR. BERRY: We don't know. We filed, again,
5 our reciprocals.

6 THE COURT: I don't recall that, but --

7 MR. BERRY: I believe it was stated in
8 pretrial.

9 THE COURT: He said she had PTSD? From what,
10 the dogs dying?

11 MR. BERRY: No, from military service, I
12 believe was stated previously by the Defense.

13 MR. SCHNEE: I had discussions with the
14 Solicitor about that months ago. There's nothing
15 been raised in this courtroom about that.

16 THE COURT: If it has, it sure went over my
17 head. And I usually -- words like -- or acronyms
18 like PTSD normally stick out. But somebody did say
19 she served in -- no, the guy said he served in the
20 military. I'm not even sure there has been any
21 testimony that she served in the military.

22 MR. BERRY: Well, I just want to make sure
23 that no such reference will be made during her
24 testimony today.

25 MR. SCHNEE: Well, Judge, she did serve in the

1 military and she has been diagnosed with PTSD. I
2 don't know if it comes up or not. That is not
3 being asserted as a defense in any way. That is
4 not being asserted as anything involved. I
5 certainly have no intention of bringing any of it
6 up.

7 THE COURT: I mean, I think for background, he
8 has the right to say she has been in the military.

9 MR. BERRY: That's fine. It is the specific
10 PTSD that would somehow be asserted in some sort of
11 either sympathetic answer or some sort of defense
12 that we have not been served notice of, nor is it
13 consistent with any of their case so far, that her
14 actions were somehow caused by PTSD.

15 THE COURT: Well, I don't know if Mr. -- he is
16 claiming she didn't have anything to do with it." I
17 mean --

18 MR. BERRY: Which is why I would ask that he
19 be prohibited from referring --

20 THE COURT: Like I say, I can't speak for
21 Mr. Schnee. But I don't know why he would want to
22 bring up she had PTSD.

23 MR. SCHNEE: I have no desire to bring it up.
24 Even if it did come up, Judge, it is certainly a
25 proper thing to bring up. It will allow me to

1 describe and my client describe her personality to
2 the jury. That's not outside of their purview.
3 It's up to the jury to figure out what to do with
4 that. I'm not bringing it up anyway. I have no
5 idea where this is coming from.

6 THE COURT: You can object at the time if we
7 get into it. But, yes.

8 MR. BERRY: Thank you, Your Honor.

9 THE COURT: All right. Anything else?
10 Let's bring them in.

11 THE BAILIFF: Yes, Your Honor.

12 (WHEREUPON, the jury came into open
13 court at 9:48 a.m.)

14 THE BAILIFF: The jury is present and seated.

15 THE COURT: Good morning, ladies and gentlemen
16 of the jury. I hope you had a restful evening.

17 At this time, we will continue with the
18 Defendant's case. I will ask Mr. Schnee to call
19 his next witness.

20 MR. SCHNEE: May it please the Court, Your
21 Honor? At this time the Defense calls Latisha
22 Todd.

23 (Witness approaches.)

24 THE BAILIFF: Place your left hand on the
25 Bible, and raise your right hand, please.

1 (Witness complies.)

2 THE CLERK: Do you swear or affirm the
3 testimony you are about to give in this case will
4 be the truth, the whole truth, and nothing but the
5 truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Thank you. Have a seat in the
8 witness stand, please.

9 (Witness returns to witness stand.)

10 THE CLERK: State your name for the record.

11 THE WITNESS: Latisha Todd.

12 LATISHA TODD,

13 after being duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. SCHNEE:

16 Q Latisha, how old are you?

17 A Thirty-five.

18 Q Where did you grow up?

19 A St. Matthews, South Carolina.

20 Q Do you have brothers and sisters?

21 A I have five other brothers and sisters.

22 Q Five younger brothers and sister?

23 A I have three brothers that are older, and two
24 younger sisters.

25 Q Okay. When you were growing up, were you always in

1 the St. Matthews area or?

2 A I was in St. Matthews area until I graduated from
3 high school, and then I went into the military and
4 moved away.

5 Q Okay. While you were growing up, did your family
6 have any pets?

7 A We had animals all my life.

8 Q Describe what your interactions were, how you took
9 care of them, what your responsibilities were as a
10 kid.

11 A I had to feed them, water them. Every now and
12 then, we played different things, things of that
13 nature, gave them a bath.

14 Q What kind of animals did you have growing up?

15 A Cats, dogs, snakes, turtles, fish, iguana. I've
16 had a lot.

17 Q Have you ever intentionally harmed any of your
18 animals?

19 A No.

20 Q Would you ever intentionally harm an animal?

21 A No.

22 Q I want to bring you back to June of last year.
23 You've got how many children?

24 A Four.

25 Q How old are they?

- 1 A I have -- my oldest is 14, my second oldest is 13,
2 my third son is 11, and my daughter is 8.
- 3 Q So 8 through 14?
- 4 A Yes.
- 5 Q And that was -- back then it was 7 through 13?
- 6 A Yes, sir.
- 7 Q Okay. Why did you take them out of South Carolina?
- 8 A We went to visit my parents in Pennsylvania.
- 9 Q And why did you go for that long?
- 10 A They wanted to go for the summer. And I didn't --
11 I didn't really want to leave them for the whole
12 summer because when I was in the military, I was
13 already gone from them for a year, so I try not no
14 distance myself too much from my kids.
- 15 Q Okay.
- 16 A Especially since I'm a single parent.
- 17 Q Okay. Well, when you were making your plans, how
18 did you decide what to do with the dogs?
- 19 A Well, I originally tried to get all of them at the
20 same location, but the person that I asked, Luther,
21 he was only comfortable with one of them, not all
22 of them coming over to his house. So because
23 Prince was the oldest of the five, I sent him
24 because he would be -- feel more comfortable -- he
25 would be more comfortable by himself compared to

1 the puppies being more comfortable by themselves.

2 Q Okay. Now, the four dogs that we're all here to
3 talk about, were they all puppies?

4 A Yes.

5 Q Where did you get them?

6 A They were actually the puppies of Prince.

7 Q Okay. Who named the dogs?

8 A The kids.

9 Q So they picked the names for all their puppies?

10 A Yes.

11 Q Did you have more than four puppies originally?

12 A Yes. She had a total of 11.

13 Q What happened to the others?

14 A Some friends have a few of them. My best friend
15 that was here yesterday, he has one of them.

16 They're kind of spread out a little bit.

17 Q So four puppies, four kids, is that how it worked
18 out?

19 A Not originally. I was actually trying to find good
20 homes for the puppies also, but it was taking a
21 little longer than normal. So we ended up where
22 every -- each one of my kids actually took care of
23 one of the puppies. And I had Prince.

24 Q Okay. And what did you tell your dogs [sic] about
25 how to take care of an animal like that? What did

1 you teach them?

2 A Since they were born, they've grown up with animals
3 just like me. So they kind of fell into the loop
4 of seeing how I -- what I was doing when I fed and
5 watered them and kind of took the role and tried to
6 do it the same way. It is just like now, if I go
7 in the kitchen and cook, they try to do the same
8 thing.

9 Q Okay. Well, when you're making these arrangements
10 and Mr. Luther, obviously, could only take one dog,
11 what did you decide with the other four puppies?

12 A That I would have somebody that I've known in the
13 past that was okay with dealing with animals to do
14 it again. That way, I'm comfortable enough to say,
15 okay, I feel comfortable in leaving for X amount of
16 time and knowing that they will be okay.

17 Q Okay. And who did you decide to use this time?

18 A It's a guy I know from the neighborhood. His name
19 is John.

20 Q How did you meet him?

21 A Most of the people in the neighborhood I met just
22 by interacting and they coming and welcoming me to
23 the neighborhood, or something to that nature, or
24 somebody else introduced me to them.

25 Q Okay. How long have you known John?

1 A I've lived in that house for four years, so
2 probably most of that timeframe.

3 Q Okay. And over that three or four years, however
4 long you've known him, how many times has he
5 watched your dogs?

6 A Lost them?

7 Q No, watched them?

8 A Oh, once, other than this time.

9 Q Other than this time?

10 A (Nods affirmatively.)

11 Q And how long was that for?

12 A Only a couple of weeks.

13 Q So the previous time was for a couple of weeks?

14 A Uh-huh.

15 Q And when you came back, how were the dogs?

16 A They were fine. The puppies weren't actually
17 there. It was Prince and two other dogs I had
18 before.

19 Q Okay. So you had Prince and two other dogs, not
20 the puppies?

21 A (Nods affirmatively.)

22 Q So he took care of three dogs that time?

23 A Yes.

24 Q For two weeks?

25 A Yes.

1 Q And there were no problems?

2 A No.

3 Q Well, this time, did you -- how did you talk to him
4 and what did you exactly ask him to do with the
5 puppies?

6 A Well, I informed him that I wasn't able to put the
7 puppies where Prince is for the simple fact that a
8 lot of people don't want to deal with too many
9 animals at one time. And I understand that. I
10 choose to, but that's me. That's the type of
11 person that I am. So I asked him if he would be
12 able to do the same thing, because he was already
13 in a bind as -- with a discrepancy with his
14 relationship. I asked him if he could do me a
15 favor as well as me doing him a favor and him stay
16 at my house while I'm gone to look after the dogs.

17 So I left -- I can't remember exactly how much
18 money it was with him just in case he did run out
19 of dog food or anything should come up where he
20 needed something for the house. And he agreed to
21 it.

22 Q Okay. So he stayed -- he was supposed to stay in
23 your house and you gave him money to use to spend
24 for things?

25 A Yes.

1 Q For the month?

2 A Yes.

3 Q And when you left, did you expect any problems at
4 all?

5 A No.

6 Q When did you first find out there was a problem?

7 A My uncle had actually called me when he seen the
8 police officers in front of my yard.

9 Q Okay. And is that, I'm guessing, some time around
10 when the first puppy was found?

11 A I can't remember actually what day it was, but it
12 was the beginning of that month. Because he knows
13 for a fact I would go out of town around my
14 birthday timeframe, so he knew I wasn't home, so he
15 called me and informed me.

16 Q Okay.

17 A So it was the beginning of the month.

18 Q Beginning of July?

19 A Yes.

20 Q Okay. Well, what did you do after you got that
21 call?

22 A I made arrangements to try to get back home and
23 find out exactly what was going on.

24 Q Okay. Well, how long did it take you to get back
25 to South Carolina?

1 A From Pennsylvania to South Carolina is eight, nine
2 hours, but at the time I was in Sumter, so it only
3 took me an hour, hour and a half.

4 Q Oh, okay. You were in Sumter at the time?

5 A At my grandmother's house.

6 Q Okay. Where did you go when you got to Columbia?

7 A I went to my house.

8 Q And is that the day that Ms. Jordan and
9 Investigator Clarke were there?

10 A Yes.

11 Q Okay. Describe what happened when you got there?

12 A I got there and I was talking to Officer Jordan.
13 And just like she said, I asked her if it was about
14 the grass again. She told me yes. But on previous
15 timeframes, she had already told me that the grass
16 was not out of violation -- in violation unless it
17 was knee high. So I didn't stress that the grass
18 was an issue. So me and her was having a
19 conversation about that. And that's when she
20 informed me that there was a smell coming from the
21 house.

22 And I informed her that I had heard from
23 different people that the case -- the reason -- the
24 thing that was going on, so that was the reason why
25 I came to the house.

1 Q Okay. And I guess shortly after that, Investigator
2 Clarke came?

3 A Yes.

4 Q Came up? Obviously, you've heard the testimony.
5 You agreed to let them search the house and go
6 through it?

7 A Yes.

8 Q You walked in the house with them?

9 A Yes. I didn't go completely all the way in too
10 much because it was hard for me since I know what
11 had happened. So I tried not to -- I went in only
12 because he asked me to show him the different
13 locations, and that's what I did.

14 Q Okay. Had your uncle or other family members
15 already been in the house and --

16 A My uncle had -- he had went in and cleaned up
17 because I wasn't able to do it.

18 Q Okay.

19 A And he was okay with taking care of it for me.

20 Q After that, I guess you went back outside and
21 talked to the investigator. That's when the
22 written statement you gave was there?

23 A Yes.

24 Q Let me back up. When you were talking to
25 Ms. Jordan, did you tell her about John and provide

1 information about all that?

2 A Yes.

3 Q When you talked to Investigator Clarke, did you
4 talk to him about John?

5 A No.

6 Q Did he ever ask you about it?

7 A No.

8 Q I know that's obviously a very short statement.

9 When is the next time you heard back from
10 Investigator Clarke, Jordan, or anyone else?

11 A He had called me a couple of weeks later and asked
12 me to meet him at his office to take care of a few
13 things.

14 Q Okay. Did you go to his office?

15 A Yes.

16 Q And what happened when you got there?

17 A He took me to the -- I guess the jailhouse and put
18 handcuffs on me and took me into the jail.

19 Q Okay. So he just arrested you there?

20 A Yes.

21 Q He didn't ask you any more questions?

22 A No.

23 Q He didn't ask for any information?

24 A No.

25 Q What have you told your kids about what happened to

1 the dogs?

2 A I told my older two exactly what happened, that
3 they are not with us anymore. I didn't tell my
4 younger two because I kind of figured that because
5 we've had to deal with a lot of our other pets
6 passing away, I didn't want to put them through the
7 stress of knowing what happened with those. So I
8 just told them I gave them away.

9 Q Why should the jury believe that you had this
10 mystery guy named John at your house? I mean,
11 you've seen the pictures, they've seen the
12 pictures. There's nothing pleasant about it. Why
13 should they believe you?

14 MS. MOSER: Objection, Your Honor. Calls for
15 speculation.

16 THE COURT: Sustained.

17 BY MR. SCHNEE:

18 Q Have the kids been back to that house since then?

19 A No.

20 Q And do you still live there now?

21 A No.

22 Q How long after you got back were you still leasing
23 this house?

24 A After I finished -- after me and my uncle finished
25 cleaning up, I moved.

1 Q Why did you never bring the kids back there?

2 A Because I didn't want them to see any of that or
3 hear anything from the neighborhood.

4 Q Okay. Do you have dogs right now?

5 A Yes.

6 Q And are they healthy?

7 A Yes.

8 Q Do you take them all to the vet?

9 A Well, all of them are healthy. Prince has a nerve
10 issue in his shoulder because he had gotten out of
11 the fence when he was at Mr. Luther's house and got
12 hit by a car. But he's had X-rays done and it's
13 just a nerve issue, from what the vet said. And
14 they talked about amputating it, but he still uses
15 it around the house, so I don't -- I haven't looked
16 into that process of getting that done.

17 Q But you do have other pets with your kids now?

18 A Yes.

19 Q And they are all healthy?

20 A Yes.

21 MR. SCHNEE: Judge, I have no further
22 questions.

23 THE COURT: All right. Please answer any
24 questions that the State may have.

25 CROSS-EXAMINATION

1 BY MS. MOSER:

2 Q Hey, Ms. Todd.

3 A Hello.

4 Q Ms. Todd, you just testified that you have had
5 animals your whole life; correct?

6 A (Nods affirmatively.)

7 Q You've had cats, dogs, snakes, turtles, iguanas; is
8 that correct?

9 A Fish.

10 Q Fish too. And you have pets now?

11 A Yes.

12 Q In 2016 you lived in Meadow Lake Subdivision, [REDACTED]
13 Scarsdale Drive; correct?

14 A Yes.

15 Q Okay. And you lived there with -- you were the
16 only adult; correct?

17 A Yes.

18 Q Okay. But you also lived there with your four
19 children?

20 A Yes.

21 Q And five dogs; is that correct?

22 A At the time of the incident, yes.

23 Q Right.

24 A Before then, there were others.

25 Q Okay. So before the incident, you had other dogs?

1 You had Prince, and I believe you testified there
2 were two others?

3 A Yes.

4 Q Okay.

5 A A stray dog I had picked up off the street and
6 another -- a gift that was given to me by my ex.

7 Q Okay. And I'm just going to show you what's been
8 marked as State's Exhibit Number 16. Is this the
9 house that you're referring to?

10 A Yes, ma'am.

11 Q [REDACTED]? Okay. So this was your residence at the
12 time?

13 A Yes.

14 Q Okay. All right. And on June 3rd of that summer,
15 you decided to go up to Pennsylvania; correct?

16 A Yes. We had -- I had decided before June had came,
17 but.

18 Q But at that point, you went up to Pennsylvania?

19 A Yes. The kids had gotten out of school by then.

20 Q Okay. So you went to Pennsylvania, you dropped off
21 the kids. And then at some point, you came back to
22 South Carolina; correct?

23 A Yes.

24 Q Okay. And you stayed with a friend, a relative?
25 Who did you stay with?

1 A I -- when I got back, I stayed with a friend for a
2 little while and -- it was a guy I was dealing with
3 at the time. And then I went to my grandmother's
4 house in Sumter.

5 Q Okay. So you were sort of bouncing around a little
6 bit?

7 A Because I was working on top of all that.

8 Q Okay... You were in Pennsylvania for less than a
9 month; correct?

10 A Yes.

11 Q You were in Pennsylvania for about two weeks, is
12 that fair?

13 A Two to three.

14 Q Okay. Then you come back to South Carolina. You
15 do not go to this residence -- well, let me
16 rephrase. You do go to this residence; correct?

17 A I went to check and make sure that my mail was
18 getting checked.

19 Q Okay. So you go to this residence, you don't go
20 inside this residence, but you go to check your
21 mail?

22 A Yes.

23 Q Okay. You know the dogs are inside that residence?

24 A Yes.

25 Q And you know that the dogs have been there from

- 1 June 3rd until early July?
- 2 A Yes.
- 3 Q Okay. So you are paying rent on this house;
- 4 correct?
- 5 A Yes.
- 6 Q While you were staying with a friend and then
- 7 family member, a guy?
- 8 A I don't really consider it staying with him. I was
- 9 actually just spending the night.
- 10 Q Okay. But you are paying rent on this property?
- 11 A Yes.
- 12 Q And you have four dogs living there?
- 13 A Yes.
- 14 Q Okay. And presumably you're paying for utilities?
- 15 A Yes.
- 16 Q During this time period?
- 17 A Yes.
- 18 Q Okay. And then you have this fifth dog, Prince,
- 19 who is not in this house; --
- 20 A Uh-huh.
- 21 Q -- correct? So Prince is with Mr. Luther?
- 22 A Yes.
- 23 Q Okay. And the reason that Prince is with
- 24 Mr. Luther is that Mr. Luther couldn't handle more
- 25 than a couple of dogs -- he could only handle

1 Prince?

2 A He had a dog himself, so -- and he's an older
3 gentleman, so he couldn't -- he didn't want too
4 many in the fence.

5 Q Okay. But Prince was well taken care of?

6 A Except for the time he got out and got hit by a
7 car.

8 Q Except for the time he got out and got hit by a
9 car. But he is still alive?

10 A Yes.

11 Q Okay. While you are back in Columbia and, I
12 believe, Sumter you said?

13 A Yes.

14 Q You were also at Sumter for some time. You had
15 access to your house; correct?

16 A Yes.

17 Q Okay. So we know you went and checked the mail.
18 But you weren't locked out of your house during
19 this time, you could have gone in?

20 A All I had to do was get with my best friend for the
21 key.

22 Q Okay. So he had a key to your house?

23 A Yes.

24 Q You didn't have a key to your own house?

25 A The house -- I mean, the key that I normally keep,

1 I had left with John to use.

2 Q Okay. All right. So let's talk about John a
3 little bit. You have this man named John who lives
4 down the street, is that fair?

5 A He -- I don't exactly know exactly where he lived.
6 He's from the neighborhood.

7 Q Okay. So his name is John, you don't know exactly
8 where he lives, but he is watching your dogs, four
9 dogs for an entire month?

10 A Yes.

11 Q Okay. You don't know his last name either; is that
12 right?

13 A If I'm not mistaken, I found out from someone else
14 what his last name was and told someone, but I
15 can't remember exactly who it was, it's been so
16 long.

17 Q Okay.

18 A It was -- but there's a lot of people in that
19 neighborhood that I know their first name and don't
20 know their last name.

21 Q Okay.

22 A That -- there's a few that I know in that
23 neighborhood that I know their first name and don't
24 know their last name, but I trust them with my own
25 kids.

- 1 Q Okay. At some point you told Officer Cody you
2 didn't have his cell phone number; is that correct?
- 3 A No, I had to get it from somebody else.
- 4 Q So my question is this. You didn't know his number
5 when you were talking to Officer Cody?
- 6 A I did. It was not on me.
- 7 Q Okay. You didn't have it on you?
- 8 A Because it was in my other phone.
- 9 Q Okay. So at some point, you learned his phone
10 number?
- 11 A Yes.
- 12 Q Okay. And this man is from South Carolina, lives
13 in the neighborhood; is that correct?
- 14 A Yes.
- 15 Q Okay. And his number starts with 717; right?
- 16 A Yes.
- 17 Q Okay. Are you aware that is an area code for
18 Southern Pennsylvania?
- 19 A Yes.
- 20 Q Where you're from?
- 21 A Yes.
- 22 Q And then --
- 23 A That was one of the things that we communicated on
24 when we first met.
- 25 Q Okay. So you shared that?

- 1 A Because his number was from there.
- 2 Q So your uncle goes to the house and tells you that
- 3 the dogs have died?
- 4 A No, he told me that the cops were at my house.
- 5 Q And he tells you that -- the reason they were
- 6 there; right?
- 7 A No, he didn't go and find out what the reason was,
- 8 he just told me that there were cops at my house.
- 9 My best friend told me about the dogs.
- 10 Q Okay. From the maintenance man?
- 11 A Yes.
- 12 Q You didn't call Animal Control; right? You didn't?
- 13 Is that fair?
- 14 A At what point in time?
- 15 Q When you find out?
- 16 A Supposedly, I did call them. I don't remember if I
- 17 did or not because it was so long ago.
- 18 Q And I'm talking about when you first find out about
- 19 this?
- 20 A No.
- 21 Q Okay. And you didn't call police?
- 22 A No.
- 23 Q You didn't track down John?
- 24 A I tried to call him.
- 25 Q You tried calling him?

1 A And I got no answer.

2 Q Okay. You didn't tell police about John?

3 A I did tell -- oh, I can't remember the name.

4 MS. MOSER: May I approach the witness, Your
5 Honor?

6 THE COURT: Yes.

7 BY MS. MOSER:

8 Q I'm going to show you State's Exhibit Number 2. Do
9 you recognize this?

10 A Yes.

11 Q Okay. Can you tell us what this is?

12 A I'm guessing that's the statement that Detective
13 Clarke had.

14 Q I'm going to have you look at Page 2. Do you
15 recognize the signature at the bottom there?

16 A Yes.

17 Q Is that your signature?

18 A Yes.

19 Q Okay. Is this your statement?

20 A Yes.

21 Q Okay. Will you read this for me? And will you let
22 me know if there is any mention of John in that
23 statement.

24 A There's no mention of him in this statement because
25 I was never asked about that.

1 Q Okay.

2 MS. MOSER: Your Honor, at this time, the
3 State would seek to enter State's Exhibit Number 2
4 into evidence.

5 THE WITNESS: If he would have asked me about
6 that, I would have --

7 THE COURT: Hold on one second.

8 MR. SCHNEE: I thought earlier it was. I have
9 no objection.

10 MS. MOSER: It hasn't been entered yet.

11 THE COURT: All right. Number 2 is entered
12 without objection.

13 MS. MOSER: Thank you, Your Honor.

14 (WHEREUPON, State's Exhibit No. 2 was
15 marked for identification and received
16 into evidence.)

17 BY MS. MOSER:

18 Q So let's talk about this statement a little bit
19 more. This statement was made on July 7th; is that
20 correct?

21 A Yes.

22 Q Okay. And this statement was made to Investigator
23 Joe Clarke?

24 A Yes.

25 Q Okay. Who is here in the courtroom?

1 A Yes.

2 Q Okay. And he gave you your Miranda rights?

3 A Yes.

4 Q So before you went through all of this, he advised
5 you of your rights?

6 A Yes.

7 Q Okay. And who wrote this statement?

8 A He did.

9 Q He did. Okay. But you were able to go through it
10 and add and change anything you wanted to?

11 A Yes.

12 Q Correct? Okay. All right. So in this statement,
13 you mentioned your dogs, you mention them by name,
14 that's how we know their names: Prince, Panda,
15 Midnight, Diamond, and Sparkle. Correct?

16 A Yes.

17 Q And you mentioned in your statement to law
18 enforcement that you went to the house on July 3rd,
19 which you've already testified to, that you went to
20 go get the mail, you didn't go inside because they
21 get so excited. What did you mean by that?

22 A Like any dog does when their owner comes home, they
23 get overly excited and start jumping around. And
24 with my four puppies, it's hard to contain them and
25 keep them calm after they've seen me or the kids.

1 Q So that's why you didn't go inside the house?

2 A Yes. Because I knew I was leaving right back out
3 and I didn't want to have him or anyone else have
4 to deal with a lot of issues.

5 Q Okay. You mentioned that you gave John some money?

6 A Yes.

7 Q To watch the four dogs?

8 A I didn't give him money to watch the dogs, I gave
9 him money to get the necessities, anything he
10 needed for them.

11 Q Okay. But you couldn't remember how much you gave
12 him?

13 A If I had to give a ballpark off the top of my head,
14 it was probably 150.

15 Q 150. Okay. And I imagine taking care of four dogs
16 for a month can be pretty costly. You would know?

17 A Yes.

18 Q Okay.

19 A That's the reason I left 150 because that would be
20 ample amount of money to buy, if I had to think off
21 the top of my head, at least three bags of dog
22 food, of the big bags that you have pictures of.

23 Q Okay. So you didn't provide him with dog food?

24 A There was one there.

25 Q Okay.

1 A And then that -- the money was for any more he
2 would need while I was gone.

3 Q The money was for the dogs for the dog food, not
4 for him to come watch them?

5 A No. My -- him watching them, my payment for that
6 was allowing him to have somewhere to sleep.

7 Q That's right, because he was in a bind; right?

8 A Yes.

9 Q Okay. So you asked someone who was in a bind to
10 come watch four of your dogs for a month?

11 A Yes.

12 Q When you showed up to the house on July 3rd, law
13 enforcement was there?

14 A No.

15 Q That's not correct?

16 A On the 3rd?

17 Q I'm sorry, when they arrived on the 7th?

18 A Yes.

19 Q Okay. So on July 7th, you come to the house, law
20 enforcement is there. You ask them if it's about
21 the grass?

22 A Yes.

23 Q Okay. But you knew the puppies were dead at this
24 point?

25 A No.

1 Q You did not know the puppies were dead?

2 A No.

3 Q Okay.

4 A If I would have known the puppies were dead on that
5 day, then I would have never even said anything
6 about the grass.

7 Q Okay.

8 A Because I would have known why she was there.

9 Q Okay. So as far as you were concerned, the puppies
10 were still alive in the house on July 7th?

11 A I didn't know where they were. Like I said, I left
12 and I hadn't been there. I don't know.

13 Q So you --

14 A I assumed that they were still in the house and
15 fine for the simple fact that that's where I left
16 them.

17 Q Okay. So from June 3rd until July 7th, you
18 believed those puppies were alive?

19 A I'm --

20 Q Even though their remains had been removed from the
21 house at that point?

22 A I'm confused. What you mean?

23 Q Law enforcement arrived at your house, you pulled
24 up and they spoke to you and asked you, Where are
25 the kids? Where are the dogs?

1 A Okay, I understand.

2 Q Do you remember that?

3 A What it was, I didn't know if anything was going to
4 come up. I did know that they were -- had passed
5 away because we had went in there the day before,
6 but -- no, it wasn't even the day before, it was
7 the 5th, if I'm not mistaken. And my uncle removed
8 them. And we set off bombs.

9 Q Okay. So you did know that the puppies were dead,
10 but you asked the officer, Is this about the grass?

11 A Because I didn't know why she was there. And the
12 previous timeframes that she has been there has
13 been about the grass.

14 Q And you go in and you place, I believe it was about
15 eight bug bombs throughout the house?

16 A I put one in each room and in the hallway and in
17 the kitchen and the living room.

18 Q And you did this because the puppies were dead?

19 A No.

20 Q The puppies were not dead?

21 A I didn't set the bombs off because the dogs were
22 dead. We had already removed the dogs.

23 Q Okay. So you set them for the bugs?

24 A Yes. So we can clean up the house, because the
25 landlord told me I needed to clean up the house.

1 Q Okay. So you had been told at that point this
2 needs to be cleaned up?

3 A Yes.

4 Q And you placed the puppies, the four bodies in a
5 plastic bag and --

6 A My uncle did.

7 Q Okay. And put them in the back yard?

8 A Yes.

9 Q Is that correct? Okay. And when you walked up to
10 the house on the 7th, you said you didn't notice
11 the smell?

12 A I had already had -- I already knew the smell on
13 the 7th for the simple fact that I was in the house
14 before then.

15 Q So you were already aware of it. Okay. You
16 mentioned that you had to deal with a lot of other
17 pets passing away?

18 A (Nods affirmatively.)

19 Q So this is a fairly normal thing?

20 A No.

21 Q But you've had pets pass away before?

22 A Yes. That's the reason why my mom refuses to get
23 any more on her end because we had a cat at one
24 point in time and we had to put him down because of
25 him getting too old and his organs started failing.

1 Q Okay. And you would agree that four children, five
2 dogs, that's a lot to handle?

3 A Yes.

4 Q Okay. You said you were trying to find homes for
5 the puppies before you left for Pennsylvania. So
6 you were trying to get rid of them?

7 A I -- I -- I been trying to get rid of -- I was
8 trying to get rid of all of them.

9 Q Okay.

10 A Not saying that I would do this to get rid of them.

11 Q But these were your dogs; correct?

12 A Yes.

13 Q And they were in your house; correct?

14 A Yes.

15 Q And they were in your house for an entire month;
16 correct?

17 A Yes.

18 Q You were in Pennsylvania, came back to South
19 Carolina. You were here, you had access to the
20 house. You did not check on them; correct?

21 A Yes.

22 MS. MOSER: Beg the Court's indulgence.

23 (Pause.)

24 BY MS. MOSER:

25 Q Ms. Todd, when you got back to South Carolina, did

1 /you talk to John?

2 A No, I haven't. When I was called and told --
3 before I went over there and met with them, the
4 police officer -- I mean, talked to the police
5 officer; when I -- before I went over there, I
6 tried calling him, and I didn't get through.

7 Q You tried calling him. Okay.

8 A But I didn't feel the need to, especially since
9 best friend had said a few weeks before then that
10 he had been by there and everything was fine.

11 Q Okay. And after you found out the dogs had died
12 and this is the condition they were in, you did not
13 talk to John?

14 A No.

15 MS. MOSER: No further questions, Your Honor.

16 MR. SCHNEE: Briefly, Your Honor.

17 (Witness crying.)

18 REDIRECT EXAMINATION

19 BY MR. SCHNEE:

20 Q Latisha, we're almost done. Just a couple of quick
21 things, okay? Can you answer any questions for me
22 right now?

23 (Pause.)

24 MR. SCHNEE: Judge, I actually don't need to
25 ask her any more questions.

1 THE COURT: All right. Ma'am, you may step
2 down. You can step down.

3 (Witness steps down.)

4 THE COURT: Call your next witness.

5 MR. SCHNEE: Judge, at this time the Defense
6 rests.

7 THE COURT: All right. Ladies and gentlemen
8 of the jury, there are matters of law I need to
9 take up with the attorneys outside your presence,
10 so I'm going to send you all out for a short break
11 and then we'll receive you back.

12 (WHEREUPON, the jury retires to the jury
13 room at 10:27 a.m.)

14 THE COURT: All right. The Defense has
15 rested. Does the State --

16 Yes, sir?

17 MR. SCHNEE: Just very briefly, just for the
18 record, I need to renew all prior motions and
19 objections.

20 THE COURT: All right. And they are preserved
21 for the record. Respectfully, the motions are
22 denied for the reasons given earlier.

23 Any rebuttal from the State?

24 MS. MOSER: No, Your Honor.

25 THE COURT: All right. So it's 10:30. And

1 I'll ask you in the presence of the jury. I'm
2 trying to decide -- let's talk about the -- I'll be
3 glad to hear from you all on the issue of -- I
4 think it is the two issues of lesser included
5 offense and third-party guilt.

6 MR. SCHNEE: Judge, I'll start with my request
7 for third-party guilt. The Solicitor is correct
8 that the standard is essentially being consistent
9 with my client not being guilty, and I think that's
10 clearly what is established.

11 And the State wants you to take a look at
12 State v. Tindall. In that case, the third-party
13 guilt issue that the Court rejected was nothing
14 more than a mere conjecture of, Well, someone else
15 must have done it. But in this case, it is clear
16 that there is an identifiable person. There is an
17 independent witness that has seen that person. The
18 testimony is very clear that there is an
19 identifiable person that was taking care of the
20 dogs. And had John continued to do that properly,
21 that would negate my client's guilt. It's not mere
22 conjecture. It is evidence that has been presented
23 that if the jury believes requires a verdict of not
24 guilty. It doesn't matter even if Your Honor
25 believes it. The standard is direct -- any direct

1 evidence that Your Honor is required to charge. I
2 think we have more than met that standard.

3 THE COURT: All right. Yes, sir?

4 MR. BERRY: Yes, Your Honor. If it please the
5 Court? The State would submit that there has not
6 been evidence presented that is inconsistent with
7 her guilt. Both John and her can be guilty at the
8 same time. That relates back to State v. Cope,
9 where you had two Co-Defendants on trial for
10 murder, CSC, abandonment of a child. And in that
11 case --

12 THE COURT: And I haven't had a chance to
13 read -- I read Cope for other reasons, for other
14 issues, I haven't had a chance to read it as to
15 third-party guilt. I mean, it is about 40 or 50
16 pages.

17 MR. BERRY: That's a long case. Our specific
18 cite is at Page 341, Your Honor. And the key
19 language we're looking at there is where evidence
20 of one of the Co-Defendant's guilt is not
21 inconsistent with the Defendant's guilt. In other
22 words, raise a reasonable inference, not a
23 presumption of the Defendant's innocence. And
24 under that rationale, we would assert here that we
25 essentially have -- call him Co-Defendant in theory

1 and effect. I mean, just someone else can be
2 liable. It doesn't negate her liability. She was
3 the owner of these animals. This was her house.
4 This is still all her responsibility that she left
5 the animals under her care and her premises and
6 under her control died.

7 THE COURT: So it is your position that even
8 if she had left the dogs under the care of someone
9 else, this John, who she says was supposed to be
10 staying in the house taking care of the dogs, that
11 if she had left them in the care of another -- let
12 me just say, so your position is, if someone has a
13 dog and they leave them in the care of someone else
14 and that person doesn't care for the dog, because
15 they are your dogs, that you are ultimately
16 responsible for taking care of the dogs, even if
17 you left them in the care of someone else, who she
18 said she trusted, whether or not you may have
19 trusted that person with your dog or whether or
20 not -- I mean, that's a whole nother issue, but
21 that's your position? If she left the dog with
22 someone -- that they are a dog sitter, people that
23 come around, they are supposed to go to your house
24 and take your dogs out and check on your dogs. If
25 she had left the dog with someone that was

1 responsible -- was supposed to be responsible for
2 doing, which is in essence what she's saying, and
3 that person didn't do it, then you're saying that
4 she is -- she would, because the dogs are her
5 responsibility -- ultimate responsibility, that she
6 would still be guilty?

7 MR. BERRY: It's a case-by-case basis on that.
8 We get into that -- no, I mean, it's an important
9 distinction in the facts of this case here and how
10 it applies.

11 If you go to an accredited boarding facility,
12 right, and leave them there, that's reasonable. If
13 you have someone who is responsible come to your
14 house, check on them, et cetera, it can be a
15 case-by-case basis on what the actions -- really
16 what we get into here, what's your hypothetical
17 there and what this is analyzing, you know, is
18 this -- like is this gross negligence? Is this
19 gross recklessness?

20 And in the testimony we have here, we have a
21 significant amount of unreasonable, at best,
22 alleged unreasonable gross behavior. So, no -- in
23 some cases, yes, someone else --

24 THE COURT: We even had a juror that said in
25 voir dire that she left the dog with her roommate

1 in an apartment and the roommate --

2 MR. BERRY: Strangled the dog.

3 THE COURT: -- strangled the dog. Does that
4 mean ultimately she's responsible for the -- I
5 mean, I'm trying to understand what you're saying.
6 Because your position is that based on the Cope
7 case that she would be -- regardless if she left
8 this person in charge of the dog, she still would
9 be -- I think that's what you said -- she would
10 still be guilty and that therefore we could not
11 charge third-party guilt. You are saying in and of
12 itself that whether or not she's guilty or not has
13 nothing to do with whether or not she left the dog
14 with someone else?

15 MR. BERRY: I think it's case-by-case. If you
16 look at the animal cruelty case law in our state,
17 there's lots of mention in other parts of the
18 statute about care, custody, and control, what an
19 owner is. And you can be a, quote, owner of a dog
20 and have care, custody, and control. And I think
21 that can vary from case to case.

22 And here she was clearly the legal owner of
23 these animals. And the State would submit based on
24 the evidence here today, throughout this trial,
25 there has not been evidence saying that she is not

1 guilty of all these crimes. I think there is so
2 much of this, at best, gross recklessness and
3 negligence on her part that would not warrant
4 instructions.

5 THE COURT: Yes, sir?

6 MR. SCHNEE: Judge, I'm going to ignore the
7 incredibly insulting aspect of the Solicitor's
8 comments. His definition of a case-by-case basis
9 makes it a question for the jury. That is not Your
10 Honor's job. Your Honor's job is not to determine
11 what the facts actually mean, it is the existence
12 of the facts being presented requires Your Honor to
13 give the charge.

14 And in terms of the theoretical question
15 you're asking, there are kids in daycare that are
16 killed that die all the time from daycare workers.
17 The parents aren't ever charged with a crime. This
18 is the same thing. You bring your dog to a vet or
19 a kennel. If something happens there, the owners
20 aren't charged with a crime. Just because she had
21 someone come to her house, it's the same scenario.
22 I know the Solicitor doesn't believe any of that
23 ever happened, and that's his prerogative, but that
24 is not Your Honor's job.

25 Evidence has been presented by multiple

1 witnesses that there was someone supposed to be
2 there watching dogs and, by at least one witness,
3 was, in fact, watching the dogs. The standard for
4 the statute is -- it's not a negligence standard,
5 it's a specific intent. This is -- a person has to
6 act or completely fail to act and cause torture,
7 torment, needless mutilation, cruelly killing,
8 excessive and repeated unnecessary pain and
9 suffering. The mental element required for this is
10 not negligence. And I don't know where we get
11 gross negligence, that doesn't even exist in the
12 criminal law for just about anything anyway. These
13 are very, very specific intent required for the
14 statutes that have been charged.

15 Clearly, having someone else responsible as a
16 human being and an adult, that's the issue of
17 third-party guilt. That's why we have the charges
18 for it. I fail to see how we are anything remotely
19 shy of getting the necessary facts into evidence
20 for it.

21 Obviously, the Solicitor can disagree and
22 argue against it all he wants to in closing. I'm
23 sure he will. But the fact that he is even
24 claiming it is a case-by-case basis makes it a
25 question of fact for the jury.

1 MR. BERRY: And just very briefly, Your Honor.
2 I'm not saying that I don't -- the argument here is
3 not that we don't believe her. We may not.

4 THE COURT: Well, the issue is not whether or
5 not you believe her or not, the issue is, is there
6 any evidence in the record regarding -- first of
7 all, you've got to decide if there's any evidence
8 in the record regarding the third-party guilt. In
9 looking at Cope, the issue there was, if I remember
10 correctly the case, like I said, that's 40
11 something pages, but I think this is a robbery or
12 something and both people were there and the other
13 person tried to blame -- said, Well, it was him, it
14 wasn't -- something of that effect. I glanced over
15 it, I didn't read it all, but I've read it before.
16 But I think the facts in this case are a little bit
17 different than her saying, We were both there.

18 What you're saying and I think where Cope
19 would apply is if she says, We were both in the
20 house, me and John, but John was supposed to take
21 the dogs out and feed the dogs and take care of the
22 dog. And I didn't have anything to do with doing
23 that because I asked John to do it.

24 In that case, does that meet -- the
25 third-party guilt may not -- in that case, it.

1 probably would not be applicable.

2 But she is saying that, I had given this
3 responsibility to someone else, he was supposed to
4 do it. There's evidence of empty dog food bags in
5 the trash bucket. The witness has testified
6 that -- the witness has testified that he saw John.
7 He saw John at the house. Your witness testified
8 that there is some man there. I don't know -- I
9 mean, all of that goes to weight, believability,
10 for the jury. But there is evidence in the record
11 that -- whether or not you believe it or I believe
12 it is not really the issue, but the issue is, is
13 there anything in the record. And there is
14 evidence in the record that this John, based on her
15 theory, may have been asked to stay and watch the
16 dogs.

17 MR. BERRY: To briefly clarify, even accepting
18 all they say is true, what we're saying is that
19 still does not negate her guilt. The jury can
20 believe every single thing she said, accept all
21 that's true, she is still guilty of this crime
22 because she's the owner of these animals. That's
23 our position.

24 THE COURT: Because you're saying because
25 she's the owner of the animals --

1 MR. BERRY: That's her house.

2 THE COURT: This goes back to my first
3 question for you, and you said that's a
4 case-by-case basis.

5 MR. BERRY: And here, you know, we think she
6 would be guilty accepting everything she said is
7 true.

8 THE COURT: Okay.

9 MR. SCHNEE: I've made my argument, Judge.

10 THE COURT: Well, based on your analysis of
11 Cope as applied to the facts in this case I think
12 are a little bit different than the way I -- my
13 legal analysis of the way it reads. I think the
14 facts in this case are distinguishable from the
15 facts -- and I think I have given you an example of
16 how I find that it is distinguishable.

17 I am going to allow the jury charge on
18 third-party guilt. I think there is evidence in
19 the record. I do -- I think Mr. Schnee brought up
20 a good point regarding specific intent. In looking
21 at the -- it's not gross negligence, for sure, but
22 the negligence part, it says: Did torture,
23 torment, needlessly mutilate, cruelly kill or
24 inflict excessive or repeated unnecessary pain and
25 suffering upon an animal her dog named, in this

1 case, Diamond, by omission or commission cause
2 these acts to be done.

3 So I'm going to allow the third-party guilt
4 charge, and the jury will be -- it will be up to
5 the jury to decide if it's her or somebody else.
6 But I am going to allow that charge, jury charge.
7 So Jasmine will add that in.

8 All right. Lesser included offense. I'll be
9 glad to hear from you.

10 MR. BERRY: Thank you, Your Honor.
11 Interesting where you left off on that specific
12 intent, Subsection (b) where she's charged doesn't
13 have a specific intent. It's actually in (a) of
14 the statute where it brings up the knowingly or
15 intentionally.

16 THE COURT: But it's definitely not gross
17 negligence.

18 MR. BERRY: It's not, but the point is they're
19 linked together (a) and (b). As far as statutory
20 intent goes, those are clearly linked together.
21 But as far as lesser included -- it's kind of a
22 secondary point which comes up later. The primary
23 point, Your Honor, is that under State v. McFadden
24 and State v. Parker, the test for determining a
25 crime is a lesser included offense is where the

1 greater of the two offenses includes all the
2 elements of the lesser offense.

3 And here there is no way that she could commit
4 Subsection (a) without also -- I'm sorry, there's
5 no way she could commit Subsection (b) without
6 committing Subsection (a). You cannot commit this
7 greater offense. No scenario whatsoever that she
8 couldn't also commit a -- that coupled with the
9 statutory intent -- there's no case law on this of
10 all this, it's all new stuff here -- but the fact
11 that these statutes have essentially the exact same
12 language, I think it's pretty clear under both
13 Parker and McFadden that should be a lesser
14 included.

15 I can approach with those cases. I don't
16 believe I gave those earlier. I would also cite
17 State v. Watson as well.

18 THE COURT: I'll be glad to hear from --
19 Mr. Schnee, the -- and Brighton v. State, it's a
20 '99 case, but -- a trial judge must charge the jury
21 on a lesser included offense if there is any
22 evidence from which it could be inferred that the
23 Defendant committed the lesser rather than the
24 greater offense. The statute reads that a person
25 knowingly or intentionally overloads, overdrives,

1 or overworks or ill treats an animal, deprives an
2 animal of necessary sustenance or shelter and
3 inflicts unnecessary pain or suffering upon an
4 animal or by omission or commission, knowingly or
5 intentionally causes the acts to be done.

6 MR. SCHNEE: Judge, and all the case law says
7 essentially the same thing. It comes down to the
8 Blockberger elements test. And the Solicitor is
9 correct, in order for you to charge Subsection (a),
10 absolutely all Subsection (a) must be included
11 within the purview of Subsection (b). And there
12 are parts such as overloading or overdriving or
13 overworking an animal that would not be part of
14 Subsection (b). That is my only argument about it.

15 THE COURT: But I think that it's an "or," you
16 know, in the statute. And it says -- I'm just
17 looking at more recent cases, which of course you
18 cite, but any evidence which the jury could infer
19 the Defendant committed a lesser rather than
20 greater. The question is could she be found guilty
21 of the lesser included offense based on the
22 evidence?

23 MR. SCHNEE: Judge, if you're ruling that
24 Subsection (a) is, in fact, a lesser included --

25 THE COURT: I'm not ruling yet.

1 MR. SCHNEE: If you do, I am not opposed to a
2 lesser, but not lesser included. But assuming you
3 say it is a lesser included, and if the jury
4 doesn't believe maybe the third-party or not all
5 the third-party for the entire timeframe, I can
6 easily see them finding Subsection (a) would apply
7 as opposed to (b) because it is depriving an animal
8 necessary sustenance or shelter. And I think
9 they'd have a much harder time finding that my
10 client has tortured or mutilated them. Because,
11 clearly, the acts that are similar are clearly to a
12 much lesser degree in Section (a). I think a jury
13 could find based on the facts that that is
14 theoretically supported if they don't fully believe
15 the third-party guilt for the whole timeline, I
16 guess.

17 MR. BERRY: If I may, Your Honor?

18 THE COURT: Yes, sir.

19 MR. BERRY: Mr. Schnee references Blockberger,
20 it's double jeopardy. I know it talks about a
21 lesser included, but that's the double jeopardy
22 analysis. And with lesser included, specifically
23 he gets the test backwards. Under McFadden, again,
24 to determine if a crime is a lesser included
25 offense is whether the greater of the two offenses

1 includes all elements of the lesser offense. In
2 State v. Parker, 344 S.C. 250, 256, there is no
3 circumstance where a person could commit a greater
4 offense without being guilty of the purported
5 lesser offense.

6 So we can't have any situation where you
7 commit the greater, but not the lesser. And here
8 the greater is torture or torment or needlessly
9 mutilate or cruelly kill or inflict excessive or
10 repeated unnecessary pain or suffering upon an
11 animal by acts of omission or commission.

12 So either torture or torment through any
13 scenario, any of those things, where you can do
14 that and not also be guilty of (a). And included
15 in (a) -- and Your Honor rightly mentioned that
16 "or" before. Look at State v. Middleton, they
17 treat that "or" treatment, they discuss (a)(b)
18 first and how that should be treated.

19 But if you look at (a), there is no scenario
20 where -- because one of those "or's" is, or ill
21 treats an animal. Depriving an animal of necessary
22 sustenance or shelter. And then here, inflicts
23 unnecessary pain or suffering upon an animal. So
24 to get (a), all we have to do is prove that she
25 inflicted unnecessary pain or suffering upon an

1 animal by acts of omission or commission. That's
2 all we have to prove for (a). And then how could
3 there be a scenario under (b) with torture,
4 torment, needlessly mutilate, cruelly kill or just
5 inflict successive pain not be simply inflicting
6 pain under (a). There is no scenario that you can
7 commit (b) without committing (a), and therefore,
8 under State v. Parker, State v. McFadden, the
9 lesser should be included.

10 THE COURT: All right. I've looked at the
11 statute and I am going to -- based on the case law,
12 looking at the elements of (a) and (b), I do find
13 that it is a lesser included offense, being that
14 there is evidence in the record for which the jury
15 could infer that the Defendant committed the lesser
16 rather than the greater offense. For that reason,
17 I will charge -- we will give a charge on lesser
18 included offenses and we will charge Subsection (a)
19 as a lesser included. And we will figure out how
20 we are going to do the jury verdict form to reflect
21 that.

22 All right. Do y'all want to take --- I've got
23 to get the jury charge together. Do y'all want to
24 take -- let's bring the jury in, let you all -- I
25 will ask -- you have already rested. See if there

1 is any reply. Then I'll send them back out, tell
2 them -- Madam Court Reporter [sic] can go ahead and
3 order their lunch. I'll tell them that we're going
4 to take about a 15-, 20-minute break. If we have
5 any smokers that want to go outside and smoke, you
6 can --

7 THE BAILIFF: I don't think so.

8 THE COURT: As long as y'all are with them or
9 the deputies are with them.

10 MR. BERRY: Your Honor, I apologize. We
11 didn't address alibi being included.

12 THE COURT: I said we were going to take that
13 out. I already ruled on that earlier.

14 MR. BERRY: I apologize.

15 THE COURT: Yes, there's not any -- I didn't
16 hear any evidence of any alibi testimony. And I
17 don't know if he withdrew that, but --

18 MR. SCHNEE: I never requested it, Judge.

19 THE COURT: He never requested it. She
20 just -- she put it in there in anticipation. Like
21 I said, that was a rough draft. So we are going to
22 work on the final draft of the jury charge.

23 I'll bring them in, then I'll tell them if
24 they -- I don't know -- You said you don't think
25 you have any smokers? I'll tell them that we are

1 preparing for closing arguments and that we are
2 going to send them back in the room. It will
3 probably be another -- I'll give you all about 20
4 minutes. That will give me a chance to clean up
5 the jury charge, let you look at it, and then we'll
6 go into closing arguments.

7 So let's go ahead and address that since we've
8 got State v. Beatty. My understanding is you --
9 well, that depends on if I receive any motions
10 regarding closing arguments.

11 MR. SCHNEE: Yes, Your Honor. My motion for
12 closing argument is that the State would be
13 required to close fully on the facts and the law.
14 Then I obviously would have the opportunity to
15 close, and if they choose they have an opportunity
16 to rebuttal.

17 THE COURT: Only as to --

18 MR. SCHNEE: Only if it applies to what I
19 bring up in my closing.

20 MS. MOSER: That's our understanding, Your
21 Honor.

22 THE COURT: All right. So you are going to
23 close fully?

24 MS. MOSER: Fully on the facts and the law.
25 And then if we choose to rebut his closing, it will

1 just be pertaining to what he brings up in his
2 closing.

3 THE COURT: Exactly. Just like direct,
4 redirect, can't go into anything new.

5 MS. MOSER: Right.

6 THE COURT: Or anything that you did not bring
7 up in your closing. It has to only apply to what
8 he has said, to rebut what he has said.

9 All right. Thank you.

10 MR. SCHNEE: Yes.

11 MR. BERRY: Thank you, Your Honor.

12 THE COURT: You can bring them in.

13 THE BAILIFF: Yes, Your Honor.

14 (WHEREUPON, the jury came into open
15 court at 10:55 a.m.)

16 THE BAILIFF: Your Honor, the jury is present
17 and seated.

18 THE COURT: Ladies and gentlemen of the jury,
19 thank you for your patience. At this time, as you
20 heard, the Defendant has rested.

21 The State has an opportunity at this time to
22 call reply or rebuttal witnesses.

23 Are there any reply or rebuttal witnesses?

24 MR. BERRY: None, Your Honor.

25 THE COURT: All right. Ladies and gentlemen

1 of the jury, I bring you back and -- I hate to keep
2 sending you back and forth like musical chairs, but
3 there is a process that we have to go through. I
4 am going to send you back.

5 As you heard, the State presented its case and
6 has rested. The Defendant has presented and has
7 rested. And there are no rebuttal witnesses. So I
8 am going to send you back in the jury room. It is
9 probably going to be about 15 or 20 minutes.

10 We are ready for closing arguments and the
11 charge on the law. There are some matters that I
12 need to go over with the attorneys before we do
13 that, so it may take about 15 or 20 minutes. So we
14 appreciate your patience, but we'll have you back
15 in here for closing arguments, charge on the law
16 the next time you come in.

17 Remember, do not discuss the case. Although
18 you have received all the evidence in this case,
19 you still do not know the law and you still have to
20 hear the attorneys' closing arguments.

21 So until then, please do not begin your
22 deliberations. You can talk about something else
23 other than -- while you're sitting back there --
24 other than what's going on here in the courtroom.

25 Thank you.

1 (WHEREUPON, the jury retires to the jury
2 room at 10:57 a.m.)

3 THE COURT: The verdict form -- because
4 there's four indictments, we're either going to
5 have to do four different verdict forms, put the
6 indictment number and I'm thinking the name of the
7 dog, or we will need to do four -- we'll have to
8 try to put it all on one verdict form. That's
9 going to be -- just trying to figure out adding the
10 lesser included. All right. If you all have any
11 sample verdict forms, we'll be glad to take a look
12 at them.

13 MR. SCHNEE: I do not. I'm fine with Your
14 Honor doing it. I guess my biggest concern would
15 be how to differentiate what she's charged with in
16 the lesser? It's not like it's armed robbery or
17 strong armed robbery where there's a name for it.

18 THE COURT: How do you differentiate it?
19 That's your concern?

20 MR. SCHNEE: That is.

21 THE COURT: I mean, other than saying --
22 because the jury charge will say, Ladies and
23 gentlemen -- I haven't even looked at it, but from
24 what I can remember, it will be, I am also charging
25 you to the lesser included offense of Subsection

1 (a). And so -- and then I'll read Subsection (a).
2 On the verdict form, the only thing that I can
3 think is: We, the jury, unanimously find under
4 Subsection -- find the Defendant guilty under
5 Subsection (a). I don't know. I don't know.

6 MR. SCHNEE: Because they are not going to
7 remember Subsection (a) or (b).

8 THE COURT: And I don't like sending the
9 statute -- I mean, I don't want to send the statute
10 back there unless you all are going to agree to it.

11 MR. SCHNEE: That is really my concern,
12 because it is both ill treatment of animals.

13 THE COURT: So you want --

14 MR. SCHNEE: I just have difficulty in terms
15 of making sure if they say guilty of the lesser of
16 them. Just so it's not confusing on the form as to
17 what they could or could not --

18 THE COURT: Well, it would say of the lesser
19 included offense of Subsection (a), so they would
20 know --

21 MR. SCHNEE: Okay.

22 THE COURT: I think -- I'm just thinking out
23 loud. I'll hear any suggestions from Mr. Berry.
24 Without -- short of trying to put the whole statute
25 in the verdict form, that's my concern. Subsection

1 (a) would be -- I mean, I think if we say lesser
2 included offense, then that tells them --

3 MR. SCHNEE: And maybe on the opposite, say
4 guilty of the greater offense.

5 MR. BERRY: The law is not written great, Your
6 Honor. It is a tricky one. I think we can agree
7 that (c) should not be involved at all. There's
8 (a), (b) and (c) of the statute. I think (c) is
9 totally irrelevant. So just make sure we're not
10 putting that in there. I think we might need to
11 just -- I mean, if you want to send the whole law
12 back, I don't know. I think what y'all suggest
13 according to Subsection (b) and it's a lesser
14 included offense of Subsection (a). I mean, that's
15 --

16 THE COURT: And reference it as (a) being the
17 lesser included of (b).

18 MR. SCHNEE: Okay.

19 MR. BERRY: Is it all of (a) or are we just
20 doing that one kind of critical cause --

21 MR. SCHNEE: Judge, if you're going to read
22 any of the statute, you have to read the entire
23 statute.

24 THE COURT: Yes, I have to read the whole
25 statute.

1 MR. SCHNEE: That's not even a question.

2 THE COURT: Except for the penalty part.

3 MR. SCHNEE: Right.

4 THE COURT: I have to read the entire statute.

5 MR. BERRY: We don't have another solution
6 other than just (b) and then lesser included (a).

7 THE COURT: Give us a second to work on it,
8 the verdict form.

9 MR. SCHNEE: Can we take a quick break?

10 THE COURT: Yes, I'm going to give you all a
11 break. That's what I was going to do, so you can
12 get your thoughts together for closing arguments.
13 Take about 15 to 20 minutes, because it's probably
14 going to take me that long. I'll bring the jury
15 charges back. We are adding -- we are taking out
16 alibi, adding third-party guilt and lesser
17 included.

18 MR. BERRY: I guess we will just take a look
19 at the language of the third-party. There's no
20 proposed language --

21 THE COURT: Isn't there language in -- the
22 third-party guilt, is there a jury charge in there?

23 MR. SCHNEE: It's in State v. Gregory. It is
24 198 S.C. 98, a case from 1941. It hasn't changed
25 since then.

1 THE COURT: But I want to say there's a jury
2 charge in there.

3 MR. SCHNEE: I looked in Anderson's charge
4 book, and it didn't have it in there.

5 THE COURT: Yes, but I want to say it is in
6 the bench book. There's a jury charge on
7 third-party guilt.

8 (Pause.)

9 THE COURT: I'm not going to charge it until
10 you all see it anyway. So we are going to take
11 about a 15- or 20-minute break.

12 MR. SCHNEE: Thank you, Your Honor.

13 MR. BERRY: Thank you, Your Honor.

14 (WHEREUPON, a break was taken at 11:04
15 a.m.)

16 THE COURT: I have the verdict form and jury
17 charge. And my understanding, Mr. Schnee, you were
18 looking for different language as to third-party
19 guilt. That's the one we can pull from Gregory,
20 the case that you asked for.

21 MR. SCHNEE: Yes, ma'am. And I've been trying
22 to find a case that actually has an actual charge
23 listed in it, and I can't seem to find any. All of
24 the cases --

25 THE COURT: I don't know if it said -- I think

1 you can argue that.

2 MR. SCHNEE: Well, I guess my problem isn't
3 what you have in here, I guess it's what's not in
4 here.

5 THE COURT: Yes.

6 MR. SCHNEE: There's no instruction to the
7 jury what to do if they find that a third party is
8 responsible. And as the Solicitor points out,
9 evidence of third-party guilt would be the
10 exclusion of my client as being guilty.

11 I think if the jury finds that they believe it
12 was a third party responsible, that they should be
13 required, at least given an instruction, to find my
14 client not guilty.

15 THE COURT: I have to have something from the
16 case law that says that if you find -- you, in
17 essence, want me to say, If you find that a third
18 party is guilty, then you must find the Defendant
19 not guilty. And I don't know if there's any case
20 law. Jasmine is going to look and see.

21 MR. SCHNEE: So far, I've found none.
22 Everything I find, it just goes with the admission
23 or lack of admission of third-party evidence. But
24 I haven't found a single case that has a listed
25 jury charge.

1 MR. BERRY: My understanding of the case law,
2 it doesn't say you're automatically off the hook.

3 THE COURT: I think he can argue that.

4 MR. BERRY: But it's not -- yes, I agree, he
5 can argue that, but it's just not --

6 THE COURT: Let me see, there was a case -- we
7 could start and she could search and take a break
8 before the jury charge. I just want to get started
9 with closing.

10 MR. SCHNEE: Yeah, Your Honor, I agree with
11 that.

12 THE COURT: We'll go ahead and get started
13 with closings and -- we'll start with the closings
14 and then we will take a break after closing
15 arguments, and I'll send them out for five minutes
16 and I'll see if we can find anything else.

17 MR. SCHNEE: Yes, Your Honor.

18 THE COURT: All right. Are we ready to bring
19 them in? Anything else? Does that verdict form,
20 does it --

21 MR. SCHNEE: It looks fine, Your Honor.

22 MR. BERRY: Agreed.

23 THE COURT: All right. Bring them on in.

24 THE BAILIFF: Yes, Your Honor.

25

1 (WHEREUPON, the jury came into open
2 court at 12:07 p.m.)

3 THE BAILIFF: Your Honor, the jury is present
4 and seated.

5 THE COURT: All right, ladies and gentlemen of
6 the jury, that took a little bit longer than I
7 anticipated, but at this time we are ready for
8 closing arguments.

9 First, you will hear from the State.

10 Who is closing for the State?

11 MS. MOSER: I am, Your Honor.

12 THE COURT: All right. Ms. Moser is closing
13 for the State. And then you will hear from
14 Mr. Schnee, on behalf of the Defendant. And at
15 that point, the State may have rebuttal or reply
16 following that.

17 So I ask that you pay close attention to the
18 attorneys, and then after that we will probably
19 take a break, and then go into the jury charge.

20 MS. MOSER: May it please the Court?

21 THE COURT: Yes, ma'am.

22 MS. MOSER: Thank you, Your Honor.

23 CLOSING ARGUMENT

24 MS. MOSER: Good afternoon. Left behind.

25 Left without adequate food. Left without adequate

1 water. Left in a dark bug-infested room with
2 little ventilation in the middle of the summer.
3 That is how the Defendant's dogs spent their last
4 few days. That is how they died.

5 Ladies and gentlemen, my name is Sandra Moser,
6 and along with my co-counsel, Joe Berry, we
7 represent the State of South Carolina for the Fifth
8 Judicial Circuit. And it is our job to prosecute
9 crimes.

10 The law requires very little of dog owners.
11 The law requires that they provide adequate care,
12 that they provide food and water. These are two
13 essentials that the law requires. That is what
14 this Defendant failed to do. It's as clear as
15 that. She failed to provide adequate food and
16 water for not just a day or two days or a week, but
17 for an entire month. And this affected not just
18 one dog or two dogs, but four dogs that were left
19 in this home.

20 That entire month, she was not checking up on
21 them. She was going by the house to check her
22 mail, but she was not checking on those dogs. Nor
23 was she making sure that someone else was checking
24 on those dogs. That failure, that omission, that
25 is what led to their cruel, slow deaths. And that

1 is why we are here today. We are here today
2 because the Defendant was charged and indicted on
3 four counts of ill treatment to animals.

4 So I'm going to start by talking about the
5 law. This is the law that we're talking about
6 today. This is ill treatment of animals. And it
7 reads: It is illegal to torture, torment,
8 needlessly mutilate, cruelly kill, or inflict
9 excessive or repeated unnecessary pain or suffering
10 upon an animal, or by omission or commission cause
11 these acts to be done.

12 Now, we don't have to prove each and every one
13 of these. All we need to do is prove one. I would
14 submit we have proven more than one, but all we
15 need to do is show that any one of these applies in
16 this case, that she tortured, tormented, cruelly
17 killed, inflicted excessive or repeated unnecessary
18 pain or suffering by omission or commission.

19 And I want to talk briefly about the word
20 omission. Omission, as y'all know, is a failure to
21 act. That word is in the statute for a reason.
22 Because sometimes there is no overt act. Sometimes
23 there is no mutilation of a dog, no firing a weapon
24 at a dog. No overt act. Putting them out of their
25 misery. That is what we have. She made those dogs

1 live in their misery. That is what makes this
2 crime excessive. It is an omission, it is not a
3 commission, but that doesn't mean the effect can't
4 be the same.

5 Now, if you do not believe that this law
6 applies, there is a lesser included offense. And
7 this reads that: She knowingly or intentionally
8 ill treated an animal, deprived an animal of
9 necessary sustenance or shelter, inflicted
10 unnecessary pain or suffering upon an animal, or by
11 commission or omission, knowingly or intentionally
12 caused these acts to be done.

13 Ladies and gentlemen, while this may apply,
14 our position in this case is that what happened
15 here is much worse than this. This, this is what
16 happened here. And you all will have a chance to
17 look at this. But this is what this case is all
18 about.

19 I want to talk a little bit about criminal
20 intent because this is also going to be charged to
21 you by the Judge. So criminal intent can arise
22 from action or a failure to act. It may arise from
23 negligence, recklessness, or an indifference to
24 duty or to consequences considered by the law to be
25 the equivalent of a criminal intent. And that all

1 is to be determined by you as the jury based on the
2 circumstances surrounding this case.

3 And I want to be clear about this because we
4 do not, we do not have to prove that the Defendant
5 intended for the dogs to die in a manner in which
6 they died. We do not have to prove that. What we
7 have to prove is that her actions or her inactions
8 were intentional and that the failure to act led to
9 their pain and their suffering and ultimately to
10 their deaths. So I want to make sure we're clear
11 about that. It's not that she intended that
12 specific outcome, but that her acts were intended.
13 The failure to go to the house. That is what we're
14 talking about. And that she allowed this to
15 happen.

16 So I'm going to go through with you all -- and
17 I know this has been a short trial, so you probably
18 remember most of these witnesses pretty well. But
19 I do want to talk to you about each of the
20 witnesses that testified for us.

21 The first witness was obviously Roger
22 Williamson. I'm sure you all remember him. He was
23 sort of an elderly gentleman. He had been in the
24 military for about 30 years. He was working as a
25 maintenance man. And he arrived on scene on July

1 1st. Okay.

2 He had been a combat medic, so he was familiar
3 with the smell of death. He entered the home, he
4 smelled the decomposition, which he was familiar
5 with. And he found the remains of the dogs. And
6 he was the first person to find them.

7 The lights were out. There were bugs
8 everywhere. He was able to take some pictures.
9 And I apologize a little bit, his pictures were a
10 little bit blurry, you'll be able to take these
11 back, but you can generally see the condition that
12 the house was in. So he was able to capture what
13 he saw when he arrived on the scene.

14 Now, he testified that the power was off when
15 he arrived. There were no lights. And, in fact,
16 he actually had to use a flashlight to look around.
17 So this begs the question of John, since John was
18 there staying at this house, was he staying there
19 without the power on? Was he staying in this
20 house? Does that make sense? Would you leave your
21 house like this for someone to stay in and take
22 care of your dogs?

23 Now, Roger was the one who took those initial
24 pictures. He sent those pictures to Animal
25 Control. And while he was there, he ran into

1 someone. And that individual wanted to know why he
2 was there. That individual was a friend of the
3 Defendant's. Not the Defendant herself, but one of
4 her friends that was at the house. So we know that
5 there was that interaction between them. And,
6 again, that happened on July 1st. Okay.

7 Now, the next witness I want to talk about is
8 Karisa Williamson. Of course, she was the one who
9 worked for the realty company. She was an
10 assistant, an assistant to the property manager.
11 And so she assisted by taking calls. Basically,
12 what she would do is if there were any complaints
13 that came in, she would register those complaints
14 and then she would take whatever action she needed
15 to take in order to address those.

16 And in this case there was a complaint that
17 came in, and she called maintenance. So that was
18 the purpose of her testimony, is that she was the
19 one who actually called maintenance out there to
20 check on the situation. She did speak to the
21 Defendant. She learned that someone was supposed
22 to be watching the dogs. Of course, there were no
23 names, there was no information. At that point,
24 there was nothing to be said about this individual.

25 And then we get to Officer Clemons. And

1 Officer Clemons works for Richland County Animal
2 Care, which is Animal Control. He came out to the
3 scene. He had to respond. And he testified that
4 it was very, very hot that day. He noted the heat
5 and he also noted the smell. And I believe he even
6 said that as soon as he got out of his car, he
7 could smell the odor. So by the mailbox, which is
8 where the Defendant was picking up her mail, there
9 was that odor, that smell of death.

10 And what he did when he went out there was he
11 walked around the property. He didn't go inside,
12 that's not their protocol. He walked around the
13 property. He took some pictures. And he did leave
14 a notice on her front door. And that notice was in
15 regards to concerns about animal cruelty.

16 The next person we had testify was Officer
17 Cody. And Officer Cody also works for Richland
18 County Animal Care. Officer Cody received the call
19 after hours, so she was actually the one who sent
20 Officer Clemons out to the scene. And if you'll
21 recall, this happened around July 4th, holiday, so
22 she actually sends Clemons to go out there.

23 What was interesting about her testimony is
24 that after the fact, the Defendant calls her and
25 mentioned two dogs. She doesn't mention four. But

1 she says there's two dogs, one was okay, one was
2 staying elsewhere, an older dog, and then there was
3 the puppy. And she mentioned she had been out of
4 town for a couple of weeks. She said -- at that
5 point, a little time has passed, she is able to say
6 John was supposed to watch the dogs, but she wasn't
7 able to come up with a last name. She's known him
8 for years, but doesn't know his name, doesn't know
9 his address, doesn't know his phone number. Of
10 course, later, she is able to call back and she is
11 at some point able to give a phone number with a
12 Pennsylvania area code, a 717 area code. Okay.

13 She does not mention the other dogs in the
14 house. She apparently did not think that was
15 important. She mentions the two dogs, does not
16 mention these others. Okay.

17 And things are starting to pick up some steam
18 here and law enforcement is now getting involved in
19 this case. They have been notified. Amanda
20 Jordan, Deputy Amanda Jordan testified she works
21 for Richland County. She is a deputy and she deals
22 with Code Enforcement. And she was able to explain
23 to you all what exactly that is. So what she deals
24 with is -- she essentially deals with ordinance
25 violations. So if someone has overgrown grass or

1 if there's a motor vehicle that looks suspicious or
2 something like that, she is the one that gets sent
3 out. And she had been sent out to this location
4 before. She was familiar with the Defendant. She
5 knew the Defendant had kids. She knew the
6 Defendant had dogs. She had actually met one of
7 the dogs, Prince, the one that she liked. She had
8 met that dog. So she was familiar with this
9 location.

10 So she gets a complaint. She responds. And
11 she arrives on scene -- now, this is a couple days
12 later, of course, but she arrives on scene on
13 July 7th. And if you recall, she gave a fairly
14 graphic description of what happened when she got
15 out of her car, the heat, the odor, when she's
16 walking up to the house, what she's seeing. And
17 she's got Deputy Shanita Grimes with her. She was
18 also out there experiencing probably one of the
19 hottest days on record. This is last summer in the
20 middle of the summer. 90s, 100 degrees. We're
21 talking about extreme temperatures. And they go
22 out there and they immediately smell this odor of
23 decomposition. And she contacts Investigator
24 Clarke.

25 And he says, Okay, I'm on my way. I'm at

1 Pineview, so it's going to be a little bit of time,
2 maybe 30 minutes or so to get out there, but I'm on
3 my way.

4 And while she is waiting, the Defendant, who
5 she recognizes, of course she's had previous
6 encounters with her, pulls up behind her, and they
7 start talking.

8 And one of the first things the Defendant asks
9 her is, Is this about the grass? And this is
10 July 7th and she's asking, Is this about the grass?

11 And at this point, Officer -- or Deputy Amanda
12 Jordan is concerned. She's concerned for several
13 reasons. She's concerned for safety. Because she
14 knows that there are kids and there are children,
15 there are dogs in this house that need to be
16 protected. And so she is concerned based on the
17 smell, based on the circumstances that something is
18 very, very wrong in this house. Okay.

19 So she asks the Defendant, Where are the kids?
20 Where are the children?

21 She says, Well, they're in Pennsylvania.
22 Okay.

23 Then she asked her, Where are the dogs?

24 And she says, I don't know. I don't know
25 where the dogs are.

1 And she asked her again, Where are the dogs?

2 And points. The Defendant points to the
3 house, because she knows where the dogs are.
4 Because at this point she knows that they are all
5 dead. But she's asking about the grass.

6 Deputy Jordan described the house as appearing
7 vacant. She described when they opened the door
8 that there was stale hot air coming out of that
9 house. There was no air blowing through this
10 house. There was no ventilation. It was hot, it
11 was sticky. She, in fact, refused to go in. She
12 deals with circumstances like this all the time,
13 but this was so bad, she didn't want to go in that
14 house.

15 And Clarke -- of course, Investigator Clarke
16 is the one that goes in. He bravely enters the
17 house. And he provided maybe an even more graphic
18 description of what was inside this house. He went
19 through the house with the Defendant and with
20 another deputy, Deputy Fish. And what he did was
21 he documented what he saw. Okay.

22 He took pictures of this room. And there's
23 one room in particular that we're concerned with,
24 and it's the one that has the stains on the
25 pillows, the one that has all of the effluence, all

1 of the urine, the -- obviously, the bugs were
2 throughout the house, but the fecal matter, he
3 testified, was inches thick. Is someone staying in
4 this house?

5 And I urge you to look through these pictures.
6 And I know some of them may seem a little
7 repetitive, but these pictures are taken at
8 different angles so that each angle of this room is
9 covered. And if you'll look through these
10 pictures, I bet you will not find either one of
11 these things (indicating bowl and water bottle.)

12 Investigator Clarke does his job. He
13 investigates, that's why he was called out to the
14 scene. Investigator Clarke has special training in
15 animal cruelty cases. He deals with these types of
16 cases. He's got a wealth of knowledge about what
17 to look for, what to take pictures of, what sort of
18 evidence to collect from a scene like this.

19 And I know y'all heard him, he has a lot of
20 information about not just this case, but about the
21 effects on animals when they're in a situation like
22 this. And I know he explained the decomposition of
23 the bodies in full detail. I will not go over that
24 again with you, I'm sure you retained most of that.
25 It's difficult to talk about, that sort of stuff.

1 Okay.

2 And at some point, they leave the house and
3 Investigator Clarke is covered in bugs. He
4 literally has to take his pants off after being
5 sprayed down with Raid because there are so many
6 bugs all over him from the infestation in this
7 house.

8 But at some point, he is able to talk to the
9 Defendant. He advises her of her rights, which is
10 his job, of course. And she agrees to speak with
11 him. Okay.

12 She makes a statement. She is not arrested at
13 that point. She is arrested weeks later. But at
14 that point, she gives a thorough statement as to
15 what happened here.

16 The last witness that we called was
17 Dr. Laster. And Dr. Laster is a very interesting
18 witness. She was declared an expert, of course, in
19 veterinary forensics, medicine, and care. She has
20 a lot of experience treating animals. She's done
21 many necropsies, which is, of course, an autopsy
22 for an animal. She's got training in forensics.
23 So she was able to speak to what she has
24 experienced working as a vet, working in a shelter.
25 She has been working for a long time and has seen

1 situations, maybe not quite like this, but was able
2 to give us some really helpful information about
3 the effects of dehydration, the effects of
4 starvation, the effects of bug bites, the effects
5 of the heat alone. And some of those things are --
6 you're going to see salt toxicity, renal failure.
7 You're going to see shrinkage in the organs. So
8 when an animal, it doesn't even have to be a dog,
9 when a human does not get enough water, you see
10 these effects on the body. These are physical
11 effects. And animals will die within a matter of
12 days if they do not have enough water, okay.

13 As far as the effects of starvation, it
14 obviously breaks down the body and there's
15 potential intestinal blockage. Because what we
16 have is an animal that is so desperate for food, it
17 will start eating whatever they can find. You have
18 an animal locked in a room with inanimate objects,
19 no real food, nothing to get any -- you know, no
20 sustenance, what they're going to start doing is
21 eating things that they typically would not eat.
22 And what results from that is pain. When you eat
23 something that is not food and it gets stuck in
24 your intestines, that is not a comfortable thing.
25 That is a painful thing to experience.

1 The effects of heat is interesting because it
2 is a vicious cycle is what she explained. You've
3 got your metabolic rate that's increasing. The dog
4 is trying to cool itself down, but it keeps getting
5 hotter and hotter and using up more energy, and
6 slowly the body shuts down. And this takes some
7 time. This does not happen in, you know, couple of
8 hours. This happens over days. It takes time for
9 this process to happen.

10 Then, of course, the bug bites. I think all
11 of us understand that can be painful. If nothing
12 else, it can be irritating, getting a lot of bug
13 bites. And Investigator Clarke testified to the
14 eight bug bombs in the rooms throughout the house
15 that were no match for these bugs. They were still
16 all over the place. So we're talking about
17 constant biting over and over and over again.

18 And then she discussed the physical signs of
19 pain and suffering. Okay. And obviously animals,
20 dogs, cannot tell you what they are going through.
21 They cannot speak. They're not going to say, This
22 really hurts right here, can you please help me?
23 Can you give me a little bit of water? I would
24 like some more food, please. Would you take me out
25 of this 100-degree weather? They can't express

1 these things, but they show it in other ways. Just
2 like if you have someone, a human being in the
3 hospital who cannot talk, they will show the
4 doctor what is hurting them in other ways, okay.
5 It's going to be nonverbal ways. And that's going
6 to be through withdrawing or through guarding a
7 certain area of the body, whatever is hurting them.

8 After that, we had a few of the Defense
9 witnesses. So the first witness the Defense called
10 was Jazmin Harris. And this was the Defendant's
11 younger sister. She testified that she loves her
12 sister. She testified that she wants to help her
13 out. Of course she does. It makes sense. She
14 believed that she knew how to care for pets. They
15 had all kinds of animals growing up. But as far as
16 this incident, she couldn't say what she did do or
17 what she didn't do. She didn't have any direct
18 knowledge of what happened between June 3rd and
19 July 3rd of last year.

20 Then we had Ronald Frost, who is good friends
21 with the Defendant. They've been best friends for
22 a period of time, friends for nine years. And he
23 testified that he would do anything for her. He
24 was not clear on exactly when she was out of town,
25 when he was out of town during this time period. I

1 know it's been a year, sometimes it's hard to
2 remember these things, but he was not clear about
3 the time period. He did testify that he saw John
4 the first week that the Defendant was out of town,
5 but didn't see him again after that. Didn't know
6 John's full name, didn't really know much about
7 John other than she trusted him, so he thought,
8 okay, I'll trust him, too. He, at some point, I
9 believe said he was a dog trainer. We didn't
10 really expand on that, but that's something that --
11 it sounds like they came together because of dogs
12 and maybe they've had some dogs in their past. He
13 has criminal convictions for breach of trust and
14 for shoplifting, so I'd just like you to keep that
15 in mind. And that this is the person that she has
16 called to testify for her. Okay.

17 On July 1st, Frost was the one who goes to the
18 house and runs into the maintenance man. So at
19 that point, Frost, who is very good friends with
20 the Defendant, knows what has happened. Of course,
21 the Defendant doesn't know about it on July 3rd,
22 she testified that she still didn't know. She had
23 gone to pick up the mail, apparently smelled
24 something, but didn't know what was happening
25 inside her own house.

1 And then we've got the Defendant, who
2 testified that she owned five dogs. She left four
3 in her house at [REDACTED] Scarsdale Drive. This is the
4 location that we're talking about. She was gone
5 from June 3rd to July 3rd, although she extended
6 that a little bit and said maybe it was July 7th,
7 but she did admit that she was in Pennsylvania for
8 a period of time and then she came back. And she
9 came back to South Carolina and she stayed with a
10 friend, and then she stayed with a guy, and then
11 she stayed with her aunt, I think it was, in
12 Florence and -- or Sumter, I'm sorry. And she's
13 bouncing all around, but she is in South Carolina.
14 She is paying rent on a house where four of her
15 dogs are staying. She is not checking in. She's
16 going by to get her mail. I don't know what was so
17 important in the mail, but she was going there.
18 But she wasn't -- she wasn't talking to John? She
19 wasn't talking to this man who is taking care of
20 four dogs for an entire month?

21 So I want to talk to you all a little bit
22 about credibility. Okay. Credibility, you're
23 going to be charged on this, is essentially
24 believability. And when you came in here on
25 Monday, you were probably wondering what this case

1 was going to be about, what you were going to hear.
2 The reason that you all were chosen as jurors is
3 because each and every one of you deals with people
4 on a daily basis. You have to deal with people in
5 your everyday lives. And you judge people based on
6 their credibility or their believability. And that
7 is what we're asking for you to do this week. You
8 can believe some of what the witnesses say on this
9 witness stand, you can believe all of what they
10 say, or you can believe none of what they say.
11 That is a call that you have to make. That is a
12 call for you alone. You are the finders of the
13 facts in this case. Okay?

14 And I would ask you to keep in mind, Are any
15 of these people biased? Are they testifying for a
16 friend? Are they testifying for a family member?
17 They're taking time out of their days, taking time
18 away from work and family to come in here and
19 testify about something that, quite frankly, is
20 very uncomfortable to talk about. This is not an
21 enjoyable topic, of course, to discuss. So were
22 they straightforward or did they hesitate? Do they
23 have a reason to lie? Do they have any sort of
24 bias?

25 And, of course, there are going to be

1 witnesses that you will never hear from in this
2 case. There are the four dogs that will never be
3 able to tell you what happened to them. And that's
4 just the nature of these cases. And if you knew
5 what happened to those dogs, then you would not be
6 in the jury box, you would be sitting right up
7 there because you would be a fact witness in this
8 case.

9 Now, the Defendant is presumed innocent.
10 She's always presumed innocent until proven guilty.
11 And that is a hallmark of our judicial system. And
12 that is the way that it should be. That's the way
13 that the process works, that's the way the process
14 functions. But just because the Defendant is
15 presumed innocent does not mean that the Defendant
16 is presumed to tell the truth.

17 We, as the State, have the burden of proving
18 this case beyond a reasonable doubt. That doesn't
19 mean proof beyond any and all doubt, it is a
20 reasonable amount of doubt. It is the same
21 standard that is used in every criminal case across
22 the country. Whenever anyone has been convicted of
23 a crime, that is the same burden of proof, beyond a
24 reasonable doubt.

25 There are very few things in this world that

1 we know with absolute certainty. And in this case,
2 we have four victims that you'll never hear from.
3 You will never hear from these animals. There were
4 no direct witnesses to this.

5 And we have two types of evidence. We have
6 direct and circumstantial evidence. So we may not
7 have this huge amount of direct evidence. We have
8 circumstantial evidence, which is anything else
9 that leads you to a conclusion about what happened.
10 Okay? And that is weighed the same as direct
11 evidence.

12 Fortunately, we also don't have a vet report.
13 We don't have a necropsy to show you. We don't
14 have all kind of medical data about what happened
15 biologically, physically to these dogs. But that
16 is because of the position they were placed in by
17 the owner. I would love to bring you a necropsy
18 report. I would love to bring you some more
19 information about what happened to these dogs. But
20 we can't because all we have left, all we have left
21 is this(indicating.)

22 That, that picture, it is not the actions of a
23 5-star animal lover. I don't even know what that
24 means. But that is not -- this is not the love of
25 animals that was described on the stand. There is

1 no love here. There's no sending this dog to a
2 kennel. This is not finding someone responsible to
3 watch your four dogs for an entire month. This is
4 getting rid of the dogs you never wanted to begin
5 with.

6 And the Defense said in their opening
7 statement, the Defendant is guilty of trusting the
8 wrong person.

9 So maybe I'm a little bit confused here, but
10 were these her dogs or were they John's dogs?
11 Because ultimately she is the owner of these dogs.
12 The answer is they were hers, of course, and she
13 didn't want to be bothered. She was back in town.
14 She had left Pennsylvania. The kids were gone.
15 She was back and was just hanging out with her guy,
16 hanging out with family, friends, doing her thing,
17 working, doing whatever she was doing, but not
18 checking on the dogs, not checking to make sure
19 that someone was taking care of these dogs. She
20 didn't want to have to deal with it. She didn't
21 want this to be her problem and she wants to blame
22 it on someone else. That's not how it works.
23 These were her dogs.

24 She said I believe in her statement that she
25 may have left a little food, she may have left some

1 water, she left John to care for them. Well, in
2 that case, she didn't leave enough food, she didn't
3 leave enough water, and she didn't have enough John
4 around to keep these dogs alive.

5 Ultimately, they were her responsibility, and
6 under the law they are her responsibility.

7 What she did take responsibility for is
8 cleaning up their bodies. In fact, she got her
9 uncle to clean them up. But she went -- at some
10 point went back to the house. At some point, she
11 said, Okay, I'm not just going to check the mail,
12 I'm actually going to go in because there's been
13 enough complaints and she finally heard she had to
14 go in there because maybe law enforcement was
15 interested in this case. So she went in, dropped
16 some bug bombs, and cleaned up these bodies. So at
17 that point, she takes responsibility, by getting
18 her uncle to pick up the remains, all four dogs,
19 put them in a trash bag, and put them in her back
20 yard.

21 Ladies and gentlemen, this has clearly not
22 been an easy topic to discuss. This has not been
23 an easy case to go through. There is certainly no
24 enjoyment in talking about the unnecessary death of
25 any living being, human or dog. So I just want to

1 thank you for your time. I want to thank you for
2 listening to the facts of this case, listening
3 intently to all of the witnesses that we've had. I
4 know that not everyone is an animal lover, and
5 that's fine. It doesn't take an animal lover to
6 understand the law. It doesn't take an animal
7 lover to apply the facts to the law in order to
8 render a verdict.

9 And I know, of course, although this hasn't
10 been a long case, it's been rough at times looking
11 at these pictures and talking about these things.
12 But the day and a half that we spent talking about
13 these things, talking about the bugs, talking about
14 the heat, talking about the effluence, talking
15 about the remains, talking about the animal that is
16 left here, which I don't even know if you can call
17 this an animal at this point, it's fur and bones.
18 We've spent a day and a half talking about this,
19 that pales in comparison to the days and the weeks
20 that those dogs spent slowly being tormented by the
21 heat, by the insects, by the lack of food, by the
22 lack of water, slowly and painfully dying.

23 This case might not have been long or
24 complicated. In fact, it's fairly simple in our
25 view. They were her dogs. They were her

1 responsibility. But just because it was a short
2 trial and just because it's not that complicated
3 doesn't mean it is not important. This is
4 important to the State. This is important to the
5 Defense. This is important to the people of South
6 Carolina.

7 You have listened very closely to all of the
8 testimony. Now it is your job to apply the facts
9 to the law in order to render a verdict.

10 Your duty is to determine if this is
11 okay(indicating). And we ask you to find the
12 Defendant guilty, guilty of all four counts of ill
13 treatment to animals, one for each dog that was
14 left behind and suffered a cruel and senseless
15 death.

16 Thank you.

17 THE COURT: Mr. Schnee, do you wish to use
18 that?

19 MR. SCHNEE: No, I don't.

20 THE COURT: Can you move that? And then turn
21 it off.

22 MS. MOSER: Yes, ma'am.

23 THE COURT: Thank you.

24 Yes, sir?

25 MR. SCHNEE: May it please the Court?

CLOSING STATEMENT

1
2 MR. SCHNEE: Good afternoon. Despite what the
3 Solicitor says, your job is not to figure out if
4 this is acceptable. That's ridiculous. It is not
5 acceptable that a dog died in this way. That's not
6 your job. Your job is to figure out if Latisha
7 Todd has committed a crime.

8 As a lawyer in social settings, I always meet
9 a lot of new people and I always get asked usually
10 two questions by people that are not lawyers and
11 not involved in the profession of legal defense.
12 The first question is, what's the hardest type of
13 case you have to deal with? They always assume
14 it's murders and burglaries where lots of people
15 are getting shot and lots of people are dying.
16 That's not the truth. The truth is the hardest
17 cases are the ones where the victims are young
18 children, victims are pets. The types of victims
19 that can't talk back and can't say what happened.

20 The second question I get is, How do you
21 defend people that you know are guilty? You have
22 got this guy who went into a convenience store.
23 It's on video, you see him shoot the clerk, take
24 this, walk out, writes a written confession. How
25 do you represent that person?

1 My answer is, that's actually the easiest case
2 in the world. I love representing guilty people.
3 It's easy. You investigate the case, you poke
4 holes in the facts, and then you try to convince
5 the jury that the State has failed to do their job.

6 Well, I'm in for real trouble here because
7 I've got the hardest types of victims and I have an
8 innocent client.

9 As I told you in my opening statement, the
10 only thing she is guilty of is trusting the wrong
11 person. The State wants to make this big deal that
12 it's her responsibility because they are her dogs.
13 And she is somewhat responsible, yes. Had she
14 taken these four puppies and brought them to a
15 kennel, to a vet's office to board them and there
16 was a fire in the vet's office, is that her fault
17 too? That's what the State is trying to tell you.
18 That no matter what happens, no matter who you have
19 to watch after your animals, no matter what, it's
20 your fault.

21 It's like taking a child to daycare or to
22 kindergarten. Is the parent responsible for what
23 happens there if a teacher or a daycare worker
24 injuries the child? Well, what if it is the
25 neighbor who watches the kids? They just want to

1 say no matter what, four dead puppies, convict her,
2 be done. That's not your job.

3 Your job is supposed to be after you take a
4 look at all the facts, you're going to listen to
5 the law, and in this case, which is something I
6 usually don't ask, you need to figure out what
7 actually happened and what makes sense.

8 Now, Ms. Moser has said repeatedly that my
9 client -- that Latisha wanted to get rid of the
10 dogs she never wanted. What makes sense? You're
11 taking your kids on vacation to visit their
12 grandparents for a month. You've got four puppies.
13 If you didn't want them, why would you leave them
14 in the house? Why wouldn't you just open the door
15 and let them go? Why wouldn't you take them to a
16 pound? You're going to bring these kids back to
17 the house to come back to this, a picture they want
18 to keep showing you because all they want you to do
19 is have an emotional reaction. This does not show
20 torture and mutilation. This shows a decomposing
21 dog. Yes, it's disgusting and terrible. That
22 doesn't show any actions or nonactions by Latisha
23 Todd.

24 So Latisha is up on vacation with her
25 children. She comes back, which you heard. She

1 went to Sumter to her grandmother. She gets a call
2 from her friend or from her uncle saying, Oh,
3 there's a dead dog here. Well, she immediately
4 deals with it. Is she supposed to call this guy
5 John every single day? Well, she talks to Ronald,
6 we heard that, all the time. Ronald is in Columbia
7 for the first couple of weeks that Latisha and the
8 kids are gone. He goes by the house. John's there
9 taking care of the dogs.

10 What does Latisha tell you about the food?
11 She had one of the large bags of food in the house
12 and also left a bunch of money. Well, you saw this
13 picture from outdoors. It's just a normal blue
14 Rubbermaid bin. There are two bags of food in
15 there. This was on July 5th. These are 36-pound
16 bags of food. Middle of July. Rainstorms just
17 like we had yesterday pop up all the time. Are
18 these bags covered in dirt? Are they ripped open?
19 Are they shredded? No, it looks like they're just
20 put out essentially to get thrown in the garbage
21 and get recycled. These are recent. These aren't
22 5-year-old bags that have been sitting there. Use
23 your common sense and analyze what's really here.

24 One of the bedrooms, there's another bag of
25 dog food that's unopened. This is not where the

1 dogs were, but there's a bag of dog food. Take a
2 look at it. It certainly looks like it's still
3 unopened and full. What makes more sense? Use
4 your common sense to figure that out. Yeah, there
5 are terrible things in there.

6 And they want to talk about all these bug
7 bites and everything else and how Latisha had to
8 set bug bombs. Well, you've got four dogs, four
9 puppies. I mean, that decomposing did not happen
10 in two hours. It didn't happen in two days.
11 That's a long time to decompose. You know, you can
12 check in your garbage. A couple of days, it starts
13 to smell. You leave it a couple more days, yes,
14 flies might start coming in. But as Investigator
15 Clarke told you, there were maggots on the floor,
16 all kinds of other stuff on the floor. They don't
17 exist other than during decomposition, so they came
18 from outside the house, inside the house after the
19 dogs died, or at least after one of the dogs died.
20 And if you assume, like we all should have, that
21 none of the dogs had water from the same point in
22 time when John left, they probably all died about
23 the same time.

24 You didn't hear any medical testimony about
25 the bug bites killing them. You've got pictures.

1 You've got at least something. They had bodies
2 that they could have collected. They could have
3 brought them to a vet and said, Well, do you have
4 any cause of death? Anything you can tell us?
5 They didn't even try.

6 They talked -- you heard from Mr. Williamson,
7 the man -- and he was the first one to find all
8 this out. Well, Ronald came up to him. There's a
9 guy trying to fix the window or guy on a ladder.
10 So he goes over there, says, What are you here for?

11 He says, Oh, I'm here for the window, and it
12 smells like there's something dead in there.

13 Well, that's exactly what Ronald told us. He
14 went over there to find out what was going on.
15 That's corroboration. That's not a best friend
16 trying to lie. Oh, and I'm sorry, he has a breach
17 of trust and shoplifting conviction, magistrate
18 offenses, so therefore you can't believe anything
19 he says. That's what the State wants you to
20 believe. Even though he went over there for the
21 first week or two and actually saw John taking care
22 of dogs. He left because he went to Connecticut
23 with his family. That's what people do over the
24 summer, is they go on vacation.

25 Amanda Jordan. She was out there in March of

1 the same year because she got complaints about the
2 grass. That's what she does is code enforcement.
3 She saw Latisha and she saw the kids and she saw
4 some of the dogs. And that's in March of this
5 year -- of last year, which is three months, three,
6 four months before any of this happened. I guess
7 three before June. Well, if Latisha had four
8 puppies that she didn't want, why would she even
9 keep them for another three months? Well, because
10 the kids named them and therefore would upset them?
11 Upset them if she just gave them away to other
12 families? What makes more sense? That's going to
13 upset the kids or the kids coming home to this?
14 That just doesn't make any sense at all.

15 Your main job, the standard you're going to be
16 looking for is what's called reasonable doubt. And
17 the judge is going to explain it to you.
18 Reasonable doubt is an act that causes one to
19 hesitate to act.

20 This morning as I was getting ready for work,
21 before I came out here, as I always do, I make
22 myself coffee to take to my office and just do
23 various work and other things. Today was getting
24 ready for closing arguments.

25 Well, when I go to my fridge, and I have a

1 pint of Half and Half, it expired yesterday. Well,
2 I had coffee yesterday and it was fine, but the
3 date was yesterday. And I didn't look at it, I
4 didn't pay attention. Being in trial, kind of just
5 haven't gone to the grocery store. Well, I opened
6 it up and I sniffed and I said, Okay, now it's
7 fine. And I poured it in my coffee and everything
8 was fine.

9 That sniff right there, that's the hesitation
10 to act that you guys need to follow in your minds.
11 It's not I would have done things differently,
12 it's, with the facts presented, do you hesitate on
13 anything to convict her of these offenses?

14 Now, when Amanda Jordan was at the house on
15 July 7th, she calls for a lead investigator, Joe
16 Clarke. Latisha shows up and she does, she does
17 ask, Are you here for the grass? Of course she
18 knows and she told them she knew that there were
19 dog problems. But Amanda Jordan has only been
20 there about the grass. This is two days or a day
21 after her uncle cleaned up the remains. So, yes,
22 of course she knew about it.

23 And in that brief 2- or 3-minute conversation
24 that Latisha had, when Amanda asked her, she said
25 Yeah, this guy named John was supposed to be

1 watching them. Here's his phone number.

2 Investigator Clarke shows up, wants to go
3 inside the house, so he gets a consent to search.
4 Latisha signs it, no problem. Takes him into the
5 house. And as she told you, she couldn't go all
6 the way in because she knew what was all the way in
7 the back, but she told him where everything was,
8 pointed it all out.

9 They come outside and Investigator Clarke and
10 the other people have to get sprayed down with Raid
11 because of the bugs that the decomposed animals
12 caused.

13 And he wanted to get a statement. And he
14 described it as either the initial statement or
15 preliminary statement, but he also said one key
16 phrase that you really, really need to pay
17 attention to. He said what we had here was
18 self-explanatory. Those are the words he used.
19 And that's the basis by which he used to
20 investigate everything. He knew that were dogs
21 that died. He knew she had -- that this was her
22 house and they were her dogs. Open, shut. That's
23 all he cared about.

24 You heard that he's been an investigator. He
25 does homicide investigations, violent crimes,

1 sexual assaults on people, the type of things that
2 you have to be a good investigator and very
3 thorough to be able to investigate and continue to
4 investigate year after year after year. Do you
5 hear that they walked down to a single neighbor and
6 said, Hey, do you know when the last time someone
7 was at this house? Got the name John. Knocked on
8 doors, Hey, does anyone know a guy named John that
9 was supposed to be staying there? Anything, even
10 calling John? Nothing. No one did any follow-up
11 at all. They just said, We don't believe her,
12 we're going to arrest her, and that's it.

13 Now, the Solicitor makes a big deal that in
14 this 2-page statement that Investigator Clarke
15 handwrote both questions and answers, that John and
16 a phone number and any other information aren't
17 mentioned.

18 Well, there are lots of things that you heard
19 throughout all the testimony that no one would ever
20 dispute that aren't mentioned at all. There's no
21 mention of, Well, was there any food? Yeah, one
22 bag of food. \$150 that was left to buy more food.
23 No mention of, Where are your kids now? Not even
24 that question. And why? Realistically,
25 Investigator Clarke, I think the most honest thing

1 he ever said, he wanted to get his pants off and go
2 home and shower. And I fully believe him that he
3 had bugs crawling inside and he wanted to get them
4 off.

5 Well, he left that day. He asked for Amanda
6 Jordan's follow-up, which had John, had the phone
7 number, had all this information. What did he do
8 with it? Waited two weeks, called up Latisha and
9 said, Hey, come down, I want to clear up a few
10 things. There's no more questions, no more
11 anything, just arrest her. But you've got to
12 decide. We have enough evidence. We have four
13 dead puppies; right?

14 You heard from Latisha. You saw her on the
15 stand. Really, it's going to come down to do you
16 believe her. Do you believe that she is the type
17 of person who would just let dogs die? Who would
18 torture them by not feeding them and not giving
19 them water in her own house that she's going to
20 bring her kids back to?

21 And I know you saw her reaction when the
22 Solicitor showed her the picture. And we all know
23 what picture that is.

24 If you think she is that heartless and
25 insensitive, then you should convict her. If you

1 do your jobs, you will realize that's not who she
2 is. She made arrangements with someone that the
3 previous year watched the dogs for two weeks
4 without any problem. She had bad judgment. She
5 didn't follow up. That's not torture. That's not
6 mutilation. That's not intentional acts. That's
7 not a crime. That's making a very, very bad
8 mistake. And she is paying for it already. She is
9 not guilty.

10 Thank you.

11 THE COURT: Yes, sir?

12 CLOSING STATEMENT

13 MR. BERRY: Defense counsel tells you that she
14 is only guilty of trusting the wrong person. That
15 it's like you take your dog to a boarding facility
16 and the boarding facility burns down, but somehow
17 the State will be bringing you before a court and
18 charging you with some sort of an animal murder.

19 That's not true. She is guilty of more than
20 just trusting the wrong person. She's guilty of
21 more than that. She came back into town two weeks
22 after she left, give or take, according to her;
23 right? That's what we have. She tells a couple of
24 people she came in town a couple of weeks before.
25 She goes and stays with a friend, with another

1 friend, grandma out of town. She comes by to get
2 the mail, but she doesn't go inside the house
3 because she doesn't like when they jump on her. Is
4 that what a 5-star animal lover does after you've
5 been gone for a month? You don't open your door to
6 check on your puppies because they jump on you?

7 And where's John? The only information we
8 have on John is what she says about John. Her
9 friend, Mr. Frost -- and you can judge his
10 credibility as you like -- he didn't witness their
11 agreement, their whatever that was, whether \$150 or
12 for one week, two weeks, three weeks, four weeks.
13 Who knows how long she told him, if she told him
14 anything about how long she was going to be gone,
15 how long he was supposed to be there, what he was
16 supposed to do with the food or the water. You
17 don't know. It's only according to her. All we
18 have about this John.

19 So she comes back in town after two weeks.
20 And where is he? You don't go in the house. The
21 house is vacant now. Everyone says -- the
22 landlord -- the maintenance man, he goes inside the
23 house because it looks like it's been abandoned.
24 There's a smell of death. No one is there. The
25 grass is high. It's abandoned. It's vacant. She

1 didn't have a key. She's been back for two weeks.
2 She said she didn't have a key to the house. Her
3 best friend had a key. John has a key. Where's
4 her key? Why doesn't she get the key to go check
5 on her dogs? She loved those dogs. She doesn't
6 care about those dogs at that point. Why didn't
7 she get a key to her house?

8 It's the middle of the summer. It's hot. And
9 y'all have seen the conditions. Y'all have seen
10 the conditions inside the house. I guess that's
11 not in dispute how horrific the end to those dogs
12 was. How three of them were trapped in a room and
13 curled up to die. How one of them gets out
14 somehow --

15 MR. SCHNEE: Judge, I'm going to object. I
16 don't see how this is in response to my closing
17 argument.

18 THE COURT: Let me see you all one second.
19 (WHEREUPON, a bench conference was held
20 in the presence of the jury but out of
21 the hearing of the jury.)

22 THE COURT: The objection is sustained.

23 MR. BERRY: So talk about trusting the wrong
24 person.

25 Defense counsel also said that she immediately

1 deals with this. That as soon as she gets back in
2 town, that she's immediately dealing with this.

3 Our knowledge of the timeline here has that on
4 July 1st, Roger Williamson goes in the house, finds
5 out what's going on. Then her best friend comes,
6 sees her -- sees him, and then we think he contacts
7 her. She should be getting worried about this.
8 Then a couple of days later, according to her
9 statement, July 3rd, she's back at the house.
10 She's getting her mail.

11 Is this immediately dealing with this? Is
12 that contacting law enforcement? Is that asking
13 the whereabouts of John? Is that calling Animal
14 Control? No. It's only until Animal Control comes
15 to the house and leaves a ticket that she calls
16 Animal Control. And it's only until law
17 enforcement comes to the scene for community
18 complaints about the smell that she then talks to
19 Animal Control and talks to law enforcement. That
20 is not immediately dealing with the situation.
21 That is not coming right back in town and
22 immediately dealing with what she finds.

23 She said that she goes into the house with her
24 uncle, they remove the bodies and put them in the
25 back yard in a bag, in a doghouse. Is that burying

1 the bodies? Is that calling law enforcement on a
2 crime scene committed against her dogs? No.
3 That's not immediately dealing with the situation.

4 And the bags of food. So Defense counsel
5 brings up that these bags of food were outside the
6 house as if that somehow means she left adequate
7 provisions behind for these dogs. This is on
8 July 5th. That is four days after they have been
9 discovered dead. What good is some bag of food
10 doing outside? Is this supposed to be the
11 clean-up, a couple of bags and this? What about
12 all this clean-up? What about all this other junk?
13 Why has that not been cleaned up? Just like there
14 is a couple of bags of food in the pictures on
15 July 7 of food in the house. They were there then.
16 What good did they do? Why were they there then?
17 Why wasn't the rest of the trash picked up? This
18 is somehow the clean-up of having a couple bags of
19 food four days later outside the house? For what?
20 Why were the bags there outside the house? What
21 were they doing with these bags outside the house
22 four days after things got found out? Ask yourself
23 that.

24 We talked about reasonable doubt and what that
25 means and what our burden of proof is here. My

1 co-counsel said if you knew absolutely what
2 happened in that room, you can understand; right?
3 We have no way of knowing exactly what happened,
4 but what is required to prove to you -- we are
5 required to prove to you is that beyond a
6 reasonable doubt that you are firmly convinced of
7 what happened. If you are firmly convinced that
8 Latisha Todd, by her actions or her lack of
9 actions, caused those four animals to die, by her
10 actions or lack of actions they were allowed to
11 die, and if those deaths in your opinion constitute
12 either torment, cruel kill, or excessive
13 unnecessary pain or suffering. If you are firmly
14 convinced of that, then you must convict her.

15 Thank you.

16 THE COURT: All right. Thank you.

17 Ladies and gentlemen of the jury, we are going
18 to take -- I have -- the jury charge is going to
19 probably maybe take another 20 to 30 minutes. So
20 we are going to take a 5-minute break, run to the
21 restroom. If your food is back there, do not touch
22 it. And then I will charge you, give you the law,
23 and then we'll send you back and you can eat lunch.
24 You can deliberate while eating lunch or not, it
25 will be up to you all to make that decision. You

1 just have to deliberate at the same time. Do not
2 discuss, you have not received the law. We'll take
3 a 5-minute break.

4 All right.

5 (WHEREUPON, the jury retires to the jury
6 room at 1:13 p.m.)

7 THE COURT: So I have a third-party -- I will
8 read it. The Defendant contends that there is
9 evidence before you indicating that someone other
10 than the Defendant may have committed the crimes,
11 and that that evidence raised a reasonable doubt
12 with respect to the Defendant's guilt.

13 In this regard, I charge you that a Defendant
14 in a criminal case has the right to rely on any
15 evidence produced at trial that has a rational
16 tendency to raise a reasonable doubt with respect
17 to his or her own guilt.

18 I previously charged you with regard to the
19 State's burden of proof, which never shifts to the
20 Defendant. The Defendant does not have to produce
21 evidence that produces the guilt of another, but
22 may rely on evidence that creates a reasonable
23 doubt. In other words, there is no requirement
24 that this evidence proves or even raises a strong
25 probability that someone other than the Defendant

1 committed the crime. You must decide whether the
2 State has proven the Defendant guilty beyond a
3 reasonable doubt, not whether the other person or
4 persons may have committed the crimes. That is the
5 reasonable -- that is the third-party guilt jury
6 charge.

7 MR. SCHNEE: That is absolutely acceptable to
8 me.

9 MR. BERRY: Yes.

10 THE COURT: Anything else before we bring them
11 back in? I told them I was going to give them a
12 couple of minutes to use the restroom.

13 We can talk about this. We talked about the
14 verdict form. I'm not sure if they are going to
15 want to deliberate and eat at the same time.
16 Usually they do, but in this situation they may
17 not.

18 Y'all want to take a look at the exhibits and
19 make sure -- while they are taking a break, take a
20 look at the exhibits.

21 All right. Let's bring them on in.

22 (WHEREUPON, the jury came into open
23 court at 1:21 p.m.)

24 THE BAILIFF: Your Honor, the jury is present
25 and seated.

JURY CHARGE

THE COURT: All right. Ladies and gentlemen of the jury, you have heard all of the evidence and you have heard the arguments of the parties. It is now my responsibility to charge you as to the law.

I remind you that during this trial, you and I have certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case. I also have the duty to rule on the admissibility of evidence offered during this trial.

You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case during this trial, you must disregard that testimony. You are to consider only the testimony which has been presented from the witness stand, any exhibits which have been made a part of the record in this case, and any stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law in this case. And it is your duty as jurors to accept the law and apply the law as I now state it to you. If you

1 already have any idea as to what the law is or what
2 the law ought to be and it does not agree with what
3 I now tell you the law is, you must abandon this
4 idea because you are sworn to accept the law and
5 apply the law exactly as I state it to you.

6 In every case tried in this court before a
7 jury, the jury becomes the sole and exclusive judge
8 of the facts in a case. A trial judge cannot
9 comment on, state, or make any statement to a jury
10 about the facts in a case. Since you, the jury,
11 are the sole judges of the facts in this case, you
12 are not to infer from what I have said during the
13 progress of this trial in ruling upon the
14 admissibility of evidence, or otherwise, or
15 anything that I say now during the course of these
16 instructions that I have an opinion about the facts
17 in this case. The law does not allow me to have an
18 opinion about the facts in this case. This is a
19 matter solely for you, the jury, to determine. As
20 jurors, it is your duty to determine the effect,
21 the value, and weight of the evidence presented
22 during the trial.

23 Ladies and gentlemen of the jury, there are
24 two types of evidence that are generally presented
25 during a trial; that is, direct evidence and

1 circumstantial evidence.

2 Direct evidence is the testimony of a person
3 who claims to have actual knowledge of a fact, such
4 as an eyewitness. It is evidence which immediately
5 establishes the main fact to be proved.

6 Circumstantial evidence is proof of a chain of
7 facts and circumstances indicating the existence of
8 a fact. It is evidence which immediately
9 establishes collateral facts from which the main
10 fact may be inferred. Circumstantial evidence is
11 based on inference and not on personal knowledge or
12 observation.

13 The law makes absolutely no distinction
14 between the weight or value to be given to either
15 direct or circumstantial evidence, nor is a greater
16 degree of certainty required of circumstantial
17 evidence than of direct evidence.

18 You should weigh all of the evidence in the
19 case. After weighing all of the evidence, if you
20 are not convinced of the guilt of the Defendant
21 beyond a reasonable doubt, you must find the
22 Defendant not guilty.

23 Ladies and gentlemen of the jury, you must
24 determine the credibility of the witnesses who have
25 testified in this case. Credibility simply means

1 believability. It becomes your duty as jurors to
2 analyze and to evaluate the evidence and determine
3 which evidence convinces you of its truth.

4 In determining the believability of witnesses
5 who have testified in this case, you may believe
6 one witness over several witnesses or several
7 witnesses over one witness. You may believe a part
8 of the testimony of a witness and reject the
9 remaining part of the testimony of that same
10 witness. You may believe the testimony of a
11 witness in its entirety or reject the testimony of
12 a witness in its entirety.

13 You may consider whether any witness has
14 exhibited to you any interest, any bias, any
15 prejudice, or other motive in this case. You may
16 also consider the appearance and the manner of a
17 witness while on the witness stand.

18 Ladies and gentlemen, earlier in the case we
19 had an expert witness. I told you at that time
20 that the Rules of Evidence ordinarily do not permit
21 witnesses to testify to opinions or conclusions.
22 An exception to this rule exists for witnesses we
23 call expert witnesses. A witness who by education
24 and experience has become an expert in some art,
25 science, profession, or calling may state an

1 opinion as to relevant and material matters in
2 which the witness claims to be an expert and may
3 also state the reasons for that opinion.

4 You should consider any expert opinion
5 received in evidence in this case and, like any
6 other evidence, give it the weight you think it
7 deserves. If you decide that the opinion of an
8 expert witness is not based on sufficient education
9 and experience, or if you conclude that the reasons
10 given in support of the opinion are not sound or
11 that the opinion is outweighed by other evidence,
12 you may disregard the opinion entirely.

13 An expert witness's testimony is to be given
14 no greater weight than that of other witnesses
15 simply because the witness is an expert. Further,
16 you are not required to accept an expert's opinion
17 even though it is not contradicted.

18 Ladies and gentlemen of the jury, the
19 indictments in this case charge the Defendant with
20 four counts of ill treatment of animals. I remind
21 you that the fact that the Defendant was arrested,
22 charged, and indicted in this case is not evidence
23 in this case and cannot be considered by you as
24 evidence of guilt in this case, nor does it create
25 any presumption or inference of guilt. The

1 documents are simply the formal written instruments
2 which contain the charges made against the
3 Defendant. It is the formal document by which the
4 case is brought into court.

5 Ladies and gentlemen of the jury, the
6 Defendant in this case has pled not guilty to the
7 indictments, and that plea puts the burden on the
8 State to prove the Defendant guilty. A person
9 charged with committing a criminal offense in South
10 Carolina is never required to prove himself or
11 herself innocent.

12 I charge you that it is an important rule of
13 law that the Defendant in a criminal trial, no
14 matter what the seriousness of the charge may be,
15 will always be presumed to be innocent of the crime
16 for which the indictment was issued unless guilt
17 has been proven by evidence satisfying you of that
18 guilt beyond a reasonable doubt.

19 This presumption of innocence does not end
20 when you begin your deliberations, but it
21 accompanies the Defendant throughout the trial
22 until you reach a verdict of guilt based on
23 evidence satisfying you of that guilt beyond a
24 reasonable doubt.

25 The presumption of innocence is like a robe of

1 righteousness placed about the shoulders of the
2 Defendant which remains with the Defendant until it
3 has been stripped from the Defendant by evidence
4 satisfying you of the Defendant's guilt beyond a
5 reasonable doubt.

6 The presumption of innocence is not a mere
7 legal theory. It is not just a legal phrase. It
8 is a substantial right to which every Defendant is
9 entitled unless you, the jury, are satisfied from
10 the evidence of the Defendant's guilt beyond a
11 reasonable doubt.

12 What is reasonable doubt in the law? A
13 reasonable doubt is the kind of doubt that would
14 cause a reasonable person to hesitate to act. The
15 State has the burden of proving the Defendant
16 guilty beyond a reasonable doubt.

17 Some of you may have served as jurors in civil
18 cases where you were told that it is only necessary
19 to prove that a fact is more likely true than not
20 true, such as by the greater weight or the
21 preponderance of the evidence. In criminal cases,
22 the State's proof must be more powerful than that.
23 It must be beyond a reasonable doubt.

24 Proof beyond a reasonable doubt is proof that
25 leaves you firmly convinced of the Defendant's

1 guilt. There are very few things in this world
2 that we know with absolute certainty, and in
3 criminal cases, the law does not require proof that
4 overcomes every possible doubt.

5 If, based on your consideration of the
6 evidence, you are firmly convinced that the
7 Defendant is guilty of the crime charge, you must
8 find the Defendant guilty.

9 If, on the other hand, you think there is a
10 real possibility that the Defendant is not guilty,
11 you must give the Defendant the benefit of the
12 doubt and find her not guilty.

13 In order to establish criminal liability,
14 criminal intent is required. For example, the
15 mental state required to be proven by the State for
16 a particular crime might be purpose, intent,
17 knowledge, recklessness, or criminal negligence.

18 Criminal intent must be proven by the State
19 beyond a reasonable doubt. Criminal intent is
20 always a matter that must be determined by the jury
21 from the circumstances surrounding the situation.
22 There is no way to prove intent to a mathematical
23 certainty. There is no way medical science can
24 dissect a person's brain and determine what the
25 person had in mind, so the law says that criminal

1 intent may be inferred from the circumstances shown
2 to have existed.

3 This is how you may make a determination of
4 whether or not the element requiring intent was
5 present. It is not necessary to establish intent
6 by direct and positive evidence, but intent may be
7 established by an inference in the same way as any
8 other fact, by taking into consideration the acts
9 of the parties and all the facts and circumstances
10 of the case.

11 Criminal intent is a mental state, a conscious
12 wrongdoing. It is up to you to determine what the
13 Defendant intended to do based on the circumstances
14 shown to have existed. Criminal intent can arise
15 from action or a failure to act. It may arise from
16 negligence, recklessness, or an indifference to
17 duty, or to consequences that is considered by the
18 law to be equivalent of criminal intent.

19 Ladies and gentlemen of the jury, the
20 Defendant in this case is charged with four counts
21 of ill treatment of animals in violation of South
22 Carolina Code of Laws, annotated, Section
23 47-1-40(b).

24 In order to prove the offense, the State must
25 prove beyond a reasonable doubt that the Defendant

1 is one who tortured, tormented, needlessly
2 mutilated, cruelly killed, or inflicted excessive
3 or repeated unnecessary pain or suffering upon an
4 animal or, by omission or commission, caused such
5 acts to be done. This is Section 47-1-40(b) of the
6 South Carolina Code, as annotated.

7 Ladies and gentlemen of the jury, included
8 within the offense of ill treatment of animals is
9 also -- is -- let me start over. Included within
10 the offense of ill treatment of animals in
11 violation of Section 47-1-40(b), which I just read
12 to you, is ill treatment of animals in violation of
13 Section 47-1-40(a). Ill treatment of animals in
14 violation of Section 47-1-40(a) is the lesser
15 offense of ill treatment of animals in violation of
16 Section 47-1-40(b).

17 Under Section 41 -- I'm going to read to you
18 what 41 -- 47-1-40(a) says now, which is the lesser
19 offense in the statute.

20 The State must prove beyond a reasonable doubt
21 that the Defendant is one who knowingly or
22 intentionally overloads, overdrives, overworks, or
23 ill treats an animal, deprives an animal of
24 necessary sustenance or shelter, inflicts
25 unnecessary pain or suffering upon an animal or, by

1 omission or commission, knowingly or intelligently
2 cause such acts to be done. That is Section
3 47-1-40(a).

4 Ladies and gentlemen of the jury, the
5 Defendant in this case contends that there is
6 evidence before you indicating that someone other
7 than the Defendant may have committed the crimes
8 and that that evidence raises a reasonable doubt
9 with respect to the Defendant's guilt.

10 In this regard, I charge you that a Defendant
11 in a criminal case has the right to rely on any
12 evidence produced at trial that has a rational
13 tendency to raise a reasonable doubt with respect
14 to his or her own guilt.

15 I have previously charged you with regard to
16 the State's burden of proof, which never shifts to
17 the Defendant. The Defendant does not have to
18 produce evidence that proves the guilt of another,
19 but may rely on evidence that creates a reasonable
20 doubt. In other words, there is no requirement
21 that this evidence proves or even raises a strong
22 possibility that someone other than the Defendant
23 committed the crime. You must decide whether the
24 State has proven the Defendant's guilt beyond a
25 reasonable doubt, not whether the other person or

1 persons may have committed the crimes.

2 Ladies and gentlemen of the jury, there is
3 nothing different in the way a jury should consider
4 the evidence in a criminal case from that in which
5 all reasonable persons treat any question depending
6 upon evidence presented to them. You are expected
7 to use your good sense, consider the evidence in
8 the case for only those purposes for which it has
9 been admitted, and give it a reasonable and fair
10 construction in the light of your common knowledge
11 and the natural tendencies and inclinations of
12 human beings.

13 Your verdict in this case will be one of two
14 forms. If, from the evidence and the law, you find
15 that the Defendant is not guilty, you will circle
16 not guilty on the verdict form that I will give
17 you, and the foreman will sign his name and date
18 it. If, on the other hand, you find that the
19 Defendant is guilty based upon the evidence and the
20 law which you have heard, you will circle guilty on
21 the verdict form, and the foreman will sign his
22 name and date it.

23 Your verdict must be unanimous. It must be
24 guilty or not guilty. The law requires that every
25 juror -- the law requires that a jury verdict be

1 unanimous, which means that all the jurors must
2 agree. The only two forms of the verdict are
3 guilty or not guilty.

4 Mr. Foreman, once the jury reaches a verdict
5 of not guilty or guilty, you will circle the
6 verdict on the face of the verdict form and sign
7 under the verdict to signify that what you have
8 circled is the verdict of all the jurors. Then you
9 will knock on the door and notify us that you have
10 reached a verdict -- you will notify the bailiffs
11 that you have reached a verdict.

12 I'm going to go over the verdict form with you
13 really quick. I'm going to give a copy to the
14 foreman so he can look at it as I go over it.

15 (Deputy hands verdict form to foreman.)

16 THE COURT: All right. Mr. Foreman, you have
17 the verdict form in which you all will have back in
18 the jury room. And it says, The State of South
19 Carolina, County of Richland, State of the South
20 Carolina v. Latisha Rashione Todd, Defendant. In
21 the Court of General Sessions of the Fifth Judicial
22 Circuit. Once again, there are four indictments.
23 2017-GS-40-428, 2017-GS-40-431, 2017-GS-40-432, and
24 2017-GS-40-433. Please circle the appropriate
25 verdict below and follow the accompanying

1 instructions carefully.

2 So it is four indictments. The first
3 indictment is 2017-GS-40-428. First, Number 1
4 says: As to indictment -- and I put in each
5 indictment -- because each indictment -- there's an
6 indictment for the four dogs. So as to the
7 indictment, this indictment is as to the dog
8 Diamond, alleging ill treatment of animals under
9 Section 47-1-40(b): We, the jury, unanimously find
10 the Defendant -- it will be guilty or not guilty.
11 You will circle one of the two.

12 Then look at Question Number 2. It says: As
13 to the lesser included charge of ill treatment of
14 animals under Section 47-1-40(a) -- remember, I
15 read you that part of the statute: We, the jury,
16 unanimously find the Defendant guilty or not
17 guilty.

18 You cannot find the Defendant guilty of both
19 ill treatment of animals under Subsection (b) and
20 guilty of ill treatment of animals under Subsection
21 (a).

22 All right. Do you follow me?

23 All right. The next indictment is Indictment
24 2017-GS-40-431, as to the indictment in this case,
25 the dog named Sparkle, alleging ill treatment of

1 animals under Section 47-1-40(b): We, the jury,
2 unanimously find the Defendant is guilty or not
3 guilty. And then the Number 2 is the lesser
4 included charge of ill treatment of animals under
5 Section 47-1-40(a): We, the jury, unanimously find
6 the Defendant guilty or not guilty. You cannot
7 find her guilty of (a) and (b).

8 And as to Indictment 2017-GS-40-432, and this
9 one is the dog Panda, alleging ill treatment of
10 animals under Section 47-1-40(b): We, the jury
11 unanimously find the Defendant guilty or not
12 guilty. And then the lesser included charge of ill
13 treatment of animals under Section 47-1-40(a): We,
14 the jury, unanimously find the Defendant guilty or
15 not guilty. Once again, you cannot find the
16 Defendant guilty of both ill treatment of animals
17 under (b) and (a).

18 And as to Indictment 2017-GS-40-433, as to the
19 dog Midnight, alleging ill treatment of animals
20 under Section 47-1-40(b): We, the jury,
21 unanimously find the Defendant guilty or not
22 guilty. Same thing with the lesser included under
23 (a), guilty or not guilty.

24 Mr. Foreman, you will sign your name and date
25 it, and then you will knock on the door and let the

1 bailiff know that you have reached a verdict.

2 We are going to send you all back, but you
3 cannot begin your deliberations until you have
4 received the evidence. Once you receive the
5 evidence --

6 We are going to take the verdict form --
7 Mr. Bowen will take the verdict form back from you.

8 Once you receive the verdict form and the
9 instructions from the jury -- from the bailiff, you
10 then may begin your deliberations. You can choose
11 to eat your lunch while you deliberate, or if you
12 all would like to eat and then deliberate, you are
13 more than welcome to do that. If you have any
14 questions, they need to come from the forearm.

15 Mr. Foreman, I need you to -- if there's any
16 questions from the jury, since you are the
17 spokesperson here in the courtroom, you will write
18 the question on a notebook provided to you, put
19 your number down, and then we will receive you back
20 to answer the question.

21 I will go ahead and tell you that -- because I
22 get this question all the time. There is no
23 transcript, even though Debbie is over there typing
24 away and working hard, you would not be able to
25 understand anything that she has typed in there

1 because it is a shorthand, I don't know what they
2 call it, but I can't understand it either. That is
3 not the final transcript. However, she does have
4 audio of any testimony, so if there's any testimony
5 that you wish to have heard again, she can play it
6 back in audio. You just have to let us know what
7 it is you wish to hear.

8 The jury charge, if there's any questions
9 regarding any portion of the jury charge that you
10 wish for me to read -- charge to you, then we'll
11 bring you back in the courtroom and I can read that
12 portion. Just let me know what it is that you --
13 what part or all you wish for me to read for you
14 again.

15 I believe that is it. We're going to send you
16 all back. And don't start your deliberations until
17 you receive the instructions and the exhibits to do
18 so.

19 And the alternates, you can sit them outside
20 the door.

21 (WHEREUPON, the jury retires to the jury
22 room at 1:45 p.m.)

23 THE COURT: Any objections or exceptions from
24 the State?

25 MR. BERRY: None, Your Honor.

1 THE COURT: Any from the Defense?

2 MR. SCHNEE: Yes, Your Honor. I would renew
3 my objection as to the lesser included charge and
4 including it on the verdict form.

5 THE COURT: All right. Thank you. And that
6 objection is overruled, but preserved for the
7 record.

8 All right. Are ready to get it to them?

9 (WHEREUPON, the jury was instructed to
10 begin deliberations at 1:47 p.m.)

11 THE COURT: We need to bring the alternates
12 in.

13 (WHEREUPON, the alternates returned to
14 the courtroom.)

15 THE COURT: You can just have a seat.

16 All right, Ms. Boyles and Mr. Downey, you were
17 selected as the alternates in this case. And as
18 you see, all the other -- the 12 jurors that were
19 selected have all returned, and so therefore we
20 will not need your services any further.

21 I do want to thank you for your participation
22 here this week. I notice both of you have been
23 listening and attentive, so I do want to thank you
24 for your service here this week.

25 I believe that we are -- there are no more

1 trials, are there?

2 THE CLERK: I think they said the other one
3 had pled.

4 THE COURT: So we are releasing them for the
5 week.

6 If you need a work excuse, the clerk can get
7 that for you. You have your lunch. You are more
8 than welcome to stick around if you wish to wait to
9 see what your fellow jurors are going to come back
10 with, or if you wish to leave you are free to
11 leave.

12 Thank you again for your service.

13 (WHEREUPON, the alternate jurors were
14 excused at 1:49 p.m.)

15 THE COURT: All right. Any motions at this
16 time?

17 MR. SCHNEE: No, Your Honor.

18 MR. BERRY: No, Your Honor.

19 THE COURT: All right. So they are going to
20 start deliberating. If you're going to leave --
21 you're across the street, y'all are upstairs --
22 just leave Jasmine a number to contact you so if
23 they have a question or verdict we can call you
24 back.

25 All right. Everyone did a good job. So,

1 thank y'all.

2 (WHEREUPON, a break was taken at 1:49
3 p.m.)

4 (WHEREUPON, the following occurs at 2:48
5 p.m.)

6 THE COURT: All right. I left the question --
7 I left it in the office. They want the statutes.
8 We kind of knew that that was probably coming.

9 What Jasmine has done is she -- of course, I
10 can't give them the statute because it has the
11 punishment. She just pulled it off from the jury
12 charge. Do y'all want to take a look at it?
13 That's what I'm inclined to do, just send it back.
14 It just says (a) and (b).

15 MR. SCHNEE: I think we combine that with the
16 fact that they know (a) is a lesser included
17 because of the verdict form. I mean, that's fine
18 with me unless you want to put a title on the side,
19 lesser included, just to make it --

20 THE COURT: We can do that.

21 MR. SCHNEE: -- beyond clear.

22 MR. BERRY: It couldn't hurt.

23 THE COURT: I'll just put the statute, and
24 then over the second one, put lesser included
25 offense like you have it.

1 MS. MOSER: Sure.

2 MR. SCHNEE: Just as an abundance of caution.

3 THE COURT: And we'll give it to you to mark
4 it as Court Exhibit 1.

5 THE COURT REPORTER: Do you want to mark the 1
6 as the question and the 2 as the answer, or staple
7 them together as 1?

8 THE COURT: So right here, it'll be just the
9 statute, and ill treatment of animals, and then
10 lesser included offense right here.

11 MR. SCHNEE: I guess we'll bring them back in
12 so you can relate it to them or --

13 THE COURT: I can. We'll have the bailiffs
14 hand it to them.

15 MR. SCHNEE: That's fine.

16 THE COURT: She will mark it as a Court
17 Exhibit as soon as Jasmine gets it printed.

18 MR. SCHNEE: Sure.

19 THE COURT: All right. So that works, but I
20 wanted to make sure that was okay with you all.
21 And we will give it to them from there.

22 Of course, your objection is -- this is what
23 we're sending back, the objection is preserved for
24 the record.

25 MR. SCHNEE: Thank you, Judge.

1 THE COURT: All right, we'll print that. If
2 you all need to look at it -- we'll print it and
3 then mark it and then send it back.

4 Okay. All right.

5 MR. BERRY: Thank you, Your Honor.

6 THE COURT: And sit back and wait.

7 (WHEREUPON, Court Exhibit No. 1 was
8 marked for identification only.)

9 (WHEREUPON, Court Exhibit No. 2 was
10 marked for identification only.)

11 (WHEREUPON, a break was taken at 2:50
12 p.m.)

13 (WHEREUPON, the following occurs at 4:08
14 p.m.)

15 THE COURT: We've got another question, which
16 I think I understand. I think they're confused.

17 We have a unanimous agreement on one charge
18 for all four indictments, but not the other. What
19 are our options? Juror 188.

20 MR. SCHNEE: Could you read that again?

21 THE COURT: I know, I had to do the same.

22 We have a unanimous verdict on one charge for
23 all four indictments, but not another. But not
24 another. What are our options?

25 What I'm thinking is that -- this is just

1 me -- what we could gather is maybe -- it's because
2 they said we have unanimous agreement on one charge
3 for all four indictments. They are confused about
4 the lesser included.

5 So what I think I need to say to them -- y'all
6 think about it for a second -- is: Based on the
7 verdict form, for each indictment you will -- you
8 can -- how do I say it? You can find her guilty on
9 Subsection (b) or (a), or you can find her not
10 guilty under Subsection (b) and Subsection (a).

11 Does that still confuse you?

12 MR. BERRY: Or maybe it is: You can find her
13 guilty under (b) or (a), but not both, or not any.

14 MR. SCHNEE: Not guilty for both.

15 THE COURT: Yes.

16 MR. SCHNEE: I mean, I think realistically
17 what we have here is they might have said not
18 guilty for (b) and they are undecided (a), or they
19 said guilty on (a) and they are undecided on (b).
20 That sounds like the only two possibilities.

21 THE COURT: Yes. Or it could be they found
22 her not guilty on one and not sure about the other.
23 Or can't come to a --

24 MR. SCHNEE: They could be hung on the lesser.

25 THE COURT: All right. He needs to keep the

1 verdict form, I don't want the verdict form.

2 THE BAILIFF: You want me to make them leave
3 everything? We've got a bailiff to sit outside the
4 door.

5 THE COURT: Then they said they need to make
6 phone calls for children and child care issues.
7 It's 4:00 o'clock, so it's about that time.

8 (WHEREUPON, Court Exhibit No. 3 was
9 marked for identification only.)

10 THE COURT: Okay. All right. Let's bring
11 them in.

12 (WHEREUPON, the jury came into open
13 court at 4:11 p.m.)

14 THE BAILIFF: The jury is all present, Your
15 Honor.

16 THE COURT: All right.

17 All right, ladies and gentlemen of the jury, I
18 have a copy of your question, and that is Court
19 Exhibit Number 3. And it says; we have a unanimous
20 agreement on one charge and it is for all four
21 indictments, but not another. What are our
22 options? Juror 188.

23 All right. So just so we are -- and I don't
24 want you to respond, I'm just going to see -- I'll
25 tell you -- I'll try to explain it, and then if

1 that helps, let me know, if it doesn't, we'll try
2 to figure out what is the next step.

3 All right. So as to each indictment, there
4 are four indictments. The number is above -- the
5 number for each indictment is at the top.

6 As to each indictment, you can find the
7 Defendant guilty of Subsection (b), or you can find
8 the Defendant guilty of Subsection (a), but not
9 both; or you can find the Defendant not guilty of
10 (b) and not guilty of Subsection (a). Does that
11 help?

12 THE FOREMAN: Yes. That provides guidance.

13 THE COURT: Do you want me to repeat it again,
14 or are you good?

15 THE FOREMAN: Can I ask a question?

16 THE COURT: No. Because I don't know what you
17 are going to ask. That makes me nervous.

18 THE FOREMAN: I think that provides guidance.

19 THE COURT: In terms of if you -- unanimously,
20 you can find her guilty of (b) or (a), or you can
21 find her not guilty of (b) and of Subsection (a),
22 which is the lesser offense. All right?

23 All right. Thank you.

24 (WHEREUPON, the jury returns to jury
25 room to continue deliberations at 4:14

1 p.m.)

2 THE COURT: Any objection or exceptions?

3 MR. BERRY: No, Your Honor.

4 THE COURT: Any objection or exceptions?

5 MR. SCHNEE: No objection, Your Honor.

6 THE COURT: Except the objection to even
7 charging (a); right?

8 MR. SCHNEE: Right, but in terms of the
9 verdict form.

10 THE COURT: Yes.

11 Okay. We'll see what they come up with. They
12 can use the phone. They can -- somebody needs to
13 get more water.

14 And what else did they want?

15 THE CLERK: One of them wanted to text to
16 cancel appointments and another one needed to call
17 about child care.

18 THE COURT: That's fine, as long as -- you can
19 give them the phone to text and the one for child
20 care, let them call. Okay. Or if they use their
21 phone, sometimes if they don't recognize the number
22 somebody might not answer.

23 THE CLERK: All right.

24 THE COURT: All right. Hang tight or leave,
25 we'll call you back again.

1 MR. SCHNEE: Yes, ma'am. I might hang tight
2 for just a few minutes just to see.

3 (WHEREUPON, a break was taken at 4:15
4 p.m.)

5 THE COURT: All right. We've got another
6 question. Can the term --

7 I'm sorry, Court Exhibit Number 4?

8 THE COURT REPORTER: 4.

9 THE COURT: Can the term excessive be defined
10 as it relates to Section 47-1-40(b)? Then they
11 say, What happens if the next step -- what is the
12 next step if we are at a standstill?

13 We looked at the chapter under 47-1-40, and
14 the statute does not define excessive. It defines
15 shelter and it defines sustenance, but not
16 excessive.

17 So all I can tell them is that this statute
18 does not define excessive and that's an issue of
19 fact for them to decide.

20 MR. SCHNEE: I think perhaps the best, I would
21 just: You have received all of the instructions
22 regarding definitions under the law as you are
23 going to. You know, they just need to figure it
24 out themselves. That's how it is for every other
25 aspect.

1 MR. BERRY: Or what is in Merrium-Webster,
2 excessive --

3 THE COURT: No, you can't do that.

4 MR. SCHNEE: Definitely not.

5 THE COURT: It has to be under the statute.
6 That's why I said I was just going to tell them
7 that the statute does not define excessive and that
8 I can't give them any additional information. I
9 mean, because the question is how is it defined as
10 it relates to 47-1-40(b)? It's not.

11 MR. SCHNEE: I mean, all you can tell them is
12 --

13 THE COURT: It's not.

14 MR. SCHNEE: You have the entire definition of
15 the statute with you, that's it. The statute is
16 what it says.

17 THE COURT: That's what I am going to say.
18 You have the entire definition of the statute. You
19 have the statute in its entirety.

20 MR. BERRY: There's no other --

21 MR. SCHNEE: There are no terms -- there are
22 no definitions or anything else that the Court can
23 give them.

24 THE COURT: All right.

25 MR. BERRY: There's no other legal -- it's not

1 just they have it and can't know what it is, it's
2 just nothing else there; right?

3 THE COURT: Right.

4 MR. SCHNEE: I don't think you can tell them
5 what is or is not there. Just that they have the
6 entirety of the statute.

7 THE COURT: I can tell them that the statute
8 does not define excessive, and they have to use
9 what they -- what is in evidence and any area of
10 the law that I charged them.

11 MR. BERRY: That sounds right to us.

12 MR. SCHNEE: Fair enough.

13 THE COURT: Bring them on in.

14 MR. SCHNEE: What about that second part?

15 THE COURT: They have got to tell us they're
16 hung.

17 MR. SCHNEE: Yes, I know.

18 THE COURT: Then I'll have to give them the
19 Allen charge.

20 MR. SCHNEE: Maybe go home and think about it.

21 THE COURT: But I can't tell them, You've got
22 to tell me you're hung, they've got to tell me
23 they're hung. I don't know what standstill means.
24 Hung?

25 MR. BERRY: Is that a legal term?

1 THE COURT: I need them to say we cannot
2 agree, or something.

3 (WHEREUPON, Court Exhibit No. 4 was
4 marked for identification only.)

5 (WHEREUPON, the jury returns to open
6 court at 6:45 p.m.)

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

8 THE COURT: All right. I received your note,
9 which I have marked as Court's Exhibit Number 4:
10 Can the term excessive be defined as it relates to
11 Section 47-1-40(b)? And the answer to that is no,
12 I cannot define that to you. That is the statute.

13 So I am going to send you all back in the jury
14 room to continue your deliberations. I understand
15 it is close to 7:00. Does anyone -- I understand
16 you all have family. Does anyone need to leave?
17 I'll let the foreman check and see if anyone needs
18 -- if there's someone that needs to leave, and then
19 we'll -- I'll make a decision from there.

20 All right. Thank you.

21 (WHEREUPON, the jury retires to the jury
22 room at 6:46 p.m.)

23 THE COURT: All right. Any objection or
24 exceptions?

25 MS. BERRY: None from the State, Your Honor.

1 MR. SCHNEE: None from the Defense.

2 THE COURT: All right. So I was trying -- I
3 didn't want to say do y'all want to come back in
4 the morning, because then you get some people that
5 will say, Oh, let's come up with a verdict so we
6 don't we have to. So that's why I phrased it the
7 way I did, to see if anyone has any obligations
8 that they need to leave. And then if they come
9 back and say yes, they do, then we'll just stop
10 deliberations and start back in the morning.

11 All right. Let's wait and see. I guess we
12 can wait here and see what they say.

13 (WHEREUPON, a break was taken at 6:47
14 p.m.)

15 THE COURT: We have one juror that needs to go
16 home.

17 MR. BERRY: Okay.

18 THE COURT: All right. Tell them to continue
19 to deliberate.

20 I might let them continue to deliberate for
21 another 20 minutes or so.

22 MR. SCHNEE: Judge, at 6:50, something tells
23 me if they have not made up their mind by now --

24 THE COURT: Well, my only concern is now that
25 they know we're not going to define excessive, they

1 have to define it. I'm trying to give them an
2 opportunity to, at least, have some discussion.

3 MR. SCHNEE: Right. I just -- I don't know.
4 I mean, obviously, we don't know if it's one juror
5 that's questioning it or if it's seven of them. I
6 hate to keep -- I mean, if someone has to go
7 home -- frankly, all of us want to anyway. If
8 they're going to be deliberating for hours more --

9 THE COURT: No, no, I'm not going to let them
10 do it for hours more. I'm going to stop like at
11 7:00 o'clock. And just say it's ten till --
12 because they asked the question, I was going to let
13 them stop around 7:00 o'clock and then have them
14 come back in the morning.

15 MR. BERRY: Our position is let them talk
16 about excessive for a hot minute or two, and then
17 we can, you know, let them process what they
18 discussed together.

19 THE COURT: We didn't give them any
20 definitions. If they don't have a verdict by
21 7:00 -- I'm just saying that to you all, I would
22 not tell them that. If don't have a verdict by
23 7:00, I'll let them go.

24 MR. SCHNEE: Oh, okay.

25 (WHEREUPON, a break was taken at 6:50

1 p.m.)

2 THE COURT: Bring them in.

3 (WHEREUPON, the jury came into open
4 court at 7:10 p.m.)

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

6 THE COURT: All right, ladies and gentlemen of
7 the jury, as you all have probably noticed, it is
8 about ten after, quarter after 7:00. And I am
9 going to go ahead and break for the evening. We
10 will have you all back tomorrow morning at 9:30.
11 You will not -- you will go into --

12 Where is my bailiff? Once everyone is here
13 and they have the exhibits, they can go ahead and
14 begin their deliberations. They don't need to come
15 back in the courtroom at that point.

16 THE BAILIFF: Okay.

17 THE COURT: It is very important at this point
18 that you cannot discuss the case. You can't even
19 discuss it with each other walking out. Only
20 discuss it in the jury room. Please do not do any
21 independent research. Please do not do any
22 Tweeting. Your family members are going to
23 definitely ask you why in the world were you there
24 at 7:00 o'clock, 7:30 at night. Tell them you will
25 tell them all about it tomorrow or Friday or over

1 the weekend. But please do not discuss the case
2 with anyone and please do not do any research
3 regarding anything, any issue involved in this
4 case.

5 And we will see you all at 9:30 in the
6 morning. And like I said, you will just go in the
7 jury room and begin your deliberations.

8 All right. Thank you have a good evening.
9 Thank you for your hard work.

10 (WHEREUPON, the jury is excused at 7:12
11 p.m.)

12 THE COURT: All right. 9:30 in the morning.

13 MR. BERRY: The jury is gone. Shouldn't --

14 THE COURT: I'm going to allow the bond to
15 continue. I assume she won't leave now.

16 (WHEREUPON, the proceedings concluded at
17 7:13 p.m.)

18 JULY 20, 2017

19 (WHEREUPON, the proceedings began at
20 10:56 a.m.)

21 THE COURT: Good morning. We have a note.

22 They started -- let me place on the record. They
23 started deliberating at 9:30. And we received a
24 note: Can we listen to the testimony of Ms. Todd,
25 Officer Jordan, and Mr. Frost, and the maintenance

1 man, and Investigator Clarke. That's the whole
2 trial, basically.

3 So what will happen, is Debbie will have to
4 find -- we'll have to play one person's testimony,
5 stop, then she'll have to find the other testimony,
6 because she has got the typing and the audio on
7 another machine, so she's switching back and forth,
8 so.

9 MR. SCHNEE: Judge, the only caveat I would
10 say is that throughout this trial, obviously,
11 since -- you're right, this is pretty much the
12 entire trial. There were a number of times that
13 things were objected to and the objections were
14 sustained as to even questions. Those questions
15 should not even be replayed for the jury.

16 THE COURT: How -- I don't know which ones.
17 Can you stop it -- well --

18 MR. SCHNEE: Well, at the point that the word
19 objection is said, it's already too late. The
20 question should not be replayed. It's kind of
21 problematic when you're talking about this many
22 witnesses.

23 THE COURT: And I don't know -- I mean, if you
24 can anticipate when the objections are made.

25 MR. SCHNEE: I think honestly we need to go

1 through what she has as the temporary transcript or
2 listen to it and then make sure we write down all
3 the time stamps of where it has to stop.

4 THE COURT: So you want us to listen to it two
5 times?

6 MR. SCHNEE: Judge, I feel I have to request
7 that.

8 MR. BERRY: Your Honor, during the trial,
9 jurors have always been able to -- when they're
10 told to disregard something, when it is sustained,
11 disregard it. If they can process that during a
12 live trial, they should be able to process those
13 same instructions listening again to the same
14 information. It seems a bit --

15 MR. SCHNEE: If the information is never
16 supposed to go, that's why the objection is
17 sustained, so it should not go to them a second
18 time to bring home again yet another thing they
19 should not hear. That's improper.

20 THE COURT: Who is the first one you have?

21 THE COURT REPORTER: Williamson, the
22 maintenance man.

23 THE COURT: Were there objections on his? I
24 don't remember.

25 MR. SCHNEE: There was one break for a matter

1 of law during cross, but that --

2 THE COURT: She'll stop it when we get to a
3 break.

4 THE COURT REPORTER: If you have it up there.
5 Did you have a bench conference?

6 MR. SCHNEE: No, the jury was sent out, and
7 then there was discussion and then the jury was
8 brought back --

9 THE COURT REPORTER: If I played it from my
10 computer, I will know when it's coming and then I
11 can restart, but if I play it from this, I don't
12 know what's coming.

13 THE COURT: So are you playing it from your
14 computer?

15 THE COURT REPORTER: No, because you can hear
16 my machine. I can, but it's not very good.

17 Did y'all hear it? You could hear my machine
18 banging.

19 MR. SCHNEE: It sounded like someone was jack
20 hammering next to the microphone.

21 THE COURT: Can you look on your computer and
22 see where the objection is?

23 THE COURT REPORTER: My problem is stopping
24 this audio at the right place.

25 THE COURT: I guess what I'm asking is we know

1 where the bench -- you will hear when I say I need
2 to send you all out?

3 THE COURT REPORTER: Right.

4 THE COURT: Then you'll have to stop it --

5 THE COURT REPORTER: I'll have to stop it
6 then, but then I'll have to refind where we'll
7 start back. And I don't want to be playing it in
8 front of them because they'll hear.

9 THE COURT: Yeah, we'd have to send them out.

10 THE COURT REPORTER: They'll have to go out.

11 MR. BERRY: Most of the, if not all of the
12 objections during the primary case in chief were --
13 if I remember, questions weren't objectionable,
14 it's witnesses appear to start giving hearsay
15 testimony and then you stopped on what a neighbor
16 might have said. It might have be open-ended
17 questions on my part, but it wasn't some sort of
18 loaded question. The only question that
19 particularly would have been offensive to the
20 Defense was on the redirect to Investigator Clarke
21 about the phone number, and that's when, you
22 know -- there was a motion to strike.

23 THE COURT: Yeah, that's the only one that I
24 think I -- there's only one or two times. Once, I
25 think.

1 MR. SCHNEE: There were only a couple that I
2 requested to strike, but there were a number of
3 times the question itself was problematic.

4 MR. BERRY: I don't think it was.

5 THE COURT REPORTER: Is it in Williamson? Is
6 it in that first --

7 THE COURT: No, Williamson, I don't really
8 remember anything --

9 MR. BERRY: Just Clarke, and I don't think
10 they requested Clarke.

11 THE COURT REPORTER: They did.

12 MR. SCHNEE: And it was more than just Clarke.
13 And, Judge --

14 THE COURT: No, no, no. I'm on Williamson
15 right now. I'm not as really concerned about the
16 objections -- I mean, we have to do the best we can
17 with what we have. But if we send them out --

18 Did we send them out for Williamson?

19 MR. SCHNEE: I'm certain we did.

20 THE COURT REPORTER: I can glance through it.

21 THE COURT: The issue is, if we sent them out,
22 I'm more concerned about that, we cannot have that
23 coming in. And then she said she can stop it. But
24 then what happens is she stops it, then she's going
25 to have to -- we'll have to send them out, bring

1 them back so she can find where -- so she can make
2 sure she has all of the legal discussion out of it.

3 MR. SCHNEE: Judge, perhaps the better
4 solution is tell them you can't listen to the
5 entire trial again. I mean, that's essentially --
6 they left off Karisa Williamson, who said virtually
7 nothing, and they left off my client's sister and
8 they left off the expert. Everybody else they want
9 to hear. Perhaps the answer should just be, no,
10 you can't.

11 THE COURT: Are you all opposed to me -- well,
12 you know what I can do, I can bring the foreman in
13 and I can ask him some questions without -- and I
14 will tell him, do not tell me where you all are or
15 what you -- but I will explain the issue to him as
16 to hearing it over, and I'll get an idea do you
17 really want to hear all of the testimony of each of
18 these witnesses. Just kind of feel him out and see
19 what he says.

20 MR. SCHNEE: That sounds like a good idea.

21 THE COURT: What's wrong?

22 MR. BERRY: I'm just processing, processing
23 and thinking. I was wondering, is there a way to
24 know the timestamp of when the bench discussion
25 ends --

1 THE COURT REPORTER: We can listen to it now
2 and try to figure it out.

3 MR. BERRY: So we know when they're here, we
4 just pause it and then skip right ahead without
5 having to send them out and back in.

6 THE COURT REPORTER: I can try to do that, but
7 then we still have to stop, unless we're going to
8 do every witness. It will take some time.

9 THE COURT: Let me bring him in and see.
10 Because, you know, it's easy to say I want this, I
11 want this, I want that. Then when I tell them
12 exactly what has to happen, they may have --

13 Okay. Can you bring the foreman in?

14 THE BAILIFF: Just the foreperson?

15 THE COURT: Yes.

16 (WHEREUPON, Court Exhibit No. 5 was
17 marked for identification only.)

18 (WHEREUPON, the foreman came into open
19 court at 11:05 a.m.)

20 THE COURT: Mr. Foreman, we received a note,
21 and I'm just bringing you out -- this will be Court
22 Exhibit No. 5. And it says: Can we listen to the
23 testimony of Ms. Todd, Officer Jordan, and
24 Mr. Frost, and the maintenance man, and
25 Investigator Clarke.

1 THE FOREMAN: Yes.

2 THE COURT: So that's about five witnesses
3 that you all wish to hear the testimony in its
4 entirety? We are just trying to get some
5 clarification. Don't tell me where you are, don't
6 tell me anything about your deliberations, we're
7 just trying to get some clarification because the
8 technology is not as simple as it seems. I think
9 I've already told you that. She's typing stuff,
10 but we can't -- I mean, she can understand it, but
11 you all can't, and I probably can't understand it
12 either.

13 So I'm trying to get some understanding
14 because if we play it back, it's going to be like
15 you all coming back in here, sitting through the
16 testimony as you did during the trial, which means
17 if there was an objection or I sent you all out,
18 I'm going to have to send you all out again and
19 bring you back in for the bench conferences. We,
20 basically, have to go through the process of the
21 trial.

22 THE FOREMAN: I think --

23 THE COURT: And it's going to take some time,
24 which is fine, because we're all going to be here,
25 but it will take some time because she has to

1 stop -- and in between each witness, she has to
2 find the beginning, so we'll have to stop, find the
3 other testimony. So I'm just trying to get an idea
4 from you if that is what you all are looking for
5 before we do it?

6 THE FOREMAN: Your Honor, I think we were
7 under the impression that it was just a recording,
8 a simple recording that we could listen to. But
9 obviously that's not the case.

10 THE COURT: No, you would have to listen to it
11 in here.

12 THE FOREMAN: So, if I can, let me go back to
13 the jury and see what their desires are.

14 THE COURT: So you were thinking it was a
15 recording we would send back to you?

16 THE FOREMAN: Back in the jury room.

17 THE COURT: No, we've got to bring you in, in
18 the courtroom. You'll have to sit there and listen
19 to it.

20 THE FOREMAN: Okay.

21 THE COURT: She records it twice, but she told
22 me on one of the recordings, you can hear her --
23 the one that's on the computer, it actually
24 records, you can hear her typing, which would be a
25 little difficult. So she has the backup recording,

1 which -- but we would have to stop and pick up.

2 So if you can check with them and then just --
3 you can let the bailiff bring you back and let us
4 know. I mean, we don't mind --

5 THE FOREMAN: Again, we knew the transcript
6 wouldn't be available, but we thought the recording
7 was.

8 THE COURT: Okay.

9 THE FOREMAN: Thank you.

10 (WHEREUPON, the foreman retires to the
11 jury room at 11:08 a.m.)

12 (Pause.)

13 THE COURT: I thought he was coming back in.

14 MR. SCHNEE: Maybe we should take it as a sign
15 they don't want to listen to the testimony.

16 THE COURT: But I told him to bring him back
17 in. I'll go talk to the bailiff.

18 (WHEREUPON, judge exits courtroom.)

19 THE COURT: So they were back there saying you
20 need to speak to the judge, then sent out the note.
21 They need the maintenance man, Officer Clarke, and
22 Ms. Todd.

23 (WHEREUPON, Court Exhibit No. 6 was
24 marked for identification only.)

25 THE COURT REPORTER: I was just looking

1 through his. There was an objection about SCE&G.

2 THE COURT: Where is it?

3 THE COURT REPORTER: Well, to stop and start
4 it on here, I don't know.

5 MR. BERRY: So all of that is on the record.
6 The only thing I understand should be taken out if
7 there's a motion to strike, that should be
8 redacted. Otherwise, it's the record, they hear
9 the objection, and it's just as it was during the
10 trial. That's our understanding of how the --

11 MR. SCHNEE: And, Judge, I disagree. If the
12 objection is sustained, even the question at that
13 point is not supposed to be played back to the
14 jury. If it was an improper question and/or answer
15 or statement, the jury doesn't get to hear things
16 that are improper twice.

17 MR. BERRY: Based on what?

18 MR. SCHNEE: Based on the fact they shouldn't
19 have heard it the first time, that's why the
20 objection was sustained.

21 MR. BERRY: That's not the law.

22 THE COURT: I don't know if there's
23 anything -- but I'm going to allow her to play it.
24 Anything that was struck and any -- they'll have to
25 just go out if there is -- but I don't want

1 anything that was struck to be played again. If
2 it's an objection, we'll play it again. That's how
3 it happens in all trials that I've done. We'll
4 play it. If there is objection, they'll hear the
5 objection, but if it was already stricken -- was
6 there anything in the testimony that was stricken
7 in the maintenance man's, Mr. Williamson?

8 MR. BERRY: The only one I recall was Joe
9 Clarke on redirect.

10 MR. SCHNEE: I might have moved to strike the
11 comment about SCE&G, I don't know. That's why I
12 think we need to hear it first.

13 THE COURT REPORTER: Well, I can just tell you
14 what he said there.

15 THE COURT: She's going to look through it.
16 Just look through his testimony and see.

17 (WHEREUPON, the testimony was read
18 back.)

19 (WHEREUPON, an off-the-record discussion
20 ensued.)

21 THE COURT: Anything else, Debbie?

22 THE COURT REPORTER: I don't see anything
23 else, but now I've lost my place. I've got to
24 start over.

25 THE COURT: Are you ready?

1 THE COURT REPORTER: Ready.

2 THE COURT: All right. You can bring them in.

3 THE BAILIFF: Yes, Your Honor.

4 (WHEREUPON, the jury came into open
5 court at 11:25 a.m.)

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

8 THE COURT: All right, ladies and gentlemen of
9 the jury, we have -- as I explained to your
10 foreman, the testimony, we can't just send you a
11 recording back into the jury room. What has to
12 happen is you have to come back out here and
13 listen. And so the maintenance man, his name is
14 Mr. Roger Williamson, we'll play his. There is a
15 point in there where I think I send you all out, so
16 I'll have to send you all out again. She is going
17 to have to fast-forward and get us back to the
18 point where we bring you back in.

19 All right.

20 (WHEREUPON, the testimony of Roger
21 Williamson was played for the jury.)

22 THE COURT: I think there's an objection
23 there. I will send you all out. We're going to
24 send you out again and bring you right back in.

25 (WHEREUPON, the jury retires to the jury

1 room at 11:43 a.m.)

2 THE COURT: You can bring them back in.

3 (WHEREUPON, the jury came into open
4 court at 11:45 a.m.)

5 THE BAILIFF: Your Honor, the jury is present
6 and seated.

7 THE COURT: All right. We'll continue.

8 (WHEREUPON, the testimony of Roger
9 Williamson continued to be played.)

10 THE COURT: All right. Ladies and gentlemen
11 of the jury, we will send you all out while we
12 prepare for the next witness's testimony.

13 (WHEREUPON, the jury retires to the jury
14 room at 11:50 a.m.)

15 MR. BERRY: Your Honor, on Ms. Todd's
16 testimony, there was direct, then cross, and then
17 there was an attempt to do redirect and she cried
18 for about five or ten minutes. And then Mr. Schnee
19 said, on second thought, no redirect; is that
20 correct? I don't know about ten minutes of crying.

21 MR. SCHNEE: It was more like a minute and a
22 half.

23 THE COURT: It wasn't ten minutes.

24 MR. BERRY: It felt like it.

25 MR. SCHNEE: I'm sure it did.

1 MR. BERRY: There was no testimony. He wanted
2 to redirect --

3 THE COURT: If he's saying something --

4 MR. SCHNEE: I did try. And I do want that on
5 the record that I, at least, did try to ask her
6 more questions.

7 MR. BERRY: But he didn't ask a question.

8 THE COURT: I'll tell Debbie when to stop.
9 Bring them on in.

10 (WHEREUPON, the jury came into open
11 court at 11:54 a.m.)

12 THE BAILIFF: Your Honor, the jury is present
13 and seated.

14 THE COURT: All right, ladies and gentlemen of
15 the jury, she is going to play Ms. Todd's
16 testimony.

17 (WHEREUPON, the testimony of Latisha
18 Todd was played for the jury.)

19 THE COURT: All right. Ladies and gentlemen
20 of the jury, I'm going to send you back out. This
21 break may be a little bit longer just because we've
22 got to go back and find his -- the other one was at
23 the beginning, hers was at the end. Officer Clarke
24 was somewhere in the middle. So it may take a
25 little bit longer.

1 (WHEREUPON, the jury retires to the jury
2 room at 12:31 p.m.)

3 THE COURT: Officer Clarke -- Investigator
4 Clarke's testimony, we know there was an area where
5 I said to strike, so what I'll do is give her the
6 opportunity to look for -- was there -- I know
7 there was some objection, but there's an area where
8 there was -- where I ordered them to disregard the
9 testimony.

10 MR. BERRY: It was my very last question on
11 redirect. And after we had a matter of law, I had
12 no further questions, so that was --

13 MR. SCHNEE: I seem to recall there was at
14 least one other thing that you struck instantly on
15 the record. I thought it was with Investigator
16 Clarke, but I'm not sure. I think that was
17 probably in direct itself. It could have been
18 redirect. Either way, take time to look through
19 it.

20 THE COURT: My law clerk said that it has to
21 do with the phone number and him turning over the
22 evidence. I believe I sent the jury out.

23 MR. BERRY: That was redirect. And the last
24 question I asked on redirect, you sent the jury out
25 and then when they come back, it was --

1 THE COURT: And then I gave them instructions
2 to disregard the last --

3 MR. BERRY: That's right.

4 MR. SCHNEE: The question and answer.

5 THE COURT: Did he answer it?

6 MR. SCHNEE: No, I don't know.

7 MR. BERRY: I think after you gave your
8 instruction, I just said no further questions, if I
9 recall.

10 THE COURT: We'll have her look at it real
11 quick and see if that's the only one. But she
12 can't do that while we are talking.

13 It's going to take about ten minutes, Debbie?

14 THE COURT REPORTER: Probably, yes.

15 MR. SCHNEE: Do you mind if we step out?

16 THE COURT: Yes. I'm going to the restroom.

17 (WHEREUPON, a short break was taken.)

18 (WHEREUPON, Court Exhibit No. 7 was
19 marked for identification only.)

20 THE COURT: Okay. We'll put this on the
21 record. While we were breaking, one of the jurors
22 sent out a note, and I couldn't tell who wrote it
23 or if two or three people wrote it. So I gave it
24 back to them and told them to write their question
25 to the foreman, or whatever their issue is, give it

1 to the -- have him put it on paper and forward it
2 to the Court. Because the letter was addressed to
3 the foreman, but then the foreman told the bailiff
4 to give it to me. So I gave it back to them. I'm
5 not sure. It was beyond comprehension.

6 MR. BERRY: We don't know the substance or
7 just waiting on the --

8 THE COURT: I don't know, because you can't
9 tell who's writing it or who they're writing it to
10 or what they are talking about. I don't know if
11 it's just them having some disagreement, which, of
12 course, we're not privy to that. But that appears
13 it may be some disagreement, which I'm assuming
14 that is what happens back there when they
15 deliberate.

16 And I don't want to ask the question, but when
17 he gives me the letter, we'll bring it back in and
18 we will try to figure out what -- I don't know if
19 they're trying to stay they're deadlocked or what
20 they're trying to say, but.

21 MR. SCHNEE: I guess we'll just have to wait.

22 THE COURT: Yeah, we'll just have to wait.

23 And I do need to make sure. I will tell them
24 if it's okay. So I went and knocked on the door
25 and told them -- I have to have the foreperson send

1 the letter. This is the reason it's very
2 confusing. I do need to tell them make sure he
3 does not put in the letter what -- if there is an
4 issue as to their vote that they don't put that in
5 the letter. Because they do that sometimes. All
6 right.

7 (WHEREUPON, a short break was taken.)

8 THE COURT: The jurors -- we thought we were
9 going to get another note. We haven't as you all
10 can see. And then their food is here, so Mr.
11 Bowman asked did they want to eat and they said --
12 I could hear them say, yes, we want to eat. So we
13 just put the food in there. We just put the food
14 in there, so y'all can hang around. If they send a
15 note, I'll come grab you. But at this point, I
16 don't know what in the world is going on.

17 MR. SCHNEE: I guess we're not playing back
18 Investigator Clarke or is that still --

19 THE COURT: Well, they're eating. I'll give
20 them -- let's give them about 15 or 20 minutes to
21 eat and then I'll ask them -- well, I was waiting
22 on the note from the foreman.

23 MR. SCHNEE: Right.

24 THE COURT: And then -- because depending on
25 what they say from the foreman, I may have to read

1 the Allen charge. If the foreman says we have to
2 read the Allen charge, we'll probably rather do
3 that than --

4 MR. SCHNEE: Or do both at the same time.

5 THE COURT: Or do both at the same time. So
6 I'm just waiting on something from him.

7 MR. SCHNEE: Sounds good.

8 (WHEREUPON, a short break was taken.)

9 (WHEREUPON, Court Exhibit No. 8 was
10 marked for identification only.)

11 THE COURT: Okay. I'll try to understand.
12 Like I said, the other note I got, I don't know if
13 it was written by one person, two people, three
14 people, who it was written to or what they were
15 talking about. This might explain a little bit
16 more. And this is Court Exhibit 8.

17 Judge Benjamin, during deliberations this
18 morning, a juror was offended when another juror
19 announced and made the following statement about
20 this juror's actions. We have all noticed you
21 picking at your nails and not looking at pictures.
22 Our concern with your lack of attention.

23 Next paragraph. This juror is of the opinion
24 that they have been an active and attentive juror.
25 The account of this morning when the juror was

1 challenged has negatively impacted this juror's
2 ability to continue to interact with the jury and
3 their reasoning process in their opinion.

4 So what I gather is one juror said something
5 to another juror about, You are not paying -- you
6 just zoned out. And now that juror is offended. I
7 don't know who can't continue to interact, is it
8 the juror that was picking fingers or was it the
9 juror that said something to them. But, yes,
10 that's where we are.

11 MR. SCHNEE: Yeah, I'm not sure exactly it's
12 clear which juror is not doing what they're
13 supposed to. It definitely sounds like one juror
14 is now refusing to deliberate or participate in
15 some fashion. And I don't know what --

16 THE COURT: I can bring the foreman in and ask
17 if that is -- I can bring him in and say, In your
18 opinion, is everyone participating, or is one juror
19 refusing to participate? And I will tell him do
20 not tell me who, do not tell me -- don't tell me
21 any numbers as to where y'all are on your vote.
22 And I will -- I mean, I don't know. This is not a
23 question, so I'm not sure what they want me to do.

24 MR. SCHNEE: Your Honor, frankly, that's
25 almost -- maybe the Court is even stepping too far

1 with that. Just, your job is to deliberate, so
2 deliberate.

3 THE COURT: So basically just have them come
4 back in and tell them that you all have to continue
5 to deliberate?

6 MR. SCHNEE: You have to have a unanimous
7 verdict.

8 THE COURT: Yes. Okay. And continue
9 deliberation. And they have to figure --

10 MR. SCHNEE: Not actually an Allen charge, but
11 just kind of a --

12 THE COURT: Well, they didn't say they were
13 deadlocked, so I can't them an Allen.

14 MR. SCHNEE: Exactly, but just something of --
15 this sounds like stepping too far into their room.

16 THE COURT: I don't want to get into it.

17 All right. So let's bring the foreman in.

18 I'll see what he says.

19 (WHEREUPON, the foreman came into open
20 court at 1:20 p.m.)

21 THE COURT: All right. Mr. Foreman, I
22 received your note. And as we told you all on
23 yesterday when I charged you, the verdict must be
24 unanimous, which means all 12 of you must agree.
25 And so I'm going to have to send you back in the

1 jury room and tell them that you all must continue
2 to deliberate. Of course, you can eat. If you
3 want to stop deliberating while you eat. But you
4 all have to continue to work and the verdict has to
5 be unanimous.

6 MR. FOREMAN: Thank you.

7 THE COURT: All right. Thank you.

8 (WHEREUPON, the foreman retires to the
9 jury room at 1:21 p.m.)

10 THE COURT: I asked the bailiff, who usually
11 if, they're back there arguing, we can hear it. He
12 said they're not very loud. Usually, if they are
13 about to fight, which sometimes happens, that you
14 can -- you know, you can hear them yelling and
15 cursing, but they said no. They said they're
16 pretty quiet. I don't know what that means.

17 All right. Let's give them 15 minutes to eat
18 and see if they still want to -- I'm not going to
19 stop them from eating. So let's take about 15
20 minutes and then we'll see if they still want to
21 hear Mr. Clarke's testimony.

22 (WHEREUPON, a break was taken at 1:22
23 p.m.)

24 THE COURT: Bring them in.

25

1 (WHEREUPON, the jury came into open
2 court at 2:11 p.m.)

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

5 THE COURT: All right, ladies and gentlemen of
6 the jury, I hope you enjoyed your lunch. At this
7 time, we will play back the testimony of
8 Investigator Clarke. I think there's one or two
9 times I have to send you out.

10 THE COURT REPORTER: And it's not playing.
11 Now, I can't get the speaker to work. I'll try
12 again. I might need another minute. Or an IT
13 person.

14 THE COURT: You need me to call IT?

15 THE COURT REPORTER: Well, I might need to
16 turn everything off and turn it back on. Do you
17 want to just send them out for a minute?

18 THE COURT: Yeah, we'll send you all out.

19 (WHEREUPON, the jury retires to the jury
20 room at 2:12 p.m.)

21 (WHEREUPON, the jury returns to open
22 court at 2:17 p.m.)

23 (WHEREUPON, the testimony of Joseph
24 Clarke was played for the jury.)

25 THE COURT: All right. I believe there was an

1 objection after that. I sent you all out.

2 Is that correct?

3 MR. BERRY: At the next question, yes, Your
4 Honor.

5 THE COURT: Then that was the end of the
6 testimony.

7 All right. I'll send you back out. Thank
8 you. You may continue your deliberations.

9 (WHEREUPON, the jury retires to the jury
10 room to continue deliberations at 3:25
11 p.m.)

12 THE COURT: All right. We'll be at ease.
13 We'll take a break and see what happens.

14 (WHEREUPON, a break was taken.)

15 (WHEREUPON, the following occurs at 5:28
16 p.m.)

17 THE COURT: They said they have a verdict.
18 You may be seated.

19 Are you ready to bring them in?

20 I am going to remind those of you who are in
21 the audience, please no outbursts, no comments
22 regarding the verdict, and please do not get up --
23 you cannot get up and leave until -- well, if you
24 think that you cannot control yourself, I would ask
25 that you leave at this time, but if you can, you

1 cannot -- when the jury recesses, you cannot leave
2 until they leave. So if anyone thinks that they
3 cannot control themselves, I would ask that you leave
4 at this time.

5 You can bring the jurors in.

6 THE BAILIFF: Yes, Your Honor.

7 (WHEREUPON, the jury came into open
8 court at 5:29 p.m.)

9 THE BAILIFF: Your Honor, the jury is present
10 and seated.

11 THE COURT: Thank you.

12 Mr. Foreman, the bailiff has informed me that
13 you all have reached a verdict; is that correct?

14 THE FOREMAN: Yes, Your Honor, we have.

15 THE COURT: And is that verdict unanimous?

16 THE FOREMAN: Yes, Your Honor.

17 THE COURT: Can you hand that to the bailiff?

18 (Court views verdict.)

19 THE COURT: All right. I am going to ask the
20 clerk to publish the verdict.

21 THE CLERK: In the Court of General Sessions,
22 Fifth Judicial Circuit, State of South Carolina,
23 County of Richland, State of South Carolina v.
24 Latisha Rashione Todd, the Defendant.

25 On Indictment Number 2017-GS-40-428, as to the

1 indictment of Diamond, alleging ill treatment of
2 animals, under Section 47-1-40(b): We, the jury,
3 unanimously find the Defendant guilty. As to the
4 lesser included charge of ill treatment of animals
5 under Section 47-1-40(a): We, the jury,
6 unanimously find the Defendant not guilty.

7 On Indictment Number 2017-GS-40-431, as to the
8 indictment of Sparkle, alleging ill treatment of
9 animals, under Section 47-1-40(b): We, the jury,
10 unanimously find the Defendant guilty. As to the
11 lesser included charge of ill treatment of animals,
12 under Section 47-1-40(a): We, the jury,
13 unanimously find the Defendant not guilty.

14 On Indictment Number 2017-GS-40-432, as to the
15 indictment of Panda, alleging ill treatment of
16 animals, under Section 47-1-40(b): We, the jury,
17 unanimously find the Defendant guilty. As to the
18 lesser included charge of ill treatment of animals
19 under Section 47-1-40(a): We, the jury,
20 unanimously find the Defendant not guilty.

21 On Indictment Number 2017-GS-40-433, as to the
22 indictment Midnight, alleging ill treatment of
23 animals, under Section 47-1-40(b): We, the jury,
24 unanimously find the Defendant guilty. As to the
25 lesser included charge of ill treatment of animals

1 under Section 47-1-40(a): We, the jury,
2 unanimously find the Defendant not guilty.

3 And it is signed by the foreperson and it is
4 dated 7/20/18.

5 Mr. Foreman, this is your verdict and the
6 verdict of the entire jury?

7 MR. FOREMAN: Yes, ma'am.

8 THE COURT: Anything else from the jury before
9 I release them? Anything from the State?

10 MR. BERRY: Nothing, Your Honor.

11 THE COURT: From the Defendant?

12 MR. SCHNEE: Request to poll the jury, Your
13 Honor.

14 THE COURT: Madam Clerk, can you poll the
15 jurors, please?

16 THE CLERK: Yes, Your Honor.

17 Mr. Foreman and ladies and gentlemen of the
18 jury, I'm going to call each of your names out and
19 I'm going you to --

20 THE COURT: You don't call the juror names
21 out.

22 THE CLERK: I'm going to call your juror
23 numbers out. I'll ask each of you two questions,
24 and I need you to answer those questions for me.

25 Number 188. Was this your verdict?

1 THE JUROR: Yes, ma'am.

2 THE CLERK: Is it still your verdict?

3 THE JUROR: Yes, ma'am.

4 THE CLERK: Number 245. Was this your
5 verdict?

6 THE JUROR: Yes, ma'am.

7 THE CLERK: Is it still your verdict?

8 THE JUROR: Yes.

9 THE CLERK: Number 123. Was this your
10 verdict?

11 THE JUROR: Yes.

12 THE CLERK: Is it still your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Number 311. Was this your
15 verdict?

16 THE JUROR: Yes.

17 THE CLERK: Is it still your verdict?

18 THE JUROR: Yes.

19 THE CLERK: Number 326. Was this your
20 verdict?

21 THE JUROR: Yes.

22 THE CLERK: Is it still your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Number 6. Was this your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Is it still your verdict?

2 THE JUROR: Yes.

3 THE CLERK: Number 332. Was this your
4 verdict?

5 THE JUROR: Yes.

6 THE CLERK: Is it still your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Number 239. Was this your
9 verdict?

10 THE JUROR: Yes.

11 THE CLERK: Is it still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Number 37. Was this your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Is it still your verdict?

16 THE JUROR: Yes.

17 THE CLERK: Number 73. Was this your verdict?

18 THE JUROR: Yes.

19 THE CLERK: Is it still your verdict?

20 THE JUROR: Yes.

21 THE CLERK: Number 204. Was this your
22 verdict?

23 THE JUROR: Yes.

24 THE CLERK: Is it still your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Number 268. Was this your
2 verdict?

3 THE JUROR: Yes.

4 THE CLERK: Is it still your verdict?

5 THE JUROR: Yes.

6 THE CLERK: The jury is polled, Your Honor.

7 THE COURT: All right. Ladies and gentlemen
8 of the jury, I do want to thank you for your
9 service here this week. I know that you have
10 worked very hard. You stayed late last night. You
11 worked all day today. So I do want to thank you.

12 As you can see, matters arise here in Richland
13 County and all across the state that cannot be
14 resolved by the parties, and that's when we have to
15 turn to 12 citizens like you under our constitution
16 to help us resolve matters.

17 I do want to thank you again on behalf of the
18 court staff and the attorneys involved for your
19 service here this week.

20 You will -- it is my understanding some of you
21 have already asked about work excuses. Our clerk
22 has work excuses for those of you who need a work
23 excuse. She also has some instructions for you
24 outside if you have any -- instructions for you, I
25 guess, regarding the checks.

1 Have a wonderful -- you are released for the
2 work. Have a wonderful weekend. And as I told
3 you, you can talk with anyone that you wish to
4 about this case at this time, or if you choose not
5 to talk to anyone about it, you don't have to.

6 So have a great afternoon. And thank you for
7 your service here this week.

8 Thank you.

9 (WHEREUPON, the jury was released at
10 5:36 p.m.)

11 THE COURT: All right. Any motions?

12 MR. SCHNEE: Yes, Your Honor. May it please
13 the Court?

14 First, I'd like to renew all prior motions and
15 objections.

16 Second, I would move for a new trial based on
17 all the prior motions and objections and the
18 hearings that we've had.

19 Specifically, and most importantly, I will
20 just readdress the issue of Photo Number 9. There
21 was absolutely no purpose for that going in other
22 than to inflame the passions of the jury. It was
23 not used in any analysis whatsoever. There was
24 clearly a non-horrific photo of where the dog was
25 after it was cleaned up, which was the only

1 apparent purpose to show the position of the dog,
2 which was described in full detail both verbally
3 and was shown in that other photo without showing
4 the pile or corpse of the puppy.

5 So, again, I ask for a new trial based on
6 that, and all other prior issues.

7 THE COURT: All right. Any response from the
8 State?

9 MS. MOSER: Your Honor, you know, I think we
10 put this on the record sufficiently. I think that
11 picture particular was necessary for this jury to
12 understand the pain and suffering that that
13 particular dog went through. So we think it was
14 entirely appropriate under State vs. Collins for
15 that picture to come in. And that's our position
16 on that particular issue.

17 THE COURT: All right. Well, based on the
18 prior rulings and the evidence before the Court, I
19 will respectfully deny the motion for a new trial,
20 but your motions are preserved for the record.

21 And at this time I will -- is the State
22 prepared to go forward with sentencing this
23 evening?

24 MR. BERRY: However Your Honor wants to handle
25 it. We are prepared to go forward. I know we

1 mentioned something --

2 MR. SCHNEE: Judge, respectfully, I would be
3 requesting a PSR for my client as to some of the
4 issues that were discussed; obviously,
5 off-the-record, but dealing with my client's PTSD,
6 her home life situation with her kids. I think an
7 evaluation by the Department of Probation, Pardon
8 and Parole is appropriate before Your Honor makes a
9 decision.

10 THE COURT: All right. Yes, sir?

11 MR. BERRY: Defer to you.

12 THE COURT: And I do think this is one of
13 those cases where a PSR, PSI would be appropriate
14 to aid the Court in making a decision regarding
15 sentencing.

16 Now, the other issue that I have before me is
17 that she, of course, now has been convicted of four
18 felonies and she does not have a bond. And so that
19 gives me some concern. I'll be glad to hear from
20 the State and then the Defense.

21 MR. BERRY: Beg the Court's indulgence.

22 (Pause.)

23 MR. BERRY: We defer to Your Honor on how to
24 best handle that.

25 MR. SCHNEE: Your Honor, as far as I'm

1 concerned for issue of bond, my client's bond would
2 still technically be in place in the same sense --

3 THE COURT: No, it's not --

4 MR. SCHNEE: -- as it has been for the past
5 couple of days. Even while she's convicted, it's
6 not a complete sentence, it hasn't been entered in
7 the court. I couldn't even file an appeal until
8 the sentence is handed down.

9 THE COURT: Yeah, but the bond -- technically,
10 she went off the bond. That's why they always ask
11 us to detain her. She went off the bond at the
12 call of the trial, if you read the language of it.
13 The bonding companies would make that argument --
14 if she were to flee, that would be the argument of
15 the bonding company is that they are no longer on
16 bond after she -- they secure her presence here for
17 trial.

18 MR. SCHNEE: In terms of the bonding company,
19 yes, I agree. But at this point, my client has
20 continued to show up. She is always here. I'd ask
21 that you give her a PR bond for PSR. And, clearly,
22 if she runs away and doesn't show up and doesn't
23 cooperate with Department of Probation, Your Honor
24 is going to sentence her to something much more
25 severe than you even remotely would ever consider

1 if she was here and cooperating with them. So it's
2 clearly in her own interest, kind of like a civil
3 contempt, she has the keys to her own cell. She
4 has a huge incentive to not go anywhere, and I
5 don't believe she will go anywhere.

6 THE COURT: Yes, sir?

7 MR. BERRY: She's got family in Pennsylvania.
8 We knows she goes out of state a bit, and there's
9 that concern for that as well.

10 THE COURT: All right. This is what I am
11 going to do. I am going to -- probation is not
12 here. I am going to detain her tonight. I have
13 already spoken to Mr. Smith. Probation can do the
14 PSI. He said -- I'm trying to decide if I want to
15 set a bond and put her on a monitor. I know I'm
16 going to put her on a monitor. I do have concerns
17 about her connections to Pennsylvania and her
18 testimony as being that she goes out of town. So
19 that gives me a little bit of concern. It's a
20 little different now because now she's been
21 convicted and convicted of a felony and is looking
22 at 20 years.

23 How much was the original bond?

24 MR. SCHNEE: It was \$5,000.

25 MR. BERRY: It was \$10,000 surety.

1 MR. SCHNEE: The only issue I raise is my
2 client's four kids.

3 THE COURT: I understand.

4 MR. SCHNEE: And the fact that it's a quarter
5 to 6:00 at night. Is there any chance that we can
6 set a bond tomorrow and let her go home tonight?
7 Because if she doesn't show up --

8 THE COURT: I don't want to let her go home
9 tonight. I understand your concern. And I tried
10 to see if I could get somebody back down here. He
11 was checking to see if they had any monitors
12 available. I'm going to detain her for tonight. I
13 will set the bond in the morning, but the condition
14 will be probation's monitor, so she won't have to
15 pay -- I'll let them put the monitor on her. I
16 assume -- they usually say they can't do it if
17 she's not on probation, but I've already told him
18 and he said he will check on it.

19 MR. SCHNEE: I'm sure they will follow your
20 order if you issue it.

21 THE COURT: So I'll order probation to put the
22 monitor on.

23 Can we put her on the list --

24 MS. BERRY: We will, Your Honor.

25 THE COURT: -- for her to be transported over

1 here in the morning.

2 And 10:00?

3 MR. SCHNEE: Yes, Your Honor.

4 MR. BERRY: Yes, Your Honor.

5 THE COURT: And she has her family in the
6 back, so they will have be able to take care of it.

7 All right. Thank you. I'll see you all in
8 the morning.

9 MR. BERRY: Thank you, Your Honor.

10 (WHEREUPON, the proceedings concluded at
11 5:44 p.m.)

12 JULY 21, 2017

13 (WHEREUPON, the proceedings began at
14 10:30 a.m.)

15 THE COURT: Good morning.

16 We have probation here in the courtroom. You
17 want to come down?

18 I will be glad to -- as I stated on last
19 evening, the Defendant was detained until we have a
20 bond hearing and have probation here. It's my
21 understanding, she was previously under a \$10,000
22 bond?

23 MR. SCHNEE: Yes, ma'am. We looked at the
24 bond form this morning. I've called the bonding
25 company. They are -- essentially -- I got a

1 computerized system that sent me to some random
2 person that works there. She's checking the
3 records, but she doesn't have any specific
4 knowledge of my client. So she's supposed to call
5 me back, but that's as far as I've gotten with
6 them.

7 THE COURT: Okay. Let me hear from the State
8 regarding their position on bond.

9 MS. MOSER: Your Honor, we do have a copy of
10 the bond form. I don't know if this was placed on
11 the record. Bailout Bail Bonds out of Sumter is
12 the name of the bonding company.

13 Your Honor, I guess we have a couple of
14 different things we'd like to address. This is
15 sort of an unusual situation with placing her on a
16 bond. If Your Honor is inclined to either keep the
17 bond as is or place her on a different bond, we
18 would ask that there be certain conditions placed,
19 including that she be placed on house arrest, that
20 she have an electronic monitoring so that we can
21 track her. Obviously, we ask that she remain in
22 state and not be allowed to leave. That she not
23 have any animals.

24 And, Your Honor, we do have -- I think this is
25 important for Your Honor to hear. We do have some

1 knowledge that there was a DSS hearing yesterday
2 that was supposed to take place. That hearing was
3 postponed, obviously because of this occasion. But
4 we do have the attorney for the guardian ad litem
5 present in the courtroom, Mr. Daniel Gibbs. I
6 don't know if you'd like to hear from him at some
7 point. But there was an open DSS intervention
8 case. Essentially, DSS was seeking her to compel
9 to comply with certain, I guess, services. It
10 seems to me that there was probably a founded case,
11 but we can't say for sure. You'll have to hear
12 from Mr. Gibbs about that. But it was in regards
13 to, I guess, for Family Court. But I think --

14 THE COURT: Does she have custody of her kids?

15 MS. MOSER: She does not currently have
16 custody -- I'm sorry, she does currently have
17 custody of her children, but there is this open
18 pending case. This was the first hearing
19 yesterday. So Mr. Gibbs will speak to that.

20 Your Honor, this is obviously -- it's an odd
21 situation. I don't know if -- we had considered
22 maybe asking for her to be sentenced on one of the
23 four charges so that we have some mechanism to make
24 sure that she's detained until the PSI results come
25 back. I don't know if that's something Your Honor

1 would consider. There is a 90-day minimum that
2 goes along with this felony charge. It's 90 to
3 five years is what it carries.

4 THE COURT: I thought it was 180.

5 MS. MOSER: I'm sorry, 180 to five years. So
6 that is something that we would ask the Court to
7 consider, is maybe sentencing her on one of the
8 four charges so that we have a mechanism to keep
9 track of her, either place her on probation or give
10 her that time until we know what the PSI is going
11 to say. And at that point, we can have the actual
12 sentencing hearing on the remaining three charges.

13 THE COURT: Well, you know, if I put probation
14 to monitor her, then she becomes -- she's
15 technically under their supervision at that time.
16 So say, for example, if they were monitoring her
17 and she violated or she was not cooperating, then
18 they could bring her back before me. So it would
19 be, in essence -- my understanding is that she
20 would be under their supervision just like she was
21 on probation under a monitor. And the conditions
22 and all that would apply too.

23 Is that correct, Mr. Smith?

24 MR. SMITH: Yes, ma'am.

25 THE COURT: If I ordered her to be on house

1 arrest and no animals or something, all of that
2 would apply. Somebody would go to --

3 MR. SMITH: Yes, ma'am.

4 THE COURT: -- go to the house and check the
5 house out. So she will be, in essence, under their
6 supervision, is my understanding.

7 MS. MOSER: Okay. Our position on that is, if
8 that's the case, we would ask that if she fails to
9 comply with any of those conditions, that she
10 automatically be detained so that we don't have to
11 go through the process of doing a Rule to Show
12 Cause.

13 THE COURT: Well, probation will bring her
14 back before me. He says it's going to take about
15 30 days or so, even though I asked him -- it may
16 take --

17 MR. SMITH: Thirty to 45 days, Your Honor.

18 THE COURT: Okay. So I guess my question for
19 you is, what is your position on the actual bond?
20 I mean, I understand y'all want me to sentence her
21 today.

22 MS. MOSER: Right. I think that is obviously
23 our position, but if you are more inclined --

24 THE COURT: But even -- from what you're
25 saying, there's a lot of information out there that

1 you don't know, I don't know, Mr. Schnee may not
2 know. I know there's some medical -- maybe some
3 medical records I need to see. Probation will have
4 to get all of that. So it makes it difficult to
5 sentence her today. That's why on last evening
6 with all the moving parts, I was saying we need to
7 probably -- this is not a case -- that this case is
8 probably more appropriate for PSI than most cases
9 that we order PSI on, pre-sentence investigation
10 on.

11 MS. MOSER: Right. And, again, we just
12 haven't experienced a case quite like this and we
13 didn't know procedurally if it was okay for the
14 bonding company to stay on or for there to be a new
15 bonding company.

16 THE COURT: I'd have to give her a new bond
17 for her appearance -- to secure her appearance at
18 court.

19 MS. MOSER: Okay.

20 THE COURT: At the sentencing -- in court for
21 the sentencing.

22 So let me ask the attorney for DSS, is he --

23 MS. MOSER: Yes. Mr. Gibbs is in the
24 courtroom. He's the attorney for the Guardian ad
25 Litem.

1 THE COURT: I'm sorry, for the Guardian ad
2 Litem.

3 Yes, sir, just a couple of questions. And
4 it's just because of the nature of the case that
5 I'm asking this. What's the allegations? Is it
6 allegations of neglect or anything?

7 MR. GIBBS: Thank you, Your Honor. At this
8 time, our records are all strictly confidential.
9 If you are ordering us to provide this information
10 at this hearing, we can certainly provide some
11 background if you are so ordering, but --

12 THE COURT: Well, I can order that.

13 MR. GIBBS: Thank you.

14 THE COURT: My understanding is that -- if
15 there's issues -- this is a case of neglect. And
16 if that is the allegations -- I mean, I don't know
17 what the allegations are from the DSS case.

18 MR. GIBBS: Yes, Your Honor. So, basically,
19 our records reflect -- and the hearing yesterday
20 was the first call hearing, so we've only read the
21 pleadings. We've not been able to do a lot of
22 investigation at this point. The allegations are
23 allegations of physical abuse at this time, but it
24 is, as stated before, an in-home case. So she does
25 retain custody of the children. And according to

1 the pleadings, custody is not an issue in that
2 hearing.

3 THE COURT: There's no allegations of neglect?

4 MR. GIBBS: There were, I believe, some former
5 allegations, maybe -- I think it was regarding
6 something regarding medications, that level. In
7 terms of physical neglect, there are not any
8 allegations at this time.

9 THE COURT: All right. Thank you, sir. If
10 there's something I need to sign, just get it to me
11 and I'll sign it regarding you giving me --

12 MR. GIBBS: Thank you, Your Honor.

13 THE COURT: All right. Anything else from the
14 State?

15 MS. MOSER: Your Honor, I don't think there's
16 anything else that we can provide. I don't know if
17 you're asking for a specific amount as far as a
18 suggestion for the bond.

19 THE COURT: No, I'm just asking do you have a
20 position, I'm not asking for --

21 MS. MOSER: No.

22 THE COURT: All right.

23 Yes, sir, Mr. Schnee?

24 MR. SCHNEE: Thank you, Your Honor. May it
25 please the Court?

1 THE COURT: I assume you oppose a PR?

2 Yesterday you opposed it.

3 MS. MOSER: Yes, we would oppose that.

4 MR. SCHNEE: Judge, like I said, I'm still
5 waiting to hear back from the bonding company.
6 Obviously, my client is indigent. This is an
7 appointed case. She does have four children that
8 she has custody of. If Your Honor goes along with
9 all conditions they're requesting, that would be
10 probation monitoring her constantly. She's going
11 to be on ankle monitor. She's on house arrest,
12 which means she -- other than going to work and
13 going to somewhere like the grocery store to get
14 food for her kids, she's going to be locked up at
15 home all day.

16 THE COURT: Does she work?

17 MR. SCHNEE: Yes, she does.

18 THE COURT: Where does she work?

19 THE DEFENDANT: For a janitorial company.

20 THE COURT: What's the name of the company?

21 THE DEFENDANT: Matthews Janitorial.

22 MR. SCHNEE: Other than that, Judge, she'll be
23 locked up in her house or probation is going to
24 come and pick her up for violating their terms. No
25 one that's put on probation is given a bond. I

1 mean, that's why we have a probation agent
2 monitoring them. I think a PR bond with the number
3 of conditions and the amount of monitoring is more
4 than appropriate. If Your Honor ends up sentencing
5 her to probation, it's not like she's going to have
6 a bond to post for that anyway. Obviously, the
7 Department of Probation is going to have a lot of
8 questions to ask her. They are going to be records
9 from the VA. They might need other mental
10 assessments or anything else.

11 So, yes, 45 days is probably a fair estimate,
12 but it could even longer, depending on just
13 interagency complications. I would ask Your Honor
14 to give her a PR bond pending sentencing with the
15 conditions that the State is requesting. We're not
16 opposed to any of those.

17 THE COURT: All right. Anything else?

18 MS. MOSER: Your Honor, we do have some
19 serious safety concerns based on what we heard at
20 trial, and then based on now what we've heard about
21 the DSS allegations involving her children. So we
22 would ask for a significant bond along with all of
23 those requests regarding house arrest, electronic
24 monitoring, that she does not have any animals.

25 At this point, she has been not only charged,

1 but now convicted with a crime that carries 180
2 days to five years. And it was four counts, which
3 means she's looking at 20 years. So we are taking
4 this -- we take this very seriously. And we are
5 concerned with the safety of her children. We're
6 concerned with the fact that she may flee. So we
7 obviously want to make sure she's tracked. And we
8 do think a significant bond amount is appropriate.

9 THE COURT: All right. Well, taking into
10 consideration that she is at this point convicted
11 of four felonies, the testimony in the cases
12 yesterday -- I mean, this week -- was that she has
13 ties I think to Philadelphia, and I think she also
14 said had ties to other places. What I'm going to
15 do is set the bond as an \$18,000 surety bond. As a
16 condition of that, she will be on electronic
17 monitoring. Mr. Smith says that they require --
18 they now require for electronic monitoring -- they
19 usually require more, but just have her pay the
20 first -- what, \$240?

21 MR. SMITH: Yes, ma'am.

22 THE COURT: \$240 to get the monitor hooked up.
23 And then she'll have to pay. She can continue to
24 work. What I will do is, if she's working, it's
25 going to be difficult for them to -- well, if she's

1 working, she'll have to let them know where she is
2 working on any particular day. If she's
3 cleaning -- she says she's working for a company.

4 Do you have a schedule as to where are you,
5 ma'am? Because you're going to have to let the
6 monitor know. And I know your friend is back there
7 saying no, but that's the --

8 She's not going to run around the streets with
9 you, so that's not going to happen. She's going to
10 be on house arrest.

11 Ma'am, can they tell you where you will be
12 working on any particular day?

13 THE DEFENDANT: I have a list of the buildings
14 that I do.

15 THE COURT: Okay. So there's buildings that
16 you go to? You work for Matthews -- who are you
17 living with, ma'am? Where are you living now? You
18 said you were living with your uncle or somebody?

19 THE DEFENDANT: I stay by myself.

20 THE COURT: Okay, by yourself. They'll need
21 an address from you. You are going to need -- they
22 are going to need -- obviously, probation is going
23 to need her to sign a release to get the medical
24 information, but anything that you can assist in
25 regarding those medical records, Mr. Schnee, that

1 will be helpful?

2 MR. SCHNEE: Sure.

3 THE COURT: What I'm going to do is -- she
4 will be on house arrest. She can go to work,
5 church, medical appointments for her and the kids.

6 And where do your kids go to school, ma'am?

7 THE DEFENDANT: They're going to be starting
8 new schools this year.

9 THE COURT: Where?

10 THE DEFENDANT: My oldest two -- or one will
11 be going to A.C. Flora.

12 THE COURT: How old is that one?

13 THE DEFENDANT: Fourteen, will be 15. In
14 September, will be going to A.C. Flora.

15 THE COURT: Crayton?

16 THE DEFENDANT: Crayton. And I can't
17 remember.

18 THE COURT: Satchelford?

19 THE DEFENDANT: Yes.

20 THE COURT: How old are they?

21 THE DEFENDANT: Fourteen, 13, 11 and 8.

22 THE COURT: Okay. Do you normally take them
23 to school or they ride the bus?

24 THE DEFENDANT: Last year, they were taking a
25 cab because they were still going to Greenvew.

1 But this year they will be riding the bus.

2 THE COURT: You'll need to -- because this
3 probably won't be completed by the time they go
4 back to school. You'll need to let probation
5 know -- if you are leaving home to go to something
6 or go to the school for something, just let them
7 know where you are. If you don't, then they're
8 going to bring you back -- they're going to come
9 back before me and ask me -- any violations, of
10 course, probation will ask you be brought back
11 before the Court immediately. They are going to
12 come back before me and ask you to sit in jail
13 until they get it completed. Do you understand?

14 THE DEFENDANT: I understand.

15 THE COURT: No animals. You have animals in
16 your home now? Where are the dogs?

17 THE DEFENDANT: Getting relocated to my
18 uncle's house.

19 THE COURT: So they're going to come and they
20 will make surprise visits, your attorney will tell
21 you, but you're not to have any contact with any
22 animals. Do you understand that?

23 THE DEFENDANT: (Nods affirmatively.)

24 THE COURT: You cannot leave the state. Are
25 the kids in South Carolina now?

1 THE DEFENDANT: Yes.

2 THE COURT: As a condition, also, if you --

3 If she is -- if there are any violations, she
4 has to be automatically detained.

5 What time do you normally finish work, ma'am?

6 THE DEFENDANT: It varies, all depending on
7 the day.

8 THE COURT: You work late into the evenings?
9 Because there's going to be a curfew of
10 8:00 o'clock.

11 THE DEFENDANT: I can't go into any of the
12 buildings until after they close.

13 THE COURT: All right. So it will just be
14 house arrest. So you're home during the daytime?

15 THE DEFENDANT: Yes, unless I have to go and
16 drop supplies off.

17 THE COURT: All right. I think that's
18 everything.

19 Is that everything?

20 MS. MOSER: Your Honor, we did have one more
21 thing. We have an order for DSS records that we
22 would just ask you to sign, a copy to the Defense.
23 This is just to expedite things for the PSI process
24 to get the DSS records quickly as possible.

25 THE COURT: All right.

1 MS. MOSER: If I may approach?

2 THE COURT: Yes. And you'll need to share
3 those records with probation.

4 MS. MOSER: Yes.

5 MR. SCHNEE: I would need a copy as well.

6 THE COURT: Of course. Of course.

7 And, Mr. Schnee, of course, you will get a
8 copy of the report.

9 MR. SCHNEE: Yes, Your Honor. The only other
10 thing I would ask, Your Honor, would you consider
11 adding something like the grocery store to the list
12 of approved places?

13 THE COURT: That kind of stuff, she just gets
14 approved through them. Let them know, I mean, I go
15 do my grocery shopping on Friday afternoon, and
16 they'll -- as long as they know -- the whole point
17 is for them to know where she is. I mean,
18 obviously, she has to go get food from the grocery
19 store, so nobody is going to be opposed to that.
20 But she just needs to let them know. She can't
21 say, Oh, I was at the grocery store for three hours
22 after the fact. She needs to let them know before
23 she goes. Or if this is her time to go to the
24 grocery store, Saturday morning from 10:00 to
25 12:00, just let them know and where she's going to

1 the grocery store. That's all they need to know.

2 MR. SCHNEE: Okay. I just wanted to make sure
3 that was clear.

4 THE COURT: All right. I believe that's
5 everything.

6 All right. Thank you.

7 MR. SCHNEE: Thank you, Your Honor.

8 THE COURT: And we'll see you back in 30 to 45
9 days.

10 MR. BERRY: Thank you, Your Honor.

11 MS. MOSER: Thank you.

12 THE COURT: They are not going to release --
13 they are going to take her back to Alvin S. Glenn.
14 Once the bond is signed, then they will release
15 her, but she can't be released until she gets a
16 monitor.

17 MR. SCHNEE: Correct. I understand.

18 THE COURT: So she has to pay the \$250.

19 MR. SCHNEE: To -- that has to be paid to
20 probation or?

21 THE COURT: Who does she pay the \$250 to, up
22 front?

23 MR. SMITH: Up front at the probation office.

24 THE COURT: Up front at the probation office.
25 So you'll get Mr. Schnee a copy of that order?

1 MR. SMITH: I also need the order and get it
2 signed.

3 MR. SCHNEE: Okay, so just in your office
4 here?

5 THE COURT: Here? Your office here?

6 MR. SMITH: The main office.

7 THE COURT: Yes. All right.

8 MR. BERRY: Thank you, Your Honor.

9 THE COURT: Thank you.

10 (WHEREUPON, the proceedings were
11 concluded at 10:50 a.m.)

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(END OF TRANSCRIPT)

1 STATE OF SOUTH CAROLINA

2 COUNTY OF RICHLAND

) COURT OF GENERAL SESSIONS

2017-GS-40-00428

2017-GS-40-00431

2017-GS-40-00432

2017-GS-40-00433

5 State of South Carolina,

6 Plaintiff,

7 vs.

) TRANSCRIPT OF RECORD

8 Latisha Rashione Todd,

9 Defendant.

10 February 20, 2018

11 Columbia, South Carolina

12
13
14 B E F O R E:

15 THE HONORABLE DEANDREA G. BENJAMIN, JUDGE; and a
16 jury.

17
18 A P P E A R A N C E S:

19 JOSEPH B. BERRY, ASSISTANT SOLICITOR
20 SANDRA V. MOSER, ASSISTANT SOLICITOR
Attorneys for the Plaintiff

21 MARK E. SCHNEE, ESQ.
22 Attorney for the Defendant

23
24 DEBORAH M. McCURDY, RPR
25 Official Court Reporter

I N D E X O F W I T N E S S E S

(WHEREUPON, no witnesses were called
during these proceedings.)

E X H I B I T S

Court Exhibit 1.....PSI.....14

1 FEBRUARY 20, 2018

2 (WHEREUPON, the proceedings began at
3 2:47 p.m.)

4 THE COURT: Do you have the indictment?

5 MR. BERRY: We are preparing the final sheets
6 right now.

7 THE COURT: All right. This case was tried
8 July 18th, 2017. And Ms. Todd was charged with
9 four counts of ill treatment of animals under
10 47-1-40(B). And the Indictments are
11 2017-GS-40-428, 431, 432, and 433.

12 At that time the jury did find Ms. Todd guilty
13 on all four counts. Sentencing was deferred at the
14 request of, I believe the Defense attorney, and a
15 PSI, pre-sentence investigation, was ordered.

16 She was found guilty under (B), which is the
17 felony; is that correct?

18 MR. BERRY: Yes, Your Honor.

19 THE COURT: All right. I'll be glad to hear
20 from the State as to sentencing, and then I'll be
21 glad to -- and then I will hear from Mr. Schnee, on
22 behalf of the Defendant.

23 MR. BERRY: Yes, Your Honor. May it please
24 the Court? Joe Berry, for the State.

25 By brief way of procedural history, this

1 incident occurred between June and July of 2016.
2 It came to trial last July. And a jury of Ms.
3 Todd's peers found her guilty on the four felony
4 counts of animal cruelty last July.

5 This case was four animals that were hers,
6 four dogs that were hers, that she left behind at
7 her home when she went to Pennsylvania. She
8 dropped her kids off there at some point, came back
9 to town at some other point, and then did not go
10 back to the dogs. She left the dogs in the house
11 where they ultimately died due to lack of food,
12 water, heat, in a particularly poor manner, a
13 pretty ugly manner. It was very hot that summer.

14 At some point the maintenance from the house
15 owners comes by the house, smells that, goes
16 inside. Law enforcement was contacted, along with
17 Animal Control. An investigation ensues.

18 And Ms. Todd comes to the house at that time
19 and gives a statement acknowledging ownership and
20 making a statement that she had taken her other
21 dog, Prince, to a different house and left the four
22 dogs -- Midnight, Sparkle, Diamond, and Panda --
23 behind, and acknowledging that she had come by the
24 house to get her mail, but that she did not go
25 inside because she didn't like it when they jumped

1 on her.

2 Law enforcement made an arrest. After arrest,
3 we had offered a tough offer to Defense. We had
4 asked them to plead guilty as charged for the
5 felonies; that we were going to ask for time. They
6 didn't sign that. We went to trial.

7 Our posture does remain the same, Your Honor.
8 Law enforcement believes due to the nature of these
9 deaths, plus a lack of remorse, that time is
10 appropriate. We believe the PSI, probation has
11 likewise recommended some period of time.

12 The legislature has set out for these crimes a
13 minimum of six months to a maximum of five years;
14 so, basically a minimum of two years to a maximum
15 of 20. We believe that some time is appropriate.
16 I believe probation also said to follow up with
17 community supervision and services. And that is
18 our posture. I don't think that has changed
19 through this time at all.

20 I know Investigator Clarke is here. And that
21 is, I believe, all we have.

22 MR. CLARKE: That's it.

23 MR. BERRY: Thank you, Your Honor.

24 THE COURT: All right. Thank you.

25 Yes, sir, Mr. Schnee?

1 MR. SCHNEE: Thank you, Your Honor. May it
2 please the Court?

3 Just very briefly about the trial itself, Your
4 Honor. As you remember, one of the motions I
5 actually made in terms of directed verdict was the
6 immense confusion with the two different versions,
7 Subsection (A) and (B) of the statute. I know
8 during that time Your Honor even struggled with it,
9 at least to some extent, as to the definitional
10 aspect for Subsection (B) dealing with, you know,
11 what constitutes torturing animals.

12 The jury was out for significantly longer than
13 the testimony lasted. I think they were out for 12
14 or 13 hours in deliberations in total. Clearly,
15 the jury struggled a lot with the facts in this
16 case and the elements of the indictments.

17 In terms of my client -- just for the record,
18 I have instructed her not to discuss any of the
19 facts if she decides to talk at all, if Your Honor
20 even wants to hear from her. We obviously will be
21 filing an appeal in this case and can't do so until
22 this is completed.

23 In terms of my client, she has been
24 essentially consistently employed throughout this
25 entire process. She was working very hard with a

1 company that went out of business, essentially, or
2 significantly transferred when the owner died. She
3 remembers she was cleaning after hours in banks and
4 other things. She did obviously change jobs since
5 then. And since December of 2017 she has been
6 working at Pizza Hut doing various jobs. Her
7 manager is actually in the courtroom, along with
8 some family members.

9 She is doing very well, in general. She does
10 have issues with the Family Court and her children.
11 She has a hearing scheduled for March 1st. They
12 are currently putting her through anger management
13 classes, and other things. So there have been a
14 lot of significant changes in her life. Other than
15 a few very minor GPS issues, one of them obviously
16 Your Honor was aware of from last week, that dealt
17 with a family emergency. It was very late at
18 night. My client called probation, explained what
19 was going on, the fact that the battery had died.
20 My client immediately charged it as soon as she
21 went home. There was simply a family emergency
22 involved with that. Not saying it was the right
23 thing to do, but clearly the intent is not for her
24 to thumb her nose at the Court, or anything else.

25 She has done very well overall. Your Honor

1 obviously deals with a lot of probation violations
2 on a somewhat weekly basis, especially when you
3 were a chief admin judge, and I am sure you have
4 seen what types of violations people have. This is
5 not even remotely what you normally see when
6 probation is asked for people to go to prison as a
7 result.

8 Her entire criminal history involves
9 essentially what we would call a shoplifting or
10 two, back years and years ago in Pennsylvania.

11 Based on the nature of the actual -- what my
12 client did -- and you heard the defense, you heard
13 our witnesses, that she did have care provided for
14 these dogs, and that failed. Clearly, the State
15 has a different opinion. We still maintain that
16 she did, in fact, have people that were supposed to
17 care after these dogs. Clearly, supervision of
18 that wasn't sufficient.

19 I am asking Your Honor for a probationary
20 sentence. This trial was approximately seven
21 months ago. She is not committing more crimes.
22 She is working with the Family Court. I think she
23 has shown that she is an excellent candidate for
24 probation. And I ask you not to send her to
25 prison.

1 THE COURT: All right. Thank you.

2 Probation?

3 PROBATION OFFICER KING: Yes, Your Honor. If
4 it pleases the Court?

5 Ms. Todd was being supervised by Agent Duckett
6 while out on bond. I spoke with Ms. Duckett
7 personally this morning. She told me that Ms. Todd
8 did all right in the very beginning of her bond;
9 however, the occasion where her children were taken
10 from her, she said she saw a decline in the success
11 with her GPS. She started getting no motion,
12 started getting low battery. There were additional
13 low battery statuses prior to the incident that
14 occurred on February 7th, which I was the on-call
15 supervising agent at that time. Not only did the
16 On-Call Center talk to Ms. Todd, but I talked to
17 her personally as well, and no mention at all about
18 any family emergency was ever brought to our
19 knowledge.

20 In addition to that, Your Honor, like I said,
21 she did all right at the beginning. It just seems,
22 as Ms. Duckett told me, things kind of went
23 downhill with her GPS.

24 In addition to -- I'm sorry, Your Honor. That
25 happened on the 7th where she let her unit die,

1 after she was paged ten separate times and never
2 charged it where it died and did not charge her
3 unit until 12:20 in the morning. And the following
4 evening as well. Your Honor, she left her house at
5 12:10 in the morning, didn't get home until 12:41,
6 where was out doing as she saw fit rather than
7 contacting our office for permission to be out.

8 THE COURT: All right. And the pre-sentence
9 investigation I have. Do you want to speak on
10 that?

11 PROBATION OFFICER KING: We just stand behind
12 the pre-sentence.

13 THE COURT: And your recommendation is?

14 PROBATION OFFICER KING: The recommendation,
15 Your Honor, is a period of incarceration followed
16 by community supervision.

17 THE COURT: All right. Anything else?

18 MR. CLARKE: Your Honor, just briefly. And I
19 will be brief.

20 I investigate a lot of these, and myself and
21 Investigator Wagner investigate a lot of these, and
22 I don't think Ms. Todd is a bad person, but she was
23 clearly negligent in this case.

24 Keep in mind, when I talked to her about this,
25 she knew those animals were inside that house. She

1 came to check on her mail. She knew the animals
2 were inside the house. She told me they were
3 barking. So this wasn't a case of malicious
4 intent, per se. I would somewhat argue
5 differently, but I would say this is certainly
6 negligence, willful negligence, on her part. And
7 keep in mind, the only one that cannot speak
8 today -- and they couldn't speak before, and I
9 understand they are animals -- I understand there
10 is a different bar, but these animals were left in
11 the house on a hot summer without proper food or
12 water, without any air conditioning, and they
13 slowly, needlessly suffered and died. That is
14 torture. These animals died slowly and needlessly,
15 and they did so because no one would open the door
16 and let them out of the house.

17 That's all I have.

18 THE COURT: All right. Thank you.

19 All right, ma'am, on Indictments

20 2017-GS-40-428, 431, 432, and 433, you will be
21 sentenced to the State Department of Corrections
22 for five years, provided upon the service of 30
23 months, the sentence will then be suspended on
24 probation for two years. The sentences will run
25 concurrent. I don't know if she has any time --

1 credit for time served?

2 MR. SCHNEE: Yes, Your Honor, she should have
3 approximately one week and two days. She spent the
4 weekend upon initial arrest, and then one week
5 after the trial.

6 THE COURT: So nine days? Nine? Ten days?

7 MR. SCHNEE: Ten days, yes, ma'am, something
8 like that.

9 THE COURT: All right. And then I'll make the
10 PSI a Court Exhibit also.

11 All right.

12 PROBATION OFFICER KING: And, Your Honor, did
13 you want to make any counseling part of her --

14 THE COURT: I did. Mental health counseling,
15 anger management, and Voc Rehab.

16 PROBATION OFFICER KING: Thank you.

17 THE COURT: All the recommendations of
18 probation.

19 PROBATION OFFICER KING: Thank you, Judge.

20 MR. BERRY: Thank you, Your Honor.

21 THE COURT: All right. Thank you.

22 MR. SCHNEE: Thank you, Your Honor.

23 THE COURT: And I will make this a Court
24 Exhibit. Thank you.

25

1 (WHEREUPON, Court's Exhibit No. 1 was
2 marked for identification only.)

3 (WHEREUPON, the proceedings were
4 concluded at 3:01 p.m.)
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25 (END OF TRANSCRIPT)

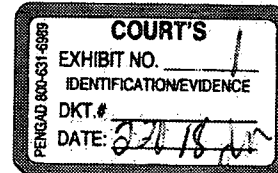
State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
 Governor



SCDPPPS
 1221 GREGG STREET
 COLUMBIA, SOUTH CAROLINA 29201
 Telephone: (803) 734-9144

JERRY B. ADGER
 Director



Presentence Investigation

Latisha Rashione Todd
 [REDACTED] Wentworth Street
 Columbia, SC 29204

DOB/AGE: [REDACTED] 1982/35
 SSN: [REDACTED]

Offense: Ill Treatment of Animals, 4 cts.

Facts of Offense:

Defendant's Version:

Ms. Todd stated during interview that she will defer to statement given on 7/7/16 to RCSD Investigator J. Clarke:
 Ms. Todd stated that she left for Pennsylvania on June 3, 2016 and returned on July 3, 2016. However, on July 3, 2016, the defendant did not enter the residence. She stated that she got her mail and did not go inside because "they get so excited." She stated that she left food and water when she left in June, 2016. She stated that she learned of the dogs deaths from her Uncle who was told about it by a maintenance guy.

Facts of Offense:

Official Version:

Warrant #2016A4010600401 states that on or about July 3, 2016, at [REDACTED] Scarsdale Drive, in Richland County, Latisha Rashione Todd did commit the crime of Ill Treatment of Animals in that she admitted to the following: being the lease holder and current resident of [REDACTED] Scarsdale Drive and the owner of a dog named "Diamond" which she willfully and knowingly left in a back bedroom of her home on June 3, 2016 and did not return until July 3, 2016. The dog died of starvation.

Warrant #'s 16A4010600402-404 related the same facts with different dogs named "Sparkles, Panda and Midnight."

Presentence Investigation

Facts Continued:

Investigator Clarke stated that he arrived at [REDACTED] Scarsdale on 7/7/16. Once out of his vehicle, from approximately 50 yards away, he could smell the decomposition. He stated that upon his arrival, he was met by Latisha Todd. She confirmed that she was current lease hold and claimed ownership of five (5) dogs, four (4) of which had died at the residence. She gave consent to search her home. Investigator Clark stated that he was standing at the door to the residence with Latisha Todd and, when opened, he observed the immediate area covered with roaches. In the bathroom was the officer saw trace evidence of fur and flesh on the bathroom floor. A shovel had been used to gather the animal into a bag. In the back bedroom, Investigator Clarke observed an open kennel and the floor was completely covered in fecal matter. In addition, on the floor, was the residual outline of three (3) dogs.

The subsequent findings revealed that the animals had been abandoned. They had been left with inadequate food and water and had starved to death. Due to the extreme seasonal heat (Summer) and no a/c, the decomposition was sudden and pronounced.

Investigator Clarke questioned Latisha Todd and after waiving Miranda, she took ownership of all dogs found inside the house. She stated that she had left the dogs in the home on June 3, 2016 and she left them in a closed back bedroom. She claimed that she had left food and water. However, per Investigator Clarke, there was no evidence of either food or water. She stated, as noted above, that she learned the fate of the dogs on July 3, 2016 from her Uncle who had learned the fate of the dogs from the maintenance technician noted above. The uncle had then removed the dogs from the house and had them stored in plastic bags in the backyard kennel.

The subject was charged with four (4) counts of Ill Treatment of Animals for the "needless, cruel unnecessary pain and suffering of the animals as they slowly starved to death unattended. Thus by omission or commission she is sole responsible for their deaths."

Prior Record:

Date	Location	Conviction	Sentence
2/26/10	Pennsylvania	Retail Theft	Fines and cost
2/26/10	Pennsylvania	Disorderly Conduct	Fines and cost

No record in South Carolina per SLED Rap Sheet.

Supervision History:

Non applicable.

Employment:

Currently unemployed, last employment was with a janitorial service which went out of business when the owner passed away. Ms. Todd reports no income at this time.

Presentence Investigation

THE DEPARTMENT RESPECTFULLY RECOMMENDS THAT THE DEFENDANT BE:

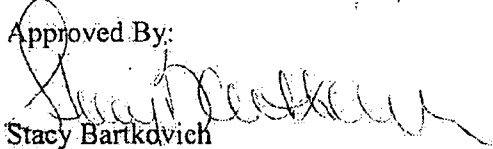
1. Sentenced to the South Carolina Department of Corrections for a period of time to be followed by a period of community supervision.
2. Evaluation for PTSD and Anger Management issues while on community supervision.
3. Evaluated by Vocational Rehabilitation for possible job/employment training.

Per interview, the subject does not have any financial income at this time.

Respectfully Submitted:

R. Renfroe, Badge #846

Approved By:



Stacy Bartkovich

AAIC, Richland County

Presentence Investigation

Income:

As noted, Ms. Todd reports that she is unemployed and does not have any income at this time.

Education:

Ms. Todd states that she graduated from high school in Pennsylvania and had one (1) year of technical school at Harrisburg Community College, studying Computer Tech.

Special Needs:

Ms. Todd states that she served in the U.S. Army from July 2000 to October 2009. She states that she received an Honorable Discharge. She states that she currently suffers from PTSD and Anger Management issues. She is on prescription medication for Migraines. She reports that she drinks approximately once per month. She denies any illegal drug use.

Residence:

Ms. Todd reports that she currently resides at [REDACTED] Wentworth, Columbia, SC 29203. She states that it is a one bedroom and one bathroom apartment that she shares with a male cousin. The rent is \$275.00 per month.

Victim Input:

Non applicable.

Law Enforcement Input:

Investigator Joe Clarke, RCSD, left message to call, will forward response.

Joseph Barry, Assistant Solicitor, 5th Judicial Circuit:
The State recommends a period of incarceration.