

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dorchester County

Honorable Maite Murphy, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BYRON CHRISTOPHER KINSEY,

APPELLANT

APPELLATE CASE NO 2017-001250

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT #36 (CD – VERIZON DATA); STATE'S EXHIBIT #45 (CD –
VERIZON DATA) and STATE'S EXHIBIT #46 (CD – POWER POINT)**

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF DORCHESTER) CASE NO.: 2015-GS-18-971,
 2017-GS-18-932 and 933

STATE OF SOUTH CAROLINA,)
)
 v.) TRANSCRIPT OF RECORD
)
 BYRON CHRISTOPHER KINSEY)
)
)

ORIGINAL

Monday, May 15, 2017 - Thursday, May 18, 2017

COMMENCING AT:
 Dorchester County Courthouse
 St. George, South Carolina
 Before The Honorable Maite Murphy, Judge

APPEARANCES:

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 Official Court Reporter

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1 (The proceedings in the trial of the case began Monday,
2 May 15, 2017, at 2:45 p.m.)

3 AST. SOL. SORENSON: Thank you. May it please the
4 Court, Your Honor?

5 THE COURT: Yes, sir.

6 AST. SOL. SORENSON: At this time, I think we're ready
7 to begin the case of the State versus Bryon Christopher
8 Kinsey. It's three indictments, Your Honor:
9 2015-GS-19-971, and then 2017-GS-18-932 and 933 charging him
10 with one count of murder, one count of armed robbery, one
11 count of possession of a firearm by a person convicted of a
12 violent crime. Mr. Kinsey is present with his lawyers,
13 Mr. Loy and Mr. Kornegay. I guess we're ready to handle
14 whatever pretrial matters we might have.

15 THE COURT: All right, sir. What's your -- is there a
16 first motion?

17 AST. SOL. SORENSON: I know there is a photo lineup
18 where Mr. Kinsey is identified by a witness. I'm assuming
19 that they are challenging that.

20 MR. LOY: That's correct, Your Honor.

21 AST. SOL. TEMPLETON: Yes, Your Honor.

22 THE COURT: So you're ready to proceed with that
23 hearing?

24 AST. SOL. SORENSON: Yes, Your Honor.

25 THE COURT: You may call your first witness.

1 AST. SOL. SORENSON: The State calls Alphonso
2 Middleton.

3 MR. LOY: Your Honor, at this point, I don't know who
4 all is in the courtroom. I know the potential witness list
5 goes on 27 people. I make a motion to sequester any fact
6 witnesses who are in the courtroom during the testimony of
7 any other fact witnesses.

8 THE COURT: Any objection?

9 AST. SOL. SORENSON: I don't, Your Honor. I guess
10 really probably the only person that's not a family member
11 would be Detective Elmore since he . . . I think we're good.

12 THE COURT: That takes care of everybody? All right.

13 (ALPHONSO MIDDLETON, was duly sworn and provided the
14 following testimony.)

15 THE COURT: Your witness.

16 AST. SOL. SORENSON: May it please the Court.

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY AST. SOL. SORENSON:

20 Q. Good afternoon, Mr. Middleton. Good afternoon.

21 A. Good afternoon, sir.

22 Q. Okay. Need to make sure to keep your voice up nice and
23 loud for us, okay.

24 A. Yes, sir.

25 Q. And if you would, please tell the judge how old you

1 are.

2 A. I am 56 years old.

3 Q. And back in March of 2015, where were you living at at
4 that time?

5 A. Back when now?

6 Q. Two years ago where were you living at when all of this
7 happened?

8 A. I don't know the -- I was living on Pidgeon Bay Road.

9 Q. Okay. And did you have some relative that lived on
10 Gospel Lane?

11 A. Yes, sir. My mama's church is on Gospel Lane. My
12 brother lives on Gospel Lane. My brother lives on Gospel
13 Lane. We all live on Gospel Lane.

14 Q. Okay. And I'm going to turn your attention, if I
15 could, to the afternoon of March 10th of 2015. Do you
16 remember -- remember what you were doing that afternoon?

17 A. Yes, sir.

18 Q. Okay. Tell the judge what you were doing that
19 afternoon.

20 A. Just was at the church working on go-karts. And this
21 young man here walked up to the church, asked can he use the
22 bathroom. And my brother Jonathan said, yeah, you can use
23 the bathroom around the trailer. And he took a little bit
24 too long. So he came out -- then he came out, he asked one
25 of us can we take him to Robynwyn. That's in Summerville.

1 THE COURT: Can you repeat that. The what?

2 THE WITNESS: Robynwyn. Robynwyn, that's the ---

3 AST. SOL. SORENSON: Robynwyn.

4 THE COURT: Oh, Robynwyn. Okay.

5 Q. The neighborhood?

6 A. It's a neighborhood. But me and him never did made it
7 to Robynwyn. So he offered me \$50 to take him downtown.

8 Q. Okay. So you -- let me back you up there, Alphonso.

9 So initially he had asked if somebody could give him a ride
10 to Robynwyn?

11 A. Yes, sir.

12 Q. Okay. And did one of y'all agree to do that?

13 A. I did, sir.

14 Q. Okay. And what kind of car did you have back then?
15 What kind of vehicle?

16 A. I had a white Suburban. Still have the white Suburban.

17 Q. Okay. And could you describe this person for the judge
18 that came up to y'all?

19 A. Yeah. He's right there.

20 Q. Okay. All right. How was he dressed that day, back
21 then? Do you remember what he was wearing?

22 A. I want to say he had on -- I want to say he had a black
23 hoody. I want to say that.

24 Q. And let me ask you: Have you ever seen that person
25 before that afternoon?

1 A. No, sir.

2 Q. And let me ask you: Was it daylight out?

3 A. It was daylight out, sir.

4 Q. Okay. Did he have anything covering his face?

5 A. No, sir. I believe he had a hoody but I don't think it
6 was on his face.

7 Q. All right. And, ultimately -- and you had said that
8 initially he had used the restroom behind your brother's
9 trailer?

10 A. Behind my brother's trailer, sir.

11 Q. Okay. And, ultimately, did you end up giving him a
12 ride then that afternoon?

13 A. Yes, sir. I did give him a ride.

14 Q. Okay. And where did y'all go?

15 A. Well, I took him downtown to Bayside.

16 Q. Okay. Bayside downtown is downtown Charleston?

17 A. Downtown Charleston, sir.

18 Q. Okay. About how long do you think he was in the car,
19 in your Suburban, with you?

20 A. Well, from downtown to Summerville, it wasn't even like
21 20 minutes, 30 minutes from Summerville to Charleston.

22 Q. Twenty to 30 minutes then is your guess?

23 A. Yes, sir.

24 Q. Okay. And let me ask you: Did you stop anywhere from
25 your brother's house until you dropped this person off

1 downtown?

2 A. Yes, sir. I stopped to a place called Whitey's (ph).

3 I think they changed. It's not Whitey's no more. It's

4 another. They call it a different place. But we stopped to

5 the store.

6 Q. Okay. And what did you end up getting at the store?

7 A. End up getting a beer. I got me a 40-ounce.

8 Q. Okay. And how about the person that was in the car

9 with you? Did he get a beer too?

10 A. Yeah. He get a beer too.

11 Q. And who paid for that beer, those two beers? Do you

12 remember?

13 A. I know I paid for mine and he paid for his own I

14 believe.

15 Q. All right. And, ultimately, you end up dropping him

16 off down on Bayside down in Charleston?

17 A. Yes, sir.

18 Q. Okay. And tell the judge where was he seated while he

19 was in your Suburban? Where was he sitting at?

20 A. I want to say he was sitting in the back seat in my

21 Suburban.

22 Q. Okay. You don't think he was sitting next to you at

23 all or you're not sure?

24 A. No, no. He was in the back seat.

25 Q. All right. And, ultimately, when you dropped him off,

1 where did you then go?

2 A. I went to my daughter's house.

3 Q. Okay. And did you find out when you got to your
4 daughter's house was anybody looking for you?

5 A. Yes, sir.

6 Q. And who was that that was looking for you?

7 A. My brother. Two of my brothers looking for me. They
8 called.

9 Q. And, ultimately, did law enforcement come and see you
10 at your daughter's house?

11 A. Yes, sir. They put me in handcuffs. Told me don't
12 move.

13 Q. Okay. And the Dorchester Sheriff's Office ultimately
14 come out there also?

15 A. Yes, sir.

16 Q. Okay. And you tell them kind of what you just told the
17 judge?

18 A. Yes, sir.

19 Q. And as a result of that, did they end up -- did they
20 tow your vehicle?

21 A. Yes, sir. They took my vehicle.

22 Q. Okay. And did you provide them with any items from
23 your vehicle before or give them any or point at any items
24 to them?

25 A. Yeah. I told them the beer can was still, you know,

1 the drink was still in the car.

2 Q. Okay. And how about -- did you get any money from the
3 person that had ---

4 A. Yes, he did pay me. He did pay me for dropping him
5 off.

6 Q. Okay. And how much money was that that he paid you?

7 A. Fifty dollars.

8 Q. Okay. And did you give that money to the Sheriff's
9 Office also?

10 A. Yes, sir.

11 Q. Okay. And now, Alphonso, do you remember a couple of
12 days later on March 12th of 2015 anyone from the Sheriff's
13 Office coming to pick you up to get you to look at some
14 photo lineups?

15 A. Yes, sir.

16 Q. And who was that that showed you those photo lineups?
17 Do you remember?

18 A. No. I can't recall her name.

19 Q. Okay. All right. And where was that that happened at?
20 Do you remember?

21 A. They came on my job. They came and got me.

22 AST. SOL. SORENSON: May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 Q. Alphonso, let me show you what has been marked as

Direct Examination of Mr. Middleton by Ast. Sol. Sorenson

1 State's Exhibits 1 and 2. Do you recognize those two
2 documents? Are those the lineups that you were shown or . .
3 .

4 (State's Exhibit No. 1 and 2, Photo Lineups, were
5 marked for identification.)

6 A. Yeah. I only know that one there.

7 Q. Okay. Well, let me ask you: Do you remember who
8 showed you ---

9 A. Yeah. Yes, sir.

10 Q. --- my question. All right. So first of all, start
11 with State's Exhibit Number 1. So do you remember being
12 shown that?

13 A. Yes, sir.

14 Q. And were you able to pick anybody out of that lineup?

15 A. Yes, sir.

16 Q. What number did you pick out?

17 A. Number two.

18 Q. Okay. And why did you pick out number two?

19 A. Because that's the one I gave a ride to.

20 Q. Okay. Any doubt in your mind?

21 A. Ain't no doubt in my mind.

22 Q. And did Detective Elmore actually write out that for
23 you and you signed that?

24 A. Yes, sir.

25 Q. And then did they show you some other pictures too in

1 State's Exhibit Number 2?

2 A. Yes, sir.

3 Q. Were you able to pick anybody out of that?

4 A. No, sir.

5 Q. Did Detective Elmore, did he tell you who to pick out?

6 A. No, sir.

7 Q. I'm showing you once again State's Exhibit Number 1.

8 Did you then --

9 AST. SOL. SORENSON: May I approach?

10 THE COURT: You may.

11 Q. Alphonso, is that your signature right below there?

12 A. Yes, sir.

13 Q. Okay. And the person that you gave a ride to back on
14 March 10th of 2015 that you picked out of this photo lineup,
15 is he in the courtroom today?

16 A. Yes, sir.

17 Q. Can you point him out for the Court?

18 A. (Witness complies.)

19 Q. Seated on the right-hand side of the defense table?

20 A. Yes, sir.

21 Q. And doubt in your mind that's the person?

22 A. Ain't no doubt. That's the one I gave a ride to.

23 AST. SOL. SORENSON: Beg the Court's indulgence.

24 (Brief pause.) That would be all I have for this witness
25 for this issue, Your Honor.

Cross-Examination of Mr. Middleton by Mr. Kornegay

1 THE COURT: Cross-examination?

2 MR. KORNEGAY: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. KORNEGAY:

5 Q. Good afternoon, Mr. Middleton.

6 A. All right.

7 Q. On the day of March 10th, you said you were at the
8 church working on a go-kart?

9 A. Yes, sir.

10 Q. And a man approached you asking for a ride?

11 A. He approached all -- he approached two of my brothers
12 for a ride.

13 Q. Okay. There were a few of you present?

14 A. Yes, sir.

15 Q. Okay. But you never met this man before?

16 A. I never met him before, sir.

17 Q. And you said that you agreed to give him a ride?

18 A. Yes, sir.

19 Q. And while on the way, he asked you to drive him to
20 Charleston. Is that right?

21 A. No. He asked me to drop him off at Robynwyn first.

22 Q. Right.

23 A. We never did went to Robynwyn.

24 Q. Right. While you were giving him a ride, he asked for
25 a ride all the way to Charleston; right?

- 1 A. Yes, sir.
- 2 Q. And you said that took about 20 to 30 minutes?
- 3 A. I'm guessing. Yes, sir.
- 4 Q. So the whole -- the total amount of time that you spent
- 5 with the man who approached you was about, at the most, 30
- 6 minutes?
- 7 A. Yes, sir.
- 8 Q. Okay. You never met him before?
- 9 A. I never met him before.
- 10 Q. On March 12th a detective came and met with you. Is
- 11 that correct?
- 12 A. Yes, sir.
- 13 Q. And he showed you two different photo lineups?
- 14 A. Yes, sir.
- 15 Q. And this was the first photo lineup he showed you;
- 16 correct?
- 17 A. Yes, sir.
- 18 Q. And in the first photo lineup he showed you, you
- 19 selected the picture ---
- 20 A. Number two.
- 21 Q. And where is that located in the lineup?
- 22 A. In the middle.
- 23 Q. In the middle. In the top? In the top row?
- 24 A. Yes, sir.
- 25 Q. Then he showed you another lineup after you had

1 selected somebody; correct?

2 A. Yes, sir.

3 Q. And you did not make a selection on the second lineup?

4 A. No, sir.

5 Q. You had already picked somebody out; correct?

6 A. Yes, sir.

7 MR. KORNEGAY: Thank you. I have no further questions.

8 THE COURT: Any redirect?

9 AST. SOL. SORENSON: No, your Honor.

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

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: You may call your next witness.

13 AST. SOL. TEMPLETON: State calls Keith Elmore.

14 (KEITH ELMORE, was duly sworn and provided the
15 following testimony.)

16 THE COURT: Your witness.

17 DIRECT EXAMINATION

18 BY AST. SOL. TEMPLETON:

19 Q. Good afternoon, Mr. Elmore.

20 A. Hello.

21 Q. Would you please tell the judge where you are employed.

22 A. Right now?

23 Q. Right now.

24 A. Dorchester County Coroner's Office.

25 Q. And back on March 12th of 2015, where were you employed

1 at that time?

2 A. Dorchester County Sheriff's Office.

3 Q. And what was your position at the Dorchester County
4 Sheriff's Department?

5 A. I was an investigator.

6 Q. Okay. What was your involvement with the case we're
7 here for today?

8 A. I was -- I conducted a photo lineup of Mr. Kinsey.

9 Q. Okay. And I'm going to show you State's Exhibit Number
10 1 and State's Exhibit Number 2. Do you recognize these?

11 A. Yes, I do.

12 Q. Okay. What is State's Exhibit Number 1?

13 A. Number 1 is the photo lineup of Mr. Kinsey.

14 Q. Okay. And what is State's Exhibit Number 2?

15 A. It is a photo lineup array of six other individuals.

16 Q. Okay. If you would, would you explain to Judge Murphy
17 what you would have or what you did in this case prior to
18 showing that lineup to Mr. Middleton?

19 A. Myself and Detective Melendez went to the T.J. Maxx in
20 Summerville, contacted Mr. Alphonso Middleton, brought him
21 back to the office. We put him in the interview room.

22 Conducted a photo lineup as I normally do with the photo
23 lineup with six men array that I get from SLED or either
24 Charleston County, whichever one prepares it. At that time,
25 I advised him it was six people in the photo. To look at

1 their, you know, features that don't change: hair cuts
2 change, mustache change, beard change. Try to, you know,
3 remember what you can remember as far features that don't
4 change. I also advised him that people, the six people in
5 the photo, may or may not be involved in this incident or
6 have anything to do with the incident. At that time, I put
7 the photo lineup on the table and they can pick it up and
8 look at it however they want. I advise them also prior to
9 giving them the photo lineup if you see anyone involved in
10 the photo lineup to either circle the -- I prefer them to
11 circle the whole entire picture -- to include the number,
12 and explain to me what that person, their involvement in the
13 situation and therefore. At that point, once I showed it to
14 him, he viewed the photo lineup and he picked number two,
15 which he circled, and advised me that that was the gentleman
16 that he gave a ride to and was paid \$50.

17 Q. Okay. And the writing on that document, is that
18 Mr. Middleton's writing or is that your writing?

19 A. That is my writing.

20 Q. Okay. And would that have been completely blank prior
21 to showing it to Mr. Middleton?

22 A. Correct. There was no ink on this paper.

23 Q. Okay. And, ultimately, did Mr. Middleton ask you to
24 write on that document?

25 A. Well, I gave him the opportunity to write down on this

1 photo lineup as to how he knows this person or how he came
2 into contact with the person. He advised me that he wasn't
3 comfortable writing. I asked if he would prefer me to write
4 it for him. He stated yes. So what I did was I wrote down
5 Detective Elmore has my permission to write these words, to
6 write these -- to write this in my words. Excuse me. And
7 then he proceeded to tell me the person number two in this
8 lineup is the person that asked me to give him a ride and I
9 did. The guy marked number two paid me \$50 to take him to
10 Bayside Manner. This was the same day as the murder.

11 Q. Okay. And the bottom right, is that Mr. Middleton's
12 signature?

13 A. Well, he signs up here. Detective Melendez signs and I
14 wrote down there shown by Detective Elmore at 11:50 a.m.
15 Detective Melendez signs again and Alphonso signs again and
16 dates.

17 Q. Okay. And then, if you would, look at State's Exhibit
18 Number 2, which is the other six-pack lineup.

19 A. Yes, sir.

20 Q. Would you have done basically the same thing with this
21 lineup?

22 A. Correct.

23 Q. Okay. And was Mr. Middleton able to pick anyone out of
24 that lineup?

25 A. He did not pick no one out of this lineup.

Cross-Examination of Mr. Elmore by Mr. Kornegay

1 Q. And, again, would this be Mr. Middleton's writing or
2 your writing at the bottom?

3 A. Same situation. He asked me to write for him, which I
4 wrote, "Detective Elmore is writing this statement with my
5 permission. I have not seen or -- I have not seen or know
6 anyone in this photo lineup. And I got, again, shown by
7 Detective Elmore at 11:30 a.m." Detective Melendez signed
8 and then Mr. Alphonse.

9 Q. At any time did you indicate to Mr. Middleton who to
10 pick out of either one of these lineups?

11 A. I did not.

12 AST. SOL. TEMPLETON: If you would answer any questions
13 the defense has.

14 THE WITNESS: Yes, sir.

15 THE COURT: Cross-examination?

16 MR. KORNEGAY: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. KORNEGAY:

19 Q. Good afternoon, Detective Elmore.

20 A. Hello.

21 Q. When did you begin investigation on this case?

22 A. The date that it happened, kind of sort of.

23 Q. The date that it happen. And you compiled this photo
24 lineup. Is that correct?

25 A. Did I compile the photo lineup?

- 1 Q. Yes.
- 2 A. It was given to me, yes.
- 3 Q. What about this second photo lineup?
- 4 A. It was provided ---
- 5 Q. It was provided to you?
- 6 A. Yes.
- 7 Q. And it had already been used; correct?
- 8 A. To my knowledge, I don't know.
- 9 Q. With another witness?
- 10 A. I don't know. I guess. I don't know.
- 11 Q. Were you provided with any suspect names?
- 12 A. I provided suspects.
- 13 Q. And one of the suspect names, Lesner Gilliard, was that
- 14 one of the suspects you were investigating?
- 15 A. Yes.
- 16 Q. And that's an individual in this photo lineup, isn't
- 17 it? Isn't that correct?
- 18 A. Yes. Yes.
- 19 Q. But he's not on this photo lineup, is he?
- 20 A. He is not.
- 21 Q. You provided this photo lineup to Mr. Middleton first.
- 22 Isn't that correct? I believe there's a time written on it.
- 23 A. Yes. Yes.
- 24 Q. And it looks like 11:15 a.m. Is that accurate?
- 25 A. Correct.

Cross-Examination of Mr. Elmore by Mr. Kornegay

1 Q. And then at 11:30 a.m. you showed him this second
2 lineup?

3 A. Correct.

4 Q. But he had already made a selection?

5 A. Correct.

6 Q. Is that correct? What type of description were you
7 working off of in compiling the lineup?

8 A. The name Creep.

9 Q. Any physical indicators? Physical descriptions?

10 A. Name Creep, black male.

11 Q. Just black male?

12 A. Black male named Creep.

13 Q. And just based on black male nickname that's how you --
14 those are the only factors you used to compile this photo
15 lineup?

16 A. Yes. Black male named Creep. Goes by the street name
17 Creep.

18 Q. And that was the same criteria that was used for this
19 photo lineup?

20 A. I didn't collect that. I didn't get that. But yeah,
21 it would've been the same, same situation, black male
22 possibly goes by the name Creep.

23 Q. Okay. Do you recall how long Mr. Middleton took in
24 making the selection?

25 A. Which lineup?

1 Q. The first lineup. It looks like a 15-minute
2 difference?

3 A. Well, when I showed him the lineup, he immediately,
4 without hesitation, choose number two.

5 Q. But you didn't show him the second lineup for another
6 15 minutes?

7 A. Correct.

8 MR. KORNEGAY: Beg the Court's indulgence. (Brief
9 pause.) Nothing further. Thank you.

10 THE COURT: Any redirect?

11 AST. SOL. TEMPLETON: None, Your Honor.

12 THE COURT: You may step down, sir. Thank you. You
13 may call your next witness.

14 AST. SOL. SORENSON: As to this issue, that would be
15 all the State would have, Your Honor.

16 THE COURT: Anything from the defense?

17 MR. LOY: Your Honor, we would move to suppress the
18 identification based on both the amount of time that
19 Mr. Middleton actually knew the man he had given a ride to.
20 He said at most 30 minutes. He did not -- at the time, he
21 didn't know that there was a crime that was being
22 investigated. And also in regards to the way that the photo
23 lineup was conducted. Detective Elmore testified that there
24 were two suspects at the time. They were not put in the
25 same photo lineup. One photo lineup was provided to Mr.

1 Middleton. He made a selection. And then another photo
2 lineup is presented, he's already made a selection. He's
3 not going to select two different people for the
4 identification of one person. We would just ask that based
5 on that that the Court suppress the photo lineup
6 identification.

7 THE COURT: Anything from the State?

8 AST. SOL. SORENSON: Your Honor, obviously, I mean,
9 there are cases all over the board where witnesses, victims
10 have an opportunity to observe somebody for a matter of
11 seconds and are able to pick somebody out of a lineup. I
12 mean, the fact that he testified that basically he was with
13 this person up to 30 minutes, I mean, I think that is an
14 extreme amount of time. You just heard his testimony. I
15 mean, he was adamant about who it was that he gave a ride to
16 that he picked out of this lineup. I think the fact that
17 they -- the fact that they showed him another subsequent
18 lineup, I mean, I don't see how that has any effect on his
19 picking this defendant out of that first lineup that was
20 shown to him. It would be one thing maybe if he had looked
21 at the second one and then said, oh, wait a minute, maybe
22 it's, you know, number two or number four in this lineup.
23 But, I mean, he didn't pick anyone out of that second
24 lineup.

25 It would be our position that he had an adequate

1 opportunity to observe him. I mean, it's daylight, nothing
2 covering his face. You know, this isn't a situation, you
3 know, they argue all the time in the course of an armed
4 robbery, you know, their attention is focused away from the
5 face and on the weapon. I mean, this case, I mean, it was
6 just somebody literally walking up and asking for a ride who
7 he then interacted with for 30 minutes. So I think, I mean,
8 he had an adequate opportunity to observe the suspect. We
9 were not talking about a great length in time. I mean, he
10 was shown the lineup a mere two days later. He is positive
11 of this ID to Detective Elmore; positive, even more so I
12 would say, in the court today about the person that he
13 picked out of the lineup being the defendant, being the
14 person that he gave a ride to. And I think that clearly is
15 admissible. I mean, any argument that Mr. Kornegay is
16 putting forth would merely go to the weight of that not
17 submissibility.

18 THE COURT: Anything further?

19 MR. KORNEGAY: Judge, briefly, I just add that
20 Mr. Middleton himself testified that while he was giving
21 this man a ride, who he did not know was a suspect or would
22 be implicated in any way for a crime, he testified that he
23 was drinking alcohol during the trip. It does not sound
24 like he was paying close attention to the details of whoever
25 he was giving a ride to. And we would just ask the Court to

1 suppress the lineup.

2 THE COURT: Based upon the factors in determining
3 admissibility and considering the reliability of that
4 identification, the witness did testify that he had the
5 opportunity to view the defendant in his car and gave him a
6 ride to Charleston and they did stop at Whitey's. As far as
7 the alcohol is concerned, he said he got a beer. So there's
8 no evidence to indicate that he was intoxicated. The degree
9 of attention, he basically said he was certain that that was
10 him. He was in close proximity to him for 20 to 30 minutes,
11 for that period of time. That accuracy of the witness's
12 prior description, I don't have a lot of facts on that other
13 than obviously he's a black male and I'm not sure whether he
14 goes by the name Creep or not. But he certainly -- the
15 certainty of the confrontation as of today, he said there's
16 no doubt in my mind that's who I gave a ride to. And,
17 likewise, he told Deputy Elmore the same thing that he
18 immediately, without hesitation, picked out number two which
19 apparently is the defendant in this matter. The time in
20 between the confrontation and the lineup is only two days so
21 I don't find that that's an exorbitant amount of time for
22 his memory to fade as to his certainty as to the defendant's
23 identification. So the motion to suppress is hereby denied.
24 Anything further?

25 MR. LOY: Your Honor, as a matter of housekeeping,

1 we've got a couple of stipulations. One is the name
2 Creep -- Creep is something that is unfortunate. But, I
3 mean, the State is going to address it and want to use it
4 during the course of the trial. And I think foundation will
5 be laid. I mean, probative value of it will outweigh any
6 prejudicial value which will be attached to the nickname of
7 Creep.

8 The State has provided me with a prior police interview
9 with my client, Mr. Kinsey, where he is being interviewed by
10 the police officer. It's on videotape, not just audio. And
11 the police officer asks him, oh, so you go by the nickname
12 Creep or do you use the nickname Creep? And the defendant
13 responds something along the lines of I've been called that
14 or there are those who call me that. Something, which I
15 think, is pretty clearly an affirmation that, yes, there are
16 times I've been called Creep. It's not our desire to have
17 the State play this video. I think the prior police
18 interviews is more prejudicial than probative. And we are
19 willing to stipulate to -- it's only the language that I'm
20 interested in working on. We're willing to stipulate that
21 in fact the defendant has had friends or relations who at
22 times refer to him as Creep. I don't know if the State has
23 specific language that you want or if that is adequate to
24 suit your purposes. And we've discussed it.

25 AST. SOL. SORENSON: I think as long if there is some

1 stipulation that basically he, you know, goes go by the
2 nickname of Creep. I mean, I think something to that
3 effect. Basically, just a little bit -- and I understand
4 Your Honor probably doesn't understand what all the
5 significance of all this. But, basically, there is a
6 witness to this homicide. It's the victim's girlfriend that
7 ultimately tells law enforcement right afterwards that, you
8 know, the person that was with them that did this, you know,
9 I never met him before but he was introduced by the nickname
10 Creep. So that's all she knew. So that's kind of what law
11 enforcement is going by. So as I just said, we would be
12 prepared to, you know, if we need to, to call the detective
13 that was involved in that prior interview. Or it just so
14 happens, I mean, literally, I mean, the question that is
15 asked from the get go is you go by the nickname Creep. And
16 his response is that's what some people call me. That's
17 just what some call me.

18 THE COURT: But it doesn't sound like they have an
19 argument here.

20 AST. SOL. SORENSON: Yeah. It's just a matter -- we
21 can work on, I mean -- as long as the stipulation is
22 basically that fact that he goes by the nickname Creep.

23 MR. LOY: I think we can reach an agreement on the
24 language. You know, you don't need to have that person up
25 here. Also, Your Honor, there usually is, and there's an

1 issue of phone records in this case. The State, I believe,
2 intends to introduce a stack of records, of phone records,
3 which they would attribute to Mr. Kinsey. I don't know that
4 there's going to be someone from -- say that they're his
5 phone records. They were records from his telephone. I
6 don't know that there is someone coming from Verizon to say
7 that this is the account held in the name of Bryon Kinsey.

8 AST. SOL. SORENSON: No, there's not. There's no
9 account -- there's no name -- basically, let me back up a
10 little bit. The girlfriend also at that point in time tells
11 law enforcement that the Creep person had just contacted the
12 victim prior to this and we had picked him up as a result of
13 that contact. In looking through his phone and what have
14 you, they ultimately -- well, they get his phone records and
15 find several numbers that contacted right prior to them
16 picking up that -- is ultimately the number that we believe
17 is the defendant's. We have those records and we'll have a
18 records custodian coming to authenticate those records.
19 There's not a name associated. It's a prepaid phone, so it
20 doesn't have a number associated with it.

21 MR. LOY: However -- I'm sorry.

22 AST. SOL. SORENSON: So we would be seeking to -- and I
23 think this is where we've talked about potentially another
24 stipulation. We do have some independent corroboration of
25 that being his phone.

1 MR. LOY: Mr. Kinsey has in the past been arrested and
2 bonded out. During the course of entering or executing his
3 contractual relationship with the bondsman, he was required
4 to give a contact number. He provided this number, which is
5 the number that the State is interested in introducing these
6 phone records. Again, we don't want the bondsman coming in.

7 THE COURT: I assume you don't.

8 MR. LOY: And demonstrating that. So my suggestion for
9 language as to establishing this would something along the
10 lines of the phone number in question or this number in
11 question, however they want to do it, has in fact been used
12 by Mr. Kinsey or given by Mr. Kinsey in the past as a number
13 where he could be reached or as a contact number for him.
14 If we don't have a record to say -- I don't want to say it's
15 his phone if it's not a -- he can't show that there's some
16 contractual relationship with Verizon. But that, in fact,
17 is a number he has given for contact point or a number he
18 has given where he can be reached.

19 THE COURT: Any objection with that?

20 AST. SOL. SORENSON: Probably not.

21 THE COURT: Why don't we just ---

22 AST. SOL. SORENSON: Kind of write something out.

23 THE COURT: --- the language of that.

24 AST. SOL. SORENSON: She's on standby if I end up
25 needing to call her up here. She actually showed up this

1 morning. She misunderstood the telephone standby, I think.
2 So the only part I would like to probably address with you
3 also, and we can talk about, would be under this same
4 contact, you know, the contact information and that he gave
5 other relative information because that's a number that's
6 called. (Brief pause.) I think we'll be able work that out.
7 Obviously, she's . . .

8 MR. LOY: If I could . . .

9 (Brief pause.)

10 AST. SOL. SORENSON: I think we'll be able to work that
11 out. And, obviously, if we don't, I've got her on standby
12 right now for Wednesday afternoon.

13 THE COURT: Okay.

14 AST. SOL. SORENSON: So if we don't, we'll address --
15 we'll address that by that time.

16 THE COURT: If y'all can just get together on the
17 wording, we'll work that out.

18 AST. SOL. SORENSON: Yes, ma'am. We'll try to get that
19 done so we've got that squared away well before either of
20 those witnesses would have to be here.

21 MR. LOY: I believe that -- I'm sorry. Go ahead.

22 AST. SOL. SORENSON: I have one other thing too, if we
23 could. One other matter that we've talked about potentially
24 trying to reach some sort of stipulation on. Ultimately,
25 there is several latent fingerprints that are developed off

1 of, basically, more from Mr. Middleton's vehicle and also
2 from the beer can that is left behind that we're alleging
3 are Mr. Kinsey's fingerprints. The known -- we have the
4 known print card of his that they ultimately used that I
5 would be seeking to admit basically as his known prints. I
6 have a person lined up that -- those prints. It's actually
7 Chief Rogers back when he was an investigator.

8 (Brief pause.)

9 AST. SOL. SORENSON: And my only concern as far as
10 bringing it up is, you know, this print card is from,
11 obviously, from a prior arrest. It is from his prior
12 arrest. He was arrested for carjacking and an armed robbery
13 back in 2004. I do think the jury is going to hear about
14 the carjacking based on the indictment of for the possession
15 of a weapon by a person convicted of a violent crime. The
16 armed robbery was not a conviction. He pled to a lesser on
17 that. But I don't have any objection to just whiting out
18 basically on the back of the print card, you know, what he's
19 being ---

20 THE COURT: That should take care of it.

21 AST. SOL. SORENSON: But I don't know if he's willing
22 -- I guess, the other thing, I'm just trying to find if he's
23 willing just to stipulate this being his known prints.
24 Otherwise, I do have Chief Rogers on standby to come up.
25 But, obviously, it's going to come out. It's gonna have to

1 come out why he was printing him at that point in time, I
2 think, I mean, in some way, shape, or form.

3 THE COURT: If y'all just want to talk about that and
4 just let me know. I think either way we can take care of
5 it, obviously.

6 MR. LOY: Yes, Your Honor. I'm sorry, I wasn't
7 prepared to address that, that issue. But it does sound
8 like something we'll be able to put on one way or the other.
9 We may need some input from Your Honor.

10 Your Honor, when someone comes from Verizon to say this
11 is a phone number -- and I assume the foundation will be
12 laid. That is he'll have gone through the bondsman and said
13 these phones numbers have been attributed to Mr. Kinsey and
14 here are the records relating to that phone. At least the
15 records from that day or at least the phone records, the
16 calls that show Mr. Kinsey and the person -- or this phone
17 and the person's who was killed phone connecting, texting
18 back-and-forth. At least that much of the phone records
19 would be relevant and will come into evidence. I don't know
20 about all the rest of it. The extraneous, however many -- I
21 don't know how many they plan to introduce. As that point,
22 the State has shared with me a presentation that a detective
23 with the Sheriff's Department has done where he's taken some
24 of this data from the phone records, input it into some
25 program that they have which manipulates this data and

1 basically shows a push-point map or a presentation where the
2 detective believes the phone was at various points in time
3 along with times that would relate to it. Whether the
4 records come in or not, the Verizon, which if it happens the
5 way I describe, I think they will, I would object to the
6 introduction of this manipulation of the data and this
7 visual representation without a foundation being laid and a
8 ruling as to its admissibility being made in-camera. So I
9 don't know if we want to do that today.

10 AST. SOL. SORENSON: I don't have him here today. I
11 mean, I can tell the Court, I mean, this is no different
12 than, I mean, I've done quite frankly in other trials before
13 Your Honor before with the phone records where obviously I'm
14 going to go through this. Adam Smith, Sergeant Smith, with
15 the Sheriff's Office, you know, go through his background
16 and, you know, training he's had with regards to dealing
17 with phone records. I mean, he's the person at the
18 Sheriff's Office that does that.

19 THE COURT: And, Mr. Loy, I certainly recall that type
20 of testimony in the past. And, obviously, I can't rule
21 without him establishing the proper foundation that he's got
22 the proper training to come up with whatever he comes up as
23 far as where it pings and the inaccuracy and the reliability
24 of it. So I think it's a little early for me to tell you
25 something without him being here. But if you request an

1 in-camera hearing of what he's going to testify to, then
2 obviously we'll need to take care of that.

3 MR. LOY: That's my request.

4 THE COURT: Sure.

5 MR. LOY: When it comes up. You know, if it's more
6 advantageous to do it now or first thing in morning or
7 whatever, I'm just letting the Court and the Solicitor know
8 that it's out there and it's something I would want to
9 address in-camera.

10 THE COURT: Sure. And the jury comes in at ten. Y'all
11 want to do it at 9:30?

12 MR. LOY: That would be fine.

13 THE COURT: Okay. Is that okay, Solicitor?

14 AST. SOL. SORENSON: That should be. I guess I just
15 need to double check and make sure that he can be up here in
16 the morning. Because, I mean, otherwise we wouldn't be
17 getting to his testimony probably until Wednesday afternoon
18 at the earliest would be my guess.

19 THE COURT: I suppose the other alternative would be we
20 could do it like towards the end of the day tomorrow.

21 MR. LOY: Obviously, we're at the Court's disposal.

22 THE COURT: I'm good with whatever is easier for
23 everyone. I don't know how long you anticipate that
24 testimony to take. I can't imagine it would be more than 30
25 minutes or something like that.

2 THE COURT: Right.

3 AST. SOL. SORENSON: I mean, I'd be shocked if, I may
4 not be right on this, but in regards to that, probably five
5 minutes long just to kind of get his background.

6 THE COURT: He's not scheduled to testify until
7 Wednesday. Why don't we just do it at the end of the day --
8 or I guess maybe Wednesday morning before we start the trial
9 on Wednesday morning so we don't have to bring him twice.
10 Just make sure you don't bring it up in your opening.

11 AST. SOL. SORENSON: Let me go ahead and get him here
12 in the morning.

13 THE COURT: Okay. Why don't y'all be here around 9:20
14 or so. We'll start right at 9:30 and get that taken care of.
15 before we get the jury.

16 MR. LOY: Thank you, Your Honor. (Brief pause.) Your
17 Honor, I think that's all we have for the Court on this
18 case.

19 THE COURT: All right. That will be it on this case
20 until about 9:20.

21 (The proceedings adjourned for the day at 3:25 p.m.)

22

23 (The proceedings resumed on Tuesday, May 16, 2017, at
24 9:40 a.m.)

25 THE COURT: Just for the record, it's my understanding

1 we have a pretrial hearing regarding some evidentiary issues
2 regarding come cell phone records. Is that correct?

3 AST. SOL. SORENSON: That's my understanding, Your
4 Honor.

5 THE COURT: Are you ready to proceed?

6 AST. SOL. SORENSON: Yes, ma'am.

7 THE COURT: All right. You may call your first
8 witness.

9 AST. SOL. SORENSON: The State would call Sergeant Adam
10 Smith.

11 (ADAM SMITH, was duly sworn and provided the following
12 testimony.)

13 THE COURT: Your witness.

14 AST. SOL. SORENSON: Thank you.

15 MR. LOY: Your Honor, if I may, just for purposes of
16 our record, I think we touched on it yesterday, but for
17 purposes of this hearing, I think we would be assuming or
18 operating under the presumption that Verizon phone records
19 have been introduced of a couple of numbers that I assume
20 the Solicitor will elicit during the course of testimony.
21 They're not in, obviously. But we're ---

22 THE COURT: Right. Under that prospect.

23 AST. SOL. SORENSON: Right. And my understanding is I
24 don't plan on going through his entire testimony. I thought
25 we were just dealing with his qualifications and the

1 admissibility of ultimately what we were intending on
2 offering.

3 THE COURT: Right. Just to save us a little time?

4 AST. SOL. SORENSON: Yes, ma'am.

5 DIRECT EXAMINATION

6 BY AST. SOL. SORENSON:

7 Q. Sergeant Smith, if you, please, tell the Court where it
8 is that you're employed.

9 A. With the Dorchester County Sheriff's Office.

10 Q. And how long have you been with the Sheriff's office?

11 A. Approximately 11 years.

12 Q. And what capacity are you currently employed as?

13 A. Currently, I'm a supervisor in the Criminal
14 Investigations Division.

15 Q. Okay. And how long have you been in the Criminal
16 Investigations Division at the Sheriff's office?

17 A. About eight years.

18 Q. Okay. And tell the Court, are any of your duties as a
19 criminal investigator involve cell phones and going through
20 and processing and extracting evidence from cell phones?

21 A. Okay. Of course, my main duties at the Sheriff's
22 office would be investigating criminal cases. But as a
23 collateral, I also do so cell phone forensics as well as
24 cell phone record analysis. I've been certified by
25 Cellebrite which has the universal forensic extraction

1 device in order to extract data from cell phones. I'm a
2 certified logical operator and a certified physical analyst
3 in that portion of it. As far as record analysis, I've been
4 through the National White Collar Crime Center's basic cell
5 phone investigations course, which is a two-day course for
6 record analysis for call details from cell phone companies.
7 And that includes the actual call detail portions and the
8 actual mapping of those records as well.

9 Q. So that course dealt with specifically with if you
10 obtain cell phone records from a cell phone company, you're
11 actually going through and mapping out, essentially, where
12 that cell phone was located at?

13 A. That's correct. They teach us how to, once we obtain
14 the records, how to properly format the records. And then
15 they have a proprietary software that they have developed
16 that they teach us how to operate and to use in order to
17 plot those records on a map.

18 Q. Okay. And is that the software that you then use at
19 the office, at the Sheriff's office?

20 A. That's correct.

21 Q. Okay. How often do you think as part of your
22 day-to-day duties are you dealing with cell phone records
23 and cell phones?

24 A. It's a weekly basis. Either between the cell phone
25 forensics or the analysis, I'm doing it constantly each

1 week.

2 Q. Okay. And let me ask you this, Sergeant: Have you had
3 an opportunity prior to today to testify in court with
4 regards to cell phone records?

5 A. Yes, I have.

6 Q. Okay. And specifically with regards to mapping those
7 data points from cell phone records and testifying about
8 that in court?

9 A. I have. One of those was a homicide case.

10 Q. Okay. And that was here in Dorchester County?

11 A. That's correct.

12 Q. And just specifically in this case, just so the Court
13 understands what we're talking about, did you have an
14 opportunity to ultimately get records from the victim,
15 Robert Crumm's, phone in this case?

16 A. I did.

17 Q. How about the records that link or connected with the
18 defendant in this case, Byron Kinsey?

19 A. I did also.

20 Q. And specifically with those records that are related to
21 Byron Kinsey, what -- well, actually, both of those, what
22 cell phone company are they ---

23 A. They're both with Verizon wireless.

24 Q. And is Verizon Wireless, tell the Court, is that -- I
25 mean, do you deal with Verizon wireless records often?

1 A. Yeah. They are fairly common company that we have to
2 deal with.

3 Q. Okay. And specifically with the records that relate to
4 Byron Kinsey, what was provided to you in this case by
5 Verizon wireless?

6 A. Verizon wireless provided us with the call detail
7 records which would have a list of incoming and outgoing
8 phone calls for a specified time frame. And then Verizon
9 also provided us with their data, which is called the Real
10 Time Tool, which is Verizon's approximate location of
11 phones, geographic placement on the earth at any given time.

12 Q. Okay. And that's also might be referred to as RTT
13 data. Is that correct?

14 A. Correct.

15 Q. All right. And as a result of that, is it that data
16 then that you were able to use the software that you've been
17 trained on and have obtained to basically process that data
18 through that software?

19 A. That's correct. It comes in an Excel, Microsoft Excel,
20 file. And from then, I would uploaded it to the National
21 White Collar Crime Center software which is PerpHound
22 software. And then that in turn plots the points on a
23 Google Earth file.

24 Q. Okay. And does that give you, ultimately, kind of an
25 approximate location of where that cell phone was at any

1 given time that it's, I guess, connecting to their, to their
2

3 A. That's right. It's an approximate location of what
4 they estimate the phone to be when it connects to their
5 network.

6 Q. Okay. And let me ask you: So the data that you're
7 actually provided by, to you by Verizon wireless, would you
8 be able to go in and just kind of hand plot that on your
9 own? I mean, does it contain actually GPS longitude and
10 latitude coordinates?

11 A. Correct. And inside the file itself, we'd have what
12 would be considered the rows of data, which would be the
13 date and time that it accessed. And then within that same
14 row, it would have a bunch of other data from Verizon. But
15 it would have specifically the latitude and longitude of the
16 phone. So you would be able to go into any other software,
17 Google Earth or anything else, and actually input that
18 latitude and longitude to get the actual plot.

19 Q. Okay. The software that you have, I assume, makes that
20 a lot easier as far as just from the time ---

21 A. That's correct.

22 Q. --- intensive purpose?

23 A. That's correct.

24 Q. And, ultimately, that's what you -- part of what your
25 testimony would be in this case would be basically showing

1 the approximate location of that cell phone throughout the
2 afternoon of March 10, 2013?

3 A. Yes, that's correct.

4 Q. Okay.

5 AST. SOL. SORENSON: Your Honor, I think that would
6 be -- I mean, that's what we'd basically be looking to get
7 into what Sergeant Smith.

8 THE COURT: Cross-examination?

9 CROSS-EXAMINATION

10 BY MR. LOY:

11 Q. You said you have been with the Sheriff's office
12 approximately eight years. Is that right?

13 A. Sheriff's office, almost 11 years this year; and
14 investigations, eight years.

15 Q. Okay. And prior to that, going into law enforcement,
16 what was your educational background?

17 A. At Charleston Southern, a Bachelor of Science in
18 Criminal Justice.

19 Q. Okay. Any particular training in hard sciences,
20 engineering, computer work, that sort of thing?

21 A. I've took some computer programming in high school.
22 And then took other computer courses in college. But
23 nothing of the computer forensic . . .

24 Q. I mean, the computer courses you took in high school.
25 It's been a while. I imagine those would be pretty outdated

1 at this point. Would you know?

2 A. Yeah. They're still applicable.

3 Q. Okay. They're still applicable to what?

4 A. Everyday use. I mean, we use some of the same programs
5 as back then as well.

6 Q. So you have been in law enforcement for 11 years and
7 investigations for eight years. How long have you been
8 involved with what you're talking about here today the cell
9 phone side?

10 A. I've been working with cell phones since about 2012.

11 Q. So about five years?

12 A. Correct.

13 Q. Okay. And as far as your training on that goes, can
14 you tell me what you've done as far as training goes with
15 these cell phone records or the cell phone physical
16 extractions?

17 A. Well, I've done the actual use with the Cellebrite,
18 which is the actual cell phone forensics where it extracts
19 the data out of the device.

20 Q. The UFED?

21 A. UFED. UFED, correct.

22 Q. And do you have one of those within the department?

23 A. We do.

24 Q. Okay.

25 A. And I've sued -- I'm sorry.

1 Q. Originally, when you started with the cell phone, what
2 was the first bit of training that you got? Can you tell me
3 that? Chronologically, has it all been what you've already
4 described or have you had other training also?

5 A. Well, I mean, I've had other courses in between. But
6 the two major courses as far as it pertains to this for the
7 cell phone record analysis and then the actual certification
8 for the Cellebrite UFED device.

9 Q. And the -- you did a records analysis as well as a cell
10 phone extraction with the -- you say UFED, I say Uniform
11 Extraction -- we're talking about the same thing?

12 A. Correct.

13 Q. A little machine that plugs in and extracts the data
14 from a SIM card from a cell phone, et cetera. Is that
15 right?

16 A. Correct. Those are two separate entities, but I've had
17 training on both as well.

18 Q. Did use the UFED in your investigation in this case?

19 A. Well, in this case, we did on one phone. The victim's
20 phone, we weren't able to get into. But we were able to use
21 it on Sara Taylor's phone.

22 Q. So you used the UFED on Sara Taylor's phone, but not on
23 any other phone?

24 A. No.

25 Q. Okay. And as it relates to the Google mapping, or

1 whatever Mr. Sorenson was asking you about, that was with
2 your records analysis?

3 A. Correct.

4 Q. Okay. And tell me when you were trained in records
5 analysis?

6 A. That was 2014.

7 Q. So three years ago, two or three years ago. Is that
8 right?

9 A. Correct.

10 Q. Okay. And where did you go for that training?

11 A. That was at SLED Computer Crimes Division in Columbia.

12 Q. And how long was that training?

13 A. It was two days long.

14 Q. Okay. Was it solely for the records analysis or did it
15 touch on other topics relating to cell phone forensic or any
16 other information?

17 A. That was just for the records analysis.. But they teach
18 on how to use Microsoft Excel, and then they teach on how to
19 use their software in order to plot the points that you're
20 obtaining.

21 Q. So during the course of that two days, you were trained
22 on Microsoft Excel on the software that SLED uses, the one
23 that they were recommending, as well as the records
24 analysis. Is that right?

25 A. Well, it's not SLED software. It's National White

1 Collar Crime Center. They're a federally funded company.

2 Q. And I intended to ask whether or not that was the
3 software that SLED was recommending that you were being
4 trained on?

5 A. It is. They're a host where they were able to provide
6 the training at, so . . .

7 Q. Okay. I'm not sure we're being clear. You were
8 trained on records analysis?

9 A. Correct.

10 Q. You were also -- explained how in the course of records
11 analysis to use Excel spreadsheet software. Is that
12 correct?

13 A. That's correct.

14 Q. And you were also told we're using this National White
15 Collar software and that's what they trained you on?

16 A. That's correct.

17 Q. Okay. Was there an examination or a test or something
18 at the end of the training period?

19 A. I believe we did have a test at the end of it.

20 Q. You think. Do you recall?

21 A. I'd have to look back at my records, but I believe
22 there was one.

23 Q. An examination. And you passed?

24 A. That's correct.

25 Q. So you got a certificate?

Cross-Examination of Sgt. Smith by Mr. Loy

1 A. I did.

2 Q. And you didn't just get it for sitting through the
3 class. You say you actually took the test and earned that
4 certificate. Is that right?

5 A. That's correct.

6 Q. Okay. And the records analysis software, that's what
7 you used in plotting the map that you're talking about here
8 today?

9 A. Yes.

10 Q. Explain to me how that works.

11 A. When you get records from a cell phone company, say
12 Verizon in this case, it comes in raw data, which is in an
13 Excel file. And, basically, it has columns of data which
14 they would say seizure date, seizure time. They would say
15 incoming, outgoing phone numbers. And there's a whole bunch
16 of other data that's in there. The actual rows of data
17 would be, say, one phone call. One row across would be one
18 phone call. So it would have a specific date, a specific
19 time. And then in this case, their real-time tool that
20 Verizon provides is an estimation on where the phone is
21 geographically located at any given time. So in that case,
22 in that row, it would have the specific latitude and
23 longitude that Verizon would estimate the phone to be at.

24 Q. And how does Verizon do that?

25 A. You would have to ask Verizon that question.

1 Q. Well, in the course of your -- when you say records
2 analysis, do you just mean you read them and that's it? You
3 don't understand anything about the data that goes in, how
4 it works or how it's supplied?

5 A. I think the technical portion of that is above my
6 expertise. But, we're trained on how to actually read the
7 data, format the data, input it into the program, and then
8 get the output from the actual analysis which is what you
9 would see on a map.

10 Q. So you take the data that Verizon gives you such as it
11 is, and you manipulate it in some fashion or another. Is
12 that correct?

13 A. It's not manipulation. It's just formatting. Say, if
14 date and time is in the same column, we're taught in the
15 class how to separate date and time so that they are in
16 separate columns which is required by the program.

17 Q. Maybe manipulation sounds like an insidious word. It's
18 not intended to be. What I mean is you take the data, you
19 don't just scan it, you take it. You physically pull it
20 out, move it around, put it in different columns or
21 different places on the program, and then hit the go button
22 or something like that. Is that correct?

23 A. Yes.

24 Q. And in the -- you would certainly agree that anytime
25 you're involved in this, there's a margin of human error.

Cross-Examination of Sgt. Smith by Mr. Loy

1 Is that right? I mean, you could get it wrong. You're not
2 perfect. Occasionally, you make mistakes; right?

3 A. That's correct.

4 Q. Okay. In the event that any of the information you've
5 received from Verizon is somehow mistranscribed, buttons hit
6 wrong, et cetera, since it's not just scanned in, then the
7 results would be thrown off or skewed. I mean, at least you
8 understand that much about the program. Is that correct?

9 A. It could be. That's correct.

10 Q. Well, I mean, if it's the wrong data, it's going to get
11 the wrong result; right?

12 A. But we're still using the same data that's provided by
13 Verizon.

14 Q. As you've read it or as you attempt to input it?

15 A. That's correct.

16 Q. I understand you're not intentionally changing the
17 information.

18 A. Correct.

19 Q. And then you take it and you put it in and it prints
20 out this map or whatever?

21 A. It translates what is provided by, say, Verizon, and it
22 inputs it into a Google Earth file, which is a readable map
23 that would have pushpins on it and specifying the actual
24 location of whatever plot that we're using.

25 Q. Okay. And in this case, you and I have actually gotten

1 together and looked at the map you prepared for trial here
2 today in my office. Is that correct?

3 A. That's correct.

4 Q. Okay. And it shows a series of pushpins. And you're
5 able to click on each of those pushpins and then get
6 information about that particular point in time or something
7 like that. Is that correct?

8 A. Yeah. The information contained within the pushpin
9 itself would be what was contained in the actual row of
10 data. So everything in that row of data would be contained
11 within that pushpin. And the pushpins, in this case, since
12 we're only using one date in question, would just be the
13 actual access time, so . . .

14 Q. Well, you say it's what contained in the actual row of
15 data. It's actually what's contained and the information
16 that you put into the program?

17 A. Well, the program is reading the spreadsheet from
18 Verizon, and then it's translating it and putting into
19 pushpins.

20 Q. Is the program reading the spreadsheet from Verizon or
21 is it reading the information you've taken from the
22 spreadsheet and input into the program?

23 A. It's reading the spreadsheet. Because I hit upload to
24 the actual spreadsheet, upload the spreadsheet into the
25 program, and then it translates the data out.

1 Q. Then I'm confused about the part where you format the
2 information where you put it in the correct columns, et
3 cetera. If it reads the spreadsheet, the program reads the
4 spreadsheet itself, what's the formatting process you go
5 through?

6 A. In some cases, when the spreadsheet is first provided
7 to us, say a column may have seizure date and time contained
8 in one column. The program requires that it have separate
9 columns for date, a separate column for time. So in that
10 case, we would separate the two columns out to provide two
11 separate columns: one for date, one for time. And that
12 would be what I'm referencing there as far as formatting it.

13 Q. Now, the map that you've got, and we don't have to put
14 it up now. You could if you want. If you click on the
15 pushpin, what is the information that you get?

16 A. It would be the information contained within the line
17 of data. So it would have date, time. It would have phone
18 numbers. It would have latitude and longitude. It would
19 have a bunch of other data that's provided by Verizon.

20 Q. You said that the map purports to show Verizon's
21 approximate estimate of where this phone was at any
22 particular time. Is that right?

23 A. That's correct.

24 Q. It's your understanding through your training, however,
25 that Verizon, or any of these phone companies, their

1 approximate estimations come with varying degrees of
2 confidence. Is that correct?

3 A. That's correct.

4 Q. Explain to the Court what it is that's all about, if
5 you know.

6 A. Well, in this case, we used the data from Verizon. And
7 Verizon's records, they provide high, medium, low confidence
8 on what the points are that they provide.

9 Q. I'm sorry. I don't mean to interrupt. But when you
10 say just high, medium, and low, you mean they provide you
11 with a point, it shows up on a pushpin you can click on, and
12 it will say either Verizon has a high level of confidence
13 that this phone was here. We can't say with certainty as
14 Verizon, but we really think so. Or a medium, meaning this
15 phone may have been here or may not. Or a low level of
16 confidence which means what?

17 A. It's based on whatever their calculations are. It
18 would be lower than the other points.

19 Q. Is it 10 percent? 15 percent? We're 15 percent sure
20 this phone was here?

21 A. I'm sure how they calculate it.

22 Q. Are you not sure or you have no idea?

23 A. I have no idea how they do the math to calculate these
24 points.

25 Q. The map that you have prepared here today has the

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1 pushpins or push points on it. And when you click on them,
2 they show varying degrees of confidence. I mean, they're
3 not all high confidence; they're not all low. Is that
4 right?

5 A. That's correct. It was all the data that was provided
6 for those time frames.

7 Q. Okay. But my question is whether or not the pushpins
8 themselves, if you click on them individually, one behind
9 another, some show a high level, some show a low level. Is
10 that correct?

11 A. That's correct.

12 Q. Okay. And in this particular case, there's only one
13 ping or location, one pushpin, that purports to be very
14 close to the area where the shooting took place. Is that
15 correct? Do you recall?

16 A. There's one in the immediate vicinity, but there's
17 several around that same area.

18 Q. Well, we're speaking, I guess, in unclear
19 approximations. When you say the immediate vicinity, do you
20 know how far that pushpin is, approximately, as best you
21 could tell, from the location of the shooting?

22 A. I mean, from where it is on the map, I mean, it's
23 across the street on Pidgeon Bay and another.

24 Q. So there's one that's quite close?

25 A. That's correct.

1 Q. And then there are others that are in the vicinity
2 meaning within a quarter-mile, a half-mile, that sort of
3 thing?

4 A. It could be.

5 Q. But there's one that is across the street at the
6 approximate time that the shooting took place or very
7 shortly thereafter. Is that right?

8 A. Yes.

9 Q. And if we click on that one, and it says we think this
10 phone was here as Verizon, what's the confidence level that
11 it shows?

12 A. I would have to look back at my records.

13 Q. Can you do that?

14 A. I don't have it in front of me, so I . . .

15 Q. Well, can we stand down and do that, or will you take
16 my word for it that when you were in my office and we
17 clicked on it it says low level of confidence?

18 A. I would have to look back at my records.

19 MR. LOY: Can we take a moment, Your Honor?

20 THE COURT: Certainly. Do have the records?

21 AST. SOL. SORENSON: I guess, he's got to step down ---

22 MR. LOY: Yeah. Oh, yeah, I understand. That's what I
23 thought, take a moment. I meant can we take a moment so he
24 can look back at his record.

25 THE COURT: Did you bring your records?

1 THE WITNESS: They're -- I'm allowed to step down, Your
2 Honor?

3 THE COURT: Sure.

4 (Brief pause.)

5 THE COURT: You may proceed.

6 BY MR. LOY (continuing):

7 Q. Did you have an opportunity during our break to review
8 your records?

9 A. I did.

10 Q. And do you recall the last questioned that I asked?

11 A. That's correct. It was low confidence for that record.

12 Q. So the one pushpin that is immediately across the
13 street is recorded as a low level of confidence. And there
14 are other pins around there within a half-mile, a
15 quarter-mile radius which show a high level of confidence.
16 We don't need know which one at this point. You would agree
17 that that's correct. Is that right?

18 A. That's correct.

19 Q. And those are any where from a quarter to a half-mile
20 or so away. Something like that. Is that correct?

21 A. Yes. That's correct.

22 Q. So when we look at a low level of confidence -- and you
23 say you can't quantify that. You can't say that that means
24 80 percent, 20 percent -- basically, for all you know, this
25 could just be a suspicion. I mean, if Verizon says, if

1 we've got to pick a point, this is the best we've got. Is
2 that correct?

3 A. I man, that's how they estimate. How the data is
4 provided, I'm not exactly sure on how they estimate that
5 point.

6 Q. Okay. But you're the guy who is going to put the map
7 in?

8 A. That's the records they're providing.

9 Q. Okay. And -- well, I think I covered it. Thank you.

10 MR. LOY: I have no more questions.

11 THE COURT: Any redirect?

12 AST. SOL. SORENSON: Just briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY AST. SOL. SORENSON:

15 Q. Sergeant, just so we understand, Mr. Loy used the term
16 manipulate a few times. When you are importing the records
17 from Verizon into your software to basically generate the
18 map using Google Earth, I mean, you're not actually hand
19 typing in GPS coordinates, are you?

20 A. No, I'm not.

21 Q. I mean, those are coming -- it's pulling them directly
22 from Verizon's records. Is that correct?

23 A. That's correct.

24 Q. The only manipulating you might do, as you said, it's
25 like date and time, having them be in the same column.

1 basically or separating those into separate columns?

2 A. That's correct.

3 Q. You're not physically going in and actually typing in
4 any information. Is that correct?

5 A. That's correct.

6 Q. Obviously, you could go back and hand plot all of those
7 GPS coordinates. Is that correct?

8 A. I can do it by hand, and it would be ---

9 Q. Basically, come up with the same map. I mean, if you
10 use Google Earth to do it, come up with the same map that we
11 have that the program creates. Is that correct?

12 A. That's correct.

13 THE COURT: You may step down, Detective. Thank you.
14 I'll be happy to hear from both sides if you care to put
15 something on the record.

16 MR. LOY: Your Honor, the testimony training and lack
17 of expertise in the computer field aside, the testimony from
18 the witness is that he would intend, the State would intend,
19 to introduce through him this map of the area in which a
20 shooting took place with a series of pushpins that purport
21 to show a location of a telephone attributed or associated
22 with the defendant, Mr. Kinsey, at sometime in the past.
23 The point of this presentation is, obviously, to use it to
24 try to demonstrate to the jury that Mr. Kinsey a la his
25 phone where present at the points in time that are depicted

1 on the map. I mean, that's obviously what it's for. But
2 then for them to come in and say we are confident he was
3 here, we don't know about here, and we have a low-level of
4 confidence about this pushpin over here as far as accurately
5 reflecting the location of the defendant's phone or the
6 phone associated with him at that point, that is
7 fundamentally unfair. It's not probative. It's a 403
8 issue, as well as the fact that it merely serves to arouse
9 the suspicions of the jury when they come in and they say we
10 have a low level of confidence.

11 And it's important to note that this is the one pin
12 that is in close proximity to the area where the shooting
13 took place. The only one. And they say we have a low level
14 of confidence that it was in this area or at this place.
15 And we have no one to tell the jury that means 5 percent,
16 3 percent, 6 percent; we have no one to tell the jury we've
17 got some ghost-reading science image backed off another
18 tower somewhere and that's how we're able to extrapolate
19 this, only that if we are required to pick a spot, this is
20 the one we go with. And it is the only one that tends to
21 put the cell phone in question at the scene of the shooting
22 itself. Unexplained as it is, it is merely suspicious. It
23 just floats it out there. And, again, it's unfair and it's
24 prejudicial to the defense without further quantification or
25 qualification at this point to bring -- it could be

1 2 percent. Which if someone says it means 2 percent, I
2 doubt the Court, I hope the Court, would not allow that to
3 come in as merely being more prejudicial than probative. So
4 without any further information or input for the Court as to
5 what that pushpin means and why it has a low level of
6 confidence in this presentation, I would ask the Court to
7 suppress.

8 THE COURT: Mr. Sorenson?

9 AST. SOL. SORENSON: May it please the Court, Your
10 Honor?

11 THE COURT: Yes, sir.

12 AST. SOL. SORENSON: It's our position that basically
13 all of Mr. Loy's argument goes to weight of the evidence not
14 to admissibility. And, ultimately, these records are going
15 to show a whole lot more than just that phone being located
16 at that one pushpin. These records are going to show that
17 that phone -- basically, the testimony is going to show that
18 this defendant was picked up by the victim and his
19 girlfriend in North Charleston. These records are going to
20 put that phone in that vicinity. It's going to put it in
21 the vicinity of Highway 78 and College Park Road where they
22 were driving around. It's going to put the phone then going
23 up into Summerville in the vicinity of where our homicide
24 occurs. And then also put that phone then, just like you
25 heard, Mr. Middleton testified yesterday, basically going

1 from the vicinity all the way back down to Charleston where
2 he dropped them off. I mean, as I said, I think it goes to
3 the weight. And, obviously, you know, as Sergeant Smith
4 testified -- and I suspect the records custodian will be
5 able to shed a little light on also. I mean, the confidence
6 levels, low, medium, and high, you know, basically are how
7 sure they are within that area. And that would go to the
8 weight, obviously, as to -- but it's not just that one
9 pushpin that we're talking about. I mean, basically,
10 there's going to be testimony that tracking that phone for a
11 couple of hours that afternoon that, I submit to you, is
12 consistent with ultimately what multiple witnesses are going
13 to say, the suspect in this case, his movements were.

14 THE COURT: Based upon what has been presented to the
15 Court at this juncture, obviously, subject to the proper
16 authentication of the records, the Court finds that
17 Detective Smith was trained on the data and the software,
18 which is relevant-type of evidence in this case. The issue
19 presented to the Court would certainly -- the probative
20 value would outweigh any prejudicial effect of this and any
21 deficiencies. And that I think the Solicitor is correct in
22 that it would go to the weight and not the admissibility of
23 evidence. Obviously, it will be subject to
24 cross-examination and those deficiencies can be pointed out
25 to the jury accordingly. So your motion to suppress is

1 denied.

2 MR. LOY: Thank you, Your Honor.

3 THE COURT: Anything further? I believe the jury panel
4 should be downstairs and we'll get rolling after we do the
5 roll call.

6 AST. SOL. SORENSON: Thank you.

7 AST. SOL. TEMPLETON: Thank you, Your honor.

8 (A recess was taken at 10:12 a.m. The proceedings
9 resumed at 11:31 a.m.)

10 VOIR DIRE

11 THE COURT: Thank you, ladies and gentlemen. The jury
12 panel is now qualified. Solicitor, you may call your first
13 case.

14 AST. SOL. SORENSON: Thank you. May it please the
15 Court, Your Honor?

16 THE COURT: Yes, sir.

17 AST. SOL. SORENSON: This time the State call the case
18 of the State versus Byron Christopher Kinsey and these three
19 indictments: 2015-GS-18-971, 2017-GS-18-932 and 933,
20 charging Mr. Kinsey with one count of murder, one count of
21 armed robbery, and one count possession of a firearm by a
22 person convicted of a violent crime.

23 THE COURT: Thank you, Solicitor. Ladies and gentlemen
24 the jury panel, we're now about to begin the trial of the
25 case of the State of South Carolina versus Byron Christopher

1 Kinsey. Before we begin this jury selection process, I'm
2 going to read to you the indictments in this case. The
3 indictments are simply the allegations in this case and not
4 any type of evidence. The only reason I read these to you
5 are to see if you know anything about the case so that we
6 can discuss that if you have any prior knowledge of this
7 case.

8 Ladies and gentlemen, the first indictment is
9 indictment number 2017-GS-18-0932. It states that on or
10 about March 10th of 2015 in Dorchester County the defendant
11 buying, Byron Christopher Kinsey, did use by force, threat,
12 or intimidation and while armed with a deadly weapon or
13 while alleging either by words or action that he saw it was
14 armed while using representation of a deadly weapon, or any
15 object which a person present during the commission of the
16 robbery reasonably believed to be a deadly weapon, taken,
17 carry away goods and/or monies from the person or presence
18 of the victim, Robert Crumm, with the intent to permanently
19 deprive the victim of possessions of the goods or monies.
20 Such weapon, alleged weapon, described as a handgun. This
21 offense is a violation of the South Carolina Code of Laws as
22 amended.

23 The next indictment 2015-GS-18-0971. And it states
24 that in Dorchester County on or about March 10th of 2015
25 with malice aforethought the defendant, Byron Christopher

1 Kinsey, did kill one Robert Crumm by means of shooting the
2 victim. The victim did die as an approximate result
3 thereof. This offense being in violation of the common law
4 section in the codes of South Carolina Code of Laws.
5 couples.

6 The next indictment is 2017-GS-18-0933. Is states that
7 in Dorchester County on or about March 10, 2015, the
8 defendant, Byron Christopher Kinsey, did unlawfully possess
9 a firearm or ammunition after having been convicted of a
10 violent crime in the violation of the South Carolina Code of
11 Laws as amended. Ladies and gentlemen, before we begin the
12 selection process, I'm going to ask the Solicitor to
13 introduce himself and the members of his office. And then I
14 will ask you if you have any connection with their office.
15 You may proceed, Solicitor.

16 AST. SOL. SORENSON: Thank you, Your Honor. My name is
17 Don Sorenson. I'm the senior assistant solicitor here in
18 Dorchester County in the First Circuit which is comprised of
19 Dorchester County, Orangeburg County, and Calhoun County.
20 Our elected solicitor is David Pascoe. Seated with me is
21 Ryan Templeton. Ryan will be helping me try the case today.
22 He is also an assistant solicitor. And also at our table is
23 Ms. Kerrie Huff who is courtroom coordinator, and then
24 Lieutenant Peters with the Dorchester County Sheriff's
25 office.

1 THE COURT: Thank you, Solicitor. Ladies and
2 gentlemen, any member of the jury panel related by blood or
3 marriage or has a close personal or social relationship with
4 any members of the solicitor's office or has ever been
5 represented by the them in any capacity? If so, please
6 stand.

7 (No response.)

8 THE COURT: I find that there is no one standing. And
9 Mr. Loy, if you would, please, do the same.

10 MR. LOY: Thank you, Your Honor. Good morning, ladies
11 and gentlemen. My name is John Loy. I'm one of the public
12 defenders here in Dorchester County. Also seated at counsel
13 table with me is John Kornegay. He also is one of the
14 public defenders here in Dorchester County. Our chief
15 public defender is Mr. Mark Leindecker. Other attorneys in
16 our office include Ms. Mary Lamatty, Ashley Don Chisholm,
17 Pierce Wehman, Michelle Williams. Thank you.

18 THE COURT: Thank you, Mr. Loy. Ladies and gentlemen
19 of the jury panel, anyone related by blood or marriage or
20 has a close personal or social relationship with any members
21 of their office or has ever been represented by them any
22 capacity? If so, please stand.

23 (No response.)

24 THE COURT: I find that there is no one standing.
25 Ladies and gentlemen of the jury panel, I'm going to ask you

1 listen to the list of potential witnesses in this case. And
2 after I read the list of potential witnesses, I'll ask you
3 the same question if you're related by blood or marriage or
4 have any close personal relationship with any of the
5 following people. Also, if any of the witnesses are in the
6 courtroom, if you would please stand so that the jury can
7 see you: Sergeant Sean Buckman, Sergeant Mike Giglio,
8 Sergeant Brandon Berg, Sergeant Andy Martin, Corporal Jeff
9 Scott, Lieutenant Shawn Napoli, Sergeant Adam Smith,
10 Sergeant Bradley Mullis, Corporal Phil Alger, Lieutenant
11 Dwayne Peters, Jodi Maida, Chief Jon Rogers, Keith Elmore,
12 Investigator Eric Melendez, Dr. Janice Ross, Jennifer
13 Dalmida, Tonda Westbury, Tisha Simmons, Sara Taylor, Frank
14 Vallario, Sharon Robertson, Savion Willis, Jonathan
15 Middleton, Alphonso Middleton, David Osborne, Ashley Taylor,
16 and Agent Jennifer Clayton with SLED. Any member of the
17 jury panel related by blood or marriage or has a close
18 personal or social relationship with any of the potential
19 witnesses. If so, please stand.

20 (No response.)

21 THE COURT: I find that there is no one standing.
22 Ladies and gentlemen, I read to you the indictments. Anyone
23 related by blood or marriage or had a close personal or
24 social relationship with a Robert Crumm. If so, please
25 stand.

1 (No response.)

2 THE COURT: I find that there is no one standing.

3 Ladies and gentlemen of the jury panel, anyone related by
4 blood or marriage or has a close personal or social
5 relationship with Mr. Byron Christopher Kinsey, who is
6 seated at counsel table there on my right? If so, please
7 stand.

8 (No response.)

9 THE COURT: I find that there is no one standing. Is
10 there any member of the jury panel who is a member of or a
11 contributor to any group which has its primary concern as
12 the promotion of law enforcement or victims' rights. These
13 groups would include, but are certainly not limited to,
14 MADD, SADD, or Citizens Against Violent Crime. If so,
15 please stand.

16 (No response.)

17 THE COURT: I find that there is no one standing. Is
18 there any member of the jury panel heard anything about this
19 case or read anything about this case through any medium
20 whatsoever either before today or during today before we
21 began our jury selection process? If so, please stand.

22 (No response.)

23 THE COURT: I find that there is no one standing. Is
24 there any member of the jury panel formed or expressed an
25 opinion about any issue or matter involved in this case? If

1 so, please stand.

2 (No response.)

3 THE COURT: I find that there is no one standing. Is
4 there any member the jury panel that was a member of the
5 grand jury which issued the indictments in this case? If
6 so, please stand.

7 (No response.)

8 THE COURT: I find that there is no one standing.
9 Ladies and gentlemen the jury panel, I read to the
10 allegations in this case. Anything about your prior
11 experiences or your family experiences or anything involving
12 your immediate family that would cause you any concern or
13 any hesitation in your ability to be fair and impartial to
14 both the State and to the defense in this case and serve as
15 a fair and impartial juror? If so, please stand.

16 (No response.)

17 THE COURT: I find that there is no one standing. Does
18 any member of the jury panel no of any reason whatsoever why
19 he or she could not serve as a juror in this case with a
20 particular emphasis on your ability to be fair and impartial
21 to both the State and to the defense in this case? If so,
22 please simply stand.

23 (No response.)

24 THE COURT: I find that there is no one standing.
25 Ladies and gentlemen, that will conclude the list of

1 questions before we begin the jury selection in this case.

2 Madam Clerk, do you need a few minutes?

3 (Brief pause.)

4 THE COURT: Ladies and gentleman of the jury panel, it
5 takes our clerk's office just a few the minutes. What they
6 do is they put your names in somewhat of a hopper and they
7 do a type of a draw from which we will select your names
8 from. Please take no offense if you're struck or actually
9 seated on the jury, and there are many reasons for that.
10 But when your name is called, if it's called, if you would
11 please come forward and face the back of the courtroom and
12 please bring all of your personal belongings with you
13 because if you are selected to serve on the jury, we'll go
14 ahead and seat you in the jury box. Again, it takes us just
15 a few minutes, so I'll share with you a story that may make
16 you appreciate your time here in St. George a little bit
17 more.

18 Educational requirements for judges, we're required to
19 attend the National Judicial College in Reno, Nevada. And
20 there are judges there from all over the county, and some
21 different countries, actually, to learn together and share
22 our experiences. And I met a judge from Alaska who presides
23 over a very large territory. And in order to get jurors to
24 come to court in Alaska, what they have to do is for many of
25 them is they send a dogsled team for a two-hour dogsled

1 ride. And then they have to go on a two-hour snowmobile
2 ride in most cases, and then a two-hour airplane ride. And
3 they're also armed with firearms. Not because of the jury
4 service, but because of potential bear attacks. So hopefully
5 that will make your ride here to St. George a little bit
6 more appreciated since we have this facility here.

7 (Brief pause.)

8 THE CLERK: As I call your name, please come forward
9 and turn around and face the back of the courtroom. Juror
10 number 27, Kevin Deise. What saith the State?

11 AST. SOL. SORENSON: Please present Mr. Deise.

12 THE CLERK: The defense?

13 MR. KORNEGAY: Please excuse the juror.

14 THE CLERK: Have a seat back in the audience. Juror
15 number 38, William Ewers. What saith the State?

16 AST. SOL. SORENSON: Please present Mr. Ewers.

17 THE CLERK: The defense?

18 MR. KORNEGAY: Please seat the juror.

19 THE CLERK: Have a seat, sir. Have a seat in our jury
20 box to our left. Juror number 82, John Kennedy. What says
21 the state?

22 AST. SOL. SORENSON: Please present Mr. Kennedy.

23 THE CLERK: The defense?

24 MR. KORNEGAY: Please excuse this juror.

25 THE CLERK: Have a seat back in the audience. Juror

1 141, Stefan Topper. What says the State?

2 AST. SOL. SORENSON: Please present Mr. Topper.

3 THE CLERK: The defense?

4 MR. KORNEGAY: Please excuse the juror.

5 THE CLERK: Have a seat back in the audience. Juror

6 143, Julia Traw. What says the State?

7 AST. SOL. SORENSON: Please present Ms. Traw.

8 THE CLERK: The defense?

9 MR. KORNEGAY: Please excuse the juror.

10 THE CLERK: Have a seat in the audience. Juror 154,

11 David Williams. What says the State?

12 AST. SOL. SORENSON: Please present Mr. Williams.

13 THE CLERK: The defense?

14 MR. KORNEGAY: Please present the juror.

15 THE CLERK: Have a seat in the jury box to your left.

16 Juror number 28, Beverly Delee. What says the State?

17 AST. SOL. SORENSON: Please present Ms. Delee.

18 THE CLERK: The defense?

19 MR. KORNEGAY: Please seat the juror.

20 THE CLERK: Have a seat in our jury box. Juror number

21 104, Joanna Moore. What says the State?

22 AST. SOL. SORENSON: Please present Ms. Moor.

23 THE CLERK: The defense?

24 MR. KORNEGAY: Please seat the juror.

25 THE CLERK: Have a seat in our jury box. Juror number

1 50, Kimberly Fuller. What says the State?

2 AST. SOL. SORENSON: Please present Ms. Fuller.

3 THE CLERK: The defense?

4 MR. KORNEGAY: Please seat the juror.

5 THE COURT: Have a seat in our jury box. Juror 153,

6 Carrie White. What says the State?

7 AST. SOL. SORENSON: Please present Ms. White.

8 THE CLERK: The defense?

9 MR. KORNEGAY: Please seat the juror.

10 THE COURT: Have a seat in our jury box. Juror 138,

11 Shayla Taylor. What says the State?

12 AST. SOL. SORENSON: Please present Ms. Taylor.

13 THE CLERK: The defense?

14 MR. KORNEGAY: Please excuse the juror.

15 THE CLERK: Have a seat back in the audience. Juror

16 122, Gloria Rivera. What says the State?

17 AST. SOL. SORENSON: Please present Ms. Rivera.

18 THE CLERK: The defense?

19 MR. KORNEGAY: Please seat the juror.

20 THE COURT: Have a seat in our jury box. Juror 144,

21 Jamie Turner. What says the State?

22 AST. SOL. SORENSON: Please present Ms. Turner.

23 THE CLERK: The defense?

24 MR. KORNEGAY: Please seat the juror.

25 THE CLERK: Have a seat in the jury box. Juror 127,

1 Samantha Simmons. What says the State?

2 AST. SOL. SORENSON: Please present Ms. Simmons.

3 THE CLERK: The defense?

4 MR. KORNEGAY: Please seat the juror.

5 THE COURT: Have a seat in the jury box. Juror number
6 111, Jeremiah Perry. What says the State?

7 AST. SOL. SORENSON: Please excuse Mr. Perry.

8 THE COURT: Have a seat back in the audience. Juror
9 number 46, Janice Floyd. What says the State?

10 AST. SOL. SORENSON: Please present Ms. Floyd.

11 THE CLERK: The defense?

12 MR. KORNEGAY: Please excuse the juror.

13 THE CLERK: Have a seat in the audience. Juror number
14 106, Helen Nash. What says the State?

15 AST. SOL. SORENSON: Please present Ms. Nash.

16 THE CLERK: The defense?

17 MR. KORNEGAY: Please excuse the juror.

18 THE CLERK: Have a seat back in the audience, please.

19 Juror number 150, Gregory Wegmann. What says the State?

20 AST. SOL. SORENSON: Please present Mr. Wegmann.

21 THE CLERK: The defense?

22 MR. KORNEGAY: Please present the juror.

23 THE CLERK: Have a seat in our jury box. Juror number
24 84, Breanna Kish. What says the State?

25 AST. SOL. SORENSON: Please present Ms. Kish.

1 THE CLERK: The defense?

2 MR. KORNEGAY: Please seat the juror.

3 THE CLERK: Have a seat in our jury box. Juror 109,
4 Lydia Newton. What says the State?

5 AST. SOL. SORENSON: Please present Ms. Newton.

6 THE CLERK: The defense?

7 MR. KORNEGAY: Please seat the juror.

8 THE CLERK: Have a seat in our jury box. (Brief
9 pause.) Juror number 85, Roger Knobe.

10 MR. LOY: Is that one alternate?

11 THE COURT: Two alternates.

12 THE CLERK: What says the State?

13 AST. SOL. SORENSON: Please present Mr. Knobe.

14 THE CLERK: The defense?

15 MR. KORNEGAY: Please excuse the juror.

16 THE CLERK: Have a seat back in the audience. Juror
17 number 36, John Eady. What says the State?

18 AST. SOL. SORENSON: Please excuse Mr. Eady.

19 THE CLERK: Have a seat back in the audience. Juror
20 number 26, Thomas Dean, IV. What says the State?

21 AST. SOL. SORENSON: Please present Mr. Dean.

22 THE CLERK: The defense?

23 MR. KORNEGAY: Please seat the juror.

24 THE CLERK: Have a seat in our jury box. Alternate
25 one. Juror number 108, Richard Newberry. What says the

1 State?

2 AST. SOL. SORENSON: Please present Mr. Newberry.

3 THE CLERK: The defense?

4 MR. KORNEGAY: Please seat the juror.

5 THE CLERK: Have a seat in our jury box. Thank you,
6 Judge.

7 (The jury was impaneled at 11:54 a.m.)

8 THE COURT: Any exceptions or objections to the
9 selection of this jury from either the State or from the
10 defense?

11 AST. SOL. SORENSON: Beg the Court's indulgence. One
12 second, Your Honor.

13 (Brief pause.)

14 AST. SOL. SORENSON: I believe I would have a motion,
15 Your Honor.

16 THE COURT: You do have a motion?

17 AST. SOL. SORENSON: Yes, ma'am.

18 THE COURT: All right. Ladies and gentlemen of the
19 jury, if you would -- the jury panel, if you would, the
20 people outside, if you would please go outside to the jury
21 room.

22 THE CLERK: Jury room or just the foyer?

23 THE COURT: The foyer is fine. If you would please
24 exit to the foyer. Please don't discuss this case with
25 anyone. We'll be right back with you. Members of the jury,

1 same thing with you but I'm going to put you back here in
2 the jury room for just a minute. Please don't discuss this
3 matter with anyone.

4 (The jury exits the courtroom at 11:55 a.m.)

5 THE COURT: All right. Solicitor, you have a motion?

6 AST. SOL. SORENSON: Yes, Your Honor. We would have a
7 Batson motion, Your Honor, with regards to a couple of the
8 strikes exercised by Mr. Kornegay. If you look at it, Mr.
9 Kornegay ultimately exercised eight preemptory challenges.
10 Seven of those would be Caucasians that he struck. And I
11 would have basically -- if I could just kind of list the
12 ones. Kind of got some concern with his first strike, Mr.
13 Deise, juror number 27. Juror number 46, Ms. Floyd; juror
14 number 106, Ms. Nash.

15 THE COURT: Hold on one second. Janice Floyd you said?

16 AST. SOL. SORENSON: Yes, ma'am.

17 THE COURT: All right.

18 AST. SOL. SORENSON: And juror 106, Ms. Nash. And then
19 the strike on the alternate, number 85, Mr. Knobe.

20 MR. LOY: I'm sorry. What was the last one?

21 AST. SOL. SORENSON: Juror 85, the strike during the
22 alternates.

23 THE COURT: All right. Mr. Kornegay?

24 MR. KORNEGAY: Thank you, Your Honor. And I believe I
25 struck all these potential jurors for the same reasoning.

1 The first one was 27.

2 THE COURT: Yes, sir.

3 MR. KORNEGAY: I have in my notes that he works as a
4 computer analyst. Just based on my personal experiences, I
5 went to Clemson and was around a lot of engineers,
6 analytical majors. The reason I struck that was because of
7 that job tending to think more black and white about issues.
8 In my experience, not having as open a mind in approaching a
9 question.

10 THE COURT: What about juror number 46, Ms. Janice
11 Floyd?

12 MR. KORNEGAY: Ms. Floyd, similarly, I have down that
13 she was a biller; kept track of bills at her place of
14 employment. Also requires sort of a black and white
15 mindset. And that's why I struck Ms. Floyd. And then . . .

16 THE COURT: Ms. Nash?

17 MR. KORNEGAY: Ms. Nash, she works as an accountant.
18 Her spouse is in the Air Force. An accountant also requires
19 looking at numbers, calculations. That was my reasoning.

20 THE COURT: What about juror number 85?

21 MR. KORNEGAY: And 85 works for SAIC, a defense
22 contractor. I don't have it down that he is an engineer,
23 but I'm sure that he works with engineers. He works with
24 logistics, judge.

25 THE COURT: All right. Solicitor?

1 AST. SOL. SORENSON: With my concern, Your Honor, is
2 then, you know, he puts somebody that works -- you know,
3 juror number 28, Ms. Mr. Delee, you know, she works as an
4 administrator with Lexington Health Department. She's an
5 African-American woman. Again, somebody that would be, I
6 mean, working in similar to medical billing or working with
7 things of that nature. You know, he indicated as far as Ms.
8 Nash that her husband is retired military I suppose that is
9 part of the reason. You know, but then he put Ms. Newton,
10 juror number 109, whose husband is retired military.

11 MR. KORNEGAY: Judge, I'm not sure how working as an
12 administrator ---

13 THE COURT: Hold on. Hold on one second. Let him
14 finish his explanation.

15 AST. SOL. SORENSON: I think that would be somebody
16 else that's in, I mean, that's in similar type field. I
17 mean that, you know, works with computers. I mean, I don't,
18 I mean, how that . . .

19 MR. KORNEGAY: What was that juror number, Don?

20 AST. SOL. SORENSON: Twenty-eight.

21 MR. KORNEGAY: Twenty-eight. Obviously, Judge, in just
22 about every job, you're going to be working with computers.
23 I don't think working as an administrative capacity working
24 with people, I don't think that that's a comparable area of
25 employment.

1 THE COURT: Anything further?

2 AST. SOL. SORENSON: That will be all from the State,
3 Your Honor.

4 MR. KORNEGAY: Nothing from the defense, Judge.

5 THE COURT: Solicitor, obviously, under the Batson
6 hearing, you do bear the burden of proving that the strikes
7 should be challenged if they were done for race or gender.
8 The reason and not protected, the Court does find the you
9 have not met that burden. The explanations given by defense
10 counsel do appear to be race and gender neutral. Although
11 an administrator isn't necessarily an administrator. That
12 can encompass many different things. Where a computer
13 analyst and an accountant, and doing specifically billing
14 and defense contracting, that certainly a more specialized
15 technical aspect as he explained. So the Court does find
16 that that is a neutral explanation and your motion is
17 denied.

18 AST. SOL. SORENSON: Yes, ma'am. Thank you.

19 THE COURT: Anything further before we bring the -- are
20 there any other trials or can I let the other jury panel go?

21 AST. SOL. SORENSON: I think you can let the rest of
22 them -- they can be excused.

23 THE COURT: All right. Can we bring them on in,
24 please.

25 (Brief pause.)

1 THE COURT: Welcome back, ladies and gentleman of the
2 jury panel. I certainly appreciate your patience. I wanted
3 to bring you in here and let you know that this will
4 actually conclude your jury service for this week. You have
5 now fulfilled your duty of jury service. If you need
6 anything for work or anything of that nature, you can get an
7 excuse downstairs at the clerk's office. They'll be happy
8 to provide that for you. Thank you so much for being here
9 and have a nice week.

10 (The jury panel is excused and exits the courtroom at
11 12:04 p.m.)

12 THE COURT: All right. Counsel, it's about twelve
13 o'clock. Probably a good time to go ahead and take our
14 lunch break. We'll get started at about 1:15. Will that
15 give y'all enough time?

16 (Counsel affirms.)

17 THE COURT: All right. I'm just going to bring the
18 jury out real quick before y'all break just to let them know
19 when to come back. Can I have our jury, please.

20 (The jury enters the courtroom at 12:06 p.m.)

21 THE COURT: Welcome back, ladies and gentlemen of the
22 jury. Thank you for your patience. It's about twelve
23 o'clock. So it's probably a good time for us to take our
24 lunch break before we begin the trial of this case. I'm
25 going to ask you to -- you, obviously, now where your jury

1 room is now. So please report back there at about 1:15.
2 Should hopefully give you plenty of time to run out and grab
3 something. If you need recommendations of where to go,
4 these nice ladies I'm sure will be happy to assist you with
5 that. Please do not discuss this case with anyone or allow
6 anyone to discuss this case with you while you're out and
7 about, or at anytime while you're doing your jury service
8 because it would be improper for anyone to have any
9 communications with you. Again, this includes any of the
10 attorneys. So if you see them and they don't say hello,
11 they're not being unfriendly. They're just following the
12 Court's instructions. Of course, this includes don't
13 discuss this case amongst yourselves. Have a nice lunch and
14 we'll see you at 1:15.

15 (The jury exits the courtroom at 12:07 p.m.)

16 THE COURT: Anything further from the State or the
17 defense before we break for lunch?

18 AST. SOL. SORENSON: No, Your Honor.

19 MR. KORNEGAY: No, Your Honor.

20 THE COURT: All right. We'll be at ease for lunch.

21 (A lunch break was taken at 12:09 p.m. The proceedings
22 resumed at 1:23 p.m.)

23 THE COURT: Anything before we bring the jury out?

24 AST. SOL. SORENSON: I don't believe so.

25 MR. KORNEGAY: Nothing from the defense, Judge.

1 (Brief pause.)

2 THE COURT: All right. Let's have our jury, please.

3 (The jury enters the courtroom at 1:25 p.m.)

4 THE COURT: Welcome back, ladies and gentlemen of the
5 jury. I hope that you had a nice lunch. Madam Clerk, if
6 you would please swear in our jury.

7 THE CLERK: Yes, ma'am.

8 (The jury was sworn at 1:25 p.m.)

9 THE COURT: Ladies and gentlemen of the jury, thank you
10 for accepting an important responsibility of jury service
11 and for your contribution today to our system of justice.
12 What I will now say to you is intended to serve as an
13 introduction to the trial of this case. These remarks are
14 not a charge on the law in this case. I will instruct you
15 on the law applicable to this case at the end of the trial
16 before you retire to consider your verdict. This is merely
17 an explanation of the procedure that we will follow so that
18 you will better be able to understand what is going on
19 during the trial of this case.

20 Ladies and gentlemen, during the trial of this case,
21 you're not allowed to take notes. The defendant is charged
22 in this case with three indictments filed with this Court.
23 The indictments are for possession of a firearm by a person
24 convicted of a violent crime, for murder, and for armed
25 robbery. The elements of each of these indictments will be

1 explained later to you. The indictments are simply the
2 charge by which the case is brought into this court, and is
3 not in any sense evidence of the allegations that they
4 contain. The defendant has pled not guilty to these
5 indictments and, therefore, the State has the burden of
6 proving each of the elements of each indictment beyond a
7 reasonable doubt. It will be your duty, ladies and
8 gentleman, to decide whether the State has met that burden.
9 Your purpose as jurors is to find and determine the facts.
10 You are the sole judges of the facts. If at any time I make
11 any comment regarding the facts, you must disregard that.
12 You are to determine the facts from the testimony that you
13 hear and from other evidence that is introduced into court.
14 It is up to you to determine the inferences which you feel
15 may be properly drawn from the evidence. It is especially
16 important that you perform your duty of determining the
17 facts diligently and conscientiously because ordinarily
18 there is no way to correct an erroneous determination of the
19 facts by a jury. On the other hand and with equal emphasis,
20 the same law that makes you the judges of the facts, makes
21 me the judge of the law. The law is given by the Court is
22 the only law that you may consider. You must accept it and
23 follow it even though you may disagree with it. I cannot
24 tell you what the facts are and you cannot disagree with me
25 about what the law is or what the law should be. Your job

1 is to take the law as I give it to you and apply it to the
2 facts as you find them from the testimony of the witnesses
3 and from any other evidence that is properly introduced
4 during the trial. After doing that, you will render your
5 verdict under the solemn oath that you just took a jurors.

6 Until I advise you to begin your deliberations, you
7 must not discusses case with anyone. This includes your
8 fellow jurors, your friends, your family members, and anyone
9 involved in this case. This involves any discussions which
10 are face-to-face, anything by telephone, e-mail, text,
11 blogs, or any other method of communication. You may not
12 use a computer, cell phone, or any other electronic device
13 with communication capabilities at any time while you're in
14 the courtroom or during your deliberations. During your
15 breaks for meals or for over night, if necessary, you may
16 use these devices. However, you may not at any time use
17 these devices to get or send information about the case.
18 This includes any information about a party, a witness, an
19 attorney, any court officers, any news accounts about the
20 case, any topics or any research that are raised during the
21 case, or anything that you think might be helpful in
22 determining the case, or any testimony that's presented by a
23 witness. During the trial, please do not listen to, read,
24 watch any news reports about this case. This includes
25 anything that may be in the newspapers or the Internet,

1 radio, or television. You must not consider anything that
2 you have read or heard about the case outside of this
3 courtroom whether before or during the trial. After the
4 case is submitted to you, you must discuss it only in your
5 jury room with your fellow jurors. The attorneys in this
6 case have all been advised not to speak to you. So, again,
7 if they see you during the breaks and they don't speak to
8 you, they're not being unfriendly. They're just following
9 the Court's advice -- or, actually, the Court's
10 instructions.

11 It is important that you keep an open mind and not
12 decide any issue in the case until all of the evidence has
13 been presented, the parties have made their closing
14 arguments, and I have instructed you on the law in this
15 case. It is your solemn responsibility to determine the
16 guilt or the innocence of the defendant, and your verdict
17 must be based solely on the evidence that is presented
18 during this trial and the law as I instruct you at the close
19 of the trial. In just a moment, the Solicitor will make
20 what is called an opening statement. In which with the
21 Solicitor will explain to you what the issues in the case
22 are, or at least what the Solicitor thinks the issues in the
23 case are. The attorney for the defendant may also make an
24 opening statement, although he's not required to do so.
25 What the attorneys tell you during their opening statements

1 is not evidence in this case. It is only their contention
2 as to what the issues are. The evidence in this case will
3 be presented to you by the testimony of the sworn witnesses
4 from the witness stand and any exhibits that are properly
5 introduced during the trial of this case. From time to
6 time, during the trial, you may hear one of the attorneys
7 say something like, Your Honor, I have a matter of law or
8 may we approach the bench. Or sometimes, myself, I might
9 find it necessary to excuse you from the courtroom for a
10 short while so the attorneys and I can discuss a matter of
11 law. The reason for this is that you are the judges of the
12 facts in this case, and sometimes when I'm discussing
13 matters of law with the attorneys, it may be necessary for
14 me to make some comment as to the facts in connection with
15 ruling as to whether or not a particular law applies. I'm
16 not supposed to tell you what the facts are, so I will
17 excuse you from the courtroom for a short while so the
18 attorneys and I can have that discussion. And in no way
19 will you be influenced by anything that I might say or do in
20 ruling what the law in connection with the facts of this
21 case.

22 In determining what the true facts are in this case,
23 you must decide whether the testimony of the witnesses is
24 believable. It will be my responsibility to rule as a
25 matter of law whether certain testimony is admissible at all

1 or not. But once that testimony is admitted, whether or not
2 you believe it is solely for you determine. In deciding
3 whether or not to believe a witness, you have the right to
4 consider the interest of any witness, the bias of any
5 witness, the prejudice of any witness, the opportunity for
6 the witness to have seen the things and the matters about
7 which the witness may testify, and the way that the witness
8 acts on the witness stand. You have the right to consider
9 anything that is in the record that will help you evaluate
10 the testimony of the witnesses. That means it is your duty
11 to pay close attention to the witnesses, to observe the
12 witnesses, listen to the witnesses, and pay close attention
13 to the attorneys and sent to the Court. Please do not let
14 your thoughts wonder, but give strict attention to the
15 testimony in this case so that at the end of the testimony,
16 after the arguments of counsel and after you're charged on
17 the law in this case, you will be in a position to determine
18 what the true facts are in this case and apply those facts
19 to the law and render a verdict under the solemn oath that
20 you just took. After some time and during the trial, I will
21 appoint a foreperson which will be the liaison to the Court
22 if the jury has any questions or if you need anything. And
23 the foreperson will write the verdict actually on the
24 verdict form. The process which I'll explain to you at a
25 later time. Any objections or exceptions to the opening

1 remarks by the Court from either the State or from the
2 defense?

3 AST. SOL. SORENSON: No, Your Honor.

4 MR. KORNEGAY: No, Your Honor.

5 THE COURT: All right. You may call your -- or you may
6 proceed, Solicitor.

7 AST. SOL. TEMPLETON: May it please the Court, Your
8 Honor?

9 THE COURT: Yes, sir.

10 OPENING STATEMENTS

11 AST. SOL. TEMPLETON: Ladies and gentlemen, this case
12 is about money. This case is about Byron Kinsey's decision
13 that money in his pocket is more important than Robert
14 Crumm's life. Byron Kinsey is charged with three separate
15 crimes. Murder, we all kind of know what murder is. But
16 our law defines it as the unlawful killing of another person
17 with malice aforethought. Malice meaning ill will or
18 hatred. Aforethought, in the mind of the defendant at the
19 time that the killing occurred. The second thing he's
20 charged with is armed robbery. The taking of property from
21 another person by force or intimidation while armed with a
22 deadly weapon. In this case, a handgun. Finally, he's
23 charged with possession of a firearm by a person that's been
24 convicted of a violent crime. This case, again, that same
25 pistol, and Byron Kinsey in the past has already been

1 convicted of a violent crime. The State has to prove each
2 element of each of these offenses beyond a reasonable doubt.
3 We've all heard that saying before, beyond a reasonable
4 doubt. Same standard across every criminal court in this
5 nation. But it simply means that there's actually evidence
6 that leaves each of you firmly convinced of the defendant's
7 guilt.

8 I want to take you back to March 10, 2015. That
9 morning, Robert Crumm, the victim in this case, his uncle
10 came over and loaned him some money, \$2,000, to help pay for
11 rent and some other expenses. He was kind of down on his
12 luck at this point. Later that day, Robert and his
13 girlfriend, Sara Taylor, go down to the Veteran's
14 Administration, downtown Charleston. They got some medical
15 records before he goes to his doctor's appointment. When he
16 gets to that doctor's appointment, Robert Crumm gets a phone
17 call from a friend of his; goes by the name Creep. The
18 State contends Byron Kinsey is Creep. There's independent
19 evidence that Byron Kinsey goes by the name of Creep. Creep
20 calls and asks, hey, can you give me a ride. So Robert
21 Crumm and his girlfriend, Sara Taylor, go and pick him up.
22 This is down in the Rivers Avenue area of North Charleston.
23 They drive him up to the College Park area where he's trying
24 to meet up with another ride. They drive back and forth for
25 a while. Ultimately, they decide they'll just take Creep

1 home. So they drive up into the Summerville area in an
2 unincorporated portion of Dorchester County. It's an
3 apartment complex off of Pidgeon Bay Road. It's kind of
4 right behind Highway 78. When they get there, Creep and
5 Robert Crumm get out of the car, go into the breezeway of
6 this apartment complex. A few minutes later, three shots
7 rang out. Robert Crumm stumbles to the front of that
8 apartment complex and falls dead. Creep then goes -- comes
9 out, goes through Robert's pockets, steals his wallet;
10 \$1200. About that time, Sara Taylor starts laying on the
11 horn of her car because she sees what's going on. She sees
12 her boyfriend just on the ground dead. Sees this man going
13 through his pockets. And Creep takes off, goes out of the
14 back of the apartment complex, runs down the street and
15 meets up with a couple of people down the road and asks
16 them, hey, can I use the restroom behind your trailer. Goes
17 back behind the trailer, comes back and asks for a ride.
18 The gentleman's name is Alphonso Middleton; agrees to give
19 him a ride for 20 bucks to take him to Robynwyn. On the way
20 to Robynwyn, offers him 50 bucks to take him down to
21 Charleston. They stop, get a beer on the way, take him down
22 to Charleston. Creep gets out of that car and is on his
23 way.

24 The State knows that Creep is Alphonso Middleton and
25 I'll tell you why. That person that was in that car, he had

1 his fingerprints on that beer can. We have his DNA on that
2 beer can. We have his fingerprints on the outside of that
3 car. That's Alphon -- that's Byron Kinsey's fingerprints;
4 that's his DNA. We have independent information that Byron
5 Kinsey goes by the name of Creep. And, finally, we have
6 cell phone data from a phone number linked to Byron Kinsey
7 that shows him in the North Charleston area when Robert and
8 Sara pick up Creep, in the College Park area when Creep is
9 driving around with Robert and Sara going up to Summerville
10 at the time of this murder and then following him all the
11 way back to Charleston afterwards.

12 Ladies and gentlemen, when you've seen all the evidence
13 in this case and you've heard all the testimony from that
14 witness stand, you will be firmly convinced of Byron
15 Kinsey's guilt. We will ask you to convict him at that
16 time. Thank you.

17 THE COURT: Counsel?

18 MR. KORNEGAY: Thank you, Your Honor. May it please
19 the Court?

20 THE COURT: Yes, sir.

21 MR. KORNEGAY: Good afternoon, ladies and gentlemen.
22 My name is John Kornegay, and I alone with Mr. John Loy am
23 representing Byron Kinsey. You're going to hear a difficult
24 case this week. It involves the death of Mr. Robert Crumm.
25 Nothing that we say or do as the defense is meant in any way

1 to minimize or diminish the significance of the loss of life
2 that occurred. Generally, defenses take one of two paths.
3 Either, one, arguing that a crime did not occur. Or, two,
4 arguing that a crime occurred but that the person accused
5 did not commit that crime. We're not here this week to
6 argue to you that no crime occurred. We are going to argue
7 that Mr. Kinsey did not commit that crime.

8 Now, what are we going to hear from the State this
9 week? We're going to hear from a Ms. Sara Taylor. Ms.
10 Taylor was the girlfriend of Robert Crumm, and she's gonna
11 testify to you about how on the morning of the incident, or
12 the day of the incident, Mr. Crumm spoke with his uncle, and
13 he received money from his uncle. Money that Ms. Taylor
14 believed was to be used to pay the rent, to pay their bills.
15 But she'll tell you she didn't think that Mr. Crumm was
16 being honest with her as to how much money he received.
17 She's gonna tell you that they went about their day. And
18 while they were out running errands, Mr. Crumm received a
19 phone call. A call from a man that he knew who needed a
20 ride. At that point, they went to pick up this individual.
21 And Ms. Taylor began driving them to different locations.
22 But each time they would reach their destination, he would
23 ask her to drive him to another location. He claimed that
24 that he was trying to catch up with another ride.
25 Ms. Taylor will tell you that she was growing frustrated.

1 And she'll tell you that during the course of this drive,
2 she saw that this man had a back of blue pills and that
3 there was discussions between him and Mr. Crumm about those
4 pills. Finally, they arrived at Cedar Key apartments. Once
5 there, this individual and Mr. Crumm got out of the car,
6 walked into the breezeway out of sight of Ms. Taylor. Ms.
7 Taylor was sitting in the car waiting and watching. Soon,
8 gunshots were heard. Ms. Taylor watched as Mr. Crumm came
9 out of the breezeway and collapsed. And the man who she had
10 given a ride took the money off of Mr. Crumm.

11 When police were called, they took an obvious first
12 step in their investigation to find out from Ms. Taylor who
13 it was that she had given a ride to; who it was that she saw
14 take the money off of Mr. Crumm. They showed her a photo
15 lineup. And Ms. Taylor picked out the individual who she
16 believed committed the crime on the photo lineup. That
17 individual was not Byron Kinsey. It was a gentleman by the
18 name of Lesner Gilliard (ph). And, yet, the State is trying
19 Mr. Kinsey this week.

20 I ask you to pay close attention to the evidence they
21 are going to present to you. In every trial where a person
22 is charged with a crime, there is a phrase that is used: the
23 presumption of innocence. This refers to the idea that the
24 State has the burden proving guilt beyond a reasonable
25 doubt. And that unless and until that happens, any person

1 charged with a crime remains innocent. Now, this is an idea
2 that we've all heard. But it's not something that we live
3 out in our day-to-day lives, myself included. When we turn
4 on the TV or read the newspaper and see that a suspect in a
5 bank robbery has been arrested, or a burglary suspect, we
6 say, oh, they caught the robber or they arrested burglar.
7 And that's fine for us to do in our day-to-day lives, but
8 you cannot do that today. Unless and until the State proves
9 each element of the crimes charged beyond a reasonable
10 doubt, Mr. Kinsey is not simply not guilty, he's innocent.
11 I ask for you to pay close attention and to hold the State
12 to their high burden of proof beyond a reasonable doubt.
13 Keeping in mind that Mr. Kinsey sits before you presumed
14 innocent. And that after considering and weighing the
15 evidence, you reach a verdict of not guilty. Thank you for
16 your time.

17 THE COURT: You may call your first witness.

18 AST. SOL. TEMPLETON: The State calls Lieutenant Sean
19 Buckman.

20 (SEAN BUCKMAN, was duly sworn and provided the
21 following testimony.)

22 THE COURT: Your witness.

23 DIRECT EXAMINATION

24 BY AST. SOL. TEMPLETON:

25 Q. Good afternoon, Lieutenant Buckman.

1 A. Good afternoon.

2 Q. If you would, tell the jury where you're employed.

3 A. Dorchester County Sheriff's office.

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

5 A. About 11 and half years.

6 Q. Okay. If you would, just go briefly through your
7 educational background including any law enforcement
8 training.

9 A. I've with the Sheriff's office for 11 and a half years.
10 I graduated the Academy in 2006. I'm currently an
11 instructor as a driving instructor, specific skills
12 instructor, active shooter instructor -- instructor semi --
13 instructor. I've been certified in numerous other small
14 other certifications.

15 Q. Thank you. If you would, do you recall if you were
16 working March 10, 2015?

17 A. I was.

18 Q. Okay. What were you doing that day?

19 A. I was the sergeant over the patrol division for day
20 shift.

21 Q. Okay. And do you remember being dispatched in
22 reference to this case?

23 A. I was. I do.

24 Q. Where were you dispatched to?

25 A. , Summerville, South Carolina,

1 which is in Dorchester County.

2 Q. Okay. And is that the Cedar Key Apartments?

3 A. It is.

4 Q. Okay. If you would, kind of explain to us what you saw
5 when you arrived at the Cedar Key apartments.

6 A. Well, initially we were dispatched to the 500 building
7 of Cedar Key Apartments reference to a shooting. Upon
8 arrival, I observed a male laying on the ground unconscious
9 and unresponsive. I exited my vehicle and attempted to
10 render aid to him.

11 Q. Okay. I'm going to show you State's Exhibit Number 3.

12 AST. SOL. TEMPLETON: Your Honor, may I approach the
13 witness?

14 THE COURT: You may.

15 Q. Do you recognize State's Exhibit Number 3?

16 A. I do.

17 Q. And how do you recognize it?

18 A. My initials and the date.

19 Q. Okay. Have you watched that video?

20 A. I have.

21 Q. What is that video?

22 A. A video from my in-car camera of me responding to the
23 incident location.

24 Q. In this event?

25 A. Yes.

1 AST. SOL. TEMPLETON: Your Honor, at this time the
2 State would introduce State's Exhibit Number 3 into
3 evidence.

4 THE COURT: Any objection?

5 MR. LOY: None, Your Honor.

6 THE COURT: All right. It's in.

7 (State's Exhibit No. 3, Video, was received into
8 evidence.)

9 Q. Next, I'm going to show you State's Exhibit Number 5.

10 AST. SOL. TEMPLETON: May I approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 Q. Do you recognize that?

14 A. I do.

15 Q. What is that?

16 A. That is an accurate description of the apartment
17 building that I responded to on that day.

18 Q. And this would've been the day of this event?

19 A. Correct.

20 Q. Okay.

21 AST. SOL. TEMPLETON: Your Honor, at this time, we
22 would move State's Exhibit Number 5 into evidence.

23 THE COURT: Any objection?

24 MR. LOY: No, Your Honor.

25 (State's Exhibit No. 5, Photograph, was received into

1 evidence.)

2 Q. What is this photograph of?

3 A. Cedar Key Apartments, building 500.

4 Q. And this is where this event occurred?

5 A. Correct.

6 Q. Okay. Now I'm going to show you the video, State's
7 Exhibit Number 3.

8 A. Okay.

9 (Video played at 1:46 p.m. and ended at 1:50 p.m.)

10 Q. And that's where our clip ends on this. After this,
11 what do you do next?

12 A. I began to canvas the area to secure the scene.

13 Q. Okay. Basically, just keeping other people away from
14 the scene so nothing is introduced into it?

15 A. Correct. Yes.

16 Q. When you were there next to Mr. Crumm, is he responsive
17 at all?

18 A. No.

19 Q. At no time he responds to anything?

20 A. No.

21 Q. And are you the first vehicle there in the parking lot?

22 A. Yes.

23 Q. Approximately, how long after that is more officers
24 there?

25 A. Five seconds, maybe ten.

1 Q. Okay. How many officers are there pretty quickly?

2 A. Probably ten to 15.

3 AST. SOL. TEMPLETON: Please answer any questions the
4 defense may have.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION

7 BY MR. LOY:

8 Q. It's Buckman?

9 A. Yes, sir.

10 Q. Officer Buckman, were you involved in the investigation
11 of this homicide in anyway other than what you've already
12 described?

13 A. No, sir.

14 Q. Were you -- other than the video that you've shown, and
15 I assume, an effort to render aid when you got there and
16 then canvassing the area, were you involved in the collection
17 of any actual physical evidence?

18 A. No, sir.

19 Q. Or statements from anyone?

20 A. No, sir.

21 Q. When you canvased the area or when you drove around
22 looking for suspects or witnesses, et cetera, was any of
23 that productive? Did that lead to anything that you could
24 share with us today?

25 A. Not at that time. No, sir.

Direct Examination of Ms. Taylor by Ast. Sol. Sorenson

1 Q. And after that, the case was turned over, assigned for
2 investigation to some of the guys who wear coats and ties?

3 A. Yes, sir.

4 MR. LOY: Thank you very much. I haven no more
5 questions.

6 THE COURT: Any redirect?

7 AST. SOL. TEMPLETON: None, Your Honor.

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

9 THE WITNESS: Thank you.

10 THE COURT: You may call your next witness.

11 AST. SOL. SORENSON: The State calls Sara Taylor.

12 (SARA TAYLOR, was duly sworn and provided the following
13 testimony.)

14 THE COURT: Your witness.

15 AST. SOL. SORENSON: Thank you, Your Honor. May it
16 please the Court?

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY AST. SOL. SORENSON:

20 Q. Ms. Taylor, if you would, please tell the jury where
21 did you grow up.

22 A. In Summerville, South Carolina.

23 Q. Okay. Where did you go to high school?

24 A. At Stratford.

25 Q. Okay. And do you still live in the Summerville area?

1 A. Yes, sir.

2 Q. Okay. If you don't mind, just tell us how old are you?

3 A. I'm 32.

4 Q. Okay. And the victim in this case, Robert Crumm, did
5 you know Rober?

6 A. Yes, sir.

7 Q. And tell the jury how it was that you knew Robert.

8 A. We were dating.

9 Q. And what did Robert go by? Did he have a nickname he
10 went by?

11 A. Rob.

12 Q. Rob. And tell the jury, how long had the two of y'all
13 been dating?

14 A. About a year.

15 Q. And back in March of 2015, where was Rob staying at
16 that time?

17 A. In my home.

18 Q. Okay. And where was that at?

19 A. In Ladson, South Carolina.

20 Q. Okay. And how long had Rob been staying with you
21 there?

22 A. Less than a year. Close to a year.

23 Q. Close to a year you said?

24 A. (Non-verbal response.)

25 Q. Okay. And do you recall back in March of 2015 what

Direct Examination of Ms. Taylor by Ast. Sol. Sorenson

1 Rob's cell phone number was?

2 A. It was a 504 number.

3 Q. If I show you ---

4 AST. SOL. SORENSON: Beg the Court's indulgence one
5 second.

6 Q. If I show you your contacts from your phone, would that
7 help refresh your memory of what his number was back then?

8 A. Yes, sir.

9 AST. SOL. SORENSON: May I approach the witness, Your
10 Honor?

11 THE COURT: You may.

12 A. Yes.

13 Q. Okay. What was Rob's number back in March of 2015?

14 A. 504-388-5656.

15 Q. All right. And let me ask you this: Kind of going
16 back two years ago when he was staying with you, were y'all
17 having any financial difficulties back during that time?

18 A. Yes, we were. He had medical problem causing him to be
19 out of work a lot.

20 Q. Okay. And as a result of that, did there come a time
21 back when he was staying with you when y'all had borrowed
22 money from a relative of his?

23 A. Yes, sir.

24 Q. Okay. And do you remember about how many times that
25 happened?

1 A. Two or three times. I'm not sure.

2 Q. Okay. Who was that that Rob had borrowed money from?

3 A. His Uncle Frank.

4 Q. Okay. Is he in the courtroom? Do you recognize him or

5 . . .

6 A. That's him.

7 AST. SOL. SORENSON: If you could stand up, Mr.

8 Vallario.

9 (Mr. Vallario complies.)

10 Q. Is that who you knew as his Uncle Frank?

11 A. Yes, sir.

12 Q. And back during that time period, do you remember,

13 Sara, how much y'all's rent was back?

14 A. It was 1200 a month.

15 Q. Now, specifically, you said that you thought that he
16 had borrowed money from his Uncle Frank a couple of times?

17 A few occasions.

18 A. Yes, sir.

19 Q. Back on March 10th of 2015, did Rob borrow some money
20 from him that day?

21 A. Yes, sir.

22 Q. Okay. And where was it that that occurred?

23 A. His uncle Frank had come to my house and met with him.

24 Q. Okay. And, ultimately, after that, did Frank leave
25 after meeting with Rob?

1 A. Yes, sir.

2 Q. Okay. And did Rob indicate to you at that point in
3 time that he had been lent any money by his Uncle Frank?

4 A. He did.

5 Q. Okay. And how much money did Rob tell you that Frank
6 had given him?

7 A. He told me it was a thousand dollars.

8 Q. And who held onto that money?

9 A. He did.

10 Q. Okay. Did you ever actually physically see the money
11 or get to count it yourself or anything that time?

12 A. No.

13 Q. Now, Sara, tell the jury, do you recall after Frank
14 left that day what you and Rob did kind of into that
15 afternoon?

16 A. I remember we went to the VA Hospital and got his
17 medical records so he could provide those to his new doctor.
18 And I remember he parked across the street. And across the
19 street, he was going through the -- just reading his medical
20 history.

21 Q. And now there come a time when he -- when Rob received
22 a phone call from anybody that afternoon?

23 A. He did. He said that a friend of his had called him
24 when we were at the bank.

25 Q. Okay. And what was -- did he indicate to you as a

1 result of that phone call what did he ask y'all, the two of
2 you, to go do?

3 A. He said that it was an old friend of his, had gotten
4 somewhat stranded, and he just needed to ride to meet a
5 friend of a friend's so that, you know, he wasn't stranded
6 on the side of the road basically.

7 Q. Okay. And did he indicate to you what this friend's
8 name was that he was asking you to go pick up?

9 A. He said he needed to pick up his friend Creep.

10 Q. And let me ask you: Did you know anybody that went by
11 the nickname Creep?

12 A. Not personally, no. But I heard Rob talk about him
13 before.

14 Q. Okay. So Rob had mentioned that name before, though,
15 as an acquaintance or a friend of his?

16 A. Yes.. He said they had been friends since Rob moved to
17 the area some years back.

18 Q. All right. And, ultimately, are you aware of whether
19 -- did they talk on the phone? I mean, obviously, there was
20 that initial phone call that Rob asked you then about going
21 to get him.. Is that right?

22 A. Uh-huh..

23 Q. Did they talk anymore on the phone ultimately before
24 you ended up picking somebody up?

25 A. He spoke to him and got off the phone. And then asked

Direct Examination of Ms. Taylor by Ast. Sol. Sorenson

1 me and I consent -- I mean, I agreed. Then I guess he
2 called him about where to pick him up from.

3 Q. Okay. And, ultimately, did you end up picking up this
4 person who at that point in time you were under the
5 understanding was this friend Creep?

6 A. I did.

7 Q. Okay. The person that you picked up, have you ever
8 seen him before?

9 A. No. I never met his friend Creep before.

10 Q. Obviously, you were driving. Is that correct?

11 A. (Affirmative non-verbal response.)

12 Q. What kind of vehicle were you driving back then?

13 A. A 2008 GMC Acadia.

14 Q. Okay. And that's kind of a little SUV. Is that
15 correct?

16 A. (Affirmative non-verbal response.)

17 Q. And when you ultimately picked this other person up,
18 where ultimately then was everybody seated in your vehicle?

19 A. I remember Rob was in the passenger side and his friend
20 got into the back seat. I'm not really sure about his exact
21 location. It was just behind me.

22 Q. And did you have any further, kind of, direct
23 interaction with him at all? Were you ever face-to-face
24 talking with him at the time?

25 A. No. We were never formally introduced and didn't turn

1 around to talk him or anything else. Kind of focused on
2 where I was supposed to be going and how I was going to get
3 back.

4 Q. Okay. And, ultimately, do you remember where it was
5 that you picked him up?

6 A. I think it was the McDonald's in North Charleston . . .

7 Q. And, ultimately, where do you recall did you end up
8 driving, attempting to drive, this person to?

9 A. I went on the interstate and got off on the College
10 Park exit and went to McDonald's there. And then the ride
11 had just left. So then I went on the other side of the
12 interstate overpass. And it was every time, you know, I
13 would get to where this meeting place, he said we had just
14 missed the ride and I had to go somewhere else. I remember
15 going over the overpass a couple of times. And then stopped
16 at a gas station upon 78 -- until we got back in a car and
17 went to the apartments.

18 Q. Okay. And let me ask you: During this time when you
19 were kind of around that College Park exit, what was the
20 individual in the back seat doing during that time?

21 A. He was trying to connect with the ride he was supposed
22 to be meeting up with.

23 Q. Okay. And that was by cell phone?

24 A. Yes, sir.

25 Q. And, ultimately, as you were kind of driving back and

1 forth, how were you beginning to feel at that point in time?

2 A. I was very -- I was getting increasingly agitated and
3 felt like I was on a dummy mission. And I told Rob that.
4 And He started talking to his friend that, you know, how
5 long they had known each other, and good friends they were,
6 and the history they had, and tightness, he put it, they had
7 been.

8 Q. Okay. And, ultimately -- let me ask you: Did you ever
9 see him or is there any conversation between the two of them
10 in your vehicle about drugs at all that you recall?

11 A. I think a friend had something and he had asked Rob if
12 he knew what it was and Rob said he didn't. And that was
13 the extent of it.

14 Q. Do you remember -- did you see what it was that the
15 person had?

16 A. Some kind of like little blue candy, but it was
17 supposed to be blue pills.

18 Q. And then, ultimately, you indicated a few moments ago
19 that you ended up at an apartment complex?

20 A. Yes, sir.

21 Q. Okay. And do you know what apartment complex that was
22 that you were basically told to go to?

23 A. I don't remember what was called. I was, you know --
24 go left and turn right.

25 Q. Were you familiar with that apartment complex?

1 A. No, sir.

2 Q. Ever been there before?

3 A. No. That's why I was really trying to focus on how to
4 get back out.

5 Q. And, ultimately, when you pulled into that apartment
6 complex, do you remember, kind of, when you went in, where
7 you were told to go?

8 A. I turned right into the apartment complex and then I
9 was told to go left. And he said he saw the car for his
10 friend and that was the apartment that I parked in front of.

11 Q. I'm showing you --

12 AST. SOL. SORENSON: May I approach the witness, Your
13 Honor?

14 THE COURT: You may.

15 Q. I'm showing you State's Exhibit Number 5. Whose car is
16 that, Sara?

17 A. That's my car.

18 Q. Okay. And is that where you parked that day in that
19 apartment complex?

20 A. Yes, sir.

21 Q. All right. And when you pulled into that parking
22 space, what happened then, Sara?

23 A. Let's see. I pulled in and his friend got out of the
24 car. And I went to back out, finally. And Rob, all of a
25 sudden, jumped out of the car, said he'd right back. He was

Direct Examination of Ms. Taylor by Ast. Sol. Sorenson

1 gonna walk with this man to his door. And so they walked
2 toward the entrance of the apartments themselves behind the
3 stairwell and I lost sight of him.

4 Q. And is that area in that photograph where they walked
5 to?

6 A. Yes, sir.

7 Q. Kind of back in there where my finger is?

8 A. It was downstairs out of my line of sight.

9 Q. And the two of them both went back there?

10 A. Yes.

11 Q. Did you ever see anybody else besides the two of them?

12 A. I didn't see anything back there . . .

13 Q. All right. And at some point in time, did you hear or
14 see something else then, Sara?

15 A. A few minutes passed and I heard a gunshot. A few
16 seconds later, I heard another shot. And so I looked behind
17 me. I was trying to look around and I saw there was some
18 kids playing -- behind my vehicle. And a short time later,
19 Rob came walking out toward my car with this look on his
20 face and he fell facedown. And in this guy came running out
21 behind him and was crouched down over him and he didn't look
22 up. He just got stuff out of Rob's pockets and ran back
23 where he came.

24 Q. Now the person that came out that was going through
25 Rob's pockets, you said that person never looked up?

1 A. No, sir.

2 Q. Okay. Was that person dressed similarly to the
3 individual that you had been driving around that had got out
4 of the car with Rob and walked into that breezeway?

5 A. Honestly, I don't really remember. I wasn't paying
6 attention to this guy. I don't know what happened. You
7 know, just like I came running out after him.

8 Q. And you indicated that the person went through his
9 pockets at that point in time?

10 A. (Affirmative non-verbal response.)

11 Q. Okay. And what did you do at that time, Sara?

12 A. I started laying on my horn because, honestly, couldn't
13 -- my car because there was a staircase there. So I started
14 laying on my car horn until I saw him run off. And then I
15 got out and I went to Rob. And I was trying to put pressure
16 on the wounds.

17 Q. And, Sara, the direction the person that ran that had
18 been going through Rob's pockets, is that the same direction
19 the two of them had walked initially?

20 A. Yes, sir.

21 Q. And did anybody else ever come back out to you and, you
22 know, get back in your car or ask you to take them away?

23 A. No. I got out of my car immediately and I ran to Rob.
24 And I was screaming and I called 911. And all of a sudden,
25 you know, there were a lot of people around. And I just

1 remember bits and pieces.

2 Q. Do you remember talking to the police officer showing
3 up out there?

4 A. Yes, sir.

5 Q. And let me ask you: The individual that you had picked
6 up in North Charleston and driven around and had gotten out
7 of your car, I mean, did he ever come back up to you out
8 there at the apartment complex?

9 A. No, sir.

10 Q. Ever see him again out there after all this happened?

11 A. No, sir.

12 Q. That person that you gave the ride to, you testified --
13 so he was in the back seat the entire time?

14 A. Yes, sir.

15 Q. Okay. Did you ever get a real good look at him?

16 A. No, sir. Like I said, we were never introduced and I
17 didn't want -- I didn't Rob to get upset if he thought, you
18 know, I looked at the guy, anything like that. So, you
19 know, I just focused on where I was going. And, you know,
20 my line of questioning, once this guy got out of my car,
21 took a bit longer than I was actually led to believe that
22 day.

23 Q. Yes, ma'am. And do you remember anything about what
24 the person -- how the person was dressed or anything that
25 they were wearing?

1 A. I don't remember anything like that.

2 AST. SOL. SORENSON: Beg the Court's indulgence.

3 Q. And, Sara, if you recall -- I mean, so you saw Rob come
4 and kind of fell down. And where was that at that he fell?

5 A. Right by the stairwell.

6 Q. And, ultimately, is that where you saw the individual
7 that went though his pockets?

8 A. Yes. He was on top of Rob.

9 Q. Okay. And when you, ultimately, after laying on your
10 horn and going over to Rob, was there anybody right there in
11 the stairwell or in the breezeway when you got over there
12 that you recall seeing? When you first got over to him.

13 A. I don't remember looking. I was trying -- I was trying
14 to make sure Rob was still alive. I was trying -- just keep
15 him alive until we got help.

16 Q. Do you remember how you were acting out there when law
17 enforcement got there?

18 A. I don't know. I'm sure I was upset and -- because I --
19 he bled -- blood right in my hands.

20 AST. SOL. SORENSON: That would be all I have, Your
21 Honor.

22 THE COURT: Cross-examination?

23 MR. KORNEGAY: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. KORNEGAY:

1 Q. Good afternoon, Ms. Taylor. So you testified that you
2 were -- you had been dating Mr. Crumm for about one year.
3 Is that right, Ms. Taylor?

4 A. Yes, sir.

5 Q. And at the time, you were living together?

6 A. Yes, sir.

7 Q. But Mr. Crumm, at that point, was unemployed. Is that
8 correct?

9 A. He may have lost a job. But that's kind of -- it was
10 right before that because of his medical issues.

11 Q. So his uncle was helping y'all pay the bills, pay your
12 rent. Is that right?

13 A. Right. Supplement.

14 Q. And on the day of this incident, Mr. Crumm met with his
15 uncle?

16 A. Yes, sir.

17 Q. And he received some money from his uncle?

18 A. (Affirmative non-verbal response.)

19 Q. You testified that your rent cost about \$1200?

20 A. Yes, sir.

21 Q. And you had received money from your uncle -- or from
22 his uncle in the past prior to this day?

23 A. Yes, sir.

24 Q. But Mr. Crumm told you that he only received a thousand
25 dollars?

1 A. Yes, sir.

2 Q. And you believed that he was not being honest with you?

3 A. There was something sketchy about the whole thing,
4 yeah. The reason he was so adamant about holding onto the
5 money that time and the way he was acting.

6 Q. And in the past, didn't you receive around \$1800?

7 A. Yes, sir. I think the time before that. Yes, sir.

8 Q. So he was telling you he had received about a thousand
9 dollars and that didn't add up?

10 A. Right.

11 Q. Right.

12 A. I mean, I understood, you know. I don't expect someone
13 to -- large sums of money like that and he was really being
14 generous by helping us out. He didn't have to, you know,
15 lend us anything. But I just thought it was very strange
16 just -- he was so, I guess, so adamant that he held onto the
17 money that time.

18 Q. Right. You believed that he was lying to you about the
19 amount of money he received?

20 A. I don't know if I really suspected he lying about the
21 amount. I knew it was a possibility. I just knew -- I
22 suspected maybe he was lying about, you know, his reasoning
23 for, you know, holding onto it personally instead of going
24 straight into the bank.

25 Q. Do you recall, Ms. Taylor, writing a statement after

1 this incident?

2 A. Yes.

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

4 THE COURT: You may.

5 Q. Can you identify that, Ms. Taylor?

6 A. It's my statement.

7 Q. And can you take a look right there and just read that
8 sentence.

9 A. Okay. Yes, I suspected he wasn't being honest because
10 his uncle previously loaned us 1800 and rent is 1200.

11 Q. So he lied to you as far as you know?

12 A. Yes, sir.

13 Q. About the amount of money he received. At that point
14 or soon after that, you went on some errands. Is that
15 correct? Went to the doctor's or the VA?

16 A. After his uncle paid him?

17 Q. Right.

18 A. Yes.

19 Q. Later that afternoon. To pick up some records?

20 A. Yes, sir.

21 Q. And you were going to go to the doctor's office. Isn't
22 that right?

23 A. Yes, sir.

24 Q. But before you were able to go to the doctor's office,
25 Mr. Crumm received a phone call?

1 A. Yes, sir.

2 Q. And he said, "I know this person. He needs a ride. I
3 can go to the doctor another day"?

4 A. Yes. It wasn't like he had an appointment. You know,
5 he was gonna just drop it off. And he said it was a good
6 friend of his and we had talked about it before and that he
7 was, you know, stranded. And it wasn't anything that was
8 going to take some significant time out of the day or
9 anything ---

10 Q. But whatever ---

11 A. --- a quick thing.

12 Q. Sure. Whatever plans you had up to that point, after
13 the phone call, those plans changed?

14 A. Right.

15 Q. And during this time, you were going through a battle
16 with DSS?

17 A. Yes, sir.

18 Q. Over the custody of your children?

19 A. Uh-huh.

20 Q. And you had the opportunity to get your children to
21 move back into the house. Isn't that right?

22 A. Right.

23 Q. But a part of that condition was to have Mr. Crumm move
24 out of the house?

25 A. Right.

1 Q. Isn't that right? And Mr. Crumm had -- he had dealt
2 with drug abuse in the past. Is that fair to say?

3 A. Right.

4 Q. And after you told him that he will have to move out of
5 the house, his reaction was that he might as well go back to
6 drug use. Is that fair to say?

7 A. I don't think he ever said anything, you know, might as
8 well go back to drugs if -- you know, it was a big source of
9 tension. We were arguing about it that day. I knew that
10 major stressors were prone -- anybody that knows anything
11 about addiction -- stressors really cause some sort of
12 relapse what have you.

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

14 THE COURT: You may.

15 Q. And this is another page from that same statement,
16 Ms. Taylor. If you could, read that question and answer.

17 A. Right. "What has he said to you?" And I said, "If I'm
18 pushing him out, he might as well buy dope and get high." I
19 guess he did say that.

20 Q. So we had told you that if he was gonna be kicked out
21 of the house, he was at least talking about going back to
22 the old life of drug abuse?

23 A. Yeah, I guess. Yes, sir. It was a while ago. He
24 actually said it that way. I don't remember it that way.

25 Q. So you picked up this individual. You were driving him

1 to different locations. Isn't that right?

2 A. Yes, sir.

3 Q. And he kept telling you, no, I need to go to this
4 location. Basically changing where he wanted you to drop
5 him. Is that fair to say?

6 A. It seemed like every time we got there, we had just
7 missed him, you know. And he was out somewhere else.

8 Q. And this man claimed that he was trying to catch up
9 with a ride?

10 A. Right.

11 Q. But you were getting frustrated because it seems like a
12 ride could just wait for him. Is that fair to say?

13 A. Right. Just seemed like a dummy mission. Just seemed
14 odd because why wouldn't he wait and why is it we would have
15 to be passing each other on the road.

16 Q. So instead a short drive like you would anticipate,
17 this turned out to take up a large portion of the afternoon?

18 A. Right.

19 Q. In fact, in started getting close to rush hour?

20 A. Uh-huh.

21 Q. By the end of it. And during the course of the ride,
22 you saw a bag of blue pills. Isn't that right?

23 A. We didn't get any blue pills. But I saw him show him
24 blue pills.

25 Q. Right. Right. The man had blue pills on him.

Cross-Examination of Ms. Taylor by Mr. Kornegay

1 A. Right.

2 Q. Right. And you overheard Mr. Crumm speaking with him
3 about those pills?

4 A. Yes. He asked him if he knew what they were.

5 Q. And they also spoke about opening a bank account
6 together?

7 A. Uh-huh.

8 Q. And that seemed odd to you? Like, they were discussing
9 potentially illegal activity.

10 A. Right.

11 Q. Right. But eventually you reach the Cedar Key
12 Apartment complex?

13 A. Yes.

14 Q. During the course of this whole trip, you asked --
15 isn't it correct that you asked Mr. Crumm basically what's
16 going on, asking him for more details?

17 A. Right.

18 Q. But he wouldn't fill you in?

19 A. He just said -- he, I mean, he stuck to, you know,
20 we're trying to help him, you know, meet up with this guy.
21 Don't worry. I know him. And we're close. And he was one
22 of the first friends he made when he came to South Carolina
23 and they had all this history. And they sort of talking
24 about together what friends they were.

25 Q. So it seemed obvious that there was something he wasn't

1 telling you?

2 A. Yeah. I was very suspicious. Just my gut feeling.

3 Q. Okay. When you got to the apartment complex, after you
4 had heard the gunshots, Mr. Crumm collapsed fairly close to
5 where you were parked. Isn't that accurate?

6 A. Yes.

7 Q. And you saw an individual taking money off of his
8 person. Is that fair?

9 A. (Affirmative non-verbal response.)

10 THE COURT: Ms. Taylor, if you can answer yes or no.

11 THE WITNESS: Yes, ma'am.

12 A. Yes, they did.

13 Q. But you said that he had -- this person had his head
14 down?

15 A. Yes, sir.

16 Q. And you were not sure whether or not it was actually
17 the person you had given a ride to?

18 A. Yeah. Yes, sir. I just felt stupid about that. I was
19 so focused on discrepancies and things I wanted to confront
20 Rob about once this guy got out of my car.

21 Q. I believe you told the solicitor that you didn't get a
22 real good look?

23 A. No, sir.

24 Q. Okay. Do you remember speaking with detectives
25 afterwards?

1 A. Yes, sir.

2 Q. I believe it was, at the same time you wrote your
3 statement, a detective asked you about identifying who it
4 was that you had driven around that day?

5 A. Yes, sir.

6 Q. You had given them your best description possible.
7 Isn't that correct?

8 A. Yes, sir.

9 Q. And they used that description to compile a photo
10 lineup?

11 A. Yeah.

12 Q. And before you were shown the photo lineup, you were
13 given basically a disclaimer. (Brief pause.) And I'm
14 showing what's been marked as Defense Exhibit 1.

15 MR. KORNEGAY: May I approach, Your Honor?

16 THE COURT: (Affirms.)

17 Q. Do you recognize this, Ms. Taylor?

18 A. Yes.

19 Q. And is that your signature at the bottom?

20 A. It is.

21 Q. And so you would have read that and then signed the
22 bottom of the page?

23 A. Yes, sir. I mean, I don't specifically remember it,
24 but I know my signature.

25 Q. Sure.

1 MR. KORNEGAY: Permission to publish -- or I would ask
2 to move Defense Number 1 into evidence.

3 THE COURT: Any objection?

4 AST. SOL. SORENSON: No objection.

5 THE COURT: All right. It's in. That's a disclaimer
6 for the photo lineup?

7 MR. KORNEGAY: Yes, Your Honor. May I publish to the
8 jury, Judge?

9 THE COURT: Yes.

10 (Defendant's Exhibit No. 1, Disclaimer, was received
11 into evidence.)

12 Q. So disclaimer reads, "You will be asked to look at a
13 group of photographs. The fact that the photographs are
14 shown to you should not influence your judgment. You should
15 not conclude or guess that the photographs contain a picture
16 of the person who committed the crime. You are not
17 obligated to identify anyone. It is just as important to
18 free innocent persons from suspicion as to identify guilty
19 parties. Please do not discuss the case with other
20 witnesses or indicate in any way that you have identified
21 someone." So after reading and signing that disclaimer the
22 detective -- (Brief pause.) After reading and signing that
23 disclaimer, the detective showed you a photo lineup. Isn't
24 that right?

25 A. Yes, sir.

Cross-Examination of Ms. Taylor by Mr. Kornegay

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

2 THE COURT: You may.

3 Q. Could you identify this for the jury.

4 A. It's a photo lineup.

5 Q. And is your signature on that photo lineup?

6 A. Yes, sir.

7 Q. And what picture did you select on that photo lineup?

8 A. Number four.

9 Q. Number four.

10 A. I was really hesitant about choosing because I didn't

11 know. I just didn't want, you know, get in -- you know, I

12 didn't want to . . .

13 Q. You told him you didn't know?

14 A. Right. I wasn't sure. I just ---

15 Q. Hadn't just prior to you ---

16 AST. SOL. SORENSON: Objection. Let her ---

17 THE COURT: Counsel ---

18 AST. SOL. SORENSON: --- answer her question.

19 THE COURT: Sustained. Please let her answer fully her

20 question and you can follow.

21 MR. KORNEGAY: Yes, Your Honor.

22 A. I told him I really wasn't sure. You know, I really

23 wasn't comfortable. I just -- I didn't want to get someone

24 in trouble that did -- I just didn't. I didn't know. And I

25 wanted to help, but I wasn't positive. And he said just do

1 my best. I just remember telling him that I wasn't really
2 comfortable choosing but I tried.

3 Q. So you told the officer after you had signed a
4 disclaimer saying that you're not obligated to identify
5 anybody and it's just as important to free innocent people?

6 A. Uh-huh. Really insisted, you know, that I pick
7 somebody saying he needed help with figuring out, you know,
8 what had happened to Rob and said that the picture I chose,
9 it wouldn't be solely used, you know, against -- make sure
10 they had other evidence. You know, if I had chose the wrong
11 picture, it wasn't used against an innocent man.

12 Q. So the officer said it doesn't matter, still choose a
13 picture?

14 A. Right. I needed to pick somebody.

15 Q. You need to pick somebody ---

16 A. That's the way it felt. You know, I was there for a
17 really long time. When something like that happens, you
18 don't really remember a lot. I just remember, you know,
19 flashes of things and kind of felt just really dumb simply
20 that I didn't pay attention someone who had been sitting
21 behind me all that time. I was trying to help. Just maybe
22 talked to somebody that, you know, could help them. Like, I
23 just, trying to help them figure out who was in my back
24 seat.

25 Q. So essentially your testimony is that after you had

1 looked at the photographs, expressed to the officer that you
2 were not sure. The officer then said it doesn't matter,
3 just pick somebody?

4 A. I'm paraphrasing it. Basically, yes.

5 Q. Essentially?

6 A. Yes, sir.

7 Q. So based on that, your perception of that experience is
8 that the officers were not really concerned in getting an
9 accurate picture about what happened?

10 A. I know that they really wanted to find out who was
11 responsible, you know, and get this person off the street.
12 But I felt like they needed a direction to go in to find,
13 you know, this person. Because I didn't know, you know,
14 they guy's real name. I had not met him before. I didn't
15 know what he looked like. I didn't know his number. I
16 didn't know anything. And this guy was the best change they
17 had for, you know, finding out, getting these missing pieces
18 from what I didn't see. But, you know, I know it had been a
19 long day for them as well. It was just a stressful
20 situation.

21 Q. Sure. But you had provided the officers with a
22 description of what you remember?

23 A. Uh-huh.

24 Q. And based on that they compiled that photo lineup?

25 A. Yes, sir.

1 Q. And when they gave you that photo lineup, you chose the
2 picture that you felt was most accurate?

3 A. Yes, sir.

4 Q. And you believed that to have been the most accurate
5 picture of the description that you remembered?

6 A. Yes, sir.

7 MR. KORNEGAY: May I publish the photo ---

8 THE COURT: It's not introduced yet.

9 MR. KORNEGAY: I would like to move Defense Exhibit 2
10 into evidence.

11 THE COURT: Any objection?

12 AST. SOL. SORENSON: No.

13 THE COURT: All right. It's in. You may publish.

14 MR. KORNEGAY: Thank you, Judge.

15 (Defendant's Exhibit No. 2, Photo Lineup, was received
16 into evidence.)

17 MR. KORNEGAY: Beg the Court's indulgence.

18 Q. Ms. Taylor, did the police suggest to you that number
19 four might be a good choice?

20 A. No.

21 Q. Did you honestly believe that that was the man?

22 A. No. I was trying to find what was closest to what I
23 could remember at the time.

24 Q. You just didn't know?

25 A. Right.

Redirect Examination of Ms. Taylor by Ast. Sol. Sorenson

1 Q. Didn't know who it was?

2 A. Right.

3 Q. Ms. Taylor, subsequent to this photo lineup, has
4 anybody shown you another photo lineup or had you looked
5 through other photos?

6 A. They never talked to me after the day after it happened
7 until, you know, recently.

8 MR. KORNEGAY: Thank you. I have no further questions.

9 THE COURT: Any redirect?

10 AST. SOL. SORENSON: Briefly.

11 REDIRECT EXAMINATION

12 BY AST. SOL. SORENSON:

13 Q. Ms. Taylor, this lineup where you identified number
14 four, that was shown to you that same night. Is that
15 correct?

16 A. Right.

17 Q. Several hours after you had been at the Sheriff's
18 Office?

19 A. Yes, sir.

20 Q. And Mr. Kornegay asked you about providing a
21 description of the person to law enforcement. Do you
22 remember him asking you that?

23 A. Yes, sir.

24 Q. And do you remember what that description was that you
25 provided?

1 A. I don't now.

2 Q. Did you tell them the nickname Creep?

3 A. Yes, sir.

4 Q. Did you tell them about the fact that he had called
5 Rob's phone, so his number should be in Rob's phone?

6 A. Yes, sir.

7 AST. SOL. SORENSON: That's all I have.

8 THE COURT: You may step down. Thank you. You may
9 call your next witness.

10 AST. SOL. SORENSON: Can we take just a brief bathroom
11 break.

12 THE COURT: Sure. Ladies and gentlemen, we're going to
13 take a brief restroom break. We'll be about five, ten
14 minutes or so. Please let us know when you're ready to
15 proceed. Again, please remember my instruction to not
16 discuss the case amongst yourselves. We'll be right back
17 with you.

18 (The jury exits the courtroom at 2:30 p.m. and a brief
19 recess is taken. The proceedings resumed at 2:42 p.m.)

20 THE COURT: Are you ready for the jury?

21 AST. SOL. SORENSON: We're ready, Your Honor.

22 MR. KORNEGAY: Yes, Your Honor.

23 THE COURT: All right. Let's have our jury, please.

24 (The jury enters the courtroom at 2:43 p.m.)

25 THE COURT: Welcome back, ladies and gentlemen of the

Direct Examination of Sgt. Alger by Ast. Sol. Sorenson

1 jury. We're now ready to proceed. You may call your next
2 witness.

3 AST. SOL. SORENSON: Thank you. The State calls
4 Sergeant Phil Alger.

5 (PHILIP ALGER, was duly sworn and provided the
6 following testimony.)

7 THE COURT: Your witness.

8 AST. SOL. SORENSON: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY AST. SOL. SORENSON:

11 Q. Sergeant Alger, if you would, tell us where it is that
12 you're employed.

13 A. I'm employed with the Dorchester County Sheriff's
14 Office.

15 Q. And how long have you been employed with the Sheriff's
16 Office?

17 A. Almost 16 years.

18 Q. Okay. If you would, tell the jury what are your
19 current duties at this time.

20 A. My current duties as of las week, I got promoted to
21 patrol sergeant. So I'm currently -- well, starting next
22 Monday, as patrol sergeant on the road. I'll supervising
23 other units on my shift.

24 Q. Okay. And back in March of 2015, what capacity were
25 you employed at that time?

1 A. I was currently assigned to the CID, Criminal
2 Investigations Division, as a detective assigned to general
3 investigations but I mainly worked person crimes.

4 Q. I want to turn your attention, if I could, Sergeant,
5 back to March 10th of 2015. Were you one of the officers
6 that responded out to Cedar Key Apartments that day?

7 A. Yes, sir.

8 Q. Okay. If you would, just briefly describe for the jury
9 kind of when you got out there, what was going on? When you
10 arrived out there.

11 A. Myself and Detective Melendez and also Lieutenant
12 Buckman kind of arrived at the same time. We were being
13 motioned to gather over at the 500 building. There were
14 people gathered. I observed a white male laying on the
15 sidewalk. He was facedown at that time. Further into the
16 investigation it was determined that the person that was
17 facedown was the victim, Mr. Crumm.

18 Q. Okay. And ultimately did some of the other officers
19 out there attempt to render aid to Mr. Crumm?

20 A. Yes, sir. Sergeant Giglio and Andy Martin -- I'm
21 sorry, Sergeant Martin -- attempted to render aid to the
22 victim but he had already expired.

23 Q. Okay. And at some point in time specifically then your
24 involvement out there, did you ultimately make contact with
25 somebody out there that you ended up dealing with on the

Direct Examination of Sgt. Alger by Ast. Sol. Sorenson

1 scene?

2 A. I did. Her name was -- (coughing)-- Taylor?

3 Q. Okay. And that was Ms. Taylor that just testified?

4 A. Yes, sir.

5 Q. Okay. And if you would, describe the jury when you
6 came into contact with Ms. Taylor. Where was that at first
7 of all?

8 A. When I came in contact with Ms. Taylor, she was
9 standing near the victim. She was very hysterical. She
10 was, physiologically, she was shaking. She was upset. She
11 was crying.

12 Q. She appear to have anything on her, that you noticed on
13 her hand or ---

14 A. She appeared to have what was blood on her hands. And
15 it was later determined she said she got that from trying to
16 render aid to the victim. She gave us some information at
17 that time.

18 Q. Okay. Did you have an opportunity then out there at
19 the scene to briefly speak with her?

20 A. Yes, sir.

21 Q. Okay. Did you ask her who it was that had shot the
22 victim, Mr. Crumm?

23 A. Yes, sir. She advised at the time and for all intense
24 purposes, no disrespect, she referred to him as suspect. So
25 that's how I'll refer to him for investigative purposes.

1 She said that there's a black male suspect by the name of
2 Creep.

3 Q. Did she give a description of Creep?

4 A. She did. She said that he was dark skinned and his
5 height was about five-foot-eight, five-foot-nine. And when
6 I inquired about facial hair, she kind of -- when I asked
7 her about facial hair, she did this motion toward her chin.
8 So I assumed there was facial hair on the chin hanging off.

9 Q. Okay. And how about ---

10 A. We put that description out on the radio for
11 surrounding units that were coming in.

12 Q. Okay. And how about a nick -- how about any clothing
13 description did she give to you?

14 A. I do not recall a -- just one second.

15 Q. Looking at your report on page one?

16 A. Yes, sir.

17 Q. Right after the height description, you said
18 five-eight, five-nine.

19 A. Dark clothing on. My apologies.

20 Q. And that information was provided to you while she was
21 still out there at the apartment complex. Is that correct?

22 A. Yes, sir.

23 Q. Okay. Now did you have an opportunity to take Ms.
24 Taylor anywhere?

25 A. I did. Lieutenant Dixon arrived on scene. And at that

1 point, he gave me direction to take Ms. Taylor back to the
2 CID office so she could be interviewed further.

3 Q. Okay. And how long did you -- and the jury had an
4 opportunity earlier to see Lieutenant Buckman's video coming
5 kind of from the Sheriff's Office to the scene. So a couple
6 of miles away at the most. Is that correct?

7 A. Yes, sir. It was a very short transit time.

8 Q. Okay. If you would, describe -- you had indicated that
9 when you first came in contact with Ms. Taylor that she was
10 hysterical, visibly crying, upset. Did that change as you
11 were taking her to the Sheriff's Office?

12 A. No, sir. She was still basically in that same state
13 and I was trying to calm her down as best I could while
14 driving back to the office. Of course, she still had what
15 appeared to be blood on her hands and stuff. So she was
16 conscientious of that.

17 Q. Okay. And did ultimately did drive back to the
18 Sheriff's Office. Did you get a little more information
19 from her during that drive?

20 A. Yes, sir. She gave me some information further on in
21 the incident.

22 Q. She indicated where she and the victim had picked the
23 suspect up?

24 A. She advised that they picked up the suspect in North
25 Charleston.

1 Q. And she also talk about any point the suspect
2 mentioning where he wanted to go?

3 A. A subdivision called Robynwyn, which is right there off
4 of 78 and -- off of 78 in Summerville.

5 Q. Okay. She reiterate the suspect's, the name that she
6 knew him by?

7 A. Yes, sir. She reiterated the name Creep.

8 Q. And did she provide any information about where his
9 phone number could possibly be located?

10 A. She stated that she had his phone number in her phone
11 and possibly under a question mark or also the name Creep.
12 I could not remember. And she also stated the number may be
13 in the victim's phone as well.

14 Q. Did she also provide you information about basically
15 what she had observed out there as far as what the suspect
16 had done to Robert?

17 A. Yes, sir. She stated once they arrived on scene, the
18 suspect made a reference in regards to a gold car. The
19 suspect stated, "He's already here. Wait. That's not --
20 his windows aren't tinted black." So he made a reference
21 that that's the car but then again that's not the car. And
22 I'm assuming that's the person that they were supposed to
23 meet there. She further specified that the victim and the
24 suspect spoke in front of the car for several minutes. I'm
25 sorry. My throat is getting dry. The victim and the

Direct Examination of Sgt. Alger by Ast. Sol. Sorenson

1 suspect walked back to the back of the breezeway out of
2 sight at the 500 building. She stated she heard a gunshot
3 and then heard another one and then the victim came running
4 back towards the front of the building and collapsed. She
5 further stated that the black male suspect then started
6 rifling through the victim's pockets as he was laying there
7 on the ground. And at one point she actually starting
8 blowing the horn and trying to get him to stop. But the
9 person continued to rifle through the victim's pockets as he
10 was laying there shot.

11 Q. Did she indicate where that person then took off to?

12 A. He fled back to the back of the building.

13 Q. And all that was provided to you basically right after
14 this happened. Is that correct?

15 A. Yes, sir. I would say within ten minutes of the whole
16 transition from coming from the scene going back to the CID
17 office.

18 Q. And ultimately -- and the jury had heard that she
19 ultimately gave kind of written statement. Was she turned
20 over to another detective at the scene, back at the
21 Sheriff's Office to kind of further questions her?

22 A. Yes, sir. Once back at the CID office, I briefed then
23 Sergeant Peters, now Lieutenant, of the incident. He
24 advised me to make sure that, you know, to take her into the
25 interview room. She was taken into the interview room. She

1 was provided a chance -- I had Detective Mosier (ph) take
2 pictures of her because of the blood that was possibly on
3 her hands and her face, possible evidence. She went and
4 cleaned herself up. She was provided something to drink and
5 she provided a witness statement with Detective Mosier. And
6 at that point in time, I had no further contact. I went and
7 got DMV reports and stuff and tried to assist Detective
8 Peters.

9 AST. SOL. SORENSON: Okay. All right. Thank you.
10 That would be all I have, Sergeant.

11 THE COURT: Cross-examination?

12 MR. LOY: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. LOY:

15 Q. Good afternoon?

16 A. Good afternoon, sir.

17 Q. So you say you've recently received a promotion.
18 You're going back in uniform?

19 A. Yes, sir.

20 Q. Congratulations.

21 A. Thank you.

22 Q. The solicitor asked you a moment ago if the person that
23 you met on the scene was the person who had just testified
24 earlier today. Were you in the courtroom during that
25 testimony?

Cross-Examination of Sgt. Alger by Mr. Loy

1 A. No, sir.

2 Q. Okay. So just saw that person come in or knew the
3 order in which the witnesses were called and that's why you
4 assumed that she was the person who had just testified. Is
5 that right?

6 A. I saw her in the hallway earlier before she testified,
7 and I remember her from the incident.

8 Q. Okay. Then she got called in and that's how you put
9 two and two together?

10 A. Yes, sir.

11 Q. Now, looking at your report, I see -- and I have a copy
12 of your report.

13 MR. LOY: Can I approach the witness?

14 THE COURT: You may.

15 Q. You have a copy of your report also, do you not?

16 A. Yes, sir.

17 Q. Would you just confirm with me that we got the same
18 thing and I have it in its entirety; one, two, three.

19 A. Yes, sir.

20 Q. This is the report that you prepared?

21 A. Yes, sir.

22 Q. And this all the reports that you prepared. Is that
23 correct?

24 A. Yes, sir.

25 Q. It starts off, it says, "I heard emergency tones."

1 A. Yes, sir.

2 Q. Can you tell the ladies and gentlemen of the jury what
3 that means. What is that?

4 A. Dispatch has a button on dispatch console. It's what
5 we call in the police world as dropping tone. It's an
6 emergency tone that alerts us that there's emergency
7 information coming after those tones are dropped. So once
8 you hear those tones, then all this kind of -- towards the
9 radio and then listen to the information that's provided by
10 dispatch afterwards.

11 Q. So via -- and it's drop tones. So you heard tones. Is
12 that correct?

13 A. Yes, sir.

14 Q. And that just sort of means listen up, pay attention,
15 there's something important coming. Is that right?

16 A. Absolutely.

17 Q. Okay. And then almost immediately you had an address
18 and that there was a shooting. Probably nothing much more.
19 Is that correct?

20 A. Yes, sir.

21 Q. And you responded as did other law enforcement
22 officers. And we've seen some video. It looked like there
23 were quite a few law enforcement officers out there.

24 A. Yes, sir.

25 Q. But you were one of the first guys to arrive on the

1 scene. Is that right?

2 A. Yes, sir. Sergeant Buckman was a couple of seconds
3 before I was. And myself and Detective Melendez were in the
4 same and arrived there, if I remember correctly.

5 Q. And as best you can recall, about what time was it when
6 you arrived?

7 A. I do not indicate that in my report. I'd have to refer
8 to the incident report, stuff that was written.

9 Q. I'm just asking your recollection. Dark? Night? I
10 mean, about what time was it?

11 A. It was still daylight.

12 Q. Okay. it looked like there was plenty of visibly on the
13 camera, the car camera, that we observed earlier. Is that
14 your recollection also?

15 A. Yes, sir.

16 Q. Okay. The vehicle which you understood Ms. Taylor, I
17 believe, as well as Mr. Crumm to have arrived in at the
18 apartment complex, did it appear to have been moved since
19 they arrived there? Or was it your understanding it was
20 still in the same spot? That is they pulled up, parked, and
21 that's where it was.

22 A. To the best of my recollection, it was in the same spot
23 they arrived in. And I didn't inquire about that being
24 moved or anything.

25 Q. But there was a breezeway where it appeared the

1 shooting had taken place and a gentleman who had been shot
2 and exited the breezeway back toward the parking. And he
3 was sort of there in the neck of the breezeway. Is that
4 correct?

5 A. Yes, sir. I think we were on the side right in front
6 of it.

7 Q. And the car in which he had arrived had pulled up
8 facing in that direction. Do you recall?

9 A. I do not, sir.

10 Q. You don't recall if -- well, when Ms. Taylor described
11 to you having seen Mr. Crumm and Creep walking to the
12 breezeway, it appeared as though, at least sounds like, she
13 was looking in the same direction that they were going.
14 Would you agree?

15 A. Yeah.

16 Q. And when she says I saw him come back out, it appears
17 as though she was looking in that direction; yes?

18 A. Yes.

19 Q. And when she describes the gentleman coming out behind
20 him, his posture, his stance, what he does when he
21 approaches the person who is laying there on the sidewalk,
22 certainly sounds as though she's looking in that direction.
23 Is that right?

24 A. Yes, sir.

25 Q. Okay. So we pretty much agree the car is pointing that

Cross-Examination of Sgt. Alger by Mr. Loy

1 way by all appearances?

2 A. Yes, sir.

3 Q. And it's basically a matter of pulling the car up a
4 sidewalk, sort of a standard sidewalk, and then a breezeway
5 right there. Is that right?

6 A. Yes, sir. If I remember correctly, it was the sidewalk
7 like you're referring to and then kind of a mini sidewalk
8 that goes to the breezeway. Kind of like a walkway.

9 Q. But from Mr. Crumm, where he was lying when you arrived
10 at least, to the vehicle that he had arrived in was maybe
11 this distance?

12 A. I think it was a little further than that to my
13 recollection. It's kind of hard to remember. Probably
14 about that far I would say if I had to guesstimate.

15 Q. Would you say this is maybe 20 feet?

16 A. Close to it.

17 Q. Okay. So the vehicle appeared to be pointing in that
18 direction was maybe 20 feet out. It's a clear day, plenty
19 of visibility, sunshine when you got there, et cetera?

20 A. Yes, sir.

21 Q. Now, early on you received the nickname Creep. Is that
22 right?

23 A. Yes, sir.

24 Q. Okay. And that was important to you as an investigator
25 even though -- let me back up. I'm sorry. Strike that.

1 You were never what we would call the chief investigator in
2 this case. Is that correct?

3 A. That's correct.

4 Q. Tell the ladies and gentlemen of the jury, if they
5 don't know, what exactly we mean by a chief investigator
6 when you and I talk.

7 A. When you have a lead investigator in the case, you have
8 a lead and you have a secondary. The lead investigator is
9 kind of how it's intended to sound. That person -- it's
10 that person's case. He's in charge of it kind of no matter
11 what that person's rank is. It's his case. He directs what
12 needs to be done in the case and how the paperwork is
13 handled. And he also delegates duties to other detectives
14 that are sitting in. But, normally, there's the primary and
15 the lead, or chief investigator or the secondary. And the
16 secondary generally helps out the primary one.

17 Q. And maybe you can do it a little more slowly.

18 A. I'm sorry.

19 Q. It's okay. Regardless, you were helping out?

20 A. Yes, sir.

21 Q. And earlier -- but you were a detective at the time.
22 There were other cases you were the lead detective?

23 A. Yes, sir.

24 Q. Okay. And in this case, certainly, with a serious
25 crime, a serious offense such as this, it was important to

Cross-Examination of Sgt. Alger by Mr. Loy

1 gather as much information as you could from any witnesses
2 while their recollections were fresh; yes?

3 A. Yes, sir.

4 Q. To try memorialize or record or write down something,
5 get those -- so that they would be preserved for some future
6 date, maybe a year or so later down the road. Is that
7 right?

8 A. Yes, sir.

9 Q. Okay. And you were careful in doing that and your
10 report certainly seems to be thorough and you attempted to
11 be thorough. Is that right?

12 A. Yes, sir.

13 Q. Okay. And so you got a name and you thought,
14 obviously, that was important because it would help you
15 narrow your fields of suspects. Is that right?

16 A. Yes, sir.

17 Q. And you got a description; yes?

18 A. (Affirmative non-verbal response.)

19 Q. And you were described as a dark, black male, maybe
20 five-eight, five-nine, facial hair. Did you get a weight?

21 A. No, sir. As soon as she gave me the information, I put
22 that on the radio for our responding units.

23 Q. Okay. And was there any point in time where Ms. Taylor
24 indicated to you that perhaps she couldn't? I mean, do you
25 ask about facial hair? Did she say I don't know?

1 A. When I asked about facial hair, she made a motion
2 toward her chin.

3 Q. Which you took as an affirmation of facial hair?

4 A. Yes, sir.

5 Q. Did you ask about hair style?

6 A. No, sir.

7 Q. Did you ask you her whether or not she thought she'd be
8 able to identify the person she spent the afternoon with?

9 A. I don't recall asking her that. But that would've been
10 a question I would've asked her, but I didn't indicate that
11 in my report.

12 Q. But in your experience, typically, any time this is a
13 question you would ask?

14 A. Absolutely. Right.

15 Q. And if in fact her answer was yes, I could identify the
16 person, and you would want to get a photo lineup or a lineup
17 like on TV with the six guys there and the curtain goes up,
18 something like that, and ask do you see the man?

19 A. Yes, sir.

20 Q. You state that she appeared to be bloodied. She had
21 blood on her hands and on her clothes, on her face?

22 A. Yes, sir.

23 Q. There was a lot -- I mean, Mr. Crumm had bled badly
24 after having been being shot. And there was a lot of blood
25 on the scene?

Cross-Examination of Sgt. Alger by Mr. Loy

1 A. Yes, sir.

2 MR. LOY: One moment Your Honor.

3 Q. Now, as a backup or by rendering, not aid, I guess, but
4 by being helpful in the investigation, you actually put
5 together a couple of photo lineups in this case. Did you
6 not? Or you facilitated having them compiled. Is that
7 correct? And, specifically, I'm looking at the top of page
8 three.

9 A. Okay. Yes, sir. By me getting the South Carolina DMV
10 records from SLED; yes, sir. And all the information was
11 given to a Detective Peters.

12 Q. Okay. And when you -- I think we all know, but tell
13 the ladies and gentleman, if you would, what exactly we mean
14 when we talk about a photo lineup? We call it a six-pack
15 sometimes; right?

16 A. Yes, sir.

17 Q. Slowly.

18 A. What that is we typically run a South Carolina DMV
19 record of the individual or person of interest who we deem a
20 person of interest or a suspect in the case. And we call
21 SLED, there's the SLED fusion center, and we e-mail the
22 information to them. And they send us back six individuals
23 on that paper. And then we take that photo lineup and we
24 try not to be the same detective that has a full lineup
25 question or show the witness. We try to have another person

1 do it. And like I said, SLED, in my opinion, you know, does
2 a decent job of getting people who have similar facial
3 features and hairstyles and everything else that way it's --
4 a person can look at it and say, well, that could be the
5 suspect or not be the suspect. And it's compiled with six
6 individuals. It's what we call a six-pack.

7 Q. And trying to make it fair. Not just have, you know,
8 the one guy with a mohawk and a pierced nose and everybody
9 else ---

10 A. Absolutely.

11 Q. Okay. So have you, in the course of your work as a
12 detective, been involved both with the preparation or
13 facilitation? That is getting them put together like you
14 described, as well as with presentation, that is in other
15 cases, presenting witnesses with photo lineups?

16 A. Yes, sir.

17 Q. If you know, what is the procedure to do? What's the
18 proper procedure when you present someone with a photo
19 lineup?

20 A. The proper procedure? Say for instance another
21 detective orders the six-pack photo lineup, then I will give
22 it to someone who doesn't have knowledge of the case. That
23 way someone can't come back later and say, well, you know,
24 there's some guy right here. You might want to look at his
25 picture; to be fair to the defendant. You go in and there's

1 a caption that's on the photo lineup, kind of like a
2 disclaimer, that says that the person may or may not be in
3 the photo lineup. And there's a numerical order. So say
4 for instance if a person chooses one, then that person's
5 label is number one. I have them circle a picture of that
6 person and date it and initial it. And then also I will
7 circle the number where that person indicated that was the
8 photo lineup or the person -- the picture in the photo
9 lineup.

10 Q. Would you describe that procedure as being both
11 elemental, that is one of the basic things that you would
12 use in a case with eyewitnesses, as well as critical?

13 A. Yes, sir.

14 Q. And the procedure in which it's conducted, would you
15 say that is the case also that it's critical to be performed
16 correctly?

17 A. Yes, sir.

18 Q. Are there are cases where it would be appropriate, in
19 your experience and training, where it would be appropriate
20 for a detective to meet with a person and say do you see --
21 go through the disclaimer, they may or may not be here.
22 It's just as important to clear people as it is to convict
23 people. And then if the witness were hesitant or was saying
24 I'm not sure, I don't know, or a detective would say
25 something along the lines of just pick somebody. Get the

- 1 best one. Pick somebody. We need a lead. We need a clue.
- 2 Get the best one you can get whether you're sure or not?
- 3 A. I'm sorry. Would detectives ask that?
- 4 Q. Would that be appropriate?
- 5 A. Negative. No, sir.
- 6 Q. Not under any circumstance?
- 7 A. No, sir.
- 8 Q. In this case, you compiled two separate six-packs. I
- 9 know you didn't do it. I say you compiled, but you had
- 10 them. You ordered them. You got them produced facilitating
- 11 the furtherance of the investigation. Is that correct?
- 12 A. Yes, sir.
- 13 Q. And you were hoping to get an identification of the
- 14 suspect, the person who had done this. Is that right?
- 15 A. I was hoping that someone would. Yes, sir.
- 16 Q. And so you used the information that you had: A black
- 17 male; you probably had an estimated age whether it was there
- 18 or not, 20s or something like that; facial hair; goes by
- 19 the name of Creep; in this general area. Is that right?
- 20 A. Are you asking how I got the information to get the DMV
- 21 records for the six-packs?
- 22 Q. Yes.
- 23 A. The information was given to me, I believe, by
- 24 Detective Peters because the nickname came back to two
- 25 different people. Hence, that's why two different DMV

1 records were composed.

2 Q. And that's my point. I misled you. I answered your
3 question incorrectly. I was asking you where -- what the
4 information was that you gave the DMV. And I think you
5 answered it anyway. The information you gave the DMV was
6 what we've both been talking about. Is that right?

7 A. Yes, sir.

8 Q. Nickname of Creep, black male, facial hair, whatever.
9 And you gave them and said I would like two photo lineups of
10 anybody who fits this description that we know of, plug them
11 in to one of the lineups. Is that correct?

12 A. Well, once we get a name of a person of interest or a
13 suspect -- like, for instance, the defendant's name came up.
14 So his actual DMV picture was pulled and then that was sent
15 off for the photo lineup.

16 Q. And there was another person?

17 A. Yes, sir.

18 Q. Who met that criteria.

19 A. According to the nickname, yes, sir.

20 Q. Well, he was also a black male; right?

21 A. Correct.

22 Q. And he's got facial hair, and you called him Creep?

23 A. Yes, sir.

24 Q. Okay. I'm showing you what's been marked as

25 Defendant's Exhibit Number 2. If you can, I know it's been

1 a while, can you say whether or not this is one of the
2 lineups that you put together?

3 A. It looks familiar. Yes, sir.

4 Q. And the one who is circled there, number four by the
5 witness, that's Lesner Creep Gilliard?

6 A. I can't say for sure because I don't -- I didn't show
7 the photo lineup to her I don't believe. I don't recall
8 showing her the photo lineup. I think Detective Moiser or
9 someone else did if I remember correctly.

10 Q. Regardless, it appears that someone has been picked out
11 of this lineup?

12 A. Yes, sir.

13 Q. And as a detective, if someone is picked out of this
14 lineup who matches all the criteria that you had, that is
15 the nickname, the race, the height, weight, facial hair, et
16 cetera, is that something you would attach some import to in
17 the furtherance of your investigation?

18 A. Yes, sir.

19 MR. LOY: One moment, Your Honor. (Brief pause.) I
20 don't have any more questions. Thank you.

21 THE COURT: Any redirect?

22 AST. SOL. SORENSON: Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY AST. SOL. SORENSON:

25 Q: Sergeant Alger, just kind of along those same lines of

1 what Mr. Loy just asked you. If somebody picked somebody
2 out of a photo lineup, as an investigator, I mean, does that
3 end your inquiry right there? Does that end your
4 investigation?

5 A. No, sir. For me, personally, I would try to gather
6 more information made as much as possible. And it just
7 depends on the evidence and the circumstances. But, no, it
8 does not end there.

9 Q. Obviously, you would look for any forensics they may
10 have, fingerprints, DNA, things of that nature?

11 MR. LOY: Objection. Leading, Your Honor.

12 THE COURT: Please rephrase.

13 Q. Well, what other things what you look for as an
14 investigator to kind help either corroborate or possibly
15 refute a photo lineup identification?

16 A. As an investigative, if an arrest was made basically
17 within the incident or the time of the incident, then most
18 definitely as an investigator you want to have witness
19 testimony, witness statements. You want to have as much
20 forensic evidence as possible that you can find and
21 corroborate that the fact and the witness testimony and
22 everything else. But sometimes when we make arrests, we
23 don't have all the forensic evidence because it takes time
24 to get that information back from SLED. So we go on witness
25 testimony and what we have at the time.

1 Q. Of course, in this case, were you aware of was Lesner
2 Gilliard arrested in this case? Were you even aware of
3 that?

4 A. Not that I'm aware of; no, sir.

5 Q. Okay. Further investigation would have been done by
6 Lieutenant Peters?

7 A. Yes, sir.

8 AST. SOL. SORENSON: I'll address that with him later.
9 Thank you, Sergeant.

10 THE COURT: You may step down. Thank you. You may
11 call your next witness.

12 AST. SOL. SORENSON: The State calls Frank Vallario.

13 MR. LOY: Your Honor, before he takes the stand, I've
14 mixed my papers in with the Court's exhibits if I can just
15 separate them back out. (Brief pause.) Thank you.

16 (FRANK VALLARIO, was duly sworn and provided the
17 following testimony.)

18 THE COURT: Your witness.

19 AST. SOL. SORENSON: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY AST. SOL. SORENSON:

22 Q. Frank, if you would, tell the jury, you live here in
23 Summerville?

24 A. I live in Goose Creek.

25 Q. Goose Creek. And how do you know the victim in this

1 case, Robert Crumm?

2 A. He's my godson.

3 Q. Okay. And you also kind of related through marriage to
4 his family also?

5 A. Yeah. Rosia, his mother, is my wife's cousin and my
6 cousin.

7 Q. Okay. And I want to turn your attention, Frank, if I
8 could, back to the early part of 2015. Did there come a
9 time when you had loaned your godson, Rob, some money?

10 A. I never loaned him anything. I gave it to him because
11 he's my godson.

12 Q. Okay. And how many times do you think you had given
13 him some ---

14 A. About several times.

15 Q. Okay. And, specifically, do you remember typically
16 about how much money it was that you would lend him on the
17 occasions that you did?

18 A. Depending on the situation. If he was back in his rent
19 or he needed food to eat downtown or whatever it was, I just
20 gave him money. I picked the figure. He didn't pick the
21 figure.

22 Q. I want to turn your attention specifically to the day
23 of his death on March 10th of 2015. Did you lend -- did you
24 give him some money that day?

25 A. I gave him \$2,000.

1 Q. Where was that that that occurred at that you gave him
2 that money?

3 A. When did it occur? At the apartment or the house that
4 he was living in with his girlfriend.

5 Q. Now that \$2,000, was that the most money you had ever
6 given him that day?

7 A. No. I gave him more money in the past. But the thing
8 of it is, I gave him 2000 because he had called me the night
9 before and said, Uncle, I need some help. I said what do
10 you need. He said well, I got to pay, you know, my rent and
11 I need some money for food and a couple of pills. So I gave
12 2000. I figured that was what he needed.

13 Q. Okay. And after -- you end up leaving his apartment,
14 obviously, after giving him that money ---

15 A. --- left his house and then went home.

16 Q. Okay. Ever hear from him or talk to him again?

17 A. The last thing Robert said to me was, Uncle, I love
18 you. Put my arms around him, kissed him, and that's the
19 last time I saw him. And you have to forgive me for not
20 shedding any tears ---

21 MR. LOY: Objection, Your Honor.

22 THE COURT: Sir, you can't say anything other than
23 what's asked of you.

24 THE WITNESS: Thank you.

25 AST. SOL. SORENSON: That's all have, Your Honor.

Direct Examination of Ms. Robertson by Ast. Sol. Templeton

1 THE COURT: Cross-examination?

2 MR. LOY: No, Your Honor. Thank you.

3 THE COURT: You may step down, sir. Thank you. You
4 may call your next witness.

5 AST. SOL. TEMPLETON: The State calls Sharon Robertson.

6 (SHARON ROBERTSON, was duly sworn and provided the
7 following testimony.)

8 THE COURT: Your witness.

9 AST. SOL. TEMPLETON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY AST. SOL. TEMPLETON:

12 Q. Good afternoon, Ms. Robertson.

13 A. I'm sorry.

14 Q. Good afternoon.

15 A. Hi.

16 Q. If you would, please tell the jury where you were
17 employed on March 10, 2015.

18 A. Cedar Key Apartments.

19 Q. Okay. Where is that located?

20 A. It's in Summerville.

21 Q. Okay. Is that in Dorchester County?

22 A. It is.

23 Q. Okay. How long were you employed there?

24 A. Then, probably around six years.

25 Q. In what capacity were you employed?

1 A. Property manager.

2 Q. Okay. As part of your job as a property manager, did
3 they maintain video surveillance at that location?

4 A. Yes.

5 Q. Okay. I'm going to show you -- I actually need to mark
6 this. (Brief pause.) Ms. Robertson, did I show you the
7 video that's on this thumb drive -- thumb drive just a few
8 minutes ago during our break?

9 A. During our break this morning.

10 Q. When you got here earlier today, did I show you a video
11 that was on it?

12 A. Yes. Uh-huh.

13 Q. Okay. What is the video of?

14 A. It's of Cedar Key.

15 Q. Is it the surveillance footage?

16 A. Uh-huh. Yes.

17 Q. From March 10th?

18 A. Yes.

19 Q. Okay. And was this video kept in the ordinary course
20 of business at Cedar Key?

21 A. Yes.

22 AST. SOL. TEMPLETON: Your Honor, at this time the
23 State would move State's Exhibit Number 8 into evidence.

24 THE COURT: Any objection?

25 MR. LOY: No, Your Honor.

Direct Examination of Ms. Robertson by Ast. Sol. Templeton

1 THE COURT: All right. It's in.

2 (State's Exhibit No. 8, Video, was received into
3 evidence.)

4 Q. I'm going to show you State's Exhibit Number 6 and
5 Number 7.

6 AST. SOL. TEMPLETON: My I approach the witness, Your
7 Honor.

8 THE COURT: You may.

9 Q. Are those stills from that video?

10 A. Yes. Yes, they are.

11 Q. And that's the video that's in evidence as State's
12 Exhibit Number 8?

13 A. Yes.

14 AST. SOL. TEMPLETON: Your Honor, we would move State's
15 Exhibit Number 6 and Number 7 into evidence.

16 MR. LOY: No objection, Your Honor.

17 THE COURT: All right. They're in.

18 (State's Exhibit No. 6 and 7, Video Stills, were
19 received into evidence.)

20 AST. SOL. TEMPLETON: That's all the questions I have
21 for you. If you would answer any questions for the defense.

22 MR. LOY: None. Thank you.

23 THE COURT: You may step down, ma'am. Thank you. You
24 may call your next witness.

25 AST. SOL. SORENSON: State calls beyond Savion Willis.

1 (SAVION WILLIS, was duly sworn and provided the
2 following testimony.)

3 THE COURT: Your witness.

4 AST. SOL. SORENSON: Thank you.

5 DIRECT EXAMINATION

6 BY AST. SOL. SORENSON:

7 Q. Savion, if you would, tell the jury how old you are.

8 A. I'm 18.

9 Q. Okay. And where do you live at?

10 A. , Apartment

11 Q. Okay. What apartment complex is that?

12 A. Cedar Key Apartments.

13 Q. Okay. And who do you live there with?

14 A. My mom.

15 Q. And do you know how long you've lived in those
16 apartments?

17 A. Since 2011.

18 AST. SOL. SORENSON: My I approach the witness, Your
19 Honor?

20 THE COURT: You may.

21 Q. Let me show you what's been marked at State's Exhibit
22 Number 4. Do you recognize that? Did I show you that
23 earlier?

24 A. Yes, I do.

25 Q. Does that show your apartment complex?

Direct Examination of Mr. Willis by Ast. Sol. Sorenson

1 A. It does.

2 AST. SOL. SORENSON: All right. Your Honor, at this
3 time we'd offer State's Number 4 into evidence.

4 THE COURT: Any objection?

5 MR. LOY: No, Your Honor.

6 THE COURT: All right. It's in.

7 (State's Exhibit No. 4, Poster of a Photo, was
8 received into evidence.)

9 Q. And, Savion, if you could, can you point out for the
10 jury where your apartment building is.

11 A. It's right there.

12 MR. LOY: I can't see from where you are.

13 AST. SOL. SORENSON: Okay.

14 Q. Is that right there?

15 A. That's it.

16 Q. Okay. And you've living in that same apartment
17 building the whole time you've been there?

18 A. I have.

19 Q. Okay. Now, Savion, I want to turn your attention back
20 to the afternoon of March 10th of 2015. Do you remember
21 that afternoon?

22 A. I do remember.

23 Q. Okay. And do you remember where you going somewhere
24 that afternoon?

25 A. I was. I was going to the dumpster.

- 1 Q. Okay. And where is the dumpster located at?
- 2 A. Right across from the office.
- 3 Q. Okay. And that is -- can you point the dumpster on
- 4 here?
- 5 A. Right there.
- 6 Q. It's right there?
- 7 A. Yes.
- 8 Q. That's the office right there?
- 9 A. That is the office.
- 10 Q. So you were heading out to the dumpster that afternoon?
- 11 A. I was.
- 12 Q. Okay. And did you end up running into anybody outside?
- 13 A. I did end up running into someone.
- 14 Q. Who was that that you ran into?
- 15 A. The person's name is Christine Mason.
- 16 Q. Okay. And is she just a resident? Did she live out
- 17 there at the time in the apartments?
- 18 A. She has.
- 19 Q. Okay. And did you end up talking with Ms. Mason?
- 20 A. I did end up talking with her.
- 21 Q. Okay. And tell the jury then what -- did anything
- 22 happen kind of out of the ordinary while you were talking
- 23 with Ms. Mason?
- 24 A. When I was speaking to her, I heard two gunshots.
- 25 Q. Okay. And could you tell where those gunshots were

Direct Examination of Mr. Willis by Ast. Sol. Sorenson

1 coming from?

2 A. They were coming from the 500 building in my
3 neighborhood.

4 Q. Okay. What did you do when you heard -- when you heard
5 that first gunshot, what did you do?

6 A. I ran back in the house.

7 Q. Okay. You said you heard two gunshots; right?

8 A. I heard two.

9 Q. Okay. After you heard the first gunshot, what did you
10 do?

11 A. I backed away.

12 Q. Okay. And you said that they were coming from what
13 building?

14 A. The 500 building.

15 Q. Okay. And show the jury, if you would, do you know
16 where the 500 building is?

17 A. It's right here.

18 Q. So you were coming from the 300 building to the
19 dumpster. Is that correct?

20 A. That is correct.

21 Q. And where about were you when you were talking with Ms.
22 Mason?

23 A. I was like right in this area.

24 Q. Okay. All right. Now, at any point in time when you
25 heard those gunshots, did you ever look down towards the 500

1 building?

2 A. I had.

3 Q. Okay. And tell the jury what, if anything, you saw
4 when you looked down towards the 500 building?

5 A. I saw two men. And one of them had a gun in their hand
6 shooting this other person, and he fell down to the ground.

7 Q. And where were the two of them located at?

8 A. In a breezeway like going toward the hall.

9 Q. And the person that you saw with the gun, can you --
10 was he white male? Black male?

11 A. He was African-American.

12 Q. Okay. And did you see anything about the clothing that
13 he was wearing?

14 A. He was wearing a black hoody and beige pants.

15 Q. And how about the individual that got shot that you
16 said that fell down? Could you tell anything about him?

17 Was he a white male or African-American male?

18 A. He was Caucasian.

19 Q. Now, after you saw this, heard those two gunshots and
20 saw this, what did you then do, Savion?

21 A. I ran back in the house.

22 Q. Who was in your home?

23 A. My mom.

24 Q. And did you end up, Savion, talking, going outside
25 after the police got there and telling them what you had

Direct Examination of Mr. Willis by Ast. Sol. Sorenson

1 seen?

2 A. I did end up talking with someone.

3 Q. And gave them a statement?

4 A. I did give them a statement.

5 AST. SOL. SORENSON: May I approach the witness?

6 THE COURT: You may.

7 Q. Let me show you what's just got put into evidence,
8 State's Exhibit Number 6 and 7. Is that the area that you
9 were standing at?

10 A. That was the area.

11 Q. Okay. Are you actually in those two still pictures?

12 A. I am.

13 Q. Okay. Which person are you?

14 A. Right there.

15 Q. The white shorts and blue shirt?

16 A. That's me.

17 Q. Okay. And the person that's out in the parking lot
18 with you, do you recognize who that is?

19 A. That is my friend.

20 Q. Is that Ms. Mason that you talked about?

21 A. That is her.

22 Q. And that would be the vantage point then when you heard
23 the gunshots?

24 A. That is.

25 AST. SOL. SORENSON: Beg the Court's indulgence.

1 (Brief pause.) That's all I have for you. Thank you,
2 Savion. Please answer any questions that Mr. Loy has,
3 okay. Got a couple more minutes, okay. Nope, Savion,
4 just have a seat.

5 THE COURT: Have a seat, sir.

6 AST. SOL. SORENSON: He might have a couple of
7 questions for you, okay.

8 THE COURT: Cross-examination?

9 MR. LOY: Thank you, Your Honor.

10 CROSS-EXAMINATION.

11 BY MR. LOY:

12 Q. My name is John Loy. And I know the Solicitor talked
13 with you, but I'm not sure how to say your name. How do you
14 pronounce your name, sir?

15 A. It's pronounced Savion.

16 Q. Savion?

17 A. You said it right.

18 Q. Well, Savion, you live at this apartment complex or at
19 least you did at the time you're talking about. Is that
20 right?

21 A. That's right.

22 Q. Okay. And it was in the afternoon when you were going
23 to the dumpster. If I understand correctly, when you heard
24 shots, you had stopped to talk with some but you were
25 actually on your way to throw out some trash or something

Cross-Examination of Mr. Willis by Mr. Loy

1 like that. Is that correct?

2 A. That is correct.

3 Q. And it was daylight at the time. Is that right?

4 A. It was.

5 Q. Okay. And, you know, the Solicitor kept showing this

6 map. I had a hard time seeing some of it. I'm somewhat

7 familiar with the terrain. Were you to the dumpster or

8 almost to the dumpster at the time you heard shots?

9 A. I was -- not really, but like halfway.

10 Q. Okay. Halfway might -- from the apartment I think

11 you're coming from, halfway might be from where you are to

12 this first wall behind the building? That far behind the

13 Solicitor?

14 A. That is correct.

15 Q. So you were about that far from the dumpster. Is that

16 right?

17 A. That is correct.

18 Q. Now, if you were all the way to the dumpster, you would

19 have pretty much of a straight shot into that breezeway,

20 that building number 500. Is that right?

21 A. That's right.

22 Q. And if you were over here, you could still see the neck

23 of the breezeway or the opening, but it's not straight down

24 front to back. Is that right?

25 A. That is right.

1 Q. And the breezeway itself is out there at Cedar Key is
2 wide enough to walk in and have a door on one side, and then
3 there's a stairwell that blocks the other side. Is that
4 correct?

5 A. That is correct.

6 Q. So you can be in there. Half of it is actually blocked
7 from view even if you were at the dumpster looking straight
8 down. Is that right?

9 A. That's right.

10 Q. There are not interior lights in those breezeways, at
11 least not that are on during the daytime. Is that right?

12 A. That is right.

13 Q. They're actually pretty heavily shadowed if you're out
14 in the parking lot where the sun is shining, your eyes are
15 adjusted to the light, it's pretty difficult to look down in
16 there and see what's actually going on in any of them. Is
17 it not?

18 A. I'm not exactly sure.

19 Q. And you stated that -- initially, when you were
20 speaking with the Solicitor, you stated you heard shots and
21 ran. Is that right?

22 A. That is right.

23 Q. That's probably what most people would do. As you ran,
24 you looked in the direction you thought the shots had come?

25 A. Well, I just ran toward my apartment and did nothing

Cross-Examination of Mr. Willis by Mr. Loy

1 else.

2 Q. Okay. Do you know what I mean by peripheral vision?

3 The side of your eyes.

4 A. No. I looked straight on and ran right in my house.

5 Q. Okay. But you're not in the 500 building?

6 A. I'm not.

7 Q. And you weren't straight out. You looked back where
8 you thought the shots had come from and ran. Is that
9 correct?

10 A. I didn't look back. I just ran toward my house.

11 Q. And that's what you initially told the Solicitor, and
12 then he asked you if after the first shot, after the second
13 shot. But your recollection today is shots ring out,
14 anybody would run, and that's what you did; right?

15 A. That's what I did.

16 MR. LOY: Thank you. I don't have anymore questions.

17 THE COURT: Any redirect?

18 AST. SOL. SORENSON: No, Your Honor.

19 THE COURT: You may step down, sir. Thank you. You
20 may call your next witness.

21 AST. SOL. SORENSON: State calls Alphonso Middleton.

22 (ALPHONSO MIDDLETON, was duly sworn and provided the
23 following testimony.)

24 THE COURT: Your witness.

25 AST. SOL. SORENSON: Thank you. May it please the

1 Court, Your Honor?

2 THE COURT: Yes, sir.

3 DIRECT EXAMINATION

4 BY AST. SOL. SORENSON:

5 Q. Mr. Middleton, if you would, tell the jury how old you
6 are.

7 A. I'm 56 years old.

8 Q. And where do you currently live?

9 A. On Pidgeon Bay Road, Summerville.

10 Q. All right. You familiar with Gospel Lane?

11 A. Yes, ma'am -- yes, sir.

12 Q. Who lives on Gospel Lane?

13 A. My mama, my brother, and the church is on Gospel Lane.

14 (Brief pause.)

15 Q. So you said -- and what else is located -- and I
16 apologize. I know you answered this. But what else is
17 located besides your family living on Gospel Lane? What
18 else is on there?

19 A. The church is on Gospel Lane too, sir.

20 Q. Okay. And how far away from there is it that you live?

21 A. About ten minutes from right there by the church.

22 Q. Okay. Now, I want to turn your attention, Alphonso,
23 back to the afternoon of March 10th of 2015. Do you
24 remember what you were doing that afternoon?

25 A. Yes, sir.

1 Q. Okay. Tell the jury what it was that you were doing.

2 A. I was working on the go-kart at that time; working on
3 the go-kart, four-wheelers, at that time, sir.

4 Q. Okay. And where was that that you were working on
5 go-karts and four-wheelers? Where were you at?

6 A. That was on Gospel Lane right by the church.

7 Q. Okay. And who else was out there that was doing that
8 that day?

9 A. Me and my brother and my other brother.

10 Q. Okay. And what are your two brothers names that were
11 out there?

12 A. One name is Clarence, was he not here -- and one name
13 Jonathan and myself.

14 Q. Okay. All right. And tell the jury, that afternoon,
15 did anything kind of out of the ordinary happen while you
16 were out there working on go-karts?

17 A. Yes, sir. The young man walked up there and asked can
18 somebody give him a ride. And then he asked Jonathan where
19 can he use the bathroom at. And Jonathan told him he can
20 down the trailer to use the bathroom.

21 Q. Okay. And describe that guy that came up, that came
22 walking up, and asked for a ride and then asked to use the
23 bathroom.

24 A. I mean, he came up so calm. I figured, you know, he
25 had to use the bathroom. I mean, he had no emotion or

1 nothing like that. Just walked up there like -- use the
2 bathroom. So Jonathan told him to go head around the back
3 and use the restroom.

4 Q. Did you see where he had come from?

5 A. Yeah. He came from down the road by the mailbox where
6 coming straight to up on Gospel Lane.

7 Q. Okay. And Gospel Lane is kind of short little dead end
8 road. Is that correct?

9 A. Yes, sir. That's correct.

10 Q. What road does Gospel Lane come off of?

11 A. Pidgeon Bay Road.

12 Q. Okay. And are you familiar with Cedar Key Apartments?

13 A. Yes, sir.

14 Q. Okay. And where are they located at in relation to
15 Gospel Lane?

16 A. Right across the street.

17 Q. And, in fact, let me show you on State's Exhibit Number
18 4. Are you familiar -- that's Pidgeon Bay Road here?

19 A. Yes, sir.

20 Q. And what road is right here? Is that Gospel Lane then?

21 A. Gospel Lane, sir.

22 Q. Okay. And this would be Cedar Key Apartments?

23 A. Cedric Key Apartments, sir.

24 Q. It's almost across the street from each other. Is that
25 right?

1 A. Yes, sir.

2 Q. Now, so you said the guy came walking up Gospel Lane?

3 A. Yes, sir.

4 Q. Okay. And if you would, describe for the jury, do you
5 remember anything about what he was wearing or what he
6 looked like or anything?

7 A. I want to say he had on a hoody, but I'm not really
8 sure.

9 Q. Okay. All right. And you said he was acting fairly
10 calm?

11 A. Yes, sir.

12 Q. Okay. And asked to use the bathroom. Did he go
13 anywhere as a result of that?

14 A. No. When he came back from around the trailer, he asked
15 one of us if we want to make some money to take him to
16 Robynwyn. But I never -- we didn't never made it to
17 Robynwyn.

18 Q. Okay. Let me back you up there before I get to that,
19 Alphonso. So he did go behind the trailer?

20 A. Yes, sir.

21 Q. Okay. And do you know, any idea, how long he was back
22 there?

23 A. It took him long enough because we started to get up
24 ourselves to see what took him so long. But he came out
25 from behind the trailer.

1 Q. Okay. All right. And then he comes up and offers, you
2 know, asks if anybody wants to make some money by taking him
3 to Robynwyn; right?

4 A. Yes, sir.

5 Q. Okay. And did anybody volunteer to do that?

6 A. Yes, sir.

7 Q. And who was that?

8 A. Alphonso Middleton, which is me.

9 Q. You?

10 A. Yes, sir.

11 Q. Okay. All right. And what kind of vehicle did you
12 have back then, Alphonso?

13 A. I got a white Suburban.

14 Q. Okay. Let me show you ---

15 AST. SOL. SORENSON: Can I mark these? (Brief pause.)

16 May I approach the witness, Your Honor?

17 THE COURT: You may.

18 Q. Alphonso, let me show you State's Exhibits 9 and 10:

19 Do you recognize the vehicle in those photographs?

20 A. Yes, sir.

21 Q. Who vehicle is that?

22 A. My vehicle, sir.

23 Q. Your vehicle?

24 A. Yes, sir.

25 Q. That's what you had that day?

Direct Examination of A. Middleton by Ast. Sol. Sorenson

1 A. Yes, sir.

2 THE COURT: Are you introducing those, Solicitor?

3 AST. SOL. SORENSON: Yes, I'm sorry. I'm sorry. I was
4 actually just thinking in my head. I wasn't sure if I had
5 done that.

6 THE COURT: Any objection?

7 MR. KORNEGAY: No objection, Your Honor.

8 THE COURT: All right. They're in.

9 AST. SOL. SORENSON: Thank you.

10 (State's Exhibit No. 9 and 10, Photographs, was
11 received into evidence.)

12 Q. So did you end up giving this individual a ride at that
13 point in time?

14 A. Yes, sir.

15 Q. Okay. And how -- tell the jury, how did y'all leave
16 the trailer down there? What way did you take to leave from
17 there?

18 A. I want to say across from the church is a little road.
19 It's a little back in a little alley. We went that way.

20 Q. Did you go back out Gospel Lane to Pidgeon Bay?

21 A. No, sir. We came out to Possum Road.

22 Q. Okay. So that would be that direction?

23 A. Yes, sir.

24 Q. So did you ever actually go out on Pidgeon Bay Road
25 with this person?

- 1 A. No. We actually went out on Possum Road, sir.
- 2 Q. Okay. And whose idea was it to go that direction?
- 3 A. I want to say him and then I want to say both of us.
- 4 Q. Let me ask you: When you left there then, did you ever
- 5 seen any police cars?
- 6 A. No, sir.
- 7 Q. And had you indicated initially he wanted a ride to
- 8 Robynwyn?
- 9 A. Yes, sir.
- 10 Q. And how much money had you been offered to give him a
- 11 ride to Robynwyn?
- 12 A. \$25, sir.
- 13 Q. Okay. Did you end up taking him there?
- 14 A. No, sir.
- 15 Q. Okay. And tell the jury what happened then after you
- 16 got, kind of, got in your suburban.
- 17 A. Well, when we went down the road, he changed his mind
- 18 and tell me to take him downtown. So I ended up taking him
- 19 downtown by Bayside.
- 20 Q. Okay. And by downtown, you mean downtown?
- 21 A. Charleston.
- 22 Q. Charleston. Okay. And how much money did he offer you
- 23 to take him down to Bayside ---
- 24 A. He offered me \$50 to take him downtown to Bayside
- 25 Manner.

1 Q. And did y'all stop anywhere on the way?

2 A. Yes, sir. I stopped at a place called Whitey (ph).

3 And he got a beer, I got a beer, then we head to I-26.

4 Q. Okay. And you ended up dropping him by Bayside in
5 Charleston?

6 A. Yes, sir.

7 Q. Did you get your \$50?

8 A. Yes, sir. I did got the \$50.

9 Q. Okay. And where did you do after you dropped this
10 person off?

11 A. I went straight to my daughter's house since I was on
12 that way.

13 Q. And when you got your daughter's house, did you find
14 out if anybody was looking for you at the time?

15 A. Yes, sir. My brother and them called because they were
16 concerned about me. After they found out what happened.
17 They was calling my phone, my daughter's phone, and she
18 said, "Daddy, you know, do you know who you had in your
19 car." I said, "What's wrong." She said he killed somebody.

20 MR. LOY: Objection, Your Honor. It's hearsay. I ask
21 for the curative . . .

22 THE COURT: Sustained. Ladies and gentlemen, please
23 disregard that prior statement. It is stricken from the
24 record. You may proceed.

25 Q. You can't say what anybody else said, okay. You found

1 out that they were looking for you at that point in time?

2 A. Yes, sir.

3 Q. Okay. And, ultimately, did any law enforcement come
4 out to your daughter's to meet with you?

5 A. Yes, sir.

6 Q. And let me ask you: When you dropped this individual
7 off down at Bayside in Charleston, did he leave anything
8 behind in your car?

9 A. No, sir. Not that I know of.

10 Q. Okay. How about did you point out any items to law
11 enforcement that he had?

12 A. The beer can. That was it.

13 Q. Okay. That's what I meant. So he left the beer can
14 behind?

15 A. Yes, sir.

16 Q. Okay. And did you tell law enforcement about that?

17 A. Yes, sir.

18 Q. How about the \$50? Did you give them the \$50 he had
19 given you?

20 A. Yes, sir.

21 Q. And your Suburban, law enforcement tow that back to
22 somewhere from your daughter's?

23 A. Yes, sir.

24 Q. Did you talk to the police officers about basically
25 what you just told the jury about where you gave this guy a

1 ride and everything?

2 A. Yes, sir.

3 Q. Now, a couple of days later, do you recall a couple of
4 detectives coming out to your job and picking you up?

5 A. Yes, sir.

6 Q. Okay. And do you remember where they took you?

7 A. They took me to a place in 78. I forgot the name of
8 that.

9 Q. The Sheriff's Office?

10 A. Yes, sir, Sheriff's Office.

11 Q. A little trailer behind the Sheriff's Office?

12 A. Yes, sir.

13 Q. And at that point in time, did they have an occasion or
14 an opportunity to show you some photo lineups?

15 A. Yes, sir.

16 Q. Do you remember that?

17 A. Yes, sir.

18 AST. SOL. SORENSON: May I approach the witness, Your
19 Honor?

20 THE COURT: You may.

21 Q. Let me show you State's Exhibit Number 1. You remember
22 them showing you that lineup?

23 A. Yes, sir.

24 Q. And you able to pick anybody out of that lineup?

25 A. The one in the middle; number two.

1 Q. Number two. You circled it?

2 A. Yes, sir.

3 Q. Okay. And tell the jury, why did you pick number two
4 out of State's Exhibit Number 1?

5 A. Well, that's the one that was riding with me in my
6 truck.

7 Q. Any doubt in your mind about that?

8 A. Ain't no doubt in my mind.

9 Q. You tell the detective that?

10 A. Yes, sir.

11 Q. And write that on here for you?

12 A. Yes, sir.

13 AST. SOL. SORENSON: Your Honor, at this time, we'd
14 offer State's Number 2 into evidence -- I'm sorry -- Number
15 1 into evidence.

16 THE COURT: Any objection?

17 MR. KORNEGAY: No, Your Honor.

18 THE COURT: All right. It's in.

19 (State's Exhibit No. 1, Photo Lineup, was received
20 into evidence.)

21 Q. You gave the detective permission to write on up at the
22 top?

23 A. Yes, sir.

24 Q. Did you sign the below that and then also signed down
25 here at the bottom?

Direct Examination of A. Middleton by Ast. Sol. Sorenson

1 A. Yes, sir.

2 AST. SOL. SORENSON: May I publish it for the jury,

3 Your Honor?

4 THE COURT: You may.

5 Q. Once again, Alphonso, why did you pick number two out
6 of this lineup? Who was that person?

7 A. Well, that's the one that I took. That's the one that
8 was riding with me in my truck.

9 Q. Any doubt in your mind about that?

10 A. There's no doubt in my mind.

11 Q. Now, afterwards, did they also show you State's Exhibit
12 Number 2, another lineup? Do you remember being shown that
13 too?

14 A. Yeah.

15 Q. Did you pick anybody out of that lineup?

16 A. No, sir.

17 Q. Do you recognize anybody in that lineup?

18 A. No, sir.

19 Q. Did you tell them that and they also write that on the
20 bottom of it?

21 A. Yes, sir.

22 AST. SOL. SORENSON: All right. At this time, we'd
23 offer State's 2 into evidence?

24 THE COURT: Any objection?

25 MR. KORNEGAY: No objection.

1 THE COURT: All right. It's in.

2 (State's Exhibit No. 2, Photo Lineup, was received
3 into evidence.)

4 Q. Now the person, Alphonso, that you gave a ride to back
5 on March 10th of 2015 down to Charleston.

6 A. Yes, sir.

7 Q. They paid you that \$50 and left the beer can in your
8 car. Do you see that person here in the courtroom?

9 A. Yes, sir.

10 Q. Can you point him out for the jury?

11 A. (Witness complies.)

12 Q. Is he in the blue shirt at the State -- at the defense
13 table on the right?

14 A. Yes, sir.

15 Q. Any doubt in your mind that that's the person that was
16 in your white Suburban?

17 A. There's no doubt in my mind. No doubt in my mind.

18 AST. SOL. SORENSON: Beg the Court's indulgence.

19 That's all I have, Your Honor. Please answer any questions
20 that Mr. Kornegay has, okay.

21 THE WITNESS: Yes, sir.

22 THE COURT: Cross-examination?

23 MR. KORNEGAY: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. KORNEGAY:

Cross-Examination of A. Middleton by Mr. Kornegay

1 Q. Good afternoon, Mr. Middleton.

2 A. Good afternoon.

3 Q. So back on March 10, 2015, you were at Gospel Lane with
4 relatives?

5 A. Yes, sir.

6 Q. And you were working on a ---

7 A. Go-kart. Yes, sir.

8 Q. And while you were working on a go-kart, a man
9 approached you asking for a ride?

10 A. Yes, sir.

11 Q. And you mentioned to the Solicitor that he seemed calm?

12 A. Yes, sir.

13 Q. He wasn't panicking? He wasn't shouting?

14 A. Nope.

15 Q. He just came up to you and said I'll pay you \$20 to
16 give me a ride essentially?

17 A. After he asked to use the -- yes, sir.

18 Q. As well as use the bathroom?

19 A. Yes, sir.

20 Q. And you didn't notice any blood on him, anything
21 suspicious about him?

22 A. No, sir.

23 Q. You certainly didn't think that he was a suspect in a
24 crime that had taken place?

25 A. No. he walked like he ---

1 Q. You wouldn't have given him a ride if you had thought
2 he was a suspect?

3 A. Oh, no. He wasn't getting in my truck.

4 Q. So you ended up agreeing to give him a ride after he
5 had used the bathroom; correct?

6 A. Yes, sir.

7 Q. The police weren't at Gospel Lane at that point, were
8 they?

9 A. No, sir.

10 Q. Do you have any idea how long until the police arrived
11 after you left?

12 A. I ain't have no idea.

13 Q. But there was a period of time there between when you
14 left, before you were alerted that police had stopped by
15 Gospel Lane?

16 A. I probably done been in Charleston.

17 Q. So you don't know what went on at Gospel lane between
18 ---

19 A. No, sir.

20 Q. --- that period of time?

21 A. No, sir.

22 Q. While you were driving, you said you stopped at a gas
23 station?

24 A. Yes, sir.

25 Q. And you each bought a beer; correct?

Cross-Examination of A. Middleton by Mr. Kornegay

1 A. Yes, sir.

2 Q. And then you went on to Charleston and dropped him off?

3 A. Yes, sir.

4 Q. Nothing suspicious about that encounter to you?

5 A. No, sir.

6 Q. There was no point during y'all's conversation that
7 raised your suspicion?

8 A. We really had no conversation, sir.

9 Q. Okay. A couple days later you spoke to a detective?

10 A. Yes, sir.

11 Q. And this detective showed you two different lineups.

12 Is that right?

13 A. Yes, sir.

14 Q. And this was the first lineup he showed you. I'm
15 showing you what's marked as State's Exhibit 1. Is this the
16 first exhibit -- or the first lineup that you were shown?

17 A. Yes, sir.

18 Q. You made a selection on that first line up? Is that
19 correct?

20 A. Yes, sir.

21 Q. He then showed you a second lineup. Is that correct?

22 A. Yes, sir.

23 Q. And I'm showing you what's marked as State's Exhibit 2.
24 Is this the second lineup?

25 A. Yes, sir.

1 Q. But you had already made a selection. Isn't that
2 correct?

3 A. Yes, sir.

4 Q. You had already picked somebody out in the first
5 lineup?

6 A. Yes, sir.

7 Q. So it would not have made sense for you to pick
8 somebody out again in a second lineup?

9 A. No, sir.

10 MR. KORNEGAY: Beg the Court's indulgence. Nothing
11 further, Judge.

12 THE COURT: Any redirect?

13 AST. SOL. SORENSON: No, your Honor.

14 THE COURT: You may step down, sir. Thank you. You
15 may call your next witness.

16 AST. SOL. SORENSON: The State calls Jonathan
17 Middleton.

18 (JONATHAN MIDDLETON, was duly sworn and provided the
19 following testimony.)

20 THE COURT: Your witness.

21 AST. SOL. SORENSON: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY AST. SOL. SORENSON:

24 Q. Jonathan, if you would, tell the jury how old you are.

25 A. Thirty-four years old.

Direct Examination of J. Middleton by Ast. Sol. Sorenson

1 Q. Okay. And where do you live?

2 A. , Summerville.

3 Q. Okay. Who do you live with there?

4 A. My wife and my five kids.

5 Q. Okay. And do you live -- what do you live next door
6 to?

7 A. To my brother and the church.

8 Q. And Alphonso that just walked out. Alphonso is your
9 older brother?

10 A. Correct. Yes, sir.

11 Q. Okay. And I want to turn your attention, Jonathan, if
12 I could, back to March 10th of 2015. So a little over two
13 years ago. Do you remember what you were doing that
14 afternoon?

15 A. Working on the go-karts and four-wheelers and stuff.

16 Q. Okay. And where was that that you were doing that?

17 A. In the side of my yard; right there in the front of my
18 yard.

19 Q. Okay. And who else was helping you do that that day?

20 A. My brother, Alphonso, that just left and some other
21 brothers.

22 Q. Okay. All right. And did there come a time where
23 somebody else came up to your house?

24 A. Yes, sir.

25 Q. Okay. And describe that person, if you would, for the

1 jury.

2 A. It was a gentleman walking down the street. We have a
3 long driveway. And he just walked up on us. He was
4 African-American and said he needed a ride. Said he would
5 pay, I believe it was, about \$20 for somebody to run him to
6 Robynwyn.

7 Q. Okay. And that's a nearby neighborhood?

8 A. Nearby neighborhood. Yes, sir.

9 Q. Okay. And, ultimately, did one of you agree to give
10 him a ride?

11 A. Yes. My brother, Alphonso, agreed.

12 Q. Okay. Now, is there anything else this person asked
13 you prior to that?

14 A: Yeah. He asked me could he use the restroom. And I
15 told him he could go right behind the gate. I got a privacy
16 fence. So he went behind the gate. But after a while, I
17 figured he was back there a little too long. So I walked
18 back there and he was coming from around the house.

19 Q. Okay. So do you have any idea what exactly this person
20 did back behind your home?

21 A. No, sir.

22 Q. And, ultimately, when he came back, did this person
23 then leave with your brother?

24 A. Yes, sir.

25 Q. Okay. And tell the jury then after -- do you remember

Direct Examination of J. Middleton by Ast. Sol. Sorenson

1 how they left or, I mean . . .

2 A. Yeah. There's actually a back way that you can leave
3 from my house also. And that's the way they left. They
4 left through the field.

5 Q. Okay. And, ultimately --

6 AST. SOL. SORENSON: May I approach the witness, Your
7 Honor?

8 THE COURT: You may.

9 Q. Let me show you this, Jonathan, State's Exhibit Number
10 4 I believe it is. Get you kind of oriented a little bit
11 here.

12 A. Okay.

13 Q. All right. Pidgeon Bay Road; Cedar Key Apartments;
14 Gospel Lane?

15 A. Yes, sir.

16 Q. Point out to the jury where your home is then.

17 A. My home is right here.

18 Q. Okay. And where is then is your brother's home?

19 A. My brother's home is right here.

20 Q. Okay. And then what's this right here?

21 A. That's the church.

22 Q. Okay. And it's your -- a relative a preacher there?

23 A. Yes. My mom is the preacher there.

24 Q. Okay. All right. Now you indicated that the person
25 went, had asked to use the restroom, and you told them they

1 could go behind the trailer. Kind of point the area then
2 that they went.

3 A. I told him -- we was all right here. And I told him he
4 could go behind the trailer. But when I walked back there,
5 he came from this area.

6 Q. So back in this area? Just back in here somewhere?

7 A. Yes, sir.

8 Q. And then you talked a moment ago about them leaving
9 kind of through a field?

10 A. Yes.

11 Q. Tell the jury kind of or did you see that . . .

12 A. My brother parked right over here, and they left out
13 this way. It's another road. I believe it's Lenning Road
14 (ph).

15 Q. Does that ultimately take you, instead of the Pidgeon
16 Bay, does that take you out to a different road to get out
17 of there?

18 A. Yes. It takes you our to Possum Road.

19 Q. All right. And then after they -- so the two of them
20 and in your brother driving this white Suburban?

21 A. Yes, sir.

22 Q. When the two of them left, tell the jury what happened
23 after the two of them left.

24 A. After the two of them left, that's when the rest of us
25 heard a lot of sirens. And you could look down the road and

Direct Examination of J. Middleton by Ast. Sol. Sorenson

1 I just saw a bunch of police cars flew by. So I waited a
2 little while. And then me and my nephew, we walked down to
3 Cedar Keys to see what was going on. And that's when we got
4 close enough I saw a body. So then I kind of put two and
5 two together, walked back to the house to see if my brother
6 got back, and he didn't. So that's when I called Dorchester
7 County.

8 Q. Okay. And at that point in time, if your brother had
9 taken somebody to Robynwyn, had he been gone long enough
10 that he should have been back by then?

11 A. Yes.

12 Q. Okay. Let me ask you this: When you saw the -- heard
13 the sirens and saw the police cars going by, what road were
14 they on?

15 A. They were on Pidgeon Bay Road.

16 Q. Okay. And how much time had gone by from when your
17 brother had left until you saw the police cars coming by
18 Pidgeon Bay?

19 A. A minute or two before I heard the sirens.

20 Q. And you said when you got back you attempted to call
21 Alphonso?

22 A. Yes, sir.

23 Q. Were you able to get in touch with him?

24 A. No.

25 Q. And then who did you end up getting in touch with after

1 that?

2 A. I called Dorchester County and I asked to speak to
3 Detective Keith Elmore or Detective King.

4 Q. Okay. Those are just people that you know that work
5 for the Sheriff's Office?

6 A. People that I -- yeah, I know from the Sheriff's
7 Office.

8 Q. And, ultimately, did somebody from the Sheriff's Office
9 end up coming over to your home then that afternoon?

10 A. Yes, sir.

11 Q. Okay. And had your brother, Alphonso, gotten back
12 before they came over there?

13 A. No.

14 Q. Okay. And did you ultimately tell those officers that
15 came down to your home about basically what you just told
16 the jury about?

17 A. Yes, sir.

18 Q. Did you tell them about him going around back behind
19 your trailer?

20 A. Yes, sir.

21 AST. SOL. SORENSON: Beg the Court's indulgence.

22 (Brief pause.) That's all I have for this witness, Your
23 Honor.

24 THE COURT: Cross-examination?

25 MR. LOY: Thank you.

CROSS-EXAMINATION

BY MR. LOY:

Q. Just a couple of questions, Mr. Middleton.

A. Yes, sir.

Q. Mr. Middleton, can you describe the demeanor of the person who came strolling down Gospel Lane and up on your yard that afternoon? What his attitude was, how he carried himself.

A. He was clam. He just said he really got to get away from this area.

Q. But he was calm? He wasn't panting or out of breath?

A. No, sir.

Q. He didn't seem sweaty or in a panic mode or anything like that?

A. Not like that. No, sir.

Q. Didn't seem to be in a hurry. Walked up and said I need to pee or something like that but then can I get a ride?

A. Yeah. He asked the other way around. Could he get a ride first and we was like where and why and all that, but no information. But then he was like, well, he got to go to the bathroom. And then that's when I allowed him.

Q. And he walked on back there. You described it eventually he walked on back and got in the car and they left?

1 A. Yes, sir.

2 Q. At that point, you didn't have any concerns about what
3 had happened. You were still just working on the go-kart.
4 Is that right?

5 A. Yes, sir.

6 MR. LOY: Thank you very much, Mr. Middleton.

7 THE COURT: Any redirect?

8 AST. SOL. SORENSON: No, Your Honor.

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

10 THE WITNESS: Thank you, ma'am.

11 THE COURT: You may call your next witness.

12 AST. SOL. SORENSON: May we approach, Your Honor?

13 (A bench conference was held off the record and out of
14 the hearing of the jury panel.)

15 THE COURT: Ladies and gentlemen, it's almost four
16 o'clock. It's probably a pretty good stopping point for us
17 this afternoon. I know many of you don't live right next
18 door to the courthouse and you may need to get home and get
19 things done that you may need to do. We will resume the
20 trial of this case -- if you could be back in the jury room
21 at nine o'clock, once we have everyone together, we'll
22 resume the trial of this case. Please remember my previous
23 instruction to not discuss this case with anyone or allow
24 anyone to discuss this case with you or do any kind of
25 research on the case. Have a nice evening and we'll see you

1 in the morning.

2 (The jury exits the courtroom at 3:55 p.m.)

3 THE COURT: It's my understanding that we have several
4 stipulations if we could go ahead and place on the record.

5 MR. LOY: Your Honor, can I have one moment before we
6 do that? Just here at counsel's table.

7 THE COURT: Sure. Absolutely.

8 (Brief pause.)

9 MR. LOY: Thank you, Your Honor. We're prepared.

10 THE COURT: All right, sir.

11 AST. SOL. SORENSON: May I approach, Your Honor, and
12 just hand you what I've kind of . . .

13 THE COURT: Thank you.

14 AST. SOL. SORENSON: The only thing I told Mr. Loy and
15 Kornegay as to number three, that's dealing with the known
16 fingerprint card, is I'll make a new copy of that today --
17 tonight that's got the charges basically whited out on the
18 back. And then so I need to give that a number tomorrow
19 because I don't know what number that will be. But other
20 than that, I think these are the three stipulations we've
21 talked to that, at least my understanding, they are okay
22 with.

23 THE COURT: Is that correct?

24 MR. LOY: To a large part. Stipulation number one,
25 that is correct. And we've agreed to that language.

1 Stipulation number three, I understand the necessity of that
2 in conjunction with the elements of the possession of the
3 gun charge. I think that's fine. As far as stipulation
4 number two, and I don't know if there's an objection other
5 than just to retype it. I think it would convey the same
6 language. I prefer the language in the second sentence.
7 Additionally, the number 843-532-5431 is a number that has
8 been given as contact information of the defendant in the
9 past as opposed -- it may have been his. I suppose -- it's
10 an acquaintance or anything else.

11 AST. SOL. SORENSON: Well, it's got the -- go ahead.
12 I'm sorry.

13 THE COURT: Go ahead.

14 MR. LOY: I don't think that that jeopardizes or
15 compromises the State in any case. And it certainly ties
16 the number if we say he has given this number and said this
17 is a number where I can be reached.

18 THE COURT: Any objection to that?

19 AST. SOL. SORENSON: Well, I don't think that's what it
20 is. I mean, it's listed on the bond paperwork as either a
21 relative or a -- I forgot the actual word. Bear with me for
22 one second. (Brief pause.) Relative or -- under relative
23 and references on the bond paperwork filled out with TBS
24 Bail Bonding, there's an individual by the name of Jessie
25 Ford with that phone number. So, I mean, it's not really

1 listed as -- that's why I put it just as an acquaintance of
2 his. I mean, left at that, I mean . . .

3 THE COURT: So ---

4 AST. SOL. SORENSON: It's not his number.

5 THE COURT: I don't know all the purposes of obviously
6 why you want to admit or not admit at this juncture. So,
7 Mr. Loy, you're saying that an acquaintance is too broad.
8 That basically the number given previously by the defendant
9 is a number of someone he knows ---

10 MR. LOY: His contact -- I apologize, Your Honor.

11 THE COURT: As a contact number where he may be reached
12 at a number other than his own or . . .

13 MR. LOY: Or just his contact information. I mean,
14 he's listed here's my number, here are other numbers where
15 I -- you can get me, get a message to -- we do it in my
16 office all the time. Are there any other numbers? Your
17 mom's house, friend's house, anything else. It's not
18 critical juncture. If it somehow does great offense to the
19 State's case, I mean, I don't think that I have an argument
20 against it. We're agreeing to the stipulation -- I mean,
21 we're attempting to move the case forward. It's the
22 language that I would prefer. We'll certainly submit to the
23 Court. I mean, I realize that's mighty big on my part.

24 THE COURT: Thank you.

25 MR. LOY: But we'll certainly accept any rule that you

1 have. That would be my request only as to the second
2 stipulation.

3 THE COURT: I think it's kind six on one hand, half a
4 dozen on the other either way you look at it. And you can
5 try to tweak it a little bit and say a number of an
6 acquaintance of the defendant as given by him.

7 MR. LOY: Your Honor, if we're gonna maintain it's an
8 acquaintance of the defendant then the language that is in
9 there is suitable. I don't think I can tweak it without
10 taking that out. And, again, I think it's six on one, half
11 a dozen of the other. I like my representation better. I
12 think it conveys the same information. I'd ask the Court to
13 adopt. And I don't have further argument on that.

14 THE COURT: I don't think it's prejudicial to the
15 defendant that it's a number of an acquaintance of the
16 defendant's. So I think we'll leave the stipulation as it
17 is.

18 AST. SOL. SORENSON: Thank you.

19 AST. SOL. TEMPLETON: Thank you, Your Honor.

20 THE COURT: Anything else before we . . .

21 AST. SOL. SORENSON: No, Your Honor. And how -- I
22 guess in the morning I would like to probably put the first
23 stipulation on the record in the morning before we start.
24 And then probably when we get to the phone stuff, put the
25 second one. And when we get to dealing with fingerprints,

1 put the third one.

2 THE COURT: Sure. Why don't ---

3 AST. SOL. SORENSON: So probably do them three separate
4 times. And I don't know . . .

5 THE COURT: Why don't we do to this: We'll mark it as
6 a Court's exhibit. And as we get to it, just let me know
7 when y'all agree for me to publish it to the jury and we can
8 take care of it as we go.

9 AST. SOL. SORENSON: Gotcha. And will Your Honor be
10 the one that -- you will publish them then?

11 THE COURT: However y'all are comfortable with.

12 AST. SOL. SORENSON: I mean, I've had myself do it
13 before and I've had the Court do it. I don't really care.

14 THE COURT: It doesn't really matter to me. I'm happy
15 to do it if it helps move things along. If not, y'all are
16 welcome to put them in. It's obviously your stipulation, so
17 . . .

18 AST. SOL. SORENSON: That's fine. Yes, ma'am.

19 MR. LOY: It's an undisputed fact that we don't take a
20 position or care where it comes from.

21 THE COURT: Why don't you just let me know when you
22 want it in, and I'll publish it to the jury.

23 AST. SOL. SORENSON: Yes, ma'am.

24 THE COURT: All right. Do you have extra copy so I can
25 keep one and then we'll mark them as a Court's exhibit?

1 MR. LOY: I have a copy and we will duplicate mine.

2 AST. SOL. SORENSON: So mark this one as a?

3 THE COURT: Court's Exhibit if you don't mind then ---

4 AST. SOL. SORENSON: Yes, ma'am. So the only thing
5 that we have to just fill out on all of them is the item
6 number?

7 THE COURT: Exhibit number.

8 AST. SOL. SORENSON: Yes.

9 THE COURT: All right. Anything else before we recess
10 basis for the evening?

11 AST. SOL. SORENSON: I don't believe so, Your Honor.

12 THE COURT: All right. So we'll see everybody at nine
13 o'clock.

14 (Court's Exhibit No. 1, Stipulations, was marked for
15 identification.)

16 (The proceedings adjourned for the day at 4:02 p.m.)

17 - - - - -

18 (The proceedings resumed on Wednesday, May 17, 2017, at
19 9:13 a.m.)

20 THE COURT: Are you ready for our jury?

21 AST. SOL. SORENSON: Yes, Your Honor. And if we could
22 start off with the stipulation number one.

23 THE COURT: Okay.

24 AST. SOL. SORENSON: And do that. Then I'll let you
25 know when I get to when I think the other two -- I mean,

1 just for your record up there, stipulation number three,
2 it's been marked as State's 13.

3 (Brief pause.)

4 MR. LOY: And we have reviewed Exhibit 13. We don't
5 have an objection to it in its present form.

6 THE COURT: All right. Thank you. Let's have our
7 jury, please.

8 AST. SOL. SORENSON: I guess as part of that
9 stipulation, we're basically going to be offering State's 13
10 into evidence then also.

11 THE COURT: As far as the jury?

12 AST. SOL. SORENSON: Yes ma'am.

13 MR. LOY: I'm sorry, Your Honor. I didn't hear that.

14 AST. SOL. SORENSON: So, basically, we're going to be
15 offering that into evidence as far as . . .

16 (The jury enters the courtroom at 9:15 a.m.)

17 THE COURT: Good morning, ladies and gentlemen of the
18 jury. Welcome back. I hope that you had a nice evening.
19 Before we get started, I want to let you know that the
20 parties have agreed to a fact or a stipulation they've
21 entered into. And that is the State and the defendant have
22 entered into a stipulation that the defendant is known to go
23 by the nickname of Creep. You may proceed, Solicitor.

24 AST. SOL. SORENSON: Thank you.

25 AST. SOL. TEMPLETON: The State calls Lieutenant Sean

1 Napoli.

2 (SEAN JOSEPH NAPOLI, was duly sworn and provided the
3 following testimony.)

4 THE COURT: Your witness.

5 DIRECT EXAMINATION

6 BY AST. SOL. TEMPLETON:

7 Q. Good morning, Lieutenant Napoli.

8 A. Good morning, sir.

9 Q. If you would, please tell the jury where you're
10 employed.

11 A. Dorchester County Sheriff's Office.

12 Q. Okay. And were you also employed there back on
13 March 10, 2015?

14 A. I was.

15 Q. What were you doing that day?

16 A. We were actually conducting canine training that we do
17 every Tuesday.

18 Q. Okay. Are you a canine officer?

19 A. I am.

20 Q. Okay. Do you recall being dispatched in reference to
21 this case?

22 A. I do.

23 Q. Where were you dispatched to?

24 A. We were dispatched to the area of Cedar Key Apartments,
25 which is in Dorchester County off of Pidgeon Bay Road.

1 Q. Originally, what were you doing there basically?

2 A. I initially responded to help set up a perimeter.

3 Q. Okay. Ultimately, were you asked to respond to a
4 different location?

5 A. I was.

6 Q. Where were you asked to respond to?

7 A. It was -- my lieutenant -- at the time I was a
8 sergeant, my lieutenant Joseph Burnett requested assistance
9 over at

10 Q. Okay. I'm going to show you State's Exhibit Number 4
11 which is already in evidence. Is this the general location?

12 A. It is. Yes, sir.

13 Q. And if you would, point out to them Cedar Key
14 Apartments.

15 A. Right over here. These apartments here.

16 Q. This whole area here?

17 A. Yes.

18 Q. Okay. If you would, point out Gospel Lane to the jury.

19 A. Gospel Lane runs just before you get to Cedar Key
20 Apartments coming down Pidgeon Bay Road.

21 Q. All right. And where exactly on Gospel Lane did you
22 ultimately respond to?

23 A.

24 Q. Would that be the very end of Gospel Lane basically?

25 A. It is.

1 Q. And when you got there, what were you instructed to do?

2 A. We received information that an individual who was
3 unknown to the area came back there. Had requested a ride.
4 At that point in time, we were also told that prior to ---

5 MR. LOY: Objection, Your Honor. Hearsay.

6 THE COURT: Sustained.

7 Q. You can't say what anybody else told you to do. But,
8 ultimately, what did you do in this case?

9 A. I responded to the backside of 120 Gospel Lane to
10 assist with the article search using our canines.

11 Q. Okay. All right. Did the canines actually result in
12 finding anything?

13 A. No, they did not.

14 Q. Okay. But did you ultimately find something ---

15 A. I did. Yes, sir.

16 Q. All right. What did you find there?

17 A. One of the canines was in the wooded area. I was
18 standing closer to the trailer which is about, I guess, 20,
19 25 yards from the backside of the trailer right where the
20 grass meets the wood line. While the canine was inside the
21 woods conducting his area search or the article search, I
22 just happened to look down at a piece of a fallen tree that
23 was actually leaning I believe towards the wood line. And
24 there was a black-colored item laying underneath the piece
25 of tree bark. And as I got closer, moved the bark and

Direct Examination of Lt. Napoli by Ast. Sol. Templeton

1 noticed there was a black -- a man's black wallet.

2 Q. And the little yellow dot on here, is that approximate
3 location of where that would've been found?

4 A. Approximately. Yes, sir.

5 Q. Okay. And how far from the trailer would that have
6 been, approximately?

7 A. Twenty, 25 yards maybe.

8 Q. Okay. Ultimately, did you recover that wallet at that
9 point?

10 A. No, I did not. I notified Lieutenant Burnett and I
11 believe he called Detective Melendez over to the scene.

12 Q. Okay. Before you left that area though, did you see
13 what was inside that wallet?

14 A. I did after Detective Melendez had, you know, picked it
15 up, recovered it. He opened it up and I saw the front part
16 which was a driver's license.

17 Q. Was that for white male, black male?

18 A. White male.

19 Q. You don't know that ID actually was for?

20 A. No. I did not see the name on it.

21 Q. Okay.

22 AST. SOL. TEMPLETON: If you would answer any questions
23 the defense may have.

24 THE WITNESS: Yes, sir.

25 THE COURT: Cross-examination?

CROSS-EXAMINATION

1
2 BY MR. LOY:

3 Q. This was the sum total of your involvement in at this
4 particular case. Is that right?

5 A. Yes, it was.

6 Q. And as far as when this wallet was placed, who placed
7 it, how it got there, et cetera, you don't have any
8 information to offer us on that?

9 A. I have absolutely no clue, sir.

10 Q. Thank you.

11 A. I can't add anymore than what I've already stated.

12 MR. LOY: Thank you very much for coming.

13 AST. SOL. TEMPLETON: Just one question to follow up.

REDIRECT EXAMINATION

14
15 BY AST. SOL. TEMPLETON:

16 Q. Did the wallet appear to be weathered or anything like
17 that?

18 A. No. No, it did not. Once I removed the item, the tree
19 bark that was laying on top of it, which was a rather large
20 piece, it appeared -- it did not appear to be weathered. It
21 looked like it was there for no length of time whatsoever.
22 I didn't have any -- the leather wasn't wet or anything.

23 AST. SOL. TEMPLETON: Thank you.

24 THE COURT: You may step down, Lieutenant. Thank you.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: You may call your next witness.

2 AST. SOL. SORENSON: The State calls Eric Melendez.

3 (ERIC CHRISTOPHER MELENDEZ, was duly sworn and provided
4 the following testimony.)

5 THE COURT: Your witness.

6 AST. SOL. SORENSON: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY AST. SOL. SORENSON:

9 Q. Investigator Melendez, if you'd please tell the jury
10 where you're currently employed.

11 A. Well, I'm employed as the investigator with the First
12 Circuit Solicitor's Office in Summerville.

13 Q. Okay. And how long have you been employed with the
14 Solicitor's Office?

15 A. I started with that agency April 3, 2017.

16 Q. Okay. So A little over a month ago?

17 A. Correct. Yes, sir.

18 Q. And prior to that, where were you employed?

19 A. I was employed as a detective with the Dorchester
20 County Sheriff's office in Summerville.

21 Q. How long have you been employed with the Sheriff's
22 Office as an investigator?

23 A. I've been employed -- I think I did about six -- just
24 over six years as an investigator in the CID division there.

25 Q. Okay. And back in March of 2015, so you were employed

1 at that time as a detective with the Dorchester County
2 Sheriff's office?

3 A. Yes, sir.

4 Q. Okay. And tell the jury, were you one of the officers
5 who initially responded out to Cedar Key Apartments back on
6 March 10th of 2015?

7 A. I was. Yes, sir.

8 Q. And did you ultimately make contact initially with any
9 and talk with any witnesses out there?

10 A. I made contact with a young man initially when I
11 arrived. He's now about 18, Savion Willis. He was taking
12 out his trash. And I immediately got him isolated, put him
13 in a patrol car in the back seat. And I started writing a
14 statement as to what he had observed.

15 Q. Okay. And, ultimately, did you end up kind of
16 completing talking with him or did he get turned over to
17 somebody else out there that day?

18 A. I didn't. My sergeant then, Lieutenant Peters, asked
19 me, after he had obtained some information, he had asked me
20 to go to a location that was identified as Gospel Lane. And
21 when I did that, I let him know who I had in the back seat,
22 Sergeant then Giglio's vehicle. And he took that interview
23 over for me so that I could leave the scene and follow up
24 for him on Gospel Lane.

25 Q. He being Lieutenant Peters?

1 A. Correct, Lieutenant Peters.

2 Q. Okay. And that's Lieutenant Peters sitting right
3 there?

4 A. That is. Yes.

5 Q. All right. So you went over to that Gospel Lane
6 address?

7 A. I did.

8 Q. Okay. Where is that located in relation to the
9 apartment complex?

10 A. Not even half a block from the apartment complex.

11 Q. Kind of across the street?

12 A. It is. Correct.

13 Q. And who do you recall that you made contact with over
14 there?

15 A. I made contact with a gentleman by the name of Jonathan
16 Middleton, his brother Clarence. And I think that they were
17 the only two people I made contact with.

18 Q. And, ultimately, did you get information from them
19 regarding their other brother Alphonso Middleton?

20 A. I did.

21 Q. And the fact that he had left the scene -- left that
22 residence with an individual?

23 A. Yes.

24 Q. Okay. And as a result of that, what did you do when
25 you got that information about Alphonso Middleton and the

1 type of vehicle that he was driving?

2 A. I relayed that information to Lieutenant Peters on
3 scene so he had as much information as I could provide
4 today. And then what I did then is there was another
5 lieutenant on scene, Lieutenant Burnett, with the canine
6 group. And I provided that information to him. And then
7 there was, I believe, Lieutenant Smith, or Captain Smith
8 now, on scene. And that information was relayed as to what
9 type of vehicle Alphonso Middleton was driving because we
10 were in fear that whoever he had given a ride to. We BOLO'd
11 that information out so that we could either make contact
12 with Mr. Middleton or locate his vehicle or both to make
13 sure that he was okay.

14 Q. And at that point in time while you were out there on
15 the scene, was anybody able to get in touch with -- while
16 you were doing all that, had anybody been able to get in
17 touch with Alphonso?

18 A. No. At that time, they had not gotten in any contact
19 with him.

20 Q. Let me ask you: While you're out there, Investigator
21 Melendez, did it come to your attention that any evidence
22 had been locate back behind that trailer?

23 A. When I arrived first on-scene, there were canine
24 officers, several canine officers in the area. They were
25 making contact with the Middleton brothers. And they

Direct Examination of Inv. Melendez by Ast. Sol. Sorenson

1 received information from the Middleton brothers that the
2 subject, that their brother Alphonso had given a ride to,
3 had asked to go take a leak in the backyard. So he
4 essentially walked into the backyard by himself. And when
5 they received that information, canine officers
6 automatically took the canine back there and swept that
7 area. And they did located an item in the back that I was
8 made aware of and then -- do you want me to continue, sir?

9 Q. No. Ultimately, so did you go back there and
10 ultimately recover the item that they had located in the
11 backyard?

12 A. I was asked to go back there. I had obtained a -- I
13 didn't have my vehicle because I rode with another detective
14 to the incident location. So I borrowed a camera from
15 Detective, crime scene, Scott.

16 Q. Okay. And did you ultimately end up collecting ---

17 A. I did. Yes, sir.

18 Q. Okay. And what was that item that you collected?

19 A. It was a black in color leather wallet.

20 Q. Okay. Did you have an opportunity to look inside that
21 wallet to see if there was any identification in that
22 wallet.

23 A. I did.

24 AST. SOL. SORENSON: May I approach the witness, Your
25 Honor?

1 THE COURT: You may.

2 Q. I'm showing you what's in State's Exhibit Number 11.

3 Ask you if you recognize that?

4 A. I do, sir.

5 Q. Is that the item that you -- you then recovered out
6 there that day?

7 A. Yes, sir.

8 Q. Okay. Whose identification and credit cards, debit
9 cards, and stuff of that nature were in that wallet?

10 A. It belonged to the victim, Mr. Robert Crumm.

11 Q. And let me ask you: When you initially kind of looked
12 in that wallet --

13 AST. SOL. SORENSON: At this time, we'd offer Number 11
14 into evidence, Your Honor.

15 THE COURT: Any objection?

16 MR. KORNEGAY: No objection, Your Honor.

17 THE COURT: All right. It's in.

18 (State's Exhibit No. 11, Wallet, was received into
19 evidence.)

20 Q. So it had Mr. Crumm's VA benefits card?

21 A. Yes, sir.

22 Q. Debit card. There's actually an ID in there. Did you
23 have an opportunity to look? Was there any money inside the
24 kind of where you would typically keep money within that
25 wallet?

1 A. Yeah. I don't actually recall the actual money. I
2 think we examined it. I collected it. Didn't go through --
3 I was really looking for just the identification of whose
4 wallet belonged to. Once I did that, I just kind of closed
5 it up and preserved it.

6 Q. Gotcha. Who ultimately then did you turn that wallet
7 in State's Exhibit Number 11 over to?

8 A. It was turned over to evidence, to one of the crime
9 scene guys that were on scene.

10 Q. You're talking about Detective Scott. Have any part of
11 his camera?

12 A. Yes, sir.

13 Q. Ultimately while you were out there having collected
14 that wallet, once again, just tell the jury where was that
15 wallet located at when you actually physically collected it?

16 A. It was somewhere in the neighborhood. The doublewide
17 was maybe about 60 feet long. And if you were standing in
18 the middle, that doublewide, lengthwise, it was probably
19 maybe 20, 25 feet off the back. There was a tree from what
20 I remember in the backyard and it was lying adjacent to that
21 tree.

22 Q. Now, ultimately, while you were out there, did you
23 learn that Alphonso Middleton had popped up somewhere?

24 A. We had received information. The brothers had got
25 ahold of his daughter, I think. And she had identified that

1 he had been at her house or was at her house. And so at
2 that point we basically told her not to let him leave and
3 let him stay where he is and we were coming to him.

4 Q. Okay. And did you ultimately go then to meet with
5 Alphonso?

6 A. I did.

7 Q. Anybody with you?

8 A. Myself and Detective Martin.

9 Q. And was Mr. Middleton's white Suburban -- showing
10 State's Exhibit Number 10. Was that Suburban there where he
11 was located at?

12 A. Yes, sir.

13 Q. And was he spoken to at that point in time?

14 A. I did. I spoke with him.

15 Q. Okay. And let me ask you: Did he turn any items over
16 to either you or Detective Martin while you were out there?

17 A. Detective Martin, basically, I think the subject
18 provided some money to Mr. Middleton for transportation to
19 where he was going. And Detective Martin collected that
20 money from Alphonso. And also they had stopped and acquired
21 two beers. And detective Martin took possession of the beer
22 can that the subject was drinking out of.

23 Q. Okay. And ultimately Mr. Middleton's white Suburban,
24 what was done with it that day?

25 A. While we were on scene, we secured the vehicle and I

Cross-Examination of Inv. Melendez by Mr. Kornegay

1 called dispatch on the radio and asked them to notify the
2 county for a wrecker. And the wrecker responded to our
3 location, collected the wrecker -- excuse me -- collected
4 Mr. Middleton's vehicle on the wrecker. And myself and
5 Detective Martin followed the vehicle back to the county
6 impound where it was secured until we could further
7 investigate the vehicle contents.

8 Q. And someone from crime scene would've then done that?

9 A. Yeah. They met us there and opened the gate, and we
10 secured the vehicle.

11 AST. SOL. SORENSON: That would be all I have, Your
12 Honor. Thank you.

13 THE COURT: Cross-examination?

14 MR. KORNEGAY: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. KORNEGAY:

17 Q. Good morning, Detective Melendez.

18 A. Good morning, sir.

19 Q. About what time were you called out to the Cedar Key
20 Apartments?

21 A. From what I recall, my Investigator -- it was about
22 6:49 I think. We were sitting in our office. Somewhere in
23 that neighborhood.

24 Q. 6:49?

25 A. Sixteen forty-nine. My apologies. 4:49.

1 Q. 4:49?

2 A. Yes, sir.

3 Q. And do you recall about what time the incident
4 occurred?

5 A. I do not. I don't recall when -- it was minutes. We
6 were -- I don't have how many detectives were in the office,
7 but there were a few of us. And we have a radio that plays
8 in our office. And we heard the shooting come out on the
9 radio. And we're minutes from that location, so we
10 basically all got up. And we could be there as fast as some
11 of the nearest units. So got into our vehicles. I jumped
12 into a car with Detective Alger. And we rode together and
13 arrived on scene. And we were probably the second or third
14 unit on scene.

15 Q. Okay. So once you got to the scene, you began
16 interviewing a witness. Is that correct?

17 A. Yeah. Once I got on scene, I noticed Detective Martin
18 running to the subject. I noticed the victim lying on the
19 ground. Detective Martin to provide any aid to him. And we
20 basically tried to secure the area. And then I noticed the
21 individual, Mr. Willis, in the parking lot and that's when I
22 made contact with him.

23 Q. But after speaking to him for a minutes, you received a
24 call to out to Gospel Lane. Is that correct?

25 A. Yes, sir. Lieutenant Peters advised me to go there.

1 Q. And met with some of the Middletons?

2 A. I did.

3 Q. And at some point during that exchange, you were
4 informed about a wallet that was found?

5 A. Yes. Correct.

6 Q. Okay. Not by you but by?

7 A. Canine officer.

8 Q. Canine officer. And after he had interacted -- you had
9 interacted with the Middletons there, you made contact with
10 Alphonso Middleton later on. Was it that same day?

11 A. Yeah. We made contact with him after I received a call
12 basically notifying me. One of the officers said that the
13 Middleton brothers that were on Gospel Lane got a call from
14 the daughter. They made contact with her.

15 Q. Sure.

16 A. And that she was in contact with him.

17 Q. She was in contact with him?

18 A. Yes.

19 Q. He was not in any danger?

20 A. He was in good health and alone at her residence.

21 Q. Didn't suspect that the person he had been driving was
22 a suspect in a crime to your knowledge?

23 A. I don't know.

24 Q. Did you speak with him?

25 A. I did speak with him, yes. I didn't know if you were

1 referring to Kendra.

2 Q. No, no. Alphonso Middleton.

3 A. Yeah. I don't think he had any idea. You know, I
4 mean, he was giving ---

5 Q. No suspicions were raised?

6 A. --- giving a guy a ride.

7 Q. Sure. You wrote a report after your investigation?

8 A. I did.

9 Q. And on your reports, you put a subject referring to the
10 person you were investigating. Is that correct?

11 A. Yes.

12 Q. And on your report for this investigation, you put the
13 name Lesner Gilliard. Isn't that right?

14 A. Yes. I typed -- go ahead.

15 Q. That was a suspect you were investigating at the time?

16 A. I wasn't actually -- didn't conduct any investigations
17 as far as the subject was related. I typed my report the
18 very next morning on the 11th. And when I typed that,
19 initially, I think they were looking for subjects
20 identifying their name as shortcut for Creep.

21 Q. Okay.

22 A. And that subject's name came up. And I typed that
23 report, I had no other actual, based on my report you can
24 read, I didn't have any other investigation in part of that.
25 So that subject's name was in there and I never did any

Direct Examination of Sgt. Martin by Ast. Sol. Sorenson

1 additional investigation in that case.

2 Q. So you were essentially basing it off the nickname
3 Creep ---

4 A. We received ---

5 Q. --- and this suspect fit that profile?

6 A. He had that street name at that time.

7 Q. Okay. And, Detective Melendez, you work for the
8 Solicitor's office now, don't you?

9 A. I do, sir.

10 Q. As their investigator?

11 A. I do.

12 Q. Thank you.

13 MR. KORNEGAY: Beg the Court's indulgence. (Brief
14 pause.) Nothing further, Your Honor.

15 THE COURT: Any further redirect?

16 AST. SOL. SORENSON: No, Your Honor.

17 THE COURT: You may step down. Thank you. You may
18 call your next witness.

19 AST. SOL. SORENSON: The State calls Sergeant Andy
20 Martin.

21 (ANDY DAVID MARTIN, was duly sworn and provided the
22 following testimony.)

23 THE COURT: Your witness.

24 AST. SOL. SORENSON: Thank you, Your Honor.

25 DIRECT EXAMINATION

1 BY AST. SOL. SORENSON:

2 Q. Sergeant Martin, if you would, tell the jury where
3 you're employed.

4 A. I work for Dorchester County Sheriff's Office.

5 Q. How long have you been with the Sheriff's Office?

6 A. I've been with the Sheriff's Office a little over 11
7 years, sir.

8 Q. Okay. What are your current responsibilities with the
9 Sheriff's Office?

10 A. I'm the sergeant with the street crimes unit called
11 Saturation.

12 Q. And back in March of 2015 in what capacity were you
13 employed at that point in time?

14 A. I was a detective with the Criminal Investigations
15 Division, Dorchester County.

16 Q. Okay. And were you one of the officers that responded
17 out to Cedar Key Apartments on the afternoon of March 10th
18 of 2015?

19 A. Yes, sir.

20 Q. And, ultimately, sir, I want to talk to you, did you
21 have an occasion at some point in time to respond somewhere
22 later on that around that afternoon with Investigator
23 Melendez who just left, you passed on the way in?

24 A. Yes, sir. We did.

25 Q. Okay. And where was it, if you recall, you went with

1 Investigator Melendez?

2 A. Later on that evening, he and I responded to
3 North Charleston.

4 Q. Okay. And what was the purpose of you responding out
5 there?

6 A. We had learned that Mr. Middleton had provided a man a
7 ride out of the incident location and that is where he went
8 to. That was his daughter's house.

9 Q. Okay. And did y'all ultimately make, you and Detective
10 Melendez, make contact with Alphonso Middleton then?

11 A. Yes, sir. We did.

12 Q. Okay. And, ultimately, did Mr. Middleton end up
13 returning any items over to you that afternoon?

14 A. Yes, sir. Upon contact with Mr. Middleton, we learned
15 that he provided a man a ride. That man gave him \$50 for
16 taking him to a location in North Charleston. In route to
17 that location, they pulled into a gas station ---

18 MR. LOY: Your Honor, objection. This is all hearsay.
19 The question was did he turn anything over.

20 Q. I mean, did he give any items to you?

21 A. Yes. We picked up a beer can out of his vehicle and we
22 also collected \$50.

23 Q. Okay. And do you remember did you document what the
24 breakdown of the \$50 was?

25 A. I did, sir.

1 Q. What was it?

2 A. You want me to read it out?

3 Q. Yes, sir?

4 A. I collected one 20-dollar bill, one 10-dollar bill.

5 And each one of these has a serial number. So it would be
6 one 10-dollar bill, a serial number JF36467651 Charlie; one
7 10-dollar bill, serial number IF14539168 Alpha; one 5-dollar
8 bill, serial number I Quebec 78075587 Bravo; one 5-dollar
9 bill, serial number Juliet Charlie 08486568 Alpha. And we
10 also collected on empty bent Miller Lite can, 24 ounce.

11 Q. Okay.

12 AST. SOL. SORENSON: May I approach the witness, Your
13 Honor?

14 THE COURT: You may.

15 Q. Let me show you what's been marked as State's Exhibit
16 Number 12 and ask you if you recognize that item?

17 A. Yes, sir. I do.

18 Q. Is that the beer can that you collected out of Mr.
19 Middleton's vehicle?

20 A. Yes, sir. It is.

21 AST. SOL. SORENSON: At this time, I'd offer State's 12
22 into evidence.

23 THE COURT: Any objection?

24 MR. LOY: No objection, Your Honor.

25 THE COURT: All right. It's in.

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 (State's Exhibit No. 12, Beer Can, was received into
2 evidence.)

3 Q. You indicated a bent Miller Lite beer can?

4 A. That is correct, sir.

5 Q. And, ultimately, what was done with that money that you
6 collected and the beer can that you collected?

7 A. I inventoried all the evidence I collected on a
8 Dorchester County evidence sheet. Itemized each individual
9 piece of currency with serial number along with the bent can
10 and submitted it into evidence.

11 Q. Okay. So that would've been turned over to Crime Scene
12 to do any further processing of any of those items?

13 A. Yes, sir. It was sent to them for fingerprinting.

14 AST. SOL. SORENSON: That's all I have for you,
15 Sergeant Martin. Thank you.

16 MR. LOY: No questions. Thank you.

17 THE COURT: You may step down, Sergeant. Thank you.
18 You may call your next witness.

19 AST. SOL. TEMPLETON: State calls Sergeant Brandon
20 Berg.

21 (BRANDON BERG, was duly sworn and provided the
22 following testimony.)

23 THE COURT: Your witness.

24 AST. SOL. TEMPLETON: Thank you, Your Honor.

25 DIRECT EXAMINATION

1 BY AST. SOL. TEMPLETON:

2 Q. Good morning.

3 A. Good morning.

4 Q. If you would, Sergeant Berg, please tell the jury where
5 you're employed.

6 A. I'm employed with the Dorchester County Sheriff's
7 Office.

8 Q. Okay. In what capacity are you employed with the
9 Dorchester County Sheriff's Office?

10 A. I'm currently a sergeant assigned to the crime scene
11 unit.

12 Q. Okay. If you would, briefly go through your
13 educational background including any law enforcement
14 training that you've had.

15 A. I've had high school diploma, some college, but about
16 411 no less hours of training in forensics. I've been
17 involved in no less 788 cases.

18 Q. Back on March 10th of 2015, were you employed with the
19 Dorchester County Sheriff's Department?

20 A. I was.

21 Q. In your same capacity?

22 A. Yes.

23 Q. Were you dispatched to a certain location that day?

24 A. Yes, I was.

25 Q. Where were you dispatched to?

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 A. To . It's on Cedar Key Apartments,
2 apartments -- building 500.

3 Q. All right. I'm going to show you State's Exhibit Number
4 5, which is already in evidence.

5 A. Yes.

6 Q. Is that where you were dispatched to?

7 A. That's correct, yes.

8 Q. Okay. If you would, kind of set the scene. What did
9 you see when your arrived on scene there at the Cedar Key
10 Apartments?

11 A. There were several patrol vehicles there. It was
12 secured with crime scene tape. At the building, I could
13 observe white male laying on the concrete floor in the
14 breezeway.

15 Q. Sergeant Berg, I'm going to show you State's Exhibit
16 number 16 and Number 17.

17 AST. SOL. TEMPLETON: May I approach the witness, Your
18 Honor?

19 THE COURT: Yes, sir.

20 Q. Do you recognize those photographs?

21 A. Yes, I do.

22 Q. What are those photographs of?

23 A. They are of the breezeway. They're of apartment --
24 building 500.

25 Q. All right. And those are fair and accurate

1 representations of what it looked like out there when you
2 arrived?

3 A. Yes.

4 AST. SOL. TEMPLETON: At this time, Your Honor, the
5 State would move State's Exhibit Number 16 and Number 17
6 into evidence.

7 MR. LOY: Without objection, Your Honor.

8 THE COURT: All right. They're in.

9 (State's Exhibit No. 16 and 17, Photographs, were
10 received into evidence.)

11 Q. Once you arrived on scene, what did you begin doing?

12 A. I made contact with my supervisor. He advised me of
13 the scene. I observed the scene, assessed it, and began
14 taking overall photographs of the scene.

15 Q. Okay. I'm going to show you State's Exhibit Number 15.

16 MR. LOY: We have no objection to the introduction of
17 that document, Your Honor.

18 AST. SOL. TEMPLETON: We would move it into evidence
19 then, Your Honor.

20 THE COURT: What is it?

21 AST. SOL. TEMPLETON: State's 15.

22 THE COURT: What's the description?

23 AST. SOL. TEMPLETON: It is a, basically, an overview,
24 a sketch, of the incident location.

25 THE COURT: Thank you.

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 AST. SOL. TEMPLETON: And I would publish that for the
2 jury now, Your Honor.

3 (State's Exhibit No. 15, Sketch, was received into
4 evidence.)

5 Q. Sergeant Berg, basically, would you explain to the jury
6 what you did here to -- what is this visual representation
7 of?

8 THE COURT: Solicitor, do you mind putting those up for
9 the jury that way they can see.

10 A. This is a representation of the scene as I found it of
11 building 500, apartments I through V.

12 Q. Okay. Once you arrived on scene, did you begin taking
13 photographs?

14 A. I did.

15 Q. And did you also take measurements?

16 A. I did take measurements on scene, yes.

17 Q. Are those the items on the right side of that -- of
18 your chart here?

19 A. Yes. On the right side is a depiction of the items
20 which I collected, placed photo placards on. And to the
21 right there is the measurements that I had obtained.

22 Q. Now, I understand this is not to scale. But this is an
23 approximate location of where each of those individual
24 markers where?

25 A. It is an approximate. Yes, sir.

1 (Brief pause.)

2 MR. LOY: Your Honor, we don't have an objection to
3 Exhibits 18 through 31.

4 THE COURT: All right.

5 AST. SOL. TEMPLETON: And those are all photographs of
6 the scene, Your Honor.

7 THE COURT: Thank you. So they are in without
8 objection.

9 AST. SOL. TEMPLETON: Thank you, Your Honor.

10 (State's Exhibit No. 18-31, Photographs, were received
11 into evidence.)

12 Q. Sergeant Berg, I'm going to start with State's Exhibit
13 Number 18.

14 A. Yes.

15 Q. Do you know what that is?

16 A. Yes.

17 Q. What is that?

18 A. It's a spent cartridge casing I located on scene.

19 Q. Okay. And if you would, indicate on the screen where
20 this particular cartridge was found.

21 A. Okay. (Witness complies.)

22 Q. That's perfect. Did you ultimately collect that
23 cartridge casing?

24 A. Yes, I did.

25 Q. And I'm going to show you State's Exhibit Number 37.

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 Do you recognize that?

2 A. Yes, I do.

3 Q. Is that the cartridge casing at number three?

4 A. Yes, sir.

5 AST. SOL. TEMPLETON: Your Honor, the State would offer
6 State's Exhibit Number 37 into evidence.

7 MR. LOY: No objection, Your Honor.

8 THE COURT: Thirty-seven is in.

9 (State's Exhibit No. 37, Cartridge Casing, was
10 received into evidence.)

11 Q. Next, I'm going to show you State's Exhibit Number 19.

12 Do you recognize State's Exhibit Number 19?

13 A. Yes, I do.

14 Q. What is that?

15 A. That's another spent cartridge casing.

16 Q. And if you would, indicate where that spent cartridge
17 casing was found.

18 A. (Witness complies.)

19 Q. And I'm going to show you State's Exhibit Number 38.

20 Is that that spent cartridge casing?

21 A. Yes, it is.

22 AST. SOL. TEMPLETON: State would offer State's Exhibit
23 Number 38 into evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. LOY: No objection.

1 THE COURT: It's in.

2 (State's Exhibit No. 38, Cartridge Casing, was
3 received into evidence.)

4 Q. Next, I'm going to show you State's Exhibit Number 20
5 and 21. Are those both photographs of another spent
6 cartridge casing?

7 A. Yes, they are.

8 Q. Okay. And would you indicate on your chart where that
9 spent cartridge casing is found.

10 A. (Witness complies.)

11 Q. And if you would, note on there where the other two
12 spent cartridge casings that you just went through are.

13 A. (Witness complies.)

14 Q. Okay. And I'm going to show you State's Exhibit Number
15 39. Do you recognize that?

16 A. Yes.

17 Q. What is that?

18 A. That is a spent cartridge casing from photo placard
19 number 12.

20 AST. SOL. TEMPLETON: Your Honor, the State would offer
21 State's Exhibit Number 39 into evidence.

22 MR. LOY: Again, no objection.

23 (State's Exhibit No. 39, Cartridge Casing, was
24 received into evidence.)

25 Q. Sergeant Berg, I'm going to show you State's Exhibit

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 Number 18 again. That's placard number three?

2 A. Yes.

3 Q. How far was that -- did you measure where that was in
4 reference to the breezeway?

5 A. Yes. I obtained measurements according to my sketch
6 here.

7 Q. You can zoom in a little bit if you need to.

8 A. From corner -- I gave each corner a letter; a letter
9 just to indicate for documentation purposes. From corner R
10 it was 4 feet, 10 inches; and from corner O, which was
11 towards the rear there, 56 feet, 6 inches, approximately.

12 Q. Okay. So from this corner R?

13 A. Yes.

14 Q. To the first shell casing was approximately 4 feet or
15 so?

16 A. Yes, sir.

17 Q. And then from O, it's how many feet?

18 A. It is 56 feet and 6 inches, approximately.

19 Q. Okay. State's Exhibit 19, which is placard number
20 eight, that's another cartridge casing?

21 A. Yes.

22 Q. If you would tell the jury, what's the distance that
23 you measured on that item?

24 A. From photo placard eight, another cartridge casing, I
25 used corner R and corner O again. From corner R, it was

1 17 feet and 6 inches. And from corner O it was 44 feet and
2 9 inches, approximately.

3 Q. And then, again, State's Exhibit Number 21, which is
4 placard 12?

5 A. Yes.

6 Q. If you would tell the jury the measurements for that
7 item.

8 A. Yes. From 12, I used corner R and O again. From R, it
9 42 feet, 6 inches, approximately; and 19 feet, 3 inches,
10 approximately.

11 Q. Okay. Next I'm going to show you State's Exhibit
12 Number 22. What is that a photograph of?

13 A. It's a possible shoe impression.

14 Q. Okay. And if you would, indicate where that shoe
15 impression is on your chart.

16 A. (Witness complies.)

17 Q. Okay. I'm going to show you State's Exhibit Number 23.
18 If you tell the jury what that one is.

19 A. It's another possible shoe impression.

20 Q. Okay. And where was that shoe impression located,
21 number seven?

22 A. It was just behind six.

23 Q. Basically, just kind of in a row there?

24 A. Right there. Yes.

25 Q. All right. Next, I'm going to show you State's Exhibit

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 Number 24. Do you recognize that photograph?

2 A. I do.

3 Q. Okay. And what is that a photograph of?

4 A. It's another possible shoe impression.

5 Q. Okay. And where was that one located?

6 A. That was located down the breezeway a little further at
7 that location.

8 Q. Okay. Next, I'm going to show you State's Exhibits

9 Number 25 and Number 26. Are those likewise shoe
10 impressions?

11 A. Yes.

12 Q. And where are those located?

13 A. A little further down the breezeway again.

14 Q. Showing you State's Exhibits 27 and 28. Do you
15 recognize those?

16 A. Yes.

17 Q. And are those likewise shoe impressions?

18 A. Yes.

19 Q. And if you would indicate where those are on your
20 chart.

21 A. (Witness complies.)

22 Q. Next, I'm going to show you State's Exhibit Number 29.
23 Do you recognize that photograph?

24 A. I do.

25 Q. Okay. And where is -- what is 29?

1 A. It is an another shoe impression, possible shoe
2 impression.

3 Q. All right. And if you indicate where that one is
4 located on your chart.

5 A. (Witness complies.)

6 Q. Okay. And then State's Exhibit Number 30. Do you know
7 what that is?

8 A. Yes, sir.

9 Q. Is that another shoe impression?

10 A. Yes, sir.

11 Q. All right. And if you indicate where State's Exhibit
12 Number 30 was located.

13 A. (Witness complies.)

14 Q. Okay. Were these basically in the same direction? The
15 orientation of these photographs, the orientation of these
16 prints, were they all in the same direction?

17 A. They appear to be.

18 Q. Okay. Next, I'm going to show you State's Exhibit
19 Number 31. Was is that a photograph of?

20 A. That is a photograph once the victim was removed from
21 the breezeway. I took that afterwards.

22 Q. Okay. And there's quite a few placards here, but what
23 is number three?

24 A. Number three was the cartridge casing.

25 Q. All right.

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 A. One of the cartridge casings.

2 Q. And what is number two?

3 A. Two is a pack of Camel cigarettes that was there also.

4 Q. Okay. And then number four, what was that?

5 A. Four was a green hat that was laying there.

6 Q. Okay. Where were all of these items basically located?

7 A. They were located in the vicinity of where the victim
8 was laying.

9 Q. Okay. Once you left this scene, did you have
10 additional investigations in this case?

11 A. Yes, I did.

12 Q. Okay. Did you process a vehicle in this case?

13 A. I did.

14 Q. What vehicle did you process?

15 A. The next day, I processed a GMC Chevy Acadia in our
16 impound yard at the Sheriff's Office.

17 Q. Is that the same GMC Acadia that's seen in State's
18 Exhibit Number 5 that was on scene the day of the event?

19 A. Yes.

20 Q. Okay. Ultimately, did you recover anything from that
21 vehicle?

22 A. I did collect some swabs and some latent prints and a
23 lighter.

24 Q. Okay. Did you recover any cell phones?

25 A. The day before, a cell phone was recovered from there

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 on scene.

2 Q. Okay. From that vehicle?

3 A. Yes, from that vehicle.

4 Q. Okay. Sometime later, did you also have the
5 opportunity to process some evidence in this case?

6 A. I did.

7 Q. I'm going to show you State's Exhibit Number 12, which
8 is already in evidence. Do you know what that is?

9 A. Yes, I do.

10 Q. Okay. What is State's Exhibit Number 12?

11 A. It is a beer can.

12 MR. LOY: I'm sorry. I didn't hear the witness.

13 THE COURT: Beer can.

14 Q. What did you do with that beer can?

15 A. I processed it in our lab. I swapped it in attempt to
16 collect DNA. It was fumed and then sent to the process for
17 latent prints.

18 Q. If you would, explain to the jury how you go about
19 swabbing a can to try and get DNA off of it.

20 A. Okay.

21 MR. LOY: Objection, Your Honor. There's been no
22 foundation laid for this.

23 THE COURT: Establish a foundation.

24 AST. SOL. TEMPLETON: I'm just asking what he did in
25 this case, Your Honor.

Direct Examination of Sgt. Berg by Ast. Sol. Templeton.

1 THE COURT: Just ask how we knows how to do it.

2 AST. SOL. TEMPLETON: Okay.

3 Q. What kind of training do you have in the collection
4 DNA?

5 A. I have had over 400 hours in forensics training.

6 Mainly crime scene workshops, shooting incident
7 reconstruction, and many others.

8 Q. In this case, what did you do to collect the DNA off
9 this can?

10 A. What I did, again, in our lab at the Sheriff's Office,
11 I used sterile swaps. They do come individually packaged
12 and sealed. I used two swabs to swab the rim around mouth
13 opening area where someone would normally drink from a can.
14 I swabbed there. I placed those swabs in a drying chamber
15 so they could dry. Once they dried, they were sealed after
16 that.

17 Q. Would those have been sealed so they could not be
18 tampered with?

19 A. Yes.

20 Q. Okay. And, ultimately, what happened with this swabs?
21 Where were they sent?

22 A. They were eventually sent to SLED for analysis.

23 Q. Okay. If you would, explain to the jury what you
24 did -- you explained that you fumed the can. Would you
25 explain that to the jury. What exactly did you do?

1 A. Fuming, we have a chamber for that at the Sheriff's
2 Office. It's cyanoacrylate, superglue fuming. What it does
3 once the superglue is placed on a small metal tray on a
4 hotplate that is heated, once it's heated, it emits
5 vapors -- vapors. Those that adhere to the moisture left
6 behind for latent prints. Basically, it enhances the latent
7 print. It makes it stay. Basically, provide the coating
8 for the print. Therefore, dye stains, powders can adhere to
9 the print easy -- easier.

10 Q. Did you ultimately collect the prints from that can or
11 did someone else do that?

12 A. Detective Mullis collected the prints from that.

13 Q. Okay. Did you also photograph the wallet that's in
14 evidence as State's Exhibit Number 11?

15 A. I did.

16 Q. Okay.

17 MR. LOY: I don't have an objection to this exhibit
18 being introduced, Your Honor.

19 THE COURT: 32?

20 AST. SOL. TEMPLETON: It's State's Exhibit Number 40.

21 THE COURT: Forty.

22 (State's Exhibit No. 40, Photograph, was received into
23 evidence.)

24 Q. I'm going to show you State's Exhibit Number 40. What
25 is that?

Direct Examination of Sgt. Berg by Ast. Sol. Templeton

1 A. That is the contents of the wallet that I removed.

2 Q. Okay. Do you know how did that wallet get to you?

3 A. It was turned in as evidence.

4 Q. As evidence. By another officer I assume?

5 A. Yes.

6 Q. Okay. Ultimately -- I'm actually going to show this to
7 the jury on the board. Do you know whose -- based on what
8 was in that wallet, do you know whose wallet that is?

9 A. There was an ID inside the wallet for the victim,
10 Robert Crumm.

11 Q. Is that the ID you're talking about?

12 A. Yes, it is.

13 AST. SOL. TEMPLETON: Beg the Court's indulgence, Your
14 Honor.

15 Q. In this wallet, other than the cards, is there some
16 money in the wallet?

17 A. Yes, there is.

18 Q. Okay. What denomination of money is in that wallet?

19 A. It's a hundred dollar bill.

20 Q. Was there anything inside of that 100-dollar bill?

21 A. Yes, there was.

22 Q. What was that?

23 A. There was a white, powdery substance inside of it.

24 Q. Was there any other money in that wallet?

25 A. Not that I recall, no.

1 Q. So just the one 100-dollar bill with that powdery
2 substance inside of it?

3 A. Just one 100-dollar bill with the powdery substance,
4 yes.

5 Q. Did you attempt to -- the \$50 that was located with
6 Mr. Middleton, did you attempt to process that money?

7 A. Yes, I did.

8 Q. How did you attempt to process that?

9 A. I treated it with a chemical again in our lab at the
10 Sheriff's Office with a chemical called it ninhydrin.

11 Q. Ultimately, were you able to get anything off of that
12 money? Any fingerprints or anything like that.

13 A. No.

14 Q. How about the wallet itself? Did you attempt to
15 process that?

16 A. Yes.

17 Q. Were you able to get anything off of that wallet?

18 A. No.

19 Q. No fingerprints or anything like that?

20 A. No.

21 Q. Okay.

22 AST. SOL. TEMPLETON: That's all the questions I have,
23 Your Honor.

24 THE COURT: Cross-examination?

25 MR. LOY: Thank you, Your Honor.

CROSS-EXAMINATION

1
2 BY MR. LOY:

3 Q. Good morning.

4 A. Good morning, sir.

5 Q. So you are employed with the Sheriff's Department
6 exclusively as a crime scene person. Is that correct?

7 A. Yes.

8 Q. And as a crime scene person -- I mean, I guess, it's
9 self-evident, but your job is to essentially respond as
10 quickly as possible to the scene of major crimes, major
11 offenses in attempt to preserve, collect, verify,
12 immortalize the evidence that's there on scene. That's part
13 of it, at least, initially. Is that correct?

14 A. Yes.

15 Q. And then as you've described, you're involved
16 subsequently down the road at least to some extent with
17 cataloging, in some cases, processing the items that are
18 seized on scene. Is that correct?

19 A. Yes.

20 Q. And when you are called out to a crime scene such as
21 this or any other scene, when you get there, quite often
22 there's a lot of items laying around which may or may not be
23 relevant to your investigation or to the investigation of
24 the Sheriff's Department. Is that correct?

25 A. Yes.

1 Q. Like in this case, a cheese stick that was collected
2 out there somewhere. This could have been something
3 important. But as it turned out, it had nothing to do with
4 your case. Is that right?

5 A. -- yes.

6 Q. Okay. So you would attempt when you get to the scene
7 to photograph everything as fairly and accurately as you can
8 both so that it's preserved for investigative purposes but
9 also so that it can be demonstrated down road what it is
10 that officers were confronted with. Is that right?

11 A. Yes, sir. Exactly.

12 Q. And in this case, one thing that you talked about was
13 some sort shoe evidence. Is that right?

14 A. Yes.

15 Q. Can you tell us what that was again?

16 A. It appeared to be shoe impressions in the breezeway on
17 scene.

18 Q. And when you say shoe impressions, is that the pictures
19 that we looked at earlier that appeared -- I mean, they may
20 or may not be, but appeared to have been a tennis shoe or
21 something like that which had stepped in blood, presumably,
22 a red substance, and then left sort of a track. Is that
23 what we're talking about?

24 A. It appeared to be so, yes.

25 Q. Okay. In your experience or in your training, how

Cross-Examination of Sgt. Berg by Mr. Loy

1 would a track such as that be important in an investigation?

2 Why would you photograph that and try to get it as clearly
3 and definitely as you can?

4 A. It could possibly show a path of any suspect leaving
5 from the scene.

6 Q. Have you been involved in cases where shoe prints were
7 made such as this and were subsequently matched up to a pair
8 of shoes that's recovered at some point down the road?

9 A. Not personally, no.

10 Q. Are you aware of this in your training that this is
11 something that they attempt to do? That is to match up the
12 tread or the bottom of the shoe prints.

13 A. Yes.

14 Q. Okay. And because of uneven wear, scars, nicks, and
15 rocks, things like that, sometimes, in your experience, in
16 your training, they can match those shoe prints up pretty
17 much directly with another one if it's recovered. Is that
18 correct?

19 A. Yes, sometimes. Yes.

20 Q. Okay. So that's part of the reason that you
21 immortalize these prints that were out there so the
22 opportunity to collect evidence in the future and match it
23 up would not be lost. Is that right?

24 A. Yes.

25 Q. You were never, subsequently during the course of this

1 case, presented with a shoe, shoe wear, anything to follow
2 up on the footprints in the breezeway, were you?

3 A. No, I wasn't.

4 Q. So if that was done, it was done with someone other
5 than yourself. You were not involved in that?

6 A. Correct.

7 Q. Okay. I believe I heard you speak of molds also as it
8 relates to the footprints. Is that something different?

9 A. Molds, sir?

10 Q. Yeah.

11 A. The only -- are you talking about a casting?

12 Q. Yeah. I think it's referenced in your report. I'm just
13 asking you ---

14 A. It is.

15 Q. Can you tell us about that.

16 A. In the rear -- yes, there's a possibility. And if
17 there's an indentation in an item, there is a possibility of
18 pouring a cast, a liquid cast, into an impression. It would
19 later harden, therefore, you could collect the impression.

20 Q. Okay. And that would not be in the breezeway itself.
21 I mean, you're not going to have an impression there. Is
22 that correct?

23 A. That's correct. Yes.

24 Q. So is it your testimony here today that there were
25 other footprints in the dirt or the earth?

Cross-Examination of Sgt. Berg by Mr. Loy

1 A. Yes.

2 Q. Nearby. And you attempted to preserve those for any
3 future evidentiary value they might have. Is that correct?

4 A. That's correct.

5 Q. And how did you go about attempting to preserve those?

6 A. I did forecast in the impressions. They were found in
7 the rear. There were in some sandy material in the back. I
8 did forecast inside those impressions. They were allowed to
9 dry and then collected.

10 Q. Okay. When you say you poured a cast, is that
11 essentially like plaster or paris or something like that and
12 just -- what it sounds like? Pour it in, let it harden,
13 pull it out and you have a model of it?

14 A. Yes, sir. It's not exactly that, but yes, sir.

15 Q. For a layperson, is that ---

16 A. Yes, sir. Exactly, yes.

17 Q. And in this case, you collected those and preserved
18 those also. Is that right?

19 A. I did.

20 Q. Now, you were never called upon later on during this
21 investigation to attempt to match up, compare, or do
22 anything with the cast that you collected. Is that right?

23 A. That's correct.

24 Q. Were those submitted to SLED for ---

25 A. Huh-uh.

Cross-Examination of Sgt. Berg by Mr. Loy

- 1 Q. Those were not sent to SLED?
- 2 A. No, sir.
- 3 Q. Well, to your knowledge, was anything ever done with
- 4 them?
- 5 A. No, not to my knowledge.
- 6 Q. You --
- 7 MR. LOY: I'm sorry. One second, Your Honor.
- 8 (Brief pause.)
- 9 Q. You collected shell casings. Is that correct?
- 10 A. Yes.
- 11 Q. And there were three shell casings collected?
- 12 A. That's correct.
- 13 Q. All essentially in the breezeway or in the vicinity of
- 14 the breezeway. Is that right?
- 15 A. Yes.
- 16 Q. There were two different makes or manufacturers of
- 17 shell casings?
- 18 A. Yes, there was.
- 19 Q. There were two. Is that correct? Two different makes.
- 20 A. Yes.
- 21 Q. Okay. And in no particular order, what was one of
- 22 them?
- 23 A. One of them was Tool Ammo (ph).
- 24 Q. I'm sorry?
- 25 A. Tool Ammo.

Cross-Examination of Sgt. Berg by Mr. Loy

1 Q. Okay. And that's a brand? The company that
2 manufactured this ammunition?

3 A. Yes. That is . . .

4 Q. Okay. And the other one was?

5 A. This is R-P.

6 Q. And that's a different make or model of similar
7 ammunition. Is that correct?

8 A. That's correct.

9 Q. Now, you got those shoe impressions. You got the
10 shells out there, the photographs that you took and that
11 we've talked about. Cell phone, you were not involved in
12 processing of the cell phone that was recovered from the
13 Acadia. I mean, you essentially collected it, sealed it up,
14 handed it over to whoever needed it. Is that correct?

15 A. That's correct. Yes.

16 Q. Now, the other items that you went through and
17 delineated, Camel cigarettes, green hat, et cetera, whether
18 or not those had any evidentiary value or not, you don't
19 know. They were just photographed, collected, against the
20 possibility that they would prove relevant down the road.
21 Is that right?

22 A. That's correct. Yes.

23 Q. And that would, to a large degree, cover the work that
24 you did at the scene itself. Is that right?

25 A. Yes, sir. It would have.

1 Q. But your involvement in this case or investigation
2 didn't end there. As a matter of fact, you responded to the
3 Acadia, the vehicle, that was on the scene when you arrived.
4 Is that right?

5 A. That's right.

6 Q. And you were involved in processing it. Can you tell
7 me again what it is you did with the Acadia.

8 A. Yes, sir. When I processed it, it was at the impound
9 lot at our Sheriff's Office. I obtained some buccal swabs
10 and latent prints and a BIC lighter.

11 Q. Okay. So you pulled those prints up, essentially. You
12 collected them?

13 A. Yes.

14 Q. Is that right? So that they could be given to someone
15 else and used in the event they were relevant down the road.
16 Is that right?

17 A. That is correct.

18 Q. And this is from the Acadia?

19 A. Yes.

20 Q. Okay. That was on the scene?

21 A. Correct.

22 Q. That the victim had arrived in?

23 A. Yes.

24 Q. Okay. And you swabbed that and you recovered some
25 latent prints?

Cross-Examination of Sgt. Berg by Mr. Loy

1 A. Uh-huh.

2 Q. There was another vehicle that you were called upon to
3 deal with in some fashion, was there not?

4 A. Yes, there was.

5 Q. And can you tell me what that vehicle was?

6 A. It was a Chevrolet Suburban.

7 Q. Okay. And what did you do with that vehicle? Right
8 now, just the vehicle itself and not the contents of the
9 vehicle.

10 A. I wasn't involved in processing the Suburban.

11 Q. You did not?

12 A. No.

13 Q. You did not check prints or anything with that?

14 A. With the prints, no. Detective Scott processed the
15 Suburban.

16 Q. Okay. Well, you were involved with the contents of the
17 Suburban only. Is that correct?

18 A. Yes.

19 Q. And by the contents, was that strictly this beer can
20 that we've talked about?

21 A. Let me look at my notes. (Brief pause.) Yes.

22 Q. Okay. And with the beer can being such as it is, the
23 obvious avenue to pursue was DNA. Is that right?

24 A. Yes.

25 Q. And people generally open the top, drink the beer

1 that's in it.

2 A. That's correct.

3 Q. And in your training, as you've been taught, will often
4 times leave DNA that can be detected at some point down the
5 road. Is that right?

6 A. Yes, that's right.

7 Q. As a matter of fact, quite often it's very small
8 amounts, trace amounts, of DNA can be recovered and that's
9 enough to make an identification. Is that right?

10 A. It's possible sometimes, yes.

11 Q. I know you're not a DNA expert. Have you been told
12 that there's various ways DNA can be deposited?

13 A. Yes.

14 Q. And then in the case of saliva, if the person drank
15 from a can and left saliva behind, that's one way it could
16 be deposited. Is that right?

17 A. That's correct.

18 Q. Are also familiar with what's called touch DNA?

19 A. I am.

20 Q. And what is that?

21 A. It's basically if, just as the name would indicate,
22 someone touches an item, their deposit sweat could be
23 possibly -- it's a possibility maybe DNA can be obtained
24 from that.

25 Q. So if I do that, it's possible somebody could take one

Cross-Examination of Sgt. Berg by Mr. Loy

1 of those science swabs and touch it or do those things that
2 they do and collect DNA and at some point show that John Loy
3 had touched that table. Is that correct?

4 A. It's possible, yes.

5 Q. So in this case, you collected DNA from this beer can.
6 Is that right?

7 A. Yes, that's right.

8 Q. Seal that and either sent it to SLED or secured it in a
9 fashion so that it could be later transported to SLED and
10 used to further the investigation if that was helpful. Is
11 that right?

12 A. Yes, sir. That's right.

13 Q. The shell casings that were recovered on scene, did you
14 recover those?

15 A. Yes, I did.

16 Q. And I didn't mean to interrupt you. I think your
17 answer was yes?

18 A. Yes, sir.

19 Q. Does that mean you were the one who picked them up and
20 put them in baggies? I mean, you physically collected them.
21 Is that correct?

22 A. Yes, that's correct.

23 Q. As far as you know, no one had handled them? As far as
24 you know, no one had handled them, manipulated them, changed
25 their location, et cetera, at the scene prior to your

1 arrival. Is that right?

2 A. That's right.

3 Q. And any officer who had responded to the scene who was
4 acting according to protocol, or appropriate at a crime
5 scene, would not have done that. They would have stepped
6 back so that the appropriate person, yourself or someone
7 else in your stead, could collect those items and photograph
8 them. Is that right?

9 A. That is right. Yes, sir.

10 Q. Did you attempt to do touch DNA on the shell casings?

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

12 Q. You stated that you attempted to lift prints off of a
13 wallet that was recovered. Is that correct?

14 A. That's correct. Yes.

15 Q. And you were unsuccessful?

16 A. That's correct.

17 Q. Did you attempt to collect touch DNA off of the wallet
18 itself?

19 A. No, I didn't.

20 Q. Nor off of any of the contents in the wallet, money,
21 none of that?

22 A. That's correct. Yes.

23 Q. The Suburban that -- oh, you weren't involved in the
24 actual processing of the Suburban itself I think. That
25 would be the second vehicle. You stated you didn't do that.

Redirect Examination of Sgt. Berg by Ast. Sol. Templeton

1 You just checked the can itself. Is that correct?

2 A. Yes.

3 Q. So whether or not anybody swabbed the floor mats, et
4 cetera, whether any blood was recovered from the inside of
5 that vehicle, whether or not there were any blood tracks or
6 impressions that could have left DNA or been matched to the
7 footprints you collected, all of that stuff is on someone's
8 plate and not your own. Is that correct?

9 A. Yes.

10 Q. Thank you.

11 MR. LOY: Just one moment, Your Honor.

12 (Brief pause.) No more questions. Thank you, Your
13 Honor.

14 THE COURT: Redirect?

15 AST. SOL. TEMPLETON: Just a couple, Your Honor.

16 REDIRECT EXAMINATION

17 BY AST. SOL. TEMPLETON:

18 Q. Sergeant Berg, Mr. Loy was just talking about the shell
19 casings in this case.

20 A. Yes.

21 Q. What were the caliber of all those shell casings?

22 A. They're all nine millimeter.

23 Q. So there's two different manufacturers basically, but
24 they were all the same caliber?

25 A. That's correct.

1 Q. And the swab that you took from the beer can, where
2 would that be located?

3 A. Where I took the swab from?

4 Q. Like, currently. No, currently, where would the actual
5 swab be located?

6 A. Here in the courtroom.

7 Q. Okay. If you would --

8 AST. SOL. TEMPLETON: Your Honor, may the witness step
9 down real quick to help us find the swab real quick?

10 THE COURT: Sure.

11 (Brief pause.)

12 MR. LOY: Your Honor, can we approach?

13 THE COURT: Yes, sir.

14 (A bench conference was held off the record and out of
15 the hearing of the jury panel.)

16 MR. LOY: Thank you, Your Honor.

17 AST. SOL. TEMPLETON: Your Honor, that's all the
18 questions we have for this witness.

19 THE COURT: You may step down, sir. Thank you. You
20 may call your next witness.

21 AST. SOL. TEMPLETON: The State calls Jeff Scott.

22 (JEFF SCOTT, was duly sworn and provided the following
23 testimony.)

24 THE COURT: Your witness.

25 DIRECT EXAMINATION

Direct Examination of Det. Scott by Ast. Sol. Templeton

1 BY AST. SOL. TEMPLETON:

2 Q. Good morning, Detective Scott.

3 A. Good morning.

4 Q. If you would, please tell the jury where you're
5 employed.

6 A. Dorchester County Sheriff's Office.

7 Q. All right. How long have you been employed with
8 Dorchester County Sheriff's Office?

9 A. Since February of 2013.

10 Q. Okay. And what is your current position with the
11 Dorchester County Sheriff's Office?

12 A. Currently, I'm a deputy assigned to the Criminal Crime
13 Scene Unit. The CSU unit within Dorchester County Sheriff's
14 Office.

15 Q. Okay. If you would, briefly go through your
16 educational background with the jury.

17 A. Certainly. Briefly, I attended high school in Florida.
18 I attended also here in South Carolina. At which time when
19 I became a employed in law enforcement, I attended the South
20 Carolina Criminal Justice Academy in 2003. Since I
21 graduated the Criminal Justice Academy, I've had to
22 attend -- I'm fortunate enough to attend several classes
23 both in the investigative field, crime scene field, and the
24 testing of narcotics in the lab field as well.

25 Q. All right. In this particular case, did you have the

1 opportunity to go through a vehicle?

2 A. Yes, sir. I did.

3 Q. I'm going to show you State's Exhibit Number 9 and 10
4 which are already in evidence. Is that the vehicle that you
5 went through?

6 A. Yes, sir, that is.

7 Q. Okay. What did you do to process that vehicle?

8 A. On March 11th, I obtained a search warrant from
9 criminal investigation division for this case. And I
10 executed said search warrant approximately 10- 10:30 in the
11 morning. What I do normally is before beginning any
12 processing or searching, is I take my exterior photographs
13 as the vehicle was when I found it. I then move and take
14 interior photographs of the same vehicle. Once I've
15 concluded my photographs, I then begin just a normal search
16 of the vehicle. In this particular case, I was looking for
17 anything such as like firearms, shell casings, things of
18 that nature, that may or may not been in the vehicle. I did
19 not locate anything of that nature inside the vehicle. Then
20 I move to collecting forensic evidence which is fingerprints
21 and DNA swabs.

22 Q. Okay. Ultimately, did you find any firearms or casings
23 in that vehicle?

24 A. No, sir. I did not.

25 Q. Okay. When you processed this vehicle, you said for

Direct Examination of Det. Scott by Ast. Sol. Templeton

1 prints?

2 A. That is correct.

3 Q. I'm going to show you State's Exhibit Number 32 and
4 State's Exhibit Number 33.

5 MR. LOY: No objection. I think it's 32 and 33?

6 THE COURT: Right.

7 MR. LOY: No objection, Your Honor.

8 THE COURT: All right. Thank you.

9 (State's Exhibit No. 32, Latent Fingerprint Card, and
10 State's Exhibit 33, Photograph, were received into
11 evidence.)

12 Q. What is this Exhibit number 32?

13 A. State's Exhibit Number 32 is a latent fingerprint card.

14 Q. And where did you collect that latent print from?

15 A. The latent print, State's 32, was collected from the
16 passenger-side door, the outside of the white Suburban.

17 Q. All right. This is the print that we're talking about?

18 A. That is correct.

19 Q. And I'm going to flip that print card over. So is that
20 a diagram of where this print was ultimately located?

21 A. Yes, sir. It is.

22 Q. What did you do with this print once it was collected?

23 A. Once the print was collected, it was then logged into
24 evidence and turned over to the latent print division within
25 the Dorchester County Sheriff's Office.

1 Q. Okay. I'm going to show you State's Exhibit Number 33
2 as well. What is that?

3 A. That is the print, the latent print.

4 Q. Okay. Is that a photograph from the vehicle or from
5 this print?

6 A. I'm sorry. It's hard to tell. I didn't see the top of
7 the photograph.

8 Q. I can zoom it in to show it to you.

9 A. Yeah. No, that is the photograph that I took of the
10 vehicle. Yes, sir. That is a photograph that I took of the
11 vehicle of the print card lifting it.

12 Q. If you would, please describe the process you used to
13 collect the print from this vehicle in this particular case?

14 A. Okay. The process that we used is we used a black
15 powder with a latent fingerprint brush. We applied the
16 powder to the brush then we applied the brush with the
17 powder on it to a surface. If anyone has ever seen CSI or
18 any type of show like that, you're basically familiar with
19 what I'm talking about. Once we develop a print on a
20 surface, at the time, we then take the lifting tape, which
21 is basically just a clear adhesive tape that we apply to the
22 print. The print is then carefully removed from the
23 surface. In this case, it was removed from the surface of
24 the white Suburban. And it is applied to the back of the
25 latent fingerprint card, which is State's 32.

Cross-Examination of Det. Scott by Mr. Loy

1 Q. Thank you, Mr. Scott. Is there anything else that you
2 did in this case with the exception of the processing of
3 this Suburban?

4 A. I assisted Detective Berg with the initial crime scene
5 processing as well as the processing of the Arcadia. My
6 role was very small. Mainly just there to -- whatever he
7 needed me to do to assist with.

8 AST. SOL. TEMPLETON: If you would please answer any
9 questions the defense may have.

10 CROSS-EXAMINATION

11 BY MR. LOY:

12 Q. So your role in this case was the processing itself of
13 the vehicle, the Suburban. Is that correct?

14 A. That was one my roles, correct.

15 Q. What else did you do?

16 A. Again, I assisted Detective Berg in processing the
17 primary scene as well as the execution of the search warrant
18 on the GMC Acadia.

19 Q. I couldn't hear the last part. It was too fast.

20 A. That's okay. Process -- assisted in processing the GMC
21 Acadia.

22 Q. On this one, I understand you said you looked for
23 fingerprints and you found one or you found prints. Is that
24 correct?

25 A. That is correct.

1 Q. Did you do anything else?

2 A. As far as the Suburban is purpose concerned?

3 Q. Yes.

4 A. Again, I took photographs, took some swabs, and dusted
5 for latent prints. And then searched the vehicle to locate
6 any weapons or shell casings or anything of that nature.

7 Q. Now, I understand you took photographs and I understand
8 you said you dusted for fingerprints. You said you took
9 some swabs. What does that mean?

10 A. Generally, what we'll do is we'll take a DNA swab which
11 is we'll take -- it's a cotton tip, sterile cotton tip
12 applicator, that sterile water is applied to. And then the
13 swab is then ran over a surface such as a seat, the door,
14 things of that nature, in an attempt to locate what we call,
15 what SLED calls, touch DNA is what we're looking for. It's
16 when we don't necessarily have a specific target stain such
17 as blood. Then we're looking for what is commonly referred
18 to as touch DNA is when you basically you touch something,
19 you transfer your DNA to that surface.

20 Q. And are there other items of evidence which can be
21 recovered or left behind in the vehicle such as hair
22 follicles? Will people sometimes leave hair behind? Have
23 you been involved in cases where evidence such as that is
24 important or used in court.

25 A. Certainly.

Cross-Examination of Det. Scott by Mr. Loy

1 Q. Was an attempt made to vacuum or collect anything such
2 as this?

3 A. No attempt was made to vacuum or to obtain any type of
4 hairs. However, I did search the vehicle for any type of
5 fibers or anything, like again, the stuff that is listed in
6 the search warrant. Unfortunately, the nature of the
7 vehicle, the condition that it was in, the amount of, for
8 lack of a better word, filth, I believe, that I thought,
9 would've been near impossible to use a vacuum for anything
10 other than just obtaining a whole box full of dust and dirt.

11 Q. I'm also seeing instances where people use -- I think
12 it's a black light or something to look for fluids or
13 spills, et cetera. Did you do something like that in this
14 case?

15 A. What he is referring to is alternate light source. And
16 no alternate light source was used in this particular case
17 for the reasons that it wouldn't have applied to this
18 particular case. If we use an alternate light source, you
19 typically use some type of chemical or you're looking for a
20 bodily fluid such as semen and things of that nature. If
21 you're looking for like blood, blood doesn't fluorescent
22 under an alternate light source. Regardless of what TV
23 shows tell you, it does not. Blood does not fluorescent
24 under an alternate source. So for this -- and, again, the
25 amount of filth that's in the dirt -- the floorboard as well

1 as in the interior of the vehicle, any type of fluid that
2 would have been placed there probably would've been absorbed
3 and it would have just been near impossible.

4 Q. You, however, you had been on the crime scene. So you
5 were aware that bloody footprints were photographed or
6 photographs were taken of what appeared to be footprints.
7 Is that correct?

8 A. That's correct.

9 Q. Okay. So you, at least on the passenger side of the
10 vehicle, looked to see whether or not on the transom, on the
11 dash by the door, somewhere some of this might have been
12 deposited or placed had a person been in there who had left
13 those footprints or had bloody shoes. Is that correct?

14 A. Yes. That is correct.

15 Q. And you found nothing of evidentiary value during that
16 search?

17 A. No, sir. I did not.

18 MR. LOY: Thank you. I don't have any more questions.

19 THE COURT: Any redirect?

20 AST. SOL. TEMPLETON: None, Your Honor.

21 THE COURT: You may stand down, sir. Thank you.

22 THE WITNESS: Thank you, Judge.

23 THE COURT: Ladies and gentlemen, it's about 10:30. It
24 might be a good time for us to take a brief morning recess.
25 We'll take about ten minutes. Let us know when you're ready

1 to proceed. Please remember my previous instruction to not
2 discuss the case amongst yourselves. We'll be right back
3 with you.

4 (The jury exits the courtroom at 10:32 a.m.)

5 THE COURT: We'll be at ease for a few minutes.

6 MR. LOY: Thank you, Your Honor.

7 (A brief recess was taken at 10:32 a.m. The
8 proceedings resumed at 10:49 a.m.)

9 THE COURT: Are y'all ready for the jury?

10 BY MR. LOY: I think we're trying to facilitate things,
11 Your Honor.

12 THE COURT: Sure.

13 (Brief pause.)

14 THE COURT: Are you ready?

15 AST. SOL. SORENSON: We're ready, Your Honor. And if
16 we could start, the next witnesses is going to be Sergeant
17 Mullis.

18 THE COURT: Okay.

19 AST. SOL. SORENSON: And if we could, at the outset of
20 his testimony, do stipulation number three.

21 THE COURT: Number three? Okay.

22 AST. SOL. SORENSON: Yes, ma'am.

23 THE COURT: Let's have our jury, please.

24 (The jury enters the courtroom at 10:49 a.m.)

25 THE COURT: Welcome back, ladies and gentlemen of they

1 jury. Ladies and gentlemen of the jury, before we call the
2 next witness, I want to inform you of another matter that
3 the attorneys have agreed to. And this a stipulation that
4 the State and the defendant have entered into a stipulation
5 in State's Exhibit Number 13 is a copy of the defendant's
6 known fingerprints. You may proceed, Solicitor. You may
7 call your next witness.

8 AST. SOL. SORENSON: Your Honor, in conjunction with
9 that then we'd also be offering State's 13 into evidence.

10 THE COURT: I understand that's without objection. Is
11 that correct?

12 BY MR. LOY: That's correct, Your Honor.

13 THE COURT: It's in.

14 (State's Exhibit No. 13, Fingerprint Card, was
15 received into evidence.)

16 AST. SOL. SORENSON: The State calls Sergeant Brad
17 Mullis.

18 (BRADLEY MULLIS, was duly sworn and provided the
19 following testimony.)

20 DIRECT EXAMINATION

21 BY AST. SOL. SORENSON:

22 Q. Good morning, Sergeant Mullis.

23 A. Good morning, sir.

24 Q. If you would, please tell the jury where it is that you
25 work.

Direct Examination of Sgt. Mullis by Ast. Sol. Sorenson

1 A. I work for the Dorchester County Sheriff's Office as a
2 deputy in the crime scene unit.

3 Q. Okay. And how long have you been, first of all, with
4 the Sheriff's Office?

5 A. I started with the Sheriff's Office back in 2008 where
6 I worked on patrol until the year 2012 and started in crime
7 scene.

8 Q. Okay. And your current -- if you would, just kind of
9 tell the jury a little bit about what your current
10 day-to-day duties and responsibilities are there?

11 A. My primary responsibilities is a full-time latent print
12 examiner. It is my job to take unknown fingerprints found
13 at crime scenes and enter them into a software system know
14 as the AFIS, Automated Fingerprint Identification System.
15 That machine will then give a number of candidates where the
16 examiner has to go through one by one to determine if there
17 is a match in that case. If thee unknown fingerprint is not
18 run through the Automated Fingerprint Identification System,
19 many times detectives provide known fingerprints for the
20 examiner to do one-on-one comparisons with to see if there
21 is -- can be identified or excluded of making the
22 fingerprint.

23 Q. Okay. And how long have you been employed kind of in
24 that capacity as the primarily latent print examiner at the
25 Sheriff's Office?

1 A. As a primary full-time latent print examiner, I started
2 a year and a half ago. However, I had been working
3 fingerprints for about five and a half years.

4 Q. And if you could, could go through for the jury a
5 little bit of the training that you've had especially as it
6 relates to fingerprint, not only processing items, but also
7 fingerprint analysis and comparison.

8 A. Yes, sir. When I started crime scene in 2012, I also
9 started advanced training in forensic science. I've had the
10 opportunity to take approximately 500 hours of forensic
11 training in the area of the latent fingerprint examination,
12 palm print examination, actually processing and working
13 crime scenes and documenting crime scenes, processing for
14 fingerprints using chemical means to visualize them.
15 Approximately 200 of those hours are in, specifically,
16 fingerprint identification.

17 Q. And that, as you indicated, now is basically what you
18 were doing pretty much on a day-to-day basis at the
19 Sheriff's Office?

20 A. I did. Yes, sir.

21 Q. Okay. And have you had an opportunity to testify in
22 court before about your findings with regards to fingerprint
23 comparison and analysis?

24 A. I have. One previous time.

25 Q. And were you qualified as an expert on that time?

Direct Examination of Sgt. Mullis by Ast. Sol. Sorenson

1 A. That's correct.

2 AST. SOL. SORENSON: Your Honor, at this time we'd
3 offer Sergeant Mullis as an expert in the field of
4 fingerprint comparison and analysis.

5 THE COURT: Any voir dire?

6 BY MR. LOY: No. Thank you.

7 THE COURT: Ladies and gentlemen, Sergeant Mullis will
8 be qualified as an expert in the field of fingerprint
9 analysis and comparison. Normally, a person cannot give
10 opinion testimony. Normally, when a person testifies, they
11 must testify as to either what they saw, heard, or sensed by
12 smell or something of that nature. However, there is an
13 exception when someone is qualified because of either their
14 education or their experience they're permitted to give
15 their opinion in certain areas if the Court qualifies them
16 that way. Sergeant Mullis will be qualified in the area of
17 fingerprint analysis and comparison to give opinion
18 testimony in that area. That does mean that you must accept
19 the opinion, but it is evidence for you to use in any way
20 that you see fit. You give it the weight and the
21 credibility that you believe is appropriate. You may
22 proceed.

23 AST. SOL. SORENSON: Thank you, Your Honor.

24 BY AST. SOL. SORENSON: (continuing)

25 Q. Now, Sergeant Mullis, if you could, kind of start off

1 and describe for the jury what a latent fingerprint is.

2 A. Yes, sir. A latent fingerprint is moisture deposited
3 from our fingerprints on to a surface. Latent means it's
4 almost invisible to our eye. Sometimes you can see it using
5 a light source. A lot of times it requires some type of
6 chemical processing to actually visualize it.

7 Q. Okay. And let me ask you: As far as a latent
8 fingerprint, how do you go about leaving a latent
9 fingerprint behind?

10 A. We naturally sweat. We have ridges on the end of our
11 fingers. And if you consider ridges as like a mountaintop
12 and they protrude out of our fingers, and go in between the
13 valley, which is also known as a burrow. As our ridges
14 develop, they also develop pores on each ridge unit. And as
15 we naturally sweat, we deposit approximately 98 to 99
16 percent water. The other compound is inorganic and organic
17 compounds such as amino acids. As we touch a surface,
18 depending on the conduciveness of that surface, we may leave
19 a fingerprint behind. And using chemical means, we are able
20 to protrude those fingerprints.

21 Q. Okay. And that is -- you kind of touched on this a
22 little bit with that answer there. But every time you touch
23 an item, you always leave a fingerprint behind?

24 A. No. Depending on the surface, we may leave a
25 fingerprint. If a surface is extremely dirty, a lot of

1 times, sometimes, the dirt can be actually transferred to
2 our hands depending on what we touch. So it really depends
3 on the surface and it also depends on the environment. It
4 can extremely hot. Like I said, fingerprints are 98, 99
5 percent water. So that can also -- it can hurt the latent
6 fingerprint and make it more difficult to recover. Not to
7 say it's not there, it can just make it more difficult to
8 recover.

9 Q. Now, do you have at your disposal at the Sheriff's
10 Office various means to search for latent fingerprints?

11 A. Yes, we do.

12 Q. Are you able to process a crime scene and look for
13 latent fingerprints?

14 A. Yes, sir.

15 Q. Okay. So if something happened in this courtroom,
16 you'd come in and, you know, process the, you know, the bar,
17 the tables, and things of that nature?

18 A. Absolutely. We have several tools at our needs. And
19 starting off as a regular patrol deputy, most every patrol
20 deputy has a basic fingerprint kit where it come to just a
21 normal black powder and a fingerprint brush. And what the
22 black powder does is it almost searches out moisture. So as
23 we deposit our fingerprints on the surface and we take that
24 brush and we put it into the powder and we lightly run the
25 brush over the surface, that powder adheres to the moisture

1 in the fingerprint. That is one way, one too, that we can
2 use. Other tools, a lot of times if it -- depending on the
3 surface, deputies may turn in evidence to us or we may
4 collect evidence to process found at crime scenes. And we
5 have different tools such as using superglue. Applying
6 superglue with heat will create fumes. Those fumes also
7 want to adhere to moisture in our fingerprints. What that
8 does is help fix the fingerprint and protect it. And it
9 also gives us however means to process fingerprints. Some
10 surfaces aren't easily visible to the naked eye, so we can
11 use certain chemicals such as the dye stains. The Sheriff's
12 Office uses commonly MBD and RAM. MBD is a fluorescent dye
13 stain. It fluorescents at a certain wavelength when we use
14 an alternate light source. Another chemical is RAM. which
15 is a combination of three chemicals: rhodamine, ardrex and
16 MBD. All three of those chemicals will fluoresce when used
17 with an alternate light source. And a filter with the
18 camera and over the eyes which will excite that dye stain
19 which adheres to the superglue that we had already processed
20 which allows us to visualize it and photograph and document.

21 Q. Let's talk a little bit about our fingerprints. Our
22 fingerprint is something that every person has?

23 A. Yes, sir.

24 Q. Okay. And describe, are they unique to each
25 individual?

Direct Examination of Sgt. Mullis by Ast. Sol. Sorenson

1 A. Yes. In our fingerprints, we all have them. And we
2 all either have an arch or whorl fingerprint. And we all
3 may have similar patterns. Many of us may have loops; many
4 of us may have whorls; many of us may have arches. Just
5 looking at the overall pattern, which as a latent print
6 examiner, looks at as level one detail. It's just the
7 overall pattern in the pattern flow of the fingerprint.
8 When you go to the next level, what we know as level two, it
9 breaks down into specific ridge configurations also known as
10 -- some are ending ridges, some are bifurcations, dots, and
11 closures. And we can also have level three detail. And you
12 can really see it with a good quality fingerprint where you
13 could see the actual pores inside the ridges. And all of
14 those are unique to every individual and persistent
15 throughout life unless it's damaged.

16 Q. So now my next question: So over time, do your
17 fingerprints change, I mean, from when you're a teenager to
18 when you become my age?

19 A. Our fingerprints -- our fingerprints are set in
20 approximately 16 weeks gestation when we're in our mother.
21 At that point, they remain the same until we die and are
22 decomposed. The only way to have changed those fingerprints
23 are sometimes we can develop skin diseases. If you cut the
24 second layer or the bottom layer of the epidermis into the
25 dermis, it will damage the cell structure and form a scar.

1 But, however, once that scar forms, that becomes persistent
2 and unique in that individual.

3 Q. And you talked about -- so each of our fingerprints are
4 unique to each other. Are each of your fingerprints on your
5 hands the same? So, I mean, is my right pinky the same as
6 my right middle finger?

7 A. Absolutely not. No one has the same fingerprints, not
8 even identical twins.

9 Q. And now tell the jury -- and you had made reference
10 earlier to this that you have the means to take a latent
11 print found at a crime scene or off of a piece of evidence
12 and compare it to a known inked print. You made reference
13 to that being possible earlier?

14 A. Like, explain the process?

15 Q. Well, just initially, tell the jury what is a known
16 inked print?

17 A. A known inked print is a fingerprint that someone takes
18 and know who they're taking it from. And they're known as
19 knowns or a ten print card. Those fingers, whoever rolls
20 those fingerprints, are rolling each one of the fingers
21 including all ten fingers. They usually take a set of slaps
22 or the palms. And those are placed on a ten print card or
23 another type of documentation -- surface. And those are
24 known as known prints.

25 AST. SOL. SORENSON: Can I approach the witness, Your

Direct Examination of Sgt. Mullis by Ast. Sol. Sorenson

1 Honor?

2 THE COURT: You may.

3 Q. In State's Exhibit Number 13 that the jury just heard
4 about through the stipulation, is that what you're talking
5 about?

6 A. Yes, sir.

7 Q. Okay. And that would be Mr. Kinsey's that was used in
8 this case for some comparisons?

9 A. That's correct.

10 Q. So that's got each of his ten fingerprints. That
11 actual tips of the fingers and then also kind of the middle
12 joints of the fingers. Is that correct?

13 A. Absolutely. The first ten blocks, or one for each ten
14 fingers, where the fingers are taken and just rolled. And
15 you try to gather -- it looks like a square if you get a
16 hundred percent complete roll. The bottom of the ten print
17 cards are for simultaneous impressions where you take just
18 your forefingers minus your thumb, and they're placed down
19 on the card. And a lot of times those capture not just the
20 first, the second, sometimes the third joints. And in the
21 middle are made for just a slap for your thumbs, one for
22 each.

23 Q. Sergeant Mullis, then do you then have the ability back
24 at the Sheriff's Office then to take a latent print that was
25 either taken off of a piece of evidence or from a crime

1 scene or from a vehicle, and to then attempt to compare it
2 to a known prints of a suspect?

3 A. I do. If I have an unknown print, I can either run it
4 through AFIS; or if I'm given a persons' names and they have
5 ten print cards provided to me or found, then I'm able to do
6 a one-on-one comparison with those known fingerprints.

7 Q. Okay. And describe for the jury, in that case where
8 you have known print cards of individuals, how is that
9 comparison done?

10 A. If I have a known fingerprint card, I first have my
11 unknown print. I think I explained a little earlier when I
12 first look at an unknown print, it's my responsibility to
13 analyze that print and to see if it's even of value for even
14 comparison. A lot of fingerprints taken at crime scenes
15 aren't of value for comparison. And what I mean of no
16 value, it doesn't have the quantity of minutiae within the
17 print, the details that I'm looking for that can even be
18 compared against a known print if I had it. So the first
19 thing I'm looking for is just to see if this print is even
20 good enough to compare against anybody. If I decide at that
21 point it is good enough to compare against anyone, I take
22 notes on that print. I'm documenting the level of detail.
23 If it has -- looking at the pattern flow. I'm looking at
24 the level two detail and seeing how much detail is in the
25 print. I'm also looking at distortion that could --

Direct Examination of Sgt. Mullis by Ast. Sol. Sorenson

1 distortion can inhibit your comparison to an extent. You
2 want to see what's going to affect that comparison. Once go
3 through it and I decide that it is of value, and I have
4 documented the notes, that goes into the analysis phase.
5 And then I have to go into the comparison phase. Once I go
6 into the comparison phase and I've already documented in my
7 notes, the comparison phase involves having the known print,
8 or the unknown print and also the known print. And I have
9 them side-by-side. It is my job to find detail within that
10 print and target areas that are in agreement or disagreement
11 within the known print that I am comparing. So it's my job
12 to either identify or exclude if I can. If I can't do
13 either, it's also known as an inconclusive decision. And
14 the quantity of that print in the known and the known [sic]
15 can make that determination of what -- (coughing) -- is.

16 Q. Okay. All right. Now, ultimately, let's kind of turn
17 our attention now to this case here, Sergeant. Were you
18 involved in any of the actual processing of any of the
19 evidence in this case?

20 A. I only processed one item in this case.

21 Q. Okay. And what would that item be?

22 A. There was a can.

23 Q. I'm showing you ---

24 AST. SOL. SORENSON: May I approach, Your Honor?

25 THE COURT: You may.

1 Q. --- State's Exhibit Number 12. Is that the item that
2 you were involved in processing?

3 A. That is correct.

4 Q. Okay. And tell the jury what had you done with that or
5 what did you do with that item and why did you do what you
6 did with it?

7 A. During this case, there was already a crime scene
8 investigator or a lead investigator already processing this
9 case. A lot of times it takes many manpower to work an
10 investigation doing the law enforcement work. Sometimes
11 detectives want search warrants done. Sometimes things need
12 to be processed. And in this specific case, I believe the
13 primary investigator, he had started processing the can.
14 However, he was called to continue investigating in this
15 case mainly doing a search warrant I believe. I was asked
16 by my supervisor if I could assist in this investigation by
17 helping processing the can and seeing if I could develop any
18 prints. At that time, the investigator had already
19 superglued the can treated it with a dye stain know as MBD.
20 When I looked at the can, I examined it under a light
21 source, and I did observe ridge detail on the can. However,
22 I didn't feel that it had developed like I like it to be
23 developed. So I retreated it with a different chemical
24 known as RAM. And RAM, I mentioned earlier, has three
25 chemicals in it. The first time it was treated, it was

Direct Examination of Sgt. Mullis by Ast. Sol. Sorenson

1 treated with MDB. I retreated it with RAM which is
2 rhodamine, ardrex, and MBD. So it gave me a larger
3 expansion using a light source to be able to visualize it
4 better. And that's exactly what I did and photographed the
5 ridge detail that had developed on this can.

6 Q. And ultimately, were you able to collect several latent
7 images off of that can?

8 A. I did.

9 Q. Do you remember how many potential latent images that
10 you . . .

11 A. I believe it was seven.

12 Q. And you had indicated you collected them by
13 photographing them. Is that correct?

14 A. I did. Although you cannot visually see the
15 fingerprints on this can. You can if you turn it at a
16 light, a very usable light, you can barely see where the
17 superglue adhered to the can. But when using an alternate
18 light source with a filter, it excites that dye stain that
19 adhered to that supergluing and it visualize -- you can
20 visualize that ridge detail a lot better. And to do that,
21 you have to take a camera with the burial filter, bypass
22 filter, and put it on there. And then photograph those
23 ridge details.

24 Q. And let me show you ---

25 AST. SOL. SORENSON: May I approach, Your Honor?

1 THE COURT: Yes, sir.

2 Q. --- State's Exhibit Number 34. Is that a -- contains
3 those images that you photographed off of that can?

4 A. That's correct.

5 AST. SOL. SORENSON: Your Honor, at this time, we'd
6 offer State's 34 into evidence.

7 THE COURT: Any objection?

8 MR. KORNEGAY: No objection, Your Honor.

9 THE COURT: All right. It's in.

10 (State's Exhibit No. 34, Document of Photographs, was
11 received into evidence.)

12 AST. SOL. SORENSON: Can I pull one of them up so --
13 just so you can kind of show the jury what you're talking
14 about, okay. couple one of the map.

15 Q. And that is one of the photographs taken off of the
16 beer can?

17 A. That is correct. In this picture, as you can see,
18 you'll see a scale tape that is placed laced on the can with
19 the number marked identifying which latent it is on the can.
20 And what you're seeing is the ridge flow and ridge detail
21 documented in actual light. Because we were looking at
22 fingerprint that was fumed with superglue. And the dye
23 stain and using a light source, you get white ridges. And
24 if you look very closely at some of the ridges, you'll be
25 able to see some of the pores on the ridges.

Direct Examination of Sgt. Mullis by Ast. Sol. Sorenson

1 Q. That's a different one there?

2 A. That's correct. Same thing, different latent
3 fingerprint.

4 Q. You indicated seven different latent images that you
5 were able to document off of that beer can?

6 A. That's correct.

7 Q. And then, Sergeant Mullis, did you then have an
8 opportunity -- well, let me ask you this: As far as
9 processing any other items that you were involved in actual
10 the processing of in this case?

11 A. No, sir.

12 Q. Okay. Did you have an opportunity ultimately to look
13 at not only those latent images that you documented on the
14 beer can but also the other latent print evidence that had
15 been testified to earlier from Corporal -- Sergeant Scott
16 and Sergeant Berg that was submitted?

17 A. I didn't.

18 Q. Okay. And, ultimately, did you end up issuing a kind
19 of a final report documenting not only what items were
20 submitted for your review but also your findings?

21 A. I did.

22 AST. SOL. SORENSON: May I approach, Your Honor?

23 THE COURT: You may.

24 Q. I'm showing you State's Exhibit Number 14. Is that
25 your report?

1 A. It is.

2 Q. Does that document all of your findings?

3 A. Seven latent print cards and seven digital images.

4 AST. SOL. SORENSON: At this time, we'd offer State's
5 14 into evidence.

6 THE COURT: Any objection?

7 MR. KORNEGAY: No objection, Your Honor.

8 THE COURT: All right. It's in.

9 (State's Exhibit No. 14, Report, was received into
10 evidence.)

11 Q. I guess the easiest way, Sergeant, is just to kind of
12 go through, to go through and kind of tell the jury what
13 items you had initially that were submitted you and then
14 kind of go through your results of each of those
15 comparisons. And I may touch a little more on a couple of
16 those.

17 A. Okay. I submitted 17 latent fingerprint cards and I
18 also seven digital images which I had collected myself. I
19 also submitted different known fingerprints. Would you like
20 me to read those?

21 Q. Just the people that you received for known ---

22 A. I received Byron Kinsey, Robert Crumm, Sara Taylor,
23 Alphonso Middleton, Lesner Gilliard. Those were the known
24 fingerprints I had to do the comparisons with.

25 Q. Okay. And then ultimately so there's 17 print cards.

1 And do you document in your report kind of where each of
2 those latent print cards were collected from?

3 A. Absolutely. When I get a latent print card, there is a
4 data field on those latent print cards and it will tell me
5 the date, incident, a lot of times the victims. Sometimes
6 they have sketches on them. And it will also say where the
7 investigator, who was pulling the lift and where they lifted
8 it from.

9 AST. SOL. SORENSON: I'm going to go ahead and put the
10 report up so they can kind of follow along.

11 THE COURT: Yes, sir. Will you lift the monitors for
12 the jury.

13 Q. So that first part of your report, as I said, that's
14 just what you just talked about is the items that were
15 submitted for you review that you just went through?

16 A. Yes. And if notice the Ks, you'll see a K-1, K-2, and
17 K-3, that's just short for known -- those are knowns: known
18 one, known two, and known three.

19 Q. Okay. All right. And then just let's kind of go
20 through your results. The first one you looked at, or at
21 least it's documented in your report, is latent print card
22 number one?

23 A. Yes. Latent print card number one indicated as being
24 lifted from the rear passenger side door jam of the Chevy
25 Acadia. That fingerprint was compared and then it was

1 identified as the number two finger, right index from the
2 right hand on ten print card bearing the name Robert Crumm.

3 Q. Okay. All right.

4 A. The second lift card was identified as coming from the
5 driver door of the Chevy Acadia. That latent -- you'll see
6 it broken down. That latent print card had multiple latent
7 prints on that card and it was divided up as 2.1, 2.2, and
8 2.3. 2.1 was compared and identified with the number three
9 finger, right middle from the right hand, on the ten print
10 card bearing the name Sara Taylor. 2.2 was also compared
11 and identified as the number four finger, right ring, on the
12 right hand, on the ten print card bearing the name Sara
13 Taylor. 2.3 was actually entered into AFIS, the Automated
14 Fingerprint Identification System, and was identified as the
15 number five finger, right middle on the right hand, on the
16 ten print card bearing the name Sara Taylor. Latent print
17 card three was indicated as coming from the door jam, rear
18 passenger door of the Chevy Acadia, and when compared to the
19 known standards, the results were inconclusive. So I was
20 unable to identify or exclude them as the source of that
21 print.

22 Q. Okay.

23 A. Latent print card four indicated coming from the driver
24 door toward the front of the vehicle. It lacked the quality
25 and quantity of friction ridge skin comparison. So there

Direct Examination of Sgt. Mullis by Ast. Sol. Sorenson

1 was no way to do a comparison with what was turned in. That
2 was also the case for latent print card number five, latent
3 print card six, latent print card seven, latent print card
4 eight. Latent print card nine didn't -- it was turned in as
5 indicating coming from the driver door handle from the Chevy
6 Acadia. That latent print card, I did not observe any ridge
7 detail on the card to make a conclusion.

8 Q. Okay. And let me stop you there, Sergeant Mullis. So
9 that's latent print cards one through nine. And those would
10 all have come off of the GMC Chevy Acadia?

11 A. Chevy Acadia. That's correct.

12 Q. Okay. And so the only prints that you were able to
13 identify out of what was submitted off of the Acadia
14 belonged to either the victim, Robert Crumm, or his
15 girlfriend, Sara Taylor. Is that correct?

16 A. That's correct.

17 Q. No prints identified to the defendant, Mr. Kinsey, or
18 Mr. Gilliard or Mr. Middleton?

19 A. That's correct.

20 Q. Okay. All right. And going on to number ten, these
21 are from a different vehicle. Is that correct?

22 A. Latent print card ten, it was on the card identified as
23 coming from the passenger side door from the outside of a
24 white Suburban. That latent print card turned in also
25 lacked the quality and quantity of friction ridge skin for

1 comparison. Latent print card number 11, also from the
2 passenger side door outside of a white Suburban, that was
3 compared and identified as the second joint of the number
4 three finger, right middle, from the right hand, on the ten
5 print card bearing the name of Brian Kinsey.

6 Q. Byron or Brian?

7 A. Byron.

8 Q. Byron, right.

9 A. Byron.

10 Q. Okay. I thought you said Brian. I'm just making sure
11 we're clear on that.

12 A. Sorry.

13 Q. And let me stop you right there, Sergeant.

14 AST. SOL. SORENSON: May I approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 Q. Showing you State's Exhibit Number 32. Would that be
18 that latent print that you're talking about, that print card
19 11, 11.1?

20 A. That is correct. It is identified as number 11 and
21 identified as the

22 Q. And that was collector by, I guess, by Corporal Scott
23 at the time?

24 A. That's correct.

25 Q. And that matched what part of Mr. Kinsey's hand?

1 A. It was the second joint on the number three finger,
2 right middle. So it would have been the number three finger
3 counting from your right thumb on the right hand, one two
4 three. And the second joint right under where that first
5 bend is.

6 Q. All right. And then on to number 12.

7 A. Latent print card 12 indicated it was coming from the
8 passenger side door of a white Suburban outside lacked the
9 quality and quantity of a friction ridge skin for
10 comparison. Latent print card 13 also from the passenger
11 side door of the white van lacked the quality for
12 comparison. Also number 14, latent print card 15, latent
13 print card 16, latent print card 17. And that was all the
14 actual latent print cards that were compared in that case.

15 Q. Okay. So all the rest of them off of that white
16 Suburban basically had no quality for you to make an
17 identification. Is that correct?

18 A. That's correct.

19 Q. All right. You also indicated you then had an
20 opportunity to review the seven images that were on the disc
21 that we just looked at?

22 A. That is correct.

23 Q. Okay. And what were your results of comparing?

24 A. The first image on the fingerprint coming from an empty
25 bent Miller Lite can, 24-ounce, it was compared and

1 identified with the number three finger, right middle on the
2 right hand, on the ten print bearing the name of Alphonso
3 Middleton. The second digital image, 1.2, indicating coming
4 from empty bent Miller Lite can, 24-ounce, was compared and
5 identified with the number four finger, right ring finger,
6 from the right hand, on the ten print card bearing the name
7 of Alphonso Middleton. Digital image number three, 1.3,
8 from that same can quality lacked the quality and quantity
9 for friction ridge skin for comparison. Digital image
10 number four from the same can was compared and identified
11 with the number six finger, left thumb from the left hand,
12 from the ten print card bearing the name Byron Kinsey.
13 Digital image number five, which I marked with scale tape as
14 one through six, which was on a Miller Lite can, also was
15 compared and identified with the number six finger, left
16 thumb from the left hand, on the ten print card with the
17 name Byron Kinsey. Digital image number six, which I marked
18 with scale tape 1.5 from the empty Miller Lite can, was
19 compared and identified with the number six finger, left
20 thumb from the left hand, on the ten print card bearing the
21 name Alphonso Middleton. And the final image, number seven,
22 from that same can was compared and identified with -- I'm
23 sorry -- it was the hypothenar of the left palm from the
24 left hand from the ten print card bearing the name Byron
25 Kinsey.

1 Q. Okay. So ultimately off of that beer can out of those
2 seven impressions, three of them matched Alphonso Middleton,
3 three of them matched Mr. Kinsey, the defendant, and then
4 the other one was lack of quality for comparison?

5 A. That's correct.

6 Q. Is that accurate? And ultimately then out of all of
7 the prints that you compared off of the two vehicles and the
8 Miller Lite beer can, did you ever find any prints that you
9 identified as belonging to Lesner Gilliard?

10 A. I did not.

11 Q. And do you have an opinion based on your training and
12 experience as to whose prints were found on State's Exhibit
13 Number 32, this latent card 11?

14 A. Yes.

15 Q. In your opinion, whose print is that that's on there?

16 A. It was identified as the second joint on the number
17 three finger, right middle of the right hand, on the ten
18 print card bearing the name Byron Kinsey.

19 Q. And on the Miller Lite can, yet again, your opinion
20 whose prints where on that Miller Lite can?

21 A. It was two individuals, an Alphonso Middleton and Byron
22 Kinsey.

23 Q. Okay. And tell the jury how those, specifically, those
24 four prints that you testified that you identified as being
25 Byron Kinsey's fingerprints, tell the jury how did those

1 prints -- how are left on those items? Whether it be the
2 doorframe or the Miller Lite can.

3 A. Those fingerprints -- I'm sorry. I interrupted you.

4 Q. Miller Lite can.

5 A. For those fingerprints to have been left, those
6 individuals touched this beer can at one point.

7 Q. Now, ultimately, you talked earlier about kind of how
8 you go about making a comparison.

9 A. That's correct.

10 Q. Looking at the two. Have you prepared just a short
11 little PowerPoint presentation to help kind of illustrate
12 that for the jury with regards to your comparing State's
13 Exhibit Number 32 to State's Exhibit Number 13?

14 A. I did. I prepared a PowerPoint just to give you guys
15 an idea of what I'm looking at.

16 Q. I'm showing you State's Exhibit Number 35. Is that the
17 PowerPoint presentation?

18 A. (Nonverbal response.)

19 AST. SOL. SORENSON: Your Honor, at this time, we'd
20 offer State's 35 into evidence.

21 THE COURT: Any objection?

22 MR. KORNEGAY: One moment, Your Honor.

23 AST. SOL. SORENSON: Beg the Court's indulgence.

24 MR. KORNEGAY: No objection, Your Honor.

25 THE COURT: All right. It's in.

1 (State's Exhibit No. 35, PowerPoint CD, was received
2 into evidence.)

3 (The PowerPoint presentation was shown to the jury at
4 11:26 a.m.)

5 Q. The first slide, Sergeant Mullis, what is that?

6 A. What is on the slide number one is what you would see
7 on a normal latent print card. You'll have -- it's a white
8 card with a nonglossy side with, I explained earlier, as
9 more or less data entry fields where the individual that is
10 collecting the fingerprint can write down information about
11 where they're lifting the fingerprint from.

12 Q. And that would be the, basically, the back of State's
13 Exhibit Number 32? Is that ---

14 A. This is the front of latent print ---

15 Q. Okay. So the front of the card. All right. And
16 that's ultimately the print that you're going to deal with
17 in this presentation. Is that correct?

18 A. Yes, sir.

19 Q. Okay. Go on to the next screen.

20 A. On the backside of that latent print card you have a
21 glossy side. That glossy side helps with contrast when a
22 crime scene investigator, person that's processing the
23 scene, processes it, processes the scene, in this case what
24 appeared to be a black powder. He would've used a brush
25 with the powder to have developed the print. And then what

1 he used is tape, what you see here. That tape is placed
2 over the developed print and then lifted and placed on the
3 back of the glossy side of the latent fingerprint card.

4 Q. Okay. And that's, yet again, on State's 32? That's
5 the backside of 32?

6 A. That is correct.

7 Q. Okay. All right.

8 A. For an examiner to do a comparison, either, one, he has
9 to have someone to do a comparison with, whether that's
10 putting that fingerprint in AFIS or being provided with
11 known standards. This is an example of known standards on
12 the ten print card of Byron Kinsey.

13 Q. And yet again, just State's Exhibit Number 13. Is that
14 correct?

15 A. That's correct.

16 Q. Okay. All right. And then the last one now you talked
17 about actually you now have that latent print and the known
18 print. How do you go about kind of making a comparison?

19 A. That's correct.

20 Q. So kind of go through that if you would for the jury.

21 A. What you see here is more or less an aftermath of a
22 comparison. But just to give you an idea of what an
23 examiner looks at when he's making his -- when he's doing
24 the comparison and making an evaluation of that print. If
25 you can look at this latent print as it was developed with

1 black powder, we can easily see that it's not one of our
2 fingertips. Because one of our fingertips would likely have
3 some type of pattern on it, which we look for an arch or one
4 of those type deals. So I can quickly eliminate the first
5 joint in any finger when I'm doing a comparison against --
6 in this case, so the five subjects I was doing a comparison
7 on. So what an examiner wants to do is narrow down where
8 he's doing a comparison so he's not spending so much time
9 searching and searching and searching and searching. So if
10 we can eliminate certain areas of the hand, palms, or
11 fingers, it's a search-smarter type technique to do that.
12 In this case, if you can see at the very top on the left
13 image, you can see a very top crease. This very white area
14 right here is a crease of a fingerprint. To me that would
15 indicate I'm looking at the bottom of the finger, either the
16 second or third joint. But since at the very bottom of this
17 one I can see what appears to be, right here in this area --
18 I can almost narrow my searches down to the second joint
19 area of the finger which saves a lot of time. In that case,
20 I will go through finger by finger in searching for target
21 areas to either ID or exclude an individual. And in this
22 case, during the analysis, this fingerprint was evaluated
23 for comparison ---

24 BY MR. LOY: May we approach for a moment, Your Honor?

25 THE COURT: Certainly:

1 (A bench conference was held off the record and out of
2 the hearing of the jury panel.)

3 THE COURT: Ladies and gentlemen of the jury, I know
4 sometimes the testimony can be a little difficult.
5 Sometimes you want to concentrate, maybe close your eyes a
6 little bit to make sure you're getting the full picture.
7 But please make sure you pay close attention. It's
8 absolutely vital and essential that everyone is paying close
9 attention. If you need a break or anything at any point,
10 please raise your hand to let me know. I'll be happy to
11 take a break. But everyone please needs to be vigilant to
12 be paying close attention. Now you may proceed, Solicitor.

13 AST. SOL. SORENSON: Thank you.

14 BY AST. SOL. SORENSON: (continuing)

15 Q. So, Sergeant, I guess just kind of back, do you kind of
16 remember where you sort of left off ---

17 A. Yes. Absolutely. As I said, an examiner wants to
18 narrow down his search. And we did that in this case by
19 documenting creases. And I knew I could narrow down the
20 search to the second -- of the finger. And I mentioned
21 earlier that an examiner is looking for target areas within
22 a print. Several, what we look for is detail that level one
23 level two. And if you noticed, right away level one --
24 these red marks can be erased, right?

25 AST. SOL. SORENSON: Yeah. Can you erase those?

1 (Clerk complies.)

2 A. I'd like you to just at the level one detail and just
3 the ridge path and the ridge flow, and how these ridges just
4 kind of flow down in this area. And also the known, how
5 they just flow down in this area. I know they're not marked
6 up. That's one thing that catches -- it should catch your
7 eye. It definitely caught my eye. And if you look at your
8 own finger, some of yours may flow similar to this. But a
9 lot of you probably won't. In this case -- we can't see the
10 very top of -- but, it's okay. It's marked -- this area
11 right here and this area right here, I marked with A. And
12 if you can -- without my finger. Because if I run my finger
13 over that ridge it's going to completely cover up that
14 ridge. But if you notice and if you follow that ridge over,
15 you'll see that it stops and then picks right back up. And
16 there's a very large pore in that area. And if you go back
17 into this area into the known on the right-hand side, it
18 agrees with the one, the unknown, on the left.

19 Q. Now, Sergeant, it may help if you get up and actually
20 point out as opposed to be marking it.

21 A. Yeah. Absolutely.

22 AST. SOL. SORENSON: Can he step down, Your Honor?

23 THE COURT: That's fine.

24 A. Absolutely. This ridge right here flows and it
25 continues to go and then it stops. And then you see it just

1 picks right back up to here. This is what I documented as
2 A. And if you follow this ridge, it also does the same
3 thing. Okay. And if you go back to this guy right here, to
4 the ridge and it keeps flows, it also -- it's also known as
5 a an ending ridge. Okay. And it's only one ridge away
6 from -- same thing right here. It ends, and then you have
7 this ridge and then it's there here. And it repeats and to
8 agrees. Also it can flow from this end of the ridge, you
9 countdown one, two, three, and you flow this ridge, it also
10 ends, one two, three. Flow with that ending ridge, it also
11 ends. And we could keep going through this, this whole
12 thing, and marked up and it will all match up and they all
13 end. They all bifurcate. They all agree.. That's what an
14 examiner goes through. He goes through one by one. And he
15 finds these target areas and agreeance. And he goes and
16 finds these same target areas. Either they're there or
17 they're not there. You can also notice the creases that I
18 marked up here that are also present. We don't all have
19 creases in the right middle of our -- we all have our
20 joints. But we don't all have the creases in the middle of
21 the joints. And those also repeat. And this print also
22 with a known.

23 Q. And ultimately when you finished that comparison it was
24 your opinion that that was Mr. Kinsey's second joint of his
25 right middle finger?

1 A. That's correct.

2 Q. Okay. And, obviously, were there any areas of
3 disagreement that you found where, you know, where there was
4 an ending ridge or a bifurcation in the latent print that,
5 you know, wasn't present in the known print?

6 A. Ladies and gentlemen, I didn't find any in
7 disagreement. But it is important to point out distortion
8 in the unknown. There is areas of distortion here and it
9 just didn't record properly. You can also see a little
10 smudge mark right here at the top corner. If these areas
11 were -- if they wasn't so distorted, you may -- we may have
12 more detail to identify in this case. But in this case, due
13 to the quality, we were able to identify the print, but we
14 were unable to go into this heavily distorted areas to
15 further find more detail.

16 Q. Thank you. You can have a seat. And ultimately,
17 obviously, all of these prints, all of that, these are items
18 that are then maintained at the Dorchester County Sheriff's
19 Office?

20 A. That's correct.

21 Q. And let me ask you this: Is there anything in place
22 before -- because you said you issued a four-page report in
23 this case that put into evidence. I mean, is there anything
24 that has to be done before that report can be issued?

25 A. Absolutely. It's very important that the proper

1 methodology be followed. In this case it is analysis. It
2 is the comparison. And it is the evaluation which where I'm
3 deciding that fingerprint is or isn't someone. But after
4 that comparison is done, it must be verified by a second
5 competent examiner. And in this case, it would've been
6 verified. To make sure those examiners are competent, we do
7 take yearly competency exams to make sure we're competent in
8 doing the comparisons.

9 Q. Okay. And this report was signed off on? Was verified
10 and signed off on?

11 A. That is correct.

12 AST. SOL. SORENSON: Beg the Court's indulgence.

13 (Brief pause.) Thank you, Sergeant Mullis. That would be
14 all I have. Please answer any questions from Mr. Kornegay.

15 THE COURT: Cross-Examination?

16 MR. KORNEGAY: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. KORNEGAY:

19 Q. Good morning. Is it Sergeant Mullis?

20 A. Yes, sir.

21 Q. Good morning, Sergeant Mullis.

22 A. Good morning, sir.

23 Q. And you work full-time as a fingerprint examiner?

24 A. That's correct.

25 Q. That's you're sole job. And in your report, you

1 receive latent prints from both the Chevy Acadia and the
2 Suburban. Is that correct?

3 A. That's correct.

4 Q. As well as digital images from the beer can retrieved
5 from the Suburban. Is that correct?

6 A. That is correct.

7 Q. And you examined all these latent prints comparing them
8 with known prints?

9 A. That's correct.

10 Q. In your examination of the latent prints from the
11 Acadia, you told the Solicitor that you matched them with
12 known prints for Sara Taylor and Robert Crumm?

13 A. For the Acadia?

14 Q. Yes. I believe that's . . .

15 A. The Acadia, individuals print -- fingerprints that were
16 on there was Robert Crumm and Sara Taylor. That's correct.

17 Q. Right. And you did not match any prints for Byron
18 Kinsey or any of the other known prints to the Chevy Acadia?

19 A. I don't believe I did.

20 Q. However, the Suburban, you matched prints to Mr. Kinsey
21 in the Suburban as well as on the beer can from the
22 Suburban? Is that correct?

23 A. That's correct.

24 Q. The Solicitor mentioned, or asked you, you did not find
25 any prints from the Chevy Acadia matching Lesner Gilliard?

1 A. That's correct.

2 Q. That does not, obviously, mean that Lesner Gilliard was
3 not present in the Chevy Acadia; correct?

4 A. Absolutely. That's correct.

5 Q. You can't exclude somebody's presence based on a lack
6 of their fingerprints being there?

7 A. Absolutely. We don't always leave our fingerprint
8 behind.

9 Q. At the end of your report, it shows -- it has your
10 signature as well as the signature of Brandon Berg? Is that
11 correct?

12 A. That is correct, sir.

13 Q. And Brandon Berg, underneath it says verifier?

14 A. That is correct.

15 Q. So essentially he comes behind you looking at the same
16 latent prints and known prints that you examined?

17 A. That is correct. After an examination is done and I
18 were to issue a report, it is my job to give it to a second
19 competent examiner who goes back through my work and
20 verifies my conclusions.

21 Q. And Brandon Berg is also trained in similar methodology
22 as you are?

23 A. Absolutely.

24 Q. In examining prints. And you do this because two
25 people who have both received training could come to

1 different conclusions looking at the same prints?

2 A. Absolutely. Well, it's to test my knowledge of that
3 print. And if he cannot prove otherwise that it's not, then
4 it's verified.

5 Q. So it's a safeguard?

6 A. Absolutely.

7 Q. But you could have a third person look at it and come
8 to a different conclusion than you and Brandon Berg?

9 A. You could have another examiner look at it. However,
10 with the methodology followed, I don't necessarily think
11 that they come to exactly a different conclusion.

12 Q. I think you told the Solicitor that a part of your
13 methodology includes an evaluation?

14 A. That is correct.

15 Q. Where you -- and during the evaluation, you decide
16 based on your opinion whether or not the known print matches
17 the latent print?

18 A. During the evaluation? That is correct. During the
19 evaluation phase of the process, you're looking at different
20 target areas within the unknown print and seeing if they
21 agree; and they don't, to see if you can either ID or
22 exclude them.

23 Q. So the reason you have at least one verifier is there's
24 some degree of opinion involved?

25 A. There is a degree of an opinion. There is an objective

1 opinion. I'm basing my decision on facts through my
2 training and experience so that I can arrive at an objective
3 conclusion so personal feelings aren't involved.

4 Q. But another person similarly trained as you with the
5 same facts, they come to a different conclusion?

6 A. They should arrive at the same conclusion.

7 Q. But the reason you have a verifier is because other
8 people with similar training could come to a different
9 conclusion?

10 A. It is possible. Absolutely.

11 MR. KORNEGAY: Nothing further. Thank you.

12 THE COURT: Any redirect?

13 AST. SOL. SORENSON: No, Your Honor.

14 THE COURT: You may step down. Thank you.

15 THE WITNESS: Thank you.

16 THE COURT: You may call your next witness.

17 AST. SOL. TEMPLETON: State calls Agent Jennifer
18 Clayton.

19 (JENNIFER CLAYTON, was duly sworn and provided the
20 following testimony.)

21 THE COURT: Your witness.

22 DIRECT EXAMINATION

23 BY AST. SOL. TEMPLETON:

24 Q. Good morning.

25 A. Good morning.

Direct Examination of Ms. Clayton by Ast. Sol. Templeton

1 Q. If you would, Agent Clayton, please tell the jury where
2 you're employed.

3 A. I am currently employed by the South Carolina Law
4 Enforcement Division also known as SLED.

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

6 A. It will be fifteen years in August.

7 Q. Okay. And what is your position at SLED?

8 A. I am a DNA analyst.

9 Q. Okay. And as part of that position, what is basically
10 your job duties?

11 A. When evidence is collected from a crime scene,
12 sometimes it may contain DNA evidence. And so those items
13 or swabs or samples taken from those items may be sent to
14 SLED for analysis. And I will receive those items and
15 attempt to develop DNA profiles from those items of
16 evidence. I will also typically receive what is known as a
17 known standard. And that's a sample that's taken directly
18 from a particular individual. So when I develop the DNA
19 profile from that item, I know that it came from a
20 particular individual. And then if the profiles developed
21 from the evidence are suitable for comparison, I will
22 compare any standards that I have to the evidence that is
23 submitted.

24 Q. If you would, explain to the jury your educational
25 background.

1 A. I earned a Bachelor's of Science in Biology from the
2 University of North Carolina at Chapel Hill. I've also taken
3 classes at NC State and USC. My coursework includes
4 genetics, molecular biology, biochemistry and statistics. I
5 completed an internship with the North Carolina State Bureau
6 of Investigations Microbiology Department which is the
7 equivalent of SLED's DNA department. I originally hired on
8 with SLED as a technician in the DNA Department before I was
9 hired as an analyst. And once I was hired as an analyst, I
10 completed a one-year training program and worked case work
11 under another qualified analyst before I was allowed to do
12 case work on my own.

13 Q. Okay. Have you testified in court in the past
14 regarding DNA analysis?

15 A. Yes, I have.

16 Q. Approximately, how many times?

17 A. Approximately, 50 times.

18 Q. Okay. And have you been qualified as an expert in DNA
19 analysis in those events?

20 A. Yes, I have.

21 AST. SOL. TEMPLETON: Your Honor, at this time, the
22 State would offer Agent Clayton as an expert in forensic DNA
23 analysis.

24 THE COURT: Any voir dire?

25 BY MR. LOY: She's an expert, Your Honor.

Direct Examination of Ms. Clayton by Ast. Sol. Templeton

1 THE COURT: All right. The Court finds that she is
2 qualified.

3 Q. Did you have an opportunity to examine some evidence in
4 this case?

5 A. Yes, I did.

6 Q. What evidence did you ultimately examine in this case?

7 A. I examined a number of items. I examined swabs from a
8 Miller Lite can. I also examined swabs from a Chevy Acadia
9 and swabs from a Suburban. Oh, and I also received a
10 standard from Byron Kinsey.

11 Q. Okay. I'm going to show you State's Exhibit Number 41.
12 (Brief pause.) I'm going to show you State's Exhibit Number
13 41.

14 AST. SOL. SORENSON: May I approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 Q. Do you know what that is?

18 A. Yes. This is a heat-sealed pouch containing evidence
19 in the case. And it has whatever evidence comes into SLED
20 when a new case is submitted, it is assigned a lab number.
21 So this is the lab number. And of the side here is the date
22 and the initials of when I resealed the heat-sealed pouch.
23 This pouch contains a number of items. One of them is the
24 swabs from the Miller Lite beer can. And it also contains
25 swabs from one of the vehicles, the Chevy Acadia.

1 Q. I'm going to show you -- (Brief pause.) I'm going to
2 show you State's Exhibit Number 42 and 43. Could you tell
3 me what State Exhibit Number 42 is?

4 A. State's Exhibit Number 42 is SLED item number one,
5 which is buccal swabs from Byron Kinsey. That is the known
6 standard for Byron Kinsey.

7 Q. All right. And I'm going to show you State's Exhibit
8 Number 43?

9 A. State's Exhibit Number 43 contains multiple items.
10 It's SLED items seven, eight, nine, and ten. And those are
11 swabs from a Suburban.

12 Q. Were all of those items sealed when they got to SLED?

13 A. Yes, they were.

14 Q. Would there have been -- would you have tested those
15 items if there had been any tampering to them?

16 A. No. If there was evidence of tampering, I would have
17 to stop analysis and follow up to determine if the evidence
18 had actually been tampered with or not. And if it had
19 not -- if it had been tampered with, we would not have done
20 analysis.

21 Q. So in this case, those items had not been tampered with
22 to your knowledge?

23 BY MR. LOY: Objection, Your Honor. To her knowledge.
24 I'll withdraw that. Thank you.

25 Q. To your knowledge, had they been tampered with?

Direct Examination of Ms. Clayton by Ast. Sol. Templeton

1 A. To the best of my knowledge, they were not.

2 AST. SOL. TEMPLETON: Your Honor, at this time, we
3 would move State's Exhibit Number 41 through 43 into
4 evidence.

5 THE COURT: Any objection?

6 BY MR. LOY: No, Your Honor.

7 THE COURT: All right. They're in.

8 (State's Exhibit No. 41 through 43, Swabs, were
9 received into evidence.)

10 Q. I'm going to take your attention back to State's
11 Exhibit Number 41. I believe you testified that was the
12 buccal swab.

13 A. Forty-one, State's Exhibit 41 contained multiple items,
14 one of which was the Miller Lite beer can.

15 Q. I apologize. State's Exhibit Number 42 is what I'm
16 looking for. I believe that's the buccal swab of
17 Mr. Kinsey; correct?

18 A. That's correct.

19 Q. If you would, tell the jury what you would've done with
20 that biological evidence?

21 A. Well, when a standard is submitted, it's analyzed. And
22 basically the end goal is to develop a DNA profile from the
23 standard. And a DNA profile is developed from DNA which is
24 inherited from our parents. We inherit half from our mother
25 and half from our father. And the DNA profile that we

1 developed from these items, the standards, with the
2 exception of identical siblings, no two individuals are
3 going to have the same DNA profile.

4 Q. Okay. And would you briefly -- I meant to do this
5 earlier -- would you briefly describe to the jury basically
6 what is the DNA.

7 A. Yes. It's a long chain chemical that's found in every
8 cell in the body with the exception of red blood cells. And
9 I said earlier, we inherit half of our DNA from our mother
10 and half of our DNA from our father. With the exception of
11 identical siblings, no two individuals have the same DNA and
12 they're not going to have the same DNA profile assuming
13 they're not identical siblings.

14 Q. Okay. I believed you just testified you developed DNA
15 profile from the buccal swab; correct?

16 A. That's correct.

17 Q. Did you also develop a DNA profile from the other items
18 submitted in State's Exhibit Number 41, two and three?

19 A. I did develop DNA profiles for most of the items. I
20 believe there's on item where I attempted to develop a DNA
21 profile but was unable to develop a DNA profile from that
22 item of evidence.

23 Q. And did you do a report in this case?

24 A. Yes, I did.

25 Q. I'm going to show you State's Exhibit Number 44.

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1 BY MR. LOY: Your Honor, the Solicitor showed me
2 State's Exhibit Number 44 which is the report prepared by
3 the witness who is currently on the stand. I think she can
4 refer to her report. I think she can testify to the results
5 if the tests that she made. But to submit the report itself
6 is essentially just -- an affidavit. And I think it's
7 unfair at this point. No one crossed her, contested. She
8 doesn't need to refresh her recollection, et cetera. So I
9 object to the introduction of Number 44.

10 (State's Exhibit No. 44, SLED Report, was marked for
11 identification.)

12 THE COURT: She can refer to it.

13 AST. SOL. TEMPLETON: I'll move on, Your Honor.

14 Q. In this particular case, you developed profiles also
15 for a beer can. Is that correct?

16 A. I did develop a DNA profile from a beer can, correct.

17 Q. Okay. Did you compare that profile to any other known
18 standards?

19 A. I compared it to the known standard from Byron Kinsey.
20 That was the only standard that I received.

21 Q. And did you form an opinion as to whether those came
22 from the same person?

23 A. Yes, I did.

24 Q. What is your opinion?

25 A. The DNA profile that was developed from the Miller Lite

1 can matches the DNA profile of Byron Kinsey. And the
2 probability of randomly selected an unrelated individual
3 from the population having a DNA profile matching this item
4 is approximately one in 2.8 nonillion. That means if you
5 were to go out in the population and choose one individual
6 at random unrelated to the individual that actually left the
7 profile on the item of evidence, the probability that they
8 would just happen to have the same DNA profile is
9 approximately one and 2.8 nonillion. And based on rarity of
10 this occurrence, in my opinion, assuming he does not have an
11 identical sibling, the DNA profile developed from the Miller
12 Lite beer can came from Byron Kinsey.

13 Q. Did you also test this against the other items that you
14 had received? Did you also test Byron Kinsey's DNA profile
15 against the other items received in evidence?

16 A. The others that were submitted, I developer profiles
17 from. The majority of the items, one, did not yield a
18 profile. Of the remaining items, with the exception of the
19 Miller Lite can, the profiles were not a suitable quality
20 for comparison. So I did not compare those items to Byron
21 Kinsey.

22 Q. Okay. You had just said the probability in this case
23 was I think one in 2.8 nonillion?

24 A. Yes.

25 Q. If you would, until I looked that up, I did not

Cross-Examination of Ms. Clayton by Mr. Loy

1 understand what that was. Do you know what that is? Could
2 you explain that to the jury?

3 A. Yes. It's when you count, you count hundreds,
4 thousands, millions, billions, trillions, quadrillions,
5 quintillions, sextillions, septillions, octillions,
6 nonillions. So it's The number 28 with 29 zeros behind it
7 would be 2.8 nonillion.

8 AST. SOL. TEMPLETON: That's all the questions I have
9 for you. If you would, answer any questions that defense
10 counsel may have.

11 THE COURT: Cross-examination?

12 BY MR. LOY: Thank you, Your Honor. Just a couple of
13 questions.

14 CROSS-EXAMINATION

15 BY MR. LOY:

16 Q. That's a big number.

17 A. It is a big number.

18 Q. And that number would apply if we were just to attempt
19 to go out and find a random person with matching DNA profile
20 somewhere on the face of the earth. Is that right?

21 A. That's correct. 2.8 nonillion is actually -- 2.8
22 nonillion is a very, very large number. But one in 2.8
23 nonillion is a very, very small probability.

24 Q. And at that point, for purposes of reaching that
25 number, our sample size, who we're gonna pick from, would

1 include Russians and Mongolians and Scottish people as well
2 as Americans, et cetera. Just a random human being. Is
3 that right?

4 A. This would be any random individual from the
5 population.

6 Q. Of the earth?

7 A. Correct.

8 Q. What would be the odd -- I'm sorry. First of all, when
9 you -- and it's confusing to the rest of the world whether
10 you believe it or not. When you test for DNA, you don't
11 actually just run out a strain and get a picture of a
12 person's entire DNA and then just overlay it over a known
13 sample, do you?

14 A. That's correct. We test a number of locations on the
15 DNA. And we develop the DNA profile based on those
16 locations. The majority of the DNA of humans does not have
17 enough variation based on the type of testing that we do to
18 be able to differentiate in a way that would be necessary.
19 So we choose a number of locations and test those locations.
20 These location are standard locations that are used in labs
21 throughout the county, and in fact, throughout the world.

22 Q. So it's a chemical or a biological chain that you get a
23 picture of and you just look at points along it and compare
24 them to points along a known sample. That may be
25 simplified, but is that sort of it?

1 A. Well, what we do is, basically we make copies of the
2 sections of the DNA that we're interested in and then tag
3 with fluorescent tag. And then our instrument, our final
4 instrument that we use, detects this fluorescence and
5 assigns the results numbers based on locations. And so a
6 DNA profile is reported as a sequence of numbers.

7 Q. Essentially, you're looking at points along the chain
8 and matching them up?

9 A. It's sections of DNA along the chromosome, correct. Or
10 along the string of DNA.

11 Q. Is string a better -- I'm not arguing semantics. But
12 you're points at points along the DNA itself. Is that
13 right?

14 A. Yes, particular locations. You could refer to them as
15 points I suppose.

16 Q. Than locations. You're looking at particular locations
17 rather than the entirety of the chain?

18 A. Correct.

19 Q. Excuse me. Of the line, whatever. What would be the
20 odds of matching those points if we narrowed the population
21 to say African-Americans in the United States?

22 A. The statistic that we calculate varies slightly by the
23 population. And so we do actually calculate for four
24 different populations. and we report the most conservative
25 of those statistics. So I do have a calculation for the

1 African-American population if you would like me to give you
2 that.

3 Q. Yes. I would like for you to give me that.

4 A. Well, it's the black population. So the black
5 population would be more than just African-American. It
6 would include Jamaicans or anyone that lists themselves as
7 black. And in fact, that is the most conservative statistic
8 that was calculated for this particular item of evidence.
9 So that is the one we reported. That is one in 2.8
10 nonillion.

11 Q. Suppose we were to narrow it and say to
12 African-Americans in South Carolina?

13 A. The statistic that we for blacks, there has not been a
14 significant amount of variation determined between blacks
15 from, say, South Carolina versus blacks from California or
16 New York. So the statistic would be, expected to be,
17 approximately the same. If you -- it is an approximation so
18 that if you took a slightly different sampling of
19 individuals and used that as the basis for calculating the
20 frequencies, it might vary some. However, based on the
21 population size and the sampling that was taken, it would
22 not be expected to vary by more than a degree of a power of
23 ten. So it would still be very close to approximately one
24 and 2.8 nonillion even if you narrowed it down to just
25 blacks in South Carolina.

1 Q. Buried in there somewhere you said it might change? If
2 you narrowed it with -- changing of the population or the
3 sample size, the results or the odds would change?

4 A. It could vary slightly within a factor of about ten.
5 So it might go down to as low as somewhere around one and
6 2.8 octillion.

7 Q. And suppose you were to narrow it down to say the
8 Charleston area and somebody whose family and friends have
9 been -- or family and relatives had been in this area for a
10 couple of hundred years as could well be. All their
11 relatives here; all their cousins, brothers, sisters, et
12 cetera, would that change -- do you know how that would
13 change or impact your odds?

14 A. Now, if it's fully the individual that actually left
15 the sample is related to the suspect in question, then that
16 would be a different calculation and that is not one that we
17 calculate.

18 Q. So then your answer is yes, that would -- you would do
19 it differently because the odds would change?

20 A. Yes. It would be different probability. And if it's
21 believed that another individual might match it, then the
22 best course would be to submit a standard from that
23 individual protesting. However, based on this statistic,
24 assuming it was not an identical sibling, I still would not
25 expect a relative to have the same DNA profile as the this

1 item of evidence.

2 Q. I understand that. But my question was not whether you
3 would expect a relative to have the same locations, same
4 numbers on their locations. My question is whether or not
5 in the circumstance I described the odds would change. And
6 I think your answer is yes.

7 A. It would be a different probability. That is correct.

8 Q. Thank you.

9 THE COURT: Any redirect?

10 AST. SOL. TEMPLETON: Just a couple of questions, Your
11 Honor.

12 REDIRECT EXAMINATION

13 BY AST. SOL. TEMPLETON:

14 Q. Out of the locations that you tested, between the known
15 standard for Byron Kinsey and the beer can, was there any
16 variation between those two?

17 A. No. It's a single-source profile from the item.
18 Meaning that the DNA profile from the beer can only came
19 from one individual. And so in order to match an
20 individual, their profile has to match perfectly. If it did
21 not match at every location -- and as I said, DNA profiles
22 are recorded as a sequence of numbers. So if there was a
23 number and a location that did not match Byron Kinsey, then
24 that would be an exclusion. He would be excluded as the
25 contributor profile to that item of evidence.

1 AST. SOL. TEMPLETON: That's all the questions I have
2 for you. Thank you.

3 THE COURT: Thank you, ma'am. You may step down.

4 AST. SOL. SORENSON: May we approach?

5 THE COURT: Sure.

6 (A bench conference was held off the record and out of
7 the hearing of the jury panel.)

8 THE COURT: Ladies and gentlemen, it's about twelve
9 o'clock. It's a good time for us to take our lunch break.
10 If you would please report back to your jury room about
11 1:30. That will give you plenty of time to go grab
12 something to eat, park and come back. We've got a couple of
13 other matters that we must take care of while you're gone.
14 So please have an nice lunch. But please remember my
15 previous instruction. Again, do not discuss this case with
16 anyone or allow anyone to discuss the case with you. Have a
17 nice lunch.

18 (The jury exits the courtroom at 12:04 p.m.)

19 THE COURT: Just for the record, was there any
20 objection to my instruction to the jury regarding their
21 level of attention and what's expected. Anything further on
22 that matter?

23 AST. SOL. SORENSON: No. Just would ask the Court, to
24 kind of keep an eye on the one juror that we talked about.
25 I mean, as I said, as I told you up at the bench, it was

1 brought to our attention during the last break that she had
2 been dozing off. And then I thought it was pretty obvious
3 that she was asleep. I mean, not that she was, just kind of
4 listening with her eyes closed. I mean she was slumped over
5 with her chin on her chest basically.

6 THE COURT: Well, I kept an eye on her after that. And
7 she seemed to be -- she seems tired, but seems awake. But,
8 you know, I'm happy to entertain anything else if we have a
9 further problem or you have anything else to suggest at this
10 juncture.

11 AST. SOL. SORENSON: This concern at this point in time
12 is she's missed a significant portion of the testimony at
13 this point. So, I don't know.

14 THE COURT: Mr. Loy?

15 BY MR. LOY: Your Honor, what I wanted to put on the
16 record is what Mr. Sorenson just put on the record. Not the
17 end point, but the point that she appeared to be asleep.
18 That was my observations also. At this point, we're
19 satisfied with the Court's instruction to the jury. I have
20 not -- and it's a rather critical point -- I have not had
21 the opportunity to confer with my client. I'll confer with
22 him. We'll talk about it. And I'll discuss the matter with
23 the Solicitor and we'll see if we have anything to present
24 subsequent to the lunch break if that's good with the Court.

25 THE COURT: That's good with me. All right. Y'all

1 have a nice lunch. We'll be in recess until 1:30.

2 (The proceedings recessed for lunch at 12:07 p.m. and
3 resumed at 1:38 p.m.)

4 THE COURT: Counsel, just before lunch we had discussed
5 the juror that has been sleeping. And, Mr. Sorenson, your
6 description of her basically kind of laid out. Obviously,
7 more than just closing her eyes causes really causes a
8 greater concern for me than if she really had just been
9 resting her eyes. So apparently she was completely out and
10 that raises, obviously, a great concern considering the
11 importance of this case to both the State and to the
12 defense. And I find it very difficult to see how she can
13 meaningfully participate in the deliberations and be one of
14 12 unanimous jurors.

15 AST. SOL. SORENSON: Yes, ma'am.

16 THE COURT: And whatever the verdict is, my preference
17 at this point is to let her go and go to first alternate
18 unless there's an objection from either the State or the
19 defense.

20 AST. SOL. SORENSON: That would be my request. If I
21 could just kind of supplement that just little more, Your
22 Honor. I had -- as a result of having some of the family
23 mention to us having seen her sleeping before the break, I
24 had been paying attention and I had noticed her basically
25 slumped over and gone over and told your law clerk, Luke,

1 about it. And it was probably, I would say, a good three or
2 four minutes later when Mr. Loy obviously observed the same
3 thing and asked to approach also. So it wasn't like it was
4 just a short -- I mean, she was still that way when we got
5 up there to the bench. I mean, it wasn't until I guess
6 noticing that suddenly everybody had stopped talking that
7 she kind of started stirring a little bit, so. Another
8 juror -- they said another juror nudged her. So that would
9 be our position is I think she does need to be removed, Your
10 Honor.

11 THE COURT: Mr. Loy?

12 MR. LOY: Can I have one moment, Your Honor?

13 THE COURT: Sure.

14 (Brief pause.)

15 MR. LOY: Your Honor, I don't think there's a more -- I
16 don't know if you can delineate portions of the trial as
17 this one being more fundamental or important or, you know,
18 as opposed to the next one. But selection of the jury
19 certainly is a fundamental part of the trial. It's as
20 critical a level of the trial as any other and these are the
21 people that we picked. Mr. Kinsey is satisfied with the
22 jury as it stands. We would oppose releasing our alternate.
23 I think if the Court were going to do that, we could at
24 least bring her in. First of all, I'm opposed to it. But
25 if you were going to do that, I think bring her in and ask

1 her if she was asleep or voir dire that juror what her
2 experience is, whether or not she up last night, this
3 morning, has an illness or et cetera. At this point, we are
4 opposed to releasing her.

5 THE COURT: All right. Let's bring her in, please.
6 It's the young lady that had the red-somewhat shirt sitting
7 in the middle of the back row, please.

8 (The juror enters the courtroom at 1:43 p.m.)

9 THE COURT: Good afternoon. Come on over here if you
10 don't mind and place your hand on the Bible.

11 (The juror, BREANNA KISH, was duly sworn.)

12 THE COURT: Good afternoon, Ms. Kish.

13 JUROR: Hi. How are you, ma'am?

14 THE COURT: Doing fine. I certainly hate to single you
15 out and I don't want to cause you any embarrassment
16 whatsoever, but there is an important question I need to
17 ask. It appeared that during the testimony this morning
18 that you were having problems staying awake and you had
19 actually fallen asleep during a portion of the testimony.
20 Can you tell me little bit about that, if that's accurate.
21 Where you asleep?

22 JUROR: No, ma'am. I was not asleep. I was having
23 problems keeping my eyes open though. I was trying my best
24 to keep, like force, them open. And I'm intrigued by the
25 case and everything. So I'm sorry if it made it seem like I

1 was disinterested in any type of way. But I'm completely --
2 I went to go get food and everything to keep myself awake.
3 So I'm sorry if it appeared like I was disinterested.

4 THE COURT: Well, and it's -- you know, certainly
5 everyone who conducts themselves differently and that's fine.
6 Everyone is different. I just want to make sure -- you're
7 not in trouble either way. I just need to know for certain
8 whether -- if you were sleep, you let me know; if you
9 weren't a sleep, that's fine either way. Because obviously
10 it's essential that you listen to all of the testimony if
11 you're going to have meaningful participation in the
12 deliberations. So either way is fine, but I just need to
13 know the truth. I mean, do you recall all of the testimony
14 in this case up til now?

15 JUROR: Yes, ma'am.

16 THE COURT: Are you certain?

17 JUROR: Yes, ma'am.

18 THE COURT: Okay. You don't have any hesitations about
19 being able to maintain your attention during the testimony?

20 JUROR: No, ma'am.

21 THE COURT: And you're certain you have all the full
22 recollection of everyone that's testified?

23 JUROR: Yes, ma'am.

24 THE COURT: Anything further from either the State or
25 the defense?

1 AST. SOL. SORENSON: Not from the State, Your Honor.

2 MR. LOY: No, Your Honor. Thank you.

3 THE COURT: All right. Thank you, ma'am. You may
4 return to your jury room. Thank you.

5 (The juror exits the courtroom at 1:45 p.m.)

6 THE COURT: Anything else at this point from the State
7 or the defense?

8 AST. SOL. SORENSON: No, Your Honor.

9 THE COURT: I'm satisfied based upon her demeanor and
10 her answers to the Court that although she may have appeared
11 disinterested, she certainly tells me under oath that she
12 was paying attention and she's certainly interested in the
13 case, obviously, and was not fully asleep. She may have
14 just been resting her eyes. Some of us do that when we
15 think. So hopefully now we'll obviously continue to keep an
16 eye on the situation if there's anything further. But I'm
17 satisfied by her answers and her colloquy with the Court.
18 Anything else before we bring the jury out?

19 AST. SOL. SORENSON: No, Your Honor.

20 MR. LOY: Your Honor, and it may not be necessary
21 because we didn't ask the Court at the bench and I know you
22 were available to us during the lunch break. The
23 presentation of deputy sheriff who will put the phone
24 information together, put it up, has been altered or added
25 to subsequent to our in-camera hearing yesterday. We've

1 been through that, myself and the solicitors as well as the
2 law enforcement officer. We had minor complaints. There
3 were some issues that we had that we raised with some of
4 those things. This issues have been resolved. We don't
5 need the Court's -- we don't need to seek recourse to the
6 Court at this point. And the presentation as presented to
7 us will not be objected to.

8 THE COURT: All right, sir. Thank you. Anything else
9 before we bring the jury out?

10 AST. SOL. SORENSON: The only other thing, Your Honor,
11 I think the last stipulation, the stipulation number two, we
12 have Dr. Ross who is testifying next. If I could do that
13 stipulation just right after she testifies before we call
14 the records custodian who would be the next person.

15 THE COURT: Certainly. Any objection to that, Mr. Loy?

16 MR. LOY: No, Your Honor.

17 THE COURT: All right. Let's have our jury, please.

18 (The jury enters the courtroom at 1:47 p.m.)

19 THE COURT: Welcome back, ladies and gentlemen of the
20 jury. I hope that you had a nice lunch. We are now ready
21 to proceed with the trial of this case. You may call your
22 next witness.

23 AST. SOL. TEMPLETON: Thank you, Your Honor. The State
24 calls Dr. Janice Ross.

25 (JANICE EDWARDS ROSS, was duly sworn and provided the

1 following testimony.)

2 THE COURT: Your witness.

3 DIRECT EXAMINATION

4 BY AST. SOL. TEMPLETON:

5 Q. Good afternoon, Dr. Ross.

6 A. Good afternoon.

7 Q. If you would, please tell the jury where you are
8 employed.

9 A. I'm with Newberry Pathology Associates in Newberry,
10 South Carolina.

11 Q. And how long have you been working at Newberry
12 Pathology?

13 A. Since May of 2000.

14 Q. Okay. And if you would, please tell the jury a little
15 bit about your educational background.

16 A. Yes. I have a degree from the University of South
17 Carolina and then my medical degree, M.D., from Upstate
18 Medical Center in Syracuse, New York. That's where I did
19 training in the field of pathology. The field of pathology
20 as opposed to something like pediatrics or surgery gives us
21 the opportunity to learn how to diagnose diseases by looking
22 at tissue under the microscope. We use the laboratory in
23 the hospital for diagnostic procedures. We also learn how
24 to do an autopsy to find a cause and a manner of death. I
25 did further training in the field of forensic pathology

1 which teaches us further about how to identify patterns of
2 injury and such things as suicides, homicides, and
3 accidents, rape cases that kind of thing. I'm
4 board-certified in three areas of pathology including
5 forensic pathology.

6 Q. And are you licensed?

7 A. Yes.

8 Q. In south Carolina, I assume?

9 A. South Carolina, New York, and Georgia.

10 Q. Okay. Approximately, how many autopsies have you
11 conducted?

12 A. Over 11,000.

13 Q. Okay. And have you had the opportunity to testify in
14 court before regarding some of those autopsies?

15 A. Yes.

16 Q. Okay. Have you been qualified as an expert?

17 A. Yes.

18 Q. In forensic pathology in the past?

19 A. Yes.

20 AST. SOL. TEMPLETON: Your Honor, at this time, the
21 State would offer Dr. Janice Ross as an expert in the field
22 of forensic pathology.

23 THE COURT: Any voir dire?

24 MR. KORNEGAY: No, Your Honor.

25 THE COURT: The Court finds that she's qualified as a

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1 forensic pathologist. You may proceed.

2 AST. SOL. TEMPLETON: Thank you, Your Honor.

3 Q. If you would, kind of describe what you do when you do
4 an autopsy.

5 A. Yes. We don't have any contracts with any certain
6 people. But the coroners of the different counties of the
7 state will call and ask us to do an autopsy and authorize
8 one. The patient is brought to us to the morgue at Newberry
9 County Memorial Hospital so that we identify the body and
10 inventory clothing and any kind of rings or anything like
11 that. Take photographs externally of the body and then take
12 the clothing off, take more photographs of the front and
13 back of the body, and do further testing. As in this case,
14 there were obvious gunshot wounds so we did X-rays to find
15 out if there were any bullets left in him. And then we do
16 an internal examination.

17 Q. Ultimately, what are you trying to determine from an
18 autopsy?

19 A. We want to know the cause of death. And from that, we
20 can get a manner of death. Cause of death just means that:
21 What caused the person to die. The manner of death is how
22 that cause came about being. Was it accidental? Was it a
23 homicide? Was it a suicide? Or was it a natural death?

24 Q. Okay. So are there certain basic classifications of
25 manners of death and then several different types of causes

1 of death, basically?

2 A. Yes..

3 Q. Okay. In this case, did you conduct an autopsy on a
4 Mr. Robert Crumm?

5 A. Yes.

6 Q. If you would, please go through your findings as far as
7 the external exam of Mr. Crumm.

8 A. Yes. We found two gunshot wounds and then we also
9 found some bruising on the left forehead and the left cheek.
10 It didn't have any patterns, so I couldn't tell you what
11 they came from. Some abrasion, which is a scrape of the
12 skin over the right knee and the right tibia, the right
13 calf. With the gunshot wounds -- gunshot wounds came into
14 the back. One came into the back of the leg and one came
15 into the middle of the back.

16 Q. Okay. In you report, you label it as gunshot one and
17 number two. If you would, gunshot number two, is that the
18 calf?

19 A. Yes. We just numbered them not because that's the
20 order that they came in but because we number them from the
21 top of the person down just to keep it organized. So
22 gunshot wound number two came into the back thigh, back leg
23 thigh, and it came out in front of the thigh.

24 Q. Absolutely. Was that a -- the direction of that shot,
25 was that upwards? Downwards?

Direct Examination of Dr. Ross by Ast. Sol. Templeton

1 A. It was -- let me make sure. It was downwards.

2 Q. It was a downward shot. Gunshot number one, the one
3 that goes into his back, if you would, kind of explain to us
4 where that hit him in his back.

5 A. It came in the right side of the back, sort of the
6 midback. It then went from the back towards the front, from
7 the right to the left, and it went upwards. And the bullet
8 itself was found underneath the skin around the left nipple
9 of the front of the chest.

10 Q. Okay. Dr. Ross, I'm going to show you what's marked as
11 State's Exhibit Number 47.

12 AST. SOL. TEMPLETON: May I approach the witness, Your
13 Honor?

14 THE COURT: You may.

15 Q. Do you recognize that photo?

16 A. Yes. This is my photograph of the bullet which came
17 apart. That's part of the jacket and the lead metal from
18 underneath the skin of the left nipple.

19 Q. Did you ultimately recover that bullet from his body?

20 A. Yes. From the time of the autopsy.

21 AST. SOL. TEMPLETON: Your Honor, at this time, the
22 State would offer State's Exhibit Number 47 into evidence.

23 THE COURT: Any objection?

24 MR. KORNEGAY: No objection, Your Honor.

25 THE COURT: All right. It's in.

1 (State's Exhibit No. 47, Photograph, was received into
2 evidence.)

3 Q. With the exception of the two gunshots, were there any
4 other internal injuries that you were able to determine?

5 A. No, there were not.

6 Q. Other than these two gunshot wounds, was there any
7 other injuries that could have resulted in death in this
8 case?

9 A. No.

10 Q. Gunshot number one, what internal organs did that
11 ultimately hit?

12 A. It went through the liver, the left lung, and the
13 heart. It caused a lot of bleeding internally into the
14 chest cavity and into the space around the heart called the
15 pericardium.

16 Q. Have you formed an opinion as to that particular
17 gunshot would've been a cause of death in this case?

18 A. Yes.

19 Q. It would've been?

20 A. Yes, it would.

21 Q. Okay. Within a reasonable degree of medical certainty,
22 were you able to determine the cause and manner of death for
23 Mr. Crumm?

24 A. Yes.

25 Q. What was the cause and manner of death?

Direct Examination of Dr. Ross by Ast. Sol. Templeton

1 A. The cause death is exsanguination, that means to bleed
2 out, due to laceration of liver, lung, and heart due to the
3 gunshot wound to the back.

4 Q. And the manner of death?

5 A. The manner of death is homicide.

6 AST. SOL. TEMPLETON: Beg the Court's indulgence.

7 (Brief pause.) If you would answer any questions the
8 defense may have.

9 THE COURT: Cross-examination?

10 MR. KORNEGAY: Nothing further, Your Honor. Thank you.

11 THE COURT: You may step down, Doctor. Thank you.

12 Ladies and gentlemen of the jury, the parties have
13 entered into another stipulation which I will now read to
14 you. It states that the State and the defendant have
15 entered into a stipulation that the cell phone number, area
16 code 843-518-8276, is a number that the defendant used in
17 2015. Additionally, the phone number of 843-532-5431 is the
18 number of an acquaintance of the defendant.

19 You may proceed and call your next witness.

20 AST. SOL. SORENSON: Thank you. The State calls
21 Jennifer Dalmida.

22 THE COURT: Your witness.

23 AST. SOL. SORENSON: Thank you, Your Honor.

24 (JENNIFER DALMIDA, was duly sworn and provided the
25 following testimony.)

1 DIRECT EXAMINATION

2 BY AST. SOL. SORENSON:

3 Q. Ms. Dalmida, if you would, please tell the jury where
4 you are employed.

5 A. With Verizon Wireless.

6 Q. And how long have you been employed with Verizon
7 Wireless?

8 A. Approximately ten years.

9 Q. Okay. If you would, tell the jury what your current
10 responsibilities are with Verizon Wireless.11 A. I'm a senior analyst with Verizon who is a record
12 custodian for the company. So, basically, I'm part of a
13 team that interprets any type of data that we produce in
14 compliance to search warrants, court orders, or subpoenas.15 Q. Okay. And then ultimately -- and how long have you
16 been -- you said you've been with Verizon for ten years.
17 How long have you been employed in that capacity as a
18 records custodian?

19 A. Seven.

20 Q. Okay. And as part of that, obviously, do you then kind
21 of travel around the country?

22 A. Weekly, yes.

23 Q. Weekly?

24 A. Yes.

25 Q. And where are you based out of?

Direct Examination of Ms. Dalmida by Ast. Sol. Sorenson

1 A. Orlando, Florida.

2 Q. And have you had an opportunity to review some records
3 that were provided to the Dorchester County Sheriff's Office
4 by Verizon Wireless in this case?

5 A. Yes.

6 Q. Okay. I want to show you, first of all -- show you
7 initially --

8 AST. SOL. SORENSON: May I approach the witness, Your
9 Honor?

10 THE COURT: You may.

11 Q. -- marked as State's Exhibit Number 36 and ask if you
12 recognize that disc?

13 A. Yes.

14 Q. Okay. And then also State's Exhibit Number 45 and ask
15 if you recognize that disc?

16 A. Yes.

17 Q. And have you had an opportunity to review both of those
18 discs before court today?

19 A. Yes.

20 Q. Okay. And did you do anything with each of those discs
21 to indicate that you did in fact review the two of them?

22 A. I dated and initialed them.

23 Q. And, specifically, as to State's -- let's start with
24 State's Exhibit Number 36. What phone number does that disc
25 deal with phone records on?

1 A. Target number 843-518-8276.

2 Q. And in reviewing those records, are those records that
3 are contained on State's Exhibit Number 6 [sic] on records
4 that would've been provided to law enforcement at their
5 request from Verizon wireless?

6 A. Yes.

7 Q. And are those records contained on State's Exhibit
8 Number 36, are they kept in the regular course of business
9 by Verizon wireless?

10 A. Yes.

11 Q. And is the regular practice of Verizon Wireless when
12 providing cellular service to customers to make and keep the
13 reports and records that are contained State's Exhibit
14 Number 36?

15 A. Yes.

16 AST. SOL. SORENSON: Your Honor, at this time, we'd
17 offer State's 36 into evidence.

18 THE COURT: Any objection?

19 MR. LOY: There's not, Your Honor. Thank you.

20 THE COURT: All right. It's in.

21 (State's Exhibit No. 36, CD of Verizon Data, was
22 received into evidence.)

23 Q. And then I'm going to go through the same kind of
24 litany of questions as to State's Exhibit Number 45. What
25 phone number do those records deal with?

Direct Examination of Ms. Dalmida by Ast. Sol. Sorenson

1 A. Target number 504-388-5656.

2 Q. And, yet again, were those records that were provided
3 to law enforcement in this case?

4 A. Yes.

5 Q. By Verizon Wireless?

6 A. Correct.

7 Q. And they also kept in the regular course of business by
8 Verizon Wireless?

9 A. Yes.

10 AST. SOL. SORENSON: At this time, Your Honor, we'd
11 offer State's 45 into evidence.

12 THE COURT: Any objection?

13 MR. LOY: No, ma'am. Thank you.

14 THE COURT: All right. It's in:

15 (State's Exhibit No. 45, CD of Verizon Data, was
16 received into evidence.).

17 Q. Now, Ms. Dalmida, if you could, on those -- so you had
18 an opportunity to review both of them today. Is that
19 correct?

20 A. Yes.

21 Q. What, specifically dealing with 36 -- so that would be
22 the phone number, the 518-8276 number.

23 A. Yes.

24 Q. What records are on there?

25 A. We have a copy of our call incoming/outgoing report

1 with cell site location on it. We also have a copy of our
2 text detail report, real-time tool report, and we have our
3 cell site key with also historical explanation sheets for
4 each record.

5 Q. And do those records cover the time period of
6 March 10th of 2015?

7 A. Yes.

8 Q. And let me ask you: As to that number, that 8276
9 number, are you able to tell who the subscriber is for those
10 records?

11 A. We have a first name listed, but it's a prepaid
12 account. So the information, the subscriber name, is not
13 always accurate.

14 Q. Okay. All right. And by a prepaid account, describe
15 for the jury, if you could, what ---

16 A. It's a pay-as-you-go account. So customers can go into
17 any one of our retailers and pick up a phone in the box..
18 They dial into a specific number to activate it. So they're
19 not required to, you know, validate their identity on a
20 prepaid service.

21 Q. They're not getting a bill every month from Verizon
22 Wireless?

23 A. Correct. They're paying ahead of time for service.

24 Q. Okay. All right. And so you talked about on that
25 disc, State's Exhibit Number 36, that there's records of

Direct Examination of Ms. Dalmida by Ast. Sol. Sorenson

1 incoming and outgoing phone calls?

2 A. Yes.

3 Q. Okay. And then also the cell site data?

4 A. Correct.

5 Q. Explained what would that -- what is cell site data?

6 A. So we have on the incoming/outgoing report, it would
7 indicate which cell tower the call initiated on and what
8 cell tower it ended on.

9 Q. And then you also reference something called real-time,
10 RTT.

11 A. Yes.

12 Q. What does that stand for?

13 A. RTT report; the real-time tool.

14 Q. Explain to the jury what that is that's on those
15 records.

16 A. So the RTT report basically would allow you to
17 determine the distance away from a specific tower. So it
18 provides the latitude, longitude. It just gives an
19 approximate location as to where the cell phone was based on
20 the a specific calculation.

21 Q. And that location, you use the work approximate. I
22 mean, is that basically what it is is an approximate
23 location?

24 A. Correct.

25 Q. And as to the other phone number contained in State's

1 Exhibit 45, the 504-388-5656, what is contained in those
2 records?

3 A. In these records, we have the cell site
4 incoming/outgoing, and we also have text detail.

5 Q. Okay. And by text detail, what does that mean?

6 A. It's just a timestamp of who the text was sent to, sent
7 from, the date and time the text was sent.

8 Q. Okay. Does it have the actual content of any text
9 messages in there?

10 A. No.

11 Q. Yet, again, from both of those that contain that time
12 period of March 10th of 2015 are in both of those records?

13 A. Yes.

14 Q. And how about -- I can't remember -- did you have
15 subscriber information for 504-388-5656. Do you remember?

16 A. No.

17 Q. Is that a prepaid phone also? Or do you remember ---

18 A. I can't remember..

19 Q. Okay. That wasn't in the records, though, that was
20 provided?

21 A. Correct.

22 AST. SOL. SORENSON: Beg the Court's indulgence. That
23 would be all have for Ms. Dalmida.

24 THE COURT: Cross-examination?

25 MR. LOY: No. Thank you.

Direct Examination of Sgt. Smith by Ast. Sol. Sorenson

1 THE COURT: You may step down, ma'am. Thank you.

2 AST. SOL. SORENSON: May she be excused, Your Honor?

3 THE COURT: Any objection?

4 MR. LOY: There is not, no.

5 THE COURT: You are free to go. Thank you. You may
6 call your next witness.

7 AST. SOL. SORENSON: The State calls Sergeant Adam
8 Smith.

9 (ADAM MICHAEL SMITH, was duly sworn and provided the
10 following testimony.)

11 THE COURT: Your witness.

12 AST. SOL. SORENSON: Just real quick. This is just a
13 total loss of concentration on my part. Thirty-six and 45
14 are both in evidence with that last witness?

15 THE COURT: Yes, sir.

16 AST. SOL. SORENSON: Okay. I couldn't remember if I
17 moved the second one in or not.

18 DIRECT EXAMINATION

19 BY AST. SOL. SORENSON:

20 Q. Good afternoon, Sergeant Smith. How are you?

21 A. Doing well.

22 Q. If you could, tell the jury where it is that you're
23 employed.

24 A. With the Dorchester County Sheriff's Office.

25 Q. And how long have you been with the Dorchester County

1 Sheriff's Office?

2 A. About 11 years.

3 Q. And if you would, tell us, please, what your current
4 duties and responsibilities are there.

5 A. Currently, I'm a sergeant. I'm a supervisor in the
6 criminal investigations division.

7 Q. Okay. And as part of your employment with the
8 Sheriff's Office, do you have any other kind of duties or
9 have any particular type of evidence that you seem -- that
10 you're the person that deals with at the Sheriff's Office?

11 A. One of my collateral duties in investigations is
12 working with cell phones, doing cell phone forensics, and
13 also doing analysis of call detail records.

14 Q. Okay. And if you would, talk to the jury a little bit
15 about the training and experience that you have with regards
16 to either processing cell phones and/or analyzing cell phone
17 records.

18 A. I started working with cell phones back in 2012 using
19 the Cellebrite Universal Forensic Extraction device.
20 Basically, it extracts data from cell phones. And then
21 analyze the data. After that, I went to a school in 2014
22 for cell phone investigations, which is the analysis of call
23 detail records. Call detail records would be the -- like a
24 record that you would get from your cell phone company
25 showing a date, time, a phone number that was placed on a

1 phone call. And also through that, we received training on
2 a program to map those call detail records on Google Earth
3 and other software.

4 Q. Have you had an opportunity then to testify in court
5 before about your analysis of cell phones and cell phone
6 records?

7 A. Yes, I have.

8 Q. Okay. I'm going to turn your attention now, if I
9 could, Sergeant, to this case. Did you know initially
10 respond out to the scene back on March 10th of 2015?

11 A. Yes, I did.

12 Q. And, ultimately, were you kind of assigned a role in
13 the investigation going forward from that point?

14 A. That's correct.

15 Q. Okay. And tell the jury what kind of what your role
16 was that you undertook.

17 A. Initially, I went out to the scene to assist with the
18 investigation. Once the scene was secured and they had
19 enough personnel on the scene, my supervisor -- at the time,
20 it was Sergeant Peters now Lieutenant Peter's -- advised me
21 to go back to the office. We had cell phones for the victim
22 and also Sara Taylor. And also I was to get the cell phone
23 records for both the victim and Sara Taylor so we could
24 begin analysis on those.

25 Q. Okay. And, ultimately, that afternoon or early

1 evening, did you obtain a cell phone that was your
2 understanding belonged to the victim, Robert Crumm?

3 A. Yes, I did.

4 Q. Okay. And what kind of phone was that? Do you recall?

5 A. It was Apple iPhone.

6 Q. Okay. And let me ask you: Were you able to get into
7 that phone?

8 A. No, I wasn't. The iPhone was locked and our device was
9 unable to break the pass code.

10 Q. Okay. Is that something is an issue with iPhones in
11 particular?

12 A. Yes, it is.

13 Q. All right. Ultimately, were you made aware of the
14 phone number for that phone, though?

15 A. Yes, I did. I received that phone number.

16 Q. Okay. What is that number that you received?

17 A. The number was 504-388-5656.

18 Q. And with that information, what were you then able to
19 do with regards to trying to find any records pertaining to
20 the victim's cell phone?

21 A. After getting the phone number, run it though several
22 different databases to find the carrier to make sure the
23 telephone number hasn't been ported from one carrier to
24 another. And through that search, we were able to find out
25 that it belonged to Verizon Wireless.

Direct Examination of Sgt. Smith by Ast. Sol. Sorenson

1 Q. And, ultimately, did you then send a request to Verizon
2 Wireless to obtain any records pertaining to that phone?

3 A. Yes, I did.

4 AST. SOL. SORENSON: May I approach the witness, Your
5 Honor?

6 THE COURT: You may.

7 Q. Showing you State's Exhibit Number 45. Is that the
8 records that you obtained from Verizon Wireless?

9 A. Yes, they are.

10 Q. And what was the purpose of you wanting to get ahold of
11 Mr. Crumm's cell phone records from that day?

12 A. Basically to get the call detail records. Once again,
13 that's the actual list; the date, time. It would have the
14 phone number that called or where the call went to. It
15 would also have the cell phone towers that were attached to
16 the call, how long the call was. And then from there, I
17 would break the call detail records down to the last known
18 time frame for the victim so then we could start analyzing
19 the phone numbers that were either he called or they called
20 his phone. So we could try to determine a common link or a
21 common phone number during that time.

22 Q. And did you have information early on in the
23 investigation that the suspect in the case had had contact
24 with the victim by way of his cell phone?

25 A. Yes.

1 Q. And, ultimately, in reviewing those records that were
2 provided by Verizon Wireless, were you able to find a number
3 that had contacted the victim's phone multiple occasions
4 that late afternoon?

5 A. Yes, I did. It was numerous calls during the day of
6 March 10, 2015.

7 Q. Okay. And what is that number that you were able to
8 identify as being potential the suspect's number at that
9 time?

10 A. It was 843-518-8276.

11 AST. SOL. SORENSON: And, Your Honor, just because I
12 know numbers kind of get confusing, that would be part of
13 the stipulation, that number, that we just entered into of
14 the number that the defendant was using back in 2015.

15 THE COURT: That's correct.

16 Q. All right. Upon identifying that number, that 518-8276
17 number, Sergeant, what then did you do with regards to
18 trying to track down any records from that phone?

19 A. So basically after doing -- after getting the records
20 from the victim's phone, we identified that telephone
21 number. From there, it was basically just starting the
22 process back over again and trying to identify the carrier
23 for that phone. So we could go to that period in the
24 records.

25 Q. Okay. And were you able to determine who the carrier

Direct Examination of Sgt. Smith by Ast. Sol. Sorenson

1 was on that phone?

2 A. Yes. It was also Verizon wireless.

3 Q. All right. And then as a result of that, did you
4 attempt to obtain records belonging to that 518-8276 number?

5 A. Yes, we did.

6 Q. Okay. And showing you --

7

8 AST. SOL. SORENSON: May I approach the witness, Your
9 Honor?

10 THE COURT: You may.

11 Q. Showing you what's in evidence as State's Exhibit
12 Number 36. Would that be those records?

13 A. Yes, it would.

14 Q. And tell the jury then once you obtained kind of
15 State's Exhibit Number 36 and those records that the records
16 custodian just testified about, what then were you able to
17 do with those records?

18 A. So once receiving the records from Verizon Wireless,
19 they were e-mailed to us so I was able to save a copy. And
20 then what I do from there is keep the original copy from
21 Verizon and make a separate copy of that, which would be my
22 working copy of what I actually used to do the investigation
23 of the call detail records. So then I would take the call
24 detail records -- and there's some formatting that needs to
25 be done to the -- it comes in a Microsoft Excel sheet. So

1 just separating say date and time from one column into two
2 separate columns to make it compatible with the program as
3 well.

4 Q. Okay. And, ultimately, what was your hope that you
5 would be able to do with those records with regards to
6 tracking that cell phone?

7 A. So Verizon, they provided us with the call detail
8 records. And what it will have is it will have a
9 first-serving cell site and a last-serving cell site. So
10 Whenever you make a phone call, your phone will connect to
11 the first cell site. And if you're moving or if you're
12 stationary, that cell site could change. So what I would do
13 from there is we would put the -- get the GPS coordinates
14 from the actual cell site list and merge those two together
15 so we can then plot out which cell towers were used during a
16 certain time frame. But Verizon also provides us with a
17 type of data called the real-time tool, which is Verizon's
18 estimate of where your cell phone is located in a geographic
19 area at any point in time. And it's pretty much an estimate
20 of where it is based on several factors. It's not exact to
21 a certain location, but it is like, like I said, a certain
22 area.

23 Q. Helps kind of pin down whether a phone, you know, was
24 in Charleston as opposed to North Charleston as opposed to
25 Summerville ---

Direct Examination of Sgt. Smith by Ast. Sol. Sorenson

1 MR. LOY: Objection. Leading, Your Honor.

2 THE COURT: Please rephrase.

3 Q. Explain what you mean by that about it being
4 approximate?

5 A. From the records, we can -- it will give us a GPS
6 coordinate for the latitude and longitude of the phone where
7 Verizon says they estimate that phone is. So from there, we
8 can then input that into a map software and that will plot
9 out where Verizon estimates that phone to be.

10 Q. And those points that you're plotting out, what causes,
11 you know, what happens to cause it to record those longitude
12 and latitude points in that real-time tool?

13 A. The cell phone company, they record any kind of phone
14 calls, text messages, or if your phone uses data. So at any
15 point in time, they could be saving your geographic location
16 of where your phone is.

17 Q. And were you ultimately able to then kind of go through
18 and import those records that Verizon provided and kind of
19 create a PowerPoint presentation kind of showing where that
20 phone, that 518-8276, phone was back on March 10th of 2015?

21 A. Yes.

22 Q. Approximately?

23 A. Yes. Basically, what we did was narrow down the time
24 frame of when we wanted the records for because there is a
25 lot of records that on those the sheets. And then we would

1 input in into the software for the National White Collar
2 Crime center for the class that I had attended. And then
3 from there it would make a file that is compatible with
4 Google Earth, which is a earth software where it plots out
5 the points for us.

6 AST. SOL. SORENSON: May I approach?

7 THE COURT: You may.

8 Q. Showing you State's Exhibit Number 46. Is that the
9 presentation that you prepared?

10 A. Yes, it is.

11 AST. SOL. SORENSON: Your Honor, at this time we'd
12 offer State's 46 into evidence.

13 THE COURT: Any objection?

14 MR. LOY: No objection, Your Honor.

15 THE COURT: All right, sir. Thank you. It's in.

16 MR. LOY: We do not have an objection.

17 (State's Exhibit No. 46, CD of PowerPoint
18 Presentation, was received into evidence.)

19 (Brief pause.)

20 Q. If you can just kind of go through and kind of . . .

21 A. Sure.

22 Q. Obviously, that just references the phone number and
23 kind of your title page?

24 A. Correct.

25 Q. Okay.

1 A. The records that we're using first would be -- when I
2 explained the real-time tool, which is Verizon's estimate of
3 where the phone is located -- this is not the tower
4 location. This would be where they estimate the actual cell
5 phone to be on a geographic location.

6 Q. Okay.

7 A. Basically, what we did, the incident date was March 10,
8 2015. And we took the phone number, the 843-518-8276, and
9 we went back and did historical data, which is what we
10 normally do is go back and look at where the phone has been
11 but before the incident occurred. So, basically, whenever
12 you're looking at this map, each one of those pushpins would
13 have a date beside it. And each pushpin would correspond
14 with one row of data in the Excel file. So this would be a
15 date, a time, a geographic location for one actual point
16 where they received data from that cell phone.

17 Q. And, obviously, looking at that, Sergeant, all of this
18 is from March 10th of 2015?

19 A. Correct.

20 Q. And I'm looking at, next to each of the pushpins,
21 that's in military time?

22 A. That's correct. Yes.

23 Q. Okay. So all that is basically between, as it says,
24 about 1:00 p.m. and 2:00 p.m. that day?

25 A. Yes, it is.

1 Q. Okay. If you would just tell the jury where is that
2 area that those pins are all located in back between one and
3 two?

4 A. This is in the general geographic area of North
5 Charleston down by Isaiah Drive and 26 and I believe it's
6 Highway 52 down there as well.

7 Q. Okay. All right. And then moving on between the 2- to
8 3:00 p.m. time frame?

9 A. Correct. And this is the same data as well. And like
10 I said, each one of these pushpins would be one entry point
11 on that. And this is Cosgrove Avenue, McMillan, and Highway
12 7. So this was from 3:00 p.m. to 4:00 p.m. And this is an
13 overall shot and then we'll kind of zoom in on some of these
14 points because there was a lot of them. But what this is
15 showing is they're showing an upward trend in movement of
16 that cellular phone from the North Charleston, Charleston
17 area, and then back up towards the College Park area and in
18 to Summerville.

19 Q. All right. From three to four?

20 A. Correct. And this -- like I said, before this is
21 starting from the trend down in the Charleston, North
22 Charleston end, at the beginning of the data set there. And
23 then the phone moves up towards the Highway 78, 26 area and
24 up towards the Sangaree area.

25 Q. Okay.

Direct Examination of Sgt. Smith by Ast. Sol. Sorenson

1 A. And then from 4- to 5:00 p.m. the phone is in the --
2 still in the 78, the Sangaree area, College Park Road. And
3 then it starts to move into the Summerville area, Highway
4 78, North Main Street.

5 Q. Okay.

6 A. Still from 4- to 5:00 p.m. And this is just a zoomed
7 in portion of that time frame where the phone is in. It's
8 near the 26 area heading towards North Main Street. All
9 right. This is still in the 4- to 5:00 p.m. range. And
10 this is in the Highway 78 area just above heading towards
11 Jedburg above North Main Street. It's in the area ---

12 MR. LOY: Your Honor, I have an objection at this
13 point. The phone records are in and the depictions, I
14 understand, are also in. But for his continued
15 interpretation of the data, his opinion of what they mean, I
16 don't think there's been a qualification for that. I mean,
17 he can point at this and say this is what it says and the
18 record is in. But to be able to interpret it and say that
19 means this phone went there or it went there, when earlier
20 he's already testified it's solely solely based on someone
21 else's estimation.

22 THE COURT: Well, he rephrase and in the fact of -- or
23 in the terms of it, "At this point, the pinpoint placement
24 is here which is this address and then it goes to that
25 address," I think is what he's attempting to do. Maybe word

1 it a little differently.

2 AST. SOL. SORENSON: I think that's basically ---

3 MR. LOY: I wouldn't object to that. I think he's --

4 at that point, he's reading the information that's in

5 evidence. And I don't have an objection to that.

6 THE COURT: If you could couch it in those terms,

7 Detective. Thank you.

8 THE WITNESS: Okay.

9 Q. So on this slide here, the records are indicating -- at
10 the top it says from 4- to 5:00 p.m. Actually, what kind of
11 time period are actually located in those pushpins on that
12 frame?

13 A. This is in the latter half of 4- to 5:00 p.m. So in
14 4:30 to the 5:00 p.m. range. And for instance, the 1646
15 would be 4:46 p.m., that pushpin is near Highway 78 near
16 West Richardson Avenue.

17 Q. Okay. And where on that map is this incident location
18 located at on that map or . . .

19 A. Just above the pushpin that has 164305, it would be
20 just -- I believe there's a zoomed in portion of that.

21 Q. Okay.

22 A. All right. This slide, there's two pushpins that have
23 times assigned to them: 164305, which is near Pidgeon Bay
24 Road which is in the bottom right-hand corner; and then
25 164647 which is up near Industrial and Highway 78. And down

Direct Examination of Sgt. Smith by Ast. Sol. Sorenson

1 in the where it says Avonshire -- thank you, sir -- that
2 would be where the incident location.

3 Q. And you testified, basically, that these were
4 approximations of the location of the phone?

5 A. That's right. These are just an approximate location
6 of where Verizon estimates it to be.

7 Q. Okay. All right. And then moving on from 5:00 p.m. to
8 6:00 p.m. then where do those pushpins indicate that the
9 phone is hitting?

10 A. Starting from near 170202, which is near Highway 17 and
11 Highway 78, then the phone trends back down towards
12 Charleston and North Charleston area.

13 Q. By 17?

14 A. 4019 would be down in the North Charleston near 526 and
15 26.

16 Q. Are you familiar with where Bayside Manner is?

17 A. Not familiar with that area.

18 Q. That bottom right-hand, that would be the -- what part
19 of the low country is that in the bottom right of that
20 picture?

21 A. The very bottom right would Highway 26 and then the
22 lower part of Rivers Avenue.

23 Q. Okay. And, ultimate, let me ask you: This slide, did
24 you have an opportunity to look at those records from that
25 phone associated with Mr. Kinsey and see what contact there

1 was between that phone and the victim, Robert Crumm's phone,
2 on March 10th of 2015?

3 A. Yes, I did. As part of going through the phone
4 records, I researched the call detail records and located
5 the entries. And there from March 10th, which corresponded
6 with any communications to either to or from the victim,
7 where the victim's phone number is 504-388-5656.

8 Q. Okay. And where those the calls that you found on that
9 day between those two?

10 A. Yes, they were.

11 Q. All right. What was the time of that last phone call
12 between those two phones?

13 A. The last call was about 4:02:58 p.m., and the call
14 duration was 1:17. And the cell phone companies uses the
15 time in seconds.

16 Q. Just under two minutes?

17 A. Correct.

18 Q. And that was a call going which way? That was?

19 A. That was what would be an outbound call from the
20 843-518-8276 to the victim's telephone number.

21 Q. Okay. And out of those, I see on there there's what?
22 Nine calls there? Eight of them outbound calls, one
23 inbound. Is that . . .

24 A. Correct.

25 Q. All right. What do we have now?

1 A. Like I explained earlier, we use the real-time tool to
2 begin with which is the estimate of where the phone is.

3 This second set of slides would but the actual cell towers
4 that the phone connected to. So this would be the actual,
5 what they call, detail records. It would tell you the cell
6 number which would be the actual tower that the phone was
7 connecting to during a period -- or during a phone call.

8 Q. Okay. And did you have an opportunity to look at the
9 calls kind of around the incident time?

10 A. Yes, I did.

11 Q. Okay.

12 A. So what we did was we mapped out where the incident
13 location it has a pushpin where the apartment complex is
14 down there.

15 Q. Can you circle that.

16 A. The incident location is about in that area right
17 there.

18 Q. Okay. Gotcha. Gotcha.

19 A. During this time frame, which was in the,
20 approximately, 4, 4:43 p.m. to 5:00 p.m., the phone used two
21 different towers in that time.

22 Q. Need to go to the next slide?

23 A. Yeah. If you can go do the next one. So there's tow
24 -- during that time, the phone switches between two
25 different towers.

1 Q. Okay.

2 A. One of the towers that it was connected to was a
3 Verizon tower number 354. It's located at 300 West 2nd
4 North Street in was Summerville. And it has the GPS
5 coordinates. And all that it information will be contained
6 on the cell site sheet that Verizon Wireless provides to us.

7 Q. Okay.

8 A. So then the program that we have it will compile all
9 the calls that connected to that tower during that time
10 frame. So each one of those pushpins in there would be an
11 entry point in the spreadsheet for when that phone actually
12 connected to that tower.

13 Q. Okay.

14 A. And then the second tower that was also used by the
15 phone around that time frame was a number 362 -- that's at
16 1278 Orangeburg Road in Summerville, South Carolina.

17 Q. Yet, again on that --

18 AST. SOL. SORENSON: Back up one second, Ryan.

19 Q. Yet again, that shows the location, the incident?

20 A. This would be about the incident location.

21 Q. Okay. All right.

22 A. And then there were several entry points to that tower
23 on Orangeburg Road as well.

24 Q. All right. And then the last thing that I asked you to
25 kind of go back through and look -- the jury, the

Direct Examination of Sgt. Smith by Ast. Sol. Sorenson

1 stipulation they heard earlier was that an additional
2 number, 843-532-5431, is a number of an acquaintance of the
3 defendant. Did you have an opportunity to look at those
4 phone records and see what phone communication there was
5 between the number associated with Mr. Kinsey and then that
6 number of a an acquaintance of his?

7 A. Yes, I did. This did come from the 842-518-8276 from
8 the call detail records from that same data from Verizon
9 Wireless. And this shows the calls between those two
10 telephone numbers on the date of March 10th.

11 Q. Okay. And they start at what time?

12 A. About 4:00 p.m. on March 10th and go to about 5:02 p.m.
13 on March 10th.

14 Q. The first, one, two, three, four, five, six, seven, are
15 incoming or outgoing calls?

16 A. The first seven there would be outgoing calls. And it
17 appears there were two failures on the phone calls. And
18 then there was the one that was inbound at about 5:02:41
19 p.m.

20 Q. Okay. And the last outbound call is at what time?

21 A. At 5:01:13 p.m.

22 Q. 5:00 p.m.?

23 A. Correct.

24 Q. And that last column shows the duration also of those
25 calls?

1 A. Yes, it does.

2 Q. What was the duration of that 5:01 call?

3 A. Forty-one seconds.

4 Q. Then the only inbound call is after that. Is that
5 correct?

6 A. That's correct; 47 seconds.

7 Q. What time is that at?

8 A. At 5:02:41 p.m.

9 AST. SOL. SORENSON: All right. Thank you, Sergeant..
10 That's all I'd have.

11 THE COURT: Cross-examination?

12 MR. LOY: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. LOY:

15 Q. Good afternoon.

16 A. Good afternoon.

17 Q. So in the course of your work, you gather or you obtain
18 phone records and then you basically feed them into a
19 computer that produces these presentations you've given us
20 here today?

21 A. Yes. The spreadsheets are provided to us by the cell
22 phone companies are inputted into a software program, and
23 the software program produces the mapping that you see.

24 Q. Okay. Now, as far as how these things work, like this
25 RTT thing and all, the technical applications of what phones

Cross-Examination of St. Smith by Mr. Loy

1 actually do and how they work and how they're placed, that's
2 not something you're prepared to tell us about. Is that
3 correct?

4 A. No, I'm not.

5 Q. I mean, what you do is what you described. Is that
6 right? Prepare a visual presentation of what Verizon has
7 given you.

8 A. Yes. I take the records that are provided and then
9 input them into the program.

10 Q. And with the RTT program, you've got one of these that
11 we've looked at that has the pushpins. You can click on for
12 information.

13 A. Yes.

14 Q. Can you pull that one up.

15 A. They would have that where the disc would be.

16 (Brief pause.)

17 MR. LOY: Your Honor, can the witness step down and
18 locate this on the disc because the rest of us can't.

19 THE COURT: Sure.

20 MR. LOY: You do know what I'm looking for?

21 THE WITNESS: Yes, sir.

22 (Brief pause.)

23 Q. What does this this report to be? And you can zoom in
24 or zoom out if you can try to keep all the numbers on the
25 screen, though, that we're looking at.

1 A. Sure. All right. So earlier when we showed you the
2 PowerPoint presentation it had screenshots. Basically, it
3 was screenshots of this Google Earth map here, or one of the
4 Google Earth maps. So each one of those pushpins, again,
5 would be a line of data that's contained within the Excel
6 file.

7 Q. Now, this is not -- I was listening. I was trying to
8 listen closely. This is not the information as far as which
9 cell towers are being hit upon by all. This is Verizon's
10 estimation?

11 A. That's correct.

12 Q. Of location. Is that correct?

13 A. Yes, sir. It is.

14 Q. Okay. And do you know -- I mean, you're not in a
15 position to explain to us the science that goes into
16 selecting the location, are you?

17 A. No.

18 Q. But these pushpins, if you click on them, they provide
19 you with more information from Verizon at that point in
20 time. Is that right?

21 A. That's correct. This would be the information that's
22 contained in that one row of data in Excel. When the
23 program changes the file from Excel into a Google Earth
24 file, it then puts all that information from that row in
25 that pushpin. So if you were to click it, you could see the

1 date. You can see the time. You can see the location of
2 the geographic coordinates of it.

3 Q. Now, on this one, if you know, I'm looking right here
4 about midway down where it says, "Call location confidence."
5 Do you know what that line is about?

6 A. This line right here?

7 Q. Yes, sir.

8 A. Yes. Whenever Verizon Wireless provides the RTT data,
9 they assign a confidence level to the actual point that they
10 estimate. And they either assign a, high, medium, or low of
11 their estimation.

12 Q. So essentially it's your understanding they're saying
13 if it's got an H there, Verizon is saying we are highly
14 confident that this is an accurate -- it's still an
15 estimation, but accurate estimation. Is that correct?

16 A. That's my understanding, yes.

17 Q. And a medium they're saying, well, it's not as high as
18 that but we think this is a good guess or a good estimation.
19 Is that right?

20 A. Yes.

21 Q. And then low, what does that mean?

22 A. That's just a lower confidence than the other two that
23 they have in that location.

24 Q. Is it 10 percent? We're 10 percent?

25 A. I don't know what their actual percentage is. They

1 don't assign any kind of percentages along with the
2 confidence itself.

3 Q. So you can show us these pinpoints that Verizon has
4 given to you, but you can't really tell us what they mean?
5 Like this one where it says we have a low level confidence
6 in 16:43:05, other than to say that means less confident
7 than maybe some others. You really don't have anything to
8 expand upon that. Is that correct?

9 A. No. That's just the information, the data, that
10 Verizon Wireless provide to us.

11 Q. And is the location off of Pidgeon Bay Road, is that
12 the one we were just looking at? Can you zoom in on that?

13 A. That one is, yes.

14 Q. Okay. That's as close as you got with this estimation
15 thing? This one over here, 16:43. Is that right?

16 A. That's correct.

17 Q. And that is a low level of confidence. Is that right?

18 A. Yes.

19 Q. And just three minutes later, or about three minutes
20 later, we've got another peg way up at the top. Is that
21 right? The one that says 16:46?

22 A. Yes.

23 Q. You stated this is near the Sheriff's Department and
24 you work that area often. Can you tell us about the
25 approximate distance between those two pins?

- 1 A. Between the 16:43 and the 16:46?
- 2 Q. Yeah.
- 3 A. Could be by air, I mean, approximately a quarter to a
- 4 half-mile.
- 5 Q. And is that as the crow flies or as the road curves
- 6 around?
- 7 A. That would be by the crow flies.
- 8 Q. I noticed this one is 16:43:05 down here in the corner.
- 9 Do you see the one I'm looking at?
- 10 A. Yes.
- 11 Q. And that would be by military time, 4:43:05?
- 12 A. 4:43:05.
- 13 Q. And this one up at the top that's barely showing, can
- 14 you see the time on that?
- 15 A. Yes.
- 16 Q. What is that time?
- 17 A. 16:43:29.
- 18 Q. I got that at twenty-four seconds. Am I -- does that
- 19 sound correct to you also?
- 20 A. Sounds correct.
- 21 Q. Well, what do you think the distance is there?
- 22 A. I mean, if I had to guess by air again, a mile or so.
- 23 Q. Nobody is doing it in 24 seconds.
- 24 A. No, sir.
- 25 Q. Well -- zoom back out. So some of these things have a

1 high level of confidence, some have a medium level of
2 confidence, and some have a low level of confidence. We can
3 agree, I think, that they can't all be accurate. Can we
4 not? I mean, the one that says he's a mile away in 23
5 seconds. Something is wrong; correct?

6 A. That's correct.

7 Q. And which it is or how it is or how much of the other
8 ones are off, we don't know that either?

9 A. No, we don't. They're just an estimation.

10 Q. And Verizon didn't invent this program or this system
11 as some sort of forensic tool to aid law enforcement, did
12 they?

13 A. Which programmer are you referring to?

14 Q. I'm referring to the information that you're getting
15 here. This is basically designed to help them determine how
16 much coverage they've got and where they need build more
17 towers. Not so that they can fly someone around the country
18 and verify records. Do you know why the system is in place?
19 Why the record this data?

20 A. I don't know why they record the data.

21 Q. No one has told you in your class it was invented as an
22 aid to law enforcement to make them an arm of the police or
23 anything like that, have they?

24 A. No.

25 Q. Okay. So -- well, hang on one second.

1 (Brief pause.)

2 Q. There were, the numbers that you put up, those little
3 tables that showed phone calls in and phone calls out, those
4 don't purport to be all the phone calls that were made on
5 Mr. Crumm's phone, do they?

6 A. No. Those were phone calls between specific numbers
7 during a specific time frame.

8 Q. I understand they were called. And you could have done
9 that with other numbers also had you chosen. Is that right?

10 A. That's correct.

11 Q. Okay. And otherwise too, they don't purport to show an
12 entire day's activity on the phone. They just show the ones
13 that you pulled out. Is that correct?

14 A. That's correct.

15 Q. You talked about a UFED. I'm sorry. We say it
16 differently. I use the acronym or you do. You know what
17 I'm talking about; correct?

18 A. Yes, I do.

19 Q. Okay. What is that?

20 A. Cellebrite Universal Forensic Extraction Device. It's
21 a machine that you can connect a cell phone to. And the
22 machine has software inside of it that's able to go inside
23 the cell phone itself and extract the data either from the
24 actual memory of the phone, from actually the hard drive of
25 the phone.

1 Q. Okay. And you have or you had access to one of these
2 machines. Is that right?

3 A. Yes. We have one of these at the Sheriff's Office.

4 Q. Okay. And periodically the software is updated and you
5 plug in and stay abreast of it and stay on top of it as it
6 evolves. Is that correct?

7 A. Yes, that's correct.

8 Q. In this case, you attempted to do that with Mr. Crumm's
9 phone. Is that correct?

10 A. That's correct.

11 Q. You were unsuccessful and unable to extract
12 information. Is that correct?

13 A. That's correct.

14 Q. And the other number that you were interested in, was
15 that phone, to your knowledge, ever recovered?

16 A. Which phone number are you referring to?

17 Q. You've got two numbers as far as our stipulation goes.
18 Let me see. I'm referring to 8276.

19 A. Is that the 532 number?

20 Q. That is the 518 number.

21 A. To my knowledge, it hasn't been recovered.

22 Q. Okay. If it were recovered, somebody would have
23 brought it to you to plug it into that machine and extract
24 the data from it. Don't you think?

25 A. That's correct.

Cross-Examination of St. Smith by Mr. Loy

1 Q. As far as who was in possession of that phone on that
2 particular day, you don't have any knowledge?

3 A. I don't know who had the phone that day.

4 Q. Or where it was the day before or the day after or who
5 called in to pay for it. Is that correct?

6 A. That's correct.

7 Q. Did Verizon provide you with any information as far
8 payment? Who pays on the phone? Who's got it at any
9 particular time?

10 A. As far as I remember, it didn't have the subscriber
11 information from Verizon.

12 MR. LOY: Thank you. I don't have anymore questions.

13 THE COURT: Any redirect?

14 AST. SOL. SORENSON: No, Your Honor.

15 THE COURT: You may step down, Sergeant. Thank you.
16 You may call your next witness.

17 AST. SOL. TEMPLETON: State calls Tonda Westbury.

18 (TONDA WESTBURY, was duly sworn and provided the
19 following testimony.)

20 THE COURT: Your witness.

21 AST. SOL. TEMPLETON: Just a moment, Your Honor.

22 (Brief pause.)

23 MR. LOY: Your Honor, may we approach?

24 THE COURT: Certainly.

25 (A bench conference was held off the record and out of

1 the hearing of the jury panel.)

2 MR. LOY: Thank you.

3 THE COURT: You may proceed.

4 AST. SOL. TEMPLETON: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY AST. SOL. TEMPLETON:

7 Q. Ms. Westbury, where are you employed?

8 A. For the Dorchester County Clerk of Court's office.

9 Q. And what is your job duties at the Dorchester County
10 Clerk of Court's office?

11 A. I'm chief deputy over the general sessions or criminal
12 division. So I supervise that division.

13 Q. As part of your duties, are you in charge of keeping
14 records for the, in particular, general sessions, criminal
15 cases, in Dorchester County?

16 A. Yes.

17 Q. I'm going to show you what's marked as State's Exhibit
18 Number 48 for identification? Do you recognize that?

19 (State's Exhibit No. 48, Court Document, was marked
20 for identification.)

21 A. I do.

22 Q. Okay. Do you have a copy of that in front of you?

23 A. I do. I have the original.

24 Q. Okay. Who is that defendant listed on that document?

25 A. Byron Christopher Kinsey.

Direct Examination of Ms. Westbury by Ast. Sol. Templeton

1 Q. If you would, give us his date of birth on that
2 document.

3 A.

4 Q. What is the charge that is listed on that document?

5 A. Carjacking without great bodily injury.

6 Q. And there's certain boxes nonviolent and violent. Is
7 one of those checked?

8 A. Yes.

9 Q. Which one is checked?

10 A. Violent.

11 Q. And at the top there is two boxes for either plea or
12 trial. Which one is this?

13 A. Plea is checked.

14 Q. Okay. And is this document ultimately signed by a
15 judge at the bottom?

16 A. It is.

17 Q. That a plea to carjacking by Mr. Byron Kinsey?

18 A. It does.

19 Q. What was the date of that plea?

20 A. The sentence date is November 10, 2004.

21 AST. SOL. TEMPLETON: I don't have any further
22 questions. Thank you.

23 THE COURT: Any cross-examination?

24 MR. LOY: No. Thank you.

25 THE COURT: You may step down, Ms. Westbury.

1 Ladies and gentlemen, just for the record, the Court
2 does make a finding that carjacking as defined by the South
3 Carolina Code of Laws is considered a violent offense.

4 You may call your next witness.

5 AST. SOL. SORENSON: Can we just briefly approach as to
6 the schedule?

7 (A bench conference was held off the record and out of
8 the hearing of the jury panel.)

9 THE COURT: Ladies and gentlemen, it's almost three
10 o'clock. It's probably a good time for us to take a brief
11 afternoon recess before we start with the next witness. We
12 will be about ten minutes. Once you're ready to proceed,
13 please let us know. We'll be right back with you. Again,
14 please remember my instruction do not discuss the case
15 amongst yourselves or with anyone else.

16 (The jury exits the courtroom at 2:51 p.m.)

17 THE COURT: All right. We'll be at ease for a few
18 minutes. Let us know when you're ready.

19 (A brief recess was taken at 2:51 p.m. The proceedings
20 resumed at 3:08 p.m.)

21 THE COURT: Parties ready for the jury?

22 AST. SOL. SORENSON: Yes, ma'am.

23 MR. LOY: I am, Your Honor. However, just if I can
24 inquire. State says they have one more witness. I don't
25 know how long that witness will be, but I know that it's

1 three o'clock. I don't believe, and I told the State, I
2 don't believe we'll be offering a defense in this case. I
3 don't think we'll be presenting testimony. Where are
4 somewhat on the fence, however, I'm not prepared to box it
5 out at this point. Would the Court anticipate if we go til
6 3:45 so? Is that reasonable?

7 AST. SOL. SORENSON: Probably, my direct is probably 20
8 to 30 minutes. I mean, it's playing a ten to 15 minute
9 apartment complex video. So, I mean, it's probably 45
10 minutes total.

11 MR. LOY: I'm asking if we reach the close of the
12 State's case around four or sometime before four, is the
13 Court inclined then to press on or we inclined to break
14 until morning?

15 THE COURT: Well, I suppose that depends if you do plan
16 on offering a defense. If you like time to make that
17 decision until the morning, I'm happy to give that to you.
18 Otherwise, I would like to go forward if you're going to not
19 present -- at least rest and then tell they jury that we
20 will argue the charge in the morning. But, I'll leave that
21 up to you: Certainly, if you need the time to talk to your
22 client whether or not he wishes present anything, that's
23 fine.

24 MR. LOY: I don't think we need more than 15 to 20
25 minutes. I don't think we would need over night.

1 THE COURT: Okay. Well, we'll see how long it takes
2 and then we'll take a brief recess once the State rests, and
3 then we'll proceed from there.

4 AST. SOL. TEMPLETON: Thank you.

5 AST. SOL. SORENSON: Thank you.

6 THE COURT: Let's have our jury, please.

7 (The jury enters the courtroom at 3:10 p.m.)

8 THE COURT: Welcome back, ladies and gentlemen of the
9 jury. Gentlemen on the front row with the blue shirt, what
10 is your name, sir?

11 JUROR: Greg Wegmann.

12 THE COURT: Mr. Wegmann?

13 JUROR: Yes.

14 THE COURT: Mr. Wegmann, since you are in that seat,
15 you look pretty comfortable there, I'm going to appoint you
16 as our foreman.

17 JUROR: Okay.

18 THE COURT: Obviously, this is a very scientific
19 process. So you are the lucky guy. Now we are ready to
20 proceed. You may call your next witness.

21 AST. SOL. SORENSON: Thank you, Your Honor. State
22 calls Lieutenant Dwayne Peters.

23 (DWAYNE ROBERT PETERS, was duly sworn and provided the
24 following testimony.)

25 THE COURT: Your witness.

1 AST. SOL. SORENSON: Thank you, Your Honor. May it
2 please the Court?

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION

5 BY AST. SOL. SORENSON:

6 Q. Lieutenant Peters, if you would, tell the jury where it
7 is that you're employed.

8 A. I'm employed by the Dorchester County Sheriff's Office.

9 Q. And how long have you been with the Sheriff's Office?

10 A. Approximately nine years.

11 Q. Okay. Do you have prior law enforcement before that?

12 A. I do. I've been in law enforcement a total of about 22
13 and a half years.

14 Q. What are current duties at the Sheriff's Office?

15 A. At this present time, I'm a lieutenant over the general
16 investigative unit. Which means I am the direct supervisor
17 over all detectives at the Sheriff's Office.

18 Q. And back in March of 2015, what capacity were you
19 employed at that time?

20 A. I was the sergeant in the general investigative unit.

21 Q. And if you would, tell the jury in what capacity did
22 you become involved in the investigation into the murder of
23 Robert Crumm?

24 A. I was notified that we actually had a shooting on
25 incident date and time, and I responded out to the Pidgeon

1 Bay, Pidgeon Bay -- apartments. And I assume the role as
2 the lead investigator in reference to the shooting.

3 Q. And when you arrived out there that evening, did you
4 become aware of the witness by the name of Sara Taylor?

5 A. Yes, I did.

6 Q. Okay. And who initially got tasked with speaking with
7 Ms. Taylor?

8 A. Detective Philip Alger was initially tasked to speak to
9 her.

10 Q. And, ultimately, did you learn that night out there
11 about a possible nickname for the suspect in this case?

12 A. I did.

13 Q. And what was that nickname?

14 A. Creep.

15 Q. And, ultimately, in the kind of early goings of the
16 investigation, did the Sheriff's Office develop two possible
17 suspects that went by that nickname Creep?

18 A. We developed the name of Lesner Gilliard and Byron
19 Kinsey.

20 Q. And just so we understand who each of those are, both
21 of them ultimately put in photo lineups that were shown to
22 witnesses?

23 A. That is correct.

24 AST. SOL. SORENSON: May I approach the witness, Your
25 Honor?

Direct Examination of Lt. Peters by Ast. Sol. Sorenson

1 THE COURT: You may.

2 Q. And showing you State's Exhibit Number 2. Is that one
3 of the lineups that was generated in this case?

4 A. It is. And that is Mr. Gilliard.

5 Q. Okay. Point out which ---

6 A. He is person number four.

7 Q. He's number four. And that would be the individual
8 that Ms. Taylor picked out of, obviously not on this lineup,
9 but ---

10 A. That is correct.

11 Q. The same lineup but on another piece of paper?

12 A. Yes.

13 Q. All right. And then I'm showing you State's Exhibit
14 Number 1. Is one of those individuals in State's Exhibit
15 Number 1?

16 A. The defendant, Mr. Kinsey, is slot number two.

17 Q. Both of those people came up initially just based on
18 that nickname?

19 A. Yes.

20 Q. Now, out there at the scene, did you speak with any
21 witnesses out there?

22 A. Mr. Savion was.

23 Q. Mr. Willis is the young man that testified yesterday?

24 A. He was.

25 Q. And did he talk to you and give you a statement out

1 there that day?

2 A. He did.

3 Q. And I'm going to go back to that in a minute. But did
4 you become aware ultimately as kind of the investigation
5 progressed whether any video was obtained from Cedar Keys
6 Apartments?

7 A. Yes. We knew from past expense that the apartment
8 complex had video on the outside.

9 Q. Okay. And let me ask you: You had an opportunity to
10 view that video from the apartment complex?

11 A. I have.

12 Q. Let me ask you: Are you able to see the actual
13 shooting on the video?

14 A. No, you're not.

15 Q. All right. Let me show you State's Exhibit Number 6
16 and 7. Where are those still photographs from?

17 A. The apartment complex.

18 Q. Who is that in the blue shirt in that ---

19 A. That's Savion.

20 AST. SOL. SORENSON: At this time, Your Honor, I'd like
21 to publish State's Exhibit Number 8 which was entered into
22 evidence yesterday with Ms. Robertson.

23 THE COURT: Yes, sir.

24 Q. If you could describe for the jury what part of the
25 apartment complex are we looking at in this camera three

1 view?

2 A. If you look straight ahead over the, I guess, garbage
3 bins, that's going to be a 500 building. If you go to the
4 left, that's going to be the entrance and exit.

5 Q. Okay. And, ultimately, this is from the day of the
6 incident, March 10th of 2015?

7 A. It is.

8 Q. Okay. And let me ask you: Were you able to determine
9 whether the time is accurate on this video?

10 A. The time is actually off by an hour. Daylight savings
11 was March 8th.

12 Q. Okay. So the clocks had just jumped forward two days
13 prior to this?

14 A. Spring forward, fall back; yes.

15 Q. Okay. All right. So what time -- this video actually
16 says 3:44. What time is actually in that ---

17 A. Approximately 4:44.

18 Q. Okay. All right. And I'm going to get this to play in
19 a second. But, ultimately, in viewing camera three here,
20 what does camera three kind of end up showing.

21 A. You're going to actually see Sara's vehicle pulling in
22 and then park.

23 Q. Okay. All right.

24 (Video begins play at 3:17 p.m.)

25 Q. That vehicle that just went across the screen there,

1 whose vehicle was that?

2 A. That's Sara's.

3 Q. Okay. So that was at 3:40, just before 3:45?

4 A. Correct.

5 Q. Okay.

6 (Video resumes play.)

7 Q. Ultimately, are you able to -- and Ryan is going to
8 zoom in -- but are able to -- what are you able to see as
9 far as that ---

10 A. Basically you see a person wearing a dark-colored
11 shirt. I'm going to just say shirt for general purposes.
12 And then a black-colored shirt exit from the passenger side.
13 There's the dark-colored and there's the light color. And
14 then they walk into the breezeway of the 500 building.

15 Q. I think we're trying to slow it back down to real time.
16 It's going a little fast.

17 (Video resumes play.)

18 Q. Okay. Two individuals appear to disappear from view at
19 that point in time?

20 A. Yes. They walked in the breezeway.

21 Q. That was at 3:45 and a little before?

22 A. Correct.

23 (Video resumes play.)

24 Q. And is anything --

25 AST. SOL. SORENSON: Can you pause it just for a second

1 there.

2 Q. From 3:46 now for about the next minute and a half to
3 two minutes, do you see anything on ---

4 A. Not on that camera.

5 Q. --- on this camera?

6 A. No.

7 Q. Okay.

8 A. It picks back up around 3:48.

9 (Video resumes play.)

10 A. And then there's Sara getting out of her vehicle.

11 Q. At what time is that?

12 A. It's around 3:48, close to 3:49.

13 Q. 3:48 and 50-some-odd seconds?

14 A. Correct.

15 Q. Okay. And, ultimately, do you see then -- are you able
16 to see anything else going on in front of that building
17 right there?

18 A. No.

19 Q. Ever able to see the victim ---

20 A. No.

21 Q. --- come out and fall down or anything?

22 A. No.

23 Q. Ultimately, do you see when the first law enforcement
24 arrive on the scene?

25 A. Yes.

1 Q. Okay. Do you know about what time that was?

2 A. I want to say 3:53.

3 Q. So about four minutes or so?

4 A. Approaching 4:53.

5 Q. So four to five minutes after what we're seeing right
6 now?

7 A. Correct.

8 Q. Okay. Now, if I could, now I want to jump over to --
9 so when Ms. Taylor gets out, that's at 3:48 and 50 some-odd
10 seconds? Is that correct?

11 A. Correct.

12 Q. Okay. Do you see -- let me show you State's Exhibit
13 Number 6. The still photos, that's another camera angle?

14 A. Yes.

15 Q. Okay. So we go to camera two.

16 (Video resumes play.)

17 Q. And just while Ryan is getting that cued up time-wise,
18 what part of the apartment complex is this camera?

19 A. That's near the office pointing towards the 300
20 building. If you look over to the left and basically look
21 down the parking lot, that's where the 500 building is. So
22 this is probably, what? Say 500 building is what -- it's
23 exact opposite.

24 Q. Across the parking lot. (Brief pause.) And,
25 ultimately -- while that's getting there -- Lieutenant, I'm

Direct Examination of Lt. Peters by Ast. Sol. Sorenson

1 showing you on State's Exhibit 6 and 7, what are the times
2 that ultimately are going to?

3 A. It's going to be 3:48:08 and then 3:48:17.

4 Q. That's going to be a half a minute or so prior to when
5 we observe Ms. Taylor get out of the vehicle?

6 A. Yes.

7 MR. LOY: Your Honor, I can't -- I didn't hear the
8 question.

9 Q. It's about a half a minute prior to what we saw earlier
10 when Ms. Taylor got out of the vehicle?

11 A. Correct.

12 (Video resumes play.)

13 Q. Is this camera angle also off by an hour?

14 A. Yes, it is.

15 (Video resumes play.)

16 Q. Who is that almost kind of in the middle of the screen
17 that's coming basically towards the camera with the blue
18 shirt?

19 A. I don't know which one?

20 Q. Who is this right here?

21 MR. LOY: Your Honor, I'm having a hard time hearing
22 the exchange between the solicitor and the witness.

23 AST. SOL. SORENSON: Sorry.

24 THE COURT: That's okay. Solicitor, if you would
25 please pick it up.

1 Q. Who is that right there?

2 A. That's Savion.

3 Q. And have you been able to identify who the other
4 individual that's out there is?

5 A. I believe her name is Ms. Waters; Caroline Waters.

6 Q. All right.

7 (Video resumes play.)

8 Q. These two still photos, State's 6 and 7, are those both
9 depicted in what we just saw?

10 A. Yes.

11 Q. And which one of those comes kind of chronologically
12 first out of those two?

13 A. The first one, right here if you notice, he's actually
14 -- Savion is at the let's say the bottom portion of the
15 handicap sign.

16 MR. LOY: Would you please describe which exhibit he is
17 looking at.

18 AST. SOL. SORENSON: State's Exhibit Number 6.

19 MR. LOY: Thank you.

20 Q. And which direction does he appear to be looking at
21 that time?

22 A. He's looking over at the left towards the 500 building.

23 Q. So that is at 3:48 and eight seconds and 4:48 and eight
24 seconds?

25 A. Correct.

Direct Examination of Lt. Peters by Ast. Sol. Sorenson

1 Q. And then going on to State's Exhibit Number 7, what is
2 Savion done between State's Exhibit Number 6 and State's
3 Exhibit Number 7?

4 A. At approximately on the time 3:48:17, he actually moved
5 back to the top of the no parking sign.

6 Q. Yet again, what direction is he was looking?

7 A. And he's still looking over towards the 500 building.

8 Q. What is he do almost immediately after backing up to
9 that spot in State's Exhibit Number 7?

10 A. Right after that, he starts running towards his house.

11 Q. And the other lady out in the parking lot, does she
12 ever really appear to move or is she out in the middle of
13 the parking lot the entire time?

14 A. She's just in the parking lot.

15 Q. Now you heard his testimony yesterday. Is that
16 correct?

17 A. I did.

18 Q. Is it consistent with what he told you when you met
19 with him?

20 A. Yes, sir.

21 Q. Back in March of 2015?

22 A. Yes, it was.

23 MR. LOY: Objection, Your Honor. That's bolstering.

24 THE COURT: Sustained. Let's move on.

25 Q. Did you have an opportunity, Lieutenant, to --

1 obviously you've had a chance to review not only the video
2 but also the still photos. Is that correct?

3 A. Yes.

4 Q. Have you had an opportunity to go back out to that
5 apartment complex?

6 A. I have.

7 Q. And what was the weather conditions and the time of day
8 when you went out there?

9 A. Basically, the same time, the same weather conditions
10 as the incident location and date.

11 Q. Okay. And what was the purpose of you going out there
12 and did you have these still photographs with you when you
13 went out there?

14 A. I did.

15 Q. Tell the jury what was the purpose of you going out
16 there with those still photographs.

17 A. Mr. Willis said that he saw a person shoot Mr. Crumm in
18 the back. And I actually wanted to see how far you can
19 actually see down the breezeway to see if we could
20 substantiate what he said.

21 Q. Okay. And tell the jury as a result of you looking
22 initially kind of standing, standing at the -- in State's
23 Exhibit Number 6 where he was, were you able to see into the
24 breezeway and ---

25 A. Yes, you could.

Direct Examination of Lt. Peters by Ast. Sol. Sorenson

1 Q. And about how far into the breezeway were you able to
2 see?

3 A. Not all the way through. It's blocked by the stairway
4 and all that. It's very poorly lit.

5 Q. And as we move to State's Exhibit Number 7, nine
6 seconds later, what was Savion -- as he had testified
7 earlier, had moved ---

8 A. Backwards.

9 Q. --- backwards a little bit?

10 A. You could see further down the breezeway.

11 Q. Okay. That was going to be my question. Did that
12 improve or hinder more his view into that breezeway?

13 A. It improved.

14 Q. And you've had an opportunity to -- you were out there
15 at the scene. Is that correct?

16 A. That is correct.

17 Q. And you have had an opportunity to view the crime scene
18 photos and stuff of that nature?

19 A. Yes.

20 Q. Are you familiar with where the shell casings were
21 found?

22 A. I am.

23 AST. SOL. SORENSON: Beg the Court's indulgence once
24 second.

25 Q. Let me ask you this: The area that -- would Mr. Willis

1 had been able to see, from you're going out there and
2 observing that area, where Mr. Crumm's body ultimately ended
3 up?

4 A. Yes.

5 Q. And the jury heard testimony about there was, you know,
6 one of the shell casings right near his body. Is that
7 correct?

8 A. That is correct.

9 Q. Okay. Would he have been able to see that vicinity of
10 where that shell casing was found?

11 A. Yes.

12 Q. How about ---

13 THE COURT: What number is that, Solicitor?

14 AST. SOL. SORENSON: I'm sorry. That is 15.

15 Q. And are you familiar with that crime scene diagram?

16 A. I am.

17 Q. And the jury heard I believe it's number, marker number
18 8. Is that correct? It's another shell casing.

19 A. That is correct.

20 Q. And from your vantage point, were you able to see that
21 far into to the breezeway from where Savion was standing?

22 A. Yes, I could.

23 Q. Okay. How about where the other, the third shell
24 casing, is, number 12 back here?

25 A. No, I couldn't.

Direct Examination of Lt. Peters by Ast. Sol. Sorenson

1 Q. Let me ask you: As far as when you were out there also
2 did you have an opportunity to look kind of from the vantage
3 point where this lady is out in the parking lot?

4 A. Yes.

5 Q. Were you able to, from here vantage point, see into the
6 breezeway?

7 A. No, I wasn't.

8 Q. Let me ask you this, Lieutenant: Has a firearm ever
9 been recovered in this case?

10 A. No, it hasn't.

11 Q. And I assume as the lead investigator, did you become
12 aware that evening that Ms. Taylor had identified photograph
13 number four, Mr. Gilliard, in Defense Exhibit Number 2?

14 A. I was.

15 Q. Do you know if she was ever shown a lineup such as this
16 one containing Mr. Kinsey?

17 A. She was not.

18 Q. Did you go arrest Lesner Gilliard that night?

19 A. We did not.

20 Q. Tell the jury why not.

21 A. Past experiences with eyewitness's testimony, sometimes
22 they're wrong. What waited to get the forensic evidence
23 that we had collected on the cell phones, phone records,
24 processed the vehicles for latent prints and all, all that,
25 to either corroborate Sara's identification or exonerate

1 Sara's identification. So that's why we waited.

2 Q. And did that occur over the rest of that evening and
3 into ---

4 A. It was the next couple of days.

5 Q. --- the next several days. Ultimately, was an arrest
6 warrant issued for the defendant, Byron Kinsey?

7 A. It was on March 12th.

8 Q. Are you aware of when he was arrested?

9 A. We served our arrest warrant on June 23rd.

10 Q. So three months and ten, 11 days later?

11 A. Correct.

12 Q. Of 2015?

13 A. Yes.

14 Q. The last thing, it's already in evidence, but just so
15 there's no -- did you have an opportunity back in October of
16 2016 to obtain anything from Mr. Kinsey?

17 A. I obtained the Mr. Kinsey's DNA basically from a buccal
18 swab; utilized a buccal swab.

19 Q. Gotcha. And that's State's Exhibit 42? That would be
20 what you collected from him?

21 A. It is.

22 Q. And that's what was sent up to the State Law
23 Enforcement Division for that DNA testing we heard about?

24 A. Yes. That's the known standard.

25 AST. SOL. SORENSON: Beg the Court's indulgence. Thank

Cross-Examination of Lt. Peters by Mr. Loy

1 you, Lieutenant. Please answer any questions Mr. Loy has.

2 THE COURT: Cross-examination?

3 MR. LOY: Briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. LOY:

6 Q. Good afternoon, Detective.

7 A. Good afternoon, sir.

8 Q. So early on in your investigation you were told or you
9 developed Creep as a lead and that was something that you
10 wanted to follow up on. Is that correct?

11 A. That is correct.

12 Q. And early on in your investigation you spoke with
13 another law enforcement officer, different department, who
14 gave you the name of Mr. Gilliard. Said I think this is a
15 person of interest in your case. Is that correct?

16 A. That is correct.

17 Q. And with that information the lineup that was shown to,
18 I think, it's Ms. Taylor was produced. Is that right?

19 A. That is correct.

20 Q. And that's this -- I'm showing you State's Exhibit --
21 well, Defendant's Exhibit, number five, six and number two.

22 A. Yes, sir.

23 Q. Now, at this point, you had an eyewitness to a homicide
24 in Ms. Taylor; yes?

25 A. Yes.

1 Q. Okay. She had indicated she thought she would be able
2 to identify the person she spent hours with or a long time
3 with that afternoon. Is that right?

4 A. That's correct.

5 Q. She gave you the name of a person, Creep. I mean, not
6 a real name. Not a given name, but a, well, a given name by
7 someone, but a nickname. Is that right?

8 A. Yes.

9 Q. Okay. You compiled or someone on your behalf compiled
10 the photographic lineup that we've looked at together; yes?

11 A. Yes.

12 Q. It contains Mr. Gilliard's picture in it.

13 A. Yes.

14 Q. And he's the one, at that point in time, you had known
15 as Creep; yes?

16 A. Correct.

17 Q. And you wanted you know whether or not Ms. Taylor could
18 pick out the person who had been in the car with her; yes?

19 A. Yes.

20 Q. She was presented with a lineup, picked out a person,
21 and said that's the guy; yes?

22 A. Yes.

23 Q. And whether by coincidence, happenstance, or whatever,
24 she picked the guy named Creep; right?

25 A. Yes.

Cross-Examination of Lt. Peters by Mr. Loy

1 Q. Okay. Now at this point, you felt this pretty strongly
2 suspicious, did you not? I mean, you're were kind of on
3 this guy's trail at this point. I mean, he is Creep. He is
4 in the lineup. He's known to law enforcement over there in
5 Summerville. She picks him out and says this is the guy.
6 At this point, you're pretty hot on this guy's trail; no?

7 A. We are. But we're also working the other name Creep
8 for Mr. Kinsey. And while the lineup is being showed,
9 Detective Smith was working on the phone records. And we
10 started obtaining the phone records, and a number associated
11 with Mr. Kinsey popped up. So now we're . . .

12 Q. And we can talk about that. But for purposes of this
13 exchange, what I'm asking you is: When you got a guy named
14 Creep, why put together the lineup?

15 A. It's a standard that we do.

16 Q. Do you rely on it? Is it something that's useful?

17 A. It is.

18 Q. And you put one together and you had a guy you wanted
19 to see if she could identify. She picked him out and said
20 that's the guy. Are you really going to tell the ladies and
21 gentlemen of the jury that at that point in time, at that
22 moment, no, that wasn't important in your investigation?

23 A. No. It was very important.

24 Q. Okay.

25 A. But we were also working different angles.

1 Q. I know. But we're not talking about them now. We
2 will. So at that point, you had this guy in your sight and
3 you say you're looking at other possible explanations also.
4 Is that correct?

5 A. Correct.

6 Q. Okay. And very shortly, you were able to develop
7 forensic evidence. Is that right?

8 A. That is correct.

9 Q. And the forensic evidence that was developed from the
10 Acadia -- I think it's an Acadia. The car that Sara Taylor
11 arrived at the Cedar Keys Apartment in. What was that
12 again?

13 A. We developed forensic evidence from Mr. Middleton's
14 vehicle and the beer can.

15 Q. Okay. And I know you don't want to talk about what I
16 want to talk about. I want to talk about the Acadia.

17 A. Okay.

18 Q. And then we'll talk about the beer can in the Suburban
19 also. But the Acadia, what relevant to your investigation
20 in this murder case was recovered from the Acadia?

21 A. There was no forensic evidence relating to subjects
22 recovered from -- off of Sara's vehicle.

23 Q. Nothing whatsoever?

24 A. Correct.

25 Q. So there wasn't any evidence whatsoever to tie Lesner

1 Gilliard or Mr. Kinsey to that vehicle?

2 A. No.

3 Q. Indicate either one of them had ever been in it?

4 A. Correct.

5 Q. The evidence that either one of them had been in it was
6 from an eyewitness who said I spent hours, several hours,
7 with the man that day and that's him. That's the only
8 evidence you had as to who had been in that vehicle. Is
9 that right?

10 A. That's correct.

11 Q. Okay. Now, subsequently, you were able to develop
12 forensic evidence, or someone on your behalf was able to
13 develop forensic evidence tying Mr. Kinsey to a Suburban.
14 Is that right?

15 A. That is correct.

16 Q. Okay. And the story that you received was that a
17 person had walked up dressed all in black, calm, cool, not
18 huffing and puffing, not sweating, not showing signs of
19 panic, exertion, or any undue discomfort, and said, you
20 know, like I'm talking to you, "I need a ride. I'll give
21 you 20 bucks if I can get a ride to Robynwyn." Is that
22 right?

23 A. Yes.

24 Q. You compared that with the story given by Savion, your
25 other eyewitness to the shooting; yes?

1 A. Yes.

2 Q. Who said that a person wearing a black shirt and beige
3 pants had done the shooting; yes?

4 A. Yes.

5 Q. You saw discrepancies between the two versions given as
6 far as the clothes that they were wearing; yes?

7 A. Yes.

8 Q. You considered that; yes?

9 A. Yes.

10 Q. And you said there is no other possible explanation I
11 can go with at this point other than Mr. Kinsey must have
12 done this shooting; yes?

13 A. You're also leaving out the fact that we found Mr.
14 Crumm's wallet.

15 Q. You found Mr. Crumm's wallet. I understand that. You
16 didn't bring it up with the Solicitor, but that's good. You
17 found his wallet. There was no touch DNA on the wallet; no?

18 A. At that time, we did know. No.

19 Q. Well there never was, was there?

20 A. Well, no.

21 Q. Okay. There weren't any fingerprints taken from the
22 wallet; no?

23 A. None were developed.

24 Q. You were familiar with touch DNA. You could request
25 them to do that, try to get that on there, wouldn't you?

1 A. Correct.

2 Q. If you had developed that and it had Mr. Gilliard's DNA
3 on it or Mr. Kinsey's, would've been critical to your
4 investigation, wouldn't it?

5 A. That is correct.

6 Q. And the reason it would've been critical to your
7 investigation is because all these possibilities are still
8 out there. That would have gone a long way toward tying one
9 up, wouldn't it?

10 A. Correct.

11 Q. So you've got the other possibilities out there. You
12 got her identifying the guy named Creep, and then you've got
13 Mr. Kinsey who is in the neighborhood. Basically, you prove
14 he's in the neighborhood and drank a beer with the man who
15 gave him a ride out; yes?

16 A. Yes. But we also have phone records.

17 Q. At that point, you didn't have the phone records, did
18 you?

19 A. Actually, we received the phone records very quickly.

20 Q. You had them on the 12th? Two days.

21 A. We had them that night.

22 Q. And you and the analysis done?

23 A. We started to do the analysis. And we came up with the
24 number that Mr. Kinsey was associated with back on the 10th.

25 Q. And there were other numbers in that phone book or

1 other calls made?

2 A. Yes.

3 Q. Other numbers associated with it?

4 A. Right.

5 Q. You had some prior indication at one point in time Mr.

6 Kinsey had been associated with that number; yes?

7 A. Correct.

8 Q. You didn't have a bill that said he was paying it, did
9 you?

10 A. No. It was prepaid.

11 Q. He wasn't -- the phone was not recovered on his person;
12 no?

13 A. No.

14 Q. You don't have any idea who was in possession of the
15 phone on that particular day, do you?

16 A. No.

17 Q. So based on this, you said there's no need for me to go
18 find this guy Gilliard. It can't be him; yes?

19 A. We actually attempted to find Mr. Gilliard.

20 Q. But for some reason or another you just couldn't do it,
21 huh?

22 A. Mr. Gilliard just didn't want to talk to us.

23 Q. Surprising. You've recovered no evidence tying
24 Mr. Kinsey to the crime scene itself. That is touch DNA on
25 the casings, the shell casings, that were recovered nearby

1 or the cigarette pack that was picked up there.

2 A. That is correct.

3 Q. There was no indication any blood was in the vehicle of
4 the Suburban. Is that correct?

5 A. Correct.

6 Q. Although, Ms. Taylor when she was picked up was
7 described as having blood on her hands, blood on her face.
8 And I understand there was a lot of blood on the scene. The
9 person -- and the person who shot Mr. Crumm is then
10 described as having gone out rummaging through his pockets
11 and his body. Is that right?

12 A. That is correct.

13 Q. Okay. At least these shoes, whoever that was,
14 presumably were bloodied because we have the bloody
15 footprints; yes?

16 A. Yes.

17 Q. And those shoes or anything like them were never
18 recovered or a comparison made; no?

19 A. No.

20 Q. That evidence was worthless. I mean, it never went
21 anywhere -- just the shoe moldings. Is that right?

22 A. Correct.

23 Q. Mr. Gilliard just wouldn't talk to you?

24 A. No, he won't.

25 Q. What did you do with the information that you were

1 given conflicting? That is when Savion -- and I don't mean
2 to say it French. I don't know how to say his name. The
3 young man who came in earlier who you had his picture up
4 here. When he described a person as wearing a black shirt
5 and beige pants, and the Middleton's describe the person
6 wearing all black, how did you -- you noticed that?

7 A. Yes, I did.

8 Q. Did you go back to either one of them and ask if they
9 could clarify or clear it up?

10 A. A lot of times people will misidentify clothes. We
11 look at it. We try to -- we don't ---

12 Q. I'm not asking you for your procedure. I'm asking you
13 in this case, did you go back to either one of those
14 witnesses and try to clear up this discrepancy since you had
15 made the obvious conclusion there was no other explanation
16 that they were one in the same guy despite having been
17 described as wearing different clothing. Did you go back to
18 the witnesses and ask for clarification?

19 A. No. Because they were quite adamant about the clothes.

20 Q. They were both sure?

21 A. Yes.

22 Q. You were the only officer who was allowed to sit
23 through the entire case. So you've been here for the entire
24 course of testimony seated at the Solicitor's table. Is
25 that correct?

Cross-Examination of Lt. Peters by Mr. Loy

1 A. Yes, sir, that is.

2 Q. And that's because of your status as chief
3 investigating officer you are entitled, despite an order of
4 sequestration for the other witnesses, to sit through the
5 trial in its entirety. Is that right?

6 A. Yes, sir.

7 Q. And how long have you been in law enforcement?

8 A. Twenty-two and a half years.

9 Q. And you are now employed in supervisory capacity. Is
10 that correct?

11 A. That is correct.

12 Q. Tell me in your experience what the proper procedure is
13 for conducting a photo lineup.

14 A. The proper procedure -- you have the disclaimer form?

15 Q. It's probably down here somewhere. I won't hold you to
16 it word for word. But if you need it, I'll try to find it.

17 A. The disclaimer is read. Normally, how it works is,
18 what we try to do, is we involve a detective who that is not
19 associated with the case and doesn't know anything about the
20 case, doesn't know anything about the suspect. Obviously,
21 it's just, I guess, CYA probably would be the best way.

22 They can't be accused of pointing out the suspect. So they
23 will read the disclaimer and show, present the lineup. If a
24 subject is identified, they will circle whether it be the
25 small little number underneath or circle the entire picture,

1 they'll date it, sign it. And then they will go back to the
2 waiver and circle the number then sign it. And then the
3 witness will actually sign it.

4 Q. And the disclaimer, the crux of the disclaimer, again,
5 not word for word, but the gist of it as best you can give
6 it to us, is what?

7 A. It is basically a need to identify subjects involved in
8 the act or exonerate subjects from the act.

9 Q. And one is neither more important than the other?

10 A. That is correct.

11 Q. And you heard the witness testify that the police
12 officer -- I assume it's someone you supervise. Is that
13 right?

14 A. I have, yes.

15 Q. Who is the person who presented that photo lineup to
16 Ms. Taylor, if you recall?

17 A. That would have been Detective Brian Mosier.

18 Q. Have we seen him this week?

19 A. No, we haven't.

20 Q. Detective Brian Mosier presented it. Is he a person
21 you currently supervise?

22 A. No, I don't.

23 Q. Is he still employed with the Sheriff's Department?

24 A. He is.

25 Q. You heard her describe as an officer assisting you in

Cross-Examination of Lt. Peters by Mr. Loy

1 the investigation of your case, murder case, chief
2 investigating officer, describe -- he was a detective?

3 A. He was.

4 Q. Describe the detective working at your behalf is
5 approaching her presenting her with a photo lineup. And
6 when she said she couldn't identify anybody in there, she
7 claims that then he cajoled her, told her pick one,
8 basically we're at a dead end, we need to go somewhere, can
9 you pick one. Just pick the best one. Did you hear that
10 testimony?

11 A. I did.

12 Q. If that were correct, assuming arguendo for purposes of
13 the discussion that that is correct, would that be
14 appropriate behavior?

15 A. No, it would not.

16 Q. Would that be sanctionable behavior?

17 A. No.

18 Q. By sanctionable, I mean such as ---

19 A. Disciplined?

20 Q. Yes.

21 A. Yes.

22 Q. Would that be subject to getting you fired from
23 detectives or at least from the Sheriff's Department
24 entirely?

25 A. He would probably be outside of the detectives very

1 quickly and into another law enforcement capacity, if not
2 fired from the Department.

3 Q. You have known Detective Mosier for quite a while. Is
4 that right?

5 A. At that time, approximately, maybe a year.

6 Q. In this point in time, you've known him in about three.
7 Is that right?

8 A. Yes.

9 Q. Is called upon, you would vouch for him. Your belief,
10 your confidence in his integrity and professionalism, would
11 you not?

12 A. Yes, I would.

13 Q. You don't have any reason to believe he went down there
14 and tried to force her to pick somebody she couldn't
15 identify, do you?

16 A. No.

17 Q. Because you would follow up on that if he did, wouldn't
18 you?

19 A. Yes, sir.

20 Q. And that would mess with your case, right?

21 A. Yes, sir.

22 MR. LOY: One moment, Your Honor. (Brief pause.) Thank
23 you. I have no more questions.

24 THE COURT: Any redirect?

25 AST. SOL. SORENSON: Beg the Court's indulgence. (Brief

Cross-Examination of Lt. Peters by Mr. Loy

1 pause.) Nothing further, Your Honor.

2 THE COURT: You may step down. Thank you. You may
3 call your next witness.

4 AST. SOL. SORENSON: Your Honor, at this time, the
5 State would rest.

6 THE COURT: Ladies and gentlemen of the jury, the State
7 has rested their case at this time. If you would please
8 return to your jury room for a brief moment. We must handle
9 some matters outside of your presence. Although, the State
10 has rested, it is still not appropriate for you to discuss
11 this case amongst yourselves. We'll be right back with you.
12 Thank you.

13 (The jury exits the courtroom at 3:54 p.m.)

14 THE COURT: Any motions?

15 MR. LOY: Your Honor, may I see the indictments ---

16 THE COURT: Sure.

17 (Brief pause.)

18 MR. LOY: I won't have -- the Court's asking whether I
19 have a directed verdict motion or not. I do not?

20 THE COURT: All right, sir. Thank you. And in regards
21 to speaking with your client, do you need a few minutes
22 before I place him under oath regarding his wish to testify
23 or not?

24 MR. LOY: Yes, ma'am. If we could have -- I don't
25 think it would be more 15, and it may be less. But I would

1 like to take him downstairs, if we can, to meet with him
2 down there, myself and Mr. Kinsey.

3 THE COURT: Why don't we do this so we don't keep the
4 jury waiting. If you do anticipate putting a defensive up,
5 do you anticipate it being more than your client? I'm not
6 going to hold you to this, of course. But just for planning
7 purposes to the let the jury go or to continue on. How long
8 would you anticipate to take if you did put up a defense?

9 MR. LOY: For planning purposes, and I understand the
10 Court is not boxing me in, I wouldn't anticipate calling
11 more than one witness. And I don't anticipate doing that.
12 But I do want to make sure we've discussed it in full and
13 we're comfortable making that presentation to the Court.

14 THE COURT: Why don't we do this: Before you go down,
15 I'm going to bring the jury in and let them go for the
16 evening. And then we'll proceed in the morning whether or
17 not your client wishes to testify. I'll go ahead -- we can
18 go ahead and discuss -- well, that way you can go downstairs
19 and take as much time as you need and we'll bring him back
20 tomorrow.

21 MR. LOY: Thank you, Your Honor.

22 THE COURT: Let's have our jury, please.

23 (The jury enters the courtroom at 3:58 p.m..)

24 THE COURT: Welcome back, ladies and gentlemen of the
25 jury. Thank you for your patience. I certainly want to be

1 mindful of your time. It's about four o'clock now and we
2 certainly had a long day of testimony. And I'm certain
3 everyone is ready to get home and take care of their
4 personal business. Like I said yesterday, I know most
5 people don't live right close to the courthouse. So it's a
6 good time for us to take our evening recess. If you would,
7 again, please report to your jury room again at nine o'clock
8 in the morning then we'll resume with the trial of the case.
9 Please remember my instructions to not discuss this case
10 with anyone. That includes, of course, your fellow jurors,
11 your family, your friends. And please do not do any
12 independent research of any issues that have been raised.
13 Have a good evening and we'll see you in the morning.

14 (The jury exits the courtroom at 3:59 p.m.)

15 THE COURT: Counsel, that should give you sufficient
16 time to talk to your client without being rushed. So we
17 will reconvene at nine in the morning and we'll proceed and
18 I'll place your client under oath. And then you can let me
19 know if you wish to present any evidence or not.

20 MR. LOY: Thank you very much, Your Honor.

21 THE COURT: And we also have already -- I'm not sure if
22 my clerk already gave you the proposed jury instructions for
23 tomorrow. We'll go ahead and give those to y'all if 'all
24 want to review them so we're all on the same page for the
25 morning.

1 MR. LOY: Thank you, Your Honor.

2 AST. SOL. SORENSON: Thank you.

3 THE COURT: Y'all have a good night.

4 (The proceedings adjourned for the day at 4:00 p.m.)

5 - - - - -

6 (The proceedings resumed on Thursday, May 18, 2017, at
7 9:23 a.m.)

8 THE COURT: Mr. Loy, have you had an opportunity to
9 discuss with your client whether or not he wishes to
10 testify?

11 MR. LOY: I have, Your Honor.

12 THE COURT: And has he indicated to you whether or not
13 he does?

14 MR. LOY: He has indicated his contention is to refrain
15 from testimony, to remain silent, proceed to closing.

16 THE COURT: All right. Mr. Kinsey, if you would,
17 please stand.

18 (The defendant, Byron Christopher Kinsey, is duly
19 sworn.)

20 THE COURT: Mr. Kinsey, at this time I'm going explain
21 to you certain of your rights. If you do not understand
22 anything that I say, please let me know. If you want me to
23 explain anything in more detail, also please let me know.
24 Do you understand?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: We have now reached the stage of the trial
2 where you may present your defense. You have the right to
3 claim the protections given to by the Fifth Amendment of the
4 Constitution of the United States. This amendment states in
5 part that no person shall be compelled in any criminal case
6 to be a witness against himself. This means that you cannot
7 be required to testify in this case. You have the right to
8 testify on your own behalf. However, no one can make you
9 testify. This is a personal right and no one can waive this
10 right except for you.

11 If you decide to testify, you will be subject to the
12 same rules that govern the other witnesses, and you may be
13 examined and cross-examined on any relevant issue in this
14 case. In addition, if you have any convictions involving
15 dishonesty or false statement or for crimes punishable by
16 imprisonment for more than one year, and the Court
17 determines that the probative value of admitting this
18 evidence outweighs its prejudicial effect to you, the
19 Solicitor will be able to introduce your record to attack
20 your credibility. If you decide to testify, this decision
21 on your part must be made freely, voluntarily, and
22 intelligently with the knowledge of the protections given to
23 by the Fifth Amendment and that consequences of your
24 decision to testify. If you decide not to testify, I will
25 instruct the jury that they cannot give the fact that you

1 did not testify any consideration whatsoever, that there is
2 to be absolutely no prejudice to you because you did not
3 testify. It is left entirely up to you as to whether or not
4 you wish a testify. You can talk to your attorney, your
5 family, your friends, anyone else, but the final decision is
6 entirely up to you. Do you understand what I have explained
7 to you?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Do you have any questions about what I have
10 explained to you?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Have you discussed with your attorney
13 whether or not you wish to testify?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you need anymore time to talk to your
16 attorney as to whether or not you wish to testify?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Do you wish to testify in this case?

19 THE DEFENDANT: No, ma'am. Honor.

20 THE COURT: All right, sir. You may be seated.
21 Anything further before we bring the jury out?

22 MR. LOY: No, Your Honor.

23 THE COURT: All right. Let's have our jury please.

24 (The jury enters the courtroom at 9:28 a.m.)

25 THE COURT: Good morning, ladies and gentlemen of the

1 jury. Welcome back. We're now ready to proceed with the
2 trial of this case. Counsel for the defense.

3 MR. LOY: Your Honor, at this time, the defense would
4 rest.

5 THE COURT: Ladies and gentlemen, both sides have
6 rested their cases in this matter. It is now time for the
7 closing arguments. You may proceed, Solicitor.

8 AST. SOL. SORENSON: Thank you. May it please the
9 Court, Your Honor?

10 THE COURT: Yes, sir.

11 CLOSING ARGUMENTS

12 AST. SOL. SORENSON: Good morning, Mr. Foreman, ladies
13 and gentlemen of the jury. I submit to you it's hard to
14 imagine a more malicious, evil act in what was done to
15 Robert Crumm back on March 10th of 2015. Shoot a man from
16 behind, an unarmed man from behind, two times, go up to him,
17 go through his pockets, steal his wallet while he's
18 basically drowning in his own blood on that sidewalk, and to
19 runaway and leave him to die there in the arms of his
20 girlfriend. It takes a cold, evil-spirited man to do that.
21 The type of person I submit to you that will then pop up
22 moments later, calmly and coolly, asking for a ride out of
23 the area because I need to get out here really bad. That
24 fact that the man would then lie to that person, go back and
25 hide this wallet, and then sit back and drink a 24-ounce

1 beer. pure. I submit to you there is no doubt, no doubt,
2 that Byron Christopher Kinsey, Creep, maliciously, in cold
3 blood, shot and killed Robert Crumm, robbed him, left him to
4 die two years ago.

5 I want to talk to you for a little bit this morning --
6 I promise you I'm not going to be super long -- about what I
7 submit to you are the cold, hard, stubborn facts that prove
8 his guilt beyond, not only a reasonable doubt, but I submit
9 to you in this case, beyond any and all doubt. And the
10 first thing I want to talk, because I know you're going to
11 hear a whole lot about it from Mr. Loy when he gets up here,
12 there is no question about it on the evening this happened,
13 three hours later or so, that Sara Taylor picked Lesner
14 Gilliard out of this lineup. No doubt about it. You
15 listened to their questioning -- and I submit to you, when
16 you listen to Mr. Loy's argument, the argument is that
17 should've ended the investigation I guess at that point in
18 time. You got a guy who goes by the nickname Creep. She
19 picked him out. It's over. It's over. Let me ask you this
20 though: I mean, seriously, are you kidding me? That's
21 where it's supposed to end? Can you imagine if instead of
22 the 12 of y'all, 14 of y'all with the alternates, sitting
23 here this week listening to the trial of Byron Christopher
24 Kinsey instead we were sitting here listening to the trial
25 of Lesner Gilliard for this homicide. Can you imagine what

1 we would be hearing from the defense? There were none of
2 Mr. Gilliard's prints on any of the vehicles in this case.
3 Mr. Gilliard's prints weren't on the beer can. Mr.
4 Gilliard's prints weren't on Alphonso Middleton's white
5 suburban. Lesner Gilliard DNA wasn't on this beer can left
6 behind. You know, we got this other guy who goes by the
7 nickname Creep also, Byron Christopher Kinsey. Just like
8 you got to hear a whole lot about the name Lesner Gilliard
9 getting thrown out; suspecting Mr. Gilliard's trial, Mr.
10 Kinsey's name would be thrown out all the time. But guess
11 what when you look at that? What else would we hear? You
12 know, you got this other guy who also goes by the nickname
13 Creep, Byron Kinsey. And guess what? This Byron Kinsey
14 guy, a phone that he used back in 2015, is calling the
15 victim multiple times right before Creep gets picked up 40
16 minutes or so before the homicide. And that phone that
17 Byron Kinsey used back in 2015 is tracking from North
18 Charleston all the way into Summerville around Cedar Key
19 Apartments and then all the way out to Charleston right
20 where Alphonso Middleton says that he took him. And this
21 Byron Kinsey guy, he got picked out of a lineup by Alphonso
22 Middleton. And you heard him -- and I'm going to talk to
23 you about that in a few minutes -- but how positive he was
24 about the person he picked out. That he interacted with
25 that day... Alphonso Middleton picks out Byron Kinsey, the

1 person that he physically interacted with, talked with, as
2 opposed to just having him sitting in the back seat for 40
3 minutes. Byron Kinsey's prints are on the Suburban. Byron
4 Kinsey's prints are on the beer can. Byron Kinsey's DNA is
5 on the beer can. Not Lesner Gilliard's. And this is all
6 relevant because if we're talking about less than probably
7 five minutes after, I mean, five minutes before law
8 enforcement has even arrived. Probably less than five
9 minutes after Robert Crumm is shot, that wallet is being
10 hidden. Robert Crumm's wallet is being hidden behind a
11 trailer. The same trailer that the person that left this
12 fingerprint left these fingerprints and his DNA on this beer
13 can was at.

14 I mean, those facts, ladies and gentleman -- and I'm
15 going to talk a little bit more about them and kind of put
16 them in context -- those are the facts that they ultimately
17 want you to ignore, to not pay attention to. They want you
18 to focus on this right here; this right here. And I don't
19 know why she picked him out. I mean, if that's literally
20 just, you know, potluck. I mean, a one in six chance. And
21 keep in mind she's never shown, unfortunately, never shown
22 this lineup. So we don't know if she was shown this one
23 first if she may have picked out Byron Kinsey. I don't
24 know. I suspect when you look at her testimony, her
25 opportunity to observe the individual was not nearly the

1 same as Alphonso Middleton's. Remember, she picks this
2 person up. Never met him before. He gets in the back seat.
3 They spend 40 minutes at the most, maybe, driving around.
4 She's not face-to-face talking with him. She's not even the
5 one interacting with him because Rob is doing that. And
6 he's behind her the entire time. I suspect if she had
7 picked, you know, if she had been shown this lineup and
8 picked Byron Kinsey out of this lineup, suddenly those would
9 be the facts that they would be screaming about. You know,
10 she didn't have an opportunity to really ever look at him.
11 So how could she be sure that that was the right person?
12 Where Alphonso Middleton, as I said, had an opportunity to
13 interact when this person comes walking up to him and they
14 converse out there and then he rides with him all the way
15 down to Charleston. Shares a beer with him in the car.
16 Don't let them take your attention off of, I submit to you,
17 those cold, hard, stubborn facts that prove that Creep's
18 guilt beyond all that.

19 Now, I want to look at them; look at those facts a
20 little bit. And I think, you know, kind of when I was
21 looking at this last night trying to figure out how to kind
22 of go about laying it out for you, I almost kind of want to
23 go backwards. It's almost like kind of putting a -- almost
24 like a logic puzzle I'm looking at. And the first kind of
25 question that I think we need to look at is very simple. Is

1 whether the defendant was the person who got a ride from
2 Alphonse Middleton over on Gospel Lane? Whether Byron
3 Kinsey is the person that showed up at this trailer where
4 that wallet was ultimately found and got a ride. And I
5 submit to you when you look at that question, there is
6 literally no, no, doubt about it. As I said, Alphonso
7 Middleton identifies him. The defendant's fingerprint, his
8 right middle finger, is found on that Suburban. His DNA is
9 found on the beer can that is left behind. His fingerprints
10 along with Alphonso's fingerprints are found on that beer
11 can. I submit to you there is absolutely no doubt the phone
12 that he used in 2015 that I'm going to talk about in a few
13 minutes also that kind of links this whole thing together,
14 that phone ends up tracking from Summerville, around Gospel
15 Lane, all the way down to Charleston exactly where Alphonso
16 Middleton says he dropped him off between, you know, that
17 five to 6:00 p.m. time frame that night. I submit to you
18 there is absolutely no question that Byron Kinsey is the
19 person that walked up, calmly and coolly, I mean, literally
20 moments after Robert Crumm was shot, asked for that ride,
21 hid that wallet, got in that car, had him take the layout
22 here where you would avoid any law enforcement. And got
23 dropped off down in Charleston. After initially -- I'm
24 going to get back to this in a second -- but after initially
25 asking for a ride to Robynwyn, a neighborhood right in

1 Summerville. And that's going to be important in a minute.
2 I submit to you no question.

3 So then the second question you got to look at is
4 whether the person, that person, that showed up on Gospel
5 Lane and got that ride and whether he's the person that
6 killed Robert Crumm. And I submit to you when you look at
7 the facts, put the puzzle together, there's no doubt about
8 that either. There's no doubt about that either. And the
9 first thing I want to talk to you about in that regard is
10 kind of the time frame; the time frame. Keep in mind, I
11 mean, Gospel Lane is literally basically right across the
12 street from Cedar Key Apartments. Okay. And you had an
13 opportunity yesterday to see the video from the apartment
14 complex. And, unfortunately, it doesn't show the actual
15 shooting. But it does give us kind of some context as far
16 as not only times that things happen, but also kind of where
17 people were and what they would've had an opportunity to
18 observe. If you look at it, it's 4:45 in the afternoon.
19 Sara Taylor's GMC Acadia parks in front of building 500,
20 4:45. Maybe 40 minutes after they picked up Creep. That
21 last phone call, if you remember, the last phone call from
22 that number that Creep used back in 2015 was at 4:02. So if
23 you assume that they -- and you remember Sara's testimony
24 that there was some conversation about, you know, trying to
25 figure out where to pick him -- where to get him basically.

1 So if you for argument's sake say that they picked him up
2 right after that last phone call, it's 4:02, 4:03 or so. So
3 you're talking 40 minutes maybe in between that they're
4 driving around unlike the several hours that came out of Mr.
5 Loy's mouth multiple times when he was questioning
6 Lieutenant Peter's yesterday. But they park at 4:45, okay.
7 4:48 and eight seconds, okay. So less than three minutes, I
8 submit to you, later Robert Crumm is being shot. Because
9 that's when you see on the video on the other camera angle
10 Savion Willis first turn and look. I submit to you he's
11 heard the commotion down there, turns and looks. And Sara
12 Taylor is still in the vehicle at that point in time, okay.
13 And backs up a couple of steps, and I submit to you, sees
14 what Lieutenant Peter said when he went out there he
15 verified that he could see what he testified to y'all about,
16 and African-American male shooting a white male two times in
17 the back, just a little ways into the breezeway. A little
18 ways into the breezeway looking just looking at it from the
19 back; from the back of the breezeway where you see where
20 Robert Crumm came to rest on the ground. Two shell casings
21 basically on the ground; one of them right next to him and
22 the other one 17 feet maybe into the breezeway. Two people
23 in that breezeway: the shooter, Robert Crumm. And at that
24 point in time -- and then seven seconds later, seven seconds
25 later, Savion was taking off, running home, to tell his mama

1 what he just saw, okay. If he didn't see that, if he didn't
2 see that and wasn't able to see that then how on earth is he
3 telling the police out there, testifying and telling y'all,
4 that I saw this person get shot two times in the back? I
5 mean, how would he know to say that? I mean, that a guy was
6 shot two times in the back. Mr. Loy tried to trip him up in
7 his questioning. You know, and try ---

8 MR. LOY: Your Honor, I object to the implication that
9 I attempted to trick a witness. I certainly didn't.

10 AST. SOL. SORENSON: Trip him up is what I said. I
11 didn't say trick him.. I said trip him up.

12 THE COURT: Let's move on, Solicitor.

13 AST. SOL. SORENSON: Thank you. You remember his
14 questioning. One of the last couple things he asked Savion
15 about wasn't the fact that when you're running back to the
16 apartment, that's when you were turning and looking and saw
17 what you testified about. And you saw his, you know,
18 obviously, his demeanor on the witness stand. I mean, I
19 think he may have answered yes to that question or said
20 uh-huh. The video, the video, tells the truth. I mean,
21 that's not when he was looking. Because I'll concede if he
22 was looking when he was running back to the apartment, he
23 would've been able to see what he testified about. That's
24 not what's on the video. The video shows where he -- I
25 mean, he takes a conscious effort to back up and look. And

1 I submit to you at that point in time, sees a man shoot
2 somebody two times in the back and does what any 16-year-old
3 probably would do, should do I would hope: got out of there
4 and ran home, told his mom. He came out and told the police
5 what he saw. And then going back looking then at that time
6 frame, all right. Because this kind of then goes into the
7 how do we know that the person that shot, that showed up on
8 Gospel Lane has to be the same person the shot and killed
9 Robert Crumm? All right. Look at that time frame. As I
10 said, you've got Savion then running at, running at 4:48 and
11 24 seconds. I mean, it is less than 20 seconds later when
12 you see Sara Taylor exit the driver side of her vehicle.
13 All right. And what has she testified that she has done
14 basically in that interim there? You know, she testifies
15 and from where she's seated, she doesn't have the
16 opportunity to be able to see into the breezeway because
17 she's parked to the left of the breezeway and the driver
18 side of her vehicle, probably not paying a whole lot of
19 attention to looking in there, but there's also the
20 stairwell that is blocking basically looking into there. So
21 she hears the gunshots and then sees Robert immediately
22 stumble out and fall to the ground right at the base of the
23 breezeway. And then an individual comes out. And she, you
24 know, says she's not sure if it's the same person that was
25 in the car with her earlier because the person never looked

1 up. Obviously, she's traumatized. Heard that from the
2 testimony about how she was on the scene. But in that
3 interim she blared the horn and that person has taken off
4 running. I mean, it's 19 seconds. She gets out and then
5 runs over to start checking on Robert.

6 It makes, I submit to you, absolutely no sense.
7 Basically to find that the person that shows up with that
8 wallet at Gospel Lane is not the person that shot and killed
9 Robert Crumm. You have to find, you have to believe, that
10 he is shot in that stairwell. As I said, there's only two
11 people in the breezeway. Shot in the back right there at
12 the front of the breezeway where the casings, those last two
13 shell casing are found, that he falls. The shooter
14 disappears somewhere. Shoots him for some unknown reason
15 because it's obviously not to rob him then if the shooter is
16 not the person that then goes through his pockets. And that
17 Byron Kinsey, if you find that it is Byron Kinsey that
18 showed up on Gospel Lane but it's not Byron Kinsey that
19 killed him, that Byron Kinsey somehow magically appears.
20 Somebody else running around out there with the nickname
21 Creep. And just for some unknown reason then goes through
22 the pockets and takes the wallet of a person that's just
23 been shot out there. I mean, does that make any sense? And
24 then not only does that, but then immediately runs from
25 there, across the street, down the road, he's on his phone,

1 on the phone, in the interim. Because you heard the
2 testimony, saw the little slide, the last slide in the
3 PowerPoint. Calling multiple times a number that's, I
4 submit to you, that's an acquaintance of his being called
5 right after the shooting on that phone that he used in 2015,
6 I submit to you, trying to get a ride that he couldn't find
7 so then he left to try to use the victim's money, using
8 Robert Crumm's money, to pay for a ride out of here. Does
9 that make any sense? I mean, I just see a guy get shot and
10 killed and my first inclination is to go run through his
11 pockets and then take off and then go, you know, pay
12 somebody \$50 to drive me out of there and to hide the wallet
13 behind the building. Does that make any sense?

14 And then not only that, I mean -- yet again, it just
15 makes no sense, I mean, why he would have this. But it
16 would also be so, you know, go to get -- and basically
17 spending \$50 for a ride to Charleston. And all of this is
18 happening, as I said, when you look at that time frame, all
19 of this is happening, you know, before the police are even
20 there. I mean, you saw the video. The first witness we
21 called, Lieutenant Buckman. I mean, it wasn't like they
22 took a long time showing up there. I mean, it's four to
23 five minutes. You heard Jonathan Middleton's testimony.
24 And this guy comes walking up, you know, goes and hides the
25 wallet. And they're out of there before the first cop

1 comes. The minute they leave, you know, the patrol cars are
2 coming down Pidgeon Bay Road. I submit to you because he
3 told them he had to get out of there in a hurry.

4 So I submit to you when you look at that, I mean,
5 there's, yet again, there is no doubt that those two link
6 up. No doubt that Byron Kinsey is the person that showed up
7 on Gospel Lane, hid the wallet, paid Alphonso Middleton \$50
8 to get him out of there. And I submit to you there's no
9 doubt that whoever that person is is the person that killed
10 Robert Crumm. And the third question that kind of ties it
11 all together is is Byron Kinsey the person that got picked
12 up initially by Sara Taylor and Robert Crumm? And I
13 understand, as I said, you're gonna hear, I'm sure, about
14 this lineup a whole lot. I understand that. But I submit
15 to you when you look at the facts, the credible facts, and
16 yet again, his nickname is Creep. And that's the only thing
17 that ties Lesner Gilliard to this at all is the fact that
18 that's a nickname that he was knew by and some police
19 officer knew that and provided that information. The phone
20 records, phone records yet again, to a phone connected to
21 him, to him, not to Lesner Gilliard, is making multiple
22 calls to the victim's phone that afternoon just like Sara
23 Taylor said leading right up until when they picked Creep up
24 at shortly after four o'clock in the afternoon. 4:02 is
25 that last call. That phone then tracks -- and I understand,

1 I mean, that the testimony heard, there's no way we can
2 pinpoint, you know, and put the phone in that witness chair.
3 But what they are able to do is basically put that phone in
4 North Charleston, the area around where he was picked up
5 between three and four o'clock. From four to five o'clock
6 it tracks up to the College Park Road area, down Highway 78,
7 and up into Summerville right where Sara says they
8 ultimately went. And then more importantly, after the fact,
9 tracks from that area all the way back down to Charleston
10 just like Alphonso Middleton says. All the time making
11 phone calls to an acquaintance of his.

12 And the other little thing -- and I touched on this a
13 minute ago. And it's kind of a little minor detail, but
14 just to kind of something else that just kind of shows that
15 it's the same person an each end of the equation. You know,
16 getting a ride away and getting a ride there. The first
17 thing that I submit to you Byron Kinsey asks the Middletons
18 when he walks is if, you know, 20-, 25 dollars, will
19 somebody give me a ride to Robynwyn, a neighborhood in
20 Summerville. A couple of miles away, he's gonna pay
21 somebody 20- or 25 dollars to give him a ride to Robynwyn.

22 You remember Sergeant Alger. He was the officer, tall,
23 baldheaded officer, that testified right after Sara. It's
24 the officer that dealt with her on the scene when she was
25 hysterical, crying, had Robert's blood on her hands, on her

1 clothes, on her face. Told him out there that the guy's
2 name is Creep. That we picked up, that shot Robert, robbed
3 Robert. And that that person when we were driving him
4 around initially trying to meet up with his friend, had
5 initially at one point in time asked if we could drop him
6 off at Robynwyn. We could drop him off at Robynwyn. The
7 same little connection that I submit to you proves when you
8 put the puzzle together that there is no doubt that Bryon
9 Kinsey is the man they he picked up shortly after four
10 o'clock; it's no doubt that Byron Kinsey is the man that got
11 out at 4:45 of that Acadia with Robert Crumm, walked him
12 back into that breezeway. And there's no doubt at that
13 point in time, I submit to you, that Robert was in a way up
14 to something also. They had been talking about pills in the
15 car, and talking about opening false bank accounts. He's
16 got \$2,000 in his pocket. I submit to you that he probably
17 thought that he was going back there to buy drugs. And
18 Byron Kinsey saw all that money on him and thought if I
19 pulled a gun on him, I could just take it. Robert took off
20 running and he shot him two times. I submit to you, no
21 doubt that Bryon Kinsey is the person that pulled that
22 trigger, ran across the street, paid Alphonso Middleton \$50
23 to get him out of there after hiding that wallet back behind
24 that trailer.

25 I mean, I started with the first question I kind of

1 laid out there is can you get any more malicious? Any more
2 malicious? And I submit to you, you can't. You can't.
3 Mr. Templeton said in his opening back on March 10th of
4 2015, that man seated over there cared more about that
5 money, that money in Robert Crumm's pocket, than he did
6 about his life. In a few minutes, I'm going to sit down and
7 Mr. Loy is going to have an opportunity to get up here. And
8 then I'll have just a brief opportunity to come up and rebut
9 anything that he says that I feel the evidence and the facts
10 contradicts what -- but I kind of want to leave you with a
11 closing at this point in time. Because after that, then Her
12 Honor is going to charge you on the law. Then you're going
13 to have an opportunity to go back and start deliberating and
14 hopefully, in this case, reach a verdict. What I ask you
15 for but, the State of South Carolina asks you for, the
16 citizens of Dorchester County ask you for, is a verdict that
17 is truthful. I submit to you, in this case, a verdict that
18 holds Creep, that man right there, Creep, accountable and
19 responsible for his actions back on March 10th of 2015. I
20 submit to you the only verdict that does that is a verdict
21 of guilty of Robert Crumm's murder; guilty of robbing him,
22 stealing his wallet from his dying body, and then the
23 weapons charge. Because you see back on March of 2015, he
24 had a conviction for carjacking. He's not allowed to have a
25 gun. So guilty on that weapons charge. Thank you.

1 THE COURT: Counsel?

2 MR. LOY: Thank you, Your Honor. Good morning. The
3 State seems to hold the contention that if they tell there's
4 absolutely no doubt about such as such, and they so it over
5 and over 50 or 60 or 70 times, somehow that will make it
6 true. But it's not the case. And I'm going to talk to you
7 a little bit about the procedure of the trial, how it goes,
8 and some comments about what the judge is going to be
9 telling you when she instructs you on the law in a few
10 minutes. And I had an idea, roughly, what it was that I
11 wanted to say to you this morning, but I got a little --
12 listening to that when we got to the point about if the IDs
13 had gone differently then that's what they would be
14 screaming about. And I would submit to you the defensive of
15 Mr. Kinsey has involved no screaming up to this point, and
16 it's not going to involve any screaming from this point
17 forward. Nor was there ever any intentional attempt to trip
18 up or trick up Savion, a young man who came in here and
19 testified. His testimony in no way is contra to the defense
20 that we're offering in this case. He says he saw a man get
21 shot in the breezeway and it is undisputed and
22 well-established that a man got shot in the breezeway. He
23 says that Mr. Loy believes the investigations should have
24 stopped on the night of the shooting when Ms. Taylor picked
25 out Lesner Gilliard and said that's the man who I saw do

1 this. He says I think the investigation should have stopped
2 there. That's wrong. I think the investigation should have
3 started there and picked up speed from there. And we'll
4 talk about that. But, again, -- or I'll talk about it --
5 but, again, I don't believe it should have ended there, that
6 should have been the end of it, because clearly that
7 would've been even more deficient than what you've actually
8 been presented with as far as an investigation goes here.

9 And he points out several times when he's telling you
10 how this evidence somehow points conclusively to the guilt
11 of the defendant. That there's none of Lesner Gilliard's
12 fingerprints on any vehicle associated with this crime.
13 There's none of Mr. Kinsey's. That there's none of Mr.
14 Gilliard's DNA on any vehicle associated with it. There's
15 none of Mr. Kinsey's. If the State's intention this week is
16 to prove that Mr. Kinsey caught a ride with Alphonso
17 Middleton on this afternoon from out there off of Gospel
18 Lane Road and drank a beer in a car, they should've just
19 told us at the outset because we would've pled to that. I
20 mean, it's him. He caught a ride with Mr. Middleton.

21 Now, consider that in this light: The judge will tell
22 you shortly that every criminal case starts with what we
23 call the presumption of innocence. That is an absolutely
24 critical, it's a fundamental facet, of our criminal justice
25 system. It's the bedrock. It means you, me, everyone, any

1 person accused by the State of having committed a crime is
2 presumed to be innocent; never required to prove anything;
3 never required to demonstrate their innocence. They are
4 presumed innocent, and the burden of proof is thereby placed
5 on the State. Now, you know, there's a book, Presumption of
6 Innocence, and movie, Beyond A -- stuff like that. But for
7 today, you took an oath. And even though it's hard to do
8 and you have to set some of your preconceived notions aside
9 and the general beliefs you generally claim to the world,
10 you took an oath. There's not many times in your life
11 you're required to do that. And part of the reason you're
12 required to take an oath for any particular time that you
13 are, whether you're gaining citizenship, whether you're
14 swearing testimony, being sworn here, joining the military,
15 part of the reason you are required to take an oath is to
16 emphasize to you, the person being sworn, and emphasize that
17 absolute serious nature and the solemnity, that is how
18 solemn the occasion is, and how important it is that you
19 abide by the terms and conditions of what you've sworn to
20 do. And for today what you have sworn to do is to start
21 this trial, and even at this stage of the trial, look at our
22 table over there, that is an innocent man. That man is
23 presumed innocent, and he will remain innocent all the way
24 to the end of this trial, all the way to the conclusion of
25 the judge's instructions to us, until we go back in the jury

1 room and begin to deliberate. And what that does is places
2 the burden of proof right over here. I mean, and they are
3 required, the State, then to win. To convict any citizen,
4 Mr. Kinsey or anyone, they are required to bring in proof
5 that will convince each and every one of you collectively
6 and individually of the guilt of the defendant beyond every
7 reasonable doubt. The judge will tell you a reasonable
8 doubt is the kind of doubt that would cause a person to
9 hesitate to act. That's a reasonable doubt. And if at the
10 conclusion of the judge's instructions and in your jury room
11 you harbor that sort of a doubt, the doubt that would cause
12 you to hesitate to act, then according to the oath that
13 you've sworn you are absolutely required to return a verdict
14 of not guilty.

15 Now, essentially, when we start the trial, and you
16 noticed none of this was touched on by the State because
17 this is the inconvenient truth of what it is they're
18 required to deal with rather than simply shout out, "He was
19 there. He was there. It had to be him." Procedurally, the
20 judge will instruct you this is what they're required to do.
21 And as by way of demonstration we can say if the bar here in
22 front of the jury box, where the bar heap on this end of the
23 bar, snow white. I mean, pure as the driven snow on a
24 convent roof Christmas morning, crystalline clear as snow
25 white. And that it begins to shade gray as we come down the

1 bar. And when it gets here, it's pretty dark. And it gets
2 darker and it gets here. And it's real dark. And right
3 here on the end it's bottom of a coal mine, midnight black.
4 Then we can say that at the commencement of the trial,
5 Mr. Kinsey begins here, presumed innocent. And the burden
6 of the State, the job of the State, is to produce evidence,
7 evidence that is both physical that you can pick up and hold
8 and look at, and evidence that is testimonial such as you
9 hear from the witness stand, to produce evidence during the
10 course of the trial that will move the defendant down the
11 bar from presumed innocent, which is where we are now and
12 where we were at the beginning of the trial, down the bar.
13 And not to here, which would be suspicious. This is
14 suspicious. And not to here, which would be real
15 suspicious. And not to here, which might be probably.
16 Because probably doesn't cut it in this court. Probably
17 doesn't mean anything in this court. So probably doesn't
18 get it. But to down here, beyond every single reasonable
19 doubt, that's what they're required to do through the
20 introduction of testimony. So, if we place Mr. Kinsey here
21 and consider the evidence, what has the State proved in
22 their presentation? Well, they certainly proved a murder
23 took place and that Mr. Crumm was killed and it's an
24 unfortunate tragedy, terrible. And there's no justification
25 or excuse for it. He was murdered. Doesn't address guilt

1 or innocence of Mr. Kinsey, but that's a simple fact. They
2 have proven that Mr. Kinsey is a black male and that Mr.
3 Crumm was in all likelihood and by eyewitness accounts
4 killed by a black male. That doesn't mean a lot, but, I
5 mean, it would be consistent with him. And they proven that
6 Mr. Kinsey was a black male in the vicinity of the crime.
7 Okay. At least he is within the pool of suspects. And you
8 can call that -- but you can call that what you want.
9 Certainly nobody would convict Mr. Kinsey for being a black
10 male in the vicinity of a crime. Just being present or
11 around or in the neighborhood where a crime occurs doesn't
12 do it. Then what else have they proven? They have proven
13 by way stipulation that Mr. Kinsey has sometimes or has been
14 called, been know by the name of Creep. He's having a good
15 time pointing out Creep over there, Creep, Creep, Creep.
16 It's inappropriate and you shouldn't let it prejudice you
17 during the jury verdict. It's just a nickname. They've
18 proven he's been called Creep in the past. That, ladies and
19 gentlemen, I would submit to you is pretty strong. He's a
20 black man. He is in the presence of a crime committed by a
21 black man. That person has been identified as having used
22 the name of Creep or having been called Creep. And all of
23 those fit him. Now, you can debate how far down the bar
24 that puts you. And if you give the State the benefit of all
25 the doubt in the world, we'll say it puts him here. That's

1 probably an exaggeration, but it would take us there.

2 The other thing that they've done then to attempt to
3 persuade you, I guess is fair to say, is they've introduced
4 this telephone records and mumbo-jumbo. I would submit to
5 you, you don't even need to focus on those during the course
6 of your deliberations. A, if you didn't understand them,
7 don't feel alone. If you did understand them, you're
8 probably kidding yourself because unless you brought that
9 knowledge to the courtroom, you have to realize we're having
10 this stuff explained to us by a guy who says he doesn't
11 understand it and doesn't know what it means. The State
12 throws a bunch of push pointing pins up on the board over
13 here and have a witness on the witness stand who's talking,
14 yeah, got a certification, I took a class, I've been to
15 school, I know about this stuff. And we ask with just these
16 two how about this one? It says here this phone is in one
17 spot and then it says 20 seconds later it's in another spot
18 which the witness concedes is impossible. They can't both
19 be right. Well, Detective, phone guy, witness, your
20 exhibit, what you're showing us up here, how does that
21 happen? I don't know. Well, how is the data gathered? I
22 don't know. I just plug it in the computer and it gave this
23 picture. Well, how do you explain the inconsistencies? I
24 can't. How do these phone things work? I don't know. For
25 what purpose of Verizon is this gap? Can't say. Well, if

1 you click on this pin over here it says they got a low level
2 of confidence. It's your exhibit. You're here to explain
3 it to the jury as well as to us. What does that mean? I
4 guess it means a low level of confidence. It's not very
5 helpful. So I would submit to you this stuff, if it's
6 important, the State could prove who had a phone on that
7 particular day. As far as I know, it's never been
8 recovered, it's never been attributed to Mr. Kinsey. All
9 they said is that at some point in 2015 he used it. Who had
10 it that day? I don't know. Wasn't there. I don't know.

11 The idea that I think the investigation should have
12 stopped at the photo identification of Mr. Gilliard is
13 offensive. Did Mr. Gilliard have a phone? Where's his
14 records? What would they show? He got tennis shoes? Would
15 they match up? I don't know these things, but the
16 investigation should not have stopped. The investigation
17 should've picked up speed and continued. It's important to
18 recollect or to realize that this pen, Mr. Kinsey, moves
19 both ways on the bar. Okay. So when the State has
20 presented this evidence, however strong you think it is and
21 whatever point he puts it at -- excuse me -- whatever point
22 you place the pen in your mind at this point, understand
23 this: They've gone to great lengths to prove and argue that
24 young Savion has every opportunity to observe what he saw or
25 to observe what took place in the breezeway, that he saw it,

1 it's consistent, he was looking in that direction. I don't
2 know how they this is a bone of contention, but it's not.
3 And he says I saw a guy wearing beige pants shoot a man.
4 Mr. Alphonso Middleton says guy who approached us, ain't no
5 question about it: Walked up, he was wearing all black. So
6 however much weight you want to attach as inconsistent.
7 It's a piece of evidence the State has introduced and it's
8 certainly doesn't -- we'll just give it -- (coughing) --
9 doesn't support the contention that guilt has been proven in
10 this case. Although the State can shout and try to explain
11 and say over and over, he's that cold, he's that
12 calculating, he's that -- who in the world can have this
13 occur? That is be present for a shooting, kill someone, and
14 then walk up not out of breath, not running, not sweating,
15 not agitated, not concerned, and say, "I need to get to
16 Robynwyn. Can you give me a ride?," and have the people he
17 is talking to have no suspicion, no inkling whatsoever, that
18 in fact something is amiss or something is wrong. It's
19 almost impossible that a person could do this. Anybody
20 fleeing a crime scene, fleeing for his life, it's going to
21 be pretty obvious. And if you've already shot a guy over
22 there, why not pull the pistol and take the car yourself.
23 Very little to lose at this point I would contend. It is
24 completely inconsistent with the guilt of this person having
25 walked up like that.. It can't be done. So we'll factor

1 that in and we'll consider that Ms. Taylor was covered in
2 blood. Said she had blood in her hands, blood on her face,
3 blood on her clothes. She had been right there. It is
4 contended that the man who shot Mr. Crumm ran over, rifled
5 his pockets as he lay there dying, stepped in blood, clearly
6 marred his clothing, his shoes, his hands, et cetera, with
7 the blood of the dying man and there's none of it attributed
8 to Mr. Kinsey. Mr. Kinsey gets in the car with
9 Mr. Middleton. Feet are on the floorboard, hands are on the
10 doors, clothes are visible to all, nothing to look like he's
11 been involved in any sort of situation such as this
12 whatsoever. They said they looked for blood in the car.
13 They don't find it. So I would submit to you that we move a
14 little further down.

15 Now, what Mr. Sorenson told you, I'm gonna talk on and
16 on and on about, you'll hear so much about, it's not going
17 to be like that. But we are going to address this other
18 piece of evidence also. Mr. Taylor says I drove around, it
19 was daylight. I was with my boyfriend. We were driving
20 around taking care of some errands. He got a phone call
21 from a friend of his, an acquaintance, a person he called
22 Creep. He said we need to give him a ride. We went and
23 picked him up. We pulled into the McDonald's, we walked
24 across, full plain view apparently, he got in the car with
25 us. I drove around. I was with him for 40 minutes or so.

1 If I said several hours, it wasn't an attempt to mislead
2 anyone. But I was with him for 40 minutes or so. I was
3 with him for a long time that afternoon. Eventually, went
4 to Cedar Key Apartments. He got out with my boyfriend. I
5 was facing the breezeway. My vehicle was facing the
6 breezeway. He got out, walked by the side of the car, and
7 the two of them walked into the breezeway. Sometime later,
8 I saw that same man come running out. Now, his head was
9 down. But on that particular occasion and in a written
10 statement, she didn't say anything about it that. She said
11 I saw that man come running out. And, yes, officer, I can
12 identify the man. Officer, Detective, Alger -- and I'm sure
13 he loves keep being referred as the baldheaded guy -- but
14 Detective Alger, the baldheaded guy, says that he compiled
15 the photo lineup, a six-pack. Which I contend is an
16 absolutely critical, elemental, and most basic as well as
17 most important part of any criminal investigation where
18 there are eyewitnesses. They can try to downplay it now and
19 say, well, no, eyewitnesses get it wrong all the time. On
20 the other hand, when eyewitnesses get it right, they
21 believably point out it was right there with the man 40
22 minutes that day; had a chance to see him walking in,
23 walking -- you don't get it both ways. She said I can
24 identify the man. Then she was presented with a photo
25 lineup that contained a photograph of a man named Creep who

1 looks absolutely nothing like Mr. Kinsey. I mean, there's
2 no comparison between the two. You don't mistake this guy
3 for the other. You'll have the photograph back there and
4 you'll have the other lineup also. He don't look like Mr.
5 Kinsey. She says I can pick it out. I can pick out the man
6 I was with that day. They give her the photo lineup, and
7 it's got a man in it named Creep who is a suspect in this
8 case. And she circles it and she says that's him. Now, no
9 matter what the State wants to tell you, that's the
10 strongest piece of evidence in this case. And it's dead set
11 against the State's prosecution of this case. And you can
12 pick where on the bar you want to move the pen, but it moves
13 back down at that point.

14 At that point, they just quit. I think the
15 investigation ended too soon. No. The State just quit. We
16 got him. Lock him up. We're done. Mr. Berg, Deputy Berg,
17 sitting back there responded to the scene that night. And
18 Dorchester County has expended some degree of expense I
19 assume, the trouble educating him, training him, helping him
20 become the professional that you saw on the witness stand
21 here and the presentation that he made. And he responded
22 and he did the things he was supposed to do. He told you
23 why he did them. I collected the evidence. I preserved it.
24 I cataloged it. So it could be used in the furtherance of
25 this investigation to either implicate someone who was

1 involved or to exonerate someone who was not. He took those
2 photographs of those bloody footprints. And you can assume,
3 or I'll just tell you, you heard absolutely nothing from the
4 State about any effort made to tie any shoes to those
5 footprints. Was Mr. Kinsey barefoot when he was arrested?
6 And if not, was there ever an attempt made to match those
7 up? Mr. Berg told you he went to -- or deputy. Excuse me
8 -- told you he went through the trouble and the work of
9 making plaster molds of footprints that were on the ground
10 out there. Was there ever a search warrant issued for a
11 home, a house, anywhere? An effort made to find those shoes
12 and to match them up? He collected shell casings. Was
13 there ever an effort to recover a gun and where is this gun?
14 Certainly, I think if it was ever in anyway attributed to
15 Mr. Kinsey, you would've heard about it by now. The
16 witnesses themselves told you about DNA evidence. And they
17 went to great lengths to use DNA evidence to prove that Mr.
18 Kinsey caught a ride and he did. Okay. It's a sledgehammer
19 to kill a -- that was him. He caught a ride. But what they
20 didn't do then was take these shell casings that Deputy Berg
21 recovered, that he preserved, and he picked up, presumably,
22 and put them in plastic little envelopes, et cetera, and
23 saved them. These things, I think we all know, come from a
24 plant. Somewhere they are manufactured, untouched by human
25 hands and go in a box. One hand has probably pulled them

1 out of the box, put them in the gun, and no one else. They
2 talked to you about DNA and they talked to you about touch
3 DNA. They said did you test the shells to see if we could
4 determine who put them in the gun. Why would we do that?
5 We've got the guy. Nope. Didn't do that. You found this
6 wallet that you're so much attributing to Mr. Kinsey having
7 been in possession of. Fingerprints aren't on it. DNA was
8 on it, that would be pretty strong. And if Mr. Gilliard's
9 was on it, that would be pretty strong too. Did you test it?
10 No. I mean, we got the guy. Why would we bother to test
11 it? They just don't do it.

12 The State of South Carolina owes you as jurors when
13 they ask you to convict a man, a fellow citizen, they owe
14 you a full investigation and they owe you a lot more than
15 this. And when they drag -- and when they drag Mr. Kinsey
16 in here, and they ask you 12 citizens to convict, they owe
17 you more than a could of suspicion. And they owe him as a
18 citizen charged with a crime a lot more than what they've
19 done here. I'm almost done. The judge is going to instruct
20 you also on the law of evidence. And she will tell you that
21 there are two types of evidence. There is direct evidence
22 and there is circumstantial evidence. Direct evidence is
23 evidence is evidence when a person comes in, gets on the
24 witness stand and conveys to you, the juror, what they saw.
25 I saw a man walk into Walmart wearing a green shirt and a

1 red hat. I saw it. Direct evidence. I was in the parking
2 lot that day and I saw the accident occur. A white truck
3 ran a red light. Direct evidence. There is also
4 circumstantial evidence. Circumstantial evidence is
5 evidence of a circumstance; that is, a person says this is
6 what I found from which you can infer a different happening.
7 And it's too complicated for that. What it really means is
8 this by way of example: I go out and I open my mailbox.
9 And there's a big box turtle in there. Mailbox is this high
10 on a post off the ground. There's a box turtle in there. I
11 didn't see anybody put a box turtle in my mailbox, but he's
12 in there. It doesn't seem like he got in there on his own.
13 This would be pretty strong circumstantial evidence that
14 someone put a box turtle in my mailbox. In this case, the
15 State's entire case is circumstantial evidence. Well, he's
16 a black guy. Someone called him Creep. He was in the
17 vicinity of this shooting when it took place. That ought to
18 be enough. Now, the judge is going to tell you that there's
19 nothing wrong with circumstantial evidence. I'm not
20 implying that circumstantial evidence can't support a
21 conviction. It can. The reason you're allowed to hear
22 about circumstantial evidence and we're allowed to talk
23 about it is because it's perfectly good evidence. However
24 -- and this is important. There's a however. However, to
25 the extent the State relies exclusively on circumstantial

1 evidence such as in this case -- there is no one who picked
2 out Mr. Kinsey and said I saw that guy right there shoot
3 that man. There's not one person to say that. They would
4 be direct evidence. Circumstantial. To the extent the
5 State relies upon circumstantial evidence, every element,
6 every circumstance, that is brought to court must be
7 entirely consistent with each other and point to the guilt
8 of the defendant to the exclusion of every other reasonable
9 hypothesis. That means unlike with an eyewitness who says I
10 saw the crime and that guy did it, you are required under
11 the oath you took to try to find an alternate explanation.
12 To the exclusion of every other reasonable hypothesis means
13 any other explanation that you can come up with you are
14 required to look for. And if you cannot exclude every other
15 reasonable hypothesis, your oath requires a verdict of not
16 guilty. How about this for a reasonable hypothesis? Ms.
17 Taylor is neither a fool, a drunk, or a liar. She was with
18 her boyfriend. He got a call and said pick up a friend of
19 mine named Creep, and they went and picked up a guy named
20 Creep. He got in the car with them. They rode around.
21 They spent 40 minutes or so in the broad daylight. She's
22 coming and going, checking the rearview mirror. He's in
23 there, et cetera. She sees him get out of the car, walk in
24 the breezeway. She sees the same guy come running out of
25 the breezeway. She tells the police it was a guy named

1 Creep. Detective Alger conducts a fair and indeed proper
2 photo lineup. Puts it together, includes a guy named Creep.
3 She looks at it. Detective Mosier does what he's supposed
4 to do. Doesn't hint, push, cajole, tell her just pick
5 anybody. He does it as detective says it supposed to be
6 done. Do you see the man? And she says, yes. I see him
7 right there. His name is Creep. And that's the guy that
8 shot my boyfriend. Solicitor says it's unfortunate that
9 this other photo lineup was never shown to Ms. Taylor. And
10 I don't know why it wasn't because it certainly seems like
11 that would've been the appropriate thing to do too along
12 with all the other avenues that weren't pursued -- weren't
13 tied up.

14 Lastly, when Detective Peters was on the stand, and
15 we're asking about the investigation and asked him about how
16 things had gone on. And at the end of his testimony, I
17 asked him did you track down Mr. Gilliard. Were you able to
18 find him? And remember, think back, he said Mr. Gilliard
19 just didn't want to talk to us and then he laughed. He
20 laughed. He said Mr. Gilliard just didn't want to talk to
21 us and he laughed. Like he knows what it means and he
22 doesn't care. The burden of proof is on them, ladies and
23 gentlemen. And it's two words, not guilty. Thank you.

24 THE COURT: Solicitor?

25 AST. SOL. SORENSON: Thank you. May it please the

1 Court?

2 THE COURT: Yes, sir.

3 AST. SOL. SORENSON: Ladies and gentlemen, now I'm just
4 going to take a few minutes just to talk about a few things
5 that Mr. Loy brought up. He talks about, you know,
6 reasonable doubt being the fact that they didn't attempt to
7 compare the, you know, shell casings to anything, to a gun.
8 They didn't attempt to compare the bloody foot impressions
9 to anything. Keep in mind, ladies and gentlemen -- bear
10 with me one second. All right. You're gonna have these
11 photographs back here. And first of all, as far as the
12 shell casings, we don't find a gun. All right. You know,
13 they get warrants for him March 12th, two days later based
14 on the phone records, based on Alphonso Middleton's ID,
15 fingerprints. They don't find him for three and a half
16 months. Okay. But you're gonna have these pictures back
17 here, and probably, I'm not sure how good of a look you got
18 of them, I mean, that's the footwear impressions we're
19 talking about. I mean, this isn't a full bloody footprint
20 on the ground. I mean, it's consistent, obviously, I mean,
21 seriously, we're gonna compare that to a shoe and compare
22 that to a shoe. I submit to you obviously the person that I
23 submit is Byron Kinsey. You know, Robert Crumm has fallen.
24 He is bleeding. And stepped and got a little bit of blood
25 on is shoe. He runs through the breezeway, back through the

1 sand, cross the street, down the road to Gospel Lane.
2 There's not going to be blood coming off of that shoe still
3 by the time he's in Alphonso Middleton's vehicle. No reason
4 for them to have been finding blood in Alphonso Middleton's
5 vehicle. Yet again, three and a half months. I mean, God
6 only knows where that gun went. Don't know if it went
7 somewhere back behind that trailer and they just didn't find
8 it. Or if he had it in his hoody still waiting to find out
9 if Alphonso Middleton answered that phone call from his
10 brother. He makes a point, you know, that, you know, that
11 we're obviously trying to imply that the shooter is gonna
12 have blood all over him like Sara Taylor had blood all over
13 her. I mean, totally different. You've got a person who is
14 with law enforcement. You saw it. I don't know if you
15 remember, but the video when they first pull up. I mean,
16 she is literally on top of him when that first cop pulls up
17 trying to save her boyfriend's life. Got blood all over
18 her. Obviously, the person that shot and killed him and is
19 rifling through his pockets is not making, you know, is not
20 on top of him trying to get blood on him. But yet again,
21 you wouldn't expect the shooter to ultimately have blood all
22 over his hands, all over his body. You know, he's doing
23 this right after the shooting, not minutes later after he's
24 continued to bleed as you see from the pictures on to the
25 pavement.

1 We talked about, you know, the discrepancy. And this
2 is reasonable doubt because Savion Willis described the
3 person having beige pants. And Alphonso Middleton said that
4 he was dressed all in black. Okay. They're both consistent
5 with them having black hoody. Ladies and gentlemen, some of
6 this just kind of boils down to your common sense. Okay.
7 Just think about, imagine, if, you know, at the end of the
8 day yesterday you all were asked to go back in the jury room
9 and write down, you know, whoever the last witness was, say
10 it was Lieutenant Peters, about an hour later, to go back
11 there and put on a piece of paper what was Lieutenant Peters
12 wearing. I guarantee to you that there would not have been
13 14 answers that were the same as to the color of the shirt,
14 the color of his tie, the color of his suit. And that's
15 just common nature, ladies and gentlemen. I mean, this is
16 somebody -- I mean, Savion Willis, I mean, maybe he's
17 mistaken about the pants. I don't know. I mean, he's
18 watching, literally, a man being shot down the apartment
19 complex from him. Words of Alphonso Middleton just, you
20 know, he was dressed all in black. I mean, he's got a big
21 black hoody on. That's just what he remembers. I submit to
22 you that's not reasonable doubt. That's almost more just
23 kind of common human nature. Then the last thing, and I
24 agree, I mean, our country has the greatest legal system.
25 All right. I love my job. I love the fact that it is set

1 up the way it is. That man seated over there is innocent
2 until proven guilty. He was innocent when he came in here
3 Monday, Tuesday, yesterday, this morning. Until such time
4 when you get back there and look at all the evidence. And I
5 submit to you, in this case, you will find that we have
6 proven him guilty beyond a reasonable doubt. Mr. Loy talked
7 about, I mean, he used his pen. Talked about what we have
8 proven. Talked about a defendant being a black male who was
9 in the vicinity of the crime. Goes by the nickname Creep.
10 The phone record mumbo-jumbo. I submit to you it's a little
11 more than that. The phone record, mumbo-jumbo, doesn't take
12 a rocket scientist to understand that. I mean, all of us
13 have cell phones. The record show, yet again, a number that
14 is stipulated to you that he used in 2015. Called the
15 victim beforehand. But not only that, it's calling during
16 the time that they're driving around in the car. He's
17 calling a number that's an acquaintance of his, and calling
18 that same number right after the homicide. And while, as I
19 said, and nobody's ever said that that phone, those records,
20 pin something down to an exact location. It still puts it,
21 yet again, in North Charleston when he's picked up. Puts it
22 in Summerville. Puts it all the way in Charleston. That's
23 off the phone. I mean, that's not something that anybody is
24 making up. And he kind of stops there. That's what the
25 State is proving. You know, he had his pen somewhere down

1 in this area. And then yet again, you know, suddenly this
2 lineup, as I said from the get go, is going to be the thing
3 that basically shows that, you know, this is proof -- you
4 know, is a reasonable doubt. And I submit to you there's
5 the explanation that I told you before about this. But what
6 is the evidence that he disregarded? You know, he started
7 going through what the State has proven. And I say he got
8 down here in his little thing. What is the, ultimately, the
9 main piece of evidence that he disregards? It's kind of two
10 things. It's the time frame. The fact that Byron Kinsey
11 now, I mean, obviously, he's conceded that it's Byron Kinsey
12 that showed up on Gospel Lane. The time frame that Byron
13 Kinsey is showing up, asking for a ride, paying somebody \$50
14 to get of out of there, literally minutes after, literally
15 minutes after, this homicide. I submit to you that puts it
16 farther. Then the thing that he doesn't address that I
17 submit to you there is no other explanation. It's one thing
18 if he's just out there and, you know, I can't get ahold of
19 my ride and I'm gonna go give a call. I can't get ahold of
20 somebody who is picking me up, so I'm gonna see if somebody,
21 you know, can give me a ride, give them a few dollars, buy
22 them a beer. That would be one thing. It would be another
23 thing based on that time frame that you're suddenly doing
24 this moments after a homicide. Moments after a homicide,
25 hiding this behind the trailer. I submit to you there is no

1 reasonable, I mean, it's proof beyond a reasonable doubt.
2 It's not proof beyond any crazy doubt. It's proof beyond a
3 reasonable doubt. There is no reasonable explanation to how
4 that gets behind that trailer on Gospel Lane on the
5 afternoon of March 10th of 2015. Robert Crumm's wallet; it
6 doesn't have any money in it anymore. Except for the fact
7 that he killed Robert Crumm, stole his wallet, and then
8 hid it behind that trailer. I submit to you, ladies and
9 gentlemen, that gets it there. That gets it proof beyond, I
10 submit to you, all doubt.

11 JURY CHARGE

12 THE COURT: Ladies and gentlemen, it's now time for me
13 to charge you on the law in this case. The indictments
14 charge the defendant with murder, armed robbery, and
15 possession of a firearm by a person convicted of a violent
16 offense. I remind you the fact that the defendant was
17 arrested, charged, and indicted in this case is not evidence
18 in this case. It cannot be considered by you as evidence of
19 guilt in this case, nor does it create an presumption of
20 inference of guilt. The indictment simply is a formal
21 written instrument which contains the charge made against
22 the defendant. It's the formal document which the case is
23 brought into this court. The indictments in this case
24 allege three different offenses against the defendant.
25 Again, the charges are murder, armed robbery, and possession

1 of a firearm by a person convicted of a violent offense.
2 Each indictment charges a separate and distinct offense.
3 You must decide each indictment separately on the evidence
4 and the law applicable to it, uninfluenced by your decision
5 as to any other indictment. The defendant may be convicted
6 or acquitted on any of the offenses charged. You will be
7 asked to write a separate verdict of guilty or not guilty on
8 each indictment.

9 The defendant has pled not guilty to these indictments.
10 And that plead puts the burden on the State to prove the
11 defendant guilty. A person charged with committing a
12 criminal offense in South Carolina is never required to
13 prove himself innocent. I charge you that as an important
14 rule of law that the defendant in a criminal trial, no
15 matter what the seriousness of the charge may be, will
16 always be presumed innocent of the crime for which the
17 indictment was issued unless guilt has been proven by
18 evidence satisfying you of that guilt beyond a reasonable
19 doubt.

20 The presumption of innocence is not end when you begin
21 your deliberations. But it accompanies the defendant
22 throughout the trial until you reach a verdict of guilt
23 based on evidence satisfying you of that guilt beyond a
24 reasonable doubt. The presumption of innocence is like a
25 robe of righteousness placed about the shoulders of the

1 defendant which remains with the defendant until it has been
2 stripped from him by evidence satisfying you of the
3 defendant's guilt beyond a reasonable doubt. The
4 presumption of innocence is not a mere legal theory. It is
5 not just a legal phrase. It is a substantial right to which
6 every defendant is entitled unless you the jury are
7 satisfied from the evidence of the defendant's guilt beyond
8 a reasonable doubt.

9 What is a reasonable doubt in the law? A reasonable
10 doubt is the kind of doubt that would cause a reasonable
11 person to hesitate to act. The State has the burden of
12 proving the defendant guilty beyond a reasonable doubt.
13 Some of you may have served as jurors in civil cases where
14 you were told that it is only necessary to prove a fact as
15 more likely true than not true such as by the greater weight
16 or the preponderance of the evidence. In criminal cases the
17 State's proof must be more powerful than that. It must be
18 beyond a reasonable doubt. Proof beyond a reasonable doubt
19 is proof that leaves you firmly convinced of the defendant's
20 guilt. There are very few things in this world that we know
21 with absolute certainty. And in criminal cases, the law
22 does not require proof that overcomes every possible doubt.
23 If based on your consideration of the evidence you are
24 firmly convinced that the defendant is guilty of the crimes
25 charged, you must find the defendant guilty. If on the

1 other hand you think there is a real possibility the
2 defendant is not guilty, you must give the defendant the
3 benefit of the doubt and find him not guilty.

4 I remind you that during this trial you and I have
5 certain duties to perform. As a trial judge, it's my
6 responsibility to preside over the trial of the case. And I
7 also have the duty to rule on the admissibility of evidence
8 offered during the trial. You are to consider only the
9 competent evidence before you. If there is any testimony
10 stricken from the record in this case during this trial, you
11 must disregard that testimony. You are to consider only the
12 testimony which have been presented from the witness stand,
13 any exhibits which have been made part of the record in this
14 case, and any stipulations of counsel. I have the
15 additional duty to charge you the law applicable to this
16 case. As the presiding judge, I'm the sole judge of the law
17 in this case, and it is your duty as jurors to accept the
18 law and apply the law as I now state it to you. If you
19 already have any ideas as to what the law is or what the law
20 ought to be, and it does not agree with what I now tell you
21 the law is, you must abandon this idea because you are sworn
22 to accept the law and apply the law exactly as I state it to
23 you.

24 In every case tried in this court before a jury, the
25 jury becomes the sole and the exclusive judge of the facts

1 in a case. A trial judge cannot intimate, state, comment
2 on, or make any statement to a trial jury about the facts in
3 the case. Since you the jury are the sole judges of the
4 facts in this case, you're not to infer from anything I have
5 said during the progress of this trial in ruling upon the
6 admissibility of evidence or otherwise, or anything that I
7 say now during the course of this instruction to you that I
8 have any opinion about the facts in this case. The law does
9 not allow me to have an opinion on the facts in this case.
10 This is a matter solely for you the jury to determine. As
11 jurors, it is your duty to determine the effect, value,
12 weight, and truth of the evidence presented during the
13 trial. There are two types of evidence that are generally
14 presented during a trial: direct evidence and circumstantial
15 evidence. Direct evidence is the testimony of a person who
16 claims to have actual knowledge of the facts such as an
17 eyewitness. Circumstantial evidence is proof of a chain of
18 facts and circumstances indicating the existence of a fact.
19 It is necessary that every circumstance relied upon by the
20 State be proven beyond a reasonable doubt, and that all of
21 the circumstances so proven be consistent with each other
22 and taken together point conclusively to the guilt of the
23 accused to the exclusion of every other reasonable
24 hypothesis. The law makes absolutely no distinction between
25 the weight or the value to be given to either direct or

1 circumstantial evidence. Nor is a greater degree of
2 certainty required of circumstantial evidence than of direct
3 evidence. You should weigh all of the evidence in the case.
4 After weighing all of the evidence, if you're not convinced
5 of the guilt of the defendant beyond a reasonable doubt, you
6 must find the defendant not guilty. Necessarily, you must
7 determine the credibility of witnesses who have testified in
8 this case. Credibility simply means believability. It is
9 your duty as jurors to analyze and to evaluate the evidence
10 and to determine which evidence convinces you of its truth.
11 In determining the believability of witnesses who have
12 testified in this case, you may believe one witness over
13 several witnesses, or several witnesses over one witness.
14 You may believe a part of the testimony of the witness and
15 reject the remaining part of the testimony of that same
16 witness. You may believe the testimony of a witness in its
17 entirety or reject the testimony of the witness in its
18 entirety. You may consider whether any witness has
19 exhibited to you any interest, bias, prejudice, or other
20 motive in this case. You may also consider the appearance
21 and the manner of a witness while on the witness stand.

22 The rules of evidence ordinarily do not permit
23 witnesses to testify at opinions or conclusions. An
24 exception to this rule exists for witnesses that we call
25 expert witnesses. A witness who by education and experience

1 has become an expert in some art, science, profession, or
2 calling may state an opinion as to relevant and material
3 matter in which the witness claims to be an expert. They
4 may also state the reasons for that opinion. You should
5 consider any expert opinion received into evidence in this
6 case like any other evidence and give it the weight that you
7 think it deserves. If you decide that the opinion of an
8 expert witness is not based on sufficient education or
9 experience, or if you concluded that the reasons given in
10 support of the opinion are not sound, or that the opinion is
11 outweighed by other evidence, you may disregard the opinion
12 entirely. An expert witness's testimony is to be given no
13 greater weight than that of other witnesses simply because
14 the witnesses is an expert. Further, you're not required to
15 accept an experts opinion even though it is not
16 contradicted.

17 I instruct you and emphasize the fact that the
18 defendant did not testify is not a factor to be considered
19 by you in any way in your deliberation and but in your
20 consideration on the question of guilt or innocence of the
21 defendant. It must not be considered by you in any manner
22 whatsoever. A defendant has the constitutional right to
23 remain silent. And the assertion of this right must not be
24 considered by you in your deliberations. I repeat, under
25 your oath, you are to draw no conclusion whatsoever from the

1 fact that the defendant in this case did not testify. The
2 fact that this defendant did not test should not even be
3 discussed in the jury room. The burden of proof as I have
4 stated to you is on the State. The defendant is not
5 required to prove his innocence. The burden of proof
6 remains on the State to prove guilt beyond a reasonable
7 doubt.

8 An issue in this case is the identification of the
9 defendant as a person who committed the crimes charged. The
10 State has the burden of proving identity beyond a reasonable
11 doubt. You must be satisfied beyond a reasonable doubt that
12 the accuracy of the identification of the defendant before
13 you may convict the defendant. Identification testimony is
14 an expression of belief or impression by a witness. You
15 must determine the accuracy of the identification of the
16 defendant. You must consider the believability of each
17 identification witness in the same way as any other witness.
18 You may consider whether the witnesses has had an adequate
19 opportunity to observe the offender at the of the offense.
20 This will be affected by things like how long or short a
21 time was available, how far or close the witness was, the
22 lighting conditions, and whether the witnesses had a chance
23 to see or know the person in the past. Once again, I
24 instruct you the burden of proof on the State extends to
25 every element of the crime charged. And this specifically

1 includes the burden of proving beyond a reasonable doubt the
2 identity of the defendant as the person who committed the
3 crime. If after examining the testimony you have a
4 reasonable doubt as to the accuracy of the identification,
5 you must find the defendant not guilty.

6 In order to establish criminal liability, criminal
7 intent is required. For example, a mental state required to
8 be proven by the State for a particular crime might be
9 purpose, intent, knowledge, recklessness, or criminal
10 negligence. Criminal intent must be proven by the State
11 beyond a reasonable doubt. Criminal intent is always a
12 matter that must be determined by the jury from the
13 circumstances surrounding the situation. There is no way to
14 prove intent to a mathematical certainty. There is no way
15 medical science can dissect a person's brain and determine
16 what the person had in mind. So the law says that criminal
17 intent may be inferred from the circumstances shown to have
18 existed. This is how you make a determination of whether or
19 not the elements requiring intent was present. It is not
20 necessary to establish intent by direct and positive
21 evidence. But intent may be established by inference in the
22 same way as any other fact by taking into consideration the
23 acts of the parties and all of the facts and circumstances
24 of the case. Criminal intent is a mental state, a conscious
25 wrongdoing. It is up to you to determine what the defendant

1 intended to do based upon the circumstances shown to have
2 existed. Criminal intent can arise from action or a failure
3 to act. It may arise from negligence, recklessness, or an
4 indifference to duty or the consequences. That is
5 considered by the law to be the equivalent of criminal
6 intent.

7 The defendant is charged with murder. The State must
8 prove beyond a reasonable doubt that the defendant killed
9 another person with malice aforethought. Malice is hatred,
10 ill will, or hostility towards another person. It is the
11 intentional doing of a wrongful act without just cause or
12 excuse and with the intent to inflict an injury or under
13 circumstances that the law will infer an evil intent.
14 Malice aforethought does not require that malice exists for
15 any particular time before the act is committed. But malice
16 must exist in the mind of the defendant just before and at
17 the time of the act is committed. Therefore, there must be
18 a combination of the previous evil intent and the act.
19 Malice aforethought may be expressed or inferred. These
20 terms express and infer do not mean different kinds of
21 malice but really the manner in which malice may be shown to
22 exist. That is either by direct evidence or by inference
23 from the facts and circumstances which are proved.
24 Expressed malice is shown when a person speaks words which
25 express hatred or ill will for another when the person

1 prepared beforehand to do the act which was later
2 accomplished. For example, lying in wait for a person or
3 any other acts of preparation going to show that the deed
4 was within the defendant's mind we call expressed malice.
5 Malice may be inferred from conduct showing a total
6 disregard for human life. Inferred malice may also arise
7 when the deed is done with a deadly weapon. A deadly weapon
8 is an article, instrument, or substance which is likely to
9 cause death or great bodily harm. Whether an instrument has
10 been used as a deadly weapon depends on the facts and
11 circumstances of each case. The following are examples of
12 instruments which may be a deadly weapon: A pistol, a
13 shotgun, a riffle, a dirk, a dagger, a knife, a slingshot,
14 metal knuckles, a razor, gasoline, a firebomb or Molotov
15 cocktail, and lighter fluid. A gun may be a deadly weapon
16 even if it is not operating. If facts are proved beyond a
17 reasonable doubt sufficient to raise an inference of malice
18 to your satisfaction, this inference would be simply an
19 evidentiary fact to be considered by you along with the
20 other evidence in this case. You may give it the weight
21 that you decide it should received.

22 The defendant is charged with armed robbery. In order
23 to prove this offensive, the State must first prove beyond a
24 reasonable doubt that the defendant took personal property
25 from the person or presence of another person. Property is

1 in the presence of a person if it is within the person's
2 reach, inspection, observation, or control so that the
3 person if not overcome with violence or prevented by fear,
4 keep possession of the property. The State must also prove
5 beyond a reasonable doubt the defendant carried the property
6 away intending to permanently deprive the owner of the
7 property and to keep the property for the defendant's own
8 use. The slightest removal of the property or the complete
9 possession of the property even for an instant by the
10 defendant is sufficient to show a taking and carrying away
11 of the property. The taking and carrying away of the
12 property must have been done with violence or by putting the
13 owner of the property in fear of violence. Finally, the
14 State must prove beyond a reasonable doubt that the
15 defendant was armed with a deadly weapon during the robbery.
16 A deadly weapon is in the article, instrument, or substance
17 which is likely to cause death or great bodily harm.
18 Whether an instrument has been used as a deadly weapon
19 depends on the facts and circumstances of each case. Again,
20 the following examples of instruments which may be deadly
21 weapons are a pistol, shotgun, rifle, dirk, dagger, a knife,
22 slingshot, metal knuckles, a razor, gasoline, a firebomb or
23 Molotov cocktail, and lighter fluid. A gun may be a deadly
24 weapon, again, even if it is not operating.

25 The defendant is also charged with an unlawful

1 possession of a firearm by a person convicted of a violent
2 offense. The State must prove beyond a reasonable doubt
3 that the defendant has been convicted of a violent offense
4 and that the defendant, thereafter, possessed a firearm or
5 ammunition within this state. A violent offense is
6 considered to be only those crimes enumerated by law.
7 Carjacking is a violent offense. You have heard evidence
8 that the defendant was convicted of a crime other than the
9 one for which the defendant is not on trial. This
10 testimony, if you conclude is true, may only be considered
11 by you as an element of the crime charged and for no other
12 reason and no other purpose. You may give this evidence the
13 weight and value, if any, which you find it should have on
14 the issue of being an element of the crime charged. You
15 must not consider evidence of the commission of another
16 offense is proof of the defendant's guilt of the charges we
17 are trying here today.

18 Ladies and gentlemen of the jury, your verdict must be
19 a unanimous one. Obviously, we need all 12 of you must
20 agree on the verdict. Mr. Foreman, you'll have a verdict
21 form back in the jury room with you. And it's rather
22 self-explanatory. It goes through each charge. And once
23 you go through each charge, the first one says as to the
24 charge of murder, we the jury unanimously find the
25 defendant, and then you circle appropriate verdict the jury

1 comes to. It then goes on to the charge of armed robbery
2 and the charge of unlawful possession of a firearm by a
3 person convicted of a violent offense. Once you have
4 reached a verdict, if you please sign it and date it. You
5 will also have the three indictments with you back in the
6 jury room. And on the front of the indictment, on the
7 bottom here, it says verdict, if you would please write the
8 appropriate verdict and sign and date on each of the
9 indictments.

10 Ladies and gentlemen, I'm going to ask you for the last
11 time to go in your jury room. But, again, for the last
12 time, please do not begin your deliberations quite yet until
13 you receive all the evidence in the jury room and the
14 exhibits and the verdict form and the indictments. Once you
15 receive those, you may begin your deliberations. And when
16 you have finished your deliberations, please knock on the
17 door and we'll bring you back in to receive the verdict.
18 Thank you.

19 (The jury exits the courtroom at 10:52 a.m.)

20 THE COURT: Any exceptions or objections to the charge
21 on the law from either the State or from the defense?

22 AST. SOL. TEMPLETON: None from the State, Your Honor.

23 MR. LOY: No, Your Honor. Thank you.

24 THE COURT: All right. What we'll do is if you would
25 make sure we have all the exhibits together, and here is the

1 verdict form and the indictments.

2 (Jury deliberations began at 10:59 a.m. The
3 proceedings resume at 12:55 p.m.)

4 (The proceeding began at 12:55 p.m.)

5 THE COURT: I understand we have a verdict. Before we
6 bring the jury back in, we did have a question from the jury
7 which was discussed with the attorneys and it was returned
8 back to the Court to disregard. I'm going mark that as a
9 Court's exhibit. Anything objections to that from either
10 the State or the defense?

11 AST. SOL. SORENSON: No, ma'am.

12 MR. LOY: None, Your Honor.

13 (Court's Exhibit No.. 2, Jury Question, was marked for
14 identification.)

15 THE COURT: Anything further before I bring the jury
16 out?

17 MR. LOY: Just one moment if I could. (Brief pause.)
18 None, Your Honor. Thank you.

19 THE COURT: All right. Let's have our jury please.

20 MR. LOY: Judge, do we need an admonition as to
21 reactions?

22 THE COURT: We've taken care of that.

23 (The jury enters the courtroom at 12:56 p.m..)

24 THE COURT: Mr. Foreperson, has the jury reached a
25 verdict?

1 FOREPERSON: We have, Your Honor.

2 THE COURT: Will please hand it to the bailiff.

3 (Juror complies.)

4 THE COURT: Madam Clerk, if you would please publish
5 the verdict.

6 THE CLERK: Yes, ma'am. In the matter of State of
7 South Carolina versus Byron Kinsey, indictment numbers
8 2015-GS-18-971, 2017-GS-18-932 and 2017-GS-18-933, as to the
9 charge of murder, we the jury unanimously find the defendant
10 guilty. As to the charge of armed robbery, we the jury
11 unanimously find the defendant guilty. As to the charge of
12 unlawful possession of a firearm by a person convicted of a
13 violent offense, we the jury unanimously find the defendant
14 guilty. Dated May 18, 2017, signed by foreperson percent
15 Gregory Wegmann.

16 THE COURT: Thank you, Madam Clerk. If you would
17 please poll the jury.

18 THE CLERK: Yes, ma'am. As I call your juror number,
19 if you'll please stand. Juror number 38, William. Ewers.
20 Was this your verdict in the jury room?

21 JUROR: Yes, it was.

22 THE CLERK: Is it still your verdict?

23 JUROR: Yes, it is.

24 THE CLERK: Thank you. Number 154, David Williams.
25 Written jury. Was this your verdict in the jury room?

1 JUROR: Yes, ma'am.

2 THE CLERK: Is this still your verdict.

3 JUROR: Yes, ma'am.

4 THE CLERK: Thank you. Number 28, Beverly Delee. Was
5 this your verdict in the jury room?

6 JUROR: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR: Yes.

9 THE CLERK: Thank you. Number 104, Joanna Moore. Was
10 this your verdict in the jury room?

11 JUROR: Yes, it was.

12 THE CLERK: Is this still your verdict?

13 JUROR: Yes, it is.

14 THE CLERK: Thank you. Number 50, Kimberly Fuller. Was
15 this your verdict in the jury room?

16 JUROR: Yes.

17 THE CLERK: Is this still your verdict?

18 JUROR: Yes.

19 THE CLERK: Thank you. Number 153, Carrie White. Was
20 this your verdict in the jury room?

21 JUROR: Yes.

22 THE CLERK: Is this still your verdict?

23 JUROR: Yes.

24 THE CLERK: Thank you. Number 122, Gloria Rivera. Was
25 this your verdict in the jury room?

1 JUROR: Yes, ma'am.

2 THE CLERK: Is this still your verdict?

3 JUROR: Yes, ma'am.

4 THE CLERK: Thank you. Number 144, Jamie Turner. Was
5 this your verdict in the jury room?

6 JUROR: Yes, ma'am.

7 THE CLERK: Is this still your verdict?

8 JUROR: Yes, ma'am.

9 THE CLERK: Thank you. Number 127, Samantha Simmons.
10 Was this your verdict in the jury room?

11 JUROR: Yes, ma'am, it was.

12 THE CLERK: Is this still your verdict?

13 JUROR: Yes, ma'am.

14 THE CLERK: Thank you. Number 150, Gregory Wegmann.
15 Was this your verdict in the jury room?

16 JUROR: Yes, ma'am.

17 THE CLERK: Is this still your verdict?

18 JUROR: Yes, ma'am.

19 THE CLERK: Thank you. Number 84, Breanna Kish. Was
20 this your verdict in the jury room?

21 JUROR: Yes, ma'am.

22 THE CLERK: Is it still your verdict?

23 JUROR: Yes, ma'am.

24 THE CLERK: Thank you. And number 109, Lydia Newton.
25 Was this your verdict in the jury room?

1 JUROR: Yes.

2 THE CLERK: Is this still your verdict?

3 JUROR: Yes.

4 THE CLERK: Thank you.

5 THE COURT: Ladies and gentlemen of the jury, if you
6 would please return to your jury room, I'll be in there
7 momentarily to release you.

8 (The jury exits the courtroom at 1:00 p.m.)

9 THE COURT: Solicitor, if you would please prepare the
10 sentencing sheets and let me know when you're ready to
11 proceed.

12 AST. SOL. SORENSON: Yes, ma'am. Thank you.

13 (A brief recess was taken at 1:01 p.m. The proceedings
14 resumed at 1:10 p.m.)

15 MR. LOY: Judge, do we just come forward?

16 THE COURT: Absolutely.

17 AST. SOL. SORENSON: Anything motion-wise before the
18 sentencing . . .

19 MR. LOY: I didn't really have anything. But for the
20 record, if I can, if we're on the record, I'd renew any of
21 my earlier motions that were denied.

22 THE COURT: And your motions are, again, respectively
23 denied.

24 MR. LOY: Thank you, Your Honor.

25 THE COURT: For the same reasons.

1 (Brief pause.)

2 THE COURT: Solicitor, are you ready to proceed?

3 AST. SOL. SORENSON: Yes, Your Honor. May it please
4 the Court, Your Honor?

5 THE COURT: Yes, sir.

6 AST. SOL. SORENSON: I'll start off by just giving Your
7 Honor Mr. Kinsey's prior record. And then there are several
8 family members of Robert's that would like to address the
9 Court.

10 THE COURT: Yes, sir.

11 AST. SOL. SORENSON: Your Honor, Mr. Kinsey's prior
12 criminal history starts back in 2004 when he has not only
13 that conviction for car jacking that came out during the
14 trial, but also a conviction at the same time for common law
15 robbery. And in 2008, he did receive a -- it was a split
16 sentence. Part of that was a three-year active sentence
17 there. 2008, he has an unlawful carrying of a weapon
18 conviction which he received a year sentence on; 2012, a
19 failure to stop for blue lights; in 2013, a possession with
20 intent to distribute cocaine conviction. I think that would
21 be -- and then 2014, just a magistrate level assault and
22 battery, third, conviction. So that would be his prior
23 record, Your Honor. He was, as Your Honor heard, arrested
24 on June 23rd of 2015. He was charged at that time also with
25 some charges over in Charleston County and has been

1 incarcerated since his arrest on this warrant.

2 Present, Your Honor, in the courtroom as you've seen
3 this week: Robert's father Mark and stepfather Kerry Crumm,
4 his brother Brian, his mother Ms. Rosie, and his stepfather
5 David, also his godfather Mr. Vallario that did testify, and
6 then another family friend. I do believe a handful of them
7 at this time would like to address the Court. Just to give
8 you a little bit of -- because, obviously, you didn't get a
9 whole lot of background about Rob during the trial. Just to
10 tell you a little bit about him.

11 THE COURT: Yes, sir. I'd be happy to hear from them.

12 AST. SOL. SORENSON: This is Rob's brother Brian.

13 THE COURT: Yes, sir.

14 MR. BRIAN: Good afternoon, Your Honor. My name is
15 Brian Rodalon (ph). I'm Robert's younger brother. I just
16 wanted to say to begin with that Robert was really an
17 amazing person. He was my hero. My entire life, I was
18 eight years younger than him. By 19-years-old, he sent to
19 Afghanistan and, you know, he was way more of a man that
20 I'll ever be. And it was really hard dealing with reality
21 when he came back. You know, like, the defense at some
22 point mentioned that, you know -- drugs or anything of that
23 nature. I just want you to know that it was -- he fought
24 for this country and adjusting to society was not easy. But
25 he had one of the biggest hearts I've ever known. He was an

1 incredibly caring person. Everywhere we lived, like, he had
2 animals. He was just -- he loved animals. He loved people.
3 He was trusting. He trusted everyone. He gave everyone the
4 benefit of the doubt. And when he passed away, so many
5 people reached out to us and just told us all these things
6 and how much of a positive impact he had on his life. I'm
7 just doing this just to kind of bring out his character
8 because he really -- he was great. He was my hero. And I
9 just want to put that out there.

10 I wrote down a couple of things that I wanted to talk
11 to you about, address the Court with today. As I stand
12 before you today, I wonder, some of the things that have
13 been on my mind since March 10, 2015. You know, like why
14 did this happen? What could've been done -- what could be
15 done to make things right? You know, we no longer live in a
16 society where this sort of thing of equal crime is met with
17 equal punishment. And that's all right because I'm not
18 really sure if that's really the ethical thing to do. And,
19 ultimately, something like would never bring him back. But
20 the fact is that nothing like that would ever reverse this
21 tragedy. Nothing will ever bring him back. And, you know,
22 when you lose someone, particularly when someone is taken
23 from you in the manner that he was taken from us, you
24 immediately start living a life of regret. You start to
25 wonder where things went wrong. You begin to blame yourself

1 for being flawed sibling, parent, or friend. You incessantly
2 think and obsess over every little decision you could have
3 made, every action you could have taken that could have
4 ultimately prevented the tragedy. You punish yourself for
5 not reached out more regardless of how frequently you
6 communicated. You punish yourself for every, you know,
7 important date or every holiday you may have not spent
8 together. And you hate yourself for every argument or
9 disagreement you ever had. And no matter how you look back
10 at the past, you blame yourself for failing to be there when
11 you lose someone this way.

12 But the reality is that none of us had anything to do
13 with what happened that day when someone took his life as we
14 just established. The reality is that we make these choices
15 because never in my wildest dreams did I imagine that one
16 random evening, after doing house chores and just carrying
17 on with the normal nuances of life, that I would receive a
18 phone call from a coroner informing me that my older brother
19 had been shot twice, with the second shot, which apparently
20 was a fraction of a second, a fraction of an inch, from
21 being dodged, somehow defied the laws of physics and
22 virtually made a 90-degree turn upon impact, piercing nearly
23 every vital organ and ultimately killing him in minutes. We
24 didn't do anything wrong. Byron Kinsey murdered him. I
25 constantly wonder what was going through his mind in those

1 last minutes, those last few moments. I know he was
2 thinking about us. He loved us so dearly as we loved him.
3 I can't imagine what it must have been like for him to have
4 been helplessly laying there bleeding out and breathing
5 slower and slower, trying to remember us all one last time
6 and realizing, as he was dying, his killer was going through
7 his pockets. These were his last moments on earth, Your
8 Honor. This is how my older brother, Robert -- older
9 brother, a loving son, and a veteran of this country, died.
10 Over a few hundred dollars.

11 Your Honor, this is what I have to think about, me and
12 my family, every single day from the instant I wake up and
13 the moment I close my eyes. On any given day, I'm lucky if
14 I manage to go 30 minutes without thinking of Robert's
15 tragic death. And everything I just mentioned, rest assure
16 that my entire family shares this terrible battle every day.
17 Now that we moved on to this part of the trial, we would
18 respectfully request that you sentence Bryon Kinsey, a
19 ruthless murder, to life in prison. Not because current
20 statutes and established precedents warrant it for such
21 heinous and malevolent crime, but because Byron Kinsey
22 already sentenced me and my entire family to life in prison.
23 Not a physical prison characterized by steel bars and
24 concrete walls, but one within our hearts and minds
25 constituting a lifetime of unfathomable sorrow and mourning,

1 pain, regret, trauma, anger, torture, and misery. The
2 sentence he gave us has no dates to look forward to, no
3 possibility of parole, or having it commuted. It is the
4 life none of us chose and one that I would not wish on
5 anyone. Kinsey took Robert's life and subsequently ruined
6 ours. There's no reason why he should ever regain his
7 freedom. Society is undoubtedly safer with him in prison.
8 He's killed before as we've established, and he will kill
9 again. We loved him dearly and no one deserves to die, no
10 matter the circumstances, like my brother died. Please
11 take. My statement into consideration.

12 THE COURT: Thank you, sir.

13 OTHER: Your Honor?

14 THE COURT: Yes, sir.

15 MR. DAVID RAUBENOLT: My name is David Raubenolt. I'm
16 the stepfather. Long time. This is a bit of an overlap
17 with what Brian said. This will be brief. But I've taken
18 -- I don't have to read the text because -- what an awesome
19 responsibility it is for a jury to convict and then one
20 person to judge, to decide on punishment. Awesome
21 responsibility. As a family member of the victim, you look
22 at the jury and you feel their pressure. And you look at a
23 judge, and you feel hers. And when you look, and if you
24 look at the convicted, you almost have to fight your own
25 feelings of your own human compassion. And the human

1 compassion as a normal person, but you're jolted back to
2 reality that a cold-blooded killer has ended a life and
3 destroyed the life of his loved ones. While you sit through
4 and get a bit frustrated by technicalities of trial, you
5 make yourself be patient. Because a judicial jury system is
6 the antithesis of anarchy. That the system protects the
7 normal people with good hearts and compassion, preventing
8 them from becoming revengeful and seek their own judgment of
9 eye for eye and tooth for tooth. And vengeance of becoming
10 therefore -- and these kind of things, and I've lived in
11 other countries where the judicial system does not function
12 and these kinds of things can start a series of vendettas
13 escalating to bloodshed at phenomenal levels. And our
14 system protects us from these natural desire for revenge.
15 It protects us from that. It enables us to remain human and
16 of compassion, you know, heart. I only ask then that the
17 judge -- and this is a bit of a redundancy to what Brian has
18 said -- consider that all of us affected by this cold
19 blooded murder are already incarcerated and have been
20 incarcerated in our pain, our hearts and minds, and we have
21 been given a life sentence. Thank you, Your Honor.

22 THE COURT: Thank you, sir.

23 MR. MARK CRUMM: Yes, ma'am. I'm Mark Crumm. I'm
24 Robert's father. Nothing that can be said or done that will
25 change anything, bring Robert back. First of all, I just

1 want you to know that, Mr. Kinsey, I've got to forgive you.
2 I forgive you for what you've done. This is going to bring
3 closure to the family. It was my firstborn. I wanted to
4 think that he was following in my footsteps by going into
5 the military. But I'm not going to go on and get up here
6 and ramble or anything. I just wanted to tell you,
7 everybody, thanks.

8 THE COURT: Thank you, sir.

9 MS. ROSIE RAUBENOLT: My name is Rosie Raubenolt. And
10 Robert was my firstborn. He was my precious jewel. And I
11 love him so much and I miss him so dearly. But I know also
12 -- and the big faith that I have because his pain brought me
13 closer to God. And I don't want anybody else to go through
14 it. I forgive you too. And I hope the time that you spend
15 in jail that you will get to know God and that he will
16 change your heart. And that you, someday, will have
17 compassion and that you will find love; the love of God that
18 you won't find anywhere else that you need so much. Thank
19 you.

20 THE COURT: Thank you, ma'am.

21 AST. SOL. SORENSON: That would be all, Your Honor.

22 THE COURT: Mr. Loy?

23 MR. LOY: Your Honor, Mr. Kornegay will speak now.

24 THE COURT: Yes, sir.

25 MR. KORNEGAY: Thank you, Your Honor. May it please

1 the Court?

2 THE COURT: Yes, sir.

3 MR. KORNEGAY: Judge, Mr. Kinsey is 31 years old. He's
4 originally from North Charleston. His family is also in the
5 Charleston area. As I'm sure Your Honor has noticed that he
6 hasn't had any family support here this week and I think
7 that's indicative of his life. There's been little family
8 involvement. Just A little bit of background on Mr. Kinsey.
9 He grew up in Summerville. He went to Summerville High
10 School up through the 11th grade. He 's worked several
11 different jobs. A few of them at CKS Packaging. He worked
12 on the assembly line; at William Technology he worked there
13 on transmissions. He also worked at the Carolina Yacht Club
14 as a dishwasher. Judge, we would just ask the Court for any
15 mercy and consideration you feel like you can give.

16 THE COURT: Thank you, sir. Anything further from the
17 defense?

18 MR. LOY: No.

19 THE COURT: Well, to the Crumm family, certainly, I
20 want to convey my sympathies. Obviously, this is a
21 difficult time for you and for your family, and I certainly
22 want to convey my sympathies to you in your loss. It's
23 extremely difficult. It's always difficult, Mr. Kinsey, to
24 sentence someone so young looking at such a serious offense.
25 You've had, obviously, a criminal history for quite some

1 time. And it obviously didn't sink in when you were
2 sentenced to prison the first time. Watching you this week
3 and listening to the testimony, it's difficult to see
4 somebody that just walks away from shooting somebody in the
5 back like that, and apparently had no emotion when asking
6 for a ride to get away. Wasn't sweating. Wasn't upset.
7 You just walked away. You just walked away. You just left
8 that man there to die.

9 On indictment 2017-GS-18-0933 for possession of a
10 firearm for a person convicted of a violent crime, you're
11 hereby committed to the State Department of Corrections for
12 a period of five years. That is concurrent to indictment
13 2017-GS-18-0932 for armed robbery. You're hereby committed
14 to State Department of Corrections for a period of thirty
15 years. That is concurrent to indictment 2015-GS-18-0971 for
16 the crime of murder. You're hereby committed to the State
17 Department of Corrections for the remainder of your natural
18 life.

19 MR. LOY: Thank you, Your Honor.

20 MR. KORNEGAY: Thank you, Your Honor.

21 (The proceedings in the trial of this matter concluded
22 at 1:29 p.m.)

23 (End of Record)

24

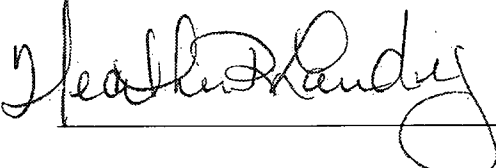
25

STATE OF SOUTH CAROLINA)
) CERTIFICATE OF REPORTER
COUNTY OF CHARLESTON)

I, HEATHER R. LANDRY, Official Court Reporter for the
Judicial Department of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had in the
trial of the captioned case, in the Court of General
Sessions for Dorchester County, South Carolina, on the
15th-18th day(s) of May 2017.

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

October 16, 2017


Heather R. Landry, CVR
Official Court Reporter

This is a certified original/copy of the Transcript of
Record requested by and provided to the following party:
S.C. Commission on Indigent Defense

WITNESSES

D Peters

Dorchester County Sheriff

15-002512

ARREST WARRANT NUMBER

2015A1810300237

Arrested: June 23, 2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: January 28, 2016

VERDICT

Guilty

Foreperson of Petit Jury
Date:

May 18 2017

DOCKET NO. 2015GS18-0971

**The State of South Carolina
County of DORCHESTER**

COURT OF GENERAL SESSIONS

February 1, 2016 TERM

**THE STATE
vs.**

Byron Christopher Kinsey

Indictment for

Murder

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CLERK OF COURT
DORCHESTER COUNTY

2016 JAN 28 PM 1:41

**STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER**

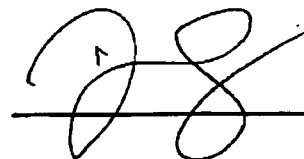
**INDICTMENT
2015GS18-0971**

**As a Court of General Sessions, convened on January 28, 2016 the Grand Jurors of
DORCHESTER County present upon their oath:**

MURDER

That in Dorchester County on or about March 10, 2015, with malice aforethought, the defendant, Byron Christopher Kinsey did kill one Robert Crumm by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A handwritten signature in black ink, appearing to be 'DS', written over a horizontal line.

Donald N. Sorenson, Solicitor

WITNESSES

D Peters

Dorchester County Sheriff

ARREST WARRANT NUMBER

2017DOR12

ACTION OF GRAND JURY

[Signature]

Foreperson of Grand Jury
Date: May 4, 2017

VERDICT

Guilty

TRUE BILL

Foreperson of Petit Jury
Date:

May 18, 2017

DOCKET NO. 2017GS18-0932

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE
vs.

Byron Christopher Kinsey

Indictment for

Armed Robbery

SC Code: 16-11-330(A)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORD
2017 MAY -4 PM 2:50
CHERYL S. BARNETT
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

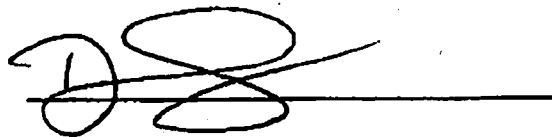
INDICTMENT
2017GS18-0932

As a Court of General Sessions, convened on May 4, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

ARMED ROBBERY

That on or about March 10, 2015, in Dorchester County, the defendant, Byron Christopher Kinsey did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, Robert Crumm, with the intent to permanently deprive the victim of possession of the goods or monies. Such weapon or alleged weapon described as a handgun. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A handwritten signature in black ink, appearing to be "DS", is written over a horizontal line.

Donald N. Sorenson, Solicitor

WITNESSES

D Peters

Dorchester County Sheriff

ARREST WARRANT NUMBER
2017DOR13

ACTION OF GRAND JURY

[Signature]

Foreperson of Grand Jury
Date: May 4, 2017

VERDICT

Guilty

TRUE BILL

[Signature]
Foreperson of Petit Jury
Date: May 18, 2017

DOCKET NO. 2017GS18-0933

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE
vs.

Byron Christopher Kinsey

Indictment for

Possession of Firearm by person
convicted of a Violent Crime

SC Code: 16-23-0500

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORD
2017 MAY -4 PM 2:57
CHERYL SEARAT
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

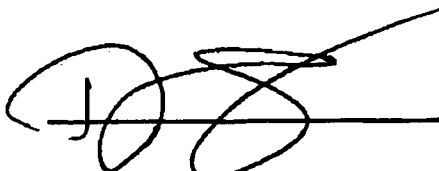
INDICTMENT
2017GS18-0933

As a Court of General Sessions, convened on May 4, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

POSSESSION OF FIREARM BY PERSON CONVICTED OF A VIOLENT CRIME

That in Dorchester on or about March 10, 2015, the defendant, Byron Christopher Kinsey, did unlawfully possess a firearm or ammunition after having been convicted of a violent crime, as defined by Section 16-1-60, Code of Laws of South Carolina, 1976, as amended, to wit: 2004 conviction for Carjacking, thereby violating Section 16-23-500, Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald N. Sorenson, Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dorchester
STATE VS.

483

Byron Christopher Kinsey

AKA: _____

Race: BLACK Sex: M Age: 31DOB: _____ SS#: [REDACTED]Address: English StCity, State, Zip: North Charleston, SC 29405-8042DL#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: MurderINDICTMENT/CASE#: 2015GS18-0971A/W#: 2015A1810300237Date of Offense: 3/10/2015S.C. Code §: 16-3-10CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 9512
Sorenson, Donald N. SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 11 1/2 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/18/17
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 (Assessments 107.5 %) _____ \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3.75TOTAL \$ 125.75

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (07/2016)

PTUP _____
_____ days/hours Public Service EmploymentObtain GED. ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso 61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge [Signature]Judge Code: 216Sentence Date: 5/18/17

COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

CO 484 OF
STATE

Dorchester

VS

Byron Christopher Kinsey

AKA:

Race: BLACK Sex: M Age: 31

DOB: SS#: [REDACTED]

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Armed Robbery

INDICTMENT/CASE#: 2017GS18-0932

A/W#: 2017DOR12

Date of Offense: 3/10/2015

S.C. Code §: 16-11-330(A)

CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

9512

Sorenson, Donald N.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/18/17☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 2164

Sentence Date: 5/18/17

COPY

485

COUNTY OF Dorchester
 STATE VS.
Byron Christopher Kinsey
 AKA:
 Race: BLACK Sex: M Age: 31
 DOB: SS#: [REDACTED]
 Address:
 City, State, Zip:
 DL#: SID#:

INDICTMENT/CASE#: 2017GS18-0933A/W#: 2017DOR13Date of Offense: 3/10/2015S.C. Code § 16-23-0500CDR Code #: 3434

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: Possession of Firearm by person convicted of a Violent Crime☒ CONVICTED OF or ☐ PLEADSin violation of § 16-23-0500 of the S.C. Code of Laws, bearing CDR Code # 3434☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

9512

Soransun, Donald N.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/18/17☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-29 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge

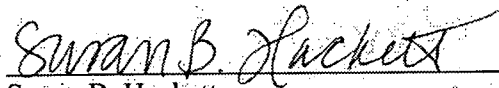
Judge Code: 2166Sentence Date: 5/18/17

COPY

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

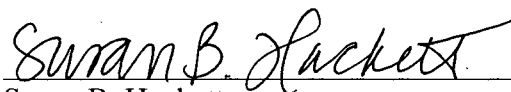
ATTORNEY FOR APPELLANT

This 18th day of April, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of April, 2018.

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SC Court of Appeals