

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County
Donald B. Hocker, Circuit Court Judge

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

FABIAN LAMICHAEL GREEN,

APPELLANT

APPELLATE CASE NO 2017-001332

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 FABIAN LaMICHAEL GREEN,)
)
 DEFENDANT.)
 _____)

2016-GS-30-01077 & 01078

TRANSCRIPT OF RECORD

MAY 26, 2017
LAURENS, SOUTH CAROLINA

BEFORE:

THE HONORABLE DONALD B. HOCKER

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

WARREN MOWRY, ASSISTANT SOLICITOR
JAMES TODD, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

TRISTAN SHAFFER, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

1 **MR. MOWRY:** --- tending to admit that.

2 **THE COURT:** All right. Very good. Thank you. What's
3 next?

4 **MR. SHAFFER:** Your Honor, the State has also provided
5 me a copy of conversations between Ms. Galarza and the
6 victim in this case through Facebook. I have approximately
7 fifty pages that were provided to me dated from 6/23/14
8 until 5/8 of '16.

9 Your Honor, we had actually moved to suppress this as a
10 whole. I guess it's hearsay initially. And we'll probably
11 have some more objections depending on what the State's
12 position is.

13 **MR. MOWRY:** Your Honor, I'm going to hand you a copy of
14 -- that Mr. Shaffer has.

15 **THE COURT:** Okay.

16 **MR. MOWRY:** But I'll hand you a copy of the relevant
17 portion of the Facebook messages. This was not obtained
18 from Ms. Galarza's Facebook account. It's under the, I
19 guess, the alias of Ruby Ninia [sic]. So that's the name on
20 her Facebook account.

21 But these messages were not obtained from her account.
22 They were obtained from the victim's account. The victim's
23 father has the password that was -- they were part of the
24 same system, same phone, that sort of thing.

25 And so the victim's father had access to it. And he's

1 the one that downloaded those. He would be available to
2 testify to that. And he made these available to law
3 enforcement.

4 Part of it, Your Honor, establishes that there was a
5 relationship between Galarza and the victim. And also there
6 is a portion in there where -- at the very end, if memory
7 serves me, where he is invited to [REDACTED] Queen Circle, I
8 believe. And in essence the -- that's Galarza's house.
9 That's where she and this Defendant were both arrested.

10 And there is a -- it was around five pm. And then
11 there's a message about 5:30 that says never mind, I'm not
12 there anymore that we would argue logically means that the
13 crime had already taken place, and she's trying to cover her
14 tracks.

15 **THE COURT:** All right. Let me just stop you,
16 solicitor. Now, all right, the State maintains that Galarza
17 is, in fact, this Ruby Rina?

18 **MR. MOWRY:** Yes, sir.

19 **THE COURT:** R-i-n-a?

20 **MR. MOWRY:** Yes, sir.

21 **THE COURT:** All right. And that is based upon what?

22 **MR. MOWRY:** We have a witness that will testify to
23 that.

24 **THE COURT:** All right. Okay. So we've got
25 communication between a co-defendant and the deceased victim

1 in the case?

2 **MR. MOWRY:** Yes, sir.

3 **THE COURT:** And defense maintains that this is hearsay
4 and should be kept out. Why is it not hearsay? If we've
5 got a co-defendant who is presumably not going to be
6 testifying in this case, I'm just assuming that because you
7 reference the fact that her trial is forthcoming, and we got
8 a deceased victim, how is that not hearsay, both ends?

9 **MR. MOWRY:** This was off of the victim's Facebook
10 account, Your Honor.

11 **THE COURT:** Right. I understand that.

12 **MR. MOWRY:** So this would've been contact between a co-
13 defendant -- this is part of a conspiracy ---

14 **THE COURT:** Right.

15 **MR. MOWRY:** --- we would allege, between this Defendant
16 and Galarza to lure the victim to the house. So we will
17 have testimony that the two of them were texting or sending
18 messages prior to the victim showing up at [REDACTED] Queen Circle
19 and being murdered. So under those circumstances we would
20 suggest that it is the contact or the communication with a
21 co-conspirator.

22 **THE COURT:** Mr. Shaffer.

23 **MR. SHAFFER:** And, Your Honor, I understand the State's
24 position, but the issue is is that I think they actually
25 have to prove that they were in the conspiracy and they were

1 in the furtherance of the conspiracy in order to get it in
2 under that exception.

3 Your Honor, if you look at the South Carolina cases --
4 and I'm talking specifically, I think it's 801(d)(2), I
5 believe is the correct -- I apologize, Your Honor.

6 **THE COURT:** That's all right. Yeah, give me the
7 correct -- and while you're looking that up, solicitor, was
8 my assumption correct that it's not the State's intention of
9 calling Ms. Galarza as a witness?

10 **MR. MOWRY:** It is not, Your Honor.

11 **THE COURT:** Okay.

12 **MR. SHAFFER:** Yes, Your Honor. 801(d)(2) ---

13 **THE COURT:** Okay. 801(d)(2). And that says ...

14 **MR. SHAFFER:** These are statements that are not
15 hearsay. Obviously a statement by a party opponent, but --
16 and this says that -- and we're talking about subsection (e)
17 under 801(d)(2). A statement by a co-conspirator of a party
18 during the course and in furtherance of the conspiracy.
19 Your Honor, I think they have to show that this was in the
20 course and in furtherance of the conspiracy in order to get
21 this stuff in.

22 If you look at -- there's no State rule saying what the
23 standard of proof is there, but at least there's no State
24 law dictating it. There's no case directly on point.

25 But if you look at the federal rules, there's a case,

1 which I can hand up. It's Bourjaily v. United States in
2 which case the U.S. Supreme Court said that under the
3 federal rules under that -- their version of it, it must be
4 shown by a preponderance of the evidence.

5 **THE COURT:** Okay. All right.

6 **MR. SHAFFER:** So, Your Honor, I think that it takes
7 more than a mere allegation by the State that they were co-
8 conspirators in this as in furtherance of a conspiracy.
9 They have to have some sort of evidence to prove it.

10 **THE COURT:** Okay. Now these communications I see --
11 let me just preface this statement by saying I don't do
12 Facebook. I know what Facebook is, but that's about the
13 extent of it. It looks like the communication is dated. Is
14 that -- I see dates and times.

15 **MR. MOWRY:** Yes, sir.

16 **THE COURT:** Is that an indication of when the -- of the
17 communication on Facebook was taking place?

18 **MR. MOWRY:** Yes, sir.

19 **THE COURT:** Okay.

20 **MR. MOWRY:** And I also want to make you aware, Your
21 Honor, the address that is listed on the last page of the
22 handout, I think it's the third or fourth entry, send me
23 your address right quick. And then Ruby replies [REDACTED] Queen
24 Circle, which is the Defendant Galarza's house. That is
25 also where the State alleges the murder took place.

1 **THE COURT:** Okay.

2 **MR. MOWRY:** We have DNA evidence, blood evidence that
3 was collected at the scene that is the victim's blood. I
4 believe the percentage was thirty-eight quadrillion.

5 **THE COURT:** Okay. All right. And the name Edwin, is
6 that the victim?

7 **MR. SHAFFER:** Yes, Your Honor.

8 **THE COURT:** Okay. All right. What I'm going to do on
9 this, I'm going to have to just go through it. So I'll take
10 this motion to suppress under advisement.

11 **MR. MOWRY:** Your Honor, if I could also just point out
12 for Your Honor that not only does the Facebook message say
13 to come to [REDACTED] Queen Circle, there's a discussion of that in
14 the letter itself that we spoke of earlier.

15 **THE COURT:** Oh, the letter at the detention center?

16 **MR. MOWRY:** Yes, sir. There is a mention of that
17 process.

18 **THE COURT:** All right.

19 **MR. MOWRY:** Plus, Davian Holman, a co-defendant, we
20 anticipate that he will testify that the Defendant and
21 Galarza were both texting and giggling, ---

22 **THE COURT:** Okay.

23 **MR. MOWRY:** --- which we would submit falls into line
24 with what we have here.

25 **THE COURT:** Okay. So we do have -- as I understand,

1 that there's actually three co-defendants in this case?

2 **MR. MOWRY:** That's correct.

3 **THE COURT:** And so the other co-defendant is going to
4 testify for the State?

5 **MR. MOWRY:** Yes, sir. Davian Holman, we anticipate,
6 will testify.

7 **THE COURT:** Okay. Mr. Shaffer.

8 **MR. SHAFFER:** Yes, Your Honor. Related to Davian
9 Holman's statement, he also specifically states in his
10 written statement that he didn't know what they were looking
11 at when they were looking at the tablet giggling, that he
12 had no idea what they were looking at at the time.

13 **THE COURT:** Okay.

14 **MR. SHAFFER:** So I think that they have a big -- if the
15 Court finds that a preponderance of the evidence standard
16 would apply under the South Carolina rule, I think that they
17 would have a problem meeting that burden.

18 There's also a secondary issue here related to that.
19 First is what the standard of review is for that or what the
20 standard of proof is in order to show that they were -- they
21 were co-conspirators at the time and this was in furtherance
22 of the conspiracy. The second issue is whether or not the
23 evidence itself can be used to establish that they were co-
24 conspirators and the statement was made in furtherance of
25 the conspiracy.

1 And to be honest with you, Your Honor, there is divided
2 case law throughout the country on that very issue. I would
3 submit that the statement itself can't be used as evidence
4 that they were co-conspirators and, you know, the substance
5 of the statement can't be used to show that they were co-
6 conspirators and acting in furtherance of a statement. I
7 think that they would need outside evidence of that
8 testimony.

9 **THE COURT:** Okay. All right. Solicitor.

10 **MR. MOWRY:** Your Honor, if I could quote directly from
11 the letter that we had referred to earlier. He didn't even
12 see -- and I apologize again, Your Honor, for the letter.
13 I'm going to read it directly.

14 He didn't even see the shit coming. Me and my girl
15 played shit off well by having a big argument on Facebook.
16 He inboxed (ph.) came over thinking I wasn't there and then
17 things proceeded.

18 **THE COURT:** Okay.

19 **MR. MOWRY:** So we have the indication that that was
20 exactly what was going on from the letter. We have an
21 indication from Mr. Holman that they were texting prior to
22 the victim coming over.

23 The substance is coming to the [REDACTED] Queen Circle, which
24 is where the Defendant lived, and where she and the two co-
25 defendants were arrested. And we can prove the murder took

1 place there.

2 So I think there's plenty of evidence to ---

3 **THE COURT:** Okay.

4 **MR. MOWRY:** --- beyond a preponderance of the evidence
5 to show that there was -- these are not only relevant, but
6 they indicate that they are in furtherance of the
7 conspiracy.

8 **THE COURT:** Okay. All right. Let me just -- Court's
9 exhibit is four pages, but what you had laid on the bench,
10 solicitor, I only have three pages.

11 **MR. MOWRY:** I'm sorry, Your Honor.

12 **THE COURT:** So you want to take a look at what you
13 handed me ---

14 **MR. MOWRY:** Yes, sir.

15 **THE COURT:** --- and find the missing page and just put
16 it with it, please.

17 (Pause)

18 **MR. MOWRY:** My apologies.

19 **THE COURT:** It's all right. Not a problem. All right.
20 I'm going to take that under advisement. And I can -- we
21 can discuss it further on Tuesday.

22 **MR. SHAFFER:** Your Honor, one issue that's come up,
23 which I would like -- I just realized, obviously if these
24 statements are to come in -- it just seems that the State
25 may have knowledge that -- as to times of the individual

1 messages, which are not shown on the actual date. If
2 possible, I'd like to actually see those times so that I can
3 know when -- when each message was sent versus, you know,
4 you have a header that says that it was sent at 4:10 pm, but
5 I think the State might've made reference that the last
6 message was sent at a particular time. And I'd like to ---

7 **MR. MOWRY:** We'll get that accomplished, Your Honor.

8 **THE COURT:** Well, I mean, I thought the -- what was
9 handed to me does have dates and times.

10 **MR. SHAFFER:** And, Your Honor, I think that they do,
11 but I think the State might've made reference as to knowing
12 the exact time of the last messages and when -- which is not
13 indicated on the ---

14 **THE COURT:** Okay.

15 **MR. SHAFFER:** --- on the sheet.

16 **THE COURT:** Not all the times. Okay. Well, what --
17 all right. So what -- I need to know the date and time as
18 well. So what page are we referring to that ...

19 **MR. MOWRY:** I believe it is the last page probably,
20 Your Honor.

21 **THE COURT:** Okay.

22 **MR. MOWRY:** Or maybe the next to the last or the last.

23 **THE COURT:** Okay. The next page, next to the last page
24 does not have a date and time.

25 **MR. MOWRY:** We'll get that established, Your Honor.

1 **THE COURT:** All right. If you can get that information
2 to me as well.

3 **MR. MOWRY:** Yes, sir.

4 **THE COURT:** Okay. All right.

5 **MR. MOWRY:** And actually the last three pages, I think,
6 would be particularly relevant, Your Honor.

7 **THE COURT:** Okay. I'm going to have this Facebook
8 posting marked as Court's number 2, please, Susan.

9 **MR. SHAFFER:** Your Honor, ---

10 **THE COURT:** Wait. Hold on a second.

11 **MR. SHAFFER:** Sorry, Your Honor.

12 (Whereupon Court's exhibit 2 was marked)

13 **THE COURT:** Okay. Mr. Shaffer.

14 **MR. SHAFFER:** Thank you, Your Honor. My next issue I
15 would just like to put or I would like the State to put on
16 record what, if any, discussions were made and what sort of
17 offers or insinuations of leniency were made to any of the
18 co-defendants.

19 **THE COURT:** Okay. Well, I think it would be applicable
20 to the one co-defendant who's going to testify. I don't
21 think it would be applicable or relevant to Ms. ...

22 **MR. MOWRY:** Galarza.

23 **THE COURT:** Galarza.

24 **MR. MOWRY:** Yes, sir.

25 **THE COURT:** You want to state for the record any offers

1 **THE COURT:** Okay.

2 **MR. MOWRY:** Everything else, the ones that he has
3 concerns about, if we could mark them for identification
4 pretrial ---

5 **THE COURT:** Sure.

6 **MR. MOWRY:** And then that would save us a whole bunch
7 of time.

8 **THE COURT:** Okay. You may want to -- because as we
9 discussed, we'll have a different court reporter on Tuesday,
10 but if you want to maybe before we deal with the jury ---

11 **MR. MOWRY:** Yes, sir.

12 **THE COURT:** --- to have those marked. And then ---

13 **MR. MOWRY:** That'd be great.

14 **THE COURT:** --- and then just inform the Court, you
15 know, exactly what is already into evidence and what's just
16 been marked for identification, okay? All right. Very
17 good. All right. Anything else, Mr. Shaffer, from your
18 side?

19 **MR. SHAFFER:** Nothing further, Your Honor.

20 **THE COURT:** Okay. All right. From the State's side?

21 **MR. MOWRY:** I don't believe we have anything further,
22 Your Honor.

23 **THE COURT:** Okay. All right. So basically what I have
24 under advisement is to take a look at the four-page -- well,
25 what has been typed ---

1 **MR. MOWRY:** Yes, sir.

2 **THE COURT:** --- from his handwritten statement, four-
3 page, Court's number 1. I'll work on that. And then
4 Court's number 2, which is the -- some fifty pages of
5 Facebook conversations between co-defendant Galarza -- how
6 do you pronounce the last name, solicitor?

7 **MR. MOWRY:** Galarza.

8 **THE COURT:** Galarza.

9 **MR. MOWRY:** Yes, sir.

10 **THE COURT:** And the victim. I'll take a look at that
11 and let everybody know.

12 **MR. MOWRY:** And, Your Honor, what I will do if Mr.
13 Shaffer has no objection, I'll make you a copy of the
14 handwritten ---

15 **THE COURT:** Okay.

16 **MR. MOWRY:** --- letter that we're talking about so you
17 can use it ---

18 **THE COURT:** Yeah, if you can do that, give that to me
19 before we finish up.

20 **MR. MOWRY:** Yes, sir.

21 **THE COURT:** Okay. All right. Thank you, gentlemen.
22 Appreciate y'all's hard work. And the jury, as I
23 understand, is coming in at 9:30 Tuesday morning.

24 **MR. MOWRY:** Right. Thank you, Your Honor.

25 **MR. SHAFFER:** Thank you, Your Honor.

State of South Carolina)
vs.) Transcript of Record
Fabian LaMichael Green)
Defendant)

May 30th through June 2nd, 2017
Laurens, South Carolina

B E F O R E:

Honorable Donald B. Hocker, Judge

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

O. Warren Mowry, Jr., Deputy Solicitor
James C. Todd, IV, Assistant Solicitor
Attorneys for the State

Tristan M. Shaffer, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

1 MR. SHAFFER: Yes, Your Honor. Related to the motion
2 to suppress the Facebook messages, I also believe that
3 there's been a problem with authenticating them. It's my
4 understanding that the State, basically the victim's
5 father actually pulled them off of Facebook and printed
6 them off. The problem is, he's not a, he's not a party to
7 the conversation. So even, if you could say that Karina
8 was a, was a coconspirator and that there's evidence that
9 the statements were made in the course of the, the
10 conspiracy, I think there's a problem with authenticating
11 them because we don't have anyone here to testify who was
12 actually a party to the conversation. Moreover, I think
13 that there's also going to be a problem with him
14 authenticating that these are a complete and accurate
15 depiction of these documents. If the State moved them in
16 through like a business records exception, it might be a
17 little bit different. But I don't anticipate that they
18 have a witness that's actually going to be able to
19 authenticate these documents.

20 THE COURT: Okay.. Alright. The State have any
21 response to that additional ground?

22 MR. MOWRY: Yes, sir. There were two people that had
23 access to that account, one was the victim, one was the
24 father. The father also had the password. So, he was
25 able to get on there. He knows it's his son's account.

1 It's in fact listed as Edwin all the way through. Davian
2 Holman can testify and will testify that he knows in fact
3 that Karina Galarza's Facebook account is Ruby Rina,
4 (phonetic). And as a matter of fact, Your Honor, there is
5 a page near the first, it's probably about the tenth page
6 or so, about half way, let's see if I can find it real
7 quick. Okay. Down near the bottom. The third line from
8 the bottom. The message from Ruby is OMFG, just answer
9 the question so I can get over this. And then a frowny
10 face. And Edwin's answer is IDK. I don't know Karina.
11 So, I would say that that pretty well authenticates it.
12 The victim's father, that, that portion of the
13 conversation certainly indicates that these are
14 conversations between the two of them. And so therefore,
15 I think the authentication issue is satisfied.

16 MR. SHAFFER: Your Honor, this issue, there's
17 actually a similar issue on appeal right now. It's State
18 vs. Anthony Atkins. It's already at a Court of Appeals
19 argument. It's waiting for the actual ruling from the
20 Court that, and in that case, the State's actually on the
21 opposite side. They're saying that, that there's not
22 enough evidence there to authenticate it. What you're
23 gonna have to have here is somebody who can actually say
24 that the document is what it purports to be. I think that
25 part of that is to say it's complete and I think that it's

1 very, very hard to do that whenever you don't have a party
2 in the conversation, or someone who's record keeping. I
3 mean we don't know if Facebook accurately kept all that
4 information. We don't have that evidence before us. We
5 don't know whether or not that some of the items have been
6 deleted. We don't have that evidence before us because of
7 the fact that it's possible that the victim or, you know,
8 in the course of Facebook, may, Facebook's business, they
9 may have deleted some of these messages. I don't know.
10 We don't have a testimony to actually prove it.
11 Therefore, I think there's an authentication issue.

12 THE COURT: Okay. Alright. Well since I've taken
13 under advisement the motion as it relates to the Facebook
14 messages, I will certainly give that consideration as well
15 in making a ruling on that. Mr. Shaffer, is there, can
16 y'all slide that screen back --

17 MR. MOWRY: Yes, sir.

18 THE COURT: -- just a little bit just so I can have a
19 good line of sight with Mr. Green. Just a little bit, not
20 much. That's good. That's good.

21 MR. MOWRY: Sorry. I'm running into, there we go.

22 THE COURT: Thank you. Alright. Mr. Shaffer, I
23 think you had indicated at sidebar, that even possibly Mr.
24 Green may want to be heard on the motion for continuance
25 that you made earlier?

1 with my client just briefly to figure out whether or not I
2 need to address it because that's probably --

3 THE COURT: Right.

4 MR. SHAFFER: -- the biggest piece of evidence that
5 the State has against my client.

6 THE COURT: Right. Right. Okay. Alright. Okay.
7 As it relates to the letter, I'm going, I'm going to allow
8 the portion that the Court selected to go to the jury and
9 what the Defense selected. And determining that the
10 prejudice, notwithstanding the fact that this all comes
11 from the Defendant, the prejudice of putting into evidence
12 the remainder portion of the letter. The prejudice is far
13 greater than any probative value. So, what has been
14 selected by the Defense in addition to what I ruled on,
15 I'll allow that and that only to come in as it relates to
16 the letter. I find that there is no expectation of
17 privacy for the Defendant at the time he submitted this
18 note to another inmate. As it concerns the Facebook
19 messaging, I'm going to allow May 7th and May 8th posting
20 only. I've done, what I did was, I looked at it from
21 several different angles. I did a Bruton analysis and I
22 find that there's not a Bruton issue. I did a Crawford
23 analysis, didn't find that there was a Crawford issue.
24 And because of 801, I don't believe it's, it's hearsay.
25 But even if it is we have an 801 exception and all the

1 other Facebook messaging is 2014, 2015, early 2016. It's
2 too remote in time to make that relevant. I don't really
3 find an authentication problem. I think if the dad comes
4 in and says, yeah, this is, this was Edwin's Facebook
5 account, I've got the password. I can, so I think he can
6 authenticate it as well as the Defendant. Holman can come
7 in and authenticate the identity of Ruby. So, I don't
8 think really there is a, an authentication problem. But
9 the State has to present some prima facie evidence of the
10 existence of a conspiracy and the fact that the Defendant
11 was part of that conspiracy in order to get May 7th, May
12 8th postings in because the State is wanting to offer it
13 as evidence of a furtherance of conspiracy. So, you got a
14 little hurdle or maybe a big hurdle, I don't know, to jump
15 over before even that comes in. Okay.

16 MR. MOWRY: Let me ask you this, Your Honor. If, if
17 the Court deems that we are unable to jump over that
18 hurdle, might the existence of the, that, those Facebook
19 messages still be used by law enforcement to explain why
20 they did certain things? Why they went to --

21 THE COURT: Without --

22 MR. MOWRY: -- ■■■ Queens Circle.

23 THE COURT: Without going into the contents --

24 MR. MOWRY: Yes, sir.

25 THE COURT: -- but by virtue of having access to it,

1 we did such and such, I think that would certainly be
2 permissible. At least as I'm looking at it, at, at this
3 juncture, I think that would be permissible without going
4 into the contents. It's kinda like, as a result of your
5 conversation with John Doe, --

6 MR. MOWRY: What did you do?

7 THE COURT: -- you did, what did you do next? You're
8 not getting into the conversation, but you, you're
9 testifying as far as what you did.

10 MR. MOWRY: Yes, sir.

11 THE COURT: So it would seem like to me, and
12 certainly I'm not trying to cut you off as far as any
13 objections made at that time. But it just seems like from
14 what we know now, I think that would probably be
15 permissible.

16 MR. MOWRY: We don't anticipate that we'll be getting
17 into that until tomorrow, so that, that's fine.

18 THE COURT: Okay. Alright.

19 MR. SHAFFER: Your Honor, there's one other issue
20 that I thought about as well.

21 THE COURT: Sure.

22 MR. SHAFFER: I don't think that this is going to be
23 a problem, but due to the fact that it was Mother's day
24 whenever Edwin disappeared, I, I understand where the
25 holiday is relevant in order for them to establish their

1 an open mind. Don't reach any decisions, don't make any
2 decisions, but keep an open mind throughout this entire
3 proceeding. Okay. Alright. The State have any
4 objections to the Court's preliminary charge?

5 MR. MOWRY: No sir, Your Honor.

6 MR. SHAFFER: No, Your Honor. Just one correction.
7 I think initially you said he pled guilty.

8 THE COURT: Pled not, I meant to say --

9 MR. SHAFFER: Yes, Your Honor.

10 THE COURT: Didn't I say not guilty?

11 MR. MOWRY: I believe one time you said guilty, Your
12 Honor, then corrected it thereafter.

13 THE COURT: Okay. Alright. Let me emphasize that he
14 has never pled guilty to these two charges. He has pled
15 not guilty and he has exercised his right to, to plead not
16 guilty. So, if any time during this opening statement
17 that the Court has given you, if I've said that he's pled
18 guilty, please take that completely away from your mind
19 because that has never happened. He's always pled not
20 guilty to these two charges and I apologize for that
21 misstatement. Solicitor, you ready?

22 MR. MOWRY: Yes sir, Your Honor. Ladies and
23 gentlemen of the jury, let me introduce myself again if
24 you don't mind. My name is Warren Mowry. I am the Deputy
25 Solicitor here in Laurens. I prosecute for the State.

1 Every criminal case that's brought in the State of South
2 Carolina, whether it's in Magistrate Court or in here in
3 the Court of General Sessions, is brought in the name of
4 the people of the State of South Carolina. Some States
5 you'll see actually says the people versus. Here we say
6 the State versus. Same thing. And in this case, it is
7 the State vs. Fabian LaMichael R. Green. The man sitting
8 over there at the Defense table. On May 8th of 2016, it's
9 Mother's Day. That is one way that I would submit to you
10 some of the witnesses remember the day. Edwin Diaz
11 Chirinos went missing. He left his home driving a
12 friend's 2000 Silver Mustang and was never seen alive by
13 his parents again. His parents called law enforcement.
14 Missing persons information was put out. Flyers were
15 distributed. Law enforcement looked places that he might
16 of been. Social networks were monitored. Phone records
17 were monitored to try to find Edwin but he was not found
18 until May 26th. You will hear from a witness who was
19 looking at, for a place to cut grass. That was his job.
20 His profession. He would go out and make bids on places
21 to cut grass and he went into a remote area between
22 Laurens and Clinton. A dead-end street. An abandoned
23 mobile home and while he was there he found a silver 2000
24 Ford Mustang with the doors open. To then he found a
25 pile, obviously charred, remains. Someone had burned a

1 body. A human skull was found at the scene. All that was
2 collected. Examinations were made and this was the body
3 of Edwin Chirinos. Ladies and gentlemen, you will hear
4 information about how law enforcement made connection to
5 ■■■ Queens Circle in Laurens. At which point they found a
6 young lady named Karina Galarza, a young man named Davian
7 Holman and that man, Fabian Green. You will hear from
8 Davian Holman about how the victim was enticed to ■■■
9 Queens Circle. That when he got there, Fabian Green took
10 a hammer and bludgeoned the victim to death. Mr. Holman
11 will also tell you that they removed his body from the
12 scene, drove him to the remote site that I told you about,
13 where Mr. Green doused his body with lighter fluid and set
14 it on fire. You will also hear ladies and gentlemen, not
15 from Fabian Green's mouth, but from Fabian Green's hand, a
16 letter that we can prove was written by Fabian Green that
17 details the execution of Edwin Chirinos. That is where
18 the charges of murder and desecration of a corpse come
19 from ladies and gentlemen. Desecration of human remains.
20 Let me talk just for a few minutes about murder. Murder,
21 these are the elements, an unlawful killing of a human
22 being with malice, either expressed or implied. Let me
23 talk about each of these elements just for a few minutes
24 so that I can give you a bit of a road map of where we're
25 going. What to listen for. An unlawful killing. Some

1 killings for lack of a better term, ladies and gentlemen,
2 of one human being by another are legal. Some are
3 justified. You might of remembered the TV show,
4 Justified. There was always a reason for it. A legal
5 reason for it. Acting in self-defense is justification.
6 We don't have to simply allow somebody to kill us. We can
7 act in our own defense and that is a justification that
8 the law allows. A soldier killing an enemy in war time.
9 That is also justified. Sometimes a killing of one human
10 being by another is excusable. Occasionally there are
11 traffic accidents where the person driving a car is
12 acting, is keeping a close lookout. Is driving within the
13 rules of the road not breaking the speed limits and some,
14 sometimes somebody may dart between two cars and run in
15 front of him and he could not stop. No reasonable person
16 could have stopped and that person ends up dying because
17 of the traffic accident. That is excusable. So, there
18 are legal homicides. Killing of one person by another. A
19 murder, by definition, is unlawful of a human being. We
20 can prove that the remains found at the burn site were
21 human. We can also prove through DNA that it was Edwin.
22 With malice. Malice is simply meanness, wickedness, evil
23 intention. There's even one case that describes it rather
24 colorfully as a heart bent fatally on mischief. We can
25 prove that there was malice in Fabian Green's heart when

1 he committed this act. The murder, when the malice must
2 exist, aforethought, before the fatal blow was struck.
3 Now, it doesn't have to be two weeks of plotting or two
4 days of plotting or two hours of plotting. It doesn't
5 have to be that long. There is a case actually, ladies
6 and gentlemen, that talks about it being a twinkling of an
7 eye. So, very quickly, but there has to be some length of
8 time between the formation of that meanness in the
9 person's mind and the fatal blow being struck. Either
10 express or imply. If someone says for example, ladies and
11 gentlemen, I'm going to kill you. That would be expressed
12 malice. On the other hand, ladies and gentlemen, the use
13 of a deadly weapon. A gun, a knife or in this case, a
14 hammer would be inferred or implied malice. What's the
15 other crime that we have here? Desecration of human
16 remains. Let's talk about these elements. It's unlawful
17 for any person without authority, some funeral homes,
18 ladies and gentlemen, may well do cremations. You might
19 of had relatives that have chosen cremation. It is legal
20 under those circumstances to go ahead and dispose of human
21 remains that way, but that is with authority. Destroy or
22 damage human remains of a deceased human being or
23 desecrate those remains. And desecrate, I believe His
24 Honor will instruct you some of these words, dishonor,
25 violate, deface, and that is by burning the body of Edwin

1 Chirinos. That is what we submit to you happened. Ladies
2 and gentlemen, His Honor instructed you that the State has
3 the burden in this case. And we do, no doubt about it.
4 And we have the burden of proving the case beyond a
5 reasonable doubt. Not beyond every doubt because I submit
6 to you there's very little in human endeavor that we could
7 be one-hundred percent sure of. I've never been to
8 Russia. How do I know Russia even exists? Yeah, it's in
9 the geography books. It's in the maps. People talk about
10 the Russian American relationships, that sort of thing.
11 But I've never been there, how do I know? Do I have a
12 reasonable doubt that it exists? I don't, I can't be
13 convinced beyond a, beyond every doubt but do I have a
14 reasonable doubt that Russia exists? No, not a reasonable
15 one. It's not a doubt for which I can give a reason. A
16 reasonable doubt is one that leaves you firmly convinced
17 of the proposition that's being presented to you. And I
18 submit to you, ladies and gentlemen, by the time the State
19 gets done you're going to be firmly convinced that Fabian
20 Green bludgeoned Edwin to death with a hammer. That he
21 loaded him into the back seat of that car, drove him to
22 that remote site, pulled him out of the car, doused him
23 with lighter fluid and set him on fire. That is what the
24 State will prove to you, ladies and gentlemen. In every
25 trial, I ask a jury to do three things and they're all

1 equally important. The first is to listen very carefully
2 to the testimony that comes off this witness stand because
3 it's only from this witness stand, the testimony that
4 comes from that stand, that you are to consider as
5 evidence. Only that testimony and whatever physical
6 exhibits may be admitted through those witnesses are to be
7 the tools or the pieces that you put together to make your
8 decision. You are the judges of the facts, ladies and
9 gentlemen. You make the determination as to where the
10 truth lies in this case. You determine what the facts
11 are, the twelve of you together, fourteen at this point.
12 But at the same time, as you are the judges of the facts,
13 His Honor is the Judge of the law. At the close of the
14 trial, ladies and gentlemen, he's gonna provide you with
15 the law in this case. He will tell you what the law is.
16 It may not be the law as you think it is, it may not be
17 the law as you think it ought to be, but it's the law that
18 you have to take with you back there to your jury room.
19 And it's the law that you must apply to the facts as you
20 determine them to be. In a minute I'm going to ask you to
21 do one last thing for me, ladies and gentlemen. Every one
22 of y'all comes from a different background, different
23 lifestyle, different jobs, different home towns perhaps,
24 but every one of y'all has at least one thing in common
25 and that's common sense. We ask you to use your common

1 sense when you're considering the testimony and the
2 evidence that comes from this witness stand. We ask you
3 to use your common sense when you're applying the law as
4 His Honor gives you to the facts as you find them to be
5 and then we ask you to use your common sense when you're
6 back there in the jury room determining what your decision
7 will be. What your verdict will be. And if you do all
8 those three things, ladies and gentlemen, you're going to
9 come back with a just and a fair and a true verdict.
10 That's all any of us ask. Thank you very much.

11 THE COURT: Thank you, Solicitor. Mr. Shaffer, are
12 you ready, sir?

13 MR. SHAFFER: Thank you, Your Honor. Good afternoon
14 everyone. I have a little bit of a confession to make.
15 I'm scared, okay. I am scared right now. I've been
16 practicing law for seven and half years. I've tried a
17 bunch of cases. Represented a bunch of people charged
18 with real bad things and I'm scared to death. What I'm
19 scared about in this particular case is that you will not
20 look past the horrible thing that happened to Edwin.
21 Edwin, the victim in this case, died a horrible death and
22 his body was burned, and that's a horrible thing. But the
23 problem is, is that my client didn't do it. Okay. Now,
24 whenever you have a horrible case like this people want to
25 give justice to the family and I understand that. I want

1 to give justice to the family too, but I don't want it,
2 want to defeat justice for my client, take away justice
3 from my client by giving justice to the family. You'll
4 hear that he died a horrible death. You're going to see
5 some bad pictures I imagine. You're gonna hear some bad
6 testimony from everyone. What I don't want you to do, and
7 I'm scared because I don't know what I can say to keep you
8 from doing this, but I don't want you to say just because
9 he died a horrible death, that my client's responsible for
10 it because he's the one the State's blaming right now.
11 You know, you're going to hear the State present a bunch
12 of witnesses and some of those witnesses are going to
13 sound, at least on the surface, they're going to look like
14 they're compelling witnesses. Like why would this ever
15 happen unless he was guilty? Okay. On the surface you
16 may think that, but there are flaws with every piece of
17 evidence the State's going to present, okay. And my job
18 is to show you some of those flaws. Whenever you have,
19 whenever you're a criminal defendant, whether you believe
20 me in this or not, the, the chips are stacked against you,
21 you know. You have me defending you. You don't have,
22 hire the Solicitor's Office and the entire Sheriff's
23 Office. You have me. Okay. And the government knows
24 that. The founders of our Constitution know that and
25 that's part of the reason that they put the burden on the

1 State. They require them to prove everything beyond a
2 reasonable doubt. Okay. And obviously, well, it was up
3 there a second ago, reasonable doubt, beyond a reasonable
4 doubt is something that leaves you firmly convinced. It's
5 also said to be something that would keep a reasonable
6 person to hesitate to act. Lawyers like defining things a
7 bunch of different ways but realistically what it is, is
8 if you think it's reasonable to doubt or that there's a
9 possibility that my client didn't commit this murder, then
10 you need to find him not guilty. That's basically what it
11 boils down to. If you think it's reasonable for you to be
12 hesitant to do something, hesitant to convict him, then
13 you need to find him not guilty. Now, this is a very
14 strange case because it's very confusing. I try to put
15 myself back in the mind of a, you know, we're dealing with
16 people from 16 to 19 years old. I try to backtrack my
17 mind. It hasn't been that long but whenever I try to
18 think back to my thought process at that time, it's sorta
19 hard to do. You're not real rational between those years.
20 You don't think like you do whenever you're an adult.
21 Your brains are different. So, I have to think back and I
22 have to think why on earth would this happen, you know,
23 and I, and I think that you're going to be just as
24 confused as I am whenever this, whenever the State has
25 presented all of its witnesses. You're going to realize

1 that there are flaws on all of the State's evidence. But
2 you're going to be confused as to what happened, and that,
3 because I know I'm confused. Okay. Now, I wish I could
4 come up here and shed some light on it and go oh well,
5 this is what, what the State's theory is and this is what
6 our theory is and our theory's better because of this, the
7 State's theory is not good, but the problem is there's big
8 holes in this case. And there's stuff the State doesn't
9 know and there's going to be a lot of questions in your
10 mind afterwards. There's questions in my mind and that's
11 the reason that I can't sit here and tell you, give you a
12 full run down of exactly what's going to happen. Now, my
13 client may testify. He may decide not to and I'm going to
14 tell you this at the front of the case because I like to
15 try to be up front with everybody. Criminal defendants
16 have a right to testify and they have a right to remain
17 silent. They don't have to testify. It's a lose, lose
18 proposition really. I mean, it really is because if he
19 gets up on the stand to testify, you know, I guarantee you
20 the Solicitor will make him look bad because everyone
21 looks bad when they're being cross-examined by someone
22 who's a trained expert in cross-examination. Okay. But
23 if he doesn't get up and testify, the best we have is the
24 Judge saying you can't hold that against him. So, it's
25 sort of a lose, lose proposition. I don't know if he's

1 going to testify or not, okay. We'll find out a little
2 bit later in this case. One thing is that I'm not able,
3 and this a unfortunate system, someone has to go first.
4 The State gets to go first in this case. I'm not able to
5 present to you everything that I will present to you at
6 the front end. Okay. That's not the way the system
7 works, and unfortunately, people generally make their
8 minds up early. So please, as the Judge said, keep an
9 open mind throughout this. Keep an open mind. Listen to
10 all the facts. Listen to whether there are flaws in the
11 case. Think about what motivates people, you know. The
12 Solicitor indicated that Davian, my client's cousin, is
13 going to get up here and testify that this happened.
14 You're going to find out that Davian's a scared little
15 kid. Scared kid charged with murder. He is going to get
16 up here. I don't know what he's going to testify to. I
17 haven't talked to him but whenever he gets up here,
18 remember he is a scared kid and you're probably gonna hear
19 two different versions of what he said. Now, he also
20 mentioned a letter. Please keep in mind, keep a open mind
21 about that. The reason I'm saying keep an open mind about
22 it is that oh, he wrote a letter explaining what happened.
23 I don't think that that's exactly what the evidence is
24 going to show. I think that you're going to hear that
25 there was a letter and perhaps the State's taken out of

1 context and trying to say that it means something it
2 doesn't. There's probably a explanation for it. You're
3 also going to hear from some other witnesses who are going
4 to say that my client was around that area asking for
5 lighter fluid. Around the area where the body was burnt.
6 Well, he knows these people and you're going to hear a
7 explanation for that. And you're probably going to
8 question whether or not these people are credible and
9 whether or not these people are going to know the specific
10 date that this happened. So, I guess, to sum everything
11 up, I just want y'all to keep an open mind. Please listen
12 to everything. Please don't make your mind up before you
13 have a chance to hear all of the evidence because that's
14 not doing anyone any favors. It's a bad case. You're
15 gonna hear some bad, bad stuff about what happened to
16 Edwin. But please do not convict my client just because
17 you want to punish somebody for what happened to Edwin.
18 Thank you.

19 THE COURT: Alright. Thank you, Mr. Shaffer.
20 Solicitor, you ready to call your first witness?

21 MR. MOWRY: Yes, sir, Your Honor. We call Lieutenant
22 Ben Blackmon.

23 THE COURT: Okay.

24 LIEUTENANT BEN BLACKMON, being
25 first duly sworn, testified as follows:

DIRECT EXAMINATION

1
2 By Mr. Mowry:

3 Q You are Ben Blackmon?

4 A Yes, sir.

5 Q And I believe you're employed by the Laurens County
6 Sheriff's Office, is that right?

7 A That's correct.

8 Q What is your rank, sir?

9 A Lieutenant Criminal Investigations Division.

10 Q And, so you're a detective? Is that right?

11 A Yes, sir.

12 Q And back in May of 2016, were you employed in that
13 capacity?

14 A That's correct.

15 Q In fact you were basically the supervising
16 investigator, is that right?

17 A Senior Officer.

18 Q Were you familiar with the missing person's report
19 that came in sometime after May the 8th on Edwin Chirinos?

20 A Yes, sir. That's correct. It came in to us on May
21 the 10th between 10:00 a.m. and 11:00 a.m.

22 Q Okay. And what, what was the gist of the report?

23 A That the victim in this case, Mr. Edwin Chirinos had
24 departed his residence on May the 8th around 6:30 p.m. and
25 had never returned. His family became concerned for his

1 safety and reported it to law enforcement.

2 Q Okay. Did you have any indication as to whether the,
3 whether Edwin was on foot, was he driving, what, what did
4 you, what did you discover?

5 A He was traveling in a 2000 model Ford Mustang and it
6 was silver in color, convertible with a black top.

7 Q And did you receive a vehicle identification number
8 or a VIN?

9 A That's correct, sir. I did.

10 Q Okay. Can you recite that number for us please, sir?

11 A Yes, sir. It's 1FAFP444 --

12 Q P444.

13 A 5 --

14 Q Okay.

15 A YF197823.

16 Q And I planned ahead and ran out of room. That look
17 right?

18 A Yes, sir.

19 Q Okay. When y'all receive a missing person's report,
20 first of all, how, how old was Edwin indicated to be?

21 A Edwin was indicated to us to be seventeen years of
22 age at the time of the initial report of a missing person.

23 Q Okay. Do y'all get a lot of missing persons reports?

24 A A fair, fair amount.

25 Q Okay. A lot with teenagers?

1 A That is correct, sir.

2 Q In your experience with missing persons reports,
3 what's generally the case with a teenager who's reporting
4 missing?

5 A Generally they're off with a friend or acquaintances
6 and sometimes even family member. In this particular
7 incidence, Mr. Chirinos was seventeen years of age which
8 placed him almost as a legal adult. At seventeen you can
9 move out of your home on your own. You don't have to,
10 you, you don't have to come home at a certain time that
11 your parent's state. You're, you're an adult. You can
12 move out of your, your residence.

13 Q Okay. Nonetheless, did y'all give some attention to
14 this?

15 A That's correct, sir.

16 Q What --

17 A We --

18 Q Stop, tell us what you did as far as this report was
19 concerned.

20 A Yes, sir. Upon receiving the report on the 10th, we
21 placed Mr. Chirinos and the vehicle into the NCIC computer
22 in case the vehicle turned up somewhere out of our county
23 or out of our region even. We would be notified of such
24 and, also if someone run his name and date of birth or
25 identification card, that it would, you know, come back

1 that he was missing. We also from there spoke with the
2 school resource officers, community services division,
3 things like that. Spoke with students, teachers,
4 administrators of the school.

5 Q And what was your purpose in doing that?

6 A To see if anybody had had any contact with Mr.
7 Chirinos, which those were all negative results. We
8 followed many tips that came into the Sheriff's Office.
9 Followed up on many points of information from just
10 friends, relatives. We attended a vigil at the city park
11 to, hoping someone would come forward with some
12 information.

13 Q Okay. Now, I had you recite the vehicle
14 identification number. That long number that's tagged up
15 on the dashboard of cars. What was the, the license tag
16 number of the car?

17 A At the time, sir, I believe it had a paper, paper
18 tag.

19 Q Okay. So, no license tag?

20 A There was no South Carolina license plate at that
21 particular moment.

22 Q Alright. Did you do anything through the State Law
23 Enforcement division or SLED?

24 A That's correct. We utilized the, their services to
25 render a missing persons flyer and also to disseminate

1 those flyers throughout the community and other areas.

2 Q Okay. Your Honor, I'm going to hand the witness, I
3 think without objection, what's been entered into evidence
4 as State's Exhibit 49.

5 THE COURT: Okay.

6 Q Pre-trial. I'm going to ask you if you can identify
7 that?

8 A Yes. So that appears to be the same flyer that we
9 obtained through the South Carolina Law Enforcement
10 Division.

11 Q And what did you do with these flyers?

12 THE COURT: Solicitor, let me ask you, has that been
13 any redaction on that one?

14 MR. MOWRY: Yes sir, there has been.

15 THE COURT: Okay. Let me just explain before the jury
16 takes a look at that exhibit. Often times, ladies and
17 gentlemen, in documents and exhibits the Court determines,
18 sometimes with or without the consent of the lawyers, to
19 what we call redact or take out or mark through certain
20 portions. And the reason for that is, is that we want to
21 make sure that what is before you is relevant information.
22 And if we feel like a document contains some information
23 that would not be relevant or useful to you for your
24 consideration, then we, we take that out. Place no
25 significance to the fact that a portion of that particular

1 document has been marked out in, in some fashion. Okay.
2 You may proceed.

3 MR. MOWRY: Thank you, Your Honor.

4 Q How did you distribute these forms?

5 A They were handed out at various locations and placed
6 in windows of service stations, etc. Just anywhere public
7 places could be we, we tried to get several of them posted
8 in obvious locations.

9 Q Did you monitor the victim's social media accounts or
10 phone numbers, that sort of thing?

11 A Yes sir, that's correct.

12 Q Was there any contact or any hit, I guess, for him on
13 those things?

14 A We did subpoena phone records also to see what
15 cellular phone towers were hit on by the, by the victim's
16 phone which the last one we got was a remote area away
17 from the County which we did request a air support from
18 Anderson Sheriff's Office who loaned us the use of their
19 helicopter. You know, we also had messages provided to us
20 from --

21 MR. SHAFFER: Your Honor, may we approach?

22 THE COURT: Sure.

23 (Whereupon, a bench conference was held in the
24 presence of the jury but out of the hearing of the
25 jury.)

1 THE COURT: You may proceed.

2 Q Okay. Let me just sum it up. All this stuff that
3 y'all did, was there any result, any good result from it?
4 Did you find Edwin?

5 A Eventually the victim was found on the 26th of May by
6 an individual who was looking for a job cutting grass.

7 Q Okay. Thank you, sir. That's all I have. Answer
8 any of Mr. Shaffer's questions.

9 CROSS-EXAMINATION

10 By Mr. Shaffer:

11 Q The flyer there, do you know if it was posted on
12 social media as well?

13 A I'm fairly sure it was, sir. Through the Sheriff's
14 Office Facebook --

15 Q Okay.

16 A -- account. However, I'm not savvy with that
17 specific account. I don't have access to it. That was an
18 administration sorta --

19 Q Okay. Well, I was also wondering whether, you
20 mentioned something the vehicle that you, you put a flag
21 out for the vehicle. How, how exactly does that work? Is
22 it like it's stolen or is it like it, explain that for the
23 jury.

24 A You basically can get a title history and I have one
25 here of the vehicle which gives you the VIN number, a tag

1 if it has one. You deliver that to a certified NCIC
2 operator which we have several around the office. It's
3 placed into the NCI computer where if an officer in
4 another agency or in one of your own agency runs the VIN,
5 it comes back as connected to a missing person.

6 Q Okay. No further questions.

7 A Thank you.

8 THE COURT: Anything in redirect?

9 MR. MOWRY: No, sir.

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

11 A Thank you, Your Honor.

12 MR. MOWRY: Your Honor, you can perhaps explain the
13 translators.

14 THE COURT: Ladies and gentlemen of the jury, you may
15 notice we have two ladies, and one at a time they, they
16 stand up kinda to the side. I think one's sitting down
17 now but that's fine. We have some people in the courtroom
18 that need a little assistance in, in hearing and
19 understanding what is being said so we have two ladies who
20 are, who are doing that. So, that's, if you've noticed
21 that, they've got some equipment that assist them in, in
22 providing the translation. Just so, make you aware of
23 that. Alright. Let's, let's take an afternoon break,
24 ladies and gentlemen. About ten minutes and if you'll go
25 back to the jury room. Again, remind you, no

1 MR. SHAFFER: Thank you, Your Honor.

2 THE COURT: Okay.

3 MR. SHAFFER: There's no objection. Thank you.

4 THE COURT: Okay. Alright. Let's bring the whole
5 jury out please Mr. Bolt.

6 (Whereupon, the jury came into open court at
7 approximately 4:06 p.m.)

8 THE COURT: Thank you, Mr. Bolt. Solicitor, you
9 ready to call your next witness?

10 MR. TODD: Yes, Your Honor. The State calls Kenneth
11 Hill.

12 KENNETH HILL, being
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 By Mr. Todd:

16 Q Your name is Kenneth Hill, is that correct?

17 A Yes, sir.

18 Q Okay. And where do you live?

19 A [REDACTED] in Laurens.

20 Q Okay. And that's Laurens County?

21 A Yeah. It's still in Laurens County.

22 Q Okay. And what do you do for a profession?

23 A I don't really work but I do like to cut grass on the
24 side and stuff like that.

25 Q Okay. Alright. And you've done that for a while?

1 A Yes, sir.

2 Q Okay. Specifically, do you know much about the
3 Clinton area in Laurens?

4 A Yes, sir. I was born and raised in Clinton. Yes,
5 sir.

6 Q Are you familiar with the Taylor Street area?

7 A Yes, sir.

8 Q Okay. Specifically, on May 26th, 2016, were you
9 around that area?

10 A Yes, sir.

11 Q Okay. And what were you doing?

12 A We was over my, my stepson's cousin's house cutting
13 hedges for his mother. And we loaded them on the trailer
14 and took them around to Taylors Street to dump them off in
15 the woods because he didn't have no area to dump them in.
16 And when we arrived, and then pull up in the yard, we see
17 the Mustang sitting there and then the closer we got to
18 it, we seen like the burnt spots on it. And we start to
19 seeing the skeleton part of the burnt, burnt area so we
20 turned around and came back out and then we called 911.

21 Q Okay. I'm going to show you just so the jury
22 understands where that is. This photo number 1 labeled as
23 State's number 1 into evidence. You recognize that?

24 A Yeah. It's the trailer.

25 Q Okay. And you pulled in that driveway there and were

1 going to --

2 A Headed towards the trailer right in the driveway
3 there and the car was just sitting in the drive right at
4 the end of the driveway there. We could see the trunk was
5 open and the doors was open and the closer we got to it we
6 seen the burnt spot there.

7 Q Okay.

8 A As I got closer I did see like the head part of it.
9 Like a skeleton or the head. Yes, sir.

10 Q Okay. You saw the skull?

11 A Yes, sir.

12 Q Okay. I am going to show you what's been marked as
13 number 2 and it's into evidence. That's still the same
14 trailer?

15 A Yes, sir.

16 Q Okay. Is that where the car was when y'all were
17 there?

18 A Yes, sir.

19 Q Okay. What's that black dark spot over there?

20 A That's the burnt area cause it was to the right side,
21 close to the back.

22 Q Okay. And you're talking about this area right here,
23 that's the burn area?

24 A Yes, sir.

25 Q Okay. And this is the car?

1 A Yeah. That's the car.

2 Q And the doors were open like that?

3 A Yeah. The doors were open.

4 Q Okay. What kind of car is that?

5 A That's a Mustang. It was a convertible.

6 Q Okay. And I'm going to show you one more closer.

7 Number 3 into evidence. What's that?

8 A That's the same car.

9 Q Okay. That's the Mustang?

10 A Yes, sir.

11 Q And you guys, as soon as you saw the burn pile --

12 A I was the driver so as soon as I seen, started seeing
13 it, like the skull of the head, I just turned around cause
14 I didn't wanna see no more.

15 Q Yeah. And you, what'd you do after that you said?

16 A We pulled out to the, back out the driveway, pulled
17 to the side and called his auntie and they called the 911.

18 Q Okay. And that's all?

19 A Yeah. That's all.

20 Q Okay. Answer any questions Mr. Shaffer might have.

21 THE COURT: Any cross?

22 MR. SHAFFER: No questions, Your Honor.

23 THE COURT: Okay. You can step down sir.

24 MR. HILL: Thank you.

25 THE COURT: Any objections to Mr. Hill being excused

1 from the courthouse?

2 MR. SHAFFER: None, Your Honor.

3 THE COURT: Mr. Hill, you are, you're welcome to
4 remain with us, or you're free to go, sir.

5 MR. HILL: Thank you, sir.

6 MR. TODD: Your Honor, the State calls Robbie
7 Haupfear.

8 THE COURT: Okay.

9 ROBBIE HAUPFEAR, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Todd:

13 Q Okay. Mr. Haupfear, where do you work?

14 A The Laurens County Sheriff's Office.

15 Q How long have you worked there?

16 A All together nineteen years.

17 Q Okay. What's your position?

18 A Currently I'm in warrants division.

19 Q Okay. And let's go back to May 26th, 2016. Were you
20 still obviously employed at the Sheriff's Department?

21 A Yes, sir.

22 Q Okay. And what position did you have then?

23 A Then I was the Lieutenant on uniform patrol.

24 Q Okay. And did you have the opportunity to respond to
25 a call in the Clinton area?

1 A Yes, sir.

2 Q Specifically, Taylor Street?

3 A Yes, sir.

4 Q Okay. Do you recall what the nature of that call
5 was?

6 A Yeah. We had, myself and the officer that I was
7 training, received a call for a suspicious vehicle parked
8 at the, an abandoned trailer.

9 Q Okay. And do you recall what address that was?

10 A It was [REDACTED]

11 Q Okay. And what's been marked as State's Exhibit
12 number 1, is that Taylor Road?

13 A Yes, sir. That's the house we went to.

14 Q Okay. And is that essentially, well, describe that
15 scene. What are those buildings around? Are they vacant?
16 Are they occupied?

17 A Yeah. The two buildings to the right were just like,
18 I guess, would be storage. There was some furniture and
19 some other things in it. The trailer all the way at the
20 end, the brown, I guess beige one is the, the abandoned
21 home with the car parked towards the end of it.

22 Q Okay. And were you first on the scene?

23 A Yes, sir.

24 Q Okay. And that Taylor Road address right there,
25 that's in Clinton?

1 A Yes, sir.

2 Q And that's Laurens County?

3 A Yes sir, it is.

4 Q Okay. And what's, describe to this jury what
5 happened when you, well first of all, what was the nature
6 of the call again? You may have just stated.

7 A It was a suspicious vehicle.

8 Q Okay. Do you recall any, any details of that call on
9 the way out there?

10 A When we received the call, they gave us a description
11 of the car and I recognized it as being one that we had
12 received a BOLO for, is to be on the lookout for a missing
13 person.

14 Q And that was a Mustang?

15 A Yes, sir. It was a silver 2000 Mustang.

16 Q Okay. State's number 3, that the description you
17 had?

18 A Yes sir, that's it.

19 Q Okay. And when you arrived on scene, describe for
20 the jury what you did as far as securing the scene.

21 A When we pulled up I noticed, the first thing I
22 noticed is the vehicle doors were open. Didn't appear to
23 be a tag on the back of it. I walked up to the car to
24 check the vehicle identification, the VIN number and the
25 officer that I was training, Deputy Turner, kinda walked

1 to the right side of the burn pile and he asked me, I
2 heard him ask me was that a human skull. At that time, I
3 backed out of the car, come back around, and identified it
4 as human remains.

5 Q What'd you do next?

6 A I then, once I saw that I called Lieutenant Cheeks
7 which is the investigator assigned for the missing person
8 case. I told him what I had and he asked me to run the
9 VIN through our central dispatch to confirm if it was the
10 one on the, the BOLO for missing person.

11 Q And did he confirm?

12 A Yes, sir. I ran the VIN through our dispatch over
13 the radio and they confirmed it was the one that was
14 listed on the BOLO.

15 Q Okay. And at that point you said you basically
16 looked at the bones and kinda backed out?

17 A Yes, sir. Once we determined that it had been what
18 appeared to be a crime scene, myself and Deputy Turner, is
19 the officer that I was training, then backed out, put up
20 crime scene tape and began a crime scene log.

21 Q And you said there wasn't a tag so you couldn't, you
22 couldn't call that tag in also?

23 A No, sir.

24 Q Okay. I'm going to show you a couple of pictures of
25 the Mustang you described. Did you have an opportunity to

1 go up to the car?

2 A Yes sir, I did. When I went up to the car and looked
3 in at the back seat it appeared to be what looked like
4 blood stains.

5 Q I want to show you what's been marked as State's
6 Exhibit number 11.

7 A Yes, sir. That's the back seat in the Mustang.

8 Q Okay. And that's the way it appeared, you saw it?

9 A Yes, sir.

10 Q Okay. Exhibit number 12.

11 A That's the, the way the car appeared when I
12 approached it.

13 Q 13.

14 A That's the rear of the vehicle.

15 Q No tag?

16 A No, sir. And both doors were opened up the way it
17 was when I found it.

18 Q 14.

19 A That's the front of the vehicle.

20 Q Okay. Okay. So, you were more or less securing the
21 scene, you noticed what you had with the, the bones and
22 then you called another investigator to basically come in
23 and take it from there?

24 A Yeah.

25 Q Okay. You recall anything else there that possibly

1 caught your attention or is that --

2 A Just the, the manner in the way the, the bones were
3 scattered out. The, appeared to be a burn pile to the
4 right of the vehicle. That was about it.

5 Q Okay. Answer any questions the defense might have.

6 THE COURT: Cross-examination.

7 CROSS-EXAMINATION

8 By Mr. Shaffer:

9 Q And I've heard this several different ways, so is
10 this Taylor Street, Taylor Drive or Taylor Road?

11 A It's Taylor Road.

12 Q Okay. And I wasn't, I imagine it's, it's the same
13 place they're referring to, no matter who, who I'm talking
14 to?

15 A Yes, Sir.

16 Q So, you said that the bones were scattered outside
17 the pile?

18 A Yes, sir.

19 Q Okay. So, were the bones sitting where the, outside
20 where it appeared to have burned?

21 A Yes, sir. They were kinda, most of them were right
22 at the burn pile, but some of them had been scattered out.

23 Q Okay. No further questions.

24 THE COURT: Okay. Anything in redirect?

25 MR. SCOTT: Nothing further, Your Honor.

1 THE COURT: Okay. You can step down, sir.

2 MR. MOWRY: Call Ryan Matthews.

3 RYAN MATTHEWS, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Mowry:

7 Q You are Terrance Ryan Matthews?

8 A Yes, sir. That's correct.

9 Q And you go by Ryan, is that right?

10 A Yes, sir.

11 Q By whom are you employed please, sir?

12 A With the South Carolina State Law Enforcement
13 Division.

14 Q Is that commonly known as SLED?

15 A That's correct.

16 Q What is your position with SLED?

17 A I am a special agent within the crime scene
18 investigation unit.

19 Q How long have you been employed as a crime scene
20 investigator?

21 A I've been a crime scene investigator a little over
22 two years.

23 Q And how many crime scenes would you estimate that you
24 have investigated?

25 A Investigation between a primary and secondary agent,

1 I would say approximately 50-plus.

2 Q Okay. What kind of education and specialized
3 training do you have to, to attain the position that
4 you've got now?

5 A In order to attain the position they, they require to
6 have a, a Bachelor's Degree in some shape or form within
7 criminal justice or forensics. And then through that,
8 once you become employed with the state agency, you're
9 required to do a years worth of training that involve a
10 photography evidence collection and cover all the areas
11 and aspects the crime scene is covered, as well as some
12 extensive external training such as homicide
13 investigations, blood stain pattern analysis that we are
14 sent to through outside companies that train us
15 additionally within our crime scene aspect.

16 Q Okay. You said that a Bachelor's Degree is required.
17 Where did you get yours?

18 A I attained mine through the East Tennessee State
19 University.

20 Q Okay. And what was your degree in?

21 A It's a Bachelors of Science in Criminal Justice.

22 Q Okay. Did you get any post-graduate education?

23 A No, sir.

24 Q Alright. What sort of --

25 THE COURT: Solicitor. Solicitor. Can I --

1 MR. MOWRY: Yes, sir.

2 THE COURT: Can the lawyers come up here for just a
3 minute?

4 (Whereupon, a bench conference was held in the
5 presence of the jury but out of the hearing of the
6 jury.)

7 THE COURT: Ladies and gentlemen, we're going to take
8 a break and I got to call a family member. And I got to
9 call right now, so let you know exactly what I'm doing.
10 And I apologize to everybody for having to do that. So,
11 if you'll go back to the jury room. Hopefully it won't
12 take long at all, we get you back out and we'll continue
13 with this witness.

14 (Whereupon, the jury was excused from open court.)

15 THE COURT: Okay. We'll be in recess a few minutes.

16 (Whereupon, a short break was taken.)

17 THE COURT: Bring the jury, please.

18 (Whereupon, the jury came into open court at
19 approximately 4:34 p.m.)

20 THE COURT: Alright. Thank you, Mr. Bolt.
21 Solicitor, you ready to proceed?

22 MR. MOWRY: Thank you, Your Honor.

23 CONTINUE DIRECT EXAMINATION

24 Q Agent Matthews, you had stated that you had gotten a
25 Bachelors of Science, I believe, in Criminal Justice from

1 East Tennessee State. Is that right?

2 A Yes, sir. That's correct.

3 Q Review again a little bit of the training that you
4 got once you became a law enforcement officer.

5 A I became a law enforcement officer first with the
6 City of Newberry Police Department as a patrolman and then
7 to corporal. I worked there approximately three and a
8 half years. I also worked for Probation Pardon and Parole
9 Services for about a year before becoming hired on with
10 the South Carolina Law Enforcement Division. Within that
11 training once I joined up with SLED, it's about a years
12 worth of in-house training that goes through different
13 areas and diagrams of a crime scene such as photography,
14 crime scene evidence collection, blood stain spatter
15 analysis and several other areas.

16 Q Okay. And you say that you have done about 50 crime
17 scenes?

18 A Yes, sir. Between running as a primary or secondary
19 agent, approximately 50 scenes and plus.

20 Q Your Honor, at this time I would offer Agent Matthews
21 as an expert in crime scene investigations.

22 THE COURT: And what says the Defense?

23 MR. SHAFFER: No objection.

24 THE COURT: Alright. Without objection, Agent
25 Matthews is found to be an expert in the area of crime

1 scene investigation. Ladies and gentlemen of the jury,
2 let me explain to you a little bit about what an expert
3 witness is. Generally, the rules do not permit witnesses
4 to render opinions. Certainly, witnesses can testify as
5 to what they saw, what they heard, what they smelled, that
6 sort of thing. But by virtue of education and experience
7 some witnesses that testify in court are found to be
8 experts because of that training, that education, that
9 experience that they have. And Agent Matthews will be
10 entitled to, if he's so asked to, to render opinions in
11 his particular field of expertise. But just because Agent
12 Matthews is found to be an expert does not mean that you
13 ought to treat his view of or his testimony any
14 differently than you treat testimony from other witnesses
15 whether they're lay witnesses or expert witnesses. You
16 give his testimony whatever weight and consideration that
17 you feel like is appropriate in this case. Solicitor.

18 MR. MOWRY: Thank you very much, Your Honor.

19 Q And Agent Matthews, were you employed in your current
20 capacity back on the 26th of May of 2016?

21 A Yes, sir. I was.

22 Q Were you on duty that day?

23 A Yes, sir. That's correct. What we use in, in that
24 terminology is a, an on-call status where we are the first
25 persons to be sent to incidents that occur where a crime

1 scene is requested to assist and process the scene.

2 Q And did you receive a call to come to Laurens County
3 that day?

4 A Yes, sir. We received a call through our operations
5 desk which is similar to like a police dispatch. That we
6 were requested by the Laurens County Sheriff's Office in
7 reference to a, a burned body and a crime scene that
8 required processing.

9 Q Okay. Where were you when you received that call?

10 A I was at our office which is located at 4400 Broad
11 River Road in Columbia.

12 Q In response to that call, what did you do?

13 A At that time, and, and with all normal calls, we will
14 collect and gather any other items that we may need in
15 order to process the scene through our lab. And then we
16 will respond code three which is a, a light and siren
17 response time from our area in Columbia to Laurens County.

18 Q Okay. About what time did you receive the call?

19 A I received the call at approximately 4:37 p.m.

20 Q And you say you responded with lights and siren? I
21 don't mean to ask too much but were you breaking the speed
22 limit to get here?

23 A Yes, sir. In order to, to respond light and siren in
24 a code three, there are several instances where we do, go
25 over the required speed limit. But with the, the safety

1 of the public in mind.

2 Q Right. Was there anybody else with you on this call?

3 A Yes, sir. Special Agent Melinda Worley acted as my
4 secondary agent.

5 Q Okay. About what time did you arrive in Laurens
6 County?

7 A We arrived on scene at approximately 5:53 p.m.

8 Q And again, where was this scene? What was the
9 address? Did you get --

10 A I had the scene as [REDACTED] in Clinton.

11 Q Okay. What was the weather like that day?

12 A The weather was sunny with an approximate temperature
13 of 85 degrees.

14 Q So, it's pretty hot?

15 A Yes, sir.

16 Q Describe the scene for me, please, sir.

17 A Once we arrived on scene, it's a dead-end road that
18 makes kinda the shape of a J where it goes from a paved
19 area into a non-paved kinda dirt road. When we arrived on
20 scene we, we set up at the kinda higher end of the paved
21 area due to some markers that had already been placed and
22 crime scene tape that was placed across the scene.

23 Q What is crime scene tape? Describe what that is.

24 A I, when I refer to crime scene tape, it's a yellow
25 barrier tape. Sometimes it says crime scene or police, do

1 not cross. It's just a means to help designate a barrier
2 as to which certain personnel and persons are, are
3 required to not pass.

4 Q And were there other people than law enforcement that
5 were around the scene by the time you got there?

6 A There were. There were several persons within the
7 roadway that was covered that was paved. There were
8 several houses within a, a close area but they were not
9 directly related to the crime scene, but they, they did
10 have residents.

11 Q Okay. The scene itself, are there buildings down
12 there? Are there any kind of structures?

13 A Yes, sir. There are two, I believe they're both
14 sheds. And then a single wide mobile home, kind of a tan
15 beige in color that was placed down there that was
16 believed to be abandoned.

17 Q Okay.

18 A Or unoccupied.

19 Q Let me show you State's Exhibit number 1. By the
20 way, who took these pictures?

21 A All the photographs taken were by secondary agent,
22 Melinda Worley.

23 Q Okay. And did you, can you state that these are as
24 they appeared on that?

25 A Yes, sir. Once the photographs were taken they're

1 all turned over into my custody and then I then, place
2 them through our system called Eye Lab as evidence within
3 our system so that we can maintain them with a chain of
4 custody.

5 Q Okay. Let me hand you number 1. Is that the area
6 that you're talking about?

7 A Yes, sir. That's correct.

8 Q Okay. Gonna go back through some of these if I could
9 and you said these are sheds or storage?

10 A Yes, sir. They were both, I believe, searched prior
11 to law, our arrival by law enforcement just to see if
12 there were any inhabitation or persons inside, and they
13 were both found to be empty of residents.

14 Q So this was empty, this was empty? And how about the
15 mobile home down here?

16 A That's correct. The mobile home was also believed to
17 be abandoned and I, excused me, not abandoned but
18 unoccupied and the owner was not within the area.

19 Q Okay. Was anybody living there?

20 A No, sir.

21 Q As far as you could tell.

22 A No, sir. From what we had gathered, and I believe
23 they had also made entry into there, it was found to be
24 that it didn't have any inhabitation.

25 Q Okay. Good. And number 2, what does that

1 illustrate?

2 A Number 2 will be a photograph of the, the far side of
3 the trailer along with the kinda open front lawn area and
4 the silver in-color Mustang.

5 Q Okay. Number 3?

6 A That would be the side of the trailer as well as the
7 silver in-color Mustang. It also shows some of the burn
8 pile remains and some items in the yard.

9 Q Okay. Number 4?

10 A This would be a, an overview of the yard and some
11 areas that were noted that are later marked with some
12 suspected human remains.

13 Q Okay. Let me show you number 5. What is that,
14 please, sir.

15 A Yes, sir. It appears to be a, a silver in color
16 Iphone.

17 Q Okay. And what was its condition? It doesn't look
18 like your normal Iphone. What had happened to it?

19 A No, sir. It, it did appear to be charred and burnt.
20 It was extremely damaged. I believe some of the
21 components were also missing from it. It wasn't fully
22 intact.

23 Q Okay. Let me show you number 7.

24 A Yes, sir. That appears to be a, a swollen battery or
25 some form of battery from a possible cell phone.

1 Q Alright. I'm gonna show you 6, 8, 9 and 10. If you
2 can describe them in numerical order please, sir.

3 A Yes, sir. Number 6 would be the edge of part of the
4 burn pile where the cell phone, a green in color blanket
5 or towel and some other charred items had been observed.

6 Q Okay. What else you got?

7 A Number 8 is an area of some, some charred and burnt
8 remains. Looks to be a, a pillow case or maybe a portion
9 of a blanket. That was observed on or around the burn
10 pile.

11 Q Okay.

12 A Number 9 appears to be a gray in color shirt that
13 also has some, some charring. And number 10 would be a
14 close-up view of the pile of charred remain as well as a
15 blanket or pillow case.

16 Q Okay. Let me show you number, numbers 11, 12, 13 and
17 11.

18 A Yes, sir.

19 Q And ask you if you saw those that night?

20 A Yes, sir. Number 11 is the rear seat and a area of
21 the silver in color Mustang.

22 Q I see a stain on large portions here on the back here
23 and down on the seat portion itself. What did that appear
24 to be to you that afternoon and evening?

25 A From that view, and what we observed inside the

1 vehicle, it appeared to be suspected blood.

2 Q Okay. What else you got?

3 A Yes, sir. On number 12 is an entry form just showing
4 how we, we enter the vehicle and document with the seat
5 raised so that you can see both the, the rear of the seat,
6 the floor board and the rear of the vehicle as it's shown
7 to, to kinda better reference the area where you can also
8 see some of the suspected blood throughout the rear
9 compartment.

10 Q Okay.

11 A Number 13 would be the rear of the silver in color
12 Mustang.

13 Q Alright. Let me ask you, did you make a notation,
14 first of all, referring to this photo of the rear of the
15 Mustang, where's the license tag?

16 A When, once we arrived on scene and viewed the
17 vehicle, it was not viewed with a license plate. And in
18 that instance where I have conducted scenes that, that are
19 missing an item, I will not present it. So, the only item
20 I used to reference the vehicle besides make, model and
21 photographs, was the VIN, vehicle identification number.

22 Q Okay. Do you have the VIN of the car as you noted it
23 to be?

24 A Yes, sir. I do. It's right here within my notes.

25 Q Okay. May I read one off to you, and you compare

1 with what you've got in your notes?

2 A Okay.

3 Q Did you write that down yourself?

4 A Yes, sir.

5 Q And you just recorded it from the VIN on that car, is
6 that right?

7 A Yes, sir. We recorded not only with photographs, but
8 we, I will also record everything vehicle wise, pretty
9 much in a handwritten note.

10 Q Okay. Let me just read this off then.

11 1FAFP4445YF197823.

12 A Yes, sir. That is also how it appears in my notes.

13 Q Okay.

14 A The last photograph you presented me with is the, the
15 front end of the silver in-color Mustang.

16 Q Okay. And that's what's on the screen right now, is
17 that right?

18 A Yes, sir. That's correct. We, we use a, when we
19 photograph vehicles, we use kinda an eight-point method
20 where we will take both the front, back sides. And then
21 we'll photograph additionally both the corners of the
22 vehicle. So, in this instance, you, we will photograph
23 both the front and drivers' side front and rear side. Just
24 to better document the surroundings of the vehicle, any
25 damage that may occurred. Just for our documentation

1 purposes as to the scene.

2 Q Okay. You had said that this was a dirt and gravel
3 road, is that right?

4 A Yes, sir. That's correct.

5 Q Would you say it's secluded?

6 A Yes, sir. The area to access it, like I said before.
7 is a, a dead end road. So there is no outlet from this, I
8 would say approximately three homes before the pavement
9 ends, and then it travels into the, the yard of this
10 residence with, with no means of out. And it's a pretty
11 well forested area. A lot of trees and things. And since
12 it's not very highly maintained with no occupant, the
13 grass was high.

14 Q Okay. So tall grass?

15 A Yes, sir.

16 Q Was there any spot where there wasn't tall grass?

17 A Yes, sir. There were several areas where you could
18 see some vehicles had ridden through and knocked some of
19 the grass down. And then a, a large area that appeared to
20 have some charring and burning such as a burn pile or burn
21 pit.

22 Q Okay. Let's talk about the burn pile. You said that
23 there was an area that appeared to be charred. Anything
24 catch your eye in that area?

25 A Yes, sir. I have, documented in my notes, inside the

1 area which I was referring to in my notes as the burn
2 pile, several suspected human remains, some partially
3 covered in cloth like material were observed along with a
4 portion of a green in-color cloth like material and a
5 damaged silver in-color Iphone.

6 Q Okay. With regard to the suspected human remains,
7 what did you do with them?

8 A The human remains were documented. We placed markers
9 within the scene to show some of the areas that they had
10 become scattered about. And once everything had been
11 documented to a certain point, we assisted the coroner's
12 office in collecting them and placing them within a body
13 bag so that they could be removed from the scene.

14 Q Alright. Let me show you what's been admitted as
15 State's Exhibit number 48. Do you recognize that, please,
16 sir?

17 A Yes, sir. I do. This is a sketch that we use, a
18 computer program to help better render a hand drawn sketch
19 into a, a more friendly item so it's not as to be
20 handwritten and can be a, a little bit easier read.

21 Q Okay. Now, I'm going to take this chart right here
22 and we can refer to the screen again, number 48. This
23 item in the upper left hand portion, what is this, this
24 area right here?

25 A The item that you're pointing to, to describe is the

1 2000 Ford Mustang silver in-color.

2 Q Alright. And all of these squares dotted all over
3 the middle portion primarily from top to bottom of the
4 chart are what?

5 A All those squares are used to represent the yellow
6 in-color markers that we place on the scene.

7 Q And what was the purpose of placing those markers?
8 What, what were you trying to mark?

9 A What, in this instance, what we used those markers
10 for was any areas that we found some suspected human
11 remains whether it be a single bone or, or multiple bones.
12 They were placed to kinda better coordinate them so that
13 we can reference them in an area. As you can see, the,
14 the item RP1 and then you'll see a, a pole for RP2. We
15 use that to kinda better triangulate to show on scene
16 where those are located in reference to those two fixed
17 points.

18 Q Okay. These seem to be awfully scattered out.

19 A Yes, sir. They were, they were a pretty large
20 portion out. I believe some reached in the excess of
21 sixty feet from reference point one.

22 Q Do you have an opinion based on your experience and
23 expertise as to why those suspected human remains might
24 have been as scattered as they were?

25 A In my experience with several cases we have worked

1 with bones and other things, we do get quite a bit of
2 animal activity when items of such are, are left kinda
3 undisturbed where they may feast on them or drag them
4 away. Clothing is sometimes, tend to be destroyed if it's
5 on a person. So, I, in my opinion, I would believe that
6 to be mostly animal activity.

7 Q Okay. And you say you documented all of that, is
8 that right?

9 A Yes, sir. That's correct.

10 Q Were the, the suspected remains then collected?

11 A Yes, sir. Once they were documented so that we could
12 kinda better take care of everything before we, we lost an
13 extreme amount of daylight, they were all collected and,
14 by myself and Agent Worley with the assistance of the
15 Laurens County Coroner's office so that they could be
16 transported from the scene to be autopsied.

17 Q Okay. Who did you turn all those things over to?

18 A All of those items were turned over to the coroner of
19 Laurens County, Nick Nichols.

20 Q Okay. Did you do anything else at the scene?

21 A Yes, sir. Once all the items were collected, excuse
22 me, all the suspected remains were collected, we then
23 processed the vehicle.

24 Q Okay. How do you go about processing the vehicle,
25 what do you do?

1 A With processing the vehicle in this instance, we
2 photograph the vehicle both in and out to show everything
3 as it is undisturbed. Once we get that we, we collected
4 swabs of the suspected blood within the rear of the seat.
5 And then we also processed the vehicle with a black powder
6 on the exterior and part of the interior windows and doors
7 to see if we could find any latent prints.

8 Q What are latent prints?

9 A Latent prints are just a print that you may leave on
10 a object that is not visible to the naked eye.

11 Q Okay. Something that you touch you might leave a, a
12 fingerprints behind, is that right?

13 A Yes, sir. Between the, the oil in your skin and
14 water that may get on you, you could, I could touch the
15 surface here and you may not be able to see it right away.
16 But with enhancement technics such as black powder, you
17 could draw both ridge detail and possibly come up with a
18 person to connect that print to.

19 Q Now if we watch CSI or NCIS or something like that
20 they can find a fingerprint on anything. Is that real
21 life?

22 A No, sir. As much as I wish to be able to process the
23 scene all the way to the jury within an hour, that is not
24 as most cases go.

25 Q Okay. What might have an effect on your ability to

1 find a latent fingerprint?

2 A Latent prints have many factors to, to be found and
3 to be not found. One of the biggest factors within this
4 case with the vehicle, as with anything, is the substrate.
5 Any kind of leather, porous surface, clothing, anything
6 that has essentially its own form of ridge detail has a
7 very slim chance of being able to provide any kind of
8 identifiable characteristic. And then with this case,
9 with the vehicle being exposed to the weather and the
10 elements for approximately three weeks, that gives you the
11 issue of the, the dew that may develop on a vehicle. Any
12 rain, sun and humidity, all are factors that kind of go
13 against the ability to properly find and collect latent
14 prints.

15 Q Were you able to find any?

16 A No, sir. Once we processed the vehicle with black
17 powder we were unable to locate any latent prints that
18 were able to be collected for identification purposes.

19 Q And given the time lapse and the heat and the
20 humidity and everything else, was that a major surprise to
21 you?

22 A No, sir. It was, it was not a shock.

23 Q Okay. What else did you do with regard to the
24 suspected blood in the back seat?

25 A With the suspected blood, it was swabbed and

1 collected to be processed for DNA as far as a
2 identification purpose. Then we processed the remainder
3 of the vehicle. We collected swabs from, which is for
4 touch DNA which is a, a different form. Something that
5 you can do as well as leave a print on something is you
6 can touch and deal with all the DNA that comes through
7 your skin, the oils. You have a, a mild potential to
8 leave touch DNA that you can be identified with. So we
9 processed the vehicle on the driver's side door panel, the
10 passenger side door panel, steering wheel and gear shift
11 area. There was also an orange cup inside the vehicle and
12 a white cup. All of which were swabbed for touch DNA.

13 Q Okay. Did you also receive a swab purported to be
14 from a Gabriel Zuniga from Jaworski Shelton?

15 A That's correct. We were provided a, through a chain
16 of custody, a buckle swab for the owner of the vehicle for
17 elimination purposes.

18 Q Okay.

19 THE COURT: Can you spell that last name of that --

20 MR. MOWRY: Z-U-N-I-G-A, Your Honor.

21 THE COURT: Okay.

22 Q Now you say that you got there around 6:00 p.m. and
23 this was in late May. It's right at this same time of
24 year, is that right?

25 A That's correct, sir.

1 Q You, you talked a little bit about losing the
2 daylight.

3 A Yes, sir.

4 Q How late were you going?

5 A It, it really just depends on the scene and, and what
6 we are required to process and do. On this scene, we
7 actually cleared the incident location at 10:37 p.m.

8 Q Okay. What were you using for light?

9 A We used both a fixed light flashlight that we carry
10 as well as the fire department had responded and provided
11 us some additional free standing lights and the lights
12 that were on the vehicle.

13 Q Was this an ideal situation?

14 A No, sir.

15 Q Okay. You had talked earlier about the cell phone
16 and the battery. Did you collect those that night?

17 A Yes, sir. They were collected and directly turned
18 over to Investigator Cheek.

19 Q Okay. Let me show you what has been marked, well I
20 haven't marked it. I'm sorry.

21 MR. MOWRY: Your Honor, Mr. Shaffer's indicated he
22 has no objection to the admission.

23 MR. SHAFFER: That's correct, Your Honor.

24 THE COURT: Okay. Alright. Without objection it'll
25 be number, wait a minute, I'm sorry. Go ahead.

1 MR. MOWRY: 50 and 51. Yes.

2 THE COURT: Okay.

3 MR. MOWRY: Mr. Shaffer has indicated that he has no
4 objection, Your Honor.

5 MR. SHAFFER: That's correct.

6 THE COURT: Alright. Without objection, 50 and 51
7 into evidence for the State.

8 (Whereupon, State's exhibit 50 and 51 were admitted
9 into evidence.)

10 MR. MOWRY: Okay.

11 Q And if you could take a look at those and see if
12 those are indeed the items that you're talking about.

13 A Yes, sir. Both items appear to be both the cell
14 phone battery and cell phone.

15 Q Okay. The swabs for touch DNA that you talked about.

16 A Yes, sir.

17 Q You, you had spoken about the atmospheric conditions,
18 the weather conditions that could have a bad effect on the
19 ability to raise fingerprints. Do the same concerns hold
20 true for touch DNA?

21 A Yes. So almost more so because with touch DNA and
22 environmental factors and even with blood that can be left
23 out with the dew, with rain, with the heat, all of those
24 items severely degrade any form of DNA. And especially
25 the inside of a vehicle even with the doors open it, it

1 can get to be quite a, a higher temperature than the
2 outside atmosphere. And all of which kind of lead to a, a
3 degrading and destroyed DNA profile.

4 Q Okay. The suspected human remains that you talked
5 about that are shown in State's exhibit number 48, once
6 again, who did you turn those over to once those were
7 collected?

8 A To the coroner, Nick Nichols, for Laurens County.

9 Q Okay. What did you do with the swabs that you took
10 from the car, both the suspected blood from the back seat
11 and for the touch DNA, where did those go?

12 A All of those swabs were, were sealed by myself and
13 then transported to the lab at, located at 4400 Broad
14 River Road in Columbia for processing.

15 Q Do you know who ended up processing that, which
16 analyst took care of that?

17 A I'm not aware of her name.

18 Q Okay. What did you do with the two swabs that you
19 received from Mr. Shelton, Lieutenant Shelton for, from
20 Gabriel Zuniga?

21 A The swabs were collected via chain of custody
22 through, from Lieutenant Shelton and then transported back
23 to the lab to be submitted for a DNA elimination purpose.

24 Q Okay. So, same process that you were talking about
25 with the other swabs taken from the car, is that right?

1 A Yes, sir. With, with vehicles and other things
2 especially since this vehicle was believed to be owned,
3 it, well, it was owned by a, a third party and then
4 believed to be driven by our victim as well as a possible
5 suspect, multiple DNA profiles could of been pulled. So
6 we attempt to receive as much DNA from known persons to
7 help eliminate so that we may only have one outstanding
8 or, you know, better find our suspect.

9 Q Let me hand you --

10 THE COURT: Alright. That'll be 52 and 53 without
11 objection for the State.

12 (Whereupon, State's Exhibits 52 and 53 were admitted
13 into evidence.)

14 Q Let me hand you what have now been marked for, well,
15 not for identification, for admission into evidence as
16 State's exhibit 52 and 53. What are those, please, sir?

17 A Yes, sir. One of which, 52 would be swabs that were
18 collected for DNA touch purposes and number 53 would be
19 swabs that were collected for DNA blood purpose.

20 Q Okay. About what time of, or that day did you
21 finally clear the scene?

22 A We cleared the scene at approximately 10:37 p.m.

23 Q Alright. And what we have discussed here, does that
24 pretty much cover what you did that night?

25 A Yes, sir.

1 Q Okay. Thank you, sir. That's all I have. If you'd
2 answer any of Mr. Shaffer's questions.

3 A Yes, sir.

4 THE COURT: Cross-examination.

5 MR. SHAFFER: Yes, Your Honor.

6 CROSS-EXAMINATION

7 By Mr. Shaffer:

8 Q Special Agent Matthews, if you can, tell us a little
9 bit more about your job with processing a scene, what,
10 what's the primary goal in processing a crime scene?

11 A Primary goal with us processing a crime scene is to
12 best collect evidence on scene that we, we find and
13 observe and transport it to the lab so that it can be
14 properly analyzed.

15 Q Okay. So, you're, you're trying to collect physical
16 evidence, all the physical evidence you can, correct?

17 A Yes, sir.

18 Q Okay. Now, is this, how many hours were y'all out
19 there?

20 A From 5:53 until 10:37, so approximately about five
21 and a half hours.

22 Q So, I guess it, it was a pretty thorough process,
23 correct?

24 A Yes, sir.

25 Q You try to be as thorough as possible?

1 A Yes, sir.

2 Q That's part of your job, right?

3 A That's correct.

4 Q Okay. So, you're, you're trying to collect as much
5 information as possible and be as thorough as possible,
6 correct?

7 A Yes, sir.

8 Q And document everything, correct?

9 A Yes, sir. That's correct.

10 Q Okay. As part of that you found some shell casings,
11 correct?

12 A Yes, sir.

13 Q Okay. Where did you find the shell casings in
14 relation to, in relation to the vehicle? I'm gonna show
15 you State's exhibit 48. You, do you, are you able to tell
16 us where the shell casings were?

17 A If it were to be used on this reference it would be
18 south of where this diagram is shown.

19 Q Okay.

20 A Within the paved roadway.

21 Q Okay. So, you didn't diagram where the shell casings
22 were?

23 A That's correct.

24 Q Okay. Did you take pictures of where the shell
25 casings were?

1 A Yes, sir. I believe photographs were taken.

2 Q Okay. Now, these shell casings, well the pictures of
3 the shell casings, where did they end up?

4 A All the photographs that are taken and collected are
5 submitted through our lab and placed into evidence.

6 Q Do you have those pictures?

7 A Physically on myself, no sir.

8 Q Okay. Who has those pictures?

9 A Those pictures are provided both to the Solicitor's
10 Office, Coroner's Office, the investigators through
11 Laurens County and then placed into evidence and held
12 within the lab.

13 Q Okay. Now, whenever you come out to a murder scene
14 and you find shell casings, and I'm not talking about this
15 specific case, but in your experience as a crime scene
16 investigator you said you've done, did you say fifty
17 murders?

18 A No, sir. Not murders, but as far as a crime scene
19 response, about fifty-plus cases, yes sir.

20 Q Okay. What percentage of those are murders?

21 A I would say approximately 60 to 70.

22 Q Okay. So, you've done a substantial number of
23 murders, correct?

24 A Yes, sir.

25 Q Have you collected a substantial number of shell

1 casings?

2 A Yes, sir.

3 Q And just for the jury in case anyone doesn't know,
4 what is a shell casing?

5 A A shell casing is just the spent cartridge that is
6 essentially done once you fire a bullet through a firearm.
7 The, the bullet travels through the barrel, shell casing
8 is then ejected out of the firearm and kind of separates
9 the two.

10 Q Okay. So, and those are, those, that's basically if
11 it's a unfired bullet it'd basically be the back of the
12 bullet, right?

13 A That's correct.

14 Q Okay. So, what do, in your experience and expertise
15 as a crime scene investigator, what do shell casings
16 indicate to you?

17 A Shell casings indicate that there could have possibly
18 been a shooting incident. And since manner of death had
19 not been determined for the victim it, it's a, you know,
20 you run in the essence of, hey, this could possibly be the
21 manner of death for the victim in which we were contacted
22 for. So, it is an item that we do consider and collect.

23 Q Okay. So, the shell casings you, you collected just
24 in case, correct?

25 A Yes, sir.

1 Q Now, what generally happens whenever you go to a
2 murder scene and you collect a shell casing? Is there
3 someone who can test it or, I mean, what information can
4 you get from a shell casing?

5 A Yes, sir. Depending upon the instance and what you
6 have, shell casings are able to provide almost kind of
7 like a fingerprint or an identity to a firearm. Every gun
8 is different. They use a different firing pin and firing
9 mechanism. They strike at a different angle and a
10 different ability. So, when you can have both a, a casing
11 and a possible suspected firearm, those, one of the two
12 could be compared to one another to tell you if that
13 handgun, such as the handgun I carry, fired the bullet
14 that I have.

15 Q Okay. Now, I'm going to show you some of the
16 State's, can you find the picture of the shell casing for
17 me in there? Is it not in there?

18 A No, sir. I could not--

19 Q Okay. But you took a picture of the shell casing,
20 correct?

21 A I believe that a picture was taken but since, when we
22 act as a primary and secondary, the primary agent's main
23 goal, which was mine in this case, is to document, take
24 notes, speak with the investigator at the scene. So my
25 secondary agent is the one who does all the photography.

1 Q Okay. So what do you mean by speak to the
2 investigators at the scene? Or who, who are you talking
3 to in this particular case?

4 A In this particular incident, it would be Investigator
5 Cheek and Investigator Blackmon.

6 Q Okay. And they work for Laurens County, correct?

7 A That's correct.

8 Q Now do, do they determine what evidence gets tested
9 and what evidence gets collected or do you?

10 A We kinda work hand in hand to help determine not only
11 what evidence is collected, but what may be collected by
12 them directly on the scene, and what may need additional
13 processing as well as some of the instances for
14 processing. Such as cartridge cases can be sent to just a
15 firearms to be examined as only a piece of firearms
16 evidence or they can be sent to have latent print DNA
17 evidence recovered from them or attempt to recover it as
18 well. So, they kind of help to determine what avenues to
19 best take with evidence and within our lab so that you
20 don't have evidence that takes eight to ten years to be
21 processed. There's a certain limitation as to the amount
22 of items that you can send for processing at a single
23 time.

24 Q Okay. So, there, there's a limitation, do you know
25 if that limit was met in this case? Is it like a limit

1 based off a number? I hadn't heard this before so --

2 A Yes, sir. What, what we use especially for our, our
3 DNA evidence and that can include anything such as DNA
4 blood, touch, DNA ownership. So like if you want to say,
5 I'm wearing this shirt, you could send that off to have an
6 ownership provided. That is a limitation of five at a, at
7 a time. And once those items are processed then you can
8 submit the remaining items for additional processing just
9 so that you don't send fifty, twenty, a hundred items in
10 and essentially make it to where there's a, a backlog of
11 items.

12 Q Okay. Do you know if the shell casings were ever
13 sent in to anyone at SLED for any testing, either firearms
14 or DNA or anything else?

15 A No, sir. They were placed into storage based upon
16 the fact that we had not recovered a firearm. And in
17 order to have a cartridge case compared you would need a
18 required firearm to, to kind of meet one of the two to
19 identify whether it was, was or was not fired from--

20 Q Would you of needed the firearm to test it for DNA?

21 A To test a firearm for DNA?

22 Q Or no, test a shell casing for DNA or latent prints.

23 A No, sir.

24 Q Okay. Did, did it get tested? Did those shell
25 casings you recovered get tested for latent prints or DNA?

1 A No, sir. Not that I'm aware of.

2 Q Okay. Do you know why they didn't?

3 A At the time with everything they were presented with,
4 and we also responded the next day to process an
5 additional scene, it was requested due to some information
6 that they had found and provided, that it would not be
7 needed at the time.

8 Q Okay. If there was a 911 call from that area
9 indicating gunshots fired do you think that, that would be
10 relevant to collect those shell casings and test them?

11 A You mean in this instance or just in --

12 Q In general, if, if it's at the scene where a body's
13 found and you hear that there's a 911 call indicating that
14 shots have been fired, do you think that it would be
15 relevant for, for a crime scene investigator to collect
16 those shell casings and actually have them tested?

17 A Yes, sir.

18 Q Okay. Tell me a little bit about this, the reason
19 you're doing touch DNA again. You're, you said you were
20 swabbing different things to maybe get touch DNA, correct?

21 A Yes, sir.

22 Q Okay. How do you pick out where to swab?

23 A We swab a, a general area to give us the largest
24 likelihood of developing a full profile. So, such as a
25 steering wheel on a vehicle, we will swab both the, the

1 front, you know, where you grip, behind the grip, in areas
2 to, to give the, the largest amount of collected DNA.

3 Q Okay. Why'd you, why'd you swab the steering wheel?

4 A The steering wheel with the vehicle being, you know,
5 moved in a relative area that someone were to have placed
6 it there. It, it's highly likely that someone had to, you
7 know, wheeled and used the steering wheel in order to
8 drive the vehicle.

9 Q Okay. So, you were, you were anticipating finding
10 somebody who drove the vehicle, DNA on the steering wheel?

11 A Possibly, yes sir.

12 Q Was that the same reason you checked the, the gear
13 shift?

14 A Yes, sir.

15 Q So, you swabbed those and you sent them off for
16 collection, correct?

17 A What, everything is collected.

18 Q Collected.

19 A The two of which were, were requested to be sent for
20 a DNA touch at this instance were the driver's side door
21 panel area and the steering wheel and gear shift area.

22 Q So, if, the reason you were doing that is to
23 determine whether or not you can pull DNA from the last
24 person who drove the car, is that fair to say?

25 A Well, yes sir. It, it would develop, you know,

1 hopefully any person's who, you know, readily used the
2 vehicle and left a, a substantial amount of DNA. So more
3 than likely would be one, more than one person knowing
4 that several persons had driven the vehicle.

5 Q Okay. So likely would be more than one person and,
6 but at least somebody, well, how long does it take for
7 DNA, if you know, to, touch DNA to get on something? If I
8 touch this picture is it possible that my DNA, just for
9 that one second, would get on the picture?

10 A Yes, sir. There is a, a possibility, but as far as
11 like a percentage or number, I wouldn't be able to provide
12 that.

13 Q Okay. And, and one thing you said and I was just
14 wondering, you said that it appeared that vehicles had
15 been driven through the grass. Is that correct?

16 A Yes, sir.

17 Q So the grass is high and it looked like vehicles had
18 driven through it. Is it vehicles plural or vehicle
19 singular?

20 A That I wouldn't be able to determine as far as what
21 occurred on the scene prior to my arrival, I, I'm not
22 sure.

23 Q Okay.

24 A As far as who drove and what drove.

25 Q They appear to be more than one tire track, that's

1 what I am wondering.

2 A We did not have any like available tire tracks that
3 we were able to identify if that's your question. But it,
4 it did appear, you know, with possibly someone maybe
5 driving in and pulling out. But as far as multiple
6 vehicles I, I couldn't testify to that.

7 Q Okay. The Court's indulgence.

8 THE COURT: Sure. Take your time.

9 MR. SHAFFER: Nothing further, Your Honor.

10 THE COURT: Any redirect?

11 MR. MOWRY: Just a few questions, Your Honor.

12 REDIRECT EXAMINATION

13 By Mr. Mowry:

14 Q Mr. Matthews.

15 A Yes, sir.

16 Q Mr. Shaffer asked you a number of questions about
17 shell casings. Let me ask you this, did, did I hear you
18 say that at the time that we're talking about here, this
19 is the evening of May 26th, you did not know the cause and
20 manner of death of the person whose remains you saw that
21 night?

22 A Yes, sir. That is correct. We, due to the, the
23 victim not being autopsied and myself not being, being
24 able to, you know, autopsy a person on the scene, any
25 manner of death could of been possible at that given time.

1 Q So, in your collection of the shell casings, did you
2 know whether or not they were associated with this case at
3 all?

4 A No, sir. We were unaware if they were going to be
5 relevant or irrelevant. But in this instant, as with any
6 instant in a crime scene that we work, the most amount of
7 evidence is normally the best avenue. So we collect that
8 in the ability and possibility that a shooting may have
9 been the manner and cause of death.

10 Q So is it fair to say that it's better to have it and
11 not need it, then need it and not have it?

12 A That's correct, sir.

13 Q Were you able to look at those shell casings that
14 evening?

15 A Yes, sir.

16 Q How did they appear to you?

17 A They --

18 MR. SHAFFER: Your Honor, may we approach?

19 (Whereupon, a bench conference was held in the
20 presence of the jury but out of the hearing of the
21 jury.)

22 THE COURT: Sure. Repeat your question, Solicitor
23 Mowry.

24 Q How did those shell casings appear to you?

25 A They appeared to be mildly weathered and worn. They

1 didn't appear to be new or recently fired.

2 Q Okay. And when you say, recently fired, what time
3 period are we talking about?

4 MR. SHAFFER: Objection, Your Honor.

5 THE COURT: Sustained to the objection.

6 Q Okay. How far away were those shell casings from the
7 car?

8 A They were, they were not measured but if I had to
9 give an estimate I would say in excess of a hundred feet.

10 Q Okay. I'm going to refer you back to the chart
11 number 48. Some of these items, let's see, it says RP2,
12 marker A is sixty feet away, is that right?

13 A Yes sir, that's correct.

14 Q Okay. And those items from here, the shell casing,
15 you said were a hundred feet away?

16 A You can actually use one of the photographs submitted
17 that shows a, a general area of where the trailer is
18 located with the scene. Actually, shows the telephone
19 pole in which --

20 Q Okay.

21 A -- if you, if you look at photograph number 1 you can
22 see the telephone pole that has the yellow barrier crime
23 scene tape as I refer to it as. That is reference point
24 number 2. So, the roadway is, if you're, essentially if
25 you're standing where this photograph would be taken,

1 would be behind you and they are within that paved
2 roadway.

3 Q So they're even further away than the base of this
4 photograph, is that right?

5 A Yes sir, that's correct.

6 Q It's further behind here?

7 A Yes sir, that's correct.

8 Q So, this is way away from the remains, is that right?

9 A Yes sir, that's correct.

10 Q But you just, you wanted to make sure, you wanted to
11 have it and not need it instead of needing it and not
12 having it?

13 A That's correct.

14 Q Thank you, sir. I believe that's all I have.

15 THE COURT: Any recross?

16 MR. SHAFFER: Nothing, Your Honor.

17 THE COURT: Alright. Thank you, sir. You can step
18 down.

19 MR. MOWRY: Your Honor, if we could get one more
20 witness tonight. Call Dr. Michael Ward. I'm sorry, two
21 witnesses. Sorry. One will be or both of these should be
22 fairly quick.

23 THE COURT: Okay.

24 MR. MOWRY: Oh, and, we would ask that Agent Matthews
25 be subject to recall --

1 THE COURT: Okay.

2 MR. MOWRY: -- tomorrow.

3 THE COURT: Okay. Agent Matthews, it, it's possible
4 that they'll want to recall you so just coordinate with
5 the Solicitor's Office insofar as when you need to be
6 here.

7 AGENT MATTHEWS: Yes, sir.

8 THE COURT: Thank you. Come around Dr. Ward.

9 DR. MICHAEL WARD, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Mowry:

13 Q You are Michael Ward?

14 A Yes, I am.

15 Q And I believe you are a pathologist, is that right?

16 A That is correct.

17 Q Is that a medical doctor?

18 A It is.

19 Q What is a pathologist, please, sir?

20 A A pathologist is a physician who has specialty
21 training in pathology which is the study of disease and
22 disease processes and how they affect man.

23 Q Okay. What kind of education and training do you
24 have in that area, please, sir?

25 A I have a Bachelor's Degree in Biology from the

1 University of Alabama, a Master's Degree in Forensic
2 Science from the University of Alabama in Birmingham. I
3 received my medical degree from the University of South
4 Alabama which is in Mobile. I did a four-year pathology
5 residency at the Medical University of South Carolina in
6 Charleston and a one-year fellowship in forensic pathology
7 which is a subspecialty of pathology at the University of
8 New Mexico in Albuquerque.

9 Q How long have you been a medical doctor? Just
10 approximate.

11 A Wasn't expecting that one. About thirty-five years.

12 Q And has all of your time been in pathology?

13 A Yes, it is.

14 Q Do you, are, are you also now currently the Chief
15 Medical Examiner for Greenville County?

16 A I am.

17 Q And have you been declared an expert in courts in the
18 field of pathology and forensic pathology?

19 A Yes, I have.

20 Q How many times would you estimate?

21 A Well over a hundred times.

22 Q Including in this courtroom, is that right?

23 A That is correct.

24 MR. MOWRY: Your Honor, I would offer Dr. Ward as an
25 expert in, in pathology and forensic pathology.

1 THE COURT: Mr. Shaffer?

2 MR. SHAFFER: Your Honor, may I have one or two voir
3 dire questions?

4 THE COURT: Sure, you can examine him concerning
5 qualifications. You may proceed.

6 MR. SHAFFER: Thank you, Your Honor.

7 By Mr. Shaffer:

8 Q Doctor, as part of, as part of being a forensic
9 pathologist, do you take any special training in like bone
10 density for example?

11 A Bone density?

12 Q Yeah. The strength of a bone.

13 A To some degree, yes.

14 Q Okay.

15 A That, that some bones are relatively more dense than
16 others, yes.

17 Q Okay. You have any specialized training in crime
18 scene reconstruction?

19 A No.

20 Q So you couldn't render a crime scene reconstruction
21 opinion here today, could you?

22 A I would not, no.

23 Q Okay. No further questions.

24 THE COURT: Okay. Any objections to me qualifying
25 him as an expert in pathology and forensic pathology?

1 MR. SHAFFER: No objection, Your Honor.

2 THE COURT: Okay. Alright. Without objection, Dr.
3 Ward is so deemed to be an expert in those two areas.

4 CONTINUE DIRECT EXAMINATION

5 By Mr. Mowry:

6 Q Dr. Ward, how did you come to be associated with this
7 case?

8 A The remains were sent to us at, at the autopsy
9 facility in Greenville County by Laurens County Coroner,
10 Nick Nichols.

11 Q Okay. Did he deliver them to you personally or to
12 your office personally?

13 A I don't know if he brought them personally. He had
14 them delivered.

15 Q Okay. And what did you do with those remains?

16 A Well an autopsy was performed. In this instance,
17 it's a limited autopsy in that there was virtually no soft
18 tissue remaining. So the skeletal elements and what soft
19 tissue remained were examined. They were measured, they
20 were photographed and any injuries that were noted were
21 documented.

22 Q Okay. When you say no soft tissues remains, is that,
23 or very little, that mean it was almost all bone?

24 A That is correct.

25 Q How did you go about examining the body at that

1 point?

2 A Well it's a step by step process. I basically from
3 head to toe sort the bones into their anatomical position
4 and then clean them if necessary and then look for any
5 injury or injuries that may be present on the bone.

6 Q Okay. At that point, did you have an identification
7 of the remains?

8 A No, we did not.

9 Q Did you have a suspected identification?

10 A Yes, we did.

11 Q And who was that?

12 A The suspected identification was that of Edwin
13 Chirinos.

14 Q Okay. But you had nothing at that point to confirm
15 that, is that right?

16 A That is correct.

17 Q How did you go about attempting to confirm the
18 identity of the person whose remains you were examining?

19 A We used a two-step process. One was to have the
20 skeletal elements evaluated by a forensic anthropologist.
21 An anthropologist is one who specializes in, in bones and
22 the anatomy of bones. The second was to perform DNA
23 analysis on the remains and compare it to a known standard
24 of one of Mr. Chirinos' relatives, and in this case, his
25 mother.

1 Q Okay. Where did you send the remains for that
2 purpose?

3 A The remains were not sent anywhere. They were
4 evaluated in our office by a forensic anthropologist who
5 is associated with the medical university, no, the
6 University of South Carolina School of Medicine which is
7 in Greenville.

8 Q Okay. And was that under your supervision?

9 A Yes, it was.

10 Q Okay. For DNA purposes, where did you send any of
11 the remains?

12 A A portion of the remains and the known standard for
13 comparison were sent to the University of North Texas for
14 DNA evaluations.

15 Q And why did you send them there?

16 A The University of North Texas at the time was
17 participating in a grant project funding, at least
18 partially, by the Department of Justice for DNA analysis
19 in unknown cases essentially assisting agencies to be able
20 to perform DNA for identification of unknown remains at
21 little or no cost.

22 Q How did you go about transmitting the necessary items
23 to North Texas for the examination?

24 A FedEx.

25 Q Okay. What did you send?

1 A We sent a metatarsal bone which is one of the bones
2 of the foot. Studies have shown that weight bearing bones
3 have a better yield of DNA. Once they become skeletonized
4 and basically the metatarsal is one of the foot bones
5 that, that you stand on during the day. So, it's a weight
6 bearing bone and we also compared them to buccal smears
7 from the mom or swabs from the mother which is inside the,
8 the mouth from the gum.

9 Q Okay. And how did you package that to be sent?

10 A Well the buccal swabs came already packaged in
11 plastic bags that had been sealed. I did the same thing
12 with the metatarsal bone, sealed it in a, a biohazard bag
13 and packaged it in a FedEx box and sent it to University
14 of North Texas.

15 Q Alright, you talked about the buccal swab, can you
16 tell us exactly what that is?

17 A Basically, it's a q-tip swab which is rubbed against
18 the inside of the mouth to collect cells from the, from
19 the mother, allowed to air dry. And then it had been
20 packaged in a similar plastic biohazard bag to allow, to
21 keep it separated from any contaminations, placed inside a
22 brown paper bag which was labeled with the donor's name
23 and then turned over to me.

24 Q Do you have a photograph of that bag in your
25 possession?

1 A Yes, I do.

2 Q Can, can I see that, please, sir?

3 MR. MOWRY: Offer this into evidence, Your Honor.

4 MR. SHAFFER: No objection.

5 THE COURT: Alright, that'll be 54 into evidence for
6 the State without objection.

7 (Whereupon, State's exhibit 54 was admitted into
8 evidence.)

9 MR. MOWRY: Thank you, Your Honor.

10 Q I'm gonna show you this photograph of State's exhibit
11 number 54. Is that the photograph you're talking about?

12 A Yes, it is.

13 Q Whose signature is at the bottom down there?

14 A The last signature to be received by is mine.

15 Q And, so that indicated you received the, the item in
16 that bag, is that right?

17 A That is correct.

18 Q Whose signature is above yours?

19 A JD Shelton.

20 Q Is that Jawarski Shelton?

21 A Yes.

22 Q Okay. And you received it directly from him, is that
23 right?

24 A That is correct.

25 Q Okay. Let's go back and talk a little bit about the

1 autopsy itself and, Your Honor, I think at this point
2 speaking about State's exhibit number 46.

3 MR. SHAFFER: No objection from the Defendant, Your
4 Honor.

5 THE COURT: Okay. 46 into evidence for the State
6 without objection.

7 (Whereupon, State's exhibit 46 was admitted into
8 evidence.)

9 Q Dr. Ward, would that chart help you to explain what
10 you saw with regard to the remains?

11 A Yes, it would.

12 Q Would it, would it be helpful to you to come down
13 and, and point on this screen. This is the electronic
14 version of that same chart. Would that be helpful?

15 A That would be fine.

16 Q Great. Well if you would come down, please, sir.

17 THE COURT: You certainly can just be sure to speak
18 up loud since you're away from the microphone, Dr. Ward.

19 Q You can also draw on there to show exactly where you
20 saw anything of, of interest. Use the pen.

21 A So there were examination of the skull and the jaw
22 revealed seven distinct areas of impact to the skull of
23 Mr. Chirinos. The first one was in the region we call the
24 left posterior parietal which is basically that area
25 there. It was a circular, much as I've drawn it here,

1 fracture and if you touch the screen with your hand.

2 Q And, Doctor, you said it was circular, in your or do
3 you have an opinion as to what kind of instrument might of
4 caused that one?

5 MR. SHAFFER: Objection, Your Honor. May we
6 approach?

7 THE COURT: Sure.

8 (Whereupon, a bench conference was held in the
9 presence of the jury but out of the hearing of the
10 jury.)

11 Q Doctor, before you continue let me ask you, do you
12 have an opinion, yes or no, within a reasonable degree of
13 medical certainty as to what might of caused that injury
14 as you saw?

15 A Yes, I do.

16 Q And how did you determine that opinion, what, what
17 observations did you make to make that determination?

18 A The observations are based on, primarily on
19 experience and in review of literature. I have had
20 multiple cases of injury patterns similar to this where
21 the, the instrument was recovered at the scene and known
22 to be the instrument of, that caused those wounds. These
23 were very similar wounds and using my experience, my
24 opinion was based on that.

25 MR. SHAFFER: I'd like to renew my objection under --

1 THE COURT: Okay.

2 MR. SHAFFER: -- 701. I think it excludes, exceeds
3 his scope of expertise.

4 THE COURT: Okay. I overrule the objection and allow
5 Dr. Ward to render an opinion, if he has one.

6 Q To a reasonable degree of medical certainty, what
7 instrument do you believe caused the injury you saw?

8 A The circular depressed fractures of the skull are,
9 which are round in nature, with radiating fractures of the
10 outer portion of the skull are consistent with the head
11 portion of a hammer.

12 Q Okay. A claw hammer, or ball-peen hammer type?

13 A Either one. I, it's not the claw portion, it's the
14 head portion.

15 Q Right. Okay. So, that's one injury, what else did
16 you see?

17 A There's a second injury which is a skull fracture
18 here at the base of the left temporal bone which is
19 basically right in the region of the left ear. This black
20 mark here is the external auditory meatus or basically
21 your ear hole. And so, there's fracture of the bone
22 around the left ear hole.

23 Q Okay. What else did you see?

24 A There's a similar skull fracture of the left frontal
25 bone, again circular in nature consistent with the head of

1 a hammer. There's fracture, these are linear fractures in
2 the region of the left eye. So the left superior orbital
3 ridge and the left zygoma which are this bone and these
4 bones here. These are just linear fractures. They did
5 not have any pattern consistency with them. They could've
6 been from the same weapon, could've been the side of the
7 hammer, could've been the head of the hammer that, leave
8 this type of mark or it could've been something else.

9 This was an undeterminate weapon. It could've been the
10 same weapon, it could've been something different. There
11 was a similar depressed skull fracture of the right
12 parietal bone to the right side of the head. The right
13 frontal bone, this was a large fracture and basically this
14 piece of bone was missing. And the fourth one is fracture
15 through the left mandible. So there were seven distinct
16 areas of impact, one, two, three, four, five, six and
17 seven.

18 Q Thank you, sir. If you'd take the stand again,
19 Doctor. Doctor, how complete was the skeleton that you
20 were able to examine?

21 A With the exception of some of the smaller bones, the
22 bones of the hand, the fingers, most of the prominent or
23 major skeletal components were there. So the skull was
24 there, vertebral column, bones of the arms, bones of the
25 lower extremities and some bones of the feet, the pelvis,

1 were all there. Many of the ribs were there. But some of
2 the smaller bones of the hands and of the toes were
3 missing.

4 Q Let me, the reason I'm asking you this, did you
5 observe any other kinds of injuries to the remains that
6 you saw?

7 A There was no other trauma to the skull. There was no
8 trauma to the ribs. The vertebral elements were intact
9 and without trauma. There was no fracture or perforation
10 of the bones of the upper lower extremities or of the
11 pelvis.

12 Q And did you see any evidence of a gunshot?

13 A Not to the skeletal elements, no.

14 Q Okay. So is it safe to say that the injuries that
15 you saw were the injuries to the skull?

16 A Oh, I'm sorry, yes. The injuries that we
17 demonstrated at autopsy are all to the skull.

18 Q And you believe those were made by a hammer, is that
19 correct?

20 A At least some of them, yes.

21 Q Within a reasonable degree of medical certainty, do
22 you have an opinion as to the cause of death of the
23 decedent?

24 A Yes, I do.

25 Q What is that opinion, please, sir?

1 A That Mr. Chirinos died as the result of blunt force
2 trauma to the head.

3 Q And do you have an opinion to a reasonable degree of
4 medical certainty as to the manner of death?

5 A Yes, I do.

6 Q What is that?

7 A The manner of death would be homicide.

8 Q Thank you, Doctor. That's all I have. If you'd
9 answer any of Mr. Shaffer's questions.

10 THE COURT: Mr. Shaffer, cross-examination?

11 CROSS-EXAMINATION

12 By Mr. Shaffer:

13 Q Doctor, how many cases have you handled in the past
14 that a hammer was used to fracture a skull?

15 A I can think of at least ten or twelve.

16 Q Okay. Have you handled any other fractured skull
17 cases that didn't involve a hammer?

18 A Yes.

19 Q What other instruments have you seen? Tire iron?

20 A There's tire irons, there's 2x4's, there's rocks,
21 bricks, just blunt trauma, falling from a building.
22 There's blunt trauma resulting from an automobile
23 accident. There's any number of weapons that we could--

24 Q Golf Club. Have you ever had one with a golf club?

25 A I don't believe so.

1 Q Okay. Can you tell the difference between a, the
2 edge of a tire iron hitting someone's head and a hammer?

3 A Yes.

4 Q How, how so?

5 A Well the edge of a tire iron would be linear. The
6 head of a hammer is circular.

7 Q Okay. And I, and I'm talking about the circular edge
8 of the tire iron.

9 A So the end of the tire iron?

10 Q Yes.

11 A Okay. I, I think so. A tire iron is, basically a
12 tire iron is used to remove a lug nut off the tire. It is
13 a circle. It has a rim but it's also hollow in the middle
14 which would create a different type of wound. Instead of
15 a depressed skull fracture from the head of the hammer
16 which is solid all the way, the entire surface is solid
17 and would push the bone inward.

18 Q Now if I took a golf club that had a rounded edge on
19 it and I hit someone in the head and fractured their
20 skull, could you say to a reasonable degree of medical
21 certainty or based off of that could you, can you say for
22 certain that, that would not, excuse me, my question got
23 convoluted there. If I took a, a golf club, okay, do you
24 play golf?

25 A I do not.

1 Q Okay. You know what a driver is?

2 A Yes, I do.

3 Q Okay. You know how a driver has sort of a rounded
4 sorta edge?

5 A Yes.

6 Q So if I took a driver and I, I hit, hit a skull,
7 cause a fracture, are you, could you definitively say that
8 was, that the injury left there would've been different
9 than a hammer?

10 A Yes.

11 Q Okay. Even if it is a same shape hitting him?

12 A You mean the same portion of the golf club each time?

13 Q Or no, I'm saying that, you know, if you look at the
14 edge of a golf club, the edge of a driver is somewhat
15 rounded, but then there's a flat edge. Is that fair to
16 say?

17 A That's fair to say but it's, it's not the, the same
18 shape as the head of a hammer.

19 Q Okay.

20 A It, it is rounded but it's not flat on the end.

21 Q How, how big was the hammer that, that you're saying
22 killed Edwin?

23 A I don't know.

24 Q Was it a sledge hammer, was it a--

25 A Oh, I'm sorry, it is a, like a, a standard hammer

1 that a carpenter would use to drive nails.

2 Q You can't tell me how, how large the, the face is of
3 the hammer?

4 A I cannot.

5 Q Can you tell me if it was a metal hammer or a rubber
6 hammer?

7 A Metal hammer.

8 Q How do you know it was a metal hammer?

9 A Well, I've had skull fractures from metal hammers and
10 skull fractures from rubber hammers and they are
11 different.

12 Q Okay.

13 A They cause a different injury.

14 Q So can you tell me if it was a ball-peen hammer or if
15 it was a claw hammer?

16 A My impression is that this is a flat head not a
17 rounded head hammer. Whether it had a claw on the end or
18 not, I do not know that part. That portion was not
19 transmitted to the skull. So this is a flat striking
20 surface of a, consistent with the head of a hammer.

21 Q Okay. Can you tell me who was swinging the hammer?

22 A I cannot.

23 Q Are you sure that all of those wounds were caused by
24 the same weapon.

25 A No, I believe I testified that the round ones are all

1 consistent with the head, the head of a hammer. Those
2 that caused only linear fractures. So, to the left eye,
3 to the jaw and the depressed fracture over the right eye,
4 could've been with another weapon.

5 Q Okay. So, am I correct in saying, you're saying this
6 got caused by a hammer, this got caused by a hammer and
7 that got caused by a hammer?

8 A That's correct.

9 Q Okay. And you can't definitively say about the other
10 ones, correct?

11 A That's correct. They did not transmit a patterned
12 injury.

13 Q Tell me whether or not you can say, you did the
14 autopsy on him, correct?

15 A That's correct.

16 Q Any signs of sexual assault?

17 A That was not able to be determined.

18 Q How so?

19 A Well there's, sexual assault results in trauma to
20 soft tissues. There was no soft tissue due to
21 decompositional change.

22 Q Any injury caused on soft tissue, you would not of
23 been able to tell, correct?

24 A That is correct.

25 Q So, would you of been able to tell if there were

1 bruises on his arms?

2 A No.

3 Q Would you be able to tell if there were bruises on
4 his knuckles?

5 A No.

6 Q Would you be able to tell whether he had been cut
7 with a knife?

8 A If that knife did not traumatize underlying bone, no
9 I would not.

10 Q Courts indulgence.

11 THE COURT: Sure, take your time.

12 MR. SHAFFER: No further questions.

13 THE COURT: Redirect?

14 MR. MOWRY: Very few, Your Honor.

15 REDIRECT EXAMINATION

16 By Mr. Mowry:

17 Q Doctor, you had said that the round injuries here and
18 here particularly appear to be by the same type of hammer,
19 is that right?

20 A That's correct.

21 Q The others you could not tell for certain, is that
22 right?

23 A That is correct. They could be from exactly the same
24 blow. Just two bones that did not show that depressed
25 fracture.

1 Q Okay. You also talked about there being
2 decomposition, was there anything else that had been done
3 to the remains that might of destroyed the soft tissue?

4 A A, a portion of the elements showed evidence of
5 burning or charring.

6 Q Thank you, sir. That's all I have.

7 THE COURT: Okay. Any recross?

8 MR. SHAVER: None, Your Honor.

9 THE COURT: Okay. Thank you. Thank you, Dr. Ward,
10 you can step down and you're certainly free to leave the
11 courthouse. Alright. Let me see the lawyers for just a
12 second.

13 MR. MOWRY: Yes, sir.

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

17 THE COURT: Alright, ladies and gentlemen, the State
18 has for today, has one more witness and I understand that
19 this witness is going to be very short so we are going to
20 go ahead and get him out of the way, and then we'll go
21 ahead and adjourn for the evening. Alright, Solicitor
22 Todd, call your next witness.

23 MR. TODD: The State calls Jawarski Shelton.

24 JAWARSKI SHELTON, being
25 first duly sworn, testified as follows:

DIRECT EXAMINATION

1
2 By Mr. Todd:

3 Q Okay, Mr. Shelton, back in May of 2016, where were
4 you employed?

5 A Laurens County Sheriff's Office.

6 Q Okay. Did you have the opportunity to be involved in
7 an investigation of a homicide of Edwin Chirinos?

8 A Yes, sir.

9 Q And what exactly was your role in the investigation?

10 A I initially responded to the crime scene then I went
11 to the parent's residence on North Old Laurens Road to
12 collect the buccal swab from the mom.

13 Q Okay. And you said a buccal swab, you just heard
14 testimony explaining what that was, that's the swab of an
15 inside of an individual?

16 A Yes, sir.

17 Q Okay. And you, so you're saying that you went out to
18 Laurens Road to the Diaz family's house?

19 A Correct.

20 Q Okay. And who did you speak with there?

21 A I spoke with his mother and also the owner of the
22 vehicle.

23 Q Okay. And the mother, you took a buccal swab of her
24 mouth?

25 A Correct.

1 Q And that was you that did that?

2 A Correct.

3 Q Okay. And the owner of the vehicle, a Gabriel
4 Zuniga.

5 A -- correct.

6 Q Okay. You took their buccal swab as well?

7 A Correct.

8 Q Okay. Did you give the buccal swab to Dr. Ward, of
9 the mother?

10 A Yes, I did, on the following morning.

11 Q Okay. And you gave the buccal swab of Gabriel Zuniga
12 to Ryan Matthews?

13 A Correct.

14 Q Okay. No further questions, answer anything that Mr.
15 Shaffer might have.

16 THE COURT: Alright, any cross?

17 MR. SHAFFER: No, no questions, Your Honor.

18 THE COURT: Okay. Alright. Thank you, sir, you can
19 step down. Okay, Madame Forelady and ladies and gentlemen
20 of the jury, we've worked pretty hard today. We've gone a
21 little bit longer than what we normally do, but sometimes
22 we, in order to get witnesses in. We're gonna start back
23 at 10:00 a.m. in the morning. I'm gonna ask that you get
24 a good night's rest. I'm not gonna single any juror out,
25 however, I've had one juror that part of the time this

1 name escapes me, but it's on the record, I don't think
2 there was any intentional concealment.

3 MR. MOWRY: And quite frankly, Your Honor, that was
4 the very case we argued in the matter that --

5 THE COURT: Okay.

6 MR. MOWRY: -- I described to you from last November.

7 THE COURT: Okay. Alright. Okay.

8 MR. MOWRY: Didn't do me any good either.

9 THE COURT: Okay. Very good. Alright, thank you
10 very much. We'll be in recess till 10:00 a.m. in the
11 morning.

12 (Whereupon, the trial will resume the next morning at
13 10:00 a.m.)

14 MAY 31, 2017

15 THE COURT: Alright, back on the record. Mr.
16 Shaffer, you wanted to go ahead and renew your motion as
17 it relates to the Facebook messaging. It's in-chambers
18 conference with the, with the lawyers it was indicated
19 that the victim's father, be like the second witness this
20 morning and will authenticate, get into the Facebook
21 messaging. So you wanted to go ahead and renew your, your
22 motion, correct?

23 MR. SHAFFER: Yes, Your Honor. I just wanted to make
24 sure that I was covered for appeal. And I, I guess it's
25 probably better to go ahead and do it now if the Court's

1 willing to make final ruling on it than, than to do it in
2 the middle of his testimony and send the jury out since --

3 THE COURT: Right.

4 MR. SHAFFER: -- the jury's already out, Your Honor.
5 Obviously, I'm objecting under 901 because I don't think
6 they can authenticate it properly.

7 THE COURT: Right.

8 MR. SHAFFER: Also the hearsay objection on it
9 because I, I think that especially when you're dealing
10 with the 7th, that they're not going to be able to of
11 showed that it was a, they were a coconspirator. I think
12 it's applicable to the 6th as well, but I don't think they
13 can show it certainly not to a preponderance of the
14 evidence. And also, the Court made a ruling on the Sixth
15 Amendment issue as well which is one issue that I planned
16 on bringing up as well.

17 THE COURT: Alright. I think my, my ruling from
18 yesterday was that I was going, because the State's intent
19 to get this Facebook messaging in, May 7, 2016, May 8,
20 2016, was for purposes under 801 in furtherance of the
21 conspiracy. However, I did, I guess qualify that ruling
22 indicating that before it could come in, however, there
23 needs to be some prima facie showing of a conspiracy and
24 that, that the Defendant was a part of that conspiracy.
25 So, and I think, I even used the word, hurdle, that that's

1 what the State's going to have to get over. Now, as far
2 as authenticating it, that can still be done by the
3 father. And the, the exhibit can be, remain, marked for
4 identification and then maybe later attempted to get in
5 assuming that there's that prima facie showing. So and I
6 think the purpose for the father's testimony is for
7 authentication. Correct, Solicitor?

8 MR. MOWRY: Yes, sir.

9 THE COURT: Okay. Alright. So, since he's going to
10 be the second witness I think probably the document needs,
11 which is marked right now, the whole document, Facebook
12 document, is marked as Court's exhibit but can mark it ID
13 for the State then we can handle it in that fashion.

14 (Whereupon, Court's Exhibit 2 was marked for
15 identification only.)

16 MR. MOWRY: Yes, sir.

17 THE COURT: So, again, I'm going to allow it in so
18 long as that prima facie showing is made at some point in
19 time in the State's case-in-chief.

20 MR. SHAFFER: Okay. Thank you, Your Honor. And
21 I'll, I'll just renew whenever they actually move it into
22 evidence.

23 THE COURT: Okay. Alright, very good.

24 MR. SHAFFER: Thank you, Your Honor.

25 THE COURT: Alright, thank you.

1 MR. MOWRY: And once again Your Honor, just to give
2 you a little outline of how we're intending to do this
3 we're going to call the father to illustrate that the
4 Facebook messages were retrieved and provided to law
5 enforcement as part of their investigation. That provided
6 them the,--

7 THE COURT: Right.

8 MR. MOWRY: -- to go to [REDACTED] Queens Circle. Then we
9 would get Davian Holman on the stand. He could testify as
10 to what happened at the scene.

11 THE COURT: Okay.

12 MR. MOWRY: What the Defendant and Karina Galarza
13 were doing and then I would have Mr. Bentley --

14 THE COURT: Okay.

15 MR. MOWRY: -- testify that he in fact used the
16 password the father provided to retrieve the messages in
17 toto.

18 THE COURT: Okay. Alright, very good. Alright, we
19 ready for the jury?

20 MR. MOWRY: Yes, sir.

21 THE COURT: Okay. Alright. Mr. Bolt, if you'll
22 bring the jury out please.

23 (Whereupon, the jury came into open court at
24 approximately 10:20 a.m.)

25 THE COURT: Thank you, Mr. Bolt. Good morning,

1 ladies and gentlemen. I hope that you got plenty of rest
2 last night and ready to work hard today. Okay, very good.
3 Solicitor.

4 MR. MOWRY: Thank you, Your Honor. We call Krystal
5 Rodriguez.

6 KRYSTAL RODRIGUEZ, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 By Mr. Mowry:

10 Q You are Krystal Marie McCurdy Rodriguez, is that
11 right?

12 A Yes.

13 Q Ms. Rodriguez, where do you live right now?

14 A Fort Worth, Texas.

15 Q And where are you employed, what kind of work do you
16 do?

17 A I'm employed at UNT Center for Human ID. I'm a DNA
18 analysis there working on missing persons cases.

19 Q And UNT is what?

20 A I'm sorry. University of North Texas.

21 Q Okay. In 2016 did y'all have any kind of federal
22 grant to perform tasks?

23 A Yes.

24 Q Can you explain what that was, please, ma'am?

25 A Yes. The National Institute of Justice funded us

1 nationally to process missing persons cases.

2 Q And speak up, move that mike. Now, go ahead.

3 A Okay, so, we had grant funding through the National
4 Institute of Justice to do DNA processing on cases,
5 missing person cases across the US.

6 Q Okay. And what kind of techniques would y'all use in
7 order to try to identify these, the items that might of
8 been sent to you?

9 A Okay. We do DNA processing and then there's actually
10 two types of DNA testing that we do. The first is nuclear
11 DNA testing. That's typically what you, you think of when
12 you think of DNA testing. DNA is the blueprint of our
13 bodies and you receive half from your mom and half from
14 your dad. And there's a lot of similar, you know, a lot
15 of our DNA is the same between people but then there are
16 regions of that DNA that differs from person to person.
17 And that's the type of, that's the area of DNA that we
18 target to give a DNA profile. And it's unique between
19 individuals except for identical twins. Their DNA
20 profiles will be the same. The other type of DNA testing
21 that I do is mitochondrial DNA testing. Not everybody is
22 aware of this, but there's a organ in your cell of the
23 mitochondria and it houses its own DNA genome and it's
24 passed on eternally. That means from your, from mother to
25 child. So everyone in your maternal lineage would have

1 this same mitochondrial DNA profile.

2 Q So my sister and I would, would have the same from
3 our mother, is that right?

4 A Correct.

5 Q Now let me back up just a little bit, you, you talked
6 about DNA and what y'all do. What kind of education and
7 training do you have that led you to this field?

8 A I received a Bachelor's Degree from Allegheny College
9 in Biology and I continued my education at the University
10 of North Texas Health Science Center and obtained a
11 Master's Degree in Forensic Genetics.

12 Q And when did you get that Master's Degree, please
13 ma'am?

14 A 2007.

15 Q Okay. Have you worked at the institute ever since?

16 A Yes.

17 Q Describe what kind of specialized training that
18 you've got in the field.

19 A Okay. I underwent a year of training. I went
20 through, you know, testing and practice samples and
21 everything like that before I was started on casework and
22 I've been doing casework ever since.

23 Q Okay. And matter of fact, you had DNA training and
24 experience that you taught as a student assistant in
25 college, isn't that right?

1 A Yes.

2 Q Describe that a little bit.

3 A I was a student assistant to my major professor and I
4 just helped her teach her labs, I helped the students do,
5 extract DNA from samples, from plant samples actually and
6 run them on a jell to see if there was DNA there or not.

7 Q Okay. So, you been doing this for, since college?

8 A Yeah. Yes.

9 Q How many, how many samples do you think that you've
10 tested or compared for DNA?

11 A Hundreds and hundreds.

12 Q And let me ask you this, have you ever testified in
13 court before?

14 A Yes.

15 Q Were you declared an expert witness in those cases?

16 A Yes, I was.

17 Q And on how many occasions would you estimate?

18 A I've testified in a courtroom four other times and
19 then I've given video depositions and testimony also.

20 Q And have been declared an expert in each of those
21 occurrences, is that right?

22 A Yes, sir.

23 MR. MOWRY: Your Honor, I would offer her as an
24 expert in DNA.

25 THE COURT: Okay. And Mr. Shaffer?

1 MR. SHAFFER: No objection.

2 THE COURT: Alright, without objection Ms. Rodriguez
3 is found to be an expert in the area of DNA and DNA
4 analysis.

5 Q Now, Ms. Rodriguez, when you and I have spoken you
6 told me that your institute does not like to toot its own
7 horn too much, but can you tell us a little bit about some
8 of the cases that y'all have dealt with in the past in, in
9 doing missing persons identification?

10 A Sure.

11 THE COURT: Hold for just one second. I may have an
12 objection. Mr. Shaffer has stood.

13 MR. SHAFFER: Your Honor, I, I just don't see where
14 that's relevant. It's other cases they've done in the
15 past.

16 THE COURT: Well, I think for purposes of the, the
17 jury determining credibility of this witness, I think
18 maybe a little bit of history insofar as her, her
19 institute may be helpful.

20 MR. MOWRY: Not going to go into tremendous depth.

21 THE COURT: Sure.

22 MR. MOWRY: This will not take long, Your Honor.

23 THE COURT: I'll overrule.

24 MR. SHAFFER: Thank you, Your Honor.

25 Q Can you, can you give us a few examples about the

1 kinds of cases that you, you've worked on?

2 A Sure.

3 Q You and your institute.

4 A Sure. Our institute has, we focus on bone, bone
5 cases, extracting DNA from bone. So really difficult
6 samples that have been around for a long time and some of
7 the cases we've worked on are victims of John Wayne Gacy.
8 We've also done a project with the Dozier School of Boys
9 in Florida. We worked on those cases. We were even
10 sought out by the Country of Chile. They have many, many
11 victims that were buried by their dictator, Pinochet.
12 And, so, we worked on those cases.

13 Q And that was as far back as the '70's and the '80's,
14 is that right?

15 A Yes, exactly. Those cases are extremely challenging.

16 Q And the, the school that you spoke of in Florida goes
17 back to the start of the 20th century, isn't that right?

18 A Correct.

19 Q Can you describe how you became involved in this case
20 involving Edwin Diaz?

21 A The case was sent to us.

22 Q Who sent it to you?

23 A I believe Dr. Ward.

24 Q Alright. And how was that received by you? What do
25 you do when you receive a case like that?

1 A Our evidence custodians receive the evidence. They
2 document how that evidence was sent to us, if there are
3 any, one, that it's sealed, that if there's any tears or
4 stains or anything like that, if it ever needs repackaged
5 in a larger package or something like that.

6 Q Was there any notation that any of that had occurred
7 in this case?

8 A No, not on this case.

9 Q And when you received the package how was it? Was it
10 still in it's, in the condition in which y'all received
11 it?

12 A Right, it was in its original packaging.

13 Q And did you note any flaws or tears or problems that,
14 that might of occurred?

15 A No, there were no flaws.

16 Q What was in the package? What did you receive?

17 A We received buccal swabs, which is just a swabbing of
18 the inside of the cheek from the mother of a missing
19 person. I believe --

20 Q Is that, yes, I'm sorry, go ahead.

21 A Okay. Her name is Eldi Chirinos, mother of missing
22 person, Edwin Diaz Chirinos. And then we also received
23 two metatarsals, which are bones in the foot.

24 Q And Dr. Ward spoke yesterday about how those might be
25 desirable, can you go into the reasons that a foot bone

1 might be sent rather than others?

2 A Sure. They are, one, they are small and compact so
3 they are easy for shipping them to us, but we usually get
4 really good results from them. The bone cells are pretty
5 compact in there.

6 Q Okay. How do you initiate a process to try to do the
7 comparison?

8 A Okay. First of all, our samples, the reference
9 sample is processed completely separate from the evidence.
10 And then, I will just go into a little more on the bone
11 side, they are, there's a portion cut and we grind those
12 bone pieces down into powder and then it undergoes the DNA
13 extraction process. And then we use commercially
14 available kits to interrogate those spots on the DNA that
15 differ between people and those locations, the results
16 from those locations and are made into basically, the
17 collection of them is a profile, DNA profile.

18 Q Okay, so you were processing the unknown remains
19 first, is that right?

20 A Well, there's two, kinda two different teams that
21 process them. Sometimes the timing overlaps especially,
22 for instance, in this case they were both received
23 together, but separated by time and space but, yes.

24 Q Okay. Or do it separately I guess is a better way --

25 A Right.

1 Q -- to put it. And what was the result of your
2 examination or your test?

3 A Okay, we received DNA profiles from both and whenever
4 we compared them based on the proposed relationship of
5 mother and child, the cases did associate.

6 Q And were you able to come up with a computation or,
7 or a figure that might be helpful to the jury in
8 understanding this process?

9 A Yes. There's a statistic.

10 Q Okay.

11 A Would you like me to read it to you?

12 Q Yes ma'am, if you would.

13 A Okay, these genetic data autosomal STR's, which is
14 nuclear DNA and mitochondrial DNA are --

15 THE COURT: Try to slow down, Madam Witness, just a
16 little bit when you're reading.

17 Q Okay.

18 THE COURT: So the, our court reporter can --

19 COURT REPORTER: Can you please spell--

20 A Sure. A-U-T-O-S-O-M-A-L, Autosomal STRs, and
21 mitochondrial, M-I-T-C-H-O-N-D-R-I-A-L, DNA are
22 approximately 91.9 million times more likely to be
23 observed under the scenario that the unidentified remains
24 originated from a biological child of Eldi Chirinos, as
25 opposed to the unidentified remains originating from an

1 unrelated individual from the Hispanic population.

2 Q 91 --

3 A Point --

4 Q Can you read that?

5 A 91.9 million times more likely.

6 Q Within a reasonable degree of scientific certainty do
7 you have an opinion as to whose remains we are talking
8 about here?

9 A Yes, in my experience this is very strong support for
10 the proposed relationship.

11 Q Between, go ahead, go ahead and finish that if you
12 would.

13 A Sure. Between Eldi Chirinos and these remains.

14 Q Okay. Was there anything else that you did with
15 regard to your computations, your information with
16 relation to this case? Were you in contact with the State
17 Law Enforcement Division as well in South Carolina?

18 A Yes.

19 Q Okay. And what was that purpose?

20 A I was contacted by Walter Bentley about obtaining,
21 them obtaining the DNA profile from the, that we got from
22 the remains, for it to be sent to the SLED lab for
23 comparison use.

24 Q Okay. And was that in fact done?

25 A Yes, I did that myself.

1 Q Okay. Who were you in contact with at SLED, do you
2 recall?

3 A I believe her name is Adrian Hefney.

4 Q Okay. Thank you, ma'am. I believe that's all I
5 have, if you'd answer any of the Defense attorney's
6 questions I'd appreciate it.

7 THE COURT: Alright.

8 A Absolutely.

9 THE COURT: Cross-examination?

10 MR. SHAFFER: Just a few questions.

11 CROSS-EXAMINATION

12 By Mr. Shaffer:

13 Q Actually, just one so, to sum up what you just said
14 is basically you feel confident that that was Edwin's body
15 the, the DNA came from, that the bones you got, right?

16 A It is a very strong support, yes.

17 Q Okay. That's all I wanted to know. Thank you.

18 A Sure.

19 THE COURT: Alright, thank you, Ma'am, for your
20 testimony. You can step down.

21 A Okay, thank you.

22 THE COURT: If there's no objection, certainly you're
23 welcome to remain with us, but you're also free to go if
24 you'd like.

25 A Okay, thank you.

1 MR. MOWRY: We call Edwin Anibal Diaz Cruz. And Your
2 Honor, Mr. Cruz will require a translator.

3 THE COURT: Right. Okay. And I think one of our
4 translators, okay, is walking up with him. We first need
5 to have the translator oath and then swear the witness.

6 TERESA SAMPSON, Interpreter, being
7 first duly sworn, testified as follows:

8 EDWIN ANIBAL DIAZ CRUZ, being
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Mowry:

12 Q You are Edwin Anibal Diaz Cruz?

13 A Yes.

14 Q Mr. Cruz, what is your relationship to the victim in
15 this case, Edwin Diaz Chirinos?

16 A I'm the father.

17 Q And Eldi Chirinos is who?

18 A She's the mother.

19 Q Okay. And is she your wife?

20 A Yes.

21 Q Is this Eldi Chirinos?

22 A Yes.

23 Q Thank you. Mr. Cruz, did your son have a Facebook
24 account?

25 A Yes.

1 Q When he went missing in May, after May 8th of 2016.

2 We can just start with that. Were you able to access his
3 account after his disappearance?

4 A Yes.

5 Q Were you able to, were you doing that to try to trace
6 his whereabouts?

7 A Yes.

8 Q As part of the police investigation were you able to
9 retrieve his Facebook messages?

10 A Yes.

11 Q And did you turn that information over to law
12 enforcement?

13 A Yes.

14 Q I'm going to show you what has been marked as State's
15 Exhibit number 61 for identification.

16 A Okay.

17 Q Do you recognize this?

18 A Yes.

19 Q Is this a screen shot of part of the Facebook
20 messages that you retrieved?

21 A Uh-huh. Yes.

22 Q And did you turn this over to law enforcement?

23 A Yes.

24 Q Is there a message on there, [REDACTED] Queens, Queens
25 Circle.

1 THE COURT: Okay.

2 MR. SHAFFER: Can we approach?

3 MR. MOWRY: Oh, I am sorry. That's right.

4 THE COURT: Let me see the lawyers for just a minute.

5 (Whereupon, a bench conference was held in the
6 presence of the jury but out of the hearing of the
7 jury.)

8 MR. MOWRY: Oh, I'm sorry, I'm sorry. That's right.

9 Q And you turned over to law enforcement what has been
10 marked as State's Exhibit number 61 for identification?

11 A Yes.

12 Q Thank you. I believe that's all I have.

13 THE COURT: Okay. Alright. Cross-examination, Mr.
14 Shaffer?

15 MR. SHAFFER: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 By Mr. Shaffer:

18 Q I'm very sorry about your son. I have just a few
19 questions for you. Your, the, your son's Facebook prior
20 to May 8th, did you access it many times before?

21 A Before.

22 Q Was he monitoring his Facebook?

23 A No.

24 Q No further questions. Thank you.

25 THE COURT: Any redirect?

1 MR. MOWRY: No, sir.

2 THE COURT: Okay. Thank you.

3 MR. MOWRY: Your Honor, at this time we call, recall
4 Lieutenant Ben Blackmon.

5 THE COURT: Okay. Since it's a different day we're
6 going to swear you in again.

7 MR. BLACKMON: Yes, sir.

8 BEN BLACKMON, being
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Mowry:

12 Q Lieutenant Blackmon, we talked yesterday about the
13 missing persons investigation involving Edwin Chirinos and
14 some other items. Were you involved throughout the
15 process?

16 A That is correct, sir.

17 Q And were you also present when, during the
18 investigation of the vehicle, the Ford Mustang that was
19 discovered near Clinton?

20 A Yes, sir.

21 Q I'm going to show you State's Exhibits 1, 2, 3 and 4.
22 Is that the location where the car was discovered?

23 A That's correct, sir.

24 Q And is that the car that was found as well?

25 A Yes sir, it is.

1 Q Okay. Now, did I ask you to look up some weather
2 information in Laurens during the month of May?

3 A That's correct, sir.

4 Q What did you find? How did you go about, what, what
5 website did you use?

6 A Yes, sir. We used weather underground, I believe
7 it's.com.

8 Q Okay.

9 A We obtained temperatures from May 8th to May 26th.

10 Q Alright, and what, what were the high temperatures,
11 what, what range did we have during that time?

12 A The highest temperature was, reached up into, I
13 believe, 87 degrees. The lowest was on the 20th, which
14 was 60 degrees.

15 Q Okay. How many days were in the 80's, if you could
16 count those up real quick.

17 A Ten.

18 Q Okay. So, your investigation into this case
19 continued after the discovery of the remains, is that
20 right?

21 A That's correct, sir.

22 Q Sometime during the week of, of May 26th, did Mr.
23 Diaz come to you with information regarding Facebook?

24 A I believe those messages were delivered through
25 another investigator and however it came to my attention

1 upon his receipt of it.

2 Q Alright, and let me show you State's Exhibit number
3 61, is that the substance of the information that you got
4 at that time?

5 A Yes sir, this is one, one part of it.

6 Q Okay. As part of your investigation after receiving
7 this information what did y'all do?

8 A We responded to Queens Circle actually before the
9 26th.

10 Q Okay.

11 A Several times to, as, as the messages indicate they
12 are from --

13 MR. SHAFFER: Objection, Your Honor.

14 A -- an individual.

15 THE COURT: Okay. Alright. Don't go into the
16 contents of State's 61.

17 Q But you went to [REDACTED] Queens Circle?

18 A That's correct, sir.

19 Q Who did you encounter there?

20 A We encountered the residents of the home, Karina
21 Galarza.

22 Q Okay.

23 A And then after, actually on the evening of the 26th,
24 we encountered the Defendant and Ms. Galarza and also a
25 third individual by the name of Davian Holman.

1 Q Okay. Let's back up just a little bit. The first
2 time that you went there, what were you looking for?

3 A The initial time that we approached the home prior to
4 the 26th was after we received those messages that guided
5 us to that location to see if the victim in this case was
6 actually at that residence or, or if they had seen him.
7 At that time, he was still a missing individual rather
8 than a, a victim of homicide.

9 Q Did you go to the extent of asking them to raise
10 garage doors?

11 A That's correct. We asked the occupant of the home to
12 raise the garage to see if the Mustang was inside the
13 garage and they raised the garage and their, their vehicle
14 was in there, the victim's was not. At that point, we
15 interviewed several people around the, that home in the
16 sense of friends of that person who had not seen the
17 victim in this case at that time. Either upon the 26th
18 after State Law Enforcement Division had began to process
19 the scene where the Mustang and the victim was found, we
20 sent two investigators to [REDACTED] Queens Circle to locate the,
21 the residents there, a Ms. Karina Galarza, until myself
22 and another investigator could respond to speak with them
23 about these communications and having been around the
24 victim.

25 Q Okay. Who were the investigators that you initially

1 sent to the scene?

2 A Initially --

3 Q To, to [REDACTED] Queens Circle.

4 A Yes, sir. Initially we sent Investigator Carter and
5 Investigator Cook to [REDACTED] Queens Circle until we could
6 arrive where they could basically initiate contact as we
7 were further away by, by distance.

8 Q Okay. Is this Investigator Cook right here, Farrah
9 Cook?

10 A That's correct, sir.

11 Q And you say that, what were done with Green and
12 Galarza?

13 A We spoke with Galarza and --

14 Q Well, did you speak with them together or did you
15 speak with --

16 A Separate.

17 Q Separately.

18 A Separate, sir.

19 Q Okay.

20 A We spoke with them both or offered to speak with the
21 Defendant in this case and which he declined to speak with
22 us. We --

23 MR. SHAFFER: Objection, Your Honor.

24 THE COURT: Okay.

25 MR. SHAFFER: May be approach?

1 THE COURT: Sure.

2 (Whereupon, a bench conference was held in the
3 presence of the jury but out of the hearing of the
4 jury.)

5 THE COURT: Madam Forelady, and ladies and gentlemen
6 of the jury, the, the lawyers have raised a point that I'm
7 going to need to deal with them on the record, and outside
8 of your presence. So, if you will go back to the jury
9 room, hopefully it won't be too long. We might kinda work
10 in a little morning break while you're out. Again, remind
11 you no communication, discussion about anything related to
12 this case and we'll get you back out shortly. Okay.

13 (Whereupon, the jury was excused from open court for
14 a break.)

15 THE COURT: Okay, Mr. Shaffer, you have a motion to
16 make?

17 MR. SHAFFER: Yes, Your Honor. We're moving for a
18 mistrial based off of the witness' discussion about my
19 client invoking his right to remain silent. I think his
20 comment on his right to remain silent to say we offered to
21 speak to him and he said he didn't want to speak to us.

22 THE COURT: Right. Okay.

23 MR. MOWRY: I believe it was just he declined to
24 speak with us. Granted, it shouldn't have been said, but
25 I think a curative instruction will probably take care of

1 that, Your Honor. We've already been through a day and
2 almost a half of testimony.

3 THE COURT: Alright. Well, I, this is not the first
4 time this, something like this has, has happened. And I
5 typically have resolved it by an instruction to the jury.
6 But let's take a, let's take a ten-minute break and let me
7 just kind of sort through my mind a little bit how I want
8 to handle it, okay.

9 MR. SHAFFER: Thank you, Your Honor.

10 THE COURT: Thank you.

11 (Whereupon, a short break was taken.)

12 THE COURT: Okay. We're back on the record. And,
13 Mr. Shaffer, I'm going to deny your, your motion for a,
14 oh, excuse me.

15 MR. MOWRY: The Defendant's --

16 MR. SHAFFER: He's on his way, Your Honor.

17 THE COURT: Let's wait just a minute. Okay, Mr.
18 Shaffer, I'm going to deny your motion for a mistrial. In
19 light of the fact that this was a single reference to your
20 client's exercise of his right to remain silent. I find
21 that it was more of an isolated situation than, than what
22 we commonly find a lot of times and not, I'm not
23 suggesting these prosecutors, but a lot of times
24 prosecutors in closing arguments will make some reference
25 to the Defendant remaining silent. And this is just an

1 isolated situation I believe. And I believe that there's
2 not enough prejudice for me to grant the, the mistrial
3 motion. I am going to give a curative instruction to the
4 jury. Something similar to the standard charge when a
5 Defendant elects not to testify at trial. And I'll just
6 explain to them that the reference to his decline to speak
7 with law enforcement was an exercise of his constitutional
8 rights and that cannot be considered by them in any manner
9 whatsoever on the issue of, of guilt. It's not to be
10 considered by them. Not to be discussed in the jury room
11 the fact that at this particular point in time he declined
12 to speak, okay.

13 MR. SHAFFER: Thank you, Your Honor. Based off of my
14 reading the case law, afterwards I think that in order to
15 preserve the issue I'm still going to have to ask for a
16 mistrial again after you give the curative. So I think I
17 have got to send the jury out again, I hate to do it, I
18 mean, I, I don't like doing it but I'm pretty sure that's
19 the only way to actually preserve the issue properly.

20 THE COURT: I think, in light of the fact that you
21 are stating it now, I think when we take a break then you
22 could renew your motion for a mistrial and I think the
23 record will be fully protected.

24 MR. SHAFFER: Thank you, Your Honor.

25 MR. MOWRY: And I will not make any objection to

1 the --

2 THE COURT: Right.

3 MR. MOWRY: -- to the timing of it, Your Honor.

4 THE COURT: Right.

5 MR. MOWRY: I will not --

6 THE COURT: Right.

7 MR. MOWRY: -- claim it's stale --

8 THE COURT: Right.

9 MR. MOWRY: -- and sandbag him on that.

10 THE COURT: Okay.

11 MR. MOWRY: I will tell the Court that it is not my
12 intention to get anything that anybody said. There will
13 be a reference to Ms. Galarza's demeanor.

14 THE COURT: Okay.

15 MR. MOWRY: And then I will ask the officer what he
16 did as a result of speaking --

17 THE COURT: Okay.

18 MR. MOWRY: -- with Ms. Galarza without going into
19 anything that anybody said.

20 THE COURT: Sure. Very good.

21 MR. MOWRY: Or didn't say.

22 THE COURT: Alright, thank you very much. Let's
23 bring the jury out please.

24 (Whereupon, the jury came into open court at
25 approximately 11:13 a.m.)

1 THE COURT: Okay, thank you Mr. Bolt. Ladies and
2 gentlemen, before we took our break there was a comment
3 made by Officer Blackmon that the Defendant declined to
4 speak with them. Let me explain to you that the Fifth
5 Amendment to the Constitution gives everyone the right to
6 remain silent at all times. And so, the fact that the
7 Defendant declined to speak with law enforcement was his
8 exercise, rightfully so, of his right to remain silent.
9 So the fact that he declined to speak with law enforcement
10 at that particular given time is not to be considered by
11 you whatsoever on the question of guilt of the Defendant.
12 It's not even to be discussed in the jury room when you
13 begin your deliberations, the fact that he exercised his
14 constitutional right to remain silent. Okay. Solicitor
15 you may proceed with examination of Officer Blackmon.

16 MR. MOWRY: Thank you, Your Honor.

17 CONTINUE DIRECT EXAMINATION

18 By Mr. Mowry:

19 Q Lieutenant Blackmon, let me ask you this first, [REDACTED]
20 Queens Circle, where is that located?

21 A It's in the City of Laurens off of Pinehaven Street.

22 Q And that is in Laurens County as well?

23 A In the County of Laurens.

24 Q Alright. So, I believe you had testified that Mr.
25 Green and Ms. Galarza were separated, is that right?

1 A That's correct, sir.

2 Q And when you interviewed Ms. Galarza, I'm not going
3 to ask you anything about what she said but how did she
4 appear to you? What was, what was her demeanor?

5 A She was very, appeared shaken. Her hands were
6 trembling, voice quivered. You know, she looked very
7 nervous, upset, scared.

8 Q Did she speak with you?

9 A Yes, sir.

10 Q Not going to ask you the content but based on what
11 she told you did you then obtain arrest warrants for both
12 her and for Fabian Green?

13 A That's correct.

14 Q Did you also obtain a search warrant for [REDACTED] Queens
15 Circle?

16 A That's correct, sir.

17 Q Okay. Was there anyone else you were searching for
18 in relation to Edwin's disappearance and death?

19 A Yes, sir. It came to our attention that a Mr. Davian
20 Shquon Holman was also a individual we needed to speak
21 with.

22 Q Alright. And was a warrant also obtained for him?

23 A That's correct, sir.

24 Q Alright. How did y'all go about trying to locate Mr.
25 Holman?

1 A Officers were sent to his residence and he was not
2 there. Myself and other officers returned to [REDACTED] Queens
3 Circle and spoke with the homeowner who gave us permission
4 to look through the home to see if he was inside. We went
5 into a bedroom of the home where he was located asleep
6 under a bed.

7 Q So, he was asleep under a bed, do you know whose bed
8 it was?

9 A Yes, sir. It was Mr., Ms. Karina Galarza.

10 Q Okay. Beg the Court's indulgence for just one
11 moment.

12 THE COURT: Sure, take your time.

13 Q As part of this investigation of [REDACTED] Queens Circle
14 did you request crime scene from SLED?

15 A That's correct, sir. The investigation went from the
16 26th and into the morning hours of the 27th, which after
17 obtaining the proper paperwork and search warrants to
18 return to [REDACTED] Queens Circle we notified Agent Matthews and
19 Agent Worley to, that we were in need of them to process
20 that residence for us.

21 Q I believe they said they had left about 10:30 p.m. on
22 the evening of the 26th and you requested them back, is
23 that right?

24 A That's correct, sir.

25 Q That's all I have.

1 THE COURT: Cross-examination Mr. Shaffer?

2 MR. SHAFFER: Yes, Your Honor.

3 CROSS-EXAMINATION

4 By Mr. Shaffer:

5 Q Tell us a little bit about your role in this
6 investigation, were you the lead investigator?

7 A No, sir. I was the senior investigator, if you will.
8 Investigator Cheek was actually assigned to the case.

9 Q Okay. So you weren't assigned to the case, someone
10 else was assigned to the case primarily, right?

11 A He was, he was the primary officer. However, I was
12 the senior investigation in the, in the division, if you
13 will.

14 Q Okay. And who was the, who was the primary officer,
15 what's the name of that officer?

16 A Investigator Bryant Cheek.

17 Q Okay. Were you present, did you have a chance in the
18 course of this investigation, you're a part of the
19 investigation, did you, did you participate to all the
20 investigation first of all?

21 A There were a few instances where Mr. Cheek maybe
22 spoke with some folks that I was not present.

23 Q Okay.

24 A Around.

25 Q Were you present whenever Mr. Cheek perhaps spoke to

1 a individual named Rodney, Rodney Ginn?

2 A I don't recall. I would have to look over what
3 information Mr. Ginn gave us.

4 Q Okay. Have you reviewed the entire case file?

5 A My part of it.

6 Q Okay.

7 A The parts that I have interacted with. Like I said,
8 there are certain pieces of information that were gathered
9 either outside of my presence or by other officers. And I
10 can only testify to what I did.

11 Q Okay. Near the scene where the body was found, do
12 you recall a white guy who lived in a trailer nearby and
13 spoke to the police?

14 A I believe so just from my general knowledge of the
15 neighborhood.

16 Q Okay. But were you present whenever he spoke to the
17 police, whenever he spoke to --

18 A Spoke to officers?

19 Q Yeah.

20 A I, I don't recall off the top of my head without
21 refreshing --

22 Q Okay.

23 A If, if I did I, I may have just been present.

24 Q Okay.

25 A Not necessarily the primary interviewer.

1 Q I understand. And I, I'm not trying to trip, trip
2 you up. I'm just trying to find out what --

3 A Yes, sir.

4 Q -- what part you were actually involved in, which
5 part you weren't.

6 A Yes, sir.

7 Q Were you the officer who filled out the affidavit for
8 Davian Holman? The, the warrant affidavit?

9 A The arrest warrant?

10 Q The arrest warrant, yeah.

11 A I believe those were obtained by Investigator Cheek,
12 however, I don't have a copy of it in front of me.

13 Q Okay. Have you ever obtained arrest warrants for
14 individuals?

15 A Yes, sir.

16 Q I know that's a dumb question, but what's the
17 process, what, what do you generally do?

18 A As a general process, we go to the Magistrate's
19 Office, the Magistrate listens to our probable cause or
20 the facts of the case, if you will. At that point, an
21 Administrative Assistant of the Magistrate goes into their
22 computer system and generates an arrest warrant that
23 follows the, the, basically the elements of the crime.
24 And the officer signs it and the Magistrate signs it.

25 Q Okay. So, basically there's a affidavit portion,

1 correct?

2 A That's correct.

3 Q Okay. And you don't recall if you were the person
4 who signed the affidavit portion, right?

5 A I, I don't recall if I did or, or not without seeing
6 the actual warrant. The affidavit itself are typically
7 generated by the computer.

8 Q And I'm, and I'm talking about Davian Holman, I'm not
9 talking about --

10 A That's correct, sir.

11 Q -- my client. Okay.

12 A That's correct.

13 Q No further questions at this time.

14 THE COURT: Any redirect?

15 MR. MOWRY: Just a couple.

16 REDIRECT EXAMINATION

17 By Mr. Mowry:

18 Q Is Bryant Cheek still with the Laurens County
19 Sheriff's Office?

20 A No, sir. He is currently employed by the Laurens
21 City Police Department.

22 Q And you were the senior officer present, is that
23 right?

24 A That's correct, sir.

25 Q Thank you.

1 THE COURT: Thank you, sir, you can step down.

2 A Thank you, Your Honor.

3 THE COURT: Next witness Solicitor.

4 MR. MOWRY: Terrance Ryan Matthews. I'd recall him
5 to the stand at this time, Your Honor.

6 THE COURT: Okay.

7 RYAN MATTHEWS, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Mowry:

11 Q Agent Matthews, before we proceed to May 27th, I want
12 to back up a little bit and talk just a minute more about
13 May 8th when you went to Taylor Drive, I believe, in
14 Clinton.

15 A You mean May 26th?

16 Q No sir, on May 8th. May 26th, yes, before we go to
17 the 27th.

18 A Yes, sir.

19 Q 'I'm sorry. Yes, you're absolutely right. There were
20 some questions that were asked to you yesterday involving
21 shell casings.

22 A That is correct.

23 Q Do you recall those?

24 A Yes, sir.

25 MR. MOWRY: Your Honor, I have just consulted with

1 Mr. Shaffer and we have State's Exhibits 55, 56, let's
2 see, it goes through 60.

3 THE COURT: Okay.

4 MR. MOWRY: And we would offer those for admission at
5 this time. They've already been marked.

6 THE COURT: Okay.

7 MR. SHAFFER: No objection, Your Honor.

8 THE COURT: Without objection, 55 through 60 for the
9 State into evidence.

10 (WHEREUPON, State's Exhibits 55 through 60 were
11 admitted into evidence.)

12 Q Let me show you what has been, 55, Walter, please.
13 What has now been admitted as State's Exhibit number 55
14 and ask you if you can identify that?

15 A Yes, sir. This would be the initial entrance to the
16 driveway where the abandoned residence and crime scene was
17 located.

18 Q Good.

19 A As you can see from here, and then into the, the next
20 photograph. It makes the, the slight J turn to the left.
21 And this would be the roadway if, if you're appearing,
22 looking down this roadway to the right there's some,
23 approximately two to three residences there and then it
24 ends with no more persons from there to the left.

25 Q Okay. I see little markers. Little yellow markers

1 right here in the middle, what are those?

2 A Yes, sir. Those are markers 1 through 4, that were
3 placed by some of Laurens County Sheriff's Office
4 personnel prior to our arrival to mark the cartridge cases
5 that were located.

6 Q Okay. So, these mark the cartridge cases that were
7 spoken of yesterday?

8 A That's correct.

9 Q Alright, let me show you 57, 58, 59 and 60 and ask
10 you if you can identify those?

11 A Yes, sir. Starting with number 58 which would be
12 marker four that was placed on the roadway. That would be
13 a cartridge case and as identified through what we
14 submitted into evidence. I actually have a description of
15 it with marker four. I listed that as one cartridge case,
16 R.P35Rem, collected from marker four. And 35 Remington is
17 a cartridge case typically found within a rifle caliber.

18 Q Okay. What else did you find?

19 A On State's Exhibit 59 which would be marker number
20 two, that would be a cartridge case head stamped Hornady
21 40 S&W collected from marker two which is typical as a
22 handgun caliber.

23 Q Okay. What else did you find?

24 A 60 would be marker one which is one cartridge case
25 head stamped Perfecto 45 auto collected from marker one

1 which is typical as a handgun caliber.

2 Q Okay.

3 A And State's Exhibit 57 would be marker number three
4 and that is one cartridge case head stamped Perfecto 45
5 auto collected from marker three. Again, typical with a
6 handgun caliber.

7 Q Okay. Now, once again, let's go back to 55, Walter.
8 Alright, how far did you estimate that these cartridge
9 cases were from the car and the burn site?

10 A I would estimate those within an excess of 100 feet.

11 Q Okay. So, we have this picture with the line. What
12 does State's Exhibit number 56 show?

13 A 56 shows the entrance to the drive where it goes from
14 the, the dirt gravel roadway and then pretty much ends on
15 the, the premises of the residence where it is just yard
16 and no more gravel or any form of pavement.

17 Q And quite a distance from there to the sheds that you
18 described, is that right?

19 A Yes sir, that's correct.

20 Q And in the background, way in the background in the
21 middle, what does that display?

22 A That would be the abandoned residence which was in
23 very close proximity to the crime scene.

24 Q Okay. And, and referring to State's Exhibit number
25 1, this is the abandoned trailer.

1 A Yes, sir.

2 Q This is the car.

3 A That's correct.

4 Q And right next to the car, about right here where my
5 finger is pointing is the burn site, is that right?

6 A That's correct, sir.

7 Q And all those cartridge cases that you're talking
8 about are of different brands?

9 A Two which are the same brand, Perfecto 45 auto, one
10 of which is a Hornady 40 caliber Smith and Wesson and one
11 is a 35 Rem.

12 Q So two are the same caliber, the others are
13 different?

14 A That's correct.

15 Q Different from each other and different from the
16 others that were, that were similar, is that right?

17 A That's correct, yes sir.

18 Q You collected those why or took pictures of them why?

19 A They were both photographed and collected on the
20 scene because at that time, there had been no
21 determination as to the cause of death with the victim.
22 And just as you said yesterday, it's better to need it and
23 not have it, then have it and not need it.

24 Q Okay. And is results in, or as, as it refers to this
25 case, it was a, a fact of had it and didn't need it, is

1 that right?

2 A Yes, sir. Once the autopsy was done and it was
3 determined with the information that we were provided
4 through investigators and autopsy results, it was just
5 placed into storage pending further investigation.

6 Q Okay. Those photographs that you took, those were on
7 a disc that were provided to our office, is that right?

8 A Yes sir, that's correct.

9 Q Now, let's go forward to the 27th. You said you had
10 left here around 10:30 or so on the 26th, is that right?

11 A That is correct, sir.

12 Q Did you get another call to return to Laurens?

13 A Yes, sir. I received a call on the 27th at
14 approximately 11:07 a.m., I believe directly from
15 Investigator Cheek requesting us to respond to process an
16 additional scene that had since been located through
17 investigations.

18 Q Okay.

19 A And it was required processing.

20 Q Alright. As a result of that conversation who came
21 and where did you go?

22 A I responded myself and then the same agent that
23 responded the day before, Special Agent Melinda Worley.

24 Q Okay. Where did y'all go?

25 A We traveled to [REDACTED] Queens Circle in Laurens.

1 Q Okay. I am going to show you a few pictures. Going
2 to show you first of all numbers 15, 16 and 17 and ask you
3 if you can identify those?

4 A Yes, sir. Number 15 would be the front exterior of
5 the residence located at [REDACTED] Queens Circle. Number 16
6 would also be another view point of the exterior that also
7 documents the --

8 Q Mailbox.

9 A -- mailbox with the numerics [REDACTED].

10 Q Okay.

11 A And then number 19 would be a, a rear corner photo
12 showing the exterior of the residence and backyard.

13 Q Okay. Is this the patio in the backyard with the
14 grill and the trash can?

15 A Yes sir, that's correct.

16 Q How much, I'm sorry, how much space is there between
17 the side of the house here and the neighboring house? Let
18 me ask you this, I'll ask you this way, would, would there
19 have been enough room to drive a car through there?

20 A Yes, sir. I believe it to be within about twelve to
21 fifteen feet wide so I believe that would be in excess
22 enough to, to drive a vehicle to the rear of the
23 residence.

24 Q What was the weather when y'all got here?

25 A We arrived on scene at approximately 1:12 p.m that

1 day on the 27th and the weather was sunny with an
2 approximate temperature of 86 degrees Fahrenheit.

3 Q Okay. Had a search warrant already been obtained?

4 A Yes, sir. Once we arrived on the scene we were
5 presented with some additional information from
6 Investigator Cheek and Investigator Blackmon as well as
7 the search warrant.

8 Q Okay. Describe, well, first of all let me do this,
9 let me refer you to State's Exhibit number 47. Okay.
10 State's Exhibit number 47, do you recognize that?

11 A Yes, sir. That would be a Vizio which is a program,
12 again, that we use to draw out our sketches. A Vizio
13 sketch that I created to depict and represented the scene.

14 Q Okay. This is [REDACTED] Queens Circle?

15 A Yes sir, that's correct. That would be the interior
16 of the residence.

17 Q Okay. Describe the process that you went through in
18 doing your crime scene investigation, please, sir.

19 A Yes, sir. Once we arrived on scene we were informed
20 that it was believed that the victim had been assaulted
21 within the residence somewhere in the living room area.
22 We then proceeded with essentially drawing a rough sketch
23 of the scene while my secondary partner, Special Agent
24 Worley photographed the entire scene before any processing
25 was due.

1 Q Okay.

2 A Once all of that, those items were, were done, the
3 scene was sketched and done. We then use a chemical
4 processing to process the area of the scene in which we
5 believe an assault may have occurred. What we do in that
6 instance is we use two products, one is called
7 Phenolphthalein. We shorten that to Phenol because
8 Phenolphthalein is something you don't want to have to say
9 all the time over and over. And one, another product
10 called Leucocrystal Violet which we shorten to LCV.
11 Leucocrystal Violet.

12 THE COURT: Can you spell some of that for the court
13 reporter --

14 A Yes, sir.

15 THE COURT: Mr. Matthews, please?

16 A Yes, sir. Phenolphthalein is
17 P-H-E-N-O-L-P-H-T-H-A-L-E-I-N. And then Leucocrystal
18 Violet is L-E-U-C-O-C-R-Y-S-T-A-L.

19 THE COURT: Thank you.

20 A Very welcome.

21 Q And then violet is the common spelling.

22 A Correct. What both of those processes are, they are
23 a presumptive test that we use to test for blood. So what
24 they help us do is to essentially eliminate and find
25 anything that we may have that is of a suspected blood

1 type. They react with the hemoglobin in blood to give off
2 a certain reaction. Phenolphthalein is a three-part
3 chemical process we use both of which, let, let me take a
4 step back. Both processes we use are reliability testing.
5 So in this instance we exit the residence, we go next to
6 our vehicle which is outside of the crime scene so that it
7 cannot contact, contract, have any form of cross
8 contamination with our scene. And both of which are
9 tested on a sample of, we use a synthetic blood type that
10 will react in the same way because it possesses the same
11 hemoglobin as human, animal, any type of blood that may be
12 found. We both, both items were tested, the
13 Phenolphthalein and Leucocrystal Violet and found to be
14 reliable which means that they did provide a reaction with
15 the hemoglobin found in the suspected blood swabs that we
16 had. We then went into the residence. One area was
17 processed on the back of the couch with Phenolphthalein
18 and it was found to be negative.

19 Q Stop right there if you would.

20 A Yes, sir.

21 Q Let me show you State's Exhibit number 29 and ask you
22 if you can identify that?

23 A Yes, sir. State's Exhibit 29 would be on the back
24 exterior of the couch located within the living room. It
25 did appear to have a form of swipe or pattern transfer on

1 the rear of the couch. With it being a red in color stain
2 it was tested with Phenolphthalein after being reliability
3 tested and found to be negative.

4 Q Alright. Is this the swipe that you're talking
5 about? This dot here and this swipe?

6 A Yes sir, that's correct.

7 Q Okay. Let me back up for just a minute and show you
8 State's Exhibits 24, excuse me, 22, 23 and 24.

9 A Alright. Item number 22 is the front, through the
10 front entrance through the dining room area of the, the
11 residence. Into the kitchen and living room it's a, a big
12 open foyer area. Number 23 would be another view of the
13 open area kitchen. The door depicted in the picture goes
14 into the laundry room and then exits into the garage. And
15 then the --

16 Q This door right here?

17 A That's correct. And then the far door would be the
18 far back bedroom.

19 Q Okay. This would be the far back bedroom?

20 A Yes sir, that's correct.

21 Q Okay.

22 A And then number 24 would just be a, another view
23 showing how we enter. So it shows the, the open area of
24 the kitchen, china cabinet, as well as the dining room and
25 front door entrance of the residence.

1 Q Okay. Let me stop you there for just another second
2 and let's back up and I'll show you State's Exhibits 18
3 and 19. What do those depict?

4 A Number 18 would be one of the viewpoints of the front
5 dining room area off from the front door.

6 Q Okay.

7 A And then number 19 would be just another angle that
8 we take to depict showing the entrance as well as another
9 entryway, the foyer, into a bathroom and kind of an A and B
10 bedroom as well as the entry into the kitchen/living room
11 area.

12 MR. SHAFFER: Your Honor, may we approach?

13 THE COURT: Sure.

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

17 THE COURT: Alright. Madam Forelady, I have another
18 issue and I'm going to need to send you out. I guess
19 you've realized you're getting your exercise walking from
20 the courtroom to the, to the jury room. A lot of
21 courthouses, the jury room is just right there. But we
22 are providing you an opportunity to get a little, little
23 exercise. So, if you'll indulge us for just a few moments
24 and let me deal with this particular issue and we'll get
25 you back out. We'll go a little bit longer before we

1 break for lunch, okay. Again, no discussion about this
2 case among yourselves. Thank you for your patience and
3 understanding.

4 (WHEREUPON, the jury was excused from open court.)

5 MR. MOWRY: Your Honor, for the court's reference --

6 THE COURT: Wait a minute.

7 MR. MOWRY: Oops sorry. These are State's Exhibits
8 for identification number 40.

9 THE COURT: Okay. These are the remaining two
10 exhibits that there was some potential issue with,
11 correct?

12 MR. SHAFFER: That's correct, Your Honor.

13 THE COURT: Okay. Because I had 40 and 41.

14 MR. MOWRY: Yes, sir.

15 THE COURT: Okay. Alright. Alright. Okay. And its
16 these two photographs related to a container of lighter
17 fluid. Okay.

18 MR. SHAFFER: Yes, sir.

19 THE COURT: So, Mr. Shaffer, I'll hear from you
20 first.

21 MR. SHAFFER: Your Honor, I and the reason I objected
22 to these, I'm, I'm objecting under 401 because I don't
23 think that they're particularly relevant and 403 because I
24 think that even if they are relevant, for some purpose
25 they're not relevant, they're unduly prejudicial. Your

1 (Whereupon, State's Exhibits 40 and 41 were admitted
2 into evidence.)

3 MR. SHAFFER: Thank you, Your Honor.

4 THE COURT: Alright. Thank you.

5 MR. MOWRY: Thank you, Your Honor.

6 THE COURT: And let me just ask too, I know when the,
7 all the photographs are put up there, of course this is
8 gonna show in that, that additional screen where Mr.
9 Bentley clicks on the picture you want. Is that, you see
10 what I'm saying?

11 MR. MOWRY: I do. I don't think those thumbnails are
12 visible from across the room, Your Honor.

13 THE COURT: Okay.

14 MR. MOWRY: They are kind of small.

15 THE COURT: I gotcha. Okay. Alright. Okay. Let's
16 bring the jury in, please.

17 (Whereupon, the jury came into open court at
18 approximately 11:51 a.m.)

19 THE COURT: Alright, thank you Mr. Bolt. Alright.
20 Solicitor you may proceed.

21 MR. MOWRY: Thank you, Your Honor.

22 CONTINUE DIRECT EXAMINATION

23 By Mr. Mowry:

24 Q Going back to, I think it's 18 and 19, is that right?

25 A Yes sir, that's correct.

1 Q What do those depict?

2 A They depict the front entrance foyer that's also a
3 dining room.

4 Q Okay.

5 A So, they, they show the dining room table as well as
6 the entryway closet and the entrance into the
7 kitchen/living room.

8 Q Let me do it this way. That would be on the chart,
9 this area here, is that right?

10 A Yes, sir. Number 18 would depict an angle of
11 photography through the top corner here and number 19
12 would be at the bottom corner.

13 Q Okay. What was your purpose in taking pictures from
14 all of these various angles?

15 A What we do in essence, the, the same as when we
16 processed the vehicle, is we, we attempt to take
17 photographs of all four walls. And all four angles to
18 show the, the most amount of area within a room, all the
19 aspects such as the items that you may observe on the
20 table, under a table, photographs on the wall, shelving,
21 anything that the shelf may contain just to better
22 document the area to show all the items present.

23 Q Okay. And just for the record without publishing
24 these, this time or explaining what they are, did you take
25 State's Exhibit number 40?

1 A Special Agent Worley photographed.

2 Q Right. Were those taken by y'all, put it that way.

3 A Yes sir, that's correct. SLED crime scene collected
4 those photographs.

5 Q And State's Exhibit 41?

6 A That's correct, sir.

7 Q And do those two photographs fairly and accurately
8 depict what you saw that afternoon?

9 A Yes sir, that's correct. The reason why we
10 photograph as one of the first and initial items once
11 arriving on a scene is to show everything present as it
12 stands before any form of processing, searching, any form
13 of investigative methods are used so that you can
14 represent everything as accurately as possible in place as
15 when we arrived on scene.

16 Q Okay. Now, you had talked about Leucocrystal Violet
17 and Phenolphthalein right?

18 A That's correct, sir.

19 Q Hard for me to even spit that out. Let me show you a
20 series of photographs and let's go, let's see, let me get
21 the numbers here. These are State's Exhibits 30 through
22 39 and ask you if you recognize those?

23 A Yes, sir. The first, first photograph, number 30,
24 was actually taken prior to any form of Leucocrystal
25 Violet or Phenolphthalein being applied to the scene.

1 What it represents, as you can see, kind of in the mid
2 right side of what is the china cabinet, is a, an
3 elliptical stain that's kind of linear with a, a small
4 collection at the base and --

5 Q Now, I'm pointing to State's Exhibit 30 at this
6 point. Am I pointing to the correct spot?

7 A Yes sir, that's correct.

8 Q Slightly below mid line, very close to the right.

9 A Yes, sir.

10 Q Right side of the china cabinet.

11 A Yes, sir. That was a suspected blood stain that was
12 believed to be observed on the cabinet prior to
13 processing. It was later scaled, photographed and then
14 processed with the chemical reagent, Leucocrystal Violet,
15 LCV.

16 Q Okay. Bear with me for just a moment. And I'm going
17 to hand you this packet that has already been admitted as
18 State's Exhibit number 53. Is that swab, the, you took a
19 swab of that, of that stain you, that you referred to, is
20 that right?

21 A Yes sir, that's correct.

22 Q Is that swab included in that packet?

23 A Yes sir, that's correct. If you give me a moment I
24 could actually tell you which item number that would be
25 associated with.

1 Q Please, sir.

2 A This packet here is documented as what's considered
3 container E which just means that we containerize more
4 than one item in the same packaging for processing
5 purposes. It contains item number 14, 17 and 19. And
6 this would be item number 19 which would contain two swabs
7 collected from the suspected blood on the right side of
8 the china cabinet which we did mark LCV positive so that
9 the lab knows that it has already received some form of
10 processing prior to arrival.

11 Q Alright. But, let, let's make sure that we
12 understand this process before we go any further. You saw
13 this stain, is that, you saw it with your own eyes?

14 A Yes, sir.

15 Q What did you do first with regard to the stain?

16 A What we do in regard to that stain, prior to any form
17 of processing, it was documented with photographs and then
18 it was actually scaled and photographed and then
19 processed.

20 Q Okay. And what process did you take, did you make
21 first?

22 A As in?

23 Q Give, give me the order for processing.

24 A In the chemical processing?

25 Q Well, did you chemically process it first?

1 A No, sir. It was not chemically processed prior--

2 Q What did you do first?

3 A As far as, we documented it in the area, scaled and
4 photographed and then proceeded to process it with
5 Leucocrystal Violet to verify that it was suspected blood.

6 Q Okay. So, you did the LCV first as far as the
7 processing is concerned?

8 A Oh. Yes, sir. The, I'm sorry, that's my mistake.
9 The only processing done in this area, and throughout the
10 area of the living room and the kitchen, was the use of
11 Leucocrystal Violet.

12 Q Okay. Did you use Leucocrystal Violet on this stain?

13 A Yes sir, that's correct.

14 Q Did you also swab that stain?

15 A Yes sir, that's correct.

16 Q Which did you do first?

17 A We used the chemical processing Leucocrystal Violet
18 prior to swabbing.

19 Q And then swabbed it for what purpose?

20 A Swabbed it for collection to be processed to identify
21 the DNA blood and the, or the suspected blood through our
22 SLED lab.

23 Q Okay. What was the result of the LCV? I'll get back
24 to that.

25 A The LCV did show a positive reaction that it was a

1 form of suspected blood.

2 Q So, you LCV'ed it first and then you swabbed it?

3 A That's correct.

4 Q Positive result and then swabbed it?

5 A Yes, sir. What we tend to do in any form of chemical
6 processing, especially on a surface that is vertical, when
7 you process it since it is a, a wet and liquid manner, it
8 does tend to make a sample run if you use an excess
9 amount. So we will process it lightly, show that it does
10 have a reaction and then swab after.

11 Q Okay. Let me just ask you this as a, a technical
12 aspect, in your experience and your training, does the LCV
13 have any effect on the quality of the swab for DNA
14 testing?

15 A No, sir. From what we've been informed through our
16 SLED lab, through the, the DNA portion and the, the
17 training that we receive, LCV does not hinder or hamper
18 any form of testing that the lab can--

19 Q Alright. Describe how you went about taking the
20 swab.

21 A The swabs are, you know, essentially collected with
22 the LCV providing more of a, a wet surface. What we would
23 normally do is use a form of deionized water, wet the
24 swabs, especially in this instance where the blood has
25 been dried on the surface and then swab it to collect the

1 largest amount possible. So, in this instant the entire
2 area was swabbed and all of the blood that can be seen was
3 fully collected on the swabs. They are then air dried in
4 an area where they cannot be contaminated, placed inside
5 of a, an envelope and then sealed on scene prior to
6 transport.

7 Q And you and Agent Worley took care of that?

8 A Yes sir, that's right.

9 Q You followed that process?

10 A Yes sir, that's correct.

11 Q Let's go ahead and talk about the other photographs
12 that you have up there. If you'll take those in numerical
13 order.

14 A Yes, sir. State's Exhibit number 31 would just be a,
15 a closer and a large representation of the elliptical
16 stain that was observed on the right side of the china
17 cabinet.

18 Q Okay.

19 A 32 would show the area of the floor between the
20 living room island and the sectional sofa that reacted LCV
21 positive in both the grout line and on top of some of the
22 tile work.

23 Q Okay. I'm going to, I hate to keep flipping you back
24 and forth, but would you point to the spot on State's
25 Exhibit number 47 where that photograph is represented?

1 A What we show as a representation and what I like to
2 use, and in the area that's processed, it's a little hard
3 to see on the, the one on the screen. But I've also got
4 one here. You can show any area we do, I'll apply
5 essentially just a form of color to the sketch itself so
6 all the area applied that the LCV was used. There was a
7 small cabinet between there and the china cabinet, as well
8 as another cabinet, the rear door, rear bedroom and all of
9 this area that is kind of highlighted in that darker
10 color, all was processed with Leucocrystal Violet --

11 Q Okay.

12 A -- to see if we could find any reaction based upon
13 what investigators had provided us as to where the
14 incident may have taken place.

15 Q Okay. Now, when we talking about the reaction of the
16 Leucocrystal, crystal Violet, I'm pointing pretty much to
17 the middle of State's Exhibit number 32. Is that what
18 we're looking at, this kinda purplish tint?

19 A Yes sir, that's correct. That would show a positive
20 reaction to the Leucocrystal Violet. As a, with, with
21 Leucocrystal Violet and the process that it's used,
22 anything that reacts with the hemoglobin in the blood
23 immediately turns kind of a royal purple color.

24 Q Okay. Would this area up here next to the couch also
25 be the tint that you're talking about?

1 A Yes, sir. There were several areas on top of the
2 tile that showed a, a decent large size stain that was
3 mildly diluted. But the, the largest areas and some of
4 the areas we collected were within the grout lines in
5 between the tiles where most of the, the suspected blood
6 had absorbed.

7 Q Was there more over here to the left-hand side of the
8 couch on State's Exhibit number 32?

9 A There was. If you were able to fully view the area
10 between the couch, there is also a bar on the other side
11 of the kitchen bar area and island. And underneath the
12 bar as well as the trim work also had an LCV positive
13 reaction.

14 Q Okay. Let's move forward in the pictures then.

15 A State's Exhibit number 33 would just show a, a more
16 closer and accurate representation of the area that was
17 shown to be LCV, Leucocrystal Violet positive.

18 Q Okay.

19 A Number 34 would depict the under the bar, an island
20 area that I was describing earlier that separates the
21 kitchen from the living room as with several areas that
22 were also Leucocrystal Violet positive.

23 Q All of these areas here?

24 A Yes sir, that's correct.

25 Q That I'm pointing to.

1 A Every area that has the kind of prominent purple
2 color.

3 Q Okay. And what else do you have?

4 A State's Exhibit number 35 would show more of the
5 grout line underneath one of the chairs as well as another
6 area that was Leucocrystal Violet positive.

7 Q So, all of this purple in both these grout lines
8 would've been LCV positive, is that right?

9 A Yes sir, that's correct.

10 Q What did that indicate to you?

11 A What that indicated to me is that these areas did
12 have what I believe to be suspected blood that we would
13 later collect.

14 Q Okay. What about quantity?

15 A What I would believe to be, with the, the far spread
16 of the area, is that either the, if there was blood
17 present in that area, it may have been spread over a large
18 surface or that a large amount of blood had been deposited
19 throughout the area.

20 Q Okay. And you said spread over a large surface, are
21 you talking about maybe the product, cleaning up?

22 A Yes sir, that would be correct.

23 Q What would be the effect on blood that might have
24 gotten Clorox or some other cleaning products used to try
25 to clean it up?

1 A Depending on the, the level of the chemical and the
2 harshness, there can be an effect to DNA that does degrade
3 the sample to the point of where it is unable to be tested
4 or identified.

5 Q Okay. And did you attempt to get swabs from the
6 scenes that you have described?

7 A Yes, sir. If you reference the sketch in which I
8 used, there's a, a large X placed within the scene and
9 that's to represent the areas that we were swabbed, that,
10 that swabs were collected and submitted for DNA testing.

11 Q Okay. Just a second here.

12 A If you'd like, we do a little bit further
13 examination. I can read it to you as well as for the
14 areas that were tested and then what we collected
15 presently.

16 Q Okay. Go ahead and do that.

17 A It says the following areas --

18 THE COURT: Read, read slow. Sometimes it's, when
19 you read, it'd go fast, but if you'll just slow down when
20 you read please, sir.

21 A Yes, sir.

22 THE COURT: Thank you.

23 A The following areas were sprayed with LCV, the
24 Leucocrystal Violet, the floor --

25 Q I'm sorry, the which areas?

1 A The following areas were sprayed with the LCV,
2 Leucocrystal Violet. The floor of the living room between
3 the sectional couch and the west wall; portions of the
4 grout between the tiles of the floor showed a LCV positive
5 and an area near the left rear of the sectional, LCV
6 position. Two swabs were then collected from the floor
7 behind the couch, LCV positive. The floor and the west
8 wall behind the island separated the living room from the
9 kitchen. The area underneath the accent table to the
10 right of the china cabinet, LCV positive. Two swabs
11 collected from the floor along the west wall in the living
12 room area, LCV positive. The floor under the overhang of
13 the island in the living room. Sections of the floor
14 under the island overhang were LCV positive. Two swabs
15 were then collected from the floor under the island, LCV
16 positive. The right side of the china cabinet, the
17 elliptical stain on the right side of the china cabinet
18 was LCV positive. Two swabs were then collected from the
19 suspected blood on the right side of the china cabinet,
20 LCV positive.

21 Q Okay. And referring again to State's Exhibit number
22 47, you said you had X marks where you had taken the
23 swabs?

24 A Yes sir, that's correct.

25 Q Okay. And all of these swabs that you're talking

1 about, what did you do with them?

2 A All of these swabs were collected, allowed to dry and
3 then packaged and sealed on scene prior to transport so
4 that they could be tested in our SLED lab.

5 Q And you took them back to the SLED lab, is that
6 right?

7 A Yes sir, that's correct. They stayed within my
8 custody until I was able to place them with our evidence
9 log-in who then distributes them to the DNA portion of the
10 lab for testing.

11 Q Thank you, sir. I believe that's all I have.

12 A Yes, sir.

13 THE COURT: Cross-examination, Mr. Shaffer?

14 MR. SHAFFER: May we approach just for a moment?

15 THE COURT: Sure.

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

19 THE COURT: Alright.. Solicitor, you still have some
20 more direct before we go into cross?

21 MR. MOWRY: Yes, sir. And, and I appreciate Mr.
22 Shaffer, appreciate the sidebar.

23 CONTINUE DIRECT EXAMINATION

24 Q We had referred to State's Exhibits 40 and 41. First
25 of all, let me ask you on the chart, State's Exhibit

1 number 47, where were those photographs taken?

2 A State's Exhibit 40 and then a more detailed close up
3 photograph of 41 would be on the north wall here within
4 the dining room. If you, it appears on the photograph to
5 the left of the front door.

6 Q Okay. So, the front door is right here down at the
7 bottom, is that right?

8 A Yes sir, that's correct.

9 Q More to the right, I, right of center, and you're
10 saying that those were taken right inside the door?

11 A Yes sir, that's correct.

12 Q Let's go back to 40 for just a second. What was of
13 particular interest in that picture?

14 A Of particular interest in this photograph would be
15 the, the small shelf containing a bottle of lighter fluid.

16 Q This right here?

17 A Yes sir, that's correct.

18 Q Alright. Let's go to 41. Is this the lighter fluid
19 bottle that we're talking about?

20 A Yes, sir. That would be a close photograph that is
21 legible of the bottle of lighter fluid.

22 Q Now had you manipulated that in any way before you
23 took that picture?

24 A I believe that it was turned so that you could read
25 the front label of the item, but that was the only

1 manipulation present.

2 Q Okay. And I believe that is all, Your Honor.

3 THE COURT: Okay. Alright. Now, cross-examination
4 Mr. Shaffer.

5 CROSS-EXAMINATION

6 By Mr. Shaffer:

7 Q Couple of questions. You found this at the scene,
8 correct?

9 A Yes, sir.

10 Q Okay. And this would've been, your search of that
11 house would've been after you searched the, the lot where
12 the body was found, correct?

13 A Yes, sir. It was the day after.

14 Q Okay. And as part of the search where the body was
15 found you said you, you took a can of soil is that
16 correct?

17 A I did not collect the can directly. SLED arson units
18 were also requested to respond. They collected it and it
19 was transferred into my custody to be submitted to the lab
20 for processing.

21 Q Okay. So, SLED arson got a can of soil and gave it
22 to you, correct?

23 A Yes sir, that's correct.

24 Q Okay. What, what would've been the relevance of that
25 soil that was collected?

1 A At the time, I believe arson collects soil from areas
2 to have it tested for any form of accelerant that may have
3 been used on scene.

4 Q And did you give that to SLED?

5 A Yes sir, that's correct.

6 Q Okay. Now back to this bottle, what do you do with
7 the bottle?

8 A What did we do directly with the bottle?

9 Q Yeah.

10 A It was not collected, sir.

11 Q Okay. You didn't collect the bottle?

12 A No, sir. It was not collected.

13 Q Do you recall offhand, well, first of all, did you
14 touch the bottle?

15 A I do not recall.

16 Q Okay. You don't recall if you touched the bottle.
17 So, you can't tell me if that bottle was full or empty,
18 can you?

19 A No, sir. I cannot testify to that.

20 Q Okay. Now, and I hate to go back to these shell
21 casings, but the shell casings, who determined that they
22 weren't relevant to the case? Was that you or who, who
23 said that they didn't need to be tested?

24 A It wasn't a determination that they were not relevant
25 at the time, it was requested that they would be placed in

1 the storage pending further investigation. Because at the
2 time the autopsy had not been present so we were not aware
3 of the manner of death of the victim.

4 Q Okay. To your knowledge has any test been done?

5 A To my knowledge, no sir.

6 Q Okay. Now, this picture was shown, you said you
7 indicated that there was enough room in between the two
8 houses to drive a car around the back. Is that correct?

9 A Yes, sir. I believe so.

10 Q Okay. Did you see any tire marks there?

11 A No, sir. The rear of the yard as well as the sides
12 were examined, but I don't believe any tire markings or
13 any form of tire tread were observed.

14 Q Okay. Now I'm going to ask you a question based off
15 and I want you to respond based off your own personal
16 knowledge. Of your own personal knowledge, was any of my,
17 was anything at the scene or where the body was burned,
18 was there any DNA linking my client to that scene?

19 A To my personal knowledge, through testing, if any DNA
20 indicating your Defendant was there, I'm unaware of any
21 DNA that was present.

22 Q And did you ever find my client's fingerprints at the
23 scene where the body was burned?

24 A No, sir. No fingerprints were, were observed or
25 collected.

1 Q Right. Nothing further.

2 THE COURT: Okay. Any redirect?

3 REDIRECT EXAMINATION

4 By Mr. Mowry:

5 Q And you investigated that crime scene on Taylors on
6 what date?

7 A On the 26th of May 2016.

8 Q Okay. That would've been eight, eighteen days after
9 May 8th is that right?

10 A That's correct, sir.

11 Q Thank you, sir.

12 THE COURT: Thank you, sir. You can step down. Let
13 me see the lawyers so we can kinda--

14 MR. MOWRY: Yeah.

15 THE COURT: -- plan out.

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

19 THE COURT: Okay. Madam Forelady and ladies and
20 gentlemen of the jury, it looks like we got, this would be
21 a good time to break for lunch and I'm gonna ask that you
22 be back promptly at 2:00 o'clock. Let me commend all
23 fourteen of y'all, you have been alert, you've been very
24 attentive and you've done what you're supposed to do and I
25 appreciate that. Okay. So, don't let me down this

1 MR. MOWRY: -- while the jury comes in and then we'll
2 take care of him, Your Honor.

3 THE COURT: Okay. Alright. Very good. Anything
4 further from the lawyers before we bring the jury out?

5 MR. MOWRY: Nothing from the State, Your Honor.

6 MR. SHAFFER: Nothing from the defense.

7 THE COURT: Okay. Alright. Thank you very much.
8 Just as soon as there, got him situated, if you will bring
9 the jury in please.

10 (Whereupon, the jury came into open court at
11 approximately 2:22 p.m.)

12 THE COURT: Okay. Alright. Thank you very much Mr.
13 Bolt. Solicitor, you ready to call your next witness?

14 MR. MOWRY: Yes, sir. We call Davian Holman.

15 THE COURT: Okay. Come in Mr. Holman, and if you
16 will stand right there, place your left hand on the bible,
17 raise your right hand and be sworn in.

18 DAVIAN HOLMAN, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 By Mr. Mowry:

22 Q You are Davian Holman?

23 A Yes, sir.

24 Q I believe you were also charged in this case with
25 murder and destruction of human remains, isn't that right?

1 A Yes, sir.

2 Q Okay. Is that your attorney, Mr. Gambrell, right
3 there?

4 A Yes.

5 Q Standing up?

6 A Yes, sir.

7 Q But you're here today to do what?

8 A Tell the truth.

9 Q Okay. Do you know Fabian Green?

10 A Yes.

11 Q How do you know him, what relation is he to you?

12 A My cousin.

13 Q How do you actually feel towards him?

14 A Like a brother.

15 Q Okay. Do you know Karina Galarza?

16 A Yes, sir.

17 Q What was her relationship with Fabian Green?

18 A Boyfriend, girlfriend.

19 Q Okay. Do, do you know her name on Facebook?

20 A Yes.

21 Q What was her --

22 MR. SHAFFER: Objection, Your Honor, leading.

23 THE COURT: Okay. Try to rephrase --

24 MR. MOWRY: Okay.

25 THE COURT: -- a little bit, okay.

1 MR. MOWRY: I'm not suggesting an answer, Your Honor.

2 THE COURT: Right, well, even though, I don't think
3 that last question necessary was leading, but just be
4 cognizant of that.

5 MR. MOWRY: Okay.

6 Q What is Karina Galarza's Facebook name?

7 A Ruby Rina.

8 Q Thank you, sir. Did you know the victim in this
9 case, Edwin Diaz?

10 A Yes.

11 Q How well did you know him?

12 A I actually didn't know him, you know, like I, I knew
13 about his name that someone told me.

14 Q Okay. But you, you didn't know him personally, is
15 that what you're saying?

16 A No.

17 Q Alright. Had you ever seen him before May the 8th of
18 2016?

19 A Yes.

20 Q Okay. Was he a friend of yours?

21 A No.

22 Q You just knew him? Okay. Let me hand you what's
23 been, what, State's Exhibit number 49. Is that Edwin
24 Diaz?

25 A Yes, sir.

1 Q Okay. Now, Davian, I want you to think back to
2 Mother's Day, Sunday which was May the 8th in 2016. You
3 remember that day?

4 A Yes, sir.

5 Q Who were you with that day?

6 A Karina and Fabian.

7 Q Okay. Where were y'all?

8 A At the house.

9 Q Which house is that?

10 A Karina's house.

11 Q Is that at [REDACTED] Queens Circle?

12 A Yes, sir.

13 Q Can you see this over here?

14 A Yes, sir.

15 Q I'm referring to State's Exhibit number 15, Your
16 Honor. What is that?

17 A Karina's house.

18 Q Okay. Is that the front of the house?

19 A Yes.

20 Q Okay. Is that the front of the house as well?

21 A Yes, sir.

22 Q Okay. And what is this?

23 A The backyard.

24 Q Okay. Of that same house?

25 A Yes, sir.

1 Q Okay. What were you doing over there?

2 A Playing a game.

3 Q Where, what kind of game were you playing?

4 A Xbox one.

5 Q Alright. Where were you playing it?

6 A In Karina's room.

7 Q Alright. She had a system in there? I want to show
8 you State's Exhibit number 47. Have you seen this before?

9 A Yes.

10 Q Can you, what, what does that indicate? What does
11 that show? What is that a chart of?

12 A Room.

13 Q Right. Do you know what, what diagram that is?

14 A Yes.

15 Q What, what is that a diagram of?

16 A Karina's house.

17 Q Okay. So, show on that chart which room you were in.

18 A This one.

19 Q Okay. Is that Karina's room?

20 A Yes.

21 Q Okay. You said that Karina and Fabian where there
22 too, is that right?

23 A Yes, sir.

24 Q What were they doing?

25 A They were on the phone texting.

1 Q Okay. Do you know who they were texting?

2 A No.

3 Q Okay. How were they acting? How were they behaving
4 while they were doing this texting?

5 A They were laughing and giggling.

6 Q Okay.

7 THE COURT: What was his answer, Solicitor?

8 MR. MOWRY: Laughing and giggling, Your Honor.

9 THE COURT: Okay.

10 Q Now, later on that afternoon, did Edwin Diaz arrive
11 at [REDACTED] Queens Circle?

12 A Yes, sir.

13 Q Alright. Prior to that, prior to his getting there,
14 had Fabian Green told you to do anything?

15 A He told me to go in the room.

16 Q Alright. And do what?

17 A Stay there.

18 Q Until what?

19 A Until he arrives.

20 Q Alright. And what were you supposed to do once Edwin
21 arrived?

22 A Scare him.

23 Q How were you supposed to scare him?

24 A With a BB gun.

25 Q Where did the BB gun come from?

1 A From Fabian.

2 Q So, Fabian gave you a BB gun and told you to go into
3 another room?

4 MR. SHAFFER: Objection, leading.

5 THE COURT: Okay.

6 MR. MOWRY: I'm just summarizing, Your Honor.

7 THE COURT: I think he's summarizing what was said
8 just to kinda put it in context. I'll, I'll allow it.

9 Q Did you go into another room?

10 A Yes, sir.

11 Q Okay. Do you know where Fabian got the BB gun from?

12 A No, sir.

13 Q Okay. Do you know how Edwin Diaz Chirinos got to the
14 [REDACTED] Queens Circle?

15 A By driving.

16 Q Okay, do you know what he was driving?

17 A A Mustang.

18 Q Alright. Does that look like the car he was driving?

19 A Yes, sir.

20 MR. MOWRY: Okay, that's State's Exhibit number 14,
21 Your Honor.

22 THE COURT: Okay.

23 Q Let me ask you, whose room had you gone into at that
24 point?

25 A Karina's mom.

1 Q Alright. Is that Karina's mother's room?

2 A Yes, sir.

3 MR. MOWRY: Okay, and that is number 26, Your Honor.

4 THE COURT: Okay.

5 Q Where were you standing in there?

6 A Beside a dresser where the TV is at.

7 Q Okay. On which side of the dresser were you on?

8 A The other side.

9 Q This side?

10 A Yes.

11 MR. MOWRY: Okay. So, he's indicating the side away
12 from the door in State's Exhibit number 26, Your Honor.

13 THE COURT: Okay.

14 Q What was going on out in the rest of the house?

15 Could you hear anything?

16 A No.

17 Q Alright. You said that Fabian had told you to come
18 out with a BB gun and scare Edwin?

19 A Yes, sir.

20 Q Did you do that?

21 A No, sir.

22 Q Why not?

23 A Because something told me not to.

24 Q Alright. Did you at any time come to the door of the
25 room?

1 A Yes, but I stepped back.

2 Q Alright. Were you able to see out into the rest of
3 the house?

4 A Yes.

5 Q Okay. What did you see?

6 A Edwin getting hit.

7 Q Alright. Prior to his getting hit did you see
8 anything else?

9 A No, but blood.

10 Q Alright. Let's back up just a little bit. Who was
11 out there in the house at first with Edwin?

12 A No one.

13 Q Out there in the room?

14 A Fabian.

15 Q Okay.

16 A And Edwin.

17 Q Fabian and Edwin. Prior to that though, were Fabian,
18 were, excuse me, were just Edwin and Karina in the room?

19 A Yes.

20 Q Okay. What were they doing?

21 A They was right there in the living room.

22 Q Alright. So, you could see that outside the door, is
23 that right?

24 A Yes.

25 Q Alright. What happened then?

1 A I stepped back.

2 Q Alright. And what did you see?

3 A After that, Edwin was trying to leave but she pushed
4 him towards Julissa's room.

5 Q Alright. Who came out of Julissa's room?

6 A Fabian.

7 Q What did he have?

8 A A hammer.

9 Q What kind of hammer?

10 A A claw hammer.

11 Q A claw hammer. What did he do with that claw hammer?

12 A He hit him several times.

13 Q Hit who several times?

14 A Edwin.

15 Q Where did he hit him?

16 A In the head.

17 Q Did all that happen right here?

18 A Yes.

19 Q What did you see?

20 A Blood.

21 Q How much?

22 A A lot.

23 Q Where did it go?

24 A On the floor.

25 Q Anywhere else?

1 A The wall.

2 Q Okay. And was all of this happening out here next to
3 this china cabinet?

4 A No, beside the couch.

5 Q Okay. Did Edwin stay on his feet?

6 A No, on the floor.

7 Q He fell down?

8 THE COURT: You, You need --

9 A Yes.

10 THE COURT: -- verbally respond, don't nod your head.

11 A Sorry.

12 Q Did he look alive to you at that point?

13 A No.

14 Q What did Fabian tell you to do?

15 A He told me to help him put him in back seat of the
16 car.

17 Q Okay. Whose car?

18 A Edwin's car.

19 Q Alright. Let me ask you this, do you have a driver's
20 license?

21 A No, sir.

22 Q Did you then?

23 A No.

24 Q Do you know how to drive?

25 A No.

1 Q Did you ever drive that car?

2 A No.

3 Q Where was the car at this point? Where had Edwin
4 left the car?

5 A At Karina's house.

6 Q Right. What, where, was it out front, was it in the
7 driveway, where was it?

8 A Out front.

9 Q Alright. Who moved the car?

10 A Karina.

11 Q Where did she take the car?

12 A Put it in the back.

13 Q Okay. Is that where she brought it?

14 A Yeah.

15 Q What did you do with Edwin, or you and Fabian do with
16 Edwin's body?

17 A Put it in the back seat.

18 Q Prior to that, what did, what was done with Edwin's
19 body?

20 A He was wrapped in a blanket.

21 Q Who did that?

22 A Fabian.

23 Q Where did he get it from, do you know?

24 A Out the room.

25 Q Okay. You know which room?

1 A No.

2 Q Okay. Was it a blanket, a bedspread, a quilt, do you
3 know?

4 A A quilt.

5 Q Okay. How did you help Fabian move the body, what
6 did you do?

7 A Grabbed it by the blanket.

8 Q Okay. Were you scared at that point?

9 A Yes.

10 Q What did y'all do?

11 A Put it in the back seat of the car.

12 Q Alright. Referring to State's Exhibit number 11,
13 Your Honor. Is that where you put Edwin's body?

14 A Yes, sir.

15 Q Okay. What happened then?

16 A Karina was cleaning up the blood.

17 Q What was she cleaning it up with?

18 A A mop.

19 Q Was she using anything besides the mop? Like any
20 cleaners or anything like that?

21 A A towel.

22 Q Okay. Was she using any kind of chemicals, is what
23 I'm getting at?

24 A Yes.

25 Q Do you know what she was using?

1 A Chlorine.

2 Q Okay. How did it smell?

3 A Strong.

4 Q What did you and Fabian do at that point while Karina
5 was cleaning up? You've already loaded up the body, she's
6 cleaning up, what happened then?

7 A He told her to get in the car and drive it to the
8 stop sign.

9 Q Okay. Around at the front of the house, is that
10 right?

11 A Yes.

12 Q Did she do that?

13 A Yes.

14 Q What happened then?

15 A He told me to come with him.

16 Q He told you to come with him?

17 A Yes.

18 Q What did you do?

19 A I did.

20 Q Where did you go? I mean, where --

21 A To Clinton.

22 Q Where did you get in? Did you get into the car?

23 A Mustang.

24 Q Okay, you got in Edwin's car? Which side of the car
25 did you get in on?

1 A The passenger side.

2 Q Were you in the front seat?

3 A Yes.

4 Q Okay. Who drove?

5 A Fabian.

6 Q Were you paying attention to where you were going?

7 Were you looking at where he was driving?

8 A No.

9 Q Where did y'all end up?

10 A At the trailer park.

11 Q Let me ask you this, referring to State's Exhibit
12 number 1, is that where you ended up?

13 A Yes, sir.

14 Q Okay. What's that I'm pointing to right there?

15 A Mustang.

16 Q Is that the car that y'all went there in?

17 A Yes.

18 Q What happened when you got to that scene?

19 A He removed the body.

20 Q Okay. Which side did he take the body out of?

21 A My side on the passenger side.

22 Q Okay. Now this is a flip up, flip down seat, is that
23 right?

24 A Yes, sir.

25 Q To get to the back seat. So, raise your side, pull

1 you out that door, is that right?

2 A Yes, sir.

3 Q Alright. What did you do while Fabian was doing
4 that?

5 A I went to the gravel.

6 Q Alright. Did you see him get anything else out the
7 car besides Edwin's body?

8 A The bucket.

9 Q Alright. Where did he get that from?

10 A Out the trunk.

11 Q Alright. Alright, I'm going to hand you what's been
12 marked as State's Exhibit number 62 for identification.
13 Don't worry about that. Does this look like the bucket
14 that Fabian --

15 A Yes, sir.

16 Q It does. What did it have in it?

17 A It had a hammer and a knife and a candle lit, a
18 candle, a candle --

19 THE COURT: Repeat your answer again, and try to
20 speak slow, loud and clear, sir. Repeat your question,
21 Solicitor, and then --

22 Q What, what was in the bucket? You need some water?

23 A Uh-uh.

24 Q You okay?

25 A Yep.

1 Q Alright. Say again what was in the bucket.

2 A The hammer, the knife and --

3 Q What else?

4 A The candle lit.

5 Q Candle wick?

6 A No, the lit. Candle lit or something.

7 Q What, what did, what does that do?

8 A He basically burned it, he had sprayed it on
9 basically.

10 Q Okay. What was he spraying?

11 A Candle fluid.

12 Q You talking about lighter fluid?

13 A Yeah, lighter fluid.

14 Q Okay. While Fabian was spraying the lighter fluid,
15 what did you do? Where did you go?

16 A I went to the stop sign.

17 Q Alright. I'm referring to State's Exhibit number 55,
18 Your Honor. Does this look like where you went?

19 A Yes, sir.

20 Q Okay. What happened down at the car, down at the
21 trailer here where Fabian was with Edwin's body, what was
22 happening down there?

23 A I don't quite know.

24 Q Okay. What did you see or hear or smell?

25 A Smoke.

1 Q Okay. Did anybody join you there?

2 A Fabian after he did something.

3 Q Okay. You couldn't see at that point, is that right?

4 A No.

5 Q But you smelled smoke, did you smell smoke before?

6 A Yes.

7 Q I mean before y'all got there had you smelled smoke?

8 A No.

9 Q Alright. So, Fabian came up, is that right?

10 A Yes.

11 Q Where did y'all go?

12 A We went walking.

13 Q Where did you go?

14 A Mrs. Williams' house.

15 Q Alright. Yes, you recognize Mr. and Mrs. Williams
16 over here?

17 A Yes, sir.

18 Q Was it daylight or was it getting dark by this point?

19 A Dark.

20 Q Okay. Did you know Mr. and Mrs. Williams very well?

21 A I mean, other than, my, like my family, they knew
22 them but I didn't know them quite well but I talked to
23 them.

24 Q Okay. Davian, what were you wearing?

25 A A red, a red burgundy hoodie.

1 Q Okay.

2 A And Adidas joggers.

3 Q Alright.

4 A And Jordans.

5 Q So, you had a hoodie on --

6 A Yes.

7 Q -- is that right? Did you speak to Mr. and Mrs.
8 Williams yourself?

9 A No.

10 Q Did Davian, excuse me, did Fabian speak to Mr. and
11 Mrs. Williams?

12 A Yes.

13 Q Could you overhear the conversation?

14 A Not quite, but I heard what he told them.

15 Q What was that? You heard what who told who?

16 A Mrs. Williams. He was talking to Mrs. Williams.

17 Q Okay. And what did you hear?

18 A Can he put the bucket in dumpster.

19 Q Okay. And did y'all leave at that point?

20 A Yes.

21 Q What were you, where were you going?

22 A Back to Laurens.

23 Q Alright. How did you get there?

24 A Ask them for a ride.

25 Q Okay. Do you know who it was you got a ride from?

1 A No.

2 Q Where did they drop you?

3 A Dropped me off at projects.

4 Q Okay. Davian, can you identify Fabian Green? Is he
5 in the courtroom today?

6 A Yes, sir.

7 Q Can you point him out?

8 MR. MOWRY: Your Honor, for the record, he has
9 pointed out the Defendant.

10 THE COURT: Well, he's, he's pointed out in that
11 direction, is the, the white guy or the black guy?

12 MR. HOLMAN: Light skinned.

13 THE COURT: Okay. Alright, let the record reflect
14 that he has identified the Defendant in this case.

15 Q I want you to think forward to May 27th of last year,
16 you remember that day?

17 A Yes, sir.

18 Q Okay. Where were you that morning?

19 A At Karina's house.

20 Q Okay. Back at [REDACTED] Queens Circle, is that right?

21 A Yes, sir.

22 Q Anything unusual happen that morning?

23 A The deputies arrived.

24 Q How did you feel when the deputies arrived?

25 A Scared.

1 Q Did you know why they were there?

2 A No.

3 Q Did you suspect why they were there?

4 A Yes.

5 Q Okay. What did you think they were there for?

6 A Missing Edwin.

7 Q Okay. Where did you go when the deputies arrived?

8 A I hide in the closet.

9 Q Did you go anywhere else after the deputies left?

10 A No, Your Honor.

11 Q That's Your Honor. I'm just Warren. Let me ask you
12 this, who else was there with you at Karina's house?

13 A Fabian and Karina and me.

14 Q Okay. After the deputies arrived, who all was there?

15 A The deputies and Karina's mom.

16 Q Alright. Where had Karina and Fabian gone?

17 A They got taken.

18 Q Okay. Did the deputies find you later on?

19 A Yes.

20 Q Where did they find you?

21 A Beside Karina's bed.

22 Q What had you done?

23 A Sleep.

24 Q Alright. You'd gone back there and fallen asleep?

25 A Yes.

1 Q Okay. Davian, I thank you. I'm done, if you will
2 talk to the Defense attorney and answer any of his
3 questions.

4 THE COURT: Okay. Mr. Shaffer, any
5 cross-examination?

6 MR. SHAFFER: Yes, Your Honor.

7 CROSS-EXAMINATION

8 By Mr. Shaffer:

9 Q Davian, you mind if I call you Davian?

10 A Yes, sir.

11 Q Okay. My name is Tristan Shaffer and I'm Fabian's
12 attorney, okay. Now, I, I have a quite a few questions to
13 ask you, but before we begin, I just, I, I was wondering
14 something, did y'all rehearse that testimony?

15 A Yes.

16 Q How many times y'all rehearse it?

17 A Only once.

18 Q Where was it? Where'd y'all go to rehearse it? Were
19 you at the jail or were you here?

20 A Here.

21 Q Okay. When was that?

22 A I think, I think Friday.

23 Q Okay. How long were y'all here rehearsing it?

24 A A hour.

25 Q Okay. Tell me a little bit about yourself. Where

1 you, where you from?

2 A I'm recently, I'm originally from Denmark, South
3 Carolina. I never been to Laurens before.

4 Q When did you first come to Laurens?

5 A When we moved before my grandma passed away.

6 Q Was that your grandmother, on which side of the
7 family?

8 A My great-great-grandma.

9 Q Okay. You share a grandmother with Fabian, right,
10 Kay Green?

11 A Yes, sir.

12 Q Okay. When'd y'all move here, how long ago?

13 A I don't know.

14 Q Do you know how old you were about?

15 A About fifteen, fourteen.

16 Q Okay. Do you remember what grade you were in?

17 A Um--

18 Q -- it's alright. Were you, where'd you go to school
19 at?

20 A Laurens Middle School.

21 Q Okay. So, when you moved here you went to Laurens
22 Middle?

23 A Yes.

24 Q Okay. Did you, did you, were you in school when this
25 happened?

1 A No, I was homeschooled, but I was about to attend
2 Laurens District High School.

3 Q Okay. So you were, you were being homeschooled when
4 this happened, how long were you being homeschooled for?

5 A A quite long, for a while, a long --

6 Q Alright. Do you, you know how many years?

7 A Probably about two years.

8 Q Okay. Tell me a little bit about your family, who,
9 how are you related to, to Fabian? I know you're cousins,
10 but how are y'all cousins?

11 A Because my mom is sisters with my auntie.

12 Q Okay. So is your mom and Fabian's mom sisters?

13 A Yes, sir.

14 Q Okay. Where'd you live whenever you moved here?

15 A The Glen, Laurens Glen.

16 Q Did Fabian live with you?

17 A No, sir.

18 Q Tell me about Fabian's sister.

19 A I just know they sisters and brothers, but I seen
20 them before, but --

21 Q You seen Fabian's sister?

22 A Yes.

23 Q How'd you meet Fabian's sister?

24 A He took me over.

25 Q Where'd she live at?

- 1 A I don't know.
- 2 Q What town? Do you know the town?
- 3 A No, sir.
- 4 Q Are you sure Fabian had a sister?
- 5 A Yes.
- 6 Q You positive about that?
- 7 A I'm sure. I also seen his daddy.
- 8 Q Okay. Would, how old's Fabian's sister?
- 9 A I think she's twenty-one.
- 10 Q Would, is Fabian, was Fabian raised by his mom or was
- 11 Fabian raised by his grandma?
- 12 A By his grandma.
- 13 Q So, Fabian's grandma should know Fabian's sister,
- 14 right?
- 15 A Yes.
- 16 Q You sure about that?
- 17 A I guess.
- 18 Q Who's La'Toya?
- 19 A My auntie.
- 20 Q Would she know Fabian's sister?
- 21 A No.
- 22 Q Why wouldn't she know Fabian's sister?
- 23 A I don't quite know.
- 24 Q And you're positive Fabian's, Fabian has a sister?
- 25 A Yes, I seen her.

1 Q Okay. How old were you when you got arrested for
2 this?

3 A Seventeen.

4 Q Tell us a little bit about you being arrested, what
5 happened?

6 A I woked up and the flashlight was over my head and
7 they told me get up, terrified, with my hands up. And
8 they had a pistol across the bed and one of them had a
9 flashlight over my head.

10 Q Did they have the pistol pointed at you?

11 A Across the bed.

12 Q Okay. What happened then? Did they put handcuffs on
13 you?

14 A Yes, sir.

15 Q Where'd they take you?

16 A They took me to the police station and questioned me.

17 Q Okay. So they took you to the police station and
18 questioned you. Tell us a little bit about where they
19 questioned you at. Was it in a room, was it in a, or how
20 big of a room was it? Obviously, it was in a room if it's
21 inside the police station.

22 A Yes.

23 Q How big of a room do you think?

24 A Not that big, but small.

25 Q Okay. It was a small room? How many cops were in

1 there?

2 A Four, five.

3 Q How long were you in that room?

4 A About two hours or a hour.

5 Q Okay. So, they had you in there for an hour or two
6 hours?

7 A Yes, till it hit 6:00 a.m.

8 Q What happened at 6:00 a.m.?

9 A They questioned me, after they questioned me, they
10 took me to jail.

11 Q Okay. How long they question you for?

12 A A hour.

13 Q About an hour?

14 A Yeah.

15 Q Okay. You wrote a statement? Did you write a
16 statement?

17 A I told them about the statement but they wrote it for
18 me.

19 Q Okay. So, the, they wrote it for you, but you told
20 them what to say?

21 A Yes.

22 Q Did you have a chance to read it?

23 A No, they was supposed to make me a copy, but they
24 never made me a copy.

25 Q Okay. So, you haven't seen your statement?

1 A I seen it now.

2 Q Okay. When did you see it?

3 A My lawyer.

4 Q Your lawyer gave it to you?

5 A Yes.

6 Q When was that?

7 MR. GAMBRELL: Your Honor, I would object, object to
8 any --

9 THE COURT: Okay.

10 MR. GAMBRELL: -- questions about any conversations
11 or any contact that Mr. Holman had with--

12 THE COURT: Can you move on to something else?

13 MR. SHAFFER: Your Honor, I, I don't, I understand
14 where he's coming from, but I don't think that, that when
15 he happened to get a copy of his statement is privilege.
16 I, I mean, obviously, I'm not gonna ask him about the
17 content of what he said whenever him and his attorney were
18 alone. I might ask him about other conversations that
19 occurred while he was present. But, and I think I have
20 every right to do that.

21 THE COURT: I'm going to overrule Mr. Gambrell's
22 objection, allow just when was that given, but don't get
23 into conversations, communications between Mr. Holman and
24 his attorney.

25 MR. SHAFFER: Thank you, Your Honor.

1 Q So, when did you get that statement?

2 A I got it from my attorney when I first seen him. I
3 had signed for preliminary hearing.

4 Q Okay. So, when you were initially in that room, you
5 said you went into a small room, was that the room they
6 questioned you in or did they question you in another
7 room?

8 A A small room.

9 Q They, they questioned you in the small room? How
10 many officers were there when you were questioned?

11 A None.

12 Q Was anyone asking you questions?

13 A It was my lawyer.

14 Q No, I'm talking about when the cops initially --

15 A Five. It was five of them.

16 Q Alright. I'm not trying to trip you up, I, I want
17 you to tell me because I, I'm a little confused. When you
18 went into the room to get questioned, how many officers
19 were present?

20 A Five.

21 Q There were five officers present. Were they all
22 asking you questions?

23 A Yes. One by one.

24 Q What kind of questions were they asking?

25 A What happened to Edwin.

1 Q Before you wrote a statement, or before they wrote
2 you a statement, did they give you a Miranda warning?

3 A They told me if I wouldn't question them, that they
4 will send me to jail.

5 Q They told you if, if what?

6 A If I wouldn't question them, they will send me to
7 jail.

8 Q If you wouldn't question them, they'd send you to
9 jail?

10 A Yeah.

11 Q You mean if you, do you mean that if you wouldn't
12 answer questions they'd send you to jail?

13 A Yes, sir.

14 Q Did they tell you they'd send you to jail anyway?

15 A Yeah.

16 Q So, they said even if you do answer questions, we're
17 going to send you to jail?

18 A Yes, sir.

19 Q But you're going to go to jail also if you don't
20 answer questions?

21 A Yes, sir.

22 Q Okay. Did they tell you that they would charge you
23 with murder?

24 A Yes, sir.

25 Q Did that have something to do with why you talked to

1 them?

2 A Yes, sir.

3 Q Is that the reason why you talked to them, because
4 you thought you were going to get charged with murder?

5 A Yes, sir.

6 Q You were scared, weren't you?

7 A Yes, sir.

8 Q Did you have a guardian there, your mom, your
9 grandma, anyone, any adult there with you?

10 A No, sir.

11 Q Just the police?

12 A Yes, sir.

13 Q The cops that pulled the gun on you earlier, right?

14 A Yes, sir.

15 Q And now they're telling you that they're gonna charge
16 you with murder, right?

17 A Yes, sir.

18 Q And when they tell you that, did they tell you
19 anything about the case? Did they tell you that Karina or
20 maybe Fabian had told a statement about you, or anything
21 like that?

22 A No sir, but they told me that the girl wrote a
23 statement.

24 Q Okay. Did they tell you they had evidence against
25 you?

1 A No, sir.

2 Q Did they tell you that you were going to jail?

3 A Yes, sir.

4 MR. MOWRY: Your Honor, that's asked and answered
5 about three times.

6 THE COURT: Alright. Alright. Okay. It, it has
7 been. Move on to another area please, Mr. Shaffer.

8 MR. SHAFFER: Your Honor, I certainly will. I
9 wouldn't of ask the same question, but I wanted to talk
10 more about him going, the questioning, Your Honor, if
11 possible.

12 THE COURT: Okay. If it's, if it's touching on
13 something related, but a little different, then I'll allow
14 you to do that.

15 MR. SHAFFER: Thank you, Your Honor.

16 Q You're currently charged with murder, right?

17 A Yes, sir.

18 Q Did they give you an indictment? Did they give you a
19 piece of paper called a indictment? You ever seen that?

20 A No, sir.

21 Q You ever seen an arrest warrant? Have you ever seen
22 a piece of paper called arrest warrant?

23 A Yes, sir.

24 Q And that arrest warrant says that you, you hit, hit
25 Edwin in the head with a hammer and killed him, right?

1 A Yes, sir.

2 Q That arrest warrant mentions your name, right?

3 A Yes, sir.

4 MR. SHAFFER: Your Honor, may we approach?

5 THE COURT: Sure.

6 (Whereupon, a bench conference was held in the
7 presence of the jury but out of the hearing of the
8 jury.)

9 THE COURT: Madam Forelady and ladies and gentlemen
10 of the jury, I got an issue to take a look at. I was
11 wanting to get maybe a little short afternoon break in, so
12 let's do both of that. Go back to the jury room, take you
13 a break and I'm going to ask Mr. Bolt to check the candy
14 dish to see if it needs to be restocked. And again, no
15 discussion among yourselves about this matter and we'll
16 get you back out shortly.

17 (Whereupon, the jury is excused from open court.)

18 THE COURT: Okay. We are going to take a, a few
19 minutes to take a look at the issue raised at sidebar and
20 we'll put everything on the record.

21 (Whereupon, a short break was taken.)

22 THE COURT: Alright, we, we're back on the record.
23 The, we had a sidebar conference wherein, Mr. Shaffer, you
24 wanted the right to cross-examine the codefendant, Holman,
25 on the sentencing range for the offenses he is charged

1 with. And, Solicitor, you want to state the State's
2 position on that?

3 MR. MOWRY: Yes, sir. And though we do believe that
4 State vs. Mizzell probably does mitigate against us, there
5 is a notation in here I wish to bring up considering the
6 Facebook records, Your Honor. The jury is generally not
7 entitled to learn the possible sentence of the Defendant
8 because the sentence is irrelevant to finding guilt or
9 innocence. However, other constitutional concerns such as
10 the confrontation clause limit the applicability of this
11 rule in circumstances where the Defendant's right to
12 effectively cross-examine a coconspirator witness. If
13 they go down this path, I submit that that makes plain
14 that we are talking about a conspiracy here. And I think
15 that that takes care of the hurdle that you were talking
16 about earlier.

17 THE COURT: Alright. Okay, let me, so we got
18 actually two, two issues that we need to address. Apart
19 from that position that you're taking as it relates to the
20 Facebook message, I guess you, you pretty much concede the
21 fact that State vs. Mizzell, and Madam Court Reporter,
22 that's M-I-Z-Z-E-L-L, the site on that is 349 SC 326. But
23 you pretty much concede that this situation, and I think
24 its already been stipulated in pretrial that there had
25 been no plea negotiations.

1 MR. MOWRY: That's right.

2 THE COURT: Certainly, he's not pled guilty to any of
3 the charges yet.

4 MR. MOWRY: That's also true.

5 THE COURT: So the facts are pretty similar to
6 Mizzell. And, so, would you pretty much concede that it
7 would allow, Mizzell would allow Mr. Shaffer to
8 cross-examine him concerning the sentencing range for his
9 two offenses. Let the jury --

10 MR. MOWRY: Yes, sir.

11 THE COURT: -- figure out that the charges are the
12 same for the Defendant. But it's got to be related to his
13 charges, even --

14 MR. MOWRY: Yeah, I would agree if there's a
15 concession that he is a coconspirator witness. If, if
16 there is a concession of that, I have no problem.

17 THE COURT: Alright. Mr. Shaffer.

18 MR. SHAFFER: Your Honor, there's no concession. The
19 Solicitor's complaining about a bunch of different laws.
20 Obviously, under South Carolina law you're able to argue
21 in the alternative about things. It's the Solicitor's
22 position that he's a coconspirator, Your Honor. And
23 we're, we're not even talking about him, whether, whether
24 Davian and Fabian are coconspirators. The Solicitor wants
25 to bootstrap that in to say that Karina and my client are

1 coconspirators. Basically, he's trying to use an argument
2 and my client's constitutional safeguard as evidence to
3 support his claim that there's a conspiracy going on. I
4 think it's --

5 MR. MOWRY: Your Honor, I'm --

6 MR. SHAFFER: -- it defies my ability to even respond
7 to that argument, Your Honor. Because of the fact that
8 what you have is, is him using my client's request for his
9 constitutional safeguard and his right to cross-examine a
10 witness as a sword against my client for another matter.
11 I think that there, it's highly improper for, would be
12 highly improper to require us to concede in order to get
13 this into evidence.

14 MR. MOWRY: I am simply reading from the case, Your
15 Honor. And it says, quite simply, the jury generally is
16 not entitled to learn possible sentence of the Defendant
17 because the sentence is irrelevant to the finding of guilt
18 or innocence. And then it goes on to say other
19 considerations would allow that where the Defendant's
20 right to effectively cross-examine a coconspirator
21 witness. That's the only, that's the only exception that
22 they list here. A coconspirator witness of possible bias.

23 MR. SHAFFER: Your Honor, I'm, I'm happy to concede
24 and waive my right to cross-examine him on that if the
25 State's willing to state on the record that my client /

1 wasn't a coconspirator with these two guys. Because if
2 the State's willing to concede that, I'm more than happy
3 not to bring up the sentencing of Fabian. I mean, of
4 Davian, Your Honor.

5 THE COURT: Well, I think really what we're doing
6 here, with all due respect to you guys, we're kinda mixing
7 apples and oranges. I don't, the, the purpose for
8 allowing cross-examination is to determine whether or not
9 the witness is testifying based upon biased or some other
10 improper motive to help him or her, him in this case, in
11 his particular predicament. I don't think, even though
12 Mizzell uses the term coconspirator, I don't necessarily
13 think that it has to be under the umbrella of a conspiracy
14 to allow cross-examination concerning the sentencing
15 range. It's, it's more, the argument is, is to allow
16 proper confrontation by a Defendant of any witness against
17 him. And in this situation, we got a witness against him
18 who happens to be an alleged participant in this, in this
19 crime. So the use of conspirator or coconspirator, in and
20 of itself, I'm not so certain that that's controlling, but
21 let me look at something else here. If you want to look
22 too, now let me qualify this, a case of State vs.
23 Sprinkle. It's not a reported case, I don't know if it's
24 technically an unpublished case. But it does, in that
25 case it was a codefendant. Even though I'm not using that

1 as, as having any presidential value, it just kind of
2 supports my position that in you don't have to have a
3 conspiracy in order to allow the Defendant to, to
4 cross-examine. Okay. So, what I'm going to do, is I'm
5 going to allow Mr. Shaffer to cross-examine Mr. Holman on
6 his charges, if he is aware of the sentencing range for
7 each of his two charges. Okay.

8 MR. MOWRY: And, Your Honor, at this point we would
9 ask since there, there has been mention that the, by
10 Davian, that there was texting, that Edwin showed up, as
11 was shown by the, here it is, by the message on State's
12 number 61 for identification. He actually showed up at
13 ■■■ Queens Circle. I would say that that authenticates
14 the messages. And that at this point we would ask that
15 the Facebook messages come in.

16 THE COURT: Okay. Alright.

17 MR. SHAFFER: Your Honor, I --

18 THE COURT: Go ahead.

19 MR. SHAFFER: Your Honor, we renew our previous
20 objection. I guess what we would ask for is clarification
21 in which Facebook messages he's saying is coming in. Are
22 we talking about --

23 THE COURT: I, I think, it's my understanding that
24 the, the exhibit is a one-page exhibit which would consist
25 of the very last messaging on May 8th of 2016 at 5:00,

1 4:00, 5:00 o'clock, whatever that timeframe.

2 MR. MOWRY: Yes, sir. And we would also want to get,
3 get into the Court's exhibit as, as Your Honor had laid
4 out earlier, get in that day and the previous day.

5 THE COURT: Right. Alright. Mr. Shaffer.

6 MR. SHAFFER: Your Honor, I have essentially the same
7 objection to it as before. Obviously, I think that
8 there's a problem with, you address a confrontation issue,
9 there's that, there's a hearsay issue and there's the
10 authentication issue still. I think that there's a
11 problem to say that these documents were not in some way
12 tampered with because you have people who aren't a party
13 to the conversation, don't know what's going on in the
14 conversation. And then, now they're saying, well, these
15 are full and complete picture of what happened, you know.
16 Had the State actually brought in someone from Facebook to
17 say this is what, what was in there, you know, it might be
18 a different situation. I don't think that they've met
19 the, the authentication hurdle. I certainly don't think
20 that they've established by preponderance of the evidence
21 that there is a, that the statements, all of the
22 statements made between the 7th and the 8th were in the
23 course of the, or in furtherance of the conspiracy. I, I
24 don't really understand, especially with the 7th, how they
25 get around that, Your Honor. But also with the 8th, I

1 still don't think that they met preponderance of the
2 evidence.

3 MR. MOWRY: Facebook simply does not show up for
4 court, Your Honor.

5 THE COURT: Right. Were you not planning to call Mr.
6 Bentley --

7 MR. MOWRY: Yes, sir. I am.

8 THE COURT: -- as it relates to his use of the
9 password acquired from the dad. So, let's, I'll make a
10 ruling on your request on the Facebook messaging once you
11 get Mr. Bentley up and any, anybody else.

12 MR. MOWRY: Very good, sir.

13 THE COURT: I'll do that. But let me just be clear
14 that the, the use of coconspirator in the Mizzell case is
15 not going to have any bearing on my ruling concerning the
16 Facebook messaging. So, you're not, you won't be
17 prejudiced based upon the position of the State on that.

18 MR. SHAFFER: Thank you, Your Honor.

19 THE COURT: Okay. Alright. Okay. Alright. We
20 ready to bring the or we need to get, where's Mr. Holman?
21 Okay. Let's get Mr. Holman out first, back in the witness
22 box.

23 MR. MOWRY: And Your Honor, since the, I'm sorry,
24 since the statement has been brought up, I would like to
25 be able to question the witness regarding the statement.

1 I won't go --

2 THE COURT: Sure.

3 MR. MOWRY: -- into the, the substance of it
4 necessarily, but just the form of it.

5 THE COURT: Right, right. I mean, yeah, that's,
6 that's fine. Let me see the lawyers for just a second.

7 (Whereupon, a bench conference was held.)

8 THE COURT: Yeah, let's bring Mr. Holman and have him
9 seated first, and then we'll get the jury. Okay. Just
10 the witness first, and then once he's seated, we'll bring
11 the jury in.

12 (Whereupon, Mr. Holman is seated in the witness
13 chair.)

14 (Whereupon, the jury came into open court at
15 approximately 3:38 p.m.)

16 THE COURT: Thank, thank you, Mr. Bolt. Alright, Mr.
17 Shaffer, I think we're still in the middle of your
18 cross-examination. Mr. Holman, just be sure to sit close
19 to that microphone, speak clear and slow for us, okay.

20 CONTINUE CROSS-EXAMINATION

21 By Mr. Shaffer:

22 Q Davian, obviously you were arrested, correct?

23 A Yes, sir.

24 Q Okay. So, you went to jail as part of this, right?

25 A Yes, sir.

1 Q Did you like jail?

2 A I mean, I mean, a place is a place. I guess I had to
3 wait patient.

4 Q Okay. Did you miss home?

5 A Yeah.

6 Q And miss your family?

7 A Yeah.

8 Q Did you miss the food?

9 A Yes, sir.

10 Q I imagine so. I imagine the jail foods not as good.
11 as the food at home. My understanding is your family
12 likes, you know, cookouts and having a good time, is that
13 right?

14 A Yes, sir.

15 Q You miss your granddad's cooking, right?

16 A Yes, sir.

17 Q I understand. It's okay. You know what, I imagine
18 you miss your girlfriend too, right?

19 A Yes, sir.

20 Q You miss your cell phone?

21 A Yes, sir.

22 Q I know.

23 MR. MOWRY: Your Honor, I got to object at this point
24 on relevance.

25 THE COURT: Okay. Well, I, you, you probably leading

1 up to something, so I'll allow it to continue. This is
2 cross-examination, but hopefully you can get to your
3 point.

4 MR. SHAFFER: Yes, Your Honor.

5 THE COURT: You may proceed.

6 Q So, are you aware of what a murder charge carries?
7 How much time it carries?

8 A Yes, sir. A life sentence.

9 Q Okay. A life sentence. You aware, aware of anything
10 else about it? Is there anything less than a life
11 sentence that you know of?

12 A No, sir.

13 Q Are you aware that life in South Carolina means life,
14 means until you're dead?

15 A Yes, sir.

16 Q You don't want to go to prison for the rest of your
17 life, do you?

18 A No, sir.

19 Q You don't want to go and miss out on your family's
20 cooking for the rest of your life, do you?

21 A No, sir.

22 Q Don't want to miss out on video games, do you?

23 A No, sir.

24 Q Your girlfriend?

25 A No, sir.

1 Q Your cell phone?

2 A No, sir.

3 Q I understand. I understand. So has the Solicitor or
4 anyone else told you about what would happen if you're
5 able, if you testify here today?

6 A Yes, sir.

7 Q Did they tell you that you'd get a reduced sentence?

8 A No, sir.

9 Q Did they tell you, you may get a reduced sentence?

10 A Yes, sir.

11 Q They said they may reduce your sentence?

12 A Yes, sir.

13 Q They say they may give you something other than a
14 murder charge, right?

15 A Yes, sir.

16 Q But in order to get that you have to testify here
17 today, right?

18 A Yes, sir.

19 Q And if you testify in some way that is wrong or
20 different than you previously told the cops, than your
21 previous statement, do you think that you're going to get
22 a reduced sentence?

23 A Yes, sir.

24 Q You think you'll still get a reduced sentence even if
25 you testify something different than the statement you

1 gave to the police?

2 A No, sir.

3 Q Explain to me, I guess, what, what you mean by, no
4 sir, there. Do you think that, do you think that you'll
5 get a reduced sentence if you change your story from what
6 you originally told the police? And I'm sorry, that's a
7 confusing question, I understand. But do you think that
8 they're going to reduce your charge, if you were to get up
9 here and testify to something different than what you told
10 the police, do you think they'd reduce your charge?

11 A No, sir.

12 Q Did the State tell you anything to make you think
13 that? Did the Solicitors tell you anything or the
14 investigators or the police? Did any of them tell you
15 anything different that made you think that?

16 A No, sir.

17 Q But you think you have to testify the same way as
18 your statement you gave to the police, right?

19 A Yes, sir.

20 Q Otherwise you think that they might try you for
21 murder, right?

22 A Yes, sir.

23 Q You don't want to be sitting in that chair, do you?

24 A No, sir.

25 Q Is that part of the reason you're testifying here

1 today?

2 A Yes, sir.

3 Q If it wasn't for that, would you want to be here
4 testifying?

5 A No, sir.

6 Q So you're testifying in hopes of getting a deal,
7 right?

8 A No, sir.

9 Q You're not hoping you're going to get a deal? You
10 don't want a deal, you don't want a plea offer?

11 A No, I just want peace.

12 Q You want peace?

13 (Whereupon, there is noise in the courtroom.)

14 THE COURT: Okay. Wait a minute. Madame Forelady
15 and ladies and gentlemen of the jury, I'm going to need
16 for you to just briefly go back to the jury room and we'll
17 get you back out shortly.

18 (Whereupon, the jury is excused from open court.)

19 THE COURT: Okay. I assume that people on the front
20 row behind you and your client, Mr. Shaffer, are some of
21 the Defendant's family members.

22 MR. SHAFFER: That's correct, Your Honor.

23 THE COURT: Okay. I don't need for you to make any
24 comments. I don't need for you to raise your hand. If
25 you feel like you cannot control yourself, and I'm, and

1 I'm not sure exactly who all did this, I know this, if you
2 feel like you can't control yourself, then I'm going to
3 ask that you exit the courtroom. If you feel like you
4 can, then you are welcome to stay in here. But I just
5 don't want any other comments of any, any kind of
6 reaction. Okay. Alright, thank you very much. Alright.
7 Let's bring them back out.

8 (Whereupon, the jury came into open court at
9 approximately 3:46 p.m.)

10 THE COURT: Alright, thank you, Mr. Bolt. Alright
11 Mr. Shaffer, you may continue sir.

12 MR. SHAFFER: Thank you, Your Honor.

13 CONTINUE CROSS-EXAMINATION

14 Q Davian, is, is jail peaceful?

15 A I mean, no.

16 Q Okay. Alright. Now you said that you rehearsed this
17 last Friday with the Solicitor, correct?

18 A Yes, sir.

19 Q Okay. Did he say that he was going to give you short
20 questions and he wanted short answers from you? Something
21 like that?

22 A I don't know that.

23 Q Okay. You don't know that? You're not sure if, that
24 he told, if he told you that or not?

25 A No, sir.

1 Q Okay. When he was asking you any of these questions,
2 did you ever mess up?

3 A Kind of.

4 Q What do you mean by kind of?

5 A May got a little nervous.

6 Q And we're talking about Friday, right?

7 A Yeah.

8 Q Were you in the courtroom?

9 A Yes.

10 Q Was anyone else here?

11 A Just my lawyer.

12 Q Your lawyer. Was the, and the Solicitor was here,
13 right?

14 A Yes, sir.

15 Q What do you mean by you kinda messed up? What do you
16 mean by that? What did you mess up on?

17 A I'm not quite sure but I didn't mess up on Friday, I
18 messed up the other day. Recent.

19 Q Oh, you had another, another day that you messed up
20 on?

21 A Yeah.

22 Q What day was that?

23 A Tuesday.

24 Q Okay. So, on Tuesday you also rehearsed the
25 testimony, right?

1 A Yes, sir.

2 Q Other than Friday and Tuesday, are there any other
3 days that you rehearsed your testimony with the Solicitor?

4 A Yes, sir.

5 Q What other days?

6 A Friday, Tuesday, that's it.

7 Q Okay. So, it's just Friday and Tuesday?

8 A Yes, sir.

9 Q Did you have any other meetings with the Solicitor or
10 anyone at that table other than Friday and Tuesday?

11 A No, sir.

12 Q No other meetings other than Friday and Tuesday, you
13 sure?

14 A Yes, sir.

15 Q Did you, you previously testified you just had one
16 meeting with them, right?

17 A Yes, sir.

18 Q But it's actually two?

19 A Yes, sir.

20 Q Okay. And you messed up, you didn't mess up on
21 Friday of last week, but you messed up on Tuesday of this
22 week, is that right?

23 A Yes, sir.

24 Q How'd you mess up?

25 A Over the question that he asked me.

1 Q Oh, you messed up on what the question he asked you?

2 A Yes. And I needed, he need a answer.

3 Q Okay. Did he tell you that was not, whenever you
4 messed up, that that's not what was in your statement, did
5 he?

6 A I don't quite understand, can you repeat --

7 Q Okay.

8 A -- that back over?

9 Q Back on Tuesday, whenever he was rehearsing your
10 testimony with you and you messed up, did, did he tell you
11 that that was not what was in your statement?

12 A Yes, sir.

13 Q He told you that wasn't what was in your statement?

14 A Yes, sir.

15 Q So, you testified to something different than what
16 was in your statement or you told the Solicitor something
17 different on Tuesday than what was in your statement,
18 right?

19 A No, sir.

20 Q You didn't. I thought you just said you did. You
21 said you messed up on Tuesday and he told you it was
22 something different than what was in your statement, is
23 that right?

24 A Yes, sir.

25 Q So, he corrected you, right?

1 A Yes, sir.

2 Q On Tuesday?

3 A Yes, sir.

4 Q Okay. Davian, I'm going to ask you something because
5 I want to know the truth to it. And I'm not trying to
6 embarrass you about this, okay. What I want to know is do
7 you have a learning disability?

8 A Sort of.

9 Q Sort of. What do you mean by sort of?

10 A A little.

11 Q Do you receive disability for it?

12 A I mean, not really, but --

13 Q Do you know if you, you receive disability for it?
14 Do you know if your mom receives a disability check for
15 it?

16 A Yeah.

17 Q You do know? Does she?

18 A Yeah.

19 Q Okay. I want you to go back through, well, I'll get
20 you to do that in a second. At the time you were
21 arrested, where were you living at?

22 A Laurens Glen.

23 Q Was that with your mom?

24 A Yes, sir.

25 Q You weren't living at Karina's house, is that

1 correct?

2 A No, Sir.

3 Q Okay. I want you to go back through from the
4 beginning of May 8th, 2016, and I want you to tell me
5 everything you remember in as much detail as you can. I'm
6 not going to ask you short questions, I want you to tell
7 it in your own words, and tell me everything you remember.

8 A I remember showing up there to play a game and then
9 afterwards, after we played a game, they was back there
10 talking and texting, and then --

11 Q How do you know they were texting?

12 A I seen them on the phone.

13 Q What kind of phone was it?

14 A Iphone.

15 Q Were they sending text messages or were they sending,
16 what kind of messages were they sending? Was it snapchat,
17 were you looking at the phone?

18 A No. " But I seen them talking and texting and
19 laughing.

20 Q It looked like they were texting. Did you ever see
21 the screen of the phone?

22 A No, sir.

23 Q Okay. So they were looking at the phone laughing, is
24 that correct?

25 A Yes, sir.

1 Q You sure they weren't playing a game?

2 A I don't know.

3 Q You don't know if they were playing a game, but they
4 were looking at a screen laughing, that's what you saw?

5 A Yes, sir.

6 Q Okay. Now go from there, and actually, I want you to
7 tell me how did you end up at Karina's house, who took
8 you?

9 A Fabian.

10 Q Fabian drove you?

11 A Yes, sir.

12 Q What did he drive you in?

13 A A Kia.

14 Q Who, who's the Kia belong to?

15 A Apparently --

16 Q Do you know?

17 A Karina. I think it was her mom's car.

18 Q Okay.

19 A But she was using it.

20 Q And what color was it?

21 A Silver.

22 Q Alright, now go ahead, start with, you're, you're
23 there, you were playing a game, what game were you
24 playing?

25 A I think GTA 5.

1 Q Okay. That's Grand Theft Auto 5?

2 A Yes.

3 Q An Xbox one?

4 A Yes, sir.

5 Q Okay. So, how long do you get there, how long were
6 you playing a game before you saw them text messaging? Or
7 how long from the time you got there, did you play the
8 game until you saw them text messaging?

9 A About a minute.

10 Q You were only there a minute?

11 A I was on the game a minute.

12 Q Okay. A minute being, could be an hour or a minute
13 being like sixty seconds minute?

14 A Sixty, Sixty seconds minute.

15 Q Okay. So what time did y'all get there?

16 A I don't know.

17 Q Was it morning, evening?

18 A Afternoon.

19 Q Was in the afternoon. Where were y'all before you
20 went over to Karina's house?

21 A In her room.

22 Q No, I mean before you went to her house, where were
23 you at? Where were you and Fabian at before you got to
24 Karina's house?

25 A In the house.

1 Q What house?

2 A Karina's house.

3 Q No, before that, when, before you rode in the Kia to
4 Karina's house, where were you at?

5 A I was in her bedroom.

6 Q Davian, I'm, I'm wondering before you were in her
7 bedroom, before you walked through her front door or
8 backdoor or whatever door you walked through to get inside
9 her house that day, where were you at before then?

10 A The backdoor screen.

11 Q Okay, so you came through the backdoor of Karina's
12 house, is that right?

13 A Yes, sir.

14 Q Okay. How'd you get to, you said you rode in the Kia
15 to Karina's house, right? And you went in the backdoor.

16 A You mean I rode, I mean my brother rode.

17 Q You're, you're, you're, am I, am I saying this right,
18 that Fabian drove you to Karina's house in a Kia that you
19 believed belonged to Karina's mom?

20 A Yes.

21 Q Okay. Where did he drive you from?

22 A Laurens Glen.

23 Q Okay. What were you doing there?

24 A I was at home, he just text me. I got a text message
25 on my message, on my iPhone and he told me do I want to

1 come over to play the game?

2 Q Okay. So, you got a text message. What time you
3 wake up that day? Do you recall?

4 A No. Afternoon.

5 Q You woke up in the afternoon?

6 A Yes, sir.

7 Q How long were you awake until you went over there?

8 A I don't know.

9 Q Okay. But you're saying it was still afternoon
10 whenever you got there, right?

11 A Yes, sir.

12 Q So, you sat down for sixty seconds.

13 A Sixty minutes actually.

14 Q Sixty minutes actually. Not sixty seconds to play
15 the game?

16 A Yes, sir.

17 Q So you were playing the game for an hour, not a
18 minute?

19 A Sixty minutes.

20 Q Sixty minutes. Okay. So, you're playing, playing
21 for sixty minutes, which is a hour, right?

22 A Yes, sir.

23 Q And then you see them on the phone doing something,
24 right?

25 A Yes, sir. (

1 Q And they're giggling at the phone, right?

2 A Yes, sir.

3 Q But you don't see the phone, right?

4 A No, sir.

5 Q Alright. Take it from there and tell me in your own
6 words everything that happened. Step by step, as much
7 detail as you can give me, I want to know everything that
8 happened after that point.

9 A They told me to go to Karina's bedroom, Karina's
10 mom's bedroom. And I went and I had a BB gun, but the
11 plan was for me to scare Edwin, but I didn't. Something
12 told me to step back. So I did and then Edwin came, Edwin
13 came in and he started talking to Karina. And once he
14 started talking with Karina, then he had a sort of feeling
15 that he had to go, but she wouldn't let him go. She poke,
16 she pushed him back in Karina's sister's roon, Julissa.

17 Q Okay.

18 MR. SHAFFER: I'm sorry. I'm messing up your
19 equipment. I was going to pull up the diagram of the
20 house. Do you have it?

21 Q So, and I'm, I'm going to back up just for a second,
22 and I know some of this you may have shown where, where
23 certain things were. But I didn't catch everything you
24 were pointing too, okay. What, first of all, I'm going to
25 back up and ask you, you said the plan was I was supposed

1 to scare him. Whose plan was that, was that Karina's plan
2 or was it your plan?

3 A Fabian.

4 Q It was Fabian's to scare him?

5 A (No response.)

6 Q When did --

7 A It's like he made a plan or something for me, in
8 order for me to, you know, do the plan, but I didn't do
9 the plan.

10 Q When did he make this plan?

11 A At Karina's house.

12 Q How long after getting to Karina's house was he
13 making that plan?

14 A I don't know.

15 Q Was it while you were playing the video game? Well,
16 when did you first learn about this plan?

17 A I don't know.

18 Q Tell me something, did you ever tell the police,
19 what'd you tell the police about this BB gun?

20 A It was my brother's, actually, but it wasn't real so
21 I told them that it was a BB gun.

22 Q It was your brother's BB gun, that's what you told
23 the police. When did you tell them that?

24 A In jail.

25 Q In jail. You talked to the police at the jail? Was

1 that the night of?

2 A Basically.

3 Q Okay, so right after you got arrested, you told the
4 police about a BB gun?

5 A Yeah.

6 Q Who'd you tell, what, what officer you tell that to?

7 A I think it was Reid.

8 Q Who?

9 A Reid. Reid.

10 Q So did, was that at the same time you did this
11 statement, or they wrote out a statement for you?

12 A At the police station. It was that time, at night.

13 Q Okay, right after you were arrested?

14 A Yes.

15 Q So do you think that the BB gun is in your statement?

16 A Actually, yes.

17 Q Okay. Do you think the plans is in your statement?

18 A All that is all right there.

19 Q Okay. Now, you said that you don't recall exactly
20 when you learned about the plan, but you knew it was at
21 Karina's house, right?

22 A Yes, sir.

23 Q How long were you hiding waiting for Edwin to show
24 up?

25 A About a hour or two.

1 Q So, you waiting a extra hour or two after, you played
2 the game for an hour and then you wait a hour or two for
3 Edwin to show up after you learned about the plan. Is
4 that right?

5 A Yes, sir.

6 Q So you were there at least two hours, maybe three
7 hours before Edwin showed up. Is that fair to say or is
8 it more time or less time or what?

9 A I guess less time.

10 Q Less than two or three hours?

11 A Yes. Yes.

12 Q How long were you there before Edwin showed up?

13 A Like a hour.

14 Q An hour. Were you playing it, playing the video game
15 that entire time?

16 A Yes. And then --

17 Q Okay.

18 A -- I got off.

19 Q Were you playing the video game and hiding at the
20 same time or were you hiding at a different time, than
21 playing the video game?

22 A I hide at a different time.

23 Q Okay, but you hid for an hour or two, and you played
24 the video game for about an hour, right?

25 A Yes.

1 Q Okay. Now, I want you to show me where the video
2 game was at. I want you come down here and point to where
3 the video game is at.

4 A Right there.

5 Q Okay. Now, --

6 THE COURT: Alright, now, what you going to need to
7 do, Mr. Shaffer, because I don't know if all the jurors
8 could see because he's standing in front. Can you maybe
9 put a little mark there, then he can step away so they can
10 see where he marked.

11 MR. SHAFFER: Yes, Your Honor.

12 Q I want you to put a mark, actually, I want you to put
13 a V where the video game is at. How about that? Can you
14 make a V? The letter V. Okay. So, you're, if, if you
15 wouldn't mind stepping back just for a second so the
16 jurors can --

17 THE COURT: And you're away from the microphone so
18 you going to need to speak up loud, Mr. Holman.

19 Q Davian, is this where the video game was at, where
20 I'm pointing to right now?

21 A Yes, sir.

22 Q That was a yes sir, right?

23 A (Witness nods head.)

24 Q Okay. Now I want you to show me where you're hiding
25 and I want you to put a DH where you were hiding at. So,

1 right there, right down there is where you were hiding,
2 right?

3 A Yes, sir.

4 Q And that was in a closet, right?

5 A Yes, sir.

6 Q That closet opens up, looks like it opens up into
7 some sort of a dining room, is that right?

8 A Yes, sir.

9 Q Is that a yes sir?

10 A Yes, sir.

11 Q Okay. And you got to speak real loud because the
12 jurors over there can't hear you, okay.

13 MR. MOWRY: Your Honor, I'm going to have to ask Mr.
14 Shaffer to specify when he was hiding. I think the
15 witness may be confused.

16 THE COURT: Okay.

17 MR. MOWRY: Was he talking about on May the 8th or
18 was he talking about on May 27th.

19 THE COURT: Clear that up.

20 Q When I was talking, when I was asking you about
21 hiding, did you think I meant hiding waiting for Edwin to
22 show up? Which one did you think it was? You think I was
23 asking you about hiding waiting for Edwin to show up or
24 hiding later on at some other time?

25 A Hiding in later on.

1 Q You thought I meant hiding later on? When were you
2 hiding later on?

3 A In the closet.

4 THE COURT: Let's try to get him back to the witness
5 stand.

6 Q Go ahead and sit back down for a second, okay.

7 MR. SHAFFER: I'm sorry, Your Honor.

8 THE COURT: That's alright.

9 Q You thought I, I meant hiding later on?

10 A Yes, sir.

11 Q Okay. So, you thought I meant, when I was talking to
12 you about what happened and how long you were hiding
13 waiting on Edwin, you thought I meant hiding some other
14 time?

15 A Yes, sir.

16 Q Were you waiting on Edwin some other time?

17 A No, sir.

18 Q What were you doing hiding some other time?

19 A On my phone.

20 Q You were hiding on your phone? What do you mean by
21 hiding on your phone?

22 A Hiding with my phone.

23 Q When was it that you were hiding with your phone?

24 A It was dead but I couldn't even use it.

25 Q What day was this in reference to May the 8th that

1 you were hiding on your phone?

2 A The same day you said, May the 8th.

3 Q So May the 8th you were hiding on your phone?

4 A Yes.

5 Q Was that before Edwin showed up?

6 A No, not quite.

7 Q When was it?

8 A Before he died.

9 Q Okay, so before he died you were hiding on your
10 phone. What were you doing hiding on your phone? Explain
11 what that means to the jury because I don't understand.

12 A I was in the closet before I got arrested. I came
13 out the closet and then I fell asleep on the floor and
14 then that's when the deputies came.

15 Q Okay. So, you were, you were, when'd you get
16 arrested? You didn't get arrested on May 8th, did you?

17 A Yeah, at night.

18 Q So, you got arrested the night of May 8th, right?

19 A Yes.

20 Q Okay. So, when you were arrested on the night of May
21 8th, you were, you were hiding on the phone in that
22 closet, is that right?

23 A Yes, sir.

24 Q And then on May 8th right, right after you were
25 hiding on the, in the closet with your phone, you went out

1 by a bed, is that right?

2 A Yes, sir.

3 Q Okay. And we're talking about May 8th, which would
4 be Mother's Day, right?

5 A Yes, sir.

6 Q Okay. And you gave a statement to police that night
7 or the next morning, right?

8 A At night.

9 Q So it will be either May 8th or May 9th should be on
10 your statement, right?

11 A Yes, sir.

12 Q Okay. Alright. Now, when, when you first, when
13 Edwin first came in did you see Edwin come in?

14 A Yes.

15 Q Okay. Show me where you were at whenever you saw
16 Edwin come in. If you don't mind stepping back down here
17 and then put a one next to it, okay. Okay. That, that
18 cross, alright, I'm gonna step back. Okay. And I want
19 you to speak real loud whenever you answer this question,
20 but that X you put right there is where you're saying you
21 were when Edwin first walked in, right?

22 A Yes, sir.

23 Q Okay. Now, I want you to show me the door Edwin was,
24 came in at. I want you to put a circle around that door,
25 okay. Alright. Now during this time where was Fabian at?

1 Whenever Edwin first walked in the door. I want you to
2 put a F where Fabian was at. Letter F, okay. Alright.
3 So, the, the letter F is where Fabian was at, right?

4 A Yes, sir.

5 Q That's when Edwin first walked in the door, right?

6 A Yes, sir.

7 Q Where was Karina at when Edwin first walked in the
8 door? I want you to put a K there.

9 A She opened the door so she was right here.

10 THE COURT: Okay, you need to speak, speak up and
11 your answer you just gave, say it again loud so the jury
12 can hear.

13 A She opened the door so she was right there.

14 Q Okay. How long was it until Fabian came out of the
15 room or was Fabian even in the room? Was he in the
16 doorway or was he in the room?

17 A He was in the room.

18 Q He was in the room. How long was it that between the
19 time Edwin came in and the time Fabian came out of the
20 room?

21 A Twenty minutes.

22 Q Twenty minutes. So Edwin was there twenty minutes
23 before Fabian came out of the room, is that right?

24 A Yes, sir.

25 Q Alright. Now if you wouldn't mind going to sit back

1 down. What was going on during this twenty minute period?

2 A He was trying to leave but Karina wouldn't let him
3 leave. But instead she pushed him in the door where
4 Fabian was at.

5 Q Okay. How big is Karina?

6 A I mean --

7 Q She a big girl?

8 A No, she short, skinny.

9 Q She's short and skinny. About how big was Edwin?

10 A I know he was buff.

11 Q He was buff. Was he taller than you or shorter than
12 you?

13 A About the same height.

14 Q About your height and buff?

15 A Yes.

16 Q And for twenty minutes he was trying to leave and
17 Karina wouldn't let him, right?

18 A Yes, sir.

19 Q Okay. And during that twenty-minute period or for
20 that twenty-minute period, Karina pushed him back this
21 way, is that right?

22 A No, she pushed him right there.

23 Q Alright. I want you to, I want you to come down
24 here, I want you to put a big A, the letter A, put a big
25 letter A where the altercation or the fight took place.

1 There it is right there. Alright. Now if you wouldn't
2 mind sitting back down. So for that, that twenty-minute
3 period Edwin was trying to leave and Karina pushed him
4 back this way and that's where the fight took place,
5 right?

6 A Yes, sir.

7 Q And during this time period you're standing right
8 here, right?

9 A Yes, sir.

10 Q And you're watching all this take place, right?

11 A Yes, sir.

12 Q Okay. So, you're standing right there watching this
13 fight take place for about twenty minutes, is that right?

14 A Yes, sir.

15 Q Okay. What started this fight? Who was the first
16 person who hit somebody?

17 A Fabo.

18 Q You mean Fabian?

19 A Fabian.

20 Q Is that right?

21 A Yes, sir.

22 Q Okay. What was, how long did the fight itself last?
23 Was it a minute, five minutes, ten minutes, how long did
24 the fight itself last?

25 A I don't quite know, it happened so fast. I don't

1 know.

2 Q Okay. But during that twenty-minute period you're
3 saying that he was trying to get out.

4 A He had to go home.

5 Q She, he was trying to get out for that twenty minutes
6 and Karina was pushing him this way, right?

7 A Yes, sir.

8 Q So, was Karina, Karina was fighting him, right?

9 A Pushing.

10 Q Pushing him. Was he pushing Karina?

11 A He was trying to get out, but --

12 Q Did he hit Karina?

13 A No.

14 Q Okay. But he was, Karina was pushing him and he
15 never hit her, right?

16 A Yes, sir.

17 Q He never pushed her.

18 A She pushed him.

19 Q She pushed him for twenty minutes, but he never
20 pushed her back, right?

21 A No, sir.

22 Q Okay. So, and you saw all this, right? You were
23 standing right there watching all this, right?

24 A Yes, sir.

25 Q Is it fair to say that you were standing there from

1 the beginning, from the first blow that was thrown to the
2 last, right?

3 A Yes, sir.

4 Q And you saw everything for that twenty-minute period
5 that took place, right?

6 A Yes, sir.

7 Q Okay. So, after Edwin was killed, okay, you're
8 saying, well, first of all, what was he killed with?

9 A A hammer. Claw.

10 Q Where'd the, okay, a claw hammer. Okay. How do you
11 know it was a claw hammer?

12 A Cause I seen it.

13 Q Okay. Where'd he get the claw hammer from?

14 A I don't know.

15 Q Did he have it when he picked you up? Whenever he
16 picked you up in the Kia did he have a hammer with him?

17 A No.

18 Q Okay. When's the first time you saw the hammer? Was
19 it before or after Edwin got there?

20 A After he hit him with it I seen it.

21 Q Okay. And this bucket, when's the first time you saw
22 the bucket?

23 A Only once.

24 Q When was --

25 A Now I see it right there.

1 Q Okay. You only saw the bucket one time, and then
2 you're seeing it here today, right? When, when was it, in
3 the course of events that you saw the bucket for the first
4 time? Did they have it at the house or did they have it
5 where the body was burnt?

6 A They had it in the dumpster.

7 Q You, they had it in the dumpster. Which dumpster?

8 A Williams. Ms. Williams and Mr. Williams.

9 Q Okay. Where'd he get the dumpster, where'd he get
10 the bucket from?

11 A I don't know.

12 Q Okay. You're not sure where he got the bucket from?

13 A No, sir.

14 Q Now, during cross, I mean direct examination you said
15 he got the bucket from the trunk of Edwin's car, is that
16 right?

17 A Yes, sir.

18 Q But now you don't know where he got the bucket from?

19 A I ain't actually know where he get it from, from the
20 first part.

21 Q You didn't know the first time, but that's how you,
22 that's what came out during the direct examination that
23 you did know, right?

24 A Yes, sir.

25 Q Okay. But that wasn't exactly right, was it?

1 A No, sir.

2 Q Okay. So when you're at the scene where the body was
3 burned, did you actually see Fabian put lighter fluid on,
4 on the body?

5 A No, sir.

6 Q You didn't see that. Did you see lighter fluid at
7 all that day?

8 A No, sir.

9 Q You never saw lighter fluid that day?

10 A I seen it in the bucket.

11 Q You seen it in the bucket, but you never saw it that
12 day? When'd you see it in the bucket?

13 A When he had it.

14 Q When who had it?

15 A When he got rid of it.

16 Q So you didn't see it up until he got rid of it, he
17 being Fabian, is that what you're saying?

18 A Yes, sir.

19 Q Okay. How'd you get to the Williams' house from
20 where the body was burned?

21 A Walking.

22 Q Okay. Did he have a bucket in his hands?

23 A Yes, sir.

24 Q So Fabian had the bucket in his hands whenever he
25 walked from the scene?

1 A Yes, sir.

2 Q Where the body was burnt to the Williams' house, is
3 that right?

4 A Yes, sir.

5 Q Was there lighter fluid in the bucket?

6 A Yes, sir.

7 Q You sure you saw the lighter fluid in the bucket?

8 A Yes, sir.

9 Q What type of lighter fluid was it?

10 A A white and red top.

11 Q Okay. Was it like a spray lighter fluid?

12 A Yeah.

13 Q I want you to remember the best you can and tell me
14 everything that was inside that bucket.

15 A The knife, the lighter fluid, the hammer and that's
16 it.

17 Q The knife. What type of knife was it?

18 A A butcher's knife.

19 Q There was a butcher's knife in the bucket. Where did
20 the butcher's knife come from?

21 A I don't know.

22 Q When was the first time you ever saw the butcher's
23 knife?

24 A When I seen it in the bucket.

25 Q Okay. You never saw the butcher's knife till you saw

1 it in the bucket?

2 A Yeah.

3 Q Okay. Now, was the butcher's knife used for anything
4 that you saw personally?

5 A No.

6 Q Okay. Now, was, was there anything else other than
7 the butcher's knife, the lighter fluid and the hammer in
8 the bucket, are you absolutely sure of that?

9 A Yes.

10 Q There wasn't a wallet in there, was there?

11 A I ain't see that.

12 Q Okay. What happened to the bucket after, after,
13 after y'all left the Williams' house, what happened to it?

14 A It probably got dumped.

15 Q It got dumped?

16 A By a trash dump.

17 Q Okay. What happened to the stuff inside the bucket?

18 A I don't know.

19 Q You don't know what happened to the stuff inside the
20 bucket?

21 A No, sir.

22 Q Are you sure that there was only you and Davian out
23 there at the scene where the body got burnt?

24 A Repeat that again.

25 Q Are you that, excuse me, I, I got it wrong. Are you

1 sure it was only you and Fabian out there at the scene
2 where the body got burnt?

3 A Yes, sir.

4 Q Was there any other car out there?

5 A No, sir.

6 Q What happened after y'all left the Williams' house?
7 You left the Williams' house, you didn't stay there
8 obviously.

9 A Walk, catch a ride.

10 Q Where'd you walk to?

11 A Back road.

12 Q What back road?

13 A A dark back road, I don't know.

14 Q Okay. How'd you catch a ride?

15 A With somebody. Somebody strange that I don't even
16 know.

17 Q Okay. Did they know you? Did they know, or did they
18 know Fabian? Did it appear they knew Fabian?

19 A Maybe.

20 Q Maybe. Did y'all give them money to give you a ride?

21 A I think my brother tried to, but he didn't want it.

22 Q Describe the car. Was it a car or was it a truck?

23 A It is a car.

24 Q What kind of car was it?

25 A I don't know. It was like a type of Cadillac with

1 red and white.

2 Q Red and white?

3 A And it had rims.

4 Q Okay. A red and white car with rims. Were they red
5 rims, black rims, what color rims?

6 A I think red.

7 Q Red rims? Okay. Where'd you go after you, you,
8 where'd, where did the car drop you off, the Cadillac with
9 the red rims, where'd it drop you off?

10 A To the projects.

11 Q Okay. So, it took you to the projects, from there
12 what'd you do?

13 A We ate out and then afterwards I went home.

14 Q Where'd you eat out at?

15 A At my grandma's house.

16 Q Okay. So, you went to your grandmother's house at
17 the projects and then you went home after that?

18 A Yeah.

19 Q Did the, when you, when you left the projects how'd
20 you get to your home?

21 A Walking with the other boy.

22 Q Was Fabian with you?

23 A No, sir.

24 Q Did you ask anyone for a ride whenever you were at
25 the projects?

1 A No, sir.

2 Q You didn't ask for, you didn't try to go back to
3 Karina's house?

4 A No, sir. I take shortcuts.

5 Q Okay. And this is all stuff you told the police,
6 right?

7 A Yes, sir.

8 Q And you told them about the plan and excuse me, let
9 me back this up. On the night you were arrested you told
10 them about the plan, right?

11 A What happened.

12 Q No, I'm not asking what happened, I'm telling you,
13 you told them about the plan, right?

14 A Yes, sir.

15 Q You told them about the BB gun, right?

16 A Yes, sir.

17 Q You told them about the knife, right?

18 A Yes, sir.

19 Q And you told them about the, about the Cadillac with
20 the red rims, right?

21 A Yes, sir.

22 Q And you told them that you never tried to go back to
23 Karina's house, right?

24 A Yes, sir.

25 Q Okay. And they wrote a statement for you, right?

1 A Yes, sir.

2 Q Did they write more than one statement or was it only
3 one?

4 A It was only one.

5 Q Okay. Now Davian, I'm showing you what's been marked
6 as Defendant's Exhibit 1. I want you to look over that
7 and I want you to tell me whether that's the statement
8 that the police wrote down for you?

9 A Yes, sir.

10 Q Okay. So, that statement should contain a discussion
11 about the plan, right?

12 A Yes, sir.

13 Q And that statement should contain a discussion about
14 the BB gun, right?

15 A Yes, sir.

16 Q And that statement should contain a discussion about
17 the knife, right?

18 A Yes, sir.

19 Q And that statement should contain a discussion about
20 some red rims on a white and red Cadillac, right?

21 A Yes, sir.

22 Q Okay.

23 MR. SHAFFER: Like to offer this into evidence at
24 this time, Your Honor.

25 MR. MOWRY: No objection, Your Honor.

1 THE COURT: Alright. Without objection, be
2 Defendant's 1.

3 (Whereupon, Defendant's Exhibit 1 was admitted into
4 evidence.)

5 Q Alright. I want you, give me just one moment. I
6 want you to look through this statement and I want you to
7 find the spot that you talk about the plan and I want you
8 to read that part to the jury.

9 MR. MOWRY: Your Honor, I believe it's been asked and
10 answered already. He's asked him about that very issue
11 and --

12 THE COURT: Well, I, I think what was asked, if I
13 remember the question, should it be in the statement, the
14 witness says yes. So I think Mr. Shaffer's asking where
15 in the statement. So, I'll overrule your objection at
16 this time.

17 MR. MOWRY: Your Honor, I would ask that he simply
18 publish the statement rather than just pick at it and so
19 we can move on a little bit.

20 THE COURT: Well, this is cross-examination --

21 MR. MOWRY: I understand.

22 THE COURT: -- I'll let Mr. Shaffer conduct it in the
23 manner that he deems fit.

24 A I don't see it.

25 Q Okay. Did you see when you read over that statement

1 anything that talked about a knife or a BB gun or some red
2 rims and a white and red Cadillac. If you can point out
3 any of those, I'd like you to go ahead and do that for the
4 jury.

5 A No, sir.

6 Q That stuffs not in there, right?

7 A No, sir.

8 Q Now I want you to look at the second page, okay. And
9 what I want you to look at was, what'd, how'd you describe
10 that car to the police? That y'all got a ride with. The
11 Cadillac that was supposed to be white and red with red
12 rims. How'd you describe it?

13 A Because I caught a ride in it.

14 Q I want you to tell me what you, what is in your
15 statement, that's your signature, right? Is that your
16 signature?

17 A Yes, sir.

18 Q How'd you describe the car?

19 A Red and yellow.

20 Q What color rims?

21 A Silver rims.

22 Q And remember when I asked you if you ever asked
23 La'Toya that night for a ride and you said, no?

24 A Yes.

25 Q In your statement you said you asked La'Toya for a

1 ride, right?

2 A Yes, but I walked back.

3 Q Yeah, but you, you said from the cookout you, you
4 never asked La'Toya for a ride, but in your statement it
5 said you asked for a ride from La'Toya, right?

6 A Yes.

7 Q Is it safe to say you don't remember exactly what you
8 told police that night?

9 A Repeat that again.

10 Q Before, excuse me, I'll change the question. Before
11 walking up on, on this stand today, at the time you walked
12 up, did you remember everything that you told police?

13 A Yeah.

14 Q You did remember? Okay. And when I started asking
15 you questions about things about what you told police,
16 you, you're saying you told them all that stuff, right?

17 A Yes, sir.

18 Q Okay. The police just forgot to put it down, is that
19 right?

20 A Nah.

21 Q No, they didn't forget to put it down? But you said
22 that there was a plan in there. You said there was a
23 knife and there was a BB gun. And I'm not going to
24 belabor the point, but you said that, right? I, I'll move
25 on to something else, okay. You, do you remember when you

1 were locked up after being arrested, you were in jail for
2 a while, right? Would you call your family members on the
3 phone there at the jail, did you, did you?

4 A Yes, sir.

5 Q Okay. And when you talked to people on the phone at
6 the jail, it was being recorded, wasn't it?

7 A Yes, sir.

8 Q Now, isn't it true that you told your mom that you
9 and Fabian had nothing to do with it?

10 A Yes, sir.

11 Q Isn't it true that you told your grandmother that you
12 and Fabian had nothing to do with it?

13 A Yes, sir. I lied.

14 Q You lied to them. Okay. You lied to your family on
15 the jail phone, is that right?

16 A Yes.

17 Q Okay. But you're not, you didn't lie to the police,
18 right?

19 A No.

20 Q And you're not lying now, right?

21 A No.

22 Q You're not lying whenever you saying stuffs in that
23 statement that isn't there, right? You're not lying when
24 you say that Fabian has a sister, right?

25 A No.

1 Q It's not lying if you're confused, is it?

2 A Yeah.

3 Q It's still lying even if you're confused?

4 A Confused and frustrated.

5 Q Are you confused about what happened?

6 A Often, but I know the story.

7 Q Okay. You know the story because they rehearsed it,
8 right?

9 A Yes.

10 Q Thank you. No further questions.

11 THE COURT: Alright. Redirect, Solicitor?

12 REDIRECT EXAMINATION

13 By Mr. Mowry:

14 Q We talked with you about your statement, is that
15 right?

16 A Yes, sir.

17 Q Did we ever tell you what to say?

18 A Yes, sir.

19 Q What did we tell you to say? We told you to tell the
20 truth, isn't that right?

21 A Yes, sir.

22 Q Okay. Now, you've got this statement right here,
23 Defense Exhibit number 1. The police talked to you before
24 you gave them this statement, is that right?

25 A Yes, sir.

1 Q Alright. Let me show you this document. This is
2 State's Exhibit number 63 for identification. Do you
3 recognize that?

4 A Yes, sir.

5 Q Okay. What, what does that say? Can you read that?
6 Those big words right there.

7 A Advisement of rights.

8 Q Okay. And that tells you, you have a right to remain
9 silent and you got your initials out there, right?

10 A Yes, sir.

11 Q And you've got a right to an attorney and that
12 everything that you say can be used against you in court,
13 and you've, all those rights that were advised of you and
14 you've got your initials out there beside those, haven't
15 you?

16 A Yes, sir.

17 Q And that's your signature down there at the bottom?

18 A Yes, sir.

19 MR. MOWRY: I would offer this as a State's Exhibit
20 at this time, Your Honor.

21 THE COURT: Okay.

22 MR. SHAFFER: No objection, Your Honor.

23 THE COURT: Alright. Without objection, it'd be
24 number --

25 MR. MOWRY: 63 I believe.

1 THE COURT: 63 for the State into evidence.

2 (Whereupon, State's exhibit 63 was admitted into
3 evidence.)

4 Q Now, before you came to court you met several times
5 with me, right?

6 A Yes, sir.

7 Q And you met with Mr. Todd.

8 A Yes, sir.

9 Q And Mr. Bentley and?

10 A Yes, sir.

11 Q And Mr. Gambrell, right--

12 A Yes, sir.

13 Q And we were talking with you about your testimony in
14 court, right?

15 A Yes, sir.

16 Q What did we tell you we wanted you to do?

17 A Tell the truth.

18 Q Are you telling the truth today?

19 A Yes, sir.

20 Q Okay. Where was Edwin killed?

21 A At Karina's house.

22 Q Who killed him?

23 A Fabian.

24 Q Where did you take, you and Fabian take Edwin's body?

25 A The trailer park.

1 Q Okay. Is what you testified here today true?

2 A Yes, sir.

3 Q Let me ask you one other thing, you talked about
4 Fabian and his sister. Did Fabian introduce someone,
5 woman to you as his sister?

6 A Yes, sir.

7 Q Did you know whether or not that was his sister?

8 A I didn't know at that time.

9 Q And you were taking him at his word, is that right?

10 A Yes, sir.

11 Q Matter of fact you've been calling him your brother,
12 haven't you?

13 A Yes, sir.

14 Q He's really your cousin, isn't that right?

15 A Yes, sir.

16 Q Okay. Edwin, excuse me, Davian, you had talked to Mr.
17 Shaffer about wanting peace. What did you mean by that?

18 A Peace by showing everybody peace. By telling them
19 the truth.

20 Q And are you telling the truth today?

21 A Yes, sir.

22 Q Thank you, sir.

23 THE COURT: Recross?

24 RECROSS-EXAMINATION

25 By Mr. Shaffer:

1 Q You said the Solicitor told you what to say, right?

2 A Yes, sir.

3 Q Told you what your, your story said to the police,
4 right?

5 A Yes, sir.

6 Q Told you, you needed to testify in the same way as
7 that story, right?

8 A Yes, sir.

9 Q No further questions.

10 REDIRECT EXAMINATION

11 By Mr. Mowry:

12 Q Is that story the truth?

13 A Yes, sir.

14 Q And is that what I told you to say was the truth?

15 A Yes, sir.

16 Q No further questions.

17 THE COURT: Okay. Alright, you can step down sir.

18 Just keep, keep your seat for just a second. Ladies and
19 gentlemen of the jury, we're gonna take a short break.

20 I'm gonna talk with the lawyers to figure out what, if

21 anything, else we need to do today. So, if you would go

22 back to the jury room. Again, remind you no discussion

23 about this case and we'll get you back out shortly and

24 figure out how we're gonna go from here.

25 (Whereupon, the jury was excused from open court for

1 evening and ready to get back to work. It's my
2 understanding we'll have another pretty much full day
3 today. Solicitor, you ready to call your next witness,
4 sir?

5 MR. MOWRY: Yes, sir. We would call Mr. Willie
6 Williams.

7 THE COURT: Okay. Come around Mr. Williams.

8 WILLIE WILLIAMS, being
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Mowry:

12 Q You are Willie Williams?

13 A Yes, sir.

14 Q And Mr. Williams, where do you live?

15 A Clinton. [REDACTED] Clinton.

16 Q Okay. How old are you, sir?

17 A Right now, 57.

18 Q Okay. What kind of work do you do?

19 A Plaster work. Plaster.

20 Q Plaster work?

21 A Yeah.

22 Q Okay. How long have you lived on [REDACTED]

23 Just approximately.

24 A Like '86, '87.

25 Q Okay, so about thirty years then?

1 A Yeah.

2 Q Okay. Do you know the Defendant in this case, Fabian
3 Green?

4 A Not personally, but I know him.

5 Q You knew him to see him, is that right?

6 A Yes.

7 Q How do you know him?

8 A His aunt stay with us for a while, he just come and
9 visit her at our house.

10 Q Okay. So, his aunt used to stay --

11 THE COURT: Hold on Solicitor. You need to slow down
12 okay. You, you may be nervous, which is fine. You need
13 to speak as clear as you can and slow down because we have
14 a court reporter that needs to take down everything you
15 say. Okay, sir.

16 MR. WILLIAMS: Okay.

17 Q Okay. Say again --

18 A His aunt stayed with us.

19 Q Say it again.

20 A His aunt --

21 Q His aunt --

22 A Stayed --

23 Q -- stayed with y'all?

24 A Yes, sir.

25 Q Okay. And, and he would come to visit, I believe you

1 said.

2 A Yes, sir.

3 Q Okay. I want you to think back to May the 8th of
4 last year. You recall that was Mother's Day?

5 A Yes, sir.

6 Q What'd you been doing that day?

7 A Early that day I prepared Mother's Day dinner for my
8 wife and her daughter. I cooked out on the grill.

9 Q So, you grilled out and you made dinner?

10 A Yes, sir.

11 Q Okay. What else happened?

12 A I say about somewhere between 7:30, 8:00 o'clock, my
13 daughter wanted to go somewhere, but her car wouldn't
14 start.

15 Q Yes, sir.

16 A So we tried to find out what the problem was with her
17 car and I find out her battery was dead in her car. So I
18 started changing the battery in her car and found it was
19 dead. So her uncle gave her another battery. It wouldn't
20 fit. So I told her she had go get another battery.

21 Q And where did she have to go?

22 A She had to go to Walmart to get another battery.

23 Q Who took her there?

24 A Her uncle.

25 Q Okay. Is it your brother?

1 A No, my wife's brother.

2 Q Your brother-in-law?

3 A Yes.

4 Q Okay. So, he took her to the, the Walmart --

5 A Yes.

6 Q -- to get a new battery?

7 A Yes.

8 Q So about what time are we talking about now?

9 A I say by that time it was dark, so between 9:00,
10 9:30, between, let's say between 9:00 and 10:00.

11 Q Okay. But it was getting dark at that --

12 A It was dark.

13 Q Alright. What did you do in the meantime while your,
14 while your brother-in-law and your daughter were gone to
15 Walmart to get the battery?

16 A I was sitting there with my grandkids and talking to
17 my wife till they got back.

18 Q Okay. What did you see?

19 A By that time, we seen Fabian and his cousin walking
20 up the street.

21 Q When you say his cousin, are you talking about Davian
22 Holman?

23 A The guy that was on the jury yesterday.

24 Q Did you know him?

25 A You talking about --

1 Q Davian?

2 A No.

3 Q Were you in the courtroom yesterday afternoon?

4 A Yes, sir.

5 Q Was that the same individual you saw with Fabian
6 Green on May the 8th, 2016?

7 A Yes, sir.

8 Q Okay. What were they wearing, do you recall?

9 A I think they had a hood over their head. I think
10 Fabian's was gray and I think the other guy was red, but
11 they had hoods on.

12 Q Okay.

13 A And stuff.

14 Q Alright. Did they just walk by or did you have a
15 conversation with them?

16 A They came into the yard.

17 Q Alright.

18 A They walk into the yard.

19 Q What happened when they came into the yard?

20 A They spoke and he said, after a few minutes he asked
21 did we have any lighter fluid.

22 Q Say --

23 A Not like --

24 THE COURT: Mr. Williams, you need to slow down,

25 okay. Please. We got to hear and understand what you're

1 saying.

2 Q Sorry about this. Who was doing the talking?

3 A Fabian.

4 Q Did Davian say anything to you?

5 A Beside hey.

6 Q Okay. Was Fabian carrying anything?

7 A That bucket right there.

8 Q Let me show you State's Exhibit 62.

9 A Yes, sir.

10 Q Is this the bucket you're talking about?

11 A Yes, sir.

12 Q Okay. Do you know if it had anything in it?

13 A At the point in time he had it, I didn't know. But
14 when he got ready to leave, he dumped something in my
15 neighbor's trash can.

16 Q Okay. We'll get to that in just a minute. What did
17 Fabian say to you or ask you?

18 A For some lighter fluid or some alcohol.

19 Q He asked you for lighter fluid or alcohol? Okay.

20 A (Witness nods.)

21 COURT REPORTER: Is that a yes?

22 A Yes, ma'am.

23 Q Yeah, you have to, have to respond not just nod. Was
24 that kind of unusual for you to have somebody ask you for
25 lighter fluid or alcohol?

1 A Not the lighter fluid part, but alcohol yes.

2 Q Okay. But that was on the night of May 8th --

3 A Yes, sir.

4 Q -- 2016, Mother's Day?

5 A Yes, sir.

6 Q Alright. And you told him you didn't have any?

7 A Yes, sir.

8 Q Did he ask you anything else?

9 A No.

10 Q What happened then?

11 A They left.

12 Q Before they left did they do anything else?

13 A Fabian dumped that, what was in, in that bucket in my
14 neighbor's trash can, and he took the bucket with him and
15 they left.

16 Q Okay. Explain how that happened. Describe that if
17 you would.

18 A Explain --

19 Q Explain how he went over, where the, where the
20 neighbor was in relation to you.

21 A Okay, my next door --

22 Q All that stuff.

23 A Went to my neighbor's, trash can beside the road, he
24 grabbed the bucket, walked to the, her trash can, dumped
25 it in, took the bucket on with him on up the road.

1 Q Okay. Was this a next-door neighbor or --

2 A Yes, sir.

3 Q -- across the street neighbor?

4 A Next, next door neighbor.

5 Q Next door neighbor. And, and you saw him do that, is
6 that right?

7 A Yes, sir.

8 Q What did you do?

9 A After he got, I say down by the stop sign from my
10 house, I walked over to the trash can to see what he
11 dumped in there and I picked out a billfold. A black
12 billfold. It was kinda wet so I dropped it back inside
13 the trash can.

14 Q Okay. Were you able to see anything else?

15 A No, sir.

16 Q Okay. How full was the trash can, do you recall?

17 A About half.

18 Q Okay. Now, Mr. Williams,--

19 MR. MOWRY: I'm going to refer to State's Exhibit
20 number 45, Your Honor.

21 Q -- your house is at [REDACTED] that's right
22 there, is that right?

23 A Yes, sir.

24 Q Okay. Do you know where Taylor Drive is in, in
25 Clinton?

1 A Yes, sir. It's over in here.

2 Q Okay. How far from your house is that?

3 A Taylor Drive, I'd say about quarter mile, maybe three
4 or four blocks.

5 Q Okay. Not very far?

6 A No. No, sir.

7 Q Walking distance?

8 A Yes, sir.

9 Q Okay. And you say that you saw Davian Holman and
10 Fabian Green together sometime between 9:00 and 10:00 that
11 evening, is that right?

12 A Yes, sir.

13 Q Let me ask you this, you said that Fabian walked away
14 with this bucket, is that right?

15 A Yes, sir.

16 Q Did you see it again?

17 A Yes, sir.

18 Q When?

19 A Monday morning, I was on my way to work.

20 Q The following morning?

21 A Yes, sir. On my way to work and it was in a pathway
22 while going to work behind the convenience store.

23 Q Okay. Do you walk to work or --

24 A Yes, sir.

25 Q Okay. And you saw this bucket?

1 A Yes, sir.

2 Q And you recognized that bucket?

3 A Yes, sir.

4 Q Okay. Was that the direction that Davian and Fabian
5 left walking?

6 A Yes, sir.

7 Q Okay. What did you do with the bucket when you saw
8 it that morning?

9 A That morning I didn't do nothing to it.

10 Q Okay. What did you think about the bucket that time?

11 A I said if the bucket be there that afternoon when I
12 get off, I'm a take this bucket home with me.

13 Q Okay. And did you, in fact, do that?

14 A I got, came back through there about 4:30, 5:00
15 o'clock that afternoon, the bucket was still there and I
16 grabbed the bucket and took it home.

17 Q What were your, what was your intention to use it
18 for?

19 A The same thing my wife asked. She asked me what I'm
20 going to do with that bucket, I said we could use this
21 bucket as a mop bucket.

22 Q Okay.

23 A So, I sat it behind my house.

24 Q Alright. How did it come to court today? Did you
25 give it to somebody else?

1 A I say on a Friday, I can't remember exact date, a
2 Lieutenant Stiles or somebody came by the house and they
3 asked me about the bucket. And I told them it was behind
4 my house, exactly where it was.

5 Q Okay. And did you make a statement to law
6 enforcement at that time or soon thereafter.

7 A Not that, not that day. I called Lieutenant Stiles
8 that night when I got home from work. And she came by
9 that next day or so and she told me that she want to know
10 where I got the bucket from and told me to write a
11 statement.

12 Q Okay.

13 A Everything I done.

14 MR. MOWRY: Farrah, could I get you to stand up for a
15 second.

16 Q Did you also see this investigator?

17 A Yes, ma'am. Yes, sir. Excuse me.

18 Q And that's Farrah Cook and she was there to take a
19 statement from you as well, is that right?

20 A Yes, sir.

21 MR. MOWRY: Thank you, Your Honor. That's all I
22 have.

23 THE COURT: Okay.

24 MR. MOWRY: If you'd answer any of Mr. Shaffer's
25 questions, please, sir.

1 THE COURT: Cross-examination?

2 CROSS-EXAMINATION

3 By Mr. Shaffer:

4 Q You said that it was 9:30 or 10:00 o'clock at night?

5 A Yes, sir.

6 Q Okay. Are you sure it wasn't later?

7 A No, sir. It was between 9:30, 10:00. Between 9:00
8 and 10:00 that night.

9 Q Who else was there with you that night?

10 A Explain to me, explain what you talking about, who --

11 Q Well, excuse me, whenever Fabian and Davian came
12 walking up --

13 A Okay. Me, my wife and my grandkids was there.

14 Q Okay. Was anyone else with Fabian or Davian?

15 A No.

16 Q Did you see any car?

17 A No.

18 Q Did you see, so they walked to the house?

19 A Yes, sir.

20 Q Did you watch them walk down the street?

21 A When they left my, when they left my house or coming
22 up the street to my house? Which one?

23 Q Well either one. Did you watch them come, come to --

24 A I seen them walking up the street and I seen them
25 when they left my house.

1 Q Okay. Now, you, you mentioned alcohol, did they just
2 say alcohol?

3 A Yes. Yes, sir.

4 Q So, he said do you have any lighter fluid or some
5 alcohol?

6 A The conversation went like this, do y'all have any
7 lighter fluid. We said no. He said how about alcohol. I
8 said, alcohol? No, we don't have no alcohol.

9 Q Alright. Had you had alcohol, you probably wouldn't
10 of given it to a nineteen-year-old, would you?

11 A He wasn't hurt, so no.

12 Q He said alcohol, right?

13 A Yes, sir.

14 Q Did he say rubbing alcohol?

15 A He didn't say. The word was just alcohol.

16 Q Okay. He didn't say, he didn't say rubbing alcohol,
17 did he?

18 A The word was alcohol.

19 Q Okay. Nothing before that, nothing after it?

20 A Alcohol was the word.

21 Q Do you drink alcohol?

22 A Sometimes.

23 Q And you said that you didn't know him well, but you
24 knew him to see him, right?

25 A Yes, sir.

1 Q And actually, his aunt lived with you, correct?

2 A Yes, sir. She did.

3 Q Okay. How long did she live with you?

4 A About two months.

5 Q Okay. Is she somewhat related to y'all? Like an
6 in-law or something like that?

7 A She married my wife's brother.

8 Q Okay. So, she married, his aunt married your wife's
9 brother?

10 A Yes, sir.

11 Q Okay. So, she, he would come over there. Anytime
12 that he was over there do you ever recall drinking alcohol
13 near by him?

14 A You talking about me or him?

15 Q Yeah, you. You. He knows y'all drink. That's what
16 I'm asking, right?

17 A Yes.

18 Q Okay.

19 A But we wouldn't give a seventeen-year-old no alcohol.

20 Q Okay.

21 A If that is what you are referring to.

22 Q Now did you look in that trash can before or after?

23 A Explain it.

24 Q Or excuse me, you're right, that, that was a
25 confusing question. Before you're saying he dumped the

1 bucket, the contents of the bucket in the trash can,
2 before he did that, did you check what was in that trash
3 can beforehand?

4 A No sir, I did not.

5 Q Can you say definitively that that wallet came from
6 the bucket?

7 A The question you asking me is that was, was the
8 wallet already in the trash can before he dumped it, that
9 what you asking?

10 Q I'm, I'm asking did you go --

11 THE COURT: Mr. Williams, again, I remind you to
12 please slow down.

13 MR. WILLIAMS: Okay.

14 THE COURT: Speak as clear as you possibly can.

15 A So, I can't say definitely did it come out the
16 bucket, but there was a wallet in the trash can after he
17 dumped.

18 Q Okay.

19 A Okay.

20 Q You don't go dig through your neighbor's trash can on
21 a normal basis, do you?

22 A No.

23 Q Now I want you to demonstrate and I want you to
24 pretend, come down here and pretend this table is the
25 trash can. Well, what kind of trash can was it, was it a

1 big dumpster, was it a little like dumpster you take out
2 to the curb?

3 A Yes.

4 Q It's a household dumpster, right?

5 A Yes, sir.

6 Q If you wouldn't mind demonstrate what he did with the
7 bucket in the trash can. You can just act like this table
8 right here is a dumpster, and just demonstrate how he did
9 it.

10 A (Witness demonstrates for Mr. Shaffer.)

11 Q That is exactly what he did?

12 A Yes, sir.

13 Q Okay. At any point that night did you see a knife?

14 A No, sir.

15 Q At any point that night did you see lighter fluid?

16 A No, sir.

17 Q At any point that night did you see a hammer?

18 A No, sir.

19 Q Okay. So, you looked in the trash can afterwards,
20 you didn't see, you saw a billfold, but you didn't see
21 lighter fluid, a knife or a hammer in there?

22 A No, sir.

23 Q Okay. And you can't say for sure that that billfold
24 wasn't in there before he dumped stuff in there, right?

25 A No sir, I cannot.

1 Q Okay. And you're saying he walked away from the
2 house and you found the bucket the next morning, right?

3 A Yes, I saw the bucket the next morning.

4 Q You sure that he didn't, you didn't throw the bucket
5 away, he didn't throw the bucket in the trash can?

6 A No sir, he did not.

7 Q Did you tell anybody that he threw the bucket away in
8 the trash can? Did you tell your wife that?

9 A The bucket was not in the trash can.

10 Q Okay. Did you tell him that, that, you, you never
11 told Olivia that he threw the bucket in the trash can?

12 A It never was in the trash can, it was in the pathway.

13 Q Okay. Now, the first time you talked to police on
14 this case, they told you that they had already arrested
15 Davian, right? Would've been May the 30th, 2016, right?
16 Just over a year ago.

17 A Yes.

18 Q Okay. And they would've said Davian said he talked
19 to y'all that night and asked for lighter fluid, right?

20 A No, they didn't say that.

21 Q They never told you that Davian asked that?

22 A No, no. I told them about the lighter fluid.

23 Q Okay. How'd they approach you? What'd they ask?

24 A About the bucket.

25 Q No. Well, tell me what they asked about the bucket,

1 that's what I'm asking.

2 A They wanted to know how I came in contact with that
3 bucket.

4 Q Okay.

5 A And I told them.

6 Q So they said, cops just showed up one day and said
7 hey, how'd you get that bucket over there? They didn't
8 say did you talk to Davian one night? They didn't say,
9 did they?

10 A They didn't call no, they didn't call nobody name.

11 Q Okay.

12 A They --

13 Q Okay. They didn't mention anybody's name?

14 A No.

15 Q They just said there was a bucket there, how'd you
16 come in contact with the bucket?

17 A The question I asked them, how did they know that
18 Davian and what ya call it had been by our house.
19 Somebody said one of them, then had told them what they
20 had did that, that day, a killing. And they tell they had
21 came by our house and they followed up on that deal.

22 Q On May 30th, who did you talk to first, what officer?

23 A I talk to both officers.

24 Q Okay. Do you recall their names?

25 A Lieutenant Stiles and I think, sitting back there, I

1 can't remember her name. The officer back there in the
2 back I think.

3 Q Okay. Ms. Cook?

4 A Yes.

5 Q Okay. Did they talk to your wife before you?

6 A Yes, sir.

7 Q Did your wife talk to you before you talked to them?

8 A Not really because when they talked to my wife,
9 everyday about 12:00 I call my wife from lunch break and
10 they were there talking to her then. And I told my wife
11 let me talk to them, the Sheriff office that was there.

12 Q Okay. So, they were, they asked your wife, they,
13 they talked to your wife first, right?

14 A Yes. Cause she, my wife the one that told them about
15 the bucket and they wanted to know where I got the bucket
16 from and I had wanted to find out why they were there.

17 Q Okay. No further questions.

18 THE COURT: Okay. Anything in redirect, Solicitor?

19 MR. MOWRY: Just a few questions, Your Honor.

20 REDIRECT EXAMINATION

21 By Mr. Mowry:

22 Q Mr. Williams, I want to ask you about the lighting
23 that night, you said it was dark?

24 A Yes, sir.

25 Q What kind of lights did y'all have on?

1 A Our porch light.

2 Q Okay. Was that enough to light up inside the trash
3 dumpster next door?

4 A No, sir.

5 Q Okay. Let me show you an example, let's see if I can
6 find it real quick. Yeah. When you're talking about the
7 trash can, is that the kind of trash can you're talking
8 about.

9 MR. MOWRY: I'm referring to State's Exhibit number
10 17, Your Honor.

11 A Yes, sir.

12 Q This, this green --

13 A Yes, sir.

14 Q -- rolling can --

15 A Yes, sir.

16 Q -- that you lift the lid on? Good. So, could you
17 see inside very well?

18 A No, sir.

19 Q Okay. But you saw that billfold, and you say what
20 the heck is that doing in there.

21 A No, I reached my hand in there to see what it was and
22 I picked the billfold up.

23 Q Okay. What was its condition?

24 A The billfold?

25 Q Yes, sir.

1 A Kinda slimy wet looking.

2 Q Okay. What is y'all's trash pickup day?

3 A Monday.

4 Q Alright. So the next day the trash people came
5 around to empty that bin, is that right?

6 A About 4:00 o'clock in the morning, yes.

7 Q Okay. 4:00 o'clock in the morning?

8 A 4:00 o'clock in the morning.

9 Q Does that wake you up?

10 A Some mornings.

11 Q So anything that would've been in that dumpster
12 would've been gone at 4:00 o'clock in the morning on
13 Monday, is that right?

14 A Anything after 4:00 o'clock that morning, yes, it'd
15 been gone.

16 Q I gotcha. Thank you, sir, that's all.

17 THE COURT: Any recross?

18 RE CROSS-EXAMINATION

19 By Mr. Shaffer:

20 Q You're saying you actually touched the wallet?

21 A Yes sir, I picked it up.

22 Q Okay. Did, afterwards did you have anything red on
23 your hands like blood?

24 A I didn't pick it up though, I just picked the tip of
25 it up.

1 Q Did your finger have any blood on it afterwards?

2 A I didn't see none.

3 Q Okay. It was light enough for you to see the, the
4 billfold, right?

5 A No, I reach in there and picked it to the light.

6 Q How far down in the trash can or how full was the
7 trash can?

8 A Trash can about halfway. I just reached down in
9 there, picked up what I saw.

10 Q Okay.

11 A There was enough light to see what I seen inside,
12 picked that up.

13 Q Was the other trash in bags or was it in --

14 A No.

15 Q It was just trash in there?

16 A Yes.

17 Q That's all I have.

18 THE COURT: Okay.

19 MR. SHAFFER: Thank you, Your Honor.

20 THE COURT: Thank you, sir. You can step down. Next
21 witness Solicitor.

22 MR. MOWRY: Farrah Cook.

23 MR. SHAFFER: Your Honor, may we approach?

24 THE COURT: Sure.

25 (Whereupon, a bench conference was held in the

1 presence of the jury but out of the hearing of the
2 jury.)

3 THE COURT: Madam Forelady, excuse me, ladies and
4 gentlemen, we're gonna take a very short break. And Mr.
5 Shaffer needed to speak with a witness, so just go back to
6 the jury room, it shouldn't be long at all, we'll get you
7 back out and continue, continue forward.

8 (Whereupon, the jury was excused from open court for
9 a break.)

10 THE COURT: Okay.

11 MR. SHAFFER: Your Honor, my witness is subpoenaed
12 and she has to go to get medical, her medication. I had
13 actually thought she was going to be the Solicitor's
14 witness based off of yesterday afternoon, him saying --

15 THE COURT: Right.

16 MR. SHAFFER: -- But obviously I plan on calling her
17 as a witness to, for, for that reason. But Your Honor, I
18 do need, I'm going to need some sorta way to get her here.

19 THE COURT: Okay.

20 MR. SHAFFER: Because she doesn't, she was driven by
21 the Sheriff's Office for the State.

22 THE COURT: Okay.

23 MR. SHAFFER: And she's saying she has a medicine
24 that she has to take at a specific time, otherwise she's,
25 she has to take it before this afternoon, Your Honor. So,

1 she has to go home.

2 THE COURT: Right.

3 MR. SHAFFER: I told her to stick around, she said
4 she had to go home for the medication.

5 THE COURT: Okay.

6 MR. SHAFFER: I said I understand, you just gotta be
7 here. I would ask for some sort of assistance with
8 allowing her --

9 THE COURT: Sure.

10 MR. SHAFFER: -- to get here, other than me going to
11 go pick her up.

12 THE COURT: Sure. We can --

13 MR. MOWRY: Just for the record, Your Honor, candidly
14 we were going to call her yesterday afternoon.

15 THE COURT: Right.

16 MR. MOWRY: And, and be finished with both Williams.
17 Things took so long yesterday afternoon. I'm trying to,
18 to --

19 THE COURT: Right.

20 MR. MOWRY: -- move the case along. There is not
21 much that Mrs. Williams or frankly Mr., Mr. Williams could
22 testify to more. So I, I did not feel that we needed the
23 repetition.

24 THE COURT: Right. It, it's certainly your case to
25 call whatever witness that you want to call and likewise

1 for Mr. Shaffer. If you can just, when we get to the time
2 of when you put up your case, and I'm not sure if that's
3 gonna be today or in the morning, but just let us know,
4 and I'll certainly request assistance from the Sheriff's
5 Office to, to get her here.

6 MR. SHAFFER: Thank you, Your Honor.

7 THE COURT: But you, you just going to have to ask.

8 MR. SHAFFER: Yeah.

9 THE COURT: When we get closer to the time.

10 MR. SHAFFER: I certainly will, Your Honor.

11 THE COURT: Okay.

12 MR. SHAFFER: Thank you very much.

13 THE COURT: Alright. Okay, let's bring the jury out
14 please.

15 (Whereupon, the jury came into open court at
16 approximately 10:25 a.m.)

17 THE COURT: Alright, thank you, Mr. Bolt. Alright,
18 Solicitor if you'll call your next witness, please, sir.

19 MR. MOWRY: We call Farrah Cook.

20 FARRAH COOK, being
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Mowry:

24 Q You are Farrah Cook?

25 A Yes, sir.

1 Q And I believe you were a investigator with the
2 Laurens County Sheriff's Office, is that right?

3 A That's correct.

4 Q And what is your rank with the Sheriff's Office?

5 A I'm an investigator.

6 Q Were you employed in that capacity back in May of
7 2016?

8 A At that time, I was sergeant under the old
9 administration.

10 Q Right. Can you tell us what your involvement in the
11 case against Fabian Green is? How did you first become or
12 what, what were your first steps to be involved in this
13 case?

14 A The first steps to get involved in this case is when
15 we learned that the vehicle had been located on Taylor
16 Drive.

17 Q Okay.

18 A Responded to that location with other investigators
19 and deputies from Laurens County.

20 Q Alright.

21 THE COURT: You need some assistance, Solicitor?

22 MR. MOWRY: Always, Your Honor. If it's technical,
23 it's always.

24 Q Alright. This is Taylor Drive, is that right?

25 A That's correct.

1 Q Right at this area? Yes. Right in here.

2 A Right back there, yes.

3 Q Okay. And what did you see when you arrived at
4 Taylor Drive?

5 A When I arrived at Taylor Drive I observed the gray in
6 color Mustang. Also observed the remains of bones and a
7 burn area.

8 Q Alright. What time did you arrive there?

9 A On May 26th I arrived there approximately at 5:00
10 o'clock.

11 Q Okay. What time just roughly did SLED arrive?

12 A I'm unsure, sir.

13 Q Okay. Was it getting closer to dark though by the
14 time that SLED got there?

15 A It was starting to lose daylight. Surely by the time
16 they left --

17 Q Okay.

18 A -- it was definitely dark.

19 Q What kind of lights did y'all have to use to help
20 with the crime scene?

21 A I personally remember the fire truck having lights
22 out there.

23 Q Okay. Were there flashlights?

24 A And flashlights.

25 Q -- and things like that?

1 A Yes.

2 Q Was there any concern that y'all might of missed some
3 evidence?

4 A That is correct. We're using flashlights and other
5 lights. Many times, we do crime scenes we go back in the
6 daylight to look for additional evidence because you have
7 better lighting.

8 Q Okay. So, did you in fact go back to Taylor Drive the
9 next day?

10 A Yes, sir.

11 Q Who went with you?

12 A Lieutenant Judy Stiles.

13 Q Is she still employed with the Sheriff's Office?

14 A No, sir.

15 Q Okay. She left when the last administration did?

16 A That is correct, sir.

17 Q Okay. When you went back in better light what were
18 you able to see then?

19 A When we, on May 27th I observed a blue handle putty
20 style knife, a burned cell phone, a burned cell phone
21 battery, a piece of cloth that appeared to be bed, some
22 kind of bedding, a gray t-shirt that appeared to be burned
23 and a piece of cloth that appeared to be a towel and
24 something that appeared to be a burned comforter. It had
25 the little cotton on it.

1 Q Okay.

2 A And a artificial flower.

3 Q And what did you do with all those items?

4 A We collected each of those items for evidence.

5 Q And I believe this has already been admitted as
6 State's Exhibit number 50. What does that appear to be?

7 A This appears to be the burned cell phone.

8 Q Okay. And is that the item that we're talking about
9 there in State's Exhibit number 5? Does that appear to be
10 it?

11 A Yes, sir.

12 Q Okay. And you also said that you found a cell phone
13 battery, is that right?

14 A That is correct, sir.

15 Q Let me get a little violent with this and just rip it
16 open cause the tape is not cooperating at all. Take a
17 look in there and see if that also --

18 A Yes, sir.

19 Q And what is the State's Exhibit there, that red
20 sticker, number 50 --

21 A 51.

22 Q -- 1. So, 51 corresponds with the picture in number,
23 State's Exhibit 7, is that right?

24 A That is correct, sir.

25 Q And number 50, the cell phone.

1 A Yes.

2 Q Corresponds to State's Exhibit number 5, is that
3 right?

4 A Yes, sir.

5 Q What did you do with those items when you found them?

6 A We collected them and actually placed them in
7 evidence.

8 Q Okay. And did you place them in these bags?

9 A Yes, sir.

10 Q Is that you, Sergeant Cook, on this chain of custody?

11 A That is correct.

12 Q And is that you, Sergeant Cook, on that, on referring
13 to State's Exhibit number 51?

14 A That is correct.

15 Q You also said you found a couple of other items. Let
16 me show you State's Exhibit number, oh, I'm sorry, sorry.
17 Let me hand you what have now been marked for
18 identification as State's Exhibits 67 and 68. Can you
19 identify those?

20 A Yes, sir. This appears to be a piece of burned
21 bedding.

22 Q Does that correlate to the photographs, State's
23 Exhibit 10 that I'm showing right here?

24 A Yes, sir.

25 Q Okay.

1 A And this appears to be burned sheeting or comforter
2 as well, some type of bedding.

3 Q Okay. And that is State's Exhibit number 68, is that
4 right?

5 A Yes, sir, it's 68.

6 Q Alright. Does that correlate to the photograph I've
7 got on the screen right now, State's Exhibit number 10?

8 A Yes, sir.

9 Q Okay. You found or you collected both those items,
10 is that right?

11 A That is correct, sir.

12 Q Okay.

13 THE COURT: I thought you said, Solicitor, the 67
14 correlates with 10?

15 MR. MOWRY: Let's see.

16 Q Okay. So, 60, 67, 68 correlates with 10, is that
17 right? That's the comforter?

18 A Yeah. This is the comforter, 60, 68.

19 Q And 67 was what?

20 A 67 looks like a piece of burned comforter or bedding
21 as well.

22 Q Okay. But that's another piece of fabric that you
23 found out there, is that right?

24 A Yes, it's some type of bedding.

25 MR. MOWRY: And the comforter is number 68, Your

1 Honor. If I said differently I apologize.

2 Q So you collected those?

3 A Yes, sir.

4 Q And you put them into evidence, is that right?

5 A That is correct, sir.

6 Q Okay. What time of day was that?

7 A These items were collected at 11:21 according to the
8 time on the --

9 Q Okay.

10 A -- evidence bags.

11 Q Also that morning did you have a, an assignment to go
12 to [REDACTED] Queens Street in Laurens?

13 A On May 26th I had an assignment to go to --

14 Q Okay.

15 A -- Queens Circle.

16 Q Tell us about that.

17 A Investigator Blackmon and Cheeks sent myself and
18 Investigator Carter over to [REDACTED], [REDACTED] Queens Circle to make
19 contact with Karina Galarza. We went to the location,
20 knocked on the door for quite some time, didn't get an
21 answer. As we were about to leave Karina did come to the
22 door.

23 Q Gonna put up on the screen State's Exhibit number 15.
24 Is this the house y'all went to?

25 A That is correct, sir.

1 Q What did you say to Ms. Galarza?

2 A I asked her what was taking them so long to come to
3 the door because we had been there for a long time
4 knocking, myself and another officer. There was no way
5 they couldn't hear us.

6 Q Okay. While you were there did you see anybody else?

7 A Yes, sir, I did. Mr. Fabian Green exited a room from
8 the left as we were standing in the doorway. He was
9 standing there in some boxer shorts. Again, I asked the
10 question what was taking y'all so long and Mr. Fabian
11 Green --

12 MR. SHAFFER: Your Honor, may we approach?

13 THE COURT: Sure.

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

17 Q Without going into what he said.

18 A Yes, sir.

19 Q What was he wearing?

20 A Boxer shorts.

21 Q And where did he come from?

22 A It was, it was a room to the left and later, on the
23 27th, I learned that was a bedroom.

24 Q Okay. What else did you do with relation to this
25 case?

1 A On that particular day or the following day?

2 Q At any time.

3 A Okay. On that particular day, on the 26th, I just
4 remained there casually having conversation until
5 Lieutenant Cheeks and Blackmon arrived and they took over
6 the, that part.

7 Q Okay.

8 A On the 27th, like I said, I returned to Taylor Drive
9 and collected additional evidence. Also went and spoke to
10 Mrs. Olivia Williams at --

11 Q Let, let's stop there before you go on, oh okay, go
12 ahead, I'm sorry. Yes.

13 A Went and spoke to Mrs. Olivia Williams at [REDACTED]
14 [REDACTED] Some information had been gained and we needed to
15 go speak with them. At that time, I also spoke to her
16 husband by phone and he told us about a bucket and where
17 that bucket was located. I did collect that bucket as
18 evidence as well.

19 Q And was that bucket located behind the house?

20 A Yes, sir.

21 Q And let me show you State's Exhibit number 62 for
22 identification. Is that the bucket that you picked up?

23 A Yes, sir.

24 MR. MOWRY: I would offer it for, for State's
25 evidence at this time, Your Honor.

1 THE COURT: What says the defense?

2 MR. SHAFFER: No objection, Your Honor.

3 THE COURT: Alright. Without objection, what exhibit
4 number, Solicitor?

5 MR. MOWRY: 62, Your Honor.

6 THE COURT: 62 into evidence for the State.

7 (Whereupon, State's exhibit 62 was admitted into
8 evidence.)

9 Q Did you also go to Walden Court, oh, Walden Street?

10 A Yes, sir.

11 Q To, to speak with the Williams?

12 A That is correct.

13 Q And that's where you picked up the bucket?

14 A That is correct.

15 Q What is the distance? Did you clock it between
16 Taylor Drive where the car was located --

17 A Yes.

18 Q -- and the, the burned body and [REDACTED]

19 A It's a very short distance. Approximately about .6
20 miles.

21 Q Okay. What else did you do with regard to this case?

22 A After getting statements and collecting the bucket
23 from [REDACTED] Walden, went back to [REDACTED] Queens Circle where
24 Investigator Blackmon and Cheeks were at, along with SLED,
25 processing the home. While standing in the kitchen area,

1 just happened to glance over to my left, there was a
2 laundry room. In the laundry, I noticed a piece of
3 bedding that also matched the bedding that was at [REDACTED]
4 Taylor Drive and collected it.

5 Q So I'm referring to State's Exhibit 43. Is that the
6 photograph that you're talking about?

7 A Yes, sir.

8 Q Would you come down here and point to the fabric that
9 you saw that caught your attention?

10 A It would be this piece here.

11 Q Thank you, ma'am. I'm gonna hand you what's now been
12 marked as State's Exhibit number 69 and ask you if you
13 recognize that?

14 A Yes, sir. That would be the piece of bedding I
15 collected from [REDACTED] Queens Circle.

16 Q What's the similarity in your eye between the fabric
17 that you've got there from the burn site, numbers 50 and,
18 I, I'm sorry, numbers 68 and 67, as compared to number 69?

19 A It has the same color, same pattern, it looks very
20 identical.

21 Q So that's that, is that right?

22 A That is correct, sir.

23 Q And that's referring to State's Exhibit number 69.
24 Now let's take a look at number 68. Getting over the fact
25 that this was weathered and --

1 A Burnt.

2 Q -- burned --

3 MR. SHAFFER: May we approach?

4 THE COURT: Okay. Sure.

5 (Whereupon, a bench conference was held in the
6 presence of the jury but out of the hearing of the
7 jury.)

8 Q Ms. Cook, let me ask you this, you had seen this
9 burned fabric from State's Exhibit number 68 up close and
10 personal when you collected it, right?

11 A That is correct.

12 Q What caught your eye about this pillow case from the
13 laundry room at [REDACTED] Queens Circle?

14 A The purple, the butterfly kind of pattern caught my
15 eye.

16 Q Did that look like the same pattern to you?

17 A It did look like the same pattern.

18 Q In your untrained eye?

19 A Yes.

20 Q Or your eye as an investigator, I guess.

21 A Yes.

22 MR. SHAFFER: I renew my objection, Your Honor.

23 THE COURT: Okay. I understand, so noted. Is, have
24 you offered 69 into evidence?

25 MR. MOWRY: Oh, I, I will at this time, Your Honor.

1 THE COURT: Okay. And what says the defense?

2 MR. SHAFFER: No objection, Your Honor.

3 THE COURT: Okay. Alright. Without objection, 69
4 for the State.

5 (Whereupon, State's exhibit 69 was admitted into
6 evidence.)

7 Q So allow me to summarize if I can. You went to
8 Taylor Street on the evening of the 26th of May.

9 A Yes, sir.

10 Q This was the burn site?

11 A Yes, sir.

12 Q And you went back there on the morning of the 27th?

13 A That is correct.

14 Q You also went to Queens Circle on the evening of the
15 26th?

16 A Yes, sir.

17 Q And saw Mr. Green and Ms. Galarza.

18 A Yes, sir.

19 Q You went back to the burn site the morning of the
20 27th.

21 A That is correct, sir.

22 Q And you picked up the, the fragments of the fabric
23 that we're talking about here, the quilt and the sheet.

24 A Yes, sir.

25 Q You spoke with Mr. Williams on the, and was that on

1 the 27th?

2 A I spoke with Mr. Williams on the 27th by phone and
3 Mrs. Williams in person.

4 Q Okay. And, and received the bucket?

5 A That is correct.

6 Q And then later took statements from both of them, is
7 that right?

8 A That is correct.

9 Q And then on the 27th, also went with the State Law
10 Enforcement Division to [REDACTED] Queens Circle where you saw
11 this piece of bed clothing that you --

12 A That is correct.

13 Q And you took that into evidence.

14 A Yes, sir.

15 Q Okay. Thank you, ma'am. I believe that's all I
16 have.

17 THE COURT: Cross-examination, Mr. Shaffer?

18 MR. SHAFFER: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 By Mr. Shaffer:

21 Q Okay. So going back you had mentioned something, a
22 putty knife that you found on the 27th?

23 A That is correct, sir.

24 Q Okay. Was SLED out there with you on the 27th?

25 A No, sir.

1 Q Did SLED take the pictures in this case, or did you?

2 A I took pictures as well as SLED. I think SLED took
3 pictures on the 26th. I took pictures on the 27th.

4 Q Okay. And if we saw that picture of the putty knife
5 it wouldn't look like it was from artificial light, it
6 would've been during the daytime, right?

7 A That should be correct.

8 Q SLED didn't find the, the putty knife?

9 A They could've additionally found that putty knife,
10 they didn't collect it.

11 Q Okay. So, SLED may have found it on the 26th before
12 you found it on the 27th, right?

13 A That is correct.

14 Q And, the SLED investigation, the crime scene unit for
15 the State Law Enforcement Division probably didn't collect
16 it, right?

17 A That would be correct.

18 Q And do you recall searching the trunk of the Mustang?

19 A No sir, I did not.

20 Q You didn't look in the trunk on the Mustang?

21 A No sir, I did not.

22 Q Did you ever take a picture of the trunk of the
23 Mustang?

24 A No sir, I did not.

25 Q You never seen the trunk of the Mustang?

1 A No sir, I did not.

2 Q Okay. Who was the primary investigator on this case?

3 A Investigator Cheeks.

4 Q Has Investigator Cheeks, to your knowledge, testified
5 here today?

6 A No sir, he has not.

7 Q Is Investigator Cheeks in the courtroom here today?

8 A No sir, he is not.

9 Q Investigator Cheeks still works for the, still works
10 in law enforcement, right?

11 A He does. He does not work for Laurens County
12 Sheriff's Office as of the new administration.

13 Q Where does he work?

14 A Laurens City Police Department.

15 Q Okay. So, Laurens City Police Department he works
16 for. So, he still works in law enforcement in, are we in
17 the city or county right now?

18 A We're in the city.

19 Q So, he still works in law enforcement in the
20 jurisdiction that we're currently standing in right now,
21 right?

22 A Again, yes sir.

23 Q Okay. But he's not here today?

24 MR. MOWRY: Asked and answered, Your Honor.

25 Q Okay. I withdraw. Do you think Investigator Cheeks

1 looked in the, looked in the trunk of that car to the best
2 of your knowledge?

3 A Sir, I can't answer for Lieutenant Cheeks.

4 MR. MOWRY: Your Honor.

5 THE COURT: Okay. He, he can ask did she see
6 Investigator Cheeks look into the trunk, but don't ask for
7 speculation even though this is cross. But you may want
8 to rephrase your question.

9 Q Did you see the trunk of the Mustang open at any
10 point?

11 A No sir, I did not.

12 Q Okay. So were you out there the entire time SLED was
13 out there?

14 A Sir, I was out there not the entire time. When you
15 are in investigations, certain people are doing different
16 tasks. And I was given different tasks to go talk to
17 people standing along the way to see if they seen
18 anything, people that live nearby. So, no sir, I was not
19 standing right over SLED the entire time.

20 Q And one of those people that lived nearby was a guy
21 named Rodney K. Ginn, correct? And you spoke to him,
22 right?

23 A That is correct, sir.

24 Q Okay. And you took a statement from that man, right?

25 A Yes, sir.

1 Q And how far away from the burn site did he live?

2 A Not very far, sir. He lived on Guy Road which is the
3 road that leads to Taylor Drive.

4 Q Do you think it was feet or yards? I mean feet or
5 miles or how, how would you measure the distance?

6 A He probably lived a hundred feet plus.

7 Q Hundred feet or so from the burn site?

8 A A hundred yards plus, yeah. Feet.

9 Q Okay.

10 A Yeah.

11 Q He was in one of those trailers that is real close to
12 the burn site, right?

13 A At the beginning of Guy Street.

14 Q Okay.

15 A A little trailer park.

16 Q You mean the beginning of Taylor Road, right?

17 A The beginning of Guy.

18 Q Oh okay. So he didn't live on, you, you don't recall
19 him living on --

20 A He gave me an address of [REDACTED] I think
21 those trailers sits on Guy.

22 Q Okay. Now do they sit on the corner of Taylor and
23 Guy?

24 A That is correct.

25 Q There's three of them, right?

1 A That is correct.

2 Q Three white trailers right there?

3 A Can't tell you the colors.

4 Q Okay. Do you recall if he lived in the first one
5 from Captain Guy or the middle one or the last one?

6 A I'm not sure, sir.

7 Q Okay.

8 A He met me at my vehicle to give me the statement.

9 Q Okay. But you, you took a statement from him. Why
10 do you take statements from people who are witnesses at a
11 scene?

12 A Why do I?

13 Q Yeah.

14 A We take statements from anybody that'll give us one
15 so that we can compile information to give us leads.

16 Q Okay. And you, you're trained to take statements,
17 correct?

18 A That is correct.

19 Q Part of your training to take statements involves
20 getting detailed statements, correct?

21 A As detailed as the information they provide.

22 Q Okay. Now, this particular man, Mr., and I'm not
23 asking you what he said, but after speaking to Rodney Ginn
24 did you, well first of all, did you speak to anybody else
25 out there at the scene?

1 A I don't recall.

2 Q You don't recall speaking to anybody else?

3 A I do not.

4 Q Okay. If someone came up to you and said that they
5 didn't have anything to say, they don't know anything,
6 would you make them write it down?

7 A Unless I think they're involved. If I think they're
8 involved I would have them --

9 Q Okay.

10 A -- just indicate that they don't know anything.

11 Q But if it's some bystander who writes a statement
12 saying I don't know any, would you make them write
13 something saying I don't know anything or would you just
14 walk away from them and go to the next potential witness.

15 A Just walk away and go to the next potential person.

16 Q But this particular person you obviously took a
17 statement from, correct?

18 A Apparently this individual, Rodney Ginn, had already
19 spoken to Investigator Cheek. Cheek, with being the lead
20 investigator was busy. He asked me to assist him in a
21 statement because this individual told him he could not
22 write.

23 Q Okay. Investigator Cheek, the individual who was, is
24 not here, but who wrote it for him? Who, did you
25 particularly write it or did --

1 A I, myself, wrote the statement for Mr. Ginn because
2 he told me he could not write.

3 Q Okay. You would of wrote down details, right?

4 A Wrote down everything he told me.

5 Q Okay. And you wouldn't of lied on that statement,
6 right?

7 A No, sir.

8 Q Wouldn't of been anything different than what he told
9 you, correct?

10 A I wrote down everything he told me.

11 Q Afterwards you got him to sign it, correct?

12 A That is correct, sir.

13 Q Did you read it to him before he signed it?

14 A Yes, sir.

15 MR. SHAFFER: I'm having something marked. Defense
16 Exhibit 2 for identification purposes right now.

17 THE COURT: Okay.

18 MR. SHAFFER: I'm not going into content, Your Honor.

19 THE COURT: Okay.

20 MR. MOWRY: And that was going to, by my --

21 THE COURT: Okay. Alright.

22 MR. MOWRY: -- statement, Your Honor.

23 THE COURT: Okay.

24 MR. MOWRY: That would be complete hearsay.

25 MR. SHAFFER: Well, and it's so that later on

1 whenever Mr. Ginn hopefully shows up I can --

2 THE COURT: Okay.

3 MR. SHAFFER: -- put it in front of him and make sure
4 he knows it.

5 THE COURT: Sure. Sure. So, you just going to get
6 this witness to authenticate --

7 MR. SHAFFER: Yes, Your Honor.

8 THE COURT: -- the statement? Okay.

9 MR. SHAFFER: I apologize to the court reporter for
10 trying to talk whenever she's trying to write.

11 (Whereupon, Defendant's Exhibit 2 was marked for
12 identification only.)

13 THE COURT: Well, I think I did the same thing.

14 Q I'm showing you what's been marked Defendant's
15 Exhibit 2 for the purposes of identification. Does that
16 appear to be the statement that, that you wrote for --

17 A That is correct, sir. That's my handwriting.

18 Q Okay. So you wrote that statement for Mr. Ginn,
19 right?

20 A Mr., Mr. Ginn.

21 Q Okay.

22 A And as you can tell, he indicated he cannot write.

23 Q Okay. And that statement's true to the best of your
24 knowledge or excuse me, this is a true and original copy
25 of that statement to the best of your knowledge, right?

1 A Yes, that's the information Mr. Rodney Ginn provided
2 to me on that date.

3 Q Okay. Thank you very much. So, you never looked in
4 the trunk of that car, right?

5 A Again, sir, I never looked in the trunk of that
6 vehicle.

7 Q Did you obtain or secure any other putty knives other
8 than the one you mentioned that you obtained from the burn
9 pile?

10 A No, sir.

11 Q You did not obtain seven putty knives and you didn't
12 put those into evidence at any point that match --

13 A Only one putty knife, sir.

14 Q Okay. You never put a golf club into evidence?

15 A Not in this case.

16 Q Okay. No further questions at this time.

17 THE COURT: Redirect, Solicitor?

18 MR. MOWRY: Just one question, Your Honor.

19 REDIRECT EXAMINATION

20 By Mr. Mowry:

21 Q With regard to the statement from Mr. Ginn, was there
22 any follow-up investigation?

23 A We did look into that. Some of the information that
24 he provided to us.

25 MR. SHAFFER: Your Honor, may we approach?

1 THE COURT: Okay.

2 (Whereupon, a bench conference was held in the
3 presence of the jury but out of the hearing of the
4 jury.)

5 THE COURT: Madam Forelady, and ladies and gentlemen
6 of the jury, I have a legal matter that I'm gonna need to
7 discuss with the lawyers. So, if you'll go back to the
8 jury room. Hopefully we can get you back out soon.

9 (Whereupon, the jury was excused from open court.)

10 THE COURT: Okay. Solicitor, you were asking
11 Investigator Cook about some follow-up investigation.

12 MR. MOWRY: I asked was, was there any subsequent
13 investigation regarding this statement.

14 THE COURT: Okay. Let me just hear in-camera. So,
15 let me hear exactly what Mr. Shaffer may be objecting to.
16 And, so if you'll examine Investigator Cook.

17 MR. SHAFFER: Your Honor, Oh, I, I, you want him to
18 examine?

19 THE COURT: Yeah. I, I want to know exactly what,
20 what is there that you are objecting to.

21 MR. SHAFFER: Okay.

22 THE COURT: So, let's, if you'll examine her.

23 Q Mr. Shaffer asked you about the statement with, with
24 Rodney Ginn, you took the statement, was there any
25 subsequent investigation?

1 next witness?

2 MR. MOWRY: Yes, sir, Your Honor. We recall Ben
3 Blackmon for a few matters.

4 BEN BLACKMON, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Mowry:

8 Q Lieutenant Blackmon, I wanted to ask you about the
9 taking of the statement from Davian Holman. Were you
10 involved in that process?

11 A Yes, sir.

12 Q Okay. Let me show you what has been admitted as
13 State's or Defendant's Exhibit number 1. You recognize
14 that?

15 A That's correct, sir. I do recognize it.

16 Q And what is that, sir?

17 A This is a typed statement of Davian Holman.
18 Witnessed by myself, Investigator Cheek and signed by Mr.
19 Holman.

20 Q Describe the process that took us from the
21 apprehension of Mr. Holman through the taking of this
22 statement.

23 A Yes, sir. On the evening that we discovered Mr.
24 Holman was indeed a suspect as well in this investigation,
25 officers went to his residence and could not locate him

1 there. Myself and other officers went back to [REDACTED] Queens
2 Circle where we asked permission to look through the home
3 from the homeowner and we were allowed to look. At that
4 time, being that we were looking for a murder suspect, we
5 took the precaution of clearing the residence. And when I
6 walked into a bedroom of the home, and rounded, right at
7 the edge of the bed I did see parts; part of Mr. Holman's
8 head sticking out from under the bed. I flipped on a
9 flashlight and instructed him to let me see his hands, be
10 still. And upon hearing that officers did enter the room
11 with their weapons at what we would consider low ready.

12 Q So holding their weapons in this fashion as I've got
13 my hands, is that right?

14 A Pretty close to that, sir. At that point, I
15 handcuffed Mr. Holman, we patted him down to make sure he
16 didn't have any weapons on him. And took him back to the
17 Sheriff's Office where, at the time we did not have an
18 interview room, per se, as you may describe it, we do now.
19 At the time, we used our personal office space as
20 interview rooms and mine had someone in it with another
21 officer, as I share an office. So, I used my supervisor's
22 office. There were, my supervisor, former supervisor.

23 Q Is that Stephan Williams?

24 A Yes, sir. That's Captain Williams and Lieutenant
25 Stiles who I believe were working on a press release for.

1 this particular arrest. And in that room, there's a
2 briefing table or conference table about the size of the
3 one in front of the bench. And we utilized it to speak
4 with Mr. Holman, myself and Investigator Cheek. So, there
5 were approximately five people in the room, Captain
6 Williams, Lieutenant Stiles, myself, Investigator Cheek
7 and Mr. Holman. I sat with Mr. Holman on one side of the
8 desk just in an open space, but with it, it didn't take me
9 very long to understand in speaking with him, you had to
10 be very deliberate, articulate and, and at a slower pace
11 than maybe you or I speak to each other. After he
12 explained what happened, I borrowed the computer of my
13 former supervisor and typed his statement as he told it to
14 me.

15 Q Did you make up the words as you went along?

16 A No, sir. He spoke to me, and I, and I can type
17 somewhere in the neighborhood between fifty and sixty-five
18 words a minute. And Mr. Holman spoke slow enough for me
19 to keep up with him. And after, after we went over it, we
20 printed it, went over it together and he did agree that
21 those were his words. And signed that document which I do
22 believe Investigator Cheek and, you know, I observed him
23 offer him a copy of it and I believe Mr. Holman did not
24 want to take it to the detention center with him --

25 Q Okay.

1 A -- which is a separate building from the Sheriff's
2 Office.

3 Q Is there a Reid employed by the Sheriff's Office?

4 A To my knowledge, I did not know it at that time, but
5 as of now I do know that there is or has been an Officer
6 Reid that's employed at the Johnson Detention Center.

7 Q Okay. Now, where is the Sheriff's Office located?

8 A At 216 West Main Street here in the City of Laurens
9 not far from the Court House here.

10 Q Where is the Johnson Detention Center?

11 A On Templeton Road near the hospital off of 76 if, if
12 you're familiar.

13 Q So it's closer to Clinton than it is to here?

14 A That's fair, yes sir.

15 Q Yes, sir. The Sheriff's Office is not the jail
16 though, is that right?

17 A That's correct.

18 Q Okay.

19 A That's correct.

20 Q When you were taking the statement from Mr. Holman,
21 were any kind of threats made to him?

22 A No, sir. Mr. Holman was shaken up after we spoke
23 with him and told him that we had spoken with the others.
24 And that you know, you know, advised him of his rights and
25 then, and that he was indeed going to be arrested whether

1 he spoke with us or not, but it was up to him to tell us
2 his story.

3 Q Were any kind of promises made?

4 A No, sir.

5 Q And did you give him the option of talking to you or
6 not?

7 A Yes, sir. We told him, I believe as, as he put it,
8 that, that he was going to go to jail whether he spoke
9 with us or not. And if he did not want to talk he could
10 go ahead to, to be transported to the detention center.

11 Q Okay. What was the tone that, who else was involved
12 in this?

13 A Myself, Investigator Cheek and also my supervisor and
14 our former press information lieutenant was in the room.

15 Q That's Lieutenant Stiles?

16 A Yes, sir. They were actually preparing documents for
17 press release, stuff like that when I entered with Mr.
18 Holman knowing that, that my office was --

19 Q Right.

20 A -- occupied at the moment.

21 Q Right. But it was you and Lieutenant Cheek that were
22 the ones that were taking the statement from him, is that
23 right?

24 A Primarily. I believe the other officers did speak to
25 him, you know, once, well, we were in there just, you

1 know, just hello kinda greetings.

2 Q Right.

3 A You know, things like that.

4 Q Did, did your tone of voice ever get raised?

5 A No, sir. It, it was, to be honest, a lot softer than
6 maybe it is here understanding that within a few minutes,
7 that Mr. Holman communicates in a slower, lower tone. You
8 try to accommodate them, individual you're speaking with,
9 to, to obtain facts. That's, that's the whole point of
10 taking a statement, is just obtain the truth and the fact
11 of the matter no matter what it is.

12 Q Okay. But no threats, right?

13 A No, no, none whatsoever.

14 Q No promises?

15 A No, sir.

16 Q No hope of reward?

17 A No, sir.

18 Q Okay. Let me ask one other question, you were
19 present at the scene at, on Taylor?

20 A That's correct.

21 Q On the 26th, the evening of the 26th, is that right?

22 A Yes. That's correct, sir.

23 Q Mr. Shaffer asked about the trunk of the Mustang.

24 A That's correct.

25 Q Did you see anything done with the trunk of the

1 Mustang that evening?

2 A If I recall I do believe it, an entry was gained into
3 the trunk of the Mustang.

4 Q Okay. Were you able to see it at all?

5 A I believe I did look over in it. However, we did not
6 stay until the vehicle was towed away and the, the State
7 police agents left, as we did go to [REDACTED] Queens Circle to
8 catch up with Investigator Cook.

9 Q Okay. Was there anything of evidentiary value that
10 you were aware of in that trunk?

11 A As far as evidentiary value, at this time I'm not
12 aware of any of it being of any evidentiary value. There
13 were items in it.

14 Q Okay. Thank you, sir. That's all I have.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 By Mr. Shaffer:

18 Q You said the, what you tried to do is accommodate a
19 witness the best you can to get them, get as much
20 information as possible, is that correct?

21 A To get as much information as they recall it, as they
22 tell us. Yes, sir.

23 Q Alright. And you try to be as detailed as possible,
24 correct?

25 A We try to be as detailed as they, as the person

1 you're interviewing allows you to be. As much detail as
2 they give you.

3 Q You write down every detail that they give, right?

4 A During the time of a statement, if I have to ask them
5 to stop, I will get to the end of a sentence and stop them
6 again very briefly. But this is the words in which they
7 offer it to you.

8 Q Okay. How long did you question him for?

9 A I don't exactly remember the timeframe, as it was
10 early morning hours. We, we had all started this in,
11 around just before 5:00 p.m. And we picked him up, it
12 seemed like maybe in the 4:00 o'clock hour, somewhere
13 around in there, late 3:00 o'clock hour, transported him
14 to the office, spoke with him and then sat down to type
15 the statement. So, it may have been anywhere from one to
16 two hours.

17 Q So did he ever say anything other than what's in that
18 statement?

19 A The only thing he --

20 Q I'm talking about --

21 A -- made a record of is, is the information in the
22 statement.

23 Q Okay.

24 A To us.

25 Q So he, so you sat down and he basically, you said

1 what happened, and basically, he gave y'all that. Is that
2 right?

3 A Yes, sir. We explained to him that, that he didn't
4 have to talk to us. That we had spoken to other
5 individuals in the case. And that, you know, if, if he
6 had anything he needed to offer us information wise we'd
7 be glad to listen to him.

8 Q So --

9 A He then began to explain, we verbally went over the
10 story which took a little while, just based on his speed
11 of communication. And then we turned to the, to the, to
12 the computer and typed as he spoke which if he got ahead
13 of me, I stopped him. I'm not near as expedient as a
14 court reporter, but in the same style where if I do need
15 an individual to slow down while I'm typing, I'll stop
16 them and catch back up. And we'll go through it together
17 and given the circumstance I wanted to be as detailed as
18 he was able to be.

19 Q Now, if he would've, he would've told you something
20 additional to that, you would've put it down, right?

21 A That's correct.

22 Q Let me get this straight, about 3:00 a.m. in the
23 morning you go to the Queens Street address and at that
24 point you find him there and you place him under arrest,
25 correct?

1 A There in the approximate hour between 3:00 a.m. and
2 4:00 a.m. I would approximate those times, so.

3 Q And he's laying on the floor and you had a
4 flashlight, correct?

5 A Yes, sir.

6 Q And several officers came in with their guns down,
7 correct?

8 A I believe just one more because the room was small.

9 Q Okay. So --

10 A There wasn't a lot of room for many people at all.

11 Q Okay.

12 A On the placement of the bed --

13 Q And --

14 A -- I was on the corner of the bed.

15 Q At that point you say to him something like, we have
16 an arrest warrant for you, we're putting you on, in jail,
17 right?

18 A It was more along of hey, don't move, show me your
19 hands, police. You know, more of the, the common short
20 phrases.

21 Q Okay.

22 A And then as he, he was obviously asleep and he was
23 very afraid. Upon the other officers hearing my
24 announcement of hey, let me see your hands, don't move,
25 police officer, whatever, other officers entered not

1 knowing, you know, what, what I encountered. And he did
2 comply.

3 Q But you took him back to the jail, you served him
4 with a warrant and you, you question him and placed him in
5 custody, right?

6 A Not exactly in that order. We didn't take him to
7 jail until later.

8 Q Okay.

9 A The Sheriff's Office is a different facility than,
10 than the Detention Center.

11 Q Okay.

12 A We took him to the Sheriff's Office where we have
13 room to speak with him. We have our computer equipment,
14 et cetera, there. The jail is a, just basically for
15 holding. Once you've interviewed them you transport them
16 to the Detention Center.

17 Q Okay. So, I guess my question is, where was he,
18 where was he served with a warrant?

19 A At the Detention Center after --

20 Q At the Detention Center?

21 A -- after it was obtained by a Magistrate.

22 Q Okay.

23 A And at that point he was served and booked too. All
24 the same process.

25 Q Who transported him from the Queens Street address to

1 the Detention Center, I mean to the Sheriff's Office?

2 A I believe myself and Investigator Cheek, unless
3 another officer did. I don't remember from Queens Street
4 to, to the Sheriff's Office. I believe it was us because
5 there were probably two cars there. May of used a marked
6 patrol car with a cage, you know, just for safety
7 purposes. He, he didn't give us any indication that he'd
8 be aggressive toward us. So I don't recall him, whether
9 he rode in a marked police car or, or one of our
10 investigations vehicles. From, from the, the Sheriff's
11 Office, he did provide us this statement. At that point,
12 we were going to transport him to the, to the Detention
13 Center from there. He offered to take us to the residence
14 on Walden Street where the bucket and other items were
15 located. And myself and Investigator Cheek took him to
16 that area starting at Taylor Drive, asking where he walked
17 to and he just basically made hand motions saying to turn
18 here, turn right, turn left. And he did take a, a little
19 longer route than maybe I would've. But he got us to, to
20 that residence and said it was that trash can. And I
21 believe Investigator Cheek knocked on the door and no one
22 answered at that time. And being that we had Mr. Holman
23 in the vehicle with us, we transported him on to the
24 Detention Center and sent Investigator Cook and Lieutenant
25 Stiles back to that residence to handle the follow-up. We

1 didn't want to, you know, be very long with Mr. Holman in
2 the vehicle.

3 Q Okay. As soon as you got, so you weren't, I guess my
4 question was, you, you don't know if you were with him
5 from the time he left Queens Street to the time you
6 started questioning him at the Sheriff's Office, correct?

7 A I don't recall if he was transported by a marked unit
8 or another marked unit.

9 Q Okay. And you don't, you wouldn't recall who, who
10 that would be, who did transport him, who was with him,
11 correct?

12 A I don't recall.

13 Q And you said you did recall that, that you spoke to
14 him and you figured out pretty quick you had to be
15 deliberate and articulate with him. What do you mean by
16 deliberate and articulate?

17 A You had to ask him exactly the answer you wanted.
18 Whether it be hey, how are you. You may tell me, you
19 know, doing pretty good, but I ran a red light by accident
20 this morning, and go through a whole series of events,
21 where Mr. Holman will tell you I'm fine. He will give you
22 a direct and concise answer. You know after asking him
23 what happened to the victim in the case, he began to
24 describe those incidents and he was visibly shaken and
25 appeared startled or shook up about the whole, the whole

1 incident that took place that night.

2 Q So you never bothered to, you never said to him, you
3 never said to him we have evidence against you and you're
4 going away for the rest of your life?

5 A No, sir.

6 Q You never said --

7 A At that point, we did tell him he was under, he was
8 going to be charged, he was going to jail, just as he
9 testified that, that he, he was told, he, he was going to
10 jail. Whether he spoke with us or not was his option, but
11 to not let anybody else tell his story.

12 Q So you said, don't let anyone else tell your story,
13 correct.

14 A That is correct.

15 Q Did you ever tell him that some of these other people
16 may very well get up and tell your story for you?

17 A I don't know if it was exact words as that. We did
18 say that we'd spoken to others involved in the case.

19 Q And you implied that they might tell his story for
20 him, correct?

21 A If you, to paraphrase it, I don't remember the exact
22 wording, but along those lines I believe every witness,
23 suspect, victim, individual involved in a case has the
24 right to express their version of events.

25 Q And you said, you better get out in front of this

1 thing, correct?

2 A I don't recall that.

3 Q You didn't say anything like that?

4 A Specific statement just that he needed to tell us his
5 version of events. I'm not sure if Investigator Cheeks
6 said anything just like you said or paraphrase that, I, I
7 don't recall that.

8 Q Now you said you saw the trunk of the car open, we'll
9 go to a different topic. You, you said you saw the trunk
10 of the Mustang opened and they collected things. Did you
11 see inside that trunk a golf club?

12 A I do recall items in there. I, I would have to see
13 an evidence log-in sheet or something like that to refresh
14 my memory on it.

15 Q If I showed you some pictures do you think it would
16 refresh your memory on it?

17 A It would, definitely would. That's the photograph of
18 a golf club, I'm not sure without --

19 Q Well --

20 A -- seeing from the, the whole car or not if that's
21 the Mustang in question, or just a golf club picture. But
22 that is a picture of a golf club.

23 Q And I'm not asking you particularly what's in the
24 picture, okay. What I'm gonna ask you is, because I'm
25 not, I don't have a print off of the picture to admit.

1 But what I'm asking you is, does this refresh your
2 recollection as to whether there was a golf club in the
3 back of that Mustang?

4 A The photograph you're showing me, I'm --

5 Q That wouldn't refresh your recollection?

6 A I'm not sure without seeing an exterior photograph of
7 the car. You're showing me --

8 MR. MOWRY: Your Honor.

9 A -- photographs of a golf club.

10 MR. MOWRY: At this point --

11 THE COURT: Wait a minute.

12 Q I'm not.

13 THE COURT: Whoa, whoa, whoa, --

14 MR. MOWRY: I'm gonna object --

15 THE COURT: Wait a minute.

16 MR. MOWRY: I'm sorry.

17 THE COURT: I want everybody to be careful. Don't
18 talk over each other. And when I say, whoa, then I want
19 everybody quiet, okay. Now, do I have an objection,
20 Solicitor?

21 MR. MOWRY: Yes sir, Your Honor. Special Agent
22 Matthews from SLED was here, testified twice, he would've
23 been the, the perfect person to ask about this. No
24 questions were asked. And I, I would submit that this
25 line of questioning is improper. He should've done it

1 earlier.

2 THE COURT: Okay.

3 MR. SHAFFER: There's no rule saying that, Your
4 Honor.

5 THE COURT: Alright. Mr. Shaffer can ask Lieutenant
6 Blackmon if he recalls what was in the trunk. If he has
7 some pictures to maybe assist in refreshing recollection,
8 he, he can certainly do that even though maybe another
9 witness would've been better to explore this with. He can
10 ask it, okay. You may proceed.

11 Q Now, I'm going to, I'm going to show you a couple of
12 pictures, okay. I'm going to show you several pictures to
13 flip through. I'm not asking you to tell me what's in
14 these pictures, okay. What I'm asking you to do is to
15 tell me whether these pictures, by looking through it,
16 refreshes your recollection as to whether there was a golf
17 club in the trunk of the Mustang. If you wouldn't mind,
18 just flip through starting at this point, and flip through
19 them first. And just click it with the mouse. I am not
20 fancy enough to get the touch screen.

21 A Alright.

22 Q Now, do any of those pictures refresh your
23 recollection as to whether there was a golf club in the
24 trunk of the Mustang?

25 A I still don't feel comfortable testifying one-hundred

1 percent that I remember a golf club or, I mean I knew
2 there were other items in there. Those photographs look
3 familiar. However, we do have the whole vehicle at our
4 impound as, as the whole car with contents were collected
5 at once. And there should be a record of what was in the
6 trunk.

7 Q Who will be responsible for taking care of that
8 record, would it be Investigator Cheeks?

9 A No, sir. It would be, it would fall under the
10 evidence custodian of the Laurens County Sheriff's Office.

11 Q Okay. Now, I'm asking you a different question, did
12 any of those pictures that you saw refresh your
13 recollection as to whether there were putty knives found
14 in the trunk of the car?

15 A I knew there were putty knives found on scene. Now
16 whether they were in the trunk or out on the ground, you
17 may have to refer back to the crime scene information.

18 Q Were you present whenever my client was arrested?

19 A Yes, sir. I was in the building.

20 Q Do you recall seizing any, any electronic devices
21 from them?

22 A I don't, as I don't remember if they were turned over
23 to investigators or taken directly to the evidence room.

24 As your client was in the same building as I was in, I do
25 remember him being transported away from the Sheriff's

1 Office to the Detention Center.

2 Q Okay. No further questions.

3 THE COURT: Anything in redirect, Solicitor?

4 MR. MOWRY: No, sir, Your Honor.

5 THE COURT: Okay. You can step down, sir. Thank you.

6 MR. BLACKMON: Thank you, sir.

7 MR. SCOTT: The State calls Nick Rosamilia.

8 THE COURT: Okay.

9 NICK ROSAMILIA, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Todd:

13 Q Spell your last name, sorry.

14 A R-O-S-A-M-I-L-I-A.

15 Q Okay. You are Nick Rosamilia?

16 A Yes, sir.

17 Q Where are you employed?

18 A Laurens County Detention Center.

19 Q Okay. How long have you been there?

20 A Three years.

21 Q And what's your position out there?

22 A Floor officer.

23 Q And what, what all does a floor officer do?

24 A We go around the pods housing units and we make sure
25 that we go around at least twice an hour and make sure

1 that the inmate and the Detention Center is safe and
2 secure, and watch inmates and keep an eye on them.

3 Q Okay. So, a pod, just for this jury, I don't, I
4 doubt they know much about the insides of a jail, a pod is
5 a sectional part of the jail?

6 A Correct.

7 Q Okay. And obviously you've got different pods that
8 house everyone there?

9 A Yes, sir.

10 Q How many are in Laurens Detention Center?

11 A The side that I work there's four.

12 Q Okay. And let's see, going back to August of 2016,
13 were you still employed at the Detention Center?

14 A Yes, sir.

15 Q And were you on duty that day?

16 A Yes, sir.

17 Q Okay. And by the way, do you, obviously you're at
18 the jail, you know Fabian Green?

19 A Yes, sir.

20 Q Is he in one of your pods that you monitor?

21 A Yes, sir.

22 Q Which ones he in?

23 A C-max.

24 Q Okay. And label, label each pod by letters obviously
25 and his is C--

1 A Yes. Yes, sir.

2 MR. SHAFFER: May we approach?

3 (Whereupon, a bench conference was held in the
4 presence of the jury but out of the hearing of the
5 jury.)

6 Q Okay. So, you monitor Fabian Green in one of his
7 pods, correct?

8 A Yes, sir.

9 Q Okay. And before entering the jail, let me go back,
10 when an inmate is arrested and taken to jail, are they, I
11 guess, in some kind of intake policy or procedure?

12 A Yes, sir.

13 Q Could you, could you give a description of what
14 happens when someone's there or brought to jail?

15 A They have to go through their booking procedure and
16 that's where they go over their health, pod rules.

17 Q But what are pod rules?

18 A There's a list of pod rules, and what, inmates that
19 have to follow.

20 Q Okay. So basically, like ground rules of the house?

21 A Yes, sir.

22 Q Okay. And are you, what are some examples of pod
23 rules? Do you have any off the top of your head?

24 A Some will be your shirt has to be on while you're on
25 the rock, no horse playing, contraband.

1 Q What, what's, what's contraband?

2 A Contraband is anything that's not on the canteen list
3 and that's also altered from its original state.

4 Q Okay. Altered from its original state from where?
5 Do y'all hand out things to these inmates?

6 A Yes, sir.

7 Q And that's the original state?

8 A Yes. Anything that's altered from there is
9 considered contraband.

10 Q Okay. What are some of the things they give inmates?

11 A We give them flex pens, paper, stamped envelopes and
12 hygiene.

13 Q And so that comes from the jail itself?

14 A Yes, sir.

15 Q Okay.

16 A We issue it to them.

17 Q Okay. And so, what you're saying contraband would
18 be, would be anything that you provide that is altered in
19 any kind of way?

20 A Correct.

21 Q Okay. Going back to August 13, 2016, you say you
22 were working that day. So, you would've been making the
23 rounds?

24 A Yes, sir.

25 Q Checking on inmates? Okay. And do you recall having

1 any kind of run-in, indirect or direct, with Fabian Green?

2 A Yes, sir.

3 Q Okay. What happened?

4 A I was taking one inmate out from C-11, walking him
5 down to, you have to go outside of C-max to go, he was
6 going on the rec yard for his one-hour rec. And when we
7 passed, Fabian Green was then housed in C-4 and as we
8 passed he asked if he can give the other inmate I was
9 taking to the rec yard, if he could have some envelopes.

10 Q Okay. And normally just envelopes, that's, if, if
11 one inmate wants to hand over another inmate an envelope,
12 that's okay, correct?

13 A That's fine because we issue it to them, but we're
14 going to check it.

15 Q Right. And did, what, what are you checking for?

16 A Any kind of contraband.

17 Q Okay. Anything that's been altered?

18 A Mm-hmm.

19 Q And did you check that envelope that he slid under
20 the door?

21 A Yes, sir.

22 Q And had it been altered?

23 A It was.

24 Q And did, so you looked at the, inside the envelope?

25 A Yes, sir.

1 Q What was in it?

2 A A three-page letter.

3 Q So you would deem that contraband?

4 A Yes, sir.

5 Q Why?

6 A Because you can't pass letters or notes from one
7 inmate to another inmate.

8 Q Because the paper and the envelopes have been
9 altered?

10 A Yes, sir.

11 Q Okay. And he had altered it by writing the note?

12 A Yes.

13 Q Why, why do you not allow note passing from inmates
14 and any kind of altered paper?

15 A You can't pass notes from inmate to inmate. There
16 can be gang language on there, there can, they can be
17 telling one inmate to another inmate. They can be telling
18 them, hey, jump this guy or there's a hit on this guy or I
19 need you to do this for me or call the outside and have
20 them bring this. You know, we just --

21 Q Sure.

22 A -- we don't allow it.

23 Q So, it's just the intention to have, to look at those
24 notes for the safety of the prisoners and the jail?

25 A Yes, sir.

1 Q Okay. I'm going to show you what's been marked for
2 identification, State's Exhibit number 65. I'm going to
3 show you what's been marked as State's Exhibit number 65
4 for identification, do you recognize that? You can take
5 it out if you wish.

6 A Yes, sir.

7 Q And what is that?

8 A That's the letter that was in the envelope.

9 Q That Fabian Green pushed under the door to another
10 inmate?

11 A Yes, sir.

12 Q And you, going back to this letter, what did you do
13 with this and the envelope?

14 A I picked it up off the floor and when I opened the
15 envelope, envelope I saw that and just put it in my back
16 pocket.

17 Q Okay. And then you just continued to take the other
18 inmate outside?

19 A Yes, sir.

20 Q And what did you do with this when you go back to the
21 office?

22 A I brought it back to the supervisor's office, kinda
23 skimmed through it, read through it quickly and realized
24 that it needs to be turned over to a supervisor.

25 Q Okay. And that's what you did?

1 A Yes, sir.

2 Q Okay. So, you've identified this letter as the one
3 that Fabian Green slid under the door, correct?

4 A Yes, sir.

5 MR. TODD: Okay. At this time, the State would like
6 to offer exhibit number 65 into evidence.

7 THE COURT: Okay. And subject to matters already put
8 on the record, 65 will be into evidence for the State
9 pursuant also to our discussions we just had at sidebar.

10 MR. SHAFFER: Thank you, Your Honor.

11 (Whereupon, State's exhibit 65 was admitted into
12 evidence.)

13 Q Going back to where Fabian Green's stored, does he
14 have anyone in the cell with him or is he alone?

15 A He was housed alone.

16 Q Okay. So, he's by himself?

17 A Yes, sir.

18 Q So that note, when it was slid under the door, only
19 Fabian Green was in that room, correct?

20 A Yes, sir.

21 Q Okay. Please answer any questions Mr. Shaffer may
22 have for you.

23 CROSS-EXAMINATION

24 By Mr. Shaffer:

25 Q So, I, I know you used the term contraband, let's say

1 this was a piece of paper that the jail gave someone, and

2 I put a smiley face on it, would that be contraband now?

3 A If you're passing it to another inmate.

4 Q Would it be contraband in his cell? Because he

5 altered it, would it be contraband?

6 A No, sir.

7 Q It's not contraband whenever he alters it, it's

8 contraband whenever he passes it?

9 A It depends what it is.

10 Q Okay. So, if I had something that I altered in my

11 cell, say I took that bucket right there and I, I rubbed

12 it on the wall and I made a sharp edge off of it, that

13 would be contraband, right?

14 A Yes, sir.

15 Q So, I guess, at what point based off the policies

16 does something become contraband? Whatever he, a piece of

17 paper, because you're saying a piece of paper with writing

18 on it is contraband, right?

19 A A letter to, passing from one inmate to another, yes

20 sir.

21 Q Okay. But a piece of paper with writing on it that

22 wasn't passed to one inmate to another isn't contraband,

23 right?

24 A Right. They can send it to family.

25 Q Okay. You said Fabian was the only person in that

1 cell at that time, correct?

2 A Yes, sir.

3 Q And in that cell, he was actually locked down about
4 twenty-three hours out of the day alone, right?

5 A Yes, sir.

6 Q Okay. No further questions.

7 THE COURT: Anything in redirect?

8 REDIRECT EXAMINATION

9 By Mr. Todd:

10 Q Passing notes from one person to another inside a
11 jail, that's contraband?

12 A Yes, sir.

13 Q No further questions.

14 THE COURT: Alright. You can step down, sir. Thank
15 you. Alright ladies and Gentlemen, we're gonna take about
16 a ten-minute break, and I'll talk with the lawyers as far
17 as scheduling and when we going to to take our lunch
18 breaks. And just go back to the jury room for a few
19 minutes. Again, no discussion about this case among
20 yourselves and get you back out shortly.

21 (Whereupon, the jury is excused from open court for a
22 break.)

23 THE COURT: Alright Solicitor, any more witnesses we
24 can put up this morning?

25 MR. MOWRY: Yes, sir. I believe we can do Scott

1 argument for admissibility.

2 THE COURT: Okay.

3 MR. SHAFFER: Basically, I, I need to renew my
4 previous objection based off of all the stuff we
5 discussed.

6 THE COURT: Is this related to the, the letter?

7 MR. SHAFFER: Or the Facebook profile, Your Honor.

8 THE COURT: Okay. Alright. Okay. So noted for the
9 record.

10 MR. SHAFFER: Thank you, Your Honor.

11 THE COURT: Facebook messaging and the letter, all
12 the objections, what you've put on the record is, is
13 renewed.

14 MR. SHAFFER: Thank you, Your Honor.

15 THE COURT: Okay. Alright. Okay. Let's bring the
16 jury out.

17 (Whereupon, the jury came into open court at
18 approximately 12:09 p.m.)

19 THE COURT: Thank you, Mr. Bolt. Ladies and
20 gentlemen, the State has two more witnesses before we
21 break for lunch, so we're gonna do those, and then we'll
22 break for lunch and then start back after, after lunch
23 this afternoon. Alright Solicitor Todd, you may proceed.

24 MR. TODD: The State calls Scott Weeks.

25 SCOTT WEEKS, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Todd:

4 Q You are Scott Weeks?

5 A Yes, sir.

6 Q And where are you employed?

7 A Laurens County Detention Center.

8 Q How long you been employed there?

9 A Close to four years.

10 Q Okay. And what do you do at Laurens Detention
11 Center?

12 A I'm the program director, but also handle grievances
13 for the inmates. And grievance is an issue they may have
14 with the way we do things. I also do the disciplinary and
15 disciplinary --

16 Q You're going to have to speak up.

17 A Okay. I'm the program director --

18 THE COURT: There you go, that's better, a lot
19 better.

20 A -- for the Laurens County Detention Center. I'm the
21 grievance coordinator and disciplinary chairman.

22 Q Okay. So, you're more or less the complaint
23 department?

24 A Yeah. Yes, sir.

25 Q Okay. So, you probably pretty busy doing that?

1 A Yes, sir.

2 Q Okay. How long you been in that position?

3 A Since I started.

4 Q Okay.

5 A Four years.

6 Q Over four years. Okay. And what are jail
7 grievances, besides complaints, can you give me a couple
8 examples?

9 A Yes, sir. Mostly they are how we handle an
10 individual. They may not agree with our rules and our
11 policies. How we conduct business each day and they have
12 an issue. Occasionally they'll be an issue with how they
13 been spoke to or how they been treated. And they have the
14 opportunity to go through chain of command, through the
15 supervisors first and if they can't get it resolved then
16 that's when they come to me with a grievance, a formal
17 grievance.

18 Q I gotcha ya.

19 A Sometimes it can be resolved just by going and
20 talking to them.

21 Q Okay. Sometimes are they written grievances?

22 A Sometimes they are.

23 Q Okay. Were you on duty on September 19th, 2016?

24 A Yes, sir.

25 Q Okay. And did you happen to have the opportunity to

1 learn of a complaint by Mr. Fabian Green?

2 A Yes, sir.

3 Q Okay. And what did you do next?

4 A I went to him and gave him some paper to write down
5 his issues, what, what he thought was not being done
6 properly.

7 Q Okay. I'm going to show you what's been marked for
8 identification as State's 66. Would you mind ID'ing that?

9 A Yes, sir. That's the letter he wrote to Major Tyson.

10 Q Okay. This is the grievance complaint that Mr. Green
11 wrote?

12 A Yes. Yes, sir.

13 Q Okay.

14 MR. SHAFFER: No objection, Your Honor.

15 THE COURT: Okay. Without objection, number 66 into
16 evidence for the State.

17 (Whereupon, State's Exhibit 66 was admitted into
18 evidence.)

19 MR. SCOTT: Okay.

20 Q And on that grievance, did you go to Mr. Green's
21 cell, did you pull him out to write it, how'd that happen?

22 A I pulled him out to our multipurpose room, because
23 lots of times when we'll do an interview of that nature,
24 I, I'll pull them out cause the cell, there's, there's not
25 that much privacy in the area.

1 Q Okay. And you, with your own eyes, watched Fabian
2 Green write that complaint?

3 A Yes, sir.

4 Q And what did you do with that complaint?

5 A I gave it to the investigator.

6 Q Who's the investigator?

7 A Mr. Bentley.

8 Q Walter Bentley at this table?

9 A Yes, sir.

10 Q Okay. Answer any questions Mr. Shaffer may have for
11 you.

12 A Okay.

13 THE COURT: Any cross?

14 CROSS-EXAMINATION

15 By Mr. Shaffer:

16 Q Do you recall the date that he wrote this letter, or
17 this complaint?

18 A I don't have, I don't recall the actual date.

19 Q Alright. How, did, did you immediately give it to
20 the investigator?

21 A Yes, sir.

22 Q Mr. Bentley? Did you know that Mr. Bentley wanted a
23 copy of his handwriting?

24 A Yes, sir.

25 Q That's why you gave it to him?

1 A Yes, sir.

2 Q Okay. Thank you very much.

3 THE COURT: Okay. Thank you, sir. You can step
4 down. You are free to leave the courthouse, or you
5 certainly welcome to remain with us.

6 MR. MOWRY: We call Walter Bentley.

7 WALTER BENTLEY, being
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 By Mr. Mowry:

11 Q You are Walter Bentley?

12 A Yes, sir.

13 Q And Mr. Bentley, by whom are you employed?

14 A I work for the Eighth Circuit Solicitor's Office.
15 Primarily here in the Laurens office, but also
16 responsibility in Newberry County as well.

17 Q So you work with Mr. Todd and me in preparation of
18 cases, is that right?

19 A That's right.

20 Q Prior to working with the Eighth Circuit Solicitor's
21 Office, where did you work?

22 A From 1996 to the year 2000 I worked for the Laurens
23 County Sheriff's Office. It's where I began my law
24 enforcement career. I began as a road deputy, then became
25 an investigator in 1998. In the year 2000, I was hired by

1 the Laurens Police Department where I had the role of
2 investigator and I also oversaw investigation division
3 there.

4 Q So you, you were the supervisor for investigations?

5 A Yes.

6 Q When did you start working for the Solicitor's
7 Office?

8 A May of 2013, so four years ago.

9 Q Okay. As, as part of your duties, do you help the
10 prosecutors in preparation for cases?

11 A Yes, I --

12 Q For trials?

13 A -- help in trial preparation and in gathering
14 witnesses, re-interview witnesses at times and going over
15 documentation and materials.

16 Q Okay. As part of your duties, did you become aware,
17 in, in preparation for this particular case, did you
18 become aware of Facebook messages that might of been
19 created and, and sent?

20 A Yes, I did.

21 Q How did that come about?

22 A In reviewing the case file and speaking with
23 investigators involved in the case, I came across
24 information that Facebook messages were sent to the
25 account of Edwin Diaz, who's the victim in the case. I

1 decided that they may be relevant and I decided I was, I
2 was going to take a look at them. I'd also been provided
3 a screen shot earlier of, of some of the communication
4 which further peaked my interest in wanting to look at
5 those messages.

6 Q And the screen shot that you're talking about, let me
7 hand you the document that's been marked State's Exhibit
8 number 61 for identification. Is that the document that
9 you're talking about?

10 A Yes, sir. That's the screen shot.

11 Q Okay. How did you go about retrieving the Facebook
12 messages from Edwin Diaz's account?

13 A I was able to speak with Mr. Diaz's family. His
14 father, mother and an uncle who speaks some English. They
15 were able to provide me with the email address which is
16 what's used as a user name on Facebook. And also, they
17 provided me with the password for the account. I used the
18 information provided and I logged into the account and
19 began looking for the messages that coordinated with the
20 screen shot I had already viewed.

21 Q Going to hand you this document that is now marked as
22 State's Exhibit number 70 for identification. Is that the
23 document that you retrieved?

24 A Yes, it is. What I did was, it was quite lengthy so
25 I just selected all the text and copied it into a word

1 document to allow me to be able to actually print. And
2 that's the document I printed.

3 MR. MOWRY: Let me do this.

4 (Whereupon, a bench conference was held in the
5 presence of the jury but out of the hearing of the
6 jury.)

7 Q Okay. Mr. Bentley, do you know Karina Galarza?

8 A Yes, I do.

9 Q Do you know her mother?

10 A I do.

11 Q How do you know her mother?

12 A Her mother's name is Minerva Tapia, (phonetic). Ms.
13 Tapia worked for Rich's Pawn Shop here in Laurens at one,
14 one point in time for many years. and part of my law
15 enforcement duties would be a lot of times to check pawn
16 shops for stolen items. It's a pretty common place for
17 them to end up. So, I worked with her on several
18 occasions locating stolen items. Also, several times we
19 would need some emergency translation done, she could
20 speak Spanish and English really well. And it would be a
21 situation where it'd be a threatening type situation or
22 something and we needed it translated on, on a emergency
23 basis. We didn't have time to find a court certified
24 translator because of time reasons and everything.
25 Sometimes I would take documents to her to have them

1 quickly translated, so I knew if we were dealing with an
2 immediate threat or something. So, we used her for that
3 capacity also.

4 Q Did you know Karina Galarza as her daughter?

5 A I did.

6 Q Did, did you know whether or not Ms. Tapia had other
7 children?

8 A She had another daughter named Julissa and she also
9 had a son, I cannot recall his name though.

10 Q Okay. Did you know where she lived?

11 A Yes. On Queens Circle, Laurens.

12 Q Okay. And that's in the city of Laurens?

13 A It's in the city of Laurens and the county of
14 Laurens.

15 Q Okay. When you were reviewing the Facebook messages,
16 did you find any notation regarding the address of [REDACTED]
17 Queens Circle?

18 A I did.

19 Q Did you find any notation involving any, any message
20 involving the name Karina?

21 A I did find a message sent from Edwin. It, it's
22 basically, had the letters IDK, which is I don't know,
23 commonly used for text or Facebook messaging and then the
24 name Karina.

25 Q Did you find any message that gave the other

1 daughter's name?

2 A I found a couple different instances where messages
3 were in there from the Facebook account of Ruby Rina, here
4 it mentioned her sister and mentioned, actually mentioned
5 the name, Julissa, on two separate occasions.

6 Q Were you in the courtroom when Davian Holman
7 testified yesterday?

8 A I was.

9 Q Did you hear the question that he was asked, did he
10 know the Facebook name of Karina Galarza?

11 A I did. He responded, if I remember correctly, that
12 it was Ruby Rina.

13 Q And, the Facebook printout that you found with regard
14 to Edwin's Facebook account, the one that you referred to,
15 the one that is now marked State's exhibit number 70 for
16 identification. Who was he replying to, who was, who was
17 he having this Facebook conversation with?

18 A With Ruby--

19 MR. SHAFFER: Objection, Your Honor. I withdraw the
20 objection.

21 THE COURT: Okay. Alright.

22 MR. MOWRY: Okay.

23 THE COURT: You may proceed.

24 MR. MOWRY: Your Honor, at this time, I would offer
25 State's exhibit number 70 and State's exhibit number 61

1 into evidence.

2 THE COURT: Okay. Alright.

3 MR. SHAFFER: Your Honor, may we approach?

4 THE COURT: Yeah.

5 (Whereupon, a bench conference was held in the
6 presence of the jury but out of the hearing of the
7 jury.)

8 THE COURT: Subject to previous matters on the
9 record, that is admitted into evidence on behalf of the
10 State.

11 (Whereupon, State's exhibit 61 and 70 was admitted
12 into evidence.)

13 Q Mr. Bentley, I'm going to ask you to, you have the
14 messages up there in front of you, is that right?

15 A I do.

16 Q Let's go to the messages from May 7th and May 8th,
17 2016.

18 A Okay.

19 Q I will read Ruby if you will read Edwin.

20 A Alright.

21 Q Edwin.

22 A Yo.

23 Q WYD, you busy.

24 What does WYD in your, what is that parlance in your
25 experience?

1 A What are you doing. A lot of times I have to google
2 these terms and most of these I google to see what the
3 thing is.

4 Q WYD you busy?

5 A I'm eating, y. Wazup.

6 Q You got some weed?

7 A Hell nah. LOL.

8 Which means laugh out loud.

9 Q You don't smoke?

10 A Yeah. And then the letter y, which is the short of
11 saying why.

12 Q Damn I'm tryin smoke and chill. I'm bored as F and
13 everybody gone. Oh. So, you wanna chill? NVM you might
14 screen shot.

15 A Where at N screen shot for what?

16 Q Pinehaven. You know where I stay at.

17 A Same place?

18 Q Yeah.

19 A What we doing?

20 Q It's whatever. Whatever happens, happen.

21 A IDK if I can though. I'm trying to come.

22 Q This the only night, but if you can't it's ight,
23 I-G-H-T.

24 A Why this the only night?

25 Q Cause I'm going to Georgia tomorrow.

1 A Weekday or?

2 Q I'm a be down there for a min.

3 A Damn.

4 Q Well I guess I fina go to sleep then.

5 A You shoulda told me earlier man. Too late now.

6 Q What about tomorrow?

7 A What time?

8 Q When my mom leave.

9 A What time is that?

10 Q IDK. She don't work tomorrow so whenever she leave.

11 A I got a game tomorrow at 1:00. After that, yeah.

12 Q Okay. It will be after 1:00.

13 A IGHT, you can't get a ride to my house now?

14 Q I can't even get a ride to this party.

15 A Damn, cause if you get a ride down here, then I'll
16 drop you off tomorrow.

17 Q I can't, I can't.

18 A Tomorrow then.

19 Q Yeah.

20 Now we go into 5-8-2016. What is the time of the
21 first message?

22 A It's 12:01 p.m.

23 Q Okay. So, just afternoon.

24 Edwin.

25 A Yo.

1 Q What time your game over? My mom leave, leave around
2 4:00.

3 A Around 4:00. I'll get you up.

4 Q Okay.

5 A She left?

6 Q And what time does that message come through?

7 A 4:10 p.m. on --

8 Q Okay.

9 A -- the 8th of May.

10 Q Yeah.

11 A Who be at your house?

12 Q Just me.

13 A Swear.

14 Q Duh.

15 A Where your boyfriend or where your bf, which stands
16 for boyfriend.

17 Q Okay. I been left his bum ass. You late as F.

18 A LOL. FR. Which means for real.

19 Q Duh, but movies after?

20 A I'm broke.

21 Q Okay.

22 A And, I'm gonna use the language he used, but he then
23 says who you been fucking?

24 Q Nobody. WYM.

25 A When was the last time?

1 Q Why. But two weeks when I was last with him.

2 A JWNO. Just wondering, oh.

3 Q Yeah, yeah.

4 A WYD.

5 Q Watchin a movie.

6 A With, and then the letters WHIA.

7 Q Myself. It was with Julissa before she left.

8 A Where she go?

9 Q With her dad.

10 A Oh. Want me to come?

11 Q What you think?

12 A Send me your address right quick.

13 Q [REDACTED] Queens Circle.

14 A He responds with the letters OTW, or on the way.

15 Q Don't have no boxers on?

16 A Why?

17 Q This movie got me feeling all types of ways.

18 A OTW, with some type of emoji and then the Queens
19 Court.

20 Q [REDACTED] Queens Circle, Laurens, South Carolina 29360.

21 A Okay. And then shortly responded to after that, come
22 out.

23 Q Walk in. Oh. Walk in. Never mind, don't come. I'm
24 not at home.

25 Now on that message, is there a time stamp on that

1 last message?

2 A It's not on this one. I could see it when I copy and
3 paste it. The screen shots actually showed the correct
4 time. The time stamps more, more often for some reason
5 did not show up on that last never mind, don't come, I'm
6 not at home message.

7 Q Alright. Let me hand you State's exhibit number 61.
8 Let me hand you now what has been admitted into evidence
9 as State's 61 and ask you if there's a time stamp on that
10 very last message, never mind, don't come in.

11 A Yes, there is. Its time stamped at 5-8-2016 at 5:32
12 p.m.

13 Q Thank you, sir. That's all I have.

14 MR. MOWRY: Oh, I'm sorry.

15 Q Let me ask you quickly about State's exhibit number
16 66. State's exhibit number 66, the grievance letter that
17 Mr. Weeks testified to.

18 A Yes, sir.

19 Q How did you receive that?

20 A I went to the Laurens Detention Center, I got a
21 subpoena from the Clerk of Court's Office for a sample of
22 Mr. Green's handwriting. Provided that subpoena to Mr.
23 Weeks and he provided me with this document here.

24 Q Okay. What did you do with it?

25 A I turned it over to the Laurens County Sheriff's

1 Office for comparison with the letter that Nick Rosamilia
2 previously testified that he recovered.

3 Q And that would've been State's exhibit 65?

4 A Correct.

5 Q Thank you, sir. I believe that's all I have.

6 THE COURT: Alright. Mr. Shaffer, any
7 cross-examination?

8 CROSS-EXAMINATION

9 By Mr. Shaffer:

10 Q Were you a party to any of these conversations that
11 were on Facebook?

12 A No, I was not.

13 Q Okay. When did you first view any of these
14 conversations that were on Facebook?

15 A I first viewed that screen shot, can't tell you the
16 exact date, but it was several months ago while I was
17 originally reviewing this case in preparation for the
18 trial.

19 Q Okay.

20 A The ones I read from that I copied and pasted were
21 approximately two to three weeks ago. Around the same
22 time, I sent them to you in an email.

23 Q Okay. So is it safe to say that you didn't look at
24 any of these, look into her Facebook at all. I mean,
25 excuse me, is it safe to say that you did not access her

1 Facebook until 2017?

2 A I never accessed her Facebook. I accessed Edwin
3 Diaz's Facebook. Also prior to this we had actually been
4 attempting to get the records from Facebook through the
5 search warrant. We have not been able to --

6 Q And, and what I'm wondering is this, and you say you
7 work for the Solicitor's Office, correct?

8 A Correct.

9 Q Okay. So, you're a full-time employee of the
10 Solicitor's Office, correct?

11 A Yes.

12 Q What does the Solicitor's Office do?

13 A Prosecute criminal cases.

14 Q Okay. So, you prosecute criminal cases. Do you
15 prosecute all the cases in this county?

16 A All general sessions cases in this county.

17 Q Okay. So all general sessions cases in this county,
18 including city cases, correct?

19 A City, county, Clinton city, Ware Shoals, Fountain
20 Inn, any, any county in or any county in the Eighth
21 Circuit.

22 Q So, and you work for, and, and some of the law
23 enforcement agencies you've worked for including the
24 Sheriff's Office, correct?

25 A I worked there from '96 to the year 2000.

1 Q And my, I'm not exactly, I wasn't exactly clear, you
2 work, in your role as the investigator for the Solicitor's
3 Office, you work with the Laurens Sheriff's Office on
4 prosecuting their cases, right?

5 A Yes.

6 Q And you also work with the Laurens City Police
7 Department prosecuting their cases, correct?

8 A I don't do the prosecution, I do the investigation
9 for the prosecutors. But I do assist those agencies, I do
10 assist, those, those agency cases comes to us.

11 Q Okay.

12 A And we, I assist them with preparing them for trial.
13 So, I do work with their cases, yes.

14 Q Do you know Ricky Cheeks?

15 A Ricky Cheeks? I know Bryant Cheeks.

16 Q I'm sorry, Bryant Cheeks.

17 A Yes, I do.

18 Q I, I'm, I'm thinking of somebody totally different
19 and who I represented a long time ago. Investigator
20 Cheeks, former Investigator Cheeks, he works for the city,
21 correct?

22 A He does. He was actually here on Tuesday all day.

23 Q Okay. He was here on Tuesday all day. Did he get up
24 on the witness stand at any point?

25 A We didn't call him as a witness.

1 Q Okay. But he was the primary investigator on this
2 case, right?

3 A He was one of the investigators. He's going to
4 testify to that he was, but he's actually under
5 supervision as was testified to of Lieutenant Blackmon.

6 Q Okay. But he was the assigned lead investigator of
7 this case, right, correct?

8 A I think that's been the testimony, correct.

9 Q Okay. I, I forgot what Karina's mother's name was.
10 What is --

11 A It's Minerva Tapia. I cannot spell the first name.

12 Q Okay. Ms. Tapia, you knew her through the pawn shop,
13 correct?

14 A One of the couple ways, yes.

15 Q Okay.

16 A She was at the pawn shop. Also do, doing some
17 translation, and she also was a witness in a criminal case
18 we prosecuted over here.

19 Q Did you know Enozio Artega?

20 A I don't know the name.

21 Q Okay. Did you know the, Julissa's father?

22 A No, I do not.

23 Q Okay. And you said Ruby Rina, is Karina's Facebook,
24 correct?

25 A I actually did not say that.

1 Q You --

2 A I said there's references in the Facebook message
3 where Edwin responds, IDK Karina. And also two references
4 at least, actually three because I just read the third one
5 where she refers to her sister and the name Julissa which
6 is Karina Galarza's 'sister's name.

7 Q Okay. So, you, you're not saying, you did not say
8 that it was your understanding that Ruby Rina was Karina
9 Galarza? You didn't testify to the jury that a second
10 ago?

11 A It's my understanding --

12 Q Okay.

13 A -- from the evidence, that Edwin responds, IDK
14 Karina, would assume it's Karina Galarza. Also, Julissa,
15 who is Karina's sister, is referenced numerous times in
16 here. Also, Davian Holman, on this very witness stand
17 yesterday said that Ruby Rina was the Facebook page of
18 Karina Galarza.

19 Q Okay. You don't have any evidence saying that that's
20 not Karina's Facebook page, do you?

21 A I do not.

22 Q Thank you very much.

23 THE COURT: Anything on redirect, Solicitor?

24 MR. MOWRY: No, sir, Your Honor.

25 THE COURT: Okay. Thank you. You can step down, Mr.

1 Bentley. Alright Madam Forelady and ladies and gentlemen
2 of the jury, I believe this would be a good time to, to
3 break for lunch. We'll go, we'll start back at 2:15 p.m.,
4 so that'll give you an hour and a half. And once again, I
5 remind you no discussions about this case among yourselves
6 or anybody that you come in contact with during your lunch
7 break. Again, keep your juror button on if you're out at
8 a public place, restaurant and that sorta thing, and we'll
9 see you back at 2:15 p.m. Have a good lunch.

10 (Whereupon, the jury was excused from open court for
11 a lunch break.)

12 THE COURT: Okay. Mr. Shaffer, you need to put
13 anything on the record based upon the sidebar conferences?

14 MR. SHAFFER: Your Honor, I, I think that, well first
15 of all, I believe that you indicated that you were going
16 to limit the, those to the 7th and 8th.

17 THE COURT: Right.

18 MR. SHAFFER: I can't remember the State's exhibit
19 but there was probably, they moved into evidence fifty
20 pages or so of Facebook messages and my understanding was
21 you were going to limit that only to the 7th and 8th.

22 THE COURT: That is correct. Now, if the State wants
23 the Court's exhibit to remain complete, then certainly
24 that, that's, I'll allow that because we do have the total
25 Facebook messages that was marked as Court's exhibit,

1 either 1 or 2, pretrial on Friday, and that can remain.
2 As far as what goes into the evidentiary record, the
3 exhibit will be limited just to May 7th and May 8th, and I
4 think Solicitor Mowry indicated that they would make sure
5 that those --

6 MR. MOWRY: And, and --

7 THE COURT: -- pages are pulled.

8 MR. MOWRY: We have no problem with that, Your Honor.
9 Matter of fact, I separated the 7th and 8th before I
10 started reading. And Ms. Holston already has the
11 remaining part. The reason that I believe it was, it was
12 necessary to enter the whole part is because, once again,
13 the identifiers that Mr. Bentley talked to, talked about.
14 The Ruby Rina's name, Karina, that certainly bolsters or
15 is bolstered by what Davian Holman told us yesterday.
16 Plus, the name, Julissa, that's the first time I've ever
17 heard a name like that and that's mentioned several times,
18 and it's mentioned as her sister, which pretty well limits
19 it, I think, to Ms. Galarza. That, that in my view is, is
20 authentication. But as far as publication is concerned to
21 the jury, we will offer nothing else.

22 THE COURT: And Mr. Shaffer, you had an objection to
23 Mr. Bentley being allowed to reference those names that
24 appear in the Facebook messages prior to May 7th. You
25 noted that objection at sidebar, that even though I

1 overruled your objection, that you would note that for the
2 record once we took a break.

3 MR. SHAFFER: And yes, Your Honor, and obviously, my,
4 my objection is that I think that the Court said that they
5 would be contemporaneous. The Sixth Amendment, the, the
6 foundation and the hearsay objection that I had made
7 pretrial citing the cases that I listed in the previous
8 argument, Your Honor.

9 THE COURT: Okay. And that's so noted, and let me go
10 ahead and supplement the record. I stated this to the
11 lawyers at sidebar as well, that of course I placed the
12 burden on the State to present evidence of a conspiracy.
13 And that the Defendant was part of the conspiracy before
14 they could even get May 7th and May 8th Facebook messages
15 in as evidence of a furtherance of a conspiracy. I find
16 that there was evidence of a conspiracy and that the
17 Defendant was part of that conspiracy, and therefore
18 allowed the Facebook messages to come in. That's a
19 supplement to my other rulings related to the Facebook
20 messages that I made on the record prior to today. Okay.
21 Anything else before we break for lunch?

22 MR. TODD: The letter. We'll look at the redaction
23 over lunch and then have a complete --

24 THE COURT: Right. And just, I, I think Mr.
25 Shaffer's highlighted portions is what I had indicated

1 sometime prior to today --

2 MR. TODD: Right.

3 THE COURT: -- that I would allow in. And, but just,
4 just make sure that you believe that it's consistent with
5 my ruling. I know the State wanted some additional parts
6 in and I would not allow that, so.

7 MR. MOWRY: We, we can do that, Your Honor.

8 THE COURT: I, I know y'all could work on that and
9 get that resolved. If you need my help, just let me know.
10 Okay, we'll be in recess till 2:15 p.m. Everybody have a
11 good lunch.

12 (Whereupon, a lunch break was taken.)

13 THE COURT: Okay. We're back on the record. Any,
14 anything you need to put on the record before the jury
15 comes out?

16 MR. MOWRY: I, I think you were just speaking about
17 it, Your Honor. The Defense and the State have talked
18 about the letter and we are going to get Ms. Heath to, you
19 know, we will use the exhibits that we have, to let her do
20 her comparison or testify about her comparison but as far
21 as submission to the jury, we have redacted the pertinent
22 portion of the letter, the typed written letter, and have
23 also redacted the handwritten portion. Mr. Bentley put it
24 on an Adobe platform apparently and we were able to make a
25 redaction on that. So, that is what we would suggest

1 going back to the jury and leaving the pieces of State's
2 evidence in but, but having that submitted to the jury.
3 If that makes any sense.

4 THE COURT: Now it was my understanding that the,
5 what is going to the jury is the actual handwritten
6 redacted letter and not what you or whoever typed it up.

7 MR. SHAFFER: And Your Honor, actually, we would
8 actually, subject to our previous objection, obviously
9 we're still objecting to the entire content of it.

10 THE COURT: Sure.

11 MR. SHAFFER: But subject to our previous objection,
12 we would actually be okay if they're handing this back,
13 the redacted handwritten copy to hand a redacted --

14 THE COURT: Okay.

15 MR. SHAFFER: -- type written copy. There is a
16 couple of four different, five different typographical
17 errors my, my client wants me to address. So I'll show
18 those to the State.

19 THE COURT: Okay. Alright.

20 MR. MOWRY: And I've got the letter on, as a word
21 document, Your Honor, and go make those changes as need
22 be. I'll fix that, Your Honor.

23 THE COURT: Alright. So, let's make sure that we're
24 clear before we bring the jury out. The, the Defendant's
25 letter, the actual handwritten has been redacted in

1 various portions and then going along with that is the
2 typed version based upon the redacted version. You just
3 can't tell the typed version's been redacted. It's just
4 gonna coincide with the unredacted portion of the actual
5 letter itself.

6 MR. MOWRY: Yes, sir.

7 THE COURT: Okay. That's going back to the jury.
8 Okay.

9 MR. SHAFFER: Yes, Your Honor.

10 THE COURT: What I will do, is I will wait to explain
11 to the jury the lack of any significance to the redaction,
12 or, well, significance to it as well. But I won't do that
13 until after your, your witness, Solicitor, testifies.
14 The, your handwriting witness, because you going to deal
15 with the letter with her or him, whoever it is.

16 MR. MOWRY: Yes, sir.

17 THE COURT: And, so, I then, once that is done then I
18 will explain to the jury about the redaction, number one.
19 And then just to provide them with some, to make it a
20 little easier read, it's been typed so they can, but it,
21 it's the same material. They can use either one or both
22 in whatever fashion they want to.

23 MR. SHAFFER: That sounds good, Your Honor. Thank
24 you.

25 THE COURT: Okay.

1 MR. MOWRY: That's suitable to the State, Your Honor.

2 THE COURT: Okay. Alright. Alright, let's bring
3 the, let's bring the jury out.

4 (Whereupon, the jury came into open court at
5 approximately 2:30 p.m.)

6 (Whereupon, Court's Exhibit 3 was marked for
7 identification only.)

8 THE COURT: Alright, Thank you Mr. Bolt. Alright
9 ladies and gentlemen, I hope you had a good lunch and
10 ready to get to work this afternoon. Solicitor, you want
11 to call your next witness.

12 MR. MOWRY: Yes, sir, Your Honor. We call Adrian
13 Hefney.

14 ADRIAN HEFNEY, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Mowry:

18 Q Ms. Hefney, by whom are you employed?

19 A With the South Carolina Law Enforcement Division more
20 commonly known as SLED.

21 Q I am not sure if that is on, there we go. So, you
22 work for SLED, is that right?

23 A Yes, sir.

24 Q What kind of work do you do for SLED?

25 A I'm a Forensic DNA Analyst.

1 Q Okay. How long have you been employed in that
2 capacity?

3 A I been with SLED DNA lab since November of 1997, so
4 almost 20 years.

5 Q What kind of training and education do you have to be
6 a DNA analyst?

7 A I received a Bachelor of Science Degree in Biology
8 from the University of South Carolina. I also have a MBA
9 in Business Administration from Winthrop University. I
10 received most of my training on the job on court qualified
11 analyst and each year we're required to attend continuing
12 education whether it be a conference or a class to stay
13 abreast of any changes or new developments in the field of
14 forensic DNA analysis.

15 Q You've been doing this you say for close to 20 years?

16 A Yes, sir. I came to SLED, non-sworn, in November of
17 1997 and was promoted to a sworn position in March of
18 1999.

19 Q What's the difference between an un-sworn and a sworn
20 position?

21 A I'm considered a Special Agent or Senior Agent with
22 the division.

23 Q Okay. How many DNA analysis do you estimate that
24 you've done in your nearly 20 years at SLED?

25 A I would say thousands of cases, yeah.

1 Q Have you testified in courts of law in South Carolina
2 or elsewhere?

3 A Yes, sir. I've testified in both Federal and State
4 court.

5 Q In South Carolina?

6 A In South Carolina.

7 Q How many times would you estimate that you've
8 testified in, in courts of law?

9 A Over at least 70 times.

10 Q Okay. And have you been declared an expert on each
11 of those occasions?

12 A Yes, sir.

13 Q Okay.

14 MR. MOWRY: Your Honor, I would offer her as an
15 expert in DNA analysis.

16 THE COURT: Okay.

17 MR. SHAFFER: No objection, Your Honor.

18 THE COURT: Alright, without objection Agent Hefney
19 is found to be an expert in the area of DNA analysis.

20 Ladies and gentlemen of the jury, if you will remember, I
21 think yesterday, maybe Tuesday, I can't remember, I
22 explained to you the, when someone is qualified as an
23 expert in a particular area because of education training
24 experience, they would be allowed to offer opinions in
25 that area. But just because someone has been found by the

1 Court to be an expert does not mean that you have to
2 automatically take their opinion. You are to consider
3 their testimony as you would any other witnesses who have
4 testified in this case. Alright Solicitor.

5 Q Ms. Hefney, let me first talk about your dialogue, I
6 guess is the best way to put it, with North Texas
7 University with the DNA, the unknown remains' identity
8 center there. What, what was the gist of your, of your
9 communication with them?

10 A I requested the DNA profile that they developed from
11 the unidentified human remains that were submitted by
12 Laurens County Coroner's Office in this case.

13 Q Okay. And why did you do that?

14 A What DNA is, we, we make a comparison between unknown
15 and known standards. They developed a DNA profile, even
16 though it was unidentified remains, what would now be
17 known as the known standard and I needed to compare it to
18 the evidence that I received from the crime scene.

19 Q Is that an unusual process in, in your experience?

20 A Not unusual but rare that we have to use another
21 lab's profile to make comparisons to our profile. But DNA
22 labs nationally use the same common genetic markers that
23 we use and so that way the comparison, we could do it that
24 way.

25 Q And you were, you believed, well, let me ask you, did

1 you have any concern in your professional capacity about
2 doing it this way?

3 A No. We use the University of North Texas lab
4 ourselves for unidentified remain human, unidentified
5 remain, human identification before. So, they're
6 credited, they do good work, we have used their results
7 before.

8 Q Okay. So, you received those and what did you
9 compare them to?

10 A I compared them to the evidence that, DNA profiles
11 from the evidence that I had developed in this case. In
12 that case, that would be, I compared, I used, I did DNA
13 comparisons of five different evidentiary items and five
14 different known standards. And in this case, the
15 particular two that I wanted to compare with Texas
16 development as a known standard to the evidence developed
17 from the rear seat area of a car and swabs from the right
18 side of the china cabinet from the crime scene.

19 Q Okay. And did you also try to develop DNA from swabs
20 from the driver side door panel area, from the steering
21 wheel and gear shift area? Tell, tell us about that, if
22 you would. Were you successful in developing any DNA from
23 that?

24 A Yes, sir. Well, I did, the five different items, I
25 did. I did the swab from the driver's side door panel,

1 swabs from the steering wheel and gear shift area, swabs
2 from the rear seat area, swabs from the floor behind the
3 couch and swabs from the right side of the china cabinet.
4 And I'll read directly from my report, my results for each
5 one of those items. And in the beginning of my report I
6 mention University of North Texas and unidentified human
7 remains were analyzed and reported by the University of
8 North Texas for human identification in a report dated
9 December 2nd, 2016. These remains were identified as
10 being consistent with originating from a biological child
11 of Eldi Chirinos, and excuse me if I'm mispronouncing that
12 name.

13 MR. SHAFFER: Your Honor, may we approach?

14 THE COURT: Okay. Sure.

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

18 MR. MOWRY: May I, may I just make sure she's aware
19 of that, Your Honor. Is that a, an issue?

20 MR. SHAFFER: That's fine. I mean--

21 MR. MOWRY: Okay.

22 THE COURT: Okay.

23 (Whereupon, the Witness and Mr. Mowry had a
24 conversation off the record.)

25 Q Alright, go ahead.

1 A Originating from a biological child of Eldi Chirinos,
2 the mother of missing person, Edwin Diaz Chirinos.
3 Assuming the unidentified remains are those of Edwin Diaz
4 Chirinos, the partial DNA profile developed from item 14,
5 item 14 is a swab from the rear seat area of the car,
6 matches the DNA profile of Edwin Diaz Chirinos. The
7 probability of randomly selected an unrelated individual
8 having a DNA profile matching this item is approximately 1
9 in 180.

10 Q Alright. Can we, can we stop there and talk about
11 that one individually? Given what we know about DNA, that
12 seems like a low number.

13 A It is. It was a partial profile and DNA is pretty
14 robust in itself, meaning it will last a long time except
15 when two things happen, it's exposed to heat and moisture.
16 Those are two things that can have DNA where it becomes
17 degraded and we don't get a good profile. And in this
18 case, I saw the crime scene photos and I saw where the car
19 doors had been opened from where this sample was
20 collected. And so that would have exposed this DNA to the
21 elements of the environment, such as heat and moisture.

22 Q And given the fact that this was in May and we've had
23 testimony that there were probably a dozen days where the
24 high temperature had been in the upper 80's, would that
25 have had a, a, an ill effect on the possibility of

1 retrieving DNA?

2 A Yes. Heat would accelerate degradation of DNA.

3 Q But you're still saying 1 in 180 that this was Edwin
4 Chirinos?

5 A Yes, sir.

6 Q Okay. Were you able to develop any DNA from anywhere
7 else in the car?

8 A No, sir. The item 11, there was a partial DNA
9 profile that was developed with item 11, which was the
10 driver's side door panel. And it was insufficient for
11 interpretation. There's a partial DNA profile developed
12 from item 13. It's a possible mixture, because it was
13 from the steering wheel and gear shift area of the car, so
14 anyone that's driven that car, we could've gotten their
15 DNA from. But it was a mixture, it was not suitable for
16 comparison. There was a partial DNA profile developed
17 from item 17, which were swabs from, oh, that's it for the
18 car, I'm sorry.

19 Q Okay. And these places where you were, where you
20 talk about the items being insufficient for
21 interpretation, could that of been a spot where the, the
22 heat and humidity adversely affected the DNA?

23 A Absolutely.

24 Q Okay. Let's switch over then to, I'd like to talk to
25 you about the swabs from behind, from the floor behind the

1 couch and the swabs from the right side of the china
2 cabinet. Okay. Tell us about those, please.

3 A Alright. I'm going to speak first on the swabs from
4 the right side of the china cabinet. Assuming the
5 unidentified remains are those of Edwin Diaz Chirinos, the
6 DNA profile developed from item 19, which was the swabs
7 from that file cabinet, china cabinet, matches the DNA
8 profile of Edwin Diaz Chirinos. The probability of
9 randomly selecting an unrelated individual having a DNA
10 profile matching this item is approximately 1 in 38
11 quadrillion.

12 Q 38 quadrillion. That's not a number you hear very
13 often. Let's go over that.

14 A Okay.

15 Q Alright. I'm going to hold this chart up. Alright,
16 we got 38 and then we put three zeros after that, and that
17 would be 38 thousand, right?

18 A Correct.

19 Q Three more zeros and that would be 38 million.

20 A Uh-huh.

21 Q Three more zeros and that will be 38 billion?

22 A Yes, sir.

23 Q Three more zeros and now we are talking 38 trillion,
24 I believe. Almost the national debt for the United
25 States. And only after that, when we add three more

1 zeros, do we get to 38 quadrillion, is that right?

2 A That's correct.

3 Q At my request did you research any numbers about
4 population in the world?

5 A I did.

6 Q What is the current population of the world?

7 A The current population as of today is 7.5 billion.

8 Q 7.5 billion?

9 A Yes, sir.

10 Q So, we're talking, when we're talking 38 quadrillion,
11 how many more times, 7, 7.5?

12 A 7.5.

13 Q How many times more than 7.5 billion are we talking
14 about with 38 quadrillion?

15 A About 5 million more times.

16 Q Okay. And did you do any research to determine the
17 population of the world throughout history, all the people
18 that have ever lived?

19 A Yes.

20 Q And what was your, what was your finding?

21 A It's estimated that the earth's population average
22 has been about 108 billion.

23 Q And we're still not even to a trillion, and that's,
24 a, a trillion is a thousand times more than a, a billion,
25 is that right?

1 A That's correct.

2 Q How certain are you then that this stain, this blood
3 that you analyzed from the side of the china cabinet,
4 given to a, to a reasonable degree of scientific
5 certainty, can you state your certainty that that was
6 Edwin Chirinos' blood?

7 A Yes, sir. To a reasonable degree of scientific
8 certainty, I know this is Edwin Chirinos' DNA.

9 Q Were you able to do any, any further or gain any
10 further findings from the swabs on the floor?

11 A The swabs from the floor would be item 17. The
12 partial DNA profile developed from item 17 is a mixture of
13 at least two individuals. There's an inability to
14 calculate a statistic. No further interpretation will be
15 offered.

16 Q Okay. Now this was an indoors site. Let's just put
17 it that way. So, we wouldn't have been talking about heat
18 necessarily affecting that like we would have in the car,
19 is that correct?

20 A That's correct.

21 Q What other factors might enter into the degradation
22 of DNA?

23 A Mainly just heat and moisture. As far as inside the
24 house when we get possible mixtures of more than one
25 person, it's like a stain where, or somewhere on the couch

1 or on the floor where more, more than one person may have
2 touched or may have deposited a stain of some sort.

3 Q Okay. Is there a chemical reason, perhaps, that,
4 that DNA might have broken down?

5 A I, if you try to clean it up, yes sir.

6 Q Using chemicals?

7 A Using chemicals, yes sir.

8 Q What's the --

9 A Because we use, like in the lab when we're cleaning
10 our utensils, we'll use several different kinds of,
11 ethanol, such as alcohol and bleach to wipe down in
12 between cases when we're decontaminating. So something
13 like that would break DNA down.

14 Q Great. Can you explain for the jury what
15 insufficient for interpretation and not suitable for
16 comparison means?

17 A Yes, sir. It means that when we got such little DNA,
18 because what DNA we, we can make a, we make a visual
19 comparison first when we compare unknowns to known. And
20 once we make a visual comparison, we'll apply a
21 statistical weight to it. Well, we have to meet certain
22 criteria before we're able to apply statistical weight to
23 it. If it's below a certain level and to where it's in a,
24 a range that we interpret cautiously, then we don't apply
25 a statistic to it and therefore, we can't say whether it's

1 a match or no match or, or exclude or anything like that.
2 So, we'll say it's insufficient for interpretation because
3 it's low level.

4 Q Okay. So, you weren't able to use any of that stuff
5 for any other purpose, is that right?

6 A That's correct.

7 Q But you were able to use it from the back seat of the
8 car?

9 A Yes, sir.

10 Q And you were able to use it from the side of the
11 cabinet?

12 A Yes, sir.

13 Q 1 in 180, 1 in 38 quadrillion, is that correct?

14 A Yes, sir. Yes, sir.

15 Q Thank you ma'am. That's all I have.

16 THE COURT: Cross-examination, Mr. Shaffer?

17 MR. SHAFFER: Yes, Your Honor.

18 CROSS-EXAMINATION

19 By Mr. Shaffer:

20 Q Alright. Now, I'm probably going to ask you, I'm
21 hoping I'm going to ask you about twelve questions, but
22 there's a very real possibility I might end up asking you
23 more, okay?

24 A Okay.

25 Q So, I guess, isn't it correct that you analyzed the

1 DNA from, that came from a swab from Fabian Green's mouth?

2 A That is correct. That was his known standard.

3 Q Okay. And isn't it correct you analyzed the swab
4 that came from Karina Galarza's mouth?

5 A That is correct, her known standard.

6 Q Okay. And isn't it correct you analyzed a sample
7 that came from Davian Holman's mouth?

8 A That is correct.

9 Q And you developed DNA profiles on all three of these,
10 correct?

11 A Yes, sir.

12 Q And you also had a DNA profile from the remains that
13 were found that were burned?

14 A That I got from University of North Texas. Yes, sir.

15 Q So, you had his DNA profile though, correct?

16 A Yes, sir. Their DNA profile.

17 Q Yeah. Now, throughout this I'm going to refer to
18 those, that DNA profile as Edwin's DNA profile, if that's
19 okay with you.

20 A Okay.

21 Q Yeah. Are you going to know what I mean whenever I
22 say that?

23 A Yes, sir.

24 Q It's just a whole lot easier to say Edwin's DNA
25 versus the unknown bones from the University of Texas.

1 A I understand.

2 Q Okay. So, you also had Edwin's DNA profile and you
3 also had a, you analyzed a swab that came from the inside
4 of, inside door panel of the Mustang, correct?

5 A Yes, sir. The driver's side door panel area.

6 Q Okay. And you used, you analyzed a swab that came
7 from the steering wheel and gear shift of the Mustang,
8 correct?

9 A Yes, sir. There was one swab from the steering wheel
10 and the gear shift area.

11 Q Okay. And you developed a, at least a partial DNA
12 profile for that, correct?

13 A That would be item 13, and it was a partial DNA
14 profile that was a possible mixture and not suitable for
15 comparison.

16 Q Okay. But you analyzed the DNA profile for that,
17 correct?

18 A I developed a DNA profile from that, yes sir.

19 Q Yes. And based off of that DNA profile is there any
20 evidence that you have that supports a conclusion that
21 that DNA from the steering wheel and from the gear shifter
22 came from Fabian Green?

23 A I, it's not suitable for comparison, so --

24 Q You have no evidence, is that what you're saying?

25 A That it wasn't high enough to make a comparison, so I

1 can't say it is or is not. I didn't make a comparison.

2 Q But do you have any evidence of it? That's what I'm
3 asking.

4 MR. MOWRY: It's asked and answered, Your Honor.

5 MR. SHAFFER: I'm asking her a question. She's
6 trying to qualify. I'm trying to say did she have any
7 evidence of something.

8 THE COURT: You can answer yes, no and then explain
9 your answer, Agent Hefney, if you wish to. Okay.

10 A Okay.

11 THE COURT: Alright, ask the question again, Mr.
12 Shaffer.

13 Q Do you have any evidence that that, the DNA from the
14 steering wheel and from the gear shifter matched my
15 client, Fabian Green?

16 A No. Because it's partial and I could not make a
17 comparison.

18 Q Okay. Do you have any evidence that the DNA from the
19 steering wheel and from the gear shifter matched Davian
20 Holman?

21 A No. Because of partial DNA profile, possible mixture
22 and not suitable for a comparison.

23 Q Okay. And do you have any evidence that the DNA that
24 came from the steering wheel and the gear shifter came
25 from Karina Galarza?

1 A No. It was a partial DNA profile developed from item
2 13, possible mixture and it's not suitable for comparison.

3 Q Okay. And do you have any evidence that the DNA from
4 the gear shifter and the steering wheel came from Edwin's
5 or it matched Edwin's profile?

6 A No, sir. It was a partial DNA profile and a possible
7 mixture that's not suitable for comparison.

8 MR. SHAFFER: Court's indulgence.

9 THE COURT: Sure.

10 Q I'm showing you what's been marked Defendant's
11 exhibit 3. Do you recognize what is shown in that?

12 A Yes, sir. This is page four of my report. It's the
13 chart of alleles, which is the DNA profile that was
14 developed from each item.

15 Q Okay. And it's actually page four and five if you
16 flip to the next one, is that correct?

17 A Yes, sir.

18 Q Okay. And it has been redacted, correct?

19 A Yes, sir.

20 Q Okay.

21 MR. SHAFFER: At this time I'd like to move
22 Defendant's exhibit 3 into evidence.

23 THE COURT: What says the State?

24 MR. MOWRY: I don't think he's laid a foundation at
25 this point, Your Honor.

1 THE COURT: Okay.

2 MR. SHAFFER: Okay.

3 MR. MOWRY: I, I don't know how this would assist the
4 jury in rendering its decision.

5 THE COURT: I thought Agent Hefney said this is pages
6 of her report?

7 MR. MOWRY: Yes, sir. But how is the jury supposed
8 to use that in order to make a, make any interpretation?

9 THE COURT: Well, I think what you could do,
10 Solicitor, is if you felt like you needed to have the
11 whole report, you could certainly put in the other pages
12 if you feel like that's, that's necessary.

13 MR. MOWRY: I'm fine with that, Your Honor.

14 THE COURT: Okay. Alright. So, over the objection
15 of the, of the State, these are pages of the report that
16 she prepared in this case, even though it's not the
17 complete report, I'll allow it into evidence.

18 (Whereupon, Defendant's Exhibit number 3 is admitted
19 into evidence.)

20 MR. SHAFFER: Thank you, Your Honor.

21 THE COURT: And I think Mr. Shaffer, you said parts
22 of pages four and five have been redacted?

23 MR. SHAFFER: That's correct, Your Honor. Page four
24 had a section that was redacted.

25 THE COURT: Okay.

1 MR. SHAFFER: And this is what will come off the
2 redacted version.

3 Q Alright. Ms. Hefney, if you wouldn't mind coming
4 down here and sort of giving us a layman's explanation of
5 what we're looking at because obviously, this just looks
6 like a chart to me and this is sorta how I get it. So I'd
7 like you to explain what this stuff means.

8 THE COURT: Since you're away from the microphone
9 just make sure you speak up loud, okay.

10 A I am.

11 THE COURT: Thank you.

12 A This is a chart that we include on our reports that
13 has each item that we analyze and the DNA result for each
14 item. Down here you'll see a key that says anything that
15 you see on there like these things are in parentheses,
16 that means it's in stochastic range. Stochastic range is
17 that range that I explained to you where we interpret
18 cautiously because it's such low level. And here you'll
19 see dashes mean no result. Bold, which is not in this
20 case right now, it would be a major contributor and INC
21 would be inconclusive. Right here, table one, it says
22 global file or global file express, that's just a kit that
23 we used to develop the DNA profile. Case items, we have
24 one, item 1, a DNA profile, these are known standards that
25 belong to Gabriel Zuniga. 2, item 2, Fabian Green; 3,

1 Karina Galarza; 4, Davian Holman; 11 is the driver's side
2 door panel; 13 is the steering wheel and gear shift. Down
3 this column is each genetic location that we look at and
4 it's 20 different genetic location plus our Amelogenin
5 which is our sex typing chromosomes, tell whether you're
6 male or female. We chart all this and then we make
7 comparisons to our evidence samples. So, you can see
8 right here, item 11, driver side door panel. Of all the
9 21 locations that I looked at, I was able to develop two
10 and they're in parentheses. Things that are in
11 parentheses, that's insufficient to interpret. Here, the
12 steering wheel, gear shift, I was able to get a little bit
13 more. It looks like a possible mixture because right here
14 I have three, what we call alleles. And then everywhere
15 else I have two, which indicates, like, if you have, most
16 people as you see have two alleles. This person has one
17 but he has a 15, which means, you get half, let me back up
18 with the background of DNA. You get half of your DNA from
19 your mother and half of your DNA from your father. In
20 this case, Mr. Zuniga, at chromosome three, at site, 1,358
21 of that chromosome; he got a 15 from his mom and a 15 from
22 his dad. Here at VWA, which is another chromosome, he got
23 a 16 from either mom or dad and a 17 from either mom or
24 dad. So, that's how your DNA profile looks in that case.
25 When you see one number, that means you got the same one

1 from both mom and dad. Here, this will always, it's
2 called YNDELL, that just means if you're male you'll have
3 a two there. If you're a female it'll be a dash. Same as
4 with here, a amelogenin, that's our sex typing chromosome.
5 Males are XY and females are just X. So, what I did, I
6 made a comparison between these or I did not make a
7 comparison because this is too low. If you cannot do a
8 statistic to support your comparison, we don't do a
9 comparison. It's insufficient. I don't know if I can, do
10 I swipe to the next page or --

11 Q Yeah. You can, well, you can go down.

12 A Oh.

13 Q It's a, it's an adobe it looks like.

14 A Okay. This is page five of my report. This is what
15 I developed from the rear seat area. Again, everything
16 is, it's indicative that it came from one person, because
17 I don't see any extra alleles here. The comparisons that
18 I made was only 1 in 80 because you can only do it at
19 certain locations on there that are not in parentheses and
20 that I'm able to use. Sometimes we can use something in
21 parentheses if it's indicative that it came from one
22 person and it's within a certain peak, (phonetic), of each
23 other. In this one it's the floor behind the couch. I
24 see three alleles here, three here, all of them are in
25 parentheses. We did not make an interpretation of that

1 one. This is the right side of the china cabinet. Right
2 here we got 15, 18, 14, 14 and made it bigger. 14, 16,
3 10, 12, so all of this is indicative that it came from one
4 person. Some of it's in parentheses, but it's within a
5 certain peak of each other, we can use it for our
6 statistic. I go back up, if I can, I guess I can't get
7 both of them on the same page. But when I see this
8 profile, I looked at all the, all the DNA profiles that
9 were developed from the known standards and Edwin
10 Chirinos' profile is not on this report because University
11 of North Texas did it. So, I would compare it to there,
12 see that this item matched his, do a statistic from it and
13 that's what you got from the 1 in 38 quadrillion. For the
14 other item that we got from the 1 in 180, I believe, that
15 matched Edwin Chirinos, as you see I got considerably less
16 than I did here, before all these dashes that are here,
17 and a lot of things are in parentheses and if they don't
18 fall between a certain peak I can't use them as statistic.
19 So, that's why that DNA profile statistic is considerably
20 less than this one.

21 Q Okay. And you can sit back down. We'll probably get
22 you back up in a minute, but the, the parentheses, how do
23 you determine whether or not, what'd you mean by a
24 statistic? Explain that a little bit more in depth.

25 A Statistic or parentheses?

1 Q Or, or no, what'd you mean if you can't develop a
2 statistic on it, you put it in parentheses?

3 A Okay. No, that's not --

4 Q Okay.

5 A -- what I meant, that's what I said.

6 Q Oh, I'm sorry. Explain what stochastic range means.

7 A Stochastic range, the type, when we develop a DNA
8 profile, we run it through a instrument known as a
9 capillary electrical resist instrument. It separates it
10 by fragment sizes and if it comes below a certain amount,
11 so say we have, our set is like 725 RFU. RFU means
12 relative florescent unit. That's the signal that comes
13 out when it's separating the size fragments. If it's
14 below that, it's in parentheses. If it's above that, it's
15 not. And with it being above that, we get RFU's in like
16 the twenty thousands. So, when you have something below
17 725, that lets you know it's a very weak signal. And so,
18 that's why we interpret that with caution.

19 Q Okay. So, when, and I'm not, I'm gonna use
20 nontechnical terms because I don't really know the
21 technical terms for this. You basically put the sample in
22 a machine, I'm a, I'm, explain it to me like I'm a third
23 grader, okay.

24 A Okay.

25 Q And you put the sample in a machine, the machine

1 basically spits out some graphs, is that right?

2 A Well, it, it spits out peaks on a, on a, what we call
3 a electric paragram. That's just the picture depiction of
4 your DNA profile. And you'll see different peaks, if
5 like, you see the 15, 18, I'm just looking at D3, it would
6 be a peak for the 15 and a peak for the 18 on the electric
7 paragram.

8 Q Okay. And whenever you have those peaks, basically
9 if they're above a, a line, a threshold line, are they
10 counted or not counted?

11 A If they're above an analytical threshold, they are
12 counted. If they are below the analytical threshold,
13 single source, which means it came from one person and
14 within a 55 percent picot of each other, then we could use
15 those statistically.

16 Q Okay. So, there's a, there's basically a analytical
17 threshold, is that the same for every lab across the
18 country, or is that different for each lab?

19 A That's different for each lab. It's based on each
20 lab's validation studies. So, when you validate these
21 kits and you validate these instruments, it's how it
22 worked in your lab, as how you set these, these
23 thresholds.

24 Q So, would some low sample DNA or low, low, what is it
25 called, low?

1 A Low level.

2 Q Low level DNA. Whenever you have small amounts of
3 DNA, some lab might call the allele, but some won't, is
4 that right?

5 A That is true.

6 Q Alright. And, and SLED has basically set that
7 threshold at a certain bar. And basically whenever it's
8 below that bar, and I'm, I'm, I'm being very general here,
9 but when it's below that bar, it's in that, it can be in
10 that stochastic range?

11 A That is correct.

12 Q Okay. So, whenever you, you're looking at one of
13 these charts, and obviously, this is not everything that
14 came from it, your, is your DNA report for this case
15 probably a hundred pages long or more?

16 A No, it's just five pages.

17 Q Oh, not and I guess I'm not talking about the report,
18 I'm talking about the results, the original results.

19 A Oh, the file.

20 Q Yeah, the file is, with the electric paragrams in it,
21 it is fairly substantial, isn't it?

22 A That's correct. It's 97 pages.

23 Q Okay. But you, you boil it down to a five-page
24 report so that at least it's somewhat easier for people
25 like me and the Solicitor's Office to figure out what

1 we're talking about, right?

2 A Yes, sir.

3 Q Okay. So, if, if at this allele, these two, for
4 example, and we're not, we're using these as examples,
5 okay. I'm not using this as, I'm using item 19 and item
6 17 as examples.

7 A Okay.

8 Q If, at this level you have a 15 and a 18, and at this
9 level say you had a 15 and a 18. Those would be
10 consistent, right?

11 A Those are consistent, but that 15, 18 underneath the
12 17 was the floor behind the couch. You'll notice those
13 are in parentheses, which means they fell below the
14 analytical threshold level that we've set. So, that's why
15 they are in parentheses.

16 Q Okay. So, and I want you to imagine that we're
17 talking about a completely different case and that these
18 are not in parentheses. If you had a 15 and a 18, and a
19 15 and a 18, those two would be consistent, right? The,
20 the DNA profiles at least at that allele would be
21 consistent, right?

22 A At that genetic location, they would be consistent.

23 Q And I'm using the wrong term, genetic location. The
24 alleles are what the numbers are, right?

25 A That's correct.

1 Q Okay. And you say this two indicates a --

2 A A male.

3 Q -- a male. Okay. And what does the XY indicate?

4 A Male.

5 Q Okay. So, imagine this, none of these were in
6 parentheses, okay. And I'm not asking you, I know your
7 answer if they were in parentheses, but if they were not
8 in parentheses, if this was a 15 and, would that match any
9 of these?

10 A If it was not, if I was to do an interpretation,
11 which I'm not because that's too low level to do an
12 interpretation of. It would not. I don't see another
13 person with a 15, but that doesn't mean it doesn't match
14 them, it means that it could be something else below
15 threshold that's there, that it just didn't call.

16 Q Okay.

17 A So, that's why we don't interpret things that
18 looks --

19 Q -- that are below a threshold. But you put them in
20 parentheses, and sometimes you interpret them --

21 A When they're below threshold and there is very little
22 bit there, we interpret those with caution because you
23 have to look at the whole electric paragram, not just
24 what's depicted on this as well.

25 Q So --

1 A Because what's depicted on this chart is not
2 necessarily what we got on the DNA profile on the electric
3 paragram. You may see other peaks there, but they weren't
4 even called because they are even below the call level.

5 Q Okay. But if you were, and I understand that they're
6 in parentheses because they were below the level. If, say
7 that threshold, instead of, you said it was 720, 750,
8 725--

9 A Mm-hmm.

10 Q RFU's? That's like, RFU's are on this axis, right?

11 A Mm-hmm.

12 Q And then the locations at this axis?

13 THE COURT: You need to verbally respond, Agent
14 Hefney.

15 A Okay. The RFU's measure on the Y axis.

16 Q And then the, the location is on the X axis, right?

17 A That's correct.

18 Q Okay. So, if your threshold, if you were at a lab
19 that set the threshold at say, a 150 or lower, and those
20 peaks were above it, then you might call them as actual
21 alleles, correct?

22 A We may.

23 Q Okay. If all of these were called as alleles, and
24 they're not, but if all of these were called as alleles,
25 would it match Fabian Green's DNA profile?

1 A I still wouldn't make a comparison, I mean, we did
2 not make a comparison because these are low level. Are
3 you asking me theoretically --

4 Q Yeah.

5 A -- if it's.

6 Q I apologize.

7 A Okay.

8 Q Go ahead.

9 A No, I was saying, the partial DNA profile that was
10 developed from item 13 is a possible mixture because at,
11 looks like D10, there are three alleles there which lets
12 me know it came from more than one person. So it's a
13 possible mixture and it's not suitable for comparison
14 because it's such low level.

15 Q Okay. I understand that that's based off the SLED's,
16 SLED's lab's guidelines and policies. I'm asking if you
17 were in a lab where the threshold was set lower --

18 MR. MOWRY: Your Honor, we're getting way into
19 speculation now. And he can ask her about SLED lab's
20 policies, but getting into other labs I think is, is pure
21 speculation.

22 THE COURT: Well, I think it's, he's asking it more
23 in the fashion of a hypothetical type situation, and I
24 mean, if she can answer the question, fine. If she can't,
25 fine too. I'll overrule the objection at this time.

1 MR. SHAFFER: Thank you, Your Honor.

2 Q If you were at a lab that set a threshold low enough
3 where you ended up with a chart like that, except they
4 weren't in parentheses, would you say that that DNA
5 matched Fabian Green's DNA?

6 A With that little DNA, I can't say that I would make
7 the comparison then either. It would be, I will probably
8 be able to make more, I will probably be able to make a
9 comparison if it's not in parentheses. But you still have
10 a lot of dashes in that profile. So that means a lot of
11 DNA did not get called. It was not there. So, I can't
12 say that I would, if it, if those things were out of
13 parentheses, I could probably maybe make a match or maybe
14 say something about it, but you still have a lot, a very
15 partial profile there.

16 Q Okay. You have six spots where a stochastic range,
17 allele was caught.

18 A Uh-huh.

19 Q Okay. Have, do you normally, or if they weren't in
20 stochastic range you're saying that there's, actually you
21 have eight, but I'm excluding the ones about the male
22 because about 50 percent of the population is male. So,
23 out of those other six you're saying that you don't think
24 you could make a determination or come up with some
25 statistic if you had six locations matching someone else's

1 known standard?

2 A If they were in parentheses or not in parentheses?

3 Q Not in parentheses.

4 A Not in parentheses and six locations, just clear
5 locations with nothing else, we could possibly, you know,
6 make a inclusion.

7 Q But you can't because SLED has a policy where --

8 A Because they are in parentheses, they are in the
9 level that we interpret cautiously.

10 Q Okay. No further questions at this time.

11 THE COURT: Redirect, Solicitor?

12 MR. MOWRY: I will keep it at less than 10, Your
13 Honor.

14 THE COURT: Excuse me.

15 MR. MOWRY: I will keep it at less than 10 questions.

16 THE COURT: Okay. Well, I, I think Mr. Shaffer may
17 have exceeded his 12, so.

18 REDIRECT EXAMINATION

19 By Mr. Mowry:

20 Q Is SLED nationally accredited?

21 A Yes, sir.

22 Q Is it internationally accredited?

23 A Yes, sir.

24 Q Whether or not things were in parentheses or out, how
25 many calls, I guess, were you able to make on all the

1 swabs that were submitted to you? .

2 A Two.

3 Q Which ones were those?

4 A Item 14, which was the rear seat area and item 19,
5 which was the right side of the china cabinet.

6 Q And what was your conclusion on item 14?

7 A Item 14, it said the partial DNA profile developed
8 from item 14 matched the DNA profile of Edwin Diaz
9 Chirinos. The probability of randomly selecting an
10 unrelated individual having a DNA profile matching this
11 item is approximately 1 in 180.

12 Q And what was the other one?

13 A The other one was item 19, swabs from the china
14 cabin. The DNA profile developed from item 19 matched the
15 DNA profile of Edwin Diaz Chirinos. The probability of
16 randomly selecting an unrelated individual having a DNA
17 profile matching this item is approximately 1 in 38
18 quadrillion.

19 Q Thank you, ma'am. That's all I have.

20 THE COURT: Anything in recross?

21 MR. SHAFFER: I, I just have --

22 THE COURT: Without plowing up old ground.

23 RECROSS-EXAMINATION

24 By Mr. Shaffer:

25 Q Are you aware of the threshold level for every

1 nationally accredited DNA lab out there?

2 A No, sir.

3 Q Okay. Thank you very much.

4 THE COURT: Okay. Thank you Agent Hefney, you can
5 step down and you certainly are free to leave the
6 courthouse, but you're more than welcome to remain with
7 us. Okay Solicitor, next witness.

8 MR. MOWRY: Your Honor, if it please the Court, we
9 call Gaile Heath.

10 GAILE HEATH, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Mowry:

14 Q Ms. Heath, by whom are you employed?

15 A The South Carolina Law Enforcement Division commonly
16 referred to as SLED.

17 Q How long have you been employed by SLED?

18 A For 33 years.

19 Q And what is your position with SLED? What do you do?

20 A I'm a forensic question document examiner.

21 Q What kind of specialized education or training have
22 you had to achieve your position?

23 A I have two undergraduate degrees from the University
24 of South Carolina. I'm a graduate of the South Carolina
25 Law Enforcement Training Center. I am, I have attended

1 schools by the United States Secret Service, the FBI, and
2 I have the train, attended and participated in training
3 sessions twice a year in question documents for the last
4 33 years and I am nationally certified by the American
5 Board of Forensic Document Examiners.

6 Q Have you been, have you testified in courts of law in
7 the State or anywhere else?

8 A In the State of South Carolina, in the State and
9 Federal Court.

10 Q How many times would you estimate?

11 A Today will be 190.

12 Q And how many times have you been declared an expert
13 in the area of question, question documents?

14 A Each and every time.

15 Q Thank you ma'am.

16 MR. MOWRY: And Your Honor, I ask that this be a 190.

17 THE COURT: Okay. Mr. Shaffer?

18 MR. SHAFFER: No objection. No questions.

19 THE COURT: Alright, without objection this witness
20 is found to be an expert in the area of, would you
21 consider yourself just a basic handwriting expert, is that
22 a kind of layman way of saying what you, what you do?

23 A Yes, sir, Your Honor.

24 THE COURT: Okay. Thank you.

25 Q Ms. Heath, I'm going to submit two exhibits to you.

1 Both of these are now in evidence. I'm going to submit to
2 you what has been marked as State's Exhibit 65 for
3 identification, but also Court's exhibit number 3, and ask
4 you if you have seen that, please, ma'am?

5 A Yes, sir. It contains my item number, my case number
6 and my initials.

7 Q Great. And I'm also going to give you State's
8 exhibit number 66, and ask you if you can identify that?

9 A Yes, sir. Again, it contains my laboratory case
10 number, my item number and my initials.

11 Q Under what circumstances did you receive those
12 documents?

13 A These documents were submitted to the SLED laboratory
14 by the Laurens County Sheriff's Department.

15 Q What was the purpose of the submission?

16 A To determine if the writer of the known writer,
17 Fabian Green, had prepared any of the questioned entries
18 on the questioned documents.

19 Q So, you're saying that number, State's exhibit 66 was
20 a known sample, is that right?

21 A That is correct.

22 Q And Court's exhibit number 3 or State's exhibit 65
23 for identification was an unknown?

24 A That is correct.

25 Q How do you go about making that comparison?

1 A First, well, when the documents come into the
2 laboratory, they are both examined microscopically and
3 notes are made of any similarities or differences. I look
4 at beginning and ending strokes on letters. I look at how
5 the letters are formed. I look if somebody goes into a
6 letter from the right side or from the left side. I look
7 at the heights of letters. I look at the placements of
8 letters and I look at the connecting strokes between the
9 letters.

10 Q Okay. You did that in this case?

11 A Yes, sir. I did.

12 Q Were you able to render a conclusion on who wrote the
13 Court's exhibit number 3, I believe?

14 A Yes, sir. I was.

15 Q And what was that conclusion, Ma'am?

16 A My conclusion was that based on the known standard
17 that I had, that Fabian Green had written the questioned
18 entries on State's exhibit number 3.

19 Q Okay. Is there a hierarchy of certainty, I guess, in
20 your reports?

21 A Yes, sir.

22 Q Can you kinda go through those and explain what those
23 are, and then go back and explain what your determination
24 was in this case?

25 A Okay, certainly. The SLED lab uses kind of a

1 national standard of a nine point scale where we have an
2 identification, which means that somebody, it's a,
3 one-hundred percent, fully identified that a particular
4 writer wrote a questioned entry. Then we have, we can say
5 a strong probability. That would mean that there would be
6 a couple of features in the known standard that we would
7 not be able to account for in the questioned document.
8 Then the next stage down we have a probable that a writer
9 wrote something and there would be probably four or five
10 features that we couldn't account for in the questioned
11 writing. Then we have indications that a writer would do
12 something, would, would prepare a document. That would
13 mean that there would probably be ten or more items that
14 we couldn't account for in the known writing that appeared
15 in the questioned writing. And then we have a no
16 conclusion, which is kind of like, in, in question
17 documents we don't use a scale, but a no conclusion would
18 be kind of 50/50. We would have kind of a equal number of
19 similarities and an equal number of differences. And then
20 on the negative side of the scale we have indications that
21 they didn't, which would mean that there were more
22 features that were different from the questioned writing
23 than in, we found in the known writing. Probable that
24 they did not, would mean that there were even more
25 features. A strong probability would mean that it was

1 almost certain that they didn't write it. And then we
2 have a total elimination where we say the writer did not
3 prepare it because there would be nothing in common with
4 the two writings. The questioned and the known. In this
5 particular instance we had a, it's on the opposite side of
6 the scale. We have the known writing, and I was able to
7 conclusively fully identify it with the questioned
8 document to be able to say that in my opinion, Mr. Green
9 wrote the questioned entries on Court's exhibit number 3.

10 Q Great. Just, just for the jury's edification, how do
11 you go about making that comparison? What are you looking
12 for?

13 A I look for letters and letter combinations. I look
14 at the placement that a person places something on a
15 baseline. I look at how tall they may make their letters.
16 I look at descenders and ascenders, how, how high up they
17 may write, how low down below a baseline they may bring
18 their G. In, in this particular instance, the writer had
19 some unusual G's, K's, E's. The TH combinations of his
20 words were a particular interest in this particular case.
21 So, any similarities, and I also look for differences, but
22 in this particular case I found only similarities with the
23 known standard, back to the questioned document.

24 Q So, you, in this case, have determined to the highest
25 level of certainty on your scale, is that right?

1 A That is correct.

2 Q That it was that, was Fabian Green who wrote the
3 questioned document?

4 A That is correct.

5 Q Thank you ma'am. That's all I have.

6 THE COURT: Cross-examination?

7 MR. SHAFFER: None, Your Honor.

8 THE COURT: Okay. Thank you, Agent Heath, you can
9 step down.

10 A Thank you.

11 THE COURT: You are free to leave the courthouse or
12 you're welcome to remain with us. Let me see the lawyers
13 for just a minute please.

14 MR. MOWRY: Yes, sir.

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

18 MR. MOWRY: Your Honor, I would offer both the
19 exhibits that Ms. Heath was discussing, both State's
20 exhibit number 60, well, 66 already is in evidence. I
21 would offer into evidence also Court's exhibit number 3,
22 State's exhibit, State's exhibit number 65 for
23 identification into evidence.

24 THE COURT: Okay. Alright. Y'all come back up.

25 (Whereupon, a bench conference was held in the

1 Just take it as fact that relevant evidence is being
2 presented to you for whatever consideration that you deem
3 it proper and necessary. In addition, because it is
4 handwritten, by agreement, the lawyers felt like to make
5 it easier to read when you have this along with all the
6 other exhibits in this case, it's actually been typed up.
7 So, you can use that in any manner, any fashion that you,
8 you wish to use it. The State is now going to publish the
9 letter. So I am going to hand this back to you,
10 Solicitor.

11 MR. MOWRY: Thank you, Your Honor.

12 THE COURT: I hope that explanation is clear to the
13 jury.

14 MR. MOWRY: My girl would write me and shit like
15 that, so one day she writes me and I tear drops on the
16 paper. She started the shit off like I miss you baby, I
17 wish you were here with me, I feel like dying. I
18 shouldn't of went to the party with Thalia. I told Thalia
19 that this guy kept looking at me and grabbing him, his
20 self in the private area. Then she was like, Thalia
21 saying ignore him. He always do that to girls he like.
22 So, the party go on, eventually my girl gets tired and
23 falls asleep in the den. So why she's asleep, why she
24 asleep, I guess that's when he did that sick as shit to
25 her. Shit got real. Somebody got missing and about three

1 going on the fourth week, a body, well shit, it wasn't a
2 body anymore, no more, skeletal remains was scattered on a
3 vacant property. You feel me? Shit get real when you
4 fuck with my family or me. He didn't even see the shit
5 coming. Me and my girl playing shit off well by having a
6 big argument on Facebook. He inboxed, came over thinking
7 I wasn't there. So I said you must not know who the fuck
8 I am, dude. So, clearly see that he really lied to me
9 because he hit her up. So, I said oh really, how do you
10 think it feels to be raped. Then I two piece him because
11 he, he just standing there looking dumb at ASF. Dragged
12 him into the garage, see, see a hammer, hit him a few
13 times in the head and my, and face. My girl come in with
14 a wooden broomstick and tells me to break off a piece.
15 So, so, she get the shit and tell brah that ain't pain, I
16 gonna show you how you make me feel. So, he said I'm
17 sorry, starts crying because he knew what time it was. I
18 take all his clothes off, tie him up so that his ass would
19 be raise up, watch my girl put baby oil on the splintered
20 of the broom handle. I walk out, chill in the living
21 room, heard screams for a good 10 or 15 minutes. I came
22 in, shit and blood was all over the ground, trembling and
23 crying and shit, so I started laughing. And I say how,
24 how it felt? She say that shit felt good at ASF, thinking
25 I was talking to her. Then I out his lights and that was

1 that. WTF kinda nigga can actually rape a girl like that.
2 Crazy ASF. Yeah, just bring two shit ain't gone get too
3 crazy, this Laurens, dead ass Laurens. Nothing ever
4 happens here. Damn nigga you got a fucking translator.
5 You a fucking translator knowing all them languages. I
6 knew you was mixed because a mixed nigga knows a mixed
7 nigga when we see each other cause we like the same shit.
8 Hell yeah, and shit, whatever game you get it straight.
9 Long we chillin playing the game and plotting on the
10 schemes I'm cool with. On my grandmother or my kid, you
11 don't ever got to worry about shit as long as you with me.
12 And don't never got, don't never ever got worry about me
13 using you. If anything happen, I got you hermano. You is
14 family, and family is forever. I go by that and I will
15 die about that any day. Shit, I'm glad that you see that
16 I'm real because if I call you my hermano. WTF is you
17 doing trying to holla at my sister. Nigga that takes
18 some, excuse me, that take, that some take ass shit
19 because you saying I'm your hermano and shit. So, that
20 make her your sister too. That shit crazy ASF. You don't
21 got to worry about me saying slice shit to her or anything
22 like that because she gone be fam to we all are about to
23 have that deep connection. I promise you, that she'd
24 gonna love me, that, that she'd gonna love me like a
25 brother in about a month and a half because I'm gonna

1 treat y'all like family. Y'all gone because all that I'm
2 gone have and I'm gone cherish that shit. Our kids gonna
3 be smart ASF and close ASF. They gone be cousins, we all
4 family. Me and you hermano, we gone be the support system
5 of this foundation we have created so that we got to get
6 this money for them and our kids. Shit, you know I am
7 with you every step of the way.

8 And that is concluded, Your Honor.

9 THE COURT: Okay. Madam Forelady and ladies and
10 gentlemen of the jury, we're gonna take about a ten-minute
11 afternoon break. I'll ask that you go back to the jury
12 room. Again, no discussion about this case among
13 yourselves, we will get you back out shortly to continue.

14 (Whereupon, the jury is excused from open court for a
15 break.)

16 THE COURT: Alright, let's take a little break and
17 then I'll go ahead and read Mr. Green his rights
18 concerning testifying, and then we can kinda figure out
19 what we are going to do.

20 (Whereupon, a short break was taken.)

21 THE COURT: Solicitor.

22 MR. MOWRY: Your Honor, if it please the Court,
23 there's a matter that the State would like to take up
24 before the jury comes back in.

25 THE COURT: Okay.

1 THE COURT: Okay. You can call your first witness.

2 MR. SHAFFER: Defense calls Olivia Williams.

3 OLIVIA WILLIAMS, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Shaffer:

7 Q Alrighty Ms. Williams, your husband is Willie, Willie
8 Williams, correct?

9 A Yes.

10 Q He testified here earlier today, didn't he?

11 A Yes.

12 Q You were here with him and you saw his testimony?

13 A Yes.

14 Q Okay. Now, originally the State subpoenaed you to be
15 here, right?

16 A Right.

17 Q And then I subpoenaed you today, right?

18 A Yes.

19 Q Okay. Basically, I just want to hear your
20 recollection of what happened the night of May 8th, 2016.

21 A Fabian and his cousin walked up to our house. And we
22 were just sitting around chatting, me and my grands and my
23 husband. And Fabian said, do you have any lighter fluid.
24 And I said, no. He said do you have any alcohol. I said
25 no. So, we sat on around and I talked to my grands and

1 played with them and they waited about five to ten minutes
2 then they left.

3 Q Okay. Did you see this bucket?

4 A Yeah.

5 Q Alright. What happened to the bucket?

6 A I don't remember too much about the bucket because I,
7 I went to the hospital afterwards.

8 Q Okay. You don't remember too much about it. You
9 gave a statement to the police, didn't you?

10 A Yes, I did.

11 Q If I handed you a copy of your, your statement to the
12 police do you think that that might refresh your
13 recollection as to--

14 A It might.

15 Q Okay. I'm going to hand you this. If you wouldn't
16 mind, does that appear to be your statement that you gave
17 to police?

18 A Yes.

19 Q Okay. Now, I want you to read over and see if that
20 refreshes your recollection as to what happened to that
21 bucket.

22 A I remember some of it, some of it I don't.

23 Q Okay. But that is your statement you gave; correct?

24 A Correct.

25 Q Okay. If you wouldn't mind handing that to me. I'm

1 showing you what's been marked Defendant's exhibit 4.

2 That, that appears to be your statement, right?

3 A Yes.

4 MR. SHAFFER: I'd like to move that into evidence.

5 THE COURT: And what says the State?

6 MR. MOWRY: No objection, Your Honor.

7 THE COURT: Alright, without objection, be number 4
8 for Defense into evidence.

9 (Whereupon, Defendant's exhibit 4 was admitted into
10 evidence.)

11 Q Now Ms. Williams, if you wouldn't mind, could you
12 read that statement? And you, and actually you don't even
13 have to read the whole thing.

14 A Okay.

15 Q I'm going to point to a section and starting with
16 that right there, would you mind reading there and going
17 to the end, or excuse me, going to, well, you can go ahead
18 and read all the way to the end.

19 A I didn't have any lighter fluid. They put the bucket
20 in my neighbor's trash can.

21 Q Alright. And then, actually, that, that's good, and
22 what I want you to do is then read from that right there.

23 A My husband got the bucket from the neighbor's trash
24 can and put it behind the house.

25 Q Alright. And that's good. Okay. So, it said that

1 the bucket went into the trash can. Is that what you told
2 police?

3 A Yes.

4 Q Alright. Thank you very much. That's all the
5 questions I have for you.

6 THE COURT: Okay. Any cross-examination?

7 MR. MOWRY: Just a little bit.

8 CROSS-EXAMINATION

9 By Mr. Mowry:

10 Q Ms. Williams, you and I have spoken a few times,
11 haven't we?

12 A Yes.

13 Q I came to your house one time, didn't I?

14 A Yes.

15 Q To speak to you. Were you paying a whole lot of
16 attention to what Fabian was doing?

17 A No, I wasn't.

18 Q You had grandchildren there, didn't you?

19 A Yes.

20 Q You do know that he came up with his cousin, is that
21 right?

22 A Yes.

23 Q Do you remember whether it was light outside or dark?

24 A It was dark.

25 Q Dark. So, his cousin came up, and that's Davian

1 Holman, right?

2 A Yes.

3 Q And he and Fabian came up. Fabian was carrying a
4 bucket, wasn't he?

5 A Yes.

6 Q It was this bucket, wasn't it?

7 A Yes.

8 Q Do you know if it had anything in it?

9 A No, I don't.

10 Q Were you looking?

11 A No, I wasn't.

12 Q And you say Fabian asked you for lighter fluid,
13 didn't he?

14 A Yes.

15 Q Was that kind of strange in your mind?

16 A Yeah, it was.

17 Q Okay. And you didn't have any lighter fluid, did
18 you?

19 A No.

20 Q And then he asked you for alcohol, didn't he?

21 A Yes.

22 Q Now did you think he was talking about the drinking
23 kind?

24 A I didn't know.

25 Q Okay. But he'd asked you for lighter fluid first?

1 A Yes.

2 Q And then he asked you for alcohol?

3 A Yes.

4 Q Did you think that he was wanting to set something on
5 fire?

6 A I didn't know.

7 Q And it's 9:00 or 10:00 o'clock at night, is that
8 right?

9 A Yes.

10 Q And it's dark and you've got your grandkids and
11 you're not really paying that much attention to what
12 Fabian's doing. Did you see him go over to the trash can?

13 A Yes.

14 Q Did you see him drop the bucket in there or did you,
15 could it be that he just dumped stuff out of there?

16 A I'm not sure.

17 Q Okay. Is it possible that he just dumped stuff and
18 walked off with the bucket?

19 A Yeah, it could be.

20 Q Okay. And let me ask you this also, Fabian's got a
21 girlfriend, doesn't he?

22 A Yes.

23 Q What, can you describe her? Let me ask you this, do
24 you know her name?

25 A No, I don't.

1 Q Can you describe her?

2 A She medium built.

3 Q Okay.

4 A Long pretty hair.

5 Q Okay. What color is her hair?

6 A Redish black.

7 Q Okay. Is she black or white or Hispanic or what?

8 A I don't know what she is.

9 Q Okay. In your statement, let's see, is it up here,
10 you've got it. Down there in your statement.

11 A Uh-huh.

12 Q You said Fabian's girl.

13 A Uh-huh.

14 Q What, what did you write in your statement?

15 A Mexican.

16 Q Okay. Thank you, ma'am. That's all I have.

17 THE COURT: Anything in redirect?

18 MR. SHAFFER: No, Your Honor.

19 THE COURT: Okay. Thank you, ma'am. You can step
20 down. Any objection to Ms. Williams being excused?

21 MR. SHAFFER: No, Your Honor. Not from the defense.

22 THE COURT: Okay. Alright. Ma'am you are free to
23 leave the courthouse or you're welcome to remain with us
24 if you'd like.

25 A Thank you.

1 THE COURT: Next witness, Mr. Shaffer.

2 MR. SHAFFER: Defense would call Rodney Ginn.

3 THE COURT: Okay. Come around Mr. Ginn.

4 RODNEY GINN, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Shaffer:

8 Q Mr. Ginn, do you know me?

9 A I met you one time.

10 Q Did you see me on Friday?

11 A Yes, sir.

12 Q Okay. I came by your house?

13 A Yes, sir.

14 Q Okay. Do you know this gentleman over here?

15 A No, sir.

16 Q Okay. Ever seen him before?

17 A No, sir.

18 THE COURT: You need to speak up a little bit, sir.

19 A No, sir.

20 Q Okay. Where do you live at, what's your address?

21 A [REDACTED]

22 Q Okay. Is that on the corner of Taylor Street?

23 A Yes, sir.

24 Q Is it that second trailer back?

25 A Yes, sir.

1 Q Okay.

2 A It was in the first trailer. The one I stayed at.

3 Q Oh, you used to be in the first trailer?

4 A In the first trailer.

5 Q And then you moved to the second trailer?

6 A To the second trailer with my daughter.

7 Q Okay. Where were you living at on, on May, well, in
8 May of 2016?

9 A First trailer.

10 Q The first trailer. Okay. So, you lived on the
11 corner of Captain Guy and Taylor Street on, in May of
12 2016?

13 A Yes, sir.

14 Q And at, back here, this, there's a wooded lot, right?
15 Or there is an abandoned lot I guess, abandoned mobile
16 home back there?

17 A Yes.

18 Q Okay. I'm going to refer to that as the burn
19 location. Okay. Do you, so if I ask you about the burn
20 location that's what I'm talking about. Do you, will you
21 understand what I'm talking about?

22 A Yes, sir.

23 Q Okay. So, in May of 2016 you called the police about
24 an incident, correct?

25 A Yes, sir.

1 Q Do you recall that incident?

2 A Yes, sir. Somebody shot toward the trailer.

3 Q Okay. So tell me about, about the incident. Was
4 there a, you, what did you report to the police happened?

5 A A small car stopped on the other side next to the--

6 THE COURT: Mr. Ginn. Mr. Ginn, you, I, I know that
7 you may be a little nervous, maybe normally soft spoken,
8 but it is very important that you speak up.

9 A Next, it's next to the church and fired a shot.

10 Q Okay. So a small car came and fired a shot, right?

11 A Yes, sir.

12 Q Before that small car came was there a Ford Mustang
13 that went down that road?

14 A I don't recall.

15 Q You don't recall that?

16 A I don't remember whether it was before or after.

17 Q You don't recall if it was before or after?

18 A No, sir.

19 Q Okay. Now, the police on, Court's indulgence, I got
20 to find my exhibit.

21 THE COURT: Sure. Take your time.

22 MR. SHAFFER: I apologize, I found it.

23 Q I'm showing you what's been marked Defendant's
24 exhibit 2 for the purposes of identification. Does this
25 appear to be a statement that you wrote?

1 A Yes, sir.

2 Q Or a statement that was wrote for you, right?

3 A Wrote for me.

4 Q You signed that statement, right?

5 A Yes, sir. That my signature.

6 Q Now you don't read so well, do you? Could you, could
7 you read over that statement and, and get a good
8 recollection of what, what you told the police that day?

9 A You want me to read it loud?

10 Q You don't have to read out loud if you don't want to,
11 you just read it --

12 THE COURT: Read it to yourself if you're able to
13 read, read it to yourself. And Mr. Shaffer won't ask you
14 any questions while you're doing that. Just let us know
15 when you're finished.

16 A Okay.

17 THE COURT: Finished reading it, sir?

18 A Yes, sir.

19 THE COURT: Okay.

20 Q Do you recall what you told police happened that day?

21 A Yes, sir.

22 Q Do you recall what happened that day?

23 A Most of it.

24 Q Okay. If you could, could you tell us what happened
25 that incident, or tell the jury about it. And this is May

1 12th, 2016, right?

2 A 2016.

3 Q Yes, sir.

4 A The car come down the road and stopped and fired a
5 shot.

6 Q What kind of car was it?

7 A Small tan car.

8 Q Okay. And did another car come up at some point?

9 A It was after.

10 Q Okay.

11 A I seen a Mustang went down there, but it wasn't down
12 there long.

13 Q How, what kind of Mustang was it?

14 A This fellow down there owns a Mustang too.

15 Q Okay. There was a Mustang that went down the road.
16 Did the Mustang ever come back out?

17 A Yes, sir.

18 Q You, did you tell police that the Mustang came out?

19 A Far as I recollect I did.

20 THE COURT: Okay. Repeat that answer and, and let's
21 speak up.

22 A Yes.

23 Q Is it safe to say that your recollection was better
24 on May 26th, 2016 than it is now?

25 A No, sir.

1 Q You don't think that when you talked to cops, you
2 talked to the police on May, May 16th, I mean May 26th,
3 2016, right?

4 A Yes, sir.

5 Q Okay.

6 MR. SHAFFER: Your Honor, I, at this point I'd
7 actually move it into evidence, Your Honor.

8 THE COURT: Okay. What says the State?

9 MR. MOWRY: No objection, Your Honor.

10 THE COURT: Alright without objection, what is it, 4?
11 Oh, 2. Defendant's 2 into evidence.

12 (Whereupon, Defendant's exhibit 2 is admitted into
13 evidence.)

14 Q Isn't it true that you said, before I seen this car,
15 I seen a Mustang go down Taylor Drive and it turned off
16 Captain Guy making a left onto Taylor Drive. I never seen
17 the Mustang come out. I heard a bunch of gunshots. I did
18 call 911 when I heard the first gunshot.

19 A Yes, sir.

20 Q And that was on May 12th, 2016 you called 911?

21 A Yes, sir.

22 Q And you saw a Mustang, but you never saw it come out,
23 is that right?

24 A Yes, sir.

25 Q Okay. But there were two cars there, right?

1 A Yes, sir.

2 Q And the other, the other car you said was a brown
3 car, right?

4 A Yes, sir.

5 MR. MOWRY: Your Honor, he's on direct examination,
6 so I'd ask him to ask --

7 THE COURT: Right.

8 MR. MOWRY: -- not leading questions.

9 THE COURT: Right. Right. Rephrase please, Mr.
10 Shaffer. I know with this witness you may have to lead a
11 little, but try to rephrase.

12 MR. SHAFFER: Thank you, Your Honor. I apologize.

13 Q So, did you tell the, or the story you told the
14 police, that was the, was it the truth or not?

15 A Yes, sir.

16 Q Okay.

17 A My, my recollection.

18 Q So the story in that, in that writing, to the best of
19 your recollection is the truth?

20 A Yes, sir.

21 Q And what day did you call 911? Was it May 12th or
22 was it --

23 A 12th.

24 Q Okay. The person shooting the gun, was it, which
25 car, or who, where did the person shooting the gun come

1 from?

2 A Cross the street, church.

3 Q The, the church across the street?

4 A Straight across from the church.

5 Q Over here?

6 THE COURT: You need to speak up and give a verbal

7 response, don't nod your head.

8 A Yes, sir. Yes, sir.

9 THE COURT: Is that a yes?

10 A Yes.

11 THE COURT: Okay.

12 Q Once the first gunshot went off what happened next?

13 A The car pulled around and stopped in front of trailer
14 and looked, looked at me I guess. Then it stopped again
15 around the side and went down, it come flying back out.

16 Q Okay. And was that the brown car, right?

17 A Yes, sir.

18 Q Okay.

19 A Brown.

20 Q And you told this to police? When did you tell this
21 to police?

22 A The next day.

23 Q When did you call 911?

24 A That night. The same night.

25 Q Okay. No further questions.

1 THE COURT: Alright. Cross-examination?

2 CROSS-EXAMINATION

3 By Mr. Mowry:

4 Q Mr. Ginn, let me ask you, you got a conviction for
5 burglary and grand larceny, right?

6 A Yes, sir.

7 Q And you've got a conviction for theft of cable
8 services, is that right?

9 A Yes, sir.

10 Q And you've got a conviction for petty larceny, is
11 that right?

12 A Yes, sir.

13 Q Mr. Ginn, back on May the 12th of 2016, you been
14 drinking at all that day?

15 A I had one.

16 Q How about on May 26th, 2016, you been drinking that
17 day?

18 A Yes, sir.

19 Q That's the date that you talked to --

20 A The date, the same, the same day I made the
21 statement.

22 Q Yes, sir.

23 A I drank one. I had one.

24 Q You had one?

25 A Yes, sir.

1 Q In any event, Mr. Ginn, May 26th is two weeks after
2 that report, is that right?

3 A Yes, sir.

4 Q Two weeks after that. Now you've spoken with Mr.
5 Bentley this morning, haven't you?

6 A Yes, sir.

7 Q You remember talking to him?

8 A Yes, sir.

9 Q You didn't really remember when you saw the Mustang,
10 did you? Before or after?

11 A No, sir.

12 Q And you said, I thought I heard you say that a fella
13 down here owns a Mustang. Is that right?

14 A Yes, sir.

15 Q Could that of been the Mustang you saw going down
16 there?

17 A Possibility.

18 Q Okay. What color was it? There's no mention in your
19 statement as to what color that Mustang was. Did you
20 know?

21 A I didn't know.

22 Q Yeah.

23 A It was a Mustang.

24 Q Right. It, you got in your statement, I got off from
25 work, so it was around 10:00 p.m. Is that right?

1 A Yes, sir.

2 Q So, it's dark, right?

3 A Yes, sir.

4 Q And the car drives down here, you saw a Mustang, you
5 don't know when though, right?

6 A No, sir.

7 Q Now let me ask you, did you smell anything burning on
8 May the 12th? Did you smell any smoke?

9 A No, sir.

10 Q You remember talking to Mr. Bentley earlier this
11 morning?

12 A Yes, sir.

13 Q A few days later or a few days earlier did you smell
14 something burning? Did you smell smoke?

15 A I smelled smoke. A lot of people burn trash and
16 stuff.

17 Q But you smelled smoke a few days earlier, is that
18 right?

19 A Yes, sir.

20 Q Thank you sir. That's all.

21 THE COURT: Redirect?

22 MR. SHAFFER: Yes, Your Honor.

23 REDIRECT EXAMINATION

24 By Mr. Shaffer:

25 Q You said you smelled smoke a few days earlier. Did

1 you tell police about that at the, at the time of, on May
2 26th whenever they came and questioned you?

3 A No, sir.

4 Q Okay. How many people, there's the trailer you were
5 living in and then two trailers behind you, is that right?

6 A Yes, sir.

7 Q How many other people live further down or in May of
8 2016 lived further down Taylor Drive than you?

9 A Two different ones.

10 Q Okay. So, are those the --

11 A One in the back trailer and the one in the house down
12 on towards the end.

13 Q Okay. So, there was one person in the back trailer
14 and then there was one at the house down at the end?

15 A Yes, sir.

16 Q Okay. Do you recall telling, telling the police
17 something about a Pinto? Or do you recall, excuse me, do
18 you recall telling our investigator something about it, my
19 investigator something about a Pinto?

20 A Yes, sir.

21 Q What'd you say about the Pinto?

22 A A small car.

23 Q That was the small car.

24 A It just stopped there and looked at me.

25 Q Okay. And you're saying you didn't, you don't

1 remember the color of the Mustang?

2 A No, sir.

3 Q Okay. No further questions.

4 THE COURT: Alright, recross?

5 MR. MOWRY: Just a couple more questions.

6 RECROSS-EXAMINATION

7 By Mr. Mowry:

8 Q Mr. Ginn, you're up in this area, right?

9 A Yes, sir.

10 Q Okay. Where did the shot take place? Where did
11 that, where'd you hear that shot?

12 A Right, right, that's Airport Road where the church is
13 at.

14 Q Airport Road where the church is, this is it right
15 here, right?

16 A Yeah. That's Airport Road and there's the church.

17 Q Right. So, you heard the shot over there?

18 A Yes, sir.

19 Q Right. You didn't hear it down in that clearing next
20 to that abandoned trailer, did you?

21 A No, sir.

22 Q Alright. No further questions, Your Honor.

23 THE COURT: Okay. You can step down, sir. Let me
24 see the lawyers for a minute.

25 (Whereupon, a bench conference was held in the

1 correct?

2 MR. GREEN: Yes, sir.

3 THE COURT: Okay. Alright. Very good. Alright.

4 Anything further before we bring the jury out? Okay.

5 Alright. Mr. Bolt.

6 (Whereupon, the jury came into open court at

7 approximately 5:29 p.m.)

8 THE COURT: Okay. Alright. Thank you, Mr. Bolt.

9 Ladies and gentlemen, I understand everybody had an
10 opportunity to make phone calls or do what you had to do.

11 I think we provided some coffee and so, ready, ready to
12 work some more. Okay. Alright. Mr. Shaffer, turn it over
13 to you, sir.

14 MR. SHAFFER: Thank you, Your Honor. Defense calls
15 Fabian Green to the stand.

16 FABIAN GREEN, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Shaffer:

20 Q State your name.

21 A My name is Fabian LaMichael Rashaad Green. My first
22 name is spelled F-A-B-I-A-N. My middle name is spelled
23 L-A-M-I-C-H-E-A-L. My middle name Rashaad is spelled
24 R-A-S-H-A-A-D. And my last name is Green, G-R-E-E-N.

25 Q Alright. Fabian, where are you from?

1 A Originally my family, we come from the lower state.

2 But I think I was born in like Orangeburg.

3 Q Okay. How old are you right now?

4 A I'm 20 years old.

5 Q How old were you in May of 2016?

6 A I was 19 years old.

7 Q What year is your birthday in?

8 A '97.

9 Q How long have you lived in Laurens County?

10 A I came up here when I was like real young, so
11 probably back in the early 2000's.

12 Q Okay. Why'd you come to Laurens County?

13 A Because my family, we moved up here.

14 Q And your family, who raised you?

15 A My grandmother. She's like my mother. She had me
16 every since I was two months old.

17 Q And you are related to Davian, is that right?

18 A Yes, sir.

19 Q Okay. How is Davian related to you?

20 A Davian is my cousin because his mother is my mother's
21 older sister.

22 Q Before getting locked up you had a girlfriend, didn't
23 you?

24 A Yes, sir.

25 Q What was her name?

1 A Karina Galarza.

2 Q And I guess, obviously you've heard a whole lot about
3 May 8th, 2016?

4 A Yes, sir.

5 Q Tell us what happened on May 8th of 2016.

6 A May 8th of 2016, me, Karina, my cousin Davian, we
7 woke up at [REDACTED] Queens Circle. The reason Davian woke up
8 there at [REDACTED] Queens Circle is because he had spent the
9 night the previous night, which was May 7th.

10 THE COURT: Mr. Green, slow down just a little bit,
11 if you can. You're speaking up very loud, and that's
12 great, that's what we want. But if you can just slow it
13 down just a little bit, I'd appreciate that.

14 A Yes, sir.

15 THE COURT: Thank you.

16 A But as I was saying, on May 8th Davian, he was at the
17 house with us along with Karina's mom, Minerva. Julissa,
18 she was also there and their little brother. Karina and
19 her, Karina's family, they were getting ready to go to
20 another cookout, which me, Karina and my cousin, we was
21 going to go to my grandmother's cookout. So, I guess May
22 7th, a incident occurred and Karina's mother, she took the
23 keys to the Kia Spectra that me and Karina's mom buy for
24 her.

25 Q Alright. What, what incident occurred on May 7th?

1 A Something about Karina and her mother, they was
2 arguing and her mom took the keys. I don't know what they
3 was arguing about because they were speaking in a foreign
4 language, I couldn't understand it.

5 Q Were they speaking Spanish?

6 A They was speaking Spanish. I can't speak Spanish.

7 Q Okay. Now, were you living at [REDACTED] Queens Circle?

8 A Yes, sir.

9 Q And you had clothes there, is that right?

10 A Yes, sir.

11 Q How long before this, had you been living there?

12 A Maybe about month and a half. It wasn't like really
13 long. About a month and a half.

14 Q So, take us back, you said that on May 7th the,
15 Karina's mom took the keys to the Kia.

16 A Yes.

17 Q And what happened, what happened that night? I mean
18 after that, after she took the keys.

19 A Nothing. I mean we stayed out, but we was at the
20 house on May 8th. May 7th, they had a argument. But if
21 you speaking of, about another incident, May 6, me and
22 Karina, we got into a argument and I went to my
23 grandmother's house for about a couple hours then I came
24 back.

25 Q Okay. So, what, take us back I guess to May 6. What

1 exactly happened on May 6, what kind of argument y'all get
2 into?

3 A Karina, she, she got insecure because we was in a
4 mall and a girl had looked at me and she was like, hey
5 Rashaad. Because like, I know a lot of females cause like
6 I use to get around back in the day. And she got mad and
7 then we came back to the house and her mom overheard us
8 talking about it. And then they started speaking in some
9 Spanish, then her mom was being mad, angry, pointing at me
10 saying, shaking her head. And I was like I don't know
11 what the, the fuck they saying, like that. I mean, excuse
12 my language.. I ain't know what they was saying. So, I
13 called my grandma and I went over there.

14 Q Did you, were you planning on moving out? Did y'all
15 break up or anything?

16 A We broke up for like a couple hours. I took couple
17 of my clothes because I was going back like a day later to
18 get the rest of my belongings.

19 Q So, why did you only break up for a couple hours?
20 What happened after you left to go to your grandmother's?

21 A After I left she just came up, pulled up with her mom
22 and they picked me back up. Like I, I ain't say nothing
23 to her, they just pulled up and picked me up. And I just
24 got in cause I ain't wanna embarrass her in front of her
25 mom.

1 Q Did y'all make up?

2 A Yeah, we did that.

3 Q Now on May, May 7th were y'all together at that
4 point?

5 A Yes, sir.

6 Q Now you said May, May 7th after she took the keys
7 nothing really happened?

8 A Nothing really happened.

9 Q What happened on May 8th? Tell us about the day from
10 the time y'all woke up until the end of the day.

11 A We woke up early in the morning, maybe around 12:00
12 to, around 11:00, 11:40 or some time like that. We
13 started getting ready for the cookouts. Karina mom said
14 she didn't have the keys because Karina had asked her for
15 the keys so that we could go to my grandmother's house.
16 But she said she had taken the keys to one of her friend's
17 house. So, me, Karina, we got in the shower and took a
18 shower. After we got out the shower, Karina's mom and
19 their family, they took off to the cookout and me, Karina
20 and Davian, we proceeded on walking to the Glen, so that
21 Davian, he could get ready for the cookout that was going
22 to be located at my grandma's apartment.

23 Q You, so you walked to the cookout?

24 A No, we walked to Davian apartment and when he got
25 ready we proceeded on walking to my grandma's apartment.

1 Q Okay. But Davian was with y'all, right?

2 A Yes, the whole entire time.

3 Q Okay. About what time did you get to your
4 grandmother's to the best of your ability?

5 A It was really late in the afternoon. Maybe around
6 5:40ish to like 6:00 o'clock.

7 Q And while you were at the cookout, what happened
8 while you were at the cookout?

9 A We enjoyed ourselves. We stayed there probably till
10 like, like the early morning of May 9th till like my
11 granddad got off. Then my grandma, she dropped me and
12 Karina back off to Pinehaven.

13 Q What do you mean by early morning?

14 A Like around 7:00 o'clock because that what time my
15 granddad got off. And this is May 9th.

16 Q So from around 6:00 p.m. May 8th till around 7:00
17 a.m. on May 9th, you were at your grandmother's?

18 A Yes, sir. That's correct.

19 Q Who all was with you?

20 A My Aunt La'Toya Green, she was at the cookout. My
21 Uncle Quinton Green, he was at the cookout along with his
22 girlfriend La'Toya Craig. My grandma, she was also at the
23 cookout. Davian and also Karina, they were also there
24 too.

25 Q Okay. At any point during that time period did

1 Davian leave?

2 A No sir, until we, he went to go to his house, but
3 that was after the cookout.

4 Q At any point during that time did Karina leave?

5 A No, sir.

6 Q Did Karina have a Facebook account?

7 A Yes, sir. But we, it was really a account that we
8 had together. It's named Rashaad Green and Karina
9 Galarza.

10 Q So you had a account called Rashaad Green and Karina
11 Galarza?

12 A Yes, sir. If you search it up on Facebook you can
13 find it. If it was any other account, I was unaware.

14 Q Were you aware of a account called Ruby Rina?

15 A No, sir. Not to my knowledge.

16 Q So, do you recall what day you were actually arrested
17 on or first time the officers asked you about this case?

18 A I think around May 27th. That female officer back
19 there, Farrah Cook, because I remember her name. She came
20 to the house while me and Karina and Davian, we was at the
21 house because we was watching Karina's little brother. Me
22 and Karina, we was in the room having intercourse. So
23 that's why she seen me in my boxers when I came out. We
24 was really putting our clothes on. So that is why it
25 probably took Karina a long time to get up and go to the

1 door.

2 Q Okay. So, describe what happened whenever the
3 officers knocked on the door after you got out of the
4 room.

5 A When they knocked on the door they asked, I guess
6 Karina went outside and started talking to them. And
7 Farrah Cook, she come in the house calling my name and
8 when I come out the room she asked me why was I hiding.
9 And then I tell her because I thought they was looking for
10 me. She asked me why did I say that. I did tell her that
11 I thought they was looking for me because I have speeding
12 tickets.

13 Q Okay.

14 A And then she say, oh, and walks out the house.

15 Q Did you get questioned at all by the officers that
16 day?

17 A Yes, sir. Farrah Cook, Farrah Cook, she also asked
18 me a couple of questions. She asked me did I see a girl
19 named Celeste Garcia, and did I see Edwin.

20 Q Do you know, did you know Edwin?

21 A I don't even know who he is. I never met this guy a
22 day in my life.

23 Q Did you know that, do you know whether he was having
24 a relationship with Karina?

25 A I really don't get in past relationships because I, I

1 look forward. What I going to look backwards for--

2 Q Do you think she was cheating on you with this Edwin?

3 A No, sir.

4 Q Tell us a little bit about, more about the day you
5 were arrested, what happened.

6 A Are you saying after they took me from the house?

7 Q Yeah.

8 A After they took me from the house, I was initially
9 arrested on assault third and malicious damage because I
10 had two warrants for that. Prior to that, the officer
11 that was transporting me, he said he would like to take
12 me, he got to take me to the headquarters, it's a order.
13 I told him I don't know why you going to take me to the
14 headquarters, I'm not communicating or talking with any of
15 y'all because they started talking about three people who
16 are being arrested for murder, you, your cousin and
17 Karina. I said arrested for murder. You got me messed
18 up, you got me mixed up with the wrong person. When I got
19 to the headquarters, they left me in a room for about an
20 hour. I sat in there and then another guy, he took me
21 further back in a room. It was like a little office with
22 like framed suits and stuff sitting up in there and we
23 started talking about Limestone College. And then like
24 four more other people came into the room and started
25 saying if I write a statement I will get something like

1 manslaughter. I said, I will not write a statement
2 because I don't know anything that y'all are talking
3 about. And then Bryant Cheeks, he was like well, we could
4 do this all night. I said, I can do this all night, I'm
5 not gone communicate with y'all. Why would I have to
6 communicate with y'all and I didn't do nothing. So, he
7 was like alright, if I could just swab your mouth you
8 could leave. I didn't have nothing to hide so I said you
9 could swab my mouth. And that was that.

10 Q I want to back up a little bit. Do you recall ever
11 asking for lighter fluid in Clinton?

12 A No, sir.

13 Q You don't recall that ever happening?

14 A I don't recall. What day are you talking about?

15 Q At any point?

16 A No, sir.

17 Q Okay. Do you know Mr. and Mrs. Williams?

18 A I do not know them. That is my aunt, Bobbi Shay's
19 in-laws, but they are no relations to, to me. I do not
20 communicate with them because I do not know them. But
21 when my aunt, she was staying with them, I go see her, but
22 she come outside to me. I don't know those people. I
23 never chilled at their house or anything like that.

24 Q Now there's been some discussion, let me get it for
25 you. Fabian, I'm showing you the State's exhibit 65.

1 A Yes, sir.

2 Q What is that?

3 A This is a letter that was written by me while being
4 at Laurens County Detention Center. This letter, it seems
5 real, it seems convincing, it seems malicious, but it
6 wasn't written maliciously. It was written just to give a
7 sense of reality due to the fact that when I was brought
8 upon the charges, several people outside the jail was, was
9 signing and saying, no bond, hunt. It was like lines of
10 people, about hundreds of people. People within the jail
11 knew about me and I didn't know people. I was beginning
12 to be harassed, bullied. I mean, y'all wouldn't know what
13 it'll be like to be in those orange slides with charges
14 put on you that you never committed. For people to say
15 that your life gone be gone. I got a son today that'll be
16 six months in, six months in about 24 more days that I
17 never seen. And I'm up in here from charges I didn't
18 commit. I wrote that letter because I had several other
19 harassment letters that was being passed to me, so I made
20 up this letter.

21 Q Why would you make it up though?

22 A Why would I make it up?

23 Q Well, first of all, is it true?

24 A No, sir. The letter is completely false. I mean, if
25 you do investigation into it you will find that the

1 results will be negative. But the reason I wrote this
2 letter was because if I thought that people would think
3 that I was crazy, they'll leave me alone. And how I
4 wrote, after this letter was written, people stopped
5 talking to me. The harassment stopped.

6 Q Who was harassing you?

7 A Inmates throughout the jail. My face was all over
8 the media. They knew me from TV. I got people in the
9 jail that'll be like oh, that's Fabian right there.
10 That's that man that killed that man with that hammer.
11 Nobody don't want to hear that. Yeah, he gone get life.
12 Nobody don't want to hear that. It was killing me
13 mentally, man. I was on suicide like several times
14 because I thought my life was over with. You wanna know
15 what it feel like getting on the sink, jumping off head
16 first trying to kill yourself because you think your life
17 over with because some allegations that was brought up
18 against you. 2,160 hours of harassment turned into 5,400
19 minutes of bullying. That'll do something to you
20 mentally. I tried to tell, but I was placed in C-max.
21 They said they couldn't move me.

22 Q What was, what was the situation in C-max?

23 A I had a former roommate that I was out on a rock with
24 on D-pod, which is a isolation pod for charges --

25 Q What I'm asking you is what, what was C-max like?

1 A C-max, 23 hours a day, sometimes 24 hours locked
2 down. And all you hear is yelling and screaming, knocking
3 on doors, kicking. That'll do something to you mentally.
4 And I been down here 2,160 hours which is 90 days
5 straight. I was gonna do 120 days straight but I stopped.
6 But my sentence was cut due to good behavior.

7 Q Tell me about the, the letter. What, what do you
8 mean by giving somebody a sense of reality?

9 A Before I was arrested, I was going to Piedmont
10 Technical College. And writing, that's like my life.
11 Like it runs in my family, my grandmama, she writes; my
12 uncle, he writes. Urban fiction is something I specialize
13 in. It's like a type of gangster writing. Like Ashley
14 Jaquatus, Tracy Brown, those are like some urban fictional
15 writers that inspire me. Their writing, their reading, I
16 mean their writing, their books, I got all their books.
17 I, I just don't like urban fiction, I, John Grissom, James
18 Patterson, I like all type of books. So, that why this
19 letter really do seem real, but if it get investigated,
20 results will come back negative. I guarantee you that.

21 Q Is, is the letter true?

22 A No, sir. It's not. I just used elements that was
23 produced by media.

24 Q But you say you produced, used elements produced by
25 the media.

1 A Yeah. Which was not true.

2 Q Who, did you ever hear or what did you hear about
3 this whole broomstick and sodomy thing?

4 A That's not even real, that was just to give a sense
5 of reality to make it look like whoa, why would they do
6 that? Maybe if I came up with that, they'd be like well,
7 this nigger is crazy or something like that and they'll
8 leave me alone. I just wanted the harassment to stop, so
9 I wanted to seem as crazy as possible. I wanted them to
10 really just stop talking about me. Talking about Karina,
11 talking about my cousin.

12 Q Did the letter, was the letter effective in getting
13 people to stop talking about you?

14 A Yes, sir. But nobody never knew about it, but there
15 was talk about--

16 Q There was talk about the letter?

17 A Yeah.

18 Q So, you've heard rumors about the letter, is that
19 what you're saying?

20 A Yes, sir.

21 Q Where'd you get the idea from the letter?

22 A It's this movie called, I Spit on Your Grave. I
23 don't know if it's I Spit on Your Grave, two or three, but
24 it was a scene of this girl, she got raped and that was
25 her way of retaliating. I don't know if it was a

1 broomstick or a shotgun, but she took the shotgun and put
2 it up the guys anus and that was her way of getting back
3 at what he did to her.

4 Q So nothing in that letter is correct?

5 A Nothing in this letter is correct.

6 Q You said something about if they would investigate
7 it, that it would come out, they would realize it wasn't
8 real.

9 A Yes, sir.

10 Q What did you mean by that statement?

11 A I talk about taking this guy to the garage and that
12 where the incident occurred. And I'm pretty sure if they
13 use that LCV spray they used to find his DNA in the car or
14 whatever it was that they found, they would see that if
15 they searched that garage and used that spray because I
16 said it was blood and quote, shit everywhere, they would
17 see blood would not be in that garage. That it's Edwin's
18 blood.

19 Q Did you, do you have a sister?

20 A No, sir. I don't got no sister. Only --

21 Q What are you talking about a sister in there?

22 A I was just being questioned in the letter. It was
23 just to give a sense of reality.

24 Q Alright. Explain again, and I guess, I don't really
25 understand what you mean by get a sense of reality. And I

1 want you to explain that in as basic terms as possible to
2 the jury.

3 A If I, I, what I, when I mean, what I mean by give a
4 sense of reality, I just wanna paint a picture to make it
5 seem like it's real, when in fact it's fake. That what I
6 mean by give a sense of reality.

7 Q Were you just trying to give details, is that what
8 you're saying?

9 A No, I'm trying to make something seem real, when in
10 fact it was not real.

11 Q Okay.

12 A These allegations seem like they're real, but they're
13 not real.

14 MR. SHAFFER: Court's indulgence.

15 Q Now in the letter after, after the part that says you
16 outed his lights and that was that, there's a part that
17 starts out WTF and I want you to look over that paragraph
18 and try to tell me what that paragraph means and what you
19 were trying to write. And I guess it's actually read over
20 the second sentence of that paragraph where it says yeah,
21 just bring to shit ain't gone. Starting there and read
22 over the rest of that paragraph. Try to tell me,
23 actually, could you read that paragraph out loud?

24 A WTF kinda nigger can actually rape a girl. Like
25 that's crazy as fuck. You just bring two shit ain't gone

1 get to crazy. This Laurens, dead ass Laurens. Nothing
2 ever happens here. Damn nigga you a fucking translator
3 knowing all those languages. I knew you was mixed because
4 a mixed nigga know a mixed nigga. When we see each other
5 we like the same shit. Hell yeah and shit. Whatever game
6 you get it straight as long as we chillin playing the game
7 and plotting on schemes I am cool with that.

8 What I meant by that was when we get off on the
9 outside, we was gonna chill. He was gone bring two beers
10 and we just gonna play the game or something.

11 Q Okay. What about that next paragraph on the typed
12 copy, the, the oh, on my grandma. What does that, could
13 you read over or read that to the jury and try to explain
14 what that means.

15 A On my grandma or my kid you don't never gotta worry
16 about shit as long as you with me. And you don't never
17 ever gotta worry about me using you. If anything happen I
18 got you. Hermano, you is family and family is forever. I
19 go by that and I will die about that any day. Shit, I'm
20 glad that you see that I am real because if I call you my
21 hermano.

22 What I meant by that was he was testing me to see was
23 I this vicious thug I claimed to be. And I was just
24 really trying to make him seem like yeah, I'm a vicious
25 thug. I do stuff like this, when in fact I don't. I

1 don't do no stuff like this.

2 Q Why would you want to look like a vicious thug?

3 A Because that a make people stop talking to me. Leave
4 me alone, man. Stuff like that. Sometime harassment
5 drives people to suicide. Suicide ain't work, so I
6 thought this would work.

7 Q I want you to read over that final paragraph and I
8 want you to tell me what that paragraph means.

9 A What the fuck is you doing trying to holla my sister?
10 Nigga that some take ass shit because you saying I'm your
11 hermano --

12 THE COURT: Slow down your reading, Mr. Green. Slow
13 down your reading, sir.

14 A Oh, I'm sorry. I will just restart.

-15 What the fuck is you doing trying to holla at my
16 sister? Nigga that's some take ass shit because you
17 saying I'm your hermano and shit, so that make her your
18 sister too. That shit crazy as fuck. You don't gotta
19 worry about me saying slice shit to her or anything like
20 that because she gone be fam to, to we all are about to
21 have that deep connection. I promise you that. Shed gone
22 love me like a brother in a month and a half because I am
23 going to treat y'all like family. Y'all gone be all that
24 I'm gone have and I'm gone cherish that shit. Our kids
25 gone be smart as fuck and close as fuck. They gone be

1 cousins. We all family. Me and you hermano, we gone be
2 the support system of this foundation we created, so we
3 got to get this money for them kids, I mean for them and
4 our kids. Shit you know I'm with you with, you know I am
5 with you every step of the way.

6 He was asking me basically, in the letter that was
7 not retrieved by the LCDC detention staff, was if we get
8 out, am I gone get money with him, and I'm gone keep it
9 real with him. And then he was saying some shit about a
10 sister. So, I don't got no sister, I only got me a
11 younger brother that's like 15. But everything in that
12 paragraph was fake, false.

13 Q Did you kill Edwin?

14 A No, sir.

15 Q Did you burn his body?

16 A No, sir.

17 Q Did you ask for lighter fluid?

18 A No, sir.

19 Q Did you help anyone burn his body?

20 A No, sir.

21 Q No further questions.

22 THE COURT: Solicitor, you good? You ready to go
23 forward?

24 MR. MOWRY: Yes, sir.

25 THE COURT: Okay.

CROSS-EXAMINATION

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By Mr. Mowry:

Q Who was this guy you were sending that letter to?

A Who was this guy? Some guy that was in C-max with me, I don't know his name to be exact.

Q Okay.

A He went by a nickname.

Q Did you ever report that bullying to Scott Weeks?

A No, sir. I reported it to the floor officers.

Q But you never reported it to Mr. Weeks?

A No, sir.

Q Did you ever report it to Major Tyson?

A No, sir.

Q Let me show you State's number 66. You knew to report to Mr. Tyson, didn't you? Major Tyson.

A Sir, I only wrote this because they pulled me out my room and asked me to write this.

Q And you wrote in that letter, you've got it up there I believe, don't you?

A Yes, sir.

Q You wrote in that letter, WTF is you try, doing trying to holla at my sister, right?

A Yes, sir.

Q You heard Davian's testimony yesterday, right?

A Yes, sir.

1 Q He said that you had introduced him to your sister,
2 right?

3 A Yes sir, but who is this sister?

4 Q You tell us.

5 MR. SHAFFER: Objection, pitting.

6 THE COURT: Alright.

7 Q You said this letter was supposed to stop the
8 bullying, is that right?

9 A Yes, sir.

10 Q That letter was written in August, right?

11 A Yes, sir.

12 Q And you were arrested in May, right?

13 A Yes, sir.

14 Q That letter was intercepted by authorities before
15 anyone ever saw it, right?

16 A Yes, sir.

17 Q How was that supposed to help with bullying?

18 A How was it supposed to help? It was supposed to stop
19 them from talking to me. It was supposed to stop them
20 from making those cruel remarks they was making.

21 Q Didn't work so well when it gets intercepted by
22 authorities, right?

23 THE COURT: Need to respond to the questions sir.

24 A Oh. It did not work, sir.

25 Q And yet you said the bullying stopped anyway, right?

1 A Yes it did.

2 Q Karina is your girlfriend, right?

3 A My baby's mama, she's not my girlfriend any more.

4 Q Are you a jealous boyfriend?

5 A No, sir.

6 Q So you don't mind her sending texts of a sexual
7 nature to somebody else?

8 A I mean, we wasn't really like serious.

9 Q You didn't mind her inviting you over or inviting
10 Edwin over to [REDACTED] Queens Circle?

11 A When was this?

12 Q On May 8th, 2016.

13 A I didn't, I didn't know that.

14 Q You say you don't know about Ruby Rina?

15 A No, sir.

16 Q That Facebook account?

17 A No, sir.

18 Q Well Davian testified that he knew. How did he know
19 and you didn't?

20 A I don't know. I don't know.

21 Q And in the letter, that you wrote, you said he didn't
22 even see the shit coming. Me and my girl played shit off
23 well by having a big argument on Facebook. He inbox, came
24 over thinking I wasn't there.

25 A Yes, sir. I did say that because in the previous

1 letter I received from him, he was saying something about
2 I heard something about a Facebook, y'all set him up on
3 Facebook. So maybe if I did say that, it'd seem real.

4 Q Oh really. What's his name?

5 A What's his name?

6 Q Yep.

7 A His name, Axio, I don't know his name, that's the
8 nickname he's going by.

9 Q Oh really.

10 A Yes really.

11 Q You want that jury to believe that? Yes?

12 A Oh, yes sir.

13 Q Where is this?

14 A That's [REDACTED] Queens Circle.

15 Q What is that?

16 A That's the gray Kia Spectra.

17 Q The same gray Kia that Mr. Williams said he saw you
18 driving?

19 A Seen me driving when?

20 Q He testified that he saw you driving that car.

21 A On what day?

22 Q I don't remember what day. He said he testified, I,
23 he testified that he saw you driving that car at an
24 earlier time.

25 A I done drove the car plenty of times.

1 Q Okay. Drove it over to his house too, didn't you?

2 A Yeah, to pick up my aunt. Yes, sir.

3 Q Okay. Now Willie and Olivia Williams, you ever have
4 any run-in with them?

5 A They're not my family, but they're in-laws to my
6 aunt.

7 Q But do you have, did you ever have any run-in with
8 them? Do you know what I mean?

9 A Like communication?

10 Q No. Bad feelings. Any bad blood between you and
11 them?

12 A Oh, no sir.

13 Q Any reason that you can think of for them to get up
14 and testify as they did?

15 MR. SHAFFER: Your Honor.

16 A They --

17 THE COURT: Wait a minute. Hold, hold, I got a
18 sidebar request.

19 (Whereupon, a bench conference was held in the
20 presence of the jury but out of the hearing of the
21 jury.)

22 Q But you had no arguments with them at all?

23 A No, sir.

24 Q And you deny that you were over there on the evening
25 of May the 8th, 2016?

1 A Yes, sir.

2 Q You deny that you were over there between 9:00 and
3 10:00 o'clock?

4 A Yes, sir.

5 Q You deny that you were asking, first, for lighter
6 fluid?

7 A Yes, sir.

8 Q You deny that you asked for alcohol?

9 A Yes, sir.

10 Q You deny that you were carrying this bucket?

11 A I deny that also.

12 Q You deny that you dumped things into the neighbor's
13 trash buggy?

14 A Yes, sir.

15 Q The dumpster. Now Davian's your cousin, right?

16 A Yes, sir.

17 Q And he looks up to you, doesn't he?

18 A Yes, sir.

19 Q Does it upset you at all that he testified against
20 you?

21 A No, sir. Because sometimes the system works like
22 that. He also say he was rehearsed, so it doesn't affect
23 me because I will still love him as a brother.

24 Q And you say that on May the 6th, you and Karina had
25 an argument?

1 A Yes, sir.

2 Q And you left May the 7th, is that right?

3 A I left May the 7th, no, I, I think I said I left May
4 the 6th.

5 Q Okay.

6 A And we were unable to get the keys. I mean the keys
7 was taken on May 7th and I was there.

8 Q Would it upset you to know that Ruby Rina was texting
9 Edwin on May the 7th, 2016 at 8:41 p.m.?

10 A No, sir. Because I don't know a Ruby Rina.

11 Q Would it upset you if that is Karina Galarza?

12 A No, sir. Because I know she wouldn't do anything
13 like that.

14 Q How would that make you feel if she was?

15 A I mean it wouldn't make me feel any type of way
16 because I know that's not her.

17 Q If it was, how would that make you feel?

18 A How would it make me feel? Probably hurt, I probably
19 would leave her.

20 Q Would it make you angry?

21 A No, sir. It just probably make me feel hurt and I'll
22 probably leave her.

23 Q Would it make you feel angry at the guy she was
24 fooling around with you with?

25 A No, sir.

1 Q Wouldn't make you angry enough to kill him?

2 A No. No, sir.

3 Q Wouldn't make you angry enough to lure him over to

4  Queens Circle?

5 A No, sir.

6 Q Wouldn't make you angry enough to come out of a room

7 with a claw hammer in your hand?

8 A No, sir. It would not.

9 Q Wouldn't make you angry enough to bludgeon him to
10 death?

11 A No, sir.

12 Q Wouldn't make you angry enough to load his body up in
13 the back of his own car, drive it out in the country, pull
14 it out, and set it on fire?

15 A No, sir.

16 Q You deny that?

17 A I do.

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

19 THE COURT: Sure, take your time.

20 Q You testified that you got over to your grandmother's
21 for the cookout at about 5:40 p.m.?

22 A Yes, sir.

23 Q Is it a coincidence, referring to State's exhibit
24 number 61, that the last text from Ruby to Edwin says
25 never mind, don't come, I'm not at home at 5:32 p.m.?

1 A I mean it would not be no coincidence because we
2 walked from [REDACTED] Queens Circle to Laurens Glen and then
3 after Laurens Glen we walked to [REDACTED]
4 [REDACTED] which is my grandmama's apartment.

5 Q Can you account how Edwin's blood got on the china
6 cabinet?

7 A No, sir.

8 Q Can you account how there was blood on the floor next
9 to the bar?

10 A No, sir.

11 Q Alright. Let me just kinda review a little bit here.
12 You say you and Karina weren't serious, but you lived
13 together?

14 A Yes, sir.

15 Q You had a baby together? You testified to that.

16 A Yeah, we just had a baby, of [REDACTED]

17 Q Okay. So, she was pregnant before this happened?

18 A Yes, sir.

19 Q Okay.

20 A But it was not to my knowledge. It came to my
21 knowledge while we was incarcerated for these charges that
22 we are on now.

23 Q But you were living together, and you're not serious?

24 A We wasn't like committed serious. We was just in a
25 relationship serious.

1 Q What does that mean?

2 A I didn't put a ring on her or nothing like that. We
3 was just talking. Like girlfriend and boyfriend, not like
4 engaged like settled down. That's serious right there,
5 settling down.

6 Q Apparently you were doing something else besides
7 talking.

8 A Besides having sex, we was talking.

9 Q But you admit that back on May 6th, you had, you and
10 Karina had an argument, and you left on May 7th, is that
11 right?

12 A Yeah but, yes sir.

13 Q Okay. And you want this jury to believe that you
14 were over at your grandmother's for that cookout starting
15 at 5:40 p.m., right?

16 A Yes, sir. I arrived at the cookout around 5:40ish or
17 between 6:00 o'clock.

18 Q Okay. And you want this jury to believe that this
19 letter describing a brutal assault and murder is just
20 urban fiction, is that what you want?

21 A Yes, sir. Because if you do investigation, you will
22 realize that--

23 Q -- what investigation are you talking about.

24 THE COURT: Wait a minute. Don't, don't, don't
25 interrupt. Let him, finish your answer, Mr. Green, before

1 you ask the next question, Solicitor.

2 MR. GREEN: Yes, sir.

3 THE COURT: Finish your answer.

4 A If you do investigations, you will realize that his
5 shit and blood would not be inside that garage. As like I
6 said, the incident occurred inside the garage.

7 Q No. But his blood, it's going to be on that china
8 cabinet, isn't it?

9 A I don't know, but --

10 Q The blood is going to be on the tiles, isn't it?

11 A I don't know.

12 Q The blood is going to be on the tiles and in the
13 grout, isn't it?

14 A But not the garage.

15 Q That's not what I'm asking.

16 A I don't know.

17 Q You don't know?

18 A I do not know.

19 Q You say you were with Davian all day, is that right?

20 A What you said? Can you repeat --

21 Q You say you were with Davian all day on May the 8th,
22 is that right?

23 A I was with Davian and Karina the whole day at my
24 grandma's cookout.

25 Q So, you want this jury to believe that somebody broke

1 into Karina's house while y'all weren't there.

2 MR. SHAFFER: Objection, Your Honor.

3 THE COURT: Okay. And the nature of your objection?

4 MR. SHAFFER: He, Your Honor, he's asking a question
5 based off a hypothetical that my client hasn't testified
6 to. I guess, I, I guess it would be fair game for
7 cross-examination. I withdraw.

8 THE COURT: Okay. Withdrawn. You may proceed.
9 Re-ask the question.

10 MR. MOWRY: Okay.

11 Q So you want somebody, you want this jury to believe
12 that with no invitation from anybody, including Karina,
13 including you, that Edwin came over to [REDACTED] Queens Circle
14 is that right?

15 A He did not receive any invitation from me.

16 Q That's not what I asked you. I asked you are you
17 trying to get this jury to believe that he did, that he
18 did not come over to the house?

19 A I don't, I, can you repeat that question? I can't
20 understand you really.

21 Q Alright. Let me try it again. Let me put it in
22 simple words. Are you wanting this jury to believe that
23 Edwin came over to the house without any invitation?

24 A I don't even, why would I try to get them to believe
25 that. I don't even know if he came over there or not.

1 Q Are you trying to get this jury to believe that Edwin
2 came into the house with nobody there?

3 A I am trying to get the jury to believe that I am
4 innocent.

5 Q Are you trying to get this jury to believe that Edwin
6 didn't shed his blood in this house?

7 A No, sir.

8 Q Then explain to me how this happened.

9 A I don't know how it happened.

10 Q Did somebody break into the house?

11 A I don't know.

12 Q Did Edwin come in uninvited?

13 A I don't know.

14 Q Did some burglar come in there and bludgeon him to
15 death?

16 A I don't know.

17 Q And then drive his body out into the, into the, into
18 the country?

19 A I don't know.

20 Q And drag his body out of a car?

21 A I do not know.

22 Q And douse it with lighter fluid?

23 A I do not know.

24 Q And set it on fire?

25 A I do not know.

1 Q You said that you hadn't seen your child. You
2 understand that Ms. Chirinos will never see her son again.

3 MR. SHAFFER: Objection, Your Honor.

4 THE COURT: Okay.

5 MR. SHAFFER: May we approach.

6 (Whereupon, a bench conference was held in the
7 presence of the jury but out of the hearing of the
8 jury.)

9 THE COURT: Right. I'll sustain the objection.

10 MR. SHAFFER: Thank you.

11 THE COURT: And ask the, the jury to disregard that
12 last question. Stricken from the record.

13 Q And once again, you say that Olivia and Willie
14 Williams, you got no beef with them at all, right?

15 A No, sir.

16 MR. MOWRY: That's all I've got, Your Honor.

17 THE COURT: Okay. Any redirect Mr. Shaffer?

18 REDIRECT EXAMINATION

19 By Mr. Shaffer:

20 Q I want you to explain what you mean by talking,
21 whenever you said you and Karina are talking, what do you
22 mean by that?

23 A Talking is like a simple relationship, like
24 girlfriend and boyfriend. But settling down is like we
25 was engaged, like we was committed to each other. But --

1 Q How old was Karina during this time?

2 A She was 17.

3 Q And how old were you?

4 A 19.

5 Q You have any idea what happened to Edwin?

6 A No, sir. That's the reason I did not write a

7 statement from the beginning because I was lost.

8 Q You said something about in direct about hearing

9 rumors about the letter. What rumors did you hear about

10 the letter?

11 A Like rumors? They was like rumors that I wrote a

12 letter saying I done a certain type of crime.

13 Q Okay. Nothing further.

14 THE COURT: Recross Solicitor.

15 RECROSS-EXAMINATION

16 By Mr. Mowry:

17 Q So you're saying all of this is one big coincidence?

18 MR. SHAFFER: Objection, Your Honor. Outside the

19 scope of redirect.

20 THE COURT: Alright. Help me Solicitor, as far as

21 that's in response to what Mr. Shaffer asked in redirect?

22 MR. MOWRY: Yes, sir.

23 THE COURT: Okay. What was asked in redirect that

24 you basing that recross question on.

25 MR. MOWRY: Your Honor, I'll just withdraw it.

1 MR. SHAFFER: Thank you, Your Honor. Defense calls
2 La'Toya Green to the stand.

3 THE COURT: Come around please, ma'am.

4 LA'TOYA GREEN, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Shaffer:

8 Q I believe the court reporter is gonna have you, well,
9 maybe not.

10 A It is L-A-'-T-O-Y-A, Green like the color.

11 Q Alright Ms. Green, you mind if I call you La'Toya?

12 A It's fine.

13 Q Alright. La'Toya, where are you from?

14 A Originally, Denmark, South Carolina.

15 Q Okay. How long have you lived in Laurens?

16 A I came over here in 9th grade, so like '90, '98,
17 2000, I'm not sure, '98.

18 Q Okay. Now, how old are you now?

19 A I'm 34 years old.

20 Q Okay. How are you related to Fabian Green?

21 A Fabian, his sister, Fabian, Fabian is my nephew. His
22 mom and I are sisters.

23 Q Okay. His mom and you are sisters?

24 A Yes, sir.

25 Q Who is his sister?

1 A Fabian doesn't have a sister.

2 Q Okay. Does he have anyone he calls his sister?

3 A I'm not sure. Fabian has a younger sibling, he's a
4 male, but he doesn't have a sister.

5 Q Okay. Now if you wouldn't mind, tell us which aunt
6 is Fabian's mother?

7 A Fabian's mom is Colette--

8 Q -- or, I, excuse me, which sister is Fabian's mother?

9 A Well, she's the sister that's older than I am. Well,
10 a year older than I am because I have a older sister.

11 Q Alright.

12 A Davian's mama.

13 Q And how, are you related to Davian Holman?

14 A He is my nephew as well.

15 Q Okay. And from a different sister?

16 A Yes, sir.

17 Q Okay. So, do you recall Mother's Day of 2016?

18 A I do.

19 Q Tell us a little bit about that day.

20 A My mom had a cookout at her address. The [REDACTED]

21 [REDACTED] address. My mom, my dad, my sister,

22 no, my mom, my dad, my brother and his girlfriend, my four

23 kids, Karina, Fabian and Davian, they were there. My dad

24 had to leave to go to work. We had a cookout, a little

25 get together. I'm not sure on the time, but they were

1 there, daylight hours. If I tell, say a time I'll be
2 telling a lie. So, I'm not sure of the time, but it was
3 still daylight. We had a cookout. That's pretty much all
4 that I remember.

5 Q So you said Fabian, Davian and Karina were there?

6 A They were there.

7 Q Are you sure about that?

8 A I'm positive they were there.

9 Q Do you know around what time they left?

10 A I got my kids in the house, they was still outside
11 playing with my brother's girlfriend kids a little after
12 midnight because I took my kids baths. So, I want to say
13 after midnight they were there.

14 Q Do you recall if they were there whenever your, your
15 father left for work?

16 A Yes. They were still there after my father left for
17 work.

18 Q Okay. Now I'm not saying this to embarrass you, but
19 I want to know the truth, okay. You previously lied to
20 law enforcement about something, right?

21 A I, I did.

22 Q Okay.

23 A I did.

24 Q What'd you, now what'd you lie about? What ended up
25 happening with this case? Tell me a little bit about

1 that.

2 A I tried to get my kids father in trouble. Well, I
3 tried to get my kids father in trouble, but you know, it
4 backfired and I told the truth.

5 Q Did they end up arresting you for that?

6 A Yes.

7 Q You ended up pleading guilty to something?

8 A Yes.

9 Q Are you lying here today?

10 A I'm not.

11 Q Thank you very much. That's all the questions I
12 have.

13 THE COURT: Cross-examination?

14 CROSS-EXAMINATION

15 By Mr. Todd:

16 Q I'll call you La'Toya too, if that's alright.

17 A That's fine.

18 Q And you are Fabian's aunt?

19 A I am.

20 Q Okay. Now where do you live?

21 A Where do I live now?

22 Q Let me ask that question again. Where did you live
23 on May 8th, 2016?

24 A I, I was residing at [REDACTED]
25 [REDACTED] located here in Laurens, South Carolina.

1 Q Okay. And that's with Fabian's grandmother?

2 A That's correct.

3 Q Okay. And there was a cookout that day?

4 A It was.

5 Q Okay. Who all was there?

6 A Mom, dad, my four kids, La'Toya, my brother's
7 girlfriend, whatever, fiancé or whatever; my two nephews
8 and his girlfriend; one of the nephew's girlfriend.

9 Q So a good many people?

10 A Yeah it was a good many people.

11 Q Yeah. Y'all have cookouts a lot?

12 A Some, on different holidays we, we do.

13 Q Yeah. Y'all remember what y'all had to eat that day?

14 A Like chicken, hotdogs, I'm not sure of the specifics,
15 but along that line.

16 Q Yeah. You don't recall what time it started?

17 A We're never on time, so I'm not sure as what time it
18 started.

19 Q When do the cookouts at y'all's house usually start?

20 A We state a time, but you know you got to give us a
21 hour or two later because we never on time.

22 Q Yeah. And you say that Fabian, Davian and Karina all
23 came to the cookout as well?

24 A Yes, sir, they did.

25 Q Did they help setup and get everything ready for the

1 cookout with all those people?

2 A I'm not sure. I can't say cause I don't remember,
3 but they were there.

4 Q You can't remember that part? What, why, why does
5 this day stick out to you? This cookout, of all, of all
6 days?

7 A Because it's kinda hard, well, it's not kinda hard,
8 he's on trial for murder. And May 8th, Mother's Day, I
9 remember it. I mean this is his life or whatever so. Not
10 whatever, but I was there, so I can testify that my
11 presence, I was there at the time they say he was
12 somewhere, you know, committing murder.

13 Q You just can't tell me what time that is?

14 A I can't tell you what time.

15 Q Just whatever time the murder was committed?

16 A I could tell you what happened on May 8th, the Sunday
17 I was there. I can't give you a time, the specifics, but
18 Fabian, Davian and Karina was there.

19 Q Just, they were there at that time, whatever time the
20 murder happened, they were there is what you're saying?

21 A I'm not saying that.

22 Q Okay. But you can't tell me a time.

23 A I cannot tell you a time. It was daylight hours.
24 They were there. A little after midnight they was still
25 there.

1 Q Okay.

2 A So I can't give you a time.

3 Q So you can remember when they left, but you can't
4 remember when they got there?

5 A I didn't, I mean, like it was late. I just put my
6 kids, it was, I know it was after midnight. They stayed
7 pretty late. You know, midnight is late to me. I'm a
8 early bird.

9 Q Yeah. And you can remember what y'all had to eat,
10 you can remember who all was there, sounds like a lot of
11 people were there, everything but when he got there. But
12 you're saying the time he was there was the time, whatever
13 fits perfectly with when the murder happened, right?

14 A I did not say that. I said I don't remember the
15 time, which I don't. I know it was daylight hours. I
16 can't give you a time.

17 Q Okay. Alright. Fair enough. You know he wasn't
18 arrested until some 18 days later, May 27th. You know.
19 Did you know that?

20 A No, I didn't.

21 Q Okay. So, you just remembered this random cookout
22 and this all of a sudden fits in the --

23 A -- it's not a random cookout. I remember it because
24 I was there.

25 Q Okay. You just can't remember the important details.

1 A Like?

2 Q Like times.

3 A I can't remember. I can't give you a time.

4 Q Okay. Well, you know your nephew has been in jail
5 for over a year on these charges.

6 A I know.

7 Q It's crazy, I mean, have you --

8 A It is.

9 Q -- ever come and talked to me or anyone in the
10 Solicitor's Office or maybe Farrah Cook or the Sheriff,
11 all these people --

12 MR. SHAFFER: Your Honor, may we approach?

13 Q -- to say hey, you've got the wrong guy?

14 THE COURT: Okay. Just hold, hold it just a second.

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

18 THE COURT: May want to repeat --

19 MR. TODD: Sure.

20 THE COURT: -- the question, Solicitor Todd.

21 MR. TODD: Sure.

22 THE COURT: Bring us back up to speed.

23 Q So Fabian's been in jail for over a year for these
24 charges. You never once went to law enforcement, went to
25 Farrah Cook, the Sheriff, I mean, any of these people to

1 say you've got the wrong guy. He was at the cookout with
2 me all day that day. Why not? Why didn't you ever do
3 that until today?

4 A There is no way that I could have went to all the
5 people you just said--

6 Q Right.

7 A -- because I wasn't there when that occurred.

8 Q When what occurred?

9 A The murder. I wasn't there. I was at my mom's
10 residence on May 8th at the cookout. I was there, so I
11 can only answer or tell you about what happened that day.

12 Q And that's what I'm asking you. I said why didn't
13 you go to any law enforcement and tell them hey, look,
14 Fabian was with me that whole day. Davian was with me
15 that whole day.

16 A No one never asked though.

17 Q Well don't you think it's important as an aunt to go
18 tell someone?

19 A It is. Is it, it is very important as a aunt.

20 Q Why didn't you?

21 A And I wasn't asked.

22 Q Well, I mean, why wouldn't you volunteer that kind of
23 stuff? You could've gone, maybe, who knows, he could've
24 been out of jail, we, if you come with that.

25 A Okay.

1 Q You didn't think that'd be important to do?

2 A It's a camera right where my mom was staying. That's
3 directly in front of, the side of her apartment. The
4 camera shows everything.

5 THE COURT: Okay, Mr. Shaffer?

6 MR. SHAFFER: Your Honor, he's asked that question
7 about four different times.

8 THE COURT: I think it's been asked and answered.

9 MR. TODD: Okay.

10 MR. SHAFFER: Thank you.

11 Q That's just bizarre to me. And you have had false
12 information to police, right?

13 A I have.

14 Q Okay. And what you're saying today after this whole
15 year is not false, right?

16 A It's not.

17 Q Okay. Fair enough.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 By Mr. Shaffer:

21 Q La'Toya, you've been in this courtroom for a good
22 portion in some of this trial, right?

23 A I have.

24 Q Okay. At what point did you know a timeframe and a
25 date for when the State is saying that he was killed?

1 Like definitively know it, I'm not saying suspected or
2 thought something, I'm saying was it, what, at what point
3 over the last year and a couple weeks, was it that you
4 learned of a definitive timeframe of when they're saying
5 Edwin died at?

6 A Since I've been in this courtroom. Like the date,
7 the May 8th date that Fabian was supposedly killed Edwin.
8 He was at a cookout, you know, at my mom's residence so.
9 And I just learned about it here.

10 Q Now La'Toya, you met me fairly recently, correct?

11 A Yes.

12 Q There used to be another attorney on the case, right?
13 You recall that other attorney?

14 A A woman, something.

15 Q Okay. Do you recall if you ever had any
16 conversations with her?

17 A I never talked with her personally.

18 Q Okay. Thank you very much.

19 THE COURT: Okay. Thank you, ma'am. You can step
20 down. Any other witnesses Mr. Shaffer?

21 MR. SHAFFER: Your Honor, the Defense would call Kay
22 Green.

23 THE COURT: Come around ma'am.

24 KAY GREEN, being
25 first duly sworn, testified as follows:

DIRECT EXAMINATION

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By Mr. Shaffer:

A K-A-Y G-R-E-E-N. You're welcome.

Q Ms. Green, where are you from, ma'am?

A Lees, South Carolina.

Q Okay.

A Barnwell County.

Q And how long have you lived in Laurens County?

A Every since 1998. August, second week in August 1998.

Q How old are you, ma'am?

A I have to tell you guys that? Don't you know it's not good to ask a female what her age is?

Q It's alright. You don't have to answer.

A I'm 56. I'll be 57 September the 21st.

Q Alright. I apologize for being rude.

A That's okay.

Q Now Ms. Green, you're, you're Fabian's grandmother, right?

A Yes, I am.

Q Are you Davian's grandmother?

A Yes, I am.

Q How long, or what's your relationship to Fabian, did you help raise him?

A Yes.

1 Q Okay. When did he first come into your custody?

2 A When he was I guess about, I guess about two months
3 old.

4 Q Okay.

5 A Maybe a week or so less. I'm not sure about two
6 months, let me say it like that.

7 Q So you basically are like a mother to him, is that
8 right?

9 A I guess mother, grandmother, father. Yes, I guess
10 so. If you think about it, I am.

11 Q Now Ms. Green, I'm gonna ask you a question.

12 A Go ahead.

13 Q Have you been arrested for or convicted of lying to
14 the police?

15 A Gosh. Seem like I would remember if I did, I don't
16 think so.

17 Q Is that a no?

18 A No. I think, I don't think I was.

19 Q Okay. I, I'm just asking. I want a yes or no answer
20 to that.

21 A , No, I don't think so. Lord I sure hope I'm not lying
22 cause I tell you, in my life so many things have happened
23 I can't remember certain things. I don't think I was.

24 Q Okay.

25 A I might a got frisky with them every once in a while.

1 Q Now if you don't mind, you recall Mother's Day of
2 last year?

3 A Yes. I recall Mother's Day last year.

4 Q What do you, what were you doing on, well first of
5 all, where were you living during that time?

6 A [REDACTED]

7 Q And where was, was Fabian living with you?

8 A No, he wasn't.

9 Q Do you recall where he was living at?

10 A I'm not sure, but that girl, Karina, whatever her
11 last name. [REDACTED], I don't even know. I know he was living
12 with them.

13 Q Okay. So, did you see Fabian that day?

14 A Yes, I did.

15 Q Tell me about what you recall about that day, and I
16 only want you to tell me what you recall, not anything
17 else, just what you recall about that day.

18 A That day was Mother's Day. We were having a little
19 get together, cookout. I was preparing the meal. The
20 stuff for the meal. I remember going to a Dollar Tree to
21 get some cards, Mother Day, Mother's Day cards.
22 Basically, that's it. Fabian, Davian and that girl was
23 there, Karina.

24 Q When, to the best of your recollection, did they show
25 up? Were they there whenever you were going to the Dollar

1 Tree?

2 A I, I think it was around, it was around 3:00 when I
3 went to the store. I came back, I'm not sure what time I
4 came back. I'm not even really, really sure what time I
5 remember seeing them. I know it was good daylight hours,
6 so I'm gonna say it was between 4:00 and 5:00 that they
7 were there. I remember, I was, I think I was taking some
8 stuff in or saying something to my husband. And when I
9 walked in that girl was laying on my carpet. I just paid
10 \$300.00 for this rug and I rolled my eyes at Fabian
11 because I fussed at him so many times about bringing her
12 to my house. I did not like her. I did not want her to
13 my house.

14 Q Tell me about this carpet, you, you had a carpet on
15 the floor.

16 A And she was laying on it and I rolled my eyes at him.
17 I didn't have to tell him what I meant, he know what I
18 meant, and he ask her to get up and she got up.

19 Q Are you particular about this carpet?

20 A Yes, I am. I'm real particular about it. When you
21 pay \$300.00 for a rug you should be particular about it.

22 Q Okay. What was it about the, Karina laying on the
23 carpet that offended you?

24 A It wasn't so much about her laying on the carpet that
25 offend. The offense came when she was in my apartment.

1 I, I have told him thousands of times that I did not want
2 her around me.

3 Q Okay.

4 A I didn't particularly care for that girl.

5 Q Alright. Now were y'all grilling out that day?

6 A Yes, we was attempting to.

7 Q Do you recall about how long Fabian was there for?

8 A My husband has to be to work at 8:00 o'clock on a
9 Sunday. He left around 10 or 15 after 7:00. They were
10 still there. I think it was like, it was way after dark.
11 It was way after dark when he left.

12 Q Okay. Now, are you saying that Karina and Fabian and
13 Davian were there?

14 A Yes, I am.

15 Q Did they leave at any point? Did they leave and come
16 back or something?

17 A If they did I can't remember. It was a lot of hustle
18 and bustle that day. I can't remember them leaving. I, I
19 really can't. But I, I would like to suggest this, to say
20 this although you didn't ask me, where I live at they have
21 cameras. Did anybody bother to pull the cameras.

22 Q Let's not get into any of that.

23 A Okay. I'm fine. It's okay. I was just making a
24 suggestion.

25 Q I, I understand, but, did you, didn't you ever speak

1 to his previous attorney about this stuff?

2 A That's sorta complicated answer. I, his previous
3 attorney, he had an attorney. They said something about a
4 conflict of interest. I think I called him and told him
5 that Fabian wanted to see him. Visit him, to visit him.
6 I don't think I talked with him about the case personally.

7 Q What I'm asking you is that, and, and Fabian, before
8 I, I got involved in his case, he had two attorneys,
9 right?

10 A Yes.

11 Q Okay.

12 A I spoke with Chelsea McNeil. In fact, she came to
13 the apartment. She wanted to know stuff about Fabian.
14 You know, stuff attorneys ask.

15 Q Okay. Do you recall telling them whether she,
16 whether Fabian was there on Mother's Day?

17 A I don't recall.

18 Q Okay. Did you know when this murder is supposedly,
19 supposedly happened?

20 A No, I don't. I, what I read in the paper.

21 Q Okay. So that I go ahead and get this out and you go
22 ahead and get a chance to answer it, I imagine the State's
23 going to ask you why you didn't go to the police and tell
24 them about it?

25 A I have been in Laurens County since 1998 and lord

1 knows in heaven I'm not trying to be ugly, but it's, in
2 this county, it's --

3 Q I don't want, I, I don't --

4 A I, I understand, but I'm trying to answer your
5 question. I, no one came to ask me anything and I didn't
6 volunteer to, to tell them anything. No one asked me.

7 Q Okay.

8 A Sometimes you can get in trouble just volunteering
9 information in Laurens County to me.

10 Q Well, Ms. Green.

11 A Yes.

12 Q You, is it fair to say you have strong opinions about
13 the police?

14 A Real strong.

15 Q Okay. Ms. Green, are you, are you lying to protect
16 Fabian?

17 A I want justice. I want justice. No matter how bad
18 it hurt, I want justice. Lying, I wanna see the Lord one
19 day and in the Bible, it said liars do not ride the train
20 of glory. If I lie to help him, then who's going to lie
21 to help me?

22 Q No further questions.

23 THE COURT: Cross-examination?

24 CROSS-EXAMINATION

25 By Mr. Todd:

1 Q Ms. Green, you are Fabian's grandmother?

2 A Yes, I am.

3 Q Okay. You live at, or lived, on May 8th, 2016, at [REDACTED]

4 [REDACTED]

5 A Yes.

6 Q Okay. And you said that Mother's Day, you went,
7 there was a cookout obviously. Heard a lot about that.
8 You said that you went to the Dollar Tree around 3:00
9 o'clock?

10 A It was roughly around that time.

11 Q Okay. And you went to the Dollar Tree, and you came
12 back to [REDACTED]

13 A Yes.

14 Q And Fabian, Davian and Karina were there, and Karina
15 was laying on your floor.

16 A I'm not sure what time they were there. I don't know
17 if it was around, after 3:00. Let me see.

18 Q You said 4:00.

19 A 4:00. It was, I'm not sure if it was 4:00 o'clock
20 exactly or maybe a little after 4:00. It was somewhere
21 around in that area.

22 Q Somewhere around 4:00 o'clock?

23 A Yeah. Maybe after.

24 Q Okay.

25 A I say between 4:00 and 5:00, somewhere like that.

1 I'm not real sure on that.

2 Q Okay.

3 A And yes, she was laying on my carpet.

4 Q Right. How long have they been dating, do you know?

5 A I have no idea.

6 Q Yeah.

7 A I, I really don't. I don't know.

8 Q Okay. Tell me more about this cookout. How many
9 people were there?

10 A It was myself; my husband; my daughter, La'Toya; my
11 son, Quentin, his fiancé La'Toya; Sykeria; Marcus;
12 Lamaria; and GG; Fabian; Davian and Karina.

13 Q Yeah. Did Fabian and Davian and all those, there,
14 your grandchildren, they help you setup for the cookout
15 that afternoon?

16 A Of course not.

17 Q No. Okay. Sounds like a big crowd over there. You,
18 did they help you prepare the food in the kitchen?

19 A I have nobody in my kitchen when I'm preparing my
20 food but myself and my husband.

21 Q So you were mostly in the kitchen, I guess, preparing
22 that meal for everyone that whole time.

23 A Well, it wasn't a whole lot I had to do because my
24 husband had previously started cleaning the meat and stuff
25 like that. I basically had to do the potatoes.

1 Q Right. So, you were in the kitchen a good deal.

2 A I was in the kitchen a good deal, but I came back and
3 forth from the kitchen to the porch.

4 Q Yeah. But you're telling this, this jury that you
5 had eyes on Fabian, Davian and Karina from 4:00 o'clock
6 until after midnight?

7 A No, that's not what I'm telling the jury or you or
8 whoever. You're telling them that.

9 Q Okay.

10 A What I'm telling you was that I was in my kitchen
11 preparing my meal, back and forth, I went back and forth.

12 Q Okay.

13 A I didn't have my eyes on nobody that much.

14 Q Yeah. So, you don't know if they left or, or not
15 during that whole time.

16 A I kinda like, think they didn't.

17 Q Okay. Do you know if this murder was supposed to
18 take place around 5:00 or a little after that?

19 A I don't know anything about it.

20 Q You don't.

21 A I don't and just being honest with you, I don't wanna
22 know either.

23 Q Did you know that Fabian was living with Karina at
24 [REDACTED] Queens Circle?

25 A Yes, I knew.

1 Q Okay. And they came from that address to your
2 cookout, right?

3 A I don't know where they were before they got there.
4 Only they know. You have to ask them.

5 Q Right. I'm just, I'm having a hard time, maybe you
6 can explain it to me, just --

7 A If I can, I try.

8 Q Okay. And that, that'd be great. Why have you never
9 come to law enforcement this entire year and asked or told
10 them guys, they were at our house this whole time for a
11 cookout? Don't you think that would've been important?

12 A It would have been important, but like I said
13 earlier, nobody asked me. They already formed their
14 opinions, they made the arrest, it was something
15 unbelievable. I think I'm still in shock.

16 Q With all due respect, I mean, why, that's your, your,
17 your grandson.

18 A With all due respect, that is my grandson and nothing
19 will change that. But as I said, no one asked me.

20 Q You didn't think it would've been relevant to go up
21 there and tell them that though?

22 A It might would have been.

23 Q Yeah.

24 A But no one asked me, so I just never stepped forward.

25 Q Yeah. This whole time he's been sitting in jail and

1 there's no, no mention of that to any law enforcement.

2 A No.

3 Q I mean it's a pretty big bombshell to hear this on
4 the first, I mean, the first time ever today when your
5 grandson's on trial for murder.

6 MR. SHAFFER: There's not a question, it's just a
7 bunch of commenting.

8 THE COURT: Right. Right. Try to refrain from
9 making commentary, Solicitor.

10 MR. TODD: Sure.

11 Q Did anyone know to come to you to ask whether or not
12 you had any idea about where Fabian was that day?

13 MR. SHAFFER: Objection, Your Honor. He's asking did
14 anyone know to. I think that's speculation.

15 THE COURT: Try to rephrase your question, Solicitor,
16 if you would.

17 MR. TODD: I'll withdraw that.

18 THE COURT: Okay.

19 Q I, no further questions.

20 THE COURT: Okay. Anything in redirect?

21 MR. SHAFFER: No, Your Honor.

22 THE COURT: Thank you ma'am. You can step down.

23 A Thank you, Your Honor.

24 MR. SHAFFER: Defense rests at this time.

25 THE COURT: Alright. Defense rest.

1 something that they believe was in evidence and it doe
2 not coincide with what you remember the evidence to be
3 then you, you rely on your memory and not what the law
4 say. They, and I'm not suggesting they would
5 intentionally misstate any particular piece of evidence
6 or, or testimony, but they may unintentionally do this
7 So, you rely on your, your memory. Also, any
8 demonstration techniques that the lawyers may use, pro
9 charts, whatever, those are for demonstration purposes
10 only, and they're not into evidence. What is in evidence
11 are all the exhibits that you will take back to the jury
12 room when you begin your deliberations and currently to
13 testimony offered. So, it's just that assist them when
14 they make their closing arguments to you, and for no other
15 purpose. Alright, with that said, Solicitor Mowry are
16 ready?

17 MR. MOWRY: Yes, sir, Your Honor. Thank you very
18 much. Ladies and gentlemen, calendars just turned into
19 June. It's a time of high school graduations. The school
20 year is over. But Edwin Diaz Chirinos did not get to
21 another school year. Did not get to play football, did
22 not get to play soccer because his life was taken by that
23 man sitting over there. By Fabian Green. Now at the
24 outset, I'd like to talk about some of the evidence, some
25 of the information that we know is true. The facts, the

1 testimony, it's uncontroverted or proveable
2 scientifically. Now here's what we know. Edwin died at
3 ■■■ Queens Circle. We know this from the blood and from
4 the DNA evidence that was retrieved from the scene. The
5 blood evidence from the china cabinet. It was testified
6 to you that there is a 1 in 38 quadrillion chance that the
7 blood recovered was somebody else's blood other than
8 Edwin's. And then there was a large quantity, a large
9 spread of blood, you can see the purple, you'll have the
10 pictures back there with you. That reacted positively for
11 the presence of blood, human blood, as Special Agent
12 Matthews, the crime scene expert testified to you. And
13 here's the china cabinet. All of that was located in that
14 same room at ■■■ Queens Circle, in this area where the
15 murder took place. Edwin was killed, according to Dr.
16 Ward, by seven blows of a hammer to his head and to his
17 face, and causing depressed skull fractures. Dr. Ward
18 stated his certainty that it was a hammer, the type that a
19 carpenter uses that caused the blows. It wasn't a lug
20 wrench, wasn't a golf club, it wasn't gun shots. He knows
21 the difference and he told you to a reasonable degree of
22 medical certainty, ladies and gentlemen, that the murder
23 weapon was a hammer. We also know that Edwin's death was
24 a homicide. One person killing another. We know those
25 facts as well by courtesy of Dr. Ward, the pathologist

1 who, who shared his findings from 35 years of training and
2 education and experience. There's no evidence anywhere in
3 this case, ladies and gentlemen, that Edwin's death was
4 either justified or excusable. That means we're looking
5 at a murder. Plain and simple. Then Edwin's body was
6 loaded up into the back seat of the Ford Mustang. His
7 dead bloody body into the back seat of that silver Mustang
8 that we became so familiar with. And we know from the
9 forensic and the photographic evidence, including the DNA,
10 we know that Edwin's body was then transported to Taylor
11 Street and the car was left there. We know that Edwin's
12 body was taken from the car, laid on the ground very near
13 the car and set ablaze because it is his charred remains
14 that were found there. Now we can also surmise, ladies
15 and gentlemen, that he must've been wrapped in a quilt or
16 a comforter before setting, being set on fire. The burn
17 pieces of fabric were attained or retrieved, collected by
18 Farrah Cook on May 27th almost three weeks after the
19 murder. You will have these back there with you in the
20 jury room. You will have an opportunity to compare
21 State's 67 and State's 68, the fabric that was picked up
22 at the scene. And compare that to State's 69, the
23 pillowcase that was found in the laundry room of [REDACTED]
24 Queens Circle. We know it was there because of the
25 photographic evidence in the laundry room. And you take a

1 look, don't rely on me, you believe your own eyes. We
2 know from Willie Williams and Olivia Williams, here's
3 Taylor Drive, there's the area that we're talking about
4 for the burn site, over here is [REDACTED] where Mr.
5 and Mrs. Williams live. We know from Willie and Olivia
6 Williams, that Fabian Green and Davian Holman came to
7 their home the evening of May the 8th, 2016, Mother's Day,
8 looking for lighter fluid. Williams had none, so then
9 Fabian asked for alcohol. The Williams had none. Now Mr.
10 Shaffer was asking you to believe that they, that Fabian
11 was asking for the drinking kind of alcohol. That doesn't
12 fit in context, ladies and gentlemen. Do you reasonably
13 believe that that is what they were after? Or is it more
14 reasonable to believe that they were after the flammable
15 rubbing alcohol. The isopropyl alcohol that many of us
16 may have on our, in our bathroom cabinets. Something to
17 use as an accelerant to finish the job of burning up the
18 evidence. What evidence was left unburned? Edwin's body
19 was already charring, so what else could there be? The
20 Ford Mustang. I submit to you that's what they were or
21 what Fabian was looking for in order to burn the car. And
22 remember, it was the defense and not the prosecution that
23 called Olivia Williams. Did she do anything besides
24 support husband's testimony? She supported it almost
25 completely. Was there any motive, any bad blood that was

1 brought out? Anything that would instigate the Williams
2 to perhaps testify untruthfully against Fabian Green. Did
3 the Defense present anything at all that would cause you
4 to doubt their credibility or the accuracy of what they
5 said. Not one thing. What time did Mr. Williams and Mrs.
6 Williams say, well, particularly Mr. Williams, say that
7 they came by? It was between 9:00 and 10:00 p.m. It had
8 already gotten dark on Mother's Day. Where were Fabian
9 Green and Karina Galarza and Davian Holman all afternoon?
10 By Fabian's own testimony, it is uncontroverted, they were
11 at [REDACTED] Queens Circle. So, we know where Edwin was
12 murdered by medical evidence. We know that the place of
13 his murder was [REDACTED] Queens Circle by forensic and medical
14 evidence or DNA evidence I should say. We know that the
15 weapon was a hammer by medical evidence. We know that the
16 Mustang with Edwin's blood, the burned remains, the
17 charred remains of Edwin nearby were all recovered from
18 Taylor, Taylor Drive. All of this was testified to you by
19 forensic and medical witnesses. And ladies and gentlemen,
20 every bit of it was confirmed by Davian Holman. Now Mr.,
21 Mr. Shaffer seemed to cast some kind of sinister light on
22 the fact that Mr. Bentley and Mr. Todd and Davian Holman's
23 attorney, Mike Gambrell, and I met with Davian prior to
24 trial, calling our meetings with him rehearsals. And that
25 was a term that Fabian Green parroted when he was on the

1 witness stand yesterday. Let me tell you this, ladies and
2 gentlemen, I've been a lawyer for nearly 36 years, tried a
3 whole lot of cases, presented a whole lot of witnesses.
4 In all those years, there's not a single one that I
5 haven't met with, discussed testimony, prepared for trial
6 before I put them on the witness stand. Not a single one.
7 We value your time, we want to use it as efficiently as
8 possible. Under no circumstances do we want to flounder
9 around trying to pull something out of, out of a witness
10 we're examining, when if we are prepared a little bit
11 beforehand, we could've gotten it fairly quickly. Witness
12 preparation helps us avoid that. In fact, there are many
13 that consider it legal malpractice to put somebody on a
14 witness stand and the first time you've heard the answers
15 to the witness' question, are when the jury hears it. And
16 I would agree with that. I've been a prosecutor for a
17 long time too. But in the, in the meantime, I was a
18 professor, a college professor. When I had, when I was a
19 student going through school myself, all my professors
20 would stand up in front of the class and they would
21 lecture. They would just come forth with facts and all of
22 us were supposed to sit out in the classrooms and listen
23 and take notes. In more recent times, there have been
24 some discoveries that some people don't learn very well
25 that way. Some people are auditory learners, they learn

1 by hearing. Some were visual learners, they learned by
2 seeing. And as you could see, Davian Holman is very much
3 a visual communicator. That's why we used charts with
4 him. That's why we used pictures with him. When we did
5 that, I think you could see he could effectively
6 communicate. When only verbal questions were asked,
7 especially these broad open-ended questions, he got stuck.
8 He did not go quite the direction many of us suspected. I
9 know Mr. Shaffer had the same problem. But all we asked
10 Davian Holman to do was to tell the truth and that's what
11 he did. Think of all that he said that is supported by
12 uncontroverted facts. And remember what Davian said, not
13 just to me, but twice to Mr. Shaffer when he asked Davian
14 to tell in as much detail as you can, what had happened.
15 He said that Fabian and Karina were together with him at
16 [REDACTED] Queens Circle on the afternoon of May 8th, 2016. He
17 said he was playing a video game and it appeared to him
18 that the Defendant and Karina were texting. Make sure you
19 take a look at State's exhibit number 70. This is the
20 printout of the Facebook messages from May 7th and May
21 8th. These are Facebook messages between Edwin Diaz
22 Chirinos and a Ruby Rina, who we now know was Karina
23 Galarza. We read to you the messages of May the 7th and
24 May 8th between the two of them, but Walter Bentley told
25 us that Edwin's earlier Facebook messages, Walter

1 testified to this, give us proof that Ruby Rina is in fact
2 Karina Galarza. At one point, Edwin uses Karina's name in
3 the message Mr. Bentley told you. She directs Edwin to
4 come to [REDACTED] Queens Circle. There is a discussion at one
5 point about Karina's sister, Julissa. This is Karina
6 Galarza in these messages, or at least this is Karina
7 Galarza's Facebook messages. All of that information that
8 Walter Bentley told you about authenticates that. So,
9 that tells us Karina Galarza and Fabian Green were
10 messaging Edwin. They were sending him messages sometime
11 after 4:00 o'clock on May the 8th. Come to [REDACTED] Queens
12 Circle. Luring him there. Now remember Fabian Green
13 testified that he was actually living there with Karina
14 Galarza. He had been living there for some time but he
15 testified that he and Karina had had a fight, I believe it
16 was on May the 6th. You may remember it differently, but
17 it was May the 6th, May the 7th, right about in there.
18 And take a look at the messages on the evening of May the
19 7th. That's why those messages are crucial, ladies and
20 gentlemen. You will have those messages back there with
21 you, back there in the jury room. Go ahead and read them.
22 Davian said that Fabian gave him a BB pistol. He doesn't
23 know where it came from. And then ordered him to go back
24 into another room. He said that he went back into this
25 room here. Told him to hide in, Fabian told him to hide

1 in Ms. Tapia's room, Karina's mother's room, where he
2 could see out across behind the bar to the china cabinet.
3 So, the messaging had been going on, Edwin, excuse me,
4 Davian goes back into that room with the BB pistol. As
5 Davian told you, in spite of the fact that all he was
6 supposed to do was scare Edwin, he said it didn't feel
7 right. He didn't do it. Something told him not to do it.
8 He heard Edwin come into the house through the front door,
9 through the dining room, and into this area. He heard him
10 talking with Karina Galarza. Now, ladies and gentlemen, I
11 submit he's not sure about time. You saw how much trouble
12 he had figuring out how long something had lasted, but he
13 actually was able to draw the diagrams in the house, as to
14 where he was, as to where Fabian was, as to Edwin and
15 Karina were. And he said Karina was talking with Edwin.
16 He heard Edwin say that he had to go and at that point,
17 Karina began to push Edwin back towards the bedroom. Now
18 I don't know if Edwin thought wow, she's wanting to have
19 sex with me or something like that. I don't know if that
20 was his, his idea. That certainly wasn't what happened.
21 But both times Mr. Shaffer had asked him to tell in as
22 much detail as you can, that's where he cut him off and
23 went to another subject. Why? Because who came out of
24 this bedroom that Karina had pushed Edwin towards, but
25 Fabian Green, brandishing a hammer. He came out of that