

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Aiken County

Honorable Doyet A. Early, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

V.

RASHAWN VERTEZ CARTER,

APPELLANT.

APPELLATE CASE NO. 2018-000358

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT NOS. 9 (CD, CARTER INTERVIEW), 12A (TRANSCRIPT, JAIL CALL 2), 13A (TRANSCRIPT, JAIL CALL 4), 14A (TRANSCRIPT, JAIL CALL 6), 21 (CD, BILLY CAMERON'S POWERPOINT), 25 (PHOTOGRAPH), 33 (PHOTOGRAPH).

1 State of South Carolina)

In the Court
Of General Sessions

2 County of Aiken)

3 Indictment No.: 2016GS0200106
4 2016GS0200107
5 2016GS0200109
6 2016GS0200110
7 2018GS0200312
8 2018GS0200313

9 State of South Carolina,)
10 Plaintiff.)

11 vs.)

Transcript of Record

12 Rashawan Carter,)
13 Defendant.)

14 January 8, 2018

15 Aiken, South Carolina

16 B E F O R E:

17 The Honorable Doyet A. Early III, Judge.

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

19 Elizabeth B. Young, Deputy Solicitor
20 Heather M. DeLoach, Assistant Solicitor
21 Attorneys for the State

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(REPORTER'S NOTE: There were no exhibits
entered during this hearing.)

1 THE COURT: Okay. We want to do -- do this motion?

2 MR. CHESSER: Can we get Mr. Carter, please.

3 Rashawan Carter?

4 (The defendant entered the courtroom.)

5 MS. YOUNG: Your Honor, we have State of South
6 Carolina versus Rashawan Carter. This case is scheduled to
7 go the trial this week on the following charges: Burglary
8 in the first degree, Indictment 2016GS02000106;
9 kidnapping --

10 THE COURT: Burglary in the first degree carries
11 up, what to life?

12 MS. YOUNG: Yes, sir.

13 THE COURT: Mr. Carter, please listen carefully
14 because I'm going to ask you some questions about all of
15 this in just a few minutes, okay.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you're charged with burglary in the
18 first degree on one indictment. That carries up to life in
19 prison without parole.

20 MS. YOUNG: 2016GS0200107, which is an indictment
21 for kidnapping.

22 THE COURT: Which carries up to 30 years; is that
23 correct?

24 MS. YOUNG: Yes, sir.

25 THE COURT: 85 percent.

1 MS. YOUNG: 2016GS0200108, which is an indictment
2 for armed robbery.

3 THE COURT: Which carries a minimum of 10 to 30?

4 MS. YOUNG: Yes, sir.

5 THE COURT: 85 percent?

6 MS. YOUNG: That's correct.

7 2016GS0200111, assault and battery in the first
8 degree.

9 THE COURT: Which carries up to?

10 MS. YOUNG: 20, I believe.

11 THE COURT: Mr. Chesser? 20? 30?

12 MR. CHESSER: I believe that's 20 years, Your
13 Honor.

14 THE COURT: We'll double check.

15 MS. YOUNG: 2016GS0200109, possession of a weapon
16 during the commission -- of the commission of a violent
17 crime, which is 5 years.

18 And finally 2006GS0200110, possession of a firearm
19 by a person convicted of a violent felony which also
20 carries 5 years.

21 Mr. Chesser has filed a motion this morning to
22 sever the possession of a firearm by a person convicted of
23 a violent felony, as well as a motion in limine regarding
24 some statements on the video, particularly statements made
25 by the investigators while they were speaking to the

1 defendant in the course of the investigation.

2 THE COURT: All right. As we've had several
3 discussions today in chambers dealing with, Number 1 the
4 logistics concerning the motion in limine to either redact
5 or find the inadmissible portion of those statements. And
6 there were a host of them. And it was filed today, which
7 has created a bit of a problem by way of getting to address
8 all of that and still have a trial this week; is that
9 correct?

10 MS. YOUNG: That's correct, Your Honor. There are,
11 I believe there are some 80 plus allegations or instances,
12 I should say, made where Mr. Chesser would like to suppress
13 statements of the investigators and we were served that
14 motion at 9:20 this morning. Obviously, we have to have
15 time to respond to it to prepare our witnesses and we have
16 31 witnesses on our witness list. I don't think it will be
17 that many, but probably 20 for the trial in this case.

18 THE COURT: And we discussed that in chambers, both
19 pro and con and from both the defense and the State
20 standpoint concerning logistics of what -- I think what we
21 decided to do is we go ahead and get the motion to sever
22 the Indictment 110, which is the possession of a firearm by
23 a person convicted of a violent felony. And then I'm going
24 to have a little bit of a discussion with Mr. Carter and
25 then we'll see where we stand with the other one.

1 Mr. Chesser?

2 MR. CHESSER: May it please the Court. Your Honor,
3 at this time, I'd like to move for -- to sever the
4 indictment that you referenced, 110, which the prosecution
5 styles as possession of a firearm by a person convicted of
6 a violent felony. This motion is, of course, for the
7 severance of a single charge. He's got a total of six
8 charges, which the State prepares -- is prepared to go
9 forward on.

10 The case law, the law on this is that it is in your
11 discretion whether to sever a charge or not provided
12 however, that it is a substantial right of the defendant
13 would be prejudiced in that case, then there would be --
14 it's possible that it should be granted in any event. But
15 I would appeal to you on two sort of bases.

16 One is, I would submit, that a substantial right of
17 his would be prejudiced if this particular charge is tried
18 along with the rest. There's a case law, State v. Beekman,
19 which I referenced in a written motion. Does the Court
20 have these written motions?

21 Your Honor, that case, I e-mailed it to you and --

22 MS. YOUNG: Here's a copy of the case.

23 THE COURT: And that's State versus Beekman,
24 B-E-E-K-M-A-N.

25 MR. CHESSER: Yes, sir, what that case -- the

1 reason I cited it is it has a holding in there where it
2 says prejudice to a defendant may occur when the defendant
3 is jointly tried on charges resulting in the admission of
4 prior bad act evidence that would have otherwise been
5 inadmissible.

6 And so, in other words, this is the only charge
7 that would require the State to show a prior conviction in
8 this case for trafficking of drugs. Other than that, this
9 case -- if this particular charge were not charged then
10 that 404(b) evidence, it would be -- it would not have any
11 relevance.

12 And so I would submit in the first instance that
13 this is exactly the type of -- of substantial prejudice
14 that is envisioned or contemplated in this situation where
15 the Court actually should, or even I think it's required to
16 grant a severance.

17 My second sort of basis, what I would ask the Court
18 -- and I think that what it says is that you use your
19 discretion, what they're really saying is, do you think it
20 is fair to -- to try this particular charge, this sixth
21 charge along with the others in this situation. It is, I
22 think everybody who is familiar with criminal law knows,
23 and it is very significant to a jury when somebody is --
24 when it's proven to the jury that a person has a prior
25 charge or prior conviction, felony conviction, much less a

1 trafficking conviction. But any type of that evidence, of
2 course, is generally excluded under 404(b) and that's one
3 of the most important exclusions I think that -- that a
4 criminal defendant can benefit from and so I would request
5 you apart from the idea of this would be prejudice, I would
6 ask you -- I would ask the Court, in its discretion, to say
7 this would be a fairer trial if this charge was severed.

8 In other words, we still have the five charges,
9 which are all actually, in terms of the penalty,
10 significantly more serious than this particular charge.
11 The burglary charge, as the Court pointed out, carries
12 life; the kidnapping 20 years; armed robbery 30; A and B
13 first either 20 or 30. And so I think in the first
14 instance that I would just ask the Court to exercise its
15 discretion simply to recognize that this would be a fairer
16 trial if this possession of a firearm by a person convicted
17 of a violent felony charge is not tried with the others.

18 And secondly, I would ask the Court to consider
19 that the Court may be, in fact, required, because there is
20 substantial prejudice in the form of prior bad act evidence
21 that would otherwise have been inadmissible.

22 THE COURT: Beth Ann Young?

23 MS. YOUNG: Your Honor, under the statute for this
24 particular charge, which is 16-23-500, as set out by the
25 legislature, subsection A says it's unlawful for a person

1 who has been convicted of a violent crime, as defined by
2 section 16-1-60, that is classified as a felony offense to
3 possess a firearm, the nature of the statute itself
4 requires the State to prove that in order to prove the
5 charge. It's the same -- and I would argue that it's
6 similar to the burglary first, where the person's been
7 convicted of two prior burglaries. It's actually
8 contemplated within the statute that we are required to
9 prove that the defendant's been convicted of a violent
10 felony.

11 I think an appropriate analysis would be under
12 State versus Rice. There's a four prong test that charges
13 can be joined in the same indictment or tried together when
14 they arise, one, out of a single chain of circumstances;
15 two, are proved by the same evidence; three, are the same
16 general nature; and four, no real right that the defendant
17 has been prejudiced. That's citing State versus Harris and
18 I have a copy of that.

19 Your Honor, the elements that the State would have
20 to prove in order to convict the defendant of possession of
21 the firearm during the commission of a violent felony is
22 the whole gamut that we have to prove to convict him of
23 kidnapping; armed robbery; in other words, if this case
24 were to be severed, we would basically be re-trying the
25 whole home invasion case because those are the facts under

1 which we would have to put forth to carry our burden and
2 convict him of the crime. So the State would argue that it
3 would be -- it's not a case that should be severed. We're
4 required to prove that under the statute. He was convicted
5 of trafficking cocaine base in November 5th of 2013 by Your
6 Honor. He pled guilty, I should say. That is trafficking
7 in meth or cocaine base is included as a violent felony
8 under 16-1-60, which the other statute references, Your
9 Honor.

10 So I just don't think it's an appropriate case for
11 severance. I don't think it's overly prejudicial
12 considering it has to be proven by the State to actually
13 prove the crime. I think Your Honor has the ability to
14 address those in your issues, the same as you would if you
15 were doing a burglary first where the two prior burglaries
16 are the basis and we'd ask that you keep this together as
17 one trial.

18 THE COURT: Hand me that case you're referring to.

19 MS. YOUNG: Yes, sir.

20 THE COURT: Mr. Chesser, anything in reply?

21 MS. YOUNG: I'm handing you the conviction too, a
22 certified copy of the conviction.

23 THE COURT: Mr. Chesser, anything in reply to that?

24 MR. CHESSER: Your Honor, I would say that the
25 State v. Rice case, it does talk about when it is

1 appropriate, when it can be -- when cases can be tried
2 together. But it also has the same language that Beekman
3 has. Number one, it's in your discretion; and number two,
4 that a severance of charge should be granted where a
5 substantial right of him would be prejudiced. Those cases
6 are consistent, Your Honor.

7 THE COURT: All right. I will take it under
8 advisement and look at these two cases and will make a
9 decision on it when we argue the, the balance of motions,
10 the latter part of this week.

11 Mr. Carter, can I talk to you a little bit, please?

12 And you're fine, just sit right there. I want to
13 make sure you completely understand what all you're charged
14 with and what exposure you're looking at in this case. I
15 mean you've got burglary first, which if you were
16 convicted, I have the discretion to put you in jail for the
17 rest of your life, it's a life sentence, potential. I'm
18 not saying I would, but that's -- then you got, the
19 kidnapping is 30 years; and then you got the armed robbery,
20 which is up to 30 years; so you're looking -- and then
21 there's an assault and battery, which is a 20 year
22 situation.

23 If you're convicted, you're looking at the
24 situation that could result in being in jail for a long,
25 long, long time.

1 How old are you?

2 THE DEFENDANT: 26.

3 THE COURT: 26.

4 THE DEFENDANT: 27, sir.

5 THE COURT: 27. And as we do in all of these
6 cases, we had a discussion in chambers about if you were to
7 plead guilty what -- where my range of sentence would be.
8 And I've discussed that with Mr. Chesser. It would be less
9 than what all you could get on this other situation. And
10 also, there's some codefendants whose cases have not come
11 to trial and there would be some consideration if you
12 assisted the State in prosecuting them. It could be very
13 helpful to you in the long run.

14 Mr. Chesser will tell you what the discussions
15 were. I just wanted to make sure you understand that that
16 is available to you if you want to go that route as opposed
17 to trial. The trial looks like it may be continued once
18 again until early February, so we can get a handle on this
19 motion filed by Mr. Chesser. There's a lot of stuff in it
20 we have to address, so it could preclude it from being
21 tried this week if we go to trial.

22 Those are some things I wanted to make sure you
23 understand. I want to make sure if you have any questions
24 about anything, I'd be more than happy to try to answer
25 them or Mr. Chesser. So just make sure you -- you know

1 what I'm saying?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Anything you want to ask me?

4 THE DEFENDANT: Yes, sir. I would like to ask you,
5 could we file a motion to suppress this evidence?

6 THE COURT: Well, that's, basically he has filed a
7 motion to suppress portions of the statements that were
8 given or a portion of the interview that was given. And
9 I'll have to rule on that. There was about 80 different
10 things he wants suppressed, and it's not just something I
11 can listen to in a matter of an hour or so because it
12 encompasses so much. That's what we've got set to do on
13 Wednesday right now, I think. That has been filed.

14 THE DEFENDANT: It's been filed on my statement I
15 made or the witness's statements?

16 MS. YOUNG: It's been filed on his statement. He's
17 referring to the statement of one of the witnesses, Whitney
18 Simpkins.

19 THE COURT: Anyway, there's been a motion filed.
20 We'll deal with it. I don't know what all the motions he
21 filed, but whatever y'all can certainly deal with it.

22 Anything else?

23 All right. We'll see you either tomorrow or
24 Wednesday when we do the motion, okay?

25 MR. CHESSER: Thank you, Your Honor.

1 THE DEFENDANT: Thank you.
2 * * * * * END OF TRANSCRIPT * * * * *
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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**

3
4
5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on the 8th of January 2018.

13 I FURTHER CERTIFY that I am neither kin, counsel,
14 nor of interest to any party hereto.

15 IN WITNESS WHEREOF, I have hereunto set my hand and
16 seal at Aiken County, this 17th day of September 2018.

17
18
19
20
21 Brenda J. Sigwald
22 Brenda J. Sigwald,
23 Court Reporter and Notary Public
24 For the State of South Carolina
25 My commission expires
January 4, 2020

1 State of South Carolina) In the Court
 2 County of Aiken) Of General Sessions

3
 4 Indictment No.: 2016GS0200106
 5 2016GS0200107
 6 2016GS0200109
 7 2016GS0200110
 8 2018GS0200312
 9 2018GS0200313

10 State of South Carolina,)
 11 Plaintiff.)

12 vs.)

13 Transcript of Record

14 Rashawan Carter,)
 15 Defendant.)

16 February 12-16, 2018
 17 Aiken, South Carolina

18 B E F O R E:

19 The Honorable Doyet A. Early III, Judge and a jury.

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

21 Elizabeth B. Young, Deputy Solicitor
 22 Heather M. DeLoach, Assistant Solicitor
 23 Attorneys for the State

24 Michael W. Chessser, Esquire
 25 Attorney for the Defendant

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1 MONDAY, FEBRUARY 12, 2018

2 PRETRIAL MOTIONS

3 THE COURT: All right. Ms. Beth Ann Young, where's
4 the defendant?

5 (The defendant entered the courtroom.)

6 THE COURT: All right. This is the State versus
7 Rashawan V. Carter, a number of indictments: Armed
8 robbery, assault and battery in the first degree,
9 possession of a firearm by a person convicted of a violent
10 felony, possession of a weapon during the commission of a
11 violent crime, kidnapping, and burglary in the first degree
12 as outlined in the effective indictments.

13 We've had some pretrial matters in the case. I
14 have made pretrial rulings, which I sent to each of you and
15 the trial is scheduled to commence in the morning with the
16 selection of the jury. They should be ready to go at ten
17 o'clock.

18 Is the State ready to proceed?

19 MS. YOUNG: Yes, Your Honor.

20 THE COURT: Mr. Chesser, you ready to proceed?

21 MR. CHESSER: Yes, Your Honor.

22 THE COURT: Mr. Carter, are you ready to proceed?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. What do we have left today
25 to get out of the way and expedite so we won't have to slow

1 down in the morning?

2 MS. YOUNG: Your Honor, we need to have a Jackson
3 v. Denno Hearing regarding the defendant's statement.

4 THE COURT: All right. You may proceed --

5 Is that correct, Mr. Chesser? Anything else
6 besides the Jackson v. Denno?

7 MR. CHESSER: The only other thing would be the
8 motion for severance of charge. You may recall that.

9 THE COURT: You asked me to sever the --

10 MR. CHESSER: Possession of a firearm by a person
11 convicted of a violent felony.

12 THE COURT: That's correct. I'll have to rule on
13 that.

14 MR. CHESSER: Yes, sir. And that's the only thing
15 we would ask you to rule on, that.

16 THE COURT: All right. You may start your Jackson
17 v. Denno.

18 MS. YOUNG: Thank you, Your Honor.

19 **JACKSON V. DENNO HEARING**

20 The State calls Matt Morlan.

21 THE COURT: Come around, please.

22 MATTHEW MORLAN,

23 having been duly sworn, testified as follows:

24 THE CLERK: Please have a seat in the witness chair
25 and state your full name.

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 THE WITNESS: Matthew Morlan, M-O-R-L-A-N.

2 DIRECT EXAMINATION - IN CAMERA

3 BY MS. YOUNG:

4 Q Where are you employed?

5 A With the ATF.

6 Q Did you have involvement with the case against this
7 defendant, Rashawan Carter?

8 A I did.

9 Q And did you have occasion to take a statement from
10 him along with Lieutenant Billy Cameron?

11 A Yes, ma'am, I did.

12 Q Backing up to the day that you took the statement,
13 can you tell the Court when you first came into contact
14 with the defendant?

15 A On May 9th, 2015, we approached Mr. Carter at the
16 Quarters Apartment Complex which is in Columbia, South
17 Carolina.

18 Q Okay. How did you know he was there?

19 A We were actually pinging his phone or tracking his
20 phone.

21 Q What did you see when you got to the Quarters
22 Apartment Complex?

23 A When we initially pulled in, it was myself and
24 Detective Colindres, who is also a task force officer with
25 the ATF. We pulled into the parking lot, we observed the

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 rental car which was a silver Nissan Altima. We had
2 information prior to that that he may be driving that car.

3 MR. CHESSER: Your Honor, I'm having trouble
4 hearing him.

5 THE COURT: I am too.

6 THE WITNESS: I'm sorry.

7 THE COURT: What's wrong with it, Mr. Harte?

8 THE CLERK: It should be on, that's just what I was
9 checking. It was off at the base.

10 THE COURT: Thank you, Mr. Chesser.

11 BY MS. YOUNG:

12 Q Can you repeat the last answer?

13 A Detective Colindres with Aiken Department of Public
14 Safety was also a task officer with the ATF. We were
15 actually getting information that the phone that we were
16 tracking that belonged to Rashawan Carter was at the
17 Quarters Apartment Complex in Columbia. When we pulled
18 into the parking lot, Detective Colindres and myself were
19 in two separate vehicles. We pulled in. We observed the
20 Nissan Altima, which is silver in color, which we had
21 received information earlier that Rashawan Carter may be
22 driving.

23 Once we observed the Nissan Altima, we sat there
24 and waited for a little bit and observed Rashawan Carter
25 walking around on the side of the apartment complex on his

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 cell phone.

2 Q What did you do when you saw him outside on the
3 telephone?

4 A Detective Colindres and I, we approached Rashawan
5 Carter.

6 Q How did you identify yourself to the defendant?

7 A We had our badges out and I actually had a vest in
8 my left hand as we were walking up toward Rashawan.

9 THE COURT: What did you have in your left hand?

10 THE WITNESS: A vest, a tactical vest.

11 BY MS. YOUNG:

12 Q What does a tactical vest say?

13 A It just had Police on it, insignia on the front and
14 the back.

15 Q And you had your badges -- you indicated you had
16 around your neck?

17 A Yes, ma'am.

18 Q And otherwise, you were in plain clothes?

19 A That's correct.

20 Q Did you identify yourself as law enforcement
21 officers to the defendant?

22 A Yes, ma'am.

23 Q And did he agree to talk to you?

24 A He did. We just asked him -- we just let him know
25 that there was something that occurred earlier that morning

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 and we needed to talk to him back at the Aiken Department
2 of Public Safety in Aiken and he agreed.

3 Q Okay. What did you do prior to leaving the
4 apartment complex with the defendant?

5 A Rashawan Carter was actually going into Detective
6 Colindres pick-up truck. While he was doing that I was
7 able to really search the Nissan Altima and search the
8 apartment of Jasmine Hammond, which is her sister's
9 apartment. I just asked her sister while he was getting
10 into Detective Colindres's car if Rashawan Carter brought
11 anything into the house, bags and so forth. She mentioned
12 something about a plastic bag. I asked her if I could look
13 at it. She had no problem with it. I walked into the
14 double doors and there was a plastic bag that just had a
15 soda in it.

16 Q Was the defendant under arrest at the time that you
17 left the Quarters apartment?

18 A No, ma'am.

19 Q He voluntarily agreed to go with you to Public
20 Safety from Columbia to Aiken?

21 A That's correct.

22 Q And he rode with Detective Colindres and you drove
23 back in a separate vehicle?

24 A That's correct.

25 Q Who interviewed the defendant at Public Safety?

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 A Myself and Detective Cameron.

2 Q And at the time that you interviewed him, was he
3 under arrest once you got the headquarters?

4 A No, ma'am.

5 Q Was he in handcuffs or any sorts of restraints?

6 A No, ma'am.

7 Q Was he free to leave when he wanted to?

8 A Yes, ma'am.

9 Q Did you advise him of his rights prior to speaking
10 with him?

11 A Yes, ma'am.

12 Q Agent Morlan, I'm handing you what's been marked
13 for purposes of this hearing as State's Exhibit 1 and ask
14 you if you can identify that.

15 A Yes, ma'am, this is the Miranda Rights waiver.

16 Q The one that you read to the defendant?

17 A Uh-huh, yes, ma'am.

18 Q And how do you know that?

19 A This is my handwriting and, again, Detective
20 Cameron's name is on there as well.

21 Q Does that appear to be a true and accurate copy of
22 the Miranda form you filled out with the defendant?

23 A Yes, ma'am.

24 MS. YOUNG: Your Honor, we'd offer that as State's
25 Exhibit 1 for purposes of the Jackson v Denno Hearing.

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 THE COURT: Any objection?

2 MR. CHESSER: No objection.

3 (State's Exhibit Number 1 for Pretrial Motions was
4 entered into evidence.)

5 BY MS. YOUNG:

6 Q How did you go over the actual sheet with the
7 defendant?

8 A I just read them out loud to him and then he
9 initialed, which his initials are right here.

10 Q And you read all the things on the sheet to the
11 defendant?

12 A Yes, ma'am.

13 Q For purposes of this hearing, would you go ahead
14 and read exactly what you told the defendant about speaking
15 to you.

16 A You have the right to remain silent. Anything you
17 say can and will be used against you in a court of law.

18 You have the right to talk to a lawyer for advice
19 before we ask you any questions and to have him with you
20 during questioning. If you cannot hire a lawyer, the Court
21 will appoint one to represent you without cost if you wish.

22 If you decide to answer questions without a lawyer
23 present, you have the right to stop answering at any time.
24 You also have the right to stop answering at any time until
25 you talk to a lawyer.

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 I have read this statement of my rights and I
2 understand what my rights are. I'm willing to answer --
3 I'm willing to make a statement and answer questions. I do
4 not want a lawyer at this time and know that I -- and know
5 what I am doing. No promises or threats have been made to
6 me and no pressure or force of any kind has been used
7 against me.

8 Q Did the defendant initial all the points that you
9 read out?

10 A He did.

11 Q Did he sign the form and the waiver agreeing to
12 speak with you?

13 A Yes, ma'am.

14 Q When you spoke to the defendant, did you inquire
15 about his level of education?

16 A Yes, ma'am.

17 Q And do you recall what he told you?

18 A 10th grade at Laney High School.

19 Q Did he appear to understand the things you were
20 saying to him when you went over the form?

21 A Yes, ma'am.

22 Q Was he under the influences of drugs or alcohol
23 that you could tell?

24 A No, ma'am.

25 Q During the time that you spoke to the defendant,

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 was he prohibited from leaving the room?

2 A No, ma'am.

3 Q Was he prohibited from having -- if he needed
4 something to drink or facilities or anything of that
5 nature?

6 A No, ma'am.

7 Q Did you promise him anything to get him to speak
8 with you?

9 A No, ma'am.

10 Q Did you threaten the defendant?

11 A No, ma'am.

12 Q Did you coerce him in any way to give a statement?

13 A No, ma'am.

14 Q And where was he sitting in the interrogation room?

15 A As you walk into the interview room, the door was
16 to the left, there's a chair to the right. He was seated
17 to the right.

18 Q Were there any obstructions or anything blocking
19 the door.

20 A No, ma'am.

21 Q And did either you or Lieutenant Cameron block him
22 bodily from the door?

23 A No, ma'am.

24 Q Prior to coming to court today, have you had an
25 opportunity to review the defendant's statement?

Matthew Morlan - Direct Examination In Camera by Ms. Young

1 A Yes, ma'am.

2 Q I'm handing you what's been marked as State's
3 Exhibit 9 and ask if you recognize that?

4 A I do.

5 Q What is it?

6 A It's a DVD of the interview of Rashawan Carter.

7 Q How do you know that that's the DVD that you
8 reviewed?

9 A When I was finished reviewing it, I actually
10 initialed it.

11 MS. YOUNG: Your Honor, for purposes of the
12 hearing, we'd like to publish the portion of the tape where
13 he reads the Miranda Rights to the defendant.

14 THE COURT: All right.. Any objection?

15 THE CLERK: No objection.

16 MS. YOUNG: It's just about two or three minutes,
17 not very long.

18 (A portion of the video was played for the Court.

19 BY MS. YOUNG:

20 Q Agent Morlan, you seemed to be having a little bit
21 of difficulty. What was that about?

22 A As far as Miranda?

23 Q Uh-huh.

24 A Well, as far as the task force, we would be reading
25 one day, the ATF form. We may read --

Matthew Morlan - Cross-Examination In Camera by Mr. Chesser

1 Q I was actually referring to the defendant.

2 A Oh, I'm sorry.

3 Q Is it because your handwriting was so small he
4 couldn't read it?

5 A Yes, ma'am.

6 Q Okay. At some point did he -- how long did you
7 speak to the defendant? If you recall.

8 A Give or take over an hour. Total.

9 Q At some point did he tell you that he no longer
10 wished to speak to you?

11 A No, ma'am. He talked about wanting to leave.

12 Q And what happened when he said that?

13 A He was free to leave.

14 Q And he left?

15 A Yeah.

16 MS. YOUNG: No further questions for Agent Morlan.

17 THE COURT: Mr. Chesser?

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

19 (There was a pause in the proceedings.)

20 CROSS-EXAMINATION IN CAMERA

21 BY MR. CHESSER:

22 Q How are you doing?

23 A Fine. How about you?

24 Q Fine.

25 A Good.

Matthew Morlan - Cross-Examination In Camera by Mr. Chesser

1 Q You talked with Rashawan Carter at the time that
2 you met him in Columbia, did you not?

3 A Yes, sir.

4 Q Okay. And did he make one or more statements to
5 you at that time?

6 A Basically when he told us that he was willing to go
7 the Aiken Department of Public Safety and be interviewed,
8 he was put in the truck fairly quickly and transported to
9 Aiken Department of Public Safety headquarters.

10 Q Okay. You don't recall a conversation about asking
11 him what vehicle he was driving?

12 A As far as when he was over on the side of the
13 truck, yes, ma'am.

14 Q Okay. Can you tell the Court about that
15 conversation?

16 A When Rashawan Carter was over here near my truck
17 and Detective Colindres's truck I was making sure they were
18 separated between him and Jasmine. Jasmine was standing
19 closer to the apartments. At that point I asked him which
20 car he was diving. He pointed to a black Dodge Cobalt.

21 Q Okay.

22 A And he described it and then I went over to Jasmine
23 Hammond and then asked her which car did they drive up to
24 the apartment complex and she pointed to the Nissan -- the
25 silver Nissan Altima.

Matthew Morlan - Cross-Examination In Camera by Mr. Chesser

1 Q Okay. In other words, they indicated two different
2 vehicles?

3 A That's correct.

4 Q Okay. And based on your investigation, which
5 vehicle did you think they were actually riding in?

6 A The Nissan Altima.

7 Q Okay. So that statement about what vehicle that
8 they were riding in, that Rashawan Carter made to you was
9 obviously a product of your meeting with him in Columbia,
10 right?

11 A Yes, sir.

12 Q Okay. Now, when you came -- when you approached
13 him, did you have your gun drawn?

14 A No, sir.

15 Q Okay. And you indicated you were with a task force
16 officer?

17 A Yes, sir, Detective Colindres, he's a task force
18 officer with our task force.

19 Q Did he have his gun drawn?

20 A No, sir.

21 Q Okay. Your statement is that neither one of you
22 had your guns out?

23 A No, sir.

24 Q Okay. But you were, in fact, armed?

25 A Sure.

Matthew Morlan - Cross-Examination In Camera by Mr. Chesser

1 Q Okay. One thing -- you said that you located him
2 in Columbia based on a tracking of a phone?

3 A Yes, sir.

4 Q And what phone was that?

5 A It was a phone that Detective Hembree had gotten
6 information -- I can't recall the phone number exactly, but
7 it was a phone number that we were given during the
8 investigation that led us to Mr. Carter.

9 Q Was that phone -- I'm just trying to figure out
10 which phone that was. That was the phone that was
11 eventually destroyed?

12 A I believe so.

13 Q Okay. You're not sure?

14 A I'm not sure.

15 Q Okay.

16 A I'd have to look at the report.

17 Q Did you get a search warrant to track that phone?

18 A It was an exigent order. But I didn't get the
19 exigent order.

20 Q Okay. It was exigent order?

21 A That's correct.

22 Q That you obtained from a judge?

23 A No, sir, we can do an exigent order through the
24 phone companies if the carriers agree with what we want as
25 far as -- due to the circumstances. Then they can actually

Matthew Morlan - Cross-Examination In Camera by Mr. Chesser

1 give us information requested because there's a public
2 safety issue.

3 Q Okay. That's what I'm trying to understand just
4 myself. In other words, you didn't get a warrant or
5 approval of a judge to track that phone is what you're
6 saying?

7 A I don't believe so, but, again, I didn't get the --
8 I didn't get the order.

9 Q Okay. And just so I understand what an exigent
10 order is, that is actually a request by you or by law
11 enforcement?

12 A Yes, sir.

13 Q To -- that a phone be tracked?

14 A In this case, yes, sir.

15 Q Okay. All right. In any event at this meeting in
16 Columbia, you asked him to meet you at the Aiken Public
17 Safety office?

18 A We offered to take him.

19 Q Okay. Is that what you did is took him?

20 A Uh-huh.

21 Q In your vehicle?

22 A No Detective Colindres --

23 Q Okay.

24 A -- in his pick-up truck.

25 Q Okay. And then what about the other vehicle, the

Matthew Morlan - Cross-Examination In Camera by Mr. Chesser

1 one that Jasmine said they were riding in? What happened
2 to that vehicle? Who drove that back?

3 A Ms. Hammond wanted to actually follow us --

4 Q Okay.

5 A -- to headquarters.

6 Q Okay. All right. So he was in your vehicle and
7 you seated him in the back?

8 A No, sir. He was in Detective Colindres's
9 vehicle --

10 Q Okay.

11 A -- in the passenger seat.

12 Q Okay. All right.

13 A I was shortly behind him in my vehicle.

14 Q I see. Okay. So -- okay. He was in the passenger
15 seat of, I'll call it the first law enforcement vehicle and
16 you were following in your vehicle?

17 A Yes, sir.

18 Q And Jasmine was supposed to be following y'all?

19 A That's correct.

20 Q Okay. And you came straight back to the Public
21 Safety?

22 A Yes, sir.

23 Q All right. He was not put in handcuffs for that
24 trip?

25 A No, sir.

Matthew Morlan - Cross-Examination In Camera by Mr. Chesser

1 Q As far as you know?

2 A As far as I know, no, sir.

3 Q Okay. All right. So -- now here in -- at the
4 Department of Public Safety, as you said the interview
5 lasted about an hour, right?

6 A Yes, sir. I think it was a little bit more than
7 that, yes, sir.

8 Q Okay. And do you recall telling him that he needed
9 to get on the bus so that law enforcement could do
10 something for him?

11 A Some -- some phrase of that form, yes.

12 Q Right. In other words, that was the idea, he
13 needed to help himself and he could help himself by, in
14 your opinion, by telling the truth of what happened, right?

15 A Yes, sir.

16 Q Okay. And the idea was that law enforcement could
17 help him if he made those statements, correct?

18 A Yes, sir.

19 Q Okay. Now, you've watched the video, right?

20 A Yes, sir.

21 Q All right. You recall that you were out of the
22 room and Rashawan Carter asked officer Cameron if he could
23 leave and he was told, Can you give us a minute; in other
24 words he was told to wait? You recall that?

25 A I do remember seeing that, yes, sir.

Matthew Morlan - Redirect Examination In Camera by Ms. Young

1 Q All right. And you would agree that when he made
2 that statement, I don't want to be here anymore, I don't
3 want to continue talking, that the interview actually
4 continued for another ten minutes, you would agree with
5 that?

6 A Yes, sir.

7 Q Okay. And it was on his assertion, say his third
8 assertion of I would like to leave that he was actually
9 permitted to leave at that point?

10 A I didn't really count, but at some point, yes, sir,
11 he was able to leave.

12 Q All right. When you conduct an interview in that
13 closed room at the Aiken Department of Public Safety, do
14 you have your weapons there?

15 A Normally, the practice is you secure your firearm.

16 Q In other words, you secure your firearm --

17 A Yes, sir.

18 Q -- and then you go in there without a firearm?

19 A Yes, sir, that's general practice, yes, sir.

20 Q All right. That's all the questions I have. Thank
21 you.

22 THE COURT: Redirect?

23 MS. YOUNG: Very briefly, Your Honor.

24 **REDIRECT EXAMINATION IN CAMERA**

25 **BY MS. YOUNG:**

Matthew Morlan - Redirect Examination In Camera by Ms. Young

1 Q Agent Morlan, with regard to the statement that the
2 defendant made about which vehicle that he rode in and he
3 stated the black vehicle, was he under arrest at the time
4 he made that statement?

5 A No, ma'am.

6 Q With regard to State's Exhibit 9, does the -- that
7 video of the interview contain the entire you know redacted
8 version?

9 A Yes, ma'am.

10 Q It doesn't cut off?

11 A Well, the new one --

12 Q The new one --

13 A -- does.

14 Q The one I just showed you is the one that ends the
15 first time he says he doesn't want to speak to you anymore?

16 A That's correct. It ends.

17 MS. YOUNG: No further questions, Your Honor.

18 THE COURT: You may step down.

19 Next witness.

20 MS. YOUNG: Detective Carlos Colindres.

21 CARLOS COLINDRES,

22 having been duly sworn, testified as follows:

23 THE CLERK: Please have a seat in the witness chair
24 and state your full name.

25 THE WITNESS: Carlos Colindres.

Carlos Colindres - Direct Examination In Camera by Ms. Young

DIRECT EXAMINATION IN CAMERA

BY MS. YOUNG:

Q Where are you employed?

A Aiken Department of Public Safety.

Q In what capacity?

A I'm a detective and I'm specializing in narcotics.

Q Do you have any other specific law enforcement designations?

A Yes, I'm also an ATF task force officer.

Q Did you assist Agent Morlan with traveling to Columbia and speaking with the defendant on May 9th of 2015?

A Yes, I did.

Q You heard his testimony because you've been in the courtroom. Do you agree that you drove there in separate vehicles?

A Yes, ma'am.

Q And at the point that you approached the defendant to speak with him, did you clearly have your law enforcement identification open and visible?

A Yes.

Q Did you identify yourself as a law enforcement to the defendant?

A Yes.

Q At the time that you speak with him in Columbia,

Carlos Colindres - Direct Examination In Camera by Ms. Young

1 was he placed under arrest at any point in time?

2 A No, he was not.

3 Q Did you ask him to come back to Aiken to speak with
4 you?

5 A Yes.

6 Q Did he agree to do that?

7 A Yes.

8 Q Can you describe where he rode in your vehicle?

9 A In the front passenger seat.

10 Q Was he restrained or handcuffed at any time?

11 A No, he wasn't.

12 Q He was just sitting in your car like a passenger?

13 A Yes.

14 Q When you were in the car with him by yourself, what
15 did you talk about with the defendant?

16 A We at one point talked about the Manny Pacquiao
17 fight. I'm a big boxing fan, so that fight was out that
18 month and most of the time he was in and out of sleep.

19 Q He fell asleep on the way to Aiken?

20 A Yes.

21 Q At any time during the trip back to Aiken when he
22 was in your truck, did you discuss any facts of the case
23 that will ultimately be tried this week?

24 A No.

25 Q Or anything about why he was coming to Aiken?

Carlos Colindres - Direct Examination In Camera by Ms. Young

- 1 A No.
- 2 Q Or anything about a home invasion?
- 3 A No.
- 4 Q Nothing about this case at all?
- 5 A Nothing.
- 6 Q What if he had told you he wanted you to stop and
- 7 let him out somewhere, would you have done that?
- 8 A I would have had to.
- 9 Q Because he was free to leave at any time?
- 10 A Yes.
- 11 Q Did you make any promises to him while y'all were
- 12 in the vehicle driving back from Columbia to Aiken?
- 13 A No, I did not.
- 14 Q Did you make any threats to him?
- 15 A No, I did not.
- 16 Q Did you coerce him in any way to try to get him to
- 17 agree to speak with you?
- 18 A No, I did not.
- 19 Q Did he appear to be under the influence of drugs or
- 20 alcohol?
- 21 A No.
- 22 Q Just sleepy?
- 23 A Just sleepy.
- 24 MS. YOUNG: No further questions.
- 25 THE COURT: Cross?

Carlos Colindres - Cross Examination In Camera by Mr. Chesser

CROSS-EXAMINATION IN CAMERA

BY MR. CHESSER:

Q Good afternoon.

A Good afternoon.

Q Could you ask you how to pronounce your last name?

A Colindres.

Q Colindres?

A (Witness nodded head.)

Q All right. You drafted this, that's referred to as an exigent order?

A I did not.

Q You have any knowledge of it?

A Other than they told me I was going to assist special Agent Morlan with the execution.

Q Okay. You recall arriving to the location in Columbia where Rashawan Carter was, right?

A Yes.

Q And Jasmine Hammond was there?

A Yes.

Q Okay. Did you have your weapon drawn?

A No.

Q Okay. Did you see anyone with their weapon drawn? Law enforcement officer?

A No.

Q Okay. On the ride back, was Rashawan Carter, was

Carlos Colindres - Redirect Examination In Camera by Ms. Young

1 he handcuffed? Was he restrained?

2 A No, he was not.

3 Q Is it your testimony then that you ride to
4 Columbia, that Officer Morlan rides to Columbia with an
5 exigent order and that Rashawan Carter didn't have to
6 comply? Is that your testimony?

7 A Yes, he didn't have to.

8 Q You're saying he could have just walked away?

9 A If he had told me he didn't want to go to
10 headquarters, yes, I'd have to stop. That's why he asked
11 earlier if his girlfriend was allowed to follow along, we
12 said yes.

13 Q Okay. In your mind, what was exigent if you
14 weren't even going to require him to come back with you to
15 Aiken?

16 A Well, it's just the nature of the case itself.

17 Q In other words, it's an important case?

18 A It's a very important case, yes.

19 Q No further questions, thank you.

20 THE COURT: Redirect?

21 **REDIRECT EXAMINATION IN CAMERA**

22 BY MS. YOUNG:

23 Q Was the defendant ever told anything at the time
24 that you were in Columbia that you even had the exigent
25 order and that's how you found him?

William Cameron - Direct Examination In Camera by Ms. Young

1 A No. I never said anything to him.

2 Q Exigent order, was that ever mentioned to the
3 defendant in your presence in Columbia?

4 A No.

5 Q So you just asked him to come back and speak with
6 you and he agreed to do so?

7 A Yes.

8 MS. YOUNG: No further questions.

9 THE COURT: You may step down.

10 Next witness.

11 MS. YOUNG: Lieutenant Billy Cameron.

12 WILLIAM CAMERON,

13 having been duly sworn, testified as follows:

14 THE CLERK: Have a seat in the witness chair and
15 state your full name.

16 THE WITNESS: William Cameron, C-A-M-E-R-O-N.

17 **DIRECT EXAMINATION IN CAMERA**

18 BY MS. YOUNG:

19 Q Where are you employed?

20 A Aiken Public Safety.

21 Q In what capacity?

22 A I'm a lieutenant in investigations.

23 Q What is your connection with this particular case?

24 A I was the on-duty investigator the morning this
25 case happened.

William Cameron - Direct Examination In Camera by Ms. Young

1 Q So this case is a case you investigated yourself?

2 A Yes, ma'am.

3 Q Were you present on May 9th of 2015 when Agent
4 Morlan and Task Force Officer Colindres arrived from
5 Columbia with the defendant?

6 A I was.

7 Q And can you describe how he got from their vehicles
8 to the interview room?

9 A He just walked out of their vehicle and walked into
10 the interview room.

11 Q At any time that you saw him before he got in the
12 interview room with you, was he restrained at any time?

13 A No, ma'am.

14 Q Did you make any threats to him to get him to talk
15 to you?

16 A No, ma'am.

17 Q Did you make any promises to him?

18 A I did not.

19 Q Did you coerce him in any way?

20 A No, ma'am.

21 Q What was shown on the video about the advice of
22 rights, did your substantive conversation with him begin
23 after he was advised of those rights by Agent Morlan?

24 A That's correct.

25 Q And the defendant was free to leave at any time?

William Cameron - Cross-Examination In Camera by Mr. Chesser

1 A Yes, ma'am.

2 Q He was not placed under arrest?

3 A No, ma'am.

4 Q Did he appear in your opinion to understand the
5 things that you were asking him and that Agent Morlan was
6 asking?

7 A He did.

8 Q He didn't appear confused or intoxicated or
9 anything of that nature?

10 A No, ma'am.

11 Q And at some point he told you he wanted to leave
12 and eventually he did leave?

13 A That's correct.

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

15 THE COURT: Cross?

16 CROSS-EXAMINATION IN CAMERA

17 BY MR. CHESSER:

18 Q Good afternoon.

19 A Hey, Mr. Chesser.

20 Q You talked about his getting from the vehicle that
21 he arrived from Columbia, getting from there to the room
22 where he was interviewed. He had to have been escorted by
23 officers from the car to that room, correct?

24 A I'm sure they walked in the building with him, I
25 mean, yes, sir.

William Cameron - Cross-Examination In Camera by Mr. Chesser

1 Q Where were you when they were walking him in?

2 A I believe I was on the investigations hallway which
3 is pretty much directly across from the interview room.

4 Q Okay. And then did someone summon you to come to
5 this interview of Rashawan Carter?

6 A I was informed that they were back with him, yes,
7 sir.

8 Q Okay. In the interview itself, you recall toward
9 the end Rashawan Carter said that he didn't want to be
10 there anymore?

11 A I recall him asking me if he was -- if he could
12 leave, yes, sir.

13 Q Right. And what was your response?

14 A A question, if he could give us a couple more
15 minutes.

16 Q Uh-huh. Would you agree that that's the equivalent
17 to telling him no, you can't leave right now?

18 A No, sir.

19 Q Okay. You think that that would be interpreted,
20 yes, you're free to go?

21 A I asked the question if he could give us a few more
22 minutes --

23 Q Oh.

24 A -- and which he agreed.

25 Q Right. Now, and you would agree that he asked that

William Cameron - Redirect Examination In Camera by Ms. Young

1 he be able to leave three times in that interview before he
2 was finally allowed to leave?

3 A I'm not certain of the number, but it was a few
4 times, yes, sir.

5 Q All right. Thank you.

REDIRECT EXAMINATION IN CAMERA

7 BY MS. YOUNG:

8 Q Detective Cameron, have you had the opportunity to
9 observe the video the State intends to introduce at this
10 time?

11 A Yes, ma'am.

12 Q And the portion that Mr. Chessser was asking you
13 about where you asked him could he give you a few more
14 minutes; is that included on that video?

15 A No, ma'am, I don't believe so.

16 Q After the first time he says I don't want to talk
17 to you anymore, is that when the video cuts off?

18 A Yes, ma'am.

19 MS. YOUNG: No further questions, no further
20 witnesses.

21 THE COURT: You may step down.

22 Mr. Chessser, anything?

23 MR. CHESSER: Your Honor, on the video, as Agent
24 Morlan testified, they told Rashawan Carter repeatedly that
25 he needed to get on board, that he needed to tell them the

1 truth so that he could help himself. And this was repeated
2 numerous times throughout the interview. And the interview
3 is extensive. And what Miranda requires is that if he not
4 be offered a reward for this testimony in order for it to
5 be considered voluntary. There's an issue of Miranda,
6 there's also an issue of voluntary.

7 What we would submit is these statements offering
8 him, in effect, a reward for talking to them rendered it
9 involuntary and we would request that it not be admitted on
10 that basis.

11 MS. YOUNG: Your Honor, the defendant was not under
12 arrest at the time that he gave the statement to the
13 officers. They read him his Miranda Rights out of an
14 abundance of caution. He was free to leave at any time. I
15 believe that Agent Morlan said something to the effect that
16 he testified that it was something to the effect of he
17 would want to help himself, wouldn't he want to help
18 himself. That's not the same thing as promising him
19 anything, that's just law enforcement technique to try to
20 get somebody to talk to you.

21 Your Honor, we feel like this is a completely add
22 admissible statement. He's not under arrest. He was
23 advised of his rights and we'd ask that you include the
24 whole statement in the trial.

25 THE COURT: I thought you were only going to have

1 the portion until he asked to leave.

2 MS. YOUNG: I'm sorry?

3 THE COURT: Didn't you cut it off, Solicitor?

4 MS. YOUNG: Yes, sir, I advised Mr. Chesser that
5 the first time the defendant said I don't want the speak
6 with you anymore, we cut the tape off there, so when he
7 says he don't want to speak to them anymore, the tape ends
8 right there.

9 THE COURT: So you're not asking to put the whole
10 interview in, just up to that point where he asked to
11 leave.

12 MS. YOUNG: I apologize, Your Honor. We're asking
13 to put in a redacted version that cuts off any statements
14 that he makes after he says that he doesn't want to speak
15 to them anymore. It's about 10 minutes or so that was cut
16 off of the tape.

17 THE COURT: In other words, it's not going to be
18 admitted to the jury, that's just -- it stops at that
19 point?

20 MS. YOUNG: It stops when he says he wants to quit
21 speaking with them.

22 THE COURT: All right. I find under the Miranda
23 requirements that, obviously, under the Jackson v Denno
24 requirements, I find that the Miranda warnings were
25 properly given. I find by the preponderance or the greater

1 weight of the evidence that the statement was voluntary,
2 therefore, it will be admitted in the trial of the case.
3 The jury will determine whether or not the State has been
4 able to prove beyond a reasonable doubt that it is
5 voluntary and give it whatever weight, if any, they deem
6 necessary.

7 So respectfully denied, Mr. Chesser.

8 Anything else?

9 MS. YOUNG: Are you going to address the prior
10 ruling about the defendant's motion to redact or suppress?
11 Are you going to put that on the record?

12 THE COURT: Well, I think I sent y'all an e-mail on
13 that that I had reviewed the entire portion that you intend
14 the admit during the trial of the case. I have reviewed
15 the objections made by Mr. Chesser and the reasons set
16 forth as outlined in his memo and I found, if I recall
17 correctly, that I overruled all of the objections and
18 advised y'all that I was going to let the interview up to
19 that point that you cut it up be introduced. Was that not
20 the e-mail that you got?

21 MS. YOUNG: It is, Your Honor. I just -- you also
22 said you were going the put it on the record. So I didn't
23 know if you were going to do that now or...

24 THE COURT: I just did.

25 MS. YOUNG: You did. Thank you.

1 THE COURT: All right. What's your position on the
2 severance of the possession of the weapon with the
3 conviction -- with the defendant having a prior felony
4 record?

5 MS. YOUNG: Your Honor, I know we argued that last
6 time and I didn't bring my case law up here with me to
7 court today to reargue that point because I didn't know
8 that it was going to be brought up. But at the time that
9 we argued it previously, we stated that he felt that it
10 should not be severed. It's an integral part of the
11 charges that the defendant's charged with. To try him on
12 that charge, we would have to basically redo this whole
13 trial with over twenty witnesses. And we don't think it's
14 overly prejudicial or --

15 THE COURT: You don't think the fact that it would
16 be putting intricate -- I assume one of the elements of the
17 crime is that he has a prior felony conviction, so you have
18 to put that in. Is that not prejudicial towards him in
19 connection with the allegations set out in each of the
20 indictments in this case?

21 MS. YOUNG: Your Honor, I don't believe it is.
22 First of all, it's statutory. We're required to prove
23 that. The violent crime that he has been convicted of --
24 has a prior conviction of is trafficking cocaine base. So
25 it's not a similar type of home invasion, armed robbery, or

1 burglary, or something that would bring it under a similar
2 acts type of argument. Your Honor, we do believe as that
3 is the statute here in the State of South Carolina, that he
4 has violated and that we should be allowed to proceed with
5 it along with all his other charges.

6 THE COURT: Mr. Chesser?

7 MR. CHESSER: Your Honor, our argument is that --
8 it's the same as it was before. But it is very important.
9 It's very significant. It's very significant to us. And
10 that is that the trial of this charge, which is actually
11 sort of titled possession of a weapon by a person
12 previously convicted of a violent felony, that that charge
13 along with these others, which, of course is burglary
14 first, kidnapping, assault and battery in the first degree,
15 possession of a weapon during the commission of a violent
16 crime, those are immensely serious charges and all we're
17 asking is that this one charge, it not be charged at the
18 same time.

19 If it is tried at the same time, then as the Court
20 noted, the jury will be told that he has a prior
21 conviction, presumably that they would be told of a violent
22 felony and that will be very prejudicial to us. I think
23 that the idea of severance of charges is really about this
24 kind of case, where you have a case that is relatively not
25 important compared to the primary charges and that case

1 will result in this admission of something that otherwise
2 would not come in. And it is very prejudicial to us. Very
3 prejudicial because otherwise it won't come in and that
4 will bring his character into issue and I would submit that
5 this is the type of case where severance is very
6 appropriate; and we think, in fact, that the Court very
7 much should grant this severance motion.

8 THE COURT: Anything in response?

9 MS. YOUNG: I'm just trying to recall from my
10 memory all the case law on this, Judge; and I'm having a
11 little bit of a struggle, but I believe there's --

12 THE COURT: Well, let's do this: The jury comes in
13 at ten in the morning, I'll be here at 9:30. Between now
14 and eight o'clock in the morning, just e-mail the cases
15 that you relied on before, let me refresh myself.

16 Mr. Chesser, send me anything.

17 I'll make a ruling at 9:30 in the morning.

18 MS. YOUNG: Thank you, Your Honor.

19 THE COURT: Anything else?

20 MS. YOUNG: Nothing from the State.

21 THE COURT: Mr. Chesser, anything I can do to help
22 you?

23 MR. CHESSER: No, Your Honor, nothing further.

24 THE COURT: Mr. Carter, anything -- any questions I
25 can answer for you? Anything I can do for you?

1 THE DEFENDANT: No, I'm good.

2 THE COURT: All right. Be prepared to start in the
3 morning at 9:30. Thank you.

4 MS. YOUNG: Thank you.

5 MR. CHESSER: Thank you, Judge.

6 (This case was in recess until the following
7 morning.)

8 TUESDAY, FEBRUARY 13, 2018

9 PRETRIAL MOTIONS

10 THE COURT: All right. There is a motion to sever;
11 is that correct?

12 MS. YOUNG: Yes, sir.

13 THE COURT: All right. Well, I have carefully
14 read, reread on the way over here this morning, cases on
15 B-E-E-K-M-A-N, both of you cited, and, obviously, that
16 arises out of the same set of facts. That's not an issue.
17 Think the issue is that fourth prong which is the
18 prejudicial prong.

19 You agree with that, Mr. Chesser?

20 MR. CHESSER: Yes, Your Honor.

21 THE COURT: Well, unfortunately, it's like the
22 burglary statute, when you have two prior burglaries or --
23 the legislature has enacted the statute that simply says
24 that a felony of a violent crime or in possession of a
25 weapon and -- how is she going to prove the offense without

1 telling the jury what the elements are, which one of them
2 is having been convicted for a violent felony in the past?

3 I don't know how you're ever going to try a case
4 under that statute without revealing that and that's an
5 integral part of the elements of the offense.

6 I am going to deny the motion to sever based on,
7 particularly the Beekman case and the cases cited therein,
8 and the fact that it is an element of the crime charged in
9 the indictment and there's no other way to prove it without
10 informing the jury of the conviction for the prior violent
11 felony.

12 You're protected on the record. If you want to put
13 anything else on, I'll be glad to hear from you.

14 MR. CHESSER: If it please the Court?

15 THE COURT: Certainly.

16 MR. CHESSER: I would briefly -- the first thing
17 I'd like to do is offer this written motion that I sent to
18 the Court previously. It's just one page and -- I would
19 ask that to be just made a part of the record.

20 THE COURT: Absolutely.

21 MR. CHESSER: And then I had communicated to the
22 Court, and I'll just put on the record, one thing that
23 occurred to me as I was considering this is the fact that
24 this accusation of possession of the weapon by a person
25 convicted of the violent felony requires the judge to find

1 on the record, and I would submit, instruct the jury that
2 this prior offense was a violent felony.

3 THE COURT: Well, isn't it classified as a violent
4 felony under our statutory scheme?

5 MS. YOUNG: It is, Your Honor.

6 THE COURT: And I will do it the most benign way I
7 know how is that the State legislature has defined certain
8 classes of crimes as violent, this being one.

9 MR. CHESSER: And --

10 THE COURT: Or I will let you provide me any
11 language you might be satisfied with -- I'm -- not
12 satisfied with, but would satisfy that part -- that element
13 of the crime, but I don't know how to do it other than to
14 classify it as a violent offense.

15 MR. CHESSER: And that's, you know, part of the
16 basis of my objection is that there really -- you know,
17 they -- you have to make a ruling and as far as I can tell,
18 the jury has to be instructed that this is a violent
19 felony. And that being the case, I just wanted to put on
20 the record as a basis for my objection that this makes it
21 all the more --

22 THE COURT: Prejudicial?

23 MR. CHESSER: -- prejudicial. And the other thing
24 I would point out is this: I assume that the way this is
25 likely to work is that the State is going to say, he was

1 convicted in 2013 of trafficking in crack cocaine. And
2 then at some point the -- you will instruct the jury that
3 according to South Carolina law 16-1-60, this is classified
4 as a violent felony. And so I had considered asking the
5 Court to say, well, maybe there's some way to avoid saying
6 he was convicted of trafficking crack, and maybe just say
7 he was convicted of a violent felony. If they get
8 instructed it's a violent felony, there again, I mean I
9 will put on my thinking cap, but I think a jury who has
10 never heard these terms, these terms of art before, when
11 they're instructed that a defendant had been convicted of a
12 violent felony, in their mind, it's like some type of --
13 who knows what they will imagine.

14 So -- and then finally on this subject, again, as a
15 basis of my objection is, I think what the cases say is
16 this is in the discretion of the judge unless a, you know,
17 substantial prejudice will result as a result of the
18 admission of a prior bad act. And I would submit that's
19 exactly what is happening in this case and again, it's
20 aggravated by this finding, this language that the jury's
21 not going to understand or if they're told trafficking
22 crack in 2013, I mean that -- it's just the effect of it is
23 just enormous and -- in other words, I would submit that it
24 really -- this case is outside of your discretion. I
25 submit that it really requires that it be severed and we

1 would object on that basis.

2 THE COURT: Thank you. Well, how in the world can
3 the State ever prosecute someone under this statute if the
4 jury is not told he has a prior conviction for an offense
5 that's classified as violent.

6 MR. CHESSER: That -- the answer, of course, is
7 they can't.

8 THE COURT: Right.

9 MR. CHESSER: But when they drew this case in,
10 which has a maximum 5 year penalty when he's facing armed
11 robbery, 10 to 30; burglary first 15 to life; and this is
12 just an add on and then -- so the question is not how would
13 they try that case in isolation. They would certainly have
14 to put it in this record if they were trying it in
15 isolation, but what they're doing here is they're adding in
16 this case that really is inconsequential to this set of
17 charges. And because of the inconsequential charge, the
18 jury is instructed of a conviction of trafficking crack in
19 2013 and that this is classified as a violent felony under
20 South Carolina law.

21 This type of handicap -- well, I would just say
22 that the prejudice is enormous and we submit that normally
23 this is a matter of discretion for the Court, but the basis
24 for my objection I would move that the Court is actually
25 required under these circumstances to sever these charges

1 and we would object on that basis.

2 THE COURT: Thank you.

3 Ms. Beth Ann Young, you want to reconsider your
4 position in light of that argument? Stand by your
5 position? You want to try him on that case?

6 MS. YOUNG: Your Honor, the State stands by the
7 position.

8 THE COURT: Thank you, I stand by my ruling.

9 All right. I'm going to step back.

10 (Mark the Court's Exhibit Number 1.)

11 (The case was in recess.)

12 **JURY VOIR DIRE**

13 THE COURT: All right. Ladies and gentlemen,
14 please listen carefully, the State's going to call the
15 case.

16 MS. YOUNG: Your Honor, the State calls the State
17 of South Carolina versus Rashawan Vertez Carter, Indictment
18 2016GS0200106, burglary in the first degree; 2016GS0200107,
19 kidnapping; 2018GS0200313, armed robbery; 2018GS0200312,
20 assault and battery in the first degree; 2016GS0200109,
21 possession of a weapon during the commission of a violent
22 crime; 2016GS02000110, possession of a firearm by a person
23 convicted of a violent felony.

24 THE COURT: Thank you.

25 Ladies and gentlemen of the jury panel, as you've

1 few days. As I told you earlier, obviously, we cannot run
2 our court system without jurors ready, willing, and able to
3 serve. I do appreciate it. I thank you. I wish you all a
4 happy week and rest of the winter and the year.

5 Thank you, may leave. Everyone else remain seated.

6 (The jury venire left the courtroom at 11:29 a.m.)

7 THE COURT: While they're getting out of the
8 courtroom, I'm going to let you go back to your jury room
9 and stretch your legs. Mr. Whittle will show you --
10 Ms. Shelvie will show you where to go. We'll have you back
11 out here in about 10 minutes and we'll get started. We'll
12 probably run 12:30 or one, take about an hour 15 minute
13 lunch break and we'll come back and go to about five. So
14 that's the general plan.

15 And then we'll see where we stand at that time and
16 start time for tomorrow and where we're going with it. And
17 we'll move right along very efficiently.

18 Go back to your jury room and I'll have you back
19 out here in just a few minutes. I've got just a few things
20 I need to discuss with the lawyers.

21 (The jury left the courtroom at 11:30 a.m.)

22 **PRETRIAL MOTIONS**

23 THE COURT: All right. For the record, we had a
24 ruling on the motion to intervene earlier today. Anything
25 else?

1 MS. YOUNG: You mean the motion to sever?

2 THE COURT: Motion the sever. And the defendant
3 was not in the courtroom, so, Mr. Chesser, just for the
4 record, I know we've already made it, but just -- you may
5 make it again so we can discuss it.

6 MR. CHESSER: Thank you, just go back on the
7 record; we move to sever this charge of possession of a
8 weapon by a person previously convicted of a violent
9 felony.

10 The general basis is that it creates a prejudice in
11 this case because it brings in his prior conviction in 2013
12 for trafficking crack, which otherwise would not come in.
13 So we feel, based on case law, in this case that it is
14 actually mandatory as opposed to just being in the judge's
15 discretion to sever this charge. And so I object to trying
16 this charge, the possession of a weapon by a person
17 previously convicted of a violent felony along with these
18 other charges. And I object to it as an improper severance
19 as a violation of due process under the State and Federal
20 Constitutions.

21 I also point out that in this particular case, it
22 just seems that the prosecution is required to prove this
23 prior conviction of trafficking crack and then the Court,
24 if it determined that this is listed in 16-1-60 as a
25 violent felony, the Court has to instruct the jury. It

1 just seems like the prejudice in this case is egregious and
2 the objection is on that basis.

3 THE COURT: Yes, ma'am?

4 MS. YOUNG: Your Honor, under the case law, the
5 fact that would be required to prove the possession of a
6 weapon by a person convicted of a violent crime are the
7 exact same facts that will be used to try to convict of the
8 associated crimes he's being tried with -- tried on,
9 rather. He wasn't arrested with the gun. The State is
10 alleging that the gun was utilized during the burglary and
11 kidnapping, armed robbery, and assault. All the incidents
12 occurred at the same time. All the same witnesses would be
13 involved. It's the same victim, same investigation, and
14 it's the State's position that it does not substantially
15 prejudice the defendant to have are that charge presented.

16 It is a law in this state, Your Honor. And to
17 prove that element, that he's been convicted of a violent
18 crime, this element of the charge, we have to prove that.
19 We do have a certified prior conviction for that, for him
20 and we plan to enter that at some time during the trial.

21 It's the sort of charge that we have to put that
22 evidence in to prove the charge, so it's going to be the
23 same prejudice if the case were severed and we ask that
24 Your Honor not sever it and try them all together.

25 THE COURT: All right. I will respectfully deny

1 the motion to sever. I told y'all earlier, I have reviewed
2 carefully the cases that both of you have provided to me.
3 Basically they're the same cases: State versus Beekman,
4 B-E-E-K-M-A-N and State versus Tucker. And the law is well
5 sounded in South Carolina the charges can be tried together
6 and joined if they arise out of a similar chain of
7 circumstances, proved by the same evidence, of the same
8 general nature and for no real right of the defendant has
9 been prejudiced. In this case, the legislature has enacted
10 the statute dealing with possession of a weapon by people
11 who have been convicted of a violent crime. That is an
12 element of the offense and there's no way to try it without
13 saying what the offense is. I will do it in a benign
14 manner, but there's no other way to try it besides that.

15 So in my discretion, I find that it is proper to
16 try these cases and I respectfully deny your motion to
17 sever.

18 Mr. Chesser, you had also made a court exhibit your
19 motion which contained the case law that you've relied
20 upon. We made that earlier a Court Exhibit 1. I think
21 you're covered on that.

22 Anything else you need for the record?

23 MR. CHESSER: Your Honor, I would make one other
24 point, at such time as this certified copy of the
25 indictment is introduced, I think at that time, we would

1 request a limiting instruction.

2 THE COURT: I will give one for the jury to not use
3 the fact that he's been convicted in the past as any
4 evidence of guilt in this case; however, this would be used
5 simply as an element to satisfy that particular section
6 which was 16-23-500.

7 MR. CHESSER: Thank you, Your Honor.

8 THE COURT: Something to that effect.

9 MR. CHESSER: Yes, sir.

10 THE COURT: Anything else?

11 MS. YOUNG: Nothing, Your Honor. Other than a
12 request for a brief stretch your legs break before we get
13 started.

14 THE COURT: That's certainly reasonable.

15 All right. Let's stretch for about 5 minutes, 10
16 minutes and we'll start back. I will make my little
17 opening remarks and then y'all get right into your opening
18 statements and then we'll go to about one o'clock, break
19 for about an hour, hour and 15 minutes at the most. I hope
20 you have witnesses that can take us all the way after --
21 all the way this afternoon, maybe even later than five
22 o'clock.

23 MS. YOUNG: We do, Your Honor.

24 THE COURT: Okay. We'll stand at ease for five or
25 ten minutes.

1 (A brief recess was observed.)

2 THE COURT: Is the State ready to proceed?

3 MS. YOUNG: Yes, sir, Your Honor.

4 THE COURT: Mr. Chesser?

5 MR. CHESSER: Your Honor, I have one thing which is
6 a motion to sequester witnesses. I'm concerned about the
7 lay witnesses as opposed to law enforcement.

8 MS. YOUNG: Your Honor, the only lay witness in the
9 courtroom right now is the victim. She has a right to be
10 here; and the case investigator and then several other law
11 enforcement officers.

12 THE COURT: So just sequester the lay witnesses,
13 I'll grant that motion.

14 MS. YOUNG: Yes, sir.

15 THE COURT: Thank you, Mr. Chesser.

16 (The jury entered the courtroom at 11:53 a.m.)

17 THE COURT: You can sit wherever you like, except
18 my two alternates. They have to sit in those last two
19 seats.

20 All right. Ladies and gentlemen, the first thing
21 we have to do is you have you be sworn in for this
22 particular case, so if you would please stand and raise
23 your right hand and Mr. Harte will administer that oath.

24 (The jury was sworn at 11:54 a.m.)

25 THE CLERK: You may be seated.

OPENING REMARKS BY THE COURT

THE COURT: Ladies and gentlemen, I'm just going to make brief opening remarks. Please let me remind you at the beginning of my remarks, the fact that Mr. Carter has been charged and arrested and indicted and a true bill has been issued in this case for the offense of burglary, kidnapping, armed robbery, assault and battery in the first degree, possession of a weapon during the commission of a violent crime, and possession of a firearm by a person convicted of a violent felony, please bear in mind that that is not evidence in the case. That is simply the legal document by way this case comes into the courtroom and is not to be considered as evidence by you.

He has pled, as I told you, not guilty. By pleading not guilty, he has the constitutional presumption of innocence. That stays with him unless the State is able to prove each and every element of each and every indictment to you beyond a reasonable doubt. So please bear in mind that.

This is a criminal case. The State has the burden of proof. They have to prove it to you beyond a reasonable doubt. At the conclusion of the case I will explain to you and instruct you and charge you what the term reasonable doubt means in the law. Because the State has the burden of proof, they will present their case first and this is

1 how it goes. As soon as I sit down, the solicitor will get
2 up and make an opening statement followed by Mr. Chesser.
3 Opening statements is not evidence in the case. It's
4 simply what the lawyers contend the issues are. They will
5 sort of give you a road map as to where they're going to
6 start and where they're going to end up, what their
7 positions are, what you're to listen out for. But that is
8 not evidence in the case.

9 Once the testimony -- once the opening statements
10 have been made, then both lawyers will start calling their
11 witnesses. Because the State has the burden of proof, they
12 go first. They will call their witnesses. At the
13 conclusion of their presentation of their testimony, the
14 defendant has a right to put up a defense; however, since
15 the burden of proof is on the State, he has no burden to
16 prove anything, so he may not call any witnesses and may
17 not present a defense and I will instruct you if that
18 happens how do you handle that.

19 If he does put up witnesses, then the State has a
20 right to reply to that. After all the testimony is in,
21 then you will hear final arguments by the parties once
22 again and then I will instruct you on the law and then
23 you'll be in a position to start your deliberations.

24 Now, just a few general things. I try to run a
25 very efficient courtroom. I try to call witnesses one

1 after the other so we don't sit around and waste your time,
2 my time, their time, everybody's time. Notwithstanding
3 the fact that we're trying to run it efficiently and going
4 one after the other, please do not get uncomfortable during
5 the trial of the case. If at some time you need to take a
6 break, use the restroom; you get hot, cold, you get
7 uncomfortable in any manner, please raise your hand and
8 just tell me you need to take a break and we'll stop right
9 then and there.

10 Normally we start at 9:30. We'll take a break
11 midday -- mid-morning and then go until about one. We'll
12 start back about 2:15 and go until five, 5:30, somewhere in
13 that neighborhood depending on where we are in the trial of
14 the case. I've been told that we should be able to finish
15 this trial by Thursday midday. Normally the lawyers are
16 pretty good on estimating how long. Sometimes I run it a
17 little faster than they want to, but we'll see. I don't
18 think we'll be any further than that.

19 I will ask you each time we break, please do not
20 start any type of deliberations or talking about the case
21 until we've had all of the evidence presented, final
22 arguments made, and I've instructed you on the law.

23 And finally, when we take our lunch break today,
24 please when we come back, select a foreperson from the
25 twelve jurors, not the alternates. That's simply someone

1 who can bring to my attention any concerns you may have;
2 you'll lead up the deliberations, you'll sign the verdict
3 form. So please select a foreperson from the twelve of
4 you.

5 Now, having said that, I'm going to turn it over to
6 the lawyers. They'll make their opening statements and
7 then we'll get into testimony. We'll go until about one
8 o'clock and then break for lunch.

9 Any objections to my opening remarks by the State?

10 MS. YOUNG: No, sir.

11 THE COURT: By the defendant?

12 MR. CHESSER: No, Your Honor.

13 THE COURT: All right. Ms. Beth Ann Young?

14 **OPENING STATEMENTS**

15 MS. YOUNG: Thank you, Your Honor.

16 Mr. Chesser, may it please the Court.

17 Good afternoon, ladies and gentlemen. On May 9,
18 2015, Elizabeth Miller was home asleep in her bed when she
19 awoke to a living nightmare. Three men wearing masks and
20 armed with handguns kicked in her back door and rushed into
21 her bedroom, holding the guns on -- to her and demanding to
22 know in loud voices, where's the money, where's the money
23 at. Where's the money.

24 One of the masked gunmen stayed in the room with
25 her the whole time keeping her at gunpoint while the other

1 two went through and completely ransacked and tore apart
2 her home, looking for this money. She was threatened, she
3 was assaulted, and she was terrorized in her own home.

4 That's what this case is about this week. The
5 defendant, Rashawan Carter, along with three other
6 codefendants are the ones accused of committing the crime
7 and I know I stated there's three in the house, one of them
8 was a lookout and I'll explain that a little bit more.

9 Mr. Carter's on trial this week. He's facing the
10 following charges: Armed robbery, burglary, kidnapping,
11 assault and battery in the first degree, possession of a
12 weapon during the commission of a violent crime, and
13 possession of a weapon by somebody previously convicted of
14 a violent crime which means he was not allowed to own a gun
15 or possess it or use it. That sounds like a long list of
16 charges, and it is somewhat, but I can break it down to you
17 in this manner.

18 We have the burden of proof and we have to prove to
19 you the elements of each crime beyond a reasonable doubt.
20 So in this case, the State is going to show you that
21 Mr. Carter, along with others, broke into Ms. Miller's home
22 during the nighttime hours while they were armed with
23 handguns. They stole from her and they assaulted her.
24 That's what this case is about. And I'll go ahead and tell
25 you up front, this is not a case where there's going to be

1 DNA evidence or fingerprint evidence. Many crimes are
2 committed and that type of evidence is not left, despite
3 best efforts of investigators to obtain that evidence. So
4 there won't be any of that in this case.

5 But what you will hear is testimony from witnesses
6 who were there or witnesses who have things to offer and
7 let you know what happened, along with corroborating cell
8 phone records. We'll also be putting in various pieces of
9 evidence such as pictures and videos and there is a long
10 list of witnesses that I know you've heard. I believe
11 we'll be able to cut that down, so don't be scared be the
12 35 people that I think it was.

13 But I would ask you to listen carefully to each
14 witness, which I know you will. Listen to what they have
15 to say and just bear in mind that it's going to take each
16 evidence -- each person coming in, telling what they know
17 and each piece of evidence that we have to put in one piece
18 at a time. So it's just going to be just piece by piece by
19 piece.

20 But at the end of this case, you're going to have a
21 clear picture of what happened. And the State is going to
22 prove to you that the defendant is guilty of these crimes.
23 Once you hear the evidence, you are going to be firmly
24 convinced that he committed these crimes.

25 Now, this crime happened because Ms. Miller's

1 boyfriend, Melvin Chandler is a drug dealer. And there are
2 two types of houses or places used by drug dealers,
3 generally, when they are distributing drugs to other
4 people. There's one place called the trap house which is
5 the place where you distribute drugs, it's usually separate
6 from a residence. It's just a house. The other place the
7 called the stash house. And that's where you keep a larger
8 amount of drugs. You keep it safe from all the people
9 coming back and forth to you.

10 So the State's going to show you in this particular
11 case that the fourth codefendant, Mr. Richard Jackson was a
12 look out at Melvin Chandler's trap house in the early
13 morning hours when this happened and he communicated to the
14 other three codefendants that it was safe to go ahead and
15 hit the house because Mr. Chandler was going to meet
16 another girl. So it was safe for them at that point in
17 time to kick in her back door and rob her. The other
18 codefendants are Rodriguez Jackson and Darius Scruggs.

19 So Mr. Rick Jackson was the look out at the trap
20 house, which is a separate location from Liz's house; and
21 he called or he got in touch with rather, he texted the
22 others to let them know that it was safe to go in and hit
23 the house. And you're going to hear how the other three
24 drove up in a silver Nissan rental car and they went to a
25 street called McCormick Street Extension which is a dirt

1 road.

2 Brown Lane is in Hahn Village, it's a housing
3 complex here in the City of Aiken and [REDACTED] is all
4 the way at the end of the street, backing up to the fence
5 that goes around Hahn Village. McCormick Street Extension
6 runs behind [REDACTED] and it stops before it gets
7 there so you can drive part of the way up there. There's
8 actually a gap in the fence behind Ms. Miller's home and
9 that's a well traveled footpath, so it's a perfect place to
10 sneak up you know seen and break into her back door.

11 It didn't go quite the way they intended. A
12 neighbor of Ms. Miller's was outside smoking a cigarette
13 and he saw three men sneaking up to her back door with
14 masks around their face. So he called Melvin Chandler to
15 let him know. Mr. Chandler, who was leaving at another
16 location or trying to get there, made some phone calls. He
17 called some of his friends and he turned around and headed
18 back to try to help out with the situation.

19 Based on these phone calls made by Mr. Chandler
20 finding out about this from the neighbor, somebody did end
21 up coming to Liz's aid, and whoever that person was -- and
22 we don't know who that person was -- shot through the back
23 door and fatally wounded one of the three that was in there
24 committing the crime, Mr. Darius Scruggs.

25 Now, the shooting is important for many reasons.

1 Two of the main reasons are this: One, obviously, a life
2 is lost; and two, the death of Darius Scruggs and
3 information provided by his family members greatly aided
4 this investigation in going forward. So you're going to
5 hear a lot about this shooting.

6 I do not want you to be distracted from the fact
7 that the crime that you're here for this week is a crime
8 where Ms. Miller's home was broken into. She was held at
9 gunpoint against her will and assaulted. The home invasion
10 is the crime that we're here for this week. Mr. Carter is
11 charged in this case. The other codefendants are charged
12 as well.

13 This is Mr. Carter's day in court, week in court.
14 The other codefendants will have their day in court
15 separately. So I'm going to ask you to listen carefully to
16 each witness as they testify. Pay close attention to the
17 evidence that we present to you as I previously described
18 and use your common sense which each of you came in with
19 and you don't leave it at the door when you get here.

20 And I know you're all going to do that. And at the
21 end of this -- of the case, when we're done presenting all
22 the evidence, I'm going to have another opportunity to come
23 back and speak to you and I'm going to ask you to render a
24 verdict which delivers justice in this case and find the
25 defendant guilty. Thank you.

1 THE COURT: Mr. Chesser?

2 MR. CHESSER: May it please the Court.

3 Good morning.

4 Rashawan, would you stand up, please.

5 I'd like for y'all to meet Rashawan Carter. I
6 represent Rashawan.

7 Thank you.

8 My name the Michael Chesser. I've lived in Aiken
9 pretty much all my life. A couple of things -- I really
10 just want to make a couple of points here. One is that
11 something most definitely happened on May 9th of 2015. I
12 mean this -- we're not here to say that Liz was not
13 victimized on that morning. That's not really an issue.
14 Some people came in her house with guns and then an
15 individual was killed. It really is something that's
16 completely beyond most of our experience.

17 The issue here though is identification. What the
18 issue that is going to be really battled out is Rashawan
19 Carter was not there. What the State says, they have to
20 say we're going the prove beyond a reasonable doubt that
21 Rashawan Carter was there. Well, what we submit to you is
22 he wasn't there and they can't prove that.

23 So a lot of what's going to be testified to about
24 people coming in and Liz getting robbed, that's not going
25 to be the subject of contest so to speak. The issue here

1 is identity. Beyond that, when the judge talks to you
2 about presumption of innocence and about the State having
3 to prove everything beyond a reasonable doubt, the
4 presumption of innocence is what I want to talk about.
5 That is something that you actually use while you're
6 hearing the testimony. As you contemplate the testimony as
7 you hear it, you are constantly applying this presumption
8 of innocence and that's how you serve as jurors.

9 The other thing is that you swore to do your duty
10 as the judge gives it to you and that's really all we would
11 ask. We want you to listen with as much attention as you
12 can to the witnesses, to the questions and their answers.
13 It is a fairly long case. I think it's going to be
14 difficult really in terms of your attention. It's going to
15 be -- even though it is an extremely serious case, at the
16 same time, we're going to be here for a long time. It's
17 going to be hard work. But I just want you to do that hard
18 work as conscientiously as you can. Thank you.

19 THE COURT: Ladies and gentlemen of the jury, being
20 here a long time is sometimes a relative term. My son just
21 finished a two week trial up in York County, so this is not
22 that long. It won't be a two week trial. I just tried
23 three cases in four days in Beaufort, three back to back to
24 back. So those were short trials. This one's about a two
25 and a half, three day trial. So it's not really long, but

1 it's not real short.

2 Having said that, my question is this, would y'all
3 like some notepads to take notes or would you -- /WOULD
4 that help?

5 (The jurors indication they would like notepads.)

6 THE COURT: I'm going to pass out notepads. If you
7 would like to take notes, you're welcome to, it's not a
8 requirement that you do. Let's just hang on one second and
9 Mr. Whittle will get everybody a notepad. While he's
10 getting those notepads, the protocol is this: When you get
11 one, put your name on it. When we leave the courtroom,
12 when y'all leave the courtroom each time, just turn it over
13 and put it in your chair. At the end of the day and during
14 lunch, they will be gathered and they will be put under
15 lock and key. And obviously, you can use them when you
16 start your deliberations.

17 Like any other notes, just respect everybody's
18 notes and if you want to use them fine. If you don't, you
19 don't have to. It's up to y'all. So give me just a second
20 to get you notepads and then we'll call our first witness.

21 (There was a pause in the proceedings.)

22 (The notepads were passed out to the jurors.)

23 THE COURT: All right. You may call your first
24 witness.

25 MS. YOUNG: The State calls Juanita Martinez.

Juanita Martinez - Direct Examination by Ms. Young

1 THE COURT: Ms. Martinez, come around, please.

2 JUANITA MARTINEZ,

3 having been duly sworn, testified as follows:

4 THE CLERK: Have a seat in the witness chair and
5 state your full name.

6 THE WITNESS: Juanita Maria Martinez.

7 **DIRECT EXAMINATION**

8 BY MS. YOUNG:

9 Q Ms. Martinez, where are you employed?

10 A City of Aiken Public Safety.

11 Q And what capacity are you employed with Public
12 Safety?

13 A I'm a dispatcher.

14 Q And what are the basic duties of a dispatcher?

15 A 9-1-1, dispatch police and fire and nonemergency
16 lines.

17 Q The calls that come into dispatch and the 9-1-1
18 calls, are they preserved on a regular basis in the regular
19 course of business for Aiken Public Safety?

20 A Yes.

21 Q Were you working on May 9th, 2015?

22 A Yes.

23 Q Did you take a call regarding an incident at [REDACTED]

24 [REDACTED]?

25 A I did.

Juanita Martinez - Direct Examination by Ms. Young

1 Q I'm handing you, Ms. Martinez, State's Exhibit 1
2 and ask you if you can identify that.

3 A Yes.

4 Q What is it?

5 A It's the tape from the 9-1-1 I've listened to a few
6 weeks ago.

7 MS. YOUNG: Your Honor, at this point we would
8 offer State's 1 into evidence.

9 THE COURT: Any objection?

10 MR. CHESSER: No objection.

11 (State's Exhibit Number 1 was entered into
12 evidence.)

13 MS. YOUNG: We'd request to publish it for the jury
14 at this time.

15 THE COURT: You may.

16 (The 9-1-1- call was played for the jury.)

17 MS. YOUNG: Your Honor, I don't have anymore
18 questions for Ms. Martinez.

19 THE COURT: Mr. Chesser, anything on cross?

20 MR. CHESSER: No questions.

21 THE COURT: All right. Ms. Martinez, you may step
22 down.

23 MS. YOUNG: May I beg the Court's indulgence for
24 one minute?

25 (There was a pause in the proceedings.)

Elizabeth Miller - Direct Examination by Ms. Young

1 MS. YOUNG: State calls Elizabeth Miller.

2 THE COURT: Ms. Miller, please come around.

3 ELIZABETH MILLER,

4 having been duly sworn, testified as follows:

5 THE CLERK: Have a seat in the jury box and state
6 your full name.

7 THE WITNESS: My name is Elizabeth Miller.

8 THE COURT: Ms. Miller, pull that microphone closer
9 to you or either get closer to it. Thank you.

10 MS. YOUNG: Before I ask any questions, may
11 Ms. Martinez be excused?

12 THE COURT: She may.

13 MS. YOUNG: Thank you.

14 **DIRECT EXAMINATION**

15 BY MS. YOUNG:

16 Q Liz where were you living on May 9, 2015?

17 A 110 Brown Lane.

18 THE COURT: All right. Hold on a minute. We can't
19 hear you.

20 THE WITNESS: [REDACTED]

21 THE COURT: Hold on.

22 (The microphone was adjusted.)

23 THE COURT: Try it now.

24 THE WITNESS: [REDACTED].

25 THE COURT: Pull it a little closer to you.

Elizabeth Miller - Direct Examination by Ms. Young

1 THE WITNESS: [REDACTED].

2 THE COURT: Everybody good?

3 BY MS. YOUNG:

4 Q Who lived there with you?

5 A Me and my kids.

6 Q How many children do you have?

7 A Three.

8 Q And --

9 THE COURT: Speak up loud for me, please.

10 THE WITNESS: Three.

11 BY MS. YOUNG:

12 Q Who else stayed there, if anybody?

13 A Say it again?

14 Q Who else stayed there at [REDACTED], if
15 anybody?

16 A Melvin would come occasionally.

17 THE COURT REPORTER: I'm sorry --

18 THE COURT: Hold on. Ms. Young, I can't even
19 understand her.

20 You have to speak distinctly and loud enough for
21 all the jurors to hear, please, ma'am.

22 THE WITNESS: Melvin would come occasionally.

23 BY MS. YOUNG:

24 Q What's Melvin's full name?

25 A Melvin Chandler.

Elizabeth Miller - Direct Examination by Ms. Young

1 Q Did he keep personal items there?

2 A Yeah, he would have a few clothes or whatnot there.

3 Q You're going to have to -- you might have to hold
4 the microphone because we all have to hear you. Either
5 you're going to hold it or get real close.

6 Say that one more time. What kind of things would
7 Melvin leave there?

8 A He would have some clothes.

9 Q Where did he -- where did he stay when he didn't
10 stay with you?

11 A He would stay with his aunt.

12 Q And where does she live?

13 A In Wagner.

14 Q How long had you been dating Mr. Chandler at the
15 time?

16 A I think Melvin's about --

17 THE COURT: All right. Ma'am, speak into the
18 microphone, please.

19 THE WITNESS: I think about a year.

20 BY MS. YOUNG:

21 Q Did you know about his --- what he did?

22 A Yeah, I heard about it.

23 Q What did you hear?

24 A That he dealt with drugs and lived the street life.

25 Q What were you doing at the time with regard to

Elizabeth Miller - Direct Examination by Ms. Young

1 work?

2 A Work, I worked at an assisted living facility and I
3 was a student full time.

4 Q What were you a student for?

5 A Nursing.

6 DEFENSE ATTORNEY: Your Honor --

7 THE COURT: Yes, sir.

8 Ma'am, please put that thing close to your mouth
9 and speak just like you're talking to your children. Speak
10 up.

11 BY MS. YOUNG:

12 Q Say that one more time.

13 A I was a full-time student and I worked at an
14 assisted living facility.

15 Q And what were you studying?

16 A Nursing.

17 Q I draw your attention back to the day before this
18 happened, May 8th. Do you recall that date?

19 A Yes.

20 Q What were you doing that evening?

21 A I had my youngest son's birthday party at a
22 friend's house.

23 Q And where was that party held?

24 A In -- I don't know the address, but it's in the gap
25 area.

Elizabeth Miller - Direct Examination by Ms. Young

- 1 Q It wasn't at your house?
- 2 A It wasn't at my home, no.
- 3 Q And how old was your youngest son at that time?
- 4 A Well, he -- it was his third birthday party.
- 5 Q What type of party was it? Just kids?
- 6 A Kids.
- 7 Q Were there adults there too?
- 8 A Yes.
- 9 Q When was the last time you saw Melvin on May the
- 10 8th?
- 11 A At the birthday party.
- 12 Q He was at the party also?
- 13 A Yes.
- 14 Q What time did the party end?
- 15 A I can't say a definite time. I can't exactly
- 16 remember.
- 17 Q Do you remember if it was daylight or dark?
- 18 A I think it was in between.
- 19 Q Where did your kids stay? Did they leave the party
- 20 with you?
- 21 A No, they did not. They stayed at my friend's
- 22 house.
- 23 Q What did you do after the party?
- 24 A I took my cousin home.
- 25 Q Where did your cousin live?

Elizabeth Miller - Direct Examination by Ms. Young

1 A In North Augusta.

2 Q Had you had any alcohol during the day?

3 A I had a drink, I remember earlier that day.

4 Q How many?

5 A I can't remember. Probably like one. It was lite,
6 something lite.

7 Q One?

8 A Yes, I would say one.

9 Q So you felt -- well, you felt like you could drive
10 from Aiken to North Augusta?

11 A Yes, yes, it was a big gap there.

12 Q I'm going to switch gears a little bit and have you
13 describe to the jury where [REDACTED] is located in
14 Hahn Village.

15 A It's like the very back I would say in the
16 apartment complex. I don't really know how to describe it.
17 It's like the back, the far back.

18 Q Liz, I'm going to show you what's been marked for
19 identification purposes as State's Exhibit Number 96 and
20 ask if you recognize that?

21 A Yes.

22 Q What is it?

23 A A map of the area I live.

24 Q At the time?

25 A At the time, yes.

Elizabeth Miller - Direct Examination by Ms. Young

1 Q And it also shows [REDACTED]?

2 A It does.

3 MS. YOUNG: Your Honor, at this time, we would move
4 to enter State's 96 into evidence.

5 THE COURT: Any objection?

6 DEFENSE ATTORNEY: No objection.

7 (State's Exhibit Number 96 was entered into
8 evidence.)

9 BY MS. YOUNG:

10 Q Liz, I know you've got a microphone held, but can
11 you step down here real quick and point out on this map to
12 the jury where your house is? Come on down.

13 (Witness stepped down in front of the jury.)

14 THE WITNESS: (Pointing.)

15 BY MS. YOUNG:

16 Q Okay. You're pointing to the house in the back
17 corner at the end of the cul-de-sac of Brown Lane?

18 A Yes.

19 Q Is it a cul-de-sac?

20 A Yes.

21 Q Describe this McCormick Street Extension that goes
22 behind there.

23 A I know it's a path behind --

24 THE COURT: Speak up loud.

25 THE WITNESS: I know it's a path behind my house.

Elizabeth Miller - Direct Examination by Ms. Young

1 I never been back there, but from what I've seen, that it
2 does go to this street here, but it's a path directly at my
3 backyard.

4 MS. YOUNG: Jump back up there and grab that
5 microphone again.

6 (Witness returns to the witness stand.)

7 BY MS. YOUNG:

8 Q Was there a fence behind your house?

9 A It's -- it had an opening.

10 Q An opening in the fence?

11 A Yeah, it was -- the fence wasn't connecting. So
12 people would walk back and forth through that path.

13 Q I'm going to draw your attention now to the reason
14 we're here in court today and ask you what you were doing
15 in the early morning hours of May 9th before you made that
16 9-1-1 call?

17 A I was -- I -- I was sleeping before they came into
18 my home.

19 Q Okay. You were asleep?

20 A Uh-huh.

21 Q Nobody else -- was anybody else at the residence?

22 A No, ma'am.

23 Q And grab that microphone again and keep it close to
24 you. And tell the jury what the first thing you heard was
25 that woke you up out of your sleep?

Elizabeth Miller - Direct Examination by Ms. Young

1 A There was a big kaboom. I wasn't sure what it was.
2 I -- when it first started.

3 Q Okay. What did you see next?

4 A Some people come rush in my room with guns in my
5 face.

6 Q Can you describe what the people looked like?

7 A They just had these T-shirts tied all around their
8 head. I couldn't really see much. But pretty much their
9 arms and shoes and some of them -- hair I could see
10 sticking out.

11 Q Could you tell what race they were?

12 A Yes, I could.

13 Q What race were they?

14 A African American.

15 Q All three of them?

16 A All three.

17 Q And describe a little bit more about -- you said
18 they had these masks on? What was that?

19 A T-shirts.

20 Q And how was it wrapped around their face?

21 A Making sure they cover everything except for the
22 eyes.

23 Q Everything was covered except for their eyes?

24 A Uh-huh.

25 Q Did all three of them come into your bedroom when

Elizabeth Miller - Direct Examination by Ms. Young

1 they first came into the house?

2 A They did and the other two was in there very
3 briefly and they went on down the hall and one stayed in
4 the room.

5 Q What did they have in their hands?

6 A Guns.

7 Q All three?

8 A All three.

9 Q What did they say to you?

10 A They was asking where the bread at.

11 Q Where the bread at?

12 A Yeah.

13 Q And how were they asking that?

14 A Violently, yelling at me. Pulled the blankets off
15 of me. Just forcefully. You know.

16 Q And I just want to make sure I understand. You
17 said that all three of them came in your bedroom at first;
18 is that right?

19 A From what I remember. I remember them coming like
20 towards the edge of the -- the entryway.

21 Q The doorway?

22 A Uh-huh. Like -- it was the one that stayed in the
23 room the entire time.

24 Q How -- can you describe the one that stayed in the
25 room the whole time?

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1 A He was shorter build. He had little twists
2 sticking out. He was much smaller than the other two guys.
3 Seemed very nervous.

4 Q While he was in the room, what was he doing?

5 A Ram -- tearing up everything. Sorry, I don't
6 remember. It's hard to remember. He would ask me to take
7 my clothes off and I just -- I won't.

8 Q Can you tell the jury what you were wearing at the
9 time?

10 A A t-shirt and my underwear.

11 Q Did he keep the gun on you the whole time?

12 A Kind of like off and on, yeah.

13 Q When he wasn't ransacking the room?

14 A Yeah.

15 Q But he stayed in there with you?

16 A Oh, yeah.

17 Q Liz, tell the jury what the other two guys were
18 doing?

19 A They was tearing up the house, tearing up my kids
20 room, kitchen, living room.

21 Q Did you hear what was going on?

22 A Yes.

23 Q What kind of sounds did you hear?

24 A Just like stuff being torn up and thrown
25 everywhere.

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1 Q Did you have your cell phone with you that night?

2 A I did.

3 Q What did you try to do with your cell phone?

4 A When I realized I needed to find a way out, I tried
5 to unlock my cell phone but my nerves was so shaken and I
6 couldn't and when -- right -- I think as soon as I got it
7 unlocked, one guy, the guy that ended up dead, he's the one
8 snatched my phone from me and snatched the covers off of
9 me.

10 Q He snatched the phone from you and snatched the
11 covers off of you?

12 A Yeah.

13 Q Can you describe anything in particular about him
14 to the jury?

15 A I remember his shoes, yeah.

16 Q What do you remember about them?

17 A They were some Nike Air Max. They were like black,
18 I think white, and turquoise. That was the one I got
19 pretty much a good look at as far as clothing.

20 Q Liz, the time -- during that time that they were in
21 your house, did the masks stay on the whole time?

22 A Yes.

23 Q After they snatched your phone out of your hand,
24 tell the jury what happened next.

25 A They -- they all forced me to lay on my stomach on

Elizabeth Miller - Direct Examination by Ms. Young

1 the bed. Two of them had their gun to the back of my head
2 and one in the middle of my back.

3 Q What were they saying to you during this?

4 A Telling me to lay down. And one of them took the
5 gun and put it between my legs and inserted it in me.

6 Q He put the gun inside of you, Liz?

7 A Yes.

8 Q What were they saying to you at this time?

9 A They was trying to make me take my clothes off.

10 Q Trying to make you take your clothes off?

11 A Yeah. And I just kept saying no. I have three
12 kids to live for and I just couldn't.

13 THE COURT: Pull it closer to you.

14 THE WITNESS: I just. They kept asking me to take
15 my clothes off and I didn't. I just remember screaming
16 and...

17 BY MS. YOUNG:

18 Q Were all -- and you said all three of them were in
19 the room with you at this time?

20 A Yes.

21 Q What was the next thing that happened?

22 A The next thing that I remember, it just got quiet.
23 I don't -- I don't know why, it just got really quiet and I
24 just looked around and I realized no one was in the room.

25 Q Did you hear them say anything?

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1 A Before it got quiet, I heard them say, Oh, shh.

2 Q You can say what they said.

3 A They said, Oh, shit. And at that point I was
4 clueless as to why he said it. I didn't know what was
5 going on at that point.

6 Q And how were you positioned at that point in time?

7 A I was laying on the bed on my stomach.

8 Q Your face was down?

9 A Face down at the foot of my bed.

10 Q You stated it got really quiet?

11 A Yes.

12 Q What was the next thing that you did?

13 A Tell myself I had to get out of there. I had to
14 figure, you know, find a safe place and I went to the edge
15 of my bedroom door and I looked to my right and I saw a
16 body laying out of the bathroom and I jumped back because I
17 didn't know like what happened. I didn't know the state of
18 that person. And so I -- I had to coach myself to go
19 through the front door and just run. And I got to the edge
20 of my porch and I paused. And I really didn't know where
21 to go. I went to my immediate neighbor that -- whose
22 apartment is connected to mine.

23 Q Liz, was it daytime or nighttime when you went out
24 the front door?

25 A It was dark. It was still dark.

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1 Q Tell the jury what happened when you went to your
2 neighbor's house?

3 A I knocked on the door and I realized her music was
4 turned up really loud and so I started hearing gunshots
5 and --

6 Q Liz, I'm sorry, what did you say?

7 A I started hearing gunshots.

8 Q What did you do when you heard the gunshots.

9 A I -- I remember one time I pushed my body up
10 against her front door and kind of pulled the screen up
11 because her porch is really dark and I was just trying to
12 hide. I didn't -- because I didn't know where the gunshots
13 was coming from, what that was. I didn't know nothing. I
14 was just trying to get safe again. And then when I
15 believed it stopped I went -- I tried to run to her side
16 window.

17 Q Did she ever answer the door?

18 A She never answered the door. I tried to break in
19 the side window to get to safety, but I couldn't. I wasn't
20 successful.

21 Q Does that mean -- what were you doing trying to --

22 A I was trying to hit it with my hands and stuff.

23 Q Banging on it?

24 A Yes.

25 Q She never answered?

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- 1 A She never answered.
- 2 Q So you heard -- you say you heard several gunshots?
- 3 A Several.
- 4 Q And that was -- when was that? That was after you
- 5 were out on the porch?
- 6 A Yes.
- 7 Q What was the next thing that you saw?
- 8 A After a few minutes I saw my boyfriend pulling up.
- 9 And as soon as I saw him pull up, I ran and got in the
- 10 truck.
- 11 Q Okay. You say he pulled up. He wasn't there?
- 12 A No, he wasn't there at all.
- 13 Q And what kind of vehicle did he pull up in?
- 14 A A Chevy Tahoe.
- 15 Q And when you saw him what did you do?
- 16 A I jumped in the vehicle.
- 17 Q And then what did you do?
- 18 A And called 9-1-1.
- 19 Q You made that phone call to 9-1-1?
- 20 A Yes, ma'am.
- 21 Q Did it take the police a long time to get there?
- 22 A I can't really remember. I don't think so.
- 23 Q After you called the police?
- 24 A Not that I remember.
- 25 Q After you called --

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- 1 A I'm sorry.
- 2 Q Go ahead. What did you say?
- 3 A I said I don't think it took much time at all for
- 4 them to get there.
- 5 Q Did you see your neighbors at some point in time?
- 6 A Yeah, yeah, I saw several neighbors.
- 7 Q Who did you see that you can recall?
- 8 A My immediate neighbor, they brought me some pants.
- 9 Q And when you're referring to your immediate
- 10 neighbor, are you talking about the one whose window you
- 11 were beating on?
- 12 A No, my -- the one to my left of my apartment. When
- 13 you stand on my porch and you're walking out of my
- 14 apartment, it's to the left.
- 15 Q The house --
- 16 A The building next, yeah.
- 17 Q What did you say that they did?
- 18 A They brought me some pants out to put on.
- 19 Q Who else did you see beside those immediate
- 20 neighbors?
- 21 A I saw Treasure Simpkins walking around.
- 22 Q And who is Treasure Simpkins?
- 23 A Treasure, she stays in the front of the apartment
- 24 complex.
- 25 Q She lives in the same place, just in a different

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1 building?

2 A Area. She stay closer to the front. I stay way in
3 the back.

4 Q Did you see anybody else with Treasure?

5 A It was somebody -- her daughter was walking with
6 her.

7 Q Do you know her name?

8 A Jasmine.

9 Q Were they there close in time to when the police
10 got there?

11 A Yeah. They was there before -- before the police
12 got around there if I recall.

13 Q Did they come up and approach you?

14 A I remember hearing Treasure say she don't know why
15 her daughter got her looking out looking for her boyfriend.

16 MR. CHESSER: Objection. It's hearsay. We'd ask
17 that it be overruled and stricken -- excuse me, that it be
18 stricken.

19 THE COURT: All right. Rephrase the question.
20 Just disregard that ladies and gentlemen.

21 BY MS. YOUNG:

22 Q Without saying what she said, you said Treasure did
23 come up and speak to you?

24 A She was speaking out loud.

25 Q She was talking to you?

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1 A She was talking out loud. It was probably a direct
2 conversation.

3 Q It was a direct conversation?

4 A It wasn't a direct conversation.

5 Q You just heard what she was saying?

6 A Uh-huh.

7 Q Once the police got there, what's the next thing
8 that you did?

9 A I remember talking to Mr. Cameron, that man, I
10 talked with him.

11 Q Where did you talk to Lieutenant Cameron?

12 A I talked to him briefly there and then went over to
13 the station.

14 Q To ADPS Headquarters?

15 A Yes.

16 Q Was he asking you about what happened?

17 A Yes.

18 Q Did you have a long interview with him?

19 A I can't remember how long, but it was -- it was --
20 I know it was difficult at the time.

21 Q You said it was difficult?

22 A Yes.

23 Q Where did you go after you spoke to Lieutenant
24 Cameron?

25 A After I talked to him I went to the hospital.

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1 Q Why did you go to the hospital?

2 A Because I was bleeding.

3 Q Where?

4 A Vaginally.

5 Q Liz, I'm going to show you what's been marked
6 previously for identification purposes the following group
7 of pictures. I'm going to read out the numbers so the
8 court reporter can take it down okay. It's 28, 29, 30, 31,
9 38, 34, 35, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49,
10 50, 66.

11 THE COURT: What?

12 MS. YOUNG: 66.

13 THE COURT: 5-6?

14 MS. YOUNG: 66, 6-6.

15 THE COURT: Thank you..

16 BY MS. YOUNG:

17 Q And 6-8, 68. I'm going to ask you to take your
18 time, look through all those one by one and after you're
19 done, tell me if you're able to identify those pictures.

20 A (Looking through the pictures.)

21 Q Do you recognize those pictures?

22 A Yes.

23 Q And generally, can you describe to the jury what's
24 shown in all those pictures I just handed you.

25 A Say that again.

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1 Q Can you generally describe what's shown, not
2 individually, but as a group, in those pictures that I just
3 handed you?

4 A Yes.

5 Q What is it?

6 A It's pictures of my home at [REDACTED] and in
7 the home and outside of the home.

8 Q Inside and outside?

9 A Yes, ma'am.

10 Q Do the pictures fairly and accurately depict [REDACTED]
11 [REDACTED] after this incident on May 9, 2015?

12 A Yes.

13 MS. YOUNG: Your Honor, at this time we would
14 request to enter all those exhibits into evidence for the
15 State.

16 THE COURT: Any objection?

17 MR. CHESSER: No objection.

18 (State's Exhibit Number 28, Number 29, Number 30,
19 Number 31, Number 38, Number 34, Number 35, Number 37,
20 Number 39, Number 40, Number 41, Number 42, Number 43,
21 Number 44, Number 45, Number 46, Number 47, Number 48,
22 Number 49, Number 50, Number 66, and Number 68 were entered
23 into evidence.)

24 MS. YOUNG: Your Honor, and I would ask to publish
25 them on the big screen and let me just ask her about them

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1 one by one.

2 BY MS. YOUNG:

3 Q So hang onto those pictures, Liz, and I'm going to
4 put them up here on the screen and ask you about each one,
5 one at the time, okay?

6 A Yes.

7 Q All right. Liz, can you see -- are you able to see
8 from where you're sitting what's shown on the screen too?

9 A Uh-huh.

10 Q All right. The first picture should be State's 28;
11 is that right?

12 A Yes.

13 Q What is shown in State's Exhibit Number 28?

14 A That's my apartment, the vehicle that Melvin was
15 driving, and the SUV that I had.

16 Q Which vehicle was the one that Melvin was driving?

17 A The Chevy Tahoe, the tan.

18 Q The one to the left of the picture?

19 A Yes.

20 Q And where it's located in that picture, is that
21 where he stopped?

22 A Yes, ma'am.

23 Q State's 29 should be the next picture, Liz. What's
24 shown in State's Number 29?

25 A A picture of the back of the Tahoe that Melvin was

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1 driving.

2 Q The apartment that you can see in that picture, is
3 that yours or your neighbor's?

4 A It's me and my neighbor. The left side is my
5 neighbor. My apartment is on the right.

6 Q Are they attached to each other?

7 A Yes.

8 Q So it's one building and two separate apartments?

9 A Yes.

10 Q State's Number 30. What's shown in State's 30,
11 Liz?

12 A A picture of my apartment.

13 Q [REDACTED]?

14 A Correct.

15 Q Sorry, I feel weird with that in the way.

16 Is that located in the City of Aiken?

17 A Yes.

18 Q What's in State's 31?

19 A That's the back of my apartment.

20 Q There's a -- what's shown back there? Your door?

21 A That dark -- yeah.

22 Q What about that writing on the building. Do you
23 know anything about that?

24 A That was there when I moved there.

25 Q It was already on the wall?

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- 1 A Right.
- 2 Q What is shown in State's 32, the next picture?
- 3 A Back door, internal back door, and that opening to
- 4 the left is my bedroom.
- 5 Q Wait, I think we're out of order.
- 6 A Oh -- I'm sorry.
- 7 Q That's fine. 32?
- 8 (The photographs were put back in order.)
- 9 BY MS. YOUNG:
- 10 Q No 32, Liz?
- 11 A No 32.
- 12 Q Do you have a 38?
- 13 A I do.
- 14 Q Okay. Tell the jury what 38 is.
- 15 A 38 is the -- my back door, the entrance.
- 16 Q The blue door, which door is that?
- 17 A The first door to the left with the -- on it.
- 18 Q Is that the one you're describing as the back door?
- 19 A Yes.
- 20 Q And what room can you see in that picture?
- 21 A My bedroom.
- 22 Q That's looking into your bedroom?
- 23 A Yes.
- 24 Q Was the door locked that night?
- 25 A Yes. I always lock my doors.

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- 1 Q You have State's 34? State's 34?
- 2 A Yes.
- 3 Q Tell the jury what's in State's 34?
- 4 A That's my back door coming --
- 5 Q In what direction does that picture show?
- 6 A If you coming from down the hall, to the right is
- 7 my bedroom, and the left entryway is my bathroom.
- 8 Q How about state's 35?
- 9 A That's one of there guns because I don't own a gun.
- 10 Q You don't open a gun?
- 11 A No.
- 12 Q That's not your gun?
- 13 A No, ma'am.
- 14 Q What's on the floor underneath the gun?
- 15 A That's my work badge.
- 16 Q And what -- where did that gray thing come from?
- 17 A That was one of the sheets that I was covered up in
- 18 that was snatched off of me.
- 19 Q State's 37, what room is that, Liz?
- 20 A My bathroom sink area right before you enter is the
- 21 tub area.
- 22 Q The way it's shown in that picture, is that how it
- 23 was when you went to bed that night?
- 24 A No, ma'am, not at all.
- 25 Q All that stuff wasn't out on the floor like that?

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- 1 A No, ma'am.
- 2 Q What about that safe? Did you normally keep that
- 3 in the bathroom?
- 4 A No, it was in my room.
- 5 Q In your bedroom?
- 6 A Yes.
- 7 Q Did it have something in it?
- 8 A It had like car title, my stuff -- my important
- 9 papers.
- 10 Q Paperwork?
- 11 A Yes.
- 12 Q How about State's 39?
- 13 A That was my bed.
- 14 Q This is where you were when this took place?
- 15 A Correct.
- 16 Q Did you have pillow cases on the bed?
- 17 A I did.
- 18 Q When you went to bed they were on the bed?
- 19 A Yes, they were.
- 20 Q But they're not on there now, right?
- 21 A Correct.
- 22 Q The part where you can see the -- at the top of the
- 23 picture there's a fan. I'm just trying to orient the jury.
- 24 Is that where your head would be? Or is that -- where is
- 25 that?

Elizabeth Miller - Direct Examination by Ms. Young

- 1 A Towards the wall where that night stand is --
- 2 Q Uh-huh.
- 3 A -- that's up where the head --
- 4 Q Where you had your head?
- 5 A Yes.
- 6 Q So the fan would then be on your side?
- 7 A Uh-huh.
- 8 Q I'm going to show you State's Number 40. What's
- 9 shown in this picture?
- 10 A My dresser and TV and everything tore up.
- 11 Q Is that how it was when you went to bed that night?
- 12 A No, nowhere near close to.
- 13 Q You didn't have that stuff on the floor like that?
- 14 A No, ma'am.
- 15 Q How about State's 41?
- 16 A That's the rest of the mess.
- 17 Q The rest of the mess?
- 18 A Yes, everything tore up, stuff throwed -- stuff
- 19 everywhere.
- 20 Q And what room is this?
- 21 A That's my bedroom still.
- 22 Q And all that stuff wasn't strewn out like that when
- 23 you went to sleep?
- 24 A No, it wasn't.
- 25 Q How about State's 42?

Elizabeth Miller - Direct Examination by Ms. Young

- 1 A That's the closet area.
- 2 Q Let me ask you about those shoe boxes on the floor.
- 3 Whose shoe boxes are those?
- 4 A Melvin's and mine's.
- 5 Q And that looks different from how it looked when
- 6 you went to bed?
- 7 A Yes, way different.
- 8 Q State's 43 should be the next picture, Liz. What
- 9 room is this?
- 10 A My kids.
- 11 Q Again, tell the jury how it looked when you went to
- 12 bed that night?
- 13 A The toys was put up, clothes put up. It was tidy.
- 14 It wasn't nowhere near like this.
- 15 Q How about those drawers?
- 16 A No, they was pushed in, clothes folded up.
- 17 Q Not open like they are in the picture?
- 18 A No, not at all.
- 19 Q State's 44 should be the next picture, Liz. And
- 20 tell the jury what room you're in in this picture?
- 21 A This is the kitchen, living room slash area.
- 22 Q And then what direction is it looking towards?
- 23 A My front, from the front door.
- 24 Q From the front door towards?
- 25 A Towards the back down that hallway where that

Elizabeth Miller - Direct Examination by Ms. Young

1 opening is.

2 Q Which door did the home invaders come in?

3 A That back door.

4 Q And which door did you leave out of?

5 A The front door.

6 Q Okay. Liz, the next picture should be State's
7 Exhibit 45. What's shown in this picture?

8 A The kitchen area.

9 Q And tell the jury how you left the kitchen before
10 you went to bed?

11 A Everything was put up.

12 Q Cabinet, drawers?

13 A Cabinets was together, closed; drawers, everything
14 was put up nice and neat.

15 Q All right. How about State's 46?

16 A The kitchen area again.

17 Q Looking at the sink?

18 A Yeah. And where things were tore up pulled out.

19 Q States 46, or is that the one we were just on --
20 that's the one we were on. How about State's 47?

21 A 47, cabinets was torn down.

22 Q That door, was it hanging off like that when you
23 went to bed?

24 A No, never.

25 Q Now, State's 48. That's another view of the

Elizabeth Miller - Direct Examination by Ms. Young

1 kitchen cabinets?

2 A Yes.

3 Q State's 49. That your refrigerator?

4 A Yes.

5 Q How about State's 50?

6 A Kitchen counter.

7 Q Would you describe it before you went to bed that
8 night? How did it look compared to this picture?

9 A A lot of stuff was moved around and --

10 Q Make sure you keep your voice up, okay?

11 A A lot of stuff was moved around, taken out of the
12 cabinets.

13 Q And the next picture, Liz, should be State's 66.
14 Did your bathroom look like this when you went to bed that
15 night?

16 A No.

17 Q And State's 68?

18 A A gun that doesn't belong to me.

19 Q It's a different angle with of that same gun with
20 your name tag behind it?

21 A Yes.

22 Q Okay. Liz, before you left your apartment to go to
23 headquarters and speak with Lieutenant Cameron, did you
24 give investigators permission to go inside your apartment
25 and investigate what had happened there?

Elizabeth Miller - Direct Examination by Ms. Young

1 A / When I was downtown.

2 Q You gave them consent?

3 A Uh-huh.

4 Q And after they searched the residence, are you
5 aware of them finding some kind of contraband in there?

6 A Yes.

7 Q And do you know what they found?

8 A Yes. They said they found, I think cocaine, I
9 think. I can't remember the exact charge, but, yeah.

10 Q Was it yours?

11 A No.

12 Q Did you know it was there?

13 A I didn't.

14 Q And you stated that you did -- let me ask you this:
15 Did you -- are you currently facing a charge?

16 A / Yes.

17 Q And what is that charge for?

18 A I don't remember the exact charges, but for those
19 drugs, I was charged with them.

20 Q For the drugs that were found in your apartment?

21 A Yes.

22 Q Have I promised you anything about testifying
23 today?

24 A No.

25 Q I haven't made you any promises about testifying

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1 about something happening with your charges or anything?

2 A I don't know. I can't remember.

3 Q Let me ask you this: I know we met a bunch of
4 times getting ready for the case.

5 A Yeah.

6 Q Every time we met, what did I tell you to tell the
7 jury?

8 A The truth.

9 Q Okay. And am I the person prosecuting your case?

10 A No, you're not.

11 Q Okay. After this happened, Liz, what happened in
12 your life?

13 A You said after?

14 Q Uh-huh.

15 A Oh, God. Pretty much can't finish school.

16 MR. CHESSER: Objection to the relevance of this,
17 Your Honor. I think it's not relevant. I don't -- I think
18 it's under Rule 403 it shouldn't come in.

19 THE COURT: Sustained.

20 BY MS. YOUNG:

21 Q Let me ask you a more direct question. What
22 happened in your life with regard to your living situation?

23 A I don't get no assistance no longer. I have to --
24 I've been here and there trying to get help and --

25 MR. CHESSER: Objection, Your Honor, same grounds.

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1 THE COURT: Sustained. That's not relevant, what
2 happened about that.

3 MS. YOUNG: It's not, Your Honor. I'm trying to
4 ask her this question. I'll just ask it to her directly.

5 BY MS. YOUNG:

6 Q Did you ever live back in [REDACTED] again?

7 A Never. I didn't go back for a day or a second. I
8 just went to remove a couple of important things that
9 matter. After that I left pretty much everything behind.

10 Q In the time that the men were in your apartment and
11 holding you at gunpoint and all the things that you
12 described, were you ever able to recognize any of the men?

13 A No.

14 Q You didn't know them?

15 A No. I don't know -- I never knew them prior to the
16 incident. Never seen them. I don't recall ever seeing
17 them to my knowledge.

18 Q The night this happened, did you have any
19 recognition of any of the people that were there?

20 A No, I did not.

21 Q Did you ever have an opportunity to see any of
22 their faces?

23 A Just in their bond hearings.

24 Q I'm talking about the night this happened?

25 A Oh, no, no.

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1 Q You never saw their face that night?

2 A No.

3 MS. YOUNG: Beg the Court's indulgence one moment.

4 (There was a pause in the proceedings.)

5 MS. YOUNG: Your Honor, I don't have any further
6 questions for Liz.

7 THE COURT: All right. Mr. Chesser, we're going
8 the break for lunch it's after one.

9 MR. CHESSER: Thank you, Your Honor.

10 THE COURT: Ladies and gentlemen of the jury panel,
11 we'll start back at two -- hour and 15 minutes long enough
12 for y'all? Y'all need a little longer? You tell me.

13 All right. Let's say about 2:20, 2:25, we'll start
14 back. Leave your notepads in your chair. Turn them over,
15 we'll collect them. Don't discuss the case, don't
16 deliberate. I'll see you back here about 2:20. Thank you.

17 Everyone else remain seated.

18 (The jury left the courtroom at 1:04 p.m.)

19 THE COURT: All right. Ma'am, you're right in the
20 middle of your testimony, so please do not discuss it with
21 anyone at lunch time. You may step down.

22 Mr. Sawyer, may I see you up here for a second.

23 Anything for the record before we break for lunch?

24 MS. YOUNG: Nothing from the State, Your Honor.

25 THE COURT: Mr. Chesser?

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1 MR. CHESSER: Nothing, Your Honor.

2 THE COURT: All right. We'll stand at ease until
3 2:20.

4 (A break for lunch was observed.)

5 THE COURT: All right. Ms. Miller, if you'll come
6 -- where's Ms. Miller?

7 Are they getting your client?

8 MR. CHESSER: Yes, sir, thank you.

9 THE COURT: All right. Anything for the record
10 before we go back by the State?

11 MS. YOUNG: No, sir.

12 THE COURT: By the defendant?

13 MR. CHESSER: No, Your Honor.

14 THE COURT: Bring the jury in, please.

15 (The jury entered the courtroom at 2:24 p.m.)

16 THE COURT: Did y'all elect a foreperson?

17 THE FOREPERSON: Yes, sir, Your Honor, we did.

18 THE COURT: Congratulations.

19 THE FOREPERSON: Thank you.

20 THE COURT: First big election?

21 THE FOREPERSON: Sir?

22 THE COURT: First big election you've won?

23 THE FOREPERSON: Yes.

24 THE COURT: All right. I hope you enjoyed your
25 lunch break. Tomorrow I will buy your lunch. Is that a

Elizabeth Miller - Cross-Examination by Mr. Chesser

1 fair deal?

2 All right. Ms. Chesser, you may cross-examine
3 Ms. Miller.

4 MR. CHESSER: Thank you.

5 **CROSS-EXAMINATION**

6 BY MR. CHESSER:

7 Q Good afternoon, Ms. Miller.

8 A Good afternoon.

9 THE COURT: Ms. Miller, once again please get that
10 mic and speak into it.

11 BY MR. CHESSER:

12 Q I understood you said that the day before this, on
13 May 8th, you were at your son's birthday?

14 A Yes, I had a birthday party.

15 Q Okay. And he was three at that time?

16 A Yes, he had just turned three.

17 Q Excuse me?

18 A He had just turned three.

19 Q Okay. And you have another child as well?

20 A I have two other sons as well.

21 Q Okay. What are the ages now of your children?

22 A 12, 10, and 5.

23 Q Okay. Did those children live with you at the
24 apartment in Hahn Village?

25 A My oldest, he come on the weekend; and my younger

Elizabeth Miller - Cross-Examination by Mr. Chesser

1 two stayed day-to-day with me.

2 Q All right. You had been living there about a year?

3 A I think it was a little over a year.

4 Q Okay. And was this at your place or --

5 A Mine.

6 Q It was yours, it was in your name?

7 A (Witness nodded head.)

8 Q How long had you had a relation with Melvin?

9 A I think it was about a year at the time.

10 Q About the same length of time?

11 A No, I stayed there much longer.

12 Q Okay. In other words, it was a little longer that

13 you had the apartment and a little less time with Melvin,

14 is that correct?

15 A Correct.

16 Q Did he help you pay the rent?

17 A No.

18 Q Okay. Now, how long -- how often did he stay

19 there?

20 A Occasionally. Whenever I felt like letting him

21 stay the night.

22 Q But he had clothes there?

23 A Yes.

24 Q Okay. During your relationship with Melvin, you

25 were aware that he had a -- what is called a trap house; is

Elizabeth Miller - Cross-Examination by Mr. Chesser

1 that right?

2 A I wasn't fully aware.

3 Q Okay. You say you weren't fully aware?

4 A Huh-huh.

5 Q Okay. Well, a trap house, I don't even know what
6 that means. I mean, he had -- you understand now he had
7 another location where he actively sold drugs, right?

8 A I was aware that he was in -- had a street life,
9 but I didn't allow him to do it at my home.

10 Q Okay. So this Exhibit 68, your testimony is that
11 you've never seen this gun before?

12 A Correct.

13 Q But this picture is taken, it's at your residence,
14 right?

15 A Correct.

16 Q And this wasn't the only gun found at your
17 residence, was it?

18 A I wasn't told anything about a gun. That's the
19 only picture I'm aware of.

20 THE COURT: Ma'am, I can't understand and I'm
21 sitting right here.

22 THE WITNESS: That's the only picture I'm aware of.

23 BY MR. CHESSER:

24 Q Okay. But again your statement is you, you know,
25 you didn't know about this gun?

Elizabeth Miller - Cross-Examination by Mr. Chesser

1 A I didn't know about that gun.

2 Q All right. Okay. Now, you're aware that a
3 significant quantity of cocaine was found in your
4 apartment?

5 A Yes.

6 Q Okay. Now, this Exhibit 42, those are the shoe
7 boxes in your bedroom, right?

8 A Correct.

9 Q And in one of those shoe boxes, a significant
10 quantity of cocaine was found, correct?

11 A That's what I was told.

12 Q All right. And these shoe boxes, what this shows
13 -- that's your closet, right?

14 A Correct.

15 Q Okay. Ms. Miller, isn't it true that you were, in
16 fact, jealous of the time Melvin had to spend with his trap
17 house drug operation?

18 MS. YOUNG: Objection, relevance.

19 THE COURT: Sustained.

20 BY MR. CHESSER:

21 Q In addition to not knowing about this gun and not
22 knowing about the drugs, were you not aware that Melvin
23 took a quantity of cash over to his neighbor, David Byrd, a
24 little bit after this incident?

25 A I'm not aware of that.

Elizabeth Miller - Cross-Examination by Mr. Chesser

1 Q Okay. But you do know that you, yourself, are
2 charged with trafficking crack, right?

3 A I think cocaine was the term used.

4 Q That's what you believe it is? Trafficking
5 cocaine, that's what you think the charge is?

6 A That's what the charges said if I'm not mistaken.

7 Q All right. Now, after this incident, you went to
8 University Hospital over in Augusta?

9 A Correct.

10 Q Isn't it true there that they determined there was
11 no trauma to you?

12 A I don't know that answer.

13 Q Okay. Do you recall telling them that the pistol
14 was just placed against you?

15 A No, I told them it was placed in me.

16 Q You recall that they determined it wasn't necessary
17 to perform a trauma kit?

18 MS. YOUNG: Objection.

19 THE COURT: That's correct. She can't testify
20 about what they determined.

21 BY MR. CHESSER:

22 Q Do you recall telling them that you were not
23 sexually assaulted with the pistol?

24 A I don't recall telling them that.

25 Q All right. Now, with regard to your home, let me

Elizabeth Miller - Cross-Examination by Mr. Chesser

1 ask you, do the individuals in your home, those three
2 individuals, you recall if they were wearing gloves?

3 A What individuals are you talking about?

4 Q Okay. I'm talking about the people, three guys
5 that were in your home, came in your home through the back
6 door. If you don't remember, that's fine.

7 A I don't recall.

8 Q All right. Now, you indicated or you testified
9 that there was one individual who mostly kept guard over
10 you, correct?

11 A That stayed in the room -- there was one individual
12 that stayed in the room the entire time.

13 Q Right. And then you -- is it correct to say that
14 he was short with nappy, spiky hair?

15 A He had short little twists in his hair.

16 Q Okay. And then there was an individual who got
17 shot, a different individual who got shot in your house,
18 right?

19 A Correct.

20 Q Okay. And this was the individual that you stated
21 had on some white Air Max shoes, right?

22 A Black and turquoise and white.

23 Q Okay. Ms. Miller, I know this is not easy, but let
24 me ask you to speak up. I don't have good hearing, I
25 really don't.

Elizabeth Miller - Redirect Examination by Ms. Young

1 Can you repeat that answer again?

2 A He had on Nike Air Max that were white, black, and
3 turquoise.

4 Q Okay. And you described him as having tattoos on
5 his forearms, right?

6 A That I recall.

7 Q Okay. And he was a stocky individual, correct?

8 A Yes.

9 Q In fact, he was the stockiest of the three
10 individuals in your house, right?

11 A I would say he was.

12 Q Okay. That's all the questions I have.

13 MS. YOUNG: I just have one question.

14 **REDIRECT EXAMINATION**

15 BY MS. YOUNG:

16 Q Ms. Miller, what size shoe do you wear?

17 A I wear an 8, 8 and a half.

18 Q Ladies 8 and a half?

19 A Correct.

20 Q No further questions.

21 THE COURT: Thank you, you may step down.

22 Next witness.

23 MS. YOUNG: State calls Keith Byrd.

24 KEITH BYRD,

25 having been duly sworn, testified as follows:

David Keith Byrd - Direct Examination by Ms. Young

1 THE CLERK: Please state your name for the jury and
2 spell your last.

3 THE WITNESS: David Keith --

4 THE CLERK: After you have a seat in the witness
5 box. I'm sorry.

6 MS. YOUNG: Watch your step going up there, Mr.
7 Byrd.

8 **DIRECT EXAMINATION**

9 BY MS. YOUNG:

10 Q Mr. Byrd, I'd ask you to please speak in that
11 microphone right there and speak as loudly as you can,
12 okay?

13 THE COURT: Well, not as loud as you can, but loud
14 enough so they can hear over there.

15 THE WITNESS: Yes, sir.

16 MS. YOUNG: He's very soft spoken, Your Honor,
17 that's why I was telling him that.

18 BY MS. YOUNG:

19 Q You need to tell the Court your full name, Mr.
20 Byrd.

21 A David Keith Byrd.

22 Q Mr. Byrd, where do you live?

23 A [REDACTED].

24 Q How long have you lived there?

25 A 13 years.

David Keith Byrd - Direct Examination by Ms. Young

1 Q And do you work?

2 A I used to. Now, I'm on disability.

3 Q Do you recall the incidents that occurred on May
4 9th of 2015?

5 A Yes, ma'am.

6 Q Tell the jury what you were doing the night before
7 that incident happened?

8 A Well --

9 THE COURT: Speak up -- speak into the mic, Mr.
10 Byrd.

11 THE WITNESS: We was playing cards and had a couple
12 of beers and around about 12 o'clock, I laid down. Round
13 about 4 o'clock, I woke up. And usually I go on the front
14 porch to smoke cigarettes. But that morning, I went on the
15 back porch to smoke my cigarettes.

16 BY MS. YOUNG:

17 Q Let me ask you this before you go further: Tell
18 the jury how much you had to drink that night.

19 A Maybe like two beers because I'm really not a
20 drinker.

21 Q Tell the jury what you saw when you went on the
22 back porch to smoke?

23 A I -- oh, I saw an interior car light.

24 Q Okay. Let -- let me slow you down so we can get
25 some context. What can you see from your back porch with

David Keith Byrd - Direct Examination by Ms. Young

1 regard to the back of Hahn Village?

2 A It's a path through there; like a shortcut, a path
3 to McCormick Street.

4 Q Where did you see an interior light come on?

5 A On a dirt road back there, McCormick Street.

6 Q Did you have occasion to go back there on a fairly
7 regular basis?

8 A Oh, I have a dog back there.

9 Q You keep a dog back there?

10 A Yes, ma'am.

11 Q Mr. Byrd, I'm going to hand you what's been
12 premarked as State's Exhibit 22 and 25.

13 A Yes, ma'am.

14 Q You can hold them. Take a look at them.

15 A Yes, ma'am.

16 Q Take a look at both of them, okay?

17 A Yes, ma'am.

18 Q Do you recognize what's in those pictures?

19 A Yes, ma'am, it's the -- it's the --

20 Q Let me just say this: Does it generally show part
21 of Hahn Village?

22 A This is looking towards the path.

23 Q Okay. And you recognize that because you've lived
24 there for 13 years?

25 A Yes, ma'am.

David Keith Byrd - Direct Examination by Ms. Young

1 MS. YOUNG: Your Honor, at this time, we'd move to
2 enter State's 22 and State's 25 into evidence.

3 MR. CHESSER: No objection.

4 (State's Exhibit Number 22 and Number 25 was
5 entered into evidence.)

6 BY MS. YOUNG:

7 Q Hang onto that for just a second. I'm going to get
8 you to talk about it and the jury's going to look at it on
9 the big screen.

10 Mr. Byrd, tell the jury what's shown in State's
11 Exhibit Number 22.

12 A That's looking towards the path.

13 Q Looking towards the path?

14 A Yes, ma'am.

15 Q Would that be from the direction that you would
16 see?

17 A Yes, ma'am.

18 Q Okay. And tell the jury what's shown in State's
19 Exhibit 25.

20 A That's looking to where from the path --

21 Q And just a second, we've got to get it up on the
22 screen, okay?

23 (The screen was raised for the jury to view the
24 exhibits.)

25 BY MS. YOUNG:

David Keith Byrd - Direct Examination by Ms. Young

1 Q Okay. Now you can tell them.

2 A That's from the path looking back towards where I
3 was sitting at.

4 Q Mr. Byrd, that house that's in the very far back on
5 the left side, whose house is that?

6 A All the way passed the tree?

7 Q Yes, the one closest to Liz's.

8 A Can you repeat that, ma'am.

9 Q The house closest to Liz's -- which porch is yours?

10 A The one where the clothes -- where you see the
11 clothes on the line.

12 Q Uh-huh.

13 A All the way past the tree. Liz apartment is the
14 one with the white blind on it.

15 Q Okay.

16 A On the building.

17 Q So yours is the next one over?

18 A Yes, ma'am.

19 Q Okay.

20 A Not next door, but the next one over.

21 Q All right. When you say not next door, you mean
22 it's not connected.

23 A It's not connected.

24 Q It's a separate building?

25 A It's a separate building.

David Keith Byrd - Direct Examination by Ms. Young

1 Q You can put those down.

2 Mr. Byrd, tell the jury what you saw when you saw
3 the interior light come on.

4 A I saw one person come towards Liz's back door and
5 then the person went back and then I saw three people
6 coming towards Liz's house with something around their
7 face. I couldn't tell, like a wife beater or something
8 like that.

9 Q First you saw one person comes towards Liz's?

10 A Yes, ma'am.

11 Q And then they went back.

12 A Yes, ma'am.

13 Q And then how many?

14 A Then I saw three people.

15 Q And you stated they had something around their
16 face?

17 A Yes, ma'am.

18 Q What did it look like to you?

19 A Like it could have been a wife beater, but I never
20 saw any faces.

21 Q But it was dark, right?

22 A Yes, ma'am. It was dark. But it was something
23 white around their faces.

24 Q Covering their faces?

25 A Yes, ma'am.

David Keith Byrd - Direct Examination by Ms. Young

1 Q When you saw that, what did you do?

2 A I called Mel.

3 THE COURT: You called who?

4 THE WITNESS: Melvin.

5 BY MS. YOUNG:

6 Q Melvin?

7 A Yes, ma'am.

8 Q And what did you tell him?

9 A I told him, I think somebody's messing around his
10 back door.

11 Q Okay. Did you have a couple of conversations with
12 him?

13 A Yes, ma'am.

14 Q Without saying what he told you, could you
15 basically tell the jury what you told him during those
16 conversations.

17 A Can you repeat that, ma'am, please.

18 Q I said tell the jury what you told them during the
19 phone calls. You just can't say what he said back to you.

20 A Uh-huh.

21 Q Okay. So tell them what you told Melvin.

22 A I told Melvin that somebody is around his back door
23 and then -- then he called me back. He said, Mr. Keith --

24 THE COURT: No, don't say what he said.

25 MS. YOUNG: You can't say what he said.

David Keith Byrd - Direct Examination by Ms. Young

1 THE COURT: As a result of what he -- called back,
2 what did you do?

3 THE WITNESS: I called -- I don't understand what
4 you're saying.

5 BY MS. YOUNG:

6 Q That's okay. After -- you just called Melvin to
7 let him know; is that right?

8 A Yes, ma'am.

9 Q You didn't go over there yourself?

10 A Oh, no, ma'am.

11 Q Did you hear anything after the three people went
12 into Liz's?

13 A No, ma'am.

14 Q You didn't hear anything?

15 A No -- not -- when they went in Liz's, no.

16 Q Okay. Well, how about after they went into Liz's?
17 I might not be asking that very well. Did you hear
18 anything --

19 A Oh, I heard a gunshot.

20 Q Okay. How many did you hear? Do you know?

21 A First I heard one gunshot. And then I heard like
22 rapid gunshots, like maybe six or seven gunshots.

23 Q Can you describe the time difference between them?
24 Or were they all at one time?

25 A It was one gunshot and like three seconds and then

David Keith Byrd - Direct Examination by Ms. Young

1 the rest of the gunshots.

2 Q Did you see Liz after the police got there?

3 A Yes, ma'am.

4 Q Where was she?

5 A Out front of the apartment building in the parking
6 lot.

7 Q Prior to the police getting there, did something
8 happen? Did something happen with regards to your house?

9 A Someone knocked on my back door.

10 Q Who was it?

11 A Melvin.

12 Q You can't say what he said, but you can say what he
13 did?

14 A He gave me some money.

15 Q How was it packaged? Was it packaged?

16 A It was in like a sandwich bag.

17 Q Okay. What did you do with that money that he gave
18 to you?

19 A I gave it to another neighbor.

20 Q When?

21 A Later on that afternoon.

22 Q Later on that same day?

23 A Yeah, yeah, yeah, yes, ma'am.

24 Q Let me just ask you this: He wasn't paying you,
25 was he?

David Keith Byrd - Direct Examination by Ms. Young

1 A No, ma'am.

2 Q Was he giving you that money?

3 A No, ma'am.

4 Q Mr. Keith, I'm going to show you what's been marked
5 for identification purposes as State's Exhibit Number 26
6 and 27. Take a look at each one of those and tell me if
7 you recognize what's in that picture?

8 A Yes, ma'am.

9 Q What is it?

10 A It's my cell phone.

11 Q It's your cell phone that you were using at the
12 time?

13 A Yes, ma'am.

14 Q Do those pictures fairly and accurately depict your
15 cell phone with regard to the events of May 9th, 2015?

16 A Yes, ma'am.

17 MS. YOUNG: Your Honor, at this point, we'd move to
18 enter these into evidence and publish them for the jury.

19 MR. CHESSER: No objection, Your Honor.

20 (State's Exhibit Number 26 and Number 27 was
21 entered into evidence.)

22 BY MS. YOUNG:

23 Q Mr. Keith, I'm pulling up State's Exhibit 26 first.
24 Tell the jury what's shown in that picture.

25 A It says May -- 1950 -- 5/10 -- I really can't see

David Keith Byrd - Direct Examination by Ms. Young

1 too good, ma'am.

2 Q That's okay. You think it says May 9th?

3 A I can't see because I'm --

4 Q Okay. Is that -- does this reflect the phone calls
5 from Melvin to you and you to Melvin?

6 A Yes, ma'am.

7 Q All right. How about what's shown in State's
8 Number 27?

9 A Yes, ma'am.

10 Q Is that the same thing with the calls you made and
11 the times?

12 A Yes, ma'am.

13 Q Mr. Keith, I don't have any more questions for you.
14 Mr. Chesser is going to ask you some questions now.

15 A Yes, ma'am.

16 Q Thank you.

17 A You're welcome, ma'am.

18 MR. CHESSER: Your Honor, I don't have any
19 questions.

20 THE COURT: Thank you.

21 Mr. Byrd, you may step down and you may leave.

22 THE WITNESS: Yes, sir.

23 THE COURT: Next witness, please.

24 MS. YOUNG: Deputy Christian Stutts.

25 CHRISTIAN STUTTS,

Christian Stutts - Direct Examination by Ms. Young

1 having been duly sworn, testified as follows:

2 THE CLERK: Please have a seat in the witness stand
3 and state your full name.

4 THE WITNESS: My name is Christian Matthew Stutts.
5 (The witness moved the microphone.)

6 THE WITNESS: I guess I don't need that has much.

7 **DIRECT EXAMINATION**

8 BY MS. YOUNG:

9 Q Deputy Stutts, tell the jury where you're employed.

10 A I'm employed at the Aiken County Sheriff's Office.

11 Q How long have you been employed with the sheriff's
12 office?

13 A I've been employed with the sheriff's office since
14 June 2016 -- no, '17, I'm sorry. It's '18 now.

15 Q Where were you employed prior to the Aiken County
16 Sheriff's Office?

17 A I was employed at Aiken Department of Public
18 Safety.

19 Q How long have you been working at Public Safety on
20 May 9th, 2015? If you recall.

21 A It would have been about three years I had been
22 there.

23 Q At that -- on that date, tell the jury what shift
24 you were working and --

25 A I was working my patrol shift which was 6 p.m. to 6

Christian Stutts - Direct Examination by Ms. Young

1 a.m.

2 Q And tell the jury what happened that morning
3 towards the end of your shift?

4 A All right. That morning it was around five o'clock
5 or so, I pulled up to what we call the back apron of our
6 headquarters where the fire trucks and everything were
7 parked. I was getting there to finish up some paperwork
8 that morning, getting ready to go home. I -- as soon as I
9 parked my car, I stepped out. When I stepped out, from the
10 other side of the building, I could hear gunshots.

11 Q Could you tell from what direction they were
12 coming?

13 A I could tell they were coming from the Hahn Village
14 or Tool Hill area, somewhere in those neighborhoods.

15 Q As a result of hearing those shots, what did you
16 do?

17 A I immediately got back in my car. I radioed in to
18 everybody that was working what I thought was going on,
19 what direction they were coming from and started easing
20 that way to see if we could find anything.

21 Q Did you get a dispatch about the exact location?

22 A We did, just a -- probably less than a minute or so
23 we got a dispatch that there was a shooting at [REDACTED]

24 [REDACTED].

25 Q And is that where you went?

Christian Stutts - Direct Examination by Ms. Young

1 A I did. I went to Hahn Village, yes.

2 Q Were you among the first responding officers there?

3 A I was, yes, ma'am.

4 Q Tell the jury what you saw when you responded to

5 [REDACTED].

6 A When I pulled up to [REDACTED], I immediately
7 saw a black female standing outside very distraught and
8 panicking. I -- when I spoke with her, I didn't know who
9 she was, but she was just -- obviously, something had just
10 happened bad. I remember her saying that there was someone
11 laying in her bedroom floor. That's all that I got from
12 her.

13 Q And what did you do next?

14 A After that -- by that time there was a couple more
15 people there with me. We heard a commotion around the
16 backside of the apartment complex toward the path. We
17 thought somebody was running at that point. We went around
18 to check that. It ended up being a dog. And then once we
19 knew it was nobody running, we came back to the front of
20 the house.

21 Q So you didn't see anybody actually running away, it
22 was a dog making the noise?

23 A That's right, a dog on the fence, yes.

24 Q After you determined that, what was the next thing
25 that you did?

Christian Stutts - Direct Examination by Ms. Young

1 A I came back around to the front of the house and
2 met up with two other officers that were inside of the
3 house starting to clear the residence of people.

4 Q Can you tell us what clear the residence means?

5 A Yeah.

6 Q I think it's obvious, but just to be safe.

7 A We go in a house or whatever it may be and we're
8 just slowly going through to make sure there's nobody in
9 the house that's going to be a danger to us or anybody
10 else.

11 Q What did you see when you were clearing the house?

12 A When -- I was -- like I say I was behind two other
13 people and they were probably halfway down the hallway. To
14 me it looked like a scene, a hundred times, the standard
15 Hahn Village apartment at that time.

16 Q Did you see anything that was unusual in the
17 apartment? Let me ask you this: Did you see a person in
18 the apartment? You said you were trying to clear it?

19 A Right, yes. The person -- there was a person in
20 the apartment. He was in the back bathroom, yes, on the
21 left.

22 Q And describe what you saw with regard to that
23 person?

24 A It was a black male and he had a white t-shirt
25 wrapped around his head and he was wearing, if I remember

Christian Stutts - Direct Examination by Ms. Young

1 correctly, it was all black clothes.

2 Q Did he appear to be in distress of some sort?

3 A Yes, he was in distress.

4 Q Okay. Why?

5 A He had been -- he was dead.

6 Q Was there -- did he appear to have been injured in
7 some way?

8 A Yes, he was shot.

9 Q And where was he shot?

10 A It was in the head, I believe.

11 Q What did you do, if anything after you saw this
12 person?

13 A After that, I went back out to the front of the
14 house to start securing the scene, the crime scene, yellow
15 tape like you see. Then after I did that, I came back
16 around to the back of the apartment and assisted two other
17 guys with rendering aid to the guy that was shot.

18 Q And where were they rendering that aid?

19 A Right outside the back porch. They'd pulled him
20 out of the back of the house and got him out on the grass
21 and that's where we were.

22 Q And did you do anything else with regard to that
23 person that they were rendering aid to?

24 A I was given -- I was given a cell phone and his ID
25 that was found in his pockets, yes, sir.

Matthew Comer - Direct Examination by Ms. DeLoach

1 Q What did you do with those?

2 A I gave those to Detective Cameron:

3 MS. YOUNG: No further questions.

4 THE COURT: Any questions?

5 MR. CHESSER: No questions.

6 THE COURT: All right. You may step down. Next
7 witness, please.

8 MS. DELOACH: The State calls Sergeant Matthew
9 Comer.

10 MATTHEW COMER,

11 having been duly sworn, testified as follows:

12 THE CLERK: Please have a seat in the witness stand
13 and state your full name..

14 THE WITNESS: My name IS Robert Matthew Comer.

15 **DIRECT EXAMINATION**

16 **BY MS. DELOACH:**

17 Q Sergeant Comer, where are you employed?

18 A Aiken Public Safety.

19 Q And how long have you been employed at Aiken Public
20 Safety?

21 A A little over 13 years.

22 Q What are your duties and responsibilities?

23 A I'm a patrol sergeant on the patrol shift.

24 Q And what shift do you work?

25 A I work c-shift, it's a rotating shift, so 6 a.m. to

Matthew Comer - Direct Examination by Ms. DeLoach

1 6 p.m. or 6 p.m. to 6 a.m.

2 Q Okay. You have any prior law enforcement
3 experience?

4 A No.

5 Q And were you working on the morning of May 9th,
6 2015?

7 A Yes.

8 Q And were you working in your current capacity?

9 A Yes.

10 Q And did you respond to [REDACTED] that morning?

11 A I did.

12 Q And what was the call from dispatch in reference
13 to?

14 A Some shots fired and possibly somebody -- like a
15 home-invasion-type incident..

16 Q Can you tell us what happened when you arrived on
17 scene?

18 A I arrived on scene. I parked a little bit away
19 from the actual apartment and myself and several other
20 officers went around an apartment adjacent to the incident
21 location. We went to search around, and clearing around
22 those building to make sure there were no suspects or
23 anybody else there. We heard rustling through the back
24 where the path at McCormick Street Extension is, so we
25 challenged that area and found that there was a dog.

Matthew Comer - Direct Examination by Ms. DeLoach

1 Q What did you mean by challenge?

2 A Yelling at it saying, Police, Stop. You know, we
3 didn't know what it was or where it was. We just wanted to
4 make sure it wasn't anybody there.

5 Q But it was just a dog?

6 A Just a dog.

7 Q Okay. Once you -- once you were in the back of the
8 apartment and you determined that that was a dog and not a
9 person, what did you do next?

10 A I heard on the radio there was two officers going
11 to clear -- going through the front side of the apartment
12 to secure the apartment. I went to the back door, motioned
13 that I was there. Went to the back door and when I stepped
14 in, I saw a subject lying over to the right-hand side in
15 the bathroom and I stayed there and held that position
16 until the officers finished securing the rest of the
17 residence.

18 Q What was the status of that subject?

19 A He was bleeding, looked like -- I thought he was
20 dead.

21 Q Was there anything unusual about his appearance?

22 A He had like a white t-shirt type thing around his
23 face, dark clothing.

24 Q And was there a lot of blood or a little bit of
25 blood?

Matthew Comer - Direct Examination by Ms. DeLoach

1 A Yes, there was a tremendous amount of blood.

2 Q And did you do anything with that suspect that
3 was --

4 A One of the officers that was there, he had more
5 medical -- more medical training than I do, so he assessed
6 and said that he was aspirating, so we moved the subject
7 outside of the house, outside of the back of the residence
8 and we began life -- checking him, making sure -- I gave
9 him a breathing -- you know, helped him breathe. The
10 officer searched his person and found a cell phone and an
11 ID on him.

12 Q And was that t-shirt still wrapped around his face?

13 A Yes.

14 MS. DELOACH: Beg the Court's indulgence.

15 (There was a pause in the proceedings.)

16 BY MS. DELOACH:

17 Q Sergeant Comer, I'm showing you what's been marked
18 as State's Exhibit 52 or 51, I apologize. If you could
19 take a look at that. Do you recognize that picture?

20 A Yes.

21 Q And how do you recognize it?

22 A I recognize that's the backside of the apartment
23 where -- where we pulled the subject out of the apartment
24 and that's what was -- it looks like the shirt or the thing
25 that looked like a mask around his face so we took it off

Matthew Comer - Direct Examination by Ms. DeLoach

1 of him.

2 Q Does it fairly and accurately depict the t-shirt on
3 that him day?

4 A Yes.

5 Q And have those pictures been altered in any way?

6 A No, not to my knowledge.

7 MS. DELOACH: Your Honor, the State offers Exhibit
8 51 into evidence.

9 MR. CHESSER: No objection.

10 (State's Exhibit Number 51 was entered into
11 evidence.)

12 MS. DELOACH: Permission to publish?

13 THE COURT: (The Court nodded head.)

14 BY MS. DELOACH:

15 Q Sergeant Comer, this is the t-shirt that was
16 wrapped around the suspect's face whenever you pulled him
17 out of the apartment?

18 A Yes.

19 Q And is it still tied the way it was?

20 A As far as around his face when we pulled him out or
21 the way this is now?

22 Q The way this is now?

23 A I don't know if we untied it or if we just pulled
24 it because it was around -- I think it was still tied when
25 we took it off, but as far as this, it looks like the shirt

Matthew Comer - Direct Examination by Ms. DeLoach

1 that was around his face.

2 Q And this blood is from the wound that he received?

3 A Yes.

4 Q During your life-saving procedures, did you see
5 what caused the suspect's injuries?

6 A He had a gunshot wound to the head.

7 Q And what happened after those procedures?

8 A Once we were doing the basic life-saving
9 procedures, EMS arrived. Then we -- once the other found
10 those items, I did give them to Deputy Stutt. The other
11 officer assisted EMS in packaging the victim or suspect and
12 transported him to the hospital.

13 Q And those items you're referring to, just to
14 reiterate, they were a cell phone and an ID?

15 A Yes.

16 Q Okay. Once the injured suspect was sent to -- via
17 EMS, what did you do next?

18 A I tried to help process the scene. I found a
19 bullet hole in the back window -- or the back door of the
20 house; used business cards to mark different bullet casings
21 that were in the -- behind the residence; and went to the
22 -- the McCormick Street Extension, kind of cut through and
23 found some fresh tire tracks and I marked that off to keep
24 the other vehicular traffic from going back there.

25 Q And approximately how many bullet casings--did you

Matthew Comer - Direct Examination by Ms. DeLoach

1 locate?

2 A I think there were was about 10 or 15, something
3 like that.

4 Q And were you able to locate any other evidence in
5 your investigation?

6 A I don't remember collecting anything else or seeing
7 anything else.

8 Q Did you walk towards the McCormick Street Extension
9 area?

10 A I did.

11 Q Did you notice anything --

12 A I did. I saw some fresh tire tracks back there.
13 So that's why I marked the -- you know, tried to keep any
14 vehicular traffic from going back there.

15 Q And besides the cell phone and ID, did you collect
16 any other evidence in this?

17 A No.

18 Q Okay.

19 MS. DELOACH: Beg the Court's indulgence.

20 BY MS. DELOACH:

21 Q I'm showing you what's been marked as State's
22 Exhibit 23, 24, and 52. Can you take a look at those and
23 see if you recognize them?

24 A I do.

25 Q And how do you recognize them?

Matthew Comer - Direct Examination by Ms. DeLoach

1 A I recognize them from the crime scene that evening
2 and also the location of where we located the bullet
3 casings.

4 Q And do these fairly and accurately depict the crime
5 scene on May 9th, 2015?

6 A They do.

7 Q Have these pictures been altered in any way?

8 A No, ma'am.

9 MS. DELOACH: Your Honor, the State offers Exhibit
10 23, 24, and 52 into evidence.

11 MR. CHESSER: No objection.

12 (State's Exhibit Number 23, Number 24, and Number
13 52 was entered into evidence.)

14 MS. DELOACH: Permission to publish?

15 THE COURT: Sure.

16 BY MS. DELOACH:

17 Q Can you describe this picture for the Court?

18 THE COURT: What number is it, please.

19 MS. DELOACH: I'm sorry.

20 BY MS. DELOACH:

21 Q Number 23.

22 A Yes, ma'am, that is the northern part of --
23 northern face -- northern furthest part of Hahn Village
24 facing west. And that's facing the McCormick Street
25 Extension kind of path that we've been talking about.

Matthew Comer - Direct Examination by Ms. DeLoach

1 Q And that McCormick Street Extension path, does it
2 connect to any other road?

3 A Cushman Drive.

4 Q Turning to State's Exhibit 24. Can you describe
5 that for the Court?

6 A This is the -- looks like the backside where the
7 cut -- where it goes through the fence right there toward
8 Cushman Drive.

9 Q That linked fence portion, is there anything inside
10 that fence?

11 A Inside that link fence? That's Hahn Village.

12 Q Is that where the dog was located?

13 A Yeah, to the left of that linked fence is where we
14 determined the dog was.

15 Q And State's Exhibit 52. Can you describe this
16 picture for the Court?

17 A Those were business cards we used to mark where the
18 bullet casings were and also some of the other marked --
19 the things on the topside of the picture where we marked
20 where bullet casings were located behind the residence.

21 Q Were those your business cards used?

22 A I think they were Sergeant Hamlin's.

23 Q But you assisted in placing those business cards?

24 A Yes.

25 Q And those were the bullet casings that were found

Matthew Comer - Cross-Examination by Mr. Chesser

1 during your investigation?

2 A Correct.

3 MS. DELOACH: Nothing further from the State.

4 THE COURT: Any questions, Mr. Chesser?

5 MR. CHESSER: Yes, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. CHESSER:

8 Q What's your last name again, please?

9 A C-O-M-E-R, Comer.

10 Q Sergeant Comber, you testified that you
11 administered life saving -- or attempted to help the person
12 who appeared to be mortally wounded?

13 A Yes, sir.

14 Q Okay. Do you recall if he had gloves on?

15 A I don't.

16 Q You just don't recall?

17 A I don't recall.

18 Q All right. And I guess it's because you're
19 administering -- it's an emergency, you don't take pictures
20 at that point?

21 A No.

22 Q But in a nonemergency situation, that's when you do
23 take pictures?

24 A As far as nonemergent when I'm providing life
25 saving?

Matthew Comer - Cross-Examination by Mr. Chesser

1 Q No, what I mean is like, did you take these
2 pictures, say Exhibit 23 and 24 and 52?

3 A No, I didn't take any of those pictures.

4 Q So it's just not part of your job?

5 A No.

6 Q Okay. I didn't hear your answer when you said how
7 many casings there were?

8 A I think there were 10 or 15. I'm not 100 percent
9 sure. It may have been less, it may have been more. I
10 don't remember.

11 Q Right. And you didn't determine what caliber they
12 were?

13 A No.

14 Q Okay. And you did testify you found what appeared
15 to be tire tracks?

16 A Yes.

17 Q Fresh tire tracks?

18 A Yes.

19 Q Okay. Do you have training in that?

20 A Just -- I don't have formal training as far as
21 fresh tire tracks, but you can tell it was -- you know, the
22 dirt was moved. It was freshly done.

23 Q It's what they look like to you?

24 A Yes.

25 Q Okay. And did you mark those? I mean is that part

Brian Hall - Direct Examination by Ms. Young

1 of your job to mark --

2 A I marked where they were and advised -- you know,
3 advised them -- we tried to make sure that nothing was --
4 that nobody went become there except for law enforcement to
5 keep it secure.

6 Q So it wouldn't be disturbed?

7 A Sure.

8 Q What about shoe prints?

9 A I don't recall.

10 Q All right. Thank you. Nothing further.

11 THE COURT: Anything else, ma'am?

12 MS. DELOACH: No, Your Honor.

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

14 Next witness, please.

15 MS. YOUNG: State calls Public Safety Officer Brian
16 Hall.

17 BRIAN HALL,

18 having been duly sworn, testified as follows:

19 THE CLERK: Be seated in the witness box state your
20 full name for the record.

21 MS. YOUNG: Full name is David Brian Hall.

22 **DIRECT EXAMINATION**

23 BY MS. YOUNG:

24 Q Where are you employed?

25 A Aiken Public Safety.

Brian Hall - Direct Examination by Ms. Young

1 Q As a Public Safety Officer?

2 A Yes, ma'am.

3 Q How long have you been working in law enforcement?

4 A Since 2008.

5 Q Were you -- did you happen to be assigned and
6 working on May 9, 2015?

7 A Yes, ma'am.

8 Q What shift were you on at that time?

9 A C-shift.

10 Q And did you respond to the call that's been
11 testified about in your report?

12 A Yes, ma'am.

13 Q Tell the jury about that.

14 A I was working in the tack car, which is our two man
15 car.

16 Q Is that what tack means? Just --

17 A Yes, ma'am. It's the two man car that responds to
18 -- supposed to be higher priority calls, shootings and that
19 type call. Deputy Stutts, Officer Stutts at the time got
20 on the radio and said he heard shots fired, which he
21 believed was in the Tool Hill, Hampton Avenue area. So we
22 headed towards Tool Hill to try to find where the shots
23 were coming from.

24 Q Did you get dispatched to a particular location?

25 A Yes, ma'am.

Brian Hall - Direct Examination by Ms. Young

1 Q Where are was that?

2 A Hahn Village.

3 Q Tell the jury what you did when you arrived at the
4 scene?

5 A I arrived on scene. We immediately went to the
6 rear of the residence. There were already some officers
7 out front when we arrived. Myself and Sergeant Comer and a
8 couple of other officers went to the rear of the residence
9 and heard the dog barking -- or heard the movement on the
10 chain link fence. We thought it was somebody hopping over
11 the fence in the back, but it turned out to be a dog.

12 Q What was the next thing you did with regard to this
13 case?

14 A The two or three of us that went to the back to try
15 and find the noise, came back to the rear of the house and
16 held security while the other officers cleared the house.

17 Q And what does that -- what does that mean exactly?

18 A Just make sure nobody comes out windows or doors
19 and just hold the house while everybody clears the house
20 for people inside.

21 Q What was the next thing that you did?

22 A After they radioed that the house was clear, I went
23 around to the front of the house and helped another officer
24 set up crime scene tape.

25 Q And did you do anything else after you taped the

Brian Hall - Direct Examination by Ms. Young

1 scene off?

2 A After I taped the scene off, there's a group of
3 people, I'd say six or eight people standing out front
4 close to the residence. I just started taking people's
5 names and information down to see if there's possible
6 witnesses.

7 Q They -- these were people that were fairly close to
8 the residence itself?

9 A Yes, ma'am, directly in front of the residence,
10 close to the parking spaces.

11 Q What information did you write down with regard to
12 each person?

13 A Name, date of birth, address, telephone numbers if
14 I could get one.

15 Q And who all was out there that you can recall?

16 A I don't remember any of the names specifically.

17 MS. YOUNG: Beg the Court's indulgence one moment.

18 BY MS. YOUNG:

19 Q I'm going to hand you what's been marked State's
20 Exhibit 98 and ask if you recognize that?

21 A Yes, ma'am, that's my handwriting.

22 Q And what does that appear to be?

23 A Names, date of births, phone numbers, that I wrote
24 down that morning.

25 Q With regard to this particular case?

Brian Hall - Direct Examination by Ms. Young

1 A Yes, ma'am.

2 MS. YOUNG: Your Honor, at this time, we'd move to
3 enter State's 98 into evidence.

4 MR. CHESSER: No objection, Your Honor.

5 (State's Exhibit Number 98 was entered into
6 evidence.)

7 BY MS. YOUNG:

8 Q Can you read for the jury the names of the people
9 that you wrote down that day?

10 A Yes, ma'am. Treasure Simpkins, Quinn Simpkins,
11 Jasmine Hammond, Elizabeth Miller, Treyvone (phonetic)
12 Coleman as a possible suspect and Annie Elam.

13 Q And what did you do with that information that you
14 wrote down?

15 A I passed it off to one of the investigators when
16 they arrived.

17 Q And those were the people that were standing their,
18 those names that you've read other than the possible
19 suspect name?

20 A Yes, ma'am.

21 Q That person wasn't there; is that right?

22 A No, not --

23 Q He was not?

24 A No, ma'am.

25 Q Everybody else you wrote down was there?

1 A Yes, ma'am.

2 Q No further questions.

3 THE COURT: Cross?

4 MR. CHESSER: No questions, Your Honor.

5 THE COURT: Thank you, you may step down.

6 Next witness.

7 MS. YOUNG: Your Honor, may I approach?

8 (There was a bench conference out of the hearing of
9 the jury and the Court Reporter.)

10 THE COURT: All right. Mr. Foreman, ladies and
11 gentlemen, let's take a little afternoon break, about ten
12 minutes; come back and we'll keep moving as long as we can.
13 I don't mean as long as we can, but around five'ish. Don't
14 discuss the case and don't deliberate. Leave your pads
15 right there and we'll get them when we get back. Thank
16 you.

17 (The jury left the courtroom at 3:14 p.m.)

18 THE COURT: All right. Anything from the State
19 before we break?

20 MS. YOUNG: Nothing from the State, Your Honor.

21 THE COURT: Mr. Chesser?

22 MR. CHESSER: No, Your Honor.

23 THE COURT: All right. Very short.

24 (A brief recess was observed.)

25 THE COURT: Ready to proceed?

Jamie Johnson - Direct Examination by Ms. Young

1 MS. YOUNG: Yes, Your Honor, thank you.

2 MR. CHESSER: We're ready, Your Honor.

3 (The jury entered the courtroom at 3:30 p.m.)

4 THE COURT: You may call your next witness.

5 MS. YOUNG: State calls investigator Jamie Johnson.

6 JAMIE JOHNSON,

7 having been duly sworn, testified as follows:

8 THE CLERK: Please have a seat in the witness chair
9 and state your full name.

10 THE WITNESS: Jamie Johnson.

11 **DIRECT EXAMINATION**

12 BY MS. YOUNG:

13 Q Where are you employed?

14 A Currently for the Lexington County Sheriff's
15 Department.

16 Q And in what capacity?

17 A I'm a deputy and crime scene investigator for them.

18 Q How long have you been working for Lexington
19 County?

20 A Since September of last year.

21 Q Where did you work prior to going over to
22 Lexington?

23 A - South Carolina Law Enforcement Division, commonly
24 known as SLED.

25 Q How long were you employed with SLED?

Jamie Johnson - Direct Examination by Ms. Young

1 A Approximately five years.

2 Q And in what capacity were you working for SLED?

3 A I was a special agent in the crime scene unit.

4 Q And what does that mean?

5 A That means that we would respond at the request of
6 local, state, and federal agencies to assist with crime
7 scene investigations throughout the entire state.

8 Q Can you describe for the jury a little bit about
9 your educational background?

10 A Sure. I have a bachelor's degree in forensic
11 science from Baylor University in Texas; and I have a
12 masters degree in forensic science from Marshall University
13 in West Virginia.

14 Q What type of in house training does SLED require
15 before you're allowed to go out and do your own
16 investigation?

17 A We've got an in-house training program which
18 consists of different training blocks in evidence
19 collection, crime scene photography, crime scene
20 documentation such as note taking, rough sketches, that
21 type of thing. And we complete that through different
22 instructors within the crime scene unit.

23 Q And what type of testing do you have to do, if any,
24 before you're released?

25 A The training blocks consist of a hands-on tactical

Jamie Johnson - Direct Examination by Ms. Young

1 aspect in addition to a written test that we are required
2 to pass. Once that -- all the training blocks are
3 completed and you are essentially then signed off to run
4 primary on crime scenes and that means you are deemed
5 competent.

6 Q How many crime scenes did you investigate while you
7 were employed with SLED?

8 A I would say approximately 200.

9 Q Were you employed there -- well, I know you were,
10 on May 9th, 2015, were you working on that day?

11 A Yes, I was.

12 Q Where did you go to conduct an investigation?

13 A Myself and Agent Hezel responded to 301 Brown Lane.

14 Q And who called you out to the scene?

15 A We were notified by our SLED operations desk, which
16 is essentially our dispatch and I was notified at that time
17 that the call came in from Captain Martin Sawyer with Aiken
18 Department of Public Safety.

19 Q When you got the call to respond to Aiken, do you
20 know what time you got here?

21 A We arrived on scene a little bit after 8 a.m.

22 Q 8 a.m.?

23 A That's correct.

24 Q What did you do when you got to the scene?

25 A What we did this time is what we normally do with

Jamie Johnson - Direct Examination by Ms. Young

1 every crime scene response that we have. We meet with
2 somebody who is on scene and just try to establish who our
3 victims are, suspects, witnesses, if we have any. We get
4 as much information from them as we can as to what
5 happened, where different crime scenes may be, that kind of
6 thing. And after that, we always do an initial walkthrough
7 of the scene.

8 Q And the person that you're getting this information
9 from, who are they? Generally speaking?

10 A It's generally the lead investigator. It was
11 Captain Sawyer in this case.

12 Q So you were talking to law enforcement?

13 A Correct.

14 Q Describe to the jury what you do in an initial walk
15 through of the scene.

16 A Go through and essentially just kind of observe
17 what the crime scene looks like. It's for our benefit as
18 crime scene investigators just to see what all we're going
19 to be dealing with, what equipment we may need to bring in,
20 how much evidence we have or how little evidence we have.
21 And it also helps the law enforcement that we're talking to
22 to just kind of describe and point out different bits of
23 information as we walk through the scene.

24 Q Who was the primary investigator for this case?
25 Between you -- from SLED?

Jamie Johnson - Direct Examination by Ms. Young

1 A The --

2 Q You said you responded with another person.

3 A That would be me as primary.

4 Q And what are the duties of the primary
5 investigator?

6 A From the primary standpoint, we're usually taking
7 notes throughout the duration of the crime scene.
8 Depending on the type of scene, we may do a sketch with
9 measurements. In this case one of those was done and again
10 just mostly notes on the scene.

11 Q What does the secondary investigator do?

12 A Their main job is to take photographs of anything
13 and everything and that's a continuing process throughout
14 the crime scene investigation.

15 Q Investigator, what was the initial crime scene, or
16 what did it consist of for this case?

17 A We had -- we had a residence, which was 301 Brown
18 Lane -- kind of the backyard area that backed up to the
19 chain link fence that had a gap or a space in it. Behind
20 that, there was also a dirt or sand road and that was the
21 extent of the crime scene for that day.

22 Q Prior to going inside the residence, do you have to
23 get permission from somebody?

24 A Yes, we do. We either need consent from somebody
25 in the form of verbal or written or a search warrant.

Jamie Johnson - Direct Examination by Ms. Young

1 Q And what did you receive in this particular case?

2 A We got verbal consent from two different
3 individuals for both a vehicle and a residence.

4 Q And which vehicle are you referring to?

5 A The vehicle was a gray Chevy Tahoe that was driven
6 by Melvin Chandler.

7 Q He gave you consent to search both that and the
8 residence?

9 A That's correct.

10 Q What was the first that you think that you did to
11 begin your investigation? Which place did you start?
12 House or the road?

13 A We started with the vehicle first. Photographs and
14 notes were taken. SLED crime scene didn't collect anything
15 from there. I believe there was a cell phone that was
16 collected directly by Aiken DPS.

17 Q And what was the next thing that you did or
18 investigate after that?

19 A After that it would have been the dirt road, which
20 was McCormick Street.

21 Q What did you do in terms of your investigation on
22 McCormick Street?

23 A We were told when we arrived that there were some
24 footwear impressions and tire tread impressions that were
25 on McCormick Street kind of in the sand. We proceeded to

Jamie Johnson - Direct Examination by Ms. Young

1 take photographs of what those looks like as is and we
2 placed down the yellow plastic markers, I'm sure you all
3 are familiar with, to mark the different footwear and tire
4 tracks.

5 Q And what was the next place that you investigated?

6 A After that it would have been kind of the backyard,
7 rear of the residence area.

8 Q So do you start at one location and in one area and
9 kind of finish that and then move to the next? How does
10 that work?

11 A We do kind of start in one place and finish that up
12 as much as possible before moving on. It's usually the
13 scene that dictates where -- where we start. There may be
14 a road that's closed or something really pressing that
15 we're asked to process first, so where we begin is usually
16 dependent on a crime scene.

17 (The attorneys were conferring over exhibits.)

18 BY MS. YOUNG:

19 Q I'm going to show you some pictures and I sure hope
20 that I have them in the right order, but I'm going to give
21 them to you. The pictures I'm giving to you should be
22 State's Exhibit 28, 29, 30, 22, 31, I'm just saying this
23 for the record. You don't have to flip through them that
24 quickly. 23, 53 --

25 THE COURT: 5-3?

Jamie Johnson - Direct Examination by Ms. Young

1 MS. YOUNG: 5-3.

2 BY MS. YOUNG:

3 Q 24, 32, 25, 54, 55, 56, 57, 52, 58, 59, 51, 60, 61,
4 62, 63, 64, and 65, hopefully for identification purpose.
5 I'm going to ask you to take a look through those and tell
6 me after you're done if you recognize those.

7 A Sure. (Looking.)

8 Q Do you recognize those?

9 A I do.

10 Q And what are they?

11 A These are crime scene photographs that were taken
12 on that day.

13 Q Do those pictures fairly and accurately depict the
14 scene as you recall it?

15 A They do.

16 MS. YOUNG: Your Honor, at this time, we move the
17 following, which I believe are not yet in evidence: 53,
18 32, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, and 65,
19 we'd move to enter those into evidence and ask to publish
20 all of these and have her testify about them.

21 THE COURT: Any objection?

22 MR. CHESSER: I don't have any objection.

23 (State's Exhibit Number 32, Number 53, Number 54,
24 Number 55, Number 56, Number 57, Number 58, Number 59,
25 Number 60, Number 61, Number 62, Number 63, Number 64, and

Jamie Johnson - Direct Examination by Ms. Young

1 Number 65 was entered into evidence.)

2 BY MS. YOUNG:

3 Q I'm going to pull the screen up and if you don't
4 mind stepping down and you can just -- they're going to be
5 on the screen, so you can just hold those.

6 A Okay.

7 Q Can you step down.

8 (The witness stepped down in front of the jury.)

9 BY MS. YOUNG:

10 Q All right. Explain to the jury what's shown in
11 this State's Exhibit Number 28?

12 A State's Exhibit 28 is kind of the parking lot front
13 area of 301 Brown Lane. That's going to be this area right
14 here. I guess it's, I don't know if duplex is the right
15 word, but there's two -- two different people that live on
16 either side of the building. 301 is going to be on this
17 side.

18 Q Next I'm going to have you look at State's 29. And
19 what is shown in State's 29?

20 A That is the Chevy vehicle that I referenced earlier
21 that I searched with the other crime scene agent, Agent
22 Hezel, one that was driven for use by Melvin Chandler.

23 Q And you stated one item was recovered from that?

24 A Yes, not but us, by --

25 Q Tell the jury if you could -- make sure you speak

Jamie Johnson - Direct Examination by Ms. Young

1 up because you're a little soft spoken.

2 Tell me why DPS would collect that and not SLED if
3 you're doing the crime scene investigation on their behalf?

4 A Sure. SLED's an assisting agency, so there's
5 usually a discussion that takes place as far as evidence
6 about whether or not we're going to collect it and take it
7 back to the SLED forensic services laboratory to --

8 THE COURT: Ma'am, could you speak up for me,
9 please.

10 MR. CHESSER: Your Honor, may I stand over here so
11 I can hear?

12 THE COURT: Certainly.

13 MR. CHESSER: Thank you.

14 THE WITNESS: About whether or not we take that
15 evidence back to SLED or if it is collected by the local
16 agency and they take that back with them for their
17 analysis.

18 BY MS. YOUNG:

19 Q And what was taken by DPS in this particular --
20 from the Tahoe?

21 A That would have been a cell phone.

22 Q Next I'm going to have you look at State's Number
23 30 and ask if you can identify it?

24 A This is going to be the outside of the residence.

25 Q Okay. And you just kind of work through the crime

Jamie Johnson - Direct Examination by Ms. Young

1 scene step by step? Is that how you document it as you go?

2 A That's correct. Yes. As far as photographs go, we
3 always start with exterior, overall photographs just to
4 kind of document what the building looks like. We'll take
5 pictures of the four sides or the four corners just so we
6 know exactly what that building looks like, and then we'll
7 move to the inside of it if that's something that we're
8 going to searching.

9 Q I'm going to ask you if you could to take a look at
10 the number and can you read it on that screen?

11 A It looks like 310.

12 Q Is it possible that you could have transposed 301
13 and 310?

14 A That's possible, yes.

15 Q If it says 310, you think it's probably 310?

16 A It's probably 310.

17 Q Okay. Let's look at State's Exhibit Number 22.
18 Tell the jury what's shown in that picture.

19 A Sure. This is going to be the residence and you've
20 got this fence area that backs up at the rear of the
21 residence and you can see a little bit, some of these white
22 cards. Those were business cards that were placed before
23 we arrived to mark cartridge cases that were in the
24 backyard.

25 Q Next I want you to look at State's 31. Tell the

Jamie Johnson - Direct Examination by Ms. Young

1 jury what's shown in State's 31.

2 A This is going to be the rear of the residence, the
3 backyard and the fence are this way. It's going to be this
4 half that we're looking at.

5 Q You're pointing, just for the court reporter's
6 reference to the left side of the --

7 A Of the photograph?

8 Q -- picture?

9 A And we have some evidence that's down here in front
10 of the steps.

11 Q Okay. How about State's Number 23?

12 A 23 is going to be, again, the backyard area. The
13 residence is kind of towards the left-hand side of the
14 photograph. This is the fence that I mentioned earlier and
15 that's the -- I guess the cut through or the hole in the
16 fence that goes to McCormick Street and back here in this
17 area near the sign, you can see again, some of those little
18 white -- white business cards and they're folded up in
19 tents to mark cartridges.

20 Q And when you're pointing on this particular
21 picture, of course, the cut through, are you talking about
22 that break in the fence right there?

23 A Yes.

24 Q Okay. How about State's 53? 5-3.

25 A 53 is the area behind that break in the fence

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1 that's going to be towards the kind of upper right-hand
2 side in the photograph and this area leads back to
3 McCormick Street, which is kind of the dirt, sandy road
4 where the footwear and tire impressions were found.

5 Q And is that road shown on this picture?

6 A It is. This is this area right here, kind of in
7 front of the vehicle is going to be McCormick Street.

8 Q The part that looks kind of like dirt area?

9 A Yes.

10 Q That's McCormick Street?

11 A Yes.

12 Q Next will be State's 24. Describe that for the
13 jury.

14 A This is going to be -- again this is that fenced in
15 area and this is just kind of more of the area between the
16 fence and the residence and the footwear and tire
17 impressions on McCormick Street.

18 Q Would it be fair to say that the left side of the
19 picture would be the McCormick Street area and the right
20 side would lead towards the residence?

21 A That's correct.

22 Q All right. How about State's 32?

23 A This is going to be a photograph looking almost
24 directly at that break in the fence towards the backside of
25 the residence. You can see we've already put sown some

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1 yellow markers to indicate items of evidence. There's one
2 in the lower-right-hand corner of the photo and then
3 there's kind of a cluster of markers up by the sign post.

4 Q State's 25.

5 A 25 is going to be a closer up photograph of, again,
6 kind of that cluster of yellow markers that are by the
7 sign. These are going to be what were previously marked
8 with the white business cards that were tented up and these
9 appear to be cartridge cases.

10 Q All right. And how about State's 5-4, 54?

11 A 54 is going to be a Budlight beer can inside of a
12 brown paper bag. This was kind of near that break in the
13 fence and it was an item of evidence that we marked.

14 Q All right. And how about State's 55, 5-5?

15 A 55 is going to be a different Budlight beer can in
16 the same general area as the one we saw previously. This
17 one is Marker N. The previous one is Marker M. And again
18 it's two separate -- same kind of general area, but two
19 separate items of evidence.

20 Q When you're out there on the scene, how do you
21 decide which items of evidence that you're going to try to
22 collect? Or what you are going to collect?

23 A Usually -- some -- some items are really obvious.
24 We know that we need to take them. Some maybe a discussion
25 between us and the local agency about, would you like us to

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1 collect this or would you like to take this, or do you not
2 want to collect it at all. With this beer can and the one
3 previous, both of them kind of looked like they were
4 recent, so we thought that they may have been related and
5 they were there for evidence.

6 Q How about State's 56? 5-6.

7 A This is another photograph of that backyard area.
8 The markers that are here, these look to be a handful of
9 them. Those, again, are going to be cartridge cases that
10 were previously marked. With the business cards, you can
11 see the business cards are still by the actual yellow
12 letters.

13 Q So would it be fair to say they're marked, then
14 documented, then collected?

15 A Yes.

16 Q How about State's 5-7?

17 A This is a closer up photo from the one that we saw
18 previously and these are specifically Markers U and V.
19 Those both are cartridge cases as well.

20 Q State's 5-2.

21 A This is another photograph, own, of a cluster of
22 markers that were previously marked with the business
23 cards. It looks like we've got P, Q, R, and S. And again,
24 those are going to be cartridge cases.

25 Q State's 5-8.

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1 A This is the area right outside the back door. We
2 have Markers J and K that are marked right there in front
3 of the steps. J is going to be a black -- looks like a
4 black bath to well. A is going to be a white t-shirt
5 that's been tied and saturated with suspected blood.

6 Q State's 59, 5-9.

7 A That's a Marker K which is the white t-shirt that's
8 been tied and saturated with suspected blood.

9 Q And how about State's 5-1?

10 A That's just a picture taken -- that's me over --
11 unfortunately, on the right-hand side, just holding it up
12 to kind of show its entirety of the shirt because it was
13 kind of balled up on the ground.

14 Q That's just spreading out that t-shirt now?

15 A Correct.

16 Q How about State's 6-0?

17 A 60 is going to be another cartridge case. This is
18 going to be kind of in the crack between the wall, which is
19 on the left-hand side, and the cement, I don't know, kind
20 of sidewalk area right in front of the door. This was
21 taken as we found it before it had been marked.

22 Q And that's actually on or near the residence?

23 A Yes, it's right -- the door, the back door into the
24 residence is going to be on the upper-hand side of the
25 photo.

Jamie Johnson - Direct Examination by Ms. Young

1 Q How about State's 6-1?

2 A That's the same cartridge case we were just looking
3 at in the last photo and this time it's been marked as
4 Marker L. And door -- in the top part of the picture is
5 going to be the door into the bathroom.

6 Q State's 6-2.

7 A 62 is the -- there's two doors that go into the
8 backside of the residence, a screen door and then an
9 interior door. This is the screen door and kind of in the
10 lower-right-hand corner of the screen -- that screen door's
11 not open -- is going to be a bullet defect.

12 Q Is that a fancy word for a bullet hole?

13 A It's a fancy word for bullet hole.

14 Q How about State's 6-3?

15 A That's going to be a close-up photograph of the
16 same bullet hole. This is not going to be the outside that
17 we saw. This is going to be the inside portion of that
18 screen.

19 Q When you examined the bullet defect, would you
20 determine anything about directionality?

21 A We were able to determine, based on the only bullet
22 hole that we had, that it was coming from outside of the
23 residence, inside and that's based on the screen fibers
24 being pushed inward and kind of upward, which you can see
25 in the middle of the photo.

Jamie Johnson - Direct Examination by Ms. Young

1 Q How about State's 6-4?

2 A 64 is going to be a photograph of the same bullet
3 hole that we've seen previously, only this time, it's been
4 marked with scale tape and again just trying to show that
5 that spider is kind of a pushed inward and upward.

6 Q And how about State's 65?

7 A 65 is the same bullet hole, just kind of a clear
8 photograph of the scale tape that's been placed so you can
9 kind of see its approximate size.

10 Q How many bullet holes did you find?

11 A We just found the one that was in the screen. We
12 always make an attempt to find as many bullet holes as
13 possible and we didn't -- in this case we didn't find any
14 additional holes or defects, ricochet marks, or anything
15 like that, just this one.

16 Q So all the ones that you -- or all the photographs
17 that you testified with regard to the bullet hole, that's
18 just one hole, different angles.

19 A Just the one hole, yes.

20 Q I'm going to have you jump pack up on the witness
21 stand. I'm going to keep the screen up because I'm going
22 to get you to come back down in a second.

23 (The witness returned to the witness stand.)

24 BY MS. YOUNG:

25 Q When you investigated the inside of the residence,

Jamie Johnson - Direct Examination by Ms. Young

1 did you note anything particular about the -- how it was,
2 the state of the residence? What was noteworthy? I guess
3 I should ask that more clearly?

4 A What jumped out to both myself and Agent Hezel was
5 that the kitchen and the bedroom, the master bedroom, both
6 looked like they had been gone through, ransacked, and just
7 kind of in a state of disarray I would say.

8 Q Okay.

9 (The attorneys were looking over exhibits.)

10 BY MS. YOUNG:

11 Q All right. I'm handing you the following: State's
12 Exhibit 33 through 50, 66, 67, 68, 92 --

13 THE COURT: I'm sorry was what?

14 MS. YOUNG: 9-2.

15 BY MS. YOUNG:

16 Q 93, 9-3, and 69 through 7-2, 72 and I would have
17 you take a look at those.

18 A (Looking through the photographs.)

19 THE COURT: Mr. Carter we need to take a break?

20 You with us?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Go ahead.

23 MS. YOUNG: She's still looking.

24 BY MS. YOUNG:

25 Q Do you recognize those?

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1 A I do.

2 Q And what are they?

3 A All but the last two are crime scene photographs
4 that were taken that day. The last two are the two
5 sketches that I prepared.

6 MS. YOUNG: Your Honor, at this time, the State
7 would seek to enter the following exhibits: 3-3, 3-6, 6-7,
8 6-9, 7-0, 7-1, 7-2, 9-2, and 9-3. We would offer those
9 into evidence at this time and request to publish them.

10 MR. CHESSER: No objection.

11 (State's Exhibit Number 33, Number 36, Number 67,
12 Number 69, Number 70, Number 71, Number 72, Number 92,
13 Number 93 was entered into evidence.)

14 BY MS. YOUNG:

15 Q Can I get you to come down one more time?

16 A Uh-huh.

17 (The witness stepped down in front of the jury.)

18 BY MS. YOUNG:

19 Q All right. The first exhibit, State's 33, and if
20 you could, tell the jury what's shown in that picture.

21 A 33 is right when you're looking through the back
22 door as we've been seeing in a couple of previous
23 photographs, there's going to be a suspected blood trail
24 that 's coming out of the door and we've got a gun on the
25 floor right inside the doorway.

Jamie Johnson - Direct Examination by Ms. Young

1 Q With regard to the interior blue door there, did
2 you make any observations about that door?

3 A That door was still locked when we arrived.

4 Q State's 34.

5 A 34 is going to be the same door that we just saw in
6 the previous photograph, only taken from the opposite
7 direction.

8 Q Looking out towards the yard?

9 A Correct.

10 Q State's 3-5.

11 A 35 is the close up of the handgun that was on the
12 floor, which is a Taurus handgun, and the safety on this is
13 still engaged.

14 Q That means it's on?

15 A Correct.

16 Q That means it won't fire?

17 A That is correct.

18 Q How about State's 3-6?

19 A 36 is if you go inside the residence and hang a
20 right there is going to be the bathroom area. There's kind
21 of an outer -- outer bathroom with just a sink and then
22 there's the bathroom area which is going to be the tile
23 where the toilet's located. This is a photograph of some
24 of the items on the ground right underneath the sink.

25 Q And when you said, when you go in the residence,

Jamie Johnson - Direct Examination by Ms. Young

1 are you referring to going in the back door?

2 A The back door, yes.

3 Q State's 37?

4 A This is the same area that we were looking at
5 previously, only with the -- that's going to be a little
6 safe that's on the ground there and that's going to be with
7 the safe opened.

8 Q State's 38?

9 A State's 38, that's going to be the blue door that
10 we've been seeing, which is the back door and that's going
11 to be a photograph of the master bedroom, which is inside
12 of that door and on the left.

13 Q How about State's 39?

14 A State's 39 is a photograph inside the master
15 bedroom area.

16 Q State's 40?

17 A State's 40 is another photograph inside the master
18 bedroom.

19 Q State's 41?

20 A 41 is another photograph of the master bedroom to
21 kind of show us the condition that looks like it's been
22 ransacked and you've got a number of shoe boxes that are on
23 the ground, on the floor, in the center of the bedroom.

24 Q State's 42?

25 A 42, again, this is the master bedroom, just showing

Jamie Johnson - Direct Examination by Ms. Young

1 kind of the condition of what it looks like. And we have
2 some more shoe boxes there near the closet.

3 Q State's 4-3?

4 A 43 is -- this is going to be, I guess, the child's
5 room, children's room, which is next to the master bedroom.

6 Q State's 44?

7 A 44 is the TV room, living room area, I guess I
8 would call it.

9 Q And the direction of the photograph is?

10 A This is looking from the front door, so it's going
11 to be the opposite door that we've been talking about. The
12 door that we have been talking about is in the upper
13 right-hand corner of the photo, which you can see out
14 towards the fence. And this is from the front door looking
15 toward the kitchen.

16 Q State's 45?

17 A 45 is a photograph of the kitchen. And you can see
18 there's -- all the cabinets are open and that was the
19 second area that we noted looked like it had been gone
20 through or ransacked.

21 Q State's 46?

22 A 46 is another photograph of the kitchen, just
23 documenting its condition when we arrived.

24 Q State's 47, 4-7, excuse me.

25 A 47 is going to be some of the upper cabinetry in

Jamie Johnson - Direct Examination by Ms. Young

1 the kitchen.

2 Q State's 48?

3 A 48's going to be the same thing, some of the upper
4 cabinets in the kitchen.

5 Q State's 49?

6 A 49 is the kitchen again with the cabinets and the
7 drawers open and is ransacked there as well.

8 Q State's 50?

9 A 50 is, again, the kitchen. We can see the upper
10 cabinets there opened. The lower cabinets are open and the
11 drawer -- the drawers are open as well.

12 Q All right. How about State's 6-6?

13 A 66 is going to be the bathroom area. The cabinet
14 that you can see open on the left-hand side and kind of
15 that gray thing that's near it is the safe that we saw
16 pictures of earlier. In the upper portion of the photo is
17 going to be the toilet and the bathtub in that kind of
18 secondary bathroom area. And this is going to be the
19 suspected blood trail from the bathroom that we see out
20 around the corner, out the back door.

21 Q How about State's 67?

22 A 67 is again, there is this suspected blood trail in
23 the bottom right hand portion of the picture that we've
24 been talking about and this is the same gun that we've also
25 seen previously.

Jamie Johnson - Direct Examination by Ms. Young

1 Q What's on the left-hand side?

2 A The left-hand side is the blue door, which is the
3 interior of the two doors at the back -- back part of the
4 residence.

5 Q And how about State's 68?

6 A 68 is the same, same gun that we've been talking
7 about, the Taurus, only this time it's been marked by us as
8 Marker Y.

9 Q And how about 69, 6-9?

10 A 69 is a photograph of one of the shoe boxes. It's
11 going to be a gray Nike shoe box from inside the master
12 bedroom where we saw a lot of the shoe boxes before.
13 Inside one of the shoe boxes during the search was a black
14 and white polka dot zipper bag.

15 Q And I'm sorry, I think I got those out of the
16 pictorial order. But let's go onto 92 and then maybe come
17 back to that one.

18 A Did you say 92?

19 Q 92, 9-2.

20 A Okay. 92 is, we're back in the master bedroom and
21 kind of in the middle, upper left, that's going to be the
22 closet and we've got a number of different shoe boxes on --
23 on the floor in that area.

24 Q And how about State's 9-3?

25 A 93 is going to be one of the gray shoe boxes that

Jamie Johnson - Direct Examination by Ms. Young

1 were searched in the master bedroom.

2 Q And then just to go in order, let's go back the 69?

3 A 69 is the inside of this same shoe box and this is
4 a black and white polka dot bag that we found inside that
5 shoe box.

6 Q And how about State's 70?

7 A State's 70 is the contents of the black and white
8 bag. There's going to be three plastic baggies with a
9 white powder they in them.

10 Q Now, describe for the jury, if you would what's in
11 State's 71?

12 A 71 is one of two final crime scene sketches that I
13 prepared. It's usually -- the majority of the scenes that
14 we work at SLED, we prepare a crime scene sketch to show
15 you what the crime scene looks like and the markers
16 measurements, length, width and such. And this is page 1
17 of 2 for this particular scene.

18 Q And what does this particular sketch depict,
19 generally speaking?

20 A The -- this is going to be -- everything that was
21 outside, so in the upper right hand corner, we have the
22 residence. We have Markers J and K which were the t-shirt
23 and towel just right outside the back door in the yard.

24 We've got the grouping of cartridge cases that are
25 going to be marked.

Jamie Johnson - Direct Examination by Ms. Young

1 Down here M and N is going to be the Budlight cans
2 that you saw photos of previously.

3 Q And if you could, point to the jury specifically --
4 and I know it might be hard to see, at least from the side
5 anyway.

6 A That's Marker M which is going to be one of the
7 Budlight cans and that's N, the second of the Budlight
8 cans.

9 Q Okay. With regard to Marker M, what is that near?
10 If you can tell in that picture?

11 A Marker --

12 Q Where is the fence in that picture?

13 A Oh, the fence. I got you. The fence is going to
14 be marked right here. This horizontal line which has the
15 break in it to represent the break in the fence.

16 Q So what does the -- and I just can't see from my
17 angle. So Marker N as in Nancy, that was the other beer
18 can?

19 A Yes, that was the Budlight beer can that was not in
20 the paper sack.

21 Q So Marker N was closer to the fence?

22 A Yes.

23 Q And then Marker M would be out more towards the
24 road?

25 A That's correct.

Jamie Johnson - Direct Examination by Ms. Young

1 Q And specifically referring to the bottom of the
2 sketch, what's shown at the bottom, going all the way to
3 the left side of the screen?

4 A The bottom of the sketch running right to left is
5 going to be McCormick Street, which is the area that we
6 documented the footwear impressions and the tire
7 impressions; and those are going to be marked with Markers
8 A through -- probably I.

9 Q Okay. And how about State's 72?

10 A State's 72 is the second of the crime scene
11 sketches that was prepared for this particular scene. This
12 is going to be the residence, specifically the inside and
13 just where the different rooms are located. In the bottom
14 left-hand corner is the master bedroom that we've been
15 talking about and you've seen pictures about with all the
16 shoe boxes.

17 We have two different markers. One's towards the
18 bottom of the sketch, Markers Y and L. Y is going to be
19 the handgun that we've already seen photographs of and
20 Marker L is going to be that cartridge case that was there
21 right in that crack between the cement and the wall.

22 Q So just to orient for the record, the bottom of
23 this picture, State's 72, would be the outside back door
24 and the master bedroom, correct?

25 A Correct.

Jamie Johnson - Direct Examination by Ms. Young

1 Q And then the top would be the living room and the
2 front door area?

3 A That's correct.

4 Q Okay. You can sit back, but I'll give you a break.

5 (The witness returned to the witness stand.)

6 BY MS. YOUNG:

7 Q Just a few follow up questions. When you're doing
8 your search of the interior of the residence, describe to
9 the jury just kind of globally how does that work?

10 A Sometimes we don't know, honestly, what it is that
11 we're searching for. The information that we had at the
12 time was that a suspect or suspects had gone into the
13 master bedroom and it looked like it had been ransacked.
14 So we just went in there to look and see if we could find
15 what it was that they were looking for, maybe they had
16 taken it, maybe they hadn't taken it. We were just
17 essentially looking to look.

18 Q Okay. And with regard to the shoe boxes in
19 particular, did you look through all of those?

20 A I did. After -- after finding the polka dot back
21 in the one shoe box, the rest of the shoe boxes were looked
22 through.

23 Q Do you happen to know the size of the shoe box that
24 the polka dot bag was in?

25 A I don't think I do.

Jamie Johnson - Direct Examination by Ms. Young

1 Q Did you do any other evidence collection
2 particularly with regard to the master bedroom?

3 A I believe the majority of evidence from the master
4 bedroom was collected by Aiken DPS.

5 Q Let me ask you specifically about physical type
6 evidence: DNA, fingerprints --

7 A Sure.

8 Q In a house like that, how do you know or how do you
9 decide where you're going to try to collect evidence?

10 A With something like that, we go off of information
11 that's given to us either when we first arrived or
12 throughout the course of our crime scene investigations.
13 In this case, we had a witness who stated that the suspects
14 had gone into the master bedroom and turned on the light.
15 So in that instance, we then swabbed the bedroom light
16 switch for touch DNA.

17 Q Did you swab any other locations?

18 A We did. We also swabbed the two handles of the
19 back door that would be the outside, the outside handles.

20 Q So you swabbed, excuse me, swabbed the handles of
21 the screen door and the main door; is that right?

22 A That's correct.

23 Q For the back?

24 A Yes.

25 Q Would that have been the only DNA evidence that you

Jamie Johnson - Direct Examination by Ms. Young

1 attempted to take with regard to the residence?

2 A Yes, it was.

3 Q And then with regard to the tire tracks and
4 footwear, describe for the jury again what you did,
5 particularly with regard to documenting those?

6 A For those in this case we took what's called
7 examination quality photographs of them, which is with a
8 camera tripod and only specific camera settings and that's
9 to document them with the best detail possible so that
10 later on, if we end up with a known shoe or a known tire we
11 can compare the knowns with the unknowns that we have at
12 the crime scene.

13 Q So you're only able to make a comparison of shoes
14 or tires that could be are found later; is that right?

15 A That's correct.

16 Q After you do all the documentation, which is very
17 extensive, what do you do in terms of -- how do you collect
18 the evidence? The physical evidence that you actually take
19 in?

20 A That evidence is usually packaged on scene and then
21 it's transported back to the forensic services laboratory.

22 Q All of the evidence that you collected at this
23 particular scene, was it indicated by the markers that were
24 shown on the crime scene sketches?

25 A That's correct.

Jamie Johnson - Cross-Examination by Mr. Chesser

1 Q And you testified previously, I believe, that you
2 searched through the entire residence; is that right?

3 A I wouldn't say the entire residence was searched
4 just because it's difficult to search through absolutely
5 everywhere inside of the residence, but the areas that
6 appeared to have been gone through and where there was
7 blood and damage, those areas were searched to see if we
8 could find any additional evidence.

9 Q How many handguns did you find at this scene?

10 A One handgun.

11 Q And you collected it?

12 A We did.

13 Q How long were you at the crime scene?

14 A I'd say approximately six and a half hours.

15 Q I don't have any further questions for you. Let
16 the defense attorney cross-examine you.

17 THE COURT: Questions Mr. Chesser?

18 **CROSS-EXAMINATION**

19 BY MR. CHESSER:

20 Q Investigator Johnson, is that correct?

21 A Yes.

22 Q One thing I wanted to ask you about, did I
23 understand you to say that the Aiken Department of Public
24 Safety was investigating the master bedroom? Or did I hear
25 that wrong?

Jamie Johnson - Cross-Examination by Mr. Chesser

1 A No, it's -- we don't -- we don't break it up like
2 that, it's essentially a joint investigation between SLED
3 and the local agency which was Aiken DPS?

4 Q Well, if it's a joint investigation, does that mean
5 that they're searching some part of the house and you're
6 searching the other part? Or what does that mean to have a
7 joint investigation?

8 A Well, it could mean that -- a residence is a large
9 area to search, so there's only two crime scene people from
10 SLED that show up at a given scene, so if we have
11 additional resources to help us search, then we absolutely
12 welcome that.

13 Q In other words, resources, you mean more people?

14 A Correct.

15 Q And is there somebody in charge then if you have
16 somebody from Aiken Department of Public Safety doing part
17 of the house and you're doing another part? How do you
18 coordinate or -- that information that you got?

19 A Just communication throughout the duration of the
20 crime scene investigation.

21 Q Well, presumably it would get incorporated into
22 your report, all the information that's gathered; is that
23 right?

24 A Yes.

25 Q Okay. Now, you talked about there was two beer

Jamie Johnson - Cross-Examination by Mr. Chesser

1 cans that you felt like might be relevant; is that right?

2 A That's correct.

3 Q And then one of them was in a paper sack and one of
4 them was not?

5 A Right.

6 Q The one that was in the paper sack, just so I get
7 it right, it was N? If you recall?

8 A That was Marker N.

9 Q Okay. And then the one that was not in a paper
10 sack, that was M; is that right? M as in Michael is what
11 I'm trying to say?

12 A The one that was not in the paper sack is Marker N
13 as in November.

14 Q All right.

15 A The one that is in -- or that's -- I'm sorry.

16 Q I'm just going to say it like this, the one that's
17 not in a paper sack, is --

18 A Marker N.

19 Q -- what is the significance of a beer can as an
20 investigator? What is the significance that you would
21 attach to it? What potential evidentiary value does it
22 have?

23 A Potentially it could have saliva if somebody has
24 been drinking it as well as fingerprint evidence from
25 somebody holding it.

Jamie Johnson - Cross-Examination by Mr. Chesser

1 Q Okay. Now, in terms of the saliva, that would be
2 something that you would have to gather?

3 A We could either swab that ourselves or we could
4 submit it to the forensic services laboratory and have it
5 swabbed there.

6 Q Did you swab it?

7 A We, ourselves, didn't swab it out in the field.
8 The beer cans themselves were submitted for what's called a
9 DNA saliva request.

10 Q Okay. Do you know if they actually got tested for
11 DNA or saliva?

12 A I believe they were.

13 Q You don't believe they were?

14 A I said I do believe they were.

15 Q Oh, okay.

16 Now, and of course, they could also have
17 fingerprints?

18 A That's correct.

19 Q They would have to be dusted, is that the procedure
20 that you use to gather prints?

21 A For that type of evidence, yes, they would have
22 been -- they would have been dusted.

23 Q Okay. And -- but that's not something that you
24 would do?

25 A We can do it. Again, it just depends kind of on

Jamie Johnson - Cross-Examination by Mr. Chesser

1 the scene and the evidence that we have. In this case,
2 they were not processed on scene, but they were submitted
3 to the lab for a latent request.

4 Q Inside the house, you indicated that you took a DNA
5 swab from a light switch; is that right?

6 A That's correct.

7 Q Okay. And then two additional swabs from the back
8 door area?

9 A Yes.

10 Q Okay. That would be consistent then with the idea
11 that one or more of the perpetrators were not wearing
12 gloves, right?

13 A That's correct.

14 Q That was your information, right?

15 A We didn't have any knowledge at the time that they
16 had been wearing gloves, so that's why we attempted to swab
17 for touch DNA.

18 Q Okay. Now, the inside of the house that was
19 ransacked, you decided not to dust that for fingerprints?

20 A No, we did not.

21 Q And I mean if there's an issue about -- if you're
22 trying to figure out who was in there, why would you not
23 dust it for fingerprints?

24 A It's really difficult to dust an entire room and
25 everything within that room for fingerprints, so that's why

Jamie Johnson - Redirect Examination by Ms. Young

1 the touch DNA swab of the light switch was taken in lieu of
2 that.

3 Q But, in other words, so you have a problem of, it's
4 difficult to dust the whole area, so you don't dust
5 anything? Is that what you did?

6 A Well, dusting for fingerprints is usually confined
7 to an area that we think someone may have touched, like we
8 could -- we could process this type of area, but you
9 wouldn't process an entire room with --

10 Q What about those cabinets that were destroyed in
11 kitchen, do you -- would you infer that they were touched
12 by one or more of the perpetrators?

13 A They could have been, yes.

14 Q All right. That's all the questions I have. Thank
15 you.

16 THE COURT: Redirect?

17 MS. YOUNG: Just very briefly.

18 **REDIRECT EXAMINATION**

19 BY MS. YOUNG:

20 Q To clarify the question about who searched and who
21 did what, did Aiken DPS actually search the house with you
22 or did they just collect various things that you found?

23 A They did collect various things that we found. I
24 don't have it in my notes, but I believe it was kind of a
25 joint searching effort at that point just because we had so

Jamie Johnson - Redirect Examination by Ms. Young

1 much kind of ground to cover, I guess you could say.

2 Q But your notes would reflect the things that were
3 found and anything that ADPS did; is that right?

4 A That's correct.

5 Q And in terms of what Mr. Chesser was asking about
6 why did you search the whole room, do you just try to,
7 based on the information you have, process the areas that
8 you feel like could provide relevant evidence?

9 A We try to go with the areas that have the most
10 probative, as far as gathering evidence. We knew at that
11 point according to the witness that the light switch had
12 been touched. And that type of processing was much more
13 feasible than fingerprint powdering an entire bedroom and
14 its contents.

15 Q Did you do the touch DNA swabs that you referred to
16 for the light switch? Can you do that and do fingerprints?
17 Or is it an either or?

18 A It depends on the type of surface that you have.
19 Some surfaces aren't conducive to leaving fingerprints.
20 And in that case, you would end up taking a DNA swab. You
21 can do both, but usually one over the other is usually
22 better.

23 Q You just kind of pick one and based on the
24 information you have at the time and make that decision?

25 A That's correct. With something like a light

Robert A. Henderson - Direct Examination by Ms. DeLoach

1 switch, since the surface area is so small, the likelihood
2 that you're going to get a really good fingerprint of value
3 on that really tiny light switch is very slim. So if it's
4 something like that, again, we would also go for touch DNA.

5 Q But fingerprints don't show up clearly everywhere
6 like it's shown on CSI, right?

7 A I wish they did, but they don't.

8 Q No further questions.

9 THE COURT: You may step down.

10 Next witness.

11 MS. DELOACH: The State would call Robert Henderson
12 to the stand, please.

13 THE COURT: If you would come around, please.

14 MS. YOUNG: May investigator Johnson be excused?
15 May she be excused, please?

16 ROBERT ALLEN HENDERSON,
17 having been duly sworn, testified as follows:

18 THE CLERK: Please have a seat in the witness chair
19 and state your full name.

20 THE WITNESS: Robert Allen Henderson.

21 **DIRECT EXAMINATION**

22 **BY MS. DELOACH:**

23 Q Good afternoon, Mr. Henderson.

24 A Good afternoon.

25 Q Where are you from?

Robert A. Henderson - Direct Examination by Ms. DeLoach

1 A Augusta, Georgia.

2 Q And how long have you lived in Augusta?

3 A Lifetime.

4 Q And where are you employed?

5 A Georgia Pacific.

6 Q And do you know why we're here today?

7 A On behalf of my son.

8 Q Do you recall what you were doing on May 9, 2015?

9 A Working at Fort Gordon, Georgia.

10 Q And did you receive a phone call of any sort that
11 day?

12 A I did.

13 Q And what was that about?

14 A In reference to my son with a gunshot wound.

15 MR. CHESSER: Your Honor, I have a matter. I
16 wonder if we could approach at this time.

17 THE COURT: All right. Step over here and let's
18 see what we got.

19 (There was a bench conference out of the hearing of
20 the jury and the Court Reporter.)

21 THE COURT: All right. In regards to that, let's
22 just move along, please.

23 BY MS. DELOACH:

24 Q Mr. Henderson, did you speak to anybody in regards
25 to the investigation of this case while you were at the

Robert A. Henderson - Direct Examination by Ms. DeLoach

1 hospital?

2 A Yes, ma'am, I did.

3 Q And who did you speak to?

4 A If I understand you correctly, I spoke with -- once
5 I found out that my son had a gunshot wound, I spoke with
6 Rick Jackson over the phone.

7 Q And let's back up a little bit. Where did you get
8 that name from?

9 A My son has a brother by the name of Patrick, so I
10 made contact with Patrick and I demanded that he come clean
11 and I need some answers immediately. So he told me that,
12 Hey, I got Rick number --

13 THE COURT: No, no, sir, you can't testify to what
14 somebody said.

15 THE WITNESS: Okay. Yes, sir.

16 But I got it from Patrick.

17 BY MR. DELOACH:

18 Q And you made several phone calls to Rick on your
19 cell phone number?

20 A Yes, ma'am, I did.

21 Q Okay. I'm handing you what's been marked as
22 State's 94. Could you look over those and tell me if you
23 recognize them.

24 A Yes, ma'am. Look like the -- I had service with
25 AT&T and it looks like my phone records and the number

Robert A. Henderson - Direct Examination by Ms. DeLoach

1 that --

2 Q And during the course of this investigation did you
3 speak to one of the investigators in this case?

4 A Yes, I did.

5 Q And who did you speak with?

6 A Lieutenant Cameron.

7 Q And did you give him access to those phone records?

8 A I did, ma'am.

9 Q And how did he gain the access to those phone
10 records?

11 A How did he what now?

12 Q How did he gain access to those phone records?

13 A I gave him my -- I had to --

14 Q Your user name and password?

15 A Yeah, the user name and password so he could get
16 access. I'm sorry.

17 Q You're fine. And what you're holding, is that a
18 clear and accurate depiction of those phone records that
19 you allowed Mr. Cameron to view?

20 A Yes, ma'am, it is.

21 MS. DELOACH: Your Honor, the State offers Exhibit
22 94 into evidence.

23 MR. CHESSER: No objection.

24 (State's Exhibit Number 94 was entered into
25 evidence.)

Robert A. Henderson - Direct Examination by Ms. DeLoach

1 MS. DELOACH: Permission to publish to the jury?

2 BY MS. DELOACH:

3 Q Mr. Henderson, is your e-mail address listed on the
4 document?

5 A Yes, ma'am, I currently still have that same e-mail
6 address.

7 Q And what is that e-mail address?

8 A My first name spelled [REDACTED] as apple, D as in
9 [REDACTED].

10 Q And was that the address that you were living at at
11 the time you had this telephone number?

12 A Yes, ma'am.

13 Q And is that [REDACTED] in Augusta,
14 Georgia?

15 A [REDACTED], yes, ma'am.

16 Q And your name is listed as the user of this
17 telephone?

18 A Yes, ma'am, it is.

19 Q Could you please explain to the Court on the next
20 page what that first, I guess data record is -- first of
21 all, is that your telephone number listed?

22 A Yes, ma'am.

23 Q And what was that telephone number at the time?

24 A [REDACTED].

25 Q And that was area code [REDACTED]?

Robert A. Henderson - Direct Examination by Ms. DeLoach

1 A I'm sorry. Area code 706, correct.

2 Q And what was the telephone number that you dialed?

3 A That 305-323-0317 number.

4 Q And --

5 THE COURT: Hold on a second. 305-32 what?

6 THE WITNESS: [REDACTED]

7 BY MS. DELOACH:

8 Q And who did you associate with that telephone
9 number?

10 A That's the number I contacted Rick Jackson on.

11 Q And that was the number that you received from
12 Patrick?

13 A It is, ma'am.

14 Q And what date is this telephone call made?

15 A On the 10th of May 2015.

16 Q And do you see a time?

17 A Yes, ma'am. Approximately 5:52 p.m.

18 Q If you turn to the next page, are these the same
19 telephone numbers that were used? Your number being the
20 [REDACTED] and then you contacted [REDACTED]?

21 A Yes, ma'am, it is.

22 Q What does it indicate at the top of this record?

23 A At that time I was receiving an incoming call from
24 Rick Jackson.

25 Q All right. And did you answer that telephone call?

Robert A. Henderson - Direct Examination by Ms. DeLoach

1 A At the time, I think I answered it, but I was up at
2 the hospital and it kind of hung up on me.

3 Q Okay. Could you turn to the next page, please.

4 And what does that indicate at the top?

5 A A outgoing call.

6 Q And was that you calling Mr. Rick Jackson?

7 A Oh, yes, ma'am.

8 Q Okay. So these records show where you have called
9 him, received calls from him from that same number,

10 [REDACTED]?

11 A Correct.

12 Q On your telephone number?

13 A Yes, ma'am.

14 Q And those are the records for that?

15 A (Witness nodded head.)

16 Q Did you ever actually speak to Rick Jackson not on
17 the telephone?

18 A I did, ma'am.

19 Q And where was that at?

20 A At my niece apartment over in Augusta, Georgia,
21 Jennings Homes Housing Project.

22 Q And is that where he lived?

23 A I kind of believe so. I know he have a child so I
24 want to believe that, yes, ma'am.

25 Q He has a child with your niece?

Robert A. Henderson - Direct Examination by Ms. DeLoach

1 A Yes, ma'am.

2 Q And they -- that was at Jennings Homes?

3 A Yes, ma'am.

4 Q And you made contact with him there?

5 A I did, ma'am.

6 Q How exactly did you make contact with him?

7 A I -- after speaking with him on the phone, you'll
8 see that when I had phone contact with him over several
9 minutes, I told him I be there. So I, you know, I took
10 myself, you know, and a few people with me so that things
11 would be peaceful and civil and I wanted to have a dialogue
12 about what took place with my son. So I went over there.

13 MR. CHESSER: Your Honor, I would object to this
14 line of questioning.

15 THE COURT: Well, I'm going to let it stop right
16 there. I see the relevancy of that and I will overrule
17 that objection. I'm not sure where else you're going with
18 it.

19 MS. DELOACH: That -- that was the end of it, yes,
20 Your Honor.

21 THE COURT: Thank you, ma'am.

22 BY MS. DELOACH:

23 Q Mr. Henderson, please answer any questions that the
24 defense has for you.

25 A Yes, ma'am.

1 MR. CHESSER: I don't have any questions, but I
2 have a motion -- I have an objection --

3 THE COURT: Well, you just made your objection.
4 I'm getting ready to let the jury out.

5 MR. CHESSER: Okay. I don't have any questions for
6 Mr. Henderson. Thank you.

7 THE COURT: Thank you. All right, sir,
8 Mr. Henderson, I appreciate you coming. You're free to
9 leave.

10 THE WITNESS: All right: Thank you, sir.

11 THE COURT: Let me see y'all right over here for
12 just one second.

13 (There was a bench conference out of the hearing of
14 the jury and the Court Reporter.)

15 THE COURT: All right. Mr. Foreman, ladies and
16 gentlemen, we're moving right on schedule. The next
17 witness is longer than 16 minutes, so I hate to get started
18 on one and then we have to stop in right in the middle of
19 it and it's about a quarter till five. So we've utilized
20 the day pretty fully, so I'm going to break for the
21 afternoon. Please don't discuss the case with anyone.
22 Don't do any independent research. I will see y'all back
23 in the morning. We're going to start at 9:30. Is that
24 okay with everybody?

25 Would you like hot coffee in the morning, early?

1 How about a biscuit or something to nibble on before we
2 come out here? You want bananas and fruit?

3 I can tell you're a bananas and fruit guy.

4 Sausage biscuits good? Or whatever. Mr. Whittle
5 will go back in the jury room with you right now and y'all
6 tell him what you want and I'll see y'all -- we're going to
7 start at 9:30. Be on time. If you want to eat your
8 sausage biscuit or whatever we're going to have, get here a
9 little bit earlier. I can't let you bring it out here and
10 then we'll go tomorrow and I'll probably order lunch for
11 you so you don't have to go up the street on your own and
12 then we'll see how we're progressing and we'll go from
13 there.

14 Thank y'all very much. You've been very attentive
15 and I appreciate it.

16 Everybody else remain seated, please.

17 Oh, before you leave, leave your pads in your
18 chair. Mr. Whittle will pick those up in just a minute and
19 they'll be under lock and key tonight. No one will have
20 access to them.

21 (The jury left the courtroom at 4:44 p.m.)

22 THE COURT: Mr. Whittle, come back in and collect
23 the pads and put them up for me tonight, please.

24 All right. Anything from the State before we break
25 for the evening?

1 MS. YOUNG: Nothing from the State, Your Honor.

2 THE COURT: Mr. Chesser? Motions, objections?
3 Whatever you want to put on the record.

4 MR. CHESSER: I would move to strike
5 Mr. Henderson's testimony completely and I'd like to
6 explain why.

7 THE COURT: Certainly.

8 MR. CHESSER: What he testified to, in effect, was
9 that he approached one of his sons that in --

10 THE COURT: Before you do that, Rick Jackson is
11 who?

12 MS. YOUNG: He's a codefendant.

13 THE COURT: Who?

14 MS. YOUNG: He is a codefendant.

15 THE COURT: Thank you.

16 THE CLERK: Mr. Henderson, one of his sons was
17 killed during this robbery. He was the one that was shot.
18 And so he has another son and I think that that son and the
19 one who died are half brothers. And what Mr. Henderson
20 testified to, he approached his surviving son and he says,
21 I want some answers. And he has son says, well, you need
22 to call Rick Jackson or something like this. He gives him
23 a phone number for Rick Jackson and he called and
24 presumably somebody answers it. This is Rick Jackson.

25 And so -- but then he says they had some calls that

1 worked and some didn't. And then he said he had a
2 conversation with him and said I want to meet you to
3 straighten this out.

4 So basically what he testified to apart from his
5 surviving son, telling him he wanted to get to the bottom
6 of it, he had to get to Rick Jackson; the other thing that
7 he testified to was that he believed that the only way to
8 straighten this out, he used words to that effect, was to
9 meet with Rick Jackson. So what he testified to basically
10 was about his surviving son's state of mind or idea and
11 then he testified about his own state of mind that he
12 believed in effect that Rick Jackson had something to do
13 with this.

14 In other words, he says, my surviving son says Rick
15 Jackson had something to do with it and he says I believe
16 that Rick Jackson was part of a plan, a group that had
17 something to do with it. That is the effect of it. And
18 none of it is based on knowledge of any sort.

19 He's just testifying this is what his surviving son
20 believes and told him something and then he's saying this
21 is what I believe. And none of it is based on knowledge
22 and it's just a belief or opinion that he has about this
23 case that he testified to. It just -- there's nothing that
24 he saw or heard that had to do with the facts of this case
25 and I would think it's -- it's not relevant. It's not --

1 it's somebody's opinion or state of mind. That's what he
2 testified to and I would object to it and I would move to
3 strike it.

4 THE COURT: Ms. DeLoach?

5 MS. DELOACH: Your Honor, Mr. Henderson did not
6 speak to anyone's belief or state of mind. He stated that
7 he received a telephone number from his son and he used
8 said telephone number to make contact with Rick Jackson.
9 He never once said that he was going over to make things
10 straight with Rick Jackson. He said that he went over
11 there to find out some information. He never said what --

12 THE COURT: Tell me how it's relevant.

13 MS. DELOACH: It's relevant due to the telephone
14 number that he called Rick Jackson on.

15 THE COURT: How is that relevant? Or how will it
16 become relevant?

17 MS. DELOACH: It will become relevant through our
18 evidence that is within this case. We believe that all of
19 them worked in conjunction together and he passed that onto
20 law enforcement. That's how they were able to get enough
21 evidence, make maps and different --

22 THE COURT: That one number of Rick Jackson's.

23 MS. DELOACH: Yes, and they were able to get more
24 telephone numbers from that telephone in order to present
25 their case.

1 THE COURT: Ms. Beth Ann Young tell me how it's
2 relevant.

3 MS. YOUNG: Your Honor, he's just preemptively
4 objecting to evidence we haven't had a chance to put in.
5 Patrick's going to testify tomorrow. He's going to testify
6 that he was with this defendant, Rashawan Carter. He was
7 with Rick Jackson. He was with Rodriguez Jackson and his
8 brother. They were at Jennings Homes --

9 THE COURT: Who's going to testify to that?

10 MS. YOUNG: Patrick Neely, the brother of the
11 deceased --

12 THE COURT: Okay.

13 MS. YOUNG: -- who was part of the planning that
14 just happened that it all took place in Georgia. He's
15 going the testify to all of that. It's extremely relevant
16 to the conspiracy that they formed to come over here and
17 commit this crime. I mean we have to be allowed to put our
18 case on. And I don't think that he said anything that was
19 inflammatory. I don't think his whole testimony would need
20 to be stricken in any event and he didn't make any
21 objections at the time.

22 THE COURT: All right. I'm going to overrule the
23 objection. Presently -- if what you're telling me,
24 obviously, I have no reason to doubt you or Ms. DeLoach,
25 but if it does not come to fruition and none of that

1 happens, then I may strike his testimony, if it's not
2 relevant. But obviously, you've got to develop along the
3 way.

4 You can renew your motion. At the present time,
5 I'm going to allow it to remain in.

6 Anything else before we break for the evening?

7 MS. YOUNG: No, sir.

8 THE COURT: Tell me a little bit about tomorrow.

9 MS. YOUNG: Tomorrow is going to be very
10 interesting, Your Honor.

11 THE COURT: Well, no, not -- not the substance of
12 the testimony, but who all you got left.

13 MS. YOUNG: I have Detective Jeremy Hembree, he's
14 going to be the next witness. I have the brother, Patrick
15 Neely.

16 THE COURT: I tell you what, we'll go back in
17 chambers and we'll just chat. And you can tell Michael
18 back there who you got. We don't need to put it on the
19 record.

20 Anything for the record, Mr. Chesser?

21 MR. CHESSER: No, Your Honor.

22 THE COURT: All right. Mr. Carter, I intentionally
23 waited to talk to you about this outside the presence of
24 the jury, but I have noticed, or it appears to me that you
25 have dozed off a number of times during trial today. And

1 it was also, obviously, noted by court personnel who passed
2 me a note that said the defendant's asleep. I don't know
3 if you're asleep or not. If you are or you appear to look
4 like you are, if you want to sleep through it, that's your
5 prerogative, but I don't think that gives the jury a very
6 good impression. So you may want to talk to your lawyer
7 tonight.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: It appears that you are. I'm not
10 saying you are. If you want to, that's your privilege.
11 Fair enough?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Thank you. All right. We'll stand at
14 ease until 9:30 in the morning. I'll be here about quarter
15 after nine so if y'all have anything we need to resolve at
16 that time, let me know. Let me see y'all in chambers for a
17 moment, please.

18 (Court was adjourned for the day.)

19 **WEDNESDAY, FEBRUARY 14, 2018**

20 THE COURT: All right. The State ready to proceed?

21 MS. YOUNG: State is, Your Honor.

22 THE COURT: Mr. Chesser?

23 MR. CHESSER: Your Honor, I have a couple of
24 issues. I would ask the Court to reopen the issue of the
25 admissibility of the defendant's statements in order to

1 allow the defendant to testify as to that issue.

2 THE COURT: You mean the Jackson v. Denno?

3 MR. CHESSER: Yes, sir.

4 THE COURT: He had an opportunity and I've already
5 ruled. Thank you. Denied.

6 MR. CHESSER: The -- the other issue is that --

7 THE COURT: Hold on a second. When are you going
8 into the statement?

9 MS. YOUNG: Several witnesses away, not right now.

10 THE COURT: All right.

11 MR. CHESSER: On the -- another issue is it was
12 testified at the Jackson v. Denno hearing that the officers
13 executed what they called an exigent order in order to
14 locate the defendant that morning. And it appears an
15 exigent order does not involve any judge, it's not a search
16 warrant, it's just some order that they fax to the phone
17 company. And I would submit that getting the defendant's
18 location information by way of his phone, by way of this
19 order, constitutes a search.

20 In this case, it's a search without a search
21 warrant and I would take the position that any evidence
22 that they derived as a result of this exigent order without
23 a judge having reviewed it, is -- would be in violation of
24 the Fourth Amendment and also the --

25 THE COURT: Well, Mr. Chesser -- I'm sorry. I

1 didn't mean to cut you off. Go ahead.

2 MR. CHESSER: -- South Carolina Section 10, Article
3 1, the same provision against unreasonable searches and
4 seizures. I would just let the Court know that this issue
5 actually, it turns out is kind of a -- I guess you could
6 call it a hot button issue. The Supreme Court of the
7 United States heard oral argument on this issue on November
8 -- in November of last year, 2017 and they haven't issued a
9 decision yet.

10 But the -- in any event, we would move -- and the
11 evidence that -- as far as I know at this point, which was
12 derived as a result of this warrant less search, was his
13 statement about what vehicle he was driving and also his
14 subsequent statements that he made to law enforcement when
15 he was interviewed on May 9th of 2015.

16 THE COURT: Well, Mr. Chesser, I really don't know
17 what they are talking about when they say exigent order
18 that they were talking about in the Jackson v. Denno case.
19 I'm not going to rule on your motion presently. I'm going
20 the wait until we get to that portion of the trial where I
21 hear testimony on it, what it was, how they got it. We may
22 have to do a proffer, but I just don't have enough
23 information other than what representation was made in the
24 Jackson v Denno case to rule on it yet, so I will reserve
25 ruling until it becomes ripe. Fair enough?

Jeremy Hembree - Proffered Examination by Ms. Young

1 MR. CHESSER: Thank you, Your Honor.

2 THE COURT: You ready?

3 MS. YOUNG: Yes, sir, I was just going to say,
4 that is -- we're going to call as our first witness
5 Detective Jeremy Hembree. He's the one who obtained the
6 exigent. I'm happy to put a proffer on.

7 THE COURT: All right. Let's do it.

8 JEREMY HEMBREE,
9 having been duly sworn, testified as follows:

10 THE CLERK: Have a seat in the witness box. State
11 your name for the Court.

12 THE COURT: All right. Madame Solicitor, let's get
13 right to the point that counsel is concerned with, the --
14 whatever document they had to allow them to -- whatever
15 they did. Let's get a full record.

16 MS. YOUNG: Yes, sir.

17 **PROFFERED EXAMINATION**

18 BY MS. YOUNG:

19 Q Detective Hembree, are you the person who obtained
20 the exigent for the defendant's phone in this case?

21 A I am.

22 Q And how soon in relation to the crime did you
23 obtain that?

24 A Shortly within -- prior to lunchtime is when we had
25 contacted T-Mobile which was the service provider for the

Jeremy Hembree - Proffered Examination by Ms. Young

1 telephone number provided for us -- to us for Mr. Carter.

2 Q So between --

3 A Five to six hours.

4 Q Okay. And what is an exigent locate? How does
5 that work?

6 THE COURT: Well, what is it called? An exigent
7 what?

8 MS. YOUNG: It's not an order.

9 THE COURT: What is it.

10 THE WITNESS: It's an exigent request.

11 THE COURT: Exigent -- you have a copy of it?

12 THE WITNESS: Yes, sir.

13 THE COURT: May I see it?

14 THE WITNESS: Yes, sir.

15 MS. YOUNG: I have a photo copy.

16 THE COURT: Anything. It doesn't -- so this is
17 entitled Exigent Circumstance Request Form, T-M-O-L-E-R
18 contact. I don't know what that is. All right. Let's
19 see.

20 THE WITNESS: That stands for T-Mobile Law
21 Enforcement Representative.

22 THE COURT: All right. You may move forward,
23 please.

24 MS. YOUNG: Thank you.

25 BY MS. YOUNG:

Jeremy Hembree - Proffered Examination by Ms. Young

1 Q Detective Hembree, can you describe for the Court
2 the process that you used to obtain one of these and how it
3 works. Basically the steps.

4 A Okay. Whatever telephone number we have, we
5 determine who the service provider is for that. We will
6 then contact the law enforcement contact for that service
7 provider, whatever company that is. We will have an option
8 once we dial the 1-800 number that -- one of the options is
9 if it's a 9-1-1 emergency or exigent order or request for
10 their service provider information to choose that option.
11 We will then be in contact with a representative of their
12 company. We --

13 Q Does that mean you get to talk to a real person?

14 A We get to talk to a real person.

15 Q Okay.

16 A We give them the basis of why we feel we may need a
17 exigent locate on a telephone number and the device. They
18 review it based upon their terms and policies. If it fits,
19 they will then fax us the form that's in question. We fill
20 that form out with our supervisor's approval and then fax
21 it back to them.

22 Q So you don't even have this form unless they
23 approve it and send it to you?

24 A That's correct.

25 Q What was the exigency in this particular case?

Jeremy Hembree - Proffered Examination by Ms. Young

1 A We had responded, obviously, to a home invasion
2 where we had a deceased individual. We believed he was a
3 part of the, the group that had committed the home
4 invasion. At that point we had some unknown individuals
5 who had committed a home invasion and were unsure if they
6 had a participant in the shooting, but they also had
7 obviously done the home invasion while armed. So we felt
8 that there was a need to get them off of the street as soon
9 as possible.

10 Q So it's fair to say that you had the home invasion
11 and then you had a person who had been shot and you were
12 not sure about the circumstances of how that person was
13 shot at that point in time?

14 A Correct.

15 Q And that was part of your reason for the request
16 for the exigent.

17 A That's correct.

18 Q What did you do with the exigent information you
19 received?

20 A Well --

21 THE COURT: First of all, where did you get the
22 phone number 803-761-5459?

23 THE WITNESS: That was provided to us by one of the
24 codefendant's brother's.

25 THE COURT: Name?

Jeremy Hembree - Proffered Examination by Ms. Young

1 THE WITNESS: Patrick Neely had provided that name
2 to Lieutenant Cameron who had then contacted me.

3 THE COURT: Go ahead.

4 BY MS. YOUNG:

5 Q Did you provide that information to Agent Morlan
6 and Agent Colindres?

7 A I did. As soon as I -- the way the process works
8 is once it's approved, they then either, depending upon the
9 company, T-Mobile in this instance, will actually e-mail me
10 every 15 minutes to 20 minutes with a location of the
11 device.

12 THE COURT: All right. Hold on a second. They
13 would e-mail you with a location of the device, the device
14 being 803-761-5459?

15 THE WITNESS: Yes, sir.

16 THE COURT: You didn't have the telephone, all you
17 had was the number and all you got from T-Mobile was any
18 time that phone was activated and used, they would let you
19 know where that location was?

20 THE WITNESS: Correct. They send me an e-mail with
21 the GPS coordinates with a confidence factor within so many
22 meters of that GPS location of the device.

23 THE COURT: Anything else other than GPS
24 information?

25 THE WITNESS: No, sir.

Jeremy Hembree - Proffered Examination by Mr. Chesser

1 THE COURT: I mean, not the substance of the call,
2 not the substance of the text, the substance of the e-mail,
3 simply GPS location?

4 THE WITNESS: That's correct. On that -- the
5 initial day, the only thing we received was the GPS
6 information for the device. We followed up with a
7 subsequent search warrant that provided us with the call
8 detail records.

9 THE COURT: But this exigent circumstance request
10 form, the only thing that resulted out of that was GPS
11 numbers so you could attempt to locate whoever you were
12 looking for and no personal data, no nothing other than
13 location.

14 THE WITNESS: That's correct.

15 THE COURT: Mr. Chesser any cross?

16 MR. CHESSER: Yes, Your Honor.

17 THE COURT: I'm sorry, anything else you want to
18 ask?

19 MS. YOUNG: No, sir. Proffer.

20 **PROFFER EXAMINATION**

21 BY MR. CHESSER:

22 Q Detective Hembree, your understanding is that
23 Patrick Neely gave this information to Lieutenant Cameron?

24 A That's correct.

25 Q And then that was passed onto you, this phone

Jeremy Hembree - Proffered Examination by Mr. Chesser

1 number?

2 A Correct.

3 Q Okay. Did you try calling the phone number?

4 A No.

5 Q Okay.

6 THE COURT: Did you have a name of the phone
7 number.

8 THE WITNESS: Not initially, no, sir.

9 THE COURT: Thank you.

10 BY MR. CHESSER:

11 Q Well, let's be clear, you were given the phone
12 number and you understood that it belonged to Rashawan
13 Carter, right? That's what the information Patrick Neely
14 gave to Lieutenant Cameron?

15 A Not at my initial time that I had received the
16 phone number, it was within a couple of hours that we had
17 developed the name of Shawn.

18 Q Okay. Now, this form, I'm -- I would direct your
19 attention to -- well, I guess you could call the third
20 paragraph down, it says I hereby certify.

21 A Yes, sir.

22 Q Okay. And it says that I hereby certify that I'm
23 granted -- let's see -- I've been granted authority to
24 determine an exigent circumstance involving and it says A,
25 Immediate danger of death or serious physical injury to any

Jeremy Hembree - Proffered Examination by Mr. Chesser

1 person; B, Conspirator activity threatening the national
2 security interests; or C, Conspirator activities
3 characteristic of organized crime.

4 Which of these factors did you base this exigent
5 request on?

6 A A and C.

7 Q And are you aware that they did not even intend to
8 arrest Rashawan Carter as a result of finding his location?
9 Do you know that?

10 A Say that -- I'm sorry.

11 Q That it wasn't even intended to detain Rashawan
12 Carter with his location, they didn't even intend to arrest
13 him? Did you know that?

14 A I knew there was no warrants for him at that time,
15 correct.

16 Q Okay. And you state moving two paragraphs down, it
17 says, the emergency exists as follows, and it says, On
18 5/9/2015, the Aiken Department of Public Safety responded
19 to a home invasion in which shots were fired. Upon arrival
20 a male was located with a gunshot wound to the head. The
21 investigation had provided us with a telephone number for
22 an unknown individual who was involved in the incident and
23 the male located with the gunshot wound has since deceased
24 as a result of the gunshot.

25 That's the representation that you made the

Jeremy Hembree - Proffered Examination by Mr. Chesser

1 T-Mobile?

2 A That's correct.

3 Q Okay. The -- and there it says simply that the
4 investigation -- you have a telephone number for an unknown
5 individual who was involved in the incident. And so the
6 purpose of this was just to locate that individual?

7 A Correct.

8 Q Okay. Now, you could have sought a search warrant
9 for this information?

10 A We did.

11 Q But the pinging information -- you did, did you get
12 that that same day?

13 A I believe -- I know we sent a preservation to
14 T-Mobile along with the exigent for that telephone number.

15 Q And can you explain what a preservation is?

16 A Okay. It's -- it's basically a letter stating what
17 circumstance we're investigating with our case number and
18 that within a certain amount of time going forward, we will
19 seek the proper legal paperwork to obtain those business
20 records from that company.

21 Q In other words, basically it says preserve this
22 because in the future we're going to get a search warrant?

23 A Correct.

24 Q Okay. But you could have gotten a search warrant
25 at the time you submitted this exigent request form,

Jeremy Hembree - Proffered Examination by Mr. Chesser

1 correct?

2 A It was a fluid scene that morning. We were still
3 actively investigating the scene. So it wasn't feasible
4 for me necessarily to go away for a certain amount of time
5 to obtain a search warrant, locate a judge, just for call
6 detail records because search warrant won't provide us with
7 location information --

8 Q All right.

9 A -- at the time.

10 Q Nothing further.

11 THE COURT: Anything on redirect?

12 MS. YOUNG: No, sir, Your Honor.

13 THE COURT: Mr. Chesser, do you have any case law
14 whatsoever dealing with the exigent request as -- just
15 simply to obtain GPS numbers.

16 MR. CHESSER: Yes, sir. May I e-mail it to you.

17 THE COURT: Well, I'd like to read it.

18 MR. CHESSER: Yes, sir..

19 THE COURT: You may e-mail it to me.

20 MR. CHESSER: I can e-mail it to you.

21 THE COURT: Tell me what it says. Where is it
22 from.

23 MR. CHESSER: Well, what it says is exactly this:
24 That --

25 THE COURT: Send it to me.

1 (There was a pause in the proceedings.)

2 THE COURT: You got a copy I can look at?

3 MR. CHESSER: Yes, sir, I can print out a copy.

4 (There was a pause in the proceedings.)

5 THE COURT: You may have to hand it to me because
6 I'm not getting it.

7 MR. CHESSER: Your Honor, what I'm going to give
8 you is the case that is actually being -- where cert was
9 granted in the United States Supreme Court and so this is a
10 decision and it is a decision save that it is not a
11 violation of the Fourth Amendment, but cert was granted in
12 the Supreme Court, feels like there's a basis to differ
13 with that.

14 THE COURT: I don't know if you feel like there's a
15 basis maybe -- it's not necessarily --

16 MR. CHESSER: Well, I'm not going to predict what
17 they're going to decide.

18 THE COURT: Neither am I. But under the -- the
19 lower court ruling was it allowed them the information,
20 held it and did not require a search warrant.

21 MR. CHESSER: That's correct.

22 THE COURT: Do you have any other cases other than
23 that -- any case anywhere that says a search warrant is
24 required to obtain the GPS number.

25 THE CLERK: Yes, sir.

1 THE COURT: You said you do have one that says
2 that?

3 MR. CHESSER: Yes, sir.

4 THE COURT: While you're looking, Ms. Beth Ann
5 Young why is a search warrant not required.

6 MS. YOUNG: Your Honor, it's strictly an attempt to
7 gain the information from the company to locate the person.
8 And with regard to our particular case, which is what he
9 objects to, there was no search of Mr. Carter. They
10 located him in Columbia, ended up speaking with him, asked
11 him to come back to public safety. So him coming back to
12 public safety was voluntary and the statement that then
13 arose was all from his voluntary decision. We're not going
14 to try to use the exigent to inculcate him in any way, it's
15 just to explain how they --

16 THE COURT: Located him.

17 MS. YOUNG: -- located him, yes, sir.

18 THE COURT: And it got absolutely no personal
19 information other than GPS numbers.

20 MS. YOUNG: That's right. And any personal
21 information through GPS location would deal with WPU's. If
22 we were going to use any we would get into during the call
23 detail record that Detective Hembree came with a --

24 THE COURT: With a search warrant.

25 MS. YOUNG: Yes, sir.

1 (The Court is looking at a case.)

2 THE COURT: Well, you've handed me a case out of
3 the 6th Circuit Court of Appeals. Does that say you need a
4 search warrant to obtain the GPS numbers?

5 MR. CHESSER: That's the case that says you do not.

6 THE COURT: All right. Do you have one that says
7 you do.

8 MR. CHESSER: Yes, sir, I believe I do.

9 MS. YOUNG: What's that case name, Your Honor?

10 THE COURT: United States of America v. Timothy
11 Ivory Carpenter.

12 MS. YOUNG: Thank you.

13 THE COURT: And Timothy Michael Sanders.

14 (There was a pause in the proceedings.)

15 THE COURT: How accurate are the GPS coordinates as
16 to -- how much error is involved or does this case make
17 some distinction about how wide an area it provides or do
18 you know the answer to that question?

19 THE WITNESS: I know part of it. The e-mails give
20 us a certainty factor within meters. And I do recall on
21 the first e-mail that I received at 4:40 eastern standard
22 time is within 11 meters of that location.

23 THE COURT: All right. Anything else Mr. Chesser?
24 Michael?

25 MR. CHESSER: Sir?

1 THE COURT: Anything else?

2 MR. CHESSER: I will hand up this case United
3 States versus Ellis, which is a pretrial order denying
4 motions to suppress. But within it, it has a discussion of
5 this issue where it holds, my understanding, it holds that
6 this is a search when you just get the information, the
7 location information for an individual. I also -- well,
8 this particular case is some 50 pages long, but -- I would
9 just say this -- this issue is before the United States
10 Supreme Court. The case that's before them involves
11 location. It doesn't involve additional information other
12 than that.

13 Argument was held in November of 2017. It is
14 actually many people expect that the ruling is going to be
15 that it is a search to get somebody's information and that
16 without a judge's signature on a search warrant that it is
17 a violation of the Fourth Amendment and I'm sure it would
18 be a violation of our broader Section 10 Article 1 and we
19 would move again that this information obtained pursuant to
20 this exigent request be suppressed.

21 And further that the information obtained as a
22 result of that as a fruit of that violation of Mr. Carter's
23 rights be suppressed, including his statements to law
24 enforcement at the scene in Columbia and subsequently at
25 the Aiken Department of Public Safety.

1 THE COURT: Well, in the case that you handed me,
2 USA v. Carpenter, they make an analysis concerning the
3 Fourth Amendment and they cite to the case of Smith versus
4 Maryland, 442 US 4735 talking about expectations of privacy
5 and what the Fourth Amendment protects against. And in
6 that case they were talking mainly about the information
7 that was related to the personal communications.

8 In other words, what they were saying and what they
9 were conversing with each other about. And the Court says
10 as to that type of information I E information related to
11 personal communications. As to that kind of information,
12 the appellate courts have long recognized a core
13 distinction, although the content of personal
14 communications is private, the information necessary to get
15 those communications from point A to point B is not.

16 And it goes onto say police cannot eavesdrop on a
17 phone call without a warrant, but the Court in Smith held
18 that the police installation of a pin register, a device
19 that tracked the phone numbers the person dialed from his
20 home phone was not a search because a caller could not
21 reasonably expect those numbers to remain private.

22 Although the callers conduct may have been calculated to
23 keep the contents of the contents of his conversation
24 private, his conduct could not have been calculated to
25 preserve the privacy of the numbers he dialed.

1 So in this case they're simply asking for pings, I
2 i.e. GPS locations. They did not listen to any
3 communications, they did not invade any privacy. They
4 simply obtained the information to attempt to locate and
5 once they located him, he voluntarily went back to Aiken to
6 be interviewed and gave a statement and I assume subsequent
7 thereto a warrant was obtained for the consents of the
8 phone pursuant to a search warrant; is that correct?

9 MS. YOUNG: Yes, sir, that's correct.

10 THE COURT: I think you're protected on the record,
11 Mr. Chesser. I respectfully deny your motion.

12 Anything else?

13 MR. CHESSER: No, Your Honor.

14 THE COURT: Bring the jury.

15 MR. CHESSER: May we ask that this exigent request
16 be made a part of the record?

17 THE COURT: Yes. Make it a Court's Exhibit 2, I
18 think. They may use it in the trial, I'm not sure. But
19 for purposes of this motion, it's Court's Exhibit 2.

20 (Court's Exhibit Number 2 was marked for evidence.)

21 THE COURT: Is this your first witness?

22 MS. YOUNG: Yes, Your Honor.

23 (The jury entered the courtroom at 10:07 a.m.)

24 THE COURT: Mr. Whittle, how about for the first
25 break, get me a menu.

1 THE BAILIFF: Yes, sir.

2 THE COURT: Mr. Foreman, ladies and gentlemen of
3 the jury, I apologize we're 30 minutes late. We have not
4 been out here drinking coffee. I had a motion I did not
5 know I had to conduct. So we've been going since 9:30,
6 steady.

7 So we're going to start now. You have the choice
8 between Pat's and the SubShop. I'm going to order you
9 sandwiches, et cetera, anybody have a preference? Pat's or
10 the SubShop.

11 THE FOREPERSON: Your choice.

12 THE COURT: All right. Mr. Whittle, you make the
13 choice. They'll give you -- how about give them both menus
14 and when they look at them they can have a better chance of
15 making a decision.

16 When we take our first break, I'll have a menu back
17 there. We'll order lunch and we'll probably try to have it
18 here about quarter to one. We're going to break by quarter
19 to one until two. So when you finish your lunch, you can
20 go outside, or walk around stretch yourself, whatever if
21 that suits you.

22 All right. We're going to start back with the
23 trial of the case.

24 You may call your first witness.

25 MS. YOUNG: State calls Detective Jeremy Hembree.

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1 THE COURT: Mr. Hembree has been sworn already, so
2 you may proceed.

3 MS. YOUNG: Thank you, Your Honor.

4 **DIRECT EXAMINATION**

5 BY MS. YOUNG:

6 Q Detective Hembree, where are you employed?

7 A The Aiken County Department of Public Safety.

8 Q In what capacity?

9 A I'm an investigator.

10 Q How long have you been an investigator?

11 A About four and a half years.

12 Q And how long have you been in law enforcement
13 total?

14 A About since 2001.

15 Q Were you assisting with the investigation of a home
16 invasion on May 9th, 2015?

17 A I was.

18 Q And tell the jury how you first got involved in the
19 investigation that morning.

20 A I was contacted early that morning, just a couple
21 hours after the incident by Captain Sawyer, advising me
22 that we had had a home invasion overnight where one
23 individual had been shot and based on the severity of the
24 crime and the crime scene, it's one of those types of calls
25 that's an all-hands-on-deck, everybody that's available

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1 will come out for it.

2 Q What was the first thing you did in relation to
3 investigating this crime?

4 A I went to Aiken Public Safety headquarters where a
5 witness was being interviewed by Lieutenant Cameron. At
6 the conclusion of his interview, I performed a gunshot
7 residue kit on his hands, commonly referred to as GSR, and
8 then also took a buccal swab from that witness.

9 Q And which witness are you referring to?

10 A Mr. Chandler.

11 Q Melvin Chandler?

12 A Melvin Chandler.

13 Q What's a buccal swab?

14 A It's a DNA swab with a Q-tip inside the cheek of
15 the mouth.

16 Q What was the next thing that you did to help
17 investigate this incident?

18 A At the conclusion of that interview, Mr. Chandler
19 was still there, so he consented to a search of his mobile
20 phone that he had on his person, so I performed a
21 Cellebrite UFED Download of his device.

22 Q Describe for the jury what a cell phone -- cell
23 UFED Download is.

24 A It's basically a small, almost looks like a tablet
25 size computer that sits on my desk and what we'll do is we

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1 use certain cables that's compatible with that phone and
2 basically it will make a mirror copy of everything that's
3 on that device and place it onto a hard drive. And then
4 once I retrieve all this information, I -- the software
5 program that we use through Cellebrite will analyze it and
6 place it into a readable format for me to where I can look
7 at all call logs, text messages, picture messages, internet
8 history, really if it's ever been on that phone, I'll be
9 able to view it.

10 Q Does that include items that have been deleted?

11 A It does.

12 Q You stated this was a mirror image type copy. Does
13 the Cellebrite program affect the original phone in any way
14 or change the information?

15 A No.

16 Q How about the program and information or the report
17 that you received from it, are you able to manipulate or
18 alter the information?

19 A The only thing I can change is the time format.
20 When it's made a mirror copy, it puts it in what 's called
21 a UTC, which is Universal Time Code without any time zones
22 or Daylight Savings Time, so I will put that into the
23 current time zone and if we're within Daylight Savings
24 Time, we'll either add or take away that hour.

25 Q Okay. And what's the difference between UTC and

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1 Eastern Standard Time?

2 A Typically it's five hours. We're within Daylight
3 Savings Time we go back down to four.

4 Q What do you do with this program or report that's
5 created by the Cellebrite program?

6 A I'll make an original report or what we deem to be
7 an original and place it into -- on a CD or thumb drive,
8 depending upon the size and I'll place that original into
9 our evidence lockers and then I'll make a secondary copy
10 for analysis and review by the lead investigator and
11 myself.

12 Q And when you state that you're making that copy for
13 analysis and review, are you talking about -- what type of
14 analysis? How does that work?

15 A We'll -- we'll just go through all of that
16 information that we obtained. It's usually a large amount
17 of data for the call logs and we'll go around the time of
18 the incident to see what calls are made, if there was any
19 internet history, text messages, pictures, anything around
20 that time of the incident so determine what communication
21 that device may have had at that time.

22 Q So basically you're describing a search that you
23 have to do just by looking at the phone, regular -- as you
24 develop the Cellbrite and then taking the information that
25 you have and seeing if you get anything useful from it?

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1 A Correct.

2 Q How big are these reports, usually?

3 A Could be anywhere from a couple hundred pages to
4 several thousand.

5 Q And what's -- what's the difference there?

6 A The amount of data that's stored on the phone.
7 Typically we run into that when someone's had that phone
8 for a lengthy time there's usually the more data, but it
9 also depends on how much they use that phone for calls,
10 texts, internet history, web, it's -- any of that.

11 Q After you perform this Cellebrite on Melvin
12 Chandler's phone, what was the next thing that you did with
13 regards to investigation of this case?

14 A Completed an exigent request for the telephone
15 number belonging to the victim, Ms. Miller.

16 Q Okay. And describe for the jury what an exigent
17 request is.

18 A We will find a phone number in relation -- in this
19 instance Ms. Miller's. She provided a telephone number of
20 her phone because it was reportedly taken from her during
21 the robbery. So we will then contact that cell phone
22 service provider, whether it's Sprint, T-Mobile, whatever;
23 and I believe in Ms. Miller's instance it was Sprint.

24 We will contact Sprint, tell them the incident that
25 has taken place and speak with one of their legal

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1 representatives or law enforcement representatives and they
2 will determine if it fits their requirements for an
3 exigent. If it does, they will then fax us a form to fill
4 out, indicates that we're who we say we are with regard to
5 law enforcement and then our supervisors information. And
6 then we will fill that out and basically tell them the
7 story again in writing on the form and send it back to them
8 and then they will begin to give us information related to
9 the location of the device.

10 Q And what is the basic purpose, just location?

11 A Correct.

12 Q With regard to the victim's phone, were you able to
13 get information about where it was located?

14 A I did.

15 Q And where was that?

16 A Initially it gave us a location of Public Safety
17 headquarters and -- but it was a very low confidence
18 factor, which means it was within several hundred meters of
19 Aiken Public Safety headquarters. So we were unsure at
20 that point if the phone we had recovered from the deceased
21 individual was Ms. Millers, so I actually took it outside
22 of the building to where it had better service and the
23 subsequent ping of the device indicated that was the device
24 we recovered from Mr. Scruggs.

25 Q So you're saying that you had the cell phone

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1 already at headquarters because it was in Mr. Scruggs's
2 possession?

3 A That's correct.

4 Q And it had been taken out of his possession by the
5 responding officers on the scene?

6 A Correct.

7 Q So that wasn't really -- that was the end of that?

8 A Right.

9 Q Tell the jury what the next thing you did to assist
10 was.

11 A I then responded to Brown Lane to the incident
12 location to meet with Captain Sawyer to advise him of what
13 I had completed so far that morning. And also just see
14 what else needed to be done.

15 Q Did you do anything or -- what did you do while you
16 were there?

17 A I received a phone call from Lieutenant Cameron
18 indicating that one of the individuals they believed
19 involved had made a phone call to another witness and he
20 provided --

21 MR. CHESSER: I object to this hearsay, Your Honor.

22 THE COURT: Don't testify about what somebody said.

23 Rephrase the question.

24 BY MS. YOUNG:

25 Q Did you get some information regarding an

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1 additional phone number?

2 A I had two phone numbers that I subsequently
3 contacted our State Law Enforcement Division or SLED where
4 they have analysts available by telephone for us to give
5 telephone numbers to see what information we can recover
6 related to that.

7 Q So without saying what was said, who did you get
8 that information from?

9 A SLED.

10 Q I'm going back to the original phone number.

11 A Lieutenant Cameron.

12 Q And you sent the phone numbers to SLED for what
13 purpose?

14 A Analysts -- I can give them that telephone number
15 and they will provide any information that they may have
16 related to those telephone numbers i.e. names, addresses.

17 Q Then was SLED able to provide any information
18 regarding the two phone numbers you requested?

19 A They did. They provided me a name of Vertes Parker
20 and a Sanquesha Ramsey.

21 Q What sources, if you know, does SLED use to develop
22 those names?

23 A They use a web based data base that they subscribe
24 to where that data base purchases third party information,
25 pizza orders, rewards cards, anywhere that you provide your

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1 information and they purchase that.

2 Q So the point of that is to try to associate names
3 with particular phone numbers?

4 A That's correct.

5 Q What did you do when you got the names Vertes
6 Parker and Sanquesha Ramsey?

7 A I was still on scene at Brown Lane and there was
8 another witness there and we asked if they were familiar
9 with either of those names.

10 Q Who was that?

11 A Treasure Simpkins.

12 Q You spoke to her personally?

13 A I did.

14 Q And without saying what she said, did you get some
15 additional information from her?

16 A We did.

17 Q And what did you do with that information?

18 A Compared it to the Vertes parker. We had a Shawn
19 Carter and we located his information where his full legal
20 name was Rashawan Vertes Carter.

21 Q And what was the next thing you did once you got
22 that name, full name?

23 A Since the telephone number that we received for
24 Shawn was the last he had used just previously that
25 morning, I also completed an exigent order or request for

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1 the location involving Mr. Carter.

2 Q Detective Hembree, I'm handing you what's been
3 marked for identification as State's Exhibit Number 99.
4 I'm going to ask you if you can tell -- identify that first
5 of all.

6 A I can.

7 Q Okay. What is it?

8 A It's the completed exigent circumstance request
9 form that was sent to T-Mobile in regards to the telephone
10 number we had for Mr. Carter.

11 Q Is that paper you're holding, State's 99, is that a
12 true and accurate copy of the exigent request that you did
13 in this case?

14 A It is.

15 MS. YOUNG: Your Honor, at this point we'd seek to
16 enter State's 99.

17 THE COURT: All right. Subject to the proffer,
18 objection, that we held earlier, I'll allow it in.

19 You're protected on that.

20 MR. CHESSER: Thank you.

21 (State's Exhibit Number 99 was entered into
22 evidence.)

23 BY MS. YOUNG:

24 Q So basically, you can only get that after speaking
25 to the phone company, correct?

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1 A Correct. This is not a form that we have readily
2 available to us.

3 Q And you have to provide them certain information
4 and they make determinations and if it meets whatever
5 criteria, they give that back to you?

6 A Correct. I have to give them over the recorded
7 line, the information that's going to be contained within
8 this form, but then once I give them my name, badge number,
9 our 24 hour law enforcement contact number, basically our
10 dispatch center, as well as my supervisor's information,
11 they will actually call to confirm that I am working and
12 involved in that investigation.

13 Q And then if they determine that, what happens?

14 A If they determine that I am working and am part of
15 that investigation they will then fax me this form or
16 e-mail it, depending upon the company and once I receive
17 it, then I'll complete it and then give them in writing
18 what I've told them over the telephone and then return it
19 to them.

20 Q So you're not able to get any information until
21 that form is completed and returned to the company?

22 A Correct.

23 Q Are you able to develop some information after you
24 sent that form back to T-Mobile?

25 A We did.

Jeremy Hembree - Direct Examination by Ms. Young

1 Q And what was that?

2 A That at approximately 4:40 Eastern Standard Time,
3 that the device belonging to the 803-761-5459, Mr. Carter's
4 telephone, had pinged to a location in Batesburg, South
5 Carolina.

6 Q Once you received that information, what was the
7 next thing that you did?

8 A I provided that location information to special
9 Agent Morlan and Lieutenant Cameron, as well as Agent
10 Colindres, the two agents that are a part of the ATF
11 violent crimes task force; and they subsequently started to
12 go that direction so that they could locate Mr. Carter.

13 Q Did the phone ever ultimately stop in any
14 particular location?

15 A It did.

16 Q Where was that?

17 A In Columbia, South Carolina.

18 Q What was the next thing that you did with regard to
19 the investigation?

20 A We -- I continuously provided them that information
21 and then obviously advised them that it had stopped at an
22 apartment complex in Columbia, South Carolina, at which
23 point they advised they had located a vehicle and
24 Mr. Carter and they were returning to Public Safety
25 headquarters.

Jeremy Hembree - Direct Examination by Ms. Young

1 Q That was the end of that particular order or --

2 A Yes.

3 Q -- or request that you sent?

4 A Correct.

5 Q What was the next thing that you did in the
6 investigation?

7 A I was at Public Safety headquarters when Mr. Carter
8 arrived and subsequently we had -- I need to back up a
9 little bit. I apologize.

10 We had actually contacted a rental company to see
11 if the name of Vertes Parker or Sanquesha Ramsey had rented
12 a car. And --

13 Q Why did you do that, without saying what other
14 people said?

15 A We had believed that they were in a rental car.

16 Q Okay.

17 A And neither of those names from Enterprise Rental
18 had rented a car, but we were informed that --

19 THE COURT: No, sir, it's --

20 MR. CHESSER: Object to this hearsay, Your Honor.

21 THE COURT: As a result of that what did you do?

22 THE WITNESS: Ultimately Ms. Simpkins returned to
23 Public Safety headquarters with the rental car.

24 BY MS. YOUNG:

25 Q And what's her full name?

Jeremy Hembree - Direct Examination by Ms. Young

1 A Whitney Simpkins.

2 Q And describe the vehicle that she returned?

3 A She had parked in front of Public Safety
4 headquarters out on the main road, so we had asked her for
5 consent to search the vehicle and she agreed. But based on
6 the location of where it was on the main road, we asked her
7 to actually pull it to the side of our building or our back
8 apron where the fire trucks park so we could conduct that
9 search in a safe manner.

10 Q Detective Hembree, I'm going to hand you for
11 identification purposes what's been marked as State's 73,
12 74, 75, 76, 77, 78, 79, and 80 and 81. Those are all in a
13 row. So basically 73 through 81, and ask you to look at
14 those and tell the Court whether you can identify what's
15 shown in those.

16 A I can.

17 Q And what's shown in those pictures?

18 A The initial photograph is the exterior --

19 Q Don't do that, yet, just generally speaking.

20 A Pictures of the vehicle that we searched that
21 evening.

22 Q And do those pictures truly and accurately reflect
23 the condition of the vehicle as you observed it?

24 A Correct.

25 Q Who took those pictures?

Jeremy Hembree - Direct Examination by Ms. Young

1 A I did.

2 MS. YOUNG: Your Honor, at this point in time, we'd
3 offer State's 73 through 81 into evidence.

4 MR. CHESSER: No objection.

5 (State's Exhibit Number 73, Number 74, Number 75,
6 Number 76, Number 77, Number 78, Number 79, Number 80, and
7 Number 81 was entered into evidence.)

8 MS. YOUNG: Your Honor, we'd request to be able to
9 publish them on the big screen while I ask Detective
10 Hembree some questions about them.

11 THE COURT: Thank you.

12 BY MS. YOUNG:

13 Q Detective Hembree, do you mind stepping down? And
14 just make sure you keep your voice up so the court reporter
15 can hear you.

16 (The witness stepped down in front of the jury.)

17 BY MS. YOUNG:

18 Q While it's getting ready, you stated it was
19 originally parked in front of headquarters?

20 A Correct.

21 Q And where was it moved?

22 A To our back apron.

23 Q And who moved it?

24 A Ms. Simpkins.

25 Q And the back apron is an area of what sort?

Jeremy Hembree - Direct Examination by Ms. Young

1 A Where our fire trucks park and that's off of the
2 main road.

3 Q We'll start with State's 73. What's shown in
4 State's 73?

5 A It's the overview picture of how the car, when we
6 parked it, and prior to some of us opening any of the
7 doors.

8 Q And obviously, there are two cars shown in that
9 picture, and you're referring to which one?

10 A The silver car with the Florida tag.

11 Q Okay. How about State's 74, can you identify
12 what's shown in that picture?

13 A That is the front passenger seat of the vehicle
14 once we opened the doors.

15 What we'll do when we -- prior to us searching any
16 car or anything, we'll take pictures as it sits before
17 anything is moved so that we can show how it was when we
18 began.

19 Q And basically that just means the condition that it
20 was received --

21 A That's correct.

22 Q -- prior to any search?

23 A Correct.

24 Q How about State's 75?

25 A This is the passenger side again, but showing the

Jeremy Hembree - Direct Examination by Ms. Young

1 rear seat.

2 Q State's 76?

3 A The front driver's seat.

4 Q State's 77?

5 A And the rear driver's side seat.

6 Q How about State's 78?

7 A The front dash. And what drew our attention to
8 this was where it was evident that it appeared that it had
9 been wiped down from the -- where the dust...

10 Q How about State's 79?

11 A Again, just showing -- it's kind of hard to tell in
12 this picture, but this area here directly in the middle
13 where it says no key detected was still dusty and the area
14 above it and just below it appeared to have been wiped
15 down.

16 Q And just for the record, you're pointing to the
17 middle of that picture in the speedometer area?

18 A Correct.

19 Q Okay. How about State's 80?

20 A This is the passenger side front dash. It appeared
21 to have been wiped down.

22 Q And State's 81?

23 A And this, I believe, is the driver's side rear door.
24 Again showing on the area just below where the window rolls
25 down and above the handle, again appeared to have been

Jeremy Hembree - Direct Examination by Ms. Young

1 wiped down.

2 Q Okay. Take your seat back up there.

3 (The witness returned to the witness stand?

4 BY MS. YOUNG:

5 Q What did you do after you took those photographs
6 and documented the condition of the car?

7 A I downloaded the copies and put them onto a CD
8 where it was -- the original was placed into evidence and
9 then a copy was provided to Lieutenant Cameron.

10 Q How about with regard to the car itself?

11 A I did search it and upon searching it, I add
12 located a Walmart bag that had a box for a Verizon cell
13 phone.

14 Q And what did you do with that information?

15 A I sent a preservation letter to Verizon Wireless
16 indicating that we would be seeking all detail records
17 related to that device and it's number and --

18 Q You said that you found the box in the car?

19 A I did.

20 Q Where was the phone?

21 A On Mr. Carter's person.

22 Q And he was also up there at the time?

23 A He was. He was being interviewed by Lieutenant
24 Cameron.

25 Q And just because we're talking about a lot of

Jeremy Hembree - Direct Examination by Ms. Young

1 different things, different forms, could you please remind
2 the jury what a preservation letter is?

3 A The preservation letter is -- it's basically just a
4 standard letter indicating that -- who I am in regards to
5 what kind of case we're investigating and that within --
6 within a reasonable amount of time we will be providing
7 them with legal paperwork to obtain that data that they
8 already recover on a day-to-day basis that can be provided
9 to us. And then we will ultimately follow up with a search
10 warrant to obtain that -- to -- to actually retrieve that
11 information.

12 Q Can you describe for the jury panel what the
13 difference is between the Cellebrite examination and then
14 the sort of request for preservation from the phone
15 company. What are the differences between those two?

16 A The Cellebrite is an instrument that we use in
17 house and it's taken directly from the device. The
18 preservation letter, again, is saying that we're aware that
19 you're the service provider for that telephone number and
20 we're wanting to get a copy of the business records that
21 you hold related to the call details and then ultimately
22 the call detail records will come from them and we will
23 actually compare what we locate on the call detail records
24 from the call provider with what we found on the phone from
25 the Cellebrite examination, actually from the device.

Jeremy Hembree - Direct Examination by Ms. Young

1 Q What sort of differences would they -- would you
2 expect to find, generally, if you would find any?

3 A You may see a small error in time and that's based
4 upon -- it may say that the -- and this is within seconds
5 or minutes -- that there -- perhaps if you hit send and it
6 takes a little bit of time prior to it actually going
7 through the service, when it hits the service, it may be
8 within a few seconds of that. Or if I'm attempting to
9 delete it from the phone, for instance call log, call
10 information or text messages, if it's been deleted from the
11 phone, I may not see that, but the call detail records will
12 pick that up.

13 Q Does this Cellebrite system work on all phones?

14 A No.

15 Q Why not?

16 A Some of them just aren't compatible. Cellebrite
17 attempts to, obviously, be able to support as many devices
18 as possible, but it's just sometimes not feasible.

19 Q Did you personally do an examination of the initial
20 Cellebrite report that you did with regard to Melvin
21 Chandler's phone?

22 A I did.

23 Q And did you find anything of note?

24 A I did. There had been a call deleted to an
25 individual in his phone as Trill.

Jeremy Hembree - Direct Examination by Ms. Young

1 Q It was deleted off of his phone?

2 A It was deleted off of the phone.

3 Q That shows up in reports somehow?

4 A It will show up in a report.

5 Q Describe for the jury, if you would, Detective
6 Hembree, what did you do over the next several weeks to
7 further this investigation and assist with it?

8 A We had received, obviously, the name of Rashawan
9 Carter and we had --

10 MR. CHESSER: We would object to the hearsay, Your
11 Honor.

12 THE COURT: Sustained. Rephrase the question.

13 BY MS. YOUNG:

14 Q What did you do with various information that you
15 received?

16 A I served search warrants on Facebook records
17 related to Mr. Carter, as well as some of the witnesses.
18 And also, approximately a dozen search warrants for
19 telephone numbers are related to individual devices.

20 Q Did the -- all the search warrants that you
21 obtained, did they all follow generally the same procedure?

22 A Correct. Well, we'll take the information that we
23 have based upon our belief of probable cause and we'll take
24 that before a judge and they will take that information and
25 determine if there's a reason -- probable cause to search

Jeremy Hembree - Direct Examination by Ms. Young

1 whatever it is that we're looking for.

2 Q Do you generally do a preservation letter for every
3 phone that you're going to try to get records for?

4 A I do.

5 Q Did you get any information back as a result of the
6 request that you made to Facebook?

7 A I did.

8 Q What was that?

9 A That the screen name for Rashawan Carter was listed
10 as Vertes Carter. Jasmine Hammond was listed as Love 'n
11 Desire and Melvin Chandler had a screen name of Melvin Hell
12 Mel Chandler.

13 Q When you request to get information through a
14 search warrant from the phone company, what is -- how do
15 they respond to that? Is this a procedure? Do they use
16 certain documents?

17 A They will -- ultimately once we serve them with a
18 search warrant via e-mail or fax they will -- sometimes
19 they acknowledge that they received it, but then typically
20 what we see is they just ultimately return the detail
21 records that they hold to us and typically in a secure
22 e-mail for us to log into and retrieve.

23 Q And do they also give you any documents aside from
24 the phone records themselves?

25 A They give us -- depending upon the company, we may

Jeremy Hembree - Direct Examination by Ms. Young

1 get all their text message detail, any data that they use,
2 account holder information, any other numbers associated
3 with the account. It really depends upon the company what
4 all they -- what all they capture during their normal
5 business records.

6 Q And how do you know -- what assurances do you have,
7 do you get from the company about information?

8 A When they return their information to us, they
9 actually send us a certification that this is a true and
10 accurate copy of their records obtained or held for that
11 telephone number.

12 Q Detective Hembree, I'm going to show you what's
13 been marked for identification purposes as State's Exhibit
14 2, along with State's Exhibit 2-A. And ask you if you can
15 identify those.

16 A I can. That's a -- it's a certification from T
17 Mobile signed by their subpoena compliance specialist and
18 then a CD that would contain the records that we obtained
19 through that...

20 Q Which one is which? I'm sorry.

21 A I'm sorry, 2-A. Is the certification provided by T
22 Mobile and Number 2 is a disk that would contain the
23 records.

24 Q And you say that they usually send you the records
25 in some sort of secure fashion, like...

Jeremy Hembree - Direct Examination by Ms. Young

1 A Typically and e-mail and then we have to log in
2 with a user name and password that we have generated for
3 that cite.

4 Q And then how do you preserve that information?

5 A Once I get it from their server, I'll download it
6 do a CD and then I'll make an, what we deem to be an
7 original of the first copy and then I'll make a copy for
8 analysis by the investigator that's handling the case.

9 Q And have you examined both of those items prior to
10 coming to court?

11 A I have.

12 Q And are they true and accurate copies of both the
13 phone records and the certification?

14 A That's correct.

15 MS. YOUNG: Your Honor, at this point in time we'd
16 move to offer State's Exhibit 2 and 2-A into evidence.

17 MR. CHESSER: No objection.

18 (State's Exhibit Number 2 and Number 2-A was
19 entered into evidence.)

20 BY MS. YOUNG:

21 Q And do you know from looking at that or from
22 referring to your notes, do you know which phone number,
23 whose records those are?

24 A We have it listed as the T-Mobile number belonging
25 to Rashawan Carter.

Jeremy Hembree - Direct Examination by Ms. Young

1 Q The defendant in this case?

2 A That's correct.

3 Q I apologize, I'm going to do the same thing for
4 each one.

5 A Okay.

6 Q I'm just saying this might be tedious.

7 I'm going to show you State's Exhibit 3 and 3-A.
8 And ask if you can identify those.

9 A I do.

10 Q And what are those?

11 A It's a -- 3-A is a certification of records
12 addressed to me by Verizon Wireless and their account
13 executive Andrew Sze, but it's spelled S-Z-E, indicating
14 that these are certified copies of the records that they
15 keep on a daily basis through their business.

16 Q And that's 3-A?

17 A That's 3-A. And then Number 3 is a CD of the, with
18 a copy of the records indicating that it belongs to what we
19 have labeled as Carter 2 because of the second phone
20 involved with the defendant, Mr. Carter.

21 Q And have you are reviewed both of those prior to
22 coming to court today?

23 A I have.

24 Q Are those true and accurate copies of information
25 you received regarding Carter 2?

Jeremy Hembree - Direct Examination by Ms. Young

1 A Yes, ma'am.

2 MS. YOUNG: Your Honor, at this point in time, we'd
3 move State's 3 and 3-A into evidence.

4 MR. CHESSER: No objection.

5 (State's Exhibit Number 3 and Number 3-A was
6 entered into evidence.)

7 BY MS. YOUNG:

8 Q Same procedure with 4 and 4-A.

9 A 4-A is a certification of records from Verizon
10 signed by the custodian of records Angela Evans.

11 Q And 4?

12 A And 4 is a CD of those records as we have it
13 labeled for Chandler 1 which would be Melvin Chandler and
14 his Verizon number.

15 Q And have you reviewed those prior to coming to
16 court?

17 A I have.

18 Q Are they true and accurate copies?

19 A Yes, ma'am.

20 MS. YOUNG: Your Honor, at this time we'd move
21 State's 4 and 4-A. Into evidence.

22 MR. CHESSER: No objection.

23 (State's Exhibit Number 4 and Number 4-A was
24 entered into evidence.)

25 BY MS. YOUNG:

Jeremy Hembree - Direct Examination by Ms. Young

1 Q How about State's 5 and 5-A? Can you identify
2 those?

3 A 5-A is a certification of records provided to us by
4 Sprint and their custodian of records is a Shawn, S-H-A-W-N
5 van Ross, R-O-S-S indicating that the records provided is a
6 true copy of what they collect on a day-to-day basis for
7 their company.

8 THE COURT: Who?

9 THE WITNESS: Sprint.

10 THE COURT: Whose the customer?

11 THE WITNESS: Oh, I'm sorry. Melvin Chandler and
12 we have it labeled as Chandler 2 because it was the second
13 phone involving Melvin Chandler that we had recovered.

14 BY MS. YOUNG:

15 Q And those are true and accurate copies of the
16 information you received?

17 A That's correct.

18 MS. YOUNG: Your Honor, at this time, we'd move
19 State's 5 and 5-A into evidence.

20 THE COURT: Mr. Chesser?

21 MR. CHESSER: No objection.

22 (State's Exhibit Number 5 and Number 5-2 was
23 entered into evidence.)

24 BY MS. YOUNG:

25 Q How about State's 6 and 6-A?

Jeremy Hembree - Direct Examination by Ms. Young

1 A 6-A is a certification of records from T-Mobile
2 signed by their senior specialist subpoena compliance,
3 Roger Santos, S-A-N-T-O-S, indicating that these are true
4 records that they acquire on a day-to-day basis. And
5 number 6 is a CD with a copy of those records that's
6 labeled as belonging to a Darius Scruggs.

7 Q Are those --

8 THE COURT: Spell that for me, Darius.

9 THE WITNESS: Darius, D-A-R-I-U-S Scruggs,
10 S-C-R-U-G-G-S.

11 THE COURT: Spell that again.

12 THE WITNESS: S-C-R-U-G-G-S..

13 BY MS. YOUNG:

14 Q Are those true and correct copies?

15 A They are.

16 MS. YOUNG: Your Honor, at this time we'd move
17 State's 6 and 6-A into evidence.

18 THE COURT: Any objection?

19 MR. CHESSER: No objection.

20 (State's Exhibit Number 6 and Number 6-A was
21 entered into evidence.)

22 BY MS. YOUNG:

23 Q State's 7 and 7-A. Can you identify those?

24 A Number 7 is a certification of records from
25 T-Mobile and signed by their custodian of records a

Jeremy Hembree - Direct Examination by Ms. Young

1 Cathleen, C-A-T-H-L-E-E-N, Rodriguez, R-O-D-R-I-G-U-E-Z,
2 Ismael, I-S-M-A-E-L, certifying that the records provided
3 are true and accurate copies of what they obtain in their
4 day-to-day business.

5 Q And how about State's Exhibit 7?

6 A It is a CD with a copy of those records for a
7 telephone number of 706-723-3900. And those belong to who
8 we have identified as Poppa, P-O-P-P-A.

9 Q Okay.

10 THE COURT: P-O-P-P-A?

11 THE WITNESS: Yes, sir.

12 BY MS. YOUNG:

13 Q Are those true and accurate copies?

14 A They are.

15 MS. YOUNG: Your Honor, at this time, we'd move
16 State's 7 and 7-A into evidence.

17 MR. CHESSER: No objection.

18 (State's Exhibit Number 7 and Number 7-A was
19 entered into evidence.)

20 BY MS. YOUNG:

21 Q Finally, I have State's 8 and 8-A?

22 A Number 8 is a certification of records from a --
23 provided by AT&T and signed by their custodian of records,
24 a Darko, D-A-R-K-O, Gospavic, G-O-S-P-A-V-I-C, indicating
25 that they are true and accurate copies of the records

Jeremy Hembree - Direct Examination by Ms. Young

1 obtained in their day-to-day business at AT&T. And number
2 8 (sic) is a CD that contains a copy of the records for the
3 telephone number 305-323-0317, who we have identified as
4 belonging to a Rick Jackson.

5 Q Are those true and accurate copies?

6 A They are.

7 MS. YOUNG: Your Honor, at this point in time, we'd
8 move 8 and 8-A into evidence.

9 MR. CHESSER: No objection.

10 (State's Exhibit Number 8 and Number 8-A was
11 entered into evidence.)

12 BY MS. YOUNG:

13 Q Thank you. I would like to ask you if you could
14 for the jury explain a little bit more about the difference
15 in UTC and Eastern Standard Time?

16 A UTC is the Universal Time Code. It's -- it's the
17 time prior to any time zone difference, either plus or
18 minus, depending on what time zone you're in. Eastern
19 Standard Time is typically 5 hours minus UTC, so it will be
20 five hours, if it's noon, at UTC, it's 7 a.m. Eastern
21 Standard Time. If we're within Daylight Savings Time, then
22 it's only four hours. So if it's noon while we're inside
23 Daylight Savings Time, in Eastern Standard Times, it's 8
24 a.m.

25 Q So the spring forward is the four hours and a fall

Jeremy Hembree - Direct Examination by Ms. Young

1 back is five hours?

2 A That's correct.

3 Q Thank you.

4 What did you do, Detective Hembree, with the
5 records once you received them from each provider?

6 A All the copies were forwarded to Lieutenant Cameron
7 who was the lead investigator in the case.

8 Q Did you have an occasion to do a physical
9 examination of several other phones in this particular
10 case?

11 A I did.

12 Q I'm going to hand you for identification purposes
13 what's been marked as State's Exhibits 87 and 88 and ask if
14 you recognize those?

15 A I do.

16 Q What are those?

17 A It's a picture of two matching Samsung telephones.
18 The front view and the rear view of those phones as we
19 received them.

20 Q Are those pictures true and accurate depictions of
21 the conditions of the phones?

22 A That's correct.

23 MS. YOUNG: Your Honor, at this point in time, we'd
24 move State's 87 and 88 into evidence.

25 MR. CHESSER: No objection.

Jeremy Hembree - Direct Examination by Ms. Young

1 (State's Exhibit Number 87 and Number 88 was
2 entered into evidence.)

3 BY MS. YOUNG:

4 Q And where did you get those phones from?

5 A They were provided to me by Lieutenant Cameron.

6 Q And what condition did you receive those phones in?

7 A As -- as we see them now, destroyed.

8 Q Which --

9 MS. YOUNG: Your Honor, may I publish these for the
10 jury?

11 THE COURT: You may.

12 BY MS. YOUNG:

13 Q You can just stay there. I'll just ask you from
14 here.

15 Okay. So the first should be State's 87?

16 A Okay.

17 Q And what's shown in that?

18 A This is the screen view or front view of the two
19 Samsung telephones.

20 Q And they show damage to those phones?

21 A Those screens are basically shattered. And you can
22 tell where they had been put in some -- put or either had
23 some type of liquid placed on them.

24 Q Okay. How can you tell that?

25 A You can see the water stains or liquid stains on

Jeremy Hembree - Direct Examination by Ms. Young

1 the device.

2 Q What's shown in State's 88?

3 A It is the backside or the battery view indicating
4 that when we received them the batteries had been taken
5 out.

6 Q So basically these document the condition of the
7 phones when you received them?

8 A That's correct.

9 Q What did you do with regard to examining these two
10 phones?

11 A Even though they're in this type of condition, if I
12 can make a connection with the charging port or the data
13 port, I can still attempt to do a Cellebrite download of
14 them.

15 Q Did you do that in this case?

16 A I did.

17 Q What were the results of that?

18 A They were damaged beyond the capabilities of my
19 device.

20 Q Did you do any further investigation on those two
21 phones?

22 A I did. We -- we obtained a secondary search
23 warrant to them because the initial one had expired at the
24 time and they were transported to our State Law Enforcement
25 Division for analysis.

Jeremy Hembree - Direct Examination by Ms. Young

1 Q And what was the result of that?

2 A They were -- they were damaged beyond repair or
3 analysis.

4 Q So no information?

5 A Correct. They have the ability to do different
6 type of analysis on phones than what I have. So that's why
7 we had reached out to them.

8 Q So you couldn't get any physical information off of
9 the phones?

10 A Correct.

11 Q But you possibly could still get call detail
12 records from the company?

13 A Right. I wouldn't have what I get in house with
14 what I generate through the Cellebrite, but we did do the
15 search warrants for the call detail records from the
16 service providers.

17 Q Okay. Detective Hembree, I'm going to show you
18 State's 89, 90 and 91 and ask you to look at those and tell
19 me if you recognize those?

20 A I do.

21 Q What are those?

22 A They are pictures that I took of a phone belonging
23 to the deceased individual, Mr. Scruggs.

24 Q Where did you get the phone from?

25 A Lieutenant Cameron and myself had met with

Jeremy Hembree - Direct Examination by Ms. Young

1 Mr. Henderson, Mr. Scruggs's father on Aiken Augusta
2 Highway and he provided us the telephone.

3 Q And in what condition did you receive that phone?

4 A As we see it here on the picture and within a
5 sealed bag that was provided to him by hospital staff.

6 Q And it was sealed when you received it?

7 A Correct.

8 Q Describe for the jury the examination that you did
9 for that particular phone?

10 A I attempted to do a Cellebrite download of it, but
11 at that time, this phone was not compatible with that
12 method.

13 Q Okay.. What would you do if you were unable to do a
14 Cellebrite examination but could still access the phone?

15 A We will still contact the service provider and send
16 them a search warrant to get their call detail records.
17 But if we have the pin code or the ability to go into the
18 phone past the lock screen, if it's locked, we will do what
19 is called a manual examination of the device.

20 Q And were you able to do that with this particular
21 device?

22 A I was.

23 MS. YOUNG: Your Honor, may I publish 89, 90 and 91
24 for the jury.

25 MR. CHESSER: They're in evidence. No objection.

Jeremy Hembree - Direct Examination by Ms. Young

1 MS. YOUNG: I guess I should enter them if I
2 didn't.

3 THE COURT: Any objection?

4 MR. CHESSER: No objection.

5 (State's Exhibit Number 89, Number 90, Number 91
6 was entered into evidence.)

7 BY MS. YOUNG:

8 Q What's shown in State's 89?

9 A This is the -- basically the home screen of the
10 device that belongs to Mr. Scruggs.

11 Q Okay. And how about State's 90?

12 A This is a text message conversation that we located
13 within the messaging of Mr. Scruggs's device between he and
14 an individual that's stored in the contacts as Mass,
15 M-A-S-S.

16 Q And how about State's 91?

17 A That's a continuation of that text conversation.

18 Q And why did you document those particular texts?

19 A That occurred right around the time of the
20 incident, but we had identified Mass and the telephone
21 number belonging to him as a second individual possibly,
22 involved in the incident itself as a Rick Jackson.

23 Q That phone or name Mass was associated with Rick
24 Jackson?

25 A Correct.

Jeremy Hembree - Cross-Examination by Mr. Chesser

1 Q Did you do any additional investigation in this
2 case?

3 A We obviously took the telephone number as it was
4 stored for Mass and, again, it was a 305 number that we
5 have with the call detail records from AT&T.

6 Q That you previously testified to and are already in
7 evidence?

8 A Correct.

9 Q No further questions. Answer any the defendant's
10 attorney may have.

11 MR. CHESSER: May I approach the witness, Your
12 Honor?

13 THE COURT: Sure.

14 **CROSS-EXAMINATION**

15 BY MR. CHESSER:

16 Q Detective Hembree, I just have one question about
17 this exhibit 89?

18 A Yes, sir.

19 THE COURT: Back up so my jurors can see.

20 MR. CHESSER: I'm sorry.

21 THE COURT: There you go. You're fine.

22 MR. CHESSER: Thank you.

23 BY MR. CHESSER:

24 Q This is a photo of an individual that was on this
25 phone; is that right?

Jeremy Hembree - Cross-Examination by Mr. Chesser

1 A Correct.

2 Q And did you determine who this individual is?

3 A Darius Scruggs.

4 Q And this is the individual that was deceased at the
5 crime scene?

6 A Correct.

7 Q Okay. Thank you. I have no further questions.

8 THE COURT: All right. You may --

9 MS. YOUNG: No redirect.

10 THE COURT: Everybody okay?

11 Next witness.

12 MS. YOUNG: State calls Patrick Neely.

13 (There was a pause in the proceedings.)

14 MS. YOUNG: He had stepped downstairs, but he's
15 coming in now.

16 THE COURT: Come around, Mr. Neely, please. Thank
17 you.

18 PATRICK NEELY,

19 having been duly sworn, testified as follows:

20 THE CLERK: Please have a seat in the witness box.

21 State your full name for the Court.

22 THE COURT: Good morning, Mr. Neely.

23 THE WITNESS: How you doing, sir?

24 THE COURT: I'm fine. And you?

25 THE WITNESS: Hey there, y'all. My name is Patrick

Patrick Neely - Direct Examination by Ms. Young

1 Neely.

2 DIRECT EXAMINATION

3 BY MS. YOUNG:

4 Q All right. You're going to have to speak clearly
5 for the court reporter.

6 A My name is Patrick Neely.

7 Q Okay. That's good. Clearly and loudly. That was
8 good.

9 Mr. Neely, how are you -- who is Darius Scruggs to
10 you?

11 A My little brother.

12 Q And do you have another nickname that you call him?

13 A Black Boy.

14 Q Do you know the defendant in the case Rashawan
15 Carter?

16 A Yes, ma'am.

17 Q How do you know him?

18 A Childhood, elementary school, grew up with him.

19 Q You went to the same school growing up.

20 A Yes, ma'am.

21 Q You've known him how long?

22 A Nearly all my life.

23 Q I'm going to direct your attention back to the
24 evening of May 8th, 2015. Do you recall that date?

25 A Yes, ma'am.

Patrick Neely - Direct Examination by Ms. Young

1 Q Who were you with on that day?

2 A On that day it was me, myself, Patrick Neely,

3 Rodriguez Jackson, Shawn Carter, Black Boy.

4 Q Let me ask you this: Were all those people -- were

5 you with different people at different times?

6 A Yeah, different times.

7 Q Who did you start out with?

8 A Shawn, as in Shawn Carter and Rodriguez Jackson.

9 Q Where were y'all?

10 A In Augusta.

11 Q And what were you doing?

12 A Joyriding.

13 THE COURT: I'm sorry, doing what?

14 THE WITNESS: Joyriding. Riding around.

15 THE COURT: Joyriding?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right.

18 BY MS. YOUNG:

19 Q What kind of vehicle were you riding in?

20 A We was in a gray Nissan, push start.

21 Q Did you say push start?

22 A Yes, ma'am.

23 Q Whose car was that?

24 A At that time I -- I didn't even know. At that time

25 it was -- Shawn Carter, he was driving.

Patrick Neely - Direct Examination by Ms. Young

1 Q Did you stay in Augusta, or did you go somewhere
2 else?

3 A We stayed in Augusta, but we drove over to Carolina
4 and drove around.

5 Q And when you say you drove to Carolina, where in
6 Carolina did you drive to?

7 A Shawn Carter brother house. We ain't stay long.

8 Q Is that here in Aiken somewhere?

9 A In Aiken somewhere. We rode around some more in
10 Aiken. We went to something, I think, a neighborhood
11 called Bineville or Hineville, Hine Village, something like
12 that. That was it.

13 Q Was there ever anybody else in the car while y'all
14 were in Aiken?

15 A Earlier, like I want to say around that time, that
16 was the afternoon, but a couple more hours down the line,
17 it was me -- it was me, Donny -- I mean it was me, Freaky,
18 Shawn, and Whitney. We had just dropped Whitney off.

19 Q Okay. And who is Whitney? Do you know her full
20 name?

21 A No, ma'am.

22 Q And where does she live?

23 A In Aiken.

24 Q Where did you drop her off?

25 A We dropped her off somewhere behind the Aiken

Patrick Neely - Direct Examination by Ms. Young

1 Center, like where ASU -- on the back street where some
2 college is at, some apartments, two stories, three stories
3 apartment.

4 Q The apartments near a college over here in Aiken?

5 A Yes, ma'am.

6 Q And after that where did y'all go? All the places
7 you named previously?

8 A Yes, ma'am.

9 Q And after you drove around in Aiken some time,
10 where's the next place that you went?

11 A We went to some smoker house, as when I say smoker,
12 a crack head house. We didn't stay long there. Left there
13 and rode back to Augusta.

14 Q And what did you do when you went back to Augusta?

15 A Drove around, smoked some marijuana. Drove around
16 some more. Called my little brother.

17 Q And when you say your little brother, who are you
18 referring to?

19 A Black Boy.

20 Q What did you do after you called him?

21 A Well, after that we -- when I called him, we --
22 when I called him, I asked him about a lick.

23 THE COURT: About what?

24 THE WITNESS: A lick, as in --

25 THE COURT: A lick?

Patrick Neely - Direct Examination by Ms. Young

1 THE WITNESS: Yeah, like --

2 THE COURT: What's a lick?

3 THE WITNESS: A lick is like a jewel, a jewel is
4 something like when you find something like somebody to
5 rob, something like that. That's a lick.

6 BY MS. YOUNG:

7 Q Let me ask you this pretty directly. Did you pick
8 him up at some point in time?

9 A When I called him -- not right then and there, but
10 I'd say, in other words, yeah, yeah.

11 Q At some point in time you did pick him up?

12 A Yes, ma'am.

13 Q And at that point in time, who all was in the car?

14 A At that time it was me, Shawn, and Freaky.

15 Q Who's Freaky?

16 A Rodriguez Jackson.

17 Q That's another name for him?

18 A (Witness nodded head.)

19 Q Once y'all got together, did y'all come into
20 contact or try to contact anybody else?

21 A We got together -- I think the only person my
22 little brother had got in contact with was a young man
23 named Mars -- Mass. They call his name Rick Jackson.

24 Q Rick Jackson? And what nickname are you calling
25 him?

Patrick Neely - Direct Examination by Ms. Young

- 1 A Maz, Mass.
- 2 Q Maz or Mass? Had you met him before?
- 3 A I met him when I came home from prison. Then
- 4 birthdays and childrens and all that, but...
- 5 Q What were you in prison for?
- 6 A Possession of crack cocaine.
- 7 Q And you met Rick after you got out of prison?
- 8 A I met him when I got out of prison through my
- 9 little brother.
- 10 Q After your brother called Rick, what's the next
- 11 place that y'all went?
- 12 A Club Climax -- Club Climax.
- 13 Q And who all went there with you?
- 14 A Me, myself, Shawn Carter, Rodriguez Jackson, and my
- 15 little brother Black Boy.
- 16 Q Where's Club Climax?
- 17 A Off of Gordon Highway.
- 18 Q You been there before?
- 19 A Yes, ma'am.
- 20 Q Okay. What did y'all do when you got to the Club
- 21 Climax?
- 22 A We was sitting in the parking lot. Got out, smoked
- 23 a couple of cigarettes. I think my little brother had
- 24 walked into the club and got Rick or met him halfway out.
- 25 Once we got up with him, we went to Jennings Home next.

Patrick Neely - Direct Examination by Ms. Young

1 Q Let me stop you real quick. So y'all were going
2 there to meet him?

3 A Yes, ma'am.

4 Q And when I say him, I'm referring to Rick.

5 A Yes, ma'am.

6 Q Pat, I'm going to show you what's been marked for
7 identification as State's Exhibit 83 and 84 and ask you to
8 take a look -- you can hold onto them. Take a look at each
9 picture and tell me if you recognize what's in it without
10 saying what it is.

11 A Say that again, ma'am.

12 Q Do you recognize what's in the picture?

13 A Yes, ma'am.

14 Q And what is it?

15 A A gas station, a car wash, and the Club Climax.

16 MS. YOUNG: Your Honor, at this time, we'd move
17 State's 83 and 84 into evidence.

18 MR. CHESSER: No objection.

19 (State's Exhibit Number 83 and Number 84 were
20 entered into evidence.)

21 BY MS. YOUNG:

22 Q That's the place that you're referring to that you
23 went to meet up with Rick?

24 A Yes, ma'am.

25 Q The gas station is next to the club?

Patrick Neely - Direct Examination by Ms. Young

- 1 A Yes, ma'am.
- 2 Q Okay. You said he eventually came outside?
- 3 A Yes, ma'am.
- 4 Q And where did -- who did he come out with?
- 5 A He came out with a man, David Wesby.
- 6 Q David Wesby?
- 7 A (Witness nodded head.)
- 8 Q And did they get in your car or did they get in a
9 different car?
- 10 A They had got in a different car.
- 11 Q And where did you go -- did you leave? Did y'all
12 leave Club Climax?
- 13 A We left Climax and went to Jennings Home.
- 14 Q And what's Jennings Homes?
- 15 A Jennings Homes is a neighborhood -- well a little
16 complex. We went out there and met up.
- 17 Q Who all met up?
- 18 A Me, Shawn, Freaky as in Rodriguez Jackson, Darius
19 Scruggs as in Black Boy, and Mass as in Rick Jackson.
- 20 Q Okay. And what were y'all discussing -- or were
21 you discussing something? You said y'all met up?
- 22 A We met up, but I wasn't discussing with them. But
23 the only -- the only three people that were discussing was
24 Mass, as in Rick Jackson, Darius Scruggs as Black Boy, and
25 Freaky.

Patrick Neely - Direct Examination by Ms. Young

1 Q And what were they discussing?

2 A About a lick. Dude named Mel. You know, once they
3 sick that name, you know, they cleared ties and hopped back
4 in the car.

5 Q Let me ask you this: Please tell the jury what a
6 lick is.

7 A A lick is somebody that got something, as in -- how
8 can I explain this. A lick is like a jewel, somebody that
9 got something that you ain't got.

10 Q And you want to do what?

11 A Take.

12 Q So it's a robbery?

13 A Yes, ma'am.

14 Q And you said that a name was discussed. The name
15 was what?

16 A Mel. Some dude named Mel in Aiken.

17 Q And do you know why you went to Jennings Homes?
18 Does somebody live there in that group?

19 A At that time we went out there to meet. The
20 staying part, I don't know nothing about it.

21 Q When y'all talked about the lick, who all was
22 standing there? Or when they talked about it?

23 A When they -- well, who all was standing there when
24 they were talking about the lick?

25 Q Uh-huh.

Patrick Neely - Direct Examination by Ms. Young

1 A Me and -- me and Mr. Shawn Carter, we was standing
2 by the car.

3 Q And who were the other people present?

4 A The other people that was there was my little
5 brother, Black Boy as in Darius Scruggs, freak as in
6 Rodriguez Jackson, and Rick Jackson..

7 Q And when y'all were discussing it, does that mean
8 y'all were talking about coming and doing that?

9 A Yes, ma'am.

10 Q And it was going to be those five people, including
11 you? Five people including you?

12 A Yes, ma'am.

13 Q Where did Mr. Wesby go?

14 A I do not know.

15 Q He was not present at that time?

16 A He was there, but he wasn't with us.

17 Q After y'all had that discussion, what was the next
18 thing that happened?

19 A They was talking about let's go so we all hopped in
20 the car.

21 Q Which car did you get into?

22 A The gray Nissan.

23 Q Where did -- and who all got in the car? Just got
24 to be specific.

25 A All right. Me, as in Patrick Neely, myself, Darius

Patrick Neely - Direct Examination by Ms. Young

1 Scruggs as in Black Boy, Shawn Carter, Rodriguez Jackson,
2 and Rick Jackson.

3 Q And where did you go next?

4 A River Glen.

5 Q And what's at River Glen?

6 A Eastbound -- off of East Boundary -- what's in
7 River Glen in my house, my home.

8 Q All right. Why did you go there?

9 A I do not know.

10 Q All right. Was there some kind of discussion going
11 on between you and your brother?

12 A Yes, ma'am.

13 Q And what was that?

14 A He didn't want me to go to Aiken. For what reason,
15 I do not know.

16 Q He didn't want you to come do the lick?

17 A Yes, ma'am.

18 Q And you wanted to come do the lick?

19 A Yes, ma'am.

20 Q And what did you ultimately do?

21 A We had a little argument. We had a argument. He
22 asked for the gun to give to Shawn. I gave him the gun.
23 He said don't worry about it, we'll be straight. I'll call
24 you when I get back.

25 Q All right. You said he asked you for a gun. You

Patrick Neely - Direct Examination by Ms. Young

1 had a gun?

2 A Yes, ma'am.

3 Q What kind of gun was that?

4 A It was a Smith and Wesson 40 Grand Black.

5 Q And what did you do with it?

6 A I give it to -- took it out of my waist and gave it
7 to my little brother and he gave it to Shawn.

8 Q And who else had a weapon out of those people?

9 A My little brother, Black Boy, he had a Smith and
10 Wesson 45 Grand Black, and Freaky Jackson, Freaky as in
11 Rodriguez Jackson had a Beretta .9 or a .9 millimeter.

12 Q So who all got in the car after they dropped you
13 off?

14 A When think dropped me off and left, Shawn Carter,
15 Rodriguez Jackson, Rick Jackson, and my little brother,
16 Black Boy.

17 Q And what was the next thing that happened?

18 A They left and I went in the house.

19 Q And what about after the -- they left, did
20 something else happen after that? Did you hear from the
21 defendant later?

22 A I heard from him like the next day. He called my
23 phone.

24 Q Let me ask you this, so that we're clear. Do you
25 know what time of the day or night it was when y'all were

Patrick Neely - Direct Examination by Ms. Young

1 talking about doing the lick, planning that?

2 A That was the nighttime.

3 Q Or early morning?

4 A Yeah, like early morning time.

5 Q Dark time? Was it dark?

6 A Yes, ma'am, because Climax closed at like 3:30, 4
7 o'clock in the morning, so yeah.

8 Q And then do you know what time it was that you
9 heard from the defendant?

10 A I heard from the defendant probably like -- if I
11 ain't mistaken like 7 or 8.

12 Q In the morning?

13 A Yes, ma'am.

14 Q And how did you hear from him?

15 A He called my cell phone and told me to come over.

16 Q Did he call you on his own phone? Or somebody
17 else's?

18 A I think he called me off somebody else's.

19 Q All right. And where did he ask you to go?

20 A Come to his nephew house.

21 Q Who's his nephew?

22 A Papa.

23 Q Does he go by -- do you know his real name?

24 A Shaquel (phonetic).

25 Q So he goes by Papa?

Patrick Neely - Direct Examination by Ms. Young

1 A Yes, ma'am.

2 Q What happened after he asked you to come over to
3 papa house? Let me ask you this: You lived in one
4 apartment in River Glen. Where did Papa live?

5 A Like I be staying in this part of River Glen, like
6 where y'all at now, Papa stay in that part of River Glen.

7 Q I'm going to show you what's been marked as State's
8 85 and State's 86. I ask you to look at it and tell me if
9 you recognize what's in that picture -- or those pictures.

10 A The complex of River Glen.

11 Q Do those pictures show where you lived and where
12 Papa lived?

13 A Yes, ma'am.

14 Q And on 85, have you marked that previously to
15 coming to court?

16 A Yes, ma'am.

17 Q And you wrote on -- well, let me ask you this: Are
18 those -- do those appear to accurately show River Glen as
19 you're familiar with it?

20 A Yes, ma'am.

21 MS. YOUNG: At this time, we offer State's 85 and
22 86 into evidence.

23 MR. CHESSER: No objection.

24 (State's Exhibit Number 85 and Number 86 were
25 entered into evidence.)

Patrick Neely - Direct Examination by Ms. Young

1 BY MS. YOUNG:

2 Q So on 85, you marked which house you live and which
3 house --

4 A Papa stay in.

5 Q And are they close together?

6 A Yes, ma'am.

7 Q Okay. You can put those down..

8 What happened when you went over to Poppa's?

9 A When I went over there, you know, seen Shawn Carter
10 and Freaky. I seen Poppa, his old lady, San and his two
11 little girl.

12 Q When you say his old lady, and San, is that one
13 person or two?

14 A That's one person.

15 Q Okay.

16 A When I came in through the door -- well, when I
17 knocked on the door, they offered me in and came in. They
18 were smoking marijuana; offered me a little hit. I tapped
19 it a couple of times. I asked Mr. Shawn Carter, where was
20 my little brother and did he see my little brother. He
21 couldn't say, he just dropped his head.

22 I'm looking around. I look out the window. I
23 asked him again did he see Black Boy. The words that came
24 out about where he was, He gone.

25 Q What did you say?

Patrick Neely - Direct Examination by Ms. Young

1 A I said, What you mean, he gone. He drop his head
2 again and the next word that came out his mouth was like,
3 It happened too fast and there wasn't nothing I could do.

4 Q What else did he say?

5 A I asked him what -- what -- I asked him if y'all
6 had hit the lick, where Black Boy was at. He still didn't
7 say it. I look at Freaky, he playing with his gun, taking
8 it apart and putting it back together. That was it. I
9 went out the door, called my mama, asked her to call around
10 and call Black Boy phone and see if he'll pick up. She
11 called back with like, No, Baby he didn't pick up.

12 So I told her to call, you know, another -- call
13 University, or call, you know, just call around. She
14 called around. She called up here at Aiken Hospital and
15 they were like -- she was like, Baby, they got him. Darius
16 Scruggs they got him in the hospital, a wound to the head.

17 Q All right. What did you do after you got that
18 information that he was in the hospital?

19 A I shed some tears. Went over there to my old lady
20 house and told her about it.

21 Q When you say that, are you referring to the place
22 where you live?

23 A Where I stay at.

24 Q Okay.

25 A Mom called again.

Patrick Neely - Direct Examination by Ms. Young

1 Q Is that your mom?

2 A Yes, ma'am. Brenda Scruggs, my mom. She called
3 again, she was like, Where you at. I told her I was down
4 here in a neighbor talking to Shawn. She was like, Well
5 what do he got to say about it. I was like the word that
6 came out of his mouth was, Keep it in the street.

7 Q Did you ever go back over to Poppa's house?

8 A I went back to Papa house, but on my way going back
9 over there, Shawn, Freaky, and -- let me start again.
10 Shawn Carter, Rodriguez Jackson, and Whitney and some other
11 female was on their way leaving out.

12 Q You saw them leaving the complex?

13 A By the time I got back to the apartment, they was
14 on their way leaving out.

15 Q What car were they in?

16 A That same gray Nissan.

17 Q Did the defendant ever talk to you about your gun?

18 A I had asked him about the gun. He gave it back to
19 me. When I got the gun back it was still the same, still
20 loaded, one in the head, 14 shot -- Smith and Wesson. When
21 he gave me the gun back I gave it back to him, but I took
22 it back and I let somebody else borrow the gun and I ain't
23 never received the gun back.

24 Q Were you honest with Lieutenant Cameron about what
25 happened to the gun initially when he asked you about it?

Patrick Neely - Direct Examination by Ms. Young

- 1 A Yes, ma'am.
- 2 Q Did you tell him you took it back or not?
- 3 A I took it back.
- 4 Q What did you tell him?
- 5 A I told him that I didn't.
- 6 Q So you were not honest with him at first?
- 7 A No.
- 8 Q You said you didn't take it back. But now you're
- 9 saying you did take it back?
- 10 A Yes, ma'am.
- 11 Q And who gave it to you?
- 12 A Shawn Carter.
- 13 Q And that was -- when did he give it to you?
- 14 A I want to say that was what -- what, May 8th or May
- 15 9th.
- 16 Q The morning that you're talking about?
- 17 A Yeah, the next day.
- 18 Q When you saw him?
- 19 A Yes, ma'am.
- 20 Q At Poppa's?
- 21 A Yes, ma'am.
- 22 Q Do you know what time it was -- if you do know --
- 23 when they dropped you off before they left to go to Aiken?
- 24 A It couldn't be no more than probably like 5 because
- 25 we wasn't gone -- the club -- the club closed at 4, 4

Patrick Neely - Direct Examination by Ms. Young

1 o'clock, 4:30. So we went to Jennings Home and we didn't
2 stay out there no more than like 5, 10 minutes.

3 Q Were y'all at Club Climax until it closed? Or were
4 they at the Club Climax until it closed?

5 A I can't remember.

6 Q Do you have a prior conviction for possession of
7 drugs?

8 A Yes, ma'am.

9 Q After you heard about your brother being in the
10 hospital, did you go to the hospital?

11 A Yes, ma'am.

12 Q Which -- which one?

13 A University Hospital -- I mean MCG.

14 Q And did you talk to any police officers at the
15 hospital?

16 A I talked to Officer Cameron and the tall, old
17 school white dude.

18 Q Okay. And what information did you give them?

19 A The same information I'm giving y'all now.

20 Q Did you give them names and phone numbers?

21 A Yes, ma'am.

22 MR. CHESSER: Objection to this bolstering, Your
23 Honor.

24 THE COURT: Overruled.

25 BY MS. YOUNG:

Patrick Neely - Direct Examination by Ms. Young

- 1 Q You can answer that.
- 2 A Ma'am?
- 3 Q Did you give them names and phone numbers?
- 4 A Yes, ma'am.
- 5 Q Do you recall whose names you gave them?
- 6 A I gave them Shawn name, Rodriguez, and Mass as in
- 7 Rick Jackson.
- 8 Q Did you give them phone numbers for them also?
- 9 A I gave them Shawn's number and Poppa's number.
- 10 Q Shawn's number and Poppa's number?
- 11 A Yes, ma'am.
- 12 Q And your -- Poppa's his nephew?
- 13 A Uh-huh.
- 14 Q Shawn's nephew.
- 15 A (Witness nodded head.)
- 16 Q How often did you see Shawn before all this
- 17 happened?
- 18 A Sometimes on an every day basis and then most times
- 19 out of the blue. That particular day it was out the blue.
- 20 Q Okay. Have you seen him again since this happened?
- 21 A No, ma'am.
- 22 Q Is he present in the courtroom today?
- 23 A Yes, ma'am.
- 24 Q Could you describe for the Court what he's wearing?
- 25 A A gray t-shirt and a fro, and some brown khaki

Patrick Neely - Cross-Examination by Mr. Chesser

1 pants.

2 Q Sitting next to the gentleman at the table?

3 A Yes, ma'am.

4 MS. YOUNG: Your Honor, we'd ask that the record
5 reflect that he's identified the defendant.

6 THE COURT: Yes, ma'am.

7 BY MS. YOUNG:

8 Q Patrick, how long have you had that hair style?

9 A I just recently grew this hair style.

10 Q And put it in those twists?

11 A Yes, ma'am.

12 Q How recently?

13 A Like two months.

14 Q Patrick, I don't have any questions for you, you
15 need the answer any questions Mr. Chesser has.

16 THE COURT: Everybody okay?

17 (No one responded.)

18 **CROSS-EXAMINATION**

19 BY MR. CHESSER:

20 Q Good morning, Patrick.

21 A Good morning.

22 Q You stated that you did a stretch in prison?

23 A (Witness nodded head.)

24 Q When did you get out?

25 A I got out 2014.

Patrick Neely - Cross-Examination by Mr. Chesser

- 1 Q And that was in a prison in Georgia?
- 2 A Yes, sir.
- 3 Q That must have been for selling drugs, right?
- 4 A Yes, sir.
- 5 Q All right. Is that the only time you've been in
- 6 prison?
- 7 A Yes, sir.
- 8 Q How old are you?
- 9 A 26.
- 10 Q You stated that you were okay with doing a lick?
- 11 A Yes, sir.
- 12 Q Okay. Is that unusual for you or is that -- are
- 13 you always ready to do a lick?
- 14 A Well, let me put it like this: It's not usual with
- 15 me. It was that particular day.
- 16 Q Okay. You just felt like it?
- 17 A (Witness nodded head.)
- 18 Q All right. Let me show you an exhibit.
- 19 (Mr. Chesser was looking for an exhibit.)
- 20 BY MR. CHESSE:
- 21 Q Patrick, I'm going to show you this Exhibit 68.
- 22 And can you tell me if you recognize it?
- 23 A Yes, sir.
- 24 Q Okay. Can you identify it then?
- 25 A A Smith and Wesson -- no this ain't a Smith and

Patrick Neely - Cross-Examination by Mr. Chesser

1 Wesson, it's like a Taurus.

2 Q Right. So you don't know that gun, do you?

3 A No, ma'am -- I mean no, sir.

4 Q All right. That's all the questions I have. Thank
5 you.

6 THE COURT: Anything on redirect?

7 MS. YOUNG: No redirect.

8 THE COURT: All right. Patrick you may step down.

9 MS. YOUNG: May he be excused?

10 THE COURT: Yes, he may.

11 How long is your next witness?

12 MS. YOUNG: Twenty minutes?

13 THE COURT: You good?

14 (Juror responded.)

15 THE COURT: We're not good.

16 All right. Ms. Shelvie, get them a menu from both
17 places and let them decide what they want to order.

18 Y'all go out and stretch your legs, we'll take
19 about a ten or fifteen minute break, come back and go to
20 about one probably.

21 Leave your pads in your chairs if you don't mind
22 and don't discuss the case.

23 (The jury left the courtroom at 11:29 a.m.)

24 THE COURT: All right. Anything from the State
25 before we break?

1 MS. YOUNG: No, sir.

2 THE COURT: Mr. Chesser?

3 MR. CHESSER: No, Your Honor.

4 THE COURT: Mr. Chesser in regards to that Jackson
5 v Denno, he just wants to testify?

6 MR. CHESSER: Yes, sir.

7 THE COURT: I'll probably find some time before we
8 do the, do the statement.

9 MR. CHESSER: We thank you.

10 THE COURT: Just so the record will be complete.

11 Who's your next witness.

12 MS. YOUNG: Whitney Simpkins.

13 THE COURT: Okay. She's not a statement witness,
14 is she?

15 MS. YOUNG: No, sir, but then I'm -- depending on,
16 what time we're at and where we're wanting to go, I may
17 call Agent Morlan next after that.

18 THE COURT: Okay.

19 How long -- how much does he want to tell me?

20 MR. CHESSER: It wouldn't take over ten minutes,
21 Your Honor. Maybe less.

22 THE COURT: All right. Let's stretch our legs real
23 quick and come back out and do that. And then we'll take
24 that next witness.

25 We'll stand at ease for a few minutes.

Rashawan Carter - Direct Examination In Camera by Mr. Chesser

1 (A brief recess was observed.)

2 **JACKSON V DENNO HEARING**

3 THE COURT: All right. Mr. Chesser let's do
4 whatever you want to do in the nature of the Jackson v.
5 Denno.

6 MR. CHESSE: Thank you, Your Honor. We'd call
7 Rashawan Carter.

8 RASHAWAN CARTER,
9 having been duly sworn, testified as follows:

10 THE CLERK: Is a seat --

11 THE COURT: Have a seat in the witness box, sir.

12 **DIRECT EXAMINATION IN CAMERA**

13 BY MR. CHESSE:

14 Q Rashawan, you recall being in Columbia on May 9th
15 of 2015?

16 A Yes, sir.

17 Q And who were you with?

18 A Jasmine.

19 THE COURT: I didn't understand you, sir.

20 THE WITNESS: Jasmine Hammond.

21 BY MR. CHESSE:

22 Q Jasmine Hammond; is that right?

23 A (Witness nodded head.)

24 Q And you were approached by law enforcement?

25 A Yes, sir.

Rashawan Carter - Direct Examination In Camera by Mr. Chesser

1 Q And you recall about what time that was of the day?

2 A About four or five.

3 Q Okay. You recall it being Agent Morlan and Officer
4 Colindres?

5 A Yes, sir.

6 Q Okay. How did you become aware of their presence?

7 A I was on my Verizon phone. I was talking and I
8 looked up and they was approaching with their guns out
9 saying Mr. Carter, you're wanted for questioning.

10 THE COURT: You're wanted what?

11 THE WITNESS: You're wanted for questioning.

12 BY MR. CHESSER:

13 Q Okay. So they had their guns -- did they both have
14 their guns out?

15 A Yes, sir.

16 Q Well, let's just take them one at the time. Agent
17 Morlan, he had his gun in one hand, what did he have in the
18 other hand?

19 A Nothing.

20 Q And Officer Colindres, what did he have? He had
21 his gun in one hand, what did he have in the other hand?

22 A Nothing.

23 Q They weren't showing you badges then?

24 A No. They were so far away right then.

25 Q Okay.

Rashawan Carter - Direct Examination In Camera by Mr. Chesser

- 1 A I couldn't visualize their badge.
- 2 Q Okay. And they approached, right?
- 3 A Yes, sir.
- 4 Q At some point did you visualize their badges?
- 5 A Yes, sir, when they got all the way up on me.
- 6 Q Okay. So they had the gun in one hand and the
7 badge in the other?
- 8 A I didn't see the badge in the other hand.
- 9 Q Where did you see the badge?
- 10 A It was around their neck. It wasn't outside the
11 shirt. That's why I couldn't visualize it at first.
- 12 Q Okay. And you said that they said you were wanted
13 for questioning?
- 14 A Yes, sir.
- 15 Q What was the exact phrase they used? Do you
16 recall?
- 17 A Mr. Carter, you're wanted for questioning.
- 18 Q Okay. And what happened then?
- 19 A And they asked me would it be all right if we
20 searched you.
- 21 Q And what happened after that?
- 22 A I said, I give them the okay.
- 23 Q Okay. Did they tell you that you did not have to
24 go with them?
- 25 A No, never.

Rashawan Carter - Direct Examination In Camera by Mr. Chesser

1 Q Okay. Did you -- what were your feelings? Did you
2 feel like you could go wherever you wanted to?

3 A No.

4 Q Okay. Tell the Court what you felt the situation
5 was?

6 A I felt like they asked me, you're wanted for
7 questioning, so I took it as I had to go.

8 Q Right. Okay. And that -- and you rode back with
9 Officer Colindres?

10 A Yes, sir.

11 Q Okay. Did they tell you on that ride back that you
12 were free to go?

13 A On the ride back to --

14 Q To Aiken?

15 A -- Public Safety?

16 Q Right.

17 A No, sir.

18 Q Okay. So at Public Safety, did you feel like you
19 were free to go?

20 A No, sir.

21 Q All right. That's all the questions I have. Thank
22 you?

23 THE WITNESS: That's it?

24 THE COURT: Yes, sir, you may step down.

25 Okay. Obviously, the Jackson v Denno requires me

Whitney Simpkins - Direct Examination by Ms. Young

1 to make a finding by the preponderance or the greater
2 weight of the evidence as to the voluntariness of the
3 statement and then it's obviously for the jury to determine
4 whether the statement was -- the statement's proven beyond
5 a reasonable doubt. So based on the additional testimony
6 by the defendant, I stand by my original ruling and for the
7 same rules as set forth.

8 All right. Y'all ready for the jury?

9 MS. DELOACH: Yes, sir.

10 MR. CHESSER: Yes, Your Honor.

11 THE COURT: Bring them in, please.

12 (The jury entered the courtroom at 11:41 a.m.)

13 THE COURT: All right. You may call your next
14 witness.

15 MS. YOUNG: State calls Whitney Simpkins.

16 WHITNEY SIMPKINS,

17 having been duly sworn, testified as follows:

18 THE CLERK: Have a seat in the witness box and
19 state your full name for the Court.

20 THE WITNESS: My name IS Whitney Shakina Simpkins.

21 **DIRECT EXAMINATION**

22 BY MS. YOUNG:

23 Q You're soft spoken, can you get a little closer to
24 that microphone, please?

25 A Whitney Shakina Simpkins.

Whitney Simpkins - Direct Examination by Ms. Young

1 Q Thank you.

2 THE COURT: Ms. Simpkins, pull that mic up to you
3 and speak into it, please, ma'am. Thank you.

4 BY MS. YOUNG:

5 Q Do you know the defendant in this case?

6 A Yes, I do.

7 Q How do you know him?

8 A That's my brother.

9 Q Your actual brother?

10 A No, he's not my actual brother.

11 Q Why do you call him -- why do you call him that?

12 A Because I dated his brother for ten years.

13 Q You dated his brother?

14 A Ricky Carter for ten years.

15 Q Make sure you talk into that, okay.

16 Do you recall May the 8th of 2015?

17 A Yes, ma'am.

18 Q What car were you driving then?

19 A It was a -- I know the color of the car was silver.

20 I don't know if it was a Camry or a Chrysler 300. It was
21 silver though.

22 Q Okay. And where did you get that car?

23 A Enterprise.

24 Q It was a rental car?

25 A Yes, ma'am.

Whitney Simpkins - Direct Examination by Ms. Young

1 Q Did you have some conversations with the defendant
2 about that car?

3 A Yes, ma'am.

4 Q Tell the -- tell the jury what those were.

5 A It was -- he wanted to use my car because his
6 girlfriend at the time, Jasmine, had an interview for
7 Amicks Farm and the baby needed some diapers.

8 Q What did you say?

9 A I told him he could use it as long as he bring it
10 back with gas in it for me to go to work that next morning.

11 Q What time did he come pick up the car on May the
12 8th?

13 A It had to have been about 10:30 at night, about 10
14 o'clock, 10:30.

15 Q And who was with him?

16 A It was Rashawan and Freak.

17 Q Who is freak?

18 A I guess that's his homeboy, his friend.

19 Q Do you know him by any other name?

20 A I know him by Freak. That's the only thing I know
21 him by.

22 Q What does Freak look like?

23 A He's short, dark skinned, and he had -- I think he
24 had dreads at the time, little dreads in his head or
25 something.

Whitney Simpkins - Direct Examination by Ms. Young

1 Q How -- what -- describe the dreads for me?

2 A They were kind of short, about medium length.

3 Q Where did they get the car from you?

4 A At my grandma's house. We were staying in Majestic
5 Oak Way.

6 Q And where is that located?

7 A Off University Parkway.

8 Q Here in Aiken?

9 A Yes, ma'am.

10 Q What did you do that night?

11 A When my brother came and got the car, I sat at the
12 house and drink on some wine and smoked and chilled at the
13 house with my grandma.

14 Q When was the next time that you saw the defendant?

15 A That morning, had to be around, I want to say 7:15
16 or something like that. It might have been a little
17 earlier.

18 Q Tell the jury the circumstances of when you saw him
19 again?

20 A When I saw him, he came back to the house and he
21 said he was returning the car. He asked me could I take
22 him to see his cousin in Augusta. And I told him yeah, but
23 long as everything was done before I had to go to work at 9
24 o'clock, 10 o'clock that morning.

25 Q Who was with him?

Whitney Simpkins - Direct Examination by Ms. Young

1 A Freak was with him. That's who was with him when
2 he brought me my car back.

3 Q Freak was with him when they picked it up --

4 A Uh-huh.

5 Q -- from you the night before --

6 A Uh-huh.

7 Q -- and then that morning?

8 A Yes, ma'am.

9 Q Do you know if it was daytime or nighttime when
10 they came that morning to bring the car back to you?

11 A It was daytime.

12 Q What did you do next?

13 A We -- I got dressed. We went to Augusta to see his
14 cousin. We stayed over there for a little bit. I think
15 his girlfriend had been calling him and telling him, you
16 know, she was kind of upset with him. So he told me to go
17 back and get her and bring her to Augusta. I told him as
18 long as everything was done before I had to go to work.

19 Q Let me back you up just a little bit. When you say
20 the defendant's cousin, who are you referring to?

21 A Poppa.

22 Q Poppa?

23 A His name's Poppa, that's what I know him by, call
24 him.

25 Q And what did the defendant ask you to do with

Whitney Simpkins - Direct Examination by Ms. Young

1 regards to his girlfriend?

2 A He told me to go get her and bring her back.

3 Q And who is his girlfriend?

4 A Jaz.

5 Q And do you know her full name?

6 A I think it's Jaz Simpkins, I'm not correct -- but I
7 just know her by Jaz.

8 Q What did you do when he asked you that?

9 A I went and got her.

10 Q Where?

11 A She was on like Morgan Street. It was little back
12 road on Morgan Street that she was on from Hahn's Village.

13 Q Here in the City of Aiken?

14 A Yes, ma'am.

15 Q What did you do once you picked her up?

16 A We went back over there to Poppa's house.

17 Q And then what did you do?

18 A I waited outside for my brother to come on because
19 I had to go to work.

20 Q You talking about the defendant?

21 A Yes, Rashawan, yes.

22 Q Okay. Then what happened?

23 A We -- I was assuming that he probably want to --
24 you know, I assumed he probably want to have sex with his
25 girlfriend because he said, Since I'm going to get a room,

Whitney Simpkins - Direct Examination by Ms. Young

1 but he didn't know checkout was 11:30.

2 Q All right. So where did -- what did you do when he
3 said he wanted to get a room?

4 A We went to -- I can't remember the hotel, but I
5 know it's on -- it's like right when you come in Augusta.
6 Might have been a Budget Inn, something like that.

7 Q Okay. And who did you take there?

8 A Him and Jaz.

9 Q And did they get a room?

10 A Yes, yes.

11 Q When's the next time that you saw them?

12 A I went to Aiken to get dressed for work and I told
13 him he needed to be ready because he told me it was
14 checkout time at 11:30. I told him he need to be ready by
15 time I come back then because I had to be to work.

16 Q And did you go back to pick them up in Augusta?

17 A Yes, ma'am. Yes, ma'am.

18 Q And then what did you do next?

19 A I went to pick them up in Augusta. When we got
20 back to Aiken, I dropped Freak off on Carolina Avenue and
21 my brother and them, we went to my house, you know, so I
22 could finish getting situated and they dropped me off at
23 Ruby Tuesday.

24 Q When you say your brother, you're referring to --

25 A Rashawan.

Whitney Simpkins - Direct Examination by Ms. Young

1 Q -- the defendant?

2 A Yes.

3 Q Whitney, I'm going to show you what's been
4 introduced already as State's Exhibit Number 73 --

5 A Uh-huh.

6 Q -- and ask if you recognize it.

7 A Yes, ma'am.

8 Q What is that?

9 A That's my car I rented.

10 Q That's the car you're referring to?

11 A Yes, ma'am.

12 Q Silver rental car?

13 A Yes, ma'am.

14 MS. YOUNG: Beg the Court's indulgence one minute.

15 (There was a pause in the proceedings.)

16 BY MS. YOUNG:

17 Q Whitney, I don't have any further questions for
18 you. If you'd answer any questions Mr. Chesser might have
19 for you.

20 A Okay.

21 MR. CHESSER: I don't have any questions.

22 THE COURT: Thank you, Ms. Simpkins. You may step
23 down.

24 MS. YOUNG: May she be excused?

25 THE COURT: She may.

Sanquesha Ramsey - Direct Examination by Ms. DeLoach

1 Next witness.

2 MS. DELOACH: State would call Sanquesha Ramsey.

3 (There was a pause in the proceedings waiting for
4 the witness to enter the courtroom.)

5 MS. YOUNG: I'm sorry, Your Honor, we had her in
6 the basement. She's on the way.

7 THE COURT: Okay.

8 MS. YOUNG: In our office down there, just to be
9 clear.

10 (There was more pause awaiting the witness.)

11 THE COURT: Come right up here, please, ma'am.
12 Place your left hand on the Bible and raise your right.

13 SANQUESHA RAMSEY,
14 having been duly sworn, testified as follows:

15 THE COURT: Yes or no?

16 THE WITNESS: Yes, the truth.

17 THE COURT: Thank you. Right here, please.

18 **DIRECT EXAMINATION**

19 **BY MS. DELOACH:**

20 Q Good afternoon, Ms. Ramsey. Could you state your
21 name for the court?

22 A Sanquesha.

23 Q And what's your last name?

24 A Ramsey.

25 Q And where are you from?

Sanquesha Ramsey - Direct Examination by Ms. DeLoach

- 1 A I'm from Thompson.
- 2 Q Thompson, Georgia?
- 3 A Uh-huh.
- 4 Q And are you currently employed?
- 5 A Yes.
- 6 Q And where at?
- 7 A Walmart.
- 8 Q In 2015 where did you live?
- 9 A I lived in River Glen.
- 10 Q And is that in Augusta?
- 11 A Uh-huh.
- 12 Q Okay. And who did you live with at the time?
- 13 A Me, my kids and my baby dad.
- 14 Q And what's his name?
- 15 A Shaqueal.
- 16 Q What's his last name?
- 17 A Campbell.
- 18 Q And does he go by any other name?
- 19 A Sham.
- 20 Q Does he have any other nicknames?
- 21 A No.
- 22 Q Let me direct your attention to May 9th, 2015. Do
- 23 you remember that day?
- 24 A No, not really.
- 25 Q May 9, 2015, you don't remember that day at all?

Sanquesha Ramsey - Direct Examination by Ms. DeLoach

1 A Not really.

2 Q Do you recall giving a statement to Officer Cameron
3 in the case?

4 A Talking about just last month?

5 Q Yes, ma'am.

6 A Uh-huh.

7 THE COURT: Please say yes or no.

8 THE WITNESS: Yes.

9 THE COURT: Thank you. And the reason I say that
10 is because the court reporter has to take it down and it's
11 hard to do a uh-huh, huh-huh.

12 THE WITNESS: Okay.

13 THE COURT: And I tell everybody that, I'm not
14 picking on you.

15 THE WITNESS: Yes, sir.

16 THE COURT: Thank you, ma'am.

17 BY MS. DELOACH:

18 Q And the statements that you gave Officer Cameron on
19 the date, approximately last month, were they all true?

20 A Yeah. That's all I knew.

21 THE COURT: Why don't you hand it to her and let
22 her refresh her memory. Maybe that will help.

23 MS. DELOACH: It's a video recording, Your Honor.

24 THE COURT: Oh, I'm sorry.

25 BY MS. DELOACH:

Sanquesha Ramsey - Direct Examination by Ms. DeLoach

1 Q Do you remember what date he spoke to you then?

2 A No.

3 Q Do you recall giving an oral statement to Officer
4 Cameron?

5 A Talking?

6 Q Yes.

7 A Yes.

8 Q And did you recall giving Officer Cameron the
9 answer about May 9th, 2015?

10 A Yes.

11 MR. CHESSER: I'm going to object, Your Honor. It
12 seems to me that she could ask her just questions about
13 what happened. But this constant reference to some prior
14 statement I would submit is hearsay. It's bolstering, it's
15 an out-of-court statement.

16 THE COURT: Well, it's her statement. I disagree.
17 Why don't you tell us -- tell the jury about what
18 you told the officer happened on the day he questioned you
19 about.

20 THE WITNESS: All I know is, I don't know nothing
21 about what happened. I wasn't there. Only thing I know is
22 I just got a knock on the door and it was Shawn and he just
23 basically wanted to use my phone to call that boy's
24 brother, which is Pat. That's all I know. Like I wasn't
25 there. I didn't see nothing. I didn't see no guns, no

Sanquesha Ramsey - Direct Examination by Ms. DeLoach

1 weapons, no money, that's it. That's all I know. And I
2 don't see why I'm here because that's all I know.

3 THE COURT: Hold on. Hold on. Hold on.

4 Ask your question.

5 You answer, please.

6 THE WITNESS: I mean that's all I know. I mean so
7 what --

8 THE COURT: Come on ma'am, let's play by the rules.
9 She's asking the question. You answer her, please.

10 BY MS. DELOACH:

11 Q Yes, ma'am, you understand, we're just trying to
12 get that information that you know out in court today?

13 A Uh-huh.

14 Q So that date could have been May 9th, 2015?

15 A Could have been. I don't know.

16 Q Okay.

17 A I can't think back that far back.

18 Q Yes, ma'am.

19 A This happened years ago and they come and finding
20 me about this.

21 Q Yes, ma'am.

22 A So...

23 Q And does your -- does Shaquel often go by Poppa?

24 A Something like that.

25 Q Okay. And you said that Shawn came knocking at

Sanquesha Ramsey - Direct Examination by Ms. DeLoach

1 your door. Came knocking to your apartment in River Glen?

2 A Yeah.

3 Q And did you allow him to use your phone that day?

4 A Yeah. And that's how they got my name. They
5 traced my phone number. That's why I'm here today. That's
6 how they found me.

7 Q Yes, ma'am. And whenever he used your phone to
8 call Pat, you're referring to Patrick Neely?

9 A Uh-huh.

10 Q Did he live many River Glen?

11 A Yeah, he lived in River Glen.

12 Q Okay. And did Pat come to your house?

13 A Yes, he did.

14 Q He did. And was there a conversation between the
15 defendant and Pat at that time?

16 A Not that I know of. Like -- basically he just
17 told, told him that Black Boy's gone. From my
18 understanding, he could have been gone out of state
19 somewhere. He could have been gone to Pennsylvania or
20 something like that. He ain't never say what had happened.
21 That's all I know. I mean that's it.

22 Q Yes, ma'am.

23 A He just used my phone.

24 Q And did they leave your apartment at any point?

25 A Yeah, they left immediately.

Sanquesha Ramsey - Direct Examination by Ms. DeLoach

1 Q They went outside?

2 A They left from my apartment.

3 THE COURT: Hold on. Hold on. Hold on.

4 The court reporter can't take down what your
5 saying, what she's saying. Please wait until she's
6 finished to ask your next question.

7 MS. DELOACH: Yes, Your Honor.

8 THE COURT: Thank you.

9 BY MS. DELOACH:

10 Q Once they went outside, you never heard anything
11 further?

12 A No, nothing at all.

13 Q Do you -- do you recall if anybody else was with
14 Shawn on that date?

15 A Huh-huh.

16 Q But you do recall Shawn coming to your apartment?

17 A Yeah.

18 Q All right. No further questions.

19 THE COURT: Any questions, Mr. Chesser?

20 MR. CHESSER: No, Your Honor.

21 THE COURT: All right. Ma'am, you may step down
22 and you may leave.

23 THE WITNESS: Thank you.

24 THE COURT: Call your next witness.

25 MS. YOUNG: Could we have just a minute, Your

Matthew Morlan - Direct Examination by Ms. Young

1 Honor?

2 THE COURT: Yes.

3 MS. YOUNG: The State would call Treasure Simpkins
4 to the stand.

5 (There was a pause in the proceedings.)

6 MS. YOUNG: Your Honor, may we approach?

7 (There was a bench conference out of the hearing of
8 the jury and the Court Reporter.)

9 MS. YOUNG: State calls Agent Matt Morlan.

10 MATTEW MORLAN,

11 having been duly sworn, testified as follows:

12 THE CLERK: Have a seat in the witness box. State
13 your name for the Court.

14 THE WITNESS: Matthew, M-A-T-T-H-E-W, Morlan,
15 M-O-R-L-A-N.

16 DIRECT EXAMINATION

17 BY MS. YOUNG:

18 Q Where are you employed?

19 A The U.S. Bureau of Alcohol, Tobacco, Firearms and
20 Explosives, ATF.

21 Q Slow down just a little bit.

22 A Sorry.

23 Q How long have you been employed with ATF?

24 A Approximately 14 years.

25 Q What are your main duties?

Matthew Morlan - Direct Examination by Ms. Young

1 A Here we have a violent crimes task force that's
2 primary focused on guns, drugs, and violent crimes.

3 Q Talk just a little bit louder.

4 Okay. Are you in charge of or do you coordinate
5 that task force?

6 A Yes, ma'am.

7 Q And who all does it consist of?

8 A Aiken Department of Public Safety, North Augusta
9 Department of Public Safety, Aiken Sheriff's Office, and
10 the Richmond County Sheriff's Office and State Law
11 Enforcement Division, SLED.

12 Q And how does that work exactly? It's not the whole
13 Department of Public Safety, right?

14 A No, ma'am, there's a few officers that we deputize.
15 They basically go through a background check and then
16 they're given credentials which allow them nationwide
17 jurisdiction to investigate, as I said before, violent
18 crimes, guns, and drugs, violations..

19 Q Were you involved in the investigation of this home
20 invasion on May 9, 2015?

21 A Yes, ma'am.

22 Q How did you become involved in that?

23 A I was contacted by Detective Colindres who is also
24 an ATF task force officer, TFO, and we spoke by telephone.

25 Q And what did you do after you spoke with him?

Matthew Morlan - Direct Examination by Ms. Young

1 A He informed me that Captain Sawyer wanted me to go
2 to the hospital. In this case it was MCG or Augusta
3 University, downtown Augusta, Georgia. And meet with
4 Detective's Cameron and Royster.

5 Q And are they ADPS investigators?

6 A Yes, ma'am.

7 Q When you got to the hospital, what did you do?

8 A I met with Detective Cameron and Detective Royster.
9 We kind of went over basically what was -- what had
10 developed so far. It's early in the investigation. We
11 went upstairs and met with the family of Darius Scruggs in
12 the waiting room, just briefly. A little later on, we went
13 back down to the lobby area near the emergency room and met
14 briefly with Patrick Neely.

15 Q And did he provide you -- without saying what he
16 said -- he provided you some information?

17 A Basically Detective Cameron just rehashed the
18 stuff. They had already interviewed him prior to me
19 getting there.

20 Q And they talked about that in front of you?

21 A Yes, ma'am.

22 Q What was the next thing that you did, Agent Morlan?

23 A I left the hospital, went to [REDACTED], the
24 incident location, and then left from there and went to
25 Aiken Department of Public Safety headquarters.

Matthew Morlan - Direct Examination by Ms. Young

1 Q What did you do when you got to the headquarters?

2 A Basically started combing through the information
3 that had come about since that morning and trying to
4 identify the vehicle that we were given. In this case it
5 was a silver Nissan Altima. And we also developed a few
6 phone numbers that Detective Hembree was working on and
7 we're also trying to identify Rashawan Carter and hopefully
8 get a picture or some image of him while we're there.

9 Q And how did you do that?

10 I'm going to move that microphone, unless you want
11 to just keep it in front of you.

12 A I'm sorry.

13 Q That's okay.

14 How did you -- who were you -- how were you going
15 about that?

16 A Through social media and other data bases. And we
17 did actually get a photo of Rashawan Carter.

18 Q That you reviewed?

19 A Yes, ma'am.

20 Q What was the next thing that you did?

21 A At that point, again, we're still going over the
22 information. Detective Hembree had let us know that the
23 exigent request for the particular phone number that
24 Rashawan Carter -- that we were told Rashawan Carter was
25 using, we were waiting for that phone number to come back

Matthew Morlan - Direct Examination by Ms. Young

1 active. So during the meantime, we're obviously doing
2 other things. A little later on we learned that the phone
3 did go back to where it could actually give us coordinates
4 on where the device was.

5 MR. CHESSER: I would renew my objection to these
6 coordinates. This is out of the Fourth Amendment. This is
7 pursuant to this request. And I would renew my objection
8 under the Fourth Amendment of the Federal Constitution and
9 the State Constitution.

10 THE COURT: Thank you, respectfully overruled based
11 on the same reasoning that was earlier put in the record.

12 BY MS. YOUNG:

13 Q Okay. So when the phone started -- when you
14 started getting information about it, what did you do?

15 A Yes, ma'am. Detective Colindres and myself, we
16 were tasked with following up with the coordinates that
17 were coming through; and at that point, the first decent
18 location we had was in Batesburg Leesville at the Walmart.

19 Q And what did you do once you got that information?

20 A Detective Colindres and I, we drove separate
21 vehicles and we started going towards the Walmart in
22 Batesburg Leesville.

23 Q And then what happened?

24 A As we got closer to the Walmart there, the
25 coordinates started taking us further into Columbia.

Matthew Morlan - Direct Examination by Ms. Young

1 Q And where did they ultimately -- did they
2 ultimately stop at a certain location?

3 A Yes, ma'am. We ended up at the Quarters Apartment
4 Complex, which is off of Broad River Road, just off I-20.
5 Detective Colindres and I pulled into the parking lot and
6 we were able to observe a Nissan -- a silver Nissan Altima
7 in the parking lot.

8 Q Okay. Agent Morlan, I'm going to show you what's
9 been marked State's 82 for identification purposes and ask
10 if you recognize that?

11 A Yes, ma'am.

12 Q You can hold it.

13 A Yes, ma'am.

14 Q What is it?

15 A That's the -- the silver Nissan Altima that we
16 identified in the parking lot.

17 Q And how do you know?

18 A Because I took the picture of it.

19 Q You took the picture of it?

20 A Yes, ma'am.

21 Q And does that picture accurately depict the car as
22 you observed it on May the 9th, 2015?

23 A Yes, ma'am, in the background, that's the
24 apartment.

25 MS. YOUNG: Your Honor, at this point, we would

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1 offer State's Exhibit Number 82 and --

2 THE COURT: 82, any objection?

3 MR. CHESSER: Just subject to the previous
4 objection.

5 THE COURT: Certainly. Same ruling.

6 (State's Exhibit Number 82 was entered into
7 evidence.)

8 BY MS. YOUNG:

9 Q Can you show it to the jury?

10 What else did you see besides the Nissan rental
11 car.

12 A Once we were in the parking lot, once we got
13 settled, obviously, we were looking over the parking lot
14 and the apartments because we didn't know exactly where
15 anyone was at the time. We just had the car identified.
16 Within a few minutes, we were able to observe someone that
17 matched the description of Rashawan Carter walking around
18 to the, like you see here, to the left. He was walking
19 around there on the cell phone.

20 Q And on the -- for the record, you're pointing to
21 the left of the rental car as you have it in State's 82?

22 A It's along the edge of the apartment building
23 itself.

24 Q What was he doing?

25 A He was on the phone, walking around. It was like a

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1 little grassy area right there. He was walking on the
2 phone. It was kind of a circle.

3 Q You can put it down?

4 A Oh, I'm sorry.

5 Q And what did you do at that point? Time?

6 A Detective Colindres and I, we decided to go ahead
7 and approach Mr. Carter and ask him if he would come down
8 to Aiken Department of Public Safety headquarters and be
9 interviewed.

10 Q And you stated previously, or testified previously
11 that you and TFO Colindres were in separate vehicles?

12 A We were.

13 Q What type of vehicles are those?

14 A Sport utilities.

15 Q Are they marked, unmarked?

16 A They're totally unmarked.

17 Q And can you describe for the jury what type of
18 clothes that you typically wear when you're on duty as an
19 ATF officer?

20 A In this case, well, more often than not, we're
21 usually in jeans and t-shirt. And this day, we were in
22 jeans and t-shirts.

23 Q Do you have any sort of identification that you
24 carry with you to show that you're a member of law
25 enforcement?

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1 A Yes, ma'am, we carry credentials in a wallet and
2 also a neck badge. In this case we had put the neck badges
3 out before we got out of the cars.

4 Q And it was in plain view on top of your clothes?

5 A Yes, ma'am.

6 Q What did you do when you approached the defendant?

7 A When I got out of the vehicle, I also have a
8 tactical vest that's got a handle on the back of it and
9 it's got police markings on the front of it. I just pulled
10 it out and had it in my left hand as we approached Rashawan
11 Carter, as we were still standing on the left side.

12 Q Was that to show that you were a law enforcement
13 officer?

14 A Yeah, it's just to help quickly identify us.
15 Because sometimes the badge is difficult to see if it's --
16 as we're walking across the parking lot, to it's easier
17 just to have the vest because nobody's carrying that.

18 Q And what manner did you approach the defendant?

19 A We just walked up to him. He didn't do anything
20 that was alarm to us. He was very, very decent to deal
21 with.

22 Q So you didn't have your weapons out or anything
23 like that?

24 A No, ma'am.

25 Q What did you do once you approached the defendant?

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1 A We identified ourselves. We let him know that we
2 would like to talk to him back at Aiken Department of
3 Public Safety headquarters about some things that occurred
4 that morning.

5 Q Did you go into any details about what they were?

6 A No, ma'am.

7 Q Did he ask you what they were?

8 A He did not.

9 Q Did he agree to go talk to you?

10 A Yes, ma'am, he was decent, yes, ma'am.

11 Q Was he under arrest at that time?

12 A No, ma'am.

13 Q Just was voluntary on his part?

14 A Yes, ma'am.

15 Q What did you do in terms of safety things while you
16 were talking to him?

17 A Well, once we -- he agreed to go, and this was
18 within a few minutes, I did ask him if we could pat him
19 down and search him and make sure there's nothing on him
20 that we need to be concerned with as far as our safety
21 before we started traveling back to Aiken. He complied. I
22 asked him about, there was a bulge in his right pocket. I
23 asked him to pull it out. He had no problems. Again he
24 was being very cooperative. Pulled out a large wad of
25 money that was folded over, primarily being tens and

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1 twenties.

2 Q All right. And what --

3 MR. CHESSER: Just renew my objections to these
4 products of this meeting.

5 THE COURT: Sustained.

6 MS. YOUNG: You say sustained?

7 THE COURT: Overruled. I'm sorry.

8 BY MS. YOUNG:

9 Q What did he do with that money?

10 A I put it back in his right pocket. And then he had
11 two phones on him. He walked with us across the parking
12 lot. And let me back up just a little bit. Just before we
13 started walking across the parking lot, two females came
14 out of the apartment, which would be this apartment right
15 here. They came out while we were talking to Rashawan
16 Carter. One of the females, we later identified as Jasmine
17 Hammond. She overheard the conversation and wanted to
18 follow us back to Aiken DPS headquarters. Obviously, we
19 didn't have a problem with it.

20 Rashawan Carter walked across the parking lot with
21 Detective Colindres and I. At this time, I asked
22 Mr. Carter which car did they drive and he pointed to a
23 black Cobalt or Dodge Cobalt.

24 MR. CHESSER: Objection to the same, Your Honor.

25 THE COURT: Overruled. Go ahead.

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1 BY MS. YOUNG:

2 Q You can answer.

3 A If you see here to the left of the Nissan, that's a
4 black Dodge Cobalt or four-door sedan and that's what he
5 was referring to.

6 Q You pointed to or indicated that was the vehicle?

7 A Yes, ma'am.

8 Q What was the next thing that you did.

9 A Walked across the parking lot where Jasmine was
10 because they were separated at this point. And I asked
11 Jasmine Hammond which car did they drive up to the parking
12 lot complex and she pointed to the silver Nissan Altima.

13 Q Okay. Can you describe the types of phones the
14 defendant had?

15 A They were large, like a -- it's bigger than your
16 normal smart phone. It's like in between a tablet and your
17 normal size smart phone.

18 Q What was the next thing that happened, Agent
19 Morlan?

20 A Jasmine had walked across the parking lot to
21 Rashawan Carter. And again, you're trying to balance out
22 because her sister was over to our left, closest to the
23 apartment. I did see Rashawan Carter give her the money
24 that was in the right-hand pocket. Within a few minutes, I
25 asked Jasmine Hammond if I could search the car, because

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1 obviously, she was going to get in the car and follow
2 behind us.

3 Q Which car are you referring to?

4 A I'm referring to the silver Nissan Altima.

5 Q Okay.

6 A I searched the silver Nissan Altima with it there.

7 A few minutes later, her sister was off to the left a
8 little further closest to the apartment. I asked her if
9 Jasmine or Rashawan Carter had brought any kind of bags or
10 did they bring anything into the apartment --

11 MR. CHESSER: Objection, to hearsay.

12 THE COURT: Sustained. Don't tell us what somebody
13 said. As a result of what they did, what did you do.

14 THE WITNESS: Yes, sir.

15 I asked if there was any bags. She directed me to
16 the apartment where there was a plastic bag.

17 THE COURT: Go ahead.

18 BY MS. YOUNG:

19 Q What did you do, if anything?

20 A I went to the -- it was a set of double glass doors
21 that leads to the living room and she brought a plastic bag
22 and that 's what Rashawan Carter had brought into the
23 house. And it was just -- like a set of, like a soda was
24 all that was in it.

25 Q What was the next thing that you did?

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- 1 A At this time, I came back out, Detective Colindres
2 was already transporting Rashawan Carter towards Aiken. So
3 I got in my vehicle and Jasmine Hammond followed behind me.
- 4 Q Did you see the defendant get into Detective
5 Colindres's vehicle?
- 6 A Yes, ma'am. He got into the passenger seat.
- 7 Q Which passenger seat?
- 8 A The passenger seat of Detective Colindres's car.
- 9 Q Front or back?
- 10 A Oh, the front.
- 11 Q Did he have handcuffs on?
- 12 A No, ma'am.
- 13 Q He was not under arrest?
- 14 A Huh-huh, no, not at all.
- 15 Q What was the next thing that you did?
- 16 A Caught up to Detective Colindres and Jasmine
17 Hammond was still behind. Once we got closer to the 22
18 mile marker on I-20, I turned and the silver Nissan wasn't
19 behind us anymore.
- 20 Q So you were in a group as you were coming into
21 Aiken and at some point the rental car went somewhere else?
- 22 A Yes, ma'am.
- 23 Q What was the next thing that you did?
- 24 A Continued following Detective Colindres and
25 Rashawan Carter to ADPS headquarters. We got out and

Matthew Morlan - Direct Examination by Ms. Young

1 walked with Rashawan Carter to the interview room.

2 Q Was he under arrest at that time?

3 A No, ma'am.

4 Q What would have happened if he said he didn't want
5 to come with y'all?

6 A He would have stayed where he was at.

7 Q And that would have been the end of the
8 interaction?

9 A Yes, ma'am.

10 Q Where did you go once you got into ADPS?

11 A Went into one of their interview rooms.

12 Q And can you describe for the jury what the room was
13 like?

14 A The door opens to the left and as you enter it,
15 this's a table to the right. This's a chair at the end
16 near the door and there's another chair generally at the
17 other side of the table and there's usually a couple of
18 chairs up against the wall.

19 Q And what was the purpose of him going into the
20 room?

21 A So we could audio video record the interview.

22 Q You were going to speak with him?

23 A Yes, ma'am.

24 Q I'm going to show you what's been marked for the
25 record as State's Exhibit 9-A and ask if you can identify

Matthew Morlan - Direct Examination by Ms. Young

1 that?

2 A Yes, ma'am, this is the advice of Miranda Rights.

3 Q Particularly how does it pertain to this case?

4 A We decided to read him his rights before we started
5 doing the interview.

6 Q Is that a form on 9-A. Is that a true and correct
7 copy of the original advice of rights that you used?

8 A Yes, ma'am, it is.

9 Q And who was going to interview the defendant that
10 day?

11 A Myself and Detective Cameron.

12 Q Who went over the advice of rights form with him?

13 A I did.

14 Q For purposes of the record, will you please read
15 the form in its entirety?

16 A Yes, ma'am.

17 Advice of Miranda Rights: Before we ask you any
18 questions, you must understand your rights.

19 You have the right to remain silent. Anything you
20 say can and will be used against you in a court of law.

21 You have the right to talk to a lawyer for advice
22 before we ask you any questions and to have him with you
23 during questioning. If you cannot afford a lawyer, the
24 Court will appoint one to represent you without any cost,
25 if you wish.

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1 If you decide to answer questions now without a
2 lawyer present, you still have the right to stop answering
3 at any time. You also have the right to stop answering at
4 any time until you talk to a lawyer.

5 I have read this statement of my rights and I
6 understand what my rights are.

7 And toward the bottom, it says: Waiver of rights:
8 I am willing to make a statement and answer questions. I
9 do not want a lawyer at this time. I understand and know
10 what I'm doing. No promises or threats have been made to
11 me and no pressure of any kind has been used against me.

12 MS. YOUNG: Your Honor, I'm not sure that I offered
13 that into evidence and I apologize.

14 THE COURT: What number is it?

15 MS. YOUNG: 9-A.

16 THE COURT: 98?

17 MS. YOUNG: 9-A, 9, apple, A. I would offer that
18 at this time.

19 THE COURT: No objections?

20 MR. CHESSER: No, sir.

21 (State's Exhibit Number 9-A was entered into
22 evidence.)

23 BY MS. YOUNG:

24 Q And how did you go over that with him?

25 A I read it over and he initialed beside it.

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1 Q Just like you just read it out right now?

2 A Yes, ma'am.

3 Q Okay. Did you ask him or find out from him level
4 of education?

5 A Yes, ma'am, I did.

6 Q What was that?

7 A Tenth grade from Laney Walker High School in
8 Augusta, Georgia.

9 Q Did he appear to understand when you went over his
10 rights with him?

11 A Yes, ma'am.

12 Q Did he appear to be under the influence of alcohol
13 or any substance that would cause him not to understand
14 what was going on?

15 A No, ma'am.

16 Q Did you make him any threats? Did you make any
17 threats towards him?

18 A No, ma'am.

19 Q Did you make any promises?

20 A No.

21 Q Did you coerce him in any way?

22 A No, ma'am.

23 Q Did he initial that he understood his rights on
24 that form?

25 A He did.

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1 Q And did he sign that form as well?

2 A Yes, ma'am.

3 Q And again, for the jury, could you describe where
4 he was sitting in terms of where the door is?

5 A As I said the door was to the left, he sat
6 immediately to the right, next to the door.

7 Q And were there any barriers between him and the
8 door?

9 A No, ma'am.

10 Q Agent Morlan, I'm going to show you what's been
11 marked for the record as State's Exhibit Number 9 and ask
12 if you recognize that?

13 A Yes, ma'am.

14 Q And what is that?

15 A That's a DVD of the interview that we conducted
16 with Rashawan Carter.

17 Q Have you reviewed that prior to coming to court
18 today.

19 A Yes, ma'am.

20 Q And how do you know?

21 A Because my initials are to the left of the CD.

22 Q And is that a true and correct copy of the
23 interview as you recall it happening on May the 9th of
24 2015?

25 A Yes, ma'am.

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1 MS. YOUNG: Your Honor, at this point in time, we'd
2 offer States 9 into evidence and request to publish it for
3 the jury.

4 MR. CHESSER: We would have an objection at this
5 point, Your Honor.

6 THE COURT: All right. Is this -- do we need to do
7 this outside the presence of the jury?

8 MR. CHESSER: Yes, sir.

9 THE COURT: All right.

10 Mr. Foreman, ladies and gentlemen, let me have the
11 lawyers just for a few seconds and step into the jury room
12 I'll be right back with you. Don't discuss the case.

13 (The jury left the courtroom at 12:22 p.m.)

14 THE COURT: Mr. Chesser?

15 MR. CHESSER: Your Honor, I would object to this on
16 several bases. One of them is what we talked about earlier
17 today which is that we submit that the warrantless
18 obtaining of the ping and location information is an
19 illegal search and seizure of protected information in
20 violation of the Fourth Amendment in the Federal
21 Constitution and corresponding provision in the State
22 constitution and this constitutes a product for
23 exploitation of that illegal search. And therefore, we
24 would ask that this interview be excluded on that basis.

25 THE COURT: Any other basis?

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1 MR. CHESSER: And, Your Honor, we have another
2 objection, which is, this is something that we've talked
3 about I think, already. And that is an objection to the
4 investigator's statement that is in this interview. I
5 would introduce at this time a written motion, which I've
6 submitted previously to the Court and to the prosecutor,
7 but a motion at this time and ask it be made a part of the
8 record.

9 THE COURT: That's the same motion we've already
10 ruled on in pretrial as well as revisited the other day.

11 MR. CHESSER: This is what we've revisited. I
12 provided it to the Court about three or four days ago and
13 indicated that it's just what happened was initially, I
14 filed a motion in limine which made reference to the times
15 on the tape, which is pretty cumbersome and then the
16 prosecution made a transcript and so I changed it and put
17 in the sections of the transcript that I think would be
18 easier to follow.

19 And then I put the basis for the objection and we
20 have discussed this. So I would ask to incorporate that
21 prior discussion that we've had, we had a couple of days
22 ago and we also had it in January.

23 THE COURT: That's correct.

24 MR. CHESSER: And then --

25 THE COURT: And I think I took the transcript home

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1 with me and did an in-camera review and sent an e-mail out
2 a couple of weeks or a week to ten days ago. We've been
3 over all that, but you're just adding this to the record
4 for protection?

5 MR. CHESSER: Yes, sir.

6 THE COURT: And we'll put it as a Court exhibit,
7 whatever the next one is.

8 MR. CHESSER: And then one thing that I emphasize
9 more in this, again, which is what was provided to the
10 Court four or five days ago, is rereading that Brewster
11 case, it talks about if you have -- it's repeated burden
12 shifting that we submitted that any number of those
13 investigator's statement constitute burden shifting, that
14 if you do this enough, Justice Beaty in his part of the
15 opinion states that this could amount to a structural error
16 and it is an error in violation of due process.

17 I'm not sure I made that argument clear before, so
18 I wanted to make that addition, which, again, has been part
19 of this that I submitted previously, but I make that
20 objection now and we would ask you to rule at this time.

21 THE COURT: Thank you. As to your first grounds
22 dealing with the need for the warrant in connection with
23 the GPS numbers, I've already previously ruled on that and
24 stated my reasonings for it and I stand by that ruling, so
25 your objection is overruled as to that matter. As well as

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1 the statement being a product of that illegal -- alleged
2 illegal search. So that is overruled based on the same
3 reasoning as we had earlier this morning.

4 Additionally as to objections concerning the, how
5 the interview was conducted, I stand by the earlier rulings
6 that I have had. I note your supplementation of your
7 grounds by this motion, which I will mark as Court Exhibit,
8 whatever's next in line, 3; and respectfully deny the same.
9 I think you're protected.

10 MR. CHESSER: For the record, one thing, I had --
11 when I made that motion in limine which was about a month
12 ago and then the prosecution responded with it, I didn't
13 file mine and the prosecution when they filed their
14 response have incorporated everything that I had and I
15 believe that was filed with the clerk of court's office,
16 too. I believe it constitutes a part of the record and
17 I'll just make it clear that my motion in limine was really
18 incorporated in and I don't think I need to submit a
19 separate copy of that.

20 THE COURT: I will so note that you did, at least
21 file it with me and if you filed it in the clerk's office
22 it will be part of the record. And if you need to, out of
23 an abundance of caution, after we break for lunch in,
24 you're welcome to go down and get a copy of it and make it
25 a another court exhibit so there won't be any question.

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1 MR. CHESSER: Thank you, Your Honor.

2 THE COURT: Thank you.

3 Bring the jury back, please.

4 (The jury entered the courtroom at 12:27 p.m.)

5 MS. YOUNG: May I publish at this time?

6 THE COURT: Yes, ma'am.

7 MS. YOUNG: Thank you.

8 (The DVD was published to the jury.)

9 (The DVD was stopped.)

10 THE COURT: Do you know how much time is left on
11 it, Norwood?

12 MR. BODIE: 14 minutes and 49 seconds.

13 THE COURT: How much?

14 MR. BODIE: 14 minutes.

15 THE COURT: All right. There's 14 minutes left.

16 Your lunch is here. Y'all want to go ahead and take a
17 break and come back after lunch and finish it up or you
18 want to finish up listening to it, 14 more minutes and then
19 eat and have that out of the way.

20 THE FOREPERSON: Just finish it.

21 THE COURT: Finish it up. 14 more.

22 Everybody okay?

23 (There was no response from the jury.)

24 (The DVD was continued.)

25 THE COURT: Any more questions? Do you have more?

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1 MS. YOUNG: I have a few, but I can wait until
2 afterwards.

3 THE COURT: If it's just a few, we'll do them.
4 However you -- it's your discretion.

5 BY MS. YOUNG:

6 Q Agent Morlan, did you do some follow up
7 investigation regarding the phones that have been
8 discussed, the big phones?

9 A Yes, ma'am, the two we discussed earlier? Yes,
10 ma'am.

11 Q What did you find out about those?

12 A We actually collected the two larger phones we
13 discussed earlier from Treasure Simpkins in Hahn Village
14 later on that night.

15 Q And you -- the night of the 9th?

16 A Just after the -- not long after the interview.
17 There's a couple of other things that took place, but then
18 we went to Hahn Village and met with Treasure Simpkins and
19 got the two phones. They basically matched.

20 Q Who's Treasure Simpkins?

21 A She's Jasmine Hammond's mother.

22 Q What did the phones look like when you got them?

23 A They were destroyed.

24 Q I'm showing you what's already been entered into
25 evidence as State's Exhibit 87 and 88.

Matthew Morlan - Direct Examination by Ms. Young

- 1 A Yes, ma'am.
- 2 Q Are those the phones you're referring to?
- 3 A Yes, ma'am.
- 4 Q And where did you get them from?
- 5 A From Treasure Simpkins.
- 6 Q You know where they were at her house?
- 7 A They was in the trash can and she told us that the
- 8 batteries were out of them.
- 9 Q The batteries were out of them and they were in the
- 10 trash can?
- 11 A Yes, ma'am.
- 12 Q Did you do any additional follow up investigation
- 13 in the case?
- 14 A Yes, ma'am.
- 15 Q What was that?
- 16 A In reference to?
- 17 Q Some additional video?
- 18 A As far as the -- I'm sorry. We actually retrieved
- 19 a video from Walmart on Richland Avenue where Maurice
- 20 Jackson was identified at the cash register.
- 21 MR. CHESSER: Objection, Your Honor.
- 22 THE COURT: Sustained.
- 23 MS. YOUNG: That's all the questions I have.
- 24 THE COURT: All right. We will break for lunch.
- 25 Lunch is here. You need an hour? How long you need? I've

1 got to give everybody time to eat, so it is -- let's start
2 back at 2:30. That's 55 minutes. 55 minutes plenty of
3 time?

4 THE FOREPERSON: Uh-huh.

5 THE COURT: Don't discuss the case, don't
6 deliberate. If you want to eat back there that's fine.
7 Y'all are welcome to go outside. You can take it outside.
8 Go to your car, just be back and ready to go. Don't
9 discuss the case and don't deliberate. Leave your pads in
10 your seats, chairs.

11 Everybody else remain seated.

12 (The jury left the courtroom at 1:35 p.m.)

13 THE COURT: All right. Agent, you're right in the
14 middle of your testimony. Please don't discuss it with
15 anyone at lunch. You're welcome to step down.

16 Anything from the State before we break for lunch?

17 MS. YOUNG: No, sir, Your Honor.

18 THE COURT: Mr. Chesser?

19 MR. CHESSER: No, Your Honor.

20 THE COURT: All right. May I see y'all just
21 momentarily. We'll start back at 2:30.

22 (A recess for lunch was observed.)

23 THE COURT: Everybody ready?

24 MS. YOUNG: Yes, sir.

25 THE COURT: Bring the jury in, please.

Regina Sailer - Direct Examination by Ms. Young

1 (The jury entered the courtroom at 12:31 p.m.)

2 THE COURT: Mr. Chesser?

3 MR. CHESSER: No questions of this witness.

4 THE COURT: Thank you, you may step down.

5 Next witness, please.

6 MS. YOUNG: State calls Gina Sailer.

7 REGINA SAILER,

8 having been duly sworn, testified as follows:

9 THE CLERK: Please have a seat in the witness
10 stand. State your name for the Court.

11 THE WITNESS: Regina Sailer.

12 **DIRECT EXAMINATION**

13 BY MS. YOUNG:

14 Q Could you pull that microphone over just a little
15 bit towards you and speak up.

16 Where are you employed?

17 A I'm employed with the ATF.

18 Q In what capacity?

19 A I'm an intelligence research specialist.

20 Q How long have you been doing that?

21 A I've been employed with ATF for 14 years and I've
22 been intelligence research specialist for four-and-a-half
23 years.

24 Q Okay. Tell the jury if you would what --

25 THE COURT: What is ATF, please, ma'am.

Regina Sailer - Direct Examination by Ms. Young

1 THE WITNESS: Yes, we're alcohol, Tobacco, Firearms
2 and Explosives.

3 THE COURT: Thank you.

4 BY MS. YOUNG:

5 Q Tell the jury what an intelligence research
6 specialist does.

7 A Yeah, I conduct research on targets of criminal
8 investigations.

9 Q If you would also, please let the jury know a
10 little bit about your educational background.

11 A Yeah. I have a bachelor's degree in criminal
12 justice and a master's degree from Indiana University.

13 Q What about training with the ATF. Can you describe
14 some of the training you have to do your job?

15 A Yeah, I recently completed a four-week course of
16 intelligence analysis classes and I've attended numerous
17 weeks of week-long trainings.

18 Q And what exactly do you do as an intelligence
19 research specialist?

20 A I conduct research on targets of criminal
21 investigations, a lot of social media exploitation, as well
22 as cell phone analysis.

23 Q And what do you do particularly pertaining to cell
24 phone analysis? How is that performed?

25 A An agent or a law enforcement obtains a court order

Regina Sailer - Direct Examination by Ms. Young

1 for historical records from the cell phone company call
2 detail records. And I analyze those records.

3 Q And in what way do you analyze them?

4 A We use various software programs to input the call
5 detail records into the program and you get a nice visual
6 analysis of the phone call.

7 Q In what way?

8 A We get to see what tower and sector the
9 individual's phone was at when he made a call or a text
10 message.

11 Q And how do they -- when you talk about visual
12 representation, what are you exactly referring to?

13 A Yeah, I create maps of a tower, the cell tower that
14 the individual used when he made a phone call and then I --
15 I make a pie-shaped sector so we know what side of the
16 tower that individual was at during that particular phone
17 call. So we can tell where the phone was during the phone
18 call.

19 Q With regard to this particular case, how did you
20 know which calls that you needed to map.

21 A I sat with Lieutenant Cameron.

22 Q And --

23 A And he told me which ones -- which calls were
24 pertinent and we made maps of those calls.

25 Q You don't have any independent knowledge about the

Regina Sailer - Direct Examination by Ms. Young

1 facts of this case other than what he explained to you?

2 A No, ma'am.

3 Q Okay. Tell me how this basic work -- how this
4 basically works when you're creating these maps.

5 A Yeah, the -- I utilize a software program. In this
6 particular case, we utilized a program -- or I utilized a
7 program called Penlink. I take the call detail records
8 straight from the cell phone company when they provide them
9 to us. I input them into a software program and then I
10 just select the dates and the times of the calls that we
11 would like to visually see where the phone was.

12 Q Are you able to change or manipulate the data
13 itself when you're doing this?

14 A No, ma'am.

15 Q And it's all based on what?

16 A The call detail records from the cell phone
17 company.

18 Q And that would also -- call detail records is
19 basically what you say, the phone records?

20 A Yes, the phone records.

21 Q Before you go into detail about the maps that you
22 created for this particular case, I'd like for you to give
23 the jury some explanation about how cell phones work and
24 you created a PowerPoint?

25 A Yes, ma'am.

Regina Sailer - Direct Examination by Ms. Young

1 Q I'm going to show you what's been marked for
2 identification purposes as State's Exhibits 15 and 15-A and
3 I'm going to ask you to look at those and tell me if you
4 can identify those.

5 A Yes, ma'am, I can.

6 Q And what are they? Let's start with 15.

7 A 15, it is a disk I reviewed prior to today's court
8 and -- of maps I created.

9 Q And -- well, particularly at this point in time,
10 did you prepare an explanation PowerPoint for the basics?

11 A Yes, yes to kind of give a brief overview of what
12 cell records are and how I utilize them to create maps.

13 Q And what is 15-A?

14 A 15-A is an overview of how cell phones work as well
15 as some examples of different types of maps I created.

16 Q Is it a printed version of what's on 15?

17 A Yes, ma'am.

18 Q And did you prepare both of those and review them
19 prior to coming to court today?

20 A Yes.

21 MS. YOUNG: Your Honor, at this point in time, we'd
22 offer State's 15 and 15-A into evidence.

23 MR. CHESSER: No objection.

24 (State's Exhibit Number 15 and Number 15-A was
25 entered into evidence.)

Regina Sailer - Direct Examination by Ms. Young

1 MS. YOUNG: May I publish 15 to the jury?

2 THE COURT: Yes, ma'am.

3 BY MS. YOUNG:

4 Q Gina, I'm going to have you come down while this is
5 pulling up.

6 (The screen was being brought up.)

7 (The witness stepped down in front of the jury.)

8 BY MS. YOUNG:

9 Q Just make sure you keep your voice up so that she
10 can hear you.

11 So tell us what the first slide -- explain what
12 this shows to the jury?

13 A Yeah, this is a brief simple overview of what
14 happens when you make a phone call or a text message on
15 your cell phone. When you utilize your cell phone it
16 connects to the strongest cell tower that's the close --
17 the strongest tower to you. That cell tower transmits the
18 records to the cell phone company and they collect all
19 sorts of transactional data from each call and text
20 message. Every time you use your phone, they collect data.

21 Q Okay. How about the next slide?

22 A This is just a sample of a typical cell site. You
23 can -- we call them sometimes cell towers or cell sites
24 depending on if they're individual -- this one is a single
25 tower, sometimes there can just be antennas affixed to the

Regina Sailer - Direct Examination by Ms. Young

1 side of the building.

2 Q All right.

3 A I'm sorry, go ahead.

4 Q No, you go ahead.

5 A Okay. In this particular cell site, it has three
6 sides. So we have three sectors on this -- three sets of
7 antennas on this. So when we get data from the cell phone
8 company, we can usually -- we can tell what tower you
9 utilized and what side of the tower the phone was on.
10 Helps give us a better idea of where exactly the cell phone
11 was during the call or text message.

12 Q Can you explain how that's divided, visually so the
13 jury can understand that?

14 A Yeah. In simple terms the cell sector is divided
15 into three sections. So picture kind of a circle and then
16 there's three pieces of pie in that circle. Each sector
17 consists of approximately 120 degrees and there is overlap
18 on each side of the sector, just to insure adequate
19 coverage.

20 Q And how about the next slide?

21 A This is a sample of a call detail record that we
22 received straight from the cell phone company.

23 Q And what's contained in all these different A, B,
24 et cetera, et cetera?

25 A Just all sorts of different transactional data that

Regina Sailer - Direct Examination by Ms. Young

1 the cell phone companies gathers when you make a phone call
2 or a text message. So they can identify you, what device
3 you've used as well as where you are during that call or
4 text.

5 Q And how about the next slide?

6 A Same thing, just more location information. This
7 line is of the actual cell tower itself. And then we have
8 sector information that helps us determine what side of the
9 tower they're on.

10 Q Is this like continuing from the first and it's A
11 through --

12 A Yes.

13 Q -- and it continues on?

14 A Yes.

15 Q And how about the next slide?

16 A Again, just additional data that is carried over
17 regarding location of where that cell phone was.

18 Q Do you -- does each cell phone provider have its
19 own towers?

20 A Yes. Sometimes they will share a building or a big
21 -- you know, you see those giant cell towers along the side
22 of the road. But each subcarrier has their own set of
23 antenna.

24 Q And each company -- do all their call detail
25 records look the same?

Regina Sailer - Direct Examination by Ms. Young

1 A No, they are very different.

2 Q Do they basically contain the same information?

3 A Yes. They just look different, but they all
4 contain the same transactional data that we discussed.

5 Q All right. Let's go to the next slide.

6 A This is an example of a map that I created. And in
7 this one, we would show the blue shaded area is the
8 approximate coverage the cell tower reaches out. So the
9 cell tower would be in the middle right here and then the 3
10 mile is the approximate -- yeah, the approximate radius
11 that the -- of the strength of the signal.

12 Q And this particular tower, I know you previously
13 talked about pies, but this one's a whole circle. Why is
14 that?

15 A Unfortunately, there's no pies in this. During
16 this particular call event, the cell phone company didn't
17 gather the sector information. They just had the tower
18 that was utilized. So we know what tower was utilized, but
19 not what side of the tower the phone was located at.

20 Q Okay. How about the next slide?

21 A Here's a nicer one that shows the piece of the pie
22 that we were discussing. So we know that the cell tower
23 was located here and we know that the phone was in that --
24 that piece that -- that side of the tower, that piece of
25 pie.

Regina Sailer - Direct Examination by Ms. Young

1 Q And how about the next one?

2 A This is just an example of the raw data that came
3 from this particular carrier which is AT&T.

4 Q How about the next map? Does AT&T provide any
5 different information than other cell phone companies?

6 A AT&T will provide two sets of data if you've asked
7 for it in a court order. This particular data that we
8 received is called Nelos data and it's more of a precise
9 location of where the actual device was during a phone
10 event.

11 Q So it's extra information on top of the call detail
12 record?

13 A Yes. So we have information on the cell tower and
14 the sector, as well as a precision location.

15 Q And that precision location, are you able to glean
16 a more accurate area on the map itself?

17 A Yes, ma'am.

18 Q Let's go to the next slide. Explain to the jury
19 what this is, please.

20 A With that precision location or Nelos data that we
21 discussed, they give you a key and they tell you how
22 accurate that information is in that particular phone
23 event. As you can see, there's a key from 0 to 13 and it
24 goes from location accuracy unknown to 25 meters to 2500
25 meters. So you can really zero in on where the phone was

Regina Sailer - Direct Examination by Ms. Young

1 in that particular phone event.

2 Q But if you have one of these higher numbers, the
3 information is not as useful?

4 A Correct.

5 Q All right. How about the next slide?

6 A Here's an example of that data where we use both
7 the -- the precision location data that we just discussed,
8 as well as the tower and sector information. So this phone
9 event utilized -- or the phone utilized this particular
10 tower, which approximately covers this area, this pie
11 shaped area.

12 Q And it's what, for the record? What color is that?

13 A It is green.

14 Q Okay.

15 A And then the red circle in here is the precision
16 location data that we obtained from that -- the carrier.
17 Which you can see it's just 328 yards. So it really --

18 Q The red circle would be the mapping with the Nelos
19 data?

20 A Yes, ma'am.

21 Q And let's go to the next picture. Now, explain to
22 the jury why does that red circle go outside of the pie?

23 A As I discussed earlier, the pie shape is just a
24 quick easy visual representation of where the cell lines
25 are. There's no -- the lines aren't perfect like that.

Regina Sailer - Direct Examination by Ms. Young

1 It's just we kind of make the pie shape just to give you a
2 brief overview of the direction of signal strength. This
3 line is definitely not straight. It is -- it is curved.
4 And this is just an example of the Nelos data, just a
5 little outside of the pie shape.

6 Q But in this particular example, the Nelos data
7 would be more accurate?

8 A Yes.

9 Q Okay. You can have a seat.

10 Now, I'm going to show you what's been marked for
11 identification purposes as State's Exhibit 16 and 16-A and
12 ask if you can identify those.

13 A Yes, these are maps I created.

14 Q And how do you know those are maps that you
15 created?

16 A I recognize them.

17 Q All right. And you created those specifically with
18 regard to this case?

19 A Yes.

20 MS. YOUNG: Your Honor, at this time, we would --
21 the State would request to move 16 and 16-A into evidence.

22 THE COURT: Any objection.

23 MR. CHESSER: No objection.

24 (State's Exhibit Number 16 and Number 16-A was
25 entered into evidence.)

Regina Sailer - Direct Examination by Ms. Young

1 BY MS. YOUNG:

2 Q With regard to the maps that you showed the jury,
3 you talked about the 3 mile radius, how is that determined?

4 A In these particular cases, I mapped using a program
5 called Penlink. So I take the raw data, I put it into the
6 program and that is the -- the radius that is provided to
7 Penlink from the cell phone company, the carrier.

8 Q And with regard to -- you might have said this and
9 if I'm repeating, I apologize, but with regard to the Nelos
10 data does it provide actual latitude and longitude?

11 A Yes.

12 Q Is it fair to say that the maps are basically a
13 visual interpretation of the call detail record?

14 A Yes, ma'am.

15 Q No further questions.

16 THE COURT: Cross?

17 MR. CHESSER: I don't have any questions of this
18 witness.

19 THE COURT: Thank you, you may be excused.

20 THE WITNESS: Thank you.

21 THE COURT: Next witness.

22 MS. DELOACH: State would call Treasure Simpkins to
23 the stand.

24 THE CLERK: Step up here, please.

25 TREASURE SIMPKINS,

Treasure Simpkins - Direct Examination by Ms. DeLoach

1 having been duly sworn, testified as follows:

2 THE CLERK: Please have a seat in the witness stand
3 and state your name.

4 THE WITNESS: My name is Treasure Simpkins.

5 **DIRECT EXAMINATION**

6 BY MS. DELOACH:

7 Q Good afternoon, Ms. Simpkins. Where are you from?

8 A Aiken, South Carolina.

9 Q And how long have you lived in Aiken?

10 A All my life.

11 Q And where do you currently live?

12 A At 211 Freiday Lane.

13 Q And is that located in any kind of apartments?

14 A Yes. Hahn Village.

15 Q And what is the name of the apartments?

16 A Hahn Village.

17 Q And how long have you lived there?

18 A I think twelve years.

19 Q So is it fair to say that in 2015 you were living
20 in Hahn Village?

21 A Yes --

22 THE COURT REPORTER: I'm sorry, I didn't get that.

23 BY MS. DELOACH:

24 Q The same apartment complex, just different number?

25 A Yes, ma'am --

Treasure Simpkins - Direct Examination by Ms. DeLoach

1 THE COURT: Hold on a second.

2 Brenda, are you all right?

3 THE COURT REPORTER: I did not get her address.

4 THE COURT: What was their --

5 THE WITNESS: The first address I was?

6 THE COURT REPORTER: Yes.

7 THE WITNESS: 301.

8 BY MS. DELOACH:

9 Q Pull your seat up to the microphone.

10 Do you know the defendant in this case?

11 A Yes.

12 Q How do you know him?

13 A Through my daughter.

14 Q Was there some kind of relationship between your
15 daughter and the defendant?

16 A They used to talk.

17 Q What do you mean by talk?

18 A Go together.

19 Q Okay. And how long have you known the defendant?

20 A I knew him for about maybe over a year.

21 Q Over a year?

22 A Before he even got to my daughter.

23 Q Okay. So probably about 2014-ish?

24 A Yeah.

25 Q Okay.

Treasure Simpkins - Direct Examination by Ms. DeLoach

1 A Or a little longer.

2 Q I want to direct your attention to May 8th 2015, do
3 you recall that day?

4 A Yes, ma'am.

5 Q And can you tell us a little bit about what took
6 place on May 8th?

7 A The only thing I know is my daughter woke me up to
8 go find him with her.

9 Q Let's slow down a little bit. On May 8th did your
10 daughter come to your house?

11 A Yes.

12 Q And about what time did she come to your house?

13 A That morning. Probably about 8:30 in the morning.

14 Q Okay. And what were you doing that morning?

15 A Asleep.

16 Q And what did Jasmine do whenever she --

17 A Dived in the bed with me.

18 Q Okay. And I'm sorry, could you tell us what your
19 daughter's name is?

20 A Jasmine Nicole Hammond.

21 Q Okay. Thank you.

22 And so after she got in the bed with you, did she
23 use your phone at some point in the day?

24 A She probably did. I be sleep all the time.

25 Q Most of the day?

Treasure Simpkins - Direct Examination by Ms. DeLoach

1 A Yeah. I sleep all day if I can.

2 THE COURT: Ma'am, you're going to have to speak up
3 a little bit for us now.

4 THE WITNESS: Okay.

5 THE COURT: Please.

6 BY MS. DELOACH:

7 Q Do you recall her using your phone at all that day?

8 A I probably sleep when she did.

9 Q Okay. What happened a little bit later in the
10 afternoon or that evening?

11 A About what time?

12 Q Probably about -- earlier you stated that she woke
13 you up out of the bed can you describe that event for us?

14 A That morning, she went looking for Rashawan.

15 Q Okay.

16 MR. CHESSE: I'm sorry, Your Honor. He had --

17 THE COURT: I can't hear her either. She went
18 looking for what?

19 THE WITNESS: Rashawan Carter. But we call him
20 Shawn.

21 BY MS. DELOACH:

22 Q Will you talk into that microphone, just pull it up
23 and talk right into it.

24 THE COURT: We can hear her we just can't --

25 Ma'am speak distinctly for us. You've got --

Treasure Simpkins - Direct Examination by Ms. DeLoach

1 everybody's got to understand you. Take your time.

2 BY MS. DELOACH:

3 Q So you went looking for Rashawan?

4 A Yes, ma'am.

5 Q Where at?

6 A On Pinecrest Avenue.

7 Q And where is that located in reference to your
8 house?

9 A Right around the corner.

10 Q I'm sorry?

11 A Right around the corner from Hahn Village.

12 Q Okay. Is that like a street over or like in the
13 same neighborhood?

14 A A street over.

15 Q Okay. And why was she looking for the defendant?

16 MR. CHESSER: Objection.

17 THE WITNESS: Because she --

18 THE COURT: Hold on, hold on. She doesn't --

19 Sustained. She can't testify as to why somebody
20 else was doing something.

21 BY MS. DELOACH:

22 Q Were you able to find the defendant that day?

23 A No, ma'am.

24 Q Did anything unusual happen while you were looking
25 for the defendant?

Treasure Simpkins - Direct Examination by Ms. DeLoach

1 A We just seen a --

2 THE COURT: Ma'am, speak up, please.

3 THE WITNESS: We just scene a bunch of police cars
4 going to Hahn Village that time.

5 MS. DELOACH: Did you --

6 THE COURT: A bunch of police cars going to where.

7 THE WITNESS: In Hahn Village, Aiken Housing --

8 BY MS. DELOACH:

9 Q Make sure you speak up.

10 A Uh-huh.

11 Q Did you see anybody else?

12 A I just seen a guy running through the bushes.

13 Q Did you know who he was?

14 A Yeah.

15 Q What was his name?

16 A They call him Trill.

17 Q Do you know him by any other name?

18 A No.

19 Q And when you saw him running, what was he doing?

20 Just running?

21 A Just running.

22 Q Did you try to speak to him?

23 A I ask him why he was running and he kept running.

24 Q He didn't answer you?

25 A Huh-huh.

Treasure Simpkins - Direct Examination by Ms. DeLoach

- 1 Q Where was he running towards?
- 2 A Towards Columbia Avenue across Picket Street.
- 3 Q And from what direction was he running from?
- 4 A Out of Hahn Village.
- 5 Q Out of the front portion of Hahn Village or the
- 6 back portion?
- 7 A The back.
- 8 Q Okay. And after you saw Trill running, what did
- 9 you do next?
- 10 A We went where the police was going.
- 11 Q Okay. Where were the police at?
- 12 A Going to the back.
- 13 Q The back --
- 14 A The back of Hahn Village.
- 15 Q And did you know what apartment they were going to?
- 16 A No.
- 17 Q When you arrived to that area, did you then figure
- 18 out whose apartment they went to?
- 19 A No. Not until I seen them bring a body out.
- 20 Q Okay. After that did you determine whose apartment
- 21 that was?
- 22 A Yes, ma'am.
- 23 Q And whose apartment was that?
- 24 A I forgot the girl name.
- 25 Q Okay. Did you speak to anybody while you were at

Treasure Simpkins - Direct Examination by Ms. DeLoach

1 the seen?

2 A Mr. Marty --

3 THE COURT REPORTER: I'm sorry?

4 THE COURT: Ma'am, please speak up.

5 BY MS. DELOACH:

6 Q Could you please repeat that for us?

7 A Mr. Marty Sawyers.

8 Q And who is that?

9 A The officer at the scene.

10 Q And did anybody take your name at the scene?

11 A I think he did. I ain't for sure.

12 Q What did you do next?

13 A I stand around for a while, then I went home.

14 Q And do you recall what Jasmine did?

15 A She followed right behind me.

16 Q She went home?

17 A Uh-huh. She went back to my house.

18 Q And after you went back home, what did you do?

19 A Got back in my bed.

20 Q And did you see Jasmine anymore that day?

21 A Not until she -- she left probably round about
22 probably about 6:30 that evening.

23 Q In the evening she left that --

24 A I think so.

25 Q Were you asleep most of that day though?

Treasure Simpkins - Cross-Examination by Mr. Chesser

1 A Yes, I got back from in the back.

2 Q In the back of the apartment complex?

3 A Yes, ma'am.

4 Q So you don't recall what time she actually left
5 your home?

6 A No, ma'am.

7 Q When you saw her next, where did you see her at?

8 A At my apartment.

9 MS. DELOACH: Beg the Court's indulgence.

10 F.

11 (There was a pause in the proceedings.)

12 BY MS. DELOACH:

13 Q And I apologize, Treasure. Could you just verify
14 or clarify for the Court, was Jasmine with you whenever you
15 went to the back of the apartment complex with the police
16 officers?

17 A Yes, she was.

18 Q She was. Thank you no further questions. Please
19 answer any questions the defense has for you?

20 THE COURT: Any questions?

21 MR. CHESSER: Yes, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. CHESSER:

24 Q Treasure, how you doing this afternoon?

25 A All right.

Treasure Simpkins - Cross-Examination by Mr. Chesser

1 Q You stated you saw an individual running away from
2 Hahn Village?

3 A Yes, sir.

4 Q Is it correct he was running through that cut area,
5 that open fence area?

6 A Yes, sir.

7 Q Okay. Can you tell the jury what this individual
8 -- can you describe him for the jury?

9 A He just a little fat dude.

10 THE COURT: I can't understand you and I'm sitting
11 right here.

12 Say it again.

13 THE WITNESS: A little fat dude, I don't -- I can't
14 describe him.

15 BY MR. CHESSER:

16 Q Okay. You know how tall he is?

17 A Probably about 5 something.

18 Q Okay. And you know him by Trill, right?

19 A Yes.

20 Q Now, you said he was running away and then after
21 that you saw the body behind the house?

22 A No, we went running to the back and we seen the
23 polices going back there.

24 Q Can I ask you to repeat that, please?

25 A We went running to back when we seen the police

Treasure Simpkins - Cross-Examination by Mr. Chesser

1 officers going to the back.

2 Q In other words, y'all went to go see what they were
3 doing?

4 A Yes.

5 Q Okay. What I was asking is or maybe that's what
6 you were answering, when you went to the back, that's when
7 you saw Trill running away?

8 A No.

9 Q Okay.

10 A We seen Trill when we was coming back to the
11 apartments. He was running. I asked him what was he
12 running for and that's when we see the police officers
13 going to the back.

14 Q Okay. And there again, I'm just trying to get the
15 sort of timing. So after you saw Trill, that's when you
16 went to the back of the apartment, correct?

17 A After we seen the polices.

18 Q Right. So you saw Trill running away.

19 A Yes.

20 Q You saw the police going towards the back?

21 A Yes.

22 Q And y'all went to the back?

23 A Yes.

24 Q That's all the questions I have. Thank you.

25 THE COURT: Anything else?

Treasure Simpkins - Redirect Examination by Ms. DeLoach

1 MS. DELOACH: Yes, sir. Just briefly.

2 REDIRECT EXAMINATION

3 BY MS. DELOACH:

4 Q Treasure, whenever you saw Trill running away from
5 the apartment, where exactly did you see him run from?

6 A From the back by the basketball court.

7 Q Okay. Did you see him running through the woods or
8 did you see him running somewhere else?

9 A Through the apartments.

10 Q Okay. Through the apartment complex?

11 A Like Plunkett Street, Hahns village, he was coming
12 from the back, going across Plunkett.

13 Q I'm going to show you what has been marked as
14 State's Exhibit 96 and entered into evidence. Can you
15 point out on this map where exactly you saw him coming
16 from. I know you're hard of seeing.

17 A I can't even see it.

18 Q Okay. Well, we'll just disregard that.

19 Was it close to the back of the apartment, or was
20 it a different location?

21 A A different location. It was like -- how can I
22 explain this. It's like the front of the apartments, but
23 on the side.

24 Q Okay.

25 MS. DELOACH: No further questions.

Jasmine Hammond - Direct Examination by Ms. Young

1 THE COURT: All right. You may step down. Thank
2 you.

3 Next witness.

4 MS. YOUNG: Jasmine Hammond.

5 THE COURT: Jasmine Hammond?

6 MS. YOUNG: Yes, sir.

7 THE COURT: Right up here, ma'am.

8 THE CLERK: Right up here.

9 JASMINE HAMMOND,

10 having been duly sworn, testified as follows:

11 THE CLERK: Please have a seat in the jury box and
12 state your full name -- I mean witness box and state your
13 full name.

14 THE WITNESS: Jasmine Hammond.

15 THE COURT: Speak loud so that --

16 THE WITNESS: Jasmine Hammond.

17 THE COURT: There you go.

18 **DIRECT EXAMINATION**

19 **BY MS. YOUNG:**

20 Q Good afternoon.

21 A Good afternoon.

22 Q Jasmine, how do you know the defendant in the case?

23 A He was my boyfriend at the time.

24 Q At the time, are you referring back to 2015?

25 A Yes, ma'am.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q Where were you living at the time, in 2015, to be
2 more specific?

3 A Baldwin Road.

4 Q Who lived there?

5 A Me, Rashawan, and my kids.

6 Q How did you meet the defendant?

7 A Through my mother.

8 Q I'm going to direct you back to the afternoon of
9 May 8th, 2015. When was the last time that you saw the
10 defendant that day? Do you recall?

11 A When he dropped me off at my mother's house around
12 eleven o'clock in the morning.

13 Q And where is your mother's house located?

14 A Hahn Village Housing Authority.

15 Q What vehicle did he drop you off in that particular
16 day?

17 A A silver Nissan, a rental, rental car.

18 Q He dropped you off at eleven o'clock you said, in
19 the morning?

20 A Yes, ma'am.

21 Q At the time, if you could, please explain to the
22 jury what type of cell phone you were using?

23 A A Galaxy Note II, that I recall.

24 Q Galaxy Note?

25 A Yes, ma'am.

Jasmine Hammond - Direct Examination by Ms. Young

- 1 Q How about the defendant?
- 2 A A Galaxy Note II.
- 3 Q They were the same type of phone?
- 4 A (Witness nodded head.)
- 5 Q At the time that this happened back in May of 2015,
- 6 was there some issues with those phones?
- 7 A Yes, ma'am.
- 8 Q Describe to the jury what that was?
- 9 A Well, we owed a lot of money on the phone, so the
- 10 phones was off.
- 11 Q Were they completely off?
- 12 A We could only receive text message.
- 13 Q You could receive text messages?
- 14 A Yes, ma'am.
- 15 Q Could you receive calls also?
- 16 A Not that I recall.
- 17 Q But you couldn't call out on the phones?
- 18 A No.
- 19 Q What time were you expecting Shawn to come pick you
- 20 up that morning?
- 21 A Around seven clock.
- 22 Q Did he come pick you up?
- 23 A No, ma'am.
- 24 Q What did you do when he didn't come pick you up?
- 25 A Went to sleep.

Jasmine Hammond - Direct Examination by Ms. Young

1 THE COURT: You did what?

2 THE WITNESS: Went to sleep.

3 BY MS. YOUNG:

4 Q And after you went to sleep, do you know what time
5 you woke the next day?

6 A I think I woke up around four or five o'clock in
7 the morning.

8 Q And to be specific, where were you sleeping that
9 particular night?

10 A At my mother's house in Hahn Village.

11 Q Were you doing anything regarding trying to the
12 defendant?

13 A Yes, ma'am.

14 Q And what was that?

15 A I asked my mother to use her phone so I could get
16 in contact with Rashawan.

17 Q So you remember using the phone to call him, he
18 could receive a call, right.

19 A Uh-huh.

20 Q He couldn't make a call back?

21 A Yes, ma'am.

22 Q Okay. Were you able to get in touch with him?

23 A No, ma'am.

24 Q What else did you do trying to look for him?

25 A I walked to his brother's house with my mother.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q And where is that located?

2 A It was right across the street, I think it's
3 Plunkett, right across from the housing authority.

4 Q Did you find him at his brother's house?

5 A No, ma'am.

6 Q What happened after you looked for him at his
7 brother's house?

8 A Me and my mother was walking back across the street
9 to the housing authority.

10 Q You were walking back to her house?

11 A (Witness nodded head.)

12 Q And what happened when you were walking back?

13 A We was walking back to my mother's house --

14 Q Okay. Slow down just a little bit, okay?

15 A When we was you walking back to my mother house, I
16 seen the police and the ambulance being backed up to where
17 Ms. Liz lived at.

18 Q Did you see anything else?

19 A I seen a dude, his name -- well his name, I call
20 him Trill. I don't know his real name, but I seen him
21 walking across the field back from Hahn Village.

22 Q When you saw him, did you try to talk to him or
23 anything?

24 A Yes.

25 Q What happened?

Jasmine Hammond - Direct Examination by Ms. Young

1 A He didn't respond back to me. I just spoke and
2 said, Hey. He didn't respond.

3 Q How was he walking? Can you describe?

4 A In a fast pace.

5 Q What was the next thing you did after you saw this
6 person you're calling Trill?

7 A I walked to the back where the ambulance and police
8 officers were with my mama.

9 Q Okay. Just so I can be clear because we're talking
10 different directions.

11 Where did you see Trill? What road were you close
12 to or on when you saw Trill?

13 A The road right there that you turn on Hahn Village.
14 I don't know the name of the road, but that road right
15 there.

16 Q Okay. Running next to Hahn Village?

17 A To Plunkett, yes, ma'am.

18 Q And where did the police go?

19 A All the way to the back past the court to Ms. Liz's
20 house. It was almost to the further back.

21 Q And what did you do after you --

22 A I went and stood beside Officer Marty Sawyer with
23 my mom.

24 Q Were you just walking? What was going on?

25 A Yes, ma'am.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q What all did you see?

2 A I seen the boy on the stretcher and Ms. Liz was
3 being held by Melvin Chandler.

4 Q Did you give your name to the police officer that
5 you recall?

6 A Not that I recall.

7 Q Did you talk with Captain Sawyer?

8 A I spoke and I stood right up there with him, but it
9 wasn't no full conversation. I was probably just asking
10 around, what was going on outside, because there was a lot
11 of people outside.

12 Q Who were you with at the time?

13 A My mother, Treasure Simpkins.

14 Q I'm just clarifying.

15 A Okay.

16 Q Where did you go after you went to the back to see
17 what was going on?

18 A After I left?

19 Q After you left from where Liz's house is?

20 A I went to my cousin's house. I seen her standing
21 on the porch because right at that time, it was time for
22 the kids to get up for school, so I called -- I used her
23 phone to try to get contact with Rashawan again.

24 Q What's your cousin's name?

25 A Antoinette.

Jasmine Hammond - Direct Examination by Ms. Young

- 1 Q And do you know her last name?
- 2 A Simpkins.
- 3 Q Where does she live?
- 4 A She lived right behind my mother in the next
5 apartment behind hers.
- 6 Q And you asked her if you could borrow her phone?
- 7 A Yes, ma'am.
- 8 Q Did you get in touch with Rashawan?
- 9 A Not that I recall. I think when I got in contact
10 with him I used my mother phone. She had came home and
11 that's when he answered the phone and told me that Whitney
12 Simpkins was on the way to come pick me up.
- 13 Q He told you Whitney was coming to get you?
- 14 A Yes, ma'am.
- 15 Q And then what happened next?
- 16 A We went to -- when she came and got me, we went to
17 Augusta, Georgia to River Bend, downtown.
- 18 Q What car was she driving when she came to get you?
- 19 A The silver Nissan, the rental car.
- 20 Q And where did you go in Augusta?
- 21 A I guess that was his nephew house that we had went
22 to..
- 23 Q When you say he, are you referring to the
24 defendant?
- 25 A Yes.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q What's -- do you know his nephew's name?

2 A I just called him nephew.

3 Q What did you see when you got to River Glen
4 Apartments?

5 A I seen Freak -- well, Rodriguez Jackson, and a dude
6 named P.J. from the -- and Shawn was standing in the
7 hallway next to his nephew's door. That's all I had seen.

8 Q So you saw Freak, Shawn, and P.J. --

9 A Yes, ma'am.

10 Q -- was the nephew there also?

11 A Yes, ma'am.

12 Q How -- how do you know Rodriguez?

13 A I went to DJJ with his sister when we was kids and
14 my brother used to talk to his sister. But I didn't really
15 talk to him all the time, but I knew him from being around
16 my brother.

17 Q So you've known him for some period of time?

18 A Uh-huh.

19 Q Had you been to the nephew's apartment at River
20 Glen on previous occasions with the defendant?

21 A Yes, ma'am, once.

22 Q Did Shawn say anything to you there about what
23 happened?

24 A He didn't really say too much about it until we got
25 down the road.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q Okay. Tell me -- tell the jury rather, where's the
2 next place that you went?

3 A After we left River Glen, we had went to the Budget
4 on Broad Street, to a hotel to rest up. After we had
5 rested up, we took Ms. Whitney back to her job at Ruby
6 Tuesday's on the South Side.

7 After we left Ruby Tuesday's on the South Side, we
8 went back to my home, my current address and got some
9 clothes.

10 Q All right. Let me slow you down so we can just get
11 all the details, okay?

12 How did you get from River Glen to the Budget Inn?

13 A My cousin drove me, Ms. Whitney.

14 Q She's your cousin also?

15 A Uh-huh.

16 Q What vehicle were you driving in?

17 A The silver Nissan.

18 Q And who all was in the car, to your recollection?

19 A Me, her, and Rashawan.

20 Q Who went to the Budget Inn?

21 A Me and Rashawan.

22 Q Did the defendant tell you anything while you were
23 at the Budget Inn?

24 A No, ma'am.

25 Q How long were you at the Budget Inn?

Jasmine Hammond - Direct Examination by Ms. Young

1 A Just for a few hours.

2 Q And how did you get from the Budget into the next
3 place?

4 A The rental car.

5 Q And did Whitney come back and get you?

6 A Yes, ma'am, he had to drop her off at her job.

7 Q What's the first place that the defendant told you
8 about what happened?

9 A Can you say that again?

10 Q Did the defendant tell you what happened the night
11 before?

12 A No, ma'am.

13 Q I didn't ask that question very well. Did the
14 defendant tell you what happened with the home invasion at
15 some point in time?

16 A Yes, ma'am.

17 MR. CHESSER: Objection, Your Honor.

18 THE COURT: What's the objection?

19 MR. CHESSER: This is asked and answered, Your
20 Honor.

21 THE COURT: Overruled.

22 BY MS. YOUNG:

23 Q You can answer the question.

24 A Yes, ma'am.

25 Q Where was that to your memory?

Jasmine Hammond - Direct Examination by Ms. Young

- 1 A We was in the vehicle on the way to Columbia.
- 2 Q All right. So we haven't gotten to that part yet,
3 correct?
- 4 A Huh-huh.
- 5 Q You dropped Whitney off at Ruby Tuesday?
- 6 A Yes, ma'am, on the South Side.
- 7 Q Where's the next place that you went?
- 8 A After -- my home.
- 9 Q Okay. What time did you drop Whitney off, if you
10 know?
- 11 A I don't know.
- 12 Q Tell the jury what you did when you got to your
13 house on Baldwin?
- 14 A I changed clothes.
- 15 Q And what else? Anything else?
- 16 A No, ma'am.
- 17 Q Where's --
- 18 A We snacked on some food, of course.
- 19 Q Where's the next place that you went?
- 20 A Walmart in Batesburg.
- 21 Q And was there any discussion on the way from Aiken
22 to Batesburg?
- 23 A Not really because Mr. Rashawan was on the phone.
24 With who, I don't know. But he wasn't talking to me. He
25 was on the cell phone.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q What happened when you got to Batesburg?

2 A Went to Walmart and got me a cell phone so I could
3 get in contact with my sister.

4 MS. YOUNG: Beg the Court's indulgence just a
5 minute.

6 THE WITNESS: Okay.

7 BY MS. YOUNG:

8 Q Jasmine, I'm going to show you what's been marked
9 for identification purposes as State's Exhibit Number 10.
10 Do you recognize that?

11 A Yes, ma'am.

12 Q What is it?

13 A The CD of us in Walmart.

14 Q And how do you know that it's the CD of you in
15 Walmart?

16 A Because I watched it and my initials is on the CD.

17 MS. YOUNG: Your Honor, at this point, we'd move to
18 enter State's Exhibit 10 into evidence and publish it to
19 the jury.

20 MR. CHESSER: No objection.

21 (State's Exhibit Number 10 was entered into
22 evidence.)

23 BY MS. YOUNG:

24 Q Can you step down off the stand?

25 THE COURT: Ma'am, we need you to step down so you

Jasmine Hammond - Direct Examination by Ms. Young

1 can point out things for the jury.

2 (The witness stepped down in front of the jury.)

3 MS. YOUNG: You can stand right where I'm standing
4 so you can see the video. I'm going to ask you some
5 questions.

6 (The video is played while the solicitor continued
7 asking questions of the witness.)

8 BY MS. YOUNG:

9 Q What car were y'all in at this point?

10 A The silver Altima -- Nissan Altima --

11 THE COURT: Speak up for me, please, ma'am.

12 THE WITNESS: The silver Nissan.

13 BY MS. YOUNG:

14 Q You have to keep your voice up because the court
15 reporter's trying to take it down, okay?

16 A (Witness nodded head.)

17 Q Where are you on this video?

18 A --

19 THE COURT REPORTER: I can't hear her at all.

20 THE WITNESS: I'm to the left and Rashawan is to
21 the right.

22 BY MS. YOUNG:

23 Q What is he wearing?

24 A A white t-shirt and bluejean pants, shorts.

25 Q What are you wearing?

Jasmine Hammond - Direct Examination by Ms. Young

1 A The silver -- well, a gray dress shirt.

2 Q What's Rashawan doing?

3 A On the phone.

4 THE COURT: Speak up for me so I can hear you.

5 THE WITNESS: On the telephone.

6 THE COURT: Okay.

7 BY MS. YOUNG:

8 Q What are you doing at this particular part?

9 A Looking for a cell phone.

10 Q What's he doing?

11 A Look like he's still on the phone.

12 Q It's not a very quick decision, is it?

13 A No.

14 Q What are you doing right there?

15 A Talking to the store manager or one of the
16 cashiers.

17 Q What's he doing?

18 A Still on the phone.

19 Q This is a different camera angle?

20 A (Witness nodded head.)

21 Q You have to answer out loud, yes?

22 A Yes, ma'am.

23 Q Can you move just a little to the left so the jury
24 can see, just a little that way.

25 What does this show, Jasmine?

Jasmine Hammond - Direct Examination by Ms. Young

1 A He paying for the cell phone.

2 Q So same thing from the last scene, but just a
3 different angle?

4 A Yes, ma'am.

5 Q What does this show?

6 A Me and Rashawan walking out of Walmart.

7 Q Okay. Have a seat back up there.

8 (The witness returned to the witness stand.)

9 BY MS. YOUNG:

10 Q Jasmine, after you bought the phone and walked out
11 of Walmart, what's the next thing that you did.

12 A We was on our way to Columbia to my sister's house.

13 Q Did you do anything particular with regard to the
14 phone itself?

15 A No, all I had to do was power it on.

16 Q Power it on?

17 A (Witness nodded head.)

18 Q So it was ready for you to use right out of the
19 box?

20 A Yeah.

21 Q And is that what you did?

22 A Yes, ma'am. And I called my sister.

23 Q And what's the next thing that happened?

24 A We make it to Columbia and that's where I see --

25 Q Where did you go in Columbia?

Jasmine Hammond - Direct Examination by Ms. Young

1 A To my sister's house on Broad River.

2 Q Do you know the name of the apartment --

3 A Apartment complex was the Quarters.

4 Q And what did you do?

5 A I was sitting down in the living room with my
6 sister and Rashawan was outside on the phone still.

7 Q So at what point in time were you told what had
8 happened with regard to the home invasion?

9 A On the way to and after Walmart.

10 Q What did he say?

11 A He said that he was the driver of the car.

12 Q And what else did he say about it?

13 A That the dude had got shot in the head.

14 Q Did he tell you any other details?

15 A Just a little bit of the details about the dude
16 being shot in the head, that he drove the car.

17 Q Can you clarify that? I'm just -- I'm not sure I
18 understood what you said?

19 A You want me to repeat it?

20 Q Yeah.

21 A He said that he was the driver of the car and that
22 his -- the dude that was running it had got shot in the
23 head.

24 Q Did he say who that person was?

25 A The name that I got, the nickname was Black Boy.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q Did he give you any other details?

2 A No, ma'am. Not too many. He was just saying that
3 he was just driving the car and the dude had got shot in
4 the head.

5 Q What did you do once you got to your sister's
6 apartment?

7 A I sat down on the couch and was talking to my
8 sister.

9 Q What's the next thing that happened?

10 A My sister leave me from having a conversation with
11 me and she went in her room and in the midst of her coming
12 out of her room, she looked through a sliding door to see
13 Rashawan being patted down by two investigators.

14 Q What did you do when you saw that?

15 A Went outside.

16 Q And?

17 A Went and stood beside Rashawan.

18 Q What happened then?

19 A The officers was talking to Rashawan and Rashawan
20 had handed me his cell phone and the little bit of money
21 that he did have on him.

22 Q What cell phone did he hand you?

23 A The Note II, the Galaxy Note.

24 Q The big phone?

25 A Yes, ma'am.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q When you're talking about a little bit of money,
2 how much money was it actually?

3 A Probably no more than \$800.

4 Q What did you do once he gave you the phone and the
5 money?

6 A I got in the car to follow them to headquarters or
7 whatever that was the interrogation room.

8 Q Did Shawn tell you anything else with regard to
9 phone that he gave you?

10 A Yes, ma'am.

11 Q What was that?

12 A He was like throw away the phones.

13 Q Excuse me?

14 A He was -- he said throw away the phones.

15 Q And what did you do as a result of that?

16 A I called my mother and I asked her could she throw
17 away the phones because at the time I thought my life was
18 at stake.

19 Q And can you describe how she got the phones? You
20 had them, right?

21 A Yes, ma'am. On the way the Aiken from Columbia, I
22 had got lost on the road, so I called my mom and I was like
23 can I come pick you up so you can show me how to get to
24 public safety. In the middle of going to my mom's house, I
25 was like, can you get are rid of these phones for me.

Jasmine Hammond - Direct Examination by Ms. Young

- 1 Q Did you tell her what to do with them?
- 2 A Yes, ma'am.
- 3 Q What did you tell her?
- 4 A I said break them up and wash them.
- 5 Q Wash them?
- 6 A Yes, ma'am, well, put water on them.
- 7 Q Jasmine, I'm showing you what's been previously
- 8 entered into evidence already, it's State's Exhibit 87 and
- 9 88. You can hold it and look at them?
- 10 A Okay.
- 11 Q What are those?
- 12 A The Note II Galaxy phones.
- 13 Q Those the phones that you told to -- your mom to
- 14 get rid of?
- 15 A Yes, ma'am.
- 16 Q As a result of those -- of you telling her that, do
- 17 you have charged pending against you?
- 18 A Yes, ma'am.
- 19 Q And whose prosecuting those charges? Is it me?
- 20 A Yes.
- 21 Q Have I made you any promises about your charges to
- 22 come testify today?
- 23 A No, ma'am.
- 24 Q Did you talk to -- continue to talk to Shawn for
- 25 some time after this, this event?

Jasmine Hammond - Direct Examination by Ms. Young

1 A Yes, I had, I guess two phone calls, jail -- at
2 least two phone calls from jail from him and then after
3 that I just didn't hear from him anymore. Didn't talk to
4 him anymore.

5 Q Jasmine, I'm going to show you what's been marked
6 as State's 11 and 11-A and ask if you can identify those?

7 A Yes, ma'am.

8 Q What are those?

9 A This is the typing out of the conversations we had
10 at -- and this is the recording of the jail conversations.

11 Q And have you looked at those prior to coming into
12 court today?

13 A Yes, ma'am.

14 Q Does that accurately reflect the conversation as
15 you recall it?

16 A Yes, ma'am.

17 MS. YOUNG: Your Honor, at this point in time,
18 State would move items 11 and 11-A into evidence.

19 MR. CHESSER: No objection.

20 (State's Exhibit Number 11 and Number 11-A was
21 entered into evidence.)

22 MS. YOUNG: Your Honor, I request to publish and
23 pass out the transcripts to the jurors.

24 THE COURT: Let me have one too, please.

25 MS. YOUNG: Certainly.

Jasmine Hammond - Direct Examination by Ms. Young

1 THE COURT: If you've got one.

2 (The call was played for the jury.)

3 BY MS. YOUNG:

4 Q Jasmine, I'm going to show you what's been marked
5 for identification purposes as Exhibits 12 and 12-A and ask
6 you if you recognize those?

7 A Yes, ma'am.

8 Q What are those?

9 A The recordings from the jail phone call.

10 Q Another jail phone call?

11 A Yes, ma'am.

12 Q Have you listened to that prior to coming to court
13 today?

14 A Yes, ma'am.

15 Q Does this appear to accurately reflect the jail
16 phone call that you had?

17 A Yes, ma'am.

18 MS. YOUNG: Your Honor, at this time we'd move to
19 enter State's 12 and 12-A into evidence.

20 MR. CHESSER: No objection.

21 (State's Exhibit Number 12 and Number 12-A was
22 entered into evidence.)

23 MS. YOUNG: Request to publish?

24 THE COURT: You got a transcript?

25 MS. YOUNG: I do, Your Honor.

Jasmine Hammond - Direct Examination by Ms. Young

1 (The call was played for the jury.)

2 BY MS. YOUNG:

3 Q Jasmine, were you interviewed about this case by
4 Detective Cameron?

5 A Yes, ma'am.

6 Q Several times, correct?

7 A Yes, ma'am.

8 Q What did you tell him the first time with regard to
9 the defendant?

10 A That he told me he had drove the car.

11 Q And that was it, right?

12 A That I recall.

13 Q You didn't give him any additional information the
14 first time you talked to him?

15 A No, ma'am.

16 Q I'm talking about Detective Cameron?

17 A No, ma'am.

18 Q Let me ask you about the money, about the comment
19 rather about the money. Explain to the jury what you're
20 talking about. Where did that take place?

21 A Outside of public safety, I guess that's what it
22 was, up the street. I was offered some money for
23 something. I'm not sure what it was for, but I was offered
24 money.

25 Q And do you recall what was said exactly?

Jasmine Hammond - Direct Examination by Ms. Young

1 A No, it been a while so I don't recall exact words.

2 Q Okay. What were you supposed to be writing in
3 these letters?

4 A Everything that Rashawan discussed in that letter
5 that he was at another female's house and that he didn't
6 have anything to do with it.

7 Q He was telling you to right letters saying that?

8 A Yes, ma'am.

9 Q Was that what happened?

10 A No, ma'am.

11 Q Let me ask you again about the -- way back when we
12 talked about you seeing Trill running away from Hahn
13 Village, did you hear anything around that time that caught
14 your attention?

15 A I heard a gunshot.

16 Q When was that?

17 A When me and my mom was walking back across the
18 field.

19 Q When did you see that in relation to seeing Trill
20 run past you.

21 A Well, when I heard the gunshot, we was walking back
22 across the street. I seen Trill running back across. He
23 was walking in a fast pace, so he -- I felt like he had
24 something to do with it because he came from up towards
25 that way.

Jasmine Hammond - Direct Examination by Ms. Young

1 Q You heard the gunshot and then saw him?

2 A Yes, ma'am.

3 Q I don't have any further questions. You need to
4 answer whatever questions the defense attorney has?

5 THE COURT: All right. Let's take about a ten
6 minute break and stretch our legs.

7 (The jury left the courtroom at 4:08 p.m.)

8 THE COURT: Anything for the record before we
9 break?

10 MS. YOUNG: No, sir, Your Honor.

11 MR. CHESSER: No, sir.

12 THE COURT: Ma'am, you're right in the middle of
13 your testimony. Don't discuss it. Obviously, you may step
14 down and --

15 Mr. Sawyer, if she needs to go anywhere, how about
16 escort her.

17 Ma'am, Mr. Marty Sawyer will escort you wherever
18 you need to go.

19 (A brief recess was observed.)

20 THE COURT: State ready?

21 MS. YOUNG: Yes, sir.

22 THE COURT: Mr. Chesser?

23 MR. CHESSER: Yes, sir.

24 (The jury entered the courtroom at 4:29 p.m.)

25 THE COURT: Mr. Foreman, y'all ready?

Jasmine Hammond - Cross-Examination by Mr. Chesser

1 THE FOREPERSON: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. CHESSER:

4 Q Jasmine, how you doing today?

5 A I'm all right. How are you?

6 Q Fine.

7 I want to clear up one thing. Were you reading
8 along in these transcripts when they were played?

9 A Yes.

10 Q I just want to show you a page of it. It has this
11 strange word that spells out madisal (phonetic). You know
12 what I'm saying?

13 THE COURT: What page, if you recall.

14 MR. CHESSER: Your Honor, I'm looking at page 5, I
15 believe it's on the second transcript.

16 MS. YOUNG: Your Honor, may we approach?

17 THE WITNESS: This is about Marty --

18 THE COURT: Hold on, hold on.

19 Where?

20 MR. CHESSER: Your Honor, I'm looking at page 5 of,
21 I believe it's the second transcript.

22 THE COURT: Okay. Page 5.

23 MR. CHESSER: It starts out on the top, it says
24 that and then it says period, you know.

25 THE COURT: That?

Jasmine Hammond - Cross-Examination by Mr. Chesser

1 MR. CHESSER: It's at the top of this page.

2 THE COURT: Come show me where you're talking
3 about.

4 MR. CHESSER: Yes, sir.

5 (There was a bench conference out of the hearing of
6 the jury and the Court Reporter.)

7 THE COURT: Withdraw that question?

8 MR. CHESSER: Yes, sir, I was confused.

9 THE COURT: No problem.

10 BY MR. CHESSER:

11 Q With regard to the individual you saw running away
12 from Hahn Village, you knew him as Trill?

13 A Yes, sir.

14 Q Had you known him previously?

15 A No, I just knew that he was in a relationship with
16 my cousin.

17 Q Okay. Now, again, just to talk about where you saw
18 him running; isn't it correct that you saw him running
19 through a field towards the cut towards Columbia Avenue?

20 A Okay. Where's Columbia Avenue?

21 Q Okay. Columbia Avenue is -- well, let me rephrase
22 the question like this.

23 You know where Liz lives, right?

24 A Yes.

25 Q She live --

Jasmine Hammond - Cross-Examination by Mr. Chesser

1 A In --

2 Q And then behind her there's a fence?

3 A Yes.

4 Q And there's a break in the fence, that's referred
5 to as a cut?

6 A (Witness nodded head.)

7 Q That's where you saw Trill runs?

8 A No.

9 Q Okay. You recall telling investigators that you
10 saw Trill running through the field towards Columbia Avenue
11 on a cut?

12 A I saw him toward Plunkett Avenue.

13 Q Okay. So in relation --

14 A Because the main road coming down to turn into Hahn
15 Village, that road that you keep going around the curve.

16 Q Okay. So he was running out of the entrance of
17 Hahn Village?

18 A It's not the entrance. Where the bushes is, they
19 got a gate closed right there. In the front you can still
20 kind of -- but Trill was on the other end coming out that
21 way.

22 Q Okay. Does that offer access to Columbia Avenue?

23 A Yes.

24 Q And Columbia Avenue is where Melvin had his drug
25 house?

Jasmine Hammond - Cross-Examination by Mr. Chesser

1 A Yes.

2 Q Okay. And do you recall that Trill was wearing a
3 white shirt and blue jeans?

4 A Yes.

5 Q All right. Now, Jasmine, you currently -- you've
6 got a charge of accessory after the fact?

7 A Yes.

8 Q You know how many years that carries?

9 A Yes.

10 Q How many?

11 A 25.

12 Q A lot?

13 A Yeah.

14 Q All right. And you have how many children?

15 A Three, three little girls.

16 Q And you would agree that you've been interviewed a
17 number of times by law enforcement, right?

18 A Yes.

19 Q And you've changed your story a number of times?

20 A Yes, because I couldn't remember.

21 Q And would you say that then and now it's very
22 important for you to stay out of jail?

23 A Yes.

24 Q And not only for your sake, but for your children's
25 sake?

Jasmine Hammond - Redirect Examination by Ms. Young

1 A Yes.

2 Q Isn't that your prime motivation?

3 A Yes, sir.

4 Q Thank you.

5 THE COURT: Anything on redirect?

6 REDIRECT EXAMINATION

7 BY MS. YOUNG:

8 Q Jasmine, when you met with me to prepare for this
9 trial, what did I tell you to say?

10 MR. CHESSER: Objection.

11 THE WITNESS: To tell --

12 THE COURT: Whoa, whoa, whoa.

13 You opened the door wide. What was her primary
14 goal to testify to stuff. I'll allow it.

15 BY MS. YOUNG:

16 Q What did I tell you to say?

17 A Nothing but the truth.

18 MS. YOUNG: No further questions.

19 THE COURT: Jasmine, you may step down. Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: Next witness.

22 MS. YOUNG: Captain Marty Sawyer.

23 MARTIN SAWYER,

24 having been duly sworn, testified as follows:

25 THE CLERK: Have a seat in the witness box, state

Martin Sawyer - Direct Examination by Ms. Young

1 your name for the court.

2 THE WITNESS: My name the Martin Sawyer.

3 **DIRECT EXAMINATION**

4 BY MS. YOUNG:

5 Q Where are you employed?

6 A I'm employed at Aiken Department of Public Safety.

7 Q In what capacity?

8 A I'm captain over our adult investigations division.

9 Q How long have you been doing that?

10 A Five and a half years.

11 Q What other positions have you held at Aiken Public
12 Safety?

13 A Before being promoted to captain, I worked
14 narcotics for twelve years. Before that I was on special
15 operations which included the blood hound tracking team,
16 traffic, warrant service, and then before that I worked
17 road patrol.

18 Q How long have you been in law enforcement?

19 A Twenty-eight and a half years.

20 Q Tell the jury what the first thing that you did
21 with relation to the home invasion on May 9th, 2015?

22 A Well, I was at home, obviously, this is early in
23 the morning, and received a call about a home invasion
24 where a person had been shot and got up and got addressed
25 and responded to the scene. I met with Lieutenant Cameron

Martin Sawyer - Direct Examination by Ms. Young

1 who was the on call investigator at the time and I got a
2 briefing from him about what was going on and what he'd
3 already found out and was doing.

4 Q And when you went to the scene and you got that
5 information, what would your main duties have been once
6 you're there?

7 A My main duties would have been supervising, just
8 making sure that we had enough people, that we called in
9 some more people because on a scene like this, you might
10 have ten different directions to go. Make sure that SLED
11 crime scene was notified. Make sure that the solicitor's
12 office was notified and just kind of keep things running as
13 smooth as we can and make sure we have enough manpower.

14 I also called in ATF task force just because of
15 manpower. They can send me five or six people if I need
16 that kind of help.

17 Q What did you do, if anything, with regard to
18 looking around the scene at [REDACTED]?

19 A Well, after receiving a briefing and talking to
20 people, a few people, at some point, I went behind [REDACTED]
21 [REDACTED] -- is that the part you're talking about?

22 Q Uh-huh.

23 A [REDACTED] where McCormick Street Extension
24 comes into the back of it. There's a wooded area back
25 there, it's a dirt road comes back up in there. So I was

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1 just walking, looking to see if I could find a gun, see if
2 I could find any evidence that had been thrown down. I
3 made myself out to Cushman Drive, which is a street over
4 where there are some houses and I started looking on the
5 houses to see if I could find any cameras on the house that
6 would be pointing toward the roadway.

7 Q And what did you -- what did you find?

8 A I did find one house, if you come out McCormick
9 Street Extension and turn left, down at the bottom here
10 there was a brick house and I saw cameras on the outside of
11 that house. I knocked on the door and talked with a lady.
12 She said yes they do work. I don't know where there
13 pointing, I don't know how to download them. And I told
14 her that I would get somebody around there at some point
15 during the day to download the video and see if anything's
16 on there that would help us. And she said that's fine.

17 And some point later, I told Lieutenant Cameron
18 about it. He went around there and retrieved the video.

19 Q Can you step down really quick, Captain Sawyer.
20 And if you would --

21 (The witness stepped down in front of the jury.)

22 (The witness was given a photograph.)

23 THE WITNESS: This is the crime scene right here
24 and there is a cut in the fence right here. There's a hole
25 in the fence. And this is McCormick Street Extension here,

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1 which is a dirt road. A little field on one side and we
2 was on the other. And then this is Cushman Drive here.
3 This is Laurens Street, this is Cushman Drive, and right
4 down here in the curve, there's a house that's almost cut
5 off, and that's where the cameras were located.

6 Q And just so I can be clear for the record, you're
7 referring to State's Exhibit Number 96?

8 A Yes.

9 Q And the part that you pointed to that's the curve,
10 that's at the very top left of the map or left on the side?

11 A Yes.

12 Q Does McCormick Street Extension run all the way
13 through?

14 A No. It dead ends right, I don't know, probably
15 7500 yards -- well, no it's probably a couple hundred. It
16 comes off of Cushman Drive, it does not run onto -- it's a
17 dead end road.

18 Q And point out again which house is [REDACTED]?

19 A Right here.

20 Q Okay. Thank you.

21 (The witness returned to the stand.)

22 BY MS. YOUNG:

23 Q After you walked down and saw the camera -- was
24 that the only one, by the way?

25 A That's the only house I seen that had cameras yes.

Martin Sawyer - Direct Examination by Ms. Young

1 Q Did you observe anything else in particular about
2 McCormick Street Extension?

3 A I didn't find anything. I decided at that point to
4 call the sheriff's office. They have dogs that can smell
5 or sniff out gun powder and I don't know all the details.
6 I'm not going to act like I know what all they can smell,
7 but I know they can smell gun powder and guns that's
8 recently been fired. So we called them and let them search
9 the area. They didn't find anything.

10 Q And what area did they search in particular?

11 A They started behind Brown Lane where we were told
12 the suspects ran out all the way down McCormick Street
13 Extension to Cushman Drive and both sides of the two little
14 dirt roads which is known as McCormick Street Extension.

15 Q Did you have any interactions with people at the
16 crime scene?

17 A I did.

18 Q Who was that?

19 A Well, I mean, I talked to several people. Two that
20 I talked to that were here today is Treasure and Jasmine.

21 Q How do you know Treasure and Jasmine?

22 A Well, I know Jasmine through Treasure because it's
23 her daughter. I've known Treasure several years. She's
24 been in Hahn Village as she stated twelve years. And then
25 a little bit before that I had met her several times when I

Martin Sawyer - Direct Examination by Ms. Young

1 was -- had some dealings with her.

2 Q And without saying what was said, did you ask them
3 if they had any information that might pertain to the
4 investigation?

5 A Early that morning, when I first got there,
6 Treasure and Jasmine were together and I talked to them
7 briefly. Later on in the morning, a couple hours later,
8 maybe, I got the name Shawn or Vertez from Lieutenant
9 Cameron, who went over to the hospital to talk to the
10 family and I found Treasure at that time and asked her if
11 she knew anybody named Shawn or Vertez and she said her
12 daughter's boyfriend was named Shawn. We talked about what
13 he was driving and she said he was driving a rental car at
14 that time.

15 Q I'd like to direct your attention to the portion of
16 the testimony previously about you offering somebody money.
17 Can you explain to the jury what happened in that
18 particular situation?

19 A Yes. Jasmine was at headquarters being
20 interviewed. At some point we went outside into what we
21 call our sally port because in our building, it's concrete
22 and rebar, so we have no cell phone service signal. And we
23 was trying to get on her Facebook page, or she was trying
24 to get on her Facebook page and didn't have any signal. So
25 we walked out.

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1 At some point in the conversation, I told her, I
2 said, we offer money and we offer to pay people for
3 information. Specifically was not for this case, but
4 included this case. Any major crime we have, we offer
5 money to people who will give information. Now, we don't
6 just hand out hundred dollar bills. There's some specific
7 stuff you have to do and it's all documented. I have a
8 fund -- our investigation division has a fund as our
9 information fund. It a the budgeted line item that we get
10 every year to buy drugs and to pay out for information.
11 This year's budget is \$6,000 and we'll go over because we
12 do this a lot.

13 Anybody with information about a case, we pay out.
14 Another caveat to that is, we don't just hand it out. You
15 have to be signed up as an informant so everything's
16 documented. Because we are responsible for that money
17 every year. So you have to be signed up as an informant.
18 You're given an informant number and when you're given
19 money, there's another sheet that you actually have to sign
20 with your name, which is the only sheet you sign with your
21 name.

22 So there is a process to follow. It's not just,
23 here, here's a hundred dollars for information.

24 Q Is that what you were referring to in that
25 conversation?

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1 A Yes.

2 Q Do people sometimes give you information without
3 that happening?

4 A A lot of times people give us information. Several
5 reasons, they want to make the streets safer, they like us,
6 they just think it's the right thing to do, but they don't
7 want to be documented. They don't want their name on paper
8 and they don't want to be called in court to testify if it
9 comes to that. So, yes, we do get information without
10 giving money or anything.

11 Q And it's just for information. You don't say we'll
12 give you money if you say X?

13 A No, ma'am, we don't tell them what to say, it's
14 just for information.

15 MS. YOUNG: No further questions.

16 MR. CHESSER: No questions of this witness.

17 THE COURT: Thank you, captain.

18 MS. YOUNG: May we approach, Your Honor?

19 THE COURT: Yes, ma'am.

20 (There was a bench conference out of the hearing of
21 the jury and the Court Reporter.)

22 THE COURT: Y'all have anything in the morning that
23 we need the do so we don't get hung up like we did this
24 morning?

25 MS. YOUNG: Not from the State.

1 MR. CHESSER: No, Your Honor.

2 THE COURT: All right. Mr. Foreman, I think we've
3 got about four more witnesses. We anticipate getting
4 through by -- before lunch tomorrow. The State -- the
5 County -- Mr. Whittle will buy your lunch again. Somebody
6 will. And hopefully we can get to the arguments and charge
7 around lunchtime or shortly before or after. That's my
8 plan.

9 So I'm going to leave you, let you go home now for
10 the evening. Please don't discuss the case with anyone.
11 Don't let anybody discuss it with you.

12 (Discussion with the jury about breakfast the next
13 day.)

14 THE COURT: All right. We'll start right at 9:30.
15 I apologize for this morning, but when we got here, we had
16 a 30 minute motion that I did not know about. We do not
17 have anything in the morning, so I'm going to start at 9:30
18 and we'll select a place for ordering lunch tomorrow. It's
19 up to y'all, wherever you want to. And we'll move along
20 and see if we can't do efficiently and get through.

21 I thank you, y'all have paid great attention. I've
22 enjoyed working with you so far and we'll hope we finish it
23 up tomorrow.

24 Leave your notepads and the transcripts right there
25 in the chairs and we'll pick those up for you.

1 (The jury left the courtroom at 4:49.)

2 THE COURT: All right. Anything for the record
3 before we break for the evening? By the State?

4 MS. YOUNG: Nothing from the State, Your Honor.

5 THE COURT: Mr. Chesser?

6 MR. CHESSER: Nothing from defense.

7 THE COURT: Okay. Everyone have a pleasant
8 evening. We'll start right on time at 9:30 in the morning.

9 (Court was in recess for the day.)

10 **THURSDAY, FEBRUARY 15, 2018**

11 THE COURT: Bring the defendant out, please.

12 (The defendant entered the courtroom.)

13 THE COURT: Is the State ready to proceed?

14 MS. YOUNG: Yes, sir, Your Honor.

15 THE COURT: Defense?

16 MR. CHESSER: Your Honor, we're ready, but I would
17 ask that these be admitted as a Court Exhibit. One of them
18 is what I had provided the Court with, filed and -- well,
19 not filed, provided the Court with on the 8th of January.
20 We had a hearing on it. That was an initial motion. The
21 other one is the State's response, which incorporated it.
22 The State's response has been filed. I don't know that I'm
23 just duplicating it to ask that it be a Court Exhibit, but
24 I would ask that it be accepted.

25 THE COURT: Very well.

1 All right. Bring the jury in, please.

2 THE COURT REPORTER: These would be Court's 4 and
3 5.

4 THE COURT: Yes, ma'am, whatever's next in line
5 numerically.

6 (Court's Exhibit Number 4 and Number 5 was marked
7 for evidence.)

8 THE COURT: All right. Bring the jury in, please.
9 (The jury entered the courtroom at 9:36 a.m.)

10 THE COURT: Good morning, Mr. Foreman, ladies and
11 gentlemen of the jury. I hope you had a pleasant evening
12 and didn't eat too many donuts this morning.

13 THE FOREMAN: We're good.

14 MS. YOUNG: Your Honor, at this time, the State
15 would move to enter into evidence State's Exhibit Number
16 97, which is a certified copy of a prior conviction for
17 trafficking cocaine base 10 to 28 grams.

18 THE COURT: Any objection?

19 MR. CHESSER: No objection.

20 THE COURT: All right. Ladies and gentlemen, this
21 is being introduced into the trial of the case for one
22 purpose, which is to support the elements of the offense of
23 possession of a weapon by a person convicted of a violent
24 felony. Please do not use the fact that he has a prior
25 conviction for a violent felony as any inference of guilt

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1 in this case. That's simply to meet the elements of that
2 one particular indictment and it cannot be used as guilt of
3 the underlying offense in this case.

4 Anything else for my instructions?

5 MR. CHESSER: No, Your Honor.

6 THE COURT: You satisfied with it?

7 MR. CHESSER: Yes, sir.

8 THE COURT: Next witness, please.

9 MS. DELOACH: State would call Lieutenant Robert
10 Bowman to the stand, please.

11 THE COURT: What was that Exhibit Number of that
12 last one, please, ma'am?

13 THE COURT REPORTER: 97, Your Honor.

14 THE COURT: 97?

15 THE COURT REPORTER: Yes, sir.

16 ROBERT BOWMAN,

17 having been duly sworn, testified as follows:

18 THE CLERK: Have a seat in the witness box. State
19 your name for the record.

20 THE WITNESS: Robert Bowman.

21 **DIRECT EXAMINATION**

22 **BY MS. DELOACH:**

23 Q Lieutenant Bowman, where do are you employed?

24 A Aiken County Sheriff's Office at the detention
25 division.

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1 Q And how long have you been employed there?

2 A Right at 17 years.

3 Q And what are your current duties as lieutenant?

4 A I'm currently the administrator lieutenant and I'm
5 over several different areas: Home detention, pre -- I do
6 investigations also.

7 Q And approximately how many inmates are in Aiken
8 County Detention Center?

9 A About 290.

10 Q And are these inmates allowed to use a phone?

11 A Yes.

12 Q And in 2016 who was the provider for the phone
13 system at the detention center?

14 A Securis.

15 Q Did Securis provide you with anything?

16 A Yes.

17 Q And can you explain what kind of training you
18 received?

19 A I first started, I came and did a training, they
20 shows us how to look up phone calls several different ways;
21 explained to us how it is stored and how to make recordings
22 of them.

23 Q And did you receive any other type of training?

24 A Just hands on.

25 Q And through that training were you able to teach

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1 any other people how to use that phone system?

2 A Yes.

3 Q And explain how the phones at the detention center
4 were operated in 2016?

5 A Basically when an inmate comes in, they're booked
6 in and at this time they're given an individual PIN number
7 and that PIN number, when they go use the phone, they enter
8 it in and that allows them to use the phone.

9 Q And when are the inmates allowed to use the phone?

10 A When they're out on their recreation.

11 Q Are the inmates informed of the rules and
12 regulations concerning the use of the phones once they
13 arrive at the detention center?

14 A Yes, they're given pamphlet with inmate rules and
15 regulations and in there are things like Number 14,
16 telephones. It explains the rules to them.

17 Q Okay. And are there any signs posted about the
18 phones being recorded?

19 A There's an audio recording. When they go to make a
20 phone call, they're told that the phones are subject to
21 monitoring and recording.

22 Q And when is that recording done?

23 A At the beginning.

24 Q Of each phone call?

25 A Yes, and also I believe it plays it throughout -- a

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1 couple of times throughout the phone call. It's like a 15
2 minute phone call.

3 Q So both the inmate and the person receiving the
4 call can get notice?

5 A Correct.

6 Q How does the inmate make a phone call?

7 A They enter their PIN number in, dial the number and
8 call collect.

9 Q And is this PIN number unique to each inmate?

10 A Yes. Each inmate has there own individual PIN
11 number.

12 Q And how are these calls maintained?

13 A Through a data base.

14 Q And is that through Securis?

15 A Yes.

16 Q And does it store each recorded phone call?

17 A Yes, it does.

18 Q And every phone call is recorded?

19 A Correct.

20 Q What is a call detail report?

21 A A call detail report basically tells you everything
22 about the phone call. It tells you wherever it was made,
23 the time it was made and the person who made the call. The
24 phone number that was dialed, how long the phone call
25 lasted.

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1 Q And do you receive a call detail report for each
2 phone call?

3 A We can print one out of each phone call.

4 Q And do those call detail reports tell you where the
5 phone was made from?

6 A Yes.

7 Q And can you explain that a little bit further?

8 A There are several different housing units in the
9 jail and they'll tell us which housing unit that phone call
10 was made from.

11 Q And approximately how many different housing units
12 are this in the jail?

13 A Six.

14 Q Six. And they're numbered how, exactly?

15 A A, B, C, D, and F.

16 Q And through the call detail report, are you able to
17 tell the dates that the calls were made?

18 A Yes.

19 Q And I know that each PIN is unique to each inmate,
20 but is it possible for an inmate to use another inmates PIN
21 number?

22 A Yes. There are some inmates will sell their PIN
23 number for honey buns and other items like that.

24 Q And how is this possible?

25 A They just -- they want something extra, so they'll

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1 let an inmate use their PIN number, this way they'll trade
2 them for -- let them use their phone for like five minutes
3 and give them a honey bun or some other canteen item.

4 MR. CHESSER: Your Honor, I'm going to object at
5 the time and I'd ask if we could approach.

6 (There was a bench conference out of the hearing of
7 the jury and the Court Reporter.)

8 BY MS. DELOACH:

9 Q Now, moving to the case that we're here for today.
10 Do you know the defendant, Rashawan Carter?

11 A Yes.

12 Q And how are you familiar with him?

13 A He's an inmate at the detention center.

14 Q Where you work?

15 A Yes.

16 Q And have you become familiar with his voice in any
17 way?

18 A Yes, I have.

19 Q And how so?

20 A By listening to the phone calls.

21 Q And have you had any other interaction with him?

22 A No.

23 Q And about how many phone calls have you listened to
24 with his voice?

25 A Seven.

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1 THE COURT: All right. Ladies and gentlemen of the
2 jury, I hate to do this this early in the morning, but I've
3 got to discuss some things with the lawyers that I need to
4 do it outside of your presence. Step outside just for a
5 second.

6 (The jury left the courtroom at 9:48 a.m.)

7 THE COURT: All right. Let the record reflect we
8 had -- Mr. Chesser asked for a sidebar and he expressed his
9 concern that the testimony that he expects to be elicited
10 from this witness that, number one, the defendant has used
11 another inmates PIN number and had some conversations using
12 someone's PIN number which was not his in making some phone
13 calls.

14 And secondly that this witness, Mr. Bowman intends
15 to offer an opinion as represented to me by the State that
16 he has become familiar enough with the defendant's voice
17 that he's able to identify it and will testify that in his
18 opinion there are two phone calls made on a different PIN
19 number that were the defendants.

20 Is that where we're going?

21 MS. DELOACH: Yes, Your Honor.

22 THE COURT: And this witness has just testified
23 that he knows the inmate -- strike that. He knows the
24 defendant because he's an inmate at the jail, however he's
25 had no interaction with the defendant and the only way he

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1 can identify his voice is that he has listened to his calls
2 before and that he has listened to, I think, seven phone
3 calls. Is that where we are?

4 MS. DELOACH: Yes, Your Honor.

5 THE COURT: Mr. Chesser?

6 MR. CHESSER: Well, Your Honor, I would object in
7 this instance, he's a lay witness and what he's -- the
8 State is offering to do is offer an opinion and we would
9 submit that the -- that is not admissible. I believe it's
10 Rule 702 that he can testify to his opinion about this
11 voice. In addition to that, we --

12 THE COURT: That he can or he can't?

13 MR. CHESSER: He cannot. We would submit that he
14 cannot under the rules. And then in addition -- because
15 you can't always take the lay opinions -- excuse me
16 opinions of lay witness.

17 And in addition we would submit that they're --
18 that this listening to seven conversations probably
19 includes these questioned conversations and we would just
20 submit that it's not a sufficient basis for him to give an
21 opinion in any event.

22 MS. DELOACH: Your Honor, as an officer at the
23 jail, I mean, it is his duty to listen to these phone calls
24 for the security of the jail and has on occasion listened
25 to the defendant's phone calls, in which he was able to

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1 determine that that was the defendant and as such should be
2 able to testify to the fact that this is the defendant's
3 voice in these two phone calls.

4 THE COURT: Do you have any case law to support any
5 court qualifying someone who's simply listened to seven
6 phone calls as being an expert which may allow him to
7 testify in the form of an opinion? The rule says if
8 scientific, technical, or other specialized knowledge.
9 This is -- I'm not sure this is scientific, technical, or
10 other specialized. A witness qualified as a expert by
11 knowledge, skill, experience, training, or education may
12 testify in the form of an opinion or otherwise.

13 So how does that comply with the rule? First of
14 all, I don't know any way you would gain knowledge, skill,
15 or training to identify someone's voice on a telephone
16 call.

17 Give me some help in getting it admitted.

18 MS. DELOACH: Your Honor, in Rule 701, the opinion
19 of a lay witness, if the witness is not testifying as an
20 expert, the witness's testimony in the form of an opinion
21 or inference is limited to those opinions that are based on
22 the perception of the witness and are helpful for a clear
23 understanding of the witness's testimony or the
24 determination of a fact in issue and do not require special
25 knowledge, skill, experience, or training. And in this

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1 case, I believe that one phone call with the defendant's
2 voice verified is enough -- it goes to the weight, not the
3 admissibility.

4 THE COURT: What you mean one phone call verifies
5 it. Does he admit he's made some calls? What do you mean
6 by that?

7 MS. DELOACH: I'm going to ask him if he's made a
8 phone call -- or if he's listened to a phone call with the
9 defendant where in fact he used his own PIN and -- where
10 the defendant's used his own PIN and Mr. Bowman has
11 listened to those phone calls under his own PIN.

12 THE COURT: And then now, he's using another PIN,
13 so he wants to testify that this is the same guy using
14 another PIN because he's heard him with phone calls before?

15 MS. DELOACH: Yes, Your Honor.

16 THE COURT: In phone calls before?

17 MS. DELOACH: Yes, Your Honor.

18 THE COURT: Mr. Chesser?

19 MR. CHESSER: I have nothing further, Your Honor.

20 THE COURT: So you're offering him, not as an
21 expert, but as a lay witness under 701 --

22 MS. DELOACH: Yes, Your Honor.

23 THE COURT: His opinion or inferences is limited to
24 those opinions or inferences which A, are rationally based
25 on the perception of the witness; B, are helpful to a clear

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1 understanding of the witness's testimony or the
2 determination of the facts in issue and do not require
3 knowledge, skill, experience, or training.

4 Well, I find that obviously trying to identify
5 someone's voice over the phone won't require any special
6 knowledge, skill, experience, or training. I'm not sure if
7 there's any such thing out there.

8 I would find that it is rationally based on the
9 perception of the witness if he'd listened to seven other
10 calls where the witness, i.e. Mr. Bowman, has heard the
11 defendant talk and it would be helpful to understand the
12 witness's testimony or determination of a fact at issue.
13 So I will allow it.

14 MS. DELOACH: Thank you.

15 (The jury entered the courtroom at 9:55 a.m.)

16 THE COURT: You may continue.

17 BY MS. DELOACH:

18 Q Lieutenant Bowman, have you listened to any of the
19 phone calls, in fact, that Rashawan Carter used his own
20 PIN?

21 A Yes.

22 Q And you were able to identify his voice in those
23 phone calls?

24 A Yes.

25 Q And have you listened to these phone calls today?

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1 A Yes.

2 Q The State's showing you what's marked as Exhibits
3 13 and 13-A. Just take a look at those for me.

4 Do you know what those items are?

5 A Yes.

6 Q And what are they?

7 A This is a recording of a phone call and this is the
8 transcript.

9 Q And does the -- have you listened to the recording
10 of the phone call?

11 A Yes, I have.

12 Q And how do you know you've listened to those phone
13 calls?

14 A Because I have placed my initials on the disk.

15 Q And does the transcript accurately reflect what is
16 in that phone call?

17 A Yes.

18 MS. DELOACH: Your Honor, State would move to enter
19 State's Exhibit 13 and 13-A into evidence.

20 MR. CHESSER: We would object on the grounds that
21 we just discussed under 706, 702, and I believe 602 which
22 talks about basis, applicable basis.

23 THE COURT: All right. Overruled as stated when
24 the jury was out of the room.

25 (State's Exhibit Number 13 and Number 13-A was

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1 entered into evidence.)

2 MS. DELOACH: Your Honor, permission to pass out
3 these transcripts?

4 THE COURT: You may.

5 MS. DELOACH: Your Honor, permission to publish to
6 the jury?

7 THE COURT: Yes, ma'am.

8 (The recording was played for the jury.)

9 BY MS. DELOACH:

10 Q Lieutenant Bowman, did you receive a call detail
11 report for these calls in this case?

12 A Yes.

13 Q And have you had a chance to review them?

14 A Yes, I have.

15 Q Could you just point out which two calls were made
16 in this case?

17 A It's the first and the third one, the two that are
18 shaded.

19 Q Thank you.

20 The State is now showing you what has been marked
21 as Exhibit 14 and 14-A in this case. Do you recognize
22 these?

23 A Yes.

24 Q And how so?

25 A My initial is on the CD on this one.

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1 Q And you've listened to it and reviewed the
2 transcripts?

3 A Yes.

4 Q And does the transcript accurately reflect what is
5 stated in the phone call?

6 A Yes, it does.

7 MS. DELOACH: Your Honor, the State moves Exhibit
8 14 into evidence.

9 THE COURT: Same objection?

10 MR. CHESSER: Same objections, Your Honor.

11 THE COURT: Thank you, overruled.

12 (State's Exhibit Number 14 was entered into
13 evidence.)

14 MS. DELOACH: Permission to publish it?

15 THE COURT: Yes, ma'am.

16 (Playing the recording for the call for the jury.)

17 MS. DELOACH: And, Your Honor, permission to enter
18 State's Exhibit 14-A and 95, the call detail into evidence.

19 THE COURT: Any objection?

20 MR. CHESSER: No, sir.

21 THE COURT: Thank you.

22 (State's Exhibit Number 14-A and Number 95 was
23 entered into evidence.)

24 BY MS. DELOACH:

25 Q Lieutenant Bowman, according to the phone detail

Melvin Chandler - Direct Examination by Ms. Young

1 records that you received in this case, that phone call --
2 or what telephone number was made?

3 A 803-716-7123.

4 Q And that was for both phone calls?

5 A Yes.

6 Q And on what date?

7 A 7/12/2016 for both of them.

8 Q No further questions. Please answer any questions
9 the defense has for you.

10 THE COURT: Mr. Chesser?

11 MR. CHESSER: I don't have any questions.

12 THE COURT: Thank you, you may step down.

13 Next witness.

14 MS. YOUNG: The State calls Melvin Chandler.

15 MELVIN CHANDLER,

16 having been duly sworn, testified as follows:

17 THE CLERK: Have a seat in the witness chair and
18 state your full name.

19 THE WITNESS: My name is Melvin Chandler.

20 **DIRECT EXAMINATION**

21 **BY MS. YOUNG:**

22 Q Mr. Chandler, do you live here in Aiken?

23 A Yes.

24 Q You stay up close to that microphone, okay. Thank
25 you.

Melvin Chandler - Direct Examination by Ms. Young

- 1 Do you know Elizabeth Miller?
- 2 A Yes.
- 3 Q Who is she to you?
- 4 A My girlfriend.
- 5 Q How long have you been in a relationship with her?
- 6 A Going on four years.
- 7 Q Where was she living in May of 2015?
- 8 A Out in Hahn Village.
- 9 Q Do you know who all stayed there?
- 10 A Yes, her and her kids.
- 11 Q Anybody else?
- 12 A I stayed there often.
- 13 Q Did you keep belongings there?
- 14 A Yes.
- 15 Q Like what?
- 16 A Clothes, shoes, I mean TV stuff, games and stuff.
- 17 Q What size shoe do you wear?
- 18 A 14.
- 19 Q At the time that you had stuff over at Liz's, were
- 20 you keeping your shoes in shoe boxes over there?
- 21 A Yes.
- 22 Q Did you have another house over on Columbia Avenue
- 23 that you used?
- 24 A It wasn't mine, but yes, I used the house over
- 25 there.

Melvin Chandler - Direct Examination by Ms. Young

- 1 Q What did you use it for?
- 2 A To sell drugs.
- 3 Q Where was that -- that house was on Columbia?
- 4 A Yes.
- 5 Q And where is that in relation to Hahn Village?
- 6 A Just right around the corner.
- 7 Q I'm sorry?
- 8 A Around the corner.
- 9 Q Around the corner?
- 10 What drugs did you sell from your house over there?
- 11 A Coke.
- 12 Q Anything else?
- 13 A Hard drugs.
- 14 Q What is that?
- 15 A Crack cocaine.
- 16 Q Anything else?
- 17 A No.
- 18 Q I'm going to direct your attention back to May the
- 19 8th of 2015. When was the last time that you saw Liz on
- 20 that date?
- 21 A At my stepson's birthday party.
- 22 Q Where was that held at?
- 23 A In the gap. I don't really know what they call it,
- 24 but it's in the gap over by --
- 25 Q Is it a different neighborhood?

Melvin Chandler - Direct Examination by Ms. Young

- 1 A Yes.
- 2 Q Not at her house?
- 3 A Not at her house.
- 4 Q Do you recall what time of the day or night that
- 5 you last saw Liz?
- 6 A It was like right at night fall. I can't remember
- 7 the time.
- 8 Q Where did you go after you left the party?
- 9 A Columbia Avenue.
- 10 Q The house that you previously testified about?
- 11 A Yes.
- 12 Q And how long did you stay there?
- 13 A Probably a couple of hours or so.
- 14 Q Did you have any phone conversations with anybody
- 15 that night?
- 16 A Yes.
- 17 Q Who?
- 18 A I had a phone conversation with a guy named Rick.
- 19 Q Who is Rick to you?
- 20 A Just somebody I know.
- 21 Q Do you know him by any other name?
- 22 A Massacre.
- 23 Q Do you recall what time of the day or night that
- 24 you talked to him?
- 25 A No, I can't remember the times.

Melvin Chandler - Direct Examination by Ms. Young

- 1 Q Where were you at the time that you talked to him?
- 2 A On Columbia Avenue.
- 3 Q How long had you known Rick prior to this date?
- 4 A Maybe four months at the most.
- 5 Q And when you saw him, where did you usually see
- 6 him?
- 7 A Sometimes at clubs, but at the house on Columbia
- 8 Avenue.
- 9 Q He would come other there?
- 10 A Yeah.
- 11 Q After you talked to him, did you ever see him that
- 12 night? On that same night?
- 13 A Yeah, that same night he came -- he popped up
- 14 around there on Columbia Avenue.
- 15 Q How did he get there?
- 16 A I think it was a gray car or silver car.
- 17 Q You saw that?
- 18 A Yes.
- 19 Q And how long was he over there while you were
- 20 there?
- 21 A Maybe 30 minutes or an hour or so. If I'm not
- 22 mistaken.
- 23 Q Did you leave to go somewhere else?
- 24 A Yes.
- 25 Q Was he there when you left?

Melvin Chandler - Direct Examination by Ms. Young

- 1 A Yes.
- 2 Q Where were you going?
- 3 A I was on the way to a hotel room.
- 4 Q What for?
- 5 A To see a girl.
- 6 Q Did you say anything about that before you left the
- 7 trap house?
- 8 A I don't recall. I just remember saying I was going
- 9 to leave or --
- 10 Q And you said that to who?
- 11 A To Rick.
- 12 Q Who else was there at the trap house when you left?
- 13 A There was a couple of smokers, crack heads.
- 14 Q Where were you going?
- 15 A I was going to the room.
- 16 Q And was the --
- 17 THE COURT: I'm sorry you were going where?
- 18 THE WITNESS: To Econo Lodge.
- 19 BY MS. YOUNG:
- 20 Q Did you make it to the Econo Lodge?
- 21 A No.
- 22 Q Why not?
- 23 A I had gotten a phone call.
- 24 Q From who?
- 25 A Mr. Keith.

Melvin Chandler - Direct Examination by Ms. Young

1 Q About what?

2 A He said it looks like some guys trying to go in
3 Elizabeth's house.

4 Q Did you get just one phone call from him or were
5 there a couple of calls?

6 A It was a couple of calls.

7 Q What did you do as the result of getting that call
8 from Mr. Keith?

9 A I told Mr. Keith to keep -- to try to go in the
10 backyard to distract them and his voice was like he was
11 scared, you know. So I told him to call me back if
12 anything changed. And he called me back and I ask him did
13 he see them. He said no, so I was guessing maybe they was
14 in the house already or whatever.

15 Q What else -- did you make contact with anybody
16 else?

17 A I called two guys.

18 Q Who did you call?

19 A I called my friend G and I called Donte.

20 Q And do you know what G's -- what is his real name?

21 A I think it's Gary --

22 Q Did you actually talk to him?

23 A No, I didn't talk to him.

24 Q And who is Donte?

25 A A friend of mine.

Melvin Chandler - Direct Examination by Ms. Young

1 Q Do you know him by any other name?

2 A Trill.

3 Q Did you speak to him?

4 A No, I spoke with his girlfriend.

5 Q What did you tell his girlfriend?

6 A I just told him to relay the message that looked
7 like somebody was going into my house and she said okay she
8 would.

9 Q Why were you calling G and Trill?

10 A Because they were my friends.

11 Q And what else?

12 A They just -- they just my friends and that's what I
13 thought I call on.

14 Q For help?

15 A Yes.

16 Q After you called them what did you do next?

17 A Well, I was already turning around. I turned
18 around and got back right by the hospital.

19 Q Over there near the University of South Carolina,
20 Aiken?

21 A Yes.

22 Q Okay.

23 A And I was already turned around and I was headed
24 back towards the North Side area. I was headed back
25 towards the North Side area and then when I got -- I got to

Melvin Chandler - Direct Examination by Ms. Young

1 -- I was coming down and I went to Hahn Village and that's
2 when I seen Elizabeth running out the apartment and stuff.

3 Q What were you -- what were you driving at the time?

4 A I'm driving a brown Tahoe, tan.

5 Q What did you see when you pulled up to Elizabeth's
6 house?

7 A When I pulled up to Elizabeth's house I seen her
8 running from the next door neighbors apartment like half
9 naked.

10 Q What happened next?

11 A She was on the phone to call the police.

12 Q And where did she make that phone call?

13 A Standing by my truck.

14 Q Did you see anybody else after the police got
15 there?

16 A Yes, I seen Treasure and Jasmine walking around out
17 there.

18 Q Close to Liz's house?

19 A Yes.

20 Q Let me ask you this: After you got to Liz's house
21 to help her, but before the police got there, did you go
22 over to Mr. Keith's house?

23 A No.

24 Q You didn't go over there and give him anything?

25 A No, ma'am.

Melvin Chandler - Direct Examination by Ms. Young

- 1 Q You didn't give him any money?
- 2 A No, ma'am.
- 3 Q Do you have a prior drug conviction from 2008?
- 4 A Yes.
- 5 Q Do you recall what the actual conviction was?
- 6 A 2008? I think it was possession of a controlled
7 substance.
- 8 Q What other convictions do you have?
- 9 A Simple possession, driving under suspension.
- 10 Q Do you have any other -- do you have any current
11 charges pending?
- 12 A Just a trafficking charge now.
- 13 Q Well, let me ask you about that. Why is that
14 charge pending?
- 15 A That's what the police found in the house that
16 night.
- 17 Q What did the police find in the house that night?
- 18 A Three ounces of cocaine.
- 19 Q Whose cocaine was that?
- 20 A Mine.
- 21 Q Where was it?
- 22 A In a shoe box in Elizabeth's apartment.
- 23 Q Can you describe the shoe box?
- 24 A Gray Nike shoe box.
- 25 Q And what else can you describe about what the drugs

Melvin Chandler - Direct Examination by Ms. Young

1 were located in?

2 A Like a make up bag, black and white polka dot bag.

3 Q Has anybody made you any promises about coming in
4 here to testify today?

5 A No, ma'am.

6 Q I'm going to show you what's been marked as for
7 identification purposes and entered into evidence already
8 as State's Exhibit 28 and 29 and ask you to take a look at
9 those and ask you if you recognize those?

10 A Yes.

11 Q What is shown in each picture? Starting with 28.

12 A My truck.

13 Q And was that where you parked it when you arrived
14 that night?

15 A Yes.

16 Q What's shown in State's 29?

17 A My truck.

18 Q Just a different angle?

19 A Yes. Yes.

20 Q When you saw Liz that night, where was she coming
21 from? I'll take those back from you.

22 A The apartment right beside ours.

23 Q And is it actually in the same -- it's an attached
24 building?

25 A Yes.

Melvin Chandler - Direct Examination by Ms. Young

1 Q And you saw her coming from that apartment from
2 where?

3 A She was -- looked like she was coming from inside
4 or she was knocking on the door or something.

5 Q I'm going to show you four exhibits that are
6 already in evidence, State's 92, 93, 69, and 70. Take a
7 look at those. Take your time and tell me if you recognize
8 what's shown in those.

9 A Yes.

10 Q I'm going to pull up the big screen and I'm going
11 to ask you individually what's shown in each picture. I'm
12 going to start with Exhibit Number 92.

13 Mr. Chandler what's shown in State's Exhibit Number
14 92?

15 A Elizabeth's room. Shoe boxes and everything
16 everywhere.

17 Q I'm sorry?

18 A Shoe boxes and stuff everywhere and some of my
19 belongings.

20 Q Whose shoe boxes are those?

21 A Mine.

22 Q All right. Let's move to State's 93. Whose shoe
23 box is that?

24 A Mine.

25 Q Let's move to State's 69. What's shown in State's

Melvin Chandler - Direct Examination by Ms. Young

1 69?

2 A Shoe box with a black and white make up bag in it.

3 Q That's the one you previously testified belonged to
4 you?

5 A Yes, ma'am.

6 Q What's shown in State's 70?

7 A This is a shoe box with a make up bag with cocaine
8 inside the make up bag.

9 Q And whose cocaine is that?

10 A Mine.

11 Q How much did you say it was?

12 A Three ounces.

13 Q You testified previously about a car dropping off
14 Rick at your trap house. Can you -- could you describe
15 anything else about that car other than it's gray or
16 silver?

17 A It was dark time, so I really couldn't see it.

18 Q Okay.

19 A But it was loaded down. It was a lot of people
20 inside of it.

21 Q Looked like there were a lot of passengers?

22 A Yes.

23 MS. YOUNG: Beg the Court's indulgence one minute.

24 (There was a pause in the proceedings.)

25 MS. YOUNG: No further questions.

Melvin Chandler - Cross-Examination by Mr. Chesser

1 THE COURT: Mr. Chesser.

2 CROSS-EXAMINATION

3 BY MR. CHESSER:

4 Q Good morning, Mr. Chandler?

5 A Good morning.

6 Q Talking about your record. You had a prior
7 conviction for possession of cocaine from 2008?

8 A Yes.

9 Q All right. You had a possession with intent to
10 distribute -- well, no, I take that back. What you're facing
11 now, you said you had three ounces of cocaine or crack?

12 A Cocaine.

13 Q Okay. You've got a prior offense from 2008, right?

14 A Yes.

15 Q All right. So you're aware this could be charged
16 as a trafficking cocaine second offense, right?

17 A Yes.

18 Q All right. And now trafficking, you know, is based
19 on the amount of weight that you are in possession of,
20 right?

21 A Yes.

22 Q And they have -- you're aware they have a cocaine
23 from 10 to 28 grams, that's a particular trafficking
24 charge, right?

25 A Yes.

Melvin Chandler - Cross-Examination by Mr. Chesser

1 Q And they have a charge for more than 28 grams --
2 possession of more than 28 grams of cocaine, right?

3 A (Witness nodded head.)

4 Q Now, are you charged with -- do you know what your
5 charge is?

6 A I think it was trafficking more than 28 grams.

7 Q Okay. And on that charge, are you facing 20 years
8 with no parole?

9 A I don't know what I'm facing.

10 Q You don't know what the penalty is? It's a lot of
11 time though, right?

12 A Yes, yes, sir.

13 Q All right. So your fate in connection with that
14 charge is going to be decided at some later date?

15 A I'm thinking so.

16 Q Well, have you pled guilty to it?

17 A Not yet.

18 Q All right. Now, there was -- in your apartment,
19 you were the only male that had access to that apartment,
20 right?

21 A Yes.

22 Q All right. That is the -- that half of the duplex
23 that you shared with Liz, right?

24 A Yes.

25 Q All right. Now, in there you had your study book

Melvin Chandler - Cross-Examination by Mr. Chesser

1 for the Blood Gang membership, correct?

2 MS. YOUNG: May we approach, Your Honor?

3 THE COURT: Yes.

4 (There was a bench conference out of the hearing of
5 the jury and the Court Reporter.)

6 BY MR. CHESSER:

7 Q Melvin, with respect to the Blood Gang, there is a
8 initiation sort of ritual or requirement; isn't that right?

9 A Not -- I don't understand what you're saying.

10 Q Okay. To get to be a member of the Blood Gang, you
11 have to memorize a long list of the beliefs of the Blood
12 Gang; isn't that correct?

13 A Yes.

14 Q Okay. And you were studying those. You had that
15 list of things that you needed to memorize in your
16 apartment where you lived with Liz, right?

17 A I had a book, but I never looked at it, you know.
18 I never memorized none of that stuff.

19 Q When did you get your Blood membership book?

20 A I don't recall when I got it.

21 Q So you're saying it's a coincidence that you have
22 the guideline for the Blood Gang in your apartment at Hahn
23 Village?

24 A Yes.

25 Q Okay. Well, you're familiar with that Blood Gang

Melvin Chandler - Cross-Examination by Mr. Chesser

1 book aren't you?

2 A Not really. I don't even remember when it was gave
3 to me, but it was gave to me for me to study it and learn
4 about it because I was thinking about joining, but I never
5 joined.

6 Q Well, this group that you at one time wanted to
7 join, their motto is, I bang for the cause, not because I
8 -- well, excuse me. I bang for the cause and I bang for
9 all the real homies and the OG's. I bang for blood to be
10 blood and to see blood. That's the motto of the group that
11 you wanted to join?

12 A I don't -- I really don't know.

13 Q All right.

14 MR. CHESSER: That's all the questions I have.

15 THE COURT: Redirect?

16 MS. YOUNG: No redirect.

17 THE COURT: Thank you, you may step down.

18 Captain Sawyer, may I see you up here, please.

19 (Bench conference with Captain Sawyer out of the
20 hearing of the jury and the court reporter, as well as the
21 lawyers.)

22 THE COURT: You may call your next witness.

23 MS. DELOACH: State would call Detective Carlos
24 Colindres to the stand.

25 CARLOS COLINDRES,

Carlos Colindres - Direct Examination by Ms. DeLoach

1 having been duly sworn, testified as follows:

2 THE CLERK: Please have a seat in the witness chair
3 and state your full name.

4 THE WITNESS: Carlos Colindres.

5 **DIRECT EXAMINATION**

6 BY MS. DELOACH:

7 Q Detective Colindres, where do you work?

8 A I work at Aiken Department of Public Safety.

9 Q And how long have you worked there?

10 A I have worked there for 13, almost 14 years.

11 Q And what department do you work in?

12 A I work in investigations.

13 Q And how long have you been in the investigations?

14 A About four years and three months.

15 Q And what are your current duties at Aiken
16 Department of Public Safety?

17 A Along with general investigative duties, I'm also a
18 narcotics detective.

19 Q And what does that involve?

20 A Well, for the general investigation, which is
21 callouts working different property crimes, burglaries
22 violent crimes, but my main specialty is investigating
23 narcotics cases.

24 Q Narcotics being drugs?

25 A Yes, ma'am.

Carlos Colindres - Direct Examination by Ms. DeLoach

1 Q Do you have any additional duties with any other
2 agencies?

3 A Yes, ma'am, I'm also the full-time member with the
4 ATF task force.

5 Q And what is ATF?

6 A The Bureau of Alcohol, Tobacco, Firearms, and
7 Explosives.

8 Q Do you have any previous law enforcement
9 experience?

10 A Not before working for Aiken. I was in the
11 military.

12 Q And were you working on May 9, 2015 in your current
13 capacity?

14 A Yes, after I received a call from Captain Sawyer.

15 Q And how did you get involved in this case?

16 A Like I said, I received a call sometime late
17 morning to respond to the 300 block of Brown lane, which is
18 in Hahn Village. I responded there. I met with Captain
19 Sawyer, he explained to me that there was a home invasion
20 and a homicide that occurred at [REDACTED].

21 Q And what did you do when you initially arrived at
22 the incident location?

23 A When I initially arrived, I contacted other task
24 force members between the different agencies to possibly
25 assist us in whatever we needed in this case. And I --

Carlos Colindres - Direct Examination by Ms. DeLoach

1 SLED was processing the scene and I was outside just
2 standing by and giving instructions.

3 Q And at any point did you go into the apartment?

4 A Yes, at one point I went into the apartment. SLED
5 agent came out and said they needed a narcotics detective.
6 They took me around the backyard and into the back door. I
7 brought my camera with me and began taking pictures
8 basically of the path that I was taking when walking into
9 the apartment. They brought me into a bedroom which had a
10 lot of shoe boxes, clothes and whatnot on the bed. They
11 advised me that they -- during their search and their
12 processing that they had found what they believed was a
13 significant amount of some sort of narcotics.

14 Q And were you able to observe those narcotics?

15 A Yes, ma'am.

16 Q And can you just describe to the Court what did you
17 see?

18 A I saw what was approximately, at that time I
19 estimated about 3 to 4 ounces of cocaine.

20 Q And how was it packaged?

21 A It was in a shoe box. It was a rather large shoe
22 box in a, like a makeup bag and there was three baggies
23 included.

24 Q I'm showing you what's previously been entered into
25 evidence, State's 49 and 70. Do you recognize those?

Carlos Colindres - Direct Examination by Ms. DeLoach

1 A Yes, ma'am.

2 Q Did you take those pictures?

3 A Yes, ma'am.

4 Q And what's in those pictures?

5 A That is the shoe box and there's that makeup bag,
6 that's a polka dot makeup bag; and when it was opened up,
7 you can see the baggies of the cocaine.

8 Q And through your training and experience, how would
9 you classify the narcotics that you found?

10 A That it was a very significant weight.

11 Q Do you know what a trap house is?

12 A Yes, ma'am.

13 Q And do you know what a stash house is?

14 A Yes, ma'am.

15 Q Can you describe both of those terms for the Court,
16 please.

17 A Yes, ma'am. A trap house -- let me just try to put
18 it in more like layman's terms, is almost like a store
19 front. It's where a lot of narcotics traffickers will sell
20 their product. It's not necessarily where they're going to
21 store most of their product or their money because it is an
22 area where you have a lot of in and out traffic. There's
23 lots of sells going on, there's a lot of people at those
24 residences. So dealers tend to try to protect the money
25 and the higher amount of weight.

Carlos Colindres - Direct Examination by Ms. DeLoach

1 The stash house is probably where they will keep
2 the money and that higher amount in weight. When they want
3 to make sales, they'll go pick up some of their product and
4 take it to the trap house and sell it there. When it runs
5 out, they'll go get more.

6 Q Is an apartment normally used as a trap house or a
7 stash house?

8 A It just depends.

9 Q How would you classify that in this case?

10 A In this case it was, with the significant amount of
11 cocaine that I'm seeing at this apartment, that this would
12 have been the stash house.

13 Q Did you go anywhere else in that apartment?

14 A No, I did not.

15 Q Were you involved in any other part of the
16 investigation in this case?

17 A Yes, at one point I had to -- there was an
18 investigative call for another -- a separate call that was
19 on the South Side of Aiken. I had to go and take that call
20 and after that I was instructed to meet with other
21 investigators at the Aiken Department of Public Safety
22 headquarters for follow up investigation.

23 Q And what was that follow up investigation?

24 A It was advised that there was an exigent on a phone
25 and that that phone was hitting off of the -- it was

Carlos Colindres - Direct Examination by Ms. DeLoach

1 showing that it was at the Walmart in Batesburg. And
2 myself and Special Agent Morlan, in separate vehicles,
3 responded to that area.

4 Q Did you know whose phone it was?

5 MR. CHESSER: Objection. I just want to renew my
6 objection to this previous -- to this line of testimony,
7 Your Honor, that I made earlier.

8 THE COURT: Thank you, same ruling.

9 THE WITNESS: What was the question? I'm sorry.

10 BY MS. DELOACH:

11 Q Did you know whose phone it was?

12 A Yes, I was told it was, they believed Shawn Carter.

13 Q And what was the process that you followed to
14 assist with this exigent?

15 A We just responded to that area. I remember that
16 was the day there was a chicken festival in Batesburg and
17 it was -- well, when we got to Batesburg, that's when we
18 were advised the phone had moved. It was no longer at that
19 Walmart. And then we were told it was in the Columbia
20 area. We responded to that area and there was another
21 festival in Lexington.

22 Q So once you got to Columbia, where did y'all go?

23 A There was an apartment complex that was right
24 beside -- I remember because it was where Lawman's used to
25 be.

Carlos Colindres - Direct Examination by Ms. DeLoach

1 Q And do you have any special jurisdiction that
2 allows you to follow this exigent from Aiken on into
3 Richland or into the Columbia area?

4 A Yes, ma'am, it's as a task force officer, we have
5 federal credentials that gives us jurisdiction across state
6 lines and anywhere within the state.

7 Q So once you arrived at the apartment, what did
8 y'all do next?

9 A Once we arrived at the apartment, I'm in an
10 unmarked vehicle. Special Agent Morlan's in an unmarked
11 vehicle. Which means we just don't have lights and all
12 that showing on our vehicles. I parked my vehicle. We
13 were observing just the apartments that -- did we see
14 anything or see who we could identify as Mr. Carter. There
15 was a gentleman standing outside, just kind of flipping
16 through his phone. I saw special Agent Morlan, we were in
17 radio communication. We both observed that subject and
18 said yes, we could identify him as being Shawn Carter.

19 Q So after you identified him, what did y'all do
20 next?

21 A Well, because of the situation, Mr. Carter didn't
22 have a warrant for arrest or anything like that. We knew
23 that we had to go with a softer approach, which means we're
24 not going to be wearing vests. We will have our
25 credentials so that someone does see that we're police

Carlos Colindres - Direct Examination by Ms. DeLoach

1 officers. And we just don't approach them aggressively.

2 We're just going to basically go up and talk to him.

3 Q And did y'all go up and talk to him?

4 A Yes, we did.

5 Q And what happened whenever you confronted him at
6 the apartments.

7 A We spoke with him. We said there's something we
8 need to talk with him about if he was willing to come with
9 us to Aiken Department of Public Safety. He needed to be
10 -- there was a situation that we needed to talk about. He
11 was very, very cool and calm like he is right now. And
12 said he would go with us.

13 Q And did you see what kind of phone he had?

14 A It was -- I don't remember exactly, but I remember
15 it was a larger cell phone, like a Note.

16 Q And was anyone else with the defendant?

17 A Not at -- as we approached, no, but then his
18 girlfriend exited the apartment wanting to know what was
19 going on. And Special Agent Morlan had spoken with her.

20 Q Did you ever speak to the girlfriend?

21 A No.

22 Q Okay. So once you confronted him, Jasmine came
23 out. What happened next?

24 A Well, like I said, Mr. Carter was very respectful
25 and was compliant. He said he was going to ride with me in

Carlos Colindres - Direct Examination by Ms. DeLoach

1 my vehicle. I had went back to clear out my front seat. I
2 had, you know, bags and gear and stuff, so I had to throw
3 that in the back seat. And I advised him, you know, is
4 there anything on you that doesn't need to be in my
5 vehicle. And allowed him to pull out things out of his
6 pocket just to make sure he doesn't have any weapons. I'm
7 not going to drive with somebody that has a weapon. And he
8 pulled out -- he had the phone. He gave the phone to
9 Jasmine; and he gave out, it was a wad of cash.

10 Q Did he ever say what that cash was from?

11 A He said it that it was from a tax return.

12 Q But y'all did not keep that money?

13 A No.

14 Q He was able to give it to his girlfriend?

15 A Yes, like I said, he is not being detained, so
16 we're -- what he wants to do at this point, giving whatever
17 products that were in his pocket to his girlfriend is okay.

18 Q And he wasn't under arrest at this time?

19 A No, ma'am.

20 Q And he wasn't being detained for any reason?

21 A No, he was not.

22 Q During the ride to Aiken Department of Public
23 Safety, where did the defendant ride?

24 A He rode in the front seat.

25 Q And at any point did y'all have your guns drawn?

Carlos Colindres - Direct Examination by Ms. DeLoach

1 A No, ma'am.

2 Q Did you even have them out for any reason?

3 A No, no, ma'am.

4 Q Did anyone else ride to Aiken with you and the
5 defendant?

6 A No, ma'am.

7 Q What, if anything took place during the ride to
8 Aiken?

9 A It's about a 45 minute drive. We took I-20.
10 Mr. Carter just maintained, he was very relaxed, very much
11 like he's sitting right now. At one point he did kind of
12 doze off and then I received a phone call from Special
13 Agent Morlan, which seemed to wake him up. I spoke with
14 Special Agent Morlan for a little bit and then we started
15 talking -- me and Mr. Carter started talking about the
16 Manny Paq, fight.

17 Q And that's the wrestling fight?

18 A Boxing match.

19 Q Boxing match.

20 All right. So once you got back to Aiken, what did
21 you do next?

22 A Mr. Carter was brought over to the interview room
23 and he was interviewed. We have a viewing area where we
24 can actually watch the interview go down and after that
25 interview, Ms. Jasmine, she was in the lobby waiting to be

Carlos Colindres - Direct Examination by Ms. DeLoach

1 interviewed as well. And I went and got her from the --
2 from the lobby and brought her into the interview room and
3 I interviewed her.

4 Q Whenever you brought the defendant into the
5 interview room, did he have on handcuffs?

6 A No, ma'am.

7 Q How did he get to the interview room?

8 A He walked. We just showed him the way.

9 Q You didn't have his hands behind his back or
10 anything like that?

11 A No, ma'am, like I said, he's not under arrest.
12 This was -- he was complying and saying that he would speak
13 with us. He was willing to be interviewed.

14 Q Did he ever ask to leave while -- or to not ride
15 with you to Aiken?

16 A No, ma'am.

17 Q And during your ride to Aiken, he never asked to
18 get out of the vehicle?

19 A No, ma'am.

20 Q Once y'all were at the investigations did he ever
21 ask to leave while you were escorting him into the
22 building?

23 A No, ma'am.

24 Q Nothing further, if you could please answer any
25 questions the defense has for you.

Carlos Colindres - Cross-Examination by Mr. Chesser

1 THE COURT: Any questions?

2 CROSS-EXAMINATION

3 BY MR. CHESSER:

4 Q Detective Colindres, you talked about a stash house
5 versus a trap house?

6 A Yes, sir.

7 Q Now, if someone is using this trap house as
8 essentially a store front, then every so often they have to
9 go re-up from the stash house; isn't that right?

10 A Yes.

11 Q Now, you know where the trap house or store front
12 was located on Columbia Avenue, right?

13 A Yes, sir.

14 Q And you know where Liz's apartment, duplex was,
15 right?

16 A Yes, sir.

17 Q And is there a connecting -- is it possible to walk
18 from the Columbia Avenue location to Liz's duplex?

19 A Yes, sir.

20 Q Okay. And it would be convenient then if somebody
21 were re-upping, going to get additional quantities of
22 drugs, to walk from that Columbia Avenue location to Liz's
23 duplex, right?

24 A Yes, sir.

25 Q All right. That's not a heavily traveled area as

Carlos Colindres - Cross-Examination by Mr. Chesser

1 far as cars, is it?

2 A Yes, it is -- there's a lot of cars in that area.

3 Q It is? But it's still convenient to do this walk?

4 A Yes, sir.

5 Q All right. This three ounces, you described it as
6 a significant weight?

7 A Yes, sir.

8 Q Okay. And just -- if my math is right, if an ounce
9 is approximately 28 grams, then we're talking about 84
10 grams, or thereabouts?

11 A Yes, sir.

12 Q All right. Now, do you know what the value, street
13 value was of 84 grams of cocaine?

14 A That depends on a lot of factors, but going rate
15 right now, you're talking between very low end and that's a
16 generous dealer, an ounce, probably \$800, but usually we're
17 seeing about \$1200 and up.

18 Q So you're talking about, and again this is an
19 approximation, but say some \$3600 worth of cocaine?

20 A Well, it was 4 ounces, so it would be a little bit
21 more.

22 Q Okay. So 4800 or almost \$5,000 worth.

23 Now, is it -- where you're storing drugs, is it --
24 would it be a cover or would it help to hide the drugs to
25 have a female and children at that same location?

Carlos Colindres - Cross-Examination by Mr. Chesser

1 A It could be. It just depends on where the dealer
2 wants to stash his product.

3 Q One other question. If you have 5,000, almost
4 \$5,000 worth of drugs, do you have to protect that type
5 of -- that value of contraband?

6 A Not usually. A lot of it -- well, the trap house
7 is where a lot of the business goes down. Okay. That's
8 where a lot of the activity is. A lot of dealers like to
9 keep their stash house a secret and they don't -- they let
10 only, maybe a few intimate people that might help them with
11 their sales would know where the stash house is, but they
12 usually try to keep that to themselves.

13 Q Okay. But I guess my point is that you might want
14 to have a weapon to protect that large quantity, that large
15 value of contraband?

16 A That makes sense, yes.

17 Q Thank you.

18 THE COURT: Redirect?

19 MS. DELOACH: No, Your Honor.

20 THE COURT: Thank you, you may step down.

21 We okay?

22 MS. YOUNG: Your Honor, may we approach?

23 (There was a bench conference out of the hearing of
24 the jury and the Court Reporter.)

25 THE BAILIFF: We do have some jurors that need to

Carlos Colindres - Cross-Examination by Mr. Chesser

1 go to the restroom.

2 THE COURT: I was just getting ready to say we were
3 going to take a break. I thing we have -- the State has
4 one last witness to go. So let's take our morning break.

5 Mr. Whittle, see what they want for lunch and
6 handle that. Can you do that?

7 THE BAILIFF: Yes, sir.

8 THE COURT: Y'all don't discuss the case, don't
9 deliberate. Leave your notes in the chair and I'll be
10 right back with you. Long enough for you to stretch, go to
11 the bathroom and order your lunch, just let us know when
12 you're ready.

13 Everybody else remain seated, please.

14 (The jury left the courtroom at 11:13 a.m.)

15 THE COURT: All right. Anything for the record
16 before we break?

17 MS. YOUNG: Not from the State, Your Honor.

18 MR. CHESSER: Not from the defense.

19 THE COURT: All right. Short morning break and
20 we'll come back and keep going.

21 (A brief recess was observed.)

22 (The jury entered the courtroom at 11:34 a.m.)

23 THE COURT: Call your next witness.

24 MS. YOUNG: State calls Lieutenant Billy Cameron.

25 WILLIAM CAMERON,

William Cameron - Direct Examination by Ms. Young

1 having been duly sworn, testified as follows:

2 THE CLERK: Have a seat in the witness chair and
3 state your full name.

4 THE WITNESS: William Cameron, C-A-M-E-R-O-N.

5 **DIRECT EXAMINATION**

6 BY MS. YOUNG:

7 Q Are you employed at Aiken DPS?

8 A Yes, ma'am.

9 Q In what capacity?

10 A I'm the lieutenant in investigations.

11 Q How long have you been doing that?

12 A I have been the lieutenant for a year-and-a-half.

13 Q And what did you do prior to becoming a lieutenant?

14 A I was an investigator.

15 Q How long have you been in law enforcement?

16 A I've been in law enforcement a little over 16
17 years.

18 Q Are you the investigator that was assigned to
19 investigate the case of a home invasion on Brown Lane?

20 A Yes, ma'am.

21 Q How did you first get involved in the case?

22 A I was the on-call investigator that morning, or for
23 that entire weekend, and I received a call from dispatch
24 about 5:30 in the morning that we had had a home invasion
25 with a suspect shot. And they were requesting my presence

William Cameron - Direct Examination by Ms. Young

1 on scene.

2 Q What did you do?

3 A I responded to the scene, got there about 6 o'clock
4 in the morning. When I got there, I was first briefed by
5 -- excuse me -- responding officers, told me what they had
6 and they directed me towards Ms. Miller as being the victim
7 of the home invasion.

8 Q And what did you do as a result of that
9 information?

10 A I went and spoke with Ms. Miller and we went back
11 to my vehicle where we had a brief conversation. She was
12 very emotional, shaking uncontrollably, crying, just
13 completely upset.

14 Q How long did that conversation with her last?

15 A It was pretty brief. I would say five minutes
16 maybe, tops.

17 Q What did you do after that?

18 A While we were speaking, one of the officers came to
19 my vehicle and handed me a Georgia driver's license and a
20 cell phone which they had discovered from the gunshot
21 suspect's pockets. After I received those items,
22 Ms. Miller was again very upset. My intent was to try to
23 get her away from the scene. There was still flashing
24 lights and everybody around and what I wanted to do was get
25 her away from the scene where it was more calm and

William Cameron - Direct Examination by Ms. Young

1 controlled. So I asked Ms. Miller if she would be willing
2 to go to public safety with me and have a conversation up
3 there.

4 Q Before you --

5 A Which she agreed.

6 Q I'm sorry, I didn't mean the interrupt you?

7 A That's okay.

8 Q Before you left, did you have an opportunity to
9 speak with anybody else?

10 A I did. After -- while I was speaking with
11 Ms. Miller, she told me that her boyfriend, Melvin
12 Chandler, was standing on the sidewalk and she pointed him
13 to me. So when I left her, I went and spoke with
14 Mr. Chandler and asked him the same thing if he would come
15 to public safety with us and have a conversation, which he
16 agreed. Once that happened, I went and talked to Captain
17 Sawyer, let him know that I was going to be leaving the
18 scene to go interview them and he then directed me to the
19 neighbor that lived next door in the other apartment
20 building.

21 Q Who are you referring to?

22 A Mr. Keith Byrd.

23 Q What did you do when he pointed out Mr. Byrd to
24 you?

25 A I spoke to Mr. Byrd.

William Cameron - Direct Examination by Ms. Young

1 Q And --

2 A He told me what he had observed and that he had
3 made phone calls to Melvin Chandler. Showed me his phone
4 where he had made those phone calls and I -- he didn't know
5 the phone number to his phone so what I did was I just -- I
6 dialed my office number so that I would have his number on
7 my caller ID and told him that I would be talking with him
8 later.

9 Q What was the next thing that you did after you
10 spoke to Mr. Byrd?

11 A We went to headquarters and I believe Mr. Chandler
12 was the first person that I interviewed. Again, Liz was --
13 was still very upset, so I wanted to give her a little bit
14 more time to be away from the scene, try to calm down, so I
15 interviewed Mr. Chandler first.

16 Q Did you do anything besides interview him?

17 A We gathered some phone numbers from him -- for him.
18 We took a gunshot residue kit test of his hands to be
19 submitted for gunshot residue. We also took buccal swabs
20 to -- to be sent to the lab and tested for his DNA.

21 Q Why did you take a gunshot residue test from him?

22 A That early in the investigation, it was -- it was
23 very possible to us that he could have possibly been the
24 suspect to -- who shot the guy in the apartment.

25 Q Did you ask him for consent to search anything?

William Cameron - Direct Examination by Ms. Young

1 A Of course, we asked him for the consent on the
2 gunshot residue kit. We asked him for the consent on the
3 buccal swabs. We asked him for consent of his Tahoe. We
4 asked for consent on his telephone. I think that --

5 Q What did -- how did he respond to your request for
6 these --

7 A In the affirmative. It was yes to everything.

8 Q Okay. Did you speak to Ms. Miller at headquarters
9 also?

10 A Yes, ma'am. I did.

11 Q And describe that for the jury quickly?

12 A It was -- she was still very, very upset. The
13 interview -- I wasn't able to get a whole lot of
14 information from her due to her being so upset. So it --
15 it was rather short as well. Plus it -- about that time is
16 when she advised me, you know, that she believed she was
17 bleeding and probably needed to go to the hospital, so we
18 cut the interview short.

19 Q What was the next thing that you did?

20 A After those interviews, I believe I went to -- I
21 better refer to my notes.

22 Q Well, let me just ask you this while you're going
23 to your notes.

24 A Yes, ma'am.

25 Q Were different investigators doing a bunch of

William Cameron - Direct Examination by Ms. Young

1 different things at the same time?

2 A There was a lot of people doing a lot of different
3 things at the same time, yes, ma'am.

4 Q So while you were doing the interviews, other
5 investigators were doing other things?

6 A Yes, ma'am. I believe there was -- Detective
7 Hembree was, at that point, I believe, attempting to
8 download Mr. Chandler's phone. There was all sorts of
9 things going on at one time.

10 Q All right. So what's the next place that you
11 actively went to work on this investigation?

12 A After the interviews I went to Georgia -- or MCG or
13 Georgia Regents University, whatever it's called these
14 days, and spoke with the family members of the gunshot
15 victim. His name was Darius Rashad Scruggs. When I
16 arrived at GRU, I was directed to where the family was. My
17 initial meeting with them, it was only Patrick Neely, which
18 is the brother of Mr. Scruggs and Brenda Scruggs, which is
19 Darius's mom.

20 When I spoke with Patrick, he told me -- he gave me
21 information on the timeline of his evening, who he was
22 with, where he was at, gave me a couple of phone numbers of
23 a subject who had called him that morning and told him that
24 his brother was shot; gave me a phone number that he
25 related to the defendant, Mr. Carter. I believe that was

William Cameron - Direct Examination by Ms. Young

1 just about the gist of our conversation.

2 Q Did he give you any other phone numbers?

3 A He gave me Mr. Carter's phone number, which was
4 706-761-5459 and then he gave me -- I believe that's the
5 number. And --

6 Q Was it 706 or was it 803?

7 A 803, I'm sorry. The other one was a 706, which
8 was, he said it belonged to who he described as Poppa,
9 didn't know his real name. That was 706-723-3900.

10 Q And what did you do after you got that information
11 from Patrick Neely?

12 A After I got the information from Mr. Neely, I
13 walked outside where I would have some cell service and I
14 called back to Aiken and spoke with either Detective
15 Hembree or Captain Sawyer, I don't recall who I spoke with,
16 but I relayed the information to them of what I had just
17 received from Patrick and -- which started some balls
18 rolling in Aiken on -- on -- you know, finding out who
19 these phone numbers belonged to and what have you.

20 Q Where was the next place that you went, Lieutenant?

21 A From that point I was outside talking with -- again
22 made that phone call and Agent Morlan pulled up to the
23 hospital and we had a -- I briefed him on what I had and we
24 walked back in and went upstairs where all of the family
25 was at that point and attempted to have a brief

William Cameron - Direct Examination by Ms. Young

1 conversation in there, again, with Patrick Neely to see if
2 he could give us any more of the details and that
3 conversation didn't go real well due to other family
4 members kind of intervening.

5 Q So is that the end of what you did while you were
6 at the hospital?

7 A Yes, ma'am.

8 Q Where did you go after that?

9 A After that I came back to Aiken and I actually went
10 to the crime scene where SLED was finishing up doing their
11 processing of the crime scene and met with Captain Sawyer
12 and he informed me at that point that he had walked on
13 Cushman Drive and located a residence over there that had
14 cameras and wanted me to attempt to download that.

15 Q So what did you do?

16 A I did just that. I went to that residence and
17 spoke with those people and downloaded that video.

18 Q Lieutenant Cameron, I'm going to show you what's
19 been marked for identification purposes as State's Exhibit
20 Number 17 and ask if you recognize that.

21 A Yes, ma'am, that's the Cushman Drive video.

22 Q Would you agree -- have you reviewed that prior to
23 coming to court today?

24 A Yes, ma'am, I have.

25 Q Does that appear the with a true and accurate copy.

William Cameron - Direct Examination by Ms. Young

1 of the video that you observed in the home on Cushman
2 Drive?

3 A Yes, ma'am, it is.

4 (Preparing to show the video to the jury.)

5 BY MS. YOUNG:

6 Q Let me ask you this while we're waiting. Did you
7 observe how many cameras were at the house?

8 A I want to say it was two, maybe three.

9 Q Okay.

10 MS. YOUNG: Your Honor, the State would offer
11 Exhibit 17 into evidence at this time.

12 THE COURT: Any objection?

13 MR. CHESSER: No objection.

14 (State's Exhibit Number 17 was entered into
15 evidence.)

16 MS. YOUNG: And we'd request to publish the first
17 portion of it, which would be the pertinent portion of the
18 whole 27 minutes.

19 BY MS. YOUNG:

20 Q Lieutenant Cameron, can you see from up there, or
21 do you want to come down and advise the jury?

22 A It's -- yeah, I'll come down. It's got kind of a
23 glare.

24 Q Okay.

25 (The witness stepped down in front of the jury.)

William Cameron - Direct Examination by Ms. Young

1 (The video is playing.)

2 THE WITNESS: This road is Cushman Drive. If you
3 were to drive this road, coming back toward you guys, maybe
4 a quarter of a mile from this house, if it's a quarter
5 mile, it would be McCormick Street Extension, which is --
6 backs up to the backside of Hahn Village directly behind
7 Ms. Miller's address.

8 BY MS. YOUNG:

9 Q And is there a time and date stamp on this?

10 A There is. The time and date stamp on this is
11 5/9/2015, at 4:55 in the morning. And when I downloaded
12 this video, I confirmed it with my iPhone.

13 Q That it was correct?

14 A That it was correct.

15 Q Do you know, just so we don't have to watch this
16 still movie, do you know what time the pertinent portion
17 happened?

18 A I believe the pertinent portion is at 5 minutes and
19 roughly 21, 22 seconds.

20 MS. YOUNG: Can you fast forward it to that.

21 (The video is being fast forwarded.)

22 BY MS. YOUNG:

23 Q While we're waiting, did you look at all of the
24 camera angles at this lady's home?

25 A Yes, ma'am, I did. And there was another camera on

William Cameron - Direct Examination by Ms. Young

1 the opposite side of this house and I believe it just shows
2 that this is a really sharp curve right here. And I
3 believe that camera, all you can see on it is the vehicle
4 coming up to road. So in that camera view, all you can
5 really see is headlights.

6 Q Okay.

7 A And if there was -- I don't know if there was a
8 third or not.

9 Q As you're looking at the screen, while we're
10 waiting, does McCormick Street come to my direction to the
11 left of this?

12 A McCormick Street would -- looking at the screen, if
13 you traveled on that road, McCormick Street would be
14 towards the bottom of the screen.

15 Q So in terms of where the car's traveling, what
16 direction did it go in when it turned into McCormick
17 Street?

18 A That vehicle that we just observed on the screen is
19 traveling towards McCormick Street Extension.

20 Q At what time?

21 A It was at 5 o'clock and 22 seconds.

22 Q Is there anything else shown on this video?

23 A There's a -- in just a few seconds, there's going
24 to be an individual that you can see that's walking down
25 the street. He's walking in the direction, the opposite

William Cameron - Direct Examination by Ms. Young

1 direction. Just an individual, no idea who it is. That's
2 him there.

3 Q He's just strolling down the street?

4 A Just walking in the morning, yes, ma'am.

5 Q Okay. Have you watched the whole video?

6 A I have.

7 Q Is there anything else pertinent on there?

8 A There's nothing.

9 Q Don't go away.

10 A Okay.

11 (The big screen was being brought down.)

12 BY MS. YOUNG:

13 Q While you're down here.

14 A Sure.

15 Q Can you take, using State's Exhibit 96, show the
16 jury -- and you can orient it whichever way -- show them
17 where the house was and how it relates to -- I'm not sure
18 they can all see it.

19 A Can y'all see it? This is the curb that I was
20 talking about in the video. This residence right here is a
21 one that had the cameras so that vehicle would have been
22 traveling down this road and coming this way; and this is
23 McCormick Street Extension right here, which is a dead-end
24 road right about here. And this is the incident location.

25 Q All right. That's good. Thank you.

William Cameron - Direct Examination by Ms. Young

1 (The witness returned to the stand.)

2 BY MS. YOUNG:

3 Q After you obtained the video, what was the next
4 thing that you did?

5 A After I got the video, I went back to headquarters
6 and spoke with Captain Sawyer and Detective Hembree and
7 everybody else that was there and I was informed at that
8 point that they had received -- began to receive locations
9 due to exigent request that was sent for Mr. Carter's
10 phone.

11 Q Did you get anymore information about the phone
12 that had been found in Darius Scruggs pocket?

13 A I did. There was an exigent request sent for that
14 as well. While I was at the hospital and relaying the
15 information back to them of what I had talked with Patrick
16 Neely about is when they told me that they got the exigent
17 back on that and the phone that was recovered from Darius
18 was Ms. Miller's phone?

19 Q Were you present when Agent Morlan and TFO
20 Colindres arrived with the defendant?

21 A I was.

22 Q And what did y'all do?

23 A When they arrived at public safety, Mr. Carter was
24 brought into the interview room and subsequently
25 interviewed by myself and Agent Morlan.

William Cameron - Direct Examination by Ms. Young

1 Q After that, did you do anything else that
2 particular day that you recall?

3 A After we interviewed Mr. Carter, his girlfriend
4 came back, Jasmine Hammond. And she was interviewed by
5 myself and Detective Colindres.

6 Q After you interviewed her, what was the next thing
7 that you did?

8 A Through that interview we had learned that the
9 phones that her and Mr. Carter previously had been given to
10 her mother and were thrown in the trash. Her mother being
11 Treasure Simpkins. I contacted Treasure on the phone
12 through the consent of Ms. Hammond. Myself and Agent
13 Morlan went and met with Treasure and received those
14 phones.

15 Q Describe that for the jury, if you would?

16 A When she gave us the phones, they were just
17 completely destroyed, missing batteries, appeared to have
18 water damage on them, just completely destroyed.

19 Q I'm showing you State's Exhibits 87 and 88, which
20 are already in evidence.

21 A Yes, ma'am.

22 Q Do you recognize those?

23 A I do.

24 Q And what's shown in those?

25 A The two phones that we received from Treasure

William Cameron - Direct Examination by Ms. Young

1 Simpkins that evening that had belonged to Mr. Carter and
2 Ms. Hammond.

3 Q And they did not have the batteries in them?

4 A No, ma'am.

5 Q And you took those into evidence and took them back
6 to public safety?

7 A That's correct.

8 Q With regard to the interview with the defendant,
9 what did you do in terms of the phone that he had still on
10 his person?

11 A There was a preservation letter sent for that phone
12 and a search warrant for those call detail records was
13 subsequently obtained.

14 Q And that's already been entered into evidence.
15 Have you reviewed those?

16 A Yes, ma'am, extensively.

17 Q All of them?

18 A Yes, ma'am.

19 Q And did you find anything pertinent in Mr. Carter's
20 phone records on those new phones?

21 A I did.

22 Q That was pertinent to your investigation?

23 A Yes, ma'am, I found a text message from that phone
24 to Treasure Simpkins.

25 Q All right. And what did it say?

William Cameron - Direct Examination by Ms. Young

1 MR. CHESSER: Your Honor, I object to him talking
2 about the text message. I think that if they want to
3 review it they have to introduce the text message.

4 THE COURT: You object to him saying what's on the
5 text message?

6 MR. CHESSER: That's correct. I think that in
7 order to publish what's on this text message they have to
8 introduce the text message. Otherwise, I think that's the
9 rules. The 900 rules of authentication require if they're
10 going to introduce --

11 THE COURT: You got the text message?

12 MS. YOUNG: It's in the phone records and they've
13 already been entered into evidence through Detective
14 Hembree.

15 THE COURT: They're already in.

16 MR. CHESSER: Thank you, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: The text message said, Ma, take them
19 phones up there, wash them with water, everything.

20 BY MS. YOUNG:

21 Q And who was that directed to?

22 A Treasure Simpkins, Jasmine Hammond's mother.

23 Q What was the next thing you did Lieutenant Cameron?

24 A It was rather late that evening, so we -- we went
25 home for the evening and got back at it first thing Monday

William Cameron - Direct Examination by Ms. Young

1 morning. Monday morning, I met again with Ms. Miller and
2 the neighbor, Keith Byrd and was able to conduct an
3 interview with them at Aiken Public Safety Headquarters.

4 Q You were able to conduct a full interview at that
5 point in time?

6 A Yes, ma'am.

7 Q And with regard to Mr. Byrd's phone, did you do --
8 did you look at it during the course of your interview with
9 him?

10 A I did. And I took photographs of the screen -- or
11 the call detail in the screen.

12 Q Lieutenant Cameron, I'm going to show you what's
13 been entered into evidence as State's 26 and 27. Do you
14 recognize those?

15 A Yes, ma'am, I do.

16 Q And what are those?

17 A They are pictures of Keith Byrd's telephone.

18 Q And more specifically?

19 A They indicate to who and what time and what day
20 calls were made.

21 Q And just in terms of what you took pictures of, can
22 you put that into the record by reading them out?

23 A The first phone call that was made was to the
24 contact name of Mel on May 9th at 5:07 a.m. and that's an
25 outgoing call. The second call made is also an outgoing

William Cameron - Direct Examination by Ms. Young

1 call to the contact name of Mel on May 9th at 5:10 a.m.

2 On State's Exhibit 27, there is an incoming call
3 from the contact name of Mel on May 9th at 5:14 a.m. and
4 also an incoming call from the contact name Mel on May 9th
5 at 5:17 a.m.

6 Q Okay. What else did you do to advance the
7 investigation that Monday?

8 A I spoke with Darius Scruggs's father, Robert
9 Henderson and he provided me with a phone number of an
10 individual that he had spoken with over the weekend whom
11 they believed to be involved in the incident.

12 Q Do you recall what the number was that he gave you?

13 A It was 305-323-0317.

14 Q And who were you able to associate that phone with?

15 A Richard Jackson.

16 Q Can you tell the Court what the next thing you did
17 was?

18 A On -- that would have been Monday. The next day,
19 Mr. Henderson and Patrick Neely came to headquarters and I
20 conducted an interview of Patrick Neely where he expounded
21 on the information that he had given me that Saturday and
22 was a much more in depth interview than the previous.

23 Q And what did you do as a result of the information
24 he gave you?

25 A From my office that morning, I actually contacted

William Cameron - Direct Examination by Ms. Young

1 this number that he had associated with Rick Jackson. I
2 called it at 8:41 and 8:42 that morning. Did not receive
3 any response at all. At 8:43, I received a phone call to
4 my office from that number from a female. I asked that
5 female if I could speak to Richard Jackson. I was advised
6 I had a wrong number. I informed that female that I had
7 received that phone number from her uncle; I was under the
8 understanding that Richard Jackson's girlfriend was
9 Mr. Henderson's niece, so I informed her that I had
10 received that phone number from her uncle and she hung up
11 on me. I called it back at 8:46, got no answer.

12 Q Was there any additional investigation done about
13 that that day?

14 A Yes, ma'am. That information was passed onto other
15 investigators with the task force and they went to the
16 address that we had associated with Mr. Jackson, which was
17 1916 Coonie Circle in August Georgia and located
18 Mr. Jackson and he voluntarily came to headquarters for an
19 interview.

20 Q Is that address of a particular subdivision?

21 A It is in Jennings Homes.

22 Q And you interviewed Rick Jackson after they went
23 and talked to him?

24 A Yes, ma'am, after they went and got him and brought
25 him back, we interviewed him, yes, ma'am.

William Cameron - Direct Examination by Ms. Young

1 Q Can you describe Rick Jackson to the jury?

2 A Rick Jackson is probably 5 foot, 9 inches,
3 light-skinned black male, long dreads, lot of tattoos on
4 his arms probably best guess 210, 220, kind of a stout
5 fellow.

6 Q Did you get any other names of people that would be
7 involved?

8 A I did.

9 Q What names were those?

10 A Throughout the course of the investigation I
11 received the names of Damian --

12 MR. CHESSER: Your Honor, I'm going to object on
13 this, it's apparently based on hearsay. Just things that
14 the investigator's been told, Your Honor, I would object to
15 it being hearsay.

16 THE COURT: Overruled.

17 THE WITNESS: Throughout the course of the
18 investigation, I obtained the name of Damian Tansley as a
19 possible subject or suspect in this crime. I obtained the
20 name Tyzavier (phonetic) Wesby, which was also a possible
21 suspect in this crime. As a result, we obtained a search
22 warrant for a phone number that belonged to Tyzavier Wesby
23 and he was excluded because of those call records.

24 MR. CHESSER: Objection, Your Honor. There's no
25 basis for this conclusion. I mean, I don't know.

William Cameron - Direct Examination by Ms. Young

1 THE COURT: Well, it says his conclusion they
2 excluded him.

3 MR. CHESSER: Well, this detective's exclusion of
4 this individual was not involved in the crime is not
5 admissible. It's an opinion. There's no basis presented
6 for it. Any basis it would be for is based on hearsay and
7 we would object on the grounds that it's opinion, that it's
8 hearsay and there's no basis for it.

9 THE COURT: Overruled.

10 BY MS. YOUNG:

11 Q Did that person have a nickname that you were aware
12 of?

13 A Mr. Wesby?

14 Q Yes.

15 A Yes, ma'am it was ZADA.

16 Q What about Rodriguez Jackson?

17 A We had also heard the name Rodriguez Jackson and he
18 was located by the task force members as well. I believe
19 he was asked for consent to search this vehicle he was in,
20 which he provided. Nothing useful found from this, but
21 pictures of the vehicle and all -- all its contents were
22 taken and he voluntarily came to headquarters and was
23 interviewed as well.

24 Q Were you able to obtain any other information with
25 regards to him?

William Cameron - Direct Examination by Ms. Young

1 A Mr. Jackson, Rodriguez Jackson was observed --
2 well, yeah, he was -- on May 10th of 2015, which is the day
3 after, was observed on video at Walmart buying two brand
4 new phones.

5 Q Did you obtain that video during this
6 investigation?

7 A Yes, ma'am, I did.

8 Q I'm going to show you what's been marked for
9 identification as State's Exhibit 100 and ask if you can
10 identify that.

11 A Yes, ma'am, it's the Richland Avenue Walmart video.

12 Q Have you reviewed that prior to coming to court
13 today?

14 A Yes, ma'am, I have.

15 Q Is it a true and accurate copy?

16 A It is.

17 MS. YOUNG: Your Honor, we'd ask to move State's
18 100 into evidence and publish.

19 MR. CHESSER: No objection.

20 (Raising the big screen.)

21 BY MS. YOUNG:

22 Q Do you know where this particular Walmart was?

23 A It's the one at Richland Avenue West, down by the
24 bypass, the hospital area.

25 Q You don't have to get down unless you want to, but

William Cameron - Direct Examination by Ms. Young

1 can you describe for the jury where Mr. Rodriguez Jackson's
2 going to be on this video?

3 A If you're looking at the television screen, it's
4 going to be on the register on the bottom left-hand corner
5 of the screen. I believe he's wearing some sort of
6 checkered style shirt and a baseball cap.

7 (The video is playing for the jury.)

8 BY MS. YOUNG:

9 Q Is that -- the person that's on the screen now is
10 the person you're referring to as Rodriguez Jackson?

11 A Yes, ma'am, that's Rodriguez Jackson. Also goes by
12 the nickname of Freaky.

13 (Pause while the video continued playing.)

14 BY MS. YOUNG:

15 Q Lieutenant Cameron, what were your pertinent
16 observations from that video?

17 A The day after the incident, we have -- well, the
18 day of the incident, we have one of the suspects purchasing
19 a phone, a new phone, although they had one already,
20 they're purchasing a new one. And then the day after the
21 incident another suspect in this event was also purchasing
22 new telephones and something else I found pertinent in the
23 video was the entire time he's at the register he's -- he
24 appeared to me to pull a lot of cash out of his left
25 pocket, put it back and then pull another wad of cash out

William Cameron - Direct Examination by Ms. Young

1 of his right pocket. And the whole time he's at the
2 register, he's just counting cash.

3 Q Can you describe for the jury his physical
4 characteristics.

5 A He is a short, dark-skinned black male and at the
6 time that I interviewed him, he had short, nappy, twisty
7 spikes, hair.

8 Q At some point in time did Mr. Scruggs pass away.

9 A He did. I believe he passed away on the 15th of
10 May, 2015.

11 Q Do you recall what the next thing that you did was,
12 pertinent to the investigation?

13 A Yes, ma'am. Due to the drugs being found in
14 Ms. Miller's residence, warrants were issued for the arrest
15 of Melvin Chandler on those drugs.

16 Q And over the course of time, is this at the same
17 time when all the search warrants were being obtained for
18 all the various phones?

19 A Yes, ma'am, I believe around that time we completed
20 all search warrants. I believe it was for nine different
21 phone numbers and all those search warrants were sent off
22 to the perspective, or respective providers.

23 Q Did you ever obtain any or receive any results
24 regarding DNA, gunshot residue, or fingerprints?

25 A We did. And the gunshot residue that was performed

William Cameron - Direct Examination by Ms. Young

1 on Melvin came back negative and the gunshot residue kit
2 that came back on Mr. Scruggs was also negative. And I
3 don't believe any of the swabs that SLED's crime scene was
4 able to take that day of DNA came back with any results
5 that were -- could name anybody.

6 Q Why didn't you take gunshot residue from the
7 defendant?

8 A It was -- by the time we made contact with the
9 defendant, it was 12 to 14 hours later.

10 Q And why does that matter?

11 A He could have showered, washed his hands. I mean,
12 that evidence would more than likely have been gone.

13 Q How about with regard to fingerprints?

14 A Yes, ma'am, the -- we got back -- the only
15 fingerprint evidence that came back from SLED, I believe,
16 was on the beer cans that they found on that little cut
17 through area in the fence that took you back to McCormick
18 Street Extension. They collected some beer cans back there
19 and we got fingerprint evidence that identified somebody
20 off of those beer cans.

21 Q And what did you do as a result of that
22 information?

23 A I spoke with that individual.

24 MR. CHESSER: Objection, hearsay, Your Honor.

25 THE COURT: Well, he hasn't said anything yet.

William Cameron - Direct Examination by Ms. Young

1 Don't say what he said. As a result of speaking to him
2 what happened?

3 THE WITNESS: As a result of speaking with him, it
4 was determined that he was -- he was excluded from anything
5 that had to do with this.

6 MR. CHESSER: Objection. It's an opinion. It's
7 under -- this Rule 701, it requires that the opinion of a
8 lay witness be based on a rational perception, which I
9 would -- I would think it does not include talking with
10 people and so we would submit that it's objectionable under
11 701. It's based on hearsay and that it is opinion that's
12 not admissible under a rules of evidence.

13 THE COURT: Respectfully overruled.

14 BY MS. YOUNG:

15 Q The person you interviewed, you recall the name?

16 A I believe his last name was Parker. I don't recall
17 his first name.

18 Q Where is that person --

19 A Parker maybe. Kevin Parker? He lived directly
20 across the court from Ms. Miller's residence.

21 Q So adjacent to that walking path?

22 A Yes, ma'am.

23 Q Did you obtain or attempt to obtain phone records
24 for somebody known as G and somebody known as Trill?

25 A Yes, ma'am, I did.

William Cameron - Direct Examination by Ms. Young

1 Q Okay. And how did those names, without saying what
2 people said, how did those names come into the
3 investigation?

4 A Those names came into the investigation due to the
5 -- Detective Hembree explained the Cellebrite machine and
6 how it downloads phones. Those names came into the
7 investigation through that download of Mr. Chandler's cell
8 phone.

9 Q And what did you do with that information as a
10 result?

11 A Search warrants were also issued for those phone
12 numbers and interviews were conducted on both of those
13 individuals.

14 Q Did you receive another phone to investigate in
15 this case, an actual physical phone?

16 A I did.

17 Q And describe for the jury how that occurred.

18 A I received a call and met with the deceased
19 individual's father, Robert Henderson and received the
20 phone from him in a plastic sealed bag.

21 Q And what did you do with that?

22 A A search warrant was obtained for that phone and
23 Detective Hembree attempted a Cellebrite download of that
24 phone as well.

25 Q And what were the results of that?

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1 A That phone was not compatible with the machine at
2 that time; therefore, a manual extraction, if you will, was
3 completed. It was just a visual check of everything, the
4 phone contact list, text messages, and that.

5 Q I'm going to show you State's 89, 90, and 91 and
6 ask if you recognize those. They're already entered into
7 evidence.

8 A Yes, ma'am, I do.

9 Q And what are those?

10 A They are pictures of Darius's phone.

11 Q And I'm going to put them up on the screen and ask
12 you about them each. If I can press the right button and
13 not the down button.

14 (The screen is being brought up.)

15 BY MS. YOUNG:

16 Q Lieutenant Cameron, what's shown on 89 that's
17 rising up now on the screen?

18 A State's 89 is a picture of Darius Scruggs on the
19 locked screen of the phone.

20 Q How do you know that's Darius Scruggs?

21 A I observed him at the hospital.

22 Q What's shown in State's 90?

23 A State's 90 is a text message content between
24 Mr. Scruggs's phone and the phone belonging to the contact
25 name of Mass.

William Cameron - Direct Examination by Ms. Young

1 Q And why was this preserved?

2 A This was preserved because Mass was also a suspect
3 in this home invasion and --

4 Q For --

5 A Ma'am?

6 Q Go ahead.

7 A I forgot where I was.

8 Q I'm sorry. For purposes of the record, can you put
9 the text content -- can you read it out --

10 A Yeah --

11 Q -- and say who does it start with.

12 A Yes, ma'am. It starts with the contact name of
13 Mass, an incoming text message to Darius Scruggs. It says,
14 Where y'all parked at, at 5/9 at 3:50 a.m.

15 And then an outgoing text message again on 5/9, at
16 3:50 a.m., the response was Lucky 7. The --

17 Q And who sent that?

18 A That --

19 Q Or where did it come from?

20 A It came from Darius Scruggs's phone.

21 Q All right. And what happened -- what was next?

22 A The next content on the phone is at 5/9 at 5:03
23 a.m. It's an incoming text to Mr. Scruggs's phone from the
24 same contact of Mass and it says, He leaving to fuck a
25 bitch.

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1 THE COURT: He leave, what?

2 THE WITNESS: To fuck a bitch.

3 BY MS. YOUNG:

4 Q All right. And what's the next text?

5 A The next text is that same date 5/9, 5:03 a.m.
6 incoming text message again from the contact of Mass says,
7 I doubt if he come there but just be 050.

8 Q All right, sir. What's next?

9 A Same incoming text message from same contact of
10 Mass at 5 -- on 5/9 at 5:04 a.m., says, He said he coming
11 back so go ahead.

12 Q And now we're moving to 91?

13 A Yes, ma'am.

14 Q All right. Does this conversation continue?

15 A It does. The next -- the next conversation is
16 actually an outgoing text message from Mr. Scruggs's phone
17 to the same contact of Mass. On 5/9 at 5:06 a.m., says,
18 See where he at. Is he leaving da house or what.

19 And then next is again on 5/9, at 5:07 a.m., was an
20 incoming text to Mr. Scruggs's phone from the same contact
21 of Mass, that reads, Go head fool.

22 Q Can you say that one more time?

23 A Go head fool.

24 Q Okay.

25 A And then the next is also an incoming from the

William Cameron - Direct Examination by Ms. Young

1 contact name of Mass on 5/9, at 5:16 a.m. that says,

2 Tighten up, they know what's going on leave now.

3 (The big screen is going down.)

4 BY MS. YOUNG:

5 Q Do you know what time the 9-1-1 call is received in
6 this case?

7 A I believe it was 5:22 a.m.

8 Q On what day?

9 A On May 9, 2015.

10 Q With regard to all these maps that Ms. Sailer
11 testified about previously, can you just briefly describe
12 for the jury kind of how you approached her to get those
13 maps done?

14 A What I would have to do initially was send her
15 every call detail record for every phone number that I had
16 that we had gotten search warrants for and was important in
17 this case. So what I did is I reached out to her, gave her
18 every single call detail record that we had obtained and I
19 went through all of the phones in this case pretty
20 extensively prior to, during, after the home invasion
21 and --

22 Q You didn't get them prior to -- oh, you mean time
23 prior to?

24 A Time -- time-wise prior to, yes, ma'am. Time-wise
25 on the call detail record.

William Cameron - Direct Examination by Ms. Young

1 And after I provided her with the call detail
2 records, I provided her with times on the call detail
3 record that were significant to me.

4 Q Okay. So all the maps were made based on the
5 information she received from you?

6 A That's correct.

7 Q And you -- who all's phone records did you send to
8 be mapped?

9 A Richard Jackson, Rashawan Carter, Gerrin Amiker,
10 Donte Glover, which is also the nickname Trill, Melvin
11 Chandler, both of his phones, the phone belonging to Poppa.

12 Q Did it actual belong to Poppa?

13 A No, ma'am. The call detail record came back as
14 belonging to Sanquesha Ramsey which was her boyfriend or
15 his girlfriend.

16 Q Okay. And any other phones that you can think of?

17 A Darius Scruggs's phone. I think there might be one
18 more.

19 Q I imagine there is a lot of maps?

20 A It was an extraordinary amount of maps, yes, ma'am.

21 Q In asking Agent Sailer or in working with Agent
22 Sailer to get those maps made, were you able to determine
23 anything about the phones if they weren't actively being
24 used?

25 A Yes, ma'am, I was.

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1 Q And what was that?

2 A If the phone was not being used, of course, the
3 majority of the time, depending on the provider, you're not
4 going to receive any sort of data on the call detail
5 records for that. So there's just going to be no activity
6 if the phone's not being used. And what I was able to
7 determine through the mapping and the call detail records
8 was that only Mr. Jackson -- Richard Jackson, Mass and
9 Darius Scruggs's phone were the only ones active during the
10 actual time of the home invasion.

11 Q And does that mean basically you can only -- a
12 record's only created if there's some action like a call or
13 a text or data or attempted to use the internet or
14 something like that?

15 A Mostly except for, I believe, AT&T, they actually
16 show some -- it's all coming from the activity of the
17 phone, yes, ma'am.

18 Q You didn't bring all the maps to court, did you?

19 A No, ma'am.

20 Q Did you kind of make some timelines and things to
21 help narrow down what the pertinent information was?

22 A I did.

23 Q I'm going to show you what's been marked as State's
24 Exhibit 101 and ask if you recognize that?

25 A Yes, ma'am, I do.

William Cameron - Direct Examination by Ms. Young

1 Q And how do you recognize that?

2 A It's a timeline of the phone usage throughout that
3 night that I created.

4 MS. YOUNG: Your Honor, we'd move to enter State's
5 101 into evidence.

6 MR. CHESSER: No objection.

7 (State's Exhibit Number 101 was entered into
8 evidence.)

9 BY MS. YOUNG:

10 Q I don't have a picture of that to put up on the
11 screen unfortunately. Oh, I do. I'm sorry. I misspoke.

12 (The big screen is being raised.)

13 BY MS. YOUNG:

14 Q This is in evidence so I'm not going to have you
15 read them all out to the jury, but can you just give them a
16 bookend on where it starts and where it ends?

17 A After going through all the call detail records
18 pretty extensively, what I was able to determine was that
19 it pretty much started approximately 1:52 a.m. with a phone
20 call from Richard Jackson's phone or Mass's phone to Melvin
21 Chandler. And then it continues on down at approximately
22 3:50 in the morning with text -- the text messages that we
23 observed on Mr. Scruggs's phone from Mass to Mr. Scruggs.
24 And then throughout the night from approximately 3:52 until
25 roughly 4:12 in the morning there was voice communication

William Cameron - Direct Examination by Ms. Young

1 between Mass's phone and Darius Scruggs's phone. And then
2 at 5:03 in the morning to 5:06 in the morning, is the text
3 message content between Mass's phone and Darius's phone
4 during the time of the incident.

5 And then also shows the calls, outgoing calls from
6 Mr. Byrd to Mr. Chandler and then right after that is calls
7 made from Melvin to the phone belonging to Gerrin Amiker,
8 which is G Street's. Melvin then attempts to contact
9 Ms. Miller's phone at 5:12 a.m. and 5:13 and then he
10 receives another call from Mr. Byrd at 5:14. Melvin placed
11 a call to Trill at 5:14 as well and then receives or
12 Darius's phone receives a text message from Mass's phone on
13 the tighten up they know what's going on, leave now
14 portion.

15 And then at 5:17 that morning Melvin Chandler again
16 called Mr. Byrd and at 5:18 that morning Scruggs's phone
17 had had a missed call from Rick's phone or Mass's phone and
18 then at 5:55, 5:56, 5:59, Mr. Carter's phone received phone
19 calls from a phone number that we associated with
20 Antoinette Simpkins.

21 Q Who's that?

22 A That's the cousin of Jasmine Hammond.

23 Q Okay.

24 A At 6:51 that morning Poppa's phone received a call

25 -- I'm sorry, Poppa's phone placed a call to Patrick Neely.

William Cameron - Direct Examination by Ms. Young

1 At 7:26 that morning, Mr. Carter get's a phone call from a
2 phone number that we associated with Treasure Simpkins and
3 then at 7:41 and 7:51 that morning Patrick Neely's phone is
4 calling Mr. Carter's phone.

5 Q And you boiled this down from looking at these
6 extensive phone records?

7 A Yes, ma'am.

8 Q Were you ever able to speak with Trill?

9 A I did.

10 Q And what's his name?

11 A Donte Glover.

12 Q Okay. And what were the results of that?

13 A He denied any involvement whatsoever.

14 Q Did you go out and take some pictures at Lucky 7?

15 MR. CHESSER: Your Honor, I just do want to make an
16 objection as to what Trill said. I mean it's clearly
17 hearsay and I think it should be excluded and I object to
18 it.

19 THE COURT: Sustained.

20 MR. CHESSER: And I would ask that it be stricken
21 from the record.

22 THE COURT: I will do so.

23 Disregard anything that the witness who is not here
24 may have said.

25 BY MS. YOUNG:

William Cameron - Direct Examination by Ms. Young

1 Q I'm going to show you State's 83 and 84?

2 A Yes, ma'am.

3 Q What are those?

4 A Those are pictures that were taken in the parkway,
5 if you will, looking back towards Club Climax and Lucky 7
6 Gas Station.

7 Q Who took those pictures?

8 A Either myself or Detective Hembree. We were
9 together and we were both taking photographs. I don't know
10 exactly which one this was.

11 Q But you were there at the time?

12 A Yes, ma'am.

13 Q What can you tell the jury about the location of
14 Club Climax and Lucky 7 -- well, first of all, they're
15 right -- they're next door to each other, correct?

16 A Yes, ma'am, they're separated by a car wash.

17 Q How about their relationship to Jennings Homes?

18 A Jennings Homes is probably, best guess, less than a
19 mile from Club Climax or Lucky 7.

20 Q You made a PowerPoint prior to coming to court
21 today?

22 A Yes, ma'am.

23 Q And what's on that PowerPoint?

24 A It would be all the -- well, not all, but the call
25 detail records and maps of phone calls between all the --

William Cameron - Direct Examination by Ms. Young

1 all these individuals involved in this case that I found
2 pertinent.

3 Q It kind of summarizes everything?

4 A It does.

5 Q All right. I'm going to show you State's Exhibit
6 21 and 21-A and ask if you recognize those?

7 A Yes, ma'am, I do.

8 Q And what is that?

9 A The 21 is the CD of the actual PowerPoint and then
10 21-A is the printed copy of that PowerPoint.

11 MS. YOUNG: Your Honor, the State would move
12 Exhibits 21 and 21 A. Into evidence at this time.

13 THE COURT: Any objection?

14 MR. CHESSER: No objection.

15 (State's Exhibit Number 21 and Number 21-A were
16 entered into evidence.)

17 MS. YOUNG: Request to publish and have Lieutenant
18 Cameron step down.

19 (The witness stepped down in front of the jury.)

20 (The big screen was brought up.)

21 BY MS. YOUNG:

22 Q All right. Tell the jury where the PowerPoint
23 starts and what does it mean?

24 A What we've done is, we had several maps throughout
25 this case created, so what we have done is we separated

William Cameron - Direct Examination by Ms. Young

1 each individual by his own color so this is kind of our
2 key.

3 You see a blue map, that is going to be in
4 reference to the phone number 803-761-5459, which we
5 associate to Rashawan Carter.

6 If you see a green map, that's going to be in
7 reference to the phone number 305-323-0317, which we
8 associated to Richard Jackson or Mass.

9 If you see red in a map, that is indicative of the
10 Melos data that goes along with Richard Jackson's maps.

11 If you see this goldish color, it's representative
12 of Darius Scruggs' phone, which was 404-642-6184.

13 If you see a gray map, that's going to be
14 indicative of Melvin Chandler's phone, whether it's a
15 803-508-9958 number or the other phone 803-226-8129.

16 If you see a yellow highlighter color yellow,
17 that's going to be indicative of the phone number
18 706-723-3900, which we have associated to Poppa or through
19 call detail records Sanquesha Ramsey.

20 Q All right. What's shown on the next screen? Next
21 slide I should say. First of all, what is it? What's on
22 this slide?

23 A This is a call detail record of Richard Jackson's
24 phone with the phone provider being AT&T. What you're
25 going to see in this column is the date that that -- that

William Cameron - Direct Examination by Ms. Young

1 this call was placed, the time, and if you can see the
2 time, it says 5:52. Referring back to Detective Hembree
3 when he talked about UTC time, what we would have to do,
4 this call detail record is given to us in UTC time. We
5 were inside of Daylight Savings, so what we would have to
6 do is we would have to subtract four hours to get the
7 actual time of Eastern Standard Time. So you see here that
8 it's 5:52. When in all actuality it's, our time would be
9 1:52.

10 And this is the phone number that placed the call
11 and the phone number to which it was called.

12 Q So when was this call made?

13 A This call was made at 5:19 -- or 5/9, 2015 at 1:52
14 a.m.

15 Q And you know from whom?

16 A From Richard Jackson to one of the telephone
17 numbers belonging to Melvin Chandler.

18 Q All right. What's shown on the next slide?

19 A This information is the Nelos data. I believe
20 Ms. Sailer explained is the more narrowed down of the
21 actual device while it's being used in lieu of just that
22 big triangle from the tower.

23 Q All right.

24 A And that's what this is -- it shows that data.

25 Q What's shown on the next slide?

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1 A What this -- now, what this slide is showing is
2 basically a visual of what all that data is providing us.
3 So it's -- this -- that 1:52 a.m. phone call is hitting
4 this tower right here in the top-left corner where the
5 piece of pie starts and encompasses most of the page; and
6 then the red circle is indicative of the Nelos data which
7 was captured through the call detail record.

8 Q And then did you ask her to add the pinpoint
9 locations that were pertinent to the investigation?

10 A Yes, ma'am, I did. And what's pertinent about this
11 information to me was the Nelos data, which is the more
12 accurate, gives us this -- the phone as it's being used
13 inside the area of 1916 Coonie Circle, which is the address
14 that we have related to Richard Jackson?

15 Q And is this his phone?

16 A This is his phone.

17 Q Calling who?

18 A Calling Melvin Chandler.

19 Q And what's shown on the next screen?

20 A If I could really quick?

21 MS. YOUNG: Okay, can you go back to the other
22 slide.

23 THE WITNESS: Also on this screen, what I did is we
24 pinpointed Lucky 7 and Club Climax for a reference of
25 proximity.

William Cameron - Direct Examination by Ms. Young

1 BY MS. YOUNG:

2 Q And what's shown on the next screen?

3 A What this screen is, is a more zoomed in of the
4 previous map. Same map, just more zoomed in. Showing
5 Richard Jackson's phone to be in the area of his residence
6 when he made the phone call to Melvin Chandler.

7 Q All right, sir. Explain for the jury what's shown
8 on the next screen?

9 A This is the call detail record for Melvin
10 Chandler's phone. So what you're going to see on the left
11 hand column is the phone number that we've associated with
12 Richard Jackson calling the phone number we associated with
13 Melvin Chandler. The date, 5/9/2015, and the time on his
14 call detail record was 1:51 and some seconds.

15 Q So it's the same phone call just --

16 A Same phone call, just the other person's records.

17 Q The other person.

18 All right. What's shown on the map?

19 A The call hit the tower that's located right here at
20 this pinpoint at the bottom of the screen and then what
21 we've done is we've put bullet points, if you will, or push

22 [REDACTED]

23 [REDACTED], right in this area. And then also a pushpin of

24 Mr. Chandler's trap house, which was [REDACTED].

25 Q All right. What's shown on the next slide?

William Cameron - Direct Examination by Ms. Young

1 A This is a call detail record of -- if you go back
2 to the colors. This is going to be the call detail record
3 for Mr. Carter's phone of a phone call that took place on
4 5/9/2015 at -- again we have to subtract four hours for
5 that. It says 7:51, but to get Eastern Standard time, we
6 subtract four hours which will give us 3:51 a.m.

7 Q All right. And how about the next screen?

8 A This is, again, a visual representation of that
9 call detail record showing that that call's hitting this
10 tower and it's in this area.

11 Q And what is the area that is shown on the map?

12 A We were in August Georgia.

13 Q All right. And whose phone is this?

14 A This is Rashawan Carter.

15 Q The defendant?

16 A That's correct.

17 Q And how about the next screen?

18 A This is going to be the same phone call, just a
19 more zoomed in version of the map, giving more detail of
20 streets and what have you. And in the bottom of the
21 screen, we have indicated the address and location of Lucky
22 7, which is on the bottom of the screen.

23 Q Okay.

24 A And inside the sector.

25 Q How about the next slide?