

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of General Sessions

Larry B. Hyman, Jr., Circuit Court Judge

Appellate Case No. 2018-002056
Lower Case Nos. 2014-GS-22-00803 | 2014-GS-22-00804

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SC Court of Appeals

The State Respondent,

v.

Randy Collins.....Appellant.

RECORD ON APPEAL
VOLUME II OF II

E. Brandon Gaskins (S.C. Bar No. 72374)
Moore & Van Allen PLLC
78 Wentworth Street
Charleston, SC 29401
Phone: (843) 579-7038
Facsimile: (843) 579-7099
brandongaskins@mvalaw.com

Alan Wilson, Attorney General
Scott Matthews, Assistant Attorney General
(S.C. Bar No. 101464)
South Carolina Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

Court Appointed Lead Counsel for Appellant

Robert M. Dudek, Chief Appellate Defender
South Carolina Commission on Indigent
Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, SC 29201
Phone: (803) 734-1330
Facsimile: (803) 734-1330

Jimmy A. Richardson
Solicitor, Fifteenth Judicial Circuit
Post Office Drawer 1276
Conway, SC 29256
(843) 915-5460

Attorneys for Respondent

Co-counsel for Appellant

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1 (Whereupon, the following takes place in the presence of
2 the jury.)

3 THE COURT: All right. Ms. Richardson, you may proceed.

4 MS. RICHARDSON: Your Honor, the State calls Brian
5 Wright.

6 WHEREUPON, Brian Wright is called to the stand, duly
7 sworn by the clerk and testified as follows:

8 THE CLERK: Would you please spell your name for the
9 Court?

10 MR. WRIGHT: It's Brian, B-R-I-A-N, Wright, W-R-I-G-H-T.

11 THE CLERK: Thank you. Please have a seat.

12 DIRECT EXAMINATION

13 BY MS. RICHARDSON:

14 Q Agent Wright, where are you employed?

15 A The South Carolina Law Enforcement Division.

16 Q Okay. And that's commonly referred to as SLED?

17 A SLED.

18 Q And how long have you been with SLED?

19 A Since 2012.

20 Q Okay. And what is your position there?

21 A I'm an arson investigator with the arson bomb unit.

22 Q Okay.

23 A And I also have an accelerant detection canine.

24 Q And can you tell me briefly your training and experience
25 in law enforcement?

1 A Sure. I was a volunteer fireman from 1995 to 2002, and
2 then I went to college at Limestone College. I have a
3 bachelor's degree in criminal justice. 2004 I began at the
4 Mauldin Police Department up in Greenville County. There I
5 served as a SRO, a patrol, and the last five and a half years
6 was a -- it was a criminal investigator. From then I left and
7 came to SLED and, and currently in the position that I am.
8 I'm a certified fire investigator through the National
9 Association of Fire Investigators. I'm also a certified
10 vehicle fire investigator. These are tested, tests that we
11 have to do. The testing is pretty rigorous, and we have to go
12 to certain classes. Currently I have about a hundred, over
13 150 hours of fire investigation experience through the I --
14 it's IAAI, which is International Association of Arson
15 Investigators, which is another national certification we
16 have.

17 Q And what about your training with an accelerant detection
18 canine?

19 A In 2013 I had the opportunity to become a canine handler.
20 So I went to Maine, and the Maine State Police through the
21 Maine State Police Academy and State Farm provides a program
22 for accelerant detection canines for law enforcement and fire.
23 So during that period you go up to Maine and you meet your dog
24 and you become a certified team. That certification is five
25 weeks. You live up there. The dog is with you all the time,

1 of course. The -- part of the certification you have to do
2 you have to do tests, written tests. You have to do tests
3 with the dog. You have to do chemical tests with the dogs, of
4 course, and show that you have become a team and everything
5 functions hunky-dory, I guess.

6 Q Okay. And explain to me, back in 2014, tell me what sort
7 of canine you had.

8 A So I've, I've -- let me back up. I have a retired
9 canine, also. My first dog unfortunately got -- had some
10 medical issues and we had to retire him. So he's a stay-at-
11 home dog now, and I have another dog. So during that time I
12 worked my first canine, which I got certified in May of 2013.

13 Q Okay. And what kind -- what breed of dog?

14 A It was a black labrador retriever.

15 Q Okay. And the dog's name?

16 A The dog's name is Gunner [spelled phonetically].

17 Q And how does canine detection canine work?

18 A So for arson investigators we, we have a lot of, as we
19 say, debris. You know, if you have a fire all the stuff falls
20 down in the floor and stuff like that. These canines have a
21 great sense of smell, a lot better than ours, a lot better
22 than even the machines that we test our stuff with. So these
23 dogs will actually help us in determining a point of where
24 there may be an accelerant. The accelerants, there, there's
25 multiple accelerants. It's seven different classifications

1 from light, medium to heavy base materials. The -- and it's a
2 constant, you know, constant training. We train these dogs
3 twice a day. That's how the dogs actually eat. They are --
4 this -- my first dog was a food reward, which is where he, he
5 doesn't eat out of a bowl. He eats out of my hand every day.
6 So you have to determine at different times of the day of when
7 to feed him, how much to feed him and it can't be the same
8 because it develops a pattern in which that wouldn't be good
9 for us. So as far as the dog that we had then we trained
10 every day, and we have records showing that we trained from
11 the day I picked him up till the day that he retired, and on
12 that day the, the dog that I use actually alerted, which is
13 basically he found a source that he believes to be an
14 accelerant or some sort of accelerant in, in the scene.

15 Q Okay. And how many fires have you, have you
16 investigated?

17 A Right now as of last week over 300 in five years.

18 Q Okay. And how many of those have you investigated with
19 the canine?

20 A All.

21 Q Okay. And how many fires involving fatalities have you
22 investigated?

23 A 102 as of last week.

24 Q And that's in five years?

25 A Five years.

1 Q And have you been qualified as an expert in courts of
2 this state?

3 A Yes.

4 Q And how many times has that occurred?

5 A Three times.

6 Q All right. And, and that -- how many times have you
7 testified in legal proceedings?

8 A Other than as a SLED agent or as other law enforcement --
9 several.

10 Q As in --

11 A Yes. At least a dozen or more.

12 Q Okay. Okay.

13 MS. RICHARDSON: Your Honor, at this time I'd offer Agent
14 Wright as an expert in origin and cause of fires and in -- as
15 an acceleration detection canine or accelerant detection
16 canine handler.

17 THE COURT: Mr. Wilson.

18 MR. WILSON, JR.: Judge, without objection, he's
19 definitely an expert.

20 THE COURT: All right, he is so qualified and he may give
21 opinions.

22 A Thank you.

23 THE COURT: Ladies and gentlemen of the jury, normally
24 when a person testifies he or she may not give an opinion. He
25 or she can testify as to what they observed, what they sensed

1 with -- by hearing, smelling, seeing, things of, of that
2 nature, but there is a special exception, exception for people
3 who by education, training, experience have gained a special
4 expertise in some art, science or field, and such a person can
5 give an opinion and the reasons for that opinion if they are
6 so qualified. However, as with all evidence it's entirely up
7 to you to determine what value or weight you may place on
8 that, that evidence. You may judge it just as you judge
9 anyone else's evidence. The fact that a person may have been
10 qualified, the mere fact that he may be qualified as an expert
11 does not add to their credibility. Their, their opinions and
12 the reasons given still must stand the test of your scrutiny,
13 and you may accept or reject the testimony of an expert as you
14 see fit. Yes, ma'am.

15 Q Now, Agent Wright, obviously SLED is an agency with
16 statewide jurisdiction?

17 A Correct.

18 Q And how are cases referred to, to your unit?

19 A So typically we, we are an assisting agency of the state.
20 Sometimes in the smaller departments, you know, in smaller
21 counties, the smaller towns, they don't -- maybe not have the
22 manpower or the resources to them. So we provide that for
23 them at no cost, and so we will go anywhere in the state, and
24 so we as the arson unit, the typical, the typical way that it
25 works is if the fire department, a coroner or a police

1 department or sheriff's office can call us and say, "Hey, we
2 need some help with a fire." That is all we do. So we, and
3 of course, SLED has different areas of expertise, but in our
4 area we're, we're nothing but arson. That's all we do is
5 fires and explosion scenes. So that gives us kind of a, a lot
6 better insight on what goes on and what we need to do, and so,
7 we -- they will call us and basically the process is that
8 they'll make a phone call to our operations desk is where --
9 it's manned 24 hours a day. They -- it's somebody sitting
10 behind. It's kind of a dispatch center, and so what we'll do
11 is we'll have an agent on call and we'll have agents who have
12 dogs. We have three of those. So far or currently right now,
13 and so we'll have somebody answer the phone and then they'll,
14 they'll call that on-duty officer. So the on-duty officer
15 will call then the supervisor. It's a long process. The
16 supervisor will then call the people to go out. So I live in
17 Greenville County but my office is in Columbia, but that
18 doesn't mean I don't work fires all over the state. We work
19 all 46 counties.

20 Q And in this case, was SLED asked to assist?

21 A Correct.

22 Q And you were notified and responded?

23 A Yes.

24 Q Okay. And explain to me the steps and procedures you use
25 as an arson investigator when you arrive on scene.

1 A So as an arson investigator we go to a -- we go to the
 2 scene, and we try to meet with the, with the, the agency's,
 3 you know, who is in charge at the scene. Once we go to the
 4 scene we ask what they need and, and whatever they need is
 5 what we'll do. So that could be anywhere from an origin cause
 6 -- an origin cause is basically you're looking at the scene
 7 and you determine where the fire started or the area around
 8 where the fire started. Sometimes it's just for manpower to
 9 -- we, we do a lot of shoveling as far as scenes and things
 10 like that because you need to be able to find stuff and you
 11 can't find it if there's debris laying on it. So we do that,
 12 and sometimes we go to -- just to run the canine. Sometimes
 13 we go to just like just get statements. So all in all we kind
 14 of just do everything to assist, and then sometimes on special
 15 occasions we'll actually work the whole scene where we'll do
 16 the investigation as far as the fire, the origin. We'll do
 17 the investigation. We'll get the statements and, you know,
 18 and go along with that until, you know, it's time to, to bring
 19 it to trial.

20 Q Okay. So origin you're just looking for where it
 21 started?

22 A Correct.

23 Q Okay. And cause, how do you classify the cause of a, of
 24 a fire?

25 A A cause is classified as several different things. It

1 can be an undetermined cause, which we, we have no idea. It
2 could be an accidental like a lightning strike. It could be
3 an incendiary where somebody poured gas and lit it with a
4 cigarette lighter or any, any types of series like that. You
5 know, so that's kind of how we use as a cause because we, we
6 like to, to determine a cause because things just don't burn
7 on their own a lot of times, but there's occasionally when
8 there is an accident.

9 Q Okay. So am I right in saying there are four causes?

10 A Yes.

11 Q Natural?

12 A Natural.

13 Q And that would be?

14 A Like a lightning strike.

15 Q That would be a lightning strike. Accidental.

16 A Accidental.

17 Q Like an attended grease fire?

18 A Yes. I left my stove on by accident.

19 Q Okay. Undetermined, you just can't figure it out?

20 A Correct.

21 Q And then incendiary?

22 A Correct.

23 Q And tell me what that means again?

24 A Incendiary means there has to be an act to, to create

25 the, the cause of the fire. Where is -- there has to be maybe

1 an accelerant poured or, you know, there's not something in
2 that general area that would cause like an electrical switch
3 or electrical outlet or anything like that. So by then it has
4 to be another means of happening, and usually at that time --
5 a lot of times it's a human error.

6 Q Okay. So basically you're looking to see if somebody did
7 something on purpose?

8 A Correct.

9 Q Okay. So do you recall what time you responded to this
10 fire in Andrews?

11 A It was -- the initial fire alarm came in at 1:28 a.m.,
12 which is where the fire department responded and we, we
13 arrived at around 5:30, 5:44 to 6 a.m.

14 Q Okay.

15 A It did take me quite a little longer because it's a long
16 ways from here to Greenville. I can tell you that.

17 Q Okay.

18 A So it's a couple of hours.

19 Q All right. And you weren't the only SLED agent that
20 arrived?

21 A No. Agent Hardee was there originally and then my
22 lieutenant, Craig Collier, who is now our captain, was there
23 prior to my arrival.

24 Q Okay. And does lieutenant and captain mean that's your
25 boss?

- 1 A Yes. Lieutenant was my first boss, but now he's up a
2 boss so it's a boss boss.
- 3 Q Okay. All right. So what is the -- when you arrived on
4 this scene, what did you find? What --
- 5 A So I arrived on scene and I found Agent Hardee out
6 already on the scene and my lieutenant, Lieutenant Craig
7 Collier. So when I got there I saw a mobile home, and I saw
8 the front left corner pretty significantly damaged, and the,
9 the other part of the mobile home was actually still standing.
- 10 Q Okay. And let me show you what has previously been
11 marked as State's and admitted as State's Exhibit Number Five.
12 Can you see that from here?
- 13 A Yes, ma'am.
- 14 Q Okay. And this is, this is what you observed?
- 15 A Yes, ma'am. That is the, the front -- that's a picture
16 from the road as you're facing it. The left front corner is
17 the one that I was saying was damaged and the right front is,
18 of course, is not as well, you know, is not as bad damaged.
- 19 Q Okay.
- 20 A And that's 10 James Court.
- 21 Q All right. And let me show you what's been marked as
22 State's Exhibit Number Six for identification. Do you know
23 what that is?
- 24 A That is the right -- well actually, if you're looking at
25 the mobile home, it's the left rear, which is directly behind

1 the area on the first photographs that's damaged.

2 Q Okay. And is that an accurate depiction of the rear of
3 the residence as it appeared?

4 A Absolutely.

5 Q When you were investigating?

6 A Yes.

7 MS. RICHARDSON: Your Honor, at this time I'd offer
8 State's Exhibit Number Six into evidence and I'll ask to
9 publish it to the jury.

10 MR. WILSON, JR.: Your Honor, without objection.

11 THE COURT: Without objection it's admitted as State's
12 Exhibit Six. You may publish.

13 (State's Exhibit Number Six [Photograph] admitted into
14 evidence and appropriately marked.)

15 BY MS. RICHARDSON:

16 Q All right. Again, this is State's Exhibit Six is the
17 rear of the residence?

18 A Yes, ma'am. We would refer to that as the left rear
19 exterior side.

20 Q Okay. So when you first arrived do you do some sort of
21 perimeter search or how do you -- what is your method of going
22 in and investigating?

23 A We -- so under 921, it's the National Fire
24 Association's guidelines that we use, there is a method we
25 use. It's called a scientific method, and through this method

1 it's, it's commonly used through fire service, and it actually
2 goes through the whole process where we can remember
3 everything that we need to do, and we do the same process -- I
4 process every scene today that I did in 2012. So when we
5 come, you know, it's, it's just a, a standard we do and it's
6 recommended through the National Fire Protection Agency who
7 publishes a book every two to three years. That is what we
8 kind of go by as a standard, and that standard is created by
9 engineers and, and people that's common in the fire service
10 who, you know, do a lot -- do this all the time and, and they
11 have a lot of experience on, on why they do this.

12 So the first approach that we do is, is we call it the
13 recognize a need, which recognizes the need, of course, you
14 know, we were notified, and they needed our help. So that's
15 kind of how that -- and, and the easiest terms I can say.
16 Define the problem is the second key, which there's definitely
17 a problem with the left anterior or front of that residence.

18 Q And now I'm going to flip you back to State's Five?

19 A Obviously, that didn't get that, you know, there was
20 obviously a problem there. The second thing we do is we
21 collect data. So we'll go in there and we take photographs
22 and we -- we're collecting data. We go and what we'll do is
23 we'll start as that, that photograph right there we'll start
24 and we'll go around that in a, in a clockwise manner and
25 we'll, we'll take photos of the exterior and of the interior

- 1 in the same, same direction. The --
- 2 Q Now, and was that done in this case?
- 3 A Yes.
- 4 Q Photos were taken?
- 5 A Yes. Photographs were taken of the interior and exterior
- 6 of the residence.
- 7 Q Okay. Okay. I'm going to show you what's been marked as
- 8 State's 21 for identification, and I know it's a flash drive,
- 9 but --
- 10 A Looks like a flash drive.
- 11 Q Okay. And do you recognize this?
- 12 A Yes.
- 13 Q Okay. And we just looked over it and ---
- 14 A Correct.
- 15 Q -- had some technical difficulties; is that right?
- 16 A Yes. Yes.
- 17 Q Okay. And does this flash drive contain -- you've
- 18 reviewed the contents?
- 19 A Correct.
- 20 Q And does it contain the photos that were taken that
- 21 night?
- 22 A They do.
- 23 Q Okay. There have been some removed --
- 24 A Correct.
- 25 Q -- that may have been too sensitive; is that right?

1 A Yes.

2 Q Okay. But other than that that's an accurate depiction?

3 A An accurate depiction. Yes.

4 Q Okay.

5 MS. RICHARDSON: Your Honor, at this time I'd offer
6 State's 21 into evidence and ask to publish it to the jury.

7 MR. WILSON, JR.: Your Honor, just subject to previous.

8 THE COURT: Subject to previous objections. Noted.
9 Admitted.

10 MR. WILSON, JR.: Yes, Your Honor.

11 (State's Exhibit Number 21 [Flash Drive - Photographs]
12 admitted into evidence and appropriately marked.)

13 BY MS. RICHARDSON:

14 Q And before we begin reviewing the photos let me ask you
15 this, obviously when there's a death involved or a decedent on
16 the property your investigation's a little different?

17 A Yes.

18 Q Okay. And are there any considerations or things that
19 you need to know about the body of the decedent that aid you
20 in making your determination as to the origin and cause of the
21 fire?

22 A Yes.

23 Q And tell -- just tell me about that. I know most of it's
24 probably commonsense, but.

25 A So when, when, when a situation where we have a deceased

1 person in, in the house or in a fire, we usually take the
2 photographs first and we photograph the interior and then we
3 worry about the deceased for -- just because we need to get
4 that out of there and, and give some closure to some of the
5 family, and we want to take -- that takes precedence. So
6 we'll go in, we'll take photographs, and then we'll go and,
7 and photograph the body and, and, and the reason why it's
8 important is we need to know the position of the body, what
9 the body looks like and to determine -- to help us determine,
10 as I said before, collecting that data to determine the whole
11 totality of everything that's going on with the scene. So
12 it's very and highly important for us to get in there and see
13 that first without it being moved, and normally fire
14 departments or anything like that do not move the body and in
15 the situation like here they didn't move the body.

16 Q Okay. And so, for example, injuries to the body would be
17 important in helping you determine what could have caused or
18 could not have caused the --

19 A That's correct.

20 Q Okay. So, for instance, if someone had grease burns all
21 over them that might indicate a grease fire or something
22 accidental?

23 A Correct. Correct.

24 Q Okay. If someone was found near an ashtray or a
25 cigarette that might show a different?

1 A That's correct.

2 Q Okay. So it's very important to, to see that sort of

3 thing?

4 A Yes.

5 Q Okay. Because, again, just to clarify, you're just

6 trying to see if it's an accident, if it's natural?

7 A Correct. We -- it's, it's, it's just a part of the, the,

8 the process of us going through the whole process of trying to

9 figure out what, what actually happened because when we go

10 there we have no clue what's happening. So we don't know if

11 things have been moved. We don't know if things have been,

12 you know, anything's changed and, you know, so it's, it's very

13 important for us to get there and get in there and, and see

14 what, but, if, if we don't figure it out it, it just kind of

15 makes things more difficult for us.

16 Q Okay. And as far as your dog is concerned, what does,

17 what does the canine do?

18 A The canine Gunner, who was -- who I responded with, my

19 black labrador retriever, he is an accelerant detection

20 canine. So he detects accelerants, gasoline, some forms of

21 alcohol. It goes -- it's, it's, it's a wide spectrum. So

22 it's really amazing to see them do that, but they can cover so

23 many different aspects than we can as far as chemicals and,

24 and determining what, what it is. He can kind of decipher

25 what is what and what is not.

1 Q Now, did you take these photos?

2 A I did not.

3 Q Okay. But you've reviewed them and they're an accurate
4 depiction --

5 A Correct.

6 Q -- of what was there that day? Okay. All right. And
7 we'll try to -- and some of them just are kind of different
8 aspects in the same scene. So we're not to -- we'll just go
9 through them kind of quickly. So obviously this -- oh, can
10 you turn -- okay. There we go. All right. Can you see
11 it?

12 A Not good.

13 THE COURT: That's a really bad picture on his.

14 Q Yeah.

15 A Can I come down there?

16 THE COURT: I have noticed.

17 Q Sometimes that monitor -- sometimes this monitor gets
18 blurry.

19 A Yes.

20 Q That's what's happened.

21 THE COURT: Mine is clear here, but I don't know any way
22 to --

23 MS. RICHARDSON: I think all the rest of them are
24 probably clear.

25 THE COURT: Okay. Is any juror having any trouble with

1 the monitors? Do you have sharp pictures?

2 MS. RICHARDSON: It's just this one. It, it does this a
3 lot, and if Your Honor's okay, he could flip through them at
4 my table.

5 THE COURT: I actually think here's a clip here, that
6 mine will slip up but I don't know what it's hidden there, but
7 I could raise it.

8 A That's better. Yeah. That's a lot better.

9 Q That's better?

10 A Yeah.

11 Q Okay.

12 THE COURT: Have you got it?

13 A Yes, sir.

14 THE COURT: Excellent.

15 MS. RICHARDSON: Okay.

16 BY MS. RICHARDSON:

17 Q And just to -- and you don't have to -- if there's
18 something you feel like you need to go in detail but let's
19 just kind of go through these kind of quickly. Obviously,
20 this photo, which is photo number one?

21 A You just want me to explain what this is?

22 Q Yes. Just explain them briefly.

23 A So this is the -- the front of the mobile home and you
24 can see it's got a attached roof on it, which is a gabled
25 roof, it's wood, no siding or anything like that and the, the

1 way the home was made it was a single-wide mobile home and
2 they had made or built a, a, a separate side to it that which
3 you saw in the, the second photograph, which is the rear, and
4 inside they had actually knocked some walls out to make it one
5 structure. Yes.

6 Q So this?

7 A Yes, ma'am. That's the left side of the structure that
8 as, as, as I was saying that we're going from the front of the
9 structure to the left just in a clockwise manner, if, if that
10 helps.

11 That's the front door with the address on it. Okay.
12 This is directly inside the front door. Now, going back to
13 what I said earlier we, you know, since there is a person, a
14 deceased victim in the, in the building we, you know, we try
15 to get that as soon as we can to get, get it going. So they
16 may be out -- a little bit out of order, but this is as soon
17 as you come through the front door that as you can see a
18 walker and, and the wall. You can see a line, a definite line
19 of a, of a demarcation, which means you can see where the
20 smoke really came from the top and went down. As, as it gets,
21 as it gets lighter it stops. So that means your smoke layer
22 came down.

23 Q Okay. And straight through the opening that we see is
24 that part of the addition?

25 A I think so.

1 Q Okay.

2 A Okay. This is going through the mobile home into the

3 additional part. The deceased is, is laying on the floor.

4 You see a step. It steps down. You see a couch on your left,

5 a clothing, a clothing, a thing you put clothes in, on, on,

6 behind him, and you see a, a door to the right, and you also

7 see the, the victim. I believe he's got shorts on.

8 Q Okay. And as far as where the victim was located, does

9 that give you any information to help you form an opinion as

10 to what could or could not have caused the fire?

11 A Excuse me. I'm going to look at the sketch.

12 Q And the sketch would aid you in that regard?

13 A Yes, ma'am.

14 Q Okay. In that case, let me show you what has been marked

15 as State's Exhibit Number Seven for identification. Can you

16 identify that?

17 A Yes, ma'am. That's, that's a sketch of the structure.

18 Q Okay. And who does this sketch?

19 A We do on scene. We, we do a -- just a regular sketch

20 with a piece of paper and a pen and then we go back and do it

21 on a Visio program.

22 Q Okay. Which is like a CAD program or something like

23 that?

24 A It's kind of -- it's more or less a CAD program.

25 Q Okay. And is this and I see that it says it's not to

1 scale?

2 A Correct.

3 Q So you don't do any measurements to get the distance of
4 the walls and that sort of thing?

5 A We, we actually do measuring, but sometimes the walls are
6 kind of crooked or there's some obvious structure issues on
7 some of these mobile homes. So we do the best we can.

8 Q And some of the walls are gone?

9 A Yes.

10 Q Okay. And so is this -- and this is something you do in
11 the normal course of your investigation?

12 A Yes, ma'am. Every, every scene we do this.

13 Q Okay. And this is an accurate reflection of, of what was
14 done? It's just blown up?

15 A Yes, ma'am.

16 MS. RICHARDSON: Your Honor, at this time I would offer
17 State's Exhibit Number Seven into evidence.

18 MR. WILSON, JR.: Your Honor, without objection.

19 THE COURT: Without objection it's admitted.

20 (State's Exhibit Number Seven [Sketch] admitted into
21 evidence and appropriately marked.)

22 MS. RICHARDSON: And ask to publish to the jury.

23 THE COURT: You may.

24 BY MS. RICHARDSON:

25 Q Okay. So this you said would aid in going through the --

1 A Yes, ma'am.

2 Q Okay.

3 MS. RICHARDSON: And if he may step down, Your Honor.

4 THE COURT: Yes. Certainly.

5 A Okay.

6 Q Okay. Just need to speak real loud. I guess --

7 A I can do that.

8 Q Okay.

9 JUROR: Excuse me. I can't see.

10 MS. RICHARDSON: You can't see that.

11 THE COURT: She can't see.

12 MS. RICHARDSON: You wanted to --

13 THE COURT: Thank you.

14 MS. RICHARDSON: Does that help? You still need to see

15 it. Okay. Is that good?

16 JUROR: Yes.

17 BY MS. RICHARDSON:

18 Q Okay. Could you step down?

19 A Sure.

20 Q Okay. Is that close enough? Can everybody see it?

21 Okay. And if you would just explain. You can just explain

22 what you've got here and what you all have done.

23 A Okay. So typically, when we're, when we're facing the

24 building, we'll, we'll draw it just as we're facing it. So

25 this is the front of the building or the structure. We

1 showed, we showed you the picture of the front door, and as
2 we walked through there was a little step down and you saw the
3 deceased in the photograph. So we, you know, we take care of
4 him. So, so what I was saying as far as the -- as we're
5 collecting our data we go around in a, in a clockwise manner,
6 but in this situation we went inside first. So we're, we're
7 taking photographs when we're coming in the door, coming on
8 this side, going here, here and we hit those four corners.
9 That way we can explain to you exactly what we see with that
10 fire scene. That way we don't miss anything. So then we
11 continue down the hall and do the same thing for every room.
12 This area here was the area where you saw the damage. The
13 damage, there was no wall here or here, just partial, there's
14 a partial wall here. This area of the floor was really bad,
15 and I'll explain that in detail. So as far as you go through
16 and that's just how we kind of do the whole process where we
17 don't miss anything, and we do it the same, same process every
18 single time. So all of the 300 times I've done this this is
19 exactly the way we do it, and every agent does the same thing.
20 Q Okay. And can you tell me what the, the numbered areas
21 are?
22 A These numbered areas are canine alerts. So as I brought
23 my dog in, which is typically we'll, we'll get the deceased
24 out. Sometimes we'll let the dog go over the deceased just to
25 see if it smell accelerants because it will pick up on that.

1 Q And again, that may would show you the cause of the fire
 2 if there were accelerants on the --
 3 A Yes.
 4 Q -- on -- around the deceased?
 5 A Yes. So as you can see, the dog didn't alert over here.
 6 The, the dog was over on this side, which is the side that I
 7 was telling you that was damaged so bad. So this wall was
 8 here -- was gone and partially about this much of this wall
 9 was gone and the rest of it. So all the ceilings, all the
 10 tile, the roof, everything was, was down in the fire.
 11 However, most of that was gone, and that takes a lot of heat
 12 to do that. So for that -- for this to be -- well, I'll go
 13 back. So these, these, these are all canine alerts, and then
 14 afterwards I run my dog around the exterior of this, of the
 15 house, and he'll -- also alerted twice outside of it. Do I
 16 need to show the pictures?
 17 Q And we'll go back through that.
 18 A Okay.
 19 Q Is there anything else you want to point out on that?
 20 A No.
 21 Q Okay. All right. So I'm going to go back to the
 22 previous picture of the deceased. Okay. And as far as his
 23 condition and the condition of his body, is there anything
 24 that's useful in, in that in determining the origin of the
 25 fire?

- 1 A I'm sorry. This thing's giving me a --
- 2 Q Did you observe any -- let me just put it a little
- 3 plainer. Did you observe anything around him to indicate that
- 4 the fire originated near him?
- 5 A No. No.
- 6 Q And did you observe any injuries to him to indicate that
- 7 he was present for some sort of explosion or accidental
- 8 igniting?
- 9 A This photograph is getting grainy again.
- 10 THE COURT: His is dark and very much --
- 11 A I can't, I can't --
- 12 Q Okay. Well, we'll go forward through. I don't know why
- 13 it's so dark on that one. All right. Going back, this is
- 14 picture number 12?
- 15 A Okay.
- 16 Q And do you know what it -- which area this is?
- 17 A This, this is in front of the -- come back up.
- 18 Q Yes.
- 19 A So oftentimes when during a fire operations and, and
- 20 there's something that's in there that's flammable like an
- 21 oven or a stove or something that's sitting in the house,
- 22 firefighters will commonly take it and place it outside. That
- 23 way they don't have to worry about it catching back on fire or
- 24 anything like that. So in this case that's what this five and
- 25 six is. There is actually some heaters that are out there

1 that are kerosene heaters, and that's, that's the picture you
2 see as, as these are sitting out on the other side of the --
3 just thrown outside for --

4 Q Okay. Can you determine what object the heater appears
5 to be laying on, and I'll just let you look from mine.

6 A It's, it's laying on partial, partials, partial of the
7 wall and also on a shutter saying -- stating that that shutter
8 was there before that -- those things were put out there.

9 Q And that's just another angle of the same?

10 A Yes. Now, that's another heater. That would be a more
11 of an electric heater that's inside the interior of the wall.
12 That's the victim.

13 Q Okay. And is there anything significant about his
14 condition in this photo that helps you determine or eliminate
15 some causes of the fire?

16 A Yes. In my opinion the -- a lot of times when you see
17 somebody light a kerosene heater, anything like that, they're
18 going to get down on a knee or bend over it, and typically if
19 it's a flash where it explodes, it's going to cause a lot of
20 burn and a lot of -- so basically their face, their hair can
21 be burned away, their face will be completely sooted like
22 completely sooted, which is a black film which is on his back,
23 but there is no -- on, on his body there's no, no signs of any
24 type of trauma that is from a stove or anything like that,
25 that's, that's actually flashed in front of him. By flash I

1 mean caught on fire and exploded.

2 Q Okay. And so that tells you what?

3 A It tells me that he wasn't, he wasn't putting anything in
4 the fire, inside a kerosene oven or stove or anything like
5 that.

6 Q Okay. All right. The next photo?

7 MS. RICHARDSON: Do you -- is it all right if he just
8 testifies from here since this monitor is better? Are you
9 good with that?

10 MR. WILSON, JR.: I have no objection, Judge.

11 THE COURT: All right.

12 MS. RICHARDSON: Is that all right with you, Your Honor?

13 THE COURT: Certainly.

14 MS. RICHARDSON: And that way he can get back and forth
15 to the diagram.

16 THE COURT: Certainly. That, that's fine.

17 MS. RICHARDSON: Okay.

18 A So again, this is the front, front of the mobile home.

19 The left, left interior or left exterior side as you can see

20 on the front and left has significant damage. You've got a

21 little window to the right of that damage. You can see a

22 little black like a little soot that's on the window. If you

23 go follow that other window there's another one in the middle

24 who has a, has a little bit more soot, and the top of the, the

25 roof of the mobile home that has the addition to it, if you

1 follow that line, right here you'll see a little bit more
 2 soot, and on this one though there's nothing. So to have this
 3 amount of damage into this -- on this side and not have the
 4 rest of this on the exterior drew some questions for me about
 5 why because normally if we go to a scene and there's that much
 6 accelerated and that much fire on that side, the whole roof
 7 will normally be gone because it's really not made of much.

8 Q Okay. So the fact that the whole roof was not gone and
 9 there was damage just on this one end, what did that tell you?

10 A That tells me that the fire started on the left of the
 11 mobile home.

12 Q Okay. And does it tell you anything about whether or not
 13 it would have been incendiary or accidental fire?

14 A Well, there was nothing in there that we, that we saw
 15 that would actually create a fire that way, and for me to
 16 believe that -- I don't know what would cause the, the damage
 17 in this area and not damage the rest of this other than
 18 something being accelerated.

19 Q And accelerated basically means some kind of fuel?

20 A Some type of fuel.

21 Q Okay.

22 A This is the right exterior side, and, and you can tell
 23 where the, the mobile home is connected to the addition. It's
 24 a single-wide, and of course, like I said, where the deceased
 25 was laying you can see where it was actually a wall cut out

1 where you can enter into that, that back part.

2 Q And this -- and what about the damage to this end?

3 A The damage on this end is very, very minor. You can see
4 some smoke, but typically in a, in a case like this when you
5 have a, a big room your fire is going to run the -- run the
6 way because the fire is trying to find the least, least
7 resistance. So if there's a window over here cracked or
8 anything like that it's going to roll that way.

9 That's just a window that -- on the right exterior side.
10 Again, the right exterior side, and you can notice that on the
11 gable end there's no fire or anything coming out of this end
12 as you can see.

13 This would be the right rear exterior side, and you can
14 start seeing on the gable -- in the soffits you can start
15 seeing the black smoke where it rolled out and it's rolling
16 out from inside and coming out.

17 That's your left rear exterior side, the middle and your
18 rear exterior door.

19 Q Okay. And, and the door was secured?

20 A The doors were secured, and this is the right rear or if
21 I'm looking at it it's the right rear. If I'm on the front,
22 well, we refer to it as the left rear side, if that makes
23 sense, and you can tell the roof how, how damaged it is there,
24 and you have -- now, it did -- it was, it was pouring down
25 rain that day and that morning, and to have that level of fire

1 on this corner of this house versus the -- not having it
2 through the middle or the left side of it or right side of it,
3 I mean, it still has pine needles on it and those are very
4 flammable.

5 Again, that's your right or your left, left rear if
6 you're looking at it from the road.

7 Q Okay. And what about this here, this area?

8 A So this -- that is -- the area over there -- is there
9 another picture? This is your, your left rear wall. Now,
10 this, this, this area here as you can see this is a, a power
11 pole, and your distribution boxes are located on that. So a
12 distribution panel is, is, is where the Duke Power or I don't
13 know who it is, Santee Cooper or something like that, the line
14 comes in. It's either above or below ground. It comes into a
15 meter, and your meter that's the, the part that they charge
16 you for and all that stuff. So, they, they read it. So that
17 meter creates a circuit into your house. So that meter goes
18 from the distribution panel into your distribution panel on
19 your house.

20 Once again, it's just the right or left rear exterior
21 side. You can tell, also, on this area here where your floor
22 was and then you got this weird pattern. That is a -- kind of
23 comes into play as, as far as like just kind of weird why, why
24 that pattern would be there, and as you can tell on this that
25 the fire did not originate on the exterior of the building.

1 It originated inside the interior. By knowing that is because
2 and there'll be some more photos, but you can still see it's
3 still got wood on it.

4 Okay. This is your left rear, the left, left side, left
5 front side. As you can tell, your pattern here. Can you
6 blow those up?

7 Q Well, we'd have to use the --

8 A You still have your floor. This is your, your floor
9 joists. You still have your siding, and if you notice the
10 siding here there's nothing that -- I mean, it's, it's
11 definitely been heated by the interior of the siding because
12 you can tell by the, the way that it's burned you can see
13 where fire impingement was on the exterior or actually would
14 be the interior of this side going into the exterior.

15 Same, same scenario, you can still see the, the aluminum
16 siding and now you can see, too, this is a, a stud for the
17 wall. You can see the amount of damage on it.

18 This is, this is interior wall studs. You can see the
19 damage on it as -- and as you can see as it gets back you
20 still have sheetrock or gypsum board, and as it gets farther
21 away from the fire you still -- the damage begins to get less
22 and less. You still have a roof. You still have sheetrock.
23 You still have brown studs, but as you go up this way towards
24 this room you can see the hard -- the wood that is really
25 deeply charred, which creates a lot of heat and a lot of fire

1 that was in that side.

2 Q And what is the significance of that?

3 A Well, it just means that the fire was closer to that wood
4 than anything else. So that puts the, the area of origin in
5 that room.

6 The same with this, you can see, you can see all your
7 sheetrock on your rear exterior. There the floor. You can
8 see -- this is part of the vinyl siding or that's actually
9 aluminum. You can see the fire, the where it's discolored it
10 on the inside and not the -- you know, you, you can just see
11 how black it is and how burnt and how oxidized that is, and
12 oxidation is just where something's heated to a temperature
13 that it oxidizes, like a -- any type of electrical or anything
14 like that, which is, is, is evident of this right here.

15 The same thing on this.

16 Q Okay. And some of these are just multiple views?

17 A Yes. Yeah.

18 Q Just at different angles? Okay.

19 A You can't ever take enough pictures. This is the
20 kerosene stoves that we're talking about or as anybody --
21 heaters, maybe, and this is what I was referring to as Five
22 and Six that were thrown out front.

23 Just some more shots. As you can see the, the tank how
24 it's oxidized. There's still actually white paint on this.
25 So, therefore, I don't know how those got there, but I'm

1 pretty sure that in my opinion that they were thrown out
2 because they don't lay in a house like that. They're most
3 likely put out.

4 Just another side of it. That's just the top of it, the
5 cage that goes around it to keep from things falling on it.
6 The same thing.

7 That is an electric heater. So that, of course, that's
8 -- that doesn't take any type of fuel. It's just electricity
9 supplied to that.

10 Q Okay. And is there anything significant about the way
11 that it is or is not damaged?

12 A It's, it's -- to me, I mean it's, it's got some small --
13 I mean, it's, it's definitely been in a fire, but for it to be
14 the way it is, nothing fell on it and crushed it or anything
15 and the metal's in still pretty good shape, I would think that
16 would -- the fire would not originate in that, in that because
17 it would be damaged a lot worse.

18 That's your meter I was showing you, and everything looks
19 fine there. Just some back, kind of getting some different
20 angles on the photographs.

21 This over here, this is just a -- for like, like a
22 satellite TV, cablevision, things like that. So that, that
23 doesn't really -- I, I know you see the, the cord going.
24 Those are very high or low amperage.

25 Just some water pipes.

- 1 Q And I'm just going to scroll through these.
- 2 A That's fine.
- 3 Q And stop me if there's anything that you want to discuss.
- 4 A This.
- 5 Q Okay.
- 6 A So in the area of -- you want me to explain it on the --
- 7 Q This is photo number 54.
- 8 A So on the area the photo actually, this is the area where
- 9 these, these canine alerts are, and I'll explain. This area
- 10 is probably two to three feet away from the window, but this
- 11 is the area where those kerosene heaters were at. Now, the
- 12 area, in, in the fire investigation field we call this an
- 13 irregular shaped burn pattern, and why we mean an irregular
- 14 shaped burn pattern, if I pour, if I pour gas or I pour
- 15 kerosene or anything in the floor it's going to burn around
- 16 it. So it's an irregular shaped burn pattern. It's not
- 17 actually going to burn the actual liquid itself. It's going
- 18 to burn around it, and it causes that. So that's why it's,
- 19 it's called an irregular shaped burn pattern. As you can see
- 20 you've got subfloor and then you have the floor that's
- 21 actually burnt, and these are actually burnt to the studs or
- 22 floor joists.
- 23 That's the same photograph, and basically what we're
- 24 doing we're looking in from right here, this area here, and
- 25 taking photographs this way. The electric heater, again.

1 On this photograph you can tell, definitely tell the
2 amount of damage compared here and here versus these, these
3 studs here and the, the, the back wall. The back wall had a
4 lot of heat damage but it was nowhere near the severity of
5 this over this way.

6 That's a hole in the floor that's right in the same area
7 that we're talking, right in this area. That, that hole would
8 be like right here.

9 Q So that's right at the edge of the trailer?

10 A Yes.

11 Q And we're just scrolling through them and stop when you
12 --

13 A We can go back.

14 Q Okay.

15 A This one. So I was telling you about the flame
16 impingement. The flame impingement is basically where flames
17 hit something. So it's, it's putting the flame into the
18 backside. So if you put -- if I hold a cigarette lighter up
19 to a can that's called -- that's just like -- that's flame
20 impingement. So if you think about the area behind this, this
21 outside area of the aluminum that goes on that mobile home you
22 can see where it's discolored it, and that's, that's why it
23 happens to like a pot if you put it on a stove too long, that
24 same, same scenario.

25 Q So that means some actual flame?

1 A The fire was inside coming --

2 Q Okay.

3 A -- out. Now, now, this is, again, to be the interior.

4 As I said once we got the, the deceased out now we're going to

5 this corner, and we're going to, we're going to do the same

6 thing. We're going to take photographs this way, this way,

7 this way, and this way, and why you have to do that is because

8 you can't get all of that area on the photograph if you don't.

9 Q Anything significant about the damage in this area?

10 A So you can see on, on this area you still have your

11 gypsum board, which is your, your sheetrock and you got your

12 light fixture. Well, this sustained a lot of heat because you

13 see the -- it's turned black and that's, that's called soot.

14 That's just the, the gases emitting from the, the smoke. So

15 that's what it's doing.

16 Q But no active flame damage in this?

17 A No. No, no active flame damage in there.

18 This is what I was talking about earlier about the line

19 of demarcation. So basically as you can see here, which this

20 was taken down by fire department, but your, your, your smoke

21 layer, which is what I refer as your gases coming up is, is

22 it's, it's slowly going down like I was telling you. If your

23 fire is here it's going to go this way, but if the fire is --

24 if, if you just say this is the ceiling and this is the floor

25 it's going to do this in this room and then it's going to go

1 down and start filling those other rooms up.

2 Q Okay. And so this line that we see here is that why they
3 tell people to crawl?

4 A That's why they tell you to get on your knees -- hands
5 and knees and crawl because you can crawl under it. Now, once
6 you raise up in that, it's -- that's pretty much it, but as
7 you can see there's two cardboard boxes there. If there would
8 have been any heat or fire down there those things would be
9 gone.

10 The same thing, as you -- this -- now, this is looking
11 back, this is looking back from this room to -- back to the
12 area which we call the area of origin in that back room. This
13 is looking back this way, and as you can see it, you can see
14 the damage as it's getting worse and lower to the floor. As
15 you can see this line, it's actually going down to the floor.
16 So that means that that fire was coming this way. It's -- it
17 originated in this area and it's coming this way.

18 That's good. Those are just cabinets. Of course, that's
19 your, your range. If, if, if the fire would have been there,
20 of course, you would have had the same damage that you have on
21 this side. Could I -- you'd have the same fire on this side
22 as this side if it was that oven.

23 Same thing, it's just the scene. Like I said, we're just
24 -- we're, we're going around. You can see a cardboard box
25 there. That, that smoke layer didn't get to it, just shooting

1 back towards the front door.

2 Let me see if I see anything. All right. So this is,
3 this is the room shooting back this way. You can, you can see
4 on these it's just like chairs and bicycles and things like
5 that. This is looking back out the door. Now we're looking
6 down the hallway again.

7 Okay. This, this is a really good example watching the
8 fire progress through the house. So the fire is actually
9 coming from this way and it's going up. So it goes down and
10 then, and then once it finds an area where it can go, if the
11 fire is in a -- one room and there's a door shut, there's not
12 a lot of what we call, well, fuel packages, which is couches,
13 beds, things like that. That fire is going to burn and it's
14 going to burn all the oxygen out and it'll just go out, but in
15 this case it didn't have a door here. So it's still working
16 its way down. Well, then, that flame when it's coming up it
17 goes and hits the ceiling and it starts taking away, and you
18 can see that pattern on this photograph coming -- now, some of
19 this is where the fire department pulled it down, but back in
20 here you can start -- you can see how sooted up the, the, the
21 trusses are. The same thing, that's just -- that's the
22 sheetrock I think.

23 Q I'm sorry.

24 A Yeah. It is. You can go back. Again, you can see it.
25 You can see the smoke layer here and it's coming down. So

1 basically, it's going up away from the area of where the fire
2 started and walking down the hall.

3 You can see here in this area where it started turning
4 around the wall and it's, it's drawing that, that wood towards
5 the open area where there's oxygen.

6 Q Okay. Does that indicate that the fire started lower?

7 A It started low, worked up, and went down the ceiling and
8 it starts wrapping around other rooms. This is the room that
9 the deceased was in, which is -- it's right here. As you can
10 tell, now, this is what we call a fuel load because you've got
11 couches. You've got a loveseat, and you got a chair and
12 those, those burn pretty quick. So and obvious, you have
13 your, your line of demarcation, which is just basically where
14 the smoke layer comes in and banks off of that wall and you
15 can, you can kind of see where -- now, if that smoke layer
16 would have come down it would have, it would have got all this
17 furniture. The same thing, we're just going around.

18 That's your bathroom, which is right here. Now, if there
19 would have been a window or something open, of course, that
20 fire would have went right to that and went right out that and
21 you would have the same amount of damage as you did on the
22 other side of the house, but as you can see there's nothing.
23 It's all into that one room.

24 Q All right.

25 A That's where the deceased was lying. So he -- that's,

1 that's here and this is a step, as you can see. It's a bed, a
2 couple of things. As, as you can see the fire is not as bad
3 back there as it was in the front of the house. So we're in
4 the back this way. So we saw this damage, and now we're
5 working over here and there's not as much damage over there.

6 As you can see there's a blind. That's one of the first
7 things that normally go, and it's still, it's still actually
8 sitting there, and that -- and there, there you have another
9 electric heater on a drop cord.

10 Q And these are just more pictures of that bedroom?

11 A Yes. Okay. Now, you're looking back from -- you're
12 looking back this way from in here, and you can see on this --
13 you can see your line I was telling you about, and that's
14 important because if you -- if that line comes all the way
15 down that's going to engulf all this stuff in here. It's
16 going to just take it all. So that just shows you that that
17 fire was working, and you know, it's two, three feet off the
18 ground.

19 That's just your ceiling fan pulling down from the heat,
20 another heater. Now, this is, this is a bedroom where there's
21 a -- right here. This one we're seeing, that's a cone. So
22 when my dog alerts, I carry cones with me, and so as soon as
23 he alerts, the dog will actually put, put its nose down on the
24 source. So lack of a better term, so your source, your smell,
25 your gas, whatever, is coming from it's like a V. So that,

1 that's where your strongest odor is. So I don't know if
2 you've seen dogs before, but all your sources do this. Well,
3 you'll see a dog they'll run and they'll come back and forth
4 and they'll just kind of trace it down. Well, that's what
5 it's doing. It's trying to find that source. So that's,
6 that's the most heavily sourced air that it could find is
7 where -- in that. So that's what he's doing. So over here
8 as, as you can see the cone, he puts his nose on the source,
9 like puts it on there and waits for me to feed him so.

10 Q Okay. And who puts the cone down?

11 A I do. I do. That way I, I saw where he put his nose and
12 I put the cone there. As you can see, too, on this other --
13 all this debris, that's your ceiling, your sheetrock, your
14 everything else that's in the attic normally falls with it.
15 So we need to have to dig this stuff out, but if we dig it we
16 may mess that up. So we put that cone there to keep us from
17 doing that.

18 Okay. This, this area here you're looking out, looking
19 from here this way.

20 Q And those, again, are cones that you put down?

21 A Yes. Those cones are -- I put those cones out because
22 the canine did the same thing there. He put, he put his nose
23 down and he alerted. What he does he'll sit until you feed
24 him, and he won't to move so, and that's just looking back.

25 Q And that's that first cone?

1 A Yes. And this is going back to to the irregular shaped
2 burn patterns that we see in the floor, you know, why are they
3 there? We don't know, but have a pretty good idea of why, but
4 we can't prove anything until we go -- we take those samples
5 to the lab at the SLED lab and have them testify or not
6 testify but run the samples through a machine.

7 So obviously we, we kind of leave this area alone and
8 then we'll take these, these, these samples and put them in
9 cans, and once we put those in cans what we do is typically if
10 a dog hits we'll take it, whether it's a subfloor, carpet,
11 whatever that debris is right there we're going to put it in a
12 can, a clean can. So then we -- we've got our gloves on, put
13 it in a can, we label it as evidence and then we put a time on
14 it, a date and then we take it immediately to the lab.

15 Q Okay. And so these are areas that the dog alerted to --

16 A Yes.

17 Q -- that are marked two, three and four?

18 A Yes.

19 Q Okay. And that's photo 144?

20 A The same thing. This is definitely a weird pattern here
21 because, you know, why would this burn away and this not. So
22 and it's the same stuff. As far as over here you can see the
23 bottom of the floor joists. They have a lot of burn, which we
24 call saddle burn.

25 That's just one of the samples. That's paper probably

1 from the sheetrock, and then, of course, he hits on those.
 2 That'd be five and six, which those are up here but they're
 3 down there, and as, as you can see you can see the -- we got
 4 these blue gloves and then we got this little glass vial.
 5 So what we typically do if there's any type of liquid in
 6 these we, we, we use this little white little clear thing
 7 here, it's called a pipette, and we'll pull a sample out and
 8 put it in this bottle and then we seal it and then we'll take
 9 our gloves off and photograph it.

10 This is the other, the other heater that was out here.
 11 It had -- it's a different one. You know, the other ones are
 12 the oven. It's, it's like a, a round base. This is a square
 13 base. This is your container for kerosene. So you pull that
 14 out of here and then we'll do the same thing with it. We'll
 15 take the little pipettes, put in a glass bottle, vial, and
 16 then that'll be your next evidence.

17 That's just the can. That's, that's number one, which is
 18 this one.

19 Q And do those item numbers stay the same through your
 20 process?

21 A Yes. Yes.

22 And that's just us. This is in the process of us going
 23 back and taking them.

24 Q Okay. And I see a little trowel or --

25 A Sometimes we have to use tools, saws, and things like

1 that, but what we have to do is we clean them and sometimes we
2 even use new ones every time, but we, we do the same thing
3 with our shovels. We'll, we'll clean them up with Dawn
4 dishwashing detergent or any type of, any type of detergent
5 like that will actually clean and take everything away. Then
6 we'll run my dog over them, and if it doesn't alert we're
7 good, and then we'll go and take the samples and then we don't
8 use these. As you can see, number two and number three, this
9 one was used for number two. The -- I think it was number --
10 I can't remember which one it was used for, but it's not used
11 for both of them because you can't -- you'll cross contaminate
12 that. I mean, that doesn't help.

13 Q And you put them in this sealed can?

14 A Sealed cans.

15 Q Okay.

16 A And label them as evidence.

17 Q That's number four?

18 A Yes.

19 Q Okay. And is this the front of the trailer?

20 A Yes.

21 Q Okay. And that's somebody with you?

22 A Yes. That's Agent Hardee.

23 Q And again, that's just showing the evidence placed in a
24 vial?

25 A Yes. Now, we take, we take the glass vial and then we

1 put them in the -- inside the cans for safety reasons.

2 This door you can tell had a lot of heat on the inside,
3 and it pulled the actual door down and pulled the heat towards
4 the fire. I'm not quite sure what -- it's just where your
5 ceiling and, and everything fell in.

6 These, these are ceiling trusses that you can see that
7 got very heated. So basically what it does the flames wrap
8 around it and causes these little holes and they call -- it's
9 kind of like a saddle, like saddle wood so that you can tell
10 there was definitely some fire there.

11 That's looking towards the front again. You can still
12 see the sheetrock and stuff is on there, and we always try to
13 work from the least to the heaviest areas of damage.

14 That's just your roof, the tin on the roof. As it gets
15 hot it crumbles up. That's actually where the floor should
16 be. That is actually -- if you go back. That's your
17 distribution panel right there, which is -- it should be
18 located over on the -- this wall because your power pole is
19 right here and it goes in.

20 Q Still raining?

21 A Still raining, pouring, cold. It's just some floor.
22 Your -- oh, that's ceiling trusses. Yeah, just ceiling
23 trusses where it's fallen down.

24 Some after pictures.

25 Q That's after you had removed the samples?

1 A Yes, ma'am. And we, we had tried to clean a little bit
2 of stuff off that we could. That's just where that, that hole
3 is in that floor. That's your distribution panel, nothing
4 left but a box.

5 Q What about the condition of it?

6 A Well, you can see it's got a lot of, as we say, oxidation
7 and it's got holes in it, which that is -- can I see the -- as
8 you can see these holes, which is, you know, it's pretty,
9 pretty obvious that that right side got really hot, and, and
10 the reason why it's like that is it's mounted in a wall and if
11 a fire is on the bottom it's coming up. So that's why the
12 ceiling and everything has fallen in because it's, it's going
13 up and it burns those trusses and truss is just falling.
14 That's when everything falls in, but in this case there's no,
15 no ceiling left at all. So everything is consumed.

16 Just wiring and stuff.

17 Q Any damage appear to be to the wiring?

18 A No, not that I can tell. We, we, we usually follow it.
19 We'll look and see if there's any big area anything like that,
20 if it's very oxidized or anything like that we'll look at it,
21 too, but it's kind of more of an engineering scope. Again,
22 this is a good picture of it, the fire coming from that
23 bedroom going out to the front door. You can tell it's heavy,
24 heavy heat damage on those, those floor -- on the -- I mean,
25 the, the ceiling trusses.

1 Q And most of these are just different angles --
2 A Uh-huh.
3 Q -- of what we've talked about before?
4 A Here you still got paneling so, TV. That's an outlet.
5 Yeah. There's your -- all right. So I was telling you about
6 how the, the metal when the fire comes up how it makes it
7 oxidize, and, and you can see it with this, this shot here
8 with this how it oxidizes it, and it'll eventually just kind
9 of crumple up.
10 Q A lot of pictures.
11 A Yeah.
12 Q Okay. And what about this one?
13 A That's the front door. Obviously, you can tell where it
14 was damaged by, I would assume, firefighters making entry. It
15 looks like an axe. That's just the doorjamb where it was
16 pushed in, and that's, that's the cans that we labeled when we
17 label as evidence. That -- we -- that's, that's from the
18 canine alerts that we found.
19 Q And this evidence that was collected did -- Agent Hardee
20 collected that?
21 A Yes. He collected it.
22 Q Okay. Did you do anything to alter or tamper or --
23 A Actually, both of us kind of helped each other collect it
24 because I, I had, of course, the dog and was trying to show
25 him where it was at and stuff so.

- 1 Q Okay.
- 2 A Kind of both did it.
- 3 Q And you took precautions not to cross contaminate it you
- 4 said?
- 5 A Yes. Yes. Every time we, we pick up a sample we change
- 6 gloves. We photograph it. If there's a razor we have to use
- 7 to cut carpet or anything like that, we, we take that and it's
- 8 never used twice. If there -- has an old tool someone else
- 9 use another -- a different tool to do it.
- 10 Q And then those are labeled?
- 11 A Yes. They're all labeled and there's probably a couple
- 12 that have Hardee and Wright and that's where I assisted, and
- 13 you see the date and then you see the time. We always put the
- 14 time. We put -- we seal the can and put the stuff in the can.
- 15 We, we always label that.
- 16 Q Okay. And this where it says sample number one of six,
- 17 that's that -- from that orange cone --
- 18 A Yes.
- 19 Q -- that said one.
- 20 A Yes. One through six.
- 21 Q And each one gets their own can?
- 22 A Yes. And they're cleaned and they're checked by the lab
- 23 before we use them.
- 24 Q And you didn't add to, take away or do anything to alter
- 25 the contents?

1 A No.

2 Q More pictures of the collection, and then tell me about
3 the --

4 A So sometimes we're, we're kind of paranoid about a lid
5 falling off. So sometimes we'll put the tape on top of it
6 just to make sure that nobody tampers with it or anything like
7 that. So it's basically a tamper, a tamper seal.

8 Q And again, just more photos of that.

9 A Yes.

10 Q Okay. I think that's all of them. Thank you. And after
11 your canine went through the house, did you generate a report
12 regarding where he alerted?

13 A Yes. We -- every time we, we run the dog we initiate a
14 report and the report is written and then sent to the -- my
15 boss, which is the lieutenant, and he reviews it, and then he
16 signs it and then we place it with the case file.

17 Q Now, now, I'm going to show you what's been marked as
18 State's Exhibit Number 22 for identification. Do you
19 recognize that?

20 A Yes.

21 Q And what is that?

22 A That is a -- that's the SLED canine arson report that I
23 completed.

24 Q Okay. And that's the -- that you did in this case?

25 A Yes.

- 1 Q And that --
- 2 A And I put the -- where he alerted on the back on the
- 3 second page and then it's the --
- 4 Q Okay. And those alerts are the same things we see on the
- 5 sketch?
- 6 A Correct.
- 7 Q Okay. And those numbers are the same as the collection
- 8 cans --
- 9 A Yes.
- 10 Q -- we saw in the photo?
- 11 A One through six.
- 12 Q And is this an accurate depiction of the report that you
- 13 did?
- 14 A Yes.
- 15 MS. RICHARDSON: At this time I'd offer State's 22 into
- 16 evidence.
- 17 MR. WILSON, JR.: Your Honor, without objection.
- 18 THE COURT: All right. So admitted.
- 19 MS. RICHARDSON: Okay.
- 20 (State's Exhibit Number 22 [Canine Arson Report] admitted
- 21 into evidence and appropriately marked.)
- 22 BY MS. RICHARDSON:
- 23 Q Okay. All right. So based on all that we just went
- 24 over, all the photos, the canine detection, did you -- and
- 25 then did you come to an opinion about the cause and origin of

1 this fire?

2 A Yes. I did.

3 Q Okay. And tell me what that is.

4 A Well, due to the severity of that side and in the -- my
5 opinion as far as as many fires as I've worked, you typically
6 don't see an area that is just, you know, damaged that far and
7 that severe and the other side not. Typically, when you see a
8 house like that, the roof is normally gone, but in this case
9 there's no, no question that that fire was in that room where
10 those cones are.

11 Q Okay. And were you able to find out what -- the areas
12 you alerted and collected did you -- were you able to find out
13 about whether or not there were accelerants in that?

14 A Yes. So the process is we send -- we take those cans
15 and we enter it into SLED and we have a receiving place where
16 they take it and then they submit it to the -- certain tests.
17 We have what we call a trace lab, which is where they test
18 accelerants and things at SLED, and they test for everybody in
19 the state. So and, of course, they're certified chemists and
20 stuff. So on April 7th, 2014, I received the, the evidence,
21 the forensic report from the lab, and by the way that they
22 list it, they list the item number that was submitted, which
23 is would be from the cone one, the can one, would be item one
24 and so on, all the way through six. So on the first, first
25 item it, it came back the results were a heavy petroleum

1 distillate, which is very common in kerosene. Kerosene is
2 -- it takes a little bit more for it -- the -- it's kind of
3 hard to explain. The, the kerosene takes a little bit longer
4 than gas to heat. It's got to be heated before it actually it
5 flashes. So it has a different flashpoint than gasoline. If
6 gasoline would have been put in that, that heater and lit,
7 there would be -- it'd be a whole different thing because the,
8 the damage on that, that gentleman would be terrible because
9 it would have flashed in his face and burned him pretty bad.
10 So to -- in my opinion it -- he did not put gas in the
11 kerosene to start the fire, but there was, there was petroleum
12 found at the scene on, on all those cones. So one and number
13 two and number three, one and two had the, the heavy petroleum
14 distillate and, and common, like as far as common things is
15 kerosene, diesel fuel, some jet fuels and some charcoal
16 starter fluid like charcoal lighter is what that, that
17 consists of. As far as number three, there was a mixture
18 containing gasoline and a heavy petroleum distillate. So the
19 gasoline was added, and I mean, it could have been several
20 different reasons why that was there, but it was kerosene.
21 There was diesel fuel, some jet fuel, the same thing. Number
22 four is the same thing. It was a mixture of gasoline and a
23 heavy petroleum distillate, and number five and number six
24 there was -- no, no other liquids found, and, and those are
25 the -- actually the samples that we took out of the, the

- 1 actual tanks of the heaters. So whatever it was it could have
2 been water or whatever. There was nothing in there according
3 to the, the lab and the vials that we took it out.
- 4 Q So the accelerants were found basically on the floor?
- 5 A Yes, ma'am. Not in the heaters.
- 6 Q And some of those samples had gas?
- 7 A Yes.
- 8 Q And based on, on that information, did you make a
9 determination as to whether this was undetermined, natural,
10 accidental or incendiary?
- 11 A At this time it's incendiary.
- 12 Q Okay. All right. And do you have an opinion on the area
13 of origin?
- 14 A Yeah. The area of origin is where the circle is on the,
15 the floor plan. That area is the origin.
- 16 Q Okay. And is that the area where you collected samples
17 two, three and four?
- 18 A Yes.
- 19 Q Okay. And is that -- that's the area where we had the
20 gasoline mixture?
- 21 A That's where the gasoline and the heavy petroleum
22 distillates were found.
- 23 Q Okay. And is that also the area where you demonstrated
24 earlier what you call an unusual burn pattern?
- 25 A Yes.

1 Q And the unusual burn pattern, in your opinion, is
2 indicative of what?

3 A Somebody pouring some type of accelerant on the floor.

4 Q Okay. So any indication it started in the wall or the
5 ceiling or --

6 A No.

7 Q -- breaker panel, nothing like that?

8 A Not, not that we could determine. Even though the walls
9 were missing the damage around the walls were nowhere near
10 consistent enough to be -- I mean.

11 Q And based on the lack of flash burns on the child, it
12 wouldn't have been an accidental?

13 A Absolutely not.

14 Q Set by him. Okay. All right. I have no further
15 questions. Please answer any questions that Mr. Wilson may
16 have for you.

17 MR. WILSON, JR.: Your Honor, may we approach briefly?

18 THE COURT: Yes.

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

21 THE COURT: All right. We're going to take a short
22 break. Thank you.

23 MR. WILSON, JR.: Yes, sir.

24 THE COURT: Take the jury to the jury room for just a
25 moment.

1 (Whereupon, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right. We'll be at ease for just a few
4 minutes.

5 OFF THE RECORD

6 (On the record. The following takes place outside the
7 presence of the jury.)

8 THE COURT: Are we ready to go again?

9 MS. RICHARDSON: The State's ready, Your Honor.

10 MR. WILSON, JR.: Judge, I think we're ready to go.

11 THE COURT: Okay. Bring the jury in. I do want to
12 finish up this witness today.

13 A Sorry.

14 (Whereupon, the following takes place in the presence of
15 the jury.)

16 THE COURT: All right. We have everyone back in now.
17 Mr. Wilson.

18 MR. WILSON, JR.: Your Honor, if it please the Court,
19 Judge.

20 THE COURT: Yes.

21 MR. WILSON, JR.: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MR. WILSON, JR.:

24 Q Agent Wright, how you doing today, sir?

25 A Yes. Good, sir.

1 Q This is not going to be long. I promise you. It won't
2 be long.

3 A I'm sorry.

4 Q I promise you this is going to be short. All right. I
5 just have a couple of questions for you.

6 A Okay.

7 Q Will you explain to me in laymen's terms what irregular
8 burn pattern is? What is that in your lingo?

9 A Irregular shaped burn pattern is, is when I kind of --
10 I'm kind of one that have to point and show. Can I show it?

11 Q Yes, sir. Yes, sir, please.

12 THE COURT: What do you need?

13 A Just a picture of that pattern.

14 THE COURT: Do you need your photographs?

15 A Yes, sir.

16 MR. WILSON, JR.: Alicia, I'm sorry.

17 MS. RICHARDSON: No. That's fine.

18 A I'm sorry.

19 MR. WILSON, JR.: My fault. It's my fault. My
20 apologies.

21 BY MR. WILSON, JR.:

22 Q While she's doing it, there was one particular area, a
23 photograph that you took and you denoted that the pattern was
24 kind of wild; right?

25 A Yes, sir.

1 Q All right. And, and that is an irregular burn pattern;
2 correct?

3 A Yes, sir. Basically in laymen's terms it's just not a
4 straight line like, like a cut or anything like that. It, it
5 just kind of goes in a different pattern.

6 Q Okay.

7 A As -- and it's mostly related to when there's something
8 poured because the way it burns it's going to burn the outside
9 first because it's burning away the vapors and then it's going
10 to work its way into the middle which creates the, the
11 irregular shaped burn pattern.

12 Q Okay. Very good. All right. And --

13 THE COURT: Is that sufficient, Mr. Wilson, or do you
14 need that particular photograph?

15 MR. WILSON, JR.: It's another photo, Judge.

16 A That's a good one there.

17 THE COURT: Can you show it with that one?

18 Q Is that a good one to explain, sir?

19 A Yes, sir. That's a good one.

20 Q Okay. All right. Now, explain how that would work and
21 how that particular picture with that burn pattern you see --

22 A Yes, sir.

23 Q -- is that a pattern that is created from not pouring or
24 pouring?

25 A That would be a pattern of pouring in my opinion.

1 Q Okay. Explain to the jury how that's a pattern of
2 pouring.

3 A So as, as I was saying before, if, if I pour something
4 it's not going to be in a direct line. It's going to be going
5 side -- there's initially there may not be as much volume
6 poured out at first as there are towards the back. So on, on
7 this pattern here it's kind of over toward -- in between cone
8 three and four. You can see where the pattern kind of -- it,
9 it deviates kind of going around. So that's indicative of
10 somebody taking something and pouring it because typically in
11 my experience people pour they pour side to side or pour in a
12 straight line. Well, on that it looks like they're pouring
13 from that corner and coming out towards a, a way of egress,
14 which is a way of getting out of the room.

15 Q Okay. So and let me follow you, in your expert opinion
16 someone was actually in that room pouring that accelerant on
17 the floor?

18 A I don't know any other way it would get there.

19 Q Okay. All right. Now, you said -- you testified earlier
20 that the doors were locked to this actual building; right?

21 A Yes, sir.

22 Q So whoever actually poured the accelerant inside either
23 had a key or locked the door on their way out?

24 A Correct.

25 Q Okay.

1 A Or a window or -- yeah.

2 Q All right. And just to be sure I understand what you're
3 saying, just to be sure, you said that in your expert opinion
4 that the heaters that were found inside of the place did not
5 cause the fire?

6 A No.

7 Q Okay. And that would be the kerosene heaters that you
8 found?

9 A Yes, sir.

10 Q Okay. But they did not cause the fire?

11 A No, sir.

12 Q Now, did you collect any evidence whatsoever that would
13 connect Randy Collins during your investigation to this
14 particular crime?

15 A No, sir.

16 Q I have no further questions, Judge.

17 THE COURT: Anything further?

18 MS. RICHARDSON: No, Your Honor.

19 THE COURT: Very well. Thank you. You, you may step
20 down. Thank you for your testimony.

21 A Please.

22 THE COURT: Is, is he released or, or is he needed
23 further in these proceedings?

24 MS. RICHARDSON: Your Honor, he can, he can be released.

25 THE COURT: Mr. Wilson?

1 MR. WILSON, JR.: Your Honor, no objection, Judge.

2 THE COURT: Okay. He's going home now.

3 A It's a long ways.

4 MS. RICHARDSON: Well, I think he may stick around
5 anyway.

6 THE COURT: Okay. You're released from your subpoena.

7 Okay. Thank you very much. Okay.

8 It is a little after 5:00 o'clock. I am going to -- and
9 we have covered quite a few witnesses today, and I appreciate
10 your efforts. So we're going to adjourn for today. We'll be
11 back in the morning at 9:30 or ask the jury be here at 9:30.
12 You lawyers be here about 7:30. I'll be here about 8:30, and
13 I want to be sure you're here by nine. So, at any rate,
14 let's, let's, let's try to be here by nine just in case.
15 Okay.

16 MR. WILSON, JR.: Yes, sir.

17 THE COURT: So we can talk before the jury comes. If you
18 would take the jury to the jury room and, and allow them to
19 collect their, their property and show them the way out.
20 Thank you, and again, please no, no extracurricular research
21 or anything on the internet or smartphones or don't discuss it
22 with anyone.

23 (Whereupon, the following takes place outside the
24 presence of the jury.)

25 THE COURT: Just as a housekeeping measure, Ms.

1 Richardson, I noted that this witness actually testified
2 without objection to the results of lab reports being heavy
3 distillates. Do you intend then to call chain of witness on
4 the samples taken and the lab technicians that did it?

5 MS. RICHARDSON: Your Honor, at this point I would just
6 call the -- of course, Agent Hardee helped collect it. So
7 we'd do that, and then the chemist is coming, but I had not
8 intended on calling everybody in the chain, just the handlers.

9 THE COURT: Okay.

10 MS. RICHARDSON: But I think his --

11 THE COURT: All right. I, I just wondered because Mr.
12 Wilson was here and, and there doesn't seem to be any question
13 that this was a kerosene type liquid. I just wondered if, if
14 that's going -- if you're even going to do that, but it's your
15 case. We'll do whatever you want to do.

16 MR. WILSON, JR.: Judge, I'm not going to contest the
17 chain of custody on the kerosene or whatever they found.
18 That's not -- we have no issue with that at all.

19 THE COURT: Okay.

20 MR. WILSON, JR.: No.

21 THE COURT: All right. So, so that should help you
22 somewhat. Okay. And then I would imagine that you're going
23 to go into the toxicology, your, your --

24 MS. RICHARDSON: Yes, Your Honor.

25 THE COURT: -- your autopsy experts.

1 MS. RICHARDSON: A little later, a little later, Your
2 Honor. We do have, of course, the matter of Agent Hardee and
3 Officer Garret's --

4 THE COURT: Okay.

5 MS. RICHARDSON: -- investigation, interrogation and --

6 THE COURT: All right. Okay.

7 MS. RICHARDSON: -- and statements and then that issue
8 will come up then regarding --

9 THE COURT: Of course, you do it any way you want it.
10 It's, it's just for my information where, where we're going
11 and what I can expect.

12 THE COURT: So I believe the issue that we'd need to take
13 up --

14 THE COURT: Okay.

15 MS. RICHARDSON: -- pretty soon tomorrow probably is the
16 issue regarding -- that in these statements regarding the
17 prior fires.

18 MR. WILSON, JR.: And Your Honor, that will be the -- I'm
19 sorry, Judge.

20 THE COURT: Okay. Let, let me, let, let me say this, I'm
21 stopping at five. I want you guys to work. I would like for
22 in the morning you'd be able to specifically tell me, Mr.
23 Wilson, what matters in the video statement you have not been
24 able to reach an agreement with, with Ms. Richardson
25 concerning redaction. Okay.

1 MR. WILSON, JR.: Yes. Yes, sir.

2 THE COURT: And I'd like to take that up about 9:00
3 o'clock in the morning.

4 MR. WILSON, JR.: Yes, sir.

5 THE COURT: And let's, let's, let's go ahead and discuss
6 that early on, but I, please, I want you to, to -- I -- I'm
7 sure you probably have had some conversation, but I'd like to
8 know what we're talking about as far as redaction, Lyle
9 issues, I guess is what we would call them, prior bad acts,
10 that sort of thing.

11 MR. WILSON, JR.: Yes, sir.

12 THE COURT: Probative value versus unfair prejudice.
13 That's where I want to go. Okay.

14 MR. WILSON, JR.: Yes, Your Honor. Judge, I have one
15 issue that I'd like to take up with the Court. Yesterday Your
16 Honor said that if I got the brother here for my client that
17 Your Honor would consider allowing him out on bond. He showed
18 up, Judge. I don't know if I can -- I apologize, if I can go
19 into it, Your Honor.

20 THE COURT: Go ahead.

21 MR. WILSON, JR.: He showed up for every appearance at my
22 office. He's shown up for every appointment at the doctor's
23 office. He's shown up here to court. He is here, obviously,
24 to, to litigate this matter. He does have some, I think,
25 medical issues. He'd be better off getting his medicine at

1 home and all that good stuff. However, his brother is here,
2 Judge, right here. He signed --

3 THE COURT: Well, Mr. Wilson, it, it looks like we're
4 going to be going into next week anyway and because of the
5 situation we have with the courthouse over the weekend and a
6 holiday coming up, we're looking at four or five days --

7 MR. WILSON, JR.: Yes, sir.

8 THE COURT: -- I'm, I'm not inclined to release him.
9 The, the rule requires his incarceration once the trial
10 starts, and I think that that would be appropriate in this
11 matter. I just don't want him out there for four days, and I
12 am cognizant of the fact that, and I'm not suggesting that
13 your client had anything to do with it, but there was a
14 Codefendant witness who is no longer with us in this matter,
15 and that gives me great concern. So I'm not inclined to
16 release him.

17 MR. WILSON, JR.: Yes, Your Honor.

18 THE COURT: All right. Thank you.

19 MR. WILSON, JR.: Thank you, Judge.

20 (Adjourned for day.)

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1 (Whereupon, the following takes place in the presence of
2 the jury.)

3 THE COURT: All right. We have all our jurors as well as
4 our alternates. Ms. Richardson, you may proceed.

5 MR. STEPHENS: The State calls Tricia Hood.

6 WHEREUPON, Tricia Rowell is called to the stand, duly
7 sworn by the clerk and testified as follows:

8 THE CLERK: Would you please spell your name for the
9 Court?

10 MS. ROWELL: T-R-I-C-I-A, R-O-W-E-L-L is the last name.

11 THE CLERK: Okay. And if you'd please have a seat.

12 DIRECT EXAMINATION

13 BY MR. STEPHENS:

14 Q Ms. Hood, where do you work?

15 A AT&T.

16 Q And what do you do at AT&T?

17 A I am a retail sales manager.

18 Q How long have you been with AT&T?

19 A Three years.

20 MR. STEPHENS: If I may approach the witness, Your Honor.

21 THE COURT: Certainly.

22 BY MR. STEPHENS:

23 Q Ms. Hood, do you recognize this document?

24 A Yes.

25 Q Can you please tell the Court what it is?

1 A Call records.

2 Q Okay. Would you take a look at it? Tell me --

3 A Subscriber information. Uh-huh.

4 Q Okay.

5 MR. STEPHENS: At this time I'd like to mark this as

6 Exhibit 23, State's 23 for identification. I would actually

7 like to move this into --

8 THE COURT: Show it.

9 MR. WILSON, JR.: Without objection, Your Honor.

10 THE COURT: Without objection. It's admitted.

11 (State's Exhibit Number 23 [Call Records] admitted into
12 evidence and appropriately marked.)

13 BY MR. STEPHENS:

14 Q Ms. Hood, if you would, take a look at this. I'm going
15 to ask you some questions on it. Ms. Hood, was AT&T served
16 with a search warrant --

17 A Yes.

18 Q -- for these records for the phone number -- I apologize.
19 Hold on one second -- 843-461-5398, that phone number
20 belonging to a Marissa Cohen?

21 A Yes.

22 Q Okay. Can you please take a look at that document and
23 tell me -- I'm on page one of -- it's labeled mobility usage
24 with cell location?

25 A Yes.

1 Q And describe to me, if you would, what these columns are,
2 starting with the, I believe that, that is short for
3 connection date?

4 A Yes. It's the date and time the call was actually
5 connected.

6 Q Okay. And you can just move through each column.

7 A Sure. Seizure time --

8 Q Okay.

9 A -- is the number of minutes and seconds it took from the
10 time the send button was pressed till the time the call was
11 connected to the network. The originating number is the
12 target number appears in this field, the call is an outgoing
13 call and then call is the -- is in the terminating field.
14 Terminating number, if the target number appears in this field
15 the caller, the incoming call and the call number is the
16 originating number.

17 Q Stop right there, Ms. Hood. So the originating number,
18 you, you moved through that kind of quickly. What is that?

19 A It is the call that is outgoing and the call is connected
20 to the terminating number.

21 Q Okay. And then I apologize. You can keep going forward
22 with the elapsed time?

23 A Elapsed time is the number of minutes and seconds of the
24 call between the connection time and the end of the call, also
25 known as call duration and does not include seizure time.

- 1 Q Okay. The next column?
- 2 A Number dialed. This column represents a number that was
3 actually dialed by the calling party or the voicemail access
4 number if the call was forwarded to voicemail. The IMEI is
5 the International Mobile Equipment Identification Number. The
6 IMSI is International Mobile Subscriber Identity Number.
- 7 Q Now, that number, that would be the same for every call
8 originating for this phone; is that correct?
- 9 A Can you repeat the question?
- 10 Q The, the IMSI number, that identification number, any
11 call that leaves this phone would have that same
12 identification number?
- 13 A It's reflecting the SIM card. So --
- 14 Q All right. You can move forward to the next column.
- 15 A The description, this field uses two key characters that
16 describes the parties involved, a short description suffix
17 keyword that describes what is known about the call was
18 handled. Outbound calls will always be described as DIR. M
19 indicates the presence of the AT&T mobility number. Little M
20 indicates the presence of the -- another wireless carrier
21 number. The number two will always be shown in the middle of
22 the two characters and, and is used in the lieu of to. For
23 example, M20 means AT&T mobile to a non-mobile phone number.
24 This report will not show routing by the receiving side of an
25 outbound call. The tables -- I have a table that can

1 translate those as well.

2 Q Okay. And so, so I understand that, that basically just
3 tells you this phone's calling another phone and tells you
4 whether or not that phone's in the same network?

5 A Yes.

6 Q Is that correct? Okay. And then these kind of
7 coordinate looking numbers over here, what is that?

8 A That is where the call was made. The -- that's the
9 latitude and longitude of the cell tower.

10 Q Okay. All right. Now, you mentioned in the third
11 column, I believe, it is connection time. Is that time in
12 universal time or is that a Eastern Standard Time?

13 A That is local time.

14 Q The local time. So if it was made here in Georgetown,
15 South Carolina, or Georgetown County, it would be in Eastern
16 Standard Time; is that correct?

17 A Yes.

18 Q Okay. All right. Was AT&T also served with a search
19 warrant for phone number 843-617-7814 for the phone -- phone
20 belonging to a James Miller?

21 A Yes.

22 MR. STEPHENS: If I may approach the witness, Your Honor.

23 THE COURT: Certainly.

24 BY MR. STEPHENS:

25 Q Can you identify this document?

1 A Yes. Those are also call records.

2 Q Okay. Belonging to what phone number?

3 A 843-617-7814.

4 Q Thank you.

5 MR. STEPHENS: Your Honor, at this time I would move to
6 introduce these into evidence as State's Exhibit 24.

7 MR. WILSON, JR.: Without objection, Your Honor.

8 THE COURT: Without objection. They're admitted.

9 (State's Exhibit Number 24 [Call Records] admitted into
10 evidence and appropriately marked.)

11 BY MR. STEPHENS:

12 Q Are the columns on this essentially the same as the
13 records we just looked at?

14 A Yes.

15 Q And the time is in local time?

16 A Yes.

17 Q Okay. No further questions for this witness. Ms. Hood,
18 if you would please answer any questions defense counsel has
19 for you.

20 CROSS EXAMINATION

21 BY MR. WILSON, JR.:

22 Q Good morning, ma'am.

23 A Good morning.

24 Q Just briefly, when AT&T gets a subscriber they basically
25 sign a contract with you guys; is that right?

1 A No.

2 Q All right. How do they become a subscriber from AT&T?

3 A There's two different ways. You can come in as a prepaid
4 customer where we don't run credit or you can -- we -- you
5 have the option to run your credit for a postpaid account, but
6 AT&T doesn't have contracts anymore.

7 Q All right. No contracts anymore. I'm getting old. I'm
8 sorry. I apologize.

9 A Yeah.

10 Q All right. Well, when someone comes in to get a phone,
11 say if I came in to get a phone --

12 A Uh-huh.

13 Q -- now, I can give you my name but I can give the phone
14 to somebody else; can't I?

15 A Yes.

16 Q All right. So nobody else -- AT&T wouldn't have any
17 information about who has the phone, when they have it, who's
18 talking on the phone, that kind of stuff; would they?

19 A Huh-uh.

20 Q Okay. Thank you so much. No further questions.

21 THE COURT: Anything further?

22 MR. STEPHENS: Nothing further from the State, Your
23 Honor. Can Ms. Hood be excused from her subpoena?

24 THE COURT: Was it Ms. Hood or Ms. Rood?

25 A It's Hood-Rowell. I'm married.

1 THE COURT: Hood-Rowell?

2 A I go by Hood at AT&T. Rowell is my married name.

3 THE COURT: Okay. Very well.

4 A Yes, sir.

5 THE COURT: Any objection?

6 MR. WILSON, JR.: Without objection, Your Honor.

7 THE COURT: You're excused from your subpoena.

8 A Thank you.

9 MR. STEPHENS: Ms. Hood, if you would please give those
10 exhibits to the court reporter.

11 MS. RICHARDSON: The State calls Agent Scott Hardee.

12 WHEREUPON, Scott Hardee is called to the stand, duly
13 sworn by the clerk and testified as follows.

14 THE CLERK: Thank you. Please have a seat.

15 DIRECT EXAMINATION

16 BY MS. RICHARDSON:

17 Q Agent Hardee, could you tell us where you were employed
18 in March of 2014?

19 A I was employed with the South Carolina Law Enforcement
20 Division, which is more commonly known as SLED.

21 Q And what was your position there?

22 A In that year I was an arson investigator.

23 Q And how long were you with the arson unit?

24 A From 2013 until 2018.

25 Q And what's your law enforcement experience prior to that?

1 A I started law enforcement in the year 2000 with the City
2 of Florence Police Department. Then in 2008 I resigned from
3 the Florence Police Department and was offered a position with
4 the South Carolina, South Carolina Law Enforcement Division.
5 Then when I first started I was a field agent, which pretty
6 much is an investigator for a geographical area in South
7 Carolina, and I was assigned to the Pee Dee Region which
8 included the 12 counties surrounding Florence County. Then
9 six months later, because I had experience with crime scene
10 investigations, I was asked to transfer to the crime scene
11 unit, and I worked the crime scene unit with SLED from the
12 latter part of 2008 until I was transferred to the arson unit
13 in 2013.

14 Q And what is your educational background?

15 A I have a bachelor of science degree in psychology from
16 Francis Marion University.

17 Q And what sort of specialized training have you received?

18 A Well, I went through the South Carolina Police Academy in
19 May and June of 2000. Then every year we had to go through an
20 in-service program where we're kept up to date with current
21 legals, domestic violence and stuff like that. I attended
22 several classes also, elder abuse, things that would help me
23 in patrol and later on in investigations. When I was assigned
24 to the crime scene unit one year later at the City of
25 Florence, I started taking specific classes geared towards

1 crime scene investigation, photography, ID technician where
2 you use different chemical processes and powders and stuff
3 like that to be able to lift fingerprints or collect blood
4 evidence, went through all of that. Then I went to a school
5 resource officer. I was a school resource officer for
6 approximately six months before I applied to SLED at the
7 alternative school in Florence, South Carolina. When I went
8 to SLED I went through a field training program with a
9 seasoned SLED agent to teach me investigations the way SLED
10 conducted their investigations. When that was completed, I
11 was released onto my own and -- but with -- under the
12 supervision of a lieutenant and a captain, the chain of
13 command. I was assigned cases to investigate. I would
14 investigate those and bring them to resolution. Then when I
15 was assigned to crime scene, I -- we'll -- we're always on
16 call status. Whenever you're in law enforcement you're always
17 subject to callouts. So with crime scene, however, you
18 responded -- you had like a week rotation, and during that
19 time you were teamed up with another SLED agent and we would
20 respond from our home if we were called to -- at the request
21 of a local agency that needed crime scene. When I got there,
22 I'd respond to any sort of crime, whether it was murder,
23 criminal sexual conduct, robberies, anything of that nature.
24 I also received training while I was there, and I was also
25 assigned a veteran crime scene investigator to work under

1 until I passed certain tests that SLED, SLED's forensics lab
2 required you pass before you could be released on your own and
3 complete your own investigations and issue the paperwork that
4 went along with your investigation. We -- so I attended
5 certain classes, again, like tire and footwear, blood spatter,
6 forensic archaeology, clandestine gravesite, that kind of
7 stuff. Then I worked there for about five years and when
8 Chief Keel returned to SLED after his time with the Department
9 of Public Safety he decided that SLED's crime scene units need
10 to live in Columbia. I lived in Florence because at the time
11 I was told I could respond statewide from where I lived, and
12 he said anyone that wants to remain in crime scene would have
13 to move to Columbia. If you didn't, then you could transfer
14 wherever you wanted to. I liked the arson unit. You still
15 did your crime scene. You still worked the scene, but you
16 also investigated the crime itself, and so I asked to be
17 transferred to arson, and on April 1st, 2013, I was -- my
18 transfer was complete, and then I started the whole training
19 process over again. I was, I was placed with a field training
20 agent. I responded to all calls during my training program,
21 worked fire after fire after fire, same thing I did with crime
22 scene.

23 Q All right. Let me interrupt you there.

24 A I'm sorry. Yes, ma'am.

25 Q So when you were in the fire scene or the arson

1 investigation, about how many fire scenes have you
2 investigated?

3 A I checked this morning and it shows 166 that I actually
4 investigated to resolution.

5 Q Okay. And, and that's while you were with SLED?

6 A Yes, ma'am.

7 Q Okay. And do you -- are you a member of professional
8 organizations regarding arson and fire investigation and do
9 you have any certifications?

10 A Yes, ma'am. I do. I have a certification as a certified
11 fire and explosion investigator through NAFI which is the
12 National Association of Fire Investigators. It is an
13 accredited test. Then I also am a certified vehicle fire
14 investigator all through -- also through NAFI, and I'm a
15 member of NAFI as well.

16 MS. RICHARDSON: Your Honor, at this time I would offer
17 Agent Hardee as an expert in the area of fire scene
18 investigation and origin and cause detection.

19 MR. WILSON, JR.: No objection in that area, Judge.

20 THE COURT: All right. I find that he is so qualified.

21 Ladies and gentlemen of the jury, you will remember on
22 yesterday when we qualified an expert in another field I
23 explained to you that an expert may give an opinion, whereas a
24 layperson could not, and also may give his reasons for that
25 and you would accept it or reject it based on the weight that

1 you decided that it would deserve. The same rule would apply
2 to this witness' testimony and any opinions that he may give.
3 Ms. Richardson.

4 BY MS. RICHARDSON:

5 Q So on April 29, 2014, in your capacity in the arson unit
6 at SLED, did you get a call to respond to a fire at 10 James
7 in Andrews?

8 A I'm going to have to correct you. My report is
9 reflecting March 29, not April.

10 Q I'm sorry, March 29th.

11 A Yes, ma'am. On March 29th I was requested to respond to a
12 fatal fire in the town -- well, in Andrews, Georgetown County.

13 Q Okay. And what time did you arrive?

14 A I arrived at 5:44 a.m.

15 Q Okay. And what was the scene when you got there?

16 A There were people walking around. There was fire
17 department there. There was police, a police presence was
18 also there. I saw a single-wide trailer, mobile home with a
19 -- an addition built above and behind it. It was dark,
20 pouring down rain, and we -- and then there's obviously from
21 just a gross examination before I even entered the scene there
22 was a section of the mobile home that had been burned away.

23 Q And you were in court yesterday when we showed all the
24 photos at the crime scene?

25 A Yes, ma'am.

- 1 Q Okay. And did you actually take those photos?
- 2 A Yes, ma'am. I took probably the vast majority of them,
- 3 but I remember that my lieutenant who was also on scene,
- 4 Lieutenant Craig Collier at the time, he also took some photos
- 5 as well.
- 6 Q Okay. And again, those were the photos that we showed --
- 7 entered yesterday and that Agent Wright went through?
- 8 A Yes, ma'am.
- 9 Q Okay.
- 10 A Yes, ma'am.
- 11 Q And just briefly because I know we went over all this
- 12 yesterday, did you -- you also went through the scene and
- 13 collected evidence?
- 14 A Yes, ma'am. I did.
- 15 Q Okay. Let me show you -- okay. I'm going to try to run
- 16 through this pretty fast. It's just -- gets a little
- 17 technical.
- 18 A That's perfectly all right. I'm used to technical.
- 19 Q All right. Let me show you what's been marked as State's
- 20 Exhibits or State's Exhibit 25. Can you tell me what that is?
- 21 A This is an arson can that or an evidence collection can
- 22 that SLED used, the SLED arson unit used to collect fire
- 23 debris and samples that we wanted to have tested at our
- 24 laboratory in Columbia.
- 25 Q Okay. And I know we went over this yesterday, but number

1 one corresponds with cone one that we saw in the pictures
2 yesterday?

3 A Yes, ma'am.

4 Q Okay. And State's 26, same thing?

5 A Same thing. Only difference would be the time that it
6 was collected, the sample number and where it was collected
7 from.

8 Q Okay. And what sample is that?

9 A This is sample number two of six.

10 Q Okay. And 27 and 28, start with State's 27.

11 A Okay. 27, the same thing, evidence collection can, item
12 -- sample number three of six, fire debris in a separate
13 collection site.

14 Q Okay. 28?

15 A Again, the same, sample number four of six and a separate
16 time from when it was collected from the others.

17 Q Okay. State's 29?

18 A Sample 29, I mean, excuse me, State's 29 is sample number
19 five of six and, again, it was a separate time when it was
20 collected.

21 Q And State's 30?

22 A Glass vial, not an evidence can in this case, and it
23 shows sample number six of six.

24 Q Okay.

25 A There you go, ma'am.

1 Q All right. So when you -- and we saw pictures yesterday,
2 When you collected it from the scene you put it in these
3 canisters?

4 A Yes, ma'am.

5 Q And they were sealed at that time?

6 A Yes, ma'am. I got in the habit of not only sealing the
7 top of the can, but I also placed evidence tamper tape over it
8 -- that was from my time in crime scene -- to show that after
9 I sealed it and initialed and left tape it was not messed with
10 again until it got into the laboratory into their custody.

11 Q And that's the initials that we see on the top?

12 A Yes, ma'am.

13 Q Okay. So once you sealed these cans and put the tape on
14 it and all of that, did you alter or do anything with the
15 contents?

16 A No, ma'am. Not at all.

17 Q Did you take precautions not to cross contaminate the
18 samples?

19 A Always. Yes, ma'am.

20 Q Did you take precautions to make sure foreign material
21 was not introduced?

22 A Right. Nothing except for what was collected from that
23 actual collection site at the scene. Once it was in the can I
24 took every precaution not to allow anything else to be
25 contaminated with it.

1 Q Okay. And after these were all sealed, what did you do
2 with them?

3 A I -- well, I'll refer back. They were placed inside my
4 assigned SLED vehicle, and then we, let's see here.

5 Q Did you take them somewhere?

6 A I did, and I'm going to give you -- on March 31st because
7 the incident happened on a Saturday morning, the lab was
8 closed on that Sunday, which would've been March 30th, March
9 31st would've been the next working day for the SLED lab, and
10 so on the 31st I submitted them to the SLED forensic services
11 laboratory and received a lab number, and after that it left
12 my custody and was in the custody of the laboratory.

13 Q Okay. And that's located in Columbia?

14 A Yes, ma'am.

15 Q Okay. And explain to us just briefly how the SLED lab
16 works and how evidence is turned over to SLED.

17 A At the time you would have a login area. You would enter
18 the lab and it didn't matter if I was a SLED agent or if I was
19 a Georgetown County Sheriff's Office deputy or whatever.
20 You're assigned -- you're put on a list. So I would go there,
21 go to the front desk. Say, "Hey, I've got evidence that I'd
22 like to submit." They would take my name and time and stuff
23 and then they would advise me when the next available login
24 technician was there or available. I would then go back, go
25 to their little desk area, their little cubicle, and they

1 would take the evidence from me, and most of the time I would
2 already have it pre-logged, which is something I can do on a
3 secured website, and that's just paperwork, getting everything
4 done so when I get there all they have to do is scan a
5 barcode. They'll take the evidence. They'll box it up, and
6 then they'll -- they assign it to the actual lab within the
7 SLED laboratory because they have like DNA, fingerprints, in
8 this case trace, trace evidence, and then the trace evidence
9 department would take it from there and it would go into their
10 custody from the login.

11 Q Okay. So basically, you leave it sealed. You take it
12 there. You give it to them. They log it in. They give it a
13 lab number and you don't touch it or see it again?

14 A Nope. No, ma'am.

15 Q And before you did that you didn't alter it or mess with
16 it in any way?

17 A No, ma'am.

18 Q Make any changes to it. Okay. And move these out of
19 your way.

20 A Okay.

21 Q All right. So now to get back to the morning of the
22 fire, we -- I'm not going to have you go through all the
23 photographs. We did that yesterday with Agent Wright, but did
24 you do -- did you have any contact with the deceased victim?

25 A With the victim, yes, ma'am. The way I work a scene, if

1 there's a victim involved or victims, my first priority is to
2 photograph around the victim, photograph the victim so that we
3 can go ahead and get him removed. In this case it was a him,
4 get him removed from the scene so that the family can be a
5 little bit more at ease that he's still not there, but also so
6 that the deputy coroner can start his process of the, of the
7 victim, to schedule the autopsy, to get them ready to go to
8 autopsy and all of that, and that's -- that was my
9 involvement, and we photograph the victim looking for signs of
10 trauma. We photograph the front, the back, and if we see
11 anything that stands out as far as injuries go, we take closer
12 photos of those areas and so that they can be documented
13 properly. Once that's complete and we're confident that we've
14 documented the victim, which in itself is another scene, the
15 victim is a scene, a crime scene itself, we, we release the
16 body to the coroner and then the coroner does whatever he
17 needs to do after that.

18 Q And while you were on scene, you also had you said
19 Lieutenant Collier with SLED?

20 A Lieutenant Collier arrived shortly after I did and then
21 Agent Wright arrived because me living in Florence I was way
22 closer than Lieutenant Collier and way, way closer than Agent
23 Wright who lived way off in the state.

24 Q Okay. And yesterday we learned that SLED is an assisting
25 agency?

1 A Yes, ma'am.

2 Q So you were assisting Georgetown County Sheriff's Office?

3 A Yes, ma'am. We -- I was -- I received a call from OD

4 which stands for officer of the day. They're like our central

5 dispatch, and they, they called me or they called the duty

6 officer and I can't remember if I was a duty officer at the

7 time, but I received a call to call them, and I got the

8 dispatcher, and they said that I was being requested to

9 respond to a fire scene in the Town of Andrews for a fatal

10 fire, and I put on my uniform and get dressed or that's

11 putting on my uniform and then go out the door and make sure

12 I've got all my gear ready and then I drive to Andrews and

13 then I start seeing what they need me for.

14 Q Okay. So at the time you were doing your evidence

15 collection, photographs, taking things to SLED, Georgetown

16 County was also investigating?

17 A Yes. In this case really there's -- when we're requested

18 there's four reasons for a request. Like Agent Wright touched

19 on yesterday, we could just be a shovel, they need manpower.

20 The second would be they just need us for an origin and cause

21 report, that they have the manpower and the training necessary

22 to conduct a full investigation and they just want us to

23 decide what caused the fire if we're able to. Then the fourth

24 is to assist, which is what I did in this case. I assisted

25 Investigator Melvyn Garrett with the Georgetown County

1 Sheriff's Office, and then the final, which is the most
2 involved for us, we take over the entire investigation. You
3 might have an agency that has a police chief and a deputy or
4 an officer and that's it, and then I'll take over the entire
5 investigation, get the warrants and everything.

6 Q Okay. And so you were assisting and the lead
7 investigator from Georgetown County was Melvyn Garrett,
8 Investigator Garrett?

9 A Yes, ma'am.

10 Q Okay. And so you were sort of working hand-in-hand with
11 him?

12 A Yes, ma'am.

13 Q Okay. And he was doing a lot of the legwork and
14 interviews and that sort of thing in Georgetown County and in
15 Andrews?

16 A Yes, ma'am.

17 Q All right. And as part of your role of assisting, did
18 you get information from him regarding what the homeowner or
19 the -- or Ms. Cohen actually kind of indicated started the
20 fire?

21 A Yes, ma'am. She indicated that she believed it was
22 electrical.

23 Q She, and she had relayed to Mr. Garrett or Investigator
24 Garrett who relayed to you that there was some sort of
25 electrical concern with the mobile home; is that right?

- 1 A Yes, ma'am.
- 2 Q And so that's the initial information that you had?
- 3 A Yes, ma'am.
- 4 Q Okay. And then you and Investigator Garrett sort of
- 5 worked together to flush out that information?
- 6 A Yes, ma'am. We did.
- 7 Q And was there some reports initially when you spoke with
- 8 the first responders that gave you concern about this maybe
- 9 not being accidental?
- 10 A I like to go into a scene -- there's what you have --
- 11 call expectation bias, and that's where you get a preconceived
- 12 notion of what caused the fire and then that can be
- 13 problematic if you're trying to look for another cause because
- 14 you may already have in your mind that, well, this is the
- 15 cause, you're going to probably not intentionally maybe forget
- 16 or discount other stuff. So I try to go into a scene with no
- 17 information so that I can come to the conclusions on my own.
- 18 Q Okay. But when you get there, you're talking to the
- 19 first responders and that sort of thing?
- 20 A Yes.
- 21 Q So for instance, it was odd that a child was home alone
- 22 at that time of night?
- 23 A Yes, ma'am. That was odd.
- 24 Q Okay. So that -- okay. And did you receive any
- 25 information regarding demeanor and that sort of thing that

1 also sort of got the curiosity up of those on scene?

2 A Yes, ma'am. It was reported that the mother wasn't
3 showing much emotion, and so of course, that's a red flag and
4 but then I also chalk it up to the point that people react
5 differently to trauma. So but everybody was reporting that
6 the mother was acting not like she just lost a 12-year-old
7 child.

8 Q Okay. So after you collected the evidence and turned it
9 over to your SLED laboratory, did you stay in contact with
10 Investigator Garrett about the interviews and the things he,
11 he was doing?

12 A Yes, ma'am, daily. If I wasn't in Georgetown County I
13 was on the phone with him seeing what he needed from us and
14 just that's part of the whole assisting another agency. We
15 make ourself available to them.

16 Q And so were you advised about a tip that Officer Garrett
17 had received?

18 A Yes, ma'am. He told me that -- let's see, that basically
19 he received information that from an anonymous source that the
20 --

21 MR. WILSON, JR.: Objection, Judge. Your Honor, this is
22 third-party information and it's --

23 THE COURT: I understand. I understand.

24 MR. WILSON, JR.: Thank you, Judge.

25 THE COURT: Let's let the jury go out for a moment before

1 we discuss it. Okay.

2 (Whereupon, the following takes place outside the
3 presence of the jury.)

4 THE COURT: Obviously, you're about to object to this as
5 being hearsay.

6 MR. WILSON, JR.: Yeah. Judge, it's hearsay. It's rank
7 hearsay.

8 THE COURT: Okay. Okay. Let's see if it meets an
9 exception.

10 MR. WILSON, JR.: Yes, sir.

11 THE COURT: Now, tell me exactly what the response would
12 be that you're looking for, Ms. -- I, I know he's -- I, I
13 think I've heard enough to say that there was an anonymous tip
14 from Officer Garrett. I have no problem with that because
15 that's not offered for the truth of any matter asserted
16 because you don't know what the tip was, but I want to know
17 what -- if I remember clearly, and maybe this is not what he
18 was going to say or where you were going, but if I remember
19 some of our prior motions there was a tip that either the
20 Defendant or James Miller was involved; is that right?

21 MS. RICHARDSON: There was a, there was a tip that the
22 insured or that Marissa Cohen had insurance on the property
23 and had combined with the Defendant and Benjamin Brown.

24 THE COURT: And how is that an exception to the hearsay
25 rule?

1 MS. RICHARDSON: And Your Honor, I'm not offering it for
2 the truth of the matter asserted, but offering it to show the
3 next steps that were taken in the investigation --

4 THE COURT: And --

5 MS. RICHARDSON: -- and that's how they got the
6 information to check with the insurance.

7 THE COURT: And could you not do that simply by saying,
8 "We received a tip, and as a result of that tip, this is
9 what we discovered or this is what we inquired into and this
10 is what we discovered"? I mean, couldn't we do it that way?
11 I mean, I really have a problem where we have someone saying -
12 - an anonymous source saying the two Codefendants were
13 involved in this thing and had insurance and were conspiring
14 to collect insurance. That's taking it a little far; don't
15 you think?

16 MS. RICHARDSON: I can limit it at this point just to say
17 based on the information what steps did they take.

18 THE COURT: And they followed up and they made an
19 independent discovery. Mr. Wilson, I don't see any problem
20 with that.

21 MR. WILSON, JR.: I don't have a problem with that,
22 Judge.

23 THE COURT: Okay. All right. Let's take a real quick
24 break, okay, while the jury's out.

25 OFF THE RECORD

1 (On the record. The following takes place outside the
2 presence of the jury.)

3 THE COURT: All right. The jury, please.

4 (Whereupon, the following takes place in the presence of
5 the jury.)

6 THE COURT: All right. We have all our jurors and
7 alternates. Ms. Richardson, you may continue.

8 MS. RICHARDSON: Thank you, Your Honor

9 BY MS. RICHARDSON:

10 Q And I think we are at the point that, and don't tell me
11 what the tip was --

12 A I won't.

13 Q -- but you were advised that Officer Garrett had received
14 an anonymous tip?

15 A Yes, ma'am.

16 Q And based on that tip, what did you do?

17 A Based on that tip I sent an arson immunity letter to a --
18 to the insured, to the insurance company that the renter of
19 that property, she took out a contents policy, and part of our
20 investigation is to find out as much as we can about the
21 insurance. So I submitted an arson immunity letter to the
22 insurance company, which gives them the right to provide me
23 with all the insurance information about that policy.

24 Q Okay. And when did you do that?

25 A The -- let's see. Bear with me for one minute, please.

1 I'll get the exact date. I don't want to tell you wrong. I
2 don't have the date on the actual arson immunity letter, but
3 it would have been after, obviously after the fire, within
4 days after the fire.

5 Q Okay. And tell us what the -- what that arson immunity
6 letter is.

7 A It's basically a letter that advises the insurance
8 company that as part of the investigation we are going to
9 require them to provide us with policyholder information,
10 pertinent policy information and any application for search --
11 such policy, the policy premium payment records, history of
12 the premium payment records, material related to and/or the
13 development from the investigation of the loss, including the
14 insured's statements, inventory, the proof of loss and reports
15 generated by private investigators, if any. Basically, it
16 would be their entire investigative file for that loss.

17 Q Okay. And so you were able to get the information that
18 Jennifer Dinkins with the insurance company gave us earlier
19 this week?

20 A Yes, ma'am. Yes, ma'am.

21 Q About Ms. Cohen taking out a \$25,000 policy?

22 A Yes, ma'am.

23 Q Shortly before the fire?

24 A Yes, ma'am.

25 Q And making one premium payment?

- 1 A Yes, ma'am.
- 2 Q Okay. And did you also receive information back
- 3 regarding what SLED found with those cans?
- 4 A Yes, ma'am. I did.
- 5 Q And what was that?
- 6 A The --
- 7 Q Just briefly.
- 8 A Okay. Briefly.
- 9 Q That were there accelerants found?
- 10 A Yes, ma'am. In some of the items there were accelerants
- 11 found.
- 12 Q Okay. And did you also receive information as to whether
- 13 the -- what the cause of death for the child was?
- 14 A The pathologist ruled it as a homicide.
- 15 Q Okay. And but no other trauma? It was smoke inhalation;
- 16 is that right?
- 17 A It was -- yes, ma'am, inhalation of products of
- 18 combustion.
- 19 Q Okay. So based on that information did you at that time
- 20 get cell phone information for Ms. Cohen?
- 21 A Yes, ma'am. I did.
- 22 Q Okay. And again, she'd given statements initially that
- 23 had her phone number?
- 24 A Yes, ma'am.
- 25 Q To Mr. Garrett or Investigator Garrett had her phone

- 1 number from the statements and interviews?
- 2 A I believe so.
- 3 Q Okay. And so let me show you what has been marked as
- 4 State's Exhibit Number or what's been introduced as State's
- 5 Exhibit Number 23. Is that -- are those those records?
- 6 A Yes, ma'am.
- 7 Q Okay. And those were from the period you requested was
- 8 from February 1st till April 11th?
- 9 A Yes, ma'am.
- 10 Q Is that right, of 2014? And did you also obtain cell
- 11 phone records for James Miller and Randy Collins?
- 12 A Yes, ma'am. I did.
- 13 Q Okay. And those have already also been introduced as
- 14 State's 24, AT&T records for James Miller, and State's 20, T-
- 15 Mobile records for Randy Collins?
- 16 A Yes, ma'am.
- 17 Q Okay. So you got three sets of phone records?
- 18 A Yes, ma'am.
- 19 Q All right. And all for the same period of time, about
- 20 two months, a little over two months?
- 21 A Yes, ma'am.
- 22 Q Okay. And did you dig through those records and analyze
- 23 them?
- 24 A Yes, ma'am. I looked through them.
- 25 Q Okay. And what did you find?

1 A I found that Marissa -- excuse me, Marissa Cohen and
2 Randy Collins had -- their numbers had been in contact with
3 each other. However, James Miller's number was not in contact
4 with Marissa Cohen's phone.

5 Q Okay. So did you provide a summary of that information
6 in your report?

7 A Yes, ma'am. I did.

8 Q Okay. And did I also ask you to pull out the dates of
9 the fire and highlight that information?

10 A Yes, ma'am.

11 Q Now, let me show you what's been marked, is being marked,
12 I'm sorry, as State's Exhibit Number 32 for identification.
13 All right. And tell us what that is.

14 A Those are excerpts from the phone -- the complete phone
15 records that I got for those dates involved, and I had
16 highlighted the days where the two numbers were in contact
17 with one another.

18 Q Okay. And this is specifically from March 28th through
19 March 29th?

20 A Yes, ma'am.

21 Q Okay. And these are just the records for Marissa Cohen
22 and Randy Collins?

23 A Yes, ma'am.

24 Q Because there was none between Marissa and James?

25 A That's correct.

- 1 Q Okay. All right. And I know no one can see the details
2 of this but just to -- so you have two months of records.
3 Prior to these days, the 28th and 29th, how much contact in
4 February and, and most of the month of March was there between
5 Marissa Cohen's phone and Randy Collins' phone?
- 6 A Repeat the dates you're asking me for again. I was
7 looking them up.
- 8 Q Was there any contact in the month of February?
- 9 A No, ma'am. Oh, correct. Let me make a correction.
10 Cohen and Collins were in contact on February the 8th, 2014 at
11 4:46 p.m.
- 12 Q Okay. Anymore in February?
- 13 A No, ma'am.
- 14 Q So one contact in the month of February?
- 15 A Yes, ma'am.
- 16 Q Okay. And what about in the month of March?
- 17 A Contact was again initiated on March 28th, 2014, at 12:11
18 p.m., 3:27 p.m. and 9:07 p.m. on that date.
- 19 Q Okay. And that's the day before the fire?
- 20 A Yes, ma'am.
- 21 Q So we've got one, two, three calls the day before the
22 fire?
- 23 A Correct.
- 24 Q Okay. And then the morning of the fire?
- 25 A Contact was initiated again on March 29th, 2014 at 2:50

1 a.m., 3:01 a.m. and 3:24 a.m.

2 Q And so that's three calls before you even got there;
3 right?

4 A Yes, ma'am.

5 Q Okay. And then what about after that for the rest of the
6 month of March into April 11?

7 A The final contact was on March 31st, 2014 at 10:59 a.m.

8 Q Okay. And did you also at some point learn that Mr.
9 Collins had some additional phones?

10 A Yes, ma'am.

11 Q Okay. And did you seize those phones?

12 A Yes, ma'am.

13 Q Okay. And did you receive anything of value from them
14 for this case?

15 A Hold on one second. No, ma'am. Not really, not that I
16 remember, and without actually reviewing the cell dump I
17 wouldn't.

18 Q But you didn't notice any -- notice anything?

19 A I didn't notice anything that I would have listed in my
20 report.

21 Q Okay. And based on all of that and Investigator
22 Garrett's investigation, did you -- what did you do with the
23 two additional cell phones?

24 A Well, actually, after I got the warrants I -- for the two
25 cell phones, the -- I handed them over, let's see.

- 1 Q You didn't seize them. Andrews did that; that's right?
- 2 A No. Yeah. I'm sorry.
- 3 Q Okay.
- 4 A Yeah. Andrews Police Officer Oliver Nesmith served the
- 5 warrants on Collins and obtained the two cell phones.
- 6 Q Okay. All right. And so, tell me about what you and --
- 7 you did on June 4th of 2014?
- 8 A On June 4th I met with Investigator Garrett at the Andrews
- 9 Police Department City Hall. They're all connected, and I had
- 10 custody of the cell phones, and we were going to return them
- 11 to Randy Collins.
- 12 Q Okay. And he had already done some additional interviews
- 13 and that sort of thing?
- 14 A Yes, ma'am.
- 15 Q He had already interviewed or gotten a statement from
- 16 Randy Collins?
- 17 A Yes, ma'am.
- 18 Q From James Miller?
- 19 A Yes, ma'am.
- 20 Q And from several other people in the community?
- 21 A Yes, ma'am.
- 22 Q Okay. Including the lady we heard from earlier with the
- 23 kerosene receipt?
- 24 A Yes, ma'am.
- 25 Q Okay. All right. And so you and Investigator Garrett

1 were at the Andrews Police Department and Town Hall; is that
2 right?

3 A Yes, ma'am.

4 Q Okay. And tell me what you're -- what you were doing?

5 A We were standing outside. Randy Collins drove up or rode
6 up. I believe he was brought there, and we got out. We
7 started talking to him. We asked him if he wanted to answer
8 some questions, be interviewed by us, and he agreed. We found
9 a room inside. It was actually the council chambers for the
10 town hall. We went in there, and we advised him of his
11 rights, and we started talking to him.

12 Q Okay. And you and Officer Garrett went there with the
13 hope of talking to him; is that right?

14 A Oh, yes, ma'am. Yes, ma'am.

15 Q Okay. And once he got into the room and he agreed to
16 talk with you?

17 A Yes, ma'am. He did.

18 Q Okay. And how did he appear? How was his demeanor?

19 A He seemed fine. I asked him, and he, he seemed fine. He
20 said he would talk to us. He said he hadn't gotten a lot of
21 sleep and he ate last night, the night before a burger or
22 something, and that was pretty much it.

23 Q Okay. Did you handcuff him?

24 A Oh, no, ma'am. No.

25 Q Okay. Did you threaten him to make him go in and talk

1 with you?

2 A No, ma'am. I did not.

3 Q Did you promise him anything?

4 A No, ma'am.

5 Q Okay. And did he know what you were talking with him

6 about?

7 A Yes, ma'am. We told him.

8 Q Okay. And he -- you advised him that you were talking

9 with him about the fire?

10 A Yes, ma'am.

11 Q Okay. And he had already been talked to one time by

12 Investigator Garrett; is that right?

13 A Yes, ma'am.

14 Q Okay. And did he appear to be under the influence of

15 anything?

16 A No, ma'am.

17 Q And did he appear to be clearheaded?

18 A Yes, ma'am.

19 Q And did you offer him anything to drink?

20 A Yes, ma'am. We actually offered him -- we gave him a

21 can, a can of Sprite, 12 ounce can of Sprite.

22 Q Okay. And did he ask for anything else as far as food or

23 drink?

24 A To use the bathroom, a couple of smoke breaks, but at

25 that time, no.

1 Q Okay. Let me show you what was previously marked for
2 identification as State's Exhibit Number Two. Tell me what
3 that is.

4 A This is the -- a SLED form, and it's actually numerized
5 [sic] on the bottom. It's our -- the form that we use when
6 we're advising someone of their rights, and it also includes
7 their waiver of rights.

8 Q Okay. And specifically, whose waiver of rights is this?

9 A This is Mr. Collins.

10 Q And when is it date -- what date and time?

11 A It was dated June 4th, 2014. The time is 10:20 a.m.

12 Q And how is that form administered or those rights
13 administered to, to Mr. Collins?

14 A I always read the rights to people, and as you can
15 probably tell I like to talk. So I read the rights to people
16 and then I'll have them initial between next to each right and
17 then at the bottom of their rights after they initial it says,
18 "Do you understand these rights," and I'll ask them to write
19 yes or no. In this case he indicated yes, and then the next
20 -- very next line is, "Do you wish to talk to us at this
21 time," and again, he indicated yes by writing the word yes.

22 Q Okay. And then is it signed?

23 A Yes, ma'am. It's signed by him and then it's witnessed
24 by Investigator Garrett as well as myself.

25 Q And you were present, read those rights to Mr. Collins

1 and had him initial and sign if he agreed to talk with you?

2 A Yes, ma'am.

3 Q And he did agree?

4 A He did agree.

5 Q Okay. And these are the standard Miranda rights that we
6 hear on TV, you have the right to remain silent?

7 A Uh, yeah. Pretty much standard.

8 Q All right. And have you made any -- this is actually the
9 original form?

10 A Yes, ma'am.

11 Q Have you made any alterations, changes or additions to
12 it?

13 A No, ma'am. Not at all.

14 Q Your -- and this is how it was when you got it from him?

15 A Yes, ma'am.

16 Q All right.

17 MS. RICHARDSON: At this time the State would offer
18 State's Exhibit Number Two into evidence.

19 MR. WILSON, JR.: Your Honor, just subject to previous.

20 THE COURT: All right. Noted and admitted.

21 (State's Exhibit Number Two [Miranda Form] admitted into
22 evidence and appropriately marked.)

23 BY MS. RICHARDSON:

24 Q Now, you said you had secured a room in the county
25 council portion of the building?

- 1 A Yes, ma'am.
- 2 Q Okay. And who was in the room?
- 3 A Myself, Investigator Garrett and Mr. Collins.
- 4 Q Okay. And again, was he restrained in any way?
- 5 A No, ma'am.
- 6 Q And after you went over the rights, did you use any sort
- 7 of apparatus to record what was going on?
- 8 A Yes, ma'am. I had a little Kodak camcorder that recorded
- 9 onto an SD card, and the room itself was not set up to record
- 10 interviews, and so I got mine so that it could be memorialized
- 11 on, on video as well as statements later on.
- 12 Q Okay. At that time what was SLED's policy and procedure
- 13 regarding witness and suspect's statements?
- 14 A SLED really didn't like to record video, audio statements
- 15 at the time. We would leave it up to the local departments
- 16 that we worked with. If they had an interview room that was
- 17 set up to record they would, but a disclaimer to that policy
- 18 was that if a prosecutorial authority wanted it memorialized
- 19 then we would, and we didn't have a prosecutorial authority
- 20 because, I mean, it wasn't -- at that time we were just
- 21 talking to him, trying to find out what his involvement, if
- 22 there was any, and so but I took it upon myself to record the
- 23 video or the best I could.
- 24 Q Okay. Now, did SLED -- had you been issued any equipment
- 25 for that purpose from SLED?

1 A No, ma'am. No, ma'am. It was my personal camera, video
2 camera.

3 Q All right. Now, tell me what you -- what kind of camera
4 you had again?

5 A It was like a Kodak Playsport. It looks like a cell
6 phone, and it was waterproof. I bought it because I was
7 wanting to -- when my children and I go to the beach and my
8 wife we wanted to go to -- I wanted to be able to get
9 something that wouldn't get messed up, and it could go in the
10 water. It could go in the pool. It was waterproof for like a
11 few -- 10 feet or something, and, and so that's why I got it.
12 It was just something cheap.

13 Q Okay. And what kind of power did it use?

14 A Almost like one of those little point and shoot camera
15 batteries, the little squared ones.

16 Q Okay. So not individual like AA or AAA or anything like
17 that?

18 A No, ma'am.

19 Q But actually a battery pack issued for that camera?

20 A Yes, ma'am. It was --

21 Q And how would you recharge it?

22 A You would have to turn the camera off and plug in a
23 micro, like a little micro USB plug and then plug the camera
24 into the wall outlet.

25 Q Okay. And if it was plugged in were you still able to

1 record?

2 A Not that I remember. It was, like I said, it was cheap
3 and kind of funky.

4 Q Okay. And did you have any extra batteries?

5 A I believe I had one battery, one extra battery at the
6 time.

7 Q Okay. And did -- so you used that camera to record?

8 A Yes, ma'am.

9 Q Okay. Now, did you hide it in your pocket?

10 A Oh, no, ma'am. It was in front of me. The way we were
11 set up you had Mr. Collins across from me. I was -- and so he
12 would have been like on that side of here. I was right here.
13 The camera was between us.

14 Q Okay. So clearly visible?

15 A Yes, ma'am. It was, it was on the table.

16 Q Okay. All right. And so at what point did you begin
17 recording?

18 A Shortly after he was advised of his rights.

19 Q Okay. And so then you and Officer Garrett began asking
20 him questions?

21 A Yes, ma'am.

22 Q And at some point what happened with the camera?

23 A The battery died and I didn't realize it at the time, and
24 so I had to take that battery out and then put in the spare
25 battery so that we could continue recording.

- 1 Q And was that about an hour and a half into it?
- 2 A Give or take minutes.
- 3 Q Okay. And how long was he there altogether?
- 4 A Roughly three hours I believe. When I -- he signed the
- 5 waiver at 10:20 and I believe at the end of the video it
- 6 showed about 1:50 p.m.
- 7 Q Okay. And then did you take any breaks during that?
- 8 A Several bathroom breaks. He and Mr., Mr. Collins and
- 9 Investigator Garrett both smoked. There were smoke breaks.
- 10 That was it.
- 11 Q And during this interview did he at any time indicated --
- 12 indicate that he no longer wanted to be questioned?
- 13 A No, ma'am. He did not say, "I'm done answering your
- 14 questions."
- 15 Q And did you threaten him in any way?
- 16 A No, ma'am. That's not in my nature.
- 17 Q Okay. And did you deprive him of food or drink or
- 18 restroom breaks or anything like that?
- 19 A No, ma'am. It was my point to make sure he was
- 20 comfortable.
- 21 Q And did you have any concerns that maybe something was
- 22 wrong or that he was under the influence or didn't understand
- 23 what was going on?
- 24 A No, ma'am.
- 25 Q And you were able to carry on a conversation with him?

- 1 A Yes, ma'am.
- 2 Q And when you, when you interview someone, is it your
- 3 first step to try to get them to tell you their side or what
- 4 they remember?
- 5 A Yes, ma'am. Well, the first step is always just to get
- 6 to know them better to make them feel comfortable, and then we
- 7 go into what they call an interview process where it's not
- 8 accusatory. You're basically just trying to get information
- 9 from them about obviously a certain topic.
- 10 Q Okay. And then you ask him to give you the information?
- 11 A Yes, ma'am.
- 12 Q Or lock himself into his side of the story?
- 13 A Exactly.
- 14 Q Okay. And then what's the next part?
- 15 A Usually by the time we have a witness that we're wanting
- 16 to interview, we already have some background information, and
- 17 so that helps us to know whether or not he's being less than
- 18 truthful, and there were certain things that Mr. Collins said
- 19 that were less than truthful to the information that we had
- 20 available to us, and so we questioned him about those
- 21 inconsistencies.
- 22 Q Okay. And at that time you had -- you already had the
- 23 phone records?
- 24 A Yes, ma'am.
- 25 Q You already had the kerosene receipt?

- 1 A Yes, ma'am.
- 2 Q You already had the insurance information?
- 3 A Yes, ma'am.
- 4 Q And you already knew that accelerants were used?
- 5 A Yes, ma'am.
- 6 Q You already knew it wasn't an electrical situation like
- 7 Ms. Cohen had initially said?
- 8 A Yes, ma'am.
- 9 Q And you already knew the results of several interviews
- 10 that Investigator Garrett had done --
- 11 A Yes, ma'am.
- 12 Q -- in the community? Okay. And so when he initially
- 13 gave you the information did he initially admit to any
- 14 involvement or knowledge?
- 15 A No, ma'am. He said he had nothing to do with it.
- 16 Q And did he tell you where he was?
- 17 A He said that he was at a, a local gathering place,
- 18 Carnell's Bar with his cousin or nephew, Mr. Miller.
- 19 Q James Miller?
- 20 A James Miller.
- 21 Q Okay. So he initially told you he was with Mr. Miller?
- 22 A Yes, ma'am.
- 23 Q And then did you ask him if he had had any contact with
- 24 Ms. Cohen?
- 25 A Yes, ma'am.

- 1 Q And what did he tell you?
- 2 A He said no.
- 3 Q Then at some point did you confront him with what you
- 4 knew differently?
- 5 A Yes, ma'am.
- 6 Q And then did he change his story in that regard?
- 7 A Yes, ma'am, and he became more agitated.
- 8 Q And then he did admit to some contact with her?
- 9 A Yes, ma'am. He did.
- 10 Q Now, right about the time you got to this point, that's
- 11 when the camera turned off?
- 12 A Unfortunately, yes.
- 13 Q Okay. Once the, the tape was on, was there anything that
- 14 changed or anything that you did or Investigator Garrett did
- 15 to threaten, coerce, promise him to make the statements?
- 16 A No, ma'am. Again, as I stated earlier, that's not,
- 17 that's not in my nature. I'm not trying to put someone in
- 18 jail just to put somebody in jail. I want to make sure -- and
- 19 I'm not going to coerce or force them into doing something
- 20 like that.
- 21 Q Okay. Then once you realized it was off it was turned
- 22 back on?
- 23 A Yes, ma'am. And changed the battery.
- 24 Q And then I believe there's another point where you may
- 25 have paused it to go -- for him to go to the restroom; is that

1 right?

2 A Yes, ma'am.

3 Q And when he went to the restroom, was he allowed to do
4 that on his own?

5 A Sure. Yeah. Now, let me -- now, one of us may have gone
6 to the bathroom as well, but not for the purpose of making
7 sure he came back or kept an eye on him or anything like that.
8 We went because we had to go, also.

9 Q And basically, what did he, he end up telling you?

10 A He told us that Marissa Cohen asked him to burn the
11 trailer down and she would pay him \$5000.

12 Q And did he say who else was involved?

13 A James Miller.

14 Q And did he indicate if he had actually done that?

15 A He indicated that he went with James Miller to that
16 location and he put all the blame as far as starting the fire
17 onto James Miller.

18 Q But admitted that he was there.

19 A Admitted he was there.

20 Q And after the interview was over, did you take him into
21 custody?

22 A No, ma'am. We -- during the interview we told him that
23 he was going to go home that day no matter what he told us and
24 he went home.

25 Q And then he was subsequently arrested?

1 A Yes. We got warrants for his arrest and he turned
2 himself in.

3 Q Okay. And based on the information he provided, you also
4 got warrants for James Miller?

5 A We got warrants for James Miller as well as Marissa
6 Cohen.

7 Q All right.

8 MS. RICHARDSON: Your Honor, I'm not sure if I did it
9 yet, but I wanted to go ahead and offer State's 32 into
10 evidence.

11 MR. WILSON, JR.: Without objection, Your Honor.

12 THE COURT: Very well. It's admitted.

13 (State's Exhibit Number 32 [Poster - Phone Records]
14 admitted into evidence and appropriately marked.)

15 BY MS. RICHARDSON:

16 Q And I'm going to show you what's been marked as State's
17 Exhibit Number Three. Do you recognize that?

18 A This is the copy of the, the DVDs that I made of the
19 interview from that camera, video camera.

20 Q Okay. And are these complete copies of what was
21 recorded?

22 A Yes, ma'am.

23 Q And you had to split it up on three disks?

24 A Yeah. It was a rather large file, much larger. I had to
25 record it onto an SD card, held a lot more information on the

1 SD card then it did on the DVDs when I burned them.

2 Q Now, on these DVDs is that everything that was recorded?

3 A Yes, ma'am. It's everything that was recorded onto that
4 SD card.

5 Q Okay. And did you change it or alter it in any way?

6 A Only when I had to split it up onto the three DVDs.

7 Q And did you purposely turn off the camera or avoid
8 recording parts of the interview?

9 A No, ma'am. I did not.

10 Q I have no further questions. Answer any questions Mr.
11 Wilson may have for you.

12 A Yes, ma'am.

13 THE COURT: Are those identified and in?

14 MS. RICHARDSON: They are. They're not -- Your Honor,
15 based on your previous rulings we're going to have to --

16 THE COURT: Okay. All right.

17 MS. RICHARDSON: -- we'll go put it on a better format
18 for the jury.

19 THE COURT: Excellent. Okay. Mr. Wilson.

20 MR. WILSON, JR.: May it please the Court, Your Honor.

21 CROSS EXAMINATION

22 BY MR. WILSON, JR.:

23 Q Good morning, Agent, how you doing this morning?

24 A I'm doing well. How are you?

25 Q Doing well. Normally I don't use the podium but I'm

- 1 going to need it today.
- 2 A Apparently.
- 3 Q Let's talk about a couple of things. Okay.
- 4 A Okay.
- 5 Q The phone records.
- 6 A Yes, ma'am -- sir. I'm sorry. I'm used to saying ma'am.
- 7 Q That's okay. That's all right. See I've been called
- 8 worse.
- 9 A Me, too.
- 10 Q I've been called worse. Let me ask you about the phone
- 11 records. The phone records that you all actually found from
- 12 Randy Collins phone, correct, you all got the dump from the
- 13 two cell phones; correct?
- 14 A Yes, ma'am -- sir.
- 15 Q That's okay. That's all right. We're switching. I
- 16 understand. That's all right. You've got the two cell phones
- 17 from him; correct?
- 18 A Correct.
- 19 Q By way of warrant?
- 20 A Yes, sir.
- 21 Q Okay. And then you all went through those cell phones.
- 22 A Yes, sir.
- 23 Q Okay. And a dump, just so the jury understands, explain
- 24 what a dump is to the jury.
- 25 A With my experience it is everything that is contained on

1 that phone's memory, text messages, photographs, music,
2 anything that was on that cell phone. There's technology that
3 I have no information about that can dump everything to
4 another hard drive so that we can get a copy of it.

5 Q Okay. Very well. And there was nothing found on those
6 cell phones; correct?

7 A No, sir.

8 Q Of evidentiary value --

9 A Perfect. Yeah.

10 Q -- in this matter. Okay. And then on the cell phone
11 where you got the actual subscriber information, all right --

12 A Yes, sir.

13 Q -- all right, and just so I'm correct, this is the 843-
14 461 -- excuse me, 843-461-5398 number?

15 A Yes, sir. I believe so.

16 Q Okay. All right. And on this particular phone record on
17 page --

18 MR. WILSON, JR.: The Court's indulgence, Your Honor.

19 BY MR. WILSON, JR.:

20 Q Do you have the records up there with you?

21 A I believe I do.

22 Q Okay. Will you turn to page I believe it is 71 for me.

23 A Hold on.

24 MR. WILSON, JR.: Your Honor, may I approach the witness,
25 Judge. I apologize.

- 1 A I'm having to look through several of them. You said the
2 5398.
- 3 Q Yeah. I believe that's it. Yeah.
- 4 A Okay. And you said page 70 --
- 5 Q 71. Okay. All right. Do you have that page?
- 6 A I do, sir.
- 7 Q Okay. Now, let me ask you this, when you all do an
8 investigation into this matter and you're looking at the
9 records for phones, you're looking at not just the numbers.
10 You're also looking at the times that the numbers were called;
11 right?
- 12 A Correct. We --
- 13 Q Okay.
- 14 A Yeah, date, time all that.
- 15 Q All right. Will you tell me, and you said earlier under
16 oath, what times those phone numbers were called Randy
17 Collins, what time Marissa Cohen called Randy Collins.
- 18 A Okay. Yes.
- 19 Q All right. What time do you say?
- 20 A Oh, I'm sorry.
- 21 Q That's okay.
- 22 A Let's see. Refresh my memory. Randy Collins' number is
23 5398?
- 24 Q Yes, sir. Yes, sir.
- 25 A Okay. And I believe Marissa Cohen's was 5314?

- 1 Q That's correct.
- 2 A All right. Let's see here.
- 3 Q And if, if I could expedite I can help you out if you
- 4 want me to.
- 5 A Please. That would help.
- 6 Q Under oath I think you testified 12:11 on the 28th;
- 7 right?
- 8 A Correct.
- 9 Q Okay. 3:27 p.m. on the 28th; right?
- 10 A Correct.
- 11 Q And then 9:07 p.m.; correct?
- 12 A Correct.
- 13 Q What time was the fire?
- 14 A The fire was reported in at like 1:30.
- 15 Q 1:30?
- 16 A Around 1:30.
- 17 Q Around 1:30. Let me ask you a question, Marissa Cohen on
- 18 her phone made calls. Do you have her records up there with
- 19 you?
- 20 A Her records? Yes. I believe I do.
- 21 Q All right. Marissa Cohen made phone calls, excuse me,
- 22 phone calls at one something in the morning; do you recall
- 23 that? There were two numbers she called. One she called at
- 24 --
- 25 THE COURT: What, what day, Mr. Wilson?

1 MR. WILSON, JR.: I apologize. This is the 29th, Judge

2 --

3 THE COURT: Okay.

4 MR. WILSON, JR.: -- in the early morning hours.

5 A 29th. Okay. Hold on.

6 Q And I misspoke, actually, the records I think you were
7 looking at were Marissa Cohen's?

8 A Okay.

9 Q I apologize.

10 A It's easy to confuse them.

11 Q I'm sorry. That's my bad. That's my bad.

12 A So go back to the time you want me to look at.

13 Q That's right. At one -- I want you to look at on 3-29-14
14 at 1:02 a.m. in the morning and then at 1:03 a.m. in the
15 morning.

16 A Okay. I'm looking at those right now.

17 Q Okay. And tell the jury what numbers were dialed.

18 A Okay. Let's see the originating number was 843-6 -- 461-
19 5398, and it dialed, if I'm reading this correctly, 843-325-
20 4668.

21 Q During your investigation did you all pull records for
22 that number?

23 A Well, I'd have to go back and look at all my search
24 warrants first.

25 Q Well, let me ask you this, Marissa Cohen's number is, and

1 I apologize, I misspoke earlier, just to correct this for the
2 jury, that's Marissa Cohen's number calling somebody else;
3 correct?

4 A Yes.

5 Q Okay. That number and I need to know this, this is
6 important for the jury because you say -- you testified
7 earlier that the fire occurred around 1:30?

8 A Okay.

9 Q So what I want to know is did you investigate who that
10 number belonged to? Do you know?

11 A Hold on one second.

12 Q Yes, sir.

13 A I did not obtain a search warrant for that number, so no,
14 I did not.

15 Q Would you be surprised if I told you that number was an
16 AT&T number?

17 A I will take your word for it.

18 Q Okay. All right.

19 A I'm not surprised.

20 Q And you still don't have any idea who that number was at
21 all, period?

22 A No, sir.

23 Q Okay. All right. Now, let me talk to you about the
24 actual interview that counsel was talking to you about, and
25 she asked you whether or not you all made promises to Randy

- 1 Collins?
- 2 A Correct.
- 3 Q You said no under oath earlier?
- 4 A Correct.
- 5 Q That's not exactly true; is it?
- 6 A Yeah. I mean, we didn't make him any promises except
- 7 for that he would go home that afternoon.
- 8 Q Did you all not promise Randy Collins that if he gave you
- 9 all a statement that you all were going to talk to the
- 10 prosecutor for him?
- 11 A Well, yes, but I mean, that's part of what we normally
- 12 do. We -- if someone assists us in an investigation we do
- 13 talk to the prosecutor or the solicitor in this case.
- 14 Q Completely understand that. I'm only asking if you
- 15 promised him that.
- 16 A We said we would talk. We didn't say we'd promise we'd
- 17 would talk. So it's a matter of semantics.
- 18 Q Well, let me ask you this then, you said that you all
- 19 never threatened Randy Collins; correct?
- 20 A Correct.
- 21 Q Didn't you all tell him he was going to go away for a
- 22 long time?
- 23 A As part of the crime, yes.
- 24 Q Okay. Well, let me ask you this, did you tell Randy
- 25 Collins in this interview that it was either him or Marissa?

- 1 A Yes.
- 2 Q You all told him you wanted Marissa; correct?
- 3 A Correct.
- 4 Q A number of times; correct?
- 5 A Correct.
- 6 Q Okay. You have a degree in psychology; right?
- 7 A Yes, sir.
- 8 Q Okay. And where did you get your degree from?
- 9 A Francis Marion University.
- 10 Q Now, and you -- I know you're a seasoned officer,
- 11 seasoned agent for a long time; correct?
- 12 A Correct.
- 13 Q You've done a lot of interrogations?
- 14 A Correct.
- 15 Q Okay. And a lot of fire investigations?
- 16 A Correct.
- 17 Q There's something called the breaking point; right?
- 18 A Correct.
- 19 Q Okay. And in psychology and in confessions a breaking
- 20 point is when someone just can't take it anymore; right?
- 21 A Correct. They have exhausted all defenses.
- 22 Q Okay. All right. So in this case when you were talking
- 23 with Randy Collins he made a previous statement where he said,
- 24 "I was not there, I did not do it"; right?
- 25 A Correct.

1 Q And you all knew at the time that he couldn't read or
2 write because Mr. -- excuse me, Investigator Garrett, when he
3 first talked to him, had to write a statement for him; didn't
4 he?

5 A Correct. But my understanding he can read.

6 Q All I'm asking you is the first statement that he gave
7 had to be written for him; correct?

8 A Correct.

9 Q He didn't write that statement; did he?

10 A No. He wrote -- Investigator Garrett -- I wasn't there.

11 Q I understand.

12 A But Investigator Garrett wrote it for him.

13 Q Okay. And when he gets into the actual interview room,
14 you all are talking to him, and he tells you that he has had a
15 stroke; right?

16 A Correct.

17 Q Okay. So -- and let me ask you this, your impression,
18 you talked about it earlier, you said that he seemed fine and
19 he was even keel or at least proverbially even keel.

20 A Right.

21 Q When he presented to you guys at that particular
22 location, the city hall, there's a police station connected to
23 that or a jailhouse; right?

24 A I don't believe it has an actual cell, but it is a police
25 department.

1 Q Okay. All right. So when he comes up you guys are
2 waiting for him outside?

3 A Yes, sir.

4 Q All right. Now, when he actually presents himself to you
5 guys there he's not coming there to talk to you all; is he?

6 A No. Not at all. No.

7 Q No. He didn't know you all were going to be there?

8 A No.

9 Q Okay. The reason that he came down was to retrieve the
10 two cell phones which they promised to give him; right?

11 A Yes, sir.

12 Q Okay. All right. So he didn't come down there expecting
13 to have a conversation with two investigators?

14 A No.

15 Q All right. So when he gets there, the reason he came was
16 because Nesmith, Officer Nesmith, who he's known for a long
17 time said he was going to give him his cell phones back;
18 right?

19 A Correct.

20 Q All right. Now, Officer Nesmith had possession of those
21 cell phones; correct?

22 A No. I did.

23 Q You had possession of the cell phones?

24 A I took custody of them so that I could get the cell
25 dumped.

- 1 Q Okay.
- 2 A I took them from their evidence. Brenda Lambert signed
3 them out to me and then -- so I still had possession of those
4 cell phones when Mr. Collins was there.
- 5 Q So why didn't you all then if you had the cell phones why
6 not just meet him in Georgetown? Why go to Andrews?
- 7 A Andrews was closer and Mr. Nesmith was able to get him
8 together so that we could speak with him.
- 9 Q Mr. Nesmith was willing to get him to go there to speak
10 with you all?
- 11 A Correct.
- 12 Q So in essence you all tricked him to get down there?
- 13 A Correct.
- 14 Q Okay. Fair enough. All right. So he gets into the
15 interview room with you guys; right?
- 16 A The council chambers, yes.
- 17 Q Okay.
- 18 A For the town.
- 19 Q All right.
- 20 A It wasn't set up as an interview room.
- 21 Q Okay. I apologize. You all get into the conference
22 room?
- 23 A Right.
- 24 Q Okay. How big is this conference room?
- 25 A It's -- can't give you exact measurements, but I would

1 say it was from that wall right there probably to her desk and
2 probably from here to about where the partition is right
3 there. It was a regular size room with a conference room
4 table, and if I remember correctly, it had sections that the
5 council members could sit at.

6 Q Very well. In the room, and just so I'm correct, and I'm
7 going to just kind of -- Randy Collins is sitting this way;
8 correct, and if you're sitting -- you'd be sitting to his
9 left?

10 A Where's your orientation?

11 Q I'm against the wall. I'm Randy Collins.

12 A Oh, you're Randy Collins.

13 Q I'm sitting in the room.

14 A Okay. Yes. He would have been there, and I would have
15 been directly across from him.

16 Q Okay. And then Investigator Garrett was where?

17 A He was to the right of -- from where you're sitting he
18 was to the right.

19 Q Okay. All right. And where was the door? In relation
20 to where Randy Collins was, Randy Collins got his back to the
21 wall, where's the door at?

22 A The door would have been further to his right.

23 Q All right. This way?

24 A Correct.

25 Q Behind Investigator Garrett; correct?

- 1 A Yes.
- 2 Q Is this young man right here Investigator Garrett?
- 3 A It is. He is. I'm sorry.
- 4 Q Mean looking fellow right there?
- 5 A I wouldn't characterize -- you said mean? I wouldn't
- 6 characterize him as mean.
- 7 Q I'm joking, joking around, but that's Investigator
- 8 Garrett; correct?
- 9 A Correct.
- 10 Q Okay. And the two of you all had him in the room
- 11 together?
- 12 A Correct.
- 13 Q Okay. All right. And you all began to talk to him about
- 14 what happened?
- 15 A Yes, sir.
- 16 Q All right. And you all talked to him pretty much ad
- 17 nauseam about his personal life and what he was like and all
- 18 that good stuff; correct?
- 19 A Correct.
- 20 Q Now, he tells you all that he basically has a sixth or
- 21 seventh grade education; right?
- 22 A Yes. He talked -- we asked him about his educational
- 23 level, I believe.
- 24 Q You know he's not well-equipped mentally; correct?
- 25 A I know that he had -- mentally, I can't make that

1 assessment. I know that his educational level stopped around
2 seventh grade.

3 Q Okay. All right. Was he like every Defendant? Like,
4 was he like me?

5 A No.

6 Q If he sat in the room with me and we talked, is he like
7 me?

8 A Of course not. You have an advanced degree.

9 Q Absolutely. Is he like every Tom, Jane in the street?
10 Is he like that? Did he present to you that way? You've done
11 a lot of this.

12 A To me he presented, presented as someone that knew his
13 wherewithal. He could talk to us.

14 Q Absolutely.

15 A And carry on a conversation, an intelligent conversation
16 on the questions that we were asking him.

17 Q Okay. All right. Well, let me ask you this then, at
18 some point in time in the interview when you all were talking
19 to him, you all asked him about his living conditions;
20 correct?

21 A Correct.

22 Q All right. What did he -- tell the jury, what did he
23 tell you all?

24 A Well, I'd actually been by his trailer. He lived in a
25 mobile home.

- 1 Q Yes, sir.
- 2 A He said that, if I remember correctly, that there was no
3 power.
- 4 Q Yes.
- 5 MS. RICHARDSON: Your Honor, may we approach briefly?
6 (Whereupon, a bench conference is held in the presence,
7 but out of the hearing of the jury.)
- 8 Q You all asked him about what he ate for dinner; right?
- 9 A Yes, sir.
- 10 Q What did he tell you?
- 11 A He had a burger. He likes burgers.
- 12 Q Okay. That he likes burgers. Okay. And then you all
13 asked him, you know, how he pretty much lives in his, in his
14 trailer; correct?
- 15 A Correct.
- 16 Q All right. And he said he had a cooler; correct?
- 17 A I believe --
- 18 Q If you don't recall it's okay.
- 19 A I'm going to have to go with I don't recall for sure
20 then.
- 21 Q All right. But he's not living, based on what you know
22 from this situation, he's not living like an average person;
23 is he?
- 24 A No.
- 25 Q Okay. Very good. All right. I want to go back and talk

1 briefly about the fire itself, and I know that you've been
2 qualified in this case as an expert regarding the fire.

3 A Yes, sir.

4 Q Okay. You've seen pictures of the scene, of the actual
5 house burning; correct?

6 A Correct.

7 Q Of the burned house?

8 A Right.

9 Q All right. There's actually standing water on the
10 ground; isn't there?

11 A Yes, sir.

12 Q All right. And it was pouring rain?

13 A Cats and dogs.

14 Q Right. It was torrential that night; correct?

15 A Correct?

16 Q How difficult is it to light something in the rain?

17 A Well, that, again, that depends. I mean, if you're
18 lighting a piece of wet paper with using just a match you're
19 not going to overcome the water, but if you have an
20 accelerant, which the purpose of an accelerant is to
21 accelerate the fire, then you stand a better chance of
22 lighting it.

23 Q But let me ask you this, now, earlier one of the other
24 investigators, I think the expert his name was Wright, Agent
25 Wright.

- 1 A Yes, sir.
- 2 Q He testified that basically you would have to be inside
- 3 the residence and he -- what he observed to be a pour pattern
- 4 where someone was going back and forth and then backed out of
- 5 the actual room. Do you recall that testimony?
- 6 A Yes, sir.
- 7 Q Is that, in your opinion, also about what happened?
- 8 A My opinion is that there -- the accelerant was in the
- 9 room prior to the fire being lit.
- 10 Q Well, I mean, that's logical; right?
- 11 A Correct.
- 12 Q Right. One follows the other. What I'm asking is do you
- 13 agree with the fact that he says someone was in the room
- 14 pouring the accelerant?
- 15 A I can't testify to that because that would me -- I would
- 16 have to speculate what a person did prior to the fire. All I
- 17 can tell you is that the accelerant, based on the evidence
- 18 that we have, based on the dog's alerts, based on the burn
- 19 patterns in the house, that the accelerant was in the, in the
- 20 room at the time of the fire.
- 21 Q Okay. So your testimony today as an expert in this area
- 22 of arson, and I know that you're an expert, is that you
- 23 disagree with the doctor, with the, with the agent, with Agent
- 24 Wright?
- 25 A Not at all. His testimony states that the accelerant was

1 in there. I can't testify how the accelerant got in there. I
2 can only testify to that it was present at the time of the
3 fire.

4 Q Well, let me ask you about the burn patterns that he
5 talked about. Remember when he talked about the irregular
6 burn patterns?

7 A Correct.

8 Q Okay. Irregular burn patterns don't occur if the
9 accelerant is in one location; correct?

10 A Those burn patterns, no. The accelerant would have to be
11 in separate locations.

12 Q All right. And indicative of someone actually going into
13 that area and actually putting it. You've got to place it.
14 You can't just -- how do you -- how does it get in there?

15 A Well, in that case a person would have to go in there and
16 pour it.

17 Q Okay. Very good. That's what I'm after. All right.
18 Now, if the door's unlocked, the person who went inside of the
19 actual residence to actually pour it had to have a key;
20 correct?

21 A Or the door was unlocked. I mean, whether it was
22 unlocked prior to them getting in there or if there was a key.

23 Q All the testimony though that's come in from the first
24 responders, and I know you were in here, and even from
25 yourself is that they had to gain entry; correct?

1 A Yeah. They had to force entry.

2 Q They had to force entry. So again, the accelerant was
3 already inside; correct?

4 A Correct.

5 Q All right. Now, that night when it's raining cats and
6 dogs and it's pouring out there, pouring rain out there, your
7 testimony would be that, again, somebody on the outside would
8 have to have an accelerant, kerosene, gasoline, some form of
9 petroleum, jet fuel, something that would help it ignite,
10 otherwise the rain is going to drown it out.

11 A Correct.

12 Q Okay. All right. Now, before you all talked with Randy
13 Collins did you all have any, and I know you collected a lot
14 of stuff over here and that this was a lot of evidence. This
15 is -- they've got boards, calls. They got forensic evidence
16 from the scene. Did you all collect one piece of evidence
17 other than his statement which ties Randy Collins to this
18 crime?

19 A No. The evidence did not point to him.

20 Q Okay. All right. And as a fire investigator, you've
21 investigated fires where you know, look, we can identify who
22 burned this house.

23 A Yes.

24 Q Yes. And then you can actually use the evidence that you
25 have to identify that person and then, you know, try them or

- 1 let them do whatever, be charged or whatever's going to
2 happen; correct?
- 3 A Correct.
- 4 Q In this case, when you all talked to him, and you said
5 you all let him go that day; right?
- 6 A Correct.
- 7 Q You all didn't have a warrant for his arrest; did you?
- 8 A Not at the time, no.
- 9 Q No. Because you didn't have probable cause at the time;
10 did you?
- 11 A No.
- 12 Q Okay. All right. So when you sat down with him that day
13 and you told him, "Look, it's either going to be you or
14 Marissa," he then had a choice to make; right?
- 15 A Correct.
- 16 Q All right. And now, this was a month later, over a month
17 later.
- 18 A Yes.
- 19 Q You talked to him. This happened March 29th, 2014; is
20 that right?
- 21 A Correct.
- 22 Q All right. And you all didn't talk to him in the
23 interview room until June 4th, I believe?
- 24 A June 4th.
- 25 Q 10:20 a.m.

- 1 A Correct.
- 2 Q All the way up till 1:51 p.m.?
- 3 A Correct.
- 4 Q Okay. And of that interview how much of that interview
- 5 when he's there in that span of time, how much of that
- 6 interview is actually on tape, that three hours and 21
- 7 minutes, 31 minutes? I'm sorry.
- 8 A I can't give you an estimate. I'd have to go back and
- 9 look at it.
- 10 Q Would it be -- well, let me -- would it surprise you if I
- 11 told you it was -- you all were missing 57 minutes of time?
- 12 A No. If you're saying that it wouldn't surprise me. I
- 13 can't imagine why you would lie.
- 14 Q I'm sorry.
- 15 MR. WILSON, JR.: I had to laugh, Judge. I apologize,
- 16 Your Honor. I'm sorry.
- 17 BY MR. WILSON, JR.:
- 18 Q I, I guess my question is this, really, with that time
- 19 that's missing and the most critical time where you begin to
- 20 then say, "Let me tell you what we think happens", right --
- 21 A Correct.
- 22 Q -- which is the last thing you see on there before you
- 23 come back and then Agent -- excuse me, Investigator Garrett is
- 24 drawing a diagram of what he believes happened.
- 25 A Right.

- 1 Q All that is missing; isn't it?
- 2 A Yes, sir.
- 3 Q About what led up to Randy Collins saying, "Look, I want
4 to tell you something."
- 5 A Right.
- 6 Q Also during that conversation you all had to give him
7 several pointers on where he was during the time this
8 happened; correct?
- 9 A Pointers as to him being at the --
- 10 Q In the --
- 11 A You might need to --
- 12 Q I apologize. In the video you all -- he says he's at the
13 car at one point in time; right?
- 14 A Okay. Now I'm tracking.
- 15 Q Yes, sir.
- 16 A Right.
- 17 Q Right. But you can't see from where you all said the car
18 was; right? You can't see the house; can you?
- 19 A You can see the back of the house.
- 20 Q But you can't see the front?
- 21 A No.
- 22 Q And so then you all say, "Well, no, that's possible";
23 right?
- 24 A Uh-huh.
- 25 Q "You can't be there."

- 1 A Right.
- 2 Q All right. You got to be somewhere else; correct?
- 3 A Correct.
- 4 Q All right. So then he changes his story again?
- 5 A Yes.
- 6 Q All right. Then also in the video you all ask him about
- 7 a pool.
- 8 A Correct.
- 9 Q You all mentioned the pool; right?
- 10 A Yes.
- 11 Q He never mentioned it; did he?
- 12 A No. He didn't.
- 13 Q You all also in the video are telling him, "We think that
- 14 Marissa did this. We think that Marissa did this for money,
- 15 and we don't believe that this was intentional." You all told
- 16 him that; correct?
- 17 A We -- believe -- let me expound on that.
- 18 Q Yes, sir.
- 19 A We didn't believe that the death of Mr. Coombs, Dave or
- 20 Syience, was intentional.
- 21 Q Right. Yeah. That, that, that his death was
- 22 intentional. I apologize.
- 23 A We did believe that the fire was intentional.
- 24 Q That it --
- 25 A It's incendiary.

- 1 Q Right. That it was set by somebody?
- 2 A Right.
- 3 Q You also told him that, "Look, we don't want you. We
- 4 want Marissa Cohen."
- 5 A Correct.
- 6 Q Okay. And you all told him, "Look, no matter what
- 7 happens you're going to go home today."
- 8 A Yes.
- 9 Q Okay. All right. Now, during this video when he's
- 10 telling you all over and over again, "I did not do it. I did
- 11 not do it. I did not do it," did you all ever accept that as
- 12 an answer?
- 13 A No.
- 14 Q No. You continued on him; didn't you?
- 15 A Yes.
- 16 Q You worked on him; right?
- 17 A Correct.
- 18 Q Okay. All right. And that's what police officers do;
- 19 right?
- 20 A Correct.
- 21 Q All right. And what you were talking about earlier with,
- 22 with the Prosecutor was that basically your job is to first
- 23 disarm?
- 24 A Yes.
- 25 Q Okay. Make him feel comfortable?

- 1 A Exactly.
- 2 Q Right. Exactly. And then your job then is to then get
- 3 him to try to tell you something?
- 4 A Correct. That would be the interview process.
- 5 Q Right. Which he did not, did he?
- 6 A Well, he did. He told us that he didn't have anything to
- 7 do with it and then he started going to the stories why he
- 8 couldn't have done it, and that would be the interview
- 9 process.
- 10 Q But the diagram that Investigator Garrett drew, right?
- 11 A Right.
- 12 Q Which is when the video comes back on.
- 13 A Yes, sir.
- 14 Q He didn't draw that diagram; did he?
- 15 A No. Mr. Garrett was helping him with that or
- 16 Investigator Garrett.
- 17 Q Investigator Garrett was helping him on that. All right.
- 18 And then you all then tear that up; correct?
- 19 A Yes.
- 20 Q It was balled up?
- 21 A Correct.
- 22 Q And then you all tell him, "Look. You draw this and tell
- 23 us again."
- 24 A Uh-huh.
- 25 Q So then --

- 1 A Correct.
- 2 Q All right. Thank you. And then he misses certain
- 3 things. He gets things confused; doesn't he?
- 4 A If I remember correctly, yes.
- 5 Q And he then throws out this story, and you all say,
- 6 "Look, you know, there was a -- somebody lit the match," and
- 7 then he says, "Yeah, somebody lit a match and threw it in
- 8 there"; right?
- 9 A I don't remember that specifically.
- 10 Q Well, let me ask you this.
- 11 A I'd have to look at the video again.
- 12 Q He did tell you that somebody lit a match at one point in
- 13 time?
- 14 A Yes.
- 15 Q Then he changed it to a piece of paper.
- 16 A Correct.
- 17 Q Right. And then you all are questioning him about, "That
- 18 makes no logical sense."
- 19 A Right.
- 20 Q Okay. And tell the jury why it is that you believe that
- 21 made no logical sense.
- 22 A Because chances are that if he picked up any paper at
- 23 the, at the scene on the ground it would have already been
- 24 wet.
- 25 Q Okay. The story didn't make sense to you.

1 A Right.

2 Q And you're an arson investigator?

3 A Yes, sir.

4 Q All right. Have you counted the number of calls that
5 Marissa Cohen made on March 29th?

6 A No, sir. I did not.

7 Q All right. And if I told you it was 117 phone calls and
8 only one was to Randy Collins that morning; would that sound
9 about right?

10 A Again, I'll take your word for it based on what you're
11 telling me.

12 Q All right. During your investigation did you find that
13 people in this community, and I don't know if you're from here
14 or not, but this is a tight community; correct?

15 A Again, I'll take your word for it, but I'm not from here.

16 Q Okay. All right.

17 MR. WILSON, JR.: Your Honor, I have no further
18 questions, Judge.

19 THE COURT: All right.

20 REDIRECT EXAMINATION

21 BY MS. RICHARDSON:

22 Q Let me show you again State's 32, and Mr. Wilson asked
23 you about calls that were made around 1 a.m. on the morning of
24 the 29th. I'm going to show you that. I think it's lines
25 1587 and 1588 on the phone records, if I can direct you to

- 1 that. That'd be page 73, page 73 of the phone records.
- 2 A Okay. Okay. I got it.
- 3 Q Okay. And if you can look at, at 1 a.m. On lapse time
- 4 could you tell me the length of those two calls he's talking
- 5 about?
- 6 A Okay. What was the line again?
- 7 Q 1587 and 1588.
- 8 A Okay. Those correspond -- that line corresponds to 3-29-
- 9 14 at 1:02 a.m. The seizure time was 24, and I don't know
- 10 what the seizure time means, and the elapse time appears to be
- 11 five seconds.
- 12 Q .05?
- 13 A .05. Yes.
- 14 Q And the next one?
- 15 A At 1:03 that's going to be .07.
- 16 Q Okay. All right. And as -- and again, I think on the
- 17 morning of the 29th when the fire occurred how many phone calls
- 18 were between Marissa Cohen and Randy Collins?
- 19 A On the 29th?
- 20 Q Yeah. If you want to look at your chart that you did.
- 21 A Oh, yes, please. That would actually be more beneficial
- 22 --
- 23 Q Yeah.
- 24 A -- than having to look at all the numbers. Let's see.
- 25 Can I hold it a little bit?

- 1 Q Yeah.
- 2 A Three on the 29th.
- 3 Q Okay. And as far as the Miranda warnings you said you
- 4 actually read those to him?
- 5 A Yes, ma'am.
- 6 Q And did you have information that he had a driver's
- 7 license?
- 8 A Not at that time, no, ma'am. I don't remember.
- 9 Q Okay. But you're aware of that now?
- 10 A I am.
- 11 Q Okay. And he has a driver's license?
- 12 A Yes, ma'am.
- 13 Q And just in your conversations with his day-to-day work
- 14 he was -- he was able to tell you about he knew how to repair
- 15 cars?
- 16 A Yes, ma'am.
- 17 Q Do you know how to change a manifold?
- 18 A No, ma'am.
- 19 Q He knew that he could get a DNA test for paternity?
- 20 A Yes, ma'am. He did know that.
- 21 Q And when you downloaded these other cell phones that he
- 22 had, these other cell phones that he had --
- 23 A Correct.
- 24 Q -- and you actually got phone records and contents of
- 25 text messages; did you not?

- 1 A I didn't actually do the downloading, but yes, that's
- 2 part of the packet that I got from the -- from that unit. I
- 3 got all of that, photos, phones, song titles, all sorts of
- 4 stuff.
- 5 Q So on those phones were there text messages between him
- 6 and other individuals?
- 7 A Yes, ma'am.
- 8 Q Okay. And he had downloaded songs?
- 9 A Yes, ma'am. I believe so.
- 10 Q Okay. And in fact, he actually used a flip phone during
- 11 your interview?
- 12 A Oh, at the very beginning, yes, ma'am.
- 13 Q Now, Mr. Wilson asked you if before you talked with him
- 14 you had any evidence against him. He had given a statement to
- 15 Officer Garrett; is that right?
- 16 A Mr. who?
- 17 Q Mr. Collins had given a statement with an alibi to
- 18 Officer Garrett?
- 19 A Correct. Yes.
- 20 Q Okay. And did you have information that that wasn't
- 21 true?
- 22 A That what he said wasn't true?
- 23 Q That his alibi wasn't true?
- 24 A Yes. We had information.
- 25 Q All right. So when he came in you felt like he'd already

- 1 told a lie?
- 2 A Correct.
- 3 Q Okay. And then when you started asking him where he was
- 4 he tells you -- kind of tells you that again?
- 5 A Yes, ma'am.
- 6 Q All right. And you knew that wasn't true?
- 7 A Correct.
- 8 Q All right. And then he denies any of those phone calls
- 9 with Marissa Cohen.
- 10 A Correct.
- 11 Q And you knew that was a lie?
- 12 A Yes, ma'am.
- 13 Q And then eventually he actually does admit to you that he
- 14 did talk to her?
- 15 A Yes, ma'am.
- 16 Q And admits that he talked with her -- he admits that he
- 17 talked to her the morning her child died?
- 18 A Yes, ma'am.
- 19 Q And that she had called him, and he told her how sorry he
- 20 was?
- 21 A Correct.
- 22 Q Okay. "I'd do anything for you?"
- 23 A That's true.
- 24 Q Okay. "I'd do anything for you," and that was the
- 25 morning of the fire?

- 1 A Yes, ma'am.
- 2 Q Do people usually just come in and say, "Hey, you got
3 me"? I mean, really?
- 4 A No, ma'am. That's very rare.
- 5 Q Does it take pointing out evidence, the problems with
6 what they've told you to get them to come forward?
- 7 A That's part of the whole process. We -- as I've stated
8 earlier, the first part of our techniques would be just to
9 disarm them, to get to know them, find out about them, their
10 well-being, could -- I mean, should they be talking to us
11 right now. I like to make sure that they're fed, slept, not
12 on any sort of drugs or alcohol because that's problematic,
13 and then going into further detail the interview process is
14 getting their side of the story so that we can compare it to
15 what we already know. Then once that -- if it meshes with
16 what we know then it stops. If it doesn't mesh, then we go
17 into an interrogation method which is accusatory, and we start
18 saying, "Well, look, you're telling us this but everything
19 that we've learned so far is saying that it didn't happen this
20 way."
- 21 Q And before, before this interview had there been any
22 information regarding the window on the front side of the
23 house?
- 24 A No, ma'am.
- 25 Q All right. I have no further questions.

1 MS. RICHARDSON: I'd ask that he be excused from his
2 subpoena.

3 MR. WILSON, JR.: Briefly, Your Honor.

4 RECROSS EXAMINATION

5 BY MR. WILSON, JR.:

6 Q The calls on the 29th, you don't know who was on the phone
7 that night; do you?

8 A No. I just know the phone numbers.

9 Q That's right. And you don't know what conversation took
10 place?

11 A Again, no.

12 Q Do you know how long -- in your investigation did you
13 find out how long Tina or Marissa Cohen had known Randy
14 Collins?

15 A Since a long time ago, childhood.

16 Q She'd actually stayed with him at one point in time;
17 didn't she?

18 A Correct.

19 Q And you all discovered that in your investigation;
20 correct?

21 A Yes, sir.

22 Q Okay. Now, on the cell phones, counsel asked you about
23 the cell phones and that there were text messages. On cell
24 phones can you speak into the cell phones and it copies what
25 you say?

- 1 A Actually with some cell phones you can. It's -- like
2 with the Iphone you can say like if you're driving, "I'll be
3 home later," and it'll write it down and you send it.
4 Q It'll write it down for you?
5 A Correct.
6 Q All right. And actually he never said sorry in the
7 interview; did he?
8 A I'm sorry?
9 Q Randy Collins never said he told Marissa Cohen sorry?
10 Did he say that in the interview?
11 A I do not recall.
12 Q Well, let me ask you this, isn't what he really said was,
13 "Look, I'll do anything for you that I can do for you"? Isn't
14 that what he said?
15 A I believe so.
16 Q Okay. All right. Now, last question, your office and,
17 and, and, and, and the investigator's office from Georgetown
18 you all go through an exhaustive process to investigate these
19 cases; correct?
20 A Yes, sir.
21 Q Yes. And a lot of times it is -- I know it's tough work.
22 I understand that. In this case, obviously, this was a tough
23 one?
24 A Yes, sir.
25 Q Because of the child; correct?

1 A Correct.

2 Q Okay. But other than his statement is there anything
3 else, that there's a nexus or connection or anybody that says
4 that Randy Collins did the burning on this house?

5 A Right. Just his statement.

6 Q All right.

7 MR. WILSON, JR.: And that's it, Judge. No, no further
8 questions, Your Honor.

9 MS. RICHARDSON: No further questions, Your Honor.

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

11 A Thank you.

12 THE COURT: Ms. Richardson, you were going to publish the
13 tapes, but you need some time to redact?

14 MS. RICHARDSON: Not at this point I'm not going to
15 publish them, Your Honor.

16 THE COURT: Okay. All right.

17 MS. RICHARDSON: But I will need some time to redact. I
18 do have a witness we could do before lunch and --

19 THE COURT: Certainly. Certainly.

20 MS. RICHARDSON: -- maybe take a little --

21 THE COURT: Certainly.

22 MS. RICHARDSON: Okay.

23 THE COURT: Call your witness.

24 MS. RICHARDSON: The State calls Hue Tang to the stand.

25 THE COURT: Mr. Tang, come around.

1 WHEREUPON, Hue Tang is called to the stand, duly sworn by
2 the clerk and testified as follows:

3 THE CLERK: Would you please spell your name for the
4 Court?

5 MR. TANG: H-U-E, T-A-N-G.

6 THE CLERK: Thank you so much. Please have a seat.

7 MR. TANG: Thank you.

8 DIRECT EXAMINATION

9 BY MS. RICHARDSON:

10 Q Good morning.

11 A Good morning.

12 Q Did you drive from Columbia this morning?

13 A Yes, ma'am.

14 Q Okay. Could you tell us again your name?

15 A Hue Tang.

16 Q Okay. And Mr. Tang, where are you employed?

17 A I'm employed by South Carolina Law Enforcement Division.

18 Q All right. And that's SLED?

19 A That's correct.

20 Q All right. And what do you do there?

21 A I'm employed as a forensic scientist assigned to trace
22 evidence section.

23 Q And what sort of education do you have?

24 A I receive a Bachelor of Science with major in chemistry
25 from University of South Carolina, and I attend a few courses,

1 graduate course from University of South Carolina, also.

2 Q Okay. So you have a degree in chemistry?

3 A That's correct.

4 Q And I don't know if Mr. Wilson wants me to go through all
5 these --

6 MR. WILSON, JR.: Your Honor --

7 Q -- but you do have multiple trainings in your area?

8 A That's correct.

9 Q Okay.

10 MR. WILSON, JR.: Judge, he's absolutely an expert. We
11 don't contest that.

12 THE COURT: All right. Then you -- you're offering him
13 as an expert in the field of --

14 BY MS. RICHARDSON:

15 Q Is it usually trace evidence?

16 A Trace evidence.

17 THE COURT: Trace evidence, and again, I have explained
18 to you what an expert is and that an expert may give an
19 opinion and this witness has been qualified in the field of
20 trace evidence chemistry. Okay.

21 Q And how long have you been with SLED?

22 A 28 year.

23 Q Okay. Could you even guess at how many samples you've
24 tested?

25 A Thousand of cases.

- 1 Q Okay. All right. And in this case you've been asked to
2 come testify about SLED, SLED lab number L1404106; is that
3 right?
- 4 A That's correct.
- 5 Q Okay. And that's indicated as a case involving a
6 deceased individual, Dave Coombs?
- 7 A That's correct.
- 8 Q All right. And in that regard, were you given items to
9 test?
- 10 A Yes, ma'am.
- 11 Q All right.
- 12 A I receive five, five items from this case.
- 13 Q All right. Let me show you -- I'm handing you --
- 14 A I'm sorry, six item.
- 15 Q -- State's 25, State's 26, 27, 28 -- yeah. The number's
16 on the side of that one, 29 and 30, and are those the items
17 that you received?
- 18 A Yes, ma'am.
- 19 Q Okay. And tell me how you can identify them.
- 20 A By the label of the case, have the case number and the
21 item number and that's my initial and that's the day I
22 initialed the label and I did that to all these items.
- 23 Q Okay. And do you keep records of who handled the
24 evidence prior to you --
- 25 A We have a --

- 1 Q What we call a chain of custody?
- 2 A That's correct.
- 3 Q Okay. And do you have that?
- 4 A Yes, ma'am.
- 5 Q Okay. And can you tell who first received the evidence
- 6 at the SLED lab?
- 7 A Our evidence technician, Patricia Crooks.
- 8 Q Okay. And is, is Ms. Crooks still with the agency or she
- 9 retired?
- 10 A She retirement.
- 11 Q Okay. And then from there where did it go?
- 12 A I receive it from her on the same day on March 31st, 2014.
- 13 Q And do you have safeguards to make sure nobody's opened,
- 14 opened those cans or broken the seals and done anything with
- 15 the evidence?
- 16 A I receive from her that day and I went ahead and
- 17 processed the case on that day.
- 18 Q Okay. And when you received the evidence had, had it
- 19 been tampered with in any way? Were the seals still intact?
- 20 A The seal was intact.
- 21 Q And you tested those items?
- 22 A Yes, ma'am.
- 23 Q Okay. And what are you testing them for?
- 24 A Test for ignitable liquid in those sample.
- 25 Q Okay. And let's go with sample number one, can you

1 briefly just kind of tell us how you do it just real briefly?
2 A Sure. First we take inventory of the item from the
3 container. In this case, container A contain six item and
4 example the seal of the each can and this one is all them are
5 seal and had the tamper proof label, and I place the label on
6 with my initial on each item. After that I open the lid and
7 quickly observe the contents of the -- each can and I place
8 what we call is activated charcoal strip. What this does is
9 function is to absorb and, and we place this can in the oven.
10 We set a temperature between 60 and 70 overnight for 16 hour.
11 During that time the oven heats the sample and the volatile
12 competent from the debris escape from it and it's absorbed
13 onto that charcoal strip.

14 The following day I removed the charcoal strip, and I
15 archive half of that, which is in this small pouch, and I
16 place the other half into a tube and I add a solvent. In this
17 case it's carbon disulfide. Then I sonicate it. Then I
18 remove the liquid from the tube and place it in the vial and
19 we place on an instrument, gas chromatograph with the detector
20 mass spectrometer.

21 Q Okay. And that's what tells you whether or not there are
22 ignitable liquids. That's the process you use as a chemist?

23 A Yes. That schematic, yes.

24 Q Okay. And for item number one what did you find?

25 A Found a having -- sorry, heavy petroleum distillate

1 found. Example for heavy petroleum distillate include, but
2 are not limited to, kerosene, diesel fuel, some jet fuel and
3 some charcoal starters.

4 Q And in item two?

5 A Same result.

6 Q Same result, heavy petroleum distillate?

7 A That's correct.

8 Q And item number three?

9 A Item number three is a mixture of gasoline and a heavy
10 petroleum distillates were found.

11 Q Okay. And item number four?

12 A Same as item number three.

13 Q Okay. Gas and a heavy petroleum distillate?

14 A That's correct.

15 Q And item number five?

16 A Item number five no ignitable liquid of evidential value
17 is found.

18 Q Okay. And item number six, and we have 5.1 and 6?

19 A 5.1 and 6 no, no ignitable liquid found for item 5.1, and
20 for item 6 no ignitable liquids found.

21 Q And can you explain to us the difference in the
22 flammability of a heavy petroleum distillate and just
23 gasoline?

24 A Gasoline a very flammable liquid is required a lower
25 ignition source to start, ignite a fire as compared to HPD,

1 I'm sorry, heavy petroleum product, distillates.

2 Q And as far as kerosene, does it burn longer or shorter
3 than gas?

4 A The, the time it's burn, yeah, it burn longer.

5 Q And what about the flammability point or the ignition
6 point between gas and kerosene?

7 A Flash point for gasoline is at negative, I believe
8 negative 45 Fahrenheit, and flash point for kerosene is at 116
9 to 159 range.

10 Q Okay. And tell me what that means in just regular.

11 A As I mentioned earlier its, its flash point is the --
12 when the vapor escape, the minimum temperature for the vapor
13 escaping the sample to ignite.

14 Q All right. I have no further questions. Answer any
15 questions that Mr. Wilson may have for you.

16 MR. WILSON, JR.: Just briefly, Your Honor.

17 CROSS EXAMINATION

18 BY MR. WILSON, JR.:

19 Q Kerosene --

20 A Yes, sir.

21 Q -- is different -- it's a different substance from
22 gasoline; isn't it?

23 A That's correct.

24 Q All right. And can you explain to the jury how kerosenes
25 differ from gasoline?

- 1 A As I mentioned earlier the, the flash point for one is a
2 flammable. The other one is combustibile.
- 3 Q Okay. And, and these are liquids that we're talking
4 about; correct?
- 5 A That's correct.
- 6 Q All right. But they can also dissipate over time?
- 7 A That's correct. If you leave exposed to the
8 environment.
- 9 Q Exactly. So if you put gasoline on something or you pour
10 it on the floor and the carpet it would actually go into vapor
11 as it dissipate; correct, over a period of time?
- 12 A Gasoline is considered more volatile. It escape faster.
13 Since kerosene it's heavier, it's linger longer.
- 14 Q So it'll sit around?
- 15 A Yes. Compared to gasoline. Yes.
- 16 Q Compared to gasoline?
- 17 A Correct.
- 18 Q But both will go eventually into vapors; correct?
- 19 A Yes. It's evaporate.
- 20 Q Okay.
- 21 A Volatile.
- 22 Q Thank you.
- 23 MR. WILSON, JR.: No further questions, Your Honor.
- 24 MS. RICHARDSON: Your Honor, and I forgot to --
- 25 THE COURT: You want to introduce your reports?

1 MS. RICHARDSON: The reports and that's one. This has
2 already been marked. All right.

3 REDIRECT EXAMINATION

4 BY MS. RICHARDSON:

5 Q And I'm going to show you 31, State's 31. Is that the
6 charcoal strip you used in some of your testing?

7 A The small pouch this archived one. This one we did not
8 test.

9 Q Okay.

10 A We did not test with the instrument but we extract it
11 from the fire debris.

12 Q Okay. That's what you used to extract?

13 A Yes.

14 Q And then let me show you State's 34. Is that your
15 report?

16 A Yes, ma'am, this a copy of my report.

17 Q Okay.

18 MS. RICHARDSON: So Your Honor, at this time I would
19 offer State's 25, 26, 27, 28, 29, 30, 31 and 34 into evidence.

20 MR. WILSON, JR.: Your Honor, without objection, Judge.

21 THE COURT: All right. They're admitted then.

22 MS. RICHARDSON: Okay.

23 (State's Exhibit Number 25 [Arson Can - #1 sample],
24 State's Exhibit Number 26 [Arson Can - #2 sample], State's
25 Exhibit Number 27 [Arson Can - #3 sample], State's Exhibit

1 Number 28 [Arson Can - #4 sample], State's Exhibit Number 29
2 [Arson Can - #5 sample], State's Exhibit Number 30 [Glass Vial
3 - #6 sample], State's Exhibit Number 31 [Glass Vial] and
4 State's Exhibit Number 34 [Report - Tang] admitted into
5 evidence and appropriately marked.)

6 BY MS. RICHARDSON:

7 Q And one more thing, as far as the mixtures that you found
8 between gasoline and heavy petroleum, do you have any
9 information about the ratio of that?

10 A No, ma'am.

11 Q Okay.

12 MS. RICHARDSON: I have no further questions.

13 MR. WILSON, JR.: Just one question, Judge.

14 RECROSS EXAMINATION

15 BY MR. WILSON, JR.:

16 Q All the items that you collected, nothing came back
17 connected to my client; correct?

18 A I have no knowledge that.

19 Q Thank you so much.

20 MR. WILSON, JR.: No, no further questions, Judge.

21 THE COURT: You may step down. Thank you, Mr. Tang.

22 MS. RICHARDSON: We'd ask that he be excused from his
23 subpoena.

24 MR. WILSON, JR.: Your Honor, without objection.

25 THE COURT: Mr. Tang, you're released from your subpoena.

1 A Thank you, Your Honor.

2 THE COURT: Thank you, again.

3 MS. RICHARDSON: And Your Honor, this may be a good point
4 to break to do that redaction.

5 THE COURT: All right. Ladies and gentlemen, we have a,
6 a little technical matter that we have to handle. I'm going
7 to let you go to lunch. I ask you to be back at 1. That'll
8 be an hour and 15 minutes. Thank you. We're at ease.

9 OFF THE RECORD

10 (On the record. The following takes place outside the
11 presence of the jury.)

12 THE COURT: Are we ready now? Please just keep your
13 seats.

14 MS. RICHARDSON: Your Honor, we are ready. We can
15 proceed with a few witnesses and then would have to take a
16 break and have Mr. Wilson review the redactions. I could
17 start with Mr. Garrett, but --

18 THE COURT: Well, Mr. Wilson, can't he review those
19 tonight, and, and let's at least get some witnesses today?

20 MS. RICHARDSON: Yes, Your Honor.

21 THE COURT: Okay.

22 MS. RICHARDSON: I just wanted to make sure you knew he
23 still had to review it.

24 THE COURT: I mean, that could be another two hours.
25 Okay. Let's go ahead and bring the jury in then.

1 (Whereupon, the following takes place in the presence of
2 the jury.)

3 THE COURT: All right. We have all of our jurors in the
4 courtroom now. Ladies and gentlemen of the jury, I apologize
5 for this extraordinary delay. You heard before lunch that we
6 were preparing to provide you with some sort of video
7 recording or whatever. You, you heard that. We've had some
8 serious technical difficulties with that which we've been
9 trying to resolve, have not been completely resolved, but what
10 we're going to do is I've asked Ms. Richardson then to take
11 some witnesses out of order and so we can move on this
12 afternoon and perhaps will have that for us in the morning. I
13 certainly hope so and those issues would be resolved, and
14 again, I apologize. I know it's not a pleasant thing to have
15 to sit back there in the, in the jury room wondering what
16 we're doing but just one of those things, and we're -- and I
17 apologize. Ms. Richardson, call your witness.

18 MS. RICHARDSON: The State calls Dr. Michael Caplan.

19 WHEREUPON, Michael Caplan is called to the stand, duly
20 sworn by the clerk and testified as follows:

21 THE CLERK: Okay. Would you please spell your last name
22 for the Court?

23 MR. CAPLAN: Yes. My last name is spelled C-A-P-L-A-N.

24 THE CLERK: Thank you, Mr. Caplan. Please have a seat.

25 THE COURT: Good morning, Doctor.

1 MR. CAPLAN: Good morning.

2 THE COURT: Ms. Richardson.

3 DIRECT EXAMINATION

4 BY MS. RICHARDSON:

5 Q Dr. Caplan, where are you employed?

6 A I am employed at the Suffolk County New York Office of
7 the Medical Examiner in Hauppauge, Long Island, New York.

8 Q Okay. And were you formerly employed at the Medical
9 University of South Carolina?

10 A Yes. I was.

11 Q And how long were you at MUSC?

12 A I was at MUSC for two different periods, one from 2004 to
13 2008 and then another period from 2011 to 2014.

14 Q Okay. And what was your position at the Medical
15 University?

16 A I was in the Department of Pathology and Laboratory
17 Medicine where I practiced forensic pathology, pediatric
18 pathology and also participated in teaching of residents and
19 medical students.

20 Q And could you tell us your educational background?

21 A Yes. So I obtained my college undergraduate degree at
22 Michigan State University in forensic science in 1983.

23 Following that I went to the University of Connecticut School
24 of Medicine, graduated with an MD degree in 1987. Then I
25 completed a five-year residency in pathology, which is the

1 specialty of medicine which deals specifically with disease.
2 That was at the University of Michigan from 1987 to 1992. I
3 then did a year in forensic pathology and that's the branch of
4 pathology which deals specifically with issues of public
5 health and public safety. That was at the New York City
6 Medical Examiner's Office from 1992 to 1993 and then I
7 completed one more year of training in pediatric pathology,
8 which is the study of diseases of children, infants and unborn
9 fetuses. That was at the University of Pittsburgh Medical
10 Center from 2003 to 2004. So that's the extent of my
11 education and training.

12 Q And how many autopsies do you think you have performed?

13 A I would estimate that I have either performed or directly
14 supervised somewhere between 2000 and 2500 autopsies roughly.

15 Q And have you been qualified as an expert to testify in
16 court?

17 A Yes. I have.

18 Q And how many times?

19 A I would estimate somewhere between 100 and 150 times.

20 Q Does that include the State of South Carolina?

21 A Yes. It does.

22 MS. RICHARDSON: Your Honor, at this time I'd offer Dr.
23 Caplan as an expert in the field of forensic pathology.

24 THE COURT: Mr. Wilson?

25 MR. WILSON, JR.: Your Honor, without objection.

1 THE COURT: He's so qualified, and again, I have
2 explained to you what it means to be qualified as an expert
3 and how that relates to giving opinions and giving the reasons
4 for opinions, and again, that would apply to Dr. Caplan as
5 well. Thank you.

6 BY MS. RICHARDSON:

7 Q Dr. Caplan, on March 30th of 2014, did you perform an
8 autopsy on Dave Coombs?

9 A Yes. I did.

10 Q And who requested that autopsy? How was it referred to
11 you?

12 A The autopsy was requested by Mr. -- I believe his name
13 was Mr. Chase, was it Chase -- I want to make sure I have the,
14 the, the last, the last name properly here, Chase Ridgeway.
15 I'm sorry. Mr. Chase Ridgeway, who was the deputy coroner for
16 Georgetown County, and he requested that the Medical
17 University of South Carolina perform the autopsy, so referred
18 from the Georgetown County Coroner.

19 Q And how old was Mr. Coombs?

20 A Mr. Coombs was 12 years old to my understanding.

21 Q Okay. And a male child?

22 A Yes.

23 Q What was his height and weight?

24 A He was approximately weighed 66 pounds and was
25 approximately four feet seven inches.

1 Q And you did a complete autopsy on him?

2 A Yes. I did.

3 Q Okay. And what were your findings?

4 A Well, the main findings were that David was a well-
5 developed, well-nourished child whose, you know, growth was
6 consistent with what you would expect to see in a, in a 12
7 year old boy. He had black curly hair. He had brown eyes.
8 He had braces on his teeth, and, and really, you know, no, no
9 sort of, you know, scars or, or any other major skin lesions
10 on the outside. My main findings on the external exam was
11 that he had multiple burns that were mostly on his back. Some
12 were on the, the -- there was some on the upper part of the
13 back. There was some on the lower part of the back. There
14 was some over the buttock region, some over the calves, more
15 the left than the right, and those injuries, the, the -- those
16 and they were partial thickness burns. They weren't
17 completely all the way through, but they were enough that they
18 were -- they had sloughed the outer layer of skin, what we
19 call the epidermis so that you could see the dermis and that
20 the area of, of his body surface that was involved by those
21 burns was somewhere between 13 and 15 percent to my
22 estimation.

23 Q And could you tell if those were postmortem?

24 A It's, it's not, it's not possible to tell actually
25 whether those burns were, were postmortem. So I use the term

1 perimortem meaning they could have, they could have occurred,
2 you know, still when he was technically alive but around the
3 time of his death, and so we use the term perimortem.

4 Q And those were just on the back side of his body?

5 A That is correct. He did have one other small area of
6 skin slippage over the jaw line, but all of the other burns
7 were over on the, the back surface of his body.

8 Q And what else did you find?

9 A The other things that I found was that he had, on the
10 external examination, he had -- his nose and his mouth were
11 singed with, with, with soot. So he had some, some deposition
12 of soot, and I define soot as basically completely any fine
13 particles of, of black carbon material, and that was deposited
14 on his, as I said on his nose and on his mouth, and he also
15 had a little bit of soot that was over the lower part of his
16 back. Besides that, he did -- also had a little bit of
17 wrinkling on the palm surfaces of his, of his hands and
18 fingers, and that's pretty much the extent of what I saw on
19 his external examination.

20 Q And did you do some tests on his blood?

21 A Well, yes, I, I did a test on his blood. I submitted
22 tests on his blood and that was part of the internal
23 examination which had, which had findings, also.

24 Q Okay. Well, tell me about the internal findings.

25 A Yes. So on the internal examination what I found was

1 that his entire airway all the way from the epiglottis, which
2 is the flap that sits over the larynx to prevent you from
3 choking when you're swallowing, that that surface was
4 completely covered with black soot and mucous and that black
5 soot went all the way down from the epiglottis over the vocal
6 cords and then down into the major bronchi, which are the
7 major tubes that go to the lungs. So there was basically a
8 layer of black soot and mucous that went all the way down to,
9 to the lungs. This was also, and one thing that I forgot to
10 mention on the external examination is that he had a very
11 prominent what we call a foam cone which is a mixture of fluid
12 and air that churns into a fine froth and that was in his nose
13 and mouth and was also in his lungs, and we have a fancy name
14 for that. That's -- we call that pulmonary edema, and so the
15 other thing I noticed in the internal examination was that all
16 of his organs were -- had a very bright red color, the heart,
17 the thymus, which sits over the, the interior surface of the
18 heart and the body cavities were bright red, what I would
19 describe as almost a cherry red, and then also as part of the
20 internal examination we did take specimens for toxicology,
21 including blood, urine and vitreous fluid from the eye, and I
22 didn't actually test that. We submitted that to an
23 independent forensic laboratory that we call AIT, Associated
24 Independent Laboratories in, in Indiana.

25 Q And were there any significant findings based on that?

1 A Yes. There were.

2 Q Okay. And tell me about that.

3 A Yes. The most significant finding was that the carbon
4 monoxide level, and by definition the carbon monoxide is bound
5 to the hemoglobin in the blood. So we have -- we call that
6 carboxyhemoglobin. The level of that was 74.4 percent. Also,
7 the toxicology in the blood and in the vitreous was entirely
8 negative for alcohol or other related substances or any
9 illicit or therapeutic drugs. The only other positive finding
10 was that the urine had ethanol, ethyl alcohol at a
11 concentration of .092 percent.

12 Q Okay. And what does that mean?

13 A Well, the, the presence of alcohol in the urine and not
14 in the, the blood or the vitreous suggests that there was a
15 source other than from the outside that caused it, meaning
16 that instead of -- alcohol can be formed not only from
17 drinking from the outside, but it can also be formed by
18 bacteria inside the body through a process called
19 fermentation, and if there's bacteria and there's sugar it can
20 actually make alcohol in the urine and that can occur after
21 death.

22 Q So since his blood was negative and his urine was
23 positive you feel like it was from the bacteria?

24 A Yes. In my opinion, and then not just the blood but also
25 the vitreous, the eye fluid, which correlates very well with

1 the blood.

2 Q So based on these findings what did you determine was his
3 cause of death?

4 A In my opinion the cause of David Coombs' death was
5 inhalation of products of combustion, which is a way of saying
6 smoke inhalation, but includes all of the -- not just the
7 injuries from the -- from the smoke itself, but from the
8 carbon monoxide and other chemicals that, that get into the
9 blood.

10 Q And with the, the skin slippage and burn marks that were
11 on the back --

12 A Correct.

13 Q -- could that be caused by the heat that was in the
14 building?

15 A Yes. That could be one factor, absolutely.

16 Q Okay. But no indication of a direct deep burn; is that
17 right?

18 A That's right. All of the burns that I observed were
19 partial thickness, meaning that they didn't go below -- the
20 epidermis is the most -- is the layer of skin that we all see,
21 and then when you have a cut or a scrape then you see the
22 dermis, which is the next layer, but nothing went deeper,
23 nothing went to the fat, deeper than the, than the dermis.

24 Q And then, again, the front side of his body appeared to
25 have been protected from that?

1 A That's correct. With, with the one exception of, of, of
2 one small area on the, on the left side of the jaw.

3 Q Okay. And, and if his face were turned up then that
4 would be expected to be similar to the back; is that right?

5 A That's correct.

6 Q And do you have a, a timeframe or can kind of put in
7 perspective how long it would have taken him to succumb to his
8 injuries and how that actually occurs?

9 A Yes. So the, the time that it takes to succumb to
10 injuries like this is related to multiple factors, but the two
11 biggest factors are the, the, the concentration of the carbon
12 monoxide and then the smoke in the, in the environment, how
13 much and other factors include how much oxygen gets -- there
14 is or gets depleted, and then the other factor is whether he
15 had any other diseases that could have made his threshold
16 lower for the injury. He was healthy. So he didn't have any
17 other diseases, but in an -- in a closed space with, with,
18 with very high concentrations of carbon monoxide, in my
19 opinion it would have taken somewhere in the range of minutes
20 for him to succumb, and even before he actually died, it's
21 been shown that once carbon monoxide saturations get above 30
22 percent it's been shown that people can become incapacitated.
23 Their, their lives can still be saved but they become
24 incapacitated. Their ability to move and, and perform
25 volitional, voluntary actions is, is significantly

1 compromised. So in my opinion it would have -- minutes is,
2 is, is probably the most that I can, can say.

3 Q Okay. And you also found an abrasion on his right
4 shoulder?

5 A Yes. I did.

6 Q Okay. And would that be consistent with falling?

7 A Yes. That could be consistent with falling or stumbling
8 or, you know, any, any kind of contact, you know, with, with
9 a, with a surface on the inside of the room.

10 Q And this level of carbon monoxide, would that cause some
11 disorientation?

12 A Yes. The, the, the, the level of carbon monoxide that
13 would cause disorientation is actually well below that, you
14 know, in the range of 20 to 30 percent. The level of, of
15 carbon monoxide, his 74 percent is, is basically in the level
16 that we see with people that die from smoke inhalation and
17 carbon monoxide poisoning that don't have underlying
18 illnesses.

19 Q And is this a, a common type thing when you see people
20 who are trying to escape a burning building, this breathing
21 in?

22 A Yes. It's, it's, it's that when, when, when people are
23 exposed to very high amounts of, of smoke and, and, and in an
24 enclosed space that, yes, that it is typical when we see that
25 high carbon monoxide and we see the soot in the airway that is

1 the evidence to us that the person was alive and breathing at
2 the time of the fire.

3 Q And do you also determine manner of death?

4 A Yes. We determine manner of death, but that's done not
5 just from the autopsy but in conjunction with the entire
6 circumstances that we glean from the, from the case
7 investigation.

8 Q Okay. And what are the options for manner of death?

9 A Well, the options for manner of death are a natural,
10 which by definition means due entirely to a disease process,
11 and then non-natural gets divided into homicide, which is
12 death at the hands of another person or as the result of a
13 deliberate act of another person, accident, which is death
14 where there's no intent to do harm, suicide, which is self-
15 inflicted where there's an intent to hurt yourself and then
16 undetermined is when we, when we don't have enough evidence,
17 information to sub-classify a manner of death. So sometimes,
18 for example, somebody may be found at the bottom of the stairs
19 and you don't know how they got there, you're not sure whether
20 they were drunk and it was an accident or whether they were
21 pushed or -- and then in, in situations like that we would
22 call it undetermined, which if we got information at a later
23 time we could, we could always change that. So natural,
24 homicide, suicide, accident and undetermined, those are the
25 manners of death.

1 Q And in this case what did you determine the manner of
2 death to be?

3 A In this case I determined the manner of death to be
4 homicide.

5 Q And that was based on?

6 A That was based on information provided to me by the
7 Georgetown County Coroner and, and the sheriff's department.

8 Q So two, these findings on cause of death as smoke
9 inhalation, I guess, the common term --

10 A Yes.

11 Q -- and that the manner of death was homicide, are those
12 your opinions to a reasonable degree of medical certainty?

13 A Yes. They are.

14 Q I have no further questions. Answer any questions.

15 THE COURT: Mr. Wilson.

16 MR. WILSON, JR.: Your Honor, just briefly, Judge.

17 CROSS EXAMINATION

18 BY MR. WILSON, JR.:

19 Q Good afternoon, Doctor.

20 A Good afternoon.

21 Q Just a couple of questions. When you do your autopsy
22 your primary focus is to determine manner of death, how
23 somebody died basically?

24 A Well, actually my focus is to determine not just manner
25 of death but, but cause of death, and really to show -- the

1 autopsy is done to help reconstruct or contribute to figuring
2 out how the events occurred. It's a part of the overall case
3 investigation.

4 Q Okay. Did you collect any evidence or did you find any
5 information or anything in your case file to support that
6 Randy Collins committed a homicide against this young man?

7 A Not directly from the autopsy, but within the context of
8 the entire investigation I did, and when we determine manner
9 of death, it's based upon the entire investigation, not just
10 what goes on in the autopsy room.

11 Q Okay. Let me be clear, are you telling the jury that you
12 know for a fact that Randy Collins committed a homicide
13 against Devon [sic] Coombs?

14 A That's not what I said.

15 Q I'm asking you to clarify for the jury.

16 A Okay. I'm, I'm sorry. What was the question again?

17 Q My question is, do you have any information in your case
18 file or did you collect any data while you did your pathology
19 report; correct, report on pathology?

20 A Yes.

21 Q Okay. Do you have any evidence which tends to show that
22 this man, Randy Collins, committed a homicide against Devon
23 [sic] Coombs?

24 A I have evidence that comes from statements from speaking
25 with the Georgetown County Coroner and Georgetown County

1 Sheriff's Office. That's the evidence that's in the report.

2 Q I understand, but I'm asking you --

3 THE COURT: You, you asked him if he had anything in his
4 file --

5 MR. WILSON, JR.: That's right.

6 THE COURT: -- which I would assume everything. I
7 believe what you meant to ask him was were any of his
8 findings.

9 BY MR. WILSON, JR.:

10 Q Were any of your findings, did you find that Randy
11 Collins committed a homicide?

12 A No. I did not.

13 Q You don't do that kind of work; do you? You don't
14 investigate crimes to determine who did what?

15 A No. But indirectly we can sometimes provide information
16 like that, and I'd be glad to give you an example if you like.

17 Q Well, I'm talking about this case. Tell me -- give me,
18 the jury, give the jury an example of what evidence
19 forensically that you gathered against Randy Collins.

20 A The evidence that I gathered was that I determined that
21 David Coombs was a healthy child who had no diseases that
22 contributed to his death and that he died from the effects of
23 smoke inhalation, and the effects of that smoke inhalation
24 were created from the circumstances which were provided to me
25 which indicated that this -- that your Defendant caused this,

1 and that's how I got my information.

2 Q So everything you got you got from Georgetown County?

3 A In terms of the circumstances of the death, correct. In
4 terms of the autopsy findings I got those myself.

5 Q Okay. Well, what in the autopsy findings did you find
6 that will inculcate or tend to prove that Randy Collins killed
7 somebody?

8 A Well, nothing directly, but indirectly, yes, and again, I
9 know that David Coombs did not die of a natural disease
10 process. He didn't have any diseases, and the fatal injury
11 that I found was that he had smoke inhalation with soot in his
12 airway and a fatal concentration of carbon monoxide in his
13 system and that was created by a fire, the circumstances of
14 which, again, were provided to me by the Georgetown County
15 Coroner and sheriff's office, and that's the basis of my
16 opinion.

17 Q Okay. And so what nexus are you pointing out to the
18 jury? What piece of evidence are you pointing out to the jury
19 which connects Randy Collins to the fire and his death,
20 particularly his death?

21 A I don't understand the question, sir. I'm sorry.

22 Q Give you an example, okay. You do an autopsy. Okay.

23 All right. And let's say in this particular autopsy you find
24 out that someone was shot. All right. They died by a
25 shooting; correct? That, that's happened.

- 1 A Many times, yes.
- 2 Q Okay. All right. And then you can pull out or you would
- 3 I assume extract the bullet if it's still there during the
- 4 autopsy, turn it over to law enforcement; correct?
- 5 A That is correct.
- 6 Q Okay. All right. And then during the autopsy you would
- 7 go in to determine what caused this person's death. All
- 8 right.
- 9 A That is correct.
- 10 Q Okay.
- 11 A As I did in this case.
- 12 Q All right. Now, what I'm asking you, excluding what
- 13 Georgetown, because we're going over that in this trial, what
- 14 Georgetown already did, what they gave. What I'm asking you
- 15 is what you find. You said that you are determining that he
- 16 is connected to this crime, and I'm asking you please tell us
- 17 what the nexus is, what the connection is that you see here
- 18 between Randy Collins, which you testified under oath to the
- 19 jury that you have evidence of that? I'm saying what evidence
- 20 do you have other than what they gave you, what pathology --
- 21 pathological evidence do you have?
- 22 A Other than what they gave me I don't have any direct
- 23 evidence. I only have indirect evidence based on my autopsy
- 24 findings, but no direct evidence.
- 25 Q No further questions. Thank you, sir.

1 THE COURT: Ms. Richardson.

2 MS. RICHARDSON: Redirect.

3 REDIRECT EXAMINATION

4 BY MS. RICHARDSON:

5 Q And homicide basically means at the hands of another?

6 A That's correct. Homicide is defined as death at the
7 hands of another person or persons.

8 Q Okay. And based on the injuries on the body of Mr.
9 Coombs, there was no indication that it was accidental?

10 A Yeah. There, there was no indication of, of the -- based
11 on, on the, the pattern of, of injuries from the autopsy
12 there's, there's no way to determine the manner of death just
13 from the, the -- from the autopsies. In other words, that
14 pattern of injuries could also be seen with, with an
15 accidental death, but again, my determination of manner of
16 death is based on the sum total of circumstances, the autopsy
17 findings and the investigation.

18 Q Okay. But no indication of an explosion or anything on
19 the front side of his face?

20 A That is correct.

21 Q All right. No further questions.

22 MR. WILSON, JR.: Just briefly, Judge.

23 RECROSS EXAMINATION

24 BY MR. WILSON, JR.:

25 Q Doctor, flat out yes or no answer, did you -- do you know

1 based on a pathological autopsy who started the fire?

2 A No. I do not.

3 MR. WILSON, JR.: No further questions, Judge.

4 MS. RICHARDSON: Your Honor, I'd ask that he be released
5 from his subpoena.

6 THE COURT: Mr. Wilson?

7 MR. WILSON, JR.: Without objection, Your Honor.

8 THE COURT: Thank you, Doctor. You are excused from your
9 subpoena.

10 A Thank you.

11 MS. RICHARDSON: The State calls Ms. Loretta Miller.

12 WHEREUPON, Loretta Miller is called to the stand, duly
13 sworn by the clerk and testified as follows:

14 THE CLERK: Would you please spell your first name for
15 the Court?

16 MS. MILLER: L-O-R-E-T-T-A.

17 THE CLERK: Loretta Miller. Thank you. Please have a
18 seat and just -- let's move that mike up closer to you.

19 DIRECT EXAMINATION

20 BY MS. RICHARDSON:

21 Q Ms. Miller, where do you live?

22 A Andrews, South Carolina.

23 Q And you are the mother of James Miller?

24 A Yes. I am.

25 Q Okay. And without telling me anything about the cause of

1 death, is, is Mr. Miller still with us?
2 A No. He pass.
3 Q Okay. And when did he pass?
4 A April the 26.
5 Q 2015?
6 A Uh-huh.
7 Q Okay.
8 A Oh, man.
9 Q Now, Ms. Miller, you know that James was also charged in
10 this fire?
11 A Yes.
12 Q Okay. Now, tell me did you know Dave Syience Coombs?
13 A That's my nephew.
14 Q Okay. And explain that family relation.
15 A Well, Marissa mom is my sister, my oldest sister.
16 Q Okay. Marissa Cohen.
17 A Mother is my sister.
18 Q Is your sister. Okay. So she's your niece?
19 A That's my niece, my nephew and Devon Coombs is my nephew.
20 Q And Devon is the older brother of Dave, just to keep that
21 --
22 A No. Devon is the, the -- the oldest brother is in
23 Pennsylvania. Devon is the next oldest.
24 Q Okay.
25 A And then Syience.

- 1 Q But we're -- the death we're talking about is the death
2 of Dave Coombs, the younger boy; right?
- 3 A Uh-huh.
- 4 Q Okay. All right. And what about Randy Collins, do you
5 know him?
- 6 A Yes.
- 7 Q And how do you know Randy?
- 8 A Randy brother is James father.
- 9 Q Okay. So tell me that again. His brother --
- 10 A Randy brother is my kids' father.
- 11 Q Okay. All right. So back on March 28th or 29th, 2014,
12 were you advised about the fire at Tina or Marissa's home?
- 13 A Yes.
- 14 Q Okay. And how did you find out about it?
- 15 A My cousin came to my house and told, told us about it.
- 16 Q Okay. And where did you live at that point?
- 17 A 306 Jones Avenue.
- 18 Q Okay. And that's pretty close to James Drive?
- 19 A Yes.
- 20 Q Okay. And once you found out about it what did you do?
- 21 A My son and I and we went down there.
- 22 Q Okay. And did you see Ms. Marissa Cohen?
- 23 A Yes.
- 24 Q Okay. And how was, how was she acting? What was her
25 demeanor?

1 A At, at the fire when the detective came out and say he
2 pass, which --

3 Q And how did she act when the detective told her that?

4 A Well, when the, when the detective came out and told
5 Marissa that her baby on the floor dead she didn't act like --
6 had no kind of remorse, didn't cry, didn't do anything.

7 Q Okay. And when you said your son was with you, is that
8 your son James?

9 A Yes.

10 Q All right. And did you, and did you stay around there
11 for a while?

12 A I stay there until they pull him out the, out the, out
13 the house.

14 Q And you stayed at the scene until they took little Dave
15 out of the house?

16 A Take him out the house.

17 Q Is that a yes?

18 A Yes.

19 Q Did you observe Ms. Cohen making any sort of phone calls?

20 A Do I have to answer that? Yes.

21 Q Okay. You don't want to be here; do you?

22 A No.

23 Q Okay. I understand.

24 A It just bring --

25 Q But you're under subpoena.

- 1 A -- bring back memory, that's all.
- 2 Q I know. All right. So did you see her on the phone?
- 3 A Yes.
- 4 Q Okay. And did she make a phone call?
- 5 A Yes.
- 6 Q Okay. And did you -- could you tell anything about who
- 7 she was talking with?
- 8 A Okay. Tina was standing right there. I was standing
- 9 there, and when the detective came out and say that her baby
- 10 die on the floor, dead on the floor, she didn't react. She
- 11 didn't cry. She didn't holler. She didn't do nothing. The
- 12 only thing that she did she reached in her pocket and she
- 13 said, "Randy, my baby's dead. My baby Syience dead on the
- 14 floor." Randy began to say, "You got to live with that."
- 15 Q And how did you know -- how -- could you hear what was on
- 16 the other end of the phone?
- 17 A Yes.
- 18 Q Okay. All right. So eventually James, Marissa and Mr.
- 19 Collins were charged and arrested; is that right?
- 20 A Right.
- 21 Q All right. And did the older boy, Devon, come live at
- 22 your place?
- 23 A Yeah. Devon live with me. Yes.
- 24 Q Okay. And that was at 306 Jones?
- 25 A 306 Jones Avenue.

- 1 Q And with James?
- 2 A Uh-huh.
- 3 Q Is that a yes?
- 4 A Yes.
- 5 Q Okay. And after, after James passed did you have to
- 6 clean out his stuff?
- 7 A Yes.
- 8 Q Okay. And did you do that right away after he died? Did
- 9 you clean out?
- 10 A No.
- 11 Q Okay. When did you do that?
- 12 A Probably about a month after he was buried, I think.
- 13 Q Okay. And did you find anything in there from Devon?
- 14 A Yes.
- 15 Q All right. Let me show you -- if I can mark this one.
- 16 All right. Now, I'm going to show you what's been marked as
- 17 State's Exhibit Number 33. Can you tell me what that is?
- 18 A That's Devon papers that he left in my house when he got
- 19 arrested.
- 20 Q Okay. And, and those are the ones you found when you
- 21 were cleaning out James' things?
- 22 A Yes. I find these in a middle bedroom and then I give
- 23 them to my daughter.
- 24 Q Okay. Now, what did you find them in?
- 25 A In, in another brown -- like this here.

- 1 Q In a bigger envelope like that?
- 2 A It was -- this here was in a bigger envelope. Yes.
- 3 Q Okay. And what were those in?
- 4 A They were just in a big 'nother brown -- this was in
- 5 another brown envelope under the mattress. Yes.
- 6 Q Okay. And did Devon have any other stuff there, clothes
- 7 and that sort of thing?
- 8 A He had clothes and stuff, but I, I didn't --
- 9 Q Okay. All right. And of course that's his name on
- 10 there?
- 11 A Yes.
- 12 Q Okay. And what else is on there?
- 13 A A whole lot of remembers and everything on there.
- 14 Q Remembrances of Syience?
- 15 A Right.
- 16 Q "Rest in peace, Dave?"
- 17 A Peace. Yes.
- 18 Q "RIP Syience?"
- 19 A Right.
- 20 Q Okay. And I'm going to show you, this is State's Exhibit
- 21 35, and is that just a picture of that envelope?
- 22 A Yes. It is.
- 23 Q Okay. And that's an accurate picture of sort of the
- 24 stuff that we pulled out of it that's in there?
- 25 A Yes. It is.

1 Q And did you -- other than taking it out and reading it
2 did you make any changes or anything to those letters?

3 A Huh-uh.

4 Q Okay.

5 MS. RICHARDSON: Your Honor, at this time I'd offer
6 State's Exhibit 35 into evidence, and we're going to ask to
7 leave 33 just for identification.

8 MR. WILSON, JR.: Judge, let me take a look at it. Let
9 me take a look at it. Let me see. Thank you, Judge. Without
10 objection, Your Honor.

11 THE COURT: Very well. Admitted.

12 (State's Exhibit Number 35 [Photographs of Envelopes]
13 admitted into evidence and appropriately marked.)

14 By MS. RICHARDSON:

15 Q So but you did open it up and look inside to see what was
16 in there; is that right?

17 A Yes. I did.

18 Q And we can see from the pictures there were letters and
19 that sort of thing?

20 A Yes.

21 Q And maybe some legal mail and that sort of thing?

22 A Uh-huh.

23 Q And I believe you might have had some music lyrics? He
24 liked to write raps?

25 A Yeah.

- 1 Q He did?
- 2 A Uh-huh.
- 3 Q Okay. And all that stuff was in there. All right. And
- 4 did you start looking at some of the letters?
- 5 A Yeah. I, I opened it and I look at it, and I take it to
- 6 my daughter.
- 7 Q All right.
- 8 A Because is --
- 9 Q And did you find that there were letters between Devon
- 10 and his mother Marissa Cohen?
- 11 A Right. But we, we didn't open that one.
- 12 Q Okay. All right. Let me show you what's been marked as
- 13 State's Exhibit 36 and 37, and these are photos of those
- 14 letters?
- 15 A Yes.
- 16 Q Okay. And if you want to look at --
- 17 A No. Yeah.
- 18 Q And did you add anything or write on or do anything to
- 19 any of these letters?
- 20 A No.
- 21 Q And you notified -- when you saw them obviously they
- 22 involved Marissa?
- 23 A Right.
- 24 Q So who did you notify?
- 25 A I gives to my daughter.

1 Q And what's your daughter's name?

2 A Juanita McCollough.

3 Q Okay. I have no further questions. Answer any questions
4 Mr. Wilson may have for you.

5 A All right.

6 CROSS EXAMINATION

7 BY MR. WILSON, JR.:

8 Q Good afternoon, Ms. Miller. How you doing, ma'am?

9 A I'm doing all right.

10 Q I just have a few questions for you.

11 A Okay.

12 Q The night or the early morning of March 29th you were with
13 your son; right?

14 A Right.

15 Q Okay. Did you go to Randy Collins' house that night?

16 A No.

17 Q You didn't go there that night?

18 A Huh-uh.

19 Q Okay. All right. Well, let's back up then to the phone
20 call that you talked about.

21 A Okay.

22 Q All right. Did you ever hear Randy Collins say that he
23 burned a house down?

24 A I didn't hear Randy Collins say anything. I heard my
25 niece make a call on the phone to him.

- 1 Q Okay.
- 2 A Over the phone.
- 3 Q What, what I'm asking you is --
- 4 A And we was in that -- Randy call and all we was at my
5 niece house.
- 6 Q I understand.
- 7 A The house that got burned.
- 8 Q I understand. What I'm asking you is just flat out --
- 9 A Okay.
- 10 Q -- did you hear Randy Collins say, "I burned a house down
11 tonight?"
- 12 A I didn't hear him say nothing.
- 13 Q Earlier you testified --
- 14 A Not like that, not no burn the house down.
- 15 Q Earlier you testified that you heard Randy Collins --
- 16 A No. Earlier I testified saying that my niece call Randy.
- 17 Q Right.
- 18 A Randy was on the phone. She said, "Randy, Syience is
19 dead, Syience on the floor dead," and he make and said, "You
20 got to live with that," and that's all I hear.
- 21 Q So you heard that on the phone?
- 22 A I heard that on the phone. Don't never --
- 23 Q And, and what other conversation did they have during
24 that time?
- 25 A That's it. That's it.

- 1 Q So nothing else was said on the phone?
- 2 A Nothing else.
- 3 Q So --
- 4 A It been -- it was a hundred percent rain, we was in the
- 5 rain. They pull Syience out that house at 6:45 in the
- 6 morning.
- 7 Q I understand. All right. What I'm asking you though is
- 8 this, she called Randy; right?
- 9 A Yes. She did.
- 10 Q All right. And on the phone she's telling him that
- 11 Syience had passed away?
- 12 A Yes.
- 13 Q So once he said that, "You got to live with that," that's
- 14 what you said; right?
- 15 A That what she -- that what he say.
- 16 Q Then what happened on the phone then?
- 17 A Then he -- she hang up.
- 18 Q She hung up the phone?
- 19 A Right.
- 20 Q Okay. You said that Marissa was acting very strange;
- 21 right?
- 22 A No. I say she didn't did nothing when she find her son
- 23 was dead in that she didn't cry. She didn't make no commotion
- 24 or nothing like she -- he was nothing.
- 25 Q And everybody was looking for -- people in the community,

- 1 everybody that was out there, family, friends were looking to
2 see how she was behaving; correct?
- 3 A Everybody was out there wishing that that wasn't true,
4 that Syience was in there dead.
- 5 Q Well, I understand that.
- 6 A So I ain't know where you going to.
- 7 Q What I'm asking though is this, you got a call from who
8 to tell you about what happened?
- 9 A My cousin called me. I was at home.
- 10 Q Yes, ma'am.
- 11 A And told them that, you know, Marissa house is on fire.
- 12 Q Right.
- 13 A So me and my son and we went down there.
- 14 Q And then you and James?
- 15 A Me, James and Isaac, yes.
- 16 Q And you all went down to the house where the fire was;
17 correct?
- 18 A Right. Right.
- 19 Q Okay. And during that time when you were out there --
20 how long were you out there that night?
- 21 A We was up there, I mean, I -- Your Honor, I told him I
22 was up there ever since 6:40, it something to seven when they
23 pull that body out. So why you want to ask me the same thing
24 over and over?
- 25 Q Okay. I'm just asking you questions. That's --

- 1 A No. You trying to get somebody puzzled but I'm not, I'm
2 not like that.
- 3 Q I'm --
- 4 A I'm not going to change why I'm here.
- 5 Q I'm not trying -- asking you to change anything, ma'am.
- 6 A Okay.
- 7 Q I just want you to answer my questions. That's all.
- 8 A Okay. Go ahead.
- 9 Q Okay. And, and these are important questions about what
10 happened.
- 11 A Okay.
- 12 Q So at some point in time you say you're going through
13 stuff for Syience, right, things that Devon left?
- 14 A Yeah. I was cleaning my house. I was going through
15 nothing. I found them.
- 16 Q Okay..
- 17 A The room that he was sleeping in.
- 18 Q Okay. All right. Mr. Miller is no longer with us;
19 correct, your son?
- 20 A No.
- 21 Q Okay. And you are aware that Mr. Collins gave a
22 statement against Mr. Miller; correct?
- 23 A Yes.
- 24 Q Okay. And that didn't make you happy; did it?
- 25 A Well, if it make me happy or make me unhappy it ain't

- 1 gonna' bring my son back.
- 2 Q I'm just asking you a flat out question.
- 3 A No.
- 4 Q You weren't happy about it?
- 5 A I mean, would you be happy?
- 6 Q Ma'am, I'm just asking questions and I just want to know
- 7 the answer to the questions. I want to know were you happy or
- 8 sad or mad, whatever your feelings were.
- 9 A I'm pleased. I'm pleased.
- 10 Q Why are you pleased? Tell the jury why you're pleased.
- 11 A Because I mean, if I get, if I get mad or, or, or fuss
- 12 him out ain't going to bring my son back, so, you know.
- 13 Q Tell the jury why you're pleased. That was my question.
- 14 A Well, tell the jury why I am pleased?
- 15 Q Yeah. Why are you pleased?
- 16 A When -- I can't bring him back. So why I should be mad
- 17 with them? It, it was going on three years. You know the
- 18 Bible say if you, you got to forgive yourself in order to get
- 19 -- forgive him. So if I hold a grudge him my place in heaven
- 20 ain't no, nothing, mean nothing. So see, I put my life -- I
- 21 put my life in God hand. That who carry me through this
- 22 tragic.
- 23 Q Let me ask you this, have you ever been arrested?
- 24 A 2000 and '91 2000, '90.
- 25 Q What were you arrested for?

- 1 A That's not the case here.
- 2 THE COURT: Please answer the question.
- 3 A Okay. I get my husband rob a store and, and blame me,
4 and he skip town.
- 5 Q Were you arrested for anything else, ma'am?
- 6 A Not as I can remember.
- 7 Q You ever had a charge for driving under the influence?
- 8 A I, I don't drink. No. I don't drink.
- 9 MS. RICHARDSON: Your Honor --
- 10 A I don't drink.
- 11 MS. RICHARDSON: -- I object.
- 12 A The only -- the strongest thing I drink is Pepsi Cola.
- 13 MS. RICHARDSON: It's not proper under the --
- 14 MR. WILSON, JR.: Judge, her -- thank you, Judge.
- 15 A Never.
- 16 (Whereupon, a bench conference is held in the presence,
17 but out of the hearing of the jury.)
- 18 Q Let me ask you this, ma'am.
- 19 A Yes.
- 20 Q At any point in time while you were out there that night
21 did you travel anywhere else with James at all?
- 22 A No. We stay out there until 6:45.
- 23 Q Okay. All right.
- 24 MR. WILSON, JR.: No further questions, Judge.
- 25 THE COURT: Ms. Richardson, anything further?

1 REDIRECT EXAMINATION

2 BY MS. RICHARDSON:

3 Q Ms. Miller, when he was asking if you left, that was when
4 you were staying at the scene, at the fire scene with James?

5 A Right.

6 Q Okay. But earlier that night had James left?

7 A That be -- James, Jr., left -- James, Jr., left before we
8 went to the fire.

9 Q Okay.

10 A Now, where he went before the fire I don't know.

11 Q Okay. No further questions.

12 MR. WILSON, JR.: No follow-up, Judge.

13 THE COURT: You may step down.

14 MS. RICHARDSON: Your Honor --

15 THE COURT: Thank you.

16 A Okay. Thank you.

17 MS. RICHARDSON: -- and I'd ask that she be released from
18 her subpoena. I'm sure she'll be glad to hear those words.

19 THE COURT: Mr. Wilson?

20 A Yes, sir.

21 MR. WILSON, JR.: Without objection, Your Honor.

22 THE COURT: You are released from your subpoena. You may
23 leave. Thank you, ma'am.

24 A Thank you, sir.

25 MS. RICHARDSON: The State calls Juanita McCollough.

- 1 Q That's your mother?
- 2 A Yes, ma'am.
- 3 Q And how many siblings do you have?
- 4 A I have -- all I had was a brother and sister. Both is
- 5 deceased.
- 6 Q Okay. And your brother was James Miller?
- 7 A Yes. That's correct.
- 8 Q And are -- you are related to Marissa Cohen?
- 9 A That's my cousin.
- 10 Q Okay. And they call her Tina?
- 11 A We call her Tina.
- 12 Q Okay. Because she has a daughter that also goes by the
- 13 name Marissa or Rissa?
- 14 A Rissa. Uh-huh.
- 15 Q Okay. And also Randy Collins?
- 16 A Excuse me. Yes. I know Randy. That's my uncle.
- 17 Q Okay. And you've known obviously both of them your whole
- 18 life?
- 19 A We all been close my whole life.
- 20 Q Okay. And you spent a lot of time with both of them?
- 21 A Yes. That's correct.
- 22 Q And what sort of work do you do?
- 23 A I'm a certified nursing assistant.
- 24 Q And where do you work?
- 25 A Full-time at Prince George, part-time at Winyah.

- 1 Q Okay. And how long have you been doing CNA work?
- 2 A 27 years.
- 3 Q And do you have children?
- 4 A Yes. Seven.
- 5 Q Seven children. Okay. And do you -- and you have a
- 6 child that's about the same age as Syience?
- 7 A Yes. Actually, my son Taiwan and Syience would have been
- 8 -- when he passed they was like I think a year apart.
- 9 Q Okay.
- 10 A A couple of months apart. My son used to stay with them
- 11 most of the time or Syience would be to my house.
- 12 Q And did you spend a lot of time with Marissa's children?
- 13 A Yes.
- 14 Q Science, Devon.
- 15 A Yes. We were close. We were real close.
- 16 Q And where were you living on the morning that Syience
- 17 died?
- 18 A Atlanta, Georgia.
- 19 Q And how did you find out about it?
- 20 A My cousin, Rahqiya Dorsey had called me, and she was
- 21 like, Juanita, Tina house is on fire. You know how to reach
- 22 Tina?" I was like, "I think she's at Carolyn's house." She
- 23 said, "Well, I been trying to reach your mom and I can't get
- 24 her to wake up." I said, "Well, you got to bam on the door
- 25 hard." So she said, "Hold on." She hung up, and I guess went

1 back and bam on the door. Then I called her back. She said,
 2 "Well, we on our way to go get Tina now." I said, "Okay."
 3 The last time I talked to her it was down at Tina's house that
 4 was on fire. She call me back and say, "Girl, there's a body
 5 in the house. They say it Syience."
 6 Q Okay. And did you actually get in touch with Tina?
 7 A Yes. I called Tina. I said, "Tina, they say your house
 8 on fire."
 9 Q Okay.
 10 A She say, "Okay," and then --
 11 Q All right. And --
 12 A -- that was all.
 13 Q All right. Because -- and they were having trouble
 14 getting in touch with her?
 15 A They couldn't reach her but I, I, I could reach her. I
 16 called her on her phone.
 17 Q Okay. All right. And did you -- were you able to go to
 18 the funeral and that sort of thing?
 19 A Yes, ma'am. I did.
 20 Q And obviously your brother ended up being one of the ones
 21 charged in it?
 22 A Yes. He was charged.
 23 Q Okay. And after your brother died did you help clean out
 24 his belongings?
 25 A My mom cleaned it out and gave me a book sack. It was

- 1 like a black bag, and that's what the -- that's where that
2 brown envelope you had was in.
- 3 Q Okay. And that is State's 33; is that it?
- 4 A Yes. This is the envelope.
- 5 Q Okay. And the picture of it is State's 35 that was
6 admitted into evidence?
- 7 A Yes, ma'am. That's correct.
- 8 Q And did you go, did you go through some of the contents?
- 9 A Yes, ma'am. I did. I read some of the letters, some of
10 the raps.
- 11 Q Okay. And did some of those letters give you some
12 concern?
- 13 A Yeah. When I read it and in one of the letter that was
14 from Marissa to Devon --
- 15 Q Okay. And let me clear this up. We've had -- I think
16 we've had a little mix-up just because the names are so close
17 but Devon is the older, older son?
- 18 A Yeah. They -- all their name is something alike.
- 19 Q Okay.
- 20 A But we call, we call -- I call Syience Syience.
- 21 Q But his name was Dave?
- 22 A Yeah.
- 23 Q Okay.
- 24 A Devon is, is the brother and he's the middle.
- 25 Q Okay. And so the, the stuff that we're talking about is

- 1 Devon the older brother?
- 2 A The middle brother.
- 3 Q Oh, the middle brother.
- 4 A Uh-huh.
- 5 Q The older brother lives away?
- 6 A Yeah. Yes, ma'am. All their names kind of similar.
- 7 Q But none of these letters are obviously from Syience?
- 8 A No.
- 9 Q Okay.
- 10 A All of these are from Devon, yeah, from Marissa and
- 11 Devon.
- 12 Q So tell me what about the letters piqued your interest?
- 13 A They had -- the first letter I read is where a letter
- 14 Marissa wrote Devon --
- 15 MR. WILSON, JR.: Judge, Judge, may we approach, Your
- 16 Honor?
- 17 THE COURT: Yes.
- 18 MR. WILSON, JR.: Thank you.
- 19 (Whereupon, a bench conference is held in the presence
- 20 but out of the hearing of the jury.)
- 21 BY MS. RICHARDSON:
- 22 Q I'm going to withdraw that question, and I don't want you
- 23 to say what was in the letters, but let me just show you
- 24 State's 36 and 37, and if you want to flip through them and
- 25 read.

- 1 A You want me to read it out.
- 2 Q Don't read them out loud, but to yourself.
- 3 A Oh, okay. Okay.
- 4 Q And see if you recognize them.
- 5 A Yes, ma'am. This -- I'm not going to say what's in it,
6 but this the actual letter that caught my attention and made
7 me brought them to the court.
- 8 Q That's one of the -- and that's which -- what number is
9 on that, on the yellow sticker?
- 10 A 37 and 36.
- 11 Q Okay. And those are some of the letters that, that
12 caught your attention?
- 13 A Yes, ma'am.
- 14 Q Okay. And did you write on them, change them or do
15 anything with those letters?
- 16 A No, ma'am. I just read them and then I brought them down
17 to the solicitor's office.
- 18 Q Okay. And so you brought them to our office to our
19 attention?
- 20 A Yes, ma'am.
- 21 Q Okay. And thereafter did you turn them over to the
22 police department?
- 23 A Yes, ma'am. I think if I'm not mistaken Andrews Police
24 Department should have it.
- 25 Q Okay.

1 A And you got all of them.

2 Q You took them to Andrews Police Department?

3 A The rest.

4 Q All right. And again, you didn't mark them or change
5 them or do anything like that?

6 A No, ma'am. I brought the envelope and everything just
7 like it was, the envelope that it came in. That everything
8 just like it was.

9 Q Okay. All right. Thank you.

10 THE COURT: Mr. Wilson?

11 A You're welcome.

12 CROSS EXAMINATION

13 BY MR. WILSON, JR.:

14 Q Just very briefly, ma'am. You don't have any knowledge
15 about who started this fire at this house; do you?

16 A Only what my brother said to me.

17 Q You can't, you can't say what your brother said to you.

18 A I won't.

19 Q You --

20 MS. RICHARDSON: Your Honor, he asked her.

21 MR. WILSON, JR.: Judge, I asked her does she have
22 knowledge, direct knowledge, were you there?

23 A I wasn't there, but my brother had talked with me.

24 THE COURT: Okay. Well, that's --

25 MR. WILSON, JR.: Thank you very much. No further

1 questions, Judge.

2 THE COURT: All right.

3 REDIRECT EXAMINATION

4 BY MS. RICHARDSON:

5 Q Based on what he just asked you, what did your brother
6 tell you?

7 MR. WILSON, JR.: Objection, Your Honor.

8 A My brother --

9 THE COURT: Wait a minute. Send the jury out, please.
10 Take the jury out. Don't answer that question.

11 A I won't, sir.

12 (Whereupon, the following takes place outside the
13 presence the jury.).

14 THE COURT: All right. Ask that question again.

15 BY MS. RICHARDSON:

16 Q What did your brother, James, tell you?

17 THE COURT: The brother is?

18 MS. RICHARDSON: James Miller.

19 THE COURT: James Miller?

20 A Uh-huh.

21 THE COURT: A co-conspirator. Okay. Okay. Ask the
22 question.

23 BY MS. RICHARDSON:

24 Q What did your brother tell you?

25 A He told me that he took Randy to Tina house that night,

1 that Randy asked him to give him a ride over there, he had a
2 job to do. He said he went and picked Randy up. They load a
3 tire and some other stuff in the truck and went over there.
4 He said later on he dropped Randy off at home, he went up to
5 Carnell's Bar. He said he was in there chilling, some guys
6 came in later on that night, say, "Yo, your cousin house is
7 blazing." He said, "You kidding me." He say he jumped up and
8 he went to the house. It was on fire. I called Rahqiya back.
9 Rahqiya was like, "Yeah, that was Syience body." So I called
10 Randy on the phone. I called Randy over the phone. I said,
11 "Randy, you know Tina house on fire," and he said, "Syience
12 dead." He said, "Oh, that sad." That was it. I called Randy
13 back I think like two more other times and I was like, "You
14 heard anything." He's like, "No." I was like, "Dang, man."
15 That was it, and it was -- by that time I think it was like,
16 like between I want to say one, two. That was all.

17 THE COURT: Okay. Let me hear from you, Ms. -- I, I know
18 Mr. Wilson is going to object to this. Mr. Wilson, and your
19 objection is going to be hearsay; right?

20 MR. WILSON, JR.: And among other things, Judge.

21 THE COURT: Okay. Well, that me hear what you got.

22 MR. WILSON, JR.: It's not only rank hearsay, but again,
23 she's trying to give testimony, trying to get it in the record
24 on what the co-conspirator, who is not here and not available
25 --

1 THE COURT: Well, let me, let me -- let's clear that up.
2 There's no question that Mr. Miller is now unavailable.

3 MR. WILSON, JR.: That's right.

4 THE COURT: Okay. All right. Is this a statement -- I
5 want her to say again, is this a statement against Mr.
6 Miller's interest?

7 MR. WILSON, JR.: Judge, we, we had this discussion --

8 THE COURT: Wait, wait -- no, what I'm, what I'm saying
9 here is she appears to be saying that Mr. Miller is simply
10 saying Mr. Collins asked for a ride and he took him there and
11 he finds out later that the house is on fire. That's not a
12 statement against interest by Mr. Miller; is it?

13 MR. WILSON, JR.: It depends on exactly how she's going
14 to frame it, Judge.

15 THE COURT: Wait, wait a minute. Listen. Listen. That
16 supports your position.

17 MR. WILSON, JR.: No. I agree, but I'm afraid -- what I
18 -- my fear is this, this statement --

19 THE COURT: What I'm getting at is I don't -- Ms., Ms.
20 Richardson, what she just said Mr. Miller said is not a
21 statement against Mr. Miller's interest. Therefore, it's not
22 a 804 (b)(2) or (b)(3) statement excluded by the, by the
23 hearsay rule.

24 MR. WILSON, JR.: I agree, and that's why I was agreeing
25 with you, Judge, but I was saying that the statement has

1 changed from --

2 THE COURT: Well, that's the first time, Mr. Wilson.

3 MR. WILSON, JR.: No, no. There was a written -- we have
4 a report on what she said earlier.

5 THE COURT: Okay. All right. Well, okay. So it's not a
6 statement against interest. Okay. But Ms. Richardson is it
7 in the course in furtherance of a conspiracy?

8 MS. RICHARDSON: No. No, Your Honor, not this part.

9 THE COURT: Okay. Well, then is this admissible? Under
10 what theory would this, this, this statement be admissible?
11 If Mr. Miller had admitted complicity with Mr. Collins or
12 admitted any liability on his part it would be an 804(b)(3) --

13 MR. WILSON, JR.: Statement against interest.

14 THE COURT: -- exception to hearsay --

15 MR. WILSON, JR.: That's right.

16 THE COURT: -- and admissible, but I don't think she's
17 said that. Has she, Ms. Richardson?

18 MS. RICHARDSON: No, Your Honor. I was getting ready to
19 ask her about it though.

20 THE COURT: Okay. Go ahead.

21 MS. RICHARDSON: All right.

22 THE COURT: Ask, ask her. Let's see what we got.

23 BY MS. RICHARDSON:

24 Q Did he say anything else about the job?

25 A No. All he say is that Randy asked him to give him a

1 ride to Tina house because he had a job to do for Tina.

2 That's all he said.

3 Q Okay.

4 A He load a tire and some other stuff in the truck. He
5 said they left and went to Tina house.

6 Q And did you previously give a statement saying that James
7 said that Randy had offered him money to help?

8 A I don't remember.

9 Q Okay.

10 A It's been so long.

11 Q Okay.

12 MS. RICHARDSON: Our position would just be that taking
13 him over there would be a statement against his interest
14 knowing that --

15 THE COURT: Well, what I understood her to say was he was
16 surprised when he gets the phone call that there's a fire
17 which indicates to me that he didn't know there was going to
18 be a fire.

19 A He said he was at Carnell's Bar.

20 THE COURT: Did --

21 A Them the guys came in and say, "Your cousin house
22 blazing," and he was like, "You kidding me." He jump up and
23 went over there.

24 THE COURT: Did your brother say anything to implicate
25 himself in this matter?

1 A No, sir.

2 THE COURT: Okay. All right. That's, that's what I
3 wanted to know. All right. I won't allow it.

4 MR. WILSON, JR.: Thank you, Your Honor.

5 THE COURT: Okay. Anybody need a break? Okay. Bring
6 them back.

7 MS. RICHARDSON: Yes. If we could just go ahead and take
8 a short one then I think that would keep us from taking one
9 next.

10 THE COURT: Okay.

11 A So we can leave?

12 THE COURT: No one speak to the witness, please. All
13 right. We'll just take a minute. The witness may leave the
14 stand, but I want the witness in the presence of law
15 enforcement -- okay -- or a bailiff.

16 MR. WILSON, JR.: Yes, Your Honor.

17 OFF THE RECORD

18 (On the record. The following takes place outside the
19 presence of the jury.)

20 THE COURT: Let's bring the jury in. Do we need Ms. --
21 yeah. Mr. Wilson, are you through with Ms. McCollough?

22 MR. WILSON, JR.: With who, Judge? I'm sorry.

23 MS. RICHARDSON: I was on redirect. So and that's when
24 we stopped.

25 THE COURT: You were on redirect, right?

1 MS. RICHARDSON: Right.

2 THE COURT: Okay. Then she needs to come back. Ms.
3 McCollough.

4 MR. WILSON, JR.: Yes, sir.

5 THE COURT: Where is she?

6 MR. WILSON, JR.: Right here, Judge.

7 (Whereupon, the following takes place in the presence of
8 the jury.)

9 THE COURT: Yes, ma'am. Anything further?

10 MS. RICHARDSON: No, Your Honor.

11 THE COURT: Mr. Wilson.

12 MR. WILSON, JR.: Nothing further, Your Honor.

13 THE COURT: All right. You may step down, Ms.

14 McCollough. Any further need for Ms. McCollough?

15 MS. RICHARDSON: No, Your Honor.

16 MR. WILSON, JR.: Without objection, Your Honor.

17 THE COURT: You're released from your subpoena, Ms.
18 McCollough. Thank you.

19 All right. Ms. Richardson.

20 MS. RICHARDSON: Your Honor, the State calls John Jack
21 Jamieson to the stand.

22 Whereupon, John Jack Jamieson is called to the stand,
23 duly sworn by the clerk and testified as follows:

24 THE CLERK: Thank you. Please have a seat.

25 DIRECT EXAMINATION

1 BY MS. RICHARDSON:

2 Q Mr. Jamieson, where are you employed?

3 A I'm employed at the forensic lab, which is part of SLED,
4 the South Carolina Law Enforcement Division.

5 Q And how long have you been there?

6 A About a year and a half.

7 Q And what is your position there?

8 A I'm a questioned document examiner.

9 Q Okay. And can you tell me what your education is?

10 A I have a bachelor of science in biochemistry and
11 chemistry as well as a certificate in criminology.

12 Q And have you had any specialized training?

13 A Yes. I started training in June of 1981 in order to
14 become a questioned document examiner. The training is
15 comprised of a two-year apprenticeship type program, where you
16 study under the tutelage of senior questioned document
17 examiners. You read various texts. You read various
18 journals, periodicals. We do test cases. There are numerous
19 exams and quizzes, as well as there was a board examination
20 where the -- I presented my findings in a mock case in front
21 of the director as well as the deputy director of the place
22 where I was working.

23 Q Okay.

24 A And then I have continued on with training. We usually
25 go to a conference once a year. We get -- we subscribe to

1 various journals and periodicals, and I've taken several
2 courses over the years as well.

3 Q Okay. And before you were at SLED where were you?

4 A I was at the Virginia Department of Forensic Science for
5 17 years.

6 Q And what did you do there?

7 A Questioned documenting.

8 Q So altogether you have been doing it how many years? I'm
9 sorry?

10 A 37.

11 Q Do you have any estimate as to how many samples or
12 questioned documents you've examined?

13 A I've done over 3500 cases. I don't know how many questioned
14 document, documents those would involve. The usual case is
15 maybe 10 or 11 knowns with one questioned. So multiply that,
16 but that's very, very rough estimate.

17 Q Have you been qualified as an expert --

18 A Yes. I have.

19 Q -- in courts?

20 A Yes. I have.

21 Q And would that be in Virginia and in South Carolina?

22 A Yes. And Ontario, Canada, where I started out.

23 Q Okay. And in state and federal courts?

24 A Just state.

25 Q And what, what have you been qualified as an expert in?

1 A Questioned document examination, which includes the
2 examination and comparison of handwriting, handprinting and
3 signatures, examinations of pens, papers, inks and pencils,
4 the decipherment of alterations, obliterations and erasures,
5 as well as the decipherment of indented writings.

6 MS. RICHARDSON: Your Honor, at this time I'd offer Mr.
7 Jamieson as an expert in the area of questioned document
8 examination.

9 MR. WILSON, JR.: He's absolutely an expert. Without
10 objection, Judge.

11 THE COURT: All right. And he is so admitted as an
12 expert in questionable documents, and again, I've explained to
13 you what an expert witness means and what that witness may do
14 and you would apply it to this witness' testimony.

15 BY MS. RICHARDSON:

16 Q All right. So can you tell us briefly the process and
17 what do you do when you're analyzing questioned documents?

18 A Well, in this case I looked at the questioned writings,
19 and I looked at the questioned letters, letter portions first.
20 I received questioned envelopes, as well as letters. So I
21 looked at the questioned letters first to see whether or not
22 they were written by the same person. Once I determined that
23 I looked at the envelopes to see if they were written by the
24 same person. I then looked at the letters versus the
25 envelopes and determined that they were written by one in the

1 same person. Then I performed a one-to-one comparison between
2 the questioned material and the known material that was
3 submitted in the case. Things I'm looking for are such things
4 as letter formations, relative heights of letters, initial and
5 final strokes on letters, relative heights, skill level and
6 the like, and what I'm looking for is a set of individual
7 similarities with no significant differences in order to
8 arrive at an identification.

9 Q Okay. So basically, you're asked to examine a letter
10 that we want to know who wrote, that's questioned?

11 A Yes.

12 Q Tell us who wrote this, and asking you to compare it to
13 things that we know are from that person?

14 A That's correct.

15 Q So in this case, let me show you what's been marked as
16 State's 36 and 37, and these are photocopies, and I am also
17 going to mark the original envelopes, State's 38 and 39, and
18 would the envelope or packaging help you in any way?

19 A No.

20 Q No. Okay.

21 A No. Yes. I was provided with the original letter and
22 envelopes for State's Exhibits 38 and 39 and the State
23 Exhibits 37 and 36 appear to be copies of the original
24 material that I examined. The reason I know I examined it
25 it's got the case number, item number and my initials on each

1 and every piece of paper.

2 Q And what sort of known samples did you receive?

3 A I received numerous known samples from an individual who
4 was told to me part of the submission was the known writer was
5 Marissa Cohen.

6 A Okay. And where were those samples from? Was it
7 indicated in your information?

8 A May I refer to my notes, please, Your Honor?

9 THE COURT: Certainly.

10 A In the submission documents nothing specific as to where
11 they were obtained. From the contents of them they were from
12 various sources.

13 Q Okay. And how many did you receive?

14 A I received 63 known standards written by Marissa Cohen.

15 MS. RICHARDSON: Your Honor, I believe Mr. Wilson has
16 agreed to stipulate that those are known samples without the
17 necessity of producing all of those writings to the jury.

18 MR. WILSON, JR.: That's correct, Judge, and the Defense
19 will stipulate, Judge.

20 THE COURT: Very well. Well, the Defense has stipulated.
21 That means agreed. Sometimes that occurs in a trial, and it
22 means that you may accept that fact or that stipulation as a
23 fact in your deliberation. It's no longer in question. In
24 this case the State has presented the examiner with some
25 documents that they say came from Melissa [sic] Cohen, and Mr.

1 Wilson has agreed that those are authentic documents from her.
2 That is the knowns that will be compared against the
3 questioned documents. Okay. He does not stipulate that the
4 questioned documents were from her; is that correct?

5 MR. WILSON, JR.: That is correct, Your Honor.

6 THE COURT: All right. Thank you.

7 BY MS. RICHARDSON:

8 Q Now, Mr. Jamieson, what is the process of these items
9 being taken to SLED? Where are they first taken?

10 A They are taken to our evidence intake people.

11 Q Okay. And in this case who took the -- who took the
12 documents to SLED? And basically we're going over what we
13 commonly refer to as the chain of custody.

14 A And I really don't have all that information for you.

15 Q Okay.

16 A I can say that the submitter from the document I received
17 to be -- appears to be a Michael Thacker.

18 Q Okay. And would --

19 A And he's down as case officer.

20 Q Okay. And would the printed chain of custody from the
21 South Carolina Law Enforcement Division refresh your
22 recollection?

23 A Certainly.

24 Q And I'm going to show you what's been marked as State's
25 40 for identification purposes only, see if that would refresh

1 your recollection?

2 A Yes. The documents were brought in. They were given or
3 the, the packaging was submitted through Doris Yarborough of
4 our evidence receiving department. It was then placed in
5 evidence storage, and then I went downstairs to pick it up and
6 I received it from Jackie Davis of the evidence receiving
7 section. I then took it up. I booked it into our secure
8 evidence intake section in the section and then I removed it,
9 worked the case and then turned back the sealed envelopes to
10 Amy Stephens Black, who stored them in the evidence room until
11 they were picked up by the agency, Michael Thacker.

12 Q Okay. And does SLED have methods in place to make sure
13 that these documents are sealed when you receive them?

14 A Yes. They're sealed by the submitter right in front of
15 the evidence technician and then they arrive in my hand
16 sealed, and when I get them I make sure they are sealed. I
17 make notation that they are sealed, and, and if they, they
18 were not sealed then that would be noted as well, but in this
19 case it was sealed.

20 Q Okay. And other than doing your examination, did you
21 alter, amend or, or make any changes to these documents?

22 A Other than putting my case number, initials and item
23 number on them, no.

24 Q Okay. All right. And based on your examination of
25 these, of these documents, which the originals are State's

1 Exhibit 38 and 39, with copies being State's 37 and 36, did
2 you compare those two to the 60 some pages that everyone
3 agrees belonged to Marissa Cohen?

4 A Yes.

5 Q Okay. And were you able to make an opinion as to whether
6 those two letters and the -- the two letters that you have,
7 were written by Marissa Cohen?

8 A Yes. I was.

9 Q Okay. And what is your opinion?

10 A My opinion is that Marissa Cohen wrote those two letters
11 and envelopes.

12 Q Okay. And did you issue a report in that regard?

13 A Yes. I did.

14 Q Okay. And that report has some additional documents that
15 are not before the Court that you also examined; is that
16 right?

17 A That's correct.

18 Q Okay. And do you know which item numbers these are that
19 you did examine?

20 A I'm just verifying it, but one of the envelopes was item
21 one. The letter inside the envelope was item two. I sub-
22 broke it into 2.1, 2.2, which is the face and back of the
23 piece of paper. Then that -- the other envelope I looked at
24 was item seven, and the two-page letter with writing on both
25 sides was marked as item eight, and again, I sub-itemed the

1 face and backs of the -- both pieces of paper 8.1, 8.2, 8.3,
2 8.4.

3 Q Okay. I'm going to hand you what's been marked as
4 State's 41. Can you tell me what that is?

5 A It's a copy of my report --

6 Q Okay.

7 A -- in this case.

8 MS. RICHARDSON: Your Honor, at this time I'd offer
9 State's 41 into evidence.

10 MR. WILSON, JR.: Without objection, Your Honor.

11 MS. RICHARDSON: As well as State's 39 and 38.

12 MR. WILSON, JR.: Without objection, Judge.

13 MS. RICHARDSON: And we have photocopies of those that
14 are just easier to flip through because they're written in
15 pencil, and that's State's 36 and 37, offer those as well.

16 MR. WILSON, JR.: Without objection, Your Honor.

17 THE COURT: Without objection.

18 MS. RICHARDSON: Okay.

19 (State's Exhibit Number 36 [Letters], State's Exhibit
20 Number 37 [Letters], State's Exhibit Number 38 [Envelopes],
21 State's Exhibit Number 39 [Envelopes], and State's Exhibit
22 Number 41 [Jamieson Report] entered into evidence and
23 appropriately marked.)

24 BY MS. RICHARDSON:

25 Q Mr. Jamieson, can you publish for us State's 39, and I

1 don't know if it would be easier to read it from the original
2 or from the copy.

3 A What do you mean by publish?

4 Q Or read it to us, please?

5 A Okay. I can try. It's -- okay. Okay. I have an
6 envelope, State Exhibit 39. The return address is Marissa
7 Cohen, 2394 Browns Ferry Road, Georgetown, South Carolina, SC,
8 29440. The envelope is addressed to Devon Coombs, 2394 Browns
9 Ferry Road, Georgetown, South Carolina, SC, 29440. The letter
10 starts out with Marissa Cohen, 2394 Browns Ferry Road,
11 Georgetown, South Carolina, 29440, November 11th, 2014. [As
12 read], "Hey, little Dev, Gregory told me that your probation
13 would be over on November 20th, 2014, when you turn 18. Rissa
14 said that she love you, love you. Her address 6719 North 6th
15 Street, P-H-I-L-A, PA, 19126. At least you lawyer comes and
16 see you. I talked to Isaac today. He said that he spoke to
17 her, and they denied me a bond again. Shit. When was that
18 bitch going to come and let me know. Shit, when was court?
19 Dev, I have a bad feeling about this. Randy needs to go. I
20 be thinking about all kinds of shit. I could come up with
21 everything to help everybody else, but when I comes to me I
22 can't think of shit. I need some help bad. November 15th Roy
23 Boy I being moved three times already within these few days.
24 Now I'm with a psycho," or it's p-s-y-h-o, "for real. I think
25 that I'm also on lockdown. It's your birthday in five days.

1 Happy birthday. You're going to be 18. Wow, my lawyers still
2 haven't gotten in contact with me. I heard Randy has a bond.
3 I wish that I had some backup and Randy did have a bond just
4 to deal with him. Try to find out now -- how I can get some
5 money from my books to yours. I'm so depress. I feel all
6 alone in this situation. Well, I wrote a grievance. P-S-Y-H-
7 O is gone. Devon, I be having all kinds of thoughts, mood
8 bad, everything under the sun. Devon, hows do you think
9 things are going to turn out for me? Do you think that I'm
10 going to get life? I hope not. I need a gun and meet up with
11 Randy and Mano," or it might be M-A-I-N-O. "I need out of
12 here. I wish that we all were home," and it looks like C-O-A-
13 N-Y, "me, Rissa and you. Don't forget S-Y-O-E-N-C-E. Anyway,
14 I love you, wrote back soon, mommy." And that's it for that
15 one.

16 Q I'm not going to ask you to read the other -- the entire
17 contents of the other one.

18 A It was too painful, was it? Sorry.

19 Q If you could just on the next one. That's all right.
20 We'll publish that one at a different time. That's all the
21 questions I have. Answer any questions that Mr. Wilson may
22 have for you.

23 CROSS EXAMINATION

24 BY MR. WILSON, JR.:

25 Q Just very briefly. Can you give me the dates on those

1 letters?

2 A Certainly. State's Exhibit 38 is dated December 22nd,
3 2014.

4 Q Okay.

5 A And State's Exhibit 39 is dated November 11th, 2014.

6 Q Very good. Did the State provide you with any
7 handwriting samples from Randy Collins?

8 A No, sir.

9 Q Okay. And you haven't observed any handwriting samples
10 from Randy Collins; correct?

11 A No, sir.

12 Q These were from Marissa Cohen written to her son Devon
13 Coombs?

14 A The questioned material?

15 Q The questioned material. Yes, sir.

16 A Yes, sir.

17 Q Okay.

18 A If Devon Coombs is her son.

19 Q Right. Right. If he's her son. Yes, sir. And in these
20 letters the dates that she has on there are in December and
21 was the other one November?

22 A Yes.

23 Q When she sent both letters?

24 A Yes.

25 Q Okay. Did they tell you the incident date or the date

1 that Randy Collins actually gave a statement?

2 A No.

3 Q Okay. Thank you so much.

4 MS. RICHARDSON: Nothing further from this witness, Your
5 Honor, and we'd asked that he be excused from his subpoena.

6 MR. WILSON, JR.: Without objection, Your Honor.

7 THE COURT: Thank you. You're excused.

8 A Thank you, Your Honor.

9 THE COURT: And released from your subpoena.

10 A Thank you.

11 THE COURT: Thank you. Ms. Richardson, you want to come
12 up and make sure that --

13 MS. RICHARDSON: Yes, Your Honor.

14 THE COURT: -- that Grace has the exhibits.

15 All right. We're good?

16 MS. RICHARDSON: Yes, Your Honor.

17 THE COURT: Thank you.

18 MS. RICHARDSON: If we may talk with you just a second.

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

21 THE COURT: Okay. All right. We're going to adjourn for
22 this afternoon. Hopefully, we're going to be able to finish
23 this up tomorrow. We hope so anyway. So please take the jury
24 back to their room. Make sure they have their things and get
25 out safely, and we'll see them back at 9:30. Okay? Attorneys

1 at nine, okay. Thank you.

2 MR. WILSON, JR.: Yes, sir.

3 MS. RICHARDSON: Yes, Your Honor.

4 THE COURT: We're adjourned. Everyone wait for the jury.

5 All right. See you all in the morning.

6 MR. WILSON, JR.: Thank you, Your Honor.

7 MS. RICHARDSON: Thank you, Your Honor.

8 (Adjourned for day.)

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1 (On the record November 9, 2018. The following takes
2 place outside the presence of the jury.)

3 THE COURT: Preliminarily let me just put something on
4 the record. On yesterday I made a ruling concerning certain
5 letters that were introduced that were purported to be letters
6 of a Codefendant not on trial here today, jailhouse letters to
7 her, her son. It was my ruling that they were clearly
8 admissible or I felt they were admissible under Rule 804 as a,
9 a statement against interest. I am of that opinion this date.
10 However, I want this record to be clear in that I am aware of
11 the case law, some case law indicating that it should be, when
12 that is done in a criminal case it should be supported by
13 corroborating circumstances clearly indicating its
14 trustworthiness. I think that the corroborating circumstances
15 are certainly there. First of all, we have heard the
16 testimony of Mr. -- Ms. Richardson, who was the gentleman who
17 testified that she told him she was going to burn the house.

18 MS. RICHARDSON: Oh, Benjamin Brown, Your Honor.

19 THE COURT: Mr. Brown. We've heard the testimony of Mr.
20 Brown that she stated she was -- is the, the author of the
21 letters that she was going to, to burn her house. We have the
22 statement of the Defendant himself, which it's about to be
23 played, but of course, I have seen it many times and I have
24 ruled on its admissibility, and there's an agreement as to the
25 redacted copies. In that statement he very clearly

1 implicates, of course, there's an issue for the jury to
2 determine whether the statement's voluntary, but in that
3 statement implicates himself in the, in the burning of the
4 trailer and his, his conversations with the author of the
5 letters, the Codefendant, he indicates that, and in addition
6 to that, there's been testimony by an expert authenticating
7 the letters as being in the handwriting of the, the
8 Codefendant, also the circumstances under which they were
9 discovered I think adds to their trustworthiness. There is a,
10 a significant amount of evidence in this case that would --
11 from which the jury certainly could infer, clearly, that there
12 was a, a -- an agreement between the parties for the burning
13 of the building, and unfortunately it led to the death of this
14 young man. I think that there are clear indications of
15 trustworthiness in that writing. I think the clear inference
16 that a jury could raise from that is that she states that she
17 wants the two persons with the Defendant in his statement
18 indicates as being her Coconspirators need to be killed, the
19 clear inference is that they're going to testify against her,
20 she's afraid that she's going to get life in prison as she
21 indicates in her letter, whether that's true or not, that
22 certainly indicates her, her mindset at the time. I believe
23 that there are corroborating circumstances that support
24 clearly the trustworthiness of her statement, that the
25 statement is against her interest, and should come in as an

1 804 exception to hearsay, and again, I have looked at that
2 statement under a 403 analysis. I understand that it is
3 highly prejudicial to the Defendant, but it is not unfairly
4 prejudicial. He has made a statement that comports with the
5 inferences that could be raised by those statements. The
6 connection between the Defendant and this Defendant and the
7 Codefendant is crucial to this case, must be proven. It's an
8 important part of the State's case, and I do not see it as
9 being unfairly prejudicial to the Defendant. I just want that
10 on the record. Okay. All right.

11 Now, I also understand that over the evening based on my
12 rulings there has been an agreement as to the redaction of the
13 statement given by the Defendant which the jury will hear this
14 morning. Is that correct, Ms. Richardson?

15 MS. RICHARDSON: Yes, Your Honor.

16 THE COURT: Is that correct, Mr. Wilson?

17 MR. WILSON, JR.: That's correct, Judge, obviously
18 subject to our previous objections in Jackson v. Denno, Judge.

19 THE COURT: Oh, certainly. And of course, there is an
20 agreement that during the breaks that Ms. Richardson will
21 explain to the jury that there is a break here because the
22 parties agree that this is -- these are matters which are not
23 relevant to the jury's decisions and that there was a bathroom
24 break or that this is the portion where the camera battery ran
25 out as the witness has already testified. Okay. Is that

1 right?

2 MS. RICHARDSON: Yes, Your Honor.

3 THE COURT: Okay. And no comment on the, on the content,
4 simply that's what the breaks are for so as not to confuse the
5 jury. All right. Right, Mr. Wilson?

6 MR. WILSON, JR.: Yes, sir. Yes, Your Honor.

7 THE COURT: Okay. All right. Now, anything further?

8 MS. RICHARDSON: Nothing from the State, Your Honor.

9 MR. WILSON, JR.: Nothing from the Defense, Judge.

10 THE COURT: Okay. And I also would like to put on the
11 record we have this morning had a fairly extensive conference
12 on the charge. I -- my clerk had a charge prepared and we
13 have added some things at the request of the parties and that
14 those are being sent to you so that you will have them as
15 early on as possible, and I want to make sure that you -- and
16 I know you do, you know my policy. I give the jury a written
17 transcript of my charge. Everyone knows that. Right, Mr.
18 Wilson?

19 MR. WILSON, JR.: Yes, Your Honor.

20 THE COURT: Okay. And Ms. Richardson. Okay. Thank you.
21 Okay. Let's bring in the jury.

22 (Whereupon, the following takes place in the presence of
23 the jury.)

24 THE COURT: Okay. Have we got everyone back? Yeah. We
25 certainly do. Okay. Ladies and gentlemen, we brought you in

1 a little bit later this morning but I've had the attorneys in
2 for quite a while now, and we have done a great deal of
3 shortening up what's left, and so please don't think that we
4 were wasting your time. We were -- certainly had judicial
5 economy at heart when we conferenced this morning, and I think
6 we accomplished a good bit. Okay. Ms. Richardson, you may
7 proceed.

8 MS. RICHARDSON: The State calls Investigator Melvyn
9 Garrett to the stand.

10 THE COURT: Come around, Mr. Garrett.

11 WHEREUPON, Melvyn Garrett is called to the stand, duly
12 sworn by the clerk and testified as follows:

13 THE CLERK: Please have a seat.

14 DIRECT EXAMINATION

15 BY MS. RICHARDSON:

16 Q Good morning.

17 A Good morning.

18 Q All right. Investigator Garrett, where are you employed?

19 A Georgetown County Sheriff's Office.

20 Q And what is your position there?

21 A Criminal investigator.

22 Q And can you briefly describe to us your work history in
23 law enforcement?

24 A Certainly. I began law enforcement in 2002. I -- 2007 I
25 went to Iraq to train police officers. In 2010 I went to

1 Afghanistan to train police officers. 2014 I went to the
2 Andrews Police Department where I served as deputy chief and
3 then chief of police, and then 2017 I came back.

4 Q And so you were with Georgetown from what period of time,
5 2000 --

6 A 2002 to 2007, 2008 to 2009, 2010 to 2014 and 2017 to
7 current.

8 Q And in March of 2014 then you were with Georgetown County
9 Sheriff's Office?

10 A That is correct.

11 Q And your position there was?

12 A Criminal investigator.

13 Q Okay. And were you called out to investigate a fatal
14 fire that occurred near the Town of Andrews on March 29, 2014?

15 A Yes. I was.

16 Q Okay. And obviously that's in Georgetown County?

17 A It is.

18 Q Okay. And are you familiar with the, with the Town of
19 Andrews?

20 A I am. I am.

21 Q You were chief there as well?

22 A Absolutely.

23 Q Okay. Let me show you what's been marked as State's

24 Four, the map, the GIS map of --

25 A Yes.

- 1 Q -- of, of Andrews.
- 2 A Uh-huh.
- 3 Q And you've reviewed that previously?
- 4 A I have.
- 5 Q Okay. And just to kind of get everybody oriented this
- 6 where I'm pointing that says crime scene 10 James Drive is on
- 7 this point?
- 8 A Yes. That's the location of the fire.
- 9 Q Okay. Tell me how you would generally be notified that
- 10 you needed to respond to a scene because obviously every scene
- 11 wouldn't have an investigator; is that right?
- 12 A That is correct. What, what generally happens is patrol
- 13 will show up at a scene. They would call their supervisor,
- 14 tell them what they have and the supervisor would make a
- 15 determination of whether or not an investigator is needed.
- 16 Q And that was done in this case?
- 17 A Yes. It was.
- 18 Q And the initial responding officer was who?
- 19 A Allen Flagler.
- 20 Q Okay. All right. So about what time did you arrive?
- 21 A It would have been shortly before three.
- 22 Q And can you just describe the scene and what was going on
- 23 when you got there?
- 24 A Absolutely. There's a lot of folks around. I noticed
- 25 that the trailer was burned with the SLED guys described as

1 the A B side to keep it consistent. So the first thing I
2 would do is talk with the responding officer, "Hey, tell me
3 what you got," and so he told me about the death. I look at
4 the -- well, first I go and I view the body, look at the
5 scene. The first thing I noticed that the A B side of the
6 trailer is burned, but the kitchen is on the other end. So I
7 found that kind of strange, but okay, we're going to keep
8 moving. Now, growing up, I've had some experience with
9 kerosene heaters. We used them, and when I looked in I
10 noticed that there were five or six heaters in that room, and
11 for a space that small typically you would only need one. So
12 at that time I decided to call SLED for an arson
13 investigation.

14 Q Okay. And obviously the -- you knew at that point that
15 it was a fatality with the child?

16 A Absolutely.

17 Q And did that give you some concern as well?

18 A Oh, absolutely. He's only 12 years old, and he's home
19 alone. So I also contacted DSS.

20 Q And how was the weather that night?

21 A It was raining off and on.

22 Q So you, you called in the SLED arson investigators and
23 then what did you do?

24 A I would've had to go and get a search warrant because
25 typically if we got a crime scene we use a search warrant to

1 actually investigate the case, brought it back and met with
2 SLED and then we served that search warrant, which means we
3 started working the crime scene, collecting evidence, so on
4 and so forth. I received some information that the child's
5 mother was acting kind of strange, but I needed to speak with
6 her anyway. You know, I need to find out why the child is
7 here, "Where were you?" So we went to Georgetown and I did
8 notice that, in fact, of all the interviews I've done there's
9 only been three occasions when I looked into somebody's eyes
10 and I didn't see anything at all. She was just cold.

11 Q And did you gather any information from your interview
12 about possible causes for the fire?

13 A Yeah. She told me that she had been having some
14 electrical problems. So they moved out and moved into Arbor
15 Place Apartments.

16 Q And did you investigate why the child was there alone?

17 A She told me that he went to a party that night at the rec
18 center, and he was supposed to come back to the apartment, but
19 he never did, and so I asked, "Well, you didn't call to see
20 where he was?" She said, "I tried to but it went to
21 voicemail."

22 Q And as far as the -- as getting the search warrant does
23 that take a little time?

24 A It does. It does. You got to go back, write the search
25 warrant, then meet with the judge, which the on-call judge, I

1 believe, was in Pawleys Island or Murrells Inlet. So I had to
2 travel over there, get it signed and then go back to Andrews.

3 Q So after you had, you had done that and had interviewed
4 the mother about what time was it at that point?

5 A I want to think it was about six that morning that I
6 interviewed her. If you'd let me look at the notes, 7:30-ish.

7 Q And after that you went back to the scene?

8 A I did.

9 Q Okay. And then what else did you do?

10 A We -- I was -- I, I met with the SLED investigators.
11 They told me, "Hey, you know, this is certainly an intentional
12 fire." So we continued to work the scene, and, and I believe
13 that was it that particular day.

14 Q And the scene was clear, cleared after that as far as --

15 A Absolutely. Uh-huh.

16 Q And then what was the next steps in your investigation?

17 A Well, because she mentioned that there -- she'd had some
18 electrical problems I contacted the electric company, spoke
19 with their investigator, "Hey, have you had any complaints?"
20 He said no. I asked him if there was any way he could tell
21 whether the currents were off that night. He said there
22 wasn't a way to tell so.

23 Q And then after that did -- what else happened in your
24 investigation?

25 A Well, I, I received an anonymous tip at the office one

1 day. So I went out to Andrews to Super Chick and met with the
2 clerk who was on duty the night prior to the fire. She told
3 me that Marissa Cohen came in, that she knew Marissa, but she
4 came in and bought kerosene. I said, "Okay, well, first tell
5 me how you remember that." She said, "Well, it was strange.
6 She used a \$100 bill and initially I thought she wanted three
7 dollars worth of kerosene, but she told me she wanted 20." So
8 I had to do two separate transactions.

9 Q And were you able to get any evidence from Super Chick?

10 A Absolutely. I got the two receipts. I asked about the
11 video, but their camera system wasn't working that day.

12 Q Any other actions that you took as a result of the
13 information you'd received?

14 A Oh, that -- yes. I contacted Agent Hardee who was
15 working hand-in-hand with me, had him to check to see if she
16 had renter's insurance on the trailer. Sometime later he
17 found out that she did. A little less than a month prior to
18 the fire she got renter's insurance.

19 I then spoke with Benjamin Brown. He told me that he
20 didn't know anything about it, he wasn't there, and I was able
21 to confirm that through other residents where he was staying.
22 I spoke with a few other people in that time period, and then
23 I went to go find Randy Collins to speak with him.

24 Q Okay. And how -- where did you -- and what -- do you
25 know what date that was? Well, first let me show you. I know

1 this will refresh your recollection, what's been marked as
2 State's Exhibit Number One for identification purposes, and do
3 you recognize that?

4 A Yes.. I do.. This is --

5 Q Okay. And what is that?

6 A This is a handwritten statement from Randy Collins. I
7 actually wrote the statement at his request.

8 Q Okay.

9 A At it's -- this is dated April 9th.

10 Q And tell me about the circumstances of that statement?
11 Where did you locate him?

12 A I believe he was in the roadway near his house. So as I
13 approached, we saw him. I, I believe I was with Investigator
14 -- Officer Nesmith at the time, and I stopped and I got out
15 and walked up to him, and I do that because I want to, I want
16 to get an idea of how they feel, what their body language is
17 so I can watch, see what's going on, and I, I told him that --
18 I -- well, I asked him where he was. I didn't ask him where
19 he was. I asked him if he knew anything about the fire. He
20 told me he did not know. He heard about it, but he didn't
21 know anything other than that, and then he went on to tell me,
22 well, you know, I was at the bar from nine till 11. I didn't
23 ask him that, but he told me that. So I asked him to write it
24 down in a statement. He said, "I'd prefer that you do it."
25 So I wrote it, and then I left him, got his phone number and

1 all that good stuff, said, "Hey, I may have some more
2 questions for you later."

3 Q Okay. And did you put him in the car in handcuffs or
4 anything like that?

5 A No. We were standing outside.

6 MS. RICHARDSON: Your Honor, at this time I'd offer
7 State's One into evidence.

8 MR. WILSON, JR.: Without objection, Your Honor.

9 MS. RICHARDSON: Okay.

10 THE COURT: And you're, you're referring to the statement
11 that was written by the officer?

12 MS. RICHARDSON: And signed by Mr. Collins. Yes, sir.

13 THE COURT: Okay. All right. That's in.

14 MS. RICHARDSON: Okay.

15 THE COURT: Without objection.

16 (State's Exhibit Number One [Collins' Statement 4-9-14]
17 admitted into evidence and appropriately marked.)

18 BY MS. RICHARDSON:

19 Q And would you publish or read this statement to the jury,
20 please?

21 A Certainly. [As read], "On the night of the fire I was
22 with my nephew, James Miller, and we went to Carnell's Club.
23 We went there at nine and left around 3 a.m. T that runs the
24 bar was there. I did not have anything to do with the fire."

25 Q All right. And what did you know at that point about

1 James Miller?

2 A I didn't know anything about James Miller. This was the
3 first time I heard his name.

4 Q So based on that information and the statement that you
5 were given what did you do?

6 A I went to go find James Miller to confirm what Randy said
7 and he did.

8 Q Okay. And did you do anything else?

9 A Absolutely. I -- after, you know, during this
10 investigation, like I said, I received a tip, and I took
11 certain measures to confirm more that tip. I met with Randy
12 again, and I told him that I wanted to meet with him a third
13 time because I had some more questions. He agreed to meet
14 with me, but he never showed up came.

15 Q And as far as --

16 MR. WILSON, JR.: No objection, Your Honor.

17 THE COURT: Without objection.

18 BY MS. RICHARDSON:

19 Q Now, let me show you what's been marked as State's 42.

20 A Okay. This is a statement taken by -- from James Miller.
21 It appears that I wrote this statement as well, and he signed
22 it and approved it. This is on April 10th.

23 Q Okay. And where did you end up getting up -- that was
24 April 10th?

25 A Yes.

1 Q Okay. And where did you end up finding Mr. Miller?

2 A He -- his driver's license said that he lived one place,
3 but I actually found him at 6 Soapberry Road where he was
4 living.

5 Q And if you --

6 MS. RICHARDSON: Your Honor, at this time I'd offer
7 State's 42 into evidence.

8 THE COURT: I think he just said without objection;
9 right?

10 MR. WILSON, JR.: Your Honor, without objection, Judge.

11 MS. RICHARDSON: I just hadn't moved it in.

12 THE COURT: Okay. It's admitted

13 (State's Exhibit Number 42 [Statement of James Miller]
14 admitted into evidence and appropriately marked.)

15 BY MS. RICHARDSON:

16 Q And could you publish that to the jury?

17 A Certainly. [As read], "On the night of the fire myself
18 and my uncle, Randy Collins, went to Carnell's around nine and
19 we left around 3 a.m. My Uncle Randy was there with me the
20 entire time. I had nothing to do with the fire."

21 Q And did you do any follow-up based on their statements?

22 A Absolutely. I went to Carnell's Club to speak with the
23 owner because Randy mentioned that he specifically spoke with
24 T who was the bartender that night, and well, when I spoke
25 with T, it didn't match with what Randy said. I also spoke

1 with other patrons who were at the bar that night and their
2 statements were inconsistent with what Randy said.

3 Q How many of them, all -- how many people all together did
4 you speak with?

5 A Five or six.

6 Q And so after that you said that you met with Mr. Collins
7 again?

8 A I did.

9 Q And that was to schedule another appointment that he
10 failed to appear for?

11 A That's correct.

12 Q And when was that?

13 A That was on May 8th or at least my report says May. It
14 was probably April.

15 Q And in between the time of the fire and May --

16 A Uh-huh.

17 Q -- you and Agent Hardee were still working hand in hand?

18 A Absolutely, we were.

19 Q And what other sorts of things were you and he doing in
20 your investigation?

21 A Okay. So once I found out that -- I got information that
22 was inconsistent with the statements I got we -- Agent Hardee
23 did a search warrant for the telephone numbers to see if, you
24 know, we could see any communication between the parties and,
25 you know, of course, we contacted the insurance company and,

1 and, and also the storage -- I believe we contacted the
2 storage shed to see if Marissa had moved out, moved anything
3 out.

4 Q Okay. And so then was there another occasion you met
5 with Mr. Collins?

6 A Yes. The day of the -- we actually did interview him a
7 second time. We met with him over at Andrews Town Hall to
8 return his phones to him, and while we were there we asked to
9 speak with him about the statement he had given and some of
10 the things that we had learned through the investigation.

11 Q And tell me how, how that came about.

12 A Well, he had -- we, we took -- we seized two cell phones
13 so we could also do search warrants on them and download the
14 content, and so we met, we talked with him, I believe he
15 talked with Officer Nesmith, and an arrangement was made for
16 us to meet at town hall to return those phones.

17 Q Okay. And he did come there?

18 A He did.

19 Q All right. And where did you meet up with him at town
20 hall?

21 A There's a conference room there and that's where we,
22 that's where we met him.

23 Q And explain to us the setup of Andrews Town Hall and
24 Police Department.

25 A Okay. So they're connected, partitioned by a glass door.

1 So one side's the police department. The other side is actual
2 town hall where they collect money for the water bill and so
3 on and so forth.

4 Q And when he came to town hall was he by himself or what
5 or how did he arrive? Do you remember?

6 A I want to think he was dropped off there.

7 Q Okay.

8 A I don't -- I don't remember whether he drove or whether
9 he was dropped off, but he arrived in a vehicle.

10 Q And did you take him into custody? What was the process
11 at that point?

12 A Absolutely not. We talked with him for a little bit, you
13 know, "Hey. Thank you for coming. We're going to return the
14 phones, but while you're here is it okay if we -- we got a few
15 questions for you. Would you like to talk?" He said, "Yeah.
16 I'll talk to you."

17 Q And what was his demeanor?

18 A Well, he seemed pretty cooperative at the time.

19 Q And how about his physical condition?

20 A He was in good shape.

21 Q And did he appear to be under the influence of alcohol or
22 drugs?

23 A No. In fact we asked him. He said no.

24 Q And did you make any threats, coercions or promises to
25 get him to talk with you?

- 1 A No.
- 2 Q So once he agreed what did you do? Did you -- at that
- 3 point where did you go?
- 4 A Well, we went into that conference room and we advised
- 5 him of his Miranda rights, you know, right to remain silent,
- 6 anything you say, so on and so forth, and, and then we started
- 7 asking him questions, and, and at this point the questions
- 8 that we're asking is just to get him comfortable with talking.
- 9 Q Let me show you what's previously been introduced as
- 10 State's Exhibit Two and tell me about that.
- 11 A So the Miranda rights form that I spoke about. This is
- 12 normally what we do. We read the rights line by line, ask him
- 13 if he understands. He'll initial each line and then sign the
- 14 bottom.
- 15 Q Were you present for that?
- 16 A I was.
- 17 Q Okay. And is your signature on that form?
- 18 A It is.
- 19 Q Now, tell me about how this, this interview was recorded.
- 20 A So Agent Hardee had a personal camcorder that he had with
- 21 him. So while we were beginning to interview, he decided,
- 22 "Hey, let's, let's go ahead and record this while we're here."
- 23 So I agreed and he set up his personal camera.
- 24 Q And where was the camera?
- 25 A It was placed on the table between him and Randy Collins.

- 1 Q Okay. Were you also at the table?
- 2 A I was.
- 3 Q Okay. And was it completely visible?
- 4 A Yes.. It was.
- 5 Q And so tell me about the process of questioning.
- 6 A Okay. So, like I said, the first bit of questioning is
- 7 just to get the person or whoever, the subject that we're
- 8 talking to comfortable with talking. During that process we
- 9 will then switch over to an interrogation type process where
- 10 we will confront him about the inconsistencies in the
- 11 statement and that's, that's what we did.
- 12 Q Did he know why he was there?
- 13 A Yes. He knew.
- 14 Q Now, about how long did this interview last?
- 15 A It was around three hours.
- 16 Q And tell me if anything that you did to provide for his
- 17 comfort.
- 18 A Well, absolutely, you know, "If you need anything to
- 19 drink, any time you need to use the bathroom or you want to
- 20 smoke, you know, you're, you're free to go. You can do
- 21 whatever you want," so anytime he requested it then that's
- 22 what we try to do.
- 23 Q Did you provide him anything like that?
- 24 A Absolutely. He had soda and cigarettes.
- 25 Q And what about food?

- 1 A Well, if he had said he was hungry we would have gotten
2 him food.
- 3 Q And did that happen?
- 4 A But he -- no.
- 5 Q And did he ever ask to terminate the interview?
- 6 A No. He didn't.
- 7 Q Now, at some point, and we heard testimony about,
8 testimony about this previously, some of the -- some of the
9 statement is not on video; is that right?
- 10 A That's correct.
- 11 Q Okay.
- 12 A That's correct.
- 13 Q Tell me about that.
- 14 A So while we're talking to him I think we're about an
15 hour, hour and a half in, the camcorder went dead. Now, we
16 didn't notice that until we went to take the next break and
17 Agent Hardee -- so he tried to correct that.
- 18 Q Because -- and why would you have noticed it during a
19 break?
- 20 A Well, because we're getting ready to cut the camera off
21 for the break, and that's when he noticed that it was already
22 off.
- 23 Q Okay. All right. And while -- but you were still
24 interrogating him without realizing that the camera was off?
- 25 A Partly, partly. I'm sure we'd taken a break in between

1 there.

2 Q And what, if anything, occurred while you were off
3 camera?

4 A I mean, we just went out and smoked cigarettes, used the
5 bathroom. That's about it.

6 Q And would there have been anything different during that
7 period than what we see on tape?

8 A No.

9 Q While the camera was not recording, did you threaten,
10 coerce or coerce Mr. Collins?

11 A Absolutely not.

12 Q Did you make any promises or do anything to induce him to
13 continue to talk to you?

14 A No. Not really. You know, I told him no matter what he
15 told me I was going to let him go home that day.

16 Q Either way?

17 A Either way.

18 Q And while the camera was off did -- was the -- did your
19 demeanor change at all or did you change your approach?

20 A No. I'm a pretty even keel guy.

21 Q And while the camera was off did he say he wanted to quit
22 the interview or, or anything like that?

23 A No. He didn't.

24 Q Did you do anything to make him feel that he had no
25 choice?

1 A No. No. Absolutely not.

2 Q Now, tell me what he initially told you when the
3 interview began.

4 A Well, he maintained his story that he didn't do it, he
5 didn't set the fire, he wasn't there, he didn't know anything
6 about it and that was before I started to confront him about
7 what we'd learned on the investigation.

8 Q Okay. And when you started confronting him tell me what
9 you started confronting him with.

10 A Well, I want to think that the first thing I confronted
11 him about was the fact that he told me he was at the bar and
12 he wasn't. You know, he told me all the people that he talked
13 to and their stories were different than his. So and I, I
14 noticed that it was strange that the times that he told me he
15 was at the bar would have put him as far away from the crime
16 scene as he could possibly be, which is something that we
17 typically see in interviews.

18 Q Okay. And when you started confronting him with these
19 inconsistencies what happened then?

20 A Well, he would have to change his story. "Well, I was
21 there, but I left," or, you know, "I know something about it,
22 but I didn't do it," and so he just kept inching closer and
23 closer until he put himself at the crime scene when the fire
24 was started.

25 Q And can you explain your method in that interview

1 technique?

2 A Well, absolutely, because if he's -- if you tell me
3 something and that's -- and this is the reason why we get an
4 initial statement it's just to lock him in, "Okay, this is
5 what you say happened." We do an investigation and then we
6 revisit that initial statement, and so when, when he tells me
7 he didn't know anything about it, but then I learnt, he says,
8 "Well, you know, she called. Marissa called and she offered
9 me \$5,000 to burn down the trailer, but I told her no," and
10 then it was, "Well, I told my nephew James about it, but I
11 didn't go," and then, "I went but I didn't get out of the
12 car," and "I got out of the car, but I didn't walk through the
13 woods," and "I walked through the woods, but I didn't go to
14 the house," and that's just how the -- how it progressed all
15 the way to the end.

16 Q Now, at this point had -- did you have any of the case
17 materials with you?

18 A I don't believe I did.

19 Q Okay. Did you show him any of the crime scene photos or
20 anything like that?

21 A I wouldn't have had those with me. No.

22 Q And let me show you what's been marked as State's Three
23 for identification purposes only, and can you tell me what
24 that is?

25 A Yes. These are, these are three disks from the interview

1 that we had with Randy Collins on that day we're talking about
2 now.

3 Q And you've reviewed those?

4 A I have.

5 Q And does -- do those disks contain everything that you
6 recorded that day?

7 A Yes.

8 Q And obviously if you didn't record it it couldn't be on
9 there; right?

10 A Absolutely.

11 Q Okay. But as far as what was recorded was all of that
12 placed on the disk?

13 A All of it's right here on the disk.

14 Q Okay. All right. And you didn't take away from it or
15 change it in any way?

16 A No.

17 MS. RICHARDSON: Your Honor, at this time the State would
18 offer State's Number 43 into evidence and pursuant to the
19 Court's prior rulings and discussions with the Defense counsel
20 this is a -- and I believe he will stipulate this is the
21 portions of the interview that'll be shown to the jury. There
22 are certain portions that have been redacted per your ruling
23 that are not relevant to the jury's determination.

24 THE COURT: Is that right, Mr. Wilson?

25 MR. WILSON, JR.: Your Honor, that's correct, subject to

1 the Jackson v. Denno, Judge, and also obviously the portion
2 that Your Honor acknowledges is missing.

3 THE COURT: All right. Okay.

4 (State's Exhibit Number 43 [Statement of Defendant -
5 redacted] admitted into evidence and appropriately marked.)

6 MS. RICHARDSON: Just for clarification, State's 43 is
7 not everything that's on State's Three for identification but
8 it's --

9 THE COURT: Are you about to publish?

10 MS. RICHARDSON: Yes, Your Honor.

11 THE COURT: Ladies and gentlemen, let me maybe explain
12 what Ms. Richardson was just saying. These are lengthy,
13 lengthy tapes. There are some portions that are not relevant
14 to your inquiry or anything that would be before you that some
15 by agreement, some by my ruling have been -- we're just going
16 to skip over them. There are parts where there are bathroom
17 breaks, skips in the tape, and of course there was a portion
18 where it was not recorded. Okay. And we, we have all met
19 about that and we're going to try to explain to you or Ms.
20 Richardson or Mr. Wilson will as we get to those parts so, so
21 you will know what the skip is. Okay. All right, and I think
22 that'll help you follow the tape and answer any questions in
23 your mind that you might have about that.

24 MS. RICHARDSON: If I could have just a moment.

25 THE COURT: Mr., Mr. Garrett, do you want to return to

1 your seat during, during this?

2 A Sure.

3 THE COURT: I, I don't have any objection to that.

4 Otherwise you'll just be sitting there for an hour or so. So
5 if you would like -- can -- any objection to that, Mr. Wilson?

6 MR. WILSON, JR.: No, Your Honor, no objection, Judge.

7 THE COURT: I think he'd be more comfortable sitting in
8 the -- or anywhere you'd like to actually

9 A Thank you, Judge. That's right.

10 MS. RICHARDSON: And Your Honor, obviously, this is a
11 little lengthy. So I'm assuming you'll let us know when you
12 want to take a break and stop.

13 THE COURT: Any time I see a juror raise his hand or her
14 hand.

15 MS. RICHARDSON: Okay.

16 THE COURT: Let me ask. I anticipate this being over an
17 hour, maybe an hour and a half. Would you like to take a
18 quick break while they're setting it up? No one would? Okay.
19 All right.

20 (State's Exhibit Number 43 played in open court.)

21 MS. RICHARDSON: And Your Honor, could we take a break at
22 this point?

23 THE COURT: Certainly. Let's take a quick break.

24 All right.

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: We'll be at ease for about 10 minutes.

3 OFF THE RECORD

4 (On the record. The following takes place outside the
5 presence of the jury.)

6 THE COURT: How much more time on the tape, an hour?

7 MS. RICHARDSON: About a hour and 20, 15, 20.

8 THE COURT: Okay. All right. Let's bring the jury in.

9 MS. RICHARDSON: Your Honor, I want to address one matter
10 before we do.

11 THE COURT: Uh-huh.

12 MS. RICHARDSON: The reason I asked for a pause and when
13 I was looking at my transcript I realized there was something
14 that Mr. Wilson had asked to be removed that was not. So we
15 have skipped over that part and will queue it up.

16 THE COURT: Okay. Whatever. All right. Okay. Let's
17 get the jury in. Okay. We got one -- waiting. All right.

18 (Whereupon, the following takes place in the presence of
19 the jury.)

20 THE COURT: All right. Ladies -- we usually break at
21 lunch at this time, but it's really not a good time. I'd like
22 to finish this up. What I'm going to do is order you some
23 lunch so we can make best use of what time we have this week,
24 and I think the clerk's going to get that, but let's continue
25 on with this video. All right. Ms. Richardson.

1 MS. RICHARDSON: And Your Honor, for the record we are
2 beginning back at a, at a point that is going to exclude some
3 information based on our agreement but it is information that
4 was previously on the CDs.

5 THE COURT: There's a skip because we've all decided it
6 is not --

7 MS. RICHARDSON: Yes, Your Honor.

8 THE COURT: -- appropriate or relevant to this issue.
9 Okay. Okay.

10 (State's Exhibit Number 43 played in open court.)

11 MS. RICHARDSON: And Your Honor, this will be another
12 skip that is pursuant to your ruling.

13 THE COURT: Okay.

14 (State's Exhibit Number 43 played in open court.)

15 MS. RICHARDSON: Okay. Your Honor, that was another
16 skip.

17 (State's Exhibit Number 43 played in open court.)

18 MS. RICHARDSON: And Your Honor, this is the point where
19 the officers have testified the battery went dead. I'm going
20 to start back at the next portion.

21 THE COURT: All right.

22 (State's Exhibit Number 43 played in open court.)

23 THE COURT: You need a break? Okay. Stop it. Take the
24 jury to the jury room, let them take a break.

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: Okay. We're at ease for just a few minutes.

3 How much more is left, Ms. Richardson?

4 MS. RICHARDSON: This next portion is 30 minutes and 58
5 seconds. So almost 31 minutes.

6 THE COURT: Okay. And you had some definitions or some
7 additions to the charge, and I understand you hadn't gotten
8 them to Brett yet. Please get them to him so if you want them
9 added.

10 MS. RICHARDSON: Okay.

11 THE COURT: All right. Let's take a quick break.

12 OFF THE RECORD

13 (On the record. The following takes place outside the
14 presence of the jury.)

15 THE COURT: All right.

16 MS. RICHARDSON: Yes, Your Honor.

17 THE COURT: Bring in the jury.

18 (Whereupon, the following takes place in the presence of
19 the jury.)

20 THE COURT: All right. We have our jurors and our
21 alternates here, and we're ready to go forward. Ms.
22 Richardson, you may continue.

23 (State's Exhibit Number 43 played in open court.)

24 THE COURT: Okay. Anything further, Ms. Richardson? Ms.
25 Richardson, anything further for this witness?

1 MS. RICHARDSON: Yes, Your Honor. I'm sorry. I was
2 trying to get this disk or this flash drive back to Ms. Grace
3 here.

4 BY MS. RICHARDSON:

5 Q Okay. Investigator Garrett, let me hand you what's been
6 marked as State's Exhibit Number Eight for identification.
7 Can you tell me what that is?

8 A That is the statement that we all witnessed me write for
9 Mr. Collins there.

10 MS. RICHARDSON: Your Honor, at this time I'd offer
11 State's Eight into evidence.

12 MR. WILSON, JR.: Your Honor, without objection.

13 THE COURT: All right.

14 (State's Exhibit Number Eight [Collins' Statement]
15 introduced into evidence and appropriately marked.)

16 BY MS. RICHARDSON:

17 Q Let me show you State's 44 for identification and what is
18 that?

19 A That is a drawing from Randy Collins.

20 Q And that's the drawing we saw him do on the tape?

21 A Yes.

22 Q Okay. And that's a copy of that drawing?

23 A That is.

24 Q Did you make any changes or alterations to it?

25 A I did not.

1 MS. RICHARDSON: Your Honor, at this time I'd offer
2 State's 44.

3 THE COURT: Mr. Wilson?

4 MR. WILSON, JR.: Your Honor, without objection.

5 THE COURT: Without objection.

6 (State's Exhibit Number 44 [Sketch by Defendant] entered
7 into evidence and appropriately marked.)

8 MS. RICHARDSON: Your Honor, if I could ask the witness
9 to step down.

10 THE COURT: Certainly.

11 BY MS. RICHARDSON:

12 Q All right. I'm going to show you again and have you show
13 the jury, this is State's Four, an aerial map. Okay. So if
14 you can just sort of show us and go over the areas that are
15 highlighted.

16 A Okay. Well, here is Randy's address, 18 Clair Street.
17 This is where Marissa Cohen was living at the time of the
18 fire, which is referred to as the projects, but it's Arbor
19 Place. This is James Miller's house. This is where I first
20 talked to him.

21 Q I think we might be blocking some of them.

22 A Okay. This is, this is the rec center -- I'm sorry. You
23 can't see just let me know -- where the party was, where the
24 child was. This is where James Miller's mother lives, and
25 here's the actual trailer that was burned down.

- 1 Q Okay.
- 2 A And here's the storage units where she put the furniture
- 3 the day before.
- 4 Q Okay. And what about Carnell's, where is Carnell's?
- 5 A It's going to be in this area here. So this is Main
- 6 Street that runs right through Andrews if you come up 521 and
- 7 it's here on the corner.
- 8 Q Okay. And I heard something about, "We drove through
- 9 west." What is west commonly referred to in Andrews?
- 10 A All this is referred to as the west end. So that's what
- 11 he's talking about, "We drove through west."
- 12 Q Okay. Now, let me pull these other large pictures.
- 13 A Sure. Sure.
- 14 Q All right. Now, again, if you could show us the area of
- 15 the crime scene.
- 16 A Okay. 10 James Drive is here.
- 17 Q Okay. And is -- this is James Drive?
- 18 A Yes.
- 19 Q Okay. And it has sort of a, a big curve or hooking --
- 20 A Right. Yeah. There's a -- yeah. There's an L shape.
- 21 Q Okay. And how do you access James Drive?
- 22 A You have to come down Jones Avenue. You're going to make
- 23 a right on Miller and then a right onto James, and it's right
- 24 here in the curve just as soon as you get out of the curve.
- 25 Q Okay.

1 Q And so it's not connected directly to Jones Avenue?

2 A No. It's not.

3 Q Okay. And the street that we heard referred to as the
4 back road --

5 A Uh-huh.

6 Q -- what is that?

7 A That's Laurie Street. Now, that's where all the
8 confusion came from. When he initially was talking about the
9 wooded area I thought they came in on James, but he was
10 talking about the street behind James, and there's a path
11 through the wood line here that goes to the trailer.

12 MR. WILSON, JR.: Judge, objection, Judge. It's
13 speculative testimony. He's talking about what my client
14 intended.

15 A Well --

16 THE COURT: Well, if he pointed it out.

17 MR. WILSON, JR.: He pointed it out. He did. He did.

18 THE COURT: I, I think he was referring to the fact that
19 he was confused, not necessarily your client. He was confused
20 as to what your client was telling him I thinks what -- is, is
21 that what you're saying, officer?

22 A Absolutely. That's exactly what.

23 THE COURT: Your client wasn't confused. He was confused.

24 A Correct.

25 THE COURT: Okay.

- 1 MR. WILSON, JR.: Thank you, Judge.
- 2 Q Okay. So this is the diagram of the mobile home, which
- 3 is State's Exhibit Number Seven. All right. So in reference
- 4 to this where would James Street be?
- 5 A James is here.
- 6 Q And that's the front?
- 7 A That is the front.
- 8 Q And Laurie Street?
- 9 A Would be back here.
- 10 Q All right. Okay. And so State's Exhibit Five, which is
- 11 the map of the front of the burned or the photo of the burned
- 12 trailer --
- 13 A Uh-huh.
- 14 Q -- again, James Street?
- 15 A Is here on this side of the trailer.
- 16 Q Okay.
- 17 A And Laurie is behind it.
- 18 Q And what about this wood line?
- 19 A Right. That's the wood line that he was referring to.
- 20 Q Okay. And are there homes on Laurie Street?
- 21 A There are. Uh-huh. So when he said the brick home
- 22 that's what he's talking about. It's on Laurie.
- 23 Q Okay. All right. If you would have a seat back. All
- 24 right, and I've just retrieved State's 21. Just a moment.
- 25 MS. RICHARDSON: Madam Clerk, can we have the monitors

1 on?

2 BY MS. RICHARDSON:

3 Q Okay. Now, I want to show you the first photo on that.

4 THE COURT: Can you see that clearly enough? I can see
5 your monitor and you've got the worst monitor in the house.

6 A We do.

7 THE COURT: Do you understand what --

8 A I do.

9 THE COURT: Can, can you see well enough to recognize the
10 photo?

11 A I can this one, please.

12 THE COURT: Okay. All right.

13 MS. RICHARDSON: And if not, Your Honor, he can come
14 testify from the table if you would allow.

15 BY MS. RICHARDSON:

16 Q And is that how everything appeared when you arrived?

17 A Yes.

18 Q Okay. And it was still dark outside?

19 A Yes. It was.

20 Q Okay. And this is photo number 24, and can you come down
21 and point out what you were talking about about the houses on
22 Laurie Street?

23 A All right. So if you look through the wood line where
24 the pointer is you'll see a house here.

25 Q Okay. And, and again, can you tell us about this one?

- 1 This is 46.
- 2 A Right. So this is showing a side view of the front of
3 the trailer, so the front to the side.
- 4 Q Okay. And can you show us where your information
5 indicates they were parked?
- 6 A Okay. So if you --
- 7 Q Can you see?
- 8 A All right. So if you look again where the cursor is it's
9 back -- there's a path that leads through this wood line to
10 Laurie Street. So according to him they were parked on
11 Laurie.
- 12 Q Okay. You can have a seat. That's good. What was Mr.
13 Collins' driver's license status?
- 14 A I'm sorry?
- 15 Q What, what about Mr. Collins, did he have a driver's
16 license?
- 17 A Yes. Class D the same driver's license you and I would
18 have if you're not a CDL driver.
- 19 Q Now, tell me what occurred when we had the point in the
20 tape where the battery died.
- 21 A Okay. So we were talking and we were beginning to
22 confront him about the inconsistencies in the statement.
23 Sometime during there we took a break and that's when we
24 discovered that the battery died.
- 25 Q Okay. Did you know all of the information that he

1 provided?

2 A I didn't have a clue about most of it, a lot of it.

3 Q Okay. What were some things he told you that you didn't
4 know about?

5 A Well, number one, again, when we were doing the sketch I
6 had no idea that he was talking about Laurie Street. I
7 thought he came in on James. I didn't know, and if we look at
8 the State's Exhibit you'll see I didn't know there was a
9 window there, and so that was news to me. We went back and
10 looked at the crime scene, and you actually can see a shutter
11 under some of the rubble, but I didn't know that.

12 Q Okay. All right. I have no further questions. Answer
13 any questions Mr. Wilson --

14 THE COURT: Mr. Wilson, you may examine.

15 MR. WILSON, JR.: Your Honor, if it please the Court,
16 Judge.

17 CROSS EXAMINATION

18 BY MR. WILSON, JR.:

19 Q Good afternoon, Melvyn.

20 A Good afternoon, sir.

21 Q Good to see you again, sir.

22 A Always a pleasure.

23 Q All right. Let me ask you about your training regarding
24 confessions.

25 A Certainly.

1 Q Tell me and the jury about your training when you
2 interrogate suspects?

3 A Well, I've, I've got a lot of training in interviews and
4 interrogations. I couldn't actually tell you how much but
5 over the years I've been to many courses.

6 Q Tell us about some of the courses. Tell us about some of
7 the things they teach you in these courses regarding
8 interrogation.

9 A Well, a lot of times and the biggest thing is just to let
10 them talk, just to let them talk, and again, part of it is to
11 get an initial statement before you do your investigation.
12 You know, at this point there's speculation but I don't know
13 what his involvement is, and so give me a statement and I'll
14 go out and begin investigation and if -- and what we learn in
15 investigation doesn't match what's in the statement then we
16 have something to talk about.

17 Q Okay. So I'm understanding you try to get into this
18 conversation, but I just want to know what tactics police are
19 trained to use, what they can do in interrogation.

20 A Oh, well, we can lie.

21 Q Can you repeat that for the jury?

22 A We can lie.

23 Q You can lie.

24 A Sure.

25 Q Okay. What else can you do in interrogation?

- 1 A I don't know. Why don't you throw some things out and
2 I'll, I'll --
- 3 Q Can you mislead somebody?
- 4 A Sure.
- 5 Q Okay. Can you promise them things?
- 6 A No. Not really.
- 7 Q Can you --
- 8 A What kind of things?
- 9 Q I apologize. Can you promise somebody that you're going
10 to go and help them out in their case?
- 11 A Well; we tell them that. I tell them that, sure.
- 12 Q You tell them that all the time; don't you?
- 13 A Sure.
- 14 Q All right. And do you tell them things like, you know,
15 we're going to talk to the Prosecutor for you?
- 16 A You heard it on the tape.
- 17 Q I'm asking you is that, is that a tactic?
- 18 A Sure.
- 19 Q Okay. We're going to get to this other stuff in a
20 minute.
- 21 A All right.
- 22 Q But is that a tactic that you use?
- 23 A Sure.
- 24 Q And you use that for the purposes of doing what?
- 25 A Well, it's to make them feel at ease like, if you, if

1 you're going to tell me the truth you're going to tell me what
2 your involvement is and you're the first person I talk to,
3 then when I talk to the Solicitor I can say, "Hey, look, he
4 cooperated. How much you want to give him or how much help
5 you want to give him?" That's, that's not my, my deal there.

6 Q Can you also promise people that they can go home, that
7 kind of thing?

8 A I let him go home.

9 Q I know. I'm asking, is that something that you would do
10 in an interrogation?

11 A That's something I did do, absolutely.

12 Q Okay. All right. And you can also do a lot of other
13 things. Can you threaten somebody?

14 A No.

15 Q You can't threaten to -- that they're going to go to jail
16 for a long time?

17 A Well, I can say that but that's part of the -- that's
18 just part of the tactic.

19 Q Well, let me ask you this, have you ever gone into any
20 interrogation and threatened to send somebody away for a long
21 time?

22 A I don't know if I'd call it a threat but I've said that.
23 I will let them know what the penalties are.

24 Q Well, have you -- did you say that to Randy Collins?

25 A Sure.

- 1 Q Okay. All right. Now, let's talk about this
2 interrogation.
- 3 A Okay.
- 4 Q Okay. All right. Let's talk about this interrogation.
5 When you guys actually were -- well, let's talk about this.
6 You first said that you tried to talk to him in the street;
7 right?
- 8 A Yes.
- 9 Q And he gave you a statement?
- 10 A Yes.
- 11 Q Okay. And you wrote that statement for him; correct?
- 12 A I did.
- 13 Q And during that time what generally did he tell you when
14 you first got that statement? What did he say to you?
- 15 A "I don't know anything about it."
- 16 Q Okay. And that he didn't do it; right?
- 17 A Right.
- 18 Q He said that a lot; didn't he?
- 19 A In the video he did.
- 20 Q Okay. All right. All right. But you wrote that
21 statement and then you left?
- 22 A Yes.
- 23 Q Okay. Now, before you got that statement, what evidence
24 did you have to show that he actually committed any crime
25 whatsoever?

1 A I got an anonymous phone call.

2 Q Okay.

3 A And based on that phone call I went out to verify if
4 those things that I was told was true and it turns out that
5 they were.

6 Q What things, what things that you found out were true
7 because if I remember correctly what you told the Court was
8 and the jury was that you found out that Marissa Cohen had
9 gone to a store?

10 A Uh-huh.

11 Q Well, I have a question.

12 A Okay.

13 Q You never told the jury how you found out Marissa Cohen
14 had went to that store? You say there was an anonymous tip,
15 that they had done something together; right?

16 A Right.

17 Q How'd you find out about going to the store? Who told
18 you about go to the store and you're going to get some video
19 on Marissa Cohen?

20 A Are we okay with this, Your Honor?

21 MS. RICHARDSON: Your Honor, I believe there was an
22 objection earlier is why he's asking that.

23 THE COURT: I haven't heard an objection. Is there an
24 objection?

25 MS. RICHARDSON: May we approach?

- 1 THE COURT: Yes. Help me out here.
- 2 (Whereupon, a bench conference is held in the presence
- 3 but out of the hearing of the jury.)
- 4 Q Let me ask you this, sir, at some point in time you try
- 5 to meet with him again or didn't you?
- 6 A Yes.
- 7 Q And he didn't want to meet with you; did he?
- 8 A No. He said he would.
- 9 Q He said he would but he didn't show up; did he?
- 10 A No. He didn't show up.
- 11 Q Okay. And you tried to call him; didn't you?
- 12 A I did.
- 13 Q He didn't answer your phone call; did he?
- 14 A No.
- 15 Q Okay. All right. And so when you all tell him, well,
- 16 look, he won't come meet with you. So we're going to get
- 17 Nesmith who he knows; right?
- 18 A Uh-huh.
- 19 Q You all call Nesmith?
- 20 A I don't remember whether he called Nesmith asking for the
- 21 phones back or whether we called Nesmith and asked, but we
- 22 ended up there together.
- 23 Q Agent Hardee testified the other day that --
- 24 A Well, that's, that's fine. Okay. I'll go with that.
- 25 Q Right. I understand. Let me, let me finish my question.

- 1 A Yes, sir.
- 2 Q Agent Hardee --
- 3 A And I apologize.
- 4 Q -- testified the other day that basically he had the cell
5 phones. So Nesmith didn't have the cell phones?
- 6 A I don't think that's what he -- yeah, whatever. Okay.
7 So he had the cell phones.
- 8 Q Well, all right. Then my question is this, did you all
9 tell Randy Collins that you all were going to be out there
10 that day waiting on him to try to get him into the conference
11 room and talk to him?
- 12 A Of course not. No.
- 13 Q No. Of course not because it's a tactic to get him
14 there; right?
- 15 A Uh-huh.
- 16 Q You're trying to lure him there?
- 17 A But he knew, he knew previously that I wanted to meet
18 with him.
- 19 Q I understand.
- 20 A Okay.
- 21 Q But I'm talking about on that particular day.
- 22 A Okay.
- 23 Q You lured him there; correct?
- 24 A Well, he came to pick up his cell phones.
- 25 Q Did he know, sir, that you all were going to be there

- 1 waiting on him at the front door with cigarettes?
- 2 A Yes. Yes.
- 3 Q You told him that?
- 4 A Well, he knew he was coming to meet with us to get his
- 5 cell phones.
- 6 Q Did he come there to make a statement to you?
- 7 A Well, he did make a statement so.
- 8 Q Did he come there for the purpose of making a statement
- 9 to you?
- 10 A He came there for the purposes of picking up his cell
- 11 phone.
- 12 Q Didn't he tell you also when he first got there that, not
- 13 on the recording, he told you guys he didn't feel well that
- 14 day and he didn't want to talk?
- 15 A No. He didn't say that.
- 16 Q Never told you that
- 17 A No. I mean, what you heard on the video was, you know,
- 18 "Hey, I didn't really feel like it but I want to help you guys
- 19 out. So I'm here."
- 20 Q So he never told you that morning, "Look, I don't feel
- 21 well. I don't feel well. Please understand I don't want to
- 22 talk to you"? He never said that to you?
- 23 A No. I don't call anything like that.
- 24 Q You don't recall that?
- 25 A No.

- 1 Q Okay. Well, let me ask you this, do you recall actually
2 bringing him in then to the conference room where you say you
3 guys read him his Miranda rights?
- 4 A Yes.
- 5 Q Okay. He is not well-equipped mentally; is he?
- 6 A I disagree.
- 7 Q Okay. Well, tell me what's your opinion of him and how
8 he is mentally?
- 9 A I think he's just fine.
- 10 Q He's just fine?
- 11 A I think so.
- 12 Q Do you know if he has any impairments at all?
- 13 A Well, he said he had a stroke at some point.
- 14 Q You actually commented about his stroke in the actual
15 interrogation room; didn't you?
- 16 A I did. Yes, sir. I did.
- 17 Q You commented about it because he couldn't remember
18 something; right?
- 19 A I don't know if that's why I commented, but, but again,
20 again, part of that's just to make him feel at ease so he'll
21 talk.
- 22 Q You don't recall saying to him in the interrogation room,
23 "Well, sometimes that'll happen if you have a light stroke?"
- 24 A Yeah. I said that.
- 25 Q You said that; didn't you?

- 1 A I certainly did.
- 2 Q Okay. Now, you went was it the convenience store to get
- 3 tape on Marissa Cohen; right?
- 4 A Yes.
- 5 Q Okay. And while you went to get tape on, on her you
- 6 couldn't find the tape.
- 7 A They said the video system wasn't working that day.
- 8 Q Okay. But now, you did find a witness that you talked
- 9 to?
- 10 A That was the cashier that actually sold her the kerosene.
- 11 Q Okay. Very good. And the cashier to you identified her
- 12 as being the person who came there and picked up that
- 13 kerosene; right?
- 14 A Yes.
- 15 Q And if you were in the courtroom, and I know you were,
- 16 she -- I asked her if she saw Randy Collins with her that day
- 17 and she said no; right?
- 18 A Yes.
- 19 Q Okay. All right. So on that particular witness there
- 20 was no evidence that Randy Collins was involved with Marissa
- 21 Cohen at that point in time; correct?
- 22 A What happened there was that was the first part of the
- 23 anonymous tip that was actually confirmed. So I get a tip.
- 24 Q Against Marissa Cohen; correct?
- 25 A Right. The first part.

- 1 Q Not against Randy Collins; correct?
- 2 A Not about the kerosene.
- 3 Q Okay. All right. Then you talk about Carnell's. You
- 4 made a big deal about that; right?
- 5 A I don't know if I made a big deal about it but --
- 6 Q But you said in the interrogation room, you told Randy
- 7 Collins, "Look, you lied to us about Carnell's"?
- 8 A Yes.
- 9 Q You say that to him multiple times?
- 10 A Yes.
- 11 Q You said it was the basis of you saying there were
- 12 inconsistencies?
- 13 A Well, that is inconsistent.
- 14 Q I understand. We're going to get there, too.
- 15 A Okay.
- 16 Q But I'm asking you did you not say that to him?
- 17 A Yes.
- 18 Q Okay. And when you said that to him you were saying,
- 19 "Look, we went and talked to people who said they didn't see
- 20 you there"; right?
- 21 A Yes.
- 22 Q You been in Carnell's before?
- 23 A I have.
- 24 Q Do you know what goes on there?
- 25 A I do.

- 1 Q Tell the jury what goes on at Carnell's.
- 2 A Well, you know, they have parties. They shoot pool.
- 3 There's music playing.
- 4 Q Well, tell them how the place is situated though. Tell
- 5 us what it looks like and what they do in the back of
- 6 Carnell's?
- 7 A Do you happen to have a --
- 8 Q I don't have anything.
- 9 A Okay. All right.
- 10 Q Let me ask you this. I'll ask you questions. When you
- 11 walk into Carnell's you walk into a what, into a bar area;
- 12 correct?
- 13 A Yes.
- 14 Q Okay. Now, there's a back area to Carnell's; isn't there?
- 15 A Yes.
- 16 Q And in the back area it's covered by a wall and a door
- 17 you got to walk through.
- 18 A Yes.
- 19 Q Okay. And in the back area is where the pool tables are
- 20 and the gambling goes on; correct?
- 21 A At one time, absolutely.
- 22 Q Okay. All right.
- 23 Q And this was four years ago?
- 24 A Yes.
- 25 Q Five years ago, four years ago?

- 1 A Uh-huh.
- 2 Q All right. So in this particular bar when you go in
3 there, if he had been in the back, not everybody would have
4 seen him; correct?
- 5 A Well, the people who he identified would have seen him
6 that he said he talked to.
- 7 Q Did you go and talk to Parsons, Cooter Parsons?
- 8 A No. I don't -- I didn't.
- 9 Q He asked you to go talk to Cooter Parsons; didn't he, and
10 his brother?
- 11 A I think I had a problem with Cooter. He's, he's, he's
12 normally has an arrest warrant. So yeah, it's hard to find
13 him.
- 14 Q Everybody at that place got arrest warrants; don't they?
- 15 A No. Not everybody at that place has arrest warrants.
- 16 Q Let me ask you this. You said during your interrogation
17 of Randy Collins you told him that you had GPS locations on
18 him and you were tracking him around Andrews; right?
- 19 A Yes.
- 20 Q And you told him, said, "Look, we got your phone
21 records"?
- 22 A Yes.
- 23 Q "We know the numbers you called"?
- 24 A Yes.
- 25 Q And so you told him you all were tricking him; right?

- 1 A Absolutely.
- 2 Q Okay. Well, tell the jury, you know, if you were
- 3 tracking him, tell the jury where you tracked him to.
- 4 A We didn't track him.
- 5 Q You didn't track him at all; did you?
- 6 A No.
- 7 Q He is pinging actually in the phone records that you all
- 8 introduced, the State introduced --
- 9 A Uh-huh.
- 10 Q -- on the same cell tower all night long on the 28th and
- 11 the 29th; isn't he?
- 12 A Absolutely.
- 13 Q Let me ask you this, did you check to see where Marissa
- 14 Cohen's phone was pinging at the time of this?
- 15 A I didn't check to see where his was pinging.
- 16 Q I understand that, but my question --
- 17 A So, so to answer your question, no, we didn't check any
- 18 cell phone pings.
- 19 Q Did you pull the phone number that Marissa Cohen called
- 20 and you referred to it earlier --
- 21 A Uh-huh.
- 22 Q -- at 1:00 o'clock in the morning and check where that
- 23 was pinging at?
- 24 A No. Absolutely not.
- 25 Q Okay.

- 1 A But at that point --
- 2 Q Why not?
- 3 A -- I didn't.
- 4 Q Marissa Cohen makes a phone call at 1:05 or 1:06 in the
- 5 morning twice.
- 6 A Yes.
- 7 Q And is on the phone for seven and five seconds --
- 8 A Uh-huh.
- 9 Q -- with somebody. Why don't you all pull those phone
- 10 records?
- 11 A Well, at that particular point it wasn't important.
- 12 Randy said him and James they were the only two together.
- 13 Q You're telling this jury that it's not important when she
- 14 makes a phone call minutes before she is alleged to have
- 15 masterminded her house burning down.
- 16 A Well, that wasn't minutes before she masterminded it.
- 17 She masterminded it a month earlier.
- 18 Q I agree with you. I agree she did. There's no dispute
- 19 about that. What I'm asking you is is it not strange that the
- 20 lead investigator and an agent from SLED who is well trained
- 21 --
- 22 A Uh-huh.
- 23 Q -- wouldn't pull that number to see exactly who it is?
- 24 A No. That's not strange at all.
- 25 Q That's not odd at all?

- 1 A No. It's not strange.
- 2 Q No. Now, at some point in time you are in the
- 3 interrogation room with Randy Collins, and you say, "Hey,
- 4 look, we've got these inconsistencies. You weren't at
- 5 Carnell's," and he tells you over and over again, "I was
- 6 there. I was there. I was there." Correct?
- 7 A Yes.
- 8 Q He's adamant about that?
- 9 A Yes. He is.
- 10 Q Okay. He says that, "Me and James drank some beers" --
- 11 A Uh-huh.
- 12 Q -- "smoked some cigarettes at the house and then we went
- 13 to Carnell's"?
- 14 A Yes.
- 15 Q Okay. All right. And then at Carnell's he says that,
- 16 "We played pool and then James took me home."
- 17 A Yes. He said that at least one time.
- 18 Q Now -- at least one time.
- 19 A Right.
- 20 Q Okay. All right. And at some point in time you guys
- 21 say, "Look, if you don't tell us something," you said it, I
- 22 believe, "you're going to have to take Marissa's place"?
- 23 A I don't know if those were exactly the words, but
- 24 similar.
- 25 Q Well, tell the jury then exactly what you said because if

- 1 I'm getting it wrong I don't want to get it wrong for the
2 jury. Tell the jury what you said.
- 3 A It was something similar to that.
- 4 Q Is that a threat?
- 5 A No. It's not because he, he was arrested.
- 6 Q I understand that. What, what I'm asking you is at the
7 time of the interrogation is that a threat? Were you
8 threatening him?
- 9 A No. I wouldn't think that's a threat.
- 10 Q What do you call it?
- 11 A Yes. That is a tactic to get him to talk.
- 12 Q Okay. I understand that. I get it. I just want to know
13 how you would characterize it. If I'm looking at it as a
14 threat I want to know how you would characterize it.
- 15 A I wouldn't call it a threat.
- 16 Q What would you call it then?
- 17 A It's just a tactic that we use.
- 18 Q Just a tactic that you use.
- 19 A Uh-huh.
- 20 Q All right. So at some point in time after you say that
21 then you tell him, "Look, we know what happened"; right?
- 22 A Uh-huh.
- 23 Q "We know everything. We know exactly what happened, and
24 let me tell you what we think happened," and you all tell him
25 that; right?

- 1 A Well, see, that part's missing from the video.
- 2 Q Well, not --
- 3 A So.
- 4 Q -- not the part I just asked you.
- 5 A Okay.
- 6 Q You all said, "Let me tell you what we think happened."
- 7 A Right. That's what Scott said. Absolutely.
- 8 Q And then the video goes blank; right?
- 9 A Uh-huh.
- 10 Q But before that you all are telling him the entire time,
- 11 "Look, we don't want you. We want Marissa. We're not
- 12 interested in you"; right?
- 13 A Yes.
- 14 Q All right. "We don't care who lit this fire", which is
- 15 not true; right?
- 16 A Which is absolutely not true.
- 17 Q Absolutely untrue. Well, so, you all are telling him
- 18 this the entire time trying to convince him to go ahead and
- 19 tell you all something and tell the jury why it is you all
- 20 need Randy Collins so bad?
- 21 A Well, he's part of it. That's why he's here. So we --
- 22 Q What did you say on the tape to Randy Collins about why
- 23 you needed his statement?
- 24 A Well, because then his statement would then corroborate
- 25 -- to, to -- it would add to the anonymous tip that I

- 1 initially got. So all of it fit together. What I was told,
2 what we found during the investigation and what he said all
3 fit together like a puzzle.
- 4 Q You wanted to arrest Marissa Cohen; correct?
- 5 A We did.
- 6 Q As a matter of a fact, as soon as you all got done with
7 Randy Collins you all went and got warrants for Marissa Cohen?
- 8 A I think I got warrants for all three of them.
- 9 Q I understand that, but I'm asking you did you not run out
10 right then to the magistrate and get an arrest warrant for
11 Marissa Cohen?
- 12 A It could have been right then. It wasn't long after.
- 13 Q It was shortly after.
- 14 A Okay.
- 15 Q Is that fair?
- 16 A Sure.
- 17 Q Okay. All right. And you all couldn't arrest her before
18 you talk to Randy Collins; could you?
- 19 A We couldn't -- we didn't arrest anybody before we talked
20 to Randy.
- 21 Q What I'm saying is did you have probable cause? Police
22 have -- before they can issue a warrant --
- 23 A Right.
- 24 Q -- you know this --
- 25 A Uh-huh.

1 Q -- and you've been doing this for a long time. You all
2 got to have probable cause before you can issue a warrant.

3 A Right. Absolutely.

4 Q And everybody was out there saying that Marissa Cohen and
5 Mano and Randy Collins and James were involved in this fire;
6 correct?

7 A No. Actually, no. They just said Marissa, Randy and
8 Mano.

9 Q Mano came in in, in that tip that you got; right?

10 A Yes.

11 Q Okay. So they were saying they were involved in the
12 fire?

13 A Uh-huh.

14 Q That was the anonymous tip.

15 A Yes.

16 Q Which we don't know the origin of that tip; do we?

17 A Well, it was anonymous.

18 Q And so we don't know the origin?

19 A We don't.

20 Q Okay. And just to be sure about this anonymous tip, an
21 anonymous tip when it comes in you don't know the person's
22 name, number, who they are, what their motivation is when they
23 say what they're saying; correct?

24 A Generally, uh-huh.

25 Q Okay. And, and that's not different in this situation?

1 A No. It's not.

2 Q Okay. All right. So at some point in time during this

3 conversation with Randy Collins you all are telling him all

4 this stuff that you got all this evidence and that you know

5 everything that happened and you all start telling him what

6 you believe happened; right?

7 A I -- we told him that we believed he was involved.

8 Q Well, who was the first person in the room to mention a

9 key?

10 A I mentioned the key, but he told me, "We didn't have a

11 key."

12 Q No. I'm asking you who the first person in the room was

13 that mentioned it?

14 A Well, I answered. I said I mentioned the key.

15 Q You mentioned the key. Okay. Who was the first person

16 in the room to mention that this probably was an accident?

17 A Oh, it was either me or Scott, but we, we suggested it.

18 Q You all said that; correct?

19 A Absolutely.

20 Q Who was the first person in that room that mentioned to

21 Randy Collins, "Look, there's a pool here. You forgot about

22 the pool." Who mentioned that to him?

23 A I don't know if we said, "You forgot about the pool," but

24 he didn't mention the pool but, you know, there were a lot of

25 things in the yard that he didn't mention. I was just trying

- 1 to get an orientation.
- 2 Q My question is who mentioned the pool first?
- 3 A I guess I mentioned the pool.
- 4 Q Okay. Who also mentioned to Randy Collins that obviously
- 5 at some point in time this place burned? Who said that this
- 6 place burned?
- 7 A I don't, I don't know. I, I really don't remember. I
- 8 don't remember hearing that.
- 9 Q All right. Fair enough. Let me ask you this then, at
- 10 any point in time in the conversation in, in the first hour
- 11 and a half of actually interviewing him what did he say to you
- 12 that led you to believe that you had evidence to corroborate
- 13 what he was saying already?
- 14 A It's not necessarily a hundred percent what he said, but
- 15 it's what he was doing. If you paid attention, the heavy
- 16 breathing, the closed posture, I mean, those are all signs
- 17 that he's hiding something.
- 18 Q Is it possible that he is stressed?
- 19 A Oh, I'm sure he was stressed.
- 20 Q Yeah. I'm sure he was, too. Is it possible that --
- 21 and you're not a psychologist; are you?
- 22 A No, sir.
- 23 Q A psychiatrist?
- 24 A No.
- 25 Q Okay. You knew he'd had a stroke?

- 1 A He said he had a light stroke.
- 2 Q Okay. Well, you know now that he had a stroke. You know
- 3 that?
- 4 A I know that now.
- 5 Q Okay. All right. And you also know that he at the time
- 6 told you that he'd been in a car accident; correct?
- 7 A Yeah. He said that on the video.
- 8 Q All right. He also told you about his education; didn't
- 9 he?
- 10 A About his, about his what?
- 11 Q Education. I'm sorry. I apologize.
- 12 A Oh.
- 13 Q I turned around, education.
- 14 A Yeah. I think he said he had a seventh grade education.
- 15 Q All right. And he is not too quick. I mean, he can
- 16 write a little bit. He can read a little bit, but he's not
- 17 well-equipped mentally?
- 18 A I think he's very well equipped mentally.
- 19 Q I understand what you think, but did you see that in your
- 20 interview with him?
- 21 A Well, yeah. You asked me my opinion. I did see that in
- 22 the interview.
- 23 Q Okay. I, I, I appreciate you giving me your opinion.
- 24 A Yes, sir.
- 25 Q Now, not only did you not track him with GPS which you

1 said -- you told him you did.

2 A We told him we did.

3 Q All right. And not only that but you also never went
4 back to determine whether or not he had called anybody else
5 that night; did you?

6 A I don't, I don't recall doing that.

7 Q You know where he was at 2:46 in the morning?

8 A Where was he?

9 Q I'm asking.

10 A No.

11 Q Do you know where he was at 1:30 in the morning?

12 A Well, I'm assuming he was at 10 James Drive burning down
13 the trailer.

14 Q Well, you can assume all you want to. That's not what
15 I'm asking you. I'm asking you do you know based on the GPS
16 report that you all have got where he was?

17 A We don't have a GPS report.

18 Q Do you have the GPS coordinates on the actual phone log?

19 A I don't -- they're there, there --

20 Q Let me, let me get it for you. This has been marked as
21 State 32.

22 MS. RICHARDSON: And Your Honor, I'm just going to object
23 to the characterization. Those are pings, not GPS coordinates
24 for a phone. I just don't want to mischaracterize what's
25 already been put into evidence.

- 1 MR. WILSON, JR.: And I'll change the characterization.
- 2 THE COURT: Okay.
- 3 BY MR. WILSON, JR.:
- 4 Q My -- I'll withdraw that, and I'm going to ask you if you
- 5 noticed where he's pinging at, okay, for the entire day.
- 6 A Okay.
- 7 Q These are his records on the right side.
- 8 A All right.
- 9 Q All right. Do you know where he's pinging at?
- 10 A Well, the coordinates are 33 degrees .45907302 by
- 11 negative 79 5780848.
- 12 Q And does he ever deviate from that latitude, longitude?
- 13 A No. He doesn't.
- 14 Q He does not. Now, that cell phone is the cell phone you
- 15 say that he had with him when he was actually at Carnell's or
- 16 outdoor burning; right?
- 17 A Yes.
- 18 Q What do you know about false confessions? How are false
- 19 confessions gotten?
- 20 A I don't, I don't know. I guess -- I'm sorry.
- 21 Q I apologize.
- 22 A Please. Please.
- 23 Q Have you ever been trained in how to avoid false
- 24 confessions?
- 25 A I don't know anything about false confessions.

- 1 Q How long you been in law enforcement?
- 2 A Sixteen years.
- 3 Q And you've been a chief and I know you've been a deputy
- 4 chief.
- 5 A I have never had anybody come to me and tell me they did
- 6 something that they didn't do.
- 7 Q Never ever?
- 8 A Never ever.
- 9 Q And that time, let me ask you this, and you're in law
- 10 enforcement.
- 11 A I am.
- 12 Q And I would consider you to be an expert in law
- 13 enforcement.
- 14 A Okay.
- 15 Q No doubt about it. How many --
- 16 MS. RICHARDSON: Your Honor, is that a question?
- 17 MR. WILSON, JR.: Judge, I am simply --
- 18 MS. RICHARDSON: Make an objection.
- 19 THE COURT: He's on cross. I'm going to let him go. He
- 20 can lead.
- 21 BY MR. WILSON, JR.:
- 22 Q How many cases are overturned because of false
- 23 confessions?
- 24 A I, I wouldn't have the slightest idea. I know that --
- 25 Q Thirty percent of DNA cases are overturned because of

- 1 false confessions?
- 2 MS. RICHARDSON: Your Honor, again --
- 3 THE COURT: Mr. Wilson, you're testifying now.
- 4 Q How does one elicit a false confession? How does that
- 5 happen?
- 6 A I've never done it. I don't know.
- 7 Q If as an interrogator you go into a room with someone --
- 8 A Uh-huh.
- 9 Q -- and you hold them there long enough, okay, and then at
- 10 some point in time you begin to tell them certain things about
- 11 the crime that nobody else would know and they pick up on it
- 12 and they start saying it back to you, isn't that the beginning
- 13 of getting a false confession?
- 14 A I've never gotten a false confession.
- 15 Q That's not my question.
- 16 A I don't, I don't know.
- 17 Q I asked you about this particular tactic.
- 18 A Oh.
- 19 Q Do you run the danger --
- 20 MS. RICHARDSON: Your Honor, the witness --
- 21 THE COURT: Mr. Wilson, he's said he knows nothing about
- 22 them.
- 23 MR. WILSON, JR.: I understand that, Judge.
- 24 THE COURT: And --
- 25 MR. WILSON, JR.: But he understands tactics, Your Honor.

1 THE COURT: But you can ask him about tactics, but you've
2 asked him a series of questions about false confessions and
3 we're getting the same answer, "I know nothing about them."

4 BY MR. WILSON, JR.:

5 Q All right. Well, let me ask you this plain out, did you
6 suggest a number of things about this crime to Randy Collins
7 that nobody else knew and Randy Collins picked up on it?

8 A I don't believe I did.

9 Q You don't think you led him on anything?

10 A No.

11 Q Well, what about when you're in the video saying, "Nah,
12 nah, nah, you can't be at the truck", do you recall saying
13 that to him?

14 A Well, he said he saw the fire being lit. So obviously he
15 can't be in two places at one time.

16 Q My question is do you recall saying that to him?

17 A Yes. I, I recall saying that to him.

18 Q You corrected him; didn't you?

19 A I don't know if I corrected him, but I let him know that
20 I, I know that that wasn't true.

21 Q Well, let me ask --

22 A Based on what he said.

23 Q The diagram you drew --

24 A Uh-huh.

25 Q -- you drew that; didn't you?

- 1 A The -- one of them.
- 2 Q The first diagram.
- 3 A If that was the first, yes.
- 4 Q The first diagram you drew, explain to the jury what you
5 drew for him.
- 6 A Okay. So what I did was I drew the trailer because I
7 wanted him to tell me how they got there and where they were
8 standing and, and all of that, but for some reason, like I
9 explained earlier, it wasn't making sense because I was
10 approaching it from the James Drive side and he was
11 approaching from the Laurie side. So I think once we got
12 together on that it, it made sense.
- 13 Q All right. So you drew a diagram. This was off camera;
14 right? This is the part that's not on there.
- 15 A Yes.
- 16 Q Well, I'm asking you because when we go back to the tape
17 --
- 18 A Uh-huh.
- 19 Q -- what the jury sees is the diagram already written.
- 20 A Right. Right.
- 21 Q And you have a pen.
- 22 A I do. No. I'm not, I'm not saying I didn't draw that
23 diagram. I just don't know if that was the first one. I
24 don't know how long it was --
- 25 Q It's okay. I understand.

- 1 A Okay.
- 2 Q What I'm asking you though is you had a diagram when the
3 camera comes back on.
- 4 A Yes. I did.
- 5 Q And you had a pen?
- 6 A Yes.
- 7 Q Pointing out certain things to him.
- 8 A Yes.
- 9 Q Okay. All right. Now, I'm going to ask you this.
- 10 A Okay.
- 11 MR. WILSON, JR.: May I approach the witness, Judge,
12 briefly?
- 13 THE COURT: Certainly.
- 14 BY MR. WILSON, JR.:
- 15 Q Does your diagram look anything like this?
- 16 A I don't know.
- 17 Q Well, you drew a diagram; right?
- 18 A Yes.
- 19 Q Of the trailer and the surroundings?
- 20 A Yes.
- 21 Q Because you had been out there already; right?
- 22 A Yes.
- 23 Q You all had started investigation by that time.
- 24 A Yes.
- 25 Q So you were well familiar with the area?

1 A You know, I didn't know -- you know, I've, I've worked
2 for Georgetown County or in Georgetown County for 16 years.
3 This was the very first time I had been on James Drive. So
4 there's a lot of things I didn't know, like the path to Laurie
5 Street, those things I learned from Randy.

6 Q Did you know that the front of the actual building was
7 the front of the building?

8 A I called it the front of the building because of the
9 address. Yes.

10 Q Well, let me ask you this then, when you all do these
11 investigations you're going to actually go out and get the
12 make and model of these mobile homes; right?

13 A I didn't get the make and model of this mobile home.

14 Q Well, if you're doing an arson investigation wouldn't it
15 be a good thing to say, "Hey, I need to go find out whether or
16 not this mobile home has electrical problems or a recall."
17 Somebody did that already?

18 A I don't know that you could do that based on a make and
19 model, but -- and I don't know that it wasn't done. You know,
20 again, I didn't handle the actual arson investigation.

21 Q Now, let me get this right, this is a picture of the
22 front.

23 MR. WILSON, JR.: And I apologize, Judge.

24 A Yes. I would call that the front.

25 Q This is the front; right?

- 1 A Yes.
- 2 Q Okay. And you can see all the windows that are up here;
- 3 right?
- 4 A Yes.
- 5 Q Now, your testimony earlier is that you all were amazed
- 6 to find out there was a window on the other side of this
- 7 building.
- 8 A I didn't use the term amazed.
- 9 Q I'm sorry.
- 10 A What I said was I didn't know there was a window there.
- 11 Q It surprised you all --
- 12 A And I still don't know where it would have been. I mean,
- 13 look, look at the front of the trailer.
- 14 Q You're telling me as an investigator you don't know where
- 15 the window would have been in this house?
- 16 A Well, I don't, I don't make mobile homes. I just
- 17 investigate crimes. That's all. I, I don't know -- I don't
- 18 know how many were there, how many windows were there. There
- 19 may have been more than one.
- 20 Q Okay. All right. There may have been more than one.
- 21 A Could have been. I -- they're all gone.
- 22 Q Now, inside of this interrogation when you all get to the
- 23 portion where he says, "James did it. I, I think that James
- 24 did it," you know, and "James, how did he light it?" And you,
- 25 you all said match.

- 1 A Uh-huh.
- 2 Q And he says, "Yeah. He threw a match." All right.
- 3 A Uh-huh.
- 4 Q You heard him say that?
- 5 A I heard him say it.
- 6 Q Then he says, "Oh, a match or a lighter or a piece of
7 paper, I'm not sure."
- 8 A Yes.
- 9 Q Right?
- 10 A I heard him say that.
- 11 Q Then he says again, "Oh, no, he picked it up from the
12 ground, a piece of paper and lit that piece of paper"; right?
- 13 A Right.
- 14 Q And then multiple times he goes back from match to paper
15 to lighter, all sorts of stuff just trying see how these
16 things are getting lit; right?
- 17 A I don't know if that's what he was trying to do, but he
18 said that.
- 19 Q If he was really there --
- 20 A Uh-huh.
- 21 Q -- committing an arson or with somebody when they are
22 trying to commit an arson, wouldn't he know what was going on?
- 23 A I believe he does know.
- 24 Q You believe he does know?
- 25 A Uh-huh.

1 Q So why is it then that continuously he then says, "I'm at
2 the truck" and you say, "No, no, no, you can't be at the
3 truck. You got to be behind him. You're behind him." You
4 say that to him; correct?

5 A I may have.

6 Q Okay. And then he says, "Oh, yeah. I'm behind him," and
7 then --

8 MR. WILSON, JR.: Did I hear something, Judge?

9 A I heard it, too. I don't know what it was.

10 Q I apologize. I thought I heard something. Then at some
11 point in time you say, "No, no. That's -- this doesn't make
12 any sense," and in the video you actually sit back in
13 frustration.

14 A Uh-huh.

15 Q Do you recall that?

16 A I do.

17 Q Tell the jury why you were frustrated at this time.

18 A Because I felt like Randy was lying, and if he was lying
19 --

20 Q You felt like Randy was lying?

21 A Oh, absolutely.

22 Q Yeah. I agree with you. I think he was lying, too.

23 MS. RICHARDSON: Your Honor, again, he's testifying.

24 THE COURT: I understand. Mr. Wilson, please.

25 MR. WILSON, JR.: I understand, Judge. I apologize, Your

1 Honor.

2 THE COURT: All right.

3 MR. WILSON, JR.: I withdraw that. I apologize.

4 THE COURT: Okay. And the jury will disregard the
5 comment. Thank you.

6 By MR. WILSON, JR.:

7 Q You thought he was lying?

8 A I still believe he is.

9 Q Because the story doesn't make sense; does it?

10 A Well, when you leave parts out it's never going to make
11 sense.

12 Q I, I agree with you, but I'm asking you did that story
13 that he told you make sense at all? The story he told you,
14 did it make sense?

15 A Well, none of it made sense right from the very
16 beginning.

17 Q Yes, sir. I agree. All right. Now, the evidence you
18 got against Marissa Cohen which has come out in this case --

19 A Uh-huh.

20 Q -- Marissa Cohen, according to the testimony that came
21 out on the stand, said that she wanted to kill Mano.

22 A Yes.

23 Q Or she alluded to it.

24 A Yes.

25 Q And she did that right after the fire; correct?

- 1 A Yeah. Well, I --
- 2 Q That was the testimony from Rose.
- 3 A Okay.
- 4 Q Okay. All right. And then at some point in time after
- 5 Randy Collins gives this statement -- what dates did Randy
- 6 Collins give his statement?
- 7 A Could I see that statement form?
- 8 Q Yes, sir.
- 9 A I think that's the one right on top. Yeah. There it is.
- 10 MR. WILSON, JR.: Your Honor, may I approach briefly?
- 11 THE COURT: Yes.
- 12 BY MR. WILSON, JR.:
- 13 Q Yes, sir.
- 14 A All right. June 4th, 2014.
- 15 Q June 4th, 2014.
- 16 A Yes.
- 17 MR. WILSON, JR.: Your Honor, the Court's indulgence. I
- 18 need to find this. I'm sorry, Judge.
- 19 BY MR. WILSON, JR.:
- 20 Q Here we go. This has been marked as State's 37 and 36.
- 21 Now, on your investigation you determined -- you, you talked
- 22 to Rose Collins; right?
- 23 A I don't think I ever spoke with Rose. I'm not sure.
- 24 Q Well, somebody got a statement from her where she said
- 25 she wanted to kill Mano.

- 1 A Yes. Uh-huh.
- 2 Q Okay. All right. And you've discovered that in your
3 investigation; right?
- 4 A Yes. Uh-huh.
- 5 Q She also says in these letters that she wanted to kill
6 Randy Collins.
- 7 A Absolutely she did.
- 8 Q But she didn't say it in the beginning. She said it
9 after he gave his statement on June 4th; didn't she?
- 10 A Yes.
- 11 Q What's the date of the letter on those letters?
- 12 A December 22nd, 2014, and November 17th, 2014.
- 13 Q Very good. Thank you very much.
- 14 A You're welcome.
- 15 MR. WILSON, JR.: May I approach, Your Honor, briefly?
- 16 THE COURT: Yes.
- 17 By MR. WILSON, JR.:
- 18 Q Now, the word had got out at some point in time that
19 Randy Collins was cooperating with the State or giving
20 statements.
- 21 A We didn't spread it. Well, I don't, I don't know that it
22 got out.
- 23 Q She was arrested shortly after he gave his statement.
- 24 A Who knew that he gave a statement is -- he didn't tell
25 anybody where he was going when he met with us.

1 Q Well, let me ask you this, the discovery would have went
2 out to her; right?

3 A Yes.

4 Q All right. So she would know by November?

5 A By the time she got discovery she would certainly know.

6 Q Absolutely. So my question is this, in your
7 investigation before then were there any threats against his
8 life from her?

9 A I don't know.

10 Q Did you -- did you --

11 A I mean, this, this, this -- go ahead.

12 Q I apologize. Did you discover any threats against him
13 before that?

14 A I want to think that that's the first time I heard of it.
15 I know that he was nervous himself.

16 Q Okay. Well, he was what?

17 A He was nervous or afraid about being in Andrews himself.

18 Q Right. Afraid of her; is that correct?

19 A I don't know. She was in Kentucky, and we took her into
20 custody in Kentucky.

21 Q Well, let me ask you this, she made several threats
22 against a lot of people.

23 A Uh-huh.

24 Q And, and again, with Mano, Mano and her were fairly
25 tight, you found that out in your investigation.

1 A Tight, I, I don't know. I know they knew each other. He
2 helped her move.

3 Q Do you recall hearing I think his name is Bobby Bellamy,
4 that's Mano, testify?

5 A Yeah. Mr. Brown, Benjamin Brown. Uh-huh.

6 Q I apologize, Mr. Brown. And, and Mr. Brown testified
7 that he told you guys that she talked about the burning to
8 him.

9 A Yeah. That may have come sometime later. Once an arrest
10 is made the investigation is not over, but I didn't personally
11 -- when I talked with him he told me he didn't know anything
12 about it. He was home.

13 Q And he had alibi witnesses just like Marissa Cohen;
14 correct?

15 A Yes. Uh-huh.

16 Q All right. Saying that she was home, also; correct?

17 A Yes.

18 Q Okay. But Randy Collins didn't have anybody at his house
19 because he lived alone?

20 A I don't know if he lived alone.

21 Q Now, the policy that she took out, she took out a policy
22 that you found out in your investigation; right?

23 A Yes.

24 Q All right. Did you find out in your investigation that
25 Randy Collins was a part of that? Did you find out any

1 credible evidence which supports that he was a part of that
2 policy or that he was on the policy?

3 A Far as we know he was not on the policy.

4 Q Okay. Well, let me ask you this then, the policy, the
5 kerosene, the storage rental all done by Marissa Cohen;
6 correct?

7 A Yes.

8 Q And based on the testimony of Langley and then Brown
9 himself they were there helping her that day.

10 A Yes.

11 Q Okay. And in the two phone calls you all say are not
12 important at one something in the morning, you don't know who
13 that is; do you?

14 A I know that she told me she tried to call Syience.

15 Q Okay. Did you check to see what that number was?

16 A I didn't personally check.

17 Q Did anybody check that you're aware of in this
18 investigation?

19 A Not that I'm aware.

20 Q Randy Collins, during his interrogation with you, latched
21 on to one thing and he wanted to go home; right?

22 A At what point?

23 Q At any point. I mean, you sat here and heard the actual
24 tape itself; right?

25 A Yes.

- 1 Q You were actually there.
- 2 A Uh-huh.
- 3 Q Didn't he tell you or you told him, "Look, we're going to
4 let you go home."
- 5 A Oh, yeah, of course. Yeah.
- 6 Q Okay. And then he said to you before he started doing
7 anything else he said, "Are you still going to let me go
8 home." He said that; right?
- 9 A Yes.
- 10 Q He didn't want to be there anymore; did he?
- 11 A I disagree. I believe what he was talking about was, "If
12 I continue to tell you or tell you what happened are you still
13 going to let me go home when this is done." I think that's
14 how I understood that.
- 15 Q So after three hours of being with you --
- 16 A Yes.
- 17 Q -- and being with Agent Gates, I mean, Agent Hardee, you
18 think that Randy Collins wanted to be there still?
- 19 A Well, I don't think Randy Collins wanted to tell us what
20 he had done. In fact, he still tries to minimize his part of
21 it.
- 22 Q Well, let me ask you this, is there any evidence at all
23 that you've collected, and you all have done an exhaustive
24 search, I've said it many times, is there any evidence that
25 James, other than what Randy says, that James did anything at

1 all, period in this burning, one shred of evidence?

2 A That, that James and it, it depends on which evidence
3 you're talking about.

4 Q Any evidence.

5 A Well, you know, some of it we can't even talk about and
6 then so.

7 Q So, I'm sorry. I --

8 A Yeah. Some of it we, you know, some of it we hadn't
9 talked about.

10 Q James, what do you have against James?

11 A You talking about James --

12 Q What evidence is there against James?

13 A You talking about James Miller?

14 Q James Miller.

15 A Okay. So when we got to the crime scene the evidence
16 from the actual crime scene tells us that this fire is
17 intentional. So that's the first piece of it, and then we get
18 an anonymous tip that we were able to confirm and then we
19 speak with Mr. Randy who actually confirms the anonymous tip
20 and what happened at the house. I think it's all evidence.

21 Q My question to you is this, name one piece of evidence,
22 as a matter of a fact I'll go so far as to say this, name one
23 piece of evidence that you have tying either James Miller or
24 Randy Collins to this fire. I don't care if it's GPS records,
25 you know, somebody is saying that they saw him do it, you've

- 1 got, you know, DNA from the, from the crime scene, you have an
2 ID that was dropped at the floor of, excuse me, at the door of
3 the actual trailer, name one piece of evidence. We know that
4 you went through your process of investigation.
- 5 A All right. I'll name two.
- 6 Q Okay.
- 7 A I got an anonymous tip that said he did it, and I talked
8 with him and he said he did it.
- 9 Q An anonymous tip that said he did it and then he said he
10 did it.
- 11 A Yes.
- 12 Q But the first time you talked to him he didn't say he did
13 it; did he?
- 14 A No. He didn't say he did it.
- 15 Q The second time you talked to him he told you he didn't
16 do it.
- 17 A The second time I talked to him I told him I wanted to
18 sit down and have another conversation. He said he would be
19 there.
- 20 Q No. I'm saying the second time you actually talked to
21 him.
- 22 A Oh, you're talking about on tape?
- 23 Q That's right.
- 24 A Right. Well, initially he said he didn't do it.
- 25 Q Right. He told you for an hour and a half, "I didn't do

1 it."

2 A Right.

3 Q And then he starts telling you the story that you admit
4 under oath does not make sense.

5 A I didn't admit that the story didn't make sense. There
6 were portions of the story that just didn't make sense, but I
7 understand why he would say that.

8 Q Well, the name Sholanda [spelled phonetically] came up in
9 your investigation; did it not?

10 A I don't recall. It may have.

11 Q All right. Do you recall him telling you that he had a
12 girlfriend named Sholanda?

13 A Oh, yeah. I remember that.

14 Q All right. And do you recall that she was still in town
15 during that time? He even said he took her food; right?

16 A Yes.

17 Q All right. And do you know or did you discover in your
18 investigation whether or not Marissa Cohen knew Sholanda?

19 A No.

20 Q Did you discover what -- didn't he tell you in the tape
21 that she kept the kids?

22 A Okay. All right.

23 Q All right. Well, let me ask you this then, the experts
24 testified that the kerosene heater that you all say belonged
25 to Randy Collins did not cause this fire.

1 A Well, what they said was it didn't have any kerosene in
2 it. So, yes. I don't think that the kerosene heater caused
3 the fire.

4 Q Right. Okay. Well, did he get the kerosene from the
5 store?

6 A No. He didn't.

7 Q Okay. All right. And you don't have any proof that he
8 did; do you?

9 A No. No.

10 Q Now, a couple of times during the interrogation he said
11 to you, "I'm listening to you. I'm listening to you." Do you
12 recall him saying that?

13 A Uh-huh.

14 Q Because he was waiting to see what you were about to say?

15 A I think he said, "I'm going to listen to you," --

16 Q Right.

17 A -- because we were both trying to talk at the same time.

18 Q I agree.

19 A Uh-huh.

20 Q But I'm asking you do you recall him saying that?

21 A Yeah. What he said was, "I'm going to listen to you."

22 Q Do you recall him actually at one point in time in the
23 interview saying, "What had happened. What do you want me to
24 say"?

25 A He may have said that.

- 1 Q Well, in the last part where you're getting him to write
2 down a statement --
- 3 A Uh-huh.
- 4 Q -- because Agent Hardee said that's their policy; right?
- 5 A Right.
- 6 Q So when he's writing that down he says three or four
7 words to you, and he says, "Look, this is my statement." You
8 say, "Give me your statement," and what does he say?
- 9 A He said, "I didn't do it."
- 10 Q And he stops; doesn't he?
- 11 A Yeah. Him and Agent Hardee started talking about
12 something.
- 13 Q Wasn't it you in the video who prompted him and said,
14 "Look. You've got to tell me more?"
- 15 A Well, I -- it'd been three hours. I was tired of being
16 there, too, but I wanted him to tell me exactly what and he
17 did.
- 18 Q All right. Fair enough, but you recall actually having
19 to prompt him several times during that statement; don't you?
- 20 A What -- I don't know if I prompted him or what, but
21 again, he was distracted somewhat by Agent Hardee asking
22 questions while I'm trying to get him to tell me what he
23 wanted me to put in that statement.
- 24 Q Sir, do you recall telling Randy Collins, "You've got to
25 tell me X, Y and Z?" Do you recall saying that to him?

1 A I said that several times during the interview.

2 Q Okay. No. No. While you're getting -- while you're
3 actually writing down a statement for him, do you recall
4 saying that?

5 A Judge, I answered the question. I, I --

6 THE COURT: I'm sorry. I missed it.

7 MR. WILSON, JR.: The question is this, Judge, whether or
8 not he recalls telling him, "You've got to continue to tell me
9 X, Y and Z."

10 THE COURT: I think he answered that question.

11 MR. WILSON, JR.: I don't recall an answer.

12 THE COURT: Okay. Answer it.

13 A Okay. I don't, I don't remember. I'm sure I told him,
14 "Hey, what do you want me to put here."

15 Q You don't remember that? Do you recall Randy Collins
16 asking you, "What else should I put?"

17 A No. I don't, but I've had that happen before several
18 times.

19 Q You had that happen before.

20 A Yeah. Normally, you know, people want to know exactly
21 what you want in the statement.

22 Q Do you recall in the interview telling him, "Look, we
23 know she was offering you some money. You needed some money.
24 You needed some money. You were broke and poor. You had to
25 get money for your cheeseburgers." Do you remember ever

1 telling him that?

2 MS. RICHARDSON: Your Honor.

3 A I think he added --

4 MS. RICHARDSON: I'm just going to object. He's, he's
5 attempting to quote from the video. We've all seen the video.
6 I feel like some of it's being mischaracterized and --

7 THE COURT: Well, the jury will know whether it's being
8 mischaracterized.

9 A All right.

10 MR. WILSON, JR.: Judge, then I'd like -- wait. Let's
11 approach. Let's approach.

12 A Now -- okay.

13 MS. RICHARDSON: Wait a minute. I'm coming up.

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

16 THE COURT: Counsel.

17 BY MR. WILSON, JR.:

18 Q Just a few more questions. Let me ask you this.

19 A Certainly.

20 Q Now, at the very end of this interview with you after he
21 did the statement and he told you all this story, right, about
22 what happened the last thing he says to you before he left
23 was, "I didn't do it." Do you recall that?

24 A Yes.

25 Q Okay. How many times do you think during this interview

- 1 he said, "I didn't do it?"
- 2 A A lot.
- 3 Q Okay. All right. But you and Agent Hardee didn't want
- 4 to take that for an answer? You --
- 5 A I still don't believe that.
- 6 Q I understand that you don't believe that. That's not --
- 7 A And, and not only that, it -- it's my -- I believe he's
- 8 talking about "I'm not the one that actually lit the match,"
- 9 when he says, "I didn't do it."
- 10 Q Okay. All right. So then tell me, other than what he
- 11 said, all right, other than what he said to you that day, what
- 12 physical or other evidence -- let me finish the question
- 13 before you answer -- what physical other evidence do you have
- 14 to support what he says?
- 15 A Oh, well, he said that Marissa called him and told him
- 16 that she was going to put the kerosene in the back room and
- 17 leave the back door open. We know that kerosene was used to
- 18 burn the house down. I mean, again, you got the evidence from
- 19 the scene. You've got the anonymous tip. You've got his
- 20 statement. All together, it all ties together.
- 21 Q Didn't you actually mention, you and Agent Hardee mention
- 22 the kerosene first?
- 23 A Sure. I mentioned the kerosene.
- 24 Q Right. And you told him the door was locked, too; right?
- 25 A He said -- I think he said the doors were locked. He

1 said they checked the doors but they were both locked.

2 Q You asked him if they had a key because they couldn't get
3 in.

4 A Right. Well, we knew the doors were locked. I said,
5 "Well, who had the key?" He said, "Neither one of us had a
6 key. The back door was supposed to be unlocked."

7 Q That's right. Exactly. Now, my question is does that
8 make sense with the evidence that you have? The evidence
9 shows that someone went inside the house, right, the trailer?
10 That's what one of the experts testified to, and took
11 kerosene, poured it in a pattern. Do you recall that?

12 A Yes.

13 Q And that's in the evidence; correct?

14 A Uh-huh.

15 Q And that somebody lit it; right?

16 A Yes.

17 Q Now, if they couldn't get inside -- let, let me ask you
18 this, if somebody's going in to actually burn their house down
19 --

20 A Okay.

21 Q -- and there's no doubt obviously that that happened;
22 right? Wouldn't you want to make sure the fire is lit?

23 A I wouldn't burn down a house, but I -- let me answer your
24 question. Okay. I heard the, the witness' testimony that in
25 his opinion kerosene was poured in a pattern and it probably

1 was. Now, the doors were locked according to the fire
2 department when they got there. We don't know how long they
3 were locked, don't know if he went inside and lit it, don't
4 know if Marissa poured it when she took it. We don't know.

5 Q Well, do you know whether or not Marissa Cohen went there
6 with Mano and burned the house? Do you know that for sure?

7 A Not according to Randy.

8 Q I understand that. I'm saying do you have any other
9 evidence that might show that, that she did it herself?

10 A Again, all of the evidence, you know, it, it involves
11 Marissa, Randy Cohens [sic] and James Miller.

12 Q So you're telling this jury that under oath that you know
13 for a fact that Randy Collins went to that house and burned
14 that trailer?

15 A I know exactly what he told me.

16 Q Do you -- that's not what I asked you. I said do you
17 know that he did it, sir?

18 A Yeah. I believe he did it, and he said he did it. So
19 I'm assuming he did it.

20 Q What evidence did you use to corroborate that?

21 A Okay. So when we worked the scene we got evidence from
22 the scene. We got the anonymous tip. We've got his testimony
23 and all of it mirrors each other. It's not like there's, you
24 know, any differences in it.

25 Q Okay. All right. Let me say this. You have a burned

- 1 house; correct?
- 2 A I do.
- 3 Q All right. You have a child that died; correct?
- 4 A Absolutely.
- 5 Q Okay. You have, you know, forensic evidence which they
- 6 collected; correct?
- 7 A Yes.
- 8 Q You have a kerosene heater that falls out of the actual
- 9 house; right, when it burned?
- 10 A I don't know if it fell out when it burned. I, I don't
- 11 know, but there's a kerosene heater outside.
- 12 Q There's a kerosene heater outside --
- 13 A Yeah.
- 14 Q -- in the pictures, okay.
- 15 A Yes.
- 16 Q All right. And you know it's raining; right?
- 17 A Yes.
- 18 Q All those things, you all went through the house, no
- 19 doubt, collected what you could; right?
- 20 A Yes.
- 21 Q Now, other than his statement, please tell the jury what
- 22 evidence you have of his guilt.
- 23 A Well, it's not for me to decide whether or not he's
- 24 guilty, but --
- 25 Q I'm not saying that. I'm asking you what evidence.

1 You're the lead investigator.

2 A Again, I got an anonymous tip and the entire tip checked
3 out. What that person called and said is exactly what
4 happened based on the investigation --

5 Q No further questions.

6 A -- and that information we compared to the statement that
7 he gave and because he could no longer cover his tracks then
8 he finally told us exactly what he did. So, so all of it is
9 relative. It all works together

10 Q Cover his tracks? Please tell me how Randy Collins
11 before you talked to him --

12 A Because he said he didn't know.

13 Q Let me finish my question.

14 A Okay.

15 Q I'll repeat the question. Tell me how Randy Collins
16 before you talked to him was covering his tracks.

17 A Because he said, "I know nothing of the fire. I was at
18 the bar all night with my nephew," and then I went home.
19 That's all I know. Nothing else.

20 Q Did he go, did he go back out to the, the place and try
21 to move some of the stuff from the scene of the crime?

22 A I don't know if he did or not.

23 Q You have evidence of that?

24 A Not, not, not while we were there.

25 Q Do you have evidence of that, sir?

1 A I didn't, I didn't go back to see if he had been back.

2 Q I'm asking you -- you've made a statement about him
3 covering his tracks. So what I'm asking you about now is that
4 issue. Do you have any evidence that Randy Collins was
5 covering his tracks --

6 A Well, I --

7 Q -- or did anything malicious to hurt this case or
8 obstructed the evidence in this matter?

9 A I just explained what I meant by that.

10 Q I understand.

11 A Okay.

12 Q But my question still stands.

13 A Okay. No. I, I don't know that he went back to the
14 house after we left.

15 Q Did you charge him with obstruction of justice in this
16 case?

17 A No. We have not.

18 MR. WILSON, JR.: No further questions, Your Honor.

19 THE COURT: Ms. Richardson.

20 REDIRECT EXAMINATION

21 BY MS. RICHARDSON:

22 Q Who first mentioned the kerosene heater?

23 A Randy Collins.

24 Q And did he describe it?

25 A Yeah. He said he had a heater and that she wanted to

1 borrow it and, and so he let her use it. She took it to the
2 house.

3 Q And do you recall him describing what it looked like?

4 A No. I, I don't recall him describing what it looked
5 like.

6 Q Now, Mr. Wilson has asked you repeatedly about what
7 evidence there is in this case. Now, have you actually just
8 summarized every single thing that's been brought in front of
9 this jury?

10 A No.

11 Q Okay. And he asked you how many times Randy Collins said
12 he didn't do it.

13 A Yes.

14 Q Do you have any idea as to how many times you said, "We
15 just want the truth?"

16 A I've got no idea.

17 Q Did you say that?

18 A Yes. I did.

19 Q Okay.

20 MS. RICHARDSON: I have no further questions.

21 THE COURT: Mr. Wilson.

22 MR. WILSON, JR.: Just last question.

23 MS. RICHARDSON: Your Honor, we're going to go --

24 THE COURT: Well, understand, Mr. Wilson, it's limited to
25 redirect.

1 MR. WILSON, JR.: It's one question, Judge.

2 THE COURT: All right.

3 MR. WILSON, JR.: And it's related to what she just
4 asked.

5 RECROSS EXAMINATION

6 BY MR. WILSON, JR.:

7 Q You also said, "don't" -- I apologize. You also told
8 Randy Collins in that interrogation room not to actually tell
9 you things just because he thought you wanted to hear it;
10 correct?

11 A Yes.

12 Q Because -- and why did you tell him that?

13 A Well, because in my opinion he was, he was trying, again,
14 minimize his portion of it. You know, "I was there, but I, I
15 didn't do anything. You know, Marissa called and I, yeah, I
16 told James and I rode with him, but this ain't on me. This
17 is, this is all James."

18 Q Okay. Thank you very much.

19 MR. WILSON, JR.: Judge, no further questions, Your
20 Honor.

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

22 A Thank you, Judge.

23 THE COURT: Witness?

24 MS. RICHARDSON: Your Honor, the State rests.

25 THE COURT: Very well. Would you take the jury out,

1 please, while I take up matters? While the jury's going out
2 we'll take five minutes.

3 OFF THE RECORD

4 (On the record. The following takes place outside the
5 presence of the jury.)

6 THE COURT: The State has rested, motions?

7 MR. WILSON, JR.: Judge, at this time obviously the
8 Defendant's going to move for a directed verdict, Your Honor.
9 I'm going to base it on obviously corpus delicti. Again, the
10 State hasn't shown any connection other than this client's
11 statement, this Defendant's statement, they haven't shown any
12 connection whatsoever to the body of the crime in this case.
13 They have --

14 THE COURT: Well, I think his statement corroborates many
15 of the facts that are in the evidence about the burning with
16 the kerosene, about the hiring by the owner of the property,
17 the mother taking out an insurance policy. I think there's a
18 lot of evidence that he gave in his, his statement that goes
19 in step with the physical evidence that was found. There's
20 obviously no doubt of the fact that there was a crime
21 committed. There's been nothing but evidence to show that it
22 was an intentionally set fire and that it was a death that
23 resulted from it. So I believe that there is evidence from
24 which a reasonable jury could convict your, your, your client
25 based upon not only his statement but the physical evidence

1 and how his statement meshes with that physical evidence.

2 MR. WILSON, JR.: Judge, can I put the rest of it on, on
3 the record?

4 THE COURT: Yes. Yes.

5 MR. WILSON, JR.: Again, I'm going to argue corpus
6 delicti. All of the cases that I have read regarding this
7 matter specifically state that a case that the State brings
8 against an individual, especially when there's a confession,
9 has to stand on firmer ground than simply that confession, and
10 I would submit to the Court that they know -- they had the
11 information already regarding the fire about the kerosene and
12 all that good stuff. They already knew that already. They
13 even said it to him in the actual interview itself. They
14 didn't get one shred of additional evidence after they finally
15 got probable cause for the arrest, not one thing, nothing.

16 THE COURT: He lawyered up.

17 MR. WILSON, JR.: Well, I hope so. I hope so.

18 THE COURT: I was not being facetious though.

19 MR. WILSON, JR.: I understand, Judge.

20 THE COURT: All right. Yes. I was being facetious --

21 MR. WILSON, JR.: That's okay. It's all right.

22 THE COURT: -- Mr., Mr. Wilson.

23 MR. WILSON, JR.: But, but, but again, there, there was

24 --

25 THE COURT: That, that's pretty typical in these cases;

1 is it not?

2 MR. WILSON, JR.: Well, it's typical to have a situation
3 where there's probable cause and you might get the, the
4 statement from him and then arrest him, but the question is
5 they couldn't arrest him without the statement, and the
6 question after that is what else do they have beyond that?
7 They got the stuff from the actual trailer that burned. They
8 got the forensic evidence that they collected. They tested
9 it, and then they found out that Marissa Cohen got the
10 kerosene, that Marissa Cohen got the policy, that Marissa
11 Cohen got the storage facility, and we believe that Marissa
12 Cohen burned this place, but again, there's no evidence other
13 than his statement to stand on firm ground, and I think when
14 it goes to the Court of Appeals in light of the totality of
15 the circumstances as far as his, obviously, Jackson v. Denno
16 and other things in this case regarding his mental status, I
17 think that it gets overturned, Judge. That's my opinion.

18 THE COURT: All right. Ms. Richardson.

19 MS. RICHARDSON: Your Honor, obviously, there is plenty
20 of evidence that a crime has been -- has occurred here. I
21 think State v. -- I think it's State v. Williams is very
22 similar in facts in that there is evidence typing him to the
23 crime, of course, his -- besides his own statement, it is the
24 statements of Rose Collins who indicates his demeanor and
25 statements he made immediately after the crime, as well as his

1 own nephew.

2 THE COURT: And the phone calls and the contact between
3 the --

4 MS. RICHARDSON: Multiple phone calls around the critical
5 times around the time of the purchase of the kerosene and --

6 THE COURT: Proximity.

7 MS. RICHARDSON: -- after the fire.

8 THE COURT: I, I would respectfully deny your motion for
9 directed verdict, Mr. Wilson. Okay.

10 MR. WILSON, JR.: Your Honor.

11 THE COURT: Yes, sir.

12 MR. WILSON, JR.: If I may for purposes of the record,
13 and I understand the Court's ruling and I'm not obviously
14 contesting your ruling, Judge, but I do want to put on the
15 record that there was ample evidence that came out on the
16 record even through the State's own exhibits, obviously he
17 lived close to this area. This is a small community, and in
18 addition to that, Judge, I'll, I'll leave it there, Your
19 Honor. I'll leave it there.

20 THE COURT: Okay. All right. Mr., Mr. Wilson, does your
21 client intend to testify?

22 (Mr. Wilson and Mr. Collins confer.)

23 MR. COLLINS: Yes. I'll testify.

24 MR. WILSON, JR.: You want to testify?

25 MR. COLLINS: Yes.

1 (Mr. Wilson and Mr. Collins confer.)

2 THE COURT: All right. Let, let me --

3 MR. WILSON, JR.: Judge, Judge, briefly, let me talk with
4 my client one second.

5 THE COURT: Okay. Let, let -- Mr. Wilson, let me --

6 MR. WILSON, JR.: Yes, sir.

7 THE COURT: -- read him his rights and then you talk to
8 him.

9 MR. WILSON, JR.: Thank you, Judge.

10 THE COURT: All right. You, sir, are Randy Collins?

11 MR. COLLINS: Yes.

12 THE COURT: Okay. Now, is he under oath? Would you
13 place him under oath, please?

14 (Defendant is sworn by the clerk.)

15 THE COURT: All right. Now, Mr. Collins, at this time
16 I'm going to explain some things to you, certain rights that
17 you have, and if you don't understand anything I say please
18 let me know. I will explain it again. I'll explain it until
19 you tell me you understand it. Do you -- is that fair enough?

20 MR. COLLINS: Yes, sir.

21 THE COURT: Okay. You understand what I'm telling you
22 now?

23 MR. COLLINS: Yes.

24 THE COURT: Okay. Now, we've reached the stage in the
25 trial where you can present your defense and you have the

1 right to claim the protections given you by the Fifth
2 Amendment to the Constitution of the United States. That
3 amendment says in part no person shall be compelled, that
4 means required, made in any criminal case to be a witness
5 against himself. That means that you cannot be required to
6 testify in this case. You have the right to testify on your
7 own behalf if you wish. However, no one can make you testify.
8 Now, this is a personal right you have and no one can waive or
9 give up that right except you.

10 Now, if you decide to testify understand this, you will
11 be subject to the same rules that govern other witnesses, and
12 you can be examined by your attorney, then cross examined by
13 Ms. Richardson or Mr. Stephens on any relevant issue in this
14 case. All right.

15 MR. COLLINS: Yes.

16 THE COURT: In addition, if you have any convictions
17 involving dishonesty or false statement or for crimes
18 punishable by imprisonment for more than year and I determine
19 that the probative value, the evidentiary value of the -- of
20 admitting this evidence outweighs its prejudicial or harmful
21 effect to you, the Solicitor, Ms. Richardson or Mr. Stephens
22 will be able to introduce your record to attack your
23 credibility or believability. If you decide to testify, this
24 decision on your part must be freely, voluntarily and
25 intelligently made with the knowledge or understanding of the

1 protections given you, the rights given you by the Fifth
2 Amendment and the consequences of your decision to testify.
3 If you decide not to testify I will tell this jury that they
4 cannot give that fact, the fact that you did not testify any
5 consideration whatsoever. I will tell them they cannot even
6 mention it in the jury room and that there is to be absolutely
7 no prejudice to you because you did not testify. It is left
8 entirely up to you whether or not you testify. Now, I'm going
9 to let you talk with Mr. Wilson, your family, your friends,
10 anyone else that might give you sound advice, but the final
11 decision will be entirely up to you. Now, do you understand
12 what I have explained to you?

13 MR. COLLINS: Yes, sir.

14 THE COURT: You understand? Do you have any questions
15 for me about what I've explained to you?

16 MR. COLLINS: No, sir.

17 THE COURT: You understand now?

18 MR. COLLINS: Yes.

19 THE COURT: You, you don't have to testify. The jury
20 cannot use that against you. If you do testify you're going
21 to be subject to questioning by the Solicitor, that would be
22 Ms. Richardson, the Prosecutor, or Mr. Stephens. Do you
23 understand? Do you understand that?

24 MR. COLLINS: Yes.

25 THE COURT: Okay. Now, I want you to discuss this with,

1 with your lawyer. I'm going to give you a few minutes. He
2 says he needs a few minutes with you, and then I'm going to
3 bring you back and let you tell me. Okay?

4 MR. COLLINS: All right.

5 MR. WILSON, JR.: Thank you, Your Honor.

6 MS. RICHARDSON: Your Honor, I'm going to step out for a
7 few minutes while they're meeting.

8 THE COURT: All right.

9 OFF THE RECORD

10 (On the record. The following takes place outside the
11 presence of the jury. Whereupon, a bench conference is held
12 in the presence, but out of the hearing of the jury.)

13 MR. WILSON, JR.: Your Honor, for the record, I've talked
14 with my client. He has expressed an interest in testifying.
15 I want to put on the record that I have serious concerns about
16 his mental status, as well as his mental abilities, his
17 ability to understand and, again, I said this in the Jackson
18 v. Denno that -- and in the Blair hearing that we had that I
19 have concerns about his mental capacity, Judge. I would
20 remind the Court that he did test at an 18 level on the MOCA
21 exam. I understand the examiner has found him to be
22 competent, but competency does not necessarily indicate that
23 he doesn't have diminished capacity. I'm telling the Court
24 from working with him for the past couple of years that his
25 capacity is diminished, but he has expressed an interest in

1 testifying. I just want to put on the record that I've
2 advised him not to.

3 THE COURT: Well, well, I, I just want to make sure that
4 he understands.

5 Mr., Mr. Collins, again, I'm hearing from your attorney
6 that he's advising you not to testify; is that correct? Is,
7 is that right? Sir?

8 MR. COLLINS: All right.

9 THE COURT: All right. But you want to testify; is that
10 correct?

11 MR. COLLINS: Right.

12 THE COURT: All right, sir. And, and I want to make,
13 make sure that you understand what I told you a minute ago.
14 You don't have to. Okay. No one can make you. It's a
15 constitutional right.

16 MR. COLLINS: Right.

17 THE COURT: And I would tell the jury, if you did not
18 testify, I would tell them they can't use that against you.
19 Okay.

20 MR. COLLINS: Right.

21 THE COURT: You understand that? Do you understand that?

22 MR. COLLINS: Right.

23 THE COURT: Okay.

24 MR. COLLINS: Yes. Yes, sir.

25 THE COURT: All right, sir. And do you further

1 understand that if you take this stand, you are making
2 yourself open to cross examination, interrogation by the
3 Prosecutors in this case, and any testimony that they elicit
4 could be used -- would be used against you by this jury if it
5 were incriminating. Do you understand that?

6 MR. COLLINS: Right. Yes, sir.

7 THE COURT: Okay. So if you were to say anything
8 incriminating that might hurt you you can't take it back. I
9 mean, I'm always concerned, and I don't want to, I don't, I
10 don't want to try to tell you not to testify or to testify.
11 That is 100 percent your call. It's just that your attorney,
12 Mr. Wilson, tells me that he has concerns about your decision
13 to do that. It's not his decision. It's your decision as to
14 whether or not to testify, and I wanted to make that very,
15 very clear to you, and if you want to testify, we're going to
16 hear your testimony. That is absolutely your right, but I
17 want to make sure that you understand that sometimes there are
18 pitfalls that come from that. Sometimes great things can
19 happen from it, you know, it's possible.

20 MR. COLLINS: Yes.

21 THE COURT: But the other can happen, happen as well. I
22 don't know about your case like your attorney does. I could
23 never give you advice. It would be improper for me to give
24 you advice. It's just that I encourage you to talk this
25 through with your attorney, and of course, it's your decision.

1 You have to, you have to make that decision. He can't make it
2 for you, but I would tell you that it would probably be a good
3 thing to listen to him, and then if you want to testify
4 absolutely, we'll be happy to hear your testimony, but do you
5 need to discuss this further with Mr. Wilson?

6 MR. COLLINS: Yes.

7 THE COURT: Okay. And I'm going to give you all the time
8 you -- because this is a very important decision, Mr. Collins.
9 Okay?

10 MR. COLLINS: Okay.

11 (Mr. Wilson and Mr. Collins confer.)

12 MR. WILSON, JR.: Ask the question again.

13 THE COURT: All right. Mr. Collins, do you wish to
14 testify or not?

15 MR. COLLINS: No, sir.

16 THE COURT: All right. Very well, Mr. Collins. Okay.
17 Then, Mr. Wilson, do you have another witness you will call?

18 MR. WILSON, JR.: No, Your Honor. The Defense rests at
19 this time, Judge.

20 THE COURT: All right. Very well. Let's bring the jury
21 in.

22 (Whereupon, the following takes place in the presence of
23 the jury.)

24 THE COURT: All right. Ladies and gentlemen, the State
25 has rested and now the Defense has also rested, and we are

1 prepared to go forward with arguments. Will you waive -- will
2 the State open as to the law?

3 MS. RICHARDSON: Yes, Your Honor.

4 THE COURT: All right.

5 MS. RICHARDSON: Good afternoon. We're here today, and
6 we've been here all week because a 12 year old little boy is
7 dead. You've heard him referred to as Dave. You've heard him
8 referred to as Syience, but we all know that he died at the
9 age of 12 on the floor of that trailer with black smoke
10 filling the air, and he was all alone, and why did he die?
11 For greed, for money, for \$5,000 out of 25, and his own
12 family, of course, first of all, his own mother, but his own
13 family worked together and didn't protect him. Now, nobody
14 knew he was there. Nobody is saying in this case that he was
15 intentionally killed, and that's not the intent we look at.
16 What we're looking at is the intent, the plan, the conspiracy
17 to burn down this trailer to get insurance money. That's the
18 intent, and the law says that they're responsible for the
19 results of that act and that plan.

20 You heard testimony from the arson investigators. You
21 saw those horrible pictures. A fire is a dangerous thing,
22 quick. He wasn't that far from the door. The doctor told you
23 how fast he was overcome, and the law says if you set a fire
24 you're responsible for that, and it doesn't matter if you know
25 if they're there or not. It can be the fireman who comes in,

1 something happens to him. It can be a neighbor. If Mr.
2 Langley had seen that fire and gone in the house and tried to
3 -- and thought Syience was there, he could have succumbed, but
4 you are responsible. It is a dangerous thing. You saw the
5 pictures, ceiling fans melted, blinds melted off the wall,
6 black smoke everywhere. He's responsible.

7 He's charged with two crimes, arson in the first
8 degree and criminal conspiracy. The Judge will explain to you
9 what the criminal conspiracy is, and it's the conspiracy to
10 commit this arson, but conspiracy is basically a plan among
11 participants ahead of time and then taking some action in
12 furtherance, and each member of the conspiracy is just as
13 guilty as the other.

14 You've heard testimony Marissa Cohen was home in bed
15 drugged up, asleep when her son died. She's part of that
16 plan, she's just as guilty. We don't care if she was there or
17 not. No. She wasn't there.

18 Arson, a person who willfully and maliciously, and
19 there's two parts here, causes an explosion, sets fire to or
20 causes to be burned or aids, counsels or procures a burn,
21 willfully and maliciously. We know it wasn't no accident.
22 We've heard that. You heard -- I'm sure you saw more pictures
23 than you wanted to and heard from the arson investigators.
24 Everything they did to determine it wasn't an accident, and I
25 don't think that's really in dispute here, but of course, the

1 first thing was it was going to be an electrical fire.

2 The second thing is, you know, we've got this kerosene
3 heater sitting around. Of course, the funny thing is it was
4 empty, but the kerosene was everywhere it shouldn't have been,
5 not in it, but around it. I don't think there's any question
6 that this was arson. This was an intentional fire, and these,
7 these two things causes an explosion, sets fire to or causes
8 to be burned, clearly that's a given. It's burned, or you can
9 either cause it, like do it yourself, light a match, cause it
10 or, and this is a little different, this is kind of a
11 different area of the law, you can aid, counsel or procure
12 that burning which means you, you do not have to be there, if
13 you pay somebody to do it, you advise somebody on how to do
14 it, you help them, help them, and any of that is the same as
15 if you do it yourself and to do these things you don't have to
16 be here. Again, Marissa Cohen, home in bed, the same thing,
17 and then that results in damage. There's got to be damage,
18 and that's easy, to a building, structure or property, that's
19 easy, too. I mean, obviously we can see that that was
20 damaged, which results in the death or serious bodily injury
21 of a person directly or indirectly, and that's why you heard
22 from the pathologist who explained exactly what happened to
23 little Syience, and that he did die from this fire, from the
24 smoke that was produced in this fire.

25 So the issue in this case is Randy Collins. What role

1 did, did he play in this? Well, first of all, it became
2 apparent right off the bat. You heard from multiple people at
3 the scene. "Something's not right here. Something is not
4 right. This mother is not acting right. Something's wrong."
5 Her child is dead. She has not much reaction. Boy, she's on
6 that cell phone. She is on that phone. Who is she talking
7 to? She is talking to Randy Collins, Randy Collins. In the
8 past month she had talked to him one other time until these
9 two days, and all of a sudden these two days she's talking to
10 him, and what times is she talking to him? We know she went
11 to purchase kerosene at the Super Chick that morning between
12 10 and 11. Shortly after that, she's on the phone with him,
13 and again in the afternoon and again at 9:00 o'clock at night
14 and around three in the morning, and what's significant about
15 those times? What time did he try to give an alibi for? Nine
16 to three. "Nine to three I'm at Carnell's not 11 to 2, we had
17 a big -- nine to three, and not just me, guess who I'm with?
18 I'm with James Miller." Okay. And you'll have these to look
19 at, and both of them were statements and both of them are
20 exactly the same, and guess what, both of them are lies.
21 Evidence of deceiving and lying when you're confronted is
22 evidence of your guilt. He lied and James lied.

23 The morning of the fire the people, the family, the
24 community, everybody knows what's happened, concerned about
25 this tragedy. Herman Collins, Rose Collins come down to see

1 their family. Herman is going to talk to his uncle, and Rose
2 is going to see her first cousin who's also like a sister to
3 her, Marissa. They roll up there early that morning and
4 describe how he's acting and what does he say? "It's f'd up.
5 It's f'd up," and Rose says he says, "Wasn't supposed to
6 happen like that. Wasn't supposed to" -- or something to that
7 effect -- "it wasn't supposed to be like that." So Rose goes
8 over to Marissa's house and what does she hear? The same
9 thing. "He wasn't supposed to be there. Wasn't supposed to
10 be like that. He wasn't supposed to be there."

11 So word starts getting out in the community. They get
12 this anonymous tip, check it out. Sure enough, Marissa has
13 taken out an insurance policy just a little over a month
14 before. Just a little over a month before she's taken out an
15 insurance policy, and she's bought kerosene. When they talk
16 to him and he lies. They get the cell phone records and see
17 that there's been communications. So they bring him in, and
18 that's where things get interesting, and that's what most of
19 this trial's been about. It's like throwing spaghetti up on a
20 wall and see what sticks. Well, first of all he was tricked.
21 You know, he, he didn't know why he was coming there. You
22 heard Investigator Garrett say he had talked to him. He'd
23 already given one statement that he had checked out and found
24 not to be true. Set up an appointment to meet up with him
25 again and he didn't come in. So when he came to get those

1 cell phones he -- what'd he say, and if you go back, and you
2 can listen to the tape if you want to, he said, "You know, all
3 the family was there. I didn't tell them I was coming. I, I
4 didn't tell them I was coming," but he knew, he knew they were
5 going to talk to him again.

6 Okay. So first, you know, he got tricked into going
7 there. Second, well, what about this room he's in? He's at
8 the Andrews Police Department. What about this room? Oh,
9 this room just made him feel like, you know, he didn't have a
10 choice. A big deal was made about where is he sitting?
11 Where's the door? What else is in the building? Okay. So
12 the room was not suitable. Then it's he's hungry. He didn't
13 have breakfast. Of course, he didn't ask for anything to eat.
14 He didn't feel good. Let's see what else it was. He had been
15 in an accident a few years ago and his leg hurt, every little
16 thing, and then it's, "Well, he's promised. You know, he's
17 made promises he can go home." Well, he did go home, that it
18 was either way, and he clearly knew why he was there and what
19 they were talking to him about, and he knew there was a cost,
20 is what he said, for it and a penalty. He knew this was a
21 serious crime. That's why he said he wasn't nowhere near it
22 from nine to three that night. He knew what he was there for,
23 and then it's, "Well, you know, he's, he's just not that
24 smart. He's limited and he doesn't have a high education,"
25 and that's not the end all there. Many of us who know older

1 people in the community, some of our own grandparents may not
2 have gone that far in school, but education from a book sense
3 is not the same as smarts, and it doesn't mean he doesn't have
4 intelligence. Think about some of the words he used, hesitate
5 and consideration, and he knew what was going on clearly,
6 clearly, and look at his demeanor and the way he acted. You
7 know, oh, he's had a stroke. Okay. His memory was just fine
8 when he started talking. When he first started talking it's,
9 "Well, we did this and we went to Carnell's. When we went to
10 Carnell's we had this many beers, and we played pool and you
11 know that last fellow he played pool with he was really good."
12 He remembered a lot more details there, but when things got
13 harder and he knew things weren't matching up, then it's, "Uh,
14 uh, I had a stroke. My, my memory's not so good." Then
15 that's when that starts. It's manipulation, and that, that is
16 a sign of intelligence. He talked about being a mechanic. He
17 has a driver's license. He's able to function on a day to day
18 basis. So we've talked about the room and the way he got
19 there and the fact that, okay, maybe, you know, he's not so
20 smart, all those things, and then it's the tape cut off. The
21 tape cut off. He's trying to take advantage of a battery
22 dying. Now, we all watched this long interview, and you
23 didn't even see all of it, you know, we've had to remove
24 portions, and you heard Scott Hardee testify, and I don't know
25 that there is a battery pack that could outlast Scott Hardee.

1 He is long-winded, but you know, the battery does cut off and
2 then we go back into the interview, and at that point the
3 suggestion is, "Oh, well, you know, he's been told what to
4 say." Well, if he did he didn't do a very good job because
5 they were still trying to figure out which side of the road he
6 was on. Think about the part when it came back in. Officer
7 Garrett didn't even know which road they had parked on and
8 which was the front or the back of the house because they were
9 -- he didn't realize which street they were talking about. So
10 then and for that to be an issue you would have to believe
11 that he and Officer Hardee did that on purpose, that they just
12 cut that thing on purpose and did something while it was off.
13 You saw them both. You saw their demeanor. You saw their
14 demeanor when the tape came back on. Do they look like the
15 kind of men who, who did something horrible to him during the
16 break, and did he look like anything had happened with his
17 demeanor? No. Trying to take advantage of that, that
18 situation, and then it's, "Well, they told him everything to
19 say. They fed him all the information. He didn't know any of
20 it. So they told him all of it."

21 Think back. There are several things that he mentioned
22 that they wouldn't know anything about, which street it was
23 on, that they didn't have a key. There were several of the
24 details that he brought out that nobody knew, and just think
25 about the normal progression of it and think about in your

1 day-to-day life how things happen. Some of us may have been
2 caught doing things wrong when we were younger, may have
3 gotten in a little trouble in high school. Some of us may
4 have wrecked a truck and wanted to tell their daddy a little
5 different story, and that happened to me one time. Decided I
6 was going to show off a little bit and hit a tree, and I knew
7 I was going to be in trouble. So what did I say? Somebody
8 must have hit this car. Somebody must have hit this truck,
9 make an excuse. That's what people do, blame something else.
10 "I wasn't there. I don't know anything about it. I came back
11 and that's the way it was." Well, then it's, "Okay, Alicia,
12 let's just call the police department and make a report."
13 "Um, um, maybe we shouldn't do that." "Okay. What about this
14 limb sticking out up under the truck?" So then who comes
15 clean?

16 The same thing here, the same thing we all do in life.
17 The same thing you do with children. You look at the evidence
18 and you point out the inconsistencies to get them to tell
19 their truth. Now, some people are more honest and they just
20 come right out when we're facing a crime. That doesn't often
21 happen. That's why there are interviews, and that's why there
22 are techniques, and that's why they use the tools of
23 investigation and the evidence they get and confront people
24 with it, it's a normal progression.

25 "I wasn't there. I was with my cousin, James, from nine

1 to three, all night, and T can tell you." "No. He can't,"
2 and James says the same thing. "No. He can't." "Well, okay,
3 then maybe I'm not so good with time. Maybe it was 11 and
4 maybe I got home at two," and then in the interview still
5 throwing out names, then eventually he admits, "Well, I was
6 with James. I was with James." They broke him. They broke
7 him by confronting him with the inconsistencies, just like
8 anybody does, just like anybody does. There's nothing unfair
9 or undue or wrong. They confronted him with what wasn't true,
10 and then he eventually came forward, and you're going to hear
11 the Judge explain to you that you have to determine if a
12 confession is voluntary, and he's going to talk about promises
13 and threats and his ability to understand, but in the end the
14 key, the determining factor, and the Judge will tell you, was
15 his free will overborne? Was his free will overborne so that
16 he had no choice but to say what they wanted him to say and
17 what they told him to say? Was his free will overborne? No.
18 And how do we know that? How do we know his free will wasn't
19 overborne? He was still protecting Randy. He was still
20 protecting Randy. "It's all James. I was there. I was with
21 the wrong crowd," that's a good one. "I was with the wrong
22 crowd, but it was James. James did everything." He was able
23 to protect himself and minimize his role right up to the end
24 of it, and after he had written that statement, after he had
25 written that statement, "That's real. That's real. That's

1 true and I'm not a liar. That's real. That's real," and
2 they're getting ready to walk out and he finished writing
3 everything and what does he say? "You know, I don't know if
4 Marissa even knew James was involved." Marissa didn't know
5 about James, and he does say from start to finish, "I didn't
6 do it. I didn't do that. I didn't do that. James lit it,"
7 and to him that's the difference, but to the law it's not.
8 It's not. It doesn't matter which one of them lit it. What
9 matters is they were all in a plan and they all worked
10 together, and the Judge is going to talk to you about mere
11 presence, and there are times when people just happen to be at
12 the wrong place at the wrong time. The law says if you're
13 just there and you, you're not doing anything it's not your
14 responsibility. That's not what happened here. Who links
15 Marissa and James together? James' number is not on those
16 cell phone records. Randy says Marissa didn't even know that
17 James was part of it. Marissa's the ring leader, but he's the
18 link. He's the link. He brought James in. He's the link to
19 everything.

20 James wanted some money or yams, which is I'm sure
21 something the officer -- a term the officers didn't give
22 Randy. He wanted some yams, and one of the main reasons we
23 know that the two of them are working together is they gave
24 the same statement, the same statement, same false statement,
25 and we know it's not true. He finally admitted it wasn't

1 true. James' own momma came in and said it wasn't true and
2 James wasn't there from nine to three. James' own sister was
3 in here.

4 I wish it weren't true because if they -- if him and
5 James Miller had been at Carnell's from nine to three, and by
6 the way, nobody said that statement was forced; have they?
7 Oh, no. That one's completely voluntary. If they had been
8 there from nine to three Syience wouldn't have been there.
9 Syience is dead because of their greed. He joined together to
10 get insurance proceeds and carried it out, and I ask that you
11 consider all the testimony and evidence and find him guilty of
12 arson in the first degree and criminal conspiracy.

13 THE COURT: Mr. Wilson.

14 MR. WILSON, JR.: Your Honor, if it please the Court,
15 Judge.

16 Good afternoon, ladies and gentlemen. When I first
17 talked to you I told you that all of you were selected as
18 individuals. Okay? And I know we refer to this as a jury
19 panel, but there's a reason why we selected each and every
20 single person that is on this jury panel and that is because
21 of your experience, life experiences, who you are and what we
22 believe you are, and we're asking you today to make sure that
23 you follow the oath that you took. Okay.

24 This is a serious case. Arson in the first degree is a
25 serious crime, so is conspiracy, but I told you in the

1 beginning that the Defendant is draped in a robe of
2 righteousness. He is innocent until proven guilty and even
3 right now he is still innocent.

4 What I want to talk to you about, and I'm not going to
5 belabor over all the evidence because I know you've sat and
6 I've saw you. You've watched vigilantly, and you've been
7 attentive to what's been happening, but I do want to talk
8 about something. This has been a perfect trial to try Marissa
9 Cohen. This is the perfect trial to find out that Marissa
10 Cohen did something illegal. Almost every piece of evidence
11 in this case regarding conspiracy, if it exists, and the arson
12 is related to Marissa Cohen. You go back and you look at the
13 policy itself. You go back and you look at the rental itself.
14 Go back and look at the day of the crime where she's moving
15 stuff out of the house with Langley and with Brown, and I
16 might add to you and you heard me bring it out in testimony
17 she wasn't trying to kill Randy Collins until Randy Collins
18 decided to go and make a false statement to Investigator
19 Garrett and to Agent Hardee, and the reason she wasn't
20 interested in Randy Collins is because Randy Collins didn't
21 know anything. They didn't talk to him that second time until
22 June 4th and that's why I said at the beginning this is a
23 complex case. You have to weed through what's going on here.
24 It's a complex case because these people all know each other.
25 They're all family. They've known each other for years. They

1 spend time together. They have dinners together. This
2 happens all the time.

3 June 4th is when they talk to him. She didn't talk about
4 killing him until November. Why do you think that is? Why do
5 you think that is? Mr. Brown got on the stand and told you
6 that the day he was helping him move she talked about burning
7 it that day. She told him, and do I believe that Marissa
8 Cohen was out shopping for somebody to burn her house?
9 Absolutely. Do I think that the family knew about it? Yes.
10 I think most of the people in this story knew about it, but
11 knowledge of a crime, even after the fact, and because you can
12 recite certain things is not evidence of a crime.

13 I taught -- I had the privilege of teaching criminal law
14 in law school for the ABA and LSD and for the SBA. Two things
15 that are, that are at the core of criminal law act, which is
16 actus reus, and mens rea, which is the intent, and the
17 Prosecutor is right, intent is required for every single crime
18 before you can be convicted. The act is required and then
19 proof beyond a reasonable doubt. Before they talked to Randy
20 Collins they couldn't get arrest warrants. They couldn't get
21 anything, nothing, and this was a serious case. This was a
22 serious case, and they needed something.

23 Now, I am not telling you that Randy Collins is an
24 imbecile because that's not the case. What I told you was he
25 is honestly not educated. He'd had a stroke the year before,

1 which came out in evidence. It's in his statement, and you
2 watched him the entire time on the video. You saw him and how
3 he is. You heard him talk about his lifestyle and how simple
4 it is. You saw him.

5 Now, when we talk about the evidence in this case, if
6 and they have put Marissa Cohen in the evidence completely.
7 If you're talking about proving conspiracy you're talking
8 about somebody that may have talked to her around the time
9 that this house burned. Okay? You're talking about the fact
10 that she then took steps to go ahead and get the storage
11 facility, to go ahead and get the policy. None of those
12 things Randy Collins was accused of doing or even have
13 knowledge of and I'll tell you right now the anomaly for me
14 when I started this case was not what Randy Collins said in
15 his interview. It is what he did not say, the information he
16 did not have about the conspiracy. He had no clue about
17 anything other than what they told him. He didn't know about
18 the policy. He didn't know about her going to the gas
19 station. Everything, and you don't believe me go back and
20 listen, everything they told him everybody already knew.
21 Everybody knew the place had burned down. They knew there was
22 a window on the other side of that trailer. This is not
23 rocket science, and did he know what happened? He knew the
24 facts about what happened because everybody was talking about
25 it. The entire circle of that community in Andrews in that

1 area was talking about what happened, and check his phone
2 records. Check her phone records. I encourage you to take
3 the exhibits back and you look at them. She calls him in
4 February. She talks to him again on the 28th and on the 29th,
5 but there was a lot going on in this time, but who does she
6 call? Look and see who she calls at 1:00 o'clock in the
7 morning right before this fire occurred. I want you to look
8 at those numbers, and I also want you to pay close attention
9 to the actual cell site location for Randy Collins and then
10 look at the cell site location for Marissa Cohen. His cell
11 site location does not ping anywhere else, the entire time,
12 and then the next day it's the same place. So he had to
13 literally be at the fire if he's pinging at the same place.
14 There was no evidence and I asked on the stand almost every
15 witness, "Did you see Randy Collins at that scene even after
16 the fire, after everybody had gathered around there?"
17 Everybody said no. "We hadn't see him." "No. We hadn't
18 talked to him," and I know you've got to be -- it's got to be
19 burning in your mind because it was burning in my mind, why in
20 God's green earth did this man go in there and make up this
21 crazy lie because that's the issue. We all believe this place
22 burned. We believe that it was a criminal act. We all
23 believe that. Why would he lie? It is a simple, simple
24 answer because you're talking about a simple, simple man with
25 a simple mind. He was ready to go home. He did not want to

1 be there. That's it, and if you are confused about his
2 abilities he could not even keep straight the path that he
3 took through the woods. He couldn't keep straight the fact
4 that was it a piece of paper? That's something simple because
5 if I go up now with my paralegal, my office manager, and I
6 say, "Look, we're going to burn this house right now," and I
7 see her take a match and light it and light a piece of paper
8 I'm going to tell you each time, "Look. She lit a piece of
9 paper." He goes from match to lighter to paper and even
10 suggests at one point in time that the guy picked up a piece
11 of paper on the ground, which the investigators knew couldn't
12 be true, which is why they say, "Look, Randy, you ain't
13 telling us the truth. This can't happen this way," because
14 they knew that the evidence didn't support that, and I know
15 that I drew it out and we had a long conversation,
16 Investigator Garrett and I, but he told you they can lie and
17 they can. Constitutionally they can lie to Defendants, and
18 they told him they knew more than they did. Randy Collins,
19 "Well, look I might as well go and say something so I can get
20 out of here. They want Marissa Cohen. They don't want me,"
21 and for you and I that might be a simple process for us to
22 say, "Hey, look, it's going to take you longer than three
23 hours to break me." It would probably take you literally
24 three or four days to break me. The question is how long
25 would it take to break someone like Randy Collins. That's the

1 question, and does what he said make logical sense to you?
2 They say that he did not go to that bar, that he wasn't at
3 Carnell's, and that was one of the things they said was
4 inconsistent about his statement. You recall that. Yet the
5 Prosecutor just got up and told you that he talked about a
6 game, talked about it like it happened yesterday in the
7 interview and said to you, "Hey, that last guy, that last guy
8 beat him really bad." That is a normal conversation that
9 would take place. I would submit to you he was at that bar.
10 He was at Carnell's. There was nothing inconsistent about the
11 statement he gave. He didn't know where else to go with this,
12 and I ask you this, at the time when they made the arrest at
13 one point in time they had no evidence. This is the scales of
14 evidence that we use in, in law, that'd be general sessions,
15 that's criminal court and then also civil court, no evidence
16 at one point in time.

17 The next level of evidence is scintilla. That is
18 literally what we call the size of a mustard seed. That's a
19 small bit of evidence, something that honestly you can't even
20 get an arrest warrant for. Reasonable suspicion, that's
21 enough for me to stop you if I'm a law enforcement agent.
22 Okay. Probable cause, probable cause is a low standard in our
23 system. Probable cause is, "Hey, you may have done it." What
24 is probable cause in general life? Okay. I'll give an
25 example. It's about reasonable doubt. Okay. And in the end

1 that's what this is all about, but probable cause is not
2 reasonable doubt. Reasonable doubt is up here. Probable
3 cause is down here. So if I tell you, "Hey, I just went and
4 slapped my paralegal," you can arrest me. I gave an
5 admission. I gave a statement against myself, but then you
6 got to go investigate the matter and make sure that I'm
7 telling the truth, corroborating evidence. Well, if she's got
8 a red mark on her face and she's crying and she says, "Ralph
9 slapped me" then I'm guilty, at least that's evidence, right,
10 of guilt. That's probable cause. Do you have enough to go
11 get an arrest warrant. That's probable cause. Can you get a
12 search warrant? That's probable cause. You got to have
13 probable cause before you can get a search warrant.

14 The next standard is preponderance of the evidence. The
15 next standard is clear and convincing evidence and then the
16 next standard is reasonable doubt. Now, what is reasonable
17 doubt? In your life every day we make decisions, all of us
18 do. Okay. You know, if I decide -- I'm already married, but
19 I'm going to say that -- but if I decide to get married
20 tomorrow, and I had a relationship with my girlfriend and I
21 say, "Look, I'm about to agree to get married, but she's not
22 that good with money." That might give me some reasonable
23 doubt about whether or not I should marry that person, and in
24 your life you can make those decisions, say, "Look, I'm not
25 getting married." In the courtroom you cannot because once

1 you reach that level where you say, "Look, I have reasonable
2 doubt," then you have to find, the Judge will tell you you
3 have to find the Defendant not guilty. There's no choice. In
4 life you have choices, but under the rule of law we accept the
5 rules of evidence. We accept the rules that the court places
6 in place to protect people and that's one of the things that I
7 do. Now, I want to tell you this so you'll understand. Yes.
8 I'm a lawyer. Yes. I'm from Horry County, born and raised
9 there, and I'll tell you this right now I have a private
10 practice, but I was not retained by Randy Collins, not at all.
11 I was appointed by the Court to represent him in this matter.
12 I don't want any of you leaving here thinking that Randy
13 Collins is rolling in money because you heard on the tape
14 through the evidence he is not.

15 This man did not commit this crime. My job is to defend
16 people like this. He didn't do this, and I know it's tough
17 because you want to, you have to, human nature is we have to
18 find somebody to blame in this situation, but when you go
19 through the evidence it doesn't support his statement. Go
20 through the phone records. It doesn't support his statement.
21 Okay. Go through the evidence. It doesn't support him, not
22 one shred, and I tried to get the doctor, the expert, the fire
23 expert, I tried to get everybody to give me one piece of
24 evidence which would corroborate what he's saying. Nobody
25 could. Oh, there were inconsistencies, an anonymous tip. The

1 anonymous tip literally would be evidence that would be
2 considered scintilla or no evidence at all in our standard --
3 in our system. That's not evidence. It's not competent
4 evidence to put a man in jail. He is innocent and he's not
5 just sitting here telling you that he's not guilty. He is
6 telling you, "I didn't do this." That's what he's doing
7 sitting over here now, and he has a right not to testify. He
8 doesn't have to get up and say anything, and the Judge is
9 going to tell you he doesn't have to say anything. I am
10 asking you to make certain that you look at this case with
11 open eyes, with open eyes because there are complex issues at
12 play here. There are complex relationships. There are
13 complex issues at hand, and if you don't give it a careful eye
14 what's going to end up happening is you could make a mistake,
15 and I'm asking you not to do that. Search the evidence and
16 I'll be honest with you you will not find that you can get
17 beyond a reasonable doubt in this case. It is not possible.
18 There is no evidence other than what he said, and to give you
19 an example, he actually when he was arrested they then had
20 probable cause to go and arrest Marissa Cohen, but what else
21 did they have other than him saying something? What else do
22 they have? Marissa Cohen should be here in court here today
23 in this trial, not Randy Collins. I am asking you to come
24 back with a fair and just verdict of not guilty on both
25 conspiracy and on arson first degree and on conspiracy

1 something that the Prosecutor didn't say is it requires assent
2 and I'll be honest with you, when I look at this case even
3 from his entire statement if you take it, when he says, "Oh,
4 yeah, Mr. Wilson, I, you know, or Mr. Garrett I went over
5 there and I was there in the car with him and I went behind
6 him," there was no overt act and he didn't put anybody in
7 contact with Marissa Cohen. As a matter of a fact he said
8 otherwise. "I told my nephew about it, and my nephew decided
9 he wanted to go do it." That is not him acting in concert
10 with anybody. Everybody knew about this, and I'm not
11 suggesting that you believe his statement. What I am telling
12 you is if you happen to believe it, even under that
13 circumstance, he's not guilty of a crime. He's not guilty of
14 conspiracy because unless you can tie him directly to Marissa
15 Cohen and that's not a call at 9:00 o'clock at night. That's
16 a call at 1:00 o'clock in the morning where you know the
17 conversation might be about the fire, then he wasn't involved
18 in a conspiracy. There was no mutual assent between him and
19 Marissa Cohen. There's no proof of it. There's no proof he
20 set a fire. There's no proof that he procured anybody or
21 garnered anybody or had anybody do it. I don't know why he
22 lied but he did, and he's in this situation now. He shouldn't
23 have lied. I don't know why he did it. I have no clue other
24 than what I know he says and what he says in that video, "I
25 wanted to go home. I just want to go home." Thank you so

1 much.

2 THE COURT: Ms. Richardson, reply. I'm sorry. I'm
3 sorry.

4 All right. Ladies and gentlemen of the jury, I am going
5 to now instruct you on the law in this case.

6 As I said at the beginning, I have always used something
7 that I really don't know any other Judges do and, and that is
8 I prepare a transcript of my charge. The Supreme Court has
9 said that's appropriate if I'm willing to do it, but I must
10 give you a verbatim transcript of my charge. So I'll be
11 reading my charge to you in just a moment, but, but let me say
12 this, the charge should be taken as a whole. One of the
13 dangers of providing you with a written copy of the charge is
14 that you might zero in on one paragraph, one sentence, one
15 part of, of the charge. You -- of course you could do that if
16 I didn't give you a, a, a transcript, but it is probably more
17 dangerous if I give you one. So, so let me caution you to
18 remember that the charge should be taken as a whole. Every
19 part of the document is important, important and they are
20 intertwined and you will, I think, understand that as I give
21 you the charge and as you take it in your jury room and read
22 it. So I ask you to please take, take special note of the
23 fact that you should consider all parts and all parts should
24 be taken together as a whole.

25 Now, I would remind you that during this trial you and I

1 have certain duties to perform, and as the trial judge, it's
2 my responsibility to preside over the trial of the case, and I
3 also have the duty to rule on the admissibility of the
4 evidence offered during this trial, and you are to consider
5 only the competent evidence before you. If there was any
6 testimony ordered stricken from the record in this case during
7 the trial, you must disregard that testimony. You are to
8 consider only the testimony which has been presented from this
9 witness stand and any exhibits which have been made a part of
10 the record in this case and any stipulations, agreements of
11 counsel. I have the additional duty to charge you the law
12 applicable to this case, and as the presiding judge, I am the
13 sole judge of the law of this case, and it's your duty as
14 jurors to accept and apply the law as I now state it to you.

15 If you already have any idea as to what the law is or
16 what the law ought to be and it does not agree with what I now
17 tell you the law is, you must abandon this idea because you
18 are sworn to accept and apply the law exactly as I state it to
19 you. In every case tried in this court before a jury, the
20 jury becomes the sole and exclusive judge of the facts in a
21 case. A trial judge cannot intimate, state, comment on or
22 make any statement to a trial jury about the facts in a case.
23 Since you the jury are the sole judge of the facts in this
24 case you are not to infer from what I have said during the
25 progress of this trial in ruling on the admissibility of

1 evidence or otherwise or anything that I say, say now during
2 the course of these instructions to you that I have any
3 opinion about the facts in this case. The law does not allow
4 me to have an opinion about the facts in this case. This is a
5 matter solely for you the jury to determine. As jurors it is
6 your duty to determine the effect, value, weight and truth of
7 the evidence presented during this trial.

8 Now, the indictments charge the Defendant with arson in
9 the first degree and conspiracy. I want to remind you that
10 the fact a Defendant was arrested, charged and indicted in
11 this case is not evidence in this case and cannot be
12 considered as you as evidence of guilt in this case, nor does
13 it create any presumption or inference of guilt. These
14 documents simply are the formal written instruments which
15 contain the charges made against the Defendant. They are the
16 formal documents by which the case is brought into the court.

17 Now, the indictments in this case, as I said, allege
18 several different offenses against the Defendant. The charges
19 are in indictment number one arson in the first degree,
20 indictment number two conspiracy. Each indictment charges a
21 separate and distinct offense. You must decide each
22 indictment separately on the evidence and the law applicable
23 to it uninfluenced by your decision as to any other
24 indictment. The Defendant may be convicted or acquitted on
25 any or all of the offenses charged. You will be asked to

1 write a separate verdict of guilty or not guilty for each
2 indictment.

3 Now, the Defendant has pled not guilty to these
4 indictments, and that plea puts the burden on the State to
5 prove the Defendant guilty. A person charged with committing
6 a criminal offense in South Carolina is never required to
7 prove himself innocent. I charge you that it is an important
8 rule of the law that the Defendant in a criminal case or
9 trial, no matter what the seriousness of the charge may be,
10 will always be presumed to be innocent of the crime for which
11 the indictment was issued unless guilt has been proved by
12 evidence satisfying you of that guilt beyond a reasonable
13 doubt. This presumption of innocence does not end when you
14 begin your deliberations, but it accompanies the Defendant
15 throughout the trial until you reach a verdict of guilt based
16 on evidence satisfying you of that guilt beyond a reasonable
17 doubt.

18 The presumption of innocence is like a robe of
19 righteousness placed about the shoulders of the Defendant
20 which remains with the Defendant until it has been stripped
21 from the Defendant by evidence again satisfying you of the
22 Defendant's guilt beyond a reasonable doubt.

23 The presumption of innocence is not mere legal theory.
24 It's not just a legal phrase. It is a substantial right to
25 which every Defendant is entitled unless you, the jury, are

1 satisfied from the evidence of the Defendant's guilt beyond a
2 reasonable doubt. Now, what is reasonable doubt in the law?
3 A reasonable doubt is the kind of doubt that would cause a
4 reasonable person to hesitate to act.

5 The State has the burden of proving the Defendant guilty
6 beyond a reasonable doubt. Some of you may have served as
7 jurors in civil cases where you were told that it's only
8 necessary to prove that a fact is more likely true than not
9 true, such as by a greater weight or a preponderance of the
10 evidence. In criminal cases, the State's proof must be more
11 powerful than that. It must be beyond a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that leaves you
13 firmly convinced of the Defendant's guilt. Now, there are
14 very few things in the world that we know with absolute
15 certainty, and in criminal cases the law does not require
16 proof that overcomes every possible doubt. If, based on your
17 consideration of the evidence, you are firmly convinced that
18 the Defendant is guilty of the crime charged, you must find
19 the Defendant guilty. If on the other hand you think there is
20 a real possibility that the Defendant is not guilty, you must
21 give the Defendant the benefit of the doubt and find him not
22 guilty.

23 Now, there are two types of evidence generally
24 presented during a trial, direct evidence and circumstantial
25 evidence. Direct evidence is the testimony of a person who

1 claims to have actual knowledge of a fact, such as an
2 eyewitness. It's evidence which immediately establishes the
3 main fact to be proved. Circumstantial evidence is proof of a
4 chain of facts and circumstances indicating the existence of a
5 fact. It's evidence which immediately establishes collateral
6 facts from which the main fact may be inferred.
7 Circumstantial evidence is based on inference and not on
8 personal knowledge or observation. The law makes absolutely
9 no distinction between the weight or value to be given either
10 direct or circumstantial evidence, nor is a greater degree of
11 certainty required of circumstantial evidence than of direct
12 evidence.

13 You should weigh all the evidence in a case, and after
14 weighing the evidence, if you are not convinced of the guilt
15 of the Defendant beyond a reasonable doubt, you must find the
16 Defendant not guilty. However, to the extent the State relies
17 on circumstantial evidence all the circumstances must be
18 consistent with each other and when taken together point
19 conclusively to the guilt of the accused beyond a reasonable
20 doubt. If these circumstances merely portray the Defendant's
21 behavior as suspicious, the proof has failed.

22 I instruct you and emphasize the fact that a Defendant --
23 that the Defendant -- excuse me. I instruct you and emphasize
24 the fact that a Defendant that did not testify is not a factor
25 to be considered by you in any way in your deliberations and

1 in your consideration on the question of guilt or innocence of
2 the Defendant. It must not be considered by you in any manner
3 whatsoever. A Defendant has the constitutional right to
4 remain silent, and the assertion of the right must not be
5 considered by you in your deliberations. I repeat, under your
6 oath, you are not to draw -- you are to draw no conclusions
7 whatsoever from the fact that the Defendant in this case did
8 not testify. The fact that this Defendant did not testify
9 should not even be discussed in the jury room. The burden of
10 proof, as I have stated to you, is on the State. The
11 Defendant is not required to prove his innocence. The burden
12 of proof remains on the State to prove guilt beyond a
13 reasonable doubt.

14 Now, necessarily, you must determine the credibility of
15 witnesses who have testified in this case, in this case.
16 Credibility simply means believability. It becomes your duty
17 as jurors to analyze and to evaluate the evidence and
18 determine which evidence convinces you of its truth. In
19 determining the believability of witnesses who have testified
20 in this case, you may believe one witness over several
21 witnesses or several witnesses over one. You may believe part
22 of the testimony of a witness and reject the remaining part of
23 the testimony of that same witness. You may believe the
24 testimony of a witness in its entirety or reject the testimony
25 of a witness in its entirety. You may consider whether any

1 witness has exhibited to you any interest, bias, prejudice or
2 other motive in this case. You may also consider the
3 appearance and manner of a witness while on the witness stand.

4 Now, a statement alleged to have been made by the
5 Defendant has been admitted into evidence in this case. While
6 the Court has determined that the statement is admissible, I
7 instruct you that you make the ultimate decision on whether or
8 not the Defendant made the statement. If the Defendant did
9 make the statement, you must determine whether the statement
10 was made by the Defendant voluntarily and of his own free
11 will. This means that the statement was not caused by
12 pressure, force, fear, threats, coercion or intimidation, or
13 by hope of or a promise of leniency or a reward. The
14 pertinent inquiry is if the Defendant -- if the Defendant's
15 will was overcome. In determining whether the statement was
16 voluntary, you should consider both the characteristics of the
17 Defendant and the details of the questioning. Some of the
18 factors that you must consider are: one, the age of the
19 Defendant; number two, the Defendant's education or lack of
20 education; number three, the Defendant's mental capacity or
21 ability; number four, the Defendant's IQ or, or intelligence;
22 number five, the Defendant's background and environment;
23 number six, the place and length of the detention; number
24 seven, the nature of the questioning; and number eight, the
25 advice, or lack thereof, to the Defendant of his

1 constitutional rights including, but not limited to, the right
2 to remain silent, that any statement could be used against him
3 in a court of law, the right to have a lawyer present, that if
4 he could not afford a lawyer, a lawyer would be appointed to
5 represent him without any cost and that he could stop making a
6 statement at any time. You must carefully consider all of the
7 surrounding circumstances before you give any weight to an
8 alleged statement.

9 The State has the burden of proving beyond a reasonable
10 doubt that the alleged statement was voluntary. If you
11 determine it was, you may give the statement any further
12 consideration that you deem proper. You must decide what
13 weight, if any, should be given to the alleged statement. If
14 you determine the alleged statement was not free and voluntary
15 -- was not the free and voluntary statement of the Defendant,
16 you should not consider the statement at all.

17 Now, the rules of evidence ordinarily do not permit
18 witnesses to testify to opinions or conclusions, and an
19 exception to this rule exists for witnesses we call expert
20 witnesses. A witness who, by education and experience, has
21 become an expert in some art, science, profession or calling
22 may state an opinion as to relevant and material matters in
23 which the witness claims to be an expert and may also state
24 the reasons for those opinions. You should consider any
25 expert opinion received in evidence in this case and, like any

1 other evidence, give it the weight you think it deserves. If
2 you decide that the opinion of an expert witness is not based
3 on sufficient education and experience, or you conclude that
4 the reasons given in support of the opinion are not sound, or
5 that the opinion is outweighed by other evidence, you may
6 disregard the opinion entirely. An expert witness' testimony
7 is to be given no greater weight than that of other witnesses
8 simply because the witness is an expert. Further, you are not
9 required to accept an expert's opinion, even though it is not
10 contradicted.

11 Now, the Defendant in this case is charged with arson in
12 the first degree or first degree arson. In order to prove
13 first degree arson, the State must prove beyond a reasonable
14 doubt that the Defendant willfully and maliciously caused an
15 explosion, set fire to, burned, caused to be burned, aided,
16 counseled or procured the burning of certain properties.

17 Willfully means that it was not done by accident, but was
18 done knowingly and intentionally. The State must show that
19 the burning was by the willful act of some person and not as a
20 result of a natural or accidental cause. Maliciously means
21 with hatred, ill will or hostility towards another person. A
22 person who intentionally does a wrongful act without legal
23 justification or excuse does the act maliciously. A malicious
24 burning is an act done with a condition of mind that shows a
25 heart bent on mischief, showing a design to do an intentional

1 wrong act towards another or towards the public without any
2 legal justification or excuse. This malice need not be
3 express but may be inferred. Burning means actual combustion
4 of some portion of a piece of property. It is not necessary
5 that the property be consumed or destroyed. Charring of the
6 material of which the property is constructed or a change in
7 the fiber or composition of the structure is required for a
8 burning. Singeing, smoking, blistering, scorching or
9 discoloring by heat, however, is not enough to constitute a
10 burning.

11 Next, the State must prove beyond a reasonable doubt that
12 the property which was burned was a building, a structure, a
13 dwelling house, a church or other place of worship, a public
14 or private school facility, a manufacturing plant or
15 warehouse, a building where business is conducted, an
16 institutional facility, any structure designed for human
17 occupancy, including local and municipal buildings, a railway
18 car, a ship, boat or other watercraft, an aircraft, an
19 automobile or other motor vehicle or personal property.

20 Finally, the State must prove beyond a reasonable doubt
21 that the explosion or burning directly or indirectly caused
22 the death or serious bodily injury of a person.

23 If a crime is committed by two or more people who are
24 acting together in committing a crime, the act of one is the
25 act of all. A person who joins with another to commit an

1 unlawful act is criminally responsible for everything done by
2 the other person which happens as a probable or natural
3 consequence of the acts done in carrying out the common plan
4 and purpose. For example, two people can be guilty of killing
5 another person when only one of the two had a gun, there was
6 only one bullet and only one of the two fired the shot that
7 caused the death. If two or more people are acting together
8 and assisting each other in committing the offense, the act of
9 one is the act of all or, as sometimes said, the hand of one
10 is the hand of all.

11 Prior knowledge that a crime is going to be committed,
12 without more, is not sufficient to make a person guilty of
13 that crime. Mere knowledge that another person is going to
14 commit a crime, even if the Defendant is present when the
15 crime is committed, is not sufficient to convict the Defendant
16 as a principal. Mere knowledge that another person is engaged
17 in or another person or other persons are engaged in criminal
18 conduct is not sufficient to show an agreement to join in that
19 conduct. Simply -- similarly, the mere fact that the
20 Defendant may have associated with another person or other
21 persons or may have met with such person or persons or
22 assembled together and discussed common aims and interests
23 with this person or these persons does not necessarily
24 establish proof of the existence of a conspiracy or the
25 Defendant joining any conspiracy merely sharing objectives,

1 meeting together and engaging in similar or parallel conduct
2 is not sufficient. In order to convict a Defendant of
3 conspiracy, the State must prove beyond a reasonable doubt
4 that not only the Defendant knew of the illegal conduct but
5 also that the Defendant agreed to combine with the other
6 person or persons for the purpose of accomplishing the
7 unlawful conduct. Guilt as a principal is shown by actual or
8 constructive presence at the scene as a result of a prior
9 arrangement. Therefore, a finding of a prior arranged plan or
10 scheme is necessary for the finding of guilt as a principal.
11 The State must prove beyond a reasonable doubt by competent
12 evidence the theory of the hand of one is the hand of all.

13 A principal in a crime is one who either actually commits
14 the crime or who is present aiding, abetting or assisting in
15 the committing of the crime. When a person does an act in the
16 presence of and with the assistance of another, the act is
17 done by both. Where two or more, acting with a common plan or
18 intent, are present at the commission of a crime, it does not
19 matter who actually commits the crime. All are guilty. The
20 hand of one is the hand of all. Present at the commission of
21 a crime means to be sufficiently near to aid and abet and
22 assist in the commission of the crime. However, mere presence
23 at the scene of a crime is not sufficient to convict one as a
24 principal on the theory of aiding and abetting. Intent is
25 also a necessary element, for there must have been a common

1 design or intent to commit the crime and the crime must have
2 been committed pursuant thereto with the person aiding and
3 abetting by some overt act. Intent means intending the result
4 which actually occurs, not accidentally or involuntary.
5 Intent may be shown by acts and conduct of the Defendant and
6 other circumstances from which you may naturally and
7 reasonably infer intent. The State must prove these elements
8 beyond a reasonable doubt.

9 The Defendant is also charged with conspiracy. The State
10 must prove beyond a reasonable doubt that the Defendant
11 combined with one or more persons for the purpose of
12 committing an unlawful act or of committing a lawful act by an
13 unlawful means.

14 There must be a mutual understanding, agreement or common
15 intent and plan. Mere passive knowledge of or consent to the
16 criminal conduct of another is not enough to make a person a
17 conspirator. There must be guilty knowledge and
18 participation.

19 Similarly, the mere fact that the Defendant may have
20 associated with another person or met with another person and
21 discussed common aims and interests does not necessarily
22 establish proof of the existence of a conspiracy or that the
23 Defendant was involved in a conspiracy.

24 On the other hand, it is not necessary that the agreement
25 be a formal one, that it be in writing, that the persons hold

1 a meeting and expressly state the terms of the common plan or
2 that the agreement be stated in words between them. The
3 agreement of a criminal conspiracy may come into being through
4 an implied, mutual understanding. The willful, intentional,
5 and knowing adoption by two or more persons of a common plan
6 is sufficient.

7 No overt act need to be shown to establish a conspiracy.
8 A conspiracy may be shown by circumstantial evidence and the
9 conduct of the parties.

10 In order to convict the Defendant of conspiracy, the
11 State must prove beyond a reasonable doubt not only that the
12 Defendant knew of the unlawful conduct, but the Defendant
13 agreed to combine with the other persons for the purpose of
14 accomplishing the unlawful conduct.

15 Now, there are several possible verdicts which you may
16 find in this case, guilty or not guilty as to each charge,
17 arson in the first degree and conspiracy, and there's no
18 significance whatsoever in the order in which I state these
19 possible verdicts. It's just simply that one had to be stated
20 first.

21 Now, ladies and gentlemen, your verdict must be a
22 unanimous one. Madam Foreperson, I'm going to have you go in
23 your jury room, and when your jury agrees on a verdict, you
24 will write the verdict on the back or, excuse me, write the
25 verdict on the verdict form which I'm going to provide for

1 you. It's very simple. It says, as to the charge of arson in
2 the first degree we, the jury, unanimously find the Defendant
3 and you circle either guilty or not guilty, and as to the
4 charge of criminal conspiracy we, the jury, unanimously find
5 the Defendant guilty or not guilty and you simply circle your
6 verdict, then sign it. Then when you've reached a verdict you
7 will knock on the, on the jury room door and we'll bring you
8 back in to receive your verdict.

9 I'm going to ask you now to return to your jury room. I
10 am going to talk with these attorneys about anything I might
11 need to add to my charge. If I need to I will bring you back
12 and charge you further. If I don't do that, but I send in the
13 exhibits in this case and I send in the charge and I send in
14 the verdict form, that means I'm not going to have to charge
15 you further, begin your deliberations. Okay? Would you take
16 the jury to the jury room, segregate the alternates. All
17 right.

18 (Whereupon, the following takes place outside the
19 presence of the jury.)

20 THE COURT: Anything from the State?

21 MS. RICHARDSON: None from the State, Your Honor.

22 THE COURT: The Defense?

23 MR. WILSON, JR.: Nothing from the Defense, Judge.

24 THE COURT: Very well. Would you please come forward,
25 make sure that we have all the exhibits. Ms. Hurley, would

1 you mark the -- please mark the charge as State's One, I mean,
2 Court's One if there's not another one, and it will go back
3 with the verdict form.

4 (Court's Exhibit Number Two [Charge] appropriately
5 marked.)

6 THE COURT: You want to see the verdict form, Mr. Wilson?

7 MR. WILSON, JR.: No, Your Honor.

8 THE COURT: Okay. Okay. No, no, no. Just very
9 straightforward.

10 MR. WILSON, JR.: Yes, sir.

11 MS. RICHARDSON: And Your Honor, we do have a clean
12 laptop we can send back with them to review.

13 MR. WILSON, JR.: I prefer if the Court has one.

14 THE COURT: Is there -- we don't have a clean tape. I
15 mean, we don't have a clean disk?

16 MR. WILSON, JR.: Not one fully redacted. No.

17 THE COURT: Okay. Can you start working on that then
18 because I got a feeling they may ask for it.

19 MS. RICHARDSON: Okay. We will.

20 THE COURT: And Ralph, I want you to have someone look at
21 this laptop.

22 MR. WILSON, JR.: Yes, sir.

23 THE COURT: We're not going to bring them back here and
24 make them sit through three and a half more hours to get to
25 two minutes.

1 MR. WILSON, JR.: Absolutely, Judge. Yes, sir.

2 THE COURT: Okay.

3 (Exhibits reviewed and approved by counsel for State and
4 Defense.)

5 THE COURT: All right. So you got them clean and ready
6 to go? Okay. Take them back. Bring the alternates out.

7 (Alternates dismissed by Court. Deliberations begin at
8 5:17 p.m.)

9 OFF THE RECORD

10 (On the record. The following takes place outside the
11 presence of the jury. Question from jury at 6:05 p.m.)

12 THE COURT: All right. We have a question. The question
13 is, "Can we get a copy of the State's final presentation board
14 regarding arson law"? What, what -- was that an exhibit or
15 was that just something you used for demonstration during your
16 closing? What, what was that?

17 MS. RICHARDSON: It was just what I used during closing,
18 just a --

19 THE COURT: It was just something you used in --

20 MS. RICHARDSON: It's not a -- it was --

21 THE COURT: -- in your, in your closing?

22 MS. RICHARDSON: Yes, Your Honor.

23 THE COURT: Okay. All right. "If not can we get
24 clarification of the elements of arson, copy of -- copy of
25 ratings, level of evidence board", must have been something

1 you had, Ralph, maybe?

2 MR. WILSON, JR.: I apologize, Your Honor. Copies of
3 what now?

4 THE COURT: I think it says copy of ratings level.

5 MR. WILSON, JR.: Levels of proof, Judge, probably.

6 THE COURT: Of evidence board.

7 MR. WILSON, JR.: But it's in the same situation as the
8 Prosecution's exhibit.

9 THE COURT: It was just used like that. Okay.

10 MR. WILSON, JR.: Yes, sir.

11 THE COURT: Okay. Then what I'm going to do is I'm going
12 to tell them that those were not evidence. They were merely
13 demonstrative aids to the closings and that they can't get it
14 and I'll be happy to read or recharge them on arson, but you
15 have a copy of it or if they have something in the charge that
16 they don't understand and they will indicate that, that we can
17 perhaps help them with it. Okay?

18 MR. WILSON, JR.: Yes, Your Honor.

19 THE COURT: I don't know anything else to do. Okay.

20 MS. RICHARDSON: And Your Honor, do you want to ask them
21 if they need the laptop or the other exhibit?

22 THE COURT: Okay. All right. Bring them in.

23 (Whereupon, the following takes place in the presence of
24 the jury.)

25 THE COURT: All right. I, I have your, your note, Madam

1 Forelady, and let me make sure I understand it. It says, "Can
2 we get a copy of the State's final presentation board
3 regarding the arson law"; is that correct?

4 FOREPERSON: Yes, sir. Just the visual.

5 THE COURT: Okay. "And if not, can we get clarification
6 of the elements of arson, and then a copy of" -- I think it
7 says ratings level of evidence.

8 FOREPERSON: The evidence level.

9 THE COURT: And that would have been a board that was
10 used by Mr. Wilson showing the levels of proof; is that right?

11 FOREPERSON: Yes, sir.

12 THE COURT: Okay. Well, first let me say that
13 demonstrative charts, boards used in closing are not in
14 evidence, and we cannot present those to you. However, you
15 know, I gave you a written copy of my arson in the first
16 degree charge, and I'm sure that you can just read it again,
17 and if I just read it to you here in court I don't think it
18 would help you anymore. I'm sure you're all capable of
19 reading it. It -- is there a particular element or a
20 particular thing that you need clarification on as it, as it
21 pertains to the elements of arson?

22 FOREPERSON: Yes, sir. I think the specific question was
23 the willingness and the maliciousness if that went together
24 for each of those elements.

25 THE COURT: Oh, okay.

1 FOREPERSON: I, I think you had an opening paragraph with
2 that in it.

3 THE COURT: All right. And they're really two things,
4 and, and I guess you were talking about intent.

5 FOREPERSON: Yes.

6 THE COURT: Okay. Intent are and malice are two
7 different things. Intent is -- let me look at it and make
8 sure that I -- is, is very much akin to willfulness. It means
9 that the act was done not by accident but knowingly and
10 willfully done, and in this case the State must show that the,
11 the building was a willful act, a knowingly done, not an
12 accidental thing, the actual burning. Does that help?

13 FOREPERSON: Yes.

14 THE COURT: Okay. And malice means -- has more to do
15 with the motive or reason or the state of mind that the, the
16 perpetrator may have had at the time. It means that he
17 intentionally committed the act with hatred or ill will or
18 hostility towards another person. My charge says a person who
19 intentionally does a wrongful act without legal justification
20 or excuse does it maliciously. A malicious burning is an act
21 done with a condition of mind that shows a heart burnt -- bent
22 on mischief and shows a design to do an intentional wrong act
23 towards another or towards the public without any legal
24 justification or excuse, and when I say it can be expressed or
25 implied that means the person could say it, write it, express

1 it in writing or, or by -- or verbally or it may be implied in
2 the way the person acts or, or, or, or does the act. Does
3 that help any? I guess what you're asking me does -- is
4 intent and malice the same thing and, and they are not.
5 Intent goes to willfulness to commit an act. Malice goes to
6 the state of mind when it was -- the act was completed if
7 that, if that helps you. Does that help? Anything further
8 you'd like to add to that, Mr. Wilson?

9 MR. WILSON, JR.: Your Honor, they also asked about
10 levels of proof. I would ask that the Court would review the
11 reasonable doubt statute, Judge, or the portion of that.

12 THE COURT: Well, that's not what they asked me, Mr.
13 Wilson. They asked me if they could have those boards, and
14 they cannot have those. Now, if they want me to, to reach --

15 FOREPERSON: Hold on. I, I do think we have a question
16 on the levels of evidence or the portion that Mr. Wilson
17 referenced in his closing statement.

18 THE COURT: All right.

19 FOREPERSON: We do have a question on that.

20 THE COURT: Could, could you, could you tell me, Madam
21 Forelady?

22 FOREPERSON: I think there's a question to review the
23 levels and what they mean, probably specifically reasonable
24 doubt being the top level that we were looking at. Thank you.

25 THE COURT: And reasonable doubt is the only level that

1 should concern you here.

2 FOREPERSON: Right.

3 THE COURT: The lesser levels of proof are not applicable
4 to a, a criminal case. Now, I have a section in here on
5 reasonable doubt. Does that clarify it for you? I mean, do
6 -- or do you want me to tell you again what reasonable doubt
7 is? Okay. And I'll be happy to do that. I'll go back over
8 it.

9 FOREPERSON: I think we, we can reference that.

10 THE COURT: Okay. You're good?

11 FOREPERSON: I think that's it. Thank you.

12 THE COURT: Thank you. Now, also, I, I failed to mention
13 you, you notice I did not send in the CD or the DVD or
14 whatever you call those disks. We have that prepared for you
15 and we have a clean computer that we could send in with you if
16 you want to review that, those materials, and if you want them
17 you let us know. We'll send it in with a, a clean computer
18 that you can play it on.

19 FOREPERSON: Okay.

20 THE COURT: Okay.

21 FOREPERSON: I think at, at this time we're okay on
22 those.

23 THE COURT: Okay. Good.

24 (Whereupon, the following takes place outside the
25 presence of the jury.)

1 THE COURT: Okay. We'll be at ease.

2 OFF THE RECORD

3 (On the record. Verdict is reached at 6:25 p.m. The
4 following takes place in the presence of the jury.)

5 THE COURT: All right. Madam Forelady, have you reached
6 a verdict?

7 FOREPERSON: Yes, Your Honor.

8 THE COURT: Have you reached a verdict as to both
9 charges?

10 FOREPERSON: Yes, sir.

11 THE COURT: And was it a unanimous verdict as to both
12 charges?

13 FOREPERSON: Yes, sir.

14 THE COURT: Would you please give the verdict form to the
15 bailiff and have him give it to me?

16 (Complies with request.)

17 THE COURT: Thank you very much.

18 Madam Clerk, will you publish the verdict, please?

19 THE CLERK: Mr. Collins, if you'll please stand.

20 (Complies with request.)

21 THE CLERK: The State versus Mr. Randy Collins, on
22 indictment number 2014-GS-22-00803 and on 2014-GS-22-00804, as
23 to the charge of arson in the first degree we, the jury,
24 unanimously find the Defendant guilty.

25 As to the charge of criminal conspiracy, we, the jury,

1 unanimously find the Defendant guilty.

2 THE COURT: All right. Mr. Wilson, is there a request to
3 poll individually?

4 MR. WILSON, JR.: No request, Judge.

5 THE COURT: All right. Very well. Then, Mr. Wilson,
6 I'll entertain any motions.

7 MR. WILSON, JR.: Judge, obviously, at this point in time
8 we would ask the Court to consider a verdict in the
9 Defendant's favor of not guilty considering the lack of
10 evidence in this matter. Also, we would ask for a new trial
11 nisi based on the fact that there was no corroborating
12 evidence in this matter, and we feel as if this was a verdict
13 that may be unfair to the Defendant in light of the fact that
14 he is mentally incapacitated, which I pointed out before
15 regarding the Defendant's MOCA examination from the State,
16 which placed him close to the area of Alzheimer's Disease on
17 that standard. I would also point out to the Court that my
18 client has pointed out his lack of education, Judge, as well
19 as his inability to read and write on a, on a, on a serious
20 level, and we would ask for a new trial, Your Honor, at this
21 point in time, Judge.

22 THE COURT: All right. Ms. Richardson, I'll hear from
23 you.

24 MS. RICHARDSON: Your Honor, as the arguments previously
25 stated, there is ample evidence, the Defendant did confess,

1 voluntarily confess to the crimes. There was phone records
2 that corroborated, as well as evidence that this was an arson,
3 and there were also some witness testimonies who verified the
4 statements he made afterwards.

5 THE COURT: All right. I, I find, Mr. Wilson, that there
6 is significant evidence of your client's guilt in this case,
7 certainly evidence that would support the jury's verdict in
8 this matter. Certainly, his, his own confession would
9 indicate his guilt. I find that that's -- that, that
10 confession was corroborated by the other facts in the case, I
11 mean, as he described it where the incendiary device, whatever
12 it was, was thrown, was, again, where they, they found
13 evidence of someone having poured an accelerant. There's no
14 question that the -- it was a dwelling house, no question that
15 there was a death that was involved. The evidence of the
16 owners having acquired insurance shortly before, took part of
17 her, her personal property and secreted it in a rental unit
18 just before the, the building burned, all of these things fit
19 together and corroborated his, his statement.

20 As to his competency, of course, we had a competency
21 hearing. We had a, a full day or practically a full day. We,
22 we devoted Monday to his Blair hearing and the examiners,
23 well-qualified from the MUSC, both testified that there was no
24 evidence of mental retardation. They both testified that he
25 was competent to, to assist you in his defense. I have

1 observed him on the videos of his statement and it was very
2 clear to me that he was competent. He was able to formulate
3 thought and or thought process, his thought process. He was
4 able to change his story around when he, when he needed it.
5 He also has testified in this court that he bought and sold
6 mobile homes, redid them, did mechanic's work, was a scrapper,
7 always worked for himself. There's, there's no doubt in my
8 mind that he is competent and was competent to assist you and
9 to be tried in this matter, and therefore, I would
10 respectfully deny your motions.

11 Now, Ms. -- is there any reason why we cannot go forward
12 with sentencing at this point?

13 MS. RICHARDSON: No, Your Honor.

14 THE COURT: Do you have sentencing sheets for me, Ms.
15 Richardson?

16 MS. RICHARDSON: I do, Your Honor.

17 THE COURT: Have you slipped back into your bad habit of
18 not putting the sentencing range on it?

19 MS. RICHARDSON: I've got it on there, Your Honor.

20 THE COURT: Thank you, ma'am.

21 My understanding, and I want to give Mr. Wilson a chance
22 to address this. My understanding of the statute says no less
23 than 30 years for arson first? All right. Is that correct,
24 Ms., Ms. Richardson? Is that your understanding, a minimum of
25 30 years?

1 MS. RICHARDSON: Yes. Yes, Your Honor.

2 THE COURT: Okay. Is that a minimum mandatory? I'll
3 hear Mr. Wilson on that.

4 MR. WILSON, JR.: On the mitigation, Judge, or on --

5 THE COURT: On the, the sentencing range first, please.

6 MR. WILSON, JR.: Judge, I mean, I think the statute is
7 obviously clear. Obviously my concern here, again, I have had
8 the opportunity, I want to put this on the record, to see my
9 client on a daily basis for some time. I had a chance to talk
10 with him regarding this matter. Again, I would suggest to the
11 Court again that there are -- there's very little evidence in
12 this matter other than his statement. Having said that, Your
13 Honor, obviously, we will respect the wishes of the, of the,
14 the jury or their desires. Obviously, I want to put on the
15 record as well I've advised my client to file a notice of
16 intent to appeal. I'd inform him that I will do that.

17 THE COURT: Sure.

18 MR. WILSON, JR.: As far as, as far as the sentencing
19 goes, Judge, I think the range on that is 30 years. That's
20 the minimum that the Court can impose. I also believe that
21 the conspiracy, Judge, is zero to five years.

22 THE COURT: Five years, uh-huh.

23 MR. WILSON, JR.: Yes, Your Honor.

24 THE COURT: All right. All right. Let me hear you, Mr.
25 Wilson, if you want to put anything else on the record?

1 MR. WILSON, JR.: Judge, yes, sir. I want to put down
2 this, he has no criminal history, Your Honor, at all, period.
3 He has lived in Georgetown and Andrews all his life. He,
4 obviously, has a simple life. I've said that before. He has
5 five children that he takes care of and helps take care of.
6 Regardless of the findings of the MUSC doctor, one of who is a
7 -- this was her first evaluation, I want to put on the record
8 as well for his mitigation purposes, Judge, that he did score
9 an 18 on the MOCA, which I have said multiple times, including
10 a Jackson v. Denno hearing and the Blair hearing, which is 1.8
11 points away from Alzheimer's Disease. For him, Your Honor,
12 it's going to be a difficult adaption to prison life,
13 obviously. I'm, obviously, going to ask the Court to impose
14 the minimum sentence, and in this particular case, Judge, it's
15 going to be 30 years. I think that is more than enough time
16 for the crime that he's alleged to have committed. I don't
17 believe, also, Your Honor, that there was any wickedness in
18 his heart when this was done. I don't know if I believe
19 firmly that he is guilty per se, but based on my conversations
20 with him he understands the penalty and he's going to just
21 appeal.

22 THE COURT: All right. Mr. Collins, would you like to
23 say anything to me?

24 MR. COLLINS: Yes. I would like to say something. I
25 didn't do it.

1 THE COURT: All right, sir.

2 MR. COLLINS: I didn't done that crime.

3 MS. RICHARDSON: And Your Honor, may I just put some
4 information on the record?

5 THE COURT: Yes.

6 MS. RICHARDSON: The father of the victim was here
7 earlier in the week and could not, could not stay the whole
8 week. Obviously, the mother is in jail awaiting charges, and
9 the older brother is in prison for murder of or manslaughter
10 of the Codefendant.

11 Your Honor, when this child died, the family, the older
12 brother was involved with the Department of Juvenile Justice,
13 DSS. Multiple people from across the community came in, were
14 very upset. This, apparently, was a delightful child with a
15 big personality. There's just no one else here to speak on
16 his behalf. I'd also ask that the Court consider the
17 information that was excluded, that although Mr. Collins has
18 no criminal history, there has been a history of multiple
19 insurance claims, at least one of which was deemed suspicious
20 and ruled incendiary by the insurance company.

21 THE COURT: Okay. Mr. Collins, you know, the jury has
22 spoken and I think the jury's verdict is well supported, and I
23 see no reason to set aside the jury verdict in this matter.

24 Mr. Collins, I've had discussions inside and outside of
25 this courtroom with your attorney and Ms. Richardson. I don't

1 think any of us really believe that you intended to kill this,
2 this child, but the statute that you're charged under does not
3 require that. This is one of the most serious offenses we
4 have in the State of South Carolina and the mandatory sentence
5 reflects the legislature's feelings on that matter. I have no
6 doubt in my mind that you were involved in this matter, that
7 you are culpable in this matter and this child has paid the
8 price for that. He has paid a price for the greed of his
9 mother, and probably you as well.

10 I sentence you, Mr. Collins, to the State Department of
11 Corrections for a period of 30 years on the offense of arson
12 in the first degree. I sentence you to a concurrent term of
13 five years in the Department of Corrections on the charge of
14 criminal conspiracy. Good luck to you, sir. Thank you.

15 (Jury released by the Court.)

16 (Adjourned.)

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National Security
Fire & Casualty Company

Contents Only Application SC

Customer Service 800-798-2207 or 866-256-8978
Claims 800-798-2092 or 866-253-2145 • Fax: 800-859-7544
P.O. Box 703 • 661 East Davis Street • Elba, Alabama 36323
www.nationalsecuritygroup.com

Agency# / Agent#
8275 / 1398
Policy# / Risk #
1181602 / 604489

APPLICANT: COHEN, MARISSA

NAME	ROLE	DOB	SSN	MARITAL	TELEPHONE
MARISSA COHEN	Individual / Billing	7/27/1974	210-54-8703	S	(843) 264-2270

BILLING ADDRESS

MARISSA COHEN
10 JAMES DR
ANDREWS SC 29510-3134

LOCATION OF PROPERTY

10 JAMES DR
ANDREWS SC 29510-3134

COUNTY:
GEORGETOWN
Territory:
2

COVERAGES

FROM 2/20/2014 To 2/20/2015

AMOUNT OF COVERAGE	DESCRIPTION	PREMIUM
	No Dwelling Coverage	0
	No Related Private Structures Coverage	0
\$25,000.00	C - Personal Property	\$229.00
	No Additional Living Costs Coverage	0
\$50,000.00	L - Personal Liability	\$35.00
\$1,000.00	M - Medical Payments to Others - Per Accident	Included
\$500.00	M - Medical Payments to Others - Per Person	Included
	Optional Perils - Extended Coverage	Included
	Vandalism	\$2.00
	\$1000 Deductible	(\$48.00)
	Annual Premium:	\$220.00
	Mode Premium:	\$55.00
	Billing Fee:	\$5.00
	Total Mode Premium:	\$80.00

Initial Payment Method	☐ Agent to mail check ☐ Bill Mortgages ☐ Change to agent's account ☒ Sweep agent's account	Payment Mode	☐ Monthly ** ☒ Quarterly ☐ Semi-annual ☐ Annual	Deductible	☐ \$500 ☐ \$250 ☒ \$1,000	Total Contract Premium	Monthly 1/2 or 1/4 annual \$55.00 Billing Fee \$5.00 Total Mode Premium \$80.00

**Requires two (2) months down payment AND must complete ACH Form 1011.

MORTGAGE INFORMATION

Mortgagee Name & Address		2	0	4
Loan #		2	0	4

MOBILE HOME DESCRIPTION

Year	1970	Make		Model		Annex 1	Size 0 x 0
Size	60 x 28	Serial #				Annex 2	Size 0 x 0
Central Air		2-3 ton 3 1/2 ton		Tied Down	☐ Yes ☒ No	Skirting	☒ Yes ☐ No Type: None

RATING INFORMATION

Date Purchased	1/1/0001	Price Paid	\$0.00	Occupancy	OWNER	# of Families	1	Protection Class	6	Servicing Fire Department	ANDREWS FD
City Limits	☐ In ☒ Out	Attached Garage	Size 0 x 0	Basement Garage	Size 0 x 0	Detached Garage	Size 0 x 0	Carport	Size 0 x 0		
Patio(s)	Size 0 x 0	Open Breezeway	Size 0 x 0	Porch(es)	Size 0 x 0	Size 0 x 0	Size 0 x 0	Decks	Size 0 x 0	Size 0 x 0	

FC-953 A

(Applicant must receive copy of application.)
HOME OFFICE COPY

RECORD 000814

UNDERWRITING QUESTIONS	YES	NO	REMARKS
1. Is building or land for sale? (If yes, risk prohibited.)		No	
2. Any business on premises? (Includes daychild care.) Explain in remarks.		No	
3. Does risk contain wood or coal heater? (Mobile Home - Risk prohibited) If yes, completed form FC-834 and submit photo of heater.		No	
4. Does risk contain a fireplace? (Mobile Home-1876 or later & UL approved)		No	
5. Is applicant employed? If no or self-employed, explain in Remarks section. Include Employer in Remarks Section		No	DISABILITY
6. Swimming pool with diving board on premises? (If yes, risk prohibited.)		No	
7. Trampoline on premises? (If yes, risk prohibited.)		No	
8. Is property within 300 feet of a commercial or non-residential property?		No	
9. Does applicant have full unconditional ownership of the building and land upon which it is located? (If yes, risk prohibited.)		No	
10. Is risk vacant or unoccupied? If yes, explain in remarks.		No	
11. Any coverage declined, cancelled, or non renewed during the last 3 years?		No	
12. Has applicant had a foreclosure, repossession, bankruptcy, judgements, liens or any other credit/financial problems during the past seven years? Explain in Remarks		No	
13. Has anyone with a financial interest in this property been convicted for arson, fraud, or other property crime within the last 10 years?		No	
14. Does applicant/tenant have any dogs or exotic pets? Explain in Remarks section.		No	
15. Is property situated on more than 5 acres?		No	

LOSS HISTORY

Any losses, whether or not paid by insurance, during the last 5 years, at this or any other location? Yes ☐ No ☒ (If Yes, explain below)			
Date	Type	Description of Loss	Amount

PRIOR COVERAGE - IS RISK A NEW PURCHASE? Yes ☐ No ☒ If no, provide prior carrier information.

Prior Carrier	Prior Policy Number	Expiration Date

IMPORTANT NOTICE

In compliance with the requirements of the Fair Credit Reporting Act (Public Law 91-508), we advise that as part of our routine procedure in reviewing applications for insurance or renewals of insurance policies, this Insurance Company may procure an investigative Consumer Report including information as to the consumer's character, general reputation, personal characteristics, or mode of living, if such insurance is for an individual and is primarily for personal, family, or household purposes. Such information will be obtained through personal interviews with neighbors, friends, or others with whom the consumer is acquainted. Upon written request to this Insurance Company, made within a reasonable period of time after receipt of this notice, this Company will provide in writing a complete and accurate disclosure of the nature and scope of the investigation request. If one was request, or advise that none was requested.

I hereby apply to National Security Fire and Casualty Company for a policy of insurance for the coverage set forth above. I certify that I have read the statements above and the notice relating to the Fair Credit Reporting Act. I further certify that there is no other insurance and that I own title in fee simple to any land upon which an insured building is located. I understand that other insurance is prohibited. It is understood and agreed that any policy issued is based upon the above statements which I warrant to be true. If I have given incorrect information herein and this information is material to the Company's acceptance or rating of the risk, it may result in coverage under the policy being null and void under State law relative to Material Misrepresentation.

Carol H Hunter
Signature of Agent or Broker (Application will be returned without signature of broker.)

CAROL HUNTER
ANDREWS INSURANCE ASSOC
PO BOX 558
ANDREWS SC 29510-0558

Marissa Cohen
Signature of Applicant (Must be signed by applicant only, no proxies permitted.)

4:56 PM 2/20/14
Time Signed (Required) Date Signed (Required)

Date Printed: 2/20/2014

Notice to All applicants: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or who knowingly presents false information in an application for insurance is guilty of a crime and may be subject to restitution fines or confinement in prison, or any combination thereof.

FC-953 A

(Applicant must receive copy of application.)
HOME OFFICE COPY

RECORD 000815

GA - Georgia County Sheriff's Office
INCIDENT REPORT

AGENCY I.D.
SCORI SC0220000

CASE NUMBER

14009155

NCIC

INO ENT0

EVENT	INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
	1. GSO Suspicious Fires		☐ No ☒ Yes	☐ No ☒ Yes	20 - Residence/Home		☐ Individual ☐ Business ☐ Financial Institution ☐ Government ☐ Religious Organization ☐ Society/Public ☐ Other ☐ Unknown ☐ Law Enforcement Officer	
	2.		☐ No ☒ Yes	☐ No ☒ Yes				
	3.		☐ No ☒ Yes	☐ No ☒ Yes				
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET AND NAME AND NUMBER)					SUBDIVISION	ZIP CODE	WEAPON TYPE	
10 JAMES DR ANDREWS SC						29510		
INCIDENT DATE		24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE / TIME 24 HR. CLOCK		AREA
3/28/2014		02:00				DISP. DATE DISP. TIME TIME ARRIVED DEPART TIME		GSO 2
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT	RES	RACE	SEX	AGE	ETH.
ADDRESS					CITY	STATE	ZIP CODE	
VICTIM NO. 1	VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT	RES	RACE	SEX	AGE
	MARISSA, COHEN			1 2 3	J	B	F	39
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.			
	5' 5"	150	Black	Brown				
ADDRESS					CITY	STATE	ZIP CODE	LOCATION
10 JAMES DR					ANDREWS	SC	29510	
VISIBLE INJURY (VICT. 1) ☐ No ☒ Yes EXPLAIN: COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ No ☒ Yes								
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☒ NO DRUGS ☐ YES ☒ NO TYPE:								
☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DET. SPEC. ASMNT ☐ OTHER ☐ ALONE ☐ ASSISTED J = THIS JURISDICTION S = STATE O = OUT OF STATE U = UNKNOWN								
SUBJECT NO. 1	NAME (LAST, FIRST, MIDDLE)			RACE	SEX	AGE	ETH.	DATE OF BIRTH
	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.						NCIC NUMBER	
ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO.
SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☒ NO DRUGS ☐ YES ☒ NO				ARRESTED NEAR OFFENSE SCENE: ☐ No ☒ Yes		DATE / TIME OF OFFENSE		DATE / TIME OF ARREST
				TOTAL # ARRESTED:				
NARRATIVE								
PROPERTY	TYPE(GROUP)							TOTAL VALUE
	STOLEN							
	DAMAGED							
	BURNED							
	RECOVERED							
ADMINISTRATIVE	SUBJECT IDENTIFIED ☒ No ☒ Yes		SUBJECT LOCATED ☒ No ☒ Yes		☒ Active ☐ Adm. Closed ☐ Unfounded		☐ Arrested Under 18 ☐ Arrested 18 and Over	
							☐ Ex-Clear Under 18 ☐ Ex-Clear 18 and Over	
	REASON FOR EXCEPTIONAL CLEARANCE: ☐ Death of Offender ☐ Prosecution Declined ☐ In Custody of Other Jurisdiction ☐ Victim Refused to Cooperate ☐ Juvenile/No Custody ☐ Not Applicable							
	REPORTING OFFICER(S)		DATE	DEPT. NO.	APPROVING OFFICER		DATE	DEPT. NO.
040002776 - FLAGLER, ALLEN		3/29/2014	SS4	040003166 - Ait, Clark		3/29/2014	SS0	
				FOLLOW UP INVESTIGATION OFFICER				
				☐ No ☒ Yes				

RECORD 000816

GS - Georgetown County Sheriff's Office
SUPPLEMENTARY REPORT

AGENCY I.D.
SCOR: SC0220000

CASE NUMBER

14009155

NCIC

INQ

ENTO

☒ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ INVESTIGATIVE FOLLOW UP ☐ ADDITIONAL STOLEN PROPERTY ☐ MODIFIES ORIGINAL
☐ CASE STATUS CHANGE ☐ ADDITIONAL RECOVERED PROPERTY ☐ FIELD CONTACT INFO

PAGE 2 OF 2 PAGES

NARRATIVE

ON 3-29-2014 I, DEP. FLAGLER RESPONDED TO 10 JAMES DR. IN THE ANDREWS SECTION OF GEORGETOWN COUNTY IN REFERENCE TO A FIRE AND ALSO A CHILD BEING DECEASED AT THE FIRE.

ON SCENE I MET WITH FIRE AND EMS OFFICIALS WHO STATED THAT THERE WAS A FIRE AND THAT THE BODY OF A CHILD WAS FOUND INSIDE OF THE MOBILE HOME.

WHILE ON SCENE MARISSA COHEN (MOTHER/VICTIM) ARRIVED AND ASKED WHAT WAS GOING ON AND SHE WAS ASKED IF SHE HAS A CHILD AND SHE REPLIED YES. SHE WAS INFORMED THAT THERE WAS A BODY OF A CHILD AND SHE THEN GRABBED HER FACE AND WALKED AWAY. SHE STATED THAT HER SON DAVE SYIENCE COOMBS (VICTIM / DECEASED) WAS AT A PARTY AT THE REC CENTER AND HE WAS NOT SUPPOSE TO BE IN THE HOME. MRS. COHEN ALSO STATED THAT SHE AND HER KIDS WERE STAYING AT A FRIEND'S HOUSE AT ARBOR PLACE APARTMENTS DUE TO ELECTRICAL PROBLEMS AT THE HOME. I, DEP. FLAGLER THEN ASKED WHAT KIND OF PROBLEMS AND SHE STATED THAT THE WALL PLUGS WOULD SPARK AND THE BREAKERS WOULD TRIP.

I, DEP. FLAGLER THEN ASKED MRS. COHEN WHERE SHE WAS TONIGHT AND SHE STATED SHE WAS AT ARBOR PLACE APARTMENTS SLEEPING FROM TAKING HER MEDICINE. SHE STATED SHE WAS TOLD HER HOUSE WAS ON FIRE AND THAT IS WHEN SHE RUSHED OVER TO SEE WHAT WAS GOING ON. SHE SAID IT WAS AROUND 7:30 PM TONIGHT WHEN SHE LAST SAW HER CHILD ALIVE AT THE APARTMENT COMPLEX.

SGT. ARD RESPONDED TO SCENCE AS WELL AS CPL. LEE. INVESTIGATOR GARRETT RESPONDED ALONG WITH A CORONER.

A VOLUNTARY STATEMENT WAS COMPLETED BY THE MOTHER. A CRIME SCENE LOG WAS ALSO TAKEN. THERE IS NOTHING FURTHER AT THIS TIME.

ADMINISTRATIVE	SUBJECT IDENTIFIED ☒ No ☐ Yes	SUBJECT LOCATED ☒ No ☐ Yes	☒ Active ☐ Adm. Closed ☐ Unfounded	☐ Arrested Under 18 ☐ Arrested 18 and Over	☐ Ex-Clear Under 18 ☐ Ex-Clear 18 and Over
	REASON FOR EXCEPTIONAL CLEARANCE: ☐ Death of Offender ☐ Prosecution Declined ☐ In Custody of Other Jurisdiction ☐ Victim Refused to Cooperate ☐ Juvenile/No Custody ☐ Not Applicable				
	REPORTING OFFICER(S)	DATE	DEPT. NO.	APPROVING OFFICER	DATE
	040002776 - FLAGLER, ALLEN	3/29/2014	SS4	040000166 - Ard, Clark	3/29/2014
			FOLLOW UP INVESTIGATION ☐ No ☐ Yes	OFFICER	DEPT. NO. SS0

RECORD 000817

Georgetown County Sheriff's Office Follow-Up Report

Case No. 14009155
Report No. 14009155.2
Report Date: 3/29/2014

Georgetown County Sheriff's Office
430 N. Fraser ST
Georgetown, SC 29440
843 546-5102

1

Page 1 of 9

Subject: ARSON/GARRETT

Case Report Status: I - In Process
Status Indicator:
Status Change Date:
Occurred On: 3/28/2014 2:00:00 AM
(and Between)
End Date:
End Time:

Date Entered: 3/29/2014 12:04:52 PM
Entered By: 040000977 - Garrett, Melvyn
Date Verified:
Verified By:
Date Approved:
Approved By:

Reporting Officer: 040000977 - Garrett, Melvyn
Assisted By:

Location: 10 JAMES DR ANDREWS SC 29510
Jurisdiction: JJ - JURISDICTION
Grid:
Sector: GSO 2 - ZONE 2, Andrews /Lambertown
Map:
Tract/Geo-Indicator:
Call Source: Field

Connecting Cases:
Disposition: Arrest
Clearance Reason:
Date of Clearance:
Reporting Agency: Georgetown County Sheriff's Office
Division: Georgetown County Sheriff's Office
Notified:
Means:
Other Means:
Motive:
Other Motives:

Vehicle Activity:
Vehicle Traveling:
Cross Street:

Report Narrative: 3/29/14 0225- RESPONDED TO 10 JAMES DR IN ANDREWS IN REFERENCE TO A RESIDENTIAL FIRE WITH A FATALITY. CONTACT WAS MADE WITH CPL. LEE WHO STATES THAT FIRE PERSONNEL HAD LOCATED A BLACK MALE CHILD IN THE RESIDENCE WHO HAD SUCCUMB TO THE FIRE.

A SURVEY OF THE SCENE WAS CONDUCTED AND IT WAS DETERMINED THAT A SEARCH WARRANT WOULD BE NECESSARY. CONTACT WAS THEN MADE WITH THE STATE LAW ENFORCEMENT DIVISION'S ARSON UNIT AND THEIR ASSISTANCE REQUESTED.

0500- A SEARCH WARRANT WAS OBTAINED. CONTACT WAS THEN MADE WITH DEPUTY CORONER CHASE RIDGEWAY AND AGENT SCOTT HARDEE (SLED) AND A TIME SET FOR US TO MEET AT THE SCENE WHICH REMAINED SECURED BY SHERIFF'S PATROL UNITS.

0613- THE SEARCH WARRANT WAS EXECUTED AND THE CONDITION OF THE SCENE DOCUMENTED VIA PHOTOGRAPHS. 13 YEAR OLD DAVE SCIENCE COOMBS WAS OBSERVED ON THE SOUTH SIDE OF THE RESIDENCE, LYING FACE DOWN ON THE FLOOR IN THE LIVINGROOM, WEARING BLACK SHORTS AND GREEN PLAID BOXER SHORTS. THERE WERE NO OBVIOUS SIGNS OF TRAUMA TO THE BODY; HOWEVER, AN AUTOPSY HAS BEEN SCHEDULED FOR SUNDAY 3/30/14 @ 0900 MUSC.

THE NORTH SIDE OF THE RESIDENCE SUSTAINED THE THE MAJORITY OF THE DAMAGE AND HAS BEEN DETERMINED TO BE THE FIRE'S ORIGIN. THERE WERE APPROXIMATELY 9 ALTERNATIVE HEAT SOURCES LOCATED THROUGHOUT THE RESIDENCE, 6 OF WHICH WERE LOCATED IN THIS AREA.

CONTACT WAS THEN MADE WITH THE VICTIM'S MOTHER MARISSA COHEN WHO AGREED TO MEET ME AT THE SHERIFF'S OFFICE IN GEORGETOWN TO GIVE A VIDEO/AUDIO STATEMENT. THE FOLLOWING IS A BRIEF SYNOPSIS OF MARISSA'S STATEMENT WHICH BEGAN AT 0739;

SHE STATES THAT SOMETIME IN JANUARY THEY BEGAN TO HAVE ELECTRICAL PROBLEMS WHICH WERE FIXED AND RECCURED IN FEBRUARY. ON THE DAY IN QUESTION, MARISSA STATES THAT SHE, THE VICTIM AND HER 2 OTHER DEPENDENT CHILDREN WENT TO STAY WITH A FRIEND NAMED L AT ARBOR PLACE APARTMENTS BUILDING 3 APT H-3. THE VICTIM WAS ALLOWED TO ATTEND A PARTY AT ANDREWS REC CENTER WHICH BEGAN AT 1900 HRS AND WAS TO END AT 2300 HRS. MARISSA STATES THAT SHE ATTEMPTED TO CALL THE VICTIM'S CELL PHONE A FEW TIMES AROUND 2100 BUT WAS DIRECTED TO VOICE MAIL ON EACH ATTEMPT. MARISSA STATES THAT SHE THEN WENT TO SLEEP AS SHE WAS ON SEVERAL MEDICATIONS TO INCLUDE MORPHINE FOR PAIN. MARISSA EXPLAINS THAT SHE RECEIVED A PHONE CALL FROM HER COUSIN JUANITA MCCULLEN (678-308-2160) AROUND 2AM ADVISING THAT HER RESIDENCE WAS ON FIRE. MARISSA THEN STATED THAT THE VICTIM WAS INSTRUCTED TO RETURN TO ARBOR PLACE FOLLOWING THE PARTY AND NOT TO RETURN TO THE RESIDENCE ON JAMES DR. A COPY OF THE 911 CALL WAS ALSO OBTAINED A WILL BE ATTACHED.

0815- ASSISTANT SOLICITOR RICKY TODD WAS CONTACTED AND BRIEFED ON THIS INCIDENT.

Printed For:
Printed: June 16, 2014 - 9:13 AM

RECORD 000818

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0900- AGENT ZAHKEAH MARION WITH THE DEPARTMENT OF SOCIAL SERVICES WAS CONTACTED AND BRIEFED AS WELL.

0915- I THEN RETURNED TO THE SCENE TO BRIEF AGENTS CONCERNING THE INTERVIEW WITH MARISSA COHEN. ALL EVIDENCE WAS COLLECTED, SEALED AND TRANSPORTED BY SLED ARSON INVESTIGATORS.

4/4/14 1030- CONTACT WAS MADE WITH ROBERT KINNEY (DUKE ENERGY INVESTIGATOR 919 810-3630) IN REFERENCE TO THIS INCIDENT. KINNEY STATES THAT THERE HAS BEEN NO DOCUMENTED COMPLAINTS BY COHEN IN REFERENCE TO ANY ELECTRICAL ISSUES. KINNEY WAS ASKED IF THERE WAS A WAY TO TELL WHETHER OR NOT THERE WERE ANY ABNORMALITIES WITH THE CURRENT ON THE NIGHT IN QUESTION TO WHICH HE REPLIED NO. KINNEY WAS ASKED AND AGREED TO TAG AND PRESERVE THE METER AS WELL AS THE SERVICE WIRE FOR EVIDENCE.

4/7/14- RECEIVED A CALL FROM A FEMALE WHO WISHED NOT TO GIVE HER NAME. SHE STATED THAT TINA (MARISSA COHEN) HAS JUST RECENTLY TAKEN OUT AN INSURANCE POLICY ON HER CONTENT; SHE WAS UNSURE WITH WHO. SHE THEN STATED THAT COHEN HAD AN AGREEMENT WITH BENJAMIN BROWN & RANDY COLLINS TO BURN DOWN THE TRAILER AND THAT SHE WOULD PAY THEM WITH THE INSURANCE CHECK. THE CALLER ALSO STATED THAT MARISSA PURCHASED \$20.00 WORTH OF KEROSENE FROM THE SUPER CHIC IN ANDREWS THE MORNING OF THE FIRE. THE CALLER WAS UNABLE OR UNWILLING TO EXPLAIN WHERE SHE OBTAINED THIS INFORMATION.

4/9/14 1330- VISITED THE SUPER CHIC IN ANDREWS AND SPOKE WITH CHARLENE SCOTT. SCOTT WAS THE CASHIER ON DUTY THE MORNING OF THE FIRE (3/28/14) AND STATES THAT COHEN CAME IN AROUND 10:16 AM AND ASKED FOR \$20.00 DOLLARS IN KEROSENE. SCOTT EXPLAINS THAT SHE THOUGHT COHEN WANTED \$3.00 DOLLARS WORTH SO SHE HAD TO RING UP AN ADDITIONAL \$17.00 DOLLARS AND THAT'S WHAT MADE THAT TRANSACTION STAND OUT IN HER MIND. THE SURVEILLANCE SYSTEM WAS INOPERABLE ON THE DAY IN QUESTION, HOWEVER, I WAS ABLE TO OBTAIN A COPY OF THE TRANSACTION RECEIPT (STATEMENT & RECEIPT ATTACHED).

THE FOLLOWING INTERVIEWS WERE CONDUCTED WITH THE ASSISTANCE OF OFFICER OLIVER NESMITH (ANDREWS POLICE DEPARTMENT);

1350- MET WITH COHEN'S ELECTRICIAN TIMOTHY MILLER WHO STATES THAT SOMETIME IN JANUARY, COHEN CALLED HIM TO FIX AN OUTLET THAT HAD BURNED OUT AND TRIPPED A CIRCUIT BREAKER. MILLER EXPLAINS THAT HE INSPECTED THE OUTLET AND SAW THAT COHEN WAS RUNNING 4 ELECTRIC HEATERS VIA A SURGE PROTECTOR ON A SINGLE WALL PLUG. MILLER ADVISED AGAINST THIS PRACTICE AND TOLD HER WHAT SUPPLIES TO GET FOR HIM TO REPAIR THE OUTLET. MILLER GOES ON TO EXPLAIN THAT 2 WEEKS PRIOR TO THE FIRE, HE WAS AGAIN CALLED BY COHEN TO REPAIR THIS SAME OUTLET. MILLER STATES THAT HE FIXED THE PLUG TEMPORARILY AND ADVISED COHEN THAT THIS ISSUE WOULD RECUR AS THAT SIDE OF THE RESIDENCE WOULD NEED TO BE REWIRED.

1421- SPOKE WITH BENJAMIN BROWN AKA MANO WHO STATES THAT HE WAS IN THE HOUSE ON THE DAY IN QUESTION WITH A COLD. PRESENT IN THE RESIDENCE WAS HIS COUSIN SHALANDA COACHMAN, HER BOYFRIEND ANTHONY THOMPSON AND THEIR CHILDREN. BROWN DENIES HAVING ANY KNOWLEDGE OF OR INVOLVEMENT IN THE FIRE (STATEMENT ATTACHED).

1445- MET WITH COACHMAN & THOMPSON BOTH OF WHICH CONFIRMED BROWNS WHEREABOUTS ON THE DAY IN QUESTION (STATEMENTS ATTACHED).

1504- MET WITH RICKY NELSON AGE 12 AT 5 LAUREN STREET IN ANDREWS. NELSON STATES THAT ON THE DAY IN QUESTION HE AND COOMBS ATTENDED A BIRTHDAY PARTY AT THE REC CENTER IN ANDREWS AROUND 1900 HRS. NELSON STATES THAT THE PARTY ENDED AT 2300 SO HE AND THE VICTIM LEFT TOGETHER. THE VICTIM ADVISED HIM THAT HE WAS SUPPOSED TO GO TO THE PROJECTS WHERE HIS MOTHER WAS STAYING BUT BECAUSE OF THE HEAVY RAIN HE DECIDED TO GO TO THE INCIDENT LOCATION TO SPEND THE NIGHT. NELSON STATES THAT THE VICTIM TOLD HIM THAT IF HIS MOTHER HAPPENED TO LOOK FOR HIM SHE WOULD KNOW TO CHECK THE INCIDENT LOCATION.

1527- MADE CONTACT WITH RANDY COLLINS JUST DOWN FROM HIS RESIDENCE AT THE INTERSECTION OF GATOR LN AND HARDY STREET IN ANDREWS. COLLINS STATES THAT ON THE NIGHT IN QUESTION HE AND HIS NEPHEW JAMES MILLER WENT TO CORNELLS CLUB AROUND 2100 AND DID NOT LEAVE UNTIL 0300. COLLINS EXPLAINED THAT HE DID NOT HAVE ANYTHING TO DO WITH THE FIRE (STATEMENT ATTACHED).

1552- VISITED JAMES MILLER'S RESIDENCE WITH NEGATIVE CONTACT.

1600- MET WITH THERON CHANDLER WHO WAS THE BAR TENDER AT CORNELLS ON THE NIGHT IN QUESTION. CHANDLER STATES THAT HE REMEMBERS SEEING JAMES MILLER EARLIER IN THE DAY ON (3/28/14) BUT AT NO TIME DID HE SEE COLLINS IN THE CLUB ON THE DAY IN QUESTION. CHANDLER EXPLAINS THAT THERE WERE VERY FEW PERSONS IN THE CLUB THAT NIGHT SO HE WOULD HAVE SEEN COLLINS IF IN FACT COLLINS WAS THERE.

4/10/14 0935- MET WITH JAMES MILLER @ 306 JONES AVE IN REFERENCE TO THIS INCIDENT. MILLER STATES THAT ON THE DAY IN QUESTION, HE AND HIS UNCLE RANDY COLLINS VISITED CORNELLS CLUB AROUND 2100 AND LEFT AROUND 0300. WHEN CONFRONTED WITH THE INFORMATION FROM THE BAR TENDER ABOUT COLLINS NOT BEING

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THERE, MILLER BECAME VERY HESITANT BUT MAINTAINED THAT HE AND COLLINS WERE THERE ALL NIGHT AND DIDN'T LEAVE (STATEMENT ATTACHED).

1000- MET WITH FRANK WASHINGTON AKA L AT HIS RESIDENCE (ARBOR PLACE APARTMENTS). WASHINGTON STATES THAT ON THE DAY IN QUESTION, COHEN AND HER CHILDREN MOVED IN WITH HIM BRING ONLY A FEW ARTICLES OF CLOTHING. WASHINGTON EXPLAINS THAT COHEN DID NOT LEAVE THE APARTMENT UNTIL SHE RECEIVED A CALL THAT HER RESIDENCE WAS ON FIRE. IT WAS AT THIS TIME THAT COHEN REALIZED THAT THE VICTIM WAS NOT AT THE APARTMENT.

1030- CONTACT WAS MADE WITH AGENT SCOTT HARDEE WHO WAS ABLE TO CONFIRM THAT COHEN HAD TAKEN OUT AN INSURANCE POLICY ON THE INCIDENT LOCATION ON FEBRUARY 20, 2014 FOR \$25,000 DOLLARS IN CONTENT COVERAGE. THE INSURANCE COMPANY IS NATIONAL SECURITIES FIRE & CASUALTIES AND THE INSURANCE INVESTIGATOR IS JENNIFER DINKINS (334) 494-0559.

1300- CONTACT MADE WITH DEPUTY CORONER RIDGEWAY WHO STATES THAT THE PRELIMINARY AUTOPSY WOULD SUGGEST THAT THE VICTIM DIED OF SMOKE INHALATION. THE VICTIM ALSO RECEIVED 2ND DEGREE BURNS ON HIS BACK WHICH IS BELIEVED TO HAVE OCCURRED POSTMORTEM.

4/14/14 1830- MET WITH GLENDELL JACKSON AT THE ANDREWS POLICE DEPARTMENT. JACKSON STATES THAT ON THE NIGHT OF THE FIRE SEE WAS PRESENT WITH THERON CHANDLER WHO OPENED CORNELLS BAR AROUND 2215 HRS. JACKSON STATES THAT PRESENT IN CLUB WAS JOYCE SESSIONS, MARGARET GILES, CAROLYN POPE & MILDRED GREEN. JACKSON EXPLAINS THAT THERE WERE 1 OR 2 OTHER PEOPLE PRESENT, HOWEVER, RANDY COLLINS AND JAMES MILLER WERE NOT THERE. JACKSON STATES THAT SHE REMAINED AT THE CLUB UNTIL ABOUT 0130 (STATEMENT ATTACHED).

1905- MET WITH MILDRED GREEN WHO STATED THAT CORNELLS CLUB OPENED BETWEEN 2200 & 2230 AND DURING HER TIME THERE SHE DID NOT SEE RANDY COLLINS OR JAMES MILLER.

1920- MET WITH KENNETH AND JOYCE SESSIONS AT THE ANDREWS POLICE DEPARTMENT. THEY BOTH STATED THAT DURING THEIR TIME AT CORNELL'S THEY DID NOT SEE JAMES MILLER OR RANDY COLLINS IN ATTENDANCE.

1955- MET WITH COHEN'S SON DEVON COHEN WHO STATED THAT ON THE DAY IN QUESTION, THE OUTLET IN HIS ROOM BEGAN SMOKING MORE THAN NORMAL. DEVON STATES THAT HE WOULD NORMALLY CUT THE CIRCUIT BREAKER OFF DURING BED TIME AND TURN IT BACK ON IN THE MORNING TO TAKE A SHOWER AND GET DRESSED. DEVON GOES ON TO EXPLAIN THAT HIS MOTHER (MARISSA COHEN) HAD MOVED OUT OF THE RESIDENCE A "WHILE" BEFORE THE FIRE NOT ON THE MORNING OF AS SHE EXPLAINED. DEVON WOULD NOT BE SPECIFIC AS TO WHEN OR HOW LONG HIS MOTHER HAD BEEN GONE.

5/8/14 1400- MET WITH COLLINS WHO HAS AGREED TO TAKE A POLYGRAPH EXAMINATION WHICH HAS BEEN SCHEDULED FOR MONDAY MAY 12TH @ 0930.

5/12/14- COLLINS FAILED TO SHOW FOR THE SCHEDULED POLYGRAPH. COLLINS COULD NOT BE LOCATED AT HIS RESIDENCE OR VIA CELL PHONE.

6/4/14 1024- MYSELF ALONG WITH AGENT HARDY MET WITH RANDY COLLINS AT THE ANDREWS POLICE DEPARTMENT IN REFERENCE TO THIS INCIDENT. COLLINS WAS MIRANDIZED AND AGREED TO SPEAK WITH US. A BRIEF SYNOPSIS OF THAT INTERVIEW FOLLOWS;

* COLLINS STATES THAT THE DAY BEFORE THE FIRE 3/27/14 MARISSA COHEN VISITED HIS RESIDENCE ASKING TO BORROW HIS KEROSENE HEATER, WHILE THERE, SHE OFFERED COLLINS \$5,000 DOLLARS TO BURN DOWN HER TRAILER. COLLINS STATES THAT HE CALLED HIS NEPHEW JAMES MILLER AND ADVISED HIM OF THE OFFER. ON THE DAY IN QUESTION, COLLINS STATES THAT COHEN INFORMED HIM THAT SHE HAD PURCHASED THE KEROSENE AND LEFT IT AT THE INCIDENT LOCATION IN THE BACK BEDROOM. SHE ALSO TOLD HIM THAT THE BACK DOOR WOULD BE UNLOCKED. COLLINS STATES THAT HE AND MILLER VISITED CORNELL'S CLUB LATER THAT EVENING AND HAD A FEW BEERS. THEY THEN LEFT AND DROVE AROUND ANDREWS DISCUSSING THE PLAN. MILLER & COLLINS THEN PARKED THEIR VEHICLE ON LAUREN STREET IN ANDREWS AND WALKED THROUGH A PATH THAT LEADS TO THE INCIDENT LOCATION. COLLINS STATES THAT THE DOORS WERE LOCKED SO MILLER PUSHED OPEN A WINDOW, LIT A PIECE OF PAPER AND THREW IT IN THE RESIDENCE. COLLINS EXPLAINS THAT HE AND MILLER DROVE BACK AND FORTH PAST LAUREN STREET A FEW TIMES TO SEE IF THE RESIDENCE CAUGHT FIRE BUT THEY NEVER SAW ANY SMOKE. COLLINS DREW A DIAGRAM ILLUSTRATING HOW THEY GOT TO THE RESIDENCE (ATTACHED). COLLINS STATES THAT MILLER THEN DROVE HIM HOME WHERE HE REMAINED. COLLINS STATES THAT HE TALKED TO COHEN AROUND 3AM AND SHE INFORMED HIM THAT HER SON WAS DEAD (AUDIO/VIDEO & WRITTEN STATEMENT ATTACHED).

6/5/14- THE FOLLOWING ARREST WARRANTS WERE OBTAINED; MARISSA COHEN 2014A2210800079 ARSON 1ST & 2014A2210800080 CONSPIRACY, JAMES MILLER 2014A2210800084 CONSPIRACY & 2014A2210800085 ARSON 1ST, RANDY COLLINS 2014A2210800082 CONSPIRACY & 2014A2210800083 ARSON 1ST PENDING WARRANT SERVICE.

RECORD 000820

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6/6/14- MILLER WAS TAKEN INTO CUSTODY BY SLED AGENTS WHO ATTEMPTED TO INTERVIEW HIM. AGENT HARDY ADVISED THAT MILLER WOULD NOT SIGN HIS MIRANDA WARNING NOR WOULD HE ANSWER ANY QUESTIONS. MILLER WAS TRANSPORTED TO THE GEORGETOWN COUNTY DETENTION CENTER BY DEPUTY CASSIDY. AGENT HARDY ALSO ADVISED THAT MARISSA COHEN HAD BEEN TAKEN INTO CUSTODY BY THE KENTUCKY STATE POLICE.

1600-JAMES MILLER'S MOTHER VISITED THE ADREWS POLICE DEPARTMENT TO INQUIRE ABOUT THE CHARGES AGAINST HER SON. SHE INITIALLY STATED THAT MILLER COULD NOT BE INVOLVED AS HE WAS HOME WITH HER THE INTIRE DAY. SHE THEN STATED THAT AROUND THE TIME OF THE FIRE, MILLER CAME TO HER RESIDENCE AND PICKED HER UP AND THE 2 (MILLER & HIS MOTHER) WENT TO THE FIRE SCENE. WHILE AT THE SCENE, SHE STATES THAT SHE HEARD MARISSA COHEN ON THE PHONE WITH AN UNKNOWN PARTY ADMONISHING THEM ABOUT NOT CHECKING THE RESIDENCE BEFORE THEY SET IT ON FIRE. SHE ALSO STATES THAT SHE HEARD MARISSA THEM THAT HER SON WAS DEAD BECAUSE OF IT. MILLER'S MOTHER REFUSED TO WRITE A STATEMENT AND STATED THAT SHE DID NOT WANT TO BE INVOLVED.

6/9/14- RANDY COLLINS TURNED HIMSELF IN TO OFFICER NESMITH OF THE ANDREWS POLICE DEPARTMENT. HE WAS TAKEN INTO CUSTODY AND TRANSPORTED TO THE GEORGETOWN COUNTY DETENTION CENTER BY DEPUTY SCOTT.

6/10/14- VISITED THE RESIDENCE OF JAMES MILLER IN AN ATTEMPT TO INTERVIEW HIM WITH NEGTAIVE RESULTS. A BUSINESS CARD WAS LEFT WITH HIS MOTHER ALONG WITH A MESSAGE TO HAVE MILLER CONTACT ME.

Offense Detail: 9135 - GSO Suspicious Fires

Offense Description	9135 - GSO Suspicious Fires		
IBR Code	Offense Data		
IBR Group	Location	20 - Residence/Home	
Crime Against	2 nd Location Type		
Using	Special Circumstance		
Victim Use	Offense Completed?	Yes	No. Prem. Entered
	Hate/Bias	88 - None (No Bias)	Entry Method
	Domestic Violence	No	Type Security
Criminal Activity			Tools Used
Weapons/Force			Cargo Theft

Suspect S2: MARISSA, COHEN

Suspect Number	S2	DOB	7/27/1974	Place of Birth	
Name	MARISSA, COHEN	Age	39	SSN	210-54-8703
AKA		Sex	F - Female	DLN	101043735
Alert(s)		Race	B - Black	DLN State	SC - South Carolina
		Ethnicity	N - Not of Hispanic Origin	DLN Country	USA - United States of America
Address	10 JAMES DR	HL	5' 5"	Occupation/Grade	
CSZ	ANDREWS, SC 29510	WL	150	Employer/School	
Home Phone	843 461-5398	Eye Color	BRO - Brown	Employer Address	
Work Phone		Hair Color	BLK - Black	Employer CSZ	
Email Address		Hair Style		Res. County	GEORGETOWN
		Hair Length		Res. Country	USA - United States of America
		Facial Hair		Resident Status	J - This Jurisdiction
		Complexion			
		Build			
		Teeth			
Scars/Marks/Tattoos					
Suspect MO					
Other MO					
Attire					
Habitual Offender Status					
Suspect Notes					

Printed: 3/29/2014 9:12 AM

RECORD 000821

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Build L - Large
Teeth

Scars/Marks/Tattoos
Modus Operandi
Other MO
Attire
Habitual Offender
Status

Arrest No. 2

Arrested For 9135 - GSO Suspicious
Fires

Arrest Type T - Taken Into Custody
FBI No.

Fingerprints
Photos

Arrested On 6/9/2014 11:40:00 AM
Arrest Location ANDREWS POLICE
DEPARTMENT

State No.
Armed With 01 - Unarmed
Multi. Clearance N - Not Applicable
Multi. Clearance
Offense
Prev. Suspect No.
Notified

Miranda Read
Miranda Waived
Number of Warrants

Booked On
Booked Location GCDC
Released Location
Released On

Juvenile Disposition
Adult Present

Released By
Release Reason
Held For

Type Criminal Activity
Drug Type

Arrest Notes

Property Description Item 1: 1303 - Photograph - CRIME SCENE PHOTOS

Item No. 1
Property Category 1303 - Photograph
IBR Type 27 - Recordings-Audio/Visual
UCR Type F - TV's, Radios, Stereos, Etc...
Status E - Evidence (Including Other Seized Property And Tools)
Count 1
Value
Manufacturer
Model
Serial No.
License No.
Color
Description CRIME SCENE PHOTOS
Vehicle Year
License Year
State
Body Style
Recovered Date
Recovery ORI
Owner
Disposition
Evidence Tag
Alert(s)
Drug Type
Drug Quantity
Drug Measure

Property Notes

Property Description Item 2: 1306 - Recording - Compact Disk - 911 CALL

Item No. 2
Property Category 1306 - Recording - Compact Disk
IBR Type 27 - Recordings-Audio/Visual
UCR Type F - TV's, Radios, Stereos, Etc...
Status E - Evidence (Including Other Seized Property And Tools)

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Printed: 3/29/2014 10:03:21 AM

RECORD 000822

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Count 1
Value
Manufacturer
Model
Serial No.
License No.
Color
Description 911 CALL
Vehicle Year
License Year
State
Body Style
Recovered Date
Recovery ORI
Owner
Disposition
Evidence Tag
Alert(s)
Drug Type
Drug Quantity
Drug Measure

Property Notes

Property Description Item 3: 1306 - Recording - Compact Disk - marissa cohen interview

Item No. 3
Property Category 1306 - Recording - Compact Disk
IBR Type 27 - Recordings-Audio/Visual
UCR Type F - TV's, Radios, Stereos, Etc...
Status E - Evidence (Including Other Seized Property And Tools)

Count 1
Value
Manufacturer
Model
Serial No.
License No.
Color
Description marissa cohen interview
Vehicle Year
License Year
State
Body Style
Recovered Date
Recovery ORI
Owner
Disposition
Evidence Tag
Alert(s)
Drug Type
Drug Quantity
Drug Measure

Property Notes

Property Description Item 4: 1306 - Recording - Compact Disk - CD OF PHONE RECORDS

Item No. 4
Property Category 1306 - Recording - Compact Disk
IBR Type 27 - Recordings-Audio/Visual
UCR Type F - TV's, Radios, Stereos, Etc...
Status E - Evidence (Including Other Seized Property And Tools)

SPRINT, LRI 11/2/12

Printed: June 16, 2014 - 9:13 AM

RECORD 000823

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Count 1
Value
Manufacturer
Model
Serial No.
License No.
Color
Description CD OF PHONE RECORDS
Vehicle Year
License Year
State
Body Style
Recovered Date
Recovery ORI
Owner
Disposition
Evidence Tag
Alert(s)
Drug Type
Drug Quantity
Drug Measure

Property Notes

Property Description Item 5: 1306 - Recording - Compact Disk - Cohen Phone Records

Item No. 5
Property Category 1306 - Recording - Compact Disk
IBR Type 27 - Recordings-Audio/Visual
UCR Type F - TV's, Radios, Stereos, Etc...
Status E - Evidence (Including Other Seized Property And Tools)

Count 1
Value
Manufacturer
Model
Serial No.
License No.
Color
Description Cohen Phone Records
Vehicle Year
License Year
State
Body Style
Recovered Date
Recovery ORI
Owner
Disposition
Evidence Tag
Alert(s)
Drug Type
Drug Quantity
Drug Measure

Property Notes

Property Description Item 6: 9999 - Other - SKETCH DRAWN BY RANDY COLLINS

Item No. 6
Property Category 9999 - Other
IBR Type 77 - Other
UCR Type K - Miscellaneous
Status E - Evidence (Including Other Seized Property And Tools)

Printed: June 10, 2014 8:15 AM

RECORD 000824

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Count 1
Value
Manufacturer
Model
Serial No.
License No.
Color
Description SKETCH DRAWN BY RANDY COLLINS
Vehicle Year
License Year
State
Body Style
Recovered Date
Recovery ORI
Owner
Disposition
Evidence Tag
Alert(s)
Drug Type
Drug Quantity
Drug Measure

Property Notes

Property Description Item 7: 1306 - Recording - Compact Disk - RANDY COLLINS INTERVIEW

Item No. 7
Property Category 1306 - Recording - Compact Disk
IBR Type 27 - Recordings-Audio/Visual
UCR Type F - TV's, Radios, Stereos, Etc...
Status E - Evidence (Including Other Seized Property And Tools)

Count 1
Value
Manufacturer
Model
Serial No.
License No.
Color
Description RANDY COLLINS INTERVIEW
Vehicle Year
License Year
State
Body Style
Recovered Date
Recovery ORI
Owner
Disposition
Evidence Tag
Alert(s)
Drug Type
Drug Quantity
Drug Measure
Property Notes

GEORGETOWN COUNTY SHERIFF'S OFFICE

P.O. Box 1292, Georgetown, S.C. 29442

CASE #: 14009155

VOLUNTARY STATEMENT

PAGE NO. 1 OF 1 PAGES

DATE 4/9/14 1527 TIME 1527 M. PLACE Hardy + Gator

I, Hardy Gator, am 43 years old and I live at 18 CLAIR ST.
M. Garrett

I am giving this statement to Investigator, who has identified himself as a

and he has duly warned me that I have the following rights: that I have the right to remain silent and not make any statement at all; that any statement I make may be used against me at my trial; that any statement I make may be used as evidence against me in court; that I have the right to have a lawyer present to advise me prior to and during any questioning; that if I am unable to employ a lawyer, I have the right to have a lawyer appointed to advise me prior to and during any questioning and that I have the right to terminate the interview at any time.

Prior to and during the making of the statement, I have and do hereby knowingly, intelligently, and voluntarily waive the above explained rights and I do make the following voluntary statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whomsoever:

ON the night of FIRE I WAS WITH MY NEPHEW JAMES MILLER AND WE WENT CORNELLS CLUB. WE WENT THERE AT 9 AND LEFT AROUND 3AM. THAT TONS THE BAR WAS THERE I DID NOT HAVE ANYTHING TO DO WITH THE FIRE

Written BY: MF

END

Approved BY: SL

Statement

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

SWORN to before me this

day of

Signature of person giving voluntary statement

Witness

Notary Public for South Carolina

My Commission Expires:

Witness

GCSD #14

RECORD 000826



MIRANDA RIGHTS

PLACE: Andrews PD DATE: 6-4-2014 TIME: 10:20 AM

BEFORE WE ASK YOU QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

RC

You have the right to remain silent.

BL

Anything you say can be used in court as evidence against you.

RC

You are entitled to talk to a lawyer now and have him present now or at any time during questioning.

BL

If you cannot afford an attorney, one will be appointed for you without cost.

BL

If you decide to answer questions now, without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

YES

Do you understand these rights?

YES

Do you wish to talk to us at this time?

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to talk now without a lawyer present. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed: [Signature]

Witness: [Signature]
Witness: [Signature]

State Trial Exhibit S-3

DVDs 1, 2, 2B, 3

Defendant Interview (ID Only) recorded on June 4, 2014

(in possession of the Court of Appeals)

GEORGETOWN COUNTY SHERIFF'S OFFICE

P.O. Box 1292, Georgetown, S.C. 29442

CASE #: 14009655**VOLUNTARY STATEMENT**PAGE NO. 1 OF 2 PAGESDATE JUNE 9, 2014 TIME 1:40 M. PLACE APD
I, Tracy Collins, am 43 years old and I live at 18 Clear St

I am giving this statement to _____, who has identified himself as a _____

and he has duly warned me that I have the following rights: that I have the right to remain silent and not make any statement at all; that any statement I make may be used against me at my trial; that any statement I make may be used as evidence against me in court; that I have the right to have a lawyer present to advise me prior to and during any questioning; that if I am unable to employ a lawyer, I have the right to have a lawyer appointed to advise me prior to and during any questioning and that I have the right to terminate the interview at any time.

Prior to and during the making of the statement, I have and do hereby knowingly, intelligently, and voluntarily waive the above explained rights and I do make the following voluntary statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whomsoever:

I DID NOT DO IT. Tina Tammie she wanted Herten to go in her house. she need to be warm. But I realize it was for the warmest. she told me she would give me 5000 dollars to do a job. she said she wanted me to do a job for burning her house. I told her I did know about that. she said if you think about it, talk to me. I told my nephew James about it and he said I could use some "yams" He said I'll see I might do it. He picked me up and we went to Cornell's and he played a couple games of pool. had a couple of beers and afterward we leave. and when we leave we cut a couple of blocks. we I told him to take me home. but he DIDNT. we rode on a road and parked, and he walk out the car and went through the woods and I went behind him through the woods. He checked both doors but they were

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

SWORN to before me this

_____ day of _____

Notary Public for South Carolina

My Commission Expires: _____

GCSO #14

Signature of person giving voluntary statement

Witness

Witness

RECORD 000829

GEORGETOWN COUNTY SHERIFF'S OFFICE

P.O. Box 1292, Georgetown, S.C. 29442

CASE #: 14009155

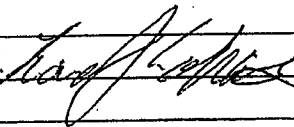
DATE 6/4/14

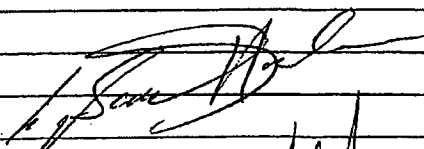
PAGE NO. 2 OF 2 PAGES

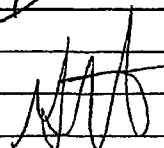
STATEMENT OF:

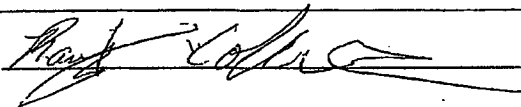
Locked. He pushed the window back and he lit
a piece of paper and throw it. when he throw it
he went back through the weeds and went back to
the car. he the circled the block a couple of times.
but he didnt see anything lit. Then he pushed me
home he went back and picked his MOMA up. After
he picked his mamma up, it was about 330, he came
to my house and told me SYNER WAS DEAD. But before
that MARRISA called me and told me SYNER WAS DEAD AND
I told her if there was something I could do just let
me know.

Written by: M.G.

Approved by:  STATEMENT







ARREST WARRANT

2014A2210800082

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Georgetown

THE STATE
against

Randy Collins

Address: 10 Clair Street

Andrews, SC 29510-

Phone: _____ SSN: _____

Sex: M Race: B Height: _____ Weight: _____

DL State: _____ DL #: _____

DOB: 8/27/1970 Agency ORI #: SC0220000Prosecuting Agency: Georgetown County SheriffProsecuting Officer: Melvin Garrett - 0064Offense: Conspiracy / Criminal Conspiracy, Common Law
conspiracy definedOffense Code: 0049Code/Ordinance Sec: 16-17-0410This warrant is **CERTIFIED FOR SERVICE** in the☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant Randy Collinson 6-9-14 11:48 A.M.Seray Scott
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
P. O. Box 479
401 Cleland Street, Room 115
Georgetown, SC 29442

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Georgetown

GCSO

JUN 05 2014 COUNTY S.C.

WARRANTS

ALMA Y. WHITE
CLERK OF COURTPersonally appeared before me the affiant Melvin Garrettwho duly sworn deposes and says that defendant Randy Collinsdid within this county and state on or about 3/29/2014

State of South Carolina (or ordinance of

the following particulars:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy definedI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on or about March 29, 2014 in the Andrews section of Georgetown County, one Randy Collins did with co-conspirators
Marissa Cohen and James Miller, unlawfully plan and scheme to accomplish the crime of Arson at 10 James Drive. The crime was
accomplished and did cause the death of 12 year old Dave Syience Coombs. This bein at against the Peace and Dignity of ;the State
of South Carolina and a violation of the South Carolina Code of Law 16-17-0410.

14009155/Garrett

a/s; 10/10

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Georgetown

Affiant's Address 430 N. Fraser StreetGeorgetown, SC 29440-Affiant's Telephone (843)436-3600

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/29/2014defendant Randy Collins

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Georgetown

) as set forth below:

DESCRIPTION OF OFFENSE: Conspiracy / Criminal Conspiracy, Common Law conspiracy definedHaving found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 6/5/2014Elaine C. Elliott (L.S.)
Signature of Issuing Judge

Elaine Cox Elliott

Judge Code: 7018Judge's Address 9174 Pleasant Hill DriveHemingway, SC 29554-3841Judge's Telephone (843)558-9711

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

RECORD 000831

ARREST WARRANT

2014A2210800083

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Georgetown

THE STATE
against

Randy Collins

Address: 18 Clair St

Andrews, SC 29510-

Phone: _____ SSN: _____

Sex: M Race: B Height: _____ Weight: _____DL State: _____ DL #: 8976089DOB: 8/27/1970 Agency ORI #: SC0220000Prosecuting Agency: Georgetown County SheriffProsecuting Officer: Melvin Garrett - 0064Offense: Arson / Arson - First degreeOffense Code: 3535Code/Ordinance Sec: 16-11-0110(A)This warrant is CERTIFIED FOR SERVICE in the☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant Randy Collinson 6-9-14 11:40 A.M.Larry Scott

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

P. O. Box 479

401 Cleland Street, Room 115

Georgetown, SC 29442

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Georgetown

GCSO

JUN 05 2014

JUN 26 2014

WARRANTS

ALMA WHITE

CLERK OF COURT

I personally appeared before me the affiant Melvin Garrettbeing duly sworn deposes and says that defendant Randy Collinswithin this county and state on or about 3/29/2014State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Georgetown

the following particulars:

DESCRIPTION OF OFFENSE: Arson / Arson - First degreeI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on or about March 29, 2014 in the Andrews Section of Georgetown County one Randy Collins did willfully and maliciously
set fire to 10 James Dr, the residence of Marrissa Cohen. which resulted in damaging such residence and causing the death of 12
year old Dave Syience Coombs. This being against the Peace and Dignity of the State of South Carolina and a violation of the South
Carolina Code of Law 16-11-110.

101043735/Garrett

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Georgetown

Affiant's Address 430 N. Fraser StreetGeorgetown, SC 29440-Affiant's Telephone (843)436-3600

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/29/2014 defendant Randy Collins

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Georgetown

) as set forth below:

DESCRIPTION OF OFFENSE: Arson / Arson - First degreeHaving found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 6/5/2014Elaine C. Elliott

Signature of Issuing Judge

Elaine Cox Elliott

Judge Code: 7018Judge's Address 9174 Pleasant Hill DriveHemingway, SC 29554-3841Judge's Telephone (843)558-9711Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

RECORD 000832

RECORD 000833

WITNESSES

Georgetown County Sheriff's Office

ARREST WARRANT NUMBER

2014A2210800082

CDR: 0049 §16-17-0410

DOI: 3/27-29/2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 08/20/14 *[Signature]*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS2200803 *✓*

The State of South Carolina

County of Georgetown

Alicia Richardson

14G00543

COURT OF GENERAL SESSIONS

AUGUST 2014, TERM

THE STATE

vs.

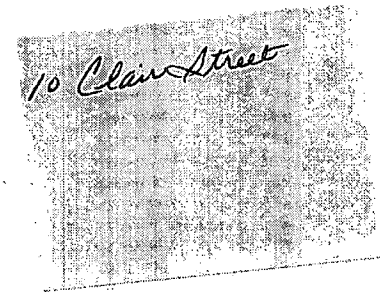
RANDY COLLINS
18 CLAIR STREET
ANDREWS, SC 29510
DOB: 8/27/1970
SSN: 251-27-0803
B / M

[Signature]
ATTORNEY: Linda Morris Burroughs

Indictment for

CRIMINAL CONSPIRACY

Jimmy A. Richardson, II, Solicitor



STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

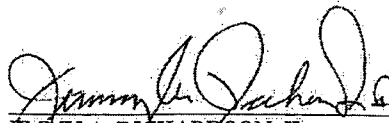
At a Court of General Sessions, convened on August 20, 2014, the Grand Jurors of Georgetown County present upon their oath:

CRIMINAL CONSPIRACY

CDR: 0049 16-17-0410

That Randy Collins did in Georgetown County on or about March 27-29, 2014 combine with Marissa Cohen & James Miller, and/or with other persons, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Arson, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RECORD 000834

RECORD 000835

WITNESSES

Georgetown County Sheriff's Office

ARREST WARRANT NUMBER

2014A2210800083

CDR: 3535 §16-11-0110(A)

DOI: 3/28-29/2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 08/20/14

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS2200804 X✓

The State of South Carolina

County of Georgetown

Alicia Richardson

14G00543

COURT OF GENERAL SESSIONS

AUGUST 2014, TERM

THE STATE

vs.

RANDY COLLINS

18 CLAIR ST

ANDREWS, SC 29510

DOB: 8/27/1970

SSN: 251-27-0803

B / M

ATTORNEY: *Ron Hazzard*
Linda Morris Burroughs

Indictment for

ARSON, FIRST DEGREE

Jimmy A. Richardson, II, Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on August 20, 2014, the Grand Jurors of Georgetown County present upon their oath:

ARSON, FIRST DEGREE
CDR: 3535 §16-11-0110(A)

That Randy Collins did in Georgetown County on or about March 28-29, 2014, willfully and maliciously cause an explosion, set fire to, burn, or cause to be burned, or aided, counseled or procured the burning of any property which resulted either directly or indirectly in the death of Dave Coombs, in violation of Section 16-11-110(A), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

RECORD 000837

WITNESSES

Georgetown County Sheriff's Office

ARREST WARRANT NUMBER

2014GS2200805

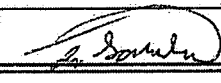
CDR: 0116 §16-03-0010, 0020

DOI: 3/28-29/2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 08/20/14 

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS2200805

The State of South Carolina

County of Georgetown

Alicia Richardson

14G00543

COURT OF GENERAL SESSIONS

AUGUST 2014, TERM

THE STATE

vs.

RANDY COLLINS
18 CLAIR STREET
ANDREWS, SC 29510
DOB: 8/27/1970
SSN: 251-27-0803
B / M

ATTORNEY: Linda Morris Burroughs

Indictment for

MURDER

Jimmy A. Richardson, II, Solicitor

COMPETENCY TO STAND TRIAL EVALUATION

Examinee: Randy Collins

DOB: 08/27/70

DMH#: 1045-2048

Date of Evaluation: 09/24/18

First Examiner: Abby L. Mulay, Ph.D.

Second Examiner: Emily D. Gottfried, Ph.D.

Others Present: Lauren Jutras, M.S., Fourth Year Medical Student

Report Date: 09/26/18

Charge(s): Murder; First Degree Arson; Criminal Conspiracy

IDENTIFYING DATA: Mr. Randy Collins is a 48-year-old man currently charged with Murder; First Degree Arson; and Criminal Conspiracy for the alleged events occurring on 03/29/14. An evaluation of his competency to stand trial was ordered on 08/08/18 (and received by MUSC on 09/05/18) by the Honorable Benjamin H. Culbertson, Judge of Georgetown County Court of General Sessions, South Carolina, pursuant to State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981) and S.C. Code Ann. 44-23-410 (1976). The basis for the order reads: "Unable to assist with attorney due to possible intellectual disability; review of discovery material and Defendant's report of a stroke in the past." Alicia Hall, Ph.D. of the South Carolina Department of Disabilities and Special Needs (DDSN) was consulted to determine if this case should be referred for evaluation by DDSN, and it was determined that since Mr. Collins' issues appear to related to his stroke in 2013, the evaluation falls under the purview of the Department of Mental Health (DMH). Mr. Collins is currently on bond and presented for evaluation on 09/24/18 to the Medical University of South Carolina (MUSC) Forensic Psychiatry Program.

OPINION/COMPETENCY TO STAND TRIAL: *Per S.C. Code Ann. 44-23-410 (1976), an individual "...is not fit to stand trial because the person lacks the capacity to understand the proceedings against him or to assist in his own defense as a result of a lack of mental capacity...."*

Yes. It is our opinion Mr. Collins currently has a factual and rational understanding of the proceedings against him and the capacity to rationally assist counsel in his own defense. Therefore, on the date of the evaluation, it is our opinion he is competent to stand trial.

SOURCES OF INFORMATION:

1. Electronic mail from Georgetown County Detention Center nursing staff, dated 09/25/18;
2. Clinical interview of Mr. Collins on 09/24/18 for two hours and seven minutes at the Medical University of South Carolina (MUSC) Forensic Psychiatry Program;
3. Order for Competency to Stand Trial signed by the Honorable Benjamin H. Culbertson, Judge of Georgetown County Court of General Sessions, South Carolina; dated 08/08/18 (and received by MUSC on 09/05/18);
4. Arrest Warrants, 2014A2210800082 (03/29/14), 0083 (03/29/14);
5. South Carolina Law Enforcement Division Investigative File records, to include:
 - a. Investigative Report, dated 06/18/15;
 - b. Criminal History Report for Mr. Collins, retrieved on 08/04/14;
 - c. Voluntary Statement, dated 06/09/14;

Name: Collins, Randy
DMH#: 1045-2048

- d. Cell Phone Extraction Reports, dated 05/16/14;
 - e. Search Warrants, dated 04/11/14, 05/12/14;
 - f. Trace Report, dated 04/07/14;
 - g. Laboratory Analysis Electronic Packing Slip, dated 03/31/14
 - h. Autopsy Report, dated 03/30/14;
 - i. Incident Recalls, dated 03/29/14 and 03/31/14;
 - j. Georgetown County Sheriff's Office Crime Report, dated 03/29/14;
 - k. Fire Report, dated 03/29/14;
 - l. Search Warrant, dated 03/29/14;
 - m. Fire scene sketch, dated 03/29/14;
 - n. South Carolina Law Enforcement Division Arson K9 Report, dated 03/29/14;
 - o. SLED Laboratory Forensic Services Request, dated 03/29/14;
 - p. Voluntary Statement, dated 03/29/14;
 - q. Handwritten list of items, no date;
6. Georgetown Memorial Hospital records, dated 04/21/13-02/03/15.

DISCLOSURE OF NON-CONFIDENTIALITY: Mr. Collins was informed of the nature and purpose of the evaluation prior to the interview. Specifically, he was informed that the judge in his case had ordered a forensic evaluation regarding his competency to stand trial. It was explained that any observations and information he provided would not be held confidential, and would be included in a written report submitted to the court and disseminated to the judge and attorneys for both the defense and prosecution. Mr. Collins was also informed evaluators may be asked to provide oral testimony. When asked to read the notification form out loud, Mr. Collins first stated, "I can't read." He was asked to attempt to read the form and Mr. Collins read the content slowly and with some degree of impairment in his reading ability. The remainder of the notification form was read out loud to him, and Mr. Collins said he did not have any questions. He recalled the purpose of the evaluation ("my lawyer sent me here for an evaluation") and acknowledged the limits to confidentiality (i.e., he recalled the report would be provided to the judge, the solicitor, and his attorney). Mr. Collins signed the notification form and agreed to proceed.

BACKGROUND HISTORY: *The following information has been synthesized from a clinical interview with Mr. Collins and a review of collateral information.*

Mr. Collins reported that he was born and raised by his parents in Georgetown, South Carolina. He and his twin sister are the youngest of 10 children in total (six brothers and four sisters). He also reported that his father died of cancer, but he did not recall how old he was when his father passed away. When asked about history of childhood physical abuse, he reported that his father pushed Mr. Collins and his head hit the concrete, which required hospitalization. Mr. Collins did not recall how old he was when this incident occurred, though he estimated somewhere between the ages of 8 to 10. He did not report any history of childhood sexual or emotional abuse, or involvement by the Department of Social Services (DSS). He endorsed having enough food, clothing, and other necessary resources during his youth. He did not endorse engagement in childhood problematic behaviors, to include fire setting, cruelty to animals, theft, bullying peers, or running away from home.

Name: Collins, Randy
DMH#: 1045-2048

2

Medical University of South Carolina
Forensic Psychiatry Program

Regarding educational history, Mr. Collins reported that he was suspended from school an unknown amount of times for fighting with peers. He said he was never expelled. He repeated a grade, though he did not recall in which grade he was retained. In the first grade, he was placed in special education for certain classes due to the fact that he was "slow at learning," where he remained for the duration of his schooling. He was in regular education classes for social studies and math. Additionally, he endorsed a history of learning difficulties in reading and an inability to keep up with academic material. He did not recall at what age he left school, but he estimated that it occurred in either the seventh, eighth, or ninth grade. At some point, he also enrolled in Job Corps, where he remained for seven months. He has not obtained his General Education Development (GED) certificate.

Mr. Collins reported a number of previous odd jobs, including building schools, helping brick masons, mechanic work, in a warehouse, and "selling junk." He currently does maintenance work and has held this position for three years. He endorsed being fired from a position at a warehouse following several instances of being tardy for work. He has never collected disability benefits, though he began the application process prior to his arrest for the alleged offenses. He has never served in the military, but he endorsed previous involvement in "ROTC" (i.e., Reserve Officers' Training Corps). It should be noted that he likely meant Junior ROTC, as he did not attend college.

Regarding relational history, Mr. Collins is married but has been separated from his wife since 2007. He has three children, ranging in age from 18 to 21. Currently, Mr. Collins resides in Columbia, South Carolina, where he has been living with a friend for two or three years. He also reported that, in the past, he lived on his own, maintained residence in a trailer, and has lived on and off with his mother. He also endorsed that he manages his finances, is able to cook for himself, and has a current driver's license.

Medically, Mr. Collins reported that he suffered a stroke in 2013, and he now "forgets things" as a result. He also reported a history of seizures that occurred around the age of 8, but he did not provide any further details, and the seizures appeared to resolve on their own. As previously mentioned, Mr. Collins hit his head on concrete when he was a child, and he was reportedly hospitalized for two weeks. He stated that he sustained a concussion following the injury, and he "might have" lost consciousness. He endorsed an additional head injury, at which time he fell and "blank[ed] out." He did not recall at what age this injury occurred, and he did not seek medical treatment. At the age of 6 or 7, Mr. Collins underwent surgery to remove a "knot" from his chest, and he stated that he had an "enlarged heart" as a child. He currently has high blood pressure and high cholesterol, for which he has taken medication.

Regarding family history of mental illness, Mr. Collins reported that his "older cousins" had an unknown kind of "mental disturbance." He also stated that his sister suffered from health problems, though it was unclear whether Mr. Collins was referring to medical or mental health issues. No further information is known about his family history of mental illness.

Mr. Collins said that he has never been diagnosed with a mental illness. He has never been hospitalized for a psychiatric reason, nor has he taken any psychotropic medication. He stated that, while incarcerated at the Georgetown County Detention Center, he saw a mental health counselor

Name: Collins, Randy
DMH#: 1045-2048

"every two days" to discuss stress related to his legal situation, as well as the death of a family member. He has no further history of mental health treatment.

Mr. Collins did not report any problematic use of substances. He stated that he first tried alcohol at age 23, but he has largely stopped drinking as a result of his health concerns. He endorsed having one beer three days prior to the evaluation, noting that he has an alcoholic drink "every once in a while." He did not report any negative consequences as result of drinking alcohol. Additionally, he stated that he tried cannabis on one occasion at age 30, and he denied any additional substance use, including cocaine/crack, heroin, methamphetamine, phencyclidine (PCP), lysergic acid diethylamide (LSD), mushrooms, ecstasy, or inhalants. He denied any history of substance abuse treatment.

Finally, regarding legal history, Mr. Collins said that he was never arrested prior to the age of 18. He reported two previous arrests as an adult for domestic disputes.

COLLATERAL RECORDS:

Georgetown Memorial Hospital

Records obtained from Georgetown Memorial Hospital indicated that Mr. Collins was seen for diagnostic imaging and blood testing in the outpatient setting on 02/02/15. Findings were notable for cystic change in the medial hip joints (bone cyst potentially caused by osteoarthritis), calcification of tendinous insertions along the interior lesser trochanter (hardening in the hip joint), and mild degenerative changes in the lumbar spine (possible osteoarthritis of the spine). Records also indicated that Mr. Collins was seen on 12/22/14, and diagnostic imaging indicated mild chronic increase in interstitial lung markings without focal infiltrate (changes in the lungs) and mild chronic elevation of the right hemidiaphragm (elevation of the muscle that separates the chest cavity from the abdomen and is responsible for breathing). From 04/23/13 to 04/25/13, Mr. Collins was admitted to Georgetown Memorial Hospital after he presented to the emergency department endorsing sudden onset of difficulty speaking following the use of a spray lacquer. His diagnoses were as follows: Acute left frontal ischemic stroke with expressive aphasia (i.e., partial loss of the ability to produce language), mild dilated cardiomyopathy, hyperlipidemia, tobacco use, alcohol abuse, and low-normal vitamin B12. Records from 04/21/13 also indicated altered mental status and dysarthria (difficult to understand articulation of speech). Of note, treating physicians also spoke to his sister, who described Mr. Collins as a binge drinker of alcohol.

COURSE OF PREVIOUS DETENTION: Mr. Collins' records were requested from Georgetown County Detention Center. However, staff informed the examiners by electronic mail on 09/25/18 that they do not have any records on file for Mr. Collins.

BEHAVIORAL OBSERVATIONS AND MENTAL STATUS EXAMINATION: A formal mental status exam was conducted with Mr. Collins on 09/24/2018. Mr. Collins is a 48-year-old man who did not evidence problems with his hygiene or grooming. He was dressed in casual attire. His eye contact was appropriate. His motor activity was normal. Mr. Collins spoke at a normal rate and low in volume. His thoughts appeared organized, coherent, and linear. He appeared to be cooperative and putting forth his best effort.

Name: Collins, Randy
DMH#: 1045-2048

Medical University of South Carolina
Forensic Psychiatry Program

Mr. Collins described his current mood as "tired." His observed mood appeared to be reasonably positive, and his affect (outward emotional expression) was consistent with his observed mood. He reported that he "hardly get[s] any sleep," due to his work schedule. He stated he typically gets approximately five hours of sleep per night and sometimes wakes feeling rested, though at other times, wakes feeling tired. Over the past three years, he noted that he has purposefully lost 20 to 30 pounds for health reasons, and he is not concerned about his weight loss. He did not endorse having any urges to engage in self-injurious behaviors, suicidal ideation, or homicidal ideation. Mr. Collins reported that he sometimes hears "somebody whispering" to him, though he clarified that he believes it is his own conscience. Additionally, Mr. Collins endorsed seeing "Jesus," though he then reported that this occurs in the context of praying. He denied any further psychotic symptoms, including grandiosity, thought insertion, or paranoia. Additionally, there was no observed evidence of psychosis, significant anxiety, depression, or mania.

Mr. Collins was oriented to person, place, time, and situation; he was aware of whom he was, that he was currently in Charleston, South Carolina, the current date, and the reason for the evaluation. He recalled three out of three words immediately after presentation. He was unable to recall the three words after a brief delay, but he successfully recalled two out of three words with category clues, and the third word after both category and multiple choice clues. To assess his working memory (i.e., the ability to hold and manipulate things in one's mind), Mr. Collins was asked to complete a serial three task (i.e., subtracting the number three from 100 and then subtracting three from that answer and so on). He provided five correct subtractions before being told he could discontinue the task. He correctly spelled the word "world" forward and backward. He did not identify the name of the current United States President, though he recalled the most recent predecessor ("Obama"), as well as past presidents ("Clinton, Reagan"). He mistakenly identified "Kennedy" as the first President of the United States. In order to test Mr. Collins' common sense judgment to hypothetical situations, he was asked what he would do if he had an 8:00 a.m. appointment across town and woke up at 7:55 a.m., to which he replied, "Call the people I've got the appointment with and change the time." He was also asked what he would do if he observed thick smoke and flames coming from the window of his neighbor's house. He said, "Dial 911, try to get help." His abstract reasoning abilities (i.e., ability to apply theoretical and complex concepts which are not directly tied to concrete objects) appeared intact. For example, he described an orange and a banana as similar because they are "fruit." With encouragement, he also provided an accurate definition of a common proverb.

PSYCHOLOGICAL TESTING: Mr. Collins was administered the **Montreal Cognitive Assessment (MoCA)**, a measure designed as a rapid screening instrument for mild cognitive dysfunction. The MoCA assesses attention and concentration, executive functions, memory, language, visuoconstructional skills, conceptual thinking, calculations, and orientation. Results of the MoCA indicated that Mr. Collins had global impairments in the domains of visuoconstructional skills, language, attention, abstraction, and delayed recall. His total score on the MoCA was 18 out of 30; a score below 26 is considered impaired.

DIAGNOSTIC FORMULATION: The following diagnostic conclusions are rendered on the bases of the above data and according to the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5; 2013).

Name: Collins, Randy
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Due to Mr. Collins' history of experiencing a stroke, he was assessed for the presence of a neurocognitive disorder. In order to be diagnosed with a neurocognitive disorder, the DSM-5 (2013) indicates that there must be evidence of "cognitive decline from a previous level of performance in one or more cognitive domains (complex attention, executive function, learning and memory, language, perceptual-motor, or social cognition)" (p. 602). This concern may be expressed by either the individual in question or an informant, and these impairments are to be documented by standardized cognitive assessment or clinical assessment. These cognitive impairments must also interfere with the individual's ability to complete daily activities on their own, such as paying bills or taking medications. Mr. Collins expressed concern about recent cognitive decline. More specifically, he reported that, following his stroke, he has experienced difficulty remembering information. Additionally, there is some degree of concern about Mr. Collins' cognitive functioning from his attorney, which was outlined in the Court Order as the basis for the present evaluation, in part. Collateral records suggest that he also experienced expressive aphasia (i.e., an impaired ability to generate language) immediately following his stroke in 2013. It is important to note that, on the MoCA, which is a screening instrument for mild cognitive dysfunction, Mr. Collins' performance was impaired. However, Mr. Collins does not appear to experience any difficulties in his activities of daily living. Rather, he continues to work, manages his finances, is able to cook for himself, has a current driver's license, adequately attends to hygiene, and drove a significant distance on his own to attend the present evaluation. Importantly, there was no evidence of significant cognitive decline in any of the collateral documentation provided to the examiners at the time of the evaluation. As such, although there may be some concern about Mr. Collins' cognitive functioning expressed by both himself and his attorney, he does not currently meet criteria for a neurocognitive disorder. Additionally, during the current evaluation, cognitive deficits were not observed during assessment of his competency to stand trial. At times, he was slow to answer some questions, but when he did answer, his responses were logical and relevant. He also demonstrated the ability to track the conversation and sustain his attention for the duration of the evaluation.

Additionally, consideration was given to whether Mr. Collins has an intellectual disability. As outlined in the DSM-5 (2013), an intellectual disability is a "disorder with onset during the developmental period that includes both intellectual and adaptive functioning deficits in conceptual, social, and practical domains" (p. 33). Deficits in intellectual functioning include difficulties in reasoning, problem solving, planning, abstract thinking, judgment, and learning. Deficits in adaptive functioning include a "failure to meet developmental and sociocultural standards for personal independence and social responsibility" (p. 33), with impairments in the domains of communication, social participation, and independent living. Overall, Mr. Collins does not demonstrate significant impairments in adaptive functioning. As previously discussed, he works, manages his finances, is able to cook for himself, has a current driver's license, is able to attend appointments on his own, and adequately cares for himself. He does indicate some degree of impairment in general intellectual functioning, as evidenced by his self-reported issues in school and observed behavior during the evaluation; however, as he does not demonstrate impairments in the domain of adaptive functioning, a diagnosis of intellectual disability is not assigned.

The DSM-5 (2013) notes, "The essential feature of a substance use disorder is a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems" (p. 483). It should be noted that Mr. Collins denied any problematic use of alcohol. However, in collateral documentation, his sister described him as a

binge drinker. It is possible that Mr. Collins may have alcohol use disorder, though a diagnosis cannot be assigned at this time, based upon the information provided to the evaluators.

Finally, consideration was also given to whether Mr. Collins meets criteria for antisocial personality disorder. According to the DSM-5 (2013), antisocial personality disorder is a "pervasive pattern of disregard for and violation of the rights of others, occurring since age 15 (p. 659)." Regarding childhood issues, Mr. Collins reported a history of fighting. No additional information about any additional problematic behaviors was made available at the time of the evaluation. As an adult, he has been arrested several times, but there is no evidence to suggest deceitfulness, significant impulsivity, irritability and aggressiveness, irresponsibility/failure to honor financial obligations, or a lack of remorse. As such, he does not currently meet criteria for antisocial personality disorder.

COMPETENCY TO STAND TRIAL: Mr. Collins' competency to stand trial was assessed using a semi-structured interview format on 09/24/18.

Regarding his ability to factually understand the proceedings against him, Mr. Collins reported that he is being charged with "Murder, conspiracy, burning a place." He was informed of the formal name of his charge (i.e., Arson), and he indicated that he recognized this charge and was aware that it pertained to his legal situation. He was also aware of the general definition of each charge. More specifically, he was aware that Murder means to "kill that person," Conspiracy means "to plot," and Arson means "a fire you burn or something." He was unaware whether his charges were felonies or misdemeanors, though correctly identified that a felony is more serious than a misdemeanor. He then came to the correct conclusion that, based upon the nature of his charges, he is likely facing felonies. When asked about potential penalties associated with his charges, he stated that his lawyer and the judge informed him that he could face a specific number of years in prison. Mr. Collins was asked to define the potential punishment of probation and accurately stated that, while on probation, you remain in the community and are under the supervision of a probation officer. Additionally, Mr. Collins stated that you must report to your probation officer, and if you do not, you could possibly return to prison.

Mr. Collins demonstrated some initial degree of difficulty expressing the various roles and functions of key courtroom personnel, though he responded well to education and appeared to retain the information after a delay. He defined the defense attorney's role as to "defend you, the defendant...looking out for that person by defending you in court." When asked what outcome the attorney should desire for his or her client, he said, "not guilty." He first stated that the solicitor's job was to "charge you," but he then noted that the solicitor "prove[s]" that the defendant is "guilty." He defined the role of the judge as, "He wants to hear the truth." Mr. Collins was provided with education and correctly identified the judge as a neutral party in the courtroom. He also initially provided an incorrect definition of the role of the jury: "The one that prosecute." He was also unaware of how many individuals serve on a jury, first stating "1,000" and then "200." Additionally, he did not know how many jurors must agree when reaching a verdict. He was provided with education and was able to explain the role of the jury using his own words: "[they] decide guilty or not." At the conclusion of the evaluation, the examiners asked Mr. Collins to recount the various roles of the courtroom personnel to gauge his ability to learn and retain information. When asked the role of the defense attorney, he stated, "to defend you," and he recalled that the defense attorney hopes for a "not guilty" outcome. He then defined the role of the

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solicitor as "to prosecute [the defendant], to find [the defendant] guilty," noting that the solicitor is "against" the defendant. When asked about the role of the judge, Mr. Collins said, "They make sure everything is okay in the courtroom. They tell you guilty or not guilty." Finally, he also retained the role of the jury and noted the following: "They decide guilty or not guilty." He also recalled that there are 12 jurors and all must agree when reaching a verdict.

Mr. Collins correctly identified himself as the defendant. He also provided a correct definition of the term witness, noting, "Somebody that witnessed against me." He also stated that a witness can either be for or against a defendant ("No, he didn't do that, or yeah, he did that"). He correctly defined evidence as "proof," and identified potential evidence from a hypothetical case. He was aware that testifying includes an individual being questioned by lawyers for either side in court. He was also aware that the oath is "to tell the truth, so help me God," and he correctly indicated that an individual can get in trouble if they lie in court. He was subsequently provided the definition of perjury, to which he expressed an understanding.

Regarding potential pleas, Mr. Collins defined not guilty as "didn't do it" and guilty as "[the defendant] did it." He was aware that, following a plea of not guilty, a defendant proceeds to trial. He then stated that, following a plea of guilty, "they charge you," which he further defined as "prosecuted." Mr. Collins was then provided with education regarding correct terminology, as he appeared to confuse the term "prosecute" with "sentence." Following this education, he was then able to use the term "sentence" correctly. He defined a plea bargain as the following: "The lawyer pleading for you, a lower charge...to get a lesser charge," and he correctly stated that a defendant must enter a plea of "guilty" when accepting a plea bargain.

Regarding his ability to rationally understand the proceedings, Mr. Collins was able to describe the allegations against him, and he provided a logical explanation related to his preferred outcome. He also reasoned through hypothetical plea bargains. If a witness told a lie about him during their testimony, Mr. Collins stated that he would "let him know he's lying." He was then asked if he could speak openly during court, to which he stated "no," and he then noted that he would inform his lawyer if a witness told lies about him during testimony. If he does not understand something happening in court, he indicated that he would "talk to my lawyer." When asked how a defendant is expected to behave in court, he stated, "Quiet. Just listen until it's time to speak." He acknowledged that a defendant can only speak in court when asked to do so by the judge, and he stated that speaking without permission could result in the judge "tell me to be quiet, hold me in a cell until court is over." He was unaware of the name of the charge that a defendant can incur for speaking out of turn in court (i.e., contempt), and he was provided with education. He appeared to understand this based on the discussion.

In regard to the capacity to rationally assist counsel in his own defense, Mr. Collins reported he is currently represented by Attorney "Ralph Wilson, Jr." When asked if he has confidence in his attorney's ability to defend him, he stated, "Yes, I feel that he is real...judge according to what's right...that's how I feel in my heart." Regarding how he can help his attorney, Mr. Collins replied, "Telling him the truth." He said he has not disagreed with his attorney's handling of his case. When asked what he will do if he disagrees with his attorney in the future, he said, "Let him know." When asked if he needs an attorney to defend him, he stated that he did not wish to represent himself. He also expressed an awareness that conversations between himself and his attorney are confidential,

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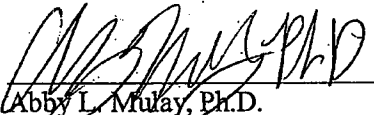
Medical University of South Carolina
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though, in some cases, his attorney may have discussions with the judge or solicitor. Based on his presentation during the current evaluation, Mr. Collins possesses a capacity to work effectively with an attorney if he chooses to do so. Specifically, Mr. Collins exhibited no significant difficulty in communicating during the present evaluation and appeared to be cooperative.

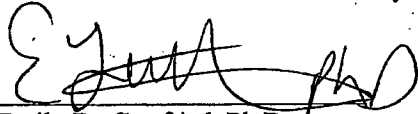
CLINICAL IMPRESSIONS: Mr. Collins does not currently meet diagnostic criteria for a mental illness, neurocognitive disorder, or intellectual disability. He was administered a brief screening measure that was designed to assess cognitive impairment (i.e., the MoCA), and results revealed impairment in the domains of visuoconstructional skills, language, attention, abstraction, and delayed recall. Despite this impaired performance on the screening measure, during the present evaluation, Mr. Collins demonstrated a factual understanding of the proceedings against him. Although he expressed some degree of confusion regarding the roles of various courtroom personnel, he successfully retained the correct information following efforts at education by the examiners. He also successfully generated information regarding available pleas. His rational understanding of his case was adequate, and he discussed his preferred legal outcome in a logical and coherent manner. Furthermore, he understood the adversarial nature of legal proceedings and exhibited intact abilities to make rational decisions for his case. Based upon his behavior during the evaluation, Mr. Collins demonstrated the ability to effectively work with his attorney, as well as the ability to maintain appropriate behavior in the courtroom. It is therefore our opinion that Mr. Collins is currently competent to stand trial.

SUMMARY: Mr. Randy Collins is a 48-year-old man currently charged with Murder; First Degree Arson; and Criminal Conspiracy. He does not currently meet diagnostic criteria for a mental illness, neurocognitive disorder, or intellectual disability, and it is our opinion that Mr. Collins is not currently experiencing symptoms or cognitive issues impacting his competency to stand trial. Mr. Collins exhibited an adequate level of both factual and rational understanding of the proceedings against him and the capacity to rationally assist counsel in his own defense. Therefore, it is our opinion that Mr. Collins is currently competent to stand trial.

Respectfully submitted,



Abby L. Mulay, Ph.D.
Postdoctoral Fellow in Forensic Psychology



Emily D. Gottfried, Ph.D.
Licensed Clinical Psychologist

Name: Collins, Randy
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COUNTY OF: George
 STATE: VS.
Randy Collins
 AKA:
 Race: BLACK Sex: M Age: 48
 DOB: 08-27-1970 SS#: 251-27-0803
 Address: 18 Clair Street
 City, State, Zip: Andrews, SC 29510
 DL#: SID#:

INDICTMENT/CASE#: 2014GS2200803
 A/W#: 2014A2210800082
 Date of Offense: 3/29/2014
 S.C. Code §: 16-17-0410
 CDR Code #: 0049

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Criminal Conspiracy D-5 yrs.

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] SCB8880 SCB76716
Richardson, Alicia SC Bar# Defendant Wilson, Jr., Ralph J. SC Bar#
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2014GS2200804

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§14-1-206 (Assessments 107.5 %) \$ _____

§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114(BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

1% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: Wendy Rogers

Court Reporter: Grace Hurley

SCCA/217 (04/2018)

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ 20.00 beginning (1) month after

\$ _____ paid to Public Defender Fund release

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge: [Signature]

Judge Code: 2152

Sentence Date: 11-9-2018

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF George
STATE: VS.Randy Collins

AKA:

Race: BLACK Sex: M Age: 48DOB: 08-27-1970 SS#: 251-27-0803Address: 18 Clair StCity, State, Zip: Andrews, SC 29510DL#: 8976089 SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Arson / Arson - First degree minimum of 30 yrs.in violation of § 16-11-0110(A) of the S.C. Code of Laws, bearing CDR Code # 3535☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES:

SCB8880

SCB76716

Richardson, Aneia

SC Bar#

Defendant

Wilson, Jr., Ralph J.
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____, plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2014GS2200803☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk

Wendy Rogers

Court Reporter:

Grace Hurley

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2014GS2200804A/W#: 2014A2210800083Date of Offense: 3/29/2014S.C. Code § 16-11-0110(A)CDR Code #: 3535

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSObtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 20. beginning (1) month After\$ _____ paid to Public Defender Fund release

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 2152Sentence Date: 11-9-2018

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of General Sessions

Larry B. Hyman, Jr., Circuit Court Judge

Appellate Case No. 2018-002056
Lower Case Nos. 2014-GS-22-00803 | 2014-GS-22-00804

RECEIVED
OCT 23 2019
SC Court of Appeals

The State, ... Respondent,

v.

Randy Collins, ... Appellant,

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

E. Brandon Gaskins

E. Brandon Gaskins (S.C. Bar No. 72374)

Moore & Van Allen PLLC

78 Wentworth Street

Charleston, SC 29401

Phone: (843) 579-7038

Facsimile: (843) 579-7099

brandongaskins@mvalaw.com

Court Appointed Lead Counsel for Appellant

Robert M. Dudek, Chief Appellate Defender
South Carolina Commission on Indigent Defense

Division of Appellate Defense

1330 Lady Street, Suite 401

Post Office Box 11589

Columbia, SC 29201

Phone: (803) 734-1330

Facsimile: (803) 734-1330

rdudek@sccid.sc.gov

Co-counsel for Appellant

October 21, 2019
Charleston, South Carolina