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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of General Sessions

DeAndrea G. Benjamin, Circuit Court Judge

Case Nos. 2012GS1040032 and 2012GS1040033

The State, ... Respondent,

v.

Brett D. Parker, ... Appellant.

RECORD ON APPEAL
VOLUME III

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carrying it on their shoulder, I suppose, or in their hands. I did develop DNA from that item. The result indicated a mixture.

Now, when you have an object, obviously multiple people can touch that object. And I will get DNA from multiple individuals on that item.

In this case DNA was developed, and I was able to identify at least -- well, I was able to get an indication that at least three individuals were on that bag, their DNA, at least three individuals contributed DNA to that bag strap.

Bryan Capnerhurst was an individual that was included in that mixture. As a matter of fact, looking at the results this morning, I could see that Bryan Capnerhurst is probably the major person in that mixture.

Q And what do you mean -- let me stop you right there. What do you mean by a major person in the mixture, or contributor?

A Well, when we get the DNA profile from individuals in a mixture, you can sometimes indicate whose DNA is the most there. Okay. The most will be indicated.

It's a readout with peaks that go up a scale. The larger the peak, the more DNA is present. The

smaller the peak, the less DNA is present.

So I can see that Bryan Capnerhurst's DNA, his peaks are, generally speaking, throughout the profile the higher one.

Q Okay. And what determination was made with respect to that?

A The statistical analysis or statistical statement that can be made when we are dealing with a mixture of this sort usually is what we call probability of exclusion.

What we do is say, What is the probability of excluding individuals in the population out there? And with the DNA that I saw from Bryan Capnerhurst, if we were to take a random individual, would that DNA also be in that mixture?

99.997 percent of the time it would not be in the mixture. So I could take a random individual in the Caucasian population. 99.997 percent of the time it would not -- I could determine that it is not in that mixture.

I can say that Bryan Capnerhurst is in that mixture. He cannot be excluded from that mixture.

And I can also say that the other two individuals that I tested in this case are excluded from that mixture. In other words, Tammy Parker

and Brett Parker are not in that DNA mixture from those straps.

Q And the swab from the straps, this is not an area where blood was indicated, correct?

A That's correct.

Q So is this more consistent with something such as touch DNA or sweat, or something other than blood?

A Right. And you mentioned sweat. And that is an excellent carrier of skin cells. So if you sweat on an object, there is a likelihood that you will transfer some skin cells as well. The sweat itself is a salt solution, but it can carry skin cells.

Q And, again, just because I touch an item doesn't necessarily mean that I am going to leave my DNA?

A No. You can actually touch an item and not leave your DNA. I have examined thousands of touch samples in our laboratory. The majority of work we do is burglary cases, which involves breaking into a house, leaving smudged fingerprints, rummaging through objects, pulling wires apart to get the TV out of the house, and things like that.

And the majority of the time I would say that the perpetrator does not leave DNA. However, there is a significant amount of time where he does where it makes it worthwhile to test for it.

Q That kind of leads us into Item 51, the swab from the bag zipper. Can you tell us about that?
A Yes. The swab from the bag zipper itself, again, I guess the presumption is that any individual that may have zipped and unzipped the bag, maybe we can get their DNA on that object. However, on the bag zipper, there was no DNA extracted.
Q So the testing at that point ended. No DNA was collected from the zipper?
A That's correct.
Q And then Item 52, tell us what that is and what your results were.
A All right, this is the swab from the inside of the chamber of the 9-millimeter Smith & Wesson that our firearms examiner brought to my laboratory. I asked her to swab what looked like a reddish stain.

I tested that for blood since it was reddish. And she indicated, and it looked like to me that it could be blood based upon a visual examination. I tested it and it was -- it did give a positive result for our presumptive test for blood.

Just because it is positive doesn't mean it is blood, but there is a strong likelihood that it is blood. There are -- there is substances in the world that can give you a false positive.

But it is very, very sensitive. So at times it can actually pick up trace amounts of blood. It is more sensitive than DNA extraction itself. So in this case -- and when I extracted it for DNA, I did not get any DNA from it.

Q And the purpose, or one of the reasons is not necessarily the nitric acid as we have in the swabs, correct?

A No. No, this was the gun itself. There was no nitric acid applied to it as far as I'm concerned.

Q And were these all the items that you tested and their conclusions?

A It was.

Q Okay.

(Witness returns to witness stand.)

Q If someone were to touch an item on a daily basis, such as a gym bag, I carry it to and from work back and forth, would it be likely that my DNA would be on that item?

A Yes. I believe that the more times you handle an object, touch an object repetitively, the greater likelihood that your DNA is building up on that object.

Q And the swab from the bag strap where the DNA was extracted, Bryan Capnerhurst, that was a mixture of

three individuals?
A Yes, I could see that there were three individuals. I could see that Bryan was the major individual. So I would surmise that he is the one who was handling this object most of the time.
Q And so -- you answered my question. So as far as his DNA, presumably if he carried that often, you would expect to find his DNA?
A That's correct. I'm sure you would find DNA on my bag as well.
Q Tell the jury, can you time DNA with respect to how long it's been on an item or when it was placed there?
A Generally speaking, no. Especially skin cells, you cannot tell how long it has been there. I mean, I might could tell like a semen stain. You know, someone can say that my gown was clean in the morning and now it's got a stain on it.

So that would kind of limit the timeframe. Or if blood was still wet, hadn't dried yet, that might indicate it was fairly recent. But other than that, no, you can't tell.
Q And if the DNA came from a blood source, is it fair to say that that DNA got there when the blood actually made contact with the item?

A Yes. I would say that is true most of the time. There can be a secondary transfer, I guess you might say, of blood to say I handled a bloody object and then touched other objects. And I can certainly transfer that blood.

Q And, again, just because someone touches something, does that mean that they are going to leave DNA?

A If they just touch something without blood all over their hands, that would be probably true, yes.

Q And if I were to wipe off a surface or clean it with a cloth, or something of that nature, would that affect your ability to collect DNA as well?

A Well, you would assume that if it's cleaning up dirt, it's cleaning up any skin cells that might be present as well.

Q And are your results -- are they peer reviewed or does someone else, another analyst, check after you?

A Yes. As part of our certification, we have to show that it has been reviewed by another qualified DNA analyst in the technology that we are using.

We have three DNA analysts, two more besides myself, and one of those two reviewed the case and agreed with my results.

MS. SIMPSON: Beg the Court's indulgence.

(Pause.)

MS. SIMPSON: Thank you.

THE COURT: Please answer any questions Mr. Whitlark may have.

MR. WHITLARK: Yes. May it please the Court, Your Honor?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WHITLARK:

Q Mr. Barron, what was the date that you did the analysis you have been talking to us about?

A I recorded the date that I reviewed the analysis. Obviously, it's a long process. It can take several days, sometimes weeks. But I began processing Items 5 -- well, let's say the buccal swab from Tammy Parker, the buccal swab from Bryan Capnerhurst, the two GSR swabs from the 9-millimeter Smith & Wesson, the swabs from the bag straps, the swabs from the bag zipper, and I began those on April the 17th.

Q Okay. You did some subsequent testing sometime -- you issued your results when, in September, or something like that?

A The date of the official report that had been reviewed is September 19th, 2012.

Q All right. And what does that mean? Why is there a gap there? I mean, can you explain that?
A Well, I'm working on hundreds of cases at the same time. I am in the process of running -- starting analyses on batches of material, picking up other batches as well. And as they go through the process, while one batch is in one level of the process, I may be starting another.

I may be out for a while. I may be away for education. The reviewer themself has to find time to review the case before the official report is issued. So there can be weeks and months sometimes before the actual report is officially released.
Q Okay. Now, I think you have mentioned something about nitric is not a good thing as far as getting as a result on DNA, is it?
A That is correct.
Q All right. Well, how did nitric acid get on what you're talking about in this case?
A Nitric acid was from the gunshot -- the swabs were intended to be run for the gunshot residue. There is two types of samples collected from gunshot residue.

One is nitric acid swabs, and the other is -- for swabs to be extracted in nitric acid. The

other is sticky disks that are dabbed on the hand to pick up particles for gunshot residue.

Q What are we dealing with here?

A These were swabs that had been treated with nitric acid.

Q And who had the nitric acid?

A Not me. They were --

Q CSI?

A Nitric acid I know is applied at SLED.

Q Okay. And you work at Richland County, though, don't you?

A That's correct.

Q Do you know who took the samples for GSR in this case?

A No.

Q Well, would it surprise you to hear that the Richland County CSI did it?

A Who took the actual samples from individuals themselves?

Q Yes, sir.

A No, I wouldn't be surprised, no.

Q And they have nitric -- they have the nitric acid, right?

A They have GSR kits which include nitric acid.

Q Okay. Well, I guess my question to you is that:

Do you conclude that nitric acid destroyed your ability to take a DNA sample in this case?

A That is correct. I researched that and it showed that nitric acid is used to strip DNA apart for various research reasons.

Q Okay. What can you use to wipe DNA off with? What's a good substance to do that with?

A To collect DNA with?

Q No, to clean it off from a substance.

A In our laboratory we use -- well, you can use bleach. We have something called Amphyl, which is a disinfectant. It has various organic chemicals in it that we clean the surfaces in our laboratory to destroy any DNA residue that might be present so they won't contaminate any other evidence.

Q As a matter of fact, that is a procedure you follow, isn't it, that you regularly do that to keep -- to cleanse your lab, right?

A That's correct.

Q Now, what about if I want to use a substance to wipe something off with? I mean, can I use a tissue? Can I use any household item there is? I mean, what will lift it off? DNA, I'm saying, touch DNA.

A Any type of friction applied to it may remove it,

any type of water, anything spilled on it and cleaned up, anything like that.

Q Okay. Are you aware of how many Richland County CSI personnel handled this bag in this case?

A Handled the duffel bag, or whatever it was, type of bag?

Q Yes.

A I have no idea.

Q Are you aware that they had rubber gloves on when they were opening and shutting it?

A They should have.

Q Okay. And that can wipe DNA off, can't it?

A Can it wipe it off?

Q Yes.

A It could. I mean, I don't know. The skin cells are not visible. All I do is see if they are there or not.

Q Okay. All right. You know that they -- that the CSI in this case opened and closed this bag, right, with gloves on?

A I do not know. I was not there when they -- if they did that, and I did not observe anyone doing that.

Q Well, that could be an explanation for why you found none on that zipper, couldn't it?

A Well, if they did do that without gloves on, they should have found their DNA.
Q No. They had gloves on. They have all stated that.
A Could it have been wiped off by handling it?
Q Yes.
A It could have.
Q All right. They never brought you a UMC box of shells, did they? Did you examine the DNA off of a box of shells?
A No. None of the items that I tested are labeled, swabs from box of shells.
Q Okay. And if you had a fingerprint, a fingerprint would be a good source of DNA, wouldn't it?
A I have gotten DNA from smudged fingerprints. Usually if a fingerprint is identifiable, they don't bother with touch DNA.
Q Okay. Well, they didn't bring you a box of shells here to try to do that in this case, did they, sir?
A No.
Q That's all the questions I have. Thank you.
THE COURT: All right, anything else from the State?
MS. SIMPSON: Nothing further from the State, Your Honor.

THE COURT: All right, sir. You may step down.

(Witness steps down.)

MS. SIMPSON: Your Honor, may the witness be excused?

THE COURT: Any objection to this witness being excused?

MR. WHITLARK: No. No objection, Your Honor.

(Witness excused.)

THE COURT: Call your next witness.

MS. CAMPBELL: The State would call Investigator Trish Odom.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: I do.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your full name for the record. Spell your last name, please.

THE WITNESS: Trisha Collins Odom. The spelling on my last name is O-D-O-M.

TRISHA COLLINS ODOM

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Investigator Odom, where are you employed?

A At the Richland County Sheriff's Department.

Q And what do you do there, ma'am?

A I am the senior latent analyst for the crime scene latent print section.

Q And as a senior latent print examiner, what do your duties include?

A My primary duty is to take a look at any of the latent prints that have been collected from crime scenes by our crime scene investigators, also by our regular road deputies, and compare them to a known source to see if I can determine where they came from.

Q Can you tell the jury a little bit about your education and your training in the field of latent print comparison?

A Sure. I have a degree in criminal justice from the University of South Carolina. I became a certified law enforcement officer in 1995 with the City of

Forest Acres. I was a patrol officer for the City of Forest Acres for four years and then came to the Richland County Sheriff's Department as a patrol officer.

In December of 1999, I got promoted to the crime scene latent print section and began my internal training. Along with the internal training, I attended several classes.

That included the chemical development and enhancement of latent prints, advanced palm print identification, basic fingerprint training, ID technician school, forensic ridgeology, the recovery of fingerprint evidence from human skin, and complex latent print examination.

Q And have you testified before as an expert in latent print comparison?

A I have.

Q And approximately how many times have you been qualified as an expert in that area?

A Twenty-four.

MS. CAMPBELL: Your Honor, at this time we would offer her as an expert in latent print comparison.

THE COURT: Yes, sir.

MR. WHITLARK: Voir dire the witness?

THE COURT: Yes, sir.

VOIR DIRE EXAMINATION

BY MR. WHITLARK:

Q Is it lieutenant?

A No, sir, it's investigator.

Q Hey, Investigator Odom. Are you related to any Odoms that work at Richland County?

A I am. I'm married to one.

Q Who are you married to?

A Lieutenant Odom.

Q Okay. And you went to school for this and studied for this?

A For latent prints specifically?

Q Yes.

A That's not what my degree is in, no. My degree is in criminal justice. I started my on-the-job training when I became promoted to an investigator in 1999.

Q Okay. How long have you been doing what you're talking about here today?

A Since 1999.

Q Okay. And have you been qualified as an expert previously?

A Yes, sir.

Q How many times?

A Twenty-four.

MR. WHITLARK: No objection, Your Honor.

THE COURT: All right. Ladies and gentlemen of the jury, Investigator Trisha Odom will be qualified as an expert in the area of latent print comparison.

Yes, ma'am.

MS. CAMPBELL: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUES

BY MS. CAMPBELL:

Q Investigator, tell this jury, when you receive evidence in a case such as a fingerprint collected at a crime scene, what you need and how you go about making comparisons.

A Well, the first thing I do is I try to determine whether or not it is actually of value for comparison.

If you think about fingerprints, if you look at your fingers, the lower digits of your fingers and the palms, you'll see they have all these lines all over it.

We call these lines ridges. And what I'm looking for to determine whether or not a fingerprint is of good quality to compare is these ridges and the small details that are on the

ridges.

As the ridges flow, they don't just flow in continuous lines. They actually will stop and start. They'll split off and some will be so tiny that they look like just a dot.

So the specific things that I'm looking for are the forefinger, which we call the bifurcation where the ridges end, which we call either ending ridges or ridge endings. And the ones that look small, we just call those dots.

And I am looking for those specific characteristics on the latent prints, and that is what I'm looking for in the known prints too.

Q Okay. And with fingerprints and/or palm prints -- in this case we are talking about fingerprints -- are those unique to each individual?

A They are.

Q So is anyone else going to have the same fingerprints I do?

A No. As a matter of fact, all ten of your fingers are going to be different.

Q From each other?

A Yes, ma'am.

Q As well as from everyone else?

A Yes, ma'am.

Q And even with identical twins, do they have different fingerprints?
A They do.
Q So a fingerprint is actually unique. And you mentioned that each different finger has a different print on it?
A That's correct.
Q And the print is comprised of a series of kind of a pattern?
A Right.
Q And explain that again.
A There are -- on your fingers you have three basic pattern types. You could have all three of them. You could have only one pattern representing all ten of your fingers. But the basic pattern types are the looping formation.

And that is when you see the pattern start from one side of the finger, goes upwards, and then loops back around and exits out the same side of the finger. That is called the wicking pattern.

We also have a pattern that is -- it is circular, and we call that a whirl.

And then we have a pattern type that is called an arch, which the pattern flow starts on one side of the finger. It tends to go upward and it comes

back down and exits off the other side of the finger. And those are the three basic pattern types that each person has.

Q And in order to do a comparison in your laboratory, do you need some known prints before you yourself can do a comparison?

A That's correct.

Q And in this case I want to show you State's Exhibit Number 407, 440, and 439 and just ask if you recognize those.

(Pause.)

A Yes, I do.

Q And are those known prints that were provided to you in this case?

A They are.

MS. CAMPBELL: Your Honor, at this time I believe 407 is in evidence. We would offer 439 and 440, which are the known prints of Tammy Parker and Bryan Capnerhurst?

THE COURT: Any objection?

MR. WHITLARK: No objection, Your Honor.

THE COURT: All right. Those will be entered without objection.

(WHEREUPON, State's Exhibit No. 439 was marked for identification and received

into evidence.)

(WHEREUPON, State's Exhibit No. 440 was marked for identification and received into evidence.)

BY MS. CAMPBELL:

Q State's Exhibit Number 407, what does it say that you received in this case?

A It's one set of elimination prints from Brett Parker.

Q And that's Brett Parker?

A Yes, ma'am.

Q And then in State's Exhibit Number 440, what does it say that you received?

A One set of post-mortem fingerprints, T. Parker.

Q And, finally, 439, what does that indicate?

A That is post-mortem fingerprints, B. Capnerhurst, and post-mortem palm prints, B. Capnerhurst.

Q Tell this jury, is it unusual for fingerprints to be collected at an autopsy for purposes of elimination or inclusion at a later time when you do a comparison?

A Actually, collecting post-mortem fingerprints is part of the autopsy protocol.

Q Because it can be used for identification?

A Sure.

Q As well as comparison in a criminal case?
A That's right.
Q And in this case you received certain cards which had their prints? How are the prints actually collected?
A The post-mortem prints are collected by inking the actual fingerprint with an ink pad. And then there is a piece of equipment that looks a lot like a spoon, but there is a strip about this wide (indicating), about that high (indicating), and it is set into the spoon.

And as the fingerprint is inked, the finger is actually put into the spoon, so it wraps around the fingerprint to try to get as much of the ridge detail as you can.

And then you move the piece of paper that you are collecting it on as you go through each finger and collect each finger, and then that strip of post-mortem prints is adhered to a fingerprint card.

Q And I show you what is coming out of State's Exhibit Number 439, which are the known fingerprints from Bryan Capnerhurst. Is that how it's done?
A That's correct.

Q And then it's just transferred onto a piece of paper such as this?
A Right. That's an applicant card, I believe -- I'm sorry, an identification card.
Q And in each one of the little squares where you see the separate fingerprint, does it identify which finger that it comes from?
A It does.
Q And with a person who is still alive, how are the prints collected?
A The way that we do them is typically we will use our LiveScan system, which is just a system by which we can electronically capture the fingerprints, so there is no ink.

But it is the same process that you would use, except for instead of putting the spoon in, you would actually start on one end of the finger and roll it to collect, in theory, everything from nail to nail on each finger. And you're given a specific place to put each finger on the fingerprint card.

Q And I show you State's Exhibit Number 407. If you can open that for me, which are the known prints from whom?
A It is one set of elimination prints from Brett

Parker.
Q Here you go.
(Pause.)
Q And are those the prints that were provided to you in this case?
A They are.
Q And that is the known set of prints from Brett Parker?
A That's correct.
Q And, again, on the individual things, are those identified depicting which finger the print was collected on?
A That's correct.
Q And anyone as a crime scene investigator can collect those?
A That's correct.
Q Once you had received certain known prints, did you also receive additional, what is referred to as latent prints?
A That's correct.
Q And what is the difference between what we are calling a latent print and a known print such as a fingerprint card?
A Well, latent prints that we get are really just the unknown prints that are recovered from a crime

scene.

When you work a crime scene, you can get about three different kinds of fingerprints, but we put them under the umbrella of calling them latent prints.

Now, there are latent prints. And latent prints are just unseen. So you have to do something to see them, like apply powder to them, to be able to see them.

And then there are other prints that you can see that are visible immediately, like they could be in blood or mud, or something else like that.

And you have a plastic print, which is a 3D impression in some sort of soft surface, like silly putty or even cheese or chocolate. You can see it. The next time you have a piece of chocolate, put your finger on it, and you will see a 3D impression of your fingerprint in it.

But all three of those types of fingerprints are, for crime scene purposes, under the umbrella of latent prints. So the latent prints that we refer to are actually the unknown prints that we are trying to identify; whereas, the known prints are standards that have been taken for the purpose of comparison.

Q And in a crime scene, is every surface necessarily going to be able to retain a print?
A No.
Q And explain to the jury the reason for that.
A Well, there are a lot of different reasons that you might not get a fingerprint on a particular surface, like if you think about the dashboard of your car, most of them have that kind of grainy surface. Well, that is so you don't see fingerprints.

So it can be harder to see a fingerprint or to leave a fingerprint behind on a textured surface like that. It doesn't mean it's impossible. It just means that it's harder to do that.

If the surface is dirty, it's going to be harder to leave a fingerprint behind, because there is already a substance on there, so the fingerprint is less likely to be left behind.

You also have to think about the condition of your hands. Fingerprints are -- latent fingerprints are primarily made up of oils and moisture. But if your hands are typically cold, like mine are, you're not going to be sweating as much, so you are not going to be as likely to leave a fingerprint behind.

I kind of describe fingerprints as one of those ink things you get from a craft store. It makes that same impression over and over again as long as it's inked the same way every single time. If you don't have any ink per se on it, you are not going to leave a fingerprint behind.

Or, conversely, if you use it over and over and over again on the same surface, what is going to happen is all the area that doesn't have the ink on it is going to get filled up subsequently as that stamp comes down on the area and then fills it with the ink.

Q So if an item is handled over and over, it may obscure any possibility to be able to get what is known as a known print?

A That's correct.

Q Does the surface itself -- you just mentioned if someone -- say, if a surface is such as cloth or that is pliable, it is harder or almost impossible to get any kind of print from?

A It's a lot harder. I would never say that it was impossible, but it's a lot harder.

Q In addition to that, say, if I walk up and even if I put my finger down and touch a smooth surface, am I necessarily going to leave a print there?

A No.
Q Why not?
A Well, it could be that there are other fingerprints or it could be that you are not producing enough oils or sweat to leave it behind.
Q In that same manner, if -- are you familiar with the term of what is a smudge?
A Yes.
Q And is that a common occurrence in your business?
A Sure. Because you don't -- it is -- when we collect known fingerprints, it is in a controlled environment where we actually have control of the person's hand, and we carefully roll them.

But when you touch something, you don't always -- you don't put it down like that (indicating) most of the time. It's going to be with some sort of motion and pressure. So a lot of times the detailing is going to get obscured.

Q And if a known print is gotten, you actually apply ink in order to memorialize that, so there is at least something you know that is on that?
A Well, in the case of these, these were actually digitally taken on a LiveScan system, which takes a photograph of the ridges, which it performs the same function as the ink.

Q So, in theory, it performs the same function as the ink?
A Yes.
Q And I want to hand you up State's Exhibit Number 406 and ask if you recognize that?
A Yes, I do.
Q What is that?
A These are latent fingerprints that Sergeant Richards collected from 12 Tackeria Court, and he submitted them on April the 16th, 2012.
Q And those were supplied to you?
A They were.
Q And how many total prints are there on there?
A There are a total of three latent fingerprints on two cards.
Q And once you received that evidence, what, if anything, did you do in this case?
A I try to determine whether or not any of the known prints that we had were the same source as the latent prints, or rather whether the latent prints were made by the same source as any of the known prints that we had.
Q Prior to making any kind of identifications, the quality of the fingerprint that is collected, say, from a crime scene, does it have to reach a certain

standard for you to be able to make a comparison?
A You have to be able to see a certain amount of detail in order to be able to make a positive identification.
Q And taking these two different cards that were submitted to you, as collected by Sergeant Richards, can you explain to the jury what you found upon your initial examination?
A We have one that is of identifiable quality. We have a second one that is -- you can see some bit of ridge detail in it, but I don't believe it's identifiable. It could possibly be used for elimination purposes. And the third one was of no value for any kind of comparison.
Q Okay. And taking those in the converse order, when you say it is of no value for any kind of comparison, what are you saying? What do you mean?
A There is not enough detail in there to even begin trying to make a comparison.
Q And you actually have two cards that were submitted?
A Yes, ma'am.
Q And can you point out to me on which card the one of absolutely no value was taken in comparison?
A This (indicating) is the card. This card is

numbered L-2. And the latent prints are Sub-numbered .1 and .2. It's L-2.2 that is of no value.

Q L-2.2?

A Yes, ma'am.

Q And where is that located on this card approximately?

A It is right there (indicating).

Q If I put my finger right there (indicating)?

A Yes.

Q And that one just simply did not have enough detail of any sort for you to do anything with?

A That's right.

Q Is there a second fingerprint on this card that is L-2, which is denoted with a .1?

A Yes, ma'am.

Q And an arrow here (indicating) above it?

A Well, actually the print is directly below the .1. The arrow should be the direction or the orientation arrow that Sergeant Richards put on it.

Q Okay.

A But where my finger is right there (indicating).

Q You have got to transfer my finger and put it where you say.

A There (indicating). It would be a little bit

lower.
Q And this is the second fingerprint?
A Yes.
Q On that same card L-2?
A Yes.
Q And what was the condition of this when you did your initial examination?
A I'm sorry? I don't understand your question.
Q What did you find when you looked at this fingerprint?
A That particular fingerprint? There is some ridge detail in there. You can see that there are ridges, and you can see the approximate center of the pattern, which is called the core.

And you can see another area called the delta, which is where the pattern diverges, sort of on the right-hand side of the fingerprint.

I can see that between those two areas there are several ridges, but I can't see any ridge detail on it beyond that.
Q And based on your expertise, are you able to come to any conclusions when comparing this to the three print cards provided to you?
A No, ma'am.
Q Why not?

A Because I can't -- I can neither identify nor can I eliminate any of the folks that we looked at in this case. I wouldn't be able to eliminate anybody who had a core and a delta on the right-hand side with several ridges in between those.
Q And of the three known fingerprint cards submitted to you, they all have that characteristic within them?
A On at least one finger, yes.
Q So you can't exclude anyone?
A No.
Q Tammy Parker, Brett Parker, or Bryan Capnerhurst?
A No, ma'am.
Q Nor include them?
A That's correct.
Q Simply, it is not a good enough print?
A That's right.
Q The second card that was provided to you, which has been marked as L-1, how many prints did it have?
A It has one.
Q And do you have that card before you?
A I do.
Q And can you show me so I can show the jury where that print is located?
A You see where the crease is? It's immediately to

the left of the crease.
Q So if I go like this (indicating), am I pointing to it?
A Yes.
Q When you're doing these examinations, too, are you doing them just like we are here in court, or are you using certain machinery or something to help you?
A Typically what I will do -- and in this case what I did -- was I'll take the latent print card. You see where the crease is. The crease is where I folded the card so that I can put it up close to the known print so that I could compare them visually side-by-side.
Q Uh-huh.
A And that is what I did in this case. And began looking for basic pattern types to see if it was in agreement with any of the folks that we were comparing it to. And then started looking for the individual characteristics.
Q And in this case, how did you go about either including or eliminating anyone's prints from being the contributor on this card?
A I was able to determine that Ms. Parker did not make it. I was able to determine that

Mr. Capnerhurst was not -- did not make it. And I subsequently determined that the left finger on Mr. Parker's -- I'm sorry -- the left thumb of Mr. Parker was the source of that fingerprint.

Q And which thumb -- which print is that on here?

A That is the left thumb right there (indicating).

Q And, specifically, are there points of identification that you were able to, in your expertise, determine matched his known prints?

A Yes.

Q And do you know how many approximate points of determination you were able to do?

A No, there is no standard number. There were no points of dissimilarity that I could find in a print. And there were enough points of similarity that I was able to say that it was made by the same source.

Q So it wasn't just one or two points of similarity?

A No, ma'am. We have at least 10 or 12, if not more.

Q And in your expert opinion, the latent print that was submitted to you by Sergeant Richards -- which is L-1, right?

A That's correct.

Q Whose print was that?

A It is Brett Parker's left thumb.

Q Left thumb?
A Yes, ma'am.
Q Once you made this determination, did you then issue a report in this case?
A I did ultimately issue a report, yes.
Q With the findings you just shared with the jury?
A Yes.
Q And was that report reviewed and were your findings reviewed, as well as the comparisons?
A Actually before we even start writing a report, we have a second qualified latent examiner who goes over all of our findings and makes sure that they agree with us. And that happened in this case.
Q So she actually reviewed your print match?
A She did.
Q And she concurred with your conclusions?
A Yes.
Q Which eliminated Tammy Parker and Bryan Capnerhurst?
A Yes.
Q But the print collected off that ammo box matched Brett Parker's which finger?
A It was his left thumb.
Q If someone touches an item and it happens to be a useable print, is it going to stay there forever

necessarily? What are the factors involved in that?

A In a completely sterile environment, if you put a fingerprint on an item and then put it in a plastic box and put it on a shelf, it can remain there for years.

We have had occasion to be involved in cases that latent fingerprints were collected seven or eight years after the crime occurred, and I have seen research that there have been prints that have been identified or developed 20-plus years after they were left.

Q In a sterile environment?

A You know, in a completely controlled sterile environment, yes.

Q But the reality of the world when things are handled or moved around or touched again, what happens to those fingerprints?

A Sure, they get destroyed.

Q And, in fact, is it hard at all to obscure what may be a known print?

A No.

Q And if someone handles a box or and hands it to someone else, they will be touching that box --

MR. WHITLARK: Your Honor, I object to the

leading of the witness.

THE COURT: Sustained.

BY MS. CAMPBELL:

Q What happens when multiple people handle an item?

A It's going to be very similar to when you have that ink stamp. You move it a little and you move it a little and you move it a little. Instead of you seeing that pattern in there, what you are going to see is essentially an ink blot. At some point it becomes obscured.

Q And would you characterize -- or how would you characterize fingerprint evidence, especially latent evidence from a scene?

A I mean, it's fragile.

Q Thank you.

MS. CAMPBELL: I have nothing further.

MR. WHITLARK: Your Honor, we have a matter of law to take up with the Court.

THE COURT: All right. Ladies and gentlemen of the jury, I'm going to send you all back for a moment. I'm not sure if we are going to take a lunch break or not. I'll see how long this is going to take.

If it's going to take some time, I will go ahead and send you all to lunch. But I'll have the

bailiff come back and let you know in a second.

All right. Thank you.

(WHEREUPON, the jury retires to the jury room at 1:03 p.m.)

MR. WHITLARK: May it please the Court, Your Honor?

THE COURT: Yes, sir.

MR. WHITLARK: Your Honor, apparently I was mistaken in listening to the testimony of the witness in that she had a subsequent report other than the report that is dated April 20th, 2012.

And I thought I misunderstood her because her testimony didn't seem to be the same as the report. And I thought I heard her say she did a supplemental report.

THE COURT: All right. You can ask her.

THE WITNESS: No, sir.

MR. WHITLARK: Okay.

IN CAMERA EXAMINATION

BY MR. WHITLARK:

Q All right. I thought I heard you testify you did a supplemental report that you had eliminated Capnerhurst and Ms. Tammy Parker?

A If you are asking about why that is not reported on the report, because you can see on my bench notes

where I first -- I first got the known prints of Ms. Parker and Mr. Capnerhurst. We didn't get the known prints from Mr. Parker until after I had already completed that.

Q Do you have a subsequent report?

A No, sir.

Q Just this?

A Yes, sir.

Q But your testimony is varying from this?

A No, sir.

Q It's not?

A No, sir.

Q It says it's inconclusive as to Parker, Brett Parker, Tammy Parker, and Bryan Capnerhurst?

A Yes, sir, that was L-2.1.

Q Right.

A Right.

Q Okay.

MR. WHITLARK: My mistake, Your Honor. I thought she said she had a supplemental report. I'm sorry.

THE COURT: All right. Are you done with this witness?

MS. CAMPBELL: He has to cross.

THE COURT: No, are you done?

MS. CAMPBELL: I'm done.
THE COURT: All right.
MS. CAMPBELL: He can go ahead and finish her.
MR. WHITLARK: No, I'm not going to cross her real quick, Your Honor. I have 30 minutes at least of cross-examination.
MS. CAMPBELL: We can still go ahead.
MR. WHITLARK: That's fine. Whatever you want to do.
THE COURT: We'll keep moving and then we will take a break after this witness.
MR. WHITLARK: Okay.
THE COURT: I hate to stop in the middle of a witness.
MR. WHITLARK: That's fine.
THE COURT: You can bring them back in.
(WHEREUPON, the jury came into open court at 1:05 p.m.)
THE BAILIFF: The jury is seated, Your Honor.
THE COURT: Ladies and gentlemen of the jury, we'll proceed with cross-examination of this witness by Mr. Whitlark.
MR. WHITLARK: May it please the Court, Your Honor?
THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WHITLARK:

Q Investigator Odom, is that correct?
A Yes, sir.
Q Are you related to the Officer Odom in this case?
A Yes.
Q All right. What is your relationship with him?
A We're married.
Q How long have you been married to him? How long have you been married?
A Almost six years.
Q Okay. Did he discuss with you the fact that he had moved the Smith & Wesson 9-millimeter handgun out of Bryan Capnerhurst's hand?
A He told me that he had, yes.
Q Okay. Did he tell you anything else about it, anything else he had done at the scene?
A I believe we discussed it, but I don't recall specifically what he said.
Q Well, did you discuss it more than once?
A Yes.
Q Okay. You did a report in this case requested by Major Smith, is that right?
A I don't know that it was specifically requested by him. It's just our standard practice that whenever

we have a comparison, we'll do a report. And I generally write it to whoever the case is assigned to.

Q Okay. Now, you just testified that the results of your test -- and you correct me if I'm wrong -- are inconclusive as to Capnerhurst, Tammy Parker, and Brett Parker on your sample L-2.1, is that correct?

A That's correct.

Q And do you agree with Sergeant Richards that based on that, you can't eliminate Bryan Capnerhurst as touching that box, can you?

A No, that's correct.

Q Right. You cannot -- you cannot eliminate him?

A Yes, that is exactly right. I'm agreeing with you.

Q All right. All right. And are you aware that Brett Parker told the police, Yes, I gave him this gun and this box of shells? Are you aware of that?

A Yes.

Q Okay. How do you know that?

A Discussion of the case.

Q With who?

A Within the crime scene unit.

Q Okay. Did y'all have a discussion in the case that a gentleman from North Carolina named James Morgan had called the investigators down there on the 13th

of April, 2012, and told them a number of things about this case?
A I have never heard of that person.
Q Okay. Have you heard that they got a call from somebody while they were out there that day?
A No, sir.
Q Okay. All right. Have you thought of how many people have actually touched that box of ammunition?
A No. I mean, I haven't given any specific thought to it, no.
Q Let's think about it a little bit. The person who sold it, right?
A Right.
Q The person who bought it we know, right? At least we have got two right there. Based on what we know about this case, there had to be at least maybe three or four other people, right?
A Probably.
Q Well, you didn't see any other fingerprints on there or find any other fingerprints on that box?
A Well, I didn't process the item for fingerprints.
Q I know. It was done by Richards?
A Sergeant Richards turned them in and then I got them from evidence, yes.

Q That's right. And when you finished this -- this was given to you. This was probably given to you before the report was completed on the 20th, right?
A The items of evidence?
Q Yes.
A Oh, yes, sir.
Q It was a box of shells, wasn't it?
A No, sir. I got the two fingerprint cards. I've never seen the item of evidence that you are referring to.
Q Oh, okay. Well, do you know whether or not they sent the box of shells over to see this scientist we just -- did you see this gentleman testify before you?
A Yes, sir.
Q Did y'all send that box over there so they could do a DNA sample?
A I have never had custody of the item -- any items other than the fingerprint evidence.
Q Okay. Do you have your report with you?
A Yes, sir.
Q What is the date of your report?
A April 20th.
Q Okay. What was the incident date?
A It was April the 13th.

Q Now, this is a typed report that's dated on the 20th. You probably -- do you think maybe you were finished maybe a couple of days before or a day before or something?
A Actually, if you look at my bench notes, you'll see that I began the comparison on April the 17th, and I ultimately concluded it on April the 18th.
Q How did you come to type this report? Where did you get the information to type the report from?
A Specifically?
Q Yes, the stuff you filled in up there, like who it is, who it came from, and all that stuff.
A I get all of the information off of the items of evidence. I'm sorry, if you could specify what you are referring to, I could answer that better.
Q Do you have your report in front of you?
A Yes, sir.
Q At the top left corner of the report it says, Major Stan Smith, doesn't it?
A It does.
Q And the dated -- you dated it April 20th, 2012. You dated it, right?
A That's correct.
Q The incident date was on the 13th?
A That's correct.

Q Okay. Now, down where it says report type, initial, would you mind reading to the jury what is on the left and right side of that exhibit?
A Victims are Bryan Capnerhurst and Tammy Parker; and the subject is Brett Parker.
Q And you know because of your many years in law enforcement that when they say subject, they mean suspect, don't they?
A That is not necessarily true. Usually the subject is whoever we're comparing to. Like, for example, if we were to get a hit off of a law enforcement officer, they would be listed as a subject as well, but not necessarily a suspect.
Q Ma'am, you have Bryan Capnerhurst listed as a victim in this case, don't you?
A I do.
Q And you have Tammy Parker as a victim?
A Yes.
Q And then you've got Brett Parker as the subject, don't you?
A Yes.
Q And they didn't take that box over to the DNA lab to have it tested?
A Sir, I have never had anything to do with anything other than the fingerprint cards, the known

fingerprint cards, and the latent print cards. I have no idea what else happened to anything else.

Q Did you talk to Major Stan Smith, sitting right here, when you got the results back on this, when you came back with your results?

A I do not recall.

Q Do you know whether or not he told you to give him -- give you a rush back on it?

A No, I don't -- I don't recall him ever saying that to me.

Q Okay. And the only fingerprint you got were two off the side of the box, right? That is all you got, right, what is on that report?

A That's right.

Q But there had to have been others. Wouldn't you agree with that?

A I didn't work the crime scene.

Q Well, I'm just asking you just in your experience in law enforcement, there had to be other fingerprints on that box, didn't there?

A No, not necessarily.

Q Okay. But, again, you cannot exclude Bryan Capnerhurst as being a person who touched that box of ammunition, can you?

A No, sir.

MR. WHITLARK: That's all I have, Your Honor.
THE COURT: Redirect?
MS. CAMPBELL: Just a couple of questions, Your Honor.
THE COURT: Yes, ma'am.

REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q You listed them as victims. Do you know who all was shot and killed in this case?
A Yes, I knew that.
Q And are those the two listed as victims?
A Yes.
Q And then Brett Parker was listed as the subject?
A Yes.
Q He asked you specifically about eliminating Bryan Capnerhurst from L-2.1, is that correct?
A That's right.
Q Were you able to eliminate Tammy Parker?
A Yes, ma'am.
Q It was inconclusive?
A Oh, that -- I'm sorry, yes. We were -- all three of the subjects were inconclusive.
MR. WHITLARK: Your Honor, I object and ask that that be stricken from the record, that last exchange. She -- it was a leading question, and

she told her the answer to it. And I move to -- I object to it on that grounds and move to have it stricken from the record.

THE COURT: All right. The objection is sustained. Please rephrase the question.

Ladies and gentlemen of the jury, please disregard the last question and the last answer.

All right. Yes, ma'am.

BY MS. CAMPBELL:

Q Did the Defense counsel ask you questions about Item L-2.1?

A He did.

Q And what were your conclusions?

A My conclusions were that -- well, I had the conclusion it was inconclusive to Mr. Capnerhurst, Ms. Parker, and Mr. Parker.

Q All three?

A Yes, ma'am.

Q Not just Mr. Capnerhurst?

A Yes, ma'am.

Q You simply don't have enough to make a conclusion?

A Yes, ma'am.

MS. CAMPBELL: Thank you, Your Honor.

THE COURT: Recross?

RECROSS-EXAMINATION

BY MR. WHITLARK:

Q Again, ma'am, you can't sit up here as an expert, with the training, the background, and the knowledge that you have, and say that Bryan Capnerhurst didn't touch that box, can you?

A No, sir, I can't.

MR. WHITLARK: That's all I have, Your Honor.

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

(Witness steps down.)

THE COURT: Any objection to this witness being excused?

MS. CAMPBELL: Thank you, Your Honor.

MR. WHITLARK: No, none from the Defense, Your Honor.

THE COURT: All right, ma'am, you are free to leave.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: All right. Ladies and gentlemen of the jury, this would be a good time to take a lunch break. We will start back at 2:30. So it's about an hour and 13 minutes, I think.

We'll start back at 2:30. I hope that you have a great lunch.

Thank you.

Remember, keep those badges on while you're at lunch.

Thank you.

THE BAILIFF: Remain seated until the jury leaves, please.

(WHEREUPON, the jury is excused for lunch at 1:17 p.m.)

THE COURT: All right, we'll start back at 2:30.

(WHEREUPON, a lunch break was taken.)

THE COURT: You can bring the jury.

(WHEREUPON, the jury came into open court at 2:42 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Ladies and gentlemen of the jury, I hope you had a good lunch. At this time we will continue with the State's case. I will ask Ms. Campbell to call her next witness.

MS. CAMPBELL: Thank you, Your Honor. The State calls John Roberts.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: Yes, I do.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your full name for the record, please.

THE WITNESS: My name is John Gray Dodd Roberts, R-O-B-E-R-T-S.

JOHN G.D. ROBERTS,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Agent Roberts, where are you employed?

A I work for the South Carolina Law Enforcement Division, more commonly called SLED.

Q And what do you currently do there now?

A I'm an arson investigator.

Q And back in the spring and summer of last year, where were you working at SLED?

A I was in the forensic services lab in the trace evidence department.

Q And as part of the trace evidence department, what

do your duties include?

A My duties included the analysis of gunshot residue, of arson fire debris. We do paint, fiber, glass, explosives, bank dye packs, and duct tape. Primarily what I did was gunshot residue.

Q Can you tell this jury a little bit about your education and training in the field of trace evidence?

A Yes, ma'am. I have a bachelor's of science degree in chemistry from Texas A&M, Corpus Christi. When I moved up here to South Carolina, I got my job at SLED. I went through our in-house training program in gunshot residue analysis first.

I studied under my lieutenant, who had been doing gunshot residue for many years before me. I helped him with his cases. I learned how to intake evidence. I learned how to process evidence. I learned how to set up the instrumentation that we use to detect gunshot residue.

I learned how to pull data off those instruments, and I learned how to generate conclusions and reports based on the data that was generated by that instrumentation.

Once I had done that for three or four or five months, I was given an exam, a case to work on my

own, where I was questioned and tested by the other analysts in the lab that had been previously qualified in court as experts in gunshot residue.

Once I passed that test, I was given my own cases to work. This was back in 2005 or 2006. So basically from 2006 until late 2012, I did a lot of gunshot residue, I did a little bit of arson work, but mostly gunshot residue.

Q And have you been qualified before as an expert in trace evidence, specifically as to the analysis of gunshot residue?

A Yes, ma'am, I have.

Q And approximately how many times have you been qualified in that area?

A Sixty-three times.

MS. CAMPBELL: Your Honor, at this time we would offer him as an expert in trace evidence, specifically as to gunshot residue.

MR. WHITLARK: Voir dire the witness, Your Honor?

THE COURT: Yes, sir.

MR. WHITLARK: May it please the Court?

THE COURT: Yes, sir.

VOIR DIRE EXAMINATION

BY MR. WHITLARK:

Q I'm sorry, your name again?
A John Roberts.
Q What's your rank, Mr. Roberts?
A I'm a special agent.
Q Special agent. Okay. When did you stop doing gunshot residue and move over to arson?
A November 2nd, 2012.
Q In 2012? Have you testified -- I believe you said you have been qualified as an expert 63 times?
A Yes, sir.
Q Do you take routine courses and regular courses to update your credentials? Do you have to take a recertification or is there anything like that that you are --
A As far as?
Q No, I'm just wondering. Do you get licensure on this? Do you have any sort of -- every two years you have to get recertified in it, or anything like that?
A Recertified in what?
Q In gunshot residue.
A Every year in the trace evidence department, we take proficiency tests in the analyses that we are qualified to take.
Q Okay.

A I took mine back in 2012.
Q All right. And you're not doing that right now, though?
A No, sir, I'm not.
Q Arson cases. You went to Texas A&M?
A Texas A&M, Corpus Christi. It's kind of like USC Aiken, except it's Texas A&M.
Q Do you know who Richard Ernest is?
A No, sir, I do not.
Q Okay. Who did you study gunshot residue under again?
A Joe Powell.
Q Oh, Joe Powell?
A Yes, sir.

MR. WHITLARK: I don't object to his credentials, Your Honor.

THE COURT: All right, ladies and gentlemen of the jury, Agent Roberts will be qualified in the area of trace evidence, specifically as to gunshot residue to give opinion testimony in that area.

Yes, ma'am.

MS. CAMPBELL: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUES

BY MS. CAMPBELL:
Q Agent Roberts, first explain to the jury, when

you're looking for gunshot residue, what type of testing y'all do at SLED.

A Okay. What we do at SLED is we analyze two different types of sampling media for gunshot residue.

Gunshot residue is the particles that come out of the end of the barrel of the gun, the ejector port if it's a semiautomatic, or the revolver gap if it's a cylinder. And what we're looking for are metals that are encased or contained in the primer.

Now, the primer, if you ever seen a bullet, it's on the back end of the bullet, and it's the little center, different-colored disk on the back of a bullet.

That contains an explosive compound that contains the metals that we look for in gunshot residue.

Now, what we do is we give out gunshot residue kits to any agency in the state who wants them.

And there are two different types of ways to sample for gunshot residue.

The first is a particle lift. And the DNA expert that was in here before lunch explained that they are a silver disk with some sticky on them. That is about what they are. They are an aluminum

disk with double-sided carbon sticky tape. And they are applied like you would you bingo-dab somebody's hands.

I would take the one that is labeled right palm, and I would hold it in this hand. And it is protected with a plastic cover. You peel the plastic cover off and just dab it on the palm of the hands. All right. Put the cover back on. Put that one away.

And then I would take the one that is labeled right back, and I'd go to the right back of the hand. I would do it the same way. And then repeat it two more times for the left palm and the left back.

When I'm done with that, there are tubes and cotton swabs also in the gunshot residue kit. The tubes are just basic cotton swabs -- or the swabs are just cotton swabs.

There is also a small vial with nitric acid. And it is dilute nitric acid. You drip that on the swabs and you apply them in the same areas that you took the particle lifts from: Right palm, right back, left palm, left back.

Then you just dribble a little nitric acid on the swab and you rub it like that (indicating).

Those were also done. And Mr. Barron explained what he did with the ones that were given to him. What we do is completely different roles. That is how we test for gunshot residue.

The instrumentation we use is a little different. We use one set of instruments for the swabs, and we use a second set of instruments for the particle lifts.

In this case the only thing that I tested was particle lifts. I did not test any swabs at all. So my testimony is going to be just to what I tested on the particle lifts.

Q And in this case you mentioned you just tested the particle lifts. Is that pretty common?

A It is now. We're moving away from testing with swabs. What we find when we test with swabs, if there are metals that are from gunshot residue, we find metals. We find lead and we find barium and we find antimony. Those are the metals that are present in that little explosive primer on the back end of that bullet.

What we're doing now is we are just testing particle lifts, because those are conclusive results.

If I test a swab and it comes back with

X-amount of lead and X-amount of barium and X-amount of antimony on it, my report would read: Metals associated with gunshot residue were found.

If I test the corresponding particle lifts and I found spherical, round particles that contain lead, barium or antimony, then I can say gunshot residue was found. And it's very conclusive as opposed to the swabs.

Gunshot residue in a spherical, three-component particle only comes from primer. It doesn't come from anywhere else.

See, the difference between -- I found metals associated with gunshot residue, and, I found metals that were gunshot residue. That is the difference. And that is what we're getting into now in trace evidence is only testing the particle lifts, which is what I did in this case.

Q Okay. And you were explaining to the jury basically how gunshot reside can become positive on a person's hands. In your experience of doing this for the last six years or so --

A Yes, ma'am.

Q -- as far as the initial submissions in this case of the gunshot residue kit -- and I want to show you State's Exhibit Number 408. Do you recognize

that?

A Yes, ma'am. This is a manila envelope with my lab number on it, labeled Container E.

What happens when evidence is submitted at SLED is they take it downstairs and they put this bright yellow label on it.

In this case, this was L-12 because it happened in 2012. And it was case number 4,522. See, it's just a container number. There is more than one thing in here, so it's labeled as a container, not as a specific item.

If I were to open this up, there should be three gunshot residue kits in it. They will all have labels on them that say L-12, 4,522, and the different numbers that they were assigned when they were submitted at SLED.

But each piece of evidence that comes in gets this yellow label with its own specific case number on it, and it stays with it throughout its analysis.

It doesn't matter where it goes, whether it goes to latent prints and then goes someplace else, it keeps that same number so that we can track it throughout the lab.

Q And in a homicide case, is it unusual for you to

receive gunshot residue kits from both the victim and the shooter?

A No, ma'am, it is not.

Q And why is that, sir?

A We want to see who has gunshot residue on their hands, whether they be victim or whether they be a suspect or subject in the case.

Q There have been assertions in this case that the only way you can get gunshot residue on your hands is from shooting a gun. Is that true or not true?

A It is partially true. There are in general three ways that you get gunshot residue on your hands.

You shoot a gun. That's simple. I go out and I shoot at the range and you test me for gunshot residue, and I'll probably come up positive.

One of the other ways that you can get it is you pick up a gun that has been recently fired. If I go out to the range and I shoot my wife's gun and then I take it home and she picks it up because she knows that I have gone and shot it and she is angry with me because I went and shot a gun without telling her, she is going to get gunshot residue on her hands because I went and shot it first and I didn't clean it.

The third way is to be near a gun when it goes

off. If I'm standing next to my wife and we're at the shooting range, and she is just standing there, she is not standing downrange from it, because that is unsafe, she is standing next to me. If her hands are in a position to get gunshot residue on them, she will get gunshot residue on her hands.

In contrast to that, if I am shooting at something, it is going to get gunshot residue on it, because the majority of this material comes out of the muzzle end of the barrel. Whatever you are pointing at, that's where the most of it comes out, and that's where it's going to go.

If I'm shooting at a 3D target, one of those nice fancy ones that departments with a lot of money have that look like a person and they put clothes on it, and you shoot at it because you've got to qualify eventually, there will be gunshot residue on that target if it is within range of my pistol, usually about eight to ten feet.

That is how you get gunshot residue on you in general.

Q You mentioned gunshot residue. And I believe you said the majority of it comes out of the end of the barrel?

A Yes, ma'am, that's correct.

Q But there is also, when you're holding a gun, other that comes out in and around the gun, is that correct?
A Yes, ma'am, that's correct.
Q And can you kind of demonstrate or show the jury generally when it comes out of the barrel how the gunshot residue spreads out or comes out?
A Sure.
Q You can draw it right up there.

MS. CAMPBELL: Your Honor, may he stand?

THE COURT: Yes, ma'am.

MS. CAMPBELL: Thank you.

BY MS. CAMPBELL:
Q Go ahead.

(Witness stands.)

A Now, I am an arson investigator, not an artist. So you will have to forgive me.

(Pause.)

A Can y'all see that?

THE JURY: Yes.

A All right. You shoot a gun. In this case a really ugly semi-automatic pistol. All right. Most semi-automatic pistols have an ejector port on the right-hand side, because most people are right-handed, so it ejects away from their face.

The majority of gunshot residue, like I said, is going to come out like this (indicating). It's going to come out like a cone. If you put a really orange DOT highway cone on the end of your pistol and shot it, that is what it would look like. It just comes out and it keeps spreading and spreading and spreading till it stops.

It also comes out of this ejector port (indicating), because that is an opening. We are talking really high pressures here. This metal gets pressurized and it gets formed into little droplets, and it comes out of there (indicating).

It also comes out right here (indicating) where the trigger goes into the mainframe of the firearm. These two (indicating), not a lot. That is why it's written like that. This (indicating), a lot.

So if you're on the receiving end of the firearm, you are going to get a lot of gunshot residue on you. If you are on the receiving end of the firearm and you're doing this (indicating), all that gunshot residue is going to go on your hands. A lot of it is going to go on your hands, more than if you're sitting there just shooting it or even if you're sitting there shooting two guns.

Q Okay. And you mentioned that that is a semi-automatic you have drawn up there. Is it a similar concept as far as the amount of gunshot residue that comes out when firing a revolver?
A Similar. A revolver, cowboy guns, have a cylinder that spins. There is a very tiny gap in between that cylinder and the barrel right in here (indicating).

I cannot draw a revolver. I can barely draw a semi-automatic. But there is a very tiny gap that let's loose gunshot residue when you shoot it. The cylinder rotates when you shoot again, and it will let out more out of that gap.
Q Thank you, sir. You can take the stand.
(Witness returns to witness stand.)
Q And I believe you mentioned that it goes out and can go as far as eight to ten feet from the end of the gun forward?
A Yes, ma'am, depending on the caliber.
Q And it rises. If a person is in the receiving end of a -- say, a person who gets shot -- if they are within that distance, is it unusual at all for a victim, say, to have gunshot residue on their hands?
A No, ma'am.

Q Such as Tammy Parker in this case?
A That's correct.
Q In this case when you received these three gunshot residue kits, were they packaged properly for you to do your testing?
A Yes, ma'am, they were.
Q And was there any evidence of any tampering or altering to them, other than what was noted as far as the particle lifts that you tested?
A The only other thing was that the gunshot residue information sheets were stapled to the outside, but the kits themselves were sealed and were fine.
Q And do you always look to make sure that there is no evidence of any tampering prior to doing any testing?
A Yes, ma'am, I do.
Q And in this case, taking first the -- let me back up for a minute. As far as gunshot residue, once it gets deposited, say, on a person's hands or anywhere else it could be, is there a time period in which the gunshot residue kit must be collected?
A On a living person there is.
Q On a living person?
A Yes, ma'am.
Q Versus a deceased person?

A Yes, ma'am.
Q Or another piece of evidence?
A An inanimate object, yes, ma'am.
Q Can you explain that to the jury?
A What we have found is that within six hours of a shooting incident, the majority of these metals will disappear to the point where we cannot associate them with gunshot residue.

You may still have lead or barium or antimony on your hands; however, you will not have it in quantities that may be associated with gunfire.

And that is on a living person. And that is because your body absorbs this material.

It's the same as anything that gets on your skin that is in really small size, your body sucks it in.

On a deceased person, however, they are not breathing. Their body is not working. So the material stays on whatever area that it was deposited on until it is physically removed.
Q And even if a person, say, gets gunshot residue having shot a gun or been near a gun as it was fired, is there a way that you can remove that evidence, other than just the passage of time?
A Yes, ma'am.

Q And how is that, sir?
A You can wash it off. You can wipe it off. You can rub your hands on your pants and transfer it from your hands to your pants. You can go shooting at the shooting range, jump in your car, handle the steering wheel, the shift lever, door handles, whatever, and you transfer it off your hands and onto whatever you have touched.

It's a lot like flour that you bake and you get flour on your hands, and if you're like me, it gets everywhere else, but you get it on your hands and then you put your hands under running water and it goes away fast.

Gunshot residue is a lot like that. It goes away fast under running water or simply by touching things.

Q And in this case two of the kits that you received, one from Bryan Capnerhurst and one from Tammy Parker, were collected at autopsy the next day. Is that proper protocol?
A It is, depending on what agency does it. We certainly don't have an issue with them collecting them at protocol [sic] on a deceased person.
Q At the autopsy?
A At autopsy. I'm sorry.

Q And that is done, depending on the agency, on a pretty normal basis?
A Yes, ma'am.
Q Also, when talking about these particle lifts before you get into the results, they are taken from different parts of the hand. Why is that?
A It is -- they are done on different parts of the hand to tell what was exposed to any kind of gun primer.

In general, if you have gunshot residue on the back of your hands but not the palm of your hands, in general that could be consistent with firing a weapon, because the backs of your hands are exposed to the gunfire.

If you have a lot of this material on the palms of your hands and not very much on the backs of your hands and you are deceased, then perhaps you were downrange of the gun with your hands up in the air. And the palms of your hands tell the story that your hands were exposed to that gunshot residue.

Q So the way in which a person's hand may be held could be significant as to how much would get on the hand or --

MR. WHITLARK: Your Honor, object to leading

the witness, Your Honor.

THE COURT: Sustained. Please rephrase.

BY MS. CAMPBELL:

Q What would be significant about how the hand was held on the receiving end?

A Depending on how your hands are held when the gunfire is directed towards you, you may get more, you may get less, or you may get none.

If I'm standing there and somebody shoots at me and I have my hands in my pocket, I'm not going to get gunshot residue on my hands. I will get it on whatever was exposed to the gunfire.

Q And if there is -- or could there be ever in your opinion anything that could block it getting on the hands?

A Yes, ma'am.

Q Depending?

A Depending on the position of the person and the position of your hands. If they're hiding behind a wall, chances are they are not going to get gunshot residue on their hands.

Q And in your testing, do you also quantify the amounts that you find on the hands on the gunshot residue kits?

A We do.

Q And, again, where does the majority of gunshot residue come out of?
A Out of the end of the barrel.
Q The end of the barrel?
A The muzzle end.
Q I want to first turn your attention to Tammy Parker. Did you receive a gunshot residue kit involved with her?
A Yes, ma'am, I did.
Q And what were the results of the gunshot residue kit of Tammy Parker?
A On the right palm -- and remember there are four areas. There are the right palm, the right back of the hand, the left palm, and the left back of the hand. On the right palm, I found gunshot residue. That means that I found spherical or round particles that contained the three elements that I look for all in one. And I found several. So gunshot residue was found on the right palm.

On the right back, I found round lead particles. Round lead particles are a component of gunshot residue. There are other places. There are other producers of round lead particles than gunshot residue -- or than gun primer.

So I cannot say that round lead is gunshot

residue. I can say that it's a component of gunshot residue.

On the left palm, I also found round lead particles.

And on the left back of the hand I found gunshot residue.

Q Gunshot residue on the back of the hands?

A Yes, ma'am.

Q And that was on the left hand?

A The left hand, yes, ma'am.

Q In totaling up and looking at your findings as a whole, would your findings be consistent with Tammy Parker having been shot multiple times?

A If you will give me a chance to look at the numbers.

Q Sure.

(Pause.)

A They could be consistent with that. I found several of each of the different particles on the palms and the backs of her hands. Given that she is deceased, it is consistent with her either being on the receiving end or at least being near a firearm when it goes off.

Q I want to turn your attention to the gunshot residue kit -- and am just taking these in the

order you list them.
A Yes, ma'am.
Q On Brett Parker, what were you findings there, sir?
A On the results from Brett Davis Parker, on the right palm, I found gunshot residue. On the right back, I found round lead particles. On the left palm, I found gunshot residue. And on the left back, I found gunshot residue.
Q And were those findings consistent with Brett Parker having fired a gun?
A They could be, yes, ma'am.
Q And when you're looking at these and the quantities and everything associated, depending on the circumstances, can you tell how many times he would have shot that gun?
A No, ma'am.
Q Is that possible?
A No, ma'am, not to my knowledge it's not.
Q But those findings were consistent with him having fired a gun?
A They could be, yes, ma'am.
Q The final item that you analyzed was the gunshot residue kit from Bryan Capnerhurst?
A Yes, ma'am.
Q And what were your findings there, sir?

A On all four areas -- the right palm, the right back, left palm and left back -- I found gunshot residue.
Q And were those findings consistent with him having been on the receiving end of multiple gunshot wounds?
MR. WHITLARK: Objection, Your Honor.
THE COURT: Sustained. Please rephrase the question.
MS. CAMPBELL: Can we approach, Your Honor?
THE COURT: Yes, ma'am.
(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury.)
BY MS. CAMPBELL:
Q Let me back up. Were you aware that he had been shot multiple times as well?
A Yes, ma'am, I believe I was.
Q And what were your findings consistent with?
A With him being near a gun when it goes off at the very least.
Q In fact, I believe -- how would you characterize the quantities you found on his hands?
A I believe I said a lot. A lot.
Q And what would that be most consistent with of the

three ways you can get it on your hands?
A Being on the receiving end of the firearm or the muzzle end of the firearm.
Q In this case did you also receive additional evidence as far as a gunshot residue kit that was collected from several sets of blinds?
A I did.
Q I'm going to show you what has been marked as State's Exhibit Number 433. Do you recognize that, sir?
A Yes, ma'am, I do.
Q And is that the additional evidence you received in this case?
A Yes, ma'am, it is.
Q And what, if any, requests were made as far as processing that evidence?
A I was asked to check the particle lifts contained in that package for gunshot residue. In this case, and in this particular piece of evidence, they were not from a person and they were not from a vehicle and they were not from somebody's clothing. They were from structures on the interior of the house. And if I can -- I mean, I can tell you exactly where they were from. I had --
Q That would be good.

A I had a particle lift that was labeled Top Slide Handle, Number 1.

I had a particle lift labeled Side Slide Handle, Number 2.

I had a particle lift labeled INT, I would assume for Interior Door Handle, Number 3.

I had a particle lift labeled Blind String Handle, Number 4.

I had a particle lift labeled blind string handle, Number 5.

And I had a particle lift labeled -- excuse me -- INT for Interior Blinds, Number 6.

So in total six particle lifts from the interior of a house.

Q And were you able to do an analysis on those items?

A I was.

Q Taking the first three, what were your results?

A The first particle lift that I analyzed was Top Slide Handle, Number 1, and the results were inconclusive.

Q And when you say inconclusive, what does that mean? What did you find?

A In this case --

Q Uh-huh.

A -- let me just take a moment.

(Pause.)
A In this case what I found on that particle lift was one round lead particle. I cannot make a conclusion with just one particle. I have to have supportive particles or more of the same particle to make a call.

So in this case I found one round lead particle, which goes out as inconclusive.

Q And the round lead particle that you found, what is the primary source of that particle, in your experience?

A What I have seen is from gunfire.

Q From what?

A Gunfire, gun primer.

Q With gunshot residue, and specifically round lead, is it possible to transfer that from, say, one place to another?

A With gunshot residue in general, yes, ma'am.

Q On the particle lift labeled Side Slide Handle, Number 2, did you find anything?

A No, ma'am, I did not.

Q And on particle Interior Door Handle, Number 3, did you find anything?

A No, ma'am, I did not.

Q Moving on to the next three, which are 4, 5, and 6,

the Blind String Handle, Number 4, what were your results?

A The results for the Blind String Handle, Number 4, was in inconclusive. Once again, I found one round lead particle.

Q Then on Blind String Handle, Number 5?

A It was negative.

Q But then you go to Interior Blinds, Number 6?

A And I found one round lead particle, so inconclusive.

Q In your experience, the lead particles that you found in the three different places, what are those consistent with?

A Gun primer.

Q And would you expect to find that in a part of the house where there was not gunfire?

A No, ma'am.

Q Would it be consistent with some type of transfer?

A It could be.

Q Thank you, sir.

MS. CAMPBELL: I don't have anything further.

THE COURT: Please answer any questions Mr. Whitlark may have.

THE WITNESS: Yes, ma'am.

MR. WHITLARK: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WHITLARK:

Q Mr. Roberts, you can't state to a reasonable degree of certainty about any of this stuff you have been talking about, can you?

A I absolutely can state with positive certainty that I found gunshot residue.

Q Oh, yeah, I know that. I was talking about transfer. The transfer can come from any source if something is moved. And I can get something on my arm and transfer it, couldn't I? I could get it on fingers and transfer it, right?

A Yes, sir, but you would have to transfer it from something that had it on there to begin with.

Q Right. Right. That's what I'm saying.

Do you know anything about this window blind test that she was talking about?

A I just know that I got particle lifts, and I was asked to analyze them for gunshot residue.

Q They told you what the -- they told you what it was for? Did you know what it was for?

A With this case it was -- I was just told to analyze these for gunshot residue.

Q Okay. And, again, the official report, do you have

it with you?
A I do.
Q Is it all right if I take a look at it?
A Sure.
Q You have six results?
A Yes, sir.
Q Okay. And if you need this back. But on the first one you said the results were inconclusive?
A That's correct.
Q The second one, no gunshot, nothing, no gunshot residue found?
A Yes, sir.
Q I mean, do you need to look? It sounds like -- I think you have got a good memory.
A I have got a copy right here.
Q Okay. On the Item 14, the other one, they were inconclusive. Then the blind string handle was -- where did you get that phrase from?
A Those were how the particle lifts were labeled.
Q Is that how it was labeled?
A Yes, sir.
Q Okay. And no gunshot residue was found?
A On Number 5?
Q Yes.
A Yes, sir, that's correct.

Q Then I guess on Number 6, the results were inconclusive?
A That's correct.
Q And that is what I meant by -- I mean, I know that lead, the round particles you're talking about?
A Yes, sir.
Q Because there are other sources for them though, are there not?
A Yes, there are.
Q Okay. And what we're talking about here, I mean, is this stuff big enough to see with the naked eye, the human eye?
A No, sir, it's not. It's not even big enough to see with like a regular light microscope you find in a high school. You can't even see it with that. This is -- we use an electron microscope to look at these.
Q Right. Okay. And you had mentioned before, do y'all have -- the electron microscope was used on this, right?
A That's correct, on all the samples that I got.
Q And you know how to do that, right?
A I do.
Q Okay. Have you ever looked at anything else, other than that? Other than that type stuff?

A There are a lot of things that I wished I could have looked at on the electron microscope; however, I was so busy with not only this case, but every other gunfire resulting case in South Carolina.
Q I gotcha. Now, y'all take great pains in your laboratory to make sure about cross-contamination, about the stuff we are talking about, right?
A Yes, sir.
Q But that doesn't happen?
A Yes, sir.
Q Okay. And all you know is what you get, what you are given, right?
A Pretty much, yes, sir.
Q Yeah. I mean, and you pick it up. I mean, you don't actually go out in the parking lot and get this from people?
A No, sir. They bring it in and it is checked in according to our log-in protocol. And then I get it and do what I need to do with it.
Q Okay. And so anything you got -- you know this originated with the Richland County Sheriff's Department, right?
A Yes, sir.
Q Okay. Now, you're an investigator, though. You are a crime scene investigator also, are you not?

A I am transitioning into being a fire scene examiner, yes, sir.
Q And, I mean, obviously you know that, you know, you want to keep the place pristine when you first look at it, right? I mean, if you can, ideally?
A Yes, sir.
Q But that doesn't happen a lot of the time?
A In an ideal world, it would be pristine when the investigators got to it.
Q That's right. That's right. Now, if you have a scene, let's say you had a two-story house, and in that house two people were killed, and you had six or seven officers that were coming in and looking around, and they were sweeping. Do you know what sweeping a house is?
A Yes, sir, I do.
Q When you first go in? Now, they're going back and forth and they're going room to room like that.

Now, there is a possibility of transfer occurring there with the kind of stuff we are talking about, isn't there?
A If they had touched the blinds, there is a possibility.
Q Okay. Now, you know no other blinds were tested in the house? Do you know that?

A I would assume so since I didn't get any.
Q Okay. And there's a number of them in that house. You would imagine that with a two-story house.
A I would imagine.
Q Have you seen this house? Have you seen the pictures?
A No, sir, I haven't.
Q Okay. I know you're a busy man. You said you had 4,000-and-something cases?
A It seems like it.
Q Now, you had mentioned that you can get gunpowder on you, either in a defensive move or if you're using a gun, right?
A That's correct.
Q Now, Bryan Capnerhurst, the findings you have are also consistent with firing a weapon, are they not?
A They could be.
Q Okay. And, again, the particles that are on there on a living person, tell us again why within six hours on a living person, tell us why you need to get to it before six hours or so passes?
A What we found is that after six hours, they are not there in quantity -- and this is more speaking to swabs than particle lifts.
Q Yes.

A With particle lifts I would not expect to see any, if at all, on somebody's hands after six hours. Specifically with swabs, they would not be there in an amount. Metals wouldn't be there in an amount that I would associate with gunfire or gun primer.
Q Tell us why. Can you explain a little more about that?
A Sure.
Q Why is that?
A The body absorbs this material as long as you're breathing.
Q Okay.
A We have -- and I have done it. I have gone downstairs to our range and taken the smallest gun we have, which is a .22 long rifle, .22 pistol, and shot it, and then gone upstairs and not done anything -- not done very much. I won't say nothing. Not done very much. Typed on my computer maybe, answered the phone maybe, just sat there. I didn't -- I didn't run out and touch stuff. I didn't work evidence. I didn't handle my instrumentation. I tried not to handle any paper, because we wanted to see how long this stuff stayed on your hands.

And after six hours there was not any on my

hands, just from sitting there not doing anything. So my body absorbed the material. Your body absorbs the material. It's just one of those things that your body does.

Q Okay. And also you had mentioned something about it can be -- it can be easily brushed off or washed off also? Did you mention something about that?

A I did.

Q Tell us a little bit more about that.

A If you get gunshot residue on your hands and you wipe it off or you wipe your hands with a towel, that gunshot residue is going to be transferred off your hands and onto the towel.

If you wipe your face, it will be transferred off your hands and onto your face. If you put your hands in your pockets, it will be transferred from your hands to your pockets.

Q Okay. And, of course, if someone else was touching your hands, they could transfer it, knock it off, things of that nature? That could occur also?

A Yes, sir, that could occur.

Q Okay. Are you aware in this case that the gun was removed from Bryan Capnerhurst's hand after the officer got there?

A Just from being -- sitting in here during

testimony.
Q You didn't know that before?
A I did not.
Q And, again, you want to get a pristine scene if you can, ideally, but that didn't happen in this case, did it?
A I wasn't there and all I've heard is what I have heard while I was sitting here.
Q Okay. Well, certainly having a gun removed before the CSI gets there, it wouldn't be an ideal situation, would it?
A You know, I don't know. That's -- when I get to a scene, it's burned up. If I find a gun, something horribly bad has gone wrong.
Q Okay. But, again, sir, you wouldn't feel comfortable with a -- you wouldn't feel comfortable, would you, let's say -- for example, I will give you a hypothetical.

If you had a situation like the one you're investigating with the blinds, okay, and they're asking you to come in, if 40 days have passed, that would make you feel less comfortable about things, wouldn't it, sir?

Let's say this house was open and people were coming in and out, moving around and, of course,

cleaning, and things of that nature, if 40 days have passed, you would feel less comfortable with that than you would if you had gotten there that day, the day it happened?

A I've taken particle lifts or I have analyzed particle lifts from vehicles that were taken weeks later. And a vehicle, in my opinion, is a much more mobile crime scene than a house is.

Q Okay.

A And I have found stuff, or gunshot residue in the vehicles.

Q Sure. Sure.

A So.

Q And there was a lot of -- let's say that -- let me give you another hypothetical. Let's say that there were 11 shots fired, okay?

A Yes, sir.

Q In an upstairs area. Two rooms where officers were coming in and out of the rooms after it happened, and things of that nature. Now, that's a lot of gunpowder, right?

A Yes, sir.

Q And depending on the caliber of the gun, and so forth. But that's a lot of gunpowder, isn't it?

A It is.

Q Okay. And actually there is clouds of it. It comes out in kind of a cloud?
A It does.
Q And it gets disbursed in different places? You would expect to find -- you could find it on the ceiling potentially, could you not?
A In those rooms I would expect to find a lot of gunshot residue.
Q Okay. And people going in and out of them. I mean, they can pick it up on their shoes, right?
A They could.
Q And on their hands if they touch anything or brush against anything, coming in doors, and so forth?
A That's correct.
Q Okay. All right. But, again -- and I know that you weren't there for the lifts that were done in this case, that was done by Richland County?
A Yes, sir.
Q Okay. And, again, your findings were either inconclusive or negative, weren't they?
A On the?
Q Blinds.
A On the blinds, yes, sir. They were either inconclusive or negative.
Q Okay. And your findings were also consistent with

Bryan Capnerhurst firing a handgun?
A They could be consistent with him firing a handgun. They could also be consistent with him being downrange of it.
Q Well, you know he was shot in this case, right?
A Yes, sir.
Q Okay. And Mr. Brett Parker says he shot his wife, that he shot his wife. So what you found wouldn't be inconsistent with those two things, would it?
A No, sir, it would not.
Q That's all I have. Thank you, Mr. Roberts.
A Yes, sir.

THE COURT: Yes, ma'am?

MS. CAMPBELL: A couple of questions.

REDIRECT EXAMINATION

BY MS. CAMPBELL:
Q He asked you about the gunshot residue in those rooms upstairs. How long can it actually just float through the air?
A Not long. These particles actually do have a little bit of mass to them. So they will fly through the air for a little bit, eight to ten feet, and then they'll fall to the ground.
Q Are you talking about seconds, minutes, hours?
A Minutes at most.

Q At most?
A Yes, ma'am.
Q And he asked you about the source of the round lead particles that you found on the blinds in three different places. In your experience, what is the most common source?
A Gun primer.
Q From gunfire?
A Yes, ma'am, from gunfire.
Q And he asked you about your conclusions on the blinds. Where all did you find round lead particles?
A On the particle lift labeled Top Slide Handle, Number 1; on Blind String Handle, Number 4; and on Interior Blinds, Number 6.
Q And he also asked you about deputies running through the house and getting it on their shoes. To transfer it, it would have to -- something would have to actually touch it that had the GSR on it?
A Yes, ma'am.
Q Thank you.

MS. CAMPBELL: I don't have anything further.

MR. WHITLARK: Briefly, Your Honor.

THE COURT: Yes, sir.

RECROSS-EXAMINATION

BY MR. WHITLARK:

Q And, again, being an expert and being an investigator with over 40 days passing and with no other samples from any other blinds in the house, you really couldn't be sure about anything, could you, about that?

A I could be sure that there was one round lead particle found on each of those samples.

Q Right. And, again, these are microscopic --

A Yes, sir, that's correct.

Q -- things we are talking about here?

A Yes, sir.

Q And, again, you're very comfortable with being -- the consistence of the results you found on Bryan Capnerhurst, with him firing a handgun?

A Either firing it or being on the receiving end, yes, sir.

Q Thank you, Mr. Roberts.

A Yes, sir.

THE COURT: All right, you may step down.

(Witness steps down.)

THE COURT: Any objection to this witness being excused?

MS. CAMPBELL: Thank you, Your Honor.

(Witness excused.)

THE COURT: You can call your next witness.

MS. CAMPBELL: The State would call Gary Watts.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: I do.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your full name for the record. And spell your last name, please.

THE WITNESS: Gary Watts, W-A-T-T-S.

GARY WATTS,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Mr. Watts, where are you employed?

A Richland County Coroner's Office.

Q And are you the coroner for Richland County?

A I am the coroner.

Q And how long have you been the coroner for Richland County?
A I was just elected to my fourth term last year. So I've been serving now for almost 13 years.
Q As coroner for Richland County, what do your duties include?
A Our office oversees the cause and manner of death and makes determinations in cause and manner of death in certain cases.

Our office handles traumatic death, accidental deaths, certain deaths that occur outside of a hospital, certain deaths that occur in a hospital.

And we, through investigation, either through our office or through other agencies, make a determination as to what the cause of death was and what the manner of death was in those particular agencies.
Q In the scope of your duties, do you also work kind of with law enforcement in certain cases?
A Yes. Certain cases less than others. For instance, in a case like this, our office has a limited amount that we do because other agencies are so heavily involved in it.

We probably spend more time on cases where someone just wakes up in the morning dead with no

apparent cause. We don't spend a lot of time on that because if there is no obvious signs of injury, or anything like that, law enforcement is generally not involved in it until we do our investigation.

Now, if we find something suspicious during that investigation, whether someone has been poisoned or something like that, then we will bring in the appropriate agencies.

But in a case like this, most of the investigative work is done by the appropriate agency. Our office coordinates certain parts of that investigation as it relates to autopsy, certain testing, toxicology testing, and things like that.

Q And do you also sometimes participate in notification when there has been a homicide?

A We do all the notifications for deaths that we handle.

Q I want to turn your attention back to April the 13th of last year. Did you respond out to Tackeria Court?

A I did.

Q And who all from your office was out there that day?

A I actually received a call from Investigator Powell, who is one of our deputies, and she had received a call for a double shooting on Tackeria Court.

She contacted me. I actually was probably less than 15 minutes away from the scene. So I responded over to the scene at that point in time. No one from my office was there at the time when I got there.

Q And when you first got there, had the crime scene unit, had they actually made it there yet?

A No.

Q And when you got to the scene, tell the jury what you observed.

A When I first arrived on the scene, there were quite a few deputies outside of the residence. I went to Major Stan Smith, who at the time was at the top of the driveway at this residence, speaking to an individual that I later learned was Brett Parker. And I spoke to both Major Smith and Mr. Parker at that time on the scene initially.

Q What was Mr. Parker's demeanor like when you got there that day?

A He was drinking either -- some type of Gatorade, water, or something. He was spitting, spitting a

lot. He had almost a gag reflex, like he was (making sound). He didn't throw up. It was just sort of a reflex action. And that was really about -- as far as we knew, that was it.

Q And when you got there, are you aware of whether or not investigators had already done their initial interview with Mr. Parker?

A I think that he had given a story to the major, and I'm not sure of any other investigators that he had spoken to.

Q While you were there in proximity with the Defendant in the driveway area, or wherever it was, did you hear him say anything?

A A couple of different times different things were said. Initially, when I first arrived and went to the top of the driveway and he was drinking his water and stuff, he was upset and said that he had killed his best friend.

And then a short time later, maybe 30 minutes later, I think, his father arrived on the scene. I had gone out and spoken to his father. And we were coordinating trying to locate next-of-kin for Mr. Capnerhurst, for Tammy's family also, her mother, and also trying to make arrangements for the children.

They had two small children that were in school. So we wanted to make sure that we could have someone go pick them up, because I think they normally rode the bus home. We certainly didn't want them riding the bus back into the neighborhood.

So as we were talking at sort of the end -- if you have seen a diagram of how this house was, it was on like a circular court or something, and basically all the traffic had been stopped at the top at the stop sign.

There were deputies' cars and stuff down near the house, but all the traffic that would normally flow in the neighborhood had been shut off at the stop sign.

There were several cars along the side that were parked. Mr. Parker, Brett's father, had been stopped up there. We were talking to him a little bit.

We found out that he actually had a heart condition, and he was obviously very upset. I actually called for an EMS crew to come back out to the scene to monitor Mr. Parker.

Q And that would be Mr. Jack Parker?

A Yes. The Defendant's father, yes.

Q Okay.
A I spoke to him for a few minutes, and then, as I said, we were trying to coordinate all these things between victim advocates and family members and where the kids were and had gone back up to where Mr. Brett Parker was standing at that time.

And he said, What does my father think happened?

And then shortly thereafter, I believe he left with the major and went to headquarters or somewhere to give a statement.

I then went back up to the top of the hill, talking with Mr. Parker and there were other friends of the family and stuff that showed up. About that time Ms. Parker, Brett's mother, showed up.
Q Uh-huh.
A And she was obviously very upset. I'm not sure who called her originally to come to the scene.

When she arrived on the scene, Mr. Jack Parker said, Tammy's dead.

And Ms. Parker, Brett's mother, said, Did Brett kill Tammy?

And that was pretty much the only conversations that I heard between them.

Q The initial conversation you heard from Brett Parker when he was there in the driveway, sometime after you arrived, who did he say -- what did he say?
A He said, I killed my best friend.
Q Did he ever mention his wife in your presence?
A No.
Q Did he ever -- what, if any, emotions did he express about Capnerhurst?
A Well, that is who he was talking about. He said -- you know, he was upset and said, I killed my best friend. That was -- I never saw him cry. I don't know if he cried before I got there, but he didn't cry in my presence there. Also, later on at the house I saw him -- went back to his parents' house later on.
Q Later that evening?
A Later that evening. And I saw him there. He was -- I would describe him as sort of stoic.
Q That afternoon did you have an occasion to call in a pathologist in this case?
A Yes.
Q And who is that?
A Dr. Bradley Marcus, who is the medical examiner for our county.

Q And that evening was he escorted to the house?
A It was that afternoon.
Q That afternoon. I'm sorry.
A We actually -- Dr. Marcus and I -- both went in with the crime scene unit shortly after the search warrant got there and just did a quick walk-through.
Q That day did your office -- Deputy Powell, specifically Jane Powell -- participate and actually help in getting the bodies removed from the scene after being processed, and things of that nature?
A I had left, but I'm assuming so, yes.
Q And then the investigation was basically turned over, for the most part, to the Richland County Sheriff's Department?
A As far as the scene investigation, and things like that. Our office handled -- we normally handled personal properties, and things like that. In a case where there is a homicide, we turn those properties over to the investigative agency in case there is some tie-in, you know, if it is a robbery, or something like that, and we find money on somebody, or we might find a phone number in somebody's wallet. But we turn all that over to

law enforcement.

So in this case, all the personal property that was taken at the scene was given directly to the Sheriff's Office for chain of custody.

Q And that day, between you and law enforcement, were the relatives of the two deceased, Mr. Capnerhurst and Ms. Parker, notified?

A Yes. I had the Lexington County Coroner's Office -- I believe both of the families actually lived in Lexington County. I'm not exactly sure how Tammy's mother was notified. I can't remember exactly how that happened, but I do know that one of deputy coroners for Lexington County went to the Capnerhurst house, finally found Ms. Capnerhurst, and made notification to her.

Q At a later -- was that pretty much a summary of what you did there at the scene there that day?

A Pretty much.

Q Later were you asked to contact a pastor at your church?

A Well, there was a pastor from my church at the Parkers' residence that night when we arrived. The Parkers -- Brett Parker and Tammy -- attended church at the same church that I go to.

And so there was a pastor already at Jack

Parker's house when I arrived, Wayne Cole. He is a reverend. So -- is that the incident you are referring to or?

Q And later at the request of law enforcement, did you contact another pastor?

A Yes. Yes. I received a call a few days later from, I believe, Major Smith. He asked me to contact -- he just said the pastor of the church in reference to a statement that Brett Parker had made concerning that a pastor had recommended or told him to get a particular handgun or gun for protection.

I initially went to Reverend Cole because I knew he had a relationship with him, and he stated that it wasn't he that had said it. He thought it might have been Dr. Carney.

I spoke with Dr. Carney; and he, in fact, said that he had recommended or he had said that the Judge was a weapon that he had recommended several times before to people for home protection, self-protection.

MS. CAMPBELL: Beg the Court's indulgence.

(Pause.)

MS. CAMPBELL: Thank you. Nothing further.

THE COURT: Yes, sir, Mr. Fedor.

MR. FEDOR: May it please the Court, Your Honor?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. FEDOR:

Q Good afternoon.

A Good afternoon, sir.

Q And you said you were a member of the Riverland Baptist Church, is that correct, sir?

A Riverland Hills Baptist Church, yes, sir.

Q And the pastor is Ed Carney?

A Ed Carney is a senior pastor, yes.

Q Now, you talked with him, did you not, Mr. Watts?

A I did.

Q And you told us that Brett Parker, his wife, and his two children were members of your church?

A That's correct.

Q All right. And if I can quote your exact words: Gary Watts confirmed that Senior Pastor Ed Carney, that he had recommended to Brett that he get the Judge pistol for home protection.

A Yes, sir.

Q The recommendation came in lieu of the burglary that Brett had suffered the year prior, is that correct?

A I'm not sure why the recommendation came. I was not aware of that. I just remember asking him if, in fact, he talked to Brett Parker about that weapon; and he did confirm that.

Q You did come to learn, did you not, sir, that Brett Parker and his family were robbed a year before?

A I don't know that I had the knowledge of that, sir.

Q You don't know that?

A No, sir.

Q Okay, fine. The pastor recommended the type pistol that Brett had, a Judge, is that right?

A He advised me that not only had he recommended it to Brett, but I think he also had said that he had recommended it to his daughter and some other people. Our pastor also teaches self-defense classes for women.

So not only does he teach hand-to-hand combat for women, which is a little usual for a Baptist church, but it's a little wild church, I guess. But he also talks about other things that made mention of that type pistol.

And because that pistol fires a shotgun shell also, which means there's multiple pellets that come out of it, he felt like that was a good thing to have inside a home for home protection.

Q That was to protect Brett and his family members, was it not, sir?
A That is what I would assume, yes.
Q You arrived at the scene at what time?
A I would have to look at the log to see. I know that I was there probably a good hour or so before anybody ever went into the residence. I can look at it.
Q That is in evidence. See if you can find where you checked in.
(Pause.)
A It is listed here as --
Q Fifteen hundred hours?
A Yes, 3:04 p.m. is when myself and Dr. Marcus entered the residence. I had been at the location probably for a good hour before that. But that is the actual crime scene log that I signed going into the residence.
Q So you logged in at 3:00 o'clock, but you had been there since 2:00 o'clock?
A No, sir. I logged in when I actually walked into the crime scene, which was the residence.
Q Okay. That is 3:00 o'clock?
A At 3:04.
Q Okay.

A But prior to that, I was in the general vicinity of the home, which was in the driveway and the street, And that.
Q While we have this document, I call your attention to one of your employees, Kathy Rawl.
A Okay.
Q What time did she check in?
A It's not listed.
Q It's not listed?
A Huh-uh.
Q When you come to a crime scene, it's always listed what time you arrive, is it not?
A Well -- and I think what happened here, sir --
Q Uh-huh.
A -- was just as I stated. When I arrived at the location, I was in the driveway, I was in the street, but I was not actually in the crime scene itself until 3:04.

Ms. Rawl had actually brought some equipment out to some of the other deputies. I don't think she ever went into the crime scene. I think she just was at the driveway location, and they wrote her name down. To my knowledge, she never went into the house.
Q Can you explain why her name is crossed off there?

Was she not there or was she there?
A It's not crossed off.
Q It says, Coroner. Look at the cross mark there.
A Yes, her name is here listed.
Q Right.
A And it says reason coroner crossed off, but then right here it also says, No entry.
Q Okay. Now, since you have the log in your hands, tell me if Officer Robinson and Officer Lindler appeared on that date.
A It looks as though -- I'm assuming that is Robinson. I can't really tell for sure. It's some time below my name, and then Sergeant Lindler is also on there. Both of those are the same as with my deputy, Kathy Rawl. It's crossed through and then there is a note that says, Did not enter.
Q So it says neither of those officers ever entered that scene, is that correct?
A What I am assuming from that is what I know from my deputy, is that she never went into the actual crime scene, the house. She was in the driveway. And so I don't know. I can't answer for them.
Q Fine, sir. Now, there was a 9-millimeter Smith & Wesson pistol found in Capnerhurst's left hand, is that correct, sir?

A I don't know.
Q It wasn't in his hand when you got there, was it?
A No, sir.
Q Officer Odom testified that he took it out of his hand, is that correct? Did you hear that yesterday?
A I was not in here when he testified.
Q Assuming I tell you that is the truth under oath --
A I'd assume you're telling me the truth, yes, sir.
Q Is it your recollection, coming to any murder scene, where the weapon is removed from one of the potential shooters before you get there?
A I have seen that happen quite a lot.
Q And it is not the proper procedure, is it, sir?
A Well, I can't speak to the agency's procedure. I have heard reasons for it, but that is not something that we set policy on from my office for them. So I really can't answer that for you.
Q All right. Fine. Let's turn to this next document here. This is the Richland County Coroner's case report.

It says, Describe weapon and its location. And the report says, The weapon was found in the decedent's hand. That is Capnerhurst?
A Okay.

Q You take your officer's word for that, do you not, sir?
A I would take their word for it, yes, sir.
Q And when they took the residue from Capnerhurst's hands, in his left palm -- and he is left handed -- gunshot residue was found. That's your report, true?
A That's -- no, this is --
Q Whose report is that?
A This is a report from SLED.
Q Okay.
A It may be this -- part of this may have been in our case file, but this, as it's indicated on the log, this is actually from the gentleman that just testified, John Roberts, and also at the bottom of it is a SLED seal on it. It's theirs. It may have been in our report jacket, but that is their report.
Q But the end result is the same, was it not, sir? Gunshot residue -- and a bunch of it -- was found in Capnerhurst's left hand?
A That's what I heard Mr. Roberts say, but I have no way of testifying to that.
Q You work with an outfit called Professional Pathology Service, do you not, sir?

A The Professional Pathology Service has pathologists on staff. Two of those, a Dr. Bradley Marcus and a Dr. Amy Durso, who are employed through that service, also serve as the Richland County Medical Examiner and the Deputy Medical Examiner.
Q And they do autopsies for your office, do they not?
A Yes, they do.
Q And they did the autopsy in this case, did they not?
A They did.
Q Sir, when you arrived at the scene, the body had been moved, had it not?
A I don't believe so.
Q Did you see the body in the position it was when law enforcement came?
A Now, which body?
Q Capnerhurst?
A Capnerhurst?
Q Yes.
A When I went into the scene --
Q Right.
A -- which was 3:00 o'clock, which is right after the search warrant had gotten there, I walked in with Dr. Marcus. We walked in behind one of the CSI units. And I don't even know what which one it

was.

And we walked into the room where Ms. Parker was. We both saw her. We didn't touch her. We didn't do anything at that point.

We stepped out, and we actually -- they pointed and said, The other one is in this hall closet or attic space, or whatever, off this main room.

We didn't walk into that room because it was a very congested area and didn't want to disturb anything at that time. So we did not even go into there. So I can't tell you how he was.

Q Well, you trust the results of the pathology group that you hired, do you not, sir?

A Yes, sir.

Q Let's do a little analysis here, if you don't mind, Mr. Watts.

Do you know the testimony of this case says that Capnerhurst's body was approximately ten feet from the safe?

A Okay.

Q Take that as a given. Now, suppose you step down here, if you would, Mr. Watts, right here.

(Witness steps down.)

Q Let's assume that you are Mr. Capnerhurst and I am

Mr. Parker, all right?
A Okay.
Q Now, did you have the opportunity to read Brett Parker's statement?
A I believe I did at some point in time, yes, sir.
Q Follow me, if you would here, Mr. Watts.

Bryan was standing behind me in the closet. I knelt down and grabbed my pistol. I turned as quick as I could and I shot him.

Now, assuming you are Mr. Capnerhurst and I am Brett Parker, I'm at the safe and I'm down on my knees, and I grab my pistol and I shoot and I hit you four times. Okay?

Go back and take your seat again, if you would.

(Witness returns to witness stand.)

Q Now, this sir, is the pathologist's report, and I tell you this is his words. And you can have a seat, if you would, please.

MS. CAMPBELL: Objection, Your Honor, just to the form of the question. I think it's beyond this witness's control. And if he would like to cross the pathologist on it, I think that would be appropriate.

MR. FEDOR: Your Honor, this is

cross-examination of a man who was there who is the Richland County Coroner. I think it's appropriate.

MS. CAMPBELL: He just testified he didn't go in the room where the body was.

THE COURT: All right. What is the question, again?

MR. FEDOR: I'm going to read from his pathologist report that his outfit hires in regard to their results.

THE COURT: I think you can ask him a question about the results --

MR. FEDOR: I'm going to ask him --

THE COURT: You can ask the pathologist when he is on the stand, but he can't answer questions if he doesn't know.

MR. FEDOR: If doesn't know, I'm certain he will tell us.

THE COURT: All right.

BY MR. FEDOR:

Q Now, Mr. Watts, each one of the bullets that was fired by Brett Parker entered the body of Capnerhurst --

MS. CAMPBELL: Objection, Your Honor, if he would first ask if he has any knowledge.

BY MR. FEDOR:

Q -- in an upward manner --

THE COURT: You need to ask him first if he has any knowledge of where the bullets entered.

BY MR. FEDOR:

Q Gary, this report was given to your office. Take it if you will.

A Uh-huh.

Q I have underlined certain areas, and I call your attention to where the tags are.

Is it not true, sir, that every --

MS. CAMPBELL: Objection, Your Honor. If he can just ask him first if he has any knowledge.

THE COURT: Lay the proper foundation. Objection sustained. You have to lay the proper foundation as to the document that you are giving him.

BY MR. FEDOR:

Q Do you depend upon your pathologists and the reports given in the business, sir?

A As part of our investigation, yes, sir, we do.

Q And you have relied upon them for years, have you not?

A As part of our investigation, we do, yes, sir.

Q And as a result they send you their reports, do they not?

A Yes, sir.
Q And is this one of their reports that was given to your office?
A It is.
Q Now, looking at that report, sir, all four bullets were fired in an upward trajectory, were they not? Look at the readings of your own man.
A I think he has listed upward trajectory on these, yes.
Q Each and every bullet. Each and every trajectory of a bullet was upward, like I was on my knees and you were standing there, is that not right, sir?
A I think that is what he has here, yes, sir.
Q Now, having read Brett Parker's statement, what he says, it completely matches what happened that day, does it not, sir?
A I don't know that I can answer that. I don't know.
Q All right. Fine. If you can't, you can't. But we do know the four bullets that entered Capnerhurst's body were at an upward angle, were they not?
A That's what the report says.
Q Now, you heard -- or did you hear, Mr. Watts, the 9-1-1 report that Brett Parker called in to the Richland County Sheriff's Department?
A I did not hear that.

Q You did not hear that. In your opinion, sir -- and you saw him -- his life was pretty much messed up when you got to the scene, wasn't he?
A I would say that it was a bad situation for anyone, yes.
Q And he was taken to the Richland County Sheriff's Office about an hour or so after this terrible, horrible experience occurred when he had shot his best friend, isn't that true?
A Yes, sir, and that is what I was having some issues with.
Q The statement was made about 2:00 o'clock that day. And don't you think it's logical, Mr. Watts, that a man that sees his wife dead and has to shoot his best friend would have been in a terrible mental state?
A You're asking what I think, sir?
Q Yes, sir.
A I think what probably disturbed me the most about that, Mr. Fedor, is his wife was dead. He said his best friend had done it. I think at that point in time he is no longer your best friend, sir.
Q I tend --
MS. CAMPBELL: Objection, Your Honor, if he can finish.

THE COURT: Please let him finish.

A I could understand anger. I could understand him being mad at Mr. Capnerhurst. I couldn't understand him being concerned about shooting him if, in fact, he had killed his wife. That's what disturbed me.

Q Well, of course you're an absolutely fine coroner, probably the best we've had in a long time, and you're also a friend of mine.

A Yes, sir.

Q You are not a psychologist?

A No, sir.

Q You're not a psychiatrist?

A No, sir.

Q And neither one of us know how a person is going to react that is faced with this situation, do we?

A Again, are you asking me what I think, sir? I mean, I don't want to --

Q Well, you don't think you would be "un-upset," do you?

MS. CAMPBELL: Objection, Your Honor. I believe he asked him what he thought, and he has a right to answer.

MR. FEDOR: May I conduct my cross-examination without help?

THE COURT: What is the question that you're asking? I believe he answered the first question. What was the last question?

THE BAILIFF: Quiet, please.

THE COURT: What is the second question?

MR. FEDOR: I don't know now.

THE COURT: All right. Let's move on.

MR. FEDOR: Let me move on then.

THE COURT: Yes, sir. Thank you.

BY MR. FEDOR:

Q Gary, I believe your deputy told us that she removed the cellphone from Capnerhurst's pocket. Do you recall that, or were you here for that?

A I was not here for that.

Q So if I say that is what she testified?

A I will take your word for that, sir.

Q And she gave it to one of the officers?

A Okay.

Q Law enforcement.

A Okay.

Q Let's assume Mr. Capnerhurst died at 12:45 or 12:50, whatever.

Now, taking that assumption, can we truthfully state he wouldn't have made any more calls on that cellphone, would he?

A I think it would be a pretty easy assumption to make that if someone was dead they would not be using their cellphone.
Q That's what I'm referring to, sir.
A Yes, sir, I would agree with you.
Q And if he is dead and his cellphone is in the officer's, Police Department, whoever had the gun and the cellphone, if calls were made on that phone after he was dead, that would certainly bring a big question mark into tampering with evidence, wouldn't it?
A I don't -- I'm not an evidence expert, sir. I mean, you know, I don't want to get into something that I don't think I can give you an honest answer in. And I just don't know what would be the situation there.
Q That's fair enough. Now, Capnerhurst's car, when he was parked that day, as you understand it, and I'm sure you know, was backed into the parking area, was it not?
A The vehicle that I saw in the driveway that was identified as Mr. Capnerhurst's was backed into the driveway -- backed into -- back off of the driveway into the wood line.
Q And the keys were still in the ignition, were they

not?
A I don't know that I ever looked inside the vehicle.
Q All right. Fine. Now, when you were doing your reports and your evidence, and so forth, did you find marijuana in the system of Capnerhurst?
A Do you have the report? I don't have the report in front of me. Do you have the toxicology report?
Q Toxicology, I don't believe I do have. But the question is -- well, let me rephrase the question. You certainly would look for that in an autopsy, would you not, sir?
A On all autopsies we do standard drug screens. And so marijuana would be a part of that screen that we would look for, along with alcohol, or anything else.
Q The time of the death was reported at 12:40 that day.
A Okay.
Q Okay. And if telephone calls were made at 2:00 o'clock on Capnerhurst's phone, something is wrong, isn't it?
A I would say that that would be unusual for him to have made a call at 2:00 o'clock, yes, sir, to go back to that.
Q What do you know about a person in North Carolina,

if you know, named James Morgan? Have you ever heard of the word?
A Not to my knowledge.
Q All right. He is listed on the witness list for the Prosecution, and I just happen to be curious if you know anything about him.
A I do not.
Q All right. Now, the arrest warrant in this case was issued 97 days after the shooting. Is that an extraordinarily long time for an in-house shooting?
A That is so far out of what we do, sir, I don't really --
Q And the arrest warrant says, It is believed --
MS. CAMPBELL: Objection, Your Honor. I just don't believe he is the proper witness for this. He can ask him if he's familiar with it.
THE COURT: All right. He said he is not sure.
MR. FEDOR: Okay.
THE COURT: What is the next question?
MR. FEDOR: The next question is about the wording on a warrant that says, It is believed --
MS. CAMPBELL: Objection, Your Honor. Can we approach?
MR. FEDOR: -- that Brett Parker did commit.

THE COURT: Let me see you all one second.
(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury.)
THE COURT: The objection is sustained.
MR. FEDOR: Your Honor, we do request that this be listed, this arrest warrant, as Exhibit Number 2 for the Defense.
THE COURT: The only problem is you can't -- you will have to enter that through one of the officers, probably the investigator.
MR. FEDOR: Okay. Fine, Your Honor.
THE COURT: Yes.

BY MR. FEDOR:

Q Mr. Watts, I will hand you a document. Can you tell me what it is, sir?
A Now, we're getting to something I can talk about.
Q Good.
A This is a death certificate or a copy of death certificate, and this happens to be on Bryan Capnerhurst.
Q All right. And what time does it say the death occurred?
A It looks like 12:40 p.m.
Q Thank you.

MR. FEDOR: We would like to introduce this as Defense Exhibit 2, Your Honor.

THE COURT: Any objection?

MS. CAMPBELL: Your Honor, it is not admissible. We would object on that basis. He can testify about it, but the document itself is not admissible.

THE COURT: Ladies and gentlemen of the jury, there are some matters of law that I need to take up outside your presence. I am going to send you all out for a brief moment. It's probably time for a break anyway.

THE BAILIFF: Remain seated until the jury leaves.

(WHEREUPON, the jury retires to the jury room at 4:07 p.m.)

THE COURT: What is the objection to the death certificate?

MS. CAMPBELL: Your Honor, the document would be hearsay evidence. It is simply not admissible. The documents in cases, like incident reports, aren't admissible. The warrant is not admissible. All these documents aren't admissible.

Of course, he can cross-examine him on the documents, as with any other document in this case;

but if what he is getting ready to do was possible, we would put in all our reports as well, as well as the death certificate. It simply is not admissible.

Just like on the other statements that come in aren't the statements of the witnesses, only the statement that is admissible, because it's an exception to the rule, is the statement of the Defendant. So it is just documents in general are not admissible.

MR. FEDOR: Your Honor, this is the death certificate signed by the Coroner's Office, and he identified it and knows what it is. I can't see why we can't admit it.

MR. WHITLARK: I know the answer to this.

THE COURT: Please.

MR. WHITLARK: Yes, I do, Your Honor.

THE COURT: Mr. Whitlark, I would glad to listen to it.

MR. WHITLARK: There is a specific rule for a document such as a certificate of death, Your Honor. I am thinking it's Rule 1004 of the Rules of Evidence.

THE COURT: What rule did you say?

MR. WHITLARK: I think it's 1004, Your Honor,

Rule 1004. I'm not positive. I have to recollect. But it's a public record, an official document. If he can identify it -- I mean, there may be some issue as to the copy versus the original, but I don't think there is any question that the content of this copy is accurate.

And he can -- the witness is -- does have the knowledge so he can verify that this is an exact copy of the original.

And under the South Carolina Rules of Evidence -- and I believe it's Rule 1004, Your Honor, I'm not sure if that is the exact rule -- I think it allows it, I believe, Your Honor.

(Pause.)

MR. WHITLARK: Under the South Carolina Code, it was Code Section 19-5-610 was the previous South Carolina code section. I believe it was supplanted by the adoption of the Federal Rules of Evidence; however, 19-5, Subsection 610.

THE COURT: Under what rule are you stating, Ms. Campbell, that it's not admissible?

MR. FEDOR: Whatever rule Mr. Whitlark stated.

THE COURT: No, no, Ms. Campbell.

MR. FEDOR: Oh, I'm sorry.

THE COURT: I'm asking Ms. Campbell why she is

saying -- under what rule is she saying it's not admissible.

MS. CAMPBELL: Your Honor, any statements or any documents are not admissible, such as statements and documents and other work products from police. I can go get you the case law that says this if you give me five minutes.

THE COURT: All right, well, we'll take about five or ten minutes. I am going to look it up.

MS. CAMPBELL: Your Honor, for the next witness, too, we need to set up a couple of things. Can we do this during the break so we don't have to break immediately after this witness?

THE COURT: That would be fine.

MR. WHITLARK: Who is the witness?

MS. CAMPBELL: Scott McDonald. We are just trying to expedite it.

MR. WHITLARK: Are we at ease, Your Honor?

THE COURT: Yes.

(WHEREUPON, a break was taken.)

THE COURT: I know it's admissible under 803(9) according to the hearsay rule. But if anybody finds any case law, I'll be glad to look at it, but I think under 803(9), a hearsay exception, vital records can come in.

All right. Are we ready to bring them back in? Are you withdrawing the objection?

MS. CAMPBELL: I am withdrawing the objection.

THE COURT: Okay.

MS. CAMPBELL: You can move it into evidence.

MR. FEDOR: See, the only reason I bring Mr. Whitlark, he knows all the law. I add a little age and flavor to the trial.

THE COURT: All right. Let's bring them in.

THE COURT REPORTER: Do you want me to go ahead and mark it?

MR. WHITLARK: Yes, please.

THE COURT: All right, let her mark it.

MR. WHITLARK: That is Exhibit Number 2.

(WHEREUPON, Defendant's Exhibit No. 2 was marked for identification and received into evidence.)

(WHEREUPON, the jury came into open court at approximately 4:42 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: All right. Yes, sir, you may continue.

MR. FEDOR: Thank you, Your Honor.

CROSS-EXAMINATION CONTINUES

BY MR. FEDOR:

Q Mr. Watts, Defense Exhibit 2 is the death certificate of Capnerhurst. What was the time of death as you recall, sir?
A It is listed here as 12:40 p.m. on April the 13th.
Q Thank you very much.
A Yes, sir.
THE COURT: All right, it will be entered without objection as Defense Exhibit 2.
MR. FEDOR: No further questions.
THE COURT: Any other questions?
MR. FEDOR: No.
MS. CAMPBELL: Thank you, Your Honor. May it please the Court?

REDIRECT EXAMINATION

BY MS. CAMPBELL:
Q Mr. Fedor was asking you a few questions about when you went over to the house and the Defendant, and then he said something about not you being a psychologist. What were you getting ready to say to the jury when you were cut off?
A Just that I have been in this line of work for 30-some-odd plus years and probably been involved in 20,000-plus death scenes, and reactions to families and family members can be different. You know, there is no set way that somebody is going to

react. I have seen it from, you know, one end of the spectrum to the other.

But that day I was a little caught off by some of the things that were said really more than anything, not that he was acting in a particular way, but a couple of comments that were made.

Q And those are the comments you've already related to the jury?

A Yes.

Q He also asked you about the autopsy. And I will show you a copy of Bryan Capnerhurst's autopsy. Do you recognize that?

A I do.

Q And is that a copy of the autopsy?

A This is a copy of the autopsy as submitted.

Q And in that autopsy, the wound that is mentioned at the top of the page -- I have it open for you -- where was that wound located?

A It says: Penetrating gunshot wound to the left chest.

Q And down further in the same paragraph or that same part talking about that wound, does it say what angle that wound was?

A It says backward, downward, and to the right.

Q So it would not be true that they were all upward,

is that correct?
A That's correct.
Q Thank you, sir.
MS. CAMPBELL: I don't have anything further.
MR. FEDOR: A few further questions.
THE COURT: You said no further questions?
MR. FEDOR: I said a few.
THE COURT: All right. Yes, sir.

RECROSS-EXAMINATION

BY MR. FEDOR:
Q Mr. Watts, most of the gunshot wounds to Capnerhurst were in an upward direction, right?
A If you read that report --
Q Yes.
A -- it shows what he is talking about on the body, but my understanding -- and this is something that you probably could clarify with Dr. Marcus -- he is referring to the body basically in an upright position. Okay?

Now, when I look at a report and when I talk with them, you understand that the body may not stand in this upright position the entire time as it is being shot. Okay?

If someone is being shot, they may be standing initially; and then they may bend over, they may

fall backwards, or whatever. So that would change the wound pattern in the body. Okay?

So you may have -- if the body was standing straight up and you looked at the wound pattern or in our case where they do an autopsy where the body is laid out, and they are using probes to show a trajectory, and they all appear to go in that one direction, but that can be changed around if you know how the body was reacting to being shot. Okay?

Q Assuming the body is in an upright position and he was shot, those shots were in an upward direction, were they not, sir?

A If you assume that the body was in a standing, upright position when it was shot, then according to that report, then they were all in an upward angle.

Q Thank you.

MR. FEDOR: No further questions.

THE COURT: All right. You may step down, sir.

THE WITNESS: Thank you. Your Honor, may I be excused?

THE COURT: Yes, sir. Any objection to this witness being excused?

MR. FEDOR: No.

MS. CAMPBELL: No. Thank you, Your Honor.

THE COURT: Thank you.

(Witness steps down and is excused.)

THE COURT: Call your next witness.

MS. WALKER: Thank you, Your Honor.

The State would call Scott McDonald.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: I do.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your full name for the record, please.

THE WITNESS: Scott McDonald.

SCOTT McDONALD, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. WALKER:

Q Good afternoon, Lieutenant.
A Good afternoon.
Q Where are you currently employed?
A Richland County Sheriff's Department.
Q And what do you do at the Sheriff's Department?
A I'm a lieutenant in the major crimes division.
Q And what do your duties include?
A Supervising all assaults, crimes against persons, armed robberies, every assault from simple assault, all the way up to homicide, suicides, and armed robberies, commercial robberies, individual robberies.
Q And how long have you been with the Sheriff's Department?
A Twenty-five years.
Q Twenty-five?
A Twenty-five years.
Q And how many in the major crimes unit?
A Probably the last 10 to 12.
Q Did you become involved in the investigation of the murder that occurred at 12 Tackeria Court?
A Yes, I did. I had been in court that day here in the courthouse on an unrelated homicide trial and was clearing the courthouse a little after 1:00 o'clock.

As of my habit, I usually check in with my major to see if there is anything was going on. And he informed me that, in fact, we did have two bodies.

Q And when you say major, you are referring to Major Smith?

A Major Smith.

Q And where were those two bodies?

A He informed me there had been a shooting in the Ascot Estates at Number 12 Tackeria Court.

Q And what was your initial involvement in this investigation?

A My initial involvement, I was called back a little while later, and Major Smith requested I get a search warrant for the premises. So I responded back to headquarters and began typing the search warrant.

Q And did you get that search warrant signed off on?

A Yes, I did, to Judge Edmond.

Q Were there other warrants that you attempted to get that day or other methods of search?

A Yes, I was. I had Investigator Boland do an exigent search for me through Verizon for the Verizon cellphone records of Brett Parker.

Q The Defendant?

A Yes.
Q Did you -- what did you do after obtaining the search warrant?
A Once it was signed, I notified Sergeant Lindler that the search warrant had been signed, and I was en route to the incident location with it. I instructed him to notify Lieutenant Cavanagh and Sergeant Richards that the search warrant had been signed and was on the way to their location so they could begin to process the scene.
Q And did you make your way to the scene that day?
A Yes, I did.
Q What did you initially do upon arrival on the scene?
A Initially, upon arrival, I met with Sergeant Robinson, Sergeant Lindler, I remember Coroner Watts was there, Ms. Powell from the Coroner's Office as well, several other officers. And just kind of got briefed on things to that point.
Q And what time did you arrive on the scene?
A Approximately 3:30.
Q 3:30 p.m.?
A Yes.
Q On April 13th?
A Yes.

Q Did you immediately enter into the crime scene or were you outside for a period of time?
A No, I was outside for several hours. I don't believe I actually went into the crime scene until 6:30, 7:00 o'clock, maybe a little after 7:00, somewhere in that time frame.
Q And what did you observe on the outside of that house?
A There was crime scene tape and the scene was secure. We were basically kind of in a holding pattern until we were invited in by the lab, CSI folks, to take a look at the crime scene.
Q And were there a number of vehicles at the home that day?
A There were. There were actually four vehicles up in the driveway. There were three, one in front of each garage, and one just behind them, kind of just off the pavement.
Q And did you know -- the one that was not in the driveway, did you learn whose vehicle that was?
A Yes, that was the vehicle that Bryan Capnerhurst had driven to the location.
Q And where the vehicle was parked, did -- over the course of your investigation, did you learn about the parking habits of Mr. Capnerhurst?

A Yes, I did. While interviewing with the families in this case, we learned that, you know, that is where he would always park when he came to the Parker residence.

In fact, Mr. Carswell, who did the landscaping and the yardwork at the location, specifically cut that little area out for him to back into. And his reasoning was so that he wouldn't be in the way of any vehicles trying to come or go.

Q And did you speak with Investigator Metz that day?

A Yes, I did.

Q And what were the two of you attempting to obtain that day?

A We knew from a previous incident at the location -- there had been a burglary there, I believe, in October of 2010 -- that there had been a surveillance system installed.

So we were anxious to get in and see the surveillance video, to see what it captured on it, to see if there was anything relevant to the case.

Q And did you view the surveillance video?

A Yes, I did.

Q Was there anything significant on that video?

A Yes, there was.

Q Could you tell the jury what that was?

A When we viewed the video that night, after being invited into the crime scene, we noticed -- and notated the times. Mr. Parker came home first earlier that morning, then Ms. Parker, and then a short while later, 30 to 45 minutes later, Mr. Capnerhurst showed up.

And the thing that struck us immediately when Mr. Capnerhurst got out of the vehicle, he had a duffel bag. And he slung it over his shoulder and then came walking into the residence.

To this point we did not know anything about this duffel bag or that it was in play. So that became highly significant.

Q And did you advise the crime scene investigators of that duffel bag?

A Yes, they were -- some of them were in the room where we were reviewing the video, and they saw it. And I believe Investigator Bouknight brought it to our attention, he had seen that bag in the attic area, and it was still there.

Q And did you later, over the course of the investigation, view pictures of that bag as it was opened?

A I was actually present when it was opened.

Q You were present when it was opened?

A I was present, yes.
Q And what did you observe when that bag was opened?
A Pristinely on top of the clothes and other items that were in there was a box of ammunition and a 9-millimeter clip with no rounds in it right in the middle on top of clothing, not where I would have expected to have seen that.

MR. WHITLARK: Objection, Your Honor, to that last answer. What he expects or not expects is not relevant evidence in this case.

THE COURT: All right. Objection overruled.

MS. WALKER: Thank you, Your Honor.

BY MS. WALKER:
Q And how long were you at the residence, at Tackeria Court that day?
A Probably six or seven hours. I would have to see the crime scene log when I actually departed, but it seemed like about six or seven hours.
Q And were you advised that day of Major Smith and Investigator Holdorf actually interviewing the Defendant in this case?
A Yes. Periodically I would talk to Major Smith during that afternoon, I think once or twice possibly, where I learned some of the things he was saying in his statement, referring to Mr. Parker.

Also, later that afternoon we did get -- as things were starting to get on the media, we were starting to get calls at the Sheriff's Department. And at that point Sergeant Lindler and Sergeant Robinson were dispatched by myself to go interview these people to see what information they may have that could help this investigation.

Q When Major Smith and Investigator Holdorf were interviewing the Defendant, did the Defendant tell them how long the events that transpired in the house had taken?

A I don't recall a specific time, how long it all took, not off the top of my head, I don't.

Q Did you -- you said on that day that you viewed the video, the surveillance video?

A Yes, a brief portion of it, from the arrival of the vehicles back and also when Mr. Capnerhurst arrived, up until the time of the incident.

Q Okay.

MS. WALKER: Your Honor, may the witness step off the stand?

THE COURT: Yes, ma'am.

(Witness steps down.)

MS. WALKER: This should be visible. Give me one moment.

(Pause.)
BY MS. WALKER:
Q Let me ask you an additional question. You said that you were getting a search warrant for Mr. Parker's cellphone?
A We did an exigent request through Verizon. Any time you have a violent crime like this, we are able to contact them and get an exigent request done through Verizon for the cellphone records and text messages.
Q And did you receive information back from Verizon on it?
A Yes, we did.
Q And did that information become pertinent in this investigation?
A Yes, it did, very much so.
Q After viewing the surveillance video, which we are attempting to pull up now, did you make arrangements to get a cellphone -- what is called a cellphone dump?
A Yes.
Q Can you explain for the jury what a cellphone dump is?
A It is basically where we download a cellphone, just like you would similar to a computer. Phones

today, even the simple ones, are almost like mini computers.

We have several machines at the Sheriff's Department where we can hook the phone up to it and download the contents off. It's very important these days with modern communications -- text messages, e-mails, pictures, videos, recent calls, contacts -- all become very pertinent to these investigations.

Q And whose cellphone did you initially dump?

A Not on that Friday, but that Saturday morning, Brett Parker's.

Q And the information that you received from Brett Parker's cellphone dump and the information that you received from the actual -- from Verizon Wireless -- were those records consistent?

A No, they weren't. The text messages from Lindsay Mullins had been deleted. They did not appear when we downloaded the cellphone.

Q When you say text messages from Lindsay Mullins, who is Lindsay Mullins?

A She is a local bank teller that Mr. Parker had an affair with.

Q Is that the young lady that is referenced on the Executive Inn video?

A Yes.
Q Those records showed up in the Verizon records but not on the cellphone?
A That's correct. Usually with Verizon we can get back two, three, sometimes four days' worth of text messages. And when we cross-referenced the phone number, those particular messages came back to Ms. Mullins, which is highly significant in this case.

When we dumped the phone the following morning, on that Saturday morning, the messages were not there. Other messages were there that were in the Verizon information that was provided to us, but those particular messages were not.

Q Now, if you -- if I have a cellphone and I delete something from my cellphone, is it going to delete it from the Verizon network?
A No.
Q Just from the cellphone?
A Just from the cellphone.

MS. WALKER: Can y'all see that? If we can turn the lights off.

THE COURT: Do you want the lights down?

MS. WALKER: Yes, please.

THE COURT: All right, let me see if I can do

it.

(Complies.)

(Video playing.)

BY MS. WALKER:

Q And, lieutenant, what are we looking at here?

A This is one of four angles captured by the surveillance video at the Parker home at 12 Tackeria Court. This is the incident date, April 13th, 2012.

This is going to begin at 11:38 a.m. This time was verified by Investigator Metz as the current time when we reviewed this. So this is an accurate portrayal of the surveillance video from that location.

MS. WALKER: Your Honor, for the record the video is playing now. The time on the video is 11:38 and 24 seconds. The date is April 13th, 2012.

BY MS. WALKER:

Q And did you know if the Defendant -- are there -- how many cars are in the driveway right now?

A There is one black Mercedes right here (indicating).

Q And did you, as part of kind of the notes that you kept in this case, keep a timeline of what is on

this video?
A Yes, I did.
Q According to your timeline, what time does it say the Defendant arrived?
A At 11:45 and 32 seconds.
Q Six minutes from now?
A Yes.
MS. WALKER: Do you mind if I fast-forward it?
MR. WHITLARK: Sure.
(Pause.)
BY MS. WALKER:
Q What is that?
A This is Mr. Parker pulling in in his GMC Acadia.
Q Is that the same GMC that is on the surveillance video?
A Yes, it is.
Q And the direction towards -- what did Mr. Parker walk towards?
A This is the garage right here (indicating). And off the garage there is a door into the kitchen hallway.
Q And what is the next event that is on here?
A Tammy arrives home at 11:57. This is Tammy arriving in the burgundy Ford Fusion.
(Pause.)

Q Are there additional camera angles on this video?
A Yes, there's three other angles.
Q And not on this camera angle, but on a different one, is there something of note that happens after this?
A Yes.
MR. WHITLARK: Objection, Your Honor.
THE COURT: Your objection?
MR. WHITLARK: Yes. My objection is, again, he is giving his own personal opinion. He said there is something of note about this, and it's an opinion, and I object to it.
MS. WALKER: Your Honor, he either noted it in his report or he didn't. I'm asking if he noted it in his report.
THE COURT: All right. The objection is overruled.
MR. WHITLARK: Thank you, Your Honor.
BY MS. WALKER:
Q Go ahead.
A Yes, I did note something. At 12:24 and 58 seconds, one of the other camera angles, you can see the blinds on the side door slide open and then shut.
Q And we'll go to that camera angle momentarily, but

on this camera angle, what is the next event that you note?

A On this particular angle, at 12:29:45 we see Mr. Parker exit the garage, step right out here, and kind of look down the driveway.

Q At 12:29?

A 12:29, yes. It will be very quick, but focus right in here (indicating).

(Pause.)

A Any second now. There he is. In just over a minute or so, Mr. Capnerhurst will arrive at the residence, and you'll see him back in back by that basketball goal.

Q Is that the cutaway that you're talking about?

A Yes, this area right in here (indicating). He was always known to back right in there when he came to visit.

Q And who cleared that out for Mr. Capnerhurst?

A Mr. Carswell, who is Tammy Parker's stepfather. He did the landscaping and yard work.

(Video playing.)

A This is Mr. Capnerhurst's vehicle now. It's a Dodge Stratus, I believe, beige. The key thing to note when he steps out of this vehicle, he has a duffel bag that is slung over --

MR. WHITLARK: Objection, Your Honor.

THE COURT: What is the objection?

MR. WHITLARK: Again, he is giving a running commentary with his own opinions in there. The jury can draw their own conclusions, Your Honor.

THE COURT: All right. You'll have to ask a question, Ms. Walker.

BY MS. WALKER:

Q What is Mr. Capnerhurst doing now?

A He is slinging his duffel bag over his shoulder.

Q And what is he walking towards?

A He is walking towards the garage to make entry into the residence to the kitchen area.

Q Okay. At 12:31?

A 12:31.

Q Okay. You can stand right there. We will keep it rolling.

The home surveillance video, does it have sound?

A No, it does not.

Q Were you in court when the 9-1-1 audio was played?

A I was.

Q And did you and Investigator Metz at some point in time sync the 9-1-1 audio to this video?

A I did not. We did request Investigator Metz and I

believe Lieutenant Poole, one of them, to do that.
Q And did they do that?
A Yes, they did.
(Video playing.)
BY MS. WALKER:
Q How many minutes has passed since Capnerhurst entered the residence?
A It has been a couple of minutes now. I believe he entered at 12:31:55.
Q How long has he been in the house now?
A About four minutes.
MR. WHITLARK: Excuse me, Your Honor.
THE COURT: Yes, sir.
MR. WHITLARK: Yes, Your Honor. Apparently, the Solicitor plans on playing the 9-1-1 tape along, as in sync with it, if I'm looking at this correctly. Is that it?
MS. WALKER: Yes.
MR. WHITLARK: We would object to that. That has already been heard by the jury, Your Honor. I don't understand, you know, about the cumulative nature of, let's play it again for them. I mean, it's in evidence.
THE COURT: All right.
MS. WALKER: Your Honor, it's already entered

into evidence.

THE COURT: I understand. Let me see y'all.

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

THE COURT: The objection will be overruled.

(Video continued.)

BY MS. WALKER:

Q How long has he been in the house now?

A Ten minutes. Over ten minutes.

MR. WHITLARK: Your Honor, I would like it played at normal speed if we could. Is that normal speed?

MS. WALKER: Yes, sir.

(Video continued.)

BY MS. WALKER:

Q What are we seeing now?

A This is our additional units arriving on the scene. This is Deputy Ryan, who has got his weapon pulled, holding it on Mr. Parker. He is awaiting backup to arrive before approaching so he'll have a cover officer.

Q You said there were additional cameras at the home?

A Yes, three other angles. That is the angle just off the driveway. It would be over here

(indicating). That is the edge of the garage right there (indicating), and the side access door.

Q Is this the -- you mentioned the blinds earlier at this angle?

A Right. The blinds, if you look like right here (indicating), kind of where the glare is from the sun hitting the driveway, you'll see those blinds open and then shut again.

Q What time?

A 12:24:58.

Q At this point on the other camera angle, has Mr. Capnerhurst arrived yet?

A No, he hasn't. He doesn't arrive until 12:31:55.

Q Is this before or after we see Mr. Parker peek out of the garage?

MR. WHITLARK: Objection to that, Your Honor. It's a leading question and a presupposition.

THE COURT: Sustained.

BY MS. WALKER:

Q In terms of the sequence of events, can you kind of explain that for the jury?

A These blinds get flipped open here in just a few seconds. Several minutes later is when Mr. Parker exits the garage and looks down the driveway.

Q Yes, sir.

A If you look right here (indicating), like I said, you're fixing to see those blinds open and shut, right there.

Q Return to the stand, please.

(Witness returns to witness stand.)

MS. WALKER: Your Honor, may we approach?

THE COURT: Yes, ma'am.

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

THE COURT: All right. Ladies and gentlemen of the jury, it's about ten till 6:00. They tell me it's going to probably be about another hour approximately with this witness.

Do you all want to keep going or are you all ready to break for the evening?

THE FOREMAN: It's your call, Your Honor.

THE COURT: Well, if y'all are tired, then we'll stop, but, I mean, if everybody wants to keep on going . . .

(Pause.)

THE FOREMAN: We will stay, Your Honor.

JUROR: We need a bathroom break.

THE COURT: Y'all want to say? All right, we'll let y'all take a stretch break and we'll take

about five minutes to use the restroom.

All right. Thank you.

THE BAILIFF: Remain seated until the jury leaves the room, please, ma'am.

(WHEREUPON, the jury retires to the jury room at 5:47 p.m.)

THE COURT: Let's take about five or ten minutes.

(WHEREUPON, a break was taken.)

THE COURT: Yes, ma'am.

MS. WALKER: I showed Mr. Whitlark the text messages we will be seeking to introduce, the ones from Lindsay Mullins.

THE COURT: And are these -- I'm just trying to figure out, how are they relevant?

MS. WALKER: That's the communication he was having -- I think Your Honor has already ruled. That's the communication he was having with one of his mistresses the morning right before these murders occurred and that he then deleted off of his phone and are only found through the search warrant that Lieutenant McDonald obtained from Verizon Wireless -- I'm sorry, the exigent search that came from Verizon Wireless -- and that Mr. Parker denied having any sort of relationship

just hours later.

THE COURT: All right. And I didn't rule on it. I have my notes here. I ruled as to her -- that we would proffer her testimony at the appropriate time, that we would take up the text messages at the appropriate time. And I think I had ruled that it was okay for you to say that he was in contact with the -- I think her name is Ms. Mullins -- that morning.

MS. WALKER: Yes, Your Honor.

THE COURT: But I'm just trying to figure out why the content of the text messages is relevant.

MS. WALKER: Your Honor, it illustrates an ongoing affair. They talk about getting together the following week. He said it would be even better the following week. They talk about the fact that he went to go see her that morning and that she said he was disappointed that she wasn't available to see him that morning.

It goes to the motive in this case, Your Honor, I think, which the State has a right to prove the inconsistencies, Your Honor, in the Defendant's statement, the fact that this was an ongoing relationship, which Mr. Whitlark said in his opening was not.

They were planning to meet -- and I think the term, Your Honor -- and I don't have the text messages in front of me, so excuse me if I misstate it, is that they wanted to have more yummy encounters.

And, Your Honor, that -- it is the morning of the murders. It illustrates that it is an ongoing affair, an ongoing relationship that he plans on continuing after the events of April 13th.

MR. WHITLARK: To be honest with you, Your Honor, my lawyer's sense is telling me to let them put it in to prove that, you know, of course, he is going to murder his wife and then go meet her two days later or something.

THE COURT: Well, he says he's going to coach baseball on Saturday and practice softball on Sunday.

MS. WALKER: Your Honor, the ones that -- if you keep reading there, she says, I thought you were beginning to go away from our relationship.

THE COURT: She says, I think you're completely irresistible, getting hotter, and I will loose my boy toy to a 22-year-old bimbo.

He says, never.

MS. WALKER: Right, Your Honor. April 13th

Lindsay texts him saying, Tuesday was my highlight. That's going to be the encounter they had at the Executive Inn.

And then he says at 10:24, maybe next week will be better, to illustrate the ongoing nature of this relationship.

MR. WHITLARK: Your Honor, perhaps the Court can hold that in abeyance until the young lady takes the stand.

MS. WALKER: Your Honor, this is the witness that obtained the text messages.

THE COURT: I just don't understand what the text messages -- you've already got in that he was at the hotel three days before, right?

MS. WALKER: Well, we got in testimony about the video. We didn't get into the video. The young lady hasn't testified to corroborate that, but we got in testimony regarding the video.

THE COURT: That he was at the hotel. She came in after him. So that testimony is in.

MS. WALKER: I don't think -- I can't recall if it was illustrated who the young lady was. I know Investigator Metz said that a young lady met him.

THE COURT: Are y'all objecting to this?

MR. WHITLARK: We are objecting, Your Honor. It may come up again when the young lady testifies, Your Honor, but at this point, I mean, not only is it going to be confusing to the jury, I think it is highly and unduly prejudicial. It is the same grounds we had previously, Your Honor.

MS. WALKER: Your Honor, if I may, in Mr. Whitlark's opening, he said, this was not an ongoing relationship. They didn't plan to see each other anymore, and these text messages contradict that.

I think the case that Ms. Campbell handed up --

THE COURT: Did he say that they didn't plan on seeing each other? I think he said it was just sex.

MS. WALKER: He said it was not an ongoing relationship. And perhaps if we can -- I know we've been talking all day about things that Mr. Whitlark said in his opening.

THE COURT: Well, I mean, I guess that is going to depend on how you describe the relationship. They said it's just sex. I think he said it was just sex, if I remember correctly.

MS. WALKER: He said they didn't plan on

continuing --

THE COURT: That is what they were talking about.

MS. WALKER: Right, just sex that they did not --

THE COURT: Get together and have more sex.

MS. WALKER: Sex that they did not plan on continuing, which is contradicted by the text messages.

THE COURT: Did he say that it was sex they didn't plan on continuing?

MS. WALKER: If we can go to the transcript, I think we will be able to clarify all of that.

MR. WHITLARK: Well, didn't they already print the transcript of my opening?

THE COURT: Do you have -- all right, we have to stop talking so she can -- because Debbie can't look it up.

(Partial opening played in open court.)

THE COURT: Unless I missed it, I didn't hear anything in there about a continuing relationship.

MS. WALKER: I couldn't hear you, Your Honor.

THE COURT: I don't hear anything in there about a continuing relationship.

MS. CAMPBELL: There is a part in there

somewhere -- I am just looking at our notes -- where it talks about tunnel vision, and right after that it talks about --

(Partial opening played in open court.)

THE COURT: As far as this witness, we can address that at a later time when Ms. Mullins testifies; but for purposes of this witness and the text messages, the objection is sustained. The text messages will be excluded from this testimony at this time.

MR. WHITLARK: Thank you, Your Honor.

THE COURT: On the grounds of relevancy. She even calls it an arrangement. She doesn't even say it's a relationship. In the text messages she calls it an arrangement.

All right. Anything else?

MR. WHITLARK: Nothing from the Defense, Your Honor.

THE COURT: Bring them in, please.

(WHEREUPON, the jury came into open court at approximately 6:22 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Yes, ma'am, you may continue.

MS. WALKER: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUES

BY MS. WALKER:
Q You viewed the video that we just saw before the break on which date? Your initial viewing?
A My initial viewing was the date of the incident on April 13th, 2012.
Q And on April 14th did your participation in this investigation continue?
A Yes, it did.
Q And what did you do on the 14th?
A On the 14th I responded to the residence to obtain Ms. Parker's two cellphones. Once the CSI team was on the scene and I was allowed in, I signed in and went in and retrieved those two cellphones, notated those on the search warrant return, and returned to my office to download those phones, along with Mr. Parker's that I had been given.
Q And did you -- you, in fact, downloaded Mr. Parker's cellphone?
A Yes, I did.
Q And you stated before the break that you received information from Verizon Wireless as well?
A Yes, I did.
Q Before the break you stated that the information between the download and the information from Verizon did not match?

A No, it did not.
Q What was the difference, sir?
A There was a series of text messages from a particular number -- when cross-referenced it was Lindsay Mullins -- that were not on the download when I downloaded the phone, but were present on the Verizon records.
Q Did you also at that point in time look at a series of phone calls the Defendant made that day?
A Yes, I did. He had called Mr. Capnerhurst and called his father, and he called Tammy numerous times throughout the morning.
Q The phone calls to Bryan Capnerhurst on April 13th, 2012?
A That's correct.
Q What time were those phone calls?
A The first one is at 7:40 a.m. The next one would be 11:12 a.m., at 11:13 a.m., and 11:15 a.m., and the final one at 14:29, which is 2:29 in the afternoon.
Q A cellphone call from the Defendant to the victim at what time?
A At 2:29 p.m. It was a one second call to Mr. Capnerhurst's cellphone.
Q That was before or after the murders?

A After the murders.
Q The text messages that you were able to view between the Defendant and Ms. Mullins, did you relay that information to other investigators involved in this case?
A Yes, I did. Upon reviewing those and downloading the phones, I returned to the scene where Mr. Parker was talking to Major Smith. I took Major Smith aside and told him this information that I had located.
Q And moving to the 16th, Lieutenant, did your participation continue that day?
A Yes, it did. That Monday morning we had a -- we traditionally have a morning briefing on a homicide. We get all the investigators involved, CSI, and have a meeting to kind of get input from everyone involved as to where we're at and what we need to do to move forward. That was the meeting. It lasted for a while. We did come up with duties and things that we needed to do and made assignments to the various investigators.
Q Included -- did y'all at that point think it was necessary for someone to speak with Ms. Mullins?
A Yes, definitely.
Q Did y'all think it was necessary for someone to set

up what is known as an ARC interview?
A Yes. We set up an ARC interview with both children of Brett and Tammy Parker.
Q Can you explain to the jury what an ARC interview is?
A An ARC interview is done by trained professionals who interview children, especially in cases like this, for any possible information they may have that could help us in this investigation. They also deal with the feelings and the emotions of the children after such a traumatic event.
Q And would you later attend those ARC interviews?
A I would.
Q Did you continue to view the surveillance video to look for additional information?
A I reviewed that video numerous times, probably 10 to 12 times. At one point several weeks later is when I first discovered the blinds being moved. I had asked Investigator Metz to provide me video from, I believe, 7:00 a.m. that morning or 7:30 that a.m. forward to look for anything that may be suspicious or out of character.
Q Are you familiar with the Defendant's statement in this case?
A Yes, I am.

Q The video that we viewed, during the point in time during which Mr. Parker is outside the garage --
A Yes.
Q -- and the blinds are opening and closing, what according to the Defendant's statement was he actually doing at that time?
A He was -- I'm not sure which time you're talking about. When the blinds were opened?
Q According to the Defendant's timeline, what was he doing before Bryan Capnerhurst got there?
A He was using the restroom, the downstairs restroom.
Q On the video what does it show him doing?
A Peeking out the garage.

MR. WHITLARK: Objection, Your Honor.

THE COURT: Your objection?

MR. WHITLARK: Well, they're presuming that it is Brett Parker that looked out the window.

MS. WALKER: Your Honor, he just said peeking out the garage. I think we all saw him step out of the garage.

MR. WHITLARK: I think he just said he looked out the window.

THE COURT: All right, ask the question again.

A Mr. Parker peeked out of the garage and looked down the driveway at 12:29 when he would have been using

the restroom.

THE COURT: Objection overruled.

MR. WHITLARK: Yes, Your Honor.

THE COURT: You can continue.

BY MS. WALKER:

Q According to the Defendant's statement, had he ever told investigators that he was outside at any point before Bryan Capnerhurst arrived?

A No, he had not.

Q I want to turn your attention to April 18th. Did you make contact with an Al Davis?

A Yes, I did. Mr. Davis was a delivery driver for UPS. In the crime scene photos, it was brought to our attention that there was a package that had been delivered that day on the Parkers' front porch.

Of course, we were very interested in trying to establish a timeline in this investigation. So I contacted UPS to determine the time that that package was delivered by Mr. Davis.

Q And, once again, in the Defendant's statement to investigators, did he mention what was his wife was doing when he supposedly left her in the upstairs office?

A She supposedly was making a phone call to a doctor

when he went downstairs.
Q And did you obtain the various phone records for the home and cellphone?
A Yes. I got -- there was actually three landlines to this residence. There was the home phone number and two business bookie lines where the business of the gambling was handled on. We got search warrants on all three of those phones.
Q Were you able to substantiate the Defendant's statement that Ms. Parker had been on the phone?
A No, I was not. There were no calls placed from the residence on any of those three phones during that time period.
Q And the cellphones?
A And the cellphones as well, no calls.
Q And on the 19th, six days after the murders?
A Yes, ma'am.
Q Did you, in fact, attend the ARC interview that you set up for the Defendant's children?
A Yes, I did. Myself and Sergeant Lindler attended the interviews.
Q And were you able to observe those interviews?
A I observed B.P. [redacted]'s interview, along with Sergeant Lindler.

Q Did that interview contain valuable information?
A Yes, it did. B.P. had indicated that her father had shown her a gun that he kept in the office area, also told her about a gun he kept in the master bedroom closet, also revealed -- she indicated to the woman that was interviewing her that she had never seen Mr. Capnerhurst with a gun.
Q Did she indicate whether or not the family had returned to the residence?
A They had not. They were staying with Mr. Parker's parents.
Q Did you observe anything or did you note anything else regarding that ARC interview?
A Only that B.P. indicated that neither she or her dad had ever argued as far as she knew. She had never seen them fight or argue. He was kind of like a family member, and they would be over there oftentimes on the weekend to have dinner with them, kind of like an extended family member.
Q And that was Mr. Capnerhurst and the Defendant?
A Yes.
Q On May 2nd --
A Yes, ma'am.
Q -- did you -- did a toilet seat become significant in this case?

A It did. As stated in Mr. Parker's statement, he indicated he was downstairs defecating in the downstairs restroom.
Q Yes, sir.
A On CSI's arrival, they documented that the seat was up, which we thought was highly unusual.
MR. WHITLARK: Your Honor, objection to the commentary by the officer regarding -- again, it's his opinion about it, Your Honor. I mean, he can testify to what he saw, Your Honor, but he is giving commentary about it. It's suspicious. It's unusual. I object to it.
THE COURT: I will overrule the objection in line with my ruling earlier, I guess, last week at the beginning of the trial.
MR. WHITLARK: Thank you, Your Honor.
THE COURT: As to the officer's testimony.
MR. WHITLARK: Thank you, Your Honor.
MS. WALKER: Thank you, Your Honor.
BY MS. WALKER:
Q Continue, Lieutenant.
A As I was saying, Mr. Parker indicated he was downstairs defecating in the downstairs restroom. Upon CSI's arrival and documentation of that restroom, the seat was in the upright position.

This was inconsistent with the statement from Mr. Parker.

Out of an abundance of caution, I got the crime scene log and called every officer that had entered that scene to clear the house and asked them pointblank did they use utilize that restroom for any reason, did they move that seat, or did they see anyone else utilize the restroom or move that seat.

The answer from all these deputies and other officers was negative. They had not. They had not seen anyone enter and they had not utilized that restroom.

Q Did you continue with cross-referencing the contacts that were found in the Defendant's phone?

A Yes. I believe there are some 240 contacts in his phone, and I entered those into our computer system. We have a computer software program called ASUS. They were all entered into there so when we import these cellphone records, it auto-populates numbers that have been entered into the records so we can identify who the subscribers are or who the contacts are.

Q And did you attempt to make contact with the people in the Defendant's phone?

A Yes. Myself, Major Smith, and Investigator Holdorf split up this list. I think we got some additional assistance as well, because there was well over 200 contacts.

And we made contact with each and every person in his phone contacts to evaluate the relationship, how they knew Mr. Parker, whether it was a friend or a business relationship, or what exactly the relationship was to Mr. Parker.

Q And did you, over the course of doing that, contact Eddie?

A I did. One of the contacts in his phone was someone listed as Eddie.

Q And who was Eddie?

A Eddie is actually a Lisa Camp. I called her number and spoke with her. She lives in Alpharetta, Georgia. She said she had known Brett since high school, went to the prom with him, they had stayed in contact over the years, and she had probably last spoken to him six or seven months ago.

And I asked her if she, for any reason, would know why he would have her as a contact of Eddie in his contacts, and she couldn't think why her name would be Eddie in his contacts.

Q Did you make contact with associates of

Mr. Capnerhurst as well?
A Yes, I did.
Q And who would those be?
A I called a Ray DeShazo. He returned the message, I believe from his wife, a few days later. He was actually in the hospital. I never actually talked to him, but he had been in the hospital, and his wife did call me several days later.

In addition, I talked to a David Veldman, who is actually an accountant that works for the Lexington County Recreation Commission, who knew Bryan. Bryan had called him earlier the day on the 13th to say he was still sick, and Bryan Capnerhurst was trying to make arrangements for his paycheck to be picked up. And he informed Mr. Veldman that he would be out sick that day and to notate that on his time sheet.

Q And did you make contact with Alvin Kelley?
A I did. I also talked to Mr. Kelley, who is the immediate supervisor of Mr. Capnerhurst at the Lexington County Recreation Commission. Mr. Kelley states he knew Bryan well, and he knew that Bryan was supposed to go to lunch at Brett's house that day to be paid for work in the bookie business.

And he thought there might be an issue or a

problem, that Brett may show him some doctored books where he didn't have the money to pay him in full and was expecting some kind of problem possibly as a result.

Q Did Mr. Kelley mention the duffel bag that we saw Mr. Capnerhurst sling over his shoulder?

A Yes. He indicated to me that Cap had told him -- that Mr. Capnerhurst had told him that Brett wanted him to bring a duffel bag with him to place the money in.

Q Is it unusual for you over the course of an investigation to make contact with either acquaintances of the victim and/or the Defendant?

A No. Before this incident happened, we didn't know any of these people. We didn't know the background. We didn't know the relationship. So part of our job is to try to put ourselves into their lives, learn the relationships, learn friends, business relationships, anything else that may be going on to try to figure out exactly what may have happened and why.

Q And did you receive the victim's, Mr. Capnerhurst's, cellphone records in this case?

A Yes, I did.

Q And on May 9th did you review those records?

A Yes, I did.
Q What, Lieutenant McDonald, if anything, stood out about those records?
A The most noticeable thing to me was a very unique series of digits dialed on his phone at 12:33 hours, which would be just a minute and a half or so, close to two minutes, after his arrival.

There was a sequence of these numbers and digits that when I looked down at a dial pad, it immediately struck me that this could be someone under stress attempting to call 9-1-1 --

MR. WHITLARK: Objection, Your Honor.

THE COURT: Your objection?

MR. WHITLARK: Yes. Your Honor, I have a matter of law to take up with the Court about what I believe this gentleman is getting ready to talk about, or we could do a bench conference on it, but . . .

THE COURT: Ladies and gentlemen, I'm going to send you all out for one quick second.

THE BAILIFF: Please remain seated until the jury leaves.

(WHEREUPON, the jury retires to the jury room at 6:41 p.m.)

THE COURT: All right.

MR. WHITLARK: May it please the Court, Your Honor? I anticipate that there is about to be some testimony regarding some jumbled numbers that were on the telephone of Mr. Capnerhurst.

What they're going to claim is that he is trying to dial 9-1-1 or he is going to attempt to give his interpretation that somebody had already heard it under duress and was trying to dial 9-1-1, and it was a misdial.

Your Honor, I mean, they can testify it was a 14-second call for whatever reason, but, I mean, he is interpreting what that means. I mean --

MS. WALKER: Your Honor, I think he is stating -- he is going to put on the record what the numbers or the series of numbers dialed were. He said why it was significant to him as an investigator in this case.

Your Honor, I think investigators are allowed to explain why they investigate certain things, why they look further into certain things once they become of note to them. That is all the lieutenant is doing.

THE COURT: I think y'all are pushing it. I mean, he can say what the numbers were. If the jury wants to conclude -- I mean, what were the

numbers? I mean, unless he has evaluated cellphones in the past before. I mean, you have to lay some kind of foundation.

MS. WALKER: I can qualify him as a cellphone expert -- as a cellphone expert. He has been qualified before.

THE COURT: Well, you would have to qualify him, I think, as more than a cellphone expert.

MS. WALKER: Phone records, cellphone analysis.

THE COURT: A person under distress on the -- I mean, I just think y'all -- he can say what he saw, but as far as him giving his opinion as to what he was trying to do, I mean, the jury can infer what they choose to. But I don't know if he necessarily -- he hasn't been qualified as an expert to do anything.

MS. WALKER: I can qualify him.

THE COURT: Unless he has had some experience before with a similar issue, then I don't think he can even get into his opinion as to what it was --

MS. WALKER: And, Your Honor, can I make a proffer?

THE COURT: You want to proffer his testimony?

IN CAMERA DIRECT EXAMINATION

BY MS. WALKER:

Q Lieutenant, the digits that were dialed from Mr. Capnerhurst's cellphone, what digits were those?

A The Number 7, an asterisk, the Number 4, the Number 4, Number 0, Number 1, an asterisk, and the Number 5.

Q And did you -- once you saw that phone number, what did you do?

A I contacted Verizon to see if they could explain. It was showing as a 14-second call. Obviously it was not a complete number, but I wanted to get an explanation from Verizon themselves as to how to they interpreted this particular call. I've done this numerous times before on other investigations.

I talked to Ms. Paula Bartholomew with Verizon who indicated that the calling sequence I just mentioned did hit a tower and the tower tried to connect the call for 14 seconds before realizing that it was an incomplete phone number, and then it was disconnected. It was unable to make a connection due to being an incomplete call.

Q Did you then observe kind of the numeric keypad on a cellphone in correlation with these?

A Yes.

Q And can you explain to the judge your observations when you did that?
A When I look at this pattern, although obviously it's not 9-1-1, the numbers, in relation to where they are on the keypad, you can make a logical assumption that the subject may have been attempting to dial for assistance or dial 9-1-1.
Q And, Lieutenant, in terms of kind of your area of expertise, do you spend a lot of time for the Sheriff's Department analyzing cellphone records?
A Yes, I do. I've been doing cellphone records since 2001.
Q What kind of training do you have in analyzing cellphone records?
A I've had on-the-job training since 2001. I have attended numerous seminars, classes, beginning in 2007 a cellphone investigations class where we discussed on how to interpret the records from the phone companies, how to plot the locations, the sectors that these phones are hitting on, and how to display those for court purposes.

Following that, in May of 2008 I attended the Mobile Forensics World Conference in Chicago where leading authorities and researchers from around the world were brought in as speakers for a week-long

seminar on the latest cutting edge trends in forensic cellphone technology and how to assist law enforcement with that.

Q When cellphone records become pertinent in a case at the Richland County Sheriff's Department, are you the person who analyzes those records?

A I do all the records, yes.

Q And what about for the Columbia Police Department, do you analyze those records?

A Yes, I have done several Columbia Police Department murder trials as well.

Q Have you been qualified as an expert in cellphone analysis?

A I have on six occasions.

Q In this courthouse?

A Yes. Six on cellphone investigations, yes. I also attended a class in November 2012 which was an Advanced cellphone Forensics and Cellular Training Technology Class and became court certified at the conclusion of that seminar, that class, by passing a written test and operating the equipment to download the phones.

Q I want to show you what has been marked as State's Exhibit Number 378. This is the victim's cellphone. Can you describe that cellphone for the

judge so she understands. There are flip phones, there are touch phones.

A It actually flips open, Your Honor, where you can do text messaging. But to place a call, the keyboard is on the outside. You simply just dial the number and hit send.

Q And when you looked at that cellphone in conjunction with the numbers that were attempted to be dialed by Mr. Capnerhurst -- at what time?

A At 12:33. He arrived at 12:31 and 55 seconds. So this would have been a minute and a half or so after he arrived.

Q What -- describe what you observed to the judge with the pad.

A Well, as I said, that pattern is very close to possibly dialing 9-1-1. I can't say for sure, but it appears someone attempted to call out on this phone. It was an incomplete call. In my opinion I would think it may have been 9-1-1 based on the pattern and the close proximity of the keys to the 9-1-1 keys.

MS. WALKER: That's all I have, Your Honor.

MR. WHITLARK: Briefly, Your Honor. I mean, I think I heard the word *guess* coming out of him about this. I mean, you know, I object on that

basis.

I mean, there is really no science to what he is saying, Your Honor. It is what he just said, it's a guess.

And, Your Honor, I have a question for him.

IN CAMERA CROSS-EXAMINATION

BY MR. WHITLARK:

Q What is the main interchange number for Columbia, South Carolina, after you get your first three, 8-0-3? Isn't it 7? Isn't 7 a widely used number?

A It's one of them.

Q Isn't that widely used?

A There's many. There's 2, there's --

Q Okay. I know. But 7 is one of them, isn't it, though? We've got 2 and 7.

A That's correct.

MR. WHITLARK: Your Honor, he just said it was a guess, Your Honor.

THE COURT: All right. I'm not going to allow him to give his opinion as to -- first of all, he hasn't been qualified. I'm guessing you're trying to admit him as to cellphone analysis.

But based on his testimony here, it is speculation. He can testify as to the numbers, that when he called Verizon, they told them it was

an incomplete call, somebody was trying to make a call and connect it, but the numbers -- he can testify to all that. The only -- but, I mean, as to his opinion as to what number they were trying to call, I mean, it is just --

MS. WALKER: Okay, Your Honor.

THE COURT: It is speculation.

MS. WALKER: Okay.

MR. WHITLARK: Your Honor, I know I'm going to hear -- I'm sure in the closing argument, they're going to talk about that.

THE COURT: They can argue it all they want.

MR. WHITLARK: Absolutely.

THE COURT: I mean, they can argue that, but he can't give that opinion testimony.

MR. WHITLARK: Thank you.

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

MS. WALKER: I am, Your Honor.

THE COURT: You can bring them in.

(WHEREUPON, the jury came into open court at approximately 6:52 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: All right. You may continue.

DIRECT EXAMINATION CONTINUES

BY MS. WALKER:
Q There were a series of numbers that were dialed from the victim's phone?
A Yes, there were.
Q What numbers were dialed?
A The Number 7, an asterisk, the Numbers 4-4-0-1, and an asterisk, and the Number 5.
Q Was that call completed?
A No, it was not. I contacted Verizon about that and spoke to a Paula Bartholomew at Verizon to get a better understanding of why -- what was going on here.

And I was informed that for 14 seconds that phone tried to connect, was connected to a tower and was trying to complete the call, and it was then dropped because it was an incomplete number.
Q And what pocket was that phone found in?
A The left pocket, the front pocket of Mr. Capnerhurst.
Q And he attempted to make a phone call at what time?
A 12:33.
Q What time did he enter the house?
A 12:31 and 55 seconds.
Q I think earlier you stated that you obtained the phone -- the phone records from the gambling lines

of the home?
A Yes, I did.
Q And do you recall those phone numbers that correspond with those lines?
A Yes. It was (803)407-1351 and (803)407-1352.
Q Is there an additional phone line in the home?
A There was a residential line which is (803) -- correction -- (803)781-7905.
Q And the Defendant's phone number in this case?
A The Defendant's in this case was (803)530-9404.
Q And the victim, Mr. Capnerhurst?
A His phone number was (803) -- it was a Verizon cellphone -- (803)622-2453.
Q And Ms. Parker?
A Ms. Parker had two cellphones, a personal phone and a work phone. One of her numbers was (803)391-6353, which was also Verizon, and (803)360-6000.
Q And on May 11th did you again view the surveillance video of this case?
A May 11th is when I did review it again. And that would be when I noticed what appears to be the blinds opening and shutting at 12:24 and 58 seconds from the side entry door to the residence adjacent to the garage.

Q And did you bring that to the attention of other investigators?
A I looked at it two or three times myself and then alerted Major Smith and other investigators involved in the case for them to view it as well.
Q Did you receive what is called a closed incident report from 9-1-1?
A I did.
Q Can you describe to the jury what a closed 9-1-1 incident report is?
A A closed incident report is a transcript of the call, the 9-1-1 call, when the call came in, things entered by the dispatchers as far as units that are assigned or responding, their arrival times, their dispatch times, things of that nature, and also a recording of the 9-1-1 call.
Q And was dispatch able to tell you what phone number dialed 9-1-1 on April 13th?
A Yes, it was the home residential line of (803)781-7905. This 9-1-1 call did not show up on those records from AT&T when I was examining them. And I had a question as to why. Because normally I would think I would see that 9-1-1 call being placed.

I contacted dispatch to verify which number

had called 9-1-1, and they informed me. I then called AT&T to see why that call wasn't reflected on there. I was told that 9-1-1 calls are not reflected on normal search warrants. You would have to request that on an additional search warrant for any 9-1-1 calls.

Q And after viewing the -- after seeing the blinds move, did the investigators make certain requests from the crime scene unit?

A Yes. We discussed our next move in this case. We had regular updates on this case every two or three days, probably with new assignments and us all getting together to discuss what we had found.

Q Is that uncommon in a murder investigation?

A No. It's very common, especially with a large amount of people working. It's hard to stay on top of what each person is doing unless you have these meetings to get input from everyone involved as to what they are doing or what they have found, what they have looked at.

Q Okay.

A So we did have a meeting and one of the -- of course, one of the top topics was what would be our next move in light of this new evidence we have seen with the blinds being moved or what appeared

to be opening and closing.

We discussed going back with an additional search warrant to try to recreate these events and also to give our CSI team a chance to see if there was any GSR or GPR located on those blinds, on that door, or on the plantation blinds just adjacent to this door which shown out onto the front of the residence.

Q And did you participate in the execution of that search warrant?

A Yes, I did.

Q And what day was that?

A That was on May 23rd. We were -- we had to plan this and we tried to do it, to recreate this at the same time of day as the original blinds when they were -- appeared to be opened. And we needed a bright sunny day, much like it was on April 13th.

So we had to look at weather reports and gauge the next day that this would be appropriate, and we came up with May 23rd. We had gotten a search warrant previous to this and were ready to go first thing that morning on the 23rd.

Q And did you respond to 12 Tackeria Court?

A I did. Myself and Investigator Holdorf were the first two to arrive that morning.

Q And when you entered -- did you enter the residence that day?

A We announced that we were on scene to Major Smith, who I believe tried to telephone Mr. Parker. We had noticed Mr. Parker's vehicle was in the driveway and thought he may be in the residence.

We had Major Smith, who had his number, to call him and let him know that we were on scene and we had a search warrant and to come out -- you know, that investigators were on the scene.

We initially entered through the garage area and knocked on the door there and didn't get a response. We then stepped out and started walking around to the front door.

I believe Mr. Parker came out the side door possibly at that time, and then we met him at the front door. Major Smith, I guess, directed him to come to the front door.

We explained our intentions, that we had a search warrant and asked him to vacate the premises. We would notify him when we were complete.

Q Once you -- did you enter the home that day or did you stay outside?

A No, I entered the home, along with several other

investigators and a CSI investigator.
Q Did you make your way to the office area?
A Yes, I did.
Q What did you find in the office area?
A We looked through additional paperwork. Some .410 shotgun rounds were found in the desk area at that time. Investigator Metz had a DVR we had obtained from ADT, separate from the DVR that was utilized to record the incidents on April 13th.

Investigator Metz was tasked with setting up that DVR to record, using the same cameras that recorded the previous events, trying to recreate this as close to possible as we could.
Q At that point in time had investigators made contact with Ms. Mullins?
A Yes.
Q And had she indicated anything about possible guns or ammunition in the office area?
A She had in a statement. She had indicated that Mr. Parker had indicated that he kept a gun in the office and pointed at his desk.
Q And where were the Winchester bullets found?
A In his desk drawer.
Q There has been testimony, I think, from Sergeant Richards and a picture admitted about Gun Oil in

this case?
A Yes.
Q Gun Oil, please explain to the jury what that is.
A Gun Oil is a personal lubricant used for sexual activity. It was found --
MR. WHITLARK: Objection, Your Honor. Objection.
THE COURT: All right. What is your objection?
MR. WHITLARK: Well, I don't know what it's used for. Does it have that on the label? I don't know.
MS. WALKER: I'll get the label.
MR. WHITLARK: Does it say that?
THE COURT: All right. Objection sustained. Please refrain -- or move on to the next question.
MR. WHITLARK: Thank you, Your Honor.
BY MS. WALKER:
Q Is Gun Oil used to clean actual guns?
A That particular Gun Oil?
Q Yes, that Gun Oil.
A I don't believe so.
Q And during the execution of that search warrant, is that when Sergeant Richards -- were you here for Sergeant Richards' testimony?

A I was.
Q Is that when the swabbing of those blinds took place as well?
A Right. I observed him do some of the swabbing down there and directed him to also do the plantation shutters and the washroom adjoining this area.

Upon arrival on the scene, I noticed that those blinds, you could also see down the driveway in the front of the house. So I wanted those swabbed as well.

Q Okay. And I want to go back to May 14th. Did you meet with Jack Parker?
A I did. Myself and Major Smith met him at his residence.
Q And who is Jack Parker?
A He is the Defendant's father.
Q Were you able to gain certain information from him about this case?
A We did. Yes, we did. We basically laid out the case we had to this point with the evidence we had, being open and honest with him about where this case appeared to be heading.
Q Go ahead.
A We confronted him with some phone calls. We had gotten phone call records. And we noticed a very

early phone call to his residence that morning. He recollected that was Tammy calling him asking him for an obituary out of the newspaper. He recalled that. He didn't recall some of the other calls that morning involving Brett or Capnerhurst.

Q Were there phone calls in the records between Jack Parker and Bryan Capnerhurst?

A There were.

Q Go ahead.

A He did indicate, after talking with him, that at about 7:43 that he did talk to Mr. Capnerhurst about meeting Brett that day to get paid.

And Mr. Parker indicated he was going to loan Capnerhurst some money if there was an issue or problem, if Mr. Parker did not pay him.

Q And your involvement with the investigation of this case was from basically the date of the incident until when?

A Up until a week or so before trial.

Q Did you prepare a PowerPoint --

A I did.

Q -- presentation?

A I did.

Q And does that PowerPoint presentation encompass the cellphone records that we've been discussing?

A They do.

THE COURT: Are you going to present that?

MS. WALKER: Yes, ma'am.

THE COURT: All right. Ladies and gentlemen of the jury, this may be a good time for us to take our evening break. It's about ten after 7:00. And we'll go ahead -- Ms. Walker tells me that she has quite a bit more direct testimony from Lieutenant McDonald. And then, of course, we have cross-examination from the Defense.

So at this point in time, before she brings up the PowerPoint, we will go ahead and take our evening break. We'll start tomorrow morning at 9:30.

I am thinking -- I don't know if any of you bring your lunch, but I'm thinking that we'll probably order lunch tomorrow. So the clerk will have menus for you in the morning.

Thank you. Have a great evening.

(WHEREUPON, the jury was excused at 7:10 p.m.)

THE COURT: All right. So 9:30 in the morning. I think we will order lunch. I've got to go over to the State Grand Jury around lunchtime to receive some indictments, I guess, probably about 12:30 or so.

So if you all want to order in, I'm going to order lunch for them tomorrow. I will try not -- I don't know if we'll work as late tomorrow night. The younger people cannot hang.

(WHEREUPON, the proceedings concluded for the evening.)

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MR. WHITLARK: Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. WHITLARK: Your Honor, it has been brought to my attention by the Prosecution that they are wanting to introduce certain phone records and the telephones, and so forth. And I have a matter of law to take up with the Court regarding that.

I would need to ask simply one question of the witness regarding one thing, and I would have a matter of law regarding the Fourth Amendment, Your Honor.

THE COURT: All right. Yes, sir.

MR. WHITLARK: May I proceed?

THE COURT: Yes, sir.

IN CAMERA EXAMINATION

BY MR. WHITLARK:

Q Investigator McDonald, would you take a look at --

this is Defense Exhibit Number 1. Would you take a look at the middle of that page there? Are you looking at it, Investigator?

A Yes, I am.

Q Would you agree with me that there was no police officer at the scene? There is no record of a police officer being there from about 1:40 till about 4:00 o'clock in the morning?

A I see Officer Wenzel, and I see that 4:13:12. There is not a time associated next to that.

Q Right. Would you agree there is a gap in time that there is no officer recorded being there in the early morning hours of April 14th? Would you agree with me? That the log -- that's what the log shows?

A That's what the log shows. I know the scene was guarded 24/7.

MR. WHITLARK: I have a matter of law to take up, Your Honor.

THE COURT: I didn't hear. What was his last response? You said?

THE WITNESS: I know the scene was guarded 24/7. I know the log may not indicate that, but I know an officer was there.

MR. WHITLARK: Your Honor, if I may proceed

briefly?

THE COURT: Yes, sir.

MR. WHITLARK: Your Honor, we would object to any evidence that was seized on the 14th on the grounds that once they relinquished the house, it appears, according to this log, it appears that they did not have an officer there according to the official log for about three hours on the 14th.

Once they relinquished control of it, the warrant that they had is no longer valid. They had to get a new warrant issued when they re-entered the premises on the 14th in the early morning hours.

And I would move to suppress for violation of the Fourth Amendment everything that they seized the next day, which would include all these telephone records and all the other materials that they gathered on the 14th. They didn't have a warrant to do it. And I would move to suppress the evidence.

THE COURT: All right. So you're saying there was a warrant issued on the 13th, and there is a time period you are saying on the log that it appears that no one was there?

MR. WHITLARK: Yes, Your Honor. Unless they

can produce a witness who was actually there during this gap that we show in this log, they would have had to have gone and gotten a new warrant.

Because once they relinquish control of the premises, they have to get a new warrant. I would move to suppress every bit of evidence they gathered on the 14th of April on that basis.

THE COURT: Are we getting into some of that evidence at this time?

MR. WHITLARK: Yes, Your Honor. That's why I did it at this time.

MS. WALKER: No, Your Honor, we're not.

THE COURT: You're not getting into anything --

MS. WALKER: That was gathered. Evidence taken from the house on the 14th?

MR. WHITLARK: Yes.

MS. WALKER: No.

MR. WHITLARK: I thought the cellphones -- weren't the cellphones seized?

MS. WALKER: It is his cellphone that he gave them consent --

MR. WHITLARK: Well, that's fine.

MS. WALKER: And there are search warrants -- there are several search warrants for the landline

in the house.

MR. WHITLARK: I believe those were the ones that were seized on the 14th, I think.

THE COURT: She is saying there is a separate search warrant.

MR. WHITLARK: If they have the warrant. I have never seen one, Your Honor. That's all.

MS. WALKER: Your Honor, the other record that we are going to introduce would be Tammy Parker -- the cellphone records of Tammy Parker and Bryan Capnerhurst, which Mr. Whitlark doesn't have a standing.

MR. WHITLARK: That's right. I can't -- those would be admissible if the Court allows them. But anything else, Your Honor -- and I believe there is a laundry list of stuff they got on the 14th that my assistant is putting together what that is.

But at this time, if these are the telephone records from the phones they got the day before, then I have no objection to them getting into that.

THE COURT: She is saying there is a separate search warrant, which would be what you are saying, that there should be another search warrant issued.

MR. WHITLARK: That's right.

THE COURT: For the telephone records that

they issued, because I believe they have to get separate warrants for those anyway.

MR. WHITLARK: Right. I agree with the Court. I agree with that. I did want to alert the Court to this.

THE COURT: But you're saying any other items that would not have a new --

MR. WHITLARK: That there is no new warrant issued for.

THE COURT: A new search warrant issued for?

MR. WHITLARK: Yes, ma'am.

MS. WALKER: Your Honor, what we are about to get into are the cellphone records that don't have anything to do with --

MR. WHITLARK: That's fine. We don't have any objection.

THE COURT: In the interim, if -- y'all need to find out if somebody was there or not. I mean --

MS. WALKER: We'll bring a witness.

THE COURT: All right. Before we can introduce any of that evidence.

MS. WALKER: We're bringing the -- we are not introducing the evidence. We're introducing the cellphone records.

THE COURT: No, no, no. I mean the witness needs to testify that they were there or come in and be able to testify that they were there during those hours that he made his motion to. Not for purposes -- we are going to go forward with him.

MS. WALKER: Right. And at the appropriate time we will do that.

THE COURT: Okay. All right.

MR. WHITLARK: Thank you, Your Honor.

THE COURT: All right. Are we ready to bring them in? You can bring them in.

(WHEREUPON, the jury came into open court at 9:49 a.m.)

THE BAILIFF: All jurors are present, Your Honor.

THE COURT: All right. Good morning, ladies and gentlemen of the jury. I hope that you had a restful evening.

I have a note from one of the jurors that they have to leave by 6:30 today. We will be done before 6:30 today. I won't make y'all stay late two nights in a row.

(WHEREUPON, Court's Exhibit No. 3 was marked for identification only.)

THE COURT: But I did order you all lunch, so

we will take a short lunch break and hopefully move right along so we can get out of here a little bit earlier today.

All right. Thank you.

We will continue with the direct examination of Lieutenant Scott McDonald by Ms. Walker. Thank you.

MS. WALKER: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUES

BY MS. WALKER:

Q Good morning, Lieutenant.

A Good morning.

Q Your duties at the Richland County Sheriff's Department, are some of them -- would that include analyzing cellphone records?

A Yes, it would.

Q Have you had any specialized training or education to aid you in that?

A Yes, I have. I have been doing these phone records since 2001. I have had several classes, seminars, ongoing education, most recently in November of this past year where I was court certified by the Public Agency Training Council that put on the Advanced cellphone Technology and Forensics class, which requires a proficiency test and a written

test.
Q When cellphones become pertinent in a case within the Sheriff's Department, are you the person who analyzes those records?
A I am.
Q What about the City of Columbia Police Department? On occasion have cellphone records become important? Do you analyze those records?
A I've been asked on several occasions to review those, yes, and analyze them.
Q And when you review those records, can you kind of explain to the jury what you do?
A Well, I need to know a little bit about the incident, the time, the place that we believe this whatever incident may have happened. I then receive the cellphone records.

We request the cell tower locations that are provided during the call, as well as a sector. Each tower is, you know, broken up into three sectors, each one approximately 120 degrees.

We can literally place you in a sector within a two or three square mile area usually when that call is in progress. Sometimes it transfers from one tower to another, which could show that the phone was in motion at the time of the call,

beginning and ending tower.

Q In conjunction with that, do you analyze records of different individuals involved in cases to see if they correlate at all?

A Yes, I do. In today's world with modern communication, most people have a cellphone. They are very prevalent. They also give us your location when you're making calls to other parties.

Sometimes when we are trying to identify who the party -- if we had a murder, let's say, and we don't know who the suspect may be or a whodunit type thing, the first thing we would look at sometimes are the cellphone records of the victim to see, well, who has he been in contact with most recently. We kind of start working it back that way, which oftentimes the first couple of calls has led us to our suspect.

Q And have you been qualified as an expert in that field before?

A I have on six occasions.

Q In this courthouse?

A In General Sessions, yes.

MS. WALKER: Your Honor, at this point in time, the State offers Lieutenant McDonald as an expert in cellphone analysis.

MR. WHITLARK: Your Honor, may it please the Court, Your Honor?

THE COURT: Yes, sir.

MR. WHITLARK: Your Honor, we object to him being qualified as an expert in this area. He was an investigator on this case, and these are factual findings that he is doing as part of his investigation.

And I actually don't see any need for him to be qualified as an expert to give an opinion. These are objective findings he made, which, you know, would go to the weight of it if I had something about it. But I do not -- I object to him being qualified as an expert. It's not necessary.

MS. WALKER: But you don't -- well, you said it's not necessary, but he can testify to the cellphone records?

MR. WHITLARK: Well, that was part of his investigation. Of course, if he was gathering things like that --

MS. WALKER: We'll move forward, Your Honor, if that is okay with the Court. I will move forward without qualifying him as an expert.

THE COURT: I guess if he's going to give

opinion -- if he is going to give opinion testimony -- if he is going to testify as to what he saw, what he knows, I mean, if he is going to give opinion testimony --

MS. WALKER: I'll avoid opinions, Your Honor.

THE COURT: All right.

MR. WHITLARK: Thank you, Your Honor.

BY MS. WALKER:

Q Investigator -- I'm sorry -- Lieutenant McDonald, did you come into possession of certain cellphone records that were important in this case?

A Yes, I did. I came into several sets of cellphone records: Mr. Brett Parker's cellphone records, Tammy Parker's cellphone records -- she had two, a work cellphone and a personal cellphone -- and Mr. Bryan Capnerhurst's cellphone.

MS. WALKER: Your Honor, beg the Court's indulgence so I can mark these records for identification purposes.

(WHEREUPON, State's Exhibit No. 441 was marked for identification only.)

(WHEREUPON, State's Exhibit No. 442 was marked for identification only.)

(WHEREUPON, State's Exhibit No. 443 was marked for identification only.)

BY MS. WALKER:
Q I want to show you what is marked as State's 441 and ask if you recognize these.
A This is part of a cellphone download. These aren't the actual phone records.
Q Is that part of the cellphone download that you did?
A Yes.
Q Okay. Let me show you State's Exhibit Number 442 and ask you if you recognize those?
A These are the Verizon cellphone records of Tammy Parker.
Q And State's Exhibit Number 443. And I ask if you recognize these.
A These are the cellphone records of Bryan Capnerhurst, Verizon.

MS. WALKER: Your Honor, the State seeks to introduce State's Exhibit 441, the Defendant's cellphone dump; State's 442, the cellphone records of Tammy Parker; and State's Exhibit 443, the cellphone records of Bryan Capnerhurst into evidence.

MR. WHITLARK: No objection, Your Honor.

THE COURT: All right, those will be entered without objection.

(WHEREUPON, State's Exhibit No. 441 was admitted into evidence.)
(WHEREUPON, State's Exhibit No. 442 was admitted into evidence.)
(WHEREUPON, State's Exhibit No. 443 was admitted into evidence.)

BY MS. WALKER:

Q The cellphone dump that you did of the Defendant's cellphone, is there a -- when you look at the times on that, is there a parenthetical that says GMT?

A Yes, this says GMT after the time.

Q What does GMT mean?

A Greenwich Mean Time.

Q And as you are analyzing cellphone records, that GMT, is that important?

A It is. GMT is actually four hours ahead of us over in the England/UK area.

Q So whatever time is actually on that phone download would be four hours ahead of that?

A That's correct.

Q For Eastern Standard Time?

A Right.

Q Did you use those cellphone records to create a PowerPoint?

A I did.

Q And would that aid you in your testimony here today?
A It would.
MS. WALKER: Your Honor, may the witness step down?
THE COURT: Yes.
(Witness steps down.)
BY MS. WALKER:
Q Can you explain what we are looking at for the jury, please?
A These are the three participants whose phone numbers we looked at in this case in depth. Brett Parker, the Defendant, this is his personal cellphone, 530-9404. This is the home work number or one of the bookie lines in the residence, that's a landline, 407-1351, as well as 1352. And that is the home landline, (803)781-7905.

For Tammy's, like I said, she had two cellphones. She had a work cellphone, which is actually going to be this one here, 391-6353, which I believe is the Novartis cellphone. There's a personal cellphone, 606-6000. And then, of course, her home landline number is the same as Mr. Parker's, 781-7905. And Mr. Bryan Capnerhurst's cellphone number is (803)622-2453.

These are Mr. Parker's cellphone records. On April 13th, beginning at 7:40 that morning would be the first call. And this particular view takes it up through 13:42, which would be 1:42 in the afternoon, well after this incident had occurred.

As you can see, his first call that morning -- and let me just explain what this is. This is the date. This is at the beginning time of the call, the ending time of the call, the length of call in seconds, 143 seconds.

"I" and the "O", that is an outbound call or an inbound call. So what this first line shows is Mr. Parker called Mr. Capnerhurst. Of course, this is Mr. Parker's cellphone number, and that is the number he called, which was Mr. Bryan Capnerhurst.

Q And that call was what time?

A That was at 7:40 a.m. that morning.

Q 7:42:31?

A And that's the completion of the call.

Q That's when it ended?

A Yes.

Q Okay. Who else did he call that morning?

A He called somebody named Casey. These contacts came up through the investigation or were entered into the software. That's how we were able to come

up with the subscriber information.

He called his father. Actually that is an inbound call. His father called him at 8:47 that morning for 33 seconds. Mr. Parker's phone, it was an outbound call after that at 8:58 to his father. Another inbound call from his father of 100 seconds that began at 8:59 a.m.

He talks to his mother here. These are all outbound calls beginning at 9:07, 9:08, 9:10 that morning. At 9:17 he called his father again, talked to him for 75 seconds. Do you want me to go through each one of these?

Q No, well, let's move to the communications he had with Tammy J. Parker. And that's the victim in this case?

A Yes. Tammy -- this was an outbound call where he called her at 9:48 a.m. It was a 43 second call he placed to her. Once again, a few minutes later at 9:54, there is an inbound call from his father to him 35 seconds in length.

Then we have a series of calls. Tammy calls Brett at 9:55. It was a 32-second phone call. Brett then calls back at 10:00 o'clock, a 78 second phone call to Tammy. He calls again at 10:59, 31 seconds to Tammy. At 11:02 an inbound call from

Tammy with a length of 97 seconds.

Then he has several conversations with Mr. Capnerhurst here. The first one, again, at 11:02 for 97 seconds -- I'm sorry, correction -- the first one was at 11:12. Another outbound call from Mr. Capnerhurst at 11:13 for 50 seconds. And another outbound call at 11:15 for 77 seconds.

Q And after those phone calls to Bryan Capnerhurst, does he speak with his father again that day?

A There is a 28 second call, an inbound call, from Mr. Parker Senior, Jack Parker, to the phone at 13:42 hours.

Q What time is that?

A At 1:42 p.m.

Q That is after the murders?

A That is after.

Q And the last phone call that we have on here, who is that?

A It is an inbound phone call from Lanny Gunter to Mr. Parker, a 33 second phone call.

Q And over the course of your investigation, did you become familiar with Lanny Gunter?

A Yes, I did.

Q Who is he?

A He is Brett's bookie in the gambling business.

Q And can you explain this?
A These are the phone records for the day of the home telephone, the landline, AT&T lines, at the residence.

There was a call that morning at 7:06, an outbound call for 66 seconds, their phone, landline, to Mr. Jack Parker.

Q Let me go to the -- I'm sorry.

(Pause.)

A This is Tammy Parker's Novartis cellphone, work cellphone for the day in question. These are the only calls on that phone for that day.

There is an inbound call from Ben Staples to her phone at 8:58 in the morning, a five second call.

There is an outbound call from Tammy to Mr. Staples at 9:05 a.m. It is 212 seconds.

There was another outbound call to Mr. Staples at 11:41, which was 144 seconds.

Q And then the last one is an unknown?
A That's correct. That was an inbound call coming in from an unknown number.
Q And this is the Novartis phone?
A The Novartis phone.
Q The phone calls that you show going back and forth

between Tammy Parker and the Defendant, were those on her own different cellphone?
A Her personal cellphone.
Q Is this her personal cellphone?
A This was her personal cellphone. She calls this number here -- which one do you want me to talk about?
Q Let's start with the phone calls to Joe Stuart. What time is that?
A Joe Stuart is a friend of hers. That's an outbound call at 9:46 a.m. on the 13th, 47 seconds in length to Mr. Joe Stuart. He is an interior designer.
Q And the others are the same -- the others are with Brett Parker?
A Yes, the same records that coincide on his records.
Q Again, these times are all Eastern Standard?
A They are.
Q So that is the right time zone?
A Yes, it is.
Q And finally Bryan Capnerhurst's cellphone?
A This is his cellphone records for the day in question, 4/13. His first call that morning was an inbound call from Mr. Parker for 143 seconds. Mr. Parker called him on his cellphone.
Q Let's go to the -- there is a phone call between

Bryan Capnerhurst and Jack Parker. What time is that?

A The first one right here is 4/13 at 7:43 a.m., a 34 second call, outbound. Mr. Capnerhurst is calling Mr. Jack Parker.

Q And then the next time he speaks with Jack Parker?

A 8:39 a.m. It is 176 seconds. And it is an inbound phone call from Mr. Parker to Mr. Capnerhurst.

Q And there are a series of phone calls to a James Morgan. What time were those phone calls?

A The first one was at 7:41 a.m., an inbound call from Mr. Morgan to Mr. Capnerhurst that lasted 71 seconds.

At 7:43 Mr. Capnerhurst called Mr. Morgan, 1,037 seconds, an outbound call.

At 9:59, an outbound call from Mr. Capnerhurst to Mr. Morgan that lasted 2,324 seconds.

There was an outbound call at 11:14 from Mr. Capnerhurst to Mr. Morgan that lasted 127 seconds.

11:17, an outbound call from Mr. Capnerhurst to Mr. Morgan, lasted nine seconds.

11:17, another outbound call that lasted seven seconds from Mr. Capnerhurst to Mr. Morgan.

At 11:18 there was one for 731 seconds, an

outbound call from Mr. Capnerhurst to Mr. Morgan.
Q And over the course of your investigation, did you become familiar with James Morgan?
A Yes, I did.
Q And I think he has been referred to as a bookie. Has your investigation revealed that he is a bookie?
A Not in any way, no.
Q What was the relationship between James Morgan and Bryan Capnerhurst?
A They were friends, long friends. I believe they played some fantasy baseball together. They had been friends for a number of years.
Q And those -- the last phone call from Bryan Capnerhurst's cellphone to James Morgan is at what time?
A 11:18 that morning. He talks to him till 11:30 that morning.
Q And that is Eastern Standard Time?
A Eastern Standard Time.
Q Did those calls cease before Mr. Capnerhurst was murdered?
A They do.
Q Will you retake the witness stand, Lieutenant?
(Witness returns to witness stand.)

BY MS. WALKER:
Q In terms of analyzing phone records, did you receive certain phone records from the defense attorney in this case?
A I did.
Q Those are Vonage phone records?
A They are, yes.
Q I want to show you what has been marked as State's Exhibit 444 and 445.

MS. WALKER: I think these are admitted without objection, Your Honor.

MR. WHITLARK: I have no objection to them. Which one is which, though?

MS. WALKER: State's Exhibit 445 [sic] would be the copy that the Defense turned over to us, and State's Exhibit Number 445 would be the ones that Vonage sent us.

THE COURT: You said 400 and what?

MS. WALKER: 445.

THE COURT: But you said --

MS. WALKER: Number 444 are the Defense records.

THE COURT: Okay.

MS. WALKER: And 445 are the ones that Vonage sent to us.

THE COURT: But you are entering those?

MR. WHITLARK: I would like to take a look, if you don't mind, Your Honor.

(Pause.)

MR. WHITLARK: No objection, Your Honor.

(WHEREUPON, State's Exhibit No. 444 was marked for identification and received into evidence.)

(WHEREUPON, State's Exhibit No. 445 was marked for identification and received into evidence.)

BY MS. WALKER:

Q State's Exhibit 445 would be copies from the Defense attorneys in this case?

A Yes, that's correct.

Q And have you been in here for some of the testimony?

A I have.

Q There have been questions about phone calls made to James Morgan after Mr. Capnerhurst died?

A That's correct.

Q Did they give you a -- did you receive a letter that went with the Vonage records from the Defense attorneys?

A I did. It was a cover letter indicating that the

records provided in this search were in Greenwich Mean Time.

Q Greenwich Mean Time, which means what?

A It's a time zone over in the England/United Kingdom area.

Q Okay.

A It's actually four hours ahead of us. So these records were provided in Greenwich Mean Time, which means all the records on here are four hours off from Eastern Standard Time, meaning they are ahead of us. So they are not in Eastern Standard Time.

Q Is it important to have the right time zone when you are looking at phone records?

A Definitely.

Q I want to turn your attention to the phone records on April 13th, I think Page 47.

A I've got it.

Q Does it show a series of phone calls from that (803)622-2453 number to James Morgan?

A I see one at -- the time on here is 11:41.

Q Uh-huh.

A Which would be 7:41 Eastern Standard Time.

Q And the last one at 15:18?

A That would be at 11:18 a.m. Eastern Standard Time.

Q So would that be before Mr. Capnerhurst was

murdered?
A It was, yes.
Q So any insinuation that they are dead and making phone calls or investigators making phone calls from the cellphone would be in fact incorrect?
A That's correct.
Q Because it's misleading to talk about phone calls --
MR. WHITLARK: Objection, Your Honor. That is a leading question.
THE COURT: Sustained.
BY MS. WALKER:
Q In your experience, when talking to juries about cellphone records, is it important to make sure that we're in the right time zone?
A Yes, it is. It's very important. It could be an hour or more off, which could be critical in a case.
Q The last cellphone record -- the last cellphone call in these Vonage records, does that correlate with the last cellphone call that you had from Bryan Capnerhurst's records?
A It does.
Q And the phone calls were before he was murdered?
A Yes, they were.

Q Continuing with your investigation in this case, at some point in time, did you receive a cellphone download -- an additional cellphone download?
A I did. After the arrest of Mr. Parker, the Secret Service had obtained a search warrant to download his cellphone upon his arrest. That was completed. I was provided a copy of that download.
Q And did you view that -- did you view that download?
A Yes, I did.
Q And does anything about that download stand out to you?
A Yes, there were several things. The day prior to Mr. Parker turning himself in at about 12:50 in the afternoon, there was a video on there.
Q In terms of the internet history of the cellphone?
A The internet on the cellphone, yes. There was a -- that night at approximately 6:09 p.m., there was an Orbitz search done for a flight to Memphis, Tennessee.
Q Was there a search done for -- and was it just a one-way flight to Memphis, Tennessee?
A It was a one-way flight to Memphis, Tennessee.
Q And that was the day before Mr. Parker was to turn himself in?

A He had met with Sheriff Lott that day, and this was shortly after meeting with Sheriff Lott that this was found on his phone.

Q And I show you what is marked at State's Exhibit Number 446.

(Pause.)

MR. WHITLARK: No objection, Your Honor.

THE COURT: It will be entered without objection.

(WHEREUPON, State's Exhibit No. 446 was marked for identification and received into evidence.)

BY MS. WALKER:

Q This is from Mr. Parker's download?

A Yes, it is. I printed this off the download. This shows the inquiry into Orbitz for a one-way ticket to Memphis, Tennessee, on Thursday, July 19th.

MS. WALKER: Permission to publish to the jury, Your Honor?

THE COURT: Yes.

(Complies.)

MS. WALKER: The State has no further questions, Your Honor.

MR. WHITLARK: May it please the Court, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WHITLARK:

Q Lieutenant McDonald, I'm going to ask you to take a look at what has been marked as Defense Exhibit Number 1. Take a look at Defendant's Exhibit Number 1, please.

A Yes, sir. Any particular page?

Q Yes. Look at Page 5 and tell us what the date of that is. While you're looking at it, Lieutenant, could you -- you are very familiar with that log, are you not, sir?

A I haven't seen this log in several months, no.

Q I want you to look --

A At the bottom you have the officers that were on the scene that were guarding the scene.

Q Uh-huh.

A It begins on 4/13 and goes into 4/13 at 3:52 in the morning.

Q Lieutenant McDonald, would you agree with me, sir, that there was a gap? There wasn't an officer at the scene there for about, what, two and a half, three hours that night -- or the early morning hours, I mean?

A I don't know that to be true, no.

Q I'm asking you, what does that log say?
A The log indicates the last officer that was there was Deputy Wenzel, it appears. He doesn't have a time next to his arrival time.
Q Do you agree with me and do you admit that there was not an officer -- on the 14th of April in the early morning hours, there was no Richland County deputy at all at that house? Would you agree?
A I don't agree with that, no, sir.
Q All right. Fine. Show me a file that you have regarding the Capnerhurst financial situation. Do you have a file on that?
A No, I do not.
Q You don't have a file on what -- on their financial, their debts, and so forth?
A No. I was assigned to look into the cellphone area and the phones.
Q Do you have a file on Mr. Morgan? Do you have any kind of investigative notes on what his situation is?
A I have some notes from other investigators that were provided to me during some of our meetings, briefings on this case.
Q Do you have your investigative file with you?
A I do.

Q I direct your attention to April 13th, 2012.
A Okay.
Q Where it says, this subject, James Morgan, would you mind reading that sentence to the jury?
A It states: This subject, James Morgan, was in the gambling field as well and knew Cap well.
Q Okay. Well, he was in the gambling field, wasn't he, sir?
A I believe the extent of that was he played fantasy baseball with Mr. Capnerhurst.
Q Is that what they call it, fantasy baseball? But you didn't get his cellphone records, did you?
A No, I did not.
Q But you were supposed to get his cellphone records, right?
A Of Mr. Morgan?
Q Uh-huh.
A No.
Q Oh, you weren't. You have a laundry list of things that you are supposed to do or things that y'all feel like you have to do. Do you remember that in your report?
A Yes. Periodically we have these morning briefings and updates and new things need to be done. We do make assignments.

Q Okay. Well, let's go ahead and take a look at what you were doing, okay?

First of all, what was the date of that?

A The date of the?

Q The date of this laundry list was April 16th.

A April 16th, which would have been Monday morning, we had a morning briefing on a homicide investigation to that point. Everyone discussed what information we had at that point.

And as we came across things that needed to be accomplished, they were assigned to different investigators.

Q Well, let's talk about the first thing y'all were going to do. You were going to set up an interview with the children to see if you could get anything of use from them, right?

A We set up our interviews, yes, with B.P. and with Z.P. .

Q And then you -- let's see. You were going to interview Jack Parker, his dad?

A Yes, sir.

Q You were going to talk to this young lady that we've been hearing about, right?

A Yes, sir.

Q Get the GPR, the testing, and have an urgent

request for that gunpowder, right?
A That's right.
Q That's what it says, get an urgent request, right?
A That's right.
Q And you got those back too on, what, the 19th of April, something like that?
A I'm not sure of the exact date. We got them back.
Q It wasn't much use to you in prosecuting Brett Parker, was it, the GPR and the GSR?
A I wouldn't say that. Everyone in this case had GPR on their hands.
Q Uh-huh. You don't have a single word in this investigative file where you talk about the gunpowder on Bryan Capnerhurst's hand, do you, indicating that he may have shot a weapon? Y'all never said that a single time in all these reports, did you?
A I don't believe so.
Q As a matter of fact, this laundry list, which I'm only a fourth of the way through, every single thing in here that y'all were going to do was directed against Brett Parker, was it not?
A It was.
Q And the whole time that y'all were doing all this, he was cooperating fully with you, wasn't he?

A He was.
Q As a matter of fact, y'all had him sign his constitutional rights away to y'all about 14, 15 times during this investigation, didn't you?
A I don't know if it was that many.
MS. WALKER: Your Honor, I'd object at this point. We have a matter of law.
THE COURT: All right. Ladies and gentlemen, I'm going to send you all out for a brief moment.
(WHEREUPON, the jury retires to the jury room at 10:36 a.m.)
THE COURT: Yes, ma'am?
MS. WALKER: Thank you, Your Honor. We have instructed this witness for Mr. Parker's sake to stay away from the fact that Mr. Parker and his attorneys did terminate certain interviews when it got to points of things that they didn't want to talk about.
So when the question is asked that he cooperated fully the entire time, that would be incorrect. I think Mr. Whitlark has now opened the door to that.
We have instructed him to stay away from Mr. Parker's two failed polygraphs. I think at this point he has opened the door to that.

MR. WHITLARK: I don't see how it opens the door, Your Honor -- if you're finished. I'm sorry.

MS. WALKER: When the question was asked, did he cooperate fully. The termination of interviews is not full cooperation, Your Honor.

THE COURT: He answered yes, didn't he?

MR. WHITLARK: Yes, ma'am.

MS. WALKER: Because we've instructed him that he can't talk about the termination of interviews. It is not a complete answer. We've instructed our investigators to stay away from that sensitive subject.

So when he asks that question, it pigeonholes the lieutenant into not being able to give a full, complete, and honest answer.

MR. WHITLARK: I can speak to this, Your Honor. Your Honor, I got involved in this case with Mr. Fedor sometime at the end of April. I immediately terminated all communication. That was my admonition.

I said I would be willing to listen to anything they had to say. And that is actually in their records as well when I came in and I said, you are not talking to them. Afterwards I --

THE COURT: Are you going to ask him that?

MR. WHITLARK: No, I'm not, Your Honor. But the point of the matter is this. Early on, without an attorney present, they had him sign a consent to search his house and grabbed his phone to do a lot of things. Before he had an attorney, they had him sign things.

Afterwards he also signed a number of consents to waive his rights, his Miranda rights and his Fourth Amendment rights, and so forth.

And the simple fact of the matter is, Your Honor, it is not a big deal about the fact that he cooperated. He said he did. And that is -- you know, I don't see why it's a big deal.

MS. WALKER: The reason he said he did is because he knows that prior to Mr. Whitlark's questions, he can't go into the termination of the interviews, which Mr. Whitlark was present for.

He was present for an interview at Mr. Fedor's law office in which investigators attempted to speak with Mr. Parker about the incident that occurred that day. When they got to certain areas that Mr. Parker didn't want to talk about, they terminated the interview.

So for him to say was he was fully cooperative and to elicit the response of yes from the

lieutenant, because the lieutenant knows there are certain areas he can't go into, Your Honor, is disingenuous and would mislead the jury.

THE COURT: Just so I'm clear, you want to go back up on redirect and ask him, isn't it true, I guess, that after he got an attorney, he asserted his right not to speak?

MS. WALKER: Or, Your Honor, if he is allowed to give a full and complete answer to Mr. Whitlark's question.

THE COURT: But as to the polygraph, you are saying that he didn't cooperate, that he took them?

MS. WALKER: Well, fully cooperative, Your Honor, in terms of --

THE COURT: I mean, if he failed them --

MR. WHITLARK: I'm sorry, Your Honor?

THE COURT: I'm sorry. She is saying he failed them.

MS. WALKER: I'm not saying he failed, the polygraph examiners were saying he failed them.

MR. WHITLARK: That's a misnomer, Your Honor. As a matter of fact, Your Honor, you do not fail or pass a polygraph. Anybody who knows about polygraphs knows one thing.

You either show some certain physiological

signs of deception or you don't. There is not a passing or a failing score.

We dispute the findings that they had there, but we know that it's inadmissible in a court in South Carolina.

THE COURT: All right. I guess my point is, she is saying that he did not cooperate. If he took them, then he cooperated in taking them.

So I'm not sure how that makes it -- how he opens the door to any conversations about that.

Regardless of what the findings of the polygraph may have been, he took them.

MS. WALKER: Okay. Your Honor, in terms of the interviews at the law office, can the lieutenant then explain that he wasn't fully cooperative? Because there were times when he wanted to ask questions, and he would stop the interviews. That is not being fully cooperative.

The lieutenant said yes, he was fully cooperative, because he knew he couldn't go into that at that point in time.

Your Honor, at this point in time, Mr. Whitlark knowingly -- because he was there when he invoked it and said he no longer wanted to answer questions -- opened the door to that, and it

misleads the jury.

THE COURT: All right. But I think Mr. Whitlark had moved on from that question at the time. I'm not sure what his last question was. But if you want to ask him that on redirect.

MS. WALKER: Okay.

THE COURT: With that narrow bit.

MS. WALKER: I will keep it very narrow, Your Honor. Thank you.

MR. WHITLARK: Your Honor, I would like to speak one moment to this.

THE COURT: Yes, sir.

MR. WHITLARK: To clarify some of the facts on this thing. I was not present with Mr. Parker on many occasions when he met with law enforcement.

It was against my advice, and I didn't even know about it. And he went down there. I had no idea he took -- that he was taking a polygraph until after the fact. And I just want to point that out to the Court.

We're not playing games here with this. He had a lawyer. It wasn't him that terminated it. It was me.

And if you look at the truth of this matter, he -- because he wanted to cooperate, was going

behind my back anyway and was talking to the police. Of course, he doesn't know them as well as I do.

MS. WALKER: I don't know what that's supposed to mean, Your Honor.

I will just keep it to the interview at Mr. Fedor's office that he terminated.

THE COURT: All right.

MS. WALKER: Thank you.

THE COURT: Can we bring them back in?

MR. WHITLARK: I think it is irrelevant, Your Honor, but I'll abide by the Court's ruling.

THE COURT: And then, of course, you have the right to ask -- I think because you brought up that he waived his constitutional rights -- I mean, he has the constitutional right not to speak, which apparently he decided to invoke. And they can say he invoked it. I mean, because you got into that, I'll allow that.

MR. WHITLARK: Well, Your Honor, if I could for purposes of clarification of this issue, I'm talking to him about what was going on the first week or two of April of 2012.

And I believe at that time, I think he did -- he may have signed that many. I know it was a lot.

This is without a lawyer.

Now, I haven't gotten into -- this is a 97-day investigation, Your Honor.

And I'm taking this guy, I am talking to him right now about the first few days. This is like the third day. And I discuss it, I guess, Your Honor in a timeline, because this is extremely lengthy.

THE COURT: But you have to qualify the question. You can't just say he took 14 -- I don't know if he took 14 statements in three days or what.

MR. WHITLARK: Okay. Well, Your Honor, we'll agree to withdraw it and strike the answer from the record.

MS. WALKER: We're not agreeing to that.

THE COURT: All right.

MR. WHITLARK: Your Honor, there is one danger here about the blurting out of this thing about this truth-telling device.

I mean, if we hear one word of it, Your Honor, I hope the Court will entertain a motion for a mistrial, Your Honor, if they do it.

THE COURT: As to the polygraph?

MR. WHITLARK: Yes, Your Honor.

THE COURT: She's not going to get into that.

MR. WHITLARK: Well, I can tell you they are chomping at the bit to say it, Your Honor.

THE COURT: Well, she is not going to get into that.

MS. WALKER: I've said that three times just now.

THE COURT: All right. You can bring them in.

MR. WHITLARK: I got you, Your Honor. Thank you.

THE COURT: All right.

(WHEREUPON, the jury came into open court at approximately 10:44 a.m.)

THE BAILIFF: All jurors are present, Judge, Your Honor.

THE COURT: Yes, sir, Mr. Whitlark.

MR. WHITLARK: May it please the Court, Your Honor?

THE COURT: Go ahead.

CROSS-EXAMINATION CONTINUES

BY MR. WHITLARK:

Q I direct your attention back to your list of things that you were doing.

A Yes, sir.

Q You wanted to get a statement from Angela Leon,

right? You sent an investigator to do that, right?
A That's right.
Q You got an account for all the tax records of the Parkers, right? You went and got that, right?
A Got a search warrant for that, yes.
Q Okay. Then you went to the pharmaceutical company that Tammy Parker worked for, and you got all that information, right?
A About her life insurance policies and work schedules, and things like that, yes.
Q And then you got their computers. You found some -- you found gambling paperwork at their house, right?
A We looked over some of the gambling paperwork we found at the residence, yes, sir.
Q You got the 9-1-1 tape?
A Right.
Q A statement from several friends of Mr. Capnerhurst, right?
A A statement from Keith Lang, who is one of his best friends. I also talked to Ms. Cindy Capnerhurst.
Q You got search warrants on their phone lines, right? You actually and literally took their phones out of their house, didn't you?
A No.

Q You did not?
A No.
Q Okay.
A We got a search warrant on the AT&T landlines. There was three of them at the residence.
Q What about their computers?
A We did take the computers as part of the search warrant and took them to SLED's Computer Crime Center.
Q Okay. Then you went to the Palmetto Citizens and got all their bank records. You did that, right?
A That's correct.
Q And you got a download of Mr. Capnerhurst's phone, right?
A That's correct.
Q Okay. Now, you don't have a bit of anything in your file from any of your investigators in this case, from the Secret Service or anything else, that shows that Brett Parker knew that Cindy Capnerhurst and Bryan Capnerhurst were talking about his safe and how much cash he had in it. You don't have any evidence at all?
A About Bryan and Cindy talking about how much cash may be in his safe?
Q Right, 80- to $100,000. Do you remember that?

A I've never heard that amount, no.
Q You have not?
A No.
Q That's not in y'all's investigative files?
A I've never heard of 80- to $100,000 being in the safe.
Q Okay. Have you read the statement, the sworn statement, of Cindy Capnerhurst?
A At some point I did.
Q Would you like to read it again?
A I can.
Q This has been written on, but I'm going to ask you if you recognize this right here.
A Where? Right here?
Q Uh-huh. Right here.

MS. WALKER: Is that the sworn statement of Cindy Capnerhurst you are referring to?

MR. WHITLARK: No.

MS. WALKER: May I see what the witness is looking at?

THE COURT: Yes.

MR. WHITLARK: Oh, I'm sorry.

(Pause.)

BY MR. WHITLARK:
Q Do you recognize this document or not, sir?

A May I take a look at it?
Q Yes. I'm sorry for the writing on it.
(Pause.)
A I don't know that this is my follow-up here.
Q Do you recognize that as a Richland County investigative note?
A It is someone's notes. I don't know whose.
Q Are you aware of the information contained in there about Cindy Capnerhurst discussing with Bryan Capnerhurst that they believed that there was 80- to $100,000 in cash in his safe?
A I've got someone's follow-up, it appears. I don't know whose. And it does say that on there.
Q Are you aware of it or not, sir?
MS. WALKER: Your Honor, I would object. The witness asked and answered. He doesn't know whose that is. He can't testify to it. It's not his follow-up. He said that repeatedly.
MR. WHITLARK: All right, Your Honor, I'll rephrase the question.
THE COURT: Sustained.
MR. WHITLARK: I'll rephrase the question.
BY MR. WHITLARK:
Q Are you aware they were discussing how much money Brett Parker had in his safe? Are you aware of

that?
A No.
Q You have never heard that before?
A No.
Q How long did you work on this case?
A A little over a year.
Q You're still working on it, aren't you?
A Not currently.
Q Well, I believe you told us you were investigating till last week, correct?
A About a week before trial is when I ceased.
Q All right. Getting back to my question to you, do you have any proof that Brett Parker knew they were talking about his safe and how much money he had in it? Do you have any evidence of that?
A I don't personally know of any evidence.
Q Okay. Do you have any evidence that he knew that Bryan Capnerhurst was going to get physical with him, was going to come over and possibly have a fistfight with him?
A No.
Q You have never seen that?
A No.
Q I'm going to hand you this document and ask if you can recognize it, sir.

A It is a statement of Cindy Capnerhurst taken by Travis Holdorf.
Q Have you ever seen that before?
A I have probably reviewed this earlier in the case, yes.
Q Well, it's true that she did discuss with her husband that he could possibly -- he is going to go over there and get in a fistfight with him, right? Isn't that what she says?
A She indicates in her statement Bryan thought there might be an argument and at most a fistfight, but nothing like what happened.
Q Okay. And you worked on this case -- and you are still -- you worked on it till last week. You don't know about this?
A I didn't interview Ms. Capnerhurst.
Q Would you agree with me that every -- just about every single thing you did in this case was to gather information on Mr. Parker, wasn't it?
A I would disagree with that.
Q Okay. Well, who else did you investigate, other than Mr. Parker?
A As I said, as we began this investigation, we didn't know anything about anyone involved in this case. So we learned all we could about

Mr. Capnerhurst. We talked to numerous co-workers and friends and contacts of his that were in his cellphone trying to gather information.

Q Uh-huh.

A Likewise we did with Mr. Parker, co-workers, 240-plus contacts in his cellphone, gathering all the information we could on him.

Tammy Parker, the same thing, contacts and co-workers, friends of hers.

So we didn't just focus on one person. We had a broad investigation involved with everyone we could identify and talking with them.

Q Okay. Well, I'm going to refer you back to this Monday meeting list that you've got there. Okay?

A Yes, sir.

Q All right. You tell me where somebody other than Brett Parker is discussed on that list, that y'all are investigating everybody? Go ahead and tell us. Show me anything in here not going after Brett Parker.

A We've got a statement from Keith Lang, who is the best friend of Mr. Capnerhurst. We talked to Cindy Capnerhurst after the funeral. Investigator Holdorf.

Q When you spoke with Cindy Capnerhurst, did she tell

you that she had been arrested for embezzlement? Did she tell you that?
A I didn't speak with Ms. Capnerhurst.
Q Are you aware of that?
A I am aware of that.
Q Are you aware she pled guilty to it?
A I am aware of that.
Q Are you aware she took $35,000 from BB&T Bank?
A I'm not aware of the amount.
Q You didn't verify that? That is not an important part of your investigation?
A That is not one of the things I was tasked with in this case. That information would have come up at one of our meetings or briefings. I wasn't specifically tasked with Ms. Capnerhurst.
Q Okay. You were at these meetings, weren't you?
A I was.
Q And don't you remember that coming up in one of your meetings?
A I remember there was some amount of money. I don't remember the exact amount.
Q Okay. Well, would you be surprised if it was $35,000?
A Like I said, I don't know what the amount was.
Q Would you be surprised to hear that Ms. Capnerhurst

stated when she pled guilty that the reason she did it was to pay her husband's gambling debts?
A I did learn that.
Q Okay. Was that at one of your Monday meetings that you learned that?
A At some point during the investigation. I can't say when.
Q Well, did y'all go investigate that fact?
A I believe Major Smith looked into that further and talked with Ms. Capnerhurst further about that.
Q Okay. And so y'all knew that Cindy and Bryan Capnerhurst were discussing Brett Parker's safe? Would you agree with that?
A According to the statement.
Q There was an estimate that they figured there was 80- to $100,000 in there?
A I don't know that. That is from an unknown person's follow-up apparently.
Q You may not have been there for that meeting then?
A I have never heard 80- to $100,000 being in that safe, no.
Q Okay. Well, that is what they thought. Do you agree with that?
A I don't know what they thought, sir. I didn't talk to Ms. Capnerhurst.

Q Okay. Did you know that they were in financial debt and had a credit card debt of over $20,000?
A I knew they had a credit card debt.
Q Okay. Do you have that in your file? Did you go get those records?
A No.
Q Okay. Did you know that there was additional loans to the father-in-law of $3,000 to $4,000?
A No. Part of the financials in this case were done by one of the investigators at the Sheriff's Department, who is also on the Secret Service Task Force. They were tasked with looking further into the financials and the gambling end of this case.
Q Okay. You're not very familiar at all with any of those things I just told you, are you? Because you were busy gathering information on Mr. Parker, weren't you?
A By this point in the investigation on this Monday morning, numerous inconsistencies had appeared in Mr. Parker's statement. He was one of the prime focuses of this investigation, yes, he was, due to several inconsistencies.

He told us he had no marital problems. We found these text messages alleging an affair.

He said he was using the restroom downstairs

defecating, and the toilet seat was found up.

The hole in Mr. Capnerhurst's arm was about the size of a ping pong ball. Medical experts told us there is no way a person could have held that gun at that point.

And on and on and on.

Q Right.

A We had numerous inconsistencies that we had to try to investigate further.

Q Right. Okay. And you also know that they found enough gunpowder on Bryan Capnerhurst's hand that he had fired a weapon too? You found that out, right?

A Not on that morning of the 16th.

Q Well, you found out that the vent fan in that bathroom was on, didn't you?

A Yes.

Q Okay. And you found out that Mr. Parker has a five-year-old son and that he puts the toilet up so his son doesn't tinkle on the seat? You found that out, didn't you?

A I never heard that, no.

Q If it's good for Brett Parker, you haven't heard it, have you? Anything good for Brett Parker you haven't heard, right?

A Very little, sir.
Q Anything that proves he is innocent, you don't know much about because you haven't heard, right?
A Have you got an example?
Q Yes, I do. He wrote a loving letter to his wife. Do you remember that?
A They were seeking some marriage counseling, and they wrote letters to each other, yes.
Q That's right. And they communicated all the time, didn't they? You found that out? And by letter to each other, didn't they?
A I wouldn't say all the time. The letter was several years old, I believe.
Q Well, sir, in reading that letter, you know that they were trying to work on things, weren't they?
A At one point.
Q Okay. Well, where is your file on that? Where is that listed at, that they were working on things?
A It's not in my follow-up, sir.
Q Okay. Well, what about the information that Brett Parker has no criminal record, does he?
A No, sir.
Q And that he has never done a violent act that y'all could find ever, right?
A No.

Q And that you know that he had had some financial debt from his gambling previously? You knew that, right?
A I knew he had some substantial debt from a few years previously, yes, sir.
Q Right. But he paid that off, didn't he?
A I believe his father paid that off.
Q Well, however it happened, it was paid, wasn't it?
A It was paid off.
Q Okay. And he admitted -- you know this -- he admitted years before that he was a gambling addict, didn't he?
A Yes. I saw that in one of the letters.
Q You did see that letter, didn't you?
A Yes.
Q And in that letter he lamented the fact and he admitted it and he felt terrible about it, didn't he?
A He did.
Q And he also wanted -- he said he was hurting his family, who that was the most important thing in his life was his wife and children? He said that in that letter, didn't he?
A He did at that time. This was several years previous.

Q Well, they were married for 15 years, weren't they?
A They were.
Q You know that. And they have a five-year-old son, right?
A That's correct.
Q And they were working on things, right?
A At one point they were.
Q Okay. Lieutenant McDonald, again, you have no evidence or information -- this is important -- that Brett Parker knew that the Capnerhursts were talking about his safe and how much cash was in it. There is no evidence in your file of this, is there?
A Not in my follow-up.
Q Do you have any evidence that Brett Parker knew the things I just said, that they were talking about his safe and how much money was in it?
A Do I know if Brett knew that?
Q Do you have any evidence in your file that shows Brett Parker knew they were talking about it?
A No. I don't know how anyone would know that they were talking about that -- how Brett would know that, no.
Q Right. Did you know that Mr. Capnerhurst had been talking for about two weeks before this about he

needed -- he wanted his $21,300. You know that, right?
A I do know that.
Q I mean, he was getting obsessive about it, wasn't he?
A My understanding he hadn't been paid since October sometime.
Q Okay. Well, my question to you, sir, is based on your investigation, he was telling people, I need my $21,300. He kept telling people that for about 14 days, at least 14 days before this, right?
A I don't know if it was 14 days. I know in the week leading up to this incident, yes, he wanted to meet with Brett and get his money. He also had several conversations with Brett's father about the money.
Q Uh-huh. Well, he had more than a couple, didn't he?
A He had several conversations.
Q He wrote it down on a piece of paper that he wanted $21,300 from Brett Parker, didn't he?
A From his estimation, that's what he was owed from him.
Q You sought that document, right?
A Right.
MR. WHITLARK: Beg the Court's indulgence,

Your Honor.

THE COURT: Yes, sir.

(Pause.)

BY MR. WHITLARK:

Q You had mentioned that you talked with Mr. Morgan, James Morgan. Have you ever spoken to him yourself?

A I have never spoken to James Morgan, no, sir.

Q But you did put in your investigative file that he was in the same -- he was in the gambling business like they were, right?

A As I said, during one of our morning briefings -- and this was the first Monday in the case -- Mr. Morgan had been spoken to, I believe, the night of this incident.

He did actually call the Sheriff's Department and made contact with investigators -- I believe it was Sergeant Robinson -- and relayed the information that was very pertinent to this case to Sergeant Robinson.

Investigator Holdorf on that Sunday would then drive to North Carolina to interview Mr. Morgan in depth and take a written statement from him at that time.

Q Have you read that statement?

A I have read that statement.
Q I mean, do you know the content of it? If I ask you some questions about it, would you remember?
A I would need to refer to it. I haven't read it recently, no.
Q Did you have a -- let me ask you this. The things I asked you about the Capnerhursts, do y'all have a separate file, even a couple of pages about it in y'all's investigation, this massive investigation you have done?
A I'm not sure I follow your question.
Q Well, sir, what Monday meeting did y'all sit down and look at each other when y'all found out about that the Capnerhursts were talking about the safe, about 80- to $100,000 maybe in there, that there was $21,300 owed to Mr. Capnerhurst, that he wanted his money and that he was going to get -- he was going to do something about it. He was going to get physical with it. When did y'all have a meeting and say, you know, maybe we ought to go look at this a little bit more?
A Like I said, I never heard the 80- to $100,000. When we're talking in these meetings and briefings, the investigators are relaying the information they found out. We're asking questions. We are

scratching notes. We're trying to develop things to help further the investigation along.

Q Okay. So--

A During these meetings I never heard the 80- to $100,000 mentioned. I don't recall the part about the fistfight. That was in her statement. At some point in this investigation, I had looked at her statement six, eight, nine months ago probably.

Q Okay. And you've been investigating this case up until last week too, right?

A In other ways, yes, sir.

Q Well, tell me the other ways you were doing it last week.

A I wasn't doing anything last week. I was in the courtroom last week. It would be the week prior to that when my investigation ceased.

Q Okay. But you're still investigating Brett Parker, aren't you? Isn't that what you said? Right up until about two weeks or so?

A Up until about two weeks ago. I was in charge of monitoring the jail phone calls.

Q Okay. Now, certainly -- you're a phone expert, I believe, or you say you're well trained in it, right?

A I've been qualified six times, yes, sir.

Q Have you analyzed the phone records of James Morgan and put them side by side with Bryan Capnerhurst?
A I have.
Q They were talking quite a bit, weren't they, sir?
A They were.
Q And would you agree with me that there are numerous occasions where Mr. Morgan and Mr. Capnerhurst were talking and then Mr. Morgan will call some 800 and 888 numbers immediately afterwards, doesn't he -- didn't he?
A I don't recall that, no, sir.
Q Have you done an investigation on the telephone records that were in -- the Vonage records -- about who James Morgan would call on many occasions right after he spoke with Bryan Capnerhurst?
A No, I did not.
Q Okay. Would you agree that there were numerable telephone conversations between Capnerhurst and Morgan?
A Yes. We knew they were friends, had been friends for years. They called each other several times.
Q Can you give us any indication, sir, of how many phone calls were over 60 minutes at a time in the review you did? That they were talking at one time on the phone --

A I didn't look at how many phone calls may have been over 60 minutes. I was provided with these records and I glanced through them. The most obvious thing I noticed on there was the difference in time.
Q Well, being a phone expert, would you agree with me that if you have some people that are gambling and are doing things like that, that when they are on extended phone calls like that, that is bookmaking, isn't it? That indicates bookmaking, doesn't it?
A I have no idea, sir.
Q Well, you had an idea about Brett Parker's phone records, don't you?
A I can't tell you the content of those phone calls. I can tell you the length of them. I don't have any idea what he was talking about.
Q How many phone conversations of Mr. Parker were over 60 minutes?
A I couldn't tell you, sir.
Q Okay. What is James Morgan's criminal record, sir? Have you looked into that?
A I have not, no.
Q Okay. Do you have any idea what it is?
A No, I do not.
Q You know that Bryan Capnerhurst was going over there because he was -- thought he was going to get

his $21,300, didn't he?
A He believed he was going to be paid his money. He was told to bring a large -- bring a duffel bag with him so the money could be placed in that, yes.
Q Again, you are familiar with James Morgan's statement, sworn statement in this case?
A I have seen it, like I said, probably six or eight months ago. I did not take the statement. I haven't reviewed it here as of late, no.
Q Well, do you recall that in this sworn statement of Mr. Morgan that he said that Brett had just called and told him, being Mr. Capnerhurst, he was eating lunch with his wife at noon, and Brett wanted Cap to come at around 12:30 or come at 12:30 and bring a bag because Brett did not want his neighbors to see Cap bringing money out. Do you remember that?
A I do remember that.
Q I asked Cap about taking a bank bag, and Cap thought he was going to get paid mostly in $10s and $20s and would need a bigger bag. Right?
A Yes.
Q He was the one that thought he needed a bigger bag, isn't he? That is what his best friend you are telling me said?
A That's what Mr. Morgan is relating. Other

information we have is he was told to bring the duffel bag with him.

Q Well, who did he talk to more than anybody else based on your analysis of these phone records?

A James Morgan.

Q So Mr. Morgan would probably be the one who would know better than anybody, wouldn't he?

A Not necessarily.

Q Okay. Again, sir, a big part of your investigation of this case -- I mean, a big part of it -- was you were focused on anything you could find to prove that Brett Parker was having affairs, right?

A I wouldn't say that, no, sir.

Q Okay.

A My investigation focused on trying to get to the heart of the matter, who did what in this case. Over and over and over, through numerous inconsistencies, it kept coming back to Brett Parker.

Q Uh-huh.

A We would ask him a question, he'd change his answer. I mean, this continued for months.

Q Did you look up a name, Eddie, in the phone records?

A I did.

Q Okay. Did you call Eddie?
A I did.
Q Who was Eddie?
A I believe it was a Lisa Camp, I believe.
Q Uh-huh. That was the girl he took to his high school prom, right?
A That's what she relayed to me, that's correct.
Q And she told you she hadn't even seen him in how long?
A I think it had been a number of years, had been in contact with him --
Q Eleven years?
A -- periodically.
Q About 11 years?
A Right.
Q It was a friend of his?
A That's correct.
Q As a matter of fact, she told you they never had sex, didn't she?
A That's right.
Q But you called her. As a matter of fact, sir, she lives in Atlanta, doesn't she?
A She does.
Q And y'all have had extensive efforts to get her up here to testify in this case, right?

A I don't know about that, sir.

MS. WALKER: Your Honor, we have another matter of law.

THE COURT: All right, ladies and gentlemen of the jury, I'm going to send you all out for a moment.

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

THE COURT: Yes, ma'am.

MS. WALKER: Your Honor, I let it go the first time. He talked about the loving relationship, about them working things out. Then he comes back again and asks a question about another woman. Investigators were able to exclude that woman as being someone that he had an adulterous relationship with.

Once he starts bringing in the loving letters that he wrote his wife, once he starts bringing in excluding certain women as being people that Mr. Parker had sex with, I think he opens the door to the additional adulterous affairs.

MR. WHITLARK: May it please the Court, Your Honor? Your Honor, this gentleman said that Mr. Parker lied about having a good relationship with his wife. And in response to that, I asked him

that question, had he read that letter.

MS. WALKER: Your Honor, the other women he was sleeping with would probably be a hindrance on him having a good relationship with his wife.

MR. WHITLARK: He wasn't sleeping with this lady. The man just said so. He never had sex with her before.

THE COURT: Didn't y'all ask about Eddie? Somebody has asked about Eddie.

MS. WALKER: I did. I didn't mention -- I asked if Eddie was in his contacts and who that was. I didn't mention sex. I didn't mention that they were having an adulterous relationship. Mr. Whitlark just did that.

MR. WHITLARK: Well, I did it in response to that. Your Honor is very astute. She did say it. That's what I said it for.

MS. WALKER: You opened the door. I didn't.

THE COURT: All right. Mr. Whitlark, I'm going to warn you to be careful not to open the door. But, I mean, I think he said that they were -- that he had lied to them about his relationship with his wife, which you all have already said y'all were going to present the other lady too.

MS. WALKER: Then he went into the details of that loving relationship, about the letters they were writing about, them trying to work things out, about how he cared for his wife.

Your Honor, at this point in time, he is doing this because he knows he can get away with it, and there will be no consequences for it.

At this point in time, Your Honor, he is opening the door over and over and over again. And it is hindering the State's ability to put forth a full and complete case.

THE COURT: Well, I do believe you asked him who was Eddie. They went to the prom together.

MS. WALKER: And that is why I left it at that because I knew we couldn't get into who Mr. Parker was or was not sleeping with.

THE COURT: I am trying to figure out why y'all even asked about who Eddie was.

MS. WALKER: It was one of the contacts in his phone. At that point in time, Lieutenant McDonald went through all the people that he contacted that day that were in his phone.

Eddie was one of the contacts. He talked with about four other people that he contacted that day. Mr. Whitlark just went into whether or not they

slept together, how long they had seen each other, when was the last time they had communication.

I was very, very narrow and limited in my direct examination for this reason, Your Honor, because of Your Honor's previous ruling.

Mr. Whitlark is now using that to manipulate the facts and manipulate the jury, and it's misleading.

MR. WHITLARK: Excuse me, Your Honor. I believe the Court recalls some of our pretrial motions on this issue. I certainly am not trying to bring in affairs of Brett Parker. I'm trying to keep them out.

This is in response to her bringing that out and then him saying that, well, he had inconsistencies. He said he had a great relationship with his wife and that turned out not to be true.

I mean, Your Honor, you know, just because she is saying that I'm trying to open the door doesn't mean -- I believe the Court's history of the pretrial motions in here knows I am not trying to open that door.

THE COURT: Well, let me just say this. The question that was asked by the State was -- and I

don't know the exact form of the question -- but it was to the extent as to there is a name Eddie in the phone, that it really isn't an Eddie, it's a Lisa somebody.

MS. WALKER: Yes, Your Honor.

THE COURT: And that the person was his prom date and that they talked from time to time.

I don't know -- he just said -- I don't know if it is 11 years, but that didn't come out in the State's case.

MS. WALKER: No, Your Honor. It had been six months since they had last communicated. That's what he said on direct examination. I did that in the context of all of the individuals that he made contact with. There were others, several other individuals that the lieutenant testified to in terms of going through the Defendant's call log or his contact list and making contact with people to see if they had any information about the case.

That is why I limited it to that to say, who was this person. He went through and did that with numerous individuals. I asked no further questions about Lisa/Eddie because I understood the Court's ruling.

At this point, Your Honor, Mr. Whitlark then

goes into and asks further questions about the nature of their relationship to support his theory of the questions that he asked about the loving relationship, about the fact that they were not having any sort of -- about the fact they weren't having problems, about the fact that they were working things out, about the fact that he writes these loving letters to his wife, and it is misleading because the lieutenant has refrained from giving a full and complete answer to this question, like he did the previous question, because of the Court's ruling.

THE COURT: He didn't refrain. He answered the question first that he had lied about the relationship between him and his wife.

So then he comes back on cross-examination and asked him, did you not -- you didn't put in your report -- or you didn't say anything about finding these letters, da-da-da, but the lieutenant had said, at least on two to three occasions, that he lied to them.

It wasn't consistent with what they found, the texts. He has already gotten into the text messages. I don't think he has opened the door. I'm going to warn him, though, that he --

MR. WHITLARK: Yes, Your Honor, I hear you.

THE COURT: Do not open the door to any other relationships. But I think he has answered the question, and I don't think that he has been hindered in answering the question by anything that I have ruled.

He has answered the questions. He says that there is text messages on the day of to this woman. He has talked about the video from her.

I mean, so he has made it very clear that -- or he has refuted anything that, I guess, in his investigation -- I mean, he did say that it's not consistent with what we found. I mean, he has answered that.

MS. WALKER: In terms of a complete answer -- I'm sorry, Your Honor -- in terms of a complete answer, the lieutenant cannot -- can I ask him a question?

THE COURT: You can ask him a question.

IN CAMERA EXAMINATION

BY MS. WALKER:

Q In terms of a complete answer, without limitations that the Court has previously ruled on, in terms of the loving nature and relationship of the Defendant and the female victim, Ms. Tammy Parker's,

marriage, can you please talk about the loving nature, if you discovered that.

A There was no loving nature at the point -- at the point of this incident. The relationship had deteriorated significantly. She had found text messages from another female party in December, flirty in nature, involving Mr. Parker.

Q And do you remember the name of that one?

A That was Natasha Nadkarni.

Q Go ahead.

A There was another affair with a female named Dana Allpress, who would come to town a couple of times a year. He would have an affair with her. I mean, once we started stumbling on these multiple affairs, we started looking at all the females in this case to see what their relationship was.

As I said in my testimony, going through all these contacts, we wanted to know how they knew the Defendant, just as well as Mr. Capnerhurst and Tammy, what the relationship was. And most people were open and honest with us.

MS. WALKER: And, Your Honor, that is the complete answer to the question. The lieutenant has been limiting his answers to respect the ruling of this Court, and Mr. Whitlark is then

manipulating that so that the jury doesn't have a full -- hold on a second -- so that the jury does not have a full and complete understanding of what was going on in the course of this investigation.

MR. WHITLARK: I'd like to respond to that right now, because I know for a fact that this man here, he knows that Brett Parker -- what he has found is that he slept with two different women. That is all they've found.

He just said a woman's name that Mr. Parker has never had sex with, and they know he didn't. And yet he has just represented to the Court that that was another affair. And they know for a fact that that woman gave a sworn statement saying she never slept with him. And he said the same thing.

MS. WALKER: He didn't say the same thing.

MR. WHITLARK: Your Honor, the truth of this matter, of this adulterous stuff, is that Mr. Parker made a mistake and he had stepped outside of his marriage back in December or January and that he met this other lady up here near in time to this.

And other than that, I think they have interviewed maybe 15 or 20 different women, and they have all denied it.

So for him to represent to the Court and say he had all these affairs, he had all these affairs, is disingenuous, Your Honor.

So this is what I'm dealing with, is a witness to a jury -- I mean, if he is disingenuous with the Court, I don't even want him talking out here to the jury.

MS. WALKER: He never said that there was an affair. He said that Ms. Parker found text messages of a flirty nature, which the witness in question acknowledges in her statement. He never said it was an affair. He said there were text messages that were flirty in nature.

There has been a Ms. Mullins, who we have been talking about, who is the bank teller, and the lady from the Executive Inn. There is an additional woman, who is Dana Allpress, who is the one that he had an ongoing Facebook and sexual affair with. She actually lived across the country, and they would have sex when she came into town.

MR. WHITLARK: That is one, when she came down, and then there was one more. Your Honor --

MS. WALKER: That is two.

MR. WHITLARK: Well, Your Honor, I can question this man -- I don't know what he might say

about it -- but we know from this investigation that Brett Parker stepped outside of his marriage on two occasions, and that is what they found in this massive hunt for women, two.

MS. WALKER: That is four cases with two different women that we know about.

THE COURT: All right. Mr. Whitlark?

MR. WHITLARK: Yes, Your Honor?

THE COURT: I warn you not to go into anything that may open the door as to the adultery with these other women, or the other woman, or how many -- one, two, or three, I don't know how many, but do not open the door. I will bring the jury back in. The objection is overruled.

MR. WHITLARK: Your Honor, may I say something?

THE COURT: But if you get into something else --

THE WITNESS: Your Honor, I have a question.

THE COURT: Yes, sir.

THE WITNESS: If he gets into the state of their relationship, is that opening the door for me to respond about these others?

THE COURT: Well --

THE WITNESS: He opened it once. I was

getting ready to go there.

MR. WHITLARK: I'd like to respond.

THE COURT: I am putting him on notice. I have put you on notice, Mr. Whitlark.

MS. WALKER: Thank you, Your Honor.

MR. WHITLARK: Your Honor, I hear you loud and clear on this. However, Your Honor -- may we approach the bench, Your Honor?

THE COURT: Yes.

(WHEREUPON, a bench conference was held off the record.)

MR. WHITLARK: Thank you, Your Honor.

THE COURT: All right. We are going to take about a ten-minute break.

(WHEREUPON, a break was taken.)

THE COURT: You can bring them in.

(WHEREUPON, the jury came into open court at approximately 11:56 a.m.)

THE BAILIFF: All jurors are present, Judge, Your Honor.

THE COURT: All right. Yes, sir, Mr. Whitlark.

MR. WHITLARK: May it please the Court, Your Honor?

THE COURT: Yes, sir.

CROSS-EXAMINATION CONTINUES

BY MR. WHITLARK:

Q Lieutenant McDonald, when you got the GSR, the gunpowder results back in April and y'all had done some of your investigation, you didn't arrest Brett Parker then, did you?

A No.

Q And you continued looking at the things we've been talking about, right?

A Yes.

Q Looking hard at them?

A That and other things, yes, sir.

Q Okay. As a matter of fact, in May -- and you correct me if I'm wrong -- I believe you got an idea in your mind that you wanted to go back and look at the home security tape, didn't you?

A I had reviewed that tape probably three or four times up to that point. I wanted to go back and look at it again. I had actually requested from about, I believe, 7:00 a.m. onward, to sit and review that from my technical services man, Investigator Metz.

Q Okay.

A So I did that.

Q Well, would you agree with me that about a little

under a month after this happened, you were looking at that tape and you wanted to go look at that tape to see if you could find something suspicious depicted on it that might assist in prosecuting Brett Parker?

A I wanted to look at anything on there that may help this case, and I did find something.

Q I want to quote something in your report and you tell me if I am right or wrong about this. This is on May 4th, 2012.

The investigating officer -- that is you -- would request the video from Brian Metz from earlier on this date for the DVR.

The investigating officer -- you -- wanted to review this to see if there was anything suspicious depicted that might assist in this case.

A That's correct.

Q You wrote that, didn't you?

A I did.

Q And then you went and you saw these blinds open on the tape?

A Yes, I did.

Q Okay. Now, Lieutenant McDonald, you presumed a lot when you came up with this theory about the blinds, didn't you?

A Not at all.
Q You presumed that that wasn't Tammy Parker, didn't you?
A I don't know that.
Q Well, you said it was Brett Parker. But you can't see who it is, can you?
A I can't see who it is, no.
Q Well, sir, would you agree with me you're presuming it's Brett Parker, but it could be Tammy Parker, couldn't it?
A I don't know that.
Q Well --
A I couldn't see who slid open the blinds.
Q In order for your theory -- and you started with a lot of presumptions then with this blind test. You presumed, number one, that Brett Parker opened those blinds?
A I thought it was a great possibility, yes, I did.
Q And you presumed that Tammy Parker was dead, didn't you?
A I thought there was a possibility she was dead, yes.
Q But you don't have a shred of evidence proving that she was dead at that time, do you?
A No.

Q You also, sir, talked a lot about discovering things at the scene here, things that are on the floor. But, I mean, if Mr. Parker was doing all this stuff that y'all are saying, he would have hidden these things, wouldn't he? I mean, these gun boxes and this ammo and all this stuff, I mean, he would -- he more or less just left it right out, right? I mean, didn't you ever think that maybe that might tend to indicate that, you know, he is not guilty?

A I can't begin to understand what would be going through his mind, why he would do something or not do something. As I stated earlier, there were numerous inconsistencies. I could give you 10 or 12 inconsistencies that led us down this path.

Q Well, have you ever thought that maybe there are some inconsistencies from the way y'all are viewing this?

A No, sir.

Q When you got the gunpowder back, instead of -- I said, you know, Bryan Capnerhurst, it looks like he shot a gun.

I don't see that in your reports, and I mean any of them, but that is something that is very distinctly probable, isn't it, sir?

A Possible. I don't know how probable. All three victims had gunshot residue on their hands.
Q Well, again, sir, all this evidence you discovered, he didn't secrete any of it, did he? Was it hidden up under something or in a hole in the back yard or something? It was right out in the open, wasn't it?
A What are you referring to, sir?
Q The gun boxes, the gun bag, the ammunition, all of it was right out in the open, wasn't it? You'd just open the drawer and there it is?
A Yes, sir.
Q Okay. I mean, based on -- just based on this little slice that we're talking about here, I mean, you certainly can't say that Brett Parker was trying to hide this stuff, was he?
A I don't know that, sir.
Q All right. Well, again, sir, his hands -- he didn't wash his hands, did he? You heard the experts?
A I don't know if he did or not. I'm not a GSR expert.
Q Okay. All right. Well, you know he had gunpowder on his hands, don't you?
A I know he had gunpowder on his hands.

Q All right. All right. Well, sir, I mean, I guess my point is this, Lieutenant McDonald. Any time you get some evidence, you know, especially something that is like this, I mean, you can cut one way or the other with it, can't you?
A You can.
Q Yeah. But you didn't -- you cut everything that he was guilty from the get-go on this thing, didn't you?
A As I stated earlier -- and I can go into all these circumstantial and all these inconsistencies we were coming across -- it became overwhelming that Mr. Parker had committed this crime.
Q All right. Let's talk about this. Let's talk about the inconsistencies. Now, we know that he is a bookie, don't we?
A We know he is a bookie, but he denied having any online gambling or any gambling debt.
Q Okay. All right. And I am going to let you -- I am going to let you --

MS. WALKER: Objection, Your Honor.

MR. WHITLARK: I am going to let him say it. I am going to let him say whatever he wants.

THE COURT: Let him answer the question.

BY MR. WHITLARK:

Q I just want you to answer my question. He told y'all he was a bookie the first -- right when the police got there. He said, look, I want to talk to you, I'm a bookie.
A He told Major Smith he was a bookie, yes, sir.
Q Okay. He said he had a federal stamp, but it is still illegal, right?
A That's correct.
Q All right. And y'all start asking him questions right when this event happened. Y'all took -- he was taken down and a written statement was taken from him, right?
A He went to Region IV headquarters with Investigator Holdorf and Major Smith voluntarily to give a statement, yes, he did.
Q Okay. And he didn't go: I've had affairs and I've got gambling debts? You know, he didn't tell y'all that stuff?
A He was asked those questions specifically.
Q Okay. I know he was.
A And he denied them.
Q I know he did. But, sir, do you have any basic understanding -- this man is a bookie, right?
A That's correct.
Q And he didn't want to reveal every single detail of

that and talk about affairs, especially in the mindset he was in right then, right?

A I wasn't with him during this interview, sir.

Q Well, sir, you've been in law enforcement for how long?

A Twenty-five years.

Q Sir, you've seen people that have been in this type of circumstance before, haven't you?

A After an incident like this has occurred? Yes.

Q Yes. And they are in shock a lot of times, aren't they?

A I don't know. Like I said, I wasn't with Mr. Parker.

Q I understand that. I'm just saying in general, though, sir, I mean, this was a shocking event, was it not?

A Yes, it was.

Q And Brett Parker, they said he said out there on the street and the coroner said, well, he said, my God, I have killed my best friend.

Well, did you ever think that Mr. Parker has never killed anybody before? Y'all didn't find that he has ever killed anybody, have you?

A No.

Q Okay. And he said he killed best friend?

A Yes, sir.
Q Well, the man was in shock and thinking probably about, you know, I just shot and killed somebody. I mean, did you ever interpret it that way?
A I find it rather odd, as the coroner did, that he would be referring to him as his best friend at this point if he had just, in fact -- if Mr. Capnerhurst had just killed his wife, how he could be referring to him as a friend.
Q Oh. Well, let me ask you this, sir. Y'all took him immediately, basically from this, after the EMTs got his heart done, y'all took him immediately down and started questioning him, didn't you?
A I did not, no.
Q Well, I know, you didn't, but you know that happened, right?
A Major Smith and Investigator Holdorf did interview him that afternoon.
Q I bet you wanted to go.
A I was on the scene.
Q Okay. I bet you wanted to ask him some questions, didn't you?
A Yes, sir, I would have, but that had already been handled.
Q Well, anyway, Lieutenant McDonald, you didn't

arrest him after you got the GSR back. You didn't arrest him after you found out, well he didn't tell us who all his -- you know, who he gambled with, and stuff. He wasn't honest with us about that. You didn't arrest him after that, did you?

A No. There was still a number of tests going on ballistically and forensically going on. There was an ongoing dialogue between Mr. Parker and the Sheriff.

Q Right.

A Basically that continued on for a couple of months.

Q Well, I'm saying you went -- you didn't do it when you got the blind test back. You still -- you didn't arrest him then either, did you?

A No. It was an ongoing investigation. We were still investigating. Investigations are made of many up of many pieces, much like a puzzle, of evidence. And as the evidence mounted and we consulted with the Solicitor's Office, we then made the arrest.

Q Ninety-seven days later. Sir, let me ask you something. Do you remember when the Secret Service got involved in this?

A I know they got involved. I can't remember the exact date but, yes, they were called in early on.

Q Do you know that they went out to the Capnerhursts' house? Did you know that?
A I believe that I did, yes.
Q Did you know they found a pile of burnt ashes out there?
A No, I don't.
Q You've not heard this?
A I've never heard that.
Q Have you heard that those ashes were the remains of gambling receipts that Bryan Capnerhurst had burned?
A No, I've never heard that.
Q You have not looked at any of the Secret Service reports in this case?
A Their investigation of this was on the gambling end of things. Financials, that wasn't my concern in this case. My concern was on the criminal end of this thing, dealing with the two homicides.
Q Let's be honest about this, Lieutenant McDonald. You were looking for anything you could to prove Brett Parker murdered his wife, waited for Bryan Capnerhurst to come over there, and then killed him and put a gun in his hand. That's what you're saying, isn't it?
A No, sir. As this investigation unfolded and the

evidence kept mounting and mounting and mounting on Mr. Parker, we continued to go down those roads, investigating this thing fully, exploring new avenues, exploring discrepancies in his multiple statements he gave to us.

Q Lieutenant McDonald, you don't have a shred of evidence that Brett Parker killed Tammy Parker before Bryan Capnerhurst got there, do you?

A There's no eyewitnesses to this effect.

Q Do you have any medical evidence it's true? No, you don't. Do you have any --

THE COURT: Let him answer the question.

A Yes, sir, we do. The medical examiner and other orthopedic doctors have viewed the autopsy photos of Mr. Capnerhurst, and we were told there was no way that an individual could hold a gun after being shot with a hole in his arm.

MR. WHITLARK: Your Honor, I ask that that be stricken from the record. That is non-responsive, and I ask it be stricken from the record. That is not responsive.

THE COURT: I'm going to overrule that objection because in his response he is answering the question that you asked specifically about medical examiners and examination.

MR. WHITLARK: I said that -- all right.
BY MR. WHITLARK:
Q Let me ask you again. Do you have any medical proof that Tammy Parker was dead before Bryan Capnerhurst got there?
A Do I have any medical proof?
Q Yes.
A No.
Q Do you have any forensic proof -- anything you can point to will be fine -- that he killed Tammy Parker, that Brett Parker killed Tammy Parker, before Bryan Capnerhurst got there?
A I believe his actions, actions -- we never see Tammy Parker come out of the garage. We never see Tammy -- we don't know who peeked out of the blinds, but we know Brett was still alive at 12:29 when he peeked out of the garage.
Q Sir, did you recover the Subway or Firehouse Subs receipt?
A Did I? No. CSI recovered that.
Q You know what it is, though, don't you?
A Yes.
Q It was the receipt for the food that he brought home to eat with his wife, right?
A Yes, sir.

Q And the time was what on that? Do you know that?
A 11:42, somewhere around there, I believe.
Q Yes, sir. That's right. Did you also know that Tammy Parker ate that food? You know that, don't you?
A I do know that.
Q You also know that food was partially digested, don't you?
A Yes.
Q And we know for a fact she didn't get there till what time?
A Can I refer to my notes?
Q Sure. Sure.
A She arrived home at 11:57.
Q Right about 12:00, right?
A Right.
Q And Mr. Capnerhurst got there about 30, 31 minutes later, right?
A That's correct.
Q All right. And you know that she sat down and ate, right?
A That's correct.
Q You don't dispute that?
A No.
Q And her food was partially digested, wasn't it?

A Yes, it was.
Q Okay. How long did you -- did you swim when you were a young man?
A Yes, sir.
Q How long did your mama tell you to wait before you went in the water after you ate a big meal?
A Thirty minutes.
Q That's right. And can you tell us the reason? Because your food hasn't been digested yet, right?
A That's correct.
Q You need about that long. And her food was partially digested, wasn't it, sir?
A Yes, sir, it was partially digested. I don't know how complete it was.
Q Just based on these last few questions me and you have had back and forth, I mean, would you agree with me that that would tend to indicate that she, in fact, was not dead before Bryan Capnerhurst got there?
A I can't say that.
Q All right. All right. Y'all seized Mr. Parker's computers, didn't you?
A Yes, as part of the search warrant we did.
Q But you did not seize Bryan Capnerhurst's computers in April when this happened, did you?

A I'm not aware of us seizing his computer, no.
Q Okay. Are you aware that he normally or regularly carried a bag with him when he went over to Brett Parker's house? Are you aware of that?
A No, I'm not.
Q Are you aware that he would carry receipts out of the house, gambling receipts? Have you ever heard that?
A No, sir.
Q And, like I said, the Secret Service found where he burned them? Are you aware of this?
A No, sir.
Q All right.

MR. WHITLARK: Beg the Court's indulgence.

(Pause.)

BY MR. WHITLARK:
Q How many times did Bryan Capnerhurst speak with James Morgan before he went over to Brett Parker and Tammy Parker's house that day?
A (Pause.) It appears to be eight times.
Q Now, do you know anything about Bunco or gambling investigations? I think you know something about it, don't you?
A Very little. That's why we conferred with the Secret Service. We had never heard of a federal

gaming stamp. We are not familiar with the gambling operations. That's why we called the Secret Service.

Q Okay. Did you run down any of those -- by the way, you didn't subpoena Mr. Morgan's records, did you? James Morgan?

A No.

Q I know we gave them to you, didn't we?

A That's correct.

Q And we also told you that you might want to look into the Cindy Capnerhurst embezzlement of $35,000 to pay Bryan Capnerhurst's prior gambling debts? We told y'all that, didn't we?

A You never told me that. No one has ever told me that, no.

Q Well, you know about it, don't you?

A I know about it, but no one has told me that you directed us to look into that.

Q You also -- well, let's talk about what you know about. You know about that. Do you know about that Cindy Capnerhurst and Bryan Capnerhurst were talking about the safe, his safe, weren't they?

A I do now.

Q Well, sir, sir, are you saying the information came from me?

A Once reading the statement of whoever's follow-up that was.
Q Well, I'm confused.
A You presented me a statement. You presented me a typed narrative with no name on it. It wasn't my follow-up. I don't know whose follow-up --
Q Forgive me. I was unfair. You went to a meeting about once a week about this case, didn't you? Something like that?
A Roughly once a week or --
Q Were they Monday meetings?
A Not necessarily.
Q All right. Well, I thought that's what you said.
A It just varied. It just depended on how things were progressing in the case. We did have regular updates, though.
Q All right. Tell the jury what ARC is, A-R-C?
A The Assessment Resource Center.
Q What is that for?
A It's to interview children after traumatic events. We use it very often in our victim services to aid children who have been a witness to a traumatic event or been involved or around a traumatic event.
Q Okay.
A We use it also as a tool. In this case to see if

there is any further information that we could learn.

Q Well, would you agree with me that you went down to observe the children being counseled by the ARC folks so that you could see if you could get some information that would help prosecute Brett Parker?

A I went down and viewed the interview of B.P. Parker to see if I could gain any information to help this case.

Q What about his son? Did you see that one?

A No, I did not.

Q All right. The son is five years old, right?

A That's right. We made arrangements with other personnel at the ARC, that if anything were developing in that interview, that either myself or Sergeant Lindler would then witness that interview.

Q Before Brett Parker was arrested -- and I believe you stated this -- that you coordinate Geo locations -- what do you call it when you use somebody's phone to follow them around to find out where they are? What do you call that?

A Cellphone, the tracking of the cellphone, the location, approximate location of that cellphone.

Q And you know that y'all were tracking Brett Parker, weren't you?

A I was not tracking Brett Parker, no, sir.
Q My question to you is: Do you know that the Sheriff's Department was tracking him that way?
A I believe at one point the Fugitive Team was asked to follow him, yes.
Q Well, I mean, do you believe it or do you know it?
A I know that at one point in this investigation, the Fugitive Team was asked to follow him.
Q Okay. Were they listening to his phone calls?
A No.
Q They didn't have a warrant for his telephone?
A They didn't have a wiretap, no.
Q Followed him to his lawyer's office, though, right, didn't they?
A I don't know that.
Q All right. Well, getting back to the ARC, you went down and viewed that, and that is an interview of his children, right?
A Yes, sir.
Q And law enforcement uses that to gather information in cases, don't they, sir?
A Yes, sir.
Q Okay. But y'all kind of told him that, we'd like to get them some counseling. That's basically what was represented to Mr. Parker when y'all said, why

don't you bring the kids down here, bring them down to the ARC.

A They do provide counseling services, yes.

Q I know, but y'all told him it was for counseling purposes, didn't you?

A I didn't talk to him about it, sir. I don't know what was expressed to him.

Q All right. All right. Fair enough. How many hours do you think you've put in on this case? I mean, just give me a guesstimate.

A I don't know, 6-, 7-, 800 hours maybe. I don't know, just guessing.

Q You are one of 30, maybe, officers from Richland County that had some involvement in this case?

A That is probably accurate.

Q And we also know the FBI was investigating, right? The Secret Service?

A I don't know that the FBI was investigating. The Secret Service was investigating.

Q The FBI was arresting people -- I'm sorry -- after the Secret Service investigated, right?

A No, I believe the Secret Service was making those arrests.

Q They made a lot of them too, didn't they?

A About a dozen, I believe.

MR. WHITLARK: Beg the Court's indulgence.

(Pause.)

MR. WHITLARK: I think I'm about done with this witness, Your Honor. If you would please give me one minute.

THE COURT: Yes, sir.

(Pause.)

BY MR. WHITLARK:

Q Can you tell me right now off the top of your head how long were the phone conversations between Bryan Capnerhurst and James Morgan on the morning this happened, before this happened?

A I think in my earlier testimony I went over that, but I will see if I've got a copy of it here.

(Pause.)

A There was one of 71 seconds at 7:41 that morning.

Q How many minutes was that?

A That would be one minute and 11 seconds.

Q All right.

A At 7:43 there was one of 1,037 seconds.

Q Okay.

A At 9:59 there was one of 2,324 seconds.

Q Okay.

A 11:14 there was one of 127 seconds.

At 11:17 there was one for nine seconds.

11:17 there was one for seven seconds.
11:18 there was one for 731 seconds.

Q Okay. He talked to him a lot, didn't he, that morning?
A Yes, he did.
Q And he knew a great deal about the details of him getting paid, didn't he? Or about him going over there that day?
A Yes, he told him. He talked to him about this. He was excited. He was hoping to finally be paid the money that was owed to him.
Q Was he excited when he told James Morgan, if he doesn't pay me this money, I'm going to make an issue about it?
A Was he -- say that again.
Q I said was he excited, was he jubilant when he told James Morgan, if he doesn't give me my money, I'm going to make an issue about it?
A I don't know about that.
Q Was he excited when he told his wife he was going to get in a fistfight with him?
A I don't know. I didn't interview Ms. Capnerhurst. All I can tell is from the statement.
Q Okay. You did not arrest him after you did the blind -- the window blind theory test, right?

A No. There was an ongoing investigation, as I said, that was continuing. Your client had -- Mr. Parker had numerous conversations with Sheriff Lott, and the investigation was continuing on that avenue and other avenues at this point. There was still testing going on, forensically, ballistically. The investigation was not complete at this time.
Q And we know the results of that test show that Bryan Capnerhurst probably shot a gun, right?
A No.
Q All right.
A We know that that test showed he had GSR on his hands, as the other two participants in this incident also did.
Q Well, after the blind test you went and looked at a videotape, didn't you, back in May, a videotape called Murder By The Book, right? Is that the name of it? Which one was it? Do you remember? You said you watched one of them, right?
A There was a couple. What date are we referring to?
Q The middle of May, May 11th, May something. You say that you went out and were e-mailing and trying to subpoena Murder By The Book, a movie or something about a bookie and his wife. So that is what you were, in May, were looking at as part of

your investigation, a movie?
A We had -- it was a documentary. We had come across information actually from one of the blogs on local media where one of the people blogging had suggested that this had some parallels to this incident. So we did explore that.
Q You didn't just explore it. You went and hunted it down and watched it, right?
A I watched it online, yes, sir.
Q Okay. So you did the blind theory test. Then you watched this movie. But you didn't arrest him after you watched the movie, though, did you?
A No, sir.
Q And you didn't arrest him after the test, the blind test?
A No. As I stated, this was an ongoing investigation. Mr. Parker was initiating contact with Sheriff Lott. There was no reason to arrest him at that point, as long as these dialogues were continuing and further information was being gathered.
Q Lieutenant McDonald, isn't it true, sir, that you were investigating him as recently as two weeks ago?
A I was listening to jail phone calls up until two

weeks ago, yes, I was.
Q And the reason that you were doing that, sir, is because you know you don't have sufficient evidence to convict him of this crime you're accusing him of?
A That is incorrect.
Q I know it's incorrect in your mind.
MR. WHITLARK: That is all I have, Your Honor.
MS. WALKER: I object, Your Honor.
THE COURT: All right. Sustained. Ladies and gentlemen of the jury, please disregard the last comment by Mr. Whitlark.
MR. WHITLARK: Forgive me for that, Your Honor.
THE COURT: All right. Yes, ma'am?
MS. WALKER: May it please the Court, Your Honor?

REDIRECT EXAMINATION

BY MS. WALKER:
Q There were a lot of questions about James Morgan. He asked you if you looked at James Morgan's criminal record, right?
A He asked me that, yes. I have never seen his criminal record.
Q Let me show it to you. Does he have a criminal

record?
A He does not, no record found to disseminate.
Q He talked a lot about the Secret Service's investigation into bookies and about James Morgan being a bookie. Were bookies arrested in this case?
A People --
Q As part of the Secret Service investigation?
A Yes.
Q Was Jack Parker indicted?
A Mr. Parker was indicted.
Q Lanny Gunter indicted?
A Lanny Gunter was indicted.
Q Was James Morgan indicted?
A No, he wasn't.
Q He went over and showed you a copy of James Morgan's sworn written statement and asked you a lot of questions about it, didn't he?
A Yes, he did.
Q I want to show it to you.
(Complies.)
Q That first question when he's asked how Bryan Capnerhurst and James Morgan knew each other, did he say that they knew each other through a fantasy baseball league?

A He did. He said he had known him for at least 10 years, maybe even 15. He met him through a fantasy baseball league.

Q Did he talk about conversations that he had with Bryan Capnerhurst on April 13th?

A Yes. He indicated he did talk to him several times that day.

He said Mr. Capnerhurst had called him and said he just got off the phone with Brett, and that Brett wanted to meet him today. Brett had a wheelchair to deliver and something else, that he wanted to meet with Cap that day to settle up. He was due for football and basketball season.

Q Did he talk about conversations that Cap had with Jack Parker, the father of the Defendant?

A He indicated Mr. Capnerhurst had told him that Brett's dad had shorted Brett $10,000 on his payment to him when Brett was paid on Monday. He said Brett's dad had told Cap that he learned that he -- Brett's dad and his wife -- had both leant Brett $5,000 each before Brett went on a cruise the previous week.

Q That Linda and Jack Parker had both leant Brett $5,000 --

A That's correct.

Q -- recently? Did he mention whether or not Jack Parker was concerned about Brett giving back any of --

MR. WHITLARK: Objection to the leading form of the question, Your Honor.

THE COURT: Sustained.

BY MS. WALKER:

Q Is there any mention of -- what else does it say about conversation with Jack Parker?

A This was about two weeks apart, and neither knew that the other had given money until Brett was on the cruise.

When they were on the cruise, Cap and Brett's dad talked many times, and Brett's dad was concerned that Brett was back to gambling because he had asked him for $5,000, and then his wife for 5 right after the season when there should have been a profit.

Cap said that when Brett called him, he would drive to Brett's and call Mr. Morgan from the driveway of Brett's house. And that he gave him an hour and if he didn't hear from him, he was to call a number and ask for Mr. Capnerhurst.

Q Does it talk about Bryan's intentions when going over -- I'm sorry -- Bryan's intentions of going

over to the house, about whether or not anything physical was going to happen? It's the last line, the first paragraph.

MR. WHITLARK: Your Honor, I object to the leading.

MS. WALKER: Your Honor, I can direct him.

MR. WHITLARK: That's fine.

THE COURT: Overruled.

A Mr. Morgan indicated that since Cap had said that -- he had said that he just did the same thing with Cindy and she was going to call in an hour if she had not heard from him.

And he was concerned there could be some kind of confrontation. He had told numerous people that he was going to get paid that morning and was somewhat concerned about it. So he told several people about his concerns.

Q Continue.

A I don't know if you want me to elaborate on that, but --

Q Yes.

A That doesn't sound like the actions of a man who is going over there to murder someone, telling three people, to include the Defendant's father, I'm going to get paid, I'm going to meet Brett for

payment.

Q If I can direct your attention to Page 2 of James Morgan's statement. Does it say anything about a possible physical confrontation that might happen that day?

A He indicates here that he didn't think anything physical was going to happen. He thought, if anything, the reason for the 9-1-1 or for him to call a number was to get him out of any kind of argument that may have started.

Q And why didn't he think anything physical was going to happen?

A He said Cap did not like confrontation.

Q Turn to Page 3 of the statement. Was there a conversation in which Bryan was supposed to call Jack Parker right after meeting with Brett?

A Yes. He says because -- the questions to Cap -- why Brett's father wanted him to call first thing after the meeting?

The answer was: Because he was worried about his son and knew how deep the hole he was in.

Cap and Brett's dad had been talking a lot. He knew that based on how much Cap was paid would show how much trouble Brett was in.

While Brett was on the cruise, Brett's dad

told Cap that he had paid $100,000 to pay to Vegas a year ago to get Brett out of debt.

Brett's dad had felt that something was wrong, and he could not put his finger on it. He did not know how bad it was.

As he and Cap were talking while Brett was on the cruise, he learned how bad it was. And Brett's dad had gotten sick and needed Brett's help in running his books, so Cap and Brett helped with his bets.

Q On Page 4, in terms of Bryan Capnerhurst ever having a gun.

A Mr. Morgan was asked if Cap ever talked about owning a gun.

His response was: No. If he would have had one, he would have told me about it. We talked about most things, and a gun is something he would have told me about.

Q Did he mention anything about other -- continuing on that -- anything about other conversations that Jack Parker had with Bryan Capnerhurst about a letter written by Tammy Parker?

A Would you ask that question again, please?

Q On Page 4 of the statement, does he mention anything about a letter that was written from Tammy

Parker to Jack and Linda Parker?

MR. WHITLARK: Your Honor, I object to this. It's beyond the scope of redirect.

MS. WALKER: Your Honor, he asked -- showed him the statement and asked him all sorts of questions about it.

THE COURT: All right. Objection overruled.

A I don't see anything about a letter here on Page 4.

Q Let me make sure we have the same page numbers, Lieutenant.

A Yes, he indicates that Cap also told Mr. Morgan that Brett's father had told him about a year ago when he ran up $100,000 to Vegas, that what he got instead of thanks from his daughter-in-law was a letter from her saying that Brett had no morals, he did not know the difference between right and wrong and had no remorse for any of his actions, that the cause of this was the way his mother and father had raised him.

Q I want to ask you some questions about Cindy Capnerhurst. He talked about a guilty plea to some sort of embezzlement?

A Yes.

Q Are you aware of how long ago that happened?

A I believe it was more than 10 or 12 years prior.

Q Prior to this incident?
A Yes.
Q And I want to show you -- I think -- did Mr. Whitlark show you Ms. Capnerhurst's statement in cross-examination?
A He did.
Q I show it to you again.
(Complies.)
Q Will you take a moment to review that?
(Pause.)
Q Anywhere in that statement -- take your time -- did Cindy Capnerhurst ever say anything about talking to Bryan, about 80- to $100,000 being in the safe?
A I don't see anything in this statement about that, no.

MS. WALKER: No further questions.

MR. WHITLARK: May it please the Court?

THE COURT: Yes, sir.

RECROSS-EXAMINATION

BY MR. WHITLARK:

Q Do you have Mr. Morgan's statement, sworn statement?
A No, I don't.
Q Here. I'm going to hand you this one.
(Complies.)

Q Do you see that question and answer right there? Do you see where I've marked it? Would you please read that to the jury, what the question from law enforcement was to him and what his answer was?
A The question was: Do you know about Cap's financial situation?
Q Tell the jury who Cap is, please.
A That would be Bryan Capnerhurst.
Q Okay. Go ahead.
A The response was: I do. In the past year, Cap told me that his wife Cindy has gotten them deeper in financial debt. How far do you want me to go, the whole thing?
Q All the way down where it's blocked there.
A Okay. I think the first time was five or six years ago they tried to get a new second mortgage, but Cindy's credit was too bad. Cindy had racked up credit card debt. Cap had been telling Brett all along about being in debt to show that he was not just jerking Brett around but that he needed the money to pay off his bills.

They owed Cindy's dad about $3,000. Cindy had said because it looked like they were not going to get all their money from Brett, that they should skip paying her dad, but Cap said that he was going

to pay her dad back first and personally give him the money.

They owed 20- to $25,000 to a credit card and were going to pay that down with the rest of the money he got from Brett. I know that they were living off credit cards and that they were close to being maxed out.

Q Thank you. That was James Morgan talking about Capnerhurst, wasn't it and about his situation was bad, wasn't it?

A He was in a little bit of debt, yes.

Q Well, I don't know how much you make a year, but $25,000 in debt is pretty big, don't you think?

A It's all comparative, I guess, to other people involved in this case, the amount of debt they were in.

Q It looks like they were having financial troubles according to his best friend?

A They were struggling, yes.

Q Okay. And just one more time, just one more sentence. This is Mr. Capnerhurst [sic], right, and he is talking to law enforcement from Richland County. I believe it was Investigator Holdorf.

A You mean Mr. Morgan or Mr. Capnerhurst?

Q Mr. Morgan, I'm sorry. Excuse me. And he is asked

a question about what is going to happen if he doesn't get paid.

And what did Mr. Morgan, the best friend of Mr. Capnerhurst, tell the investigator from Richland County? I believe I put your name right next to it, Lieutenant.

A Can I read the whole sentence of just the part of the sentence you have highlighted?

Q Well, you know what? You don't have to read it. That's fine. The point is he was going to make an issue about it, wasn't he?

A I'd like to read the whole sentence, not just part of it.

Q Sir, did y'all have information in your file that Mr. Capnerhurst was going to -- first of all, was going -- he says, you know, it could end up in a fistfight or a beating or something. And that he is going to take great issue with him if he does not get paid.

I mean, do you agree with that or not?

A He was going to have an issue because he hadn't been paid in several months, yes.

He felt better about things knowing that Tammy was going to be there when the appointment was rescheduled from 2:00 o'clock in the afternoon to

12:30.

Q Did you know that in your investigative files that Mr. Capnerhurst knew that Tammy Parker was not going to pay $6,000 of that? Are you aware of that? Mr. Capnerhurst knew that, she was not going to pay $6,000 of it. He knew that for a fact. Are you aware of that?

A Did he know that Tammy Parker was not going to pay him $6,000?

Q That's right.

A No, I've never heard that.

Q That she would not pay -- that she thought it had already been paid off, and she was not going to pay him.

A I have never heard that, no, sir.

Q You have had several theories in this case, have you not, sir -- you have, yourself, about the blinds or you at least were the originator of the blinds, right?

A Yes, sir.

Q Okay. And you went and you watched a movie?

A I watched a documentary, yes, sir.

Q Okay. And you know people are saying that Mr. Capnerhurst didn't have a gun, he didn't tell anybody he had a gun. Have you ever had a theory

in your mind that Mr. Capnerhurst -- of course, he knew about Brett's half-hearted suicide attempt previously when he was in financial trouble? You know that, right?

A Yes.

Q Have you ever had the theory that he was going to take that gun and not tell anybody he had it and go over there and kill Tammy Parker and then kill Brett Parker with the last bullet left in it and say he found a murder/suicide, call 9-1-1, call 9-1-1. We've got a murder/suicide here. Have you ever come up with that theory?

A Not in any way.

Q Well, maybe you ought to.

A The evidence did not support it.

Q It's as supportive as the one you've got.

MR. WHITLARK: That's all I have, Your Honor.

MS. WALKER: Your Honor, I would object to his just random speaking.

THE COURT: Sustained. Please, ladies and gentlemen of the jury, disregard the commentary of Mr. Whitlark.

Mr. Whitlark, please refrain from comments.

MR. WHITLARK: Forgive me, Your Honor.

THE COURT: Thank you. You may step down.

(Witness steps down.)

THE COURT: Let me see y'all at the bench one second.

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

THE COURT: All right. Ladies and gentlemen of the jury, at this time they tell me that your lunch is here. So we're going to take a -- go ahead and take our lunch break.

You are not to discuss the case with anyone. I have to -- I have got to run over and take care of some of my responsibilities at the State Grand Jury that is also meeting this week. So we will start back in about an hour.

Once you all eat, if anyone, Mr. Bailiff, needs to go out and take a smoke break or needs some fresh air, I'll direct the bailiffs and officers to take them out to get some fresh air. All right. Thank you. But you can't go out by yourself.

(WHEREUPON, the jury retires to the jury room at 12:43 p.m.)

THE COURT: I will let them take their lunch. It shouldn't take me long over there. I don't know

how long. I told them I would be there at 1:00. Let's take about an hour or so, and then we can get started back up.

All right, we'll take about an hour.

(WHEREUPON, a lunch break was taken.)

MR. FEDOR: Your Honor, before we begin, may we approach?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: Are we ready to call the next witness?

MS. CAMPBELL: The State is ready, Your Honor.

MR. WHITLARK: The Defense is ready, Your Honor.

THE COURT: All right. Lets bring them in.

(WHEREUPON, the jury came into open court at approximately 2:04 p.m.)

THE BAILIFF: The jury panel is present, Your Honor.

MS. CAMPBELL: The State calls Lindsay Mullins.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: I do.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your name for the record. And spell your first and last name for us, please.

THE WITNESS: Lindsay Mullins, L-I-N-D-S-A-Y, M-U-L-L-I-N-S.

LINDSAY MULLINS,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Ms. Mullins, how old are you?

A Twenty-nine.

Q Do you live here in the Columbia area?

A Yes.

Q And what is your job? What do you do for a living?

A I was a bank teller.

Q Do you know Brett Parker?

A Yes.

Q And can you tell the jury how you met Brett Parker?

A At the bank.
Q And in what capacity was he coming into the bank and how did y'all meet?
A He would come in to do transactions. I would work behind the teller line.
Q Behind the teller line? So you actually worked as a teller?
A Yes.
Q And would he frequent your teller position? And y'all had face-to-face encounters?
A Yes.
Q And do you remember approximately how long before this happened that you actually met Brett Parker in your bank?
A About two years.
Q Three years?
A Two.
Q In the end of 2011, did your status change in life a little bit?
A Yes.
Q And what happened in December of 2011?
A I was separated.
Q You separated from your husband?
A Yes.
Q And sometime after that, in January, did you have a

conversation about that with Brett Parker?
A Yes.
Q And what was that conversation?
A I had stopped wearing my rings and he noticed.
Q You had stopped wearing your -- which rings?
A My wedding rings.
Q Your wedding rings?
A Uh-huh.
Q And who brought up the fact that you had stopped wearing your wedding ring?
A He did.
Q And at that point, did y'all have a conversation about what was going on with your life?
A Yes.
Q And what was that conversation?
A That I was separated and that he may soon be as well.
Q And what exactly did he tell you about how his status was changing as far as his marriage?
A That they were looking to separate and that he had been working on the financial status of their relationship.
Q That they were planning on separating?
A Yes.
Q Did you know his wife?

A No.
Q It was -- he was the one that came in your bank, is that correct?
A Yes.
Q And at that point, what did he tell you about the status of what was going to be happening with his marriage in January?
A That they were looking to separate.
Q Sometime in February did y'all start to have conversations about possibly meeting up?
MR. WHITLARK: Objection, Your Honor. It's a leading question.
THE COURT: Sustained. Please rephrase.
BY MS. CAMPBELL:
Q Sometime in February did your conversations change somewhat?
A Yes.
Q And what happened?
A We did eventually talk about meeting for drinks after work.
Q And did that happen at some point?
A Yes.
Q And do you know approximately when that was in the spring of 2012?
A The beginning of March.

Q The beginning of March?
A I believe so.
Q And where did y'all meet? Do you remember?
A We met at a little sports bar off the side of the road. I don't remember the name of it. It was in West Columbia.
Q In West Columbia?
A Uh-huh.
Q And is that near where your bank was?
A Yes.
Q When y'all met at the restaurant or the bar in West Columbia, did he again discuss with you his marriage?
A No, not really. We didn't actually talk a whole lot. He was on the phone a lot.
Q Did he ever talk to you anything about his status being like yours?
A Several times, that they were separating.
Q After y'all had drinks on this one occasion, did the relationship get more serious?
A I wouldn't necessarily call it a relationship.
Q I'm sorry. Did you all make plans to meet up again?
A Yes.
Q And approximately when was that? When did that

take place in relation to these events?
A About two weeks later.
Q About two weeks before?
A A week or two after we met the first time.
Q Okay. So sometime towards the end of March?
A Yes.
Q And where did that encounter take place?
A At his home.
Q And who was present in his home when y'all met up that day?
A Just he and I.
Q And are you sure about the exact date?
A I don't remember the exact date.
Q And was it a work day or a weekend, or do you remember?
A It was a weekend.
Q And when you met up at the house, it was just the two of you?
A Yes.
Q And do you remember where his house was?
A That neighborhood in Irmo.
Q A neighborhood in Irmo?
A (Nods affirmatively.)
Q And how did you know how to get to his house?
A I didn't drive to his house.

Q Did he pick you up?
A Yes.
Q And where did he pick you up from?
A At one of our locations, one of our bank locations.
Q Once you got to the house, once he picked you up, where did you go?
A (No response.)
Q In the house?
A There was a living room in an upstairs and an office.
Q And did y'all have a sexual encounter there at the house that day?
A Yes.
Q And where did that take place?
A It was a room off an office.
Q A room off the office?
A (Nods affirmatively.)
Q And in the office, what kind of furniture was in the office?
A A desk and a chair.
Q And was that upstairs or downstairs? Do you remember?
A Upstairs.
Q While you were in the office, did he tell you anything about certain weapons in the house?

A He did mention that he had a gun.
Q And while you were in the office, at some point, did he indicate to you where the gun was?
A He indicated that there may have been a gun in the desk.
Q And how did he indicate that to you?
A He patted on the desk.
Q Can you show the jury how he patted?
A Like this (indicating).
Q Can you show them up here?
A Like this (indicating). But he didn't show me the gun.
Q But he said he had a gun and then he patted on the desk?
A Yes.
Q Did y'all get together again for another sexual encounter?
A Yes.
Q And when did that take place? Do you know?
A A few weeks later.
Q And where did that take place?
A In a hotel in West Columbia.
Q And is it near anything in West Columbia?
A I work in West Columbia.
Q You work in West Columbia?

A Yes.
Q Do you know where the hospital is in West Columbia?
A Yes.
Q Is it near there?
A Yes.
Q And what time of day was it when you met him that time?
A It was in the afternoon.
Q How did you get to the motel that day?
A I drove.
Q Do you remember the name of the motel?
A No.
Q Once you drove to the motel, tell the jury, was he already there?
A Yes.
Q And what did you do once you got to the motel?
A He told me there was a room, and I went there.
Q And was he in the room that he told you about?
A Yes.
Q And once inside, did y'all have a sexual encounter?
A Yes.
Q And, again, at this point, what was he telling you about his marriage? Or what did you understand about his marriage?
A That he was separating from his wife.

Q Did he ever talk to you about certain things that might affect his ability to separate?
A Yes.
Q What was that?
A Financial.
Q What did he say about the financial?
A That it was going to be difficult to get it all down on paper.
Q So there were financial issues?
A (No response.)
Q After you left that day from the motel, when is the next time you saw him? Do you remember?
A I didn't see him again face-to-face after that.
Q And do you remember that Friday, the 13th of April, him coming to your bank?
A I know he did come in, but I did not actually see him.
Q Okay. But he did come by the bank that morning?
A Yes.
Q But you didn't see him?
A Right. Another teller helped him.
Q But after he left, did you become aware that he had been in that morning?
A Yes.
Q And then did y'all send a series of test messages?

A Yes.
Q I am going to show you what has been marked -- and this is on April the 13th?
A Yes.
Q Do you remember how many days this was after your last encounter at the motel?
A Several.
Q Several? I show you State's Exhibit Number 447. Have you had an opportunity to look at those?
A Yes.
Q And do these fairly and accurately represent text messages from February 11th and then the morning of the 13th?
A I suppose so.
Q And the first one on the morning of the 13th, do you see what time that was?
A Yes.
Q And what time is that?
A 10:20.
Q In the morning?
A Yes.
Q And then the last one on the 13th was at what time?
A 11:18.
Q 11:18?
A Yes.

Q And that would have been that morning?
A Yes.
Q And there is a series of texts between the two of you?
A Yes.
Q And what was the nature of these texts? What were y'all talking about?
A They were just a little flirtatious, I guess, but --
Q Flirtation?
A -- nothing serious.
Q At some point in there, do one of y'all talk about getting together the next week?
A It was mentioned.
THE COURT REPORTER: I'm sorry? I didn't hear it.
MS. CAMPBELL: It was mentioned.
BY MS. CAMPBELL:
Q And at that point did he indicate whether or not y'all were going to be able to get together?
A It wasn't solidified that we would actually meet.
Q Do you remember your response to that?
A Yes.
Q And what was your response?
MR. WHITLARK: Objection. Your Honor, it's

leading the witness, first of all.

MS. CAMPBELL: I'm trying to abide by your rulings, Your Honor, and get there --

THE COURT: The objection is overruled. But ask the question again.

BY MS. CAMPBELL:

Q Do you remember your response when you asked about getting together the next week?

A Yes.

Q And did he indicate whether or not y'all could?

A Yes.

Q And those texts were the morning of April 13th?

A Yes.

Q Of 2012?

A Yes.

Q Thank you.

MR. WHITLARK: May it please the Court, Your Honor?

THE COURT: Please answer any questions Mr. Whitlark may have.

CROSS-EXAMINATION

BY MR. WHITLARK:

Q Hello, Ms. Mullins. Sorry you got in this, involved in this.

She was just asking you if you were to get

together with Brett Parker sometime that weekend or sometime? Y'all were going to get together, right?
A Yes.
Q But he couldn't do it because he said he had to coach his son's baseball team, didn't he?
A We had no plans to see each other that weekend.
Q Okay. He didn't tell you he couldn't come on a Saturday because he was coaching or something?
A He did say he was coaching.
Q Okay. And what is your current status as an adult lady? Are you married or...
A I'm divorced.
Q Were you trying to reconcile or anything during that time with your ex?
A No.
Q Okay. So you were at a point where you had, you know, said that that's it, it is over with between y'all, and you were going to be a single lady again, right?
A Yes.
Q And you're a mama too, aren't you?
A Yes.
Q Okay. He never told you anything about that he hated his wife or he was going to kill his wife, did he?

A No.
Q And when you talked to him about did he have a gun or anything, he mentioned to you that his house had been robbed, didn't he?
A Correct.
Q Okay. And I think he told you the only thing he had at that point was a baseball bat or something, right?
A Correct.
Q And you actually asked him, Where is your gun or where do you keep your gun, or something? I mean, were you asking him?
A I don't recall asking that question.
Q Right. That's right. Marriages have difficulties, don't they?
A Yes.
Q And not only emotionally, but it's also financial, isn't it?
A Yes.
Q Okay. All right. I mean, he was never mean to you or he never showed any violent tendencies or any rage, or anything, did he?
A No.
Q Okay. As a matter of fact, he is a pretty mellow fellow, isn't he?

A He would be.
Q Okay. How long -- are you remarried or are you engaged?
A I am seeing someone.
Q Okay. All right. You didn't have any plans to run off with him or anything with Brett Parker, did you?
A Not at all.
Q Okay. You knew he was in the medical supply business as well, right?
A Yes.

MR. WHITLARK: Beg the Court's indulgence, Your Honor.

THE COURT: Okay.

(Pause.)

BY MR. WHITLARK:
Q I'm almost done with you. A law enforcement officer named Don Robinson came to see you, didn't he?
A Yes.
Q Wasn't that his name?
A Yes.
Q And that was in April of 2012, right?
A Yes.
Q Okay. And at that time he was asking you questions

about things like, was he disgusted with his wife, things like that, right?
A Yes.
Q And what was your answer?
A No.
Q Okay. He never said anything like that, did he?
A No.
Q And he didn't seem angry at all when he was talking about it even? How did he seem to you, if you can tell us?
A Nonchalant about it.
Q Okay. And he never mentioned anything to you about a gun, did he? He never said anything about a gun? He just talked about a robbery, didn't he?
A That he got other protection, yes.
Q Okay. And the only reason y'all were getting together is because you were attracted to each other? Would you say that?
A Briefly.
Q Thank you. That's all the questions I have. Thank you.

THE COURT: Anything else from the State?

MS. CAMPBELL: Just a couple of questions.

REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q He asked you about the marriage and Tammy, his wife, how he felt about her. Do you remember giving a statement on April 15th to investigators?
A Yes.
Q Is this a copy?
A Yes.
Q And in those first set of questions at the top, did he ever tell you anything about his wife and their sleeping arrangements?
A He said that he slept upstairs and that she slept downstairs.
Q That he slept upstairs?
A Uh-huh.
Q And where did she sleep?
A Downstairs.
Q Did he tell you anything else about the separation?
A No.
Q In the next line?
A He said that they were going to separate.
Q Uh-huh.
A But that the financial situation was a problem.
Q Okay. And then he asked you specifically just a second ago, who mentioned that he had a gun? Who said that?
A He mentioned he had other protection since the

robbery a few years earlier.
Q And he mentioned that he had one, is that correct?
A He mentioned --
MR. WHITLARK: That is a leading question, Your Honor. I object to it.
THE COURT: Sustained.
BY MS. CAMPBELL:
Q What did he tell you about a weapon?
A That he had gotten a gun because all he had was a bat.
Q Thank you.
MR. WHITLARK: Briefly, Your Honor.

RECROSS-EXAMINATION

BY MR. WHITLARK:
Q Did Mr. Parker tell you that he slept with his five-year-old son every night upstairs?
A He did say that his son slept with him, yes.
Q Every night, right? Did he tell you that? He said, My son sleeps with me every night, when he told you that him and his wife slept --
A He said that he normally stayed up and they watched Power Rangers.
Q And he didn't exhibit any anger at all about the situation with his wife, did he?
A No.

Q Just a couple more questions, and that will be it. The officer that was questioning you, Mr. Don Robinson?
A (Nods affirmatively.)
Q I mean, they were asking you about, did he give you any money, right?
A Correct.
Q Right. And then he mentioned that he was disgusted with his wife, right?
A Right.
Q So they were interested in stuff like that. I mean -- let's see. Did he tell you how he made his money, things like that?
A They did ask.
Q And you were honest with them, weren't you?
A Yes.
Q You told them he takes bets and he works for a medical supply business?
A Yes.
Q Thank you, Ms. Mullins.

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

(Witness steps down.)

THE COURT: Any objection to this witness being excused?

MS. CAMPBELL: Thank you, Your Honor.

MR. WHITLARK: Nothing from the Defense, Your Honor.

THE COURT: Ma'am, you are free to leave.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: Call your next witness.

MS. SIMPSON: Your Honor, the State calls Dr. Theresa Mills-Floyd.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: Yes, I do.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your name for the record. Spell your last name, please.

THE WITNESS: My name is Theresa Mills-Floyd, T-H-E-R-E-S-A, Mills, M-I-L-L-S, hyphen Floyd, F-L-O-Y-D.

THERESA MILLS-FLOYD,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SIMPSON:

Q Doctor, how old are you?

A I am 43 years old.

Q And are you married?

A Yes, I am.

Q Do you have any children?

A I have a 13-year-old son and a 31-year-old stepdaughter that I have raised since she was -- she lived with us from the time she was 13.

Q Okay. And do you live in Columbia?

A I live in Chapin.

Q In Chapin? Are you from around this area, the Chapin or the Columbia area?

A Well, I'm from a small town called Summerville, South Carolina. And I moved to Columbia when I started medical school in 1995. So I have been in this area since 1995.

Q And so where did you go to school?

A USC School of Medicine.

Q All right. And what type of medicine do you do? Or tell us a little bit about your background.

A I'm board certified in internal medicine, and I

primarily, from an internal medicine standpoint, have always practiced in hospital medicine, meaning I would take care of patients when they were admitted to the hospital. And I would be in the hospital at night if there was any complications. I assisted residents in training, worked in the emergency room at the VA Hospital for a couple of years.

And in 2006 I decided to open a cosmetic practice, which was non-invasive cosmetic procedures, called Palmetto Cosmetic Procedures. And for several years I worked part-time as a hospitalist and had my practice.

Q So you have had your practice since 2006?

A Yes, ma'am.

Q And is that here in Columbia as well?

A It's in Irmo, South Carolina.

Q And what type of procedures did you say you performed?

A Strictly non-invasive, lots of laser procedures, Botox, fillers, micro-dermabrasion, skin care.

Q And do you know the victim -- or did you know the victim in this case, Tammy Parker?

A Yes, ma'am.

Q Can you tell the jury how you know Tammy?

A I met Tammy in 2008. She came to my practice. And we bonded. And she became my patient and my friend. And so we had a lot of things in common. B.P. is a teenager. Jake is a teenager. Of course, they were smaller when we first met.

You know, as the years progressed, we had a lot in common. And Z.P. was her first son. And my son was older, so I could give her a little advice.

And we just -- we became friends. She was such an easy person to become friends with.

Q And so as friends did y'all discuss your families with one another?

A Tammy Parker's life was her children. And so whenever she was with me, that is what she talked about, was her children. You know, B.P. s cheerleading. You know, we discussed Z.P. had a little spot on his nose, and as he got older, you know, it bothered him. And, you know, she wanted me to look at it. But she did not say very much at all about her husband.

Q Okay. And did you know the Defendant, Brett Parker?

A No, ma'am.

Q How often would you say -- and fast-tracking forward a little bit, towards 2012, 2011

timeframe -- how often would Tammy come see you at work?

A I mean, it would vary. And she would just pop in the office at times. She was such a thoughtful person. If she saw a Mark Roberts fairy that she thought I liked, she would buy that, and she would pop in the office just to say hey. Or buy a USC baseball championship T-shirt, because she knows I love the Gamecocks.

But as a patient, probably every month, couple of months. It just varied. Because a lot of the procedures, you kind of just decide when you think you need it again.

Q And did your staff -- tell us a little bit about your office. How many people worked there? Who all is there?

A It's a very small practice. I do all of my procedures myself. I have an assistant. Her name is Gloria Derrick. She has been with me for at least six years.

She started out as my patient -- similar situation -- we became friends, and subsequently she started working for me.

And my mother, who we call GiGi, helps me with everything. And they were very close to Tammy as

well.

As a matter of fact, my mother was so tickled because she saw a picture of Tammy and B.P. when B.P. was small. And I think it was at Saluda Shoals. They were doing some crafts. And it was in a magazine. My mom found that, tore the page out, and when Tammy came in the next time, she wanted to show Tammy. We still have that picture.

Q And you still have that picture?

A Yes, ma'am.

Q And I know you said that Tammy and her children were her life. Did she discuss some of her marital issues with you?

A We had a very vague conversation -- and, again this was probably in 2010 -- just about, you know, marriage was hard and, you know, you kept trying. But no specifics at all. And I don't remember ever discussing her marriage again. And, again, that was just a vague conversation.

Q And that was back in 2010?

A I would say around the 2010 timeframe.

Q So with respect to her marriage, she was fairly private?

A She was very private.

Q Did you know about the Defendant's side business,

or that he was a bookie?

A Yes, ma'am, I did. When I first met Tammy, you know, she was a drug rep. We were talking. I said, What does your husband do?

And she told me. She said, He is in medical sales and he's a bookie.

And when she told me that, she kind of, you know, moved her head down.

And I just said, Well, Tammy, you know, you are not a bookie.

And, you know, we really didn't discuss it anymore until -- actually the only other time I remember discussing it was Super Bowl 2012.

Probably the Thursday or Friday before the Super Bowl, Tammy was in. And my son is a football guru, and we like to predict games and things. And so Tammy came in.

I had -- my son and I had seen online where the line was like Patriots by three, or something like that.

And I said, Tammy, I said, have you heard the line on the game?

She said, Who is playing in the Super Bowl?

And I said, Tammy Parker, really?

And so we laughed. And she went home, and it

was maybe ten minutes later she called back and told Gloria, my assistant, Tell Theresa Brett says, That's right, Patriots by three.

Q And so that is pretty much the only interaction?

A That was the only time.

Q So the rest of the time, y'all talked about the children?

A And we just laughed and had fun and...

Q How would you describe Tammy?

A Tammy was one of the most vivacious, giving, wonderful people you could know. She didn't meet a stranger. I mean, she would come in my office, she would open the door and, I mean, this was her standard greeting: Hey, y'all. I'm here.

She was very thoughtful. She loved her children so much. Her whole life was her children.

Q I want to turn your attention to Friday the 13th of April, 2012. Do you recall whether Tammy had an appointment scheduled with you?

A Yes, ma'am, she did. She was to come to my office at 2:00 o'clock that day. And I was really anxious about seeing her because she was going to tell me if she had gotten to keep her job.

Apparently, Novartis was having a layoff. You know, she would know when she came to see me if she

had gotten to keep her job, which I had told her, of course, you'll get to keep your job.

And so, you know, I was anxious to hear that. And we had recently had a 60th birthday party for my assistant, and Tammy was there, and we had had a great time. So I knew we would be joking about that. So I was really excited to see her.

That day I was running just about ten minutes behind. And so when I came out of my procedure room, I walked down the small hallway and I looked on the couch. And I was like, Where is Tammy? I looked at my staff and I said, Did Tammy call?

And they were like, No.

I said, Did she leave a message? We have an answering machine so you can always leave a message.

They were like, No.

And I was like, That is so weird.

And I actually picked up the phone and I was going to call her on her cellphone and tease her about just throwing me to the wolves, you know, didn't even call me, joking. We were -- we could joke like that.

But my 3:00 o'clock patient came in early and so I thought, I'll see the 3:00 o'clock. That way

if Tammy is just running really late, she can switch appointments, and it would work out fine for both of my patients.

But as the patient -- the 3:00 o'clock patient checked out -- I don't know if she got an alert on her phone or something, but she looked at her phone and she said, Guys, there has been a shooting at Ascot.

Q And this is the patient that came in?

A Right, the 3:00 o'clock patient that was early, after we finished with her.

And so Gloria and I looked at each other, and we said, Well, that is probably why Tammy is not here. The cops probably have it blocked off.

We were just so shocked that something like that could happen in Ascot. I mean, it seemed like it was a very protected neighborhood, never dreaming that it was -- what had happened.

So we continued to work until about 7:30. And I sent Gloria home and I stayed at the office to do some paperwork. And I was waiting for my son to come back from the Carolina baseball game.

And about 9:30, I was just tired and I was going to just quit. But before I turned off my computer, I remembered what the patient had said

about Ascot. And I said, Let me see what happened at Ascot.

So I pulled up the State newspaper. And the minute I saw the address, I just -- I couldn't breathe. I was just hysterical.

And, you know, then the shock and then the sadness of this world without Tammy would be a much sadder world.

And so that is how I found out.

Q With respect to her 2:00 o'clock appointment, had she received a reminder earlier in the week about that?

A Yes, ma'am. We usually call the day before and usually just leave messages on the phone, you know, This is Palmetto Cosmetic Procedures calling to remind you of your appointment at such-and-such time, you know, call us if you can't make it. We're very flexible. So she had received a reminder call probably the afternoon before.

Q Okay. So the Thursday before --

A Yes, ma'am.

Q -- potentially. And as a result of that reminder call, did you receive any calls from Tammy canceling that appointment?

A No, ma'am.

Q And did you speak with your staff about that appointment at some point?
A Yes, ma'am. When I came out of the procedure room, she wasn't there. I was just surprised because that is when I asked had Tammy called. I just -- it wasn't like Tammy just not to show up.
Q Okay. So this was out of character for Tammy?
A Absolutely. Tammy was extremely organized and she was always on time. And that was just -- I thought I was going to have to apologize to her for running behind.
Q Uh-huh. So you just expected that something had tied her up? Or were you just kind of continuing about the day working?
A Well, no, we were very concerned. We thought maybe one of the children, you know, had gotten ill until we heard about the Ascot shooting. And, again, we just assumed that, you know, the neighborhood was probably on lockdown and she couldn't get out.

And I did say, I said, But she still would have called, but, you know, just never thinking.

Q So she never called -- and she didn't call that day either?
A No, she did not.
Q At any point?

A No, ma'am.
Q And you are certain about that?
A I'm certain about that.
Q Did you have the opportunity -- I guess I shouldn't term it opportunity -- did you attend Tammy's funeral?
A I attended Tammy's visitation and her funeral.
Q Can you tell the jury about that?
A Her visitation was in Batesburg-Leesville. And myself and my mom and Gloria, my assistant, we drove down there.

And when we got there, it was -- the funeral home is an older home, and it has a big wrap-around porch. And there was a line all the way around it. So we got in the line. And, I mean, we waited at least 45 minutes just to get in the door of the funeral home.

Q So Tammy had a lot of people show up?
A Oh, my gracious. And so when we got in so that we could see, I was -- to be honest, I was shocked that she had an open casket. That -- that really stunned me.

And so then you would walk around the edge of the chapel, and then you would go around front to where Tammy was, and then the family was to the

side. So we waited probably another 30 minutes to get to that point.

And I had never met Brett before. When the three of us walked up to him, I shook -- put my hand out and said, I'm Theresa Mills-Floyd. I was Tammy's face doctor and her friend, and I am so sorry.

He said, Yes, she was supposed to come see you that day before this happened.

And I said, you know, I know.

And he said to me, I might need to come see you after all of this is over to do something about this redness on my face from all of this crying.

For the first time in my life, I was just absolutely speechless. But he turned to Ms. Libby, Tammy's mom, who was right beside him, and said, This was Tammy's face doctor.

And Ms. Libby remembered I had worked on Z.P.'s spot. And she was, you know, saying, This is who worked on Z.P.'s spot. And she turned to Brett's mother and told Brett's mother who I was.

And, you know, then we just proceeded, you know, down the family line. Tammy's sister was sitting on the pew. She wasn't actually in line. She was sitting down.

And so then we went out and just looked at each other like, Did he really say that to you?

MR. WHITLARK: Objection, Your Honor.

THE COURT: What is the objection?

MR. WHITLARK: Your Honor, I mean, she can't --

THE COURT: Let me see y'all.

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

THE COURT: Objection sustained.

BY MS. SIMPSON:

Q Backing up to your encounter with the Defendant at the casket, when he was talking about his red face, did you actually observe him crying at that point?

A He had a tissue in his hand and a bottle. I think he had a bottle of water, kind of with a tissue and the bottle of water. And there were no tears falling at that time.

Q No tears? And did he mention anything else about Tammy, except for that he knew you were supposed to have an appointment with her?

A No, ma'am. No, ma'am.

Q And did you mention the appointment before he brought it up?

A No.
Q So he knew about the appointment ahead of time?
A Right.
Q Did he seem to be -- was he shaken or physically shaken to you, or how did he appear to you?
A He did not appear shaken at all to me.
MR. WHITLARK: Your Honor, object to that. I object to that, Your Honor.
THE COURT: Overruled.
BY MS. SIMPSON:
Q And, Doctor, outside of that, was that your interaction with the Defendant?
A Yes. We attended -- Gloria and I -- attended the funeral as well. But the sight of Tammy in her casket had upset me so that I just didn't want that to be my last memory of Tammy.
And so I had printed up a picture of she and her band with a green dress, and that was what I wanted to remember her. So I did not go back up at the funeral and say anything to anybody. Gloria and I just sat down and stayed for the funeral.
Q And did you observe the Defendant during that time?
A I did.
Q What did you see?
A I saw the family lined up, you know. They had a

brief visitation, I guess for people who couldn't come to Batesburg-Leesville. And so, you know, I saw everybody kind of interacting.

I had a pretty good view where I was sitting. We had gotten there pretty early. And then right before the service started, you know, the members of the family went to the casket, and whatever.

And Brett was the last person. And he walked up there and he kind of put his hands on the side and kind of leaned over a little bit for a few seconds, and then just went and sat down. Then they closed the casket after that.

Q After he sat back down?

A Yes, he was the last person.

Q And it was only a matter of seconds that he was up there?

A That's what I saw.

Q And did you observe him crying at that point?

A From where I was sitting, no.

Q Thank you, Doctor.

MR. WHITLARK: May it please the Court, Your Honor?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WHITLARK:

Q How many times have you met with law enforcement about this, talked to them about this?
A Once.
Q You met them one time?
A I met the law enforcement once, and I was interviewed by the Solicitors once.
Q So you drove from Chapin to here?
A No, sir.
Q They came out to see you?
A I drove to the law enforcement when I gave my deposition. And then they came to me because of my schedule when they interviewed me.
Q Okay. And did you talk to them on the phone?
A Did I talk to who on the phone?
Q Either the Solicitor or law enforcement?
A Only for like scheduling.
Q How many times?
A I don't remember how many times I talked to law enforcement, but I think I only talked to Ms. Walker one time after the subpoena was served and then when she came to my office.
Q Okay. So the truth is you have met Ms. Walker more times than you have met Brett Parker probably, right?
A No.

Q Wasn't that the first time you ever saw him or met him?
A I met her one time. I met him one time at visitation.
Q Uh-huh. Okay. Now, you called Tammy Parker -- you know this for a fact -- and left a message for her, didn't you?
A I did not leave -- are you talking about her appointment?
Q Yes.
A The day before I did not leave a message. My staff left a message, and I confirmed that with my staff.
Q Okay. And so we know for a fact that y'all left a message on her voice machine, didn't you?
A On one of her phones.
Q Okay.
A Yes, sir.
Q All right. And when you get voice messages, you use your phone to get them, don't you? I mean, that is how you get them, right? I mean, that's how you get a voice message, right, on the phone?
A Well, I mean, my answering machine in my office, you push the button and you listen.
Q Right.
A But if I have a voicemail on my phone, of course, I

listen to it, whether I put it on speaker or not.
Q All right. So whether or not -- but they were very interested in knowing from you, right, whether he had talked with -- or whether she had talked with you, right?
A Yes.
Q They were interested in that, weren't they?
A Yes.
Q And they were also -- you told them you were at the funeral. Did you know that Brett Parker was at the funeral for over three hours standing where you saw him?
A No, sir, I did not.
Q Okay. And you just mentioned a while back, I believe, that there was -- the place was packed with people, wasn't it?
A Yes.
Q Did you know that Brett Parker spoke and met with every single one of them?
A No, sir.
Q That is a lot of people, isn't it?
A Tammy was a great person. She had a lot of friends that loved her.
Q I know. Her husband knows that and so do we.
MS. SIMPSON: Objection, Your Honor.

THE COURT: Sustained. Please refrain from making comments.

MR. WHITLARK: Yes, Your Honor.

BY MR. WHITLARK:

Q Doctor, I mean, what was the attitude of the Solicitors and the police that talked to you about it, about this subject that you are testifying to?

A They were just gathering information.

Q They were just gathering information?

A Yes, sir.

Q So much so that they brought you in for a written statement deposition or they came to do it at your office?

A Yes.

Q All right. Now, Brett's mother was with him, right? Brett Parker's mom was there? Isn't that what you said?

A At the visitation Brett was beside Tammy's casket.

Q Right.

A Then Ms. Libby, Tammy's mother, and then Brett's mother. This was when I went through. I don't know if they changed positions before or after.

Q Okay. And you took care of ZP, the little boy?

A ZP had a small dot on his nose, and Tammy said that the pediatrician had said it needed to be

lasered.

And when I told Tammy that I didn't typically, you know, work on children, she was like, I don't trust anybody but you. Please do it.

And of course I trusted Tammy wholeheartedly, so I said -- and I knew what to do, so I did it.

Q Well, I understand. Did you know that Z.P. slept with Mr. Parker every night?

A No, sir.

Q Did Tammy ever tell you that?

A No, sir.

Q Okay. Well, you were good friends with her, and I can tell you liked her a lot, didn't you?

A I did, and I do.

Q But you don't know Brett, do you?

A No.

Q Okay. And when the police were there talking to you and the Solicitor --

A Yes.

Q -- you knew they were taking this statement to use against him, right? I mean, that's what it means, isn't it, Doctor?

A Well, I also knew that you could ask me questions as well. So I assume it was for both sides.

Q You mean from the questions they were asking you,

you thought that they were trying to help Brett Parker?
A They were trying to gather information and confirm what I said in my deposition was accurate and that I didn't have anything to change.
Q Well, you knew they were going to use it against him, didn't you, ma'am?
A I didn't know what they were going to do with it. I was on standby subpoena, so I did not even know if I would testify.
Q Okay. Now, Brett Parker did have tissue in his hand, didn't he?
A He did have a tissue.
Q And you are a medical doctor. Doctor, I mean, is there a limit to the amount of crying a person can do, or can you continuously cry?
A I can't speak to that.
Q I mean, you're a doctor.
A I am a doctor. But, you know, that is an individual situation. When emotion hits you, typically you can cry whenever.
Q And let me get straight on something. Is it your testimony that from what they were asking you and what you were telling them that you didn't know they were going to try to use this against Brett

Parker? You didn't know that?
A I thought they were gathering information. I have -- I'm not in the legal system. I had no idea exactly how it would work.
Q Doctor, you had no idea that describing him basically the way you have described him was just gathering information? You didn't know they were going to try to say he is a bad guy or he wasn't upset? You knew that, didn't you?
A I just reported the facts, sir.
Q Okay. I see. All right. Thank you.
A Thank you.

MS. SIMPSON: No redirect, Your Honor.

THE COURT: All right, ma'am, you may step down.

(Witness steps down.)

THE COURT: Any objection to this witness being excused?

MS. SIMPSON: None from the State.

MR. WHITLARK: None from the Defense, Your Honor.

(Witness excused.)

MS. WALKER: Your Honor, may Mr. Whitlark and I approach?

THE COURT: Yes, ma'am.

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

MS. CAMPBELL: The State calls Betty Anne Webb.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: I do.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your full name for the record, please.

THE WITNESS: Betty Anne Webb, B-E-T-T-Y, A-N-N-E, W-E-B-B.

BETTY ANNE WEBB, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Ms. Webb, where are you from?

A Batesburg-Leesville originally, but I am living in Greenville.
Q In Greenville, South Carolina?
A Yes.
Q And where did you grow up?
A In Batesburg-Leesville. I lived next-door all my life to Libby and Jerry Carswell and the family.
Q Okay. And when did you live next-door to Libby Carswell and her family?
A All the way up until I got married.
Q And how long have you been married?
A 1972.
Q 1972? And when you were living next to them -- what is your relationship to Libby Carswell?
A I'm her cousin.
Q And what is Libby's relationship to Tammy Jo Parker?
A That's Tammy's mother.
Q And you're Ms. Carswell's cousin?
A Yes.
Q And were you close with the family?
A Yes, very close.
Q And growing -- were you around when Tammy was born?
A I saw her come home from the hospital the first day.

Q Were you close with Tammy when she grew up?
A Yes, I was. I would watch her. She took everything to heart. Everything she wanted to do, she would succeed at it. Her father, Jerry Carswell, even built a tennis court. And he worked with her playing tennis. And together the father and mother both worked with her with softball. In school she achieved. Out of school she achieved with all tests. And then worked her way up to a drug rep.

Tammy was like a light, that when you met her, she just shined. And she helped you feel good. And she loved her children.

Q How many children did Tammy have?
A Two. A boy and a girl.
Q And what are their names?
A B.P. and Z.P.
Q As Tammy grew up -- and you mentioned her growing up -- eventually did she get married?
A Yes.
Q And did you meet the person she married?
A I've been knowing him ever since they got married.
Q And what kind of relationship did you have with Tammy and her family after she got married?
A Tammy and Brett's family was just like one of the

most gorgeous families anywhere. They were beautiful together. They just looked like the perfect little family, you know. And luckily -- I have three girls, but Tammy was able to have a boy and girl, and they are just beautiful.

Q And did you get close to Brett after he married Tammy?

A Oh, yes. Brett was like a dear friend.

Q When Tammy's children got older, did you still participate in their lives? And did y'all see each other on regular occasions?

A No, not as much. My husband was career Navy. And then later on I started moving around with the company I'm with, so I would have to move some, and I was a traveler. But Tammy and I stayed close by phone.

Q And did you stay close with her mother?

A Yes. She is like my sister.

Q Were you aware that in 2009 Tammy and Brett bought a house?

A I watched them buy all three.

Q All three of their houses?

A (Nods affirmatively.)

Q And the last house, were you aware where that was located?

A Yes.
Q And what neighborhood was that in, ma'am?
A Ascot.
Q And did you ever have an occasion to go over and see that house prior to her death?
A Yes. But I guess the first time I really saw the whole house was when she passed away. I had called Brett -- or Brett called me the day before they went on vacation, him and the kids, up in Greenville. And he was crying.

And I loved him so much, it bothered me. And I came back down here, and I called Brett and asked him if I could come see the house.
Q Let me back up for a second before we get to that, okay? Did you -- how did you find out about Tammy? What happened?
A Tammy's sister called me about 3:00 o'clock that afternoon.
Q That Friday the 13th?
A Yes.
Q And what information did you get at that point?
A I was told that somebody had killed Tammy.
Q What did you do in response to being given that information?
A I was buying a car and I was sitting in the

showroom while they were finishing up the paperwork. And when she told me, I just screamed and ran out the door and fell down on the ground and cried.

Q Did you go anywhere later that day or that weekend?

A Not that evening. My girls wouldn't let me drive from Greenville, but I was down here the next morning by 10:00 or 11:00 o'clock in the morning to be with Libby and her family.

Q And over the course of the next several days, did you stay with Libby to help with things?

A I stayed with her the whole week.

Q After you came down here -- and where were y'all staying? Do you remember?

A At Libby's house.

Q In Batesburg-Leesville?

A Yes.

Q Did you have any interaction with Brett Parker after all this happened?

A Yes, several -- several occasions. I went to the funeral home with Libby to plan the funeral with Brett and Libby. And then we were together the night of the viewing, which took over three and a half hours, or four. We were only about six or eight minutes from the funeral home. We got there

at 5:30, and Libby and I got home at quarter after 10:00.

Q And there were a lot of people there?

A Seven hundred and fifty.

Q During that time did you ever have any conversations with Brett Parker about what he said happened?

A Yes. He called the beauty shop and I answered the phone on Friday after Tammy had gotten killed and asked me, Libby, Kim, and Jerry to meet him at Libby's house.

Q And did he show up at Libby's house?

A Yes, he did.

Q And you were there?

A Yes, I was.

Q And what information did he give you at that point?

A Well, he told us at first how he had gotten a lawyer and that he had paid a bunch of money down to get a good lawyer; he may have to go to jail for a day or two, but he would get out.

And then through us conversation-wise, he started telling us that Bryan had asked him to borrow money and asked his daddy, Jack, to borrow money.

And Brett said he told Bryan that if he could

wait till his tax check came, he would help Bryan. And undoubtedly that didn't satisfy Bryan because he said he killed Tammy.

Q And this is what Brett is telling you happened?

A Yes. And the mother and father of Tammy.

Q What else did he say about what happened there at the house that day, that Friday, the 13th?

A He told us the way it happened.

Q What did he say?

A He said he was -- that Bryan met him at the steps when he ran upstairs and that he took him straight back to the attic room and held a gun on Brett and that Brett had a gun on top of the safe and that he grabbed the gun and went like this (indicating).

Q Which hand did he say he had the gun in?

A Right.

Q And that's how he demonstrated it to you?

A Yes. He went under his left arm.

Q Can you just stand up so the jury can see it?

A (Witness complies.) Like this (indicating).

Q And what did he say he did once he did that?

A He went back and checked on Tammy.

Q Did he indicate whether or not he shot the gun?

A Oh, yes. He said he shot him several, several times.

Q And when he said he did like this (indicating), did he do just like you just demonstrated?
A Yes. But that is what he said he did.
Q But it was with his right hand?
A Right hand, yes.
Q And did he indicate where he was located?
A He was squatted in front of the safe, and he said he had a gun hid up in papers above the safe.
Q And what did he -- how did he get the gun?
A He reached up and got the gun real fast and said undoubtedly -- well, he just told us he did this (indicating) at that time.
Q And that was something you remembered?
A Definitely.
Q And then did he indicate where he went?
A He said he went to check on Tammy and then that he called 9-1-1.
Q Do you recall anything else he told you about the events that took place in the house that day?
A Not that day.
Q And at that point did you believe him?
A Oh, yes. Oh, yes, we all did.
Q You mentioned at a later time that you actually went over to the house in Ascot Estates?
A Yes. He had called me a day before he was -- well,

he told me he wasn't going to be able to take them, but he called me like a day before they went -- him and the kids -- went to the beach crying and upset. This is like the end of June. And I still trusted him and --

Q Was there a holiday about that time?

A Yes.

Q What holiday?

A July 4th.

Q July 4th?

A Right. And right before that he was crying and so upset, he said, I hadn't talked to you since the funeral and everything. And he cried.

And it upset me so bad and I loved him so much, I jumped in the car and came to Leesville.

And when I got to Libby's house, I wanted to let Brett know that I drove to Leesville so if he saw me or heard that I was there, he wouldn't think I was lying.

And I proceeded to talk to him on the phone, and I asked him, I wanted to come over one more time, and that there was a piece of china that I had given Tammy from my mother's collection, and I'd like to get it to pass it on to Tammy's sister, Kim.

And so Libby, Tammy's mother, Jackie Warren, and Kim, Tammy's sister, came with me.

Q And who is Jackie Warren?

A Jackie Warren worked for Libby Carswell at the beauty shop and she was very close to the family.

Q And where did y'all go?

A We went over to Brett's, and he met us over there and took us in the house. And eventually we landed upstairs. And I noticed the large sitting family room that he closed a door, which I figured was the office.

And he showed us B.P.'s room and Z.P.'s room, and then Libby proceeded to go through this long closet herself and landed up in the office.

And she asked Brett, she said, I want to know exactly what happened to my daughter.

And Brett did say, he said, I would never tell you, but you did ask me, so I'll tell you.

And he proceeded to tell us that Tammy was seated in Bryan's chair putting folders together for some new doctors that she had been given, and she was working on some paperwork and making folders when he went downstairs.

And then he said he was downstairs and that he heard the shots, and he came running back upstairs.

And Bryan had the gun on him.

And Bryan told him to, Go open the f'ing -- go to the f'ing safe and get my f'ing money.

So Brett said he goes to the safe, and then that is when he put his arm up and he said grabbed the gun and shot Bryan.

But he also told us that it looked to him like Tammy was running from whoever was shooting her, you know. He showed us the two holes in the wall. And he said she was halfway into the bathroom door when she died.

Q You mentioned that he also took you into the attic area where the shooting of Capnerhurst was?

A Uh-huh.

Q And you mentioned it earlier that he had demonstrated to you how the shooting occurred. Did he demonstrate again there in the attic how the shooting occurred?

A Yes, he did.

Q Was it different from what he had told you before?

A Yes, it was.

Q And tell the jury what he showed you this time when he was actually in the attic where the safe was.

A He went over to the safe and he squatted down. And he said, I did this (indicating), I squatted down.

Then he said, I reached up and I grabbed the gun, and I shot Bryan.

That's two different stories from a guy I loved. Our family loved him. And it just started changing our whole perspective of everything.

Q And you're sure of how he demonstrated it before. Did he actually refer to it -- when he showed you the move the first time right after it happened, about how he pulled the gun with his right hand?

A Uh-huh.

Q Did he call this a move, a certain -- did he have a name for it?

MR. WHITLARK: Objection, Your Honor. She is leading the witness again.

MS. CAMPBELL: I'm asking if he had a name for it.

BY MS. CAMPBELL:

Q What did he say about it?

A Well, he just said that he lifted up his arm the way he killed him. He lifted up the arm. And the night of the viewing -- really I almost seen him three times, because I saw him at my daughter's.

Q Okay.

A The night of the viewing, after it was over, he was talking to my daughters, and especially my middle

one, about getting her a date with a friend of ours. I'm sorry. And he showed her the same thing.

Q The same thing?

A Yes. And my daughter asked him, she said, Gosh, you had to be Maverick to think that fast.

He said, (indicating nodding affirmatively).

Q But the last time you met with him was where, and he showed you was where? Where were you?

A At the house with the girls, Libby and Jackie and them, the week right before July the 4th.

Q And what he demonstrated to you about what he did in that attic that day when he was doing the shooting, was that different from what he had told you before?

A Yes.

Q Thank you, ma'am.

MR. WHITLARK: May it please the Court, Your Honor?

CROSS-EXAMINATION

BY MR. WHITLARK:

Q Hello, Ms. Webb.

A Hi.

Q Ms. Webb, Brett Parker called you a lot after this happened, didn't he?

A No.
Q He didn't?
A He called me one time.
Q Now, your sister asked him to tell her what happened, didn't she?
A My sister? I have one sister.
Q I'm saying, who asked Brett to tell them what happened or show them what happened?
A He just told us.
Q All right. Now, did you ask him for a pillow that Tammy slept on?
A Yes, I did, for his mother. Well, mainly it was something for her to hold onto, sir.
Q And he gave it to you, didn't he?
A No, not at that time, later. He gave it to her mother.
Q Okay. All right. He has helped you out in your life, hasn't he, ma'am?
A No, he didn't. Tammy did one time. And she had helped a lot of us. She was at someone's house one day and they was fixing a vehicle, and he needed some money to get it fixed. Two days later she shows up and gives him $300 and says, This is a gift. You don't owe me back. Brett never helped us.

Q Okay. You saw him crying after this, didn't you, ma'am?
A One time. That's when we were at the funeral home making plans.
Q And you knew about them. They were married for 15 years, weren't they?
A Yes.
Q And Brett is not a violent man and you know that, don't you?
A He never showed it to me.
Q And you know he loved her, didn't you? Didn't it appear that way, in 15 years, two children?
A The last several years Tammy never really talked to me about Brett on the phone. We would talk about football, the kids. Her mother had cancer the year before she got killed and had not even gotten her hair back from the cancer yet. So Tammy never got to see her with her -- and she is still on medication. Her mother missed two doctor's appointments due to this, and her health is not good at all. But --
Q There is no doubt in your mind that Brett Parker, he loves both his children very much, doesn't he?
A Yes.
Q Did you ever know about that Z.P. sleeps with him

every night?
A No.
Q Did you ever hear about that?
A Tammy kept everything -- there's only two people she really ever talked to that wasn't Libby and I.
Q Do you remember anyone asking Brett or telling Brett that y'all needed closure on this, that y'all wanted closure on this?
A I'm sure we probably all said that.
Q And now you know he has been locked up in the Alvin S. Glenn Detention Center? You know that, right?
A Oh, yes.
Q And you haven't seen him or talked to him at all, have you?
A I would love to.
Q But you have talked to them, right, the police?
A I didn't.
Q And the State?
A Yes, I did, and I didn't like them. I let them know that. Both those guys know that I told them, I don't like y'all, that I believe Brett, and that none of that was true that they were saying.

MR. WHITLARK: No further questions, Your Honor.

THE COURT: Yes, ma'am.

REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q Did something change your mind about what they were doing?

A Them? Yes.

Q And what was that?

A They proved to us that it was a very --

MR. WHITLARK: Objection, Your Honor.

THE COURT: Sustained. Please disregard that last part.

BY MS. CAMPBELL:

Q The demonstration in the attic?

A That was the biggest thing. It proved to me --

Q Thank you, ma'am.

A -- along with other things, that --

MR. WHITLARK: Your Honor?

THE COURT: I'm sorry?

MR. WHITLARK: Nothing, except that was a non-responsive answer, I believe, Your Honor.

MS. CAMPBELL: Very responsive. Nothing further.

THE COURT: All right, objection overruled.

Ma'am, you may step down.

(Witness steps down.)

THE COURT: All right, call your next witness.

MS. SIMPSON: The State calls Jackie Warren.

MR. WHITLARK: Your Honor, may we approach the bench, please?

THE COURT: Yes, sir.

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

THE COURT: All right. Ladies and gentlemen of the jury, at this time before we take this next witness, we'll take a ten minute break.

(WHEREUPON, the jury came into open court at approximately 3:16 p.m.)

THE COURT: All right, we'll take about ten minutes.

(WHEREUPON, a break was taken.)

THE COURT: Are you ready? You can bring them in.

(WHEREUPON, the jury came into open court at approximately 3:48 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: I will ask the State to call their next witness.

MS. WALKER: Thank you, Your Honor.

The State would call John Lucas.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: I do.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your full name for the record. Spell your last name, please.

THE WITNESS: My name is John A. Lucas, Jr. J-O-H-N L-U-C-A-S.

JOHN A. LUCAS, JR.,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. WALKER:

Q Mr. Lucas, where do you live?

A I live on Fish Hatchery Road, 605 Williams Circle, West Columbia.

Q How long have you lived there?

A Approximately 14 years.

Q Are you related to anybody in this case?

A Yes.

Q Who are you related to?
A Brett Parker is my nephew, and my wife is Linda Parker's sister.
Q And we subpoenaed you to court?
A Yes.
Q Did there come a time before the murder of Tammy Parker -- did you know Tammy?
A Did I know Tammy?
Q Yes.
A Yes.
Q Did you know Brett Parker pretty well?
A Yes, we babysat Brett when he was a small child.
Q Before these murders, did there come a time in which you had a 9-millimeter Smith & Wesson in your possession?
A Yes, after my brother-in-law passed away.
Q Yes, sir.
A He had several firearms, and the family thought that it would be a good idea for me to take care of those for the family, and they were in my possession.
Q And when you -- how did you take care of those for the family?
A I secured them in a locked area.
Q Did you disburse those several firearms to members

of the family?
A I did. Each adult male received a firearm. It was in a case.
Q The gun came in a case?
A Yes, each firearm came in a case and ammunition. And I wrote down all of the serial numbers, make, models, and everything.
Q Do you remember the color of the case that the 9-millimeter was in?
A No, ma'am, I don't. There were many cases.
Q Well, let me ask you this, Mr. Lucas: Do you remember giving a statement to law enforcement in this case?
A Yes. It was either black or tan.
Q A black or tan case?
A Yes, that is what I told them. That was in my statement.
Q Okay. Yes, sir. And you gave -- when you -- did you give the 9-millimeter to -- you said a male member of the family?
A No. I said I gave the 9-millimeter to the Parker family.
Q You gave the 9-millimeter to the Parker family?
A Yes.
Q And when you gave the 9-millimeter to the Parker

family, do you remember which member of the family you gave it to?

A They were at a birthday party at my son's -- or my house for my 21st -- my son's 21st birthday.

Q Yes, sir.

A And they left with it that night. And it was in a Victoria's Secret bag, so I would imagine that Linda walked out the door with it. I don't think Jack would have walked out with it.

Q And when you gave them the gun, did you give them things that went along with the gun?

A Yes, ammunition was with the gun. The case was -- I mean, the gun was in a case with an extra clip.

Q And you gave them those things because all of those things went together?

A That's exactly right.

Q Including the gun case?

A That's exactly right.

Q Was that the last time you saw that gun?

A That's exactly right.

Q Do you have...

A And I told that to the officers at Mr. Parker's house that day. I told the two investigators that are sitting behind you --

Q Yes, sir.

A -- that exact story that day.
Q Okay. Did you know what happened to that gun after you gave it to Linda or Jack Parker?
A No, ma'am, I do not. I thought they still had it. I didn't know Brett had actually received it, to tell you the truth.
Q Okay. You gave it to them at your son's birthday party?
A Yes, at my residence.
Q Do you remember the date of that?
A It was -- my son's birthday was December the 5th. We had it that weekend, so it was either the 9th or 11th.
Q Of what year?
A 2011.
Q Thank you, Mr. Lucas.

MS. WALKER: No further questions.

THE COURT: Yes, sir, Mr. Fedor.

MR. FEDOR: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. FEDOR:
Q Good afternoon.
A Yes, sir.
Q How old are you?

A I'm 52 years old, sir.
Q Just a kid.
A I guess so.
Q You have been a member through marriage and through blood relationships to the Parker family for a long time, haven't you?
A Yes, sir.
Q Did you see Brett Parker grow up?
A I did, sir. I went to a lot of his baseball games in high school.
Q Did you ever know Brett Parker to have a violent bone in his body?
A No, sir.
Q In fact, to use an old-timey phrase, he was milk toast, wasn't he?
A Yes, sir.
Q And when he married Tammy, what kind of relationship did they have, that you saw, John?
A For instance, two weeks prior to the incident, we were all playing baseball with the little boy in the back yard, and everybody was happy, laughing, and having a great time on Easter Sunday.
Q Okay. Now, you knew Brett's two children, did you not?
A Yes, sir.

Q And you saw him in family situations?
A Yes, sir.
Q What kind of father was he, Mr. Lucas?
A He was a loving father, just like I was to my children.
Q The same way?
A Uh-huh. He loved those children. Still does.
Q This incident happened April 13th, 2012. You didn't know anything about it, did you?
A No, sir.
Q Except what you read in the papers?
A That's correct.
Q When you gave the pistol on December 5th, some four or five months before this incident?
A Uh-huh.
Q Who did you give it to in the family?
A I gave it to Jack or Linda Parker.
Q Okay. And you don't know what they did with it from that time on, do you?
A No, sir. They were responsible adults.
Q If the time comes and when the time comes that the evidence shows that Bryan Capnerhurst killed Tammy, would that surprise you?
A I don't know what to say about that, sir. Yeah, because I didn't know he even had the firearm.

Q When they accused Brett of a violent act, did that surprise you?
A Very much so.
Q Thank you very much, sir.

REDIRECT EXAMINATION

BY MS. WALKER:

Q He asked a lot of questions about things that surprised you. Did Lindsay Mullins surprise you?
A Pardon me? I didn't understand a word you said, ma'am. I'm sorry.
Q Did Lindsay Mullins surprise you? Her presence in the courtroom and her testimony about her affair with the Defendant, was that surprising to you?
A Yes.
Q Did you know about that?
A No.
Q So you knew about Brett Parker what Brett Parker wanted you to know about Brett Parker?
A I can't judge anyone, ma'am, like that.
Q I understand. No further questions.

RECROSS-EXAMINATION

BY MR. FEDOR:

Q Sir, two young people have a physical attraction. Being a man of the world, an older man, does that surprise you?

A Not in the society we grew up in these days.
Q And you know not only from what Brett Parker wanted you to know, you saw it with your own eyes when Brett grew up in your presence, did you not, sir?
A Yes, sir.
Q Thank you.

THE COURT: All right, sir. You may step down.

(Witness steps down.)

THE COURT: Any objection to this witness being excused?

MR. FEDOR: None from the Defense.

MS. WALKER: None from the State, Your Honor.

THE COURT: You are free to leave, sir.

(Witness excused.)

THE COURT: All right, call your next witness.

MS. SIMPSON: The State calls Jackie Warren.

(Witness approaches.)

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

(Witness complies.)

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

THE WITNESS: I do.
THE CLERK: Have a seat in the witness box.
(Witness complies.)
THE CLERK: State your name for the record. Spell your last name, please.
THE WITNESS: Jackie Warren, W-A-R-R-E-N.

JACKIE WARREN,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SIMPSON:

Q Ms. Warren, how old are you?
A Sixty-two.
Q And are you married?
A Yes.
Q Do you have any children?
A One.
Q One? Do you live in Columbia?
A I live in Batesburg-Leesville.
Q Are you from Batesburg, or that area?
A I have always lived there.
Q And do you know the Defendant or Tammy Parker?
A Yes.
Q Can you tell the jury how you know them?
A I have been in business with Tammy's mother for over 30 years. We work side-by-side. I have known

Tammy since she was about 12. So she grew up around us.

Q And you said her mother is -- who is Tammy's mother?

A Libby Carswell.

Q And what type of business or work --

A We have a beauty salon.

Q And y'all work there together?

A Yes, have for over 30 years.

Q So Tammy grew up --

A In and out, around about all the time, yes.

Q When did you meet Brett, the Defendant?

A Several months before they got married.

Q And can you describe your relationship with the Defendant and Tammy?

A Well, we used to a lot -- Tammy played in a band. We used to follow her around. She was such a good singer. Brett would come and be with them. We would all -- most of the time it would just be the girls, as we call them. And Brett would come. He would often sing with her, one or two songs, hang around with us, dance with us women, because we didn't take a man with us. And he was a very likeable fellow.

Q And did you also know Bryan Capnerhurst?

A Yes, I did.
Q How did you know Bryan?
A He came into our beauty salon probably for once a month probably for over 20 years.
Q And so you knew all the members?
A I know all the members involved.
Q And was your relationship with Bryan, was it just in the nature of a customer or how would you describe it?
A Well, he was a customer but he always -- he was a very friendly person. You know, we always talked. You know, our shop was very laid back, friendly, you know. So, yes, after 20 years, it's just not a hello, a haircut, and a goodbye. You know, we do have conversations.
Q I want to take your attention to 2012 and 2011, that timeframe. Did you see the Defendant very often?
A In that timeframe, no.
Q Why not?
A As the years went by and we still -- like I say, we still followed Tammy, you know, occasionally. And Brett got to where he didn't come, you know. He would come by, stay a few minutes, and then he would leave. He had other business to attend to.

Q And did you know Tammy's children as well?
A Yes.
Q And would you say that she was pretty involved with her children?
A She was very involved with her children. She took them on -- especially with -- well, with Z.P. like I say, he was coming along. But her daughter, she absolutely adored. And anything that she wanted to do, that is what Tammy wanted her to do. And she would take her out of state, anywhere else for her competitions, spend the weekend. She went to a lot of expense for B.P. e's happiness.
Q And did you know Tammy to be a pretty hard worker?
A Very hard. She probably started to work at 14 in a restaurant and never stopped working.
Q Did you know about the Defendant's side business as a bookie?
A Yes.
Q Tell us how you knew that.
A It was just well known he was a bookie.
Q So everybody just kind of knew --
A Oh, yes, uh-huh.
Q -- that that is what he did. How did you find out about what happened?
A About the afternoon, the day of -- Tammy's mother

and myself left our shop about 3:30 on Friday afternoon on the 13th. I went to Batesburg, which is two miles away. Libby went home, which is about three miles away.

And I stopped to get gas. And my cellphone rang. It was Libby. And she said, My daughter is dead, and just screaming.

And I said, Libby, what are you talking about?

She said, My daughter is dead.

And with her having another daughter sick on dialysis, I said, Well, my God, what happened to Kim?

And she said -- Libby said -- No, it's Tammy. Tammy has been shot and she's dead.

So I immediately -- so I was about three miles away -- immediately got in my car, and got to Libby's house.

She was there by herself, except for the -- whoever the law person was that came to tell her that Tammy was dead. He was still there. And had not been there but just a few minutes.

Q And let me back up just a little bit. Tammy has a sister?

A Yes.

Q And what's her name?

A Kim.
Q And you stated that she was sick as well?
A Right. She has been on dialysis for about eight years now.
Q And how is Libby's health, or how has it been?
A Well, she had cancer about two years ago. She went through all the treatments. As I say, she lost her hair. But she is like Tammy. She is a hard worker. She worked. It's just...
Q And y'all were very close?
A Yes. We have been very close. We are best friends, as well as partners.
Q So business partners, best friends, practically like family?
A Yes. Yes.
Q Now, on that day when you went over there, what happened next? Did you at some point go and meet with the Defendant?
A When I got to Libby's house?
Q Yes, ma'am.
A When she gave me the call. I got there and whoever it was that came out, I asked him what happened.

And he really, you know, wouldn't say anything to me.
Q And who is *he*?

A He was a Lexington County deputy, because Richland was so tied up.
Q Okay. So y'all were still at Libby's house?
A At Libby's house, yes.
Q Tell us what happened next.
A Then he asked me did I know Bryan Capnerhurst.

MR. FEDOR: Objection, Your Honor. We have no concern with the hearsay evidence that is coming in now.

THE COURT: All right. The objection is sustained.

MS. SIMPSON: Your Honor, I'm not offering any of this for the truth of the matter asserted. She is merely talking about what -- essentially her reaction, what went on, and how she responded in the situation.

MR. FEDOR: Your Honor, that has nothing to do with the murder.

THE COURT: All right.

MS. SIMPSON: I will be happy to move forward to the point in which she meets up with the Defendant and has that encounter.

THE COURT: All right. The objection is sustained. You can ask her what happened, what she did, or what the other people, whoever did, but not

as to what they said.

BY MS. SIMPSON:

Q Without telling me what the officer told you about what happened and what was said, what did you all do, or where did you go?

A The officer didn't tell me anything. I was just there consoling Libby. He told me he couldn't say anything. The only thing he wanted from me was if I knew where Bryan Capnerhurst lived and how to get to his home.

And of course, I said, What has that got to do with it?

And he said, I can't tell you anything. I just need to know.

Q And let's -- you know, we can't go into what he said.

A Okay.

Q At some point, did you and Libby leave her house?

A No. It was several hours later because we kept -- they told us to stay there, that they would be going to the school to get the children and they would be bringing the children to Libby's home.

So we waited for hours and couldn't find out anything.

Q So you all thought that --

A The children --
Q -- B.P. and Z.P. were being brought to her house?
A To Libby's house.
Q Is that, in fact, what happened?
A No.
Q What happened?
A After -- I think it was on maybe like 6:30 or so, somebody finally said -- called and said that the children --
MR. FEDOR: Objection, Your Honor. Hearsay evidence.
THE COURT: Sustained.
MS. SIMPSON: I'll rephrase.
BY MS. SIMPSON:
Q In response to a call that you received?
A Right.
Q Regarding where the children were located?
A Uh-huh.
Q Where did you go or what did you do?
A We -- the children were at the Parkers', so I --
Q By the Parkers', who do you mean?
A Brett's parents.
Q Jack and Linda?
A Yes. We got in the car and we went to the Parkers' home. Libby wanted to see her grandchildren.

Q Who all was with you?
A My sister, Libby, and myself.
Q And what happened when you arrived to the Parker home?
MR. FEDOR: Your Honor, might we approach, Your Honor?
THE COURT: Yes.
(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury.)
THE COURT: The objection is overruled.
BY MS. SIMPSON:
Q When you arrived at the home -- you, Libby, and your sister?
A Right.
Q -- who was there when you got there?
A Brett was on the outside. I think it was an officer or two outside. When Libby and my sister and myself walked up, Brett was leaning up against the car facing the front door.
So when they met up, they hugged each other. Both of them started crying. My sister and myself went on in the house so we could give them some privacy.
Q And at some point -- did y'all remain there for a

period of time?

A Yes. After so long that they were outside, I told myself I need to check on Libby to see if she is all right.

Well, when I got outside, Libby and Brett were standing and talking. They were composed.

And then it was several more people outside that I don't know.

But then Brett came up on the little porch or steps, or whatever, and I just said, What in the world, you know?

And then he proceeded to tell me what had happened.

Q And what did the Defendant tell you happened?

A He said that he was -- he had gone by Firehouse Subs, picked up some subs to take home for lunch. Bryan had called, and he told him to come on over, you know, Tammy was there and that, you know, they were home.

And he said that he was in the downstairs bathroom. And when Bryan came, he just hollered at him, Go on upstairs, Tammy is upstairs.

Then within just a short period of time, Brett heard gunshots. He said he immediately ran upstairs, and Tammy was laying on the floor, and

Bryan had a gun to his head. And this was at the door of the office.

Q Okay. And what did he tell you happened next?

A He said that he told him to take him to the safe, that he wanted his money. And so they proceeded through the other rooms with a gun to Brett's head. And Brett went to the safe, kneeled down like he was opening the safe with a combination.

And as he knelt down, he put his hand on top of the safe. He said there was a gun up there. Bryan did not know the gun was there because it was under a bunch of papers.

At that time he said that he directly picked the gun up, turned and shot him square on.

Q Okay. So this is the first demonstration or the second one?

A That was the second demonstration.

Q Okay. So let me back up just so the jury is clear on that timeframe. The first demonstration --

MR. FEDOR: Your Honor, objection. Your Honor, I think we have gone as much as we can go with this witness. She wasn't there.

THE COURT: All right. Objection overruled.

BY MS. SIMPSON:

Q And are you kind of nervous about being here today?

A Yes. But I was at the house when Brett was there.
Q So you were at the house. And I want to direct your attention to the first demonstration.
A Right.
Q Tell the jury about that incident.
A He just basically said, like I said, that he came over, he was going to rob him. He was in the bathroom. He heard the gunshots. Ran upstairs.
Q And did he demonstrate what happened once he got into the attic at that point?
A No. This was the first time that he told me how he shot him was at the Parkers' home.
Q Okay.
A And he told me the story about going up the stairs and going to the safe. When he got to the safe, he said that he threw his arm under and started shooting.

He said, I unloaded the gun because I didn't know if I was hitting him. I had my back to him.

Q Okay. And so he mentioned at that time that he unloaded the gun but didn't know where he was shooting?
A Where the -- yes, if it had hit Bryan or not.

MS. SIMPSON: Is it okay for the witness to stand up and demonstrate, Your Honor?

THE COURT: Yes, ma'am.

BY MS. SIMPSON:

Q Just stand up so that the jury can see what he did with his arm.

(Witness complies.)

A This is the first time?

Q The first time. The one we just talked about.

A The first time he said that Bryan had a gun to his head, he knelt down in front of the safe, and he picked the gun up, threw it under his arm, and shot behind him.

Q Okay. So with his right hand he began to shoot?

A Yes.

Q Okay.

A He said at that point he could not tell if he had shot him or not.

Q And did he tell you about what happened after shooting Bryan, as far as what he did, whether he checked on Tammy?

A He said that he jumped over Bryan to go check on Tammy to see if she was still alive, and said she was not. And then he went back to the attic to check to see if Bryan was still alive.

Q And what did you think when the Defendant told you this story about what happened?

MR. FEDOR: Your Honor, this is opinion evidence that is going far beyond the scope.

MS. SIMPSON: I'll rephrase.

BY MS. SIMPSON:

Q Did you have any reason to doubt at that point what the Defendant was telling you?

A No. I thought it was unusual, but no.

Q No. So you wanted to believe him?

A Oh, yes.

Q Moving to the second time -- and were there any interactions that you had between that first demonstration and when you met with the Defendant a second time?

A Yes. Of course, it was at the funeral. I did Tammy's hair. My daughter did her makeup. The family usually comes and gives you their approval once it is done to see if you need to change anything.

We had a problem with her clothing. So Brett's mother had to go get some more clothes for her. Because of the autopsy, it was showing. So we had to get some more clothes. And then they didn't come anymore until the next night at visitation. So I never knew if I needed to change anything.

Q And after the funeral and after the visitation, did you or Libby go over to the house?
A Yes.
Q Tell us about that and what happened.
A That was, I'd say, maybe towards the end of June.
Q Of 2012 after Tammy's death?
A Right. This was when they still had the house, you know, open and all. And they had started moving out some things. Betty Anne had gone to pick up a dish that belonged to her mother, and I went with them. We all left our shop together.
Q And when you say *y'all* and *them*, who are you referring to?
A I'm talking about Tammy's sister, Kim; and Tammy's mother, Libby; Betty Anne, her cousin; and myself.
Q So all of you all went to -- which house did you go to?
A To the new house.
Q The new house. And that's in Ascot?
A Right.
Q And when you arrived, who was there?
A Brett was waiting on us. He knew we were coming.
Q Okay. And when you got there, what happened?
A He showed us through the downstairs part of the house.

Q Had you seen the house before?
A No.
Q Or been in the house?
A No, huh-uh.

We got to the staircase and he said, Do y'all want to go upstairs?

And Libby responded, Yes, I want to see where my daughter died.

And that's when we went upstairs.

Q What happened once you got upstairs?
A We went through the rooms, [redacted] and [redacted]s room we went through, and we went into the office.

And when we got to the office, Brett turned and pointed towards the bathroom door and said, Tammy was laying there with her head in the bathroom and her body in the office.

And then he proceeded to walk on to the next...

Q So did he just point it out and say, She was here, and then keep moving?
A Right.
Q And who all is with you at this time? Is it you and Libby?
A No, it was all of us.
Q It's all of you --

A Uh-huh.
Q -- who you just named. So after you left the office area and he pointed out where Tammy was laying there --
A Right.
Q -- and walked on, what happened next?
A He took us to the attic, through a couple of rooms, and we went to the attic, and then proceeded to tell us how, like I say, how he shot Bryan.
Q And what did he tell you?
A Like I say, he leaned down on his knees like he was opening the safe, his hand up here (indicating), and the gun was hidden, Bryan did not know the gun was there, and he turned and shot straight on.
Q Okay. So this time he used his right hand?
A Yes.
Q And turned and shot Bryan?
A Yes.
Q Did he indicate whether or not he was -- whether he was standing or sitting?
A He was kneeled down.
Q He was kneeled down in front of the safe?
A Right.
Q Shooting with his right hand?
A Right.

Q After he demonstrated this to you, what did y'all do?
A We then left the attic and went back downstairs, sat down in the kitchen, and just had a conversation about -- you know, just conversation for a while.
Q And being good friends with Libby, were you kind of there for her?
A Right.
Q At this point. At some point do you all leave?
A When we left, we put Kim out, and we were going down the interstate. And all of a sudden it was just Libby and Betty Anne and myself.

And I just said, Oh, my God. I said, That is not the same story Brett told us.

And I realized at that point it was nothing like the first story of how he shot Bryan. And that is when I knew that there was something -- it was not right.

Q And up until that point had you, again, had any reason to doubt what Brett said happened?
A I had a little doubt, but I still couldn't believe that he would have done that to Tammy.
Q And after the demonstration?
A After the demonstration and the completely two

different stories, there was no doubt.
Q And you said this was the end of June, somewhere around the beginning of July?
A It was around the time -- because he was talking about taking the children to the beach. And he had called to get permission to leave town with his children, because at that point he didn't know if he could leave or go. And he said that was always a time they took the children, and he wanted to take them. So he called Lott and he told him he --
Q And you can't go into what --
A Okay.
Q -- was said to you or that he said.
A Okay.
Q But did you speak with the Defendant again after this second demonstration?
A No.

MS. SIMPSON: Beg the Court's indulgence.

(Pause.)

Q Thank you, Ms. Warren.

THE COURT: Yes, sir, Mr. Fedor.

CROSS-EXAMINATION

BY MR. FEDOR:
Q Ms. Warren, since you are a lot younger than I am, can I call you young lady?

A Yes. Thank you.
Q You have lived in Batesburg-Leesville all your life?
A Yes.
Q And you have known Tammy all her life?
A Since she was about 12.
Q And you knew her children very well, didn't you?
A They lived in Columbia. I knew her children, but, no, I did not know the children very well.
Q Tell me what you knew about [redacted], the young lady.
A [redacted], I know that Tammy was very devoted to [redacted] When she would come by our shop when she would be in town calling on her doctors' appointments, she would come in. She would bring us pictures and tell us where they had been for her competitions, that kind of stuff.
Q And Tammy was an excellent mother, was she not?
A No doubt.
Q And she raised her children right and proper, didn't she?
A In church and very proper.
Q And you would absolutely believe [redacted] under oath, would you not, ma'am?
MS. SIMPSON: Objection, Your Honor, with

respect --

THE COURT: Sustained.

MR. FEDOR: She can give her opinion.

THE COURT: Sustained.

MR. FEDOR: All right.

A At 14 years old and what she has been through, I can't say that I could --

THE COURT: All right, the objection sustained. Ask your next question.

MR. FEDOR: Okay.

BY MR. FEDOR:

Q Ma'am, you have known Bryan Capnerhurst for you say 20 years?

A Probably 20 years.

Q When he would come to your shop, what would you do with him?

A We'd give him a haircut.

Q He was your -- you were his barber?

A No, Tammy's mother was his barber.

Q Okay. But that is how he came to the shop?

A Yes. But we worked side-by-side and we talked to each other's customers, so, yes, I knew Bryan.

Q And you knew him very well, didn't you?

A I knew him from being around him at least once a month getting a haircut.

Q And you knew he gambled a lot?
A No, I did not know.
Q You didn't know anything about his gambling?
A I knew that he worked for Brett.
Q You knew he was a bookie?
A I knew he worked for Brett, yes.
Q All right. And you must have known he would bet on a lot of sporting events, didn't you?
A I wouldn't know that he did, no.
Q You didn't know that?
A No. But in the business, I mean, you know.
Q Well, you knew people were betting with Bryan, didn't you?
A Of course.
Q Of course. And he had a lot of people betting with him, did he not, in Batesburg-Leesville?
A In Batesburg-Leesville? That I don't know.
Q Okay. Where did you know he was taking bets from?
A Where did I know that --
Q Capnerhurst.
A Capnerhurst? I didn't know.
Q You didn't know. Okay.
A All I knew was that he worked for Brett.
Q But he had a reputation in your area for taking bets, did he not, ma'am?

A No.
Q He did not? Well, how did you know he was a bookie?
A I knew it from Brett.
Q You knew it from Brett?
A Yes, from him working for Brett.
Q Did Bryan ever talk to you about his booking?
A He worked -- he said he worked for Brett.
Q Let's go to the April 13th date, ma'am. Okay? Now, you found out through friends and telephone calls and other sources of information that Tammy was killed?
A No, I heard it from her mother.
Q From her mother?
A She called me and I went straight to her house.
Q Okay.
A And the detective was still at her house when I got there.
Q And you had known Brett since he married Tammy, true?
A Yes.
Q What kind of fellow did you take him to be?
A Well, I'd say in the early years he was -- he was a good fellow. He was enjoyable to be around. He attended to other -- like I say, if we would go

out, he would come and entertain us ladies, that kind of thing, yes.

Q He was a very soft-spoken, easy-going fellow, was he not?

A Soft-spoken? He was just -- I mean, I never saw him angry or upset.

Q All right. And he always was an excellent father to his children, was he not?

A I was never around --

Q Never around. Okay.

A -- with the children.

Q Did he ever come to the shop with his son, [redacted]?

A I take that back. They came by. They were going to Shealy's Barbecue one night to eat, and they brought the children by and stopped for a few minutes, and then they went to eat.

Q Now, after you found out that Tammy had died, you went over to the house at what period of time?

A I went to Tammy's mother's house, and we stayed there for hours waiting to find out where the children were.

Q And then you went to?

A Brett's parents' house.

Q Jack Parker and Linda Parker's house?

A Yes. We took Tammy's mother over there. She

wanted to see her grandchildren.

Q And when you got there, what was the condition of Brett Parker?

A Well, when he first saw Libby they, of course, both broke down and cried.

I went into the house and didn't see them for a little while.

When I came back out, they had composed themselves.

And that's the only time I saw him cry that night.

Q Well, before you got there and sometime after the death of Tammy, were you aware that he cried constantly?

A No.

Q You weren't aware of it. You don't know anything about what happened in the house that day when Tammy passed away, do you?

A No.

Q And anything you heard is either from the television or the media or from friends of yours, isn't that true?

A The only -- well, I sat four hours on the first pew of the chapel while the visitation was going on. And I even took Brett water and Kleenex, and that

kind of thing. He excused himself several times, but for him to be -- for his wife to be laying right there, it was not a lot of tears.

Q Do you know for three hours before you got there, ma'am, they couldn't keep him from crying?

A That could be true. I don't know that.

Q Could be true. If I told you people were going to testify to that, would you believe them?

A Well, you know, that would have to be their words, you know.

Q Okay. Now, would you mind stepping down just where you were a few minutes ago back to the area there (indicating)?

(Witness steps down.)

Q Just stand there, if you would, ma'am.

A Okay.

Q Now, how far did Brett tell you he was from -- the distance he was from Capnerhurst when the shots occurred?

A He didn't say the distance. There was a white mark on the floor where they had marked off where Bryan had been laying.

Q Right.

A I was standing at that place. Brett was at the safe.

Q Now, how far was that place from the safe? Ten feet?
A At least to the desk there.
Q Okay. Now, Brett was on his knees, was he not, ma'am?
A He was crouched down.
Q In front of the safe?
A In front of the safe.
Q So he told you. Now, he fired the pistol, did he not?
A He crouched, he turned to the safe, put his hand on top of the safe, pulled the gun out, and turned and fired.
Q All right. Now, let's assume you're Capnerhurst and I'm Brett. The safe is right here (indicating). I grab the pistol, whatever way he does, but the shots that he shot with Capnerhurst were in an upward angle, were they not, ma'am? If the story is true that Brett told you?
A Well, that was the story he told us. Whether he got up and shot or stayed down and shot, I don't know.
Q Did he say he got up?
A No, he didn't say he got up.
Q He said he was on his knees --

A He did not say he was on his knees. He was crouched down.
Q Okay. That is what you say. All right.
A That's what I say.
Q Okay, crouched down, kneeling, or whatever, the shots were in an upward manner, were they not, ma'am?
A Yes, I would say --
Q If the autopsy report showed the shots were fired upward, would you believe the autopsy reports?
A Yes.

MS. SIMPSON: Objection, Your Honor.

THE COURT: All right. Sustained.

Mr. Fedor, may she take her seat?

BY MR. FEDOR:

Q I'm sorry, ma'am, please do.

(Witness returns to witness stand.)

Q Now, ma'am, do you know much about pistols or guns, or anything like that?
A No.
Q Okay. I won't ask you any questions.

MR. FEDOR: B.P. [redacted], would you stand up, please?

MS. SIMPSON: Objection, Your Honor.

THE COURT: Sustained. No witnesses.

BY MR. FEDOR:
Q Do you recognize B.P. ?
A Yes.
Q Is she sitting right behind me?
A Right behind you? No.
Q Sitting at that table?
A I see B.P. , yes. She is sitting beside her grandmother.
Q If it comes to your attention -- and I have noticed you have been sitting here the entire trial thus far, have you not?
A (Nods affirmatively.)
Q If it comes to your attention, ma'am, the evidence shows --

MS. SIMPSON: Objection, Your Honor.

THE COURT: Sustained.

MR. FEDOR: To what? I haven't asked a question yet.

THE COURT: Let me see you all a second.

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

MR. FEDOR: Thank you, Your Honor.

THE COURT: The objection is sustained. Please rephrase the question.

MR. FEDOR: I will.
THE COURT: Do you have anything else?
MR. FEDOR: Just one second.
THE COURT: Okay. Yes, sir.
(Pause.)
BY MR. FEDOR:
Q Ms. Warren, I too am sorry for your loss. Thank you for coming.
THE COURT: Thank you, Mr. Fedor.
MS. SIMPSON: No redirect, Your Honor.
THE COURT: All right, ma'am. You may step down.
(Witness steps down.)
THE COURT: Any objection to this witness being excused?
MS. SIMPSON: None from the State.
MR. FEDOR: None from the Defense.
(Witness excused.)
THE COURT: And if I can see the attorneys one second.
(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury.)
THE COURT: All right. Ladies and gentlemen of the jury, we are going to go ahead and break.

It is about quarter till 5:00. We are going to go ahead and take our evening break.

I believe one of the jurors sent me a note earlier that they had some obligations at church. So we'll go ahead and take a break. We don't want to run over by calling the next witness. So I'll go ahead and take a break. We'll start back at 9:30 in the morning.

(WHEREUPON, Court's Exhibit No. 4 was marked for identification only.)

THE COURT: Remember that you are not to read, watch, or listen to the news, TV, radio, or go on the internet regarding this case. No social media, no talking to anyone about the case, including other jurors.

And it would also be improper for you to form an opinion in your mind in this case until you have received all of the evidence, the arguments of the parties, and the charge on the law from the Court.

Have a wonderful evening, and we will see you in the morning at 9:30.

(WHEREUPON, the jury is excused at 4:44 p.m.)

THE COURT: All right. Anything else before we break for the evening?

MS. WALKER: Nothing from the State.

THE COURT: At some point when we take one of the breaks, I think that Ms. McDuffie and the clerk and also maybe your clerk, we need to get together with Debbie on the exhibits that have to go to Texas so we can -- so that we can get those and make sure we have them because the list is quite voluminous.

So I think Ms. McDuffie was saying she needs to be able to know which exhibits are which. And Debbie and the clerk will have to know which ones are checked out and will be back to us on Monday morning.

MS. WALKER: Yes, Your Honor. We will make sure that is taken care of.

THE COURT: All right. So maybe during one of our breaks or if we leave early one day, they can work on that.

MS. WALKER: Okay.

THE COURT: All right. I will see you at 9:30 in the morning.

MS. WALKER: Thank you, Your Honor.

MR. WHITLARK: Thank you, Your Honor.

(WHEREUPON, the proceedings concluded at 4:46 p.m.)

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MR. FEDOR: I would like the record to reflect that I have given a check for $390.50 made out to David Cox to go to Fort Worth, Texas.

MS. CAMPBELL: I want to make sure he is not giving me money.

THE COURT: All right. We can bring them in.

(WHEREUPON, the jury came into open court at approximately 9:46 a.m.)

THE BAILIFF: The jury is all present, Your Honor.

THE COURT: Good morning, ladies and gentlemen of the jury.

THE JURY: Good morning.

THE COURT: At this time we are ready to continue with the State's case.

And I will ask you to call your next witness.

MS. SIMPSON: The State calls Investigator Kristen Polis.

(Witness approaches.)

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

(Witness complies.)

THE CLERK: Do you swear or affirm the testimony you are about to give in this case will

be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your full name for the record. Spell your last name, please.

THE WITNESS: My name is Kristen Polis, P-O-L-I-S.

KRISTEN POLIS,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SIMPSON:

Q Investigator Polis, where are you employed?

A With the Richland County Sheriff's Department in the Crime Scene Division.

Q And how long have you been with the Sheriff's Department?

A I have been with the Sheriff's Department for a little over ten years.

Q And you're with the Crime Scene Division. What is your position?

A I'm an investigator in the Crime Scene Unit. I am one of the investigators that work on a rotational basis. We are available 24/7 to cover any calls

where we are requested to assist in the county.

So on a rotational basis, I work 12-hour shifts. And during a portion of that shift, I'm the primary investigator that would be contacted should there be a need for our services in the field.

Q And we have heard from some other crime scene investigators. Do you work alongside with Sergeant Richards and Lieutenant Cavanagh?

A Yes, those are my supervisors.

Q As a crime scene investigator, what do your duties include?

A As I said, we can respond to any type of crime scene in Richland County that we are requested to. And those can range from property crimes, such as burglaries, all the way to homicides, suicides, or other death investigations where there may be suspicious circumstances.

When we respond to those crime scenes, our duties are to document and photograph any evidence that may be there, to search and try to locate physical evidence, and then to preserve that evidence in the condition that it is in so that we can try to do further processing on it. And in situations where it's appropriate, we'll try to

analyze the evidence as well.
Q Okay. So as far as processing evidence, what types of things are included in that?
A That would include processing to try to develop fingerprints. I also try to do some comparison work, comparing to try to identify fingerprints. It may be trajectory analysis. It may be bloodstain analysis. It really just depends on the type of incident that you have, what's required.
Q Can you tell the jury a little bit about your educational background and training?
A I've got a bachelor's degree in criminal justice and a bachelor's degree in psychology, and a master's degree in social work.

When I joined the Crime Scene Division at the Sheriff's Department, there is an in-house training program that you've probably already heard about that we all have to work through and complete.

It's fairly extensive and it covers all the basic areas of processing that we are going to be responsible for, both written material that we are tested on, as well as practical exercises so that we can demonstrate that we are competent in those areas.

That training program itself took me 20 months

to complete from beginning to end. In addition to doing that in-house training, we also do external training, so different individuals in the field who offer training in the different areas of crime scene processing, we will go out and take those courses.

So I've had courses in fundamentals of crime scene investigation, basic and advanced photography, basic and advanced fingerprint comparison, bloodstain analysis, and numerous other topics as well.

Q And in addition to your regular training, do you participate in continuing educational courses and training?

A We do. We train fairly often. I'm also certified through the International Association for Identification as a crime scene investigator. And that is a certification that you have to retest on every five years. And I obtained that certification in 2010.

Q Have you ever been -- or testified as an expert before?

A Yes, I have.

Q How many times?

A Eleven.

MS. SIMPSON: All right. Your Honor, at this time I would like to qualify Investigator Kristen Polis as an expert in crime scene investigation.

MR. WHITLARK: May I voir dire the witness, please, Your Honor?

THE COURT: Yes, sir.

VOIR DIRE EXAMINATION

BY MR. WHITLARK:

Q Good morning, Investigator Polis.

A Good morning.

Q You took some pictures out there? Is that what your testimony is about today, some photographs?

A I did take photographs at the autopsy, yes, sir.

Q Okay. What subjects are you going to be testifying to today?

A Mainly today my testimony will be about the documentation, and I don't know to what extent about the photography, but I did photograph and collect and submit evidence.

MR. WHITLARK: Okay. Your Honor, I don't see why she has to be qualified as an expert to put photographs in. We probably already have an agreement on it.

MS. SIMPSON: Your Honor, if I may, in addition to more than just photography, she is

going to testify to some of the processing. She is going to testify about what goes into some of the evidence that has been discussed throughout this trial. So it's more than just, I took pictures.

MR. WHITLARK: Well, that is what I was asking her. They are trying to get her qualified as an expert in a certain subject. And I need to know what she is giving an opinion about to see if it matches up with her expertise, Your Honor.

MS. SIMPSON: Your Honor, she's going to testify about what she observed as far as the extensive injuries to Tammy Parker and Bryan Capnerhurst, the process. She actually collected -- while they are already in evidence -- the post-mortem prints and discuss about fingerprints and why those are taken.

She is also going to discuss somewhat about the gunshot residue kits, which have been an extensive issue in this case. And Defense counsel has extensively cross-examined on those subject matters.

MR. WHITLARK: Your Honor, I mean, we are prepared to stipulate to about 99 percent of what they just stated. I don't understand why we need an expert opinion about it.

THE COURT: All right. Well, do you have any objection to her qualifications?

MR. WHITLARK: Not for the purposes of -- no, I don't, Your Honor. For the purposes for which they have stated, I do not.

THE COURT: All right. Ladies and gentlemen of the jury, Investigator Polis will be qualified as a crime scene investigator as an expert in crime scene investigation to give her opinion in that area.

Thank you.

MS. SIMPSON: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUES

BY MS. SIMPSON:

Q Investigator Polis, did you become involved in this case?

A I did. I was requested to attend the autopsies for the victims in this case that was held on April the 14th, 2012.

Q And where did you respond to?

A To palmetto Health Richland, to their morgue.

Q And is it unusual for crime scene investigators to attend the autopsy?

A No. As a matter of course, we attend any autopsies in all suicides and homicides that we are

investigating, as well as there are times when we will be requested to attend, you know, for other suspicious circumstances when a cause of death isn't apparent.

Q Who all was there with you in the autopsy room?

A Dr. Marcus performed the autopsy. There was a -- he has an assistant who was also there. There was a representative from the Coroner's Office, myself, and I believe there was an intern present that day.

Q Okay. And can you tell the jury about what you observed?

A When I arrived, the first autopsy that Dr. Marcus began was on Ms. Parker.

And as they bring the body out, we begin an examination by taking photographs as we see it at that point. So the body was photographed in that condition.

At that time she was wearing black athletic pants, a white tank top with a red zipper jacket over it, socks and tennis shoes, and she had earrings in her ears.

So I photographed everything at that time. And then we go into a further examination when the clothing is removed that we initially collected. And we photograph at that time the body with the

injuries that we see.
Q Okay. And I'm going to show you -- you actually at some point collect those items of clothing?
A That's correct. They were turned over to me by the Richland County Coroner's Office.
Q And I'm going to show you what has been marked as State's Exhibit 448.
(Attorneys confer.)
MR. WHITLARK: No objection, Your Honor.
THE COURT: That will be entered without objection.
MS. SIMPSON: That is State's 448.
(WHEREUPON, State's Exhibit No. 448 was marked for identification and received into evidence.)
BY MS. SIMPSON:
Q Do you recognize this?
A This is the box that is labeled as containing the black athletic pants, the white tank top, the zippered jacket; socks, tennis shoes, and a hair clip. And the label was prepared by me and packaged as well.
Q And so once you collect it, it's properly sealed and packaged, what do you do with the clothing?
A When I initially arrived back at headquarters, I

actually placed those items of clothing into what we have called a drying chamber. And it's just a sealed chamber that we can use where clothing is wet. It has to be dried before we can package and submit it because the degradation of those items will begin immediately.

So initially those items were placed in the drying chamber, allowed to dry for a period of time, and then they were removed and photographed, packaged, and submitted to our evidence section.

Q After the clothing was removed, tell the jury about the injuries that you observed.

A Okay. Ms. Parker had an injury on the right side of her head. It was in the hairline. And a second injury behind the left ear. There was somewhat of an abrasion in the forehead area.

There were two injuries on her left lower, kind of the hip area, as well as two injuries on the lower right side of her torso. There was an injury on her right forearm, an injury on the left side of her torso kind of in the rib cage area, as well as an injury to the left breast. An injury on the back of the left shoulder. And additional injuries in the left -- kind of the skinfolds of your armpit area.

I believe that is the extent of the injuries I observed.

Q From those injuries, did you actually -- did Dr. Marcus recover any projectiles or fragments?

A He did. He recovered a projectile from the right forearm, which he collected. It was ultimately turned over to me. There were also some metal fragments that were collected from the injury behind the right ear.

Q And what exactly is a projectile?

A When you fire a gun, the bullets, the portion of it that comes out, would go into whatever surface the gun was aimed at. That portion that we usually call the bullet is actually the projectile.

The bullet will have a projectile. It will have the casings. And the casing is what is either ejected from the gun or what is maintained in the cylinder if it's a revolver type of weapon.

Q I'm going to show you what has been marked as State's Exhibit 451.

MR. WHITLARK: No objection, Your Honor.

THE COURT: It will be entered without objection.

(WHEREUPON, State's Exhibit No. 451 was marked for identification and received

into evidence.)
BY MS. SIMPSON:
Q Do you recognize these?
A This is the packaging for the projectile collected from the right forearm and the two metal fragments collected from the head behind the right ear.
Q How long did the autopsy for Ms. Parker last?
A Ms. Parker's lasted from approximately 8:00 a.m., I believe that was our start time, and it was completed around 11:00 o'clock.
Q Okay. Was that fairly lengthy for an autopsy?
A It is, yes.
Q What would be the cause of that?
A There was just a lot of examination that Dr. Marcus had to do.
Q And how many injuries did you document?
A I have not done a count. I can do that for you real quick.
(Pause.)
A If my count is correct, I believe 13 in total.
Q And those were just injuries or impacts -- or how would you describe that?
A Just various injuries that are on the body that Dr. Marcus would further examine and more specifically identify exactly what they are.

Q In addition to collecting the items of evidence and photographing, did you actually collect some post-mortem prints?
A I did, yes, ma'am.
Q What is a post-mortem print?
A We take, typically, which is fairly routine for our autopsies, we will collect a set of fingerprints from the deceased so that we would have those for any purposes that may come up, as well as a buccal swab, which is a swab collected from the mouth that will give us a sample of those, the victim's fingerprints, and then we have the buccal swab, which gives a sample of the victim's DNA.
Q I want to show you what has already been marked as State's Exhibit 440 and entered. Do you recognize that?
A This is the package from the post-mortem fingerprints taken from Ms. Parker.
Q And how exactly are the post-mortem prints collected at autopsy?
A We have a strip of paper that goes into a holder, and it is labeled for each finger for the impression from each finger. And we have an ink pad that we use to roll the ink onto the fingers, and then we press the fingers onto that paper, and

that would record the impression that that finger would make.

And then we have one strip for the left hand and one strip for the right hand, and we would place those onto a fingerprint card.

Q And once that card is collected, what do you do with it?

A Like the other evidence, it was properly packaged and submitted to our evidence section.

Q And I believe you mentioned a buccal swab. Tell the jury what a buccal swab is and how it is collected.

A A buccal swab is -- we have a swab carton. And inside that carton there would be a couple of swabs, which are just long Q-tips, essentially. And to collect a buccal swab, that is one collected from the mouth, you just take the swab and rub it kind of in between the cheek and the teeth.

And what you're trying to do is just moisten that and get a sample of DNA on that swab.

Q I am going to show you what is marked as State's Exhibit 452. Do you recognize that?

A This is the packaging for the buccal swab collected from Ms. Parker.

Q And was it properly sealed and submitted into

evidence?
A It was.
Q Was it tampered or altered in any way?
A Not that I'm aware of.
MS. SIMPSON: Your Honor, at this time the State would offer State's Exhibit 452 into evidence.
MR. WHITLARK: No objection, Your Honor.
THE COURT: All right, Number 452 will be entered without objection.
(WHEREUPON, State's Exhibit No. 452 was marked for identification and received into evidence.)
BY MS. SIMPSON:
Q We talked throughout the course of this trial about a GSR kit. Tell the jury what a GSR kit is.
A A gunshot residue kit is used to collect any trace evidence that may be left. Kits that we have are specifically for the hands. And at the time of this incident, it had two components.
One was little vials that have adhesive tabs on the top of them. And you take the vials and use that to press over the surface of the skin. You would collect one from each palm and one from the back of each hand.

And then after the collection of the vials, then we go back with swabs that are moistened, and those are also rubbed on the skin.

And what you are trying to do is collect any trace evidence that may remain on the skin so that it can be analyzed to see if it is consistent with gunshot residue.

Q And in this case did you have any information about whether a GSR kit had been done?

A Yes, I had been informed that the GSR kits had been collected on both Ms. Parker and Mr. Capnerhurst at the scene.

Q And are they sometimes collected at autopsy?

A They are. If we collect at autopsy, what we would do is preserve the hands before the body is placed into the bag. We'll put paper bags over the hands, and we will secure those.

And that will just help to protect any trace evidence that may be on the skin and allow us to collect it, usually the next morning at autopsy, but in this case that was already done.

Q And is it also typical that a GSR kit may be collected at the scene as well?

A Yes. Yes.

Q In addition to Ms. Parker, I guess was that the

extent of the autopsy with respect to her and what you did?

A There were a few other things that were collected, some fingernail scrapings and some hair samples, that we did not mention, and I believe that was the extent.

Q And are all those standard protocol --

A Yes.

Q -- for you to collect?

A The fingernail scrapings are not always collected. That is kind of dependent upon the case. And the reason that we do these is if you have people who may have engaged in a physical struggle, you could potentially get some trace evidence from underneath the fingernails.

So the way we collect those is we scrape any material that may be underneath the fingernail and try to collect anything that may be there.

And in this case it was more than anything done out of an abundance of caution. You know, we did not know what we would need, so we tried to collect as much as we thought may become necessary in the future.

Q And did you also later that day attend an autopsy for Bryan Capnerhurst?

A Yes, I did.
Q And was that autopsy performed in the same way by the same people?
A It was, yes, ma'am.
Q Tell us about when you arrived and what you observed.
A The examination on Mr. Capnerhurst began about 11:30 that day. And at the time when we initially photographed -- when I initially photographed him, he was wearing blue shorts with a gray T-shirt and a gray fleece pullover over that. He was wearing white briefs, socks, and tennis shoes.

And just like before, there was a set of photographs taken in that condition. Then the clothing was removed and we take another set of photographs of the body, as well as any injuries that we see.

Q And I'm going to show you this. With respect to this clothing, did you observe any defects in the articles of clothing?
A Yes, there were several. Yes, there were several.
Q And by defect, what is meant by that?
A Just damage that would be in the shirt. It could be caused by gunshot. It could be caused, you know, really by anything that could have happened,

maybe that tore the fabric. It is just kind of a general description of something that is in the clothing that is not in pristine condition like you would expect.

Q And were these articles of clothing processed in a similar fashion that Tammy Parker's were?

A They were collected and ultimately turned over to me. They were dried in a separate drying chamber at our headquarters. And at that time they were -- when they completed the drying process, they were photographed, packaged, and submitted to our evidence section.

Q I want to show you what has been marked as State's 485.

(Attorneys confer.)

MR. WHITLARK: No objection, Your Honor.

THE COURT: Number 485 will be entered without objection.

MS. SIMPSON: It is Bryan Capnerhurst's clothes.

(WHEREUPON, State's Exhibit No. 485 was marked for identification and received into evidence.)

BY MS. SIMPSON:

Q And the box has been opened, but do you recognize

the packaging?
A This is the packaging that would have contained the navy blue shorts, the gray T-shirt, gray fleece pullover, one pair of white briefs, one pair of socks, and a pair of white, black, and red tennis shoes.
Q Okay. And those were all of his clothes that were collected?
A That's correct.
Q And when you collected them, were they properly sealed in a package at that time?
A Yes, ma'am.
Q And were they tampered or altered in any way while they were in your custody?
A No.
Q Tell us about the nature and the injuries that you observed.
A Mr. Capnerhurst had extensive injuries on his face, both the forehead and the area above the right eye. He also had injuries on his chest, one on the upper side, left side of his chest; a second one slightly lower, more on the torso area below the left nipple.

He had an injury on the inner portion of his left forearm. And then there was also an injury to

the left thigh and the left shin. And then an injury to the left foot, the top and the bottom.

Q And were all those injuries documented by you in some way?

A They were all photographed, as well as the injuries were listed.

Q Were some items collected from the autopsy?

A Dr. Marcus collected several partial projectiles, pellets, and also some, what I refer to as, particles or disks from various locations on his body during that autopsy.

Q And were those items also photographed?

A They were.

Q And were they collected by you?

A They were collected by Dr. Marcus. They were ultimately turned over to me.

Q Okay. I want to show you what has been marked as State's 450.

MR. WHITLARK: No objection, Your Honor.

THE COURT: Entered without objection.

(WHEREUPON, State's Exhibit No. 450 was marked for identification and received into evidence.)

BY MS. SIMPSON:

Q Tell the jury, do you recognize those. And what

those are.
A I do. These are the various items that were collected and turned over to me. I documented four pellets from the left foot, one metal fragment that came actually from the sleeve of the outer fleece jacket, three metal particles that were collected in the left lower leg, four pellets from the left thigh, three metal particles and one pellet from the abdomen, five metal fragments collected from the brain tissue, two pellets collected from the chest, and two metal fragments, one pellet from the left arm.
Q So that is a number of projectiles and fragments that were actually collected from his body?
A That's correct.
Q And you said those were both from kind of pellet type things as well as disks?
A Yes.
Q Did you also take some fingerprints or collect some post-mortem prints from Bryan Capnerhurst?
A Yes, we did. Yes, I did.
Q I show you State's 439 which is already in evidence. Are those the prints that you collected?
A Yes.
Q And were those collected in a similar fashion of

Ms. Parker's?
A They were.
Q Did you collect anything else with respect to Mr. Capnerhurst?
A The only -- we collected hair samples that we did not discuss. And then we also collected a swab from his penis. That is done, you know, basically because -- I think I actually failed to mention when I testified about Ms. Parker's autopsy, there were also some swabs that were collected from her packaged in a sexual assault kit.

And, again, this is something that we did out of an abundance of caution. It is one of those things that you cannot go back and collect at a different time. So even though there may not be an indication that there was a sexual component to the crime, sometimes we will still collect these things just to have it available.

So in this case that was also collected from him and packaged and submitted into evidence.
Q Okay. And I believe you said you took a buccal swab?
A Yes.
Q I show you State's 449.

MR. WHITLARK: No objection, Your Honor.

THE COURT: 449 will be entered without objection.

(WHEREUPON, State's Exhibit No. 449 was marked for identification and received into evidence.)

BY MS. SIMPSON:

Q Do you recognize that?

A Yes. This is packaging from the buccal swab collected from Mr. Capnerhurst.

Q And, again, when it was collected by you, was it properly sealed and packaged?

A It was.

Q And was it tampered or altered in any way?

A No.

Q And when you take these items of evidence, where do you submit them?

A We have an evidence section at our headquarters on Two Notch Road, and those items are either turned in to an individual that works in that section or they are secured in a locker or drop box to be retrieved by them during business hours.

Q And do you actually determine what items will be tested, or is that left for the investigators?

A That is handled by the investigators. We mainly just do the collection.

Q And with respect to the GSR kit on Bryan Capnerhurst, what information did you have?
A Just that it had already been completed.
Q And, again, that is typical or common?
A Yes, it's very common.
Q With respect to the length of Mr. Capnerhurst's autopsy, can you tell us about that?
A I have it started approximately 11:30, and we were done at 1550 hours, which would be 3:50 p.m.
Q And, again, is that a sufficient amount of time?
A It's fairly lengthy.
Q And what was the cause of that or the purpose of that?
A Multiple injuries that Dr. Marcus had to examine.
Q And outside of attending and documenting the autopsy in this case, was that the extent of your involvement?
A Document, autopsy, and clothing, yes, that was it.
Q Thank you, Investigator.

THE COURT: Yes, sir?

MR. WHITLARK: May it please the Court, Your Honor?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. WHITLARK:

Q These boxes were all opened here this morning. Did you open them?
A No, sir, I haven't opened any of those.
Q All right. What day was this that you did this again?
A April the 14th, 2012.
Q Okay. Do you have a report with you?
A Yes, sir, I do.
Q Can I take a look at it?
A Yes. I can hand you my whole binder, or I can take each page out.
Q Oh, you don't have to give me the exhibit. Are those photographs?
A They are. They are attached.
Q I don't need those. I just wanted to see your written report.
A That is one of them.
Q Is this what you just testified to?
A Yes, sir.
Q Oh, okay. Even though -- did you know the facts of this case at all when you were doing this?
A No, sir. I had been briefed when they made contact with me to let me know that I needed to attend the autopsy the next morning. I had been given a brief summary of the incident, but I did not know a lot

of specifics.
Q Did you know -- is this the next day or was it the --
A This was -- the autopsy itself was the following morning. They contacted me that evening.
Q The 14th of April?
A On April 13th about 5:30 p.m. I received a phone call letting me know that this is what I needed to do first thing the next morning when I got to work.
Q Did you -- you went out to the -- did you go to the scene?
A No, sir, not at all.
Q Okay. What were you told during that briefing, or whenever they called you, or whatever?
A Specifically, I don't remember. Obviously, I would have been given the basic information about the case, the case number, the names of the individuals that were involved.

I know that I had been told there were extensive injuries and that there had been guns collected at the scene, as well as shell casings, really just that type of basic information.

And of course they informed me that they had already collected the gunshot residues, so I knew that I did not need to do that at autopsy. It was

at that time that I was requested to get the sexual assault kits and the swab of Mr. Capnerhurst's penis collected.

Q Who told you to do that?

A I spoke to Investigator Holt on the telephone. And he was in contact with Lieutenant Elsey and Lieutenant Cavanagh and Sergeant Richards there at the scene. So specifically which one of them that came from, I'm not certain.

It may have been a request relayed to them from one of our CID investigators. I just know that I was requested to do it, so I got it taken care of.

Q Okay. Did anybody there tell you that the Defendant, Brett Parker, was a bookie?

A I don't recall at that time. Ultimately I learned that information, but I don't remember if it was at 5:30 that night or not.

Q Okay. Well, when you were requested to do a sexual protocol, for lack of a better word, did they tell you: Well, we are suspicious about this guy. We want to find out, you know, go check this too and see if you can get something on that?

A No, I don't remember anything along those lines. I mean, again, a lot of what we do is out of an

abundance and with knowledge that we won't be able to go back and get this information at a later time. So I don't recall anything specific.

Q But you were specifically asked to do that sexual protocol, weren't you?

A To request it, yes, sir.

Q Okay. When you were in the -- over at -- was it Palmetto Richland Hospital?

A Yes, sir.

Q Were y'all discussing that the investigators over at Brett Parker's house were -- they were saying, There is something fishy about this guy, there is something, you know -- I mean, is that what y'all talked about at all, the four of you that were there?

A No, sir, not that I can recall. I think we were specifically focused on our task, which was the medical examination that Dr. Marcus was completing and my role in documenting and collecting. And we had plenty to do, so I don't know that there was a lot of other conversation.

Q Okay. All right. But somebody did call you up and ask for the special sexual protocol?

A They did ask me to make sure that was collected, yes, sir.

Q You collected fingerprints off of Bryan Capnerhurst?
A Yes, sir.
Q Do you know quite a bit about fingerprints?
A Yes, sir. I have had training in that area.
Q Okay. Do you know anything about looking for his fingerprints in this case, Mr. Capnerhurst's?
A Looking for them where?
Q On any item of evidence in this case?
A I did not, no, sir.
Q Okay. Are you aware or do you know that you can take material off of a fingerprint and get DNA analysis of whose it is? You know that, don't you?
A Take material off of a fingerprint?
Q You can get DNA off of a fingerprint?
A Not specifically. A fingerprint is used for identification, to look from one impression to another. We have an unknown impression that we're trying to identify; and, therefore, you know, we're using the visuals that we see.

Now, an item that may have been touched and a fingerprint left behind on, the item itself could potentially still have DNA. So very often when we process for fingerprints, we will also collect a swab of DNA from the -- or a swab hoping to get DNA

from the same item.
Q Okay. Well, are you aware that there was a smudge mark on a UMC ammunition box in this case?
A I have no firsthand knowledge of any ammunition boxes processed in this case. My involvement was limited to the autopsy.
Q All right. But you do agree with me that a fingerprint on an item is a source for DNA, isn't it, for identification on DNA?
A A fingerprint is a source of identification as a fingerprint.
Q I understand. But material --
A But DNA --
MS. SIMPSON: Objection, Your Honor. If he could let the witness finish.
MR. WHITLARK: All right, go ahead.
THE COURT: Sustained. Let her finish answering your question.
MR. WHITLARK: I'm sorry, Your Honor.
BY MR. WHITLARK:
Q Go ahead.
A The fingerprint identification would come from the fingerprint itself.
Q Right. That's what I mean. I mean, I'm not -- I'm just saying if I --

A You can't take a fingerprint and have a DNA match from a fingerprint.
Q Well, I know. I gotcha. I gotcha.
A Okay.
Q But I'm putting my hand on this right here, right?
A Right.
Q All right, now, you could come and potentially, if you find -- you could go here and you could find a fingerprint, you could identify me with this, couldn't you?
A I --
Q Through DNA? You could get --
A I could not identify you through a fingerprint. I cannot identify your DNA through a fingerprint. I can potentially identify your fingerprint or your DNA could potentially be identified.
Q Okay. Well -- all right. You're the expert, not me. I'm just saying, I just touched this.
A Right.
Q And I've got my hand up here.
A Right.
Q And I am leaving it, you know, I'm holding it there. What is the body temperature of a human, 98.6 or something?
A I think that is the average.

Q And I've got sweat and all that other stuff on my hand, don't I?
A Right.
Q And when I move my hand like that (indicating), okay, let's say later on you come by as a fingerprint person and you find some fingerprints?
A Right.
Q As a matter of fact, I can see them. You could get DNA material and identify it if you had something to compare it to, right?
A If it was successfully deposited --
Q Right.
A -- I could potentially get a fingerprint, and I could potentially swab that area, and then that swab could be analyzed to locate your DNA.
Q Thank you.

MR. WHITLARK: No further questions, Your Honor.

THE COURT: All right. Anything else from the State?

MS. SIMPSON: No, Your Honor.

THE COURT: All right, ma'am, you make step down.

(Witness steps down.)

THE COURT: Any objection to this witness

being excused?

MR. WHITLARK: None from the Defense, Your Honor.

(Witness excused.)

MS. CAMPBELL: The State would call Dr. Bradley Marcus.

(Witness approaches.)

THE BAILIFF: Place your left hand on the Bible, raise your right, and face the clerk.

(Witness complies.)

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

THE WITNESS: Yes.

THE CLERK: Have a seat in the witness box.

(Witness complies.)

THE CLERK: State your full name for the record, please.

THE WITNESS: Dr. Bradley J. Marcus, M-A-R-C-U-S.

BRADLEY J. MARCUS, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Dr. Marcus, where are you employed?
A I work at Professional Pathology Services, which is a private practice pathology group here in Columbia. And we serve Palmetto Health Richland, Palmetto Health Baptist. We have a Kershaw Health up in Camden. We have a private lab we own. And we also serve two hospitals down in the Hilton Head Island area.
Q And as a pathologist with Palmetto Pathology Group, what do your duties include?
A My duties include basically all aspects of anatomical pathology, which is looking at surgical biopsies from people who have surgery, looking at breast biopsies. I also look at a lot of women's health things, pap smears, and so forth. I handle clinical lab items, blood work, and so forth.

I also do autopsies, the medical autopsies that families request, autopsies on people who die in the hospital. Also, I handle all the forensic autopsies. My colleague and I handle forensic autopsies here in Richland County.
Q In addition to being employed by the pathology group you just named, do you also have another title?
A I also work as the Chief Medical Examiner here in

Richland County.
Q And as the Chief Medical Examiner for Richland County, what do your duties include?
A Again, I basically do all the forensic autopsies that Coroner Watts or his deputies order; and I report my findings back to the Coroner's Office here in Richland County.
Q And is there another person in your -- that works for the Coroner's Office?
A Yes, there is. I have a colleague. She works some sometimes also, Dr. Amy Durso. She is also a forensic pathologist.
Q Can you tell this jury a little bit about your education and your training in the medical field?
A Sure. I went to college at the University of North Carolina at Chapel Hill. After that I went to medical school. I got an MD degree.

Following that school in 2001, I started an anatomic and clinical pathology training program down at the Medical University of South Carolina in Charleston.

There -- I spent six years there, from 2002 through 2008 working at the MUSC, learning all aspects of anatomic pathology, clinical pathology, forensic pathology, and, in addition to that,

cytopathology.

Q Okay. You said a lot of different areas about pathology. Taking them one at a time, you mentioned anatomical pathology. What is that?

A Okay. So let's break them down. Pathology is basically the study of disease in humans, the study of disease, what causes disease.

And the way a pathologist studies disease is by looking at growth, looking at the organs, and also dissecting the organs and then looking at them under a microscope. And then you can tell whether there is cancer present, what type of cancer.

So as an anatomic pathologist, basically surgeons work in the OR, they remove tissues from people's bodies, send it down to pathology, we dissect them out, put them on slides.

If it's a tumor, for instance, it's very important they show all that tumor is removed. We can check the margins under the microscope and we issue a report.

And basically a lot of -- really, pathologists, one of the most important things is staging of cancers, and so forth like that. That is what the oncologist will use to treat a patient.

Clinical pathology is that part of the

hospital that the patients never see. Any time you get a blood test, or so forth like that, that goes to the lab. And thousands and thousands of, you know, clinical lab tests are performed.

Well, a pathologist has actually got to run that lab. He has got to be there to troubleshoot if something goes wrong with the instruments, and so forth. He interprets the smears, purple blood smears, all sorts of different aspects.

There is the blood banking. That is a whole other thing in itself. People get blood. You can actually kill someone. So the blood banking is another part of clinical pathology that we also handle.

Forensic pathology -- let me back up. Let me go back to my other specialty, cytopathology. Cytopathology is the study of cells. Okay? What basically is the most common thing that everybody, I think, can relate to in this courtroom is the pap smear. All right.

Women get pap spears. Basically that sample is then given to a cytopathologist like myself, and I will look at the pap smear to see if there's any dead cells there, and so forth, whether a woman has cervical cancer or not.

So that is basically what I also do, cytopathology.

And then another thing I do is forensic pathology. Forensic pathology is the study of pathology in relation to the autopsy. So I do an autopsy to determine the cause of death.

The cause of death is a disease or injury that brings about death. That is what you see on a death certificate. Okay? So a cause-of-death statement could be for a natural process, complications of metastatic breast cancer. That's a cause of death. It's a disease and it brings about someone's demise.

Other things are, you know, blunt head trauma. Somebody is hit in the head or something. That could be a cause-of-death statement that is related to injury. Okay? So I make a distinction of the two.

And in addition to that, we determine the manner of death. Okay, manner of death in this state is categorized into five categories:

Natural, which are deaths due exclusively to disease.

Suicide, taking of your own life.

Accidental death, which everyone can relate

to, car wrecks, and so forth.

Homicide, death at the hands of another person.

Or, the last one, undetermined, where you just don't know the manner of the circumstances surrounding death.

For instance, a body found out in the woods once hunting season starts, and it's all decomposed. You just don't know how that person got there, and so forth like that.

That would be something that, if I can't find anything at the autopsy, we probably have to call it an indetermined thing, unless some information comes out later I can change that. Okay?

So that is what forensic pathology is.

Q And you mentioned that after getting your medical degree, you actually did some specialized training for six years?

A Yes, six years. Basically what you do is you do residency training. And then after residency is over, if you want to subspecialize, for instance, subspecialty for me would be forensic pathology and cytopathology. You do an additional year of training on each of those.

And then basically you have to learn all this

material and sit and take board examinations put out by the American Board of Pathology. And you have to take those exams and pass to become a board certified specialist.

Q Okay. But to actually work as a pathologist, as long as you have a medical degree and some degree of training, you don't have to be board certified?

A No, you don't have to be board certified. You can get a medical license without having a board certification.

Q And practice medicine?

A And practice medicine, that is correct.

Q But in your case you did an additional six years of training after getting your medical degree?

A Yes.

Q And did you choose to go the additional step of getting board certified?

A I did.

Q And in pathology, how many areas are you actually allowed to be board certified?

A There are up to, I believe, ten different ones you can get board certified in. The board only allows us -- only allows us -- the maximum board certification you can get is four, because after that they think you are -- it's just too many.

So I have four board certifications. I am board certified in anatomic pathology, clinical pathology, forensic pathology, and cytopathology. I took my boards and passed them all on the first try.

Q And specifically you are board certified in forensic pathology?

A Yes, I'm board certified in forensic pathology.

Q And have you ever been qualified in court before as an expert in forensic pathology?

A Yes, I have.

Q And approximately how many times have you been qualified?

A Greater than 20.

MS. CAMPBELL: Your Honor, at this time I would offer him as an expert in forensic pathology or any of the other specialties for the purposes of this.

MR. WHITLARK: May I voir dire the witness please, Your Honor?

THE COURT: Yes, sir.

VOIR DIRE EXAMINATION

BY MR. WHITLARK:

Q Doctor, I didn't hear. Where did you go to medical school?

A I went to the American University of the Caribbean.
Q Where is that at?
A It is in Saint Martin.
Q How did you get down there? How did you find this place?
A I wanted to go to medical school. It was very difficult to get in medical school at that time. So what I decided to do is I wanted to get my training done, and I went down to the American University of the Caribbean, did my two years in Saint Martin.

Then I flew to Ireland. I did -- I spent a year over in Ireland doing medicine.

Then I came back to America in my fourth year. I was in Chicago.

And then I took all my board exams, scored higher than the average US citizen at a US medical school. And that's why I was able to get my choice of MUSC right near my family.

Q Okay. Are you from South Carolina?
A I'm from New York. My family -- at the time I was single, and I had just my parents, my father was ill, they were in Myrtle Beach, so I got close.
Q All right. Doctor, other than -- is there another cause of death in this case other than gunshots?

A No, sir.
Q Okay. Is that what your expected testimony is?
A Yes, sir.

MR. WHITLARK: I don't have -- based on that, I have no problem with him being qualified.

THE COURT: All right. Ladies and gentlemen of the jury, Dr. Bradley Marcus will be offered as an expert in forensic pathology. Is that it, just forensic pathology?

MS. CAMPBELL: For purposes of what we are here for today, Your Honor. He does have additional certifications, again, in all those other areas. But for what we need today, forensic pathology is the cause and manner of death.

THE COURT: All right. And he will be testifying and able to give opinion testimony in that area.

Yes, ma'am.

MS. CAMPBELL: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUES

BY MS. CAMPBELL:
Q Dr. Marcus, prior to doing an autopsy in any case, is it important for you to get some type of history about what may or may not have happened?
A Yes. Yes. I get the history, you know, sometimes

written in a report that gets back down to me at the morgue.

Q And basically that history would just be basic facts that may be known or alleged at that time?

A That's correct.

Q And in addition to that, in some cases do you also actually go to a scene to observe things?

A Sometimes I do. If the coroner calls, yes.

Q And do you also sometimes get provided additional information from, say, an investigative agency if it's a homicide?

A Yes.

Q Would that include crime scene pictures?

A Yes.

Q And any testing that may be done by the agency itself that may involve what happened?

A Yes.

Q I want to turn your attention to this case specifically, sir. Back on April the 13th, did the coroner for Richland County, Gary Watts, call you up and ask you to go somewhere?

A I was in my office. It was a Friday. And I remember I got a call. I believe it was from Jane Powell, one of the deputy coroners.

Q I'm sorry, Jane Powell.

A Who notified me.
Q As a result of that phone call, where did you go?
A She requested or she said that Gary Watts requested me to come out to the scene. So I packed up my things and I went. I met Jane Powell near the scene. I didn't know exactly where it was.

So I met her -- I believe it was near a shopping center off of Broad River, I think. I think it -- I'm not sure -- but it's the road that goes past the South Carolina Law Enforcement Division, because I-26 that day was a wreck and I couldn't go I-26. That I remember.

Q And once you met up with Jane Powell, did she then escort you to the scene?
A She did.
Q Once you got to the scene, sir, what did you do?
A I kind of just talked to Gary Watts, and I kind of waited around in the driveway, until I -- until they let me into the house.
Q And once you went into the house, what area of the house did you go into? Do you remember?
A I went upstairs and I went to like an office area where there was like a bathroom that was like attached to the office. That's the only area I went.

Q What were your observations that day when you went into the office area?
A Well, the first thing I noticed was I noticed that there were some shell casings on the ground. And then I saw Ms. Parker laying down, kind of almost halfway in the bathroom, halfway out of the bathroom, with her feet kind of in the office area.
Q While you were there -- and were you aware they had already photographed the evidence prior to you getting there?
A I think so. I'm not sure. I don't really recall or remember exactly what they were doing in there. They were doing something. I just don't -- I don't know. I'm not part of that.

I don't actually photograph stuff at the scene. So I'm not sure. I'm assuming they must have photographed first. That's why I wasn't allowed in.

Q Once you were able to observe her body there at the scene, did you go into any other parts of the house and observe the second body?
A No, I did not.
Q And why did they not let you in to see the second body?
A They told me that the area was too small and tight.

It was up in the attic. So they would not let me go in. And there was really nothing more I could do.

Q And were you able to come to any conclusions just based on your observations there at the scene?

A Based on -- when I got to the scene, I was told that Ms. Parker had sustained a gunshot wound to the head. So -- but when I got into the room, I -- I got in the room, I saw her body; and I saw that she had actually sustained multiple gunshot wounds.

So that is what I was told. I thought she only had one gunshot wound; but then I went in and when I saw her, I looked at her, I could see holes in her clothing. I didn't see the actual gunshot wounds on her body, but I saw holes in her clothing that looked like a projectile had gone through her clothing. And I saw multiple of them.

So I said right away to one of the investigators, It looks like she has multiple gunshot wounds, not just one to the head.

Q And did you do any of your examination there at the scene?

A No, I did not. I did not.

Q And is it customary for your examination to take place in the morgue?

A Yes, that is my controlled environment in the morgue. I like to do everything in the morgue. And that is what we do.

Q When did you actually perform the autopsy on Tammy Parker?

A Before I left the scene, I let Gary Watts know that we'll start the autopsies on Saturday morning, April 14th, at 8:00 a.m. sharp. And I told him, We will said start with Tammy's autopsy -- Ms. Parker's autopsy, excuse me.

Q And that process began at 8:00 a.m. the next morning?

A At 8:00 a.m., yes. Everyone was down in the morgue, and we started Ms. Parker's autopsy.

Q And prior to doing an autopsy, do you do a basic external examination?

A Yes. The body bag is opened and I do an external exam, how the body arrives, just seeing what she had. She still had her clothing. So they photographed that.

And then, because I had seen multiple gunshot wounds on her, it is customary for me to X-ray the body. So after I had done my, you know, an exam down in the autopsy room -- I just did a quick brief exam when she had her clothes on. We removed

her clothes and then I could actually see exactly where she had gunshots, because then I have to call X-ray down, and sometimes they bring their old X-ray machine with the old plates. Everyone knows the plates that are associated with an X-ray machine. And I had to let them know how many plates to bring. I needed to see how many gunshots she had. But I believe in this case they brought the digital X-ray machine down and they took digital shots so I can look at the X-rays right when they are taking them. Otherwise, I have to wait about 30 minutes to get the pictures developed.

Q And did you make any conclusions as far as her height and weight approximately?

A Yes, I measured that. I put her length at 69 and weight about 140.

Q Sixty-nine inches?

A Sixty-nine inches, excuse me, at 69 inches. I have a tape measurer I use.

Q And you mentioned that at first she was clothed, and then you were able to remove her clothing?

A Yes, I removed her clothing.

Q And at that point were you able to observe the wounds that corresponded to the holes you had seen

the night before?
A I saw the one in the back, yes, yes. And the one on the side. Then I realized that she had a lot more gunshots on the front that I hadn't really seen from at the scene because I didn't roll the body. The body was left there.
Q Tell the jury how you go about, once the clothing is removed in an autopsy such as this with all the gunshot wounds, how you actually do the autopsy.
A Then I believe the investigator goes and gets like the fingernail clippings. I'm not -- I can't remember whether she did it first before we did the de-clothing. I can't remember that exactly. And then they told me to do a rape kit. So I did a rape kit. It doesn't take very long to do.
Q Was there any evidence of any sexual assault in this case?
A I didn't -- no, I didn't see any evidence of sexual assault in this case.

Then I just started -- they take photos, and I do my diagram. I have a diagram, and I make a diagram of everything.
Q And you mentioned they took some photos. Did you have an opportunity to review those photos?
A Yes, I reviewed photos.

Q I want to show you what has been marked as State's Exhibit 453 through 464 and first ask: Do you recognize those?
A Yes, these are the photos that were taken. There's two cameras going in there.
Q Uh-huh.
A The investigator, Richland County Sheriff's Department investigator, takes photos with her camera. And then we have a Coroner's Office representative also in there taking photos also.

So there's lots of photos, you know, of things. I don't know who took who and which case is here, though.

Q But do those fairly and accurately depict some of your findings at the autopsy?
A Yes, they do.
Q And do some of those actually have trajectory rods where you can show the actual course of the bullet?
A Yes, they do.
Q And would those aid you in your attempt to explain the injuries to this jury?
A I think they will, yes.
Q And, in fact, those are the photos you picked out as being demonstrative of certain things in this case?

A Yes.

MS. CAMPBELL: Your Honor, at this time we would offer them into evidence.

THE COURT: Any objection?

MR. WHITLARK: Let me take a look please, Your Honor.

(Pause.)

MR. WHITLARK: I object, Your Honor, to all of them. Objection.

MS. CAMPBELL: Your Honor, the cross-examination in this case, clearly the cause of death and the manner of death in this case is highly disputed by the Defense.

We feel like the doctor is testifying that these were taken at autopsy. Yes, they are graphic in nature; however, for this jury to get the full picture of what is going on, the State would want them to be able to observe the corresponding injuries that the doctor is about to testify to.

THE COURT: All right. I'll take a look at them.

MR. WHITLARK: Your Honor, I'd like to respond to that.

THE COURT: All right, give me a second.

MR. WHITLARK: Yes, Your Honor.

(Pause.)

MS. CAMPBELL: Of course, Your Honor, if he is not disputing the cause and manner of death that is going to be testified to, we wouldn't need to use these diagrams.

THE COURT: All right. Ladies and gentlemen of the jury, there is a matter of law I need to take up outside of your presence.

I'm going to send you all out for a short -- maybe about a five-minute break -- to refresh yourselves. And then we will have you back in shortly.

Thank you.

(WHEREUPON, the jury retires to the jury room at 10:44 a.m.)

THE COURT: All right.

MR. WHITLARK: I think Your Honor knows what my objection is on this, but we will state it.

THE COURT: Well, let me just ask you. She is asking -- are you all objecting to -- she is saying she doesn't need the photos if you all don't object to the manner of death.

MS. CAMPBELL: Cause and manner of death. He has a right to testify to -- in his expert opinion as a forensic pathologist -- to cause and manner of

death and how that happened.

If he is not -- Your Honor, in some cases we never offer autopsy. In this case, of course, the manner of death on both of these two individuals, in my opinion, has been disputed by the Defense.

That would be the only reason we would be attempting to offer these, just to show certain injuries to corroborate his explanation.

The jury has a right to make a determination, or they are going to be asked to make a determination as to what really happened in that house that day.

And, of course, the forensic pathologist's testimony is crucial to that.

THE COURT: All right. Do you want to proffer the testimony to ask him so he can hear exactly what it is you want to ask him regarding the manner of death and see if he objects?

MR. WHITLARK: Your Honor?

MS. CAMPBELL: He has got the report that includes that.

MR. WHITLARK: Your Honor, the undue prejudice that this would cause, I think, is clear. He can certainly testify they died from gunshot wounds, and we are not contesting that. We know that.

I mean, this is nothing but to inflame the jury or to sicken them. I don't know which one it is.

But those are so graphic in nature, Your Honor, that the danger of that inflaming a jury or causing them to decide this case on an improper basis is very great.

There is no need for it, Your Honor. He can testify they died from gunshots. I mean, it's certainly --

MS. CAMPBELL: Your Honor, we can offer them for ID at this point, and then wait for cross-examination to see what may come up, as long as we can then be allowed, if it's an issue, to reoffer them.

THE COURT: I want to hear what it is that you want to ask him.

MS. CAMPBELL: That may be appropriate.

THE COURT: I know there is a case. I think it is Torres, State versus Torres, that came out specifically where the Court talked about autopsy pictures.

MS. CAMPBELL: We handed up two other cases that talk about autopsy pictures where the cause of death is homicide by child abuse cases. There were

photographs of the essential injuries, Your Honor, on young children that were admissible.

And the Defense objected on the same grounds since that was in dispute.

And we handed up two cases earlier this week, I believe, on that exact issue.

THE COURT: Yes.

MR. WHITLARK: There is no dispute here, Your Honor, about how they died. I mean, certainly this is obviously going to --

THE COURT: Yes, I think this is distinguishable from a homicide by child abuse.

MS. CAMPBELL: And I will be glad to offer them for ID at this point, Your Honor. And then depending on what the cross-examination does, we may reoffer them.

THE COURT: All right.

MR. WHITLARK: Your Honor, I will state for the record, we don't dispute both of them died from gunshot wounds.

MS. CAMPBELL: That is not the entire -- what he is allowed to testify about, Your Honor. He is a medical doctor with his expertise in forensic pathology. He can talk about the cause and manner of death. That is his job. That is what he does

for a living. He is the medical examiner for Richland County; therefore, based on that he can testify to the cause and manner of death and any reasonable inferences therefrom.

MR. WHITLARK: And so they need to put in pictures that are not only graphic, Your Honor --

THE COURT: Well, I'm not going to enter them at this point. She can mark them for ID and show them to him.

MR. WHITLARK: I don't want to see them, again, please.

THE COURT: All right. You can show them to him.

MS. CAMPBELL: We will mark them for ID and see if it becomes an issue.

THE COURT: Very good.

MS. CAMPBELL: Thank you. And, Your Honor, there are also additional photographs of Bryan Capnerhurst. We would go -- I'm sorry, I didn't meant to interrupt you.

THE COURT: Go ahead. Go ahead.

MS. CAMPBELL: There are additional photographs of Bryan Capnerhurst that we will also show him and mark for ID at that point if this is your ruling, and then wait to see what the

cross-examination is.

THE COURT: All right. And then I will determine at that point if they are admissible. I will look at the case law and see what it says. Because, I mean, like I said, there are some cases pretty close to on point regarding autopsy photos.

One of them is that one case -- I'm saying Torres -- but there is that one case where they talk about the number of pictures and autopsy pictures, and then there is the one that --

MR. WHITLARK: Your Honor, we would also state as a general objection to this, evidence is starting to get extremely cumulative in this case. We are having duplicitous testimony.

I mean, we're having -- I mean, how many witnesses do they need to say that he didn't have any proper emotions? How many witnesses do we need to bring in here to prove points? I mean, it is getting --

THE COURT: He is the Chief Medical Examiner.

MR. WHITLARK: I understand that, Your Honor. I'm sorry to interrupt you, Your Honor. They have got another doctor they are going to bring in to testify in this case also, as I understand it.

THE COURT: Who? An orthopedic doctor?

MR. WHITLARK: That's my understanding.

THE COURT: But I think that is based on something that --

MR. WHITLARK: Yes, that would be right. We're ready for that. We're ready for that one. We are ready for that one.

THE COURT: Your doctor and your orthopedist, I think.

MR. WHITLARK: That's right, Your Honor.

THE COURT: Okay. They will have to bring them in.

MR. WHITLARK: Your Honor, just to alert the Court to something here. And I understand the State has got their job to do here, but there is a great danger that this case could be decided by a jury on an improper basis, and this is what I'm talking about right there.

THE COURT: Well, these are not in evidence at this point.

MS. CAMPBELL: And, again, Judge, this is just in response to his cross-examination. And it depends on -- I mean, I agree. But based on his dispute of the facts -- I mean, the facts of what happened in that house that day are in dispute. This is a witness that can talk about what happened

that day based on his expertise.

At this point we are just marking them for ID, and then would revisit it if appropriate.

THE COURT: All right.

MR. WHITLARK: Well, Your Honor, the Defense does not dispute that both of these people died from gunshot wounds.

MS. CAMPBELL: The Defense does dispute the manner of death of both of these people.

THE COURT: All right. Well, we will mark them for ID purposes. You can ask him about them. They are not in evidence at this point. If you try to enter them, we'll discuss it when we take another break.

Are we ready to bring them in? You can bring them in.

(WHEREUPON, the jury came into open court at 10:54 a.m.)

THE COURT: You can continue. I received a note. I'll get back with you all on it when we take a break.

(WHEREUPON, Court's Exhibit No. 5 was marked for identification only.)

DIRECT EXAMINATION CONTINUES

BY MS. CAMPBELL:

Q And, again, I show you State's Exhibits 453 through 464. Do you recognize those photos?
A Yes, I do. These are photos that were taken during the autopsy examination of Ms. Parker.
Q And do those photographs corroborate or explain some of the testimony you're getting ready to give about the wounds, the cause of death and the manner of death?
A Yes, ma'am.

MS. CAMPBELL: Your Honor, at this time we would mark them for ID only.

MR. WHITLARK: Same objection, Your Honor.

THE COURT: All right. Objection overruled.

(WHEREUPON, State's Exhibit Nos. 453-464 were marked for identification only.)

BY MS. CAMPBELL:
Q Did you also prepare some diagrams in this case?
A Yes, I do. Yes, I did.
Q I am going to show you State's Exhibit Number 489 and 488. Do you recognize those?
A These are diagrams that I made during the autopsy examination of Ms. Parker.
Q And do these diagrams basically document generally the areas and the type of gunshot wounds we are talking about?

A Yes, ma'am.
Q And would these aid you in your testimony to the jury?
A Yes. Yes, ma'am.
MS. CAMPBELL: Your Honor, at this time we would offer 488 and 489 into evidence.
MR. WHITLARK: May it please the Court?
(Pause.)
MR. WHITLARK: No objection, Your Honor.
THE COURT: They will be entered without objection.
(WHEREUPON, State's Exhibit Nos. 488-499 were marked for identification and received into evidence.)
BY MS. CAMPBELL:
Q Doctor, can you tell -- did you also take some X-rays, I believe, you mentioned earlier?
A Yes. The X-rays were taken by one of the X-ray technicians who works with Palmetto Health Richland Hospital. And I was present when they took the X-rays.
Q And I show you State's Exhibit 483. Do those contain the X-rays that were taken of Tammy Parker at autopsy?
A Yes, they do.

MS. CAMPBELL: Your Honor, at this time we'd offer State's Exhibit 483 into evidence.

MR. WHITLARK: Your Honor, we would object on the basis that this evidence is starting to get cumulative.

THE COURT: All right. Can I see them?

MS. CAMPBELL: Sure.

(Hands to Court.)

THE COURT: And these are?

MS. CAMPBELL: The X-rays from autopsy. They don't show any blood, or anything like that. They just show the injuries.

THE COURT: The objection is overruled.

MS. CAMPBELL: Thank you, Your Honor.

MR. WHITLARK: Thank you, Your Honor.

THE COURT: They will be entered with the objection of the Defendant.

MS. CAMPBELL: Thank you.

(WHEREUPON, State's Exhibit No. 483 was marked for identification and received into evidence.)

BY MS. CAMPBELL:

Q Once you started your autopsy on Ms. Parker, basically how did you perform the autopsy?

A Well, the first thing after the clothing was

removed, I documented all of her basic general things: Height, weight, hair color, eye color, and so forth like that.

And then I went down on my diagram, and I basically started drawing some of the injuries -- all the injuries that she had on her body. I labeled them with letters, A, B, C, D, and so forth.

And then I started measuring the distances, you know, from the top of the head, right and left at the midline, and so forth, of all the injuries.

And from that point onward, then I started really looking at all the gunshot wounds in her. And there were a lot of -- a lot of holes in her. But some of them were entry and exit; some were re-entry. So I then had to decipher which gunshots were related to each other, and so forth like that.

And I aided my findings with the X-rays, if there were any bullets or fragmented bullets inside her. And then I started putting together what is an entrance wound, what is an exit wound, and so forth.

They look different. Entrance wounds of gunshots look different than exits. Sometimes it's not as easy, but in general they have a very

characteristic finding to them.

And then I can determine sometimes with the range, the range of how far away a weapon was when it was fired and when the bullet struck her. I can see the range based on what my exam is on the body.

Q And in this case when you're determining range, as far as when you mean range, what do you mean by that?

A Okay. So range means how far away the gun was when it was fired to the body. When you have --

Q That would be the end of the gun barrel?

A Yes. This is (indicating) the gun here and this (indicating) is the body. How far the gun was from the body. Because when a weapon is fired, not only does the projectile come out, but gunpowder comes out of the barrel also.

So if, for instance, you have a contact range gunshot wound, sometimes you can actually see a muzzle imprint on the body of the gun. Okay? And that's real good for a contact range shot because you have a muzzle and if you have the weapon, you can kind of match it up and it is exact.

So that -- and also you can see soot, some of the black carbonation material that comes out of the end of a weapon.

If the weapon is close enough to the wound, you're going to see that black carbonation material, which is usually gunshot residue in the wound itself. Because the wound bleeds, so it all sticks to it. And sometimes you can even see it inside the wound.

So, for instance, if you have a contact range shot, you can usually see gun soot actually on the wound itself. And I call those contact range shots. All right?

If you move the gun away -- and, again, it depends on the gun and the type of ammunition. When I spoke about what comes out of the barrel, the projectile comes out of the barrel; but also you've got that gunpowder. Okay? And sometimes you get this unburned gunpowder that comes out of the barrel. All right? It comes out of the barrel.

And that gunpowder is like little sand particles. Okay? So if your gun is like this (indicating) away from the body, you can get what they call stippling. Another name for it is powder tattooing around the wound. Where the projectile goes in and hits the body, but then the powder comes out and actually causes little abrasions,

little scratches, around the wound. Okay? And you measure the horizontal, the spread of it, around the wound, horizontal and vertical, like this (indicating).

And therefore, then, if you have a weapon, you can test fire the weapon and kind of get a range of what -- how far away that gun was from the body.

In general with handguns you are talking about, you can see powder stippling up to 18 inches; but, again, it all depends. It all depends --

MR. WHITLARK: Objection, Your Honor.

THE COURT: What is the objection?

MR. WHITLARK: He is getting outside the scope of what I understand his testimony is, and I don't understand.

THE COURT: He is qualified as a forensic pathologist.

MS. CAMPBELL: He is a pathologist.

THE COURT: The objection is overruled.

BY MS. CAMPBELL:

Q Go ahead.

A So you can tell. Again, you can tell. That is one of my duties is to determine the range sometimes.

And then you get distant range shots where you

don't actually see any soot or stippling on a wound. They just have a hole in the body. You don't see any. I call them distant range shots.

But sometimes you get cases where the bullet goes through clothing. Okay? So if the gun was close, you are not going to see any soot, you are not going to see any stippling, because the clothing blocks it. All right?

And so for those cases I call them indeterminate range. I just don't know. I just can't tell. You have to have the clothing tested, and so forth like that, and go from there.

And sometimes with head wounds, if there is hair, again, if it is hair, that could take away the stippling. You might not see stippling if you have a head wound. So, again, I call those usually indeterminate range.

If you have an intermediary target that the bullet goes through before it strikes, you know, the body, I call it an indeterminate range.

Q And in this case the multiple gunshot wounds, the entrance wounds, were those to clothed areas of Tammy Parker's body?

A They were. They were. The initial entrances, in my opinion were. I can't...

Q Was there an additional one to her head area?
A There was.
Q And, again, explain about the hair may have obscure --
A Right, the hair can obscure. So in cases like that, I usually call them indeterminate range, because you can always trim the hair and send it off for gunshot residue testing.
Q In this case were any of these contact wounds?
A Not that I could tell, no. I don't think any of them were contact wounds on her body, no.
Q And did you note any soot or stippling around any of the wounds we are getting ready to talk about?
A No, I did not.
Q In addition to the gunshot wounds, the entrance and the exit wounds that you observed, did you observe any other injuries to Ms. Parker?
A I did. On her forehead, her forehead area, she had what we call contusions, which is kind of like a black and blue mark.

Everyone knows when you fall down when you're a kid or something, you get little bruises on your knees, and so forth.

It's just from like from blunt trauma. You get a bruise and you get some slight bleeding that

goes into the skin. And then over a week or two-week time, you can see that thing change from red to yellow to red-brown, and so forth.

That is because you have blood underneath the skin there that is just kind of breaking down. And that is that color change you get.

She had some -- she had a bruise on her -- two bruises on her head, which I call contusions, from blunt trauma.

Q What part of her head were those on?

A They entered her forehead, her forehead area, and then just above her right eyebrow there.

MS. CAMPBELL: Your Honor --

A And then -- oh, and then she also had another bruise right near her eye. It was yellow in color. And that is a post-mortem bruise because it was yellow. That means that there was no blood. And I believe that was from her sitting on the floor. And it didn't bleed. It is yellow in color, because her heart wasn't pumping.

Q And, Doctor, could you step --

MS. CAMPBELL: Your Honor, may the witness have permission to step down?

THE COURT: Yes.

MS. CAMPBELL: Thank you.

(Witness steps down.)

BY MS. CAMPBELL:

Q Doctor, can you come on this side so the court reporter can hear you better?

A Sure.

(Witness complies.)

Q And this is State's Exhibit 489. Can you go through your findings as far as when you performed the autopsy on Tammy Parker?

A Okay. Yes. All right, so this is what we -- this is what we -- this is my diagram that I made during the autopsy. Okay? I make this diagram. Okay? You will label the name, a couple of basic things, weight, length, head rigor, rigor, scalp hair color, and eyes, and so forth like that, just basic stuff.

And this is the diagram here. And these right here (indicating), these are some of the gunshots that I saw. These little circles here (indicating), these are holes that I saw in her body. They are over here (indicating). There is one here (indicating). There is one in the back of the head (indicating), one over here (indicating), and so forth.

So those are gunshot wounds. This is what

they looked like to me. So therefore from that point onward, I started going through and figuring out which is an entrance and which is an exit.

There's lots of holes, and I wanted to see how many times she was shot. And I go through this thing here. I have a system I go through. I usually start from the head down and work downward.

Q Then in whatever order you think appropriate, can you explain to the jury what your findings were as far as the gunshot wounds in this case?

A I sure can. Let me get my report.

Q Yes, sir.

A So I am just going to give you a brief overview. So here (indicating) is a gunshot wound here and the corresponding exit wound right here (indicating).

Q Where is the entrance wound on that?

A The entrance wound here (indicating) is on the left head.

Q The left head?

A Yes, right about -- I guess right about there (indicating).

Q On the back of her head?

A On the back of her head right here (indicating). And then there is a corresponding exit wound right

here (indicating), right near behind the right ear. So this wound was related, right there (indicating). That is a gunshot wound.

I'll just go through all of them in detail with you. So that is a gunshot wound there (indicating). That wound -- that wound, it goes through the left scalp area and the left skull and goes through the brain.

And I recovered some of the bullet in the brain area, and then there was a partial exit wound right here (indicating) where I recovered part of the bullet. On this corresponding gunshot wound, I labeled it P right over here (indicating).

There is a lot of, you know, hemorrhage in the head from that gunshot. There's some skull fractures, scalp hemorrhage, and a lot of soft tissue hemorrhage.

So the approximate trajectory of that bullet's pathway, it's forward. It's forward, going this way (indicating). It's going to the right and it is going slightly downward. So something similar to like this (indicating). Okay? That is the trajectory of that bullet pathway.

Q So it entered on the left side of the back of her head?

A Yes. The bullet entered on the left side back of her head, and then it made kind of a partial exit right there (indicating) where part of the jacket was recovered right there (indicating). So I labeled that as Gunshot Wound Number P.

So that is just one gunshot right there, one, with a projectile recovered.

Q And would that shot alone, would that have been fatal?

A That is the fatal wound. That is the fatal wound.

Q And would she have been able to survive even if medical assistance had been immediate, or anything of that nature?

A Not with the extent of her injuries, in my opinion, no. That is the fatal gunshot wound.

Q And how long would she have been able to survive, breathe, move, or anything, having sustained that injury?

A I don't think she would be able to move very, very good because it went through her cerebellum. So I don't think she would move much at all. I think this -- she probably started bleeding. She is unconsciouses. A few minutes.

Q At most?

A At most.

Q What is the next gunshot wound that you examined?
A She had a gunshot wound to her left scapula area on the left back here (indicating). I labeled this as Gunshot Wound B. All right?
Q Was that an entrance or an exit wound?
A That is an entrance wound. This is an entrance gunshot wound right here (indicating).

And this bullet goes through the axilla here (indicating) and exits at corresponding Gunshot Wound C & D here (indicating) on the interior.

Now, there's two holes, but you've got to remember, we're in the armpit area. Your skin kind of gets folded, and so forth like that. So the bullet made two holes on the exit.

You see, that's common when you have folded -- you know, in the axilla it is folded skin. So that is very common.

So entrance gunshot (indicating) corresponding exit there (indicating). And that bullet just went through the skin, and just kind of through your skin and subcutaneous tissue. It actually never entered into the chest cavity per se where the lungs are. It never entered. It was very superficial and came out right there (indicating). And I did not recover a projectile from that

gunshot.
Q So that was an entrance and exit wound with no recovered projectile?
A Yes. So that's a gunshot wound there (indicating).
Q And the entrance and exit wound, you mentioned that the entrance is in the back?
A Yes, the entrance is in the back of the shoulder here (indicating), in the back.
Q And the exit would be on the same side or a different side of the body?
A It's on the same side. You can see. Just flip that just around and see it right here (indicating).
Q Okay.
A Okay?
Q And would that have been fatal?
A That wound? That wound is not fatal, but then that bullet then, that bullet that came out of the body there, I believe from what my -- she had another gunshot wound here (indicating) labeled as 0. Okay? So entrance (indicating); exit (indicating).
And then she had a mark right here (indicating) on her forearm, right there (indicating), another gunshot. It looked like a graze. So what I think happened in that one is the

bullet came out.

I think she had her arm up like this (indicating), because the bullet came out. I think it hit right here (indicating) and made a little mark on her arm, a graze shot. And the bullet, I think -- I didn't recover a bullet there. So it fell out.

So entrance (indicating); exit (indicating). I think it hit the arm right here (indicating), because her arm was like this (indicating), and it fell out. So that is all interchanged.

So entrance, exit, corresponding graze wound (indicating).

And the angle of that bullet, it goes forward, slightly downward; and, again, it is going towards the right, just right here (indicating), coming this way (indicating). So it's going kind of down like -- again, it's very hard for me to depict exactly, but something similar like this (indicating). Okay?

Q And that is traveling in which direction on her body?

A It's going forward. The gunshot is going forward, slightly downward, and to the right. So it's kind of, I think, like this (indicating). Okay?

Q What is the next gunshot wound you examined?
A Okay. So she had -- right over here (indicating) she had a small graze wound right here (indicating) on the elbow, right there. Okay? Then she had a gunshot wound here -- a hole here (indicating), here (indicating), here (indicating), and here (indicating) that went through -- and then went through her left breast.

So looking at that wound again, this here (indicating), the bullet went -- the bullet, it either grazed part of her arm here (indicating), here (indicating), the bullet entered, exited, re-entered, and then exited at Gunshot Wound E.

So there is a slight graze wound right here (indicating). I labeled that as Gunshot Wound N here (indicating).

Now, whether the bullet struck her here (indicating) and then came up, or whether her arm was just so tight that it entered the body here (indicating) and then just grazed right there (indicating), I can't really tell.

That is just hard for me to make -- you know, to say exactly. But I think it's a graze wound. And I believe that wound there is associated with these four (indicating): Entrance, exit, entrance,

exit.

So that bullet, again, just went through the skin, subcutaneous tissue. It went through her left breast. And she had an implant in her left breast, and it popped the implant.

So that bullet, just skin, subcutaneous tissue, that is not a fatal wound. That's not a fatal wound right there.

That bullet was going -- actually that bullet there is -- the trajectory of the pathway is, again, the bullet was going slightly forward, it's going upward into the right, that bullet.

Q And what is the next gunshot wound that you observed?

A Okay. Then I focused down around her abdomen here (indicating). I saw there was one, two, three, four, and then on her right arm she had another hole right there (indicating).

So I looked at these gunshots. And these two gunshots, gunshots labeled L and K, they both looked like entrance wounds to me. So those, I labeled them individually. I believe those were two entrance wounds.

So we'll start with the first one. Let's just choose Number L. L is the entrance gunshot wound