

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DALE ELROY MATHIS,

APPELLANT.

APPELLATE CASE NO. 2018-001932

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2017-GS-23-01276
COUNTY OF GREENVILLE	)	2017-GS-23-01276A
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THE STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DALE ELROY MATHIS,	)	
DEFENDANT.	)	
_____	)	

October 15, 16, 17, 18, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE

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

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CHERYL A. SMITH
Circuit Court Reporter

1 Ready to proceed?

2 MR. BLOUIN: The State is ready to proceed, Your
3 Honor.

4 THE COURT: Defendant is ready to proceed?

5 MR. KORNFELD: Yes, Your Honor.

6 THE COURT: All right. Mr. Blouin.

7 MR. BLOUIN: May it please the Court.

8 THE COURT: Yes, sir.

9 OPENING STATEMENTS

10 MR. BLOUIN: Ladies and gentlemen of the jury, my
11 name is Hunter Blouin. I introduced myself earlier. And
12 myself, along with my codefendant Mr. Jon Gregory, are
13 here prosecuting Dale Mathis, that man over there, for the
14 murder of Jamie Howard. Now, in order for that to happen,
15 we have to prove certain things to you.

16 Well, this all started January 29, 2016. And the
17 evidence will show that Chad Taylor, a local hunter, went
18 to 30 Burrell Road up in northern Greenville county about
19 5:00 p.m. to hunt coyote. He didn't find coyote. He went
20 into a field and he found the body of Jamie Howard who had
21 been killed and dumped there.

22 Now, what do we have to prove to you? The first is
23 the indictment for murder. There are three elements to
24 murder in the State of South Carolina. It is unlawful to
25 kill another person with malice aforethought. And I want

1 to kind of go through what each one of those elements
2 means.

3 First of all, you have to have someone who is killed.
4 The evidence will plainly show that. And there has to be
5 an intent to kill the person. It doesn't have to be a
6 specific intent to kill. It could be a general intent
7 which includes factors like the character of the act, the
8 character of the instrument that was used, the manner in
9 which the instrument was used, the purpose to be
10 accomplished, and did that purpose result in death. Or
11 that intent can be inferred, and that is action that is
12 willful and voluntary and has a natural tendency to
13 destroy another's life.

14 The second element will be another person. That
15 other person is Mr. Howard. There will be ample evidence
16 that will show that Mr. Howard was killed.

17 And the last element is with malice aforethought.
18 What is malice? Malice is hatred, ill will, a hostility
19 towards another person. And aforethought means that that
20 malice existed just before or at the time of the act.
21 Malice can occur in a split second, and that malice can
22 either be expressed or implied.

23 Now, what does "express malice" mean? Well, that's a
24 stated intent. If someone, for example, states "I'm going
25 to kill you," or says other heated words and has the

1 present ability to accomplish the act, that would be
2 express malice, whereas implied malice is inferred from
3 all the circumstances surrounding everything, and that
4 conduct shows a total disregard for human life.

5 Now, as the judge stated to you, you guys are the
6 triers of the facts, and this case, I want to get out of
7 your head right away, this isn't CSI Greenville, you know.
8 There are not tons of different devices and tests and all
9 sorts of labs that can be done in an instant. I would
10 characterize this case as being one of good, old-fashioned
11 police work. There are witnesses you will hear from, and
12 you are the trier of those facts and you can decide
13 whether all of what they say is true, some of what they
14 say is true or none of what they say is true.

15 And you will hear -- you will hear from one of the
16 three people that were present when Mr. Howard was killed
17 directly, you will hear statements made by the other
18 person who was present when Mr. Howard was killed, and you
19 will not hear from the third because that would be
20 Mr. Howard.

21 And I want you to listen carefully, especially listen
22 for statements against interest. I want you to listen for
23 statements made that someone, if they were lying or making
24 up a story, wouldn't tell you because people don't talk
25 about -- make up things that can hurt them, so they tend

1 to have more truth. I want you to listen for those and
2 pay close attention.

3 This is not going to last a lot of time. This is not
4 a weeklong trial. This is probably going to take a couple
5 of days. And I would just like you to listen carefully,
6 use your common sense, and ultimately find Mr. Mathis
7 guilty of murdering Jamie Howard.

8 Now, I almost forgot about Count 2. Count 2 is not
9 important. Count 2 is possession of a weapon during the
10 commission of a violent crime. So you the jury, if we
11 prove -- the State proves to you that Mr. Mathis possessed
12 or was in possession of a deadly weapon when, as the State
13 says, murdered Mr. Howard, you would find Mr. Mathis
14 guilty of that as well.

15 So once again, I want to thank you for your service.
16 I understand that it takes a lot out of your week and that
17 jury duty is not the most important thing -- or most fun
18 thing that you can be doing, but it is a great service,
19 and I want you to make sure you listen very carefully to
20 the testimony that you're going to hear because it is
21 important.

22 Thank you.

23 THE COURT: Thank you, Mr. Blouin.

24 Mr. Kornfeld.

25 MR. KORNFELD: Your Honor, Mr. Blouin, Mr. Gregory,

1 ladies and gentlemen of the jury, I'm Alex Kornfeld, and I
2 represent Mr. Dale Elroy Mathis. This week is the most
3 important week of Mr. Mathis's life. And as stated
4 before, I'll state it a little differently, but on
5 January 19, 2016, Jamie Howard was driving and Davia Smith
6 and Dale Mathis were in a vehicle. And the parties were
7 fighting, getting in a shouting match, fighting in the car
8 on their way over to a guy's house named Chuck.

9 The facts will show that Jamie Howard was a much
10 younger and stronger man than Dale. The facts will show
11 that Dale had a cane that he walked with. The facts will
12 show that Dale believed that Davia Smith was his
13 girlfriend. The facts will show that Jamie Howard was a
14 drug dealer, and that Dale and Davia used drugs. And I
15 believe the facts will also show that Dale and Jamie were
16 friends at least at one point.

17 I believe the evidence will show that Jamie Howard,
18 the deceased, had a knife, and not just any knife, but a
19 big knife, and that as the three were arguing, Jamie was
20 in the front seat, Davia Smith was in the passenger's
21 seat, and Mr. Dale Mathis was in the back of the vehicle,
22 in the backseat, and at the time, they were -- this is
23 where the disputes come. They were disputing, and there
24 will be testimony from that, I believe there will be
25 testimony from our side and Mr. Mathis about what they

1 were fighting about. But it is believed, and I think the
2 evidence will show from our side, that Mr. Mathis tried to
3 get out of the car to go to Chuck, his cousin's home, and
4 that the fighting continued to ensue. And I think the
5 evidence will show that Mr. Jamie Howard, who had a dagger
6 on the left side of his vehicle, pulled it out and tried
7 to come back and stab Mr. Mathis with it.

8 At that time, Mr. Mathis was charged with a very
9 tough decision to make, which was what a lot of people
10 call fight or flight. What Mr. Mathis did was fight and
11 try and -- and they were in a tussle. And you'll see some
12 very gruesome pictures, but that the dagger went into the
13 left flank of Mr. Howard and ultimately killed Mr. Howard.

14 The facts will show that Jamie Howard died of a stab
15 wound to his torso, and consequently, the State charged
16 both Dale, my client, and Ms. Davia Smith with murder.

17 Before, Mr. Blouin stated, I had no objection to what
18 he said, that murder is the killing of another with malice
19 aforethought, the intentional killing of another. Where
20 we disagree and the heart of this matter is that
21 Mr. Mathis, Dale, had no malice towards him. Dale didn't
22 want Jamie to die. At that moment when Mr. Howard came
23 behind him, he had to make a decision in a small confined
24 area of the car, and, unfortunately, Mr. Howard, he ended
25 up dying on January 19th. And that is the crux of the

1 case. You'll hear from multiple witnesses, but that is
2 the long and the short of it. That is what happened.

3 At the end of the case, I'll get the opportunity to
4 come before you just as Judge Kinlaw said, and I'll be
5 able to argue after we hear everything. And it's going to
6 be a lot. And that's why I think Judge Kinlaw stated that
7 as far as the facts, there's certain things that you'll
8 hear. That's why there's 12 of you. Collectively you're
9 smarter, and I don't think I'm offending anybody, you're
10 smarter than anybody in the room collectively. You've got
11 more experience than anybody. Hundreds of years. So
12 that's the reason to wait till the end to deliberate
13 because it's not going to be uncommon for someone to say,
14 "I think I heard this," someone else may say, "No. This
15 is what I -- what was said."

16 So it's long and some things are going to be boring,
17 but I just ask that you listen to the entire case.

18 And as I said before, or I haven't said this before
19 but the judge stated this before, he's presumed innocent
20 until he's found guilty, and we've heard that our whole
21 life. We're Americans. It's an important part of our
22 judicial system.

23 But those are not just words, and there may be times
24 when you're deliberating where you say, well, the defense
25 didn't prove that, or the defense didn't explain that, or

1 maybe the State didn't explain that. But it's important,
2 and I can't stress enough that in America, I, my client,
3 we don't have the duty to prove any of the elements beyond
4 a reasonable doubt or disprove them. They have to prove
5 them. Now, I will try my best to explain and Mr. Mathis
6 will as well try and explain everything.

7 This is a very sad case for everybody involved, and I
8 don't think anybody wanted this to happen. I don't
9 believe that Mr. Mathis had malice or ill will at any time
10 towards Jamie.

11 This will be an interesting case, you know. A coyote
12 hunter comes and picks him up -- or finds him while he's
13 trying to -- it reads like a book. You'll hear testimony
14 about relationships between the parties, and you'll just
15 have to make the right decision after you hear all of the
16 evidence. And I hope and I will ask at the end that you
17 will find Mr. Mathis not guilty.

18 Again, thank you all for being here, and I'll talk to
19 you all later.

20 THE COURT: Mr. Blouin, the State's ready to proceed?

21 MR. BLOUIN: The State is ready to proceed.

22 THE COURT: All right. The State call its first
23 witness.

24 MR. GREGORY: Your Honor, the State calls Mr. Chad
25 Taylor.

1 THE COURT: All right. Mr. Taylor, come forward to
2 where the Bible is, and Madam Clerk is going to swear you
3 in.

4 THE CLERK: Put your left hand on the Bible and raise
5 your right.

6 WHEREUPON,

7 CHAD TAYLOR

8 After having been duly sworn, testified as follows:

9 THE CLERK: Please have a seat.

10 THE COURT: Mr. Taylor, if you would, speak in close
11 proximity to that microphone. It's very important that
12 you speak loud enough so everyone can hear you. That last
13 juror on the back needs to be able to hear what you're
14 saying, okay?

15 THE WITNESS: Yes, sir.

16 THE COURT: All right. Counsel, you're ready to
17 proceed.

18 MR. GREGORY: May it please the Court.

19 DIRECT EXAMINATION

20 BY MR. GREGORY:

21 Q Mr. Taylor, how old are you?

22 A Good question. 49.

23 Q And where are you from?

24 A I currently live in Lyman.

25 Q How long have you lived in Lyman?

1 A Three years.

2 Q Before Lyman, where did you live?

3 A Moore.

4 Q Is that in South Carolina?

5 A South Carolina.

6 Q How long did you live there?

7 A Approximately four years.

8 Q Are you employed currently?

9 A Yes, sir.

10 Q Where are you employed?

11 A Cherokee Valley Golf Club.

12 Q And what do you do for Cherokee Valley Golf Club?

13 A I'm the superintendent of the golf course.

14 Q What do your duties include there?

15 A I have 165 acres of grass, trees and golfers.

16 Q And where is the Cherokee Valley Golf Course?

17 A It's in Tigerville right behind North Greenville
18 University.

19 Q And how long have you held that position?

20 A 19 years.

21 Q Did you go to any school for that position?

22 A I have an associates in turfgrass management from
23 Horry-Georgetown.

24 Q I want to take you back to the day of
25 January 29, 2016. Do you remember that day?

1 A Yes, I do.

2 Q What were you doing that day?

3 A Went to work. We had our greens covered because of
4 the cold weather. Went to work, checked on all the
5 greens, checked on the golf course, irrigation system.
6 And then late that afternoon I left work to, obviously,
7 stop on my way home and pursue some coyote hunting.

8 Q Where did you stop for the coyote hunting?

9 A On Burrell Road. I have permission from a property
10 owner there to hunt on his property.

11 Q And who's the owner of that property?

12 A Mr. Wood.

13 Q I'm going to show you what's been marked as State's
14 Exhibit No. 1.

15 A Yes, sir.

16 Q Do you recognize that?

17 A Yes, I do.

18 Q Is that a fair and accurate representation?

19 A Yes, sir.

20 MR. GREGORY: Your Honor, at this time, the State
21 would seek to introduce State's Exhibit Number 1 into
22 evidence.

23 THE COURT: All right. Any objection?

24 MR. KORNFIELD: None, Your Honor.

25 THE COURT: Without objection, so entered.

1 (WHEREUPON, State's Exhibit Number 1 was admitted into
2 evidence.)

3 MR. GREGORY: Your Honor, I ask that the witness step
4 down to stand briefly to be able to point out a place on
5 the map.

6 THE COURT: All right.

7 BY MR. GREGORY:

8 Q All right. Mr. Taylor, if you'll step down.

9 Will you show us on the map where you went hunting
10 that day?

11 A Right here on Burrell Road. Turned up right there.
12 I was right next to the physical address of the house. I
13 was right there by those pine trees (indicating
14 throughout).

15 Q I'm going to have you put your initials on that in
16 the yellow area, please.

17 A (Witness complies.)

18 Q And you can return to the seat. Thank you.

19 Will you please describe to the jury the kind of area
20 that you were hunting that day?

21 A I traveled north up Burrell Road. On the left side
22 of Burrell Road is Mr. Wood's cow pasture, fence line. I
23 had hunted down there. He also owns a tract of land on
24 the south side of 414. I had hunted it two days prior.
25 Didn't find the dogs there or below the cow pasture, so

1 when I turned up the road, on the right is a field, and
2 through that field is a road or an access point to the
3 back of the property where there's a clear cut. And I was
4 going to overlook that clear cut and see if the coyotes
5 were in the creek on the other side.

6 Q So you said there's a field and an access road. What
7 is the field? Is it a pasture land? Or what kind of
8 field?

9 A It's about a two-acre. It's primarily just broom
10 straw. I don't even know if he cuts hay off of it. It's
11 just an open area right beside the road.

12 Q And on January 29, 2016, what was the -- do you
13 remember the height of the straw at that time?

14 A It was probably just over knee high, almost waist
15 high.

16 Q So it had not been freshly cut, in other words?

17 A No.

18 Q What kind of car were you driving that day?

19 A A Toyota pickup.

20 Q Is that a four-wheel-drive truck?

21 A Yes, sir.

22 Q And you said you drove the access road?

23 A I entered the field, and he has a little trail around
24 the side, and you can turn and go up to the back of the
25 field where there's a gate. He allows somebody else to

1 .hunt up there during deer season.

2 Q As you were driving up there, what happened?

3 A As I pulled up to park at the gate, it's really
4 simple. I looked out the driver's side window and saw a
5 body.

6 Q And what time of day did you get to that field?

7 A That was probably around 3:30 or 3:45. I can't
8 remember what time I made the call in to 9-1-1.

9 Q Was it still light out at that time?

10 A Yes, sir.

11 Q And how close was the body that you saw to the fence,
12 the gate?

13 A To the gate, from about here to that (indicating)
14 stand.

15 Q And you said you -- as soon as you saw the body, what
16 did you do?

17 A I put my truck in reverse and backed up.

18 Q You did not get out of your truck?

19 A No, sir. I have no desire to have left any evidence
20 there other than tire tracks.

21 Q Were you able to determine the race of the individual
22 that was on the scene?

23 A It looked -- it was a white male.

24 Q White male?

25 A Yes, sir.

1 Q And after you reversed the truck, what did you do?

2 A I backed up, turned around and went down to notify
3 the property owners of what I had found.

4 Q How far away is the property owner's house from that
5 field?

6 A About 400 yards.

7 Q Was the property owner there?

8 A Ms. Wood was there, yes.

9 Q And then what did you do?

10 A I knocked on the door, informed her that I was
11 getting ready to call 9-1-1 and what was on the property
12 before all the blue lights show up, basically.

13 Q And did you stay around for the police?

14 A Yes, sir.

15 Q Did you give a statement to police?

16 A Yes, sir.

17 Q Do you remember who you gave a statement to that
18 night?

19 A The detective that is here, so I gave my -- the
20 following statement.

21 Q To Investigator Bailey?

22 A Investigator Bailey. Yes, sir.

23 Q What county is Burrell Road located in?

24 A Greenville.

25 Q I'm sorry?

1 A Greenville.

2 MR. GREGORY: Greenville County.

3 Please answer any questions the defense has for you.

4 THE COURT: Cross-examination, Mr. Kornfeld.

5 MR. KORNFELD: No, Your Honor. No questions.

6 THE COURT: All right. I have no questions. You can
7 step down.

8 THE WITNESS: Thank you.

9 MR. GREGORY: Your Honor, we'd ask the witness be
10 excused from his subpoena.

11 THE COURT: All right. Any objection?

12 MR. KORNFELD: None, Your Honor.

13 THE COURT: All right. The witness is so excused.
14 Thank you, sir.

15 All right. State call its next witness.

16 MR. GREGORY: Your Honor, the State calls Sergeant
17 Hans Weinmueller.

18 THE COURT: Sergeant, if you would come forward to
19 where the Bible is, and Madam Clerk is going to swear you
20 in.

21 THE CLERK: Put your left hand on the Bible and raise
22 your right.

23 WHEREUPON,

24 HANS WEINMUELLER

25 After having been duly sworn, testified as follows:

1 THE CLERK: Please have a seat.

2 THE COURT: If you would, state your full name, spell
3 your last name and speak directly into that microphone so
4 everybody can hear you, okay?

5 THE WITNESS: My name is Hans Weinmueller. My last
6 name is W-E-I-N-M-U-E-L-L-E-R.

7 DIRECT EXAMINATION

8 BY MR. GREGORY:

9 Q Sergeant Weinmueller, where are you employed?

10 A At the Greenville County Sheriff's Office.

11 Q And what capacity are you employed there?

12 A Right now I'm a sergeant in school enforcement.

13 Q What are your duties?

14 A I am currently a supervisor over the high school
15 resource officers that are assigned to schools in the
16 county.

17 Q How long have you held that position?

18 A Since January of 2017.

19 Q What was your position on January 29, 2016?

20 A I was a supervisor on Echo Platoon, which is a 2 p.m.
21 to 2 a.m. shift, assigned to the east side of the county
22 as a supervisor just for general calls for service in
23 Uniform Patrol.

24 Q What were your duties and responsibilities at that
25 time?

1 A I was a supervisor for that side of town, so I just
2 supervised the deputies that answered calls for service,
3 and then if any major call happened, I would respond to
4 the scene to ensure that it was handled properly.

5 Q How long did you hold that position?

6 A I was on Echo Platoon in that capacity for almost two
7 years before I transferred over to school enforcement.

8 Q Did you have an opportunity to become involved in
9 this case?

10 A I did.

11 Q When did you become involved in the case?

12 A When the call came out, I responded up there as a
13 supervisor on scene. At the time, there were two
14 supervisors on that side of town. There would have been
15 one for the shift that worked 7 a.m. to 7 p.m., but due to
16 the time frame and the fact that they were getting off
17 shortly, I responded up there to supervise that incident.

18 Q Were you on the east side of town?

19 A Yes, sir. I was.

20 Q How long did it take you to get up to that part of
21 town?

22 A I don't recall because I don't recall where I was
23 when the call was dispatched.

24 Q Do you remember what time of day it was that you
25 arrived?

1 A I don't remember the exact time. I just know it was
2 in the evening shortly before 7:00 because that would have
3 been when the other shift was getting off. And I know
4 that the one guy on our platoon is the guy that kind of
5 took over the scene once he got there to do the incident
6 report. That way, the other deputies could get relieved
7 to go home.

8 Q Who was there when you arrived?

9 A I'm trying to remember. I'd have to look at the
10 incident report to see who the Delta Platoon deputy was.

11 Q Who was on your platoon that was there?

12 A Deputy Mark Husk.

13 Q And he's the one that ---

14 A He's the one that arrived after me and kind of took
15 over the scene as far as documenting what happened on the
16 incident report on the original report.

17 Q What did you do once you arrived?

18 A Once I arrived and confirmed, you know, what type of
19 scene we had, I ensured that the deputies put up crime
20 scene tape to basically preserve the scene until the
21 investigator could get there. We also cleared the scene
22 for EMS to come in and check on the subject. And then I
23 also notified the on-call homicide investigator.

24 Q Did EMS go to the scene?

25 A They did.

1 Q Did you perform any lifesaving techniques on the
2 victim or anything?

3 A No, I didn't. When we walked up in close proximity,
4 it was evident that there were no signs of life and that
5 he'd been deceased for, you know, some -- some period of
6 time, it appeared.

7 Q What was the weather like at that time?

8 A I don't remember the temperature or whether it was
9 sunny or not, but I just know it was extremely cold,
10 because when I got out, I had to bundle up, put a coat on,
11 a beanie. But other than that, I don't recall what the
12 weather conditions were.

13 Q Did you have any other involvement in this case?

14 A No. Once I called for EMS to clear and then for the
15 homicide investigator to come up, we also maintain the
16 scene for forensics to come and do their job. But after
17 that was done, I went to the end of the road and just
18 blocked off traffic so that no traffic would be going down
19 in front of the scene.

20 Q Who was the homicide investigator that showed up?

21 A It was Antonio Bailey who's sitting there behind you.

22 MR. GREGORY: Please answer any questions the defense
23 has for you.

24 THE COURT: Cross-examination.

25 MR. KORNFELD: None, Your Honor.

1 THE COURT: All right. I have none. Sir, you can
2 step down.

3 THE WITNESS: Thank you, sir.

4 MR. GREGORY: Your Honor, we ask that this witness be
5 excused from his subpoena.

6 THE COURT: Any objection?

7 MR. KORNFELD: No, Your Honor.

8 THE COURT: All right. Sir, you're excused. Thank
9 you for coming.

10 THE WITNESS: Thank you.

11 THE COURT: All right. State call its next witness.

12 MR. BLOUIN: The State would call Sergeant Hamilton.

13 THE COURT: All right. Sergeant Hamilton, if you
14 would come forward where the Bible is, and Madam Clerk
15 will swear you in.

16 THE CLERK: Put your left hand on the Bible and raise
17 your right.

18 WHEREUPON,

19 JONATHAN HAMILTON.

20 After having been duly sworn, testified as follows:

21 THE CLERK: Please have a seat.

22 THE COURT: Speak in close proximity to that
23 microphone so everyone can hear you.

24 Yes, sir, Mr. Blouin.

25 MR. BLOUIN: Thank you.

DIRECT EXAMINATION

BY MR. BLOUIN:

Q Sergeant Hamilton, where are you employed?

A Greenville County Forensics Division.

Q And how long have you been employed there?

A With Greenville County Forensics, I've been employed there since 2007. About 11, almost 12 years. Something like that.

Q And what is your position with the Forensic Division?

A I'm a sergeant now with Forensics Division.

Q Okay. And what were you on the 29th of January 2016?

A I was a sergeant.

Q What sort of duties does a sergeant have to do?

A We have a plethora of different things that we have to do. I have 11 officers that I have to keep up with training, I approve reports or send them back if they're not meeting our standards, I have to keep up with all the photographs that they're uploading to make sure that they're taking quality photographs for investigation purposes, we do quality checks on our people, evaluations, administrative duties. You name it. I go to calls. I do a little bit of everything.

Q So when you're called to a death investigation, what do you expect to have to do?

A Normally, on a death investigation, we know that, of

1 course, we're going to gather the necessary information
2 from those on scene. When I do a walk-through of the
3 scene, come and, you know, recognize what evidence that
4 may be there that we may want to collect. We know that
5 we're going to be taking photographs. Most of the time we
6 take video, digital video, measurements of the scene for a
7 diagram. So those are the basics. Of course, it can get
8 dynamic or it can be easy, just depends on what's there on
9 scene for us to be able to gather.

10 Q So did you respond to this incident investigation on
11 January 29, 2016?

12 A I did.

13 Q And what did you do when you went to that location?

14 A Well, first thing that we do is we always make
15 contact with the investigators that are on scene. Most of
16 the time, by the time I get to a death scene, the actual
17 investigator for that agency, this being Bailey with
18 Greenville County Sheriff's Office, I ask him all
19 pertinent information, you know, the who, what, when,
20 where, why, how of the scene so I have a baseline of where
21 to start off from.

22 The next thing is that normally, the Coroner's Office
23 is always also on scene, so the investigator, myself and
24 the coroner, we'll do a walk-through of the scene. And
25 we'll just recognize anything that may pique our interest,

1 we'll talk about it, make sure that we have good
2 communication between one another, recognize what evidence
3 may need to be collected and then move forward from there
4 for the processing.

5 Q Okay. So when you arrived at the scene, what
6 specifically did you do in this death investigation?

7 A I took photographs of the scene starting at the
8 roadway leading all the way up to where the decedent's
9 lying. Digital video of the scene, I did that, I
10 collected some items of evidence, and I also did
11 measurements for a diagram.

12 Q Okay. Did you produce a diagram?

13 A Yes, I did.

14 MR. BLOUIN: May I approach the witness?

15 THE COURT: Yes, sir.

16 BY MR. BLOUIN:

17 Q Would you please tell the jury what that is.

18 A This is the black-and-white version of my diagram
19 that I made for the location of the body.

20 Q Okay. You don't have a colored version with you, do
21 you?

22 A I do.

23 Q If I could take that from you.

24 And this color version is the exact same?

25 A It's off of the secured I-drive of the Greenville

1 County where we store all the information for those
2 reports.

3 Q And you created this diagram?

4 A I did.

5 MR. BLOUIN: Your Honor, at this time, I'd like to
6 mark this as State's Exhibit Number 4.

7 THE COURT: Any objection?

8 MR. KORNFELD: No, Your Honor.

9 THE COURT: All right. State's Exhibit Number 4 so
10 marked.

11 MR. BLOUIN: Permission to publish to the jury.

12 THE COURT: All right. Any objection?

13 MR. KORNFELD: No, Your Honor.

14 THE COURT: All right.

15 (WHEREUPON, State's Exhibit Number 4 was marked for
16 identification.)

17 BY MR. BLOUIN:

18 Q Is this the diagram you created?

19 A It is.

20 Q All right. If you could, explain a little bit about
21 the diagram. What's this picture on the top that we're
22 going to have to probably pass around because it doesn't
23 show up as well as I hoped it would?

24 A That is a Google Earth downward image of the scene in
25 question where the decedent was -- the victim was located.

1 Q And then that kind of -- this circle here
2 (indicating) is a diagram of an enhanced portion of that?

3 A Yes. It's trying to give the viewer an impression of
4 what that scene was, that there's vegetation on both sides
5 where his body was located, and a fence line that was in
6 there and mentioned in my report.

7 Q Can you explain how that body was located and how it
8 looked when you arrived?

9 A Yes. The body was actually kind of tossed to the
10 side of the road. And I hate to say it that way, but
11 that's -- that's what it appeared. It appeared that, due
12 to the injuries, there was a lack of blood at the scene.
13 It appeared the body had been possibly drug, of course,
14 you know, that's just because vegetation in the dirt had
15 been moved leading up to where the body was laid. Pants
16 were also down by the knees or by the ankles, which is an
17 indication that the body was possibly drug. Just
18 honestly, looked like a site that the body was placed
19 after it had died.

20 Q Were you able to view any injuries on the body from
21 where you were standing?

22 A I did. I did notate some injuries. He had a large
23 wound to his left side of his -- left side near his back.
24 It didn't have any suspected blood running out of it.

25 And I apologize. Suspected blood is my terminology

1 in my office that we use for possible blood, so when you
2 hear me say "suspected" . . .

3 He had another wound on the side of his back and
4 almost in the center lower portion of his back. It looked
5 like he might have had some on his face as well from the
6 location where he was placed at the time. His front part
7 of his body was down so you couldn't see everything, just
8 the parts that were showing.

9 MR. BLOUIN: Your Honor, at this time, I'm going to
10 move for State's Exhibit 4 be entered into evidence.

11 THE COURT: Any objection?

12 MR. KORNFELD: No objection.

13 THE COURT: Without objection?

14 MR. KORNFELD: Without objection, Your Honor. Yes.

15 THE COURT: So entered.

16 (WHEREUPON, State's Exhibit Number 4 was admitted into
17 evidence.)

18 BY MR. BLOUIN:

19 Q Now, Sergeant Hamilton, I'm going to show, let's see,
20 what's been premarked as State's Exhibit Number 2. Do you
21 recognize this photo?

22 A I do.

23 Q Did you take that photo?

24 A I did.

25 Q And is that a fair and accurate description of -- has

1 that photo been altered in any way?

2 A No. No, it hasn't.

3 MR. BLOUIN: All right. Your Honor, at this time, we
4 would move State's Exhibit Number 2 into evidence.

5 THE COURT: Any objection?

6 MR. KORNFELD: No objection.

7 THE COURT: All right. State's Number 2 is so
8 admitted without objection.

9 (WHEREUPON, State's Exhibit Number 2 was admitted into
10 evidence.)

11 MR. BLOUIN: The State would ask to publish to the
12 jury.

13 THE COURT: All right. Any objection? All right.
14 Request is granted.

15 BY MR. BLOUIN:

16 Q All right. Once again, let's see if I can lighten
17 this up a little bit.

18 What is this a picture of?

19 A This is the victim's feet with the pants down as I
20 said earlier, down towards his ankles.

21 Q Okay. I'm going to get you to look up real quick
22 here. Where I'm pointing with my pen, is that
23 (indicating) a pocket?

24 A Yes.

25 Q Is that pocket outturned?

1 A Yes.

2 Q And I want you to look, it's kind of hard to see here
3 but I can bring it to you, over here (indicating), what's
4 that on the ground beside?

5 A May I look at it again?

6 Q Sure. We may have to turn the light on real quick.
7 Right there (indicating).

8 A That's change, money, coins.

9 Q Now, is the victim in this picture wearing any shoes?

10 A No.

11 Q Did you find any shoes on the scene?

12 A I did not.

13 Q And do his socks appear dirty?

14 A Parts of them are.

15 MR. BLOUIN: May I approach the witness, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. BLOUIN:

18 Q I'm going to show you -- if I could get the lights
19 one more time, if I can show you what's been marked
20 State's Exhibit Number 3. I believe you took this
21 picture. But you were in that field.

22 A Uh-huh.

23 Q Do you recognize that field?

24 A Yes. This is the field where the victim was located.

25 Q And is that an accurate depiction of the size of the

1 field from you being there from the road?

2 A Yeah. It's a lot bigger than it looks, about
3 342 feet from the roadway to where he was located.

4 MR. BLOUIN: Okay. The State would move for
5 Exhibit 3 to be put into evidence.

6 THE COURT: All right. Any objection?

7 MR. KORNFIELD: No, Your Honor.

8 THE COURT: All right. State's Number 3 so admitted
9 without objection..

10 (WHEREUPON, State's Exhibit Number 3 was admitted into
11 evidence.)

12 MR. BLOUIN: And permission to publish to the jury.

13 THE COURT: All right. Any objection?

14 MR. KORNFIELD: No, Your Honor.

15 THE COURT: All right. Permission granted.

16 BY MR. BLOUIN:

17 Q So, Sergeant Hamilton, you've been in this field.
18 This is the field that this incident occurred?

19 A Yes. It's on the -- I think this is more on the
20 right side, or if you're looking from the roadway up
21 afterwards where the victim was, it's to the left, I
22 believe, is where this photo was taken looking out towards
23 Burrell Road.

24 Q And does that accurately show the distance of the
25 field?

1 A Yes.

2 MR. BLOUIN: All right. Thank you. Please answer
3 any questions the defense may have.

4 THE COURT: Cross-examination, Mr. Kornfeld.

5 CROSS EXAMINATION

6 BY MR. KORNFELD:

7 Q Mr. Hamilton -- or Sergeant Hamilton, did you do any
8 forensics at the time or was your scope to just take
9 pictures at that time? Did you take any ---

10 A Well, forensics is encompassed in taking additional
11 photographs, video, collection of evidence. That is the
12 -- encompasses the forensics job.

13 Q All right. I guess my question then is did you take
14 any DNA swabs or anything of that nature?

15 A No, sir.

16 MR. KORNFELD: Okay. All right. I don't have any
17 further questions.

18 THE COURT: Anything on redirect?

19 MR. BLOUIN: Nothing, Your Honor.

20 THE COURT: All right. I have no questions. Sir,
21 you can step down.

22 MR. BLOUIN: Your Honor, we'd ask that Sergeant
23 Hamilton be released from his subpoena.

24 THE COURT: All right. Any objection?

25 MR. KORNFELD: None, Your Honor.

1 THE COURT: All right. The State's ready to proceed?

2 MR. BLOUIN: The State is ready to proceed, Your
3 Honor.

4 THE COURT: All right.

5 WHEREUPON,

6 SHEILA HAWKINS DAVIS

7 After having previously been duly sworn, testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. BLOUIN:

11 Q Ms. Hawkins, can you state your full name for the
12 jury?

13 A Sheila Hawkins Davis.

14 Q All right. And, Ms. Davis, where do you live?

15 A My address?

16 Q Or just ---

17 A Greenville. In Greenville.

18 Q Greenville. How long have you lived in Greenville?

19 A All my life, 43 years.

20 Q All right. And did you know the victim in this case,
21 Jamie Howard?

22 A Yes.

23 Q And how did you know Jamie?

24 A I knew Jamie from high school. We dated in high
25 school.

1 Q All right. Did you keep in touch ever since high
2 school?

3 A On and off. We -- there was many years in between
4 from when he went into the Air Force until about ten --
5 eight or ten years ago we reconnected. But there was a
6 big gap in time where we were not ---

7 Q So you did reconnect.

8 A I'm sorry?

9 Q You did reconnect.

10 A We did reconnect. Yes, sir.

11 Q And when did you reconnect?

12 A I'm not sure of the year. My guess would be '09,
13 maybe.

14 Q Okay. And how often did you speak?

15 A From '09?

16 Q From when you reconnected until ---

17 A Daily.

18 Q Daily?

19 A Yes.

20 Q Did you speak mainly on the phone or through text
21 messages?

22 A Phone, text messages, in person. He did some
23 landscaping work at my house for my mother, and that's
24 about it.

25 Q Okay. Were you present when Jamie was killed?

1 A No.

2 Q And when is the last time you talked to Jamie?

3 A The last time I talked with Jamie would have been
4 1:30 a.m. on Tuesday the 19th.

5 Q Okay. What did you talk about?

6 A Well, unfortunately, he had lost his job and he was
7 very upset about that. And I had spoke with him several
8 times throughout the evening, and then the last time we
9 spoke he said he was going to get some rest and that he
10 was going to go to bed. And that was it.

11 Q Did you attempt to speak to Jamie after that point?

12 A I tried to get in contact with him, yes, but I was
13 unable ---

14 Q How many times did you try to get in contact with
15 him?

16 A Several dozen times.

17 Q What happened when you tried to get in contact with
18 him?

19 A The phone would go straight to voicemail.

20 Q Okay.

21 A His phone would go straight to voicemail.

22 Q So that was the last time you talked to Jamie?

23 A Yes, sir.

24 Q All right. Where was Jamie living at the time?

25 A Super Lodge on Mauldin Road.

1 Q Now, after Jamie had been found, what did you do?

2 A What did I do?

3 Q Right. Did you get in touch with investigators?

4 A After he had been found, the investigators called and
5 got in contact with me. And I think ---

6 Q Did you give the investigators anything?

7 A Did I give them anything as far as an item or ---

8 Q Or help.

9 A The questions they asked me was just when's the last
10 time I'd seen him and what we had talked about, and
11 basically, that's -- that's all. The last time I talked
12 to him and those kind of questions.

13 Q Did you give them the phone number?

14 A Jamie's phone number?

15 Q Yes.

16 A Yes. Uh-huh.

17 Q Did Jamie use drugs?

18 A He had been known to.

19 Q Did he use drugs around you?

20 A No.

21 Q Did you know what types of drugs he used?

22 A I know that in the past it had been methamphetamines.

23 MR. BLOUIN: Okay. Please answer any questions that
24 the defense may have for you.

25 THE COURT: Mr. Kornfeld.

CROSS EXAMINATION

BY MR. KORNFELD:

Q Ms. Hawkins, isn't it true that you told Investigator Bailey that you got a hotel room with Jamie on January 4th and January 6th of 2016?

A That I got a hotel room with him?

Q Yes. That you got a motel room with Jamie on 1/4 and 1/6 of 2016.

A It was December, in December.

Q Okay.

A It was December, the weekend of the 5th, I believe, of December.

Q All right. So you think it was December 4th and 6th or ---

A It was whatever -- it was December of -- I know the 5th, but maybe on a Sunday. So I think it would have been the first -- I'm not 100 percent sure, but it was the weekend of the 5th. I think the 5th may have fallen on a Sunday. But it was in December.

Q All right. So you were Mr. Howard's on-and-off-again girlfriend, correct?

A Correct. Uh-huh.

Q And you believe he also had -- or you told investigators that he also had two other people that you believed to be his girlfriend, correct?

1 A Well, this was after he and I had -- had split up.

2 Q All right. And he lost his job. You testified to
3 that, correct?

4 A Uh-huh.

5 THE COURT: Make sure you say yes or no.

6 THE WITNESS: Yes, yes.

7 BY MR. KORNFELD:

8 Q And did you tell Investigator Bailey that he was
9 depressed?

10 A Yes.

11 Q And did you tell him that he had a problem with his
12 mother?

13 A He and his mother had had an argument, yes.

14 Q Had what? I'm sorry.

15 A I think they had had an argument, yes, or
16 disagreement. Uh-huh.

17 Q Not only that, his mother locked him out of her house
18 and put his work stuff and ID on her back porch, correct?

19 A Yes.

20 Q All right.

21 A That was that same weekend in December.

22 Q And you kind of stated that he was known to do drugs;
23 is that correct?

24 A Yes.

25 Q And your testimony here today is that you never did

1 drugs with him?

2 A Right. That's correct.

3 Q All right. Did you yourself actually do drugs?

4 A No, sir.

5 Q You've never done methamphetamine here today?

6 A No, sir.

7 Q That's what you -- and you've never done it ever.

8 MR. BLOUIN: Objection, Your Honor. Asked and
9 answered. He asked if she'd done drugs. She said no.

10 THE COURT: Overruled. Answer your question, ma'am.

11 THE WITNESS: Okay. Exactly what -- have I ever done
12 drugs? Is that what you're asking me? Or with him?

13 BY MR. KORNFELD:

14 Q I specifically asked if you've ever done
15 methamphetamine.

16 A In the past, yes.

17 Q Yes. As a matter of fact, did you know Mr. Howard to
18 sell drugs as well?

19 A No, no. That's ---

20 Q And you yourself, in fact, used to sell
21 methamphetamine, did you not?

22 A This was before he and I had reconnected.

23 Q All right.

24 A And this -- this -- if I may say, that's after I had
25 gotten in trouble for that. That's when I stopped and I

1 refused to be a part of that.

2 Q All right. Your testimony here today is after you
3 got in trouble. When was the last time that you got in
4 trouble with selling methamphetamine?

5 A That would have been 2006 or 2007.

6 Q All right. And give me one second.

7 Did you tell officers that Mr. Howard had broken his
8 foot back in August of 2015?

9 A He had an injury to his -- to his ankle or his foot.
10 I can't remember the exact injury. But yes, he did have
11 an injury. He had surgery. I think it was July or
12 August. I'm not sure. That's 2015, maybe, it would have
13 been.

14 Q Okay. Now, Ms. Hawkins, you've done drugs with
15 Mr. Mathis back in 2014 and 2015, didn't you?

16 A No, no. Not ---

17 Q Not at all?

18 A No.

19 Q Okay. And you're under oath here, and that's your
20 testimony under oath.

21 A That's correct.

22 Q How often did you see Mr. Howard?

23 A Depending on when, what time frame. At one point, it
24 was daily. I mean, it just -- it just depend -- depends
25 on what, you know, time frame we're talking about.

1 Towards the end of 2015 -- until the end of 2015, which
2 would have been maybe Thanksgiving and beyond, I see him
3 on a pretty regular basis, but then through the summer up
4 until Thanksgiving, we did not see very much of each other
5 again at that time.

6 Q All right. And what caused y'all to -- at the time
7 of this incident, did you ever know of Mr. Howard to carry
8 weapons?

9 A No.

10 Q And did you ever know of him to sell drugs?

11 A I could only speculate, but no, no. I mean, I would
12 not -- I had not seen that personally.

13 Q All right. And did he ever have a -- did he ever
14 have a temper with you?

15 A He had. He had, yes. Sometimes we'd have arguments.
16 Uh-huh.

17 Q Would they get heated at some point?

18 A I don't know what you mean by heated. I mean, how --
19 how -- it's -- we would just have arguments. I mean, just
20 like other couples would have arguments, we had -- we had
21 our arguments. I had a temper, you know, so did he, so we
22 would ---

23 Q Well, he was bigger than you, correct?

24 A Yes.

25 Q Were you ever afraid of him?

1 A Not -- I didn't fear for my life or anything, if
2 that's what you're asking. No. I did not fear him that
3 way. No. Hu-uh.

4 Q Well, what about you can be afraid of somebody and
5 not fear for your life, correct?

6 A Right. Uh-huh. I can -- I would go back around him
7 after our arguments. We would -- you know, I would not
8 avoid him, no. So ---

9 Q But it is safe to say that, for whatever reason, you
10 were with him for a while and then y'all would tail off.

11 A Correct.

12 Q And then you would get back together for several
13 years, correct? Since at least 2009.

14 A Yes. Well, and I can't remember exactly what year we
15 would say we were in a committed relationship and then ---

16 Q Well, let me ask you that. I mean, he's telling you
17 he's got two other girlfriends, right? I mean, what's
18 your ---

19 A No. This is after he and I were apart he was seeing
20 two other people.

21 Q Okay. But you were together, you testify now, in
22 December of 2015, correct?

23 A Correct. To a certain degree, yes. Correct.

24 Q But y'all were still talking in January. As a matter
25 of fact, you talked to him on the day he died at 1:30 in

1 the morning, correct?

2 A I talked. We -- we -- for a time period during 2015
3 through the summer, through the end of the summer and up
4 until Thanksgiving, we very rarely would cross paths. On
5 Thanksgiving or right around Thanksgiving on -- in 2016,
6 even though we were seeing each other more, I was holding
7 the reins back, so to speak, on having a full-blown
8 relationship with him. But I -- we still would see each
9 other on a regular basis until the last day that I had
10 seen him was January 17th of, I think, 2016.

11 Q Correct. Were you working at that time?

12 A Yes.

13 Q Where were you working at that time?

14 A Heavenly Care Services.

15 Q Say that again?

16 A Heavenly Care Services.

17 Q What did you do for them?

18 A I was a personal care aide. I took care of someone
19 who had Downs Syndrome. I would go to their house and
20 take care of them daily during the week.

21 Q All right. And, Ms. Hawkins, I just want to recap
22 and we'll be done here.

23 A Okay.

24 Q You said you were never afraid for your life or
25 anything like that, but did Mr. Hawkins ever beat up on

1 you?

2 A Beat up on me?

3 Q Did he ever lay his hands on you?

4 A He never harmed me, no. He -- but one or two
5 occasions he may have, you know, popped me or something,
6 but he never harmed me. He never, you know, bruised me or
7 anything like that. He didn't ever harm me.

8 Q Now, you're under oath, and I know you know that, but
9 was he on drugs at that time or drinking alcohol at that
10 time? Tell what you knew.

11 A I never -- I never knew of him to be an alcoholic or
12 to drink a lot of alcohol. I know things had changed with
13 him, so I could speculate maybe there was something else
14 going on in his life because there was a difference in
15 him. From the beginning of our relationship to that
16 point, you know, there had been a change. I can't say for
17 certain what -- what that -- why that change, the reason
18 for that change. So it could have very well been drugs.
19 I don't -- I don't know.

20 Q Okay. Did he ever have a metal pole around you?

21 A A metal pole?

22 Q Yes.

23 A No.

24 Q What about a -- you said no to a knife or a dagger of
25 any kind, correct?

1 A Correct.

2 Q What about a gun? Did he ever have a gun around you?

3 A Not that I'm aware of. I did not see a gun. Hu-uh.

4 Q You've been to Mr. Howard's place, wherever he lived.
5 I know that he lived in different motels and things like
6 that; is that correct?

7 A Correct.

8 Q What about that? Did he have -- did you ever see
9 weapons of any kind in his hotel or his place of
10 residence?

11 A No, no.

12 Q What about a samurai sword?

13 A No.

14 Q You know Mr. Mathis, correct?

15 A Yes. I know of him. Uh-huh. That's correct.

16 Q And how do you know him?

17 A We had brushed shoulders a time or two over at some
18 friend's house. And actually, I know his brother. I knew
19 his brother. And that's originally how I knew him, but
20 that was many, many years ago. But I knew his brother.

21 Q Okay. And at any of those times, you never ever did
22 any kind of drugs with Mr. Mathis or anybody else around
23 him?

24 A No.

25 Q No, you didn't do any drugs?

1 A That's correct. No, I did not.

2 Q Did you ever tell anybody about with Mr. Hawkins
3 [sic], what you said lightly smacked you on the face? Did
4 you ever say -- tell anybody about that?

5 A Don't think so. I can't recall. Probably so, but I
6 can't say for certain if I did or not.

7 Q Okay.

8 A It was Mr. Howard.

9 MR. KORNFELD: I don't have any further questions.

10 THE COURT: Anything on redirect?

11 REDIRECT EXAMINATION

12 BY MR. BLOUIN:

13 Q Just two quick questions on redirect.

14 How did Jamie get around?

15 A How did Jamie get around? A vehicle.

16 Q What type of vehicle did he have?

17 A The last vehicle he had was a blue -- a cobalt blue
18 PT Cruiser.

19 Q Did he have it very long?

20 MR. KORNFELD: I don't think ---

21 THE WITNESS: It seems like he got it ---

22 THE COURT: Hold on a sec.

23 Mr. Kornfeld?

24 MR. KORNFELD: I would just kind of object as I don't
25 think I asked any questions about -- I don't think this is

1 proper redirect.

2 THE COURT: Your objection is outside the scope?

3 MR. KORNFELD: Yes.

4 MR. BLOUIN: I can move on, Your Honor.

5 THE COURT: All right. Move on.

6 BY MR. BLOUIN:

7 Q Mr. Kornfeld mentioned, asked you a question about
8 girlfriends. Did you know who Jamie's other girlfriends
9 were?

10 A After -- let's say towards the end of the summer of
11 2015, I think, I know that he had been seeing Davia.

12 Q Do you know her full name?

13 A Davia -- I don't. Yeah. It starts with an S, I
14 think, maybe. Davia. I don't -- I don't know.

15 And let me think. My mind's blank. I know there was
16 a few other girls maybe he was hanging around with, but
17 I'm not sure that they were actually in a relationship as
18 far as girlfriend/boyfriend, but I know that he and Davia
19 were.

20 Q And just to be clear, what was that time frame that
21 you knew he was seeing Davia?

22 A I want to -- the summer of 2015. So maybe July,
23 August, somewhere in there is when it began. Maybe
24 earlier. I don't know.

25 Q So when you say they were in a relationship, what

1 does that mean? They were dating?

2 A They were seeing each other, yes. Uh-huh.

3 Q Okay. And how did you know about that?

4 A Well, he pretty much would, I guess, flaunt that, or,
5 you know, would want me to know.

6 MR. BLOUIN: No further questions.

7 THE COURT: Anything on recross?

8 MR. KORNFELD: No, Your Honor.

9 THE COURT: All right. I have no questions, ma'am.

10 You can step down.

11 THE WITNESS: Okay.

12 THE COURT: Thank you, ma'am.

13 MR. BLOUIN: We'd ask that she be released from her
14 subpoena and allowed to go.

15 THE COURT: Any objection, Mr. Kornfeld?

16 MR. KORNFELD: No, Your Honor.

17 THE COURT: All right. Without objection, ma'am,
18 you're free to go.

19 THE WITNESS: So I can leave?

20 THE COURT: Yes, ma'am.

21 THE WITNESS: Okay. Thank you.

22 THE COURT: All right. State's next witness.

23 MR. GREGORY: Your Honor, the State calls Dr. James
24 Fulcher.

25 THE COURT: Dr. Fulcher, if you'll come forward to

1 where the Bible is, Madam Clerk will swear you in.

2 THE CLERK: Will you put your left hand on the Bible
3 and raise your right?

4 WHEREUPON,

5 DR. JAMES FULCHER

6 After having been duly sworn, testified as follows:

7 THE CLERK: Please have a seat.

8 THE COURT: Speak loud enough so everyone can hear
9 you. Thank you, sir.

10 DIRECT EXAMINATION

11 BY MR. GREGORY:

12 Q Dr. Fulcher, where are you employed?

13 A Pathology Associates of Greenville, South Carolina.

14 Q And what is your position there?

15 A I'm a medical examiner for the county. That's my
16 appointed title. My professional title is forensic
17 pathologist.

18 Q What is a forensic pathologist?

19 A A forensic pathologist is a subset of a physician who
20 specializes in doing autopsies for the purpose of finding
21 out the cause and the manner of death in a particular
22 case.

23 Q What counties do you do autopsies for?

24 A I do autopsies for Greenville County, Laurens County
25 and Pickens County.

1 Q What's your educational background for becoming a
2 forensic pathologist?

3 A Sure. I originally went to college at the University
4 of Virginia. I went to medical school at the Medical
5 College of Virginia in Richmond, Virginia. I then
6 completed a four-year residency in anatomic and clinical
7 pathology at the MCV in Virginia. And then finally, I did
8 a one-year fellowship at the chief medical examiner's
9 office in Richmond, Virginia for a total of -- basically,
10 you're 30 when you get out of school.

11 Q Are you the only medical examiner in Greenville
12 county?

13 A I'm not. There are two others right now: Dr. Grace
14 Dukes and Dr. Mike Ward.

15 Q And you're licensed. You're a licensed physician.

16 A Yes. I'm licensed to practice medicine in North and
17 South Carolina.

18 Q Are you certified by any boards?

19 A I am. I'm board certified in all specialties that I
20 sat for the board exam: anatomic pathology, clinical
21 pathology and forensic pathology.

22 Q How many forensic autopsies have you performed in
23 your career?

24 A Approximately 3,000.

25 Q Have you ever testified at trial to your findings of

1 the autopsies?

2 A Yes. Quite often.

3 Q How many trials? Are you able to give an estimate?

4 A Probably 40.

5 Q Have you ever been qualified as an expert in forensic
6 pathology?

7 A I have, yes.

8 Q How many times have you been qualified as an expert?

9 A Every time I testified, so approximately 40.

10 MR. GREGORY: Your Honor, at this time, the State
11 would have Dr. Fulcher qualified as an expert in forensic
12 pathology.

13 THE COURT: Any objection?

14 MR. KORNFELD: No, Your Honor.

15 THE COURT: All right. He is so qualified.

16 BY MR. GREGORY:

17 Q Dr. Fulcher, were you asked to conduct a forensic
18 autopsy in this case?

19 A I was. Yes, sir.

20 Q Can you tell the jury when you did that?

21 A This postmortem examination autopsy was done
22 January 30, 2006 [sic], at 9 a.m.

23 Q Where did you conduct the autopsy?

24 A We operate a morgue in the basement of the Greenville
25 Memorial Hospital.

1 THE COURT: You said 2016 or '6? You said ---

2 THE WITNESS: '16. Sorry. '16. My apologies.

3 BY MR. BLOUIN:

4 Q Who was present for the autopsy?

5 A Present at autopsy were myself, Deputy Coroner Sonny
6 Soler, who's with the Coroner's Office, Detective
7 Kirchmeyer from forensics, Shawnee Peeples from Greenville
8 County Criminal Justice Support Department, and then my
9 autopsy tech was Heather Allen at the time. She's
10 basically my personal assistant during the processing of
11 the body.

12 Q Were you able to identify the body?

13 A I was, yes. The body was previously labeled by the
14 coroner, and identification in this case, I believe, was
15 done by Dr. -- or not Dr. -- Coroner Soler.

16 Q What was the identity of the body?

17 A The body is that of a Jamie Howard.

18 Q What was his age?

19 A 42.

20 Q What were the physical dimensions of Mr. Howard?

21 A Mr. Howard, at the time of autopsy, measured
22 169 pounds and 71 inches tall.

23 Q Was he dressed?

24 A He was. He was dressed in a T-shirt with a Superman
25 logo, jeans and a belt, briefs, socks, shoes.

1 Interestingly, the socks were very clean and white on the
2 outside surfaces.

3 Q During the course of the autopsy, did you find any
4 evidence of trauma or injury?

5 A I did. Yes, sir.

6 Q What did you find?

7 A I have -- and I need to amend that last statement.
8 I'm just looking at my diagram. Shoes should not be
9 there. I apologize. He was received in his stocking
10 feet. I do not have any notes that he was received in
11 shoes.

12 The injuries include a stab wound of the torso, the
13 back, if you will (indicating). We also have a sharp
14 injury to the hand, some blunt trauma to the face, and
15 then there's trauma to the neck which implies
16 strangulation.

17 Q During the course of the autopsy, did you draft a
18 diagram of the injuries?

19 A I do. Yes, sir.

20 Q And did you do that in this case?

21 A I did, yes.

22 (WHEREUPON, State's Exhibit Number 5 was marked for
23 identification.)

24 BY MR. GREGORY:

25 Q I'm going to show you what's been marked as State's

1 Exhibit Number 5.

2 A Yes.

3 Q Do you recognize that?

4 A I do. This is the body diagram.

5 Q And is that your handwriting on the body diagram?

6 A It is.

7 Q Are those notes made contemporaneous with the
8 autopsy?

9 A They are.

10 Q Is that a fair and accurate representation?

11 A It is.

12 Q Has it been altered in any way?

13 A It is not.

14 MR. GREGORY: Your Honor, at this time, the State
15 would seek to introduce State's Exhibit Number 5 into
16 evidence.

17 THE COURT: Any objection?

18 MR. KORNFELD: No objection.

19 THE COURT: Number 5 so entered, State's exhibit.

20 (WHEREUPON, State's Exhibit Number 5 was admitted into
21 evidence.)

22 BY MR. GREGORY:

23 Q And, Dr. Fulcher, I'd like to put that on the
24 overhead. It might be easier if you step down to see it.
25 I've got a laser pointer for you.

1 A Very good.

2 Q I know the actual writing is kind of difficult, but
3 if you could ---

4 A Yes. Very good.

5 Q So let's start with the injuries that you talked
6 about. I believe the first one was a stab wound. Will
7 you point that to the jury, please.

8 A It's here above the upper buttocks. It's -- I
9 describe it as an inverted V. So it comes to a point
10 superiorly, or at the top, and then it's two separate
11 points at the bottom, but it's one whole. That's the
12 fatal wound.

13 There's also a very significant irregular wound to
14 the web of this hand. Essentially, it's cut on the web of
15 the hand. I'll show you later.

16 And then finally, there's blunt trauma, contusions to
17 the face with a laceration to the anterior forehead. And
18 there is also a superficial wound to the left shoulder.
19 It's really not that significant. Most of it is soft
20 tissue (indicating throughout).

21 Q If you will return to the witness stand.

22 (WHEREUPON, State's Exhibit Numbers 6 and 7 were marked
23 for identification.)

24 BY MR. GREGORY:

25 Q I'm going to show you what has been marked as State's

1 Exhibit Number 6.

2 A Yes.

3 Q Do you recognize that?

4 A I do.

5 Q And is that a fair and accurate representation?

6 A It is. This is the stab wound to the flank.

7 MR. GREGORY: Your Honor, at this time, the State
8 would seek to introduce State's Exhibit Number 6 into
9 evidence.

10 THE COURT: Any objection?

11 MR. KORNFELD: No objection.

12 THE COURT: Without objection?

13 MR. KORNFELD: Without objection.

14 THE COURT: All right. State's Exhibit Number 6 is
15 so entered.

16 (WHEREUPON, State's Exhibit Number 6 was admitted into
17 evidence.)

18 THE COURT: Go ahead.

19 BY MR. GREGORY:

20 Q Has this picture been altered in any way?

21 A It is not, sir.

22 Q I will attempt to put this on the overhead for you.
23 This is that (indicating) one, correct?

24 A Correct. This is the triangle. This is the top of
25 the triangle and the bottom. So his head is here, and the

1 rest of his body would be down here (indicating
2 throughout).

3 Q So is this a fair way of showing it?

4 A That's better. Sure. This would be him standing
5 upright.

6 Q What can you tell the jury about this injury?

7 A The injury, like I said, it's one hole.
8 Interestingly, though, the assailants, the weapon is not
9 pulled completely out of the hole in the body, so the
10 knife is put in and then redirected multiple times. So
11 the tip of the knife never leaves the body, but it is
12 pushed in at least five times through the same hole. So
13 while it only looks like one irregular wound, it is
14 actually caused by five penetrations from the same initial
15 break in the skin, if that makes sense.

16 Those wounds are deep. They injure such things as
17 the heart, the lungs, the pericardium, the sac around the
18 heart, the spleen and the liver. There are at least five
19 different distinct wound paths associated with this single
20 entry point, and the deepest wound from the flank where I
21 showed you earlier in the body diagram goes all the way up
22 to the heart and is about 12 inches in length total. The
23 others are less -- less long, of course.

24 Q When you say 12 inches in length, is that from the
25 skin to the inside?

1 A Correct. That is from the skin to the end point of
2 the wound path, 12 inches.

3 Q So if it was a knife, the blade would be
4 approximately 12 inches.

5 A Kind of. You -- if you're angry at somebody, you can
6 take a ten-inch blade and make a 12-inch hole because you
7 compressed the tissue. You push hard on it, you can
8 actually make the wound a little longer.

9 I can tell you that it wasn't a two-inch knife, for
10 sure. This was a significant blade. But as far as the
11 exact length, I cannot be exactly sure.

12 Q And I want to go through a little more detail of the
13 path. You said one path went through the heart; is that
14 correct?

15 A Yes, sir.

16 Q What part of the heart did that hit?

17 A Sure. We had several wounds to the heart. There are
18 actually three separate wounds to the heart. They include
19 a wound that's angled diagonally from left inferior to
20 right superior. One of them hits the right ventricle.

21 So the heart has four chambers. It has two atria and
22 two ventricles on the bottom. In this case, we have a
23 wound that goes through the right ventricle, and then two,
24 so a total of three, that go through the septum and the
25 left ventricle. The septum is the piece of muscle between

1 the two chambers. So we have some pretty large wounds in
2 the bottom of the heart, or the apex, as we call it.

3 Let's see. There's copious blood and tissue inside
4 the pericardial sac. That is not surprising given the
5 severity of the wounds to the heart.

6 Q And would those injuries to the heart be fatal?

7 A Yes, sir. Certainly, these are several centimeter
8 long and wide wounds to the heart. They would cause
9 significant internal bleeding and death.

10 Q What about external bleeding? Would you expect a lot
11 of external blood?

12 A Yes. He wouldn't have died immediately from this
13 injury. You would have expected blood to come out of this
14 wound to some degree. Yes, sir.

15 Q The other paths, what organs did they hit?

16 A We have a wound to the spleen and the liver. The
17 wound to the liver looks to be approximately 2 centimeters
18 in length that passes through the diaphragm, actually,
19 gets into the lung, eventually. One of them does.

20 Let's see. And the spleen wound is -- going through
21 heart, spleen -- sorry. The liver is 5 centimeters in
22 length, the lung is 2 centimeters in length, and then the
23 spleen, interestingly, is quite severely injury. It's
24 almost cut in half, nearly transected with a 6 centimeter
25 incised wound. And the transection is that it's literally

1 just barely hanging on by a thin piece of tissue. It's
2 cut in half.

3 Q Would these be fatal wounds?

4 A Had he not had the wounds to the heart, he would have
5 eventually bled out from these wounds. However, the
6 severity of the heart wounds, there's no question those
7 are the ones that killed him. He didn't have enough time
8 to bleed from these wounds for them to kill him.

9 Q I think you mentioned before, but what immediate
10 effect would these wounds have on an individual?

11 A You would be, obviously, bleeding significantly. You
12 would have some useful consciousness. You would not lose
13 so much blood so quickly that you would drop instantly,
14 but you would have some seconds, let's say, to move around
15 before you lost so much blood that you passed out. He
16 wouldn't have dropped instantly, though.

17 Q Now, I'd like to talk about the injury that you were
18 talking about to the hand.

19 A Yes.

20 Q I'm going to show you what's been previously marked
21 as State's Exhibit Number 7. Would you please look at
22 that.

23 A I see it, yes.

24 Q Is that fair and accurate?

25 A It is. Yes, sir.

1 MR. GREGORY: Your Honor, at this time, the State
2 would seek to introduce State's Exhibit Number 7 into
3 evidence.

4 THE COURT: Any objection?

5 MR. KORNFELD: No, Your Honor.

6 THE COURT: All right. State's Exhibit Number 7 is
7 so admitted without objection.

8 (WHEREUPON, State's Exhibit Number 7 was admitted into
9 evidence.)

10 BY MR. GREGORY:

11 Q Will you please tell the jury what we're looking at
12 here.

13 A This is the index finger, and this is the thumb, and
14 this is that incised wound to the web of the hand I
15 mentioned earlier.

16 This wound, while it is not deep or, I guess, a lot
17 of -- you would probably consider it to be deep. It goes
18 into soft tissue. It doesn't hit any critical sites.
19 However, its location is very characteristic in my
20 business. And this is called a defensive injury. These
21 injuries usually occur when someone is trying to grab a
22 knife blade that's coming at them.

23 You can imagine yourself being attacked with a knife.
24 It is normal human reaction to try to stop the blade from
25 hitting your body. You try to grab it, and it cuts the

1 web of the hand. Very classic defensive injury
2 (indicating throughout).

3 Q Would this be considered more of a slice as opposed
4 to a stab wound?

5 A Yeah. This is more of a slice, yes, or an incised
6 wound, not a stab.

7 Q And this wound, from what I understand, you said it
8 didn't hit anything vital so therefore not a fatal wound.

9 A Not fatal, no. Only important because of its
10 location.

11 Q Let's talk about the wound on the shoulder. Can you
12 tell the jury about that wound, please.

13 A Sure. Small wound, superficial. Let me get you the
14 measurements. Two inches. Really just subcutaneous fat,
15 not -- and no real skin abrasions, so just a flesh wound
16 for all intents and purposes.

17 Q Again, not a fatal wound.

18 A No, sir. Not a fatal wound.

19 (WHEREUPON, State's Exhibit Number 8 was marked for
20 identification.)

21 Q Let me show you what's been marked as State's Exhibit
22 Number 8. Do you recognize that one?

23 A I do, yes.

24 Q Is that a fair and accurate representation?

25 A Yes, it is.

1 MR. GREGORY: Your Honor, at this time, the State
2 would seek to introduce State's Exhibit Number 8 into
3 evidence.

4 THE COURT: Any objection?

5 MR. KORNFELD: None, Your Honor.

6 THE COURT: Without objection, State's Exhibit
7 Number 8 is so admitted.

8 (WHEREUPON, State's Exhibit Number 8 was admitted into
9 evidence.)

10 BY MR. GREGORY:

11 Q Will you please describe to the jury what we're
12 looking at here.

13 A This is a lacerated wound to the forehead, the hairs
14 up here (indicating). It is associated with additional
15 facial trauma including periorbital contusions or
16 blackened eyes, blood surrounding the eyes, particularly
17 on the left side. There's an abrasion of the lip, and
18 then there's a fracture of a tooth.

19 Q And unlike the previous wounds, would this be
20 consistent with a stabbing?

21 A No. This is more blunt trauma. This is impact from
22 some object or someone's fist. This is blunt trauma, not
23 a stab wound or an incised wound. You can tell the edges
24 are a bit more irregular and it has more of a bruise
25 around it rather than the stab wound, so blunt trauma.

1 Q And you said the tooth was chipped. Do you know
2 which tooth that was?

3 A It's the left upper incisor (indicating). I'll point
4 to it on me.

5 It's a fresh chip. It's not worn, so it appears to
6 be broken at or near the time of death. It has a sharp
7 edge, fracture pattern.

8 Q And then also, I think you said the black eye.

9 A Yes, sir. Yes. Periorbital contusions, particularly
10 on the left side.

11 Q Consistent with the same blunt force trauma?

12 A Blunt trauma, yes. You see this oftentimes in people
13 that get in a fight of some degree.

14 Q The hyoid that you mentioned previously, would you
15 tell the jury about that?

16 A Sure. The hyoid is a U-shaped bone in the neck. It
17 sits above the thyroid cartilage, which is the Adam's
18 apple in a man. The thyroid gland is actually below that.

19 The hyoid bone is a bone that is suspended by muscles
20 inside the anterior portion of your neck. Because of its
21 morphology, it's actually a U-shape with the U facing
22 backwards like this (demonstrating). It's oftentimes
23 broken during strangulations and altercations because of
24 its -- it's fairly small. It's probably about the
25 thickness of, I don't know, less than a pencil, maybe half

1 a pencil, so it's quite small and it's easy to break.
2 When it is broken, it usually implies there's some stress
3 on the neck either from a hand or a rope or something else
4 and it's broken. It's often seen in strangulations.

5 Q And what side was that broken?

6 A The hyoid bone was hemorrhagic and fractured at the
7 right wing, which is the right edge of that. There's
8 associated hemorrhage with it. So that implies that some
9 trauma or pressure was applied to a neck to break that
10 bone when the person was alive. If it had happened after
11 death, there would not be the hemorrhage near it because
12 this wasn't -- this was actual blood inside muscle. This
13 wasn't just a little blood on the outside. This was blood
14 inside the muscle. So that implies that this was
15 fractured when the heart was still beating.

16 Q As part of the autopsy, you conduct a toxicology
17 report?

18 A We do. Yes, sir.

19 Q And were you able to make any determinations or
20 findings as to toxicology?

21 A Yes. We sent blood in this case to National Medical
22 Services, the lab we use, and they were able to identify
23 two substances: methamphetamine and amphetamine.

24 Q Do you know how much was in the system?

25 A I do. There was 950 ng/mL of methamphetamine and

1 77 ng/mL amphetamine. Given those concentrations, it is
2 likely that the amphetamine is simply a metabolic
3 byproduct or part of the meth being broken down by the
4 body. So the methamphetamine is turned into amphetamine
5 as the body breaks it down. So the large of this probably
6 just means methamphetamine was used.

7 Q During your autopsy, were you able to determine a
8 time of death or how long the body was lying there before
9 autopsy?

10 A That's difficult in these cases. This body was, of
11 course, lying down in, I believe, a wooded area of some
12 description. So the rigor had passed.

13 And it was interesting, when I opened up the body,
14 this is going to sound a little disturbing, but it looked
15 like the body had been frozen and thawed. If you've ever
16 taken a steak or a piece of meat and you freeze it then
17 refreeze like your fridge is broken, it gets kind of gooey
18 and soft and doughy. The fat and the muscle, the tissues
19 around his abdomen actually were kind of soft and doughy
20 as if he had frozen and refrozen several times. So we
21 assumed that he had been dead for some period of time when
22 the -- the weather. This was in January when the weather
23 was getting cold then getting warmer during the day and
24 then getting cold and so on.

25 I couldn't tell you exactly except that it's

1 certainly over a day, probably several days.

2 Q And were you able to form an opinion within a
3 reasonable degree of medical certainty as to the cause of
4 Mr. Howard's death?

5 A I was. Mr. Howard, given that we did an autopsy and
6 found really no significant natural disease at all, we
7 found only a relatively benign condition in his thyroid
8 gland, which is an autoimmune disease, it certainly didn't
9 really matter that much given what else we found.

10 So with those findings and toxicology being what it
11 was, we ascertained that the cause of death was a stab
12 wound to the torso, in particular the V-shaped wound I
13 showed you earlier that fatally wounds the heart. And, of
14 course, the manner of death, given that it's in the back
15 and he's out in the woods, is homicide.

16 Q All right. And what is homicide?

17 A Homicide for me is a medical-legal descriptor. It
18 only means this person died by the action of another
19 person. It is not synonymous with murder. It's just a
20 descriptor. What I'm saying with that is that he didn't
21 stab himself in the back and run out into the woods.

22 Q I'm sorry. I want to double back one time to the
23 injury to the forehead.

24 A Sure.

25 Q In your medical experience, is that consistent with

1 being hit with a cane, the end of a cane?

2 A It could be. It's possible. I could not say for
3 certain, though. Something cylindrical, but we do see
4 similar things with other cylindrical objects and such.

5 MR. GREGORY: I have no further questions. Please
6 answer any questions the defense has for you.

7 THE COURT: All right. Cross-examination,
8 Mr. Kornfeld.

9 CROSS EXAMINATION

10 BY MR. KORNFELD:

11 Q Good afternoon, Dr. Fulcher.

12 A Hello, sir.

13 Q I believe you stated that the cause of death was a
14 stab wound to the left flank, correct?

15 A Correct. Yes, sir.

16 Q And the way that it's on the picture, the left flank,
17 it's actually not all the way on his back.

18 A That's correct.

19 Q It's more on the side.

20 A Yeah. It's more the side. That's right.

21 Q Okay. But you can't -- obviously, it's not a 3-D ---

22 A Yeah. It's not 3-D. These drawings aren't drawn to
23 scale. But it's -- so if you look, it is -- I have a
24 measurement. From the tip of his gluteal cleft or his --
25 the tip of his buttocks, it's 12 inches to the side. So

1 if you measure on a -- I'm heavier than that, but, you
2 know, maybe somewhere in this (indicating) area, ballpark.

3 Q We can't see with your jacket.

4 A How about that.

5 Q Yeah. Like right here (indicating).

6 A Yeah. That's fine.

7 Q All right. Okay. I probably should have asked to
8 touch your jacket.

9 A That's okay.

10 Q Okay. So you also state that there were -- although
11 there was the only one wound ---

12 A Uh-huh.

13 Q --- and you state -- you think that the knife -- or
14 it was a knife. It could have been a dagger, correct?

15 A Sure.

16 Q Could have been a samurai sword?

17 A Sure. It could have been, absolutely. There are no
18 markings on this wound that would let me know that.

19 Q All right. And then it was put in there, what you
20 saw was five points.

21 A Five separate wound paths. Uh-huh.

22 Q And could those wound paths have occurred such like
23 this (demonstrating) where it would go this way down to
24 the spleen ---

25 A Uh-huh.

1 Q --- up to the ---

2 A That's correct.

3 Q --- while it stayed in there the whole time?

4 A Uh-huh. Yeah. That's right.

5 Q So it's possible that it stayed in there and moved
6 around and killed him instead of a (demonstrating) five
7 times.

8 A In fact, I would agree with you that the first --
9 your scenario you suggest is more likely. I think if two
10 people were struggling and you were totally pulling the
11 knife out, it would be really hard to hit the same hole
12 five times in a row with two people fighting. So I would
13 say that the knife tip probably never left his flank, that
14 it stayed in there and moved around.

15 Q And is that also -- is it also possible that that
16 could have happened between a struggle between the
17 deceased ---

18 A Sure.

19 Q --- and him where he had a knife and he was trying to
20 maybe move the knife back out?

21 A Sure. Absolutely. That's possible.

22 Q All right. From that, I notice that you stated, it's
23 on your diagram, too, the triangle shows -- it's an upward
24 triangle.

25 A Uh-huh.

1 Q Can you tell from that, and this is -- it's not
2 really a medical question, but that maybe you know because
3 you've done a lot of stab wounds ---

4 A Uh-huh.

5 Q --- where that knife -- so can you tell if the knife
6 maybe went in like this (demonstrating)?

7 A Sure.

8 Q Or -- you understand what I'm asking?

9 A If you look at the triangle, it is presumable -- I'll
10 draw the triangle. So there's the triangle. It is
11 presumable that the blade went in at one angle, and then
12 at some point it was redirected during the stabbing and
13 forms this other parallel line to form the triangle with
14 the damaged tissue in the center. I know we're imagining
15 something there, but that would be my best guess as to how
16 that would happen.

17 In this particular case, because there's significant
18 drying artifact on the margins, I cannot tell exactly
19 which edge of the knife is pointed up, whether the sharp
20 edge or the blunt edge is pointed up or down. If the body
21 were a bit fresher, we could have said that.
22 Unfortunately, in this case, you cannot do that.

23 Q All right. And to that effect, I think what I'm
24 hearing you say, is it also true from your autopsy that
25 you can't say whether or not the knife was maybe in a

1 struggle and that maybe the deceased did have the weapon
2 or that somebody else may have had the weapon and put it
3 there?

4 A I cannot tell you whose hand was on the weapon,
5 that's correct, during the struggle.

6 Q Okay. And you don't have an opinion about -- you
7 don't have an opinion about necessarily how the weapon
8 went in other than you believe it was likely five times,
9 all without going in and out?

10 A Yeah. I mean, it's technically possible that the
11 same person or whatever happened stabbed five times in the
12 same hole, that V-shaped hole. I think that's less likely
13 than it being in and then being moved around while the tip
14 is still in the body.

15 Q All right. In your experience, is that indicative of
16 a struggle between two people?

17 A Sure. It can be.

18 Q Okay.

19 A I have seen similar cases with struggles, and they
20 can also have redirected knife wounds. Yes.

21 Q All right. And Assistant Solicitor Gregory asked you
22 about the contusion on the head ---

23 A Uh-huh.

24 Q --- and stated, you know, could that have been a
25 cane.

1 A Uh-huh.

2 Q I guess I would ask, the other thing, it could have
3 also been a windshield.

4 A Sure.

5 Q Or, as you said, a possible punch.

6 A A fist, yeah.

7 Q Because it's kind of ---

8 A It's irregular, correct. It does not have absolute
9 characteristics that would make it a cylindrical object.

10 Q Okay.

11 A But it is a -- it could be either.

12 Q All right. And you say that it was likely that the
13 wound on the hand was probably when a knife was coming at
14 his hand, correct?

15 A Most likely, yes.

16 Q Can you tell from your autopsy whether or not -- can
17 you tell from your autopsy whether or not where his hand,
18 through looking through it, and I know you went through
19 the whole body, so -- the pictures, but can you tell
20 possibly how his hand was held when he got that wound?

21 A I cannot. No, sir. That's not possible.

22 Q Okay. And you also never -- you inspect dead people,
23 correct? You never saw the defendant ---

24 A Correct.

25 Q --- or any of his wounds.

1 A I did not.

2 Q All right. And would you admit that, even though you
3 are not in the business of that, that if you look at -- if
4 you look at his wounds and you may have -- if he had any,
5 that would have a further -- you could have a greater
6 understanding of maybe what happened?

7 A Sure.

8 MR. KORNFELD: Okay. I don't have any further
9 questions, Dr. Fulcher.

10 THE WITNESS: Thank you.

11 THE COURT: All right. Redirect.

12 MR. GREGORY: Just briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. GREGORY:

15 Q Dr. Fulcher you're unable to tell which path was
16 first, second, third, correct?

17 A I do not know chronology. Absolutely not.

18 Q So all you see is the wounds. You don't know exactly
19 what happened?

20 A Correct. That's correct. I cannot speculate on
21 chronology.

22 MR. GREGORY: I have no further questions.

23 MR. KORNFELD: No further cross.

24 THE COURT: All right. Sir, I have no questions.
25 You can step down.

1 THE COURT: Ms. Allen, come on up where the Bible is,
2 and I'll get Madam Clerk to swear you in.

3 THE CLERK: Put your left hand on the Bible and raise
4 your right.

5 WHEREUPON,

6 JAQUELINE ALLEN

7 After having been duly sworn, testified as follows:

8 THE CLERK: Please have a seat.

9 THE COURT: Yes, ma'am. If you would, just speak in
10 close proximity to that microphone so everyone can hear
11 you. Thank you, ma'am.

12 DIRECT EXAMINATION.

13 BY MR. BLOUIN:

14 Q Ms. Allen, how are you today?

15 A I'm good. How are you?

16 Q Good.

17 Ms. Allen, where are you employed?

18 A Dollar General.

19 Q Dollar General. And what Dollar General is that?

20 A The one that's at 4002 North Highway 101 in Greer.

21 Q Okay. And how long have you been employed with
22 Dollar General?

23 A A little over six years.

24 Q And what is your position at Dollar General?

25 A Store manager.

1 Q How long have you been the store manager at Dollar
2 General?

3 A A little over a year.

4 Q And what are the duties that the store manager has,
5 typically?

6 A Making the schedule, preparing the deposit, making
7 sure everything is running smoothly, scheduling employees,
8 setting plan-o-grams. Things like that.

9 Q So you basically are responsible for running the
10 store?

11 A Yes.

12 MR. BLOUIN: All right. May I approach the witness,
13 Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. BLOUIN:

16 Q All right. Ms. Allen, I'm going to show you this
17 giant map.

18 A Okay.

19 Q Do you recognize where your store is on this map?

20 A Yes.

21 Q Okay. Can you point to where your store is on
22 the ---

23 A This (indicating) is my store.

24 Q And that's the 4002 North Highway 101?

25 A Yes.

1 Q Do me a favor and just put your initials on the
2 yellow spot that's been identified.

3 A (Witness complies.)

4 Q All right. Now, Ms. Allen, you also brought a
5 receipt with you.

6 A Yes.

7 MR. BLOUIN: May I see that receipt?

8 Okay. I'm at this point going to mark this as
9 State's Exhibit Number 9.

10 THE COURT: For identification purposes?

11 MR. BLOUIN: For identification at this point. Yes,
12 Your Honor.

13 THE COURT: All right.

14 (WHEREUPON, State's Exhibit Number 9 was marked for
15 identification.)

16 BY MR. BLOUIN:

17 Q Ms. Allen, can you identify this for us?

18 A It's a voided transaction receipt from our store.

19 Q Okay. And how long do you keep those voided
20 transaction receipts?

21 A Three years.

22 Q All right. And what is the date on that receipt?

23 A January 19, 2016.

24 Q And what is the reason for the void?

25 A It looks as if a credit card purchase was declined,

1 so we voided it.

2 Q And what time was that?

3 A 6:21 p.m.

4 Q Okay. And let's go through and see what was actually
5 purchased on that receipt or attempted to be purchased on
6 that receipt.

7 A It looks clothes, underwear, Armor All cleaning for a
8 car.

9 MR. BLOUIN: And it might be easier if I put it up
10 here so we can see.

11 At this time, Your Honor, we'd like to move ---

12 BY MR. BLOUIN:

13 Q Do you keep these receipts in the normal course of
14 business?

15 A Yes.

16 Q For three years, you said?

17 A Yes.

18 Q And have I altered or anybody altered this?

19 A No.

20 Q Okay. And you actually pulled this receipt.

21 A Yes, I did.

22 MR. BLOUIN: At this time, we'd move State's Exhibit
23 Number 9 into evidence.

24 THE COURT: Any objection?

25 MR. KORNFELD: None, Your Honor.

1 THE COURT: Without objection, State's Number 9 is so
2 admitted.

3 (WHEREUPON, State's Exhibit Number 9 was admitted into
4 evidence.)

5 BY MR. BLOUIN:

6 Q I don't want to blind you. Let's see if we can --
7 there we go. All right. See if we can get it a little
8 bit more clear.

9 All right. So let's go through and see what was
10 aborted at this time. What is the thing on the top?

11 A Clothing items.

12 Q Do you know what type of clothing item?

13 A They were either cargo pants or cargo shorts.

14 MR. BLOUIN: Okay. May I approach the witness?

15 THE COURT: Yes, sir.

16 (WHEREUPON, State's Exhibit Numbers 10 and 11 were marked
17 for identification.)

18 BY MR. BLOUIN:

19 Q Ms. Allen, I'm going to show you what's been
20 premarked as State's Exhibits 10 and 11. Do you recognize
21 what these are?

22 A Cargo pants.

23 Q Okay. And what is this?

24 A This would be the bar code that would be attached to
25 the pants.

1 Q And the bar code, are those -- is that SKU number
2 specific?

3 A Yes, it is.

4 Q And does that SKU number match the top of that?

5 A Yes, it does.

6 Q And would that go with those type of cargo pants?

7 A Yes.

8 Q All right. Have I changed these photographs in any
9 way, shape or form?

10 A No.

11 MR. BLOUIN: Your Honor, at this time, we move
12 State's Exhibits 10 and 11 into evidence.

13 THE COURT: Any objection?

14 MR. KORNFELD: None, Your Honor.

15 THE COURT: Without objection, State's Number 10 and
16 11 is so admitted.

17 (WHEREUPON, State's Exhibit Numbers 10 and 11 were
18 admitted into evidence.)

19 BY MR. BLOUIN:

20 Q So that would be these cargo pants that you were
21 talking about?

22 A Yes.

23 Q Okay. And let's back that up a little bit. All
24 right.

25 And this would be that barcode number, and that

1 barcode number would be 430000528912?

2 A Correct.

3 Q All right. And, Ms. Allen, does that -- so go back
4 and forth -- match the barcode from the top of that
5 receipt?

6 A Yes.

7 Q All right.

8 (WHEREUPON, State's Exhibit Number 12, 13 and 14 were
9 marked for identification.)

10 BY MR. BLOUIN:

11 Q All right. Ms. Allen, I'm going to approach, show
12 you three more pictures marked State's Exhibits 12, 13 and
13 14. Can you tell me what those are?

14 A Armor All cleaner wipes, carpet cleaner, Dollar
15 General brand, and auto vent air fresheners.

16 Q All right. Have I manipulated these pictures at all?

17 A No.

18 Q And are these an accurate description of these items
19 that you sell in Dollar General?

20 A Yes.

21 MR. BLOUIN: Your Honor, at this time, we move
22 State's 12, 13 and 14 into evidence.

23 THE COURT: Any objection?

24 MR. KORNFELD: No objection.

25 THE COURT: All right. State's Number 12, 13 and 14

1 are so admitted.

2 (WHEREUPON, State's Exhibit Numbers 12, 13 and 14 were
3 admitted into evidence.)

4 BY MR. BLOUIN:

5 Q So the first thing is Armor All cleaning wipes. You
6 sell those at the Dollar General?

7 A Yes.

8 Q And as well as foaming carpet cleaner?

9 A Yes.

10 Q And then what are these?

11 A The skull vent air fresheners for a car.

12 Q All right. And going back to our receipt from that
13 day, were -- the Driven A of skulls, what are those?

14 A Yes.

15 Q Are those these?

16 A Yes.

17 Q Okay. Was there the foaming carpet cleaner bought?

18 A Yes..

19 Q As well as the Armor All cleaning wipes?

20 A Yes.

21 Q All right. Now, there's some other items on there.
22 What's the second thing on that list?

23 A It appears to be clothing as well.

24 Q Okay. And the three things after that?

25 A Underwear.

1 Q All right. And right below the skulls, what was
2 that? What would that be?

3 A A soda. Oh, no, makeup right under the skulls.
4 Makeup.

5 Q Okay. And that total was \$56.31?

6 A Yes.

7 MR. BLOUIN: All right. Now, Ms. Allen, going to
8 show you -- turn that off. Beg the Court's indulgence.

9 (WHEREUPON, State's Exhibit Number 15 was marked for
10 identification.)

11 BY MR. BLOUIN:

12 Q Ms. Allen, I am showing you a DVD marked State's
13 Exhibit 15. Do you recognize this DVD?

14 A I do.

15 Q Okay. And how do you recognize this DVD?

16 A I watched it and I initialed it.

17 Q Okay. When did you watch it?

18 A Yesterday.

19 Q And what does the DVD show?

20 A Clips from our store.

21 Q And that's your store?

22 A Yes.

23 Q And you're sure?

24 A Yes.

25 Q Would you have initialed it if you hadn't been sure?

1 A No, I wouldn't.

2 MR. BLOUIN: All right. At this time, we'd like to
3 move State's 15 into evidence.

4 THE COURT: Any objection?

5 MR. KORNFIELD: No, Your Honor.

6 THE COURT: All right. State's Exhibit Number 15 is
7 so admitted without objection.

8 (WHEREUPON, State's Exhibit Number 15 was admitted into
9 evidence.)

10 MR. BLOUIN: Ms. Allen, please answer any questions
11 the defense may have for you.

12 THE COURT: Cross-examination, Mr. Kornfeld.

13 MR. KORNFIELD: Yes, Your Honor.

14 CROSS EXAMINATION

15 BY MR. KORNFIELD:

16 Q Hello, Ms. Allen.

17 A Hello.

18 Q The State didn't put in the fact that you remember
19 there was a women's shirt "buns and guns." Do you
20 remember that?

21 A I knew that it was a clothing item, but I could not
22 remember what it was.

23 Q Okay. Do you know if that was it, the buns and guns
24 shirt? Was that what was attempted to be purchased?

25 A It looks familiar as we have had something like this

1 at our store.

2 Q Okay. What about these women's underwear? Was that
3 one of the garments?

4 A Yes. The boy shorts.

5 Q Okay. But just to be clear, the boy shorts are for
6 women, correct?

7 A Correct.

8 Q Okay. And these also look like to be women's
9 underwear.

10 A Correct.

11 Q All right. And then you also testified, and there
12 was another women's underwear, correct?

13 A Correct.

14 Q All right. And then there was also the makeup, which
15 was it looks like a Cover Girl makeup, correct?

16 A Yes.

17 Q All right. And would you and the -- did you happen
18 just to do the surveillance or were you that day checking
19 people out?

20 A No. I was not there that day.

21 MR. KORNFELD: Okay. All right. Your Honor, I
22 believe it is without objection, but I'd like to enter
23 these in as Defense Exhibit 1, the other items that were
24 also purchased there.

25 THE COURT: All right. You're going to enter them

1 collectively?

2 MR. KORNFELD: I'd like to.

3 MR. BLOUIN: No objection either.

4 THE COURT: All right. Without objection, it will be
5 Defendant's Number 1 collectively.

6 How many pages do you have?

7 MR. KORNFELD: Your Honor, there are four pages. I
8 can identify them. The first one are the boy shorts, the
9 second one is the underwear, the third one is another
10 underwear, and the fourth is Cover Girl makeup.

11 THE COURT: All right. It will be Defendant's
12 Number 1 collectively.

13 (WHEREUPON, Defendant's Exhibit Number 1 was marked for
14 identification and admitted into evidence.)

15 MR. KORNFELD: Thank you, Ms. Allen. No further
16 questions.

17 THE COURT: Anything on redirect?

18 MR. BLOUIN: There is no redirect. We just ask that
19 Ms. Allen be released from her subpoena.

20 THE COURT: All right. Any objection?

21 MR. KORNFELD: No, Your Honor.

22 THE COURT: Ms. Allen, you can step down. Appreciate
23 you coming.

24 The State call its next witness.

25 MR. GREGORY: Your Honor, the State calls Charles

1 Gonzalez.

2 THE COURT: Mr. Gonzalez, please come forward to
3 where that Bible is and Madam Clerk is going to swear you
4 in.

5 THE CLERK: Please put your left hand and raise your
6 right.

7 WHEREUPON,

8 CHARLES GONZALEZ

9 After having been duly sworn, testified as follows:

10 THE CLERK: Please have a seat.

11 THE COURT: Sir, if you'd have a seat there and just
12 speak in close proximity to that microphone so everybody
13 can hear you.

14 DIRECT EXAMINATION

15 BY MR. GREGORY:

16 Q Investigator Gonzalez, where are you employed?

17 A At the Greenville County Sheriff's Office.

18 Q And how long have you been employed there?

19 A I've been employed there since March of 2001.

20 Q What is your current position there?

21 A I am a sergeant over the arson and auto theft unit
22 and the bomb squad commander.

23 Q What are your duties and responsibilities as far as
24 sergeant over the arson and car theft division?

25 A I ensure that cases are signed out to whether it be

1 an auto theft case that comes in or an arson case. Also,
2 I'm also in charge of helping and training the new arson
3 investigators that we have there.

4 Q How many cases have you investigated as far as arson
5 goes?

6 A I can give you an average. So I started in arson
7 investigation in August of 2005. We average -- it was me
8 and one other arson investigator, so it was two of us that
9 did full-time arson investigations. So we would average
10 anywhere from 120 to 140 cases a year. So for the last 13
11 years, we were averaging that. And of those, we generally
12 split them, so half -- half of those is probably close to
13 seven, 800.

14 That's the cases that actually were assigned to me.
15 Now, as a team, we go out and investigate the case
16 together. So if we go investigate a case and the other
17 investigator handles the report and all that, then I don't
18 use that as a case investigated, but that's a case that I
19 help investigative and process a scene.

20 Q What kind of education and training have you received
21 becoming an arson investigator?

22 A I started out -- once I started in 2005 as an arson
23 investigator, afterwards, I went to several classes at the
24 National Fire Academy in Maryland to include a two-week
25 class of arson -- basic arson investigation. I've been to

1 an interview interrogation class at the National Fire
2 Academy, along with hands-on electrical investigation
3 class.

4 Since then I have been to a -- I've been to a vehicle
5 fire class, which I became certified as a vehicle fire
6 investigator. Since then I also became certified as a
7 certified fire and explosives investigator through the
8 National Association of Fire Investigators. And then
9 after that, I became a certified fire investigator through
10 the International Association of Arson Investigators,
11 also, a certified fire investigator instructor through the
12 National Association of Fire Investigators.

13 And I've been to other classes throughout, and I also
14 help teach portions of a basic law enforcement
15 investigation class as it relates to fire.

16 Q All these certifications, are they still up to date?

17 A Yes. They all are still.

18 Q Do you receive any ongoing training as part of your
19 duties and responsibilities?

20 A Yes. On-scene training, also classes, online classes
21 through the IAAI, which is the International Association
22 of Arson Investigators.

23 Q Have you ever testified as to your findings of
24 investigation, arson investigation?

25 A Yes, I have.

1 Q And have you ever been qualified as an expert?

2 A I have. Twice in Court of General Sessions as origin
3 and cause -- qualified as an expert in origin and cause,
4 and also qualified as an expert in accelerant detection,
5 K-9 handler because I'm also an arson dog handler.

6 MR. GREGORY: Your Honor, at this time, the State
7 would seek to introduce ---

8 MR. KORNFELD: Without objection.

9 THE COURT: Any objection?

10 MR. KORNFELD: No.

11 THE COURT: Without objection.

12 MR. GREGORY: Investigator Gonzalez is an expert.

13 THE COURT: All right. He's so qualified as an
14 expert.

15 MR. GREGORY: Thank you, Judge.

16 BY MR. GREGORY:

17 Q Investigator Gonzalez, did you have an opportunity to
18 become involved in the case here today?

19 A Yes, I have.

20 Q How did you become involved in that case -- in this
21 case?

22 A Back in January 20th -- actually, January 21st,
23 there's an incident report that was written regarding a
24 fire call, and it was a burned vehicle. This case was
25 assigned to me as the lead investigator, myself and

1 Investigator -- it was Investigator Cannon then who was my
2 partner.

3 We went to Travelers Rest -- or it's called TR
4 Service Center. It's on Center Road north of Travelers
5 Rest off Highway 25. We went there to process this
6 vehicle because reading the report, it was found burned
7 behind the David Jackson ballpark off of Fowler Road,
8 which is up off of Highway 101 north.

9 So we went to the tow yard and examined the vehicle,
10 photographed the exterior and interiors of the -- of this
11 particular vehicle. We also had to have the assistance of
12 an ICB, which is National Insurance Crime Bureau, to find
13 a secondary VIN on this vehicle to try to identify. We
14 knew it was a PT Cruiser, but to find an actual VIN to
15 identify who the owner may be.

16 So we found a secondary VIN located on the vehicle.
17 He ran it through our dispatch. It didn't come back as
18 wanted or stolen or even -- I don't believe it's even
19 registered.

20 So after that, you know, we left the scene, and based
21 on where it was found, we determined most likely it was --
22 eventually would turn up stolen once somebody realized
23 maybe it was stolen or something to that effect, that
24 maybe it hasn't been reported yet and that's why we're not
25 getting any wants on the vehicle as far as run it through

1 | our NCIC.

2 (WHEREUPON, State's Exhibit Numbers 16, 17 and 18 were
3 marked for identification.)

4 BY MR. GREGORY:

5 Q I'm going to show you what's been marked as State's
6 Exhibit Number 16. If you'll take a look at that for me.

7 A (Reviews exhibit) Okay.

8 Q Do you recognize that?

9 | A I do.

10	Q	Is that a fair and accurate representation?

11 A Yes, it is.

12 MR. GREGORY: Your Honor, at this time, the State
13 would seek to introduce State's Exhibit Number 16 into
14 evidence.

15. THE COURT: Any objection?

16 MR. KORNFELD: None, Your Honor.

17 THE COURT: Without objection, State's Number 16 so
18 admitted.

19 (WHEREUPON, State's Exhibit Number 16 was admitted into
20 evidence.)

21 BY MR. GREGORY:

22 Q And I believe your testimony was you responded to
23 Fowler Road.

24 | A Yes.

25 Q What is -- what is that location, exactly? What is

1 on Fowler Road?

2 A It's a county -- a county rec. district ballpark.
3 There's -- I believe there's several like baseball fields
4 there, a little walking track around the fields.

5 Q Can you tell the jury what we're looking at here?

6 A So that is -- that is on the back side of one of the
7 ball fields. The -- there's a big berm there that goes
8 around where the dirt was moved in when the ball fields
9 were built. But the -- this red dirt streak that you guys
10 can kind of see coming from the right, the bottom right
11 corner going up towards the center is where the tow
12 company used their wrecker to tow the vehicle up on there.
13 But that burn spot there, what you see, is where the
14 vehicle was actually parked and burned.

15 Q And you responded to that location during the course
16 of your investigation?

17 A Yes, we did. And it's typical after we process a
18 vehicle at the wrecker company or the tow yard, that's
19 usually how we get them. Sometimes they're towed in the
20 middle of the night as we respond to the tow yard first is
21 how we get our reports. And we go there and process it,
22 and then we'll typically go back to the actual scene
23 itself to look around for any type of evidence or
24 belongings from the vehicle.

25 Q And did you find anything that belonged to the

1 vehicle or anything around the berm pile?

2 A Yeah. We walked all around the -- all around this
3 ball field, all around that red berm that goes up toward
4 the top right-hand corner looking for foot tracks,
5 anything down the -- if you look at the top of the berm
6 there, all down behind there was probably a 15- or 20-foot
7 drop-off or embankment. So we searched all that area
8 looking for things that may have been thrown from the
9 vehicle down that hill.

10 But during this course, we -- I used my -- my dog,
11 accelerant detection K-9 to search the area, which I
12 typically will do sometimes, go out in the bushes and the
13 woods to search for things that may have been thrown or
14 any type of evidence that may have an ignitable liquid on
15 them, ignitable liquid being, you know, any type of liquid
16 like gasolines, paint thinners, charcoal lighter fluid.
17 Any liquid that will burn is considered an ignitable
18 liquid.

19 Q Were you able to locate any? I'm sorry.

20 A Yeah. So while -- while Misty was searching, she
21 alerted in that burned area, in the middle of the burned
22 area, which is typical because of the -- when vehicles
23 burn, if the gas tank is plastic, usually the gas will go
24 in the ground. But over to the right-hand side away from
25 all of that, and I saw it in the picture but I don't think

1 I can see it here, but there's a small red dot in there.
2 And that ended up being a Coca-Cola bottle top from like a
3 20-ounce type drink bottle that was laying on the ground.
4 It was -- it's off to the right away from -- away from all
5 that.

6 Q I'm going to hand you a laser pointer.

7 A Do you have the picture where I can look at the
8 picture a little? I can't see on this the way it's blown
9 up, but you can actually see it in the picture.

10 And I didn't -- we didn't -- I didn't know that that
11 was there until I went back and looked at the picture
12 until the dog had found it.

13 Q But about what area was it located in?

14 A I believe it was right in this area (indicating) over
15 there.

16 Q And that was collected. Did you -- what did you do
17 with it?

18 A So -- so once the dog alerted to that, I thought
19 that's, you know, kind of weird that a bottle cap would be
20 -- she alerted to that.

21 So typically, once we do that, when she alerted, that
22 is collected. And we put on rubber gloves, and we will
23 put that in an evidence container. In this case, it's a
24 -- like a quart paint can, but it's a clean, unused can
25 that's been sealed up. And those are what we typically

1 collect the arson evidence in, quart cans and gallons in
2 that same manner.

3 So this was -- the quart can was placed there, and
4 the top was placed inside the can along with gloves beside
5 the can. And all that was photographed at the spot where
6 it was collected.

7 Q Were you able to detect an odor of accelerant?

8 A Yeah. So once I did that, typically, we'll check it.
9 And to me, it smelled what I know to be gasoline, the
10 bottle cap did. So that was -- like I said, it was
11 collected and sealed up and eventually taken to SLED to
12 where they analyze it, and it came back positive as
13 gasoline.

14 Q I'm going to show you what has been marked as State's
15 Exhibit 17 and 18. Do you recognize those items?

16 A I do. It's the burned PT Cruiser.

17 Q All right. Are they a fair and accurate
18 representation?

19 A They are.

20 MR. GREGORY: Your Honor, at this time, the State
21 would seek to introduce 17 and 18 into evidence.

22 THE COURT: All right. Any objection?

23 MR. KORNFIELD: No, Your Honor.

24 THE COURT: All right. Without objection, it would
25 be 17 and 18; is that right?

1 MR. GREGORY: Yes, Your Honor.

2 THE COURT: State's Exhibit Number 17 and 18 is so
3 admitted without objection.

4 (WHEREUPON, State's Exhibit Numbers 17 and 18 were
5 admitted into evidence.)

6 BY MR. GREGORY:

7 Q After leaving the ballpark, where did you respond to?

8 A After leaving there, we were working in conjunction
9 with out Violent Crimes Unit because it was determined
10 that the car was -- belonged to an individual that was
11 deceased, at my understanding.

12 So one of the Violent Crime investigators, they
13 obtained a search warrant. We had the vehicle towed from
14 Travelers Rest Service Center to Rutherford Road. And
15 this is the -- our fuel pumps and where our environmental
16 control unit station, where they keep heavy equipment.
17 And we have fuel pumps there that we -- for fueling our
18 vehicles.

19 So we headed to there, and once it was there, then we
20 opened the vehicle. And the way we process the vehicle is
21 like this. You can see in the bottom -- the bottom of the
22 screen, there's a blue item. That is a blue tarp. So we
23 keep brand-new tarps, and we use them once. And we will
24 start in a section of the car, typically, in this case, it
25 was the right-rear passenger compartment area. So we'll

1 lay a tarp out on the ground, and all of the debris that's
2 in that car in that one -- in that one section is taken
3 out of that car and placed on that tarp and sifted. We
4 will take -- sift through it with hand trowels on the
5 ground. Sometimes we would use an actual sifter itself,
6 and one person will work the sifter while the other person
7 removes all the debris from it and it's sifted. Same
8 thing that was done with this one. It was a tarp that was
9 placed there. All the debris was taken out of that one
10 section, and it's sifted. And then we moved onto the next
11 section.

12 So all that debris is then tied up in that tarp and
13 placed in that floor board. Then we move onto the next
14 section.

15 So we do one section at a time until we do all four
16 sections, and then we'll move to -- depending on the type
17 of vehicle, to the rear cargo area and do those also.

18 Q I'm going to show you what's been marked as State's
19 Exhibit 18. I apologize for the picture, the clarity of
20 it. But can you describe the interior of this car?

21 A So this one, this vehicle is -- had burned for a
22 while before it was notified, before someone found it and
23 actually called it into the fire department.

24 Most all of the combustible materials inside -- when
25 I say that, I mean like the Styrofoam seats or the plastic

1 door paneling, all the plastics, anything that's not metal
2 in the car, the majority of that was completely burned in
3 this particular vehicle. Sometimes we have them where
4 they're burned like that, but we still have some things
5 that are left in there and kind of unburned. But in this
6 particular case, it was burned completely to the metal
7 floorboard. So there was very, very little combustible
8 material left in this vehicle.

9 Q Were there any things that gave you an idea of the
10 intensity of this fire?

11 A Yeah. I mean, if the -- once a vehicle burns, it
12 only takes about 15 minutes to completely destroy a
13 vehicle. If you look at those, I mean, inside of any
14 vehicle is mostly combustibles, whether it be styrenes
15 from your Styrofoam or from your foam seats and all the
16 plastics, it's kind of like taking your sofa out of your
17 living room and putting it in your car and burning it
18 because it's that much fuel.

19 When I say "fuel," meaning stuff that will burn like
20 the styrenes and the plastics and the foams. We call it a
21 fuel, because that's what it is.

22 And it's crammed into this small compartment. I
23 mean, you burn anywhere upwards of 1500 degrees when you
24 have a fire like this. And when they burn like this,
25 typically, they will burn till there's no combustibles

1 left unless the fire department, you know, gets there
2 fairly quickly and extinguishes it.

3 Q Based on your investigation and your opinion, were
4 you able to determine the origin of the fire?

5 A Yes. From this vehicle fire, it appears that this
6 vehicle, in my opinion, started in the passenger
7 compartment. When I say that, I mean the interior of the
8 vehicle. So you have your passenger compartment, your
9 engine compartment and then your cargo area, which would
10 be like the trunk on this one. But this is a passenger
11 compartment fire.

12 You can look at the hood, see how the -- on the
13 right-hand side of your screen, that radial burn pattern,
14 how it kind of makes an arc going -- an arc coming out
15 this (indicating) way indicating the fire pushing out from
16 the interior to the outside of the vehicle.

17 Q And in your expert opinion, were you able to
18 determine the cause of the fire?

19 A Based on the circumstances of the car being -- and,
20 again, this is typical that I see on the many, many
21 vehicle fires that we investigate is vehicles that have
22 been stolen or reported stolen, they're typically found in
23 a remote area and then they're burned to cover up some
24 type of evidence, whether it be an insurance fraud or some
25 type of maybe even just the theft of the vehicle.

1 But on this one, the circumstances of the vehicle
2 belonging to a deceased individual, it was burned in a
3 remote area of Greenville county along with the red bottle
4 cap, the Coca-Cola bottle cap that was there that tested
5 positive for gasoline, in my opinion, that when the
6 vehicle was set on fire, it was probably someone brought
7 the gasoline in a drink bottle, most likely poured it from
8 home because most people, in my opinion, don't carry
9 gasoline in a Coke bottle. It was unscrewed, cap thrown
10 on the ground, doused with gasoline inside and then the
11 bottle thrown inside and set on fire, and that's why we
12 did not find the bottle itself.

13 So that's my opinion. It's in incendiary fire based
14 on all those circumstances.

15 Q During your investigation of the interior and
16 exterior of the vehicle, did you find any DNA, blood or
17 fingerprints?

18 A No. It was burned beyond on that.

19 Q So that kind of evidence would be destroyed in a fire
20 like that.

21 A Yes. Even -- even gasoline poured in a vehicle with
22 this type of fire, you typically would not find it because
23 there's nothing there to -- the items that would absorb
24 the gasoline like seats and floor mats, those things are
25 completely burned away. So typically, you will not find

1 any remains of like blood or DNA, fingerprints or even the
2 gasoline in cases of this.

3 Q Were you able to identify the owner of this vehicle?

4 A I did not, but it was turned over to our Violent
5 Crimes, and I believe that they are the ones that actually
6 tracked down the VIN. Because when the VIN was -- came
7 back unregistered, I think they did a lot more checking.
8 And I believe it may have been bought somewhere like at a
9 car lot. I don't know the circumstances of where it was
10 bought, but eventually, my understanding, it was
11 determined that the deceased victim was the owner of this
12 particular car.

13 Q And you turned that over to a homicide investigator?

14 A Yes. I turned that over then.

15 Q And you said it was a secondary VIN. Explain what a
16 secondary VIN is.

17 A So vehicles, the public VIN, if you look at your car,
18 in the -- when you're sitting in your driver's seat, if
19 you reach your left hand up, in that corner of the
20 windshield, there's a little -- there's an aluminum plate
21 with 17 digit numbers and letters there. That is your
22 vehicle identification number or VIN number. And that is
23 specific to your car only. That VIN number tells the
24 year, the manufacturer and that type of stuff.

25 So those aluminum plates in this car here, being I

1 would suspect that amount of fire was upwards of
2 1500 degrees, aluminum melts at 1220 degrees, roughly, so
3 that VIN was completely destroyed.

4 Manufacturers will place a secondary VIN, and they
5 are usually pin stamped or rolled. And when I say "pin
6 stamped," they use a machine, and they will place the
7 machine, depends on the manufacturer, the year and where
8 it was made, they're in different locations of the
9 vehicle. And they use a machine that I guess it would be
10 kind of like a tattoo machine that has little metal
11 needles to say -- and it punches a VIN in that vehicle in
12 that particular spot.

13 And NICB has those locations of where the secondary
14 VIN is on this vehicle. We call them, we identify who we
15 are, our agency, and they will tell us, based on the year,
16 where the secondary VINs are.

17 And this one here we found I believe it was under the
18 hood on the fire wall that separates the passenger
19 compartment from the engine compartment. Typically, it
20 may be a full 17-digit VIN or it could be a partial seven-
21 to eight-digit VIN number. And we can give them that
22 number, NICB, and they can tell us the full VIN of that
23 vehicle, at which time we did, and we ran this vehicle
24 through our dispatch.

25 Q I'm going to ask you to step down for one second and

1 look at State's Exhibit Number 1. I apologize for
2 backtracking.

3 A That's all right.

4 Q The ballpark, are you able to locate the ballpark
5 where the burned car was found on this map?

6 A So here (indicating), Fowler Road. It would have
7 been closer to the wood line that you saw earlier where
8 that little cleared area is.

9 Q Okay. I'm going to grab a pen and have you initial
10 Fowler Road for me. If you'll just put your initials
11 anywhere on this.

12 A Just over here? (Witness complies.)

13 MR. GREGORY: Thank you. Please answer any questions
14 the defense has for you.

15 THE COURT: Mr. Kornfeld.

16 CROSS EXAMINATION

17 BY MR. KORNFELD:

18 Q Officer Gonzalez, do you remember writing a report on
19 or about April 1st of 2016?

20 A Yes.

21 Q And do you remember in that report stating that
22 several spent shell casings were found in the front seat
23 area and then photographed?

24 A Yes.

25 Q Do you happen to know what kind of shell casings you

1 found?

2 A No. And I want to say maybe .38 or 9 millimeter, but
3 I don't -- don't hold me to that. I'm not sure.

4 MR. KORNFIELD: I won't. I won't.

5 No further questions. Thank you.

6 THE COURT: Redirect?

7 MR. GREGORY: No, Your Honor.

8 THE COURT: All right. I have no questions. Thank
9 you, sir. You can step down.

10 THE WITNESS: All right. Thank you.

11 MR. GREGORY: Your Honor, may he be excused from his
12 subpoena?

13 THE COURT: Any objection?

14 MR. KORNFIELD: None, Your Honor.

15 THE COURT: Without objection, sir. Appreciate you
16 coming.

17 THE WITNESS: Your welcome.

18 MR. BLOUIN: Your Honor, may we approach briefly?

19 THE COURT: Yes, sir.

20 (WHEREUPON, a bench conference was held off the record.)

21 THE COURT: All right. Is the State ready?

22 MR. BLOUIN: Your Honor, the State's next witness is
23 Davia Smith.

24 THE COURT: All right. Ma'am, would you come
25 forward. As best you can, place your left hand on the

1 Bible, and as best you can, raise your right and face
2 Madam Clerk.

3 WHEREUPON,

4 DAVIA SMITH

5 After having been duly sworn, testified as follows:

6 THE CLERK: Please have a seat.

7 THE COURT: All right. Madam Bailiff, would you help
8 me out with that microphone?

9 Ma'am, have a seat. You're soft spoken, so I want
10 you to speak directly into that microphone and keep your
11 voice up so everyone can hear you, okay?

12 THE WITNESS: Okay.

13 THE COURT: All right. Push your chair up a little
14 bit. All right.

15 DIRECT EXAMINATION

16 BY MR. BLOUIN:

17 Q Ms. Smith, how are you today?

18 A Fine.

19 Q Okay. Just speak real loud just so everybody can
20 hear you. I know it's a little bit farther back than I've
21 talked to you in the past.

22 What's your full name?

23 A Davia Nicole Smith.

24 Q And how old are you?

25 A 30.

1 Q And how old were you when you were arrested?

2 A 27.

3 Q And where are you from?

4 A Greenville.

5 Q Okay. How far did you go in school?

6 A All the way. High school.

7 Q All right. Where did you graduate from high
8 school?

9 A Berea.

10 Q And did you do any college?

11 A A little bit.

12 Q Where did you go to college?

13 A Spartanburg Methodist.

14 Q How long did you go there?

15 A One year.

16 Q And what did you do after that?

17 A I pursued cutting hair.

18 Q Okay. Are you currently married?

19 A Yes.

20 Q All right. How long has it been since you've seen
21 your husband?

22 A About seven years.

23 Q Okay. I'm just going to ask, did that marriage
24 contribute toward your drug use?

25 A Yes.

1 THE COURT: Keep your voice up for me.

2 THE WITNESS: Yes.

3 BY MR. BLOUIN:

4 Q Okay. Do you currently have a job?

5 A No.

6 Q Did you have a job at the time that you were
7 arrested?

8 A No.

9 Q How did you support yourself?

10 A I didn't. Dale.

11 Q Dale. Okay.

12 Ms. Smith, are you currently charged with murder in
13 this incident?

14 A Yes.

15 Q Are those charges still pending?

16 A Yes.

17 Q Have you been offered any sort of deal by myself or
18 anyone in my office to testify today?

19 A No.

20 Q Have you been promised anything whatsoever?

21 A No.

22 Q Do you hope that testifying will eventually help you
23 in your case?

24 A Of course.

25 THE COURT: Keep your voice up. I hate to keep

1 telling you that, but you've got to speak up.

2 BY MR. BLOUIN:

3 Q Speak as loud as you can. I know it's hard. I know
4 it's difficult.

5 THE COURT: All the jurors have got to hear you.

6 BY MR. BLOUIN:

7 Q Now, Ms. Smith, previously, have you ever been
8 convicted in the past of shoplifting?

9 A Yes.

10 Q And giving false information to police?

11 A Yes.

12 Q How long ago was that?

13 A About three years.

14 Q Okay. Were you using drugs at the time?

15 A Yes.

16 Q Okay. Do you know the defendant in this case?

17 A Yes.

18 Q And what's his name?

19 A Dale Mathis.

20 Q And what was your and Dale's relationship?

21 A We were -- we were intimate. We were together.

22 Q Okay. And how long were you all together?

23 A About two years.

24 Q How did you and Dale meet?

25 A Through a friend of mine. I was at his dad's house

1 and I happened to be his neighbor, so . . .

2 Q Okay. Did Dale have a job?

3 A No.

4 Q All right. Did Dale have health problems?

5 A Yes.

6 Q So I'm going to ask why a 27-year-old girl is with a
7 50-plus old guy with no job, no permanent home and health
8 problems.

9 A He took care of me.

10 Q Was it a good relationship?

11 A For a while.

12 Q Okay. What about toward the end?

13 A Not so much.

14 Q Okay. Now, at the time of this incident, did you and
15 Dale have a vehicle?

16 A No.

17 Q All right. Did Dale have a vehicle before this
18 incident?

19 A Yes.

20 Q What type of vehicle was it?

21 A A Ranger -- Ranger truck.

22 Q Okay. And what happened to that truck?

23 A It got impounded.

24 Q All right. And how long before this incident did it
25 get impounded?

1 A Maybe a month.

2 Q All right. So how would you get around from place to
3 place during that month?

4 A Friends.

5 Q All right. Who were you living with at that time?

6 A Jimmy Blackwell.

7 Q And where did Jimmy Blackwell live?

8 A Fews Bridge Road.

9 MR. BLOUIN: May I approach?

10 THE COURT: Yes, sir.

11 MR. BLOUIN: I'm going to move this mic a little bit
12 closer to you so you don't have to keep ---

13 THE COURT: Bend it down a little bit. Yeah. There
14 you go.

15 BY MR. BLOUIN:

16 Q There you go.

17 Now, Ms. Smith, I'm going to show you what's been
18 marked as State's Exhibit 1. I know you can't move around
19 that well, so I'll bring it to you. Do you recognize on
20 this map where Jimmy's house was?

21 A Yes.

22 Q And can you point that out on the map?

23 A (Indicating.)

24 Q I'm not going to try to hit you with it. I'm sorry.

25 And that's the Fews Bridge Road address?

1 A Yes.

2 Q I'm going to give you this Sharpie. As best you can,
3 I know it's tough, and if you can just kind of initial as
4 best you can your initials on the Fews Bridge Road.

5 A (Witness complies.)

6 Q All right. Thank you.

7 Now, Ms. Smith, how long had y'all lived at Jimmy's?

8 A Maybe a month.

9 Q Okay. And where did you live before Jimmy's?

10 A Bill Sammons.

11 Q Okay. And where did you live before Bill Sammons?

12 A Cugin Drive.

13 Q Okay. So fair to say you moved around a little bit
14 during that time?

15 A Yes, sir.

16 Q Did you have a cell phone around the incident?

17 A No.

18 Q Did you have a cell phone before the incident?

19 A Yes.

20 Q Okay. What happened to your cell phone?

21 A It got broke.

22 Q Okay. And so did Dale have a cell phone?

23 A Yes.

24 Q And what kind of cell phone was it?

25 A Flip phone.

1 Q So it was kind of just like -- it wasn't like a smart
2 phone or anything like that?

3 A No.

4 Q Okay. Who else was staying at Jimmy's at the time
5 that you and Dale were staying at Jimmy's?

6 A Claire Moore.

7 Q Okay. Was she just a friend?

8 A Yeah.

9 Q And anyone else?

10 A Jimmy.

11 Q Okay. And Jimmy Blackwell?

12 A Yes.

13 Q Were you using drugs during this time?

14 A Yes.

15 Q What kind of drugs were you using?

16 A Opiates and methamphetamine.

17 Q All right. And how much -- when you say opiates, do
18 you mean heroin?

19 A Yes.

20 Q All right. And how much were you using per day?

21 A Between the both of us, maybe a gram.

22 Q So between you and Dale, about a gram?

23 A Yes.

24 THE COURT: Make sure you say yes or no.

25 THE WITNESS: Yes.

1 MR. BLOUIN: Oh, sorry.

2 BY MR. BLOUIN:

3 Q How much does a gram of heroin cost?

4 A About \$100.

5 Q All right. How did you get your drugs?

6 A From Dale.

7 Q All right. Did anybody else give you drugs?

8 A No.

9 Q Did Jamie ever give you drugs?

10 A Yes.

11 Q Okay. Did he sell you drugs or give you drugs?

12 A Both.

13 Q Okay. So just using my quick math, you were spending

14 -- you and Dale, between you, you were spending about \$700
15 a week on heroin; is that a fair estimate?

16 A Yes.

17 Q All right. How many times were you interviewed by
18 Investigator Bailey in this case?

19 A About five.

20 Q Okay. Was I present for some of them?

21 A Yes.

22 Q How many times were you -- how many times were you
23 questioned by just Investigator Bailey? Do you remember?

24 A Twice.

25 Q All right. And is Investigator Bailey here today?

1 A Yes.

2 Q Is that this gentleman right here?

3 A Yes.

4 Q Every time you've talked to Investigator Bailey, your
5 story has been just a little bit different.

6 A Yes.

7 Q Why?

8 A I'm trying to avoid being in trouble.

9 Q In your first interview, did you admit to knowing
10 anything?

11 A No.

12 Q Okay. In your second statement, were you more
13 forthcoming?

14 A A little.

15 Q But did you still mitigate your involvement?

16 A Yes.

17 Q All right. Are you telling this jury what actually
18 happened today?

19 A Yes.

20 Q And what you're saying today is the truth?

21 A Yes.

22 Q Does the truth change?

23 A No.

24 Q Now, let's go back to the beginning. I'm going to
25 show you a picture real quick. Davia, take us back to

1 2016. Did you look a little different than you do today?

2 A Yes.

3 Q Describe to the jury what you looked like back then.

4 A Small.

5 Q Like real small?

6 A Yes.

7 Q Did you look like someone who used a lot of drugs?

8 A Yes.

9 Q Now, we started this off, how did you know Jamie
10 Howard?

11 A I met him through Dale.

12 Q All right. And how long did you know him?

13 A About two years.

14 Q Did y'all ever date?

15 A Yes.

16 Q And how did you feel about Jamie?

17 A I loved him.

18 Q So you cared for him?

19 A Yes.

20 Q Do you believe he cared about you?

21 A Yes.

22 Q And describe ways in which y'all cared for each
23 other.

24 A He was always there for me when I needed him.

25 Q Would he pick you up if you needed him to?

- 1 A Yes.
- 2 Q Would he ever turn you down?
- 3 A No.
- 4 Q Did you call him the day of this incident?
- 5 A Yes.
- 6 Q All right. Did he come to see you?
- 7 A Yes.
- 8 Q And were you still -- you were with Dale at the time?
- 9 A Yes.
- 10 Q Now, were you sleeping with Jamie still?
- 11 A Yes.
- 12 Q And where did Jamie live at this time?
- 13 A He was -- he was moving around a little bit with
- 14 friends, but last I -- last I was talking to him, he was
- 15 staying with his mom.
- 16 Q Okay. How often would you be in contact with Jamie?
- 17 A A couple times a week.
- 18 Q All right. And how would you contact Jamie?
- 19 A I'd call him or text him.
- 20 Q Okay. How would this happen when your phone was
- 21 broke?
- 22 A I used Dale's phone.
- 23 Q When you used Dale's phone, did Dale know you were
- 24 using the phone?
- 25 A Sometimes.

1 Q Would you hide communicating with Jamie from Dale?

2 A Yes.

3 Q And how would you do that?

4 A When he'd lay his phone down or when he was busy
5 doing something.

6 Q Would you delete texts?

7 A Yes.

8 Q All right. Can Dale read and write?

9 A Yes.

10 Q Now, how long did Dale know about your relationship
11 with Jamie?

12 A The whole time.

13 Q And about what time period did you start -- how long
14 did you date Jamie?

15 A On and off for about a year.

16 Q And Dale knew about you the whole time?

17 A Yes.

18 Q I'm going to show you a picture real quick and mark
19 it State's Exhibit Number 19.

20 (WHEREUPON, State's Exhibit Number 19 was marked for
21 identification.)

22 BY MR. BLOUIN:

23 Q Can you tell me what that is?

24 A That's me when I got arrested.

25 Q Does that accurately depict kind of what you looked

1 like at the time?

2 A Yes.

3 MR. BLOUIN: Your Honor, at this time, the State
4 would move Exhibit 19 into evidence.

5 THE COURT: Any objection?

6 MR. KORNFELD: None, Your Honor.

7 THE COURT: Without objection, State's Exhibit
8 Number 19 is so admitted.

9 (WHEREUPON, State's Exhibit Number 19 was admitted into
10 evidence.)

11 BY MR. BLOUIN:

12 Q If I may, so you looked a lot different then than you
13 do now.

14 A Yes.

15 Q You were a lot smaller?

16 A Yes.

17 Q Okay. Now, how did Dale take the news that you were
18 seeing Jamie?

19 A He didn't like it.

20 Q You kept seeing him in spite?

21 A Yes.

22 Q Were Dale and Jamie still friends at this point?

23 A Somewhat.

24 Q Would they still get together?

25 A No.

1 Q All right. Did Dale like Jamie?

2 A Not really.

3 Q Did Jamie have any weapons?

4 A Yes.

5 Q Why did he have weapons?

6 A For protection.

7 Q Okay. Did he have a samurai sword?

8 A Yes.

9 Q Was that samurai sword the knife that was used to
10 kill Jamie?

11 A No.

12 Q Okay. On the morning of January 19th, what were you
13 doing?

14 A I was laying in the bed sick.

15 Q When you say you were sick, what does that mean?

16 A I was dope sick.

17 Q All right. And explain what dope sick is, generally.

18 A Physically sick. You can't move.

19 Q Is that what happens when -- when do you get dope
20 sick?

21 A When you go so long without it.

22 Q And when's the last time you'd been without it?

23 A Just the day before.

24 Q Who all was at the house that day?

25 A Just me, Dale, Jimmy and Jake.

1 Q When you say Jake, who is Jake?

2 A Dale's nephew.

3 Q That would be Jake Tucker?

4 A Yes.

5 Q And how are you to be around when you're dope sick?

6 A I mean, I'm not pleasant. Nobody is.

7 Q Okay. How were you and Dale getting along that day?

8 A We were okay.

9 Q All right. Did you call Jamie to pick you up that
10 day?

11 A Yes.

12 Q Why?

13 A Because Dale hadn't got back. Him and Jake had left
14 and been gone for hours, so I called Jamie to bring me
15 something.

16 Q When you say bring you something, what do you mean?

17 A Bring me some drugs.

18 Q Okay. And where had Dale and Jacob gone?

19 A They went to go make some money somewhere.

20 Q Okay. What time of the day did Jamie pick you up?

21 A It's about 1:00.

22 Q All right. And who was at the house when he came?

23 A Just Jamie.

24 Q Just Jamie. All right.

25 What was Jamie driving?

1 A PT Cruiser.

2 Q Do you remember what color it was?

3 A Blue.

4 Q And what happened next?

5 A Jake and Dale pulled up, and Jake left, and Dale
6 asked for a ride to his brother's house.

7 Q Now, who is his brother?

8 A Chuck Shelton.

9 Q All right. And so Dale asked Jamie for a ride.

10 A Yes.

11 Q Were you already in the car at this point?

12 A No.

13 Q Okay. Did you say anything about this?

14 A No.

15 Q Did you think it was odd?

16 A A little.

17 Q All right. So then what happened?

18 A We got in the car and went to Chuck's.

19 Q All right. Had you gotten over your dope sickness at
20 this point?

21 A Yes.

22 Q All right. What did you take?

23 A Pills.

24 Q Pills. Was Dale high at this point?

25 A Yes.

1 Q Was Jamie a little high at this point?

2 A Yes.

3 Q All right. And so where did y'all end up going?

4 A Chuck's house.

5 Q Where does Chuck live?

6 A Off Highway 11.

7 MR. BLOUIN: May I approach the witness, Your Honor?

8 THE COURT: Yes, sir.

9 BY MR. BLOUIN:

10 Q I'm going to show you once again what's been marked
11 as State's Exhibit 1. And could you point as best you can
12 where Chuck's house was?

13 A (Indicating.)

14 Q And that's up off Highway 11?

15 A Yes.

16 Q Just sign on the yellow.

17 A (Witness complies.)

18 Q All right. I'm going to back up just a second. Did
19 you tell Dale that you were going with Jamie?

20 A Yes.

21 Q What would happen when you usually left with Jamie?

22 A I would stay on for a couple days and come back.

23 Q So you wouldn't come back immediately?

24 A No.

25 Q Okay. So where was everyone in the car going to

1 Chuck's?

2 A Jamie was driving, I was in the passenger's seat and
3 Dale was behind Jamie.

4 Q Okay. And how far is Chuck's house from the
5 Blackwell's?

6 A Maybe five minutes.

7 Q What was the purpose of the trip?

8 A To take Dale.

9 Q Were you, at any time, going to stay at Chuck's?

10 A No.

11 Q Did anybody talk on the way to Chuck's?

12 A No.

13 Q So there was no conversation?

14 A No.

15 Q No insults?

16 A No.

17 Q No back-and-forth between anyone in the car?

18 A No.

19 Q Did you find that odd?

20 A It was awkward.

21 Q All right. So describe what happened when you got to
22 Chuck's.

23 A We pulled at the end of the driveway. Jamie didn't
24 want to pull up in the driveway because of the way the
25 driveway is, so ---

1 Q So what's the driveway like, just to kind of give a
2 picture?

3 A It's up a hill, and it curves around.

4 Q Is it paved very well?

5 A No.

6 Q So it's kind of washed out?

7 A Yeah.

8 Q All right. So then what happened?

9 A He turned around, he did a U-turn in the road and
10 pulled over on the side of the road, and Dale got out of
11 the car.

12 Q Okay. Now, was anybody talking at this point?

13 A No.

14 Q Did Jamie, at any point, cut the engine off?

15 A No.

16 Q All right. When Dale got out of the car, how was he
17 standing?

18 A He was just standing up. He was standing up beside
19 the car.

20 MR. BLOUIN: Beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 All right. Let's take about a 15-minute break.

23 And ladies and gentlemen of the jury, please do not
24 discuss the case with each other. We're going to take
25 about a 15-minute break. Stretch your legs, and then

1 we'll be back in shortly.

2 (WHEREUPON, the jury exits the courtroom at 11:17 a.m.,
3 and a recess is taken.)

4 (WHEREUPON, proceedings reconvened at 11:34 a.m.)

5 THE COURT: All right, ma'am. You're still under
6 oath.

7 Bring the jury back.

8 (WHEREUPON, the jury entered the courtroom at 11:34 a.m.)

9 BY MR. BLOUIN:

10 Q All right. Ms. Smith, when we last left off at the
11 break, we were sitting on the side of the road outside
12 Chuck's house; is that ---

13 A Yes.

14 Q All right. So I'm going to back up a little bit.
15 You said everybody was high?

16 A Yes.

17 Q All right. What had they been using? Do you
18 remember?

19 A Opiates and meth.

20 Q Okay. And when you say "opiates," do you mean "H"?

21 A Pills.

22 Q Pills?

23 A Yeah.

24 Q Okay. Do you know what Dale was using?

25 A Meth.

1 Q And how did they get the meth?

2 A He was high already when he got back at the
3 house.

4 Q Okay. You stated earlier that Dale had physical
5 problems?

6 A Yes.

7 Q What type of physical problems did he have?

8 A He's got Crohn's disease.

9 Q Okay.

10 A He's been in a bad car wreck.

11 Q Does he get around very good?

12 A No.

13 Q Does he need help usually getting around?

14 A Yes.

15 Q And what kind of help does he use to get around?

16 A He walks with a cane.

17 Q Okay. And how many canes does he have?

18 A One.

19 Q Did he used to have more canes?

20 A He had a couple before he moved.

21 Q Okay. But how many did he have around the day of the
22 incident?

23 A One.

24 MR. BLOUIN: May I approach the witness, Your Honor?

25 THE COURT: Yes.

22 MR. BLOUIN: And we're asking her to identify an
23 individual and whether that person is that individual.
24 And I think because of her testimony that she had dated
25 this individual for three years, I believe, plus, she

1 MR. BLOUIN: 20.

2 THE COURT: 20. You can ask is this Dale depicted in
3 the photo. I'm assuming her answer would be yes. And is
4 this a cane that Dale owned.

5 MR. BLOUIN: Okay.

6 THE COURT: That's not how you want to ask it,
7 but ---

8 MR. BLOUIN: Well, maybe if I could ask is this cane
9 in the picture consistent with the type, look similar to
10 the cane that he had on that day.

11 THE COURT: What do you say, Mr. Kornfeld?

12 MR. BLOUIN: I mean, I can get her to draw a
13 picture.

14 MR. KORNFELD: That's fine. I don't have an
15 objection to that if those are the two questions. That's
16 fine.

17 THE COURT: All right.. Those two questions.

18 Bring the jury back.

19 (WHEREUPON, the jury entered the courtroom at 11:43 a.m.)

20 THE COURT: All right. Mr. Blouin.

21 MR. BLOUIN: All right. I believe we move for
22 State's Exhibit Number 20 to go into evidence.

23 MR. KORNFELD: No objection, Your Honor.

24 THE COURT: All right. Without objection, State's
25 Number 20 is admitted.

1 (WHEREUPON, State's Exhibit Number 20 was admitted into
2 evidence.)

3 BY MR. BLOUIN:

4 Q Ms. Smith, you identified who that was in this photo.

5 A Yes.

6 Q And who is that person in this photo?

7 A Dale.

8 Q And is that cane that he's holding consistent with
9 the cane that he used on that day?

10 A Yes.

11 Q All right. So the cane that he had on that day,
12 describe it for me.

13 A It's just a hook.

14 Q How tall was it off the ground?

15 A About to his waist.

16 Q Okay. And how did it -- so you said it was a hook.
17 Was it a big hook or a little hook?

18 A Just average, I guess.

19 MR. BLOUIN: Okay. At this time, Your Honor, we're
20 going to do a bit of a demonstration. At this time, we'd
21 ask the witness to be able to step down.

22 THE COURT: All right.

23 BY MR. BLOUIN:

24 Q All right. Ms. Smith, can you please take a seat
25 where Jamie was sitting, assuming that these four seats

1 represent the PT Cruiser.

2 A (Witness complies.)

3 Q All right. And where were you sitting?

4 A (Indicating.)

5 Q And where was Dale sitting?

6 A (Indicating.)

7 Q Right behind you. And you're in front of the
8 driver's seat.

9 THE COURT: Hold on one second. Ma'am, speak loud
10 enough so the court reporter can hear you. Even though
11 you're not in front of the microphone, she still has to
12 take down what you say. So even though you're facing the
13 jury, just sort of speak loudly and answer his questions
14 so she can take down what your response was.

15 THE WITNESS: Okay.

16 THE COURT: All right.

17 BY MR. BLOUIN:

18 Q So you're sitting outside Chuck Shelton's house on
19 Highway 11?

20 A Yes.

21 Q Okay. What happens when you get there?

22 A We pull at the edge of the driveway, and Dale gets
23 out of the car.

24 Q All right. So Dale gets out of the car. Did he
25 close the door?

1 A No.

2 Q Okay. What sort of temperament was he in?

3 A He seemed fine.

4 Q Did he say anything to you?

5 A He asked (indiscernible).

6 THE COURT: Keep your voice up.

7 BY MR. BLOUIN:

8 Q And did you tell him anything?

9 A No.

10 Q Did he have his cane with him?

11 A Yes.

12 Q All right. At this point, what happened?

13 A Dale took his cane and hooked it around Jamie's neck.

14 Q What side did he hook it around his neck?

15 A Right side (indicating).

16 Q Okay. And did he pull back?

17 A Yes.

18 Q All right. Hard?

19 A Yes.

20 Q Okay. What did Jamie do?

21 A He leaned his seat back.

22 Q All right. So where is Dale when Jamie leans his
23 seat back?

24 A He's still standing up.

25 Q Pulling?

1 A Yes.

2 Q Okay. And when he flips the seat down, when you say
3 the seat down, you mean the seat back?

4 A Yes.

5 Q What does Jamie do next?

6 A He pushes off -- off the steering wheel with his feet
7 and then turns around.

8 Q Okay. So at this point, he's -- how is he situated?
9 I'm not going to ask you to do it.

10 A He's facedown this way.

11 Q He's facedown.

12 And where is Dale?

13 A Standing where you're standing.

14 Q Okay. At any point, does Dale get on top of him?

15 A After Jamie grabbed a knife.

16 Q All right. Let's talk about this knife. Where is
17 there a knife?

18 A Between the seat and the console.

19 Q Okay. Describe the knife.

20 A It's like a hunting knife, I guess.

21 Q Big knife? small knife?

22 A It's a big knife.

23 Q Okay. And it was -- and kind of when you say it's in
24 the console, between the seat and the console?

25 A Yes. Between the seat and the console.

1 Q All right. So get this straight. So he's flipped
2 over.

3 A Yes.

4 Q Tries to grab the knife.

5 A Yes.

6 Q Then what happens?

7 A Dale grabs the knife ---

8 Q Okay.

9 A --- and stabs him.

10 THE COURT: Keep your voice up.

11 THE WITNESS: Dale grabs the knife and stabs him.

12 BY MR. BLOUIN:

13 Q And where does Dale stab him?

14 A In the side.

15 Q Do you remember what side?

16 A I don't remember.

17 Q But he was definitely ---

18 A He was flipped over. He was laying down this way.

19 His body was right here, his head was in the backseat, and
20 his legs were up towards the steering wheel.

21 Q Okay. And Dale was still here?

22 A Yes.

23 Q All right. Why don't you sit back down.

24 So to clarify some of these situations, did Jamie
25 ever hit Dale?

1 A No.

2 Q Okay. Did Jamie provoke Dale?

3 A No.

4 Q Did Jamie ever get out of the front driver's seat of
5 the car?

6 A No.

7 Q Who grabbed the knife first?

8 A Jamie.

9 Q Whose knife was it?

10 A Jamie's.

11 Q At what point did Jamie grab the knife?

12 A As he was turning over from sitting down to trying to
13 get -- trying to get loose from the ---

14 Q Was there a fight going on between everyone ---
15 between the Blackwells and the Sheltons?

16 A No.

17 Q Okay. Was Dale injured in this scuffle?

18 A Not that I know of.

19 Q Did he need medical attention?

20 A No.

21 Q Did you take him to a hospital?

22 A No.

23 Q Are you aware if he went to the hospital?

24 A No, he didn't.

25 Q Were you with Dale after this incident?

1 A Yes.

2 Q So your knowledge, he never went to the hospital?

3 A No.

4 Q Never talked to a doctor?

5 A No.

6 Q Okay. After Dale stabbed Jamie, where was Jamie in
7 the vehicle?

8 A He was still in between the console and the backseat.

9 Q What were you doing at this time?

10 A I was still in the passenger seat.

11 Q Were you screaming?

12 A No.

13 Q What was your reaction?

14 A I was just in shock.

15 Q Okay. What happened next?

16 A He got in the car and ---

17 Q Where did he get in the car?

18 A In the backseat.

19 Q Okay.

20 A He asked me to get in the driver's seat and to drive,
21 and he directed me to a road that was like two or three
22 minutes away.

23 Q Did he ask you to do it or did he tell you to do it?

24 A He told me to do it.

25 Q All right. And so he told you to go to a road where?

1 A It was like two minutes away. I don't know.

2 Q Now, Chuck Shelton's house, what county is that in?

3 You don't know?

4 A Greenville, I guess. I don't know.

5 Q Okay. That's okay.

6 So how did you get to the field?

7 A I drove.

8 Q All right. Where was Jamie when you were driving?

9 A In the backseat with Dale.

10 Q Okay. So where was the knife at this time?

11 A It was still in him.

12 Q Okay. What happened when you got to the field?

13 A I pulled up into the field, and Dale got out and just
14 pulled Jamie out of the car.

15 Q Okay. Did you pull all the way up in the field?

16 A Yes.

17 Q All right. And so Dale just pulled Jamie out of the
18 car.

19 A Yes.

20 Q What happened next?

21 A Got back -- I got in the passenger's seat, and Dale
22 got in the driver's seat, and we left.

23 Q All right. Was Jamie still wearing shoes when he was
24 originally dumped?

25 A Yes.

1 Q What about his wallet?

2 A No. Dale got it.

3 Q Do you know what was in his wallet? Was his ID in
4 his wallet?

5 A I'm assuming.

6 Q Was his debit card in his wallet?

7 A Yes.

8 Q Where did you and Jamie -- where did you and Dale go
9 next?

10 A We went to the dollar store.

11 Q All right. I'm just going to ask you, when you
12 went and dumped Jamie's body, was it still light or dark
13 outside?

14 A It was light.

15 Q All right. Who went into Dollar General?

16 A I did.

17 Q All right. Why did you go to the Dollar General?

18 A To get some -- get something to clean the car
19 with.

20 Q Why did you need to clean the car?

21 A Because there was blood in the backseat.

22 Q Describe that backseat.

23 A It was -- it was blood -- there was blood in the
24 backseat.

25 Q Was it a lot of blood?

1 A Not really.

2 Q Was the seat wet?

3 A Yes.

4 Q When you went into the Dollar General, you went in to
5 buy certain items?

6 A Yes.

7 MR. BLOUIN: May I approach the ---

8 THE COURT: Yes.

9 BY MR. BLOUIN:

10 Q Do you recognize what that is?

11 A Yes.

12 Q What is that?

13 A Cleaning wipes.

14 Q Was that one of the things that you tried to buy?

15 A Yes.

16 Q What is this?

17 A Air freshener.

18 Q Was that one of the things you tried to buy?

19 A Yes.

20 Q What is this?

21 A Carpet cleaner.

22 Q Was that one of the things you tried to buy?

23 A Yes.

24 Q Now, what are these?

25 A Pants.

1 Q Okay. And previously testified that this SKU goes
2 with those pants. What size pants were those?

3 A Extra large.

4 Q Did you wear extra large pants at that time?

5 A No.

6 Q Who were those pants for?

7 A Dale.

8 Q And why did Dale need pants?

9 A Because his were messed up.

10 Q How were they messed up?

11 A He had blood on them.

12 Q All right. You also bought some other items. You
13 bought three, it looks like, pairs of underwear?

14 A Uh-huh.

15 Q Makeup?

16 A Yes.

17 Q And there's not a picture of it, but a Coke?

18 A Yes.

19 Q Why did you buy those items?

20 A I don't know.

21 THE COURT: What was your answer?

22 THE WITNESS: I don't know.

23 BY MR. BLOUIN:

24 Q Why did you go into the Dollar General and not Dale?

25 A I don't know.

1 Q Okay. Who drove leaving the field?

2 A Dale.

3 Q So Dale was driving from the field to the Dollar
4 General.

5 A Yes.

6 Q You were in -- where were you seated?

7 A In the passenger's seat.

8 Q Okay. I'm going to show you a video which has
9 previously been entered as State's Exhibit Number 15.

10 MR. BLOUIN: Your Honor, this video can be a little
11 bit finicky, so it may take a minute to get up where we
12 need it to be.

13 THE COURT: All right.

14 BY MR. BLOUIN:

15 Q Ms. Smith, what I'm showing you is going to be video
16 from that Dollar General. Do you recognize that
17 individual right there?

18 A Yes.

19 Q Who is that individual?

20 A Me.

21 Q Okay. What are you wearing going into the Dollar
22 General?

23 A Jeans and a shirt and boots.

24 Q Do they look clean?

25 A Yes.

1 Q Is that why you were sent into the Dollar General?

2 A Yes.

3 (WHEREUPON, State's Exhibit Number 15, a video, was played
4 in open court.)

5 BY MR. BLOUIN:

6 Q Ms. Smith, what were you feeling like when you were
7 in the Dollar General?

8 A Anxious.

9 Q Were you able to buy those items?

10 A No.

11 Q How did you try to buy those items?

12 A With Jamie's credit card.

13 Q Whose credit card?

14 A Jamie's.

15 Q How did you get ahold of Jamie's credit card?

16 A I got it from Dale.

17 Q Why could you not buy the items with Jamie's credit
18 card?

19 A The PIN was invalid.

20 Q Did you used to know Jamie's PIN?

21 A Yes.

22 Q What did you do after you were declined those items?

23 A I walked out of the store.

24 Q All right. And where did you go next?

25 A Jake's.

- 1 Q All right. Who was driving?
- 2 A Dale.
- 3 Q And where were you riding?
- 4 A The passenger's seat.
- 5 Q Now, who is Jake?
- 6 A Dale's nephew.
- 7 Q And where does he live?
- 8 A Greer.
- 9 Q Why did you go pick him up?
- 10 A So Dale could have some help.
- 11 Q All right. What was your relationship -- what was
- 12 your relationship with Jake like?
- 13 A We were friends.
- 14 Q Had you ever slept with Jake before?
- 15 A Yes.
- 16 Q Were you dating Jake?
- 17 A No.
- 18 Q All right. Was he more close to a friend?
- 19 A Yes.
- 20 Q You said he had helped Dale. Helped Dale with
- 21 what?
- 22 A Move Jamie's body.
- 23 Q Move it where?
- 24 A Towards the woods.
- 25 Q So when you picked up Jake, where was everyone

1 seated?

2 A Dale was in the driver's seat, Jake was in the
3 passenger's seat and I was in the backseat.

4 Q What side of the backseat were you sitting?

5 A Behind Dale.

6 Q Did you use anything to cover up the blood?

7 A Yeah. I used an old sweatshirt.

8 Q Why didn't you help move the body?

9 A Because. Because I can't. I'm not . . .

10 Q So you arrived back in the field?

11 A Yes.

12 Q And was it nighttime or daytime at that point?

13 A It was -- it was dark.

14 Q Did they move the body?

15 A No.

16 Q Why didn't they move the body?

17 A Because Jake couldn't do it.

18 Q All right. What happened with the knife at this
19 point?

20 A Dale removed it.

21 Q What happened to Jamie's shoes?

22 A They were taken off.

23 Q And who took them?

24 A Jake.

25 Q What happened to Jamie's cell phone?

1 A It got thrown out with the knife.

2 Q Okay. Back up a second. What did you do with the

3 knife and the cell phone?

4 A It got thrown over a bridge.

5 Q All right. Do you remember where that bridge was?

6 A No.

7 Q Okay. Who threw the knife?

8 A Jake.

9 Q Did he throw it out the passenger's side window

10 or ---

11 A He threw it out. He stood up at the door and threw

12 it over the bridge.

13 Q Who threw the phone?

14 A Me.

15 Q Was anything else thrown out?

16 A No.

17 Q Why did you throw the phone?

18 A Had to get rid of it.

19 Q Where did you go next?

20 A To Jimmy's house.

21 Q All right. Who was driving?

22 A Dale.

23 Q So Dale's still driving.

24 Where is Jake?

25 A In the passenger's seat.

1 Q And where are you?

2 A In the backseat.

3 Q Okay. When you park at Jimmy's house, where did you
4 park?

5 A Behind the house.

6 MR. BLOUIN: Okay. May I approach the witness, Your
7 Honor?

8 THE COURT: Yes.

9 (WHEREUPON, State's Exhibit Number 21 was marked for
10 identification.)

11 BY MR. BLOUIN:

12 Q Ms. Smith, I'm showing you what's been marked as
13 State's Exhibit 21. Can you tell me what that is?

14 A That's Jimmy's house.

15 Q All right. And is that a fair and accurate picture
16 of Jimmy's house?

17 A Yes.

18 MR. BLOUIN: At this time, we move State's Exhibit 21
19 into evidence.

20 THE COURT: Any objection?

21 MR. KORNFIELD: None, Your Honor.

22 THE COURT: Without objection, State's Exhibit
23 Number 21 is so admitted.

24 (WHEREUPON, State's Exhibit Number 21 was admitted into
25 evidence.)

1 BY MR. BLOUIN:

2 Q All right. I'm showing you what's been entered into
3 evidence as State's Exhibit 21. Can you tell us, again,
4 what this picture shows?

5 A Jimmy's house.

6 Q And what is over here in Jimmy's house?

7 A Driveway.

8 Q Is that where people usually park when they came to
9 Jimmy's house?

10 A Yes.

11 Q Is that where Dale parked the car?

12 A No.

13 MR. KORNFELD: That's okay. I'll retract. Go ahead.

14 BY MR. BLOUIN:

15 Q Did you find that strange?

16 A Yes.

17 (WHEREUPON, State's Exhibit Number 22 was marked for
18 identification.)

19 BY MR. BLOUIN:

20 Q I'm showing you what's been marked as State's
21 Exhibit 22. Do you recognize this?

22 A Yes.

23 Q All right. What does this show?

24 A Jimmy's house.

25 MR. BLOUIN: At this time, we move for State's

1 Exhibit 22 into evidence.

2 THE COURT: All right. Any objection?

3 MR. KORNFELD: None, Your Honor.

4 THE COURT: All right. Without objection, State's
5 Exhibit 22, which represents a chart, is so admitted.

6 (WHEREUPON, State's Exhibit Number 22 was admitted into
7 evidence.)

8 BY MR. BLOUIN:

9 Q I'm going to get you to step down one more time. All
10 right. And get you to point with this pen where Jimmy's
11 house was.

12 A (Witness complies.)

13 Q Just right there, just draw a little circle where
14 Jimmy's house was.

15 A (Witness complies.)

16 Q Okay. And draw a little circle where the driveway
17 was.

18 A (Witness complies.)

19 Q Now, when Dale was driving you guys back that night,
20 where did he go?

21 A (Witness draws.)

22 Q There's a road right there ---

23 A Yes.

24 Q ~~---~~ going back to Jimmy's house. And just, if you
25 could, I know it's tough, just you can bear down harder

1 than you think, just put your initials right there where
2 you say that car was.

3 A (Witness complies.)

4 Q Now, is Jimmy still alive?

5 A No.

6 Q You can go take a seat.

7 And do you know if his house is still there?

8 A It's not.

9 Q Do you know what happened to Jimmy?

10 A He overdosed.

11 Q What time of day was it when you parked your car?

12 A I'm not sure. It was late.

13 Q Dark outside?

14 A Yes.

15 Q What was the temperature like? Do you remember?

16 A It was cold.

17 Q Okay. What happened when you parked the car?

18 A Got out and went in.

19 Q Okay. I'm going to go back to one thing I forgot to
20 ask you, and I apologize. When did you tell Jake about
21 Jamie?

22 A I'm sorry. When we picked him up.

23 Q Okay. Who all, at this point, knew about Jamie?

24 A Me, Dale and Jake.

25 Q Who all was at Jimmy's house -- I'm sorry. There's a

1 lot of J's. Who all was at Jimmy's house when you came
2 back?

3 A Us and Jimmy and his sister and David.

4 Q Would that be David Michael Rife?

5 A Yes.

6 Q All right. What did everybody do at that point once
7 you parked?

8 A Nothing. They were talking in the living room.

9 Q Did you ever speak with David Rife around the car?

10 A Yes.

11 Q What was that about? Do you remember?

12 A He was trying to help me find the keys.

13 Q Okay. Where did Dale go?

14 A In the house.

15 Q And what did Jacob do?

16 A He was in the house.

17 Q What happened to Jamie's car?

18 A Dale drove the car, and I wasn't with him. I don't
19 know.

20 Q Okay. Who was with him?

21 A At the time, Jake.

22 Q And do you remember, was it light outside when he
23 came back?

24 A Yes.

25 Q Did he come back with anybody?

1 A No.

2 Q Did he tell you what happened to the car?

3 A No. Not specifically. He just said he got rid of
4 the car.

5 Q All right. Why were you trying to buy cleaner to
6 clean the car?

7 A I'm not sure. He asked -- he asked -- he asked me to
8 go get it. That's what I went in to get.

9 Q Who asked you to go get it?

10 A Dale.

11 Q Did you talk to Jimmy about anyone?

12 A I'm sorry?

13 Q Did you ever talk to Jamie about anyone after this
14 happened? Not like directly after this incident occurred.
15 Or did you talk to -- about Jamie to anyone?

16 A No. Just Jake or Dale.

17 Q Okay. Did you talk to Jimmy?

18 A No.

19 Q Jimmy's sister?

20 A No.

21 Q Dale's sister?

22 A No.

23 Q You did tell one friend of yours about what happened?

24 A Jake.

25 Q Okay. Did you ever call law enforcement about Jamie?

1 A No.

2 Q Were you ever threatened by anyone if you told anyone
3 about Jamie?

4 A Dale.

5 Q And how did he threaten you?

6 A He just said that I would be laying out there with
7 him.

8 Q Did you believe it?

9 A Yes.

10 Q Who stabbed Jamie?

11 A Dale.

12 Q Who started the fight between Dale and Jamie?

13 A There wasn't a fight.

14 Q Was Jamie just sitting in the front seat?

15 A Yes.

16 Q Where were y'all going to go?

17 A I'm not sure.

18 Q Did anyone call law enforcement?

19 A No.

20 Q Have you seen any of the interviews given by
21 Mr. Mathis to law enforcement?

22 A No.

23 Q Have you spoken to Mr. Mathis about any interviews or
24 stories that he's told law enforcement?

25 A No.

1 THE COURT: All right. Mr. Kornfeld,
2 cross-examination.

3 MR. KORNFIELD: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. KORNFIELD:

6 Q Davia Smith, what kind of deal are you trying to get
7 out of this by testifying here today?

8 A I don't know for sure.

9 Q Well, Ms. Smith, what kind of deal do you think
10 you're going to get by testifying here today?

11 A I don't know. Nothing has been discussed.

12 Q Have you ever stated to anybody any kind of deal that
13 you thought you were going to get before?

14 A No.

15 Q All right. Now, you understand today that you just
16 swore under oath, you put your hand on that Bible,
17 correct?

18 A Yes.

19 Q And subject to penalties of perjury, you understand
20 that as well, correct?

21 A Yes.

22 Q And you're telling me and more importantly this jury
23 here today that you're telling the truth.

24 A Yes.

25 Q And that nothing that you said so far to this point

1 is a lie.

2 A Correct.

3 Q Okay. You spoke to solicitors about your testimony
4 earlier today, didn't you?

5 A Yes.

6 Q All right. And what was the purpose of doing that?

7 A To make sure I was prepared to come in the courtroom.

8 Q All right. And do you remember the first time you
9 met with Investigator Bailey, who is sitting right here?
10 Do you remember that?

11 A Yes.

12 Q And you remember you told him you didn't know
13 anything about Jamie's death, correct?

14 A Right.

15 Q And that was a lie, wasn't it?

16 A Yes.

17 Q And you told him that you were his ex-girlfriend,
18 meaning Jamie, and that you didn't know anything about it
19 again later on in the interview, correct?

20 A Right.

21 Q Then you tried to use Jamie's credit card after he
22 was already dead, didn't you?

23 A Yes.

24 Q And you previously over here told them because Jamie
25 -- or Dale gave you that credit card, didn't you?

1 A Yes.

2 Q And that isn't true, isn't it?

3 A That is true.

4 Q You got that card on your own behalf, didn't you?

5 A Dale got it out of Jamie's pocket.

6 Q And even after that, you went in, you went into the
7 store and you tried to buy a bunch of things, didn't you?

8 A Yes.

9 Q And one of the things you tried to buy was makeup,
10 wasn't it?

11 A Yes.

12 Q And the other thing you tried to buy were three pairs
13 of underwear for yourself, correct?

14 A Yes.

15 Q And Dale told you to do that, didn't he?

16 A He didn't tell me to buy those particular items, no.

17 Q He didn't tell you to buy any of the items, did he?

18 A Yes.

19 Q And you told the cops that you loved Jake -- or you
20 said today, today you're calling him Jake, but that's what
21 you told Investigator Bailey; isn't that true?

22 A Yes.

23 Q And you also told him that you had sex with Jacob.

24 A On previous occasion, yeah.

25 Q Yeah. And you had sex with Jamie.

1 A Yes.

2 Q And you had sex with Dale, correct?

3 A Yes.

4 Q And you also told everybody that Dale took care of
5 you; isn't that correct?

6 A That's right.

7 Q Isn't it true that Dale has some disability due to
8 the fact that he can't read?

9 A Dale can read.

10 Q Okay. So your testimony is Dale's able to read just
11 fine.

12 A Yes.

13 Q Has he ever -- has he ever -- so okay. Do you
14 remember being -- do you ever remember having a
15 conversation in which you thought you should only be
16 interested in you when you were talking to Mr. Bailey?

17 A I'm sorry?

18 Q Did you ever tell Mr. Bailey, he says, "The only
19 person you should be interested in is Davia"? Do you
20 remember that?

21 A Yes.

22 Q All right. You then told the cop -- he said, "This
23 is your only chance."

24 "My chance for what?" Do you remember saying that?

25 A Not really.

1 Q All right. Do you remember saying, "I don't know
2 anything"?

3 A Yes.

4 Q You then said when you first met with the officer
5 that you received a text message that said to -- from
6 Jamie to Dale that said, "If you were treating her right,
7 she wouldn't have to come to me." Do you remember saying
8 that?

9 A Yes.

10 Q And that actually didn't actually happen, did it?

11 A Yes, it did.

12 Q All right. You also said that Mr. Mathis walks with
13 a cane, correct?

14 A Yes.

15 Q And then you started telling them that everyone there
16 was doing either heroin or ice or both, correct?

17 A Correct.

18 Q Isn't it true that Mr. Mathis is a heroin addict?

19 A He does both.

20 Q On that day, was he doing -- he was only doing
21 heroin, wasn't he?

22 A No. He did meth.

23 Q Right. And you were doing methamphetamine, correct?

24 A Correct.

25 Q All right. Do you remember telling the police

1 officer that Jamie always carried a weapon?

2 A Most of the time, yes.

3 Q No. You remember saying to the cop not most of the
4 time, but that he always carried a weapon?

5 A No.

6 Q So you're not denying that you said that -- that you
7 may have said that Jamie always carried a weapon. Your
8 testimony is that you don't remember.

9 A Right.

10 Q Do you know who Stephen Lance Davis is?

11 A Yes.

12 Q Have you ever been to Stephen Lance Davis's house?

13 A Yes.

14 Q And how do you know Stephen Lance Davis?

15 A Through Dale.

16 Q You looked at me like this. You know what I'm about
17 to ask you about, don't you?

18 A Not really.

19 Q Okay. How many -- what did you have in common with
20 Stephen Lance Davis?

21 A What did I have in common with what?

22 Q With Stephen Lance Davis.

23 A Nothing.

24 Q All right. But you did go to his house, correct?

25 A Correct.

1 Q And did you go over there to socialize?

2 A With his wife. Not with him so much.

3 Q All right. And do you remember a night there when
4 you were there and that Dale was there that Yosif was
5 there and that Jamie was there? Do you remember a night
6 like that?

7 A Not off the top of my head, no.

8 Q Is it possible that all of you were there?

9 A Yes.

10 Q All right. When you were there, did Mr. Howard ever
11 grab you outside of the home?

12 A No.

13 Q Did Mr. Howard ever have a gun there and pull it on
14 Mr. Mathis?

15 A No.

16 Q Did Mr. Howard ever carry a weapon, a gun?

17 A Yes.

18 Q And what kind of gun did he carry?

19 A I don't know. I don't know anything about guns.

20 Q Was it a pistol?

21 A It was a handgun, yes.

22 Q It was a handgun. All right.

23 How many guns did he have?

24 A A couple.

25 Q All right. On January 19th, when this occurred,

1 2016, did -- Mr. Mathis didn't have a weapon on him, did
2 he?

3 A No.

4 Q The knife that Jamie had was huge, wasn't it?

5 A Yes.

6 Q Those are actually your words that you told
7 Investigator Bailey, that they were huge, correct?

8 A Yes.

9 Q And do you remember what arms you used when you said
10 it? You said huge, about this big (gesturing).

11 A Right.

12 Q And you also stated that Mr. Howard was driving, that
13 you were in the passenger's seat and Dale was in the
14 backseat; isn't that true?

15 A Right.

16 Q And isn't it actually true that y'all were actually
17 arguing?

18 A Who?

19 Q You, Mr. Mathis and Mr. Howard.

20 A Nobody was speaking.

21 Q Okay. And we'll get to that. But isn't it true that
22 -- you stated Jamie had grabbed the knife and Dale
23 defended himself. Do you remember that?

24 A Jamie did grab the knife, but Jamie grabbed the knife
25 after Dale had hooked him with a cane.

1 Q All right. And the real reason you wanted to stay
2 with Jamie is because he had dope, didn't he?

3 A No.

4 Q And Mr. Mathis didn't have the money to pay for the
5 dope, did he?

6 A Sometimes.

7 Q I'm not talking about sometimes. I'm talking about
8 on January 19, 2016, he didn't have the money to pay for
9 the dope.

10 A No.

11 Q So you were going to stay there with him to do the
12 dope with him, weren't you?

13 A Yes.

14 Q All right. And isn't it true that Mr. Mathis and
15 Mr. Howard were arguing at that point?

16 A No.

17 Q No words were said at all? He just came out with a
18 cane and just hooked him. Didn't say anything. Just came
19 out there and hooked him. Is that your testimony?

20 A Yeah.

21 Q Out of nowhere. Nobody said anything.

22 A No.

23 Q All right. And was there any statement that
24 Mr. Howard was going to have a sex video, a homemade sex
25 video with you, him and someone else?

1 A To who?

2 Q To Mr. Mathis.

3 A No.

4 Q Okay. And you stated earlier that Jamie never sold
5 you drugs, correct?

6 A He sold me drugs.

7 Q Okay. So he did sell you drugs, correct?

8 A Yes.

9 Q And he was a drug dealer, wasn't he?

10 A Yes.

11 Q And he was moving, according to you, a lot of weight.

12 A Yes.

13 Q All right. And when you didn't have money for the
14 drugs with him, you slept with him for drugs, didn't you?

15 A No.

16 Q All right. Well, did you -- sometimes if you didn't
17 have money and then you'd sleep with him, he'd give you
18 the drugs, wouldn't he?

19 A Yes.

20 Q All right. And did you previously tell Officer
21 Bailey that that night, that you and Jamie actually
22 exchanged a few words?

23 A I don't remember.

24 Q Well, later on if we need -- if we play the
25 interrogation, would that help refresh your memory?

1 A Sure.

2 Q All right. But that would be in contrast to what you
3 said before, which is nobody said anything the whole time.
4 Now you're saying you don't remember; is that correct?

5 A Nothing was said from the ride from Jimmy's to
6 Chuck's house.

7 Q All right. What about when the car stopped when you
8 got there, did anybody say anything then?

9 A No. Dale spoke to me. That's it.

10 Q Okay. So if you said before that y'all actually
11 exchanged a few words, then that would be not true; is
12 that what your testimony is?

13 A Yes.

14 Q All right. And isn't it true that after everyone was
15 arguing, Dale was getting out of the car when Jamie pulled
16 a knife on Dale? Isn't that true?

17 A Nobody was arguing.

18 Q All right. And you stated before that he pulled the
19 knife out from the right side console; is that correct?

20 A From between the seat and the console, yes.

21 Q Is it a possibility that he actually pulled a knife
22 from the left side over here (indicating)?

23 A No.

24 Q Did you actually see him pull the knife out?

25 A Yes.

1 Q What color was the knife?

2 A Black.

3 Q Was it all black?

4 A I -- I don't remember exactly.

5 Q Was there any -- what was the thickness of the knife?

6 A I don't know.

7 Q And did it have a handle on it or was there a cover
8 like this on the knife at all, like a pirate knife or
9 anything like that? How was it? Was it a dagger?

10 A I mean, I don't -- I don't -- I don't know. I don't
11 know. It had a handle, yes.

12 Q All right. And isn't it true that after the parties
13 fought, you said, "He'll never bust your window out
14 again"? Isn't that true?

15 A After what?

16 Q After Mr. Howard came out with a knife and after
17 Mr. Howard died, then you said, "He'll never bust your
18 window out again."

19 A No.

20 Q You never said that?

21 A No.

22 Q All right. Tell me about the vehicle that he was in.
23 Did you ever see any -- were you ever in the vehicle with
24 him when he had a pistol?

25 A Yes.

1 Q Did you ever see any shell casings in the vehicle?

2 A No.

3 Q All right. And didn't you say that -- in another
4 interview with the police officer on 2/10/16, do you
5 remember that?

6 A No. Not really.

7 Q All right. Well, maybe I can refresh your memory by
8 asking you this question. Do you remember saying, "Dale
9 wouldn't act a fool in front of Jamie because Dale was
10 afraid of Jamie"?

11 A No.

12 Q Okay. Do you remember telling the police officers
13 that Dale hooked him with his cane? Do you remember that?

14 A Yes.

15 Q Isn't it true that today is the first time that
16 you've ever had any testimony that Dale was outside of the
17 car pulling a cane like this (demonstrating)? It's the
18 first time you ever said anything like that, isn't it?

19 A No.

20 Q You've said that he was outside of the car pulling it
21 before?

22 A Yes.

23 Q Okay. All right. You also stated that y'all shot
24 up, shot up drugs that day, correct?

25 A Yes.

1 Q All right. And when the officer asked you questions
2 about what actually happened with the altercation, isn't
3 it true that you said, "I don't know"?

4 A Possibly.

5 Q And isn't it true right after that you said, "I need
6 a lawyer"?

7 A Yes.

8 Q And isn't it true that when all this was happening
9 and Jamie pulled a knife on it, you actually didn't sit
10 there and stay there and watch everything, you got out of
11 there? Isn't that true?

12 A No.

13 Q You got out of the car. So you -- you didn't.

14 A I sat in the car.

15 Q So you just sat in the car while Jamie is doing this
16 (demonstrating), turned around and coming at him, and you
17 just sat there.

18 A Yes.

19 Q You didn't get out, didn't do anything. Stayed in
20 there the whole time.

21 A Until I climbed over into the driver's seat, yes.

22 Q All right. And your testimony earlier is that he
23 pulls the knife here, he's coming around like this
24 (demonstrating), and that Dale is already out of the car;
25 is that correct?

1 A Yes.

2 Q And that Dale is pulling this cane, correct?

3 A Right.

4 Q And that 54-year-old Dale without his cane or
5 anything like that goes in when he comes around with a
6 knife and just grabs the knife, right? That's what your
7 testimony, just grabs it and gets back and keeps pulling;
8 is that what happened?

9 A Yes.

10 Q Oh, okay. And he was able to do that with being
11 unscathed, completely unscathed; is that correct?

12 A Yes.

13 Q All right. And did Mr. Mathis just hold the knife
14 out -- or Mr. Howard just hold the knife out like this
15 (demonstrating) so that he could grab it so easily? Is
16 that what happened?

17 A No. Dale got it from him.

18 Q All right. While he's pulling, the whole time he
19 just reaches in and gets the knife?

20 A He's not -- he's not pulling the whole time.

21 Q Oh, oh. Well, before they said, so he goes in, he
22 grabs the knife as he's turning around; is that correct?

23 A Right.

24 Q Okay. Isn't it true that -- tell me about the car
25 seat in the PT Cruiser, the driver's seat. Is there

1 anything unusual about that driver's seat?

2 A Not that I know of.

3 Q Isn't it true that Mr. Mathis, after Mr. Howard made
4 a statement about making a threesome video, that
5 Mr. Mathis actually pushed the car seat up and that it was
6 an older seat, it wasn't like a new car, it moved a little
7 bit, kind of like a spring on it? Isn't that true?

8 A No.

9 Q All right. And so how did -- in your testimony, how
10 did Mr. Howard get a big bruise on his head then?

11 A I don't know.

12 Q All right. And which way was the cane being pulled?
13 Was it like this (demonstrating), so he's pulling like
14 this (demonstrating) or was it pulling on the left side of
15 his neck? Was the short end on the right side of his neck
16 or was it on the left side of his neck?

17 A The hook part was on the -- facing this way
18 (indicating).

19 Q So the hook part would have been on the left side of
20 his neck, the long part was on the right side, is what
21 you're saying.

22 A Right.

23 Q All right. Did Mr. Howard's vehicle have a headrest?

24 A I don't -- I don't recall. I don't know. I'm
25 assuming, yes.

1 Q All right. And when he had that headrest, your
2 testimony is that Mr. Mathis got out of the car and was
3 able to get around that headrest ---

4 MR. BLOUIN: Your Honor, I would object. There's
5 some sort of speculation in his question. She said she
6 didn't know whether there was a headrest or not, and he's
7 now assuming facts that aren't in evidence.

8 THE COURT: Rephrase your question, Counsel.

9 BY MR. KORNFELD:

10 Q Well, your statement before was that he pulled on
11 there. So you saw him clearly enough pull this, correct?
12 Is that your testimony?

13 A Yes.

14 Q But you can't tell the jury whether or not there was
15 a headrest there or not?

16 A No. I didn't pay that close attention.

17 Q Okay. All right. Because if there was a headrest
18 there, it would make your story less credible, wouldn't
19 it?

20 MR. BLOUIN: Objection. Speculation.

21 THE COURT: Sustained.

22 BY MR. KORNFELD:

23 Q Do you remember you spoke with the police officers in
24 June of 2017 and Mr. Blouin?

25 A Yes.

1 Q Do you remember asking what was going to happen to
2 you?

3 A I'm sure I did, yeah.

4 Q Didn't you want to find out what was going to happen
5 to Dale first? Isn't that what your main concern was that
6 day?

7 A I don't recall that, no.

8 Q All right. Tell me about Sheila Hawkins. Do you
9 know her?

10 A I met her, I think, maybe twice.

11 Q All right. Did you ever do drugs with her?

12 A No.

13 Q Where did you meet her?

14 A At Jamie's.

15 Q All right. And what were you doing over there when
16 she was there?

17 A I was over there helping him because he had a plastic
18 boot on his leg.

19 Q All right. From breaking his foot, correct?

20 A Right.

21 Q Why did you need to come over there when his
22 girlfriend was over there?

23 A She wasn't staying over there at the time.

24 Q All right. Why was Dale afraid of Jamie?

25 A I didn't know he was.

1 THE COURT: All right. Mr. Kornfeld.

2 MR. KORNFELD: Thank you, Your Honor.

3 BY MR. KORNFELD:

4 Q Ms. Smith, earlier you testified that you and
5 Mr. Howard, the deceased, didn't exchange any words in the
6 vehicle or right after you got to Chuck Shelton's house;
7 isn't that correct?

8 A Right.

9 Q But isn't it true that you previously told
10 Investigator Bailey that you and Jamie actually exchanged
11 a few words?

12 A Yes.

13 Q So today you're telling us that you're telling the
14 truth and that you did not exchange any words; is that
15 correct?

16 A Right.

17 Q Isn't it also true that you testified that Dale --
18 isn't it true that you further stated that Dale wouldn't
19 act a fool in front of Jamie? Isn't that correct?

20 A Yes.

21 Q And isn't that because Dale was afraid of Jamie?

22 A No.

23 Q Well, why would he be worried about acting a fool in
24 front of him if he wasn't afraid of him?

25 A I don't recall. I don't -- I don't know why I made

1 that statement.

2 Q All right. Was your memory of what occurred better
3 then or is it better now?

4 A It's better now.

5 Q All right. And did you previously state that Jamie
6 talks a lot of -- that Jamie was loud and talked a lot?

7 A Maybe.

8 Q All right. Is that your testimony here today that he
9 did that?

10 A I don't understand what you mean by talks a lot.

11 Q Did he talk a lot of junk? That's what I mean.

12 A Depends on the circumstance, I guess.

13 Q All right. And do you remember stating, "I guess
14 Dale got pissed because I was going with Jamie"? Do you
15 remember that?

16 A Yes.

17 Q Do you remember that you had a difficult -- did you
18 -- did you actually see Mr. Mathis -- okay. I'm going to
19 have you come down here again to testify, unless there's
20 an objection.

21 MR. BLOUIN: I don't have any objection.

22 BY MR. KORNFELD:

23 Q All right. I'd like you to show us what you saw
24 Mr. Howard do in the car. Okay. So the car is parked,
25 correct?

1 A Yes.

2 Q And your testimony is that Mr. Howard pulls a
3 knife out on the right side in the center console,
4 correct?

5 A Beside the seat, yes.

6 Q Beside the seat. Is it down on the floorboard or ---

7 A That's down.

8 Q All right. And then your testimony is that he turned
9 around, correct?

10 A Yes.

11 Q All right. Show the jury how he turned around.

12 MR. BLOUIN: Your Honor, we object. He's
13 mischaracterizing what her testimony originally was. He's
14 piecemealing different pieces instead of asking what it is
15 she originally said.

16 THE COURT: All right. Rephrase your question.

17 BY MR. KORNFELD:

18 Q Okay. Tell the jury what -- restate what you told
19 the jury about how he came around with the knife.

20 A When he leaned the seat back, he pushed off the
21 steering wheel.

22 Q Okay. How did he lean his seat back?

23 A Pulled the lever and leaned back.

24 Q Okay. And he pulled the lever on the left side? Is
25 that your testimony?

1 A Yes.

2 Q Okay. And so then at that time, the seat went all
3 the way back. Is that your testimony?

4 A Yes.

5 Q All right. Then your testimony is that he then
6 grabbed the knife with his right hand; is that correct?

7 A As he was turning over, he grabbed the knife, yes.

8 Q All right. And you were sitting here, correct?

9 A Yes.

10 Q All right. And your testimony is that he grabbed the
11 knife and then turned even though he was parallel now,
12 he's laying down, correct?

13 A Yes.

14 Q All right. And during this time, what's your
15 testimony as to where Mr. Mathis is?

16 A Standing up behind me.

17 Q He's standing up behind you?

18 A Behind where I'm sitting right now.

19 Q All right. So in the car or outside of the car?

20 A Outside of the car.

21 Q All right. And then when did the knife -- when was
22 the knife taken from Mr. Howard?

23 A As soon as he grabbed it.

24 THE COURT: Speak up.

25 THE WITNESS: As soon as he grabbed it.

1 BY MR. KORNFELD:

2 Q All right. Did you ever see Mr. Mathis grab ahold of
3 Mr. Howard when he grabbed the knife?

4 A Yeah. He had to lean in to get it.

5 Q All right. Just listen specifically to my specific
6 question. Did he grab ahold of Mr. Howard when he got the
7 knife?

8 A I don't know. I don't know.

9 Q So this is important because did he -- how did he
10 grab the knife? How did Mr. Mathis grab the knife?

11 A He grabbed it out of his hand. I don't understand
12 the question. He grabbed it by the handle.

13 Q Okay. So he grabbed it by the handle. The reason I
14 ask you this question is because knives are sharp, are
15 they not?

16 A Yes.

17 Q So he needed to grab on the handle which is where you
18 -- are you testifying that that is where Mr. Howard's hand
19 was, on the handle?

20 A Yes.

21 Q So your testimony, which hand did Mr. Mathis grab the
22 knife with?

23 A His right, I'm guessing.

24 Q Okay. So now, which hand does Mr. Mathis normally
25 have his cane in?

1 A His right.

2 Q So now he's moved his hand over to the left with the
3 cane. Is that your testimony?

4 A At this point, he's not -- he's not pulling with his
5 cane the whole time. Once Jamie flips over, he's not --
6 he's not underneath his cane anymore.

7 Q All right. And he has the knife. And did you
8 ever see a struggle in which Mr. Howard still had the
9 knife?

10 A No.

11 Q Did you ever see -- well, what -- when you saw the
12 knife and you took it from him, was there ever a struggle
13 between him grabbing the knife back and forth, or
14 Mr. Howard just gave him the knife?

15 A No. As soon -- as soon as he got it, it went into
16 his side. As soon as he got ahold of the knife, it went
17 into his side.

18 Q As soon as he got ahold of the knife, it went into
19 his side.

20 A Yes.

21 Q So was that because there was a struggle between the
22 two of them?

23 A I mean, I know -- I don't know how much of a struggle
24 it was. I wasn't in the backseat.

25 Q All right. Previously you told Investigator Bailey

1 that he pulled -- that Mr. Howard pulled a knife on
2 Mr. Mathis, correct?

3 A Yes. He did pull the knife out.

4 THE COURT: Speak up. Speak up so I can hear you.

5 THE WITNESS: Yes. He did pull the knife out.

6 BY MR. KORNFELD:

7 Q And before you said that he -- that Mr. Mathis got
8 the knife immediately, correct?

9 A He did.

10 Q And your testimony is that you saw everything and you
11 were just sitting there, correct?

12 A Yes.

13 Q Did you ever get out of the vehicle?

14 A No.

15 Q During the entire time?

16 A No.

17 Q Was there ever a struggle in which Mr. Howard still
18 had his hand on the knife and the knife was in his body?

19 A Not that I seen, no.

20 Q Well, this is pretty important. Did you look away
21 because somebody was in a fight and there was a stabbing,
22 or did you actually see it? Did you get out? It would be
23 perfectly reasonable to think you did. That's why I'm
24 asking you.

25 A No. I'm sitting in the passenger's seat. But when

1 there's two people behind me fighting over something, I
2 can't see everything, and I don't want to state something
3 that I didn't see.

4 Q All right. And you are testifying that you never saw
5 Mr. Howard pull a gun on Mr. Mathis, correct?

6 A Right.

7 Q Or any weapon of a -- anything, correct?

8 A Right.

9 Q All right. And how much -- you can go ahead and sit
10 back here.

11 How much weight was he actually moving?

12 A I'm not sure.

13 Q Well, you stated that it was a lot of weight. You
14 must have -- what's a lot of weight to you?

15 A I mean, I'm not sure. A couple ounces..

16 Q A couple ounces?

17 A Yeah.

18 Q That's a lot of weight to you?

19 A I mean, yeah. To me.

20 Q How long have you been doing drugs, Ms. Smith?

21 A Not very.

22 Q Not very long?

23 A No.

24 Q All right. And you're from the northern part of the
25 county, correct?

1 A I'm from Greenville.

2 Q You've seen a lot of meth in your life, haven't you?

3 A A good bit, yes.

4 Q And you know that two ounces of meth isn't a lot to
5 you, don't you? It's not a lot to you, is it? That's a
6 little amount. That's a simple possession amount, isn't
7 it?

8 MR. BLOUIN: Objection. He's badgering. Let her
9 answer the question.

10 THE COURT: Sustained.

11 BY MR. KORNFELD:

12 Q Mr. Howard was a drug dealer, wasn't he?

13 A Yes.

14 Q And when people didn't pay him -- when he was ---

15 MR. BLOUIN: Objection. Speculation.

16 THE COURT: All right. Sustained. Rephrase your
17 question, Mr. Kornfeld.

18 BY MR. KORNFELD:

19 Q And he was not only just any kind of drug dealer, he
20 dealt methamphetamines, didn't he?

21 A Yes.

22 Q And sometimes he would deal other drugs such as pills
23 and heroin, didn't he?

24 A Yes.

25 Q And he protected his goods and himself with weapons,

1 did he not?

2 A Yes.

3 Q And he wasn't -- he wasn't the one who -- to not pull
4 a knife out on Mr. Mathis.

5 MR. BLOUIN: Speculation, Your Honor.

6 THE COURT: All right. Sustained.

7 BY MR. KORNFIELD:

8 Q He pulled a knife out on him that day, correct?

9 A After he hooked him with a cane, yes.

10 Q And Dale was already out of the vehicle, wasn't he?

11 A Right.

12 Q And Dale was about to go into Chuck's house, wasn't
13 he?

14 A I mean, he had to walk up the driveway, but yes.

15 Q All right. Now, at the beginning of our -- of this
16 cross-examination, do you remember stating when I asked
17 you what kind of deal you're going to get, you said, "I
18 don't know what kind of deal I'm going to get"? Do you
19 remember that?

20 A Yes.

21 Q And do you also remember speaking on -- do you ever
22 remember saying, "They're going to call me in to testify,
23 cross-examine me, whatever. When they break, the
24 solicitor, Hunter, is going to come in and drop my -- and
25 I'll sign to plead guilty to accessory"? Do you remember

1 saying that?

2 A No.

3 Q Okay. And also -- well, did you say it?

4 A I could have.

5 Q All right. That's something -- a pretty important
6 thing to know considering the charges if you remember
7 saying that or not, don't you think?

8 A I mean, I could have said it, yes.

9 Q But you just can't remember right now.

10 A I don't remember when I said it, no.

11 Q All right. Did you also say, "He said he already
12 talked with Hunter about time served and probation. The
13 only thing that can mess me up is if I stumble on my
14 testimony"?

15 A Yes.

16 Q You did say that, didn't you?

17 A Yes.

18 Q And you were most -- you were most concerned with
19 sounding convincing, weren't you?

20 A I guess.

21 Q And you didn't want to get caught up by me or stumble
22 on your story, did you?

23 A You're right.

24 Q So you didn't think I had that tape, did you?

25 A I know my phone calls are recorded.

1 Q You do. You didn't think I had that tape and I
2 listened to it, did you?

3 A No.

4 Q All right. And you got up here, and the first thing
5 that you said was, "I don't know what kind of deal I'm
6 expecting to get," isn't it?

7 A I don't.

8 Q Well, you know what you said here, correct?

9 A I know the possibilities I could get, but I don't
10 have a deal.

11 Q All right. And you also thought that you would get
12 -- you also said you thought you were going to get time
13 served and probation, correct?

14 A Yes.

15 Q Well, considering you're facing murder, that's a
16 pretty big concession to get, isn't it?

17 A Yep.

18 Q And you'll do anything you can to get that time
19 served and probation, won't you?

20 A No.

21 Q Well, but will you at least admit that you lied about
22 it earlier today when I asked you at the beginning about
23 did you think -- what did you think you were going to get?
24 I asked you what kind of deal did you get coming up here
25 to testify, then I asked what kind of deal do you think

1 you're going to get, then I told you about your jail
2 calls. So can you at least say that you're not telling
3 the truth or being completely candid at the beginning of
4 this cross-examination?

5 A No.

6 Q You weren't.

7 A A deal that I may think that I get is irrelevant to
8 what may happen.

9 Q All right. It's irrelevant.

10 A I have nothing on paper. I have no -- there's
11 nothing been discussed with me.

12 MR. KORNFELD: All right. All right.

13 (WHEREUPON, a bench conference was held off the record.)

14 BY MR. KORNFELD:

15 Q All right. Ms. Smith, previously, you stated when I
16 asked you, "They're going to call me in to testify,
17 cross-examine me, whatever. When they break, the
18 solicitor, Hunter, is going to come in and drop my -- and
19 I'll sign and plead guilty to accessory." And I believe
20 your testimony was, "No," and then it was, "I may have
21 said." Do you remember that?

22 A Yes.

23 Q Was that your testimony?

24 A Yes.

25 Q All right. I'm going to play this, and you tell me

1 if this is what you said.

2 (WHEREUPON, an audio recording was played in open court.)

3 BY MR. KORNFELD:

4 Q All right. That's you on the tape, isn't it?

5 A Yes.

6 Q And that's exactly what you said, isn't it?

7 A Yes.

8 Q All right. So lying is nothing new to you, right?

9 A No.

10 Q You lie to cops all the time. You lied to him two or
11 three times when he talked to you, correct?

12 A Who's "him"?

13 Q Detective Bailey. You lied to him, didn't you?

14 A Yes.

15 Q And you lied to me, didn't you?

16 A Yes.

17 Q And you lied to this jury, didn't you?

18 A No.

19 Q Okay. Now you're lying again, aren't you?

20 A What did I lie to the jury about?

21 Q When I'm asking you the questions. Okay. You lied
22 to me in front of the jury. I'm sorry. You're correct.

23 You lied to me in front of this jury; is that correct?

24 Is that a fair statement?

25 A Sure.

1 Q All right. And the reason that you do that is
2 because you'll do anything for yourself even if it means
3 lying, won't you?

4 A Yeah.

5 Q You've got a big burden on you, don't you? How old
6 are you, Davia?

7 A 30.

8 Q 30.

9 You didn't see any of the struggle, you didn't see
10 the knife go in there, and you didn't see Dale trying to
11 hold him back trying to save his own life, did you? You
12 didn't see anything, did you? You just know you've got a
13 big charge on you.

14 MR. BLOUIN: Your Honor, is he going to let her
15 answer her question?

16 THE COURT: All right.

17 BY MR. KORNFELD:

18 Q You didn't see it, did you?

19 THE COURT: Answer the question, ma'am.

20 THE WITNESS: I admitted to what I saw.

21 BY MR. KORNFELD:

22 Q And you didn't see what happened, did you, because
23 you got out of there ---

24 A I told you.

25 Q --- when Jamie came with the knife?

1 A And I told you I didn't see what happened. I told
2 you ---

3 MR. KORNFELD: Right. You didn't see it.

4 No further questions.

5 THE COURT: Redirect.

6 REDIRECT EXAMINATION

7 BY MR. BLOUIN:

8 Q Davia, let's start off with one more. You hoped you
9 get a deal out of this.

10 A You're right. Yes.

11 Q Have I talked with you about a deal?

12 A No.

13 Q Has Mr. Gregory talked with you about a deal?

14 A No.

15 Q Did I meet with you this morning with your attorney
16 in the small little box?

17 A Yes.

18 Q Did I hand you any sort of paperwork?

19 A No.

20 Q Have I said anything about accessory?

21 A No.

22 Q Have I mentioned the word "probation"?

23 A No.

24 Q Have I mentioned the word "time served"?

25 A No.

1 Q Who were you talking to on that phone call?

2 A Probably my dad.

3 Q So were you telling him what you hoped?

4 A Yes.

5 Q You hope that you come in here and do a good job and
6 you get a deal.

7 A Yes.

8 Q So no one from this side of the table ---

9 A No.

10 Q --- no one upstairs on the third floor ---

11 A No.

12 Q --- has talked to you about anything.

13 A No.

14 Q No one's handed you any paperwork.

15 A No.

16 Q Just so that's clear.

17 Let's talk about some things that were seemingly
18 inconsistent but we can figure out. One, you initially
19 said that Dale -- or testified that Dale didn't have a
20 weapon, right?

21 A Right.

22 Q Okay. What was he carrying?

23 A His cane.

24 Q Okay. And what was the cane made of?

25 A Wood, I guess.

1 Q Was it a solid cane?

2 A Yes.

3 Q And you said about waist high?

4 A Yes.

5 Q And what did Dale use that cane to do?

6 A To help him walk.

7 Q Okay. And that day, what did Dale use that cane to
8 do?

9 A Pull Jamie into the back.

10 Q All right. So just to kind of figure out what's
11 going on, the door was open?

12 A Yes.

13 Q And Dale was standing about where I am with the open
14 door?

15 A Yes.

16 MR. KORNFELD: Objection, Your Honor.

17 MR. BLOUIN: I'll rephrase.

18 THE COURT: Sustained. Rephrase your question,
19 Counsel.

20 BY MR. BLOUIN:

21 Q And where was Mr. Howard?

22 A In the driver's seat.

23 Q And what did Mr. Mathis do with that cane?

24 A He hooked it around ---

25 MR. KORNFELD: Objection. This is asked and answered

1 in his direct.

2 THE COURT: Sustained.

3 MR. BLOUIN: I was going to say, Your Honor, he went
4 into this in great detail during cross, and so I was using
5 this example to clarify what ---

6 THE COURT: I've heard it three or four times, the
7 jury's heard it three or four times. I think they've got
8 it.

9 MR. BLOUIN: All right.

10 MR. KORNFELD: Thank you, Your Honor.

11 BY MR. BLOUIN:

12 Q How did you describe Jamie's knife?

13 A It was big.

14 MR. KORNFELD: Objection. Asked and answered, Your
15 Honor.

16 THE COURT: I'm going to sustain that objection, too,
17 Counselor.

18 BY MR. BLOUIN:

19 Q All right. You admitted to lying. Did you admit to
20 lying in your interviews with Investigator Bailey?

21 A Yes.

22 Q How much of your first interview was true, would you
23 say?

24 MR. KORNFELD: Objection. Speculation.

25 MR. BLOUIN: She's the one who did the answering.

1 She can tell you how much was true and how much wasn't.

2 MR. KORNFELD: I don't think to a reasonable degree
3 of certainty, Your Honor. She's not an expert.

4 THE COURT: Well, Counselor, I'm going to sustain the
5 objection. I think that's speculation. Move on. I'm
6 going to sustain the objection.

7 BY MR. BLOUIN:

8 Q Okay. But you did admit you lied?

9 A Yes.

10 Q All right. What was -- I believe you testified on
11 cross that Dale was using methamphetamine?

12 A Yes.

13 Q What does methamphetamine do to you?

14 A Makes you stay up.

15 MR. KORNFELD: Objection. I didn't ask anything
16 about what methamphetamine did to anybody or whether or
17 not he was on meth or not. This ---

18 THE COURT: So is your objection it's outside the
19 scope?

20 MR. KORNFELD: Yes, Your Honor. Sorry. Outside the
21 scope.

22 MR. BLOUIN: Your Honor, there's been so much talk
23 about methamphetamine and that he was on methamphetamine
24 and he doesn't do heroin.

25 THE COURT: Counsel, but I think your question is

1 outside the scope, so I'm going to sustain the objection.

2 MR. BLOUIN: All right.

3 THE COURT: I don't think that was covered in
4 cross-examination.

5 MR. BLOUIN: Beg the Court's indulgence one moment.

6 THE COURT: All right.

7 MR. BLOUIN: No further questions.

8 THE COURT: Anything on redirect?

9 MR. KORNFELD: None, Your Honor.

10 THE COURT: All right. I have no questions.

11 Ma'am, you can step down.

12 Is the State ready to call its next witness?

13 MR. BLOUIN: Yes. Your Honor, the State calls
14 Antonio Bailey.

15 THE COURT: Mr. Bailey, come forward and be sworn.
16 WHEREUPON,

17 ANTONIO BAILEY

18 After having been duly sworn, testified as follows:

19 THE CLERK: Please have a seat.

20 DIRECT EXAMINATION

21 BY MR. BLOUIN:

22 Q Good afternoon, Antonio.

23 A Good afternoon.

24 Q Could you state your name for the record, please.

25 A Antonio Lee Bailey.

1 Q And where are you employed?

2 A Greenville County Sheriff's Office.

3 Q And how long have you been employed with the
4 Sheriff's Office?

5 A 24 years.

6 Q All right. Were you employed in law enforcement
7 prior to coming to Greenville?

8 A Yes.

9 Q And where were you employed then?

10 A Georgetown City Police Department for six years.

11 Q So how many total years of law enforcement experience
12 do you have?

13 A 30.

14 Q All right. What is your position at the Sheriff's
15 Office?

16 A I'm a homicide investigator.

17 Q And how long have you been an investigator?

18 A 17 years.

19 Q And how long have you been a homicide investigator?

20 A 16 years.

21 Q All right. What do homicide investigators do?

22 A Basically, we investigate -- we conduct death
23 investigations. In Greenville county, we have a six-man
24 unit. And what we do, we investigate all unattended
25 deaths. And unattended death is basically anytime a

1 person dies that we cannot find a doctor or a medical
2 physician to sign a death certificate. That's what we
3 deem as an unattended death: your suicides, things of
4 that nature.

5 Q All right. Approximately how many homicides have you
6 investigated?

7 A Probably about 100.

8 Q And what techniques do you use to investigate these
9 homicides?

10 A First thing we do, the scene is probably one of the
11 most important things that we work on when we respond to a
12 homicide because the body is the best piece of evidence
13 that we have. So working the scene, and working the scene
14 entails -- what we would normally do when we get there,
15 "we" being myself, the coroner and forensic techs, we
16 would conduct what we call a walk-through. A walk-through
17 is no more than exactly what it sounds like. You walk --
18 you walk in the scene and you look around just to get a
19 general feel for what you see. Everybody goes in at the
20 same time. Everybody -- allows everybody to see the same
21 thing.

22 At that point, we all back out and everything's
23 photographed. Everything's either photographed or
24 videotaped. Nothing's touched.

25 Once it's -- once the scene has been photographed and

1 videotaped, then we proceed to collect any evidence that
2 we may have: a gun, bloody T-shirts. Whatever the case
3 was, that's when we would go in and we collect the
4 evidence.

5 Once the scene is clear, again, remembering that the
6 body is our biggest piece of evidence, there are certain
7 things that we do with the body on the scene. We don't
8 manipulate it in any way. One of the things that we
9 always do is bag the hands. We bag the hands because
10 there's some possible evidence that may be underneath the
11 nails. As far as any other manipulation of a body, we
12 don't. All that's pretty much done at the Medical
13 Examiner's Office.

14 Once the scene is worked, the next thing is
15 interviewing witnesses.

16 So I guess that's, in a nutshell, what we do.

17 Q Okay. You always get forensic evidence like usable
18 DNA and fingerprints?

19 A No.

20 Q So is real-life investigating homicides anything like
21 CSI, the TV show?

22 A I wish. Unfortunately not.

23 Q So how did you become involved in this case?

24 A Again, Greenville County Sheriff's Office has a
25 six-man homicide unit. We get our case assignments from a

1 call rotation. We go on call from Monday to Monday,
2 8 a.m. to 8 a.m. Any deaths that come in during that week
3 that you're on call, that's how you receive your case
4 assignments. In this particular -- this particular day on
5 the 29th, it was my call week.

6 So normally, we get calls by a call comes in through
7 dispatch, dispatch sends a uniform officer. If it's a
8 death call, a uniform officer in addition to a supervisor
9 would respond to that call. Once the supervisor gets on
10 the scene and he realizes that it is, in fact, a death
11 call, he, in turn, calls the on-call investigator. That's
12 how I got involved in this particular case.

13 Q All right. When you arrived on the scene, who all
14 was present?

15 A When I arrived on the scene that particular day, we
16 probably had about three uniform deputies. It was a
17 gentleman standing off at the distance who they told me
18 was the man who found the body, and there was some firemen
19 on the road.

20 Q Okay. Where was this scene located?

21 A It was on 30 Burrell Road. It's up in the northern
22 part of the county near North -- North Greenville College.

23 Q All right. Had the body been moved when you arrived?

24 A No, sir.

25 Q Were any lifesaving measures performed by you or by

1 anyone that you were aware of?

2 A No, sir. It was -- obviously, it was deceased.

3 Q All right. How did the victim present when you saw
4 him?

5 A The best of my knowledge, he was prone or laying
6 facedown. His pants was pulled down to his knees, but his
7 underpants or underwear was left, appeared to be
8 undisturbed, and he had a -- wearing a shirt. And the
9 shirt was partially pulled upward, and you could see --
10 what I saw was -- I describe was a large gaping cut wound
11 on his back.

12 Q Was the victim wearing shoes?

13 A He was not.

14 Q Were his pockets turned out?

15 A It was.

16 Q Was there change on the ground near his pockets?

17 A There was.

18 Q Was there any identification or wallet found on the
19 victim?

20 A We didn't find any identification nor cell phone or
21 anything.

22 Q So how was the victim identified?

23 A After he was processed, he was loaded into our
24 transport van, and he was taken to the Medical Examiner's
25 Office. This happened on a Friday afternoon. We probably

1 worked that scene until maybe 9:00 or 10:00 that night.

2 Saturday morning, Dr. Fulcher performed an autopsy.
3 During autopsy, one of the things that forensics does is
4 they roll your fingerprints. And once the fingerprints
5 are rolled, they would send it to our latent print section
6 at the Sheriff's Office, and that's how he was identified,
7 through his fingerprints.

8 Q Okay. Did you get the impression that the victim was
9 killed on scene or dumped on the scene?

10 A Dumped on the scene.

11 Q And what gave you that impression?

12 A The lack of blood -- the lack of blood and the
13 vegetation around the body was little or no disturbed.
14 Normally, if they were -- you would think if there were
15 some type of struggle, you would have at least seen some
16 disturbed vegetation, and it would appear that we should
17 have seen a lot more blood, which there was none.

18 Q Okay. Once the victim's identity was determined,
19 what did you do next?

20 A We -- after he was -- after any victim is identified,
21 the next step is going to be a notification of the next of
22 kin. And members from our office along with a member from
23 the Coroner's Office would have gone to the victim's next
24 of kin, in this case was his mother, to make the
25 notification.

1 One of the reasons why we go with the coroner is
2 because not knowing who we're dealing with, we try to get
3 some background information: friends -- friends, family,
4 girlfriend, et cetera. So the next step that we did that
5 particular -- in this particular case was to go to the --
6 go to the family, speak with his mother in the hopes of
7 getting some background information.

8 Q Okay. What sort of information did you receive that
9 helped you further the investigation?

10 A We found out the name of a girlfriend, a girlfriend
11 by the name I believe was Sheila Hawkins.

12 Q Okay. And did she provide any information once you
13 spoke with her?

14 A She did. We spoke with -- we spoke with the mother
15 and did autopsy on Saturday. We found the body on Friday.
16 I made contact with Ms. Hawkins Saturday evening. I
17 interviewed her on Sunday. And there were a couple of
18 things that came out of that interview that kind of perked
19 our interest, or at least helped along -- helped with the
20 investigation.

21 One of the things that we found out was we needed --
22 we wanted to know his phone number, "he" being the victim.
23 So we got his phone number.

24 Another thing that she revealed in our interview was
25 he had -- "he" being the victim had just recently

1 purchased a cobalt PT Cruiser. And the last thing I can
2 remember that was useful was she gave us -- she gave us
3 three names, three names of some girlfriends that she knew
4 had some dealings with our victim.

5 Q What did you do with the telephone number that she
6 gave you?

7 A Once I received a phone -- the phone number from his
8 girlfriend, we did what I call an exigent order. An
9 exigent order is no more than a -- it's a search warrant
10 to a phone company requesting information on someone's
11 phone.

12 The reason we did an exigent is because it -- instead
13 of the turnaround time on a standard search warrant could
14 be anywhere between three to four weeks, whereas they make
15 allowances for law enforcement and -- with phone companies
16 to give us what we call an exigent. An exigent takes that
17 turnaround time to within an hour.

18 Q Okay. Were you able to determine the last time that
19 Jamie Howard used his phone?

20 A Yes, we did.

21 Q And do you remember what date that was?

22 A The last date he used his phone was the 19th.

23 Q Is that how you determined or help to determine the
24 day that he passed away?

25 A It's one of the ways.

1 In this particular case, again, and like any other
2 investigation we start, you want to always get a timeline.
3 So what became important to us was the phone, in my mind,
4 would have helped at least determine or give some type of
5 timeline.

6 So the last time when we -- when I did the phone
7 request, they noticed that the last time the phone was
8 used was on the 19th. So we knew that he must have died
9 between the 19th and the date that he was found on the
10 29th.

11 Q Was the phone found with the body?

12 A The phone was not found.

13 Q All right. What did you do with the information
14 provided regarding the cobalt PT Cruiser?

15 A Once I got that information -- again, this -- and all
16 this occurred on a Sunday when I got this information. We
17 contact our dispatch, and our dispatch -- and asked them
18 to put out what we call a BOLO, a be on the lookout for
19 this particular vehicle. And I put that information on
20 the NCIC because at that point, we knew that we had a
21 deceased person, and we knew that his car was missing. So
22 that's what we did as far as the BOLO's information.

23 Q Did you find the PT Cruiser?

24 A Eventually, we did. Again, that was Sunday.

25 On Monday morning when I came in the office, found

1 out -- through our briefing we found out that the
2 Sheriff's Office had responded to an arson call back on
3 the 20th. And one of the things that piqued my interest
4 was the car that they responded to was, in fact, a PT
5 Cruiser. And it was found, it was found at a county park
6 up in the northern part of the county, which, again, is
7 where the body -- where his body was found.

8 Q Okay. And how are you able to ascertain that Davia
9 Smith had information regarding Jamie's death?

10 A When I found out about the PT Cruiser, I was able to
11 get with our arson investigators to make a determination
12 as to whether or not it was the PT Cruiser that I was
13 looking for. One of the things that I was able to get
14 from the interview with his girlfriend was the fact that
15 the car had just been recently purchased, and she provided
16 me with a copy of the bill of sale. The bill of sale had
17 the person who it was sold from and the buyer and it also
18 had the VIN number. So my arson investigators were able
19 to check a secondary VIN to verify that that was -- that
20 was, in fact, our victim's car.

21 The next thing I did was to check and see if our
22 victim had any bank cards or whether or not there was any
23 activity on his bank because his girlfriend indicated that
24 he had a debit card. So I wanted to know whether or not
25 we had any activity because, of course, we never found his

1 wallet.

2 So I checked with one of my white-collar
3 investigators who, in turn, we found out that he banked
4 with Wells Fargo. They contacted Wells Fargo, and Wells
5 Fargo told them about our victim's debit card being
6 attempted to use on the 20th.

7 Q Are you sure of that date?

8 A Debit card?

9 Q The debit card.

10 A I'm sorry. The debit card was being used on the 20th
11 and the arson -- the car was found on the -- debit card
12 being used on the 19th, car found on the 20th.

13 Q And were you able to get a receipt from that debit
14 card transaction?

15 A We did.

16 MR. BLOUIN: May I approach the witness, Your Honor?

17 THE COURT: Yes.

18 BY MR. BLOUIN:

19 Q I'm going to show you what's already entered into
20 evidence as State's Exhibit Number 9. Do you recognize
21 that?

22 A Yes, sir. It's the receipt from Dollar General.

23 Q And what's the date on that receipt?

24 A 1/9 -- 1/19/2016.

25 Q And what's the time of that receipt?

1 A 1821, which is 6:31.

2 Q All right. Thank you.

3 A 6:21. I'm sorry.

4 Q What sort of items were attempted to be purchased at
5 the Dollar General?

6 A Air freshener -- car air freshener, some Armor All,
7 some carpet cleaning and some clothing.

8 MR. KORNFELD: Your Honor, I just believe this to be
9 duplicative, Your Honor.

10 THE COURT: Overruled.

11 BY MR. BLOUIN:

12 Q Okay. Did you get video of the scene?

13 A We did.

14 Q All right. And that's the video that has been shown
15 or been entered into evidence?

16 A Yes, sir.

17 Q All right. How many people did you interview
18 regarding this case?

19 A Probably anywhere between 20 to 25.

20 Q Based on those interviews, were you able to develop
21 any persons of interest?

22 A Yes.

23 Q And who were those persons of interest?

24 A Davia Smith and Dale Mathis.

25 Q All right. Were you able to interview any of those

1 subjects?

2 A The suspect.

3 You're speaking in terms of ---

4 Q The suspect -- the persons of interest, did you
5 interview them?

6 A I did.

7 Q Okay. Who did you interview first?

8 A Davia Smith.

9 Q All right. After interviewing Davia, did you then go
10 to -- did you go to a Citgo gas station on Mountain Road?

11 A I did.

12 Q Why did you go to that gas station?

13 A Because during the -- during the interviews, we were
14 told that the car was parked and the gas that was used to
15 burn the car was bought from the store -- a store. That
16 particular store that you're referring to would be the
17 only store in that particular area that would be open that
18 hour. So we went to the store just to see if, in fact,
19 they had any video.

20 Q Did that lead bear any fruit?

21 A No, no. They had no video.

22 Q Did you have any outside cameras?

23 A No outside cameras. It was video of the inside, but
24 no outside cameras.

25 Q Was Jamie's ID ever recovered?

1 A Yes.

2 Q Where was it recovered?

3 A It was recovered from a gentleman who was arrested on
4 an unrelated charge one night.

5 Q Okay. Were you able to interview that gentleman?

6 A I did.

7 Q And was that gentleman's -- was the evidence or the
8 investigation consistent with previous interviews you had,
9 I guess, at this point with Davia?

10 A Yes.

11 Q All right. And was that individual ever a suspect?

12 A He was never a suspect.

13 Q All right. When did you arrest Dale?

14 A Dale was arrested on February the 12th.

15 Q All right. Did you also serve a search warrant at
16 Jimmy Blackwell's house?

17 A I did.

18 Q All right. Was anything of evidentiary value
19 recovered there?

20 A No, sir.

21 Q Okay. Do you remember -- you said that was on
22 February 12?

23 A February 12th.

24 Q And at this point, had you determined the time in
25 which the decedent had died, the date the decedent had

1 died?

2 A Yes. And judging from the last phone -- the last --
3 the last conversations or the last time his phone was used
4 on the 20th, it was used on the 20th. Then we looked and
5 we noticed or we found out that the car was, in fact,
6 found on the -- the phone was last used on the 19th, the
7 car was found the following evening on the 20th, so we
8 surmised that he had to have died between the 19th and the
9 20th because his car was taken at the time of his death
10 and we had found the car had actually been burnt.

11 Q All right. Was anything of evidentiary value
12 recovered during that search warrant?

13 A No, sir.

14 Q Okay. Was that surprising to you?

15 A Not after it being a burnt car.

16 Q Okay. How many days between that burnt car and the
17 search warrant took place?

18 A Well, we found the car on the 20th and the search
19 warrant was done on the -- the following month.

20 Q Okay. Did you recover any DNA?

21 A No, no.

22 Q All right. Did you take some DNA swabs?

23 A We did.

24 Q Did they come back with anything?

25 A No, sir.

1 Q All right. How would you characterize your
2 interviewing style?

3 A My interviewing style? I'm not -- I'm not the type
4 of officer who yells and screams. I don't use profanity.
5 I basically subscribe to the philosophy that you can get
6 more with sugar than you can with vinegar.

7 Q And were you able to interview Mr. Mathis?

8 A Yes, sir.

9 Q And how many times did you interview Mr. Mathis?

10 A Twice.

11 Q All right. Tell me, what's a statement against
12 interest?

13 A A statement that's against interest is something that
14 will hurt you, the statement.

15 Q Okay. What do those statements mean to you when
16 they're told in an interview?

17 A To me, when someone -- when someone tells -- makes a
18 statement that's going to hurt them, it's a good indicator
19 that they're telling the truth. Most people won't tell
20 something that's going to hurt them if it's a lie. If
21 you're going to lie about something, you're going to
22 pretty much lie to protect yourself versus the other way
23 around.

24 Q How important is consistency in statements?

25 A Very consistent. That's the only way -- that's one

1 of the indicators that you use to make sure or determine
2 what's truthful and what's false.

3 Q When you interviewed Mr. Mathis, who was in the room
4 with you?

5 A Investigator Peeples.

6 Q All right. At the time, was he free to leave?

7 A No, sir.

8 Q Okay. Was he given his Miranda rights?

9 A He was.

10 Q And were you under the impression that he understood
11 those Miranda rights?

12 A Yes, sir.

13 Q Did he appear to be under the influence?

14 A No, sir.

15 Q Did he ever invoke his right to remain silent?

16 A He did not.

17 Q Did he ever ask for an attorney?

18 A He did not.

19 Q And what sort of means do you use to make sure that
20 those happen? Do you just tell him?

21 A No. We have a written waiver that we actually read
22 and have that person initial and sign.

23 Q What would happen if a person didn't understand
24 something?

25 A I would explain it to them.

1 Q Okay. And are they told to sign it if they don't
2 understand?

3 A No. They're told -- they're told just the opposite,
4 not to sign it. If you don't understand it, of course,
5 don't sign anything.

6 And the sign, I guess it's not a proper way to say
7 sign. It's basically what they use, it's initial. It's a
8 Miranda form, the form -- and each -- on this form has
9 statements, you have the right to remain silent. They
10 would -- and I would ask, "Do you understand that
11 statement?" If they respond by saying "yes," I would ask
12 them to initial that line, and we would go through each
13 advisement that very same way. At the end of those
14 advisements, then the question is going to be asked
15 whether or not they wish to speak with us, and if so, then
16 they're asked to sign the form.

17 MR. BLOUIN: All right. Beg the Court's indulgence
18 one moment.

19 If I may approach the witness.

20 THE COURT: Yes, sir.

21 BY MR. BLOUIN:

22 Q Do you recognize these?

23 A Yes. These are departmental Waiver of Rights forms.

24 Q Are those the Waiver of Rights forms you were talking
25 about that you have them initial?

1 A Yes, sir.

2 MR. BLOUIN: All right. Your Honor, these are
3 Court's Exhibits 1 and 2. We were going to enter these
4 into the record, I guess, as State's exhibits, or just
5 enter them in as evidence. Do you have any objection?

6 MR. KORNFELD: No.

7 THE COURT: All right. They can remain Court's
8 exhibits.

9 BY MR. BLOUIN:

10 Q Just to have some sort of -- this is what that form
11 looks like.

12 Who writes this information up here (indicating)?

13 A I wrote that information.

14 Q Okay. And that's just pertinent information to you?

15 A Basically, that's name, address, basic information in
16 terms of just a birth date, Social Security number.
17 Things of that nature.

18 Q All right. And these are the actual individual
19 rights?

20 A Yes. Those are the advisements.

21 Q Now, these initials, do you write these?

22 A No.

23 Q The defendant writes those.

24 A The defendant writes those. And that's after he's
25 asked -- before we ask any questions, I have to tell him

1 -- this whole entire form has been read. This -- I read
2 this entire form to the individual. And after I read each
3 advisement, I ask if you understand what I just read to
4 you, place your initials on that line. And it's done each
5 -- after each advisement, that's when he's asked to
6 initial on that form.

7 Q Now, and you specifically circled the word
8 "coercion."

9 A Yes.

10 Q Why?

11 A I circled the word "coercion" because it's not a --
12 it's not a word that's commonly used. It's not a word
13 that's commonly used, and I wanted to make sure that he
14 understood it. And one of the ways I knew that he
15 understood is I explained it to him as far as nobody's
16 threatening you, nobody's holding a gun to your head, in
17 no way you're being forced to speak to us.

18 The other thing I remember doing with this particular
19 case is he indicated that he -- he indicated that he can
20 write but he could not read. Normally, what I -- when I'm
21 conducting an interview, just to acknowledge that a person
22 can read, I ask them to read the waiver of rights portion
23 aloud to me. Because he said he could not read, I read
24 that entire paragraph to him, and then, of course, asked
25 him if he understood it.

1 Q And then you would ask them to do what here?

2 A Ask him to sign it.

3 Q And that would be your signature right here
4 (indicating)?

5 A That's my signature here (indicating).

6 MR. BLOUIN: All right. May I approach the
7 witness?

8 THE COURT: Yes.

9 BY MR. BLOUIN:

10 Q Would you please tell me what is on that DVD?

11 A It's a recorded interview of myself and Dale Mathis.

12 Q How do you know that that is what's on that DVD?

13 A I viewed it and I initialed it.

14 MR. BLOUIN: All right. Your Honor, at this point,
15 the State would move for State's 23 into evidence.

16 MR. KORNFELD: No objection.

17 THE COURT: No objection, State's Number 23 in
18 evidence.

19 (WHEREUPON, State's Exhibit Number 23 was admitted into
20 evidence.)

21 MR. BLOUIN: And we, at this point, would like to
22 publish to the jury.

23 THE COURT: All right. Before you do that, I think
24 I'm going to give the jury a break. We're going to take
25 about a ten-minute break and go until about 5:00, so give

1 So did Dale make any what you would call statements
2 against interest in that interview?

3 A Yes.

4 Q What statements against interest did you hear him
5 make?

6 A He admitted to stabbing the victim.

7 Q Any other statements against interest?

8 A He said he did it because he was jealous.

9 Q What about the vehicle?

10 A He talked about burning the vehicle.

11 Q All right. Were the keys to that vehicle ever
12 recovered?

13 A Yes, they were.

14 Q And where were those keys recovered?

15 A The car was found at the county park, and when we
16 went back, we noticed or we found the burned, charred-out
17 section of the baseball field. It's right on the edge of
18 a hill, and it was found in a little ravine. It was
19 basically tossed over the ravine.

20 Q Was that consistent with what Mr. Mathis said in that
21 interview?

22 A Yes.

23 Q Did Mr. Mathis tell you any information that wasn't
24 available to the public at that time?

25 A He did.

1 Q Okay. What sort of information did he tell you?

2 A The information about the vehicle was never released.
3 We never released anything about that victim's vehicle
4 being burnt; nor did we release anything about the victim
5 not having on wearing shoes when he was found.

6 Q What was the reason that Mr. Mathis gave for burning
7 the vehicle?

8 A He said that he was doing it to get rid of evidence.
9 I believe that's what he said.

10 Q Were you able to use your investigative techniques to
11 figure out the right story at the beginning?

12 A Say again? I'm sorry.

13 Q At the beginning of the interview, I believe it was
14 he was protecting her, Davia, from being raped.

15 A Okay.

16 Q Were you able to investigate that angle?

17 A Based on the interviews that I had conducted with
18 Davia, it just did not appear to make sense, so there
19 wasn't a whole lot of investigation I could go down that
20 particular avenue.

21 Q And what did Mr. Mathis say he did with the knife?

22 A He said that he threw it in the river, I think,
23 across over the bridge as they drove across the bridge.

24 Q Okay. Did you try to recover the knife?

25 A We did.

1 Q What sort -- go ahead.

2 A We actually used a dive team. We sent a dive team
3 out on two separate occasions, and we weren't able to find
4 anything.

5 Q Did Mr. Mathis change his story?

6 A Yes, he did.

7 Q Okay. Is that common?

8 A In my experience, yes.

9 Q What would be the type of reasons people would change
10 their story during one interview?

11 A Self-preservation. You think about want to -- most
12 of the people want to protect themselves and stay out of
13 trouble.

14 Q Was he given any information that would have caused
15 him to change his story?

16 A By the time I interviewed him, he would have known
17 that we had spoken to Davia.

18 Q And is that about the time he changed his story?

19 MR. KORNFIELD: I would just object to that statement
20 as speculation unless he lays a foundation.

21 THE COURT: All right. I'm going to sustain the
22 objection. Lay a foundation and you can ask the question.

23 BY MR. BLOUIN:

24 Q Dale's original story, at what point during that
25 interview did he change that story?

1 A He gave a couple of different stories, but it was
2 probably when I made mention something to the effect that
3 she had thrown him under the bus already. Something to
4 that effect.

5 MR. BLOUIN: Your Honor, may we approach real quick?
6 (WHEREUPON, a bench conference was held off the record.)

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, the State is going to continue their direct
9 examination of the witness. However, I think that the
10 next portion of that examination will be rather lengthy.
11 And because of that, I'm going to terminate today and
12 allow you to go home and return back tomorrow morning at
13 9:30 to your jury room.

14 And please, ma'am, please, sir, do not discuss the
15 case with one another. Leave -- those of you who are
16 taking notes, leave your notepads in the designated jury
17 room. Do not take those notes with you. And please,
18 ma'am and please, sir, do not bring any notes from home
19 back with you to supplement any notes that you've taken.
20 So in other words, you're not to take any notes while
21 you're at home, and you're not to discuss the case with
22 each other or family members or anybody that would ask you
23 a question about this, all right?

24 All right. So I'll see you tomorrow morning at 9:30.
25 Report to your jury room.

1 (WHEREUPON, the jury exits the courtroom at 4:46 p.m.)

2 THE COURT: All right. Unless there is anything
3 else, we're going to end today.

4 MR. KORNFELD: That's my understanding.

5 MR. BLOUIN: Nothing from us.

6 THE COURT: All right.

7 (WHEREUPON, proceedings adjourned at 4:47 p.m., to be
8 reconvened Wednesday, October 17, 2018.)

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1 State vs. Mathis.

2 Solicitor, do you want Mr. Bailey back on the witness
3 stand?

4 MR. BLOUIN: Yes, Your Honor.

5 THE COURT: All right. Mr. Bailey, come back up.
6 And I know I swore you in yesterday, but I always like a
7 fresh swear, so I'm going to swear you in again today.

8 So, Madam Clerk, would you swear him again for me?

9 WHEREUPON,

10 ANTONIO BAILEY

11 After having been duly sworn, testified as follows:

12 THE CLERK: Please have a seat.

13 THE COURT: All right. Counsel, I'll turn it over to
14 you.

15 DIRECT EXAMINATION (Continued)

16 BY MR. BLOUIN:

17 Q Investigator Bailey, the last time we were here
18 yesterday, we just finished watching, I guess, a video of
19 an interview that you conducted.

20 A Yes, sir.

21 Q And who was that interview with?

22 A Dale Mathis.

23 Q And where was that interview taken?

24 A At the Law Enforcement Center.

25 Q And is that interview clear to hear?

1 A Is it clear to hear?

2 Q Is it clear?

3 A Somewhat.

4 Q How many renditions of the facts did Dale make during
5 that interview?

6 A Three or four.

7 Q All right. What was the first rendition?

8 A I think the first one was that the victim was trying
9 to rape his girlfriend, and he came up behind him and
10 stabbed him.

11 Q And what was the justification for Dale's stabbing?

12 A That the fact that the suspect was raping his
13 girlfriend -- sorry. The victim was raping his
14 girlfriend.

15 Q What was ---

16 THE COURT: Yes, sir.

17 MR. KORNFELD: Objection. I believe that's a slight
18 mischaracterization of what was stated in the video.

19 THE COURT: So you disagree that was not stated in
20 the video?

21 MR. KORNFELD: Right. I think he said because he
22 thought he was going to rape, not -- it's a small point,
23 but rape and raping to me are different.

24 THE COURT: Well, Counsel, what I'm going to do is,
25 obviously, the jury had the opportunity to listen to the

1 video, so I'm going to overrule your objection.

2 MR. KORNFIELD: Very well.

3 THE COURT: All right.

4 BY MR. BLOUIN:

5 Q Investigator Bailey, what was the second rendition?

6 A The second rendition of ---

7 Q Of the facts.

8 A The second rendition was I believe he indicated that
9 he wasn't there, that Davia killed him and came back and
10 told him about it.

11 Q And were those -- were there any more renditions
12 during this interview?

13 A No. I don't think.

14 Q Did you interview Dale again?

15 A I did.

16 Q When did you interview Dale?

17 A On the 26th of February.

18 Q So how many days in between the two interviews?

19 A The first interview was on the 12th.

20 Q So 22nd, 12, so we're ten days.

21 A Correct.

22 Q And who asked for that interview?

23 A Mr. Mathis did.

24 Q So he came to you?

25 A He sent a message through his sister that he wanted

1 to speak with us.

2 MR. BLOUIN: All right. Beg the Court's indulgence.

3 THE COURT: Yes.

4 MR. BLOUIN: May I approach the witness, Your Honor?

5 THE COURT: Yes.

6 BY MR. BLOUIN:

7 Q I'm showing you what's been premarked as State's
8 Exhibit Number 24. Do you know what that is?

9 A Yes. It's the recorded interview that occurred on
10 the 26th of 2016.

11 Q So it wasn't the 22nd?

12 A No. It's the 26th. I'm sorry.

13 Q All right. And how do you know this is the
14 interview?

15 A I have my initials on it.

16 Q So you've seen this?

17 A I have.

18 Q And this is an accurate depiction of that interview?

19 A Yes.

20 MR. BLOUIN: All right. At this point, we move
21 State's 24 into evidence.

22 THE COURT: All right. Any objection?

23 MR. KORNFELD: No, Your Honor.

24 THE COURT: All right. So entered, State's
25 Number 24.

1 (WHEREUPON, State's Exhibit Number 24 was admitted into
2 evidence.)

3 BY MR. BLOUIN:

4 Q Now, before I play this, did you have the opportunity
5 to mirandize the defendant one more time?

6 A I did.

7 Q Did you do that in the same way that you previously
8 did that?

9 A I did.

10 Q Do you do it on the same sheet?

11 A Different sheet.

12 Q Do you ask the same questions?

13 A Same questions read in the same manner.

14 Q Did the defendant seem to understand?

15 A He did.

16 Q Did he seem to be under the influence of any alcohol
17 or drugs?

18 A No, sir.

19 Q Did you make him any promises?

20 A No, sir.

21 Q Did you coerce him in any way?

22 A None.

23 Q And did he sign -- if I may approach -- this waiver?

24 A Yes, he did.

25 Q Now, what is this right here (indicating)?

1 A The last line?

2 Q Yes.

3 A You want me to read it?

4 Q Please.

5 A Can read and write a little bit.

6 Q Was that different than the first waiver?

7 A I believe it was. Can write, cannot read.

8 MR. BLOUIN: All right. Thank you.

9 And these are already into evidence, Your Honor. I
10 believe we need to -- I was informed we actually have to
11 make these State's exhibits now since it's going into the
12 trial, so I'm going to do that at this time.

13 THE COURT: Yes, sir. Any objection to that,
14 Mr. Kornfeld?

15 MR. KORNFELD: None, Your Honor.

16 (WHEREUPON, State's Exhibit Numbers 25 and 26 were marked
17 for identification.)

18 MR. BLOUIN: And at this time, Your Honor, these
19 would be State's 25 and 26. We would just move them in as
20 State's Exhibits 25 and 26.

21 THE COURT: All right.

22 (WHEREUPON, State's Exhibit Numbers 25 and 26 were
23 admitted into evidence.)

24 THE COURT: Just for clarification in the record,
25 Madam Court Reporter put those stickers right next to the

1 sticker that was designated as Court's exhibit, so just so
2 the record would be clear that that was per my
3 instructions.

4 MR. BLOUIN: Thank you, Your Honor.

5 And, Your Honor, if I could, we're using a new
6 speaker today to try to maybe have volume, so I was just,
7 to make sure, I'm going to start in just a minute just to
8 make sure everybody can hear well.

9 THE COURT: All right.

10 (WHEREUPON, State's Exhibit No. 24, a video, was played in
11 open court.)

12 THE COURT: All right. We're going to take about a
13 -- let's take about a ten-minute break, all right? Please
14 ma'am, please, sir, do not discuss the case with each
15 other, and see you in about ten minutes.

16 (WHEREUPON, the jury exits the courtroom at 10:54 a.m.)

17 THE COURT: All right. We'll stand at ease for about
18 ten minutes.

19 (WHEREUPON, a recess is taken at 10:55 a.m.)

20 (WHEREUPON, the jury entered the courtroom at 11:08 a.m.)

21 THE COURT: Mr. Blouin.

22 BY MR. BLOUIN:

23 Q Investigator Bailey, how many renditions of the truth
24 or stories did Mr. Mathis tell in the second interview?

25 A Maybe four or five.

1 Q Okay. Let's start with the beginning. Did
2 Mr. Mathis report to be able to read?

3 A I think the first time, no.

4 Q Okay. The second time?

5 A No. Just one of them he said he could read a little
6 bit, but I'm not sure if it was the first or second.

7 Q Okay. Did he mention going through any books before
8 coming in?

9 A No.

10 Q In the first kind of rendition, how did Mr. Mathis,
11 how did the defendant say things happened or went down?

12 A The first rendition. Are we speaking of the first
13 interview?

14 Q On this second interview.

15 A I believe he indicated that -- he pointed everything
16 to Davia.

17 Q But he took no responsibility for anything?

18 A No, sir.

19 Q All right. In the second rendition or second story
20 that was told, what was -- did the defendant say happened?

21 A He took a little -- he took a little responsibility
22 in terms of -- again, most of what he said, he pointed
23 everything toward Davia.

24 Q And in the third kind of major story, what was his
25 story, the defendant's story?

1 A I believe he indicated that it was an argument
2 that ~~-----~~

3 THE COURT: Mr. Kornfeld.

4 MR. KORNFELD: I would just ask him to lay a
5 foundation for what the third story is.

6 THE COURT: All right. Lay a foundation.

7 BY MR. BLOUIN:

8 Q Investigator Bailey, the story where Mr. Mathis
9 admitted to being present during the whole situation, how
10 did he say that? What did he say happened?

11 A Let me refer to my notes. (Reviews document) This
12 particular story, I believe he indicated that he was
13 jealous that Davia and the victim were texting back and
14 forth with each other. Again, he said he couldn't read.
15 Talked about the incident starting at Blackwell's. Talked
16 about Jamie giving them a ride to his cousin's house.

17 Q Okay. And who's the person we know his cousin to be?

18 A Mr. Shelton.

19 Q Okay. And during your investigation, were you able
20 to determine which county Mr. Shelton's house is?

21 A He lives in Greenville County.

22 Q Okay. And when they got to Mr. Shelton's driveway,
23 what did Dale say transpired at that point?

24 A I think he said something along the lines that they
25 ~~---~~ somebody made a comment about wanting to make some type

1 of sex movie, and it may have been -- it may have been the
2 victim. He said that he got angry. That's when he used
3 his cane. And I can't remember the exact verbiage he
4 used. Hooked -- I think he said hooked him around the
5 neck, and Davia stabbed him.

6 Q Okay. So in this story, he admitted to being in the
7 vehicle.

8 A Yes, he did.

9 Q He admitted to using his cane.

10 A Yes.

11 Q And where did he say everybody was located in the
12 vehicle?

13 A Inside the car.

14 Q Now, I'm going to go back and just as a frame of
15 reference, we're going to talk about both interviews, both
16 sets of interviews we've seen with Dale, okay?

17 A Okay.

18 Q At any point during any of those interviews, did Dale
19 tell you that Jamie attacked him?

20 A Not that I can recall, no.

21 Q During any of the interviews that you had with Dale,
22 did Dale ever claim any sort of self-defense?

23 A No.

24 Q At any point during any of these videos, did Dale
25 ever claim to be scared of Jamie?

1 A Not that I can recall, no.

2 Q Okay. Now, just a short -- you -- just to back up
3 one little bit. A Walmart was mentioned.

4 A Yes.

5 Q Okay. Did you investigate the Walmart?

6 A I did.

7 Q What did you do?

8 A Went to Walmart and pulled the video for the parking
9 lot just to see if we could find the PT Cruiser in the
10 parking lot.

11 Q Did you find anything?

12 A No, sir.

13 Q Okay. Now, I'm going to talk about at any point --
14 all right. So you interviewed Davia and you interviewed
15 Dale.

16 A Yes.

17 Q How many interviews did you have with Davia?

18 A Two.

19 Q That was with you and ---

20 A Investigator Peeples.

21 Q And then the two that we've seen with Dale.

22 A Correct.

23 Q At any point during that time frame, so I guess it
24 would be when Davia was first interviewed to when -- this
25 last Dale video, did Dale -- did you ever show either

1 codefendant each other's statements?

2 A No.

3 Q Were either of them aware of each other's -- of the
4 meat or substance of each other's statements?

5 A They probably knew we spoke with -- they probably
6 knew that I had spoken with both of them, but the details
7 of it, no.

8 Q Was it obvious during the second interview with Dale
9 that he knew that you had spoken with Davia?

10 A Absolutely.

11 Q All right. So just dealing with these sets of four,
12 I guess, interviews that you did with Investigator
13 Peeples, were there any consistencies between them?

14 A Consistencies, the burnt -- car being burnt, body
15 being dumped.

16 Q How about the number of people that were present on
17 11?

18 A That was consistent.

19 Q Okay. And how many people were on 11?

20 A Three.

21 Q All right. Was there a consistency with -- you know,
22 spread out between who was in the vehicle?

23 A Consistency, yes.

24 Q Okay. Was there a consistency with where the
25 individuals were seated?

1 A Yes. It's consistent.

2 Q Were they consistent with where they were going?

3 A Yes.

4 Q Were the general feeling -- was it consistent, the
5 relationship status between the three individuals?

6 A Yes.

7 Q Were there consistencies between with Dale using the
8 cane to hook Jamie?

9 A Yes.

10 Q Was there consistencies, in speaking mainly of the
11 defendant's first interview, of Dale stabbing Jamie?

12 A Yes.

13 Q Okay. Now, at the very beginning, you testified that
14 you have 30 years investigation experience?

15 A 30 years law enforcement, 16 years of investigations.

16 Q Okay. Have you ever dealt with cases that involved
17 justified self-defense?

18 A Yes.

19 Q All right. How many?

20 A Probably less than five.

21 Q Were they all similar in nature?

22 A To a degree, yes.

23 Q Okay. What was similar about them?

24 A Statements were consistent from start to finish, of
25 course, the bodies were left where the incident occurred,

1 law enforcement was called almost immediately after it
2 happened, the evidence seemed to match up with the
3 statements that were given.

4 Q Okay. Based on your experience in law enforcement,
5 is this situation consistent with a self-defense style
6 killing?

7 A Absolutely not.

8 Q Are you aware, through your investigation, of anyone
9 calling and reporting Jamie Howard missing?

10 A No one called.

11 MR. BLOUIN: Beg the Court's indulgence one second.

12 THE COURT: Yes.

13 MR. BLOUIN: Please answer any questions defense may
14 have for you.

15 THE COURT: Mr. Kornfeld.

16 MR. KORNFELD: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MR. KORNFELD:

19 Q Good morning, Officer Bailey.

20 A Good morning.

21 Q Officer Bailey, are you familiar with the term
22 "confirmation of bias"?

23 A No, I'm not.

24 Q All right. Do you think that -- all right. Let me
25 ask you this. When you first got on the case in early

1 February of 2016 -- that's when you first got on the case,
2 right?

3 A January.

4 Q He was killed in January, but I thought you first --
5 when did you first hear about this case?

6 A 29th.

7 Q The 29th. Okay.

8 You -- at that point, you -- how soon after that did
9 you decide that you had two suspects?

10 A How soon after that?

11 Q Yes.

12 A It looks like on the 3rd after -- at the Dollar
13 General.

14 Q All right. And you then charged both of these,
15 Mr. Mathis and Ms. Smith, with murder, correct?

16 A That's correct.

17 Q And at that point, you had already made the decision
18 that there was probable cause, in your mind, to charge
19 them with murder, correct?

20 A At what point are you speaking of?

21 Q When you served both these parties with the warrant.

22 A That's correct.

23 Q All right. So do you believe that you have any new
24 evidence that you would receive after that time would be a
25 confirmation of your existing belief?

1 A I don't believe I understand your question. Can you
2 rephrase?

3 Q Any new evidence that you received after you charged
4 the parties with murder, do you believe that you're more
5 likely to believe that that is confirmation of your
6 existing belief that these parties -- that you thought
7 these parties were guilty of murder?

8 A There was no new information.

9 Q Okay. All right. Well, let's talk about that. You
10 did interview the parties, correct, after they were
11 arrested? Correct?

12 A Correct.

13 Q All right. And you got some information from those
14 interviews, correct?

15 A That's correct.

16 Q All right. And let's talk about I guess the
17 interview first with Ms. Davia Smith, which I believe was
18 on 2/9/2016. Do you recall that?

19 A I do.

20 Q All right. Do you remember when you stated that she
21 would get one chance and one chance only?

22 A I may have said that in the interview, yes.

23 Q All right. And what did you mean by that?

24 A What did I mean by that?

25 Q Right. You were saying -- I assume, you tell me, but

1 I assume, Officer Bailey, you're saying you get one chance
2 and one chance only to tell the truth, correct?

3 A It's an investigative technique.

4 Q Okay. And do you say that because she didn't get one
5 chance and one chance only?

6 A I say that because it's an investigative technique,
7 and we're just basically trying to find the truth.

8 Q All right. So is it fair to say that it's not
9 exactly true that she only gets one chance and one chance
10 only to tell her side of the story?

11 A Yes.

12 Q All right. Do you remember also telling her in the
13 video that the only person that she needs to be interested
14 in right now is Davia?

15 A That's correct.

16 Q And you also told her that -- is that also an
17 investigative technique?

18 A Yes.

19 Q All right. And did you find Ms. Smith to be credible
20 in her statements?

21 MR. BLOUIN: Your Honor, objection. That calls for a
22 legal conclusion.

23 THE COURT: Sustained.

24 BY MR. KORNFELD:

25 Q All right. Did you ever tell Davia that she was

1 lying?

2 A I may have, but I'm not exactly sure.

3 Q And did Davia tell you, was it ever stated ---

4 MR. BLOUIN: Objection. Hearsay.

5 THE COURT: Sustained.

6 BY MR. KORNFELD:

7 Q Okay. In your investigation, did Mr. Howard have the
8 knife?

9 A In my investigation?

10 Q Yes.

11 A Based on statements from witnesses, yes.

12 Q Okay. And were you able to determine how long that
13 knife was from your investigation?

14 A No, sir.

15 Q All right. Did you ever get an accurate description
16 of that knife?

17 A I believe Davia may have gave a partial description.

18 Q All right. Did you ever investigate concerning where
19 that knife may have come from?

20 A No, sir.

21 Q All right. And did you ever investigate concerning
22 Mr. Howard's -- what he did for a living?

23 A What he did for a living?

24 Q Yes.

25 A It's my understanding that he had been terminated

1 prior to going missing.

2 Q All right. Through your investigation, were you able
3 to find out if he was a drug dealer?

4 A Statements that were taken during this interview, I
5 think that may have came out.

6 Q All right. Okay. Do you remember stating to Dale in
7 the second video "that, I can believe" in response to Dale
8 told me he pulled him back, and after he pulled him back,
9 Davia stabbed him? Do you remember that?

10 A I believe I may have said that, yes.

11 Q All right. Is that what you believed at that time?

12 A What do you ---

13 MR. BLOUIN: Your Honor, once again, that would call
14 for some sort of speculation.

15 THE COURT: Rephrase your question.

16 BY MR. KORNFELD:

17 Q You weren't at the scene of the crime, correct?

18 A That's correct.

19 Q So you didn't have eyes on the thing, correct, on the
20 -- on the altercation, correct?

21 A That's correct.

22 Q So in your investigation, you have to make certain
23 determinations, correct?

24 A Yes.

25 Q All right. And in your interrogation with

1 Mr. Mathis, after hearing that Davia stabbed him, you
2 stated "that, I can believe," correct?

3 A Correct.

4 Q All right. What I'm asking you is you found that
5 statement to be credible at that time?

6 A Which statement are we referring to?

7 Q That, I can -- the statement where Dale told him he
8 pulled him back and Davia stabbed him.

9 A Somewhat.

10 Q All right. And Mr. Mathis also said -- or did you
11 believe that Mr. Howard was a little stronger than
12 Mr. Mathis?

13 MR. BLOUIN: Your Honor, object. That would be
14 speculation as well. He never met Mr. Howard, he never
15 saw him alive.

16 THE COURT: Sustained.

17 MR. KORNFELD: Your Honor, can I ---

18 THE COURT: Rephrase your question.

19 MR. KORNFELD: Okay.

20 BY MR. KORNFELD:

21 Q Mr. Bailey, did you state in the interview "we know
22 that, too" in response to "Jamie's a little stronger than
23 I am"?

24 A I may have.

25 Q All right. And it's your testimony now that you

1 don't know whether Mr. Howard was stronger than
2 Mr. Mathis?

3 A That's correct. I don't.

4 Q All right. Why would you say "we know that, too" if
5 you didn't know that?

6 A Because, again, it's an investigative technique.

7 Q What was your end goal in using that investigation
8 technique?

9 A My end goal using that investigative technique was
10 trying to find out the truth.

11 Q Okay. You don't dispute that Mr. Mathis was older
12 than Mr. Howard, correct?

13 A That's correct.

14 Q And you don't dispute that Mr. -- when you met with
15 Mr. Mathis, he had a cane, correct?

16 A That's correct.

17 Q And there was nothing -- you don't dispute that
18 Mr. Howard was much younger than Mr. Mathis, do you?

19 A He was younger.

20 Q Okay. And you don't dispute that -- did you find
21 anything in your investigation that Mr. Howard had any
22 health issues?

23 A That Mr. Howard?

24 Q Right. That he was anything other than a healthy
25 male ---

1 A Nothing.

2 Q --- other than his drug use.

3 A Hu-uh. No.

4 Q All right. Previously, you testified that he never
5 said anything about any kind of self-defense on direct.

6 Do you remember that?

7 A I do.

8 Q Okay. Do you also remember that in the first
9 interview, Mr. Mathis said, "I did not mean to kill him"?

10 A I believe he may have said that. I'm not sure if it
11 was the first or second interview, but I believe he did
12 say it.

13 Q Okay. Well, I guess -- so he says that -- that does
14 kind of matter, actually. Can you look at your notes to
15 see possibly if it's in your note from the first time he
16 said ---

17 A I'd have to find it.

18 Q Mr. Bailey, maybe I'll do it this way. If I said
19 that in the video, the first video that Mr. Mathis said,
20 "I did not mean to kill him," meaning Mr. Howard, would
21 you believe that to be true? Would you have any reason to
22 dispute that?

23 A I would say no. I don't believe that.

24 Q You don't believe that he said that?

25 A No, no. I don't believe that he did not mean to kill

1 him. That's your question, correct?

2 Q No. My question is whether or not he said that in
3 the first interview.

4 A I remember him saying it, but I'm not exactly sure.
5 It was either first or second. But I do remember it being
6 said.

7 Q All right. And didn't he also say, "He tried to rape
8 my girlfriend and I stabbed him"?

9 A Yes, he did.

10 Q All right. And you also told him in that first
11 interview, "You got played. She played you big time,"
12 correct?

13 A That's correct.

14 Q And that's another investigative technique, correct?

15 A That's correct.

16 Q You're hoping that he's going to turn on Davia Smith,
17 I assume, correct?

18 A Yes.

19 Q Okay. And you also told him in that same one, "You
20 know who Davia tried to protect, right"? Davia, correct?

21 A Correct.

22 Q All right. "She didn't have no problem throwing you
23 under the bus," do you remember saying that?

24 A I do.

25 Q And, "She's a good actor," correct?

1 A I don't know if I said that, but I do remember the
2 others.

3 Q All right. Well, would you have reason to think that
4 -- and you have no reason to believe that you didn't say
5 it at 31:20 in the first video, "She's a good actor"?

6 A Possibly.

7 Q Okay. Now, as far as intellectually, in your
8 opinion, who is smarter through your almost 30 years of
9 experience, Davia ---

10 MR. BLOUIN: Objection. Once again, that kind of
11 calls for speculation.

12 THE COURT: I'm going to sustain that objection.
13 You're able to rephrase your question, Counselor, if you
14 so desire.

15 BY MR. KORNFELD:

16 Q All right. What is Davia's educational background?

17 A Graduate from high school, two years of college, I
18 believe.

19 Q All right. And what is Mr. Mathis's educational
20 background?

21 A Eighth grade.

22 Q All right. And he also told you that he had a
23 learning disability, correct?

24 A I don't know if he stated he had a learning
25 disability or not, but I know he told me he repeated

1 eighth grade twice.

2 Q Okay. And in the first one that Mr. Blouin talks
3 about here, he says you wrote on here, "Can read, cannot
4 write," and then on the second one you wrote, "Can read,
5 write a little bit," correct?

6 A Can I see it? Yes.

7 Q Okay. Are people a little embarrassed that they
8 can't read?

9 MR. BLOUIN: Once again, objection. Speculation.

10 THE COURT: I'm going to sustain that objection.
11 We'll give you an opportunity to rephrase your question,
12 Counselor, if you so desire.

13 MR. KORNFELD: All right.

14 BY MR. KORNFELD:

15 Q In the second video, he comes in there, you had
16 talked to Dale Mathis's sister, Ms. Tina Mathis, correct?

17 A I believe so, yes.

18 Q And after your conversation with her, you heard
19 through Tina that Mr. Mathis ---

20 MR. BLOUIN: Objection. Hearsay, he heard through
21 Tina.

22 THE COURT: Sustained.

23 MR. KORNFELD: Okay.

24 BY MR. KORNFELD:

25 Q After that conversation, after you met with Ms. Tina

1 Mathis, you had another interview with Mr. Mathis,
2 correct?

3 A That's correct.

4 Q All right. And in that, he says, "My nerves were
5 shot," correct?

6 A He may have. Yes, sir.

7 Q And he also says, "We got into a fight," correct?

8 A Yes.

9 Q And he never says he hooked around the neck with the
10 cane. That's what you said, correct?

11 A I thought he said he hooked him with the cane. He
12 stated in one of those interviews. I'm not sure if it's
13 his first or second, but I remember it being said.

14 Q Isn't it true in the second interview he says -- you
15 stated to him, "Davia remembers you hooked him with your
16 cane in the back of the neck," and he says, "We got in a
17 fight. I did hook him with a cane"? Correct?

18 A I'm not sure. Are you looking -- are you looking at
19 my report?

20 Q I'm not looking at your report.

21 A Okay.

22 Q I'm looking at -- I got this from the video and your
23 report.

24 A Okay.

25 Q But no. I'm not looking at your report.

1 And in that case, he also said that his thought
2 process there was we're going to make a video, and you're
3 the third person we did. I lost my cool. Do you remember
4 that to be true?

5 A I remember him saying something to that effect, yes.

6 Q All right. Isn't that because -- isn't that similar
7 to a rape if he's going to make a video in what he said in
8 the first statement?

9 MR. BLOUIN: Objection, Your Honor. Speculation.

10 MR. KORNFELD: This goes to his consistency
11 statement.

12 MR. BLOUIN: Your Honor, he's comparing a comment in
13 one statement to a rape.

14 THE COURT: All right. I'm going to sustain the
15 objection, allow you to rephrase your question.

16 MR. KORNFELD: Okay.

17 BY MR. KORNFELD:

18 Q The first statement he says, "He tried to rape my
19 girlfriend and I stabbed him right away," correct?

20 A That's correct.

21 Q All right. In the second statement, he says that in
22 response, it was, "We're going to make a video, and you're
23 going to be the third person," correct?

24 A He may have.

25 Q All right. And he also told you that he got a punch

1 on me. Do you remember that, meaning Mr. Howard got a
2 punch on him? Do you remember that?

3 A I believe he did say that.

4 Q All right. Did you do any investigation or ask
5 Mr. Mathis whether or not he had any bruises, any cuts,
6 anything of that nature?

7 A Not that I can recall.

8 Q And the reason that you didn't ask him that is
9 because you had already made up your mind that -- about
10 the charges, correct?

11 A No, sir.

12 Q Well, you had already charged him at that time,
13 correct?

14 A You're asking about an injury. That's not the reason
15 why.

16 Q Okay. Let me ask it this way then, Mr. Bailey. You
17 did not ask him about any physical injury that he may have
18 had, correct? Never asked him.

19 A That's correct.

20 Q And the reason that you didn't ask him about any
21 injury that he may have had is because you found it
22 irrelevant at that time; is that correct?

23 A No, sir.

24 Q Would the fact that if he had an injury, would that
25 be relevant?

1 A If he had an injury, it would have been documented.

2 Q Well, you didn't see him until, what, for the first
3 time until ---

4 A 26th. The 12th.

5 Q --- the 12th. And this happened on the 16th of the
6 previous month, correct?

7 A It happened on the 19th of the previous month.

8 Q The 19th. And this was the 12th of the next month,
9 correct?

10 A That's correct.

11 Q All right. So it wouldn't necessarily be documented
12 if he had a wound or anything like that, correct?

13 A If, when he came in and he had -- if, when he came in
14 during the interview, if he had any injuries, forensics
15 would have been called and they would have photographed
16 it. It would have been documented.

17 Q And that would only occur if you knew about the
18 injury, correct? You didn't ask him about any injuries,
19 correct?

20 A If I didn't see an injury, that's correct.

21 Q Okay. That's fair.

22 Now, during your investigation -- well, let me go
23 through the videos. Do you not believe that what he was
24 trying to describe in his interviews ---

25 MR. BLOUIN: Objection. Calls for speculation on its

1 face.

2 MR. KORNFIELD: Well, he's doing the investigation. I
3 mean ---

4 THE COURT: I'm going to overrule that objection. Go
5 ahead. Answer the question. Finish your question.

6 BY MR. KORNFIELD:

7 Q In the video, would you agree that he has a similar
8 demeanor of almost a child?

9 A Which video are you speaking of?

10 Q Well, both the videos. But he tried -- when he's
11 talking to you, do you believe that he has the demeanor of
12 a child?

13 A No.

14 Q What do you --- okay. When he says to you, "I didn't
15 want to kill. I didn't want to be killed," does that
16 sound like a form of self-defense to you?

17 A No, sir.

18 Q Okay. If he's trying to defend himself and
19 somebody's coming from a knife, that's not a theory of
20 self-defense in your determination?

21 A Say again?

22 Q If somebody's coming at a knife at somebody else and
23 they don't want to be killed, I didn't want to kill them,
24 I didn't want to be killed, you don't believe that to be
25 any form of self-defense?

1 A If somebody's coming with you at a knife, that's what
2 you're asking?

3 Q Yes.

4 A Yes.

5 Q All right. Okay. As a matter of fact, several times
6 -- would you agree that several times through the entire
7 interview, he is remorseful?

8 A Which interviews are we speaking of?

9 Q Well, I was just going to talk about both of them,
10 but in the first video -- or on 2/12, does he not say, "I
11 did not mean to kill him"?

12 A He probably did. Yes, sir.

13 Q Did he not say, "I thought he was trying to kill me"?

14 A He probably did.

15 Q Is that a form of self-defense? If somebody said
16 they were trying to kill me, is that a self-defense
17 theory?

18 A I think you'd have to look at the -- I think you'd
19 have to look at the whole picture. I don't think you can
20 just pull in one statement somebody makes to make that
21 determination.

22 Q Okay. I can agree with that.

23 So let's look at the whole picture then.

24 Collectively, isn't it true that he gave you a version of
25 a self-defense story in the interrogation, in the two

1 interrogations you had?

2 A No, sir.

3 Q All right. "I was scared to death," do you remember
4 him saying that?

5 A He may have said that. Yes, sir.

6 Q All right. Do you remember him talking about I
7 didn't mean for him to die; we were friends?

8 A I remember him saying that as well.

9 Q All right. And when he came back and he had been in
10 jail at that time, and your reason in the first video, and
11 this is important, in your first video you say, "Davia is
12 only worried about Davia. She played you," and the
13 interrogation tactic there was for him to only think about
14 -- think about him, himself first instead of trying to
15 protect anybody else; is that a fair assessment?

16 A That's a fair assessment.

17 Q All right. And so when he comes back on 2/26 and has
18 14 days to think about it, do you remember him giving you
19 some statements about that he couldn't believe that she
20 did that, now he needed to think about himself, correct?

21 A I remember him saying that, yes.

22 Q All right. As far as your -- you say your experience
23 in -- you've been a cop how long? A long time. Longer
24 than I've been -- what did you say? 30 years?

25 A 30 years.

1 Q 30 years. Somebody --- is it not unusual, in your
2 experience, for somebody that had been in a traumatic
3 experience such as a close hand-to-hand combat to have
4 trouble remembering all the factors?

5 A I would say that's a fair statement.

6 Q All right. And that after such a traumatic event
7 like that, all the pieces don't necessarily come together
8 right away.

9 A That might be fair to say.

10 Q And isn't it also true, Officer Bailey, that when
11 people go through such a traumatic event, that they may
12 have trouble sleeping?

13 A Yes.

14 Q And isn't it true that -- did you ever know -- when
15 your first interview that he came in, did it appear that
16 Mr. Mathis was on drugs?

17 A Based on the way that he looked, I could tell that he
18 was a user of drugs, yes.

19 Q All right. And isn't it true that when people come
20 off of those types of drugs, that they have -- they can
21 get sick?

22 A I think they can go through withdrawals, yes.

23 Q And have trouble sleeping?

24 A That might be a symptom of withdrawals.

25 Q All right. And that also affects their memory or it

1 could affect their memory, correct?

2 A I don't know about that, per se.

3 Q All right. Did you ever investigate or hear anything
4 about a samurai sword?

5 A I think a samurai sword came out in a statement, in
6 an interview I took, yes.

7 Q All right. And through that investigation, were you
8 able to determine that a window was busted out with a
9 samurai sword?

10 A None other than being told, but I could never find
11 the window, no.

12 Q Okay. All right. If -- one theory of the case that
13 you heard, I guess, was that Mr. Howard, the deceased, had
14 a weapon. Is it important in your investigation to know
15 or to try and ascertain Mr. Mathis's state of mind in
16 determining a self-defense claim?

17 A I don't believe I understand your question.

18 Q Okay. Self-defense -- tell the jury what
19 self-defense is.

20 MR. BLOUIN: Your Honor, he's asking -- object. He's
21 asking for the witness to give a legal definition which he
22 has no basis to know.

23 MR. KORNFELD: At least ---

24 THE COURT: Hold on a second. I'm going to overrule
25 your objection, allow him to answer the question based

1 upon his knowledge of the self-defense theory.

2 Yes, sir. You can answer the question.

3 THE WITNESS: The question? I'm sorry.

4 BY MR. KORNFIELD:

5 Q What is self-defense?

6 A I would say the opportunity to defend yourself.

7 Q Okay. Would any previous acts of violence by either
8 party amongst each other play into your investigation
9 concerning a self-defense claim?

10 A No.

11 Q Okay. Did Mr. Mathis's -- if it doesn't play in,
12 then I guess you don't -- okay.

13 Is there any evidence whatsoever that Mr. Mathis ever
14 took Mr. Howard's wallet?

15 A The statement I believe from Davia. That's about it,
16 I believe.

17 Q All right. Were you able to -- did you ever ask or
18 did you ever note there was actually a headrest on the
19 vehicle in the front seat?

20 A Do not.

21 Q Is it a factor to you in making any kind of
22 determination whether the parties were using drugs or not?

23 A Is it a factor?

24 Q Yes. Is it a factor that you consider in your
25 investigation at all?

1 A It may be a factor. May be one thing to consider,
2 yes.

3 Q All right. To your knowledge, were there any other
4 witnesses other than Mr. Mathis, Ms. Smith, and Mr. Howard
5 to the incident?

6 A No, sir.

7 Q And to your knowledge, there were no -- nobody ever
8 found -- well, nobody ever found the knife, correct?

9 A That's correct.

10 Q Were you ever able to corroborate any evidence
11 concerning any text messages that were sent?

12 A Was not.

13 Q All right. And I want to make sure that I get this
14 right. So in your own testimony, you don't know what
15 happened on the date of this incident, correct?

16 A I can only tell you from the interviews from
17 Mr. Mathis and Davia what actually transpired on that day.
18 But to have personal knowledge, no, sir.

19 Q Okay. All right. Previously, you testified there
20 were four interviews total, correct?

21 A That's correct.

22 Q There was actually five, right?

23 A I remember four.

24 Q There was one in June of 2017 with Mr. Blouin and
25 Mr. Gregory.

1 MR. BLOUIN: Your Honor, can we just object? When we
2 asked the question in direct, we simplified the timeline
3 that between him and Investigator Peeples. We didn't ask
4 any questions of that. So he's -- you know, we don't want
5 that to mischaracterize that he is forgetting something.

6 THE COURT: All right. I understand that, Counselor.
7 I'm going to give him a little latitude since he's on
8 cross-examination.

9 MR. BLOUIN: All right.

10 BY MR. KORNFIELD:

11 Q Not a big issue. There was another interview in June
12 of 2017, correct?

13 A I remember bringing her over to the Law Enforcement
14 Center to meet with the solicitor, yes.

15 Q And it was in a similar -- I don't know if it's the
16 same room, but it was in a similar room as the
17 interrogations previously, correct?

18 A It's in the same room.

19 Q Okay. And you asked her questions that time too,
20 correct?

21 A No. I don't believe I stayed in the room.

22 Q Are you sure you didn't ask any questions that day?

23 A Not that I can recall, because I remember coming in,
24 bringing her in, sitting and leaving. Not that I can
25 recall.

1 Q If I showed you a still of a video with you -- well,
2 you'd have to see you asking questions.

3 (WHEREUPON, a bench conference was held off the record.)

4 THE COURT: All right. Take the jury out.

5 Please, ma'am, please, sir, do not discuss the case
6 with each other during the period of time you're back
7 there. Be back with you in just a few minutes.

8 (WHEREUPON, the jury exits the courtroom at 11:57 a.m.)

9 THE COURT: All right. Mr. Kornfeld, I think you
10 already asked the witness a question and now you want to
11 play something to -- in attempt to refresh his memory; is
12 that my understanding?

13 MR. KORNFELD: That's correct, Your Honor.

14 THE COURT: The State has no position on that?

15 MR. BLOUIN: We have no problem with him trying to
16 refresh his memory.

17 THE COURT: All right. Just so the record is clear,
18 this is not a proffer of anything. This is just primarily
19 you utilizing this video and audio to refresh his memory.

20 MR. KORNFELD: That's correct. Yeah.

21 (WHEREUPON, a video was played in open court.)

22 MR. KORNFELD: He's right. It doesn't look like he
23 asked any questions.

24 THE COURT: We're clear? He came in ---

25 MR. BLOUIN: He came in. I know he read a waiver.

1 MR. KORNFELD: Okay. We're good.

2 MR. BLOUIN: Your Honor, we would move to kind of
3 strike just what happened before the jury came out, I
4 mean, kind of this insinuation that he was part of this
5 interview.

6 MR. KORNFELD: Well, why don't I just do this. I'll
7 say there was another interview in June. You were there
8 at the beginning, and you left and didn't ask any
9 questions. How about that?

10 THE COURT: Does that cure it in your mind?

11 MR. BLOUIN: That works for me.

12 THE COURT: All right. Bring the jury back.

13 (WHEREUPON, the jury entered the courtroom at 12:02 p.m.)

14 THE COURT: All right. Mr. Kornfeld.

15 BY MR. KORNFELD:

16 Q Yes. Officer Bailey, are you aware that there was an
17 interview on 6/14/17?

18 A Yes, sir.

19 Q Were you present at the very beginning of that video?

20 A Yes, sir. I brought her in.

21 Q And did you then immediately leave after that and
22 that was it?

23 A That's correct.

24 Q Okay. All right. Let's talk about the consistencies
25 in here in the stories. Wasn't it consistent throughout

1 that Mr. Howard had a knife?

2 A I think that's been said, yes.

3 Q All right. And wasn't it consistent that from
4 Mr. Mathis's two videos, that he said that he thought that
5 Mr. Howard was going to rape his girlfriend?

6 A Yes.

7 Q And wasn't it consistent in both of the videos that
8 he said some of the variation, I'd rather not go back, but
9 some of the variation that he didn't mean to kill Jamie?

10 A Something to that effect.

11 Q Okay. And the first time you heard about the case,
12 there was no missing person report, as far as you know?

13 A That's correct.

14 Q All right. As far as consistencies in cases, it's
15 very difficult, would you not agree, to put Mr. Mathis as
16 opposed to another case concerning their background,
17 correct?

18 A What's your question?

19 Q Well, we don't want to speculate to his intellectual
20 level, but you talked about previous cases that you've had
21 on direct. Do you remember that?

22 A I do.

23 Q And would you admit that every case is different?
24 Would you admit that?

25 A I agree.

1 Q And would you admit that the details are extremely
2 important in each case?

3 A Yes.

4 Q And would you admit that Dale Mathis's intellectual
5 level would be an area of interest in your investigation?

6 A I don't think I understand what you're asking me.

7 Q All right. Well, whether or not Dale can comprehend
8 things at a reasonable level, would that be an important
9 thing for you to know?

10 A Yes. He could comprehend me.

11 Q All right. And also, would it also be important for
12 you to know whether or not he had -- well, strike that.

13 You heard Dale's rendition of the case in your two
14 interviews with him. If Jamie had the knife and came at
15 him, was he not reasonable in trying to defend himself?

16 A Say that again? I'm sorry.

17 Q You heard the two interrogation videos of Mr. Mathis.

18 A Yes.

19 Q Is it not true that if Jamie Howard had a knife and
20 he pulled it back on him first, that Mr. Mathis ---

21 MR. BLOUIN: Objection. Calls for a legal
22 conclusion.

23 THE COURT: I'm going to sustain that objection.

24 BY MR. KORNFELD:

25 Q Okay. Isn't it true that even after your two

1 interviews -- or your entire investigation, you never
2 really investigated -- you never even really thought that
3 Mr. Mathis was defending himself, did you?

4 A That's not true.

5 Q Okay. You pieced through this investigation, you
6 state these things that are -- you make a determination on
7 credibility, don't you?

8 A That's one of the things. Yes, sir.

9 Q All right. And were there any things -- anything
10 that Mr. Mathis said that was beneficial to him that you
11 felt was credible?

12 A That was beneficial to him?

13 Q Yes.

14 A That was credible?

15 Q Yes.

16 A Yes.

17 Q What were those things?

18 A Burning the car. But he said that he didn't burn it
19 the second time. The -- the going to get the gas and
20 burning the car. Of course, he said he didn't get the
21 gas. I believe he said that Davia got it.

22 And you want to know things that were credible and
23 that ---

24 Q That he stated, yes.

25 A And that was beneficial to him?

1 Q Yes. Both credible and beneficial to him, because
2 Mr. Blouin just states things that he believes are not.
3 I'm asking you credible and beneficial, two parts.

4 A I think it's credible -- I think it was credible the
5 way that he told his second -- during his second interview
6 what actually happened, but he placed the blame on
7 somebody else. So the story itself was credible, but I
8 had some issue as far as whether or not it was totally the
9 way that he described it.

10 Q All right. So -- okay. And -- all right. Officer
11 Bailey, didn't -- you don't really -- you have two
12 witnesses only, right?

13 A To the actual incident, correct.

14 Q Yes. And that's what you were basically left with,
15 correct?

16 A Along with the evidence on the scene. Yes, sir.
17 That's it.

18 Q And isn't your credibility of the witness -- the
19 credibility of your case somewhat based on the statements
20 and testimonies -- testimony of the witnesses?

21 A Somewhat, yes.

22 Q All right. And if that is not completely truthful,
23 that makes your job more difficult, does it not?

24 A It does.

25 Q And could cause some details to go undiscovered,

1 correct?

2 A I would agree with that statement.

3 Q Well, if the credibility is in question, why would
4 you not agree -- why not?

5 A Because some of the credibility in terms of it may be
6 some partial truths to any story that they give.

7 Q Right. I mean, I'm not trying to -- I'm just -- you
8 rarely get a full story in any case from any one witness,
9 correct?

10 A That's not true.

11 Q That's not true?

12 A No, sir.

13 Q Okay. But there -- let's just leave it at this. You
14 admit that the credibility, that that plays a factor, and
15 if they lie to you, that that plays a factor in your --
16 that can play a factor in your analysis, correct?

17 A That can. Yes, sir.

18 MR. KORNFIELD: Okay. All right. No further
19 questions.

20 THE COURT: Anything on redirect, Mr. Blouin?

21 MR. BLOUIN: I'll be very short, Your Honor.

22 THE COURT: Yes, sir. Take your time.

23 REDIRECT EXAMINATION

24 BY MR. BLOUIN:

25 Q At the very beginning of cross-examination, I believe

1 you testified that you arrested both Dale and Davia for
2 murder.

3 A That's correct.

4 Q Why did you do that?

5 A Because, based on the evidence that we had at the
6 time, based on their -- the interrogations or the
7 interviews that we conducted, I felt I have enough
8 probable cause to do it.

9 Q For both of them.

10 A For both of them.

11 Q And you still believe that today?

12 A Absolutely.

13 Q For both of them.

14 A Yes, sir.

15 Q Did the fact that Dale could not read or write affect
16 your investigation at all?

17 A It did to some degree in terms of when he was advised
18 on his rights, I wanted to make sure he understood
19 everything I was telling him.

20 Q Did it change the facts of the case at all?

21 A It did not.

22 Q How many factors go into a complete investigation?

23 A How many factors?

24 Q Just estimate. A little? a lot?

25 A A lot.

1 Q Before you complete an investigation, what all do you
2 look at?

3 A What all do I look at?

4 Q Uh-huh.

5 A All the evidence that we have, the witness -- witness
6 testimony -- I'm sorry. Not testimony, but statements
7 being taken, any tests -- any tests that are submitted.
8 That's about it, in a nutshell.

9 Q So like on the video there, like a giant puzzle.

10 A Correct.

11 Q Is the medical examiner one of those factors?

12 A Absolutely.

13 Q And you use that in your investigation?

14 A Yes.

15 Q Is that part of the whole?

16 A That's a part of the whole process.

17 MR. BLOUIN: No further questions.

18 THE COURT: Anything on recross?

19 MR. KORNFELD: Nothing, Your Honor.

20 THE COURT: All right. And I have no questions.

21 Thank you. You can step down.

22 Do you need this witness any further?

23 THE WITNESS: I'll be here.

24 THE COURT: Oh, he'll be here. That's right. He'll
25 be here anyway.

1 Any other witnesses for the State?

2 MR. BLOUIN: No, Your Honor. The State would rest at
3 this point.

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

5 Mr. Kornfeld, you still stand by your witness list?

6 MR. KORNFELD: I do, Your Honor.

7 THE COURT: Okay. All right. Ladies and gentlemen
8 of the jury, we're going to adjourn for lunch. I'm going
9 to give you probably 15 extra minutes. I'm still going to
10 let you come back at 2:00. I understand that there are
11 some smokers in the group, so that will give you some
12 additional 15 minutes to take care of that while during
13 the lunch period.

14 So please, ma'am and please, sir, do not discuss the
15 case with each other. Do not discuss the case with
16 anybody that may approach you.

17 Here, again, I'm reminding you, even though I allowed
18 you to take notes, please, ma'am and please, sir, do not
19 take those notepads with you over your lunch break. Leave
20 them in the jury room until you get back. And I will see
21 you back at 2:00. All right.

22 (WHEREUPON, the jury exits the courtroom at 12:16 p.m.)

23 THE COURT: All right. Mr. Kornfeld, I think on your
24 witness list, does the defendant intend to testify
25 anytime?

1 THE COURT: You don't need to proffer anything on
2 him.

3 MR. KORNFELD: Not for him. I do for the other ---

4 THE COURT: Let's bring the jury out and get this
5 witness. Bring the jury back.

6 (WHEREUPON, the jury entered the courtroom at 2:53 p.m.)

7 THE COURT: All right. Mr. Kornfeld, is the defense
8 ready to proceed?

9 MR. KORNFELD: Yes, Your Honor.

10 THE COURT: Call your first witness.

11 MR. KORNFELD: The State calls Yosif Enibatwi.

12 THE COURT: All right. Could you spell that for the
13 court reporter?

14 MR. KORNFELD: Yes, Your Honor. Yosif, Y-O-S-I-F,
15 E-N-I-B-A-T-W-I.

16 THE COURT: All right. Sir, would you come around.
17 As best you can, place your left hand on the Bible, raise
18 your right.

19 THE WITNESS: I'll hold the Koran if you don't mind,
20 Your Honor.

21 THE COURT: That will be fine.

22 And Madam Clerk, do you want to administer the oath?

23 WHEREUPON,

24 YOSIF ENIBATWI

25 After having been duly sworn, testified as follows:

1 THE CLERK: Have a seat.

2 THE COURT: All right. Madam Bailiff, will you put
3 that microphone -- or Deputy, put that microphone in close
4 proximity to where he sits?

5 Sir, if you'll pull your chair up, I'd like you to
6 speak into that microphone for me. There you go. Okay.

7 THE WITNESS: That's good?

8 THE COURT: That's good.

9 DIRECT EXAMINATION

10 BY MR. KORNFELD:

11 Q Yosif, will you state your full name for the record,
12 please.

13 A My name is Yosif Mohammed Enibatwi.

14 Q All right. And do you happen to know of an occasion
15 where -- well, first, let me ask you, do you know
16 Mr. Mathis?

17 A Yes, I do, sir.

18 Q Did you know Mr. Jamie Howard?

19 A Yes, I did.

20 Q Okay. Did you have an occasion to see if Mr. Howard
21 ever had a pipe around Mr. Mathis and tried to hit him
22 with it?

23 A Yes. At one time. Do you want me to tell the whole
24 story or just making sure ---

25 Q Well, tell me about -- where were you at the time?

1 A Okay. I was in Dale Mathis's house. I was sitting.

2 Q Hold on.

3 A Yes.

4 Q I'll let you -- just let me ask you a couple
5 questions. We'll just slow down, and then I'll let
6 you . . .

7 Where was his house? Was it at Cugin Drive?

8 A Yes, sir.

9 Q Okay. And was that in -- do you remember when
10 exactly that was?

11 A I'd say about three years ago. I'm not sure exact
12 date. I mean, I don't know. I know it's been -- I know
13 that things happen like two or three months ago. It was a
14 few months before that.

15 Q Okay. It was a few months before -- okay.

16 All right. So, Yosif, how far away -- okay. Let me
17 ask you this. Did Mr. Howard have a metal pipe?

18 A Yes, he did.

19 Q All right. What did Mr. Howard do with that metal
20 pipe?

21 A He was trying to hit him when he was laying in bed.

22 Q Okay. Did he actually hit Mr. Mathis while he was
23 laying in bed?

24 A I came in when he was like right over the bed.

25 Q Okay.

1 A So I hold him. I mean, I hold him, and I took him
2 outside.

3 Q Okay.

4 A When I came out, he was like right over his bed where
5 he was laying.

6 Q Okay.

7 A He walked all the way from like laundry room all the
8 way to the kitchen, to the hallway, to his bedroom. I
9 picked him up from there, hold him. I took him outside.
10 I sit him there for like -- talk to him, what are you
11 doing, and all this stuff.

12 At last, somebody else stood with us over there, and
13 Jamie tried to run back again to the house, tried to --
14 but I hold him and told -- asked him to leave, you know.
15 And I got him to leave that day.

16 Q Okay. Can you describe the metal pipe for the jury?

17 A It was about -- I think it was that big (gesturing).
18 And it was thick, too.

19 Q Well, thick, different definitions for thick. Two
20 inches thick?

21 A I think it's bigger than two.

22 Q Can you show with your hand how ---

23 A About that big (gesturing) as far as that amount, but
24 it's been over three years. I remember it was a big pipe.

25 Q About this (gesturing) big; is that correct?

1 A Yes. I think so.

2 Q Like that (gesturing)?

3 A Yeah. It was big. It wasn't no inch or inch and a
4 half or two. It was bigger.

5 Q Okay. Did Mr. Mathis stay in the bedroom?

6 A Yes, he did.

7 Q Okay. And what was his -- do you know -- did you --
8 when you pulled him out, did you see Mr. Mathis's reaction
9 or did you not?

10 A Of course he was upset about it, but I took him
11 quick, and I had somebody to keep Dale inside the room so
12 nothing would happen.

13 Q Okay.

14 A And Dale stayed in his room. I didn't see him after
15 that to come outside. I took Jamie outside.

16 Q I understand you. You testified that they took him
17 outside and he tried to come back in, right?

18 A Yeah.

19 Q And you held him out there, correct?

20 A Yes, sir.

21 Q All right. What time of day was that?

22 A It was daytime. I don't remember. It's been over
23 three -- almost three years. I don't remember what time
24 exactly, but it was light outside. It wasn't dark ---

25 Q Okay. All right.

1 A --- as far as I remember, honestly. I mean ---

2 Q Okay. Who else was at Cogin Drive at that time? Do
3 you remember?

4 A I think our sister sitting in the room with his
5 sister. And was one girl. Her name was Savannah Shelton.
6 Of course, she's the one scream when I was sitting in the
7 room. Savannah is the one, I think, scream, see me with
8 the -- while walking in.

9 That's okay. Go ahead.

10 Q Yeah. Okay, okay. I just want to make sure that his
11 sister, is his sister's name Tina Mathis? Is that what
12 you were saying?

13 A Drew [phonetic]. Drew Mathis.

14 Q Okay. And then there's also Savannah Shelton,
15 correct?

16 A Yes, sir.

17 Q Okay. Anybody else?

18 A It was probably couple of more. I don't remember
19 who, honestly.

20 Q Okay.

21 A That's the main ones. Because I was sitting with
22 Drew, and the one that holler, said "help" or said
23 something, was Savannah.

24 Q Okay. Do you remember another occasion that you were
25 at -- in which you were at Lance Davis, also known as

1 Stephen Lance Davis?

2 A Stephen Lance Davis, when he happened, I wasn't
3 there. I came after, and he showed me kind of video what
4 had occurred.

5 Q Okay. So you did not see ---

6 A The actual accident, no, sir. I wasn't there at that
7 time when it happened. I came after.

8 Q Okay. You saw a video.

9 A Yeah.

10 Q And you did not take that video; is that correct?

11 A No, sir.

12 Q Okay.

13 A Take it?

14 MR. KORNFELD: That's it.

15 Can we approach?

16 (WHEREUPON, a bench conference was held off the record.)

17 MR. KORNFELD: Okay. I don't have any further
18 questions. Thank you.

19 THE COURT: All right. Cross-examination.

20 CROSS EXAMINATION

21 BY MR. GREGORY:

22 Q Mr. Enibatwi -- your last name, Enibatwi?

23 A Enibatwi.

24 Q I apologize for that.

25 A No problem.

1 Q How long have you known Dale Mathis?

2 A Years. At least five, six.

3 Q How long did you know Jamie Howard?

4 A Jamie Howard, I met him long time ago, but I didn't
5 see him like -- you know, I didn't see him for a long
6 time, for years. I met him with friend one time a long
7 time ago, but I didn't see him till like four years ago.

8 Q Okay. And did you know a Davia Smith?

9 A Yes.

10 Q Did you know Davia Smith's relationship to
11 Mr. Mathis?

12 A It was his girlfriend.

13 Q Did you know Davia Smith's relationship to
14 Mr. Howard?

15 A Yeah.

16 Q What was that?

17 A You can call it part-time boyfriend.

18 Q Part-time boyfriend?

19 A I mean, she was going back and forth. I ain't going
20 to lie, tell a lie. She was going back and forth that
21 day. And she was Dale's girlfriend, but she was -- would
22 go off with Jamie for a few days here and there. She was
23 like working like this, live with Dale. I'm sorry to say
24 that. She was working both of them, I guess.

25 Q Okay. Fair enough. Can you describe the

1 relationship between Dale Mathis and Mr. Howard, Jamie
2 Howard, please.

3 A I mean, they got along sometimes, sometimes they
4 didn't. I mean, Davia was playing both one time. You
5 know what I'm saying? I mean, I can't tell you about his
6 relationship with people.

7 Q Sure. You can tell us what you saw.

8 A Yeah. Sometimes he would stop by the house,
9 sometimes, you know, he come try to kick him at his house.
10 I can't answer that question. He can.

11 Q Sure. And the video that we just talked about with
12 Stephen Lance Davis, you didn't see what happened at that
13 time.

14 A When I was -- I wasn't there when it happened. I
15 came after. They showed me the video like one time. They
16 told me about it and all this stuff, and I seen the video
17 one time.

18 Q Did you have an opportunity to talk to Investigator
19 Bailey at any time about this case?

20 A Yes, I did.

21 Q Did you tell Investigator Bailey any of these
22 incidents?

23 A I think I did. At that -- at that moment when
24 Mr. Bailey come and ask me, he come and asked me for
25 something else, not about who done it and, you know, how

1 it done and all that stuff.

2 Q Were you there on the night of January 19, 2016, when
3 Mr. Howard was killed?

4 A No, sir.

5 Q You don't know what happened that night?

6 A No, sir.

7 MR. GREGORY: All right. I have no further
8 questions, Your Honor.

9 THE COURT: Anything on redirect.

10 MR. KORNFELD: No questions.

11 Can he be excused, Your Honor?

12 THE COURT: All right. Sir, you can step down.
13 Thank you, sir.

14 THE WITNESS: Thank you, sir.

15 THE COURT: And he's excused without objection,
16 right?

17 MR. BLOUIN: No objection, Your Honor.

18 THE COURT: All right. Call your next witness,
19 Mr. Kornfeld.

20 MR. KORNFELD: Your Honor, the defense calls Stephen
21 Lance Davis.

22 THE COURT: All right. Mr. Davis, you come around
23 where the Bible is, and Madam Clerk is going to swear you
24 in.

25 THE CLERK: Put your left hand on the -- yeah.

1 WHEREUPON,

2 STEPHEN LANCE DAVIS

3 After having been duly sworn, testified as follows:

4 THE CLERK: Please have a seat.

5 THE COURT: All right. Mr. Davis, if you would, pull
6 that microphone right in front of you. If you would,
7 speak into that so everybody can hear you. Have a seat.
8 All right. Thank you.

9 Mr. Kornfeld.

10 DIRECT EXAMINATION

11 BY MR. KORNFELD:

12 Q You're Stephen Lance Davis?

13 A That's correct.

14 Q All right. And do you happen to know Dale Mathis,
15 the man that's sitting right there?

16 A I do.

17 Q Okay. Did you also know Jamie Howard?

18 A Yes, sir.

19 Q Do you happen to have any knowledge about -- well,
20 first tell me where your house was at the -- where's your
21 house?

22 A It was on Berry Mill Road in Greer.

23 Q Okay. And do you happen to know if Jamie -- a night
24 that Jamie Howard was there, Dale Mathis was there and
25 Davia Smith was there?

1 A Yes, sir.

2 Q Was there anybody else there that night?

3 A If there was, I can't remember. I mean, I can't say
4 there was or there wasn't.

5 Q All right. Let me back up. Was it at nighttime?
6 What time of day was it?

7 A It was daytime. It was -- it was daylight when they
8 came by.

9 Q How certain of that are you?

10 A Pretty certain.

11 Q Okay. And at that time, did Jamie Howard get into
12 any altercation with Davia Smith?

13 A Yes, sir.

14 Q Can you tell the jury what you saw?

15 A I seen Davia -- when Jamie pulled up, Davia went
16 outside to meet him, and Jamie jumped on her. When he
17 did, Dale went out and stopped it -- stopped him.

18 Q All right. Slow down.

19 A All right.

20 Q When you saw -- where were you when you saw ---

21 A I was inside. I was inside. I had surveillance at
22 my house.

23 Q Okay. So you saw that first, that Jamie came on your
24 surveillance; is that correct?

25 A Yes, sir.

1 Q All right. Then it's your testimony that you went
2 outside?

3 A No, sir. I was watching them on TV.

4 Q Okay. And your testimony is that Jamie jumped on
5 Davia?

6 A Yes, sir.

7 Q Then what happened?

8 A Dale went outside to stop it.

9 Q All right. How soon after he went outside to stop it
10 -- how soon did it take him to get outside?

11 A I mean, almost immediately.

12 Q Okay.

13 A As soon as he seen she was being jumped on.

14 Q All right. Can you describe for the jury how she was
15 being jumped on?

16 A I mean, he jumped on top of her and started beating
17 on her.

18 Q Okay. Was her head -- do you know if her head was
19 facing towards the ground or facing towards him?

20 A I'm not sure. I can't remember. It's been a while
21 back.

22 Q Okay. Do you -- after that occurred ---

23 THE COURT: I hate to interrupt, Mr. Kornfeld. I
24 think the jurors are having a little difficulty seeing the
25 witness.

1 MR. KORNFELD: I'm sorry. I just wanted him to talk
2 to y'all. Sorry. I didn't mean to block y'all. Thank
3 you.

4 BY MR. KORNFELD:

5 Q Okay. Did you then -- so Dale came out almost
6 immediately. Is that what you're saying?

7 A That's correct. Yes, sir.

8 Q All right. Then did -- then tell the jury what
9 happened.

10 A Well, after Dale came out, you know, to stop the
11 fight, Jamie pulled a gun out on him and pointed it at
12 him.

13 Q Okay. Do you know what kind of gun it was?

14 A Not -- I don't know exactly. I know it was a smaller
15 gun, a smaller handgun.

16 Q So it was a handgun. You're sure of that.

17 A It was a handgun. Yes, sir.

18 Q All right. Were you able to hear anything that
19 anybody said?

20 A No, sir.

21 Q All right. What did Dale do after Jamie pulled the
22 gun on him?

23 A He backed off and walked off.

24 Q Okay. Did he come back in the house?

25 A Yes, sir.

1 Q Where did Davia go after Jamie pulled a gun on Dale?

2 A I really don't remember, sir.

3 Q Okay. Did they stay at the house?

4 A I can't remember. I can't remember if they did or
5 not. It's been a while back. I just remember -- I
6 remember him pulling that gun on -- on Dale.

7 Q Okay. And at one point, is your testimony that you
8 had video of that?

9 A Yes, sir. I do.

10 Q What happened to the video?

11 A My surveillance got stolen when my wife was in the
12 hospital.

13 Q Okay.

14 A Yes, sir.

15 Q All right. Did you know -- how long did you know
16 Jamie before -- not from now, but how long did you know
17 Jamie before this?

18 A I met him a few months before it happened.

19 Q Okay. How long did you know Davia?

20 A Probably about seven or eight months, maybe.

21 Q Okay. What about Mr. Dale Mathis?

22 A About a year.

23 Q Okay. All right. And do you know about when this
24 occurred, that -- the gun incident?

25 A No, sir.

1 Q All right. Can you give me some time frame? Was it
2 two and a half years ago? three years?

3 A I know it was a couple weeks before Jamie, you know,
4 turned up dead.

5 Q Okay. All right. So that would have been -- would
6 that mean that it would have been early of 2016 or late
7 2015? Would that be ---

8 A Is that when he turned up dead?

9 Q Well, I can't -- I'm just trying ---

10 A I mean, I don't want to say yes and ---

11 Q I understand. But I can't -- I can't do that.

12 A All right.

13 Q All right. Just one second.

14 A All right.

15 MR. KORNFELD: No further questions. Thank you,
16 Mr. Davis.

17 THE COURT: All right. Cross-examination.

18 CROSS EXAMINATION

19 BY MR. BLOUIN:

20 Q Mr. Davis, how are you doing today?

21 A All right, sir.

22 Q Do you remember when I came and talked to you along
23 with my investigator?

24 A Yes, sir.

25 Q All right. Now, you said you remember Jamie, Dale

1 and Davia at your house.

2 A Uh-huh.

3 Q As well as yourself?

4 A Yes, sir.

5 Q And was your wife there?

6 A I can't remember if she was or not, sir.

7 Q And you can't remember if anybody else was there.

8 A No, sir.

9 Q All right. And you witnessed this thing in person or
10 watching your surveillance?

11 A Watching my surveillance. I mean, it was live. It
12 was happening at the time.

13 Q But you didn't go outside.

14 A No, sir.

15 Q Now, you originally gave a statement to Investigator
16 Bailey, didn't you?

17 A I talked to y'all when y'all came to Spartanburg.

18 Q Right. But I'm talking about 2016, did you give a
19 statement to Investigator Bailey?

20 A Oh, okay. Yes, sir.

21 Q Do you remember that?

22 A I do. Yes, sir.

23 Q All right. And when you gave that statement, you
24 didn't mention any of these acts that took place.

25 A Okay.

1 Q Did you?

2 A Not that I remember, sir.

3 Q Now, when we met -- you're a good friend of Dale's,
4 aren't you?

5 A Yes, sir.

6 Q You like him.

7 A Yes, sir. I'm friends with both of them.

8 Q He's one of your best friends.

9 A I wouldn't say my best friends, but, I mean, we're --
10 we're close.

11 Q A lot closer than you were to Jamie?

12 A Yes, sir.

13 Q Okay. And do you remember meeting with me and my
14 investigator, Ms. Crouch, in Spartanburg and saying that
15 this incident happened a few months before Jamie?

16 A I don't recall a few months. No, sir.

17 Q Okay. So if she came up and said it was a few
18 months, you think that's possible?

19 A I don't think it's months. No, sir.

20 Q Now, since you gave that original statement, which
21 is, what, February -- I think February 2016?

22 A I guess. I didn't write it down.

23 Q Did you ever come to the police before, I guess we're
24 in now October 2018, to tell your story?

25 A I mean, I gave Officer Bailey a ---

1 Q But, I mean, after you talked to Investigator Bailey.

2 A I didn't think I needed to after I talked to one
3 investigator.

4 Q Okay. Were you there on January 19, 2016?

5 A I don't know, sir.

6 Q So you can't speak to what happened on that day?

7 A I don't know. I mean, I don't have a calendar ---

8 Q You don't ---

9 A I don't have a ---

10 THE COURT: Yes, Mr. Kornfeld.

11 MR. KORNFELD: Okay. He just doesn't know.

12 BY MR. BLOUIN:

13 Q Yeah. You weren't there the day that Jamie died?

14 A I wasn't there. At my house?

15 Q No, no. You weren't present with everybody when
16 Jamie died.

17 A No. No, sir. No, sir.

18 Q So you don't know what happened that day?

19 A No, sir. No, sir.

20 MR. BLOUIN: No further questions.

21 THE COURT: Anything on redirect?

22 MR. KORNFELD: Just one thing.

23 REDIRECT EXAMINATION

24 BY MR. KORNFELD:

25 Q Mr. Davis, do you remember, did you tell the officer

1 -- was it you that told the officer about the video? Did
2 you tell Officer Bailey about the video at that time?

3 A I don't think so, sir.

4 MR. BLOUIN: Your Honor, that was outside the scope
5 of my cross.

6 MR. KORNFELD: You asked about ---

7 THE COURT: Hold on a second. I'm going to overrule
8 you. I'm going to allow it.

9 Go ahead, Counselor.

10 BY MR. KORNFELD:

11 Q Do you remember Mr. Blouin asking you about you not
12 saying anything about, I guess, the video or anything like
13 that? Is that what you stated?

14 A No, sir.

15 Q Did you tell Officer Bailey anything about the video
16 at that time?

17 A I don't believe so. No, sir.

18 Q Did he ask you if you knew of anything like that at
19 that time?

20 A I mean, it's been so long ago, I don't remember. I
21 mean, it's been a while back, so . . .

22 Q Okay. So you just don't remember?

23 A No, sir. I don't remember.

24 MR. KORNFELD: Okay. All right. I don't have any
25 further questions.

1 THE COURT: Anything else?

2 MR. BLOUIN: Nothing else, Your Honor.

3 THE COURT: All right. Thanks, sir. You can step
4 down.

5 (WHEREUPON, a bench conference was held off the record.)

6 THE COURT: All right. Ladies and gentlemen of the
7 jury, we're going to take about a ten-minute break.
8 Please, ma'am, please, sir, do not discuss the case with
9 anyone. Do not exchange notes. Do not do anything of
10 that nature. And I'll be back with you shortly.

11 Thank you, Madam Bailiff.

12 (WHEREUPON, the jury exits the courtroom at 3:22 p.m., and
13 a recess is taken.)

14 (WHEREUPON, proceedings reconvened at 3:31 p.m.)

15 THE COURT: Mr. Lindsey, come forward. We're back on
16 the record. Come forward and place your left hand on the
17 Bible, raise your right, and Madam Clerk will swear you
18 in.

19 WHEREUPON,

20 CHRISTOPHER LINDSEY

21 After having been duly sworn, testified as follows:

22 THE COURT: Mr. Lindsey, if you would, spell your
23 first and last name for us.

24 THE WITNESS: Christopher, C-H-R-I-S-T-O-P-H-E-R;
25 Lindsey, L-I-N-D-S-E-Y.

1 THE COURT: All right. Mr. Kornfeld.

2 DIRECT EXAMINATION

3 BY MR. KORNFIELD:

4 Q Mr. Lindsey, do you know Mr. Dale Mathis?

5 A Yes, sir.

6 Q All right. And did you know Mr. Jamie Howard?

7 A Yes, sir.

8 Q Were you ever at Brooks Hammond's house when
9 Mr. Howard hit Mr. Mathis's windshield on his vehicle with
10 a samurai sword?

11 A I sure was, sir.

12 Q All right. Do you remember when that was?

13 A I do not remember the date, but I know I was there,
14 and I seen with my own two eyes when Jamie went to get in
15 his car, which there was somebody else driving. When he
16 went to get in the car, he turned around, and he's doing
17 it, and he went like right down on Dale's windshield and
18 busted his windshield.

19 Q Okay. Now, when you say that, when he busted it,
20 where was he? His car was next ---

21 A Listen. His car was next to Dale's truck.

22 Q Okay.

23 A And, see, we all had went in the house. I mean,
24 everybody was outside, I mean, what few people there was
25 outside.

1 Q Okay. Who all was there?

2 A I know it was me, Dale, Jamie, Brooks and whatever
3 the girl's name is, and another person that was driving
4 for Jamie.

5 Q Okay. And when he got -- so what time of day was
6 this?

7 A This is -- this is like probably -- like probably I
8 say it's 12:30, 1:00 at night.

9 Q Okay. And he went in his car and got a samurai
10 sword.

11 A No, sir. He had been walking around with his sword.

12 Q Okay.

13 A Already he had been walking around with his sword,
14 because I'd been there like an hour and a half, and he --
15 and he had it in his hand, never let go of it.

16 Q Okay. So he's just walking around with ---

17 A Walking around with that sword. He sure was. That's
18 exactly what he was doing.

19 Q Okay.

20 A But something had happened, which I don't know. I
21 come in on the tail end. I don't really know what
22 happened, but something about something got stole or
23 something, and he was on -- that girl's name, I don't even
24 know her name, the girl.

25 Q Okay.

1 A Anyway, he was -- they was fussing back and forth for
2 shit. Excuse my language.

3 Q Okay. Tell me about this -- so he was -- clarify
4 this for -- I thought you said he went to the car to get
5 the samurai sword.

6 A No. I said before he got in the car ---

7 Q Okay.

8 A --- he turned around. And that's when he went down
9 on Dale's windshield.

10 Q Okay.

11 A And then he got in the car and they left.

12 Q Okay. And who else saw this other than you?

13 A Me, Brooks. Brooks seen it.

14 Q Okay. And how long had he been there walking around
15 with a samurai sword?

16 A Well, I mean, I'm not going to say that he was just
17 walking around with it in his hand. They was in the
18 building. Let's start -- everybody was in -- they was in
19 the little building when I pulled up, came in. They was
20 in the building about an hour and a half.

21 Q Okay.

22 A Okay. So we -- I just walked around there, and I was
23 like standing outside. He was inside with the sword, you
24 know what I'm saying? He was talking to the girl.

25 Q Okay.

1 A So -- but then when he come out, they -- we all were
2 like mingling around in the front yard.

3 Q Okay.

4 A And then that's when he got ready to leave. But he
5 had the sword in his hand that whole time.

6 Q All right. How long after this happened to Dale's
7 window did it take for Dale to realize that his window was
8 shattered?

9 A Well, it didn't -- I don't -- I think -- I think --
10 me and Brooks the one told him he just shattered his
11 windshield.

12 Q Okay. How long after was it shattered did you tell
13 him? Five minutes? two minutes? a second?

14 A I mean, I can't exactly say. It wasn't long.

15 Q All right. Was Mr. Howard still there?

16 A No. He -- as soon as he done it, he got in the car
17 and left. Somebody else driving for him.

18 Q Okay. All right. And did I ask you when this
19 occurred? You said you didn't know for sure.

20 A I don't remember the dates. I sure don't, sir. I'm
21 sorry.

22 MR. KORNFELD: That's okay.

23 All right. I don't have any more questions. Please
24 answer any questions the solicitors have.

25 THE COURT: All right. Yes, sir.

CROSS EXAMINATION

BY MR. BLOUIN:

Q Mr. Lindsey, just to make sure, it's Christopher
Lindsey, Junior?

A Yes, sir.

Q All right. So y'all were at Brooks Hammond's house?

A Yes, sir.

Q And you were there?

A Yes, sir.

Q Dale was there?

A Yeah.

Q Brooks?

A Brooks was there.

Q Jamie?

A Jamie.

Q Was Davia there?

A Yep.

And the person that was driving for Jamie.

Q So that was the only six people that were there.

A That was the only six people that was there.

Q And besides Brooks and yourself, everybody else was
in a building behind the house?

A No. I'm not going to say Brooks was in there because
I think Brooks might have been in the house. But I wasn't
even in the building. I was outside.

1 Q Okay.

2 A They was in there talking.

3 Q And everybody was parked in front of the house?

4 A Yes, sir.

5 Q All right. And Jamie was carrying the samurai sword
6 around the house.

7 A Let me explain -- let me explain this to you.

8 Q Okay.

9 A When I pulled up, they was in the building.

10 Q Okay.

11 A Okay. But when Jamie come out of the building, he
12 had that sword, and everybody mingled around about like
13 five or ten minutes. And he still had the sword in his
14 hand.

15 Q Okay.

16 A Okay. So we all go in the house. But something just
17 told me to look out the window. And when he went to get
18 in the car, right before he got in the car, he turned
19 around and went back, took a couple steps back towards
20 Dale's truck, and went like that (demonstrating) and
21 busted his windshield in his truck.

22 Q Absolutely. Did you see him -- since he had the
23 sword out, did you see him threaten Dale with the sword?

24 A Not -- I can't say that I seen him threaten nobody,
25 but I know that they was ---

1 Q And you -- and let me -- and you were there for an
2 hour and a half?

3 A Yes, sir.

4 MR. KORNFELD: Let him answer, please.

5 THE COURT: Finish your answer, sir.

6 THE WITNESS: I mean, I can't say it because, like I
7 said, they was inside the building for a little bit
8 talking, all of them. But I'm just -- I'm just telling
9 the truth on what I know.

10 BY MR. BLOUIN:

11 Q Absolutely. That's all anyone's going to ask you to
12 do.

13 So Dale wasn't next to his truck.

14 A No, sir.

15 Q Dale wasn't in his truck.

16 A No, sir.

17 Q And the only thing that you saw was Jamie bust out
18 the windshield of his -- was it the windshield or the
19 window?

20 A It was the windshield.

21 Q The windshield of his truck. And then he left.

22 A Then he left. They got in the car and left. Right
23 after, when he busted the windshield, he -- somebody --
24 whoever was driving for him was already in the car, and he
25 just turned around and got back in the car and they left.

1 Q Okay. Did you know about Dale and Davia?

2 A Yes, sir.

3 Q Did you know about Jamie and Davia?

4 A Yes, sir.

5 Q How long before Jamie's death did all this take
6 place? Months? couple months?

7 A I'm going to say -- I'm going to say months.

8 Q Okay. Did Dale know about Jamie and Davia?

9 A To be honest with you, I -- I think he did. But I
10 really don't talk to people like that about stuff like
11 that, being honest with you, because it ain't none of my
12 business.

13 Q Just in your general opinion, was it common knowledge
14 what was going on?

15 A Yes, sir.

16 Q All right. And then just briefly, you've been
17 convicted of some things in the past ten years?

18 A Oh, yeah. I've been convicted of a lot of things.

19 Q And if I say something wrong, just let me know, okay?

20 A I mean -- go ahead.

21 Q I'm just going to ask you. Just say yes or ---

22 A Just say what you want to. Go ahead.

23 Q ABHAN in 2010; is that right?

24 A What now?

25 Q Assault and battery of a high and aggravated nature

1 in 2010.

2 A 2010, yeah.

3 Q Manufacturing cocaine base in 2013?

4 A Yes, sir.

5 Q Possession of meth second in 2014?

6 A Yes, sir.

7 Q Giving false information in 2017?

8 A Yes, sir.

9 Q And then didn't you plead last week to a meth charge
10 and unauthorized ---

11 A No, I didn't. No. I didn't plead to no meth charge.
12 I plead using a vehicle without owner's consent.

13 Q Okay. No meth.

14 A There were no meth charges. Yes, sir.

15 MR. BLOUIN: I knew that was recent, so I was just
16 making sure. We ain't in front of anybody, so -- all
17 right.

18 No further questions.

19 MR. KORNFELD: No redirect, Your Honor.

20 THE COURT: All right. Sir, you can step down, let
21 you recall him.

22 All right. That's the end of the proffer?

23 MR. KORNFELD: Yes, Your Honor.

24 THE COURT: Any issues?

25 MR. BLOUIN: You know, the State would say as to

1 (WHEREUPON, the jury entered the courtroom at 3:47 p.m.)

2 THE COURT: All right. Mr. Kornfeld, you can call
3 your next witness.

4 MR. KORNFELD: Your Honor, I call Mr. Christopher
5 Lindsey to the stand.

6 THE COURT: Mr. Lindsey, come forward, please, sir.
7 Come where the Bible is, and when you get there, place
8 your left hand on the Bible and raise your right. Madam
9 Clerk is going to swear you in.

10 WHEREUPON,

11 CHRISTOPHER LINDSEY

12 After having been duly sworn, testified as follows:

13 THE CLERK: Please have a seat.

14 THE WITNESS: Thank you.

15 DIRECT EXAMINATION

16 BY MR. KORNFELD:

17 Q Okay. You are Mr. Christopher Lindsey?

18 A Yes, sir.

19 Q And were you at Brooks Hammond's house? Did you have
20 an occasion to be at Brooks Hammond's house?

21 A Yes, sir.

22 Q All right. Do you remember when you were at Brooks
23 Hammond's house?

24 A I mean, I don't remember the date, but I was there,
25 and I did witness the windshield being broken. That's

1 all ---

2 Q Okay. Let me ask you, do you know Mr. Dale Mathis?

3 A Yes, sir.

4 Q All right. Do you know Mr. Jamie Howard?

5 A Yes, sir.

6 Q All right. Who else was at Brooks Hammond's house
7 that day?

8 A Dale, Brooks, me, Jamie, and Davia, and whoever was
9 driving for Jamie. Somebody was driving -- a girl was
10 driving for Jamie. I don't know who she was.

11 Q Okay. About what time of day was this?

12 A This was about 12:30, 1:00 at night.

13 Q Okay. And did Jamie have a sword?

14 A Yes, sir. He sure did.

15 Q All right. And that's Jamie Howard?

16 A Jamie Howard. Yes, sir.

17 Q How do you know it was Jamie Howard?

18 A Because I know Jamie Howard.

19 Q All right.

20 A I know him good.

21 Q Okay. What kind of sword did Jamie Howard have that
22 day?

23 A I mean, I can't tell you what kind of sword it was.

24 It was a sword. I mean, I really don't know nothing about
25 swords like that, but, I mean, I know he had a big sword

1 in his hand.

2 Q All right. Was it a samurai sword?

3 A It seemed like that's what they said it was, samurai
4 sword, yes.

5 Q All right. Let's just describe -- can you describe
6 the sword for the jury?

7 A Well, I mean, it had the -- it was a sword, like a
8 long knife. It had two things on the end right here, like
9 -- you know, like to keep your hands from sliding or
10 whatever it is.

11 Q Okay.

12 A Like maybe the grips, whatever they call them.

13 Q Okay. And how long was it? Was it this (gesturing)
14 long? Was it this (gesturing) long?

15 A No. It was about -- about that long (gesturing). It
16 was a long sword.

17 Q Okay. And was Jamie walking around with the sword
18 that night?

19 A Yes, sir. When we come out -- when they came out of
20 the building, yes, he was.

21 Q How long was Jamie Howard at Brooks Hammond's house
22 that night?

23 A Well, I don't know. They was already there when I
24 got there. But, I mean, I was there an hour and a half
25 and he was there.

1 Q Okay. All right. And tell the jury what happened
2 just before -- right before he left Brooks Hammond's
3 house.

4 A Okay. Well, we was all standing outside like in the
5 front yard having come from the building, and everybody
6 was talking. So we was going in the house, in Brooks's
7 house, and Jamie -- the girl was already in the car, had
8 the car cranked, was going to leave. So we go on in, but
9 I just happened to turn around and look out the window.
10 And when Jamie, he was getting in the car at first, but
11 then he turned around and stepped back out and went like
12 this (demonstrating) and busted Dale's windshield in his
13 truck and got back in the vehicle and they left.

14 Q All right. Did the window on the front -- was it the
15 front window -- windshield?

16 A Front windshield.

17 Q All right. Did it shatter?

18 A It shattered. I mean, they shattered.

19 Q All right.

20 A I would never thought he could do that much damage.

21 Q Okay. And how do you know that that was Dale
22 Mathis's truck?

23 A Because I know Dale Mathis's truck.

24 Q All right.

25 A I growed [sic] up -- I growed up with him.

1 Q Okay. As far as -- how long after the samurai sword
2 shattered the window, how long after that did Dale find
3 out?

4 A It wasn't long. It seemed like I told him pretty
5 fast, you know what I'm saying? And -- because Jamie was
6 done -- he was done gone. Right after that, he got right
7 in the car and they left.

8 Q Okay. So was it about five minutes?

9 A I'm going to say five minutes.

10 MR. KORNFELD: All right. All right. Okay. All
11 right. I don't have any further questions. Thank you,
12 Mr. Lindsey.

13 THE WITNESS: Yes, sir.

14 THE COURT: Cross-examination.

15 CROSS EXAMINATION

16 BY MR. BLOUIN:

17 Q All right. Mr. Lindsey, let me just make sure we got
18 the facts straight. You were at Brooks Hammond's house.

19 A Yes, sir.

20 Q Brooks was at Brooks Hammond's house.

21 A Yes, sir.

22 Q Dale Mathis.

23 A Yes, sir.

24 Q Davia Smith.

25 A Yes, sir.

1 Q And Jamie Howard.

2 A Yep.

3 Q And then the person that drove Jamie.

4 A That drove Jamie. Right.

5 Q And y'all were inside at the time?

6 A No.

7 Q You were outside.

8 A Yeah. When I pulled up, Brooks was in his house.

9 Okay. But I knocked on the door, and Brooks said they was
10 all around back, so I went back around there, and they was
11 in the building like talking. I mean, I don't know what
12 they was doing. But then they came out. I just stood
13 around outside. Then they came out, and Jamie had a big
14 sword in his hand. He did. I mean, I don't know what had
15 been going on.

16 Q Well, you'd been there for an hour and a half.

17 A No. Not then I hadn't been there. Because they ---

18 Q Like five or ten minutes.

19 A Yeah. I'd say 15, 20 minutes then.

20 Q Okay. You didn't see anybody -- you didn't see Jamie
21 threaten anybody inside the house with that sword.

22 A No, sir. But I can say that he did -- he did kind of
23 make a little threatening comment to the girl, because I
24 don't know. Something had been took somewhere, and that's
25 what -- that's what they was arguing -- they was fussing

1 about that.

2 Q Jamie was fussing about something getting took?

3 A Yeah. But at the girl, Davia.

4 Q Okay. Now, did you know about Davia and Jamie's
5 relationship?

6 A Yes, sir.

7 Q Did you know about Davia and Dale's relationship?

8 A Yes, sir.

9 Q And was that sort of triangle kind of common
10 knowledge?

11 A I mean, I'd say -- yeah. I'd say it.

12 Q Okay. And I believe you said this happened a few
13 months before Jamie's death?

14 A I don't know how long. I mean, I don't even remember
15 the day -- the day the windshield got busted.

16 Q All right. And you grew up with Dale?

17 A Yes, sir.

18 Q A good friend of Dale's?

19 A Went to school with him.

20 Q All right. You still close to Dale?

21 A Yes, sir.

22 Q All right. Were police ever called about the
23 incident?

24 A No, sir.

25 Q And were you present on January 19th when Jamie died?

1 A No, sir.

2 Q You weren't in the area?

3 A No, sir.

4 Q You know nothing about it.

5 A No, sir.

6 Q All right.

7 A I mean -- I mean, I know when they -- somebody told
8 me they heard on the news that Jamie Howard -- they found
9 Jamie Howard. That's all I know.

10 Q Okay. And in 2009, were you convicted of assault and
11 battery of a high and aggravated nature?

12 A Yes, sir. I mean ---

13 Q And then, let's see, 2013, manufacturing,
14 distribution of cocaine base, first?

15 A Yeah. I mean ---

16 Q PWID?

17 A Yeah. I had to plead out.

18 Q Okay.

19 A But I pled.

20 Q 2014, possession of meth, second offense?

21 A Yes, sir.

22 Q 2017, giving false information to police?

23 A Yes, sir. That's what you said.

24 Q And then 2018, use of vehicle without owner's
25 permission?

1 A Yes, sir.

2 MR. BLOUIN: All right. Thank you. No further
3 questions.

4 THE COURT: Anything else?

5 MR. KORNFELD: Just one question.

6 REDIRECT EXAMINATION

7 BY MR. KORNFELD:

8 Q He asked you about did anybody call the police.
9 Mr. Lindsey, you -- do you -- you don't call the police,
10 do you?

11 A No, sir. I do not call no police.

12 MR. KORNFELD: Thank you. No further questions.

13 THE COURT: Anything else?

14 MR. BLOUIN: Not from the State, Your Honor.

15 THE COURT: All right. Sir, you can step down.

16 THE WITNESS: Thank you very much, sir.

17 THE COURT: Do y'all want this witness excused?

18 MR. KORNFELD: Yes, Your Honor.

19 MR. BLOUIN: No objection, Your Honor.

20 THE COURT: All right. Thank you, sir.

21 Next witness.

22 MR. KORNFELD: Your Honor, can we approach real
23 quick?

24 THE COURT: Yes, sir.

25 (WHEREUPON, a bench conference was held off the record.)

1 the only impeachable offense that Mr. Mathis has that I
2 can impeach him on at this moment is a grand larceny.

3 THE COURT: All right. Any discussion regarding the
4 impeachment offense? Anything?

5 MR. KORNFELD: No, Your Honor.

6 THE COURT: All right. Anything further from either
7 side before we bring the jury back?

8 MR. BLOUIN: Nothing at this time.

9 THE COURT: Anything further, Mr. Kornfeld?

10 MR. KORNFELD: No, Your Honor.

11 THE COURT: Sir, you can be seated.

12 Bring the jury back.

13 (WHEREUPON, the jury entered the courtroom at 4:01 p.m.)

14 THE COURT: All right. Mr. Kornfeld, call your next
15 witness.

16 MR. KORNFELD: Yes, Your Honor. I call Dale Mathis
17 to the stand.

18 THE COURT: Mr. Mathis, come on around and be sworn.
19 Place you left hand on the Bible, raise your right and
20 face Madam Clerk as she'll swear you in.

21 WHEREUPON,

22 DALE ELROY MATHIS

23 After having been duly sworn, testified as follows:

24 THE CLERK: Have a seat. Thank you.

25 THE COURT: Push that mic -- there you go. Push your

1 seat up.

2 DIRECT EXAMINATION

3 BY MR. KORNFELD:

4 Q You're Dale Elroy Mathis, correct?

5 A Yes, sir.

6 Q You're 56 years old?

7 A 57.

8 Q 57 years old.

9 And you know that you're charged with murder,
10 correct?

11 A Yes, sir.

12 Q All right. And you know here today, you're
13 testifying under oath, so you need to tell the whole
14 truth. You know that.

15 A Yes, sir.

16 Q Are you going to tell the whole truth?

17 A Yes, sir.

18 Q All right. Let me ask you a couple questions about
19 you. You have a learning disability. Why do you say
20 that? Were you in special ed classes?

21 A Yeah. All through school.

22 Q All right. Is it embarrassing to you that you can't
23 read?

24 A Yes, it is.

25 Q When you say that you can read a little bit, what

1 exactly do you mean by that?

2 A I can tell what stop means, stop sign, you know.

3 Sometimes I see the stop signs and stuff, yeah. As far as
4 that.

5 Q All right. What about books? Can you read books?

6 A No, sir.

7 Q All right. Well, do you remember when you were
8 talking to Officer Bailey and you were talking about the
9 second interview where you're talking about reading
10 about, what was it, John the Baptist? Something like
11 that?

12 A Yeah. It's in the Bible.

13 Q Okay. Did you actually read that or did somebody ---

14 A No. A guy, a friend of mine, guy that was in the
15 cell with me read it, actually.

16 Q All right. What was his name?

17 A His name was Randy Norris. He actually gave me a
18 Bible. I've got his name written in the Bible.

19 Q Okay. All right. Now, tell me about you -- what you
20 were doing on the date of January 19th. Do you remember
21 that day?

22 A Yes, sir.

23 Q All right. Were you with Davia at Jimmy Blackwell's
24 house?

25 A Yes, I was.

1 Q All right. Did you then -- did Mr. Howard come and
2 pick you up?

3 A Yes, he did.

4 MR. BLOUIN: Your Honor, we would object to leading
5 the witness.

6 THE COURT: All right. Don't lead him, Counsel.

7 MR. KORNFELD: Okay.

8 BY MR. KORNFELD:

9 Q Okay. Were you -- so -- all right. Did you then --
10 where did you go after you left Jimmy Blackwell's house?

11 A I went to my -- I was headed to my cousin's house.
12 He's like my brother. We was raised together. Chuck's
13 house up on 11th.

14 Q Okay. And his name is Chuck Shelton?

15 A Chuck Shelton.

16 Q All right. How far of a drive is it from Jimmy
17 Blackwell's house to Chuck Shelton's house?

18 A About five- to seven-minute drive.

19 Q All right. And did it take about five to seven
20 minutes on January 19th?

21 A Yeah. Something like that.

22 THE COURT: Keep your voice up for me.

23 THE WITNESS: Yes, sir. It took -- we done a little
24 duck before we got there -- I mean, we stopped and hunt
25 some duck.

1 BY MR. KORNFELD:

2 Q You stopped on the way?

3 A Yeah. We stopped at the store, yeah.

4 Q Okay. And were y'all talking on the way over to
5 Chuck Shelton's house?

6 A Jamie and Davia was.

7 Q All right.

8 A I pretty much just sit in the back getting my -- you
9 know, after that.

10 Q All right. Were you arguing with anybody while you
11 were riding over there?

12 A Well, at the time we stopped, we all three were kind
13 of arguing with each other.

14 Q All right. What were you arguing about at that time?

15 A Well, it was about Jamie stating that he's going to
16 make a threesome video with Davia. And I told him, you
17 know, "Come on, man. Ain't no sense in disrespecting me
18 like that," you know.

19 Q All right. And so when you get to Chuck Shelton's
20 house, you're in the drive, correct?

21 A Yeah. In the driveway.

22 Q Okay. After you were in the driveway, did Jamie call
23 you any names?

24 A Yeah. He called me a pussy.

25 Q Okay. What was your response to that?

1 A I just slapped the back of the seat, said, "Ain't no
2 sense in all that name calling." You know, I was probably
3 saying it, you know, kind of a cutting-up way.

4 Q All right.

5 A He said to Davia, he said, "When are you going to
6 quit hanging around this pussy."

7 Q All right. Did you then -- did you push -- tell me
8 about the seat. Do you know what kind of car it was?

9 A PT Cruiser.

10 Q All right. Was there anything unusual about the
11 driver's seat?

12 A Yeah. You push it, and it would flip -- lean forward
13 like it didn't lock very good.

14 THE COURT: I'm going to interrupt. I think it's
15 going to be better, sir, if you turn your seat around and
16 speak directly into that microphone, I think people will
17 hear you better. I understand you want to look at
18 Mr. Kornfeld, but I want to make certain that the jury
19 hears your answers because you're soft-spoken. So if you
20 speak directly into that microphone, I think we'd be
21 better.

22 THE WITNESS: All right.

23 THE COURT: All right.

24 THE WITNESS: Is that good?

25 THE COURT: Yes, sir.

1 BY MR. KORNFELD:

2 Q All right. So your testimony is that the seat kind
3 of -- it wasn't completely locked down? Or what did you
4 say?

5 A No. The back part of -- I mean, just like -- like
6 you're going to let somebody out or something, but, you
7 know, you wasn't. It's to where the seat wanting to just
8 go forward.

9 Q All right.

10 A It didn't have no lock -- like a lock on it or
11 nothing.

12 Q Okay. At that point, did you push his seat up?

13 A No. I never pushed him and his seat up until Davia
14 said, "He's got a knife."

15 Q All right. So tell the jury, did you see the knife?

16 A Not at first.

17 Q Okay. When did you first -- when did you see the
18 knife?

19 A Right shortly after -- well, seconds after Davia
20 said, "He's got a knife."

21 Q All right.

22 A That's when I pinned him up against the seat.

23 Q Okay. So you hear that, you don't see it yet, but
24 you push his seat.

25 A Yeah.

1 Q All right. Where did he go when you pushed that
2 seat?

3 A He was kind of against the steering wheel.

4 Q Okay. Do you know if he bumped his head at that
5 time?

6 A I'm not sure.

7 Q All right. Did the seat come back?

8 A When it come back -- when I turned loose of it, it
9 did, but I had him up there and said, "Man, just let me
10 get out. I'm getting out," you know.

11 Q All right. Did you -- previously, you told -- do you
12 remember telling Officer Bailey, "Let's quit. Let's quit.
13 Let me out, Jamie. I'm going home. Let me out," about
14 that time?

15 A Yes, sir.

16 Q Is that when you said that?

17 A Yes, sir.

18 Q All right. So did you try and get out of the vehicle
19 at that time?

20 A I was attempting to until he come -- the seat come
21 back down and he had -- that's when I seen the knife.

22 Q All right. What kind of knife was it?

23 A It looked like a medieval dagger about yea
24 (gesturing) long.

25 Q All right. Do you know where he brought it from?

1 Did he bring it from his left hand or his right hand?

2 A He brought them from over the side of the door, like
3 it was inside of the door between the seat. I never seen
4 -- you know, like I said, when I got in, I never seen it.
5 I sit not quite behind him, but I was kind of in the
6 middle between him and Davia in the seat.

7 MR. KORNFELD: All right. At this time, I'd like to
8 do the -- have the four-seat demonstration. And I can
9 round them up. They don't have them anymore, but I can
10 get four seats.

11 THE COURT: All right. What happened to the four
12 that were ---

13 MR. BLOUIN: We pulled them back. We can find four
14 seats. I guess they got taken back up.

15 BY MR. KORNFELD:

16 Q All right. Mr. Mathis, I'd like you to sit -- come
17 off the witness chair. I'd like you to come sit where you
18 were sitting in the vehicle.

19 A (Witness complies) I was sitting kind of ---

20 Q All right. I know there's only two seats there.
21 Were you sitting right ---

22 A She's all the way -- she's all the way across it
23 there.

24 Q Okay.

25 A I was sitting kind of in between.

1 Q Okay. Where was Davia sitting?

2 A She was sitting here (indicating).

3 Q All right. And is this (indicating) where Mr. Howard
4 was sitting?

5 A Yes, sir. He was driving.

6 Q All right. Now, before, just so they can see, you're
7 -- you -- first he called you -- he called you a pussy.

8 A Yeah.

9 Q And then you pushed his ---

10 A I told him, "Man, ain't no need for name calling,
11 that name calling."

12 Q Okay. Then you said, "Let's stop. Let's stop." Why
13 did you say, "Let's stop. Let's stop"?

14 A After he called me a pussy and they was talking about
15 the video, I hit the seat -- him held against the seat up
16 there.

17 Q Okay.

18 A She said, "He's got a knife," first.

19 Q At that point, she says, "He's got a knife."

20 A Yeah. He's got a knife.

21 Q Okay. Did you then let go of the seat?

22 A No. Not until I told -- I told him just let me out,
23 let me go.

24 Q Okay. All right. Then were you able to get out?

25 A No, sir.

1 Q All right. Did he turn around with the knife?

2 A When I set the seat back down, he come around with
3 me, and that's when I took the knife.

4 Q All right. Did he have the knife in his left hand?

5 A Yes, he did. Kind of up here.

6 MR. BLOUIN: Your Honor, we'd ask that he's -- object
7 to leading again.

8 THE COURT: All right.

9 MR. BLOUIN: The defendant needs to tell the story.

10 THE COURT: Don't lead him, Mr. Kornfeld.

11 MR. KORNFIELD: Yes, Your Honor. I thought he
12 testified to that. I'm sorry.

13 BY MR. KORNFIELD:

14 Q So did Mr. Mathis have the knife in his left hand --
15 or Mr. Howard have the knife in his left hand?

16 A Yes. He moved the knife in the left hand.

17 Q All right. Then what did he do?

18 A He was coming at me. That's when I took the cane and
19 I tried to grab the knife out of his hand.

20 Q Okay. Did you -- so you're saying that the knife is
21 coming. Is he all the way around?

22 A No. He's not quite all the way around yet. When I
23 seen the knife, that's when I started trying to swat it
24 out of his hand.

25 Q Position me as Mr. Howard was at that time, if you

1 can.

2 A (Witness complies.)

3 Q Like this?

4 A Yeah. He was coming around. When he was coming
5 around, I went to try to get the knife out of him.

6 Q Were you able to -- were you successful in getting
7 the knife at that time?

8 A No.

9 Q All right.

10 A I mean, I hit him in the face. I know I hit him with
11 my cane once or twice. I didn't know if there was
12 just ---

13 Q Did you hook him with the cane?

14 A Yes. At one time, I did.

15 Q All right. How long was he hooked with the cane?

16 A Just a few seconds. I had enough time, I pulled him
17 back on top of me.

18 Q Okay. So you pulled him. And he ---

19 A I pulled him just about right there, and when I
20 pulled him (demonstrating), I had him like this
21 (demonstrating) ---

22 Q That's all right. This is important.

23 So he's here. He's got the knife. What did you do?

24 A I locked him and pulled him on top of me. But he's
25 sideways. When I caught him, he was sideways like this

1 (demonstrating).

2 Q Okay. So did he actually have the knife when it went
3 into the side of him?

4 A Yeah. When it went inside of him.

5 Q Did it ever come -- did that knife ever come back
6 out, that knife?

7 A No, sir.

8 Q Was he trying to get it back out?

9 A I'm not sure. I'm sure I was holding onto him when,
10 I guess, the knife went in. I was holding -- holding him
11 down, and we was both going to lay and just pulled him.

12 Q All right. Did he die in your arms that night?

13 A Yes, sir.

14 Q Did you mean to kill him?

15 A No, I did not.

16 Q Well, after that, how long did you sit there for?

17 A Not very long. Davia, she then got out of the car
18 screaming, telling us to quit fighting.

19 Q Did Davia see any of it?

20 A If she did, she seen it from the back of her head.
21 She's out the door.

22 Q All right. After that happened, did she get in the
23 driver's seat?

24 A Yes.

25 Q All right. And then y'all drove to -- or she drove

1 to Burrell Road, correct?

2 A Yes, sir.

3 Q And y'all let -- y'all -- that's where Mr. Howard's
4 body lay.

5 A Yes, sir.

6 Q All right. At that time, why did you not call 9-1-1?

7 A Both of us was tweaked out, freaked out. And I -- I
8 freaked out. It actually scared me.

9 Q Okay. All right. When you told -- do you remember
10 telling Officer Bailey -- do you know who this man is over
11 here, Officer Bailey?

12 A Yes, I do.

13 Q Do you remember -- you can come sit up here again.
14 I'm sorry.

15 Do you remember the first time you were interviewed
16 by Officer Bailey?

17 A Faintly. I was pretty high.

18 Q Okay. And the first time you were interviewed by
19 him, do you remember saying to him, "He tried to rape my
20 girlfriend and I stabbed him"?

21 A Yes, I did. That was a lie. I mean, I didn't tell
22 the truth. It wasn't the truth.

23 Q Did you -- well, did he say that he was going to make
24 a threesome video with your ---

25 A Yes. He did say that.

1 Q All right.

2 A Some of what I told him was true and some wasn't.

3 Q Well, I know. That's why today -- that's good. You
4 need to tell the jury everything today that's the truth,
5 okay?

6 A Yes.

7 Q You're sworn under oath. We got that, right?

8 A Right.

9 Q All right. And you said that he was on top of you.
10 Was that the truth?

11 A When we wound up -- at the end of it, he was.
12 Because I had him, like I said, in a bear hug. I didn't
13 know he was stabbed until he just quit moving. I didn't
14 know what was going on.

15 Q Okay. Did you feel like -- why did you grab ahold of
16 him when he came back with the knife?

17 A Because I thought he was going to stab me.

18 Q Were you trying to defend yourself at that ---

19 A I was trying to knock it out of his hand with my
20 cane. That's why the cane was involved. I was trying to
21 knock it -- you know, just rake it out of his hand.
22 That's when I hooked him. I didn't -- you know, really
23 wasn't trying to hook him or hurt him like that right
24 there, but I was trying to knock the knife out of his
25 hand.

1 Q All right. You previously stated that he got a punch
2 on you. Did he ---

3 A Yeah. He got one at least on me.

4 Q Where did he punch you?

5 A When he came back, he punched me one time. He got me
6 in the jaw. He didn't really do nothing.

7 Q Okay. All right. When you talked to Officer Bailey,
8 did he ask you about any wounds that you received?

9 A No.

10 Q Did you get any wounds?

11 A Yeah. I got cut on my hand. I don't know exactly
12 what, from the seat or if it was from the ---

13 Q Show the jury your hand.

14 A (Witness complies.)

15 Q This (indicating) is the cut you're saying that you
16 got cut?

17 A Yeah. I've got a scar through there, yeah.

18 Q Okay. And that's the only cut you received the whole
19 time?

20 A That's the only cut I received.

21 Q All right. And were you in the car the entire time
22 that this happened? Were you ever out of the car?

23 A No. I was in the car the whole time.

24 Q Did Mr. Howard's vehicle where he was driving have a
25 headrest on it?

1 A Yeah.

2 Q Did the headrest ever come off?

3 A No, sir.

4 Q Okay. Did you ever pull Mr. -- did you ever pull
5 your cane on Mr. Howard's neck like this (demonstrating)?

6 A Yeah. One time when I hooked him. I mean, I wasn't
7 trying to hook him. It's just I was trying to get the
8 knife, and I caught him there in the shoulder and the
9 neck. That's when it come back, kind of made a lunge,
10 told me I grabbed him.

11 Q Okay. Is that the only time?

12 A That's the only time. Yes, sir.

13 Q All right. And you then took -- you then went to
14 drop the body off over there. Did you have -- where did
15 you go after that?

16 A We went from there to -- I think that's when we
17 stopped at the Dollar General store.

18 Q Okay.

19 A She wanted to stop at the Dollar General store.

20 Q All right. Okay. And did you ever take Mr. Mathis's
21 wallet -- or Mr. Howard's wallet?

22 A No. She said it was in the dash of the vehicle.

23 Q Did you ever rumble through Mr. Howard's pockets?

24 A No, I didn't.

25 Q All right. And there's testimony about that y'all --

1 you took the PT Cruiser and you burned the PT Cruiser; is
2 that correct?

3 A Yes. That's correct.

4 Q Well, tell the jury, if you were innocent, then why
5 did you burn the PT Cruiser?

6 A I was -- like I said, I was -- I was freaked out,
7 like I said, pretty high on methamphetamine. I don't know
8 if you've ever done methamphetamine, but it makes you wig
9 -- wig out mad. You see things, hear things, you know.
10 People that does the dope, it will make you hear things
11 that ain't there, see things that ain't there. But yeah.
12 I had done a big shot of dope, and I was -- I was tweaked
13 out. I was scared.

14 Q All right. Let's go through some of the things that
15 you told Mr. Bailey. "I didn't mean to kill him"; is that
16 true?

17 A Yeah. That's true. Very much true.

18 Q "I panicked after he died"; is that true?

19 A Very much true.

20 Q "We got into a fight. He said, 'We're going to make
21 a video, and you're the third person.' That's when I lost
22 my cool"; was that correct?

23 A That's correct.

24 Q All right. You usually walk with a cane, correct?

25 A Yes, sir.

1 Q And you have -- you were in a car wreck.

2 A A bad car wreck.

3 Q Okay. And you -- you just walked up here. The jury
4 saw you, right?

5 A Yeah.

6 Q That's how you walk without a cane.

7 A Yeah. I have -- I mean, I guess I walk with a limp.
8 I've got the plate in this hip and degenerate bone disease
9 in my knees and my hip.

10 Q All right. Did ---

11 A Arthritis and stuff in my fingers and hip and stuff.
12 I've got degenerate bone disease, is what they call it.

13 Q Was Mr. Howard stronger than you?

14 A Oh, yeah.

15 Q Was he younger than you?

16 A Yes, sir.

17 Q All right.

18 A Jamie was -- we was friends. When he done a shot of -
19 dope, Jamie changed. He went from ---

20 Q All right. We'll get -- let's go through -- let me
21 ask you about being at Stephen Lance Davis's house. Were
22 you ever there?

23 A Yes, sir.

24 Q All right. Did Mr. Howard ever pull a pipe on you?

25 A Yes. At my house, though. That was at my house.

1 Q Okay. On Cogin Drive.

2 A On Cogin Drive.

3 Q How big was that pipe?

4 A It looked like a -- I don't know if you know what a
5 jack hammel [phonetic] is off of one of them high-dollar
6 jacks. About yea (gesturing) big around.

7 Q So what color was it?

8 A It was white.

9 Q Okay. So did it have a rubber handle on the very end
10 then?

11 A No. It had like little lines, a grip thing. Lines
12 made it and stuff.

13 Q Okay. All right. But how long was it?

14 A Two foot or so (gesturing).

15 Q Okay. All right. And do you remember being -- now,
16 do you remember being at Stephen Lance Davis's house?

17 A Yeah.

18 Q Did Mr. Howard pull a gun on you there?

19 A Stuck a gun in my face. He was jumping on Davia, and
20 I come out of the house. When I come out of the house, I
21 come down the steps, and I said, "Hey, man, don't need
22 that." That's when he took the gun and placed it from
23 back there. Said, "Where did you get a gun from?"

24 Q What did you do after that?

25 A I got away from him.

1 Q Okay. Were you scared?

2 A Yeah. I was scared.

3 Q Okay. Tell me about the time of the -- did you --
4 was there ever an occasion where your window was
5 shattered?

6 A Yes, sir.

7 Q All right.

8 A I didn't -- he was gone before I even knowed [sic]
9 about that, though.

10 Q All right. So the window shattering, how long before
11 January 19, 2016, did that happen?

12 A About three months, I'd say. Something like that.

13 Q The pulling the gun on you, how long did that happen?

14 A That one was about a month or so.

15 Q All right. And the weapon or the pipe, how long
16 before ---

17 A The pipe was -- it was the first thing he done to me.

18 Q All right.

19 A Come to my house.

20 Q All right. Now, you were coming off of heroin.
21 You're a heroin addict, are you not?

22 A Yes, sir. Unfortunately, I am.

23 Q Okay. When you were first interviewed, were you
24 still using heroin?

25 A I just had done a shot before they got me, before

1 they picked me up.

2 Q How soon before they got you?

3 A I'd say a couple hours, maybe.

4 Q All right. Well, when you -- was your memory a
5 little hazy?

6 A Awful hazy. I don't remember half the stuff I told
7 Mr. Bailey until I seen the video.

8 Q Okay. And did you have trouble sleeping after the
9 death?

10 A I still have trouble sleeping.

11 Q All right.

12 A They got me on psych meds in there in the jail for
13 sleeping and stuff.

14 Q Okay. All right. And you're having trouble
15 sleeping.

16 A Yes.

17 Q Still to this day.

18 A Yeah. I ain't tired, yeah. Because I'm off the
19 heroin. I ain't done no heroin in 33 months.

20 Q All right. Well, was there any doubt -- I mean, did
21 you feel like -- what -- did you feel like you had to grab
22 Mr. Howard?

23 A Yeah. I only -- like I said, when Jamie done dope --
24 shot dope, he smoked or snorted it, he was totally
25 different. If he shot it, he got -- got mean, and he was

1 kind of a bully like.

2 Q Were you in fear for your life?

3 A I certainly was. Like I said, I didn't mean for this
4 to happen. If it just be done over again in my mind, I
5 went a thousand times back and wish it would be changed,
6 but, you know, I was scared for my life. I was trying to
7 defend -- defending my life. He -- like I say, Jamie, we
8 was friends at one time. He would never give me a ride up
9 there if I hadn't -- you know, we hadn't been hot for each
10 other. I mean, I know Jamie and Davia's together, you
11 know. I was good with that.

12 Q All right. Before you said in the video to
13 Mr. Bailey, "I just wanted somebody to love"; is that
14 correct?

15 A Yeah.

16 Q You just wanted somebody to love you?

17 A Yeah.

18 Q All right. Okay. Did you have any weapon on you
19 that night?

20 A No.

21 Q All right. And when you rode over there, did -- were
22 you going to buy some drugs from Mr. Howard?

23 A No. That's why he got -- I believe he got pissed
24 about it because I didn't have no money to buy what he was
25 giving Davia.

1 Q Is that when he called you the name?

2 A Yeah.

3 Q All right.

4 A Like when you going to quit messing around with this
5 pussy, or something in that -- that kind of a way, you
6 know.

7 Q All right. There's been some testimony about some
8 text messages. Did you ever see any text messages?

9 A No.

10 Q Can you read enough to read text messages?

11 A No.

12 Q Okay. All right.

13 A I barely can use the phone.

14 Q All right. And did you think when you pushed the
15 chair or, I guess, when you tapped -- where you say you
16 tapped it, did you think that that would cause him to pull
17 a knife on you?

18 A No. I didn't think so.

19 Q All right. All right. When you said that you were
20 jealous before, do you remember saying that in the video?

21 A Yeah. I think.

22 Q Okay. Did that cause you to try and hit Mr. Howard?

23 A No.

24 Q Okay. All right. And could you have gotten out of
25 the vehicle when he was coming behind with a knife?

1 A I was trying to get out of -- you know, get out of
2 the vehicle when he -- when he grabbed the knife. I
3 didn't know he had a knife until I started to let the seat
4 down and Davia said, "He's got a knife."

5 Q Okay. And you couldn't get out of the vehicle at
6 that time.

7 A No, I couldn't.

8 Q All right. Do you believe that it was either going
9 to be you or him?

10 A Yeah. Exactly.

11 Q All right. Mr. Mathis, I don't have any further
12 questions.

13 A Bottom line is -- can I say this?

14 Q Well, what ---

15 A They're trying to make it out to be a vicious murder,
16 which it's not. I didn't mean for that to happen. I was
17 trying to, like I said, defend myself.

18 MR. KORNFIELD: I understand, Mr. Mathis. Thank you.

19 THE COURT: Cross-examination.

20 CROSS EXAMINATION

21 BY MR. BLOUIN:

22 Q Mr. Mathis, you killed Jamie Howard, didn't you?

23 A Not intentionally.

24 Q But you killed him, didn't you?

25 A Not intentionally.

1 Q Yes or no?

2 A Not intentionally.

3 MR. KORNFELD: Objection.

4 MR. BLOUIN: He's not answering the question, Your
5 Honor. I'm asking if he killed him, and he's saying "not
6 intentionally."

7 THE COURT: Counsel, he answered your question. I
8 mean, you may not like the answer he gave, but he answered
9 your question.

10 Was that an objection?

11 MR. KORNFELD: Yes, Your Honor.

12 THE COURT: All right. I'm going to sustain the
13 objection. Move along, Mr. Blouin.

14 BY MR. BLOUIN:

15 Q So in any occasion previously where you said that
16 someone else killed Jamie Howard, you were lying.

17 A Yes, I was.

18 Q All right. Let's go a little bit into your
19 background. You were living at Jimmy -- Jim Blackwell's
20 house at the time.

21 A Yes, I was.

22 Q And you lived there for a couple of weeks? a month?

23 A Yeah. Something like that. About a month or so.

24 THE COURT: Keep your voice up.

25 THE WITNESS: About a month or so.

1 BY MR. BLOUIN:

2 Q And you were living with Davia?

3 A Yes. She was staying there, too.

4 Q And Jimmy.

5 A Yes, sir.

6 Q All right. Did you have a job at the time?

7 A No, sir. I'm on disability.

8 Q And how much is that disability check?

9 A \$740, I think.

10 Q \$740.

11 And I think Davia, you were in here earlier,
12 testified that y'all did about a gram of heroin a day?

13 A I wouldn't do that much.

14 Q Maybe about \$50, \$60 of heroin a day?

15 A Yeah. Something like that. Whatever we could scrape
16 up.

17 Q Okay. In your first statement with Investigator
18 Bailey, you stated that you went to -- you followed
19 Davia ---

20 A Yeah.

21 Q --- after an argument with a friend, and that Davia
22 was being raped in the backseat of the car by Jamie.

23 A Yes, sir.

24 Q And that you came in and stabbed him in the back.

25 A Yes, sir. Which was all a lie.

1 Q You lied about stabbing someone.

2 A Yeah.

3 Q Then when you found out that Davia had spoken, you
4 changed your story, didn't you?

5 A Yes, sir.

6 Q And you said that she did everything.

7 A Yes, sir.

8 Q And that you weren't even there.

9 A Yes, sir.

10 Q All right. The next time you spoke with Investigator
11 Bailey was, what, 12 days later?

12 A Yes, sir. I think.

13 Q Okay. That time you came in, and you immediately
14 said that Davia did everything.

15 A Yes, sir.

16 Q Then you stated that you helped her dispose of the
17 body.

18 A Yes, sir.

19 Q And then it was only then that you stated that you
20 were riding with them to Chuck's house.

21 A Yes, sir.

22 Q That you were in the front seat -- or backseat.

23 A Yes, sir.

24 Q Jamie was driving.

25 A Yes, sir.

1 Q And Davia was in the passenger's seat.

2 A Yes, sir.

3 Q That once you got to Chuck's house, you turned -- he
4 missed the driveway and turned around.

5 A Yeah.

6 Q Jamie didn't want to go up the driveway.

7 A No, sir.

8 Q Because it was all rutted out.

9 A Yes, sir.

10 Q At that point, you stated that he said something
11 about making a threesome video.

12 A Yes, sir.

13 Q And that you popped him with the cane.

14 A No. That's when I hit the back of the chair.

15 Q But you stated in your previous statement that you
16 popped him with the cane.

17 A Oh, yeah. Yeah. Like I told you, some of that stuff
18 was true, some of it was a lie, you know.

19 Q You also stated at that point, and let me make sure
20 I'm correct because I don't want to misquote, that --
21 let's see. "I did hook him with my cane and jerked him
22 back there."

23 A Yes, sir.

24 Q You never mentioned anything about a seat problem.

25 A I didn't think it was necessary at the time.

1 Q Actually, as far as the seat ---

2 MR. KORNFELD: Objection.

3 THE COURT: Hold on. Hold on.

4 Yes, sir.

5 MR. KORNFELD: I think there was a

6 mischaracterization on the I did hook him with a cane and

7 jerked him back there.

8 MR. BLOUIN: We can play it again, if we need to.

9 MR. KORNFELD: Yeah. I don't think he said that.

10 THE WITNESS: I pulled him. I mean, I -- yes, sir.

11 I pulled him back there. I don't remember jerking, but I

12 pulled him back there.

13 BY MR. BLOUIN:

14 Q And at that time, you said Davia stabbed him.

15 A Yeah.

16 Q All right.

17 A Which was a lie.

18 Q Which was a lie.

19 A Yeah.

20 Q Now, you also stated that you never made any mention
21 whatsoever of the spring seat, did you?

22 A No, sir.

23 Q And actually, today is the first time anybody's heard
24 of the spring seat, isn't it?

25 A No. My lawyer's known about it.

1 Q All right. But we didn't hear about it in your first
2 interview with Investigator Bailey, we didn't hear it in
3 your second interview with Investigator Bailey.

4 A My first interview, I was -- I don't even hardly
5 remember that one. I was pretty zoned out with heroin.
6 I'd done a shot of heroin before they picked me up that
7 day.

8 Q But you were awake enough to say you stabbed someone.

9 A Yeah. He was asking me questions. You seen me
10 itching like that right there. That's -- that's the --
11 that's the heroin itch, you know. I mean, I was -- I was
12 pretty high.

13 Q So Davia was in the passenger's seat. I think later
14 in that video, then you said, "I pulled him in the back
15 with me."

16 A Yeah.

17 Q "That's when I jumped on top of him."

18 A Oh, yeah. I think I said that. Yeah.

19 Q Okay. But here you said that you never jumped on top
20 of him.

21 A Well, I grabbed him and I -- when we went ---

22 Q Did you pull him on top of you?

23 A He was just -- he was just on top of me.

24 Q And you didn't say you got your cane hung, and that's
25 when you jumped on top of him?

1 A No.

2 Q Let's see. Where is that? And you didn't say that
3 during your last ---

4 A I may have. I don't know exactly what all I said.
5 You know, like I told you, some stuff was -- some of it
6 was true and some of it wasn't.

7 Q Now, you never saw the two interviews that Davia gave
8 to Investigator Bailey.

9 A I know that.

10 Q You haven't seen them to this day.

11 A I don't think so.

12 Q All right. We'll talk about Jamie for a little bit.
13 You said you're friends with Jamie?

14 A We was friends, yeah.

15 Q You like Jamie?

16 A Yeah.

17 Q You knew Jamie was sleeping with Davia.

18 A Yeah. We -- me and Jamie wasn't the only two
19 sleeping with her, you know.

20 Q And you knew he was doing it for a long time?

21 A Well, when I went to jail, yeah. I went to jail for
22 a shoplifting charge and did 30 days, and that's when she
23 moved in with him.

24 Q Okay.

25 A So yeah.

1 Q And you knew that if Davia left with Jamie, she'd be
2 gone for days.

3 A Yeah.

4 Q And you knew that while she was gone, she'd be having
5 sex with him.

6 A Of course.

7 Q And while she was having sex with Jamie, you'd be
8 sleeping at Jimmy's.

9 A Yeah. Once in a while.

10 Q With no car.

11 A Well, I had access to a vehicle, yeah. I had -- I
12 could -- that would have took me where I wanted to go. I
13 had Jimmy's sister. She stayed there most of the time.

14 Q And no way to contact.

15 A I had Jimmy's phone.

16 Q You knew Jamie flaunted the relationship.

17 A Did what?

18 Q Flaunted it, told everybody he was screwing Davia.

19 A I reckon. I don't know -- I don't know him flaunting
20 it, him flaunting it, no, sir.

21 Q So you didn't hate that.

22 A No.

23 Q You didn't hate that Jamie was younger.

24 A No.

25 Q Stronger.

1 A Hu-uh.

2 Q Had the drug supply, according to everybody.

3 A That was -- that's how I met Jamie was through the
4 drug supply. Actually, met him through my sister. She
5 was -- he was selling her some dope, and that's how I met
6 her.

7 Q And you loved Davia.

8 A Yeah. I love Davia.

9 Q And you were going to let this guy ---

10 A I believe Jamie loved Davia.

11 Q And you were going to let this guy who pulled a gun
12 on you, right ---

13 A Yeah. He pulled a gun on me.

14 Q --- broke your windshield ---

15 A Yeah.

16 Q --- apparently tried to hit you with a pipe ---

17 A Yeah.

18 Q --- sleep with the girl that you loved?

19 A They was already sleeping together.

20 MR. KORNFIELD: Object.

21 THE COURT: Hold on just a second. What's the
22 objection?

23 MR. KORNFIELD: I think he's got a form of the phrase
24 of -- object, form of the phrase of a question. I think
25 it -- he's got to lay a foundation. I don't think he let

1 him do it. It wasn't ---

2 THE WITNESS: Yeah. I couldn't stop ---

3 THE COURT: Hold on, hold on.

4 Lay a foundation on what? Because Mr. Blouin asked
5 -- he had a question with several parts. You're talking
6 about lay a foundation as to all parts or the last part?

7 MR. KORNFELD: No. Lay a foundation where he says
8 "and you were going to let him sleep with Davia" as if he
9 had control over who Davia slept with.

10 THE COURT: All right. I'm going to -- hold on a
11 second. I'm going to sustain the objection, but I'm going
12 to let you rephrase that portion of your question since
13 that's what the objection was about. Is that correct?

14 MR. KORNFELD: That's correct, Your Honor.

15 THE COURT: All right. Okay.

16 BY MR. BLOUIN:

17 Q You didn't have a problem with Jamie sleeping with
18 Davia.

19 A Davia slept with not just me. She slept with several
20 people.

21 Q You loved her.

22 A Yeah. I love her unconditionally.

23 Q You liked Jamie.

24 A Yeah. I liked Jamie.

25 Q Jamie pulled a gun on you.

1 A Yeah. Jamie pulled a gun on me. We were trying to
2 stop him from jumping on Davia.

3 Q Jamie broke your windshield.

4 A Yeah. That I still ain't sure about why he done
5 that.

6 Q Jamie tried to hit you with a pipe.

7 A Yeah.

8 Q And you're still good friends.

9 A No. I ain't say we was good friends after that.

10 Q You still liked him.

11 A No. I didn't say I really liked him. I said when we
12 first met, we was friends. It wasn't like I done all this
13 right here that we was friends and we hung out anytime
14 together. No, we did not. But before all this happened,
15 we started out as friends.

16 Q Okay. You're not afraid of Jamie, are you?

17 A Yeah. I was.

18 Q You were afraid of Jamie.

19 A He was -- he was a pretty fighting fellow, and he's
20 scary. He's -- I'm telling you.

21 Q So on January 19th, you got into his car ---

22 A Yeah. I asked him to give me a ride. He said okay.

23 Q --- voluntarily ---

24 A Yeah.

25 Q --- with no coercion ---

1 A No coercion.

2 Q --- and you're scared of this man.

3 A I wasn't at the time. I mean, I didn't know he had a
4 knife. I didn't -- I didn't feel like I was going to be
5 harmed or nothing, no.

6 Q You were jealous of Jamie and Davia.

7 A No. I wouldn't say jealous. I was ---

8 Q You said it multiple times that you were jealous.

9 A Yeah. I didn't -- I didn't like it. You know, I
10 don't know if you call that jealousy or not. Because,
11 like I said, she -- Davia was her own person. She slept
12 with who she wanted to, and I had to be cool with that
13 because I had no other choice. I mean, like I said, she's
14 -- she's got her own -- own life. She does what she
15 wanted to.

16 Q All right. Let's talk about parts of your narrative
17 to investigators that are true, okay?

18 A Okay.

19 Q Jamie was coming to pick Davia up, right?

20 A Yeah.

21 Q Okay. You love Davia.

22 A Yeah.

23 Q She asked for a ride -- or you asked for a ride to
24 Chuck's house.

25 A Yeah.

1 Q Chuck lived on Highway 11.

2 A Yeah.

3 Q I think, what, Sylvia Springs Road?

4 A I'm not sure. It was right across from The Cliffs.

5 Q Okay. Jamie was driving a PT Cruiser.

6 A Yes, sir.

7 Q Davia sat in the passenger's seat?

8 A Yes, sir.

9 Q You sat behind Jamie.

10 A Yes, sir.

11 Q You had a cane.

12 A Yes, sir.

13 Q You got to Chuck's driveway, right?

14 A Got to -- yes, sir.

15 Q Okay. At some point, you hooked Jamie with this
16 cane.

17 A After he pulled a knife, I did. Yeah.

18 Q You jumped on top of him.

19 A Well, no. I still -- I jerked him in the back with
20 me, pulled him back -- when I pulled him back with me, I
21 -- that's when I grabbed him, and that's when I assume he
22 got stabbed.

23 Q You stabbed Jamie.

24 A No. I didn't stab him. I didn't take the knife like
25 -- y'all are making it out to be that I just stabbed him.

1 A No, I did not do that.

2 Q You never told investigators that you killed Jamie in
3 self-defense, did you?

4 A No. I didn't know what self-defense -- actually know
5 what self-defense even meant. No. I didn't say that.

6 Q You and Davia drove to a field.

7 A Yes, sir.

8 Q You dumped Jamie.

9 A I pulled him out of his truck. Yes, sir.

10 Q Your friend.

11 A Not at that time, no.

12 Look, he just tried to kill me. I didn't know -- I
13 tweaked out. I freaked out. I didn't know what to do.

14 Q So you dumped him in the field like garbage.

15 A No. Nothing like garbage. I just laid him out. I
16 set him out there. I didn't -- you know, wasn't thinking
17 like that at the time. I was -- like I said, I was very
18 high. We was all very high at the time. I freaked out.
19 I didn't know what to do.

20 You know, like you're trying to -- if you're going to
21 nail me to the cross, let's do it for the right reasons.
22 I made some bad decisions. I did not mean to kill Jamie
23 Howard.

24 Q You then left, and you all went to the Dollar
25 General.

1 A Yeah.

2 Q All right. There, Jamie -- or Davia tried to buy
3 cleaning supplies, didn't she ---

4 A Yeah. That's what it shows.

5 Q --- to clean the car?

6 A I'm assuming.

7 Q Okay. She also bought a pair of extra-large pants,
8 right?

9 A Yes, sir.

10 Q Those weren't for her, were they?

11 A They weren't for me. I wear thirty -- I wear a 34.
12 You can't put a 34 on -- an extra-large on a 34 waist.

13 Q You then left to pick up Jake.

14 A Yeah.

15 Q That'd be Jacob Tucker.

16 A Yeah.

17 Q That's your nephew?

18 A Yes, sir.

19 Q How are you related to him?

20 A He's my nephew.

21 Q I mean, through is it your sister's son?

22 A Yeah.

23 Q Your sister's son.

24 A (Nods head affirmatively.)

25 Q You love Jacob.

1 A Yeah.

2 Q He's a young guy.

3 A Yeah.

4 Q And you kind of act like a father figure to him.

5 A Yeah.

6 Q And you protect him like a father.

7 A Somewhat.

8 Q You take Jacob and drive back to this field.

9 A I didn't drive back to the field with Jacob. That's

10 -- y'all had me all confused, and Investigator Bailey had

11 me kind of confused. I was a little, like I said, dope

12 sick the second time. First time I was a little high.

13 Q The second time you were a little high?

14 A No. I was dope sick -- sick. My body was done

15 shutting down from needing ---

16 Q In the second one?

17 A Yeah.

18 Q And you seemed kind of hyper.

19 A Yeah.

20 Q You got the knife.

21 A I got the knife, yeah.

22 Q You got the knife.

23 A Yeah.

24 Q You threw the knife off the bridge.

25 A Yes, I did.

1 Q Threw Jamie's phone off the bridge.

2 A Davia did.

3 Q Okay. You then burned the car ---

4 A Yeah. That's what I did.

5 Q --- the next day including any evidence that was in
6 that car. I mean, you saw the pictures of it. It was
7 pretty burned up, wasn't it?

8 A Yeah. Pretty burned up.

9 Q Okay. So no one could find any evidence.

10 A I didn't -- I wasn't thinking like that at the time.
11 I was -- like I said, I freaked out. I didn't know what
12 to do.

13 Q And then between that time and the time you were
14 arrested, you and Davia hung out ---

15 A Somewhat, yeah.

16 Q --- at Jimmy's house.

17 A Yeah. Somewhat.

18 Q Okay.

19 A What time she stayed there. She didn't stay there
20 the whole time then.

21 Q You stayed -- but you stayed with Davia.

22 A Yeah. Somewhat.

23 Q During this entire period of time, you never called
24 police.

25 A No. I was scared. I was scared to death.

1 Q Didn't make any sort of anonymous phone call to
2 anybody.

3 A No.

4 Q You hoped Jamie would never be found, didn't you?

5 A No. He was laid where he would be found, sir.

6 Q And you hoped they never found him because he was a
7 drug dealer.

8 A He what?

9 Q Because he was a drug dealer, right? You didn't want
10 him to be found, did you?

11 MR. KORNFELD: Objection. Draws a conclusion.

12 THE COURT: All right. Sustained.

13 BY MR. BLOUIN:

14 Q Now, you believe Davia came up here and testified to
15 try to save her skin?

16 A Yes, I do.

17 Q Okay. But she's not lying about the rampant drug
18 use.

19 A No.

20 Q And she's not lying about you knowing about her and
21 Jamie.

22 A No.

23 Q And she's not lying about you not liking Jamie at the
24 time.

25 A No.

1 Q Okay.

2 A I mean, we got along. We didn't -- wasn't hating on
3 each other at the time, but I didn't feel -- I didn't feel
4 threatened or anything, he ain't feel threatened around
5 me. If he did, he wouldn't have given me a ride. Do you
6 think so?

7 Q She's not lying about y'all going ---

8 MR. KORNFELD: Objection. He's pitting the witness.
9 I don't think he can do that.

10 THE COURT: Overruled.

11 BY MR. BLOUIN:

12 Q She's not lying about y'all going to Chuck's house.

13 A No.

14 Q Not lying about you with the hooking Jamie.

15 A She never seen none of that. She was out of the car,
16 hollering, telling us to quit.

17 Q So she was in the car or out of the car?

18 A She was out of the car, screaming at both of us,
19 telling us to quit.

20 Q But y'all were both in the car?

21 A Yeah.

22 Q So she's not lying about dumping the body.

23 A No.

24 Q Not lying about picking up Jake. She's lying about
25 picking up Jake?

1 A Yeah. She's lying about picking up Jake. I didn't
2 pick up Jake until almost the next day.

3 Q She's not lying about going to the Dollar General.

4 A No. That was soon as we come back from -- I didn't
5 know what she -- I give her -- because I had like five
6 bucks on me to give her to go get some cigarettes. That's
7 why we stopped at the Dollar General. That's what I
8 assumed we stopped there for.

9 Q So she's not lying about the car being destroyed.

10 A No.

11 Q Okay. So the only time you say she's lying about is
12 this brief period of time that happened in the car -- at
13 Chuck Shelton's house. I'm sorry. Just be more specific.

14 A Yeah.

15 Q And the stuff that had to do with your nephew.

16 A I mean, a lot of it she was lying about. She told
17 the truth on some, some it wasn't, just like me. I'm
18 telling you some of the truth -- I told you some of the
19 truth, some I didn't. I told Mr. Bailey.

20 Q Why did she have a reason to lie about the
21 circumstances if they happened like you said they did?

22 A She didn't want to be included, which she wasn't. I
23 mean, like I said, she didn't -- Davia shouldn't even be
24 in jail, really, is my -- you know, I should be the one
25 that's in jail and everything. But like I said, I didn't

1 mean to kill Jamie, the bottom line. You can make it out
2 to be a vicious murder all you want, but it's not that
3 way. It's not. Never been that way.

4 Q Did you ever threaten her not to talk?

5 A Huh?

6 Q Did you ever threaten her not to talk?

7 A No.

8 Q Did you expect her to talk about it?

9 A Did I expect her to talk about it? She's the one
10 that tell me not to say nothing.

11 Q But she's the one that eventually ended up talking
12 first.

13 A I'm not sure.

14 Q You have a lot of reasons to lie, don't you?

15 A No.

16 Q Well, I mean, you're here.

17 A Yeah.

18 Q And there were three people at that -- when Jamie
19 died.

20 A Yeah.

21 Q And one of them's dead.

22 A Yeah. Unfortunately, that's true.

23 Q One of them's sitting over in the Law Enforcement
24 Center.

25 A Yeah.

1 Q And, obviously, the other one's you.

2 A Yes, sir.

3 Q Don't you think it's a problem when the only other
4 living witness says that's not how it happened?

5 MR. KORNFELD: Objection. That's a
6 mischaracterization.

7 MR. BLOUIN: Withdrawn.

8 THE COURT: Hold on. All right. He's withdrawn.

9 Strike that, Madam court reporter.

10 BY MR. BLOUIN:

11 Q You killed Jamie.

12 A Not intentionally.

13 Q And that's because you didn't like Jamie, isn't it?

14 A I didn't kill Jamie intentionally.

15 MR. KORNFELD: Objection. Asked and answered.

16 THE COURT: Sustained.

17 MR. BLOUIN: No further questions.

18 THE COURT: Any redirect?

19 MR. KORNFELD: I believe I only have two questions.

20 REDIRECT EXAMINATION

21 BY MR. KORNFELD:

22 Q Mr. Mathis, isn't it true that you actually told the
23 officers that he tried to rape my girlfriend and I stabbed
24 him? You didn't say that your girlfriend was being raped
25 at that time.

1 A Exactly.

2 Q Okay. And also, you were here when Ms. Davia Smith
3 was testifying, correct?

4 A Yes, I was.

5 Q And Ms. Davia Smith, on cross-examination, admitted
6 that she didn't actually see the altercation, didn't she?

7 A She did.

8 Q All right. And your testimony is that she was
9 getting out of the car when all this was going and saying
10 "stop it," correct?

11 A Yeah.

12 Q All right. You didn't mean for him to die, did you?

13 A I did not mean for him to die.

14 MR. KORNFIELD: No further questions.

15 THE COURT: Anything on redirect [sic]?

16 MR. BLOUIN: I have no redirect [sic].

17 THE COURT: All right. I don't have any questions.

18 Sir, you can step down.

19 All right. Mr. Kornfeld, any other witnesses in this
20 case?

21 MR. KORNFIELD: No, Your Honor. The defense rests.

22 THE COURT: All right. Okay. Ladies and gentlemen
23 of the jury, I'm going to adjourn for the evening and let
24 you go home.

25 Please, ma'am, please, sir, do not talk about the

1 case with one another. Do not research, do any research
2 on the case, do not look on the television to see if
3 there's any news. Do not do any of those things.

4 A number of you have been taking notes. Make sure
5 that you leave your notepads in the jury room. Do not
6 take those notepads with you.

7 We will resume tomorrow morning at 9:30 in the
8 morning, at which time we'll have closing arguments from
9 both sides, and then I will charge you on the law after
10 that. So 9:30 in the morning. I'll see you then.

11 Okay. Have a good evening.

12 (WHEREUPON, the jury exits the courtroom at 4:54 p.m.)

13 THE COURT: All right. Gentlemen, let me ask you
14 this. I've given you the -- based upon my purview of what
15 has transpired, a list. You can take a look at them and,
16 you know, get back with me in the morning, what I suspect
17 to be the charges in the case.

18 Now, Mr. Kornfeld, you gave me a list, and I'm sure
19 you shared it with Mr. Blouin. There were two of them
20 that I did not include in my packet. One is -- well,
21 three. One is prior difficulties, threats by the victim
22 and degree of force. Let me hear some dialogue from
23 either side regarding those three and then also regarding
24 what I've given you.

25 A lot of the murder charge is a standard charge. The

1 self-defense is a standard charge. I inserted the
2 voluntary manslaughter charge in there as a lesser
3 included. I think the facts -- if I've listed -- I'm sure
4 you listed -- determined that that probably should be
5 something that should be included. But do you need time
6 to digest all this and then talk in the morning?

7 MR. KORNFELD: I would like that, Your Honor.

8 MR. BLOUIN: Yes, Your Honor.

9 THE COURT: Yeah. And also, and this is not
10 necessarily going to be the actual verdict form, but I
11 want to give you this verdict form just for you to look
12 at. You can give me some feedback on that as well. And
13 we'll have that dialogue first thing in the morning at
14 9:30 before we bring the jury out. So just sort of digest
15 that.

16 And also let me know on the three specific charges
17 that Mr. Kornfeld had that I did not include in the packet
18 I gave you, whether or not there's any agreement on those.
19 And I'll be glad to get some argument from you,
20 Mr. Kornfeld, and you, Mr. Blouin, tomorrow morning
21 relative to those omitted charges and see whether or not
22 you want me to include them.

23 MR. KORNFELD: Thank you, Your Honor.

24 THE COURT: Okay. All right.

25 MR. KORNFELD: Can I just put some motions on the ---

Thursday, October 18, 2018

(WHEREUPON, proceedings reconvened at 10:10 a.m.)

THE COURT: Anything before we bring the jury out?

MR. BLOUIN: Nothing from the State, Your Honor.

MR. KORNFELD: None, Your Honor.

THE COURT: Okay.

(WHEREUPON, the jury entered the courtroom at 10:14 a.m.)

THE COURT: All right. Good morning. Ladies and gentlemen of the jury, you've been very attentive so far, and certainly both sides appreciate that you've been attentive. We're going to move into a different part of the trial that requires even more attention or just as much attention as you paid throughout the trial. The lawyers are going to give you some closing arguments. I need you to listen very closely to both sides. And then after that, then I'm going to charge you on the applicable law and principles that apply in this case, and that's going to require a lot more attention.

So both sides ready to proceed?

MR. BLOUIN: State's ready, Your Honor.

MR. KORNFELD: Yes, Your Honor.

THE COURT: All right. Mr. Blouin.

CLOSING ARGUMENTS

MR. BLOUIN: Throughout this trial, something struck me in questions that Investigator Bailey asked both of

1 Davia Smith and said to Dale Mathis. And I'm going to
2 summarize it, paraphrase it a little bit for you.

3 So no matter how many stories are told, the truth
4 will never change. And this trial, we heard a lot of
5 different stories. Some stories agreed with each other,
6 some stories were completely inconsistent with each other
7 about the death of Jamie Howard. And we've come here
8 today and through this week to try to explain and present
9 the evidence that shows which stories actually happened
10 and which stories didn't.

11 Now, in this trial, I think there's two types of
12 stories that were told. You have the first type of story
13 which I would call evidentiary truth.

14 Now, what is evidentiary truth? That is the body of
15 Jamie Howard, that is reports by professionals, that's the
16 physical evidence that was collected on the scene. Those
17 are different things that do not change, that doesn't lie,
18 that is unbiased, it is how the investigators found it.
19 It is not opinion. It is a fact. Okay.

20 Now, what's the other type? Those are witness
21 statements. Those are when people talk. Those are
22 subject to change. Those are subject to bias. And when
23 talking with Investigator Bailey, those sometimes are the
24 hardest to figure out.

25 And so how do we figure those out? How does

1 Investigator Bailey decide during the course of this
2 investigation what actually happened when dealing with
3 witness statements? Well, he said a few things. One,
4 consistency in the statement. What statements, when there
5 are multiple statements given, are consistent with each
6 other?

7 Two, which statements show witnesses making what he
8 called statements against interest. As Investigator
9 Bailey said, when people lie, they seem to put themselves
10 in a better position. They don't put themself doing
11 something wrong because they don't want to incriminate
12 themselves.

13 And the third thing is see how everything fits like a
14 puzzle, how consistent statements, when matched with
15 evidentiary truth, all fit together. What matches.

16 The last thing he says is based on common sense.
17 What parts of stories just don't make sense? What things
18 just don't connect.

19 Well, we're going to go through and I'm going to try
20 since it's been four days and heard from a lot of people
21 and there's been a lot of breaks to try to connect all of
22 that and wrap it all pretty quickly for you to -- you
23 know, before you begin your deliberations. And I want to
24 start with what is the evidentiary truth, what is
25 absolutely fact.

1 The first person, and I'll try to do this somewhat
2 chronologically in how you heard them, is Chad Taylor,
3 Chad Taylor the hunter. Now, what facts did he bring to
4 the table? On January 29th of 2016, Chad Taylor found the
5 body of Jamie Howard in a field in northern Greenville
6 county before he went coyote hunting for the evening. He
7 also stated that the hay -- I believe he said it's straw
8 grass -- was about yea high. Fact. No reason to lie.
9 Doesn't know any of the characters. Those are just
10 inconvertible facts.

11 Second, forensics came. They took pictures of the
12 scene, tried to find evidence on the scene. What did they
13 say? Well, they noted that it appeared that Jamie had
14 been dragged. They noted that his pockets were turned out
15 and his pants were down. They noticed that there was
16 change next to the body. They noted that there was no ID
17 on the body, there were no credit cards, there was no
18 wallet. They also noted that Mr. Howard had to be ID'd
19 with fingerprint evidence.

20 It also appeared to them that he had been dumped at
21 that scene. How did they reach that conclusion? There
22 was no blood at the scene, that he had been there a while,
23 that, based on his body and how it was and how it looked,
24 he wasn't just recently dumped there, and he was missing
25 his shoes.

1 The body then goes from that field to the Medical
2 Examiner's Office. And the medical examiner, Dr. Fulcher,
3 is one of the most important witnesses you will have heard
4 from this entire week. He is an unbiased doctor with
5 years of experience who's only telling you what the facts
6 are looking at the body. This is the injuries or this is
7 what I determined during a scientific autopsy.

8 So what did Dr. Fulcher testify to? First, he said
9 there was a wound in the back flank in the shape of an
10 inverted -- an inverted triangle with the tip going toward
11 the head. And he actually drew it on his diagram. That
12 wound, as you can see next to the ruler, is approximately
13 three inches from top to bottom.

14 What did he say about that wound? I believe he
15 quoted and said there were five significant redirected
16 distinct wound paths, the deepest of which was 12 inches
17 long. Where were those wound paths? On the back flank
18 there was three wound paths that went directly into his
19 heart which he claimed was the fatal wound, there was one
20 that went into his spleen -- or his liver, and one that
21 went into his spleen all from one hole in the back of his
22 flank.

23 He also stated that the blade tip, due to the length
24 of the blade, never left the body but was more akin to
25 moving like this (demonstrating) with the tip never

1 leaving. five distinct paths.

2 When asked to estimate the size of the blade, he said
3 with the longest wound path being 12 inches that he would
4 estimate between 10 and 12 inches because a 12-inch blade
5 can make -- or a 10-inch blade can make a 12-inch hole in
6 a person.

7 Now, what other wounds did he discover? He
8 discovered a superficial wound on the left shoulder of the
9 victim as you can see in the diagram here and the position
10 that that was made. He also said there was a contusion on
11 the forehead, which he found consistent with blunt force
12 trauma, there was a chipped tooth that had showed no signs
13 of wearing and therefore was new, a split lip, and what
14 might be most importantly, a hyoid bone that was fractured
15 on the right side and showed signs of hemorrhaging.

16 Now, what is important about the hyoid bone?
17 Dr. Fulcher said that a broken hyoid bone is -- let's see,
18 I want to make it right -- is evidence of strangulation,
19 and that the hemorrhaging of the hyoid bone shows that
20 that injury occurred before Jamie Howard died.

21 Dr. Fulcher also noted what he called a classic
22 defensive wound on the left hand of Jamie Howard. That is
23 how he described it, a defensive wound, a slice between
24 the thumb and the finger that went all the way through.

25 And the last thing is he described the case as a

1 homicide.

2 Now, the next person you met with -- or heard from
3 was Sheila Hawkins. And I understand that, you know,
4 Sheila, we got all into her past drug history and who hit
5 who at different times. That's not the reason that the
6 State called Sheila Hawkins. Sheila Hawkins was there for
7 three just extremely basic reasons. Timeline, one, as far
8 as the State can tell, she is probably the last person
9 besides the defendant and the codefendant to talk to him
10 while he was alive. It occurred on January the 19th,
11 2016, at around, I believe she said, 1:30 in the morning.

12 Two, she testified to the fact that he owned a blue
13 -- cobalt blue PT Cruiser that he had recently purchased.
14 So that is Jamie's car, the blue PT Cruiser.

15 And third, that Jamie was known to date Davia Howard
16 [sic] since, I believe she said, the summer before, and
17 that everyone knew about it because he flaunted it.

18 Next was Jaqueline Allen who got in the evidence of
19 the Dollar General. What was purchased at the Dollar
20 General? Carpet cleaner, Armor All car wipes, air
21 freshener, extra-large pair of pants as well as some other
22 items that, quite honestly, have no explanation. But when
23 did that occur? January 19, 2016, in the evening.

24 Now, the last major individual we heard from was
25 Investigator Gonzales, arson investigator. He testified

1 that the car, the PT Cruiser, was found behind the
2 baseball field, that it had been started by gasoline in
3 the passenger compartment because that's where the -- the
4 fire rings on the hood, and that that fire burned hot. He
5 said he estimated it was hotter than the temperature to
6 melt aluminum. I believe he said something along the
7 lines of 1200 degrees. Don't want to misstate him. You
8 can listen to his testimony if there's a question about
9 that. And that not only did that fire burn hot, it burned
10 up every single combustible thing in that passenger
11 compartment as well as any possible DNA, any possible
12 fingerprints. Anything that can burn, including aluminum,
13 was melted in the inside of this passenger compartment.

14 So that kind of gives us what law enforcement had to
15 work with. These were the pieces of material we had
16 moving forward.

17 Now, I wish there was more. Absolutely, everyone
18 wishes there was more. But I told you at the beginning,
19 this is an old-fashioned police case. Was there DNA? No.
20 Why? Because they didn't find Jamie's body after ten days
21 after he was dumped in that field. He had been frozen and
22 thawed multiple times, according to the medical examiner.

23 Was there evidence in the car? No. 1200 degrees
24 will do a whole lot of damage and destroy a whole lot of
25 evidence.

1 Was there evidence in Dale's room -- or Jimmy
2 Blackwell's house where everybody was staying? No. Was
3 that odd? No. Because you had half a month to make sure
4 there wasn't anything left.

5 So you have to deal with what we have, and the second
6 part of truth and fact and stories that we're going to
7 deal with, and that is the stories of the individual
8 witnesses that were present.

9 Now, how do we determine, based on these witnesses'
10 stories, both of which said they lied and both of which
11 tended to lie quite a bit a lot, what actually happened?
12 Well, from my count, and like I said, it's the -- you
13 know, you have this evidence, you can relisten to any
14 interview that you would like to, that's why it's in the
15 evidence, I counted five different stories from Dale.
16 There were two different -- completely different stories
17 in the first interview, three in the second interview, and
18 then a sixth story that he told in court yesterday. All
19 six stories are completely different.

20 Davia gave two interviews and basically two different
21 stories. The first story she said, well, she didn't know
22 anything about it; the second story; and then when she
23 testified here.

24 Now, I want you to keep this in mind. It is
25 important to note this fact. Both Davia and Dale both

1 testified that neither of them had seen each other's
2 story. Neither side knew what the other one said. Davia
3 wasn't in here yesterday so she didn't hear what Dale
4 testified to. Dale heard it all, but they didn't know at
5 the time what anyone was saying. All right. And that's
6 important.

7 So let's look at Davia. Now, through her
8 cross-examination mainly, we were able to get through what
9 her statements were to police. Right off the bat she
10 admitted she lied. First statement: I didn't see
11 anything, I didn't know anything, I wasn't there, I don't
12 know what you're talking about. Nothing. Second
13 statement follows along the same lines. Of course, she
14 does admit at the end kind of the basis that happened,
15 that Dale hooked Jamie with a cane.

16 Now, why would she lie in those statements? Well,
17 one, self-preservation. She's being pulled in. She wants
18 to protect her own butt, and so she's going to say
19 anything she can to try to get herself out of trouble.
20 And second, as she testified to, Dale told her if she said
21 anything, she was going to end up in that field right
22 beside Jamie. So she also had that over her head. But
23 the thing is, she did end up talking, and I want to get
24 into what her testimony was.

25 Now, when going through her testimony, remember one

1 thing. She never mitigated her involvement. She puts
2 herself in multiple statements against interest. In front
3 of the jury under oath, she admits to throwing Jamie's
4 phone into the lake. She said she did that. She admits
5 to going into the Dollar General. She admits it was to
6 get cleaning supplies for the car. She admits to being in
7 that spot. She never says that she is out of that
8 vehicle. She puts herself in that passenger's seat from
9 the moment they leave the Blackwell's house until the
10 moment in which Jamie is dumped in that field. They tried
11 to get her to say that she was outside. She never said
12 she was outside.

13 Now, she was attacked multiple times on cross, and
14 ultimately, and I believe you're going to hear from this
15 later, she said she didn't see anything. Now, I was
16 listening and I was listening to her entire testimony, and
17 I believe what she said was she didn't see certain things
18 that happened in the back of the car when the struggle was
19 going on, which if she's sitting in the passenger's seat,
20 you're not going to see everything.

21 She also was going hard on cross because -- it is
22 agreed upon that there are only two living witnesses that
23 were there on Highway 11 when this occurred. And I
24 believe -- and I say it's absolutely fair to say that
25 after Dale's testimony yesterday, he agrees with the

1 majority of what Davia said the story was. So why is it
2 an issue? Well, when you get to the small window of time
3 in which the acts actually took place, it really hurts
4 your position when the only other living witness says
5 that's not the way it happened. That's not the way it
6 happened.

7 Now, also, if it was -- well, I'll come back to that.

8 The only pieces of Davia's testimony, even though
9 she's called a liar, told you're lying, told you're not
10 telling the truth, that Mr. Mathis disagrees with is those
11 few minutes in front of Chuck Shelton's house on
12 Highway 11 and Jacob Tucker's involvement, who happens to
13 be the nephew of Dale Mathis who he said himself he's like
14 a father figure to him. Keep that in mind.

15 Now, let's go to Dale's testimony. Dale, like I
16 said, told six total stories. I want to just kind of run
17 through and recap each one. Like I said, you can listen
18 to them in their entirety, and if there are any questions,
19 go ahead and do that.

20 And the first kind of story he tells is that he hops
21 in with a friend after Davia leaves, they go up to
22 Highway 11, and somehow Jamie is with Davia. Jamie's got
23 Davia with knife point, they're attempting to do something
24 on the side of Highway 11, and that he sprung out of that
25 car, grabbed that knife from Jamie, and stabbed him in the

1 back with it because he was protecting Davia.

2 Now, as we go back, him admitting, at that point, to
3 stabbing Jamie is a statement against interest. He is
4 putting himself at a location, putting the knife in his
5 hand and saying that he actually dealt the blow..

6 Now, why did he do it? He said he was protecting
7 Davia.

8 Well, then he tells a second story. Why does he tell
9 a second story? Well, he just heard that Davia's talked
10 to the police, and he doesn't know what Davia said. And
11 as part of an investigative technique, Antonio Bailey
12 says, "Man, she played you good." I believe Investigator
13 Peeples said, "Man, she ran that bus over you a couple
14 times."

15 So then the story changes. And it doesn't change
16 just a little bit. Now it's Davia did it. I don't know
17 what happened. She came back, said she killed Jamie. I
18 don't know what happened.

19 And at the end of the interview, and I would point
20 this out, Investigator Peeples says to Dale, "Well, Dale,
21 did you and Jamie just get in a fight?" in which he says
22 no.

23 Well, 12 days pass. Dale's thinking. Gotta figure
24 out what the story's going to be next time. So he asks --
25 he asks for an interview with Investigator Bailey. And if

1 you watched him, he came in, he was kind of hyper. He was
2 kind of excited. He was ready to talk. He was ready to
3 tell a story. He told the story about reading the Bible
4 and how John the Baptist's head was served up by a woman,
5 and he was ready to tell his truth.

6 And what was that truth? I didn't have anything to
7 do with it. Davia came in, said she killed Jamie, that I
8 didn't believe her even though she had the ID, but I
9 wanted to go kind of see the body. But even though I grew
10 up in northern Greenville county and Davia's from like
11 Berea, I think she said she graduated from Berea High
12 School, that Davia can't tell him where it happened or
13 where they dumped the body, so they end up crisscrossing
14 all over northern Greenville county for two hours. And
15 that's just kind of what happened. He never saw it.

16 Well, Investigator Bailey confronts him and says,
17 "Dale, you're lying. We know you're lying. Based on what
18 you told us 12 days ago, we know you're lying," because he
19 knew things that weren't available to the public at the
20 time.

21 He goes into Story Number 2 and he says, "Well, I
22 helped her get rid of the body."

23 But then he mitigates his involvement even further.
24 He basically becomes a person who just rode with Davia
25 while Davia went back, pulled the knife out, while Davia

1 said, "I've got to go buy stuff at Dollar General," while
2 Davia convinced him, even though he is over 20 years her
3 senior, that we have to go get your nephew that you love
4 like a son and involve him in all of this. But once they
5 brought him, he didn't do nothing. And that Davia got rid
6 of the weapon, and Davia got rid of the phone, and it's
7 Davia, Davia, Davia. About 35 minutes in there, after it
8 was very obvious that investigators said this is not
9 matching the evidentiary truth that we have, Dale broke.
10 And I'm going to talk about that last story he told, which
11 I believe is the most important story he told, in a
12 second.

13 I want to go first to the story he told yesterday.
14 That's the first time anybody's heard this story. Dale's
15 had two and a half years to come up with the best story
16 that makes the best sense today. Dale states that he knew
17 that Jamie and Davia were having sex, he knew that Davia,
18 if she left with Jamie, was going to go away for four
19 days, but he didn't mind. It didn't bother him.

20 He said that, you know, that Jamie had done things in
21 the past to him, I think pulled a gun on him and almost
22 hit him with a pipe and shattered his windshield with a
23 samurai sword. But we're still friends, we hang out, and
24 was just going to give me a ride to Chuck Shelton's house
25 with Davia in the car.

1 And when we get up there, they start talking, and
2 this guy, who has no problem whatsoever, allegedly, with
3 the guy driving the car having sex with his girlfriend who
4 he cared deeply about because he just wanted to be loved
5 and really, really cared for her and loved her
6 unconditionally, that's common through all of his stories,
7 allegedly makes a comment about taping a threesome. And
8 he pushes on the seat, but there's a faulty screw that
9 goes forward causing him to, I guess, hit the steering
10 wheel, at which point Davia says, "He's got a knife." So
11 he holds him and takes his cane and is trying to get the
12 knife out of his hand. And then, just to summarize, in
13 the struggle, Jamie fell on his own knife.

14 Now, once again, this is the first time anyone has
15 ever heard that story, and in every single previous story
16 before it, he's never claimed any sort of justification,
17 self-defense. The only thing he said is, "I did it to
18 save her," or "Davia did it."

19 And that brings me to the last story. I believe it's
20 about the 33-minute mark of Dale Mathis's last interview
21 with Detective Bailey and Detective Peeples. And this is
22 what I think is important. Call it the consistency, what
23 stories are consistent. Remember, Dale told this story on
24 February -- I believe it's February 23, 2016. Davia never
25 saw it. She testified she never seen those interviews

1 with Dale, and Dale said he never saw any interviews with
2 Davia.

3 So what do they agree about? Jamie picking up Davia
4 from the Blackwell's house for the purpose of Davia going
5 off with Jamie, Dale asking for a ride to Chuck Shelton's
6 house, a mere five minutes away.

7 They get to the house. Small little diversion here.
8 Dale asked about a threesome, gets jealous, hooks him with
9 a cane and pulls him in the back, which he got on top of
10 him, got the knife and then Davia stabbed him. And Davia,
11 Dale asked Davia if she's coming with Dale, and she says
12 no, at which point Dale, who is partially out of the car,
13 hooks him with the knife -- or hooks him with the cane,
14 pulls him in the back, which is consistent with the
15 evidentiary truth of hyoid bone, right side hemorrhaging,
16 hooks around, pulls him in the back, at which point, Jamie
17 flips over, tries to grab his knife and Dale jumps on top
18 of him, gets the knife from him and stabs him. Those
19 stories, at that point, are consistent with the medical
20 examiner's report.

21 The story from there is basically the same. They
22 both agree they drove to the field, they both agree they
23 dumped the body, the knife was in it. They both agree
24 they went to Dollar General, both agree they tried to use
25 -- buy supplies and use Jamie's credit card. She used

1 another PIN. He changed it.

2 The only -- not yesterday but during his statement to
3 Investigator Bailey, they agree going and picking up Jake.
4 They don't really know why they're picking up Jake. Davia
5 says that he's going to help them move the body. But they
6 do agree that they went back to that field. When they
7 went back to that field, they removed the knife from
8 Jamie, that it was at that point that Davia said that Jake
9 took the shoes.

10 At that point, once again, consistent with each
11 other, they drove over a bridge over Lake Robinson, Davia
12 says that she threw the phone, she says that Jake threw
13 the knife. Dale says he threw the knife. They both
14 agreed to parking way in the back of Jimmy Blackwell's
15 house, not normally where they park that car -- or park a
16 car, and that the next morning, Davia says, Dale said went
17 to get rid of the car, and Dale says he burned it.

18 Now let's look at Dale. Six stories, all contradict.
19 If this is an accident, if this was not meant to happen,
20 then Davia would not have spent two and a half years in
21 jail sitting on it. She would have told the exact same
22 story Dale told yesterday. Do you know why she didn't
23 tell that story? Because she's never heard that story,
24 because that didn't happen.

25 What did Davia have to lie about? Dale sat up there

1 and told everybody she shouldn't have even gone to jail.
2 He's the one that did everything. This was an accident.
3 She's going to spend two and a half years in jail for an
4 accident. Like I said, if this happened the way Dale says
5 it did now, we wouldn't be here.

6 The problem with Dale is that he cannot fully tell
7 the truth in any given circumstance. He has to mitigate
8 it. Every single story, he always has to distance himself
9 a little bit from the totality. Even when he changes it
10 to make himself, you know, look worse than he did in Story
11 Number 1, he can't go all the way, you know. First story:
12 I stabbed Jamie Howard, but I did it to protect Davia.
13 Second story: wasn't there. Third story: wasn't there.
14 Fourth story: I just helped her get rid of the body. She
15 did all the killing. Fifth story: well, we did have the
16 argument. I did hook him and jerk him back with my cane,
17 but it was Davia that stabbed him. And even the sixth
18 story: well, he accidentally fell on the blade while we
19 were struggling because of a misunderstanding and a loose
20 seat screw. He can never fully go without mitigating his
21 personal involvement.

22 Investigator Bailey testified and he told you this
23 set of circumstances wasn't consistent with self-defense.
24 And why was it not consistent? Because in his experience,
25 his 30 years in law enforcement, no one dumps a body in a

1 self-defense situation; the witness statements are
2 consistent with each other from the beginning; and, third,
3 people call law enforcement. Use your common sense.

4 If he was a friend of Jamie, then he wouldn't have
5 let him sit in that field for ten days. He might say he
6 wouldn't call law enforcement because he don't call the
7 law, but he could have told a friend to call someone, he
8 could have called the hospital and called someone, he
9 could have picked up a pay phone, someone else's cell
10 phone. He didn't care. He wanted Jamie gone, and he
11 wanted to cover it up. He never wanted Jamie to be found.
12 He never wanted to be connected with Jamie, and he burned
13 up the car as even further proof that that was the case.
14 If that hunter hadn't been hunting on a random evening,
15 then we may not have found Jamie. He may have fallen prey
16 to the coyotes that our original first witness was there
17 to hunt, Mr. Taylor.

18 So murder, I showed you this at the beginning of our
19 opening presentation. To prove murder, the State had to
20 prove that there was a killing. Well, Dr. Fulcher's
21 report: homicide. Cause of death: 12-inch stab wound
22 through the heart.

23 There must be an intent to kill. Factor, the
24 character of the act, getting stabbed with a very, very
25 large knife. The instrument used: a very, very large

1 knife. The manner in which the instrument was used:
2 stabbed in the side and piercing the heart three separate
3 times. The purpose to be accomplished: to kill Jamie
4 Howard, and that resulted in death.

5 Also, it's also inferred because it's the natural
6 tendency of the act, to cause or destroy another's life.
7 Another person, that's Jamie, there's no -- no one's
8 arguing whether Jamie is dead or not.

9 And with malice aforethought, hatred, ill will or
10 hostility existing towards another person existing just
11 before or at the time of the act, either express or
12 implied, express being I'm going to kill you, implied,
13 inferred from the totality of the circumstances in which
14 you're presented.

15 Now, this is what happened to Jamie Howard. Dale
16 loved Jamie [sic] so much unconditionally, he stated he
17 got jealous about her, he loved her. He didn't have a
18 permanent place to live at this time, he was all drugged
19 out on heroin, he didn't even have a phone at this time.
20 The only thing in this world he had was Davia because, and
21 he says in his statements, I just wanted someone to love
22 me. I'm not the best looking guy. I love her. She was
23 20-plus years younger, and there was a symbiotic
24 relationship for two heroin addicts on the street.

25 And what did he know? He knew she was sleeping

1 around with multiple people, but Jamie Howard. She knew
2 -- or Dale knew that Jamie was going to come pick up Davia
3 from the Blackwell's house that day. Dale knew that when
4 Davia left with Jamie, that they were going to be gone for
5 four to five days at a time, maybe longer, and Dale knew
6 that the only thing they were going to do were drugs and
7 have sex, and he hated it. Jamie flaunted it, and had
8 been flaunting it, and it had been happening for months.

9 So when Jamie came and pulled in that driveway to
10 pick up Davia in his PT Cruiser, Dale had to do anything
11 in his power to prevent her from leaving because he didn't
12 have a phone, he didn't have a vehicle, and he didn't know
13 when he was going to see her again. And all he knew for
14 certain was if she got in that car with him, then she
15 would be with him and he would have nothing.

16 So he asked for a ride to the Blackwell's house. He
17 got into that car freely and voluntarily, a guy that
18 pulled a gun on him, apparently, apparently hit him with
19 -- or tried to hit him with a pipe, busted out his
20 windshield, his friend, he decided to get in the backseat
21 of the car with that guy, and no one forced him to do it
22 and he said he wasn't afraid of it.

23 And they took that ride to Chuck Shelton's house.
24 And when they got there, Dale started to get out of that
25 car, and as Davia testified, Dale asked her, "Are you

1 coming with me?" and she said "no." And as soon as she
2 said "no," Dale knew he was going to lose the only thing
3 he had, the only thing he loved, and the only person he
4 believed loved him, and so he had to stop it. He stopped
5 it at any case he could. He took his cane, he wrenched
6 him back, he started to struggle, Jamie tried to defend
7 himself with his own knife, Dale jumped on top of him,
8 Dale got the knife, causing the cut on the shoulder and
9 plunged it in his side.

10 That happened on the 19th. And instead of taking
11 Jamie to the hospital, because Dale didn't want to take
12 Jamie to the hospital, instead of calling somebody and
13 saying what's going on, we're freaking out, this is crazy,
14 what do they do? They drive to a field and dump it. And
15 they don't -- and they conceal all the evidence and they
16 burn all the evidence, and he sits in that field not one
17 day, two days, three days, four, five, six, seven, eight,
18 nine, ten.

19 This is not a case of a friend who made a mistake.
20 This and that are choices. Dale made the choice that he
21 did at the time, they made the choice to dump the body,
22 they made the choice to just conceal as much evidence as
23 possible, and he thought he got away with it until Davia
24 started talking.

25 Thank you. I know it's been a long week, and I thank

1 you for listening as hard as you can. And like I said,
2 I'm asking you that once you consider everything, once you
3 have the ability to look at all the evidence, look at it
4 again, that you will see the truth and that you will
5 convict Dale Mathis in the murder of Jamie Howard and
6 convict him of possessing a deadly weapon during the
7 commission of that violent crime.

8 Thank you.

9 THE COURT: Okay. Mr. Kornfeld.

10 MR. KORNFELD: Thank you, Your Honor.

11 Mr. Blouin, ladies and gentlemen of the jury, good
12 morning. The first thing I would like to do is just go
13 over some things that the solicitor stated that I believe
14 there may be some inconsistencies in maybe things that
15 I've heard. Obviously, at the end. You're going to be
16 the fact finders.

17 But one of the things he says, in the back flank, I
18 just want to make sure that the jury knows that the
19 diagram is not 3-D. It was in the side, really, just like
20 Dr. Fulcher showed everybody.

21 The other thing is, as far as the five patterns of
22 the actual blade or knife or dagger, he didn't say that it
23 was -- I don't believe the testimony was Fulcher said that
24 it was definitely in there, although we believe it was,
25 too, but he said that it was likely that the blade never

1 came back out once it went in.

2 The other thing was that Mr. Blouin kept saying
3 "homicide." I believe that Dr. Fulcher candidly stated
4 that homicide does not mean murder, and there was also,
5 what I would argue, something called justifiable homicide
6 or what we will argue, self-defense.

7 Mr. Blouin also says he sat out there for half a
8 month. It's ten days. It's not a big deal, but I just
9 wanted to go over that as well.

10 Mr. Blouin, I believe, stated that Mr. Mathis stabbed
11 him in the back, that he said he stabbed him in the back.
12 I believe that the testimony was that he stabbed him in
13 the back at any time.

14 Then he also said that nobody argued about them
15 taking the card. Mr. Mathis testified that he never took
16 this -- the card that was Jamie Howard's card. Davia knew
17 the PIN. He didn't know that PIN. He did not take that
18 card.

19 The other thing he says, I'm not the -- what he
20 really said was, "I'm not the prettiest thing in the
21 world." I don't remember what Mr. Blouin said, but not
22 exactly correct on that.

23 And then he said that they were friends, you know,
24 that he did say that they were friends. Mr. Mathis did
25 state that they were friends at one time, but this time,

1 they weren't. I don't know if the thought was that he was
2 going to say, yeah, I like that my girlfriend was having
3 sex multiple times, but he said, no, I didn't like that.
4 I didn't like it. I didn't like him at that time. Of
5 course he didn't. This man was having sex with his
6 girlfriend who he has said several times unconditionally
7 loved this lady.

8 So to that extent, I don't think that he testified
9 that at the time that this happens, that they were
10 friends.

11 Now to get to my prepared closing. As you know,
12 Mr. Mathis is charged with murder. At the beginning of
13 this case, I told you at the end of this case, after
14 listening to the evidence, I believe that there would be
15 reasonable doubt as to whether Dale murdered Jamie Howard.
16 I'm here today, and I still believe there's reasonable
17 doubt. And if you, as well, believe that there's
18 reasonable doubt, ask that you come back with a verdict of
19 not guilty.

20 Also, at the beginning of this case, I stood before
21 you and I stated that I believe the evidence would show a
22 number of things. The first thing was that Jamie, Davia
23 and Dale drove to Chuck's house in Jamie's car.

24 I also stated the facts would show that Jamie was
25 much younger and stronger than Dale. I think that is true

1 as well.

2 I also said the facts would state that Dale had a
3 cane, which is also true, and that he believed that Davia
4 was his girlfriend, that Jamie Howard was a drug dealer,
5 that Davia and Dale did drugs, and that Dale and Jamie
6 were friends at one time. And I believe that the evidence
7 would show that Jamie had a knife, and not just any knife,
8 but a big knife.

9 The State had to prove that Dale murdered Jamie
10 Howard with malice aforethought, beyond a reasonable
11 doubt, meaning beyond the doubt that would cause you to
12 have a hesitation about what occurred.

13 Now, malice, hatred, ill will or hostility towards
14 another in a wrongful act without just cause or excuse,
15 but in this particular case, there was no malice because
16 Dale didn't want Jamie to die. Jamie pulled a big knife
17 on Dale, and he defended himself. You heard his
18 testimony. For Jamie -- it was for Jamie -- if -- Jamie
19 to die, but what Jamie pulled a knife on, he was left in a
20 terrible decision. He had to decide what he was going to
21 do in the back of that car.

22 He tried to get out and said, "Let's stop. Let's
23 stop. Let me just get out." Well, at that time, Jamie
24 came around with a knife, and I believe that the evidence
25 will show that he came around like this (demonstrating)

1 with the knife. He's stronger than Dale, he's younger
2 than Dale, he's in better health than Dale. Dale has a
3 cane, he has bad hips that he had surgery on, he's a
4 heroin addict, and he may have had Crohn's disease as
5 well.

6 So the next thing that the judge will likely charge
7 you on is the act of self-defense. The State has got to
8 prove -- disprove Mr. Mathis's self-defense claim beyond a
9 reasonable doubt.

10 The first thing that you'd have to ask yourself is,
11 is Dale's conduct that which would reasonably cause and
12 did provoke a deadly assault? So to put it plainly, did
13 Dale do anything that would cause someone to reasonably
14 pull a knife around and stab? Jamie calls Dale a
15 derogatory name that I'm sure you heard, and tried to
16 provoke him. Dale pushes his seat up.

17 The other thing that the solicitor states which I
18 believe was incorrect is that there's some kind of loose
19 screw on this vehicle on the front seat. This was an
20 older car, a PT Cruiser, but it was like a spring. It
21 wasn't like a loose screw, but it was a seat that goes
22 like this (demonstrating). It wasn't the amount of force
23 that this chair, he just somehow had this he-man strength
24 and pulled it up. It was just an older chair and kind of
25 had a spring in it so that it would lean up some.

1 So that's the first question. I guess I kind of got
2 off a little bit. Like I say, is Dale's conduct that
3 which would reasonably calculate and prove, and did it
4 provoke a deadly assault?

5 The second question is, was Dale in imminent danger?
6 Was Dale in actual or imminent danger of death or serious
7 bodily injury, or did he believe -- or was it believed
8 that -- or did he believe it and was he justified in
9 defending himself? I believe the answer to that question
10 is yes. Jamie came at him with a knife in close quarters.
11 Mr. Mathis said, "Let's just quit. Let's stop. Let's get
12 out. Just let me get out." By that time, the knife was
13 coming. He was posed with a very difficult situation of
14 what to do, and he had to do what he had to do, either
15 defend himself or become a victim.

16 The next question that I believe the judge will
17 instruct you on, Number 3, no other way to avoid the
18 danger. Did Dale have any other probable way to avoid the
19 danger of death? Why the word "probable" is important
20 there is could he have gotten out of the car? I don't
21 know. Maybe. But if he gets out, is he going to get
22 stabbed? Yeah. Maybe so. At that point in time, I don't
23 think he's -- he had to make a decision about what he was
24 going to do in a very short amount of time.

25 Incident, let's go to Dale's state of mind at the

1 time of this incident. There's testimony there that Jamie
2 shattered Dale's truck window with a sword a few months
3 prior to this incident. Jamie tried to hit Dale over the
4 head with some sort of metal pipe, enough to scare him,
5 and even after he was pulled away by Yosif, Jamie tried to
6 come back in the room, in the house, and Yosif had to hold
7 him down.

8 And finally, at Stephen Lance Davis's house, Jamie
9 was on top of Davia, and Dale came to her aid only to be
10 greeted by Jamie pointing a knife at Dale.

11 These all happened fairly recently before this
12 incident happened on January 19th. It's got to be in the
13 back of your mind that if these three things happened from
14 one individual, that he may be capable of something and
15 you may have to defend yourself.

16 We also know that, from Sheila Hawkins, Mr. Howard's
17 on-again/off-again girlfriend, after I asked her, and she
18 seemed very timid, in my opinion, but I asked her, well,
19 yeah, maybe a few times or a couple. I don't remember
20 exactly what she said. That's why I don't want to
21 misquote her, but I do remember she put her hand like this
22 (demonstrating) as if she'd been hit.

23 There are also known that there were bullet casings
24 found in the floorboard. We don't know what kind they
25 are, but the officer testified that he believed that they

1 were spent handgun casings as well.

2 Another important thing to know in this case is I
3 wasn't there, Mr. Blouin wasn't there, Mr. Gregory wasn't
4 there, even Officer Bailey wasn't there. Mr. Blouin
5 showed this demonstrative where he X's off the ten days
6 that Mr. Mathis called, which is true. It's also true
7 that nobody called, nobody at all, according to
8 Mr. Bailey. I asked him if he had a missing persons
9 report from anybody or anything like that. No. Was the
10 first time you heard about this case on the 29th? Yes.

11 There's only three people there. We can agree on
12 that. Mr. Mathis, Mr. Howard and Ms. Smith. Well, we
13 know when Davia Smith got up on the stand, I have to
14 testify to find out about her credibility, she didn't have
15 any credibility. She testified and admitted on cross that
16 she didn't see anything, which she stated before talking
17 to Officer Bailey, I don't know. I didn't see it. I want
18 a lawyer. Let me get a lawyer. So she said that before.

19 She also lied at the beginning. Apparently, she
20 didn't think I had it. You think you're getting time
21 served and probation, don't you?

22 No. I don't think that.

23 That's exactly what she thought. That's why we had
24 to play the video to let her hear it, and she knew at that
25 time that we had it, that she was lying, and then she came

1 clean and stated that she didn't see anything, which we'll
2 go through her testimony.

3 The headrest, remember, they did the demonstrative.
4 I did it as well. She doesn't remember if there's a
5 headrest in there. If it happens as if Davia states with
6 this that there's a headrest there, how does this actually
7 occur? She doesn't remember. How do you get around the
8 headrest with a walking cane and pull somebody's neck like
9 this (demonstrating)? It didn't happen. He wasn't out of
10 the vehicle.

11 She didn't see it. She got out once she saw Jamie
12 with the knife. "He's got a knife. He's got a knife."
13 She didn't stay in there. You don't stay in a car while
14 somebody's pulling a knife out and just sit there and
15 watch it. You get out. Reasonable minds.

16 The jail call. "They're going to call me in to
17 testify, cross-examine me, whatever. When they break, the
18 solicitor, Hunter, is going to come and drop my -- and
19 I'll sign a plea -- and I'll sign and plead guilty to
20 accessory. He said he already talked with Hunter about
21 time served and probation. Only thing that can mess me up
22 is if I stumble on my testimony. I need to be
23 convincing."

24 The only other witness other than Davia who states
25 she didn't say anything on cross is Mr. Mathis. It's a

1 lot of reasonable doubt about Davia's story. And
2 Mr. Bailey's investigation concerning witnesses is based
3 on -- heavily based on the two witnesses: Mr. Mathis and
4 Ms. Smith.

5 I asked Dale when he came up here, you saw him
6 walking like that, it's not an act, said, "You've got to
7 tell the truth, tell the whole truth."

8 "Yeah. I'm going to come up and tell the truth."

9 And I told, you know, Dale these things. He's -- the
10 solicitor also said that's the first time that we've heard
11 that, that he told police, that's the first time he told
12 anybody. He said, "I told my lawyer," which is true. He
13 told me when I became the guy to represent him. He told
14 me that. So that is not exactly right.

15 Dale pushed the seat up after he said, "When are you
16 going to stop hanging out with this" -- and you all know
17 what he said.

18 Dale says, "Let's quit. Let's quit. Let me out."
19 But that's not what Jamie did. Jamie didn't quit. What
20 did Jamie do? He got his knife and he tried to stab Dale.
21 Dale panicked, Dale wrapped him up, there was a tussle,
22 but he was able to protect himself. He was able to keep
23 Dale from stabbing -- or Jamie from stabbing him, from
24 killing him, and that's why the knife stayed in there.
25 There was no testimony that he was trying to go after him.

1 And if you look at the wound and how the knife was in,
2 that to me seems believable that the knife was stuck in
3 there and that there was a tussle and he was trying to
4 hold him, keep him from coming at him with the knife.

5 Let's talk about, you know, Dale says, "I panicked.
6 I didn't know what to do. I left. I was on drugs." They
7 were all on drugs. The toxicology report shows that
8 Mr. Howard had a lot of methamphetamine in him and
9 amphetamine, which is the byproduct of the
10 methamphetamine.

11 He was high, but Dale didn't have malice. He didn't
12 mean for Jamie Howard to die. He said that the entire
13 time.

14 The other thing that's important to know, Jamie
15 always had a weapon. Jamie always had a weapon. He was a
16 drug dealer. He sold meth, heroin and pills.

17 Dale has an eighth grade education, learning
18 disabled, went to the eighth grade twice. It's
19 embarrassing for him that he can't read very well. That's
20 not a lie. He can't read very well. He can read a little
21 bit, but it's embarrassing to him that he can't read. He
22 can maybe parse out a little bit, but that's just the
23 fact. He didn't read any text messages.

24 He knew about this sleeping with his girlfriend for a
25 long time. You saw him. He was like, yeah, yeah, I knew

1 And if you look at the wound and how the knife was in,
2 that to me seems believable that the knife was stuck in
3 there and that there was a tussle and he was trying to
4 hold him, keep him from coming at him with the knife.

5 Let's talk about, you know, Dale says, "I panicked.
6 I didn't know what to do. I left. I was on drugs." They
7 were all on drugs. The toxicology report shows that
8 Mr. Howard had a lot of methamphetamine in him and
9 amphetamine, which is the byproduct of the
10 methamphetamine.

11 He was high, but Dale didn't have malice. He didn't
12 mean for Jamie Howard to die. He said that the entire
13 time.

14 The other thing that's important to know, Jamie
15 always had a weapon. Jamie always had a weapon. He was a
16 drug dealer. He sold meth, heroin and pills.

17 Dale has an eighth grade education, learning
18 disabled, went to the eighth grade twice. It's
19 embarrassing for him that he can't read very well. That's
20 not a lie. He can't read very well. He can read a little
21 bit, but it's embarrassing to him that he can't read. He
22 can maybe parse out a little bit, but that's just the
23 fact. He didn't read any text messages.

24 He knew about this sleeping with his girlfriend for a
25 long time. You saw him. He was like, yeah, yeah, I knew

1 about it. Well, that didn't -- yeah, I didn't like it.
2 I'm not the prettiest thing in the world. He didn't like
3 it. He just wanted to be loved. That's what he said.

4 Dale was going to be in the path of Jamie, and he did
5 what he had to do. He defended himself.

6 Nobody wanted Mr. Howard to die that day, but
7 Mr. Mathis, Dale, did not murder him. He didn't murder
8 him. He didn't have the malice aforethought that is
9 required for the murder. He didn't bring the knife, he
10 didn't plan this, he didn't know that he was going to come
11 around with a knife and try and stab him. He didn't know
12 any of that.

13 The State's got to prove the elements beyond a
14 reasonable doubt. There's a lot of reasonable doubt. He
15 comes back, he tries to stab him, he gets in right here,
16 has to make a split decision. Is reasonable doubt of what
17 happened? Davia's story isn't credible. I'm asking one
18 more time that you come back with a verdict of not guilty.
19 It's reasonable doubt. Everywhere, reasonable doubt. The
20 burden is on the State.

21 Thank you so much for the entire week.

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, I am going to charge you on the law momentarily.
24 I'm going to send you back to your jury room. I've got
25 some matters I've got to take up with the lawyers.

1 Please, ma'am and please, sir, do not begin
2 deliberations at this point, and do not talk with each
3 other about any aspect of the case, and I'll bring you
4 back out here momentarily to charge you on the law that's
5 applicable in this case.

6 So, Madam Bailiff, would you take them back.

7 (WHEREUPON, the jury exits the courtroom at 11:14 a.m.)

8 THE COURT: First, got a housekeeping matter. Did
9 you guys look at the verdict form?

10 MR. BLOUIN: Oh, this is it.

11 THE COURT: Did you put it together the way you
12 wanted it?

13 MR. BLOUIN: We haven't had a chance to yet.

14 Your Honor, may we approach real quick.

15 THE COURT: Yes.

16 (WHEREUPON, a bench conference was held off the record.)

17 JURY CHARGE CONFERENCE

18 THE COURT: Go ahead, Mr. Kornfeld.

19 MR. KORNFELD: Your Honor, I would request that
20 degree of force be charged to the jury, specifically, so
21 much force has appeared to be necessary for complete
22 self-protection is a relevant charge in this case and
23 needs to be charged concerning his state of mind as to
24 when -- what he was seeing, what he knew about Mr. Howard
25 before, and when he was coming around, what he had to do

1 to stop Mr. Howard from getting him with the knife.

2 MR. BLOUIN: The State's position that the
3 self-defense -- that the self-defense charge that Your
4 Honor has proposed will already cover that anyway, so it
5 will be duplicative.

6 THE COURT: All right. And I would agree with that
7 rationale, and I would deny that request.

8 Do you have another one?

9 MR. KORNFELD: Yes, Your Honor. The other request
10 that I have is that involuntary manslaughter -- or, no,
11 voluntary manslaughter not be charged due to the fact that
12 there was no credible evidence of a sudden heat of
13 passion. It was testified that Mr. Mathis knew about
14 sexual relations of Davia for quite some time, that he
15 didn't like it, but that it did not cause any sudden heat
16 of passion.

17 MR. BLOUIN: And, Your Honor, we believe that there
18 is evidence in the record that either through the
19 statements that were entered into evidence of Mr. Mathis
20 saying that he got jealous and snapped, he said he wanted
21 a three-way and snapped, and we believe that -- and got
22 jealous and snapped, that those types -- that sort of
23 testimony and statements would give rise to a heat of
24 passion argument, therefore, we believe that a voluntary
25 manslaughter charge is proper.

1 THE COURT: All right. Looking at the totality of
2 the circumstances and considering the evidence presented
3 as well as the testimony, I think that a voluntary
4 manslaughter charge would be appropriate, so I would deny
5 your request and I will charge that.

6 MR. KORNFELD: Very well, Your Honor.

7 I also have one that -- I would request involuntary
8 manslaughter charge concerning reckless disregard
9 concerning some testimony about how the knife went into
10 Mr. Howard.

11 MR. BLOUIN: Your Honor, the State's position was
12 that he has presented a justifiable homicide defense, and
13 therefore, involuntary or criminal negligence would not
14 apply.

15 THE COURT: I agree. I'll deny your request.

16 MR. KORNFELD: Thank you, Your Honor.

17 THE COURT: All right. Anything else?

18 MR. KORNFELD: No, Your Honor.

19 MR. BLOUIN: Just -- and we talked, we are going to
20 give that voluntary intoxication.

21 THE COURT: Well, we are. Just that one line.

22 MR. KORNFELD: Yes.

23 THE COURT: Just that one line.

24 MR. KORNFELD: I don't have an objection to that.

25 THE COURT: All right. Okay.

1 All right. As soon as I get that verdict form back,
2 then I'll ---

3 MR. BLOUIN: Run to the restroom and he should be
4 back by then.

5 THE COURT: Yeah. Let's take a restroom break.

6 (WHEREUPON, a recess is taken at 11:19 a.m.)

7 (WHEREUPON, proceedings reconvened at 11:33 a.m.)

8 THE COURT: All right. Bring them in.

9 (WHEREUPON, the jury entered the courtroom at 11:36 a.m.)

10 CHARGE ON THE LAW

11 THE COURT: All right. Ladies and gentlemen of the
12 jury, I'm going to be talking to you for a few minutes.
13 I'm going to be very deliberate in what I say, and the
14 reason I'm going to be deliberate, because I want you to
15 hear everything that I say, digest everything I say,
16 because everything that I say is obviously important to
17 both sides. So please, ma'am and please, sir, listen very
18 carefully to what I'm getting ready to talk about.

19 All right. Ladies and gentlemen, you've heard all of
20 the evidence that you're going to hear in this case, and
21 you've heard the closing arguments of both sides. It is
22 my duty to instruct you on the law that applies to the
23 facts that you heard in this case, and it's your duty to
24 determine the facts from the evidence that you've heard
25 during the trial.

1 As to those facts, you must apply the law as I give
2 it to you, and you should not be concerned with what you
3 think the law should be but what it is. And you should
4 not be concerned with any undo sympathy or biases or
5 prejudices or personal likes or dislikes you may have.
6 And that means you must decide the law -- decide this
7 case, I'm sorry, solely on the evidence before you and
8 according to the law. And you recall you took an oath to
9 do that at the beginning of this trial.

10 Now, in following my instructions, you must follow
11 them all and not single out some of my instructions and
12 ignore others, because they're all equally important. And
13 do not read into these instructions or anything that I may
14 have said or done during the trial as any indication as to
15 what I think the facts are or what your verdict should be.
16 Because as I told you at the outset, under our
17 constitution and the system of justice, you and you alone
18 are the sole and exclusive judge of the facts in this
19 case. You decide what the facts are by evaluating and
20 weighing the evidence that you've heard during this trial.
21 There's no way for you to do that in a literal sense. I'm
22 certainly not going to give you a set of scales to go back
23 and forth and conduct experiments. What I'm talking about
24 is weighing the evidence and evaluating it by using your
25 good common sense, your sense of logic and reason and your

1 life experiences. And you bring all those things with you
2 when you walk into that jury box.

3 I also told you at the beginning of the trial that
4 evidence consists of two things -- several things. First,
5 I told you that evidence consists of the sworn testimony
6 that comes from that witness box.

7 I also told you that the evidence could be in the
8 form of exhibits. You have seen a number of exhibits that
9 has been presented throughout this trial: exhibits from
10 the State, maybe exhibits from the defense. These are the
11 forms of evidence that's been presented to you.

12 But you also, as jurors, have to gauge the
13 believability of the evidence that's presented to you.
14 I've told you that. But I will tell you that you also may
15 consider in deciding credibility of witnesses' testimony
16 in such a way that you may believe everything a witness
17 says, you may believe -- or you may believe nothing a
18 witness says. You may believe part of what a witness says
19 or disbelieve other parts of that witness's testimony.
20 You may believe one witness over several, or several over
21 one. But I know that you will decide this matter of
22 credibility using your reason, your logic and your common
23 sense and do it arbitrarily -- not do it arbitrarily. I'm
24 sorry. And not do it arbitrarily.

25 There are also two sources of evidence, and what I'm

1 talking about now is direct evidence and circumstantial
2 evidence. Direct evidence is the testimony of someone who
3 claims to have direct and actual knowledge of a fact such
4 as an eyewitness. Direct evidence is evidence that, if
5 it's believed, immediately establishes a fact.

6 Circumstantial evidence. Circumstantial evidence is
7 indirect evidence. Put another way, circumstantial
8 evidence is proof of a chain of facts from which you can
9 find that another fact exists even though it has not been
10 proven to you directly.

11 The law makes no distinction between the weight or
12 value to be given to either direct or circumstantial
13 evidence. You may consider both kinds. And there's not a
14 greater degree of certainty required of one over the
15 other.

16 Now, ladies and gentlemen of the jury, there are
17 certain things -- or certain witnesses who come into court
18 and they are qualified as experts. They are people who,
19 by reason of their training, education, experience, have
20 achieved an expertise in their field, and they are, unlike
21 other witnesses, entitled to give their opinions about
22 what they observe. However, expert witnesses share this
23 with all of the witnesses, and that is you the jury are
24 the sole judges of their credibility. You may accept
25 their testimony or reject it, or give it whatever weight

1 that you think it deserves. You're not required to accept
2 even the uncontradicted opinion of an expert.

3 Now, there are principles that apply in criminal
4 cases. This is a criminal case. And I'm going to go over
5 those with you now. The first is that the mere fact that
6 Mr. Mathis was indicted and charged does not constitute
7 any evidence of any kind. The fact that a person has been
8 indicted doesn't even create a suspicion of guilt. I
9 explained to you that this indictment that I have in my
10 hand is simply the formal matter in which this case comes
11 before the Court. It certainly does not constitute any
12 evidence against this defendant.

13 Mr. Mathis, in this case, has pled guilty to this
14 indictment that contains two counts. The burden of proof
15 is solely and squarely upon the State, and he can only be
16 convicted if all 12 of you agree that the State has proven
17 each and every element of the charges against him beyond a
18 reasonable doubt.

19 You have two charges. Count 1 is murder and Count 2
20 is possession of a weapon during the commission of a
21 violent crime. You must weigh these charges separately,
22 and you must determine whether or not the State has met
23 its burden of proof beyond a reasonable doubt as to each
24 one of these offenses upon which this defendant is
25 charged.

1 This defendant is presumed innocent, and that
2 presumption of innocence is not some legal technicality.
3 It is a fundamental right that every person enjoys in this
4 country, and it can only be removed if the State convinces
5 all of you beyond a reasonable doubt as to every element
6 of the crime. And in this instance, we have two offenses.

7 So what is reasonable doubt? Reasonable doubt is
8 defined as the kind of doubt that would cause a
9 reasonable, sincere, honest and conscientious person to
10 hesitate to act in an important matter in their own
11 affairs.

12 Proof beyond a reasonable doubt is proof that leaves
13 you firmly convinced of the defendant's guilt. The law
14 does not require proof that overcomes every possible
15 doubt. So if, based upon your view of the evidence, you
16 are firmly convinced that the defendant is guilty of the
17 crime charged, you must find him guilty. On the other
18 hand, if you think there's a real possibility that he's
19 not guilty, then you must give him the benefit of that
20 doubt and find him not guilty.

21 A reasonable doubt may arise from the evidence or
22 from the lack of evidence, and a defendant is entitled to
23 every reasonable doubt that may arise in the case. And
24 that means as to the issue of fact that is essential to a
25 finding of guilt, you have some reasonable doubt that's

1 how the issue should be resolved, it is your duty to
2 resolve it in the defendant's favor.

3 Now, in order to establish criminal liability, the
4 State must prove criminal intent. And criminal intent is
5 a matter that must be determined by you from the facts
6 that you've heard, and there's no way to prove criminal
7 intent to a mathematical certainty. So the law says that
8 criminal intent may be inferred from the circumstances.
9 It is not necessary to establish intent by direct
10 evidence. Intent may be established by circumstantial
11 evidence, taking into account the circumstances that are
12 at issue.

13 Criminal intent is a mental state of conscious
14 wrongdoing. It is up to you to determine what the
15 defendant intended to do based on the circumstances shown
16 to have existed.

17 I have this indictment in front of me, and in this
18 indictment, this defendant is charged -- the Count 1 with
19 murder. This indictment states that Dale Elroy Mathis
20 did, in Greenville county, on or about the 19th day of
21 January 2016, unlawfully and with malice aforethought kill
22 Jamie Howard by means of stabbing, and that Jamie Howard
23 died as a proximate result thereof, this being in
24 violation of Code Section 16-3-10 of our South Carolina
25 Code of Laws.

1 Count 2 of this indictment indicates that Mr. Dale
2 Elroy Mathis is charged with possession of a weapon during
3 the commission of a violent crime. It states thusly:
4 that Dale Elroy Mathis did, in Greenville county, on or
5 about the 19th day of January 2016, possess or visibly
6 displayed a deadly weapon during the commission or
7 attempted commission of a violent crime, to wit, murder,
8 this being in violation of Section 16-23-490 of our South
9 Carolina Code of Laws.

10 Here again, this indictment is the vehicle by which
11 these matters are brought before the Court. It is not any
12 evidence at all against the defendant.

13 Now let me charge you on the applicable law that
14 applies to this case. This defendant is charged with
15 murder. The State must prove beyond a reasonable doubt
16 that the defendant killed another person with malice
17 aforethought, either express or implied.

18 Let's talk about malice. What is malice? Malice is
19 hatred, ill will, or hostility towards another person. It
20 is the intentional doing of a wrongful act without just
21 cause or excuse and with an intent to inflict an injury or
22 under circumstances that the law will infer an evil
23 intent.

24 Malice aforethought does not require that the malice
25 exists for any particular time before the act is

1 committed, but malice must be in the mind of the defendant
2 just before and at the time the act is committed,
3 therefore, there must be a combination of the previous
4 evil intent and the act.

5 Malice aforethought may be expressed or implied.
6 These terms, expressed and implied, do not mean different
7 kinds of malice, but merely the manner in which the malice
8 may be shown to exist, that is either by direct evidence
9 or by inference from the facts and circumstances which are
10 proved. Express malice is shown when a person speaks
11 words which express hatred or ill will for another or when
12 the person prepared beforehand to do the act which was
13 later accomplished..

14 Malice can be implied from facts and circumstances
15 that are proven by the State, but these inferences are
16 evidentiary only and may be considered by you along with
17 all other evidence and evidence such as weight, if any, as
18 you determine that they should receive.

19 Let's talk about voluntary manslaughter. If you find
20 that the State has failed to prove beyond a reasonable
21 doubt that the defendant committed murder, you may
22 consider whether the State has proved beyond a reasonable
23 doubt that the defendant committed voluntary manslaughter.
24 Manslaughter is included within the offense of murder and
25 it's considered a lesser-included offense.

1 To prove voluntary manslaughter, the State must prove
2 beyond a reasonable doubt that the defendant took the life
3 of another in the sudden heat of passion based on
4 sufficient legal provocation. Both heat of passion and
5 sufficient legal provocation must be present at the time
6 of the killing to constitute voluntary manslaughter.

7 Sudden heat of passion may, for a time, affect a
8 person's self-control and temporarily disturb a person's
9 reason. The sudden heat of passion must be the type that
10 would make an ordinary person unable to coolly reflect on
11 his actions and would produce an uncontrollable impulse to
12 do violence.

13 Sufficient legal provocation must be the type that
14 would make a person of ordinary reason and caution become
15 enraged and to lose control temporarily. The provocation
16 needed for voluntary manslaughter must come from some act
17 or related to the victim. If the heat of passion had
18 cooled or if there was enough time between the
19 provocation, if any, and the killing for the provocation
20 -- for the passion of a reasonable person to cool -- let
21 me read that over so I can make sure you're clear on it.
22 If the heat of passion had cooled or if there was enough
23 time between the provocation, if any, and the killing for
24 the passion of a reasonable person to cool, the killing
25 would not be voluntary manslaughter.

1 In deciding whether a reasonable person would have
2 enough time to cool off, you should consider all of the
3 circumstances surrounding the killing. You may consider
4 the nature of the provocation, if any, the defendant's
5 mental and physical state, and the circumstances and
6 relationships between the parties.

7 The defendant in this case has raised the defense --
8 affirmative defense of self-defense. Self-defense is a
9 complete defense, and if it is established, you must find
10 the defendant not guilty. The State has the burden of
11 disproving self-defense by proof beyond a reasonable
12 doubt.

13 If you have a reasonable doubt of the defendant's
14 guilt after considering all of the evidence, including the
15 evidence of self-defense, then you must find the defendant
16 not guilty. On the other hand, if you have no reasonable
17 doubt of the defendant's guilt after considering all of
18 the evidence, including the evidence of self-defense, then
19 you must find the defendant guilty.

20 The following elements are required to establish
21 self-defense: Number 1, without fault. First, the
22 defendant must be without fault in bringing on the
23 difficulty. If the defendant's conduct was the type which
24 was reasonably calculated to and did provoke a deadly
25 assault, the defendant would be at fault in bringing on

1 the difficulty and would not be entitled to an acquittal
2 based on self-defense.

3 Number 2, imminent danger. The second element of
4 self-defense is that the defendant was actually in
5 imminent danger of death or serious bodily injury, or that
6 the defendant actually believed he was in imminent danger
7 of death or serious bodily injury.

8 If the defendant was actually in imminent danger, it
9 must be shown that the circumstances would have warranted
10 a person of ordinary firmness and courage to strike the
11 fatal blow to prevent death or serious bodily injury. If
12 the defendant believed he was in imminent danger of death
13 or serious bodily injury, it must be shown that a
14 reasonably prudent person of ordinary firmness and courage
15 would have had the same belief.

16 In deciding whether the defendant was or believed he
17 was in imminent danger of death or serious bodily injury,
18 you should consider all of the facts and circumstances
19 surrounding the crime, including the physical condition
20 and characteristics of the defendant as well as the
21 victim.

22 Number 3, no other way to avoid the danger. The
23 final element of self-defense is that the defendant had no
24 other probable way to avoid the danger of death or serious
25 bodily injury than to act as the defendant did in this

1 particular case. The defendant does not have to show that
2 he was actually in danger. It is enough if the defendant
3 believed he was in imminent danger and a reasonably
4 prudent person of ordinary firmness and courage would have
5 had the same belief. The defendant has the right to act
6 on appearances even though the defendant's belief may have
7 been mistaken.

8 It is for you to decide whether the defendant's fear
9 of immediate danger of death or serious bodily injury was
10 reasonable and would have been felt by an ordinary person
11 in the same situation.

12 Size and age. The relative sizes, ages and weights
13 of the defendant and the victim may be considered in
14 deciding the apparent or actual need for force in
15 self-defense and the amount of force needed.

16 Victim's reputation -- victim's violent reputation.
17 The reputation of the victim as a violent person may be
18 considered in deciding whether there was a need for force,
19 whether the defendant had reason to believe there was a
20 need for force and whether deadly force was reasonably
21 necessary.

22 Prior violence by the victim. Prior instances of
23 violence by the victim may be considered in deciding
24 whether the defendant actually believed he was in imminent
25 danger of death or serious bodily injury or was actually

1 in imminent danger.

2 I will charge you on voluntary intoxication. A
3 person who voluntarily becomes intoxicated is just as
4 responsible for the acts committed while intoxicated as
5 when the person is not intoxicated.

6 Now I will now move to Count 2 of the indictment
7 which charges this defendant for possession of a weapon
8 during the commission of a violent crime. This defendant
9 is charged with possession of a weapon during the
10 commission of a violent crime. This is in violation of
11 Section 16-23-490 of our South Carolina Code of Laws.
12 This statute specifically provides in Subsection A if a
13 person visibly displays a weapon, in this case a knife,
14 during the commission of a violent crime and is convicted
15 of committing a violent crime as defined in Section
16 16-1-60, he is guilty of a crime. "Knife" is defined as
17 an instrument or tool consisting of a sharp cutting blade,
18 whether or not fastened to a handle, which is capable of
19 being used to inflict a cut/or wound.

20 Section 16-1-60 of our South Carolina Code of Laws
21 provides that murder and voluntary manslaughter are
22 violent crimes. For you to find the defendant guilty of
23 the separate offense of possession of a knife during the
24 commission of a violent crime, you must first find the
25 defendant guilty of either committing a violent crime or

1 attempting to commit a violent crime. In this case, the
2 crimes murder or voluntary manslaughter is in for your
3 consideration.

4 If you find the defendant guilty of murder or
5 voluntary manslaughter, you must then determine whether
6 the State has proved beyond a reasonable doubt that the
7 defendant visibly displayed a knife during the commission
8 of the violent crime.

9 "Possession" means more than simply having an object
10 in one's possession. Conviction of possession requires
11 proof of possession, either actual or constructive,
12 coupled with knowledge of the knife's presence.
13 Possession can be shown by either actual possession or
14 constructive possession.

15 Actual possession occurs when the knife is in the
16 actual physical custody of the person charged with
17 possession. Proof of constructive possession, along with
18 knowledge of the presence of the knife, is sufficient to
19 support a conviction for possession of a knife.

20 To prove constructive possession, the State must show
21 that the defendant had dominion or control or the right to
22 exercise dominion or control over the knife. Constructive
23 possession may be established through either direct or
24 circumstantial evidence, and possession may be shared.

25 Possession requires more than just mere presence.

1 Possession may be inferred from the circumstances and may
2 be imputed to anyone who has the power and intent to
3 control the disposition and use of the knife.

4 Now, these are the principles of law that you must
5 apply to this case that's before us. And let me give you
6 a few closing instructions on your deliberations.

7 Now, ladies and gentlemen, you weren't chosen as
8 jurors in this case to be partisan or an advocate for the
9 State or for the defendant. You were chosen as a juror in
10 this case because both sides believe you could be fair and
11 that you could be impartial and that you could decide this
12 case without any kind of bias, without any kind of
13 prejudice or any other preconceived ideas.

14 So as I told you at the outset, all 12 of you are the
15 judges of the facts, and your sole interest is to
16 determine what the facts are, take the law as I just gave
17 it to you and apply it to those facts using your life
18 experiences, your common sense and your sense of logic and
19 reason. And once you do that, you'll be able to reach a
20 verdict in this case.

21 Now, each one of you has a vote in this case, and
22 your vote is exactly that. It's your vote. It's no one
23 else's. So don't be afraid to change your mind if you are
24 of different minds and the discussion that you have
25 persuades you that you should change your mind. But don't

1 change your mind simply to get the case over with or to
2 reach a unanimous verdict, because obviously, this case is
3 very important to the State, this case is very important
4 to this defendant.

5 This record is now closed. There's not going to be
6 any more witness, there won't be any more exhibits. So if
7 something was referred to during the trial that you want
8 to have but you don't have it back there in the jury room
9 as an exhibit, I can't get it for you, so keep that in
10 mind.

11 I have a verdict form, and this verdict form will be
12 given to the foreperson of the jury. In this verdict
13 form, it states as follows, and pay no attention to the
14 order in which I am reading this. It had to be in some
15 order. The State vs. Dale Elroy Lewis -- Mathis, I'm
16 sorry, as to the charge of murder occurring on or about
17 January 19, 2016, we, by unanimous consent, find the
18 defendant, Dale Elroy Mathis, not guilty or guilty.

19 If you find the defendant guilty of murder, then you
20 do not have to go to question -- to answer Question 2. If
21 you do find the defendant not guilty of murder, then you
22 proceed to Question 2. And this will be clearer once you
23 get this document in front of you. Question 2 says: As
24 to the lesser-included offense charge of voluntary
25 manslaughter, on or about January 19, 2016, we the jury,

1 by unanimous consent, find the defendant, Dale Elroy
2 Mathis not guilty or guilty.

3 Number 3, as to the charge of possession of a weapon
4 during the commission of a violent crime occurring on or
5 about January 19, 2016, we the jury, by unanimous consent,
6 find the defendant, Dale Elroy Mathis, not guilty or
7 guilty. And then it's signed by Raymond Roache, the
8 foreperson of the jury.

9 Now, I'm going to send you back to your jury room.
10 You're not to begin any deliberations at all until the
11 exhibits are brought to you as well as the verdict form
12 are brought to you. The bailiff will bring those items in
13 to you and, per my instruction, will tell you when to
14 start deliberation. We understand it is approaching
15 lunchtime, so you'll be accommodated during that period.

16 But before you start any deliberations, I'm going to
17 send you back to your jury room. Please, ma'am and
18 please, sir, even though you're going back there and even
19 though this case is closed and I've already said
20 everything I need to say to you, I still need to check
21 with these lawyers to make sure that there are not any
22 other matters that I need to take up prior to you
23 beginning your deliberations. So go back to your jury
24 room, follow Madam Bailiff back there and do not begin any
25 deliberations until you get instructions from me. All

1 right.

2 (WHEREUPON, the jury exits the courtroom at 12:06 p.m.)

3 THE COURT: All right. Any exceptions to the charge
4 from the State?

5 MR. BLOUIN: Not of the charge, Your Honor. We would
6 just ask, make sure that the alternate ---

7 THE COURT: Yeah. I'm going to bring her out, the
8 alternate.

9 MR. BLOUIN: Okay.

10 THE COURT: Anything from ---

11 MR. KORNFELD: Your Honor, I believe at about 11:41
12 or 42 you said that the defendant, Dale Mathis, has pled
13 guilty to the charges.

14 THE COURT: I don't -- if you say I said that, then
15 I'll bring them back out and clear that. I don't think I
16 said that, but I'll be glad to do that.

17 MR. KORNFELD: Okay can I confer -- can I talk with
18 him for a second then?

19 THE COURT: Yes. Do you want to check with the court
20 reporter? She can go right back ---

21 MR. KORNFELD: Can we maybe just approach?

22 THE COURT: Yeah. I mean, she can go right back to
23 that.

24 THE REPORTER: You did say that.

25 THE COURT: I said "guilty"?

1 THE REPORTER: Yes.

2 THE COURT: Okay. So it's cleared up then. Let me
3 clear it up.

4 (WHEREUPON, a bench conference was held off the record.)

5 THE COURT: Bring them back out.

6 (WHEREUPON, the jury entered the courtroom at 12:10 p.m.)

7 THE COURT: Ladies and gentlemen of the jury, I read
8 you a lot of information, but it's been called to my
9 attention that I made a mistake on something that I said.
10 And what I said was, and I'll correct that, as to this
11 indictment, the charges, Mr. Mathis with Count 1, murder,
12 and Count 1 [sic], possession of a weapon during the
13 commission of a violent crime, I think somewhere during
14 what I was saying, I said he has pled guilty, and I should
15 have said he pled not guilty, because if he pled guilty,
16 we wouldn't be in here. So I misspoke. I should have
17 said that he pled not guilty to both of these. So I just
18 wanted to be -- that's on my shoulders. I made that
19 mistake. But I wanted to come in and clarify that with
20 you and let you know what the error was that I made. And
21 that is it.

22 So I'm going to send you back to your jury room, and
23 follow my instructions.

24 All right. Please, ma'am, do not talk until you get
25 those exhibits and the verdict form.

1 (WHEREUPON, the jury exits the courtroom at 12:12 p.m.)

2 THE COURT: Are we good?

3 MR. BLOUIN: Yeah. Nothing.

4 MR. KORNFELD: We're good.

5 THE COURT: All right. Bring the alternate, Juror
6 Number 170, Shannon Roth.

7 (WHEREUPON, Juror Number 170 entered the courtroom.)

8 THE COURT: Ms. Roth, you are the alternate --
9 remaining alternate, and certainly your services have
10 ended, and we appreciate you serving as an alternate these
11 last four days. And I know it's been sometimes an
12 inconvenience to serve as a juror, but certainly, we
13 appreciate -- and I appreciate your attentiveness. I
14 watched the jury, and I make a special point to see and
15 make sure that everybody's attentive, and you've been very
16 attentive, and I appreciate that.

17 So you're free to go, but here's the deal. Lunch has
18 been ordered for the remaining jurors, including yourself.
19 And I think they ordered lunch from Henry's Smokehouse, I
20 believe it is. And that's a nice spot. So if you want
21 to, you can stick around, or you can leave, or you could
22 get your lunch and the bailiffs will tell you, if you want
23 to eat lunch back there, you could somewhere, or you could
24 take it with you, or you could say, Judge, I don't want
25 lunch, I just want to head out the door. So it's up to

1 you. Whatever you decide to do will be fine.

2 JUROR NUMBER 170: I don't really care for lunch, but
3 can I stay to listen?

4 THE COURT: Yes, ma'am. You can -- listen to the
5 deliberations?

6 JUROR NUMBER 170: Or the final.

7 THE COURT: Right. You can't deliberate with them,
8 but you can stay out there and wait and see. I can't tell
9 you how long, but you're free to say.

10 JUROR NUMBER 170: Okay.

11 THE COURT: Thank you, ma'am.

12 JUROR NUMBER 170: Thank you so much.

13 THE COURT: Okay.

14 (WHEREUPON, a recess is taken at 12:19 p.m., and the jury
15 began deliberations.)

16 (WHEREUPON, Court's Exhibit Number 3 was marked for
17 identification.)

18 (WHEREUPON, proceedings reconvened at 2:46 p.m.)

19 THE COURT: The jury had a question, and the question
20 was they wanted a definition of voluntary manslaughter.
21 And the State, as well as the defendant's counsel, my
22 understanding, have agreed that I will send back to the
23 jury panel a copy of my charge on voluntary manslaughter,
24 and that would be the only document that I send back to
25 them.

1 And just for the record, the two of you looked at the
2 one where I wrote 3 and 4 on the top. That's not the one
3 I'm going to send back. I'm going to send just a copy
4 with not anything on it. I think that would be proper.
5 And then the one that had 3 and 4, I'll have this marked
6 as a Court's exhibit, okay? All right. Is that
7 satisfactory?

8 MR. BLOUIN: Satisfies the State, Your Honor.

9 MR. KORNFELD: No objection, Your Honor.

10 THE COURT: All right.

11 (WHEREUPON, a recess is taken at 2:48 p.m.)

12 (WHEREUPON, State's Exhibit Number 4 was marked for
13 identification.)

14 (WHEREUPON, proceedings reconvened at 3:48 p.m.)

15 THE COURT: The jury had another question. The
16 question was: Possession of a weapon, is the cane also
17 considered a weapon? And after consultation with counsel
18 and after reviewing of the statute, Subsection A under
19 16-23-490 specifically states, and I'll just read it: If
20 a person is in possession of a firearm or visibly displays
21 what appears to be a firearm or visibly displays a knife
22 during the commission of a violent crime and is convicted
23 of committing or attempting to commit a violent crime so
24 as to the definition portion of the statute. After
25 consultation with counsel, I indicated no. I said no.

1 And I wrote that on the note. My question is: Obviously,
2 we have to mark this as a Court's exhibit, so I'm going to
3 get my law clerk to make a copy of this note and send a
4 copy back to them and let them mark this. Is that
5 satisfactory?

6 MR. BLOUIN: No objection from the State.

7 MR. KORNFELD: No objection, Your Honor.

8 (WHEREUPON, Court's Exhibit Number 5 was marked for
9 identification.)

10 (WHEREUPON, a recess is taken at 3:51 p.m.)

11 (WHEREUPON, proceedings reconvened at 4:13 p.m.)

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

13 MR. BLOUIN: Nothing from the State, Your Honor.

14 (WHEREUPON, the jury entered the courtroom at 4:15 p.m.)

15 THE COURT: Mr. Foreman, has the jury reached a
16 verdict?

17 JURY FOREPERSON: We have, Your Honor.

18 THE COURT: Would you pass the verdict form to the
19 bailiff.

20 Madam Bailiff, would you bring it to me.

21 Clerk, would you publish the verdict.

22 VERDICT

23 THE CLERK: State vs. Dale Elroy Mathis, as to the
24 charge of murder, occupying [sic] on or about
25 January 19, 2016, we the jury, by unanimous consent, find

1 the defendant, Dale Elroy Mathis, guilty.

2 And then Number 3, as to the charge of possession of
3 a weapon during the commission of a violent crime
4 occurring on or about January 19, 2016, we the jury, by
5 unanimous consent, find defendant, Dale Elroy Mathis, not
6 guilty.

7 THE COURT: All right. Anything from the defense?
8 Anything from the State?

9 MR. BLOUIN: Nothing from the State, Your Honor.

10 MR. KORNFELD: No, Your Honor.

11 THE COURT: All right. Ladies and gentlemen of the
12 jury, that concludes your service as jurors for the week.
13 I certainly would like to thank all of you for not only
14 serving, but also being very attentive during the period
15 of time that you were here. I am convinced that you paid
16 a lot of attention to everything that was presented to
17 you, and I appreciate your service. There's no other
18 better service that you can perform in the state -- in
19 your state other than voting is jury service, so I commend
20 you all for your commitment. And you're free to go.
21 However, you can stick around if you so desire, but your
22 services for this case has ended, and I appreciate you
23 serving as jurors.

24 Okay. All right. You're free to leave.

25 (WHEREUPON, the jury exits the courtroom at 4:17 p.m.)

1 record, in 1984 he was convicted of voluntary manslaughter
2 which was the most-serious offense and the basis for the
3 LWOP service being this would be a most-serious offense as
4 well making it two most-serious offenses. He also has
5 prior convictions. It looks like felonious child abuse in
6 1985 in North Carolina as well as a grand larceny that
7 occurred, I believe, in 2008.

8 THE COURT: All right. Mr. Kornfeld.

9 MR. KORNFIELD: I would just say that I feel as though
10 in a case like this pursuant to our laws, your hands are
11 tied. You must sentence him to life without parole
12 regardless of what factors you may deem important or
13 credible or relevant in this case. And I don't believe
14 that the LWOP sentence for a man in this condition, 57, is
15 in the best interest of the State of South Carolina and
16 don't believe that he is a threat to society. That is all
17 I will say.

18 I know that Mr. Mathis is sorrowful to the family of
19 Mr. Howard and that he did not mean for Mr. Howard to die
20 on January 19th of 2016.

21 That's it, Your Honor.

22 THE COURT: All right. Mr. Mathis, anything you'd
23 like to tell me?

24 DEFENDANT MATHIS: Yeah. I'd just say I apologize to
25 Mr. Jamie Howard's family. I didn't -- like he said, I

1 did not mean to kill him. I do -- I do apologize with all
2 my heart and hope they find it in their heart to forgive
3 me. I'd also like to apologize to my own family for
4 putting them through this.

5 THE COURT: Anything further?

6 MR. BLOUIN: Nothing, Your Honor.

7 SENTENCING

8 THE COURT: The only thing I can say, Mr. Mathis,
9 when these situations like this occurs, it's bad on both
10 sides, both sides.

11 All right. On indictment 2017-GS-23-1276, the State
12 vs. Dale Elroy Mathis, charged with murder in violation of
13 16-3-010 of our South Carolina Code of Laws, the sentence
14 is that you be confined for life without the possibility
15 of parole.

16 Good luck to you, sir.

17 DEFENDANT MATHIS: Thank you.

18 MR. BLOUIN: Thank you.

19 (WHEREUPON, proceedings concluded at 4:25 p.m.)

20 * * * * *

21

22

23

24

25

0021

WITNESSES

A.L. Bailey

Greenville County Sheriffs Office

2/12/2016

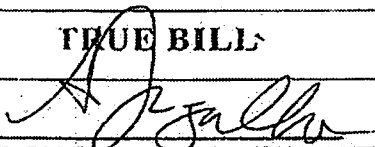
ARREST WARRANT NUMBER

2016A2330201190 as to COUNT 1

DIRECT PRESENTMENT AS TO COUNT 2

ACTION OF GRAND JURY

TRUE BILL



Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-2016-GS-23-

HCB

001276

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February TERM 2016

THE STATE

vs.

DALE ELROY MATHIS

Indictment for

0116 and 0549

MURDER and POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT
CRIME

VIOLATION §16-03-0010 and §16-23-0490

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 MURDER and POSSESSION OF A WEAPON DURING THE
 COMMISSION OF VIOLENT CRIME

At a Court of General Sessions, convened on **FEB 21 2017** the Grand Jurors of Greenville
 County present upon their oath:

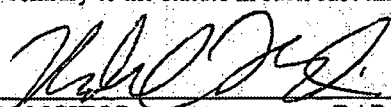
COUNT 1 — MURDER

That DALE ELROY MATHIS did in Greenville County, on or about the 19th day of January, 2016, unlawfully
 and with malice aforethought kill JAMIE HOWARD by means of stabbing, and that JAMIE HOWARD died as a
 proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT 2 — POSSESSION OF WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That DALE ELROY MATHIS did in Greenville County, on or about the 19th day of January, 2016, possess or
 visibly display a DEADLY WEAPON during the commission or attempted commission of a violent crime, to wit:
 MURDER. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

BAR # 80145

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Dale Elroy Mathis

AKA:

Race: WHITE Sex: M Age: 45DOB: [REDACTED] SS#: [REDACTED]Address: 2690 Fewes Bridge RoadCity, State, Zip: Greer, SC 29650DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
 TO: Murder (gs)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS2301276A/W#: 2016A2330201190Date of Offense: 1/19/2016S.C. Code § 16-03-0010, 0020CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 80145
 Blouin, Hunter SC Bar#

Defendant

KORNFELD, ALEX
 Attorney for Defendant

 79046
 SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of _____ days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$

TOTAL

\$ 128.75Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel.
 Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

Presiding Judge

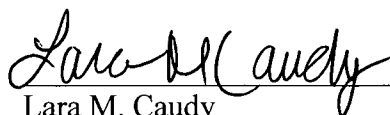
Judge Code: 2783Sentence Date: 10/18/18

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED
DEC 17 2019
SC Court of Appeals

Respectfully Submitted,



Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 17th day of December, 2019.