VOLUME I of II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Clarendon County
Honorable R. Ferrell Cothran, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TAMMY DIANNE BROWN,

APPELLANT

APPELLATE CASE NO. 2018-000988

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA COUNTY OF CLARENDON	COURT OF GENERAL SESSIONS 2014-GS-14-00408
State of south Carolina vs. Tammy Dianne Brown DEFENDANT	TRANSCRIPT OF RECORD May 14-18, 2018 Manning, South Carolina

B E F O R E:

THE HONORABLE R. FERRELL COTHRAN, JUDGE; and a jury.

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

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KESHIA REED
Official Court Reporter

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1 THE COURT: All right. You may call your first
2 case.
3 MR. DURANT: Thank you, Your Honor. May it
4 please the Court. State calls the case of State of South
5 Carolina vs. Tammy Dianne Brown charge on indictment
6 2014-GS-14-408 two counts of felony driving under the
7 influence one involving death and one involving great
8 bodily injury. May I approach?
9 THE COURT: Yes, sir. Ladies and gentlemen, if
10 you give me your attention, we are about to begin the
11 trial of The State vs. Tammy Dianne Brown. Is there any
12 member of the jury panel connected by blood or marriage,
13 close personal friends or social relations with Ms. Brown,
14 if so please stand?
15 (WHEREUPON, a there are none.)
16 THE COURT: Okay. I'm going to read out a list
17 of potential witnesses in this case. And I need to know
18 the same information Josephina Chapa, Debbie Gutierrez. I
19 may have butchered her name. How do you pronounce her
20 name?
21 MR. DURANT: Guiterrez.
22 THE COURT: Oh, I'm sorry Gutierrez. Angela Ann
23 Floyd, Billy Ward, Bucky Mock, Jeffrey K. Minnix, Page
24 DuBose, Joseph Ham, Mendell Rivers, Bryan Ridgeway, Kelly
25 Bugden, Tim Grambow, Dr. Mark Reynolds. Any member of the

1 **(WHEREUPON, the jury panel is excused.)**
2 THE COURT: Ladies and gentlemen, I got to take
3 up some matters of law. Instead of keeping you all locked
4 up back in the jury room, I'm going to send you all to
5 lunch. And we going to deal with the legal matters and
6 I'll ask you to be back in your jury room at two o'clock.
7 When you come back, go straight in the jury room.
8 Now, over lunch don't talk to anybody about this
9 case, allow anyone to talk to you about it. You can't
10 even discuss it among yourselves and I'll explain that to
11 you when you get back. Don't go do any research. Don't
12 Google on anybody. Don't get on social media. Everything
13 you know about this case is I need you to learn in this
14 courtroom. If you have an emergency over lunch, you need
15 to call the clerk's office or 9-1-1 or the sheriff's
16 office or somebody because I expect all of you to be back
17 at two. I can't get started until all of you show up. So
18 if one of you don't come back and you don't call anybody,
19 I'm going to send the sheriff to look for you and bring
20 you in. So it's important that you all be back. So I'll
21 see you back at two o'clock. If you have an emergency,
22 please call us. Thank you.
23 (WHEREUPON, the jury is excused for lunch.)
24 THE COURT: Okay.
25 MR. BARR: Your Honor, please the Court at this

1 time, we would respectfully move to dismiss the indictment
2 for reasons concerning the sufficiency of the indictment
3 as it relates to due process. If Your Honor look at
4 Count 1 as well as Count 2 that in Clarendon County, South
5 Carolina on or about August 30th 2014, while driving a
6 vehicle under the influence of alcohol, drugs or
7 combination of alcohol and drugs, the Defendant Tammy
8 Dianne Brown did an act forbidden by law or neglected a
9 duty imposed by law in driving the said vehicle, such act,
10 such act approximately cause the death of Mario (sic)
11 Guillermo. Of course, all in violation of section
12 56-5-2945.
13 Your Honor, here's our -- now, of course, if you
14 read the other count in the indictment that is the one
15 that relates serious bodily injury. It tracks the same
16 language coming from the statute. It's our position that
17 with respect to the sufficiency of the indictment and I'm
18 reading -- quoting from one of the cases that I thought
19 was directly on this point. That's State vs. Grampus,
20 State vs. Grampus 288 South Carolina 395 343 Southeast 2nd
21 26, says that the indictment -- of course, this is an
22 indictment for prosecution of felony DUI, must state with
23 particularity the act forbidden by law or the duty imposed
24 by law which will be relied upon by the State to support
25 the felony driving under the influence charge.

1 Now, of course, it will be our contention, Your
2 Honor, that in addition to what is stated here in this
3 indictment unless the indictment specifically pointed to
4 the act that the prosecution is relying upon to establish
5 the complete offense of driving under the influence,
6 whether it be involving great bodily injury or death
7 without some specification in the act with particularity
8 as the case says. We would submit that the indictment
9 would be fatally flawed and we would respectfully move to
10 dismiss the indictment.
11 THE COURT: Okay. You like to respond to that,
12 Mr. Solicitor.
13 MR. DURANT: Yes, Your Honor. I haven't read
14 the case that Mr. Barr is citing, but my understanding is
15 that the case law in the state is that the language of the
16 indictment -- because the indictment is a noted document
17 and language of the indictment is sufficient if it tracks
18 the language of the statute, which these both counts
19 clearly do. It's never been my understanding that the
20 State would require to allege in the indictment
21 particular act or law alleged to have been violated by the
22 defendant with traffic violation. However, in this case,
23 Your Honor, it's certainly no secret that the law that
24 Mrs. Brown violated is speed, that's referenced throughout
25 the discovery that's been provided to Mr. Barr. It's in

1 big black and white letters on the reports issued by the
2 MAIT team. In this case, Your Honor, that speeding was
3 the factor involved, was the violation of law involved.
4 Mr. Barr has received ample discovery from the State with
5 references to the exact speed that his client was alleged
6 to have been traveling at the time of this accident the
7 speed limit for that area, so she certainly -- Mr. Barr
8 certainly been notified. Ms. Brown certainly aware of the
9 act that the State alleges that she violated in this case.
10 And again it's my understanding that an indictment which
11 tracks the language of the statute is sufficient.
12 MR. BARR: Judge, if I might, we don't concede
13 to any speed. And granted it may very well be the
14 prosecutions theory that the defendant was speeding and
15 that that is the particular act that's required in order
16 to complete the elements, but as far as the indictment is
17 concern, the mere fact that the prosecution intends to
18 prove by evidence a allegation that the prosecution is
19 making regarding the speed at issue in this case, that
20 doesn't satisfy the indictment.
21 The law says -- and that's the case that I cited
22 to the Court is that if in fact speeding was to be relied
23 upon, then the indictment has to state with some
24 particularity that this is in fact what the prosecution
25 would be relying upon to establish the driving under the

1 influence in a felony DUI case. So judge we would submit
2 that if you read the case, the case is just as clear as a
3 bell. It says that it must be stated with particularity
4 and that's the act that's forbidden. And in this case it
5 seems that the State is arguing, well, the forbidden act
6 was speeding which we don't concede, but even if it were,
7 then that speeding would have to be alleged in the
8 indictment and not by way of evidence the case law
9 requires that it stated in the indictment.
10 THE COURT: Okay. And tell me the name of that
11 case again, sir?
12 MR. BARR: State vs. Grampus.
13 THE COURT: Grantlin?
14 MR. BARR: Grampus G-R-A-M-P-U-S.
15 THE COURT: Okay.
16 MR. BARR: 288 South Carolina 395 343 Southeast
17 2nd 26.
18 THE COURT: All right. I'll go read it and let
19 you all know something. Anything else before I go back
20 there?
21 MR. BARR: No, sir.
22 THE COURT: Anything from the State?
23 MR. DURANT: No, sir, Your Honor.
24 THE COURT: Okay. I'll be back in a minute.
25 MR. BARR: Judge, you coming back after lunch or

1 now?

2 THE COURT: No, now. Unless, you want me to

3 come back after lunch.

4 MR. BARR: No, no, I want you to do whatever

5 pleases you.

6 THE COURT: I got a hearing at a quarter to two.

7 Whatever you all want to do?

8 MR. DURANT: I got nowhere to be, Your Honor.

9 It's only 11:40.

10 THE COURT: If you all want to break for lunch,

11 I can let you all know. You don't have to sit here and

12 wait on me to read the law.

13 MR. DURANT: We defer to, Your Honor.

14 THE COURT: Okay. We will be back at 1:30 and

15 I'll let you all know then. You all can go do something.

16 I'll see you back at 1:30. I got a hearing and then we'll

17 either go forward with the trial or we will do something

18 else.

19 MR. DURANT: Thank you, Judge.

20 (WHEREUPON, a lunch break was taken.)

21 THE COURT: All right. Anything else either one

22 of you all want to say?

23 MR. DURANT: Your Honor, I like to be heard on

24 that.

25 THE COURT: Okay.

1 MR. DURANT: Your Honor, I had the opportunity
2 to review the case submitted by Mr. Barr over the lunch
3 hour State vs. Grampus. First of all, I would present to,
4 Your Honor, that the issue in that case is one of -- it
5 deals with the issue as to whether or not a defendant who
6 had already been prosecuted for and had been tried
7 magistrate court for the underlying traffic offense of
8 improper lane use could be later tried for felony driving
9 under the influence. It's only in a footnote the court --
10 the Supreme Court addressed the issue of the sufficiency
11 of the indictment. Your Honor, I would submit to Your
12 Honor that a footnote is not binding authority. Moreover
13 that case was reversed by the Supreme Court in State vs.
14 Easter, which again dealing with the issue of double
15 jeopardy, but the case law -- the law of the case of State
16 vs. Grampus had been reversed by the Court. Your Honor,
17 and I'd also submit up for Your Honor to view Court of
18 Appeals case State vs. Campbell.
19 THE COURT: I just read State vs. Campbell.
20 It's directly on point.
21 MR. DURANT: Okay. Well, I don't want to bet
22 against myself then, Your Honor. I believe State vs.
23 Campbell stands for the position that an indictment,
24 specifically a felony DUI indictment which tracks the
25 language of the statute is sufficient and that's the

1 State's argument, Your Honor.
2 THE COURT: Okay. I just read State vs.
3 Campbell and it says exactly that. It's felony DUI trial
4 where the argument of the defendant was that it did not
5 specify what act that they violated. It's exactly the
6 situation here that you thought that the indictment
7 specify speeding or following too close or whatever facts
8 may be. And Campbell said as long as the indictment track
9 the language of the statute it was sufficient. And then
10 State vs. Gentry overrule Campbell in part in that State
11 vs. Gentry spelled out is two different issues whether the
12 Court has subject matter jurisdiction on whether the
13 sufficiency of the indictment. Sufficiency of the
14 indictment involves you must make that motion prior to
15 swearing in a jury. Subject matter jurisdiction can be
16 brought up at any time. And Mr. Barr made that motion
17 prior to the jury being sworn, so he's preserved that,
18 but I think based on Campbell and the litany of cases I've
19 read, that this indictment follows the language of the
20 statute. And it is sufficient under our law and I will
21 respectfully deny your motion.
22 MR. BARR: All right, sir.
23 THE COURT: Okay. Anything else I need to deal
24 with before I deal with these lawyers sitting out here who
25 have come a long way to see me?

1 MR. DURANT: No, sir, Your Honor.
2 THE COURT: All right. We'll be in recess until
3 two o'clock on this case.
4 (WHEREUPON, a break was taken.)
5 MR. DURANT: Please the Court.
6 THE COURT: Yes, sir.
7 MR. DURANT: Your Honor, the only other issue
8 that may need to be addressed by Your Honor before we
9 start is the introduction of two of the defendant's
10 statements. The State intends to introduce the statements
11 made by the defendant at the incident scene when she was
12 in the EMS in the ambulance there. And a second statement
13 or additional statements made by the defendant at the
14 emergency room to law enforcement after Miranda and also
15 in some excited utterance essentially from the defendant
16 and the officer's vehicle from the hospital to the jail.
17 Mr. Barr hadn't mentioned anything in regards to a Jackson
18 Denno hearing, but I do want to make the Court and
19 Mr. Barr aware that the State intends to introduce those
20 statements, certainly would be willing to address the
21 voluntariness of those statements now if Your Honor
22 believe that's necessary.
23 THE COURT: Mr. Barr, do you want ---
24 MR. BARR: Judge, we intend to object to the
25 introduction of the statement. Of course, the statements

1 that were allegedly made by the defendant at the initial
2 interview, I just receive an affidavit this morning I
3 believe from the officer actually conducting that
4 statement which asserts that he was not wearing a body
5 mic. And, of course, it would be our position that that
6 statement the statement made at that time he should have
7 had a body mic on and the statement should have been
8 recorded.
9 Now, he indicates in the affidavit that he was
10 away from his vehicle I believe and he did not was not
11 able to record or get a video recording. However, the
12 rationale that he gives for not -- I'm not sure, I don't
13 want to argue the State's position, but he simply
14 indicates that the defendant was not available in order
15 for him to get a -- to record the statement. And at the
16 same time he said that he made the decision himself and
17 said that the defendant would -- we would concede that the
18 defendant was in the EMS, but as far as the nature of her
19 injuries or whether she was injured or not, we would
20 submit that he should have recorded the statement with his
21 body mic. And because he had no recording, now we got
22 rely on what he says the defendant says without any type
23 of recording to corroborate the statement that he had
24 attributes to the defendant.
25 Now, that statement or the subsequent statement

1 that the Solicitor referred to that was made during the
2 in-car transportation, it would be our position that the
3 defendant was in custody at that time? And that statement
4 was involuntary.
5 MR. DURANT: Your Honor, I guess as a threshold
6 matter we can go ahead and mark the affidavit as a court's
7 exhibit and pass it up to Your Honor for review.
8 (WHEREUPON, Court's Exhibit No. 1 was marked for
9 the record.)
10 MR. DURANT: This is an affidavit signed by the
11 investigating officer Trooper Minnix this morning that
12 addresses the video tape requirements pursuant to
13 56-5-2953.
14 THE COURT: All right. I wish you all would
15 have let me know we had a Jackson vs. Denno hearing before
16 I brought this jury back at two o'clock. So is the State
17 intends to introduce this statement early in the case. I
18 mean, is it something we start the case and I need to rule
19 on it now or we have to have a Jackson vs. Denno hearing.
20 MR. DURANT: Your Honor, that statement would
21 probably be introduced through the third witness. The
22 first two are going to be very short, would be the
23 investigating officer, Trooper Minnix. It's two o'clock
24 now, Your Honor. We certainly can do both of these
25 statements and the first two witnesses and break for the

1 afternoon and handle the Denno issue.
2 THE COURT: Okay. I mean, I don't want to keep
3 them lock up and bring them back. Do you have any
4 objections to doing it that way, Mr. Barr?
5 MR. BARR: No, sir.
6 THE COURT: All right. Then we'll make opening
7 statements, cover the first two witnesses, break and deal
8 with -- before I break, I may bring you all back up here
9 to the bench and be sure that, you know, we still going
10 forward and it's not an issue and deal with the Jackson
11 vs. Denno issues and start back in the morning.
12 MR. DURANT: Thank you, Your Honor.
13 THE COURT: Is there any other legal issues I
14 need to deal with that you all know about right now?
15 MR. DURANT: Not that I have been made aware of,
16 Your Honor.
17 MR. BARR: Judge, as I said, I'm reluctant to
18 participate what the State intends to present by way of
19 evidence. However, it was blood drawn and we would move
20 to suppress the results of the blood urine analysis. Of
21 course, as I said I don't want to jump the gun, but that
22 would be an issue as well.
23 THE COURT: Okay.
24 MR. DURANT: Your Honor, if you recall, I
25 mention to Your Honor this morning that I assume we need

1 to have a suppression hearing. Mr. Barr told me that we
2 didn't.
3 MR. BARR: I didn't say we didn't. I said maybe
4 in terms of laying a foundation not knowing exactly how
5 you intend to proceed, that would have to be...
6 THE COURT: Let me ask you is the State
7 intending to offer some results of some blood tests or ---
8 MR. DURANT: Your Honor, I'm prepared to proceed
9 with a suppression hearing necessary this afternoon.
10 THE COURT: Okay. So is it from a scheduling
11 standpoint, we can do opening statements and the first two
12 witnesses, and deal with Jackson vs. Denno and the blood
13 this afternoon?
14 MR. DURANT: Yes, sir, Your Honor.
15 THE COURT: Okay. Then that's what we'll do
16 then. All right. Anything before bring in the jury?
17 MR. DURANT: No, sir, Your Honor.
18 THE COURT: Bring me the jury please, sir.
19 (WHEREUPON, the jury came into open court.)
20 THE COURT: Okay. Good afternoon, ladies and
21 gentlemen. I'm sorry, I got a cold. My voice is going
22 away. And we're about to begin he actual trial of The
23 State vs. Tammy Brown. I'm going to basically just give
24 you some introduction instructions as to what you can
25 expect, what your responsibilities are and how this case

1 will unfold.

2 This is not a charge on the law. At the end of

3 the case, I will charge you on the law that you're to

4 apply in this case. Ms. Brown has been indicated by the

5 State of South Carolina for two counts of driving felony

6 DUI, one resulting in death and one resulting in serious

7 bodily injury. To this indictment, she's entered a plea

8 of not guilty. Therefore, it place the burden upon the

9 State of South Carolina to prove each and every element of

10 this indictment to you beyond a reasonable doubt.

11 Now, your job is to pay close attention to the

12 evidence in this case and reach a verdict in this case

13 based on that evidence. The evidence is going to come to

14 you in basically three forms. First of all through sworn

15 testimony from the witness stand. Witness is going to

16 come before you under oath and testify as to what he or

17 she saw or observed. The other way that you may receive

18 evidence is through documents or photographs that I rule

19 under our law is admissible. And the third way that you

20 may receive evidence is through stipulations of the

21 attorneys. That's how you going to see the evidence in

22 this case that you must base your verdict on.

23 Now, the lawyers going to get up in a few

24 minutes and make an opening statement, that is not

25 evidence. Even the questions that the lawyers ask is not

1 evidence in this case. The lawyers will sit together and
2 tell -- explain to you what this case is about. And what
3 they think the evidence is going to show or not show.
4 Then we present the evidence in this case. At the end of
5 the case, the lawyers going to get up and argue to you as
6 to what they think the evidence shows in this case or the
7 evidence did not show. I will charge you on the law and
8 give you this case to decide.
9 It's very important for both sides that you pay
10 close attention. Because if you get it wrong, it's very
11 hard to correct that. If I make a mistake, at some other
12 time and some other place it will be reviewed and
13 corrected, but it's very hard to correct a mistake that
14 the jury makes. I will try to take a break every hour,
15 hour and a half. I try not break in the middle of a
16 witness' testimony, but sometime we have to. Having said
17 that, if any of you need a break at all, just simply raise
18 your hand because it's very important that all of you pay
19 close attention. And if you're uncomfortable for any
20 reason, you can't pay attention. So if you need a break,
21 raise your hand. I'll stop the testimony and send you
22 back to the jury room and take a break and then bring you
23 back out and finish the testimony.
24 Now, I'm also going to tell you you can't talk
25 about this case with anyone while this trial is going on.

1 You can't discuss it with any of the parties. You can't
2 discuss it with any of your family. I don't want you to
3 read anything to the newspaper, doing any research.
4 Everything you learn about this case you got learn in this
5 courtroom. You can't even talk about it among yourselves.
6 And I understand that seems a bit strange. When you go
7 back there on a break and you heard the testimony of one
8 or two witnesses, why can't we talk about what that
9 witness said. And the reason I don't want you to because
10 if you do at the end of the case, you going to want to
11 defend that opinion you had at the beginning of the case
12 through your fellow jurors. And I don't want you to start
13 sharing those opinions and discussing this case until you
14 heard all of the case, until you heard the testimony in
15 its entirety as well as the law that I will charge you.
16 And then and only then will it be proper for you to
17 discuss the case and that's why that rule is in place.
18 It's very important for both sides that you're a fair and
19 impartial juror. And that you going to listen to the
20 facts and reach a verdict based on that. So that's why
21 our rules are in place and it's important that follow
22 those rules. In a few minutes, the lawyers going to make
23 an opening statement to you. Then we'll begin the
24 testimony. And at the end I will charge you on the law
25 that you're to apply in this case.

1 Mr. Solicitor.
2 MR. DURANT: Thank you, Your Honor. May it
3 please the Court.
4 THE CLERK: Your Honor ---
5 THE COURT: You see I've already messed up. The
6 clerk's got to swear you all in.
7 (WHEREUPON, the jury is sworn.)
8 MR. DURANT: May it please the Court.
9 THE COURT: Yes, sir.
10 MR. DURANT: Ladies and gentlemen of the jury,
11 good afternoon. Back on August the 30th 2014, on a
12 Saturday night just before midnight a fatal car accident
13 occurred off of Highway 261 between Paxville and Manning.
14 That collision which claim the life of a 39 year old
15 Hispanic male Guillermo Lopez-Arenas and permanently
16 disabled his passenger 36-year-old male, that collision
17 was the direct result of two intentional acts by the
18 Defendant Tammy Brown. It was the direct result of two
19 decisions that she made. Number one was to get behind the
20 wheel of her car severely intoxicated. Number one was to
21 get behind the wheel of her car and drive her vehicle
22 while severely intoxicated. And number two was to drive
23 that vehicle at an exceedingly high rate of speed at
24 least, at least 20 miles per hour over the speed limit for
25 that area.

1 My name Chris Durant. I'm assistant solicitor
2 here in Clarendon County. I been assistant solicitor here
3 since 2011. I was in another circuit before that. And
4 I'm from Clarendon County. I'm from the Gable section of
5 Clarendon County on the north end. And my job as a
6 assistant solicitor, as a prosecutor is to represent the
7 interest of South Carolina, to represent the interest of
8 the community.
9 Now, the Supreme Court has said that the duty,
10 the job of a solicitor is not just to seek convictions.
11 It's not just seek convictions for all the cases that come
12 into our office. The job of a solicitor is to ensure that
13 justice is done. And make no mistake about it, that's
14 your job as well to see that justice is done in this case.
15 The burden -- and you'll hear this phrase a lot
16 throughout the course of this trial. By the way, I don't
17 mean to be the **bearer** of bad news, but this case is
18 probably going to last about three days and there's
19 reasons for that. And number one is that the defendant
20 has significant rights. The defendant has rights that
21 have to be protected, so we have to go through the process
22 to make sure that those rights are protected and honored.
23 And there's a lot of to evidence to present to make you
24 all aware.
25 It's going to take probably three days to get

1 all the evidence presented to you all and make sure the
2 defendant's rights are protected. But the burden of the
3 solicitor is to present the case. The burden of the State
4 of South Carolina is to prove the elements of the crimes
5 charged beyond a reasonable doubt. You may hear that
6 phrase a lot. So I'm just going to tell you what it
7 means, but before I do that, I want to say that if at any
8 point during this trial I say anything in regards to the
9 law that contradicts what Judge Cothran tells you with
10 respect to the law, then you need to disregard what I say
11 and apply the law you hear from Judge Cothran.
12 But, ladies and gentlemen, I submit to you that
13 proof beyond a reasonable doubt is proof that would leave
14 you firmly convinced in a defendant's guilt. Firmly
15 convinced the crimes which Ms. Brown, Tammy Brown is
16 charged with you all heard before when Your Honor read the
17 indictment. Those two counts of felony driving under the
18 influence. That's different than just regular driving
19 under the influence. Felony driving under the influence
20 that means somebody was injured. Two counts, one
21 involving death and one involving great body injury. Very
22 quickly felony driving under the influence is defined as
23 when a person while under the influence of alcohol and or
24 drugs drives a vehicle and does an act forbidden by law,
25 in the driving of that vehicle which act proximately

1 caused the death or great bodily injury. And the facts of
2 the case are these back on the August 30th 2014, around
3 midnight Ms. Brown was on her way home. She been out
4 drinking with friends. She been taking tequila shots.
5 She had got behind the wheel of her vehicle to drive home
6 and she even made a drink for the road. She took a drink
7 to the road with her as she drove home that evening.
8 She's the only occupant of her vehicle. She came up
9 around the Home Branch intersection of Highway 261 coming
10 from Paxville towards Manning where Home Branch T's into
11 Highway 261. If you have been that way, you might recall
12 that that's a 45 mile per hour zone coming over the crest
13 of the hill there and there's a sign one that says 45 mile
14 per hour zone. You got to slow down because it's an
15 intersection. She was going at least 65. You'll hear
16 testimony in this case. And as she came to the Home
17 Branch Road intersection, she hit another vehicle in the
18 rear. She rear ended a vehicle. I'll go ahead and tell
19 you the occupant of that other vehicle were heavily
20 intoxicated as well.
21 Law enforcement responded. They conducted an
22 investigation determine that Ms. Brown had hit second
23 vehicle with such force as to bend the steel frame a
24 pickup truck into a 90-degree angle. She hit the rear of
25 the vehicle with such force as to bend steel frame into a

1 90-degree angle killing the driver of that vehicle and
2 severely injuring his passenger. He never recovered from
3 his injuries.
4 South Carolina highway parole has accident
5 investigation team that's called MAIT multidisciplinary
6 accident investigation team. They responded. They
7 investigated, came out, took measurements. Investigation
8 to determine how this accident happened to reconstruct the
9 accident. They made two important findings. Number one
10 is that the victims they didn't pull out in front of
11 Ms. Brown. They didn't fail to yield the right of way.
12 They couldn't see Ms. Brown when they pulled out. They
13 didn't violate any laws in turning on to Highway 261. And
14 number two if Ms. Brown had not been speeding this
15 accident would not have occurred. Matter of fact, if she
16 had she been speeding, she wouldn't have even had to hit
17 the breaks. You will hear testimony. This accident would
18 not have occurred.
19 Ladies and gentlemen, you're going to hear that
20 testimony from the officer's involved, from all the
21 personnel, first responders involved, from chemist,
22 toxicologists, as to Ms. Brown intoxication. You're going
23 to hear that from this witness stand. You're going to see
24 the evidence from the photographs and videos. What I ask
25 you to do is to pay close attention to that evidence. And

1 at the end of the case I'm going to ask you to apply the
2 evidence to the law of the case and to render a true and
3 just verdict. And I submit to you a true and just verdict
4 in this case as Tammy Brown is guilty of two counts of
5 felony driving under the influence. Thank you.
6 MR. BARR: Please the Court, Judge.
7 THE COURT: Yes, sir.
8 MR. BARR: Mr. Durant. Ladies and gentlemen, I
9 introduced myself earlier this morning. It wasn't a very
10 good introduction, but the judge did tell you as he was
11 telling you who represents Ms. Brown he told you my name.
12 And my name is Charles David Barr and I practice law in
13 Kingstree, that's my home. I been practicing law over
14 there now for quite a few years probably about 39 years.
15 And I represent Ms. Tammy Dianne Brown.
16 She is the person that's been described to you
17 as the defendant. And she's the young lady that's seated
18 next to me. And you know as I sat there listening to
19 Mr. Durant's opening remarks to you and that's what they
20 were. They were introductory remarks of what their design
21 to do is essentially to give you a theory of what the
22 prosecution has in mind in terms of trying to establish or
23 trying to prove to you that Ms. Brown did in fact commit
24 the offenses of felony DUI death resulting in one case and
25 serious bodily injury or great bodily injury resulting in

1 the second case.
2 Now, let me just say that on behalf of
3 Ms. Brown, we're not even conceding to you that anybody
4 died. It's element of the offense of felony DUI involving
5 death and it's an element that the prosecution is going to
6 have to prove to you and they going to have to prove it to
7 you beyond a reasonable doubt. So we're not conceding
8 anything. In fact, His Honor will instruct you at the
9 appropriate time that at this juncture in the course of
10 this trial there is some law in South Carolina as in many
11 other states regarding the status of the defendant and
12 that status of the defendant applies to what you will hear
13 later on in the case. When I say the status of the
14 defendant, Ms. Brown is presumed innocent.
15 Now, that's not -- it's not something that I
16 concocted over in Kingstree, but it's a legal presumption
17 that's in our laws. Now, if you notice when you were
18 qualifying as jurors, we were hugging together there at
19 the defense table and, of course, also at the prosecution
20 table because we believe that in terms of qualification of
21 people, what you want to do you is want to screen people.
22 You heard the judge asking you voir dire questions about
23 your beliefs and about how you in particular about
24 drinking alcohol because this case involves drinking
25 alcohol.

1 Now, whether we like or not, it is not unlawful
2 in South Carolina to take a drink and drive. It's only
3 when you consume such a quantity of alcohol and or drugs
4 or a combination thereof that your ability to operate your
5 vehicle is materially and depreciate impaired. Now, in
6 this case, the defendant is charged with two offenses. I
7 will say that the Solicitor correctly quoted the law to
8 you because what those offenses require is that in order
9 to find that Ms. Brown guilty, you'll have to find beyond
10 a reasonable doubt that she was operating her vehicle
11 under the influence. And while operating her vehicle
12 under the influence, she either neglected to do something
13 that the law imposes a duty upon a person to do or she
14 violated some law and that that action on her part is
15 approximate cause of the collision which they're claiming
16 killed one of the persons in this incident.
17 Now, as to whether or not the other defendant or
18 the other person was severely injured, again that's an
19 element of the offense and the prosecution has to prove
20 that to you and prove it to you by a standard that we call
21 beyond a reasonable doubt. I learned a long time ago
22 don't make promises to juries that you can't keep because
23 sometimes they hold you to that.
24 Now, the Solicitor told you a few minutes ago --
25 and I don't want to get too far into the facts of this

1 case because as I said Ms. Brown maintains that she did
2 not commit these offenses. Now, Mr. Durant irrespective
3 of how much he claims to know about the facts, he wouldn't
4 out there that night when this occurred or early that
5 morning. He wasn't there. He didn't see a thing,
6 probably in the bed sleep. And I don't know that they'll
7 be anybody that will come here in front of you and tell
8 you that they saw what happened. But now he did say, he
9 did say this much I notice that when he was talking about
10 the mistake that Ms. Brown made that is taking too much
11 alcohol and that's what he claims. He actually said too
12 much tequila and got a drink for the road, that's what he
13 said. He also said, well, yeah, the two people in the
14 other vehicle were severely intoxicated, that is the
15 driver as well as the passenger. Now, he said that the
16 speed limit on that road was 45 miles an hour. I don't
17 think the evidence was going to show that, but that's what
18 the prosecutions told you. And I think that Ms. Brown was
19 probably driving at a reasonable speed when she made
20 contact with the vehicle that was up in the road in front
21 of her.
22 Now, you may hear some testimony with regard to
23 how this actually occurred I don't know, but I can tell
24 you from where I'm sitting as a defense lawyer and as a
25 lawyer for Ms. Brown, I do want you to remember that she

1 doesn't have to prove anything. His honor has read to you
2 and told you what is in the indictment and the indictment
3 is a charging paper. It has not evidentiary value at all.
4 It's a charging paper. He had told you what's in the
5 indictment and the indictment describes what the defendant
6 is actually charge with. But with respect to that
7 indictment in addition to the burden of presumption of
8 innocence, we have talked briefly about the standard of
9 proof that requires -- that is required in terms of
10 finding Ms. Brown guilty.
11 Now, ladies and gentlemen, before I sit down,
12 let me just tell you that that presumption of innocence is
13 a powerful presumption. It does not require the defendant
14 to prove anything. It requires absolutely the prosecution
15 to prove each and every element of the offense that she is
16 charged with and prove each and every element beyond a
17 reasonable doubt.
18 The Solicitor allude to one and at the
19 appropriate time his honor is going to tell you from this
20 bench exactly what the law says a reasonable doubt is. I
21 can tell you right -- it's the kind doubt that -- well, it
22 must be firmly convinced that the prosecution -- and you
23 can speculate all day, I tell you nine times out of ten
24 the 12 of you all sitting here will never ever know what
25 really happened out there and that seldom have occurred.

1 Now, what the law -- the law does not charge you with the
2 responsibility -- the law charge you with the
3 responsibility of deciding whether or not the prosecution
4 has convinced you by competent evidence that they proved
5 the defendant's guilt beyond a reasonable doubt.
6 Now, if you're not convinced at the end of the
7 day that that has been prove to you, his honor will
8 instruct you that your charge is to find Ms. Brown not
9 guilty. That's what your charge is. And that's what you
10 took an oath to do. You took an oath to sit down and to
11 listen to the evidence and to be impartial judges, to be
12 jurors and decide with no ax to grind whether or not the
13 prosecution has met their burden. And, ladies and
14 gentlemen, I show you at the end of the day if you
15 discharge that duty and that responsibility. And his
16 honor is going to tell you that in our jury system at the
17 end of day you gone have to come back with a unanimous
18 verdict, that's what they require. Your verdict must be
19 unanimous, that means that you all must agree that the
20 prosecution has met their burden. And if you should
21 decide that they have not done that, then you must come
22 back with a verdict of not guilty. Thank you.
23 MR. DURANT: State call Billy Ward.
24 THE COURT: If you come around to be sworn, put
25 your left hand on the Bible and raise your right hand.

1 MR. DURANT: Your Honor, I ask you give the
2 court reporter time to mark these.
3 THE CLERK: Raise your right hand and place your
4 left hand on the Bible and repeat your name please.
5 THE WITNESS: Billy Ray Ward.
6 THE CLERK: You solemnly swear that the
7 testimony that you're about to give will be the truth and
8 nothing but the truth so help you God.
9 THE WITNESS: I do.
10 MR. DURANT: Your Honor, the State intends to
11 introduce a series of photographs in State's 1 through 12
12 I believe without objection.
13 MR. BARR: No objection, Judge.
14 THE COURT: Okay. State's 1 through 12 is in
15 evidence without objection.
16 (WHEREUPON, State's Exhibit1-12 Nos. were
17 admitted into evidence.)
18 MR. DURANT: Thank you, Your Honor.
19 WHEREUPON,
20 Billy Ward,
21 after first having been duly sworn, testified as follows:
22 DIRECT EXAMINATION
23 BY MR. DURANT:
24 Q Mr. Ward, if you would, tell the jury where you work?
25 A Where I work, sir?

1 Q Yes, sir.
2 A Clarendon County fire department. I'm the captain
3 with the Clarendon County fire department, been there
4 about 10 years.
5 Q Been there for ten years when you working back in
6 August of 2014?
7 A Yes, sir, actually I was off duty that day responded
8 as a volunteer with the fire department.
9 Q Tell the court what you responded to that evening?
10 A We got a tone out. When we get a call, it tones out.
11 We got a vehicle accident on Highway 261 near Home Branch
12 intersection unknown entrapment. I arrived on scene
13 approximately few minutes after midnight. I found a
14 two-car vehicle collision involving a small pickup truck,
15 which had run head on into a tree in a sedan type vehicle.
16 There was two occupants in the small pickup. The driver
17 -- both occupants were unresponsive unconscious when we
18 arrived on scene. The driver was not breathing at the
19 time when we first arrived on scene. The passenger he was
20 unresponsive, but he was still breathing when we got on
21 scene. The vehicle accident it was a lot of separation
22 about 200 feet between vehicles. One was the sedan the
23 passenger vehicle at the closer to the intersection of
24 Home Branch Road and Highway 261 and the pickup truck had
25 went forward about 200 feet and run head on into a tree.

1 Q Now, you mention that -- well, first of all, were you
2 the first responder that arrived on scene?
3 A One of the first. There was another volunteer that
4 got there probably about a minute before I did, but he
5 didn't have a radio to give a scene size up. So when I
6 got there, that's -- I took control of the radio.
7 Q Anybody else EMS or law enforcement on scene yet at
8 that time?
9 A There's bystanders.
10 Q Just bystanders?
11 A Yes.
12 Q Were they out of their vehicles?
13 A Yeah, there was several people. They was already
14 standing around vehicles as soon as we pulled. They were
15 kind of describing what we had two people in this car
16 unresponsive unconscious and Ms. Brown was at her car.
17 Q Okay. Now, Mr. Ward, tell me about the condition
18 again that a jury again about the condition of the
19 occupants of the pickup truck when you arrived on scene?
20 A As I said, the driver was unconscious, unresponsive
21 not breathing. I think there was a bystander maybe a
22 nurse. I can't exactly remember, but it said that they
23 wasn't breathing and didn't have a pulse, but the
24 passenger they was unconscious, but they was breathing at
25 the time when we arrived there. And EMS they arrived

1 probably a minute after I got there.
2 Q Did you actually assist or check the vitals of either
3 one of the passengers?
4 A No, sir, I didn't.
5 Q But were they unresponsive?
6 A Yes.
7 Q Both of them?
8 A Both were unresponsive.
9 Q What about the driver of the white vehicle, was that
10 individual on the scene at the time?
11 A Yes, and when I arrived, we figured out there was two
12 vehicles. One of the volunteers, I can't exactly remember
13 who it was sent them to go check on Ms. Brown said she was
14 out of the vehicle walking around. So we focused all our
15 attention to the two individuals in the truck. And
16 shortly after that EMS got there took over medical part.
17 Q All right. Were you still on scene when law
18 enforcement arrived?
19 A Yes.
20 Q Okay. Tell me what other responsibility -- what else
21 did you assist with on the scene of the accident?
22 A We're -- our primary focus in the fire department in
23 a wreck like that is the extraction part. Due to the
24 damage of the vehicle, we had to do extended extrication
25 using our tools, cutting the doors off. I think we

1 actually had to -- I know we had to pull the doors off.
2 The dash was impacted in on both the victims. We had to
3 remove all that to get them out.
4 Q To get the bodies -- to get the victims bodies out of
5 the pickup truck?
6 A Yes, sir.
7 Q Okay. The fire department had to cut some pieces of
8 the vehicle in order to get the bodies out; is that right?
9 A Yes, sir.
10 Q I'm going to make one last ditch effort to get this
11 projector up and running. Let me go ahead and show you
12 these series of photographs first let me show you State's
13 Exhibit 1. If you would just describe for the jury what
14 you see there?
15 A That's we're going 261 toward Manning about the
16 intersection of Boyd Road. It's where the white sedan was
17 found in the roadway of Boyd Road at approximately two to
18 300 feet up the road was the pick up truck against the
19 tree on the edge of the roadway.
20 Q And is this the location and the condition in which
21 you found the white vehicle when you respond to the scene
22 that evening?
23 A Yes, sir.
24 Q State's Exhibit 2 what are we looking at here?
25 State's Exhibit 2 this is just another angle closer to the

1 white vehicle; is that right?
2 A Yes, sir.
3 Q Let me ask you what is this item on the ground beside
4 the white vehicle?
5 A Looks like part of her bumper maybe.
6 Q But whatever that is that was on the scene when you
7 arrived?
8 A Yes, sir.
9 Q Again this is the location that you found the white
10 vehicle when you arrived at the scene?
11 A Yes, sir.
12 Q Now, is this y'alls fire truck out here?
13 A That should be our rescue and our engine should be
14 right behind it and that's the vehicle -- the pickup truck
15 beside the tree.
16 Q Now, if you would point that out to me now. You said
17 the pickup truck that was struck is visible in this
18 photograph?
19 A Yes, sir, but the lights is -- the big tree, the only
20 tree, the first tree in front of the white vehicle is
21 where the small pickup ended up at off the roadway.
22 Q Let me show you State's Exhibit 4 what are we looking
23 at here?
24 A That's the white sedan.
25 Q This is the front end of the white sedan?

1 A Yes, sir.
2 Q Where you found it?
3 A Yes, sir.
4 Q Is it the five -- the same thing?
5 A White vehicle.
6 Q Side of the white vehicle. Let me show you State's
7 Exhibit 6 what are we looking at here?
8 A Right in front of the white vehicle where it's
9 heading towards where the small pickup truck is upside the
10 tree.
11 Q Is seven just a closer shot of that pickup truck?
12 A Yes, sir.
13 Q Let me show you State's Exhibit 8 what are we looking
14 at here?
15 A That's the driver of the pickup truck.
16 Q Okay. Is this the condition and the location in
17 which you found them when you arrived at the scene?
18 A Yes.
19 Q And again was he responsive at all?
20 A No.
21 Q Showing you State's Exhibit 9 this appears to be the
22 rear end of the black pickup truck?
23 A Yes, sir.
24 Q And again this is where you found it at the crime
25 scene?

1 A Yep.
2 Q This is exhibit ten another angle of the pickup
3 truck?
4 A Yes, sir.
5 Q Eleven and 12. Now, State's Exhibit 11 is that --
6 would that be fair to say that that is after the driver
7 and the other occupant of the pickup truck had been
8 extricated?
9 A Yes, sir. We extricated the passenger vehicle. They
10 was in EMS care. They left the scene before we could move
11 the deceased driver. We had to wait on the coroner to
12 arrive on scene and highway patrol had to go through there
13 series of events.
14 Q Now, were you still at the scene when the coroner
15 arrived?
16 A Yes.
17 Q And do you know whether or not -- who was the
18 coroner? Who came out there from the coroner's office?
19 A Hayes Samuels.
20 Q Mr. Samuels himself responded to the scene?
21 A Mr. Samuels himself responded.
22 Q And you were still there when Mr. Samuels got there?
23 A Yes, sir.
24 Q Do you know what result, if any, Mr. Samuels made
25 after checking on the driver of the vehicle?

1 A I do not.
2 Q Was anybody else from the coroner's office out there?
3 A No.
4 Q Were you still at the scene when highway patrol
5 arrived?
6 A Yes, I was at the scene when they arrived and an
7 officer arrived, but not when the MAIT team arrived.
8 Q Prior to the coroner arriving at the scene, do you
9 know whether or not anybody -- whether the driver's body
10 had been moved?
11 A No, sir.
12 Q No, sir, it hadn't?
13 A No, it has not been moved.
14 Q It had not been moved.
15 A I mean, it may have been. EMS may have moved it just
16 to get their monitor on it to see if they still had a
17 rhythm, but other than that it had not been moved him.
18 Q All right. So the driver's body would have still
19 been located inside of the pickup truck when the coroner
20 arrived?
21 A Yes.
22 Q What about the passenger?
23 A We had extricated the passenger and EMS had took them
24 to the hospital.
25 Q Okay. The passenger had some signs of life still?

1 A Yeah, had signs of life when the left with EMS.
2 Q Do you know how he was transported to the hospital?
3 A He went from the scene in the ambulance, but once
4 they got to the hospital, I don't know if he was put on a
5 helicopter there and flew somewhere or not.
6 Q Did you or anybody else from the fire department had
7 any further involvement in this case?
8 A Not that I'm aware of.
9 MR. DURANT: All right, sir. Mr. Ward, that's
10 all the questions I have. Please answer any that Mr. Barr
11 has for you.
12 MR. BARR: Madam court reporter, identification
13 Defense Number 1 through 5.
14 (WHEREUPON, Defendant's Exhibits Nos. 1-5 were
15 marked for identification only.)
16 CROSS-EXAMINATION
17 BY MR. BARR:
18 Q Now, Mr. Boyd -- what did you say your name was?
19 A Mr. Ward.
20 Q Mr. Ward. I see. And you work for the fire
21 department?
22 A Yes, sir.
23 Q Now, when you got call to this accident scene, you
24 got there and the photographs that's been entered into
25 evidence did you take those photographs?

1 A No, sir, I did not.
2 Q But you looked at them?
3 A I looked at them just then when they were presented.
4 Q Well, you just testified a few minutes ago as to what
5 they depicted in the photographs?
6 A Yes, on scene. The photos depicted what I were what
7 I seen on scene.
8 Q I see. Well, let me let you look at Defense --
9 what's been marked and identified as Defense 1 through 5
10 for identification and tell me whether you looked at those
11 as well?
12 A They were looked at and they were not. And it was
13 blurry. And I'm almost positive I looked at them.
14 Q These you looked at these two?
15 A I did not look at nothing in the daylight.
16 Q So when you were testifying just a minute ago
17 regarding the photographs that you did look at that were
18 taken that night, first of all you didn't take the
19 photographs; is that correct?
20 A Yes, sir, that's correct.
21 Q So you were just telling the ladies and gentlemen of
22 this jury what appeared to be in the photographs?
23 A Yes, I was there that night and I was not there when
24 the photograph was taken, but the photographs described
25 what I seen on scene.

1 Q I see. And you indicated that you went to the
2 vehicle that the men in the pickup truck were passengers?
3 A Yes, sir.
4 Q Okay. Now, in terms of what you found, you said you
5 found two people in the vehicle and they appear to you or
6 did they appear to you to be unconscious?
7 A Yes, they were both unconscious.
8 Q Now, of course, if one of them was deceased, you
9 don't know that do you because you not qualified to make
10 that kind of diagnosis, aren't you?
11 A No, that's correct. EMS makes that decision.
12 Q So now as far as it took the people in the vehicle
13 even though you said that they appeared to be unconscious,
14 you don't know whether they were unconscious before the
15 collision in the road drunk or how long they were there,
16 do you?
17 A No, sir, the only thing is that's the way I found
18 them.
19 Q That's how you found them. I see. Now, I'm going to
20 redirect your attention to what's been marked into
21 evidence and offered into evidence as State's Exhibits 1
22 and 4 and ask you to take a look at those. You've already
23 talked about them.
24 A I look at them.
25 Q Yes, sir. Now, in -- let me have them for just a

1 second. In State's Exhibit Number 4, now I believe you
2 said when you got to the accident you found the white
3 vehicle in the location where it is now; is that correct?
4 A That's correct.
5 Q Now, there is an object on the right side somewhere
6 near passenger door on the right side of the white car.
7 Do you know what that was?
8 A Looking at another picture it looks like it may have
9 been a tool box.
10 Q Tool box from the pickup truck. Of course, you
11 weren't able to determine that it was a tool box, right?
12 A Looking from a different view, it is a tool box,
13 that's correct.
14 Q It's a tool box. Now, there is road sign that's that
15 you can see on the side of the road. I think it might be
16 Boyd Road. Is that -- can you see that?
17 A That's correct.
18 Q And would you not agree that that vehicle was
19 probably a couple of yards beyond Boyd Road?
20 A Yes.
21 Q And Boyd Road is a little dirt road that you can go
22 back into and go to a whole bunch of people houses back
23 there on Boyd Road?
24 A Yes.
25 Q You ever been back there?

1 A It's been a couple years.
2 Q I see. Now, would you not agree that. Now, would
3 you not agree that that photograph does not show Home
4 Branch Road, does it?
5 A No, it does not.
6 Q And would you not agree that in terms of the actual
7 location of Home Branch Road if you were traveling -- in
8 this vehicle I believe is traveling south on Highway 261;
9 is that correct?
10 A Going toward Manning.
11 Q Yes, sir, going south. Now, would you not agree that
12 if you were traveling north in the other lane of traffic,
13 you'll come to Home Branch Road on the right side?
14 A Yes, Home Branch would be on the right side.
15 Q I see. All right. Now, did you take a look at
16 State's Exhibit Number 4? Now, you looked at and you told
17 us what you -- what was depicted in that photograph. Now,
18 you're looking at the reverse side of the tool box, aren't
19 you?
20 A Yes, sir.
21 Q And I know that there appears to be some liquid in
22 the road. Did you see that? Look like maybe oil,
23 antifreeze, did you see that in the road?
24 A On the night of the wreck, I never -- another one of
25 our first responders went and checked on that vehicle. I

1 never made it to actually look at that vehicle that night
2 just looking down the road. I never actually walked up to
3 the vehicle that night. I sent another one of your first
4 responders to check on the victim of that vehicle and to
5 check that car.
6 Q Now, I notice when the officer -- when the highway
7 patrolman standing on what would be my right side of the
8 vehicle now, I notice it doesn't appear to be any kind of
9 liquid on that side and all the liquid seem to be drained
10 over there on the left side. Did you see that?
11 A As I said, the night of the accident I never walked
12 and actually got that close to the vehicle to look at it.
13 Q You didn't pay it any attention?
14 A No, sir.
15 Q I'm about through here. I'm going to redirect your
16 attention to something that you did see. And I'm
17 referring to State's Exhibit Number 1. Did you have
18 occasion to see the tire tread marks in the road? They
19 lead right up to the back of the little white car. Did
20 you see that?
21 A I notice it in the picture. Like I said, I did not
22 notice it that night of the accident.
23 Q I don't want to get these mixed up. Now, I think
24 Hayes Samuel, the coroner, came and did his investigation
25 whatever the coroners do. He got there before you left;

1 is that right?
2 A Yes, sir.
3 Q And, of course, in South Carolina, coroners come
4 around -- and how long you said you been working as a
5 fireman?
6 A Ten years.
7 Q You've had occasion before to work automobile
8 accidents where the car coroner comes on the site?
9 A Yes, sir.
10 Q Coroner comes on and they'll pronounce somebody dead
11 and that's apart of their job, isn't it?
12 A Yes, sir.
13 Q You ever seen any one of them examine anybody?
14 A Not on scene.
15 Q They just pronounce them dead?
16 A Correct.
17 Q All right. So now you -- if either one of the
18 occupants of the pickup truck was dead, you don't know how
19 long he was that way, do you?
20 A No, sir, I do not.
21 Q In fact, you don't know how long he had been in the
22 pickup truck, do you?
23 A No, sir, the only thing we go by is when we receive
24 the call.
25 Q Yes, sir. Yes, sir.

1 MR. BARR: Thank you, sir. I have no further
2 questions.
3 MR. DURANT: No redirect, Your Honor.
4 THE COURT: Thank you, sir. You can step down.
5 (WHEREUPON, the witness leaves the witness
6 stand.)
7 MR. DURANT: The State would call Bucky Mock.
8 THE COURT: Okay.
9 THE CLERK: Raise your right hand, place your
10 left hand on the Bible and repeat your name please.
11 THE WITNESS: Bucky Mock.
12 THE CLERK: You solemnly swear the testimony
13 you're about to give will be the truth and nothing but the
14 truth so help you God?
15 THE WITNESS: I do.
16 WHEREUPON,
17 Bucky Mock,
18 after first having been duly sworn, testified as follows:
19 DIRECT EXAMINATION
20 BY MR. MCMILLAN:
21 Q Mr. Mock, good afternoon. If you would please tell
22 the jury where you work?
23 A I am now the coroner of Clarendon County.
24 Q How long have you been the coroner?
25 A Since January 18th.

1 Q Since Mr. Samuels passed away?
2 A That is correct.
3 Q Of course, that's Hayes Samuels who was coroner here
4 for decades before you took office in January?
5 A Correct.
6 Q Okay. And how did it come about that you became the
7 coroner in January?
8 A I have worked as a deputy coroner for Hayes Samuels
9 and for coroner Randy Stevens for 21 years.
10 Q So you actually had been in the coroner's office
11 during that -- throughout that period of time for 21
12 years?
13 A I worked as a deputy coroner on a as call basis. And
14 after the coroner died, the county administrator had me be
15 acting coroner until the governor's appointment.
16 Q Okay. Now, as the new coroner and prior deputy
17 coroner, are you the records custodian for all the records
18 of the coroner's office?
19 A That is correct.
20 Q Okay. And have you had occasion to examine the
21 records with respect to a traffic collision that occurred
22 back on August the 30th 2014?
23 A Yes, I have.
24 Q And based upon your examination of those records, do
25 you know who responded to that accident scene from the

1 coroner's office?
2 A The records states that the Hayes Samuels responded
3 to that accident.
4 Q So Mr. Samuels went out there himself. And do you
5 know where the accident occurred according to the records?
6 A The records states that the accident occurred on
7 Highway 261 between Home Branch Road and Brandom Road.
8 Q That's here in Clarendon County?
9 A That is correct.
10 Q Which is why Mr. Samuels was assign to investigate
11 it?
12 A Yes.
13 Q Okay. And do you know what time Mr. Samuels would
14 have gone out there?
15 A I got the time that the accident happened, but I
16 don't have the actual time that the coroner got there.
17 Q According to Mr. Samuels' records, what time did the
18 accident occur?
19 A 2356.
20 Q Which would be 11:56 p.m.?
21 A That is correct.
22 Q And do you know whether based on the records, whether
23 Mr. Samuels pronounced any of the parties involved at the
24 scene whether or not he pronounce anybody as deceased?
25 A The record states that the time that he pronounce the

1 person was 2356.
2 Q And who was that person?
3 A It was Guillermo Lopez-Arenas.
4 Q And based upon the records, do you know whether or
5 not Mr. Samuels would have made contact with Mr.
6 Lopez-Arenas next of kin?
7 A In Mr. Samuels notes, it says -- it's got the next
8 kin name and phone number, but there's no note that he
9 actually talked to them or not.
10 Q Okay. So at some point that evening, he got contact
11 information for next of kin?
12 A Correct.
13 Q Identified this individual and pronounced that
14 individual as deceased?
15 A Yes.
16 Q Okay. Do you know whether or not Mr. Samuels gave an
17 opinion as to the cause of death?
18 MR. BARR: Judge, I think I'm going to object to
19 that. I think even if he had gave an opinion he's not
20 qualified. And I'm going to object to that. I don't know
21 that he did give an opinion, but if he gave one, he
22 certainly wasn't qualified to do that.
23 MR. DURANT: And, Your Honor, I guess, I would
24 just respond briefly that that's the coroner's job death.
25 Every death certificate produced by the coroner's office

1 includes a cause of death.
2 MR. BARR: Judge, they do that sometimes, but
3 they just hadn't gotten sued for it yet. They're not
4 qualified. They're not qualified to determine cause of
5 death.
6 THE COURT: You all come up here.
7 (WHEREUPON, a bench conference was held in the
8 presence of the jury, but out of the hearing of the
9 jury.)
10 THE COURT: Ladies and gentlemen, I need to send
11 you to the jury room. Don't discuss the case yet. I will
12 get you back out.
13 (WHEREUPON, the jury retire to the jury room.)
14 THE COURT: While up at the bench, the objection
15 was made that the coroner's determination for cause of
16 death, that he's not able to cross-examine as to how he
17 arrived at that. And for the record, the coroner's report
18 says the cause of death is a broken neck and trauma to the
19 thoracic and chest. Either one of you all want to be
20 heard on it.
21 MR. DURANT: Judge, again the State's position
22 is that the coroner has statutory authority to make that
23 finding and determination and as the custodian of records
24 of the coroner's office.
25 THE COURT: I understand that. And normally he

1 has that authority, but normally as far as it goes, you
2 know, the defense got a right to cross-examine him about
3 how he came up with that cause of death. You know, if he
4 had an autopsy and some pathologist says that they found
5 this is the cause of death, but I don't have anybody to
6 cross-examine him to determine the cause of death. I
7 mean, I don't know how you determine that he had a broken
8 neck. If he was here, he could cross-examine him. He say
9 I examine the body. I been doing this 40 something years
10 or 50 years and his neck was broken, but I don't have it.
11 All right. Unless, you got some epiphany, I'm going to
12 take a few minutes and go back and look at this thing.
13 MR. DURANT: Judge, I guess, I would just
14 question -- it seems like the analysis turned out or
15 whether or not it's an issue, I guess I would make the
16 argument that it's not testimonial if that finding is made
17 by the coroner for purpose of a death certificate which is
18 in every case it's not -- it's testimony used in a trial
19 of the case.
20 THE COURT: Then what is it for?
21 MR. DURANT: For a death certificate.
22 THE COURT: You hadn't put in a death
23 certificate. This is the coroner's report. The coroner
24 is not here to ask about cause of death.
25 MR. DURANT: It's the same cause of death on the

1 death certificate is not the same.
2 THE COURT: It is the same. You don't have a
3 right to cross-examine him on he reach that conclusion.
4 You know, I understand it's unusual, but you got a coroner
5 that can't testify. I don't know.
6 MR. DURANT: Just so the record is clear, Judge,
7 Mr. Samuels obviously passed away in January of this year.
8 THE COURT: Right. Let me think about this and
9 I'll be back in a few minutes.
10 (WHEREUPON, a break was taken.)
11 THE COURT: State vs. Griggs, State vs.
12 Westmoreland based on those two cases, I don't think the
13 opinion on the cause of death of the coroner's report is
14 admissible. In fact, also he's not here to be
15 cross-examined as to how he arrived at it. Okay.
16 MR. DURANT: Yes, sir.
17 THE COURT: You can move forward with your next
18 question.
19 MR. DURANT: We ready for the jury, Your Honor.
20 THE COURT: I didn't know if you had any
21 questions outside the presence.
22 (WHEREUPON, the jury came into open court.)
23 MR. DURANT: May it please the Court.
24 THE COURT: Yes, sir.
25

1 BY MR. DURANT:
2 Q Before we broke, I had asked you a series of
3 questions about the way Mr. Hayes Samuels coroner's
4 report was issued in this matter, of course, you are the
5 custodian of records for. And I believe you testified
6 that an individual name Guillermo Lopez-Arenas was
7 pronounced dead by Mr. Samuels at 11:56 p.m.; is that
8 right?
9 A That's correct.
10 Q I believe you also testified Mr. Samuels report list
11 a time of the accident is 11:56 p.m.; is that correct?
12 A A place the time of occurrence was 11:56, that is
13 correct.
14 Q All right. So the time of death and the time of the
15 occurrence is both 11:56 p.m.?
16 A Yes, sir.
17 Q According to Mr. Samuels' report?
18 A Yes.
19 Q And does Mr. Samuels report also include the merit as
20 to where the deceased party was located in the vehicle?
21 A No, it doesn't.
22 Q Okay. Do you have a copy of the coroner's report
23 with you?
24 A Yes.
25 Q Direct you to the back page narrative section. If

1 you would just tell the court -- tell the court
2 Mr. Samuels determine in his narrative?
3 A The narrative it says the deceased is a 38 year old
4 Hispanic male that was driving ---
5 MR. BARR: Objection, Your Honor, hearsay.
6 MR. DURANT: Your Honor, I believe it's hearsay
7 exception would be that it's the public record is
8 maintained by Mr. Mock as the custodian of records for the
9 coroner's office.
10 MR. BARR: Your Honor, I don't think he has
11 testified that he was the custodian of records for the
12 coroner's office.
13 MR. DURANT: Your Honor, I can ask that question
14 again.
15 THE COURT: I thought he did testify to that.
16 Let me see that report.
17 MR. DURANT: Your Honor, and if it please the
18 Court, I'll be glad to rephrase my question to narrow the
19 question.
20 BY MR. DURANT:
21 Q Mr. Mock, based on Mr. Samuels' report, where was the
22 deceased individual located in the vehicle?
23 MR. BARR: Your Honor, it's still hearsay. He's
24 testifying to what Mr. Samuels said.
25 THE COURT: I understand that Mr. Samuels is not

1 here. He is deceased. But if it's in his report he was
2 in the vehicle.
3 A It states the decease was driving the vehicle.
4 THE COURT: Okay. Well, that part of the report
5 is hearsay because that is not his observation. At the
6 time the coroner arriver where he was located was his
7 observations.
8 MR. DURANT: That's the question.
9 THE COURT: I understand that, but that wasn't
10 the answer. Can you ascertain from the report where his
11 body was located in the vehicle?
12 THE WITNESS: No.
13 THE COURT: Okay.
14 MR. DURANT: That's all the questions I have,
15 Judge.
16 THE COURT: Mr. Barr, do you have any questions?
17 CROSS-EXAMINATION
18 BY MR. BARR:
19 Q Now, you say you were Hayes Samuel's deputy?
20 A I was one of his deputies that's correct.
21 Q And you when he went out to this accident scene were
22 you with him that -- early that morning?
23 A No, I wasn't.
24 Q So would you not agree that with respect to Hayes
25 Samuels report that you be testifying to, you don't know

1 anything about the reliability of the information that's
2 contained in the report that you testified to?
3 A As custodian of the records, all I can do is testify
4 by what's on the record.
5 Q But you don't know anything it?
6 A No, I don't.
7 Q With respect to the time that he pronounced death,
8 Hayes Samuels 2356?
9 A That's what it says in the report.
10 Q Okay. What time did he say the occurrence occurred?
11 A In the report?
12 Q Yes, sir.
13 A It says 2356.
14 Q Same time?
15 A Correct.
16 Q Now, do you have any knowledge of Hayes Samuels going
17 out to do an investigation? Do you know how long it took
18 him to get there after he was called?
19 A I don't know that, sir.
20 Q You did assist him on occasions as his deputy
21 coroner?
22 A I did many cases as deputy coroner where I worked the
23 case and wrote the report.
24 Q You would agree that at least as to the report he was
25 supposedly died at the same time he was pronounce dead,

1 the time was the same?
2 A That's what the report looks like.
3 Q Now, of course, you know that couldn't possibly be,
4 could it? Hayes Samuels would have had to be there at the
5 time the death occurred and he wasn't there then, was he?
6 MR. BARR: All right. Thank you, sir, nothing
7 further.
8 THE COURT: Anything further?
9 MR. DURANT: Just to clarify one point.
10 REDIRECT EXAMINATION
11 BY MR. DURANT:
12 Q Mr. Mock, if you would look on the coroner's report,
13 I guess it's the fourth line down that states place of
14 death.
15 MR. BARR: Your Honor, object it's going beyond
16 the scope of cross-examination.
17 MR. DURANT: I hadn't asked a question yet.
18 MR. BARR: Well, you referred to the line on the
19 coroner's report which I did not ask about anything on
20 that line.
21 THE COURT: Ask the question.
22 MR. DURANT: If I could just ask the question,
23 Your Honor.
24 BY MR. DURANT:
25 Q Mr. Mock, if you look at the fourth line down says

1 place of death out beside it it has a time?
2 A Yes, sir.
3 Q What is that time?
4 MR. BARR: Objection, Judge.
5 THE COURT: What's the ground?
6 MR. BARR: The place of death is beyond the
7 scope of cross-examination irrespective of what time it
8 is.
9 THE COURT: I understand that, but he didn't ask
10 him what the place of death was. He ask him on the form
11 where it says place of death is there a time written down.
12 He's ask him about time. And you ask him about time.
13 I'll allow the question.
14 BY MR. DURANT:
15 Q Mr. Mock, is there a time listed out beside the place
16 of death?
17 A Yes, sir, it's 2356.
18 Q And what does that time on the form correspond to?
19 A That one says place of death and list the place of
20 death.
21 MR. BARR: Judge, he's asking for an opinion and
22 he's not qualified to give an opinion. His opinion is
23 irrelevant. He's asking him to look at it and compare the
24 time of the -- as to where death occurred and his opinion
25 as to what that is is irrelevant.

1 THE COURT: He ask him what was on the report.
2 He can testify as to what's on the report.
3 MR. BARR: He asked him what it correspond to,
4 Judge.
5 BY MR. DURANT:
6 Q Mr. Mock, let me rephrase. Based on -- you familiar
7 with the form?
8 A Yes.
9 Q You used this form before?
10 A Yes.
11 Q Okay. You mentioned that you been out to several
12 scenes by yourself working as a deputy coroner?
13 A Many.
14 Q And do you use this report when you go out to a
15 scene?
16 A Yes.
17 Q Okay. Out beside the place of death where it list
18 the time, what did he usually put in that block for the
19 time?
20 A When I fill out a report, I put the time that I feel
21 the death occurred.
22 Q Okay. That's the time of death?
23 A Correct.
24 Q Okay. So that portion of the4 form notifies or
25 includes a notation as to the time of death. What is time

1 of death as noted on Mr. Samuels' form with regard to this
2 accident?
3 A The time of death is the same 2356.
4 Q 11:56 p.m.?
5 A Correct.
6 MR. DURANT: That's all the questions I have.
7 THE COURT: Thank you, sir. You can step down.
8 (WHEREUPON, the witness leaves the witness
9 stand.)
10 THE COURT: Ladies and gentlemen, I got some
11 matters of law that I got to take up outside of your
12 presence and they're probably going to take the balance of
13 this afternoon. So I'm going to send you home and ask you
14 to be back at 9:30 in the morning. Don't discuss this
15 case and allow anyone to discuss it with you. And don't
16 talk about it with your family because if they like my
17 family, they might have an opinion as to what you ought to
18 do and they hadn't been here. I'll see you back at 9:30.
19 I need you to be here. If you have an emergency, you need
20 to call us. Because if you're not, I got to send somebody
21 looking for you because I can't get started until all of
22 you show up. Have a great evening. See you in the
23 morning.
24 MR. DURANT: Your Honor, before the jury leaves,
25 may I approach?

1 THE COURT: Yeah.
2 Hold on just a minute.
3 (WHEREUPON, a bench conference was held in the
4 presence of the jury, but out of the hearing of the
5 jury.)
6 THE COURT: All right, ladies and gentlemen,
7 it's 10:30 now and not 9:30, okay. I'll see you all back
8 at 10:30 in the morning.
9 (WHEREUPON, the jury is excused for the day.)
10 MR. BARR: Judge, so that you will be aware of
11 where we're going. In addition to the suppression hearing
12 that is the Jackson vs. Denno hearing and hearing on
13 the -- that was made during the transportation to the
14 detention center, we will also move to suppress the --
15 move to quash the search warrant as an additional basis
16 for our motion to suppress the blood test results. It is
17 the position of the defense that the affidavit supported
18 the search warrant defense issue.
19 THE COURT: Okay. All right.
20 MR. DURANT: Judge, we prepared to go forward
21 and argue that suppression.
22 THE COURT: What time do you want to start?
23 MR. BARR: I though we was going to do it
24 tomorrow.
25 MR. DURANT: We'll be prepared in the morning

1 regarding that issue. I'll have the witnesses that are
2 necessary here.
3 THE COURT: What time do you all want to get
4 started in the morning? I don't have any idea how long
5 it's going to take. You all know more about what the
6 witnesses going to say than I do.
7 MR. DURANT: Well, in regards to the -- two of
8 the witnesses are the same for both the Jackson vs. Denno
9 issues and the suppression issues. The only additional
10 witness would be Judge Locklair the magistrate that signed
11 the search warrant. Those will be the three witnesses.
12 Judge, I would hope we can handle it in an hour.
13 THE COURT: Okay. So what time do you all want
14 to start back in the morning?
15 MR. DURANT: 9:30.
16 THE COURT: Okay. All right. I'll see you all
17 at 9:30.
18 MR. DURANT: An hour sounds find to you, Mr.
19 Barr?
20 MR. BARR: Maybe an hour and a half.
21 MR. DURANT: Start nine o'clock, Judge, that's
22 fine.
23 THE COURT: We'll start at nine then.
24 MR. BARR: You waking me up early.
25 MR. DURANT: You need to go to bed before

1 midnight.
2 MR. BARR: I wouldn't have to stay up until
3 midnight if you all wouldn't throw all of this paper and
4 stuff at me I can go to bed at a reasonable time.
5 THE COURT: So we done with this case for the
6 day?
7 MR. DURANT: Yes, sir, Your Honor.
8 (WHEREUPON, the proceedings were concluded for
9 the day to be reconvened on May 15, 2018.)
10 (WHEREUPON, State's Exhibits Nos. 13-45, 48 were
11 marked for identification only.)
12 THE COURT: Okay.
13 MR. DURANT: Your Honor, prepared to go
14 forward -- back on the record, of course, with State vs.
15 Tammy Dianne Brown indictment 2014-GS-14-408. I'm
16 prepared to go forward on the issues of the defendant's
17 voluntariness or the defendant's statements, as well as a
18 suppression hearing, with respect to blood sample and
19 urine sample that were taken from the defendant. Your
20 Honor, in the interest of just court efficiency two of my
21 witnesses overlapped and so what I would propose as to the
22 proceed be to call those law enforcement officers and
23 question as to each issue and then have argument on each
24 issue in turn following testimony.
25 THE COURT: You got any objection to that, Mr.

1 Barr?

2 MR. BARR: No, sir.

3 THE COURT: All right, call your first witness.

4 MR. DURANT: The State would call Trooper

5 Jeffrey Minnix.

6 THE CLERK: Do you solemnly swear to tell the

7 truth and nothing but the truth so help you God?

8 THE WITNESS: I do.

9 WHEREUPON,

10 Jeffrey Minnix,

11 after first having been duly sworn, testified as follows:

12 DIRECT EXAMINATION IN-CAMERA

13 BY MR. DURANT:

14 Q Trooper Minnix, if you would just briefly or quickly

15 tell the Court where you work?

16 A I work in Sumter and Clarendon Counties of South

17 Carolina.

18 Q For who?

19 A For South Carolina Highway Patrol.

20 Q I know you're not in uniform today. What's the

21 reason for that?

22 A I broke my ankle several weeks ago and I'm on sick

23 leave right now.

24 Q So you're not allowed to appear in uniform while

25 you're on sick leave?

1 A Yes, sir.
2 Q You still employed by the highway patrol?
3 A Yes, sir.
4 Q You expected to return to work in a couple weeks?
5 A Yes, sir.
6 Q Trooper Minnix, were you assign to investigate the
7 accident that we're here in court about that occurred back
8 on August 30th of 2014 on Highway 261 in Clarendon County?
9 A Yes, sir.
10 Q Were you the -- you were the actual investigating
11 trooper assign to work the case?
12 A Yes, sir.
13 Q What time did you arrive on scene?
14 A I believe it was about approximately 1223.
15 Q Am?
16 A Yes, sir.
17 Q Okay. With the following day the 31st?
18 A Yes, sir.
19 Q Okay. And what is the estimate time as to the actual
20 accident?
21 A The estimated time was going to be 2356, which is
22 11:56 on August 30th that night.
23 Q Just before midnight August 30th?
24 A Yes, sir.
25 Q You weren't the first one that arrived on scene?

1 A No, sir, I was not the first responder.
2 Q Okay. Who else was on scene when you got there?
3 A If I'm not mistaken, I believe fire was on scene,
4 EMS, and there was a deputy there. They had secured the
5 scene to keep bystanders from interfering.
6 Q Sheriff office deputies?
7 A Yes, sir.
8 Q Okay. So other first responders. Was EMS already on
9 scene?
10 A Yes, sir, I believe so.
11 Q The fire department, EMS, the Clarendon County
12 sheriff's office, deputies were all on scene when you
13 arrived?
14 A Yes, sir.
15 Q Did you have another trooper with you?
16 A Yes, sir, I did.
17 Q And who was that?
18 A Corporal Dubose.
19 Q Was she asked to ride in the vehicle with you?
20 A Yes, sir. At this time I was still on what we call
21 FTO and the training program we do a two-month ride along
22 with our training officer. And she was my training
23 officer at the time.
24 Q Okay. So Trooper Dubose was actually with you in
25 your vehicle when you arrived on scene and did she assist

1 you with the investigations?
2 A Yes, sir.
3 Q Tell the Court what you did when you got there?
4 A We arrived on scene. I activated my body mic and my
5 camera were on. When we got out, we went over to the
6 pickup truck was the closest vehicle to us, so we
7 approached that. We talked to EMS -- correction we talked
8 to fire first and they informed us that the driver of the
9 vehicle was DOA at that time. And they were extricating
10 the passenger of the vehicle. We then walked down to the
11 other vehicle that was involved in the collision which was
12 some distance away. While we were walking down there, I
13 was taking pictures. And when we got to the vehicle, we
14 just kind of walked around the vehicle to see what kind of
15 damage was done. They told us that the driver of white
16 vehicle was in the ambulance which was off of Boyd Road.
17 Q Who told you that fire department?
18 A Fire department.
19 Q Okay.
20 A They had basically informed us that the ambulance
21 was parked on Boyd Road at the intersection there and EMS
22 was taking care the driver of the vehicle.
23 Q At some point did you have conversation with the
24 defendant?
25 A Yes, sir, I went into the ambulance at that time. I

1 went in EMS was taking care of the driver of the vehicle.
2 I asked her her name.
3 Q Before you get there, what was the purpose in
4 speaking with her at that point?
5 A Just trying to figure out what was going on, what had
6 happened during the collision because at that point in
7 time we had a rough idea of what had happened, but we like
8 to interview the people that were actually involved in it
9 just to kind of confirm our findings of what we're seeing.
10 Q Okay. Tell the Court about your conversation with
11 the defendant?
12 A When we spoke to the driver of the vehicle, she
13 identified herself as Tammy Dianne Brown, spoke to her,
14 asked her where she was coming from. She told me she
15 coming from a friend's house. At that point in time I can
16 smell a strong odor of alcohol beverage coming from her
17 person. I asked her if she had anything to drink. She
18 said, yes, she had two tequila shots. Then she quickly
19 changed it to, no, she had two wine coolers instead. I
20 was like okay. I asked her what was in the clear cup in
21 the vehicle at the time. And she said a friend of hers
22 made her a drink to go. She believed it was a wine
23 cooler. I said okay. At that point in time EMS was ready
24 to take her to the ER, so I exited the ambulance and they
25 proceeded to get ready to take her to the ER.

1 Q Now, at any point during this conversation, was she
2 advised of her Miranda rights?
3 A No, sir.
4 Q Okay. Was she arrested at this point?
5 A No, sir.
6 Q Was she in custody?
7 A No, sir.
8 Q Prior to speaking with her, do you believe that you
9 had reason to arrest her or place her in custody?
10 A Prior to speaking to her, no, sir.
11 Q Okay. Was she deprived -- is her freedom any way
12 about law enforcement at that point?
13 A No, sir.
14 Q Was anybody else there present with you during that
15 conversation?
16 A Just the EMTs in the ambulance.
17 Q Okay. And again the conversation took place in the
18 back of the ambulance?
19 A Yes, sir.
20 Q Tell me about Ms. Brown did she have any apparent
21 injuries?
22 A If I'm not mistaken, she did have some scratches and
23 some scrapes on her. They were more concerned about any
24 sort of internal injuries and so that's why they were
25 trying to get her out of there as quickly as possible to

1 the ER.
2 Q All right. After speaking with Ms. Brown in the
3 ambulance, you said the ambulance left and took her to the
4 hospital. Did you convey that information to Trooper
5 Dubose who was there with you?
6 A Yes, sir, I did.
7 Q Immediately?
8 A Yes, sir, as soon as I left, I walked back over to
9 Corporal and I explain to her what consisted of the
10 interview. I told her, you know, what Ms. Tammy Brown had
11 told me. And we continued to work the collision after
12 that.
13 Q Okay. So you stayed at the accident scene, continued
14 to work the collision. And EMS had gone with Ms. Brown to
15 the hospital?
16 A Yes, sir.
17 Q Okay. And law enforcement didn't go with her to the
18 hospital?
19 A No, sir.
20 Q If at some point thereafter after finishing your
21 investigation or after continuing your investigation for a
22 time at the scene, did you then go to the hospital and
23 speak to Ms. Brown again?
24 A Yes, sir.
25 Q Okay. Tell the Court about your interaction with

1 Ms. Brown at the hospital?
2 A Once we got to the Clarendon Memorial ER, we went in.
3 We spoke to Ms. Brown again. Again we asked her, you
4 know, to kind of clarify some of the aspects of what
5 happened. She told us that the individuals had -- were
6 trying to pass somebody and it been a head on collision
7 they hit her.
8 Q Let me back up for a minute. Before you spoke with
9 Ms. Brown at the hospital, did you advise her of her
10 Miranda rights?
11 A No, sir. She still -- she was not placed under
12 arrest at that time.
13 Q Okay. Continue to tell me about the conversation
14 with Ms. Brown at the hospital?
15 A As soon as she got done relating her story of what
16 happened, that's when we told her she was under arrest for
17 felony DUI. We read her Miranda rights to her. I do have
18 a card that I carry. I did read them off the card. Then
19 she was read her implied consent rights. At that point in
20 time excuse me -- she had agreed to provide a blood
21 sample. Once we told her she was being placed under
22 arrest for felony DUI, she decided she didn't want to
23 provide a blood sample any more. She became belligerent.
24 She started yelling that she didn't kill nobody. Nobody
25 died out there how could she kill somebody if they hit

1 her. At that point in time ---
2 Q These statements were all after Miranda?
3 A Yes, sir. And after her implied consent rights were
4 already read. So Corporal Dubose left to go secure a
5 search warrant. I stayed at the hospital. I was not in
6 the actual trauma room. I was just outside of the nurses
7 station. And basically she just kept ranting for, I
8 guess, approximately about an hour or so until Corporal
9 Dubose arrived.
10 Q Was anybody with her?
11 A No, just the nurses were with her.
12 Q Let me back up to the Miranda rights that you read to
13 her. You said you read them off of a card?
14 A Yes, sir.
15 Q You keep that card with you in your wallet?
16 A Well, I keep it actually in my hat band, yes, sir.
17 Q Okay. You don't have that card with you today, do
18 you?
19 A No, sir, I don't.
20 Q Did you advise her that she had a right to remain
21 silent?
22 A Yes, sir.
23 Q Did you advise her that she had a right to an
24 attorney?
25 A Yes, sir.

1 Q And to have an attorney there present with her during
2 questioning if she so desired?
3 A Yes, sir.
4 Q Did you advise her that if she could not afford an
5 attorney that one would be provided for her?
6 A Yes, sir.
7 Q Did you advise her that anything that she said could
8 and would be used against her in court?
9 A Yes, sir.
10 Q Did you advise her that at any point if she wanted to
11 stop the questioning she could do so?
12 A Yes, sir.
13 Q Okay. And did she appear to understand those rights?
14 A I believe so, yes, sir. They appeared to be, yes,
15 sir.
16 Q All right. And again she continued to speak with you
17 after having been advised of those rights?
18 A Yes, sir, not just to me but more ---
19 Q In your presence?
20 A In my presence, yes, sir.
21 Q So Corporal Dubose left to go get the search warrant?
22 A Yes, sir.
23 Q Okay. And at some point she returned to the hospital
24 with the search warrant?
25 A Yes, sir.

1 Q Was the defendant's -- was the blood and urine sample
2 taken from her at that point?
3 A Yes, sir, she was read the search warrant. She was
4 served the search warrant. A blood sample and urine
5 sample were both taken.
6 Q In your presence?
7 A Yes, sir. The urine sample wasn't taken in my
8 presence. It was actually taken in Corporal Dubose's
9 presence, but the blood sample was taken in mine.
10 Q Corporal Dubose is, of course, a female officer?
11 A Yes, sir.
12 Q Okay. Now, after placing her under arrest, reading
13 her her Miranda rights and implied consent rights and
14 serving the search warrant upon her and taking her blood
15 sample, what did you do with Ms. Brown?
16 A We then transported her to Clarendon County detention
17 center.
18 Q She didn't require any further treatment from medical
19 personnel?
20 A No, sir.
21 Q Okay. So you -- did you transfer her yourself in
22 your patrol car?
23 A Yes, sir, I did.
24 Q And is that patrol car equipped with a recording
25 device?

1 A Yes, sir.
2 Q And it's pointed towards the passenger?
3 A It was an older system. It was the VHS system, so
4 the cameras it's a single occular camera. So when we got
5 in, I have to turn the camera around to face the
6 passenger. So, yes, I turn the camera around and it was
7 facing her for the duration of the drive from the
8 hospital.
9 Q I want to show you what's been marked as State's
10 Exhibit 47. It's a felony DUI Tammy Brown disk two. You
11 recognize that?
12 A Yes, sir, that's my handwriting.
13 Q Okay. Tell the Court what that is?
14 A That's going to be the actual video from the -- the
15 trip from the hospital to the detention center.
16 Q Okay.
17 MR. DURANT: Your Honor, I ask permission to
18 publish this to the Court for the purpose of this hearing.
19 (WHEREUPON, DVD disk played for the judge.)
20 THE COURT: Okay.
21 BY MR. DURANT:
22 Q Trooper Minnix, is that video is it a fair and
23 accurate representation of your trip from the hospital to
24 the jail with Ms. Brown that evening?
25 A Yes, sir.

1 Q Is that video altered or edited in any way?
2 A No, sir.
3 Q At any point during any of your conversations with
4 Ms. Brown, did you threaten her or coerce her in any way?
5 A No, sir.
6 Q At any point did she ask you to -- advise you that
7 she didn't want to answer your questions or ask for an
8 attorney?
9 A No, sir.
10 Q To the best of your knowledge, were her statements
11 given to you given freely and voluntarily?
12 A Yes, sir.
13 MR. DURANT: Trooper Minnix, that's all the
14 questions I have, just answer any Mr. Barr has for you.
15 CROSS-EXAMINATION IN-CAMERA
16 BY MR. BARR:
17 Q Trooper Minnix, I'm Charles David Barr and I practice
18 law in Kingstree?
19 A Yes, sir. How you doing, sir?
20 Q I don't think we've ever met before.
21 A No, sir. How are you?
22 Q Now, you are currently employed by the South Carolina
23 Highway Patrol?
24 A Yes, sir.
25 Q And what is your rank?

1 A I'm a trooper first class, sir.
2 Q And how long have you been employed with the highway
3 patrol?
4 A Since January 2014.
5 Q So you got probably about almost ---
6 A Almost five years, yes, sir.
7 Q Almost five years. And you -- I noted during those
8 five years you have had occasions to investigate
9 automobile accidents?
10 A Yes, sir.
11 Q Okay. And as far as the area where you are assign
12 to, what area are you assign to?
13 A Sumter and Clarendon Counties.
14 Q Sumter and Clarendon County?
15 A Yes, sir.
16 Q Okay. So are you familiar with Highway 261 from
17 McCall's farm to Paxville?
18 A Yes, sir.
19 Q And are you familiar with the various road signs that
20 appear on the road to control traffic?
21 A Yes, sir, as far as speed limit signs and stuff like
22 that, yes, sir.
23 Q Speed limit signs?
24 A Yes, sir.
25 Q Is it fair to say that all the speed limit signs as

1 far as you know they are on a white poster with the black
2 trim?
3 A Most of them, yes, sir.
4 Q And have you had an occasion to travel from Paxville
5 back to Manning?
6 A Yes, sir.
7 Q Do you know how many speed limit -- posted speed
8 limit signs there are from Paxville back to Manning?
9 A I would estimate probably three to four. I couldn't
10 be absolutely sure, sir.
11 Q Now, the three or four that you know are they all
12 white posted signs with the black trim?
13 A Most of them, yes, sir.
14 Q Well, what other speed limit signs do they say speed
15 limit?
16 A Those are the only ones that say speed limit, yes,
17 sir.
18 Q The ones with the white sign and black ---
19 A Yes, sir.
20 Q And to the best of your knowledge as a highway
21 patrolman they're there to control the speed limit?
22 A Yes, sir. Yes, sir.
23 Q Now, there are some other signs that are on the road
24 between here and Paxville?
25 A Yes, sir.

1 Q That are yellow signs.
2 A Yes, sir.
3 Q As a highway patrolman, are those signs meant to
4 control speed too?
5 A Yes, sir, what it is it's coming up to certain
6 intersections they want to reduce that speed coming up to
7 those intersections because it's hard for the people that
8 are coming from those side roads to determine what's
9 happening on that roadway, that major roadway. So it kind
10 of -- they're there to slow traffic down coming into those
11 areas so that individuals have enough time -- have ample
12 time to make a decision whether they're going to enter
13 traffic or not.
14 Q But those are not speed limit signs?
15 A As far as I know they are, yes, sir.
16 Q I thought you said earlier that all the speed limit
17 signs are white speed limit signs were ---
18 A I didn't say that. I said the ones that say speed
19 limit are white with black lettering, but as far as the
20 yellow signs, the yellow normally means caution and the
21 speed limit drops down to whatever that determination of
22 speed is.
23 Q They mean caution?
24 A It's a caution to let people know caution, but then
25 the speed limit is reduced normally in those areas by DOT

1 for that purpose.
2 Q Reduce normally. They don't say reduce speed, do
3 they?
4 A Most of them don't, no, sir.
5 Q All right. So you were dispatched to the area of
6 Boyd Road and Highway 261 and you were informed that there
7 had been an automobile accident?
8 A Yes, sir.
9 Q Okay. You were accompanied by Trooper Dubose?
10 A Yes, sir.
11 Q When you arrived at the accident scene, I noticed
12 that you indicated that you had your body mic?
13 A Yes, sir.
14 Q And was it working?
15 A Yes, sir, it was. Would you like me to explain?
16 Q No, sir.
17 A Okay.
18 Q Not yet. I want to know whether it was working?
19 A Yes, sir, it was working.
20 Q Now, you indicated to the Court that you when arrived
21 at the scene you had occasion to have a conversation with
22 Ms. Brown?
23 A Yes, sir.
24 Q And was your body mic working at that time?
25 A It was on. Unfortunately, I was so far away from my

1 vehicle that it did not pick up our conversation.
2 Q So now you done this before. You've investigated
3 automobile accidents and you questioned the people
4 involved in the accident?
5 A Yes, sir.
6 Q You know how to do that, don't you?
7 A Yes, sir.
8 Q And according to the purpose of having the body mic,
9 you record the conversation; isn't it?
10 A Most of the time, yes, sir.
11 Q Well, that's what you got the body mic on for?
12 A Yes, sir, but we can't be in control of the
13 technology and the sufficiencies of those technologies.
14 Q Are you telling us that as a highway patrolman you
15 don't know what the range is in order to activate
16 effectively record a conversation?
17 A No, sir, what I'm saying is is that sometimes our
18 body mics they pick up. And if we're in a vehicle, they
19 may not pick up. It just depends. This was a VHS system
20 was older equipment.
21 Q All right. Well, here's the bottom line, Ms. Brown
22 as you said made some statements to you about her
23 consumption of alcoholic beverages and you recorded none
24 of it?
25 A No, sir.

1 Q All right. But now based on your recollection, you
2 did say she told you initially that she had some tequila
3 and then she told you that she changed it to wine cooler?
4 A Yes, sir.
5 Q And how many wine coolers did she have?
6 A I believe the number of actual drinks didn't change.
7 She told she had two tequila shots and then she changed it
8 to two wine coolers.
9 Q Two wine coolers. All right. Two tequila shots and
10 two wine coolers. She changed it to two wine coolers?
11 A Yes, sir.
12 Q You asked her about a cup that was in the vehicle?
13 A Yes, sir.
14 Q That cup was on the floorboard of the vehicle?
15 A Yes, sir.
16 Q And you asked her what was in the cup?
17 A Yes, sir.
18 Q And did she respond?
19 A Yes, sir, she told her friend that made her -- she
20 told me that a friend had made her one for the road.
21 Q I notice that's what you said -- you said she had
22 made her one for the road?
23 A Yes, sir.
24 Q And did she tell you what the friend had made for?
25 A Yes, sir, she told me that she poured a wine cooler.

1 Q A wine cooler for the road?
2 A Yes, sir.
3 Q Now, did you ask Ms. Brown whether she had dranked
4 any of that wine cooler that she had for the road?
5 A I can't be sure, sir.
6 Q So you don't remember asking her that question?
7 A No, sir, I don't remember asking her that question.
8 Q So you don't remember asking her the question, so you
9 certainly don't remember her telling you that she drank
10 from the cup drank?
11 A No, sir.
12 Q All right. Now, incidentally what happened to the
13 cup?
14 A Pictures were taken before we even touched the
15 vehicle and then I actually picked the cup up. I smelled
16 it, that's why I can smell there was an alcohol -- some
17 sort of alcohol beverage that had been in it. And the cup
18 was put back on the floorboard of the vehicle.
19 Q Now, I notice you didn't say anything in your
20 incident report about smelling any cup, did you?
21 A No, sir.
22 Q You just left that out?
23 A Yes, sir, I guess ---
24 Q It wasn't reported?
25 A No, sir.

1 Q All right. Now, was the cup ever analyzed?
2 A No, sir.
3 Q Okay. Do you know whether or not the vehicle was
4 confiscated after this accident?
5 A From my understanding is MATE would have put a hold
6 on the vehicle, so that they can do their investigation,
7 take their pictures and do their initial investigation of
8 that vehicle. So as far as putting a hold on it, I
9 believe there was.
10 Q So they had their forensic people go over it and go
11 all around it and go all through it?
12 A Yes, sir.
13 Q Okay. You don't know about them finding any evidence
14 of alcohol in the vehicle?
15 A I don't know exactly what their report has it in,
16 sir.
17 Q All right. So now you then decided to -- when you
18 questioned or talked with Ms. Brown, you said that she was
19 not a suspect at that time?
20 A No, sir, we were just ---
21 Q Initially?
22 A Yes, sir.
23 Q And she was not in custody?
24 A No, sir.
25 Q So you were just conducting an investigation to

1 determine who the parties were or who was driving.
2 Somebody told you that she had been driving one of the
3 vehicles?
4 A Yes, sir. We were just trying to confirm that at
5 that time to figure out what happened?
6 Q Well, now you don't deny that as of the time that you
7 claim that she told you that she had had two wine coolers
8 or had one for the road, you kind of suspected DUI?
9 A When she told me that, like I said, just from her
10 demeanor and the alcohol beverage odor coming from her
11 person, I was starting to suspect at that point in time
12 ---
13 Q Starting to suspect?
14 A Starting to suspect, yes, sir.
15 Q She was becoming a suspect then, right?
16 A Starting to suspect, yes, sir.
17 Q All right. Now, so when you went to question her at
18 the hospital at the emergency room, she was already a
19 suspect, wasn't she?
20 A We went to verify what she had told me before, so she
21 still was not a suspect. The reason being is my FTO was
22 with me at that point. And so we just wanted to verify
23 and get more -- so that my FTO could help me make that
24 decision whether she was going to be a suspect or not.
25 Q Well, now you suspected that she had taken alcohol

1 and alcohol was somehow involved in this collision, but
2 yet you said she was not a suspect when you went and talk
3 to her?
4 A No, sir, I suspected, but she wasn't a suspect. She
5 still was not being charged at that time.
6 Q Well, she wasn't being charged, but she was the
7 person driving the vehicle?
8 A Yes, sir.
9 Q Allegedly?
10 A Yes, sir.
11 Q And you pretty much knew that she was driving the
12 vehicle?
13 A Yes, sir.
14 Q And you suspected that she had been taking alcohol
15 and had a bad wreck?
16 A Yes, sir, but that doesn't necessarily mean that she
17 was intoxicated at that point in time. So when we got to
18 the hospital the corporal who has more experience in these
19 situations -- again I was just two months out of the
20 academy. She had a lot more experience in these
21 situations. She was there she help me determine to make
22 that charge of felony DUI.
23 Q Did you Mirandize her at that point ---
24 A Yes, sir.
25 Q --- at the hospital?

1 A Yes, sir.
2 Q Now, you from the time you initially encountered her
3 until the time she got to the hospital, you never offered
4 her any field sobriety test or anything like that?
5 A No, sir. She was already inside the ambulance and
6 they were getting ready to transport her. There was no
7 need to get her out of the ambulance just in case there
8 were any sort of internal injuries.
9 Q Well, now you don't know what her health situation
10 was or did you ask somebody?
11 A No, sir, the EMS was adamant that they were
12 transporting her, so I did not know what her injuries
13 were. I wasn't going to take the chance of getting her
14 outside the vehicle just to give her a field sobriety
15 test.
16 Q You telling this judge that EMS -- somebody from EMS
17 told you that they were adamant about transferring her?
18 A Yes, sir, EMS said we're transporting her. I don't
19 argue with EMS.
20 Q So you didn't ask her anything about -- whether
21 she -- a field sobriety test or anything like that?
22 A No, sir.
23 Q All right. So now you and Trooper Dubose who you say
24 had more experience than you?
25 A Yes, sir.

1 Q Where was Trooper Dubose when you were talking to --
2 I notice you said you were up in the ambulance?
3 A Yes, sir.
4 Q You went up in there and got in there, right?
5 A Yes, sir.
6 Q And Trooper Dubose went in there with you?
7 A No, sir.
8 Q So Trooper Dubose was not present at the time that
9 you questioned initially Ms. Brown?
10 A No, sir.
11 Q Now, did you go back and tell Trooper Dubose, you
12 know, that woman told me she had two drinks of tequila?
13 A I explained to Trooper Dubose what the conversation
14 had happened between myself and Ms. Brown. I told her
15 what had transpired in that conversation.
16 Q When did you tell her that?
17 A Several minutes after I out of got out the ambulance.
18 Q So here you are investigating this accident involving
19 one dead man and one man messed up pretty good and you
20 stopped with your investigation and you went had a
21 conversation with Trooper Dubose and tell her what
22 Ms. Brown told you?
23 A We actually -- we continued our investigation. She
24 was actually taking measurements. I continued to take
25 pictures, but while we were doing that, we conversed, yes,

1 sir.
2 Q So now if we bring Trooper Dubose in her now I put
3 her under oath. If she tell the truth, she'll say that
4 you stopped what you were doing and told her about what
5 Ms. Brown had told you.
6 A Yes, sir.
7 Q All right. Now, you -- did you ever offer her the
8 breath test?
9 A No, sir.
10 Q Never offered the breath test. Did anybody with
11 hospital credentials -- and when I say hospital
12 credentials I'm talking about like a doctor or some
13 qualified nurse or somebody like that. Did anybody like
14 tell you that she could not take a breath test because of
15 some injury that she had?
16 A As far as I know the nurse made that determination,
17 but she's also -- in a felony DUI case, a breath sample is
18 not required just a blood test. And that's why we went
19 and got a blood test.
20 Q Well, here's what I'm talking about, I'm talking what
21 you did. Did you ever -- were you ever told by an
22 official with the hospital -- with a doctor or a nurse
23 that she could not -- that there was something wrong with
24 her mouth or she could not ---
25 A No, sir.

1 Q So you made the decision alone not to offer a breath
2 test?
3 A No, sir.
4 Q Tell us who made the decision?
5 A The State of South Carolina.
6 Q The State of South Carolina?
7 A Yes, sir.
8 Q And who represented the State of South Carolina when
9 South Carolina made this decision? Who was representing
10 you?
11 A No, sir. What we have is is we have implied consent
12 rules. We go by those implied consent rules. In those
13 implied rules, a blood sample is required. They're not
14 required to give a breath test, only a blood sample is
15 required. That's why we're required to get a search
16 warrant for a blood sample.
17 Q So it's your testimony that you alone made the
18 decision not to offer a breath test?
19 A Yes, sir.
20 Q All right. Good. Got that cleared up. Now, the
21 blood test you said that decision -- initially she was
22 kind of cooperative and then when you all told her -- when
23 I say y'all, I'm talking about you and Ms. Dubose that she
24 was under arrest, she then said, no, I'm not giving a
25 blood test?

1 A Yes, sir.
2 Q Give you the blood sample?
3 A Yes, sir.
4 Q Okay. All right. Do you have any recollection --
5 listen to me now. Do you have any recollection of
6 anything you did to assist her in getting an independent
7 sample -- get an independent test?
8 A No, sir. We were at the hospital. She was read her
9 implied consent rights. In the implied consent rights, it
10 says that if she would like independent testing since we
11 were already at the hospital all she had to do was ask the
12 nurse because that's all we're required to do is to
13 provide her that assistance.
14 Q Listen to my question this time.
15 A Yes, sir.
16 Q Do you have any recollection of anything you did to
17 assist her in getting an independent test?
18 A She was at the hospital. I don't take blood.
19 MR. BARR: Judge, would you direct him to answer
20 the.
21 THE COURT: You can answer the question and then
22 you explain it. It requires a yes or no answer.
23 A Okay. No, sir, I did not physically assist her with
24 giving blood or getting blood or anything like that.
25 Again, I'm not a -- I don't take blood. That's not in my

1 qualifications. So I cannot physically do that. What I
2 did was I made sure she was at the hospital. I read her
3 her implied consent rights from implied consent rights
4 state in there that if she would like to have another
5 person of her own choosing she can do that. Since she was
6 already at the hospital she had that choice. I did not
7 stop her from making that choice.
8 Q So the answer to my question is, no, I did not. Do
9 you know if Trooper Dubose did anything to affirmatively
10 assist her in obtaining a blood test, independent test?
11 A No, sir, again same answer she's not qualified to
12 take blood.
13 Q So you were present at the time and you know of your
14 own knowledge that Ms. Dubose did nothing to assist her in
15 getting an independent test?
16 A No, sir.
17 Q All right. Now, listen to my question. From a chain
18 of custody standpoint, after the blood was drawn and I
19 realize you were not present when the urine sample was
20 taken, but when the blood was taken, you were present?
21 A Yes, sir.
22 Q And was delivered to you?
23 A Yes, sir, the two vials were handed to me. I put
24 those two vials inside the case that it comes in. We have
25 a kit, put those two vials inside the kit. I seal the kit

1 up after I signed my initials on the vials where her name
2 is and everything. I put those two vials in the kit. I
3 seal the kit up, fill the top of the kit out, put the kit
4 inside a plastic bag that comes in that kit. I then put
5 that plastic bag inside the next box. I then seal that up
6 and put my initials on it.
7 Q You never gave Ms. Brown a sample?
8 A No, sir.
9 Q Okay. Now, so you then you got the blood and you
10 getting ready to take it to SLED. Before you got to blood
11 though, you said you obtained a search warrant?
12 A Yes, sir.
13 Q Okay. And the search warrant was actually I believe
14 obtained. Trooper Dubose is the one that ---
15 A Trooper Dubose -- yes, sir, Corporal Dubose is the
16 one that actually -- Corporal Dubose is the one that
17 actually secured the search warrant.
18 Q Are you familiar with the search warrant?
19 A Just vaguely, sir.
20 Q So there's no question that you did not actively
21 assist her in drafting the search warrant?
22 A No, sir.
23 Q Okay. And you didn't assist her in relating anything
24 to the magistrate regarding probable cause other than what
25 was in the search warrant?

1 A Me speaking to the magistrate, no, sir, I never spoke
2 to the magistrate about this.
3 Q So nothing independent out there that was told to the
4 magistrate as far as you know that's not in the search
5 warrant?
6 A As far as I never spoke to him, no, sir.
7 Q All right. You didn't talk to him. So any questions
8 regarding the information that either in or not in the
9 search warrant, it would be your position that Trooper
10 Dubose would be the person that would have to answer those
11 questions?
12 A Yes, sir.
13 Q Okay. All right. So who served the search warrant?
14 A Corporal Dubose actually served if I'm not mistaken.
15 We were both in the room, but if I'm not mistaken, I
16 believe Corporal Dubose actually read the search warrant
17 to her.
18 Q She read the search warrant?
19 A If I'm not mistaken, sir, I believe that's what
20 happened.
21 Q The only visible injury you saw on Ms. Brown when she
22 appeared to have some scratches, right?
23 A Yes, sir, I can't be absolutely sure. I believe she
24 did have a little bit of blood on her shirt if I'm not
25 mistaken, but, yes, sir, I believe there were some

1 scratches or such on her arms or something.
2 Q All right. I just got one or two more. Now, you
3 were beginning to feel like alcohol was involved when you
4 went to the EMR (sic) to speak with Ms. Brown and you
5 Mirandized her at that point and had told her about the
6 implied consent -- give her the implied consent?
7 A Yes, sir, after a second interview, we then informed
8 her that she was being placed under arrest and having
9 Mirandized. And then at that same time, we did read her
10 implied consent rights to her.
11 Q That's after the second interview?
12 A Yes, sir.
13 Q All right. You read her her implied consent rights.
14 Now, when she left the hospital, left the emergency room
15 and got in the police cruiser, no question that she was
16 physically in custody then, right?
17 A Yes, sir.
18 Q And, of course, you didn't Mirandize her again?
19 A No, sir. I also didn't ask her any questions either,
20 sir.
21 MR. BARR: I have nothing further, Judge.
22 THE COURT: Okay.
23 MR. DURANT: Just maybe one or two follow up.
24 REDIRECT EXAMINATION IN-CAMERA
25

1 BY MR. DURANT:
2 Q Trooper Minnix, I'm going to show you what's been
3 marked as Court's Exhibit 2. We didn't go over this
4 earlier, but we're kind of expanding the scope of this
5 hearing. If you would tell the Court what that is?
6 A This is the implied consent rights for a felony DUI.
7 Q Do you recognize that particular form?
8 A Yes, sir.
9 Q Okay. Is that the exact form that you read to
10 Ms. Brown on the evening in question?
11 A Yes, sir.
12 Q Okay. And is that your signature at the bottom?
13 A Yes, sir.
14 Q What time -- when is it dated and at what time?
15 A It's dated August 31st 2014. I believe it's going to
16 be 0155.
17 Q That be 1:55 a.m.?
18 A Yes, sir.
19 Q Is that the time that you arrested Ms. Brown?
20 A Yes, sir.
21 Q Was Trooper Dubose present with you when you read her
22 her implied consent rights?
23 A Yes, sir, her signature is on her as well.
24 Q Do you read directly from the form?
25 A Yes, sir, it's all verbatim, yes, sir.

1 Q In its entirety?
2 A Yes, sir, other than the Spanish version at the
3 bottom.
4 Q Right. Did Ms. Brown sign, acknowledging that you
5 had read her those rights?
6 A No, sir, she refused to sign.
7 Q She refused to sign?
8 A Yes, sir.
9 Q And is that notated on the form?
10 A Yes, sir.
11 MR. DURANT: Your Honor, I make that Court's
12 Exhibit for purpose of this hearing.
13 THE COURT: Okay.
14 (WHEREUPON, Court's Exhibit No. 2, 3 and 5 was
15 marked for the record.)
16 MR. DURANT: And that's all the questions I
17 have.
18 MR. BARR: Judge, just so we'll be clear, are we
19 doing the portion of the pretrial and the portion dealing
20 with the failure to do the video now?
21 MR. DURANT: It's your request.
22 MR. BARR: Well, I got few more questions for
23 you.
24 THE COURT: Go ahead.
25 RECROSS-EXAMINATION IN-CAMERA

1 BY MR. BARR:
2 Q You're familiar with the incident site and breath
3 site video requirement for ---
4 A The breath site which would be the BA room, yes, sir.
5 Q Okay. Now, did you -- when you went to the incident
6 site and talked with Ms. Brown, did you videotape
7 anything?
8 A My camera was running. It was unable to pick up
9 anything that happened.
10 Q Listen to my question. Did you videotape anything?
11 A My camera was on. Unfortunately, I was unable to
12 pick up anything that happened inside the ambulance.
13 Q So the answer to my question is I did not videotape
14 anything?
15 A I was video taping the scene of the collision. As
16 far as my interview with Ms. Brown went, it was too far
17 away from the actual camera to pick up anything that
18 happened inside the ambulance, but my camera was on and my
19 body mic was activated. It was unable to pick up because
20 the range was too far.
21 Q Now, you wrote it down, didn't you? The solicitor
22 gave it to me. You said that it was physically impossible
23 to videotape the contact of the driver of white car
24 identified as Tammy Brown at the incident due to the fact
25 that she was required emergency medical treatment. Now,

1 was Ms. Brown -- when you went to the incident site, was
2 she in the EMS at the time?
3 A Yes, sir.
4 Q And you only noticed some scratches that she had?
5 A As far as I can recollect, yes, sir.
6 Q Now, the affidavit that you wrote explaining why you
7 didn't conduct the video it's sign by you; is that
8 correct?
9 A Yes, sir.
10 Q And you prepared it?
11 A No, sir, I did not prepare.
12 Q Who did?
13 A I believe the Solicitor's office prepared it for.
14 Q I believe they did too?
15 A Yes, sir, but that's what happened. I did read it
16 and I did approve it.
17 Q You read it and approve it?
18 A Yes, sir.
19 Q You know why I ask you that?
20 A Go ahead, sir.
21 Q Because it said that it was impossible to conduct a
22 breath test site. You know what that mean breath test
23 site wasn't never any. I don't think you would have wrote
24 that in there if you had done this, would you? Because
25 there was breath test?

1 A No, she was taken to BA room, the blood alcohol test
2 room at the jail.
3 Q The person that actually took the blood from
4 Ms. Brown do you know who did that?
5 A I couldn't tell you her name. I believe it was the
6 actually nurse or somebody that normally draws blood for
7 the ER. I'm trying to think of the actual term they use
8 for that.
9 Q You don't know anything about her qualifications or
10 anything to draw blood?
11 A No, sir, I do not.
12 Q Okay. So you don't know -- did you know her
13 personally?
14 A No, sir.
15 Q So do you know of your own knowledge whether she was
16 authorize to draw blood from somebody?
17 A I believe she was authorize. I just don't know what
18 her qualifications were, no, sir.
19 Q She had on nursing clothes or something like that?
20 A She was the -- I don't know if it was the nurse or
21 whoever it was that draw the blood for them, but whoever
22 it was would have been person that normally draws for
23 them.
24 Q Just somebody that appeared to look like somebody
25 working in the hospital and ought to be able to draw

1 blood, but you don't know?
2 A I don't know.
3 Q Okay. Did you sign Court's Exhibit Number 3 the SLED
4 form that you all used? Did you sign that?
5 A Yes, sir.
6 Q That's your signature?
7 A Yes, sir.
8 Q All right. You took custody of the sample?
9 A Yes, sir.
10 Q And you were present when the blood was drawn, but
11 you were not present when the urine sample -- of course,
12 it wasn't analyzed any how?
13 A Yes, sir.
14 Q So now a blood sample had requested for her
15 independent test? This is the one you sign, right?
16 A Yes, sir.
17 MR. BARR: I have no further questions.
18 MR. DURANT: No further questions.
19 THE COURT: All right. You can step down.
20 (WHEREUPON, the witness leaves the witness
21 stand.)
22 MR. DURANT: Call Trooper Dubose.
23 THE CLERK: Raise your right hand and place your
24 left hand on the Bible and repeat your name please.
25 THE WITNESS: Jennifer Paige Dubose.

1 THE CLERK: You swear the testimony you're about
2 to give will be the truth and nothing but the truth so
3 help you God?
4 THE WITNESS: I do.
5 WHEREUPON,
6 Paige Dubose,
7 after first having been duly sworn, testified as follows:
8 DIRECT EXAMINATION IN-CAMERA
9 BY MR. DURANT:
10 Q Trooper Dubose, if you would tell the Court where you
11 work?
12 A South Carolina Highway Patrol.
13 Q How long you work there?
14 A Twenty-one years -- going on 21 years.
15 Q Twenty-one years you say?
16 A Yes, sir, I graduated patrol school in January of
17 1998.
18 Q Have you been assign to Clarendon County throughout
19 the entirety of that period?
20 A No, sir, when I came out of patrol school, I was
21 station in Florence County. I was station there until
22 2001 I believe. And I got transferred back home to
23 Clarendon. And at that point in time we were in troop
24 seven. And then in 2006 we joined with troop one. And
25 instead of districts it became a troop concept. They

1 joined us with Sumter County and was considered post A and
2 I been there ever since.
3 Q All right. You were working in Clarendon County back
4 on August of 2014?
5 A Yes, sir.
6 Q And were you the training officer for Trooper Minnix
7 at that time?
8 A Yes, sir.
9 Q Were you riding with him on the evening of August
10 30th 2014 when he responded to the accident that led to
11 these charges?
12 A Yes, sir.
13 Q Okay. Tell the Court what you did when you got to
14 the incident scene?
15 A We -- this was Labor Day weekend. We were doing a
16 holiday enforcement plan. We just cleared up from a
17 driver's license check point on Raccoon Road at Silver
18 Road. Myself and Trooper Minnix was on the way to SC 260
19 to hold another driver's license check point when we
20 received a call of a collision with injuries. At that
21 point in time we were still on Raccoon Road, but we were
22 towards the lower end of Raccon Road towards 260. We
23 traveled Raccoon Road north towards 261. Prior to our
24 arrival at the scene at the time Sergeant Darren Wilson
25 who is with our Ace Team was out with us at the previous

1 driver's license check point. He arrived at the collision
2 scene first and he made radio contact with Trooper Minnix.
3 He asked which units were responding to the collision. He
4 made radio contact and advised that there was possibly one
5 fatality in the accident. We arrived on scene. We were
6 coming from the abandoned area. When we arrived on scene,
7 the road way was blocked. The fire, EMS and I believe a
8 sheriff's deputy or some form Clarendon County Sheriff's
9 Department vehicles were there. Trooper Minnix position
10 his vehicle to secure the scene. The first vehicle we
11 came up on was a dark in color pickup truck.
12 Q Before you go any further, let me stop you there.
13 You mentioned there obviously other first responders that
14 had arrived before even Trooper Minnix. How far away from
15 the accident scene did you all have to park when you got
16 there?
17 A We parked as close as we could due to fire and other
18 first responders had the roadway blocked. And there was
19 also traffic that had been backed up that was headed
20 towards Paxville that couldn't go any further, so they
21 were turning traffic around. I don't know the exact feet
22 as far as from Trooper Minnix car to the first vehicle
23 involved which would have been the black pickup. If
24 you're looking at a football field, I'd probably say maybe
25 30, 40 yards from where Trooper Minnix parked to where the

1 pickup truck was.
2 Q Now, the audio-video-recording equipment that Trooper
3 Minnix's car was equipped with at that time, the audio
4 portion is that linked to the video in the car?
5 A It is. And I'm not sure which year Trooper Minnix's
6 car was at that time, but him just graduating out of the
7 academy he had an older model car. And even in 2014, we
8 had not upgrade our systems to the DVD system. So it was
9 a watch guard VHS system. There's a small charging dock
10 in the car that's hooked into the camera system. That
11 charging dock has a range antenna approximately maybe
12 three inches long. And that's what the signal from the
13 body mic bounces back to that charging dock that's in the
14 vehicle and transmits and records over the system in the
15 car.
16 Q And the body mic and microphone attached to the
17 trooper's person?
18 A Yes, it's attached to his belt.
19 Q It continues to record as it gets out of the vehicle?
20 A Correct. Whenever we initiate our lights, any kind
21 of traffic stop where we initiate -- the blue lights turn
22 on, our body mics and cameras turn on. And they can be
23 initiate or turned on by pressing the body mic as well,
24 but you cannot turn it off once it's turned on.
25 Unfortunately, there's no way to turn it off unless you

1 turn your lights off and turn it off in your car.
2 Q All right. What kind of range does the mic have?
3 A It just depends. From my experience, it depends on
4 the training. It depends on, you know, the area that
5 you're in. We have a lot of issues with the foot pursuits
6 running out of range of the body mic and also entering any
7 buildings or any type of structures that would block the
8 signal of the mic back to the vehicle.
9 Q Okay. And can you give me an estimated range and
10 feed or yard as to how far a body mic would go on an
11 average terrain, level terrain?
12 A Average terrain approximately -- I don't know, I'm
13 just doing a football field. I'm sorry, but I would say
14 probably 70 yards maybe or 60 yards, 70 yards.
15 Q All right. Have you had a chance Trooper Minnix's
16 video from the incident scene?
17 A I have not.
18 Q Okay. Have you heard his testimony that he was not
19 within range of his vehicle to record his statement given
20 by Ms. Brown in the back of the EMS?
21 A Correct, yes, sir, I heard his testimony.
22 Q All right. And base on your experience would that be
23 unusual?
24 A No, sir.
25 Q Okay. It was based on where you all had parked

1 circumstances surrounding this incident how far y'all were
2 away from the ambulance would it be unusual for that body
3 mic not to have picked up that recording, that
4 conversation?
5 A No, sir, not that type of distance.
6 Q How far away was the ambulance from where y'all
7 parked?
8 A I'd say at least 150 yards maybe.
9 Q So it was a good distance away?
10 A Yes, sir.
11 Q Okay. When you arrived on the scene, you mention you
12 did some inspection of the scene and inspection of the
13 vehicle at the scene. At some point did Trooper Minnix
14 leave your side to go and speak with Ms. Brown in the back
15 of the balance?
16 A Yes, sir. When we arrived like I said, Sergeant
17 Wilson who was with another division at the time was on
18 scene. We relieved him. He had his vehicle parked in the
19 same area that we were, so he left. Since, it was a
20 holiday weekend our first sergeant, which was PK Floyd at
21 the time and our sergeant Joe Ham, they were out at the --
22 they were conducting road checks with us. So they both
23 responded to the scene. Myself and Trooper Minnix went to
24 the first vehicle which we came to which was the black
25 pick up. Fire department and EMS were working on getting

1 the passenger out of the vehicle. And I observed the --
2 what appeared to be driver or a male subject slump down in
3 the floorboard of the driver side.
4 Q Okay. I'll ask you about your other observations at
5 the scene?
6 A And I was getting to why he left. He -- the fire
7 department says another vehicle involved, so he went down
8 there when our supervisors arrived and my supervisor
9 arrived. I went and spoke with them while Trooper Minnix
10 was in the ambulance and I saw taking measurements trying
11 to secure the scene.
12 Q Okay. After Trooper Minnix spoke with the defendant,
13 Ms. Brown, in the back of the ambulance, did he relay to
14 you her conversation with him?
15 A Yes, he did.
16 Q Okay. And what did he tell you about that
17 conversation?
18 A At some point in time after he spoke with Ms. Brown,
19 he approached me and advise that he had talked to another
20 driver. He gotten her identification and that he had
21 smelled an odor of alcoholic beverage coming from her. He
22 stated that she had admitted that she had been drinking
23 and where she was coming from and the amount of alcohol
24 she said she consumed prior to driving.
25 Q Okay. And had you also during your inspection of the

1 vehicle observed what appeared to be open container of
2 alcohol in the vehicle in her car?
3 A That would have been after he informed me of the
4 situation. We took photos of the vehicle and inspected
5 the vehicle and that's when we -- that's when I saw the
6 clear Solo cup on the floor board.
7 Q All right. Did it upon inspection appeared to have
8 had alcohol substance in it?
9 A Yes, sir, sometime after that I don't know exactly at
10 what point. Trooper Minnix had picked up the cup. He
11 smelled it and he also let me smell it because I was his
12 training officer just to confirm that it was a alcoholic
13 beverage.
14 Q And based on your experience did it smell like
15 alcohol?
16 A Yes, sir.
17 Q And at some point Ms. Brown was transferred to
18 Clarendon Memorial and then you and Trooper Minnix
19 responded to the hospital to speak with her further; is
20 that right?
21 A That's correct. After she was transported, the other
22 officers who were on scene secured the scene for us to
23 leave. We went to the ER and spoke to Ms. Brown in the
24 trauma unit of the hospital.
25 Q Okay. And when you spoke with Ms. Brown at the

1 hospital, were her Miranda rights read to her at that
2 point?
3 A At first they were not. We were still in the process
4 of investigating -- I wanted to confirm Trooper Minnix's
5 -- I wanted to confirm that I smelled the odor of alcohol,
6 the level of her impairment just because he was still in
7 training. He was a fairly new officer, so I spoke with
8 Ms. Brown as well and both made a determination of her
9 impairment.
10 Q Okay. You spoke with her -- tell me about your
11 conversation with her before Miranda at the hospital.
12 What questions were asked of her and what did she say?
13 A As far as I remember, we went back over what
14 happened, how she thought the collision had occurred. I
15 was just observing her demeanor and her -- the way she was
16 acting. As far as I remember, we asked her, you know,
17 what happened. She said that she was -- she wasn't sure
18 somebody came in her lane when she hit them and about her
19 consumption of alcohol I believe at that time. She stated
20 either wine coolers or wine. She had two. Made sure we
21 had all her information as far as her name, date of birth
22 and all that stuff correct. And then that's when myself
23 and Trooper Minnix we asked him in his opinion as far as
24 what charges he would make if I wasn't there. And then I
25 just confirmed him that he would have made -- I believe

1 that she was impaired, so we went forward and asked her to
2 give a sample.
3 Q So at that point the decision to arrest her had been
4 made?
5 A So we asked her if she would give a blood sample.
6 And at some in time after that was asked, she was read her
7 Miranda warning and also her implied consent rights.
8 After the imply consent rights were read, she became very
9 irritated start yelling that, you know, she didn't kill
10 anyone because it was read to her that it resulted in
11 death. She refuse to cooperate as far as blood sample was
12 concerned. So I contacted my supervisor at the time and
13 advised him that we would be needing to secure a search
14 warrant for her blood. And at that time he made some
15 phone calls and found who out who the on call judge was
16 for Clarendon County. And he contacted me back and gave
17 me a couple numbers. I believe one judge that was called
18 was advised -- we were advised to contact Judge Locklair.
19 So I spoke with her over the phone and explain the
20 incident and what other facts surrounding the incident
21 that I would be needing to secure a search warrant.
22 Q And when you spoke with Judge Locklair over the
23 phone, you mention that you had explain to her the facts
24 surrounding the incident. What facts did you explain to
25 her?

1 A Again, I woke her up this is probably 2:30, 3 o'clock
2 in the morning. And I advised her we had a collision in
3 Clarendon County on 261. I advised her it was involving
4 two vehicles and the -- one subject was pronounced dead on
5 scene. And the other subject was in critical condition
6 and was transported by air to Florence. I advised her
7 that the driver -- we believe the at fault vehicle was --
8 had an odor of alcohol beverage coming from her person.
9 She admitted to you consuming alcoholic beverages prior to
10 operating a vehicle. I explain to her what was told to me
11 as far as at first she had stated she had taken two
12 tequila shots. Then she changed it to two wine coolers.
13 I also explain to her that upon my observations at the
14 hospital the subject, you know, appeared to be
15 intoxicated. She had bloodshot eyes and her mannerisms
16 was that of an intoxicated person.
17 Q Okay. Did at some point that evening did you go and
18 meet with Judge Locklair in person?
19 A I did.
20 Q Or that morning rather, I'm sorry?
21 A I did. Once it was relayed to my supervisor that we
22 needed to secure a search warrant, he got in touch with
23 our MAIT team and he was en route. I'm not sure if they
24 were on scene at that time or not. And they sent me a
25 copy of a search warrant and it was on a word document.

1 And I filed in the particulars as far as this accident was
2 concerned and I met with Judge Locklair at her residence
3 to secure a search warrant.
4 Q Let me show you what's been marked as Court's Exhibit
5 1 do you recognize that?
6 A Yes, sir.
7 Q That search warrant relevant to this case?
8 A Yes, sir.
9 Q And that's the search warrant -- does it bear your
10 signature on the affidavit section?
11 A That's my handwriting there and that's my signature.
12 Q Okay. Let me just kind of review it. So we got the
13 cover page here. The description of the premises and the
14 property sought to be acquired by the search warrant. It
15 appears to be signed by -- is that Judge Locklair's
16 signature here?
17 A Yes, sir.
18 Q She sign it in your presence?
19 A Yes, sir.
20 Q And again -- and it's dated August 31st, 2014?
21 A Yes, sir, in the early morning hours.
22 Q What time was it roundabout when you met with Judge
23 Locklair at her house?
24 A It was after three. I'm not sure the exact time.
25 Q After three a.m.?

1 A Yes, sir, around three.
2 Q Okay. And then it's an affidavit section of the
3 search warrant and the reason for the affiants belief that
4 the property sought is on the subject premises, the name
5 below it says Corporal JP Dubose. Is that your signature?
6 A Yes, sir.
7 Q And your address and phone number?
8 A Yes, sir.
9 Q Okay. Sworn to subscribed before me is that Judge
10 Locklair's signature?
11 A Yes, sir.
12 Q Did she in it in your presence?
13 A Yes, sir.
14 Q Okay. And there's a return attached to the search
15 warrant. It looks like the search warrant was executed on
16 August 31at at 3:15 a.m.; is that right?
17 A Yes, sir. Whatever's time on there is correct. I
18 don't remember exactly. It's around three when I met with
19 her, but by the time I got back hospital...
20 Q And tell the Court what was actually obtained from
21 Ms. Brown?
22 A Two vials of blood and one container of urine.
23 Q Okay. So actually two vials were actually obtained
24 two vials of blood?
25 A Yes, sir.

1 Q And one container of urine. And then inventory was
2 made in the presence of Corporal JP Dubose and Trooper
3 Minnix; is that right?
4 A Yes, sir.
5 Q And returned to Judge Locklair when?
6 A September the 4th.
7 Q Okay, 2014. So within ten days the return was made
8 to Judge Locklair?
9 A Yes, sir.
10 MR. DURANT: And I pass this up for the Court to
11 review Court's Exhibit 1.
12 BY MR. DURANT:
13 Q Now, Trooper Dubose went actually went to meet with
14 Judge Locklair at her house, did she put you under oath
15 and swear you in?
16 A Yes, sir.
17 Q Okay. You met with her at her residence outside the
18 residence, inside. Do you remember?
19 A On her back porch.
20 Q On her back porch at three in the morning?
21 A Yes, sir.
22 Q Okay. And did Judge Locklair ask you any questions
23 about how or why you suspected the defendant to be under
24 the influence?
25 A She asked me over the phone and also when we got to

1 her residence we -- I just discussed, you know, what we
2 had found.
3 Q Okay. Did you tell her ---
4 A The same facts that I gave her over the phone.
5 Q Did you tell her under oath about smelling alcohol
6 coming from the defendant's person?
7 A Yes, sir.
8 Q About her having admitted to drinking or to consuming
9 alcohol that evening?
10 A Yes, sir.
11 Q And about the opening container in the vehicle?
12 A I don't remember if I told her about the open
13 container or not. I do remember -- I don't think that I
14 would have conveyed the open container, but I'm not 100
15 percent sure.
16 Q But you're certain you told her about the smell of
17 alcohol from her person and that she had admitted to both
18 you and Trooper Minnix that she had consumed alcohol that
19 evening prior to driving?
20 A Yes, sir.
21 Q After Judge Locklair signed the search warrant, did
22 you then assist with -- you took it back to the hospital
23 and executed it?
24 A Yes, sir, I returned to the hospital and I served a
25 copy on Ms. Brown and read her what was to be searched and

1 what we were requesting as far as the SLED toxicology kit.
2 Q Okay. And then were blood and urine samples obtained
3 by hospital personnel, medical personnel at that point?
4 A They were.
5 Q Okay. And do you remember who that person was?
6 A I don't remember the name of the person. It was ---
7 Q You know whether it was a nurse or phlebotomist?
8 A We told the nurse that we needed a blood sample, but
9 the person who came in and took it I'm not sure. I have
10 to look at the SLED -- the paperwork -- the collection
11 report.
12 Q At any point during your conversation with Ms. Brown
13 upon reading her -- I guess, let me ask it this way. When
14 you read her her implied consent rights, one of the rights
15 that's listed on that form advises her of her right to
16 have a qualified person of her own choosing conduct
17 independent test at her expense and that the officer upon
18 request must provide affirmative assistance?
19 A That was read to her.
20 Q That was read to her. At any point did she verbalize
21 and request to you or in your presence to have someone
22 conduct an independent test of her blood?
23 A No, sir.
24 Q Okay. Did she ask for any assistance to have that
25 done?

1 A No, sir.
2 Q Okay.
3 (WHEREUPON, a short break was taken.)
4 THE COURT: It's 20 minutes to 11. I got a jury
5 sitting out there in the hall.
6 MR. DURANT: I understand.
7 THE COURT: How much longer you think this is
8 going on to take?
9 MR. DURANT: Judge, I've just got a couple more
10 questions and I'll be done with this witness.
11 THE COURT: And then you got another witness?
12 MR. DURANT: Yes, sir, Judge Locklair.
13 THE COURT: What about you, Mr. Barr? I need to
14 send the jury out and tell them to come back in an hour or
15 put them in the jury room?
16 MR. BARR: Judge, I like to cross examine this
17 witness and I don't know who we got next, so I'm sure I'll
18 be cross examining them too.
19 THE COURT: You can send them to lunch and have
20 them come back at one or 1:30.
21 MR. DURANT: That's fine. Of course, we got to
22 argue and Your Honor's got to make a ruling as to the
23 issues too.
24 THE COURT: So what time do you want them to
25 come back at two?

1 MR. DURANT: At 1:30.
2 THE COURT: Tell them come back at 1:30.
3 (WHEREUPON, Court's Exhibit No. 4 was marked for
4 the record.)
5 BY MR. DURANT:
6 Q Let me show you Court's Exhibit 4 do you recognize
7 that?
8 A Yes, sir.
9 Q Tell the Court what it is?
10 A It's a SLED urine blood collection report.
11 Q Okay. And does it indicate who collected the sample?
12 A Angela Floyd.
13 Q And it includes some statements that have to be
14 checked beside them. One of those statements that's
15 checked is that the subject is under arrest for a
16 violation of 56-5-2945 which is, of course, the felony DUI
17 statute and a blood or urine sample as requested. And
18 then there's another line below it says a blood sample is
19 requested by the subject for an independent test. Is that
20 why it appear to be checked as well?
21 A There's a check beside it or up under it, but that's
22 not the -- I fill this form out. The smaller checks were
23 mine. And as you can see where it says this section to be
24 collected -- be check a sample or collection. The
25 phlebotomist or Ms. Angela Floyd she checked there and

1 there. And I think she checked here by mistake because
2 she though she was on that section.
3 Q Okay. But to your knowledge or in your presence, did
4 the defendant did she verbalize any request to you to have
5 independent test done?
6 A No, sir.
7 Q Okay. What was done with the blood samples?
8 A They were sealed, place in SLED evidence toxicology
9 kit and sealed and ready for transport. They were
10 transported to the Sumter Patrol office and placed in
11 evidence.
12 Q And eventually to SLED for testing?
13 A Yes, sir.
14 Q Okay. Are you aware if at any point thereafter Ms.
15 Brown came forward and said, hey, I want to get my
16 independent test done?
17 A No.
18 Q Did she ever to your knowledge did she ever contact
19 highway patrol again and inquire as to whether or not she
20 could have independent facility, independent analyst, make
21 an analysis of the blood sample that was take that
22 morning?
23 A No, sir, it wasn't to me.
24 Q Okay. As far as you know, all SLED procedures for
25 the collection of the blood-urine samples were they

1 followed?
2 A Yes, sir.
3 Q All right. And as to the obtaining and the handling
4 of those samples?
5 A Yes, sir.
6 Q Okay. Were they collected in a clean uncontaminated
7 vial had not been previously used?
8 A Correct. The SLED toxicology kit is sealed whenever
9 we get it and it's an integrity seal. The seal would have
10 broken and the urine container and both vials would have
11 been -- if the seal's not broken never been used.
12 Q And then, of course, it been up to the phlebotomist
13 to follow all the proper procedure for collecting the
14 blood sample?
15 A Correct.
16 Q Such as prepared her skin and placed in an unused,
17 uncontaminated vial and so forth and secured the vial?
18 A It was done in our presence and we did observe that
19 she did not use -- she used the betadine wipe that was in
20 kit. She did not use alcohol.
21 Q So non-ethanol wipe for her skin?
22 A Correct.
23 Q You don't use alcohol wipe to blood sample when
24 you're trying to test alcohol?
25 A Correct.

1 Q And then the blood-urine sample were they placed in a
2 seal packaged or container of some sort?
3 A They were. The same kit contains the urine and
4 blood. And then there's an integrity seal or a shipping
5 seal that goes over it.
6 MR. DURANT: Trooper Dubose, that's all the
7 questions I have. Please answer any Mr. Barr has.
8 CROSS-EXAMINATION IN-CAMERA
9 BY MR. BARR:
10 Q Trooper Dubose, now if I'm not mistaken, the vehicle
11 that you rode in to get to this incident scene was being
12 driven by Trooper Minnix?
13 A Yes.
14 Q As he rode to the incident scene, he had his audio
15 and video equipment on at the time, didn't he?
16 A I believe while we were en route and when we were
17 notified that there was one subject decease on scene -- I
18 have not reviewed the video, but what normally happens is
19 we would then turn on our lights, siren and video
20 equipment to make sure -- we were able to arrive on scene
21 as soon as possible.
22 Q Well, there's actually a video perhaps you hadn't
23 seen it, it's a long video of his vehicle traveling to the
24 scene.
25 A I haven't seen it, but if there's a video then, yes,

1 sir, it would have been activated.
2 Q Okay. Now, do you have a recollection of the route
3 that he took to get to this scene?
4 A I know that we were on Raccoon Road near 260. So I'm
5 not sure if we took 260 up to 261 or if we traveled. I
6 believe traveled Raccoon Road up to 261.
7 Q Okay. So you came in on the west side of the
8 collision?
9 A The east side, the Manning side.
10 Q The Manning side, yes, sir. All right. And State's
11 Exhibit Number 1 and State's Exhibit Number 40. I'm going
12 to show you number one first. And as you recollected does
13 that photograph depict Highway 261 at the time of this
14 incident from the west side?
15 A This photo was taken after we had left the scene.
16 This is a MAIT photo, but it would depict the west side of
17 the collision looking back towards Manning.
18 Q Take a look at this photograph which is Exhibit
19 No. 40, that's the east side?
20 A This is also the MAIT photo and this is also the west
21 side.
22 Q Okay. Now, at the time that you arrived, if I'm not
23 mistaken, Trooper Minnix parked his vehicle on the right
24 side of the road?
25 A I know that we were on the Manning side. As far as

1 his location in the roadway, I'm not sure.
2 Q Okay.
3 A We were not on the side of the pictures that you
4 showed me.
5 Q Now, at the time that you entered or the time that
6 you got to the incident site, did you know exactly what it
7 is what you were gone find when you conducted your
8 investigation?
9 A When we arrived?
10 Q Yes, ma'am.
11 A No, sir.
12 Q And in terms of where Officer Minnix parked, you
13 could have gotten closer to the EMS vehicle if you wanted
14 to, couldn't you?
15 A No, sir.
16 Q What was keeping him from getting -- have you looked
17 at the video?
18 A No, sir.
19 Q Okay.
20 A We're taught to position our vehicles to secure the
21 scene. And at that point in time Trooper Minnix
22 positioned his vehicle so that no other vehicles would
23 pass his vehicle and disturb the scene.
24 Q Did he park his vehicle on the side of the road or
25 was he parked in the highway?

1 A I'm not sure, sir.
2 Q Okay. You don't remember where he parked, but yet
3 you remember that he was parked in such a way he couldn't
4 get any closer to the EMS vehicle?
5 A Correct.
6 Q Okay. Now, the vehicle that you were riding in was
7 not your vehicle it was Trooper Minnix's vehicle; is that
8 correct?
9 A Correct.
10 Q And he's the one that's accustomed to the use of the
11 mechanical devices in that vehicle?
12 A Yes, sir.
13 Q He's the one that drives it?
14 A His experience in that vehicle for the entire time I
15 was present up until that point. Our training program he
16 would have ridden with me for six weeks and then he would
17 have started driving his own vehicle.
18 Q Now, he said he was working for the highway patrol
19 about four years?
20 A Yes, sir, I'm not sure his exact date of employment.
21 Q So now did you have your blue lights and siren on
22 when you got to the scene?
23 A Prior to us arriving at the scene, if we had them on,
24 we would turned them off prior to making -- prior to
25 placing a vehicle in park.

1 Q Do you remember what, if any, vehicle obstructed you
2 from getting closer to the EMS vehicle?
3 A I remember there was a fire truck that had their
4 rescue lights on. There was also numerous rescue
5 personnel as far as volunteer firemen.
6 Q Now, they were not in the roadway on the paved
7 portion of the road?
8 A I'm not sure. I just know that they were on scene
9 prior to our arrival.
10 Q I'm taking a look at Court's Exhibit Number 4, which
11 is the South Carolina law enforcement division urine blood
12 collection report?
13 A Yes, sir.
14 Q Okay. And I'll ask you whether you know this woman
15 Angela Floyd?
16 A I do not.
17 Q Okay. Do you know the person that draw the blood?
18 A Personally, no, sir.
19 Q Do you know whether or not they were licensed or
20 trained or do you know anything about it?
21 A Yes, sir, they were employed by the Clarendon
22 Memorial Hospital system.
23 Q How do you know they were employed by the hospital?
24 A They showed up in scrubs with a badge.
25 Q Showed up in scrubs. So in as much as whoever it was

1 that draw the blood, appear to have a hospital uniform on
2 in scrubs, would it be fair to say that you thought that
3 they were authorized?
4 A I thought they were what I'm sorry?
5 Q An authorized person to draw blood?
6 A Yes, sir, because we had notified the attending nurse
7 for Ms. Brown that we needed a blood sample. So she had
8 contacted a hospital staff to come and draw that blood
9 sample.
10 Q Did you know anything about the credentials of the
11 person who drew the blood?
12 A I do not.
13 Q If I had put on a pair of scrubs and walked in there
14 with a badge and a hospital identification -- well, let's
15 do it this way, now, you didn't sign this SLED collection
16 report, did you?
17 A I don't remember. I have to look at it again.
18 Q Well, I'll let you look at it again.
19 A Yes, sir, right here.
20 Q That's your signature?
21 A That's my signature.
22 Q Okay. And in response to some questions the
23 Solicitor asked you, you indicated that there certain
24 sections of this report you filled out?
25 A Yes, sir.

1 Q Show me what you filled out please, ma'am?
2 A I filled out all the biological information up here
3 on top. I will have check that the subject was under
4 arrest for felony DUI. And that they were informed of
5 their writing and advised of in writing of her implied
6 consent rights. I would have checked that the subject is
7 under arrest for violation of 56-5-2945 and a blood sample
8 is required or requested. And I checked ---
9 Q Is requested for what?
10 A You want me to read ---
11 Q I just want you to read that line that you were
12 reading there when you said a blood sample is requested.
13 A Okay. So subject is under arrest for or in violation
14 of section 56-5-2945 or 50-21-113. And pursuant to
15 section 56-5-2946 or 56-21-116 a blood sample and or blood
16 samples are requested.
17 Q How about the check mark that says a blood sample is
18 requested by the subject for his or her independent test?
19 A That's not my check mark.
20 Q That's not your check mark?
21 A No, sir.
22 Q Now, if it's not your check mark and there's only two
23 people that wrote on this form, how do you suppose that
24 got on there?
25 A The collector if I could show you here?

1 Q Yes, ma'am.
2 A It says this section would to be checked by sample
3 collector. As you can tell, those are larger check marks
4 which matches the one that was checked up there. So I
5 believe that Ms. Floyd might have checked by her name by
6 accident instead of here and there.
7 Q By accident. Where did you get that from? I know if
8 that was accident why in world -- have you gone to
9 Ms. Floyd and said did you make an accident on the SLED
10 report?
11 A No, sir, but I can tell you that's not my check mark.
12 Q Well, if it's not your check mark, you must agree
13 that it must be by the person who filled out the form with
14 you, is it not?
15 A That's not Trooper Minnix's check mark, so it had to
16 be Ms. Floyd's check mark.
17 Q Had to be Ms. Floyd's check mark. And Ms. Floyd is
18 the person that you and Trooper Minnix believe to be the
19 official person to collect the woman's blood; isn't it?
20 A Yes.
21 Q All right. Now, I notice that -- this section --
22 there's a check mark here in this section and it says
23 sections to be checked by sample collector?
24 A Yes, sir, that would have been Ms. Floyd.
25 Q So that would have been Ms. Floyd?

1 A Yes, sir.
2 Q Now, she says using a non-ethanol prep blood sample
3 was collected into a use or unused, uncontaminated vial
4 given to the arresting officer and she checked that didn't
5 she?
6 A Yes, sir.
7 Q Of course, you don't know anything about. You did
8 answer a question in response to the question the
9 Solicitor ask you, but you don't know anything about the
10 vial, do you?
11 A It was in a SLED tox kit that had an integrity seal
12 on it.
13 Q Well, I mean, you don't know whether it was
14 contaminated or not, do you?
15 A It's assume that it's not if it has an integrity
16 seal.
17 Q Well, listen so your testimony is it had an integrity
18 seal?
19 A Yes, sir.
20 Q Where it hadn't been opened?
21 A Correct.
22 Q And it had an integrity seal?
23 A Yes, sir.
24 Q Now, number two the second one says that a human
25 sample was collected, that was also collected?

1 A Yes, sir.
2 Q Okay. Now, notice it says this -- using this
3 non-ethanol prep blood sample collected an unused,
4 uncontaminated and given directly to the arresting officer
5 or the subject requesting the sample for his or her
6 independent collection -- after collection?
7 A That's correct.
8 Q Now, who were these blood samples given to?
9 A They were given to Trooper Minnix and myself.
10 Q Were any one of them ever given to Ms. Brown?
11 A No, sir.
12 Q And you took both of them and carried them to -- and
13 have them sent to SLED, didn't you?
14 A That's correct.
15 Q You took both sample?
16 A We get two vials, yes, sir.
17 Q Okay. Now, I tell you that I ask Trooper Minnix the
18 same question I'm going to ask you. What, if anything,
19 affirmative did you do to assist Ms. Brown in getting her
20 sample analyzed by an independent examiner?
21 A Nothing.
22 Q All right. Now, you been doing this a long time,
23 haven't you?
24 A Yes, sir.
25 Q How many years?

1 A Twenty-one.
2 Q Twenty-one?
3 A Yes, sir.
4 Q Did you read this form before you signed it?
5 A Yes, sir.
6 Q Now, if you had read it before you signed it, you
7 would have certainly seen scene that there was a check
8 mark that says I want an independent test. If you read
9 it, you would have seen it, wouldn't you?
10 A It's not in the box, but, yes, sir, I would have seen
11 the check mark.
12 Q It's not in the over the box?
13 A As you can tell, my check marks on there are precise
14 and in the exact boxes they need to be in.
15 Q So now if you had read it, are you telling the judge
16 at this point that you read this and you didn't see the
17 check mark that's represented by a blood sample requested
18 by an independent for an independent test?
19 A I probably saw a check mark, but since Ms. Brown did
20 not request a blood sample, they did not have anything to
21 do with the form.
22 Q Well, you said she didn't request it, but why do you
23 suppose the medical examiner made the check mark?
24 A As I said, you have to ask her, but it looks like it
25 might have been a mistake. She's checking ---

1 Q What about it looks like to you that might have been
2 a mistake? Moreover, did you read it before you signed
3 it?
4 A Yes, sir, 100's of times.
5 Q And I don't see on here where you got -- Ms. Lloyd
6 make a mistake checked the wrong box. You don't have that
7 on here, do you?
8 A No, sir, because the box isn't checked.
9 Q Well, I think the judge will make the decision about
10 that.
11 A Okay.
12 Q Now, let's talk about the search warrant. Now,
13 before you went to Judge Locklair to get the search
14 warrant. You said you had a conversation with her on the
15 telephone?
16 A That's correct.
17 Q And your conversation took place after somebody else
18 -- one of your superiors spoke to her on the telephone?
19 A I don't believe so, no, sir. They had given me a
20 phone number to call.
21 Q So you initiated the contact with Judge Locklair to
22 get the search warrant?
23 A That's correct. I'd call to see if she was available
24 to do the search warrant for us.
25 Q Okay. Now, would this be the first time that you'd

1 ever obtained a search warrant?
2 A As far as for felony DUI, it might be, sir. I've
3 gotten other search warrants for vehicles and property.
4 This was back in 2014 when they had just had a ruling as
5 far as obtaining search warrants for blood. It use to be
6 we could take it without a search warrant?
7 Q Incidentally, as far as your interaction in this
8 whole investigation, did you ever do an incident report?
9 A No, sir.
10 Q You never did one?
11 A I was placed as an assisting officer on Trooper
12 Minnix's incident report.
13 Q So as far as Trooper Minnix's incident report, it is
14 initial line of the highway patrol as to the nature of
15 what they did in the course of their investigation?
16 A It is an incident report to explain the incident as
17 far as Trooper Minnix was concerned, the charges that were
18 filed.
19 Q Well, if I went to your file cabinet now wherever
20 y'all keep the records and pull open the file cabinet and
21 look for this the report for this incident, his incident
22 report is what I would find in the file cabinet; isn't it?
23 A You find a case file, yes, sir, with everything to do
24 with the case.
25 Q Yes, ma'am. You didn't write anything to put in the

1 file, did you?
2 A No, sir, except it has my signature on it.
3 Q Except the paperwork that had your signature on it.
4 Now, this affidavit that you signed that contained the
5 search warrant, who supplied the information to go in the
6 affidavit?
7 A I contacted my supervisor at the time and they got in
8 contact with our MAIT team which sent me a copy of a
9 search warrant. We didn't even have the documentation as
10 far as a word document to obtain one. So our MAIT team
11 sent me an e-mail with the attached search warrant
12 document and the particulars as far as this case was
13 concerned was typed in by me as far as the defendant's
14 name.
15 Q Well, tell me this much, the reasons for -- believe
16 that property sought is on the premises -- on the subject
17 premises who typed in that?
18 A I have to look at it, sir. I'm not sure.
19 Q Take a look at it. It's the same one that the
20 Solicitor showed you a few minutes ago.
21 A This would have been my -- I would have type this
22 section, sir, and also that section.
23 Q So you have a independent recollection this day of
24 having typed in this information where it says the affiant
25 believes that the property -- that's the reason for

1 believing the probable cause, that's your doing?
2 A Yes, sir. That's the format that the MAIT team sent
3 to me.
4 Q The format?
5 A Yes, sir.
6 Q Well, I'm talking about the format. I'm talking
7 about what is written in there in English. That your name
8 is down here as the affiant having sworn to. Now, did you
9 write this in here, this information in here or did you
10 not.
11 A Yes, sir.
12 Q You wrote it?
13 A Yes, sir.
14 Q Now, when you wrote it in, did you know at the time
15 what you intended to tell the judge about why you wanted
16 the search warrant or why you believed the probable cause
17 exist?
18 A Yes, sir.
19 Q And you typed it in here?
20 A I typed the information that was given to me, yes,
21 sir, of how our MAIT team wanted our search warrant to --
22 what it wanted to contain.
23 Q Well, what about what you were swearing to the judge
24 that you knew to constitute probable cause?
25 A That was conveyed in that and also verbally.

1 Q Verbally?
2 A Yes, sir.
3 Q Now, I noticed that you had some question --
4 Mr. Durant ask you about your having been under oath when
5 you went to talk to Judge Locklair?
6 A Yes, sir.
7 Q And the judge put you under oath and got this sworn
8 affidavit from you; is that correct?
9 A Yes, sir.
10 Q She notarized your signature?
11 A Yes, sir, she signed the form.
12 Q But she notarized it. Has not date on it, but it's
13 notarized; isn't it?
14 A I'm not sure what you're talking about notarized, but
15 she did sign the search warrant, yes, sir.
16 Q Is this a copy of the affidavit that you signed, is
17 that your signature?
18 A That's my signature, yes, sir.
19 Q And you signed that?
20 A Yes, sir.
21 Q And the date that it was supposedly signed by you is
22 not on there, is it?
23 A No, sir, but it does have Judge Locklair's name on
24 the side.
25 Q It's got a name on it, but there's no date there, is

1 it?
2 A Not beside it, no, sir.
3 Q So when do you suppose she notarized this?
4 A She signed it that night in front of me, sir.
5 Q I remember sitting down in this courtroom just a few
6 minutes ago when you told Mr. Durant what you left out of
7 the search warrant or left out of this affidavit why you
8 believe that there's probable cause to draw this woman's
9 blood Ms. Brown. Now, what I want you to tell me is why
10 do you believe that there's probable cause, what is that
11 probable cause based on other than what you've got in this
12 affidavit?
13 A I have an affidavit that she was believed to be under
14 the influence. The reason why she was believed to be
15 under the influence was she admitted to drinking. She
16 smelled of alcoholic beverage, had bloodshot eyes, glassy
17 eyes, and her demeanor was that of an impaired person in
18 opinion and my experience of law enforcement.
19 Q And it is your testimony today that you gave that
20 information to Judge Locklair after she swore you in?
21 A Yes, sir. It was given to her over the phone and
22 because it was -- like I said, I woke her up at whatever
23 time in the morning. Once I got on her back porch, I had
24 to print the search warrant out from my in-car printer.
25 Once I got on her back porch, she looked it over to make

1 sure it look like everything it suppose to be because like
2 I said that was -- that was me doing a search warrant at
3 three o'clock in the morning something that we're not
4 accustom to. She ask me the information on the document
5 was true and I confirmed that. And then I went into the
6 reason why I was requesting a search warrant.
7 Q Why did you not include those reasons in the
8 affidavit that you had Judge Locklair sign?
9 A Sir, I thought that the believe to be under the
10 influence -- I didn't go into the details of why I
11 believed that she was under the influence, but that I did
12 put that law enforcement believed that she was under the
13 influence in the affidavit.
14 Q Do you have anything in writing this day, any notes
15 or anything, anywhere to indicate that that information
16 that you believed that she was under the influence -- that
17 she smell like alcohol? Do you have any of that in
18 writing anywhere where you made a note of it to establish
19 that you in fact told Judge Locklair that?
20 A Did I make a note that I told Judge Locklair that?
21 Q Yes, ma'am.
22 A No, sir, I didn't make any notes as far as that's
23 concerned. There was other notes taken in as far as
24 Ms. Brown's demeanor and the situation as far as her
25 smelling of alcohol and what she admitted to drinking.

1 Q Who took those notes?
2 A I believe Trooper Minnix in my presence.
3 Q What happened to the notes do you know?
4 A I believe they're in the case file, sir.
5 Q Are they in the incident report?
6 A Our incident reports do not -- there's no way to
7 attach files to our incident reports.
8 Q Ma'am?
9 A There's no way to attach files to our incident
10 reports. These are handwritten notes and they would not
11 be attached to an incident report.
12 Q Handwritten notes regarding the investigation
13 concerning this case?
14 A Correct.
15 Q Did you gave them to the Solicitor?
16 A I'm not sure if the Solicitor has them or not. It's
17 in the case file that's in our office. I can look through
18 what he has and tell if he has them or not.
19 Q I just got one more question I believe. Is it your
20 testimony that when you got to Judge Locklair's residence
21 she then swore you in?
22 A Yes, sir.
23 MR. BARR: Thank you, ma'am. I have no further
24 questions.
25 MR. DURANT: No redirect, Your Honor.

1 THE COURT: You may step down.
2 (WHEREUPON, the witness leaves the witness
3 stand.)
4 MR. DURANT: The State will call Judge Locklair.
5 (WHEREUPON, a break was taken.)
6 THE CLERK: Raise your right hand. Do you
7 solemnly swear to tell the truth and nothing but the truth
8 so help you God?
9 THE WITNESS: Yes, ma'am. Robin Carol Locklair.
10 WHEREUPON,
11 Robin C. Locklair,
12 after first having been duly sworn, testified as follows:
13 DIRECT EXAMINATION IN-CAMERA
14 BY MR. DURANT:
15 Q Ms. Locklair, good morning still?
16 A Good morning.
17 Q Of course, you been in the courtroom this morning for
18 the testimony that's been given thus far in this pretrial
19 hearing or this suppression hearing with regard to a
20 search warrant that was issued for the defendant Tammy
21 Dianne Brown's blood and urine samples back on August 31st
22 of 2014?
23 A Yes, sir.
24 Q Have you seen a copy of that search warrant?
25 A Yes, sir.

1 Q And I believe it's been introduced as a court's
2 exhibit. And does that appear to be a true and accurate
3 copy of the search warrant?
4 A Yes, sir.
5 Q And did you actually make the copy?
6 A Yes, sir, I did.
7 Q All right. Tell the Court just for the Court's
8 information how is that search warrant stored, the
9 original stored now?
10 A I have the original at my home in my office. I keep
11 all my search warrants in three ring binders that are
12 approximately four inches wide. And this particular
13 warrant I had to fold several times because it was
14 generated on thermal imaging paper. The kind that you use
15 to use in like second generation fax machines. It's
16 extremely delicate in the sense that if it's exposed to UV
17 light directly or heat or extreme moisture, it will
18 degrade the paper and make it unlegible.
19 Q All right. But this is again is this a true and
20 accurate copy of the original search warrant?
21 A Yes, sir.
22 Q All right. Have you reviewed the original before
23 coming testify to verify?
24 A Yes, sir.
25 Q Do you remember meeting with law enforcement to go

1 over the search warrant back on August 31st of 2014?
2 A Yes, sir.
3 Q Do you remember about what time day or night it was?
4 A I received a call initially from Trooper Paige Dubose
5 with the South Carolina Highway Patrol at approximately
6 2:20 a.m. At which time she inform me that there had been
7 a vehicle fatality and that the individual charged with
8 causing the accident they had a reasonable suspension to
9 believe that she was under the influence of a substance
10 particularly alcohol.
11 Q But, I guess, before we go any further, I should have
12 ask this at the outset. We all know who you are, but just
13 so the record is clear tell the Court what do you do for a
14 living?
15 A I am a summary court judge with the Clarendon County
16 magistrate's court here in South Carolina.
17 Q And how long have you been a magistrate judge here in
18 Clarendon County?
19 A Almost six years.
20 Q So 2012?
21 A Yes, sir, July 2nd on 2012 to be exact.
22 Q And is one of your duties as a magistrate judge, a
23 summary court to review applications for a search warrant?
24 A Yes, sir.
25 Q Okay. Do you do that as apart of your regular

1 business as magistrate court judge?
2 A Yes, sir.
3 Q In regards this particular search warrant, you
4 mention that you first got a phone call from Trooper
5 Dubose South Carolina Highway Patrol she called at you
6 home and look you up?
7 A Yes, sir.
8 Q Okay. And did she tell you what the underlying facts
9 were, what the basis was for the search warrant?
10 A Yes, sir.
11 Q What did she tell you if you recall?
12 A That there had been a vehicle fatality accident that
13 had occurred within the county and that the person
14 attributed with causing the accident was believed to be
15 under the influence of a substance.
16 Q Okay. Did she gave any other information as to the
17 how, the why, that they knew or they suspected that this
18 defendant was under the influence?
19 A She briefly mentioned on the phone at that time that,
20 you know, during the course of their initial investigation
21 on scene, that there was strong odor of alcohol emanating
22 from the defendant's person.
23 Q Okay. And did Trooper Dubose then come to your house
24 and actually meet with you in person to apply for a search
25 warrant?

1 A Yes, she did.
2 Q Okay. When Trooper Dubose came to your house, do you
3 recall whether or not you placed her under oath?
4 A Oh, absolutely.
5 Q Is that something that you always do?
6 A Yes, sir.
7 Q Whether it's three o'clock in the morning or three
8 o'clock in the afternoon, you always place the officer
9 under oath?
10 A Yes, sir.
11 Q So in this case you know from habit that you would
12 have placed Trooper Dubose under oath?
13 A Yes.
14 Q When she presented you the search warrant, did you
15 read it?
16 A Yes.
17 Q And did you ask her any additional questions then
18 under oath as to how or why that she suspected that the
19 subject, Ms. Tammy Brown, was the under influence of
20 alcohol?
21 A Yes, sir.
22 Q And what did she tell you if you recall?
23 A She told me that upon encountering the defendant that
24 Trooper Minnix smelled a strong odor of alcohol emanating
25 from her person and that while during the course of his

1 investigation, he encountered her and she indicated that
2 she had been drinking that evening?
3 Q Okay. And, of course, you also had the additional
4 facts that she was the driver of the vehicle that was
5 believed ---
6 MR. BARR: Judge, he's leading the witness.
7 THE COURT: Yeah, you are.
8 BY MR. DURANT:
9 Q Did you have additional facts as to the accident
10 itself as to how it was caused?
11 A Just that she was attributed to the causation of the
12 accident and that the -- I guess, the operator of the
13 other vehicle was presumed dead.
14 Q Okay. Were you told that Ms. Brown was driving the
15 vehicle?
16 A Yes.
17 Q Okay. And was it based on those facts, the facts
18 that were presented to you in the affidavit of the search
19 warrant itself as well as the old testimony provided to
20 you over the phone and then under oath again at your house
21 that the search warrant was issued by Your Honor?
22 A Yes.
23 MR. DURANT: Your Honor, that's all the
24 questions I have. Would you answer any that Mr. Barr has.
25 CROSS-EXAMINATION IN-CAMERA

1 BY MR. BARR:
2 Q Judge, customarily when you issue a search warrant
3 and the information that's contained in the search warrant
4 in your opinion did not constitute probable cause for the
5 issuance, do you usually allow amendments to the affidavit
6 orally?
7 A I allow the officer to add a supplementation as to
8 why they need it, to establish the probable cause orally
9 because they are under oath and that would suffice.
10 Q And when they do this supplementation, do you any
11 time require that that also be in writing?
12 A No, sir, I don't require it to be in writing.
13 Q Of course, you been a judge a long time and I know
14 that you are thoroughly familiar with the procedure of
15 issuing a search warrant?
16 A Yes, sir.
17 Q And you're thoroughly familiar with the process of
18 the affiant swearing that there's probable cause to
19 believe et cetera. I know you're familiar with that.
20 A Yes, sir.
21 Q And, of course, would you not agree that in terms of
22 what is stated to you in the affidavit of the basis for
23 the issuance of a search warrant, that's important
24 information, isn't it?
25 A Absolutely.

1 Q And in order to review the accuracy -- the issuance
2 of a search warrant, would you not agree that there ought
3 to be some record of what was presented to you as the
4 basis for probable cause?
5 A If this is the only search warrant that I've ever
6 issued in the middle of the night for a vehicle fatality,
7 I feel like the specifics surrounding the issuance of this
8 warrant should be remotely fresh.
9 Q Should be what?
10 A Remotely fresh or easily remembered.
11 Q I see. And, of course, would you not agree that in
12 order to determine whether or not sufficient information
13 was presented to you at the time the search warrant was
14 issued, the only thing that the court would have to rely
15 on is what is written on the piece of paper?
16 A That and the search warrant log.
17 Q Search warrant log?
18 A Yes, sir.
19 Q You have a search warrant log?
20 A Yes, sir.
21 Q And does that log contain information that's
22 supplemental to what is presented in the affidavit of the
23 original search warrant?
24 A No, sir, I did not make any additional notations. I
25 did however note that the search warrant was requested for

1 blood samples and or urine for one Tammy Dianne Brown in
2 relation to a vehicle fatality.
3 Q So then in order to determine whether or not a search
4 warrant is sufficient, that is the sufficiency of the
5 information contained as a basis for their belief that
6 there's probable cause to the issuance of a search
7 warrant. You do recognize the importance of having that
8 information in writing?
9 A Yes, sir. I do recognize that it is important to
10 make notations. However, as an officer of the court, I
11 also feel like oral testimony that's provided under oath
12 should also suffice.
13 Q Oral testimony provided under oath?
14 A Oral.
15 Q Oral testimony?
16 A Yes.
17 Q Provided under oath should also suffice?
18 A Uh-huh.
19 Q So then essentially what you're saying is that you
20 believe that the reviewing judge should believe the under
21 oath testimony of the issuing magistrate?
22 A Yes, sir.
23 Q Of course, as a judge yourself, you would agree that
24 if there was some writing as is required to be placed in
25 the affidavit, then we would never get to the issue of

1 whether or not the oral testimony is accurate, wouldn't
2 we?
3 A Yes, sir, I agree ---
4 Q If you have it that way?
5 A Yes, sir, I agree that if the affidavit itself was
6 overly detailed, then there would be no reason to
7 challenge this.
8 Q Now, you have looked at in preparation for your
9 appearance here today, you looked at the reason for Ms.
10 Dubose's belief that the -- what she was seeking would be
11 sufficient for what the purpose is that's stated in the
12 warrant. You looked at the warrant, the affidavit the
13 warrant itself?
14 A Yes, sir, and I just reread the section that you
15 noted as well.
16 Q Any reason why you didn't insert the date that the
17 affidavit was given to you?
18 A Just that as I previously stated this particular
19 warrant was issued on thermal imaging paper. The length
20 of that document is approximately about the length of my
21 leg. This particular section fail at the very end of that
22 sheet of paper, that's extremely long. While I did catch
23 the section where signature of a judge was needed, I did
24 not pay attention to dating it just simply because the
25 defendant was already at the hospital and I know that in

1 instances where you're a doing blood alcohol analysis,
2 that time is of the essence and I was trying to number one
3 establish that there was probable cause for the warrant in
4 question and number two that, you know, all necessary
5 signatures were in place and there's two parts to a search
6 warrant upon issuance that requires a signature. And if
7 you see right above it on the search warrant itself, I've
8 signed it, date it, and indicated where the search warrant
9 can be found. And if you look directly underneath, there
10 is a fold mark and then the affidavit continues. So that
11 collaborates the fact that as I previously stated the
12 warrant itself was issued on thermal imaging paper.
13 Q Judge, I just got one last concern and I'm sure as I
14 said being a judge and certainly as a defense lawyer
15 representing people who are charged where a search
16 warrants are very important, I am sure you can understand
17 that we're not trying to impugn your integrity, but it's
18 just very important when an issue that's now that's
19 important where we're having to rely on something that we
20 have no control over by way of what is not written in the
21 actual search warrant itself which was presented to us as
22 a basis. Of course, we get this search warrant in
23 response to a discover request.
24 A Yes, sir.
25 Q And when we get the response to discovery request

1 with this search warrant, we don't get the benefit of the
2 testimony that's going subsequently come in.
3 A Yes, sir.
4 Q So that's why we're doing this this way.
5 MR. BARR: Thank you, ma'am. I have nothing
6 further.
7 MR. DURANT: I have no further questions, Judge.
8 THE COURT: Okay. You can step down. Thank
9 you.
10 (WHEREUPON, the witness leaves the witness
11 stand.)
12 MR. DURANT: Your Honor, that's all the
13 witnesses I have.
14 THE COURT: Okay. Mr. Barr, do you have any
15 witnesses?
16 MR. BARR: Yes, sir, Ms. Brown.
17 THE COURT: Okay.
18 THE CLERK: Raise your right hand, place your
19 left hand on the Bible and repeat your name please.
20 THE DEFENDANT: Tammy Dianne Brown.
21 THE CLERK: You solemnly swear the testimony
22 you're about to give to be the truth and nothing but the
23 truth so help you God?
24 THE DEFENDANT: Yes, ma'am.
25 WHEREUPON,

1 Tammy Brown,
2 after first having been duly sworn, testified as follows:
3 DIRECT EXAMINATION IN-CAMERA
4 BY MR. BARR:
5 Q Ms. Brown, do you have a recollection today of having
6 been taken into custody?
7 A Yes, sir.
8 Q And being charged with the two offenses ---
9 A Yes, sir.
10 Q --- which you are charge in this case?
11 A Yes, sir.
12 Q And do you have a recollection of having gone to the
13 emergency room where blood was drawn for a blood test
14 examination?
15 A Yes.
16 Q And at the time that you gave the blood samples what,
17 if anything, did you tell the person drawing the blood
18 from you?
19 A I told them that I needed my proof.
20 Q Need what?
21 A My sample.
22 Q That you needed what now?
23 A Excuse me what you say?
24 Q What, if anything, did you tell that person drawing
25 the blood?

1 A That they could draw my blood and she was telling me
2 that I can get my own and I told her okay.
3 Q She told you you would get your own?
4 A Yes, sir.
5 MR. DURANT: Object to leading, Your Honor.
6 THE COURT: Okay.
7 BY MR. BARR:
8 Q With was the purpose of getting your own sample?
9 A To see what it said.
10 Q Did you trust the hospital to provide an accurate
11 sample?
12 A Not really. I know that, you know, they was gone do
13 the job and everything, but I still needed my own.
14 Q All right. Did you -- you probably don't have a
15 recollection of this gentleman -- of course, you seen in
16 court today Officer Minnix and Officer Dubose, do you
17 recall them?
18 A I remember him. I don't remember her.
19 Q Did either one of these two people in anyway assist
20 you getting an independent examination or independent
21 test?
22 A No, sir.
23 Q Did they have any discussions with you at all?
24 A No, sir.
25 MR. BARR: I have no further questions.

1 CROSS-EXAMINATION IN-CAMERA
2 BY MR. DURANT:
3 Q Ms. Brown, good morning.
4 A Good morning.
5 Q You told Mr. Barr that you remember, you have some
6 recollection of the events that night?
7 A Yes, sir.
8 Q Okay. So your memory has not been impacted by your
9 impairment that evening then, has it?
10 A No, sir.
11 Q Okay. You weren't so impaired as to blacked out or
12 to render any statements you gave to law enforcement as
13 involuntary, did you?
14 A No, sir.
15 Q Okay. So everything you told law enforcement that
16 evening was voluntarily given; is that true?
17 A Yes, sir.
18 Q Okay. Had at no point law enforcement threatened
19 you, coerced you in anyway to speak with them that
20 evening?
21 A Not that I remember.
22 Q Not that you remember. But again you got a pretty
23 good recollection of the events?
24 A Some.
25 Q Okay, some recollection. You told Mr. Barr a minute

1 ago when he was asking you questions that you told law
2 enforcement and medical personnel that they could take a
3 sample of your blood; is that right?
4 A The nurse, I told the nurse she could have.
5 Q You told the nurse?
6 A Yes, I told her she could have.
7 Q Is it your testimony now that you actually consented
8 to the samples being taken?
9 A I remember holding my hand and saying go ahead and
10 take my blood, yes.
11 Q But law enforcement had talk to you about that and
12 had discussed the need to obtain a blood sample from you
13 nurse you?
14 A The nurse did.
15 Q Okay. But let me just clarify that your testimony
16 today that you consented to the sample ---
17 MR. BARR: Objection, Your Honor. He's
18 misleading the witness. He knows that law enforcement
19 obtained a search warrant in order to get the witness
20 because in order to draw the blood because she clearly
21 indicated before -- she didn't intend to give them blood.
22 MR. DURANT: Your Honor, the witness testified
23 ---
24 THE COURT: Hold, hold, hold, wait a minute.
25 The question is proper. You can ask it.

1 BY MR. DURANT:
2 Q Ms. Brown, on direct you told Mr. Barr that you
3 consented to your blood sample being taken; is that true?
4 A The nurse came in and said that she was taking my
5 blood I said okay.
6 Q You said okay. You did not refuse to give a blood
7 sample?
8 A I thought that was properly what they usually do take
9 your blood in the emergency room.
10 Q Okay. All right. So you didn't have any objection
11 to her taking the blood sample then?
12 A No.
13 Q All right. And then there was some discussion
14 according to your testimony to Mr. Barr about getting a
15 blood sample for your own taking, for your own testing and
16 I believe you told me that you learned of that -- told
17 Mr. Barr that you learned of that through the
18 phlebotomist, through the nurse that took the blood
19 sample; is that right?
20 A Yes, I don't -- it was like they were just telling me
21 they was gone take my blood and they give me a sample and
22 I said okay.
23 Q Okay. But before we get to that point -- and because
24 they took your blood, I think, according to the
25 information that's been provided about 3:20 -- let's see

1 3:21 a.m. does that sound about right to you?
2 A I don't remember.
3 Q Okay. And according to the information that has been
4 provided, you are actually arrested in this case at
5 1:55 a.m.?
6 A I don't remember.
7 Q Okay. So would you agree that there was some lengthy
8 period of time that elapsed between the time that she was
9 arrested and concurrently read those implied consent
10 rights. You remember some conversation about those?
11 A No, no, sir.
12 Q Remember law enforcement telling you that you were
13 under arrest for felony DUI and telling you that by law
14 they had the right to take some samples of blood and urine
15 samples from you and that if you resisted or instructed in
16 any way that evidence would be admissible at trial. You
17 remember them telling you about that?
18 A No, because the only time I remember them coming --
19 that I was reading my rights was I was in the jail and I
20 was laying down and sleep when the two came in there.
21 Q Okay. Well, I guess, let me just clarify then, so
22 would you agree then based on your earlier testimony that
23 the first time you ever mentioned wanting an independent
24 sample was when the phlebotomist came and actually stuck
25 the needle in your arm?

1 A She told me that they were gone me some blood samples
2 and I can have my own done. And I heard my doctor's voice
3 in there and I was like, yeah, I'm gone go ahead and let
4 him do it because Dr. Sy (sic) was in the hospital at the
5 time. I already knew I was gone let him do it.
6 Q Okay. So at no point prior to that did you tell the
7 law enforcement officers that you wanted an independent
8 testing done?
9 A They told me they was gone do it and I agreed.
10 Q Okay. Did you tell them that you wanted a particular
11 doctor in the hospital?
12 A No, I was thinking that's what I was thinking to
13 myself when they was saying that they was gone do. I had
14 my own doctor ---
15 Q Okay. So now we're getting into what you were
16 thinking to yourself not as to what you actually
17 communicated to law enforcement. You didn't actually tell
18 law enforcement what you were thinking?
19 A No.
20 Q So these were internal thoughts about I'm in this
21 hospital with people that I trust. I want somebody here
22 to test my blood. That was an internal thought. You
23 didn't actually convey that to law enforcement, did you?
24 A I told -- when they told me that they was gone take
25 my blood and I had a right to have my own done, I said

1 okay. I hold my hand like this and turn my head. I don't
2 like to see my blood drawn, so just turn my head and hold
3 my hand out and that's what happened.
4 Q That was it?
5 A That's what I remember.
6 Q That was the entirety of the conversation?
7 A She took my blood.
8 Q So now let me just clarify they told you the -- by
9 they, I think you said earlier the nurse or the
10 phlebotomist, she said you had a right to get your own
11 sample taken. You said okay and turned your head and that
12 was it?
13 A They drew my blood and take it wherever they take it,
14 yes, that's what happened.
15 MR. DURANT: All right. Your Honor, that's all
16 the questions I have.
17 THE COURT: Anything further, Mr. Barr?
18 MR. BARR: Nothing on redirect, Judge.
19 THE COURT: You can step down.
20 (WHEREUPON, the witness leaves the witness
21 stand.)
22 THE COURT: All right. Anything else on either
23 side?
24 MR. DURANT: Nothing further witnesses from the
25 State, Your Honor.

1 THE COURT: You got any further witnesses?
2 MR. BARR: No further witness.
3 THE COURT: All right. Do you all want to argue
4 the point?
5 MR. DURANT: I certainly like to be heard, Your
6 Honor.
7 THE COURT: Okay.
8 MR. BARR: I do too, Judge.
9 MR. DURANT: Your Honor, it's his motion ---
10 MR. BARR: Well, Judge, with all due respect,
11 there's several issues involved here. And first the issue
12 involves the issuance of whether or not under the totality
13 of the circumstances the reasons given by the arresting
14 officer as to why they didn't do the video as required by
15 South Carolina law whether or not the reason that they
16 given justifies them not doing the video. And quite
17 frankly, Judge, it's our position that it does not clearly
18 under the circumstances Mr. Minnix operating his vehicle
19 blue light and siren when he got to the scene, he could
20 have gone anywhere on that scene that he wanted to go.
21 Moreover as an experienced highway patrolman, he would
22 have you believe that, well, all of sudden -- now, this is
23 as to doing a recording of the interview with Ms. Brown.
24 I realize that technically my equipment wasn't working and
25 therefore I didn't -- in addition to not doing the video,

1 I don't have any recording of our conversations where she
2 supposedly made some very very detrimental admissions as
3 it relates to her consumption of alcohol. So, Your Honor,
4 I would submit that as far as the rationale and the reason
5 -- and I don't even know that you seen the affidavit that
6 the officer presented to you excuse himself of not doing
7 what the law say he should have done, but be that as it
8 may, our position is that that is no reasonable
9 justification for not complying with what the law says
10 it's supposed to be done in this kind of situation. Now,
11 of course, in terms of what he says about the statements
12 that she made and there's no way, Your Honor, to evaluate
13 the efficiency of those representations because there is
14 no recording.
15 Now, the next issue deals with whether or not
16 the statements that were given were actually voluntary.
17 And there was some testimony regarding friend -- the
18 Miranda warnings were given and quite frankly, Judge, I'm
19 not gone argue something that I don't -- I'm not gone say
20 that it doesn't have any merit, but I don't think that
21 this issue regarding the results of Jackson v. Denno I
22 don't think is nearly as important as the issue of number
23 one not doing any field sobriety. Number two not offering
24 the woman a breathalyzer test before attempting to extract
25 blood and urine. I think the law is just as clear as day

1 as it relates to offering her a breathe test. And the
2 officer if I remember his testimony he made the decision
3 on his own without being advised by any medical personnel
4 that for whatever reason he would not offer the breathe
5 test. And I specifically asked him what, if any, injuries
6 would he notice that she suffered. Of course, the
7 statutes specifically says that's not the decision that an
8 arresting officer would make, that he has to rely on
9 information that's provided by some other medical --
10 authorize medical personnel.
11 Now, speaking of authorized personnel, Judge
12 that brings us to this next issue that I consider that has
13 more merit. The issue of whether or not when a person
14 gives a blood sample whether or not the arresting officer
15 has an affirmative duty to assist that defendant in
16 obtaining an independent test. Now, there was a little
17 bit of razzle dazzle going on here this morning on the
18 witness stand because quite frankly I don't think that the
19 officers actually picked up what they had done or what
20 they had not done until they got in court today. Now,
21 clearly when you look at the Court's Exhibit that we
22 presented of the SLED form regarding collection of blood,
23 the person that supposedly collected the blood received
24 information from the defendant that she wanted an
25 independent blood test. And I don't see how even though

1 Office Dubose did better -- I mean, Officer Dubose did
2 better than officer Minnix when it came to some
3 explanation, but they both failed when it got to the issue
4 because they both signed this report and they would have
5 had -- if they read it, they would have had to see that
6 the woman had requested an independent test and -- but now
7 they would try to say that, well, she didn't tell us
8 directly, so therefore we had no obligation to
9 affirmatively assist her. Well, that's just not the law.
10 The law goes beyond that and our Supreme Court
11 made it very clear that an officer not just has a duty,
12 but have an affirmative duty. And if they had read --
13 they had this information in front of them, had read it
14 and, of course, according to them they assisted in reading
15 it. So they can't come to court today and say, well, no,
16 she never asked us. Well, she asked who thought she was
17 suppose to ask the woman that was taking her blood. Now,
18 when I asked the officer about what did you do with them,
19 of course, they didn't give her any. They gave both vials
20 of blood to Officer Minnix to carry to SLED somewhere
21 wherever he took them to which brings us to the issue of
22 whether or not this person who took the blood was
23 qualified to do so, which is a separate issue. And our
24 Supreme Court treats that as a separate issue. And in
25 this case they both acknowledge that they don't know who

1 this person is that took the blood. That they believe
2 that the person was authorize because the person showed up
3 in some scrubs with some kind of name tag. And our court
4 has specifically addressed that issue where the
5 prosecution fails to establish that the person that took
6 the blood was qualified and in this case they hadn't done
7 that.
8 Now, the only way to do it would have been to
9 call the person that's -- the lady Angela Floyd to bring
10 her here -- to have her here and have her tell us what her
11 credentials are. Otherwise, to simply say and look on
12 this form and our court has made it clear it's not enough
13 just to say name or license or trained collector. I mean,
14 that's just -- I could have gone in there and put on some
15 clothes for whatever reason as an imposter and start
16 drawing blood under the scenario that the prosecution
17 would have you believe that we could go by here.
18 So with that in mind, Your Honor, I'm not
19 gone -- the statements that were made in the vehicle on
20 the way to the detention center, of course, I asked the
21 officer whether or not she was Mirandized again. I'm not
22 gone pursue something that perhaps doesn't have a whole
23 lot of merit to it because under the circumstances if she
24 was Mirandized at the hospital, and I'm not arguing
25 against my client, but if she was Mirandized at the

1 hospital, there may have not have been a subsequent
2 independent interrogation and therefore Miranda would be
3 complied with. But, Judge, I strongly strongly believe
4 that the prosecution has not met their burden with respect
5 to our motion to dismiss and or suppress as a result of
6 not complying with the statute regarding the video taping.
7 And as a result of quite frankly not administer any field
8 sobriety test, not even attempting to offer a -- take a
9 breathe test where there's no apparent reason and the
10 prosecution has offered no apparent reason, legal reason
11 for not offering that test. And clearly where the
12 defendant has made a request for -- to have her own
13 independent test done. They offered no assistance
14 whatsoever in assisting her and they can't say we didn't
15 know and she never told us because it's written right
16 there in front of them on the piece of paper that they
17 both put their John Henry on. Thank you, Judge.
18 THE COURT: Thank you, sir.
19 Yes, sir.
20 MR. DURANT: Thank you, Your Honor. May it
21 please the Court. Your Honor, I guess first as a
22 threshold matter, the hearing that was requested, I guess,
23 really by me yesterday in court was that to deal with the
24 voluntariness of the defendant's statements and then
25 Mr. Barr responded he did decide that we needed a

1 suppression hearing as to a search of the defendant's
2 blood. It would be the State's position that any ruling
3 at this juncture as to whether or not the procedural
4 requirements of the DUI statutes have been met in order
5 for this case to proceed to a jury would be premature.
6 We've had two witnesses to testify thus far in this trial.
7 I don't believe the State has required to produce all of
8 the witnesses necessary to prove change of custody and to
9 have -- she certainly like to be here to prove chain of
10 custody of the blood and to testify as to her training and
11 experience and that SLED protocol was followed in
12 collecting the blood, but I don't believe the State's
13 required to put her up in this hearing at least not at
14 this hearing as requested by Mr. Barr yesterday. When he
15 requested this hearing, it was for the narrow issue of
16 whether or not the search of her blood should be
17 suppressed by nature of the search warrant whether or not
18 the search warrant was sufficient.
19 Your Honor, we have submitted an affidavit in
20 regards to whether or not the requirements of 56-5-2953
21 had been met as to the recordings required by the officer.
22 I believe, Your Honor, has the original. We passed it up
23 yesterday. I asked Your Honor to consider that affidavit
24 in accordance with State v. Manning. It's a Court of
25 Appeals case of 2012, that deals with the impossibility

1 exceptions to the statutory requirements to the video
2 recording of the defendant's conduct at the incident scene
3 as well as the filed sobriety test. Your Honor, I believe
4 the officer's affidavit satisfies those exceptions to
5 those statutes. Of course, he testified in that regard as
6 well and I ask Your Honor to consider that case State v.
7 Manning, that's 400 SC 257 in a 2012 Court of Appeals
8 case.
9 In regard to the field sobriety test again I
10 believe the affidavit satisfies that requirement. The
11 officer -- the statutes require those test to be taken on
12 video at the incident scene according to the officer's
13 testimony in his affidavit. When he arrived at the
14 incident scene, Ms. Brown was already being attended to by
15 EMS. She was already in the back of the ambulance and EMT
16 personnel informed the officer that they were going to
17 have to transport her to the hospital. So there was never
18 an opportunity for the officer to conduct field sobriety
19 test and that's a proper exception under the rule for when
20 she requires emergency medical treatment.
21 As far as a breathe test, case law is very clear
22 that in a felony DUI situation a breathe test is not
23 required prior to offering and requiring the defendant to
24 submit to a blood or urine sample. And, Your Honor, I ask
25 you to consider State vs. Long in that regard, that's a

1 Supreme Court case of 2005 South Carolina Supreme Court,
2 that's 363 SC 360 2005 court case State vs. Long which
3 held that the law enforcement officer can order a person
4 suspected of felony DUI to submit to any chemical test
5 without first offering a breathe test. So I ask, Your
6 Honor, to consider that case on that issue. In regards to
7 the search warrant for the defendant's blood, Your Honor,
8 I would concede that the search warrant on its face is
9 defective that the affidavit is -- was essentially a
10 conclusory statement as to the need to obtain a search
11 warrant -- a search warrant of pulling the defendant's
12 blood. It just says that she's believed to be under
13 arrest. I would concede that that's a conclusory
14 statement. However, Your Honor, as Your Honor's very
15 aware a search warrant affidavit which is itself is in
16 sufficient to establish probable cause may be supplemented
17 before the magistrate by sworn oral testimony. Your
18 Honor, I would submit that this is really an issue of form
19 over substance. It's clear based on the officer's
20 testimony that probable cause existed at that point.
21 Before they went to get the search warrant, they had
22 spoken with her in the ambulance. She had admitted to
23 having been drinking, told the officer she had tequila
24 shots and changed story to wine coolers. She smelled of
25 alcohol. There was an open container of alcohol in her

1 car. The officers had all this probable cause to get a
2 search warrant for her blood. Again, the officer --
3 Officer Dubose testified that she conveyed those factors
4 to the judge both over the phone and then again in person.
5 And Judge Locklair confirmed it. When they came to her --
6 when the officer came to her house, she placed her under
7 oath on her back porch and asked her the how and the why.
8 Why do you suspect she's under the influence and that she
9 gave her additional factors. Your Honor, according to the
10 case law, that's sufficient. And again we would concede
11 that the search warrant affidavit itself, the written
12 portion is conclusory, but oral testimony is admissible to
13 supplement a defective search warrant affidavit.
14 Your Honor, I would also ask you to consider
15 making State v. Smith in that regard -- that's a Supreme
16 Court case of 1990 301 SC 371. That's a statement that
17 actually held that conclusory statements give the
18 magistrate the basis to make a judgment are insufficient,
19 but the court then remanded the case and said if it is
20 determine that sufficient oral testimony was provided
21 despite the fact that we had an affidavit of conclusory
22 statement if during the course of the hearing the court
23 determines that sufficient oral testimony was submitted
24 and the lower court judgment was affirmed.
25 Your Honor, I guess, the next issue would be as

1 to the statements that were given by the defendant in this
2 case. Your Honor, I would submit as well settled law in
3 South Carolina that Miranda warnings are not required if
4 the defendant is not in custody or otherwise deprived of
5 her freedom. And according to State v. Morgan Miranda
6 warnings are specifically not required for admissibility
7 of statements made by the defendant during the course of a
8 routine traffic investigation, the investigation of a
9 traffic accident, which is what was going on here that's
10 what the officer testified. He went to speak to her in
11 the back of the ambulance to figure out what happened, to
12 figure out how this collision occurred, that's when those
13 initial statements were given. According to case law in
14 South Carolina, those are admissible.
15 Then again I think Mr. Barr essentially conceded
16 that Miranda was given to her at the hospital any
17 statements made by her -- his client after that should be
18 admissible. She testified on cross-examination that she
19 was not threatened or coerced in any way, that any
20 statements she gave to law enforcement were voluntarily
21 given. And she was, of course, advised of her Miranda
22 rights, knew she had the right to remain silent. The
23 statements in the car on the way to the jail were not a
24 product of any interrogation. She is the only one that
25 makes any statement on that video. The officer he's

1 calling in to dispatch that he's on the way to the jail
2 with her, but doesn't speak to her directly in anyway and
3 doesn't ask her any questions. That's the other
4 requirement of Miranda is that statements be given
5 pursuant to custodial interrogation. There's no
6 interrogation there, so I started to argue that those
7 statements are admissible.
8 I guess, the final issue would be the
9 independent test. Again, Your Honor, it was interesting
10 to me on cross-examination Ms. Brown testified that the
11 entirety of that conversation in which she believes that
12 she requested an additional independent test was that the
13 phlebotomist told her she could get one and that she
14 turned her head and said okay, that was her testimony. At
15 no point did she tell the officers directly that she
16 wanted it. At no point did she convey any of these
17 internal thoughts in her mind about being at the hospital
18 somebody there do it. She said that's what she was
19 thinking.
20 The only conversation with respect to her asking
21 for the test was simply an okay response to the
22 phlebotomist when informed that she had that right. That
23 is not a clear and an unambiguous request for the test.
24 She simply said okay. Of course, Trooper Dubose testified
25 as to the form for the collection of the blood. She

1 testified as to that section of the form which by the way,
2 Your Honor, states that check one box, only one can apply.
3 Trooper Dubose testified that she actually checked that
4 the subject was under arrest for a felony DUI. That she
5 believed that was a straight mark and an error as to the
6 other check that that wasn't made by Trooper Dubose as to
7 the request for an additional test. Again both officers
8 confirmed that at no point did Ms. Brown -- and I believe
9 Ms. Brown confirmed that at no point did she ever tell the
10 officers that she wanted an independent test.
11 Your Honor, even if she did, even if she did,
12 even if that form is sufficient to be that -- to
13 constitute some type of request or an additional test, the
14 statute that requires an affirmative assistance that
15 Mr. Barr keeps talking about is 56-5-2950. If you look at
16 the subsection, that deals with that affirmative
17 assistance that's subsection E 56-52-950 subsection E.
18 And it states that affirmative assistance at a minimum
19 includes providing transportation for the person to the
20 nearest medical facility which performs blood test which
21 was obviously done. She was at the hospital. And if the
22 medical facility doesn't test the blood, they send it to
23 SLED. That's the affirmative assistance that must be
24 given by law enforcement, to take you to a hospital and
25 have blood drawn. And unless she gives them the name of

1 some independent analyst to test her blood is to send it
2 to SLED and that's exactly what was done in this case,
3 Your Honor. So for those reasons, Your Honor, we would
4 again I think it's premature to handle the other
5 procedural issues with regard to the felony DUI statute,
6 but we certainly would argue at this point there is no
7 basis in the record for suppression of any evidence
8 against Ms. Brown including her blood sample and her
9 statements and so we ask, Your Honor, to deny the motion.
10 THE COURT: Okay.
11 MR. BARR: Judge, just briefly in rebuttal, I'm
12 listening to Mr. Durant's argument and it reminds me of
13 the drowning man reaching out the water trying to catch
14 something. The SLED form has been adapted used by the
15 State of South Carolina to reflect issues regarding
16 whether or not a person request an independent test and
17 that form has been filled out in its entirety and you have
18 a copy of it where the form is clear regarding the
19 defendant's indication and her request for an independent
20 test. This business about some check mark in error, I've
21 never heard anything like that, that's some kind of last
22 minute -- I don't know where that came from, but be that
23 as it may, the document speaks for itself. And you know
24 and I know and everybody that's just an disingenuous
25 rationale for something that where it clearly indicates

1 what the desire is. And, Your Honor, to say, well, she
2 was in the hospital or whatever. When the officers read
3 that form and this woman is in custody, they have an
4 affirmative obligation then to go forward and do something
5 to assist her in getting this test done. We would submit
6 that they didn't do that. Thank you.
7 THE COURT: Okay. As far as the affirmative
8 obligation that they have, isn't it true that their
9 obligation is to take her to a facility where she can get
10 her blood drawn. Normally, she's arrested or someone's
11 arrested and then the breathalyzer -- I don't believe that
12 the breathalyzer results are accurate. And they won't
13 have an independent test and the police officer has an
14 affirmative duty at that point to take them because
15 they're in custody, they can't go themselves to some
16 facility to have that test, but once they take her to the
17 facility, is that not the only obligation they have.
18 MR. BARR: Judge, she didn't go to the facility,
19 but she was under arrest.
20 THE COURT: I understand, but she's at the
21 facility when they under arrest. They didn't keep her
22 from giving a blood test. Normally, she's at the jail
23 doing a breathalyzer. So what else could the police had
24 done? In any cases at all to say the affirmative defense
25 -- I mean, affirmative obligation goes pass the statement

1 to the facility. You don't meet a case that says -- I
2 mean, she's already at the hospital. She testified that
3 the nurse came in and took her blood. What else could the
4 highway patrol could have done?
5 MR. BARR: They could have made arrangements
6 with some personnel even at that facility at least present
7 her with an opportunity to have the independent test done.
8 The State of South Carolina on this case want to rely on
9 what the police have done in this case and get the
10 reverse, then that's their business. But I would submit
11 that they're required to do more than what they did in
12 terms of just ignoring her request. And in fact they
13 wasn't even -- appear as they wasn't even made aware of
14 it.
15 THE COURT: Okay. Well, what else should they
16 have done? What else should they have done do you think?
17 MR. BARR: What else -- you mean what the
18 officer could have done?
19 THE COURT: Yes, sir.
20 MR. BARR: They could have first of all find
21 out, well, where do you want the test done. I mean, do
22 you want to go -- quite frankly her experience in the
23 emergency room wasn't too good. She may have wanted it
24 done somewhere else even though she said that she thought
25 that Dr. Sy was there.

1 THE COURT: And she saw him and she could have
2 asked Dr. Sy to do it. I mean, what else could a highway
3 patrolman could have done?
4 MR. BARR: They could have see that she got to
5 Dr. Sy. How she gone get to Dr. Sy just break loose from
6 them.
7 THE COURT: He's in the emergency room and she's
8 in the emergency room.
9 MR. BARR: Judge, she's in the emergency room
10 and she's in custody. I think the Supreme Court's going
11 to require more than that.
12 THE COURT: And my question to you is can you
13 have any cases where they have a require more than that?
14 MR. BARR: I look up one over lunchtime, Judge.
15 I know I've read some in preparation, but I just don't
16 remember the exact one.
17 THE COURT: See that you can find one when we
18 reconvene.
19 MR. BARR: Yes, sir.
20 THE COURT: 1:20, 1:25 I'll see what I can find
21 let you all know.
22 MR. DURANT: Thank you, Judge.
23 THE COURT: Thank you.
24 (WHEREUPON, a lunch break was taken.)
25 THE COURT: Okay. You ready?

1 MR. DURANT: Yes, sir.

2 THE COURT: On the issue of the video based on
3 the affidavit I have, I think that it's satisfies the
4 requirement on the video. At the time the police officer
5 arrived, she was receiving medical treatment from
6 emergency medical treatment in the ambulance. At that
7 time her condition, she was being treated by EMS in the
8 ambulance based on the severity of the wreck. They were
9 not aware if she had any internal injuries or not. They
10 were transporting her to the emergency room to make that
11 determination. Even though in hindsight, she didn't have
12 any internal injuries and at that time they didn't know
13 that. By the time the trooper arrived, she was in the
14 ambulance being treated on the way to the hospital. So I
15 think based on that the affidavit looking at the totality
16 of the circumstances, the field sobriety test and the
17 arrest did not need to be videoed.

18 As far as voluntariness of the statement, she
19 admitted on the stand that she was not coerced or
20 threatened in anyway. At the time she made the statement
21 in the ambulance, she was not in custody. She was not
22 under arrest. After she was placed under arrest at the
23 hospital, Miranda rights were given to her and she made no
24 statements at that time. As counsel conceded on the way
25 to the jail, the statement she made on the camera in the

1 patrol car were not a result of an interrogation, was a
2 voluntary statements by her and no one was interrogating
3 her in any way. She was not all on the breathe test was
4 at the hospital by the time the police officer arrested
5 her she was in the hospital. And in State vs. Long, I
6 think, that the blood test was suffice and she did not
7 require to have a breathe test at that time.
8 Now, as far as the collecting of the blood is
9 concern in the independent test, did you find any cases
10 that said that they had owed her other than assisting her
11 to get a place to have her blood drawn it went any
12 further?
13 MR. BARR: Judge, quite frankly I didn't get to
14 do a whole lot of research. As far as I got, the case
15 that I found was -- there's language in the case, of
16 course, decided on some other grounds, but it would seem
17 like there is an affirmative duty to assist her in
18 contacting some other independent source to assist her
19 with having a test done. Now, I notice that in this
20 case -- and if you remember the testimony, what happened
21 is they took the two blood samples and the police officer
22 took both of them and didn't give her -- the case I felt
23 dealt with the situation where blood was taken, given to
24 the defendant. It was logged in in the defendant's
25 possession. And when the defendant bailed out, the

1 test -- the blood was not where it belong. And, of
2 course, in that case the Court said that there would be --
3 it would be a jury issue as to whether or not the
4 subsequent losing of the blood test, losing of the vial or
5 whether or not that would constitute a deniable of the
6 right to an independent blood test. From my reading of
7 what the limited reading that I did over lunchtime, in a
8 situation we are here where there's no question that she
9 indicated that she wanted an independent test. There's no
10 question that was communicated to the person who drew the
11 blood. There's no question that the person who drew two
12 vials of blood, but instead of one vial going to her both
13 vials went to law enforcement and law enforcement
14 acknowledged that they got both vials and took both vials
15 with them wherever they took them to and they weren't
16 given to her.
17 THE COURT: The trooper testified that they
18 normally takes two vials of blood, that's what he said on
19 the stand. And based on her testimony she never asked the
20 troopers for an independent test. She was at the hospital
21 unlike if she would have been at the jail. She was there
22 and the only thing she said the nurse came up and said I'm
23 going to take your blood and she said okay and turned her
24 head.
25 MR. BARR: Judge, now in the context -- and I

1 think that you have look at this in terms of context, but
2 in the context, once they came back with the search
3 warrant and told her, well, we gone draw your blood. And
4 I think on cross-examination she got a little bit mislead
5 as far as going back to this issue of whether she
6 consented to take, but the officers made it very clear
7 that once they told her that she was going to be under
8 arrest she said, no, I'm not going to consent to a test
9 and that's why they went and got the search warrant. So
10 as far as her not consenting to the test or consenting to
11 have blood -- I think the record is clear that she did not
12 intend to consent to having blood drawn, but once it came
13 back and said we gone draw the blood, I mean, under the
14 circumstances I doubt that she could feel that she could
15 stop them from drawing the blood that they got a search
16 warrant for.
17 THE COURT: I understand, but I'm not taking
18 that she consent. The question I have is whether they
19 gave her substantial assistance in getting an independent
20 test. And normally where that comes up is whether the
21 trooper arrested her or arrested the suspect and taking
22 them to jail give them the breathalyzer and see the
23 breathalyzer get some reading. And they tell you she
24 didn't have anything to drink. I want an independent test
25 and the trooper has to take them to a doctor's office or

1 hospital or clinic or somewhere to draw blood.
2 MR. BARR: Once they took the blood and she was
3 not given a sample which they could have given her a
4 sample, most people don't know to run them down and ask
5 them to give you a sample -- to give you one of the
6 samples so that you could have your blood drawn. But
7 again it goes to the issue of what the officer knew or
8 should have known at the time and whether or not they
9 should have taken some steps to at least contact somebody
10 that could assist her in having an independent test done.
11 THE COURT: I was determine as a result of the
12 statute and I think they complied with the statute as far
13 as giving her substantial assistance. Now, you can --
14 this form comes into evidence you can obviously offer it
15 to the jury, that she checked an independent and didn't
16 get and whatever weight the jury wants to give that, but I
17 think they complied with the statute.
18 Now, as far as the search warrant is concerned
19 and that's not one of the issue that you brought up and
20 you were arguing with me, but I think as the State has
21 conceded the search warrant on its face is defective. It
22 does not contain probable cause. However, the search
23 warrant was supplemented based on testimony the trooper
24 took to the magistrate that night that the defendant in
25 fact admitted to drinking and smelled the alcohol on her

1 breathe. And it was a container of alcohol in the car or
2 a cup and it was clear it was alcohol. And the magistrate
3 testified that they told her that night, Trooper Dubose
4 told her that. And so I think based on that there is
5 sufficient probable cause even though the warrant is
6 defective on its face. As far as the person authorized to
7 take the blood, that was technically not an issue before
8 me. And if the State can't prove that, then I would
9 revisit that before whatever goes to the jury, but at this
10 point we will visit that in the testimony to see if they
11 can in fact do that or not. If they can't do that, then
12 I'll reconsider the blood results go to the jury.
13 MR. BARR: Yes, sir.
14 THE COURT: Anything else?
15 MR. DURANT: Not from the State, Your Honor.
16 THE COURT: Okay. Are we ready for the jury?
17 MR. DURANT: Yes, sir.
18 (WHEREUPON, the jury came into open court.)
19 THE COURT: Mr. Solicitor.
20 MR. DURANT: The State calls Dr. Mark Reynolds.
21 THE COURT: All right.
22 THE CLERK: Dr. Reynolds, if you would step to
23 me please. I need you to raise your right hand and place
24 your left hand on the Bible and state your name please.
25 THE WITNESS: Mark Andrew Reynolds.

1 THE CLERK: Do you solemnly swear the testimony
2 you're about to give will be the truth and nothing but the
3 truth so help you God?
4 THE WITNESS: I do, yes.
5 WHEREUPON,
6 Dr. Mark A. Reynolds,
7 after first having been duly sworn, testified as follows:
8 DIRECT EXAMINATION
9 BY MR. MCMILLAN:
10 Q Dr. Reynolds, thank you for being here this
11 afternoon. Due to scheduling, we're having to take a
12 little bit out of order, but I thank you for being here
13 today. If you would, would you please tell the jury where
14 are you employed?
15 A I'm employed at McLeod Regional Medical Center in
16 Florence, South Carolina.
17 Q And what do you do at McLeod Health in Florence?
18 A I'm the trauma surgeon. I'm a general surgeon who is
19 trained to take care of traumatized patients.
20 Q And how long have you been practicing there in
21 Florence at McLeod Health?
22 A Since September of 1997.
23 Q And how many years have you been in medicine overall?
24 A I was -- I graduated from Temple University School of
25 Medicine in 1986.

1 Q Okay. If you would, would you will you tell the jury
2 and the Court a little bit about your educational
3 background?
4 A Well, I went to Temple University undergraduate. I
5 went Temple University Medical School in Philadelphia,
6 Pennsylvania. I was trained in general surgery for two
7 years at Temple University hospital. And then spent the
8 rest of my general surgical training at the graduate
9 hospital of the University of Pennsylvania in downtown
10 Philadelphia. I went on to two years of trauma and
11 surgical critical care training at the University of
12 Louisville in Kentucky. Subsequently, I went to the
13 University of West Virginia and University in Morgantown,
14 West Virginia where I was assistant professor of surgery
15 for three years. Thereafter, I was recruited to come and
16 head up the trauma program at McLeod Regional Medical
17 Center in Florence.
18 Q So would you say your specialty, your area of
19 practice is trauma surgery?
20 A It is, yes.
21 Q And are you board certified in that area of practice?
22 A I am board certified in general surgery.
23 Q And have you ever been qualified as an expert in a
24 trial before?
25 A I have, yes.

1 MR. MCMILLAN: Your Honor, at this time I would
2 like to offer Dr. Reynolds as an expert in the field of
3 trauma surgery.
4 THE COURT: What says the defense?
5 MR. BARR: Judge, I'm familiar with
6 Dr. Reynolds.
7 THE COURT: Okay. And the Court so finds he's
8 certified.
9 BY MR. MCMILLAN:
10 Q So, Doctor, you were working back in Florence on
11 August of 2014?
12 A Yes, I was.
13 Q Okay. And during that time did you have a chance to
14 see a patient by the name of Mr. Arturo Murrieta-Blas?
15 A Yes, I did.
16 Q And were you the attending physician?
17 A I was, yes.
18 Q When was Arturo admitted at Florence McLeod Health?
19 A He was admitted on August 31st, 2014.
20 Q And what was he admitted for?
21 A He was admitted for multiple trauma as a result of a
22 motor vehicle crash.
23 Q And do you know where he came from?
24 A Well, I don't have any independent recollection of
25 these events. I can state from the record that created

1 at the time. That he was involved in a high speed head
2 on motor vehicle collision. And he was transported by
3 helicopter from the scene. It was 30 to 40 minutes
4 extrication from the automobile. He was found in the
5 floor well.
6 Q Okay. So he was airlifted to Florence?
7 A He was, yes, sir.
8 Q You don't anything specific about the car accident
9 itself?
10 A I do not, no.
11 Q And what was Mr. Arturo's condition upon his
12 admission Florence McLeod Health?
13 A He was extremely ill. He was totally unconscious.
14 He had -- he required intubation at the scene by the
15 helicopter crew. He was unresponsive and extremist.
16 Q All right. How long was Mr. Arturo admitted at
17 McLeod health?
18 A He was admitted from August 31 and discharged on
19 October 22.
20 Q And during that time what, if anything, diagnosis
21 were given to Mr. Arturo as a result from this car
22 accident?
23 A Well, multiple injuries including subdural hematoma,
24 subarachnoid hemorrhage, cerebral contusion, cerebral
25 edema, fracture of the orbital floor bilaterally, fracture

1 of the nose, fracture of ethmoid sinuses, laceration of
2 the face with extensive evulsions. He had multiple rib
3 fractures. He had dysphasia, malnutrition and
4 cephalopathy, respiratory failure.
5 Q And if would you, would you explain for the jury the
6 general nature of all those injuries?
7 A Well, his major injuries were concentrated around the
8 head and the face. He had blood inside the skull over
9 lying the brain. He had what we call midline shift when
10 he had a right sided subdural hematoma, that means that he
11 had some bleeding on the brain on the right side that was
12 cause his brain to shift to the opposite side indicating a
13 significant pressure on the brain. He also had cerebral
14 contusion meaning that the brain itself was contused. He
15 had facial fractures.
16 Q When most of his injuries being to the head, so it's
17 fair to call all these types of injuries a severe
18 traumatic brain injury?
19 A Yes.
20 Q And what are the concerns that that type of injury
21 arises in your mind?
22 A Well, the initial concern was that he was in
23 potentially going to die from his major traumatic brain
24 injury. As a result, Dr. Brandon who is a neurosurgeon on
25 staff at that time, had took the patient to the operating

1 room and removed a portion of his skull. And in fact
2 evacuated the hematoma and decompressed the brain. And he
3 placed the skull flat in the abdominal wall about there.
4 Q So how many procedures did Mr. Arturo go during his
5 time at McLeod health?
6 A He was on the way to extensive work on his face by
7 Dr. Tumey. Repair of the multiple facial lacerations and
8 facial fractures. The rest of his stay was essentially to
9 recover from his injuries and we provided supportive care
10 and prolonged ambulatory support. He was essentially
11 completely unresponsive for several weeks. I performed a
12 tracheostomy, that is placed a tube into the trachea to
13 breathe for him. I placed a feeding tube right into his
14 stomach so that we could feed him. Eventually had
15 replacement of the skull, the cranial flap that was
16 replaced on October 3rd. And at that time he was sent to
17 the floor and he was beginning to recover.
18 Q So you testified earlier that he was unconscious upon
19 arrival?
20 A Yes.
21 Q Did he eventually regain conscious?
22 A He eventually did according to the notes I have here,
23 yes.
24 Q Okay. And what was condition when discharged from
25 McLeod Health.

1 A Well, he was -- he required a lot of help. He was
2 able to communicate particularly with his wife. He was
3 cooperating with the therapy. He was able to eat a pureed
4 diet with thin liquids. He was able to walk with
5 assistance. He was able to perform most of the activities
6 of daily living such as toilet and washing and et cetera
7 with some assistance. And at that time he was discharged
8 home, that was on the 22nd of October.
9 Q Now, and with a traumatic brain injury of this degree
10 is there any prognosis or probability that disability
11 could arise?
12 A It's likely to be significant disability.
13 Q And now after seeing Mr. Arturo's injuries from this
14 wreck, can you give an opinion with a reasonable degree of
15 medical certainty -- I believe you testified to this
16 earlier as to whether this type of traumatic brain injury
17 carries with it a substantial risk of death?
18 A It does. Without the life saving measurements
19 perform by Dr. Brandon and myself and the staff at the
20 intense care unit, he would not have survived.
21 Q And also in your opinion is the loss of brain
22 function Mr. Arturo suffered as a result from this
23 incident is that loss a permanent loss?
24 A Yes, it is.
25 MR. MCMILLAN: Thank you. No further questions.

1 Please answer any questions from the defense.
2 THE COURT: Mr. Barr.
3 CROSS-EXAMINATION
4 BY MR. BARR:
5 Q Doctor, I know that you would have offered. Can you
6 look at your medical records and tell me whether or not
7 there was ever any toxicological test ordered for Mr.
8 Arturo when he was first admitted to the hospital?
9 A I have no independent recollection of that. I don't
10 have anything to positively identify in the chart here,
11 other then it states in the history and physical of the
12 urine drug screen that it is negative and alcohol is .237.
13 Q What is alcohol .237? What does that mean?
14 A That means his alcohol level was 237, which is
15 elevated above the legal limit.
16 MR. BARR: All right. I have nothing further.
17 Thank you, Doctor.
18 THE COURT: Anything further, Mr. McMillian?
19 MR. MCMILLAN: Nothing on redirect.
20 THE COURT: You may step down. Thank you.
21 (WHEREUPON, the witness leaves the witness
22 stand.)
23 MR. DURANT: The State calls Trooper Jeffrey
24 Minnix.
25 THE CLERK: Raise your right hand and place your

1 left on the Bible. Repeat your name please.
2 THE WITNESS: Jeffrey K. Minnix.
3 THE CLERK: Solemnly swear the testimony you're
4 about to give will be the truth and nothing but the truth
5 so help you God?
6 THE WITNESS: Yes, ma'am.
7 WHEREUPON,
8 Jeffrey Minnix,
9 after first having been duly sworn, testified as follows:
10 DIRECT EXAMINATION
11 BY MR. DURANT:
12 Q Trooper Minnix, good afternoon. If you would tell
13 the jury where you work and how long you been there?
14 A I work for the South Carolina Highway Patrol Sumter
15 and Clarendon Counties for the last four and a half years
16 since 2014.
17 Q All right. Now, you obviously not in a highway
18 patrolman uniform today and what's the reason for that?
19 A I broke my ankle two weeks ago.
20 Q On the job?
21 A No, sir.
22 Q And as a result out on?
23 A Yes, sir, I'm on sick leave. Yes, sir.
24 Q It's policy for highway patrol you can't appear
25 uniform if you're out on leave?

1 A Yes, sir.
2 Q But you still employed by the highway patrol?
3 A Yes, sir.
4 Q And when you're expected to return to work?
5 A Anywhere from four to six weeks.
6 Q Okay. You had been with the highway patrol for four
7 years now?
8 A Yes, sir. My actual hire date was January 24, 2014.
9 Q Okay. So were you working then for highway patrol
10 back on August the 30th of 2014?
11 A Yes, sir.
12 Q Were you assign to Clarendon County back then?
13 A Yes, sir.
14 Q And as that -- in your role as a highway patrolman
15 here in Clarendon County, did you have occasion to respond
16 to a traffic collision in the early morning hours of --
17 would have been, I guess, the 31st now after midnight on
18 August 31st 2014?
19 A Yes, sir.
20 Q Okay. Where was that?
21 A It was on -- located at 261 between Home Branch and
22 Body Road.
23 Q Okay. Is that here in Clarendon County?
24 A Yes, sir.
25 Q When was the call received?

1 A The call was received I believe sometime around
2 midnight. We arrive on scene approximately 12:23, 0023 in
3 the morning.
4 Q You say we who is we?
5 A Corporal Dubose and I. I was still on FTO at the
6 time.
7 Q What is that?
8 A Field training observations. So I was actually --
9 the highway patrol is required to go through two months of
10 basically -- we do several shifts of a ride along with a
11 FTO officer. Then we do another anywhere from a month and
12 a half to two months depending on where the shifts work
13 out with that officer riding in the passenger seat with
14 us. So at that time I was just completing my FTO portion
15 of my training phase.
16 Q So you had a more experienced officer riding with you
17 at the time?
18 A Yes, sir.
19 Q Okay. And you all would have arrived at 12:23 after
20 midnight on the 31st?
21 A Yes, sir.
22 Q Were you the first officer with the highway patrol to
23 arrive on scene?
24 A No, sir. Darren Wilson who is a -- one of the
25 officers from the -- I believe he's one of our motor

1 officers. I don't know him very well. I didn't know him
2 at the time at all. Again, I was new. So he -- he was
3 actually the first one to arrive on scene.
4 Q Were there other first responders from other agencies
5 on scene?
6 A Yes, sir. There was fire and EMS were on scene. And
7 Clarendon County Sheriff's Department had a deputy on
8 scene as well.
9 Q Okay. Tell the jury what you found when you arrived
10 on scene?
11 A When we arrived on scene, I located -- I was able to
12 maneuver my vehicle as close as I could to the actual
13 scene itself. Unfortunately, with the way EMS correction
14 fired and the other officers on scene had parked their
15 vehicles, I could not get around them. So I parked my
16 vehicle a little ways back. We got out of the vehicle,
17 grab my camera, went around, and that's when we noticed
18 the first vehicle was a pickup truck -- a black Dodge
19 pickup truck up against a tree. We started making our way
20 over to that vehicle and we notice fire was out with them
21 trying to extricate the passenger of the vehicle. The
22 driver of the vehicle they had the door open. You can see
23 he was deceased at the time. He was basically curled up
24 underneath the steering column of the driver side of the
25 vehicle. I spoke to another firefighter and he said the

1 other vehicle was down the road. Look down the road and
2 it was a good bit -- it's a little bit dark out there
3 especially when you got all the lights behind you. And we
4 were just able to make out a little white vehicle off to
5 the roadway. So we -- I made my way down there, walked
6 around the vehicle. Notice there was heavy front-end
7 damage to that vehicle. What I assume would be the tool
8 box from the pickup truck was next to the vehicle of the
9 little white vehicle there in the roadway, walked around
10 the vehicle. While I was looking through the vehicle, I
11 notice there was a clear plastic cup on the floorboard,
12 took several pictures of it just so we could know where it
13 was located for future reference. Picked the cup up, took
14 a pretty good smell off of it and it had a real strong
15 odor of some sort of alcohol had been in it, put the cup
16 back, about that time another fire fighter came up to the
17 scene. I asked where the driver of the vehicle was. They
18 informed me that they were actually in the ambulance that
19 was located on Boyd Road, which is a little dirt road just
20 off to the side. And so I walked over there, got up in
21 the ambulance. And they were busy taking care of the
22 driver. They're busy taking care of the driver of that
23 little white car. I spoke to the driver of the white
24 vehicle asked her name. She was able to give me her name.
25 It was -- she identified herself as Tammy Dianne Brown. I

1 asked her where she was coming from she told me she was
2 coming from a friend's house. At that point in time you
3 could smell a strong odor of some sort of alcohol beverage
4 coming from her person. I asked her if she had anything
5 to drink she told me she had two shots of tequila.
6 She then changed that pretty quickly to two wine coolers.
7 I said okay. I asked her what was in the clear cup that
8 was on the floorboard of the car and she said her friend
9 had made her one for the road. I asked her what was that.
10 She said it was a wine cooler she made it for the road.
11 About that time, EMS basically told me, hey, look we're
12 trying to get her out of here. I got out of the ambulance
13 and I went back. I inform my corporal of what my
14 suspicions were at that time, that I did think she was --
15 that there was a possibility that she was intoxicated. We
16 continued to actually work the collision scene to finish
17 taking pictures. Trooper McCoon showed up and marked the
18 scene for us. The corporal I was talking to our first
19 sergeant and our sergeant who showed up at the scene. By
20 that time they had extricated Mr. Blas who was the
21 passenger in the vehicle. We were waiting for the corner
22 to arrive to -- so that they could extricate the driver of
23 the vehicle Mr. Arenas. Afterwards, we -- my corporal and
24 I left the scene. We went to Clarendon Memorial ER. We
25 went in we spoke to Ms. Brown again. Basically at that

1 point in time we did that so that the corporal who
2 obviously has many more years experience than I do so she
3 could get verification of what was going on with the
4 situation. At that point in time Ms. Brown was informed
5 she was being placed under arrest for felony DUI. She was
6 read her Miranda rights, read her implied consent rights.
7 She up until that point she had agreed to provide a blood
8 sample. Once we told her that she was being charged with
9 felony DUI involving death, she refused to provide a blood
10 sample, became belligerent. The corporal went to secure a
11 search warrant for her blood. I stayed at the hospital
12 just to kind of -- make sure if she was released that she
13 was in custody. The corporal was able to get back.
14 During the time that she was gone, I was not actually
15 physically in the trauma room. I was just outside of it.
16 But you could hear Ms. Brown in there, you know, carrying
17 on making statements about how she didn't kill anybody.
18 And that basically the biggest statement was that, you
19 know, she was saying that they hit her, that it was an
20 oncoming collision. It was head on. That they were
21 trying to pass somebody and they slammed into her. So
22 after she was -- after the corporal got back, the
23 phlebotomist was able to take her blood. She was then put
24 in handcuffs and transported to Clarendon County Detention
25 Center.

1 Q All right. Trooper Minnix, you gave us a lot of
2 information there, so I'm going to go over some of it a
3 little bit greater detail. I was hoping to show you some
4 photographs from the scene when we take a break in a
5 minute with the Court permission to get the equipment in
6 order. But before we do that, let me first talk to you
7 about the dash cam video. Is your car equipped with a
8 camera?
9 A Yes, sir.
10 Q All highway patrol -- law enforcement cars at this
11 point are essentially equipped with cameras; is that
12 right?
13 A Yes, sir.
14 Q Okay. Is there an audio feed for the camera as well?
15 A Yes, sir.
16 Q And how does that work?
17 A Well, what it is is anytime that our blue lights are
18 activated, our body mic and our camera are automatically
19 activated. The way the system in the car that I had that
20 worked, I had an older vehicle when I first -- of course,
21 I just graduated from the academy, so they're not going to
22 give you a newer vehicle. So I had an older system in my
23 car. It was a VHS system. The way that works is is
24 there's a little stand, that's a charging stand that also
25 has an antenna on it. The body mic that we wear goes

1 through there and then routes up to the camera system,
2 which is located on the roof -- the ceiling of the
3 vehicle. And then that in turn records to the VHS system,
4 which is located -- there's fault in the trunk of the
5 vehicle.
6 Q Okay. There is unlimited range with that microphone
7 that's attached to the camera?
8 A No, sir, it's very limited range. Again, it's an
9 older technology, so it's pretty limited its range.
10 Q Okay. What I'm getting at is is the you mention some
11 statements that were given by Ms. Brown, I believe, you
12 said she was in the back of your ambulance with EMS at
13 that point?
14 A Yes, sir.
15 Q There was some statements given by Ms. Brown with
16 respect to this accident and with respect to having
17 consumed alcohol earlier in the evening. Is that
18 recorded?
19 A No, sir, it was not actually. But the scene was
20 recorded, but it was not able to pick up the actual
21 initial interview with Ms. Brown.
22 Q Why is that?
23 A The distance between my vehicle and the ambulance was
24 just too great not to include the fact that all the noise
25 in the area, the fact that you're trying to go through the

1 another vehicle because I was in the back of the balance
2 with her. So it just wasn't able to pick up that
3 interview.
4 Q So when you arrived was Ms. Brown already with EMS?
5 A Yes, sir.
6 Q She was already in the back of the ambulance?
7 A Yes, sir.
8 Q Okay. As an aside, did she admit to you that she
9 been driving the car?
10 A She never physically told me that she was the driver.
11 I asked -- I got to think about it for a second. I asked
12 who the driver was and I believe that EMS basically said
13 she was the driver. And I asked her what her name and
14 date of birth was and she told me Tammy Dianne Brown. She
15 didn't disagree with the fact they had identified her as
16 the driver.
17 Q But she later gave some statements as far as how the
18 accident happened that she had been hit head on?
19 A Yes.
20 Q Okay. Let me show you what's been marked as marked
21 State's Exhibit 46. It says felony DUI Tammy Brown disk
22 one. Do you know what that is?
23 A Yes, sir, this is actually going to be the video of
24 the actual collision scene.
25 Q This is a video from the dash cam of your parol car

1 at the actual accident scene?
2 A Yes, sir, the video that it's going to show is
3 actually out the front windshield.
4 Q Okay. So if the camera actually stationary that
5 stays in your vehicle the whole time?
6 A Yes, sir.
7 Q So you walk around, you got the microphone attach to
8 you and it feeds back the same system, but the camera is
9 stable inside the vehicle.
10 A Yes, sir.
11 Q Trooper Minnix, have you had occasion to look at the
12 video, to view this video?
13 A I believe I've reviewed it twice.
14 Q Okay. Does it appear to be a fair and accurate
15 representation of the video from your patrol car that
16 evening?
17 A Yes, sir.
18 Q The equipment in working order?
19 A Yes, sir.
20 Q Has it been altered or edited in any way?
21 A No, sir.
22 MR. DURANT: And, Your Honor, I ask to submit
23 State's Exhibit 46 into evidence.
24 THE COURT: Any objection?
25 MR. BARR: Without objection.

1 THE COURT: It's in without objection.
2 (WHEREUPON, State's Exhibit No. 46 was admitted
3 into evidence.)
4 (WHEREUPON, video being played for the jury.)
5 BY MR. DURANT:
6 Q Trooper Minnix, I'm going to stop it right there and
7 ask you one question. I don't know if you testified
8 earlier, but where were you coming from when you got the
9 call?
10 A We were on SC 260. We had just been at a driver's
11 license check point on Raccoon Road. And so basically
12 what had happen was, they gave out the collision on our
13 radio, turned around and started heading towards 261. A
14 few minutes afterwards, they notified us that it was
15 actually going to be a possible fatality. So at that
16 point in time -- any time there's a fatality we try to get
17 there as soon as possible. So I activated my lights and
18 siren and that's where the camera kicks on right there is
19 where they just given us out the fact that it's possible
20 -- what we call a ten seven, but it's a fatality. So I
21 activated lights and siren and as soon as I do that, of
22 course, automatically the camera comes on and all the mics
23 are operating.
24 Q So coming from Raccoon Road in Manning through the
25 traffic circle?

1 A Yes, sir.
2 Q Is the date and time stamp on the video accurate?
3 A Yes, sir, I believe so.
4 Q 8-31-14 00 1337 that be 1213 in the morning?
5 A Yes, sir.
6 (WHEREUPON, video starts playing again for the
7 jury.)
8 BY MR. DURANT:
9 Q This is your arrival at the accident scene here?
10 A Yes, sir.
11 Q Okay. Tell the jury why you stop her?
12 A It's a little tight fight to try and drive through
13 here. At this point time, you know, the vehicle is right
14 here the black truck. So we didn't -- I don't know what's
15 further on down the road. So I'm just going to stop here,
16 so that's where we thinking the collision is here. Plus
17 it's a tight fit, so we're not going to take the chance
18 I'm to start scraping, you know, paint off my car. Pulled
19 over to the side here and basically this is where the
20 vehicle stayed from the duration of time. We were out
21 there on the collision scene.
22 Q Now, the vehicle that -- were both the vehicles
23 involved were traveling toward Manning; is that correct?
24 A Yes, sir.
25 Q So towards the direction as you were coming from?

1 A Yes, sir.
2 Q Okay. So they would have been coming toward you?
3 A Yes, sir.
4 Q You seen some photographs of the vehicle and one
5 that's off to the side on the road in front of a tree.
6 And the other still in the roadway. So they would have
7 been -- I guess if you're looking on the roadway on your
8 side, the left-hand side of the road?
9 A Yes. Well, those lights are pointing -- they're
10 actually pointing that direction right there. The vehicle
11 is like just on the other side of this truck right here.
12 Q Now, tell the jury about this sign?
13 A So you're coming into an intersection. This is out
14 here in the county is considered a major intersection.
15 You're on a South Carolina highway road S.C. 261. You're
16 coming up to another major road Home Branch which gets a
17 lot of traffic on it. So what the DOT has done is is they
18 put what they call a cautionary speed limit sign in there.
19 What that means is is that you have to slow down to 4t
20 miles per hour when you're going through these
21 intersections like this. Same thing for when you're
22 making turns around curves and then pops up with numbers
23 on the curve. They say 35 miles an hour. It's not that
24 you can't take that at 55 miles an hour, it's just that
25 you shouldn't 55 miles an hour you need to slow down to 35

1 miles an hour. That's what that means right here is you
2 going 45 miles an hour going into this area right here.
3 The reason being is you've got sight line for people
4 coming off Home Branch at 55 miles an hour. By the time
5 they see you, they may already be half way in the lane and
6 they can get T-Bone or something like that. So they want
7 people to slow down a little bit in those areas.
8 Q Now, as far as highway patrol is concern what is your
9 understanding of the legal affect of the sign?
10 A Those are the official speed limit signs in the area.
11 Q So it's mandatory speed limit?
12 A Yes.
13 Q It's against the law to go fast in a 45?
14 A Yes.
15 Q Again, this is the road that T's off pursuant to the
16 signs of Home Branch Road?
17 A Yes, sir, that be Home Branch.
18 Q All right. You can have a seat back. Before you go
19 -- I'm sorry about that. Can you tell me from the video
20 where the ambulance is with respect to your car?
21 A Okay. So if you go down the road your ways, a little
22 dirt road Boyd Road, I don't know if anybody is familiar
23 with that. It's a little dirt road, that's where the
24 ambulance was parked on. It was actually on Boyd Road and
25 so they actually got some pretty decent pictures where

1 Boyd Road was in relation to her car and pictures that
2 actually showed this way about how far the distance was.
3 Q Okay. So that's where the ambulance would have been
4 parked?
5 A Yes, sir.
6 Q Did you ever get any closer than where you're parked
7 now?
8 A No, sir.
9 Q This where your car stayed parked until you left?
10 A Yes, sir.
11 Q Okay. You can go ahead and have a seat back up and
12 I'm going to play some more of the video for the jury.
13 (WHEREUPON, video continued.)
14 BY MR. DURANT:
15 Q Based on the quality of the audio at this point, it's
16 difficult to understand at all anything that you have said
17 or any of the conversation or anybody at the scene?
18 A And that's from the way the body mic works is it
19 picks up everything. So now you are out there with all
20 this equipment. You got the fire trucks are out there.
21 They've got generators running. They got lights running.
22 They're trying -- all the hydraulic equipment they are
23 using. All that's been picked up on that body mic. And
24 plus you're talking. All other vehicles that are running.
25 It picks up all that. So that's why unfortunately in

1 these kind of situations this isn't the -- especially with
2 this equipment that we had at the time. It was not the
3 best situation.
4 Q Is the quality of the audio substantially the same
5 throughout the remainder of the video?
6 A Yes, sir.
7 Q Okay. I'm not going to ask the jury to sit through
8 that at this point, but again that's the only equipment
9 you had to work with at that time?
10 A Yes, sir.
11 Q That's the best you had?
12 A Yes, sir.
13 Q Okay. Now, Trooper Minnix, you mention that you had
14 a conversation with Ms. Brown in the back of the ambulance
15 as she was being attended to by EMS?
16 A Yes, sir.
17 Q Okay. First of all, tell me about your initial
18 observations of Ms. Brown when you approached her?
19 A When she was in the back of the ambulance, she had
20 some scratches on her from my recollection. I don't think
21 from -- I don't believe she had any kind of scratches
22 around her face or anything like that. I think mostly
23 from her arms or so, but I do believe there was a little
24 bit of blood on her at that point in time. Again, her
25 eyes were bloodshot. Unfortunately, in an ambulance like

1 that, there's light, but it's still pretty hard unless you
2 really get up in somebody's face to tell. So from a
3 distance, I can kind of tell that they were a little bit
4 bloodshot, but I wasn't absolutely sure. So after I
5 started talking to her even from about an arm and a half
6 length away, you can still smell the alcohol, that smell
7 of alcoholic beverage from her person. So that was kind
8 of why I started asking her about had she been drinking.
9 Q And when you went over there to meet with her to
10 begin with, what was your purpose?
11 A Just basically just to interview. We were just
12 trying to figure out what happened. At that point in time
13 from seeing the pickup truck, seeing her car, we kind of
14 had an idea, but there's always something happened. So we
15 wanted to make sure that what she was telling us matched
16 up with what we were seeing at the scene. So that was the
17 initial interview -- that was the initial interview.
18 Q And tell the jury again about the questions you asked
19 and the responses you got from Ms. Brown in the interview
20 that evening?
21 A Again, after speaking to her asking her for her name
22 and date of birth, after I noticed the smell of alcohol
23 beverage coming from her, I asked her if she been
24 drinking. She said yes. I asked her how much she said
25 two tequila shots. Again, she changed it pretty quickly

1 to two wine coolers. Afterwards, I asked her what was in
2 clear cup in the car on the floorboard of the vehicle, she
3 said that her friend made her one for the road. I asked
4 her what was in the cup she told me it was a wine cooler.
5 So that was pretty much where it ended because EMS was
6 trying to get her to the hospital to check for internal
7 injuries at that time, what's why I didn't really delve
8 into any more questions about anything else.
9 Q Okay. Did you offer her any -- what's commonly
10 referred to as field sobriety test at that point?
11 A No, sir.
12 Q Okay. Tell jury what field sobriety test are?
13 A Field sobriety test is a standardized set of test
14 that they determine can help benefit law enforcement in
15 making a determination of whether somebody is appreciably
16 impaired. What it does is is there's a -- what we check
17 for vertical and horizontal nystagmus, which is a
18 involuntary muscle spasm in the eyes, that -- really you
19 can't -- I mean, there's nothing you can do about it. If
20 you been drinking, the more you drink the more your eyes
21 are going to start drinking when you get to what we
22 maximum deviation. So that's what we're actually looking
23 for when we're watching your eyes. We're not looking for
24 you to follow our finger. That's one portion of it. We
25 are looking at walk and turn where we're trying to make

1 sure you can put heal to toe. That you can count the
2 number of steps. That you can listen to directions. That
3 you can turn properly that kind of thing. And there's the
4 one leg stand which is basically balance and direction
5 following. So those are part of the field -- the
6 standardized field sobriety test.
7 Q Why didn't you offer those to Ms. Brown?
8 A The reason I didn't offer them to her was for the
9 simple fact that she was already in the ambulance. I'm
10 not going to get her out of the ambulance. Again, I don't
11 know what her injuries are, even EMS was unsure. I'm not
12 going to say, hey, why don't you jump out of the ambulance
13 do these test for me, so I can make sure that you're not
14 inebriated.
15 Q After meeting with Ms. Brown back of the ambulance
16 what did you do?
17 A I went over and met with Corporal Dubose. I explain
18 to her what, you know, I thought was going on. At that
19 point in time we finished up doing what we were doing for
20 the scene marking the scene, taking pictures. We had to
21 wait for the coroner to arrive, so that he could get the
22 -- Mr. Arenas who's the decease the driver out of -- from
23 the vehicle. Once we did all that, the first sergeant and
24 the sergeant secured the scene to wait for our MAIT
25 investigator. And we went to the Clarendon Memorial.

1 Q Let me ask you about the victims, you mention that
2 when you arrived that the fire department was in the
3 process of extricating trying to get the victims out of
4 the Dodge -- the pickup truck?
5 A Yes, sir.
6 Q Okay. And were they both incapacitated when you
7 arrived on the scene?
8 A Mr. Blas was the passenger of the vehicle. They were
9 extricating him. He was as far as I know he was
10 unresponsive. Mr. Arenas he was pronounced dead. He was
11 the driver of the vehicle. He was -- like I said when we
12 walked up there, you could actually see he was -- he was
13 stuffed underneath the driver steering column of the
14 vehicle.
15 Q Was the victim identified at the scene?
16 A They were identified. Mr. Arenas was actually -- the
17 family members actually gave us the wrong information
18 originally.
19 Q For the driver?
20 A For the driver Mr. Arenas. Several days later his
21 step daughter came by the office with his birth
22 certificate and gave us the right information. So we had
23 to change the report to reflect that.
24 Q Is that the reason that some of your reports
25 reference a Mark Maradio (sic) or something to that

1 effect?
2 A Yes, sir.
3 Q But you verified it later and his actual name was
4 Guillermo ---
5 A Guillermo Arenas, yes, sir.
6 Q And the passenger was identified as what now Arturo?
7 A Blas.
8 Q Is that the same individual that you heard Dr.
9 Reynolds testified as to treatment earlier?
10 A Yes, sir, I believe so.
11 Q Al right. Tell me what happened to Mr. Arturo that
12 evening?
13 A He was transported to Florence by our area vac and
14 they basically proceeded to operate on him. We do not --
15 because he was in surgery we did not drive up to Florence
16 to make sure he was okay. We kind of figured they were
17 going to take care of him up there. They didn't need us
18 bothering him.
19 Q Okay. The driver of that black pickup truck Mr.
20 Guillermo you mentioned he was DOA when you arrived?
21 A Yes, sir.
22 Q What does that mean?
23 A Dead on arrival.
24 Q And did the coroner later respond to the scene?
25 A Yes, sir.

1 Q As to your knowledge was that confirmed?
2 A Yes, sir.
3 Q At the scene that he was deceased in the pickup
4 truck?
5 A Yes, sir.
6 Q After this point did you leave to go to the hospital?
7 A Yes, sir, as soon as the coroner okayed it for the
8 fire to extricate the driver of the vehicle, that's when
9 we left to head to Clarendon Memorial.
10 Q You and Corporal Dubose?
11 A Yes, sir.
12 Q Tell the jury what happened when you got to the
13 hospital?
14 A When we got to hospital, we went in again because
15 Corporal Dubose's experience, she wanted to make sure that
16 what I was get was the same thing as what she was getting.
17 So she -- we interviewed Ms. Brown again. She smelled the
18 same things I smelled the strong smell of alcoholic
19 beverage, bloodshot eyes. And so at that point in time we
20 told Ms. Brown that she was being placed under arrest for
21 felony DUI. And we read her her Miranda rights. And then
22 we read her her implied consent rights. And initially she
23 agreed to provide a blood sample, but like I said, as soon
24 as she found out it was felony DUI involving death.
25 Again, she refused became belligerent. Her comments were

1 how am I going to be charged with killing somebody when
2 they hit me. You know, I didn't kill nobody out there.
3 That kind of stuff.
4 Q You mention Miranda rights. Was this the first time
5 you read her Miranda rights to her?
6 A Yes, sir.
7 Q Okay. You didn't read them to her at the scene?
8 A No, sir.
9 Q When you spoke to Ms. Brown at the scene of the
10 accident, did you have any reason to arrest her for
11 anything?
12 A No, sir.
13 Q Did you have any probable cause at that point believe
14 she committed a crime?
15 A Like I said, sir, at that point in time I kind of --
16 I had the suspicion that she had been drinking, but,
17 again, I been with the highway patrol for a little under
18 two months at that point. So I wanted to make sure that
19 somebody who had more experience was able to make that
20 determination before I placed her under arrest. So at
21 that point in time that's why I chose not to place her
22 under arrest. And like I said when we got to the
23 hospital, she was not under arrest until Corporal Dubose
24 and I spoke to her for the second time.
25 Q So after further observation and the conversation

1 with Ms. Brown, she was placed under arrest at the
2 hospital?
3 A Yes, sir.
4 Q Okay. You mentioned upon placing her under arrest,
5 that you read her something called her implied consent
6 rights?
7 A Yes, sir.
8 Q What are those?
9 A Under South Carolina state law basically means that
10 if you drive in the State of South Carolina, you are
11 consenting to give a breathe test or a blood test or a
12 urine test. What that means is is that if you are from
13 Tennessee and you cross the South Carolina boarder and you
14 got alcohol in your system, you automatically consent to
15 provide these tests if we pull you over and if you are
16 involved in a collision. So what that is is those are the
17 implied consent laws are basically what this is the
18 outcome of what will happen if you do not take the test.
19 If you do take the test and provide samples over this
20 certain point, that's what that is is that's just giving
21 you that basically what's going to happen, the
22 circumstances and what your choices are.
23 Q But that implied consent that can be withdrawn, can
24 it?
25 A Yes, sir.

1 Q So an individual that's suspected and that's under
2 arrest driving under the influence can withdraw that
3 consent and refuse to submit to any testing?
4 A Yes, sir.
5 Q Okay. You mention your interactions with Ms. Brown
6 at that point after you arrested her and read her those
7 rights tell the jury again about the demeanor and about
8 her response to you upon being read those implied consent
9 rights?
10 A So we read her implied consent rights. Again, she
11 stated she didn't hit nobody. They were trying to pass
12 her, pass another car and they hit her head on. She
13 didn't kill nobody. Nobody was dead. Those were the kind
14 of statements she was making. At that point in time when
15 she refused to provide a blood sample, Corporal Dubose
16 made contact with Judge Locklair to secure a search
17 warrant. So Corporal Dubose left the hospital went to
18 go get that search warrant. I stayed at the hospital.
19 Again, I was outside the trauma unit, but you could
20 overhear what she was saying to the nurses and basically
21 was the same thing. You know, she was just telling them I
22 didn't kill nobody, how can be I blamed for killing
23 somebody. They hit me, that's the kind of statements she
24 was making.
25 Q At any point during this period of time, at any

1 interaction with Ms. Brown that evening, was she
2 threatened or coerced by law enforcement in any way?
3 A Absolutely not.
4 Q In your opinion was all of her statements given
5 freely and voluntarily?
6 A Yes, sir.
7 Q Okay. When Trooper Dubose -- did she actually
8 secured a search warrant and bring it back to the hospital
9 at some point?
10 A Yes, sir, she did.
11 Q And did -- was a blood sample taken -- blood and
12 urine sample was taken from Ms. Brown pursuant to that
13 search warrant?
14 A Yes, sir. She was read the search warrant. She was
15 served it. A blood sample and a urine sample were both
16 taken. I was present for the blood sample. Corporal
17 Dubose was present for the urine sample.
18 Q Because she's a female officer?
19 A Absolutely, yes, sir.
20 Q One of the advisements on that implied consent right
21 form, I believe you testified you read to her that morning
22 is that the suspect had the right to have additional
23 independent test done at that facility of their own
24 choosing if they so desired; is that correct?
25 A Yes, sir, it's not a facility of their own choosing.

1 It's basically if they want independent testing done, what
2 it is is they say I don't trust the machine or I don't
3 trust your test very well. So what we do is we give them
4 that affirmative assistance. We will transport them to
5 the closest medical facility. In this case we were
6 actually at the closest medical facility and so that's all
7 that really means.
8 Q So if somebody is -- didn't have to go to the
9 hospital to begin with, you took them to have a breathe
10 test done and they requested additional test, you take
11 them to the hospital to get blood drawn?
12 A Yes, sir.
13 Q Okay. When you read those rights to Ms. Brown at
14 that point -- what time was that by the way you arrested
15 her?
16 A I believe she was actually arrested at 0155.
17 Q 1:55 a.m.?
18 A Yes, sir.
19 Q So right at two hours after this accident?
20 A Yes, sir.
21 Q Okay. When you read her those rights, did she convey
22 to you any desire to have additional independent test
23 done?
24 A No, sir.
25 Q Okay. What time did Trooper Dubose arrive back with

1 the search warrant?
2 A I believe it was sometime around 3:20 in the morning.
3 Q About an hour and a half later, she gets back with
4 search warrant. At any point you mention that you were
5 outside kind of listening to her conversation with the
6 nurses. At any point during that period did she express a
7 desire to have additional independent testing done?
8 A No, sir.
9 Q Okay. When Corporal Dubose arrived back with search
10 warrant, you all executed it then at 3:21 a.m. a blood
11 sample was taken from her?
12 A Yes, sir.
13 Q Okay. Who took the blood sample?
14 A The phlebotomist or -- it was either the phlebotomist
15 or a nurse.
16 Q It was medical personnel?
17 A Yes, sir. We walked up to the nurses station and
18 basically said we need somebody to take a -- you know, a
19 blood sample from this young lady and they sent somebody
20 in there to take the blood test.
21 Q Okay. I don't see the form. Let me show you what's
22 been marked as Court Exhibit 4 if you would tell the jury
23 what that is?
24 A This is the South Carolina Law Enforcement Division
25 urine blood collection report. What this is is -- we fill

1 this out and then it's signed by an individual that's
2 actually drawing the blood. It goes through different
3 aspects of it what's the subject under arrest for, has the
4 subject been -- have they been advised of their consent
5 rights, what's and then down here it says check the
6 correct one, only one can apply. And it tells basically
7 ---
8 MR. BARR: Judge, is it in evidence?
9 MR. DURANT: It's not at this point, Judge. I
10 be happy to put it in evidence.
11 MR. BARR: I prefer you put it into evidence
12 because he's testifying to the content.
13 MR. DURANT: I be glad to. Your Honor, I'd ask
14 to admit Court's Exhibit 4 into evidence.
15 MR. BARR: No objection.
16 THE COURT: I'm sorry, you don't have any
17 objection?
18 MR. BARR: No objection.
19 THE COURT: All right. It's in without
20 objection.
21 (WHEREUPON, Court's Exhibit No. 4 is now State's
22 Exhibit 49 admitted into evidence.)
23 BY MR. DURANT:
24 Q Tell the jury about the form again?
25 A So it basically just has a bunch of check boxes and

1 it just goes into check the correct one, only one can
2 apply. Officer has reasonable suspension that the subject
3 is under the influence of drugs or other alcohol and a
4 urine sample is requested. Subject is unconscious or
5 otherwise incapable of refusal and is considered a form.
6 Therefore, a blood sample is requested. A blood sample is
7 requested by the arresting officer because a license
8 medical person has inform the officer that subject is
9 unable to take a breathe test at this time due to any
10 reason. The one that's actually checked on here is by us
11 is subject is under arrest for and or in violation of
12 section 56-5-2945 or 21-113 and pursuant section 56-5-2946
13 or 21-116 a blood sample or a blood and urine sample is
14 are requested.
15 Q Let me stop you there, sir. We're talking about this
16 -- kind of the second section down says check the correct
17 one in parenthesis only one can apply?
18 A Yes, sir.
19 Q Okay. And there's a check mark in one box beside
20 there's some bullet points list with boxes beside them.
21 It's clearly a check mark in one box says the subject is
22 under arrest for or in violation of 56 -- which is the
23 felony DUI statute?
24 A Yes, sir.
25 Q Okay. And that's the reason for the blood draw?

1 A Yes, sir.
2 Q Okay. Below that there's a separate bullet point
3 that states a blood sample is requested by the subject for
4 his or her own independent test?
5 A Yes, sir.
6 Q And there's a check or some type of stray mark around
7 the box?
8 A Yes, sir.
9 Q Okay. Do you know who made that marking?
10 A No, sir, I do not.
11 Q Was it made by law enforcement?
12 A No, sir, it wasn't.
13 Q Was it made by Ms. Brown?
14 A I don't believe so, no, sir.
15 Q Did Ms. Brown actually sign the form?
16 A No, sir, she refused to sign the form.
17 Q Refused to sign?
18 A Yes, sir.
19 Q She was offered opportunity to sign the form and
20 refused to sign it?
21 A Yes, sir.
22 Q How is that notated on the form?
23 A It says refused to sign.
24 Q So as part of your ordinary protocol you have
25 submitted that form to Ms. Brown to give her the

1 opportunity to sign it?
2 A Yes, sir.
3 Q Had the form been read to her?
4 A Yes, sir. She would have been told what was on this
5 form. It would have been read the applicable boxes would
6 have been read to her.
7 Q Okay. Now, again she had been arrested about an hour
8 and a half before this and read her implied consent
9 rights; is that correct?
10 A Yes, sir.
11 Q And during the course of that advisement of rights,
12 she would have been notified of her right to obtain
13 independent testing?
14 A Yes, sir.
15 Q Okay. Again at any point during that hour and a half
16 period, did Ms. Brown indicate to you or anybody else in
17 your presence that she wanted an independent test done?
18 A No, sir, not in my presence.
19 Q Did she sign the form?
20 A No, sir, she did not sign the form.
21 Q And you were there present when the form was offered
22 to her?
23 A Yes, sir.
24 Q During that interaction with you and the
25 phlebotomist, you mention that you were there when the

1 blood was drawn?
2 A Yes, sir.
3 Q During that interaction with you and phlebotomist or
4 the nurse, was Corporal Dubose there as well?
5 A Yes, sir, for the blood and the urine.
6 Q During that interaction with all of you all at any
7 point did Tammy Dianne Brown request an independent test?
8 A Not in my presence. I don't believe in Corporal
9 Dubose's presence.
10 Q At any point did she say wait a minute, I don't trust
11 y'all I want somebody else to test my blood?
12 A No, sir.
13 Q Okay. At any point did she say, hey, give me a vial
14 of my blood so I can get somebody else to test it for me?
15 A No, sir.
16 Q Tell the court what was done with the blood after it
17 was drawn from Ms. Brown?
18 A So what I did was we actually have a blood draw kit
19 that is provided for us from SLED. You open it up. It
20 has a seal on it to make sure that everything is sealed
21 up. And so I broke the seal, open it up, took the box
22 out. It's got some sort of disinfectant that is not
23 alcohol. I believe it's like an iodine solution. So we
24 made sure that the person drawing the blood use those as
25 oppose to an alcohol swab, gave her the vials. There's

1 the tags that go over the vials are in the box with it.
2 Fill those tags out. The nurse gave the vials of blood
3 back. I made sure those were sealed up around it with my
4 signature. They were both placed into the box. The
5 corporal hand me the urine sample, that was placed in this
6 little box. That box didn't get sealed up and sealed off
7 with initials on it. It then goes into a plastic bag
8 that's zip lock. That bag then goes into the original
9 box. That box is then sealed up with another tag put over
10 it with my signature on it.
11 Q So everything is packaged together?
12 A Yes, sir.
13 Q It's individually sealed?
14 A Yes, sir.
15 Q And package together into one plastic bag?
16 A Yes, sir.
17 Q Tamper proof.
18 A Absolutely, yes, sir.
19 Q So if somebody had broken the seal, it be evident?
20 A Yes, sir.
21 Q Okay. Who took custody of it?
22 A I took custody of it. And then we transported it to
23 the Sumter office where it was put into the evidence
24 refrigerator.
25 Q Okay. You transport it yourself to the Sumter office

1 and you all have the evidence facility there?
2 A We got a evidence locker. It's a refrigerator that
3 we keep any type of blood or urine samples in until it can
4 be transported to central evidence facility in Columbia.
5 Q Okay. Did anybody else come in contact with it from
6 the time that it was taken from Ms. Brown until it got to
7 the evidence facility in Sumter?
8 A No, sir.
9 Q It's in your custody the entire time?
10 A Yes, sir.
11 Q Was the package -- after it was sealed, did you seal
12 it yourself?
13 A Yes, sir.
14 Q After you seal the package, was it ever open again
15 from that point until you deposited it into the evidence
16 facility?
17 A No, sir.
18 Q Okay. Did you have ever have any interaction with
19 that package again?
20 A No, sir.
21 Q Tell the jury about the evidence facility in Sumter,
22 how that works?
23 A Basically it's our office. Of course, our office is
24 secured, but it is also inside a refrigerator that is
25 locked and secured. And so once we get there, we place it

1 in there. We lock the refrigerator back and then we fill
2 out our evidence log that state who -- you know, what time
3 it was put in there and what the case number is and
4 everything that pertains to that.
5 Q Okay. That plastic wrapping that container would
6 have contained both the blood samples and the urine
7 sample?
8 A Yes, sir.
9 Q Okay. Finally, you mentioned -- I don't know if you
10 mention this yet or not. Who transported the defendant
11 from the hospital to the jail?
12 A I did.
13 Q Okay. When was that done?
14 A That was done after the blood test was taken.
15 Q So after she was arrested at some point it was
16 determine she didn't require any further medical
17 treatment?
18 A Yes, sir.
19 Q Was she transported actually that morning?
20 A Yes, sir.
21 Q Okay. By you and your patrol car?
22 A Yes, sir.
23 Q Okay. Now, this camera that we saw some video from
24 earlier, does that have the capability to record on the
25 inside of your car as well?

1 A Yes, sir, what it is is it's an older system again,
2 so any time we have somebody that's being arrested that's
3 riding upfront with us, we have to physically turn that
4 camera around and put it on them. The newer camera
5 systems automatically have a camera in front and the rear.
6 But that's what the camera was turned around and face
7 Ms. Brown while she was in my vehicle.
8 Q Okay. Was a recording actually made of Ms. Brown's
9 transport from the hospital to the jail?
10 A Yes, sir.
11 Q Have you had a chance to review that video?
12 A Yes, sir.
13 Q Let me show you State's Exhibit 47. It says felony
14 DUI Tammy Brown disc two. Tell the jury what that is?
15 A This would be the video footage the transport from
16 the hospital to the detention center.
17 Q All right. Is it a fair and accurate representation
18 of that transport?
19 A Absolutely.
20 Q Has it been altered or edited in any way?
21 A No, sir.
22 MR. DURANT: Your Honor, I ask to admit State's
23 Exhibit 47.
24 MR. BARR: No objection.
25 THE COURT: It is in without objection.

1 (WHEREUPON, State's Exhibit No. 47 was admitted
2 into evidence.)
3 BY MR. DURANT:
4 Q Trooper Minnix, while this is coming up during that
5 transport, during that interaction with Ms. Brown from the
6 hospital to the jail, did you ask her any questions?
7 A No, sir.
8 Q Did you make any statements to directly to her that
9 would have elicited a response from her?
10 A No, sir.
11 Q In your opinion was the statement that she gave in
12 that -- during that transport freely and voluntarily
13 given?
14 A Yes, sir.
15 Q Tell the jury what she said during transport?
16 A Basically just ramblings, but they were were more ---
17 MR. BARR: Judge, I'm going to object. The best
18 evidence is listen to the tape and her conversation is on
19 tape and we'll hear it. Then for him to summarize what
20 she says we would object.
21 THE COURT: Okay. Rephrase the question again?
22 MR. DURANT: Your Honor, I just ask the officer
23 about statements that the defendant made in the car on the
24 way from the hospital to the jail.
25 THE COURT: Okay.

1 MR. DURANT: I think there statements against
2 interest and they're admissible.
3 MR. BARR: Your Honor, her statement on the tape
4 and he was about play it. I already consented to put it
5 in evidence.
6 THE COURT: Okay. If anything needs to be
7 explain, it can.
8 (WHEREUPON, video played for jury.)
9 BY MR. DURANT:
10 Q Trooper Minnix, the defendant's statements in that
11 video that somebody was driving fast passing another car
12 and hit her is that consistent with her description of the
13 accident at the hospital?
14 A Yes, sir.
15 Q Okay. She claimed that she had been hit head on?
16 A Yes, sir.
17 Q Okay. At any point did she give any alternative
18 explanation for the accident?
19 A No, sir.
20 Q At any point whether at the accident scene or at the
21 hospital or with a nurse when you were listening to her,
22 at any point did she claim that somebody pulled out in
23 front of her?
24 A No, sir.
25 Q Did she give an alternative explanation for the

1 accident other than her statement that her claim that the
2 other car passing somebody else going fast and hit her
3 head on?
4 A No, sir.
5 Q That's the only explanation you ever heard from
6 Ms. Brown regarding this accident?
7 A Yes, sir.
8 MR. DURANT: Your Honor, I would ask -- we been
9 in here about an hour and a half now. I would ask for a
10 brief recess to try to get my photo equipment in order to
11 give the jury a break to use the restroom.
12 THE COURT: We take a break.
13 MR. DURANT: Thank you.
14 (WHEREUPON, the jury retire to the jury room.)
15 (WHEREUPON, a break was taken.)
16 THE COURT: Okay. You ready for the jury.
17 MR. DURANT: Yes, sir.
18 (WHEREUPON, the jury came into open court.)
19 BY MR. DURANT:
20 Q I want to go ahead and just show you a series of
21 photographs most of which the jury has already seen
22 regarding this incident.
23 MR. DURANT: First State's 13, Your Honor, I'm
24 not sure it's been admitted into evidence yet or not.
25 MR. BARR: I don't have any objection.

1 THE COURT: Okay.
2 (WHEREUPON, State's Exhibit No. 13 was admitted
3 into evidence.)
4 BY MR. DURANT:
5 Q Let me show you State's 13, Trooper Minnix. If you
6 would describe this photograph for us?
7 A That is going to be coming from Paxville going
8 eastbound on 261. Home Branch is on your left there and
9 where the excuse me -- where the highway patrol on Tahoe
10 on the right-hand side there is going to be I believe Boyd
11 Road.
12 Q So this is coming -- again, you said from Paxville?
13 A Towards Manning, yes, sir.
14 Q That the vehicles were traveling that were involved
15 in the accident?
16 A Yes, sir.
17 Q The opposite direction from which you approached the
18 accident scene; is that right?
19 A Yes, sir.
20 Q As we get to State's Exhibit 1, tell me what we are
21 looking at here?
22 A That is going to be Ms. Brown's vehicle. That's the
23 truck tool box that came off of the truck after it was
24 struck. That's Boyd Road on the right-hand side right
25 there, which is where the ambulance was parked.

1 Q And so if you go back to the last photo, this is her
2 car would have been down here. And again this is Home
3 Branch Road here where the street light is?
4 A Yes, sir.
5 Q Okay. During the course of the your investigation,
6 did you determine where the victim's were coming from?
7 A They were coming from a family member's home on Home
8 Branch Road.
9 Q Okay. Off of Home Branch Road here, so they would
10 have turned left onto 261?
11 A Yes, sir.
12 Q Which direction were they traveling?
13 A They were traveling east bond towards Manning on 261.
14 Q Do you know what their end destination was?
15 A Winter's Hill Road is where they lived, so we assume
16 that that's where they were headed to.
17 Q So heading from Home Branch Road, again you received
18 information that they were at a family member's house
19 there?
20 A Yes, sir.
21 Q Turned left onto 261 and Winters Hill Road would be
22 several miles down on the right?
23 A Yes, sir.
24 Q Or maybe not several miles, but some distance down
25 the road on right hand side?

1 A Yes, sir.
2 Q Okay. Let me show you State's Exhibit 2. What are
3 we looking at here?
4 A That's going to be the final resting stop for Ms.
5 Brown's vehicle. Like I said, that's the tool box
6 actually in the pickup truck. If you look down where the
7 lights are on top of the picture up there to the right,
8 that's the truck right there. So that tells you how far
9 that vehicle traveled after being struck. And you can see
10 the skid marks that led up to the white vehicle there and
11 there was a bunch of debris around the vehicle. If I'm
12 not mistaken, there's some tools and stuff.
13 Q Okay. There's some orange -- looks like a paint mark
14 is on the roadway here?
15 A Yes, sir.
16 Q Who made those?
17 A Trooper McCoon should have made those.
18 Q And he was on scene along with you?
19 A Yes, sir.
20 Q And what's the purpose of the markings?
21 A What that does is is we mark those so that just in
22 case if MAIT -- if our MAIT investigator can't get out
23 there, that they have some sort of idea that this is --
24 these tracks right here are for this collision that we're
25 investigating today. So basically all we're doing is

1 we're marking the scene as to what was where.
2 Q Okay. Let me show you?
3 MR. DURANT: This is actually marked as
4 Defendant's Exhibit 1, but I'm introducing it into
5 evidence. I assume no objection.
6 MR. BARR: No objection.
7 (WHEREUPON, Defendant's Exhibit No. 1 is now
8 State's Exhibit No. 67 admitted into evidence.)
9 BY MR. DURANT:
10 Q Tell the jury -- there's an area here looks like with
11 some orange paint around it.
12 A Yes, sir.
13 Q What is the significance of that area?
14 A That's point of impact.
15 Q Point of impact?
16 A Yes, sir, that's where the vehicles actually made
17 physical contact initially.
18 Q All right. And there's some more paint markings
19 going down this way. What's the significance of those
20 markings?
21 A Those are the skid marks leading up to the point of
22 impact.
23 Q So based upon your understanding as to the point of
24 impact, it would have been -- is it fair to say it would
25 have been between Home Branch Road and Boyd Road?

1 A Yes, sir.
2 Q Okay. So you would have not gotten to Boyd Road?
3 A No, sir, that's Boyd Road on the right there. Home
4 Branch is just behind where this picture is.
5 Q Back here?
6 A Yes, sir.
7 Q This is Boyd Road. Point of impact is between the
8 two roads. Again, the vehicles are heading in this
9 direction towards Manning?
10 A Yes, sir.
11 Q So if they were coming back towards the bottom of the
12 picture, the impact would have been after Home Branch
13 Road, but before Boyd Road?
14 A Yes, sir.
15 Q All right. This is State's Exhibit 18. This another
16 photograph of the area you call referred to as the point
17 of impact?
18 A Yes, sir.
19 Q This will be looking back towards ---
20 A That is Home Branch on the right-hand side. So Boyd
21 Road would be back on the left-hand side over here. This
22 is looking towards Paxville.
23 Q State's Exhibit 19 what are we looking at here?
24 A That's basically a overhead shot of the point of
25 impact. Tell the jury what kind of markings these are on

1 the highway here. Those are actually markings from her
2 car going underneath the pickup truck. What it is is the
3 way when you have an impact like that, that would force
4 those vehicles dig into the asphalt, that's why we know
5 where point of impact is.
6 Q What do you call those markings?
7 A Gauge marks.
8 Q Gauge marks. State's Exhibit 3 what we are we
9 looking at here?
10 A That's just going to be another shot of Ms. Brown's
11 vehicle. And then if look -- again, if you look further
12 down, you can see just how far the pickup truck is up
13 against that tree.
14 Q Under the spot light here?
15 A Yes, sir.
16 Q Now, there's some markings around the tires of
17 Ms. Brown's vehicle who made those?
18 A We did, sir. Trooper McCoon made those.
19 Q Okay. While we're on the subject, tell me who that
20 care belong to?
21 A Ms. Brown.
22 Q You ran the information to see who the car is
23 registered to?
24 A Yes, sir, I'm not offhand, I'm not absolutely
25 positive, but I believe it belong to Ms. Brown.

1 Q Okay. Would that be reflected on your incident
2 report?
3 A It should be on the collision report itself.
4 Q Okay. Is that something that you prepared?
5 A Yes, sir.
6 Q Okay. Let me just show you that to refresh your
7 memory. This is State's Exhibit 48 just for the purpose
8 of ID at this point. If you would tell the jury what that
9 is?
10 A This is going to be the collision report FR310?
11 Q That's a form that you prepared?
12 A Yes, sir.
13 Q Give the details of the accident itself?
14 A Yes, sir.
15 Q Okay. And based on that form can you tell who you
16 determine to be the owner of that white vehicle would be?
17 A Ms. Tammy Brown.
18 Q What kind of car was it?
19 A It's Hyundai 1999 Coup.
20 Q Okay. Let me show you State's Exhibit 4 tell the
21 jury the significance of this photo?
22 A That's the front end damage done to Ms. Brown's
23 vehicle. If you look over, that's the tool box again from
24 the pickup truck and then you can see just how far her
25 hood was shoved up to the windshield.

1 Q There was some question yesterday about this photo
2 posed to the fire department Officer Ward in regards to
3 the liquid that appears to be draining from the vehicle
4 toward the right-hand side of the road?
5 A Yes, sir.
6 Q You went out to scene?
7 A Yes, sir.
8 Q And inspected the scene and probably been on that
9 road several times before. Can you tell the jury whether
10 or not -- is that road entirely flat or is there some
11 crown to it?
12 A There's a crown to it.
13 Q Okay. And what's the purpose of crown?
14 A To let the water run off.
15 Q So the water doesn't puddle in the roadway, so it
16 drains off to the side?
17 A Yes, sir.
18 Q And based on -- by reason of that crown, if any
19 liquid were to spill in the center of the roadway ---
20 A It would run off to the side.
21 Q Run off to the side?
22 A Yes, sir.
23 Q Okay. Show you State's Exhibit 5 it's a side photo
24 of the defendant's car some markings around the tire here.
25 Who made those?

1 A Trooper McCoon did, sir.
2 Q Okay. Is this the location in which you found
3 Ms. Brown's vehicle when you arrived at the scene?
4 A Yes, sir.
5 Q It hadn't been moved by law enforcement before this?
6 A No, sir.
7 Q Okay. Let me ask you this there were some markings
8 in the area of photos as to break marks. Where those
9 break marks stopped?
10 A With those tires right exactly where they're at.
11 Q Okay. They don't continue any further than that?
12 A No, sir.
13 Q What's the significance of the break marks stopping
14 at the location at which Ms. Brown's ---
15 A That tell us that's the final resting place for her
16 vehicle.
17 Q All right. So this is believed to be the final
18 resting place of Ms. Brown's vehicle after the collision?
19 A Yes, sir.
20 Q Okay. I think we're already seen these, but this is
21 State's Exhibit 6 just coming from Ms. Brown's car.
22 Again, I think you testified this is the ---
23 A Pickup truck, yes, sir.
24 Q It's a closer shot of the pickup truck down in the
25 ditch there?

1 A Yes, sir.
2 Q Let me show you State's Exhibit 8, what are we
3 looking at here?
4 A That's the driver of the vehicle Mr. Arenas. As you
5 can see, he's underneath the steering column of that
6 pickup truck.
7 Q And is that where he was located when you arrived on
8 scene?
9 A Yes, sir.
10 Q It looks like -- if there was a passenger in the
11 vehicle, he already been extricated at this point?
12 A Yes, sir, he was extricated at that point.
13 Q But again when you arrived, both the driver and the
14 passenger were inside the vehicle?
15 A Yes, sir.
16 Q Okay. State's Exhibit 9 is just another shot of the
17 black pickup truck involved in the accident?
18 A Yes, sir.
19 Q Okay. Ten?
20 A Yes, sir, another shot of the pickup truck.
21 Q Eleven?
22 A Yes, sir.
23 Q Okay. Finally 12. Tell the jury the significance of
24 this photo?
25 A If you look closely inside that wheel well there, you

1 can see there's a beam basically folded like this. That's
2 the frame of the truck.
3 MR. BARR: Your Honor, objection unless he's
4 qualified to give an opinion regarding crash worthiness of
5 vehicle, I'm going to object to his testimony. He can
6 tell -- he's an officer on the scene, but he's not
7 qualified.
8 MR. DURANT: Your Honor, I think as a lay
9 witness he qualified to testify as to the frame of the
10 pickup truck that it's bent.
11 MR. BARR: He asked him what the significance of
12 it was. He's not qualified to give an opinion.
13 THE COURT: He asked him what the significance
14 of the picture was not the significance of the vehicle. I
15 think he is qualified to testify to what he sees in the
16 picture.
17 BY MR. DURANT:
18 Q Let me show you State's Exhibit 30. Tell the jury
19 what's here?
20 A That's the frame of the pickup truck again. It's
21 been bent to a 90 degree angle.
22 Q Is this a condition in which you found the pickup
23 truck when you arrived on scene?
24 A Yes, sir.
25 Q Okay. Finally, there was some testimony from you

1 earlier in regards to an open container that was found in
2 the defendant's car?
3 A Yes, sir.
4 Q And you discovered that yourself upon inspection of
5 the vehicle?
6 A Yes, sir.
7 Q You take a photograph of it?
8 A Yes, sir, I did.
9 Q Let me show you State's Exhibit 23. Do you recognize
10 this?
11 A Yes, sir, that's a photo that I took.
12 Q And the cup in the floor board there is that the cup
13 that was believed to contain an alcoholic substance?
14 A Yes, sir.
15 Q Did you smell it to determine whether or not ---
16 A Yes, sir, after I took the picture, I picked it up
17 and I smelled it. Like I said, it smelled of an alcoholic
18 beverage.
19 Q Okay. And again when you spoke to Ms. Brown about
20 that. Did you ask her about the cup?
21 A Yes, sir, I did.
22 Q And what did she say?
23 A She me that her friend made one for the road.
24 Q So she admitted that she had an open container in the
25 with her?

1 A Yes, sir.
2 Q Okay. Trooper Minnix, I've asked you several
3 questions about Ms. Brown and your conversations with her
4 that evening on the road side at the hospital, who the car
5 is registered to. Just for clarify, is the individual
6 that you met with that evening and was identified as the
7 driver of that white vehicle is she in the courtroom?
8 A Yes, sir.
9 Q If you would point her out to the jury?
10 A She's the defendant.
11 Q Okay. This is her in the white tunic sitting at
12 defense table here?
13 A Yes, sir.
14 MR. DURANT: Trooper Minnix, that's all the
15 questions I have. Please answer any that Mr. Barr has for
16 you.
17 CROSS-EXAMINATION
18 BY MR. BARR:
19 Q Trooper Minnix, you and I have met before.
20 A Yes, sir?
21 Q I think I'll start where you left off. State's
22 Exhibit Number 23 now as I understand it initially when
23 you arrived at the accident scene -- and, of course, this
24 would be subsequent to the time you had initial
25 conversation with Ms. Brown, you inspected the vehicle

1 that you thought that she was driving; is that correct?
2 A Yes, sir.
3 Q And in the course of your inspection, you found what
4 is depicted in this photograph State's Exhibit Number 23
5 as a cup?
6 A Yes, sir.
7 Q Okay. And you photograph that cup?
8 A Yes, sir.
9 Q Okay. Tell the ladies and gentlemen of the jury why
10 you photograph the cup?
11 A Because I believe it could have been evidence and the
12 fact it was an open container and I just want to make sure
13 it was photographed before I actually physically touched
14 it.
15 Q So you believe it was evidence?
16 A Yes, sir.
17 Q Okay. And you photographed it and said you smelled
18 it?
19 A Yes, sir.
20 Q Was there any liquid in the cup?
21 A I don't believe so, sir, not that I know of.
22 Q Now, of course, if it was evidence, you photographed
23 it and you were collecting evidence regarding this wreck.
24 Would you not agree that this evidence would be
25 significant?

1 A If there was actually liquid in it, yes, sir.
2 Q Well, if you wanted to do a forensic test on it and
3 determine whether or not alcohol had been in it, you could
4 have seized it and had it tested, couldn't you?
5 A I don't believe they do that that way, sir.
6 Q Well, if you sent it to SLED forensic lab, are you
7 telling the ladies and gentlemen of the jury that they
8 could not determine whether or not alcohol had been in a
9 cup?
10 A I don't know if they could or could not. I don't
11 think they do to my best recollection.
12 Q All right. So at the end of the day do you know what
13 happened to the cup?
14 A It was left in the car.
15 Q So now this is tangible evidence that you left in the
16 car?
17 A It was -- she'd already admitted that there was a
18 to-go cup. There was -- again, there was no liquid in it.
19 So we just left it in the vehicle.
20 Q Well, you said she admitted it?
21 A Yes, sir.
22 Q That's what you say?
23 A You're absolutely right, I do.
24 Q Of course, you didn't say that to the ladies and
25 gentlemen of this jury, she didn't say that to them?

1 A No, sir.
2 Q Talking about whether or not you can tell us someone
3 other than yourself that smelled the cup and said it
4 smelled like alcohol?
5 A No, sir.
6 Q I see. So with respect to whether or not it smelled
7 like alcohol, the only thing that we got to rely on as to
8 the truth of that is your statement?
9 A Yes, sir.
10 Q Okay. All right. Now, of course, if it contained
11 alcohol and there was alcohol left in the cub, chances are
12 it could have very well spilled in the course of this
13 wreck?
14 A Yes, sir.
15 Q Okay. Now, as far as you know in the course of your
16 investigation -- you know, that SLED lab is amazing. They
17 can take a hair sample and obtain DNA from it?
18 A Yes, sir.
19 Q I know you're familiar with that, aren't you?
20 A Yes, sir.
21 Q They got a trace lab that you can take fibers, a
22 piece of thread?
23 A Yes, sir.
24 Q And analyze it and tell what kind of clothes it is?
25 A Don't know they can tell you what kind of clothes it

1 were, but I'm pretty sure they can tell you what kind of
2 thread it was.
3 Q They can do some serious stuff at that SLED lab?
4 A Yes, sir.
5 Q Okay. You would agree that in as much this cup would
6 certainly have some good significance if it were in fact a
7 cup that had alcohol in it. It would been important to
8 maintain the cup or collect it?
9 A Yes, sir.
10 Q Of course, you didn't do that, did you?
11 A No, sir.
12 Q You overlooked evidence and left it laying on the
13 floor and don't know what happened to it, right?
14 A No, sir.
15 Q Okay. All right. You didn't overlook it. You saw
16 evidence. And in this case evidence that you claim would
17 support your allegation that Ms. Brown said that she had
18 alcohol in it and you didn't collect it. You didn't
19 collect the cup?
20 A No, I did not collect the cup.
21 Q All right, sir. And, of course, I would think that
22 whoever took the vehicle -- do you know whether or not the
23 vehicle was gone over by people? Ordinarily you have
24 forensics experts that come out and they check for
25 evidence on the scene. They get almost everything they

1 can find.
2 A What are you talking about as far as normally -- are
3 we talking about a collision or are we talking about a
4 homicide?
5 Q This is a felony DUI.
6 A Okay, hold on. But this is a collision -- at this
7 point in time this a collision. This is not felony DUI.
8 This is a collision. I'm the investigator right here. We
9 don't have forensics or anything like that, okay. So
10 that's where that comes into.
11 Q Well, when you found out, that there was a claim that
12 death was involved, that turned up the temperature some,
13 right?
14 A Yes, sir, and that's why the MAIT investigator came
15 out.
16 Q All right. MAIT investigator always come out when
17 there's a death on the highway, but I'm talking about from
18 the standpoint of investigation?
19 A No, sir, they don't always come out when there's a
20 death on the highway.
21 Q They don't?
22 A No, sir.
23 Q Well, in the last 39 years that I been involved in
24 it, they usually come out and cordon off everything any
25 time there's a death. Well, maybe they stop doing that,

1 right?
2 A Yes, sir.
3 Q All right. But they did it this time?
4 A They came out to this one, yes, sir.
5 Q Do you know today whether or not anybody ever
6 examined the carpet or whatever it is on the floor in this
7 vehicle to see whether or not there was alcohol spilled in
8 the vehicle from the cup?
9 A No, sir, they did not.
10 Q Okay. All right. Now, did you -- did you ask
11 Ms. Brown whether she had drank anything from that cup?
12 A I don't believe so, no, sir.
13 Q Okay. I don't see in your incident report where you
14 ask her that?
15 A No, sir, I don't believe I asked her.
16 Q Okay. So your testimony is that she -- you claim
17 that she told you that she got one for the road?
18 A Yes, sir.
19 Q Okay. Wine cooler?
20 A Yes, sir.
21 Q And, of course, in the course of your investigation
22 of the felony DUI, you never asked her whether or not she
23 so much as tasted the one for the road?
24 A No, sir. Not they recall.
25 Q All right, sir. And in fact unless I'm mistaken you

1 never asked her how much she had to drink?
2 A Yes, sir, I did.
3 Q And she told you?
4 A Yes, sir, she told me two shots of tequila which she
5 then changed to two wine coolers.
6 Q Changed to two wine coolers?
7 A Yes, sir.
8 Q She told you she had two shots of tequila and then
9 she changed it and said she had two wine coolers?
10 A Yes, sir.
11 Q Well, that would have been significant wouldn't you
12 say so for her to say she had two shots of tequila. I
13 don't even know what tequila is. It's a Mexican drink,
14 right?
15 A Yes, sir.
16 Q But she changed that and said, no, I had two wine
17 coolers.
18 A Yes, sir.
19 Q Well, I know you thought that was significant, wasn't
20 it?
21 A Yes, sir.
22 Q I know you did. You take notes?
23 A Yes, sir.
24 Q You do an incident report?
25 A Yes, sir.

1 Q You did one in this case?
2 A Yes, sir.
3 Q I just happen to have it.
4 A Right here too, sir.
5 Q Oh, you got it too?
6 A Yes, sir.
7 Q I see. Tell me -- first of all, tell the ladies and
8 gentlemen of this jury what an incident report is?
9 A Incident report is just something that we do that has
10 -- kind of gives us help remember what's going on later
11 on. Obviously, this collision took place four years later
12 then what our court date is today, but it's to help us to
13 remember what was kind of going on during that incident,
14 that's why it's an incident report.
15 Q It's a narrative report and should be accurate,
16 right?
17 A To best of our abilities at that time. Sometimes we
18 may forget to put something in there. We try to do them
19 within that time frame within 24 hour time frame, but
20 other things we get involved in sometimes we forget to put
21 something in there.
22 Q When you say forget to put something in there -- now,
23 of course, these important things that you're doing a
24 narrative of that might come up even in court in a trial?
25 A We try get the importance things.

1 Q Try to get important things in there. I know you do.
2 Now, of course, have you looked at that one since -- of
3 course, you don't take look -- tell me whether you got
4 anything in there that about Ms. Brown changing her story
5 and saying that I didn't have two shots of tequila, but I
6 had two wine coolers, is that in there?
7 A During my initial interview, Ms. Brown she stated she
8 was coming from a friend's house. I asked if she had
9 anything to drink, she told me a couple of tequila shots.
10 I asked what was in the cup of the floorboard and she told
11 me her friend made her a wine cooler for the road.
12 Q Now, let's get back to my question?
13 A Yes, sir.
14 Q My question was is there anything in there about her
15 changing her mind and telling you that she had wine
16 coolers?
17 A No, sir, but I did have handwritten notes and in
18 there I believe that's where it was.
19 Q Well, of course, now you know your handwritten notes
20 are subject to discovery, right?
21 A Yes, sir.
22 Q You know that if they're subject to discovery,
23 defense lawyers always file Rule 5. You familiar with
24 that?
25 A Yes, sir.

1 Q And, of course, if you give those handwritten notes
2 Ms, Durant here ---
3 MR. DURANT: Your Honor, I object. May we
4 approach, Your Honor?
5 THE COURT: Yes, sir.
6 (WHEREUPON, a bench conference was held in the
7 presence of the jury, but out of the hearing of the
8 jury.)
9 BY MR. DURANT:
10 Q Your handwritten notes go down to the -- ask the
11 Solicitor whether he's got ---
12 A I believe he said he's got them.
13 Q Let's see them, I want see them? Show them to him to
14 make sure those are his handwritten notes. Those are your
15 handwritten notes?
16 A Yes, sir.
17 Q And those notes are handwritten concerning the
18 details of this automobile accident?
19 A Yes, sir.
20 Q Let me take a look at them.
21 A Go ahead.
22 Q All right, sir. Now, your handwritten notes. It's
23 -- would it be accurate to say that in those notes you
24 indicated that she -- after you asked her about what she
25 had to drink, she quickly changed and told you she had

1 wine cooler?
2 A Yes, sir.
3 Q Okay. Of course, that's not in your ---
4 A No, sir.
5 Q That's not in the note that you ---
6 A It's not in the incident report. No, sir, it's not
7 in the incident report.
8 Q All right. So are you would agree then that there
9 might be some things that you either saw or found out that
10 not necessarily in the incident report?
11 A Yes, sir, absolutely.
12 Q Even might be some that's not even in your notes?
13 A Yes, sir, it is a possibility.
14 Q Possibility?
15 A Yes, sir.
16 Q Important things too?
17 A Maybe, yes, sir.
18 Q I notice in your incident report and in your notes
19 you never said anything in here about her having a strong
20 smell of alcohol. Of course, I believe it's true that you
21 at least claim that you told the magistrate that to get
22 the search warrant issue, didn't you?
23 A No, I did not. Corporal Dubose did.
24 Q Corporal Dubose told her?
25 A Yes, sir.

1 Q And she got that from you?
2 A No, sir, she got it from herself. Again, she went to
3 the hospital with me. She did -- we did another interview
4 together, so that she could make that determination on her
5 own.
6 Q You didn't tell this jury earlier today that when you
7 first encountered ---
8 A I told her, but she made that determination on her
9 own.
10 Q So you never said about Ms. Brown that you detected a
11 strong odor of alcohol?
12 A Yes, I did.
13 Q But you just never wrote it down?
14 A No, sir, I didn't write it down. Again, there's
15 things that I may have forgotten to put in.
16 Q Now, of course, in a DUI case, they almost always
17 start with a strong smell of alcohol most times, don't
18 they?
19 A Pretty much it's a given sign, yes, sir.
20 Q Okay. But no -- nothing in your notes about any
21 smell was alcohol?
22 A No, sir, I didn't put it in there.
23 Q And you know what I noticed another sign is the
24 bloodshot eyes that you talked about earlier?
25 A Yes, sir. Again, I wasn't sure about the bloodshot

1 eyes. If that was at a distance, so I couldn't be
2 absolutely sure, but it was -- again, those are just
3 normal things that we see. Again, this was probably --
4 this was actually my first felony DUI and probably my
5 fourth or fifth DUI altogether.
6 Q So you would tell the judge about bloodshot eyes,
7 about smelling the alcohol even though those things
8 weren't in the affidavit, but you thought important enough
9 ---
10 A Which affidavit?
11 Q The affidavit to get the search warrant.
12 A Okay. I didn't fill out an affidavit.
13 Q All right. Well, who did you tell other than the
14 date to this jury, who did you tell about her having
15 bloodshot eyes?
16 A Corporal Dubose.
17 Q Corporal Dubose, but you never wrote that down
18 anywhere in your notes?
19 A No, sir.
20 Q Okay. Well, I mean wouldn't you investigating a
21 potential DUI bloodshot eyes would be something pretty
22 important?
23 A Yes, sir, so would a strong smell of alcohol. Yes,
24 sir.
25 Q None of which are in your notes?

1 A No, sir.
2 Q Or in the incident report?
3 A No, sir, cause -- I mean, it was pretty much a given.
4 Q A given?
5 A Yes, sir. I mean, when I was telling the corporal,
6 you know, I think she's -- she admitted she had some
7 drinks. I mean at that point in time it was pretty much
8 okay, well, how did you come to that. I mean, it's like
9 okay, you know, I smelled a little bit of alcohol on her.
10 So -- but, I mean, you're absolutely right, I didn't put
11 it in my notes, but, I mean, that would be how I came to
12 that conclusion.
13 Q This is not the first time you testified in a DUI
14 trial?
15 A No, sir.
16 Q And you've had experience with these things and, of
17 course, you know, these things are important?
18 A Yes, sir. Again, this was my first felony DUI. This
19 was probably my fourth or fifth DUI in itself. That's why
20 I was having Corporal Dubose with me.
21 Q All right. Now, the next thing I got here says bent
22 to 90 degree angle. Now, you are not an accident
23 reconstructionist. You're not certified, are you?
24 A No, sir, I've only got at scene investigation one.
25 Q Accident investigation. And, of course, you were not

1 at the accident scene when this wreck took place?
2 A No, sir.
3 Q The truth is if the chastity was bent to a 90 degree
4 angle, you don't know how it got bent, do you?
5 A No, sir. Other then from my on observation from the
6 damage to the front end of her vehicle and the damage to
7 the rear end of the vehicle. It look like she struck him
8 in the rear end.
9 Q Look like that?
10 A Yes, sir.
11 Q You're not qualified as an expert to even give an
12 opinion regarding how ---
13 A I'm at scene investigation certified. I can give an
14 opinion of what I think happened. I can't tell you how --
15 I can't give you a number -- I can't reconstruct the
16 scene, but I can tell you how I think an accident -- how a
17 collision actually occurred.
18 Q Okay. You also indicated that -- you said after --
19 I'm looking at your traffic collision report?
20 A Yes, sir.
21 Q Okay. And it's not in evidence, but at least there's
22 an allegation that statement that you claim that after
23 turning left from secondary 51 Home Branch Road unit one,
24 driver under the influence struck unit two in the rear.
25 Unit one was southbound on South Carolina Highway 261.

1 Paxville Highway unit two was south bound on Paxville
2 highway. After turning left from secondary 51, Home
3 Branch Road. Where did you get that from?
4 A That's what I saw from the evidence at the scene
5 that's that I determined happened.
6 Q Well, you told us earlier that you got information
7 during the course of your investigation that the driver of
8 the pickup truck been visiting some relatives on Home
9 Branch Road?
10 A Yes, sir.
11 Q Tell me the name of one person and the address that
12 told you that?
13 A I have no idea where the address is. I believe it
14 was the stepdaughter or the brother. One of the two was
15 the one that relayed that information.
16 Q And I'm sure as important as that information was,
17 you checked that out to verify whether or not they were
18 coming off Home Branch Road. Did you do that?
19 A As far as verify what?
20 Q Verify that they were coming off of Home Branch Road
21 when turned on to Highway 261?
22 A That's what we were told was they had just left his
23 brother's house.
24 Q You were told that?
25 A Yes, sir.

1 Q Now, if somebody told you that ---
2 A Yes, sir.
3 Q I know you wrote it down somewhere? And you got the
4 name at least one person that told you that?
5 A They never specifically told me.
6 Q They didn't ---
7 A Again, I was not the only trooper out there that day.
8 Q Well, why in the world would you write something down
9 in your incident report that you don't know where it came
10 from?
11 A I didn't write it down in the incident report.
12 Q Well, you wrote it down in your collision report?
13 A The collision report was what my findings were.
14 Q Your findings?
15 A Yes, sir.
16 Q Your findings have be based on something factual.
17 And I want to know where you got that from?
18 A From the fact that they were -- I'm trying to figure
19 out the question.
20 Q I want to know where you got the information from
21 indicating that they were come off of Home Branch Road?
22 A A family member relayed that information to a trooper
23 that was on the scene and told us I don't know who it was.
24 I don't even know who the trooper was.
25 Q Don't know?

1 A No, sir.
2 Q Don't know who the trooper was. Don't know who the
3 family member was. Now, I know as highway patrolman, you
4 don't usually keep records like that, do you? You don't
5 know where the source comes from? Where the information
6 come from? Surely you must know that you were coming to
7 court one day with this. I know that had dawned on you?
8 A I didn't receive the information. So I didn't have
9 anyway to write it down if I didn't receive the
10 information. If the person didn't physically talk to
11 me...
12 Q You didn't receive it and yet you got it. Somebody
13 gave it to you. And you can't tell me the name of one
14 person that gave it to you and you wrote down.
15 A I didn't write it down.
16 Q You told this jury today that you incidentally --
17 while I'm thinking about it, you also said Ms. Brown never
18 told you that the people she had the wreck with pulled out
19 in front of her?
20 A No, sir.
21 Q She never told you that?
22 A No, sir.
23 Q All right. Well, let's get this -- I don't know how
24 to do this. I got to ask you I want to see the video of
25 Ms. Brown being transported to the jail, that's what you

1 showed him. I want to take another look at it. And I
2 just don't know -- I'm not trying to -- I know you don't
3 want me working this, I might tear it up. And, Officer
4 Minnix, I want you to listen very carefully.
5 (WHEREUPON, video played for the jury.)
6 BY MR. BARR:
7 Q I counted four times that she said someone hit me?
8 A Yes, sir.
9 Q Okay. Now, did you at any point develop a concern to
10 do some further investigation as to why she kept saying
11 that somebody hit her?
12 A Didn't add up with what we saw at the scene. There's
13 no way they ran into her.
14 Q Well, now if they came off of Boyd Road and turned?
15 A Okay.
16 Q In front of her, you don't deny that if she was
17 traveling coming south or traveling east, she had the
18 right of way?
19 A Yes, sir, but she was -- what is it you're trying to
20 ---
21 Q I'm not trying to do anything, I'm just asking you
22 whether or not if she was traveling east she had the right
23 of way. She was on highway 261?
24 A Yes, sir, it depends on if she -- but the problem was
25 is they turned and they didn't -- and she wasn't within

1 that vicinity, then she doesn't have the -- I mean ---
2 Q You are a highway patrolman?
3 A Yes, sir.
4 Q And correct if I'm wrong, but a vehicle entering the
5 roadway ---
6 A Must yield to the oncoming traffic.
7 Q Must yield to any traffic, that's close enough to
8 constitute ---
9 A That's close enough, yes, sir. But if she was
10 speeding, it's a hill that she was coming over. They
11 wouldn't have seen her headlights. They pull out thinking
12 that she's not there. They're getting up to speed. She
13 rear ended them, knocked them into a tree. That's what we
14 came up with.
15 Q I guess, maybe they wouldn't have seen her headlights
16 or couldn't have noticed it or wouldn't have noticed it if
17 they weren't as Mr. Durant has said very intoxicated?
18 A Yes, sir.
19 Q Now, you're telling me that -- and, of course, the
20 hill that you're talking about, that hill is at least --
21 is over 100 yards from Boyd Road?
22 A Home Branch Road, yes, sir.
23 Q It's a 100 yards from Boyd Road as well.
24 A I'm not exactly sure what the measurements were. I
25 know the MAIT investigators did those measurements and

1 everything. I'm not exactly sure what those measurements
2 are.
3 Q They did the measurements and we will get those.
4 And, of course, right now in terms of what you know?
5 A As far as what we saw at the scene, the impact on the
6 pickup truck was in the rear. There was no damage to her
7 rear end. So all her damage was done to the front end.
8 The tree was impacted into the truck, so there was no way
9 his rear end got bent in. She hit him in the rear end
10 causing him to swerve off into the tree.
11 Q I'm not asking you to do an analysis from the
12 mechanical aspect of what took place during the collision?
13 A But that's what I have to do on the side of the road.
14 Q I'm just asking based on what you found out. No
15 question that she was traveling on Highway 261?
16 A Yes, sir.
17 Q And no question was that the vehicle that she collied
18 with was coming onto Highway 261?
19 A No, sir, I don't know what the question is.
20 Q Well, I just ask you in terms of what you found, did
21 you not discover that her vehicle was on Highway 261
22 traveling south?
23 MR. DURANT: Your Honor, I object Mr. Barr is
24 proposing theories about how this wreck may have occurred
25 and then object to the officer's answers based on his

1 investigation at the scene.
2 MR. BARR: I'll rephrase my question.
3 THE COURT: All right.
4 BY MR. BARR:
5 Q As far as you know she was traveling south on Highway
6 261?
7 A Yes, sir.
8 Q Okay. Now, the -- according to what you claim that
9 you found out, the vehicle that she had the collision with
10 came off of Home Branch Road?
11 A Yes, sir.
12 Q Okay. Now, is it not true that if that vehicle came
13 off of Home Branch Road in order to get on Highway 261, it
14 had to come out and make a left Highway 261?
15 A Yes, sir.
16 Q Okay. All right. State's Exhibit Number 1. I
17 believe you testified on direct examination that that
18 photograph depicts the vehicle that was being operated by
19 Ms. Brown?
20 A Yes, sir.
21 Q Okay. And that tool box is the tool box from the
22 pickup?
23 A Yes, sir.
24 Q Okay. And, of course, there's a green sign and that
25 green sign is Boyd Road?

1 A Yes, sir.
2 Q Okay. Right on my right are the green sign is a stop
3 sign?
4 A Yes, sir.
5 Q Okay. All right. And as far as you know that red
6 stop sign is to stop vehicles coming on to Highway 261?
7 A Yes, sir.
8 Q Okay. Now, was there a debris field where the
9 vehicles collided or where you believed it collided?
10 A The point of impact is further back this way. No,
11 there's no debris field that you can see right here. If
12 you look to the right -- right in front of the roadway you
13 can start to see some of the debris. But as far as a
14 debris field, no, sir, the debris field stopped when she
15 -- actually when she stopped. And it was very little as
16 far as a debris field goes.
17 Q Who took these photographs you did?
18 A I took some of them. MAIT took most of them. I
19 believe that the Solicitor has them.
20 Q Ain't no question that that there's no debris field
21 between what's depicted as her vehicle coming back towards
22 Home Branch Road?
23 A There is some to the right between whoever took this
24 picture and that vehicle. If you look to the right, there
25 is some debris.

1 Q And, of course, a tool box. As far as you know,
2 nobody moved the tool box from the location that it's in
3 since the accident occurred, did it?
4 A No, sir.
5 Q Okay. So now the tool box somehow traveled up the
6 road from where you claim the collision occurred?
7 A It was probably in the back of the truck.
8 Q Probably in the back of the truck?
9 A Yes, sir.
10 Q Okay. It just probably didn't fall out?
11 A Until she stopped. I mean, I can kind of give you an
12 idea of what we think happened, but then you don't want
13 that.
14 Q Well, I don't want to just take something, but I'm
15 just curious as to how the tool box got up there.
16 A That's the separation point of the two vehicles. So
17 when she came to a stop, they were actually -- they
18 traveled from point of impact to that point as one unit.
19 When she came to a stop, his vehicle kept going. The tool
20 box could have been rolling off or have moved to the back
21 of the truck. And when she stopped and he kept going, it
22 could have finished coming out of back of the truck.
23 Q It could?
24 A Yes, sir. But we do know that the point of impact
25 for this collision is those gauge marks in the roadway.

1 Q Well, now the gauge marks ---
2 A Because that's where ---
3 Q We gone have somebody that's gone testify regarding
4 gauge marks one of the engineers, but now as far as how
5 the gauge marks got in the highway, you not qualified to
6 tell us that?
7 A Tell what?
8 Q Your opinion as to how they got in there?
9 A I can ---
10 Q You're not an accident reconstructionist. I mean, I
11 know that?
12 A No, sir.
13 Q All right, sir. Now, did you ever consider that the
14 truck was coming out of Boyd Road and turned right on 261
15 instead of Home Branch Road?
16 A No, sir, because the gauge marks are back this way.
17 Q Well ---
18 A Those gauge marks tell us where the collisions
19 occurred. So because the gauge marks happened further
20 this way, we know that they weren't on Boyd Road. We know
21 that they did not turn right of off Boyd Road. We know
22 that they were in the roadway between Home Branch and
23 Boyd?
24 Q Well, I'm going to show you what's been marked as
25 defense identification 1. And I don't want to put it into

1 evidence, but I just wanted you to tell me whether the
2 gauge marks depicted on that photograph? Those are gauge
3 marks?
4 A Those are gauge marks.
5 Q Now, tell me whether there's any debris?
6 A No, sir, it doesn't have to be. Again, the gauge
7 marks were caused by her going underneath the pickup
8 truck. So there might not be any debris because she
9 didn't break anything until the vehicle separated and it
10 may have torn the headlights off or something like that,
11 but it doesn't necessarily have to be ---
12 Q You mean your theory is that the two vehicles
13 collided way up the road and didn't shed any ---
14 A They collided right there where the point of impact
15 is. She went underneath his vehicle which caused the
16 gauge marks. Her car is the one that caused those gauge
17 marks.
18 Q All right. We'll deal with that some more.
19 THE COURT: Mr. Barr?
20 MR. BARR: Yes, sir.
21 (WHEREUPON, a bench conference was held in the
22 presence of the jury, but out of the hearing of the
23 jury.)
24 THE COURT: Ladies and gentlemen, we're going to
25 take a five minute break. I'll bring you back out in just

1 a minute.

2 (WHEREUPON, the jury retire to the jury room.)

3 THE COURT: Let's talk scheduling.

4 MR. DURANT: My next witness is Corporal Dubose.

5 She's here, Your Honor, but I think she's going to be

6 relatively lengthy.

7 THE COURT: It's going to be an hour or two, so

8 we'll have to do her in the morning. Take a quick break

9 and be back.

10 (WHEREUPON, a break was taken.)

11 THE COURT: We ready for the jury?

12 MR. DURANT: Yes, sir.

13 THE COURT: How much longer do you think you're

14 going to be?

15 MR. BARR: Half an hour.

16 THE COURT: You going to have redirect?

17 MR. DURANT: It'll be brief.

18 THE COURT: Be quick as you can.

19 MR. BARR: Judge, I can be real quick. I can be

20 out of here along with my client in two seconds.

21 THE COURT: Well, that's up to you.

22 (WHEREUPON, the jury came into open court.)

23 THE COURT: All right, Mr. Barr.

24 MR. BARR: Thank you, Judge.

25

1 BY MR. BARR:
2 Q Mr. Minnix, Officer Minnix, I want to go back to
3 something we spent a little bit on it earlier, but it is
4 very important and that's the issue of where the truck was
5 coming from?
6 A Yes, sir.
7 Q Now, you already told me that you don't know where
8 you got the information from?
9 A The information was not relayed to me.
10 Q All right. Now, have you or any other officer gone
11 up the -- is it Home Branch Road? Have you or any of the
12 other officers found or located any relatives of either
13 one of the victims on Home Branch Road?
14 A From my understanding is his brother lives on Home
15 Branch Road. The stepdaughter is the one who -- I don't
16 know if she's the one that relayed the information about
17 where they were coming from, but she's the one that
18 informed us of Mr. Arenas proper identification, his
19 proper name and stuff. She dropped off the birth
20 certificate to the office. So she may have been the one
21 to relay that information as far as where they were coming
22 from, but again I don't know. I've never been up that
23 road to physically try and find the brother's address.
24 After the coroner made contact with the next of kin, there
25 would be no reason for me to go find the next of kin

1 myself.
2 Q Well, now no question that both of these men were
3 heavily intoxicated?
4 A Yes, sir.
5 Q Okay. And no question that you got a very serious
6 serous accident?
7 A Yes, sir.
8 Q And, of course, would you not agree that in terms of
9 where they were coming from, you might be able to get some
10 helpful information from the relative if they got one down
11 there. I mean, there may not even be a relative on Home
12 Branch Road?
13 A The information was relayed to me that the brother
14 lived down the road. They were leaving his house.
15 There's no reason to go bother these people who just lost
16 a loved one in their time of grief about, hey, by the way
17 did that guy come by, did that guy leave.
18 Q Well, have you ever asked Ms. Brown where they came
19 from?
20 A Where the truck came from?
21 Q Yeah. I tell you right now ---
22 A No, sir, she told us that they were passing another
23 vehicle on to 261 and they hit her head on.
24 Q Well, now you don't have that written down anywhere
25 in your notes, do you?

1 A It's on the video.
2 Q It doesn't say she was passing. She doesn't say she
3 was passing another vehicle. She said they hit her.
4 A Okay.
5 Q She doesn't say she was passing another vehicle on
6 261. Now, she claims that this vehicle came up Boyd Road?
7 A Okay.
8 Q And what I'm looking for is some confirmation from
9 family members on Home Branch Road and I hadn't seen any?
10 A They did not come off of Boyd Road, okay. All right,
11 I've already told you where the point of impact was. The
12 point of impact is prior to Boyd Road.
13 Q Well, you weren't there. You don't know where the
14 point of impact was. I don't want to be argumentative,
15 but what I'm talking about is whether or not gotten any
16 confirmation --
17 A Again, I did not take down the name of the
18 individual, but the individual name was relayed to someone
19 with the highway patrol or the coroner's office and the
20 next of kin was made in contact and that's where that
21 information was relayed.
22 Q So nobody in the sheriff department, nobody with the
23 highway patrol can tell this jury the name of a relative
24 that those two men had on Home Branch Road. Can you do
25 that today?

1 A I cannot do that today, no, sir.
2 Q All right. Can you do it tomorrow?
3 A I have to check. I have no idea. Like I said, I was
4 not the one that information was relayed to.
5 Q Okay. Now, here's what I want to talk about a little
6 bit now. State's Exhibit I thought Mr. Durant introduced
7 one of these into evidence.
8 THE COURT: He introduced exhibit number 4. It
9 started out as Court Exhibit and he moved it in.
10 BY THE COURT:
11 Q Now, this is State's Exhibit Number 4. I want the
12 ladies and gentlemen of the jury to take a look at State's
13 Exhibit Number 4. Then I'm going ask you about it.
14 THE COURT: Mr. Barr, you want to use the
15 screen.
16 MR. BARR: Sir?
17 THE COURT: You can put that on the screen.
18 MR. BARR: I can try and see.
19 BY MR. BARR:
20 Q And this case this form ain't no question that this
21 is a form that's supplied by the South Carolina law
22 enforcement division as the urine and blood sample test
23 collection report that's used by highway patrol?
24 A Yes, sir.
25 Q And in this case this form was used by you and

1 Trooper Dubose to collect blood sample from Ms. Brown?
2 A Yes, sir.
3 Q Now, isn't it true. Well, you said that Ms. Brown
4 became belligerent. Now, what did you mean by that when
5 she became belligerent?
6 A She refused to cooperate, voice got raised. It got
7 to the point where she was saying I didn't kill nobody.
8 It got to the point where it was really hard to talk with
9 her. She was adamant that she didn't do anything, so
10 that's where I'm kind of at.
11 Q Belligerent. My God you charge with her one count of
12 felony DUI and another count of serious -- two counts of
13 felony DUI. And she was telling you that she didn't do
14 anything, didn't she? That's enough to get upset about
15 wouldn't you think so?
16 A Okay.
17 Q Now, you said that she got belligerent after you told
18 her that she was under arrest. I mean, that's what you
19 said earlier?
20 A Yes, sir.
21 Q And, of course, then in terms of getting blood from
22 her, she refused to give you any blood?
23 A Yes, sir.
24 Q Now, you talk with the jury earlier about implied
25 consent that is when somebody coming into South Carolina

1 and driving on the highway and, of course, it's a
2 privilege to drive. The implied consent law says that if
3 you come and drive you implying to consent to have breath
4 sample, determine your blood alcohol content, in some
5 cases even for the blood?
6 A Yes, sir.
7 Q Okay. But now you also told her about the implied
8 consent warning said that you don't want it take it. You
9 don't have to submit to either.
10 A Doesn't count with a felony DUI when we have a search
11 warrant.
12 Q Did you not give her a complied consent warning?
13 A Yes, sir.
14 Q I see. Now, why did you give them to her?
15 A Because I'm required to by law.
16 Q I see. You're required to give them to her by law.
17 And does that not implied consent warning says that you
18 don't have to take this test. You don't have to submit to
19 it, but if you don't submit your driving privileges will
20 be suspended for 90 days?
21 A A normal DUI, yes, that's what it says. In a felony
22 DUI, it does not say that. With a search warrant, we are
23 getting her blood.
24 Q She didn't consent for you to get her blood. And you
25 had to get a search warrant?

1 A Yes, sir.
2 Q You already told us the -- I think Trooper Dubose is
3 the one who got the search warrant?
4 A Yes, sir.
5 Q Okay. She swore to the affidavit?
6 A Yes, sir.
7 Q Now, you don't deny that the information that she
8 claimed in the affidavit that was sufficient to establish
9 probable cause what she stated in the affidavit wasn't
10 sufficient, wasn it?
11 A It was sufficient. She got the same -- that's why
12 she went to the hospital with me. That's why she walked
13 in there. That's why we waited to place her under arrest
14 until the corporal had a chance to observe her actions and
15 her speech and everything else. The smell of alcohol
16 coming off of her because I was still on FTO. She was my
17 training officer. We wanted her -- I believe it was 16
18 years at the time experience to make that distinction
19 before we charged her with a felony DUI.
20 Q She states in the affidavit for the issuance of the
21 search warrant why she believes it's probable cause to be
22 able to draw the blood?
23 A Yes, sir.
24 Q Isn't what it says?
25 A Yes, sir.

1 Q Didn't the Solicitor in this courtroom today say that
2 he agreed that it wasn't sufficient what was stated in the
3 affidavit?
4 MR. DURANT: Objection, Your Honor. May we
5 approach?
6 THE COURT: Yes, sir.
7 (WHEREUPON, a bench conference was held in the
8 presence of the jury, but out of the hearing of the
9 jury.)
10 BY MR. BARR:
11 Q The information contained in the affidavit you saw
12 the affidavit?
13 A Truthfully, I don't think I may have not seen it.
14 The corporal typed it up.
15 Q You want me to show it to me you?
16 A Yes, sir, do you have it. Okay.
17 Q And that's what was used to get the search warrant?
18 A That and the testimony -- the sworn testimony of the
19 corporal was what was used to get the search warrant not
20 just the affidavit itself.
21 Q Sworn testimony. There's nothing in that affidavit
22 about bloodshot eyes, is it?
23 A No, sir, it just says to be driving -- is believe to
24 be driving under the influence and that's what the sworn
25 statement was for.

1 Q And there's nothing in the affidavit that's sworn to
2 be true about blood being on the defendant, is it?
3 A Her blood?
4 Q Yes, sir.
5 A No, sir, she just had some scratches if I'm not
6 mistaken.
7 Q Where did you observe scratches on her?
8 A I believe it was just on her arms.
9 Q You believe?
10 A Yes, sir.
11 Q You're not sure?
12 A No, sir.
13 Q Okay. Anything in the affidavit about smell of
14 alcohol?
15 A No, sir, that was all attested to after she was sworn
16 in by the judge that issued the search warrant. That was
17 all attested to then.
18 Q In other words, that was something heard oral. It
19 wasn't stated in the affidavit?
20 A No, it wasn't stated in the affidavit to. It was
21 when she was sworn in later.
22 Q Now, you said that she got belligerent when she --
23 when you told her about the arrest?
24 A She refused to comply. Like I said at first, she
25 was, yeah, sure I will give you blood. Then it became I'm

1 not giving blood. I didn't do nothing. Yes, that's
2 belligerent in my book.
3 Q What did you want her to do help you hang her?
4 A No. I wanted her to provide a blood sample.
5 Q Pardon me?
6 A I wanted her to provide a blood sample if she wasn't
7 drinking.
8 Q Well, she got a right not to supply it, doesn't she?
9 A Until she gets a search warrant.
10 Q Well, you took it from her by way of the search
11 warrant?
12 A Yes, sir.
13 Q All right. Now, of course, that piece of paper that
14 I just showed you showed you -- this is a blood collection
15 report?
16 A Yes, sir.
17 Q Okay. Now, tell the ladies and gentlemen of this
18 jury whether or not Ms. Brown name is on this report
19 anywhere?
20 A Further up at the subject's address.
21 Q All right. She is the subject. She's the person ---
22 A If you pull it down, her name would be up there.
23 Q She is the person that you collected the sample from?
24 A Yes, sir.
25 Q Okay. Now, as far as you know, you were present when

1 the sample was drawn?
2 A When blood sample was drawn, yes, sir.
3 Q And there was some representations made to Ms. Brown.
4 Now, this is in evidence says that the subject is under
5 arrest for section 56-5-2930 et cetra and the subject has
6 been advised in writing of her implied consent rights?
7 A Yes, sir.
8 Q Now, doesn't it say that?
9 A Yes, sir.
10 Q It says to check one only one can apply. The officer
11 has a reasonable suspicion that the suspect is under the
12 influence of something else other than alcohol, that's not
13 checked. The subject is unconscious or otherwise
14 incapable of refusal and it's considered informed
15 therefore a blood sample is requested, that's not checked.
16 A blood sample is requested by the arresting officer
17 because a license medical person has informed the officer
18 that the subject is unable to take a breathe test. Now,
19 that's not checked?
20 A No, sir.
21 Q And no licensed person as far as you know ever told
22 you that she couldn't take a breathe test?
23 A No, sir. It's the following one that's checked.
24 Q Subject is under arrest in violation of section
25 56-5-2945, 56-21-113, 56-5-2946 and 50-21-116 a blood

1 sample or blood sample and urine is requested. And that's
2 checked?
3 A Yes, sir, 56-5-2945 is felony DUI, which is why it
4 was checked.
5 Q Now, the next item says a blood sample is requested
6 by the subject for his or her own independent test. Now,
7 is that not checked?
8 A It was not checked by us.
9 Q Wasn't checked by you?
10 A No, sir, if you look at that paper, you can see the
11 checks that were made ---
12 Q The jury looking at it. They can look at it.
13 A If you look at the paper, the checks that were made
14 by the corporal.
15 Q The jury looking at it.
16 A If you look a the paper, the checks that were made by
17 the corporal are small and precise. The checks that were
18 made by the person drawing the blood were big swooping
19 checks. We don't know why she checked that. If she
20 checked it, we don't know.
21 Q My goodness ---
22 A But we were never asked ---
23 Q You signed your name on the piece of paper?
24 A Yes, sir. But we were never asked -- we were never
25 informed of that.

1 Q Officer, now you're trying to say you don't know how
2 ---
3 A I'm not trying to say anything, I'm saying it.
4 Q I'm asking you isn't it checked on this form?
5 A Not by us.
6 Q Okay. All right. Well, your name was checked by Ms.
7 Brown?
8 A No, sir, I don't think so.
9 Q Now, who's the only other person had the paper?
10 A The individual that drew the blood.
11 Q She checked it?
12 A It's a possibility, yes, sir.
13 Q Now, why do you sign your name at the bottom?
14 A I signed my name because I'm require to because I'm
15 attesting to what I filled out on that piece of paperwork.
16 I couldn't even tell you who the nurse was that took the
17 blood.
18 Q I know you can't. You don't know that the person was
19 a nurse, do you? You don't know who it was. Now, you
20 signed this final check for law enforcement officer sample
21 ---
22 A Was collected in front of me. The sample was
23 collected in front of me.
24 Q The sample contained as properly labeled in the
25 subject name at the time of collection and the sample is

1 properly seal and ready to transport?
2 A Yes, sir, I attested to that. I attested to the fact
3 that she was -- the reason blood was being requested was
4 because she was being charged with 56-5-2945 which is a
5 felony DUI. That's what I was attesting to, that's what I
6 was signing that paperwork for. Now, when the nursed
7 filled out her portion of the paperwork, she may have
8 inadvertently checked the box not knowing that that's what
9 it was for. We don't know.
10 Q Advertently. Doesn't say anything about this check
11 mark look like inadvertence to you?
12 A Yes, it does, but it's not in the box. It's not
13 actually in the box. It's just kind of...
14 Q Well, the jury will decide?
15 A And that's fine.
16 Q That's why I gave them a copy here.
17 A Yes, sir, but I was pointing out the fact that all of
18 the checks that were made by law enforcement the corporal
19 actually filled that out. Are precise in the box small
20 checks, that check was not made by us. The nurse filled
21 that out after she got done drawing the blood work.
22 Q And when the nursed filled it out -- whoever it was
23 that filled it out, they took two samples of blood?
24 A Both are required to go to SLED.
25 Q And one sample of urine?

1 A Yes, sir.
2 Q And you took both of them?
3 A Both samples of blood are required to go to SLED and
4 the sample of urine are required to go to SLED.
5 Q I understand, but if they decide to go, but did you
6 give her one?
7 A She didn't request one. She never relayed that to me
8 or to the corporal that she wanted a sample. If she had,
9 all she had to do was say I want a sample. We would have
10 said go ahead give her a sample and then they would have
11 charged her for taking a sample. But they would have come
12 up with their own vials. We issued two vials in those
13 boxes both vials have to go to SLED.
14 Q Okay. The person took the blood sample gave both of
15 them to you. Didn't give her any?
16 A No, sir, gave both to me.
17 Q Okay. And, of course, you didn't read this before
18 you signed it, did you?
19 A Actually, yes, sir, that's what I'm getting at ---
20 Q Did you read it before you signed it?
21 A Yes, sir, what I am trying to tell you is is that it
22 was filled out. We signed it. And then we gave it to the
23 nurse. And then the nurse filled out and signed her name
24 to the portion of it and she checked it. That's what I'm
25 saying happened.

1 Q So you're saying now for the first time that it was
2 filled out after you signed it?
3 A No, I'm saying we filled it out and then signed it.
4 And then had the nurse sign her name.
5 Q It was filled out. The nurse signed it.
6 A It was filled out properly.
7 Q And you signed it after you read it?
8 A No, sir, it was filled out properly. All the boxes,
9 all the appropriate boxes were checked. The nurse has to
10 come back and check those boxes that she has to check. So
11 what I think occurred -- because again this was four years
12 ago.
13 Q Please don't tell us what you think occurred because
14 we're looking at the paper all right?
15 A Okay.
16 Q All right. Now ---
17 MR. BARR: Court's indulged just a second, Your
18 Honor.
19 BY MR. BARR:
20 Q Do you remember having any conversation at any time
21 during this investigation -- do you remember having a
22 conversation with a young lady that represented herself to
23 you as Ms. Brown's daughter?
24 A No, sir, I don't remember that.
25 Q Do you remember at the incident site?

1 A At the collision site?
2 Q Collision site?
3 A No, sir.
4 Q Anybody asking you to go with Ms. Brown to the
5 hospital?
6 A No, sir.
7 Q And it's your unequivocal testimony that you got up
8 in the ambulance?
9 A Yes, sir, I got in the ambulance, yes, sir.
10 Q Okay. Do you remember ever saying to Ms. Brown that
11 you are under arrest and you going to jail for 15 years?
12 A No, sir, I never said that.
13 Q You never said that?
14 A No, sir, because it's not my determination to
15 determine her guilt or not.
16 Q I know it's not.
17 A So she was never told that.
18 MR. BARR: All right. Thank you. Your Honor, I
19 think that's all for this witness.
20 MR. DURANT: I promise I'll be brief, Judge.
21 THE COURT: Okay.
22 REDIRECT EXAMINATION
23 BY MR. DURANT:
24 Q Trooper Minnix, there was some questions that were
25 posed to you by Mr. Barr as to where you got the

1 information from and that the defendant -- the victims
2 rather were coming Home Branch Road. You mention some
3 family members?
4 A Yes, sir.
5 Q Were the family members of the victim were they
6 actually at the scene?
7 A Yes, sir, I believe that the brother and the
8 stepdaughter were eventually at the scene.
9 Q The brother and stepdaughter came to the scene that
10 night?
11 A Yes, sir, I believe so.
12 Q In the middle of the night they came to the scene ---
13 A Yes, sir.
14 Q --- when law enforcement and other first responders
15 were there?
16 A Yes, sir.
17 Q I believe so. Now, there was much as they been made
18 about this form, this blood collection report that -- and
19 by the way Mr. Barr said the jury would decide that's why
20 he gave them a copy. To be clear, the State introduced
21 that into evidence, isn't it?
22 A Yes, sir.
23 Q I introduced that into evidence myself representing
24 the State of South Carolina on direct examination?
25 A Yes, sir.

1 Q And that's why the jury got to see it because the
2 State put it in evidence; isn't that right?
3 A Yes, sir.
4 Q Okay. This form which again this box that is check
5 mark that we been talking about is under -- includes a
6 heading check the correct one only one can apply?
7 A Yes, sir.
8 Q And there's -- you testified that there's a small
9 check mark that you believe was made by yourself or
10 Trooper Dubose?
11 A It was made by Corporal Dubose, yes, sir.
12 Q Okay. Attested to the reason for the sample -- the
13 reason the sample was being drawn is because she was under
14 arrest for felony DUI?
15 A Yes, sir.
16 Q I know we went over this before, but at any point
17 during this hour and a half period or three and a half
18 hour period and from the accident, until the blood was
19 drawn, at any point during that period did Ms. Brown tell
20 you or anybody else in your presence that she wanted an
21 independent sample taken?
22 A No, sir.
23 Q Did she tell you I want a vial of my own blood and I
24 want to send it to my own doctor, did she tell you that?
25 A No, sir.

1 Q Did she tell you take two vials of blood because I
2 want one to go home with me?
3 A No, sir.
4 Q Okay. Even if she did -- hold that thought, hold
5 that thought. Mr. Barr asked you some questions about the
6 cup in the car, about the open container in the vehicle
7 and why it wasn't tested. Forensic experts and what you
8 could have done with that cup. You could have sent it to
9 SLED where the experts are who can do amazing stuff. I
10 think his exact words were SLED can do serious stuff;
11 isn't that right?
12 A Yes, sir.
13 Q Okay. Even if Ms. Brown had requested an independent
14 sample, the law requires you to give some assistance to
15 get that sample taken?
16 A Yes, sir.
17 Q What other requirements of the law -- what does the
18 law require you to do in giving Ms. Brown assistance with
19 that sample?
20 A Transported her to the local -- the closest medical
21 center.
22 MR. BARR: Objection. I'm going to object.
23 Now, in terms of what the law requires, if you want to get
24 the case law, then fine, but I mean unless he is an
25 authority and he plans to do exhaustive narrative of what

1 the law -- he's just not qualified to do that.
2 THE COURT: I'll overrule rule your objection.
3 I think he's qualified as far as he's concern or what he's
4 required to do under the law.
5 BY MR. DURANT:
6 Q To your understanding you made DUI's before if an
7 individual request an independent sample to be taken, what
8 is how highway patrol's responsibility with providing
9 assistance for that sample?
10 A We transporting them to the closest medical facility.
11 Q And then what?
12 A That's all we are suppose to do.
13 Q Transport to a facility to have blood drawn. And
14 when the blood is drawn, where is your highway patrol send
15 it?
16 A They either have the hospital test it or it goes to
17 SLED.
18 Q Where the experts are?
19 A Yes, sir.
20 Q Where the folks are that can do some serious stuff?
21 A Yes, sir. The reason being is the detention center
22 is not going to let her keep a vial of blood on her. It
23 is not going to be able to go into her belongings because
24 the belongings aren't going to be in a refrigerated space.
25 So it's not going to be a viable sample any more any way.

1 Q So even if she request a sample and she request
2 highway patrol's assistance to have that sample tested,
3 then according to your testimony your responsibility is to
4 take her to a hospital where she already was to get a
5 blood drawn and send it SLED where Mr. Barr told the jury
6 experts are, where expert toxicologists are to have it
7 tested?
8 A Yes, sir.
9 Q Where was the blood in this case sent?
10 A SLED.
11 Q Who did the analysis on the blood in this case?
12 A Toxicologist at SLED.
13 Q The toxicologist at SLED. And, Trooper Minnix, I'm
14 going to close at this point. There were some theories
15 proposed by Mr. Barr as to how this accident may have
16 happened. He cross-examined you as to how you know that's
17 the point of impact, the gauge marks in the highway,
18 opposing theories about Boyd Road. Again in terms ---
19 MR. BARR: Judge, is this closing argument or
20 what is it? Is it a question?
21 THE COURT: Well, he hadn't finished his
22 question.
23 BY MR. DURANT:
24 Q In terms of theories proposed as to how this accident
25 occurred, what is the only theory proposed by Ms. Brown as

1 to how the accident occurred? How did Ms. Brown tell you
2 the accident happened?
3 A Ms. Brown says that she was in head on collision with
4 her.
5 Q Okay. And did she tell you that the car that hit her
6 was passing another car?
7 A Yes, sir, to the best of my recollection, yes, sir.
8 There was a statement at one point in time that was made
9 about that.
10 Q Okay. And Mr. Barr said that's not on the video.
11 And I know we been here a long time. I just want to place
12 the video one more time for the jury and then we can get
13 out of here.
14 (WHEREUPON, video being played for the jury.)
15 BY MR. DURANT:
16 Q Trooper Minnix, again is this a fair and accurate
17 representation of the -- Ms. Brown's statements from the
18 way to the hospital to the jail?
19 A Yes, sir.
20 Q Has it been altered or edited in any way?
21 A No, sir.
22 Q Tell me what you heard Ms. Brown say in that last
23 clip?
24 A That the car was passing another car and they hit
25 her.

1 MR. DURANT: Let the record reflect that's the
2 231 mark on the video is when the allege statement was
3 made.
4 BY MR. DURANT:
5 Q Passing another car, going fast and hit me. I'm
6 going to jail. Again was that the defendant's description
7 of this accident?
8 A Yes, sir.
9 Q Okay.
10 MR. DURANT: That's all the questions I have.
11 THE COURT: Thank you, sir. You can step down.
12 (WHEREUPON, the witness leaves the witness
13 stand.)
14 THE COURT: Do we have any matters of law we got
15 to take up before in the morning?
16 MR. DURANT: Not that I'm aware of, Judge.
17 THE COURT: Do you know of any, Mr. Barr?
18 MR. BARR: No, sir.
19 THE COURT: All right. We're quiting for the
20 day. I'll see you back at 9:30 in the morning. Be back
21 at 9:30 in the morning, we're going to continue the
22 testimony. Don't discuss this case. I'll see you in the
23 morning.
24 (WHEREUPON, the jury was excused for the day.)
25

1 (WHEREUPON, the proceedings were concluded for,
2 the day to be reconvened on May 16, 2018.)
3 THE COURT: Okay. We ready?
4 MR. DURANT: Yes, sir. One issue out of an
5 abundance of precaution, I like to add one witness to the
6 witness list for the State Stacy Matthew who's a
7 technician at SLED to do the chain of custody for the
8 blood.
9 THE COURT: Okay. Give me his name?
10 MR. DURANT: It's a female Stacy Matthews.
11 THE COURT: Stacy Matthews?
12 MR. DURANT: Mr. Barr, do you want me to
13 question the jury about any connection with Stacy
14 Matthews?
15 MR. BARR: I don't think that would be
16 necessary.
17 THE COURT: All right. We ready for the jury?
18 MR. DURANT: Yes, sir.
19 THE COURT: Bring the jury please, sir.
20 (WHEREUPON, the jury came into open court.)
21 THE COURT: All right. Solicitor, you may call
22 your next witness.
23 MR. DURANT: Thank you, Your Honor, please the
24 Court. The State calls Paige Dubose.
25 THE CLERK: Raise your right hand and place your

1 left hand on the Bible repeat your name please?
2 THE WITNESS: Paige Dubose.
3 THE CLERK: Solemnly swear the testimony you're
4 about to give will be the truth and nothing but the truth
5 so help you God?
6 THE WITNESS: Yes, ma'am.
7 WHEREUPON,
8 Paige Dubose,
9 after first having been duly sworn, testified as follows:
10 DIRECT EXAMINATION
11 BY MR. DURANT:
12 Q Trooper Dubose, good morning.
13 A Good morning.
14 Q Please tell the jury where you work?
15 A I'm a corporal with the South Carolina Highway
16 Patrol.
17 Q How long you work highway patrol?
18 A I been employed since January of 1998.
19 Q You been a trooper here in Clarendon County
20 throughout that period of time?
21 A No, sir. When I first came on, they wouldn't send me
22 back to the home county, so I went to Florence County
23 until 2001 and then I was able to get a transfer back to
24 Clarendon.
25 Q This is where you from?

1 A Yes, sir.
2 Q What type of training do you have -- does it require
3 to become highway patrolman?
4 A You have to graduate from the South Carolina Criminal
5 Justice Academy which at that time was an eight-week
6 program. And after that go through 22 weeks of highway
7 patrol or patrol school.
8 Q Do you receive continuing education throughout your
9 experience?
10 A Yes, sir, I have since graduated in 1998. I been to
11 probably over I say at least 30 or 40 other specialized
12 classes.
13 Q When somebody first comes on as a highway patrolman,
14 is there some on-the-job training that they actually to go
15 through?
16 A Yes, sir. Once you graduate patrol school, they give
17 you the fundamentals of the job. Then a new trooper would
18 have to be part of the FTO program, which is short of
19 field training officer program, that program is between
20 eight and 12 weeks. And that's when the new trooper would
21 ride with the FTO officer someone who was trained in the
22 field training officer position. And for those -- for
23 that period of time, the new trooper learns more about
24 how -- the administrative part of the job. He has learn
25 as far as the law which is in patrol school, but then once

1 he gets on the road he ask how each trooper, each district
2 does thing differently.
3 Q Have you been trained as a field training officer?
4 A Yes, sir, I have.
5 Q Is there a particular certification that you have?
6 A Yes, sir.
7 Q Have you actually served in that capacity before?
8 A Yes, sir.
9 Q All right. You were here yesterday when Trooper
10 Minnix testified. Were you actually his field training
11 officer?
12 A I was.
13 Q And when did you serve in that capacity?
14 A I don't know exact dates, but Trooper Minnix
15 graduated the academy in 2014. So from his graduation
16 date and I think he completed his field training
17 evaluation stage in like September of 2014.
18 Q Okay. You aware at an accident that happened in
19 Clarendon County on August 30th of 2014?
20 A I am.
21 Q You have occasion to respond to that collision?
22 A I did.
23 Q Were you Trooper Minnix's field training officer at
24 that time?
25 A I was.

1 Q Were y'all riding together in the same car?
2 A Yes, sir.
3 Q Was he -- was it his car at that point?
4 A Yes, sir, he was towards the end of his evaluation
5 stage, so he was actually the trooper driving at that
6 time.
7 Q So y'all were essentially partners at that time?
8 A Correct.
9 Q Where do that collision occur?
10 A It occurred S.C. 261 which is Paxville Highway
11 between Bradum Road and Home Branch Road in that vicinity.
12 Q That's in Clarendon County?
13 A Yes, sir.
14 Q Tell the jury -- I guess, first of all, when did you
15 arrive on scene?
16 A We arrived on scene a little after midnight. I don't
17 know the exact time. I have to look at the accident
18 report.
19 Q Go ahead I'm sorry.
20 A That was Labor Day weekend. We were having a special
21 enforcement that weekend and myself and Trooper Minnix had
22 just finished up from driver's license check point on
23 Raccoon Road. We had planned on going and have another
24 check point on S.C. 260 towards the lake and we received a
25 call of a collision on 261. While en route to that

1 collision we were advised that there was a possibly
2 fatality involved. We arrived on scene a little after
3 midnight. The call came out probably -- if I can see the
4 accident report, I can tell you exact times, but somewhere
5 between 12 o'clock or so we received a call that there was
6 a collision. We arrived on scene approximately 20 minutes
7 later.
8 Q Let me ask you a question before you go any further.
9 You mention that it was Labor Day weekend and y'all were
10 conducting some check points. Was this a Saturday night?
11 A Yes, sir.
12 Q What about Labor Day weekend would lead highway
13 patrol to conduct safety check points?
14 A Any major holiday such as Labor Day, Memorial
15 weekend, July 4th weekend, Thanksgiving any type of
16 holidays, we have what they call selected enforcements
17 where there's more troopers on the road. We focus on DUI
18 detection by having check points at various locations
19 where there's high number of DUI arrests.
20 Q Okay. And those holiday weekends are they proven to
21 have more DUI related collisions and fatalities and so
22 forth?
23 A Yes, sir.
24 Q Tell the jury what you've discovered when you arrived
25 on scene that morning?

1 A When we arrived, the roadway was blocked by emergency
2 personnel. As we were coming to the scene, we were
3 traveling from the Manning area toward the scene. So
4 there was a fire truck parked on the left shoulder of the
5 roadway which it's emergency lights or what they call the
6 rescue lights on which are tall -- LED lights which light
7 up the scene.
8 Q Spotlight?
9 A Correct. So when we arrived, we say -- the first you
10 saw roadway is blocked. We exited the vehicle. And since
11 we thought the initial crime scene was there we went to
12 that location. We found a black pickup off the roadway
13 against a tree. The fire -- again, EMS personnel trying
14 to get the passenger out of the vehicle. They were having
15 these mechanical means as far as to extract the passenger.
16 We were advised then that the driver which we could
17 visually see was still inside the vehicle. And we were
18 advised that he was in fact deceased. We let fire and EMS
19 do their part as far as trying to extract the passenger.
20 And we could tell that there had been a rear-end collision
21 because of the way the truck looked. So we attempted to
22 locate the other vehicle that was involved. Fire
23 personnel had advised that another vehicle was down the
24 road. We couldn't see it from where we were from all the
25 lights, but he advised that EMS was tending to the driver.

1 Myself and Trooper Minnix proceeded to the other vehicle.
2 And at that time my superior officer arrived. Trooper
3 Minnix had -- we had broken apart for a little while. I
4 was explaining to my sergeant and first sergeant the
5 situation and the circumstances surrounding the collision.
6 I observed a white vehicle with heavy front-end damage.
7 Trooper Minnix then at some point in time came back to me
8 and advised me that he had spoken to the driver of that
9 vehicle. And that she was in EMS and that they were
10 fixing to transport her to Clarendon ER.
11 Q What else did he tell you about this conversation
12 with Ms. Brown in the back of the ambulance?
13 A He advised me that he smelled an odor of alcoholic
14 beverage coming from her person. And he advised me that
15 she admitted to having some drinks prior to driving the
16 vehicle. He had said that her demeanor was kind of off.
17 She was -- as far as her speech and all that was kind
18 of -- it just wasn't what he thought it should be. So we
19 started taking pictures and measurements of the collision
20 scene. At that point in time they advised us that the
21 passenger of the pickup truck was being flown out with
22 life threatening injuries. My supervisors made the call
23 to contact our MAIT team, which is a specialize unit who
24 reconstructs accidents and I was advised that they would
25 be en route to the scene. We surveyed the damage on the

1 white vehicle. Once the passenger was extracted from the
2 pickup truck, we surveyed the damage on it and marked any
3 evidence that was on scene, photographed it. And at that
4 point my supervisor came up to me and said, you know, you
5 all need to go ahead and get to the hospital. We'll
6 secure the scene until MAIT team arrives.
7 Q Before you left the scene to go to the hospital, you
8 mention inspecting the two vehicles. Was there anything
9 significant about the white vehicle, any evidence that you
10 found inside the vehicle when you inspected it?
11 A Yes, sir, there was -- the white vehicle had heavy
12 front-end damage. The passenger compartment of the
13 vehicle we located a clear Solo type cup, plastic cup. It
14 was on the floorboard of that vehicle. It was
15 photographed and Trooper Minnix advised that it had an
16 odor of alcoholic beverage coming from it.
17 Q You smelled the cup yourself?
18 A Yes, sir. Once he told me that, I went and also
19 smelled the cup and it did have what appeared to be an
20 alcoholic beverage coming from it.
21 Q Okay. And, Trooper Dubose, in your 18, 19 years
22 experience, how many DUI's have you made?
23 A I'd hate to say probably over 600, 700.
24 Q And you found a number of open containers during that
25 period of time?

1 A Yes, sir.
2 Q Are you familiar with the smell of alcohol?
3 A Yes, sir.
4 Q And based on your training and your experience, is it
5 your opinion that that cup contained an alcohol substance?
6 A Yes, sir.
7 Q After you left the accident scene, you and Minnix
8 left the accident scene together?
9 A Yes, sir.
10 Q And went to the hospital directly from there?
11 A Yes, sir.
12 Q Had Ms. Brown already been taken by EMS to the
13 hospital at that point?
14 A She had.
15 Q Okay. Tell the jury please what you and Trooper
16 Minnix did when y'all got to the hospital?
17 A Due to Trooper Minnix still being in training, when
18 we arrived I also interviewed Ms. Brown, that's part of
19 the field training course that we go through. I
20 interviewed Ms. Brown at the hospital. I asked her the
21 same questions that Trooper Minnix had probably asked her.
22 I asked her where was she coming from. What happened in
23 the collision. I asked her if she had been drinking. She
24 did admit that she had been drinking. And I observed -- I
25 observed what -- from my experience to be someone who is

1 intoxicated. She had glassy bloodshot eyes. Her demeanor
2 was off and what I mean by that is that one minute she was
3 laughing about the situation. The next minute she was
4 crying. The next minute she was angry and mad at us. She
5 -- during that time between my conversation with her, she
6 had an odor of alcoholic beverage coming her person.
7 Myself and Trooper Minnix then exited the trauma room
8 which she was in and we discussed the situation between me
9 and him. And I asked him his opinion as far as he would
10 make an arrest. Like I said, this is just part of the
11 training protocol that we go through. And he advise that
12 he would and I was in agreement with that. So at that
13 point in time myself and Trooper Minnix re-entered the
14 trauma room. We advised Ms. Brown of her Miranda warning.
15 Trooper Minnix read that to her. And then we also advised
16 her of her implied consent rights, which is dealing with
17 the drawing of blood.
18 Q Okay. There's been some testimony about the
19 advisement of those Miranda warnings and also the implied
20 consent warnings. Were you actually there present with
21 Trooper Minnix when he gave both of those warnings?
22 A I was.
23 Q Okay. And did he -- there's an implied consent form
24 that's been shown to the officers and indicates it's
25 already -- were you there when that was read as well?

1 A Yes, sir, I was.
2 Q Did he read the form in its entirety at least the
3 English portion of the form?
4 A Verbatim, yes, sir.
5 Q As part of that advisement of rights was Ms. Brown
6 advised that she had the right to request additional
7 independent testing as she so desired?
8 A Yes, sir, she was.
9 Q Do you have -- I don't know if you have the record in
10 front of you, but do you remember about what time it was
11 that she was arrested and these warnings were given to
12 her?
13 A I'm not sure of the exact time, but I would say it
14 was somewhere after one o'clock that morning.
15 Q Okay. This was again -- this was before a search
16 warrant was obtained?
17 A Yes, sir.
18 Q At any point during that conversation with her when
19 she was advised of those rights, did she indicate to you a
20 desire to exercise that right that had additional testing
21 done?
22 A No, sir. After she was advised that she was under
23 arrest and that there was a death involving the accident,
24 she said that she wasn't going to give a blood sample.
25 Q Did she make any statements at that point?

1 A She just said that there wasn't anybody killed and
2 she wasn't giving us any blood. She wasn't -- she didn't
3 kill nobody, so she didn't have to give us any blood.
4 Q So she denied that anybody had died in the accident?
5 A Correct.
6 Q What did you do after that?
7 A At that point in time I told Trooper Minnix that Ms.
8 Brown was under arrest. I left him at the hospital. He
9 was standing outside the trauma room. I went outside the
10 hospital and contacted my supervisor which was Sergeant
11 Ham who was on scene at the collision. And I advised him
12 that this subject was refusing to cooperate as far as
13 blood sample was concern. He had a list of on call
14 magistrates for Clarendon County. He gave me a couple
15 numbers off the list and told me I needed to get in touch
16 with a magistrate to obtain a search warrant for blood.
17 He also contacted the responding MAIT units and conveyed
18 to them that I needed a copy of a search warrant sent to
19 my e-mail. They sent me a copy of a Word document with
20 the search warrant on it and I filled that out. I
21 contacted -- I believe the first person I contacted was
22 the chief magistrate at the time which was Judge Harden
23 and he was not in town. And he gave me Judge Locklair's
24 number and advise me that she was taking calls for him.
25 So I was able to contact her and I advised her of the

1 situation that we had, the particulars as far as the case
2 was concerned. And asked her if she would be available to
3 do a search warrant for us.
4 Q So your first conversation with Judge Locklair would
5 have been over the phone?
6 A Yes, sir.
7 Q When you spoke with Judge Locklair, did you advise
8 her of the odor of alcohol coming from the defendant, the
9 defendant's admissions that she had been drinking, the
10 open container found in the vehicle?
11 A I advised her of the odor of alcohol coming the
12 driver. I advised her of my observations as far as her
13 demeanor, as far as the glassy bloodshot eyes. I don't
14 believe I advised her of the open container in the
15 vehicle. I'm not a hundred percent sure but because that
16 wasn't part of the felony DUI what I was getting the
17 search warrant for. I may or may not have advised her of
18 the container in the vehicle, but I know that I told her
19 that she admitted to drinking prior to driving the
20 vehicle.
21 Q And did you then go and eventually met with Judge
22 Locklair in person?
23 A I did.
24 Q And where was that?
25 A I met with her at her residence on the back porch of

1 her house.
2 Q What time was this?
3 A Approximately three o'clock in the morning.
4 Q So you called her and woke her up and went to her
5 house in the middle of the night?
6 A Yes, sir.
7 Q When you met with Judge Locklair at her house, did
8 she put you under oath, did she swear you in?
9 A Yes, sir, she did.
10 Q And did she you ask any questions about the how's and
11 the why's you knew -- or you believe Ms. Brown was under
12 the influence?
13 A Yes, sir. Once I arrived, she again asked me the
14 particulars as far as the case was concerned. After I was
15 sworn in, she also asked some additional questions as far
16 as I think the search warrant itself said that Ms. Brown
17 was believed to be under the influence of alcohol. So she
18 asked questions as far as how did I believe that she was
19 under the influence of alcohol.
20 Q Okay. And after meeting with Judge Locklair at her
21 house, did she then sign a search warrant giving you
22 permission to go and get a sample of Ms. Brown's blood?
23 A She did.
24 Q What did you do after that?
25 A I return to the hospital. I met with Trooper Minnix

1 who was still outside the subject's room. We then entered
2 the room. I read the search warrant to Ms. Brown and I
3 advised her that blood samples will be taken pursuant to
4 the search warrant. I notified the attending nurse for
5 Ms. Brown's room which was trauma room. And I advised her
6 that we needed a legal blood draw. We had our own SLED
7 toxicology kit and another subjected enter the room and
8 advised that she was there to take a blood sample for us.
9 Q Okay. And did an actual license medical personnel
10 come take a blood sample?
11 A Yes, sir.
12 Q And as far as you know were SLED protocols followed
13 with regard to the collection of that sample?
14 A Yes, sir, the SLED kit that we're issued had a tamper
15 seal. The seal was broken while we were in the room with
16 Ms. Brown. Two tubes of -- two tubes vials were taken
17 from the SLED kit. A plastic container for collecting
18 urine was taken form the SLED kit. And the non-alcoholic
19 prep pad was given to the nurse, a phlebotomist that was
20 in there to collect the sample.
21 Q Okay. And that prep pad that's clean your skin off
22 before you insert the needle to draw blood?
23 A Correct.
24 Q And you used a non-alcoholic pad so you don't
25 contaminate the sample with alcohol when you testing for

1 that?
2 A Yes, sir.
3 Q So that non-ethanol -- non-alcohol cleaning pad was
4 used?
5 A Yes, sir.
6 Q And was the sample collected in an unused,
7 uncontaminate vial?
8 A Yes, sir.
9 Q Then what happened to samples after that?
10 A Once the samples were taken, they were handed to
11 Trooper Minnix who puts a -- an integrity seal on top of
12 the tubes of blood. That seal contains the time that the
13 sample was taken, contains the person who took the sample
14 name, Trooper Minnix's name and the subject's name.
15 Q Was this all done in your presence?
16 A Yes, sir.
17 Q What about the collection of urine was that done in
18 your presence as well?
19 A I was outside the curtain, the same licensed medical
20 personnel was inside with Ms. Brown.
21 Q When you collect the blood and urine samples in this
22 manner, there's a SLED collection report that's used?
23 A Yes, sir.
24 Q Okay. And it's been marked as State's Exhibit 49
25 introduced into evidence already. Do you recognize that

form?
A Yes, sir, I do.
Q Does it have your name or signature on it?
A Yes, sir, it does.
Q Tell the jury about that form?
A This is a collection report that basically the hospital gets a copy, the subject gets a copy and also a copy goes to SLED basically just has all the subjects information, the arresting officer's information. The time and date the subject was placed under arrest. The time and date of the test where it was collected and then there's a series of checks that the arresting officer goes through as far as what applies to this particular case. On this particular form, it's pretty much self explanatory. It says check the following and I checked both that they're applicable and both the blocks up top were checked by me because they were applicable. The second part says check the correct one, only one can apply. And at that time my check is in the part that says subject is under arrest for violation of 56-5-2945 which is felony DUI and a blood sample -- blood and urine are requested. The next part is to be collected by the person who actually does the collection. And they are to fill out that section and then final part would be what is given -- what happened. So it says final checks for law

1 enforcement. The samples were collected under my direct
2 supervision. The samples are containers were properly
3 sealed with the subjects name, date and time of collection
4 and that the sample is properly sealed and ready for
5 transport. All those were checked off myself and Trooper
6 Minnix signed the from. And Ms. Brown was given a copy
7 which she refused to sign.
8 Q Okay. Let me ask you -- again the equipments not
9 working again this morning looks like. You mention
10 there's a second section here heading that says check the
11 correct one in parenthesis only one can apply?
12 A Yes, sir.
13 Q And who normally checks the box in that section?
14 A The officer does.
15 Q The officer does?
16 A Yes, sir.
17 Q So you or Trooper Minnix would have checked the
18 correct box, the applicable box?
19 A Yes, sir.
20 Q You checked it?
21 A Yes, sir.
22 Q And which one did you check?
23 A The one that says the subject is under arrest for
24 felony DUI.
25 Q So the small check mark here is yours?

1 A Yes, sir.
2 Q Okay. Is the medical personnel are they to check one
3 of the boxes in that section?
4 A No, sir, they weren't even suppose to file out their
5 name and stuff in that section.
6 Q Okay. And they would have checked the next section
7 where it says to be completed by sample collector?
8 A That's correct.
9 Q Okay. And that's just to verify that the proper
10 protocols were followed?
11 A By the collector, yes, sir.
12 Q By the collector. Was this form presented to
13 Ms. Brown for her signature?
14 A Yes, sir, it was.
15 Q Did she sign it?
16 A No, sir.
17 Q What did she say when it was presented to her?
18 A She was just advised us -- she received a copy of the
19 implied consent rights. She received a copy and said she
20 wasn't signing anything.
21 Q She said she not signing anything?
22 A Yes, sir.
23 Q Did she make any markings on the paper?
24 A No, sir.
25 Q When these -- you already testified that when the

1 implied consent warnings were given to her at no point
2 during that conversation did she request an independent
3 sample. How about when the phlebotomist came in to take
4 the sample. At any point during that interaction did she
5 request to have an independent sample taken?
6 A Not while I was present.
7 Q Okay. Those rights would have been advised to her?
8 They were advised to her earlier?
9 A They were advised to her earlier. And when the
10 phlebotomist came in, the only paperwork we had was that
11 which like I said it can only be -- one can apply. If she
12 would have asked for an independent sample, we would have
13 to do a whole other sheet same information, but just
14 basically saying that she asked for an independent sample.
15 Q Okay. And based on your experience and your
16 knowledge of DUI laws if a person does request an
17 independent sample to be collected, what is highway
18 patrol's responsibility with providing assistance to them?
19 A We transport them to the closest available medical
20 facility where a sample can be taken.
21 Q If they been at the hospital which she already was,
22 of course?
23 A Correct.
24 Q And then what is -- what does the law require -- what
25 type of assistance is required by highway patrol after

1 that?
2 A Once the blood is drawn, the subject has the choice
3 to get the sample tested by their independent lab at a
4 doctor's office. If they chose not to do that, then the
5 sample will be sent to SLED and toxicologist will talk
6 about the sample sent to SLED and then they be notified of
7 the results through SLED.
8 Q Okay. Did Ms. Brown ever give you or Trooper Minnix
9 to your knowledge or anybody in your presence the name of
10 an independent lab or doctor's office that she wanted to
11 use to test her blood?
12 A No, sir.
13 Q Okay. So the blood then was sent to SLED; is that
14 right?
15 A Correct.
16 Q Did you ever take -- again, before I get there, how
17 is the blood pack. You mention that some -- Trooper
18 Minnix put some tape, some seals over the vial themselves;
19 is that right?
20 A Yes, sir.
21 Q Okay.
22 A Once the vials and container was sealed, the kit
23 comes with a prepackage container which would hold the
24 vials upright. It would hold the container upright. Once
25 that's done, a seal goes on it. It goes inside of a

1 plastic bag in case there's any leakage, that's sealed.
2 Then it goes inside of another box which contains the
3 paperwork for that blood draw or urine draw and an
4 integrity seal is also put on that box with the sealing
5 person's name and date.
6 Q Okay. Did you ever take custody of that package?
7 A No, sir.
8 Q Who took custody of it at that point?
9 A Trooper Minnix.
10 Q Okay.
11 MR. DURANT: Beg the Court's indulgence.
12 (WHEREUPON, a pause in the proceedings.)
13 BY MR. DURANT:
14 Q Let me ask you one question. You mention that the
15 driver of the pickup truck was pronounced dead at the
16 scene of the accident?
17 A Yes, sir.
18 Q Was that while you were there?
19 A Yes, sir.
20 Q Okay. And who would have made that announcement?
21 A The Clarendon County coroner Mr. Hayes Samuels.
22 Q Mr. Samuels actually comes to the scene himself while
23 you were there?
24 A Yes, sir.
25 Q Okay. He pronounced the driver dead at the scene of

1 the accident still in the vehicle?
2 A Yes, sir.
3 Q He was actually still in the vehicle when he was
4 pronounced dead?
5 A She was still in the vehicle, yes, sir.
6 MR. DURANT: Your Honor, that's all the
7 questions I have.
8 THE COURT: Mr. Barr.
9 CROSS-EXAMINATION
10 BY MR. BARR:
11 Q Officer Dubose, I believe you have been in or you
12 were in the courtroom when Trooper Minnix testified?
13 A I seen part of it, yes, sir.
14 Q Weren't you sitting right back here listening to
15 everything he said on the witness said?
16 A I was here for most of it because I was told that I
17 was coming up next, yes, sir.
18 Q You heard his testimony?
19 A Most of it.
20 Q And would it be fair to say that you and him you
21 discussed this case, haven't you?
22 A No, sir.
23 Q You never discussed this case?
24 A I was advised this week that I had court and Trooper
25 Minnix advised me which case it was. I reviewed the

1 documents as far as what was sent over here to court.
2 Q Did you -- were you standing outside the courtroom
3 yesterday under the tree out here talking with Trooper
4 Minnix?
5 A Yes, sir.
6 Q Y'all didn't talk about this case, did you?
7 A I don't know what we were talking about. It was a
8 number of things we could have been talking about, sir.
9 Q Including this case?
10 A It could have come up but ---
11 Q It could have come up?
12 A Yes, sir.
13 Q Okay. All right. Now, you indicated that you were
14 Trooper Minnix's supervisor I believe. You were actually
15 training him?
16 A Yes, sir, I was his training officer and supervisor.
17 Q And you were with him when you went to -- when you
18 initially came to the incident site that you later found
19 out to be an auto accident; is that correct?
20 A We were notified of the collision and I was in the
21 car with him, so we were in the same car.
22 Q Now, I noticed that when you arrived at the location
23 you parked on the side of the road. There was a vehicle
24 in the road. There was another sign on the side of the
25 road, but you had plenty of room to drive through there if

1 you wanted to, didn't you?
2 A No, sir, we taught not to drive through a scene, a
3 collision scene to preserve the evidence.
4 Q Now, you also thought -- and you were aware that
5 there is a requirement in South Carolina to videotape the
6 breathe -- the incident site as well as the breathalyzer
7 site if you arrest somebody for DUI?
8 A Yes, sir.
9 Q You were aware of that?
10 A Yes, sir.
11 Q Of course, you spoke -- answered some questions that
12 Mr. Durant asked you about the high quantity of DUI's that
13 occurred during certain holidays.
14 A Correct.
15 Q And this -- in fact you indicated that from time to
16 time you set up road blocks because of the number of
17 DUI's?
18 A We set up check points in high DUI areas, yes, sir.
19 Q So now the thought hadn't occurred to you that this
20 incident could have involved DUI?
21 A What's that now?
22 Q The thought had not occurred to you that this
23 incident that you're investigating could potential involve
24 DUI?
25 A When we responded, no, sir, we just advised that it

1 was a traffic collision.
2 Q That thought never occurred you. You are on
3 weekends. You said that you were coming from another
4 location and today you are telling us that your present
5 recollection the thought had never occurred to you?
6 A Well, sir, we encounter anything from deer wrecks, to
7 felony DUI so we were ---
8 Q My question was did the thought ever occur to you?
9 A That night I don't believe so, no, sir.
10 Q So you didn't consider the fact -- you didn't
11 consider the importance of getting close enough with the
12 vehicle so the machinery could be operating correctly in
13 order to record any conversation that he may have had with
14 any of the drivers that thought never came into your mind?
15 A We parked our vehicles so we did not disturb the
16 scene or that's where Trooper Minnix parked, so that the
17 scene was not disturb any evidence that was from the scene
18 would have been preserved.
19 Q We looked at a video yesterday and I think you seen
20 the video. It's probably State's Exhibit Number 1 where
21 you and Trooper Minnix arrived at the accident scene and
22 it shows where you parked your vehicle. Have you seen
23 that video?
24 A I didn't. It was pointed towards the jury. I didn't
25 see it.

1 Q So you hadn't seen it at all?
2 A No, sir.
3 Q Okay. Well, maybe it's time for you to see it.
4 MR. BARR: Where is the video? We don't have to
5 see the whole thing just where it's parked.
6 BY MR. BARR:
7 Q While he's setting that up, what time did you and
8 Trooper Minnix arrive at the incident location?
9 A The exact time I have to refer to the accident report
10 that was completed.
11 Q You completed an accident report?
12 A No, sir, Trooper Minnix completed the accident
13 report.
14 (WHEREUPON, video is being played.)
15 BY MR. BARR:
16 Q 2335, 2355 military time what time is that?
17 A 2355 is 11:55.
18 Q 11:55.
19 (WHEREUPON, video stopped and now continue to be
20 played.)
21 BY MR. BARR:
22 Q Stop it there. Now, is this the vehicle that you and
23 Trooper Minnix were riding in?
24 A No, sir, this is it.
25 Q This vehicle here?

1 A Yes, sir.
2 Q All right. And who was driving the vehicle that was
3 in front of you?
4 A I'm not sure if they were blood or red lights, but it
5 looks like ---
6 COURT REPORTER: I'm sorry I can't hear you.
7 A It looks like another first responder. I'm not sure.
8 I'm not sure if it's a trooper K-9 unit.
9 Q Did you make any effort to find out who was operating
10 that vehicle?
11 A No, sir.
12 Q Okay. Now, you couldn't drive around this vehicle on
13 that side, on the left side?
14 A No, sir, we would not have because as far as we were
15 concerned as you can tell that's the fire truck with
16 rescue on it. That was the scene that we were responding.
17 That was a collision scene. So we parked close as
18 possible as we could to this without going any further
19 because we knew that the scene wasn't the direction we
20 were coming from. So we did not want to go further into
21 the scene.
22 Q But you did learn soon after that there were people
23 there that you wanted to interview? You interviewed
24 Ms. Brown?
25 A I did not Trooper Minnix did. I didn't talk to her

1 on the scene.
2 Q You didn't talk to her at all?
3 A I didn't talk to her on scene, no, sir.
4 Q Okay. Now, Trooper Minnix represented in this
5 courtroom that certain statements were made to him by
6 Ms. Brown including an admission that she consumed alcohol
7 and that there was -- had been alcohol in a paper cup that
8 was found in her vehicle?
9 A Trooper Minnix relayed to me the information was
10 gotten from Ms. Brown.
11 Q He relayed that to you?
12 A Yes, sir.
13 Q Relayed it to you. And I think that you testified on
14 direct examination that he related to you that it was
15 found in the passenger compartment of the vehicle a small
16 cup?
17 A Correct.
18 Q Okay.
19 MR. BARR: Court's indulgence, Judge.
20 (WHEREUPON, a pause in the proceedings.)
21 BY MR. BARR:
22 Q While I'm looking for that I'm gone -- now, you were
23 senior officer at the scene when you and Trooper Minnix
24 got there; is that correct?
25 A Yes, sir. Well, I take that back. There was a

1 sergeant from the ACE team who arrived prior to us, but he
2 wasn't ---
3 Q He wasn't involve?
4 A Yes, he wasn't the investigating officer.
5 Q Now, you said that the cup you -- I think you
6 described it as evidence which it probably would have
7 been, but to the best of your knowledge wasn't seized?
8 A The plastic cup that was in the floorboard?
9 Q Yes, ma'am.
10 A Was not seized.
11 Q Now, would you not agree that ordinarily when there's
12 evidence and smell it and you said it smell like alcohol.
13 When there's evidence of a crime, you do seize the
14 evidence of the crime, don't you?
15 A We do not when it comes to open containers, no, sir.
16 There's no way to preserve the liquid that's inside or the
17 container that it was in.
18 Q Well, was there any liquid inside?
19 A I don't believe so. We don't ---
20 Q You don't seize it and have analyzed?
21 A No, sir.
22 Q Okay. You come to court and testify as you're doing
23 here and you essentially expect people to take your word
24 for it?
25 A No, sir, it is what it is. I smelled alcohol. They

1 can believe me or not. I know what alcohol smells it.
2 Q I know you know what it smells like, but I don't know
3 if you smell it or not when you're prosecuting somebody
4 for -- now, is this the cup that you're talking about?
5 A Yes, sir.
6 Q That's State's Exhibit Number 23? And where is it?
7 A That's the driver side floorboard.
8 Q Driver side floorboard. How did the cup get from the
9 passenger side to the driver side, do you know?
10 A It never was on the passenger side.
11 Q Well, you just told me that's where it was?
12 A When did I say that?
13 Q A few minutes ago on the witness stand.
14 A Passenger compartment. You have a passenger
15 compartment which is the interior of the vehicle. You
16 have a luggage compartment which is the rear of the
17 vehicle and the mechanical compartment which is ---
18 Q Where is the passenger compartment in this ---
19 A It's anything inside of the vehicle where a passenger
20 or a driver would sit. It's a passenger compartment.
21 Q The floor is -- the floor is the passenger
22 compartment?
23 A Yes, sir.
24 Q That's a new one for me.
25 A If you look at the back of our accident reports where

1 it ask for passenger compartment whether intriguing of the
2 vehicle occurred.
3 Q Now, there's no question that Officer Minnix did not
4 record his conversation with Ms. Brown, his initial
5 conversation?
6 A I don't believe -- I don't know I haven't watched the
7 whole video, but from what y'all were testifying to
8 yesterday it wasn't picked up on his body mic.
9 Q And it wasn't picked up on his body mic because the
10 vehicle was too far away?
11 A Yes, sir, and other the environmental issues -- I
12 don't know if that was the exact reason why it wasn't
13 picked up. There's other reasons or other issues that
14 come into play with our older system older body mic.
15 Q I mean, ordinarily if Ms. Brown had made the
16 statement to Trooper Minnix that she had consumed alcohol,
17 if his equipment had been working properly, then that
18 would have been recorded and you could have brought it to
19 court today and played it for us and let us listen to it
20 and we would have known that's what she said, right?
21 A Yes, if his body mic would have picked it up, yes,
22 sir. Also if I can -- it shows M1M2 that means in-car
23 mics on and the body mic is on. Mic one is your in car.
24 Mic two is your body mic. So on that video it shows that
25 both were on.

1 Q Now, he's had experience -- I mean, he was working --
2 I don't know was he working at this time a couple weeks?
3 A No, sir, a couple months.
4 Q And you were out there training him because you're
5 the one with all the experience?
6 A Correct.
7 Q And I know that you've had situations before where
8 you encountered a situation where you gotten too far from
9 your vehicle and you couldn't record anything. You never
10 had experience that?
11 A I'm sure I have, sir. There's no set distance away
12 from a car that the body mic will or will not pick up. I
13 can't give you a distance, no, sir.
14 Q Well, now the whole purpose of a body mic is to
15 record what transpires usually between police officer and
16 a defendant?
17 A Correct.
18 Q And if the body mic is not working and you not
19 recording what transpires, you just as well not even have
20 it on?
21 A Sir, our normal day-to-day activity is a distance
22 between Minnix's car and this picture and the car that's
23 in front of us. That would be a normal traffic stop
24 distance. This is extenuating circumstances.
25 Q Bottom line and due to extenuating circumstances ---

1 A Correct.
2 Q --- you nor Trooper Minnix have a recording of
3 anything that Ms. Brown said and we are left with having
4 to believe what Trooper Minnix said; is that correct?
5 A If it did not record on this video, then there is no
6 recording of what was done or what was said at the scene
7 other than this video.
8 Q Now, you indicated that Trooper Minnix described to
9 you describe to you Ms. Brown's demeanor?
10 A Correct.
11 Q When he initially spoke to her?
12 A Correct.
13 Q And that demeanor was and I quote off?
14 A Correct.
15 Q What did you mean?
16 A That's what Trooper Minnix said that she just wasn't
17 acting normal. He smelled an odor of alcohol and she
18 admitted to drinking.
19 Q The odor of alcohol is that her demeanor?
20 A No, it's just -- for instance the way me and you are
21 interacting now something was off about the way she was
22 interacting with Trooper Minnix. Something wasn't normal.
23 She wasn't asking the questions normal. I'm just relaying
24 what he relayed to me, sir, and then my observations at
25 the hospital was what I testified to.

1 Q Tell the ladies and gentlemen of the jury about her
2 demeanor was not normal specifically and in particular
3 what was it that wasn't normal?
4 A When we were at the hospital.
5 Q When Trooper Minnix was talking to her initially and
6 he related it to you?
7 A Sir, I wasn't in back of the ambulance with them.
8 Q Well, you said that he told you that her demeanor
9 wasn't normal?
10 A Correct.
11 Q And he described to you how it was not normal?
12 A Right.
13 Q Well, tell me what he told you about her demeanor if
14 it wasn't normal?
15 A Just his interactions with her, sir. The way she was
16 answering his questions, how she changed her story from
17 having this many drinks to, no, I had this many drinks.
18 It's not a normal interaction between two people.
19 Q Anything else that you considered not normal?
20 A I didn't -- Trooper Minnix advised that it was not a
21 normal interaction. When I was at the hospital, I can
22 testify to what I saw.
23 Q Well, incidentally when you were at the hospital, you
24 don't deny -- and when you say you were at the hospital,
25 you talking about when you got the search warrant; is that

1 correct?
2 A No, sir, prior to receiving the search warrant.
3 Q Prior to receiving the search warrant, you spoke with
4 Ms. Brown?
5 A Correct.
6 Q And based on that conversation you signed a sworn
7 affidavit indicating that you had probable cause to
8 believe that you could get a blood sample from her that
9 would confirm alcohol consumption and or level of alcohol.
10 Did you not do that?
11 A I did.
12 Q Now, in that affidavit -- and this affidavit is the
13 one that you took to Judge Locklair. You said personally
14 appeared before me one Corporal J.P. Dubose of the South
15 Carolina Highway Patrol who being duly sworn says that
16 there's probable cause to believe that certain property
17 subject to seizure under provisions of Section 17-13-140
18 of the 1976 code of laws of South Carolina as amended as
19 located on the following premises in this county. That
20 this search will be for urine and or blood samples taken
21 from the individual Tammy Dianne Brown date of birth
22 [redacted]/69. This would include the removal of sample for
23 further analysis. Now, in that search warrant where it
24 says reason for affiant to believe that the property
25 sought is on the premises. Here's what you stated, you

said on August 30th 2014 South Carolina Highway Patrol responded to a collision on South Carolina 261 near Boyd Road in Clarendon County, South Carolina. The collision involved two vehicles one of which was driven by Tammy Dianne Brown. The collision caused fatal injuries to the driver of the second vehicle Mario Delano date of birth [redacted]/79 12:58 Audry Lane in Manning, South Carolina. The driver of the at fault vehicle a 1999 Tribune white in color South Carolina license plate [redacted]. Tammy Dianne Brown is believed to be driving the vehicle under the influence. A search and removal of urine and or blood sample for the driver will assist in determining if the driver was actually under the influence at the time of the collision. Now, you mention Ms. Brown's eyes?

A Correct.

Q They appeared to you to be bloodshot?

A Yes, sir, and glassy.

Q Did you check her contacts?

A I did not.

Q Do you know that she wears contact lenses?

A I do not.

Q Okay. Did you tell the judge anything about smelling any alcohol?

A I did.

Q Pardon me.

1 A I did.
2 Q Did you state it in the affidavit in the sworn
3 statement?
4 A No, sir, that was verbally conveyed to the judge.
5 Q Verbally conveyed?
6 A Yes, sir.
7 Q Now, did you verbally or did you tell the judge
8 anything in here in the affidavit and you do agree that
9 the affidavit is your sworn statement?
10 A Correct.
11 Q Based upon which ordinarily a search warrant was
12 given, but in this case, it was only after you went to the
13 judge's house or either called her on the phone and gave
14 her other information in addition to what you swore was
15 the truth in this affidavit was only after that that she
16 issued the search warrant?
17 A It was after I went to the judge's house that she
18 signed the search warrant after I was sworn in.
19 Q Listen tell me this much. Now, you've had a search
20 warrant issued before. Why did you not state what you
21 believe was probable cause in the affidavit that you swore
22 to?
23 A The probable cause was that I believed that she was
24 under the influence, that's why we needed the blood.
25 Q The basis for probable cause?

1 A Correct.
2 Q Now, of course, you don't deny that in South Carolina
3 as well as most states there is a standard for probable
4 cause or for the issuance of a search warrant. You just
5 don't go down there and get one helter skelter. You have
6 to have sufficient basis to get a search warrant, do you
7 not?
8 A Yes, sir.
9 Q Okay. Now, it just so happens -- now, you do
10 understand that we challenge the sufficiency of the search
11 warrant?
12 A I understand that we had a hearing prior to this
13 hearing, yes, sir.
14 Q Well, we've challenged the sufficiency of the search
15 warrant and it's only after we come up with addition
16 information that you claim that you told the judge under
17 oath that's not in here that you got the search warrant,
18 is that not true?
19 A I haven't added any information since the hearing,
20 sir.
21 Q No, ma'am, I'm not talking about -- I'm talking about
22 what you initially stated in the affidavit?
23 A I don't understand your question I'm sorry.
24 Q I'm sorry I'm just a bad questioner. I can't get it
25 right. Now, let me ask you a couple of questions I was

1 concerned about and still concern about how you and
2 Trooper Minnix seem to be distancing yourself from the
3 execution of this form. When I say this form, I'm talking
4 about the blood collection report?
5 A What do you mean by distancing ourselves.
6 Q Well, seems like y'all -- like somebody did some work
7 on this form other than you that you don't know about and
8 that you're saying that it was done by accident and I'm
9 talking specifically where there's a check mark that says
10 a blood sample is requested by the subject for her own
11 independent test?
12 A Sir, I did not make that check.
13 Q I understand.
14 A I don't know who made that check mark, but it was not
15 made by me.
16 Q Well, let me ask you a question. You signed this
17 document, didn't you?
18 A I did.
19 Q And you read it before you signed it, didn't you?
20 A It was signed after the -- if you look at the bottom
21 section ---
22 Q It was signed after the document been completed?
23 A No, sir. I signed ---
24 Q Are you saying that -- tell me what on this document
25 indicates that you signed it prior to the time that it was

1 completed?
2 A Where it says final checks for law enforcement. We
3 are signing as the final check. It says the sample was
4 collected under my direct supervision. The sample contain
5 or container is properly labeled with the subject's name
6 and time of collection. And the third check was a sample
7 that's properly sealed and ready for transport. What
8 happens -- you want me to run you down how we do this
9 form?
10 Q No, ma'am, I don't want you to run me down on
11 anything. I want you to tell me whether or not you're
12 asserting now that somebody came and put some check marks
13 on here after you signed it?
14 A Once this is complete, we give this to the nurse,
15 okay, because she has to sign her part where it says that
16 she collected the sample with her name and her signature.
17 So this is given to the nurse for them to make a copy for
18 themselves and for the subject involved.
19 Q Would you have us believe that you signed it before
20 the nurse did the collection?
21 A No, not before she did the collection before she
22 signs it. Once the nurse does the collection, you write
23 the time that the sample was taken, then we get the blood.
24 We label it do all that stuff. We sign it. The nurse by
25 that time has taken off her gloves. She's able to hold a

1 pen and she signs it.
2 Q Now, the truth of the matter is the person that
3 collected the blood that you thought was a nurse, you
4 really don't know who she was, do you?
5 A Do I know her personally, no, sir.
6 Q And you don't know whether or not she was authorized
7 to draw blood. You looked at her appearance and she
8 looked all right to you. And but as far as knowing
9 whether or not she was qualified to do what she was doing,
10 you don't know that, do you?
11 A We ask the attending the nurse that -- we advised her
12 that we needed a legal blood sample. She made a call and
13 a female entered the room who was wearing a Clarendon ER
14 scrubs and also a badge on her shirt and states she was
15 there to take the blood.
16 Q My question was ---
17 A I did not ask for any credentials.
18 Q I know you're having problems with my questions, but
19 I ask you whether or not you knew who the woman was?
20 A I do not know her, no, sir.
21 Q So you don't know whether or not she was authorized
22 or qualified, do you?
23 A I do not.
24 Q All right. Now, with respect to her signature and
25 this says the title says print and then signature. Now, I

1 guess, you would have us believe that after you and
2 Trooper Minnix signed at the bottom of this where you said
3 final checks for law enforcement officers, final checks
4 for law enforcement offers and you finally check. You
5 have us believe that you gave this back to the person that
6 draw the blood?
7 A We did, yes, sir.
8 Q Okay. Sample collected under my direct supervision.
9 Who does that pertain to?
10 A That pertains to the law enforcement officer.
11 Q Sample container is properly labeled with subject's
12 name, time of collection. Who did that pertain to?
13 A The law enforcement officer.
14 Q Sample is properly sealed and ready for transport all
15 of these items are checked. Who does that pertain to?
16 A The law enforcement officer.
17 Q And does it say that these things are the final
18 checks of the law enforcement officer?
19 A Yes.
20 Q Well, if there's a final check, why in the world you
21 going to give it back to the person that draw the blood?
22 You know you didn't do that, did you?
23 A That's our portion to fill out, sir. We cannot fill
24 out the section for the collector, that's her portion to
25 fill out or his portion.

1 Q How can you fill out this portion of the final check
2 when no blood has been collected?
3 A Sir, it says that the blood was collected.
4 Q Well, now are you giving it back to the nurse or the
5 person that collected the blood to write something on
6 there. You would come to court today and say you don't
7 know anything about it?
8 A The nurse or collector would not sign that piece of
9 paper prior to her taking the sample.
10 Q Well, I think -- now, with respect to -- you don't
11 deny that this piece of paper that your report that you
12 filed says that Ms. Brown wanted an independent test, do
13 you? You don't deny that? I mean, that's what the paper
14 said, doesn't it?
15 A No, sir, it does not.
16 Q There's a check mark that says a blood sample is
17 requested by the subject of her own judgment. Does it say
18 that on here?
19 A No, sir, it's not in the block. And if she would
20 have requested a sample, we would have to fill out a
21 completely different paper.
22 Q Well, I think the lady and ladies and gentlemen of
23 this jury saw and they looked at it and they see whether
24 or not it's in the block. Now, Ms. Brown didn't write
25 anything on it. It was in your custody somewhere between

1 you and the examiner or the person that's supposedly drew
2 the blood. The check mark got there. She didn't put any
3 there, did she?
4 A No, sir, Ms. Brown did not have the paper.
5 Q Now, business of assisting her to get an independent,
6 do you deny that the law in South Carolina requires
7 arresting police officers to assist an individual in
8 getting an independent test when one is requested. Now, I
9 know we're gone have an argument over what it means to
10 assist, but you do admit that much, don't you?
11 A If I understood your question, you're asking that the
12 law requires law enforcement to assist someone getting
13 blood test. Yes, it does.
14 Q And that law doesn't specifically set out what in
15 terms of specific acts. It doesn't set out what specific
16 acts are required to be done, does it?
17 A I don't believe in the law. It requires or it
18 specifically says where you have to take someone or
19 anything like that, no, sir.
20 Q I know it doesn't say specifically what because it
21 depends on the circumstances of each particular case. It
22 says that you're required to give affirmative assistance
23 in assisting them in contacting somebody to do the
24 independent test, doesn't it say that?
25 A It says must provide them with affirmative assistance

1 to get an independent test, yes, sir.
2 Q Now, I asked yesterday -- and, of course, the
3 Solicitor asked you several times today, did you do
4 anything -- did you even talk with this woman about
5 getting an independent test? When I say this woman, I'm
6 talking about Ms. Brown?
7 A No, sir, other then her being read her implied
8 consent rights which is part of it. I did not ask her if
9 she wanted to get an independent test.
10 Q Listen to my question. My questioning I know it's --
11 listen at me carefully maybe that will help.
12 A Yes, sir.
13 Q I ask you what, if anything, any act you did to
14 assist her? And if you didn't do anything, you could say
15 no. And if you did something ---
16 A I didn't do anything, no, sir.
17 Q All right. And what, if any, act did Trooper
18 Minnix -- would the answer be the same as he did nothing?
19 A He did nothing, no, sir.
20 Q All right. Now, no question that the person whoever
21 the person was that draw Ms. Brown's blood drew two vials
22 of blood and a urine sample?
23 A Correct.
24 Q And the two vials of blood were given to Trooper
25 Minnix?

1 A Yes, that's what comes in a SLED kit.
2 Q And Ms. Brown did not receive any blood?
3 A Not from the ones that was drawn in our presence.
4 Q All right. Now, let me just talk to you a little bit
5 about Ms. Brown's appearance at the emergency room when
6 you claim that she -- I think you were in the courtroom
7 yesterday when you heard Trooper Minnix described her as
8 being belligerent?
9 A I believe that's how he described her.
10 Q How would you describe her attitude and conduct then?
11 A She just had mood swings.
12 Q Had what now?
13 A I would consider them mood swings.
14 Q Mood swings?
15 A Right.
16 Q And you said the mood swing is associated to taking
17 liquor, taking alcohol and that's how people ---
18 A It can be, yes, sir.
19 Q Mood swings. All right. Now, of course, you don't
20 deny that the mood swing occurred when y'all told her that
21 y'all were gone arrest her and charge her with two counts
22 of felony DUI. Her mood changed then, didn't it?
23 A Her -- yes, sir, she got angry after that.
24 Q I guess so. Instead of going home -- incidentally,
25 did her daughter come along and ask to see her in the

1 emergency room while you all were there?
2 A No, sir.
3 Q You didn't see her daughter?
4 A No, sir.
5 Q So she was back there by -- with alone with you
6 whoever was there to draw the -- take the blood sample and
7 Trooper Minnix she was back there alone with y'all?
8 A Correct. She was in the trauma room, yes, sir.
9 Q In the trauma room?
10 A Yes, sir.
11 Q Incidentally, of course, you saw the vehicle that she
12 was riding in at the time of this collision?
13 A Yes, sir.
14 Q And as far as an outward appearance, Trooper Minnix
15 told me that he saw scratches, but he never told where he
16 saw the scratches. Did you see any physical injury?
17 A I did not.
18 Q No physical injury?
19 A No.
20 Q But she had been involved in a wicked collision?
21 A Correct.
22 Q Now, of course, you don't know what, if any, internal
23 injuries she had?
24 A No, sir, I do not.
25 Q And under the circumstances, would you not agree that

1 her conduct was probably pretty normal?
2 A No, sir.
3 Q For somebody that had been involved in that kind of
4 collision?
5 A No, sir.
6 Q What was abnormal about it?
7 A Like I said her mood swings.
8 Q She what now?
9 A Her mood swings. Like for instance, one minute she'd
10 be talking, just like me and you were talking. The next
11 minute she be angry at us. The next minute she was
12 laughing about the situation. The next minute she was
13 crying about the situation. There was no set -- I guess,
14 you say mood as far as a normal person would have.
15 Q Normal person. Tell me how you think you would feel
16 when somebody tells you incidentally -- had anybody told
17 her that somebody had gotten killed in this accident?
18 A Yes, sir.
19 Q Who told her?
20 A Trooper Minnix.
21 Q When did he tell her that?
22 A At the point in time that we advised that she was
23 being charged with two counts of felony DUI, but one count
24 resulting in death.
25 Q And that would have been at the emergency room,

1 right?
2 A Correct.
3 Q Okay. So prior to that, she had no knowledge that
4 anybody had gotten killed, did she?
5 A I don't know, sir.
6 Q So now -- well, she had been in the emergency
7 vehicle?
8 A Correct.
9 Q And had gone to the emergency room and she had not
10 had any contact with anybody else other than the people in
11 the emergency vehicle and with two law enforcement
12 officers. And as far as you know, none of these people
13 told her that somebody had died. And you said that she
14 started acting unusual when found out that she was gone be
15 charge with felony DUI, one involving death?
16 A From the time that I saw Ms. Brown in the hospital,
17 she had the mood swings. It wasn't after we advised her.
18 She got angry after we advised her it was a death involved
19 because she kept saying they hit me.
20 Q They hit me?
21 A Right.
22 Q Okay. Well, what I'm talking to you, she kept saying
23 they hit me?
24 A Right.
25 Q Okay. Of course, y'all didn't pay that a whole lot

1 -- too much attention, did you? You thought she was just
2 babbling or something?
3 A From the evidence we had at the scene, it didn't
4 support what she was saying.
5 Q The evidence didn't support it. Now, ain't no
6 question that until this day in terms of investigation
7 tell me one person that you know of that can confirm that
8 the driver of the vehicle that got killed was not coming
9 from a party on Boyd Road the night the incident occurred?
10 A I didn't understand.
11 Q Name one individual ---
12 A Yes, if a person who can tell us he was coming from a
13 party?
14 Q That he was not?
15 A I don't know, sir. I don't know where he was coming
16 from.
17 Q All right. But your entire prosecution presumes she
18 was coming that he was coming off of -- what is is Poor
19 Farm?
20 A Home Branch Road.
21 Q Home Branch Roady, yeah. And I've asked for -- do
22 you know anybody or any relatives that he's got on Home
23 Branch Road?
24 A I do not personally, no, sir.
25 Q Okay. Now, you never asked Ms. Brown -- of course,

1 once you took her into custody, you didn't Mirandize her,
2 did you?
3 A Yes, sir, Trooper Minnix did.
4 Q She was either Mirandized by you or Trooper Minnix?
5 A Trooper Minnix.
6 Q And I know at least on two occasions you spoken with
7 her or if not you Trooper Minnix and maybe yourself or and
8 or Trooper Minnix at least on two occasions, right?
9 A I have not spoken to her.
10 Q You never spoken to her?
11 A Not to my knowledge.
12 Q Okay. So you had never asked her to tell you her
13 version of how the accident occurred?
14 A I have not.
15 Q Do you know whether Trooper Minnix ever asked her how
16 the accident occurred -- tell him?
17 A I do not know whether Trooper Minnix asked has or
18 not, not while I was with him, sir.
19 Q All right. Nobody asking?
20 A I'm not sure the MAIT team might have done an
21 interview I don't know.
22 Q Well, as far as I know -- and as far as probably you
23 know -- well, as far as you know, she the only eyewitness,
24 isn't she?
25 A I don't understand your question.

1 Q Listen at my question then. Again, my bad
2 questioning, but listen at me. As far as you know and as
3 far as you know did anybody else know this woman right
4 here, Ms. Brown, is the only eyewitness to this entire
5 incident whereby she's charge with the two counts of
6 felony DUI. You know any other witnesses -- eyewitness?
7 A There were no witnesses on the scene.
8 Q No witnesses on the scene. Now, as far as you know
9 and I'll ask you again are there any other eyewitnesses
10 other than Ms. Brown?
11 A She was a party at the collision. I wouldn't call
12 that an eyewitness.
13 Q Well, she must have seen that she was involved in it?
14 A She was. She was involve in it.
15 Q Well, then maybe she's the only eye witness that
16 experienced it, but ain't no question about it you don't
17 have one living soul that you've asked to describe how the
18 accident occurred?
19 A Yes, sir.
20 Q And hadn't asked Ms. Brown?
21 A No, sir.
22 Q Okay. Of course, she the person charged so she you
23 -- now, in terms of her acting as you say unusual, do you
24 know what kind of work she does?
25 A No, sir.

1 Q You know how many children she have?
2 A No, sir.
3 Q You know whether she's married or single?
4 A No, sir.
5 Q I tell you what irrespective of what she does and she
6 must do something to get hit with the news that you about
7 to go to jail for -- and get arrested for allegedly
8 killing one person under the influence and causing serious
9 bodily injury to another, that ought to give you pretty
10 good jolt, wouldn't you? I mean, the normal kind of
11 person. I know it would scare me out of my pants. It
12 wouldn't kind of scare you? It wouldn't upset you or
13 something? You just stay cool just like how you are now?
14 A I wouldn't get angry, no, sir, because I know I made
15 that decision.
16 Q Same thing you said she did?
17 A No, sir, I would not get angry.
18 Q Wouldn't get angry?
19 A No, sir.
20 Q Well, she kept telling you they hit me and I'm the
21 one going to jail?
22 A Right.
23 Q Okay. You were in the vehicle when she was carried
24 off to jail, right?
25 A Yes, sir.

1 Q Okay. Did you hear -- you heard her keep saying that
2 they hit me?
3 A That's what she said the whole time she was in the
4 hospital as well, sir, they hit her.
5 Q Okay. All right. Of course, now, as far as you know
6 even though she been saying that you don't know anybody
7 paid any attention to that just dismissed it?
8 A What do you mean paid attention to it?
9 Q Well, I mean, follow her up on, it do some
10 investigation like how y'all usually do when
11 investigating something in your search for the truth?
12 A We had evidence on scene which disprove that, sir.
13 Q Well, I know you're talking about what your MAIT team
14 gone come and say that they reconstructed the accident,
15 but I'm talking about somebody that -- that number one
16 somebody that either eyeball can say this is what I saw or
17 somebody or somebody that could at least confirm that
18 this man was coming off of -- was not coming of off Boyd
19 Road from the party. Ain't no question in your mind that
20 they were both pretty liquored up pretty good, weren't
21 they?
22 A They both -- the driver of the vehicle was under the
23 influence of alcohol as well.
24 Q They both was?
25 A Yes, sir.

1 Q So they could have been coming from one of these
2 parties that you claim that y'all be setting up the
3 inspection roadblock for?
4 A The collision occurred on 261 and eastbound lane as
5 far as we were concern. We were not ---
6 Q All right. Well, it occurred on what now?
7 A On S.C. 261 in the eastbound lane.
8 Q Highway 261 between Paxville and Manning?
9 A Between, yes, sir.
10 Q And as far as you know, Miss -- well, I
11 mean, everybody was partying. Ms. Brown had made the
12 statement to Trooper Minnix that she was coming from a
13 party?
14 A Correct. She was coming from Paxville I believe
15 that's what he told me.
16 Q She was traveling east on Highway 261?
17 A Yes, sir.
18 Q Okay. Now, you say that you are now station in this
19 district I mean in terms of your patrol work?
20 A Yes, sir.
21 Q So you are also familiar with Highway 261 from
22 Paxville to Manning?
23 A I am.
24 Q I got into a discussion yesterday with Trooper Minnix
25 about these signs, highway signs, road signs. And I would

1 think that we probably gone have some more debate about
2 it, about these road signs, but now are you familiar with
3 the speed limit signs that are used by the South Carolina
4 Department of Highway Public Transportation?
5 A Yes, sir.
6 Q Describe a speed limit sign as you know it to be
7 please, ma'am?
8 A It's any sign or erected by South Carolina Department
9 of Transportation which shows a speed for that area.
10 Q Any sign?
11 A Yes, sir.
12 Q That shows a speed for that area?
13 A Yes, sir.
14 Q Very good. Let me ask you something. That
15 definition that you gave me, tell me whether or not I can
16 find it in the manual for the signs they publish a manual
17 for signs in South Carolina. Can I find that definition?
18 Are you familiar with the manual?
19 A I am not, but I believe you can find it under
20 56-5-1520 where it regards speed in the South Carolina law
21 book.
22 Q Well, but I mean aside from what's in the code, they
23 publish a handbook for people with signs, all kind of
24 signs railroad crossing signs, stop sign. You name it
25 they got it in there. You not familiar with it, are you?

1 A I have seen books with signs in it. I'm not familiar
2 with the one you are talking about.
3 Q Well, all right. But you said any sign that tells
4 somebody what the speed limit is. Essentially, I'm
5 paraphrasing because in this case -- and I think you
6 probably would agree that one of the primary issues in
7 this case we just gone turn, it's gone be interpretation
8 of speed?
9 A Why is that?
10 Q Pardon me.
11 A I don't understand the question.
12 Q Well, I said would you not agree that one of the
13 primary issues in this case is gone concern speed?
14 A I do not agree with that.
15 Q You don't agree with it?
16 A No, sir.
17 Q Thank you, ma'am. I gone remember that.
18 A Yes, sir.
19 Q You don't that in terms of your charge against
20 Ms. Brown it has nothing to do with speed?
21 A She was charged with felony DUI. She was charge with
22 felon DUI. Speed could be factor in the driving under the
23 influence, but she was not charged with speeding.
24 Q How about a major factor?
25 A A what?

1 Q A major factor.
2 A Her speed being a major factor?
3 Q Yeah. Will her speed as be a major factor in this
4 case as far as you know?
5 A I think there's a lot of major factors in this case.
6 Q How about speed?
7 A It's a factor in the case. I mean, I don't know what
8 you describe as major.
9 Q Well, I mean it's significant and important and big
10 big kind of factor?
11 A That's opinion.
12 Q Well, I mean, that's what I'm asking you. Do you
13 agree with me?
14 A Do I agree that speed ---
15 Q Yes, ma'am, you know the case. You brought the
16 charges. You know the facts and circumstances. You know
17 the law. And I'm just asking you tell me whether you
18 agree?
19 A I believe speed was a factor in the collision.
20 Q Because see now in as much as you have told us that
21 you don't think speed -- you not acknowledge that speed
22 will be a major factor. The time is gone come if the Lord
23 let me live that I might get in front of this jury and
24 tell them remember Trooper Dubose on the witness stand
25 saying she just don't believe speed was -- I might do

1 that?
2 A That's fine, sir. That's my opinion.
3 Q Does that change your opinion at all?
4 A Does it change what opinion?
5 Q Your opinion about not agreeing with me concerning
6 speed?
7 A I don't know. You got my words twisted all around.
8 I don't believe it's a major factor.
9 Q Well, I tell you what I bet Mr. Durant is gone
10 straighten out the word by the time this evening sometime.
11 MR. BARR: I don't have any further questions.
12 MR. DURANT: Just a few follow up, Judge.
13 THE COURT: Okay.
14 REDIRECT EXAMINATION
15 BY MR. DURANT:
16 Q Trooper Dubose, there was questions posed to you
17 regarding -- first of all, video requirements at both the
18 incidents scene breath test facility. Are you familiar
19 with those requirements and DUI laws?
20 A Yes, sir.
21 Q Okay. Particularly when you make a DUI that doesn't
22 involve injury to anybody involved, where is the defendant
23 taking -- well, first of all where is the defendant
24 questioned?
25 A He's questioned in front of the patrol vehicle.

1 Q Just in front of the patrol vehicle?
2 A Yes, sir.
3 Q And would be videotaped with the dash camera that's
4 used that's present inside the patrol vehicle?
5 A Correct.
6 Q Are there certain exceptions to those videotaping
7 requirements?
8 A Yes, sir, if someone is transported to a medical
9 facility, we are not able to videotape in the facility.
10 Q If they require emergency medical treatment?
11 A Right.
12 Q You are not able to videotape it?
13 A Correct.
14 Q Okay. In this case, when you and Trooper Minnix
15 arrived on scene, where was Ms. Brown?
16 A At the time that Trooper Minnix questioned her, she
17 was in the back of the EMS ambulance.
18 Q Already in the back of the ambulance with the EMT?
19 A Yes, sir.
20 Q Okay. When you all arrived on scene and we seen the
21 video you all pulled up, you all were coming from Manning?
22 A Yes, sir.
23 Q At that point in time did you know where the vehicle
24 was involved in the accident were in relation to you all
25 when you pulled off?

1 A No, sir, like I said, what we went by when we got
2 there was the fire truck with the rescue lights wherever
3 that is where the vehicle was.
4 Q Okay. Of the two vehicles that were involved in the
5 accident, which is the first one that you came upon when
6 you approached the scene?
7 A The black pickup truck.
8 Q The black pickup truck. At that point in time did
9 you even know where the other vehicle was that was
10 involved in the accident?
11 A No, sir.
12 Q So you had already parked your car and you had got
13 out or approached the scene as far as you could, you
14 didn't even know where Ms. Brown's vehicle was yet at that
15 point?
16 A No, sir, at the time we didn't know there were two
17 vehicles involved.
18 Q Would it have been possible for you all to drive your
19 car around the other first responders to get to
20 Ms. Brown's vehicle?
21 A It probably would been possible, but through
22 preservation of evidence at the scene, we are taught not
23 to do that.
24 Q So without risk of contaminating the accident scene,
25 you couldn't have gotten to her vehicle?

1 A Correct.
2 Q So the only way to get the camera to her vehicle
3 would have been to risk contamination of the accident
4 scene?
5 A Correct.
6 Q And to drive around the other first responders that
7 were there?
8 A Right.
9 Q And, of course, at that point Ms. Brown wasn't in her
10 vehicle any more. She was with EMT?
11 A Yes, sir.
12 Q So was it possible to video Ms. Brown's conduct at
13 the accident scene?
14 A No, sir, not in that situation.
15 Q And that's one of the exceptions to the videotape
16 requirement?
17 A Yes, sir.
18 Q There's also -- you discussed the videotape
19 requirement at the breath test site when somebody -- if
20 they are arrested for DUI and there's no injuries
21 involved, you mentioned there's some question happens in
22 front of your car. After that questioning if they're
23 arrested, where are they taking you?
24 A They're taken to a data master facility -- a breathe
25 site facility.

1 Q So they are taken to a facility that's set up with
2 the equipment to take somebody breathe sample?
3 A Correct.
4 Q To do breathe test?
5 A Yes, sir.
6 Q All right. And where is that facility?
7 A The one from Clarendon County is at the Clarendon
8 County detention center.
9 Q Okay. You don't have that equipment at the hospital
10 here in Clarendon?
11 A No, sir.
12 Q Okay. Now, when Ms. Brown left the accident scene,
13 where did she go?
14 A She went to the Clarendon Memorial hospital.
15 Q With who?
16 A With EMS.
17 Q So EMS took her to the hospital rather than releasing
18 her to your care take to take to a breathe test site?
19 A Correct.
20 Q So at that point since she was under the care and the
21 custody of EMT and medical personnel and Mr. Barr
22 mentioned that at that point y'all didn't even know what
23 her injuries were, she had to be assessed to see whether
24 she had internal injuries; is that right?
25 A Yes, sir.

1 Q Okay. And because of that, she was transported to a
2 medical facility?
3 A Right.
4 Q Since she was transported to a medical facility,
5 would she have been given a breathe test sample?
6 A Not at the hospital, no, sir.
7 Q Not at the hospital. Not until she was released and
8 had been arrested and can go back to the jail?
9 A Correct.
10 Q Okay. There was some questions ---
11 MR. DURANT: Actually, Your Honor, before we go
12 any further, may we approach?
13 THE COURT: Yes, sir.
14 (WHEREUPON, a bench conference was held in the
15 presence of the jury, but out of the hearing of the
16 jury.)
17 BY MR. DURANT:
18 Q Trooper Dubose, there were some questions posed to
19 you actually -- really more to the form of statements made
20 by Mr. Barr that they were challenging the search warrant,
21 the sufficiency of the search warrant in this case. And
22 he reference a pretrial hearing that was in regard to that
23 matter. You were present and testified at that hearing?
24 A Yes, sir, I was.
25 Q Based upon your understanding, what was the ruling

1 from the Court in regard to the sufficiency of the search
2 warrant?
3 A The ruling was that it was -- it did suffice as far
4 as the affidavit of both written and verbal testimony to
5 the judge.
6 Q All right. Mr. Barr questioned you for a while there
7 about the fact that according -- as he claims that there
8 were no eyewitnesses to the incident other than Ms. Brown.
9 You remember him asking you about that?
10 A Yes, sir.
11 Q The truth is actually that Ms. Brown's the only
12 surviving eyewitness with the ability to communicate about
13 what happened that night, didn't it?
14 A She is the only person out of two vehicles that can
15 state what happened, yes, sir.
16 Q And he asked you or made the statement that there was
17 no recording of anything Ms. Brown said that night or that
18 morning. And the truth is there actually is a recording
19 that some of Ms. Brown's statements in the car from the
20 hospital to the jail?
21 A Yes, sir.
22 Q Is a recording of that?
23 A Yes, sir.
24 Q And Ms. Brown the only eyewitness to this incident on
25 camera in that recording so you and I and the jury can

1 hear she told you and Trooper Minnix how the accident
2 occurred, didn't she?
3 A She kept saying someone hit me. They hit me.
4 Q She said someone hit her. They were driving fast
5 past another car and someone hit her. She described a
6 head on collision?
7 A Yes, sir.
8 Q So the only surviving eyewitness with the ability to
9 communicate about this accident, she did tell y'all how it
10 happened. And how her story is that it was a head on
11 collision. That they were driving fast passing another
12 vehicle and hit her head on 261 between Home Branch and
13 Boyd Road.
14 A Correct.
15 MR. DURANT: That's all the questions I have.
16 MR. BARR: I want to make sure ---
17 THE COURT: Wait a minute. You don't get
18 another crack at her now.
19 MR. BARR: Pardon me.
20 THE COURT: You don't get another crack at her.
21 MR. BARR: Judge, these are somethings that she
22 brought out on -- I mean he brought out on ---
23 THE COURT: I understand, but you -- he goes
24 first. You go second and he gets reply. You don't get
25 another crack.

1 MR. BARR: So I got to call her as my witness?
2 THE COURT: You do whatever. I'm just following
3 the rules.
4 Ladies and gentlemen, we going to take a ten or
5 15 minute break. Don't talk about the case. I'll get you
6 back out here in ten minutes.
7 (WHEREUPON, the jury retire to the jury room.)
8 (WHEREUPON, a break was taken.)
9 THE COURT: Are we ready for the jury?
10 MR. DURANT: Yes, sir, Your Honor.
11 (WHEREUPON, the jury came into open court.)
12 THE COURT: You can call your next witness.
13 MR. DURANT: Your Honor, the State calls Angela
14 Ann Floyd.
15 THE CLERK: Raise your right hand and place your
16 left hand on the Bible and repeat your name please.
17 THE WITNESS: Angela Ann Floyd.
18 THE CLERK: You solemnly swear the testimony you
19 about to give to be truth and nothing but the truth so
20 help you God?
21 THE WITNESS: I do.
22 WHEREUPON,
23 Angela Ann Floyd,
24 after first having been duly sworn, testified as follows:
25 DIRECT EXAMINATION

1 BY MR. DURANT:
2 Q Ms. Floyd, good morning.
3 A Good morning.
4 Q If you would just tell the jury where you work?
5 A I currently work at Williamsburg Regional Hospital in
6 Kingstree, South Carolina.
7 Q What is your job there?
8 A Phlebotomist.
9 Q A phlebotomist?
10 A Yes.
11 Q Tell the jury for those of us who may not be familiar
12 what is a phlebotomist do?
13 A A phletbotomist go -- I work in the hospital to go
14 around collecting patient's blood when doctor does an
15 order we draw their blood. On the floor and in the ER and
16 out patients as well.
17 Q So that's the job of a phlebotomist to draw blood?
18 A Correct.
19 Q Do you have any specialize training in phlebotomy in
20 order to do that?
21 A I did. I went to Sumter Technolcal College back in
22 2002 and you get -- you go through your class and then you
23 get the certificate after you done and pass the class.
24 Q And you have a certificate in phlebotomy?
25 A I do.

1 Q How long have you been doing this?
2 A About 15 years.
3 Q You mention 2002 that you got a certificate, so you
4 been doing it continually since that time?
5 A I have.
6 Q Did you work for a period time at Clarendon Memorial
7 Hospital here in Manning?
8 A I did.
9 Q When was that?
10 A It was back in maybe 2014.
11 Q So you were working -- were you working for Clarendon
12 Memorial back on August the 30th and the 31st 2014?
13 A I was.
14 Q Okay. Did you have occasion -- do you remember
15 meeting with highway patrol and a defendant who had been
16 arrested for felony driving under the influence. Do you
17 have to occasion meet with highway patrol when to draw and
18 that defendant back on August 31st 2014?
19 A I did when I got to the patient's room.
20 Q Okay. So when you got to the patient's room, did you
21 have any interaction with the patient before that?
22 A I did not other than asking the name, date of birth
23 stuff like that.
24 Q Okay. So you came to the room simply when it was
25 time to draw the blood?

1 A I did.
2 Q And you mention -- so you ask questions to verify her
3 identity
4 A Correct.
5 Q And do you remember who that patient was?
6 A It's been so long ago. Her name ---
7 Q Let me just show you when you draw the blood was
8 there a blood collection report that was filled out?
9 A It was.
10 Q Okay. It's been introduced in evidence all ready as
11 State's Exhibit 49. Do you recognize that?
12 A I do.
13 Q And does it have your name on it?
14 A It does.
15 Q And is the subject's name listed on the top?
16 A Yes, it is.
17 Q And who is that?
18 A Tammy Dianne Brown.
19 Q Okay. When you came into Ms. Brown's room to meet
20 with her and to take the blood, did you have a
21 conversation with her?
22 A No, I did not.
23 Q Okay. Did you ask her any questions?
24 A Other than her first and last name and date of birth.
25 Q So you just got her identifying information from her?

1 A Correct.
2 Q Okay. The form that's before you who fills that out?
3 A The state trooper does first part, that second part
4 is checked off by them. That third middle part is checked
5 off by them also and then I sign and print.
6 Q Okay. And I'm going to give you copy to look over
7 and put the one that's in evidence on the projector so we
8 can all read out of the same so to speak. So you mention
9 this is identifying information up here. Who would have
10 fill that out?
11 A Where are you talking about?
12 Q Up at the top just identifiying information for the
13 subject?
14 A The state troopers fills that out.
15 Q The troopers filled all this information out?
16 A Right.
17 Q It's got time of arrest and time of the test, date
18 and time of the test 8:31 2014 3:21 0321 which be 3:21
19 a.m.?
20 A Uh-huh.
21 Q Okay. And then there's a second section here who
22 fills this out?
23 A They do also.
24 Q Okay. And then this section here which is checked
25 the correct one, only one can apply who fills that out?

1 A They show us the boxes to check and we check those.
2 And then I sign my name and then you print your name up
3 under that.
4 Q Okay. So you signed and print your name here.
5 There's a check mark -- and then before you there, there's
6 another box section down here -- with some other check
7 marks and your name. Did you fill out this section?
8 A You have to check off their, that would be my part
9 checking off there.
10 Q Okay. Now, let's go through that first. This is the
11 part that you checked off here states the first one you
12 checked is using a non-ethanol prep. A blood sample was
13 collected into an unused uncontaminate vial and given
14 directly to the arresting officer or to the subject
15 requesting a sample for her -- his or her independent test
16 after collection. You check that?
17 A That was done in error.
18 Q Which part -- well, let me ask you, so did you follow
19 those procedures to the unused uncontaminated vial when
20 you collect the evidence?
21 A I did.
22 Q Okay. Did you use an non-ethanol prep?
23 A I did.
24 Q Okay. And what's the reason for using the
25 non-ethanol prep?

1 A Using a non-alcohol prep causes the blood draw to be
2 a little bit more increases the alcohol.
3 Q Okay. And then a urine sample was collected in an
4 unused uncontaminated container and given directly to the
5 arresting officer?
6 A It was.
7 Q Okay. How many of the check marks on this page in
8 its entirety were made by you?
9 A Three.
10 Q Three. Okay. So there's one up here in this section
11 that says correct the correct one. A blood sample was
12 requested by the subject for his or her own independent
13 test. And then down here about using the non-ethanol prep
14 collected using uncontaminated vial. And then about the
15 urine sample. You said one of them was made in error.
16 Which one was made in error?
17 A Where the blood sample is requested by the subject
18 for his or her own independent test.
19 Q Okay. And I asked you about the conversation with
20 her. You say you just got her identifying information?
21 A Correct.
22 Q Did you give her any advisement of rights?
23 A I did not.
24 Q You didn't tell her, hey, you got the right to get
25 your own independent test?

1 A I did not.
2 Q Did she tell you or the officers in your presence
3 that she wanted her own independent test?
4 A She did not.
5 Q Tell the jury about her demeanor -- did she make any
6 statements to you?
7 A She was being -- she was kind of difficult there when
8 I was in there during that time doing what I needed to do
9 as far as my part. She was being kind of difficult to get
10 along with.
11 Q Okay. Did she -- do you remember whether -- when the
12 form was submitted to her for signing, did she agree to
13 sign the form?
14 A As far as the form goes, it's just me and the state
15 trooper. So they had to get her to sign that bottom part
16 here that I see. They had to get her to do that after I
17 had left.
18 Q Okay. So you had already left when the form was
19 presented for her signing?
20 A Right.
21 Q Okay. Let me talk to you a little bit more about
22 the -- kind of this procedure for collecting the blood.
23 Just to be clear, did you clean the site on her arm that
24 you would have collected the blood from?
25 A I did.

1 Q Again, you did that with a non-alcohol prep of some
2 type of ---
3 A It was done with betadine.
4 Q With what?
5 A Betadine.
6 Q Betadine. That don't contain alcohol?
7 A It does not.
8 Q Okay. And when the blood was drawn, was it placed in
9 unused, uncontaminated vial?
10 A I was.
11 Q Where did the vial come from?
12 A It came from the kit the state troopers had brought
13 in with them.
14 Q Okay. So they actually had a blood collection kit
15 that contained the vials?
16 A Correct.
17 Q After the blood was drawn, was it -- were the vials
18 kept securely?
19 A Yes, they were.
20 Q Did you place any information on the label with
21 regard to name of the subject, the time and date of the
22 blood draw and so forth?
23 A Yes, I did.
24 Q Okay. And the name of the person was drawing blood
25 which would have been your name?

1 A Right.
2 Q So you would have wrote that on the label on the
3 outside of the vial?
4 A Correct.
5 Q Who sealed the vial.
6 A I did because it comes with like a plastic strip like
7 a tape strip and it goes over that with the information is
8 on the tube and on that also.
9 Q So wraps up one side of the vial over the top?
10 A Right.
11 Q Which will be where the cap is?
12 A Yes, the cap is.
13 Q And back down the other side?
14 A Uh-huh.
15 Q So in order to open the vial then, you would have to
16 break the seal?
17 A You would have to break that seal, yes.
18 Q And you put the seal on yourself?
19 A Uh-huh.
20 Q Which was date, the time and sign your name it to?
21 A I did.
22 Q Okay. How many vials -- did you take one or two
23 vials of blood?
24 A It may have been one to two vials probably. It's
25 been so long. I can't remember. I know one was taken.

1 I'm not sure about the second one.
2 Q Okay. You would have secured them both with a seal?
3 A Yes.
4 Q And what about did you collect some urine as well?
5 A Yes.
6 Q How is that done.
7 A It's done basically the same way too. There is a
8 seal after the urine is collected in that little plastic
9 bottle. It's also taped in to go over also with her name
10 and first and last name date of birth. And then my
11 initials the time that it was done.
12 Q Okay. And then you would have sealed that as well?
13 A Correct.
14 Q And given in it to -- all turned over to the troopers
15 that were there with you?
16 A That's correct.
17 Q At the scene?
18 A That's correct.
19 Q Or at the hospital rather. I just wanted to clarify
20 this form real quick. I know it's been three and a half
21 years. I don't want you to guess about what happened. I
22 want you to tell the jury what you can actually remember
23 and what the practice is, but this second section here
24 which says check the correct one only one can apply.
25 Typically who fills out that section?

1 A Sometimes my time in doing these, sometimes the state
2 trooper will go in and check those boxes. And all they
3 really want me to do is just sign and print. And then
4 sometimes they'll tell us to check those boxes, you know,
5 it just depends and that was -- yeah, that's it.
6 Q You understand the form and it's clear that only one
7 box should apply. And only one box should be checked?
8 A Correct.
9 Q Would it acknowledged that there appears to be two of
10 them -- at least one is definitely checked. And one
11 there's a mark around the box?
12 A Right. And that one was done in error.
13 Q Okay. So the big checks were done by you; is that
14 right?
15 A Correct.
16 Q Who did the small checks?
17 A The state trooper.
18 Q The ones that are up here?
19 A Right.
20 Q Here, here and down here?
21 A Right.
22 Q The state trooper did those?
23 A Right.
24 Q Okay. Again, as far as you remember at any point
25 during your interaction -- you said she was being

1 difficult, but at any point in your interactions did
2 Ms. Brown ask for an independent sample?
3 A She did not.
4 Q At any point did she tell you or the other officers
5 that I want this particular doctor or this particular
6 facility to test my blood?
7 A No.
8 MR. DURANT: Ms. Floyd, that's all the questions
9 I have. Please answer any Mr. Barr has.
10 CROSS-EXAMINATION
11 BY MR. BARR:
12 Q Ms. Floyd, you said you work at Williamsburg County
13 hospital now?
14 A I do.
15 Q You all have kind of a rough time over there, aren't
16 you?
17 A It comes and goes in spells.
18 Q Now, tell me if you would please, ma'am, you have
19 testified today and I'm thinking that there would be
20 things that perhaps you remember and perhaps some you
21 don't remember about what transpired when this blood was
22 drawn by you?
23 A It's been so long ago. I mean, memories do come back
24 as to that particular morning that we were in the ER.
25 Q And are you telling us today that you have

1 independent recollection of having done or having drawn
2 blood on this particular occasion from Ms. Brown?
3 A Yes.
4 Q You remember that today?
5 A Yes.
6 Q And, of course, I am particularly interested in what
7 you have described as a check mark by that portion of this
8 form that says a blood sample is requested by the subject
9 for her own independent recollection. And it's your
10 testimony today that that check mark by that block was
11 made by you?
12 A Yes, in error it was.
13 Q Now, this is a form I believe that's filed probably
14 in the patient's file?
15 A Repeat the question again.
16 Q This is a form that's filed in the patient's file as
17 part of the medical record?
18 A Correct.
19 Q Okay. And it's also filed with SLED?
20 A Correct.
21 Q Okay. Now, if you would please, ma'am, tell me
22 whether or not at any time between August 30th of 2014 and
23 today, have you contacted SLED or the hospital and said
24 you know I made an error on the blood test report for
25 Ms. Tammy Dianne Brown?

1 A No, I have not.
2 Q You have not. Now, would it be fair to say that if
3 you had had a recollection or had any knowledge of your
4 having made an error, you would have contacted some
5 official to let them know that you made a mistake on the
6 medical record?
7 A I would have.
8 Q Okay. So would it be also be fair to say then in as
9 much as you did not contact anybody regarding the so
10 called error, it has recently come to your attention that
11 this error was made?
12 A Exactly, that's right, correct.
13 Q All right. So now in as much as recently come to
14 your attention that error was made, you have not had
15 occasion to review State's Exhibit Number 49 since the
16 time you signed it, have you?
17 A I have not up until yesterday is when I actually seen
18 the paper and got to look and that's when I realize that
19 the check mark was done in error.
20 Q Oh, up until yesterday when you saw the paper. And I
21 would surmise that you were looking through your records
22 and you saw it and you realize that you had made an error?
23 A That's correct.
24 Q And where were you looking through those records?
25 A It was sent to me -- a picture of it was sent to me

1 on my phone.
2 Q Sent to you by who?
3 A Chris Durant.
4 Q Chris Durant, the prosecutor, sent it to you
5 yesterday?
6 A Yes, sir.
7 Q Sent it to you on your cell phone, ma'am?
8 A That was correct.
9 Q And he sent you an e-mail along with it?
10 A No, sir.
11 Q Sent you a phone message?
12 A It was through a text, yes.
13 Q A text message that's what they call it a text
14 message. I guess, you can see I'm not -- I don't do any
15 texting fingers are too big. Would it be fair to say that
16 the text message you got cause your attention to this
17 error that you had made?
18 A That is correct.
19 Q I got one last question. Would you have known that
20 you had made an error if it hadn't been called to your
21 attention by the prosecutor?
22 A That is correct.
23 Q You would not have known?
24 A That's correct.
25 MR. BARR: All right. Thank you, ma'am, got

1 nothing further.

2 REDIRECT EXAMINATION

3 BY MR. DURANT:

4 Q Ms. Floyd, there seems to be some suggestion that the
5 prosecutor which is me told you what to say or told you
6 you made an error, is that how our conversation went down?
7 A I was told that -- it was sent to me by you that a
8 question had come up about that check mark. And then when
9 I got it and I looked at it, that's when I realize that
10 the check mark was done in error.
11 Q Did I tell you it was done in error?
12 A No.
13 MR. BARR: Objection. I think now it's getting
14 into hearsay.
15 MR. DURANT: Your Honor, he questioned her about
16 our conversation, error about the communication.
17 MR. BARR: Can you let me state my objection?
18 THE COURT: Go ahead.
19 MR. BARR: She's now getting into the details of
20 the e-mail that was sent to her -- text message that was
21 sent to her by the prosecutor. I merely asked her how did
22 she find out -- how it was brought to her attention. I
23 did not ask her any questions about the text of the --
24 which is an out-of-court statement made for the trooper.
25 And I would submit it's hearsay and I object to it.

1 MR. DURANT: Let me rephrase the question,
2 Judge.
3 BY MR. DURANT:
4 Q Was there any text associated with the photograph of
5 the picture that was sent you?
6 A No, it was not, just a picture of the paper that was
7 sent and that's all.
8 Q There was no other communication -- written
9 communication from the Solicitor's office. I know a text
10 message is just a photo of the paper?
11 A That's correct.
12 MR. DURANT: That's all the questions I have.
13 THE COURT: Thank you. You may step down.
14 (WHEREUPON, the witness leaves the witness
15 stand.)
16 THE COURT: Do you have a short witness or this
17 is a good time to go to lunch?
18 MR. DURANT: I think I got -- the next two are
19 just chain of custody I think be relatively short.
20 THE COURT: You agree with that, Mr. Barr?
21 MR. BARR: I'm not sure who you gone call?
22 MR. DURANT: Joe Ham.
23 MR. BARR: All right.
24 THE COURT: Okay. Call him and if it gets too
25 long stop and go to lunch.

1 current pace the MAIT investigator is going to relatively
2 lengthy.
3 THE COURT: Okay. See you all at two o'clock.
4 (WHEREUPON, a lunch break was taken.)
5 (WHEREUPON, State's Exhibits Nos. 51-57 were
6 marked for identification only.)
7 THE COURT: We ready for the jury?
8 MR. DURANT: Yes, sir.
9 (WHEREUPON, the jury came into open court.)
10 THE COURT: Solicitor, you may call your next
11 witness.
12 MR. DURANT: The State calls Stacy Matthews.
13 THE CLERK: Place your left hand on the Bible
14 and repeat your name please.
15 THE WITNESS: Stacey Matthew.
16 THE CLERK: You solemnly swear the testimony
17 you're about to give will the truth and nothing but the
18 truth so help you God?
19 THE WITNESS: I do.
20 WHEREUPON,
21 Stacey Matthews,
22 after first having been duly sworn, testified as follows:
23 DIRECT EXAMINATION
24 BY MR. DURANT:
25 Q Ms. Matthew, good afternoon. If you would, please

1 tell the jury where you work?
2 A Currently I work for the Charleston police
3 department.
4 Q In what capacity?
5 A I am their forensic quality insurance manager.
6 Q And what does that mean?
7 A Essentially I oversee all their qualify control
8 following their policies and procedures and maintain the
9 Charleston police departments forensic services division's
10 accreditation status.
11 Q Before you went to work for the Charleston police
12 department, where did you work?
13 A I worked for the South Carolina Law Enforcement
14 Division more commonly known as SLED.
15 Q In what capacity, did you work at SLED?
16 A I was a forensic toxicologist there.
17 Q Forensic toxicologist?
18 A Yes, sir.
19 Q Tell the jury what a forensic toxicologist is please?
20 A A forensic toxicologist is a scientist who analyzes
21 biological samples such as blood or urine for the presence
22 or absence of alcohol or drugs or poisons.
23 Q And what type of training and education have you
24 received in order -- enable you to become a forensic
25 toxicologist?

1 A I have a bachelor's of science degree in forensic
2 science as well a bachelor of science in degree chemistry
3 both from the University New Haven. In addition to that,
4 I underwent training from SLED which involved proportion
5 and a class proportion. And this training was for blood
6 volatiles. The classroom portion entails a series of
7 lecturers and oral test. And the classroom portion
8 involved analyzing over 500 samples and learning how to
9 operate the instrument. In addition to that, I also
10 attended Robert F. Borkenstein course on alcohol and
11 highway safety.
12 Q You performed these tests on blood samples and urine
13 samples in order to determine alcohol concentration?
14 A Yes, blood, urine, tissue, occular samples.
15 Q Okay. About how many times?
16 A Easily over 500 times more than that.
17 Q Have you ever testified in court as a toxicologist?
18 A I have.
19 Q Have you been qualified as an expert in the field of
20 toxicology?
21 A Yes, sir.
22 MR. DURANT: Your Honor, at this time the State
23 would offer Stacey Matthew as an expert in the field of
24 toxicology.
25 THE COURT: What says the defense?

1 MR. BARR: We are not going to challenge her
2 qualifications.
3 BY MR. DURANT:
4 Q Ms. Matthew, you worked for SLED back in August of
5 ---
6 THE COURT: Hold on, Mr. Durant. The Court so
7 finds she's an expert.
8 MR. DURANT: Thank you, Your Honor.
9 BY MR. DURANT:
10 Q Ms. Matthew, were you working for SLED back in
11 September of 2014?
12 A Yes, sir.
13 Q Okay. Did you have occasion to receive into your
14 custody some blood and urine specimens from the South
15 Carolina Highway Patrol the label was coming from South
16 Carolina Highway Patrol and labeled as having been taken
17 from a suspect name is Tammy Dianne Brown?
18 A Yes.
19 Q Okay. When did you receive those items?
20 A I believe in September, but I need the chain in order
21 to ---
22 Q Do you have the chain with you?
23 A I do.
24 Q Okay. And the document you're talking about is that
25 a chain custody form prepared by SLED?

1 A Yes, it is.
2 Q Okay. First tell the jury about the procedures how
3 this type of evidence is receive by SLED?
4 A Okay. So an evidence custodian or the submitting
5 officer will bring a sample to SLED. In this case, it was
6 Mendell Rivers and he brought it to SLED on September 8th
7 2014. From there, they would go to the evidence control
8 department and the evidence control technician would
9 assist them in logging in that sample. So essentially
10 part of the information is enter into LINS, which is the
11 laboratory information manage system. And a unique lab
12 number will then be generated for that sample. This lab
13 number will follow that sample from start to finish from
14 the moment it is submitted to SLED to when it's returned
15 to the agency. A bar code is printed out and it is place
16 on a tamper evident heat sale pouch. The sample -- the
17 evidence packaging with the sample is contained in will be
18 tracked to make sure that it's sealed properly and
19 initialed where it needs to be. And then it would be
20 placed into that pouch. That pouch will then be sealed
21 initial and dated by the submitting officer. After that,
22 the evidence technician will place that piece of evidence
23 into a locked and secure refrigerator that is designated
24 just for toxicology samples. And it would remain there
25 until someone from the toxicology department can pick it

1 up.
2 Q So when a sample is coming from law enforcement, how
3 would are they packaged?
4 A This particular sample was in a DUI kit.
5 Q Okay. What's a DUI kit look like?
6 A It's -- the outside is just a cardboard box and on
7 the inside there's another cardboard box into it which has
8 writing information about who the samples coming from,
9 who's submitting it, who packaged it and then on the
10 inside of that, it contains one plastic container
11 typically used for urine and then two tubes of glass vials
12 for blood.
13 Q Okay. I'm going to show you a series of photographs
14 that may help explain the process.
15 MR. DURANT: Your Honor, offer State's Exhibits
16 51 through 57 I believe without objection.
17 MR. BARR: I don't object.
18 THE COURT: Okay. It is in without objection.
19 (WHEREUPON, State's Exhibits Nos. 51-57 were
20 admitted into evidence.)
21 BY MR. DURANT:
22 Q Ms. Matthew, let me show you State's 51 first of all.
23 If you would tell the jury what we're looking at here?
24 A So that is an evidence the tamper evident heat seal
25 pouch that I mention, that's provided from SLED. And you

1 can see at the top there's a seal with initials and dates
2 and that is from the officer who submitted the sample.
3 Q Okay. These initials and the date here this will be
4 from the highway patrol officer?
5 A Yes.
6 Q MCR like MC Rivers?
7 A Yes.
8 Q And this outer packaging is the heat seal package
9 that you're talking about?
10 A Yes.
11 Q Okay. And there's a number here with a bar code
12 below it. Who's number is that?
13 A So that number is the number that the laboratory
14 information management system generated to basically
15 follow the sample with. So that's how we know that sample
16 is by that lab number.
17 Q So when the sample comes in from law enforcement to
18 to SLED, a new number is generated, a unique SLED lab
19 number?
20 A Yes.
21 Q That's this number L1411280?
22 A Yes, sir.
23 Q Okay. And below that -- I don't know if you can read
24 from where you are, but says South Carolina Highway Patrol
25 troop number one agency case number 14BW7170207HB14?

1 A Yes, so usually on the bottom of it it will have the
2 agency that submitted that information, so in this case
3 the South Carolina Highway Patrol. And they also have the
4 agency case number. So South Carolina Highway Patrol have
5 their own agency case number. And then we create our own
6 lab number, which is the L14 number.
7 Q Okay. Let me show you State's Exhibit 52 what is
8 this?
9 A That is just a picture of the evidence package still
10 in the tamper evident heat seal package just the back of
11 it to show that there was writing.
12 Q Okay. And it looks like some writing that was done
13 with a marker here what is that?
14 A That is just showing that it was received on 9-8-14
15 and that it was just -- it was sealed.
16 Q Okay. Is that somebody's initials over here?
17 A Yes, I believe that is Dotti Yarborough's initials.
18 Q And according to the SLED chain of custody, would
19 that have been the person that received it into evidence
20 from SLED?
21 A Yes, she would have been the one who in taked it from
22 the submitting officer.
23 Q There's some other -- there's some labeling -- is
24 this beneath outer packaging -- beneath the heat seal
25 pack?

1 A Yes, that's beneath it.
2 Q Okay. So these labels would they have been on the
3 box that came from law enforcement?
4 A Yes, those labels are on the box that came from
5 highway patrol.
6 Q There's a case number there which should correspond
7 with the law enforcement case number that was -- that you
8 guys taped from to the front of it under your lab number;
9 is that right?
10 A That case number ---
11 Q Agency case number here 14BW170?
12 A That should pertain to the highway patrol case
13 number.
14 Q Okay. So again this is just the back of the heat
15 seal pack that you all put around the evidence once it
16 came in?
17 A Yes, sir.
18 Q Is typical SLED procedure do you all open up the
19 inside box at that point?
20 A During inventory is when -- inventory is essentially
21 is photo documenting the evidence, so at this point I
22 would have brought this evidence from the toxicology
23 department and I would have inventoried it. So I only
24 opened one package at a time. And I take pictures of it.
25 So I would open the tamper evident heat seal pouch and I

1 would open that box and eventually I would get to the
2 blood samples.
3 Q Okay. So you're actually the one who took these
4 pictures?
5 A Yes.
6 Q Okay. So there's some -- again looking -- did you
7 take these photos before you opened the heat seal pack?
8 A Yes.
9 Q Okay. And again there's some -- did you take these
10 photos before you open the heat seal pack.
11 A Yes.
12 Q Okay. Again, the person that put in the heat seal
13 pack would have been Ms. Yarborough?
14 A Yes.
15 Q There's an inner box with some seals that says kit
16 shipping seal. Was that seal still on there and still
17 sealed when you received it?
18 A Yes, and the further pictures you'll see that the
19 seal was still intact.
20 Q Who puts that seal on there?
21 A That seal I believe is done by whoever is packaging
22 up the sample.
23 Q Okay. There's another seal here that's broken is
24 that the seal -- highway patrol breaks that when they open
25 the box?

1 A Yeah, the box is usually sealed completely. And then
2 when they need to use it to collect the sample, they'll
3 break the box. And then once they collected all the
4 samples they'll put another seal on it.
5 Q All right. So let me show you State's Exhibit 53.
6 What are we looking at here?
7 A That is the outside box of the DUI kit, so that is
8 taken out of the tamper evident heat seal pouch and that's
9 the actual physical box.
10 Q Okay. And is this the box that the samples would
11 have been in when highway patrol delivered them to SLED?
12 A Yes.
13 Q Was this box sealed?
14 A Yes.
15 Q Had that seal been broken when you received it into
16 evidence?
17 A No.
18 Q Okay. So just to clarify, you took this picture
19 after you removed it from the heat seal pack?
20 A Yes.
21 Q Show you State's 54 what are you looking at here?
22 A That would be the backside box. Again, just show
23 that pictures of the labels that were on it and to show
24 that seal on it was not broken.
25 Q So same thing we're looking at before just now it's

1 outside -- out of the heat seal pack.
2 A Yes.
3 Q Again you did all this yourself?
4 A Yes.
5 Q Okay. State's Exhibit 55 what are we looking at
6 here?
7 A So when you open that this first box, this is what is
8 in it, so it's just another box. And like I said it
9 mentions the name of whoever sample is collected as well
10 as other pertinent information like the time, the date.
11 Q So this is actually inside the other box we're just
12 looking at?
13 A Yes.
14 Q Is this interior box sealed as well?
15 A Yes.
16 Q Okay. Had that seal been broken when you received
17 it?
18 A To my knowledge, it was not.
19 Q Would you have analyzed it if it had been?
20 A You still could analyze it because what really
21 matters is what on the inside to make sure to make sure
22 that the actual tubes of sample is not broken.
23 Q But the outer box hadn't been broken and to your
24 knowledge this one hadn't either?
25 A No.

1 Q Okay. State's Exhibit 56 what are we looking at
2 here?
3 A These are what you get to after unwrapping all those
4 things. They are two vials of blood and one container of
5 urine. And they both are labeled with the name of who the
6 sample was collected from. And you can see those labels
7 were not broken at all.
8 Q So these would be two vials of blood. This is a
9 container of urine?
10 A Yes, sir.
11 Q Okay. They have subject's name Tammy Dianne Brown,
12 arresting officer JK Minnix, JP Dubose. Is this the
13 condition that you received these items into evidence at
14 SLED?
15 A Yes.
16 Q The seals were still intact?
17 A Yes.
18 Q On both containers of blood and the ring?
19 A Yes.
20 Q Okay. And then finally State's Exhibit 57 what are
21 we looking at here?
22 A So that's the other side of the tube, I just flipped
23 it, so you can see the other information that's written.
24 So the time and date and I believe the signature of who
25 collected that sample.

1 Q Okay. So 831140321 on both signature Angela Ann
2 looks like Floyd on all three?
3 A Yes.
4 Q And again this is the condition you received all this
5 evidence into your custody at SLED?
6 A Yes, sir.
7 Q If these seals had been broken, would you have
8 analyzed the evidence?
9 A No, we would have contacted the submitting officer to
10 let them know this and, you know, essentially talk to them
11 about how we can't really test this at all.
12 Q Okay. After you took the evidence and you did an
13 inventory of it at SLED, took the photographs, what did
14 you do?
15 A So after you take inventory so essentially like I
16 said, you take pictures of it what you saw and then I made
17 sure that the information that is on the tubes match up
18 with the information that was inputted in LINS. And after
19 that I will write the lab numbers, the L14 number on that
20 tube with my initial. And I would place it back into the
21 tamper evident heat seal pouch. From there, I will seal
22 it, initial it and date it and I will place it into the
23 locked and secure toxicology refrigerator. And it will
24 remain there until someone is ready to perform analysis on
25 it.

1 Q Did you actually perform an analysis on these?
2 A I did not perform an initial analysis, no.
3 Q Okay. Did you perform a later analysis?
4 A I did once, yeah.
5 Q So you after you had took an inventory, you put the
6 items still with seals intact in an evident -- secured
7 refrigerator at SLED?
8 A Yes.
9 Q Okay. Who would have been the next person that
10 handled the items?
11 A The next person to have touched this sample would be
12 Kelly Buchman.
13 Q Okay. Is she the person who did the initial
14 analysis?
15 A Yes.
16 Q Okay. How did it come to pass that you did a second
17 analysis?
18 A So the initial analysis that is performed on a sample
19 is a blood alcohol testing and in doing so, we do two
20 tests. Essentially to show that, you know, in case
21 something wasn't operating properly, we do a double check
22 to make sure that the number that we receive the first
23 time is the same as the second time you run it. In this
24 case, the first test that she ran are quality control that
25 we run with every run that we do. It did not pass. So

1 with that it -- we essentially do not use that number at
2 all. So she ran a second test, she got a valid number
3 because all the quality control checked out. And the way
4 we do it we do one person runs things during the week. So
5 at that time it ran into my week. So I ended up doing a
6 second test on it.
7 Q What do you mean by qualify control at SLED?
8 A Qualify control -- so with our samples at the end of
9 every run, we run certified standards that we receive from
10 external vendor, which is a known value that we're suppose
11 to get when you run that sample. So it would be a .08, a
12 .15 and a .40. They're all different values. Quality
13 control those numbers are supposed -- are results are
14 supposed to be within five percent of the known value. So
15 the known value of a .40 five percent is your value should
16 be between .38 and .42. So in that case for whatever
17 reason her standard was out and so therefore we did not
18 use any of the data that came from it.
19 Q Okay. So if I understand you correctly, then SLED
20 has some blood samples for which they know the toxicology.
21 You know the blood concentration of alcohol in those
22 samples?
23 A It's not a biological sample the standards are, but
24 it's a certified standard that has a alcohol
25 concentration.

1 Q So not from a person?
2 A No, it's not from a person.
3 Q Some certified substance that's got a known
4 percentage of alcohol, no concentration of alcohol?
5 A Yes.
6 Q And you use that to test the equipment?
7 A Yes, to make sure that they equipment is running
8 properly and that, you know, the data that we're getting
9 out is accurate.
10 Q So before you actually run the test on anybody's
11 blood, essentially you're trying to calibrate the
12 equipment making sure that it's producing an accurate
13 result?
14 A Yes.
15 Q Is that fair to say?
16 A Yes.
17 Q You do that twice to make sure the equipment was
18 functioning properly with this sample to begin with; is
19 that right?
20 A Yes, we do two tests to make sure that like I said
21 and it's like this if something was out we do another test
22 just to make sure that everything follows our protocol.
23 Q Okay. All right. So your second test would have
24 been after Ms. Budgen had taken custody of the samples?
25 A Yes.

1 Q Okay. So would she have then been the person that
2 broke a seal on the blood samples?
3 A Yes, she would have.
4 Q Okay. And when you ran your test to confirm her
5 numbers or to test again, did you use the same blood
6 sample or you open a new one?
7 A If permitable if there's enough sample, we always use
8 the same sample that was originally used for the first
9 test.
10 Q Okay. And when you ran your second test, did you get
11 the same number, the same reading that Ms. Bugden had come
12 up with?
13 A Yes, the numbers fell within the criteria that we're
14 supposed to have it.
15 Q Okay. Tell the court what you determined when you
16 ran your test, the blood alcohol concentration to be in
17 these samples?
18 MR. BARR: Objection.
19 THE COURT: Okay. You all come up.
20 (WHEREUPON, a bench conference was held in the
21 presence of the jury, but out of the hearing of the
22 jury.)
23 THE COURT: We need to take up a matter of law
24 outside your presence. So I'm going to ask you to go to
25 the jury room. I'll get you back out in a few minutes.

1 Don't discuss this case.
2 (WHEREUPON, the jury retire to the jury room.)
3 THE COURT: Okay. Mr. Barr, if you state your
4 objection.
5 MR. BARR: Your Honor, it's our position that
6 two breaks in the chain of custody. The first one would
7 be after Trooper Ham -- and I don't recall the name of the
8 person that Odom claimed he delivered. And the next
9 person that, of course, initial the sealed pouch to
10 contain the blood samples. In addition, Judge, we would
11 also submit that the samples inadmissible. And, Your
12 Honor, I noted what we done is we've argued regarding the
13 video of the or non-video of the incident site. In
14 addition, I would take the position that the samples
15 taken -- when the blood samples were taken that that was
16 also required to be videotaped. And I would read a
17 portion of 56-5-2950 which states that -- well, I'm about
18 midway the last paragraph says that a breathe sample taken
19 for testing must be collected within two hours of arrest.
20 Any additional test to collect other samples must be
21 collected within three hours.
22 Your Honor, I think that there may be a
23 violation there as well, but goes understated that the
24 breathe test must be administered by a person trained and
25 certified South Carolina Criminal Justice Academy SLED

1 policies. At the very end of that paragraph, Judge, says
2 blood and urine samples must be obtained and handled in
3 accordance with the procedure approved by SLED.
4 Subsection B says that no test maybe administered or
5 samples obtained unless upon activation of the video
6 recording equipment and prior to the commencement of the
7 testing procedure. The person has been given the written
8 copy and verbally informed about the right not to take the
9 test.
10 Of course, as I understand it, she -- Ms. Brown
11 was given the implied consent warning. And this was done
12 at the emergency room. Now, Judge, there would have been
13 no reason as I see it why if this section of the statute
14 was complied with, there would have been no reason why it
15 couldn't have been done. This was not the incident site.
16 She was in custody. She was taken into custody at the
17 hospital. A warrant was issued for her arrest after a
18 warrant was obtained and my reading of this is that the
19 statute requires that that procedure be videotaped.
20 THE COURT: My understanding of what you just
21 read had to be incompliance with SLED. And compliance
22 with SLED has to be followed to protocol, the SLED kit
23 that they used in the drawing of the blood protocol. It
24 has to be videotaped because they don't have a videotape
25 capabilities at the hospital.

1 MR. BARR: Well, Judge, whether or not they got
2 the videotape capabilities at the hospital, I think
3 depends on what law enforcement does. But my reading of
4 this statute and I read it three or four times and it
5 applies to blood and urine samples.
6 THE COURT: Right, but it doesn't say videotape
7 does it?
8 MR. BARR: Sir?
9 THE COURT: What you read to me said blood and
10 urine must be incompliance with SLED, doesn't it?
11 MR. BARR: Well, it says upon activation of
12 video recording equipment prior to the commitment of the
13 testing proceeding.
14 THE COURT: Right, but that's video and the
15 breathalyzer.
16 MR. BARR: Judge, I think that applies to -- it
17 says samples obtained. Now, I don't think that's a
18 breathe sample. I think that pertains to previous
19 paragraph regarding blood and urine samples which
20 paragraph -- which the previous paragraph talked about,
21 but that tells me that this applies to blood and urine
22 samples.
23 THE COURT: Well, I'll read it again. That was
24 not my interpretation of the statute. You have any cases
25 that say that. I never had a case or seen a case where

1 blood drawing in the hospital is videotaped.
2 MR. BARR: Well, Judge, I'm just reading what
3 the statute says and it seems to me that that's what it
4 says.
5 THE COURT: Okay. Let me see the statute. Can
6 I see what you are reading?
7 MR. BARR: 56-5-2950.
8 THE COURT: Okay.
9 (WHEREUPON, a pause in the proceedings.)
10 MR. DURANT: Your Honor, may I be heard?
11 THE COURT: Yes, sir.
12 MR. DURANT: Your Honor, it's the State's
13 position that subsection B 56-5-2950 relates back to South
14 Carolina code 56-5-2953 which is the incident site and
15 breathe test site and video recording. That statute
16 specifically includes an exception such as applicable here
17 to when an individual requires emergency medical treatment
18 because she is at the hospital law enforcement wasn't
19 practical for law enforcement to videotape the taking of
20 the sample. It's taken by medical personnel. Certainly
21 unless it contends that law enforcement to bring cameras
22 into the hospital and videotape somebody in a room giving
23 an urine sample and having blood drawn from their arm and
24 includes an exception for -- on somebody's end and
25 requires emergency medical treatment, that's the case

1 here, Judge. I do not believe that the State is of the
2 position that that subsection 56-5-2950 does not require
3 video recording of the blood and urine samples, Your
4 Honor.
5 MR. BARR: Emergency medical treatment would
6 never verify. If I recall, the emergency treatment that
7 Officer Minnix without being directed or without
8 consulting with any medical personnel took upon himself to
9 make a decision ---
10 MR. DURANT: That's a misstatement of the
11 evidence in this case. Officer Minnix testified that he
12 was told by EMT that they had to take her to the hospital.
13 MR. BARR: Your Honor, he said he was told by
14 EMT that she had to go to the hospital, but I'm talking
15 about with respect to why he did not take a breathalyzer
16 or would not offer her a breathalyzer because of some
17 injury to her mouth or whatever, there was no direct -- he
18 was not directed to that extent by any medical personnel.
19 He just simply decided and made a decision that now -- and
20 it turned out that she didn't need any medical treatment.
21 She had no injury. Of course -- and when they went to the
22 hospital they immediately seem to have full access to her,
23 took custody of her and had her arrested. I don't see
24 that exception anywhere. And in addition we've got our
25 chain custody issues.

1 THE COURT: Okay.
2 MR. DURANT: The chain of custody issue that I
3 ask Your Honor to refer to I know Your Honor is familiar
4 with the case. The State's not required to produce every
5 single person, every body in the chain of custody. It's
6 enough if the State identifies everybody in the chain of
7 custody and presents competent evidence to show that the
8 items in question are what they appear or allege to have
9 been. That the seals were intact. They were never
10 tampered with and seal was not broken until the point in
11 time that the items were tested by SLED and all the proper
12 protocols were followed before that, Your Honor. In this
13 case, that that's clear. We got evidence as to Corporal
14 Minnix depositing them -- sealing the items three times
15 essentially to sealing the vials and then sealing the
16 inner box and then outer box, depositing in the outer box,
17 that sealed outer box and to the refrigerator and highway
18 patrol. Sergeant Ham receiving that box and taking it
19 still sealed, delivering it still sealed to an evidence
20 facility in Columbia. Sergeant Ham identified Sergeant
21 Odom or Lieutenant Odom as taking custody of that box to
22 him according to Officer Ham it was still sealed. He
23 delivered it to Odom. According to Officer Rivers when he
24 received it from Odom, it was still sealed. He delivered
25 it to SLED still sealed. According to Ms. Matthews when

she received it, it was received in evidence at SLED by Doris Yarborough which corresponds to the Lieutenant Rivers testimony. It was delivered at her seal. It was receive from Ms. Yarborough and still sealed. The outer box was seal. The inner box was sealed and individual tubes themselves were sealed. I think the record is replete with evidence sufficient to establish competent chain of custody of this case, Your Honor, according to the standard of South Carolina set forth by the Hatfield case.

THE COURT: You want to be heard on that, Mr. Barr.

MR. BARR: Okay. Judge, I would that that would be govern under Rule 6 of the rule for chemical analysis and chain of custody found in the South Carolina Rules of Criminal Procedure. Specifically, it's our position that that would in fact be the case. However, there is an exception. In the rule itself, it says that the report must be accompanied by an affidavit of chemist or analyst perform the test that he or she is certified by SLED and qualified by rule of standards, set forth here his or her training and experience as a chemist include the number of times he or she has been an expert witness and that he or she -- her conduct or his test shown that's on the report usually a procedure approve by SLED, that the report

1 accurately reflects the testimony. Of course, it would be
2 our position that that would apply as to this person who's
3 about to give her opinion been regarding analysis.
4 THE COURT: But doesn't Rule 6 involve that the
5 State follows Rule 6 and provides those material they
6 don't need to bring the person who analyze the blood to
7 court. They can simply put it in and keep from having
8 exactly what we having today, but that you can demand that
9 everything -- they in fact brought the person to court who
10 is qualified as an expert in toxicology. And they
11 establish -- they establish everybody in the chain or
12 custody. Two of the people are here, but based on the
13 testimony, the key people here and that everybody's
14 testified that in fact the seals were intact all the way
15 down the line and was intact at the time that it was
16 analyze. It's only in a situation where you had a broken
17 seal or an issue of question that somehow the blood and
18 urine were tamper with and they got everybody in and
19 explain who broke the seal if in fact it was tampered with
20 or adulterated in any way. I don't think law in the State
21 of South Carolina at this point requires the State to put
22 everybody in, unless there's been some question that
23 evidence has been tampered with in any way. And everybody
24 that I heard from the time the officers sealed it and the
25 nurse sealing it and the person who analyze it, the seals

1 were intact. And they were not open in any way. Well, I
2 think the case law is current in effect in this state that
3 the State has met its burden concerning the chain.
4 MR. BARR: Judge, we have one additional. In as
5 much as it appears that it's gone come into evidence in
6 spite of the objections that we have, it would the
7 defense's position that it should be exclude under Rule
8 403 of the South Carolina Rules of Evidence, which is our
9 position that that -- see is it Rule 403. It would be our
10 position that though the evidence may be relevant, that
11 the evidence should still be excluded because a probative
12 value is substantially outweighed by the danger of unfair
13 prejudice and confusion with the issues of misleading the
14 jury all by consideration of undue delay, waste time and
15 needless presentation and cumulative evidence. Of course,
16 we would add for the record Rule 403 on the basis for our
17 objection to it being admitted into evidence.
18 THE COURT: All right. Thank you, sir. I find
19 based on the evidence that's been presented in this case
20 and that evidence is relevant. Even though it is
21 prejudicial, the State rarely orders any evidence that is
22 not prejudicial against your client. And I don't think
23 the prejudicial value outweighs the probative value in
24 this case. It's nothing that would inflame the jury.
25 The motion that they would consider the evidence as any

1 other evidence hope they reach a verdict in this case
2 that's just. So I'll overrule your motion. Anything
3 else?
4 MR. BARR: No, sir.
5 THE COURT: Okay. You all ready for the jury?
6 MR. DURANT: Yes, sir, Your Honor.
7 THE COURT: Bring me the jury.
8 (WHEREUPON, the jury came into open court.)
9 MR. DURANT: Please the Court.
10 THE COURT: Yes, sir.
11 BY MR. DURANT:
12 Q Ms. Matthew, I think when we left off I asked you
13 whether or not you performed an analysis in the blood
14 samples that were received in evidence by SLED in this
15 case?
16 A And I did, yes.
17 Q What were your findings with respect to Ms. Tammy
18 Brown's blood in this case?
19 A Off the top of my head, I don't know. If I had the
20 the report, I can tell you.
21 Q Do you have it with you?
22 A I do not. The ethanol concentration that was
23 reported is 0.210?
24 Q So .210?
25 A Yes.

1 Q Okay. Is there a recognized correlation between
2 alcoholic content of blood and intoxication?
3 A There is, yes.
4 Q Okay. From your training and experience what would
5 be the condition of a person who's blood showed a
6 concentration of 0.21 percent alcohol?
7 A I think it's better that you refer to the signing
8 toxicologist on this case.
9 Q That was?
10 A And the signing toxicologist on this case is Tim
11 Brambow.
12 Q Tam Brambow who is present in the courtroom?
13 A Yes.
14 Q Today?
15 A Yes.
16 Q But again your finding is .21?
17 A Yes.
18 Q Your finding is .21?
19 MR. DURANT: That's all questions I have.
20 MR. BARR: I don't have any questions, Judge.
21 THE COURT: Thank you, ma'am. You may step
22 down.
23 (WHEREUPON, the witness leaves the witness
24 stand.)
25 MR. DURANT: The State calls Kelly Bugden.

1 THE CLERK: Raise your right hand, place your
2 left hand on the Bible and repeat your name please?
3 THE WITNESS: Kelly Bugden.
4 THE CLERK: You solemnly swear that the
5 testimony you're about to give will be the truth and
6 nothing but the truth so help you God?
7 THE WITNESS: Yes.
8 WHEREUPON,
9 Kelly Bugden,
10 after first having been duly sworn, testified as follows:
11 DIRECT EXAMINATION
12 BY MR. DURANT:
13 Q Ms. Bugden, good afternoon.
14 A Good afternoon.
15 Q If you would tell the Court where you work?
16 A I work at the South Carolina Law Enforcement Division
17 more commonly known as SLED.
18 Q How long have you work for SLED?
19 A I worked for SLED since November of 2013, so going on
20 five years now.
21 Q And what position or what's your job at SLED?
22 A I am also a forensic toxicologist.
23 Q What type of training or experience have you received
24 in order to become a forensic toxicologist?
25 A I have bachelor's of science in chemistry and also

1 bachelor's of science in forensic science both from the
2 University of New Haven. I also have a master's of
3 science in apledganomics (sic) from the University of
4 Connecticut. On top of my degrees, I've also had similar
5 in-house training as Stacey Matthew containing -- which
6 was practical and lecture training and some written test
7 as well talking about alcohol and the effects on the body
8 and I also had to test samples 500 that were previously
9 analyzed by analyst who work there over the course of
10 time. And I had to get values similar to what they had
11 received so that way I can prove that I was competent to
12 do the testing. And I also had to do a mock court as
13 well. And I have also attended the Borkenstein course of
14 alcohol and traffic safety as well.
15 Q Okay. Have you been qualified to make blood and
16 alcohol examinations?
17 A Yes.
18 Q Have you ever been qualified as an expert in South
19 Carolina courts?
20 A I have.
21 Q In toxicology?
22 A Yes.
23 MR. DURANT: We offer Ms. Kelly Budgen as an
24 expert in the field of toxicology.
25 MR. BARR: No objection.

1 THE COURT: The Court will find she's an expert.
2 BY MR. BARR:
3 Q Did you receive in the evidence in this case labeled
4 as a blood sample from a Tammy Dianne Brown?
5 A Yes.
6 Q Did you perform an analysis on that sample?
7 A I did.
8 Q Were you able to make a finding as to a blood alcohol
9 concentration?
10 A Yes.
11 Q And what was that finding?
12 A I also don't have a copy of the report in front of me
13 sorry.
14 Q Same report?
15 A Yes.
16 Q And before you get there, you heard the testimony
17 from Ms. Matthew that after she received the evidence,
18 after given the evidence at SLED, you would have been the
19 next person to handle it; is that right?
20 A That's correct.
21 Q When you received the evidence yourself, were the
22 seals on the intertube on the inner vials of blood and
23 urine sample were they still intact?
24 A They were.
25 Q Were you actually the person yourself to break the

1 seals?
2 A Yes.
3 Q Okay. And you broke the seal, took a sample and
4 analyzed it with the equipment at SLED and were able to
5 get finding as to Ms. Brown's blood alcohol concentration?
6 A That's correct?
7 Q And what was that finding?
8 A We reported out a .210 blood alcohol concentration.
9 Q .210 and I'm going to ask you the same question I
10 asked Ms. Matthew and maybe get the same response, but the
11 correlation between alcohol content and a person's blood
12 ethanol concentration?
13 A There is.
14 Q In intoxication?
15 A Correct.
16 Q Okay. For your training and experience, what would
17 be the condition of a person who's blood alcohol
18 concentration was a .210?
19 MR. BARR: Judge, I'm going to object. Why are
20 we with consent that she is qualified as a toxicologist,
21 what she is now doing would be to give a specific opinion
22 regarding the effects of alcohol on a particular
23 individual whom she has never examined. It would be our
24 position that she is not necessarily -- she's -- first of
25 all, there's no foundation. And secondly that she would

1 not necessarily be competent to express an opinion
2 regarding the effects of alcohol on this particular
3 individual and not know anything else about the individual
4 or having not have physically examined her in any way.
5 THE COURT: Okay. Solicitor, you need to lay a
6 proper foundation.
7 MR. DURANT: Your Honor, I would submit there's
8 a case directly on point State vs. Martin?
9 THE COURT: I understand, but that doesn't be
10 able to tell particular speak in general about it.
11 MR. DURANT: I believe so, Judge. Yes, sir,
12 State vs. Martin.
13 THE COURT: Give me the cite number?
14 MR. DURANT: 391 S.C. 508.
15 THE COURT: Okay. You all come up here a
16 minute.
17 (WHEREUPON, a bench conference was held in the
18 presence of the jury, but out of the hearing of the
19 jury.)
20 THE COURT: I find that she is qualify to
21 testify of the effects of alcohol on people in general.
22 BY MR. DURANT:
23 Q Ms. Matthew (sic), in general based on your training
24 and experience, can you give an opinion as to what the
25 condition of the person might be whose blood alcohol

1 showed a concentration of .21 percent?
2 A I'm going to give you the same answer as Ms. Matthew
3 and tell you that Timothy Grambow is the toxicologist on
4 this report, so he would be the person to interpret these
5 findings or interpret the findings of this report.
6 Q So it's his report. You tested it. You came up with
7 the same thing that Ms. Matthew did. Your findings the
8 same as hers. Mr. Grambow the senior toxicologist at
9 SLED?
10 A Yes.
11 MR. DURANT: Thank you. No further questions.
12 THE COURT: Any questions?
13 MR. BARR: No, sir.
14 THE COURT: You may step down. Thank you.
15 (WHEREUPON, the witness leaves the witness
16 stand.)
17 MR. DURANT: The State calls Tim Grambow.
18 THE CLERK: Raise your right hand, place your
19 left hand on the bible and repeat your name please.
20 THE WITNESS: Timothy Wayne Brambow.
21 THE CLERK: You solemnly swear that the
22 testimony you're about to give will the truth and nothing
23 but the truth so help you God?
24 THE WITNESS: I do so.
25 WHEREUPON,

1 Timothy Grambow,
2 after first having been duly sworn, testified as follows:
3 DIRECT EXAMINATION
4 BY MR. MCMILLAN:
5 Q Good afternoon, Mr. Grambow. If you would please
6 tell the jury what you do for a living?
7 A I'm a forensic toxicologist at SLED.
8 Q And I believe we just heard you're a senior
9 toxicologist?
10 A I am a senior toxicologist at SLED. I been in that
11 department for over 16 years.
12 Q Okay. How long in that capacity for 16 years?
13 A 16 years, yes.
14 Q Okay. Can you give the jury a background of your
15 education?
16 A Certainly, I have a bachelor of science degree in
17 chemistry from Wake Forest University in North Carolina.
18 After that, I began working at SLED in 2002. And
19 underwent there intense in-house training program on
20 analysis and interpretation of alcohol, that lasted
21 roughly a year. I got certified through SLED. And that
22 after that I went on to analysis and interpretation of
23 other drugs, that lasted approximately another year and
24 became certified through SLED. In that capacity as such,
25 I also attended outside trainings. I attended Borkenstein

1 school on alcohol and traffic safety at Indiana
2 University. I attended similar course in Philadelphia on
3 drugs and driving. I'm a full member of the society of
4 forensic toxicologist, which is the premier of forensic
5 toxicology professional association in the United States.
6 I have held positions within that organizations as well as
7 attending national conferences. The last one I attended
8 was in January of this year in Florida. I attended
9 workshops, presented in their workshops. I have presented
10 articles and post-presentations at the various meetings.
11 I have since become nationally board certified in forensic
12 toxicologists which requires a working in the field for
13 three years as a forensic toxicologist taking a board
14 certification exam. And then maintaining continuing
15 education yearly in order to maintain that certification.
16 Q After hearing all that state the obvious question,
17 but have you performed test on blood samples to determine
18 alcohol concentration?
19 A Yes.
20 Q About how many times?
21 A Thousands.
22 Q Okay. Of all those that training you listed, was any
23 of that training specific to the effects that drugs and
24 alcohol have on a person?
25 A Yes, both in-house certification through SLED and

1 then the external training whether they be workshops
2 around the country or a specific school such as the
3 Borkenstein school or the -- the one in Indiana or the one
4 in Philadelphia.
5 Q Have you ever been qualified as an expert in forensic
6 toxicology?
7 A I have. I have testified as an expert in forensic
8 toxicology roughly 50 times or so in general sessions
9 court, magistrate court, municipal court. I even
10 testified in a federal court martial case over in
11 Beaufort.
12 MR. MCMILLAN: Your Honor, at this time we would
13 offer Mr. Brambow as an expert in forensic toxicology.
14 MR. BARR: Judge, we don't challenge his
15 qualification.
16 THE COURT: The Court so finds he's an expert in
17 forensic toxicology.
18 BY MR. MCMILLAN:
19 Q Mr. Brambow, we heard from two analyst prior. Can
20 you tell jury what your role was in the analysis of this
21 blood?
22 A Certainly. Well, as cases come in to our laboratory,
23 we test everything blindly. We don't know. Everything is
24 assigned a lab number. We follow certain testing
25 procedures for cases. And in this instance as a DUI case

1 that came it was a blood case, it got alcohol testing.
2 And then there was also a -- in the history of the case,
3 there was a history of Xanax, which is a prescription
4 drug. So the alcohol analysis got performed and then
5 drugs screening and confirmation was required in which
6 case at that the point in the testing, it gets -- the case
7 gets assigned to a senior toxicologist to look at the
8 results of the alcohol testing and to complete the drug
9 testing portion. Issue one comprehensive report and then
10 testify in court as an expert as to the testing and the
11 interpretation of those results.
12 Q So the history of drug use came back for Xanax and so
13 you after the blood was tested for alcohol, you tested it
14 alcohol for drugs?
15 A Yes, there was a drug screen performed and then I
16 allocated a sample for the confirmation for that testing,
17 yes.
18 Q You said you also reviewed the alcohol testing as
19 well?
20 A Absolutely. Actually, it's part of our checklist of
21 things to do when writing a report is we document, you
22 know, make sure we look through every piece of raw data
23 from that particular case, but then we also have to sign a
24 piece of paper says that we reviewed all the quality
25 control for that particular type of testing. And within

1 that, you know, at any point if something seems off or
2 something just didn't fit right, at any point I can send
3 that sample and retest it myself or send it back to one of
4 the original testers and have them retest it. In this
5 case, everything seem, you know, run of the mill on the up
6 and up. And so I just continued with my testing and then
7 wrote up the entire case.
8 Q Okay. So what were your findings after the review of
9 the level that was found of the two analysis?
10 A A copy of the report -- bear with me. So I reported
11 out the ethanol level of a 0.210. And then a negative
12 screen for various classes of drugs. And then a positive
13 result for Alprazolam, which is the generic name for Xanax
14 at a level of 0.01 milligrams per litter.
15 Q Okay. Now, I'm going to ask the question that's been
16 asked prior to analyst. Is there a recognize correlation
17 between alcohol content of the blood and intoxication?
18 A Alcohol is one of the -- if not the longest studied
19 drug and as such, countless studies have been done on the
20 association of various alcohol levels with impairing
21 effects that would affect your driving ability. So, yes,
22 there is lots of comprehensive data associating with
23 traffic safety.
24 Q In your training and experience, what would a
25 condition of a person in general where their blood

1 concentration level was at .21?
2 MR. BARR: Judge, I'm objecting again the same
3 objection. In addition to the previous objection, we be
4 objecting on the ground of relevance. And I think we've
5 gotten outside of the statute as it relates to blood level
6 analysis. We're now talking about talk Xanax, which is a
7 prescription drug, but nonetheless and in addition we
8 would include a Rule 403 objection.
9 THE COURT: Okay. And I will note your
10 objection. I've overrule your objection. My
11 understanding the question he asking about Xanax even
12 though he reported Xanax. It was about alcohol.
13 MR. MCMILLAN: Correct, Your Honor.
14 THE COURT: I'll overrule your objection.
15 BY MR. MCMILLAN:
16 Q I will ask the question again. What was the
17 condition of a person in general be where their blood
18 alcohol concentration level was at .21?
19 A Yes, so again with alcohol being one of the longest
20 study drugs, we realize that alcohol actually generally
21 affects everybody the same way. So somebody at this level
22 regardless of sex, size, shape, color what have you at
23 this level 0.210 be too impaired to drive.
24 Q And ---
25 MR. BARR: Judge, I object and move to strike.

1 THE COURT: Okay. I'm going to overrule your
2 objection.
3 MR. MCMILLAN: Beg the Court's indulgence.
4 BY MR. MCMILLAN:
5 Q Mr. Grambow, in your training and experience with
6 someone at this level .21, you stated that they would be
7 too impaired to drive. What affects would a person at
8 that level be experiencing?
9 A Sure. And the affects of alcohol are -- obviously
10 they're going to start well before this level that we
11 obtain. So when you start drinking alcohol, it is a
12 foreign substance. And it is technically a drug. So as
13 you ingest it, your body absorbs it and distributes it
14 through your blood. It circulates and gets to your brain.
15 It's going to start having an affect on you even a very
16 small levels. You know, some of those lower levels the
17 effects are not what we would consider impairing as far as
18 drive safety is concern, but things are going to be -- you
19 would even see at a lower level would be. You know, you
20 may get away from some of your earlier fears. So like if
21 you want to take just have a drink take the edge off or
22 you're a little nervous about something, take it you maybe
23 a little bit more talkative, just these little social
24 things. And would we consider that impairing, typically
25 not. But as your level increases and you get up to a .05,

1 approaching a .08 and higher things that are going to
2 be -- you're going to start having effects. You're going
3 to start being more impaired to your driving. And the
4 reason this is is because as a drug alcohol is a C and S
5 depressant. C and S being defined as a central nervous
6 system, so that's your brain and your spinal cord. And
7 the reason this is important because alcohol is going to
8 effect the higher, most highly functioning parts of your
9 brain. And that's going to effect decision making and
10 processing information. So even at those levels, you
11 know, starting at around '05, working its way to an 08 and
12 going higher, the things that are going to be effected is
13 your ability process information, make good critical
14 decision, and react appropriately in a timely fashion.
15 And that again starts at a level much lower than level
16 what was reported here. And the reason that's important
17 if you think about driving a vehicle, there are thousands
18 of decisions that you have to make constantly while
19 driving in order to perform that safely. A lot of these
20 things we take for granted because most of us been driving
21 since 15, 16, 17 years old, but if you think about even
22 just backing out of your driveway in the morning safely,
23 think about all the decision processing that you have to
24 do. You can see where that ability to process information
25 and react quickly is going to be affected. So when you

1 get in your car, you buckle up, start the engine, right.
2 And you going to start looking around and you're
3 processing sounds of their. You hear somebody walking
4 down the street, kids playing, cars honking the horn and
5 whatnot. You're looking in your mirrors. You're looking
6 around. Your mind processing visual cues, audio cues.
7 And then you go and put your foot on the break. You put
8 the car in gear. You hit the gas. Of course, you don't
9 stomp on the gas because then you'll just go shooting out
10 your driveway. You got to have -- push the peddle far
11 enough down that you actually move. So now you're
12 processing central information on how the pressure is on
13 that. All of that is going on simultaneously. Your brain
14 is like a super computer. And it's got to be making these
15 decisions quickly. When you start drinking alcohol and
16 it's depressing your ability to process that information,
17 you're going to miss out on some of the cues or you're
18 going to process it much slower so you may actually react
19 without having making a good decision or conversely you
20 are going to take a really long time to make a decision in
21 which case your reaction whether it be to -- when somebody
22 runs out in front of you and push the break in a timely
23 fashion in order to be able to stop in time, that maybe
24 delayed. So that's really one of the biggest issues
25 that's going to occur as far as the impairment drive

1 safely. Now, again as your levels increase even higher,
2 you are going to start manifesting that more obvious
3 manners which would occur swerving and your ability to
4 hold your lane traffic and start swerving from left to
5 right. And that's what a lot of people associate with
6 impaired driving as being all over the road. But as I
7 just demonstrated, it starts well before that. But as you
8 approach a level of .21, that impairment, you know, starts
9 increasing by vast amounts. And again you're going to
10 have all of that processing information and reaction time
11 delay. And that's just going to that keep increasing,
12 increasing with the alcohol level. So absolutely your
13 ability to drive safely is going to be impaired.
14 MR. MCMILLAN: Thank you. I have no further
15 questions.
16 THE COURT: Mr. Barr.
17 CROSS-EXAMINATION
18 BY MR. BARR:
19 Q You just -- you testifying generally concerning the
20 effects of alcohol on people in general. And, of course,
21 you made some statements that concerns us a little bit
22 because I think you indicated that with respect to the
23 effect of alcohol at a level of 0.21 or .021 -- .210 that
24 a person with alcohol content at that level would in your
25 opinion be too impaired to drive. Did I quote you

1 correctly?
2 A That is my opinion, yes.
3 Q Now, you also went on to say that particular level of
4 concentration in a person's bloodstream would make no
5 difference whether or not you man or a woman?
6 A As far as an impairment goes that is correct, sir.
7 Q Okay. And you also indicated that big or small?
8 A That is correct.
9 Q Now, are you saying that alcohol at that particular
10 level would affect a person that's been drinking alcohol
11 for 20 years, would affect a person that's not been
12 drinking at all the affect would be the same?
13 A Indeed they would.
14 Q Even though they drinking for 20 years?
15 A Yes, now there are some common misperceptions about
16 alcohol.
17 Q I know that, yes, sir.
18 A And so to your point as far as the size goes, so what
19 we're measuring is blood alcohol concentration. So that's
20 the amount of alcohol per a certain amount volume of
21 within a person. So the concentration is going to affect
22 somebody the same. Now, the amount of alcohol it takes to
23 get to that concentration may differ between males and
24 females or may differ from somebody who's large or small.
25 But getting to that -- once you obtain that concentration

1 that affects are going to be the same. Now, as far as
2 someone who is a novice drinker or someone who is a
3 regular experienced drinker while just looking at them in
4 simple social setting, it may be hard to tell the
5 difference when they have the same alcohol concentration.
6 What happens is where it's an issue with driving, it's
7 simple task versus multitasking and complicated tasking.
8 So simple tasks whether you're sitting at a table at a
9 restaurant or standing at a bar or having the casual
10 conversation with someone, an experience drinker can mask
11 some of the simple visualizations. So you may learn in
12 your experience as a drinker to speak a little bit slower,
13 so you don't slur your speech, stand with a little bit
14 wider base so you don't rock as much or even if you're
15 walking down the way, you may learn to kind of space
16 yourself whether with your finger or just kind of looking
17 down a line, so you're not weaving as you're talking. In
18 a novice drinker, non-experience may not have those life
19 experiences. And so they may start showing those physical
20 signs because they haven't learn to mask those social
21 setting. Now, with driving in a complicated
22 multi-processing of information, your brain cannot
23 disconcern that. You cannot physically because of your
24 experience override the highest parts of your brain in
25 order to be able to process information in -- with

1 reaction.
2 Q It seems that you contradicting yourself because on
3 the one hand, it seems that you're saying that the alcohol
4 concentration in a person's blood in some cases can be --
5 can be regulated and result in certain type conduct. And
6 if you are an experience. And in some other cases, it
7 cannot be. Now, it has to be a difference I mean in
8 appearance and conduct if it's regulated in such a way
9 that it's not necessarily as noticeable. Would you not
10 agree that it could be different?
11 A That's the difference between complex multitask
12 functioning and simple task. So that's why I said whether
13 you're sitting down and having a drink or holding a simple
14 conversation versus doing all the processing, staying
15 within your lanes, watching all of your surroundings,
16 listening, maintaining concentration. It's been shown in
17 clinical studies in driving simulations studies and actual
18 roadside test, that the complexity of driving a vehicle is
19 where you cannot overcome such things by the simple
20 masking is what they call learn tolerance.
21 Q Now, I may go out and drink a fifth of liquor six
22 o'clock in the evening and hadn't ate anything all day or
23 I may go and eat a stomach full and drink the same amount
24 of liquor two hours before six o'clock. Now, you're not
25 suggesting that with respect to the affects level of

1 concentration, you're are not suggesting that both of
2 those situations would yield the same results, are you?
3 A The amount of food in your stomach is going to relate
4 to how long it takes your body to observe the alcohol.
5 Q Yes, sir.
6 A But that has nothing to do with the conversation of
7 impairment at a certain blood concentration level. Those
8 are two different topics.
9 Q When you take alcohol and it gets to a certain level
10 of concentration in your blood system, doesn't it make a
11 difference the time that you take it. If you took the
12 blood sample two minutes after I took the fifth of liquor
13 or you wait two hours, you're not saying that both of
14 those will be the same thing, are you? They couldn't be.
15 A Correct. It takes your body time to absorb that
16 alcohol to reach that level.
17 Q In this case, you don't know -- and Ms. Brown hadn't
18 took some drinks and alcoholic drinks. You don't know
19 when she drank it, do you?
20 A No, because if she drank it earlier in the day, it
21 could have been that her blood alcohol level was much
22 higher than this. I don't know for certain. All I know
23 is that at the time of the test that this was what her
24 level and that was an impairing level.
25 Q Okay. Now, you say that you're speaking generally.

1 Now, you would concede that alcohol irrespective of what
2 level of concentration might be, effects different people
3 different ways?
4 A That is not what I'm saying at all.
5 Q You're saying that it effects everybody the same way?
6 A It does effect everybody -- it is a central nervous
7 system depressant and it effects everybody's brains in the
8 same way. It's a chemical process and it effects the
9 brain the same way, yes. Now, as I alluded to earlier,
10 differences in people may cause differences in how much
11 alcohol it takes you to get to a particular concentration
12 or the rate in which your body can metabolize and get rid
13 of that alcohol. Those are a lot of differences and
14 there's a lot of variables in that. As far as
15 concentration goes, alcohol affects everybody the same
16 which is why legally there are -- there is a per se limit
17 that at a certain concentration people are deem to be
18 impaired.
19 Q I'm trying to figure out why some of my friends who
20 are stone alcoholics act differently from some of the
21 other social drinkers that I know, that drink the same
22 amount of liquor, but they seem not to be falling apart
23 and can't go without getting a drink of whiskey or
24 according to your testimony, I mean, it would seem that if
25 they consume the same amount alcohol or had the same blood

1 alcohol concentration, they would all manifest the same
2 kind of conduct?
3 A As far as driving a vehicle, yes.
4 Q Don't seem to be the case?
5 A Well, as far as driving a vehicle, if I have no
6 issues with anybody with that alcohol level hanging at a
7 social gathering at a barbecue and having a good time, but
8 as soon as they get into a vehicle to drive, that's going
9 to be too impaired to drive and be safe or to safely
10 drive. And I personally certainly would not want any of
11 my friends to be driving at that level.
12 Q Well, you never can tell. You never can tell.
13 MR. BARR: Thank you, sir. I have no further
14 questions.
15 MR. MCMILLAN: No redirect, Your Honor.
16 THE COURT: Thank you, sir. You can step down.
17 (WHEREUPON, the witness leaves the witness
18 stand.)
19 MR. DURANT: The State calls Debbi Gutierrez.
20 THE CLERK: Place your left hand on the Bible,
21 and repeat your name please.
22 THE WITNESS: Debbie Gutierrez.
23 THE CLERK: You solemnly swear the testimony
24 you're about to give will be the truth and nothing but the
25 truth so help you God?

1 THE WITNESS: I do.
2 WHEREUPON,
3 Debbie Gutierrez,
4 after first having been duly sworn, testified as follows:
5 DIRECT EXAMINATION
6 BY MR. DURANT:
7 Q Ms. Gutierrez, good afternoon.
8 A Good afternoon.
9 Q If you would tell the jury where you live?
10 A [redacted] Boyd Road, Manning, South Carolina.
11 Q Is that Boyd Road that's off Highway 261 here in
12 Clarendon County?
13 A It is.
14 Q How long you live there?
15 A For about 20 years.
16 Q About 20 years. Do you know an individual that was
17 injured in this car accident by the name of Arturo
18 Murrieta-Blas?
19 A Yes, I do fiance.
20 Q How do you know him?
21 A He was my fiance.
22 Q He was your fiance. Was he your fiance back in
23 August of 2014?
24 A Yes, he was.
25 Q Okay. Was he living -- were you living on Boyd Road

1 back then?
2 A Yes, I did.
3 Q Okay. Was he living there with you?
4 A No, he had his own place.
5 Q And where was that?
6 A With his friend.
7 Q With his friend you said?
8 A Yeah, with his friend.
9 Q And where was that?
10 A At a trailer park over on -- I went blank.
11 Q Winters Hill?
12 A Winters Hill.
13 Q Winters Hill Road that's also off 261?
14 A Yes.
15 Q And Winters Hill if you leave Boyd Road and going
16 towards Winters Hill, that's further toward Manning?
17 A Yes, it is.
18 Q Okay. And Home Branch Road in relation to Boyd Road
19 would be the Paxville side ---
20 A Yes.
21 Q --- is that right? So you are Mr. Arturo's fiancé
22 back on August of 2014?
23 A Yes.
24 Q Were you with him on the evening of August the 30th
25 of 2014?

1 A No, sir.
2 Q Okay. Do you know where he was?
3 A Yes, sir, he was at a party with his friends.
4 Q And where was ---
5 A They were having a cookout actually.
6 Q Where was that cook out?
7 A Just right down the road on Bradum Road -- I mean,
8 not Bradum Road, but Home Branch Road over in that way.
9 It's close to my house.
10 Q They were at a party on Home Branch Road the evening
11 of August 30th 2014?
12 A Yes, it's actually was a cookout.
13 Q Were you invited to go to the cookout?
14 A Yes, I was.
15 Q You were invited to go to the cookout?
16 A Yes. I choose not to go.
17 Q And you choose not to go?
18 A Yes.
19 Q That's how you knew he was there?
20 A Yes.
21 Q Did you have any plans, had you made any plans with
22 Arturo to meet up with him later that evening?
23 A Yes, I did. He was coming over after they finished
24 cooking out.
25 Q So he was coming over to your house on Boyd Road?

1 A Yes.
2 Q After he finished the cookout?
3 A Yes.
4 Q Did he ever make it to your house that evening?
5 A No.
6 Q At some point were you notified that he been in an
7 accident?
8 A Yes, later that night I was notified that he had been
9 in an accident and that he was on his way to the hospital.
10 And from there is when I got to the hospital and seen him
11 and his face flapped open.
12 Q Did you actually go to the accident scene and speak
13 with law enforcement?
14 A Yes, I did.
15 Q Then you went to the hospital?
16 A Yes.
17 Q Which hospital did he got to?
18 A Florence. He went to Manning, but they had to send
19 him to Florence.
20 Q So you went straight to Florence?
21 A Florence.
22 Q Do you remember about how long Arturo was in the
23 hospital?
24 A Two months. A little over two months.
25 Q A little over two months?

1 A Yes.
2 Q Did you visit him regularly when he was in the
3 hospital?
4 A I lived there.
5 Q You lived there?
6 A Yes.
7 Q When he was released from the hospital October of
8 2014, where did he go?
9 A To my house.
10 Q To your house on Boyd Road?
11 A Yes.
12 Q Tell the jury a little bit about his condition when
13 he was released from the hospital?
14 A When he came home from the hospital, he was like a
15 child that was learning that he had a diaper on and he
16 pull at it. He couldn't really talk. He had to learn to
17 walk over again. He had to learn to eat again. It was
18 like a newborn baby having to learn everything over again.
19 Q Did he live with you -- he still live with you on
20 Boyd Road?
21 A No.
22 Q How long did he live there with you after the
23 accident?
24 A He live there with me for about a week and his family
25 come and took him.

1 Q They came and took him?
2 A Yeah, came and took him to live with them because of
3 ---
4 Q Lives with family after that?
5 A Yes.
6 Q After the accident, was he able -- you mention that
7 he wouldn't talk very well. So he had some cognitive
8 impairment?
9 A Yes.
10 Q Okay. Was he able to have adult conversations?
11 A No.
12 Q Could you sit down and talk with him about this
13 accident and what happened?
14 A No.
15 Q To your knowledge has he ever regained that ability?
16 A No. When I was bringing him home that night, I had
17 to actually literally stop beside the road and call my
18 friends because he flipped out and was about to tear the
19 back of the car up because he was trying to get out
20 screaming and stuff. It took me awhile to get him home.
21 I had to get help with that.
22 Q Again to your knowledge, has he ever regained that
23 ability to ---
24 A No.
25 Q As I said have adult conversations?

1 A No.
2 Q He still essentially in the same state as he was when
3 he was released from the hospital?
4 A Yes.
5 MR. DURANT: Ms. Gutierrez, thank you for
6 answering my questions. Please answer Mr. Barr has.
7 CROSS-EXAMINATION
8 BY MR. BARR:
9 Q Ms. Gutierrez, we never met. I've seen your name
10 quite a few times. Of course, let me extend to you even
11 though it's been sometime my sincere condolences for what
12 happened to your boyfriend.
13 A Thank you.
14 Q Now, you said that you and your boyfriend were not
15 living together at the same residence?
16 A No.
17 Q Okay. But you stay on Boyd Road?
18 A Yes.
19 Q Okay. Now, when you go up Boyd Road, it's kind of a
20 pretty rough dirt road. Do you go to your left to go your
21 house or do you go to your right?
22 A You talking about after you turn on the dirt road?
23 Q Yes, ma'am.
24 A I'm on the right.
25 Q You are on the right.

1 A Third house down.
2 Q You have a garden at your house?
3 A No, sir, there's a house in the corner.
4 Q Fenced in garden?
5 A No. You go up the road just a little piece around
6 the curve. There's a house right there with fences around
7 it. There's another house right there with trees around
8 the yard.
9 Q I know where you are talking about. And you live
10 there alone?
11 A Yes, sir.
12 Q Okay. Now, the night of the accident you said that
13 there was a party on Home Branch Road?
14 A Cookout.
15 Q Cookout. And did you go to the cookout?
16 A No, sir, I chose not to. I wasn't feeling good.
17 Q So you -- do you know whether or not -- I mean of
18 your own knowledge, do you know whether your boyfriend
19 went to the cookout?
20 A Yeah, he was there. He call me from there. And I
21 know the people that was there that had the party.
22 Q Well, I mean, you said he called you?
23 A I would hear the rest of them in the background.
24 Q And you could hear noises in the background?
25 A Yes, sir.

1 Q And what time was this?
2 A Probably six and seven.
3 Q Six or seven o'clock in the evening?
4 A Yes, sir.
5 Q Okay. So after he called you, you spoke to him. Did
6 you have occasion to talk with him again that evening?
7 A Excuse me.
8 Q Did you have occasion to talk with him again that
9 afternoon?
10 A No, sir.
11 Q Okay. So the last time you saw him was before the
12 accident was six or seven o'clock that afternoon?
13 A That's the last time I talk to him was between six
14 and seven. I never said I saw him. I talk to him.
15 Q Okay. All right. And when he left your -- he was at
16 your house at some point, right?
17 A No, he didn't make it there.
18 Q He was not at your house at all earlier that day?
19 A He didn't make it there.
20 Q Do you know how she was traveling?
21 A In a vehicle.
22 Q Was he driving?
23 A No, he wasn't.
24 Q Who was he riding with?
25 A A friend.

1 Q Who? Do you know?
2 A The other guy that was with him his friend Meemo
3 (sic).
4 Q Were they drinking?
5 A I don't know, I wasn't there. That be the same as me
6 telling you I saw you drinking.
7 Q That wouldn't be hard to do.
8 A That's why I say I can't tell you he was or he
9 wasn't.
10 Q Okay. You -- the people on the -- friend's on Home
11 Branch Road where they had this cookout, do you know any
12 of their names?
13 A Yeah.
14 Q Whose house was the cookout at?
15 A Benjamin and Bethal.
16 Q Who's that now?
17 A Benjamin and Bethal.
18 Q Benjamin and Bethal?
19 A Yeah.
20 Q And what are their last names?
21 A I don't know everybody's last name, sir, honestly. I
22 know your last name that's fine. Don't mean I have to
23 know your last name.
24 Q So then you spoke with your boyfriend around seven
25 o'clock and he was at the cookout. And he didn't tell you

1 how long he was going to be there or did he?
2 A No, sir, I didn't ask. I don't have any doubts. I
3 have trust issues. I trust everybody. So if you tell me
4 something, I'm gone trust you.
5 Q I see.
6 A I don't stand there and question you over and over
7 again.
8 Q So were trusting him to?
9 A Yeah.
10 Q Did he tell you how long he was going to be at the
11 cookout?
12 A No, sir, didn't ask.
13 Q Didn't ask?
14 A No, sir.
15 MR. BARR: I have nothing further.
16 MR. DURANT: No redirect.
17 THE COURT: Thank you, ma'am. You can step
18 down.
19 (WHEREUPON, the witness leaves the witness
20 stand.)
21 MR. DURANT: Take a brief recess, Your Honor.
22 THE COURT: Ladies and gentlemen, we're going
23 take a short recess. Don't discuss the case. I'll get
24 you back out here in a few minutes.
25 (WHEREUPON, the jury retire to the jury room.)

1 THE COURT: Before we break, I want to put
2 something on the record concerning Mr. Barr's objection of
3 the video. The South Carolina case State vs. Long a
4 Supreme Court case 363 South Carolina 360. The holding in
5 that case that the two paragraphs essentially after which
6 is made under 56-5-2950 perform an officer may order blood
7 test for felony DUI under 56-5-2946. The officer may need
8 no longer offer a breathe test as the first option. Nor
9 must he obtain a medial opinion that such test is not
10 excused before ordering a blood sample, a test sample. So
11 that case basically says that the officer does not have to
12 in a felony DUI case. The statute says notwithstanding
13 any other provision, a person must submit to a chemical
14 test to determine alcohol concentration when sustaining a
15 felony DUI. And this case holds that an officer does not
16 have to offer a breathe test when transporting a person to
17 a breathe test and does not have to question medical
18 personnel as to feasibility to taking a breathe test. I
19 think that's a 2005 case. My understanding that's the
20 current law in the state. So I want to put that on the
21 record as part of your objection. We'll take a ten minute
22 break. And I'm sorry I was hoarse. If you can't
23 understand it, I'll let you read it.
24 (WHEREUPON, a break was taken.)
25

1 (WHEREUPON, the jury came into open court.)
2 THE COURT: I'm sorry ladies and gentlemen, you
3 probably can't hear what I'm tell you. The next witness
4 we have in this case based on what the attorney's tell me
5 is gone extremely long, which means that I won't get you
6 all home and I promised you. So I'm gone quite right now.
7 Once we start, we usually finish that witness and it will
8 get you home later than 5:30. So I'm going to let you go
9 home, be back at 9:30. And we'll take that witness in the
10 morning. You will be able to get home and be with your
11 home. Don't discuss this case yet. And don't allow
12 anyone to discuss it with you, don't do any research. See
13 you at 9:30 in the morning. Thank you.
14 (WHEREUPON, the jury is excused for the day.)
15 THE COURT: Ms. Brown.
16 THE DEFENDANT: Yes, sir.
17 THE COURT: Would you stand up and raise your
18 right hand please, ma'am. Do you solemnly swear that the
19 testimony you going to give me is the truth, the whole
20 truth, and nothing but the truth so help you God?
21 THE DEFENDANT: Yes, sir.
22 THE COURT: Thank you, put your hand down. I'm
23 informed by the State's counsel that they have one more
24 witness. After that witness testifies, it will be your
25 turn as to whether you want to put up any evidence or not.

1 You have a right to testify, but you also have a right not
2 to testify. You have a constitutional right to remain
3 silent. And if you chose not the testify, I will instruct
4 the jury cannot consider that in any way against you.
5 They can't even discuss that in the jury room, but this
6 right is your right. You can ask your attorney for advice
7 as to whether you should or not should not testify. But
8 it's not his decision, it's yours. If you choose to
9 testify, you'll be treated like any other witness and you
10 may be impeached. I don't know whether you got a prior
11 criminal record. If you do, whether it qualifies, you can
12 be impeached and your attorney can tell you that. But I
13 just wanted to let you know your rights. You don't have
14 to tell me now, but give you an opportunity overnight to
15 think about it, discuss with your attorney and decide what
16 do you want to testify or put up any evidence in this
17 case. You understand that?
18 THE DEFENDANT: Yes, sir.
19 THE COURT: You have any questions you want to
20 ask me concerning these rights?
21 THE DEFENDANT: No, sir.
22 THE COURT: Thank you, ma'am. Anything else we
23 need to do today?
24 MR. DURANT: Thank you, Judge. No, sir, Your
25 Honor.

1 MR. BARR: No, sir.
2 THE COURT: I'll see you all 9:30 in the
3 morning.
4 (WHEREUPON, the proceedings were concluded for
5 the day to be reconvened on May 17, 2018.)
6 (WHEREUPON, State's Exhibits Nos. 58 and 59 and
7 60-64 were marked for identification only.)
8 THE COURT: We ready?
9 MR. DURANT: Yes, sir, Your Honor.
10 THE COURT: You ready, Mr. Barr.
11 MR. BARR: Yes, sir.
12 THE COURT: Bring me the jury.
13 MR. BARR: Your Honor, may we approach before
14 the jury comes in?
15 THE COURT: Yes. Hold on a minute.
16 (WHEREUPON, a bench conference was held.)
17 (WHEREUPON, the jury came into open court.)
18 THE COURT: All right, Mr. Solicitor.
19 MR. DURANT: Please the Court.
20 THE COURT: Yes, sir.
21 MR. DURANT: The State call Lance Corporal Bryan
22 Ridgeway.
23 THE CLERK: Place your left hand on the Bible
24 and repeat your name please.
25 THE WITNESS: Bryan Ridgeway.

1 THE CLERK: You solemnly swear the testimony
2 you're about to give will the truth and nothing but the
3 truth so help you God?
4 THE WITNESS: I do.
5 WHEREUPON,
6 Bryan Ridgeway,
7 after first having been duly sworn, testified as follows:
8 DIRECT EXAMINATION
9 BY MR. DURANT:
10 Q Lance Corporal, good morning.
11 A Good morning.
12 Q If you would please tell the jury where you work?
13 A I work for the South Carolina Highway Patrol MAIT
14 team.
15 Q How long have you work for highway patrol?
16 A Since January of 1999.
17 Q So 18, 19 years now?
18 A Yes, sir.
19 Q And what is your rank?
20 A Lance corporal.
21 Q And you mention you are -- you work for the MAIT
22 team?
23 A Yes, sir.
24 Q Tell the jury what MAIT is?
25 A It's the multidisciplinary accident investigation

1 team.
2 Q And how long have you been a member of MAIT?
3 A Since October of 2009.
4 Q October 2009?
5 A Yes, sir.
6 Q So nine years now or going on nine years?
7 A Yes, sir.
8 Q Is there any special training required to become a
9 member of MAIT?
10 A There's a lot of training required. When we first
11 get on MAIT, we have to go through basically three core
12 courses which are 80 hours of piece just to be on the
13 team. And then after that we go through a lot more
14 training.
15 Q What are those core courses?
16 A The core courses are at scene investigation, at scene
17 recon and technical most of them just expand upon the
18 course prior to it, but it's going through the different
19 physics involved in collisions. And the first one's an
20 introduction into some of the calculations we use and then
21 the next two courses expand upon those and add more into
22 them.
23 Q Okay. What in particular does that training
24 consistent of?
25 A That training is mostly looking at the collision

1 scenarios and then how our calculation apply to them, to
2 work through them. And again everything is physics based,
3 so how physics applies to it.
4 Q Any other training you receive besides those three
5 core courses?
6 A It's probably too numerous to list. I believe in
7 just collision reconstruction itself I'm over 1200 hours
8 in training. And then also that's not including all the
9 conferences I attend on a yearly basis which are usually
10 about week long conferences where we have multiple courses
11 during that week.
12 Q So you -- do you attend on a regular basis continuing
13 education, continue training throughout since you became a
14 member of MAIT?
15 A Yes, sir, again most of it is during the -- we have
16 some courses during the year usually advance courses
17 expanding upon knowledge that we already have, but then we
18 also do it yearly conferences.
19 Q Tell the jury again how many hours total of collision
20 reconstruction training you have?
21 A I'm not sure the exact number. I know it's over
22 1200. I believe it was 1280 the last time I looked just
23 in collision reconstruction.
24 Q 1280 hours of collision reconstruction training?
25 A Yes, sir.

1 Q Are you accredited by any national boards or
2 associations in accident reconstruction?
3 A I am. I am accredited through ATTAR, which is the
4 accreditation commission for traffic accident
5 reconstructionist.
6 Q How did that accreditation come about?
7 A One of -- you have to have at least the three core
8 courses. And then even before I could sit for the
9 testing, I had to submit a case that I already worked and
10 have them review it. That's basically to make sure that I
11 have the knowledge to sit for the test itself. Then in
12 January of 2011, I sat for a two-part exam that is broken
13 up into eight hours sections. The first one is knowledge
14 based. And the second one is they present you evidence
15 for a collision that the that -- the ATTAR board had
16 actually taken two cars crashed them into each other and
17 then recorded the evidence and I had to reconstruction
18 that collision and get the same results that the vehicles
19 were doing at the time of the collision.
20 Q So they give you a hypothetical accident or a real
21 accident?
22 A Yes, sir.
23 Q But they knew the inputs, the knew the speeds and
24 variables associated with the accident; is that right?
25 A Yes, sir, they know the speed because they're --

1 usually the cars are being driven by somebody into another
2 car or they hook them to cables and pull them into each
3 other. So they know exactly how fast the cars are going.
4 Q And your job was to use the tools that you have to
5 try and come up the speeds that that they knew that the
6 vehicles were traveling a distance and so forth?
7 A Yes, sir.
8 Q And did you pass that test?
9 A I did. It does have a 70 percent fail right on
10 average. And I was fortunate that I did pass my first
11 time.
12 Q And so you been accredited by that national board?
13 A It is national board. However, they are
14 international members. I do know there's some members
15 from Spain and Australia. And there's a few other
16 countries that I've met at one of our last meetings.
17 Q And you been a member since 2011?
18 A Yes, sir.
19 Q Okay. Does your training with SLED -- I'm sorry your
20 training with accident reconstruction involved the
21 preparation of what -- of computer assisted drawing with
22 what's commonly referred to as CADS?
23 A Yes, sir. they do.
24 Q Now, do you have additional training in animation?
25 A I do. Matter of fact, I was teaching animation

1 course at one point.
2 Q Tell the jury what animation is?
3 A Animation is a 3D moving rendering of the collision
4 itself. We get all the information from forensically
5 mapping the scene. And then we can put the vehicles back
6 on the evidence. It's a scale image. We have scaled
7 vehicles. We have the evidence that's forensically
8 mapped, so it's also scaled. And then it's kind of like,
9 I guess, the best way to put it it's a moving image of the
10 collision.
11 Q Okay. And it is based on mapping done at the scene
12 and this computer assisted drawing?
13 A Yes, sir.
14 Q Okay. Tell the jury a little bit more about the
15 mapping that's done at the scene and how that works?
16 A Mapping is we use equipment basically so everybody
17 seen it when they surveying on the side of the roadway.
18 We use the same equipment. It sends out a -- keep it
19 brief essentially a laser. It's a infrared beam. That
20 it's either a prism or a cone that we have a reflective
21 sticker on it. It measures the waive length of that beam
22 coming back to the equipment and that determines how far
23 away an object is from the total station.
24 Q It's surveying equipment?
25 A It's exact same equipment as surveying.

1 Q You been trained to use that equipment?
2 A Yes, sir, I have.
3 Q And, I guess, this probably goes without saying, but
4 you've had occasion I assume with MAIT to investigate
5 accidents concerning automobiles?
6 A Yes, I get a lot of ---
7 Q How many times?
8 A From MAIT in particular or throughout my career?
9 Q Well, since you been on the MAIT team?
10 A Since I been on the MAIT team we average about 130
11 major collisions a year in my team. Sometimes I will
12 assist with other teams and I'm also a member of our
13 emergency response team. So if we have a special
14 circumstance come up, then I've got to go take care of
15 that case.
16 Q So you mention that there's several different teams
17 throughout. How many teams are there?
18 A We have four teams and then if you add our
19 substations, we got six groups of MAIT members.
20 Q Is each team assign to a particular area of the
21 State?
22 A Yes, sir, the team I'm assign to Midlands we cover 14
23 counties.
24 Q And that includes Clarendon County?
25 A Clarendon County is one of my counties, yes.

1 Q What is this emergency response team you talk about?
2 A Any time we get a major -- let's just say for
3 instance -- well, I've done airplane crashes, train
4 crashes assisted with those. But any time we get a major
5 incident -- well, like say one of the with governor's kids
6 was involved in a collision, the emergency response team
7 would go out to work that. We go out we have specialize
8 members that are dedicated to certain disciplines within
9 collision reconstruction. Mine is actually CAD and
10 animation. And we have to go and get that case
11 investigated from beginning to end before day is out.
12 Q How many members are on this emergency response team?
13 A Six.
14 Q Six. And you are one of the six members in the state
15 that's assign to that team?
16 A Yes, sir.
17 Q And your particular responsibility on that team is
18 computer assisted drawings and animation?
19 A Yes, sir.
20 Q Okay. Officer Ridgeway, have you previously been
21 qualified as an expert witness in South Carolina court?
22 A I have.
23 Q How many times?
24 A Four times.
25 Q Four times?

1 A Yes, sir.
2 Q In what field?
3 A Four times in general sessions while on MAIT. It's
4 been a couple times before that for magistrate's court as
5 well.
6 Q In what field have you been qualified as an expert?
7 A Both collision reconstruction and animation.
8 MR. DURANT: Your Honor, at this time the State
9 would offer Lance Corporal Ridgeway of the South Carolina
10 Highway Patrol MAIT team as an expert witness in the field
11 of accident reconstruction and animation.
12 THE COURT: What says the defense?
13 MR. BARR: I just got few questions, Judge.
14 THE COURT: Okay.
15 VOIR DIRE
16 BY MR. BARR:
17 Q With respect to the reconstruction and animation, you
18 indicated that you testified as an expert in general
19 sessions court approximately four times?
20 A Four times, yes, sir.
21 Q And have you testified in any cases as an expert in
22 general sessions court involving death?
23 A That's what my team does, yes, sir. Those are the
24 cases we handle.
25 Q Those are the cases you handle?

1 A Yes, sir.
2 MR. BARR: Your Honor, I don't challenge Officer
3 Ridgeway's qualifications as an expert in the field of
4 accident reconstruction and animation.
5 THE COURT: All right. The Court so find he's
6 an expert. Solicitor.
7 MR. DURANT: Thank you, Your Honor.
8 BY MR. DURANT:
9 Q Officer Ridgeway, did you have occasion to
10 investigate an accident that occurred on August the 30th
11 2014 on Highway 261 in Clarendon County?
12 A Yes, sir, I did.
13 Q When did you actually arrive -- did you come to the
14 scene of the accident?
15 A I did. I arrived at two a.m. that morning.
16 Q Two a.m. that morning. So that would have been --
17 the accident occurred just before midnight on the 30th.
18 This would have been on the 31st at two a.m. that you
19 arrived?
20 A Yes, sir.
21 Q Okay. Tell the jury what you observed when you
22 initially arrived on scene?
23 A The first thing I observed was the Hyundai Tiburon in
24 the roadway with skid marks leading up to that. Then I
25 noticed the Dodge Dakota off the right shoulder of the

1 roadway up against the tree.
2 Q What were your initial impressions about the accident
3 when you arrived there?
4 A Based on the damage to both vehicles that the Dodge
5 had been struck in the rear by the Hyundai.
6 Q Walk us through your investigation. You come out to
7 the scene. You make an initial inspection of the vehicles
8 and then walk the jury through -- what do you do next?
9 A Usually the first thing I do when I arrive on the
10 scene is I approach the -- either the primary
11 investigating officer which is the trooper that works the
12 road. They're usually the first ones on the scene or the
13 supervisor -- the road supervisor that is over the scene
14 and I try to get the details of what was involved in the
15 collision and any variables that I can't tell just from
16 looking at it. Also, what they maybe looking for. Again,
17 if it is a DUI type situation, if they're looking at
18 speed, drugs anything they might find in the car, that I
19 need to pay particular attention to. It is just the
20 circumstances that they have found before I've gotten
21 there. Once I do that, I usually go ahead and photograph
22 the scene before anything has a chance to be disturb. And
23 then as team members arrive like in this case, Corporal
24 LeDonald and Sergeant Farmer arrived after I did. Then we
25 designate different jobs for each one of us to do on that

1 collision.
2 Q Okay. And did you actually photograph this scene?
3 A I did.
4 Q Okay. I'm going to walk you through some photographs
5 and ask you about them.
6 MR. DURANT: First of all, I got State's Exhibit
7 1 through 45 I believe they're in without objection, Your
8 Honor.
9 THE COURT: Okay.
10 MR. DURANT: And I've also got what's been
11 marked as Defendant's Exhibit 1 through 5 and I'm going to
12 admit these into evidence myself I assume without
13 objection?
14 THE COURT: You have any objection?
15 MR. BARR: No, sir.
16 THE COURT: I'm sorry Defense 1 through 5?
17 MR. DURANT: Yes, sir.
18 THE COURT: Okay. Go ahead.
19 (WHEREUPON, State's Exhibits Nos. 1-45 were
20 admitted into evidence.)
21 (WHEREUPON, State's Exhibits Nos. 67-71 were
22 admitted into evidence.)
23 BY MR. DURANT:
24 Q Let me just walk you through these photographs,
25 Corporal Ridgeway. If you would just kind of describe to

1 the jury what you see here?
2 A That is the view -- actually that was the view that I
3 arrived on the scene as well. That's walking up towards
4 the impact area. You could see the skid marks coming in.
5 There's two parallel skid marks. And then right there
6 where the scratches are in the right almost in the center
7 of the lane would be the impact location. And then
8 there's the skid marks continue pass that. You can see
9 where the tires load right there at the impact location.
10 It kind of gets lighter, gets a little bit fatter. And
11 then the skid marks leading up to the final rest position
12 with the Hyundai Tiburon.
13 Q So this would have been -- this is coming Paxville
14 towards Manning again?
15 A Yes, sir.
16 Q And this would have been the view that you observed
17 when you arrived on the scene if you approach the accident
18 scene?
19 A Yes, sir.
20 Q Okay. And there's a road off to the right here. Do
21 you know which highway that is?
22 A I believe that's Boyd Road.
23 Q And there's another road that has been mentioned in
24 regard to the location that's Home Branch Road. Where
25 would that be in relation to that photo?

1 A Home Branch is behind this photo to the left.
2 Q So behind these markings on the highway to the left?
3 A Yes, sir.
4 Q Okay. And I want to ask you again you described some
5 tire markings on the roadway in an area here. Tell the
6 jury about those areas?
7 A Again, the tire marks indicate that the vehicle, of
8 course, rapidly decelerating. And then the area that's
9 designated as the area of impact is those gauges in the
10 roadway. Essentially, for this collision based on the
11 evidence on the front of the car, the hood of the car and
12 the rear and underneath the truck, the car under rode the
13 the truck which the weight of the truck then pushes down
14 on the front of the car. So all that metal that's
15 underneath the vehicle is what gauges into that payment at
16 least. And that's also why you see the tires kind of
17 getting fatter and a little bit lighter because those
18 tires are also getting pressed down in the pavement at
19 that same point.
20 Q I have some gauge marks ones a little bit closer.
21 This area with the orange markings around -- the orange
22 paint around it is those the gauge marks you're talking
23 about?
24 A Yes, sir, it is.
25 Q And then what are these again skid marks?

1 A Skid marks, tire marks, skid marks.
2 Q And what causes that?
3 A Basically the tires begin to lock and just slid into
4 friction that's rubbing off the -- it's a technical term
5 it's called bituminous layer of the tire asphalt, but it
6 is rubber rubbing off onto the concrete or the asphalt
7 surface?
8 Q Is this caused by locking the breaks?
9 A Yes, sir, it is.
10 Q Okay. Let me show you another photo of the -- these
11 are the gauge marks you describe?
12 A Yes, sir.
13 Q Tell the jury again what exactly what cause the gauge
14 marks in the highway?
15 A This particular set would be from the under carriage
16 of the car the Hyundai Tiburon being pushed down into the
17 asphalt. Basically your shocks compress and then the
18 front of your car gets slammed down into the asphalt.
19 And, you know, you have a lot of metal under there, so
20 it's gauging out the asphalt which leaves those marks.
21 Q What would cause the front of that Hyundai to push
22 down into the roadway and make gauge marks?
23 A When it hits the rear of this Dodge. Of course, the
24 Dodge is sitting a little bit higher than the Hyundai so
25 it under rides, it goes up underneath the back bumper. So

1 you have all that weight pressing down from the rear of
2 the Dodge. It's pressing down into the -- onto the hood
3 of the car. You have to understand that because the car's
4 rapidly breaking and I'm sure we've all seen this. When
5 you slam on your breaks, the front of your car goes down.
6 So the front of the car's going down and as the rear of
7 the Dodge is also pushing it down.
8 Q So with respect to the sequence of this accident,
9 what is the significance of the gauge marks in the
10 roadway.
11 A It tells us where the area of impact was, where it
12 happened.
13 Q The first area point of impact?
14 A Yes, sir.
15 Q The point of impact of the two vehicles?
16 A Yes, sir.
17 Q So is it your opinion then, Trooper Ridgeway, that
18 the first area of impact between these two vehicles is
19 where those gauge marks are between Home Branch Road and
20 Boyd Road?
21 A Yes, sir, that's the area of impact.
22 Q This would be the area then that the white vehicle
23 would have instruct the rear of the black vehicle; is that
24 right?
25 A That's correct.

1 Q Okay. Show you a couple more photos just walk
2 through them all real quickly. Some of them are redundant
3 somewhat. Get a little bit closer to the white vehicle
4 here. This the condition in which you found it when you
5 arrived on scene?
6 A It is.
7 Q Okay. And again here -- now, there's some orange
8 paint, some dots going behind the white vehicle in the
9 parallel lines?
10 A Yes, sir.
11 Q What's the significance of those markings?
12 A These are marking the tires mark out there because we
13 were there right after the collision. We can still see
14 the tire marks. However, tire marks do tend to fade fast
15 especially in heat as it was in August. So we're painting
16 them in case we ever have to come back to a scene. We do
17 that on every scene. It is just recorded evidence. And
18 that's why it was there and done there off the -- it is a
19 little hard to see where Sergeant Farmer is standing.
20 There's another set of orange paint. Also the left side
21 of the car we're marking where the tires were on the car.
22 So once that car is towed away from the scene, we would
23 still be able to come back and place that car back at that
24 location if we have to.
25 Q While we are talking about this area was there a

1 debris field associated with the impact of these vehicles?
2 A There is. Of course, you can see several different
3 pieces. Actually right there where Sergeant Farmer is
4 crouching down, she's recording tire measurements while
5 doing general vehicle exam. That box that is coming off
6 the right side of the car is actually the tool box that
7 was in the bed of the Dodge pickup truck.
8 Q Would it be unusual for the tool box to fall off -- I
9 guess debris field with the extended some point past the
10 point of impact that you testified to earlier?
11 A Not particularly unusual because we always have parts
12 coming off of cars or off of vehicles. And since the
13 direction of force is going towards where the truck ends
14 up, all the debris is going to continue going that
15 direction as well.
16 Q Objects i motion tend stay in motion?
17 A Yes, sir. It is unusual to see a tool box laying
18 there near the scene of impact.
19 Q Okay. It's unusual for a tool box to be ejected off
20 the back of vehicle?
21 A Yes, sir, we don't really see that.
22 Q What is the significance of that?
23 A That it was an extremely hard hit.
24 Q A great deal of force?
25 A Yes, sir, a lot of force.

1 Q Okay. As we get little bit closer to the white
2 vehicle. This is another member of the MAIT team you're
3 standing beside?
4 A That's Sergeant Farmer, yes, sir.
5 Q There's some markings around the base of the tires of
6 the vehicle. Is that something highway patrol did as
7 well?
8 A Yes, sir, again that's recorded where the final rest
9 of the vehicle was.
10 Q Okay. While we're the on subject, how do we know
11 that that's the final resting place of the vehicle?
12 A And this one is really easy because the tire marks
13 lead right up to tires and they don't go any further.
14 They don't stop short. They go to the tires. They stop,
15 that would be the final resting position of that vehicle.
16 Q So the car is parked arrived at the end of the tire
17 marks at the end of skid marks?
18 A Yes, sir.
19 Q Okay. And did the skid marks actually continue all
20 the way up into the tires?
21 A They do. They go underneath the tires.
22 Q All right. Show you another photo here. This is the
23 front side of the white vehicle?
24 A Yes, sir.
25 Q Okay. Anything significant about the damage to the

1 front of that vehicle?
2 A Again, that indicates that the front of that vehicle
3 struck the rear of the other vehicle, but you can also see
4 where the rear bumper went up on the hood has that
5 horizontal line going right there across the hood.
6 Q Here?
7 A Yes, sir. So that tell us it was definitely under
8 ride situation and you can also see the front bumpers kind
9 of push down.
10 Q If this had been a head on collision, how would the
11 damage to the front of that vehicle be different?
12 A Probably be depending on the vehicle that is coming
13 head on, the speed of the vehicle coming head on with it.
14 In this area, I would expect it to be greater. You also
15 wouldn't get that under ride because the front of a truck
16 is blunt where's back of it is typically sloped because
17 you have the bed right there. So you wouldn't expect to
18 see that much under ride from a frontal collision, head on
19 collision at that.
20 Q Okay. And again that under ride that causes that
21 horizontal line you were talking about on the hood of the
22 car?
23 A Yes, sir, and also gauging on the pavement.
24 Q Okay. Another photo of the side of the vehicle.
25 Again these are markings that you all -- that highway

1 patrol made?
2 A Yes, sir.
3 Q At the scene these are the skid marks going all the
4 way up to the tires; is that right?
5 A That's correct.
6 Q Okay. Before we go any further, I want to show you a
7 couple more photos what you already testified to. What
8 are we looking at here?
9 A Those are tire marks. Now, this is looking back
10 toward Paxville, so that's Home Branch off to the right
11 side of the photograph. Those tire marks going through
12 the area impact and again those are the gauges at the area
13 of impact.
14 Q So this Home Branch Road here?
15 A Yes, sir, it is.
16 Q So this looking back from the white vehicle where you
17 showed the photos of the back towards where you approach
18 from towards Paxville?
19 A Yes, sir, that's correct.
20 Q And again are these the gauge marks you're speaking
21 of?
22 A They are.
23 Q In between Boyd Road and Home Branch?
24 A Yes, sir.
25 Q And it's your testimony that that is the point of

1 impact?
2 A That's correct.
3 Q Okay. A few more photos of the white vehicle. I'm
4 going to show you here. This is a condition in which you
5 found the vehicle when you arrived on scene?
6 A That's correct.
7 Q Okay. Show you the interior of the white vehicle.
8 What is this white clothe coming off of the steering while
9 there?
10 A That's the airbag.
11 Q So the airbag deployed in the white vehicle?
12 A That's correct they did.
13 Q Do you recall whether or not the pickup truck
14 deployed air bags -- whether or not they deployed?
15 A They did not deploy.
16 Q Did not deploy?
17 A No.
18 Q Okay. Again, the interior of the white vehicle?
19 A Yes, sir.
20 Q Okay. Did you take all these photos?
21 A I took them all.
22 Q Do you remember seeing a white or clear soda cup in
23 the vehicle?
24 A Yes, sir, I do.
25 Q Okay. And based on -- did you pick it up and smell

1 it?
2 A I did.
3 Q And based on your experience of -- your 19 years of
4 experience with the highway patrol, do you have an opinion
5 as to whether or not that cup contain alcohol?
6 A It did smell like an alcoholic beverage.
7 Q Okay. Tell me where we are in the accident scene
8 here?
9 A This is just pass that final rest position or final
10 rest of the Hyundai and leading up towards the final rest
11 of the Dodge pickup.
12 Q So we're still looking towards Manning here coming
13 from Paxville?
14 A Yes, sir.
15 Q Just left of the white vehicle. Who is that walking
16 in the roadway can you tell?
17 A Yes, that is Trooper Macoon.
18 Q With highway patrol obviously?
19 A He is.
20 Q Just another photo in that sequence?
21 A Yes, sir.
22 Q Okay. I guess before we go any further what is this
23 -- there's some type of liquid substances appear to be a
24 spill on the roadway there. Anything significance about
25 that?

1 A That's just on the front of the vehicle. That's the
2 different fluids in the engine department. Usually
3 radiator fluids, transmission and oil we see coming out
4 on.
5 Q Anything significant about the direction that it is
6 draining?
7 A Just indicating that there's a slight grade going off
8 the roadway. All roads are crown in the middle so that
9 rain runs off the roadway.
10 Q Actually drain off the right-hand side?
11 A Yes, sir.
12 Q Okay. Another photo approaching the black pick up
13 truck?
14 A Yes, and I'm actually walking the post-impact travel
15 path of the Dodge pickup truck when I'm taking these
16 photos.
17 Q Again this would have been one of the first things
18 you did when you arrived on scene?
19 A Yes, sir.
20 Q Okay. Tell the jury about this photo?
21 A This is the Dodge pickup truck at the final rest.
22 Q Is this the condition again in which you found the
23 pickup truck that evening?
24 A Yes, that's exactly how I found it.
25 Q It's a view from the other side?

1 A Yes, sir.
2 Q What are we looking at here?
3 A The driver side or the left side of that Dodge pickup
4 at final rest.
5 Q Okay. This is another photo the jury seen. Was the
6 driver of that Dodge pickup was he still in the vehicle
7 when you arrived on scene?
8 A No, he been extricated before I arrived on scene.
9 Q So this is the photo that the other troopers took
10 before you arrive?
11 A Yes, sir.
12 Q Okay. Tell the jury about the damage to the rear of
13 that Dodge pickup truck?
14 A And actually still remember the damage because it's
15 pretty extreme and it still shocks me. I've never seen a
16 frame where that frame's bent at 90 degrees. That's
17 essentially a steal beam that runs from the front to the
18 rare of the vehicle. They're very strong naturally as the
19 framing of the vehicle. And this one has been bent in
20 half. Also, you can see the springs on this picture. You
21 can see that the springs are deformed for the rear axle.
22 And again everything's crush towards the front of the
23 pickup or front of the cab of the truck. You can see
24 where the bed gets into the cab right there on that
25 vertical line separating the two. So it's -- this told me

1 then and it's telling me now this was a high energy, high
2 speed collision.
3 Q Okay. Is there any way that damage to the rear of
4 that truck had been caused by a head on collision?
5 A No. It had force coming in from the rear of the
6 vehicle.
7 Q Okay. One more photo of the damage to the rear of
8 the vehicle is this taken from the same side?
9 A Yes, sir, it sure is.
10 Q Okay. Is this the steel beam that the frame of the
11 pickup truck you were talking about?
12 A Yes, sir, it is. It should be straight.
13 Q Okay. What are we looking at here?
14 A This is the -- looks like the same shot from the
15 right side of the vehicle.
16 Q Okay. This is on the other side closest to the
17 woods?
18 A Yes, sir. And that's also letting me know that this
19 collision is pretty much centered on the rear of that
20 vehicle. Both frame rails had the same amount damage to
21 them. If it was all set, you would expect one to be
22 normal or prior to being deformed and then the other one
23 should be damaged.
24 Q Okay. So if the black pickup truck had just pulled
25 out from say Boyd Road, he just pulled out and she kind of

1 hit him in the side of the rear of the truck, you expect
2 to see the damage would look different?
3 A Yes, sir, it look a lot differently.
4 Q He wouldn't expect both sides to be kind of
5 uniformally deformed as they are here?
6 A No, not at all.
7 Q Okay. Is this the right side of the pickup truck as
8 well?
9 A It is.
10 Q And tell me what this photo shows?
11 A That is the spring -- the rear springs on the truck
12 that had been deformed and looks like it separated from
13 its mounted bracket.
14 Q Okay. What are we looking at here?
15 A This is the front of the truck, the hood and the
16 motor area. That's where it struck the tree at.
17 Q This is where it struck the tree?
18 A Yes, sir, the tree is right there in front of it.
19 It's kind of hard to tell with all the green.
20 Q This the interior of the truck?
21 A Yes, sir, from the passenger side.
22 Q Okay. And here?
23 A Yes, sir.
24 Q Okay. Anything significant about the seats in the
25 truck?

1 A I can't tell on this photograph so much about the
2 passenger seat, but it looks like the drivers seat has
3 been pushed back.
4 Q The back of the seat?
5 A The back of the seat, yes.
6 Q And what type of force would cause that?
7 A A force coming in from the rear. The thing is, you
8 know, whenever you have a force on you, you go in the
9 direction of the force. And in this case it would be the
10 occupant's body is -- the truck is basically being pushed
11 out from underneath occupant. So the occupant wants to
12 stay in place, but the truck is being pushed. So that
13 makes it seem like they're going backwards same that we
14 see in every rear-end collision.
15 Q In your experience in high impact collision such as
16 this with impact from the rear, you mention that the
17 person wants to stay in place and the truck's pushed out
18 from under. What kind of impact is that cause on a
19 person's body?
20 A From a rear of the collision?
21 Q Yes, sir?
22 A Typically what we see are a lot of head and neck
23 injuries especially if we don't have the headrest adjusted
24 properly because the same thing when your body gets pushed
25 out, your head wants to stay in place. So it also goes

1 backwards.
2 Q Is this the driver seat here?
3 A It is.
4 Q Is that pushed back as you discussed?
5 A Yes, sir.
6 Q Okay. I want to finish with the photographs real
7 quick. There were somewhat out of order, so I'm going to
8 kind of walk back through the accident scene with you.
9 This had been your approach to the accident scene that
10 evening?
11 A Yes, sir, that's correct.
12 Q What highway is this off to the left-hand side?
13 A Home Branch.
14 Q And where would the vehicle be in relation to this
15 photo?
16 A My vehicle is the one diagonal across the roadway.
17 Q Here?
18 A Yes, sir. The Hyundai is right in front on the other
19 side of that. And then where you see that big bright area
20 on the right side of the road fire department had their
21 truck there with the lights lighted it up for us. That's
22 the final rest of the Dodge.
23 Q Okay. As we get closer to your vehicle, there's some
24 marks -- is this still your vehicle in the roadway here?
25 A It is.

1 Q And there's some markings, some paint markings in the
2 roadway there. What are those for?
3 A That was the first area that we can see the skidding
4 beginning leading up to the Hyundai.
5 Q Okay. So skid marks would have begin -- look back to
6 where your truck was before you actually get to your
7 vehicle kind of right in line with Home Branch Road?
8 A Yes, sir, I believe they were right around the center
9 of Home Branch Road.
10 Q Okay. This is Home Branch Road off the left-hand
11 side there?
12 A That's correct.
13 Q Was that street light operating when you arrived on
14 scene?
15 A Yes, sir, this is exactly how I found it.
16 Q Okay. What is this view from?
17 A That is from Home Branch Road coming up on 261.
18 Q Okay. And this the sign from Home Branch Road?
19 A Yes, sir.
20 Q Okay. What is the view here?
21 A Looking back down Home Branch Road.
22 Q Okay. And here?
23 A This is looking back. This is the direction that I
24 came from. The direction that the tire marks indicate
25 that the Hyundai was coming from and we had a trooper up

1 at the top of that hill as well try to slow down traffic.
2 Q Okay. So this is Home Branch Road looking back
3 towards Paxville?
4 A Back towards Paxville, yes, sir.
5 Q And there's a trooper parked at the crest of the hill
6 here?
7 A Yes, sir.
8 Q To direct traffic?
9 A To keep them from cresting that hill and seeing us
10 there, yeah.
11 Q Okay. So this another trooper lights?
12 A Yes, sir.
13 Q Okay. Tell me about this photo?
14 A This photo is coming up on Home Branch. It is
15 indicating that the 45 mile an hour cautionary sign.
16 Q That's a speed limit?
17 A That is a speed limit, yes, sir.
18 Q Okay. All right. Trooper, while I go through the
19 photograph, can you provide us kind of a baseline for your
20 testimony so you photograph the accident scene and then
21 what do you do?
22 A Once I photograph the scene, I went through and
23 started setting up the total station equipment, which is
24 the equipment. Again, it's like surveying equipment on
25 the side of the road. Setting that up and getting ready

1 to do a forensic mapping of the scene.
2 Q You did map the scene?
3 A Yes, sir, I did.
4 Q Do you remember about how many points you mapped?
5 A I do not recall the number. It's a lot of points.
6 Q Okay. All right. Is it more than 50, more than 100?
7 A I can pull it up on the computer and tell you, but
8 it's far more than that. Our scenes are generally about
9 300 points.
10 Q Okay. I may have asked you this question earlier,
11 but how accurate is that mapping equipment?
12 A Our equipment has been calibrated and it is accurate
13 to a quarter of an inch and a thousand feet.
14 Q Okay. And tell the jury about the kind of things
15 that your mapping when you use this equipment?
16 A When we're mapping the edge of the roadway, we're
17 also mapping the roadway lines, any driveways. It really
18 depends on the scene. In this one, I remember mapping all
19 the roadway. The roadway itself is the edge of the
20 pavements. You paint fault lines any yellow lines. Also
21 any driveways or roadways coming off the roadway. And it
22 will map the -- it will hit points for the actual evidence
23 left on the roadway during the collision.
24 Q So you're mapping where everything is in relation to
25 one another?

1 A Yes, sir.
2 Q And what's the purpose, the end purpose of doing
3 that?
4 A It's to be able to give us a scale. It's recording
5 the scene. So we're able to record the scene in a -- and
6 produce scale diagram. So if we ever have to go back out
7 there, you can take measurements from the diagram and
8 actually put the vehicles in evidence exactly right back
9 on the road as we found it.
10 Q And based upon these points mapping the scene, you
11 actually create scale diagram of the accident scene?
12 A Yes, sir, I did.
13 Q And what are those referred to?
14 A Generally CADS computer aided drawings.
15 Q I'm going to show you what's been marked as State's
16 Exhibit 60 through 64. And do you recognize these?
17 A Yes, sir, these are the CADs I produced.
18 Q These are the CADS you produced based upon the points
19 that you map at the scene?
20 A That's correct.
21 Q Is there any other information that's input to allow
22 you to make the CAD drawings?
23 A Not really. I mean, the only thing I do is surface
24 between the CADs. So it actually looks more like a
25 roadway instead of just a stick roadway. So the only

1 thing I add that is not mapped is literally coloring for
2 the grass and for the asphalt as well. And then I will --
3 like in this one, I also had 3D use of the vehicle at the
4 final rest?
5 MR. DURANT: Your Honor, the State would offer
6 State's Exhibit 60 through 64 into evidence.
7 THE COURT: What says the defense?
8 MR. BARR: No objection.
9 THE COURT: All right they are in without
10 objection.
11 (WHEREUPON, State's Exhibit Nos. 60-64 were
12 admitted into evidence.)
13 BY MR. DURANT:
14 Q First of all, let me show you State's Exhibit 60.
15 What does this drawing show?
16 A This is the roadway layer. We make several different
17 CAD plates. This would the be roadway lawyer, just the
18 roadway without any evidence or vehicles on it.
19 Q So this is just showing the distances in relations of
20 the roads. The roads coming on to 261 and off of it?
21 A Yes, sir.
22 Q Okay. This Home Branch Road here?
23 A That is.
24 Q And which one of these two areas is Boyd Road?
25 A The wider one down more towards the bottom.

1 Q What is this?
2 A I believe that was just a driveway.
3 Q A private drive?
4 A Yes, sir.
5 Q Okay. Can you tell from this CAD where the point of
6 impact was?
7 A Not from this CAD. It's not on here.
8 Q Okay. All right. I'm going to show you State's
9 Exhibit 63 next. There were some additional inputs into
10 this CAD. Tell the jury about those?
11 A This is the evidence of the final rest CAD. So this
12 is view of all the evidence that we had mapped as well as
13 the final rest locations of the vehicles.
14 Q Okay. So this shows where the final resting place
15 for each vehicle in relation to the roadway?
16 A That's correct.
17 Q Okay. I don't know if the jury can see it, but there
18 I try to zoom in, but there appears to be some red or
19 orange lines coming off behind the white vehicle?
20 A Yes, sir, they're red.
21 Q Can you tell the jury about those?
22 A Those are the skid marks leading up to the Hyundai.
23 Q Did you actually map the skid marks as well?
24 A Yes, sir.
25 Q This is a scale drawing of the location of the

1 vehicles and the skid marks leading up to them?
2 A Yes, sir.
3 Q Okay. State's Exhibit 62 tell the jury about this
4 photo or this CAD and how it is prepared?
5 A This is the impact layer of the CAD. To create this
6 one, I took scale models of the actual vehicles that were
7 involved in the collision, also had the skid marks. You
8 can see I added a 3D because sometimes it's a little
9 harder to see from top down. And that's a great thing
10 about this -- the mapping equipment is it records
11 essentially three axes (sic) for each point. So it also
12 has an elevation axes (sic) so which allows me to create
13 three environments based on the actual points taken which
14 is what that blow out box is representing, but I placed
15 the vehicles or the models -- scale models back at the
16 area of impact essentially to show where the impact was.
17 Q So was it your testimony in your opinion that this
18 drawing represents the point of impact of these two
19 vehicles in this accident?
20 A Yes, I used the area where the tire marks as I
21 pointed out during the photographs where the tire marks
22 kind of spread out flat and have that gauging right in the
23 pavement. I placed the vehicles right back in top of
24 that.
25 Q Okay. And again this will be between Home Branch and

1 Boyd Road?
2 A That's correct.
3 Q Okay. Before we go any further with the CAD
4 drawings, tell the jury about the types of methodology or
5 formulas you use to calculate distances and speed and
6 velocity and so forth of an accident scene?
7 A Essentially everything that we do is base off
8 physics. So we use several different mathematical
9 disciplines to come up with our equations and use those
10 equations to determine speeds or distances or times or
11 even energy for vehicles -- things that happen in a
12 vehicle collision, but everything is physics based.
13 Q And as part of your training and experience, is there
14 anything that's done to verify the accuracy and
15 reliability of these formulas this methodology that you're
16 using at the scene?
17 A Yes, that's actually the fun part of my job. During
18 the conferences that we attend, we have vehicles donated
19 to us or donated to the hosting party for the conference.
20 And we'll crash those vehicles into each other and crash
21 them into telephone polls, dummies, pigs. We run into
22 shopping carts, mopeds, bicycles. So essentially the same
23 thing that they did to set up the testing for the ATTAR
24 (sic) exam. That's what we're doing at these different
25 conferences because we can put the equipment in the

1 vehicles and be able to tell exactly how fast that vehicle
2 was going and what kind of energy that vehicle felt. You
3 know, they're putting accelerometers in the vehicles, GPS.
4 We're doing video analysis of the collision. And then
5 we're are to take -- we also once the collision happens we
6 record how far the vehicle go, what angle does the vehicle
7 go off at. And we will use that -- we already know what
8 the cars are doing because we're telling what to do. So
9 we're then taking data and putting it back into our
10 different formulas and we're having to come up with the
11 same results and that's verifying that the formulas are
12 accurate. They're applicable to different types of
13 collisions that we use.
14 Q So when you do that, again, you know the inputs. You
15 know based on the information -- the equipment you had in
16 the vehicle. You know how fast it was going. You know
17 both vehicles and have the distance it traveled and so
18 forth?
19 A That's correct.
20 Q And your job is to use the physics to use these
21 mathematical formulas to trace it back and come up with
22 same result?
23 A That's correct.
24 Q Have you done that on a regular basis as part of your
25 training?

1 A At least yearly sometimes more.
2 Q Okay. Is there -- do you vehicles themselves ever
3 have that type of equipment in them already installed by
4 factory to help you track how fast they were going in a
5 collision?
6 A Yes, in a way they do.
7 Q What's that called?
8 A It's called the airbag control module. We call
9 them -- some of them are -- it depends on who the
10 manufacturer is. Generally, we'll just call it an airbag
11 control module or an ACM. So that's what I refer to all
12 of them as until we get into the heavy trucks. Some of
13 the call them event data recorders EDRs. It's also ECM's
14 electronic control modules. Essentially what that is
15 doing it records the airbag. All the data -- airbags are
16 very smart. So when you hit something, an airbag just
17 doesn't come out. Something has to tell the airbag that
18 this wreck's about to be really bad. And it tells that
19 airbag you need to come out at this time and it's broken
20 down by milliseconds. You need to to come out at this
21 speed. You need to stay inflated for this amount of time.
22 And it's based on the data that it's getting from the
23 engine speed, the accelerometer that's inside of this air
24 bag control module. And all that data that it uses to
25 determine whether or not the air bag needs to come out, it

1 locks it into that module and we have the computer system
2 that we can then plug into it and image that data.
3 Q Are either one of these vehicles equip with these
4 airbag control modules?
5 A Unfortunately they were not. They were too old.
6 Q Even if the vehicles had been equipped with those
7 modules typically, give you a reading as to speed and so
8 forth. Would you have still done the math?
9 A Yes, we always back up that module with the math.
10 Q And I guess during your time with MAIT team, you
11 probably had a lot of accidents that have had the vehicles
12 had been supported by those ACM's?
13 A Yes.
14 Q Have you ever done the math and found disparity
15 between your calculations and the information provided by
16 ACM's?
17 A I never have.
18 Q Never have?
19 A No, sir.
20 Q Okay. So tell the jury where would you start in this
21 accident. This accident scene you trying -- the end
22 result is to try to figure out where these cars are in
23 relation to each other speed and time and so forth. Where
24 would you start when you trying to investigate this
25 accident scene, trying to reconstruct this accident scene

1 rather and you don't have those ACM's to rely on?
2 A In this case because we're looking for the unknown,
3 which essentially the unknown is the speeds that we're at
4 impact. So I can start at the last the event, which I'm
5 able to then determine what that speed was and I work it
6 to in several segments back to the impact to be able to
7 get that speed. So the last event here was the Durango or
8 the Dakota striking that large oak tree. So I started
9 there and worked back towards the collision.
10 Q You start with last known event and work backwards?
11 A That's correct.
12 Q That would have been where the pickup truck struck
13 the tree?
14 A Yes, sir.
15 Q What type of calculations did you make based on that?
16 A On this one in addition to mapping the scene, I also
17 had the wrecker driver when we got to the Dodge, I had to
18 pull in front of my mapping equipment and I map the front
19 or the damage profile of the pickup truck. That way I can
20 get those measurements of how far he was crushed in. And
21 I'm using essentially a crush equation, that's able to
22 determine what amount of speed would be necessary to cause
23 that amount of crush.
24 MR. DURANT: Beg the Court's indulgence.
25

1 BY MR. DURANT:
2 Q Officer Ridgeway, I show you what has been marked as
3 State's Exhibit 65 tell me what that is?
4 A I also prepared this as the damage profile
5 measurements that I mapped off the vehicle.
6 Q This is mapped off the front of that Dodge pickup
7 truck where it would have impacted the tree?
8 A Yes, sir.
9 MR. DURANT: Your Honor, I offer State's Exhibit
10 65 into evidence.
11 MR. BARR: Without objection.
12 THE COURT: It's in without objection.
13 (WHEREUPON, State's Exhibit No. 65 was admitted
14 into evidence.)
15 BY MR. DURANT:
16 Q Officer Ridgeway, tell the jury about the mapping you
17 did in front of that Dodge pick up truck?
18 A On this one, I actually map two spots. I mapped the
19 area around the bumper and the frame rails. And then also
20 mapped up around the hood area. The hood area I
21 discounted because that's really soft metal, doesn't take
22 a whole lot to crumble that. So I what I wanted to
23 concentrate was the hardened areas of the vehicle, which
24 is bumper and the frame rail.
25 Q Okay. So you measured the damage area of the front

1 of that pickup truck?
2 A Yes, sir.
3 Q Okay. What's the purpose in doing that?
4 A That tells me how much this vehicle was crushed in or
5 much that metal was crushed in, which I can then take for
6 the known crush factors for a Dodge Dakota and apply that
7 to determine how much energy it takes to crush in that
8 metal which also tells me how much speed is necessary to
9 exert that amount of energy.
10 Q Before we get to that speed, you mention that one of
11 the variables that you're taking into account is known
12 crush factors with regard to that specific vehicle?
13 A Yes, that's correct.
14 Q Tell us about that?
15 A All right, every vehicle that's driven on the roadway
16 has been tested by the National Traffic Highway Safety
17 Administration. They go through and that's where you'll
18 see sometimes this vehicle has a five-star rating.
19 They'll go through and they'll take that vehicle and run
20 into a wall or a pillar some kind of immovable barrier and
21 determine how much energy it can take. They also not --
22 not really related to this, but they'll put dummies in the
23 vehicles because they want to test it with forces that are
24 acting on the dummies, make sure the seat belts are
25 appropriate, the airbag are appropriate. They're also

1 going through to make sure there's no fuel line ruptured,
2 anything that would cause a vehicle fire in a collision,
3 but some of data that they get out of this is they'll then
4 measure the amount crush that is done to that vehicle and
5 it determines again the safety of that car.
6 Q So then each vehicle has been tested by the National
7 Highway Traffic Safety Administration to determine how it
8 responds to certain degrees of force?
9 A Yes, all those reports are available on the web site.
10 Q You made these calculations?
11 A I use that data both to help me with the calculations
12 and to verify the results that I get. And I did download
13 two reports from NIDSA (sic) on Dodge Dakota's for this
14 collision.
15 Q Okay. And based upon that information that's
16 available and your calculation, were you able to determine
17 what degree of force would cause the damage to Dodge
18 pickup -- the front end damage?
19 A Yes.
20 Q And what was that degree of force?
21 A You want the force or the speed?
22 Q Well, does the force equal speed to get the speed
23 from the force?
24 A We can use the energy or the force. We can use the
25 energy to get an equivalent barrier speed.