

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Perry H. Gravely, Circuit Judge

Appellate Case No. 2017-002539

ORIGINAL

The State.....Respondent.

v.

John Michael Hughes.....Appellant.

RECORD ON APPEAL – VOLUME I

Andrew S. Radeker
S.C. Bar No. 73743
Harrison, Radeker & Smith, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
(803) 779-2211
Attorney for Appellant

Robert M. Dudek
S.C. Bar No. 1767
Office of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211
(803) 734-1330
Attorney for Appellant

The Honorable Alan M. Wilson
S.C. Bar No.
Caroline Scrantom
S.C. Bar No.
Melody J. Brown
S.C. Bar No.
Donald J. Zelenka
S.C. Bar No.
Office of the Attorney General
for South Carolina
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305
Attorneys for Respondent

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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

The State of South Carolina,)

Indictment No: 2015-GS-23-3344

Indictment No: 2017-GS-23-4936A

John Michael Hughes,)
Defendant.)

VERDICT FORM

Please answer each question below:

1. As to the charge of **Murder, Indictment No. 2015-GS-23-3344**, we, the jury, unanimously find the Defendant, John Michael Hughes (Check One):

☒ Guilty

☐ Not Guilty

2. As to the charge of **Possession of Weapon During the Commission of, or Attempt to Commit, a Violent Crime, Indictment No. 2015-GS-23-3344**, we, the jury, unanimously find the Defendant, John Michael Hughes (Check One):

☒ Guilty

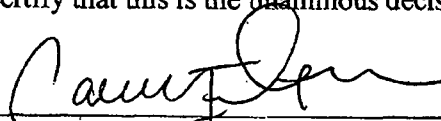
☐ Not Guilty

3. As to **Conspiracy, Indictment No. 2017-GS-23-4936A**, we, the jury, unanimously find the Defendant, John Michael Hughes (Check One):

☒ Guilty

☐ Not Guilty

I certify that this is the unanimous decision of the jury.


Juror #51, Foreperson

December 7, 2017
Greenville, South Carolina

When you have completed your deliberations, please notify the bailiff.

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

John Michael Hughes

AKA:

Race: WHITE Sex: M Age: 60

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2303344

A/W#: 2015A2320400079

Date of Offense: 1/24/2015

S.C. Code §: 16-03-0010, 0020

CDR Code #: 0116

SENTENCE SHEET

30-116

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Meyer, Mark

64155

SC Bar#

Defendant

ADDUCO, THOMAS

101087

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 45 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: 12/7/17

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 1044 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 61.6 (Public Def/Probation) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$
§ 14-1-213 (Drug Court Surcharge) \$150 \$
§ 50-21-114 (BUI Breath Test Fee) \$50 \$
§ 56-5-2942(I) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$

TOTAL

\$

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

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☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 2755

Sentence Date: 12/7/2017

State v. John Michael Hughes - Record on Appeal p. 002

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

John Michael Hughes

AKA:

Race: WHITE Sex: M Age: 60

DOB: [REDACTED] SS#: [REDACTED]

Ad:

Cit:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Possession of weapon during violent crime

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2303344

A/W#: 2015A2320400080

Date of Offense: 1/24/2015

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Moyer, Mark

64155

SC Bar#

Defendant

ADDUCI, THOMAS

101087

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☒ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$

TOTAL

\$

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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DEC 13 2017

SC Court of Appeals

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 2755

Sentence Date: 12/7/2017

State v. John Michael Hughes - Record on Appeal p. 003

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
John Michael Hughes

AKA:

Race: WHITE Sex: M Age: 60DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: SCDL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Conspiracy

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS2304936AA/W#: 2017GS2304936ADate of Offense: 1/24/2015S.C. Code §: 16-17-0410CDR Code #: 0049

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 64155
Moyer, Mark SC Bar#

Defendant

[Signature] 101087
ADDUCCI, THOMAS SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: 12/7/17☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ <u>3.75</u>

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (07/2016)

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge [Signature]Judge Code: 2755Sentence Date: 12/7/17

WITNESSES

K. Morecraft

Simpsonville Police Dept.

1/28/2015

ARREST WARRANT NUMBER.

2015A2320400079, 2015A2320400080

ACTION OF GRAND JURY

TRUE BILL

Wayne Shephardson

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-23- 003344

LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June

TERM 2015

THE STATE

vs.

JOHN MICHAEL HUGHES

Indictment for

0116, 0549

MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT
CRIME

VIOLATION § 16-03-0010 and § 16-23-0490

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DEC 13 2017
SC Court of Appeals

RECEIVED

MAY 11 2015

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER AND POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **JUN 30 2015** the Grand Jurors of Greenville
County present upon their oath:

COUNT ONE

MURDER

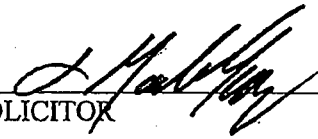
That JOHN MICHAEL HUGHES did in Greenville County, on or about the 24th day of January, 2015, unlawfully and with malice aforethought kill JOHN MICHAEL FERRELL by means of shooting him multiple times with a handgun and assaulting him with a hammer, and that JOHN MICHAEL FERRELL died as a proximate result thereof. This is in violation of §16-03-0010 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JOHN MICHAEL HUGHES did in Greenville County, on or about the 24th day of January, 2015, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 64155

WITNESSES

K Morecraft

Simpsonville Police Dept.

DOA: 1/28/2015 W/M DOB: [REDACTED]

SSN: [REDACTED]

**ARREST WARRANT NUMBER
DIRECT PRESENTMENT**

**ACTION OF GRAND JURY
TRUE BILL**

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-23-✓
LMM

004936A

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June

TERM 2017

THE STATE

vs.

JOHN MICHAEL HUGHES

0049

Indictment for

CONSPIRACY

VIOLATION § 16-17-0410

**ENTERED
ACCT.**

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
CONSPIRACY

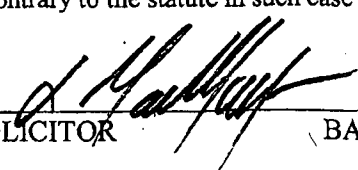
At a Court of General Sessions, convened on
County present upon their oath:

JUN 27 2017

the Grand Jurors of Greenville

That JOHN MICHAEL HUGHES did in Greenville County, on or about the 24th day of January, 2015, willfully and unlawfully combined with Margaret Hughes and/or Jacob Hughes and/or Jane Hughes for the purpose of accomplishing an unlawful object or a lawful object by unlawful means, to wit: Murder. This is in violation of §16-17-0410 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 64155

STATE OF SOUTH CAROLINA

) IN THE GENERAL SESSIONS COURT

COUNTY OF GREENVILLE

)
) INDICTMENT NO.: 2015-GS-23-3344 &
2017-GS-23-4936A

THE STATE OF SOUTH CAROLINA)

)
) **MOTION FOR IMMUNITY**
) **AND FOR DISMISSAL**
)

VS.)

JOHN MICHAEL HUGHES.)

Defendant.)

2017 NOV 29 PM 3:24
FILED CLERK OF COURT
PAUL E. WICKENS
GREENVILLE, SC

The Defendant, by and through his undersigned attorney, moves this Court for immunity from prosecution and for the dismissal of the above-referenced indictments pursuant to SC Code Sec. 16-11-410 et. seq.

The State indicted Michael Hughes on charges of murder, possession of a weapon during a violent crime, and conspiracy for the shooting of John Ferrell which occurred on January 24, 2015. In reasonable fear of imminent deadly threat to his person and his family, Mr. Hughes met and employed deadly force against an unwarranted home invasion. Accordingly, Mr. Hughes is entitled to immunity from prosecution pursuant to the provisions of SC Code Section 16-11-410, et. seq., the South Carolina Protection of Persons and Property Act ("The Act"), also known as "Stand Your Ground."

Our Supreme Court addressed the 2006 Act in *State v. Duncan*, 392 SC 404, 709 S.E.2d 662 (2011). The Court stated that the issue of whether a Defendant who asserts immunity under the Act shall be resolved before trial and that the defendant bears the burden of establishing immunity by the preponderance of the evidence. 392 S.C. at 411, 709 S.E.2d at 665.

The Defendant asserts immunity from prosecution for the indictments issued against him under both Section 16-11-440(a) and Section 16-11-440(c) of the Act.

First, § 16-11-440(a) states in pertinent part:

A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

In *State v. Duncan*, our Supreme Court concluded evidence supported the circuit court's finding the respondent was entitled to immunity for the shooting death of Christopher Spicer. 392 S.C. at 410-11, 709 S.E.2d at 665. On the night of the shooting, Spicer, his girlfriend, the respondent, and his girlfriend were at respondent's home. *Id.* 406, 663. The victim began making inappropriate comments about a picture of respondent's daughter in a cheerleading outfit. *Id.* at 406-407, 663. Respondent asked victim and his girlfriend to leave. *Id.* at 407, 663. Although they did so, the victim returned a few minutes later. *Id.* The victim was opening the screened porch door when respondent exited the front door of the house onto the porch with a gun. *Id.* The victim advanced across the porch and respondent's girlfriend attempted to "get [him] off the steps and leave." *Id.* When the victim continued to force his way onto the porch, respondent pointed the gun at the victim and fired. *Id.* The Supreme Court found "respondent showed by a preponderance of the evidence that the victim was in the process of unlawfully and forcefully entering respondent's home in accordance with [section] 16-11-440." *Id.* at 411,

665. Accordingly, the circuit court found and the Supreme Court upheld that respondent was entitled to immunity under the Act. *Id.*

In *State v. Curry*, the Supreme Court held the presumption provided in subsection (A) “does not apply if the victim has an equal right to be in the dwelling or residence,” and concluded Curry was not entitled to the presumption because “[the victim] was a social guest and rightfully in the apartment.” *State v. Curry*, 406 S.C. 364, 370, 752 S.E.2d 263, 266 (2013), citing § 16-11-440(b). As a result, Curry was “therefore defaulted into subsection (C), which deals with the use of force by one who is attacked in another place where he has a right to be.” 406 S.C. at 370, 752 S.E.2d at 266.

§ 16-11-440(c) of the Act states in pertinent part:

A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be....has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

In *Curry*, the South Carolina Supreme Court noted that in order for immunity to attach, “a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant’s entitlement to the Act’s immunity. This includes all elements of self-defense, save the duty to retreat.” 406 at 371, 752 S.E.2d at 266. Other than the duty to retreat, the elements of self-defense are: (1) the defendant was without fault in bringing on the difficulty; (2) the defendant believed he was in imminent danger of death or serious bodily injury or he actually was in such imminent danger; and (3) his defense is based upon his belief of imminent danger, the circumstances would have warranted a reasonable person to strike the fatal blow in order to save himself from death or serious bodily injury. *Id.* at 372, 267.

SUMMARY OF THE FACTS

This case stems from a shooting at Defendant Michael Hughes' residence at 106 Stonegate Court in Simpsonville, SC. On the night of January 24, 2015, Michael Hughes and his wife, Margaret Hughes, their daughter Jane Hughes and her two minor children, [REDACTED] and [REDACTED], were in the master bedroom, watching a movie. Sometime during the night, Mr. Hughes received text messages from his son, Jacob Hughes, who had been out with Jane Hughes' husband, John Ferrell. Jacob Hughes conveyed that Mr. Ferrell wished to come over and talk about an upcoming Family Court hearing.

The facts will establish that John Ferrell came into the Hughes' home and talked with Mr. Hughes and Jacob initially, and then at some point, Margaret later joined in the discussion. John Ferrell left abruptly. Afterwards, the Defendant locked up the house and prepared for bed. Sometime thereafter, the Defendant heard an alarming noise coming from outside. He retrieved his firearm and yells for someone to call 911. He immediately goes out the front door to the side of the garage. In the darkness, he saw a dark shadow hanging from the kitchen window. The shadow then jumped down and came at him. Mr. Hughes said, "You've got to stop. Don't come any closer." The intruder was yelling and progressed closer to Michael Hughes at which point he shot the intruder until he was down. Both he and his daughter called the police.

ANALYSIS

The Defendant is entitled to immunity under both § 16-11-440(a) and § 16-11-440(c) of the Act.

As to a § 16-11-440(a) analysis, the facts will show by a preponderance of evidence that Defendant Michael Hughes discovered someone breaking into his house through the kitchen

window, burglarizing, or committing a violent crime in violation of § 16-1-60 of Mr. Hughes' home. Just as the victim in the *Duncan* case, John Farrell was initially a guest in the Hughes' home. However, upon his departure earlier in the night, his "invitation" ended. No longer an "invitee" or guest, John Farrell became an intruder when he broke into the Defendant's kitchen. Thus, Defendant Michael Hughes was justified under § 16-11-440(a) to use deadly force against a person in the process of unlawfully and forcefully entering his home.

In the event the Court determines that John Farrell was a social guest and not an intruder, the analysis turns § 16-11-440(c). Here, the facts will show that the Defendant meets all three prongs of § 16-11-440(c) of the Act and is entitled to immunity.

First, the Defendant had a legal right to be on the premises. He was in the yard of his own home; he was on *his own property*. Secondly, the Defendant was not engaged in an illegal activity. He came outside his house with a firearm in response to an unfamiliar noise. He was in lawful possession of the firearm and had a legal right to walk about his yard or curtilage of his property. Lastly, the defendant reasonably believed that he was in danger of death or serious bodily injury and was forced to use deadly force to save himself from death or great bodily injury as an unknown person was coming at him without identification and without regard for his warnings.

The facts will show that Michael Hughes came outside of his house in darkness and found a shadow of a person in his kitchen window making sounds. This person was hanging from the window and then dropped down, coming at the Defendant. Michael Hughes yelled numerous times for the subject to stop and "don't come any closer." The subject, who was yelling, continued to progress at the Defendant at which time he shot him to stop his advance. Because the victim was trying to confront the Defendant outside his house after being

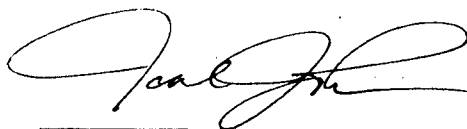
told to stop, it is reasonable for the Defendant to believe that he was in a situation where he was in imminent danger of death or great bodily injury to himself or his family. Moreover, the Defendant found John Ferrell in his window and the Defendant was "preventing the commission of a violent crime" – the burglary of his house.

Thus, the Defendant meets all three prongs of § 16-11-440(c) of the Act and is entitled to immunity.

CONCLUSION

The Defendant used deadly force against John Farrell who was in the process of unlawfully and forcefully entering his home. Moreover, the Defendant was not engaged in an unlawful activity, was attacked in a place he had a right to be and met force with force because he reasonably believed it was necessary to prevent his own death or injury. For these reasons, he is entitled to immunity and a dismissal under § 16-11-440(a) and § 16-11-440(c) of the Act.

Respectfully submitted,



Teal Johnson
Thomas Adducci
Assistant Public Defender
305 E. North Street, Suite 123
Greenville, SC 29601
(864) 467-8522
(864) 467-8521 Fax
Attorneys for Mr. Hughes

November 29, 2017
Greenville, SC

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) 2015-GS-23-03344
COUNTY OF GREENVILLE) 2017-GS-23-04936A
)
)
)
)
)
THE STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
)
vs.) TRANSCRIPT OF RECORD
)
JOHN M. HUGHES,)
DEFENDANT.)
)
)

December 4, 5, 6 and 7, 2017
Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, JUDGE; and a Jury

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

L. MARK MOYER, ESQ.
Attorney for the Plaintiff

THOMAS ADDUCCI, ESQ.
TEAL JOHNSON, ESQ.
Attorneys for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

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(DW) - Denotes Defense Witness

(IC) - Denotes In Camera

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P R O C E E D I N G S

MONDAY, DECEMBER 4, 2017

(WHEREUPON, State's Exhibits 1 through 58 were marked for identification.)

(WHEREUPON, proceedings commenced at 11:57 a.m.)

THE COURT: All right. This is the case of State vs. John Michael Hughes. In chambers, we discussed a voir dire, the defendant's voir dire. I believe the State objected to Number 6, which I indicated I would ask.

11, I think I -- I'm not going to ask Number 11. I changed my mind on that one. I'm not asking 16, 21 or 22.

If anybody would like to put anything on the record at this point . . .

MR. ADDUCCI: No, Your Honor.

THE COURT: All right.

MR. MOYER: Judge, I think we did mention in the courtroom, this case did get some publicity when it happened, so I think there are some questions about asking if they know anything about it. But ---

THE COURT: All right.

MR. MOYER: There's a potential there are some jurors from Simpsonville, also, which wouldn't surprise me if there are some people who are familiar with the scenario.

THE COURT: Let me ask any questions that go into

1 that. 12 through 14 I'll ask.

2 (WHEREUPON, the jury panel entered the courtroom at

3 12:09 p.m.)

4 THE COURT: All right. Ladies and gentlemen, thank
5 you for your patience this morning. Monday mornings I
6 know it seems a little bit hectic. It is for everybody,
7 but we appreciate your patience in letting us go through
8 this.

9 All right. Now, this is a criminal case. I think
10 some of you may have already been on the panel for a civil
11 case. This is a different type of case. There's
12 different rules that apply. The jury, we strike the jury
13 a little differently than they do over there, so just
14 letting you know that.

15 This is a criminal case. It is the State vs. John
16 Michael Hughes. Now, I'm going to read the indictment to
17 you, but I'm going to advise you right off the bat that
18 the indictment, that Mr. Hughes has come in here and pled
19 not guilty, and the indictment is merely allegations
20 against a person, but that the -- as you -- if those
21 people selected, you will learn later that the State has
22 the burden of proof in this case. And these are merely
23 allegations, and the indictment is the paper that just
24 brings -- the formal paper that brings this person into
25 court.

1 So this is Count 1 for murder, that John Michael
2 Hughes did, in Greenville County, on or about
3 January 24, 2015, unlawfully and with malice aforethought
4 kill John Michael Ferrell by means of shooting him
5 multiple times with a handgun, assaulting him with a
6 hammer, and that John Michael Ferrell died as a result --
7 a proximate result thereof; and Count 2, possession of a
8 weapon during the commission of a violent crime, that John
9 Michael Hughes did, in Greenville County, on or about
10 January 24th, possess or visibly display a handgun during
11 the commission or attempted commission of a violent crime.
12 Again, those are the charges, and they're charges only.

13 JURY QUALIFICATION

14 THE COURT: Now, first of all, I need to know if
15 anybody is related by blood or marriage or have a --
16 Mr. Hughes, if you could stand and face the jury. Right.
17 Thank you. Is anybody related by blood or marriage, have
18 a close, personal or social relationship or business
19 relationship with John Michael Hughes? If so, please
20 stand.

21 (No response.)

22 THE COURT: All right. No response.

23 Again, the victim in this matter, alleged victim,
24 excuse me, was John Michael Ferrell. Is anybody related
25 by blood or marriage, have a close, personal or social

1 relationship with the late John Michael Ferrell? If so,
2 please stand.

3 (No response.)

4 THE COURT: All right. No response.

5 All right. The attorneys in this matter, if you can
6 stand and introduce yourself.

7 MR. MOYER: My name is Mark Moyer. I represent the
8 State of South Carolina. I work for the Greenville County
9 Solicitor's office. Seated with me is Andrea Phillips.
10 She's the legal investigator with Greenville County
11 Solicitor's Office. And seated at the end is Cheryl
12 Manley. She is employed with the Simpsonville Police
13 Department.

14 MR. ADDUCCI: Good morning. My name's Thomas
15 Adducci. This is my colleague, Teal Johnson. We
16 represent Mr. Hughes. Thank you very much.

17 THE COURT: All right. Is anybody related by blood
18 or marriage to any of these individuals? If so, please
19 stand.

20 (No response.)

21 THE COURT: All right. No response.

22 Does anybody have a close, personal, social or
23 business relationship with any of these individuals? If
24 so, please stand.

25 (No response.)

1 THE COURT: Okay. As to the attorneys, has anybody
2 been represented by these attorneys or have you been in a
3 matter where these attorneys were on the other side of the
4 matter that you were involved in? If so, please stand.

5 (No response.)

6 THE COURT: All right. No response.

7 All right. Now I'm going to read to you at this time
8 a list of potential witnesses. It's a rather lengthy
9 list, and I'm going to split it in two. But this doesn't
10 mean all these witnesses will be called, but these are
11 witnesses that may be called, so listen carefully. And,
12 again, what I'm going to ask you, the first question is,
13 of course, are you related by blood or marriage to any of
14 these witnesses, do you have a close, social or personal
15 or business relationship with any of these individuals.
16 And then after that, the second part of that question is,
17 by your relationship with these people, can you still be
18 fair and impartial if these people are witnesses. So
19 that's kind of what these questions are about.

20 All right. Here is the witness list: Adam Randolph
21 from Simpsonville Police Department; Jonathan Edwards,
22 formerly with Simpsonville Police Department; Sandra
23 Murphy, Simpsonville Police Department; Isaac Mintz --
24 and, by the way, any of these names, you know you can go
25 ahead and stand up at this time -- Scott Coleman; Nick

1 Jones of Greenville County EMS; Robert Parker, Greenville
2 County Department of Public Safety; Jim Donnelly; Dar
3 Shaw, Greenville County Department of Public Safety;
4 Andrew Martin; Tim Williams; James Armstrong, Greenville
5 County Department of Public Safety; and Tim Nafziger,
6 Greenville County Department of Public Safety. So is
7 anybody related by blood or marriage, know these people
8 personally, socially or in business? If so, please stand
9 at this time.

10 (No response.)

11 THE COURT: All right. And here's the second portion
12 of the witness list. Dr. Jagannadha Kandala, Greenville
13 County Department of Public Safety; Lisa Mobley; Mike
14 Rainey, Greenville County Sheriff's Office; Cheryl Manley,
15 Simpsonville Police Department; Keith Morecraft,
16 Simpsonville Police Department; Dr. James Fulcher; Justin
17 Chandler, Simpsonville Police Department; Christine
18 Boisher -- did I pronounce that right?

19 MR. MOYER: I believe it's Boisher.

20 THE COURT: Boisher; Tirissa Johnson, Greenville
21 County Sheriff's Office; Margaret Quinn, Simpsonville
22 Police Department; and Robert Wriska. All right. Is
23 anybody related by blood or marriage to these individuals,
24 have a close, personal, social or business relationship
25 with any of these individuals? If so, please stand at

1 this time.

2 (No response.)

3 THE COURT: All right. Thank you. No response.

4 Okay. And if you've -- I'm going to ask these
5 questions. If you -- again, please stand. Have you or a
6 member of your immediate family ever been a victim of a
7 crime? If so please stand.

8 All right. If you would, give us your name and
9 number.

10 JUROR NUMBER 173: Leon White, 173.

11 THE COURT: I'm sorry. What?

12 JUROR NUMBER 173: Leon White, 173.

13 THE COURT: All right. And how do you respond to
14 that question? If you could give us a little more detail.

15 JUROR NUMBER 173: My brother was convicted.

16 THE COURT: Was a victim?

17 JUROR NUMBER 173: Was convicted for a crime.

18 THE COURT: Okay. What kind of crime?

19 JUROR NUMBER 173: Child pornography.

20 THE COURT: Okay. Do you think that you could still
21 be fair and impartial in the trial of this case?

22 JUROR NUMBER 173: Yes.

23 THE COURT: All right. Thank you. Anyone else?

24 (No response.)

25 THE COURT: Have you or a member of your immediate

1 family ever been a witness in a criminal case? If so,
2 please stand.

3 (No response.)

4 THE COURT: All right. No response.

5 Have you or a member of your immediate family ever
6 been accused or convicted of a crime? If so, please
7 stand.

8 Yes. Your name and number?

9 JUROR NUMBER 114: Vanessa Mills. I don't know what
10 my number is.

11 THE BAILIFF: It's on your badge.

12 JUROR NUMBER 114: Oh. 114.

13 THE COURT: All right.

14 JUROR NUMBER 114: Assault and battery, I think high
15 and aggravated nature. But those were dropped.

16 THE COURT: Okay. Do you think you could still be
17 fair and impartial in the trial of this case?

18 JUROR NUMBER 114: Yes, sir.

19 THE COURT: All right. Thank you.

20 Have you or a member of your immediate family ever
21 been a party in a child custody proceeding? If so, please
22 stand.

23 (No response.)

24 THE COURT: All right. No response.

25 Have you or any member of your immediate family or

1 close friends had any experience with the criminal justice
2 system that would or might affect your ability to sit and
3 be fair and impartial in the trial of this case? If so,
4 please stand.

5 (No response.)

6 THE COURT: No response. All right.

7 Is any member of the jury panel a member or immediate
8 family associated or related by blood or marriage to
9 anyone who is employed with the Greenville County
10 Sheriff's Office? If so, please stand.

11 All right. We'll start over at the far right here.
12 Your name and number?

13 JUROR NUMBER 152: Michelle Smith, 152. My uncle is
14 with the SWAT.

15 THE COURT: Your uncle's name is what?

16 JUROR NUMBER 152: Hank Carbon [phonetic].

17 THE COURT: All right. And he works for Greenville
18 County Sheriff's Office?

19 JUROR NUMBER 152: SWAT team.

20 THE COURT: Okay. Could you still be fair and
21 impartial in the trial of this case?

22 JUROR NUMBER 152: Yes, sir.

23 THE COURT: All right. Thank you.

24 Your name and number?

25 JUROR NUMBER 149: Alex Smith, 149. Work for

1 Greenville County Sheriff's ---

2 THE COURT: Hold on.

3 JUROR NUMBER 149: Alex Smith.

4 THE COURT: All right. Your ---

5 JUROR NUMBER 149: My mom.

6 THE COURT: All right. Is who?

7 JUROR NUMBER 149: Ann Smith.

8 THE COURT: All right. Greenville County Sheriff's
9 Office?

10 JUROR NUMBER 149: Yes, sir.

11 THE COURT: Can you still be fair and impartial in
12 the trial of this case?

13 JUROR NUMBER 149: Yes, sir.

14 THE COURT: All right. Thank you.

15 Is any member or member of your immediate family
16 involved in law enforcement other than the Sheriff's
17 Office, police department, FBI, state police, private
18 security or military police? If so, please stand, other
19 than the two that have already spoken.

20 All right. Yes. Your name and number?

21 UNIDENTIFIED JUROR: Did you say immediate family?

22 THE COURT: Yes. All right. Anyone else?

23 (No response.)

24 THE COURT: Okay. Is anyone a member, you or a
25 member of your immediate family ever been employed by a

1 prosecutor's office such as the Solicitor's Office or
2 United States Attorney's Office? If so, please stand.

3 (No response.)

4 THE COURT: Okay. No response.

5 Is anybody or member of your immediate family been
6 employed by a penal institution such as a jail, detention
7 center or penitentiary? If so, please stand.

8 (No response.)

9 THE COURT: Okay. No response.

10 I realize I gave you some very brief facts about the
11 alleged facts involved in this case. Has any member of
12 the jury panel read any newspaper articles, whether
13 newspaper or computer, magazine articles, seen any news
14 stories on TV, computer, Facebook, Twitter, blogs or any
15 computer-related site about this defendant or this case?
16 If you have any information concerning the alleged facts
17 in this case, if so, please stand.

18 (No response.)

19 THE COURT: All right. No response.

20 Is any member of the jury panel a member of,
21 contributed to any organization which promotes alleged
22 victims' rights or law enforcement such as, MADD, SADD or
23 any other type advocacy group which promotes the interest
24 of law enforcement or victims' rights? If so, please
25 stand.

1 (No response.)

2 THE COURT: Okay. No response.

3 Does any jury member know, have any knowledge of this
4 case from any source? If so, please stand.

5 (No response.)

6 THE COURT: All right. No response.

7 Does anybody feel that the nature of this case is
8 such that it would be difficult or impossible for you to
9 render a fair and impartial verdict in this case? If so,
10 please stand.

11 (No response.)

12 THE COURT: Okay. No response.

13 Do you know any reason why you cannot sit as a juror
14 in this case and render a fair and impartial verdict based
15 on the law and the evidence in this case? If so, please
16 stand.

17 (No response.)

18 THE COURT: All right. No response.

19 Is anyone a member of the National Rifle Association
20 or any other Second Amendment rights advocacy group or any
21 gun regulation advocacy group? If so, please stand.

22 All right. We will start on the far left here. Your
23 name and number.

24 JUROR NUMBER 14: Pat Berardi, Number 14.

25 THE COURT: Okay.

1 JUROR NUMBER 14: I'm a member of the NRA.

2 THE COURT: All right. With that fact, could you
3 still be fair and impartial in the trial of this case?

4 JUROR NUMBER 14: Yes, sir.

5 THE COURT: All right. Thank you.

6 Yes. Your name and number?

7 JUROR NUMBER 13: Leroy Bennett, Number 13. Member
8 of the NRA.

9 THE COURT: All right. With that fact, could you
10 still be fair and impartial in the trial of this case?

11 JUROR NUMBER 13: Yes, sir.

12 THE COURT: All right. Thank you.

13 Does anyone hold a concealed weapons permit? If so,
14 please stand.

15 THE COURT: All right. I'm going to start over here.
16 And just say whether you could be -- the question, again,
17 is give us your name and number and indicate whether you
18 could be fair and impartial in the trial of this case.
19 Far let, name and number?

20 JUROR NUMBER 2: Kent Ambler, Juror 2.

21 THE COURT: Okay. Could you be fair and impartial in
22 this case?

23 JUROR NUMBER 2: Yes.

24 THE COURT: All right.

25 JUROR NUMBER 14: Pat Berardi, Number 14. And yes.

1 THE COURT: Okay.

2 JUROR NUMBER 13: LeRoy Bennett, Number 13. Yes,
3 sir.

4 THE COURT: All right.

5 JUROR NUMBER 170: Mickey Watson, Number 170. Yes,
6 sir.

7 THE COURT: Okay. Yes?

8 JUROR NUMBER 51: Carla Fulton, Number 51. Yes, sir.

9 THE COURT: Okay.

10 JUROR NUMBER 63: Lakenya Hagood, Number 63. Yes,
11 sir.

12 THE COURT: All right.

13 JUROR NUMBER 102: Pamela McAfee, Number 102. Yes.

14 THE COURT: All right.

15 JUROR NUMBER 160: Robert Taylor, Number 160. Yes,
16 sir.

17 THE COURT: Okay.

18 JUROR NUMBER 149: Alex Smith, Number 149. Yes,
19 sir.

20 THE COURT: Okay.

21 JUROR NUMBER 137: Lucinda Poston, 137. Yes, sir.

22 THE COURT: Okay. Thank you. Just to make sure, the
23 question was, could you be a fair and impartial juror
24 given the fact that you have a concealed weapons permit.
25 If you did not understand that and need to address that

1 again, please let me know. All right. Thank you.

2 Has any member of the jury panel formed or expressed
3 an opinion about any issue or matter involved in this
4 case? If so, please stand.

5 (No response.)

6 THE COURT: All right. No response.

7 Is any member of the jury panel aware of any bias or
8 prejudice either to the State or the defendant in this
9 case? If so, please stand.

10 (No response.)

11 THE COURT: All right. Is any member of the jury
12 panel aware of any reason whatsoever that you could not
13 give the State and the defendant a fair and impartial
14 trial in this matter? If so, please stand.

15 (No response.)

16 THE COURT: All right. I think I've covered all the
17 questions presented. Any additional questions by the
18 State?

19 MR. MOYER: No, Your Honor.

20 THE COURT: Any additional questions by the
21 defendant?

22 MR. ADDUCCI: No, Your Honor.

23 THE COURT: All right. Thank you.

24 At this time, we will proceed with the selection.

25 This is a ten and five, and we'll have two alternates and

1 you'll have two and one on the alternates.

2 JURY SELECTION

3 THE CLERK: When I call your name, just stand in
4 place, please.

5 Juror Number 114, Vanessa Mills.

6 (WHEREUPON, Vanessa Mills, a black female, stood.)

7 THE CLERK: What says the State?

8 MR. MOYER: Please present Ms. Mills.

9 THE CLERK: What says the defendant?

10 MR. ADDUCCI: Please seat the juror.

11 THE CLERK: Please bring your things and have a seat
12 in the jury box.

13 Juror Number 159, Robert F. Taylor.

14 (WHEREUPON, Robert F. Taylor, a white male, stood.)

15 THE CLERK: What says the State?

16 MR. MOYER: Please excuse the juror in this case.

17 THE CLERK: Please be seated. You've been excused
18 from this case.

19 Juror Number 16, Mark Bishop.

20 (WHEREUPON, Mark Bishop, a white male, stood.)

21 MR. MOYER: Please present Mr. Bishop.

22 THE CLERK: What says the defendant?

23 MR. ADDUCCI: Please seat the juror.

24 THE CLERK: Please bring your things and have a seat
25 in the jury box.

1 Juror Number 47, Leonard Few, Junior.

2 (WHEREUPON, Leonard Few, Junior, a white male, stood.)

3 THE CLERK: What says the State?

4 MR. MOYER: Please present Mr. Few.

5 THE CLERK: What says the defendant?

6 MR. ADDUCCI: Please thank and excuse the juror.

7 THE CLERK: Please be seated. You've been excused
8 from this case.

9 Juror Number 18, Howard Bowens.

10 (WHEREUPON, Howard Bowens, a black male, stood.)

11 THE CLERK: What says the State?

12 MR. MOYER: Please present Mr. Bowens.

13 THE CLERK: What says the defendant?

14 MR. ADDUCCI: Please seat the juror.

15 THE CLERK: Please bring your things and have a seat
16 in the jury box.

17 Juror Number 152, Michelle Smith.

18 (WHEREUPON, Michelle Smith, a white female, stood.)

19 THE CLERK: What says the State?

20 MR. MOYER: Please present Ms. Smith.

21 THE CLERK: What says the defendant?

22 MR. ADDUCCI: Please thank and excuse the juror.

23 THE CLERK: Please be seated. You've been excused
24 from this case.

25 Juror Number 166, Debra Ventura.

1 (WHEREUPON, Debra Ventura, a white female, stood.)

2 THE CLERK: What says the State?

3 MR. MOYER: Please present Ms. Ventura.

4 THE CLERK: What says the defendant?

5 MR. ADDUCCI: Please thank and excuse the juror.

6 THE CLERK: Please be seated. You've been excused
7 from this case.

8 Juror Number 139, Malcolm Pulley.

9 (WHEREUPON, Malcolm Pulley, a black male, stood.)

10 THE CLERK: What says the State?

11 MR. MOYER: Please present Mr. Pulley.

12 THE CLERK: What says the defendant?

13 MR. ADDUCCI: Please seat the juror.

14 THE CLERK: Please bring your things and have a seat
15 in the jury box.

16 Juror Number 11, Reginald Batson.

17 (WHEREUPON, Reginald Batson, a white male, stood.)

18 THE CLERK: What says the State?

19 MR. MOYER: Please present Mr. Batson.

20 THE CLERK: What says the defendant?

21 MR. ADDUCCI: Please thank and excuse the juror.

22 THE CLERK: Please be seated. You've been excused
23 from this case.

24 Juror Number 119, Cheryl Moon.

25 (WHEREUPON, Cheryl Moon, a white female, stood.)

1 THE CLERK: What says the State?

2 MR. MOYER: Please present Ms. Moon.

3 THE CLERK: What says the defendant?

4 MR. ADDUCCI: Please thank and excuse the juror.

5 THE CLERK: Please be seated. You've been excused
6 from this case.

7 Juror Number 137, Lucinda Poston.

8 (WHEREUPON, Lucinda Poston, a white female, stood.)

9 THE CLERK: What says the State?

10 MR. MOYER: Please present Ms. Poston.

11 THE CLERK: What says the defendant?

12 MR. ADDUCCI: Please seat the juror.

13 THE CLERK: Please bring your things and have a seat
14 in the jury box.

15 Juror Number 14, Pat Berardi.

16 (WHEREUPON, Pat Berardi, a white male, stood.)

17 THE CLERK: What says the State?

18 MR. MOYER: Please present Mr. Berardi.

19 THE CLERK: What says the defendant?

20 MR. ADDUCCI: Please seat the juror.

21 THE CLERK: Please bring your things and have a seat
22 in the jury box.

23 Juror Number 74, Joshua Houston.

24 (WHEREUPON, Joshua Houston, a white male, stood.)

25 THE CLERK: What says the State?

1 MR. MOYER: Please present Mr. Houston.

2 THE CLERK: What says the defendant?

3 MR. ADDUCCI: Please thank and excuse the juror.

4 THE CLERK: Please be seated. You've been excused
5 from this case.

6 Juror Number 180, Margaret Yonally.

7 (WHEREUPON, Margaret Yonally, a white female, stood.)

8 THE CLERK: What says the State?

9 MR. MOYER: Please present Ms. Yonally.

10 THE CLERK: What says the defendant?

11 MR. ADDUCCI: Please seat the juror.

12 THE CLERK: Please bring your things and have a seat
13 in the jury box.

14 Juror Number 21, Sarah Brown.

15 (WHEREUPON, Sarah Brown, a white female, stood.)

16 THE CLERK: What says the State?

17 MR. MOYER: Please present Ms. Brown.

18 THE CLERK: What says the defendant?

19 MR. ADDUCCI: Please thank and excuse the juror.

20 THE CLERK: Please be seated. You've been excused
21 from this case.

22 Juror Number 182, Tracy Thompson Vaughan.

23 (WHEREUPON, Tracy Thompson Vaughan, a white female,
24 stood.)

25 THE CLERK: What says the State?

1 MR. MOYER: Please present Ms. Vaughan.

2 THE CLERK: What says the defendant?

3 MR. ADDUCCI: Please thank and excuse the juror.

4 THE CLERK: Please be seated. You've been excused
5 from this case.

6 Juror Number 77, Susan Hunter.

7 (WHEREUPON, Susan Hunter, a white female, stood.)

8 THE CLERK: What says the State?

9 MR. MOYER: Please present Ms. Hunter.

10 THE CLERK: What says the defendant?

11 MR. ADDUCCI: Please seat the juror.

12 THE CLERK: Please bring your things and have a seat
13 in the jury box.

14 Juror Number 31, Lisa Creech.

15 (WHEREUPON, Lisa Creech, a white female, stood.)

16 THE CLERK: What says the State?

17 MR. MOYER: Please present Ms. Creech.

18 THE CLERK: What says the defendant?

19 MR. ADDUCCI: Please seat the juror.

20 THE CLERK: Please bring your things and have a seat
21 in the jury box.

22 Juror Number 125, Kathleen Okinaga.

23 (WHEREUPON, Kathleen Okinaga, a white female, stood.)

24 THE CLERK: What says the State?

25 MR. MOYER: Please present Ms. Okinaga.

1 THE CLERK: What says the defendant?

2 MR. ADDUCCI: Please thank and excuse the juror.

3 THE CLERK: Please be seated. You've been excused
4 from this case.

5 Juror Number 41, Cathy Enslin.

6 (WHEREUPON, Cathy Enslin, a white female, stood.)

7 THE CLERK: What says the State?

8 MR. MOYER: Please present Ms. Enslin.

9 THE CLERK: What says the defendant?

10 MR. ADDUCCI: Please seat the juror.

11 THE CLERK: Please bring your things and have a seat
12 in the jury box.

13 Juror Number 51, Carla Fulton.

14 (WHEREUPON, Carla Fulton, a white female, stood.)

15 THE CLERK: What says the State?

16 MR. MOYER: Please present Ms. Fulton.

17 THE CLERK: What says the defendant?

18 MR. ADDUCCI: Please seat the juror.

19 THE CLERK: Please bring your things and have a seat
20 in the jury box.

21 Juror Number 53, Brenda Garbo.

22 (WHEREUPON, Brenda Garbo, a white female, stood.)

23 THE CLERK: What says the State?

24 MR. MOYER: Please present Ms. Garbo.

25 THE CLERK: What says the defendant?

1 MR. ADDUCCI: Please seat the juror.

2 THE CLERK: Please bring your things and have a seat
3 in the jury box.

4 THE COURT: First alternate, two and one on the
5 strikes.

6 THE CLERK: Juror Number 160, Robert M. Taylor.

7 (WHEREUPON, Robert M. Taylor a white male, stood.)

8 THE CLERK: What says the State?

9 MR. MOYER: Please present Mr. Taylor.

10 THE CLERK: What says the defendant?

11 MR. ADDUCCI: Please seat the juror.

12 THE CLERK: Please bring your things and have a seat
13 in the jury box.

14 Juror Number 70, Kelly Hoffman.

15 (WHEREUPON, Kelly Hoffman, a white female, stood.)

16 THE CLERK: What says the State?

17 MR. MOYER: Please present Ms. Hoffman.

18 THE CLERK: What says the defendant?

19 MR. ADDUCCI: Please seat the juror.

20 THE CLERK: Please bring your things and have a seat
21 in the jury box.

22 THE COURT: All right. Any objection or issues with
23 the selection process from the State?

24 MR. MOYER: No, Your Honor.

25 THE COURT: Anything from the defendant?

1 MR. ADDUCCI: No, Your Honor.

2 THE COURT: All right. Why don't you all sit tight
3 for a second. I'm going to release this jury because I
4 want to make sure I have the right instructions.

5 Ladies and gentlemen of the remainder of the panel,
6 at this time, if you will, return back to the main jury
7 room and you'll have further instructions down there as
8 far as being able to go for lunch. So if you'll go back
9 downstairs, thank you, again, for your participation this
10 morning.

11 (WHEREUPON, the remaining jury panel exits the courtroom
12 at 12:44 p.m.)

13 THE COURT: I'll tell you what's going on here. We
14 have some matters that we have to take up outside your
15 presence, and then the actual trial will not start until
16 in the morning. I'm trying to find out exactly how you --
17 what instruction I'm going to need to give you as far as
18 calling back tonight. So that's -- because the general
19 panel has to call back and they're given instructions, but
20 I want to make sure there's no confusion when you all call
21 back.

22 (Pause in proceedings.)

23 THE COURT: I just want to make sure. Now, what
24 you're going to be doing is, like I said, there's matters
25 we have to go over. It would be too late in the day to

1 start the case. So we anticipate that we'll start in the
2 morning, but it could be -- and I don't want y'all to come
3 back if we've still got some matters to go over first
4 thing, so I don't want y'all to come back first thing
5 unless you have to. It may be later in the morning, and
6 by some chance, it could be after lunch.

7 So you will call back after 6:00 today, and it will
8 tell you, it will identify you as your jury, and, like I
9 said, it's probably one of those three things. It will be
10 first thing, later in the morning, or after lunch, okay?
11 Again, the other panel, there may be a message that tells
12 the rest of the panel, say you're not to report back. You
13 know, that panel will probably not have to come back
14 tomorrow and they'll call back tomorrow evening. So,
15 again, there's two different panels, and that's what
16 you're looking for when you call. All right? And if you
17 have any questions, call the clerk's office if you're
18 confused, okay? We will make sure that it -- because we
19 need to start the case tomorrow.

20 All right. Now, in just a minute the bailiffs will
21 show you what you need to do as far as when you come back
22 tomorrow, where you need to be.

23 Now, in the meantime, there's a couple of rules that
24 I need to tell you. One, you do not need to discuss this
25 case among yourselves, your family members or anybody at

1 all. It's not appropriate to discuss this case until
2 you've heard all of the evidence and you've heard the law
3 that applies to this case, and then you'll be able to
4 discuss it in your jury room. But before that, it's not
5 proper to discuss it in any way. If anybody asks you
6 what's going on, just say, I can't talk about.

7 The second thing, it's not proper for you to do any
8 type of investigation, any type of google about this case.
9 I know you're curious at this point, but it's not proper
10 because everything that you're supposed to be considering
11 in this case is what you receive in this courtroom by way
12 of evidence and the law that I charge you. So, you know,
13 don't do any type of google or anything like that.

14 Also, do not pay any attention -- at this point, I'm
15 not aware of any media coverage, but if there should be,
16 do not pay attention to that, either newspaper, radio, TV
17 or any type of social media. Again, do not pay attention
18 to that because, again, that will be improper, and you're
19 only to consider evidence you hear in this courtroom.

20 And the final rule is, I don't expect this to be an
21 issue, but if you're contacted, the only person that
22 should contact you would be someone from the clerk's
23 office, Greenville County Clerk's Office. If anyone else
24 -- and I don't expect this, but I just tell you this in
25 every case, if you're contacted by anybody else, please

1 just get as much information you can about that contact
2 and present it to the bailiffs in the morning.

3 But like I say, I expect to see you sometime in the
4 morning, and we will proceed with the trial. So in the
5 meantime, you all have a good afternoon. We'll see you
6 all tomorrow. Thank you.

7 Anything else before we release them today, from the
8 State?

9 MR. MOYER: Not from the State, Your Honor.

10 THE COURT: Or the defense?

11 MR. ADDUCCI: Not from the defense, Your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, the jury exits the courtroom at 12:49 p.m.)

14 THE COURT: All right. It's ten till 1:00. Do you
15 all want to start at 2:00? I mean, unless y'all need to
16 have any -- I don't know of any reason. If that's fine
17 then?

18 MR. MOYER: 2:00 sounds fine with me.

19 THE COURT: Is it good with y'all?

20 MR. ADDUCCI: 2:00 is good.

21 THE COURT: All right. We'll begin at 2:00. Be
22 ready. And y'all will probably go in the morning since we
23 got a little bit later start. That's fine. All right.

24 MR. MOYER: It's possible we'll finish the hearing
25 today.

1 THE COURT: Yeah. We'll figure it out. Thank you.

2 MR. MOYER: Thank you, Judge.

3 (WHEREUPON, a recess is taken at 12:50 p.m.)

4 (WHEREUPON, Defendant's Exhibit Numbers 1 through 10 were
5 marked for identification.)

6 (WHEREUPON, proceedings reconvened at 2:02 p.m.)

7 THE COURT: All right. Be glad to hear, I guess it's
8 your motion.

9 MR. ADDUCCI: Yeah, Your Honor. Defense has moved,
10 and I believe we have provided the State and the Court our
11 motion for immunity under the South Carolina Protection of
12 Persons and Property Act.

13 THE COURT: Okay.

14 MR. ADDUCCI: Do you want us to call our first
15 witness or ---

16 THE COURT: Yes. Proceed.

17 MR. ADDUCCI: All right. I call Mr. John Hughes.

18 THE CLERK: Mr. Hughes, please come forward, place
19 your left hand on the Bible and raise your right hand.

20 WHEREUPON,

21 JOHN MICHAEL HUGHES

22 After having been duly sworn, testified as follows:

23 THE CLERK: Please be seated and state your name for
24 the record.

25 MR. ADDUCCI: And, Your Honor, can we sequester the

1 witnesses for this hearing?

2 THE COURT: Okay. Ladies and gentlemen, based on the
3 defendant's attorney's request, the witnesses cannot
4 observe the other testimony and you cannot discuss the
5 testimony after -- if you've testified, you cannot discuss
6 it with any other witnesses. So at this time, I'll ask
7 that you exit the courtroom until you are called. I
8 assume that's on both sides, yeah. There's some people on
9 your side of the line. They were -- I don't know whose
10 side they're on, but they're -- if anybody is a witness --
11 potential witness to the case, then they must exit the
12 courtroom.

13 MR. MOYER: Just to clarify, Your Honor, our lead
14 investigating officer, he's here.

15 THE COURT: Right. All right. So no one else left
16 who is a witness. Okay. You may proceed.

17 MR. ADDUCCI: May it please the Court.

18 DIRECT EXAMINATION

19 BY MR. ADDUCCI:

20 Q Please state your name for the record.

21 A John Michael Hughes.

22 Q And if you could, just name your immediate family
23 members.

24 A Say again?

25 Q Name your immediate family members.

1 A My wife, Margaret Renee Hughes; my daughter, Jane
2 Katherine Hughes; my son, Jacob Cody Hughes; my
3 granddaughter, [REDACTED]; my grandson, [REDACTED]
4 [REDACTED].

5 Q Okay. Now, back in January of 2015, where were you
6 residing?

7 A 106 Stonegate Road in Simpsonville, South Carolina.

8 Q And at that time, who was residing with you?

9 A My wife, my son, my daughter, my grandson, my
10 granddaughter and a friend of my daughter's, Andrew
11 Martin.

12 Q And what is your relationship to Mr. Andrew Martin?

13 A There's no blood relationship. He was a friend of my
14 daughter's.

15 Q And your daughter's name again?

16 A Jane Katherine Hughes.

17 Q Okay. And what is your relationship to the decedent,
18 Mr. Ferrell?

19 A He was my son-in-law.

20 Q Okay. At the time of January 2015, was your daughter
21 still married to Mr. Ferrell?

22 A Yes, sir.

23 Q And were they in the process of a divorce?

24 A Yes, sir.

25 Q Okay. And the children of Mr. Ferrell and your

1 daughter, where were they living at that time?

2 A With us.

3 Q Okay. And what are the birthdays of your two
4 grandchildren?

5 A My granddaughter [REDACTED]; and my
6 grandson is [REDACTED] -- I mean [REDACTED], excuse me, [REDACTED].

7 Q Okay. I'm going to show you a couple of pictures
8 marked as Defendant's Exhibit Number 1 and Defendant's
9 Exhibit Number 2. I'm going to first show you Defendant's
10 Exhibit Number 1. Can you please explain what that is.

11 A That's my grandson at our dinner table in the kitchen
12 in front of his birthday cake.

13 Q And do you recall how old he was for this birthday?

14 A He would have been [REDACTED].

15 Q And was that the birthday that would have been in
16 December of 2014?

17 A Yes.

18 Q Okay. And is that a picture of your kitchen at that
19 time?

20 A Yes, it is.

21 Q Did anything substantial change about your kitchen
22 between that time and January 24th of 2015?

23 A No. Nothing I can recall.

24 Q Let me show you another picture, Defendant's Exhibit
25 Number 2. Can you please explain what that is.

1 A That's the same kitchen, and my daughter and my
2 granddaughter over by the sink, and the window and the
3 cabinets.

4 Q Okay. You mentioned sink and cabinets. And what is
5 over the sink?

6 A Well, there's several things. There's a fan, a
7 curtain, and then on the left-hand side there's some
8 things hanging.

9 Q Okay. What's hanging on the left?

10 A Oven mitts, a can opener, maybe some wooden handle
11 kitchen utensils. It's been a while since I've been home.

12 Q Okay. Is that where those items normally are?

13 A Yes.

14 Q All right.

15 A There was a blue metal -- I don't know what you call
16 it. It's what the thing is hung on that had been there
17 since I put it up.

18 Q Now, the fan that was over that window, was that fan
19 in the window the evening of January 24th?

20 A Yeah. The fan stayed in the window.

21 Q Okay.

22 (WHEREUPON, Defendant's Exhibit Number 11 was marked for
23 identification.)

24 MR. MOYER: Before we move on, just for clarification
25 purposes, I don't think those photos were entered into

1 evidence yet for the hearing.

2 MR. ADDUCCI: Not yet.

3 MR. MOYER: You didn't intend to yet?

4 MR. ADDUCCI: I will.

5 MR. MOYER: Okay. I just want to make sure. I just
6 want to take a chance to look at them more closely before
7 they're entered.

8 MR. ADDUCCI: I'm handing them to Mr. Moyer.

9 MR. MOYER: (Reviews exhibits) Okay. I have no
10 objection to 1 and 2 being entered into the record.

11 THE COURT: All right. Then they're in without
12 objection.

13 (WHEREUPON, Defendant's Exhibit Numbers 1 and 2 were
14 admitted into evidence.)

15 THE COURT: Since I'm going to be making a ruling, I
16 guess I'm the one that needs to be looking at these.

17 MR. ADDUCCI: There you go.

18 BY MR. ADDUCCI:

19 Q Let me show you what is marked as Defendant's Exhibit
20 Number 11. What is that?

21 A It's a window fan.

22 Q Is that the same model or a similar model to the
23 window fan that is in the photos, Defendant's Exhibit
24 Number 1 and 2?

25 A It's similar, but not exact.

1 Q Is it substantially similar in size?

2 A I'm going to have to guess on that. It's been a long
3 time since I've seen that ---

4 Q Okay.

5 A --- fan, but it's really close.

6 Q Okay. Now, that fan that was in your window, how was
7 it made to stay in the window?

8 A There's a trough at the top where the window comes
9 down on it and pins it in the window, and there's pieces
10 on the side, an accordion piece like -- oh, excuse me --
11 an accordion piece like this, and then this piece is
12 wedged into the sill.

13 Q Okay.

14 A But you can still push it out from the bottom,
15 so . . .

16 Q So the window on the top, does it prevent it from
17 falling in or out?

18 A Supposed to, yes.

19 Q Okay. Now let me take you to the day of January 24th
20 of 2015. Was this a Saturday?

21 A I think so, yes.

22 Q Now, your wife, Renee, do you recall if she worked
23 that day?

24 A Yes, she did.

25 Q Okay. And how does she get to work?

1 A I take her.

2 Q Okay. Did you take her to work that Saturday?

3 A Yes.

4 Q Okay. Do you remember about what time you took her
5 to work?

6 A Between 7:00 and 8:00 in the morning.

7 Q And when you got back to the house after dropping her
8 off, do you recall who was there?

9 A The grandchildren had gone with me, and I think my
10 daughter was home at the time. My son was at work
11 himself.

12 Q Was Mr. Martin present at that time?

13 A Not that I recall.

14 Q Okay. Now, at some point, your son, Jacob, met with
15 Mr. Ferrell, right?

16 A Correct.

17 Q About what time did you know that he was meeting with
18 Mr. Ferrell?

19 A Sometime after -- after dark, after my wife and I got
20 home, which would have been after 8:00.

21 Q So after your wife got home from work?

22 A Yes.

23 Q And you indicate she worked till about 8:00?

24 A Yes. No. She worked till 7:30. We got home ---

25 Q And then you picked her up?

1 A Yes.

2 Q Now, was it unusual for Jacob and Mr. Ferrell to see
3 each other?

4 A No.

5 Q Did they go out with any regularity?

6 A I wouldn't call it regularity, but they did go out on
7 occasion. At least once a month, I'd guess. Maybe a
8 little less.

9 Q Okay. Did they ever work together?

10 A My son would help Mr. Ferrell when he would deliver
11 and install copy machines on occasion. Not every time,
12 but on occasion.

13 Q Okay. Do you know where they went?

14 A I know they went to have a drink somewhere. Exactly
15 where, I know now, but I didn't know then.

16 Q Okay. About what time that evening did Jacob get
17 home?

18 A That night?

19 Q Correct.

20 A After 11:00.

21 Q Okay. Was anybody with Jacob?

22 A Mr. Ferrell was with him, my son-in-law.

23 Q Okay. And when they arrived at the house, who else
24 was at the house?

25 A My wife, my grandchildren, my daughter, and

1 Mr. Martin.

2 Q Okay. Was Mr. Martin in the house when they arrived?

3 A No, he was not.

4 Q And why was he not in the house?

5 A My son had called earlier and told me that my
6 son-in-law wanted to talk to me about something that was
7 coming up on Tuesday. At first I was hesitant, but they
8 called more than once, and he insisted on wanting to talk
9 to me. And I told him that I didn't think it would be a
10 good idea, but after some persistence on his part, I
11 agreed to talk to him. But I told him that if it turned
12 into something other than just a conversation, that we'd
13 have to end it.

14 Q Okay. Now, is this when you were speaking with Jacob
15 on the phone?

16 A Yes. Only with my son. I never spoke with
17 Mr. Ferrell that night on the phone.

18 Q Okay. And what was coming up on Tuesday?

19 A My daughter had gotten a letter about something to do
20 with Family Court on Tuesday.

21 Q Do you recall what the hearing was for?

22 A Not exactly, no.

23 Q Okay.

24 A I mean, I know now, but at the time, I did not know.

25 Q Okay. And do you recall where Mr. Martin was at this

1 time when they arrived?

2 A He was in the backyard. We had two sheds out back:
3 one aluminum shed and one wooden shed. And he would sit
4 in the aluminum shed.

5 Q And what would he do out there?

6 A Smoke and play some type of game on his iPhone.

7 Q Okay. And why was he told to stay outside?

8 A When I knew that my son and Mr. Ferrell were coming
9 over, I told him, I said, It wouldn't be a good idea for
10 you to be here at all because that could be a problem, and
11 he said he wanted to stay. I asked him if he would go,
12 and he insisted on staying. I said, If you're going to
13 stay, you're going to have to stay out back.

14 Q How far away is this shed from the house?

15 A I'm going to have to guess, but I'd say at least 60
16 to 75 feet.

17 Q So further than from where you're standing to the
18 back of the courtroom?

19 A Oh, way, much further.

20 Q Okay.

21 A Probably twice as far.

22 Q And you said this was after 11:00?

23 A I think so.

24 Q And so it was dark outside?

25 A Pitch dark.

1 Q Now, could you tell if Jacob or Mr. Ferrell had been
2 drinking that evening?

3 A I didn't ask them, but I assumed if they were out
4 that late, they'd probably had a drink.

5 Q Okay. When they arrived, where did the three of you
6 go?

7 A To the kitchen.

8 Q Okay. When you went to the kitchen, who was in the
9 kitchen at the beginning?

10 A Myself, my son, and Mr. Ferrell.

11 Q Okay. Now, when you were in the kitchen, then what
12 happened?

13 A We sat at the table and I asked John what he wanted
14 to talk about. He was the one that wanted to come talk to
15 me. I didn't initiate wanting to talk to him about
16 anything.

17 MR. MOYER: I have no objection to his Exhibits 4
18 through 10 coming into evidence.

19 THE COURT: All right.

20 (WHEREUPON, Defendant's Exhibit Numbers 4 through 10 were
21 admitted into evidence.)

22 BY MR. ADDUCCI:

23 Q Let me show you what's marked as Defendant's Exhibit
24 Number 4. Could you please describe what you see there.

25 A It's the kitchen facing the other way from the first

1 pictures you showed me. And this is our chest freezer and
2 a refrigerator I gave to the children to keep their little
3 juice boxes and things in. On top of the chest freezer
4 are a couple of rubber mats from a kids movie they like
5 called Ratatouille, and there's three glasses on the top
6 of that as well.

7 Q Now, is that a fair and accurate representation of
8 how the kitchen looked the evening of the 24th?

9 A If I was to guess, this was the evening of the 24th.

10 Q Okay. Now, is that the table that you were sitting
11 at?

12 A On the left, yes, the table with the -- the picnic
13 table with the bench chairs.

14 Q Okay. Do you recall where you were seated at that
15 table and where the other individuals were seated?

16 A I was standing in the beginning here where the --
17 turn it around. In the beginning I was standing here, my
18 son was on this side and Mr. Ferrell -- there's a chair
19 just like this one at the other end. Mr. Ferrell was
20 sitting there (indicating throughout).

21 Q Was he sitting across from your son?

22 A No.

23 Q Okay.

24 A He was sitting -- there's a chair just like this one
25 at the other end of the table here, and he was sitting

1 there.

2 Q All right. Thank you. Let me show you Defendant's
3 Exhibit Number 3. Will you please explain what you see
4 there.

5 A (Reviews exhibit) That's the kitchen sink below where
6 the fan is -- or was.

7 Q Okay. And let me show you Defendant's Exhibit
8 Number 5. What does that ---

9 THE COURT: What was that defendant's number?

10 MR. ADDUCCI: This was Number 3.

11 THE COURT: I thought that was Number 3.

12 MR. ADDUCCI: This is Number 11.

13 THE COURT: Oh. Number 11. I got you. Sorry.

14 THE WITNESS: What was the question again?

15 BY MR. ADDUCCI:

16 Q What is that, and what's the perspective of that
17 photograph?

18 A That's looking from the kitchen into the living room.

19 MR. ADDUCCI: Okay. Your Honor, we would move
20 Exhibits 3, 4 and 5 into evidence.

21 THE COURT: I think he stipulated 4 through 10.

22 MR. MOYER: Yes. 4 through 10 I stipulated.

23 MR. ADDUCCI: Thank you.

24 BY MR. ADDUCCI:

25 Q All right. You mentioned that there were three

1 glasses of water on a table.

2 A Yes.

3 Q Where did those come from?

4 A I asked my son and Mr. Ferrell if they wanted
5 anything to drink, and Mr. Ferrell said water, so I got
6 water for all three of us.

7 Q Okay. Where did you go to get that water?

8 A To that kitchen -- excuse me. To that kitchen sink
9 in the picture.

10 Q Okay. And ---

11 A The glasses were in the cabinet to the left of it.

12 Q And when you came back, what did you see?

13 A When I came back? Putting the water on the -- I
14 mean, I put the water down on the table and we continued
15 to talk for a second. And I told both of them that I had
16 to go use the restroom.

17 Q Okay. And did you go to the restroom?

18 A Yes, I did.

19 Q And then what happened?

20 A I came back from the restroom in our bedroom down at
21 the end of the hallway, and when I came back, Mr. Ferrell
22 was standing facing me, and my son was with his -- I'm
23 sorry. My son was standing facing me, Mr. Ferrell was
24 with his back to me, and it looked like they were arguing.

25 Q Were they yelling?

1 A No.

2 Q How could you tell that they were arguing?

3 A Just the closeness and the look in my son's face.

4 Q All right. Was anybody else in the kitchen at that
5 time?

6 A Not right then, no.

7 Q Okay. What did you do when you saw that they were
8 arguing?

9 A I turned Mr. Ferrell around and I said, Look, I
10 thought we were supposed to sit down and talk about this.
11 And he said, Well, we're not talking.

12 And I said, Well, let's talk about it. What is it
13 that you want, John? You asked to meet with us. And he
14 proceeded to tell me what he wanted.

15 Q At any point, did anybody else come into the kitchen?

16 A While John and I were having the discussion, he got
17 angry at me because I had told him in the beginning that
18 once he had taken this to Family Court, it wasn't going to
19 be his decision anymore, what happened with the children
20 or Jane, and it wasn't going to be Jane's decision. It
21 was going to be the Court's decision, and that his lawyer
22 and Ms. Mobley and just about anybody else we talked to
23 said that this was going to end up with a thing called
24 Judge Brown's rules. He's supposedly a famous Family
25 Court judge. And there's a set of rules named after him

1 where Jane, my daughter, would get custody, and there
2 would be a split custody of weekends and holidays and so
3 on between my daughter and Mr. Ferrell. And he didn't
4 seem to like that.

5 Q Were things getting a little louder at that point?

6 A Some, but it wasn't a yelling match.

7 Q Okay. Did anybody else come back, come into the
8 kitchen?

9 A It got loud enough toward the end because I explained
10 to John -- you'd have to know my son-in-law. He liked
11 things his way. A lot of us do. He's not the only one.
12 But I told him when he took it to court that it was not
13 going to be his way or my daughter's way. It was going to
14 be the way the Court decided, because they decide what was
15 in the best interest of my grandchildren. And I explained
16 to him that, you know, he was going to end up with some
17 child support, and because he made a certain amount of
18 money that had been disclosed in the Family Court hearings
19 before, that he'd also have to provide them with health
20 care. And he didn't like that idea. He didn't like the
21 idea of having to pay.

22 It got a little bit loud, and he stood back up.
23 About that time, my wife stepped into the kitchen. And
24 she got up in my son-in-law's face sort of and said that
25 he needed -- we all needed to be quiet, not just him, that

1 he may wake up the children. And she pointed at him with
2 her finger, and when she pointed at him, he slapped her
3 hand down.

4 Q And how did you respond to that?

5 A I said, Look, this is getting out of hand. This is
6 what I was afraid was going to happen. I said, If we
7 can't do any better than this, you might go ahead and go
8 home, John, and we'll just pick this up in court.

9 Q Did he leave?

10 A Not right that second, but within about a minute or
11 two he did.

12 Q Okay. Do you recall which door he went out of?

13 A The front door.

14 Q Okay. Do you remember how long he was at the house
15 in the kitchen between the arrival and when he left?

16 A I'd have to guess. I couldn't tell you exactly. It
17 wasn't a long time.

18 Q Okay. After he left, then what did you do?

19 A Buttoned up the house. My son went to bed in his
20 room. I went back to the bedroom. Within a short time,
21 [REDACTED] woke up and he wanted something to drink. He
22 didn't wake up happy. I told my wife and daughter, I
23 said, I'll go get something in the kitchen, and proceeded
24 to do that.

25 Q Okay. And then what happened?

1 A About halfway to two thirds of the way down the hall,
2 I heard a noise that wasn't a normal noise.

3 Q Could you please describe what that noise sounded
4 like to you, if you remember.

5 A A thump on the side of the house.

6 Q Okay. And what did you do when you heard that sound?

7 A I listened for it again. It didn't happen right
8 away, but it did happen again, and it sounded like it came
9 from a different spot further toward the kitchen.

10 Q Okay. And then what did you do?

11 A I heard it one more time, and I decided that it was
12 time to go outside. So I turned around and spoke loudly
13 but not in a yell down the hallway. I said, Somebody
14 needs to call the police. There's something or somebody
15 outside, and I'm going to go see who it is.

16 Q Okay. After that, what did you do?

17 A I went to my desk. It's -- from standing in the
18 hallway, the desk is straight -- straight ahead of me on
19 the right, and it's up against the wall. I got my pistol
20 bag that has a pistol rug in it with a pistol in it,
21 unzipped the bag, took the pistol rug out, unzipped the
22 pistol rug, took the pistol out and went out the front
23 door and locked it -- actually, turned the light off in
24 the carport and then went out the front door and locked it
25 behind me.

1 Q Okay. Let me show you Defendant's Number 6. Can you
2 please describe what you see there.

3 A That's a pistol bag and a pistol rug.

4 Q Okay. What do you refer to as the pistol rug in that
5 photograph?

6 A The light-colored thing. It's a tan color.

7 Q Okay. Now, does that go inside the pistol bag?

8 A The pistol goes inside that. There's two extra
9 magazines in it, and that bag goes inside the pistol bag
10 that has other things other than just the pistol in it.

11 Q Okay. And is that where your handgun was ---

12 A Yes.

13 Q --- on the evening of the 24th?

14 A Yes. That's where it always is.

15 Q Okay. And what kind of gun is it?

16 A It's a Glock 21.

17 Q All right. You indicated that you went out the front
18 door.

19 A Yes.

20 Q Let me show you Defendant's Number 8.

21 A (Reviews exhibit) Yes.

22 Q What is that, and from what perspective is that?

23 A That's looking at the front of our house out in the
24 street or to the right and to the left.

25 Q Is the front door on that photograph?

1 A Yes. It's where the light on is in the corner, and
2 there's a snowman just to the left of it.

3 Q Are the lighting conditions in that photograph
4 substantially similar to the lighting conditions on the
5 24th?

6 A Except the light that you see that's on here
7 (indicating), one light is on the inside of the house. It
8 was on. The lights on the outside of the house, including
9 the one in the carport, I turned off.

10 Q Okay. Now let me show you Defendant's ---

11 A It would have been darker, not lighter.

12 Q Okay. Let me show you Defendant's Number 7. Could
13 you please explain what that photograph shows.

14 A That's a photograph of the carport looking out to the
15 street.

16 Q Okay. Can you see any vehicles in the streets?

17 A Oh, no. Well, I see the ambulance pulled up. I
18 think it's an ambulance pulled up in my driveway. Other
19 than that, no. I see some lights reflect -- taillight
20 reflections way down there, but you can't -- all you can
21 see is the space down. You can't tell it's a vehicle,
22 hardly.

23 Q Are the lighting conditions in that photograph
24 similar to the lighting conditions on the evening of
25 January 24th?

1 A Other than the light from whoever's taking the
2 picture, yeah.

3 Q Okay. Now, when you went out the front door, where
4 did you go first?

5 A Down the steps to the right.

6 Q And then what did you see there?

7 A Nothing. I looked to the right first because my
8 vehicle was to the left. It was blocking my view to the
9 left. And I moved to the right of it and then went around
10 it.

11 Q Let me show you Defendant's Number 9. Can you please
12 explain what that photograph is.

13 A That's looking back from the way the first picture --
14 or the last picture you just handed me was looking front.

15 Q Is that your carport?

16 A It's looking into the carport, yes.

17 Q Okay. So then you had the Explorer or Expedition to
18 your left?

19 A Expedition. Yes.

20 Q And then you went out around it.

21 A Yes.

22 Q Where did you go after clearing your vehicle?

23 A Into the vacant part of the carport and then just
24 around the corner here where the fence ends.

25 Q And when you went around the corner of the carport,

1 did you see anything at that time?

2 A Yes. I saw someone at my window in the kitchen.

3 Q What do you mean by somebody at your window?

4 A What looked like a body part in and part out of the
5 window.

6 Q Is there a security floodlight or anything on that
7 side of the house?

8 A There's no light on that side of the house except for
9 the light that was shining out of the kitchen window, so a
10 little 15 watt bulb above the kitchen sink that stays on
11 at night.

12 Q When you saw this person in your window, what did you
13 do next?

14 A I asked him -- I said, Who the hell are you and what
15 are you doing in my house?

16 Q Were you yelling?

17 A A little. I mean, not screaming, but I was
18 definitely loud enough that whoever was there certainly
19 heard me.

20 Q Let me show you Defendant's Number 10. What is that
21 blue thing there?

22 A It's a trash container.

23 Q Was that trash container there on the evening of the
24 24th?

25 A Pretty close to right there, yes.

1 Q Okay. After you yelled at this individual, what did
2 you do next?

3 A I stayed where I was, and the individual dropped down
4 from the window.

5 Q Okay. After he dropped down from the window, what
6 did you see?

7 A Nothing for a little bit. I mean, I don't know
8 exactly how long, but the person finally stood up.

9 Q And after he stood up, what then did you see?

10 A I told him not -- what did I see? Them standing up
11 at the base of the window.

12 Q Okay. And then what did you do?

13 A I told them not to move, that the police were being
14 called and that they'd be here shortly and sort it out.

15 Q And then what did you do?

16 A I hoped that they didn't move. But that's not what
17 happened. They came toward me.

18 Q How did this person come towards you?

19 A Not at a run, but not at a slow walk either.

20 Q Okay. When this person started coming towards you,
21 what did you do?

22 A I shot him.

23 Q Do you recall how many times you fired?

24 A No. I know now, but at the time, I didn't know. I
25 told -- if I'm not mistaken, I told the fellow that asked

1 me it was obviously more than once and less than ten
2 times.

3 Q Okay. Now, the handgun that you had, did you load
4 that handgun yourself?

5 A Yes.

6 Q Do you recall how many cartridges were in the
7 magazine?

8 A 13.

9 Q Okay. And do you know the sequence of shots you
10 fired?

11 A Sequence of where they ---

12 Q How many, and, if you recall, how many in what time
13 period.

14 A It wasn't -- the shots weren't all at once. It was a
15 shot to stop the person, the person hesitated and kept
16 moving so I shot again. And that happened at least twice,
17 if not more times.

18 Q When did you stop shooting?

19 A When I was pretty sure that the person wasn't coming
20 toward my way anymore.

21 Q After you finished shooting, do you recall where you
22 went?

23 A I stood there for a little bit. I guess I was making
24 sure that there wasn't any more noise or movement. But
25 nothing happened. I waiting for the -- we lived right

1 across the street from the police station. I figured it
2 wouldn't take long for them to get there. But when they
3 didn't show up, I went back toward the house and was
4 yelling toward the house for someone to please help,
5 please call the police, you know. I need to -- get me my
6 cell phone, or something. I don't know exactly what I
7 said. It's been a long time.

8 Q When you were firing your gun, do you recall how far
9 you were from the individual coming towards you?

10 A The first shot?

11 Q Yes.

12 A More than 20 feet, probably.

13 Q Okay. And from where he fell, do you recall how far
14 you were from him at that point?

15 A Probably 10 to 12 feet, maybe a little more. Because
16 I -- as he came toward me, I backed up. Not a lot, but I
17 backed up.

18 Q Now, you said that you went towards your house?

19 A I went back toward the front door.

20 Q And what do you do at the front door?

21 A Someone came out, it was one of the girls, my wife or
22 my daughter, and handed me my cell phone and a flashlight.

23 Q And what did you do with the cell phone?

24 A I called 9-1-1.

25 Q And how long between when you finished shooting to

1 the arrival of the police?

2 A I'm not sure. I'd have to guess.

3 Q Okay.

4 A I know I'd hate to guess. But the minute they handed
5 me the phone, I dialed 9-1-1, and the police showed up as
6 I was on the phone talking to the dispatch.

7 Q And when police showed up, did you still have your
8 handgun with you?

9 A Yes.

10 Q And then what did you do with your handgun?

11 A They -- they hollered at me, and I told them, I said,
12 I'm over here.

13 And they said, Where is he?

14 I said, He's somewhere back in there. I'm not sure.

15 And I had turned the gun around and held it barrel
16 first so that I didn't get shot in the process and held my
17 hands out like this (demonstrating). They came over and
18 took the handgun, and I told them, I said I had dropped
19 the phone and the light on the ground, and I told them
20 where that was. And then they took me over in front of
21 the carport and I stayed there.

22 MR. ADDUCCI: The Court's indulgence.

23 Nothing further from this witness, Your Honor.

24 THE COURT: Cross-examination?

25 MR. MOYER: Thank you, Your Honor. May it please the

1 Court.

2 CROSS EXAMINATION

3 BY MR. MOYER:

4 Q Mr. Hughes, I think as I ask you some of the
5 questions I'm going to ask about what happened in the house,
6 I'm going to use a diagram that we have prepared.

7 A Yes, sir.

8 Q I want you to take a look at it. And you may have
9 been shown a copy of it. Were you shown a copy of this
10 diagram in smaller form, a diagram of the house?

11 A I think so.

12 Q Does that look -- you can take a minute to look it
13 over. I want you to make sure. Does that look like a
14 reasonable and accurate diagram of the layout of the
15 inside of the house?

16 A Everything but the kitchen, yeah.

17 Q Okay. What's different about the kitchen?

18 A There's a lot of dead space that's been filled up
19 with our things.

20 Q Okay. So in other words, the difference would be
21 instead of being open, there's a little more clutter -- or
22 not clutter, but things throughout the kitchen?

23 A Yes, sir.

24 Q But other than that, would you say that's an accurate
25 layout of the house?

1 A Missing a bathroom off the big bedroom in the front.

2 But other than that . . .

3 Q This bedroom here (indicating)?

4 A No, sir. Right here (indicating) there's another
5 bathroom.

6 Q There's a bathroom down here (indicating)?

7 A Yes, sir.

8 Q Okay. I don't think that will come into play in what
9 we're talking about, okay?

10 A Yes, sir.

11 Q Can you see that okay where you are?

12 A Pretty good, yes.

13 Q Okay. I might move it a little closer.

14 Okay. Now, I'm also going to ask you about some
15 prior statements that you made to law enforcement.

16 A Okay.

17 Q Now, if you recall, you gave multiple interviews with
18 law enforcement, didn't you, in the days that took place?

19 A As well as casual conversation, yes.

20 Q And casual conversation.

21 So the night this happened, you spoke to a couple of
22 uniform officers out there? Do you remember some -- when
23 they ---

24 A There were dozens of people out there that night, not
25 just a few.

1 Q There was a lot going on.

2 A A whole lot.

3 Q And some of the officers came over and talked to you
4 a little bit about what happened. And do you remember
5 some officer saying, Hey, can you let us know what
6 happened? Do you remember that?

7 A I remember vaguely talking to I think his name is
8 Morecraft.

9 Q Morecraft.

10 A Detective.

11 Q Okay. You went back to the Simpsonville Police
12 Department and gave an interview that was recorded.

13 A Well, I also spoke to him on the scene, too.

14 Q Okay. Donnelly? Do you remember speaking to
15 Donnelly out there at the scene?

16 A I think they were both there, yeah.

17 Q Okay. And the first officer who came up, he put you
18 in handcuffs, right?

19 A Yes, sir.

20 Q And he took you over to the carport?

21 A Yes.

22 Q And at some point, he walked over, and he actually
23 walked you over to the body, didn't he? Shined a light on
24 it?

25 A Not to the body. He walked to the edge of the

1 carport, but not right up on it.

2 Q Okay. And that, according to your testimony, was the
3 first time that you realized it was your son-in-law.

4 A Yes, sir.

5 Q Okay. And you remember that officer talking to you a
6 little bit about what -- you don't remember this time?

7 A Not a lot, no.

8 Q Now, do you remember, so you gave -- that night after
9 it happened, you went back to the Simpsonville Police
10 Department, and they did an audio and video recording of
11 an interview with you, right?

12 A It was me and Detective Morecraft.

13 Q With Morecraft. Okay.

14 And then the next day, you gave an interview with Fox
15 News. Do you remember that?

16 A I remember talking to -- it wasn't Fox. It was . . .

17 Q Well, anyway, it was one of the local news channels?

18 A Yes, yes.

19 Q They came out there and they did an on-camera
20 recording with you.

21 A Yes.

22 Q Okay. And the 28th -- I'm sorry. The 26th you went
23 back to Simpsonville Police Department and you spoke to
24 Morecraft and this Investigator Manley?

25 A Yes.

1 Q Do you remember that?

2 A Yes.

3 Q Okay.

4 A Among others, but I remember that much.

5 Q Okay. And then there was a break, and then
6 Investigator Donnelly and Investigator Manley spoke to you
7 again.

8 A Actually, Lieutenant Donnelly is the one that took me
9 home the morning after -- the morning after, the morning
10 of, I guess you could call the shooting.

11 Q Okay. Now, have you had a chance to go back and
12 watch any of those interviews in ---

13 A No.

14 Q You haven't.

15 A No.

16 Q So I know it's been a few years, so if you don't
17 remember something, we can go back and check it if you
18 need to, okay?

19 So I want to go through some of what you were just
20 talking about. Let's start off with prior to this night.
21 So the man who ended up getting shot was your son-in-law,
22 John Ferrell.

23 A Right.

24 Q And he was married to your daughter at the time.

25 A Yes.

1 Q They'd been separated for a little while.

2 A Yes.

3 Q They used to live in California, right?

4 A Yes.

5 Q For a period of time. I know they were back and
6 forth between South Carolina and California.

7 A Correct.

8 Q But they were living in California, which is where
9 the children were born.

10 A Yes.

11 Q Okay. And shortly before Jane came back from
12 California and moved in with you, you know that her
13 husband, John, got custody of [REDACTED], right?

14 A There's quite a controversy over that. It's not as
15 simple as you're trying to make it be.

16 Q Right. But you knew there was a court order from
17 California saying that he had custody of [REDACTED], that he
18 was given custody.

19 A I'll agree that there is a court order.

20 Q Okay.

21 A But I also have to be firm on the fact that it's not
22 as simple as you're trying to make it out to be.

23 Q And by that -- and I know you were going through
24 litigation in Family Court about this, weren't you?

25 A Correct.

1 Q And it had been going on for a couple years, or at
2 least a good year, right?

3 A Probably a little over a year.

4 Q A little over a year.

5 John had a lawyer.

6 A Correct.

7 Q You guys -- well, you were initially a party to that
8 action, right?

9 A Yes.

10 Q And then I think you were taken off and it was just
11 Jane vs. ---

12 A Yes.

13 Q --- Mr. Ferrell.

14 She did not have an attorney.

15 A No.

16 Q Okay. And there had been several -- there had been
17 several hearings where there were temporary orders set up
18 regarding a custody situation -- or visitation rights over
19 the children, right?

20 A There were two hearings: one in front of Judge
21 Kinlaw and one in front of Judge Phillips.

22 Q Okay. And in the second hearing, John was given
23 visitation rights where it had to be -- it had to be
24 supervised, right?

25 A That's part of what happened there, yeah. Not all of

1 it.

2 Q Okay. That's as far as visitation.

3 A That's part of it.

4 Q I'm sorry. I didn't mean to cut you off.

5 A No. That's okay.

6 Q So he was supposed to have -- twice a month he was
7 supposed to have supervised visitation with the children.

8 A Correct.

9 Q And then with the guardian ad litem's permission, he
10 was then supposed to get several unsupervised.

11 A That, I'm not aware of.

12 Q You're not aware of that. Okay.

13 A What I was aware of was in the first -- the first
14 Family Court hearing with Judge Kinlaw, somehow John's
15 lawyer was suing us and John -- and my daughter for
16 divorce, and in the middle of the back-and-forth between
17 Judge Kinlaw and myself and John and his lawyer, I
18 mentioned to Judge Kinlaw that John had been living with
19 us. And he said, What's going -- Judge Kinlaw, and you're
20 welcome to get the transcript. I've been asking for it
21 for the last three years, but somehow I haven't gotten it.
22 I'd love to have it. Judge Kinlaw said, What's going on
23 with your client?

24 And Mr. Bean, his lawyer, looked at the judge and
25 said, I can't answer that. I'm going to have to let my

1 client answer that. And I explained to the judge that he
2 had lived with us in Simpsonville for almost a year and a
3 month, and he took it upon himself to leave. We never
4 asked him to leave.

5 And the judge said, Hold on. Hold on. I'm going to
6 get to the bottom of this. And that's when he appointed
7 Ms. Mobley.

8 Q Okay. And she was the guardian ad litem.

9 A Correct.

10 Q Okay.

11 A He also -- he also said for John to have no contact
12 with us or none of us have any contact with him, and he
13 told Mr. Bean to -- when -- a judge will sometimes tell
14 one of the lawyers to write the order up, something like
15 that. He told him to do it. But that never got handled.

16 Q Okay. What ended up happening, there ended up being
17 a mutual restraining order on both sides.

18 A There was supposed to be, but nobody ever -- yeah.
19 Of course.

20 Q Okay. And so you're also aware this happened on the
21 night of January the 24th of 2015, as we already heard,
22 which was a Saturday night, almost midnight, almost
23 Sunday. The next hearing was for that Tuesday, wasn't it?

24 A I think so, yes.

25 Q And that was going to address visitation?

1 A It was going to address a lot of things, not just
2 visitation.

3 Q Among -- that was one of the matters that it was
4 going to address.

5 A Yes.

6 Q Okay. Now, leading up to that hearing, you know a
7 woman named Christine Boisher.

8 A Yes, I do.

9 Q And she used to go to your -- the church where you
10 attended.

11 A We're all members there.

12 Q I'm sorry?

13 A We're all members there.

14 Q Yes. Okay. So you're all members of the church.
15 And she had done guardian ad litem work.

16 A She was a volunteer guardian.

17 Q Okay. And so you had invited her to come over to the
18 house and would talk -- and was trying to get advice and
19 just talking to her about ---

20 A That's not completely true. I went to the bishop at
21 the church and asked him if he knew anybody, and he
22 suggested two different people that are church members,
23 both of them guardians. And she was the first one that
24 contacted us.

25 Q Okay. And so she came over and talked to you about

1 it. And do you remember talking to her and expressing a
2 great deal of concern about John Ferrell getting more or
3 unsupervised visitation at that hearing?

4 MR. ADDUCCI: Object, Your Honor. We believe that
5 this conversation that the State is referring to is
6 privileged under a priest-penitent privilege.

7 MR. MOYER: And, Judge, my response to that is
8 two-fold. First off, and I think it's dispositive, but
9 the person who can invoke -- even if she were in some
10 position of authority with the church, which we would
11 argue that she's not, she would clearly say she's not,
12 it's up to the actual priest or church figure to invoke
13 that privilege as opposed to the other way around.

14 THE COURT: I'm going to overrule the objection,
15 allow him to go answer it.

16 THE WITNESS: Say again?

17 BY MR. MOYER:

18 Q So do you admit that you expressed concern to her
19 about that hearing and about John getting greater
20 visitation rights?

21 A Not that specific. I expressed concern to her in
22 general about the children's well-being. It wasn't
23 specific like you mean.

24 Q And do you remember talking to her and bringing up
25 facets about the Castle Doctrine?

1 A No.

2 Q Okay. Now, going to the day this happened, you
3 became aware through Jacob that Jacob was going to get
4 together with John Ferrell that night. Jacob told you at
5 some point, right?

6 A Yes.

7 Q And Jacob's your son.

8 A Yes.

9 Q Now, one thing I want to clarify. You mentioned
10 initially that Jacob lived with you. Now, he had actually
11 moved out of the house about two years prior, hadn't he?

12 A No. He was back and forth.

13 Q So he's back and forth.

14 A Yes. He wasn't permanent, but he wasn't not
15 permanent.

16 Q And I think you said in one of the interviews that he
17 stayed there maybe 10 percent of the time. Does that
18 sound correct?

19 A Yes. I'm not going to put that in stone, but ---

20 Q Okay. But he actually had a girlfriend, and he lived
21 with his girlfriend.

22 A Yes.

23 Q And he would come and stay with you on some
24 occasions.

25 A They all would.

1 Q They all would. Okay. Well, Jane actually lived
2 there.

3 A Yes.

4 Q And her children.

5 A Yes.

6 Q Okay. And Andrew.

7 A Yes.

8 Q Who was Jane's boyfriend.

9 A Yes.

10 Q Jane's paramour, correct?

11 A I'm not big on that title. What does that mean?

12 Q Okay. Well, it was her boyfriend, right?

13 A Sort of, yeah.

14 Q So you had conversations with Jacob that day that he
15 was going to have a beer with John Ferrell that evening.

16 A I can't confirm or deny it.

17 Q Well, you knew that he was going to go out.

18 A Yes, I did. But I can't say what time of day it was
19 that I talked to him.

20 Q Okay. But at some point that day ---

21 A Yes.

22 Q --- he told you.

23 A Yes, yes.

24 Q Okay. And he said they were going to go out for a
25 beer, right?

1 A He was going to get together with John. It wasn't
2 necessarily out for a beer.

3 Q Okay. And then later that evening, you started
4 getting some text messages from Jacob.

5 A Yes.

6 Q And Jacob, at that time, said he couldn't -- he was
7 texting because he couldn't -- it was loud in the bar and
8 so he had to text instead of call. Does that sound right?

9 A I mean, bars are loud. But, I mean, we -- we called
10 and text both.

11 Q Okay. And then he mentioned, according to your
12 testimony, that that's when he -- that he wanted to bring
13 -- or that John wanted to come by and talk.

14 A Yes. John -- John asked him to ask me.

15 Q Okay. And you were in bed at the time.

16 A I was in the bedroom. I was sitting in a chair.

17 Q Okay. Y'all were watching a movie.

18 A Correct.

19 Q I think you said Happy Feet ---

20 A Happy Feet.

21 Q --- a children's movie.

22 So the children were in the room with you.

23 A Yes.

24 Q And that's where the children generally slept.

25 A Either there or in their mom's room.

1 Q And is that -- looking at our diagram, would that be
2 this (indicating) bedroom back here?

3 A Yes.

4 Q Okay. And Jane stayed in this (indicating) bedroom?

5 A Yes.

6 Q Jane and Andrew stayed in that bedroom, right?

7 A Yes. When Andy stayed there.

8 Q And who stayed in this (indicating) bedroom?

9 A My son.

10 Q That's where Jacob stayed when he was staying?

11 A Yes.

12 THE COURT: Can y'all see the diagram?

13 MR. ADDUCCI: I can. Yeah.

14 THE COURT: All right. If you move just a little
15 bit. I don't think everybody can see it. Just angle it.
16 That way everybody can see it.

17 Can you see it better?

18 BY MR. MOYER:

19 Q And so you, your wife and Jane's two children are in
20 this (indicating) room watching the moving, and you're
21 communicating with Jacob.

22 A My daughter was in there, too. We were all in there.

23 Q Okay. Well, at some point, your daughter left the
24 room, right?

25 A I'm assuming she had to have left the room.

1 Q And she went to bed.

2 A I think Jacob's the one that went to bed ---

3 Q Okay. Well ---

4 A --- I think. I mean, it's been a long time.

5 Q I know. I know.

6 But do you not recall stating in some of your
7 statements that you -- that Jane was back in her bedroom,
8 and that was just you and Margaret and the children
9 watching the movie?

10 A Early in the evening, yes. But not late in the
11 evening.

12 Q So you're ---

13 A That movie -- go ahead.

14 Q I didn't mean to interrupt.

15 A No.

16 Q Your testimony is that Jane then came in to watch the
17 movie with y'all?

18 A She watched the movie that the children and all of us
19 were watching together, which was the Happy Feet movie.

20 Q And then she went to bed?

21 A To be honest with you, I can't remember.

22 Q So you don't know where she went.

23 A Well, I mean, I know she was in the house.

24 Q Okay. But you don't know if she was in your room or
25 her own room.

1 A She was in and out of both rooms. They're right -- I
2 mean, they're two feet apart, the hallway distance. Three
3 feet apart.

4 Q Okay. And then so -- and you got the communication
5 with Jacob, and then he said he was coming over. And then
6 they texted you when they got there?

7 A No. I was -- I was either calling them or texting
8 them because it had gotten so late and I was going to tell
9 Jacob it's too late to come over. And evidently, they
10 were already there because when he picked up the phone the
11 last time, they were coming up the steps.

12 Q Okay. And Jacob walked in first, you said. And
13 then ---

14 A I think so, yeah.

15 Q --- John was right behind him. And then that's when
16 this discussion you talked about took place.

17 A In the kitchen, yes.

18 Q And you got up and got some water and sat back down.

19 A Correct.

20 Q And then you went back to the bathroom and you came
21 back, and that's when you saw this what you call an
22 altercation between John and Jacob.

23 A It wasn't a physical altercation. But, you know,
24 they -- when I left, they were both sitting down, now
25 they're standing up close to each other.

1 Q Okay. And that's what I want to get to. There were
2 no blows thrown.

3 A Absolutely none.

4 Q And there were no weapons.

5 A No.

6 Q John didn't pull a weapon.

7 A I didn't see one.

8 Q Jacob didn't pull a weapon.

9 A No.

10 Q You didn't pull a weapon.

11 A No.

12 Q No one was hurt.

13 A No.

14 Q There was no blood.

15 A No.

16 Q No one was bleeding at all, neither ---

17 A No.

18 Q --- John Ferrell, nobody.

19 A Nobody.

20 Q Okay. And that's when John leaves. And then you
21 start puttering around the house, turning off the
22 computer, closing windows.

23 A Just to button up the house. It doesn't take too
24 long, but it ---

25 Q Right. And then you hear a noise. Now, in your

1 statements, you talk about that noise sounding like -- do
2 you remember what you described it as?

3 A You know, it could have been a limb. But, you know,
4 we didn't have too many limbs that close, but it had that
5 same kind of a sound when you've got a lot of wind going
6 and a limb hits the side of the house a little harder than
7 normal.

8 Q Okay. Do you remember using -- not an analogy, but
9 as an example, like a soda bottle and that crinkling noise
10 that's made when you would step on a soda bottle?

11 A The second time. The second noise was the two noises
12 together. But it wasn't too abnormal.

13 Q Okay. So that's when you then went and got your
14 pistol. And the pistol was here (indicating) in the
15 living room?

16 A Come back towards the kitchen. To the right now.

17 Q This (indicating) way?

18 A Yes, yes. Right there.

19 Q So this (indicating) is where the pistol was.

20 A Yes.

21 Q When you heard the noise, you were kind of over in
22 here (indicating), right?

23 A In that area, yeah. Exact, I couldn't tell you. But
24 in that area, yes.

25 Q So you hear the noise, and the noise sounds like it's

1 outside.

2 A But it sounds like it's over here (indicating).

3 Q I'm sorry.

4 A Yes.

5 Q It sounds like it was over here (indicating) outside.

6 Because this is the driveway, correct?

7 A Yes.

8 Q So you hear the noise. It sounds like it's over --
9 you need me to bring it closer?

10 A No. It's okay.

11 Q Okay.

12 A Yes.

13 Q So you come over here (indicating). You get the
14 pistol.

15 A Correct.

16 Q You walk back over here (indicating).

17 A Right.

18 Q Because this (indicating) is the door to the outside.

19 A Correct.

20 Q And when you come out over here (indicating), that's
21 when you yell out ---

22 A Right about there, yes.

23 Q --- call 9-1-1.

24 A That wasn't all I said, but that was the gist of it.

25 Q Okay. And then you walked through the foyer.

1 A Yes.

2 Q Come through this door (indicating).

3 A Down the stairs.

4 Q What, two or three stairs?

5 A I think there's -- I think there's three or four.

6 Q Okay. And your vehicle was parked like right here
7 (indicating).

8 A No.

9 Q Okay. Let me bring it over here so you don't have to
10 get up. Can you show me where your vehicle was?

11 A The carport goes like this.

12 Q Okay.

13 A This was the open spot, my truck is here, there's a
14 big tree here with a little set of bricks around it, and
15 there's two other trees down here (indicating).

16 Q Okay.

17 A Big pine trees right here (indicating).

18 Q So your vehicle is right here (indicating).

19 A No.

20 Q I'm sorry.

21 A Right here (indicating).

22 Q Your vehicle is right here (indicating).

23 A Yes. The driveway that goes out is like down here
24 like this (indicating).

25 Q All right. And so we find out later his vehicle is

1 down here?

2 A Yeah. These two big trees (indicating), I guess,
3 were blocking to be able to see the door.

4 Q Okay. I'll move it back here now. If you need me to
5 bring it again, just let me know.

6 So you walk out. You have to go around your vehicle,
7 and then you come around the corner here, and that's when
8 you see -- at this (indicating) window ---

9 A Yes.

10 Q --- is where you see somebody in the window.

11 A Yes.

12 Q Okay. Now, you talked quite a bit about that in all
13 of your interviews. Obviously, that was a big deal,
14 somebody getting in your window.

15 A That's quite an event for anybody to have happen to
16 them.

17 Q Absolutely.

18 So there's someone -- now, that -- you don't dispute
19 that that window is almost six feet in the air. Does that
20 sound about right?

21 A I'd say it's a little higher than that.

22 Q Okay. Well, someone will testify about it later.
23 But if someone testified it was just under six feet from
24 the ground, would you dispute it?

25 A No.

1 Q Okay. So for someone to be partially in that window
2 then, their feet would be off the ground.

3 A No.

4 Q No.

5 A No.

6 Q Someone 5'7".

7 A Correct.

8 Q Let's say someone 5'7" ---

9 A Correct.

10 Q -- was partially in that window. If that window is
11 almost six feet ---

12 A Can I see the evidence pictures?

13 Q Sure.

14 A Thank you. Oh, actually, this one will do just fine.

15 Q Okay.

16 A You can see the ground here and the window here
17 (indicating).

18 Q Okay.

19 A From here to here (indicating), and somebody from
20 your side will testify to that, is less than 40 inches ---

21 Q Okay.

22 A --- which would put them about 19 inches into the
23 window.

24 Q All right. So let me hold this out here so the judge
25 can see. You're talking -- when you say from here to

1 here, you're talking about this brick part here
2 (indicating throughout)?

3 A No. I'm talking about from the ground here
4 (indicating) to the window is what you said.

5 Q Uh-huh.

6 A But from the top of this air conditioning condenser
7 (indicating) to the bottom of the window is about 40 some
8 inches.

9 Q Okay.

10 A And it's about ten or so inches, maybe 20 inches to
11 the left.

12 Q Okay. Well, my question then though was about from
13 the ground.

14 A Correct.

15 Q So are you saying now that he was -- this person was
16 standing on the air conditioning unit?

17 A I can't tell you where they were standing because I
18 couldn't see anything from about the knees down. I could
19 see from the knees up.

20 Q Okay. And that's when you -- and once again, you
21 spoke quite a bit about this in all of your interviews,
22 but you said rather loud and rather forcefully, as one
23 would understand seeing someone in your window, What the H
24 or what the F are you doing in ---

25 A I'm sure I cursed at that time of night, yes.

1 Q Right. And you said it forcefully and loud, What are
2 you doing going into my house, right?

3 A Yeah. But, I mean, I wasn't yelling so somebody, you
4 know, 300 yards away could hear me. I was yelling so the
5 person there could hear me.

6 Q Okay. But you yelled. You said in all of your
7 interviews that you yelled. And then after that, that's
8 when you said the person dropped to the ground, is the
9 words you used, right?

10 A Dropped to the ground, fell back out the window, one
11 of the two.

12 Q And was facing you.

13 A I couldn't say facing me because they were --
14 disappeared for about, I don't know, a short time.

15 Q Okay. Now, and let me back up to this question now.
16 A few minutes ago you testified that you got your cell
17 phone and flashlight after the shooting when you went to
18 the house.

19 A Correct.

20 Q Do you not recall giving -- not testimony, but in
21 those interviews with law enforcement that before you went
22 out of the house, you put the flashlight and cell phone in
23 your pocket?

24 A That would be tough. I didn't have any pockets.

25 Q Okay. But do you not recall saying that?

1 A I didn't have any pockets. I shouldn't have said
2 that. If I did, it was a mistake.

3 Q So your testimony now is that you didn't have the
4 flashlight or the cell phone during the incident with
5 Mr. Ferrell?

6 A After the shooting part, not when I first went out.
7 No.

8 Q Okay. So you went outside to confront someone, a
9 strange noise without a flashlight?

10 A I'm not going to be fumbling around with a pistol, a
11 flashlight and a cell phone. That's not how you use a
12 handgun.

13 Q Okay. I just want to make sure I hear you right.

14 So you hear a strange noise outside, and you're going
15 to go outside to confront the strange noise.

16 A I had already told someone else to call 9-1-1. I was
17 more interested in who it was and getting between whoever
18 it was and my family.

19 Q I realize that. I want to make sure I understand
20 this right.

21 So you're testifying now that when you hear this
22 strange noise outside, you're going to go outside the
23 house with a gun but without a flashlight.

24 A Well, I didn't have a flashlight connected to the
25 gun. I'm not going to fumble around with two things in my

1 hands.

2 Q Well, you have two hands, right?

3 A Yes.

4 Q Okay. So you went outside, decided to go outside
5 without a flashlight.

6 A Yes.

7 Q And then when you got outside, okay, you said the
8 person dropped to the ground and was standing there. And
9 you were, what, 20 -- what did you say? 20 feet away
10 maybe?

11 A The distance of the carport is 20, and then whatever
12 the distance from the back wall there is to the window.
13 Probably another 12 or 15 feet.

14 Q Okay. And in your statements, you mentioned that the
15 person gave this loud -- didn't speak, but made a loud
16 guttural noise like a roar. Does that sound right?
17 You ---

18 A Right.

19 Q --- used even examples ---

20 A Sort of.

21 Q --- of cartoons.

22 A Sort of.

23 Q Well, we've got to be careful we don't talk over each
24 other ---

25 A Okay.

- 1 Q --- because the court reporter has to ---
- 2 A Sorry.
- 3 Q Sort of like you mentioned like the Hulk or some
- 4 other cartoon characters.
- 5 A Similar, yes.
- 6 Q Okay. And then he started coming towards you. And,
- 7 again, you said you yelled, Stop. The police have been
- 8 called. That's when you shot ---
- 9 A The first time.
- 10 Q --- the first time. And the person that you later
- 11 found out was your son-in-law made a noise like "aw"
- 12 [phonetic]?
- 13 A I think the first shot, I thought I saw a ricochet of
- 14 some kind. It was a loud noise. I think I mentioned that
- 15 when I was telling the police officer.
- 16 Q And you heard the person make a noise like "aw"?
- 17 A Uh-huh.
- 18 Q And then the person started moving towards you again.
- 19 And this time, you mentioned he didn't run but he came in
- 20 accelerated fashion, just getting faster and faster as he
- 21 got towards you.
- 22 A But not running.
- 23 Q But not running.
- 24 A Correct.
- 25 Q But faster and faster.

1 And, again, you yelled, Stop, stop, stop, multiple
2 times.

3 A It's been a long time, but I'm pretty sure, yes.

4 Q Okay.

5 A Stop.

6 Q And that's when you shot until he was down on the
7 ground and you knew he wouldn't come any further, correct?

8 A Shot -- first shot, a slight hesitation, came, at
9 least one other shot, then came again. But there was a
10 hesitation between. It wasn't shooting rapidly.

11 Q Okay. One moment.

12 And you used the word he "bum-rushed" you. Isn't
13 that the phrase you used at one time?

14 A It felt like it at the time.

15 Q Bum-rushing you?

16 A But looking -- looking back on it, it wasn't that
17 fast.

18 Q Okay. But at the time, you don't doubt that's the
19 word you could have used?

20 A No. I wouldn't doubt that.

21 Q Charged you?

22 A No. I wouldn't say that he charged at me, no.

23 Q But bum-rushed. Okay.

24 A I could have said that, yeah.

25 Q One moment please.

1 And you stayed there until the police arrived.

2 A I went back around to get the phone and a flashlight.

3 Q Okay. And then ---

4 A Because the police weren't arriving, so I had to go
5 find out what had happened ---

6 Q Right.

7 A --- why they -- why they weren't -- say again?

8 Q I'm sorry. I didn't meant to interrupt you.

9 A No. I'm just trying to find out why they hadn't
10 arrived, why someone inside hadn't called when I'd asked
11 them to.

12 Q Okay.

13 A But someone came out and handed me the phone and the
14 flashlight.

15 Q And it took, what, four or five minutes?

16 A I can't answer that.

17 Q And the police showed up. You surrendered. You gave
18 up your gun.

19 A Everything.

20 Q And it wasn't until an officer shined a light over on
21 the deceased that you realized it was your son-in-law.

22 A Well, it was a little more rude than that.

23 Q A little more what?

24 A Rude.

25 Q What do you mean by a little more rude?

1 A Well, my -- John's head was down where the top of his
2 head was all you could see. And one of them decided to
3 pull his head up by his hair, and that's when I saw it was
4 John because I saw his face.

5 Q You didn't recognize him by his clothes?

6 A No.

7 Q Or his size?

8 A No.

9 MR. MOYER: One moment please.

10 Okay. I have nothing further. Thank you.

11 THE COURT: Any redirect?

12 MR. ADDUCCI: No, Your Honor.

13 THE COURT: Thank you. You may step down.

14 All right. Call your next witness.

15 MR. ADDUCCI: Your Honor, that's our case in this
16 hearing.

17 THE COURT: All right.

18 MR. MOYER: Okay. The State would call, first,
19 Richard Scott Coleman.

20 THE CLERK: Mr. Coleman, please place your left hand
21 on the Bible and raise your right hand.

22 WHEREUPON,

23 RICHARD SCOTT COLEMAN

24 After having been duly sworn, testified as follows:

25 THE CLERK: Please be seated, and state your name for

1 the record.

2 THE WITNESS: Richard Scott Coleman, Junior.

3 DIRECT EXAMINATION

4 BY MR. MOYER:

5 Q Mr. Coleman, I'm going to have some questions for
6 you.. This is going to be for the judge to hear and
7 consider, so make sure you speak loudly into the
8 microphone as I ask you.

9 You just mentioned your name. How old are you?

10 A 40.

11 Q 40. And you're married.

12 A Yeah.

13 Q Okay. Where did you live back in January of 2015?

14 A 304 Tollgate Road.

15 Q 304 Tollgate Road.

16 A Uh-huh.

17 Q Now, are you familiar with 106 Stonegate?

18 A I mean, if that's the house, it's right around the
19 corner. I mean, I've never really been over there or
20 anything. I mean ---

21 Q Okay. But you're familiar with where the house is?

22 A Yeah. Oh, yeah.

23 Q How close would you say that is to where you live?

24 A I mean, I don't know by feet, but . . .

25 Q Say a quarter-mile? 10th of a mile? closer? further?

1 A No. Way less than that. Hundreds of feet. I mean,
2 just a couple hundred feet, probably. Maybe 400 feet. I
3 don't know.

4 Q Okay. So a few hundred feet.

5 A It's very close.

6 Q Now, did you know the people who lived there at that
7 time?

8 A No.

9 Q Okay. So you didn't really have a relationship with
10 the people who lived there at all?

11 A No.

12 Q As far as you know, had you ever even spoken to the
13 people?

14 A No.

15 Q How about John Ferrell? Does that name ring a bell?
16 Do you know him?

17 A No. I don't think so.

18 Q Okay. All right. Now I'm going to take you back to
19 the night of January the 24th of 2015.

20 A All right.

21 Q I'm going to take you to kind of late that evening
22 getting close to around midnight. Did something happen
23 that night that kind of got your attention?

24 A Yeah. I was on my porch, and I heard a -- heard a
25 gunshot.

1 Q Okay. Now, what took you out on your porch that
2 night? Do you remember?

3 A I was out there smoking, just on my phone.

4 Q Okay. So you don't like to smoke in the house?

5 A No.

6 Q Okay. So you went outside to smoke. Because it was
7 kind of a cold night, wasn't it?

8 A It was pretty cold.

9 Q Okay. So you were on your back porch and you
10 heard ---

11 A It was the front porch.

12 Q On the front porch. Sorry.

13 A Yeah.

14 Q And you heard a gunshot.

15 A Right.

16 Q Was it loud?

17 A It was very loud.

18 Q Sounded close?

19 A Very close.

20 Q What did you think when you heard it?

21 A Well, I thought somebody had -- there's a fox in our
22 neighborhood that had just walked by me, and when that
23 gunshot went off, I thought somebody had killed the fox.

24 Q Okay. Now, did you then hear some more gunshots?

25 A Not at that point.

1 Q There was a little pause first?

2 A There was a few -- probably a few-minute pause. I
3 heard a man start screaming for help, and it got louder
4 and louder, his screams, more serious. And then I heard a
5 bunch of shots, six or seven, and I never heard that man
6 again.

7 Q Okay. Do you remember what the man was saying?

8 A Somebody please help me. God, help me. Please,
9 somebody help me.

10 Q Did you hear any other voices?

11 A No.

12 Q Okay. So it was just the one shot, then that person?

13 A The one shot, and then him -- him doing that for --
14 he probably did that a couple minutes. And I didn't know
15 what to do. I was frozen on the front porch. Just, you
16 know, it didn't seem real. I don't know.

17 Q So then after you heard the series of shots, what did
18 you do?

19 A Nothing. My wife came out on the porch just, you
20 know, make sure it wasn't me that had been shot. And the
21 police pulled up pretty soon after that.

22 Q Okay. Did you end up going over there to that house
23 where this took place?

24 A No, no. I walked up to the corner, you know, after
25 the police had gotten there just to -- you know, with a

1 couple other neighbors just looking over, you know. It
2 was dark. We couldn't really see anything, but . . .

3 Q Okay. Did your wife call 9-1-1?

4 A No. I don't know who called 9-1-1. Somebody else in
5 the neighborhood.

6 Q Okay.

7 A I was literally -- I mean, I was so scared at what
8 was happening that the last thing on my mind, I don't know
9 why, was to call 9-1-1. I didn't -- I didn't know what to
10 do. I was just worried. I didn't know if somebody was
11 going to come around the corner. I mean, it was close. I
12 could almost feel the concussion, you know what I'm
13 saying, off of the shots. It seemed like it was that
14 close. And yeah. So I don't know who called 9-1-1.

15 MR. MOYER: Okay. I have no further questions for
16 you at this time. Please answer any questions defense may
17 have.

18 MR. ADDUCCI: May it please the Court, Your Honor.

19 CROSS EXAMINATION

20 BY MR. ADDUCCI:

21 Q This incident occurred back in January of 2015,
22 right? January 2015?

23 A I'm not sure what the date was.

24 Q Do you recall what year it was?

25 A '15, I guess.

1 Q Okay. And you were outside on your front porch?

2 A Right.

3 Q And you indicated that your house to 106 is about
4 400 feet?

5 A Yeah. I mean, you know, I -- I hate to say that and
6 be totally off. You know what I mean? But it's -- it's
7 only a couple of houses away. From my house, you'd have
8 to take a left to go into his -- like to the cul-de-sac
9 where the house was, and so between my house would be
10 another house and his street. I mean, I don't -- I
11 don't ---

12 Q And then he was on the other side of that street,
13 correct?

14 A Yeah.

15 Q Okay. Now, you indicated that you do not know
16 Mr. Hughes right here, correct?

17 A Yeah. That's right.

18 Q And so you could not recognize his voice, correct?

19 A No.

20 Q And you do not know Mr. Ferrell, correct?

21 A No.

22 Q And you couldn't recognize his voice, correct?

23 A No. That's right.

24 Q And you indicated that you said it was very dark that
25 evening, right?

1 A It was at night, yeah.

2 Q And so when you heard this, you couldn't see anything
3 happening, correct?

4 A Right.

5 Q And you didn't come forward with this information
6 until August of 2017?

7 A Yeah. When -- when I found out -- I had a police
8 officer tell me that everybody had confessed and was in
9 prison, and ---

10 Q And that's the only reason why you didn't go to the
11 police?

12 A Well, yeah.

13 Q Okay. Now --

14 A I mean, there was -- when they were arrested -- well,
15 no. Okay. Let me back up. The reason I didn't say
16 anything to the police the night it happened was I had a
17 warrant. And, you know, I ---

18 Q Do you recall what that warrant was for?

19 A Yeah. Breach of trust.

20 Q Okay.

21 A And -- but in the next couple days, I mean, I started
22 having nightmares about it and I was going to go to them
23 anyway whether I had a warrant or not. But then the
24 arrests were made, so I just ---

25 Q And so you failed to report this until August of

1 2017, correct?

2 A Yeah.

3 MR. ADDUCCI: Okay. Nothing further from this
4 witness, Your Honor.

5 THE COURT: Any redirect?

6 MR. MOYER: No, Your Honor.

7 THE COURT: All right. Thank you. You may step
8 down.

9 MR. MOYER: The State calls Adam Randolph.

10 THE CLERK: Please place your left hand on the Bible
11 and raise your right hand.

12 WHEREUPON,

13 ADAM RANDOLPH

14 After having been duly sworn, testified as follows:

15 THE CLERK: Please be seated, and state your name for
16 the record.

17 THE WITNESS: I'm Corporal Adam Randolph,
18 Simpsonville Police Department.

19 DIRECT EXAMINATION

20 BY MR. MOYER:

21 Q All right. Just real quickly, how long have you
22 worked for the Simpsonville Police Department?

23 A About six years now.

24 Q What is your position there?

25 A I'm a corporal.

1 Q What was your position in January 24th of 2015?

2 A Just patrolman then.

3 Q Okay. Now, were you the first officer to respond to
4 this incident that we're talking about today on
5 January 24, 2015?

6 A Yes, sir.

7 Q Okay. Do you know what time you arrived?

8 A It was approximately -- I think it was just before
9 midnight. I don't remember the exact time, but it was
10 just before midnight.

11 Q If your report says 11:58 p.m., does that sound
12 right?

13 A Yeah. That's about right.

14 Q Okay. And you're familiar with -- you know the 9-1-1
15 call came in about 11:54?

16 A Yes.

17 Q Does that sound right?

18 A That sounds about right.

19 Q Okay. And so this is 106 Stonegate Road; is that
20 correct?

21 A Yes.

22 Q Okay. Now, tell us what happened. Again, you were
23 the first officer to arrive, right?

24 A Yes.

25 Q Tell us where you parked, what you did and what you

1 saw when you arrived.

2 A I pulled up from Tollgate, pulled right there at
3 Tollgate and Stonegate. There was a house right there in
4 the corner. I went ahead and parked my vehicle just in
5 front of that particular house. I had shut down lights
6 and sirens when I arrived. I then approached -- started
7 approaching 106 about 250, 300 feet away from that
8 particular house. As I approached, I could see a white
9 male coming from 106 Stonegate. He was coming from like a
10 set of trees coming from that side. There was also a
11 subject coming from Stonegate Court. So as I approached
12 there, I made contact with the defendant and, I guess, a
13 neighbor who was off of Stonegate Court.

14 Q Okay. And so the neighbor ended up just being a
15 person who lived in the neighborhood who heard the shots
16 and came out; is that correct?

17 A Yes.

18 Q And when you said the defendant, would you identify
19 him here in the courtroom?

20 A Yes, sir. He's right there in the gray jacket.

21 Q John Hughes. Okay.

22 So what did he do when you saw him?

23 A When I first saw him, he was coming from the right
24 side of the house and -- as I was approaching. Once I
25 approached him, I didn't see anything readily out in his

1 hands. I mean, it looked like he had maybe a flashlight
2 or something in his hand.

3 When I went to speak with him, he pointed over by the
4 side of the house, told me, you know, he's over there. So
5 when I looked over, shone my light over, I could see
6 somebody lying on the ground.

7 I then approached the deceased over there and could
8 see initially that -- initially I thought maybe it was
9 somebody that was already -- you know, knew police was on
10 the scene, was giving up at that time because, obviously,
11 the call came out as, you know, shots had been fired and
12 things of that nature. So I called out to him a few times
13 to ask him to put his arms out with his palms up -- or
14 palms down. He didn't move, he didn't -- he didn't
15 answer, he didn't -- nothing. So once I approached him, I
16 could see he wasn't -- wasn't moving at all, so I didn't
17 know if he was unconscious or if he was deceased at that
18 time.

19 I could see what looked like some blunt force trauma
20 to his head. He had blood on his head. His hair was a
21 little matted. It looked like some steam coming from his
22 body because it was pretty cold out that night, so there
23 was steam coming from that area.

24 And then from there, that's when I turned back to the
25 defendant, approached him, and at that point, he said he

1 had a gun. So I then told him to keep his arms
2 outstretched, you know, told him to drop the gun, told him
3 three times to drop the gun. He was holding it kind of
4 like this (demonstrating). He did drop the gun.

5 I then collected the gun, cleared the weapon, and
6 then from there, put him -- I believe I put him in
7 investigative detention at that time.

8 Q Okay. And just to be clear, he wasn't uncooperative
9 with you, right?

10 A Hu-uh. No. He was -- I mean, he was cooperative
11 with me, yes.

12 Q Okay. I'm going to give you this laser pointer in a
13 minute because I want you to clarify a couple of things
14 you just testified to.

15 A Okay.

16 Q Just to orient you, I'm not sure if you've seen this
17 diagram.

18 THE COURT: Turn the board a little bit just so . . .

19 BY MR. MOYER:

20 Q Just to orient you first, this would be the house
21 right here as I'm outlining.

22 A Oh, I've got you now. Okay. Now I'm oriented.

23 Q Okay. The driveway comes down this way.

24 A Okay.

25 Q This (indicating) would be Stonegate. This

1 (indicating) would be the side of the house where ---

2 A Correct.

3 Q This (indicating) would be the kitchen window.

4 I'm going to hand you this, just using that button to
5 illuminate the laser pointer.

6 You said that you saw the victim coming from the
7 right side of the house. What did you mean by that?

8 A When I was approaching from this direction here down
9 -- coming up Stonegate, he appeared to come from this
10 direction here and was coming down (indicating
11 throughout).

12 Q He was actually moving.

13 A Right. As I was coming up, he was basically getting
14 to this coming from here and coming to the edge of the
15 road (indicating throughout).

16 Q Okay. And the deceased was in what general -- I
17 know ---

18 A There was like a -- I think there was like a tree
19 line here, like a little tree line separating two homes.
20 I want to say the deceased seemed like he was like around
21 this area (indicating throughout) ---

22 Q Okay.

23 A --- just basing it on this. I mean, it's hard to
24 tell, but I want to say it was like around this area here
25 (indicating).

1 Q Okay.

2 A The area I know that it was in, it was not lit up at
3 all. It was pretty dark in that area. The lighting, it
4 was only a street lamp lit coming up Stonegate so it's not
5 very bright down there. But I know the area where the
6 deceased was -- or the victim was, he was in a very dark
7 part of that part of the yard.

8 Q Okay. Now, you say you took the pistol. Did you
9 make it safe and clear?

10 A I did.

11 Q By that, you mean you ---

12 A I unloaded the weapon and just made it safe and kept
13 the slide in the lock-back position.

14 Q Okay. And you recall it being -- do you recall what
15 caliber?

16 A It was a .45 caliber. It was a Glock 21.

17 Q Okay. At that point, other officers began arriving
18 pretty quickly after that?

19 A Yes.

20 Q You directed an officer to go over and check on the
21 victim, the deceased?

22 A Yes. I had an officer go check. I believe it was
23 Officer Edwards at the time, Delta 3. I had him go to the
24 victim to go check while I was handling the defendant, go
25 ahead and check, again, check for a pulse, because at that

1 point, I hadn't checked for a pulse because I was still
2 dealing with the two subjects I had outside.

3 Q Right. You cleared the house, correct?

4 A Yes. We cleared -- once it -- once it became a -- we
5 were showing it to be a crime scene, we got the house
6 cleared out, everybody out.

7 Q So had you been outside there for a little period of
8 time before the house cleared?

9 A Yeah. It was probably maybe 15, 20 minutes prior to
10 clearing the house, because initially I was with the
11 defendant and his wife.

12 Q Okay. And do you remember there being other people
13 in the house?

14 A There were other -- other people in the house, yes.

15 Q And you had them all come outside?

16 A Yes.

17 Q Do you remember this defendant's wife, Margaret Renee
18 Hughes?

19 A Yes.

20 Q And Jane Hughes?

21 A Yes.

22 Q And her boyfriend, Andrew Martin?

23 A Yes.

24 Q And the two children?

25 A And two children.

1 Q And they were all brought outside.

2 A Yes.

3 MR. MOYER: That's all the questions I have for you
4 at this time.

5 THE WITNESS: Okay.

6 MR. MOYER: Please answer any questions defense may
7 have.

8 THE COURT: Cross-examination?

9 MR. ADDUCCI: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. ADDUCCI:

12 Q You indicated that you came upon Mr. Hughes while he
13 was outside of the residence, correct?

14 A Yes.

15 Q And you had a flashlight and everything?

16 A Yes.

17 Q Do you recall what kind of clothing he was wearing?

18 A As long as that incident was, I can't remember. I
19 mean, I know he was wearing, you know, clothing,
20 obviously, to keep warm because it was cold out, but as
21 far as color, I can't remember exactly the color of his
22 clothing.

23 Q And you did not note any blood on his clothing,
24 correct?

25 A I did not.

1 Q And this type of investigation, that is something
2 that you would make note of if you had seen it?

3 A Yeah. If it was -- if I could initially see it or
4 something I've seen in person, yes, I would make a note of
5 it.

6 MR. ADDUCCI: Nothing further, Your Honor.

7 MR. MOYER: No redirect.

8 THE COURT: All right. Thank you. You may step
9 down.

10 MR. MOYER: The State calls Jonathan Edwards.

11 (Pause in proceedings.)

12 MR. MOYER: The State would call Robert Parker.

13 THE CLERK: Please place your left hand on the Bible
14 and raise your right hand.

15 WHEREUPON,

16 ROBERT PARKER

17 After having been duly sworn, testified as follows:

18 THE CLERK: Please be seated and state your name for
19 the record.

20 THE WITNESS: My name is Robert Stephen Parker.

21 MR. MOYER: Your Honor, before I begin my examination
22 of Officer Parker, I would like to enter into the record
23 at this time the DNA report defense attorney and I have
24 previously talked about and going into evidence on
25 stipulation ---

1 MR. ADDUCCI: Yeah.

2 MR. MOYER: --- rather than having to call the DNA
3 analyst.

4 MR. ADDUCCI: For purposes of this hearing, yes, Your
5 Honor.

6 THE COURT: Okay. That's in without objection.

7 (WHEREUPON, State's Exhibit Number 59 was marked for
8 identification and admitted into evidence.)

9 MR. MOYER: This would be State's Exhibit Number 59.

10 DIRECT EXAMINATION

11 BY MR. MOYER:

12 Q Would you state your name again?

13 A Robert Stephen Parker.

14 Q Okay. Where are you employed?

15 A Greenville County Forensics Division.

16 Q How long have you worked for Greenville County
17 Forensics?

18 A A little over four and a half years.

19 Q Now, were you called out to 106 Stonegate Road on the
20 night of January the 24th into the 25th of 2015?

21 A Yes, sir.

22 Q What time did you get the call?

23 A If I may look at my report again . . . I responded
24 around 031 hours that morning.

25 Q Okay. And you went back on another occasion quite a

1 bit later to make this diagram that we're using in court?

2 A Yes, sir. On August 1, 2017.

3 Q Okay. Now, back to the 24th, what time did you
4 arrive?

5 A On the day of the incident?

6 Q Yes.

7 A On the day of the incident, I arrived at 0059 hours
8 in the morning.

9 Q Now, when you arrived at that time, did you -- after
10 meeting with the officers and the investigators about what
11 they had learned up until that point, did you start making
12 observations to the crime scene?

13 A Yes, sir. I did.

14 Q Okay. And let's start off with the outside of that
15 scene. What all -- what did you do to the outside of the
16 scene?

17 A Well, when I got there, I went ahead and made my
18 observations, marked some evidence, took photographs, and
19 I collected the evidence. When I first got there, the
20 first thing I believe I did annotate was I did see the
21 victim's vehicle out there ---

22 Q Okay.

23 A --- the Chrysler Town & Country minivan parked out in
24 front of the residence.

25 Q All right. Now, when you talked about collecting

1 some evidence, among that evidence, were there some shell
2 casings?

3 A Yes, sir. There was five spent cartridge casings
4 that I did locate and collect.

5 Q Okay. I'm going to show you State's Exhibit
6 Number 15. Did you put placards by the shell casings?

7 A Yes, sir. I did.

8 Q Taking a look at State's Exhibit Number 15, is that a
9 photograph that you took of the placards where the shell
10 casings were in relation to the body?

11 A Yes, sir. It is.

12 MR. MOYER: Your Honor, I move State's Exhibit 15
13 into evidence.

14 MR. ADDUCCI: Without objection.

15 THE COURT: Okay.

16 (WHEREUPON, State's Exhibit Number 15 was admitted into
17 evidence.)

18 BY MR. MOYER:

19 Q All right. Now, did you then look around the ground
20 underneath the open window to try to determine what may
21 have been in that area?

22 A Yes, sir. Looking on the ground underneath the
23 kitchen window, I did observe a set of keys that they
24 later stated belonged to the victim. There was a pair of
25 pliers on the ground. The broken AC unit from the window

1 was on the ground along with a trail of suspected blood
2 droplets.

3 Q Okay. And where did that trail of suspected blood
4 droppings end up?

5 A It went from the area around the kitchen window on
6 the ground to the victim.

7 Q Okay. I am now going to show you State's Exhibit
8 Numbers 19 and 23.

9 MR. MOYER: First off, I would move those into
10 evidence, 19 and 23.

11 MR. ADDUCCI: Without objection.

12 (WHEREUPON, State's Exhibit Numbers 19 and 23 were
13 admitted into evidence.)

14 BY MR. MOYER:

15 Q State's Exhibits 19 and 23, do they depict the areas
16 that you just mentioned and the objects that you just
17 mentioned?

18 A Yes, sir. Yes, sir.

19 Q Okay. And I'm also going to move State's Exhibit
20 Number 16 into evidence as well. Does that, again, show a
21 relation of where the shell casings were to the body?

22 A Yes, sir.

23 MR. ADDUCCI: Also without objection.

24 (WHEREUPON, State's Exhibit Number 16 was admitted into
25 evidence.)

1 THE COURT: All right. To both attorneys, can y'all
2 let the trier of fact see the exhibits, or is that
3 something y'all stipulate I can't do?

4 MR. ADDUCCI: I'm okay with that.

5 THE COURT: You may proceed.

6 MR. MOYER: Thank you, Your Honor.

7 BY MR. MOYER:

8 Q Now, did you go over and look closely to the body?

9 A Yes, sir. I did.

10 Q And would you tell us what your observations were
11 about the body.

12 A The victim, I did observe that the victim's pants and
13 his underwear were pulled down to his ankles. They were
14 down around his ankles. And I did notice injury to his
15 right buttocks. There was also injuries to his head that
16 could not be determined at the time due to not being able
17 to observe through the suspected blood and hair on his
18 head.

19 Q Okay. And you took pictures of the body?

20 A Yes, sir. I did.

21 Q I'm going to hand you State's Exhibit Numbers 1, 2,
22 11 and 10.

23 THE COURT: Maybe I spoke too soon.

24 MR. ADDUCCI: No objection, Your Honor.

25 MR. MOYER: I would move -- okay.

1 (WHEREUPON, State's Exhibit Numbers 1, 2, 10 and 11 were
2 admitted into evidence.)

3 BY MR. MOYER:

4 Q Let me ask you first, if you would, take a look at
5 those pictures. And are they pictures of the body as you
6 saw it?

7 A (Reviews exhibits) Yes, sir. It is.

8 MR. MOYER: Thank you.

9 If it please the Court.

10 BY MR. MOYER:

11 Q Now, you mentioned, did you see any suspected blood
12 droppings underneath that window?

13 A Yes, sir.

14 Q Okay. Now, did you look up at the window itself?

15 A Yes, sir. I did.

16 Q And what did you see when you looked up at the window
17 itself?

18 A When looking at the window, I did observe suspected
19 blood on the window blinds, particularly on the bottom of
20 the window blinds.

21 Q Okay. And you took photographs of that?

22 A Yes, sir. I did.

23 MR. MOYER: Can I see those pictures, Judge?

24 BY MR. MOYER:

25 Q I'll come back to that. But you did take photographs

1 of the blood?

2 A Yes, sir.

3 Q So you could see it from looking up from the ground.

4 A Yes, sir.

5 Q Did you measure the distance from the ground up to
6 that window?

7 A Yes, sir. I did.

8 Q And what was that distance?

9 A The distance I posted on that diagram is 5.86 feet
10 from the ground to the window.

11 Q Okay. So that's, obviously, what, about 5'10"?
12 5'11"?

13 A Yes, sir. Roundabout.

14 Q Okay. Now, did your investigation or your processing
15 of the scene then take you to the inside?

16 A Yes, sir. It did.

17 Q Okay. And what did you do on the inside of the
18 residence?

19 A On the inside of the residence, I did take digital
20 photographs of the residence, took digital footage of the
21 residence, also marked and collected evidence from inside
22 the residence.

23 Q Okay. I'm going to show you, before we go on with
24 that, State's Exhibit 21.

25 A Yes, sir.

1 Q Is that a picture of the blood that you saw around
2 the window as you looked up from the ground?

3 A Yes, sir. Yeah. From the exterior..

4 MR. MOYER: I move to have State's Exhibit 21 into
5 evidence.

6 THE COURT: Any objection?

7 MR. ADDUCCI: No, Your Honor.

8 (WHEREUPON, State's Exhibit Number 21 was admitted into
9 evidence.)

10 Q Okay. There should be a laser pointer up there. I'm
11 going to talk to you now about what -- your observations
12 on the inside of this house. And I want you, using the
13 laser pointer, to kind of point out to the judge where
14 these particular pieces of evidence and observations were
15 as you're going.

16 Would you first just point out the kitchen area where
17 you did most of your investigation?

18 A Right here. This dining room area and kitchen area
19 right here, and that is the kitchen window above the sink
20 (indicating throughout).

21 Q Okay. Now, did you see any suspected blood inside
22 the kitchen area?

23 A Yes, sir. Starting at the kitchen window, there was
24 more suspected blood observed on the interior of the
25 window and at the sink right there. There was a wooden

1 spatula right there in the sink that had suspected blood
2 on it, and more suspected blood was observed on the
3 kitchen counter underneath the sink (indicating
4 throughout)..

5 Q Okay. Did you see anything on the floor or any
6 objects around the kitchen that appeared to have any
7 suspected blood?

8 A In the dining area, in the dining room area where the
9 dining room table was at, there was a hammer observed on
10 the floor in this area that did have suspected blood on
11 both the -- both sides of the heads of the hammer. There
12 was a quilted blanket that was on some type of end table
13 that was behind the dining room table that did have
14 suspected blood on it as well (indicating throughout).

15 Q Okay. And you took photographs of all those items?

16 A Yes, sir. I did.

17 Q I'm going to hand you first State's Exhibits 24
18 through 29. Are these the pictures of that sink area that
19 you were just talking about?

20 A (Reviews exhibits) Yes, sir. It is.

21 Q Okay. And State's Exhibit's 36 through 38, are these
22 the pictures of the blanket that you saw that had the
23 suspected blood?

24 A (Reviews exhibits) Yes, sir. It is.

25 MR. MOYER: Move to have -- I believe defense has no

1 objection to 24 through 29 and 36 through 38 being entered
2 into evidence.

3 MR. ADDUCCI: That's correct, Your Honor.

4 THE COURT: All right. Without objection. Okay.
5 Thank you.

6 (WHEREUPON, State's Exhibit Numbers 24 through 29 and 36
7 through 38 were admitted into evidence.)

8 BY MR. MOYER:

9 Q Now, would you point out on the map where that
10 blanket was?

11 A Yes, sir. The quilted blanket was located right here
12 in the dining area behind the dining room table. Like I
13 was saying, it was on some type of end table, I believe,
14 right there (indicating throughout).

15 Q Okay. Now, you mentioned a hammer.

16 A Yes, sir.

17 Q Would you point out where the hammer was?

18 A The hammer was located right here (indicating) in
19 this dining room next to the dining room table on the
20 floor.

21 Q And you took pictures of that?

22 A Yes, sir.

23 MR. MOYER: Okay. State's Exhibit Numbers 33 through
24 35 the State would move to introduce.

25 MR. ADDUCCI: No objection.

1 THE COURT: All right. In without objection.

2 (WHEREUPON, State's Exhibit Numbers 33 through 35 were
3 admitted into evidence.)

4 BY MR. MOYER:

5 Q Are they the pictures of the hammer that you took?

6 A Yes, sir.

7 Q Okay. So would that be the hammer that was turned in
8 to evidence and that was later determined to have DNA --
9 the blood DNA matching the victim?

10 A Yes, sir.

11 Q And is that the one whose the DNA on the handle of
12 the hammer ended up matching Jane Hughes?

13 A Yes, sir.

14 Q Okay. The blood -- the blanket with the suspected
15 blood, is that the blanket that was turned in to evidence
16 by you and ended up having a positive DNA match to the
17 victim?

18 A Yes, sir.

19 Q And as well as the blood droplets that were -- you,
20 did the swabbings of around the actual window, the swabs
21 that were turned in and had a DNA match to the victim?

22 A Yes, sir.

23 Q Okay. Now, you -- as a result of these observations
24 in the kitchen, did you do any other testing there in the
25 kitchen to determine -- further your investigation?

1 A Yes, sir. I did use leuco crystal violet on the
2 floor.

3 Q Okay. What is leuco crystal violet?

4 A Leuco crystal violet is -- it is a reagent and a
5 presumptive test. It reacts to the hemoglobin in blood.
6 When you get a positive result, it will turn a violet
7 color when sprayed and it makes contact with the suspected
8 blood.

9 Q Okay. And so what all areas in the house did you
10 spray that substance?

11 A I did spray the kitchen floor, and I did spray the
12 dining table.

13 Q Okay. And what were the results?

14 A When I did spray the kitchen floor ---

15 MR. ADDUCCI: Your Honor, I'm going to object to any
16 statements by this witness indicating a result of this
17 test. It is a presumptive test, the equivalent of if an
18 officer was testifying to a roadside test with drugs. If
19 he is going to go there and testify about, you know, what
20 the results of this are and what it indicates, an LCV test
21 is a presumptive test. There are later confirmatory
22 tests, like taking a drug test to the lab to get results
23 done, that would confirm the presence of any biological
24 material on the surface.

25 MR. MOYER: Well, let me follow up with a few more

1 questions for this officer and then make arguments on
2 that, if it please the Court.

3 THE COURT: I'm going to let him go into the
4 foundation, I assume is what you're saying.

5 MR. MOYER: Yes, sir.

6 THE COURT: All right.

7 BY MR. MOYER:

8 Q Okay. Tell me a little bit more about this LCV or
9 leuco violet testing that you performed on that date.

10 A Yes, sir.

11 Q So what is it used for and how is it used?

12 A Leuco crystal violet, like I say, is used to not only
13 presumptive test, but if you have the -- if you believe
14 there is suspected blood but you cannot see it, it will
15 enhance your ability to see suspected blood.

16 Q Okay. And in what ways does it do it? What way does
17 it do it?

18 A By seeing the reaction it gets from the hemoglobin in
19 suspected blood, it will bring it to a violet color such
20 as if someone were stepping around on the floor, if you
21 were to spray the floor, you can see foot impressions in
22 the suspected blood much better for digital photographs.

23 Q Okay. And so if there is a positive result after
24 spraying that substance, what happens?

25 A It turns into that violet color, and you're able to

1 see it.

2 Q So is this used systematically throughout the country
3 by law enforcement agencies for this purpose?

4 A Yes, sir. It is used by other agencies.

5 Q Do you know of any other uses or in any other areas
6 that it is used?

7 A Not that I'm aware of, sir.

8 Q And it is used for what reason then? To find where
9 blood had been?

10 A Yes, sir. If it's not visible such as if someone had
11 cleaned it up, it assists us in locating it.

12 Q Okay. Are you aware of the accuracy of it, like
13 whether there is a possibility of any false positives?

14 A Yes, sir. There can be false positives if it was
15 used -- say someone did use chemicals that were high in
16 metals or high in iron, there is that chance of false
17 positives.

18 MR. MOYER: Okay. Your Honor, at this time, I would
19 like to hand up to the Court the case of People vs.
20 Tawanda Wright. It's a 2006 case from Michigan where the
21 issue of this substance was addressed. There were no
22 cases I could find in South Carolina.

23 But in this case, that became an issue about whether
24 the testimony should or could be used in court, and the
25 Court, in this particular case, said that it was

1 admissible, that it had been used to test blood by
2 laboratories across the United States and other countries
3 since 1995. And I would argue, Your Honor, that it is
4 used by law enforcement, has been for numerous years for
5 this particular purpose, and that any potential drawbacks,
6 like a false positive based on iron from other substance,
7 would go to the weight of the evidence as opposed to it's
8 admissibility.

9 THE COURT: All right. Mr. Adducci?

10 MR. ADDUCCI: Your Honor, first off, this individual
11 has not been qualified as an expert, so at this time he's
12 trying to offer an expert opinion on a scientific test.

13 As to the reliability of said scientific test, the
14 witness has also indicated that there are the
15 possibilities of false positives, and, in fact, in this
16 case, there was a false positive because there were a
17 number of items that were sent to the DNA lab that the
18 State introduced here for a confirmatory test, a
19 phenolphthalein test, I believe is what it is called. If
20 I could look on the test, there is indication that a rag
21 tested positive during this LCV test for the presence of
22 blood. However, when this was sent for a confirmatory
23 test, it, in fact, came back negative.

24 So even in this case we have two tests that are at
25 odds with each other, therefore showing that not only are

1 false positives possible, according to the two tests we
2 have in this case today, that actually occurred.

3 The individual here has not testified as to the
4 standards by which he administered this test, how the
5 formula is made, the function of the formula. Just saying
6 that if he sprayed it and it turns a color, I don't think
7 it shows an understanding of the chemical process to have
8 him testify that this spray can give a positive for the
9 presence of blood.

10 And, again, it is just a presumptive. If you look at
11 that DNA test where there was a presumptive from this
12 individual, it came back as they didn't even list it as
13 suspected blood.

14 THE COURT: But then they also run some confirmatory
15 tests after this and confirmed some of the spots.

16 MR. ADDUCCI: None of the spots on the floor, Your
17 Honor. There were, I believe, two swabs. I believe there
18 is one under the cabinets right underneath the sink. They
19 also swabbed the blinds. There's a swab there. There was
20 a swab from the hammer and a swab from that blue
21 washcloth. However, there were no confirmatory tests for
22 this suspected blood that the State is trying to get into
23 on the floor or anywhere else in the residence.

24 MR. MOYER: And, Your Honor, and the reason for that
25 is because there would be no way to do so because the

1 blood had -- the blood, at this point, had been wiped
2 away, had been cleaned up, and so there's no actual blood
3 to collect in order to do testing of. This test, this LCV
4 looks for where blood has recently been cleaned up and
5 there are like trace amounts left over where it will show
6 up in this particular way when this chemical is
7 administered.

8 As far as the rag that Mr. Adducci is referring to,
9 in the trial itself, Tim Nafziger, who is a serologist at
10 our lab, is going to testify that he did a phenolphthalein
11 test on that rag.

12 Just to back up, a rag was found in a trash can that
13 was damp. It was sprayed with this LCV, and it showed up
14 with this blue color indicating that there had been -- had
15 been blood there. It had been, you know, washed away.
16 When this rag was taken to the DNA lab, that rag --
17 another -- this is a presumptive test on blood,
18 phenolphthalein, that came up negative, but the analyst is
19 going to testify that the presence of chemicals like
20 cleaning agents which appeared to be there can make the
21 phenolphthalein test not show a presence of blood.

22 However, in fact, that rag, as the DNA report does
23 indicate, that rag did have the victim's DNA on it, and so
24 it confirms that the victim's DNA was on the rag. It's
25 just there was a false -- what he would testify to was

1 that the chemical agents on the rag fouled up the
2 phenolphthalein test.

3 THE COURT: And I guess going back, do you not need
4 to establish him more as an -- I mean a background for him
5 to be able to testify to all these things?

6 MR. MOYER: Well, Your Honor, I would argue he's not
7 offering an opinion. He's not offering opinion testimony.
8 He's simply the administer -- administering agent of that
9 chemical. So, you know, just being is the chemical itself
10 that has the -- really, the testimonial value in this case
11 as opposed to the person administering it. It's just a
12 matter of spraying the chemical onto the floor.

13 THE COURT: So isn't somebody going to have to be
14 able to testify what that conclusion is? I mean, that
15 chemical is not testifying.

16 MR. MOYER: That's correct, Your Honor. So, I mean,
17 we can clarify a little bit more about, you know, what
18 training he received in order to be able to administer it
19 and how he learned what that would be, if that -- you
20 know, what the result indicated, if that would clear it
21 up. And we're certainly ready to do that.

22 THE COURT: You don't have another witness that's
23 going to be testifying?

24 MR. MOYER: We do not, Your Honor.

25 THE COURT: I mean, I think somebody needs -- I mean,

1 that's not something a layperson would know about and the
2 chemical itself is not testifying. I think you need -- I
3 think you need to lay some groundwork to allow him to
4 testify about what these results show. I mean, I don't --
5 I'm familiar with the process and the chemical, so, I
6 mean, I don't -- but I think you need to establish that
7 this guy can testify about it.

8 MR. MOYER: Okay. So if I could, just for purposes
9 of the record for this hearing, just lay down some more
10 questions about that with this witness.

11 THE COURT: Okay.

12 BY MR. MOYER:

13 Q Officer Parker, what sort of training did you receive
14 to use this and administer this chemical?

15 A We do try to do yearly in-service training. Our
16 supervisors are the ones that show us how to use the
17 chemical. We do do scenario training where they will use
18 pig's blood for our training, and they show us the
19 effects, how to use it, how not too much to use of it.
20 But it is all in-service training received on the chemical
21 of LCV.

22 Q Okay. So it doesn't require going to any sort of
23 schools or off-site training or anything like that?

24 A No, sir. But I did -- I did go through basic and
25 advanced bloodstain pattern analysis. I am certified in

1 that training. And we did get to use some of those
2 chemicals during that training as well.

3 Q Okay. And where was that done?

4 A That was done in Huntsville, North Carolina. There
5 is a -- I believe it's Piedmont Community College up
6 there. They offer different classes and have instructors
7 come in and certify us in different training.

8 Q Okay. Now, there wasn't any kind of certifications
9 for this particular substance.

10 A No. Not for this chemical. No, sir.

11 Q Okay. Now, is this chemical, can this be purchased
12 by anybody?

13 A Yes, sir. It actually can.

14 Q So it's not controlled in any way?

15 A No. It's -- it's -- I mean, law enforcement agencies
16 can purchase it, but if you go on some Web sites, I
17 believe you can do it for science purposes, I believe.
18 But it's out there where you can purchase it.

19 Q Okay. So just anybody can just go online and ---

20 A Get premade. Yes, sir.

21 Q Okay.

22 A But we make the chemicals ourself.

23 Q Okay. Who makes the chemicals?

24 A It could be any officer. We have our manuals, our
25 chemical manuals, and we do make a lot of the chemicals

1 ourselves.

2 Q You're talking about these chemicals for the LCV?

3 A Yes, sir.

4 Q Did you make this? Do you make it?

5 A No. This was already made by another officer, I
6 believe one of our supervisors, and we keep it stored at a
7 refrigerated level.

8 Q Have you made it before?

9 A No, sir.

10 Q So you have not personally made it yourself, but it
11 is made by your office in the department?

12 A Yes, sir.

13 MR. MOYER: Okay. At this time, I would just
14 reiterate my argument that this does not require expert
15 testimony in that it doesn't require opinion testimony,
16 just it requires general knowledge about the substance
17 itself. It's used consistently by law enforcement
18 agencies throughout the country. It has been for a long
19 period of time.

20 Your Honor, I would argue that it should be admitted.
21 Any questions or any questions about the accuracy of it
22 would go to the weight of the evidence as opposed to its
23 admissibility and can certainly be cleared up on
24 cross-examination by the defense.

25 THE COURT: Any objection or questions regarding his

1 qualifications?

2 MR. ADDUCCI: Yes, Your Honor.

3 VOIR DIRE

4 BY MR. ADDUCCI:

5 Q So can you please explain what LCV is and what the
6 components of the chemical are?

7 A No, sir. I would not be able to explain all the
8 components of LCV because I have not made it.

9 Q Okay. Now, LCV comes in two separate containers,
10 correct, when you receive it?

11 A I don't make the purchases. That's going to be our
12 supervisor, so I'm not sure what chemicals they order for
13 it.

14 Q So you wouldn't know if there's a reagent and an
15 oxidizer in an LCV bottle, would you?

16 A No, sir.

17 Q Do you know what those terms even mean and ---

18 A I do know about the reagent.

19 Q Okay. But you don't know what an oxidizer is?

20 A I believe that's when it reacts to the hemoglobin.

21 Q Believe or you know?

22 A Oh, I'm saying I believe.

23 Q Okay. You indicated that your agency makes this LCV,
24 correct?

25 A Yes, sir.

1 Q On the LCV that you used that day, do you remember
2 when the LCV was made?

3 A No, sir. I do not.

4 Q Okay. Do you know how long the shelf life of LCV is
5 both before it is mixed and then after it is mixed?

6 A I believe only nine months.

7 Q For which one? Before it's mixed or after it's
8 mixed?

9 A After it's mixed.

10 Q Okay. On this day, do you have the date at which the
11 LCV was made?

12 A No, sir.

13 Q Okay. So you don't know if it's nine months old,
14 three months old, six months old, seven months old, a year
15 and a half old, correct?

16 A No, sir. I do not. Usually, they keep the made date
17 printed on the bottle, but I cannot recall the made date
18 that was on there.

19 Q So you do not know and cannot recall today whether
20 that LCV was, in fact, expired?

21 A No, sir.

22 Q Okay. Now, you indicated that LCV reacts with
23 hemoglobin. What is the chemical process by which this
24 LCV reacts with hemoglobin?

25 A No, sir. I can't give you that.

1 Q Okay. And can you explain how the reaction creates a
2 color change?

3 A No, sir. I can't explain that.

4 Q And can you explain which chemicals lead to that
5 color change?

6 A No, sir. I can't explain that one to you.

7 MR. ADDUCCI: Okay. Your Honor, no further
8 questions. I just don't believe he's qualified to testify
9 to give an expert opinion on ---

10 THE COURT: Right. And to me this is kind of like a
11 DataMaster machine. I mean, the DataMaster operator has
12 to qualify that he's been trained to use it and how it's
13 used and the results, but that doesn't mean they know all
14 the little intricacies and how the chemical is made. But
15 I think it's kind of an analogy there. So I think, I
16 mean, all those could be -- go to the weight, but I'm
17 going to allow him to testify to this.

18 MR. ADDUCCI: As to his qualifications or as to the
19 test itself?

20 THE COURT: No. As to the results.

21 DIRECT EXAMINATION (Continued)

22 BY MR. MOYER:

23 Q Okay. So would you tell us again where in the
24 kitchen inside the house you did see activation of this
25 chemical?

1 A I did on the kitchen floor, the dining room table,
2 right here in the foyer where you see the wall coming in
3 from the foyer to the living room, there was right there
4 on the wall, and the hallway bathroom around the sink
5 (indicating throughout).

6 Q Okay. And you took photographs of those ---

7 A Yes, sir. I did.

8 Q --- different areas?

9 MR. ADDUCCI: Your Honor, notwithstanding my
10 objections to the blue substance ---

11 THE COURT: Yes.

12 MR. ADDUCCI: --- on that, other than that, I don't
13 have objections.

14 THE COURT: Subject to your objections on the general
15 qualification. I understand.

16 BY MR. MOYER:

17 Q Okay. I'm going to start off with State's Exhibit
18 Numbers 30 through 32, which -- and first move into
19 evidence, and then ask you, if you would, tell what is
20 shown in those photographs.

21 A Yes, sir. This is the dining room table I
22 photographed. And that's a photograph there, that was the
23 positive result I received when spraying the LCV on the
24 dining room table.

25 Q Okay. So all of what we see is blue or sort of

1 violet color in all these photographs we're about to
2 enter, would that be the activation of the chemical as you
3 described?

4 A Yes, sir.

5 Q And then State's 39 through 46, does this show the
6 blue activation on those areas on the floor?

7 A (Reviews exhibits) Yes, sir.

8 Q And then State's Exhibits 55 through 57, what is
9 shown in those photographs?

10 A Yes, sir. That is that wall I was pointing out right
11 there going from the foyer to the living room. That is
12 that wall right there (indicating throughout).

13 Q Okay. So the blue activation was where? Using the
14 laser pointer, where exactly on that diagram?

15 A On this wall right here (indicating).

16 Q Okay. And then State's Exhibits 51 through 54, does
17 that show where the blue activation was from the chemical
18 in that kitchen -- I'm sorry -- in the bathroom?

19 A (Reviews exhibits) Yes, sir. That is the bathroom
20 sink and the hallway bathroom.

21 Q And would you show where that is on the diagram?

22 A Yes, sir. Right here (indicating) in this hallway
23 bathroom on that sink.

24 Q Okay. And then finally, State's Exhibits 47 through
25 50, is this the blue rag that you found in the trash can?

1 A Yes, sir. That is the rag that was located in the
2 kitchen trash can.

3 Q And that's the trash can in which that blue rag was
4 found?

5 A Yes, sir. It is.

6 Q And that is the rag which, in the DNA report, showed
7 a positive DNA match to the victim, John Ferrell?

8 A Yes, sir.

9 MR. MOYER: And just to be clear, these exhibits I
10 just referenced are being entered into the record without
11 objection, and I'll pass those up to the Court..

12 MR. ADDUCCI: Correct, with regards to the objection
13 notwithstanding the blue stuff.

14 THE COURT: Right.

15 (WHEREUPON, State's Exhibit Numbers 30 through 32 and 39
16 through 57, were admitted into evidence.)

17 MR. MOYER: One moment, Your Honor, please.

18 Okay. I have no further questions for this witness
19 at this time.

20 THE COURT: Let's take a quick break. We've been
21 going two hours here.

22 You need to stay right there. All right. You can't
23 talk about your testimony. We're going take a brief
24 break, but you'll be back on the stand so you can't talk
25 about your testimony while on the break.

1 All right. We'll be at ease for about ten minutes.

2 (WHEREUPON, a recess is taken at 4:07 p.m.)

3 (WHEREUPON, proceedings reconvened at 4:17 p.m.)

4 THE COURT: All right. Cross-examination?

5 MR. ADDUCCI: May it please the Court, Your Honor.

6 CROSS EXAMINATION

7 BY MR. ADDUCCI:

8 Q All right. So what is the purpose of having a single
9 forensics examiner at a scene?

10 A On that night when I arrived there, it did not turn
11 out, I guess you could say, how we originally thought it
12 was from the brief summary I was given by the
13 investigators.

14 Q Now, is it like, basically, you want one person there
15 to collect and document the evidence, right?

16 A Uh-huh.

17 Q And your training's in gathering evidence, right? So
18 you know how to gather fingerprints, DNA swabs, right?

19 A Yes, sir.

20 Q Because other people might not do it correctly,
21 right?

22 A Yes, sir.

23 Q And you've been trained to recognize important pieces
24 of evidence, right?

25 A Yes, sir.

1 Q That's why you have a camera. You probably took 500
2 pictures that day?

3 A I can't recall exactly. But yes. It was a lot of
4 photos.

5 Q And you're trained to scour the scene and document
6 everything that you see.

7 A Yes, sir.

8 Q Because something that might seem important on the
9 day that you see it might not be important, and likewise,
10 something that doesn't seem important, might end up being
11 important later, right?

12 A Yes, sir.

13 Q All right. So now, when you're examining something,
14 you're looking for what? Like the scene itself and the
15 physical space and measurements?

16 A Yes, sir.

17 Q And that's how you got that diagram?

18 A Yes, sir. I took measurements of the residence.
19 Yes, sir.

20 Q Okay. And like in a burglary, you're going to be
21 looking at the point of entry, right?

22 A Yes, sir. You're going to try to look at the point
23 of entry. Yes.

24 Q Okay. And you're also going to look for items that
25 could be related to the crime like shell casings or

1 weapons or a crowbar or a knife or whatever like that,
2 right?

3 A Yes, sir. Any items of evidentiary value.

4 Q Okay. And you're going to try to collect suspected
5 blood, right?

6 A Yes, sir.

7 Q You use a swab because you can collect it for DNA,
8 correct?

9 A Well, yes. Use a swab to collect suspected blood,
10 yes.

11 Q And you can also collect what's called touch DNA,
12 right?

13 A Yes, sir.

14 Q And that isn't a fluid. It's just ---

15 A Epithelial skin cells.

16 Q Yes. That flake off when you touch things.

17 A Yes, sir.

18 Q And when it comes to epithelial skin cells sloughing
19 off, like touching something smooth is less likely to have
20 something come off than touching something rough, correct?

21 A Yes, sir.

22 Q And touching it roughly like ---

23 A You have a greater chance.

24 Q A greater chance of touch DNA coming off. Thank you.
25 Now, the State showed you a number of photographs

1 that you took that day, and I don't want to necessarily
2 double over them. So let me, if I could, see so I don't
3 end up entering in the same photographs.

4 Now, these photographs that you have here, let's say
5 State's Exhibit Number 1 of the decedent, you put lighting
6 on that, correct?

7 A No. That's my flash from my camera.

8 Q Flash from your camera. So natural light would not
9 be that bright.

10 A No, sir.

11 Q Okay. Now, the State drew your attention to a number
12 of items that were outside of the window.

13 (WHEREUPON, Defendant's Exhibit Number 12 was marked for
14 identification.)

15 BY MR. ADDUCCI:

16 Q Let me draw your attention to what is marked as
17 Defendant's Exhibit Number 12. Can you take a look at
18 that photograph?

19 A (Reviews exhibit) Yes, sir.

20 Q Okay. And what are the items that are on that
21 photograph?

22 A The AC window unit, the what looked like to be a pair
23 of pliers, but I see a clothespin, and I can't identify
24 the -- that blue material.

25 Q Okay. Could that be a can opener?

1 A Yes. Looking at it closely, yes, it does look like
2 it could be a can opener.

3 Q Okay. And around those items, there is a bit of red
4 liquid, correct?

5 A Well, what identified as suspected blood?

6 Q Yes.

7 A Yes.

8 (WHEREUPON, Defendant's Exhibit Numbers 13 and 14 were
9 marked for identification.)

10 BY MR. ADDUCCI:

11 Q This is Defendant Number 13. Is that what you
12 indicated was suspected blood?

13 A Yes, sir.

14 Q And that's from underneath the window?

15 A Yes, sir.

16 Q Above the kitchen?

17 A Yes, sir.

18 Q And you noted the can opener. Let me show you
19 Defendant's Number 14. Also have a can opener there?

20 A Yes.

21 Q Okay. Now, the reason that you took pictures of
22 these items, because you thought they would be important
23 in the investigation, correct?

24 A Well, just documenting the crime scene. It was below
25 the kitchen window.

1 Q And there is quite a bit of suspected blood on the
2 leaves down there below that kitchen window, correct?

3 A Yes.

4 Q There's suspected blood on the can opener?

5 A Possibly.

6 Q Let me see. Let me show you Defendant Number 13.

7 A Possibly it could be suspected blood, but I'm not
8 sure.

9 Q In addition to that, there was what you called an AC
10 unit on the floor -- or on the ground next to the window;
11 is that correct?

12 A Yes. The window AC unit.

13 Q Sitting next to you is what is marked as Defendant
14 Number 11. Is that a similar fan unit to what you saw
15 that evening?

16 A It looks -- it does look similar, but the one in the
17 picture I believe was broken.

18 Q Yes.

19 Let me show you Defendant Number 12. Is that a
20 picture of that fan?

21 A Yes.

22 Q Is it substantially similar to Defendant Number 11?

23 A Yes.

24 Q In your report, did you document that you found any
25 blood on said fan?

1 A Let me double check. I do not believe so. No, sir.

2 Q And finally, blood on something like that is
3 something you would document had you seen it, correct?

4 A Yes, sir.

5 MR. ADDUCCI: If I could move Defendant's 12, 13 and
6 14 into evidence.

7 MR. MOYER: No objection.

8 THE COURT: All right. In without objection.

9 (WHEREUPON, Defendant's Exhibit Numbers 12, 13 and 14 were
10 admitted into evidence.)

11 BY MR. ADDUCCI:

12 Q So, again, had you seen blood on that fan that day,
13 you would have noted it and you would have taken
14 photographs of it, correct?

15 A Yes, sir.

16 Q All right. Now, you also collected a Glock 21
17 handgun, correct?

18 A Yes, sir.

19 Q And how many cartridges were in the magazine?

20 A Seven cartridges.

21 Q Okay. Do you recall how many cartridges the magazine
22 on that handgun could hold?

23 A No, sir.

24 Q Okay. You indicated that you found five cartridge
25 casings in the front yard?

1 A Yes, sir.

2 Q Okay. Did you take measurements to measure the
3 distance between the cartridge casings and the decedent's
4 body?

5 A No. I did not, sir.

6 Q Did you see Mr. John Michael Hughes that evening?

7 A Yes, sir. Just one time.

8 Q Okay. And did you take photographs of him?

9 A No, sir. I do not recall. I believe I just did a
10 GSR kit on him. That was it.

11 Q When you did a GSR kit on him, you were touching him,
12 correct?

13 A His hands.

14 Q And so you were close to him?

15 A Yes, sir.

16 Q You could see his clothing?

17 A I could, but cannot recall.

18 Q Did you note any blood on his clothing?

19 A No, sir.

20 Q And had you seen blood on his clothing, you probably
21 would have noted it in your report?

22 A Yes, sir. We would have collected his clothing.

23 Q Did you collect his clothing?

24 A No, sir.

25 Q Okay. Because the clothing was of no evidentiary

1 value to you?

2 A Yes, sir.

3 Q Because you didn't see any blood?

4 A Yes, sir.

5 MR. ADDUCCI: The Court's indulgence.

6 BY MR. ADDUCCI:

7 Q You took photographs of the sink, correct?

8 A Yes, sir.

9 Q And the sink did not appear to be broken in those
10 photographs, did it?

11 A No, sir.

12 Q Okay. The State also asked if you took measurements
13 from the ground to the window, right?

14 A Yes, sir.

15 Q And that was about 5'10", 5'11" from the ground to
16 the window?

17 A Yes, sir.

18 Q That's the bottom of the window sill?

19 A Yes. From the ground to the bottom of that window
20 sill.

21 Q Did you also take measurements of the air
22 conditioning unit next to the window?

23 A From -- you're talking about the window unit to the
24 window -- I mean, sorry, the fan to the window?

25 Q No. The ---

1 A Oh, you're talking about the AC ---

2 Q --- HVAC compressor.

3 A No, sir. I did not. That was a little far off to
4 the left.

5 Q Okay. And just to be clear, you did not collect the
6 fan found at the bottom of the window?

7 A No, sir. I didn't.

8 Q You didn't collect the can opener?

9 A No, sir.

10 Q And did you collect that blue thing that we saw ---

11 A No, I did not.

12 Q --- next to them?

13 A No. I did not collect that.

14 MR. ADDUCCI: Okay. Nothing further, Your Honor.

15 THE COURT: Any redirect?

16 MR. MOYER: Wait a minute. One -- no. No redirect.

17 THE COURT: All right. Thank you. You may step
18 down.

19 THE WITNESS: Thank you, sir.

20 MR. MOYER: The State calls James Fulcher.

21 THE CLERK: Dr. Fulcher, please place your left hand
22 on the Bible and raise your right hand.

23 WHEREUPON,

24 DR. JAMES FULCHER

25 After first having been duly sworn, testified as follows:

1 THE CLERK: Please be seated and state your name for
2 the record.

3 THE COURT: Before we start asking the questions,
4 when do you all expect we should have the jury back,
5 assuming that this goes forward? I mean, is this your
6 last witness?

7 MR. MOYER: I believe so, Judge. I hate to say that
8 and then change my mind after he testifies. I think --
9 can I wait till after he testifies?

10 THE COURT: All right.

11 MR. MOYER: I think this will be my last witness and
12 we'll be able to start right with the jury tomorrow
13 morning.

14 THE COURT: Okay.

15 DIRECT EXAMINATION

16 BY MR. MOYER:

17 Q State your name, please.

18 A Dr. James William Fulcher.

19 Q Where are you employed?

20 A Pathology Associates of Greenville, South Carolina.

21 Q And what do you do?

22 A I'm a forensic pathologist.

23 MR. MOYER: Your Honor, at this time, I believe the
24 defense does not object to his being offered as an expert
25 in forensic pathology for purposes of this hearing.

1 MR. ADDUCCI: Depending on what he testifies to. I
2 mean, he is a forensic pathologist. He can testify to
3 certain things. I believe the State is going to try to
4 elicit testimony as to provenance ---

5 THE COURT: Well, wouldn't you object to that part of
6 the testimony, not to his being designated as an expert at
7 this point?

8 MR. ADDUCCI: Correct.

9 THE COURT: All right. He's an expert in the field
10 of -- what did you say?

11 MR. MOYER: Forensic pathology.

12 THE COURT: All right.

13 BY MR. MOYER:

14 Q Okay. Now, did you perform an autopsy for this case?

15 A I did, yes.

16 Q When was that done?

17 A January 26, 2015, at 9 a.m.

18 Q And who was that on?

19 A That was John Michael Ferrell.

20 Q When had he been pronounced deceased?

21 A He'd been pronounced deceased January 25, 2015, at
22 12:15 a.m.

23 Q Okay. And how was he dressed?

24 A He was dressed in multiple things. I'll refer to my
25 notes here. A jacket, jeans, boxer shorts, socks, shoes.

1 Of note, the jeans are received around the ankles.

2 Q Okay. Now, did you take a look closely at the jacket
3 that he had been wearing?

4 A Yes. We looked at the jacket. There were multiple
5 defects in the jacket.

6 Q Okay. And did they correspond to anything on his
7 body?

8 A Yes. Each defect in the jacket corresponds to a
9 projectile hole or a bullet hole in the decedent's body.

10 Q Okay. Now, did you look at his pants?

11 A I did.

12 Q And we're going to talk in a minute about the various
13 wounds to Mr. Ferrell's body, but were there any defects
14 to Mr. Ferrell's pants?

15 A There were no injuries or defects to the pants.

16 Q No bullet holes in the pants.

17 A No bullet holes in the pants.

18 Q Okay. Now, do you recall a rip in his shirt?

19 A I do not document that there is a rip on his shirt at
20 autopsy. It is possible. I would have a photo of it.

21 Q You do have a photo?

22 A I would have one. I don't -- if there was one, I
23 should have taken one, or forensics should have.

24 Q Okay. I'll leave that for another witness.

25 Now let me move on. Were there any weapons in any

1 pockets or anywhere around ---

2 A No. He had a cell phone, a \$5 bill, numerous paper
3 receipts, a Visa debit card, an American Express card, a
4 Social Security card and a California driver's license,
5 three quarters and a single penny.

6 Q Did you measure and weigh Mr. Ferrell's body?

7 A I did, yes.

8 Q And what was his height and weight?

9 A He was 67 inches in length and 286 pounds.

10 Q That's 5'7"?

11 A Yeah. 5'7". I looked at the autopsy photos when I
12 saw that number again, and he had carried a lot of weight
13 in his neck and chest. He was a very large man.

14 Q Okay. Now, your examination, in addition to looking
15 for cause of death, does include his entire body, is that
16 right ---

17 A Yes.

18 Q --- even organs that weren't affected?

19 Was there anything about the examination of his lungs
20 that is -- cardiovascular health that you may have
21 mentioned?

22 A Yes. He does have some natural disease. He has some
23 blockage of the right coronary artery of his heart which
24 would have compromised his cardiac capacity, and he also
25 has emphysema. I'm not sure if he's a smoker or not, but

1 that's the most common cause of this disease process in
2 this country would be smoking.

3 Q Okay. He had some liver ---

4 A Yes. He also has an enlarged liver with fat
5 microscopically visible in the cells of the liver. In
6 this country, that is most likely due to alcohol use.

7 Q Now, were these conditions to his liver, his heart,
8 his lungs, would that affect his overall health and also
9 factoring in his weight as well?

10 A Sure. An obese man with this degree of heart
11 disease, an enlarged heart, emphysema and an enlarged
12 liver with fat could not be described as healthy.

13 Q Now, were you able to make -- form an expert opinion
14 as to Mr. Ferrell's cause of death?

15 A Yes.

16 Q What was the cause of death?

17 A His cause of death was gunshot wounds, plural, to the
18 torso.

19 Q Okay. How many gunshot wounds did you find on
20 Mr. Ferrell's body?

21 A So we have four wounds in total to the neck and
22 torso, one to the head, and then another in the thigh. So
23 that is a total of six wounds, although the one in the leg
24 could have been or likely could have been caused by the
25 wound -- the perforating wound to the chest just

1 continuing on and hitting the leg.

2 Q Okay. So let's go through each of these five
3 different shots. Let's start off with what you numbered
4 as Gunshot Wound Number 1.

5 A Yes.

6 Q Would you just talk about the location of that shot
7 in Mr. Ferrell's body and where it ended up?

8 A Sure. I find it easier to point to myself in these
9 descriptions.

10 So this is to the head. It enters on the right
11 temple, perforates through the eye before exiting kind of
12 medial here near the eye. It perforates the globe of the
13 eye but does not penetrate significantly into the brain.

14 Q Okay. So would you consider that a nonfatal wound?

15 A It would have been debilitating and very painful, but
16 it would not have killed him, at least not immediately.

17 Q Okay. Now, were you able to make any determination
18 as to the distance of that shot?

19 A This shot, because it's on the skin surface and
20 there's no clothing to obstruct any gunpowder residues, we
21 know this is a distant-range wound because there's no skin
22 surface soot or stipple noted, that is to say, the muzzle
23 of the weapon is at least a foot or so away.

24 Q Okay. Now let's move on to Gunshot Wound Number 2.
25 Where did that bullet enter Mr. Ferrell's body?

1 A Gunshot Wound Number 2 enters on the posterior neck
2 slightly left of midline. It penetrates downwards to
3 injure the lungs, diaphragm, stomach and then ends its
4 path in the bladder in the pelvis.

5 Q So how would you describe the directionality of that
6 shot?

7 A The direction, it's downward, very strongly downward
8 and back to front. So it comes in and then comes down to
9 the pelvis, straight down the middle of the body.

10 Q So sort of behind his head down into his -- and would
11 that -- would you consider that a mortal wound?

12 A He would have eventually bled out from this wound
13 given the wounding to the lung lobes, yes. This would be
14 mortally eventually.

15 Q And once again, do you have the same explanation
16 about the distance of that shot?

17 A In this case, we saw no soot or stipple, therefore,
18 it's also a distant wound, meaning the muzzle is several
19 -- at least a foot away from the body.

20 Q Okay. Gunshot Number 3, would you tell us about that
21 gunshot wound?

22 A This gunshot wound enters on the right shoulder and
23 basically perforates soft tissue and then enters and
24 re-exits. So it actually comes in the body, exits, goes
25 in again, and then exits, but all soft-tissue wounding of

1 the right shoulder and chest. This projectile does not
2 actually enter into the chest cavity. It's merely a flesh
3 wound.

4 Q Okay. And so for continuity's sake, I'm going to
5 jump now to Gunshot Wound Number 6.

6 A Sure.

7 Q And would you tell us about that gunshot?

8 A Gunshot Wound Number 6 enters and exits on the right
9 leg anteriorly, and if you line up the direction of
10 wounding entry, re-entry of Gunshot Number 3, it lines up
11 nicely with the right leg, therefore, it passes through
12 the body into the leg.

13 Q So once again, the directionality would be going
14 downward?

15 A Downward mostly, yes, and slightly front to back.

16 Q And Gunshot Wound Number 4.

17 A Gunshot Wound Number 4 enters the anterior left
18 shoulder, penetrates into the chest cavity. This wound
19 does the most significant damage as it perforates and
20 destroys the pulmonary artery, arch of the aorta, left
21 atria, and actually comes to rest inside the heart. This
22 wound creates very significant damage to the vascular
23 system.

24 Associated with that is a very large amount of blood
25 in the left side of the chest and also in the sac that

1 surrounds the heart, the pericardium.

2 Q Would you point on your body, again, where that
3 bullet entered?

4 A Sure. Anterior left shoulder near the clavicle or
5 the collarbone, eight inches left of anterior midline,
6 penetrates through the second and third ribs, then a large
7 hemorrhagic wound path through the vessels of the heart
8 and the heart itself (indicating throughout).

9 Q Okay. And then finally, Gunshot Wound Number 5.

10 A Gunshot Number 5 enters on the right posterior
11 shoulder back here. It tracks through skin and
12 subcutaneous tissue. It goes downward. It's also only
13 soft tissue, so even though it enters on the back of the
14 shoulder, it has a very hard downward angle and does not
15 actually penetrate into the thoracic cavity (indicating
16 throughout).

17 Q Okay. And photographs were taken both by you and by
18 forensics officers of these wounds?

19 A That's correct. Yes, sir.

20 Q And you've taken a look at them.

21 A I have. Yes, sir.

22 MR. MOYER: Your Honor, I'm going to need just a
23 minute. I did not have these premarked, but I have
24 photographs now that I would like to have marked to enter
25 into evidence.

1 (WHEREUPON, State's Exhibit Numbers 60 through 73 were
2 marked for identification.)

3 BY MR. MOYER:

4 Q Okay. Did you use trajectory rods in the
5 photographs?

6 A Yes. I usually do.

7 Q I'm going to hand you State's Exhibit Number 63. And
8 would you tell the Court what is shown in that photograph?

9 A This is a rod placed through the wound that goes
10 through the eye on the right side of the head.

11 Q So that would be Gunshot Wound Number 1?

12 A Correct.

13 Q Okay. And let me show you now State's Exhibit
14 Numbers 60 through 62.

15 A Yes. 60 represents the gunshot wound to the right
16 posterior shoulder, which I described as a flesh wound. I
17 have a rod going through it as well. And then we have
18 another picture of the same wound, same rod.

19 Q All right. State's Exhibit Number 66 and 67.

20 A This is our entry/re-entry Wound Number 3 that
21 enters, exits, re-enters and then ends up in the leg
22 eventually. Also on this picture, I believe we see
23 Gunshot Wound Number 4 entry which injures the pericardial
24 sac. So both are represented there.

25 Q And State's Exhibit Numbers 68, 69 and 70, would they

1 show the gunshot wounds that you described to his leg?

2 A Yes. This is a gunshot wound to the leg, also
3 showing the path with a rod positioned where I found the
4 bullet.

5 Q And so that bullet actually lodged into his leg right
6 above his knee; is that correct?

7 A Yes. A minimally deformed, hollow point, large
8 caliber, jacketed projectile recovered from soft tissue of
9 the leg. Yes, sir. That's correct.

10 Q And State's Exhibits 65 -- 64 and 65, are these just
11 two more pictures of the deceased as it shows several of
12 the ---

13 A Yeah. Overall pictures showing that anterior
14 shoulder wound on the right side -- no. Sorry. That's
15 the 3. That's the other one. That's our entry --
16 actually, a very nice picture of our entry, exit,
17 re-entry, re-exit all going down through soft tissue,
18 eventually ending up in the leg.

19 MR. MOYER: Okay. Thank you.

20 Your Honor. May it please the Court. All of these
21 exhibits I just referenced I believe the defense
22 stipulates to as going into the record for the purpose of
23 this hearing.

24 MR. ADDUCCI: That's correct. Without objection.

25 THE COURT: In without objection as to this hearing.

1 (WHEREUPON, State's Exhibit Numbers 60 through 70 were
2 admitted into evidence.)

3 MR. MOYER: And then finally, 71 through 73, I would
4 move to have those photographs entered as well.

5 THE COURT: And those are also -- same?

6 MR. ADDUCCI: Yeah. Without objection.

7 (WHEREUPON, State's Exhibit Numbers 71 through 73 were
8 admitted into evidence.)

9 BY MR. MOYER:

10 Q Okay. Now, Dr. Fulcher, let me move on past the
11 gunshot wounds to other injuries that you found. Did you
12 find other injuries to his upper body that you found
13 significant?

14 A Yes. There are multiple injuries to the head, lots
15 of grouped injuries. Pertinently they include curvilinear
16 abrasions and contusions with paired elongate rectilinear
17 lacerations with a very preserved sparing between the
18 paired lacerations.

19 Q Okay. So explain that a little bit more.

20 A Sure.

21 Q You mentioned curvilinear. What ---

22 A So that means we have semicircular injuries, and we
23 also have rectilinear injuries, very small rectangles that
24 each have the same size, all come in pairs, and most
25 importantly, have the exact same sparing between the

1 injuries. That's -- I can elaborate.

2 Q Okay. And let me ask you this. Is that -- now, were
3 these blunt force injuries?

4 A Yes. They're blunt force injuries.

5 Q And are they consistent with any implement?

6 A Yes.

7 Q Any particular implement?

8 MR. ADDUCCI: I'm going to object to the individual
9 giving an opinion as of right now as to how the injuries
10 got there, specifically by what type of instrument. I
11 think that ---

12 THE COURT: He's saying it's consistent. I'll let
13 him testify.

14 MR. ADDUCCI: Thank you, Your Honor.

15 THE WITNESS: So if you read a textbook of forensic
16 pathology, they'll show you a picture of this guy's head
17 injuries, and there will be a claw hammer right beside it.
18 You cannot create these -- the spacing is exactly the same
19 on every pair. The chances of you doing that with a
20 single instrument that doesn't have that spacing, it could
21 be a crowbar, but whatever it is has two metal points that
22 have a distance between them.

23 BY MR. MOYER:

24 Q In State's Exhibit Numbers 71 through 72, are these
25 some photographs that were taken ---

1 A Yes.

2 Q --- of those injuries that you just described?

3 A They are. We had to shave the back of his head to
4 show them, but they're very clearly shown here. There's a
5 lot of tissue bridging, unfortunately, and debris and
6 flesh that occludes some of the photographs, but these are
7 very nice pictures, particularly this one with those two
8 spared -- with the sparing in the middle.

9 Q Okay. Would you -- can you just point on -- using
10 your own head as an example of where these injuries were?

11 A They're really posterior vertex. Most of them are
12 centered kind of on the left-hand side, rectilinear
13 abrasions, top of the head, mostly left. There's some on
14 the face, but most of those are on the back of the head,
15 left-hand side.

16 Q Was there any blunt force injury to his jaw area on
17 his face?

18 A Yeah. Rectilinear abrasion top of head, contusions,
19 subgaleal fracture. Yeah. The mandibular. Yes, yes,
20 yes. Fractures the mandibular angle underlying that jaw
21 injury, yes. So that's on the anterior face. And that --
22 I'm reading my report here. That's going to be on the
23 right-hand side, yeah, corner of the mouth, lateral to
24 that. So the mandibular angle, which is the angle of the
25 mandible, the bone of the lower jaw, is fractured there at

1 that site.

2 Q Okay. And, again, a blunt force trauma?

3 A Yeah. You would not have a fracture of the mandible
4 without pretty significant impact to that bone.

5 MR. MOYER: Okay. That's all the questions I have
6 for this witness at this time.

7 THE COURT: Cross-examination?

8 MR. ADDUCCI: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. ADDUCCI:

11 Q You indicated that the deceased was 5'7" tall?

12 A That's correct. Yes, sir.

13 Q And 286 pounds?

14 A Yes. That's per our scale in the morgue.

15 Q Okay. Did you do any other measurements of his
16 limbs?

17 A No, sir.

18 Q Did you measure his girth or anything like that?

19 A I did not. No, sir.

20 Q Okay. You noted there were a number of injuries to
21 his head and face.

22 A Correct.

23 Q Specifically, blunt force trauma to sort of the crown
24 of his head?

25 A Yes, sir. That's correct.

1 Q Was there a significant amount of suspected blood on
2 the top of his head?

3 A There was blood there. I would not describe it as a
4 large quantity of blood. Usually scalp wounds bleed
5 significantly. These bled some. There is some hemorrhage
6 underlying the scalp above the skull. I do not describe
7 any significant injuries to the actual brain. There are
8 some minor injuries to the brain, contusions.

9 Q Yes. And with regard to this blunt force trauma, you
10 noted chips of his skull?

11 A Yes, sir. That's correct.

12 Q And additionally, when you removed his hair and saw
13 his actual skull, you noted bruising on the bone of his
14 skull, correct?

15 A That's correct, yes.

16 Q Additionally, you noted a brain anterior temporal
17 lobe contusion, right?

18 A Yes, sir. That's correct.

19 Q And that is bleeding on the brain?

20 A It is. It's a blunt force trauma. It implies damage
21 to the brain parenchyma, which is the tissue of the brain.
22 Think of it as a bruise on your brain. It doesn't
23 necessarily have a ton of visible blood, but there's some.
24 It's not the same type of bleeding that you would see with
25 larger strokes and various things.

1 Q Okay. But that is a sort of a result of a traumatic
2 brain injury, right?

3 A Oh, absolutely, yes.

4 Q Okay. And you notice that you did not note any skin
5 surface soot or stippling?

6 A I did not either on the head or on the extremities.
7 You'll note in my report I defer to firearms examiners to
8 evaluate blood soaked clothing if there needs to be
9 additional detail.

10 Q Additionally, you did a tox screen on Mr. Ferrell?

11 A We did. Yes, sir.

12 Q And I believe that he had a .116 BAC, correct?

13 A Yes. Yes, sir. That's correct.

14 Q And you cannot opine as to the order of the shots,
15 correct?

16 A I cannot. It should say in my report that chronology
17 is unknown, yes. I just number them for my own
18 convenience to keep them straight.

19 MR. ADDUCCI: The Court's indulgence, Your Honor.

20 Nothing further for this witness, Your Honor.

21 THE COURT: All right. Any redirect?

22 MR. MOYER: One moment.

23 No, Your Honor. No further questions.

24 THE COURT: All right. You may step down. Thank
25 you.

1 THE WITNESS: Thank you.

2 THE COURT: All right. Anything else?

3 MR. MOYER: No, Your Honor. At this time, that would
4 be all the State would have for this hearing.

5 THE COURT: Any reply?

6 MR. ADDUCCI: No, Your Honor.

7 THE COURT: All right. I'll be glad to hear from you
8 now.

9 MR. ADDUCCI: Thank you, Your Honor.

10 So we have the burden of proof by a preponderance of
11 the evidence, if I can pull up my -- and I can just -- so
12 what the Court has heard today, Mr. Hughes has testified
13 that he went outside after hearing a noise to the exterior
14 of his home. He brought his weapon and saw somebody, what
15 he described as a figure, inside of his window above the
16 kitchen. At that point, the individual came back down and
17 came towards him. Mr. Hughes testified that he shot him a
18 number of times, I believe he said there was a shot, a
19 couple more shots, a pause, a couple more shots.

20 Under the South Carolina Protection of Persons and
21 Property Act, one who has witnessed an individual
22 committing a crime of violence at their home has the right
23 to presume that that individual is coming at them with
24 deadly force. So in a standard self-defense claim, we
25 have to show that Mr. Hughes did not bring about the

1 trouble. He indicated that Mr. Ferrell left, that
2 Mr. Ferrell came back, and at the point that the shooting
3 occurred, Mr. Hughes did not know who it was.

4 THE COURT: How do you address all this physical
5 evidence that just absolutely shows that his story could
6 not be possible?

7 MR. ADDUCCI: Well, Your Honor, I think if you look
8 at the physical evidence, Mr. Ferrell is inside the
9 window. If you look at the DNA report, there is a hammer,
10 correct? The State is, I'm sure, indicating that he was
11 bludgeoned with a hammer and then somehow jumped out of
12 the window. It is a reasonable inference because to have
13 Jane Ferrell approaching -- Jane Hughes approaching
14 Mr. Ferrell at the window at the time that he is
15 attempting to break into the home, that is where he
16 received the ---

17 THE COURT: There's no evidence of that, so I'm not
18 considering that inference at all. I'm sorry. There's
19 nothing to say that.

20 MR. ADDUCCI: Your Honor, I think that you can make a
21 reasonable inference from the evidence that you see. You
22 have Jane Ferrell's DNA on the hammer, you have -- or Jane
23 Hughes' DNA on the hammer. You have Mr. Ferrell's blood
24 and DNA also on the hammer. So at that point, we do have
25 the hammer in Jane's hand. So through the State's own

1 evidence, you have Jane with the hammer. You do not have
2 Mr. Hughes with the hammer.

3 The State has not provided any evidence to show how
4 -- to explain the blood in any other way. If the State is
5 going to say that Jane hit him with the hammer, had him
6 with the hammer inside ---

7 THE COURT: Yeah. But we're not here to determine
8 who was guilty. We're here to say basically does this
9 immunity apply based on the story that he's provided on
10 the stand.

11 MR. ADDUCCI: Correct, Your Honor. And, you know,
12 because of Mr. Hughes' perspective from when he saw this
13 individual coming out of the window, he was not in the
14 kitchen at that time. So when you look at the evidence,
15 there is a small amount of blood underneath the cabinet,
16 there is DNA on the quilt, it is a perfectly reasonable
17 inference when you look at where the hammer is located,
18 where the quilt is and where there is blood over the sink
19 that Jane Hughes hit him with the hammer as he was coming
20 into the window.

21 Additionally, and I'm not too clear to rebut the
22 claim ahead of time, so I will deal with that later. If
23 you look at Mr. Hughes' testimony, he meets the elements.
24 There's an individual who is attempting to break into his
25 home at nighttime, which is burglary first degree. That

1 gives him the presumption that he has a reasonable fear of
2 imminent death or great bodily injury to himself which
3 gives him the right to use deadly force. Additionally,
4 that individual came towards Mr. Hughes, and he responded
5 with deadly force having the right on his property while
6 somebody is attempting to break in.

7 THE COURT: Okay. Mr. Moyer?

8 MR. MOYER: Your Honor, as Your Honor has noted, I
9 don't have to at this point propose an alternate version
10 as to what happened as I will have to do at trial and as
11 we will do at trial both with multiple and more witnesses
12 and other pieces of evidence. At this point, all we have
13 to do is the defense has the burden of proof at this time,
14 and our only obligation is to undermine that, which I
15 believe the evidence in this case clearly does.

16 His version -- as Your Honor has noted in question to
17 defense attorney, his version of what happened that night
18 absolutely is unsupported by every single factual piece of
19 evidence that was presented in this case.

20 He mentions the victim charging towards him, running
21 towards him. What we have is a body that is on the ground
22 with his pants around his ankles. We know his pants were
23 around his ankles when he was shot because there's no
24 bullet holes in his pants. His pants were already down
25 around his ankles. There's no way he could have been even

1 moving, certainly not charging towards him.

2 The defendant claims that he was shooting the victim
3 as he was charging at him, yet the gunshot wounds are all
4 going from the top of his body down towards his feet.
5 This is consistent with a body being parallel to Mr. -- to
6 the defendant, which is what the evidence -- which is what
7 we are going to show throughout the trial is that the
8 victim had jumped through the window to escape being
9 struck with the hammer by Jane Hughes, was on the ground,
10 he was propping himself up, and he was shot by the
11 defendant as he was lying on the ground, probably with his
12 hands supporting his body slightly upwards. There is a
13 tight grouping of shots all around his head, his upper
14 body, his shoulders all going towards his feet.

15 Your Honor, the defendant's version of what happened
16 is impossible in light of the evidence that was found in
17 that kitchen. There is blood all over the place, there is
18 evidence of cleanup, there is -- the victim's DNA is found
19 throughout the kitchen in blood as well as on the hammer.
20 We heard testimony about the wounds to the victim's head
21 which were clearly done by a hammer.

22 The defense speculation that Jane Hughes was hitting
23 the victim as he was attempting to go into the residence
24 is simply unsupported by any evidence that came up in this
25 hearing. If he attempts to do that at trial, that will be

1 a different matter, but at this time, there is no -- the
2 defendant said that after the victim left, he was walking
3 around the house, turning off computers, getting ready to
4 go to bed. No one else was around. Everyone else was in
5 bed.

6 THE COURT: Any response, Mr. Adducci?

7 MR. ADDUCCI: Your Honor, I believe that the State is
8 going to speculate as to Mr. Ferrell's exit strategy that
9 I believe that we could speculate as ---

10 THE COURT: No. I don't accept that either. I mean,
11 I think that the burden of proof is on y'all, and even in
12 a preponderance of evidence, I don't think that you've
13 raised the level that the immunity applies. So I will
14 deny your motion.

15 MR. ADDUCCI: Thank you, Your Honor.

16 THE COURT: Any reason why we do not -- I mean, there
17 are no other motions? I mean, we can have the jury ready
18 to go at 9:30?

19 MR. MOYER: We're ready to go at 9:30. Yes, sir,
20 Your Honor.

21 MR. ADDUCCI: I'll have the -- depending on what he's
22 planning on introducing into evidence, I'll have motions
23 regarding hearsay, suppression issues. But I just don't
24 know what ---

25 THE COURT: I mean, are there any pretrial motions we

1 need to address before the jury?

2 MR. ADDUCCI: No, Your Honor.

3 THE COURT: All right. So I'm going to have the jury
4 come back at 9:30 is what I was asking. All right.

5 MR. MOYER: Thank you, Your Honor.

6 MR. ADDUCCI: Thank you.

7 (WHEREUPON, proceedings recessed at 5:06 p.m., to be
8 reconvened on Tuesday, December 5, 2017.)

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TUESDAY, DECEMBER 5, 2017

(WHEREUPON, proceedings reconvened at 9:30 a.m.)

THE COURT: All right. I understand you did all come up with a motion or two.

MR. ADDUCCI: Yes, Your Honor. I don't know if the Court wants to hear these pretrial or as the evidence possibly comes up during trial. I just want to give the State and the Court a heads-up. It's regarding a 9-1-1 tape that I don't know if the State is going to be playing or if they're going to be making mention of in opening. And ---

THE COURT: Do you want me to ask him?

MR. ADDUCCI: Yes.

THE COURT: And his response?

MR. MOYER: Your Honor, as far as -- he has two motions. One is the 9-1-1 call, the other is a cell phone. I don't intend to bring either up in my opening, so that won't be an issue there.

THE COURT: All right.

MR. MOYER: Most likely, we do intend to introduce the cell phone records, but probably not until tomorrow, and so I would ask that we just defer hearing that motion until we're closer to ---

THE COURT: Whatever. I guess you want to do a

1 motion in limine and then whatever.

2 MR. ADDUCCI: The motion to suppress, yeah. So
3 however the Court wants to handle it. I have two written
4 motions. I can hand them up.

5 THE COURT: Why don't you let me look at them, and
6 then before you -- those become an issue, then we can
7 address it, all right?

8 MR. ADDUCCI: Thank you.

9 THE COURT: Is that good for everybody?

10 Okay. And before we -- as we discussed yesterday,
11 before we actually swear the jury and before I give them
12 -- here's what I do. I kind of have an opening charge. I
13 don't really charge them. Just kind of give them an
14 introduction of what's going on in the court system in the
15 trial. But before we do that or even have them sworn in,
16 I will have to qualify them on the conspiracy charge.
17 I'll ask them questions about that. And like I said, I
18 don't -- because there wasn't anything anybody was aware
19 of this -- the defendant, I don't think that should be a
20 problem. But if it is, we'll address it. We'll take a
21 break and address it.

22 Anything else then before -- I guess the jury is
23 ready.

24 MR. ADDUCCI: And, Your Honor, if we could sequester
25 witnesses for purpose of trial as well.

1 THE COURT: All right. Any objection?

2 All right. The jury is ready. Bring them in.

3 (WHEREUPON, the jury entered the courtroom at 9:35 a.m.)

4 THE COURT: Good morning, ladies and gentlemen. All
5 right. First of all, I hope everybody had a good evening.
6 I'm glad everybody, the messages, and everybody got the
7 message right. Everybody showed up this morning. That's
8 good.

9 ADDITIONAL JURY QUALIFICATION

10 THE COURT: All right. Yesterday, in shuffling
11 through all the papers and qualifying you all for this
12 case, I did fail to ask you about one of the documents.
13 First of all, as I told y'all yesterday, an indictment is
14 merely the formal charging papers that is presented by the
15 State. It's not to be considered by y'all in any way in
16 your deliberations. Mr. Hughes, the defendant, has come
17 in pleading not guilty to any of these charges, but these
18 are the formal papers that are presented to the Court and
19 brings this matter to court.

20 I did not discuss one of the indictments with you,
21 and I just need to make sure, qualify you on this
22 indictment as well in addition to the other indictments
23 that we talked about yesterday for murder and possession
24 of a weapon during the commission of a violent crime.
25 There's also an indictment for conspiracy. And I'm going

1 to read this indictment to you, and then I'll ask you some
2 follow-up questions.

3 That John Michael Hughes did, in Greenville county,
4 on or about the 24th day of January 2015, willfully and
5 unlawfully combined with Margaret Hughes and/or Jacob
6 Hughes and/or Jane Hughes for the purpose of accomplishing
7 an unlawful object or unlawful object by unlawful means,
8 to wit, murder.

9 All right. Now, what I need to ask you, one, is
10 other names in this indictment in addition to Mr. Hughes
11 are Margaret Hughes, Jacob Hughes and Jane Hughes. Does
12 anybody on the jury panel, are you related by blood or
13 marriage to Margaret Hughes, Jacob Hughes and Jane Hughes?
14 If so, please stand.

15 (No response.)

16 THE COURT: Does anybody on the jury panel have a
17 social, business or any type of relationship with
18 Margaret Hughes, Jacob Hughes or Jane Hughes? If so,
19 please stand.

20 (No response.)

21 THE COURT: All right. In light of this additional
22 indictment, does any member of the jury panel know of any
23 reason why he or she cannot give a fair and impartial
24 trial to both the State or the defendant in this matter?
25 If so, please stand.

1 UNIDENTIFIED JUROR: Your Honor?

2 THE COURT: Yes.

3 UNIDENTIFIED JUROR: I think I can give a fair and
4 impartial -- yesterday when you asked if someone had
5 committed a crime, I forgot that my husband had some years
6 ago.

7 THE COURT: Okay.

8 UNIDENTIFIED JUROR: And I feel stupid for not
9 remembering.

10 THE COURT: No. That's fine. But that would not be
11 related to you.

12 UNIDENTIFIED JUROR: Okay.

13 THE COURT: Okay. Thank you.

14 All right. Anybody else had anything in addition to
15 this additional conspiracy indictment?

16 Okay. Any exception or additional questions from the
17 State?

18 MR. MOYER: No, Your Honor.

19 THE COURT: Any additional questions or exceptions
20 from the defense?

21 MR. ADDUCCI: No, Your Honor.

22 THE COURT: All right. Thank you. Ladies and
23 gentlemen, that concludes that portion. All right. Now
24 -- so therefore, y'all are just as qualified as you were
25 yesterday.

1 At this point, I'm going to ask that the clerk
2 administer the oath as it relates to this case, and then I
3 will go over -- have some opening remarks, and then we'll
4 begin the case.

5 THE CLERK: Please stand and raise your right hand.

6 (WHEREUPON, the jury is duly sworn.)

7 THE CLERK: Thank you. You may be seated.

8 JURY INSTRUCTIONS

9 THE COURT: All right. Ladies and gentlemen, I'm
10 just going to kind of give you some ground rules and some
11 introduction about what's going on.

12 First of all, I always like to let members of the
13 jury know kind of all who's in the courtroom because
14 you're going to be sitting and looking at us all for a
15 couple days, so I hope that y'all can appreciate -- first
16 of all, y'all have been introduced to the parties, the
17 attorneys involved.

18 Now, just if you hear reference to the defendant, the
19 defendant in this matter is John Michael Hughes, and as I
20 have said and I want to repeat that he comes in here with
21 a presumption of innocence, and it's up to the State to
22 prove their case beyond a reasonable doubt. That's the
23 burden that the State has in this matter as to every
24 element of each of the indictments.

25 The indictment, any reference to an indictment, any

1 reference to an arrest or charges, is not to be considered
2 by y'all because those are merely the manner which brings
3 this matter to the Court. What you're to consider are the
4 facts as presented on the witness stand, the evidence
5 that's put in and the law which applies to this case.

6 So it's your responsibility to determine what the
7 facts in this case are. As the judge, I cannot let you
8 know what I think my opinion of the facts are because
9 that's not my role. If anything I do or say makes you
10 think I have an opinion of the facts, please disregard
11 that. My job is to rule on the evidence, preside over the
12 trial and charge you with the law that applies to this
13 case, but it's not to have an opinion of the facts.
14 That's what y'all determine. That's what y'all are here
15 for.

16 There are 12 regular jurors, two alternates, and the
17 alternates -- y'all are the two alternates? All right.
18 Y'all are to sit in those seats right there. In the event
19 that something should happen to any member of the jury,
20 then y'all would step in. So it's a very important role,
21 especially in a multi-day trial like this.

22 I'm going to ask that you not take notes in this
23 matter. I think that you need to watch the witnesses
24 carefully and use your collective knowledge as you get
25 back and begin deliberating. And one of the things that

1 you need to determine is you're going to be looking at the
2 credibility or believability of witnesses, and that's real
3 important for you to determine what the facts of this case
4 are.

5 Now, going over again, back to the people in the
6 courtroom, in addition to the attorneys, seated in front
7 of me is the court reporter. She's the one who takes down
8 everything everybody is saying in here. So that's
9 important. That creates our record.

10 This is the clerk of court, Ms. Garris.

11 The individual to my right is my law clerk. He's a
12 graduate of law school and assists me with research in
13 preparing the law, the charge of the law.

14 The most important people as far as you're concerned
15 are the bailiffs, the gentlemen in the red coats with the
16 badges. If you have any questions, please ask the
17 bailiff. That's who you need to be communicating with.

18 At your first break, y'all will elect your foreperson
19 from the original 12 jurors. The foreperson, your role is
20 to communicate with the Court. If you have any questions,
21 you'd present them to the bailiff and then they would
22 present them to the Court and we respond to them
23 appropriately. But that's who you need to communicate
24 with.

25 As far as breaks go, we try to take a break about

1 every hour to hour and a half. And a lot of that depends
2 on where we are in the trial. For instance, if we have a
3 particularly long witness, sometimes we may go beyond
4 that, but we try to break in that period of time. But if
5 anybody -- we realize this is an inconvenience to you. If
6 anybody needs to take a break, please let the bailiff know
7 or try to indicate so that we can break as quickly as
8 possible. I mean, I realize that sometimes we need to
9 take quick breaks and stuff like that, so that's not a
10 problem. We can deal with that.

11 As far as our schedule goes, we try to start about
12 9:30 in the mornings, and we try to take a break somewhere
13 between -- for lunch between 12:00 and 1:00. Again, that
14 kind of depends on where the witnesses are, you know, and
15 I'll kind of keep y'all posted where we're going. If it
16 looks like we have to go late for lunch for whatever
17 reason, I'll let you know and we'll make sure you have
18 some snacks and stuff like that.

19 We try to break about 5:00 in the evening. Again,
20 sometimes we have to be flexible and we may have to go
21 beyond that. If we have to go beyond 5:00, I will let
22 y'all know and let anybody make any arrangements. We're
23 not talking about way past 5:00. I mean, sometimes it's
24 like we've got a witness we've got to finish up and we may
25 go to 5:30. I will talk to y'all before we make that

1 decision, again, and make sure anybody can make any
2 arrangements. I mean, you know, because my job is to kind
3 of make sure, one, that the case keeps moving, but we try
4 to inconvenience y'all as little as possible because
5 realize this is taking you out of your daily life. And
6 it's an important matter for the court system, but we
7 realize that y'all have important things in your lives as
8 well so we try to weigh all that into that.

9 So as I told you before and I will tell you
10 throughout, you know, it's not appropriate to discuss the
11 case in any way beforehand, and you're to keep an open
12 mind until you get to the very end of the case, until you
13 begin deliberating. And the reason is you need to hear
14 all of the evidence, and you need to hear the law which
15 you're going to apply before you can begin discussing it
16 and before you can make up your mind what the facts in
17 this case are.

18 Again, as I told you yesterday, too, it's not
19 appropriate to do any type of independent research about
20 the parties, about the lawyers, about the law, because the
21 law which you will apply will be the law that I charge you
22 at the end of the case, and it's not appropriate to
23 consider anything else.

24 Along that line, it's also not appropriate to pay
25 attention to any media coverage if there turns out to be

1 any media coverage. Again, that's TV, radio, newspaper,
2 social media, any type. Because, again, that's stuff
3 outside this courtroom that you shouldn't consider.

4 So the types of evidence that you will hear is from
5 the witness stand. There may -- there also will be
6 documents that come into play. So all of that is stuff to
7 be considered that is ruled admissible.

8 Now, one of my jobs is to preside over the trial and
9 determine the admissibility of evidence and some of the
10 rules, and some of our rules are very specific as far as
11 evidence goes. And that's where you'll hear one or the
12 other party make objections, and that's routine.

13 Sometimes it's a little more efficient and cleaner if we
14 send you out to discuss those to make sure that the
15 evidence is properly being presented under our rules, so
16 if I send you out, that's what that's for.

17 Sometimes it's just quicker if the attorneys come
18 over here and we talk. We're not trying to keep anything
19 from you, but sometimes it's just a little more efficient
20 to do it that way, a little sidebar. So that's what we're
21 doing there.

22 Now, I know that just to kind of let y'all know too,
23 the first break we have may be a little bit longer than
24 our normal one because I think I've got another matter
25 outside of this case that I've got to address, and that's

1 what happens. When we've got a lot of stuff going on,
2 sometimes we have to squeeze it in where we can. But
3 y'all are the most important -- this is the most important
4 thing right now, so this is definitely a priority, but
5 sometimes we do try to get some other things taken care
6 of, too.

7 So without further ado, at this time, I'm going to
8 turn it over to the attorneys. Now, this is opening
9 statement. This is not evidence. This is what they
10 believe the evidence is going to show. This is their
11 summary. And then after opening statements, then we'll
12 get to the evidentiary stage where evidence will be
13 presented. Then at the conclusion of all the evidence,
14 then we'll have closing arguments, and then we'll have a
15 charge on the law which is where I tell you what the law
16 is that you are to apply. At that point, you'll go back
17 and deliberate and discuss the case.

18 It's my understanding that, due to the number of
19 witnesses here, this is going to be several days. Just
20 for your planning purposes, it looks like it will
21 definitely go into Wednesday, possibly into Thursday.
22 Again, I'll keep you posted as we go along, but just for
23 your planning purposes, that's what you need to be looking
24 at.

25 All right. Without further ado, Mr. Moyer.

OPENING STATEMENTS

1
2 MR. MOYER: Thank you, Your Honor. May it please the
3 Court.

4 Good morning, ladies and gentlemen. Once again, my
5 name is Mark Moyer. I am employed with the Greenville
6 County Solicitor's Office. That is part of the Thirteenth
7 Circuit. Thirteenth Circuit is Greenville and Pickens
8 Counties. And what I do is I represent the State in
9 criminal proceedings. I work for, as I said, the
10 Solicitor's Office. That is what just about every other
11 state and every other jurisdiction calls a district
12 attorney. In South Carolina, for whatever reason, we
13 still call that position a solicitor. Walt Wilkins is the
14 elected solicitor. I work for him, and it's my privilege
15 here to represent the State in this case.

16 Now, you haven't heard a whole lot about this case.
17 You've heard the charges, you've heard a witness list. So
18 let me just tell you a little bit about that.

19 You're going to hear throughout this trial from the
20 State between, I would say, 18 and about 22 witnesses who
21 are going to come up before you and testify, and there
22 will be various pieces of evidence that will come in
23 through those witnesses.

24 Now, it's always difficult to estimate how long a
25 trial will take. I'm going to do my best -- my best --

1 give it my best shot right now and tell you that I believe
2 we'll finish sometime tomorrow. I believe the State will
3 finish putting up evidence about midday tomorrow. But
4 once again, please don't hold me to that because it's a
5 very difficult thing to estimate.

6 You're going to hear from some law enforcement
7 officers, some what I call uniform patrol officers who
8 arrived at this incident location, at this crime scene.
9 Initially, officers who showed up when the call came in,
10 collected some information. You're going to hear from
11 some law enforcement investigators who investigated this
12 case as the investigation went on. You're going to hear
13 from some forensics officers, those are some officers who
14 took photographs, who examined the scene, who collected
15 evidence, and some forensics professionals who analyzed
16 some of that evidence, some DNA officers, examiners, a
17 medical examiner who did the autopsy, a firearms expert.
18 And then you're going to also hear from some what I'll
19 call lay witnesses, people who aren't involved with law
20 enforcement or, say, a lab who are just individuals who
21 have information about this case who are going to come in
22 and testify as well.

23 What I want to do here in just the next few minutes
24 in this brief opening statement is to give you a summary
25 of all of what you are going to hear in this case, so

1 you're a little bit prepared about what is coming as you
2 start to hear from these witnesses.

3 This incident happened on January 24, 2015. It was a
4 quiet residential neighborhood in Simpsonville. Close to
5 midnight on that day, just a few minutes, maybe ten
6 minutes or so before midnight, shots ring out. Testimony
7 is going to indicate to you most likely there were five
8 shots. Perhaps six, but most likely five shots. People
9 call 9-1-1. Officers arrive. What did they find? Near
10 the road walking towards the road down the driveway is
11 this defendant, and he has a gun. Not too far away from
12 him near the side of the house is a man who is lying there
13 with his arms out in front of his head, he's lying face
14 down, he's lifeless, he's soon to be declared deceased.

15 So what do we have? What do we have? Initial
16 examination of this scene gives one indication. We have
17 an open window on the side of this house. It is close to
18 midnight. We have a homeowner who voluntarily waited for
19 police, gave up the gun to police. What do we have?
20 Could this be some sort of justifiable homicide? Was
21 there an intruder? Was this a case of someone justifiably
22 shooting an intruder into a home?

23 But then things start to get less clear. Officers
24 begin to look at the scene, and more information comes up.

25 What do we find out about this scene? Well, first of

1 all, we find out about this person who is deceased. He's
2 not a stranger. In fact, he is this defendant's
3 son-in-law. The deceased is a 51-year-old man named John
4 Ferrell. He's married to this defendant's daughter, a
5 woman named Jane Hughes. They have been separated, they
6 were going through a divorce, they're going through
7 custody dispute over two children. Jane Hughes also lived
8 in this home. The two children also lived in this home.
9 This defendant's wife, Margaret Renee Hughes, also lived
10 in this home. Jane Hughes' new boyfriend, a guy named
11 Andrew Martin, also lived in this home. And then there's
12 another person, a guy named Jacob Hughes, this defendant's
13 son who lived there not all the time, but would stay there
14 on some occasions. So there's that.

15 What else do we learn? There's a Family Court battle
16 ongoing. This Family Court matter's ongoing. It's over
17 custody. It's over visitation. There had already been
18 several hearings. There was another hearing scheduled
19 very soon on Tuesday. This happened on a Saturday night,
20 almost Sunday, January 24th. A hearing was scheduled on
21 January 27th where these issues of custody and visitation
22 were going to come up again.

23 What else did we learn? Well, upon examination of
24 Mr. John Ferrell, the deceased, who is lying not too far
25 from that open window on the ground, very clearly seen

1 upon walking up to Mr. Ferrell's body is the state of his
2 clothing. From here (indicating) on up it's not too
3 surprising. He has on a jacket and clothes and shirt.
4 There are bullet holes. But from here (indicating) down,
5 he's naked, his pants are around his ankles, literally.
6 You will see pictures of this. They are literally down
7 around his ankles as he is lying there.

8 We also learn more about the scene in that underneath
9 this window that is almost six feet in the air, there is
10 some things scattered about. There is an air conditioning
11 unit, like, you know, one of those window units that is on
12 the ground there right outside the window. There's a few
13 kitchen utensils, a can opener, a couple other things.
14 The victim's keys are down there. There is blood
15 underneath that window. There is also a trail of blood
16 from underneath the window to over where Mr. Ferrell's
17 body is.

18 Looking up at that window, blood can be seen around
19 the window. Blinds that are right there, blood can be
20 seen at that point.

21 So this takes the officers inside the house. And
22 what do we find inside the house? Well, that window goes
23 into the kitchen of the house. And inside the kitchen,
24 more information is gathered, one of which is more blood.
25 In the sink, which is right below this window, there is a

1 spatula in the sink, and there is blood on that. Right
2 underneath the countertop, there is some droplets of
3 blood. On a blanket on the other side of the room, it's
4 not just droplets of blood, but a pool of blood on the
5 blanket. Later testing shows all this blood matches John
6 Ferrell, the victim.

7 There is also some indication of a cleanup. There is
8 a -- in the kitchen trash can is a small towel or
9 washcloth like thing that is damp. Later testing shows
10 DNA of the victim on this towel. Officers also spray a
11 chemical throughout the kitchen which gives an indication
12 where blood had recently been and had been cleaned up,
13 that there are places throughout the kitchen, on the
14 floor, on the table, on a wall, in the back sink in the
15 sink in the bathroom. More indication of blood throughout
16 the house.

17 There is also a hammer that is found in the kitchen,
18 a hammer on the floor. On this hammer is some blood.
19 Again, testing is done on this hammer. The blood matches
20 the deceased, John Ferrell. More DNA, though, was found
21 on the handle of the hammer, and DNA from the handle of
22 the hammer matches Jane Hughes.

23 An autopsy is done. Now, at the autopsy, the medical
24 examiner is looking at cause of death and also other
25 indications and other clues that might be found about this

1 case. And what we find from the autopsy is that
2 Mr. Ferrell has been shot five times. The five shots are
3 in a pretty close grouping in a circular fashion. His
4 eye, his left shoulder, behind his head, behind his right
5 shoulder and just in front of his right shoulder, a tight
6 grouping. What is also interesting about the shots that
7 the medical examiner finds is that all of these shots are
8 going down towards his feet, not -- the shot that goes
9 into his eye right above his eye comes out right below his
10 eye. The shots that go into his shoulder either go into
11 his body, one of them actually grazes down his side and
12 into his leg right above his knee.

13 Also something interesting that is found during the
14 autopsy is there is blunt force trauma to Mr. Ferrell's
15 head. There are blows have been landed to his head and to
16 his face. And what is of note to the medical examiner is
17 the shape of some of these blows: a small semicircular
18 pattern and then two linear patterns that are right next
19 to one another like the hammer end of a hammer and the
20 claw end of a hammer.

21 And then evidence was uncovered that the victim, John
22 Ferrell, earlier that evening had been with this
23 defendant's son, Jacob Hughes, that they had gotten
24 together that evening, they'd gone to a bar, then they had
25 gone to a Waffle House, that they left that Waffle House

1 together in the victim's vehicle just about 30 minutes
2 before the shots were fired, just about ten minutes away
3 from where they lived and where the victim's vehicle was
4 later found.

5 Now, all of this evidence that I've been talking
6 about plus more evidence that you're going to hear in this
7 trial led the investigators to eventually charge five
8 people. This defendant was charged; Margaret Hughes was
9 charged, his wife; Jane Hughes was charged; Jacob Hughes
10 was charged; and Andrew Martin, the boyfriend, all were
11 charged in this conspiracy. His Honor is going to charge
12 you towards the end of this case that the hand of one is
13 the hand of all in a case like this, that when people are
14 engaged in a crime together, what each one does, all the
15 others are responsible for. But for purposes of this
16 trial, we are just -- just this defendant is on trial
17 today, not the other ones.

18 However, you're going to hear from one of the other
19 ones. Andrew Martin, Jane's boyfriend, is going to
20 testify. And what you're going to hear from him is that
21 he was told by this defendant that evening to not come in
22 the house, to stay outside, that the victim, John Ferrell,
23 was going to be coming over. And you can hear him testify
24 that at some point that evening, he heard a noise, that he
25 came into the house, and the scene that he found in the

1 kitchen was this: the victim, John Ferrell, on his hands
2 and knees, this defendant holding a gun pointing towards
3 him, Jacob had some kind of stun gun, Jane Hughes is
4 hitting him in the head with the hammer, that John Ferrell
5 was able to get away from him, runs to this window, starts
6 to jump out of the window when Margaret Hughes and Jacob
7 Hughes go to grab him, grab his clothes, which is what
8 pulls the clothes down to his ankles, that John Ferrell
9 makes it out of the window, and that this defendant goes
10 outside and then shots are fired.

11 You're going to hear -- this is the story that is
12 going to be portrayed to you throughout this trial through
13 the evidence and the testimony that comes before you. And
14 you're going to hear from me addressing you just one more
15 time throughout this trial, and that will be at the end of
16 the trial when I will have the opportunity to summarize
17 the evidence and argue to you what this evidence should
18 mean as far as a verdict goes.

19 But at this time, all I would ask of you is this, ask
20 you just listen very closely and pay close attention to
21 all of the testimony and evidence, and to use your common
22 sense and your good judgment to weigh all of that evidence
23 and all of that testimony, and then at the end of this
24 case, to do justice.

25 Thank you.

1 THE COURT: Mr. Adducci?

2 MR. ADDUCCI: May it please, the Court.

3 Thank you, and good morning. My name is Thomas
4 Adducci, my colleague, Teal Johnson. We represent
5 Mr. Hughes.

6 I think, first, the State did a fairly good job of
7 sort of identifying the characters here. What we say
8 before you today, as the judge said, is not evidence.
9 What's going to matter is what you hear from the stand
10 there from the witnesses that are testifying.

11 First, you have Mr. John Michael Hughes. He goes by
12 Mike. People might occasionally refer to him as John or
13 Mr. Hughes, so if there's some confusion there, that's
14 what that is. There's his wife, Margaret Renee Hughes.
15 People might call her Margaret, they might call her Renee,
16 they might call her Mrs. Hughes. So, again, if there is
17 some confusion, that is what that is.

18 They have two children, Jacob Hughes and Jane Hughes
19 who was married to the decedent, Mr. Martin [sic]. The
20 State made mention of a divorce and a custody hearing.
21 That's true. They were getting divorced. They were
22 having hearings for custody. Obviously, custody is
23 something that has a lot of emotion for people, but that
24 is not unique. Every single custody hearing is emotional.
25 Everybody cares about what's going to happen to their

1 children and grandchildren. So that is not unique, that
2 is not special. That is completely ordinary.

3 The State listed a number of individuals that they
4 believe that they're going to call and they're going to
5 testify, people who were not there, collecting evidence,
6 taking photographs. I'll ask you to keep an open mind.

7 The State also indicated that you were going to hear
8 from an individual named Mr. Martin. He's going to give a
9 story, and he's going to try to tie all of this together
10 for the government. But when you look at the evidence and
11 you hear his story, you will see that his story is
12 completely unbelievable. What he has said simply could
13 not have happened.

14 You're also going to hear from Mr. Hughes. He's
15 going to tell you that that day, his son and Mr. Ferrell
16 went out, they had some drinks, they went to the Waffle
17 House. He will also tell you that it was not uncommon for
18 Jacob and Mr. Ferrell to go out. They would occasionally
19 even work together. This is not a situation where Jacob
20 never saw Mr. Ferrell. They'd go out throughout the
21 years, they worked together. It was not an uncommon
22 thing. But they came back. They came to the house, that
23 Mr. Hughes let them in, they sat down in the kitchen, they
24 had a discussion about what was going on with the child
25 custody hearing that was coming up, and at some point, it

1 got a little heated between Jacob and Mr. Ferrell. And
2 Mr. Hughes said, It's late. Y'all have been drinking.
3 Why don't we just have everybody go home. We'll deal with
4 this on Tuesday.

5 At that point, Mr. Ferrell did leave the residence.
6 Mr. Hughes, then locking up, putting away things, turning
7 off the lights, turning off the computer, those sorts of
8 things, and hears a noise outside, a scraping. That sort
9 of piques his interest, then again hears it again. At
10 that point, he thinks that something could be going on
11 outside.

12 He yells down the hallway to his family to say, hey,
13 something's going on outside. Somebody call 9-1-1. He
14 then goes into his living room where he keeps his handgun.
15 It's inside almost like a folder. I'm not a gun guy. So
16 it's like a pouch that is inside of another pouch. So he
17 unzips, opens, pulls the handgun out. He exits through
18 the front door. And this is late at night. There aren't
19 security lights outside. He looks out the front door,
20 doesn't see anybody. He's walking slowly and cautiously
21 because he doesn't know what's going on. He doesn't know
22 what's out there. It's dark.

23 He turns around the corner and sees at this window a
24 figure inside of the window. He shouts out to him,
25 probably uses some expletives, trying to get this person's

1 attention. Again, there are no lights, there are no
2 security lamps. He doesn't know who is there.

3 He sees this large individual come down from the
4 window. And, again, he is continuing to yell, Stop, stop.
5 The police are being called.

6 The individual comes towards him. Mr. Hughes will
7 testify and you will hear from him that he fired a shot,
8 pause, fire, fire, fire, fire. The amount of time that
9 was in that, it was a hot situation. I imagine time was
10 slowing down. It was dark. He just saw somebody trying
11 to break into his house and this person started coming
12 towards him in the dark.

13 Everything that he did that day was justified, and
14 when you see the evidence and you hear from all the
15 witnesses, you will understand that that is the truth.

16 Thank you.

17 THE COURT: All right. Mr. Moyer, call your first
18 witness, please.

19 MR. MOYER: Thank you, Your Honor. May it please the
20 Court. The state calls Adam Randolph.

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

23 WHEREUPON,

24 ADAM RANDOLPH

25 After having been duly sworn, testified as follows:

1 THE CLERK: Please be seated and state your name for
2 the record.

3 THE WITNESS: Corporal Adam Randolph, Simpsonville
4 Police Department.

5 DIRECT EXAMINATION

6 BY MR. MOYER:

7 Q Okay. So you work for the Simpsonville Police
8 Department?

9 A I do.

10 Q How long have you been in law enforcement?

11 A About six years.

12 Q How long have you worked for the Simpsonville Police
13 Department?

14 A My entire career, for the six years.

15 Q Okay. What is your position now?

16 A Corporal.

17 Q What do you do as a corporal with the Simpsonville
18 Police Department?

19 A I supervise over -- I'm first-line supervision on a
20 shift.

21 Q Okay. What were you prior to that including back in
22 January of 2015?

23 A Just a patrolman.

24 Q Okay. And so what does a patrolman do?

25 A Various tasks. I mean, it's patrolling the city,

1 doing security checks, running traffic, answering various
2 calls that come in, calls for service, working collisions.

3 Q So when a 9-1-1 call comes in, who would be the
4 individual with the police department who would be the
5 person called out to that 9-1-1 call?

6 A Depending on what zone you're assigned to, it just --
7 it just depends whatever zone you're in, whatever you're
8 attached to, then dispatch will call that particular
9 officer out to wherever the call is.

10 Q Okay. So it would be like a uniformed police officer
11 who would be called out to that call?

12 A Yes.

13 Q Okay. And then what would the uniform officer do
14 once -- as he's responding to a 9-1-1 call?

15 A Advise dispatch they're en route to that call and
16 respond to the call.

17 Q Okay. All right. Let me take you back to January
18 the 24th of 2015. Were you working on that night?

19 A I was.

20 Q Did you get a call?

21 A I did.

22 Q And to what location?

23 A 106 Stonegate, Simpsonville.

24 Q That's in Simpsonville, which is in Greenville
25 county?

1 A Correct.

2 Q Okay. Do you remember where you were when you got
3 the call?

4 A I was at Sherby's bar actually involved with another
5 incident that had taken place, which was off Ray Talley
6 and Fairview Road.

7 Q So is that fairly close to 106 Stonegate?

8 A It's approximately like a mile and a half away.

9 Q Now, is this location, 106 Stonegate, is that near
10 the Simpsonville Police Department?

11 A It is.

12 Q How close would you say it is?

13 A Like a stone's throw. I mean, it's across the
14 street.

15 Q Okay. Now, were you the first officer to arrive at
16 that location?

17 A I was.

18 Q Okay. Did you leave immediately from that Sherby's
19 bar or whatever it's called and go there?

20 A I did, based on the nature of the call.

21 Q Okay. What was the nature of the call?

22 A We had been advised that shots have been fired at
23 that residence or within that area, 106 Stonegate. So I
24 was already dealing with an incident at Sherby's, but this
25 took precedence, so I left the scene from Sherby's and put

1 myself en route to 106 Stonegate.

2 Q Okay. Were you the first officer to arrive?

3 A I was.

4 Q Did you go lights and sirens?

5 A I did.

6 Q Did you drive right up to the house? Or what did you
7 do when you got to the area?

8 A Once I pulled on -- off of East Curtis is Tollgate,
9 and then off of Tollgate is Stonegate. So from Tollgate,
10 once I reached East Curtis and Tollgate, I shut down
11 lights and sirens and then I pulled onto Stonegate. And I
12 parked basically right as you turn onto Stonegate, there's
13 the row of houses on the right, and I basically pulled in
14 front of the first house there. I don't recall what the
15 address is, but I pulled in front of that house and then
16 made my approach on foot up to 106 to give myself more of
17 a tactical advantage so as not to put myself right in the
18 middle of -- if there's still a shooter on scene, I'm
19 going to have to put myself out there.

20 Q So you didn't know what you were going to find there.

21 A No.

22 Q So were you, what, one residence away or more?

23 A I believe, if I recall, I was two to three residences
24 away from 106.

25 Q Okay. Now, and your arrival time was ---

1 A I think it was around like 11:58. And I know it was
2 just right around midnight.

3 Q Okay. If your report says 11:58, would that ---

4 A It would be correct.

5 Q Okay. And what time did the 9-1-1 calls come in?

6 A It would have been within just a few minutes. So I
7 know I got there within probably two minutes, maybe three
8 minutes.

9 Q Of the call?

10 A Of the call, right.

11 Q So if your report says the 9-1-1 calls came in at
12 11:54, does that sound right?

13 A It does.

14 Q So you were there within four or five minutes of when
15 the 9-1-1 call came out?

16 A Right.

17 Q Okay. So you parked down the street as you testified
18 to. You were by yourself at this point?

19 A Yes.

20 Q What did you do when you parked? First off, did you
21 turn off the lights and sirens?

22 A I did. I turned them off as I was coming up. When I
23 got to East Curtis and Tollgate, I shut everything --
24 started shutting everything down, and then got up to that
25 address. Like I said, I don't recall which residence it

1 was, but it was right as I turned the corner of Stonegate,
2 I know it was basically right there in front of that
3 residence in the roadway on the right side. And then I
4 made my approach on foot up to 106.

5 Q Was it dark?

6 A It was. It was -- you know, the only thing lit up
7 was just a street lamp. It's very -- like an amber
8 colored street lamp lit, so not very bright at all.

9 Q It wasn't real well -- okay.

10 A No.

11 Q So as you begin to approach 106 Stonegate, what did
12 you see?

13 A I saw there was a subject that looked like -- you
14 have Stonegate and then you have Stonegate Court, and then
15 there's basically your cul-de-sac at the end of Stonegate.
16 So as I was approaching, there was a subject coming down
17 from Stonegate Court, and then I saw a subject coming from
18 like the grass area of -- near 106 Stonegate, coming out
19 and coming out to the -- near the roadway.

20 Q Okay. Now, were you able to later determine who
21 these two people were?

22 A Initially I knew the person that had come from this
23 (indicating) direction, coming from the right side.

24 Coming from 106 Stonegate, I readily could see that that
25 was Mr. Hughes because I had already been out there for a

1 previous incident, so I knew that's who that was. This
2 subject here I didn't know who it was. I was advised that
3 he was a neighbor. Once I made my approach to them, he
4 told me he was a neighbor who had heard what he had heard.

5 Q Did you later speak to that person ---

6 A Yes.

7 Q --- and get ---

8 A Later on after -- after a lot of the incident had
9 passed.

10 Q Do you remember his name?

11 A I believe it was like Isaac Mintz.

12 Q Okay. If you need to refresh your memory with your
13 report, we can do so. But Isaac Mintz is the man?

14 A Yes, sir.

15 Q Now, at that time, did you -- when you first saw
16 Mr. Mintz, did you spend any time speaking to him?

17 A Just momentarily because basically he was trying to
18 tell me or talk to me about the situation, but because I
19 hadn't cleared the scene as far as making it safe, I
20 basically advised him he needs to back off. If he has
21 nothing to do with the incident, I need him to back off
22 and clear away from the scene. Because he had advised me
23 that he called in but he wasn't a part of it, so I was
24 trying to get him away because I was the only unit on
25 scene at the time so I didn't want it to be congested and

1 get me all flustered. So I just tried to get him clear.

2 Q Okay. Now, what I'm going to do now is I'm going to
3 ask you to demonstrate with a diagram to get a little bit
4 of a better picture of where these people were that you
5 saw.

6 A Okay.

7 (WHEREUPON, State's Exhibit Number 74 was marked for
8 identification.)

9 BY MR. MOYER:

10 Q I'm going to show you State's Exhibit Number 74.

11 Take a look at that. Did you have a chance to take a look
12 at that yesterday?

13 A I did.

14 Q Okay. Is that an accurate representation of the
15 house and the layout of the house?

16 A Yeah. Overall. The only thing I'm seeing is there's
17 -- I know we discussed yesterday the driveway was here
18 (indicating).

19 Q Okay.

20 A And then there's like an actual carport.

21 Q Okay.

22 A But other than that, everything -- everything seems
23 to be what it is. I mean, I ---

24 Q And we can talk about that.

25 A Based on memory, I mean, yeah, it seems like that's a

1 correct layout.

2 MR. MOYER: Okay. Your Honor, at this time I move to
3 have State's Exhibit 74 entered into evidence.

4 MR. ADDUCCI: Without objection.

5 THE COURT: All right. 74 in without objection.

6 (WHEREUPON, State's Exhibit Number 74 was admitted
7 into evidence.)

8 BY MR. MOYER:

9 Q I'm going to ask you to just step down, please, and
10 use this diagram with the jury. Let me take a minute to
11 -- let's take a minute to orient. In fact, if you could
12 use this laser pointer, if you would start, just give an
13 outline of what the house is. Would it be this area right
14 here (indicating) is the actual residence?

15 A Yes. This area here (indicating) is the residence.

16 Q Okay. And which way -- Stonegate Road would be
17 where?

18 A I came from coming from this (indicating) direction.

19 Q Okay.

20 A Like the end of where I was talking about, the
21 cul-de-sac would be past the house and down this way. And
22 that Stonegate Court is this way from the house. It's to
23 the left. So if this was -- this was the right side, this
24 is the side that I approached because it's on the right
25 side as I make that right onto Stonegate, and then the

1 left is where that Stonegate Court was where the Isaac
2 Mintz subject had come from.

3 So here, this area here, and there is -- on this side
4 there's like a small tree line, I believe, that was right
5 here with a small gap just separating neighbors' houses.
6 This is where the defendant had come from walking down the
7 street (indicating throughout).

8 Q Okay. And so when you actually -- do you remember --
9 can you give us an idea of where he was when you first saw
10 him?

11 A Based on memory, I mean, it seemed like he was -- he
12 was right around here (indicating).

13 Q Okay.

14 A Like if this was the driveway and I'm approaching
15 this way, it seemed like he was right around here and
16 coming out. I mean, literally, the road's like right
17 about here (indicating throughout).

18 Q Okay. And Mr. Mintz would have been down this
19 (indicating) direction?

20 A No. Mr. Mintz would have been -- because literally,
21 where this is, you've got Stonegate Court, which actually
22 kind of comes up. So it was almost like they were
23 converging. And based on the distance where I was, you
24 know, it's hard to tell, but it seemed like the both of
25 them, like he was walking this way, and the subject was

1 walking down almost meeting (indicating throughout).

2 Q Okay. I think that helps. You can have a seat
3 again.

4 A Thank you.

5 Q Okay. As you stated, you told Mr. Mintz to back away
6 or whatever words you used, but then did you pay your
7 attention to the defendant ---

8 A I did.

9 Q --- to the other individual?

10 And just to be clear, is that person here in the
11 courtroom?

12 A He is. (Indicating) It's the -- sitting there with
13 the gray suit.

14 Q Okay. The defendant, John Hughes, then ---

15 A Yes, sir.

16 Q --- is the other person you saw?

17 Okay. And so you directed your attention to him, and
18 what did you do?

19 A I asked him when I approached him -- I'm trying to
20 remember exact -- what my exact words were. You know,
21 maybe something I called out, you know, I heard -- you
22 know, I'm on scene and I see him. We got a call of shots
23 fired, and it was basic pretty immediate that he pointed
24 and said that the body or the person, whichever words he
25 used, was this way. So I immediately turned my flashlight

1 and could see that there was a -- there was a body lying
2 on the floor, and it seemed like their hands were kind of
3 underneath them, and they were lying facedown.

4 Q And what general area was it?

5 A It was -- well, based on that diagram, you know, you
6 had the -- you had the kitchen, you've got that tree line
7 and then the yard running along the side, it seemed like
8 from the road to that point, it was maybe midway. I mean,
9 based on my memory, it seems like it was probably halfway
10 up.

11 Q Okay. So he was up sort of near the side of the
12 house a little bit?

13 A Yes.

14 Q Is that right?

15 A Yes.

16 Q Okay. Did you see John Hughes, the defendant,
17 holding anything?

18 A Initially when I approached, it seemed like he was
19 holding -- I thought I readily identified a flashlight. I
20 did not see initially a firearm. And like I said, it was
21 pretty quick. Once I approached and said whatever I said
22 to him initially, that he had pointed and said, you know,
23 the body is over there, or somebody over there, whichever
24 words he used. And once I pointed my flashlight and saw
25 that, that's when I kind of went to make contact. I

1 didn't know if maybe now -- you know, initially in my head
2 I'm like, okay, maybe this was a -- this was the subject I
3 was looking for and maybe this person was already being
4 compliant because he heard sirens and so he was lying
5 down. But once I called out to that subject to put their
6 arms out, you know, put their palms out, there was no
7 compliance because there was no -- he was motionless. He
8 wasn't even -- at that point, it seemed like he wasn't
9 even breathing.

10 Q Okay. And so you say you called out to him. Was
11 there any response?

12 A There was no response.

13 Q Was there any sign of life that you could see?

14 A No. It was either -- to me and based on my distance,
15 it was either he looked unconscious to me or he was
16 deceased.

17 Q Did you go up to him?

18 A I did.

19 Q Okay.

20 A And I could see on him it looked like his head and
21 blood and then the hair was really matted, but that's --
22 once I saw all that, I think from there, that's when the
23 defendant had advised me he had a gun.

24 Q Okay. And then what did you do at that ---

25 A And then from there, I ordered him multiple times

1 hold his arms out, to drop the weapon. My gun was out at
2 that time, and I did have him at gunpoint just because of
3 the situation.

4 He did comply. I did have to tell him a couple of
5 times, but he did comply. When he held out the gun, he
6 held it outstretched like this (demonstrating) just
7 pinching it with his fingers, and then he did drop the
8 gun.

9 Q So he wasn't being uncooperative or anything, was he?

10 A No.

11 Q Okay. And you put him into I guess you call it
12 investigative detention?

13 A Investigative detention, yes.

14 Q And is that just pretty standard protocol for a
15 scenario like this?

16 A Yes.

17 Q Okay. So it wasn't because he was uncooperative or
18 anything.

19 A No. It was -- it was just a safety situation. We
20 didn't know -- you know, at this point for me, I didn't
21 know what was what just because, you know, we hadn't
22 gotten that far yet, so -- and being that he was the
23 person that did have the gun at that point, I did put him
24 -- and me being the only officer, I did put him in
25 investigative detention.

1 Q Now, did other officers begin arriving?

2 A They did.

3 Q Did you direct any other officers to do anything with
4 regard to ---

5 A Yes. I believe, at the time, Officer Edwards is in
6 the report. He is referenced as Delta 3, D-3. He had
7 arrived. I had him -- when he came up, I had him check on
8 the victim, or as we know now the victim, and advised him
9 to just check for a pulse. He stated that he felt no
10 pulse. And then I had I think it was Officer Murphy at
11 the time, she had shown up, and I had her just getting
12 ready to help with scene security and dealing with whoever
13 is on scene, speak with them.

14 Q Okay. Now, did you ever -- you never touched or
15 moved the victim in any fashion, did you?

16 A No, no.

17 Q Okay. And so when -- did you call for EMS and for
18 other backup officers, investigators?

19 A Yeah. EMS and first responders. I know that at the
20 time, Corporal Chandler, he was updated with information,
21 and I know while I was handling what I was handling on
22 scene, I think he had made contacts and, you know,
23 advising people that needed to be advised of the
24 situation. While I was handling what I was handling on
25 scene, I know he made his way there at some point.

1 Q Okay. Now, the firearm that you told us about, did
2 you take possession of that firearm?

3 A I did.

4 Q Okay. What kind of firearm was it?

5 A It was a Glock 21. It was a .45 caliber firearm.

6 Q Okay. And what did you do with it when you took it?

7 A When I took it, I cleared the weapon.

8 Q What does that mean, clearing the weapon?

9 A It just means making it safe, you know, taking -- if
10 there's a round in the chamber, taking that round out,
11 removing the magazine, keeping the slide back in a locked
12 position just so that way, you know, there's no chance of
13 it going off and firing.

14 Q Okay. And that's all standard protocol?

15 A Yes.

16 Q And did you end up giving that firearm to the
17 forensics officers from Greenville County who later came?

18 A I did. We had filled out like a chain of custody
19 Property and Evidence type sheet, and that was turned over
20 for evidence.

21 Q And you made note of the serial number in your
22 report, didn't you?

23 A I did.

24 Q So if you saw the gun now, you'd be able to look at
25 the serial number and determine whether it is the gun?

1 A Yes. Because I believe in the report, I had it as I
2 think it was ALD680 was the serial number.

3 Q Okay. You remember. Okay. And I have your report.
4 I'm going to ask you, you could refer to that as well to
5 refresh your memory.

6 (WHEREUPON, State's Exhibit Numbers 75 and 76 were marked
7 for identification.)

8 BY MR. MOYER:

9 Q Okay. Officer, I'm going to hand you State's Exhibit
10 Numbers 75 and 76. I'm also going to place your report
11 here for help in refreshing your memory. And I will state
12 to the Court for the record that this firearm has been
13 checked by courtroom deputies and been rendered safe.

14 THE COURT: All right. And, ladies and gentlemen,
15 when a firearm is involved, we take extra precautions to
16 make sure that it is something that is safe for handling
17 and use in the courtroom. And I've checked it, and allow
18 you to proceed.

19 BY MR. MOYER:

20 Q Officer, I'm going to hand you what's been marked as
21 State's Exhibit 75, which is the firearm, and 76, which is
22 the ammunition from the firearm which have been taken out
23 of it. If you would, just take a look at that and see if
24 you can recognize that as the gun that you collected.

25 A Yeah. That appears to be it.

1 Q Okay. And do you see the serial number? Can you
2 match that up with it just to ---

3 A I do. And it does state ALD680.

4 Q Okay. So that is the firearm and the ammunition that
5 you collected?

6 A Yes, sir.

7 MR. MOYER: Your Honor, at this time, I move to have
8 State's Exhibit 75 and 76 entered into evidence.

9 THE COURT: Any objection?

10 MR. ADDUCCI: No, Your Honor.

11 THE COURT: All right. In without objection.

12 (WHEREUPON, State's Exhibit Numbers 75 and 76 were
13 admitted into evidence.)

14 BY MR. MOYER:

15 Q Okay. Now, where did you have Mr. Hughes wait while
16 you were doing these matters? Do you recall?

17 A I know at some point I had initially brought him up
18 near the carport, and then from there, at some point, I
19 think we made it by the foyer front door, but still
20 outside of the residence.

21 Q Okay. So first responders and EMS arrived?

22 A Yes.

23 Q And when they did, did you go into the house at some
24 point?

25 A At some point, yes. We went in the house, and that

1 was basically to clear the home of anyone else. You know,
2 we had outside, and inside, at this point, is now an
3 active crime scene, so our main objective was to get
4 anybody that's in the home out of the home so that way it
5 could be sealed off, and that way it could be dealt with
6 from there by investigators. And, you know, I know search
7 warrants and stuff had to be done, so we've got to keep it
8 from being -- not to be contaminated as much as possible.

9 Q Okay. And about how much time would you say went by,
10 I know you don't know exactly ---

11 A Yeah.

12 Q --- but from when you got there to when you went in
13 the house?

14 A If I had to guess, it was anywhere between maybe 15
15 and 20 minutes from the time I got there till the time I
16 maybe first stepped foot in the house.

17 Q Okay. Were there other people in the house?

18 A There was.

19 Q Can you recall who all was in the house?

20 A I believe it was -- because prior to going in, we had
21 John Hughes and his wife.

22 Q That would be Margaret Renee Hughes?

23 A Correct.

24 Q Okay. And she came out and was standing next to John
25 Hughes?

1 A Yes.

2 Q Okay.

3 A So we never actually had to take her out of the
4 house. When we went in, I believe what we had was Andrew
5 Martin was still in the home, the daughter ---

6 Q Jane Hughes?

7 A --- Jane Hughes was still in the home, and Jacob
8 Hughes.

9 Q Okay.

10 A And then I was advised by Jane Hughes that her
11 children were in the back. They were asleep. So I
12 advised her she needs to wake them up because we need to
13 get everybody out.

14 Q Okay. And you had everybody come out of the house?

15 A Yes.

16 Q What did you do with everybody when they came out of
17 the house?

18 A Fire department was on scene, and it was cold so I
19 asked FD if it would be okay for them to wait in the fire
20 truck just to stay warm while we handled everything,
21 because obviously, they still had to stay on scene. So
22 they waited. I believe they waited in the fire -- in the
23 fire truck.

24 Q Okay. Now, did Jane Hughes stay there on scene or
25 did she leave?

1 A Jane Hughes was there for a little bit, and then from
2 there, I think she was transported to I believe it was
3 Hillcrest.

4 Q Okay. She's -- with her wrist; is that right?

5 A Yeah.

6 Q You remember her wrist being sore?

7 A Correct.

8 Q Okay.

9 A And Officer Murphy I think had followed or rode with
10 to the hospital.

11 Q Okay. And then did you then stay there at the scene
12 for security purposes of the scene?

13 A I did. I basically stayed for most of the scene
14 security until basically we were done.

15 Q Okay. Now, do you remember taking anything away from
16 the scene before you left that night?

17 A The only thing that was taken away -- other than the
18 firearm that was given to forensics, the only thing that
19 was taken away were just a set of keys that we were done
20 with. This was basically at the end. It was just so that
21 way the -- we had to tow the victim's vehicle which was in
22 the roadway down near the cul-de-sac area. I believe
23 that's where it was still sitting. So the tow driver
24 needed the keys, and that was it.

25 Q And the keys had been where?

1 A They were near -- I believe they were near like the
2 kitchen window but outside on the ground. Somewhere over
3 there on the ground.

4 MR. MOYER: All right. One moment, please.

5 Okay. Please answer any questions the defense may
6 have.

7 THE WITNESS: Yes, sir.

8 MR. ADDUCCI: May it please the Court.

9 CROSS EXAMINATION

10 BY MR. ADDUCCI:

11 Q Now, when Mr. Moyer asked you how many houses were
12 between the Tollgate Road and 106 Stonegate Road, you
13 indicated that you could not recall? Around the corner.

14 A Well, from -- yeah. From the corner of Tollgate and
15 Stonegate, I don't remember exactly how many homes are
16 between 106 and that corner. It seems like there's only a
17 couple homes, I believe.

18 Q If I showed you a photograph, would that help refresh
19 your recollection?

20 A Sure. (Reviews photograph) Okay. So you have two
21 residences prior to 106.

22 Q Does that photograph help refresh your recollection
23 as to how many houses are on Stonegate Road?

24 A Yes.

25 Q All right. When you arrived, you indicated it was

1 dark, correct?

2 A Yes. It was -- I mean, it was nighttime, and it was
3 just like I described. It was just an amber-lit street
4 lamp.

5 Q And on that right side of 106 Stonegate, there is not
6 a security light, correct?

7 A I can't remember exactly where all the lights are
8 placed. I know there's -- I think there's one near where
9 Stonegate Court is at Stonegate. I remember it being lit
10 up kind of going up right around there, but I can't
11 remember exactly where all the lampposts are.

12 Q That's a street lamp, correct ---

13 A Right.

14 Q --- what you're speaking of, not a -- like a security
15 floodlight on the side of somebody's house?

16 A And honestly, I can't remember about a security
17 camera.

18 Q Okay. And when you arrived, it was so dark that when
19 you came up the side of the house, you did not even see
20 that Mr. Ferrell was lying in the grass ---

21 A No.

22 Q --- right? You had to be directed that way, correct?

23 A Correct.

24 Q Directed there by Mr. Hughes?

25 A Well, correct. And that was mainly because my

1 initial approach I had two subjects in front of me and I
2 didn't know what I had going on, so that's what I was
3 looking at. That's where my focus was.

4 Q Yes. And you collected that gun from Mr. Hughes, you
5 indicated, correct?

6 A Yes.

7 Q And you said that you cleared the gun?

8 A Yes.

9 Q Was there a round in the chamber?

10 A There was.

11 Q Okay. So you cleared that round out of the chamber?

12 A I did.

13 Q Did you then collect that round?

14 A Yes.

15 Q Okay. You also indicated that you collected the
16 Glock 21 with a magazine that was both entered into
17 evidence. Do you recall how many rounds were in the
18 magazine?

19 A I believe there were five rounds still in the
20 magazine, and then you had your one unspent round in the
21 chamber. So you would have had a total of six rounds.

22 Q Okay. Do you recall what the capacity of that
23 magazine was?

24 A It was a 13-round magazine.

25 Q Now, you approached Mr. Hughes as he was outside,

1 correct?

2 A Yes.

3 Q And you had good visual on him, correct?

4 A Yes.

5 Q And you had a flashlight with you, correct?

6 A Yes.

7 Q And you could observe his clothing, correct?

8 A Yes.

9 Q And you did not note anywhere in your report that he
10 had any blood on him, correct?

11 A No, I didn't. If I'd seen it, I probably would have
12 notated it. But, again, based on the situation, what I
13 was dealing with at the time, it just wasn't probably
14 something that was apparent to me right off the bat
15 anyway. So ---

16 Q But had you seen it, you would have noted it,
17 correct?

18 A Correct. If I had seen it, I would have documented
19 it.

20 Q And you did not document that, correct?

21 A No.

22 MR. ADDUCCI: The Court's indulgence.

23 BY MR. ADDUCCI:

24 Q Do you recall sort of where the trees are in the yard
25 for 106?

1 A Pretty well, I guess.

2 Q Okay. So you indicated initially that there is a
3 tree line on that right side of the house, correct?

4 A Correct. It's ---

5 Q Delineating a border between 106 and the residence
6 next to it?

7 A Correct.

8 Q Okay. There were also some trees out front,
9 correct?

10 A I'm sure there is. I mean, I don't remember the
11 placement of trees and what trees are out up front.
12 So . . .

13 MR. ADDUCCI: Nothing further for this witness, Your
14 Honor.

15 THE COURT: Any redirect?

16 MR. MOYER: No redirect.

17 The State calls Jonathan Edwards.

18 THE CLERK: Mr. Edwards, please come forward, place
19 your left hand on the Bible and raise your right hand.
20 WHEREUPON,

21 JONATHAN EDWARDS

22 After having been duly sworn, testified as follows:

23 THE CLERK: Please be seated. State your name for
24 the record.

25 THE WITNESS: Jonathan Edwards.

DIRECT EXAMINATION

BY MR. MOYER:

Q Good morning, sir.

A Good morning.

Q You used to be in law enforcement; is that right?

A That's correct.

Q Okay. Where did you work?

A Simpsonville Police Department.

Q How long did you work for the Simpsonville Police Department?

A About nine and a half years.

Q Okay. What was your position with the Simpsonville Police Department in 2015?

A I was a patrolman/K-9 handler.

Q Okay. Now, where are you working now?

A Kloeckner Metals in Greenville.

Q Now, you were actually terminated from the position in Simpsonville in 2016; is that right?

A That is correct.

Q And that was for -- there was inaccurate information in an arrest warrant?

A That is correct. Unintentionally inaccurate.

Q Okay. Now, was that case in any way related to this case that we're here on today?

A No, it was not.

1 Q Okay. Now, you were working the night of January the
2 24th of 2015?

3 A I was.

4 Q Did you get dispatched to the incident location of
5 106 Stonegate Road?

6 A I did.

7 Q Do you remember what the call came out as?

8 A It came out as a shots fired with a possible victim.

9 Q Did you use your blue lights and sirens?

10 A Yes, sir. I did.

11 Q Now, were there other officers there when you
12 arrived?

13 A There was. Officer Randolph was there. I believe
14 Officer Murphy may have been there or she may have arrived
15 shortly after I did. But Officer Randolph was definitely
16 there at the time I arrived.

17 Q Did you see the defendant in this case, John Hughes?

18 A I did.

19 Q Okay. And where was he when you saw him?

20 A He was actually standing on the concrete driveway
21 with Officer Randolph. Officer Randolph had already had
22 him in handcuffs.

23 Q Now, were you made aware of anybody else in the
24 vicinity that needed to be looked at?

25 A Yes, sir. I was. Officer Randolph pointed out for

1 me to go check on the victim that was lying on the ground.

2 Q Did you approach the victim?

3 A I did.

4 Q Did you walk all the way up to him?

5 A I did.

6 Q Okay. And what did you do when you approached the
7 victim?

8 A Once he advised me that it was a possible gunshot
9 victim and for me to go check on him, I placed some latex
10 gloves on and walked up to the victim. The victim was
11 lying facedown on the ground. I actually checked for his
12 pulse. I shook him a couple times and called out, you
13 know, I'm Officer Edwards. Can you hear me? I got no
14 response. I checked his pulse, got no response. At that
15 time, he appeared to be deceased.

16 Q So there were no signs of life at all?

17 A No, sir. There was not.

18 Q Okay. Can you describe how he was positioned?

19 A Yes, sir. He had his right hand kind of above his
20 head a little bit. His left arm was down by his side. He
21 was facedown, and his pants was near where his ankles was
22 at below his buttocks.

23 Q Now, did you touch -- other than patting his shoulder
24 and putting your finger to check his pulse, did you move
25 the victim at all?

1 A No, sir. I did not.

2 Q Okay. Did you see any sign of trauma to the victim?

3 A I did. He actually had a wound in the back of his
4 head. There was steam actually coming from the back of
5 his head, that it appeared to be a fresh wound. It was
6 coming from the back of his head. There was a large pool
7 of blood near where his head was at as well.

8 Q Okay. What do you recall about how he was dressed?

9 A He had a leather jacket on. I believe he had some
10 pants, blue jean type pants on, but his pants were below
11 his buttocks. Pretty much what he was wearing below the
12 waist was down below his buttocks, and he had a leather
13 jacket on.

14 Q So you didn't touch his clothing at all; is that
15 right?

16 A Not that I know of. I may have touched part of his
17 jacket while I was shaking on him a little bit, but that
18 would have been it.

19 Q You didn't move any of his clothing?

20 A No, I did not.

21 Q So you didn't pull any clothes up or down or adjust?

22 A No, sir. I did not. No, sir. I did not.

23 Q Okay. I am going to show you what has been marked as
24 State's Exhibit Numbers 1, 8 and 9, and I want to ask you
25 to take a look at these photographs and see if you can

1 recognize what is depicted in them. Take a look at all
2 three first.

3 A Okay. (Reviews exhibits).

4 Q Okay. Now, having had a chance to take a look at
5 them, are they pictures of the victim as you saw him on
6 that night?

7 A They are. The only difference is what I just
8 explained to you as far as one of his arms being below --
9 along his side was actually -- looks to be above near
10 where his head is at.

11 Q Okay.

12 A That was obviously a mis-part on my end. But yeah.
13 That's exactly the way he was.

14 Q Okay. So the only discrepancy ---

15 A The only thing I do see, however, is that at this
16 point right here, he had already been medically dealt
17 with.

18 Q Okay.

19 A That's the only part that I see.

20 Q You see a lead on his body?

21 A Correct.

22 Q Okay.

23 A So at this point, the EMS would have already arrived,
24 and I don't know if they moved him at that point or not.

25 Q Okay.

1 A So they could easily have moved him.

2 Q Okay.

3 A But other than that, that's the way he was dressed,
4 that's the way he appeared on the ground.

5 Q So that was the position he was in when you saw him?

6 A Correct.

7 Q That's the way he looked?

8 A Correct.

9 Q And that's the way his clothes were when you saw him?

10 A That's correct.

11 MR. MOYER: Your Honor, at this time, I move to have
12 State's Exhibits 1, 8 and 9 entered into evidence.

13 THE COURT: Any objection?

14 MR. ADDUCCI: No, Your Honor.

15 THE COURT: All right. In without objection.

16 (WHEREUPON, State's Exhibit Numbers 1, 8 and 9 were
17 admitted into evidence.)

18 BY MR. MOYER:

19 Q And if you would, just if you move off to the side a
20 little bit

21 THE COURT: All right. Ladies and gentlemen, I just
22 would give a general warning that some of these
23 photographs may be graphic.

24 BY MR. MOYER:

25 Q Okay. We're going to start off with State's Exhibit

1 Number 8. Can you tell the jury what it is that we see in.
2 that photograph?

3 A We see the victim, Mr. Ferrell, on the ground. Has a
4 large pool of blood. Has a large pool of blood where his
5 face is at and his hands are at. You can actually see
6 some blood on the back of his head. That would have been
7 where I would have seen that wound on the back of his
8 head.

9 The green container, the trash can, I don't remember
10 any of those in there. The yellow, I'm not exactly sure
11 what that is. I don't remember that being there.

12 Q Okay. But this is the side of the house along here
13 (indicating); is that right?

14 A That's correct.

15 Q Okay.

16 A And then you've got an air conditioner unit right up
17 here (indicating). Right above the air conditioner unit,
18 I believe on kind of like the right-hand side of it would
19 have been a window.

20 Q Okay. All right. But this is the victim as you saw
21 him that night?

22 A That's correct.

23 Q And as you began to approach him from the roadway.

24 A That's correct.

25 Q Okay. I'm going to show you State's Exhibit

1 Number 1. Is that another picture of the victim?

2 A Yes, sir. It is.

3 Q And is that the way his clothes were when you saw
4 him?

5 A Yes, sir. It is.

6 Q And so you described -- you described maybe a medical
7 lead. Would that be what is here on his thigh?

8 A That's what that appears to be. Yes, sir.

9 Q Okay. And this is the way his clothes were as far as
10 his pants and whatever he was wearing from his waist down?

11 A Yes, sir.

12 Q And State's Exhibit Number 9, is that just a closer
13 view of that area?

14 A Yes, sir.

15 Q Okay. And this (indicating) would be the side of the
16 house as you described?

17 A Correct.

18 Q The corner right here. And this is the window you
19 talked about (indicating throughout)?

20 A Correct. That's the window. I believe there's a
21 carport right along here (indicating).

22 Q Okay.

23 A That must have been a barrier for the carport. But
24 yes, sir. There's the window I was speaking of.

25 Q Okay. Now, when you began walking away from the

1 victim back towards Randolph and the road, was there
2 anything you observed as you walked?

3 A Yes, sir. I observed two empty shell casings that
4 were -- I assume, I didn't measure, so in my personal
5 opinion, it would have been approximately ten feet away
6 from where his head was at ---

7 Q Okay.

8 A --- closest to the road.

9 Q That's sort of an estimate then.

10 A That's more of an estimate on my part. Yes, sir.

11 Q So what did you do when -- were you looking for shell
12 casings as you walked or you just happened to see them?

13 A I believe I just happened to look down and see them.
14 Yes, sir.

15 Q You had a flashlight, I assume?

16 A Yes, sir. I did.

17 Q What did you do when you saw those shell casings?

18 A I went back to my car and actually grabbed some
19 flags. I had some tracking flags when I was a K-9
20 handler. I had some tracking flags, and I just put them
21 right next to where it was without actually moving the
22 shell casings.

23 Q Okay. Were you there when EMS arrived?

24 A I was.

25 Q Was the victim moved in any way prior to your

1 confronting the victim and EMS arriving?

2 A He wasn't moved on my end of the deal. He wasn't
3 moved on Officer Randolph's end of the deal. So when we
4 arrived on scene, neither one of us moved the body at all.
5 So . . .

6 Q I mean, that's something pretty standard with law
7 enforcement. You wouldn't have moved the body till
8 investigators ---

9 A No, sir.

10 Q Now, did you observe anything else there around the
11 body that grabbed your attention? Any suspected blood or
12 anything like that?

13 A There's some blood in and around his head, like I
14 said. There was a trail of blood from where his feet was
15 at that led all the way back to where the window unit was
16 at on the opposite side of where the air conditioner unit
17 was at. I also located a set of keys near where the air
18 conditioner unit, I believe, was at. Obviously, the shell
19 casings and a flashlight. On my way back, I located a
20 flashlight that was used by the defendant and the gun as
21 well.

22 Q Okay.

23 A But the gun had already been cleared by Officer
24 Randolph. At that time, it was just laying on the
25 concrete but -- or next to the concrete, anyways.

1 Q You didn't take any of those items?

2 A No, I did not. I didn't move any of them or take any
3 of them. No, sir. I didn't.

4 MR. MOYER: Okay. All right. That's all I have for
5 you at this time. Please answer any questions the defense
6 may have.

7 THE WITNESS: I will say, too -- excuse me. I'm
8 sorry. May I?

9 MR. ADDUCCI: I'm going to object.

10 MR. MOYER: It's not responsive.

11 THE WITNESS: Okay.

12 MR. ADDUCCI: Thank you, Your Honor. May it please
13 the Court.

14 THE COURT: Yes. Cross-examination.

15 CROSS EXAMINATION

16 BY MR. ADDUCCI:

17 Q Now, you indicated that you are no longer working in
18 law enforcement, correct?

19 A That is correct.

20 Q And you said that you were terminated from
21 Simpsonville PD, correct?

22 A That is correct.

23 Q You mean fired, right?

24 A That's correct.

25 Q And it was for what you described as inaccurate

1 information in arrest warrants?

2 A It was an unintentional inaccurate information in an
3 arrest warrant. Yes, sir.

4 Q Okay. And they fired you for unintentional ---

5 A Correct.

6 Q --- inaccurate information?

7 A Yes, sir. They did.

8 Q Tough boss.

9 A Yeah.

10 Q All right. So when you showed up, you indicated that
11 you saw the deceased, Mr. Ferrell, and you indicated you
12 saw his clothing, correct?

13 A Did I see his clothing?

14 Q Yes.

15 A Yes, sir. I did.

16 Q And he had a jacket on, correct?

17 A That is correct.

18 Q And it was a leather jacket?

19 A It appeared to be a leather jacket. Yes, sir.

20 Q And it was black, correct?

21 A It appeared to be black at that time. It was dark
22 outside.

23 Q It was dark outside. Did you notice any floodlights,
24 security lights on that side of the house that could light
25 that side of the house up?

1 A I don't recall.

2 Q Okay. But you indicated that it was dark?

3 A Yes, sir.

4 Q Now, the pictures that you were shown, they are
5 light, right?

6 A From a camera, I believe.

7 Q Yes.

8 A I mean, I don't know if there was actually any
9 floodlights or anything like that, but whoever -- whoever
10 snapped the photos, there was a camera with lights.

11 Q Okay. So you've got a flash camera. That's where
12 the light came from on those photos, correct?

13 A Possibly.

14 Q Okay. And you indicated that you saw blood on the
15 back of Mr. Ferrell's head, right?

16 A That is correct.

17 Q You indicated it was a pretty significant amount and
18 his hair was matted down.

19 A I never said his hair was matted down, but he did --
20 he did have a wound on the back of his head. Yes, sir.

21 Q You indicated there was an air conditioning
22 compressor unit next to the window, correct?

23 A There was an air conditioner unit next to the window.
24 Yes, sir.

25 Q Do you recall about how tall that AC unit was?

1 A I don't recall. It was a normal size, I would
2 assume.

3 Q Two, three feet. Something like that.

4 A Maybe three feet.

5 Q Okay.

6 A Three or four feet. Something like that.

7 Q You indicated you saw -- you found two shell casings,
8 and you marked those with little like orange flags?

9 A Correct.

10 Q Okay. When you were out on that side of the house,
11 you were using a flashlight to find these things, correct?

12 A That is correct.

13 MR. ADDUCCI: Okay. The Court's indulgence.

14 Nothing further from this witness.

15 THE COURT: All right. Let's take a break.

16 All right. Thank you. You may step down.

17 All right. Ladies and gentlemen, this is going to be
18 our morning break. So, again, do not discuss the case.
19 And, if you will, elect your foreperson among the 12
20 initial jurors and just write -- and the foreperson write
21 their name and the juror number and give it to the
22 bailiff. Like I said, we've got another matter to go
23 over, so this break may be a little bit longer than a
24 regular break.

25 So thank you, and we'll call you back in as soon as

1 possible.

2 (WHEREUPON, the jury exits the courtroom at 10:54 a.m.)

3 THE COURT: All right.

4 (WHEREUPON, a recess is taken at 10:55 a.m.)

5 (WHEREUPON, proceedings reconvened at 11:35 a.m.)

6 THE COURT: All right. I have received a note that
7 Carla Fulton is the foreperson.

8 (WHEREUPON, Court's Exhibit Number 1 was marked for
9 identification.)

10 THE COURT: All right. Ready for the jury? Anything
11 else from the State before we bring the jury in?

12 MR. MOYER: No, Your Honor.

13 THE COURT: From defense?

14 MR. ADDUCCI: No, Your Honor.

15 THE COURT: Bring them in.

16 (WHEREUPON, the jury entered the courtroom at 11:36 a.m.)

17 THE COURT: All right. Ladies and gentlemen, I
18 received a note that said Ms. Fulton had been selected as
19 our foreperson. Thank you for serving. And as I always
20 tell everybody, you know, it's not any more pay. It's not
21 even anything in particular you can put on your resume,
22 but we do appreciate your serving.

23 All right. Mr. Moyer, you may call your next
24 witness.

25 MR. MOYER: Thank you, Your Honor. May it please the

1 Court. The State calls Isaac Mintz to the stand.

2 THE CLERK: Mr. Mintz, please come forward and place
3 your left hand on the Bible and raise your right hand.
4 WHEREUPON,

5 ISAAC MINTZ

6 After having been duly sworn, testified as follows:

7 THE CLERK: Please be seated and state your name for
8 the record.

9 THE WITNESS: My name is Isaac Joshua Mintz.

10 DIRECT EXAMINATION

11 BY MR. MOYER:

12 Q Okay. Mr. Mintz, I'm going to be asking you
13 questions from over here, getting back behind the jury.
14 That way I know if I can hear you, they can. So make sure
15 you speak into the microphone there.

16 You told us your name. How old are you?

17 A I'm 30.

18 Q Are you married?

19 A No.

20 Q What line of work are you in?

21 A I work with a logistics company that holds the
22 contract for nonemergency medical transport in South
23 Carolina.

24 Q Okay. Now, you've been doing that for a little
25 while?

1 A A little over two years.

2 Q Let me take you back to January the 24th of 2015.

3 Back on that date, where did you live then?

4 A I lived at 104 Stonegate Court.

5 Q Okay. Where is that in relation to 106 Stonegate
6 Road?

7 A So I live on a cul-de-sac with three houses. On the
8 house across from the opening of the cul-de-sac is where
9 the defendant's house is, so it's basically three houses
10 down.

11 Q Okay. So it's three houses down.

12 Now, were you friends with the people who lived in
13 106?

14 A No.

15 Q Did you know them at all?

16 A I would wave at them. That was it.

17 Q Okay. So as far as you know, you don't recall ever
18 speaking to them or having ---

19 A At the most, a hello.

20 Q Okay. Did you know John Ferrell, the person who was
21 shot?

22 A No.

23 Q So let me take you back to that night. Did something
24 happen on that evening that caught your attention?

25 A Yes. Somewhere between I guess it was 9:00 and

1 11:00, 12:00, I heard a loud bang with a momentary pause
2 and then heard a series of more loud bangs in which I
3 assumed was a gunshot.

4 Q Is that what it sounded like to you?

5 A It did. After the -- after -- when the series of
6 shots, I think that's what it sounded like, gunshots to
7 me, for sure.

8 Q Okay. So after the first one, then you heard the
9 series?

10 A Correct.

11 Q That's what triggered it as being ---

12 (WHEREUPON, there was a cell phone interruption in the
13 courtroom.)

14 BY MR. MOYER:

15 Q Okay. That's what triggered it as in your mind as
16 that's definitely gunshots?

17 A Yes.

18 Q Okay. Now, I think you said in your statement it
19 seemed like a 20- or 30-second pause between that first
20 one and that series?

21 A That is correct.

22 Q Okay. So after you heard this second set of shots,
23 what did you do?

24 A I went outside, opened my front door, went into my
25 yard, which I can see directly into the front yard of the

1 defendant's home. I saw two people with flashlights on
2 the right side of the house if you're facing the house.
3 Then I saw them walk in. I wasn't sure who -- I
4 recognized the defendant because he has the big white
5 beard, but then I saw them walking into the house and
6 talking with people and then him walking back outside.

7 Q Okay. And then when he walked back out, was it just
8 him or was it a few of them?

9 A It was he was by himself.

10 Q Okay. When you first looked out, you saw two people.

11 A That's correct.

12 Q So could you tell if the other person was a man or a
13 woman or anything else about the other person?

14 A Not -- not for sure.

15 Q Okay. So you just recognized the defendant with the
16 beard and then another person with him.

17 You said there were flashlights being used?

18 A I think -- yes. There was like a -- there was a --
19 there was a light that was -- that was shining on the
20 ground that they were using.

21 Q Now, did you ever see what was on the ground around
22 where they were using the flashlight?

23 A At that moment, no. When I did cross the street and
24 go over, I did see a body lying on the ground.

25 Q At that area where the flashlight . . .

1 A Correct.

2 Q Okay. So you saw this. You looked out, you saw the
3 flashlight, you saw them walk to the house. Did you go
4 back into your house? Or what did you do?

5 A Yeah. I had a friend over, Celeste, and I went
6 inside. I told her to call 9-1-1. Then I went back
7 outside and walked over to the defendant's home.

8 Q Okay. How close did you get over to the home?

9 A I got about maybe five feet down the driveway.

10 Q Down your driveway or ---

11 A Down -- down the defendant's driveway.

12 Q Okay. You were just going to see what was going on?
13 Or what was your ---

14 A Well, I was -- I was checking on to make sure that
15 everything was okay.

16 Q Okay. So what did you see when you started walking
17 up the driveway?

18 A So I walked up, and the -- my neighbor was outside,
19 the defendant, and I saw a body lying on the ground. The
20 head was facing towards the street. It was bloodied. And
21 -- and then I -- I -- then that's when I recall the
22 officer walking up from behind me.

23 Q Okay. And did you have a conversation with the
24 officer?

25 A I was actually just asking him if I could go see if

1 the guy was okay because I thought he made a sound and I
2 didn't want him alone by himself when he was hurt.

3 Q Okay. Did you go over to the body?

4 A No.

5 Q Okay. The officer told you not to?

6 A That's correct.

7 Q Okay. What did you do then after this interaction
8 with the officer?

9 A So -- well, with the first officer, when I was
10 asking, he actually said -- told me to shut up. And then
11 a second officer, a female officer walked up. And she was
12 the one, I'm sorry, who actually said, You can't go over
13 to the body. She asked me if I had anything to add to the
14 situation. I said no. And she told me to go home. So I
15 walked home.

16 Q All right. And then later on that night, did you
17 speak to officers?

18 A I did. It was around 3 a.m. My friend had to go
19 home. We had been waiting, but the road was blocked. So
20 we walked down there to see if they could move some of
21 their vehicles so that my friend could leave. And they
22 were like, Oh, my God. There you are. Because they
23 didn't know where I went.

24 Q And then you spoke to the officers at that time?

25 A I did, yes.

1 Q And you even went back, I think, the next day and
2 spoke to them again?

3 A Yes. I ended up writing -- typing up a statement
4 because it was -- it was really cold. I was shaking. And
5 I just felt that -- that I had sort of a more clear
6 picture. And I brought that over to the police station.

7 Q Okay. So you mean after you gave the initial
8 statement to the police, you went back to your house and
9 sort of ---

10 A Yeah. It was like the next day I started typing up
11 another statement.

12 MR. MOYER: Okay. I don't have any further questions
13 for you at this time. Please answer any questions the
14 defense may have.

15 MR. ADDUCCI: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. ADDUCCI:

18 Q About how long after the shots did you hear sirens?

19 A After the -- the initial first shot? Can you -- can
20 you clarify?

21 Q After the first of several shots.

22 A There was I think it was like a momentary silence,
23 and then there was a single shot, and then there was
24 nothing.

25 Q Okay. Before you heard sirens, how long after that

1 until you heard sirens?

2 A Oh, sirens. I'm sorry. I apologize. I didn't hear
3 you. I -- I don't recall ever hearing sirens.

4 Q Okay. Now, when you walked outside, you indicated
5 that you saw two individuals standing at 106 Stonegate,
6 correct?

7 A If that is the address of that home, correct.

8 Q Mr. Hughes, right?

9 A Correct.

10 Q Could you identify the other individual?

11 A I could not.

12 Q Do you know if it was a man or a woman?

13 A I could not. I'm sorry.

14 Q Size or anything like that?

15 A I guess maybe they were -- I mean, it was ---

16 Q It's fine if you don't know.

17 A --- a long time ago. I really can't recall.

18 Q And you testified that you heard a single shot and
19 then a momentary pause is what you testified to, correct?

20 A That is correct.

21 Q All right. And then you went back into your house,
22 correct?

23 A Right.

24 Q Told Celeste to call 9-1-1, correct?

25 A Correct.

1 Q Then you went back over towards 106 Stonegate,
2 correct?

3 A Yes.

4 Q And when you were there, you again saw Mr. Hughes out
5 front, correct?

6 A Yes.

7 Q And he was on the phone?

8 A Yes.

9 Q He was on the phone with 9-1-1?

10 A I don't know who he was on the phone with.

11 MR. ADDUCCI: Okay. Court's indulgence.

12 BY MR. ADDUCCI:

13 Q How far up the driveway did you get before you
14 stopped?

15 A It was about five -- five feet.

16 Q Okay. Just barely across the sidewalk, if there was
17 one there?

18 A I mean, I was -- yeah. I was about five feet into
19 the driveway.

20 MR. ADDUCCI: Nothing further, Your Honor.

21 THE COURT: Any redirect?

22 MR. MOYER: No, Your Honor.

23 THE COURT: Thank you. You may step down.

24 MR. MOYER: The State calls Scott Coleman -- Richard
25 Scott Coleman.

1 THE CLERK: Mr. Coleman, please come forward and
2 place your left hand on the Bible and raise your right
3 hand.

4 WHEREUPON,

5 RICHARD SCOTT COLEMAN

6 After having been duly sworn, testified as follows:

7 THE CLERK: Please be seated and state your name for
8 the record.

9 THE WITNESS: Richard Scott Coleman, Junior.

10 DIRECT EXAMINATION

11 BY MR. MOYER:

12 Q Okay. Mr. Coleman, would you tell -- start off by
13 telling the jury how old you are.

14 A 40.

15 Q Okay. You're 40 years old. Married?

16 A Yes.

17 Q Okay. What line of work are you in?

18 A I'm in pack. I'm a packer for Syncreon [phonetic].

19 I pack parts for BMW.

20 Q Okay. How long have you been doing that?

21 A Eight months.

22 Q All right. Let me take you back to January the 24th
23 of 2015, okay? Where did you live back at that time?

24 A 304 Tollgate Road.

25 Q That's in Simpsonville?

1 A It is.

2 Q Okay. Is that near 106 Stonegate Road where this
3 incident took place?

4 A It's right around the corner.

5 Q Right around the corner. So to get kind of an idea
6 of the distance, is it ---

7 A It's 450 feet.

8 Q It's 450 feet. That's pretty specific.

9 A We looked it up.

10 Q Okay. You looked it up?

11 A Yeah.

12 Q That's what it is. Okay.

13 So does your front yard face that direction or does
14 your backyard?

15 A No. The backyard.. I mean, there's bushes. I mean,
16 I couldn't see that yard. There's bushes in between our
17 house ---

18 Q Okay.

19 A --- so I couldn't see, you know, the house.

20 Q Got you. Now, were you friends with the people who
21 lived at 106 Stonegate?

22 A No.

23 Q Did you know them at all?

24 A Nope.

25 Q Would you even have recognized them if you saw them

1 on the street back then?

2 A No, no.

3 Q Now, how about someone named John Ferrell who was the
4 person who was shot and killed, did you know him?

5 A I didn't.

6 Q Okay. All right. So let me take you back to that
7 night, January the 24th of 2015, close to midnight of that
8 evening. Was there anything that happened that evening
9 that caught your attention?

10 A A loud gunshot.

11 Q Okay. So where were you? What were you doing when
12 you heard this gunshot?

13 A Sitting on my porch smoking. I was on my phone
14 looking at Facebook.

15 Q Okay. So is that the reason you were outside,
16 because you were smoking?

17 A Yeah, yeah.

18 Q Okay. So you didn't like to smoke in the house.

19 A No.

20 Q Okay. Were you out there by yourself?

21 A I was by myself, yeah.

22 Q Okay. So you heard a shot. Now, what did you think
23 when you heard the shot?

24 A I thought somebody had -- there's a fox in our
25 neighborhood and it had just walked by me, walked by. I

1 guess it didn't know I was sitting there, so it walked
2 right by me.

3 Q Okay.

4 A And just a couple minutes later, I heard the gunshot.
5 So I just thought somebody killed the fox.

6 Q Okay. Now, this gunshot, was it loud?

7 A Oh, yeah.

8 Q Did it sound close?

9 A Yeah. I could almost feel it, like the concussion
10 from it. It was -- it was very loud.

11 Q Okay. So after this gunshot, did you hear more
12 gunshots?

13 A Not right away. Heard a man start screaming for
14 help, and he did that for a couple of minutes. He just
15 got louder and louder, him screaming, asking God to help
16 him, somebody please help me. And then I heard a bunch of
17 shots, five or six in a row, and then I never heard that
18 guy again.

19 Q Okay. Did you hear any other voices besides that one
20 voice?

21 A No.

22 Q Just the one voice asking for help?

23 A Yeah.

24 Q Okay. And just make sure I understand you right, do
25 you recall what specifically he said?

1 MR. ADDUCCI: Objection, Your Honor. Asked and
2 answered.

3 THE COURT: Yeah. Overruled. I'm going to allow it.
4 BY MR. MOYER:

5 Q Can you clarify what you remember the person saying?

6 A At first he was just saying, Help me. Somebody help
7 me. Then he started screaming. Then he was saying, God,
8 help me. Please, God, help me. And that's it. And then
9 -- I mean, and then the gunshots went off.

10 Q Okay. Is there anything about his tone of voice that
11 you can describe?

12 A Fear. He was definitely scared.

13 MR. ADDUCCI: Objection, Your Honor. He's calling
14 for speculation.

15 THE COURT: Yeah. Sustained.

16 Ladies and gentlemen, I'm going to strike that so
17 that's not to be considered by you in your deliberations.

18 You may proceed.

19 BY MR. MOYER:

20 Q Okay. Now, after you heard the second series of
21 shots, what did you do?

22 A I was just standing on the porch. I was scared
23 myself. I just stood on the edge of the porch kind of
24 looking over at the end of the street waiting to see if
25 somebody came running out. I don't know. I was -- I

1 don't know. I was scared. I couldn't move, actually. I
2 was just frozen there. Then my wife came out and checked
3 on me.

4 Q Do you remember police officers then arriving?

5 A Yeah. They got there pretty quick. I mean, it
6 wasn't very long.

7 Q Before the police got there, did you try to walk over
8 and see what was going on or anything like that?

9 A No. I wasn't going near it.

10 Q Just out of fear?

11 A Yeah.

12 Q Now, you didn't speak to law enforcement that night;
13 is that right?

14 A Right.

15 Q And I think we talked about this. One of the reasons
16 was you actually had a warrant?

17 A I had a warrant at the time, yeah.

18 Q Okay. And it was for an outstanding warrant, so ---

19 A I mean, it was seven years old.

20 Q Okay. Did you end up getting picked up on that
21 warrant at some point?

22 A Yeah. Couple weeks -- or a couple months later.

23 Q Okay. And then you went off and served your time and
24 then got back out?

25 A Yeah.

1 Q Okay. And it was after that time when you were
2 contacted by us that you told what you're telling now?

3 A Well, I mean, I actually told the police.

4 Q Okay. Let me stop you there for one moment. But you
5 did have one interaction with the police?

6 A Yeah, yeah.

7 Q Based on what was said, you decided not to say
8 anything; is that right?

9 A What do you mean? I mean, I -- when I was picked up
10 for the warrant, I asked about this case.

11 Q Okay. All right. And based on what ---

12 A He ---

13 Q You have to just answer my question, okay?

14 And based on your conversation with that officer, you
15 didn't see a need to say anything; is that right?

16 A No. I did say something.

17 Q You have to answer my question. Sorry.

18 Based on your conversations with the officer ---

19 A Yeah.

20 Q --- you didn't see it necessary at that point to say
21 anything; is that right?

22 A Yeah.

23 Q Okay. All right. And then a few months ago, you
24 were contacted and asked about the situation. And is that
25 when you gave a statement stating what happened that

1 night?

2 A Right.

3 MR. MOYER: Okay. All right. Thank you very much.
4 Please answer any questions defense has.

5 THE COURT: Cross-examination?

6 MR. ADDUCCI: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. ADDUCCI:

9 Q So you testified that this was about 450 feet from
10 your house to 106 Stonegate, correct?

11 A That's right.

12 Q So longer than a football field, correct?

13 A I don't know how long a football field is, but ---

14 Q A football field is 100 yards. Would you agree that
15 that's true?

16 A Okay.

17 Q Would you agree that three feet are in a yard?

18 A Okay.

19 Q Would you agree that 3 times 100 is 300?

20 A Yeah.

21 Q Okay. So longer than 300 feet?

22 A All right.

23 Q Longer than a football field.

24 All right. Now, you indicated that you do not know
25 Mr. Hughes at all, correct?

1 A That's right.

2 Q Don't know his voice, do you?

3 A No.

4 Q And you also do not know Mr. Ferrell at all, do you?

5 A No.

6 Q And you do not know what his voice would sound like,
7 correct?

8 A No.

9 Q And you also indicated there were some bushes and
10 trees in between your house and 106 Stonegate, correct?

11 A Yes.

12 Q And you indicated you were on the run from police for
13 seven years for this warrant?

14 A Yeah.

15 Q And then you got picked up in 2015?

16 A That's right.

17 Q And then you did your time, correct?

18 A Right.

19 MR. ADDUCCI: Court's indulgence, Your Honor.

20 BY MR. ADDUCCI:

21 Q You indicated that you were on the front porch of
22 your residence when you heard these gunshots, correct?

23 A That's right.

24 MR. ADDUCCI: Nothing further, Your Honor.

25 THE COURT: Any redirect?

1 MR. MOYER: No, Your Honor. Thank you.

2 THE COURT: Thank you. You may step down.

3 MR. MOYER: The State calls Nick Jones.

4 THE CLERK: Mr. Jones, please come forward and place
5 your left hand on the Bible and raise your right hand.

6 WHEREUPON,

7 NICHOLAS JONES

8 After having been duly sworn, testified as follows:

9 THE CLERK: Please be seated and state your name for
10 the record.

11 THE WITNESS: Nicholas Jones.

12 DIRECT EXAMINATION

13 BY MR. MOYER:

14 Q Okay. Sir, where do you work?

15 A Greenville County EMS.

16 Q Greenville County EMS?

17 A Yes, sir.

18 Q How long have you done EMS work?

19 A 13 years.

20 Q Has it all been with Greenville County?

21 A Yes, sir.

22 Q Okay. What is your position?

23 A Clinical field supervisor.

24 Q Okay. And what does your job entail?

25 A Prehospital treatment of patients and then

1 supervising other paramedics who do that as well.

2 Q Okay. Now, how long have you been a supervisor?

3 A Since 2012.

4 Q 2012. Okay.

5 What sort of education is required for your position?

6 A I have a two-year associate's degree. So you have to
7 have a paramedic certification, and then I have a degree
8 as well.

9 Q Okay. And you have the certification?

10 A Uh-huh.

11 Q When did you get the certification?

12 A As a paramedic?

13 Q Yes.

14 A In April 2007.

15 Q Okay. Now, I'm going to take you back to January the
16 25th of 2017, okay?

17 A Okay.

18 Q I'm going to ask you some questions, and if you need
19 to take a look at your report to answer them, just let me
20 know.

21 A Okay.

22 Q Did you receive a call during the early morning hours
23 of that day?

24 A Yes, sir.

25 Q Okay. And do you recall what the address was?

1 A No, sir.

2 Q Okay.

3 A I need my report for that.

4 Q All right. Just take a look at those documents I
5 just handed you. Are they the reports that you generated
6 for this call?

7 A Yes, sir.

8 Q And they'd be able to refresh your memory on some of
9 the specifics that happened on that night?

10 A Yes, sir.

11 Q Okay. So tell us, if you need to look at your
12 reports there, does it refresh your memory as to what the
13 address was where this incident happened?

14 A Yes, sir.

15 Q Okay. What was the address?

16 A 106 Stonegate Road, Simpsonville.

17 Q What time did you get the call?

18 A The call was -- I got the call at 02 -- yeah. Just
19 two minutes after midnight.

20 Q Okay. Two minutes after midnight.

21 And what was your arrival time there at this
22 location?

23 A Eleven minutes after midnight.

24 Q Okay. Now, when you arrived, police officers were
25 already there?

1 A Yes, sir.

2 Q And fire -- fire department as well?

3 A Yes, sir.

4 Q Okay. Now, did officers direct you to the victim?

5 A Yes, sir.

6 Q And do you have a recollection as to where he was
7 there at the house?

8 A (No answer).

9 Q And I don't mean specifically, but just the
10 general ---

11 A Yeah. He was outside beside the house.

12 Q Okay. Now, you've met with me before and have gone
13 over some of the photographs that we have, correct?

14 A Yes, sir.

15 Q I'll just show you what's already into evidence,
16 State's Exhibit Numbers 1, 8 and 9.

17 A Okay.

18 Q If you would, just take a look at those.

19 A (Reviews exhibits).

20 Q Does that show where the victim was when you saw him?

21 A Yes, sir.

22 Q Okay. Is that the position he was in when you saw
23 him?

24 A Yes, sir.

25 Q Okay. And is that the way his clothing was?

1 A Yes, sir.

2 Q At any point during your interaction with the
3 deceased, did you move his clothing at all, like take it
4 off or on or do anything to it?

5 A No, sir.

6 Q Did you move the body much?

7 A No, sir.

8 Q Did you move the body at all?

9 A Only what was necessary to put the electrodes on.

10 Q Okay. And so tell us about that. So when you
11 approached the victim, what did you do?

12 A He was -- as I say, he was found, and we just check
13 for a pulse, assess for respirations, but there were none
14 so we placed electrodes on him -- or stickers so I could
15 hook him up to the heart monitor and see if there was a
16 rhythm.

17 Q Okay and did you find a pulse?

18 A No, sir.

19 Q Okay. What do you mean by putting stickers on him?

20 A Our heart monitor has wires that attach to stickers
21 that go onto a patient.

22 Q Now, and then that's to check for what?

23 A Electrical heart rhythm.

24 Q Okay. And was there any electrical activity with his
25 heart at all?

1 A No, sir.

2 Q Now, after you determined that there was no
3 electrical activity, what did you do with the leads to
4 the ---

5 A Pulled the wires.

6 Q Okay. Now, what about the actual stickers that are
7 placed on the body? Are they left there on the body?

8 A Sometimes.

9 Q Okay. So looking at State's Exhibit Number 9, it
10 looks like there's something on his lower back.

11 A Yes.

12 Q Would that be one of the stickers that you placed?

13 A Yes, sir.

14 Q Okay. So other than that, what you just described
15 about how you attended to the deceased, was there anything
16 else that you did as far as moving the body?

17 A No, sir.

18 Q You wouldn't turn the body over or anything like
19 that.

20 A No, sir.

21 Q You were aware this was a potential crime scene?

22 A Yes, sir.

23 Q Okay. And does that factor into how you will treat
24 somebody in this state?

25 A Yes, sir.

1 Q Okay. Because you understand there's going to be
2 investigators and ---

3 A Yes, sir.

4 Q --- crime scene officers. Okay.

5 Now, after attending to the victim, John Ferrell, did
6 you also, did you stay there on the scene?

7 A Yes, sir.

8 Q And what was the reason for staying there at the
9 scene?

10 A Waiting for the coroner.

11 Q Okay. So are you required to stay there until the
12 coroner arrives?

13 A Yes, sir.

14 Q And what is the reason for that?

15 A That's part of -- when we pronounce somebody, then we
16 wait for the coroner to arrive and we turn over that
17 portion of the scene to them.

18 Q Okay. Now, what do you mean by pronounce somebody?

19 A Time of death. Pronounced time of death.

20 Q Okay. And so that's something you did then that
21 night?

22 A Yes, sir.

23 Q And that was based on what you just described about
24 the no pulse, no electrical activity?

25 A Yes, sir.

1 Q Did you note the time that you pronounced him
2 deceased?

3 A That was 013.

4 Q So 13 minutes after midnight?

5 A Yes, sir.

6 Q All right. Now, while you were waiting for the
7 coroner, did you have any interaction with a woman named
8 Jane Hughes?

9 A Yes.

10 Q Okay. And what was the complaint that drew your
11 attention to her?

12 A She was identified as a patient for right wrist pain.

13 Q Okay. Did you do any treatment with regard to her?

14 A I referred her to the ambulance crew.

15 Q Okay. And she was taken off to the hospital, as far
16 as you know?

17 A Yes, sir.

18 Q Did you bandage her arm at all before she was put in?

19 A Yes.

20 Q Okay. So can you tell us about what kind of
21 bandaging you put on her?

22 A Per the report, I just splinted and bandaged her
23 wrist.

24 Q Okay. What would that entail?

25 A I don't remember exactly ---

1 Q Okay.

2 A --- but something -- a splint is something to
3 stabilize her wrist, and then it would be secured.

4 Q And just wrap it up. Okay.

5 All right. Now, while you were waiting there, did
6 you also have any interaction with the defendant in this
7 case, John Hughes?

8 A Yes, sir.

9 Q And how did that come about?

10 A He was directed to me by law enforcement to be
11 evaluated.

12 Q Okay. And did you find anything wrong with him or
13 did he need any attention whatsoever?

14 A No, sir. He -- per our report, he stated he did not
15 have any complaints, not feel he had any injuries.

16 Q Okay. So did he look in distress or pain or any
17 issues?

18 A No, sir.

19 Q Okay. So did you attend to him at all?

20 A The only thing I did was have a waiver signed stating
21 he did not need EMS.

22 Q Okay. And is that pretty much standard protocol?

23 A Yes, sir.

24 Q Okay. And the only reason you spoke to him at all
25 was because an officer asked you to speak to him?

1 A He approached us and said he was told to come to us
2 to be checked out. So we talked to him and he said he
3 didn't need us, so . . .

4 Q And there was nothing about his demeanor or his
5 person that made you think that he needed any medical
6 attention at all?

7 A No, sir.

8 MR. MOYER: Okay. One moment, please.

9 Okay. I have no further questions. Please answer
10 any questions from defense.

11 THE COURT: Cross-examination?

12 CROSS EXAMINATION

13 BY MR. ADDUCCI:

14 Q You indicated that you spoke and saw Mr. Hughes that
15 evening, correct?

16 A Yes, sir.

17 Q And your words were you evaluated him, correct? So
18 you were close to him, right?

19 A Yes. Yes, sir.

20 Q You looked him over?

21 A Uh-huh.

22 Q And no where in your report do you note any blood on
23 him, correct?

24 A I don't have my report, but . . .

25 Q You do not recall there being blood on Mr. Hughes,

1 correct?

2 A No, sir. I don't think so. (Reviews document) No,
3 sir.

4 Q It was dark out there that night, correct?

5 A Yes, sir.

6 Q When you were reviewing Mr. Ferrell's body, you had
7 to use lighting in order to see what was going on?

8 A Yes, sir.

9 MR. ADDUCCI: The Court's indulgence.

10 Nothing further, Your Honor.

11 THE COURT: All right. Any redirect?

12 MR. MOYER: No.

13 THE COURT: All right. You may step down.

14 All right. Next witness?

15 MR. MOYER: The State calls Tim Williams.

16 May we approach, Your Honor?

17 THE COURT: Yes.

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

19 THE COURT: All right. The attorneys tell me this is
20 a good time to break for lunch. So it's after 12, so I
21 didn't disagree.

22 So at this time, I'm going to ask that you break --
23 you're on your own for lunch. Again, do not discuss the
24 case or do any type of research. If you're contacted by
25 anybody other than the clerk's office, please let the

1 bailiff know.

2 It is now ten after 12:00. If you'll be back in your
3 jury room at 1:45, should give everybody sufficient time.
4 We'll continue with the case at that time. So see y'all
5 back this afternoon. Y'all have a good lunch.

6 (WHEREUPON, the jury exits the courtroom at 12:11 p.m.,
7 and a recess was taken.)

8 (WHEREUPON, State's Exhibit Numbers 77 and 78 were marked
9 for identification.)

10 (WHEREUPON, proceedings reconvened at 2:04 p.m.)

11 THE COURT: All right. Are we ready to bring the
12 jury in?

13 MR. MOYER: We are, Your Honor.

14 THE COURT: Anything from the plaintiff? Anything
15 from the defendant?

16 MR. ADDUCCI: No, Your Honor.

17 THE COURT: All right. Bring the jury.

18 (WHEREUPON, the jury entered the courtroom at 2:05 p.m.)

19 THE COURT: All right. I hope everybody had a good
20 lunch. And we will now -- the State, you'll continue.
21 Call your next witness.

22 MR. MOYER: Thank you, Your Honor. May it please the
23 Court. The State calls Tim Williams to the stand.

24 THE CLERK: Officer Williams, if you'll just please
25 place your left hand on the Bible and raise your right

1 hand.

2 WHEREUPON,

3 TIMMIE WILLIAMS

4 After having been duly sworn, testified as follows:

5 THE CLERK: Please be seated and state your name for
6 the record.

7 THE WITNESS: My name is Timmie Williams,
8 T-I-M-M-I-E; Williams, W-I-L-L-I-A-M-S.

9 DIRECT EXAMINATION

10 BY MR. MOYER:

11 Q Where are you employed?

12 A Simpsonville Police Department.

13 Q How long have you been in law enforcement?

14 A I've been in law enforcement 21 years.

15 Q Has that all been with Simpsonville Police
16 Department?

17 A No, sir..

18 Q Where else have you worked?

19 A I worked Mount Vernon Housing Police for three years.
20 That's in New York. I also worked detention center for
21 three years.

22 Q Detention center here in Greenville?

23 A Here in Greenville. Greenville County. Yes, sir.

24 Q How long have you been with Simpsonville?

25 A 17 years.

1 Q What is your position with Simpsonville?

2 A I'm a lieutenant now.

3 Q Okay. And you were a lieutenant back in January of
4 2015?

5 A No, sir. I was an investigator.

6 Q Okay. Now, did you respond to the incident location
7 of 106 Stonegate on the early morning hours of January the
8 25th of 2015?

9 A Yes, I did.

10 Q Okay. Now, when you arrived there, were you asked to
11 go from there to a different location?

12 A Yes, I was.

13 Q Where were you asked to go?

14 A Hillcrest Hospital.

15 Q And who were you asked to meet with there?

16 A Jane Hughes.

17 Q Okay. And did you find her in the Hillcrest
18 Hospital?

19 A Yes, I did. She was in one of the rooms.

20 Q She was in the room. Was anyone with her?

21 A There was a person that she described as her friend,
22 a good friend of hers, I believe.

23 Q Was it Andrew Martin?

24 A Yes. That is his name. Andrew Martin.

25 Q Okay. Now, while you were there, did you collect

1 anything from the room?

2 A Yes. I did collect some clothing from her. Yeah. I
3 believe just clothing I retrieved from her.

4 Q Okay. Now, was she already in hospital attire, like
5 a hospital gown and in bed?

6 A Yes. They had her lying on the gurney in hospital
7 attire.

8 Q Okay. And so you took all of the clothing that she
9 had been wearing that night?

10 A Yes, I did. Uh-huh.

11 Q Okay. And where did you take -- once you collected
12 the clothing of Janē Hughes, where did you take it?

13 A I brought it back, turned it over to Greenville
14 County forensics.

15 Q Okay. So you went back to 106 Stonegate?

16 A Yes. I believe so. It's been a while. Sorry.

17 Q Okay. But wherever it was, you remember turning it
18 over to the forensics officer Parker?

19 A Yes. Robert Parker, yes.

20 Q Okay. And you kept the clothing with you from the
21 time you got out of the hospital until you gave it to the
22 forensics officer?

23 A Yes, sir.

24 MR. MOYER: Okay. I have no further questions for
25 this witness.

1 THE COURT: Cross-examination?

2 MR. ADDUCCI: No questions for this witness, Your
3 Honor.

4 THE COURT: All right. Thank you. You may step
5 down.

6 THE WITNESS: Thank you.

7 MR. MOYER: The State calls Dar Shaw.

8 THE CLERK: Mr. Shaw, if you'll please place your
9 left hand on the Bible and raise your right hand.
10 WHEREUPON,

11 DARWIN SHAW

12 After having been duly sworn, testified as follows:

13 THE CLERK: Please be seated and state your name for
14 the record.

15 THE WITNESS: Darwin Shaw, S-H-A-W.

16 DIRECT EXAMINATION

17 BY MR. MOYER:

18 Q Okay. Where are you employed?

19 A With the Department of Public Safety Forensic
20 Division in Greenville County.

21 Q And how long have you been in law enforcement?

22 A July will be 40 1/2 years. 40 years.

23 Q Okay. And did you work anywhere in law enforcement
24 before you worked for Greenville forensics?

25 A I did. I was with a department in Nebraska for

1 7 years as a road officer, 14 years as a detective.

2 Q Okay. How long have you been with forensics?

3 A The 14th of this month will be 19 years.

4 Q Okay. And what do forensics officers -- let me back
5 up. What is your position in forensics?

6 A I'm a sergeant with the Forensic Division.

7 Q Okay. Can you tell the jury a little bit about what
8 forensics officers do?

9 A Forensics officers respond to crime scenes at the
10 request of agencies within Greenville County, also
11 federal, state, any agency who requests our assistance.
12 We take photographs, we process for fingerprints, we
13 collect evidence, we do diagrams, anything that's related
14 to a crime scene where the investigating agencies need us
15 to actually do the work.

16 Q Okay. Now, you didn't go to the scene of the
17 incident, did you, of 106 Stonegate where the shooting
18 took place?

19 A No, I didn't.

20 Q Okay. Now, did you go to the autopsy that was
21 performed on the deceased, John Ferrell?

22 A Yes, I did.

23 Q Okay. And I don't know if you have your report with
24 you. If you don't and don't remember, let me know. But
25 do you remember the date that it took place?

1 A It was January 26, 2015.

2 Q Okay. And where did that take place?

3 A At the morgue, which is at Greenville Memorial
4 Hospital.

5 Q Okay. And what was your purpose for being there?

6 A There was an autopsy that was going to be performed,
7 and part of our function is to respond to the autopsies to
8 take photographs and collect any potential evidence.

9 Q Okay. And you did take photographs then?

10 A I did.

11 Q Okay. Did you also collect any evidence?

12 A Yes, I did.

13 Q And what did you collect?

14 A I collected clothes that the victim had on, I
15 collected -- any time that we have a call that's related
16 like a homicide, we do head hair, pubic hair, gunshot
17 residue test, projectiles that were actually collected
18 from the body by the pathologist.

19 Q Okay. Did you collect some projectiles in this case?

20 A I did.

21 Q And how many did you collect?

22 A Three.

23 Q And they were given to you by the medical examiner?

24 A Correct. As they were located in the body, I
25 photographed them. They were taken specifically by the

1 pathologist. Again, they were photographed outside of the
2 body. Then I obtained those from the pathologist on a
3 Property and Evidence sheet.

4 (WHEREUPON, State's Exhibit Number 79 was marked for
5 identification.)

6 BY MR. MOYER:

7 Q I'm going to hand you State's Exhibit Number 79 and
8 ask you to take a look at it. And you can open the
9 packaging that it is in if that helps also, but I want you
10 to see if you can identify what I've handed you.

11 A This is a package that indicates, according to the
12 barcode, that there are three items inside. One is
13 labeled Item A, one is Item B, and one is Item C, as they
14 were collected.

15 Q Okay. And are they projectiles?

16 A Yes, they are.

17 Q Okay. And how did you package them when they were
18 collected?

19 A What I do is I take like a paper towel, put the
20 projectile inside the paper towel, and then they have
21 plastic containers with lids that it's put inside of
22 there, sealed, and then it's taped up, and then the
23 pathologist initials it as well as myself.

24 Q Okay. I'm going to ask you, if you would, to open
25 that packaging and see if that packaging is inside there.

1 A (Witness complies).

2 Q And did you make any markings on those particular
3 bottles?

4 A I did. The first bottle is labeled A, has my
5 initials on the tape on both sides, and then Dr. Fulcher
6 initialed it at the same time. After the tape was put on,
7 it was sealed up.

8 The second one is Item B, which is labeled. It also
9 has my initials on the side as well as on the top.

10 And Item C, Projectile C, again, with my initials on
11 the side as well as on the stop.

12 MR. MOYER: Okay. Your Honor, at this time, I would
13 move to have State's Exhibit 79 entered into evidence.

14 MR. ADDUCCI: Without objection, Your Honor.

15 THE COURT: All right. In without objection.

16 (WHEREUPON, State's Exhibit Number 79 was admitted into
17 evidence.)

18 MR. MOYER: Okay. Please answer any questions
19 defense may have.

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

21 CROSS EXAMINATION

22 BY MR. ADDUCCI:

23 Q You collected a number of items that day in addition
24 to those projectiles, correct?

25 A That's correct.

1 Q You took a GSR collection kit on Mr. Ferrell,
2 correct?

3 A Yes. That's correct.

4 Q And can you explain what a GSR kit is?

5 A It's a gunshot residue collection kit. When a
6 projectile is fired, or when a weapon is fired, the
7 projectile contains antimony, barium and lead, those three
8 components. When a weapon is fired, those three
9 components fuse together to make a -- any way it's fused
10 -- it's fused together and makes a compound that, when you
11 do a GSR, which is like a sticky flypaper, you dab the
12 hand front palm -- the front and the back of the hand to
13 pick up any traces of these three compounds.

14 Q And you collected that from Mr. Ferrell, correct?

15 A I did, yes.

16 Q In addition to that, you also collected a pair of
17 brown Dockers, size 11 1/2, and white socks, correct?

18 A I did.

19 Q In addition to that, you also collected a pair of
20 Authentics blue jeans, which were size 40, correct?

21 A That's correct.

22 Q And also a pair of plaid boxers; is that correct?

23 A Yes, sir.

24 Q And were those all packaged?

25 A They were packaged separately, yes, and then

1 transported to Property and Evidence.

2 Q Okay. You also collected a black leather jacket; is
3 that correct?

4 A That's correct.

5 Q And a black short-sleeved shirt?

6 A Yes, sir.

7 Q And these were all the clothing of Mr. Ferrell,
8 correct?

9 A That's correct.

10 Q All right. In addition to that, you also rolled
11 fingerprint and palm impressions of the deceased, correct?

12 A That's correct.

13 Q That's for latent prints for you to compare against
14 later?

15 A It can be. It's just a standard protocol for any
16 deceased that we roll their prints. In fact, it is to
17 decessate out their -- an identification pack. If they have
18 an identification pack with Greenville County, we roll the
19 prints, and that file is then pulled from records so they
20 can decessate the pack out.

21 Q And you were present for the autopsy, correct?

22 A Correct.

23 Q And you noted an amount of blood on the top of the
24 deceased's head, correct?

25 A In the hair. Yes, sir.

1 Q Yes, sir. And also a significant amount of blood on
2 his hands, correct?

3 A Correct.

4 MR. ADDUCCI: The Court's indulgence.

5 Nothing further for this witness.

6 THE COURT: And redirect?

7 MR. MOYER: No, Your Honor.

8 THE COURT: Thank you. You may step down.

9 MR. MOYER: The State calls Robert Parker.

10 THE CLERK: Mr. Parker, if you would, just place your
11 left hand on the Bible and raise your right hand.

12 WHEREUPON,

13 ROBERT PARKER

14 After having been duly sworn, testified as follows:

15 THE CLERK: Please be seated and state your name for
16 the record.

17 MR. MOYER: May we approach, Your Honor?

18 THE COURT: Yes.

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

20 DIRECT EXAMINATION

21 BY MR. MOYER:

22 Q State your name, please.

23 A Robert Stephen Parker.

24 Q And where are you employed?

25 A Greenville County Forensics Division.

1 Q And is that the same department or division where Dar
2 Shaw, who just testified, is employed?

3 A Yes, sir.

4 Q Okay. And what is your position in that office?

5 A I'm a forensics officer with the Crime Scene Unit.

6 Q Okay. And so your duties would be the same as what
7 Sergeant Shaw's were, who just testified, as far as on the
8 crime scene?

9 A Yes, sir.

10 Q How long have you been in law enforcement?

11 A 11 years, sir.

12 Q How long have you been with Greenville Forensics?

13 A A little over 4 1/2, sir.

14 Q Okay. And you were in -- what did you do before you
15 were forensics?

16 A Before I was with forensics, I was a patrol officer
17 with Simpsonville Police Department for a little over
18 5 1/2 years.

19 Q Okay. And so you've been with -- how long have you
20 been with forensics again?

21 A 4 1/2 years now.

22 Q Okay. Now, were you called out to the incident
23 location, 106 Stonegate Road, on the night of this
24 incident?

25 A Yes, sir.

1 Q Okay. And what date and time did you get the call?

2 A I responded on January 25, 2015. I received a call
3 at 12:31 in the morning.

4 Q Okay. And what time did you arrive?

5 A I arrived at 12:59 a.m.

6 Q How long did you stay on the scene?

7 A I did not clear the scene till 5:40 a.m. in the
8 morning.

9 Q Okay. And just to make clear, you went back to the
10 scene on a later date and did the diagram that we've been
11 using in court; is that right?

12 A Yes, sir.

13 Q The diagram of the house.

14 A Yes, sir. Of the interior of the residence. Yes,
15 sir.

16 Q And that's State's Exhibit 74.

17 Okay. Now, upon arrival there on January the 25th,
18 did you meet with the officers and investigators on the
19 scene?

20 A Yes, sir. I did.

21 Q And is the reason for that is to get a summary of
22 what they had learned about the scene up until that point?

23 A Yes, sir. It was.

24 Q So you can focus your evidence collection and your
25 processing on what you've learned?

1 A Yes, sir.

2 Q Okay. Now, did you -- after speaking to those
3 officers and investigators, did you direct your attention
4 to the outside of the residence first?

5 A Yes, sir. I did.

6 Q Okay. And what did you do there at the outside of
7 that residence?

8 A On the outside of the residence, I first observed the
9 victim's Chrysler Town & Country minivan was parked on the
10 roadway.

11 Q Okay.

12 A Upon approaching the residence, I did see where
13 investigators initially planted two flags in the ground
14 marking where spent cartridge cases were located. And
15 then after observing that, moving forward, I did observe
16 the victim.

17 Q Okay. Now, did you spend any more time around the
18 location where those two shell casings had been marked?

19 A Yes, sir. That's where I did locate three more
20 cartridge casings. So there was a total of five.

21 Q Okay. And did you do anything to mark those shell
22 casings?

23 A Yes, sir. I did put evidence placards down to mark
24 those.

25 Q Okay. And then did you take any measurements or

1 collect any evidence?

2 A I did collect the spent cartridge cases out there. I
3 did. And I did take measurements of the victim's body
4 location.

5 Q Okay. Now let me ask you some more questions about
6 your observations about that area. Did you look on the
7 ground underneath the open window on the side of the
8 house?

9 A Yes, sir. I did.

10 Q What, if anything, did you observe in that area?

11 A I did observe suspect blood droplets going from the
12 window to the victim's body. I did observe a set of car
13 keys that they -- the investigator stated belonged to the
14 victim. There was a small window AC unit that was on the
15 ground. And at the time, I did observe what I thought was
16 a pair of pliers from the handles but was advised
17 yesterday those turned out to be a can opener.

18 Q Okay. And by looking more closely at the
19 photographs, is that what you could tell it was?

20 A Yes.

21 Q Now, you mentioned an AC unit. Did you take
22 photographs of that?

23 A Yes, sir. I did.

24 Q Can you elaborate a little bit more as to what that
25 was?

1 A A small window AC unit was a dual-fan unit in the
2 window, but did not observe any suspected blood on it or
3 anything.

4 Q Okay. So just it may be a little bit confusing. So
5 when we call it an AC unit, it wasn't actually blowing
6 like one that has an electrical outlet that ---

7 A Not like a normal electric one, yes. It was dual fan
8 operated.

9 Q Okay. All right. Did you take photographs of that
10 area?

11 A Yes, sir. I did.

12 Q Okay. Now, you mentioned shell casings as well.

13 A Yes.

14 Q Did you photograph where you put the placards?

15 A Yes, sir. I did.

16 Q Did you notice anything -- also around that area
17 where the window was, did you look up at the window
18 itself? And if so, did you see anything of significance?

19 A Yes, sir. Looking up at the exterior of the kitchen
20 window, we did notice suspected blood on the exterior of
21 the window as well as on the window blinds.

22 Q Okay. And at any point, did you do any sort of
23 presumptive tests on that area to confirm?

24 A Yes, sir. Did do a phenolphthalein presumptive test
25 on the ---

1 MR. ADDUCCI: Object, Your Honor. He isn't qualified
2 as an expert or he's not qualified his test as a
3 scientific test.

4 THE COURT: I'm sorry. I was in the middle of a
5 sneeze so I didn't hear your question.

6 MR. MOYER: Right now we're talking about
7 phenolphthalein test, which is not the other test that we
8 have discussed but ---

9 THE COURT: I still think you need to lay a
10 foundation for whatever he's going to testify as far as
11 that goes.

12 BY MR. MOYER:

13 Q Okay. All right. We'll come back to that in just a
14 few minutes.

15 A Yes, sir.

16 Q But you saw what you considered suspected blood up
17 around the fan -- I mean, I'm sorry, up around the window?

18 A Yes, sir.

19 Q Okay. Did you take a look at the victim and
20 photograph the victim as well?

21 A Yes, sir. I did.

22 Q Okay. Were there any weapons located or seen or
23 found anywhere on or near the victim?

24 A No, sir.

25 Q No guns or knives or anything of that type?

1 A No, sir.

2 (Pause in proceedings.)

3 MR. MOYER: Okay. Your Honor, at this time, the
4 State is going to move to have entered into evidence
5 several exhibits, which I understand the defense has no
6 objections to. These are State's Exhibit Numbers 3, 4, 5,
7 6, 7, 2, 11, 10, 12, 13, 14, 78, 23, 21, 19, 20, 22, 77,
8 15, 16, 17 and 18.

9 THE COURT: All right. And these are in without
10 objection.

11 MR. ADDUCCI: Correct, Your Honor.

12 (WHEREUPON, State's Exhibit Numbers 2 through 7, 10
13 through 23, 77 and 78 were admitted into evidence.)

14 BY MR. MOYER:

15 Q Okay. We're going to bring the screen down. I'm
16 going to ask you to step around where you'll be able to
17 see a little bit better what's being shown on the
18 overhead.

19 Okay. Will you start off with State's Exhibit
20 Number 3? And can you tell the jury what it is we're
21 seeing? Can you see okay where you are standing?

22 A Yes, sir.

23 Q Okay. Can you tell the jury what it is we see ---

24 THE COURT: Let's lower the lights just a tad.
25 There. That's good right there.

1 BY MR. MOYER:

2 Q Would you tell the jury what is depicted in State's
3 Exhibit Number 3?

4 A Yes, sir. This is looking at the front of the
5 residence from the roadway, and to the left right there
6 (indicating) is the back of the white Chrysler Town &
7 Country that belonged to the victim.

8 Q This right here (indicating)?

9 A Yes, sir.

10 Q Okay. And is this the driveway that goes up to the
11 house?

12 A Yes, sir. That is the driveway that leads up to the
13 residence.

14 Q State's Exhibit Number 4, will you tell the jury what
15 is shown in State's Exhibit 4?

16 A That is the back of the Chrysler Town & Country that
17 belonged to the victim.

18 Q Okay. And State's Exhibit 5, what direction is this
19 photograph?

20 A This is from the front of the residence looking down
21 the driveway towards the roadway, and you can still see
22 the white Chrysler Town & Country minivan that belonged to
23 the victim.

24 Q Is that what I'm illuminating with the laser pointer?

25 A Yes, sir.

1 Q Okay. State's Exhibit Number 6, do you know what is
2 depicted in that?

3 A Yes, sir. That would be the cell phone and
4 flashlight that belongs to the defendant that the
5 investigators had me collect.

6 Q And you collected those items?

7 A Yes, sir.

8 Q Okay. Now we're going to move on to State's
9 Exhibit 7.

10 MR. MOYER: And once again, if I could just notify
11 the Court, there will be some photographs that are
12 somewhat graphic in nature.

13 THE COURT: All right.

14 BY MR. MOYER:

15 Q State's Exhibit Number 7, can you tell the jury what
16 it is we see in that photograph?

17 A Yes, sir. In this photograph, you can observe the
18 victim lying face down in the yard, and to the left, that
19 is the fence running along the carport of the residence.

20 Q Okay. So is this (indicating) the corner of the
21 house right here?

22 A Yes, sir.

23 Q This (indicating) would be the side that faces the
24 roadway?

25 A Yes, sir. It is.

1 Q This (indicating) is the side where the window is
2 that goes into the kitchen?

3 A Yes, sir.

4 Q State's Exhibit Number 2, tell the jury what is
5 depicted in that photograph.

6 A This is the victim lying face down. We observed the
7 suspected blood on the victim's head. Did not observe any
8 injuries at that time due to his hair and the amount of
9 suspected blood on the victim's head. His pants and
10 boxers were down around his ankles.

11 Q All right. State's Exhibit Number 78, can you tell
12 the jury what it is that is depicted in that photograph?

13 A Still the victim. We observed more of the suspected
14 blood around the victim and on his head. You can see a
15 little bit where there was an injury observed on his right
16 buttocks.

17 Q And focusing in on his coat a little bit more, are
18 these spots in this location and down here
19 (indicating) ---

20 A That would be more suspected blood on his jacket.

21 Q This is on his jacket?

22 A Yes, sir.

23 Q Suspected blood in these particular locations.

24 A Yes, sir.

25 Q That's what this discoloration here (indicating) was

1 and throughout the back here?

2 A Yes, sir.

3 Q Okay. State's Exhibit Number 11, is that, again, a
4 picture of the victim that shows his clothes as it was
5 down around his ankles?

6 A Yes, sir. It is.

7 Q And 10, the same thing?

8 A Yes, sir.

9 Q 13, does that show an injury that was to his
10 backside?

11 A Yes, sir.

12 Q As is 14?

13 A Yes, sir.

14 Q Okay. And then were you present when the coroner's
15 office allowed for the body to be taken from the scene?

16 A Yes, sir. I was.

17 Q And did you take any photographs as that took place?

18 A Yes, sir. I did.

19 Q And is this a picture that you took as his shirt was
20 lifted up?

21 A Yes, sir. It was.

22 Q And what observations, if any, did you make at that
23 time?

24 A Just noted that there were injuries present to his
25 side.

1 Q Okay. This is what I'm showing with the laser
2 pointer?

3 A Yes, sir.

4 Q We move on now to State's Exhibit Number 20 -- I'm
5 sorry. Number 19. Tell the jury what it is we see in
6 that photograph.

7 A In this photograph, you see the area underneath the
8 kitchen window.

9 Q Okay. Does it show the kitchen window as well?

10 A Yes, sir.

11 Q Did you, at any point, measure the distance from the
12 ground to the bottom of this window?

13 A Yes, sir. I did.

14 Q And what was that measurement?

15 A 4.86 feet, roughly around 5'10", 5'11".

16 Q Okay. I think you misspoke initially.

17 A Sorry. The measurement was 5.86 feet, so you're
18 looking at 5'10", 5'11".

19 Q Just under 11 -- I'm sorry. Just under 6 feet?

20 A Yes, sir.

21 Q Okay. Now, you mentioned some items that were
22 underneath.

23 A Yes, sir.

24 Q Is that what this (indicating) would be in this area
25 and over in here?

1 A Yes, sir. It is.

2 Q And what was over in this (indicating) area?

3 A In that area, originally what I observed was to be a
4 pair of pliers that was really a can opener. Next to that
5 was the small double-fan unit from the window, and the set
6 of keys are at the top.

7 Q Okay. And so starting at the bottom here ---

8 A Yes, sir.

9 Q --- the can opener you mentioned, is that what this
10 (indicating) would be?

11 A Yes, sir.

12 Q Okay. And then the fan that you described as an AC
13 unit, is that what this (indicating) is here?

14 A Yes, sir.

15 Q And the keys, were they up in ---

16 A Right there. Yes, sir.

17 Q Right there (indicating).

18 State's Exhibit Number 23, what do you see in that
19 photograph?

20 A Yes, sir. That's going to be the same image of the
21 exterior of the kitchen window.

22 Q Okay. State's Exhibit 20.

23 A In this picture, it's seen suspected blood along with
24 the victim's keys.

25 Q Okay. So you mentioned seeing droplets of blood in

1 the trail: Would that be what these (indicating) circular
2 drops are?

3 A Yes, sir.

4 Q And these (indicating) are the keys?

5 A Yes, sir.

6 Q And is this (indicating) the side of the ---

7 A The HVAC AC unit.

8 Q State's Exhibit 77, this is another picture of the
9 area underneath the window; is that true?

10 A Yes, sir.

11 Q Okay. That's the AC unit and the can opener.

12 A Can opener.

13 Q State's Exhibit 22, what is that?

14 A Suspected blood observed on the trash can.

15 Q Is that what these markings are on the top of the
16 trash can?

17 A Yes, sir.

18 Q Okay. Then State's Exhibit 21, what is shown in that
19 photograph?

20 A That's still the exterior, the kitchen window, and
21 suspected blood was observed on the bottom of the window
22 blinds and on the exterior of the window.

23 Q In this (indicating) area and this area?

24 A Yes, sir.

25 Q Okay. And we're going to move on now to State's

1 Exhibit Number 15. Can you tell the jury what it is that
2 is seen in that photograph?

3 A Yes, sir. In this photograph, we observed the two
4 evidence flags that the investigators had originally
5 placed down.

6 Q This and Placards 1 and 2?

7 A Yes, sir. And those are the placards, evidence
8 placards I laid out where the spent cartridge casings were
9 observed.

10 Q Okay. And these are the other three that you found?

11 A Yes, sir.

12 Q So that's the five different shell casings?

13 A Yes, sir.

14 Q And as we zoom in a little bit, is this the victim
15 back here right here (indicating)?

16 A Yes, sir. It is.

17 Q You see his hands right there (indicating)?

18 A Yes, sir.

19 Q And State's Exhibit 16, once again, does this show
20 where one of the shell casings was and where the victim
21 was?

22 A Yes, sir.

23 Q Okay. Did you take close-ups of all the shell
24 casings?

25 A Yes, sir.

1 Q Okay. We'll show just one of them. Is this --
2 State's Exhibit Number 17, does that show one of the shell
3 casings?

4 A Yes, sir.

5 Q And I'm not sure I remember where it is..

6 A It's right there by the evidence placard.

7 Q Right here (indicating)?

8 A Yes, sir.

9 Q Okay. So that would be the shell casing right in
10 this (indicating) location?

11 A Yes, sir. It is.

12 Q And then State's Exhibit Number 18, you took a
13 photograph of that shell casing?

14 A Yes, sir. The headstamp.

15 Q The headstamp. Okay.

16 You can have a seat again at this point.

17 Now, you mentioned you collected the shell casings.

18 A Yes, sir.

19 Q And did you -- at a later time, did you place them
20 into Property and Evidence?

21 A Yes, sir. I did.

22 (WHEREUPON, State's Exhibit Number 80 was marked for
23 identification.)

24 BY MR. MOYER:

25 Q Okay. I'm going to hand you State's Exhibit

1 Number 80, which is an envelope that has five envelopes in
2 it. Can you take a look at the contents of that and see
3 if you recognize what is there?

4 A (Witness complies) Yes, sir. These are the coin
5 envelopes that I did place the items in, and they have my
6 initials on them.

7 Q Okay. By items, what items are you talking about?

8 A The cartridge casings.

9 MR. MOYER: Okay. All right. Your Honor, at this
10 time, I move to have State's Exhibit 80 entered into
11 evidence.

12 THE COURT: Any objection?

13 MR. ADDUCCI: No, Your Honor.

14 THE COURT: Okay. In without objection.

15 (WHEREUPON, State's Exhibit Number 80 was admitted into
16 evidence.)

17 BY MR. MOYER:

18 Q Okay. Did you then, after collecting evidence and --
19 or in addition to collecting evidence and processing the
20 outside of the house, did you also go inside the house?

21 A Yes, sir. I did.

22 Q Okay. And did you do the same types of processing
23 and observations inside as you did outside as far as
24 taking photographs and collecting evidence and so forth?

25 A Yes, sir. I did.

1 Q Okay. Now let me ask you about some of your
2 observations about the inside of the residence. Did you
3 go -- specifically the kitchen, did you go into the
4 kitchen area?

5 A Yes, sir. I did.

6 Q Okay. And did you see anything that caught your
7 attention as being relevant to the case such as suspected
8 blood?

9 A Yes, sir. I did observe suspected blood on the
10 interior. When looking at the kitchen sink on the
11 interior near the kitchen window, suspected blood was
12 observed on a wooden spatula in the sink as well as on the
13 kitchen cabinet area underneath the sink.

14 Q Okay. And in addition to suspected blood near the
15 sink, was there any suspected blood in any other locations
16 in the kitchen? For example, on any implements or ---

17 A There was a hammer that was located in the dining
18 area connected to the kitchen that had suspected blood on
19 it.

20 Q Okay.

21 A Next to the dining table there was a quilted blanket
22 that suspected blood was observed on as well.

23 Q Okay. And did you take photographs of all of that?

24 A Yes, sir. I did.

25 Q And moving on to the living room, was there anything

1 of particular interest that you found out that you took
2 photographs of as well?

3 A Yes, sir. Investigators on scene had pointed me to
4 where a -- I guess a pouch that held the defendant's
5 firearm was on the living room couch.

6 Q Okay. Now let me ask you some more questions about
7 your attention to the kitchen. As a result of these
8 observations of the suspected blood and anything else that
9 may have caught your attention about the kitchen, did you
10 do any further tests?

11 MR. ADDUCCI: Objection, Your Honor.

12 MR. MOYER: I think it's a little premature.

13 THE COURT: Right. I mean, he hasn't made an opinion
14 yet, so ---

15 MR. ADDUCCI: Thank you.

16 THE COURT: --- overruled.

17 BY MR. MOYER:

18 Q Did you do any further tests?

19 A Yes, sir. I did do -- I did spray leuco crystal
20 violet on the kitchen floor and dining room floor.

21 Q Okay. And what was it about that particular area
22 that caused you to decide to spray that chemical?

23 A We did notice that the floor was still a bit wet,
24 kind of sticky. We noticed we were leaving boot prints
25 along the floor, so we wished to spray leuco crystal

1 violet to see if we could find any traces of suspected
2 blood.

3 MR. ADDUCCI: Objection.

4 THE COURT: All right. Yes. Sustained.

5 BY MR. MOYER:

6 Q That's what led you to do the test?

7 A Yes, sir.

8 Q At that point, had you seen anything in the trash can
9 yet or did that come later?

10 A That was after we sprayed the leuco crystal violet.

11 Q Okay. Now let me ask you some questions about this
12 leuco crystal violet. What is the purpose of this
13 particular chemical? What are you attempting to find?

14 MR. ADDUCCI: Objection, Your Honor.

15 THE COURT: Sustained. I think you need to lay a
16 foundation that he can testify to this.

17 MR. MOYER: Okay. I think in order to lay the
18 foundation, I have to go into what exactly the product is.

19 MR. ADDUCCI: And, Your Honor, I think that if we are
20 going to be laying a foundation for this sort of
21 testimony, it should be done outside of the presence of
22 the jury.

23 THE COURT: All right. I'm going to send y'all out
24 so we can figure out what we need to do on this. So don't
25 talk about the case, and I'll have y'all back in.

1 (WHEREUPON, the jury exits the courtroom at 2:47 p.m.)

2 THE COURT: All right. Mr. Moyer, don't you need to
3 like establish that he has any basis he can testify what
4 it is?

5 MR. MOYER: Well, that's what I was getting into.
6 But in order to start asking about the product, it is my
7 understanding I have to ask him what it's used for and how
8 it's used, and I was leading up to ---

9 THE COURT: Isn't that after you have him qualified
10 that he knows what it is and all that?

11 MR. MOYER: My thought was, certainly, before I got
12 into what he did with it on this particular occasion and
13 what his results were, but it was my belief that in order
14 to start questioning him about it, because in order to lay
15 the foundation, you've got to start talking about the
16 reliability of it, how, you know, he used it in tests.

17 THE COURT: But, I mean, don't you have to qualify
18 him first for him to be able to testify even to the extent
19 of that? I mean, it seems like to me you have to -- I
20 mean, based on his objection, too, you need to qualify him
21 that he's had training in this and then go into, okay,
22 what is it, you know, and then go into the part of it.

23 MR. MOYER: Yes, sir. Okay. My belief was in order
24 to ask him if he's had training, and I've got to ask him
25 what he's had training in, which sort of necessitates him

1 saying what it is.

2 THE COURT: But you're trying to put the cart before
3 the horse, though.

4 MR. MOYER: Well, let me ask this. Can I go through
5 the questions now so Your Honor can hear what it is that
6 the jury ---

7 THE COURT: Yeah. I'll be glad to ---

8 MR. MOYER: -- since we're outside the presence of
9 the jury?

10 BY MR. MOYER:

11 Q Okay. So let me ask the question now. What is leuco
12 crystal violet and what is it used for?

13 A Leuco crystal violet is a reagent and a presumptive
14 test. It is used as a visual enhancement. When sprayed
15 on suspected blood, it will react to the hemoglobin in the
16 blood, and you get a violet color. But like I said, it's
17 a visual enhancement used for if you want to photograph.
18 Also, if you cannot visibly see suspected blood, it would
19 react, you would get that violet color and enhance it
20 where you can take photographs.

21 Q Okay. How long have you been using this particular
22 product?

23 A I've used it on a few cases over the past three
24 years.

25 Q Okay. So have you had it at your disposal as long as

1 you've been with Greenville County forensics?

2 A Sorry now?

3 Q Have you had it at your disposal as a tool as long as
4 you've been with Greenville County forensics?

5 A Yes, sir.

6 Q And has it been with Greenville County forensics
7 prior to your being there?

8 A Yes, sir.

9 Q And is this a law enforcement tool that is used
10 throughout the country?

11 A Yes, sir.. It is..

12 Q And it's used by other law enforcement agencies
13 throughout the country?

14 A Yes, sir.

15 Q Is it used by the FBI?

16 A Yes, sir. It is.

17 Q And when did the FBI begin to use it?

18 A 1993.

19 Q And they use it in the same ways that you and your
20 department use it as far as looking for suspected blood?

21 A Yes, sir.

22 Q Okay. How is it used?

23 A It's used -- it's used as a spray.

24 Q Okay. So say, for example, you were going to do it
25 on the surface in front of you, how exactly would you do

1 that?

2 A We'd use a spray bottle and spray it in a mist
3 pattern.

4 Q Okay. What sort of training did you have to be able
5 to do this?

6 A We would have in-service training, which we would use
7 pig's blood for the training, and we were demonstrated on
8 how to use it. And we did hands-on spraying to see the
9 result on the pig's blood and after the pig's blood's been
10 cleaned up.

11 Q Okay. So in other words, there are two different
12 ways it was used: pig's blood that was actually visible
13 to the eye and then pig's blood that had been there and
14 then had been cleaned up?

15 A Yes, sir.

16 Q And did you do this yourself?

17 A Yes, sir. I did.

18 Q And when you have used it, what were the results in
19 those scenarios?

20 A We had positive results.

21 Q Okay. Have you ever had a negative or a false
22 reading using this substance?

23 A No, sir. Not on the scenes I've worked.

24 Q You have not. Or in your training?

25 A No, sir.

1 Q You're aware that there are possibilities of a false
2 positive?

3 A Yes, sir. Yes, sir.

4 Q Okay. In what sort of scenarios is that a
5 possibility?

6 A Substance has been sprayed on a surface that had a
7 chemical on it that was high in metals or high in iron.

8 Q Despite that fact, this is still used uniformly
9 throughout the country by different law enforcement
10 agencies for the reasons that you have already stated?

11 A Yes, sir.

12 Q Okay. How often do you get training in using this
13 particular product?

14 A We try to do in-service training every year.

15 Q Okay. And so you've had training then, what, about
16 four different times for this product?

17 A Yes, sir. As well as using it on other cases.

18 MR. MOYER: Okay. Your Honor, at this time, I would
19 argue that he should be qualified as an expert in the use
20 and administration of leuco crystal violet based on that
21 foundation.

22 THE COURT: All right. And anticipating your
23 objection, I mean, I think now -- I think you got it all
24 in at the end, though, but the problem was with your first
25 question to him, basically he gave an opinion of what it

1 was doing. And based on his objection, what you need to
2 do is say, okay. I mean, I don't want to tell you how to
3 qualify him, but he needs to be qualified as an expert
4 based on his training, and you can say, you know, have you
5 used this, and this is -- you know, go through your
6 training and then how it's used and then how you used it
7 on this particular scene.

8 MR. MOYER: Okay. All right. Just as to
9 qualifying ---

10 THE COURT: You've got it all in there. I just think
11 you have it in the wrong order.

12 MR. MOYER: Okay.

13 THE COURT: Any other objection? I mean, I think ---

14 MR. ADDUCCI: Well, yes, Your Honor. This is a
15 two-step process. There is, first, whether he is an
16 expert, which I plan on blocking him on that, but in
17 addition to that, it's also this is a scientific test. So
18 someone can be an expert, and then the Court also has to
19 qualify that the scientific test is reliable and that it
20 was done properly. And the State has not yet established
21 that. If you want me to go into him as to his
22 qualifications first and then the State can try to discuss
23 the standard that he needs to meet in order to get in a
24 scientific test, we could do that. Or if you want to have
25 him go to the scientific test and I can ---

1 THE COURT: I mean, I think we can do this in front
2 of the jury. I mean, you can preserve your rights. I
3 mean, I don't want to try this case twice.

4 MR. ADDUCCI: Well, I understand, Your Honor. But as
5 the Court's gatekeeping function -- and, again, it's a
6 two-step analysis. Somebody could be an expert and you
7 can say you're an expert in this process, however, until
8 for him to form an opinion on what happened at that
9 certain date, the Court also has to make an analysis as to
10 whether that process itself is valid in the general ---

11 THE COURT: Right.

12 MR. ADDUCCI: --- and also whether it was done, well,
13 in the specific ---

14 THE COURT: All right.

15 MR. ADDUCCI: -- which we have not yet done. I can
16 point the Court to ---

17 THE COURT: No. I know the rules. I'm just saying
18 are we doing this now or are we going to wait to bring in
19 -- I mean, I guess normally that just happens with the
20 jury here. But if y'all want to do that now, I'll be glad
21 to go into that and since we've already taken a break.

22 MR. ADDUCCI: Well, Your Honor, I just believe it
23 would be prejudicial for you to do any of that in front of
24 the jury because then he would be talking about his
25 opinions and all this thing.

1 THE COURT: Well, I mean, he has to get through.

2 All right. Well, go ahead, Mr. Moyer. You'll do
3 that and then ---

4 MR. MOYER: Just to respond to his argument. First
5 off, he's being -- we will move to have him qualified as
6 an expert in the use and administration of this product.
7 He doesn't have to be an expert in all of the details of
8 the product, but just how to use it, how he was trained to
9 use it. And I think the analogy Your Honor used earlier
10 about like a DataMaster test, we don't require an officer
11 to understand all of the ins and outs of how that
12 particular test works, just that he was trained to use it.
13 And this officer has certainly demonstrated that. He gets
14 trained every year by his supervisors. They do -- not
15 only are they told how to do it, but they do hands-on
16 training, they use actual -- not simulated blood, but they
17 use actual blood in the testing, and so he has learned
18 that way. He's done it on several occasions. In the
19 field, he's had no false positives.

20 Now, as far as the science itself, Your Honor, the
21 fact -- the reliability of that is established by the fact
22 this is used uniformly by law enforcement agencies
23 throughout the country, it's been used by the FBI since
24 1993. The case I have handed to the Court shows where
25 that court found the reliability was satisfied based on

1 its universal use and also the fact, as this officer
2 testified himself, that he has used it himself on blood in
3 training purposes, and several different times throughout
4 his law enforcement career, it has worked, it has been
5 reliable, it continues to be used by his department, and
6 for all those reasons, we would argue that he is both an
7 expert and it should be admitted.

8 THE COURT: All right. I think he met the threshold
9 if you want to ask him some questions.

10 MR. ADDUCCI: Thank you, Your Honor.

11 VOIR DIRE

12 BY MR. ADDUCCI:

13 Q Could you please state what scientific publications
14 and peer-reviewed journals have discussed the use LCV.

15 A You mean any public research?

16 Q Peer-reviewed studies.

17 A No. I can't quote any offhand.

18 Q Have you reviewed any yourself?

19 A No, sir.

20 Q Okay. And could you explain the quality control
21 procedures used in order to ensure reliability for use of
22 LCV?

23 A Yes. If we mix it, we do keep it refrigerated
24 because once it's mixed, it only lasts for a few months
25 before it expires.

1 Q And how many months is that?

2 A It appears to only be a few months.

3 Q What do you mean by a few months?

4 A Probably around four, maybe ---

5 Q That's different than your testimony from yesterday,
6 isn't it?

7 A Yes, sir. I went back and looked at the expirations.

8 Q Okay. And this bottle of LCV that you used, when was
9 it mixed?

10 A I cannot recall the date on when it was mixed.

11 Q Okay. Do you know who mixed it?

12 A At the time, I believe one of the supervisors had
13 made it.

14 Q Okay. What are the procedures that your agency uses
15 in order for mixing LCV?

16 A I just know that we do have our own manual that has
17 all -- basically all the ingredients on how to mix it, and
18 then we preserve it by putting it in the refrigerator.

19 Q Okay. So there's a procedure for mixing this LCV,
20 correct?

21 A Yes, sir.

22 Q Because if you mix it incorrectly, it won't work,
23 correct?

24 A Yes, sir. You wouldn't get any reactions.

25 Q Okay. Now, you don't know how this particular bottle

1 of LCV was mixed, right?

2 A No, sir.

3 Q So you don't know if those procedures were actually
4 followed.

5 A No, sir.

6 Q Okay. And you don't know when this bottle of LCV was
7 mixed?

8 A No, sir.

9 Q So you do not know if it had expired, do you?

10 A No, sir.

11 MR. ADDUCCI: I have nothing further for this witness
12 with regard to the scientific testimony.

13 THE COURT: All right. I'm going to allow him to
14 testify to this, and I think it goes to more of the weight
15 than admissibility.

16 MR. ADDUCCI: Your Honor, if I could just quote a
17 case.

18 THE COURT: You can, but I've already ruled. Yeah.
19 That's fine.

20 MR. ADDUCCI: There's a Jones standard, State v.
21 Jones, 273 S.C. 723, which says that the Court must
22 evaluate several factors, one, publications and peer
23 review of the technique. There are none that this court
24 is aware of that the State has elicited from the expert.

25 Two, prior application of the method to the type of

1 evidence involved in the case. I think the State has
2 argued, through his testimony, that he has used before.

3 Number three, the quality control procedures used in
4 order to ensure reliability. The State, I don't believe,
5 has shown what quality control measures are used, are
6 standard for this type of scientific test.

7 And four, most importantly, the consistency of the
8 method with the recognized scientific laws and procedures.

9 So we have quality control measures in order to
10 ensure that a test is valid. The State ---

11 THE COURT: I'm aware of the standard, and I have
12 said it's going to come in. So, I mean, you're on the
13 record.

14 MR. ADDUCCI: Thank you.

15 THE COURT: All right. Are we ready for the jury?

16 MR. MOYER: Yes, sir. Your Honor.

17 THE COURT: All right. Bring them in.

18 (WHEREUPON, the jury entered the courtroom at 3:02 p.m.)

19 THE COURT: All right. Ladies and gentlemen, we're
20 now ready to proceed.

21 Mr. Moyer?

22 MR. MOYER: Thank you, Your Honor.

23 DIRECT EXAMINATION (Continued)

24 BY MR. MOYER:

25 Q Officer Parker, before the break, we were discussing

1 a particular product that you had at your disposal there
2 on January the 25th of 2015. Would you mention what that
3 particular product is called again?

4 A Leuco crystal violet.

5 Q Again, without going into what it does or what you
6 use it for, have you been trained in the use and
7 administration of that particular product?

8 A Yes, sir. I have.

9 Q Okay. And when were you first trained in this use
10 and administration?

11 A I was first trained after my first year of working in
12 forensics.

13 Q Okay. And did you receive follow-up training with
14 regard to that particular product after that?

15 A Yes, sir.

16 Q And how often is that done?

17 A We try to do it on a yearly basis, in-service
18 training.

19 Q Okay. And this is done by supervisors in the
20 department?

21 A Yes, sir.

22 Q And is it done in sort of live clinical sort of
23 settings, hands-on practice?

24 A Yes, sir. We do hands-on scenarios.

25 Q Okay. So in addition to being trained verbally or in

1 written form about how to use it, you also actually use it
2 in practice demonstrations?

3 A Yes, sir. We do.

4 Q And it's done every year?

5 A Yes, sir.

6 Q And have you used it actually out in the field in
7 actual live scenarios where you're working cases?

8 A Yes, sir. I have.

9 Q You've used it several times?

10 A Yes, sir. I have.

11 Q And has it been used by the other officers who are in
12 your department?

13 A Yes, sir. It has.

14 Q How many other officers are there?

15 A There's a total of 11 of us.

16 Q And are all 11 trained and do all 11 use the
17 particular product?

18 A As of right now, eight of us have used it. We have
19 two new employees that have not trained with it yet.

20 MR. MOYER: Okay. Your Honor, at this time, I would
21 move to have Officer Parker qualified as an expert in the
22 use and administration of leuco crystal violet.

23 THE COURT: All right. Objection?

24 MR. ADDUCCI: Just my objection previously.

25 THE COURT: All right. Any questions then? Any voir

1 dire?

2 VOIR DIRE

3 BY MR. ADDUCCI:

4 Q When did you first come on at Greenville forensics?

5 A 2013.

6 Q And when was your first training on leuco crystal
7 violet?

8 A I can't remember the exact date, but I know it was
9 around meeting that one year we are cleared for all cases.

10 Q So do you know January, February, March, you know,
11 about when?

12 A No, sir. I do not.

13 Q Okay. But sometime in two thousand and --

14 A '14.

15 Q --- fourteen? Okay.

16 And what did your training consist of?

17 A It consists of scenarios where we use pig's blood to
18 test or demonstrate and train using leuco crystal violet
19 on.

20 Q Okay. Were you trained in how to make leuco crystal
21 violet?

22 A No, sir.

23 Q Okay. Were you trained what the components of leuco
24 crystal violet are?

25 A No, sir.

1 Q So you don't really know what's in the bottle, right?

2 A No, sir.

3 Q It just has a label on it that says LCV and you spray
4 it?

5 A Well, it's a label that the supervisors put on there
6 that has the date of which they made it as well.

7 Q Before January of 2015, how many live cases had you
8 used LCV on?

9 A I could not recall offhand.

10 Q Prior to the events of January of 2015, how many
11 times had you been to ---

12 MR. MOYER: Your Honor, if it please the Court, I
13 would object to this particular line of questioning
14 because it's getting further afield in his being trained
15 in the use and administration of the particular product.
16 He's getting into a line of questioning that I was going
17 to be going into after he is qualified as an expert. So I
18 think what he is going into now would be more appropriate
19 for his cross-examination as opposed to ---

20 THE COURT: I mean, I'll let him go a little further.
21 I mean, that's appropriate in voir dire.

22 BY MR. ADDUCCI:

23 Q How many trainings have you attended on LCV at the
24 time of this event?

25 A Two -- two in-service trainings.

1 Q And how long are your in-service trainings?

2 A They consist of an eight-hour day.

3 Q And in that eight-hour day, it isn't just eight hours
4 on LCV, is it?

5 A On different scenarios.

6 Q Also different evidence collection techniques?

7 A Yes.

8 Q Okay. Of that eight hours, how many hours was
9 dedicated to the use of LCV?

10 A I could not recall the different scenarios.

11 Q So it could have been 10 minutes? It could have been
12 20 minutes? It could have been an hour? You don't know?

13 A Definitely longer than an hour.

14 Q In your training, were you trained on the quality
15 control procedures for LCV?

16 A What do you mean by quality control?

17 Q It's a chemical, right?

18 A Uh-huh.

19 Q In order to ensure that it continues to work the way
20 that you want it to work, are there things that you need
21 to do in order to ensure that?

22 A We do make sure that any is stored properly and what
23 safety equipment needs to be wear [sic] when handling the
24 ingredients.

25 Q Okay. And that's all part of your in-service

1 training?

2 A No. That's just our basis for our processing room
3 and everything.

4 MR. ADDUCCI: Okay. Nothing further, Your Honor.

5 THE COURT: All right. I'll grant the motion to have
6 him declared as an expert in the use of LCV.

7 MR. MOYER: Yes, sir. Thank you.

8 DIRECT EXAMINATION (Continued)

9 BY MR. MOYER:

10 Q Okay. Now to follow up with that, tell the jury what
11 LCV is used for.

12 A LCV is used as a visual enhancement for suspected
13 blood. When LCV is sprayed on suspected blood, it reacts
14 to the hemoglobin in the blood and it presents a violet
15 color, so that helps us as a visual aid for photographing.
16 If we suspect blood to be present but it's not visible, we
17 use LCV as well. And if we get that positive reaction,
18 that violet color, that assists us as well with taking
19 digital photographs.

20 Q Okay. Now, you mentioned a little bit about your
21 training. Tell us a little -- you mentioned about using
22 actual blood during the training. How is that done?

23 A We use pig's blood.

24 Q Okay. And how is the training done with this pig's
25 blood?

1 A They would do mock scenarios such as if there was a
2 homicide that took place in a certain part of a residence,
3 it could be a gunshot victim case, but pig's blood would
4 be laid out in different areas or spattered on walls, and
5 so we would get to demonstrate and go hands-on with the
6 LCV to see for ourselves the positive reaction.

7 Q Okay. And so you would do it, you would use the
8 chemical then when the pig's blood was actually visible to
9 the naked eye?

10 A Yes, sir.

11 Q And would you also use where it had been but it had
12 been cleaned up?

13 A Yes, sir. They would -- they would clean it up, and
14 then we would spray it after they had cleaned it up to see
15 if we can still see, you know, a positive reaction.

16 Q And in both of those scenarios where it was visible
17 to the eye and not visible to the eye, would you get a
18 positive reaction in your training?

19 A Yes, sir.

20 Q Okay. Where the blood had been.

21 Did you ever have any false positives in your
22 training?

23 A No, sir.

24 MR. ADDUCCI: Objection, Your Honor. How can you
25 know? I think if the State is going to ask this question,

1 he must ask if there was a later confirmatory test.

2 MR. MOYER: Well, the fact that it was done by his
3 supervisors, I think they would be able to know.

4 THE COURT: I think that's a proper question.

5 MR. ADDUCCI: Thank you, Your Honor.

6 BY MR. MOYER:

7 Q This was all set up by the supervisors for training
8 you on this, correct?

9 A Yes, sir.

10 Q Okay. Was there any false positives?

11 A Not in the training. No, sir.

12 Q Okay. And have you, as far as you know from the
13 actual scenarios you've used it in on actual cases, are
14 you aware of any false positives that came up during those
15 occasions?

16 MR. ADDUCCI: Objection, Your Honor. He hasn't been
17 able to lay a basis for a later confirmatory test.

18 THE COURT: Overruled. He just asked him if he knows
19 if he has.

20 MR. ADDUCCI: Thank you, Your Honor.

21 THE WITNESS: No, sir.

22 BY MR. MOYER:

23 Q Okay. Is this used -- how frequently is it used? Is
24 it used in a lot of cases?

25 A No, sir. Mainly for violent cases.

1 Q Okay. Now, we talked, you had a few questions about
2 how it is prepared and made in advance. Can you tell the
3 jury a little bit about how that is done?

4 A We do have work manuals there that have ingredients
5 for every chemical we do make, and we go instruction, you
6 know, step-by-step in the process of mixing those
7 ingredients to make LCV.

8 Q Okay. Now, are you all trained in how to make it or
9 are just some of y'all trained in how to make it?

10 A The supervisors, the more experienced ones usually
11 make it.

12 Q Okay. And when they make it, where do they put it?

13 A It is stored in a refrigerator so the life span of it
14 would be longer.

15 Q Okay. And so there is a life span to this chemical;
16 is that correct?

17 A Once it's mixed, yes.

18 Q What is the life span once it's mixed?

19 A Just a few months, probably right around four months.

20 Q Are dates -- or what else is done to ensure that you
21 don't use the chemical after the date?

22 A There is a date that they put on the LCV when it's
23 made, so once it's around that time of expiration, it is
24 disposed of.

25 Q Okay. Now, so it is prepared then and put into this

1 refrigerator. And how do you go about yourself getting
2 this for your use? Do you go to the refrigerator and get
3 it or is it given to you?

4 A Yes, sir. Because when it's in the refrigerator,
5 it's already placed into a spray bottle.

6 Q When you go on a call, do you have to go to the
7 office and get a bottle or do you always have it with you?

8 A For in this instance with this case, we went ahead
9 and brought it with us.

10 Q Okay. And then when you are finished with a case, do
11 you take it back and put it back in the refrigeration ---

12 A Yes, sir.

13 Q --- or is that necessary?

14 A Yes, sir.

15 Q Okay. So in this case, did you follow all the
16 procedures that are in place for the use of this
17 particular substance?

18 A Yes, sir.

19 Q So putting the date on the particular cans, is that
20 what ensures its -- the fact that it's being used within
21 the lifecycle of that chemical?

22 A Yes, sir.

23 Q Once it gets to the expiration date, is it taken and
24 destroyed?

25 A Yes, it is.

1 MR. ADDUCCI: Objection, Your Honor. Calls for
2 speculation.

3 THE COURT: Overruled. I think that's appropriate.

4 THE WITNESS: Yes, sir. It is disposed of.

5 BY MR. MOYER:

6 Q And so you mentioned you were trained in how to use.
7 Is it very difficult to use?

8 A No, sir.

9 Q How do you use it?

10 A Once it's in the spray bottle, you spray it in a mist
11 pattern over where you believe there's suspected blood.

12 Q What does it look like when you spray it?

13 A It is a clear fluid, and the only time, like I was
14 explaining, is when it reacts to the suspected blood and
15 turns violet.

16 Q So if it doesn't react to anything, what does it look
17 like?

18 A It's still just clear fluid.

19 Q So did you follow all of the procedures that are in
20 place, and did you utilize all the training that you've
21 been given for this substance on January the 25th of 2014
22 -- I'm sorry -- 2015?

23 A Yes, sir.

24 Q Okay. Well, let me ask you then about the results of
25 your spraying of that substance. Tell the jury where you

1 sprayed it and what you found when you started spraying
2 the substance in the house.

3 A Yes, sir. I did spray it on the kitchen floor as
4 well as the dining room floor and the dining room table.
5 I did see positive results.

6 MR. ADDUCCI: Your Honor, I'm going to object to the
7 conclusion with my previous objections to the specific
8 scientific test and if it's been done correctly.

9 THE COURT: Okay. And I will overrule. Your
10 objection is noted.

11 MR. ADDUCCI: And sustain for the -- have him
12 continue.

13 THE COURT: Yeah. That's fine.

14 BY MR. MOYER:

15 Q I'm sorry. Would you tell the jury, again, what
16 particular areas you sprayed and what were the results
17 that you found?

18 A I did spray on the kitchen floor as well as the
19 dining room floor and the dining room table, and I
20 observed positive results on those surfaces.

21 Q Okay. Was there anywhere outside of the kitchen that
22 you sprayed that you found anything?

23 A Yes. Leaving the kitchen going into the living room
24 there is a wall. Basically, it's an open doorway going
25 from the living room into the foyer. One of the

1 investigators had observed suspected blood on the wall. I
2 did spray LCV on that wall and did get a positive result.
3 I was requested to spray in the hallway bathroom as well
4 around the sink area. I did get positive results on
5 there, too.

6 Q Okay. Now, did you take photographs of those areas
7 that showed positive results?

8 A Yes, sir.

9 (Pause in proceedings.)

10 MR. MOYER: Your Honor, at this time, the State would
11 move to enter into evidence State's Exhibit Numbers 36
12 through 38, 24 through 29, 33 through 35 and State's
13 Exhibit 50.

14 MR. ADDUCCI: Those are without objection, Your
15 Honor.

16 THE COURT: I guess except for your objection to the
17 -- as previously noted, the photo -- yeah.

18 MR. ADDUCCI: Yes. And then this is what we're
19 getting to.

20 THE COURT: Okay. I've got you.

21 MR. MOYER: And these are the ones that I believe are
22 objected to based on his previous objection.

23 THE COURT: Okay.

24 MR. MOYER: And, Your Honor, these are State's
25 Exhibits 39 ---

1 THE COURT: So the previous crowd is in without
2 objection, and these are with your objection based on --
3 as previously noted.

4 MR. ADDUCCI: Correct.

5 THE COURT: All right. Okay.

6 (WHEREUPON, State's Exhibit Numbers 24 through 29, 33
7 through 38 and 50 were admitted into evidence.)

8 MR. MOYER: That's 39 through 46, 55 through 57, 47
9 through 50, 51 through 54 and 30 through 32. The State
10 would move to have both sets of those photographs entered
11 into evidence.

12 THE COURT: All right. The second crowd that he's
13 not consenting to, I guess you have to lay a foundation on
14 those.

15 MR. MOYER: Although I don't think his objection is
16 based on the foundation. I think it's based on the
17 admissibility of the previous evidence; is that correct?

18 MR. ADDUCCI: The blue ---

19 THE COURT: Right.

20 MR. ADDUCCI: -- and then any indication as to what
21 that is.

22 THE COURT: Right. I guess then they will be allowed
23 in subject to your objection. All right.

24 MR. ADDUCCI: Thank you.

25 MR. MOYER: Thank you, Your Honor.

1 (WHEREUPON, State's Exhibit Numbers 30 through 32, 39.
2 through 57 were admitted into evidence.)

3 BY MR. MOYER:

4 Q Once again, I'm going to ask you to step down.

5 THE COURT: And this witness was the one that took
6 these; is that correct?

7 THE WITNESS: That's correct.

8 MR. MOYER: That's what he testified.

9 THE COURT: Okay.

10 BY MR. MOYER:

11 Q I'm going to hand you the laser pointer. Using that
12 button there, I'm going to ask you to point out areas that
13 you have already testified to that we're going to have to
14 show to the jury.

15 So we're going to start off with State's Exhibit
16 Number 24. Can you tell the jury what it is we see in
17 that photograph?

18 A Yes. This is the interior of the kitchen window
19 where the kitchen sink is at.

20 Q Okay. And you mentioned there being some suspected
21 blood in that area. Can you point out where that was?

22 A Yes, sir. Suspected blood was observed right here on
23 the handle of this wooden spatula. Suspected blood was
24 observed on the bottom of these blinds. Suspected blood
25 was observed right here underneath the sink and right here

1 (indicating throughout).

2 Q This is State's Exhibit 26.

3 A Yes, sir. Right there you can see suspected blood
4 underneath the sink, and right there as well (indicating
5 throughout).

6 Q And you took close-ups of those areas as well, didn't
7 you?

8 A Yes, sir. I did.

9 Q That's State's Exhibit 27?

10 A Yes, sir.

11 Q And that's State's Exhibit 28.

12 A Yes, sir.

13 Q Okay. Can you, again, point out where that ---

14 A Right here (indicating).

15 Q Okay. And that's State's Exhibit 29. Can you tell
16 us where it was in that picture?

17 A Yes, sir. That's the suspected blood observed on the
18 wooden spatula that was in the sink.

19 Q State's Exhibit 25, what is shown in that photograph?

20 A This is looking from the kitchen sink, the kitchen
21 floor and the dining room floor.

22 Q Okay. So that's from the perspective of where the
23 sink is?

24 A Yes, sir.

25 Q That's looking back towards the -- towards the

1 kitchen?

2 A Yes, sir.

3 Q Can you see in that photograph the blanket that you
4 talked about as having some blood?

5 A Yes, sir right here (indicating) is the quilted
6 blanket.

7 Q State's Exhibit 36, what is shown in that photograph?

8 A That same blanket.

9 Q Okay. And can you see where the particular stain was
10 that you talked about?

11 A Yes, sir. Right here (indicating) is the suspected
12 blood.

13 Q State's Exhibit 37.

14 A Yes, sir. This is a close-up of the suspected blood
15 on the blanket.

16 Q Okay. And then State's Exhibit 11 [sic], is that
17 just a placard you put where it was?

18 A Yes, sir. That was a placard. Yes, sir.

19 Q Okay. Let's move to State's Exhibit Number 33. Can
20 you tell the jury what it is that is shown in that
21 photograph?

22 A Yes, sir. Right here (indicating) was where the
23 hammer was observed that had suspected blood on it, and
24 that's on the dining room floor area.

25 Q State's Exhibit 34.

1 A Yes, sir. That's the same hammer.

2 Q And 35.

3 A Yes, sir. Close-up of the suspected blood you can
4 see on the hammer and on both ends.

5 Q And you're able to see the suspected blood on that
6 hammer?

7 A Yes, sir.

8 Q I'm just going to ask you to refer now to the diagram
9 that we have been using of that house. And just to make
10 sure we're on the same page, can you show the jury where
11 that sink is on the diagram?

12 A Yes, sir. Right here (indicating) is the kitchen
13 sink and the kitchen window.

14 Q Okay. And where was the table and that blanket?

15 A The table and blanket were right here (indicating) in
16 this dining area.

17 Q And where was the hammer?

18 A The hammer was right here (indicating) in the dining
19 area near the open doorway.

20 Q Okay. Now we're going to move on to the other
21 photographs that you mentioned that you took of those
22 areas where you sprayed the chemical. Actually, before I
23 do that, tell the jury what is State's Exhibit Number 50.

24 A This is looking from the dining room table towards
25 the living room and the open doorway.

1 Q Okay. Let's move on to State's Exhibit Number 30,
2 and tell the jury what we see in that picture.

3 A This is the edge of the dining room table where LCV
4 was sprayed on suspected blood, and that was the positive
5 result that was viewed and photographed. And you still
6 see some of the clear fluid around the suspected blood.

7 Q Okay. So that bluish grayish color, that's the
8 activation of that chemical on the suspected blood?

9 A Yes, sir.

10 Q Now, using State's Exhibit 31, can you show where
11 that area of the table was?

12 A Yes, sir. It was near where the quilted blanket was
13 right there (indicating) on that corner.

14 Q And once again, using State's Exhibit 32.

15 A Yes, sir. Right there (indicating) in that area.

16 Q Okay. We're going to move on to State's Exhibit
17 Number 47. Can you tell the jury what it is that is shown
18 in that photograph?

19 A Yes, sir. Shown in this photograph is the rag that I
20 collected that we sprayed LCV on and came back with a
21 positive reaction. This (indicating) is the trash can
22 where the rag was located.

23 Q Okay. And so what about that rag caused you to pull
24 it out and take photographs of it and examine it?

25 A Investigators advised that the rag was still damp.

1 Q Did you observe that as well?

2 A Yes, sir.

3 Q State's Exhibit 48, does that show the rag closer up?

4 A Yes, sir. With the positive reaction.

5 Q State's Exhibit 49.

6 A Same rag.

7 Q And State's Exhibit 50?

8 A Yes, sir. Same rag.

9 Q Okay. We're going to move on now to State's
10 Exhibit 42. And what are we going to start seeing in this
11 series of photographs?

12 A Yes, sir. In this photograph, LCV has been sprayed
13 on the kitchen floor, and you can see along the edges
14 where we got positive results.

15 Q State's Exhibit 43, is that a close-up of that area?

16 A Yes, sir. Right there (indicating).

17 Q State's Exhibit 44.

18 A Yes, sir. That's the area under the quilted blanket
19 on the floor.

20 Q Okay. So that's the area over by -- so the table
21 would be sort of on the right-hand side of that?

22 A Yes. Dining room table would be right here
23 (indicating).

24 Q And that's the quilt that you mentioned having the
25 pool of blood on it?

1 A Yes, sir. Suspected blood on it. Yes, sir.

2 Q Okay. State's Exhibit 45.

3 A Yes, sir. It's a close-up of that area.

4 Q And 46.

5 A Yes, sir.

6 Q Can you point out the activation, the blue
7 activation?

8 A Yes, sir. Right there (indicating).

9 Q Okay. Now State's Exhibit 39, can you tell the jury
10 what we see in that picture?

11 A Yes, sir. You see some of the positive reaction
12 right there.

13 Q Is that the trash can to the top of ---

14 A Yes, sir. That is the trash can right there
15 (indicating).

16 Q Where that rag was taken out of?

17 A Yes, sir.

18 Q State's Exhibit 40.

19 A Yes, sir. A close-up, yes, sir. The same reaction.

20 Q And then State's Exhibit 41, and is that also a
21 picture of the floor with some ---

22 A Yes, sir. And reaction right there (indicating).

23 Q Okay. And we'll move on to State's Exhibit 51. What
24 is shown in this photograph?

25 A The hallway bathroom.

1 Q Okay. And then we move on to State's Exhibit 52. Is
2 that the hallway?

3 A Yes, sir.

4 Q And do you recall which door it was that led to that
5 bathroom?

6 A This (indicating) one on the left, sir.

7 Q Now we're going to quickly refer to the diagram. Let
8 me ask you, if you would, point out on the diagram where
9 that area was.

10 A Right here (indicating) photographed from this area
11 of the hallway from the -- coming from the foyer into the
12 room.

13 Q Okay. And what areas did you spray in the bathroom?

14 A In the sink and outside of the sink area.

15 Q State's Exhibit 53.

16 Let me show you a close-up of State's Exhibit 54.
17 Can you point out any areas?

18 A Yes, sir. You can see in this (indicating) area
19 right here a positive reaction.

20 Q Okay. State's Exhibit 55, what do we see in that
21 photograph?

22 A Photographing from the front door area of the foyer,
23 going into the living room, that wall right there
24 (indicating) you see where we sprayed and got a positive
25 reaction.

1 Q So the room to the right there is the living room?

2 A Yes, sir. It is.

3 Q Okay. Maybe be instructive to put -- use the diagram
4 again. Can you show the jury where that particular wall
5 is that you're referring to?

6 A Yes, sir. It's going to be this wall right here
7 (indicating).

8 Q Sort of goes back to the back hallway?

9 A Yes, sir.

10 Q Again, what is the area that you sprayed?

11 A We sprayed on this (indicating) area right here when
12 the investigators observed suspected blood on the wall.

13 Q State's Exhibit 56.

14 A Yes, sir. Same wall, and that's the positive
15 reaction.

16 Q And then State's Exhibit 57.

17 A Yes, sir. That is a close-up of the same reaction.

18 Q Okay. You can have a seat again. Thank you.

19 Did you collect the hammer that you were talking
20 about?

21 A Yes, sir.

22 (WHEREUPON, State's Exhibit Number 81 was marked for
23 identification.)

24 BY MR. MOYER:

25 Q I'm going to show you State's Exhibit 81. I'm going

1 to ask you to open the contents of that. It's not in
2 evidence yet so hold it down below the bar. Just open it
3 and take a look inside and see if you can recognize and
4 identify what I just handed you. If you need to open the
5 other packaging, you can do so as well.

6 A (Witness complies) Yes, sir. So this is the bag I
7 did package the hammer in. It has my barcode label on
8 there.

9 Q Okay. So that is the bag that has the hammer in
10 it?

11 A Yes, sir.

12 Q Can you tell by just touching it that that is the
13 hammer by feeling it through the bag or do you need to
14 take a look at it?

15 A No. I can feel the head of the hammer.

16 MR. MOYER: I move to have State's Exhibit 81 into
17 evidence.

18 THE COURT: Any objection?

19 MR. ADDUCCI: No, Your Honor.

20 THE COURT: All right. In without objection.

21 (WHEREUPON, State's Exhibit Number 81 was admitted into
22 evidence.)

23 BY MR. MOYER:

24 Q If you would, just open that packaging and show the
25 jury what State's Exhibit 81 is.

1 A (Witness complies) Yes, sir. That is the hammer, and
2 this still has suspected blood on the -- on both heads of
3 it.

4 Q Okay. Thank you.

5 All right. Now, you mentioned you also collected the
6 cell phone that you took a picture of that the defendant
7 had been in possession of.

8 A The one in the front yard. Yes, sir.

9 Q The one in the front yard.

10 (WHEREUPON, State's Exhibit Number 82 was marked for
11 identification.)

12 BY MR. MOYER:

13 Q Let me show you State's Exhibit 82. Can you take a
14 look at that and see if that is, indeed, the cell phone
15 that you collected from 106 Stonegate?

16 A (Reviews exhibit) Yes, sir.

17 MR. MOYER: I move to have State's Exhibit 82 entered
18 into evidence.

19 THE COURT: Any objection?

20 MR. ADDUCCI: Your Honor, to the physical phone, no.
21 To the contents, we do have a pending motion.

22 THE COURT: Okay. In with that note of that
23 objection.

24 (WHEREUPON, State's Exhibit Number 82 was admitted into
25 evidence.)

1 BY MR. MOYER:

2 Q Now I'm just going to ask you about a few other
3 items. That washcloth that you took the picture of or
4 whatever that was, that blue cloth that came out of the
5 trash can?

6 A Yes, sir.

7 Q Did you collect that and turn it in to Property and
8 Evidence?

9 A Yes, sir. I did.

10 Q And that was for future testing?

11 A Yes, sir.

12 Q To be done by the labs?

13 A Yes, sir.

14 Q The quilt that had the pool of blood on it that we
15 just looked at photographs of, did you collect that as
16 well?

17 A Yes, sir. I did.

18 Q Did you also collect a swab from that quilt ---

19 A Yes, sir.

20 Q --- for testing? Okay.

21 Did you take a swab from that hammer itself also for
22 testing?

23 A Yes, sir. I did.

24 Q Would that be for DNA testing?

25 A Yes, sir.

1 Q Did you package that swab separately after you ---

2 A Yes, sir.

3 Q Now, when you take a swab from a hammer or an
4 implement like a hammer, how do you do that?

5 A The process?

6 Q Yes.

7 A Yes, sir. I would have put distilled water on the
8 tip of the swab, and the swabs are actually sealed in a
9 container. And then, yes, it is packaged separately from
10 that item.

11 Q Okay. And so both the swab and the hammer, then, you
12 collected as evidence to be preserved for later testing?

13 A Yes, sir.

14 Q Now, did you collect clothing from an officer?

15 A Yes, sir.

16 Q And that was the clothing -- what officer, and what
17 was the description of that clothing?

18 A Yes, sir. I collected clothing from Investigator
19 Williams, and the clothing he handed over was a black in
20 color Merona brand underwear, that was size extra large, a
21 tan in color size large Converse One Star pants, and a
22 black in color T-shirt. And I guess, I don't know if it
23 was the brand or there was a label on it said Green Tea.

24 Q Green Tea, T-E-A, right?

25 A Yes.

1 Q Okay. And that was all purportedly brought back from
2 the hospital belonging to Jane Hughes?

3 A Yes, sir. As advised by Investigator Williams.

4 Q Okay. Did you take any swabs of the suspected blood
5 from the kitchen blinds that you talked about?

6 A Yes, sir. I did.

7 Q And you did it the same way you described earlier?

8 A Yes, sir.

9 Q Okay. And the cartridge casings are already in
10 evidence. The pistol is already in evidence that was
11 collected.

12 A Yes.

13 Q You collected the pistol?

14 A Yes, sir. From Patrolman Randolph.

15 Q From Randolph?

16 A Yes, sir.

17 Q Now, all these items of evidence that we just talked
18 about here, what did you end up doing with all of that
19 evidence?

20 A After they were collected, I transported on another
21 day to Property and Evidence where they were put into a
22 secure temporary locker.

23 Q Okay. And tell us about this Property and Evidence
24 location. Is it a secure location?

25 A It is at the Law Enforcement Center.

1 Q And did you take it yourself to that Property and
2 Evidence room?

3 A Yes, sir.

4 Q And did you turn it over to anybody or put it in
5 any ---

6 A No, sir. It was after hours when the employees were
7 not there, so we had to secure them in a temporary locking
8 system.

9 Q Okay. And when you secure it in the system, is it
10 locked?

11 A It is locked, and you cannot access it. Only the
12 personnel.

13 Q So the only people who would have access to the area
14 that you put the evidence in would be the evidence
15 officers who work at that location?

16 A Yes, sir.

17 Q Now, from the time you collected that evidence on the
18 25th until you put it into the Property and Evidence
19 secured locker, what did you do with the evidence during
20 that interim?

21 A It is kept in our secure evidence lockers in our
22 office.

23 Q Okay. And so who all would have access to the
24 evidence when it's in your office?

25 A When it's in my secured evidence locker, only I have

1 the key to it.

2 Q Okay. So you would be the only person that could get
3 into it?

4 A Yes, sir.

5 Q And it was under lock and key that whole time?

6 A Yes, sir.

7)MR. MOYER: Okay. Please answer any questions
8 defense may have.

9 THE COURT: Cross-examination?

10 MR. ADDUCCI: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. ADDUCCI:

13 Q All right. Mr. Parker, you indicated that you were
14 working as a forensic examiner. When did you start
15 working as a forensic examiner?

16 A You mean forensics officer?

17 Q Forensic officer, yes. I'm sorry.

18 A I started in May of 2013.

19 Q All right. And your job on the scene that day was to
20 collect and document evidence, right?

21 A Yes, sir.

22 Q So you would be sort of one single point of contact
23 who collects things and documents things, right?

24 A Yes, sir.

25 Q And you brought your digital camera with you?

1 A Yes, sir.

2 Q Now, what you're looking for is kind of checking out
3 the scene itself and the physical space, right?

4 A Well, yes.

5 Q And also taking measurements?

6 A Yes, sir.

7 Q And you took a couple of measurements that day,
8 didn't you?

9 A Yes, sir.

10 Q Now, did you take any measurements from the shell
11 casings that you found out in the yard to Mr. Ferrell?

12 A No, sir.

13 Q Okay. Could you estimate how far the shell casings
14 were from Mr. Ferrell?

15 A No, sir. I cannot recall.

16 Q Okay. But your job basically is to collect evidence,
17 document that evidence, and turn it in to the evidence
18 locker, right?

19 A Yes, sir.

20 Q So things that you're looking for are like in a
21 burglary, you're looking for point of entry, right?

22 A Yes, sir.

23 Q Also looking for any items that could be related to
24 the crime, right, like shell casings? weapons? a crowbar?
25 a knife? Something like that?

1 A Yes, sir. Items that have evidentiary value.

2 Q You're also looking for red or brown stains that
3 could be potential blood, correct?

4 A Yes, sir. Suspected blood.

5 Q And you're looking for that blood because you can
6 test it for DNA, right?

7 A Yes, sir.

8 Q And you're trained in collecting DNA.

9 A Yes, sir. In collection, yes.

10 Q Okay. And DNA you can get from a number of sources,
11 right? You can get it from blood.

12 A Yes, sir.

13 Q You can get it from saliva.

14 A Yes, sir.

15 Q Any number of bodily fluids, right?

16 A Yes, sir.

17 Q You can also get touch DNA, right?

18 A Yes.

19 Q So if I run my hand across this table, I could have
20 skin cells fall off, and you could swab that and test it
21 and see my DNA, right?

22 A Yes, sir.

23 Q And depending on the surface and how aggressively you
24 touch it, that's dependent on whether you're likely to
25 have that touch DNA, correct?

1 A Yes, sir.

2 Q Okay. Now, also when you're looking at a scene,
3 you're looking to see if there might be any items that are
4 out of place, correct?

5 A Yes, sir.

6 Q All right. Let's look at a couple of photos that you
7 took.

8 MR. MOYER: I have no objection to these four
9 exhibits he's about to enter.

10 (WHEREUPON, Defendant's Exhibit Number 15 was marked for
11 identification.)

12 BY MR. ADDUCCI:

13 Q I'm going to show you a couple of photographs.

14 THE COURT: What are the numbers?

15 MR. ADDUCCI: This is first Defendant's Number 7.

16 THE COURT: What are all of them since we're going to
17 put them ---

18 MR. ADDUCCI: 7, 8 and 15.

19 THE COURT: 7, 8 and 15 are in without objection.

20 (WHEREUPON, Defendant's Exhibit Numbers 7, 8 and 15 were
21 admitted into evidence.)

22 MR. ADDUCCI: Thank you.

23 BY MR. ADDUCCI:

24 Q First, Number 7, could you please explain where you
25 were standing when you took that photograph.

1 A It appears to be from the carport.

2 Q From the carport?

3 A Yes, sir.

4 Q Towards the street, correct?

5 A Yes, sir. Down the driveway.

6 Q Okay. Let me show you Defense Number 8.

7 A Yes, sir.

8 Q And could you please explain your perspective on
9 that.

10 A This is a picture of the driveway looking towards the
11 residence.

12 Q Okay. And then Number 15 as well, would you please
13 explain your perspective.

14 A Yes, sir. From the front of the residence towards
15 the victim's vehicle.

16 Q Okay. Now, all of these photographs were taken with
17 the aid of a flash, correct?

18 A Yes, sir.

19 Q Because without that flash, you couldn't get anything
20 on a photograph, right?

21 A Correct.

22 Q Because of the darkness?

23 A Yes, sir.

24 Q Okay. Now let me draw your attention to State's
25 Exhibit Number 77. Is that another photograph you took

1 the evening that you responded to this incident?

2 A Yes, sir.

3 Q Okay. And that shows a fan from the window?

4 A Yes, sir.

5 Q Also the can opener?

6 A Yes, sir.

7 Q Okay. And among the leaves right there, there is a
8 pretty substantial amount of suspected blood, correct?

9 A Yes, sir.

10 Q And you took note of that, correct?

11 A Yes, sir.

12 Q And you took photographs of the can opener and noted
13 that you saw suspected blood on it, correct?

14 A Not on the can opener. That was just shown to me
15 yesterday.

16 Q Okay. But you did take note of the fan in this
17 photograph, correct?

18 A Yes, sir.

19 Q And from your previous testimony today, you indicated
20 that you did not see any blood on that fan, correct?

21 A No, sir.

22 Q Had you seen blood, you would have documented it and
23 taken photographs of it, correct?

24 A Yes, sir. And probably collected the fan.

25 Q And probably collected the fan. Did you collect the

1 fan?

2 A No, sir.

3 Q Because it was of zero evidentiary value to you?

4 A Yes, sir. It was photoed and documented.

5 Q Okay. All right. Additional items that you
6 collected outside, you did collect the Glock 21, correct?

7 A Yes, sir.

8 Q And in that gun, there was a cartridge -- there was a
9 magazine with seven cartridges; is that correct?

10 A Yes, sir.

11 Q Okay. Also swabbed that gun for DNA?

12 A Yes, sir.

13 Q Okay. You also took a gunshot residue kit of
14 Mr. Ferrell, correct?

15 A Yes, sir.

16 Q In order to do a gunshot residue kit, you have to
17 basically rub something on their hands, right?

18 A It's dabbers. You just dab their hand.

19 Q What is a dabber? Can you explain what it looks
20 like?

21 A Yes, sir. It's just a little cylindrical -- it's
22 like a little cylindrical tube, but the dabber itself is
23 like just a little sticky point on the end. And
24 basically, it will just adhere and pick up any particles
25 from their hands.

1 Q Okay. So you had to be physically touching him in
2 order to do that?

3 A Yes, sir.

4 Q Okay. And you noticed what he was wearing?

5 A I do not recall, sir.

6 Q Did you note any blood on his clothing?

7 A No, sir.

8 Q If you had seen blood, you would have noted that,
9 would you have not?

10 A Yes, sir.

11 Q And you probably would have taken photographs of
12 that, correct?

13 A Yes, sir.

14 Q So it's safe to say you didn't see any blood on
15 Mr. Hughes that evening, right?

16 A No, sir.

17 Q Okay. You also received three items of clothing that
18 were Jane's clothing, correct?

19 A Yes, sir.

20 Q And you packaged that up and sent it off for further
21 testing?

22 A Yes, sir.

23 Q Now, when you were in the interior of the house, you
24 took a photograph over the kitchen sink.

25 A Yes, sir.

1 Q This is State's Exhibit Number 26. Is that the
2 photograph that you took?

3 A Yes, sir. It is.

4 Q And you note that there is a kitchen sink there.

5 A Yes, sir.

6 Q And there is a faucet.

7 A Yes, sir.

8 Q And that faucet is not broken, correct?

9 A No, sir.

10 Q Because you would have noted that.

11 A Yes, sir.

12 MR. ADDUCCI: All right. The Court's indulgence.

13 BY MR. ADDUCCI:

14 Q You also took photographs of the kitchen table,
15 correct?

16 A Yes, sir. The dining table, yes.

17 Q And it was standing and intact, correct?

18 A Yes, sir. It was.

19 Q Now, did you measure the distance from the air
20 conditioning compressor, the one that's attached to the
21 house, to the window?

22 A No, sir. Because it was off to the left.

23 Q Okay. Now let's talk about this LCV stuff, okay?
24 Could you please explain what LCV is.

25 A As in what's in it?

1 Q Yeah. What is in it?

2 A No, sir. I wouldn't be able to explain the chemicals
3 in it.

4 Q Okay. Now, you indicated that it gets mixed,
5 correct?

6 A Yes, sir.

7 Q How many parts are in this mixture that you make?

8 A I believe four.

9 Q Okay. Do you know what those four parts are?

10 A No, sir.

11 Q Okay. Because you don't know how to mix the LCV?

12 A No, sir.

13 Q Do you understand the chemical properties of LCV and
14 how it works?

15 A No, sir. I just know the reaction.

16 Q Okay. So basically, somebody told you if it turns
17 blue, it's suspected blood, correct?

18 A That would be the positive reaction to look for, the
19 indicator.

20 Q Okay. And you have called this a presumptive test,
21 correct?

22 A Yes, sir.

23 Q And the reason why it's called a presumptive test is
24 because it can have false positives; isn't that correct?

25 A Yes, sir.

1 Q And as a forensic examiner, you know that later on
2 you're supposed to do a confirmatory test when you just
3 have a presumptive test, correct?

4 A DNA lab will do the confirmatory test.

5 Q Okay. But the reason why you do a confirmatory test
6 is because of the unreliability of the presumptive test,
7 correct?

8 A Yes, sir.

9 Q Okay. Now, you indicated that this was in a spray
10 bottle, right?

11 A Yes, sir.

12 Q That is kept in a refrigerator ---

13 A Yes, sir.

14 Q --- correct?

15 What date was this spray bottle mixed?

16 A I could not recall, sir.

17 Q Okay. You also mentioned that LCV has an expiration,
18 correct?

19 A Yes, sir. It does.

20 Q And in order to determine if something is expired,
21 you need to know when it was mixed, correct?

22 A Yes, sir.

23 Q And how long before after LCV is mixed does it
24 expire?

25 A You're looking probably at about four months.

1 Q Okay. However, previously, just yesterday you
2 testified it was nine months, right?

3 A Yes, sir.

4 Q Now, so up until yesterday, you were working under
5 the assumption that LCV is good for nine months, right?

6 A Yes, sir. Mixed.

7 Q So if you would have seen a bottle that had a created
8 date that was, say, six months old, that would not have
9 raised your hackles.

10 A The what?

11 Q It would not have raised any suspicions on you,
12 right?

13 A If we saw it as past expired, yeah, we would not use
14 it.

15 Q Right. But you thought that expired was nine months
16 up until yesterday, correct?

17 A Yes, sir. Just going off of researching.

18 Q Okay. So had you seen a bottle of LCV that was, say,
19 six or seven months old, up until yesterday, you would
20 have thought that's okay, right?

21 A Yes, sir.

22 Q Okay. And you indicated that when an LCV bottle has
23 expired, the reason that you know it is not expired is
24 because it would have been thrown away, right?

25 A Yes, sir. It would have been disposed of.

1 Q But you didn't know what the actual expiration date
2 would be, correct?

3 A I could not recall back then.

4 Q So you didn't know when this LCV was actually
5 formulated, right?

6 A Yes, sir.

7 Q So -- and additionally, even if you knew the date,
8 you would not know what the actual expiration was because
9 you were under a false impression up until yesterday,
10 correct?

11 A Yes, sir.

12 Q Okay. And these procedures for scientific tests that
13 you use, they are there to ensure their reliability,
14 right?

15 A Yes, sir.

16 Q Because, again, you could get false positives,
17 correct?

18 A Yes, sir.

19 Q You could get false negatives additionally, right?

20 A Yes, sir.

21 Q It's just an unreliable test if you don't do it
22 correctly?

23 A Yes, sir.

24 Q Now, with this LCV, assume that it's used correctly,
25 it can detect blood that had been there for quite some

1 time, correct?

2 A Yes, sir.

3 Q Because it's actually used in cold cases, right?

4 A Yes, sir.

5 Q So some blood that had been there for days, weeks,
6 months, years could actually respond for a positive to
7 LCV, correct?

8 A Yes, sir.

9 Q Okay. Did you take any DNA swabs off of the floor of
10 the kitchen?

11 A No, sir.

12 Q Did you take any DNA swabs off of the wall with that
13 blue mark on it?

14 A No, sir.

15 Q Did you take any DNA swabs off of the blue in the
16 bathroom?

17 A No, sir.

18 Q The only DNA swabs you took, if I recall correctly,
19 are off of the blind, correct?

20 A Yes, sir.

21 Q The hammer?

22 A Uh-huh.

23 Q And the quilt, correct?

24 A Yes, sir.

25 MR. ADDUCCI: The Court's indulgence, Your Honor.

1 Nothing further from this witness.

2 THE COURT: Any redirect?

3 MR. MOYER: Just real briefly.

4 REDIRECT EXAMINATION

5 BY MR. MOYER:

6 Q That LCV supply, and you mentioned this, is monitored
7 by the other officers and supervisors who work for
8 forensics; is that correct?

9 A Yes, sir. It is checked by the supervisors.

10 Q Okay. So if anything had been expired, they would
11 have ---

12 MR. ADDUCCI: Objection. Calls for speculation.

13 THE COURT: Sustained.

14 THE WITNESS: Yes, sir. And we would not have gotten
15 any ---

16 MR. ADDUCCI: Objection, Your Honor.

17 THE COURT: I've sustained it, so . . .

18 MR. MOYER: Let me rephrase the question.

19 BY MR. MOYER:

20 Q So it is monitored, the supply and the dates and all
21 that is monitored by your supervisor; is that right?

22 A Yes, sir.

23 Q So if the chemical had been expired ---

24 MR. ADDUCCI: Objection, Your Honor. Calls for
25 speculation.

1 MR. MOYER: This is a follow-up on ---

2 THE COURT: Let him ask him what he's asking first.

3 BY MR. MOYER:

4 Q So if the chemicals had expired, what would happen if
5 you sprayed?

6 A They would not work at all. You would not see any
7 reaction.

8 Q Okay. So the fact that you had a reaction, does that
9 indicate to you that it was working?

10 A Yes, sir.

11 MR. MOYER: Okay. Nothing further.

12 THE COURT: All right. You may step down.

13 Let's take a break here. All right. Don't discuss
14 your case, and we'll bring you right back out in just a
15 few minutes.

16 (WHEREUPON, the jury exits the courtroom at 3:59 p.m.)

17 THE COURT: All right. We'll be at ease for ten
18 minutes.

19 (WHEREUPON, a recess is taken at 3:59 p.m.)

20 (WHEREUPON, proceedings reconvened at 4:13 p.m.)

21 THE COURT: All right. Ready for the jury?

22 MR. MOYER: We are Your Honor.

23 MR. ADDUCCI: Yes, Your Honor.

24 THE COURT: All right. Bring them on.

25 (WHEREUPON, the jury entered the courtroom at 4:15 p.m.)

1 THE COURT: All right. Ladies and gentlemen, the
2 State will call their next witness. And we're shooting
3 for right about 5:00 to finish.

4 MR. MOYER: The State calls Tim Nafziger.

5 THE CLERK: Mr. Nafziger, if you'll just place your
6 left hand on the Bible and raise your right hand.

7 WHEREUPON,

8 TIMOTHY NAFZIGER

9 After having been duly sworn, testified as follows:

10 THE CLERK: Please be seated. State your name for
11 the record.

12 THE WITNESS: Timothy David Nafziger, Junior.

13 DIRECT EXAMINATION

14 BY MR. MOYER:

15 Q Okay. Where do you work, sir?

16 A I work at the Greenville County Department of Public
17 Safety in the DNA lab.

18 Q What is your position?

19 A I'm a serologist.

20 Q Okay. Before we talk about what a serologist is and
21 what serology is, would you tell the jury about your
22 education starting with college?

23 A I have a bachelor's degree in biological sciences
24 from Clemson and a master's degree in entomology from
25 Auburn University.

1 Q Okay. And tell us now what a serologist does, and, I
2 guess, maybe start out with what serology is.

3 A Serology is the identification of human bodily fluids
4 on evidence in this case, and so that's a large part of my
5 job is receiving and examining and screening evidence for
6 bodily fluids that may contain DNA.

7 Q So you don't do the actual DNA testing then, do you?

8 A That's right. I don't do DNA testing.

9 Q Okay. And so you're sort of an intermediary stop on
10 the way to the DNA testing?

11 A Yes. I screen evidence and take samples that then
12 get taken by another DNA analyst to work.

13 Q How long have you worked in the DNA lab?

14 A About four and a half years.

15 Q Did you have any employment prior to that?

16 A I've taught -- I taught as an adjunct professor at
17 Greenville Tech and Piedmont Tech, some other part-time
18 teaching.

19 Q Okay. And in addition to the education that you just
20 talked about, have you had any other training for this
21 position?

22 A I was trained for about five months by the DNA
23 technical leader when I was first hired in the specific
24 roles of this job, and I do -- I do an annual proficiency
25 test as well every year.

1 Q Now, have you testified and been qualified as an
2 expert in serology prior to today?

3 A Yes, I have.

4 Q Okay. And how many times?

5 A I think seven, about seven.

6 MR. MOYER: Your Honor, at this time, I would move to
7 have Tim Nafziger qualified as an expert in forensic
8 serology.

9 THE COURT: Any objection?

10 MR. ADDUCCI: No, Your Honor.

11 THE COURT: All right. He's so qualified.

12 BY MR. MOYER:

13 Q All right. Now let me bring your attention to this
14 case that we're talking about here today. Did you handle
15 some evidence in this case?

16 A I did.

17 Q And when did that evidence come into your possession?

18 A I picked it up from the Property and Evidence
19 department on July 15, 2015.

20 Q Okay. So you picked it up yourself from the Property
21 and Evidence room; is that right?

22 A I did.

23 Q And when you picked it up, what did you do with it?

24 A I brought it to the DNA lab.

25 Q Okay. And how many pieces of evidence? How many

1 different pieces of evidence were in your custody during
2 that time?

3 A 20. 20 items.

4 Q And when did you take action on that evidence?

5 A Let me look at my notes. The week of July 22, 2015.

6 Q So it was within a week of when you picked it up?

7 A Approximately.

8 Q And before we go into each particular item that you
9 had, what, in general, was it that you were requested to
10 do with this evidence when it was in your possession?

11 A Well, it depended on what items they were.

12 Q Okay.

13 A I reviewed the case and looked at the evidence to see
14 what needs to be done with it. I mean, we can go into
15 each item ---

16 Q Okay.

17 A --- but there were different things I needed to do on
18 different items.

19 Q Depending on which item it was. Okay. Well, let's
20 start off with Item Number 1, which you described as a
21 swab of suspected blood from the kitchen window blinds.

22 A Uh-huh.

23 Q First off, would you tell us what observations you
24 made about that particular item?

25 A For the swab, I visually examined it. It had a

1 reddish-brown stain on it. I did a presumptive
2 examination with phenolphthalein which tested positive for
3 the presence of blood, and then I sampled the stain for
4 DNA analysis.

5 Q Okay. And tell the jury, what is phenolphthalein and
6 what are you looking for when you do a phenolphthalein
7 test?

8 A It's a chemical that basically will react with
9 hemoglobin in the blood and turns pink in the presence of
10 blood, usually.

11 Q Okay. And so then what do you mean when you say you
12 got a swab and sampled it for DNA analysis? What does
13 that mean?

14 A Well, I received just a swab, so when I take a
15 sample, I'm just cutting the cotton tip of the swab into a
16 small 2 millimeter plastic tube. Eventually I take that
17 tube, create a barcode label to track chain of custody on
18 it and seal it into a coin envelope and store it in our
19 DNA Freezer 1 in the lab for the DNA analyst to pick up
20 and work..

21 Q Okay. Let's move on now to Item Number 2 which was a
22 swab of suspected blood from the quilt, which is RP-11.
23 So would you tell us by your observations of that item and
24 what you did with it?

25 A The swab had a reddish-brown stain on it. Once

1 again, I did a presumptive examination with
2 phenolphthalein, and that was positive for the presence of
3 blood. And I sampled the swab for DNA analysis.

4 Q Okay. Now let's move on to Item 3 which is a swab of
5 suspected blood from a hammer.

6 A This swab also had a reddish-brown stain on the tip
7 of the swab. A presumptive examination with
8 phenolphthalein tested positive for the presence of blood,
9 and the stain was sampled for DNA analysis.

10 Q Okay. Item Number 4, what was Item Number 4?

11 A A hammer with black handle and suspected blood from
12 kitchen.

13 Q Okay. So this wasn't just a swab. This was the
14 actual hammer itself?

15 A In this case, it was the actual hammer.

16 Q Okay. So what did you do with that hammer when you
17 had it in the lab?

18 A We had been asked to swab the handle for DNA. Item 3
19 was a swab of suspected blood from the hammer, but the
20 handle had not been swabbed. So in this case, I didn't do
21 any -- I didn't look for any bodily fluids. I just
22 swabbed it for -- I swabbed the handle and sampled the
23 swab for DNA analysis.

24 Q Okay. And would you tell the jury how it is that you
25 go about swabbing an article like that?

1 A I take a sterile swab, use sterile water, I put a
2 couple drops of sterile water on the swab and then bring
3 some of the water out so it's a moist swab, and then I
4 swab using as much pressure as I can without breaking the
5 swab and swab whatever the item was, the handle of the
6 hammer in this case, with the idea being that it's pulling
7 whatever skin cells may have been left on the item.

8 Q Okay. And do you go over the whole handle or just
9 part of the handle? How do you do that?

10 A I do the whole handle in this case.

11 Q Okay. Move on to Item Number 5. And what was Item
12 Number 5?

13 A A blue hand towel with suspected blood from trash can
14 in kitchen.

15 Q Okay. And what were your observations about that,
16 and what did you do?

17 A So visual examination showed three stains, a faint
18 smeared brownish stain, a small reddish-brown stain, and a
19 large dark stain.

20 Q Okay. And what did you do with regards to those
21 stains?

22 A Each of those stains I tested with phenolphthalein
23 with negative results on each stain.

24 Q Okay. And did you sample the stains?

25 A I did sample the small reddish-brown stain.

1 Q Okay. Now let me ask you a little bit about you said
2 it was a negative for the phenolphthalein test. Based on
3 your education and training about the phenolphthalein
4 test, does that necessarily mean that it wasn't blood?

5 A Phenolphthalein is a presumptive test. It's reacting
6 with hemoglobin which is an enzyme in the blood, and if
7 something has altered the enzyme, it cannot react,
8 something can inhibit it. So it's not always -- it
9 doesn't always give a positive. It just depends on the
10 circumstances.

11 In the case of this towel, the stains are very faint,
12 and they looked like -- the towel looked like it may have
13 been washed. So in cases where I have any doubts about
14 whether or not the test was correct, I will go ahead and
15 take the stain because sometimes we can get DNA even if
16 there was -- even if the phenolphthalein test was
17 negative. I basically use the phenolphthalein test as a
18 screening tool, but it's not the total scope of my
19 observations.

20 Q So even though it was negative, you still decided to
21 check to see if there was DNA on it?

22 A That's right.

23 Q Do cleaning agents, could that have anything to do
24 with the phenolphthalein test?

25 A It's possible.

1 Q Okay. That it would just change the chemical nature
2 of the hemoglobin so it wouldn't react?

3 A Something that would alter the reaction between the
4 phenolphthalein and hemoglobin in some way, but I have no
5 -- I have no way of knowing what that may have been, if
6 anything.

7 Q Okay. Move on to Item Number 6. What was Item
8 Number 6?

9 A Tan Converse One Star pants with suspected blood
10 taken from Jane Hughes.

11 Q What were your observations of that, and what did you
12 do?

13 A Visual examination revealed several stains. Two
14 stains were tested. A dark stain on the middle right
15 sleeve -- let me just make sure I'm reading that -- I'm
16 sorry. Item 6. Large reddish-brown stain on and above
17 back right pocket of tan pants, and the largest of several
18 small smeared stains on middle back right leg of tan
19 pants. Both of these tested positive with
20 phenolphthalein.

21 Q Okay. Just make sure I understand this right, so you
22 actually had the pants themselves for this particular
23 item?

24 A That's right.

25 Q And you saw a stain, a large reddish-brown stain

1 above the back right pocket ---

2 A That's right.

3 Q --- is one. And then there were other stains on the
4 middle back of the right leg; is that right?

5 A That's right.

6 Q Did you do a phenolphthalein test?

7 A I did.

8 Q And what was the result of that?

9 A It was positive on both stains.

10 Q Okay. And then you got samples of those stains for
11 later DNA testing?

12 A Yes. I sampled both stains.

13 Q Okay. And what was Item Number 7?

14 A Dark gray Green Tea long-sleeve shirt with suspected
15 blood taken from Jane Hughes.

16 Q And what were your observations, and what did you do
17 with that?

18 A Visual examination revealed two stains. Both stains
19 were tested for DNA -- or tested with phenolphthalein, and
20 both tested positive, and both stains were sampled for DNA
21 analysis.

22 Q Okay. And did you note where the stains were on the
23 shirt?

24 A Yes. One was a dark stain on middle right sleeve of
25 dark gray shirt, and Stain 7-2 was large dark stain on

1 lower right hem of dark gray shirt.

2 Q Okay. And State's Exhibit Number 8?

3 A This was a swab from grip of Glock .45 caliber gun,
4 Serial Number ALD680. I did no serology on this. I just
5 sampled the swab for DNA analysis.

6 Q And I misspoke. It wasn't an exhibit number. That
7 was your item number.

8 A That was my item number, yes.

9 Q And Item Number 9, what was that and what did you do?

10 A This was a swab from trigger of Glock .45 caliber
11 gun, Serial Number ALD680. No serology was performed on
12 this item. The entire swab was sampled for DNA analysis.

13 Q Moving onto Item Number 10, what was that and what
14 did you do with that?

15 A This item was blue jeans, Authentics, size 40 waist,
16 30 length. Visual examination revealed five stains. They
17 were a reddish-brown stain on middle front left leg of
18 jeans, small reddish-brown stain on left leg of jeans,
19 reddish-brown stain on upper front right leg of jeans,
20 reddish-brown stains on seat area of jeans and
21 reddish-brown stains on back of right leg of jeans. Each
22 of those stains were tested with phenolphthalein with
23 positive results, and each of those stains were sampled
24 for DNA. Also, the inside and outside of the rear waist
25 was swabbed, and the entire swab sampled for DNA analysis.

1 Q Okay. Just to be clear, these were the blue jeans
2 belonging from the victim; is that right?

3 A I think so. I don't have that in my -- on my report.
4 But yes. I think that's right.

5 Q Now, does Item Number 11 -- what is Item Number 11?

6 A Plaid boxers from victim.

7 Q From the victim. Okay.

8 And what did you observe about that, and what did you
9 do?

10 A Visual examination revealed one stain. It was a
11 reddish-brown stain on the right front of the boxers.
12 That stain was tested with phenolphthalein with positive
13 results and sampled for DNA analysis. And then I swabbed
14 the entire outside of the rear waist and inside of the
15 rear waist with separate swabs, and both swabs were
16 sampled for DNA analysis.

17 Q Okay. Moving on to Item Number 12, what was that and
18 what did you do with that?

19 A This was a black No Boundaries shirt from victim.
20 The shirt appeared to be covered in possible blood. The
21 bottom hem of the shirt was ripped approximately
22 two-thirds away around the shirt. The torn portion of the
23 bottom hem was swabbed, and the entire swab sampled for
24 DNA analysis as Item 12-1.

25 The dark, dry material on the left shoulder area was

1 swabbed. A presumptive examination with phenolphthalein
2 tested positive for the presence of blood. The swab was
3 sampled for DNA analysis as Item 12-2.

4 The dark, dried material on the right shoulder area
5 was swabbed. a presumptive examination with
6 phenolphthalein tested positive for the presence of blood.
7 The entire swab was sampled for DNA analysis as Item 12-3.

8 Q Okay. And what was Item Number 13?

9 A Fingernails from the left hand of John Michael
10 Ferrell.

11 Q Okay. Being the victim.

12 And so what did you do with the fingernails?

13 A I simply sampled the fingernail clippings into a --
14 for DNA analysis into a tube.

15 Q Okay. And Item Number 14?

16 A Fingernails from right of John Michael Ferrell. Once
17 again, all material was sampled for DNA analysis.

18 Q Okay. Now, Items Number 15 through 20, what were
19 those particular items?

20 A They were the reference samples, the blood spot of
21 John Ferrell, buccal swabs of Andrew Martin, buccal swabs
22 of Jane Hughes, buccal swabs of Margaret Hughes, buccal
23 swabs of Jacob Hughes, and buccal swabs of John M. Hughes.
24 And each of these items were sampled for DNA analysis as
25 well.

1 Q Okay. Let me ask you a couple of questions about
2 those. You said a blood spot. What is a blood spot?

3 A It's basically a drop or two of blood dried on a
4 card.

5 Q Okay.

6 A Typically collected by the coroner.

7 Q And in this case, the blood spot was of the victim?

8 A That's right. That's the proper reference typically
9 for a deceased person.

10 Q Okay. Now, what is a buccal swab?

11 A It's a swab from the mouth usually of the inside
12 cheeks.

13 Q Okay. And that's just the word that is used for
14 that?

15 A The scientific term for your mouth is the buccal
16 cavity, so it's a swab of your mouth.

17 Q Okay. And so this blood spot and then the swab from
18 the mouths of those five persons, would you call those
19 sort of the standards that are being used then for the DNA
20 testing against all those other items?

21 A That's right. And so we have a known DNA sample to
22 compare to all the evidence items.

23 Q Okay. Now, all of these -- okay. So what did you do
24 with those known samples, the blood spot and the buccal
25 swabs?

1 A Well, I work the references only after I worked all
2 other evidence items. I sterilize everything, sterilize
3 my tools, sterilize my work surface, and then, I mean,
4 this is really -- all the items, I work them only one at a
5 time and sterilize in between them.

6 Q Okay. And so those -- all 20 of these items, once
7 you've finished with them, what did you do with them?

8 A After I work an item, I reseal it with evidence tape
9 with my initials and date, and it's stored in the DNA lab
10 until I return it to Property and Evidence. The original
11 item returns to Property and Evidence.

12 Q And did you end up taking all those items and
13 returning them back to the Property and Evidence room?

14 A I did.

15 Q And that was after the DNA analyst was finished
16 working with them?

17 A No. I don't think so. Typically, I -- typically,
18 that takes some more time. So once I'm done with taking
19 my samples for the evidence, I take them back.

20 Q Okay. I wasn't clear about that. So then the
21 samples themselves that you prepared for testing, what did
22 you do with all of that?

23 A Okay. So those samples that I took for testing I put
24 into -- I sealed them into a new envelope, a little coin
25 envelope individually, and create a barcode label to allow

1 us to track the chain of custody on those items. So I
2 returned the original items, and then I have these
3 subitems that I've created that stay in the lab and then
4 are taken by the DNA analyst.

5 Q Okay. So you put them all into that refrigerator, is
6 it?

7 A Yes. The freezer.

8 Q The freezer. And you put them in -- all the ---

9 A All the samples I take stay in the freezer until the
10 DNA analyst is ready to work them.

11 MR. MOYER: Okay. One moment, please.

12 Please answer any questions defense ---

13 THE COURT: Cross-examination?

14 CROSS EXAMINATION

15 BY MR. ADDUCCI:

16 Q Now, you indicated that you have a BS degree in
17 biological sciences; is that right?

18 A Yes. That's right.

19 Q And then you followed up with a master's degree?

20 A That's right.

21 Q Okay. And those are all hard sciences, right?

22 A Yes.

23 Q So you're doing experiments and the like.

24 A Yes.

25 Q Reading about how to properly perform experiments and

1 the like, right?

2 A Yes.

3 Q Now, you indicated that you did what's called a
4 phenolphthalein test. Could you explain exactly how that
5 phenolphthalein test works?

6 A Basically, phenolphthalein is a chemical that reacts
7 with the hemoglobin molecules in blood. It's a reduction
8 oxidation reaction. The end result is if there is blood,
9 it usually will turn pink. It's a positive result. It's
10 a presumptive test so it's just used for screening.

11 Q Now, I could be getting in front of it. Isn't it a
12 sort of two-part test? There's the phenolphthalein and
13 then there's this oxidizer you put with it?

14 A That's right. Hydrogen peroxide.

15 Q And then if it turns colors immediately, that's -- we
16 get that presumptive test, right?

17 A Yes. Once we -- once we use the phenolphthalein and
18 hydrogen peroxide, there's almost immediate color change.

19 Q Because it will eventually change colors even without
20 the presence of hemoglobin just because of the oxidizer,
21 right?

22 A That's right.

23 Q Now, your phenolphthalein, is there a special way to
24 store that?

25 A We store it in dark bottles in a refrigerator.

1 Q Okay. And then is there sort of like expiration
2 dates on that sort of thing?

3 A There are.

4 Q Okay. And you keep track of that?

5 A Yes.

6 Q And is the reason you keep track of that in order to
7 make sure that you don't get any sort of poor results?

8 A Well, yes. But I also run a positive and negative
9 control on the day I plan to use phenolphthalein on
10 evidence. I will use -- in a different location, I will
11 get out some known blood and do a positive and negative
12 control to make sure it actually works.

13 Q Right. So in order to ensure that your test is
14 valid, you go ahead ahead of time and make sure that your
15 product is working, basically, right?

16 A Yes.

17 Q And is that standard across the industry in doing
18 testing?

19 A Yes.

20 Q Is that part of your regular procedures in doing
21 testing?

22 A Yes.

23 Q Because if you do not standardize your test ahead of
24 time, you don't know if your results are valid, right?

25 A We just run a positive and negative to make sure our

1 reagents work.

2 Q Okay. And is that part of your normal procedures for
3 everything that you do?

4 A Yes, it is.

5 Q Now, for all of the tests that you do, you have these
6 sort of policies and procedures, right?

7 A Yes.

8 Q In order to ensure that your reagents are stored
9 correctly, right?

10 A Yes.

11 Q In order -- and also to see if they're mixed
12 correctly, right?

13 A We run -- we run positive and negative controls on
14 all reagents, or QCM.

15 Q And it's a pretty tight ship. You have to make sure
16 that all of this is correct, right?

17 A Yes.

18 Q Because if you do not have that, then you could have
19 incorrect results, right?

20 A Yes.

21 Q Because the science that says that if you put X with
22 Y, you know, Z happens is dependent upon you actually
23 having X and Y prepared correctly, right?

24 A Yes. I guess. If -- depends on what X and Y are.
25 I'll just put it that way. But yes. In general.

1 Q But generally in your field, you need to have these
2 policies and procedures in order to validate the results
3 of your tests.

4 A Yes.

5 Q And you indicated this is just a presumptive test,
6 right?

7 A That's right.

8 Q And you could have like a presumptive test and then a
9 confirmatory test, right?

10 A There are such a thing as -- yes. That's a
11 confirmatory test.

12 Q And the reason why we have confirmatory test is
13 because it is a more precise test than the presumptive
14 test, right?

15 A Yes.

16 Q It can control for the possibilities of false
17 negatives or false positives, right?

18 A Yes.

19 MR. ADDUCCI: Okay. The Court's indulgence.

20 BY MR. ADDUCCI:

21 Q Does phenolphthalein expire?

22 A It does have an expiration date.

23 Q Okay. And you keep track of that?

24 A It's kept track of in the lab, yes.

25 Q Okay. And before you use it, you check to make sure

1 that it hadn't expired, right?

2 A Yes.

3 Q And that's also performed by your positive and
4 negative test?

5 A Yes. I run a positive and negative control so we
6 know that it worked before I used it.

7 Q You make sure to follow all these policies and
8 procedures before taking it to test, right?

9 A Absolutely.

10 Q In order to ensure that they are correct?

11 A That's right.

12 Q Because if you didn't do that, then you couldn't
13 honestly test your results, right?

14 A That's right.

15 MR. ADDUCCI: Okay. Nothing further from this
16 witness, Your Honor.

17 THE COURT: Any redirect?

18 MR. MOYER: No redirect, Your Honor. Thank you.

19 THE COURT: You may step down.

20 MR. MOYER: The State will call Dr. Kandala.

21 THE CLERK: Dr. Kandala, please come forward, place
22 your left hand on the Bible and raise your right hand.

23 WHEREUPON,

24 DR. JAGANNADHA KANDALA

25 After having been duly sworn, testified as follows:

1 THE CLERK: Please be seated and state your name for
2 the record.

3 THE WITNESS: My name is Jagannadha Kandala.

4 DIRECT EXAMINATION

5 BY MR. MOYER:

6 Q Okay. Dr. Kandala, where are you employed?

7 A I'm employed with the Greenville County in the
8 Department of Public Safety Forensic Department.

9 Q Okay. In the Forensic Department. And what is your
10 position in the Forensic Department and your title?

11 A I am the DNA technical leader, and I am the
12 supervisor of the lab.

13 Q You're the supervisor?

14 A Yeah.

15 Q And what do you do in your position there with
16 Greenville County Department of Public Safety?

17 A I take care of the DNA lab, I have established the
18 lab here, and I also analyze the DNA evidence.

19 Q You analyze DNA?

20 A Yes.

21 Q Okay. Well, let's talk a little bit about that.

22 Let's start off by talking about your experience with DNA
23 analysis. Tell the jury about your education starting
24 with college.

25 A I did my BS with biology and chemistry, and I have a

1 master's in chemistry, a master's in microbiology and a
2 PhD in biochemistry. And I work in different academic
3 institutions for 20 years in teaching and research. And
4 then I moved into forensics, and I'm almost like 18 years
5 in forensics.

6 Q You've been 18 years in forensics.

7 A Yes.

8 Q And when you say in forensics with DNA, what does
9 that consist of? What do you do?

10 A I take the evidence, do the DNA analysis and compare
11 with known samples if they are there and write a report,
12 and if necessary, I come to the Court and act as a
13 witness.

14 Q Okay. How long have you been working for Greenville
15 County?

16 A Greenville County, I came in 2008, May, and since
17 then I'm working.

18 Q And where was your experience prior to Greenville
19 County?

20 A I work at St. Louis Metropolitan Police Department.

21 Q St. Louis?

22 A Yes.

23 Q Okay.

24 A And then I work at San Bernardino for about three
25 years in the sheriff's department as a DNA analysis,

1 senior analyst.

2 Q That was San Bernardino, California?

3 A Yes.

4 Q And in both of those other locations and here in
5 Greenville, have you done DNA analysis?

6 A Yes.

7 Q And have you testified in court?

8 A Yes.

9 Q Have you been qualified as an expert in DNA analysis?

10 A Yes.

11 Q Have you kept track of how many times you've been
12 qualified as an expert in DNA analysis?

13 A Probably altogether during my forensic career, I
14 think probably about at least 40, 50 times.

15 Q 40 or 50 times?

16 A Yeah.

17 MR. MOYER: Your Honor, at this time, I move to have
18 Dr. Kandala qualified as an expert in DNA analysis.

19 MR. ADDUCCI: Without objection, Your Honor.

20 THE COURT: All right. Ladies and gentlemen, I need
21 to remind you or let you know that -- first of all, I
22 grant your motion. He's qualified as an expert.

23 When someone is normally testifying, they can only
24 testify about what they've observed, you know, based on
25 their own experience and their own senses. But an expert

1 can testify as to his conclusions based on his training
2 and expertise in a particular field. But just because
3 he's been qualified as an expert does not mean you have to
4 accept that by itself, that you still have to consider --
5 give it the weight which you deem appropriate.

6 You may proceed.

7 BY MR. MOYER:

8 Q Would you tell the jury what DNA is and what a DNA
9 analyst does?

10 A DNA is the blueprint that is present in every cell in
11 an organism. So humans also do have cells, and every cell
12 has the DNA that is responsible for all the activities in
13 the body. But the DNA has got separate genes on them, and
14 so they are functional, and their functioning guide them
15 to the place they are in the body.

16 Q Okay. And in your position as a DNA analyst ---

17 A Yes.

18 Q --- what are you asked to do, and what sort of
19 testing do you do, and what are you trying to find?

20 A Presently what we are doing in DNA is what is called
21 STR analysis. STR means short tandem repeats. So we are
22 looking for these repeats that are present in the
23 different human beings because they differ in their
24 lengths, so we are looking at them because they are not
25 the same in all the human beings. Two human beings differ

1 in that short tandem repeats.

2 And what we do in the lab is when the evidence comes
3 into the lab, we take the material, check for any body
4 fluids or any other stuff, like my serologist has
5 explained before, and then we take the material, extract
6 DNA, purify it. And the ones I'm talking about, these
7 short tandem repeats, we copy them several times by a
8 method called PCR, polymerase chain reaction. It copies
9 the DNAs we are looking at on the DNA. DNA is a huge
10 molecule, so we are looking at only those short tandem
11 repeats, and then we analyze them and we compare them if
12 there's a known sample. And if it matches, we say that it
13 is a match and that is the person who has contributed for
14 the DNA.

15 Q Okay. Now, were you given some known samples of
16 individuals for this particular case through buccal swabs?
17 Was that supplied to you?

18 A Yes.

19 Q Okay. And who were the people's buccal swabs and the
20 blood spots that you had for comparison purposes in this
21 case?

22 A I have blood sample from John Michael Ferrell; blood
23 swab sample from Andrew Martin -- buccal swab sample, I'm
24 sorry; buccal swab sample from Jane Hughes; buccal swab
25 sample from Margaret Hughes; buccal swab sample, Jacob

1 Hughes; buccal swab sample of John Hughes.

2 Q Okay. Now, where did you get those particular items
3 from and when did you get them?

4 A Can you a little bit expand that question?

5 Q Yes. So the samples that you just talked about ---

6 A Yes.

7 Q --- from the buccal swabs and blood spot, would you
8 tell the jury how they came into your position and when?

9 A The general procedure for the lab is -- well, the
10 serologist, he goes to the Property and Evidence, he picks
11 up the evidence, and then he checks them initially and
12 then makes samples that are eligible for DNA analysis.
13 And then I get them from my serologist. He takes the
14 samples, stores them in a freezer, and from the freezer, I
15 take the samples and analyze them for the DNA analysis.

16 Q Okay. So in this particular case, you got those
17 samples from the refrigerator?

18 A Yes.

19 Q Okay.

20 A It is a refrigerator/freezer -- freezer actually, at
21 minus 20.

22 Q Okay. And what was the time frame? What dates did
23 you have these items in your possession for this testing?

24 A I don't remember that part of it. But once that's
25 barcoded, we all just put in -- when we take it out of the

1 refrigerator or freezer, we say that the barcode --
2 through the barcode that I have taken it from the freezer,
3 used it. And if it is used up, I say the material is used
4 up or it has gone back into the freezer.

5 Q Okay. So once you finish with it, you put it back in
6 the freezer?

7 A If the sample is left, anything -- any sample is
8 left, then it is put back in the freezer, and later time
9 we just send back to the Property and Evidence.

10 Q Okay. Well, let me now ask you about the different
11 items that you examined, and I'm going to ask you to tell
12 the jury the result of each. So let's start off with
13 Item 1.1, which was the swab of the suspected blood from
14 the kitchen window blinds. Would you tell the jury what
15 the result of your examination was for that?

16 A It is a suspected blood sample from exterior of the
17 kitchen window blinds. And that sample has -- it is from
18 a single male individual, and the DNA matches the DNA of
19 John Michael Ferrell. And excluding an identical twin,
20 John Michael Ferrell is the source of this DNA to a
21 reasonable degree of scientific certainty.

22 Q Okay. So that was the swab from the kitchen window
23 blinds matched John Ferrell?

24 A Yes.

25 Q Now Item 2.1, which was the swab from the quilt, what

1 was the results of your analysis of that?

2 A It is similar result. It also matches John Michael
3 Ferrell.

4 Q Okay. Now the swab from the suspected blood from the
5 hammer, Item 3.1, what was the result of that?

6 A That sample also matched the DNA of John Michael
7 Ferrell.

8 Q Okay. Now moving onto Item Number 4.1, which is the
9 swab from the handle of the hammer, what was the result of
10 that?

11 A This sample, it is consistent with a mixture of DNA
12 from two individuals.

13 Q Okay.

14 A And because of the proportion of the DNA that is
15 present as a mixture, we can separate as one as a major
16 contributor and another as a minor contributor.

17 Q Okay.

18 A And the major is a male and the minor is a female
19 contributor.

20 Q And were you able to match both the male and female
21 contributors to anybody?

22 A Yes. The major contributor at the different
23 locations matches the DNA of John Michael Ferrell.

24 Q Okay.

25 A And then the minor contributor matches the DNA of

1 Jane Hughes.

2 Q Okay so the female contributor from the handle of the
3 hammer matched Jane Hughes; is that correct?

4 A Yes, yes.

5 Q Okay. Let me move now onto Item Number 5.2, which
6 was the blue hand towel. What was the result of your
7 analysis of that?

8 A The DNA from this swab are consistent with the DNA of
9 John Michael Ferrell and an unknown trace contributor.
10 This means very, very low amounts of DNA that we cannot
11 say anything. Excluding an identical twin, John Michael
12 Ferrell is the source of this major DNA to a reasonable
13 degree of scientific certainty.

14 Q Okay. So make sure I understand what you said. So
15 you have a match to John Michael Ferrell from the blue
16 towel, but there was also another contributor that there
17 just wasn't enough, you couldn't do a match.

18 A Right.

19 Q Is that right?

20 A Right.

21 Q Okay. Now let's move onto Item 6.1, which was the
22 cutting of the reddish stain from Jane Hughes' pants.
23 What was the result of your analysis of that?

24 A The results obtained from this item are consistent
25 with a mixture of DNA from two individuals, a major male

1 and a trace contributor. The major contributor matches
2 John Michael Ferrell.

3 Q And what was the minor contributor?

4 A For the trace contributor, allele drop out was
5 observed at different loci in these items. Trace alleles
6 detected at different loci of each of these items include
7 the alleles of John Hughes -- Jane Hughes and Jacob
8 Hughes.

9 Q So the major contributor was Jane -- was ---

10 A John Michael Ferrell.

11 Q --- John Michael Ferrell?

12 A Yes.

13 Q And the minor was Jacob Hughes; is that right?

14 A Minor, we could not separate out. It is a -- there
15 is a -- we do not take the trace contributor allele --
16 there's allele drop out means what we're saying is there's
17 not enough DNA to completely look at it and say somebody
18 is there, and only we can say that there is a possibility
19 of somebody is there, and that may be John Hughes and
20 Jacob Hughes.

21 Q Okay. But the main contributor to that DNA from her
22 pants was the victim, John Ferrell?

23 A Yes.

24 Q All right. Now let's move onto 6.2, which was
25 another stain from the back of Jane Hughes' pants. What

1 was your result of that?

2 A The results are very similar. The major contributor
3 is John Michael Ferrell and then the trace contributors
4 could be Jane Hughes and Jacob Hughes.

5 Q Okay. Now Item 7.1, which was a cutting of a stain
6 from Jane Hughes' T-shirt, right sleeve of T-shirt, what
7 was the results of that?

8 A The results are very similar, same thing. John
9 Michael Ferrell is the major contributor definitely, and
10 then the trace contributors may be Jane Hughes and Jacob
11 Hughes.

12 Q Okay. And then item 7.2, which was another
13 bloodstain from the hem of Jane Hughes' shirt, what was
14 the result of that?

15 A 7.2, I don't have any results on that.

16 Q Okay. So you weren't able to do DNA testing on that?

17 A Right.

18 Q It just wasn't a sufficient sample?

19 A Right, right.

20 Q Okay. Now let's move onto 8.1 and 9.1, which were
21 the swabs from the pistol. What were your results of that
22 analysis?

23 A 8.1 is a swab sample from the grip of the Glock. No
24 DNA profile was detected from any of -- any -- on this
25 item, so we could not get any conclusion on that. Similar

1 results is from the 9.1. We do the swab sample from the
2 trigger of the Glock.

3 Q Okay. So you weren't able to get any DNA matches
4 from the gun?

5 A Yes, yes. We were not able to get any alleles from
6 it.

7 Q Okay. Now let's move onto 10.1 through 10.6, which
8 was the stains from the victim John Ferrell's blue jeans.
9 What was your results of that analysis?

10 A I also don't have any results on 10.1 to 10.6.

11 Q You don't have results from that?

12 A Yes. Do you have any ---

13 Q Do you have your report with you?

14 A Yes.

15 Q Looking at 10.1 to 10-6, the blue jeans belonging to
16 the victim.

17 A Oh. I'm sorry. 10.1 through 10.6 are very similar
18 results that we have got from either 1.1 or 2.1 and 3.1.
19 Basically, it is that the major contributor in this DNA is
20 John Michael Ferrell. And excluding identical twin, John
21 Michael Ferrell is the source of this DNA.

22 Q Okay. So that was the victim himself?

23 A Yes, yes, yes.

24 Q And then let's move onto the plaid boxers belonging
25 to the victim, 11-1 through 11-3. What was the results of

1 that?

2 A These results are also very similar to the ones that
3 we're talking about from 10.1 to 10.6. The major
4 contributor is John Michael Ferrell -- I mean, I'm sorry.
5 Is a single DNA, and the contributor is John Michael
6 Ferrell, and excluding an identical twin, to a reasonable
7 degree of scientific certainty, he's the contributor.

8 Q Okay. And then the victim's shirt, victim's black
9 shirt, Item 12-1 through 12-3, what was your result of
10 that?

11 A Yes. The contributor is John Michael Ferrell, and it
12 matches his DNA.

13 Q Okay. And then finally, Items 13 and 14, which were
14 the fingernails, what was your result of that analysis?

15 A Those two samples also gave the DNA of John Michael
16 Ferrell, and he is the contributor.

17 MR. MOYER: Okay. Thank you. Please answer any
18 questions defense may have.

19 THE COURT: Cross-examination?

20 MR. ADDUCCI: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. ADDUCCI:

23 Q Dr. Kandala?

24 A Yes.

25 Q That's how you pronounce it? I apologize.

1 A Yes. No problem. Yes.

2 Q So you indicated that human DNA is this giant
3 molecule, right?

4 A Yes.

5 Q That has billions of points that you could test,
6 right?

7 A Right.

8 Q However, when you're doing your analysis, you're only
9 looking at about 15 or 16 of them, right?

10 A Areas, I'm talking about.

11 Q Areas.

12 A And that very short tandem repeats.

13 Q Yes.

14 A In general, the human beings, if you take human
15 beings, 97 to 98 percent of the DNA is similar in all the
16 human beings. It's not much different. We are looking at
17 only probably around 2 to 3 percent of the DNA. We are
18 looking at only 2 to 3 percent of the DNA we are looking
19 at, which the first from human beings. And we are taking
20 the best part of that DNA, which it differs from human to
21 human, and looking at this short tandem repeats. The way
22 -- when you look at this DNA, it is like -- almost like
23 one in trillion, trillion, trillion kind of a thing that
24 you can find a particular DNA, a profile.

25 Q Yes.

1 A So that's what we are looking at, yes.

2 Q And you're looking at a bunch of different sites,
3 correct?

4 A Yes.

5 Q And there can be -- if you're measuring an unknown
6 sample versus a standard, you're matching them up to see
7 if you have 16 out of 16 that match up, or 10 or 14 or 12
8 or something like that, right?

9 A Right.

10 Q And when you look at that, if, when you see, okay, if
11 I have 16 out of 16, that is some incredible number that I
12 probably couldn't write on one single sheet of paper,
13 right?

14 A Yes.

15 Q And then if you have fewer than that, it is a less
16 scientific certainty, I guess is the way that I would put
17 it, right?

18 A The point of the scientific certainty that how we
19 measure is like the human population is 7 billion on the
20 earth right now, and giving a certainty of 95 to
21 98 percent, we say that if 1 in 300 billion, I'm talking
22 about 1 in -- at least 1 in 300 billion, the population is
23 only 7 billion. So if we look at it and say if it is 1 in
24 300 billion, then we use the word to a degree of
25 scientific certainty.

1 Q And now, when you came up with that -- when DNA
2 experts came up with that math, they took a sample from a
3 number of people and analyzed it, right?

4 A Right.

5 Q And then they separated those people into men and
6 women and also by race, right? Black and white, correct?

7 A The men and women thing we basically look at it is
8 only to say at the time, well, that the person we are
9 looking at is a male or a female, that doesn't come into
10 very much into that evidence as is. So all human beings,
11 because you are talking about 23 pairs of chromosomes, and
12 only the one odd pair is the accent one, okay? So the
13 rest of it is all the same, men and women. Okay. So it
14 doesn't matter to that point of the comparison, okay? So
15 all we are looking at is because of the ethnicity
16 differences, we are looking at -- when we look at it and
17 want to make a statistical probability, we are trying to
18 separate Caucasian, or African-American, or Hispanic, or
19 Asian, or Pacific, everything, in order to make sure that
20 the whatever minimum differences are, maximum difference
21 between them are there, we still express it so that people
22 can understand it. But in general, no matter, as I said
23 before, 97 to 98 percent of the DNA, all human beings --
24 I'm not saying male or female, all human beings have the
25 same DNA.

1 Q And that's why you only have to sample this
2 16 locations in order to get this high statistical
3 probability, correct?

4 A Yes. In the terms of to get the scientific
5 certainty, yes. But what we are looking at is something
6 that is different from human being to human being. We
7 have picked up those areas, and we have done the analysis
8 on those areas so that when you compare, okay, not even a
9 single point is different. When we say a match, every
10 point has matched. Okay?

11 Q So when you report to a scientific degree of
12 certainty, you're indicating that all of them are matched,
13 correct?

14 A Whatever has come back indivisible, yes.

15 Q Okay.

16 A Because sometimes when you take the DNA, and if the
17 DNA quantity is not in a full reaction, sometimes you see,
18 oh, 16, maybe only 14, because the DNA is not in a -- it
19 is not that it is different, but because not enough. That
20 is the reason we are not able to get all 16 in certain
21 cases where the DNA is not enough but out of the whole
22 process. Other than that, if it differs even at one
23 point, we say it's not a match.

24 Q Yes. Now, you run the lab here in Greenville, right?

25 A Yes.

1 Q And so do you set up a bunch of policies and
2 procedures in order to ensure that this lab is run
3 correctly?

4 A Yes. But in general, the policies and all the
5 policies that I do, there is a minimum requirement when we
6 go to a location that we use the same thing that most of
7 the public labs use. Only the difference is how I am
8 handling in the lab a little bit differently or something,
9 but not any -- scientifically, it's not any different
10 because we use -- all the public labs use the same kits
11 that is provided by a particular company, and we analyze
12 those samples.

13 Q And the reason why you have these procedures is to
14 make sure that there isn't any sort of contamination in
15 your lab, right?

16 A Those things are taken care of by the quality
17 assurance and quality control in the lab that we get
18 through the gradation. And if somebody had to prove us
19 and over the years somebody comes and audits the lab and
20 looks at random, leaves them all the samples. So those
21 things are taken care of. In the lab we have certain
22 precautions that have to be taken, and then we take all
23 those precautions and then do that.

24 Q Yes. So maybe I misunderstood you, but you have a
25 separate quality control group that comes and checks up

1 behind you that you employ; is that right?

2 A No, no. They are independent.

3 Q There's an independent auditor that comes through to
4 make sure that all your policies and procedures are being
5 followed, correct?

6 A Right.

7 Q And the reason why you want them to be followed is so
8 that you ensure that your results are valid, right?
9 Because a break in the chain of the testing that you do
10 could lead to problems in your results, right?

11 A If it is chain of custody only. The thing is, when
12 we look at it, when we take the samples into our lab, we
13 make sure that a chain of custody is there from whom we
14 are taking, and then we take back and deposit back to the
15 person, then also we make sure that the chain of custody
16 has taken place.

17 Q And maybe I was being unclear when I said "chain."
18 You have cleaning standards, right, at your lab? Cleaning
19 to make sure that the lab is clean and sterile ---

20 A Right.

21 Q --- in order to ensure there's any
22 cross-contamination, right?

23 A Yes.

24 Q And all these are written down and everybody has to
25 follow them, right?

1 A Yes. They're trained for that.

2 Q And how long is somebody trained in your lab before
3 they are allowed to handle material?

4 A It can extend from one year to two years, depending
5 on their capabilities and stuff like that. But normally,
6 in my lab, people got trained in less than a year. They
7 are very well-qualified people that has prior experience
8 somewhere in some kind of a DNA analysis.

9 Q And you also run the serology lab as well?

10 A Yes. The serologist is -- he is trained by me.

11 Q Yes. And you wouldn't let some guy who just, you
12 know, took an afternoon class come in here and handle your
13 procedures, would you?

14 A No.

15 Q Because he could make mistakes, right?

16 A No, no, no. Any analyst in the lab, when he comes
17 in, we make sure that he gets trained, he gets competency,
18 and he takes also every year a proficiency test. A
19 serologist takes an annual every year one proficiency
20 test. A DNA analyst takes twice a proficiency test.
21 Proficiency samples are supplied by an outside agency, and
22 the results go back to them, and they let us know whether
23 we have successfully completed the proficiency test or
24 not.

25 Q So basically, the person that's taking the

1 proficiency test is blind, so he doesn't know what the
2 results are supposed to be, right?

3 A Right.

4 Q That's to ensure that there's no thumb on the scale.

5 A Right. That's why it comes from an outside agency to
6 us in a packet. And then we do that and then send them
7 back the results, and they let us know whether they are
8 correct or not.

9 Q And that's to ensure that all of your people are
10 trained in following the proper policies, correct?

11 A Yes.

12 MR. ADDUCCI: Nothing further, Your Honor.

13 THE COURT: Any redirect?

14 MR. MOYER: No, Your Honor.

15 THE COURT: Thank you, Doctor. You may step down.

16 THE WITNESS: Thank you.

17 THE COURT: All right. Ladies and gentlemen, it
18 looks like a good time to break for the evening. 9:30?

19 9:30 suit y'all? All right. We will see you at 9:30.

20 My full rules, don't talk about the case among
21 yourselves or with anybody, don't do any research, don't
22 pay any attention to any media. If anybody contacts you
23 other than the clerk's office, please let the bailiffs
24 know. I'll see you at 9:30 in the morning.

25 (WHEREUPON, the jury exits the courtroom at 5:11 p.m.)

1 THE COURT: All right. Anything before we break for
2 the day?

3 MR. MOYER: No, Your Honor.

4 MR. ADDUCCI: No, Your Honor.

5 MR. MOYER: As far as tomorrow goes, I know that he
6 has two motions that are pending. Maybe we should take
7 those up.

8 THE COURT: All right. We'll take those up at 9:20.
9 (WHEREUPON, proceedings recessed at 5:12 p.m., to be
10 reconvened Wednesday, December 6, 2017.)

11 * * * * *

1 WEDNESDAY, DECEMBER 6, 2017

2
3 (WHEREUPON, proceedings reconvened at 9:26 a.m.)

4 THE COURT: All right. We have a couple motions in
5 limine filed by the defendant. Is that my understanding,
6 we want to hear those at this time?

7 MR. MOYER: That's my understanding. Yes, Your
8 Honor.

9 THE COURT: All right. Be glad to hear from
10 whichever one you want to take first.

11 MR. ADDUCCI: Your Honor, if we could first deal with
12 the data from the cellular telephone ---

13 THE COURT: Okay.

14 MR. ADDUCCI: --- motion to suppress.

15 I tried to outline it in this case. Let me pull it
16 up here. I mean, a search warrant's generally required
17 for the contents of a cellular telephone, Riley vs.
18 California, the Supreme Court, and that you have to look
19 at the warrant and see if there is sufficient probable
20 cause based upon what was provided to the magistrate.
21 What we are going on is a search warrant that was -- looks
22 like dated January 29th by Investigator Manley. It says
23 reason for affiant's belief -- if the Court just reads it.

24 THE COURT: And you've got it in your motion.

25 MR. ADDUCCI: Yeah. And the State would say that

1 that's not in the statement of what's in the affidavit.

2 I'll hand it up.

3 THE COURT: Okay.

4 MR. ADDUCCI: Basically, the search warrant says we
5 want to search Mr. Hughes' phone. What they have provided
6 in support of that is just that we believe that there
7 would be evidence on Mr. Ferrell's phone. So they're
8 saying we want to search A, and the reason we want to
9 search A is because we believe there's evidence on B.
10 Looking at that, there just simply isn't probable cause
11 for A.

12 THE COURT: All right. Go back and say that but
13 don't use the A's and the B's.

14 MR. ADDUCCI: So they say we want to search
15 Mr. Hughes' phone.

16 THE COURT: I've got you. Okay.

17 MR. ADDUCCI: Okay. If you read the affidavit, it
18 says that based on this information, this officer believes
19 that there may be evidence which exists on the decedent's
20 phone which would help clarify inconsistencies and
21 information provided and collected, and also provide the
22 department with a clear picture of the decedent's
23 activities leading up to his death. They are saying that
24 we want to look at Mr. Hughes' phone, and the reason we
25 want to look at Mr. Hughes' phone is because we believe

1 that there is information on Mr. Ferrell's phone. Looking
2 at that on the face of that, there simply isn't probable
3 cause based on that affidavit for a search of Mr. Hughes'
4 phone.

5 THE COURT: All right. Mr. Moyer?

6 MR. MOYER: Your Honor, if it please the Court. We
7 would argue that this affidavit does give the magistrate
8 sufficient information in order to find that there is
9 probable cause that information would be received.

10 It does mention that the -- the -- that they wanted
11 to find -- the big picture of that affidavit is that the
12 officers wanted to find out more information about the
13 victim and the activities leading up to this event. The
14 fact that it's clear from the affidavit that the defendant
15 was a family member, it's certainly not unreasonable to
16 believe that there would be communication going back and
17 forth. The defendant was the victim's father-in-law, and
18 so finding information about the decedent and activities
19 and information and correspondence and text messages and
20 calls between the two, it certainly -- this affidavit
21 gives the magistrate enough information to believe that
22 there could be information of that nature that is going
23 back and forth between the phones at this time. I mean, I
24 think it ---

25 THE COURT: Let me ask you this, though. The

1 affidavit's request -- let me make sure I'm reading this
2 right. It requests information on decedent's phone.

3 MR. MOYER: I understand.

4 THE COURT: And then the magistrate used that to say,
5 well, it's okay to get the defendant's phone records. Am
6 I misreading that?

7 MR. MOYER: Well, it does say the decedent's phone,
8 but then it goes on to clarify and talks about information
9 about the decedent's activity leading up to his death.
10 And I think the broad picture of that affidavit makes it
11 clear that they want to find out, based on information
12 from cell phone usage that night, that they would give a
13 clearer picture of the decedent's activities and
14 correspondence between family members. I think in the big
15 picture of that affidavit, I think it makes it clear that
16 that is the information that is being sought. And it's
17 certainly not unreasonable to believe that that would be
18 going -- that information would be going back and forth.

19 THE COURT: Well, I mean, I understand that. I
20 understand the reason they'd want it and how it ties in,
21 but shouldn't the officer have said that based on all
22 this, there's evidence on the decedent's phone and
23 defendant's phone?

24 MR. MOYER: And I would say that's probably just a
25 scrivener's error on their part. But I think still, in

1 the totality of the affidavit, I think it makes it clear
2 that the fact they want the contents of the defendant's
3 phone, they're asking for the contents of the defendant's
4 phone and wanting to get information about the decedent, I
5 think it would be clear that there could be information
6 that would be going back and forth.

7 And also, I would say we have a fall-back position in
8 this scenario of inevitable discovery. As the officer can
9 testify, they also had Jacob Hughes' phone. And Jacob
10 Hughes, who is this defendant's son, which is the
11 information that we would be seeking to show in this case
12 is the correspondence that was going back and forth
13 between this defendant and his son. Although the officers
14 didn't have Jacob's phone, they had his phone number, and
15 they were able to get his phone records. From those phone
16 records, they were able to get his call logs and his text
17 messages from a search warrant with the phone company.
18 The records ---

19 THE COURT: Separate from this search warrant?

20 MR. MOYER: No. This is a separate search warrant
21 for Jacob Hughes that went to Jacob Hughes' phone carrier.
22 And they got those records. And those records from Jacob
23 Hughes' phone matched John Hughes' -- matched his cell
24 phone records from this defendant's phone as well as far
25 as the text messages, as far as the call logs. This

1 defendant wouldn't have the right to challenge the search
2 of Jacob Hughes' phone, and so based on that, there is the
3 inevitable discovery exception to the warrant requirement
4 in this case that would make it inevitable. And not only
5 is it reasonable to believe that would be inevitable, but
6 the officers, in fact, did get those records and they did
7 match.

8 THE COURT: Okay. And those -- okay. And you got
9 those records from a separate search warrant.

10 MR. MOYER: Yes.

11 THE COURT: And then you get those regardless of you
12 can go through this way, you can get them through -- I
13 mean, because I have problems with this warrant regardless
14 of the big picture. And I don't think it was a
15 scrivener's error. I think they just -- it was just
16 sloppy work, quite frankly. I mean, because it clearly
17 says that there's stuff on the decedent's phone that would
18 help us clarify this. Well . . .

19 MR. MOYER: It was probably just a matter of cutting
20 and pasting on, because there were multiple phones and
21 multiple search warrants being gathered at the time. But
22 that's why, you know, in this scenario, the State would
23 rely on the inevitable discovery exception to the warrant
24 requirement.

25 THE COURT: All right.

1 MR. ADDUCCI: And, Your Honor, if the State is, you
2 know, sort of going to go through a separate search
3 warrant, they would have to lay a proper foundation for --
4 if you're going to be introducing it at trial, lay a
5 proper foundation for that evidence. So there -- would
6 have to be going through Verizon. There are no Verizon
7 witnesses here to testify to show how those records are
8 kept, how they are transmitted and what those records
9 actually show.

10 So as far as inevitable discovery goes, I believe
11 that the State would then run into an issue of laying a
12 foundation in order to introduce this evidence through a
13 separate avenue. So we have a search warrant of the phone
14 here is sort of one avenue to get this, then we have
15 another avenue where we go to a third party and get
16 records. In order to get those records in, you have to
17 lay a separate foundation and bring that evidence through
18 a separate avenue, which the State, I don't believe from
19 what they have today, can properly lay that foundation.

20 MR. MOYER: If I can respond. So we would not be
21 introducing those other records in the trial. We are just
22 relying on that to establish that there was, in fact,
23 another avenue to get these records, that it was
24 inevitable.

25 So in the trial, we would still be seeking to

1 introduce the cell phone dump that was done from this
2 defendant's phone, but the basis of that coming into court
3 would be that even if this search warrant would be
4 considered defective, there were other avenues available
5 which show that it would have just been inevitable anyway.
6 And it would be like -- it would be like any other
7 scenario, like, say, drugs found in a car where the search
8 was found to not be -- to be valid. If the Court would
9 find that, well, these drugs would be found inevitably
10 based on another circumstance, then the Court would go
11 back and allow those drugs into evidence.

12 So in this case, we are seeking to introduce the
13 defendant's cell phone dump under the theory that even if
14 the search warrant, you know, wasn't valid, these officers
15 would have had these records anyway. And there were
16 several different ways they could have done it. They
17 could have gone and gotten cell phone records from his
18 provider which would have provided the same information.
19 And as I stated, they did so with his son's records, and
20 they got it from another avenue under a separate search
21 warrant which this defendant doesn't have standing to
22 challenge.

23 MR. ADDUCCI: And, Your Honor, with regard to the
24 standing issue, it's my understanding this is a family
25 plan, right? So it's sort of -- I would analogize it to a

1 home where Mr. Hughes and his son both live, right? So
2 they both have standing to challenge a search on the home.
3 As a family plan, they all sort of -- Mr. Hughes, it's my
4 understanding, is the individual who pays for it, and it's
5 all a single plan. So I believe that Mr. Hughes would
6 have standing to challenge that search warrant. It's sort
7 of like a joint ownership.

8 THE COURT: My understanding of family plans is I
9 don't think there would be a standing there unless you
10 came up with something more concrete than that.

11 MR. ADDUCCI: Well, Your Honor, again, I'm
12 analogizing to a home where two individuals live, right?

13 THE COURT: I think this is different than that
14 because the family plan is the amount of usage or -- and
15 how it's paid for and all that. I mean, that's just a
16 gimmick by the phone company. That doesn't mean that
17 particular phone records are related, that he would have
18 standing of challenging phone records for his son..

19 MR. ADDUCCI: Well, Your Honor, sort of the way that
20 I would ---

21 THE COURT: Well, we've gone well beyond -- okay.
22 When is this witness? Because I'm going to have to look
23 at some of this stuff.

24 MR. MOYER: Well, Your Honor, we were going to
25 introduce the records with the very next witness.

1 THE COURT: All right. Let's talk about the other
2 one. I'm just going to have to look at some of this law.

3 MR. ADDUCCI: Okay. The next is a motion in limine
4 regarding a 9-1-1 call. First off, it's hearsay and
5 violates confrontation clause because Jane is not present.
6 She isn't here to be cross-examined.

7 And then if you read our brief motion, we talk about
8 a six-step analysis for Crawford. If the State is being
9 offered the truth of the matter -- for its truth against
10 the defendant, is the declarant subject to
11 cross-examination at trial? No, she's not. Is the
12 evidence testimonial? I think that element is where we
13 really need to kind of dive in and discuss what the State
14 is offering this for and how the State's going to use this
15 evidence.

16 Davis vs. Washington talks about 9-1-1 calls, talks
17 about -- and generally says that in circumstances where
18 the purpose of the call is to -- let's see. It is to --
19 it talks about police sense this to be an on-going
20 emergency. Because of that, they say that it is
21 nontestimonial. However, it is our belief that the State
22 is going to introduce this evidence not to say that Jane
23 is there to help with an ongoing emergency, however, to
24 create a narrative in order to make sure that she is not
25 personally liable for anything that happened, so she is,

1 in fact, testifying. She is trying to put something on
2 the record in order to keep herself from prosecution.

3 THE COURT: Before we start, what's the nature of the
4 call? I mean, I don't even know what you're talking
5 about.

6 MR. ADDUCCI: So she makes a number of statements on
7 a 9-1-1 call, speaks about he was breaking into the house.
8 And it is the State's theory that he did not break into
9 the house. So we have the State would be offering this
10 for ---

11 THE COURT: I'm just saying -- okay. So before we
12 start arguing about it, tell me what the nature of the
13 call is and when it was made.

14 MR. MOYER: If you'd like, the call was made at
15 11:54 p.m., officers showed up at 11:58, so it was pretty
16 much simultaneous with the incident.

17 THE COURT: All right. And what's the nature of ---

18 MR. MOYER: I can play it if you like. It's about a
19 two- or three-minute call. Or I can just tell you about
20 it.

21 THE COURT: Let me listen. All right. Let me listen
22 to it and then let's argue about it.

23 MR. MOYER: Okay.

24 THE COURT: Davis vs. Washington, that's U.S. Supreme
25 Court.

1 MR. ADDUCCI: Yes. 547 U.S. 813. It's captioned in
2 our motion, Your Honor.

3 THE COURT: Okay.

4 MR. ADDUCCI: That's a primary purpose analysis that
5 it discusses.

6 (WHEREUPON, a 9-1-1 call is played in open court.)

7 THE COURT: All right. I'm not really sure what she
8 said.

9 (WHEREUPON, a 9-1-1 call continues to play in open court.)

10 MR. ADDUCCI: So as in our motion, there's sort of
11 two issues that we need to handle: Crawford issues and
12 also hearsay issues.

13 I think the sort of unique way in which the State is
14 planning on using -- or at least I believe the State is
15 going to be trying to use this 9-1-1 tape creates these
16 issues. With the primary purpose analysis out of Davis
17 vs. Washington, it is -- you know, the primary purpose in
18 that case was to say, okay, you know, my husband beat me
19 up and this is where he went. In this case, however, the
20 State's version is that she called 9-1-1 not to help with
21 an ongoing emergency, but to lay a foundation of like
22 future testimony to either prevent a prosecution or to be
23 used in her own defense if she was prosecuted. So the
24 purpose under the State's theory is that this is not to
25 help the police in an ongoing emergency, but to, again,

1 lay a foundation for her own personal benefit.

2 So we have confrontation clauses issues and we also
3 have hearsay issues. And I could be mistaken, but I
4 believe that the State is going to try to introduce this
5 under an excited utterance exception.

6 THE COURT: I mean, I think it's just the classic
7 excited utterance.

8 MR. ADDUCCI: Well, whether somebody's excited does
9 not depend on sort of the manner of their speaking. What
10 it matters is, an excited utterance, the reason why we
11 even have the rule is because we believe that people in a
12 certain excited state are incapable of lying, right? They
13 do not have the capability of fabricating something, and
14 then we have a time period that says, you know, while
15 somebody is excited, we believe that they cannot
16 fabricate, therefore, during that time period, we can
17 allow those things in as nonhearsay. However, again, the
18 State's version is that she is fabricating things while
19 she is on the phone, which sort of collapses the whole
20 excited utterance rule upon itself. Because if she is
21 able to fabricate, then she is clearly not excited under
22 the purpose for the rule.

23 THE COURT: All right. But I guess my determination
24 now is to listen to that and decide whether she was
25 excited. I mean -- anyway, all right. I mean, that's

1 interesting.

2 MR. ADDUCCI: I think there's a difference in excited
3 -- excited and yelling versus excited under the legal
4 principle. The legal principle of excited utterance just
5 means that period of time where somebody is incapable of
6 fabrication because of a startling event. That is what
7 excited means.

8 THE COURT: And what they're claiming happened was a
9 pretty startling event.

10 MR. ADDUCCI: Not arguing that it's a startling
11 event, but then you need to see, okay, how long does this
12 excited period last, right? If somebody is capable of
13 fabricating, then the excited period has ended. Because
14 that's the entire purpose for the rule is saying that
15 somebody is incapable of fabricating while they're
16 excited. The State is saying she's excited, the
17 definition of what excited is.

18 THE COURT: I understand. I understand your
19 argument.

20 Mr. Moyer?

21 MR. MOYER: If it please the Court. I mean, the
22 testimony that is ---

23 THE COURT: I couldn't even tell what the testimony
24 was, quite frankly, but . . .

25 MR. MOYER: There were several statements that she

1 made that are certainly very relevant to this case. I
2 mean, she can be heard saying something about a hammer
3 when the tape first begins. She then says -- makes a
4 comment about the victim going out of the window, and then
5 she also makes a comment of go get him, go get him. I
6 think they're the most significant parts of the tape.

7 Now, what we have and what the testimony over the
8 next probably till about the middle of this afternoon when
9 the State rests is going to continue to show is that, yes,
10 this was a conspiracy to kill the victim. However, at the
11 end, things went awry, did not go completely as planned,
12 which left the house and the people involved in this case
13 in a state of disarray and panic.

14 Andrew Martin comes in during the middle of this
15 incident. That's when the victim gets away and jumps
16 through the window. He tells Jane Hughes to call 9-1-1.
17 Things have gone awry, as I stated, so she obviously is in
18 a state of panic that he is trying to get away. And so
19 there was an excited utterance. And even if, you know,
20 this is a planned event, actually witnessing someone being
21 killed has to be a startling event that would fall under
22 that exception.

23 However, to the extent that the defendant's
24 contentions could have any validity, I would say this.
25 They would fall under the co-conspirator, not exception to

1 hearsay. But under 801(d), a co-conspirator statements
2 are not hearsay. And so to the extent that she was saying
3 anything to 9-1-1 about the incident itself that was
4 deceptive, this was in furtherance of the conspiracy so
5 would not be hearsay.

6 MR. ADDUCCI: And, Your Honor, to the co-conspirator
7 issues, before the State can introduce any evidence under
8 a co-conspirator exception or nonhearsay, the State has to
9 show that there is actually conspiracy at that time. So I
10 think that we would need to do the analysis before we can
11 get into that whether the State has shown any evidence of
12 a conspiracy with Jane involved. And with the
13 co-conspirator analysis, the statement itself cannot
14 bootstrap itself in. Let me pull some cases I've got on
15 that.

16 So if the State is just offering this alone as
17 evidence of Jane's involvement in the conspiracy, that is
18 sort of bootstrapping the hearsay in.

19 THE COURT: And I don't think I -- I mean, you know,
20 I don't get to the -- I don't even get to the conspiracy
21 part. I mean, I'm going to look at the Davis case, and
22 then I'm going to also look at the search warrant, a lot
23 of these laws.

24 MR. MOYER: If it please the Court. May I say
25 something else to readdress the search warrant issue?

1 THE COURT: Yes.

2 MR. MOYER: I thought I recalled a time where the
3 defendant actually gave consent, and I was -- I was -- we
4 have about five hours worth of interviews of this
5 defendant with law enforcement. And so I finally found it
6 just a moment ago, but in one of the interviews with the
7 defendant, and we can play the recording for the Court if
8 you would like, but in the interview, he says, I was
9 watching Happy Feet in the bedroom with the kids, and my
10 son called me and told me. And this is the same thing I
11 told you the other night. I'll repeat it, again, the same
12 way. I promise you I will. He called me and John wanted
13 to talk to us. We didn't call and invite John to the
14 house. That never happened. And you can pull up every
15 phone record I've ever had. You can have anything you
16 want. I'll give you permission to go and look at it. You
17 won't have to get warrants or anything.

18 And so based on that, this was January 26, 2015, so
19 he explicitly gave consent to officers to look at his
20 phone records. Now, law enforcement in this case, first
21 off, this interview was given -- okay. Investigator
22 Manley was present. She got the search warrant a couple
23 days later. Law enforcement, as they often do in
24 scenarios like this even when they get consent, they will
25 go ahead, just it's a murder case and they want to be

1 careful, will often go and get search warrants anyway. I
2 would argue in this case based on his -- and that's not
3 even -- he's not even couching this in any terms. He
4 gives specific consent for law enforcement to look at his
5 phone records. So we would say the records should come in
6 under consent as well.

7 MR. ADDUCCI: I don't have the -- I don't have the
8 audio of the tape in front of me so I don't know exactly
9 if -- what ---

10 THE COURT: Assuming it's -- I mean, we need to
11 get ---

12 MR. ADDUCCI: Assuming that's correct, we would argue
13 that, you know, that was on a completely different day
14 that the search warrant was executed on his phone after he
15 was formally arrested. And I believe that changes the
16 calculus, Your Honor.

17 THE COURT: All right. I'm going to look at this and
18 let you all know.

19 (WHEREUPON, a recess is taken at 9:59 a.m.)

20 (WHEREUPON, proceedings reconvened at 10:18 a.m.)

21 THE COURT: All right. Let's address the 9-1-1 call
22 first. I think, based on what I've heard on the
23 presentation, that it falls within the excited utterance
24 case. I think under Davis vs. Washington, it talks
25 specifically about a 9-1-1 call and determining whether it

1 was testimony or not, whether there was an interrogation
2 and whether the interrogation was to assist police or
3 safety situation versus trying to find facts relating to
4 the case. I think it's pretty much on point. I think it
5 allows the 9-1-1 call to come in on both his excited
6 utterance, and I think it's an exception to the
7 confrontation clause based on Davis vs. Washington. So
8 I'm going to allow the 9-1-1 call to come in.

9 Now, I think I need some more information on the
10 search warrant issue. Your argument about inevitable
11 discovery, explain -- okay. First of all, what
12 information is the testimony going to present? Say I
13 accepted the search warrant and that information. What
14 specific information are you going to be presenting with
15 that?

16 MR. MOYER: It's going to be text messages and call
17 log between this defendant and Jacob Hughes.

18 THE COURT: All right. And you received that
19 information from another source.

20 MR. MOYER: Yes. Investigator Manley got a search
21 warrant for Jacob -- she did not have Jacob Hughes' actual
22 phone, so she got a search warrant for his phone records.
23 She sent them off to I believe it was Verizon or whatever
24 the phone carrier was. They sent her phone records that
25 had the text messages in them as well as the call log.

1 THE COURT: So they actually had the text messages,
2 too?

3 MR. MOYER: They do.

4 THE COURT: Oh. I didn't realize you could get that.
5 I knew you could get the phone log.

6 MR. MOYER: I think if you do it quickly enough,
7 which is what she did, then you can. But ---

8 THE COURT: All right. So it's just -- and I think
9 the case of State vs. Moore, which is August 2017, it
10 discusses the difference -- I mean, it discusses that same
11 issue with phones and getting information from a phone.
12 We got it from another legal source that even if this
13 warrant, if you take the position that this warrant is an
14 illegal search, that -- and it talks about identity of
15 phones in State vs. Moore, which is 805 S.E.2d 585. It
16 says that the inevitable discovery rule would allow that
17 information to come in. And just as to the information
18 they could have gotten from Jacob's phone, nothing else
19 would be allowed.

20 MR. MOYER: And we don't intend to do anything else.

21 THE COURT: Okay.

22 MR. MOYER: And I would also just make sure the
23 record is clear. I think even if that argument were
24 considered to be invalid, the defendant gave a clear
25 consent.

1 THE COURT: I'm not sure the consent -- I mean, I --
2 you know, because in order to get those records, you still
3 would have to either give a written consent or an order to
4 get those records unless he handed you the phone. I mean,
5 you can get the records from the -- did y'all get this off
6 his phone or did y'all get the records?

7 MR. MOYER: Off his phone. It was actually off his
8 phone, which he . . .

9 THE COURT: And that may be. Y'all can argue that on
10 appeal.

11 All right. Do you want your search warrant back?

12 MR. ADDUCCI: Sure. Thank you.

13 THE COURT: Stretching this already this morning.
14 Ready for a lunch break. Y'all ready for a lunch break?
15 Let's just go ahead and break for lunch.

16 All right. Anything else before we bring the jury
17 in?

18 MR. ADDUCCI: No, Your Honor.

19 THE COURT: All right. Bring the jury in. I'll
20 explain to them that we were going over matters.

21 MR. ADDUCCI: Your Honor, we have Christine Boisher I
22 believe the State is going to call. I don't know if
23 that's going to be before lunch or after lunch. We are
24 asserting that that's part of priest-penitent privilege.
25 We'd like to have a hearing on that before she testifies.

1 It was up in the air as of yesterday.

2 THE COURT: No. I looked at it very clearly. That
3 is a -- unless she's the priest, I don't -- when I looked
4 it up the other day, it's clearly the priest has a right
5 to assert that, but not somebody else.

6 MR. ADDUCCI: If, at some point, we could just get
7 our argument on the record, we'd appreciate that.

8 THE COURT: Okay. Yeah. I'd be glad to.

9 MR. ADDUCCI: Would you like to have that now or ---

10 THE COURT: No. Let's go ahead.

11 MR. MOYER: Yeah. That will probably be about when
12 we're ready for a break.

13 THE COURT: And I already -- I will look at that.

14 MR. ADDUCCI: I appreciate it. Thank you.

15 (WHEREUPON, the jury entered the courtroom at 10:25 a.m.)

16 THE COURT: All right. Ladies and gentlemen, thank
17 you for your patience. It took us a lot longer to go
18 through some things we need to take outside of your
19 presence and some other matters we had to take care of,
20 so I do apologize for the delay. But we will now
21 continue.

22 The State's to call their next witness.

23 MR. MOYER: The State calls Mike Rainey.

24 THE CLERK: Mr. Rainey, please come forward. Place
25 your left hand on the Bible and raise your right hand.

1 WHEREUPON,

2 MIKE RAINERY

3 After having been duly sworn, testified as follows:

4 THE CLERK: Please be seated and state your name for
5 the record.

6 THE WITNESS: Sergeant Michael Rainey, Greenville
7 County Sheriff's Office.

8 DIRECT EXAMINATION

9 BY MR. MOYER:

10 Q Okay. So you work for the Greenville County
11 Sheriff's Office?

12 A Yes, sir.

13 Q How long have you been in law enforcement?

14 A 23 years.

15 Q Has it all been with the Sheriff's Office?

16 A Yes, sir.

17 Q What is your position currently with the Sheriff's
18 Office?

19 A I am currently the supervising sergeant over the
20 Computer Crimes Unit.

21 Q Okay. How long have you been in that unit?

22 A Ten years.

23 Q How long have you been supervisor?

24 A April of this year.

25 Q Okay. Now, in that unit, do you all do cell phone

1 data recovery?

2 A Yes, sir. We do.

3 Q And have you been trained to do this?

4 A Yes, sir. I have.

5 Q Tell the jury a little bit about your training that
6 you received to do cell phone data recovery.

7 A I have been trained through mobilize cell -- or
8 BlackBag Technologies and their forensic program called
9 Mobilyze. Been through their training course, been
10 through their recertification course. Also been through
11 Cellebrite training, which is another forensic tool for
12 cell phones. I've also been through their advanced
13 training. Was also in Hoover, Alabama in the United
14 States Secret Service training course for Cellebrite -- or
15 for cell phone forensics.

16 Q Okay. And would you tell the jury a little bit about
17 how you do data recovery from a cell phone?

18 A Yes, sir. The programs are a read-only program. You
19 basically plug the phone into the computer or the device
20 that is going to extract the data. It write blocks and
21 makes the phone read-only so I can't -- we cannot change
22 any data on the device. It extracts the data, places it
23 onto a thumb drive or onto the computer, depending on
24 which program you use, at which point it reads and puts it
25 into a readable format for us to look at, at which point I

1 burn it to a disc and give to the lead investigator of the
2 case for them to examine.

3 Q So pretty much a matter of just hooking the phone up
4 to the right software, and then it just dumps it out onto
5 a disc for you?.

6 A Yes, sir.

7 Q Okay. Now, did you perform some cell phone data
8 recovery on a cell phone in this case?

9 A Yes, sir. I did.

10 Q And it was a cell phone that was brought to you by
11 this investigator, Cheryl Manley?

12 A Yes, sir.

13 Q Okay. Now, did you -- once again, did you take that
14 data that you got from the phone and did you preserve it
15 on a CD, on a disc?

16 A Yes, sir.

17 Q And did you give it to Investigator Manley?

18 A Yes, sir.

19 Q And have you had a chance to go back with me and
20 take a look at the copy that we have to make sure that
21 that is an exact copy of the disc that was given to Cheryl
22 Manley?

23 A Yes, sir. I did.

24 Q And you dated and initialed that disc when you looked
25 at it?

1 A Yes, sir.

2 (WHEREUPON, State's Exhibit Number 83 was marked for
3 identification.)

4 BY MR. MOYER:

5 Q I'm going to hand you what's been marked as State's
6 Exhibit Number 83. Can you just take -- just open that up
7 and take a look at it and see if you can recognize what
8 that is?

9 A (Witness complies) Yes, sir. This is a copy of the
10 disc that I gave ---

11 Q Investigator Manley?

12 A --- Investigator Manley.

13 Q And did you have the opportunity to go over it and
14 make sure it's an exact copy?

15 A Yes, sir.

16 Q When did you do that?

17 A August 28, 2017.

18 MR. MOYER: Your Honor, at this time, I would move
19 State's Exhibit 83 entered into evidence.

20 MR. ADDUCCI: Subject to previous objections.

21 THE COURT: Right. And I will allow it in.

22 (WHEREUPON, State's Exhibit Number 83 was admitted into
23 evidence.)

24 THE COURT: And what's the exhibit number again?

25 MR. MOYER: 83.

1 THE COURT: All right. And this is in over objection
2 by defense counsel.

3 BY MR. MOYER:

4 Q Now, at this time, I have just a couple of questions
5 for you about the readability of this disc, and one of
6 them involves the time that is listed on text messages.
7 So let me start off by asking you, does -- did -- the
8 phone dump that you did on that phone, does it show text
9 messages that were done ---

10 A I believe it does.

11 Q --- from that phone to another? Okay. And does it
12 show the times the text messages were done?

13 A Yes, sir. I believe it did.

14 Q Okay. We're going to be showing some of the data
15 that was recovered on the screen behind you. I don't know
16 if you can see it from where you are or if you need to
17 step down.

18 MR. ADDUCCI: And, Your Honor, again, subject to
19 prior ---

20 THE COURT: Right. The Court will consider your
21 objection ongoing.

22 MR. ADDUCCI: Thank you, Your Honor. I appreciate
23 it.

24 BY MR. MOYER:

25 Q Okay. Can you point out to the jury where the time

1 frame -- you can start off on the message on the bottom
2 that says, Stop on the way home. Does it show the time
3 and date that the message was ---

4 A It's in green.

5 Q Okay. Now, the first numbers in green say
6 2015-01-23. That would be the date?

7 A Yes, sir.

8 Q And then after that it says 19:04:57, but then it
9 says -0500. Would you explain to the jury what that
10 signifies?

11 A The program uses Greenwich mean time, which is
12 standard time. So to get to our time zone, you have to
13 subtract the five hours.

14 Q Okay. So then for using that one as an example,
15 January 23, 2015, at 19:04:57, Greenville time for that
16 call would have been 14:04:57? Or no. I'm sorry. My
17 math -- yes. 14 ---

18 A Yes.

19 Q Okay. And that's military time.

20 A Correct.

21 Q So that would mean so that would be 2:04:57 in the
22 afternoon?

23 A Correct.

24 Q And one other matter. Okay. Now I want to show you
25 what has been -- what is marked in the report as phone

1 calls. And so would this show incoming and outgoing phone
2 calls from that phone?

3 A Yes, it does.

4 Q Okay. And so if we start off on the left-hand side
5 and using the bottom one as an example, it says the word
6 "out." I assume that would be an outgoing call?

7 A That's an outgoing call.

8 Q Okay. And then next to that, again, we have the time
9 stamp.

10 A Correct.

11 Q And we see that -500 again. Does that, once again,
12 mean you have to subtract five hours?

13 A Yes.

14 Q Okay. And then to the right of that, we see
15 "initial" and then "phone number."

16 A Phone number.

17 Q That would be the phone number that the ---

18 A That the call came from.

19 Q Okay. And then after that, we see another number.
20 What would that be?

21 A That's the duration of the call.

22 MR. MOYER: Okay. That's all the questions I have
23 for you at this time. Thank you.

24 MR. ADDUCCI: I have no questions for this witness.

25 THE COURT: All right. Thank you. You may step

1 down.

2 MR. MOYER: The State calls Lisa Mobley.

3 THE CLERK: Ms. Mobley, please come forward and place
4 your left hand on the Bible and raise your right hand.
5 WHEREUPON,

6 LISA MOBLEY

7 After having been duly sworn, testified as follows:

8 THE CLERK: Please be seated and state your name for
9 the record.

10 THE WITNESS: Lisa Mobley.

11 DIRECT EXAMINATION

12 BY MR. MOYER:

13 Q Hi, Ms. Mobley. Will you tell the jury a little bit
14 about where you work and what kind of work you do?

15 A I'm a lawyer in Greenville county. I practice at the
16 Mobley Law Firm. My husband and I are in practice
17 together, and we do pretty much just all Family Court law.

18 Q Okay. Now, does that include guardian ad litem work?

19 A Yes. A small part of my practice is guardian work
20 when judges appoint me to represent children in Family
21 Court cases.

22 Q Okay. So tell the jury briefly what we mean by
23 guardian ad litem work and what that entails.

24 A In Family Court cases when there are issues regarding
25 children that a judge feels like they need to have more

1 information or both sides of the story to be able to get
2 accurate facts as far as what's going on with the children
3 and to represent the children's best interest in Family
4 Court.

5 Q Okay. Now, did you get involved in the matter of
6 John Ferrell and Jane Hughes?

7 A Yes, I was. There was a Family Court hearing in
8 July. I wasn't present for that hearing, but because of
9 the issues involved in the case, the judge appointed me as
10 guardian ad litem.

11 Q You said July. Of what year?

12 A 2014.

13 Q Okay. And so were you then ordered to be the
14 guardian ad litem in the case?

15 A Yes.

16 Q And do you know when that order came through?

17 A I was appointed as guardian ad litem by a court order
18 on August 15, 2014.

19 Q 2014.

20 Okay. So what was the custody situation when you
21 became involved?

22 A When I became involved, the children were here in
23 South Carolina. The father, John Ferrell, had filed an
24 action to enforce the California order granting him
25 custody of the oldest child [REDACTED]. That order was

1 issued in California in 2010. There was a rule to show
2 cause to enforce the California order, and then
3 Mr. Ferrell filed an amended complaint seeking custody of
4 both children, [REDACTED] and [REDACTED].

5 Q And that was here in South Carolina?

6 A He filed that in South Carolina.

7 Q Okay. And so the first temporary hearing, you said,
8 was August of 2014?

9 A I believe it was between July and August of 2014.
10 That was the hearing I wasn't present for, but I was
11 provided with a copy of that court order.

12 Q And at that time, the children were living with Jane
13 Hughes?

14 A Yes. At Stonegate in Simpsonville.

15 Q 106 Stonegate Road in Simpsonville?

16 A Right.

17 Q Okay. Now, who had instigated the Family Court
18 proceedings?

19 A The father, John Ferrell.

20 Q And I think you already told us what the purpose was.
21 So did you issue a guardian ad litem report?

22 A Well, the first temporary hearing, the order that I
23 was provided indicated that the children would remain
24 present in the jurisdiction of Family Court here in
25 Greenville. They would reside with the mother, and I was

1 to conduct an investigation and issue a report within
2 around 30 days of the date that I was assigned to the
3 case. So I did conduct that investigation, and then I
4 filed a motion for a temporary hearing which the order
5 required me to do. I believe it was October the 3rd of
6 2014.

7 Q Okay. And who all did you speak to in forming your
8 recommendations in the report?

9 A From my recollection, I met with Mr. John and
10 Ms. Margaret Hughes, and then I met with Jane Hughes, I
11 met with Mr. Ferrell, I reviewed some of the Family Court
12 documents, affidavits. At some point, I requested
13 [REDACTED] school records and the children's medical
14 records. And then I prepared a report which was presented
15 to the Court at a temporary hearing -- second temporary
16 hearing on October the 27th.

17 Q Okay. And what was your recommendation to the Court?

18 A Well, basically, after interviewing everybody, I had
19 recommended that the children be -- or not the children,
20 [REDACTED], because she was having some emotional issues, I
21 recommended that she be participating in counseling.
22 Ms. Hughes, Jane Hughes had made arrangements for her to
23 participate in counseling at Compass.

24 It had been some time since the children had seen
25 their father, so I recommended that we have some sort of

1 visitation set, but it needed to be integrated into
2 proceeding with the case but the children getting to know
3 their father again.

4 I had concerns about both sides because I had
5 conflicting information that I was getting and I had some
6 concerns about the parents and had recommended that there
7 was psychological evaluations. And the parents did agree
8 to psychological evaluations to be paid by Mr. Ferrell.
9 They did agree to counseling.

10 A contested issue was what type of visitation that
11 the children would have with the father. I suggested that
12 the visitation be supervised by an agency here in
13 Greenville that we work with called Visitation Express,
14 which is a service that you have to pay for, but I felt
15 like we could have some independent objective person,
16 first of all, looking at the -- making sure that the
17 children were safe, but also making sure that everything
18 was going well, working with the family and working with
19 the visitation. They do a really good job. They also
20 prepare reports of what happens at visitation.

21 So I believe the judge at that time was Judge
22 Phillips, and he ordered for the children to have, I think
23 for a period of three months, two visits for two hours
24 apiece twice a month, and then that visitation could be
25 expanded at that point to unsupervised for two hours after

1 those six visits had been completed. But then the court
2 order could not be expanded beyond that without my
3 agreement and the agreement of Lisa Plumley [phonetic],
4 who was [REDACTED] counselor.

5 Q And what was the time frame? When these supervised
6 visits you were talking about, what was the dates they
7 were going to be taking place in?

8 A Okay. The second temporary hearing was October the
9 27th.

10 Q Of what year?

11 A Of 2014.

12 And so there would have been two visits in November,
13 two visits in December and two visits in January.

14 Q Okay. And then it was supposed to expand to the
15 unsupervised visits ---

16 A Correct. For two hours.

17 Q --- for Mr. Ferrell.

18 Okay. And did those take place?

19 A No. There were two visits in November, two visits in
20 December, and then the end of December, the mother called
21 me and said ---

22 MR. ADDUCCI: Objection, Your Honor.

23 MR. MOYER: I'll retract that.

24 BY MR. MOYER:

25 Q So without saying what she said, just did the

1 unsupervised visits take place?

2 A No.

3 Q And so based on that and other circumstances of the
4 case, was another temporary hearing scheduled?

5 A Yes.

6 Q And when was that other temporary hearing to take
7 place?

8 A When I learned that the visits were not going to be
9 taking place, I filed a motion on January the 16th of 2016
10 [sic] for a third temporary hearing.

11 Q Okay. And did the hearing get a date when it was to
12 take place?

13 A Yes. On January the 27th, 2015, there was a
14 temporary hearing that was scheduled in Family Court. In
15 order to get another temporary hearing, you have to
16 request for the Family Court judge to be able to approve,
17 and so I had filed a motion I believe we need a temporary
18 hearing. The judge granted it on an expedited basis, and
19 it was scheduled for the 27th.

20 Q Okay. Did you send out notices for the hearing?

21 A Yes. I did send out notices as soon as I got the
22 paperwork on January the 20th notifying everybody that
23 there was going to be a temporary hearing.

24 Q And when you say "everybody," who did you send the
25 notices to?

1 A The notice would have been sent to Mr. Ferrell's
2 attorney, Bill Bean; Jane Hughes, who was appearing pro
3 se.

4 Q "Pro se" means without a lawyer?

5 A Without a lawyer.

6 MR. MOYER: Okay. I have no further questions.
7 Thank you.

8 THE COURT: Cross-examination?

9 MR. ADDUCCI: The Court's indulgence, Your Honor.
10 No questions for the witness, Your Honor.

11 THE COURT: You may step down.

12 THE WITNESS: Thank you, Your Honor.

13 MR. MOYER: The State calls Keith Morecraft.

14 THE CLERK: Officer Morecraft, please place your left
15 hand on the Bible and raise your right hand.

16 WHEREUPON,

17 KEITH MORECRAFT

18 After having been duly sworn, testified as follows:

19 THE CLERK: Please be seated and state your name for
20 the record.

21 THE WITNESS: Keith Morecraft.

22 DIRECT EXAMINATION

23 BY MR. MOYER:

24 Q Okay. Where are you employed, sir?

25 A Simpsonville Police Department.

1 Q How long have you been in law enforcement?

2 A 24 years.

3 Q Where all have you worked?

4 A Started in Anderson County, then I moved to
5 Greenville County, then to Simpsonville in 2011.

6 Q How long have you been in Simpsonville?

7 A Since 2011, so about six years.

8 Q Okay. And what is your position with the
9 Simpsonville Police Department?

10 A I'm the violent crimes investigator.

11 Q Okay. And did you work this case alongside
12 Investigator Manley?

13 A Yes, I did.

14 Q Okay. So I'm going to ask you, so you worked this
15 from the very outset of the case?

16 A Yes, sir. I was called out the evening the crime
17 occurred.

18 Q Okay. Well, I'm just going to ask you about a
19 limited -- a limited bit of involvement that you had in
20 the case at this point. And let me ask you, was there a
21 date that you participated in a search of the defendant's
22 residence after the incident?

23 A Yes. On January 30, 2015.

24 Q Okay. And what was the primary purpose of going over
25 there on that day?

1 A To obtain additional photographs and take
2 measurements of certain things at the residence.

3 Q Okay. Did you go in the daytime?

4 A We did.

5 Q Were you out there the night this happened?

6 A I was.

7 Q So it was dark out there that night?

8 A Yes, it was.

9 Q Okay. So you went out there in the daytime to take
10 some more photographs and search?

11 A Yes, sir.

12 Q Were the residents of the home present when you went
13 there on the 30th?

14 A No, they weren't. The homeowner -- the actual
15 homeowner, who does not live there that rents the house
16 out, was present.

17 Q Okay. So this was after the date of arrest ---

18 A Yes, sir.

19 Q --- for the people who were arrested in this case.

20 Okay. Well, let me pause for just a moment. We have
21 to have some exhibits marked.

22 (WHEREUPON, State's Exhibit Numbers 84 through 90 were
23 marked for identification.)

24 BY MR. MOYER:

25 Q Let me ask you about some of the measurements that

1 you did. Did you measure from the ground to the bottom of
2 the kitchen window that was open on the night of the
3 incident?

4 A Yes, sir.

5 Q And what was the distance you determined that to be?

6 A 70.5 inches measured at the center of the window.

7 Q Okay. So that's 5'10 1/2"?

8 A Yes, sir.

9 Q Now, did you measure the width of that kitchen
10 window?

11 A I did. If I can refer to my notes. The width of the
12 kitchen window was 30.75 inches.

13 Q Did you measure the height of the window?

14 A Yes, sir. The height when the window was fully
15 opened is 15.25 inches.

16 Q Okay. And you measured diagonally as well?

17 A Right. And that's 33 1/2 inches.

18 Q There was like an HVAC or air-conditioning unit that
19 was outside of the residence ---

20 A Yes, sir.

21 Q --- in the vicinity of that window. Did you measure
22 from where that was to where the window was?

23 A Yes, sir. The air conditioning unit was located to
24 the left of the window if you're facing the house, and
25 from the edge of the air conditioning unit to the window

1 was 37 inches.

2 Q Okay. So when you say the edge, you're talking about
3 the edge closest to the window?

4 A Correct.

5 Q And then to like if you take a line from the window
6 down to the ground.

7 A Correct.

8 Q Not on a diagonal, but directly.

9 A Right.

10 Q Tell me that distance again?

11 A 37 inches.

12 Q So that's just over 3 feet?

13 A 3'1".

14 Q Okay. Now, what about other windows on the side of
15 that house?

16 A There was a window located to the right of the
17 kitchen window which was actually the living room window.
18 The height of that window measured from the ground to the
19 center of the window was 47 inches, so it was considerably
20 lower than the kitchen window.

21 Q So if my math is correct, that's just under 4 feet,
22 about 3'11"?

23 A Correct. yes.

24 Q Now, did you collect any more evidence from inside of
25 the house?

1 A We did. We collected a shell casing that was located
2 inside of an enclosure, basically a small envelope that
3 was located in the kitchen.

4 Q Okay. Tell me where in the kitchen and ---

5 A When we went into the house, there was a lot of
6 packets of paperwork that were neatly organized at the far
7 end of the kitchen and labeled with their contents, and
8 while searching those items, that's when we found the
9 shell casing. It was inside of a case and it had the
10 coroner's business card inside of it.

11 Q Okay. And was that submitted to the firearms
12 examiner for testing?

13 A Yes, sir.

14 Q And is that the one shell casing that had a different
15 headstamp on it than the other five that were found
16 outside?

17 A I believe it did.

18 Q Okay. Now, did you find anything in the trash can?

19 A We did. There was a trash can located on the
20 right-hand side of the residence close to the air
21 conditioning unit. There was an empty Clorox bottle.

22 Q So this is outside the residence?

23 A Yes, sir.

24 Q And where in relation to that window?

25 A If you were facing the right-hand side of the house

1 and approaching the window, it is prior to the air
2 conditioning unit that was where the trash can was
3 located, and that's where the empty Clorox bottle was.

4 Q And photographs were taken of that?

5 A Yes. And then it was seized as evidence.

6 Q Now, did you also find any official documents and
7 letters related to the child custody dispute that was
8 ongoing?

9 A We did. There was various court documents, and those
10 were taken as well.

11 Q And you photographed where they were in the house as
12 well?

13 A Yes, sir. Prior to seizing them.

14 Q All right. Now, also inside the house, did you do
15 any measurement from the distance of that kitchen window
16 to where that bloodstain had been back on the table or
17 that quilt?

18 A I don't recall doing that measurement. We did
19 another measurement outside to a bloodstain.

20 Q Okay. Tell me about that.

21 A We measured from the window to a large bloodstain in
22 the yard, which was where the head of the decedent was
23 located.

24 Q Okay.

25 A And that measurement was 19 feet.

1 Q Okay. All right. I am going to hand you State's
2 Exhibit Numbers 84 through 90, which I understand . . .

3 MR. MOYER: Actually, the State would move to have
4 State's Exhibits 84 through 90 entered into evidence.

5 THE COURT: All right. Any objection?

6 MR. ADDUCCI: No, Your Honor.

7 (WHEREUPON, State's Exhibit Numbers 84 through 90 were
8 admitted into evidence.)

9 BY MR. MOYER:

10 Q I'm going to hand you a laser pointer. Actually,
11 there's one up there. But, if you would, use that to
12 illustrate to the jury as we go through these photographs.

13 I'm going to start off with State's Exhibit
14 Number 84. Can you tell the jury what it is we see in
15 that photograph?

16 A Yes, sir. That's the right-hand side of the
17 residence on Stonegate Road.

18 Q And is the window that is seen in the other
19 photograph from that night, the one that was open, is that
20 -- can you see that in this picture?

21 A Yes, sir.

22 Q And where is that?

23 A Right here (indicating).

24 Q And let me show you State's Exhibit Number 85. And
25 what is shown in that photograph?

1 A The kitchen window as well right here (indicating).

2 Q And when you mentioned the distance from the HV unit,
3 I think you said 3'1"?

4 A Yes, sir.

5 Q Where were you measuring from?

6 A That would have been from the corner of the air
7 conditioning unit to here (indicating). What we're trying
8 to illustrate was whether or not somebody could have used
9 the air conditioning unit to stand up on to gain access to
10 the window from the outside.

11 Q Okay. So was that measurement diagonally from there
12 up to the window?

13 A From the shortest point to shortest point.

14 Q Okay. So from the corner of the ---

15 A Right.

16 Q --- from there (indicating) up until the window is
17 just over 3 feet?

18 A Yes, sir.

19 Q I'm going to show you State's Exhibit Number 86. Is
20 that showing the measurement of the window?

21 A Yes, sir. From the ground to the bottom of the sill.

22 Q Okay. State's Exhibit Number 87, what is being
23 measured there?

24 A That is the living room window which was located to
25 the right of the kitchen window.

1 Q That would be this (indicating) window over here?

2 A Correct.

3 Q State's Exhibit 89, can you tell the jury what that
4 is?

5 A That was the empty Clorox bottle that we located in
6 the trash can outside of the residence.

7 Q State's Exhibit Number 90.

8 A That's a picture of inside of the kitchen at the time
9 we executed the search warrant, and that was how we found
10 all of the paperwork that had been assembled there.

11 Q And that was all the paperwork, most of which is
12 related to the custody dispute?

13 A A lot of it was. Yes, sir.

14 Q Okay. And what area of the house was that?

15 A That was in the kitchen.

16 MR. MOYER: One moment please.

17 Okay. I have no further questions. Please answer
18 any from defense.

19 THE WITNESS: Yes, sir.

20 MR. ADDUCCI: Just briefly, Your Honor.

21 CROSS EXAMINATION

22 BY MR. ADDUCCI:

23 Q On that day, it's my understanding that you also
24 seized a number of electronics; is that correct?

25 A That is correct.

1 Q There was a Samsung tablet..

2 A Yes, sir.

3 Q An HP Pavilion laptop computer.

4 A Correct.

5 Q Two zip drives.

6 A Yes, sir.

7 Q An E machine computer tower, right?

8 A Yes, sir.

9 Q And another Toshiba Satellite laptop computer, right?

10 A That's correct.

11 Q You seized all of the computers that you could in
12 that house. You didn't leave any, right?

13 A Not that I'm aware of.

14 MR. ADDUCCI: Okay. The Court's indulgence.

15 Nothing further, Your Honor.

16 MR. MOYER: No redirect.

17 THE COURT: Thank you. You may step down.

18 MR. MOYER: The State calls James Armstrong.

19 THE CLERK: Please place your left hand on the Bible
20 and raise your right.

21 WHEREUPON,

22 JAMES ARMSTRONG

23 After having been duly sworn, testified as follows:

24 THE CLERK: Please be seated and state your name for
25 the record.

1 THE WITNESS: James William Armstrong.

2 DIRECT EXAMINATION

3 BY MR. MOYER:

4 Q Okay. Where are you employed?

5 A I'm employed with the Greenville County Department of
6 Public Safety Forensics Division crime laboratory.

7 Q What do you do with the crime laboratory?

8 A I have a job title as a criminalist where I actually
9 have a dual responsibility as a forensic drug chemist and
10 a firearm examiner.

11 Q All right. How long have you been in law
12 enforcement?

13 A I've been in law enforcement a little over
14 23 1/2 years.

15 Q Where all have you worked?

16 A I've been employed with Laurens County Sheriff's
17 Office; South Carolina Probation, Parole and Pardon
18 Services; and for the last 21 1/2 years, I've been
19 employed with the Greenville County crime lab.

20 Q I'm sorry. How long have you been with the crime
21 lab?

22 A A little over 21 1/2 years.

23 Q And have you been doing both firearms and drugs that
24 entire time?

25 A Drugs the entire time and firearms for 18 years.

1 Q 18 years.

2 Tell the jury a little bit about what you do as a
3 firearms examiner, and then we'll get into what training
4 and education you've had for it.

5 A As a firearms examiner, I examine firearms to make
6 sure that they are operable and the proper working order
7 and condition. Also, I compare fired cartridge casings
8 and projectiles to see if they were fired from the same
9 gun or if that particular firearm that I have in custody.
10 I also do tool mark examinations where we examine tools to
11 see if the markings that were left behind from scenes were
12 made by those certain tools.

13 Q Okay. And tell the jury about what certifications
14 you have, what training, what education you've had to be
15 able to do this.

16 A I have a bachelor of science in chemistry from
17 Erskine College; I have training, approximately two years
18 under the direction of a retired firearm examiner from
19 Philadelphia PD doing an internship-style training,
20 hands-on apprenticeship type; I have been through numerous
21 firearm manufacturing facilities to see how firearms are
22 manufactured from raw material to finished product; I have
23 attended five different ammunition manufacturing
24 assemblies as well as the same process, raw material to
25 finished product; I've been through at least five

1 different armor schools to learn how to work on various
2 firearms; I have been through numerous schools sponsored
3 by Alcohol, Tobacco and Firearms and Explosives on the
4 identification of firearms; and I've testified in federal
5 and state court at least 60 times as an expert in the
6 field of firearm identification.

7 Q How many times have you testified on narcotics and
8 drugs?

9 A Approximately 165.

10 Q How much of your time is devoted, maybe on a
11 percentage basis, between drugs and firearms?

12 A It varies on the case loads.

13 Q Okay. How many firearms would you say you've
14 examined in a given period of time, say, a week or a
15 month?

16 A Once again, it varies on time. I'm averaging
17 approximately 10 to 15 cases a month right now in
18 firearms.

19 Q And you've been qualified as an expert in firearms
20 examination?

21 A Yes, sir.

22 MR. MOYER: Your Honor, at this time, I would move to
23 have James Armstrong qualified as an expert in firearms.

24 THE COURT: Any objection?

25 MR. ADDUCCI: No, Your Honor.

1 THE COURT: All right. Then I will grant your
2 motion.

3 As I told you yesterday, when somebody has been
4 appointed as an expert, they can testify about things
5 beyond their own experiences as far as what they've
6 observed. They can state conclusions based on their
7 training and expertise, and you're to give it the weight
8 that you feel is appropriate. All right.

9 BY MR. MOYER:

10 Q Okay. I'm going to hand you State's Exhibit
11 Number 75. It's the firearm that has been admitted into
12 evidence in this case, and it has been rendered safe by
13 courtroom deputies. Were you given that firearm to do any
14 examination of for this case?

15 A Yes, sir. I was.

16 Q Let's start off by telling the jury a little bit
17 about that pistol. What model is it? What caliber?

18 A This is a Glock Model 21. It's a semi-automatic
19 pistol. It's a .45 auto in its caliber.

20 Q Okay. And what does .45 -- what does .45 auto
21 signify or stand for?

22 A Well, .45 is the dimensions of the bore. It measures
23 .45 inches.

24 Q Is that a large caliber gun?

25 A It's for handgunwise, yes, sir.

1 Q What does semi-automatic mean?

2 A It fires one projectile per pull of the trigger, and
3 it will reload itself until it is either out of ammo or it
4 malfunctions.

5 Q So once someone would fire that pistol, there's
6 nothing else that has to be done to pull the trigger again
7 to shoot it?

8 A That's correct.

9 Q So it can shoot just as fast as you can pull the
10 trigger?

11 A That's correct.

12 Q Okay. How many bullets can the pistol hold in the
13 magazine?

14 A It depends on the magazine. This one here has a
15 13-round magazine, so the pistol would have a 14-round
16 capacity.

17 Q That includes one in the chamber?

18 A One in the chamber.

19 Q And 13 in the ---

20 A In the magazine and one in the chamber.

21 Q Did you test fire that pistol?

22 A Yes, sir. I did.

23 Q Was it operable?

24 A Yes, sir. It is.

25 Q Now, were you given some shell casings to examine to

1 see if you could draw any conclusions from them?

2 A Yes, sir. I was.

3 Q You were given six?

4 A That's correct.

5 Q Okay. Now, tell the jury how it is that you go about
6 doing an examination of fired shell casings to a pistol.

7 A I receive the pistol, and I do a test fire. I
8 actually generate evidence, therefore I'm test firing the
9 firearm. I have my own knowns to compare to the unknowns
10 from a crime scene.

11 So I sit down, and I comparison microscope and do a
12 side-by-side comparison of the unknowns or the ones from
13 the crime scene to my knowns that I just generated in the
14 lab. And as we do the side-by-side comparison on the
15 microscope, we're basically putting a puzzle together.
16 We're trying to see any striations which are the
17 imperfections in the firearm during the manufacturing
18 process that are transferred to that casing. And, again,
19 as we set them side-by-side, it's just like putting a
20 puzzle together. We're just matching up the striations or
21 imperfections.

22 Q Okay. And so you said you were given six different
23 cartridge cases in this. What was the caliber and
24 manufacture of the six different shell casings you were
25 given?

1 A The caliber was .45 auto, the manufacturer were all
2 Winchester.

3 Q Now, what was your -- what was the result of your
4 examination of those fired cartridges to this pistol?

5 A The fired cartridge casings that I received were
6 items RSP-1, RSP-2, RSP-3, RSP-4, RSP-5 and KM-1A. The
7 items RSP-1 through RSP-5 fired cartridge casings were
8 fired in this pistol, and the KM-1A fired cartridge case
9 bore has similar but insufficient microscopic marks to
10 permit identification to the pistol or to the other fired
11 cartridge cases.

12 Q What does that mean going back to that third -- or,
13 I'm sorry, that ---

14 A The similar? The similar, there's some similar marks
15 that indicate it may have been fired in the firearm but
16 not enough to confirm that it was.

17 Q And what can lead to your not being able to have a
18 confirmatory or an inconclusive result as you have in that
19 one particular ---

20 A There are many factors in that. I mean, the hardness
21 of the metal the cartridge case was manufactured, or the
22 case was actually, say, under-pressured or overpressured.
23 All kinds of variables in there.

24 Q Okay. But the first five that you mentioned, you're
25 able to say they were a definitive match to that pistol?

1 A That's correct.

2 MR. MOYER: Okay. No further questions. Thank you.

3 THE COURT: Cross-examination?

4 MR. ADDUCCI: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. ADDUCCI:

7 Q With a semi-automatic pistol, it has to eject the
8 cartridge in order to make room for the next one to come
9 in, right?

10 A That's correct.

11 Q On this Glock 21, which direction does it eject?

12 A They generally eject up and to the right.

13 Q Up and to the right.

14 A If you're holding it in its traditional shooter
15 stance.

16 Q Yes. So if I'm holding it like this (demonstrating),
17 the cartridge will eject, I mean, is it sort of like to a
18 90 degree to the right or kind of forward?

19 A It varies -- varies on -- on the firearm itself, but
20 generally, up and to the right. There's going to be some
21 little angle just off to the right-hand side of the
22 shooter.

23 Q Okay. But generally in the area where the shooter
24 was standing to the right side.

25 A That's correct.

1 Q Okay. And you had mentioned that that is a
2 13-capacity magazine.

3 A That's correct.

4 Q And, now, there's a spring at the bottom of a
5 magazine, right, that sort of keeps after a fired shot to
6 push it up, right?

7 A Yes, sir.

8 Q And if you keep a magazine with -- completely loaded,
9 you can damage that spring, right?

10 A Some manufacturers say yes, but Glock also
11 manufactured to hold the 13. They actually recommend a
12 whole -- fill it completely full.

13 Q But people who have guns, it is not uncommon for them
14 not to completely load the magazine for fear of damaging a
15 spring?

16 A That's all personal preference on those. But I
17 personally have had no -- have seen no issue with it even
18 being loaded for like 10 or 15 years.

19 Q But you have heard that people do this, correct?

20 A I do know people do that. Yes, sir.

21 MR. ADDUCCI: Yes. Okay. Court's indulgence.

22 Nothing further, Your Honor.

23 THE COURT: Any redirect?

24 MR. MOYER: No, Your Honor.

25 THE COURT: All right. You may step down.

1 MR. MOYER: Your Honor, if it please the Court, the
2 next witness is one for whom the defense attorney wishes
3 to be heard.

4 THE COURT: All right. Ladies and gentlemen, we're
5 going to take a break here to go over some matters outside
6 your presence. So don't discuss the case, and we'll bring
7 you right back out as soon as we can.

8 (WHEREUPON, the jury exits the courtroom at 11:12 a.m.)

9 MR. MOYER: May it please the Court. The next
10 witness who was going to be testifying -- I'll turn it
11 over to the defense. I'm not quite sure how they're able
12 to get priest penitent out of this particular witness.
13 They did go to the same church together, but she had no
14 position of authority with the church. She had no ---

15 THE COURT: Well, who -- I mean, tell me who she is.

16 MR. MOYER: She is -- the only connection to the
17 church is they happen to go to the same church.

18 THE COURT: But, I mean, who is she?

19 MR. MOYER: Her name's Christine Boisher.

20 THE COURT: And what's her -- I mean, is she just a
21 layperson?

22 MR. MOYER: Yes, she is. She is going to testify
23 that the priest of the church suggested that she might
24 want to go talk to the defendant and his family, knowing
25 that they were going through this Family Court proceeding

1 and the concerns they had and not having an attorney, just
2 said perhaps you may want to go talk to them and see if
3 you can calm their nerves or put them at ease, answer any
4 questions they have. So she did so. She wasn't providing
5 any counseling, any religious instruction, she wasn't
6 getting any confessions of any type from the defendant.
7 She's just going to testify that she had several
8 conversations with this defendant. She's going to talk
9 about the contents of the conversation as they related to
10 Family Court and other various matters concerning this
11 case.

12 THE COURT: Mr. Adducci, you've indicated that you
13 think the priest-penitent privilege applies?

14 MR. ADDUCCI: Ms. Johnson is actually going to be
15 heard on this issue, Your Honor.

16 THE COURT: All right.

17 MS. JOHNSON: Judge, we do. I would like to proffer
18 testimony from Mr. Hughes.

19 THE COURT: Well, I mean, looking at 19-11-90, this
20 says that no regular or duly ordained minister, priest or
21 rabbi shall be required to disclose any confidential
22 communication properly entrusted to him in his
23 professional capacity and necessary and proper to enable
24 him to discharge the function of his office. I mean, this
25 person is not a duly ordained minister, priest or rabbi.

1 MS. JOHNSON: Well, Judge, first of all, I think that
2 we've got to define ordained minister, and that is not
3 defined in this statute, nor is it defined in case law.

4 But the main issue here is Mr. Moyer is exactly
5 right. The priest set up this meeting, and so my argument
6 to the Court is that this lady is a conduit or an agent of
7 the priest, and all of their communications or
8 conversations took place in this setting. My client never
9 went to Ms. Boisher. My client went to the priest, and he
10 is the one who facilitated this meeting. She is simply an
11 agent of the priest.

12 THE COURT: I mean, the privilege does not apply to
13 the agent of the priest, according to my reading of the
14 statute.

15 MS. JOHNSON: Well, Your Honor, I would point Your
16 Honor to the case of Rivers v. Rivers, and I can give Your
17 Honor the cite. But first of all, it says like the
18 attorney-client privilege, the burden of showing the facts
19 required to establish the clergyman-penitent privilege
20 rests on the party objecting to the disclosure of the
21 communication. And we are objecting to this disclosure.
22 So it doesn't have to be made by a priest. I should say
23 the objection does not have to come from a priest. It can
24 come from the party objecting to the disclosure, and that
25 is Mr. Hughes. So I would ask the Court to allow us to

1 proffer testimony from Mr. Hughes so that we can get this
2 on the record.

3 THE COURT: Well, I mean, my view, whatever
4 Mr. Hughes says does not make this person a priest or not,
5 regardless of how he got to this person. You've got to
6 establish to me that this woman was a priest or rabbi.

7 MS. JOHNSON: Well, Judge, and it goes through --
8 there's an analysis. They're members of the Mormon
9 church, the church -- Jesus Christ Church of Latter Day
10 Saints. And she's in this Relief Society, and as part of
11 the Relief Society, that is why she met with Mr. Hughes,
12 is what we would assert to the Court. She's in this
13 Relief Society, and they do visiting teaching sessions.
14 My argument, and I realize it may be far-fetched on its
15 face, but she's in this Relief Society, and the statute,
16 again, does not define what a regular minister is. But
17 she is functioning as a minister, and she is perceived as
18 a minister by Mr. Hughes, and we would argue that she is a
19 minister under the statute. She's certainly an agent of
20 the priest.

21 THE COURT: Out of an abundance of caution, I will
22 let you proffer the testimony.

23 MS. JOHNSON: I understand. And I can pass up a
24 brief that we'd like to submit to the Court.

25 THE COURT: I'll be glad to read it.

1 MR. MOYER: If it please the Court. Your Honor,
2 before we get to that point, I mean, my understanding of
3 the statute is that even if she were considered a priest,
4 it is the priest, him or herself, who can assert the
5 privilege. The person who makes the so-called confession
6 isn't in a position to assert the privilege. It would be
7 the minister, him or herself. It says in no legal
8 proceeding, legal or quasi-legal trial ---

9 THE COURT: Well, now, because it says that they
10 shall be required to disclose any confidential
11 communication, and aren't you requiring her to disclose
12 confidential communication?

13 MR. MOYER: Let me read this. It says, No regular
14 duly ordained minister, priest or rabbi shall be required
15 in giving testimony to disclose. And so that person would
16 be -- is the person who would not have to be required to
17 give it. So if the priest says, I don't want to disclose
18 this information, the priest would have to assert that,
19 and then assuming the Court agreed would ---

20 THE COURT: I think this is -- this statute is -- and
21 I'm not saying it applies here, but I think it's for those
22 people that go disclose -- you know, confess all their
23 sins to the preacher and then this is keeping the preacher
24 from having to come in and testify because, I mean, is the
25 person that confessed all their sins, they have the right

1 to say, No, this priest can't. I did that under the
2 priest-penitent privilege.

3 MR. MOYER: Okay.

4 THE COURT: That's my take. But I'll let you briefly
5 present testimony. I mean, I don't think it applies. I
6 mean, I don't think we get to that point, but, again ---

7 MS. JOHNSON: Judge, if I may have a -- may I be able
8 to respond to that?

9 THE COURT: No. Because I'm not getting to there.

10 MS. JOHNSON: Okay. So can I call Mr. Hughes?

11 THE COURT: If you want to, yeah. Briefly proffer.

12 MS. JOHNSON: For purposes of this hearing, the
13 defense calls John Michael Hughes.

14 THE CLERK: Mr. Hughes, please place your left hand
15 on the Bible and raise your right hand.

16 WHEREUPON,

17 JOHN MICHAEL HUGHES

18 After having been duly sworn, testified as follows:

19 THE CLERK: Please be seated and state your name for
20 the record.

21 THE WITNESS: John Michael Hughes.

22 DIRECT EXAMINATION

23 BY MS. JOHNSON:

24 Q Mr. Hughes, you know a lady by the name of Christine
25 Boisher?

1 A Yes, ma'am.

2 Q And how did you get to know Ms. Boisher?

3 A She was introduced to us by a bishop at our church.

4 Q Okay. And how did you go to the Bishop? Or what
5 made you go to the bishop?

6 A The bishop had asked us how the family was doing.
7 And I told him what we were going through, and I asked him
8 if he can provide any help. And he said that as far as he
9 knew, there were two guardian ad litem that were members
10 of the church, and he said he would have one of them
11 contact us to see if they could help with that, as well as
12 counseling for the children and my wife and my daughter.

13 Q Okay. And so what happened?

14 A I don't know how long it was, but it wasn't too long
15 we got a call from Ms. Boisher.

16 Q Okay.

17 A And she explained to us who she was, church member,
18 member of the Relief Society, and we set up a meeting.

19 Q And what did that meeting consist of?

20 A She came to the house. We talked about the church.
21 She introduced herself. She told us what she knew about
22 guardianship and guardian ad litem work, how she got
23 involved in it. And she talked to the children, talked
24 to my wife and daughter, and then, you know, said she'd
25 look over the paperwork and things from the cases and see

1 if she had anything to offer.

2 Q Was she in the Relief Society?

3 A Yes, ma'am.

4 Q Can you tell the Court real quickly about what the
5 Relief Society is?

6 A The Relief Society, I guess you would call, is the
7 alter ego of the male side of the church. They hold
8 office, they participate in church functions and
9 coordinate and organize a lot of what they call family
10 evenings.

11 Q Did you feel like she did that for your family?

12 A Of course. That's the reason we went. When I first
13 went to the bishop, I asked him about confidentiality of
14 this because it is a private family matter. We don't want
15 that spread all over the place. And he said of course
16 it's confidential, anything that I say to him. That's why
17 when we have a conversation like this, we have a
18 particular room we go in with the bishop and there's
19 nobody else in there.

20 Q So let me get this straight. You never went to
21 Ms. Boisher.

22 A Oh, no, ma'am.

23 Q You went to the priest.

24 A Yes, ma'am.

25 Q Okay. And you said Ms. Boisher was a guardian ad

1 litem, correct?

2 A That's what she told us. Yes, ma'am.

3 Q Was she your guardian ad litem?

4 A No. No, ma'am.

5 Q Or your grandchildren's guardian ad litem?

6 A No, ma'am.

7 MS. JOHNSON: Please answer any questions Mr. Moyer
8 has.

9 THE WITNESS: Yes, ma'am.

10 CROSS EXAMINATION

11 BY MR. MOYER:

12 Q Just a few questions. And you have to forgive me.

13 I'm not familiar with the structure of your church. Let
14 me back up. How long -- were you a member of the church?

15 A Yes.

16 Q How long have you been a member?

17 A Since I was 19.

18 Q And Margaret, your wife, was?

19 A Since -- since she was born.

20 Q And what about Jane and Jacob?

21 A They were in the process, but no.

22 Q How frequently did you all go to church?

23 A Once we found this church, we were there every
24 Sunday.

25 Q And so you knew Ms. Boisher before this -- she came

1 to talk to you about the guardian matter?

2 A Never met her.

3 Q You'd never met her?

4 A No, sir.

5 Q So you didn't know anything about her?

6 A No, sir.

7 Q Okay. So what is this Relief Society you're talking
8 about?

9 A Relief Society is the female side of the church, what
10 the women do. They teach. They pretty much run the food
11 storage. They run anything to do with family work,
12 counseling each other, helping each other through tough
13 times and so on.

14 Q Did she teach you?

15 A Not me personally, no. My wife and daughter on
16 occasion, yes.

17 Q Well, you said you'd never met her before this.

18 A No. This was after she started to come. Because of
19 this particular problem, she decided she'd do that as
20 well.

21 Q So prior to her talking to you about these guardian
22 matters, you had never been in any counseling sessions or
23 teaching sessions or anything like that with her?

24 A No.

25 Q Did you know where she was employed or if she was

1 employed?

2 A I didn't know anything about her until the bishop
3 introduced us.

4 Q You knew her father?

5 A Her father?

6 Q I mean, I'm sorry. Her husband.

7 A I knew who he was. I didn't know they were married.

8 Q He came over a time or two.

9 A Yes. Correct.

10 Q And there wasn't any religious instruction given on
11 these -- when you were talking to her about the upcoming
12 court case.

13 A I mean, religion is always involved in it. What do
14 you mean? When you say religious instruction, what do you
15 mean?

16 Q Well, I mean, she wasn't -- she didn't bring a Bible
17 over when she came to talk to you, did she?

18 A Oh, we always carry a Bible and what they call the
19 Book of Mormon.

20 Q Okay. So she was opening the Bible and giving
21 biblical instruction during this?

22 A Oh, no, no, no.

23 Q Okay. And so when you said something to your priest,
24 her name came up because she had done guardian work. You
25 knew that.

1 A Well, my name didn't come up. Her name didn't come
2 up from me. Her name came up from the bishop.

3 Q Okay. But she came up in the context and for the
4 reason because she had done guardian work. She had been a
5 guardian ad litem.

6 A You'd have to ask the bishop that.

7 Q No. You knew that, though.

8 A Only after he told me.

9 Q Right. So you knew that the reason she was coming to
10 see you was because she had experience as a guardian ad
11 litem.

12 A That and the fact that she was a member of the
13 church, yes.

14 Q And your central questions were over the upcoming
15 court hearings and the guardian ad litem report; is that
16 right?

17 A That was part of it. Yes, sir.

18 Q You never told her that you wished for what you
19 discussed to be confidential.

20 A Yes, sir. I did. I told the bishop first, and then
21 the first time we ever met her, we all did.

22 Q Your testimony now is that you told her that you
23 wished to be confidential.

24 A Of course. That's the reason we used her. That's
25 the reason I went through the bishop to ask for help.

1 Q Okay.

2 A It's my assumption that everything in the church is
3 confidential.

4 Q So why did you need information about a court hearing
5 to be confidential?

6 A Well, it wasn't a court hearing. It was what the
7 children were going through. This wasn't -- this wasn't a
8 problem that arose overnight. This is a 19-year ongoing
9 problem.

10 Q So why do questions about a guardian ad litem report,
11 why does that need to be confidential?

12 A Because I wouldn't want my family business spread all
13 over the news.

14 Q Why would it be spread over the news?

15 A I guess ---

16 MS. JOHNSON: Your Honor, I'm going to object to
17 this.

18 THE COURT: Yeah. Let's move on.

19 MR. MOYER: I don't have any further questions.

20 THE COURT: All right. Any redirect?

21 REDIRECT EXAMINATION

22 BY MS. JOHNSON:

23 Q What kind of counseling did she provide your family?

24 A Counseling was -- because we're members of the church
25 and the internal things that the church does, the

1 counseling was how can we help your family through this
2 tough time. She happened to have guardian ad litem
3 experience which would go further than just the basic
4 church experience.

5 MS. JOHNSON: Thank you, Mr. Hughes.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: All right. You may step down.

8 THE WITNESS: Step down, Your Honor?

9 THE COURT: Yes.

10 THE WITNESS: Yes, sir.

11 THE COURT: All right. And I've also reviewed the
12 Rivers case, which, I mean, the big issue there was the
13 person whom they talked to was an ordained Methodist
14 minister, and the issue was they didn't know whether they
15 were talking to him as a therapist, which was not
16 privileged, or whether they were talking to him as a
17 minister, which was. So they said since there was
18 confusion and he was an ordained minister, that the
19 privilege applied. I mean, there's no common law right to
20 that privilege. It's strictly by that statute, and the
21 clear reading of that statute says an ordained minister.
22 There's no information that this person is covered by that
23 statute, so I'm going to deny your motion.

24 MS. JOHNSON: Thank you, Your Honor.

25 THE COURT: Let's take a quick break and then we'll

1 get going.

2 (WHEREUPON, a recess is taken at 11:30 a.m.)

3 (WHEREUPON, proceedings reconvened at 11:37 a.m.)

4 THE COURT: Anything we need to do before we bring
5 the jury in?

6 MR. MOYER: No, Your Honor.

7 THE COURT: All right. Anything from the defendant
8 before we bring the jury in?

9 MR. ADDUCCI: No, Your Honor.

10 THE COURT: Bring them in.

11 (WHEREUPON, the jury entered the courtroom at 11:44 a.m.)

12 THE COURT: All right. Call your next witness.

13 MR. MOYER: The State calls Andrew Martin.

14 THE CLERK: Mr. Martin, please come forward. Place
15 your left hand on the Bible and raise your right hand.

16 WHEREUPON,

17 ANDREW MARTIN

18 After having been duly sworn, testified as follows:

19 THE CLERK: Please be seated and state your name for
20 the record.

21 THE WITNESS: My name is Andrew Martin.

22 DIRECT EXAMINATION

23 BY MR. MOYER:

24 Q Okay. Mr. Martin, I'm going to be standing over here
25 and asking you questions. This way, I know if I can hear