

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DANIEL LEE FLUDD,

APPELLANT.

APPELLATE CASE NO. 2018-002201

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
 COUNTY OF HAMPTON) CASE NO.: 2017-GS-25-00160-161

THE STATE OF SOUTH CAROLINA,)
)
)
)
 v.) TRANSCRIPT OF RECORD
)
 DANIEL FLUDD,)
)
 DEFENDANT.)
)

DECEMBER 3rd - DECEMBER 5th, 2018
 COMMENCING AT
 HAMPTON COUNTY COURTHOUSE
 HAMPTON, SOUTH CAROLINA
 BEFORE THE HONORABLE PERRY M. BUCKNER, JUDGE.

APPEARANCES:

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1 THE COURT: Madam Clerk, hand that to my court
2 reporter. It will be Court's Exhibit Number 1, without
3 objection.

4 (COURT'S EXHIBIT NUMBER 1, IDENTIFIED AND MARKED.)

5 THE COURT: Please bring us the jury.

6 (JURY RE-ENTERS COURTROOM AT 5:15 P.M.)

7 THE COURT: All right. Now, let me give you all a
8 hint. My three alternates, you all are sitting in the right
9 place, and you all ought to come in first because I want you
10 to slide all the way down. Mr. Foreman, congratulations on
11 your election. That will be your seat; you come in last
12 every time.

13 FOREPERSON: Yes, sir.

14 THE COURT: The rest of you, when you come in, fill all
15 the way down so nobody's got to crawl all over you to get in
16 the box. I know you were sitting in the seat to start with.
17 If you'll do that, it'll make it easier for everybody. Let
18 the alternates come in first, and then if you want to sit by
19 somebody, just line up that way and come in and sit by them.

20 I want to thank you for your patience today. I know
21 I've kept you here three hours during roll call, jury
22 qualification, and jury selection. We're going to start
23 back in the morning at 9:30, because I'm going to try to get
24 you home early tomorrow afternoon. So, I need you here
25 before 9:30, and you're going to report to your jury room,

1 where you just were, not to the courtroom.

2 They'll have something for you to drink, they're going
3 to take good care of you, I'm telling you. Over the
4 overnight recess, please do not discuss this case with
5 anyone, not even a member of your own family. No one. You
6 hadn't heard any evidence in this case, and it would be
7 improper for you to discuss it. Now, everybody -- I ought
8 to make everybody hold it up, but I'll hold mine up --
9 everybody has one of these now, and everybody thinks they
10 can't live without them.

11 It's improper for you to do any type of research on
12 your smart phone or on a computer. I don't want anybody
13 going to Facebook, Link'd In, YouTube; do not try to do any
14 research about this case, any of the parties, any of the
15 lawyers, anything about this case. You must decide this
16 case solely and only on the evidence that's presented during
17 the trial of this case, when both sides are present, with
18 the right of cross-examination.

19 So don't try to do any research on your own or look up
20 anything. Why is that so important? Because both the
21 lawyers in this case, for their client, have the absolute
22 right to know exactly what information you're basing your
23 decision on. They need to -- they are guaranteed the right
24 to be present with the information. They get to confront
25 the evidence in this case. So please don't try to do any

1 research on your own. Please don't watch any television
2 account, read any newspaper account, or listen to any radio
3 account, if there's going to be one. I don't know whether
4 there will be or not, but do not listen, watch, or read any
5 such account. I want to thank you very much for your
6 patience today. Please be back -- and everybody got
7 transportation? If you don't, I'll provide it for you.

8 Anybody got a problem with getting here before 9:30 in
9 the morning? Tell me now, because I expect everybody to be
10 on time. If I'm going to get here, I expect you to be here.
11 All right. I want you in your jury room by 9:15 in the
12 morning. We're going to start at 9:30, so be here no later
13 than 9:15. You are now excused for the balance of today.
14 Thank you very much.

15 Everybody else remain seated while the jury is leaving.
16 (JURY EXITS COURTROOM AT 5:15 P.M.)

17 THE COURT: All right. Counsel, for purposes of any
18 motions that you might've had concerning jury selection, you
19 understand that time has passed, and understand there are
20 none.

21 Are there any other matters -- are there any other
22 matters outside the presence of the jury that need to be
23 brought to the attention of the Court before we adjourn for
24 the evening?

25 ASST. SOLICITOR LEGETTE: None from the State.

1 THE COURT: From the defendant?

2 MR. DEYSACH: No, Your Honor.

3 THE COURT: All right. Be aware that we're going to
4 start at 9:30.

5 (COURT IN RECESS AT 5:25 P.M.)

6 (COURT BACK IN SESSION AT 9:15 AM. on TUESDAY, DECEMBER
7 4th, 2018.)

8 THE COURT: Good morning, ladies and gentlemen of the
9 jury. Once we get all of you in here, we'll be ready to
10 start.

11 BAILIFF: We're good, sir.

12 THE COURT: Thank you, Coach. Madam Clerk, would you
13 please swear the jury in?

14 MADAM CLERK: Yes, sir. Please stand and raise your
15 right hand.

16 (WHEREUPON, THE JURY IS DULY SWORN.)

17 THE COURT: Please be seated. All right, ladies and
18 gentlemen, I'm going to go over a few things with you,
19 because I want you to have a better understanding of what
20 may be happening throughout the trial of the case.

21 First, a couple of housekeeping matters. While you're
22 selected to serve on the jury, and until I tell you your
23 service is over for this week, and I promise you I'm going
24 to get you home early, I don't want you to discuss this case
25 with other people, including your fellow jurors, until I

1 instruct you to discuss it amongst yourselves.

2 Now, why are we telling you that? Because the very
3 last thing that you might hear might make a difference to
4 you. So we don't want you engaging in any premature
5 deliberations with each other, or with anyone else. I don't
6 want you to read or listen to any newspaper, television, or
7 radio account about this case. I don't want you to use a
8 computer or cell phone or any other electronic device with
9 communication capability while you're serving on the jury of
10 the trial to do any research. And that includes research
11 about a lawyer or a party or an officer or a news account of
12 the case, or any information collected through any type of
13 juror research on any topic raised or testimony offered by a
14 witness is strictly prohibited. Even if you think that by
15 researching something on your computer or your smart phone,
16 you think it would help you because it wasn't covered by the
17 evidence. It's still prohibited. So don't do any type of
18 research about the case. Do not communicate with anyone
19 about the case on your cell phone, through email,
20 BlackBerry, I-Phone, text messaging. Please do not
21 communicate on Twitter, through any BLOG or website, through
22 any Internet chat room, or any other social networking
23 website. And those include Facebook, MySpace, LinkdIn,
24 YouTube. Everybody understand that?

25 JURY: Yes, sir.

1 THE COURT: We enforce that. All right, before we
2 begin this trial, the first thing I want to tell you is this
3 trial is probably going to be different from what many of
4 you expect. Why do I think that? Because most people do
5 not have the chance, as each of you are doing right now, to
6 attend an actual trial. My federal law clerk out there, a
7 bright young person, tells me she's worked for three months
8 in a federal district court and hadn't seen a trial yet.

9 A lot of people don't have an opportunity to attend an
10 actual court session, as each of you are doing now. And
11 most people, unfortunately, draw conclusions from television
12 and movies and books that trials are always full of high
13 drama and intense action, and riveting and entertaining
14 circumstances. That a person is going to walk through that
15 back double-doors in a white lab coat, holding a test tube
16 and saying, I have the answer; because that's what
17 television makes you think happens in a trial.

18 While all of those things, entertainment and action,
19 may be true at times in an actual trial, an actual trial,
20 ladies and gentlemen, is not for entertainment. It is a
21 fundamental part of our democracy. It is a search for the
22 truth, in an effort to make sure that justice is done
23 between the parties before the Court. Searching for the
24 truth and trying to make sure that justice is done is often
25 slow, it is often deliberate, it is often repetitive. It

1 took me twenty minutes just to get a lunch order this
2 morning. It's the exact opposite of what you may have seen
3 on television or read in a book or seen in a movie.

4 This courtroom, ladies and gentlemen, is a place of
5 honor. It is dedicated to the protection and the
6 preservation of citizens' rights through what many people
7 have called the greatest justice system in the world. The
8 attorneys that are going to appear before you are advocates
9 for the parties they represent, the State of South Carolina,
10 the defendant, Daniel Fludd.

11 But first and foremost, the attorneys that are
12 appearing before you are officers of this court. And as
13 officers of this court they took an oath, just like I took
14 an oath, and just like you took an oath as jurors, and you
15 should expect the attorneys to uphold the integrity and the
16 fairness of our judicial system. And you should expect the
17 attorneys to be professional, to be competent, and to be
18 ethical in the representation of their clients' interests.

19 Now, I remind you, ladies and gentlemen, that the Clerk
20 just gave each of you an oath, and in that oath you said, I
21 swear or affirm that I will pay close attention to the
22 testimony in this case, and therefore you also have taken an
23 oath that you are to consider all of the evidence
24 appropriately; and you, also, on the jury are expected, just
25 like the attorneys, to be professional, to be reasonable,

1 and to be ethical in the discharge of your oath. Before we
2 even begin this trial, I want to thank each and every one of
3 you for accepting this very important responsibility of jury
4 service. I want to thank you for your contribution to our
5 justice system. Without you, ladies and gentlemen of the
6 jury, justice cannot be accomplished in a courtroom, so I
7 thank you for that service. All right.

8 Now, let's get down to this case, Mr. Foreman and
9 ladies and gentlemen of the jury. I held these up for you
10 before. I told you these are called indictments. The case
11 we are about to try is the case of the State of South
12 Carolina versus Daniel Lee Fludd. The names are written on
13 these indictments. The defendant is charged by these two
14 indictments with the crime of murder and the crime of
15 possession of a weapon during the commission of a violent
16 crime.

17 I told you I will explain the elements of those two
18 charges later on in my charge to you on the law. Why do we
19 wait until then? I haven't heard any of the evidence in
20 this case. And other than some pretrial matters, I know
21 nothing about this case. And I asked you if any of you knew
22 anything about this case, and each of you swore to me you
23 hadn't read anything, heard anything, or know anything
24 whatsoever about the facts of this case. So we're going to
25 be hearing it for the first time, and I don't know what my

1 charge is going to be. We're working on it right now. My
2 law clerk's down there working on it, and I've got another
3 law clerk out there working on it, and I'm going to work on
4 it the entire time we're trying this case. As the evidence
5 comes in, and I permit evidence to come in, it may change my
6 opinion about what law I need to charge you. That's why we
7 do it at the end. But I will explain the elements of these
8 crimes, murder and possession of a weapon during the
9 commission of a violent crime, in my charge to you on the
10 law. You should understand that these indictments that I'm
11 holding in my hand are simply the charges by which the case
12 is brought into this court, the court of General Sessions,
13 and that is not in any sense evidence of the allegations
14 contained therein.

15 Now, you noticed, Mr. Foreman, I'm handing -- these are
16 the original indictments, these are the ones the Clerk has
17 on file. All right? Do you see what I'm doing? I'm
18 handing them to David. Now, that means that after your
19 verdict in this trial, whatever you write on the verdict
20 form I'm going to prepare for you from my charge at the end
21 of the case, you'll write the same words on that verdict
22 form.

23 David will be coming to you before you leave the
24 courtroom. Please don't make him have to do like one of my
25 law clerks have had to go tackle a foreperson out on the

1 lawn of the courthouse because they were so anxious to get
2 home. So please remember to wait until you've signed the
3 indictments before you leave.

4 Now, the defendant, Daniel Lee Fludd, has pled not
5 guilt to the indictments. The State, therefore, of South
6 Carolina, has the burden of proving each of the essential
7 elements of the indictments beyond a reasonable doubt. And
8 it will be your duty, ladies and gentlemen, to decide
9 whether or not the State of South Carolina has met that
10 burden.

11 It is your solemn responsibility as jurors, ladies and
12 gentlemen, to determine the guilt or the innocence of the
13 defendant. And your verdict, as I've told you throughout
14 your stay so far, must be based solely and only on the
15 evidence as it is presenting during the trial of this case,
16 and on the law as I instruct it to you to be at the
17 conclusion of the case; and I may even instruct you on some
18 law during the trial of the case.

19 You must accept the law as I give it to you. You,
20 however, are the sole judges of the facts in the case, based
21 on evidence introduced during the trial of the case. Now,
22 in just a minute the Assistant Solicitor will make what is
23 called an opening statement in which she will explain to you
24 the issues in this case, or at least as an advocate for the
25 State of South Carolina, what she contends to be the issues

1 in this case. And following that, the attorney for the
2 defendant will also make an opening statement in which he
3 will tell you what he contends as an advocate for the
4 defendant, what the issues are in this case.

5 Now, I wish to tell you that what the attorneys tell
6 you in opening statement, what the attorneys tell you in
7 closing argument, what the attorneys suggest to you by the
8 questions, sometimes, they ask, none of that is evidence.
9 You must decide this case solely and only on the evidence.
10 I want you to listen to my attorneys. They worked hard to
11 prepare the case to you. But what they tell you, they're
12 advocates for their clients, and what they tell you isn't
13 evidence, it's just their contention. Now, what is
14 evidence? What is it that you have to base your decision
15 on?

16 The evidence of this case is going to be presented
17 right here from this witness stand by witnesses who take an
18 oath right there on that Bible, and who swear under oath
19 that their testimony is true. Evidence may also -- you see
20 some boxes in front of me right now -- evidence may also
21 take the form of a photograph or a model. As to any such
22 evidence like that, the attorneys know they can't -- you
23 wonder why it's in a box and why it's covered, because they
24 can't show you any evidence until I say it's admissible into
25 evidence.

1 Part of my job will be to rule on the admissibility of
2 evidence during the trial of the case. So evidence can be
3 sworn testimony from that witness stand. It might be an
4 exhibit, such as a photograph or a model. Evidence can even
5 take the form of what we call a stipulation, an agreement
6 between the parties that a fact is true.

7 Now, in consideration of evidence, you, as a juror,
8 should remember that under the Constitution of the State of
9 South Carolina, you and you alone, the members of the jury,
10 are the sole and only judges of facts in this case, based on
11 evidence introduced during the trial of the case. And the
12 same law that makes you the sole judges of the facts of this
13 case make me the sole judge of the law. I cannot invade
14 your province or tell you or suggest to you, or make any
15 comment to you about what the facts are or what the evidence
16 suggests. And you, ladies and gentlemen of the jury, should
17 not invade my province, and differ with me about what the
18 law is.

19 Everything that I say during the course of this trial
20 is being taken down by my court reporter. I don't know what
21 I'd do without her, Becky Hill, right below me right now.
22 And if I make a mistake as to the law, to the detriment of
23 either party, they can appeal the case to appellate court.
24 And if the appellate court agrees that I made a mistake on
25 the law, they will send the case -- they will reverse the

1 case and send it back for a new trial. So don't any of you
2 on this jury worry about whether I've told you the law
3 correctly. That is somebody else's concern; that is
4 somebody else's worry. Your job is to take the law as I
5 give it to you and apply it to the facts as you find them to
6 be, based on evidence introduced during the trial of the
7 case. And after doing that you will render your verdict, a
8 verdict under that solemn oath which you just took from the
9 Clerk of Court of Hampton County.

10 Now, from time to time during the course of the trial,
11 you may hear one of the lawyers say something like, your
12 Honor I believe we have a question of law, or a matter of
13 law, to discuss with you; or you might hear the lawyers say,
14 your Honor may we approach the bench; or I might ask them to
15 approach the bench. And I'll talk to them and I'll whisper.
16 Sometimes I find it necessary that you be excused from the
17 courtroom while the attorneys and I discuss a matter of law.

18 Now, many times my jurors are confused by this. We're
19 not trying to hide anything from you. The reason for this
20 is exactly what I've just told you. You're the sole judges
21 of the facts, I'm the sole judge of the law. Sometimes when
22 I'm discussing a matter of law with the attorneys, by
23 necessity I have to make a comment to the attorneys about
24 the facts in the case in order to rule on whether or not a
25 particular piece of law applies to this case. So that you

1 won't be influenced by anything that I might say or do in
2 ruling on a matter of law, the custom in this state, first
3 of all, try to take it up out of your hearing, in the
4 courtroom, without sending you to the jury room. If I think
5 it's going to take a little while, I might ask you to step
6 to your jury room, so that you won't be influenced by
7 anything that I might say or do in connection with the facts
8 of the case.

9 And in that connection, let me tell you again that you
10 and you alone, the members of this jury, are the sole judges
11 of the facts in this matter. And if you should at any time
12 during the trial of this case conclude that I, either from
13 something that I might say or something that I might do
14 during the course of this trial that I have any opinion on
15 the facts of this case, I want to ask you to erase that from
16 your mind, because you and you alone, the members of the
17 jury, are the sole judges of the facts, based on the
18 evidence introduced during the trial of the case.

19 Now, I'm often asked this. Jurors say, Judge Buckner,
20 how will I know what the true facts are? You tell me I have
21 to determine the facts as a juror. How will I be able to
22 determine the truth? Well, in determining what the facts
23 are on the jury, you, of necessity, are going to have to
24 pass as a jury upon the credibility or believability of the
25 witnesses who are going to take the witness stand. It will

1 be my responsibility to rule as a matter of law as to
2 whether certain testimony is admissible or not. But once
3 I've allowed the testimony to be admitted into evidence,
4 whether you as a jury believe the testimony is solely a
5 matter for you, the jury, to determine.

6 And in passing upon the credibility or believability of
7 the witnesses you have a right as the jury to take into
8 consideration, if shown to you, the interest of any witness;
9 the bias, if any, of any witness; the prejudice, if any, of
10 any witness; whether or not the testimony of the witness
11 might be influenced by the outcome of the trial, of any
12 witness; the opportunity for the witness to have observed
13 the things about which he or she might testify.

14 You may even take into consideration in deciding about
15 the believability of the witness what we call the demeanor
16 of the witness, the appearance of the witness while the
17 witness is on the witness stand.

18 You notice the witness stand is located in close
19 proximity to you? So you may even take into consideration
20 the demeanor of the witness upon the witness stand, in
21 passing upon the believability or the credibility of the
22 witnesses who will testify during the trial of this case.

23 Anything that is in evidence, ladies and gentlemen,
24 that will aid you, or you feel that will aid you and assist
25 you, ladies and gentlemen, in evaluating the testimony of

1 the witnesses who will testify in this case, you, as a jury,
2 have a right to consider that. And that means, Mr. Foreman,
3 and that means, ladies and gentlemen of the jury, including
4 my alternate jurors because you may become a part of the
5 jury, that means that it is your duty under that oath which
6 you swore just now to this court, on the record, with a
7 court reporter, it is your sworn obligation as jurors to pay
8 close attention to the witnesses, to listen to the
9 witnesses.

10 Don't let your thought wander, but give strict
11 attention to the evidence that's going to be presented
12 during the trial of this case, so that at the conclusion of
13 all the evidence in this case, and after the final closing
14 arguments of the attorneys and my charge on the law at the
15 conclusion of the case, you will have put yourself, as a
16 juror, in a position, by listening and by observing, you
17 will have put yourself in a position to determine what the
18 true facts are, based on evidence introduced during the
19 trial of the case. And you will then apply the facts as you
20 find them to be to the law as I give it to you at the
21 conclusion of the case, and thus render a just verdict.

22 Now, you must not consider anything that you may have
23 read or heard about this case outside this courtroom,
24 whether before or during this trial. And until I submit
25 this case to you, and I'll tell you when it's time for you

1 to start deliberating, until I submit this case and tell you
2 to begin your deliberation, you must not discuss this case
3 with anyone, not even your fellow jurors. Talk about
4 anything else in the room you want to talk about, the
5 weather, sports, anything.

6 Don't talk about this case until I instruct you to do
7 so. And when I instruct you to start, you must discuss it
8 only in your jury room, with your fellow jurors. It's very
9 important, ladies and gentlemen, that each of you keep an
10 open mind and not decide the case until the entire matter
11 has been submitted to you under my instructions.

12 Now, Mr. Foreman, it will be your added duty to preside
13 in the jury room, to make sure that each member of my jury
14 has a full and fair opportunity to voice their opinions once
15 deliberations begin. You will also be the jury spokesperson
16 out here in the courtroom should that need arise. And it
17 will also be your duty -- I will prepare a verdict form for
18 you, and I'll explain it to you and show it to you, and my
19 charge on the law, at the conclusion of the case. And
20 whatever you write on that form I prepare, you will write on
21 the indictments which David will bring to you at the
22 conclusion of the trial.

23 So it will be your duty as foreperson to write the
24 verdict of the entire jury, but I'll give you further
25 instruction about that at the conclusion of the case.

1 Now, a couple housekeeping matters and we're ready to
2 roll. If at any time -- you see we've got all kind of
3 microphones in this courtroom. You see them up there. The
4 attorneys love to do this, they love to turn their back to
5 you, or to me, and ask questions. And when they do that,
6 you're going to hear me say, turn around and face the Court,
7 don't look down; because when they do that it's hard for
8 Becky to hear, it's hard for me to hear, it's hard for you
9 to hear. If at any time you can't hear, and don't be
10 embarrassed about that, you raise your hand. I'll be
11 watching all fifteen of you.

12 If you can't hear something, raise your hand.
13 Sometimes witnesses mumble, even though they've got a
14 microphone. If you can't understand, raise your hand. I
15 want my jury to be able to hear at all times throughout the
16 trial of the case. If an exhibit is admitted into evidence
17 and you can't see the exhibit, raise your hand. I want my
18 jurors to be able to hear and to see at all times throughout
19 the trial of the case.

20 Now, Mr. Foreman, we normally do not allow jurors to
21 ask questions here in the courtroom. If at any time a
22 member of the jury has a question, here's the procedure we
23 have to follow. You will write the question on a piece of
24 paper. You will give it to Coach. He will bring it out to
25 me, because you will have to go to your jury room and

1 retire. Write it and give it to him. I then have to
2 decide, just as I would any question asked by either one of
3 the attorneys, whether or not the question can or cannot be
4 answered. That's the procedure we have to follow. There
5 are questions that we cannot answer. Please turn off your
6 cell phones. Mine's off, I can assure you of that. They're
7 not to be used during the trial of this case. I've tried it
8 both ways, ladies and gentlemen, and I'm going to ask that
9 you do not take written notes. Why? You're going to see me
10 writing with a pen. Because I found that if the written-
11 note taker on the jury makes a mistake in the written notes,
12 the notes can be harmful in the jury room, rather than
13 helpful, once your deliberations begin.

14 The time-tested system is for each of you to listen,
15 and listen carefully. Now, if you're worried about
16 remembering, don't. Becky is making an audio recording of
17 the witnesses' testimony, and we can play the audio
18 recording back for you if you so desire.

19 Now, I do not intend that what I've just said to you
20 should be construed by any of you as a charge on the law,
21 because it is not that. I'm going to charge you the law --
22 I haven't heard the evidence in this case -- I'm going to
23 charge you the law that applies to this case at the
24 conclusion, after I hear the evidence along with you. This
25 has been merely an attempt on my part to briefly explain to

1 you some of the rules we have to follow, the procedure that
2 we have to follow in the trial of the case, so you will have
3 a better understanding as to what may be happening. We have
4 rules for everything. The State has the burden of proof.
5 State makes the first opening statement. The State goes
6 first, and we have a rule for closing argument. We have a
7 rule for all kinds of things. I'm not going to go into all
8 the rules, except to know that we're going to follow the
9 order and I'm going to enforce the rules for you. But even
10 though I haven't charged the law, in order to preserve
11 everyone's rights, I will give the parties an opportunity to
12 take exception or objection to anything that I've just said
13 to you. Any exception or objection from the State of South
14 Carolina?

15 ASST. SOLICITOR LEGETTE: None from the State, your
16 Honor.

17 THE COURT: From the defendant?

18 MR. DEYSACH: No, Your Honor.

19 THE COURT: Ladies and gentlemen of the jury, pay close
20 attention. We will now begin the trial of the case.
21 Solicitor?

22 OPENING STATEMENT

23 BY ASST. ASST. SOLICITOR LEGETTE:

24 ASST. SOLICITOR LEGETTE: Thank you, your Honor. May
25 it please the Court? Mr. Deysach. Ladies and gentlemen,

1 good morning.

2 This is a case about a necklace. A deadly necklace,
3 but a necklace, nonetheless. Bobby Atkins was killed on
4 March 22nd, 2017, over a necklace. The young man seated
5 with Mr. Deysach, Daniel Fludd, killed him over a necklace.

6 Now, ladies and gentlemen, you'll hear evidence in this
7 case. You'll hear evidence from the witness stand about
8 this necklace, about what happened on March 22, 2017. And
9 the witnesses you may hear from, I'll just be honest, you
10 may not like them. Their lifestyles might not be like your
11 lifestyle, and they might not be some of the nicest people.
12 I'll be honest, Bobby Atkins, our victim, was a drug addict.
13 His girlfriend, Zaneh Garvin, she helped him with his habit.
14 She sold herself. You'll hear from her. She was present
15 during the murder of Bobby Atkins. She was present when
16 Daniel Fludd pulled out a knife and stabbed him to death,
17 over a necklace.

18 Ladies and gentlemen, this all happened March 22nd,
19 2017, in Estill. Newtown area, the town of Estill, you'll
20 hear about different locations in the town of Estill and
21 where they all went.

22 Now, the facts themselves, they become a little bit
23 muddy about, you know, ownership of this necklace, how the
24 necklace came to belong or be in Bobby Atkins' possession.
25 But one thing will remain clear throughout: the argument,

1 the ensuing fight, the ensuing killing of Bobby Atkins, all
2 came down to a necklace. And once this dispute was over,
3 Bobby Atkins lay dying in his own blood.

4 So, ladies and gentlemen, Daniel Fludd sits before you
5 today charged with murder and possession of a weapon during
6 the commission of a violent crime for his actions on March
7 22nd, 2017. And he sits before you today clothed in a robe
8 of righteousness. The State bears the burden of proof, and
9 it's a heavy burden, but an honorable burden, because no
10 person should have to. We have to bear the burden. That's
11 what the State of South Carolina intends to do.

12 So we ask you to -- the judge asked you earlier, open
13 your minds. Listen to the evidence and the witnesses that
14 come before you. I've already explained to you, they may
15 not necessarily be the nicest people, but these are the
16 facts that we are bringing before you. We ask you to listen
17 closely, and that when all the evidence is in we'll ask you
18 to render a verdict. A verdict that says that Bobby Atkins
19 was killed by Daniel Fludd, that he was murdered by Daniel
20 Fludd, and that during that murder Daniel Fludd had a
21 weapon. Possessed a weapon during the commission of that
22 violent crime. Thank you.

23 THE COURT: Mr. Deysach.

24 MR. DEYSACH: If it pleases the Court, Your Honor.

25 THE COURT: Proceed.

1 MR. DEYSACH: Ms. Legette.

2 ASST. SOLICITOR LEGETTE: Mr. Deysach.

3 OPENING STATEMENT

4 BY MR. DEYSACH:

5 On March 22, 2017, Estill, South Carolina, conflict
6 occurs, and in a quick, chaotic moment a life is lost.
7 There are only two people alive who saw what happened.
8 Daniel Fludd, my client, the person who's on trial; and
9 Zaneh Garvin, the girlfriend of Mr. Atkins. Mr. Fludd says
10 he went to talk to Mr. Atkins about the necklace that he
11 stole, and Mr. Atkins hit him with a shovel; hit him with a
12 shovel so hard that the shovel broke into three pieces. Ms.
13 Garvin's story is a little bit different, but she does admit
14 that Mr. Atkins had the necklace, that it was Daniel's, and
15 that he used the shovel and broke the shovel.

16 One thing I wanted to say, something similar to what
17 the solicitor said. That when we're dealing with these
18 types of situations, when police are investigating and
19 people are talking about them, that not so much, but
20 sometimes the language that you might encounter might be a
21 little bit salty. I hope that we can look past all that, so
22 that you guys can do what you need to do. We're all adults
23 here, and I just wanted to mention that.

24 But the real issue in this case is how do you resolve
25 two conflicting versions of the same event from two

1 different people? And that's where -- that's where the
2 presumption of innocence and the State's burden of proof
3 beyond a reasonable doubt, that's where that comes in.
4 That's where you apply that. That when you've got two
5 different versions of the same event, and you don't know
6 beyond a reasonable doubt which one happened, you resolve
7 that doubt in favor of the defendant. Because when we've
8 got a chaotic situation and we've got two different versions
9 of events, how -- how do we resolve all those differences,
10 when there's only two people who saw what happened? All
11 that Daniel can ask for from you all is a fair trial.
12 That's what we want, a fair trial.

13 Everything that's been said to you up to this point has
14 been in an effort to achieve a fair trial; a fair trial for
15 the defendant who is accused in this case. So that's why
16 there's the talk about, hey, we're going to make this
17 decision; we're going to render this verdict based on the
18 evidence.

19 I say based on the evidence and based on the law as the
20 judge gives it to you. And that bedrock foundation of
21 criminal trials is that presumption of innocence and that
22 proof beyond -- the burden of proof beyond a reasonable
23 doubt that lays what the State, that is -- that's the part -
24 - that's -- that's the principle that makes our country the
25 best country in this court system, the best court system in

1 the world, like the judge was talking about.

2 The best court system in the world couldn't be if it
3 wasn't for that presumption of innocence and that proof
4 beyond a reasonable doubt burden that lies with the -- with
5 the defendant; or sorry, with the -- with the State.

6 What we don't want to happen is a decision that's made
7 by you all made by emotion, because let's face it, any time
8 there's a loss of life -- a preventable loss of life, but a
9 loss of life, nonetheless -- any human is going to feel the
10 emotion that's attached to that.

11 But like in life, when we make decisions that are based
12 on emotion instead of information and logic, they always
13 turn out to be the wrong decision. Just like here, if you
14 make a decision based on the emotion instead of the evidence
15 and the law, it's going to be the wrong decision. So I
16 don't know if the -- if the Solicitor's Office would appeal
17 to emotion. I don't know that they are, I don't know that
18 they're not. But if that happens, be aware that it could be
19 a trap to get you to make a bad decision. So that's all I
20 can ask right now, is a -- is a verdict that's based on the
21 evidence, that's based on the law as the judge gives it to
22 you, that's based on the presumption of innocence, and that
23 reasonable doubt, that bedrock foundation of our court
24 system, that's all I can ask from you right now. When I
25 talk to you at the end of the case, I'm going to ask you to

1 find Daniel Fludd not guilty. Thank you.

2 THE COURT: Call your first witness.

3 ASST. SOLICITOR LEGETTE: Thank you, your Honor. State
4 calls Kenzie Thompson.

5 THE COURT: Counsel, approach.

6 (BENCH CONFERENCE, OFF THE RECORD, OUT OF HEARING OF
7 JURY.

8 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
9 SWORN, TESTIFIED AS FOLLOWS:)

10 THE COURT: Have a seat for me, make yourself
11 comfortable. That microphone's going to amplify your voice.
12 You see mine, it's behind the computer.

13 KENZIE THOMPSON: Yes, sir.

14 THE COURT: That's because I'm speaking up. I want you
15 -- you don't have to get right up on top of it, but speak up
16 for me.

17 KENZIE THOMPSON: Yes, sir.

18 THE COURT: Solicitor, yes or no?

19 ASST. SOLICITOR LEGETTE: Yes.

20 THE COURT: When you answer for me, in addition to
21 speaking up, please don't say uh-huh (affirmative) or unh-
22 unh For the court reporter, please say yes and no. All
23 right? Now, don't shake your head or nod your head like
24 you're doing with me. Say yes or no so she can take it
25 down. You see that lady on the back row back there,

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1 the last one? I want her to hear every word you say.

2 KENZIE THOMPSON: Yes, sir.

3 THE COURT: I want the people in the courtroom to hear
4 you. All right?

5 KENZIE THOMPSON: Yes, sir.

6 THE COURT: If you begin by stating your full name, and
7 spelling your last name for the court reporter.

8 KENZIE THOMPSON: Kenzie Thompson. T/h/o/m/p/s/o/n.

9 THE COURT: Your witness, Counsel. Direct examination.

10 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

11 DIRECT EXAMINATION

12 BY SOL. LEGETTE:

13 Q Good morning, Ms. Thompson.

14 A Good morning.

15 Q Ms. Thompson, where do you work?

16 A I work for Jasper County 9-1-1.

17 Q And how long have you worked for Jasper County 9-1-1?

18 A I've been with Jasper since 2017.

19 Q And where did you work prior to working for Jasper
20 County EMS?

21 A I was with Hampton County 9-1-1 from April 2016 to May
22 of 2017.

23 Q And while you worked for the Hampton County Emergency 9-
24 1-1 -- what did you do at Hampton County E-911?

25 A I answer 9-1-1 phone calls and administrative phone

1 lines, radio traffic.

2 Q And was it your duty to assist with emergencies?

3 A Yes, ma'am.

4 Q Were you working for Hampton County E-9-1-1 on our about
5 March 22nd, 2017?

6 A Yes, ma'am.

7 Q What shift were you working?

8 A I was working night shift, 7:00 p.m. to 7:00 a.m.

9 Q Did you receive a call for assistance out of the town of
10 Estill?

11 A Yes, ma'am.

12 Q And just briefly, what was the caller asking for?

13 A He was asking for assistance for his son that was
14 bleeding.

15 Q And how many calls -- did you get more than one call
16 from this caller?

17 A Yes, ma'am. About three we got from him.

18 Q About what time was this when you got these calls?

19 A I think about 11:00 p.m.

20 Q What was your response to the three 91-1 calls you
21 received?

22 A We sent him EMS and law enforcement.

23 Q Now, when you take a 9-1-1 call, is it proper to do a
24 contemporaneous, or a recording, while the call comes in?

25 A Yes, ma'am. All of our phone lines are recorded.

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1 Q And was a recording made in the case of these three
2 calls?

3 A Yes, ma'am.

4 Q At our request, have you previously reviewed the 9-1-1
5 calls for accuracy?

6 A Yes, ma'am.

7 Q Ms. Thompson, in a moment I'm going to hand you what's
8 been previously marked for identification as State's Exhibit
9 Number 1. I want you to take a moment and tell me if you
10 recognize State's 1.

11 ASST. SOLICITOR LEGETTE: May I approach?

12 THE COURT: You may.

13 BY MS. LEGETTE:

14 Q Ms. Thompson, what is State's Exhibit 1?

15 A This is the 9-1-1 recording from that night.

16 Q And is State's Exhibit Number 1 a fair and accurate
17 reflection of the 9-1-1 calls that you received on March
18 22nd, 2017?

19 A Yes, ma'am.

20 Q Have they been changed or altered in any way?

21 A No, ma'am.

22 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
23 would offer State's Exhibit Number 1 for admission into
24 evidence.

25 THE COURT: As to State's 1, Counsel?

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1 MR. DEYSACH: No objection.

2 THE COURT: Ladies and gentlemen of the jury, State's
3 Exhibit Number 1 will be admitted into evidence in the trial
4 of this case, without objection.

5 (WHEREUPON, STATE'S EXHIBIT NUMBER 1, IDENTIFIED AND
6 MARKED, RECEIVED INTO EVIDENCE.)

7 THE COURT: You may now publish to the jury.

8 ASST. SOLICITOR LEGETTE: May I approach?

9 THE COURT: You may.

10 ASST. SOLICITOR LEGETTE: Thank you.

11 (STATE'S EXHIBIT NUMBER 1, PUBLISHED TO THE JURY.)

12 (Audio CD begins play 10:38 a.m. and ends at 10:40
13 a.m.)

14 BY ASST. SOL. LEGETTE:

15 Q Ms. Thompson, were those the 9-1-1 calls you took on or
16 about March 22, 2017?

17 A Yes, ma'am.

18 Q Is that all of your involvement in this case?

19 A Yes, ma'am.

20 Q Thank you. Please answer any questions from the
21 defense at this time.

22 MR. DEYSACH: No questions, Your Honor.

23 THE COURT: Solicitor, call your next witness.

24 ASST. SOL. LEGETTE: Thank you, Your Honor. That State
25 calls Mr. John Gordon.

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1 (Whereupon, the witness enters the courtroom, is duly
2 sworn, and testifies as follows:)

3 THE COURT: Have a seat, Mr. Gordon. Pull that
4 microphone up to you. It's going to amplify your voice.
5 Don't say unh-unh or uh-huh. Speak up so everybody in the
6 courtroom can hear you. Don't shake your head or nod your
7 head, say yes or no, and speak up. State your full name,
8 for the record, and spell your last name for the court
9 reporter.

10 JOHN GORDON: Jonathon Gordon. My last name is spelled
11 G/o/r/d/o/n.

12 THE COURT: Very good, Mr. Gordon. Your witness,
13 Counsel.

14 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

15 DIRECT EXAMINATION

16 BY ASST. SOLICITOR LEGETTE:

17 Q Good morning, Mr. Gordon.

18 A Good morning.

19 Q Mr. Gordon, where are you from?

20 A Estill.

21 Q And what is your occupation?

22 A Painter contractor.

23 Q Okay. And you have any other jobs or any other duties
24 in Estill?

25 A School Board.

1 Q Mr. Gordon, where do you live?

2 A 408 Sapp Boulevard.

3 Q And how long have you lived at Sapp Boulevard?

4 A Thirty-four years.

5 Q Who lives with you at Sapp Boulevard?

6 A My wife, daughter, and grandson.

7 Q All right. And what is their last name?

8 A Gordon.

9 Q Now, Mr. Gordon, do you have any children?

10 A Yes.

11 Q Okay. And did you know a man named Bobby Atkins?

12 A Yes.

13 Q And who is he to you?

14 A Son.

15 Q Now, how old was Bobby?

16 A Forty.

17 Q Now, did Bobby -- where did Bobby work?

18 A With me.

19 Q Okay. And do you know -- did Bobby -- let's see. Did
20 you know a man named Daniel Fludd?

21 A No.

22 Q Had Daniel Fludd ever been invited to your home?

23 A Not by me.

24 Q As far as you knew, in your house -- what kind of
25 property is your house?

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1 A I --

2 Q Is your house on private property? Is your home on
3 private property?

4 A Yes, ma'am.

5 Q And as far as you knew, Daniel Fludd was not allowed to
6 come on your property?

7 A No.

8 Q Now, Mr. Gordon, let's talk about Bobby. Did he have a
9 nickname?

10 A Champ.

11 Q Do you know where Champ, or Bobby, lived?

12 A Behind me.

13 Q Now, was Bobby free to come and go at your house as he
14 wished?

15 A Yes.

16 Q Mr. Gordon, do you have or did you ever have any garden
17 tools?

18 A Yes.

19 Q Where did you keep them?

20 A I keep a shovel underneath my carport to scoop poop out
21 of my yard.

22 Q Okay. Now, this shovel, how long have you had that
23 shovel?

24 A Years.

25 Q So, what would you consider that shovel to be?

1 A And old shovel.

2 Q An old shovel? Is that a yes?

3 A Oh, Yes.

4 Q Okay. You have to say yes or no. You can't shake your
5 head up and down, for the court reporter. Okay?

6 Q Now --

7 THE COURT: You understand that Mr. Gordon?

8 JONATHON GORDON: Yes, sir.

9 THE COURT: She can't take that down. Say yes or no.
10 Go ahead, Solicitor.

11 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

12 BY ASST. SOLICITOR LEGETTE:

13 Q Now, Mr. Gordon, the night of March 22, 2017, do you
14 remember that particular night?

15 A Yes.

16 Q Did anything unusual happen that night?

17 A My wife wake me up, said something ---

18 Q I'm sorry, go ahead.

19 A My wife wake me up and said somebody was ---

20 Q Well, don't tell us what she said. Don't tell us what
21 your wife said, but did anything unusual happen? Did
22 anything unusual happen? Not telling us what your wife
23 said, but did anything unusual happen?

24 A Yes.

25 Q All right. So, you said you were woken up?

1 A Yes.

2 Q Who woke you?

3 A My wife.

4 Q And once she woke you up, what was your response?

5 A I got up ---

6 Q Okay. Go ahead.

7 A I got up fast.

8 Q Got up fast. And what did you do?

9 A Went to the front door.

10 Q What did you find at the front door?

11 A My wife. And my son, laying at the front glass. And I

12 ---

13 Q Once you -- I'm sorry, I cut you off. I am so sorry.

14 Please finish.

15 A His head was laying at my glass door.

16 Q Okay. And what was his condition, or what did it appear
17 to be?

18 A Hurt.

19 Q Okay. What did you do in response to your son, the
20 condition you found him in?

21 A Ran back to the bedroom, grabbed the phone, and called
22 911.

23 Q Okay. Did you call a couple times, several times?

24 A Three times, I think. Yes, ma'am.

25 Q All right. And at a point, did someone come out to the

1 house?

2 A Yes.

3 Q Okay. Mr. Gordon, I will hand you in a moment what's
4 been previously marked for identification as State's Number
5 3 and State's Number 18. Please take a moment and tell me
6 if you recognize State's 3 and State's 18.

7 ASST. SOLICITOR LEGETTE: May I approach the witness?

8 THE COURT: You may.

9 BY ASST. SOLICITOR LEGETTE:

10 Q Mr. Gordon, do you recognize State's Number 3 and
11 State's Number 18?

12 A Yes.

13 Q Mr. Gordon, what are State's 3 and State's 18?

14 A Photos of my home.

15 Q And that's State's 3?

16 A Yes, that's State's 3.

17 Q Okay. And what is State's 18? What is ---

18 A My sign -- my sign in front of my house.

19 Q Okay. And Mr. Gordon, are State's Number 3 and State's
20 Number 18 fair and accurate reflections of your house as it
21 existed on March 22, 2017?

22 A Yes.

23 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
24 would offer State's Number 3 and 18 for admission into
25 evidence.

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1 THE COURT: As to State's 3 and 18?

2 MR. DEYSACH: No objection, your Honor.

3 THE COURT: Ladies and gentlemen of the jury, State's
4 Exhibits Number 3 and Number 18 will be admitted into
5 evidence in the trial of this case, without objection. You
6 may publish to the jury.

7 (WHEREUPON, STATE'S EXHIBIT NUMBER 3 AND STATE'S
8 EXHIBIT NUMBER 18, IDENTIFIED AND MARKED, RECEIVED INTO
9 EVIDENCE.)

10 ASST. SOLICITOR LEGETTE: Thank you, your Honor. May I
11 approach the witness?

12 THE COURT: You may.

13 BY ASST. SOLICITOR LEGETTE:

14 Q Mr. Gordon, I will direct your attention to State -- to
15 the screen at your right, for State's Number 3. Mr. Gordon,
16 can you describe for us what we're seeing in State's Number
17 3?

18 A I got a old -- that's a old van on -- on my right. My
19 car's in my garage, and that's my house on my left.

20 Q All right. So are you talking about the white van here,
21 down here with the laser?

22 A Yes.

23 Q At the right-hand side of the picture?

24 A Yes.

25 Q On 3? And this is your garage right here in the center?

1 A Correct. Yes.

2 Q Okay. And you say to the left, is -- this is your
3 house?

4 A Yes.

5 Q Okay. Mr. Gordon, do you remember -- we discussed
6 earlier the shovel that you had. Where did you keep that
7 shovel.

8 A On the right side of my car, or even on the front,
9 wherever I just -- I just laid it.

10 Q All right. So, would that shovel have been underneath
11 the garage?

12 A Yes.

13 Q Okay. And so, somewhere in here? The shovel would've
14 been somewhere in there?

15 A Up on my -- up on my right side. I laid it up on a
16 brick in the front ---

17 Q Am I pointing to the right location --

18 A -- my car.

19 Q -- on the right side of the garage?

20 A Yes.

21 Q Under the carport?

22 A Yes.

23 Q Okay. And this is the back side of your house at 408
24 Sapp Boulevard?

25 A Yes.

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1 Q Okay. Thank you, Mr. Gordon. Now I'm going to look
2 briefly at State's Number 18. And this is -- what is this,
3 Mr. Gordon?

4 A That's in front of my home.

5 Q And that's your address, 408?

6 A 408, yes.

7 Q And Mr. Gordon, just briefly, where is -- what county is
8 408 Sapp Boulevard located in?

9 A Estill, Hampton County.

10 Q Hampton County? Okay. Thank you. Mr. Gordon, once the
11 police arrived, did anyone else arrive with the police to
12 your home, on March 22, 2017?

13 A Yes.

14 Q The ambulance?

15 A Yes.

16 Q At some point, what happened? Did you find out what the
17 condition of your son?

18 A No, not right at the moment.

19 Q Well, at some point that night, did you learn his
20 condition?

21 A Yes.

22 Q What was that condition?

23 MR. DEYSACH: I would object to the hearsay.

24 THE COURT: Sustained. Rephrase your question,
25 Counselor.

1 ASST. SOLICITOR LEGETTE: Thank you, Your Honor.

2 BY ASST. SOLICITOR LEGETTE:

3 Q Did your son -- was he pronounced dead?

4 A Yes.

5 ASST. ASST. SOLICITOR LEGETTE: Begging the Court's
6 indulgence.

7 BY ASST. ASST. SOLICITOR LEGETTE:

8 Q Thank you, Mr. Gordon. I have no further questions.
9 Please answer any questions from Mr. Deysach.

10 THE COURT: Cross-examination.

11 MR. DEYSACH: If it pleases the Court, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. DEYSACH:

14 Q Good morning, Mr. Gordon. Can you tell me where Mr.
15 Atkins lived?

16 A Behind me somewhere.

17 Q In a house, or what kind of a place was it that he
18 lived?

19 A Trailer.

20 Q Okay. Did he live there with Zaneh Garvin?

21 A (No response.)

22 Q Do you know if he lived there with Zaneh Garvin?

23 A That's who he lived with.

24 Q Okay. Now, on March 22, 2017, you didn't see what
25 happened outside of your house, did you?

1 A No.

2 Q Did -- did Mr. Atkins have a drug problem that you knew
3 of?

4 A Not that I know.

5 Q Okay. So, if he had a drug problem, you wouldn't have
6 known about it?

7 A No.

8 Q Let me ask you. Before March 22nd, when was the last
9 time you had seen your shovel?

10 A Only time I used that shovel when I was cleaning up poop
11 out of my yard.

12 Q Do you have a -- do you have a dog?

13 A No, sir. My neighbor's dog and stray dogs.

14 Q Okay. So, do you remember when the last time was you
15 had seen that shovel before March 22nd?

16 A I couldn't answer that, sir.

17 Q Okay. Do you -- do you know what time you went to bed
18 that night?

19 A Not exactly, sir.

20 Q Okay. Do you know when you went in the house for the
21 last time that night?

22 A I went in my house at quarter 'til 6:00.

23 Q At a quarter ---

24 A I didn't come out.

25 Q Okay. Quarter 'til 6:00, about 5:45?

1 A Yes. Yes.

2 Q Okay. Now, the last time you -- you saw the shovel, it
3 was in one piece, correct?

4 A Yes.

5 MR. DEYSACH: I don't have anything further, your
6 Honor.

7 THE COURT: Redirect?

8 ASST. ASST. SOLICITOR LEGETTE: None, your Honor.

9 THE COURT: As to the witness?

10 ASST. ASST. SOLICITOR LEGETTE: We ask that he be
11 excused, Your Honor.

12 THE COURT: Any objection, Mr. Deysach?

13 MR. DEYSACH: No, your Honor.

14 THE COURT: Mr. Gordon, you may step down from the
15 witness stand. You are excused from the trial of this case.
16 You may leave the courtroom.

17 JONATHON GORDON: Thank you.

18 THE COURT: Thank you. Watch your step. Call your
19 next witness.

20 ASST. SOLICITOR LEGETTE: Thank you, your Honor. State
21 calls Perry Bennett.

22 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
23 SWORN, TESTIFIED AS FOLLOWS.)

24 THE COURT: Speak up so everybody can hear you. Don't
25 get too close to the microphone. Say yes or no, no uh-huh

1 or unh-unh. Now, don't nod your head, shake your head, so
2 the court reporter can take it down. Start by stating your
3 full name, and spelling your last name for the court
4 reporter.

5 PERRY BENNETT: My name is Perry Augustus Bennett.
6 Last name spelled B/e/n/n/e/t/t.

7 THE COURT: Very good. Your witness, Counsel. Direct
8 examination.

9 ASST. SOLICITOR LEGETTE: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY ASST. SOLICITOR LEGETTE:

12 Q Good morning, Mr. Bennett.

13 A Good morning.

14 Q Mr. Bennett, what is your rank?

15 A Deputy Sheriff at the Orangeburg County Sheriff's
16 Office.

17 Q Okay. So, Deputy Sheriff. So, Deputy Bennett, where do
18 you work?

19 A Orangeburg County Sheriff's Office.

20 Q And how long have you worked for the Orangeburg County
21 Sheriff's Office?

22 A A year.

23 Q A year?

24 A Yes, ma'am.

25 Q And prior to working at the Orangeburg County Sheriff's

1 Office, where did you previously work?

2 A Estill Police Department.

3 Q And how long were you working for the Estill Police
4 Department?

5 A Two years.

6 Q What were your duties at the Estill Police Department?

7 A Answer calls -- answer calls for service, investigate
8 traffic collisions, to ensure life and property.

9 Q Now, were you working for the Estill Police Department
10 on or about March 22, 2017?

11 A Yes.

12 Q What do -- I'm sorry. What shift were you working that
13 particular day?

14 A Night shift.

15 Q Now, did you receive a call for assistance anywhere in
16 the town of Estill?

17 A Yes.

18 Q And specifically, did you receive a call for assistance
19 at 408 Sapp Boulevard?

20 A Yes, I did.

21 Q And what was your response?

22 A The call was in reference to a subject possibly being
23 stabbed. When we got there, we proceeded to carry out what
24 needed to be done at that time, upon further investigation.

25 Q Now, did anyone else respond alongside you?

1 A Yes.

2 Q Who responded with you?

3 A Officer Bailey.

4 Q And did he also work for -- what -- where did he work?

5 A Estill Police Department.

6 Q Now, 408 Sapp Boulevard in Estill, what county is that
7 located in?

8 A Hampton County, South Carolina.

9 Q So, when you responded to the 408 Sapp Boulevard in the
10 town of Estill, did you have on any equipment?

11 A Yes, I did.

12 Q What did you have on?

13 A A body-worn camera issued by the Department of Estill.

14 Q And this body-worn camera issued by the Department, or
15 Estill Police Department, was it operational?

16 A Yes, ma'am.

17 Q And does that mean that it was recording?

18 A Yes, it was.

19 Q Okay. And once the recording was made, was it -- what
20 was done with the recording once it was made?

21 A It was given to my lieutenant at the time, Lieutenant
22 Williams, and held for safekeeping, and downloaded to our
23 hard drive.

24 Q Now, while you were at the scene at 408 Sapp Boulevard,
25 please describe for us what you found.

1 A When I got there I found the victim to be unresponsive
2 at the time. Therefore, I notified command staff, and also
3 notified forensic services, and proceeded to ensure the
4 crime scene, that nothing was tampered with. As far as the
5 integrity of the investigation.

6 Q And alongside you, you say that Officer Bailey responded
7 as well. What was he doing?

8 A He was also there. I was making my phone calls to
9 command staff, as well as assisting him with processing the
10 scene and securing the crime scene.

11 Q While you were there, did you speak to anyone who was
12 present?

13 A Yes.

14 Q Who did you speak with?

15 A Spoke with the deceased mother and father, as well as
16 his girlfriend, Zaneh.

17 Q All right. And that's Zaneh -- what was her last name?
18 Do you remember?

19 A I believe Garvin.

20 Q Now, along with speaking to witnesses and maintaining
21 the integrity of the crime scene, were any photographs taken
22 of the crime scene?

23 A Yes.

24 Q I'm sorry?

25 A Yes. I'm sorry.

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1 Q At some point, did anyone else arrive alongside you and
2 Officer Bailey?

3 A Yes.

4 Q I'm sorry, Officer Bailey.

5 A Yes. Investigator Thomas, as well as Chief Williams
6 with the Estill Police Department.

7 Q And why did you have to notify all of them?

8 A Appeared to be a homicide.

9 Q Did anyone else respond as far as emergency services?

10 A I believe the coroner responded as well.

11 Q Anyone from Emergency Services, like EMS?

12 A Yes.

13 Q At some point, did you rope off the crime scene?

14 A I did. Immediately upon -- from what it appeared to be
15 secured the crime scene.

16 Q Did you look for any evidence while you were present, or
17 did Officer Bailey?

18 A Officer Bailey.

19 Q Now, the night of the actual incident, March 22, 2017,
20 at some point did you actually leave the crime scene?

21 A Yes.

22 Q Did you ever return to the crime scene?

23 A I did.

24 Q Okay. And why did you return to the crime scene?

25 A After leaving the crime scene on the initial day of the

1 incident, I was given directives to return to the crime
2 scene to help assist Bailey and locate more evidence.

3 Q All right. And at some point was more evidence located?

4 A Yes.

5 Q Okay. Do you recall what was located?

6 A A shovel.

7 Q Now, while you were locating the shovel, did you find
8 anyone else, or any other evidence?

9 A Yes.

10 Q And what did you find?

11 A Upon looking for that evidence that was found on that
12 day, I came in contact with the defendant.

13 Q Okay. And where was he located when you came in contact
14 with him?

15 A Walking on Godbold Street, right towards Sapp.

16 Q I'm sorry, walking where?

17 A On Godbold Street, near the incident location.

18 Q Okay. Near the incident location. Okay.

19 A Yes, ma'am.

20 Q So, are Godbold Street and Sapp Boulevard near each
21 other?

22 A Yes.

23 Q About how near would you say that they approximately
24 are?

25 A I believe they intersect.

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1 Q Intersect.

2 THE COURT: I'm sorry. What was that response?

3 PERRY BENNETT: They intersect, sir.

4 BY ASST. SOLICITOR LEGETTE:

5 Q Can you say how close Mr. Fludd was to Sapp Boulevard?

6 A Couple of feet.

7 Q Couple of feet?

8 A Yes, ma'am.

9 Q And would that have been at the incident location
10 itself?

11 A Yes.

12 Q Now, Deputy Bennett, you indicated earlier that your
13 body camera was working, in operation.

14 A Yes, ma'am.

15 Q And that you downloaded the videos. Have you previously
16 reviewed those videos from your body camera, to ensure their
17 accuracy?

18 A Yes, ma'am.

19 Q And upon reviewing those videos, were they -- did they
20 appear to be a fair and accurate reflection of the events
21 that you saw and recorded on the night of March 22, 2017?

22 A That is correct.

23 Q Did the videos appear to be changed or altered in any
24 way?

25 A No, ma'am.

1 ASST. SOLICITOR LEGETTE: At this time I would offer --
2 I'm sorry.

3 BY ASST. SOLICITOR LEGETTE:

4 Q In a moment I will hand you what's been previously
5 marked for identification as State's Number 2. Take a
6 moment and tell me if you recognize State's Number 2.

7 ASST. ASST. SOLICITOR LEGETTE: May I approach?

8 THE COURT: You may.

9 BY ASST. SOLICITOR LEGETTE:

10 A Yes, I recognize it.

11 Q And what is State's Exhibit Number 2?

12 A My initials and the date of yesterday, which is 12/03 of
13 2018.

14 Q And is State Exhibit Number 2 a fair and accurate
15 reflection of the videos that you recorded on the night of
16 March 22, 2017?

17 A Yes, ma'am.

18 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
19 would offer State's Exhibit Number 2 for admission into
20 evidence.

21 THE COURT: As to State's 2?

22 MR. DEYSACH: I do have an objection, your Honor.

23 THE COURT: Counsel, approach.

24 (Whereupon, a bench conference is held off the record
25 and out of the hearing of the jury.)

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1 THE COURT: Mr. Foreman, ladies and gentlemen of the
2 jury, please step to your jury room so I can take up a
3 matter of law. Please do not discuss the case.

4 (JURY EXITS COURTROOM AT 11:05 AM.)

5 THE COURT: Let the record reflect that I held a
6 Jackson/Denno hearing yesterday, and I excluded some
7 statements on the objection of the Counsel of the defendant.
8 I assumed that was going to be the objection. However, the
9 solicitor tells me she has redacted, in accordance with my
10 ruling, the portions I've excluded.

11 Mr. Deysach tells me at a side bar just then that he is
12 objecting to the video because he thinks it's unduly
13 prejudicial because of what's shown on the video and the
14 emotion of the victim's family. He also is objecting on the
15 basis of hearsay. Since I have not seen the video, I am
16 looking at the video now, outside of the presence of the
17 jury, to rule on Mr. Deysach's motion.

18 THE COURT: All right. We're going to take our one and
19 only break for this morning.

20 (Whereupon, the trial in this case is recessed for a
21 brief period. Therefore, the following is held back on the
22 record.)

23 BAILIFF: All rise. Court will come to order.

24 THE COURT: Thank you. Please be seated. I have
25 considered the fact that Mr. Deysach has objected first on

1 hearsay. He's also objected on the basis that he thinks
2 that it is unduly prejudicial because the audio portion of
3 the video states things like, "Ma'am, you will have to get
4 up," because there's crying in the background on the audio
5 portion.

6 And Mr. Deysach has reached the conclusion that he's --
7 although it's not identified on the video, that he's talking
8 to the parent, mother of the deceased, and asking her to
9 leave, and he thinks that's unduly prejudicial.

10 Mr. Deysach, I think that the portion of the video,
11 Solicitor, that says where he's talking to an unknown female
12 who is not identified on the video and the audio, and he
13 asks, "Who did it?", and there's a female response that
14 says, "Daniel Fludd" is hearsay, and that is sustained.

15 And you will have to redact that audio portion of the
16 video, because that witness is not available for cross-
17 examination. And even if they were, I don't think that
18 falls within any exceptions to the hearsay rule and 803, and
19 I think it is hearsay. Your objection on the basis of
20 unduly prejudicial due to sympathy is respectfully
21 overruled.

22 I believe the jury can hear, particularly the portion
23 where the officer is recounting on the video what he was
24 observing, and he is available for cross-examination. So I
25 don't believe that constitutes hearsay. But you're going to

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1 have to redact the portions that identify the defendant by
2 an unknown female voice as being the perpetrator. That
3 objection is sustained.

4 Now, Solicitor, can you redact it now, or do you need
5 time, because I'm ready to move. We've taken forty-five
6 minutes on a motion that should've been made pretrial,
7 before I had a jury waiting. Tell me.

8 ASST. SOLICITOR LEGETTE: Your Honor, we cannot play
9 that portion.

10 THE COURT: No audio's going to be played with that on
11 it. I'm ruling in Mr. Deysach and the defendant's behalf as
12 to that. Now, if you can eliminate that audio, fine.

13 ASST. SOLICITOR LEGETTE: Yes, sir.

14 THE COURT: Do you understand?

15 ASST. SOLICITOR LEGETTE: Yes, sir.

16 THE COURT: You understand what portion I'm ruling on?

17 ASST. SOLICITOR LEGETTE: Yes, sir.

18 THE COURT: All right.

19 ASST. SOLICITOR LEGETTE: We just need a few minutes.

20 THE COURT: Bring me the jury.

21 (JURY ENTERS COURTROOM AT 11:32 AM.)

22 THE COURT: Mr. Foreman and ladies and gentlemen of the
23 jury, I'm going to apologize for our delay. That is
24 entirely on me. I had to consider a matter of law. It also
25 means that because of my ruling, the parties have to conform

1 to my ruling once I make it, and that takes a little time to
2 do. So I want you to understand why. Those things happen
3 from time to time during a trial. Thank you for your
4 patience. Solicitor, is the State ready to proceed
5 consistent with my ruling?

6 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

7 THE COURT: All right. Let's do so, then. This
8 witness is, of course, still under oath, and we're in the
9 middle of his direct testimony.

10 BY ASST. SOLICITOR LEGETTE:

11 Q Officer Bennett, or Deputy Bennett, previously I asked
12 you, in the ordinary course of business, you said you had a
13 body cam.

14 A Yes, ma'am.

15 Q That was downloaded.

16 A That's correct.

17 Q During the -- your supposed response to the 408 Sapp
18 Boulevard.

19 A Yes.

20 Q And have you previously reviewed that video for
21 accuracy?

22 A That is correct.

23 Q Okay. I hand you now what has previously been marked
24 for identification as State's Number 2. Take a moment and
25 tell me if you recognize State's Number 2.

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1 ASST. SOLICITOR LEGETTE: May I approach?

2 THE COURT: You may.

3 BY ASST. SOLICITOR LEGETTE:

4 A State's Number 2 is a compact disc with my initials,
5 P.B., with the date of 12/04/18. It's the date that ---

6 Q And what is State's Number 2?

7 A It is a compact disc consistent with my body cam
8 footage.

9 Q And does it also include audio footage as well?

10 A Yes.

11 Q Of the March 22nd, 2017?

12 A That's correct.

13 Q Okay. And you have previously reviewed it for accuracy,
14 and is it a fair and accurate reflection of the events as
15 the unfolded on the night of March 22nd, 2017?

16 A Yes, it is.

17 Q Have they been changed or altered in any way?

18 A No.

19 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
20 would offer State's Number 2 for admission into evidence.

21 THE COURT: Mr. Deysach?

22 MR. DEYSACH: Subject to Rule 403 and prior objections,
23 Your Honor.

24 THE COURT: Let the record reflect that I placed on the
25 record my ruling concerning this matter. And you will

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1 publish consistent with my ruling, which was sustained in
2 part, and overruled in part. Do you understand, Solicitor?

3 (WHEREUPON, STATE'S EXHIBIT NUMBER 2, IDENTIFIED AND
4 MARKED, RECEIVED INTO EVIDENCE.)

5 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

6 THE COURT: Proceed.

7 ASST. SOLICITOR LEGETTE: Thank you, your Honor. May I
8 approach the witness?

9 THE COURT: You may.

10 ASST. SOLICITOR LEGETTE: May I publish the exhibit?

11 THE COURT: You may.

12 ASST. SOLICITOR LEGETTE: Thank you, sir.

13 THE COURT: Consistent with my ruling.

14 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

15 THE COURT: Solicitor, you are responsible for seeing
16 that it complies with my ruling.

17 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

18 (BEGIN VIDEO OF STATE'S EXHIBIT 2 AT 11:36 AM.)

19 MR. DEYSACH: Your Honor, objection to hearsay.

20 THE COURT: Just a moment. Stop.

21 ASST. SOLICITOR LEGETTE: Stop.

22 THE COURT: Counsel, approach.

23 (Whereupon, State's Exhibit 2 is stopped and a bench
24 conference is held off the record and out of the hearing of
25 the jury.)

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1 THE COURT: Move along.

2 BY ASST. SOLICITOR LEGETTE:

3 Q Officer Bennett, while we're on the subject, you were
4 talking to a female on this video. Who are you talking
5 with?

6 A I believe it's Zaneh Garvin.

7 Q Are you -- did you actually know Zaneh Garvin when you
8 arrived?

9 A Yes.

10 Q Okay.

11 (Whereupon, State's Exhibit 2, body cam video of
12 Officer Bennett resumes playing. Video ends at 12:27 p.m.)

13 THE COURT: Let the record reflect that State's Exhibit
14 Number 2 was redacted pursuant to a ruling that I placed on
15 the record outside of the presence of the jury. Proceed
16 with direct examination, Solicitor.

17 ASST. SOLICITOR LEGETTE: Thank you, your Honor.
18 Briefly.

19 BY ASST. SOLICITOR LEGETTE:

20 Q Deputy Bennett, we just watched your body cam video.
21 Can you explain for us where your body cam is located on
22 your body?

23 A Located on my chest, on the right-hand side of my chest
24 here.

25 Q On the right-hand side of your chest?

1 A Yes, ma'am.

2 Q Okay. And so, basically what we're seeing is from your
3 chest -- chest cam?

4 A Yes, ma'am.

5 Q All right. Now, the witness you were talking with, what
6 was her name?

7 A Zaneh, Zaneh Garvin.

8 Q Okay. Now, at some point, Zaneh Garvin, did she
9 actually speak with any investigators?

10 A Yes.

11 ASST. SOLICITOR LEGETTE: Beg the Court's indulgence.

12 BY ASST. SOLICITOR LEGETTE:

13 Q Now, after you cleared up from the scene this particular
14 night, you came back the next day?

15 A Yes, ma'am.

16 Q Okay. And that's when you found a shovel, or you and
17 Officer, I believe, is it Bailey?

18 A That's correct.

19 Q And thereafter you said you encountered Mr. Fludd.

20 A That's correct.

21 Q What did you do with Mr. Fludd?

22 A Mr. Fludd was found walking by the crime scene. That
23 was advised to us the night prior, him being the suspect at
24 this time. We were advised to take him into custody. I then
25 drew my service weapon, due to the severity of the

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1 incident on the night prior, he was taken into custody,
2 giving verbal commands as he was told to get on the ground.

3 Q Okay. And so, once you took him into custody, did you
4 then take him anyplace else?

5 A To the police department.

6 Q All right. And so, once you took him to the police
7 department, you left him there?

8 A Yes.

9 Q And what was your final response in this case?

10 A Could you repeat the question, please?

11 Q I'm sorry. What did you -- once you took Mr. Fludd to
12 the police department, did you have any other involvement in
13 this case?

14 A No, I did not.

15 Q Thank you. I have no further questions. Please answer
16 any questions from Mr. Deysach.

17 THE COURT: Cross-examination.

18 MR. DEYSACH: Thank you, your Honor.

19 CROSS-EXAMINATION

20 BY MR. DEYSACH:

21 Q Officer Bennett, you were the first one there that
22 night?

23 A No. Me and Officer Bailey got there together.

24 Q Same time?

25 A Yes, sir.

1 Q And it was your job to secure the scene, and Officer
2 Bailey took the pictures?

3 A No. That's incorrect.

4 Q Okay. What's correct?

5 A I was on the phone making phone calls to the command
6 staff as far as who was doing what.

7 Q Uh-huh (affirmative).

8 A We both helped secure the crime scene.

9 Q Okay. So, both secured the crime scene?

10 A That's right.

11 Q Would you agree with me that securing the crime scene
12 seemed like a little bit of a struggle that night?

13 A Yes, it was.

14 Q Yes. The people -- you put up the tape, people kept
15 crossing it?

16 A Before it was -- before it was put up, probably, yes.

17 Q Okay. Did you take some of the pictures?

18 A No, I did not.

19 Q Okay. So, Officer Bailey took all the pictures?

20 A That's correct.

21 Q All right. So, the -- the information that you passed
22 on was that -- was that Zaneh Garvin was the only witness
23 that you knew of, of what had happened out there?

24 A Yes, sir.

25 Q And I think as you said, that's all you have, correct?

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1 A At the time, yes.

2 Q All right. So, it's the next -- it's not until the next
3 day -- let me ask you this. After you spoke with Zaneh
4 Garvin that morning, I guess, what time is it; it's about
5 midnight?

6 A That's correct.

7 Q Okay.

8 A Into the next day, yes.

9 Q Okay. So, when you're talking to Zaneh Garvin, you have
10 no reason -- after talking to her, you have no reason to be
11 looking for a shovel, do you?

12 A Not necessarily, no.

13 Q Okay. Because she didn't indicate that a shovel was
14 involved, did she?

15 A That's correct.

16 Q All right. So, it's not until the next day that you're
17 even keeping a shovel -- that that's even in your mind for
18 something to look at, right?

19 A That's correct.

20 Q Okay. And did you ever take a picture of where the
21 shovel was found?

22 A I did not, no.

23 Q Did Officer Bailey take a picture of where the shovel
24 was found?

25 A I do not know.

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Redirect Examination of Perry Bennett by Asst. Sol. Legette

1 Q So, as you stand here today, you don't know if there's a
2 picture of where the shovel was found?

3 A I'm saying I didn't take a picture, and I'm not aware if
4 Bailey did or not.

5 Q Okay. So, it's possible no picture exists of where the
6 shovel was found.

7 A That's not possible.

8 Q That a picture must exist of where the shovel was found?

9 A That's correct.

10 Q Because you would want to document exactly where that
11 shovel was, correct?

12 A You would.

13 Q Right. Because that might be exactly the place where
14 the fight would be, correct?

15 A In that proximity, yes.

16 MR. DEYSACH: That's all I have, your Honor.

17 THE COURT: Redirect.

18 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

19 Briefly.

20 REDIRECT EXAMINATION

21 BY ASST. SOLICITOR LEGETTE:

22 Q Deputy Bennett, is it possible that a picture does not
23 exist where the shovel was found?

24 A No.

25 Q It's not possible?

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Redirect Examination of Perry Bennett by Asst. Sol. Legette

1 A No.

2 Q Did you take a picture?

3 A I did not.

4 Q Did you see any pictures of where the shovel was found?

5 A Yes.

6 Q Well, did you -- I'm sorry. Did you actually see where
7 the shovel was found?

8 A I did not.

9 Q You did not see where the shovel was found?

10 A There's a picture of where the shovel -- I wasn't there
11 when it was actually collected, no.

12 Q You were not there when it was collected, you don't know
13 where it was collected at?

14 A Can you rephrase the question? I'm sorry.

15 Q I'm sorry, I didn't mean to confuse you. So, you did
16 not collect the shovel?

17 A I did not, no.

18 Q Is it possible there is no picture of the shovel, or
19 where it was found?

20 A No, that's -- that's not correct.

21 Q Okay. But you didn't collect it; you don't know where
22 it was found?

23 A I didn't collect it but I know -- I wasn't the -- it was
24 collected there in the vicinity of where the actual location
25 took place.

1 Q Okay.

2 A In the yard.

3 Q Thank you. I have no further questions.

4 THE COURT: Recross, limited to redirect?

5 MR. DEYSACH: Yes, Your Honor.

6 RECROSS-EXAMINATION

7 BY MR. DEYSACH:

8 Q You were not present when the shovel was found, correct?

9 A That's correct.

10 MR. DEYSACH: That's all, your Honor.

11 THE COURT: As to this witness, Solicitor?

12 ASST. SOLICITOR LEGETTE: We ask that he please be
13 excused.

14 THE COURT: Any objection?

15 MR. DEYSACH: Your Honor, I would ask that he remain
16 available for the trial.

17 THE COURT: All right. Mr. Bennett, I'm going to ask
18 you to step off the witness stand. You're not excused from
19 the trial of this case, but I'm going to ask you not,
20 because of my ruling, to discuss your testimony with anyone
21 else until I authorize you to do so. Thank you. You may
22 step down. Call your next witness.

23 ASST. SOLICITOR LEGETTE: State calls Officer Bailey,
24 Rufus Bailey.

25 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY

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1 SWORN, TESTIFIED AS FOLLOWS:)

2 THE COURT: Pull that chair out and make yourself
3 comfortable. Are you okay?

4 RUFUS BAILEY: I'm good.

5 THE COURT: All right. She's going to pull the
6 microphone. You don't have to get right on top of it, but
7 it's going to amplify your voice.

8 RUFUS BAILEY: All right.

9 THE COURT: Speak up so everybody can hear you. Yes or
10 no, no uh-huh (affirmative) or unh-unh. Don't nod your head
11 or shake your head, so the court reporter seated below you,
12 Becky Hill, will be able to take down what you are saying
13 correctly. Begin by stating your full name, spelling your
14 last name for the court reporter.

15 RUFUS BAILEY: Rufus G. Bailey, B/a/i/l/e/y.

16 THE COURT: Your witness, Counsel, direct examination.

17 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

18 DIRECT EXAMINATION

19 BY ASST. SOLICITOR LEGETTE:

20 Q Good afternoon -- I'm sorry, good morning, Officer
21 Bailey.

22 A Good morning.

23 Q Where do you work, sir?

24 A Hampton Police Department.

25 Q And how long have you worked at the Hampton Police

1 Department?

2 A A year and a half.

3 Q And what are your current duties at the Hampton Police
4 Department?

5 A Patrol.

6 Q Now, did you previously work for another police
7 department?

8 A I did. Estill Police Department.

9 Q And how long did you work for the Estill Police
10 Department?

11 A Three years.

12 Q And when you worked for the Estill Police Department,
13 what were your duties?

14 A Patrol.

15 Q And did you have any other duties aside from patrol?

16 A No.

17 Q Did you ever respond to any crime scenes or collect any
18 evidence?

19 A That's all part of patrol.

20 Q Okay. I'm sorry. So what does patrol include? Let me
21 -- I'm sorry, I confused myself. What does patrol include?

22 A Almost everything.

23 Q Okay.

24 A A little bit of everything.

25 Q All right. So, such as?

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1 A Patrolling, community-oriented policing, business
2 checking, property checks, suspicious people, suspicious
3 anything.

4 Q So, you also respond to crime scenes, and?

5 A I do.

6 Q Okay. Do you also collect evidence sometimes?

7 A I do.

8 Q Do you also take photographs?

9 A I do.

10 Q All right. So, were you working for the Estill Police
11 Department on or about March 22nd, 2017?

12 A I did.

13 Q And what shift were you working that particular day?

14 A Night shift.

15 Q And what time is night shift?

16 A 6:00 to 6:00.

17 Q 6:00 to 6:00. So, at 6:00 p.m. to 6:00 a.m.; or 6:00
18 a.m. to 6:00 p.m.?

19 A 6:00 p.m. to 6:00 a.m.

20 Q All right. So, 6:00 p.m. to 6:00 a.m. All right. And
21 so, did you get a call for assistance about 11:00 o'clock on
22 March 22nd, 2017?

23 A I did.

24 Q And where was that call for assistance located?

25 A Godbold.

1 Q Godbold. Okay. And what's in the vicinity of Godbold,
2 if you can remember?

3 A Sapp.

4 Q All right. So, where did you respond?

5 A The corner of Sapp and Godbold.

6 Q Okay. And would that have -- do you remember the
7 address?

8 A I don't.

9 Q Okay. Could it have been 408 Sapp Boulevard?

10 A Yes.

11 Q Well, let's see. Who responded with you to this
12 location?

13 A Officer Bennett.

14 Q And what was your response when you arrived at the
15 location?

16 A We arrived at the scene, and we saw that the subject had
17 been deceased. We ---

18 Q When you say "subject", you mean a person?

19 A A person, yes.

20 Q Okay. And do you know his name?

21 A Yes. Bobby Atkins.

22 Q Okay. And so, you found him -- I guess he was dead when
23 you got there?

24 A He appeared to be.

25 Q He appeared to be. Okay. So, what did you do, if

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1 anything?

2 A We secured the scene. We made sure nobody tampered with
3 anything, made sure nobody was where they're not supposed to
4 be. We marked all the evidence, we took all the pictures.
5 We did our best to ascertain what happened there.

6 Q All right. So, when you say you secured the scene, can
7 you explain a little bit about what securing the scene
8 means?

9 A We tape it off; we make sure nobody gets in. We
10 generate a crime scene log. Only people that need to be in
11 there go in there. Everything is documented. Everything is
12 -- all of our pictures and everything are in order, all of
13 our paperwork is in order.

14 Q Okay. And so, you said that you took photographs. Did
15 you see anything of any evidentiary value to take
16 photographs of?

17 A Several things. There was a box of little miscellaneous
18 items around the yard. There was a lighter, some
19 headphones. There was a crack pipe. There was also a box
20 opener and the shovel, which we got later.

21 Q Okay. And so, based on what you have learned about the
22 incident, what were you looking for?

23 A Anything that could have been used to kill Mr. Atkins.
24 Anything that obviously could be used as a weapon, that sort
25 of thing.

1 Q Okay. And what type of -- did you find anything -- you
2 talked about a lighter, and you talked about a box cutter
3 and a shovel. Did you find anything else of any evidentiary
4 value?

5 A There was -- like I said, there was several
6 miscellaneous items. We bagged it just in case we needed
7 it.

8 Q Okay. And did you also find any evidence of Mr. Atkins'
9 injury, like blood?

10 A There was plenty of blood, mostly by the side gate to
11 the door adjacent to Godbold that led to the door where Mr.
12 Atkins was.

13 Q Okay. So, all of the miscellaneous things that you are
14 finding at the scene as you are walking through the scene,
15 where are you finding these items?

16 A Along the trail of blood.

17 Q Okay.

18 A Mostly right there on the fence line on Godbold.

19 Q Okay. And so, are they actually in the yard? Are these
20 things in the yard?

21 A The crack pipe was in the yard, the lighter was in the
22 yard, the headphones was in the yard. The box cutter was
23 right next to where we believe the altercation took place,
24 as well as the shovel.

25 Q The -- where did you find the blood?

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1 A The blood went from the side gate adjacent to Godbold,
2 and the trail went to the front door, where Mr. Atkins was.

3 Q Okay. And so, now, this shovel, where did you find this
4 shovel?

5 A After we came back.

6 Q Okay. So, now -- so, you're at the crime scene that
7 night, and you -- how long were you at the crime scene that
8 particular night?

9 A Several hours.

10 Q Okay. So you were at the crime scene several hours.
11 And at some point, do you clear up from the crime scene?

12 A We did.

13 Q All right. So did -- why -- you returned -- when did
14 you return?

15 A We returned -- Officer Bennett returned afterwards. I
16 forget exactly what for. We were all looking for the
17 subject, subject who killed Mr. Atkins. Well, supposedly
18 killed Mr. Atkins. Patrolling the area, to try and look for
19 him. I believe that's when Officer Bennett went back and
20 found the ---

21 Q Okay. So, after Office Bennett found Mr. Fludd ---

22 A Uh-huh (affirmative).

23 Q --- I believe you're referring to?

24 A Yes.

25 Q Did you ever return to the crime scene?

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1 A I did. As soon as I heard over the radio that he had
2 made contact, I went back there, too.

3 Q Okay. And so, when you went back to the crime scene, at
4 some point did you go back to the crime scene again?

5 A No, we -- once we -- once we noticed that his arm was
6 injured, and he himself said it was from the shovel, that's
7 when we decided we should collect the shovel.

8 Q Okay. So you went back and looked for a shovel at the
9 crime scene?

10 A Right.

11 Q All right. So, who went with you? Did you go, or did
12 someone else?

13 A It was myself and Officer Bennett.

14 Q All right. So, what happened when you went back to --
15 is this at 408 Sapp Boulevard?

16 A Yes.

17 Q All right. So, when you go back to the 408 Sapp
18 Boulevard, what do you find?

19 A We found the shovel broken in three pieces. We found
20 Mr. Fludd there on Godbold, in the road. His arm was
21 injured. By the time I got there he was already in
22 handcuffs, and he was being detained.

23 Q All right. So, let's go back to the shovel. Where did
24 you find the shovel?

25 A Just at the inside of the side gate, next to the

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1 carport.

2 Q So, you found the shovel next to the carport?

3 A Yes.

4 Q Okay.

5 A Between the gate and the carport.

6 Q Now, you indicated earlier that you had documented the
7 scene itself with photographs.

8 A Yes.

9 Q Okay. And did you -- when you documented these
10 photographs of the scene, what type of pictures did you
11 take? Explain to us where you took pictures.

12 A We took pictures of everything. Especially with a
13 murder scene, you're going to take pictures of everything
14 close up, everything far away, everything in between.

15 Q Okay. And Officer Bailey, I will hand you now what has
16 previously been marked for identification as State's Exhibit
17 Number 5, Number 6, Number 7, Number 8, Number 10, Number
18 11, Number 12, Number 13, Number 14, Number 15, Number 16,
19 Number 17, Number 4, and also Number 3. Please take a
20 moment and tell me if you recognize State's Exhibits 3
21 through 8, and 10 through 17.

22 ASST. SOLICITOR LEGETTE: May I approach the witness?

23 THE COURT: You may. The exhibit number is on the
24 bottom-right, and the red sticker. We use those numbers
25 when speaking about an exhibit on the record.

1 RUFUS BAILEY: Okay.

2 BY ASST. SOLICITOR LEGETTE:

3 Q Officer Bailey, do you recognize State's 3 through 8,
4 and 10 through 17?

5 A I do.

6 Q And Officer Bailey, what are State's 3 through 8, and 10
7 through 17?

8 A All crime scene photos taken at the crime scene.

9 Q And Officer Bailey, are State's 3 through 8, and 10
10 through 17 a fair and accurate reflection of the crime scene
11 as it existed on the night of March 22, 2017?

12 A They are.

13 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
14 would offer State's 3 through 8, and 10 through 17 for
15 admission into evidence.

16 THE COURT: Counsel, as to 3 through 8 inclusive, as to
17 10 through 17 inclusive?

18 MR. DEYSACH: No objection, your Honor.

19 THE COURT: Ladies and gentlemen of the jury, State's
20 Exhibits 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,
21 and 17, will be admitted into evidence in the trial of this
22 case, without objection.

23 (WHEREUPON, STATE'S EXHIBIT NUMBERS 3, 4, 5, 6, 7, 8,
24 9, 10, 11, 12, 13, 14, 15, 16, AND 17, IDENTIFIED AND MARKED,
25 RECEIVED INTO EVIDENCE.)

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1 THE COURT: You may now publish to the jury.

2 ASST. SOLICITOR LEGETTE: Thank you, your Honor. May I
3 approach the witness?

4 THE COURT: You may. The jury's got a screen to their
5 left to see from. You can see okay?

6 RUFUS BAILEY: I can.

7 THE COURT: Proceed.

8 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

9 BY ASST. SOLICITOR LEGETTE:

10 Q Officer Bailey, I direct your attention now to State's
11 Exhibit Number 3, here on the screen, if you can see it.
12 What are we seeing in State's Exhibit Number 3?

13 A That is the gate opening right next -- adjacent to
14 Godbold that I was speaking of earlier, and the carport
15 right behind it.

16 Q Okay. And can you tell us briefly or where, in here,
17 you found that shovel?

18 A Between the fencepost there and to the left, and the
19 beginning of the carport there.

20 Q Somewhere in here?

21 A Right there. Yes.

22 Q Okay. So if I hand you this pointer, can you point to
23 it?

24 A Sure.

25 ASST. SOLICITOR LEGETTE: May I approach the witness,

1 your Honor?

2 THE COURT: You may.

3 BY ASST. SOLICITOR LEGETTE:

4 A Right there.

5 Q Inside the fence?

6 A Inside the fence.

7 Q Okay. In the yard?

8 A More towards the carport than the fence.

9 Q Okay. More toward the yard than the fence?

10 A Yes.

11 Q All right. So, when you talk about the shovel, were --
12 how were the pieces?

13 A The pieces were actually scattered.

14 Q Okay.

15 A Like I said, there was three pieces that -- the
16 shovelhead is what I remember the most because it was the
17 shovelhead, and it was a few feet, maybe four or five feet
18 back from the left side post of the carport.

19 Q Can I hand you the pointer again?

20 ASST. SOLICITOR LEGETTE: May I approach?

21 THE COURT: You may.

22 BY ASST. SOLICITOR LEGETTE:

23 A Same spot.

24 Q Same spot? Okay.

25 A Same spot.

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1 Q Same spot. Okay. So, it's all in the same area, but it
2 was scattered?

3 A Yes.

4 Q Okay. Now, did you take any photographs of the actual
5 shovel? Do you remember taking photographs of the shovel?

6 A We came back to get the shovel and the camera had
7 already been placed at the police department.

8 Q Okay. So you didn't have a camera with you?

9 A Not when we came back for the shovel.

10 Q Okay. All right. And so, now I'll direct your
11 attention to, I believe, State's Exhibit Number 5. Can you
12 tell us what we're seeing in State's Exhibit Number 5.

13 A That's right there at the fencepost, the entryway, the
14 gate adjacent to Godbold, and that's exactly where the box
15 cutter was laying.

16 Q And did you collect this box cutter?

17 A We did.

18 Q Okay. And did you personally collect the box cutter?

19 A I did.

20 Q All right. And so, what did you do with the box cutter
21 once you collected it?

22 A It was bagged and tagged, and logged into evidence.

23 Q Okay. I direct your attention now to State's Exhibit
24 Number 6. Now, State's Exhibit Number 6, what are we
25 seeing?

1 A That is -- there's a little bit of blood on there, in
2 the grass. You can't really see it, but the -- the lighter,
3 the headphones, the crack pipe, and the phone were all more
4 towards Sapp Boulevard than Godbold, and that was just one
5 of the many items that were in the yard. That's what we
6 took pictures of. May I approach and give you this pointer?

7 ASST. SOLICITOR LEGETTE: Your Honor, may I approach
8 the witness?

9 THE COURT: Let's leave it with him, Solicitor.

10 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

11 BY ASST. SOLICITOR LEGETTE:

12 Q Just point.

13 A Okay.

14 Q Red button.

15 A Right. But I mean, the -- you can see the lighter.

16 Q Okay. All right. I see, I see. I direct your
17 attention now to State's Exhibit Number 7. And in State's
18 Exhibit Number 7, what are we looking at?

19 A Okay. This little brown spot is the baggie that the
20 crack pipe was in.

21 Q Okay.

22 A I believe these are headphones. The phone itself and
23 the lighter; I don't remember exactly where the lighter was.
24 It was somewhere over in this direction.

25 Q Okay. Now, I noticed that there are some marks beside

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1 that phone. What are those little brown and yellow spots in
2 the grass?

3 A It appears to be blood on the picture, but I can't -- I
4 honestly don't remember from the night.

5 Q Okay. Did you all mark the evidence with anything, like
6 any spray bottles or spray?

7 A No. I didn't personally.

8 Q Okay. But did someone else do that, or possibly?

9 A There may have been, but I didn't personally.

10 Q All right. I direct your attention now to State's
11 Exhibit Number 8. What are we seeing in State's Exhibit
12 Number 8?

13 A Blood spots.

14 Q Okay. And this is -- where is State's Exhibit Number 8
15 in relationship to the other evidence in the yard?

16 A Well, we've already seen the picture of the -- the gate
17 opening and the carport.

18 Q Yes.

19 A It would -- the trail went from right around the gate
20 opening, through the side yard, to the front door.

21 Q So, all of this was in the yard?

22 A Yes.

23 Q All right. I direct your attention now to State's
24 Exhibit Number 10. And State's Exhibit Number 10, what does
25 that appear to be in State's 10?

1 A Also a portion of the blood trail.

2 Q All right. So, how far does this blood trail go?

3 A From the post that we've already seen, to the gate on
4 the side yard, all the way to the body of Mr. Atkins.

5 Q Okay. And now I direct your attention to State's
6 Exhibit Number, I guess, 12.

7 A More of the blood trail. That was more towards the
8 front of the house.

9 Q Okay. And in State's Exhibit Number 13?

10 A That's going closer to the front door, same blood trail.

11 Q Okay. And then, I direct your attention to State's
12 Number 15.

13 A More of the same blood trail.

14 Q And in State's Exhibit Number 16?

15 A The blood trail ended, right there, you can see on the -
16 - the side of the door there and at the bottom, where the
17 deceased was trying to enter the house.

18 Q Okay. And in State's Exhibit Number 17?

19 A Again, right there at the bottom of the door, where the
20 body -- that's where the blood trail ended.

21 Q Okay. And so, we are seeing the body -- are we seeing
22 the body in these photographs?

23 A That is the body.

24 Q Okay. And would you point to it, please; or to him?

25 A Right there.

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1 Q Okay. Now, Officer Bailey, you talked about the shovel
2 itself. At some point, photographs were taken of the
3 shovel?

4 A Yes.

5 Q All right. And have you previously reviewed those
6 photographs?

7 A I have not. At the point the photographs of the shovel
8 was taken, I was with the subject, at the hospital.

9 Q All right. But at my request have you previously
10 reviewed the photographs of the shovel?

11 A Yes, yes.

12 Q Okay.

13 A Yes.

14 Q All right. Now, Officer Bailey, you indicated that you
15 actually collected the shovel.

16 A Yes.

17 Q And placed it -- where did you place it when you
18 collected it?

19 A In the office, with the bags.

20 Q Okay. So, into evidence, at the office?

21 A Yes.

22 Q Okay. I hand you now what's been previously marked as
23 State's Exhibits Number 22, 23, 24, 25, 26, 27, 28, 29, and
24 30. Take a moment and tell me if you recognize State's 22
25 through 30.

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1 ASST. SOLICITOR LEGETTE: May I approach the witness?

2 THE COURT: Do you have a 28, Solicitor?

3 ASST. SOLICITOR LEGETTE: Yes, Your Honor. 28. I'm
4 sorry, it's 22 through ---

5 THE COURT: 22 through 30, inclusive?

6 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

7 THE COURT: You may approach.

8 BY ASST. SOLICITOR LEGETTE:

9 A Okay.

10 Q And do you recognize State's 28 through -- I'm sorry, 22
11 through 30, inclusively?

12 A I do.

13 Q And what are State's 22 through 30, inclusively?

14 A All different pictures of the segments of the shovel.

15 Q Okay. And are they a fair and accurate reflection of
16 the shovel itself?

17 A They are.

18 Q Okay.

19 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
20 would offer State's Exhibits 22 through 30, inclusively,
21 into evidence.

22 THE COURT: As to 22 through 30, inclusive, Counsel?

23 MR. DEYSACH: No objection, your Honor.

24 THE COURT: Ladies and gentlemen of the jury, State's
25 Exhibits 22, 23, 24, 25, 26, 27, 28, 29, and 30, will be

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1 admitted into evidence in the trial of this case, without
2 objection.

3 (WHEREUPON, STATE'S EXHIBIT NUMBERS 22, 23, 24, 25, 26,
4 27, 28, 29, AND 30, IDENTIFIED AND MARKED, RECEIVED INTO
5 EVIDENCE.

6 ASST. SOLICITOR LEGETTE: Thank you, your Honor. May I
7 approach the witness?

8 THE COURT: You may.

9 ASST. SOLICITOR LEGETTE: Thank you.

10 BY ASST. SOLICITOR LEGETTE:

11 Q Officer Bailey, I would direct your attention now to the
12 screen at your right. This is State's Exhibit 22. Can you
13 tell us what we're seeing in State's 22?

14 A That is a portion of the shovel after it was bagged and
15 tagged.

16 Q All right. So, that's the shovel that you collected?

17 A Yes.

18 Q All right. And so, I now direct your attention to
19 State's 23.

20 A That is the same shovel, all segments, before it was
21 bagged.

22 Q Okay. All right. And so, in State's Exhibit Number 25,
23 what are we seeing in State's 25?

24 A The same segments of the shovel with the -- the
25 measurements there, for reference.

1 Q Just a closer view? Okay. All right. Now, State's
2 Exhibit Number 26, what are we seeing in State's 26?

3 A Another segment of the shovel.

4 Q Okay. Did you look at the shovel when you located it,
5 to see if anything was on it?

6 A I did.

7 Q Did it appear to have anything on it?

8 A It didn't.

9 Q I direct your attention now to State's 27. State's 27
10 is what?

11 A More portions of the shovel.

12 Q And I believe State's 28?

13 A The same shovel.

14 Q Okay. And 29?

15 A The same shovel.

16 Q And in State's 30?

17 A The same shovel.

18 Q All right. Officer Bailey, you indicated that you
19 actually collected the shovel in this case. I'm going to
20 hand you in a moment ---

21 THE COURT: Counsel, have you got a pair of gloves for
22 the witness?

23 ASST. SOLICITOR LEGETTE: Yes, Your Honor. I'll bring
24 him a pair.

25 THE COURT: Make sure you do.

State of South Carolina v. Daniel Fludd
Direct Examination of Officer Rufus Bailey by Asst. Sol. Legette

1 BY ASST. SOLICITOR LEGETTE:

2 Q I hand you what's been previously marked as State's
3 Exhibit Number 38. Take a moment and tell me if you
4 recognize -- I'm sorry, State's Number 9. This is State's
5 Number 9. Please tell me if you recognize State's Exhibit
6 Number 9.

7 ASST. SOLICITOR LEGETTE: May I approach the witness,
8 your Honor?

9 THE COURT: You may.

10 BY ASST. SOLICITOR LEGETTE:

11 Q Here's some gloves.

12 A Wouldn't happen to have a large?

13 ASST. SOLICITOR LEGETTE: Madam Clerk, you got some
14 large gloves?

15 MADAM CLERK: That's as big as we got.

16 RUFUS BAILEY: I can't fit into these.

17 ASST. SOLICITOR LEGETTE: Let's just do this.

18 BY ASST. SOLICITOR LEGETTE:

19 Q I can just hold it up, and you can ---

20 A Just as you reference.

21 THE COURT: As you reference, hold it up.

22 ASST. SOLICITOR LEGETTE: Yes, sir.

23 THE COURT: Try it out. Try to ease it out.

24 BY ASST. SOLICITOR LEGETTE:

25 Q Officer Bailey, if you will stand -- I hand you now

1 what's been previously marked for identification State's 9.
2 Will you take a moment and tell me if you recognize State's
3 Number 9?

4 A Yes. This is our best attempt to beg three pieces of
5 shovel.

6 Q Okay. And is State's Exhibit Number 9 a fair and
7 accurate depiction of the shovel that you collected from the
8 408 Sapp Boulevard on March 23, 2017?

9 A It is.

10 Q As far as you can tell, has it been changed or altered
11 in any way?

12 A Not at all.

13 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
14 would offer State's Exhibit Number 9 for admission into
15 evidence.

16 THE COURT: As to State's 9?

17 MR. DEYSACH: No objection, your Honor.

18 THE COURT: Ladies and gentlemen of the jury, State's
19 Exhibit Number 9 will be admitted into evidence in the trial
20 of this case, without objection. State's 9 in evidence.

21 (WHEREUPON, STATE'S EXHIBIT NUMBER 9, IDENTIFIED AND
22 MARKED, RECEIVED INTO EVIDENCE.)

23 THE COURT: You may publish. And if you -- in doing
24 so, if you see that my jury gets a box of gloves of all
25 sizes if it goes to the jury room.

State of South Carolina v. Daniel Fludd
Direct Examination of Officer Rufus Bailey by Asst. Sol. Legette

1 ASST. SOLICITOR LEGETTE: Yes, your Honor.

2 BY ASST. SOLICITOR LEGETTE:

3 Q Officer Bailey, I'll just briefly show you the parts of
4 State's Exhibit Number 9. I'll just show you -- what are we
5 looking at? And this part of --

6 A The shovelhead.

7 Q Shovelhead?

8 A Yes, ma'am.

9 Q Okay. Again, I show you, also, part of State's Exhibit
10 Number 9.

11 A The middle portion.

12 Q Okay. Now, the last portion of ---

13 A The end piece.

14 Q Okay. And that appears to be the end piece?

15 A Yes.

16 Q All right. Officer Bailey, you also indicated that you
17 had collected another piece of evidence from the crime
18 scene, including the cigarette lighter and some other
19 miscellaneous evidence. Did you also collect the box
20 cutter?

21 A I did.

22 Q Okay. I'm handing you now what's been previously marked
23 for identification as State's 88. Take a moment and tell me
24 if you recognize State's 88. Do you still have your gloves?

25 A I do, but I tore them.

State of South Carolina v. Daniel Fludd
Direct Examination of Officer Rufus Bailey by Asst. Sol. Legette

1 Q I can just hold it up if you want me to.

2 A Yes.

3 Q And what is State's 88?

4 A The box cutter.

5 Q And is State's 88 in substantially the same condition
6 today as when you collected it on March 22, 2017?

7 A It's very clean, just like in the picture.

8 Q Okay.

9 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
10 would offer State's Exhibit Number 88 for admission into
11 evidence.

12 THE COURT: As to State's 88?

13 MR. DEYSACH: No objection, your Honor.

14 THE COURT: Ladies and gentlemen of the jury, State's
15 Exhibit Number 88 will be admitted in the trial of this
16 case, without objection. State's 88 in evidence.

17 (WHEREUPON, STATE'S EXHIBIT NUMBER 88, IDENTIFIED AND
18 MARKED, RECEIVED INTO EVIDENCE.)

19 THE COURT: You may publish.

20 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

21 BY ASST. SOLICITOR LEGETTE:

22 Q Let's move on. Officer Bailey, once you had collected
23 the shovel at the location and Mr. Fludd had been delivered
24 to the police department, did you ever see him again?

25 A I did. I -- I gave him a ride to the hospital.

State of South Carolina v. Daniel Fludd
Direct Examination of Officer Rufus Bailey by Asst. Sol. Legette

1 Q Okay. And for what purpose?

2 A To monitor him.

3 Q Okay. Did he appear to have any injuries?

4 A He did.

5 Q Okay.

6 A His arm.

7 Q All right. And so, at some point did you leave the
8 hospital?

9 A I did.

10 Q Did you leave with him, or how did you leave?

11 A I left because it was far past my shift. Officer
12 Pouchprom relieved me.

13 Q Okay. So, Officer Pouchprom relieved you at the
14 hospital?

15 A He did.

16 Q Okay. And once you were relieved by Officer Pouchprom -
17 - I'm sorry, Pouchprom -- did you have any other involvement
18 in this case?

19 A No.

20 ASST. SOLICITOR LEGETTE: Begging the Court's
21 indulgence.

22 BY ASST. SOLICITOR LEGETTE:

23 Q Okay. Thank you, Officer. I have no further questions,
24 sir. Please answer any questions from Mr. Deysach.

25 THE COURT: Cross-examination.

1 MR. DEYSACH: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. DEYSACH:

4 Q Good afternoon, Officer Bailey.

5 A Good afternoon.

6 Q Okay. Starting chronologically, you and Officer Bennett
7 are the first arrive at 408 Sapp Boulevard, correct?

8 A Yes, sir.

9 Q First law enforcement to arrive, correct?

10 A Yes.

11 Q And it's before any EMS arrives, correct?

12 A Yes, sir.

13 Q That the first thing that both of you all do is work to
14 preserve the integrity of the area that you've been called
15 to, correct?

16 A Correct.

17 Q That you don't want other people walking in and out of
18 where something that you're investigating might have
19 occurred?

20 A Yes, sir.

21 Q Moving anything, or anything like that?

22 A Right.

23 Q So, there is -- I mean, obviously, somebody calls 911,
24 it takes time for -- for the police to arrive. So, do you
25 know how long it took you to arrive?

State of South Carolina v. Daniel Fludd
Cross-Examination of Officer Rufus Bailey by Mr. Deysach

1 A I don't remember offhand, but it couldn't have been more
2 than a few minutes. Estill isn't a very big place.

3 Q Right. Pretty small.

4 A Yes.

5 Q Were people outside?

6 A Yes.

7 Q How many people?

8 A Three, if I remember.

9 Q Okay. Three people outside? All right. Okay. It
10 appears that Officer Bennett spent more time dealing with
11 people, and that you started looking for items to document.

12 A That's correct.

13 Q Is that fair?

14 A Yes.

15 Q That part of that is taking all these photos that we
16 have just looked at, correct?

17 A Yes.

18 Q And I'm going to show you what's marked as State's
19 Exhibit 3.

20 THE COURT: Would you like to approach?

21 MR. DEYSACH: I would, your Honor.

22 THE COURT: Approach the witness.

23 BY MR. DEYSACH:

24 Q A picture of the carport.

25 THE COURT: Don't testify, Counsel. Step back so the

1 jury can see the witness.

2 BY MR. DEYSACH:

3 A Yes.

4 Q The question is, did you take that picture?

5 A I did.

6 Q Okay. That night?

7 A Yes.

8 Q Okay. All right. And you were the first responders,
9 and you really don't have much information about what is
10 supposed to have happened there that night, do you?

11 A At the time. ---

12 Q Is that correct?

13 A --- we just saw what we saw on the scene.

14 Q Right. So, you're looking for items that stand out as
15 possible evidence in a case, correct?

16 A Yes, sir.

17 Q Okay. And I mean, you -- headphones, you documented
18 that there were headphones, correct?

19 A I did.

20 Q And that's because you don't expect to see headphones in
21 the middle of a yard, correct?

22 A Right.

23 Q It's just out of place?

24 A Right.

25 Q Same with a crack pipe and lighter. Why -- that's

1 strange. It's suspicious that that would just be laying in
2 a yard, correct?

3 A It is.

4 Q That's not where people keep those, is it?

5 A Correct.

6 Q Did you collect the crack pipe?

7 A We did.

8 Q That in all of the pictures you took that night, you
9 never captured the broken shovel, did you?

10 A I don't believe so.

11 Q That you testified that the shovel was just inside the
12 left post, by four feet? Is that right?

13 A Back from the carport.

14 Q Back from the carport four feet?

15 A Between the post and the carport.

16 Q I'm going to show you State's Exhibit 3, which I believe
17 is the exhibit that you used on the big screen to
18 demonstrate, and ask you to put -- to just hold it up and
19 put your finger where you think.---

20 THE COURT: Hold on Counsel. Put Exhibit 3 on the
21 screen, dim the lights for him, and give him the marker.
22 You still got it? Yeah, you got it right there. Exhibit --
23 State's 3, in evidence.

24 BY MR. DEYSACH:

25 A Between that post on the carport here, and this post of

1 the fence.

2 Q Okay. So, somewhere in between those two posts?

3 A Yes.

4 Q Do you know how close to the fencepost it was?

5 A It would -- like I said, it was further towards the
6 carport than it was the fencepost.

7 Q Do you know how close it was to the carport?

8 A A couple of feet. A few feet, maybe.

9 THE COURT: You done?

10 MR. DEYSACH: Yes, Your Honor.

11 THE COURT: Lights, please.

12 BY MR. DEYSACH:

13 Q Now, of course, when we're talking about the location of
14 the shovel, we're talking about the day after. We're not
15 talking about the day of?

16 A In the daylight, yes.

17 Q Right. Right. Okay. The box cutter is found right
18 outside the fencepost, correct?

19 A Just outside the fencepost.

20 Q Only inches outside the fencepost? That you -- you
21 photographed something that appears to be blood near the box
22 cutter?

23 A Yes.

24 Q Outside the fencepost, correct?

25 A Yes.

State of South Carolina v. Daniel Fludd
Cross-Examination of Officer Rufus Bailey by Mr. Deysach

1 Q And I guess it appears that you've sort of, I mean, for
2 lack of a better word, trail of drops of blood that led from
3 the fencepost ---

4 A Yes.

5 Q --- to the front door, correct?

6 A Yes.

7 Q From just outside the fencepost, to the front door.
8 That's where -- those are the outer ends of where you found
9 any droplets of blood?

10 A Yes.

11 Q Okay. So, continuing on the 23rd, correct, is when you
12 encounter Mr. Fludd, correct?

13 A The next morning, yes.

14 Q So, it's 11:00 to midnight, the 22nd. So, now, we're
15 talking about the morning of the 23rd, correct?

16 A Yes, sir.

17 Q That -- he was actually not that far away from where you
18 were the night before, correct?

19 A Not at all.

20 Q When he was located?

21 A He was on Godbold Street.

22 Q Which, is Godbold Street the street where the -- the
23 gate to the house is?

24 A It's the dirt road by the gate, yes.

25 Q Right. Because the house is on the corner, right?

1 A Right.

2 Q Okay. So, the -- so, the front door is on Sapp
3 Boulevard, correct?

4 A Yes.

5 Q And the driveway is on Godbold?

6 A Yes.

7 Q And he's actually located on Godbold Street, right?
8 Okay. Do you ---

9 THE COURT: Hold on. Let him answer ---

10 MR. DEYSACH: I'm sorry.

11 THE COURT: --- before you ask questions. You're not
12 testifying; he is.

13 MR. DEYSACH: Yes, your Honor.

14 THE COURT: Respond -- ask a question, Counsel.

15 BY MR. DEYSACH:

16 Q He was on Godbold Street, correct?

17 A He was.

18 Q All right. When you encountered him, he had -- you
19 noticed the injury to his arm. Is that correct?

20 A Yes, sir.

21 Q The injury was to this portion of his arm?

22 A I believe it was. Like I said, he was already in
23 handcuffs by the time I got there.

24 Q Okay. And that it was actually your job to take him to
25 the hospital first?

State of South Carolina v. Daniel Fludd
Cross-Examination of Officer Rufus Bailey by Mr. Deysach

1 A It was.

2 Q And how long were you -- did you wait at the hospital
3 before you were relieved?

4 A Several hours, from what I remember.

5 Q So, he was there for several hours before you left,
6 right?

7 A Yes.

8 Q And when you left, Mr. Fludd was still being treated at
9 the hospital, correct?

10 A He was.

11 Q Did you ever take any pictures of his injuries?

12 A I personally did not.

13 Q All right. So, it is -- okay. And before the hospital,
14 Mr. Fludd is delivered to the police department, correct?

15 A He is.

16 Q And it is after -- and at the police department is where
17 the investigators are who are interviewing him, correct?

18 A Correct.

19 Q That it is after that interview that you go looking for
20 the shovel, correct?

21 A Yes. Correct.

22 Q Zaneh Garvin had already been interviewed, correct?

23 A I believe she was interviewed at the scene.

24 Q And nobody knew to look for a shovel then, did they?

25 A No.

1 Q All right. And so, you and Mr. Bennett were -- were
2 together when the shovel was located?

3 A We were.

4 Q Okay. So, he was there with you, correct?

5 A Yes. We were both looking for the pieces.

6 Q Okay. And you locate the shovel, or he locates the
7 shovel?

8 A Like I said, there were several pieces.

9 Q So, maybe him or maybe you; you don't remember?

10 A I located the shovelhead.

11 Q You located the head, but you're not so sure about the
12 rest of the pieces?

13 A I think he got the shaft, and I found the end piece.

14 Q Okay. And you did not take a picture of where you found
15 it, correct?

16 A Not that I recall.

17 Q Did you say something during direct that you didn't have
18 your camera with you?

19 A Not that I recall. Like I said, that -- at that point,
20 it was already several hours past my shift, so I was pretty
21 tired.

22 Q So, you may have made the mistake of not taking a
23 picture of the shovel due to fatigue. Is that correct?

24 A It's possible.

25 Q But you weren't fatigued, you know, at 11:00 or 12:00

1 o'clock the night before, were you?

2 A I was not.

3 Q And the fact that there was a broken shovel laying
4 there, that didn't arouse your suspicion as something you
5 should take a picture of, did it?

6 A Well, the shovel -- like I said, it was closer to the
7 carport, and the blood trail was more of our main focus.

8 Q Got you. So, you wanted to document the headphones, but
9 you weren't so concerned about the broken shovel, right?

10 A The headphones were way out in the open. The broken
11 shovel was not.

12 Q Okay. So, did -- did you ever take the shovel to kind
13 of piece it together, to make sure it was a complete shovel?

14 A We put them side-by-side. We didn't want to actually
15 press it together, to splinter the wood.

16 Q So, you never, like, puzzle -- like, puzzle pieces? You
17 never -- to make sure that there's not a missing piece?

18 A We put them right next to each other because we didn't
19 want to mess up the evidence.

20 Q Okay. Did you come to the conclusion that there was no
21 missing piece?

22 A Yes.

23 Q Okay.

24 THE COURT: Anything further?

25 MR. DEYSACH: Nothing further, Your Honor.

State of South Carolina v. Daniel Fludd
Redirect Examination of Officer Rufus Bailey by Asst. Sol. Legette
Recross-Examination of Officer Rufus Bailey by Mr. Deysach

1 THE COURT: Redirect?

2 ASST. SOLICITOR LEGETTE: Just briefly.

3 REDIRECT EXAMINATION

4 BY ASST. SOLICITOR LEGETTE:

5 Q Officer Bailey, I think Mr. Deysach asked you a question
6 about the blood trail.

7 A Yes.

8 Q Do you -- can you tell us where that blood trail starts?
9 Is it in the yard?

10 A It is right next to the fencepost, the fencepost there
11 next to Godbold.

12 Q Okay. So, it was actually inside the yard, inside the
13 fencepost?

14 A Yes.

15 Q Okay. All right. Thank you. I have nothing further.

16 THE COURT: Re-cross, limited to redirect.

17 MR. DEYSACH: Absolutely, your Honor.

18 RE-CROSS-EXAMINATION

19 BY MR. DEYSACH:

20 Q Okay. That -- that first -- that first spot of blood
21 that you see right there by the fencepost, you know, as a
22 crime scene collector, that that doesn't mean that that's
23 exactly where the person started bleeding, correct?

24 A Right.

25 Q That's just where the blood would've hit the ground

State of South Carolina v. Daniel Fludd
Redirect Examination of Officer Rufus Bailey by Asst. Sol. Legette
Recross-Examination of Officer Rufus Bailey by Mr. Deysach

1 first, correct?

2 A It could be, yes.

3 Q All right. Thank you.

4 THE COURT: As to this witness, Solicitor?

5 ASST. SOLICITOR LEGETTE: We ask that he be excused,
6 Your Honor.

7 THE COURT: Any objection, Mr. Deysach?

8 MR. DEYSACH: No, Your Honor.

9 THE COURT: Mr. Bailey, you may step down. You're
10 excused from the trial of the case.

11 RUFUS BAILIEY: Thank you, sir.

12 THE COURT: Thank you very much. You may leave the
13 courtroom. Call your next witness.

14 ASST. SOLICITOR LEGETTE: Thank you, your Honor. State
15 calls Brandon O'Quinn. No, I'm sorry, Zatch Pouchprom.
16 Zatch Pouchprom.

17 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
18 SWORN, TESTIFIED AS FOLLOWS:)

19 THE COURT: Have a seat on the witness stand.

20 ZACH POUCHPROM: Thank you, your Honor.

21 THE COURT: Pull that chair up and make yourself
22 comfortable. She's going to turn the microphone, so you
23 don't have to get right on top of it. It's going to amplify
24 your voice. Just speak up, like I'm doing right now, so the
25 last people on the jury can hear you, and the people in

1 the courtroom can hear you. Please give me a verbal answer.
2 Say yes or no. Don't shake your head or nod your head, so
3 the court reporter can take it down. Don't say uh-huh
4 (affirmative) or unh-unh; yes or no.

5 ZATCH POUCHPROM: Yes, Your Honor.

6 THE COURT: State your full name, for the record, and
7 spell your last name for the court reporter.

8 ZATCH POUCHPROM: My name is Zatch Jason Pouchprom.
9 Last name is spelled P/o/u/c/h/p/r/o/m.

10 THE COURT: Your witness, Counsel. Direct examination.

11 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

12 DIRECT EXAMINATION

13 BY ASST. SOLICITOR LEGETTE:

14 Q Officer Pouchprom, sir, where do you work?

15 A I am a patrol sergeant at Estill Police Department?

16 Q And how long have you been at the Estill Police
17 Department?

18 A I've worked there since July of 2015, approximately
19 three and a half years.

20 Q And what are your duties at the Estill Police
21 Department?

22 A I'm a patrol supervisor. I handle patrol work, report
23 compositions, answering calls for service. I also handle
24 some of the training. I'm a firearms instructor and
25 defensive tactics instructor and specific skills instructor.

1 Q And now, Officer Pouchprom, were you working for the
2 Estill Police Department on or about March 22nd, 2017?

3 A Yes, I was.

4 Q Did you become involved in this case at some point?

5 A Yes, I did.

6 Q Can you tell us how you became involved?

7 A I believe on Thursday, March 23rd, I was contacted by my
8 superior officer, Captain Alex Williams. He asked me to go
9 to the Hampton County Medical Center and relieve Officer
10 Rufus Bailey, who was standing guard with a prisoner.

11 Q And what was your response to the directive from Captain
12 Williams?

13 A I told him that I would do so.

14 Q And did you go?

15 A Yes, I did.

16 Q Okay. And so, once you arrived at the Hampton Regional
17 Medical Center, did you take, I guess, control over the
18 prisoner?

19 A Yes, I did. I'm in contact with Officer Bailey, and we
20 -- we transitioned positions, and I took over as the person
21 who stood watch over the prisoner.

22 Q Okay. And was the prisoner -- did you ever learn his
23 name?

24 A Yes. It was Daniel Fludd.

25 Q Okay. And so, after you stood watch over Mr. Fludd, at

1 some point did he -- was he released from the hospital; and
2 where did he go?

3 A Yes. Eventually, the medical staff released him. I
4 took him into custody, and we -- I transported him to the
5 Hampton County Jail.

6 Q Now, when transporting him to the Hampton County Jail,
7 did you actually seize any property that belonged to Mr.
8 Fludd?

9 A Yes, I did. When we reached the Hampton County Jail,
10 the jailers began to book him into -- into custody. I asked
11 them if I could -- well, let me explain. One of the
12 directives from Captain Williams was that I was to retrieve
13 the pants that he was wearing that day. So, once they
14 changed him out into the jail uniform they gave me the
15 pants, and I took it and processed it as evidence.

16 Q Okay. And once you took the pants into your custody and
17 control, did they remain in your complete custody and
18 control?

19 A I transported them from the Hampton County Jail back to
20 the Estill Police Department. I then logged them into
21 evidence.

22 Q Just bear with me, Officer Pouchprom. I'm going to hand
23 you in a moment what's been previously marked as State's
24 Number 38, for identification.

25 ASST. SOLICITOR LEGETTE: Do we have any gloves big

State of South Carolina v. Daniel Fludd
Direct Examination of Zatch Pouchprom by Asst. Sol. Legette

1 enough for him?

2 MADAM CLERK: Yes, we do.

3 ASST. SOLICITOR LEGETTE: Okay.

4 BY ASST. SOLICITOR LEGETTE:

5 Q All right. Officer Pouchprom, I'm going to hand you now
6 what's been marked as State's 38. Take a moment and tell me
7 if you recognize State's 38.

8 ASST. SOLICITOR LEGETTE: May I approach the witness?

9 THE COURT: You may.

10 BY ASST. SOLICITOR LEGETTE:

11 Q You recognize State's 38?

12 A Yes. I recognize these as the pants I retrieved that
13 day.

14 Q Okay. And is State's Exhibit Number 38 in substantially
15 the same condition today as when you originally collected
16 them on March 23, 2017? Substantially?

17 A Yes, they are.

18 Q Okay. Have they been changed or altered in any
19 appreciable way?

20 A No, they have not.

21 Q Okay.

22 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
23 would offer State's Exhibit 38 for admission into evidence.

24 THE COURT: As to State's 38?

25 MR. DEYSACH: No objection.

1 THE COURT: Ladies and gentlemen of the jury, State's
2 Exhibit Number 38 will be admitted into evidence in the
3 trial of this case, without objection. State's 38 is in
4 evidence.

5 (WHEREUPON, STATE'S EXHIBIT NUMBER 38, IDENTIFIED AND
6 MARKED, RECEIVED INTO EVIDENCE.)

7 THE COURT: Put the pants back in the box, and the bag.
8 Pick up my microphone cover that you've got under that paper
9 down there, and put it back on the tip of the microphone.

10 ZATCH POUCHPROM: Yes, your Honor.

11 BY ASST. SOLICITOR LEGETTE:

12 Q Officer Pouchprom, did you have any other involvement in
13 this case after you collected Mr. Fludd's pants?

14 A No. After I logged the pants into evidence, I put them
15 in the secure locker for the Estill Police Department, and
16 that was the end of my involvement. I then ended my tour of
17 duty.

18 Q Okay. Thank you, Officer Pouchprom. I have no further
19 questions, sir. Answer any questions from Mr. Deysach.

20 MR. DEYSACH: If it pleases the Court?

21 THE COURT: Cross-examination.

22 MR. DEYSACH: Thank you, your Honor.

23 CROSS-EXAMINATION

24 BY MR. DEYSACH:

25 Q Officer Pouchprom, Ian Deysach, attorney for Daniel

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Cross-Examination of Zatch Pouchprom by Mr. Deysach

1 Fludd. So, do you know what time you arrived at the
2 hospital?

3 A I believe it was approximately noon.

4 Q And do you know how long you stayed at the hospital?

5 A I believe it was around an hour, an hour and a half.

6 Q And that was because Mr. Fludd was getting treatment on
7 his arm?

8 A Yes, I believe -- I believe that's correct.

9 Q When he left, was there any dressing or anything on his
10 arm?

11 A While I was there I observed the medical personnel
12 putting a wrap on his arm.

13 Q Okay. And did he still have that on when he was taken
14 from the hospital?

15 A Yes, he did.

16 Q Okay. So, you're the super -- you're the patrol
17 supervisor?

18 A (No response.)

19 Q Did you testify that you were a patrol supervisor?

20 A Currently, I'm a patrol sergeant. I believe at this
21 time, March of 2017, I was a corporal.

22 Q Okay. I'm not sure what the -- honestly, I don't know
23 what the difference is, but I do want to ask you a little
24 bit about what it means to be a patrol or a supervisor
25 patrol, since you're a supervisor now. That a patrol -- an.

1 officer who's on patrol has the job of, among other things,
2 responding to calls, correct?

3 A Yes, that's correct.

4 Q And upon responding to those calls, if it's necessary,
5 upon -- to secure a crime scene, correct?

6 A Yes, that is correct.

7 Q And they also -- it is their job to take pictures of
8 evidence, correct?

9 A Sometimes, yes.

10 Q Okay. If -- if -- I mean, I guess, other people could
11 have that responsibility as well, but that responsibility
12 also falls to patrolmen, does it not?

13 A On occasions, yes, sir.

14 Q And if that responsibility does fall to a patrolman, and
15 he's documenting the evidence photographically, he wants to
16 take those pictures in a way where people can tell where
17 things are found, correct?

18 A Yes, sir. There is a protocol that we usually follow.
19 We try to take a wide-lens shot, a medium -- a medium-
20 perspective shot, and then a close-up.

21 Q Okay. Because that way you can -- you've got the min --
22 the deep perspective, a middle perspective, and then a close
23 perspective, correct?

24 A Yes, sir. That's the protocol we usually follow.

25 Q All right. And that way you're able to see exactly

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1 where items were found. If you could -- if you take the
2 picture too close, you can't tell where the item was in the
3 big picture, can you?

4 A Yes, sir. I believe that's the reasoning.

5 Q All right. And you also can use these little markers
6 with numbers on them, correct?

7 A Sometimes, yes, we use evidence markers.

8 Q Okay. But not all the time?

9 A It would depend on how many pieces of evidence there
10 are. If it's a single piece of evidence, may not. But
11 usually, the markers are just to indicate where the evidence
12 is so that we can find it. But it's not always ---

13 Q --- right ---

14 A --- the fact that we use it. It depends..

15 Q Right. I mean, it's for that deep shot, right?

16 A Correct.

17 Q So that you can tell where something is found from -- on
18 the far-away shot, right?

19 A Correct.

20 Q And you're saying if you have multiple pieces of
21 evidence, you -- that's when you would use those markers,
22 correct, right?

23 A That's correct, yes.

24 Q All right. All right. Let me ask you this. When an
25 evidence scene is processed, does it -- does it remain

1 secure after the police leave?

2 A (No response.)

3 Q I mean, it's -- I'm not trying to ask a stupid question.

4 I mean, it's pretty -- it's not a trick question.

5 A Once the scene's been processed, normally it's released
6 back to the owner of the property.

7 Q Right.

8 A The public is allowed -- once -- when we have -- when we
9 have possession of the scene, it's taped off and no one's
10 allowed to enter a certain perimeter. But once we process
11 the scene and we've left, it's usually just released.

12 Q Right. I mean, it's private property after all,
13 correct?

14 A Yes.

15 Q All right. And you would have to leave a police officer
16 there, even so, to make sure that nobody crossed into the
17 evidence scene, correct?

18 A If it was an active scene, yes.

19 Q Right.

20 A There should -- there would be an officer there to guard
21 it.

22 Q So, when -- when the officers leave, they pretty much
23 take down the caution tape, correct?

24 A Not always.

25 Q Oh. So, they may leave the caution tape up?

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1 A That's correct.

2 Q Okay. Even though the officers have left?

3 A Correct.

4 Q But when the officers have left, the evidence scene is
5 no longer secure, correct?

6 A Not -- if a scene is active, meaning we're still
7 processing it, to my understanding there is to be an officer
8 there.

9 Q Right. And when that's done and the officer leaves,
10 it's no longer secure, correct?

11 A From my understanding, yes, sir.

12 Q All right.

13 MR. DEYSACH: Nothing further, your Honor.

14 THE COURT: Redirect.

15 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

16 REDIRECT EXAMINATION

17 BY ASST. SOLICITOR LEGETTE:

18 Q Officer Pouchprom, did you ever respond to the scene at
19 408 Sapp Boulevard?

20 A No, I did not.

21 Q Okay. Thank you. Nothing further.

22 THE COURT: Re-cross, limited to redirect.

23 MR. DEYSACH: Yes, Your Honor.

24 THE COURT: Limited to redirect.

25

1 occasions where I have documented evidence without using the
2 markers, and there's been occasion when I have used the
3 markers. But without actually having gone to the scene, I
4 wouldn't know what I was faced with at that time.

5 THE COURT: As to this witness, Solicitor?

6 ASST. SOLICITOR LEGETTE: We ask that he be excused,
7 your Honor.

8 THE COURT: Any objection?

9 MR. DEYSACH: No, your Honor.

10 THE COURT: All right. Mr. Pouchprom, you may step
11 down from the witness stand. You can take the gloves with
12 you. Leave all my exhibits with me. You are excused from
13 the trial of this case, you may leave the courtroom.

14 MR. POUCHPROM: Thank you, your Honor.

15 THE COURT: Thank you.

16 ASST. SOLICITOR LEGETTE: State calls Brandon O'Quinn.

17 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
18 SWORN, TESTIFIED AS FOLLOWS:)

19 THE COURT: Have a seat right there, and pull that chair
20 up and make it comfortable. She's going to move that
21 microphone over for you. It's going to amplify your voice.
22 You don't have to get right up next to it, it'll pick you
23 up. As long as you speak up, so the people on the end of my
24 jury box can hear you. Please give me a verbal answer, yes
25 or no. Don't give me any uh-huh, unh-unh. Yes or no,

1 for the court reporter who is seated below you. Please
2 don't shake your head or nod your head so she can take down
3 your verbal responses. Do you understand?

4 BRANDON OQUINN: Yes, sir.

5 THE COURT: Very good. State your full name, for the
6 record, and spell your last name for the court reporter.

7 BRANDON OQUINN: Brandon William O'Quinn. My last name
8 is spelled O/'/Q/u/i/n/n.

9 THE COURT: Your witness, Counsel. Direct examination.

10 ASST. SOLICITOR LEGETTE: Thank you.

11 DIRECT EXAMINATION

12 BY ASST. SOLICITOR LEGETTE:

13 Q Mr. O'Quinn, good afternoon.

14 A Good afternoon.

15 Q Where do you work, sir?

16 A Hampton County EMS.

17 Q And what is your position at Hampton County EMS?

18 A I'm a paramedic, and I'm also a training officer.

19 Q And how long have you been a paramedic?

20 A About seventeen years.

21 Q And can you briefly describe what the training and
22 experience is to become -- and education is to become a
23 paramedic?

24 A You first start off with a several-month course to
25 become an EMT basic, and then you move up from there,

1 depending on how far you want to advance.. But a paramedic
2 course is roughly about two years.

3 Q Okay. And a paramedic is the -- who has more experience
4 on the truck, paramedic or someone else?

5 A The paramedic does.

6 Q Okay. All right. And so, the paramedic is the top
7 person on the ambulance?

8 A Yes, ma'am.

9 Q All right. Now, were you a paramedic in March of 2017?

10 A Yes, I was.

11 Q And specifically turning your attention to March 22,
12 2017, did you receive a call for assistance at 408 Sapp
13 Boulevard, in the town of Estill?

14 A Yes, we did.

15 Q And what was your response.

16 A We were called out to a laceration.

17 Q To a what?

18 A A laceration.

19 Q A laceration. Okay. Is that a 'cut?

20 A Yes, a stabbing.

21 Q Stabbing? Okay. So, what did you do in response -- you
22 said we; who was with you?

23 A Me and my partner.

24 Q Okay. What was your partner's name?

25 A Jessica Stanley.

1 Q All right. And so, you and, I guess, Ms. Stanley, went
2 to 408 Sapp Boulevard. What did you find?

3 A When we pulled up at the scene, there was residence, and
4 of course the police officers were out there. And then,
5 there was a body at the front door.

6 Q And did you do anything with the body? Did you check
7 for vital signs?

8 A We did not -- we did not take vital signs. The person
9 was obviously dead.

10 Q Okay. All right. And so, based on your observations,
11 did you notify anyone, or was there anyone notified?

12 A We notified the coroner.

13 Q And is that standard procedure?

14 A Yes, ma'am.

15 Q Thank you. I have no further questions, Mr. O'Quinn.
16 Please answer any questions for Mr. Deysach.

17 THE COURT: Cross-examination.

18 MR. DEYSACH: None, your Honor.

19 THE COURT: As to this witness, Solicitor?

20 ASST. SOLICITOR LEGETTE: We ask that he be excused,
21 Your Honor.

22 THE COURT: Any objection?

23 MR. DEYSACH: No, Your Honor.

24 THE COURT: Mr. O'Quinn, you may step down from the
25 witness stand, and you are excused from the trial of this

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Direct Examination of Brandon O'Quinn by Asst. Sol. Legette

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260

1 case. You may leave the courtroom. Thank you.

2 BRANDON OQUINN: Thank you, sir.

3 THE COURT: Call your next witness.

4 ASST. SOLICITOR LEGETTE: State calls Angie Topper.

5 BAILIFF: Angie Copper?

6 ASST. SOLICITOR LEGETTE: Angie Topper.

7 THE COURT: Angie Topper.

8 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
9 SWORN, TESTIFIED AS FOLLOWS:)

10 ANGIE TOPPER: Hi.

11 THE COURT: Good afternoon. Have a seat for me. Pull
12 that chair up. She's going to move that microphone up. You
13 don't have to get right on top of it; it's going to amplify
14 your voice. I need you to speak up; give me a verbal
15 answer. Say yes or no. Don't shake your head or nod your
16 head, for my court reporter. She needs to be able to take
17 down what you say. Don't say uh-huh (affirmative) or unh-
18 unh; yes or no. Speak up so the last jurors down there can
19 hear you, and begin by stating your full name, spelling your
20 last name for the court reporter.

21 ANGIE TOPPER: It's Angie Topper, T/o/p/p/e/r.

22 THE COURT: Speak up for me, now, Ms. Topper. Your
23 witness, Solicitor. Direct examination.

24 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

25

DIRECT EXAMINATION

1
2 BY ASST. SOLICITOR LEGETTE:

3 Q Good afternoon, Ms. Topper. Ms. Topper, where do you
4 work?

5 A Hampton County Coroner Department.

6 Q Hampton County Coroner?

7 A Uh-huh (affirmative).

8 Q Okay. And what are your duties at the Hampton County
9 Coroner.

10 A Pick up deceased bodies, transport them to the morgue.

11 Q Okay. Do you also pronounce persons deceased?

12 A Yes, ma'am.

13 Q Okay. And so, were you -- well, what are your -- what's
14 your official title?

15 A Chief Deputy Coroner.

16 Q All right. So, you're Chief Deputy Coroner. All right.
17 So, Chief Deputy Topper, were you working for the Hampton
18 County Coroner's Office in March of 2017?

19 A Yes, ma'am.

20 Q Did you have a chance, specifically March 22, 2017, to
21 respond to a location in Estill?

22 A Yes, ma'am.

23 Q Do you remember what address you responded to?

24 A 408 Sapp Street.

25 Q Okay. So, when you arrived at 408 Sapp Street, what did

1 you find?

2 A I found the deceased laying on the front porch, face-up,
3 with a bad wound to the stomach.

4 Q And who had -- who had contacted you?

5 A Dispatch.

6 Q Okay. All right. And so, as a result of -- did you --
7 when you got to 408 Sapp Boulevard, did you speak to anyone
8 present? As far as anyone in law enforcement?

9 A I spoke to several different ones just by speaking. I
10 spoke to my coroner, the deputy coroner that worked with me.
11 I talked to him.

12 Q Did you learn the condition of the person on the porch?

13 A Not at first.

14 Q Okay. What did -- did you eventually learn about his
15 condition?

16 A Yes, ma'am.

17 Q And what was his condition?

18 A Intestines hanging out of his stomach.

19 Q I'm sorry. Was he deceased? Was he alive?

20 A Oh, he was deceased.

21 Q All right. And so, as a result of him being deceased,
22 what did you do? Did you pronounce him?

23 A I want to say the deputy pronounced him.

24 Q I'm sorry. Okay. So, at some point you were at the
25 scene with the actual decedent?

1 A Yes.

2 Q All right. And so, you indicated earlier that you
3 pronounced bodies deceased?

4 A Yes, ma'am.

5 Q All right. And so, when you got to the location and the
6 person was obviously dead, did you make the determination,
7 fill out any paperwork, about his condition?

8 A Yes, ma'am.

9 Q And what was that condition?

10 A Deceased.

11 Q All right. So, you pronounced him on his paperwork?

12 A Yes, ma'am.

13 Q All right. So, as a result of pronouncing him on his
14 paperwork, did you contact any other hospitals regarding
15 him?

16 A No, ma'am.

17 Q Authorize an autopsy?

18 A Ma'am?

19 Q Was an autopsy -- all right. So, was an autopsy
20 authorized?

21 A Yes, ma'am.

22 Q All right. And so, after the autopsy's been authorized,
23 was his body transported?

24 A Yes, ma'am.

25 Q Where did you transport him to, or did your office

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1 transport him anywhere?

2 A To the Hampton County Morgue.

3 Q Okay. So, once he was transported to the Hampton County
4 Morgue, was he transported anyplace else?

5 A Yes, ma'am.

6 Q Where was he transported to?

7 A Charleston.

8 Q What location?

9 A MUSC.

10 Q Okay. And who transported him?

11 A Freddie Brisbane Transport.

12 Q Brisbane?

13 A Uh-huh (affirmative).

14 Q Okay. I'm sorry, say yes or no.

15 A Yes, ma'am.

16 Q Okay. All right. And -- and thereafter, an autopsy was
17 conducted?

18 A Yes, ma'am.

19 Q All right. Thank you. I have nothing further. Answer
20 any questions for Mr. Deysach.

21 MR. DEYSACH: No questions, Your Honor.

22 THE COURT: As to this witness, Solicitor?

23 ASST. SOLICITOR LEGETTE: We ask that she be excused,
24 Your Honor.

25 THE COURT: Any objection?

1 MR. DEYSACH: No, Your Honor.

2 THE COURT: Ms. Topper, you may step down. You're
3 excused from the trial of this case. You may leave the
4 courtroom.

5 ANGIE TOPPER: Thank you.

6 THE COURT: Thank you. Mr. Foreman, ladies and
7 gentlemen of the jury, I'm going to stop at this point,
8 because I understand if your lunch isn't already here it
9 will be here momentarily. Please, during the lunch break --
10 do I have any smokers on the jury? I've got one, two,
11 three, four. All right. Can't smoke in the courthouse,
12 can't smoke in the jury room. You can -- they'll take you
13 outside; Coach will handle that. Let you smoke during the
14 lunch break outside.

15 Please do not discuss this case. You have not heard
16 all the evidence in this case. It would be improper for you
17 to discuss this case. As soon as I know you've had time to
18 get lunch, we're starting back. That does not mean it's
19 going to be an hour, because I expect you to be able to eat
20 in less time, take a break, and be ready to go. I hope we
21 can start back by no later than 1:40. And if not, before
22 that. Thank you very much. You may retire to your jury
23 room at this time.

24 (JURY EXITS COURTROOM AT 1:05 ON LUNCH RECESS.)

25 THE COURT: All right. Let's come to order.

1 Anything on the record outside the presence of the jury from
2 the State before we adjourn for lunch?

3 ASST. SOLICITOR LEGETTE: Not from the State, your
4 Honor.

5 THE COURT: From the Defendant?

6 MR. DEYSACH: No, your Honor.

7 THE COURT: All right. Counsel, lunch starts now. Get
8 it; be back ready to go no later than 1:40. Thank you very
9 much. We'll be in recess until then.

10 (COURT IN RECESS AT 1:08 P.M.)

11 (COURT BACK IN SESSION AT 1:50 P.M.)

12 THE COURT: Is the State ready to proceed?

13 ASST. SOL. LEGETTE: Yes, Your Honor.

14 THE COURT: Is the defendant ready to proceed?

15 MR. DEYSACH: Yes, Your Honor.

16 THE COURT: Bring me the jury.

17 (JURY ENTERS COURTROOM 2:00 P.M.)

18 THE COURT: All right. Ladies and gentlemen, we'll now
19 continue with the testimony in the trial of this case.

20 Solicitor, call your next witness.

21 ASST. SOLICITOR LEGETTE: Thank you, your Honor. State
22 calls Anthony Bummy Green.

23 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
24 SWORN, TESTIFIED AS FOLLOWS:)

25 THE COURT: Have a seat on the witness stand for me,

1 please. Pull that chair up. That microphone she's turning
2 toward you is going to amplify your voice. You don't have
3 to get right on top of it. Just speak up like I'm doing
4 right now so everybody on the jury can hear you, and the
5 people in the courtroom can hear you. Say yes or no. No
6 uh-huh (affirmative) or unh-unh; no nodding your head.
7 Court reporter's got to take down what you say, so give a
8 verbal answer, yes or no. State your full name, spell your
9 last name for the court reporter.

10 ANTHONY GREEN: Anthony Green, G/r/e/e/n.

11 THE COURT: Your witness, Counsel. Direct examination.

12 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

13 DIRECT EXAMINATION

14 BY ASST. SOLICITOR LEGETTE:

15 Q Good afternoon, Mr. Green.

16 A Good afternoon.

17 Q Mr. Green, do you have another nickname that you go by?

18 A Bummy.

19 Q Bummy? Okay... And that's Bummy, with a B, like Bunny?

20 A Yeah, Bummy.

21 Q Okay. So, Bummy? And I'm not going to call you Bummy.

22 A That's fine.

23 Q Okay. All right. So, Mr. Green, where are you from?

24 A Estill.

25 Q And ---

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1 THE COURT: Is there an objection?

2 MR. DEYSACH: No.

3 THE COURT: Don't stand up like that if you don't have
4 an objection. Proceed.

5 BY ASST. SOLICITOR LEGETTE:

6 Q All right. Mr. Green, I need you to speak up a little
7 bit. Okay. All right. So, now, Mr. Green, you say you're
8 from Estill?

9 A Yes, ma'am.

10 Q All right. And Mr. Green, what is your address, or what
11 part of Estill do you live in?

12 A I live on [REDACTED] Street.

13 Q Okay. And is that area known by a different name?

14 A It's my address is [REDACTED] Street.

15 Q Okay. But do you -- did you -- okay. So, back in 2017,
16 did you live someplace else?

17 A No, ma'am.

18 Q Okay. So, you still live at the same place?

19 A Yes, ma'am.

20 Q All right. Is that area known as New Town?

21 A Yes, ma'am.

22 Q All right. Now, Mr. Green, did you know a man named
23 Bobby Atkins?

24 A Yes, ma'am.

25 Q Did you know him by his nickname?

- 1 A Yes.
- 2 Q Okay. What was his nickname?
- 3 A Champ.
- 4 Q Okay. Did you know his lady friend, or his girlfriend?
- 5 A I've seen her.
- 6 Q Okay. Did you know her name?
- 7 A I forgot her name. Zaneh, Zaneh, something like that.
- 8 Q Zaneh?
- 9 A Yeah.
- 10 Q Okay. All right. Now, how about Mr. Fludd? Do you
- 11 know Daniel Fludd?
- 12 A I've seen him.
- 13 Q Okay. Did any of them ever hang out at your house
- 14 before?
- 15 A A couple of times.
- 16 Q Okay. Now, I want to go back to the night that Champ
- 17 died, back in March of 2000 -- March 22nd, 2017. Do you
- 18 remember then?
- 19 A A little bit.
- 20 Q Little bit? Okay. All right. Now, do you remember
- 21 that day, did you see Zaneh or Champ or Daniel at that time,
- 22 on that day?
- 23 A Yeah, they came to my house.
- 24 Q They came to your -- okay. Were they all at your house?
- 25 A They come at different times.

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1 Q Okay. So, tell us about that. Were they all together?

2 What was going on?

3 A We drank beer. That's it.

4 Q Okay.

5 A Then they left.

6 Q So, you said they left. Did they all leave together?

7 A They all came together.

8 Q Okay. And so, after they left did you see them again
9 that evening?

10 A No.

11 Q Okay. So, but they all left together?

12 A As far as I know.

13 Q From your house. Okay. And did you see them any more,
14 together that evening?

15 A No, because it was dark when -- about dark when they
16 leave.

17 Q When they left? Okay. All right. So, they all left
18 together. Okay. So, did you ever seen Champ again after
19 that?

20 A No.

21 Q Okay. Now, you remember talking to our investigator and
22 tell him about that day you actually saw them going to the
23 projects?

24 A No. They told me they'd been going to the projects.

25 Q Okay. They told you they were going to the projects.

1 I'm sorry, I'm sorry. I misunderstood. Okay. And that was
2 the last time that you saw them at your house?

3 A That was the last time I saw them.

4 Q Okay. Thank you, Mr. Green. I have no further
5 questions.

6 THE COURT: Cross-examination.

7 MR. DEYSACH: Thank you very much, your Honor.

8 CROSS-EXAMINATION

9 BY MR. DEYSACH:

10 Q Mr. Green, my name's Ian Deysach. I represent Daniel
11 Fludd. So you were just asked about the night or the evening
12 of March 22nd, 2017. You -- you actually have a memory of
13 that evening?

14 A Not too much.

15 Q Not too much? Why not? Because it was so long ago?

16 A No, but I had been drinking and all that.

17 Q Okay. So, you had been drinking that day, correct?

18 A Yeah.

19 Q How much had you been drinking that day?

20 A I been drinking a lot.

21 Q So, when did -- let me ask you this. Do you know what
22 time you would've seen either Mr. Atkins, Zaneh, or Daniel
23 Fludd? Do you know what time of day it would've been when
24 they came to your house?

25 A I would say, like, 4:00.

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1 Q 4:00 o'clock in the afternoon?

2 A Well, I'd say about 4:00.

3 Q Okay. So, it's the afternoon, though?

4 A Yeah, it was the afternoon.

5 Q Okay. And how long had you been drinking before they
6 arrived?

7 A Probably, earlier -- earlier around noon and about that
8 time, because I drank with them, too.

9 Q Okay. You -- starting at about noon you were drinking?

10 A Yeah.

11 Q And what were you drinking, beer?

12 A Yeah. And liquor.

13 Q Beer and liquor? Is that right?

14 A Yeah.

15 Q So, you were drunk? Is that ---

16 A Maybe not drunk, drunk, but I was feeling pretty good.

17 Q Okay. You've been drunker, I guess?

18 A Yeah.

19 Q Okay. You're not drinking today, are you?

20 A No, not yet.

21 Q Not yet. All right. All right. So, how -- how long --
22 okay. So the question is, did -- were there other people at
23 your house besides Mr. Atkins, Zaneh, and Mr. Fludd that
24 day?

25 A No, sir.

1 Q Okay. You were all alone except for them?

2 A Yeah.

3 Q Okay. When they arrived, did they arrive together?

4 A Yeah.

5 Q What was the purpose of their visit?

6 A I guess they just come through -- they all just come
7 through and be drinking.

8 Q They all just come through?

9 A Yeah.

10 Q All three of them?

11 A No, not all three of them, just Champ and Zaneh; but
12 they bring him this time.

13 Q Okay. Okay. Now, was -- was Zaneh there to have -- for
14 the purpose of having any type of relations with you, or
15 anything like that?

16 A Unh-unh.

17 Q Okay. That wasn't what was going on there?

18 A No.

19 Q Okay. You got -- I mean, I'm trying to talk around it,
20 but we're talking about whether or not you would be allowed
21 to have sex with her for money. That wasn't what was
22 happening there?

23 A No, not me.

24 Q Okay. Did you provide the beer, or did they provide the
25 beer?

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1 A They come; they had the beer.

2 Q They had the beer? Did they give you any?

3 A Yeah.

4 Q Did you see anything about a necklace going on?

5 A Unh-unh. I didn't know nothing about that part.

6 Q You don't know anything about that? Okay. All right.

7 Let me ask you this. Was this the first time you'd seen Mr.
8 Fludd or not?

9 A No, I'd seen him before.

10 Q Okay. Had he been to your house before?

11 A Yeah, a few times before.

12 Q Okay.

13 A Because he came with Champ one day, and Champ wasn't
14 something like that.

15 Q I'm having a little trouble understanding what you're
16 telling me.

17 A I guess they was buddies. That's why he come there
18 looking for Champ that day, but he wasn't there yet.

19 Q Okay. Are you talking about the day that we're talking
20 about, the 22nd?

21 A Yeah.

22 Q You're saying that Champ and Zaneh were there, and Mr.
23 Fludd came looking for them?

24 A Yeah, but she ain't -- when he come there.

25 Q Okay. So, a different time ---

1 A Yeah.

2 Q --- he came to see if Champ and Zaneh -- and Champ would
3 be Mr. Atkins ---

4 A Yeah.

5 Q --- and Zaneh were at your house, and -- a different
6 time -- and they weren't there?

7 A Yeah.

8 Q Okay. And that's the only other time you've seen Mr.
9 Fludd?

10 A Yeah.

11 Q Okay. So, was he at your house two days prior to this?

12 A He probably did, but I don't hardly be home like that.

13 Q You don't be -- you don't stay at home?

14 A I be home, but I be gone most of the time.

15 Q So, people come to your house without you being there?

16 A Yeah, because my mom and them stay there.

17 Q Okay. All right. But this time, you're saying the
18 three of them came together, correct?

19 A Yeah.

20 Q They stayed for how long?

21 A About -- about two or three hours.

22 Q Two or three hours. Were they drinking the whole time?

23 A We was just sipping and talking.

24 Q Sipping and talking? And then, so they're there from
25 about 4:00 p.m. until about 7:00 p.m.?

State of South Carolina v. Daniel Fludd
Cross-Examination of Anthony "Bummy" Green by Mr. Deysach

1 A No, I'd say about 12:00 p.m. to about 4:00-something.

2 Q 12:00 to 4:00 is when ---

3 A 12:00.

4 Q I'm sorry. I ---

5 A 12:00 to 4:00.

6 Q Okay.

7 A Uh-huh (affirmative).

8 Q I thought 12:00 to 4:00 was when you were drinking
9 without them.

10 A 12:00 to 4:00, because I -- when they come I had already
11 started drinking.

12 Q They were there from 12:00 o'clock until 4:00 o'clock?

13 A Yeah.

14 Q Okay. But you hadn't been drinking before they came?

15 A Yeah, I'd been drinking before they came.

16 Q How long had you been drinking before they came?

17 A Been drinking before they came? I can't remember all
18 that.

19 Q Okay. Not sure? Okay. All right. I don't have
20 anything further.

21 THE COURT: Just move along, Counsel.

22 MR. DEYSACH: I don't have anything further, your
23 Honor.

24 THE COURT: Redirect?

25 ASST. SOLICITOR LEGETTE: Nothing, your Honor.

1 THE COURT: As to this witness?

2 ASST. SOLICITOR LEGETTE: We ask that he be excused.

3 THE COURT: Any objection?

4 MR. DEYSACH: No, Your Honor.

5 THE COURT: Mr. Green, you may step down. You're
6 excused from the trial of this case. You may leave the
7 courtroom. Call your next witness.

8 ASST. SOLICITOR LEGETTE: State calls Deriviere Rivy
9 Brooks.

10 THE COURT: Deriviere -- it's D/e/r/i/v/i/e/r/e,
11 Brooks. There we go. Left hand on the Bible, and raise
12 your right hand.

13 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
14 SWORN, TESTIFIED AS FOLLOWS:)

15 THE COURT: Have a seat in that chair. Now, that
16 microphone's going to amplify your voice. I want everybody
17 on the jury to hear you, and the people in the courtroom.
18 You can hear me, can't you?

19 DERIVIERE BROOKS: I can hear clearly.

20 THE COURT: Good. I want them to hear you clearly.
21 Okay? Speak up, give a verbal answer. Say yes or no.
22 Don't shake your head or nod your head, so the court
23 reporter can take it down.

24 DERIVIERE BROOKS: Okay.

25 THE COURT: Don't say uh-huh (affirmative) or unh-unh.

State of South Carolina v. Daniel Fludd
Direct Examination of Deriviere "Rivy" Brooks by Asst. Sol. Legette

1 Yes or no. Speak up so everybody can hear you. Okay?

2 DERIVIERE BROOKS: I understand.

3 THE COURT: State your full name, and spell your last
4 name for the court reporter.

5 DERIVIERE BROOKS: Deriviere Brooks, B/r/o/o/k/s.

6 THE COURT: All right. Your witness, Counsel. Direct
7 examination.

8 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

9 DIRECT EXAMINATION

10 BY ASST. SOLICITOR LEGETTE:

11 Q Good afternoon, Mr. Brooks.

12 A How are you?

13 Q I'm well, sir. How are you?

14 A (No response.)

15 Q Good. Thank you for being here. Mr. Brooks, do you
16 have a nickname that you go by?

17 A No.

18 Q You don't go by Rivy? Some people -- do people call
19 your Rivy?

20 A They call me all kinds of stuff.

21 Q Okay. All right. But your name is Deriviere?

22 A No. Deriviere.

23 Q Okay. Deriviere. I'm sorry. All right. So, Mr. ---

24 THE COURT: Hold up. Spell your first name, for the
25 court reporter.

1 DERIVIERE BROOKS: Capital D/e/r/i/v/i/e/r/e.

2 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

3 BY ASST. SOLICITOR LEGETTE:

4 Q All right. Mr. Brooks, so, where are you from?

5 A Estill, South Carolina.

6 Q All right, Mr. Brooks. And did you know Bobby Atkins?

7 A Yes, I did.

8 Q How did you know him? Did you all have a relationship,
9 or you all related?

10 A He used to work for me.

11 Q He used to work for you. Okay. Did you know his
12 friend, Ms. Garvin, Zaneh?

13 A Yes.

14 Q Okay. How long would you say you knew Bobby?

15 A Probably, like, four or five years, somewhere in there.

16 Q Four or five years? Okay. I want to turn your
17 attention to the night of his death, March 22nd, 2017. Did
18 you remember seeing him that night?

19 A Yeah.

20 Q Can you explain to us what time you saw him, and what
21 happened when you saw him?

22 A Can't -- can't remember exactly what time I saw him.

23 Q Yes, sir. I understand.

24 A He came to my house.

25 Q Okay.

State of South Carolina v. Daniel Fludd
Cross-Examination of Deriviere "Rivy" Brooks by Mr. Deysach

1 A And we talked or whatever, and he tried to sell me a
2 necklace.

3 THE COURT: Speak up, now. You've got to speak a
4 little louder for us.

5 A When he came to my house, he tried to sell me a chain or
6 whatever. He had -- I did not buy the chain.

7 Q You didn't buy the chain.

8 A No, it was fake, and I was getting him and Zaneh some
9 money so they could go get something to eat.

10 Q So, the chain was fake and you didn't buy it? And you
11 gave them some money so they could get something to eat.

12 A Yes.

13 Q And once you give them the money, did they leave?

14 A Yes, they did.

15 Q Okay. And did you see them again that particular day or
16 evening?

17 A No, ma'am.

18 Q Okay. Thank you. I have nothing further. Please
19 answer any questions Mr. Deysach has.

20 THE COURT: Cross-examination.

21 MR. DEYSACH: All right. Thank you, your Honor.

22 CROSS-EXAMINATION

23 BY MR. DEYSACH:

24 Q All right. Mr. Brooks, I'm Ian Deysach, attorney for
25 Daniel Fludd. So, I want to try and -- okay. Let's start

1 from the beginning. March 22nd, at some point during the
2 day, you saw Mr. Atkins and Zaneh at your house, correct?

3 A Correct.

4 Q That -- can you tell us what time they came that way?

5 A I can't remember what time it was.

6 Q Do you know if it was ---

7 A It was nighttime.

8 Q It was nighttime?

9 A Yes.

10 Q And so, other than it being after dark, that's all you
11 can give us?

12 A It was dark; it was dark.

13 Q Right. But after dark, and that's as -- that's as
14 specific as you can be for that night?

15 A (No response.)

16 Q Were you there by yourself?

17 A No. My mother was at the house, but she was inside and
18 we was on the outside.

19 Q Okay. So, was your mother involved in the conversation
20 with Zaneh and ---

21 A No. She wasn't involved in the conversation, but she
22 always come to the door and check on us.

23 Q Okay. So, did -- did Zaneh and Mr. Atkins knock on your
24 door?

25 A No, I was already sitting outside.

State of South Carolina v. Daniel Fludd
Cross-Examination of Deriviere "Rivy" Brooks by Mr. Deysach

1 Q Okay. Sitting outside. And they just walked up to
2 where you are?

3 A No. He called me and told me that he wanted to come and
4 talk to me or whatever. He needed to borrow some money, and
5 I told him okay.

6 Q Okay. So, he was just coming to borrow money from you?

7 A Yes.

8 Q Had he borrowed money from you in the past?

9 A Of course.

10 Q Had he paid it back?

11 A He worked it off.

12 Q He worked it off? Doing what kind of work?

13 A Burial vaults.

14 Q Sorry?

15 A Burial vaults.

16 Q I'm still not hearing.

17 A Burial vaults.

18 Q Burial vaults.

19 A Yes.

20 Q Okay. All right. So, when he came to your house that
21 evening, after dark, Mr. Atkins was with Zaneh, correct?

22 A Correct.

23 Q Was there anybody else with them?

24 A No, sir.

25 Q Okay. And you're sitting outside when they approach,

1 correct?

2 A Correct.

3 Q And so, you can see them walking up the street, or no?

4 A No, I can't see them -- I'm sitting on the side of my
5 house.

6 Q Okay. So if there's anybody anywhere else, you wouldn't
7 have been able to see them?

8 A No. Because I don't allow people to come to my house,
9 period.

10 Q Okay. Only if you invite them?

11 A If I know them, or invite them.

12 Q Okay. So, when he called you on the phone he didn't say
13 anything about a chain?

14 A No.

15 Q He just said he wanted to borrow money?

16 A He said he's coming to see me, and he just wanted --
17 needed twenty or thirty dollars. I told him to come on.

18 Q Okay. So when he tried to come to -- so he did come
19 with the chain when he came, correct?

20 A He sat down and relaxed or whatever.

21 Q Okay.

22 A And he presented the chain to me.

23 Q Okay. Did he ask you if you wanted to buy it?

24 A Yes, he did.

25 Q Did he give you a price for it?

State of South Carolina v. Daniel Fludd
Cross-Examination of Deriviere "Rivy" Brooks by Mr. Deysach

1 A No, he didn't.

2 Q How long was he with you?

3 A I would say twenty minutes.

4 Q And Zaneh was with him the whole time?

5 A Yes, sir.

6 Q All right. And then, after that you said you gave him
7 twenty or thirty dollars, correct?

8 A I gave him twenty dollars.

9 Q Twenty dollars. And then, he left?

10 A Yes.

11 Q And that's all you know?

12 A That's all I know.

13 Q I don't have anything further.

14 THE COURT: Redirect?

15 ASST. SOLICITOR LEGETTE: None, your Honor.

16 THE COURT: As to this witness?

17 ASST. SOLICITOR LEGETTE: We ask that he be excused,
18 please.

19 THE COURT: Any objection?

20 MR. DEYSACH: No, your Honor.

21 THE COURT: Mr. Brooks, you may step down. You're
22 excused from the trial of this case. You may leave the
23 courtroom. Call your next witness.

24 ASST. SOLICITOR LEGETTE: State calls Zaneh Garvin.

25 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND

1 DULY SWORN, TESTIFIED AS FOLLOWS:)

2 THE COURT: Ms. Garvin, have a seat. You know that
3 microphone's going to amplify your voice. You don't have to
4 get right on top of it, and you don't have to back away from
5 it. But mine's up here, and if I talk loud enough everybody
6 can hear me. I'm used to doing it, though. I want you to
7 talk so everybody in this courtroom can hear you. Okay?

8 ZANEH GARVIN: All right.

9 THE COURT: You've got a meek voice, so you've got to
10 speak up. You might need to use the microphone. I want you
11 to say yes or no. Don't shake your head, don't nod your
12 head. Say yes or no, so the court reporter can take it
13 down. Don't say uh-huh (affirmative) or unh-unh. Say yes
14 or no, so the court reporter will get your answers
15 correctly. Do you understand?

16 ZANEH GARVIN: Yes, sir.

17 THE COURT: Speak up.

18 ZANEH GARVIN: Yes, sir.

19 THE COURT: State your full name, for the record, and
20 spell your last name.

21 ZANEH GARVIN: Zaneh Marie Garvin. My last name is
22 G/a/r/v/i/n.

23 THE COURT: Your witness, Counsel. Direct examination.

24 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

25 DIRECT EXAMINATION

State of South Carolina v. Daniel Fludd
Direct Examination of Zaneh Garvin by Asst. Sol. Legette

1 BY ASST. SOLICITOR LEGETTE:

2 Q Good afternoon, Ms. Garvin.

3 A Hi.

4 Q Hi. Okay. Ms. Garvin, where are you from?

5 A Estill.

6 Q Estill? Okay. And what high school did you go to?

7 A Estill High.

8 Q Okay. And how old are you?

9 A Twenty-four.

10 Q All right. Are you chewing gum? Can you ---

11 A No, ma'am.

12 Q Okay. Is that candy? Okay. All right. So you went --
13 you're twenty-four?

14 A Yes, ma'am.

15 Q All right. Now, Ms. Garvin, where do you currently
16 live?

17 A I live in Hardeeville.

18 Q Hardeeville? All right. And when you lived in Estill,
19 did you know a man named Bobby Atkins?

20 A Yes, ma'am.

21 Q Did he have a nickname?

22 A Champ.

23 Q Can you tell us about your relationship with Champ?

24 A It was good.

25 Q It was good?

1 A Yes, ma'am.

2 Q Okay. Now, so, how long did you date him?

3 A For about four months.

4 Q About four months. Okay. And during that period of
5 time, you said it was good. Were there things about the
6 relationship that you would have preferred not happen?

7 A Yes, ma'am.

8 Q Things like what?

9 A Selling.

10 Q Okay. So you had to sell yourself?

11 A Yes, ma'am.

12 Q And why did you sell yourself? Let's talk -- let's talk
13 about it. Let's talk about these things that we talked
14 about before. So, let's talk about it. So, sell you for
15 what?

16 A Drugs.

17 Q Drugs? Okay. All right. So, did Champ have a drug
18 addiction?

19 A Yes, ma'am.

20 Q Okay. And did you also have a drug addiction?

21 A No, ma'am.

22 Q Okay. All right. And so, you dated him for four
23 months. And during that period of time did you meet any of
24 his associates?

25 A No, ma'am.

State of South Carolina v. Daniel Fludd
Direct Examination of Zaneh Garvin by Asst. Sol. Legette

1 Q What I mean by that, I mean friends.

2 A No, ma'am.

3 Q Okay. Did you ever meet a man named Bummy?

4 A Yes, ma'am.

5 Q Okay. And how about Daniel Fludd? Did you know Daniel
6 Fludd?

7 A Yes, ma'am.

8 Q Tell me how you know Daniel Fludd.

9 A School.

10 Q What school?

11 A Estill Middle.

12 Q Estill Middle School? So, how long did you, I guess,
13 well -- how long is -- how many grades is Estill Middle
14 School; or do you remember?

15 A No, ma'am.

16 Q You don't remember? Okay. So, are you all in school
17 together?

18 A Yes, ma'am.

19 Q And who was in what grade?

20 A I was in -- I was in sixth grade.

21 Q And what grade was Mr. Fludd in?

22 A (No response.)

23 Q You don't know?

24 A No, ma'am.

25 Q Okay. Well, but he was going to the same school as you?

1 A Yes, ma'am.

2 Q All right. And so, how often would you see Mr. Fludd in
3 school?

4 A A lot.

5 Q Okay. So, would that be every day?

6 A Yes, ma'am.

7 Q All right. Did you know of any relative that he had
8 going to the same school?

9 A No, ma'am.

10 Q Did you know about him having a sister?

11 A Yes, ma'am.

12 Q Okay. Was she going to the same school?

13 A Yes, ma'am.

14 Q Okay. Now, do you see Mr. Fludd in court today?

15 A Yes, ma'am.

16 Q Can you point him out for the Court, please? And can
17 you describe what he's wearing?

18 A A gray button-up shirt.

19 ASST. SOLICITOR LEGETTE: Let the record reflect the
20 witness has indicated the defendant, Mr. Daniel Fludd.

21 BY ASST. SOLICITOR LEGETTE:

22 Q Now, Ms. Garvin, what kind of job -- or did Champ had a
23 job that you remember?

24 A Yes, ma'am.

25 Q What did he do for a living?

State of South Carolina v. Daniel Fludd
Direct Examination of Zaneh Garvin by Asst. Sol. Legette

1 A Paint.

2 Q He was a painter?

3 A Yes, ma'am.

4 Q Did you know who he worked for?

5 A His dad.

6 Q Okay. Now, when you were dating Champ, you didn't --
7 did you know where his parents lived?

8 A Yes, ma'am.

9 Q Well, but do you know the physical location?

10 A Yes, ma'am.

11 Q Okay. All right. Now, Ms. Garvin, you have a
12 conviction for, I think, burglary, correct?

13 A Yes, ma'am.

14 Q And you're currently on probation?

15 A Yes, ma'am.

16 Q All right. And does the fact that you have that
17 burglary conviction have anything to do with what you're
18 telling this court today?

19 A No, ma'am.

20 Q Okay. Now, Ms. Garvin -- Ms. Garvin, let's talk about
21 the night of March 22nd, 2017. Do you recall March 22, 2017?

22 A Yes, ma'am.

23 Q Can you take us back to the day of March 22nd, 2017?

24 A Yes, ma'am.

25 Q Tell us what you remember.

1 A I remember being at ---

2 THE COURT: Speak up.

3 BY ASST. SOLICITOR LEGETTE:

4 Q I need you to speak up, please. Can you get a little
5 closer to the microphone?

6 A All right. I remember we was at -- chillin' at Bummy
7 house, and --

8 Q When you say we, who is we?

9 A Me and Champ.

10 Q Okay. Was anyone else there?

11 A Anthony.

12 Q All right. So, you're chillin' at Bummy's. Okay.

13 What happens?

14 A Well, they had -- him and Daniel had -- Champ had a
15 little competition about something. I don't remember what
16 they was talking about, but I noticed -- I heard one of them
17 say something about a necklace.

18 Q Okay. So, who was talking about the necklace,
19 specifically?

20 A Daniel and Champ.

21 Q All right. And so, did -- so, what happens next? You
22 heard them talking about a necklace. What happens.

23 A I see Daniel give a necklace to Champ.

24 Q All right. And so, you saw Daniel give a necklace to
25 Champ?

State of South Carolina v. Daniel Fludd
Direct Examination of Zaneh Garvin by Asst. Sol. Legette

- 1 A Yes, ma'am.
- 2 Q All right. So, what happens thereafter?
- 3 A And then, Daniel hand the necklace to Champ.
- 4 Q All right. So, Daniel gives the necklace to Champ.
- 5 And you all hang out -- where are you all at when Daniel
- 6 gives the necklace to Champ?
- 7 A Bummy house.
- 8 Q All right. So, are you inside or outside?
- 9 A Inside.
- 10 Q Okay. All right. And so, Bummy and -- I'm sorry.
- 11 Now, Champ and Daniel had exchanged the necklace.
- 12 A Yes, ma'am.
- 13 Q What do you do next with regards to Champ and Daniel?
- 14 A I walk outside.
- 15 Q You walk outside. All right. At some point, do Daniel
- 16 and Champ come outside, too?
- 17 A Yes, ma'am.
- 18 Q All right. What happens?
- 19 A And we start walking after we get the necklace.
- 20 Q I'm sorry, I can't understand. Say it again.
- 21 A We was walking.
- 22 Q All right. So you are walking. Who is we?
- 23 A Me, Daniel, and Champ.
- 24 Q And where did you leave Bummy's for?
- 25 A Rivy house.

1 Q All right. So, okay. So, you say you were at Bummy's
2 house. Are you familiar with the location of Bummy's house?

3 A Yes, ma'am.

4 Q All right. I'm going to hand you in a moment what's
5 been previously marked as State's Exhibit 39 and 40, for
6 identification. Take a moment and tell me if you recognize
7 these items.

8 ASST. SOLICITOR LEGETTE: May I approach the witness?

9 THE COURT: You may.

10 BY ASST. SOLICITOR LEGETTE:

11 Q Ms. Garvin, do you recognize State's 39 and 40?

12 A Yes, ma'am.

13 Q And what are State's 39 and 40?

14 A Bummy house.

15 Q All right. And are State's 39 and 40 a fair and
16 accurate reflection of Bummy's house?

17 A No, ma'am.

18 Q Are they a fair -- what I'm asking you is, are they a
19 fair and accurate reflection of what Bummy's house looks
20 like?

21 A Yes, ma'am.

22 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
23 would offer State's Exhibits 39 and 40 for admission into
24 evidence.

25 THE COURT: As to 39 and 40?

State of South Carolina v. Daniel Fludd
Direct Examination of Zaneh Garvin by Asst. Sol. Legette

1 MR. DEYSACH: No objection, your Honor.

2 THE COURT: Ladies and gentlemen of the jury, State's
3 Exhibits 39 and 40 will be admitted into evidence in the
4 trial of this case, without objection. You may publish to
5 the jury.

6 (WHEREUPON, STATE'S EXHIBIT NUMBERS 39 AND 40,
7 IDENTIFIED AND MARKED, ADMITTED INTO EVIDENCE.)

8 ASST. SOLICITOR LEGETTE: Thank you, your Honor. May I
9 approach the witness?

10 THE COURT: You may. Mylinda, dim the lights. You can
11 see on my screen, or you can look on the big screen up
12 there, so you can see what the jury's looking at.

13 BY ASST. SOLICITOR LEGETTE:

14 Q All right, Ms. Garvin. I would direct your attention to
15 State's 39. Please tell us what we're seeing in State's 39.

16 A The front of Bummy's house.

17 Q Okay. And I believe State's 40 is probably the same
18 thing, but regarding State's 40, and is that the same thing?

19 A Yes, ma'am.

20 Q With the address in the yard?

21 A Yes, ma'am.

22 Q Okay. Now, you said this ---

23 ASST. SOLICITOR LEGETTE: Okay. Bring the lights up,
24 please.

25 BY ASST. SOLICITOR LEGETTE:

1 Q Now, Ms. Garvin, you said you were at Bummy's house and
2 -- the three of you -- Champ, yourself, and Daniel all left?

3 A Yes.

4 Q How did you leave Bummy's house?

5 A Walking.

6 Q All right. And so, what direction, in relationship, as
7 it relates to 39 and 40, that are on the screen, what
8 direction did you go in?

9 A To the highway.

10 Q The highway? Okay. And so, the area of town that
11 Bummy's house is located in, does that area have a name?

12 A New Town.

13 Q New Town. Okay. So, you're leaving New Town. And
14 you're going to -- where did you say you were going?

15 A Rivy house.

16 Q All right. So, now, where, in relationship to Bummy's
17 house, does Rivy live?

18 A Not that far.

19 Q Not that far. Okay. And so, if you were to walk in
20 your mind right now where Rivy's house is, when you leave
21 New Town, what direction do you go in; left, right?

22 A Well, straight up, and then go to the left.

23 Q Okay. But are you walking down the street?

24 A Yes.

25 Q Is that the main street in Estill?

1 A Yes, ma'am.

2 Q All right. And did you walk all the way down to the red
3 light in Estill?

4 A Yes, ma'am.

5 Q Okay. And so, when you get to the red light, what do
6 you do? A We get to the red light, make a left. We go
7 down ---

8 Q And what street is that at the red light? Do you know?

9 A No, ma'am.

10 Q Is that 321, possibly?

11 A I'm not sure.

12 Q All right. And so, you walk down that street, and then
13 where do you go?

14 A Right across the street.

15 Q Okay. All right. And so, is that what you all did to
16 get there?

17 A Yes, ma'am.

18 Q And during this period of time, who is with you?

19 A Me, Champ, and Daniel.

20 Q All right. And so, as you all are walking, do you all
21 talk about anything?

22 A No, ma'am.

23 Q Okay. And how are Champ and Daniel getting along?

24 A Fine.

25 Q All right. Is anyone having any trouble at this point?

1 A No, ma'am.

2 Q Now, at a point you said that you actually walked down
3 that street, and you crossed -- I think you said you crossed
4 the tracks to get to Rivy's house.

5 A Yes, ma'am.

6 Q All right. Now, when you crossed the tracks to get to
7 Rivy's house. Who goes to Rivy's house?

8 A Me and Champ.

9 Q Where is Daniel at this point?

10 A Standing by the tracks.

11 Q Standing by the tracks. Okay. And so, why is he
12 standing by the tracks?

13 A He can't go in that yard.

14 Q All right. And so, why can't he go in the yard?

15 A Because Rivy don't like it.

16 Q Okay. So, okay. So Rivy doesn't want people in his
17 yard?

18 A Yes, ma'am.

19 Q All right. And so, Daniel stands by the tracks. All
20 right. Ms. Garvin, in a moment I'll hand you what's
21 previously been marked for identification as State's 41. I
22 want you to take a moment and tell me if you recognize this
23 item.

24 ASST. SOLICITOR LEGETTE: May I approach the witness,
25 your Honor?

State of South Carolina v. Daniel Fludd
Direct Examination of Zaneh Garvin by Asst. Sol. Legette

1 THE COURT: You may.

2 BY ASST. SOLICITOR LEGETTE:

3 Q Ms. Garvin, what is State's -- do you recognize State's
4 41?

5 A Yes, ma'am.

6 Q What is State's 41?

7 A It's the railroad track, the railroad tracks.

8 Q All right. And so, is State's 41, now, what is the
9 significance of State's 41?

10 A That's the way we get to Rivy house.

11 Q All right. Now, is State's 41 a fair and accurate
12 reflection of the way to get to Rivy's house?

13 A Yes, ma'am.

14 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
15 would offer State's 41 for submission into evidence.

16 THE COURT: As to State's 41?

17 MR. DEYSACH: No objection.

18 THE COURT: Ladies and gentlemen of the jury, State's
19 Exhibit Number 41 will be admitted into evidence in the
20 trial of this case, without objection. You may publish.

21 (WHEREUPON, STATE'S EXHIBIT NUMBER 41, IDENTIFIED AND
22 MARKED, ADMITTED INTO EVIDENCE.)

23 ASST. SOLICITOR LEGETTE: May I publish, your Honor?

24 THE COURT: You may.

25 BY ASST. SOLICITOR LEGETTE:

1 Q Now, Ms. Garvin, you said that as you crossed the tracks
2 to go to Rivy's house, you said Daniel sat at -- had to sit
3 at the tracks?

4 A Yes, ma'am.

5 Q Is this the area where Daniel was standing?

6 A Yes, ma'am.

7 Q All right. And so, what was the pre-arranged, or, I
8 guess, a pre-plan, at this point?

9 A Yes, ma'am.

10 Q All right. And so, Daniel's going to stand here until
11 you and Champ got back?

12 A Yes, ma'am.

13 Q Why were you and Champ going to see Rivy?

14 A To sell the necklace.

15 Q To sell the necklace?

16 A Yes, ma'am.

17 Q Okay. All right.

18 ASST. SOLICITOR LEGETTE: Could you bring the lights
19 up, please?

20 BY ASST. SOLICITOR LEGETTE:

21 Q Now, I'll get that back from you.

22 ASST. SOLICITOR LEGETTE: May I approach the witness,
23 your Honor?

24 THE COURT: You may.

25 BY ASST. SOLICITOR LEGETTE:

1 Q Now, Ms. Garvin, at this point had you learned why --
2 you said they had a conversation earlier, Champ and Daniel.
3 At this point, had you learned why Champ had the necklace?

4 A Yes, ma'am.

5 Q What is the reason that Champ had the necklace?

6 A For him to sell it.

7 Q For him to sell it?

8 A Yes, ma'am.

9 Q Okay. So, at this point, you're -- Daniel's at the
10 sign, and you all go across to Rivy's house?

11 A Yes, ma'am.

12 Q All right. And are you familiar with Rivy's house and
13 how it looks?

14 A Yes, ma'am.

15 Q All right. Ms. Garvin, I will hand you in a moment
16 what's been marked for identification as State's 42. I want
17 you to look at this and tell me if you recognize it.

18 ASST. SOLICITOR LEGETTE: May I approach the witness,
19 your Honor?

20 THE COURT: You may.

21 BY ASST. SOLICITOR LEGETTE:

22 Q Do you recognize State's 42?

23 A Yes, ma'am.

24 Q And what is State's 42.

25 A Rivy house.

1 Q And is State's 42 a fair and accurate reflection of
2 Rivy's house?

3 A Yes, ma'am.

4 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
5 would offer State's 42 for admission into evidence.

6 THE COURT: As to State's 42?

7 MR. DEYSACH: No objection, your Honor.

8 THE COURT: Ladies and gentlemen of the jury, State's
9 42 will be admitted into evidence in the trial of this case,
10 without objection. You may publish.

11 (WHEREUPON, STATE'S EXHIBIT NUMBER 42, IDENTIFIED AND
12 MARKED, ADMITTED INTO EVIDENCE.)

13 BY ASST. SOLICITOR LEGETTE:

14 Q Now, Ms. Garvin, I direct your attention to the screen
15 in front of you or on the right. State's 42, what are we
16 seeing in State's 42?

17 A Rivy house.

18 Q All right. Now, this is the location where you all went
19 and talked to Rivy?

20 A Yes, ma'am.

21 Q All right. Do you remember how long you all stayed
22 there?

23 A No, I don't.

24 Q Okay. All right. So, you're at Rivy's house, and what
25 does Rivy do? Do you -- are you -- are you able to hear the

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1 conversation?

2 A Yes, ma'am.

3 Q And what did Champ basically try to do with the
4 necklace?

5 A Sell it to him.

6 Q Does Rivy buy the necklace?

7 A No, ma'am.

8 Q Why not? Or do you know why he didn't buy it?

9 A I don't know why.

10 Q Okay. But he didn't buy it?

11 A No, ma'am.

12 Q Okay. At this point, do you all stay at Rivy's house
13 and continue talking to him, or did you leave?

14 A Continued to stay there for a little bit.

15 Q Okay. So, at some point do you leave Rivy's house?

16 A Yes, ma'am.

17 Q Okay.

18 ASST. SOLICITOR LEGETTE: Can you bring the lights back
19 up, please?

20 BY ASST. SOLICITOR LEGETTE:

21 Q And once you leave Rivy's house -- once you leave
22 Rivy's house, where do you go?

23 A Next, we go to the Travis' house.

24 Q All right. And so, before -- but before you get to
25 Travis' house, do you ever see Daniel again?

1 A Yes, ma'am.

2 Q Where do you see Daniel again?

3 A We met back up with him at the tracks.

4 Q At the tracks -- at the same sign we saw before?

5 A Yes, ma'am.

6 Q Okay. And so, he was waiting for you all?

7 A Yes, ma'am.

8 Q All right. And so, what happens when you get back to
9 the track, where Daniel is?

10 A That's when Champ said he know somebody else that might
11 want to buy it.

12 Q And what does Daniel's response at this point?

13 A He was fine with it.

14 Q He was fine with it. Okay. All right. And so, you --
15 Champ had told Daniel he had somebody else that might buy
16 it. And so, what did you all do, the three of you?

17 A Head on Travis' house.

18 Q You head to Travis' house. Okay. And so, how do you
19 get to Travis' house from where you are across the tracks?

20 A Keep walking.

21 Q Keep walking?

22 A Yes, ma'am.

23 Q I need you to speak up, please.

24 A We kept walking.

25 Q All right. With your outdoor voice, like I'm speaking

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1 now; your outdoor voice. Okay. All right. So, your outdoor
2 voice. So, you leave from across the tracks?

3 A Yes, ma'am.

4 Q And who is with you?

5 A Me, Daniel, and Champ.

6 Q All right. And so, you walk -- do you go back 321, or
7 do you go across 321, or did you turn right and go down 321?
8 What do you do?

9 A Go across 321.

10 Q All right. And so, you go across 321. And are you
11 headed -- where are you headed?

12 A Take the necklace by the projects.

13 Q Okay. And how is everything between Champ and -- Champ
14 and Daniel at this point?

15 A Fine.

16 Q Everything's fine?

17 A Yes, ma'am.

18 Q All right. Are you all having conversation?

19 A Yes, ma'am.

20 Q Okay. So, you head to Travis' house.

21 A Yes, ma'am.

22 Q Are you familiar with how Travis' house looks?

23 A Yes, ma'am.

24 Q Ms. Garvin, I will hand you in a moment what's been

25 marked as for identification State's 43. Take a moment and

1 tell me if you recognize State's 43.

2 ASST. SOLICITOR LEGETTE: May I approach the witness?

3 THE COURT: You may.

4 BY ASST. SOLICITOR LEGETTE:

5 Q Ms. Garvin, do you recognize State's 43?

6 A Yes, ma'am.

7 Q What is State's 43?

8 A Travis' house.

9 Q All right. And is State's 43 a fair and accurate
10 reflection of how Travis' house looks now?

11 A Yes, ma'am.

12 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
13 would offer State's 43 for admission into evidence.

14 THE COURT: As to State's 43?

15 MR. DEYSACH: No objection, your Honor.

16 THE COURT: Ladies and gentlemen, State's Exhibit
17 Number 43 will be admitted into evidence in the trial of
18 this case. State's 43 in evidence. You may publish.

19 (WHEREUPON, STATE'S EXHIBIT NUMBER 43, IDENTIFIED AND
20 MARKED, ADMITTED INTO EVIDENCE.)

21 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

22 BY ASST. SOLICITOR LEGETTE:

23 Q Ms. Garvin, I would direct your attention to the screen
24 to see State's 43. Ms. Garvin, now, in State's 43, is this
25 how Travis' house -- what is State's 43?

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1 A Travis' house.

2 Q Is this how it looked, or the condition it was in,
3 whenever you went to his house on the night of March 22nd?

4 A No, ma'am.

5 Q Okay. Was anyone living at this house when you went
6 there on March 22nd?

7 A Yes, ma'am.

8 Q Who was living there?

9 A Travis and his baby mama.

10 Q Okay. All right. And so, when you went to this house,
11 Travis's house in State's 43, who went to the actual yard?

12 A Me and Champ.

13 Q All right. And where is Daniel?

14 A By the fence.

15 Q All right. Do you see a fence in that photograph?

16 A Yes, ma'am.

17 Q All right. If I were to hand you this pointer, I'll get
18 you to point it out.

19 ASST. SOLICITOR LEGETTE: May I approach the witness,
20 your Honor?

21 THE COURT: You may. Show her how to work it.

22 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

23 BY ASST. SOLICITOR LEGETTE:

24 Q All right, Ms. Garvin. Just press the little red button
25 right there. Okay. And you'll see it. The red button?

1 THE COURT: Point it at the screen.

2 ASST. SOLICITOR LEGETTE: At the screen.

3 BY ASST. SOLICITOR LEGETTE:

4 Q Okay. Is that the fence?

5 A Yes, ma'am.

6 Q And who was standing there?

7 A Daniel.

8 Q Okay. Daniel was standing there. And where were you
9 and Champ going?

10 A To the carport?

11 Q To the carport? Okay. All right. Thank you.

12 ASST. SOLICITOR LEGETTE: May I approach? Well, she
13 can keep it.

14 THE COURT: You may.

15 ASST. SOLICITOR LEGETTE: Could you bring those lights
16 back up, your Honor?

17 THE COURT: Bring the lights up.

18 BY ASST. SOLICITOR LEGETTE:

19 Q So, Ms. Garvin, you're under the carport and Mr. Fludd
20 is at the fence. So, what happens? Who goes to talk to
21 Travis?

22 A Champ.

23 Q All right. And so, do you go with Champ?

24 A Yes, ma'am.

25 Q What happens when you all go to talk to Travis?

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1 A Travis wouldn't buy it because he said it was fake.

2 Q Okay. And so, what happens at this point?

3 A We leave.

4 Q Does Travis give him anything, that you recall?

5 A No, ma'am.

6 Q Okay. So you leave?

7 A Yes, ma'am.

8 Q All right. And so, as you're leaving, where is Daniel?

9 A Still -- well, standing next to me and Champ because
10 we're about to walk out.

11 Q All right. And so, you all meet back up again?

12 A Yes, ma'am.

13 Q What happens when you all meet back up again?

14 A Started walking. Everything was good until we got to,
15 like, the church.

16 THE COURT: You got to speak up. Okay?

17 A Everything was good until we got to the church.

18 Q And what church is that?

19 A First Estill.

20 Q First Estill? All right. Ms. Garvin, I will hand you
21 in a moment what's been previously marked for identification
22 as State's 44, 45, and 46. I want you to take a moment and
23 tell me if you recognize State's 44, 45, and 46.

24 ASST. SOLICITOR LEGETTE: May I approach the witness?

25 THE COURT: Yes.

1 BY ASST. SOLICITOR LEGETTE:

2 Q Ms. Garvin, do you recognize State's 44, 45, and 46?

3 A Yes, ma'am.

4 Q And Ms. Garvin, what are State's 44, 45, and 46?

5 A First Estill Church.

6 Q And Ms. Garvin, is it also a street view of First
7 Estill Church?

8 A Yes, ma'am.

9 Q And are State's Exhibits Number 44, 45, and 46 a fair
10 and accurate reflection of the location and -- location of
11 First Estill Church?

12 A Yes, ma'am.

13 Q All right.

14 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
15 would offer State's 44, 45, and 46 for admission into
16 evidence.

17 THE COURT: As to 44, 45, and 46, Counsel?

18 MR. DEYSACH: No objection, your Honor.

19 THE COURT: Ladies and gentlemen of the jury, State's
20 Exhibits 44, 45, and 46 will be admitted in the trial of
21 this case, without objection. State's 44, 45, and 46 in
22 evidence. You may publish.

23 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

24 (WHEREUPON, STATE'S EXHIBIT NUMBERS 44, 45, AND 46,
25 IDENTIFIED AND MARKED, ADMITTED INTO EVIDENCE.)

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1 BY ASST. SOLICITOR LEGETTE:

2 Q Ms. Garvin, I will direct your attention to the screen
3 at your right. This is State's Number 44. Tell us what
4 we're seeing in State's 44.

5 A The front of First Estill Church.

6 Q All right. And now, in State's 45. What is State's
7 45?

8 A The road in front of First Estill Church.

9 Q And in State's 46?

10 A The road in front of First Estill Church.

11 Q All right.

12 ASST. SOLICITOR LEGETTE: So, let's go back to State's
13 45, please.

14 BY ASST. SOLICITOR LEGETTE:

15 Q So, Ms. Garvin, you said everything was good until you
16 got in front of the First Estill Church.

17 A Yes, ma'am.

18 Q What happens here that makes everything not so good any
19 more?

20 A Daniel wanted his necklace back.

21 Q All right. So, what happened?

22 A Well, Daniel wanted the necklace back, but Champ didn't
23 want to give it to him, but I told Champ to give it back to
24 him.

25 Q Okay. So, why didn't Champ want to give it back to

1 him? Do you know?

2 A No, ma'am.

3 Q Okay. And so, does anything -- so you said things were
4 not so good. Daniel wants the necklace back, Champ doesn't
5 want to give it to him. Does anything strange happen? What
6 happens?

7 A They started to get into an argument.

8 Q So, who was arguing? Are you arguing? Who was arguing?

9 A Daniel and Champ.

10 Q And what are they arguing over?

11 A The necklace.

12 Q What happens once they're arguing? Was the arguing
13 escalating into anything? What happened? Just tell me what
14 happened.

15 A They started arguing. I jumped in the middle of them
16 and told them to stop. Told them to quit, so. And Champ
17 ran. I ran behind Champ, and that's when Daniel got mad and
18 ran too.

19 Q Okay. Now, Ms. Garvin, what do you remember telling the
20 police and telling our office that there was some type of, I
21 guess, an altercation in the street at that period of time?

22 A No, ma'am.

23 Q Okay. So you don't remember telling the police when
24 this first happened about there being a little argument,
25 somebody came up on somebody else?

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1 A No, ma'am.

2 Q Okay. You don't remember telling our office in July,
3 when all this happened, that Daniel swung on Champ ---

4 A No.

5 Q --- and punched Champ?

6 MR. DEYSACH: Object to the leading.

7 THE COURT: Sustained. Rephrase your question,
8 Solicitor. Direct examination.

9 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

10 BY ASST. SOLICITOR LEGETTE:

11 Q Okay, Ms. Garvin. So, at this point you say that
12 there's actually an argument going on?

13 A Yes, ma'am.

14 Q And where did it happen? In the yard of the church, or
15 was it on the side of the road? Where is it?

16 A In front of the church.

17 Q So, is it in the street?

18 A Yes, ma'am.

19 Q All right. And so, you said that the -- you said --
20 let's go back to that, because I want to make sure I
21 understood you. They're arguing over the necklace, Champ
22 doesn't want to give it back to him. What do you do?

23 A Took the necklace from Champ.

24 Q So you took the necklace from Champ?

25 A Yes, ma'am.

1 Q And then, what did you do with it?

2 A Give it to Daniel.

3 Q All right. Did Daniel get the necklace?

4 A Yes, ma'am.

5 Q All right. And so, once you give the necklace to
6 Daniel, what happens?

7 A They started arguing.

8 Q They continued to argue?

9 A Yes, ma'am.

10 Q What did you do?

11 A Stuck in between both of them.

12 Q Why?

13 A Because I know one of them would start fighting.

14 Q Okay. And so, you stand between them, you think
15 someone's going to start a fight, throw a lick. What do you
16 do next? What happens next?

17 A I told Champ to run into the house.

18 Q In relationship to where we are in the street in State's
19 Number 45, in front of First Estill, where does Champ's mama
20 -- where is Champ's mama's house?

21 A On the other side.

22 Q On the other side? Over to the right?

23 A Yes, ma'am.

24 Q Okay. Ms. Garvin, I will hand you now what's been
25 previously marked State's Number 47. Take a moment and tell

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1 me if you recognize State's Number 47.

2 ASST. SOLICITOR LEGETTE: May I approach, your Honor?

3 THE COURT: You may.

4 BY ASST. SOLICITOR LEGETTE:

5 Q Ms. Garvin, do you recognize State's 47?

6 A Yes, ma'am.

7 Q Ms. Garvin, what is State's 47?

8 A The view of his mama house.

9 Q And is State's 47 a fair and accurate reflection of the
10 view to Champ's mama's house? And is that -- in
11 relationship to First Estill Church, where is that view?

12 A The --

13 Q Is it to the right, or to the left?

14 A To the left.

15 Q Is it to the right -- State's 45.

16 THE COURT: I want you to look at the screen.

17 BY ASST. SOLICITOR LEGETTE:

18 A Ask the question again.

19 Q Okay. So -- let me back up. I'm sorry. So, as it
20 relates to State's 45 on the screen in front of you, if you
21 are standing in front of First Estill Church, in the road,
22 can you point on State's 45 to the view towards Champ's
23 mama's house, please? On that area, in that area.

24 A Here.

25 Q All right. So, if you were looking at State's Number

1 47, is State's 47 a fair and accurate reflection of the view
2 from First Estill Church towards Champ's mama's house?

3 THE COURT: Not yet. It's not in evidence yet.

4 BY ASST. SOLICITOR LEGETTE:

5 Q So, as it relates to State's 45, is State's 47 a fair
6 and accurate reflection of the view from Champ's mama's
7 house to First Estill Church?

8 A Yes, ma'am.

9 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
10 would offer State's 47 for admission into evidence.

11 THE COURT: As to 47?

12 MR. DEYSACH: No objection.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibit 47 will be admitted into evidence in the trial of
15 this case, without objection. Exhibit 47 in evidence. You
16 may now publish to the jury.

17 (WHEREUPON, STATE'S EXHIBIT NUMBER 47, IDENTIFIED AND
18 MARKED, ADMITTED INTO EVIDENCE.)

19 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

20 BY ASST. SOLICITOR LEGETTE:

21 Q All right, Ms. Garvin. So, if we look at State's 47,
22 can you point in State's 47 the location as to where First
23 Estill Church would be, in relationship to State's 47? Back
24 this way?

25 A Yes, ma'am.

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1 Q Okay. And so, now, as we are orienting ourselves to
2 this street, you talk about this argument that's escalating.
3 You got in between them?

4 A Yes, ma'am.

5 Q All right. So, you gave the necklace back to Daniel?

6 A Yes, ma'am.

7 Q What did you tell Champ?

8 A To run to his mama house.

9 Q All right. And so, as you told Champ to run to his
10 mama's house, what do you do?

11 A He ran in his mama back yard and picked up a shovel.

12 Q All right. And so, before he ran to his mama's yard,
13 did he run -- how did he run, through this path?

14 A Yes, ma'am.

15 Q All right. And so, as he ran through this path, what
16 did you do?

17 A Run to the yard.

18 Q What did Daniel do?

19 A Ran behind Champ.

20 Q All right. So all of you all ran to this path?

21 A Yes, ma'am.

22 Q What's going through your mind at this point?

23 A I don't remember.

24 Q You don't remember?

25 A No, ma'am.

1 Q Okay. All right. So, you're running, Daniel's running,
2 and Champ's running ahead of you?

3 A Yes, ma'am.

4 Q All right. And so, you ran through this path. What
5 happ -- and please point out in this photograph, in State's
6 47, where Champ's mama's house is. Right there. And do you
7 -- is there a white van in that photograph?

8 A Yes, ma'am.

9 Q Can you point to the white van in State's 47? All
10 right. Right there. Behind the carport. All right. And
11 so, you also mention about a fence in State's 47. Can you
12 point to the fence? All right. So, everybody's running.
13 You're running, Champ's running. What time of night is
14 this; or what time of day is this?

15 A It's, like, 12:00.

16 Q Okay. So, it's dark?

17 A Yes, ma'am.

18 Q All right. It's dark. All right. So you're all
19 running, and you said -- now, tell me what happened.
20 Because you're running, Champ's running, and Daniel's
21 running.

22 A Yes.

23 Q What happened?

24 A Champ got in the yard, Champ got a shovel. Daniel came
25 in the yard, and he started fighting. And I guess Champ

1 must've hit him with the shovel.

2 Q Okay. So, you said earlier that -- So you all went
3 through this path and you get to the house. You say Champ
4 jumped the fence?

5 A No, ma'am.

6 Q Okay. I must've misheard you. All right. So, Champ's
7 in the yard?

8 A Yes, ma'am.

9 Q Champ is in the yard?

10 A Yes, ma'am.

11 Q Who gets to the yard next?

12 A I get close to the fence and Daniel came past me.

13 Q Okay.

14 A And ran after Champ.

15 Q All right. And so, you get up, you are in the yard?

16 A Yes, ma'am.

17 Q Tell me what you are seeing in the yard.

18 A I see them fighting.

19 Q All right. You see them fighting. How are they
20 fighting?

21 A Throwing fists.

22 Q Throwing fists. At what point -- you said Champ grabbed
23 a shovel. At what point does Champ grab a shovel?

24 A Before they -- before he went in the yard.

25 Q Okay. So, what happens with the shovel, first?

1 A He swung it at Daniel.

2 Q He swung it at Daniel. Okay. Does he -- what happened?
3 Did he hit Daniel? Did he miss? What happened?

4 A He hit him.

5 Q All right. And so, what happened when champ hit Daniel
6 with the shovel?

7 A He started hitting -- he started fighting him more, and
8 that's when Daniel pulled out the knife.

9 Q All right. And before we get to Daniel pulling out --
10 before we get to Daniel pulling out the knife, Champ's got
11 the shovel. Do you know where Champ got the shovel from?

12 A Underneath the carport.

13 Q Underneath the carport. Okay. And I will hand you now,
14 Ms. Garvin, what has been marked for identification State's
15 48. I want you to take a moment and tell me if you
16 recognize State's 48.

17 ASST. SOLICITOR LEGETTE: May I approach the witness?

18 THE COURT: You may.

19 BY ASST. SOLICITOR LEGETTE:

20 Q Do you recognize State's 48, Ms. Garvin?

21 A Yes, ma'am.

22 Q All right. What is State's 48?

23 A Carport.

24 Q And is -- what carport -- of who -- of where?

25 A Champ mama's house.

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1 Q All right. And is State's 48 ---

2 THE COURT: I can't hear. What did she just say?

3 BY ASST. SOLICITOR LEGETTE:

4 A That's the carport at Champ mama's house.

5 Q All right. So, State's 48 is a -- is State's 48 a fair
6 and accurate reflection of the carport at Champ's mama's
7 house?

8 A Yes, ma'am.

9 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
10 would offer State's 48 for admission into evidence.

11 THE COURT: As to State's 48?

12 MR. DEYSACH: No objection.

13 THE COURT: Ladies and gentlemen of the jury, State's
14 Exhibit Number 48 will be admitted into evidence in the
15 trial of this case. Without objection, State's 48 in
16 evidence. You may now publish.

17 (WHEREUPON, STATE'S EXHIBIT NUMBER 48, IDENTIFIED AND
18 MARKED, ADMITTED INTO EVIDENCE.)

19 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

20 BY ASST. SOLICITOR LEGETTE:

21 Q All right, Ms. Garvin. It's a little hard to see. So,
22 I want you to point out the location -- you said Champ -- so
23 show us in this picture. I see several things in State's
24 48. Can you point out the fence in State's 48? All right.
25 Can you park -- in State's 48, can you also point out the

1 carport? Can you point out the area in State's 48 where the
2 shovel was that Champ got that night? Somewhere in there?

3 A Uh-huh (affirmative).

4 Q Okay. Was that a yes?

5 A Yes, ma'am.

6 Q You have to say yes or no. Okay?

7 A Yes, ma'am.

8 Q All right.

9 ASST. SOLICITOR LEGETTE: You can bring the lights back.
10 up, please.

11 BY ASST. SOLICITOR LEGETTE:

12 Q So, Ms. Garvin, you testified about Champ getting the
13 shovel.

14 A Yes, ma'am.

15 Q All right. The fight breaks -- well, Champ hits Daniel
16 with the shovel?

17 A Yes, ma'am.

18 Q And does anything happen with the shovel?

19 A It breaks.

20 Q All right. After the shovel breaks, what happens?

21 A They still fighting.

22 Q They still been fighting. How are they fighting at this
23 point?

24 A Fists.

25 Q Fists. Okay. So, who was throwing punches?

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- 1 A Both of them.
- 2 Q Both throwing punches?
- 3 A Yes, ma'am.
- 4 Q I need you to speak up, please.
- 5 A Yes, ma'am.
- 6 Q All right. At this point, does Champ have any weapon?
- 7 A No, ma'am.
- 8 Q At this point, does Daniel have any weapon?
- 9 A Yes, ma'am.
- 10 Q I mean, before this fight?
- 11 A No, ma'am.
- 12 Q So, at first it was just a fight?
- 13 A Yes, ma'am.
- 14 Q Can you tell me approximately how long it lasts?
- 15 A No, ma'am.
- 16 Q Okay. All right. And so, Champ gets the shovel.
- 17 A Yes, ma'am.
- 18 Q All right. And where in the yard, in State's Number
- 19 48, is this fight going on? Can you point -- I'm sorry.
- 20 Can you point to where in the yard, or thereabouts, the
- 21 fight was going on? Is it behind that fence?
- 22 A Yes, ma'am.
- 23 Q Over in there?
- 24 A Yes, ma'am.
- 25 Q Okay. Now, so the fight is in the yard in State's 48.

1 And at a point, how close are you in relationship to the
2 fight?

3 A Real close.

4 Q Real close. Okay. And are you clearly able to see
5 both Champ and Daniel?

6 A Yes, ma'am.

7 Q So, Ms. Garvin, this fight is going on. You said you
8 were very close to it.

9 A Yes, ma'am.

10 Q If I were to approach you, would you be able to tell me
11 about how close, in relationship to the fight?

12 A Yes, ma'am.

13 Q How many -- would you be able to tell me the estimated
14 distance you were from the fight?

15 A Yes, ma'am.

16 Q About how far? Or would I be better off walking
17 towards you?

18 A Walking towards me.

19 Q Okay. If I start here, is that too far, or should I
20 come closer?

21 A A little closer.

22 Q A little closer.

23 A Right there.

24 Q Okay. So you're about this far away?

25 A Yes, ma'am.

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1 Q How many feet would you estimate that is? Three, four,
2 five feet?

3 A Five.

4 Q About five feet away from the fight, and maybe a little
5 bit longer?

6 A Yes. Yes, ma'am.

7 Q Maybe seven feet?

8 A Yes, ma'am.

9 Q All right. Is anything obstructing your view at this
10 time? What I'm saying is -- and I might've mis-stated that
11 -- is there anything between you and the fight that makes
12 you not be able to see?

13 A No, ma'am.

14 Q Okay. Ms. Garvin, I'm going to direct your attention
15 now to what's been previously admitted into evidence as
16 State's Number 3. Take a moment and tell me if you
17 recognize State's Number 3.

18 ASST. SOLICITOR LEGETTE: May I approach?

19 THE COURT: You may.

20 BY ASST. SOLICITOR LEGETTE:

21 Q Do you recognize State's 3?

22 A Yes, ma'am.

23 Q And what is State's 3?

24 A The carport and the back yard.

25 Q The back yard of?

1 A Champ's mama house.

2 Q Okay. And is State's 3 a fair and accurate reflection
3 of the carport area, back yard, of Champ's mama's house?

4 A Yes, ma'am.

5 ASST. SOLICITOR LEGETTE: At this time I would offer to
6 publish, which has already been admitted into evidence.

7 THE COURT: State's 3 is in evidence.

8 ASST. SOLICITOR LEGETTE: Yes, it is, your Honor. I
9 just wanted her to -- I want to publish at this time.

10 THE COURT: You may. It's in evidence.

11 BY ASST. SOLICITOR LEGETTE:

12 Q I direct your attention now, Ms. Garvin, to the screen
13 at your right. All right. Ms. Garvin, this is State's
14 Number 43 -- no, this is 3.

15 THE COURT: Counsel, this is State's 3.

16 ASST. SOLICITOR LEGETTE: Yes, State's 3. Thank you,
17 your Honor.

18 THE COURT: Use the correct exhibit number.

19 ASST. SOLICITOR LEGETTE: Yes, your Honor.

20 BY ASST. SOLICITOR LEGETTE:

21 Q Ms. Garvin, can you point out in State's Number 3 --
22 point out in State's Number 3 where the fight is happening?
23 Is that behind the fence?

24 A Inside the fence.

25 Q Inside the fence, inside the yard?

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1 A Yes, ma'am.

2 Q In the grass?

3 A Yes, ma'am.

4 Q Okay. And so, where are you -- in State's 3, where are
5 you standing?

6 A Right there.

7 Q Right through there?

8 A Yes, ma'am.

9 Q Okay. So, you're standing up in there, the fight's
10 happening over in the yard, in State's 3?

11 A Yes, ma'am.

12 Q Okay.

13 ASST. SOLICITOR LEGETTE: You can bring the lights up.

14 BY ASST. SOLICITOR LEGETTE:

15 Q And so, the fight is going on, you're watching it.
16 They're fighting with fists, and what happens?

17 A I see where Daniel pulled out the knife.

18 Q And what does Daniel do with the knife?

19 A Stabs Champ with it.

20 THE COURT: I can't hear you, ma'am. You've got to--

21 BY ASST. SOLICITOR LEGETTE:

22 A He stabs -- he stabs Champ with it.

23 Q Okay. I need you to speak up, please. Okay?

24 A Yes, ma'am.

25 Q All right. And so, Daniel pulls out a knife?

1 A Yes, ma'am.

2 Q And he does what?

3 A Starts stabbing Champ with it.

4 Q And when you say started stabbing Champ, about how many
5 times -- did you -- could you tell how many times he stabbed
6 him?

7 A No, ma'am.

8 Q Okay. What is Champ doing at this point?

9 A Trying to push him back off of him.

10 Q Okay. Would you be able to demonstrate how this is
11 happening?

12 A No, ma'am.

13 Q You wouldn't be able to demonstrate. Okay. But you
14 say that Champ begins to back up?

15 A Yes, ma'am.

16 Q In what direction does Champ back to?

17 A Like, by the door.

18 Q All right. And so, as Champ begins to back up, what is
19 Daniel doing?

20 A Still trying to come at him.

21 Q And what does he have in his hand at this point?

22 A The knife.

23 Q Were you able to tell, you know, what kind of knife, or
24 what color the knife was?

25 A It was silver.

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1 Q Okay. Do you remember the telling the police about it
2 being a black knife?

3 A No.

4 Q Okay.

5 A No, ma'am.

6 Q Okay. All right. So, anyway, at this point, so you're
7 watching Daniel pull the knife out, and he's stabbing Champ.
8 At some point, does he stop stabbing Champ, or what happens?

9 A Yes, ma'am. He stops stabbing him.

10 Q I need you to speak up, please.

11 A He does stop stabbing him.

12 Q I know it's kind of hard. So, he stops stabbing him,
13 and where does Champ go?

14 A To his mama's front door.

15 Q All right. And so, in relationship to State's Number
16 3, where is the front door?

17 ASST. SOLICITOR LEGETTE: Can we bring the lights down,
18 please?

19 BY ASST. SOLICITOR LEGETTE:

20 Q In relationship to State's Number 3, where is the front
21 door of the house? Over there, in the right corner?

22 A Yes, ma'am.

23 Q All right. And so, as you watch Champ run away, where
24 are you in State's Number 3? Still in the yard. And what
25 does Daniel do?

1 A After he stabs Champ, he runs out the fence.

2 Q Does he say anything to you at this point?

3 A Yes, ma'am.

4 Q What does he say to you?

5 A You're next.

6 Q Okay. And did he come after you, or what happened?

7 A Runs.

8 Q He runs?

9 A Yes, ma'am.

10 Q All right. And what did you do at this point?

11 A Run around to the front to see what was -- to see was
12 he okay.

13 Q See was who okay?

14 A Champ.

15 Q All right. And so, as you run -- as you run around the
16 front, where did Daniel run to?

17 A Out the fence.

18 Q He runs out of the fence?

19 A Yeah.

20 Q Okay.

21 ASST. SOLICITOR LEGETTE: If you could bring the lights
22 up, please.

23 BY ASST. SOLICITOR LEGETTE:

24 Q All right. And so, you run around -- you run around to
25 -- you run around to the front door. What do you find when

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1 you get to the front door?

2 A Found Champ up on the front porch, laying there.

3 Q Okay. And did anyone come outside? What happened?

4 A His mama.

5 Q All right. Tell me what happened.

6 A His mama come out the door to try to help, but he was
7 still bleeding out.

8 Q He was still what?

9 A Bleeding out.

10 Q Bleeding out? Okay. And what are you doing? Did you
11 call 9-1-1, did someone call 9-1-1, or do you know?

12 A No.

13 Q Okay. At some point after this happened, do you learn
14 of Champ's condition?

15 A (Becomes emotional.)

16 Q Do you learn what happened to Champ? I mean, do you
17 know -- did he go to the hospital? Did you learn what his
18 condition is?

19 A No, ma'am.

20 Q Did you learn that he died?

21 A Yes, ma'am.

22 Q All right. And so, at some point after this happens,
23 do you talk to the police?

24 A (No response.)

25 Q Do you remember talking to the police, Ms. Garvin?

1 A Yes.

2 Q All right. Do you remember -- tell me -- do you
3 remember going to the police station?

4 A Yes, ma'am.

5 Q All right. Do you remember talking to, I believe,
6 Investigator Thomas?

7 A Yes, ma'am.

8 Q All right. And where was that?

9 A At the Estill Police Station.

10 Q All right. Do you also remember talking to Officer
11 Bennett?

12 A Yes, ma'am.

13 Q At the scene that night?

14 A Yes, ma'am.

15 Q Okay. And did you tell the police who did this?

16 A Yes, ma'am.

17 Q And what is the name of the man you told them did this?

18 A Daniel Fludd.

19 Q Okay. Now, Ms. Garvin, do you remember talking to the
20 police, and do you remember telling them -- do you remember
21 about what you told the police back in March?

22 A No, ma'am.

23 Q You don't remember?

24 A No, ma'am.

25 Q So, is it part of your -- of what you told them, that

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1 you may not remember at this point?

2 A Yes, ma'am.

3 Q Okay.

4 ASST. SOLICITOR LEGETTE: Begging the Court's
5 indulgence.

6 BY ASST. SOLICITOR LEGETTE:

7 Q Now, when you talked to the police at the police
8 station, do you remember seeing a photo lineup from the
9 police?

10 A Yes, ma'am.

11 Q And do you remember the officer who actually showed you
12 the photo lineup?

13 A No, ma'am.

14 Q You don't remember? Okay. Could it have been
15 Investigator Thomas?

16 A I think so.

17 Q But it was an officer?

18 A Yes, ma'am.

19 Q Okay. And do you remember picking out any photo in that
20 photo lineup?

21 A Yes, ma'am.

22 Q Prior to you seeing the photo lineup, did anyone ever
23 suggest to you who to pick out in that photo lineup?

24 A No, ma'am.

25 Q Did anyone ever tell you who to pick out in that photo

1 lineup?

2 A No, ma'am.

3 Q Did you ever see any photos -- before you saw the photo
4 lineup, did you ever see any other photos in relationship to
5 who this might have been?

6 A No, ma'am.

7 Q All right. Ms. Garvin, I'm going to hand you what's
8 been previously marked for identification as State's 52.
9 Take a moment and tell me if you recognize State's 52.

10 ASST. SOLICITOR LEGETTE: May I approach the witness,
11 your Honor?

12 THE COURT: You may..

13 BY ASST. SOLICITOR LEGETTE:

14 Q Ms. Garvin, do you recognize State's 52?

15 A Yes, ma'am.

16 Q And Ms. Garvin, what is State's 52?

17 A The lineup.

18 Q And Ms. Garvin, is that lineup, in fact, the photo
19 lineup that you saw on March 20 -- back in March of 2017?
20 Is that the photo lineup that you saw, or a copy of it?

21 A Yes, ma'am.

22 Q And is State's 52 a fair and accurate reflection of the
23 lineup that you saw at that time?

24 A Yes, ma'am.

25 Q Has it been changed or altered in any way, except for

1 the coffee stains?

2 A No, ma'am.

3 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
4 would offer State's 52 for admission into evidence.

5 THE COURT: Subject to my earlier ruling, it is admitted into
6 evidence, over objection.

7 (WHEREUPON, STATE'S EXHIBIT NUMBER 52, IDENTIFIED AND
8 MARKED, ADMITTED INTO EVIDENCE.)

9 MR. DEYSACH: Thank you, Your Honor.

10 ASST. SOLICITOR LEGETTE: Thank you.

11 BY ASST. SOLICITOR LEGETTE:

12 Q Now, Ms. Garvin --

13 ASST. SOLICITOR LEGETTE: Well, we're just going to
14 have to show it to the jury, your Honor. May I approach the
15 witness, your Honor?

16 THE COURT: You may.

17 BY ASST. SOLICITOR LEGETTE:

18 Q Ms. Garvin, what is in State's Number 52?

19 A Daniel Fludd.

20 Q And Ms. Garvin, is -- are those your letters?

21 A Yes, ma'am.

22 Q Or your, I guess, your initials?

23 A Yes, ma'am.

24 Q Ms. Garvin, how certain were you of your selection of
25 Daniel Fludd in the photo lineup?

1 A Real certain.

2 Q Ms. Garvin, how certain are you that the person who
3 stabbed Champ, or Bobby Atkins, is Daniel Fludd?

4 A I was just that certain.

5 Q You were a hundred percent certain?

6 A Yes, ma'am.

7 Q And are you today -- who is the man that stabbed Bobby
8 Atkins?

9 A Daniel Fludd.

10 Q And is he present in court today?

11 A Yes, ma'am.

12 Q Will you point him out, please? Now, Ms. Garvin,
13 during this period of time, did -- what --

14 ASST. SOLICITOR LEGETTE: Strike that.

15 BY ASST. SOLICITOR LEGETTE:

16 Q Can you tell us, Ms. Garvin, the night of this incident
17 approximately how long you and Champ and Daniel Fludd had
18 been together?

19 A I don't know.

20 Q You don't know?

21 A No, ma'am.

22 Q Okay. Oh. Ms. Garvin -- Ms. Garvin, are you familiar
23 with the location that we talked about earlier as it relates
24 to Bummy's house and Rivy's house and the sign by where
25 Daniel stood, and the other incident locations that we

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1 discussed earlier?

2 A Yes, ma'am.

3 Q And would you be familiar, also, with a aerial map of
4 those locations?

5 A Yes, ma'am.

6 Q And the town of Estill?

7 A Yes, ma'am.

8 Q In a moment, I will hand you what's been previously
9 marked for identification as State's Number 51. I want you
10 to take a moment and tell me if you recognize State's 51.

11 ASST. SOLICITOR LEGETTE: May I approach the witness?

12 THE COURT: You may.

13 BY ASST. SOLICITOR LEGETTE:

14 Q Do you recognize State's 51?

15 A Yes, ma'am.

16 Q And Ms. Garvin, what is State's 51?

17 A The location of all the places we've been through.

18 Q And Ms. Garvin, is State's 51 a fair and accurate
19 reflection of the locations around the town of Estill where
20 you and Mr. -- I'm sorry -- you and Daniel Fludd and Bobby
21 Atkins went the night of March 22, 2017?

22 A Yes, ma'am.

23 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
24 would offer State's 51 for admission into evidence.

25 THE COURT: As to State's 51?

1 MR. DEYSACH: No objection.

2 THE COURT: Ladies and gentlemen of the jury, State's
3 Exhibit 51 will be admitted into evidence in the trial of
4 this case. Without objection, you may publish.

5 (WHEREUPON, STATE'S EXHIBIT NUMBER 51, IDENTIFIED AND
6 MARKED, ADMITTED INTO EVIDENCE.)

7 ASST. SOLICITOR LEGETTE: All right. Your Honor, I
8 would ask that Ms. Garvin be allowed to step down, or I can
9 come over there and --

10 THE COURT: You come to her.

11 ASST. SOLICITOR LEGETTE: Yes, sir.

12 THE COURT: Where she's got a microphone.

13 BY ASST. SOLICITOR LEGETTE:

14 Q Ms. Garvin?

15 THE COURT: Don't block the witness.

16 ASST. SOLICITOR LEGETTE: Thank you, Coach.

17 BY ASST. SOLICITOR LEGETTE:

18 Q All right, Ms. Garvin ---

19 THE COURT: Give my -- just a moment. Can everybody on
20 the jury see State's Exhibit 51? If you can't, raise your
21 hand. All right. Now, proceed. Speak up, Ms. Garvin, into
22 the microphone, when you answer a question.

23 BY ASST. SOLICITOR LEGETTE:

24 Q Ms. Garvin, I'm going to ask you to use that pointer.

25 And point out in State's 51 the location where you started,

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1 and how this all went around. Go to Bummy's house, and then
2 take us through from Bummy's house to Rivy's house, where
3 Mr. ---

4 THE COURT: Coach, you get behind the exhibit, just in
5 the middle, hold it up.

6 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

7 THE COURT: Ask the question now again, and turn it so
8 the jury can see, and the witness can see.

9 BY ASST. SOLICITOR LEGETTE:

10 Q All right. Ms. Garvin, tell us, in here, the location
11 of Bummy's house, where you all were first. Point it out.
12 So, that's where you were, at Bummy's house, first?

13 A Yes, ma'am.

14 Q All right. And so, when you left Bummy's house, and
15 then went down to this house?

16 A Yes, ma'am.

17 Q All right. When you left Bummy's house, where did you
18 go thereafter? So, you go across town?

19 A Yes, ma'am.

20 Q And whose location is this?

21 A Rivy.

22 Q All right. And so, once you leave Rivy's house -- and
23 what happened to Rivy? He didn't buy the necklace?

24 A No, ma'am.

25 Q All right. You left rivy's house, and where did you

1 go?

2 A Go to Travis house.

3 Q To Travis' house? So, you go across 321 to Travis'
4 house, and what happens at Travis' house?

5 A Travis doesn't buy it, saying that it was fake.

6 Q All right. And so, once you leave Travis' house, where
7 do you go next? All right. And where is that?

8 A That's First Estill Church.

9 Q And is that where things start to go wrong?

10 A Yes, ma'am.

11 Q All right. And so, once you leave -- once you're in
12 front of the church, where do you go next? You say you go
13 to the path?

14 A (No response.)

15 Q All right. And where do -- what are we looking at now,
16 in State's Number 51?

17 A The path to get to his mama house.

18 Q And then, thereafter, you get to the mama's house?

19 A Yes, ma'am.

20 Q All right. Thank you.

21 ASST. SOLICITOR LEGETTE: Thank you, Coach.

22 Q So, Ms. Garvin, during this fight, after the two men
23 are -- I'm sorry -- Champ and Daniel are -- no longer had a
24 weapon, who began to defend themselves?

25 A Champ defends his self.

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1 Q And why is he defending himself? Who's got the weapon
2 at this point?

3 A Daniel.

4 Q Daniel had the weapon?

5 A Yes.

6 Q And -- never mind. Well. All right.

7 ASST. SOLICITOR LEGETTE: Begging the Court's
8 indulgence.

9 BY ASST. SOLICITOR LEGETTE:

10 Q Ms. Garvin, thank you. I have no further questions.
11 Please answer any questions from Mr. Deysach.

12 THE COURT: Cross-examination.

13 MR. DEYSACH: Thank you very much, your Honor.

14 CROSS-EXAMINATION

15 BY MR. DEYSACH:

16 Q Good afternoon, Ms. Garvin. So, do you have a record
17 for committing a burglary third that you were convicted of
18 in 2017. Isn't that correct?

19 A Yes, sir.

20 Q And you're on probation for that?

21 A Yes, sir.

22 Q All right. Let me ask you this. Has the State -- has
23 the State been putting you up in a motel in order to have
24 you available for testimony?

25 A Yes, sir.

1 Q They have?

2 A Yes, sir.

3 Q How many nights have they put you up?

4 A Three.

5 Q Three? Did they help you with your appearance for
6 trial? Clothes, or anything like that?

7 A Yes, sir.

8 Q They help pay for clothes?

9 A Yes, sir.

10 Q All right. Okay. Let's talk about, I guess, I'd like
11 to go over -- trying to be organized. Your relationship
12 with Mr. Atkins, you described it on direct as loving,
13 correct?

14 A Yes, sir.

15 Q But that you also pointed out negative aspects to the
16 relationship when asked by the Solicitor, correct?

17 A Yes, sir.

18 Q Right. And those -- I mean, this is not an attempt to
19 embarrass, we're just trying to get to the facts here --
20 that you would engage in prostitution when you were with Mr.
21 Atkins, correct?

22 A Yes, sir.

23 Q And that was at his request, is what you're saying?

24 A Yes, sir.

25 Q Right? And the expectation was that money that you

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1 made from doing that would go to him, correct?

2 A Yes, sir.

3 Q And that he would take that money and use it for drugs,
4 correct?

5 A Yes, sir.

6 Q All right.. And that's -- even then, I mean, it's been
7 stated that he had work he could do during this period,
8 correct?

9 A Yes, sir.

10 Q He -- I think he could've worked for his dad, correct?

11 A Yes, sir.

12 Q And then, the burial vaults thing that Mr. Brooks does,
13 correct?

14 A Yes, sir.

15 Q Okay. So, that if you were unable to provide Mr.

16 Atkins the money that he needed for drugs, that he would
17 beat you up, correct?

18 A No, sir.

19 Q Do you remember having a conversation with Mr. Hipp and
20 Mr. Davis from the Solicitor's Office, in preparation for
21 this trial? A No, sir.

22 Q You don't ever remember meeting with them?

23 A No, sir.

24 Q Okay. Do you remember telling them that Atkins would
25 beat her if she didn't have the money? Do you remember

1 telling them that?

2 A No, sir.

3 Q I'm sorry, the answer was?

4 A No, sir.

5 Q No, sir? All right. That -- do you remember telling
6 them that if you did not find the funds that he would find
7 other men for you to sleep with in exchange for money? Do
8 you remember telling them that?

9 A Yes, sir.

10 Q You -- I'm sorry, the answer?

11 A Yes, sir.

12 Q Yes, sir, on that? No on the beating, but yes on the
13 finding other men to sleep with?

14 A Yes, sir.

15 Q Okay. But somehow, through all that, you love him,
16 correct? A Yes, sir.

17 Q All right. But that it almost seems like it was his
18 drug problem that was making him do all of that stuff to
19 you?

20 A Yes, sir.

21 Q Okay. So, do you blame that on the drugs?

22 A Yes, sir..

23 Q All right. So, going over what you testified on
24 direct, all right. That the night that that happens, that
25 the night of March 22nd, that I think what your direct

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1 testimony of what happened tat night starts at Bummy's

2 house; is that fair?

3 A Yes, sir.

4 Q Okay. So, you're at Bummy's house at what time?

5 A I don't know the time.

6 Q Was it light or dark out?

7 A Light.

8 Q Okay. And you're there, and Mr. Atkins is there. Did
9 you testify that Mr. Fludd was there, also?

10 A Yes, sir.

11 Q Okay. Did you arrive together?

12 A No, sir.

13 Q Were -- who was there first?

14 A Daniel.

15 Q Daniel was there when you get there?

16 A Yes, sir.

17 Q Okay. How long do you stay?

18 A Not that long.

19 Q What is not that long?

20 A Forty minutes?

21 Q Forty minutes? What are you doing there?

22 A Just sitting over there, just chillin'.

23 Q Are you drinking?

24 A Yes, sir.

25 Q Is there drug use?

- 1 A Yes, sir.
- 2 Q Is there marijuana use?
- 3 A No, sir.
- 4 Q Is it crack use?
- 5 A Yes, sir.
- 6 Q Are you using crack?
- 7 A No, sir.
- 8 Q Is Mr. Atkins using crack?
- 9 A Yes, sir.
- 10 Q All right. Okay. Were you there for the purpose of
- 11 the prostitution, to get money?
- 12 A Yes, sir.
- 13 Q That was your reason for going there?
- 14 A Yes, sir.
- 15 Q Okay. Did that happen there?
- 16 A No, sir.
- 17 Q Okay. So, as a result, there's no money for you to
- 18 give Mr. Atkins after going to Bummy's house?
- 19 A No, sir.
- 20 Q All right. From there, leave for Mr. Brooks' house.
- 21 Is that correct, or no?
- 22 A Yes, sir.
- 23 Q You're saying all three leave at the same time? All
- 24 three of you all leave at the same time?
- 25 A Yes, sir.

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1 Q Is there anybody else at Bummy's house besides you all
2 four?

3 A I'm not sure..

4 Q Not sure?

5 A Not sure.

6 Q Okay. All right. Is -- does anything go on with the
7 necklace at Bummy's house?

8 A No, sir.

9 Q Okay. So, nobody talks about the necklace?

10 A Him and Champ talked about it.

11 Q They're talking about it? Are you involved in that
12 conversation?

13 A No, sir.

14 Q Does the necklace change hands at that time?

15 A Yes, sir.

16 Q Okay. So, now, at that point, Mr. Atkins has Daniel's
17 necklace?

18 A Yes, sir.

19 Q Is there -- does he put it around his neck?

20 A Yes, sir.

21 Q Why does he put it around his neck?

22 A Just to wear it.

23 Q Just to wear it? Was the plan to go sell it to somebody
24 else?

25 A Yes, sir.

1 Q So, why would you wear it, then?

2 A I don't know.

3 Q You don't know? All right. Now, you make the walk to
4 Mr. Brooks' house. You know how long that walk takes?

5 A Twenty or thirty minutes.

6 Q Twenty or thirty minutes? Is it dark out at this point?

7 A Yes, sir.

8 Q Okay. So, when you arrive at Brooks' house, it was your
9 testimony that only Mr. Atkins and you go up to Mr. Brooks,
10 correct?

11 A Yes, sir.

12 Q That you leave Mr. Fludd behind?

13 A Yes, sir.

14 Q Where was Mr. Brooks when you approached him?

15 A In the house.

16 Q In his house?

17 A Yes.

18 Q So, did -- what did you all do? Did you all knock on
19 the door?

20 A Yes, sir.

21 Q Was it -- who all was there?

22 A Just me, Champ, and Rivy.

23 Q Okay. Okay. And where are you all standing?

24 A On the porch on the side of the house.

25 Q On his porch on the side of the house, correct?

1 A Yes.

2 Q Is that right? And he's inside the house, and you're
3 outside, or he steps out? How does that go?

4 A He steps outside to talk to us.

5 Q Okay. All right. So, he's not in a position to see
6 Daniel at all, correct?

7 A No, sir.

8 Q He has no idea that Daniel might be nearby, correct?

9 A No, si -- yes, sir.

10 Q All right. So, does Mr. Brooks give Mr. Atkins any
11 money?

12 A No, sir.

13 Q He did not give him twenty dollars?

14 A No, sir.

15 Q Okay. All right. Okay. So, Mr. Atkins and you walk
16 away from Mr. Brooks' house empty-handed?

17 A Yes, sir.

18 Q Are you all looking for drugs?

19 A Yes, sir.

20 Q Is Champ -- is Mr. Atkins looking for money for drugs?

21 A Yes, sir.

22 Q Okay. That's -- that's why he's trying to sell the
23 necklace?

24 A Yes, sir.

25 Q Okay. All right. So, you say no money from Rivy. And

1 then, move on to Travis Fields' house. Is that the next
2 stop?

3 A Yes, sir.

4 Q Okay. Is Travis Fields the drug dealer?

5 A Yes, sir.

6 Q Okay. Thank you. All right. And is -- is Mr. Atkins
7 trying to trade the necklace for drugs?

8 A Yes, sir.

9 Q Did he -- did he trade it for drugs?

10 A No, sir.

11 Q So he still has the necklace, correct?

12 A Yes, sir.

13 Q Does Mr. Fields give him drugs anyway?

14 A No, sir.

15 Q Do you remember telling Mr. Hipp and Mr. Davis that Mr.
16 Fields did give Mr. Atkins drugs that night?

17 A No, sir.

18 Q You don't remember telling them that?

19 A No, sir.

20 Q All right. When Mr. Atkins leaves Mr. Fields' house,
21 he's wearing the necklace. He's wearing Daniel's necklace,
22 correct?

23 A Yes, sir.

24 Q All right. And where are you headed now?

25 A In front of First Estill Church.

1 Q You're going to the church at 11:00 o'clock on March
2 22nd?

3 A Headed back to the house.

4 Q You're -- so you're just going to go home, hey, struck
5 out on finding crack; just going to go straight home?

6 A Yes, sir.

7 Q Okay. That's the plan. All right. And so, are you
8 still walking with Mr. Fludd?

9 A Yes, sir.

10 Q Let me ask you this. Did Mr. Fludd go to the door of
11 Mr. Fields' house?

12 A No, sir.

13 Q So he was out of sight from Mr. Fields as well?

14 A Yes, sir.

15 Q So, neither Mr. Brooks nor Mr. Fields could say that
16 Daniel is with you all that night, correct?

17 A Yes, sir.

18 Q All right. At least with you all when you went to
19 those houses, correct?

20 A Yes, sir.

21 Q All right. All right. So, you're on your way back
22 home, and Mr. Fludd is walking with you, correct?

23 A Yes, sir.

24 Q And you're going home for the night, correct?

25 A Yes, sir.

1 Q And you haven't sold it -- and Mr. Atkins hadn't sold
2 the necklace, right?

3 A Yes, sir.

4 Q So, at some point Mr. Fludd asks for the necklace back?

5 A Yes, sir.

6 Q Okay. And Mr. Atkins didn't want to give it to him.

7 A No, sir.

8 Q He did not?

9 A No, sir.

10 Q Okay. And this starts in front of the church, like you
11 said?

12 A Yes, sir.

13 Q All right. That what you told the jury a second ago
14 was that because you asked Mr. Atkins to give the necklace
15 back, he did, correct?

16 A Yes, sir.

17 Q All right. The same person who makes you engage in
18 prostitution for money he uses for drugs is doing what you
19 say? That's what you're saying, right?

20 A Yes, sir.

21 Q Okay. So, what you're -- what you're explaining is how
22 the necklace that is being requested, that belongs to
23 Daniel, correct?

24 A Yes, sir.

25 Q Is requested and returned, correct?

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1 A Yes, sir.

2 Q But yet ---

3 ASST. SOL. LEGETTE: Your Honor?

4 THE COURT: Yes, ma'am. Counsel, approach.

5 (Whereupon, a bench conference is held off the record
6 and out of the hearing of the jury.)

7 THE COURT: Objection is sustained. Rephrase the
8 question.

9 MR. DEYSACH: All right.

10 BY MR. DEYSACH:

11 Q Okay. I want to be precise. That -- did you tell the
12 jury, on direct, that when you asked -- that -- that Mr.
13 Atkins gave you the necklace, and then you gave it to Mr.
14 Fludd?

15 A Yes, sir.

16 Q Okay. Not -- and I had said that Mr. Atkins gave it to
17 Mr. Fludd, correct?

18 A Yes.

19 Q But in -- in order to for that to happen, Mr. Atkins
20 would have had to take the necklace off and hand it over,
21 correct?

22 A Yes.

23 Q Okay. And so, after all that happens, it was your
24 testimony that Mr. Fludd is still upset, correct?

25 A Yes, sir.

1 Q And so, you ask, or tell Champ, or yelled at Champ, for
2 him to run to his mama's house, correct?

3 A Yes, sir.

4 Q Meanwhile, you are in front of Mr. Fludd, correct?

5 A Yes, sir..

6 Q To help give Mr. Atkins a head-start, correct?

7 A Yes, sir.

8 Q All right. You are not sure that did not happen,
9 you're saying, is that Mr. Atkins still has the necklace,
10 and you're blocking Mr. Fludd from being able to -- to
11 confront him about it. You're not saying that?

12 A No, sir.

13 Q Okay. All right. Okay. So, run back to the house.
14 That I guess -- I think you described, and correct me, Mr.
15 Atkins, then you, then Daniel, running in that order?

16 A Yes, sir.

17 Q And at some point Daniel runs past you?

18 A Yes, sir.

19 Q Where does he pass you?

20 A At the fence.

21 Q By the fence?

22 A Yes, sir.

23 Q By the fence of the 408 Sapp Boulevard house?

24 A Yes, sir.

25 Q Okay. The fence where you -- it opens to the carport?

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1 A Yes, sir.

2 Q Okay. Right there. So, from the First Estill Church,
3 you're running as fast, or faster, than Mr. Fludd for that
4 whole period?

5 A Yes, sir.

6 Q Okay. All right. So, everybody reconvenes, or meets
7 back up, at 408 Sapp Boulevard?

8 A Yes, sir.

9 Q Okay. And you're saying that -- I mean, Mr. Atkins
10 grabs the shovel?

11 A Yes, sir.

12 Q That he swings the shovel at Mr. Fludd?

13 A Yes, sir.

14 Q It breaks?

15 A Yes, sir.

16 Q And there's no knife involved until after the shovel has
17 already been broken?

18 A Yes, sir.

19 Q It's your testimony that this all happens inside the
20 fence?

21 A Yes, sir.

22 Q Okay. All right. So, you've already been asked, I'll
23 ask it again, do you remember talking to police at 408 Sapp
24 Boulevard on the night of the 22nd?

25 A Yes, sir.

1 Q Do you remember speaking to Officer Perry Bennett?

2 A Yes, sir.

3 Q Do you remember telling Mr. Bennett that you were
4 visiting the victim's family member when they -- when you
5 were approached by Daniel?

6 A No, sir.

7 Q You don't remember saying that?

8 A No, sir.

9 Q Is -- is Bummy a family member?

10 A No, sir.

11 Q Is Rivy a family member?

12 A To who?

13 Q To you or Mr. Atkins?

14 A Not to me.

15 Q Is he one to Mr. Atkins?

16 A I think so.

17 Q You think maybe a cousin or something?

18 A Yes, sir.

19 Q Okay. Is Mr. Fields a family member?

20 A No, sir.

21 Q So, out of all three of the, maybe Mr. Brooks is a
22 member of Mr. Atkins?

23 A Yes, sir.

24 Q Okay. That -- that Daniel was following you back
25 across 321. Not walking with you, but you told him that he

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1 was following you. Do you remember saying that?

2 A No, sir.

3 Q Do you remember telling Mr. Bennett, Officer Bennett,
4 that you were unaware of why the subject began to follow you
5 all, what led to the physical fight, that you didn't know
6 what the fight was about? Do you remember telling him that?

7 A Yes, sir.

8 Q You told him that you didn't know?

9 A Yes, sir.

10 Q Okay. So, you didn't tell him anything about a
11 necklace, did you?

12 A I did.

13 Q Okay. Mr. Bennett, you told him about a necklace?

14 A Yes, sir.

15 Q So, why did you tell them you were unaware why the --
16 why the fight began?

17 A I had mentioned the necklace when he asked me.

18 Q Okay. Did -- you didn't tell them anything about the
19 shovel.

20 A I did.

21 Q Who did you tell about the shovel?

22 A Officer Bennett.

23 Q You told Officer Bennett the night -- at 408 Sapp
24 Boulevard, that the -- that Champ swung a shovel at Mr.
25 Fludd?

1 A Yes, I did.

2 Q And did you tell the that the shovel broke over Mr.
3 Fludd's arm?

4 A Yes, sir.

5 Q All right. And then, you're at March 22nd, and the
6 night at Sapp Boulevard, and then the next time you talk to
7 police is the next morning, correct?

8 A Yes, sir.

9 Q And do you remember talking to Officer Thomas?

10 A Yes, sir.

11 Q Do you remember telling him that you first met Daniel
12 at the dry cleaners?

13 A No, sir.

14 Q You don't remember telling him that?

15 A No, sir.

16 Q Do you remember telling him -- do you remember telling
17 him -- okay. You admitted to that. Do you remember
18 explaining to him how Mr. Atkins originally got the
19 necklace?

20 A Yes, sir.

21 Q Do you remember telling him, I don't know why he gave it
22 to him, just gave it to him, talking about Daniel to Bobby?

23 A Yes, sir.

24 Q Okay. That's what you told Officer Thomas?

25 A Yes, sir.

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1 Q All right. Did -- when asked -- so he just took the
2 chain off his neck and said, here. Your response was,
3 because it was broke and Champ fixed it. Do you remember
4 answering a question that way?

5 A No, sir.

6 Q You don't remember saying anything about the thing
7 being broken and Champ fixing it?

8 A No, sir.

9 Q All right. That after Champ fixed it, you told Michael
10 Thomas that you then -- that Daniel then told Champ he could
11 keep the necklace?

12 A No, sir.

13 Q Do you remember telling Michael Thomas that Mr. Atkins
14 had the chain for about two days?

15 A No, sir.

16 Q All right. So, Michael Thomas asks, so -- and your
17 response was yes -- so you gave the chain -- Daniel gave the
18 chain to Champ in order for him to fix it?

19 THE COURT: Counsel, ask a question, don't publish a
20 document that's not in evidence.

21 MR. DEYSACH: I hear your -- okay.

22 BY MR. DEYSACH:

23 Q You agreed with Michael Thomas when he asked you if
24 Daniel gave Champ the necklace in order to fix it. Do you
25 remember that?

1 A No, sir.

2 Q Do you remember agreeing with Michael Thomas --

3 ASST. SOLICITOR LEGETTE: Your Honor, objection. May
4 we approach?

5 THE COURT: Counsel approach.

6 (Whereupon, a bench conference is held off the record
7 and out of the hearing of the jury.)

8 THE COURT: Objection overruled. Proceed.

9 BY MR. DEYSACH:

10 Q That you agreed with Michael Thomas when he said all of
11 the sudden, two days later, Daniel comes back and wants the
12 chain. Do you remember that?

13 A No, sir.

14 Q Do you remember telling him that Champ doesn't want to
15 give it back, he wants to keep the chain, and agreeing with
16 that?

17 A No, sir.

18 Q And agreeing with -- all right.

19 MR. DEYSACH: Begging the Court's indulgence.

20 THE COURT: Let's move along, Counsel.

21 MR. DEYSACH: All right. I don't have anything
22 further, your Honor.

23 THE COURT: Redirect?

24 ASST. SOLICITOR LEGETTE: Briefly.

25

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REDIRECT EXAMINATION

1
2 BY ASST. SOLICITOR LEGETTE:

3 Q Ms. Garvin, the fight. Let's go back to the fight.
4 Where did it start?

5 A At First Estill Church.

6 Q All right. So, that's where it starts. But then, it
7 ends up where?

8 A In Champ mama's back yard.

9 Q And so, is it a fight at First Estill Church, or just
10 an argument?

11 A Just an argument.

12 Q An argument. All right. And so, it ended up where?

13 A After that, it ended up in -- the real fight ends up in
14 Champ mama's back yard.

15 Q In Champ's mama's yard. All right. And so, after the
16 shovel was broken, does anyone have a weapon?

17 A Daniel.

18 Q Only Daniel?

19 A Yes, sir.

20 Q All right. And what does Daniel do with the weapon?

21 A Pulls it out and starts stabbing.

22 Q All right. And so, by this time you testify -- I think
23 you got a little confused about the necklace and how Daniel
24 got the necklace back. How did Daniel get the necklace
25 back? Did you take it from him and give it to Daniel?

1 A Yes, ma'am.

2 Q All right. Thank you.

3 ASST. SOLICITOR LEGETTE: Nothing further.

4 THE COURT: Re-cross, limited to redirect.

5 MR. DEYSACH: Okay.

6 RECROSS-EXAMINATION

7 BY MR. DEYSACH:

8 Q So, the fight, like you say, it ends at First Estill
9 Church, correct?

10 A It starts.

11 Q It starts. And that is -- that's -- that's non-
12 physical, correct?

13 A Yes, sir.

14 Q All right. Then, running, sprinting, from First Estill
15 Church, three people in a row, re -- meeting back up over at
16 408 Sapp Boulevard?

17 A Yes, sir.

18 Q That what you're saying is that all three of you all
19 ran around the fence and through the gate, by the carport?

20 A Yes, sir.

21 Q And that's where the fight took place?

22 A Yes, sir.

23 Q Not anywhere before that?

24 A No, sir.

25 MR. DEYSACH: That's all I have, your Honor.

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1 THE COURT: As to this witness, Solicitor?

2 ASST. SOLICITOR LEGETTE: Your Honor, we ask that she
3 be allowed to remain, but outside.

4 THE COURT: Subject to my order.

5 ASST. SOLICITOR LEGETTE: Yes, your Honor.

6 THE COURT: All right. Ms. Garvin, I'm going to ask
7 you to step down from the witness stand. Please don't leave
8 the courtroom and remain with us outside. We'll let you
9 know if we need to re-call.

10 Mr. Foreman and ladies and gentlemen of the jury, I
11 told you I was going to get you home early today. We're
12 going to stop at this point. We're going to start back at
13 10:00 a.m. in the morning, let you sleep thirty minutes
14 later because I'm keeping track of this trial's progress.
15 But I expect you to be in your jury room by 9:45, at which
16 time we're going to fill out a lunch order at 9:45. We'll
17 have menus available for you in the morning, so you get that
18 done and we can start at 10:00 o'clock.

19 Over the overnight recess, please do not discuss this
20 case with anyone. I don't know whether there'll be anything
21 on television, radio, or in the newspaper. Please do not
22 read such, watch such, and listen to such. You must decide
23 this case only upon the evidence introduced during the trial
24 of the case, when both sides are present, with the right to
25 cross-examination.

1 I hope everybody has a pleasant evening. I want to try
2 to conclude the case tomorrow, so I want to try to start on
3 time. Be in your jury room by 9:45. Everyone else, remain
4 seated, including the Public Defender staff, while the
5 jury's leaving.

6 (JURY EXITS COURTROOM AT 3:30 P.M.)

7 THE COURT: Anything on the record outside of the
8 presence of the jury, from the state of South Carolina,
9 before we adjourn for the evening?

10 ASST. SOLICITOR LEGETTE: Not from the State.

11 THE COURT: From the defendant?

12 MR. DEYSACH: No, Your Honor.

13 THE COURT: All right. Counsel, I expect you to be
14 here at 9:45 in the morning, ready to proceed, to finish
15 this trial. This court is adjourned until 10:00 a.m.
16 tomorrow morning.

17 (WHEREUPON, COURT IN RECESS AT 3:31 P.M. FOR THE DAY,
18 DECEMBER 4TH, 2018.) (THEREAFTER, DECEMBER 5TH, COURT
19 BACK IN SESSION AT 9:40 A.M.)

20 THE COURT: Is the State ready to proceed?

21 ASST. SOL. LEGETTE: We are, Your Honor.

22 THE COURT: Is the defendant ready to proceed?

23 MR. DEYSACH: Yes, Your Honor.

24 THE COURT: Bring us the jury.

25 (WHEREUPON, THE JURY ENTERS THE COURTROOM AT 9:45 A.M.)

1 AND THE FOLLOWING IS HELD ON THE RECORD .)

2 THE COURT: Good morning, Mr. Foreman.

3 FOREPERSON: Good morning.

4 THE COURT: Good morning, ladies and gentlemen of the
5 jury. How is everyone this morning?

6 (RESPONSES FROM JURY.)

7 THE COURT: I hope everyone had a pleasant evening.
8 We'll now continue with the testimony in the trial of this
9 case. Solicitor, call your next witness.

10 ASST. SOLICITOR LEGETTE: Thank you, your Honor. State
11 calls Investigator Michael Thomas.

12 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
13 SWORN, TESTIFIED AS FOLLOWS:)

14 THE COURT: Good morning.

15 MICHAEL THOMAS: Good morning.

16 THE COURT: How you doing?

17 MICHAEL THOMAS: Well.

18 THE COURT: Good. Have a seat for me. Make yourself
19 comfortable. She's going to pull that microphone over, it's
20 going to amplify your voice. Speak up so everybody in the
21 courtroom can hear you, particularly my jurors on the end of
22 the row, the people out in the courtroom. Please give me a
23 verbal answer. Say yes or no. Do not shake your head or
24 nod your head so the court reporter can take it down.
25 Please do not say uh-huh, unh-unh, yes or no, so it's

1 clear what you're saying and we can make a verbatim record
2 of your testimony. Please begin by stating your full name,
3 spelling your last name for the court reporter.

4 MICHAEL THOMAS: Michael Thomas, T/h/o/m/a/s.

5 THE COURT: Very good. Your witness, Counsel. Direct
6 examination.

7 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

8 DIRECT EXAMINATION

9 BY ASST. SOLICITOR LEGETTE:

10 Q Good morning, Officer Thomas.

11 A Good morning.

12 Q You are currently an investigator?

13 A Yes, ma'am.

14 Q And where do you currently work?

15 A For the First Judicial Circuit, Public Defender's
16 Office.

17 Q Okay. Now, where did you formerly work, prior to
18 working at the Public Defender's Office in the First
19 Judicial Circuit?

20 A Prior, the Estill Police Department.

21 Q And how long did you work at the Estill Police
22 Department?

23 A Approximately four years.

24 Q What were some of your duties at the Estill Police
25 Department?

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1 A Investigating criminal violations within the
2 municipality.

3 Q Okay. And so, were you working for the Estill Police
4 Department on or about March 22nd, 2017?

5 A Yes, ma'am.

6 Q And did you become involved with the case at hand?

7 A Yes.

8 Q Please tell us how you became involved with the case at
9 hand.

10 A I was notified by the Chief of Police that we had a
11 homicide, and that I needed to come to the scene.

12 Q And did you actually do to the scene?

13 A Yes, ma'am.

14 Q What did you find when you arrived?

15 A I found the victim on the scene. I viewed the deceased
16 person.

17 Q Okay. And so, now, what address is this? Do you recall
18 what street? Was it Sapp Boulevard in Estill?

19 A Sapp Boulevard, yes.

20 Q Okay. All right. And so, upon observing the deceased,
21 did you meet with any officers or any other witnesses?

22 A I spoke with the two initially-arriving officers,
23 Officer Bailey and Officer Bennett, I believe.

24 Q Okay. And based on talking with them, did you learn any
25 information?

1 A Yes.

2 Q What did you learn?

3 MR. DEYSACH: I would object to the hearsay.

4 BY ASST. SOLICITOR LEGETTE:

5 Q Your investigation. What did your investigation reveal?

6 THE COURT: Counsel.

7 BY ASST. SOLICITOR LEGETTE:

8 Q The investigation ---

9 THE COURT: Counsel, whoa. Rephrase the question.

10 That objection as to the last question is sustained.

11 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

12 THE COURT: Rephrase it.

13 ASST. SOLICITOR LEGETTE: Thank you.

14 BY ASST. SOLICITOR LEGETTE:

15 Q Did you actually do an investigation at that point?

16 A Yes, ma'am.

17 Q And as a result of your investigation, what did you
18 learn?

19 A I learned that there was a stabbing.

20 MR. DEYSACH: Objection.

21 THE COURT: Sustained. Counsel, approach.

22 (Whereupon, a bench conference is held off the record
23 and out of the hearing of the jury.)

24 THE COURT: Objection sustained.

25 BY ASST. SOLICITOR LEGETTE:

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1 Q Investigator Thomas, as a result of your investigation,
2 what did you do?

3 A I was -- I asked the two initial arriving responding
4 officers were there any eyewitnesses.

5 Q And were there any eyewitnesses?

6 A Yes, ma'am. They advised me that there was one.

7 Q And as a result of that, what did you do?

8 A I attempted to speak with the eyewitness.

9 Q And did you?

10 A Yes, ma'am, I did.

11 Q And where did you speak with the eyewitness?

12 A At the police department.

13 Q And what was the eyewitness' name?

14 A Ms. Zaneh Garvin.

15 Q And about -- approximately how long after the incident
16 or you were dispatched did you talk to the eyewitness?

17 A I want to say it took me about, maybe, twenty minutes to
18 arrive on the scene, so I want to say within the hour.

19 Q And so, as a result of meeting with the eyewitness, did
20 you learn the name of any person involved?

21 A Yes, ma'am.

22 MR. DEYSACH: I would object to the hearsay on that as
23 well.

24 THE COURT: Sustained. Don't elicit hearsay, Counsel.

25 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

1 THE COURT: Proceed. He can testify to what he did and
2 what he sensed with his own senses, and not what someone
3 else told him.

4 ASST. SOLICITOR LEGETTE: Yes.

5 BY ASST. SOLICITOR LEGETTE:

6 Q Investigator Thomas, what did you do upon talking to
7 Zaneh Garvin?

8 A I began to ask her what happened. Upon her giving me
9 her story, she gave the name of Daniel Fludd.

10 MR. DEYSACH: I'm objecting to the hearsay.

11 THE COURT: Don't testify to what someone else said.
12 And don't elicit hearsay. Proceed, Counsel.

13 ASST. SOLICITOR LEGETTE: Yes, your Honor.

14 BY ASST. SOLICITOR LEGETTE:

15 Q Investigator Thomas, after you spoke to Zaneh Garvin,
16 did you get any paperwork for this case?

17 A From ---

18 Q From any officer at SLED.

19 A Yes.

20 Q What did you get?

21 A I requested a SLED six pack, or a photo lineup.

22 Q And who was pictured in the photo lineup?

23 A Several black males, to include a Mr. Daniel Fludd.

24 Q And can you describe this photo lineup that you actually
25 got?

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1 A It was a two-row, a two-column photos of similar-looking
2 black males, based on I believe to be their driver's license
3 photos.

4 Q And can you tell us a little bit about what a photo
5 lineup should consist of? How are the person's picture and
6 what they're supposed to look like?

7 A Each individual in the lineup should look similar. They
8 should be of the same race or nationality or origin. It
9 shouldn't be in any jail clothing or anything that would
10 bring them out. They should be basically driver's license
11 photos.

12 Q And so, they have similar facial features or hair style
13 or characteristics?

14 A Yes.

15 Q Such as height, weight, anything like that?

16 A Yes. Height, weight, and to include facial hair and
17 size.

18 Q And who did you get the photo lineup from?

19 A State Law Enforcement Division.

20 Q And who actually -- did they actually build it for you,
21 or did you tell them who to put in there, or what?

22 A No. They build it totally themselves.

23 Q Now, once you obtained this photo lineup, what did you
24 do with it?

25 A Which point in time I was still interviewing Ms. Garvin.

1 I asked her, if I was to provide her with a photo lineup,
2 would she think she would be able to identify the person.
3 She stated who committed the crime, at which point in time
4 she stated that ---

5 MR. DEYSACH: Objecting to ---

6 BY ASST. SOLICITOR LEGETTE:

7 Q Don't say anything like hearsay. So, at -- okay. So,
8 you presented it to her. Now, who was present with you when
9 you presented the photo lineup to her?

10 A At the time, Captain Williams.

11 Q And upon presenting the photo lineup, did anyone, prior
12 to presenting the photo lineup to her, did anyone in your
13 presence suggest to her who to pick out in the photo lineup?

14 A No.

15 Q Did anyone ever show her any pictures prior to showing
16 her the photo lineup?

17 A No.

18 Q Now, after she viewed the photo lineup was she able to
19 make a selection?

20 A Yes, she was.

21 Q And who did she select in her -- in the photo lineup?

22 A Mr. Daniel Fludd.

23 Q And how did she indicate her selection?

24 A She circled the photo completely -- excuse me. She
25 initialed, dated, and put the time of the photo underneath

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1 the picture of Mr. Daniel Fludd's photo.

2 Q Now, did she appear to be certain of her selection?

3 A Yes.

4 Q Was there any hesitancy at all that she expressed about
5 her selection?

6 A No.

7 Q Did she ever change her mind and offer to circle anyone
8 else's photograph?

9 A Not that I'm aware of, no.

10 Q I hand you now what's been marked and put into evidence
11 as State's 52. Take a moment and tell me if you recognize
12 State's 52.

13 ASST. SOLICITOR LEGETTE: May I approach?

14 THE COURT: You may.

15 BY ASST. SOLICITOR LEGETTE:

16 Q What is State's 52, Investigator Thomas?

17 A The State Law Enforcement Division's photo lineup that I
18 requested.

19 Q And is it changed or altered in any way?

20 A No, ma'am.

21 Q Okay. And so, that's the photo lineup. And if you
22 would hold that up. And who is the picture of the person
23 she actually selected?

24 A Mr. Daniel Fludd.

25 Q And what picture is he?

1 A He is Photo Number 4.

2 Q Okay. Thank you. Now, Investigator Thomas, as a result
3 of speaking with Ms. Garvin that night ---

4 THE COURT: Just a moment. What number is the exhibit?

5 ASST. SOLICITOR LEGETTE: 52.

6 MICHAEL THOMAS: 52.

7 THE COURT: 50-what?

8 MICHAEL THOMAS: 52.

9 THE COURT: Okay. Go ahead, Counsel.

10 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

11 BY ASST. SOLICITOR LEGETTE:

12 Q As a result of meeting with Ms. Garvin this night, what
13 did you do next in your investigation?

14 A We went ahead and started to work on arrest warrants,
15 and to continue to actively look for Mr. Fludd at that time.

16 Q Okay.

17 A Some of the patrol officers.

18 Q And what kind of arrest warrant were you getting for
19 him?

20 A At this point in time, I believe we got a murder
21 warrant.

22 Q Okay. So, you began to look for Mr. Fludd. You got the
23 arrest warrant, and thereafter, did you ever actually see
24 Mr. Fludd?

25 A Not initially, no.

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1 Q Okay. So, when did you see Mr. Fludd, or did you ever
2 see him?

3 A The next -- the time that I saw Mr. Fludd was when he
4 was brought to the police department after being placed
5 under arrest.

6 Q Okay. And so, what day and time was that?

7 A That was that following morning. I'm not exactly sure
8 what time, but it was pretty early.

9 Q So, it would've been March 23rd?

10 A Yes.

11 Q Okay. And so, once he was brought to the police
12 department, did you ever talk to him?

13 A Yes.

14 Q And who was present with you?

15 A Captain Alex Williams.

16 Q So, when he's brought in, do you ever Mirandize him?

17 A Yes, I did.

18 Q Okay. And so, tell us how you Mirandized him.

19 A The Estill Police Department has a formal Miranda form
20 that we use by policy. We generally read the Miranda
21 warnings one by one, asking if the individual being
22 Mirandized if they understand. If they do understand we ask
23 them to initial by each one after reading each Miranda
24 warning. Right after that we ask them would they still like
25 to give a statement, knowing their rights. If they agree to

1 speak to law enforcement, we ask that they sign and date.
2 Finally, there's several questions asking the individual are
3 they -- are you under the influence of narcotics, illegal
4 substances or alcohol. If they say no to all of them, then
5 we can get into begin our questioning, with a witness
6 present, who actually signs and dates that Miranda form as
7 well.

8 Q And did you do all of these things with Mr. Fludd?

9 A Yes, ma'am.

10 Q Investigator Thomas, I will hand you in a moment what's
11 been marked for identification as State's 53. Take a moment
12 and tell me if you recognize State's 53.

13 ASST. SOLICITOR LEGETTE: May I approach?

14 THE COURT: You may.

15 BY ASST. SOLICITOR LEGETTE:

16 Q Investigator, do you recognize State's 53?

17 A Yes, ma'am.

18 Q And what is State's 53?

19 A Statement of Miranda warnings or rights.

20 Q And is State's 53 a fair and accurate reflection of the
21 Miranda rights form you gave to Mr. Daniel Fludd?

22 A They are.

23 Q Has it been changed or altered in any way?

24 A No.

25 ASST. SOLICITOR LEGETTE: At this time, your Honor, I

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1 would offer for admission into evidence State's 53.

2 THE COURT: As to 53?

3 MR. DEYSACH: No objection.

4 THE COURT: Ladies and gentlemen of the jury, State's
5 Exhibit Number 53 will be admitted into evidence in the
6 trial of this case, without objection. State's 53 is in
7 evidence. You may now publish to the jury.

8 (WHEREUPON, STATE'S EXHIBIT NUMBER 53, IDENTIFIED AND
9 MARKED, ADMITTED INTO EVIDENCE.)

10 BY ASST. SOLICITOR LEGETTE:

11 Q Now, Investigator Thomas, when you were meeting with Mr.
12 Fludd and Captain Williams, what kind of room were you in?

13 A We were in the investigation room.

14 Q And how -- did he ever -- once you Mirandized him did he
15 waive his rights and agree to speak with you?

16 A Yes, he did.

17 Q And did he indicate doing so by actually signing that
18 form?

19 A Yes, he did.

20 Q And he also initialed that form as well?

21 A Yes.

22 Q Okay. Now, the actual statement itself, how was it
23 captured? Was it on video, was it written?

24 A Audio and video.

25 Q Okay. And so, your courtroom has an audio and video

1 equipment?

2 A Not installed. You have to have the individual
3 recording device.

4 Q Okay. And so, when he makes his statement, is it
5 actually captured on video and audio?

6 A Yes.

7 Q Now, when Mr. Fludd was meeting with you, did he ever
8 express his desire to stop talking with you, and asked for
9 an attorney to be present with him?

10 A No.

11 Q Did you ever threaten him, or you or anyone present ever
12 threaten him in order to get him to make a statement?

13 A No.

14 Q Did you or anyone present with you ever promise anything
15 in order to get him to talk to you?

16 A No.

17 Q Did you ever threaten him in any manner in order to get
18 him to make a statement?

19 A Did he have, or did he appear to have, any mental
20 infirmities that would keep him from understanding what he
21 was doing in making a statement to you?

22 A I did not think so.

23 Q Did he appear to be under the influence of any alcohol
24 or drugs?

25 A Not that I'm aware of.

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1 Q And did he freely and voluntarily make that statement to
2 you?

3 A Yes.

4 Q Now, had you previously reviewed the statement, both
5 audio and video, that you actually took from Mr. Fludd on
6 the morning of March 23, 2017, for accuracy?

7 A I have.

8 Q And does that statement also include a written
9 transcript; that particular statement as well?

10 A It does.

11 Q Have you also actually reviewed the written transcript
12 that accompanies the audio and video statement?

13 A I have.

14 Q And are -- is the audio statement a fair and accurate
15 reflection of the video or interview you took with Mr. Fludd
16 on March 23rd, 2017?

17 A It is.

18 Q Now, Investigator Thomas, I will hand you in a moment
19 what's been marked for I.D. as State's 54 and State's 101.

20 THE COURT: Counsel, approach.

21 (Whereupon, a bench conference is held off the record
22 and out of the hearing of the jury.)

23 BY ASST. SOLICITOR LEGETTE:

24 Q Investigator Thomas, I'm handing you now what's been
25 marked for identification as State's 54 and State's 101.

1 Please take a moment and tell me if you recognize State's 54
2 and State's 101.

3 ASST. SOLICITOR LEGETTE: May I approach the witness?

4 THE COURT: You may.

5 BY ASST. SOLICITOR LEGETTE:

6 Q Investigator Thomas -- I'm sorry. Investigator Thomas,
7 do you recognize State's 54 and State's 101?

8 A Yes.

9 Q And what is State's 54?

10 A 54 is the CD of the initial interview.

11 Q Okay. And is it a fair and accurate reflection of the
12 interview you took with Mr. Fludd on March 23, 2017?

13 A It is.

14 Q And has it been changed or altered in any way?

15 A No.

16 Q And does it also include a written -- I'm sorry. Does
17 it also include an audio -- I'm sorry, a transcript overlaid
18 on the audio and video CD?

19 A Yes, it does.

20 Q Okay. And have you reviewed that transcript for
21 accuracy as well?

22 A I have.

23 Q And is the transcript a fair and accurate reflection of
24 that particular interview statement?

25 A It is.

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1 Q And as to State's 101, what is State's 101?

2 A It is the written transcript of the audio/visual
3 version.

4 Q And have you previously, at our request, reviewed
5 State's 101 for accuracy, as it accompanies State's 54?

6 A I have.

7 Q And is it a fair and accurate reflection of the audio
8 and video transcript that is in State's 54?

9 A It is.

10 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
11 would offer State's 54 and State's 101 for admission into
12 evidence.

13 THE COURT: As to 54 and 101, Counsel?

14 MR. DEYSACH: There's no objection.

15 THE COURT: State's Exhibit Number 54, State's Exhibit
16 Number 101 will be admitted in the trial of this case,
17 without objection. 54 and 101 are in evidence. You may now
18 publish to the jury.

19 (WHEREUPON, STATE'S EXHIBIT NUMBER 54 AND STATE'S
20 EXHIBIT NUMBER 101, IDENTIFIED AND MARKED, ADMITTED INTO
21 EVIDENCE.)

22 ASST. SOLICITOR LEGETTE: Thank you, your Honor. May I
23 approach the witness?

24 THE COURT: You may. Can you dim the lights, Madam
25 Clerk, can you turn it up?

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1 (BEGIN 10:40 TO 11:01.)

2 ASST. SOLICITOR LEGETTE: That's all, your Honor.

3 THE COURT: Lights, please.

4 BY ASST. SOLICITOR LEGETTE:

5 Q Investigator Thomas.

6 A Ma'am.

7 Q And that was the substance of the statement you took
8 from Mr. Fludd?

9 A Yes, ma'am.

10 Q Now, Investigator Thomas, thereafter, after you met with
11 Mr. Fludd, did you or anyone with you -- I'm sorry.

12 A One more time, ma'am.

13 Q Okay. I'm sorry. After meeting with Mr. Fludd, or
14 during your meeting with Mr. Fludd, did you or anyone with
15 you, Captain Williams, send any officers back to the
16 location?

17 A Yes. Officer Bailey and Officer Perry Bennett.

18 Q Okay. And where were they sent?

19 A They were sent back to the incident location.

20 Q And was that at Sapp Boulevard?

21 A Yes, ma'am.

22 Q Okay. And thereafter, what other involvement did you
23 have with this case? Did you collect any evidence in this
24 case?

25 A Yes, ma'am, I did.

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1 Q What evidence did you collect?

2 A I collected a buccal swab from Mr. Daniel Fludd.

3 Q Did you collect it, or were you present when it was?

4 A I was present when it was collected.

5 Q Okay. All right. And did you collect any other
6 evidence, or did you take any evidence to any other
7 locations?

8 A Yes. I took several items to SLED, Columbia.

9 Q Okay. Do you recall what items you took?

10 A Yes. I took that buccal swab that was collected; I took
11 a pair of blue jeans; I took a black sweater belonging to
12 Mr. Fludd; I took numerous items from the autopsy at MUSC in
13 Charleston; and I took, also, a silver-colored -- looked
14 like a -- a crack razor, or a box cutter.

15 Q Did you also take a shovel?

16 A Yes. I took a shovel broken into three portions,
17 actually.

18 Q Okay. And when you took those items to SLED, could you
19 tell us who you turned those items over to at SLED?

20 A They were collected -- I don't remember the young lady's
21 name, but one of the -- one of the young ladies who does the
22 analysis.

23 Q Would it help you to refer to your notes?

24 A Yes.

25 Q In order to determine who you turned it over to at SLED?

1 A Yes.

2 Q Do you have them with you?

3 ASST. SOLICITOR LEGETTE: Begging the Court's
4 indulgence.

5 BY ASST. SOLICITOR LEGETTE:

6 Q What was the condition -- once you signed the items you
7 referred to earlier, Investigator Thomas, I will hand you
8 now what has not been marked for evidence -- just I.D., as
9 State's 102. I will hand you what's been marked previously
10 for identification as State's 102. Take a moment and tell
11 me if you recognize this item.

12 ASST. SOLICITOR LEGETTE: May I approach?

13 THE COURT: You may.

14 BY ASST. SOLICITOR LEGETTE:

15 Q Investigator Thomas, after referring to your notes, are
16 you able to tell us who you turned over the items to at
17 SLED?

18 A These items were turned over to a Ms. -- looks like Ms.
19 Yarbrough.

20 Q Would that be Doris Yarbrough?

21 A Yes, ma'am.

22 Q Okay. And so, when you took the items from the Estill
23 Police Department and signed them out, whose -- did it
24 remain under your complete custody and control during that
25 period of time?

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1 A Absolutely.

2 Q And were they ever tampered with in any way?

3 A No.

4 Q What was the condition of those items when you took them
5 to SLED?

6 A In the condition that I received them.

7 Q Were they in a sealed condition?

8 A Yes.

9 Q Okay. I'm going to hand you now what has been marked
10 and put into evidence as State's Number 88. And I believe
11 this is State's Number 9.

12 THE COURT: What are you handing him, Solicitor? Be
13 clear.

14 BY ASST. SOLICITOR LEGETTE:

15 Q I'm handing you -- this is the shovel ---

16 THE COURT: No. I'm not asking you to testify. Give
17 me an exhibit number. Don't just recite ---

18 ASST. SOLICITOR LEGETTE: State's 88.

19 BY ASST. SOLICITOR LEGETTE:

20 Q I'm going to hand you State's 88.

21 THE COURT: All right. State's 88. Hand it to him.

22 ASST. SOLICITOR LEGETTE: May I approach the witness?

23 THE COURT: You may.

24 BY ASST. SOLICITOR LEGETTE:

25 Q Do you recognize State's 88?

1 A Yes, ma'am.

2 Q And what is State's 88?

3 A The silver-colored box cutter.

4 Q All right.

5 THE COURT: Hold it, Solicitor. Mr. Foreman, ladies
6 and gentlemen of the jury, we'll take our one and only break
7 this morning. Please retire to your jury room. Please do
8 not discuss the case. Stay right there on the witness
9 stand. I want to see you, Solicitor, and Mr. Deysach in my
10 chambers.

11 (Whereupon, the jury exits the courtroom and the Court
12 is in recess during the trial of this case. Thereafter, the
13 Court is back on the record.)

14 THE COURT: Is the State ready to proceed?

15 ASST. SOL. LEGETTE: Yes, Your Honor.

16 THE COURT: Is the Defendant ready to proceed?

17 MR. DEYSACH: Yes, Your Honor.

18 THE COURT: Bring us the jury, Coach.

19 (WHEREUPON, THE JURY ENTERS THE COURTROOM AND THE
20 FOLLOWING IS HELD ON THE RECORD.)

21 THE COURT: All right. Mr. Foreman, ladies and
22 gentlemen of the jury, we'll now continue with the testimony
23 in the trial of this case. This witness is under oath,
24 direct examination. Solicitor, proceed.

25 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

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1 BY ASST. SOLICITOR LEGETTE:

2 Q Investigator Thomas, you were looking at State's Exhibit
3 Number 88. But before you look at State's 88, I want to
4 hand you what's also been marked for identification State's
5 57, State's 80, State's 103, State's 38, and State's Number
6 9. Take a moment and tell me if you recognize these items.

7 ASST. SOLICITOR LEGETTE: May I approach the witness?

8 THE COURT: Give the court reporter the numbers,
9 Solicitor. Have you got them?

10 COURT REPORTER: I've got them.

11 ASST. SOLICITOR LEGETTE: I have one more. I have
12 State's 9. I'm coming.

13 BY ASST. SOLICITOR LEGETTE:

14 Q Do you recognize State's 88, State's Number 9, State's
15 38, State's 57, State's 80, and State's 103?

16 A Yes.

17 THE COURT: Now, Solicitor, you just marked 102 for
18 identification only.

19 ASST. SOLICITOR LEGETTE: That's right, Your Honor.
20 Just for identification only.

21 THE COURT: All right. Exhibits 88, 9, 38, 57, and
22 what?

23 ASST. SOLICITOR LEGETTE: 57, 80, and Number 103.

24 THE COURT: 8?

25 ASST. SOLICITOR LEGETTE: 80.

1 THE COURT: 88, 9, 38, 57, 80, and 103?

2 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

3 BY ASST. SOLICITOR LEGETTE:

4 Q Do you recognize those State's exhibits?

5 A Yes.

6 Q And are they in a fair -- I'm sorry. Are they in
7 substantially the same condition today as when you turned
8 them over to Doris Yarbrough at SLED?

9 A Yes, they are.

10 Q And I forgot to ask you, what date did you turn them
11 over to Doris Yarbrough at SLED, if you will look on your --

12 A These were turned over March 30th of 2017.

13 Q Okay. Thank you. And do you have any other involvement
14 in this case? When you turned those over, did you have any
15 other involvement? I don't believe you did.

16 A No.

17 Q Okay. Thank you. I have no further questions. Let me
18 get the evidence back. Answer any questions from the
19 Defense.

20 THE COURT: Cross-examination.

21 MR. DEYSACH: Thank you, your Honor.

22 THE COURT: Leave that up here. That's not in evidence

23 CROSS-EXAMINATION

24 BY MR. DEYSACH:

25 Q Good morning, Investigator Thomas.

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1 A Good morning, sir.

2 Q Okay. Just a few questions. You actually responded to
3 408 Sapp Boulevard on the early morning hours of March the
4 23rd, correct?

5 A Yes, correct.

6 Q All right. And it was Officers Bennett and Bailey who
7 were in charge of keeping that crime scene secure, correct?

8 A Yes. They were the responding officers.

9 Q Okay. And so, do you know at what time they released
10 that scene back to the homeowners?

11 A That, I'm not -- I'm not sure.

12 Q Okay. So, when you left the 408 Sapp Boulevard, was the
13 crime scene still secure?

14 A Yes, it was.

15 Q Okay. And do you know what time that was?

16 A I arrived on-scene about 12:00 a.m. that morning. I was
17 on-scene probably maybe about thirty-five, forty minutes.

18 Q Okay.

19 A And then I left.

20 Q And then you left, and the next thing that you did was
21 to have a conversation with Zaneh Garvin?

22 A Yes, sir.

23 Q Okay. All right. I'm going to ask you a little bit
24 about what she told you. She told you that, that night,
25 when she had first met Daniel Fludd at the dry cleaners,

1 right?

2 ASST. SOLICITOR LEGETTE: Objection, your Honor. I
3 would object to hearsay.

4 THE COURT: Sustained. Don't refer to what someone
5 else said in your question. Rephrase your question,
6 Counsel. This is cross, but you can't elicit hearsay.

7 MR. DEYSACH: Your Honor, I'm offering this as a prior
8 inconsistent statement. When Ms. Garvin testified ---

9 THE COURT: Then, don't -- rephrase your question
10 without stating what someone else said.

11 MR. DEYSACH: All right. I mean, eliciting what she
12 said, Your Honor.

13 THE COURT: Rephrase your question, Counsel. You
14 certainly can do it without stating it in the manner in
15 which you did. Proceed.

16 MR. DEYSACH: Okay.

17 BY MR. DEYSACH:

18 Q Did she tell you where she first met Daniel Fludd?

19 A Yes.

20 Q That night?

21 A Yes, I believe so. Yes.

22 Q Well, did she tell you at the dry cleaners?

23 A Yes, I believe so. Yes, sir.

24 Q Okay. Did she tell you how Bobby originally got the
25 gold chain?

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1 A Yes.

2 Q Did she tell you that Daniel gave it to him?

3 A Yes.

4 Q Did she tell you why he gave it to him?

5 A I believe, yes. Yes, she did.

6 Q Did she tell him that Daniel gave Champ the chain so he
7 could fix it?

8 A I don't think so.

9 Q Did she tell you that Champ had had the chain for about
10 two days?

11 A I don't recall the duration.

12 Q Okay. So, you don't remember her telling you that she
13 gave -- that Daniel gave Champ the necklace in order to ---

14 ASST. SOLICITOR LEGETTE: Your Honor, I would object --

15 THE COURT: Sustained. You've asked that question,
16 it's been answered. Proceed, Counsel. Cross-examination.

17 MR. DEYSACH: Sure.

18 BY MR. DEYSACH:

19 Q All right. So, the next thing that you do is, you --
20 you talk to Daniel, right? And that's at -- you gave the
21 time, I think, 9:00 o'clock in the morning. Is that
22 correct?

23 A Somewhere around there. 9:00 o'clock, yes, sir.

24 Q All right. And you gave the time of the -- on the
25 recording that was admitted into evidence, and I believe it

1 was around 9:00 o'clock. That's correct. All right.

2 THE COURT: Ask a question.

3 MR. DEYSACH: Yes, Your Honor.

4 BY MR. DEYSACH:

5 Q Okay. So, you're -- you've been an investigator -- you
6 were an investigator at Estill for four years, correct?

7 A Yes.

8 Q Were you an investigator anytime before then?

9 A Yes.

10 Q How long have you been an investigator altogether, up to
11 that point?

12 A About a total of eight years.

13 Q All right. So, that means that for this case, it seems
14 like Lieutenant Williams had responsibilities, but you were
15 in charge of investigating this case; is that correct?

16 A I'm the lead investigator.

17 Q Okay. And so, it's -- I guess it would be your job,
18 then, to bring all the information together so that you can
19 figure out whether or not you got a case you can prosecute
20 or not.

21 A It's a collaboration.

22 Q Okay. So, part of what you have to do is to collect all
23 of the -- you know, make sure all of the evidence that might
24 be relevant in this case is collected, correct?

25 A Yes.

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1 Q All right. And so, you didn't know to go looking for a
2 shovel until Mr. Fludd had talked to you about the shovel,
3 correct?

4 A That is correct.

5 Q And you had already interviewed Zaneh Garvin at that
6 point, correct?

7 A Correct.

8 Q And she didn't tell you anything about a shovel at that
9 time, did she?

10 A That is correct.

11 Q Okay. And in fact, you even asked her, is there
12 anything else you need to tell me about, correct?

13 A Yes.

14 Q And even so, no response about a shovel?

15 A No, sir.

16 Q Okay. So, then, we're at 9:00 o'clock. Now, at 9:00
17 o'clock, do you know whether or not your evidence scene at
18 408 Sapp Boulevard was still secure?

19 A No, it would've been cleared.

20 Q It would've been cleared?

21 A Yes, sir.

22 Q Okay. Do you know how long it would've been cleared
23 for?

24 A If we're talking 9:00 o'clock after the coroner's moved
25 the body and such, so I would like to say probably 4:00 or

1 5:00.

2 Q Four or five hours? Is it ---

3 A 4:00 -- about 4:00 or 5:00 o'clock in the morning.

4 Q That would've been the time that it would've cleared?

5 A Yes, sir.

6 Q Okay. All right. And so -- and it's not until after
7 the interview with Mr. Fludd that the shovel is then looked
8 for, correct?

9 A That's correct.

10 Q Okay. So, when that -- when the police returned to --
11 to look for that shovel, the evidence scene is not secure at
12 that time, is it?

13 A That's correct.

14 Q Okay. And as the lead investigator, you're aware of no
15 documentation made by any of the officers who found that
16 shovel, about the shovel, are you? Bad question. Maybe I
17 can retry.

18 THE COURT: Counsel, don't make comments or testify.
19 Just ask questions.

20 MR. DEYSACH: Okay.

21 THE COURT: Do you understand the question? Repeat
22 your question.

23 MR. DEYSACH: All right.

24 BY MR. DEYSACH:

25 Q Is there any documentation from the officers about the

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1 shovel? Who found the shovel?

2 A If the officer was sent back to the scene to locate a
3 shovel, if they locate it they may have done a supplemental
4 report stating that they found the shovel.

5 Q Okay. Do you ever remember seeing one?

6 A I don't recall.

7 Q There were no pictures, were there?

8 A I don't think so.

9 Q All right. All right. With -- your conversation with --
10 -- with Mr. Fludd, you've -- you've participated in a number
11 of interviews with people accused of crimes, correct?

12 A Yes.

13 Q It's part of your job as an investigator, correct?

14 A (No response.)

15 Q And you've been doing that job for, I think you said
16 eight years before the time when you had interviewed Mr.
17 Fludd in this case, correct?

18 A Approximately.

19 Q Okay. It's -- it's not abnormal for somebody who's
20 accused of a crime to not be forthcoming initially, is it?

21 A No.

22 Q That's why you continue asking questions, even though
23 the person isn't forthcoming immediately, correct?

24 A That's correct.

25 Q And what you end up doing is confronting them with bits

1 of information to try and get them to elicit more responses,
2 correct?

3 A That's correct.

4 Q And in the end, you're trying to get them to tell you
5 what really happened, correct?

6 A That's correct.

7 Q And I think as we saw, it can take some time to actually
8 get there, correct?

9 A Yes.

10 Q In fact, you go to -- you get training in how you're
11 supposed to conduct these interviews, correct?

12 A That's correct.

13 Q Because you know that the person isn't going to be
14 immediately forthcoming, correct?

15 A For the most part.

16 Q Right. I mean, they're in custody, correct? Right?
17 They're -- answer verbally, please.

18 A Yes.

19 Q They are being told they're accused breaking the law,
20 correct?

21 A Correct.

22 Q So they know that they're in some sort of trouble,
23 correct?

24 A Correct.

25 Q All right. So that can make them reticent at times to

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1 actually have a conversation with you, correct?

2 A Possibly.

3 Q All right. And that's what happened in this case,
4 correct?

5 A I want to say so.

6 Q You know, that -- are you saying that -- you're not
7 saying that -- okay. Daniel was initially not forthcoming,
8 correct?

9 A That is correct.

10 Q Okay. And you kept asking him questions until he became
11 more forthcoming, correct?

12 A That is correct.

13 Q All right. And after he's initially not forthcoming
14 about anything, then he becomes forthcoming, but not fully
15 forthcoming. Would you agree with that?

16 A Yes.

17 Q That he admits that there is an altercation, correct?

18 A Correct.

19 Q He admits that there's the swinging of a shovel at him,
20 correct?

21 A Correct.

22 Q But he does -- and he tells you about the necklace,
23 correct?

24 A That's correct.

25 Q But he does not admit to stabbing or poking Mr. Atkins,

1 correct?

2 A Initially, correct.

3 Q But he does tell you that he was in fear for his life,
4 correct?

5 A Correct.

6 Q And that he shows you the injury that he sustained from
7 the shovel, correct?

8 A That he states that that's what it came from.

9 Q Right. And you agree that there was an injury there.
10 You said it looked a little swollen, correct?

11 A That's correct.

12 Q All right. And in fact, after the interview, he went to
13 the hospital to get checked out, correct?

14 A That is correct.

15 Q All right. All right. But that when he gets further
16 confronted, both about time and Mr. Atkins' condition, he
17 becomes more forthcoming, correct?

18 A That's correct.

19 Q All right. That he continues to say that he was in fear
20 for his life, correct?

21 A Correct.

22 Q You actually ended up finding the broken shovel,
23 correct?

24 A Yes.

25 Q That he told you, what do you expect me to do, correct?

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1 A That is correct.

2 Q He told you that the first thing that happened in the
3 altercation was that Mr. Atkins swung the shovel, correct?

4 A Correct.

5 Q He told you where it occurred, correct?

6 A Not initially.

7 Q Not initially? In the end, when he's at his most
8 forthcoming, does he tell you where it occurred?

9 A Yes.

10 Q That he tells you it occurred on Godbold Street,
11 correct?

12 A In that dirt portion.

13 Q Okay. Is -- he said where the dirt portion of the -- of
14 where they just had arrested him, correct?

15 A Yes.

16 Q Was that Godbold Street? Are you -- if you're not sure.

17 A It is. It is.

18 Q Okay. That he said it occurred at the T on that street?

19 A Correct.

20 Q Okay. And not within the yard of the Gordon's, correct?

21 A That's correct.

22 Q He told you that he first encountered them at the cut in
23 front of the church, correct?

24 A That is correct.

25 Q That Mr. Atkins and Ms. Garvin continued walking

1 from the cut in front of the church, correct?

2 A That is correct.

3 Q And he said that he walked them down, correct?

4 A Correct.

5 Q And that's how he ended up in the place -- in the
6 location we just described, correct?

7 A That's correct.

8 Q He told you that all he wanted was his chain, correct?

9 A That is correct.

10 MR. DEYSACH: All right. I don't have anything
11 further, your Honor.

12 THE COURT: Redirect.

13 ASST. SOLICITOR LEGETTE: Briefly.

14 REDIRECT EXAMINATION

15 BY ASST. SOLICITOR LEGETTE:

16 Q Investigator Thomas, the dirt portion, Godbold Street --
17 do Godbold Street and Sapp Street intersect?

18 A They do.

19 Q And is the house at 408 Sapp Street, what is the other
20 street that's by it?

21 A You've got Godbold, and then, like, Godbold circles,
22 something like that. You have -- so that form, like, a T
23 intersection.

24 Q All right. So, Godbold Street and Sapp Street are
25 actually at the same place?

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1 A Yes, they are.

2 Q Okay. Now -- and the dirt portion actually is right in
3 front of the Sapp -- of the Gordon house?

4 A It is.

5 ASST. SOLICITOR LEGETTE: Begging the Court's
6 indulgence. I have nothing further.

7 THE COURT: Re-cross, limited to redirect, Counsel.

8 MR. DEYSACH: Thank you, your Honor.

9 RE-CROSS-EXAMINATION

10 BY MR. DEYSACH:

11 Q So, the location that is being described is adjacent to
12 the Gordon house, the 408 Sapp Street address, correct?

13 A That is correct.

14 Q Okay. Very nearby to that -- to that yard?

15 A That's correct.

16 MR. DEYSACH: Nothing further.

17 THE COURT: As to this witness, Counsel?

18 ASST. SOLICITOR LEGETTE: We ask that he be excused,
19 your Honor.

20 THE COURT: Any objection?

21 MR. DEYSACH: No, Your Honor.

22 THE COURT: You may step down. Leave my exhibits.

23 Counsel, approach. Leave my exhibits here. You are excused
24 from the trial of this case. You may leave the courtroom.

25 MICHAEL THOMAS: Thank you, your Honor.

1 THE COURT: Counsel approach.

2 (Whereupon, a bench conference is held off the record
3 and out of the hearing of the jury.)

4 THE COURT: Call your next witness.

5 ASST. SOLICITOR LEGETTE: State calls Captain Alexander
6 Williams.

7 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
8 SWORN, TESTIFIED AS FOLLOWS:)

9 THE COURT: Have a seat and make yourself comfortable.
10 You've been watching me all trial, haven't you?

11 ALEX WILLIAMS: Yes, sir.

12 THE COURT: What am I going to say next?

13 ALEX WILLIAMS: Don't nod your head, yes or no answers,
14 no unh-unh or uh-huh (affirmative).

15 THE COURT: Speak up.

16 ALEX WILLIAMS: Yes, sir.

17 THE COURT: I'm glad you listened. State your full
18 name, spelling your last name for the court reporter.

19 ALEX WILLIAMS: Alex David Williams, last name
20 W/i/l/l/i/a/m/s.

21 THE COURT: Your witness, Counsel.

22 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

23 DIRECT EXAMINATION

24 BY ASST. SOLICITOR LEGETTE:

25 Q Captain Williams, sir, where do you work?

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1 A Estill Police Department.

2 Q For how long?

3 A Approximately, this time, almost three years.

4 Q And were you working for Estill Police Department on or
5 about March 22-23, 2017?

6 A Yes, ma'am.

7 Q Did you become involved in the case at Bar?

8 A Yes, ma'am.

9 Q Did you have occasion to meet with Mr. Thomas and Mr.
10 Fludd?

11 A Yes, ma'am.

12 Q During that interview, did you take any evidence?

13 A Yes, ma'am.

14 Q What did you take?

15 A I took a buccal swab from Mr. Fludd.

16 Q And did he -- how did he give you that ---

17 A He consented, yes.

18 Q Did he consent?

19 A Yes.

20 Q So, he consented to giving it to you?

21 A Yes, he did.

22 Q Okay. Lieutenant -- I'm sorry -- Captain Williams, I
23 will hand you now what's been marked for identification
24 State's 57. Just take a moment and tell me if you recognize
25 this item.

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Direct Examination of Alex Williams by Asst. Sol. Legette

1 ASST. SOLICITOR LEGETTE: May I approach?

2 THE COURT: You may.

3 BY ASST. SOLICITOR LEGETTE:

4 A Yes, ma'am, I do.

5 Q And what is State's 57?

6 A It is a buccal swab taken from Mr. Fludd at the Estill
7 Police Department.

8 Q And was that particular buccal swab taken by yourself?

9 A Yes, it was.

10 Q And is the buccal swab today in substantially the same
11 condition today as when you took it from Mr. Fludd on March
12 23, 2017?

13 A Yes, ma'am.

14 Q As far as you can tell, has it been changed or altered
15 in any way?

16 A No, ma'am.

17 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
18 would offer State's 57 for admission into evidence.

19 THE COURT: As to State's -- is it 7?

20 ASST. SOLICITOR LEGETTE: 57.

21 THE COURT: 57. As to State's 57?

22 MR. DEYSACH: No objection.

23 THE COURT: Ladies and gentlemen of the jury, State's
24 Exhibit Number 57 will be admitted into evidence in the
25 trial of this case, without objection. 57 is in evidence.

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Direct Examination of Alex Williams by Asst. Sol. Legette

1 You may publish.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER 57, IDENTIFIED AND
3 MARKED, ADMITTED INTO EVIDENCE.)

4 BY ASST. SOLICITOR LEGETTE:

5 Q Captain Williams, while you were with Mr. Fludd and
6 Lieutenant Thomas, did you ever pat him down or search him
7 for any items?

8 A No, ma'am. That was done prior to his arrival.

9 Q Okay. And thereafter, did you have occasion to attend
10 the autopsy of Bobby Atkins? Or not attend, but did you, at
11 some point, go to MUSC?

12 A Yes. I retrieved the items from MUSC that were taken
13 from Mr. Atkins during autopsy.

14 Q Can you tell us briefly what items you took from -- from
15 the ---

16 A I believe the clothing he was wearing that evening.
17 Also, a blood spot, I think, and some cleaner.

18 Q Okay. Captain Williams, I will hand you now what's been
19 marked for identification as State's Number 80 and State's
20 Number 103. Would you take a moment and tell me if you
21 recognize these items.

22 ASST. SOLICITOR LEGETTE: May I approach the witness?

23 THE COURT: 103 and 80?

24 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

25 THE COURT: Eight-zero?

1 ASST. SOLICITOR LEGETTE: Yes, sir. May I approach the
2 witness?

3 THE COURT: You may.

4 BY ASST. SOLICITOR LEGETTE:

5 Q Do you recognize State's 80 and 103?

6 A Yes, ma'am.

7 Q And are State's 80 and 103, what are they?

8 A It's fingernail clippings, some blood spots, taken from
9 Mr. Atkins during his autopsy.

10 Q Captain Williams, what is State's 103?

11 A That's scalp hair and fingernail clippings, and things
12 taken during the autopsy.

13 Q And what is State's 80?

14 A Appears to be a blood spot taken from Mr. Atkins during
15 autopsy.

16 Q Thank you. And are State's 103 and 80 in substantially
17 the same condition today as when you received them from the
18 autopsy at MUSC?

19 A Yes, ma'am.

20 Q To your knowledge, have they been changed or altered in
21 any way?

22 A No, ma'am.

23 Q Okay. Captain Williams, at some point did you also
24 attempt to retrieve any other items of evidence in this
25 case?

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1 A Yes, I did. I attempted to obtain a gold chain from the
2 Hampton County Detention Center.

3 Q And why were you looking for that gold chain?

4 A That was the basis of the claim from Mr. Fludd, the gold
5 chain. It was with his property at the Hampton County
6 Detention Center.

7 Q And what did you do to try to obtain the gold chain?

8 A I obtained a search warrant for that property.

9 Q And when you -- did you execute the search warrant?

10 A Yes. I attempted to execute the search warrant. We
11 discovered that Mr. Fludd had turned the property over to
12 his sister back in 2017.

13 Q Captain Williams, I hand you now what has been
14 previously marked for identification State's 104. Please
15 take a moment and tell me if you recognize State's 104.

16 ASST. SOLICITOR LEGETTE: May I approach the witness?

17 THE COURT: You may. Solicitor, those are not in.

18 ASST. SOLICITOR LEGETTE: Yes, sir. Yes, sir.

19 THE COURT: Put them in the other pile.

20 ASST. SOLICITOR LEGETTE: Yes, sir.

21 BY ASST. SOLICITOR LEGETTE:

22 Q Do you recognize ---

23 A Yes, ma'am, I do.

24 Q And what is State's 104?

25 A That's the property release form we were given from the

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1 Hampton County Detention Center, upon request.

2 Q And is State's 104 the fair and accurate reflection of
3 the property release form that you received from the Hampton
4 County Detention Center?

5 A Yes, ma'am, it is.

6 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
7 would offer State's 104 for admission into evidence.

8 THE COURT: As to 104, Counsel?

9 MR. DEYSACH: No objection.

10 THE COURT: Ladies and gentlemen of the jury, State's
11 Exhibit 104 will be admitted into evidence in the trial of
12 this case, without objection. You may publish.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER 104, IDENTIFIED AND
14 MARKED, ADMITTED INTO EVIDENCE:)

15 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

16 BY ASST. SOLICITOR LEGETTE:

17 Q Captain Williams, I ask you, just briefly can you read
18 just a few lines of that receipt for us, please?

19 A Black and yellow necklace.

20 Q Start at the top, please.

21 A Yellow necklace.

22 Q Not, at the top, the very top.

23 A Very top.

24 Q Property receipt.

25 A Oh. "I, Daniel Fludd, authorize Hampton County

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1 Detention Center to release the following personal property
2 removed from me at the time of my arrest to Danielle Fludd."

3 Q And what else does it say?

4 A It gives a description of the property, and is listed
5 from, it says, a yellow -- number one is a yellow necklace;
6 two is a black and red backpack.

7 Q And that's enough. And is it signed?

8 A Yes.

9 Q Who is it signed by?

10 A It states, I, Daniel Fludd, received -- Danielle Fludd
11 received the above listed property from the Hampton County
12 Detention Center. Dated 5/10/17, fifteen-hundred dollars.
13 It has a releasing officer of Roberts, I believe, his
14 signature.

15 Q And are there other items listed as far being released
16 to Ms. Danielle Fludd, also?

17 A Yes.

18 Q And there is an accompanying page, I think two
19 accompanying pages, on State's 104.

20 A Yes. There is a Georgia identification card of a Ms.
21 Danielle -- I can't read the middle name, Nakandra, Fludd.
22 And there's also a section that says, I, Danielle Fludd,
23 authorize the Hampton County Detention Center to release the
24 following personal property removed from me at the time of
25 my arrest to Danielle Fludd." And it just states a yellow

1 necklace; number one, yellow necklace. Two, black/red
2 backpack. Black and red backpack and all the contents.

3 Q Okay. Thank you. Now, just briefly, Captain Williams,
4 you briefly talked with Mr. Fludd when he was Mirandized
5 during his statement?

6 A Yes, ma'am.

7 Q Did you know where Mr. Fludd lived?

8 A He stated to us 150 Country Craft Road.

9 Q And in relationship to the incident location at 408 Sapp
10 Boulevard, where is 150 Country Craft Road?

11 A It would be east of the town of Estill, several miles
12 east, out in unincorporated area of the county area.

13 Q And does that area have a name?

14 A That's the Lena Area.

15 Q And approximately, you know how many miles it would be
16 from Sapp Boulevard?

17 A I don't have an approximate mileage, but it is several
18 miles outside of town limits.

19 Q Now, Captain Williams, you said you'd been in law
20 enforcement how many years?

21 A About ten.

22 Q Do you know the penalty for petty larceny?

23 A A thirty-day misdemeanor.

24 ASST. SOLICITOR LEGETTE: Begging the Court's
25 indulgence.

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1 BY ASST. SOLICITOR LEGETTE:

2 Q Captain Williams -- oh, I'm sorry, one more thing. In
3 the personal effects, when you said you went -- you went to
4 MUSC and got items from the autopsy, did you get any items
5 at the autopsy of Bobby Atkins of any jewelry?

6 A I don't remember. I'd have to look at the paperwork,
7 but I don't recall any.

8 ASST. SOLICITOR LEGETTE: Begging the Court's
9 indulgence.

10 BY ASST. SOLICITOR LEGETTE:

11 Q Would it help you to refer to the autopsy report?

12 A Yes.

13 Q Okay. That you actually signed?

14 A Yes.

15 Q Okay.

16 ASST. SOLICITOR LEGETTE: May I approach the witness,
17 your Honor?

18 THE COURT: You may.

19 BY ASST. SOLICITOR LEGETTE:

20 A No, sir. No, ma'am, there isn't any jewelry.

21 Q No jewelry?

22 A No.

23 ASST. SOLICITOR LEGETTE: Let me mark that. I'll mark
24 it as State's 105.

25 THE COURT: Show it to Counsel.

1 ASST. SOLICITOR LEGETTE: May I approach the witness,
2 your Honor?

3 THE COURT: You may.

4 BY ASST. SOLICITOR LEGETTE:

5 Q Captain Williams, I hand you now what has been marked
6 for identification as State's Exhibit Number 105. Take a
7 moment and tell me if you recognize this item.

8 ASST. SOLICITOR LEGETTE: May I approach?

9 THE COURT: You may.

10 BY ASST. SOLICITOR LEGETTE:

11 A Yes, ma'am. That's the transfer sheet you sign when you
12 pick up property from the -- following the autopsy at
13 Medical University of South Carolina.

14 Q Does your name appear on that particular transfer sheet?

15 A Yes.

16 Q Is State's 105 a fair and accurate reflection of the
17 autopsy transfer sheet that you signed from the autopsy of
18 Bobby Atkins?

19 A Yes, ma'am.

20 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
21 would offer State's 105 for admission into evidence.

22 THE COURT: As to 105?

23 MR. DEYSACH: No objection.

24 THE COURT: Ladies and gentlemen of the jury, State's
25 Exhibit 105 will be admitted into evidence in the trial

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1 of this case. Without objection, 105 into evidence. You
2 may publish.

3 (WHEREUPON, STATE'S EXHIBIT NUMBER 105, IDENTIFIED AND
4 MARKED, ADMITTED INTO EVIDENCE.)

5 ASST. SOLICITOR LEGETTE: Thank you, your Honor. The
6 State has no further questions for this witness.

7 THE COURT: Cross-examination.

8 CROSS-EXAMINATION

9 BY MR. DEYSACH:

10 Q All right. Lieutenant Williams at the time, Captain
11 Williams now, correct?

12 A Yes, sir.

13 Q All right. Did Bobby Atkins have a reputation with the
14 police for stealing?

15 A To my knowledge ---

16 ASST. SOLICITOR LEGETTE: I would object. I don't see
17 the relevance.

18 THE COURT: Sustained.

19 BY MR. DEYSACH:

20 Q All right. You were there for the -- for the interview,
21 correct? The one that we just watched on the screen?

22 A Yes.

23 Q Okay. And at that interview, Mr. Fludd is actually
24 wearing a yellow necklace, correct?

25 A I can't -- I didn't watch -- watch it in court. I was

1 listening more than watching.

2 Q Okay. I mean, he was talking about a necklace. Would
3 you have not noticed a necklace if he was wearing one?

4 A He said, he stole me a chain, was the focus.

5 Q All right. Do you remember what he said, I came here
6 with two chains, you know that, when he's talking about?

7 A No.

8 Q All right. So, you have a yellow chain that you took
9 from the jail, but you don't know if that's the same chain
10 that they were talking about, do you?

11 A No, sir. We didn't take it; he turned it over to us.

12 Q Okay. It said on that document that it was removed from
13 him upon his arrest?

14 A From the Hampton ---

15 Q You all arrested him, right?

16 A --- from the Hampton County Detention Center.

17 Q Okay. So, you're ---

18 A It was part of his property. Yes, sir.

19 THE COURT: Let him finish his answer before you ask a
20 question. Are you finished?

21 ALEX WILLIAMS: Yes, sir.

22 THE COURT: Proceed.

23 MR. DEYSACH: All right.

24 BY MR. DEYSACH:

25 Q So, if he was wearing a necklace, you all turned him in

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1 to -- to the detention center while he still had it,
2 correct?

3 A It was on some -- apparently, it was on his person or on
4 -- with his property.

5 Q All right. And you all searched his person and his
6 property before you turned him in.

7 A I did not. No, sir.

8 Q Did anybody from the Estill Police Department?

9 A Yes, sir.

10 Q Okay.

11 A That was when he was placed under arrest.

12 Q So, they would've seen the chain then, wouldn't they?

13 A Possibly, yes, sir.

14 Q Okay. You actually asked some of the questions during
15 that interview of Mr. Fludd, correct?

16 A Yes, sir.

17 Q All right. And you told him that you didn't really have
18 -- you didn't have an issue with him going and asking Mr.
19 Atkins for his chain back, correct?

20 A No, sir.

21 Q That that was something that a normal person would do,
22 correct?

23 A Yes, sir.

24 Q That we don't just let people take our stuff and not say
25 anything about it, correct?

1 A Yes, sir. I'm sorry.

2 Q Okay. So, but nothing wrong with him going and doing
3 that, correct?

4 A No, sir.

5 Q Okay. You're also there when it was agreed that we're
6 not just going to let somebody hit us with a shovel,
7 correct?

8 A Yes, sir.

9 Q Okay.

10 MR. DEYSACH: That's all I have.

11 THE COURT: Redirect?

12 ASST. SOLICITOR LEGETTE: None, your Honor.

13 THE COURT: As to this witness? He's going to remain
14 with us?

15 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

16 THE COURT: Very well. Mr. Williams, you may step
17 down. State's Exhibit 105 was moved into evidence. Madam
18 Clerk, hand that to the court reporter and her evidence
19 stack. You may step down. Call your next witness.

20 ASST. SOLICITOR LEGETTE: Thank you, your Honor. State
21 calls Courtney Thompson.

22 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
23 SWORN, TESTIFIED AS FOLLOWS:)

24 THE COURT: Counsel, approach. Have a seat for me, Ms.
25 Thompson, if you would. She's going to pull that

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1 microphone over to you. It's going to amplify your voice.
2 Get comfortable. I'll be right with you.

3 (BENCH CONFERENCE, OFF THE RECORD, OUT OF HEARING OF
4 JURY.)

5 THE COURT: Ms. Thompson. Publish your stipulation.

6 ASST. SOLICITOR LEGETTE: Thank you, your Honor. Your
7 Honor, may it please the Court? The parties have agreed, as
8 it relates to Ms. Courtney Thompson, that her ---

9 THE COURT: Just publish the stipulation. Ms. Thompson
10 can speak for herself.

11 ASST. SOLICITOR LEGETTE: Yes, Your Honor. We've
12 agreed to stipulate to her training, qualification, and
13 experience as it relates to forensic serology, and declare
14 her an expert in the area of forensic serology.

15 THE COURT: Ms. Deysach?

16 MR. DEYSACH: That's correct, Your Honor.

17 THE COURT: So, you agree to the stipulation?

18 MR. DEYSACH: She is an expert, your Honor.

19 THE COURT: Ladies and gentlemen, normally, we don't
20 allow witnesses to get on the witness stand to testify to
21 opinions or conclusions. And exception to that rule is for
22 those witnesses whom we call expert witnesses, who, if
23 qualified, are permitted to give an opinion in an area in
24 which they claim to be an expert. You're not bound by any
25 expert opinion. You give it the weight, if any, you deem it

1 should receive. In this case, the parties have published a
2 stipulation as to the qualifications of this witness in the
3 field of?

4 ASST. SOLICITOR LEGETTE: Forensic serology.

5 THE COURT: In the field of forensic serology.

6 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

7 THE COURT: Serology. S/e/r/o/l/o/g/y. Counsel, I
8 have a hard time sometimes understanding my lawyers when
9 they talk at the rate of a hundred miles an hour.

10 ASST. SOLICITOR LEGETTE: I apologize.

11 THE COURT: But you have to accept the stipulation as a
12 fact in this case insofar as qualifications are concerned.
13 The parties have agreed to it. Ms. Thompson, I know you've
14 testified before. Please give me a verbal answer for my
15 court reporter. Yes or no. Don't shake your head, nod your
16 head. No uh-huh (affirmative) or unh-unh's. Speak up so
17 everybody can hear you. State your full name, and spell
18 your last name.

19 COURTNEY THOMPSON: My name is Courtney Thompson,
20 T/h/o/m/p/s/o/n.

21 THE COURT: All right. Your witness, Counsel. Direct
22 examination, subject to your stipulation.

23 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

24 DIRECT EXAMINATION

25 BY ASST. SOLICITOR LEGETTE:

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1 Q Ms. Thompson, you work for SLED?

2 A Yes. I work for the South Carolina Law Enforcement
3 Division.

4 Q And what do you do there?

5 A I'm a forensic serologist in the DNA casework
6 department.

7 Q And what is forensic serology?

8 A Forensic serology is the examination of different types
9 of body fluids such as blood, semen, and saliva. The reason
10 why these body fluids are useful is because they are
11 potentially good sources of DNA.

12 Q Ms. Thompson, did you receive evidence before the Court
13 today?

14 A Yes, I did receive evidence for this case.

15 Q And what items of evidence did you receive?

16 A I received items -- my Items 2, 3, 4, and 5, Item 2,
17 which is a pair of jeans ---

18 Q Now, as it relates to Item Number 3, we're not dealing
19 with Item Number 3; but as to Item Number 4?

20 A Item 4 is a box cutter. And Item 5 was a broken shovel.

21 Q And what was the condition of the evidence when you
22 received it?

23 A It was all in a sealed state.

24 Q And can you tell us about the chain of custody at SLED
25 as it relates to who -- from whom you received the evidence?

1 A Sure. A electronic chain of custody is maintained for
2 every item of evidence when it is submitted to the lab for
3 testing, so that it can be tracked throughout the lab and
4 maintain whose custody it is in, while it goes through its
5 different steps of analysis. This particular -- for this
6 case, all of the items that I took into my custody came from
7 the evidence control department, which is the secure storage
8 area at SLED's lab, that evidence is housed in until an
9 analyst or a technician is ready to work on it. In this
10 case, the evidence was taken into my custody from an
11 evidence technician, Charlotte Pitts.

12 Q And prior to Charlotte Pitts getting the evidence, from
13 whom did she receive this evidence?

14 A She removed the evidence from a shelf within the storage
15 area, and those items were placed on a shelf by Doris
16 Yarbrough at the time that they were submitted to the lab.

17 Q And prior to Doris Yarbrough getting it, how did it get
18 to SLED from -- as far as your chain of custody reflects?

19 A The chain of custody just reflects who submitted it,
20 where they work, and the day of that. So, for this case it
21 looks like it was submitted on March 30th of 2017, by
22 Michael G. Thomas of Estill Police Department.

23 Q And Ms. Thompson, as it relates to the items that you
24 referred to earlier, the jeans, Item Number 2, your Item
25 Number 4, and your Item Number 5, what was the condition of

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1 those items when you received them?

2 A They were all in a sealed state.

3 Q Okay. And had they not been in a sealed state, what
4 would've happened to items?

5 A If any of the items appear to not have their seals
6 intact, per SLED's policy, I would not have proceeded with
7 any type of work on the item. I would've just stopped
8 immediately and contacted the agency about that. So, that
9 is, you know, an error of some sort that happened.

10 Q Okay. And in this particular case, how were those
11 items? Were they sealed?

12 A Yes, they were sealed.

13 Q Okay. Now, Ms. Thompson, I'm going to hand you in a
14 moment the items that you referred to earlier, and I'm going
15 to bring you some gloves. Ms. Thompson, I'm going to hand
16 you now what's been previously marked and entered into
17 evidence ---

18 THE COURT: It's -- no, ma'am, not entered into
19 evidence yet. Unless you're changing the items.

20 ASST. SOLICITOR LEGETTE: Oh, no. Items that have been
21 entered already, your Honor.

22 THE COURT: All right.

23 BY ASST. SOLICITOR LEGETTE:

24 Q Items Number 88, Item Number 38, and Item Number 9. And
25 I'm bringing you the gloves. Take a moment and tell me ---

1 THE COURT: Just a moment. You got it. 88, 38, and
2 what else?

3 ASST. SOLICITOR LEGETTE: Exhibit 9.

4 THE COURT: Exhibit 9. All three, Becky?

5 COURT REPORTER: Yes, sir.

6 THE COURT: Proceed.

7 ASST. SOLICITOR LEGETTE: Thank you, your Honor. May I
8 approach?

9 BY ASST. SOLICITOR LEGETTE:

10 Q I'll ask you if you actually recognize State's 88, 38,
11 and 9.

12 A Yes. I do recognize these items. All of the items have
13 the unique lab number that they were given upon submission
14 to SLED. They each have a unique lab number that was
15 assigned to them, and in addition to that, I personally
16 write on each item "evidence" once it's been in my custody,
17 so that I can identify it later. So, it has my initials and
18 the date that I worked on it.

19 Q And are State's 88, 9, and 38 in substantially the same
20 condition as when you first saw them at SLED?

21 A Yes.

22 Q Now, Ms. Thompson, what did you do with Items Number 38
23 -- I believe it's 38, 88, and 9?

24 A Do you mind telling me what item number it is?

25 Q Oh, I'm sorry. Item 88 -- I do apologize.

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1 THE COURT: Hold on. Is this the Item Number 88? Is
2 that what you're going to first?

3 ASST. SOLICITOR LEGETTE: Yes, your Honor. Item Number
4 88.

5 BY ASST. SOLICITOR LEGETTE:

6 Q This is the box cutter.

7 A Okay.

8 Q State's 88 is your box cutter. I believe that's your
9 Item Number 4.

10 A Yes, the box cutter. My results were that I tested the
11 item for the presence of blood, so the presumptive testing -
12 - presumptive testing for blood was negative. And then, I
13 swabbed the handle section of the box cutter, and I
14 forwarded that on to the DNA section for further testing.

15 Q And as it relates to State's Item Number 9, which I
16 believe is your Item Number 5, the shovel, what did you do
17 with State's Item Number 9?

18 A I also performed blood testing on that item. My results
19 are also that presumptive testing for blood was negative. I
20 did swab the handle of the shovel area and forwarded that on
21 to the DNA section for further analysis.

22 Q So, there is no blood on the shovel?

23 A That is correct.

24 Q All right. And so, as it relates to Item Number 38 --

25 I'm sorry, State's Number 38, your Item Number 2, which are

1 the jeans, what did you do with your Item Number 2, State's
2 38?

3 A I did examine the pair of jeans for the presence of
4 blood, and I did take a cutting from the exterior front-
5 right leg of the jeans. My results for that were that the
6 presumptive testing for blood was positive. And so, I
7 forwarded that cutting on for further analysis to the DNA
8 section.

9 Q And Ms. Thompson, once you did your swabs of State's
10 Number 88, which is your Item Number 4, the box cutter, and
11 your swabs of and analysis, I guess, and examination of
12 State's Number 9, the shovel, your Item Number 5, as well as
13 your cutting from State's Number 38, your Item Number 2, the
14 jeans, did you actually create any items, your swabs?

15 A Yes. From each of those items named, I created what --
16 our terminology is just a sub-item, which means that it was
17 created from the original items itself, that is -- it is of
18 it, essentially.

19 Especially something like a cutting, where I actually
20 physically remove part of the original item. And then, I
21 repackaged it into a new packaging system, and labeled them
22 all appropriately, sealed them up. And then, the DNA
23 analyst then only has to work with a small amount of the
24 actual evidence, such as the cutting or the swab. They
25 don't need the entire original item. So, what I do is I

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1 kind of just make it smaller for them to work with.

2 Q Okay. And so, as it relates to State's Number, I
3 believe it's 38, did you create a sub-item from State's 38,
4 which is your Item Number 2?

5 A Yes, I did. Item 2.1, which is the cutting that I took
6 from the right leg of the jeans.

7 Q And is the Item, State's Number 88, which I believe is
8 your Item Number 4, did you create a sub-item?

9 A Yes. I -- the sub-item is swabs from handle of the box
10 cutter.

11 Q And what number is that for your, your ---

12 A Item 4.1

13 Q And as it relates to State's Number 9, which is believe
14 is your Item Number 5, did you create a sub-item?

15 A Yes. Item 5.1, which is a swab from the handle of the
16 shovel.

17 Q All right. Now, Ms. Thompson, I will hand you in a
18 moment what has been marked for identification as State's
19 Number 58. Tell me if you recognize State's 58?

20 ASST. SOLICITOR LEGETTE: May I approach?

21 THE COURT: You may.

22 BY ASST. SOLICITOR LEGETTE:

23 A Yes, I recognize this item. It is a -- a plastic pouch
24 that I placed all of the sub-items that I took off of the
25 jeans, the box cutter, and the handle. They each have their

1 own individual envelop that they have been placed in and
2 marked, and then I subsequently seal them all up and put
3 them inside this plastic pouch. I seal that up and make
4 sure that I put my initials and the date on it, so that it
5 can travel to the DNA analyst.

6 Q And Ms. Thompson, is State's Number 58 a fair -- I'm
7 sorry -- in substantially the same condition today as when
8 you previously created it and sent it on to the DNA analyst?

9 A It is, yes.

10 Q Has it been changed or altered in any way?

11 A No.

12 Q As far as you can tell?

13 A Yeah, it is in good condition.

14 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
15 would offer for admission into evidence State's Number 58.

16 THE COURT: As to 58?

17 MR. DEYSACH: No objection, your Honor.

18 THE COURT: Ladies and gentlemen of the jury, State's
19 Exhibit 58 will be admitted into evidence in the trial of
20 this case, without objection. You may publish to the jury.

21 (WHEREUPON, STATE'S EXHIBIT NUMBER 58, IDENTIFIED AND
22 MARKED, ADMITTED INTO EVIDENCE.)

23 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

24 BY ASST. SOLICITOR LEGETTE:

25 Q And Ms. Thompson, did you have any other involvement

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1 in this case?

2 A No. That was the extent of my work in this case.

3 Q Okay. Thank you, Ms. Thompson. I have no further
4 questions. Please answer any questions for Mr. Deysach.

5 MR. DEYSACH: Briefly.

6 CROSS-EXAMINATION

7 BY MR. DEYSACH:

8 Q Can you -- can you describe how you test for -- I don't
9 want to get too -- it's not a complicated question, but can
10 you describe the process for presumptively testing for
11 blood?

12 A Sure. The test that we use is a common one in the
13 forensic science community. It is a very simply chemical
14 test that I do. I examine an item of evidence. If I see an
15 area that is of interest to me, that may have looked like
16 blood, I take a swab that's been moistened with some sterile
17 water and lightly run it over the stain. And then, I have a
18 two-step chemical test, and basically a chemical interaction
19 happens. And if it is positive, there is a bright pink
20 color change that shows up on the swab. That is indicative,
21 and that tells me that's a positive test, and that this item
22 or that this area needs further testing. If it's negative,
23 then I don't do any further testing.

24 Q Okay. So, is the swab that you're using to do the
25 presumptive test the same swab that you're forwarding to the

1 DNA lab?

2 A No, it is not. It is the one that I used only to test
3 that potential area, and then it's -- typically it's
4 discarded, unless it's a very, very small stain, and then I
5 can preserve it. Our chemical test does not interfere with
6 DNA analysis.

7 Q So, you use -- when you take that second swab that you
8 do forward to the DNA department, do you take that swab in
9 the same place?

10 A Typically I do, yes. In this case the blood that I did
11 cut, though, or that I took off of the pair of jeans, I
12 actually cut it, actually, off of the original item. So,
13 the majority of the stain is still intact on that pair of
14 pants. I need very, very little of it to actually test it,
15 so I don't consume very much in my actual testing. I always
16 make sure that I leave a large amount behind, so that the
17 analyst has a substantial amount to work with.

18 Q Okay. So, you're the one who cut the jeans, correct?

19 A Yes, I am.

20 Q Okay. And only the part that you cut got forwarded to
21 the DNA department?

22 A Yes, that's correct.

23 Q Okay. All right. So, for the box cutter, where did you
24 swab on the box cutter to test for presumptive blood?

25 A From the box cutter I swabbed the part of the box cutter

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1 where the blade kind of pops up, and the area sort of
2 surrounding that where the blade kind of goes back down into
3 -- into the holder, I guess you would say. I also swabbed
4 that upper area for the presence of blood, and then, because
5 there was a request for it, touch DNA. I swabbed the handle
6 section where one would assume that you held the box cutter,
7 for -- I swabbed that for potential touch DNA.

8 Q Okay. So not for -- you didn't swab the handle for the
9 blood tests, only for the DNA tests, correct?

10 A That's correct.

11 Q And the swab that you used on the blade area was -- that
12 was for the presumptive blood test?

13 A That is correct.

14 Q Did any -- was there any touch DNA tested for on the
15 blade?

16 A No, there was no touch DNA tested for on the blade area.
17 I only forwarded a swab from the handle section.

18 Q All right. Okay. And for the -- for the -- you said
19 that the shovel handle was the third item that we talked
20 about. Where -- the shovel is in multiple pieces, so which
21 part of the handle did you -- did you swab?

22 A For the handle section, I swabbed -- I -- essentially, I
23 put it back together while I was processing it, and then
24 swabbed all of that together, on one swab.

25 Q Okay. So when you put the shovel back together, you had

1 a complete shovel handle at that point? Is that correct?

2 A I don't recall if it was absolutely one hundred percent
3 a whole shovel handle, but the pieces that were given to me,
4 I put them back together in the way that they seemed to best
5 fit, and then swabbed that whole section, basically.

6 Q So a swab is like a Q-Tip, correct?

7 A It's -- yes, it's basically a Q-Tip.

8 Q And so, you take one long swipe all the way down? Is
9 that what you did?

10 A Not exactly. I kind of -- what I do is, I typically
11 work in sections. I start at the top, and I run the
12 moistened swab over an area, and then I move down and run
13 the moistened swab over the area, and I do that. And then I
14 turn the handle around so that I've basically interacted --
15 I made the swab touch the entire surface area.

16 Q The entire surface area of the whole shovel handle?

17 A Yes.

18 Q Do you re-moisten the swab at all?

19 A No. Typically, it will -- sometimes it will soak up a
20 little bit of the water, but for the most part, unless it's
21 a extremely large item, one swab such as what I used is
22 sufficient for collection.

23 Q And then, a separate swab was sent to the DNA lab,
24 correct?

25 A That was the swab that went to the DNA lab from the

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1 handle.

2 Q Okay. What about the -- did -- was there a blood test
3 for the DNA handle?

4 A No.

5 Q Okay.

6 A The handle was not tested for blood. If I had seen any,
7 and if I had visualized any blood, I would have tested that,
8 but I did not visualize any blood. So I only swabbed the
9 head part of the shovel for blood.

10 Q Did you see any blood on the box cutter?

11 A No, I did not visualize any blood on the box cutter.

12 Q But you swabbed that for blood testing, didn't you?

13 A I did not swab the handle section of the box cutter, I
14 swabbed the upper part where the blade is for --

15 Q For blood -- for blood testing, correct?

16 A Yes.

17 Q Did you see blood there?

18 A No, I did not see blood there.

19 Q All right. That's all I have.

20 THE COURT: Redirect?

21 ASST. SOLICITOR LEGETTE: None, your Honor.

22 THE COURT: As to this witness?

23 ASST. SOLICITOR LEGETTE: We ask she be excused, your
24 Honor.

25 THE COURT: Ms. Thompson, you may leave my exhibits,

1 take your file. You are excused from the trial of this
2 case. You may leave the courtroom.

3 COURTNEY THOMPSON: Yes, sir.

4 THE COURT: Call your next witness.

5 ASST. SOLICITOR LEGETTE: State calls Samuel Stewart.

6 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
7 SWORN, TESTIFIED AS FOLLOWS:)

8 THE COURT: Have a seat for me. That microphone's
9 going to amplify your voice, but you don't have to get right
10 on top of it. Just speak up like I'm doing. Remember not to
11 shake your head, nod your head, so the court reporter can
12 take it down. Yes or no. No uh-huh (affirmative) or unh-
13 unh. Speak up so my jury can hear you. Would you begin by
14 stating your full name and spelling your last name?

15 SAMUEL STEWART: Yes, sir. Samuel Alex Stewart,
16 S/t/e/w/a/r/t.

17 THE COURT: Your witness, Counsel. Direct examination.

18 ASST. SOLICITOR LEGETTE: Thank you, your Honor.
19 According to Ian, we have a stipulation for this witness.
20 The parties have agreed that -- to the training, education,
21 and qualifications to Mr. Samuel Stewart as it relates to
22 calling him an expert, or qualifying him as an expert, in
23 the area of forensic DNA analysis.

24 THE COURT: Mr. Deysach, is that correct?

25 MR. DEYSACH: Yes, Your Honor.

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1 THE COURT: Ladies and gentlemen of the jury, recalling
2 my earlier instruction to you concerning expert testimony,
3 this witness, the parties have stipulated or agreed that the
4 witness is qualified in the field of DNA analysis. The
5 witness will be permitted to give an opinion in that field
6 because of his qualifications, and they have stipulated to
7 the qualifications. You are not bound by the opinion. You
8 give it the weight, if any, you think it deserves. Direct
9 examination, Solicitor.

10 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

11 DIRECT EXAMINATION

12 BY ASST. SOLICITOR LEGETTE:

13 Q Mr. Stewart, where do you work, sir?

14 A I work for the South Carolina Law Enforcement Division,
15 commonly known as SLED.

16 Q And where -- in what capacity are you employed at SLED?

17 A I am a forensic scientist, assigned to the DNA casework
18 department.

19 Q So you actually are a scientist of DNA?

20 A That is correct.

21 Q And what is DNA?

22 A DNA stands for deoxyribonucleic acid. It is the genetic
23 material that is found in every individual, and is
24 responsible for certain traits, such as our eye and our hair
25 color. DNA is contained in our bodies known as chromosomes.

1 Those are found in every cell in our body, excluding red
2 blood cells. We receive half of our chromosomes from our
3 mother and the other half from our father. Of those
4 chromosomes we target certain locations called STR's, known
5 as short tandem repeats, and we look at twenty-one of those
6 short tandem repeats that are found in the chromosomes to
7 develop what is known as a DNA profile. And we use that to
8 distinguish one individual from another, excluding identical
9 twins.

10 Q And Mr. Stewart, how is DNA used for forensic purposes?

11 A My responsibility is to try to develop a DNA profile
12 from any evidence, and any known individuals in a criminal
13 investigation develop a DNA profile. My purpose is to
14 determine whether or not that individual DNA profile can be
15 included or excluded from the DNA profile and developed from
16 the evidence.

17 Q Now, what is touch DNA?

18 A Touch DNA is DNA that's possibly left by individuals who
19 would have touched something, such as a pen or a doorknob.
20 Individuals give off skin cells, and those skin cells will
21 possibly have DNA, so we refer to that as touch DNA.

22 Q So how difficult or easy is it to find touch DNA on
23 objects?

24 A It varies. Different people shed skin cells
25 differently. Some are heavy shedders, and some are light

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1 shedders. It just depends on the individual that touched
2 something, how often they come in contact with it, any kind
3 of outside -- outside mitigating factors may have affected
4 the item that was touched. So it just varies.

5 Q Okay. And what type of specific body fluids or tissues
6 can you get DNA from?

7 A We get it from skin cells, from blood. We can also get
8 it from semen. Those are usually the main type of articles
9 we get it from.

10 Q Now, Mr. Scientist Stewart, did you receive any evidence
11 before the case today? I'm sorry, any evidence before the
12 Court -- that is before the Court today?

13 A Yes, I did.

14 Q What items did you receive, not to include Item Number
15 3?

16 A Item 1 was a buccal swab from Daniel Fludd. Item 6 was
17 a dry blood standard from Bobby Atkins. Item 4.1 were swabs
18 from handle of box cutter. Item 5.1 were a swab from handle
19 of shovel. Item 7 was known head hairs from Bobby Atkins.
20 Item 8 was right-hand fingernail clippings from Bobby
21 Atkins. And Item 9 was left-hand fingernail clippings from
22 Bobby Atkins.

23 Q And Mr. Stewart, from whom did you receive this evidence
24 at SLED?

25 A This evidence was taken into my custody on November 3rd,

1 2017, from Annie Black. She was a forensic technician at
2 our evidence control department.

3 Q And what was the condition of the evidence when you
4 received it?

5 A Everything was inside of a heat-seal pouch with the
6 unique SLED number and item number.

7 Q Had it not been -- so it was in a sealed condition?

8 A That is correct.

9 Q Had it not been in a sealed condition, what would you
10 have done?

11 A I would not have performed an analysis on the items.

12 Q All right. Mr. Stewart, I'm going to hand you now
13 what's been previously marked for identification as State's
14 Number 80, and State's Number 103, and -- for
15 identification. And I'm going to also hand you what's been
16 marked as I.D. and admitted into evidence State's Number 57,
17 and also admitted into evidence State's Number 58. Take a
18 moment and tell me if you recognize these exhibits.

19 ASST. SOLICITOR LEGETTE: May I approach the witness?

20 THE COURT: You may. Make sure you refer to the
21 exhibit number that is on the red tag on each one.

22 SAMUEL STEWART: Yes, sir.

23 BY ASST. SOLICITOR LEGETTE:

24 A This is State's Exhibit 103. It is the SLED Item 6, the
25 dried blood stain from Bobby Atkins.

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1 Q Okay.

2 A This is Exhibit 80. This has the SLED unique number on
3 there as well. It also has my initials. This has the
4 pulled head hairs. I believe that's Item 7. And the
5 fingernail clippings. So it has our Item 7, SLED Item 7,
6 SLED Item 8, and SLED Item 9. This is the State Exhibit 57.
7 This is the SLED -- has the SLED unique number on there,
8 it's our Item 1. This is the buccal swab from Daniel Fludd.
9 This is State Exhibit 58. This has Item 2, Item -- excuse
10 me -- Item 2.1, Item 4.1 and Item 5.1, from SLED.

11 Q And Mr. Stewart, as it relates to State's Number 80 and
12 State's Number 103 -- I'm sorry -- as it relates to State's
13 Item Number 80, State's Item Number 103, State's Item Number
14 58, and State's Item Number 57, are they all in
15 substantially the same condition today as when you
16 originally received them at SLED?

17 A Yes, they are. They have where I entered into the pouch
18 and the date and initial, and then when I sealed up the
19 pouch, date and initial once again. So they all essentially
20 look as how I last saw them.

21 Q And Mr. Stewart, as it relates to State's Item 80, 103,
22 Number 58, and Number 57, what, if any, examinations did you
23 make on those exhibits?

24 A May I refer to my report?

25 Q Absolutely.

1 A Item 2.1 was cutting from standard right leg of jeans.
2 The DNA profile is a mixture of at least two individuals.
3 The DNA profile of the major contributor matches the DNA
4 profile of Bobby Atkins. The probability of randomly
5 selected an unrelated individual having a DNA profile
6 matching the major contributor to this mixture is
7 approximately one in one octillion. Due to the inability to
8 calculate a statistic, no further interpretation would be
9 offered regarding the minor contributor. If I may explain,
10 when a mixture occurs, when we have more than one individual
11 contributing their DNA to an item, it does occasionally
12 happen. And on occasion, it would distinguish between a
13 major contributor and a minor contributor. A major
14 contributor is considered someone who contributed more DNA
15 to that item, and a minor contributor is considered someone
16 who contributed less DNA to that item. And so, I just
17 wanted to make sure I cleared that up.

18 Q Okay. And so we're also clear, as it relates to State's
19 Number 58, Item 2.1 this cutting that you're referring to
20 now, are you simply saying that you found blood of Bobby
21 Atkins on the jeans that was submitted from Daniel Fludd?

22 A Well, I was saying there was a mixture.

23 Q Okay.

24 A And the major contributor matches the medium profile of
25 Bobby Atkins. I know blood was also identified on there,

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1 but the major contributor is identified as Bobby Atkins.

2 Q Okay. And so, as it relates to Item 4. -- I'm sorry,
3 4.1, your Item 4.1 and State's Number 58, what did you find?

4 A The DNA profile is a mixture of three individuals, at
5 least three individuals. Due to an inability to calculate a
6 statistic, no further interpretation will be offered.

7 Q So you weren't able to determine whose DNA was on that
8 box cutter?

9 A That is correct. Sometimes when we have a mixture, I
10 have to have a hundred percent confidence to put a
11 statistical weight to it. If I don't have that hundred
12 percent confidence to put a statistical weight to it, then
13 we won't do any kind of comparisons to that mixture.

14 Q And as it also relates to State's Number 58, your Item
15 5.1, what testing did you do to that, and what was you
16 result?

17 A Swab from handle of shovel. The DNA profile is a
18 mixture of at least two individuals. Due to the inability
19 to calculate a statistic, no further interpretation would be
20 offered.

21 Q So the same thing you said before?

22 A That is correct. Because I can't put a statistic to
23 that -- to that mixture with 100 percent confidence, I can't
24 develop a profile, I won't do a comparison to it.

25 Q And now, as it relates to Item Number 103, which was the

1 blood standard of Bobby Atkins, and Item Number 57, what was
2 the purpose of having those particular items of evidence?

3 A Are you referring to our item 1 and item 6?

4 Q Yes. I'm sorry. No, the buccal swab from Daniel Fludd,
5 which is State's Number 57, your Item Number 1; and State's
6 Number 103, the blood standard of Bobby Atkins, which is
7 your Item Number 6. Why do you have a known standard from a
8 person?

9 A That's for us to do comparisons to, so we can try to see
10 whether or not -- or identify who may be a contributor to
11 that DNA profile from the evidence.

12 Q And now, as it relates, finally, to State's Number 80,
13 your Items Number 7, 9, and 8, what, if any, testing did you
14 do to those items?

15 A I performed DNA analysis on Item 7, known head hairs
16 from Bobby Atkins -- I'm sorry. No analyses were performed
17 on that item. And that's because Item 7 is an additional
18 known standard, so if I was unable to develop a DNA profile
19 from his dried blood standard, then I could use the head
20 hairs for the known standard.

21 Item 8, right-hand fingernail clippings from Bobby
22 Atkins, the DNA profile is a mixture of at least two
23 individuals. The DNA profile, the major contributor is
24 attributable to the DNA profile of Bobby Atkins. Due to the
25 inability to calculate a statistic, no further

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1 interpretation will be offered regarding the minor
2 contributor. Number 9, Item 9, left-hand fingernail
3 clippings from Bobby Atkins. The DNA profile is
4 attributable to the DNA profile of Bobby Atkins.
5 Q Thank you. Mr. Stewart, I have no further questions.
6 Please answer any questions --

7 THE COURT: Hold on one second. I'm showing, Becky,
8 that neither 80 or 103 have been admitted yet.

9 ASST. SOLICITOR LEGETTE: That's correct. I -- one
10 more witness.

11 THE COURT: You moving for them?

12 ASST. SOLICITOR LEGETTE: Well, I'll -- at this time,
13 your Honor, I would offer State's Exhibits Number 103 and 80
14 into evidence.

15 THE COURT: As to --

16 MR. DEYSACH: Which ones?

17 THE COURT: 80 and 103. Hand them to him.

18 ASST. SOLICITOR LEGETTE: May I approach?

19 THE COURT: You may.

20 MR. DEYSACH: No objection, your Honor.

21 THE COURT: Ladies and gentlemen of the jury, State's
22 Exhibits 80 and 103 will be admitted into evidence in the
23 trial of this case, without objection. 80 and 103 are in
24 evidence. You may publish, Solicitor.

25 (WHEREUPON, STATE'S EXHIBIT NUMBERS 80 AND 103,

1 IDENTIFIED AND MARKED, ADMITTED INTO EVIDENCE.)

2 ASST. SOLICITOR LEGETTE: Thank you, your Honor. I
3 have no further questions of this witness.

4 THE COURT: Cross-examination.

5 MR. DEYSACH: Thank you, your Honor.

6 CROSS-EXAMINATION, BY MR. DEYSACH:

7 Q All right. Briefly. How about Dr. -- Scientist
8 Stewart? Is that ---

9 A No, I'm not a doctor.

10 Q Are you a Scientist? How do I -- I just want to be
11 polite, that's all.

12 A I can be referred to as a scientist.

13 Q Okay. So, for the -- the cutting from the jeans, right,
14 you do not have the opinion that the major contributor is
15 the person whose blood that is. You're not offering that
16 opinion, are you?

17 A No. What we're stating is that blood was found on that
18 item, and I was able to identify -- excuse me -- develop a
19 DNA profile, and the major contributor from that profile
20 matches Bobby Atkins.

21 Q All right.

22 A Bobby Atkins.

23 Q All right. So you have blood, correct?

24 A That is correct.

25 Q You have two different individuals who contributed DNA

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1 to that sample, correct.

2 A That is correct.

3 Q And whether the minor or the major contributor are the
4 ones whose blood that is, you have no opinion?

5 A That is also correct.

6 Q Okay. All right. And then, we've got a box cutter that
7 has three people on it, correct; or three ---

8 A At least three different persons.

9 Q Okay. And shovel has two?

10 A That is also correct.

11 Q And you don't know who those people are?

12 A That is correct.

13 Q And you don't know if any of the unknown contributors
14 are the same people or different people?

15 A That is correct.

16 Q All right. And that goes for that minor contributor on
17 the pants as well?

18 A That is correct.

19 Q All right.

20 MR. DEYSACH: That's all I have, your Honor.

21 THE COURT: Redirect.

22 ASST. SOLICITOR LEGETTE: None, your Honor.

23 THE COURT: As to the witness?

24 ASST. SOLICITOR LEGETTE: We ask that he be excused.

25 THE COURT: Mr. Stewart, you keep my exhibits here,

1 take your file, and you're excused from the trial of this
2 case. You may leave the courtroom. Thank you. Call your
3 next witness.

4 ASST. SOLICITOR LEGETTE: State calls Dr. Angelina
5 Phillips.

6 (WHEREUPON, THE WITNESS, BEING FIRST CALLED AND DULY
7 SWORN, TESTIFIED AS FOLLOWS:)

8 MR. DEYSACH: Your Honor, may I approach?

9 THE COURT: You may. Counsel?

10 (Whereupon, a bench conference is held off the record
11 and out of the hearing of the jury.):

12 THE COURT: Let the record reflect as to 63 and 66, and
13 objection was made by Mr. Deysach. I have overruled that
14 objection. They will be admitted into evidence over
15 objection. I will put the basis for it later on the record.
16 Let's move along. Ma'am, if you would, please, please give
17 me a verbal answer, yes or no. Don't shake your head or nod
18 your head for me, because the court reporter needs to take
19 down your testimony.

20 DR. ANGELINA PHILLIPS: Okay.

21 THE COURT: Speak up so everybody can hear you. That
22 microphone will amplify your voice.

23 DR. ANGELINA PHILLIPS: Yes, sir.

24 THE COURT: You can hear me, can't you?

25 DR. ANGELINA PHILLIPS: I can.

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1 THE COURT: Good. I want them to be able to hear you.
2 State your full name, spell your last name for the court
3 reporter.

4 DR. ANGELINA PHILLIPS: Angelina Phillips,
5 P/h/i/l/l/i/p/s.

6 THE COURT: Thank you, Dr. Phillips. Your witness,
7 Counsel. Direct examination. Is there any stipulation
8 regarding this witness?

9 ASST. SOLICITOR LEGETTE: We're not, your Honor.

10 THE COURT: All right. Proceed.

11 DIRECT EXAMINATION

12 BY ASST. SOLICITOR LEGETTE:

13 Q Good afternoon, Dr. Phillips.

14 A Good afternoon.

15 Q Dr. Phillips, where do you work?

16 A At the Medical University of South Carolina.

17 Q And what are your duties there?

18 A I'm a forensic pathologist.

19 Q And are you also a licensed medical doctor?

20 A Yes.

21 Q And how long have you been a licensed medical doctor?

22 A About eight years now.

23 Q Okay. And as a forensic pathologist, what are some of
24 your duties?

25 A I perform autopsies and -- usually several times a

1 month, and create reports based on those autopsies, helping
2 to add to the record for the cause and manner of death.

3 Q And Dr. Phillips, tell us about your education,
4 training, and experience as it relates to being a forensic
5 pathologist.

6 A Okay. I have completed my undergrad degree at New York
7 University, in anthropology, before completing my medical
8 degree at the university in New York State University, New
9 York, New York. I then completed pathology residency in
10 Massachusetts before coming back to South Carolina to
11 complete my forensic pathology fellowship.

12 Q And so, what's -- what branch of medicine do you
13 specialize in, or what is pathology, forensic pathology?

14 A I specialize in pathology, specifically the practice of
15 forensic pathology. Forensic pathology is a subsection of
16 the overall field of pathology. Pathology is a laboratory
17 medicine field. We work mainly in the lab. We look at
18 surgical specimens and we do clinical laboratory work, so
19 that's chemistry, microbiology, blood bank. Forensic
20 pathology is involved with primarily autopsy pathology, and
21 that is examination of a dead body, for the purposes of
22 classifying cause and manner of death, and any other
23 features that we see therein.

24 Q Dr. Phillips, during your years as being a forensic
25 pathologist, have you ever had occasion to observe autopsies

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1 where the cause of death was a stab wound to the chest?

2 A Yes.

3 Q About how many times would you say?

4 A Approximately four.

5 Q Okay. And have you also observed other autopsies, or
6 done other autopsies?

7 A Yes.

8 Q Okay.

9 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
10 would offer Dr. Angelina Phillips as an expert in the field
11 of forensic pathology.

12 THE COURT: Any objection as to qualifications?

13 MR. DEYSACH: No, your Honor.

14 THE COURT: Ladies and gentlemen of the jury, recalling
15 my earlier instructions, you're about to hear the testimony
16 of a witness who claims to have special knowledge, skill,
17 education, or training in the field of forensic pathology;
18 and who, if qualified in this case, without objection, may
19 give an opinion in the matters in which she claims to be so
20 skilled.

21 In determining the weight to be given such opinion you
22 should consider the qualifications and the credibility or
23 believability of the expert, and the reasons given for her
24 opinion. You are not bound by any expert opinion. You give
25 it the weight, if any, that you deem it should be entitled.

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1 Witness is qualified, without objection. You may proceed.

2 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

3 BY ASST. SOLICITOR LEGETTE:

4 Q Dr. Phillips, please educate us. How many manners of
5 death are there?

6 A There are five.

7 Q And what are those?

8 A There is natural, accident, suicide, homicide, and it
9 would be undetermined when it cannot be classified.

10 Q And homicide means what?

11 A Homicide is the death committed by the hands of another.
12 So, someone died at the hands of another person.

13 Q Dr. Phillips, were you working for the Medical
14 University of South Carolina as a forensic pathologist in
15 March of 2017?

16 A Yes.

17 Q And during that month did you have occasion to perform
18 one or more autopsies?

19 A Yes.

20 Q Specifically, did you perform an autopsy on a subject
21 known as Bobby Atkins on March 23rd, 2017?

22 A I did.

23 Q Dr. Phillips, I will hand you now what's been marked for
24 identification as State's Number 63. Take a moment and tell
25 me if you recognize State's 63.

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1 ASST. SOLICITOR LEGETTE: May I approach the witness?

2 THE COURT: You may.

3 BY ASST. SOLICITOR LEGETTE:

4 Q Dr. Phillips, do you recognize State's Number 63?

5 A Yes, I do.

6 Q And what is State's 63?

7 A It is a photograph of the decedent's face, an
8 identification photograph, taken at the time of autopsy.

9 Q And is State's 63 a fair and accurate reflection of the
10 decedent that you autopsied on or about March 23rd, at an
11 autopsy in 2017?

12 A Yes.

13 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
14 would offer State's 63 for admission into evidence.

15 THE COURT: As to 63?

16 MR. DEYSACH: That's subject to the objection you
17 noted.

18 THE COURT: All right. Let the record reflect that, in
19 a side Bar, an objection was noted as 63. I overruled the
20 objection. Exhibit 63 is admitted into evidence, without
21 objection. Proceed.

22 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

23 BY ASST. SOLICITOR LEGETTE:

24 Q And Dr. Phillips, did you perform an autopsy on the body
25 of this man shown in State's 63?

1 A Yes.

2 Q Can you tell us how long -- or did you first see him at
3 autopsy?

4 A Yes.

5 Q About how long did the autopsy last?

6 A In general, an autopsy can last anywhere from a hour and
7 a half to whenever completed. That can last up to several
8 hours. In this case, I would say on average, three hours.

9 Q And your -- Dr. Phillips, based on that particular
10 autopsy, within the bounds of reasonable medical certainty,
11 have you formed an expert opinion concerning his cause of
12 death?

13 A Yes.

14 Q And what is that opinion?

15 A He sustained a stab wound to the chest, and that is his
16 primary cause of death. But he also had stab wounds to
17 various other areas of his body, which were contributory.

18 Q And what is his manner of death?

19 A His manner of death is homicide.

20 Q All right. And did you also ask for a toxicology, or
21 request a toxicology done on the person of Mr. Atkins?

22 A Yes. Toxicology is performed in all cases that come to
23 us of a forensic nature.

24 Q And are you able to tell us what toxicology, or what was
25 in his body or in his system, from that autopsy?

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1 A I'd have to refer to my report to give you the exact
2 findings.

3 Q Absolutely.

4 A In this case, the toxicology showed a urine screen that
5 was positive for amphetamines and cocaine metab -- cocaine,
6 or cocaine metabolites. And his blood toxicology revealed
7 cocaine; a cocaine metabolite, benzodiazepine, caffeine,
8 nicotine, and codeine. There was also a blood alcohol of
9 0.069 percent.

10 Q So he had cocaine and ethanol, or alcohol, in his
11 system?

12 A Correct.

13 Q Okay. Now, Dr. Phillips, along with performing the
14 autopsy and doing a toxicology on Mr. Atkins' body, did you
15 also collect any evidence from his person?

16 A We collect evidence based off of the -- whatever is
17 received with the body, so any clothing, personal effects.
18 We also collect -- pull scalp hair, fingernail clippings,
19 and we take photographs.

20 Q Dr. Phillips, I would hand you now what have been
21 previously marked for identification and entered into
22 evidence as State's Number 80 and State's Number 103. Take
23 a moment and tell me if you recognize State's 80 and State's
24 103.

25 ASST. SOLICITOR LEGETTE: May I approach the witness?

1 THE COURT: You may.

2 BY ASST. SOLICITOR LEGETTE:

3 A Yes. These are samples taken at autopsy.

4 Q And Dr. Phillips, are State's 80 and State's 103 in
5 substantially the same condition today as when you took them
6 at the autopsy of Bobby Atkins on March 23, 2017?

7 A Yes.

8 Q From what you can tell, have they been changed or
9 altered in any way?

10 A They do not seem to have been changed.

11 Q Thank you. Now, you also indicated, Dr. Phillips, that
12 you -- I'll get that back from you.

13 ASST. SOLICITOR LEGETTE: May I approach?

14 BY ASST. SOLICITOR LEGETTE:

15 Q Dr. Phillips, you also indicated that you documented the
16 victim's injuries in this matter by photographs.

17 A Yes.

18 Q And did you also document his injuries by way of
19 diagram?

20 A Yes.

21 Q Did you also document his injuries or his clothing?

22 A Yes.

23 Q At the time of his autopsy?

24 A I did.

25 Q Dr. Phillips, I will hand you in a moment what have been

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1 marked for identification as State's Number 64, 65, 66, 67,
2 68, 69, 71, 73, 74, 75, 76, 77, 78, 79, and 62.

3 THE COURT: Now, Counsel, let me make sure. It would
4 be Exhibit 52 --

5 ASST. SOLICITOR LEGETTE: No, sixty ---

6 THE COURT: 62.

7 ASST. SOLICITOR LEGETTE: 62.

8 THE COURT: 62?

9 ASST. SOLICITOR LEGETTE: 62.. Yes, sir.

10 THE COURT: 62.

11 ASST. SOLICITOR LEGETTE: 64.

12 THE COURT: Through 59, inclusive?

13 ASST. SOLICITOR LEGETTE: Through 69, inclusive.

14 THE COURT: Hand me the exhibits. Hand me the
15 exhibits. Let the record reflect the witness is being
16 handed State's Exhibits 62, 64, 65, 66, 67, 68, and 69. The
17 witness is also being handed State's Exhibits 71, 73, 74,
18 75, 76, 77, 78, and 79. Proceed.

19 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

20 BY ASST. SOLICITOR LEGETTE:

21 Q Dr. Phillips?

22 A These --

23 MR. DEYSACH: I'm sorry. My mistake.

24 THE COURT: Proceed.

25 BY ASST. SOLICITOR LEGETTE:

1 Q Do you recognize?

2 A Yes. These are photographs taken by me at autopsy, and
3 a copy of my diagram.

4 Q And Dr. Phillips, are State's Exhibits Number 62, 64,
5 65, 66, 67, 68, 69, 71, 73, 74, 75, 76, 77, 78 and 79 a fair
6 and accurate reflection of photographs you took during the
7 autopsy of Bobby Atkins?

8 A Yes.

9 ASST. SOLICITOR LEGETTE: At this time, your Honor, I
10 would offer the previously stated exhibits for admission
11 into evidence.

12 THE COURT: Counsel?

13 MR. DEYSACH: Objection as to 66, that was noted
14 earlier.

15 THE COURT: And for the reason that I gave you in the
16 side bar, that objection is overruled. I'll place it on the
17 record at the appropriate time. Ladies and gentlemen of the
18 jury, State's Exhibits 64, 65, 66, 67, 68, 69 62, 71, 73,
19 74, 75, 76, 77, 78, and 79 will be admitted into evidence in
20 the trial of this case. There is only one objection from
21 the defendant, and that is as to 67.

22 MR. DEYSACH: 66.

23 THE COURT: Which I overruled.

24 MR. DEYSACH: 66.

25 THE COURT: Excuse me. Hold on. Let me look at it and

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1 make sure I've got the right one, because I looked at it
2 before in side bar. You are correct, Mr. Deysach. The
3 objection was not as to 67; it was as to 66, which I
4 overruled. It's being admitted, over objection, on 66.
5 Photographs are admitted, without objection. Proceed.

6 (WHEREUPON, STATE'S EXHIBIT NUMBERS 62, 64, 65, 66, 67,
7 68, 69, 71, 73, 74, 75, 76, 77, 78, AND 79, IDENTIFIED AND
8 MARKED, ADMITTED INTO EVIDENCE.)

9 ASST. SOLICITOR LEGETTE: May I publish, your Honor?

10 THE COURT: You may.

11 ASST. SOLICITOR LEGETTE: May I approach the witness?
12 May I approach the witness again, for a marker?

13 THE COURT: Show her how to use it.

14 ASST. SOLICITOR LEGETTE: Yes, your Honor.

15 BY ASST. SOLICITOR LEGETTE:

16 Q Dr. Phillips, we are looking at State's Number 63 on the
17 screen to your right. Can you tell us what we're seeing in
18 State's 63?

19 A Yes. This is the photograph taken at the time of
20 autopsy, for the purposes of identification. We take an
21 I.D. photo of the decedent's face at every autopsy.

22 Q Okay. Thank you. And now, to State's Number 64. What
23 are we seeing in State's Number 64?

24 A This is a photograph of the decedent's chest showing the
25 defect in the front of his shirt.

1 Q And can you point to the defect in the shirt and tell us
2 a little bit about that defect?

3 A It's a slit-like defect, and it overlies the wound on
4 his chest.

5 Q Now, we'll move on to State's Number 65. What are we
6 seeing here? What are we seeing in State's Number 65?

7 A This is another picture of the decedent's clothing,
8 highlighting defects on the clothing, slit-like defects.
9 His pants are here, and that is part of his shirt.

10 Q And are you able to tell us -- you said the defect --
11 are you able to tell us anything about the defect in his
12 clothing, as to what might have made that defect?

13 A I assume the defects on his clothing come from the same
14 weapon that caused the injury underlying them.

15 Q All right. Now, as to State's Number 66. What are we
16 seeing in State's Number 66?

17 A This is a photograph of the upper portion of the
18 decedent's body. It highlights the injury that was evident
19 to his abdomen, which was very obvious at the initial
20 examination.

21 Q Now, as it relates to the injury to his abdomen, Mr.
22 Atkins' abdomen, in State's Number 66, can you tell us about
23 that injury? Was it fatal, or how deep did it go?

24 A That wound was not fatal. It just seems very dramatic
25 because there is bowel protruding. However, once the bowel

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1 is replaced into the body, you can identify the outline of
2 the wound itself. The depth of that wound, I believe, was
3 approximately five inches, and it did not injure anything
4 that would have caused death.

5 Q And now, we'll move on to State's Number 67. What are
6 we seeing in State's Number 67?

7 A This is a picture of the side of the decedent's head,
8 with an injury, stab wound, to the side of the jaw.

9 Q All right. So, to the side of the jaw?

10 A Yes.

11 Q Is that identified by the number L, or the letter L?

12 A Yes.

13 Q And can you tell us anything about this particular
14 injury; how deep it goes?

15 A This injury was approximately a quarter-inch deep, and
16 it injured the skin and subcutaneous tissues.

17 Q Was it fatal or not?

18 A It was not.

19 Q Now, moving on to State's Number 68. What are we seeing
20 in State's Number 68?

21 A We are looking at a picture of a stab wound to the
22 decedent's chest.

23 Q And is there anything you can tell, or should we go on
24 to another picture to talk about the injury itself?

25 A You may need to go to the other pictures.

1 Q Okay. That's fine.

2 A For this one.

3 Q All right. Now, we'll move on to State's Number 69.

4 What are we seeing in State's Number 69?

5 A This is another stab wound to the decedent's chest,
6 different from the one we saw before. This one is more
7 median towards the armpit area.

8 Q And did these particular stab wounds appear to be fresh
9 stab wounds?

10 A Yes.

11 Q And now, in State's Number 71. All right. Now, Dr.
12 Phillips, in State's Number 71, what are we seeing in
13 State's 71?

14 A This is the stab wound to the middle of the chest that
15 we saw two pictures ago. And what I'm doing is re-
16 approximating the edges of the stab wound with my fingers,
17 so that I can see the outline of the wound and identify some
18 features of the stab wound.

19 Q And so, what are you able to identify in this particular
20 exhibit, State's 71?

21 A What I'm looking at are the edges of the wounds to see
22 whether they have any blunt edges. This one had one blunt
23 edge on this end, and a sharp edge on that end, and that
24 tells me something about the weapon that was used. I'm also
25 looking for any abrasions, contusions, so scrapes or

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1 bruising, that's around the wound that would help me
2 identify, again, type of weapon, or give a clue as to the
3 type of weapon. And you also have this linear abrasion at
4 the edge, which could be related to the weapon as the victim
5 is being injured.

6 Q So as it relates to State's 71 and the abrasions -- or
7 the wound itself and the blunt edge and the sharp edge, have
8 you formed an expert opinion as to what type of weapon it
9 was?

10 A Yes.

11 Q And what was that weapon?

12 A Likely a knife with one blunt edge and one sharp edge.

13 Q At our request previously, have you examined any
14 photographs of a shovel in this particular case?

15 A Yes.

16 Q Were you able to make -- form an opinion as to whether a
17 shovel could have caused these injuries?

18 A Yes.

19 Q And what is that opinion?

20 A I believe that to be unlikely.

21 Q Unlikely. At our request, did you also examine a
22 photograph of a box cutter that was submitted in this case?

23 A Yes.

24 Q Were you able to form an opinion as to whether or not
25 that box cutter was the weapon that was used to kill Mr.

1 Atkins?

2 A Yes.

3 Q And what is that expert opinion.

4 A I believe that also to be unlikely.

5 Q And now, we'll move on to State's Number 73. I'm sorry,
6 go back to State's 71. Dr. Phillips, was this particular
7 injury fatal?

8 A Yes.

9 Q Okay. Thank you. Now, at State's 73, Dr. Phillips,
10 what are we seeing in State's 73?

11 A This picture highlights two stab wounds and linear
12 abrasion on the abdomen. So the initial stab wound that we
13 noted earlier, the bowel protruding, this is it here, with
14 the bowel pushed back into the (witness sneezes) -- sorry,
15 minor cold. And we have a small stab wound down in the
16 groin area.

17 Q Do you need some water?

18 A Yes, please. Thank you.

19 ASST. SOLICITOR LEGETTE: May I approach, your Honor?

20 THE COURT: You may.

21 DR. ANGELINA PHILLIPS: Thank you so much.

22 THE COURT: Move along, Solicitor.

23 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

24 Q Doctor, I know, also, that there is a -- appears to be,
25 like, a scratch below his navel.

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1 A Yes. He had a linear abrasion -- two linear abrasions
2 on his abdomen.

3 Q All right. And does that appear to be fresh as well?

4 A Yes.

5 Q All right. Now, as it relates to, I guess, State's 74,
6 I that you have your fingers here on State's 74. What are
7 you doing?

8 A As in the previous photograph, I'm using my fingers to
9 re-approximate the edges of the wound, to look for the
10 features that I described on the other stab wound.

11 Q And based on what you are doing, were you able to
12 determine what kind of weapon it was?

13 A Again, it seemed to have similar features with a blunted
14 edge on the right here, and a sharp edge on the left. And I
15 believe that to be a similar weapon as to what stabbed him
16 in the chest.

17 Q Could it have been the shovel?

18 A No.

19 Q Or the box cutter?

20 A Not likely.

21 Q All right. Now, as it relates to State's Number 75 --
22 in fact, let's skip 75 and go to State's 76. In State's 76
23 -- we're going to invert it. And State's 76?

24 A This is the stab wound that is down in the groin region,
25 and again I'm using my fingers to re-approximate the edges.

1 That way, I can see more clearly the outline and identify a
2 blunt edge at one end and a sharp edge at another, similar
3 features to the other two wound that we identified.

4 Q And now, as it relates to State's Number 78. Now, this
5 State's 78, what are we seeing in State's 78?

6 A This is the stab wound to the shoulder, and again I'm
7 trying to re-approximate the edges of the wound. This wound
8 does not have the same features as the others that we looked
9 at. Both edges appear sharp. However, it is a different
10 type of wound. It is more tangential, so I might not be
11 able to see the same features, so I would not be able to say
12 that this injury was caused by the same weapon.

13 Q All right. Is this injury fatal?

14 A No.

15 Q And it's to the what shoulder?

16 A This was to the right shoulder.

17 Q And now, moving on to State's Number 79. Doctor, what
18 are we seeing in State's 79?

19 A This is a picture from the inside of the body. What
20 we're looking at is the heart and the sack that covers the
21 heart. And we are highlighting this defect in the wall of
22 the sack, which is underlying the stab wound on the midline
23 of the chest. And then, there's small defect in the heart,
24 right here, which corresponds to the injury to the heart.

25 Q And this wound was fatal?

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1 A Yes.

2 Q Doctor, approximately how long would a person be able to
3 live after they're stabbed in the chest such as this?

4 A An injury to the heart or the major vessels coming off
5 of the heart, a person can survive several seconds, and up
6 to minutes.

7 Q Now, Doctor, I'll bring your attention now to State's
8 Number 62. Doctor, can you tell us what we're seeing in
9 State's Number 62?

10 A This is the body diagram I generate at the time of
11 autopsy, which documents the post-mortem findings on the
12 body. So, general findings of the temperature; rigor, which
13 is the stiffness of the body settling of blood. I'm also
14 looking at his weight, height, other features, marks and
15 scars that are identifying, and then the injuries on the
16 body.

17 Q Doctor, can you tell us, now that you've seen all the
18 photographs and we've talked about the injuries to his body,
19 how many stab wounds did Mr. Atkins suffer?

20 A He had a total of six stab wounds.

21 Q And as it relates to the chest stab wound, how deep did
22 that particular stab wound penetrate?

23 A That penetrated approximately five and a half inches.

24 Q Now, Doctor, help me understand what five and a half
25 inches means, because it seems like a person's body is not

1 five and a half inches deep.

2 A Okay. So, it seems very dramatic, five and a half
3 inches, but you're imagining a stab wound going front to
4 back, directly. When you're measuring the depth, even if
5 it's a tangential wound, so it's going obliquely into the
6 body, so from left to right or right to left, we're
7 measuring that depth. So it's a diagonal wound, and it can
8 go greater than the depth of the body because it's going
9 tangentially.

10 Q And Doctor, as it relates to the injuries ---

11 ASST. SOLICITOR LEGETTE: Can you bring the lights up?

12 THE COURT: Lights, please.

13 BY ASST. SOLICITOR LEGETTE:

14 Q Dr. Phillips, can you tell us anything about Mr. Atkins'
15 injuries as it relates to pulling, stabbing, or slicing?

16 A So, I believe you're referring to the sharp force
17 wounds. So --

18 Q Yes. What does sharp force mean?

19 A Sharp force wound are wounds as opposed to blunt force
20 wounds. So, your blunt force wounds are going to be your
21 abrasions, contusions, and lacerations, things that are
22 inflicted by a blunt injury. So, a dull edge. And then,
23 sharp force wounds are things that are inflicted by a sharp
24 edge.

25 In sharp force wounds we have stab wounds, cuts. You

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1 might think of a cut as a laceration, but a cut, we think
2 of, as an incision, so an incised wound. A stab wound and
3 chop wounds, which have variations and features between
4 blunt and sharp injury caused by a weapon. So a stab wound
5 tends to be a wound that is deeper than it is long; and an
6 incised wound, or a cut, is a wound that is longer than it
7 is deep; and a chop wound has features with blunt injuries,
8 so you may see abrasions and contusions associated with the
9 wound.

10 Q And what type of wounds did you find -- you said -- you
11 talked about the, you say it, but what type of wounds did
12 you find in this particular case?

13 A In this case the decedent had multiple stab wounds,
14 wounds which were deeper than they were wide. And he also
15 had some abrasions, which are considered blunt injury, but
16 they were likely caused by a sharp instrument. I could not
17 differentiate that at the time of autopsy. And a contusion,
18 which is also a blunt injury.

19 Q Are you able to tell us anything, in your expert
20 opinion, about how a stab wound is caused?

21 A It is caused by the -- a sharp weapon causing a small
22 area of force penetrating into the body.

23 Q Thank you, Dr. Phillips. I have no further questions.
24 Please answer any questions for Mr. Deysach.

25 THE COURT: Cross-examination.

1 MR. DEYSACH: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. DEYSACH:

4 Q Good afternoon, Dr. Phillips.

5 A Good afternoon.

6 Q I'd like to, I guess, first ask you about the toxicology
7 report. You have a toxicology report based on blood
8 testing, correct?

9 A Blood and urine.

10 Q All right. I was going to ask that next. And a
11 toxicology report based on urine as well, correct?

12 A Yes.

13 Q So two different toxicology reports, right?

14 A It is one report with two specimens.

15 Q Okay. Thank you. For -- for urine, you have noted that
16 the subject was positive for amphetamines.

17 A Yes.

18 Q And that appears to be a headline of a category; is that
19 correct?

20 A Yes.

21 Q And the type of amphetamines that were found were
22 methamphetamines?

23 A Yes.

24 Q Okay. So, those methamphetamines were in his system at
25 the time of autopsy, correct?

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1 A I don't have that in the blood listed on my autopsy
2 report.

3 Q Right.

4 A I would not be able to say. The amphetamines and
5 cocaine that was found on the urine sample, the urine is
6 generally used as a screening test.

7 Q Um-hmm.

8 A So it is very sensitive test, so that means it picks up
9 things that may or may not be there. But they want to use
10 that to then focus their testing in the blood. So, because
11 it is present in the urine, we don't always say that was in
12 the body, because we don't know for sure. They can do
13 quantifications and say that, yes, that was in the urine,
14 and find an exact amount. But I would never use a urine
15 specimen to say what was in the body at the time of death.

16 Q But the tests performed indicated positive for
17 methamphetamines in the urine?

18 A Correct.

19 Q All right. So now, the blood result -- or I'm sorry.
20 Also, cocaine metabolites are positive in the urine,
21 correct?

22 A Cocaine, slash, metabolites.

23 Q Okay. So it's both?

24 A Both. One or the other.

25 Q Okay. As far as the urine test is concerned?

1 A Correct.

2 Q And there is even a particular metabolite that you've
3 enumerated that I'm not going to try to pronounce, but that
4 was the particular metabolite found?

5 A Yes.

6 Q Okay. So, can you explain the difference between
7 cocaine and cocaine metabolite?

8 A Yes. Cocaine is the parent drug. It is the drug that
9 was likely used to have a positive result in the body. The
10 metabolite is after someone has ingested cocaine, the body
11 processes it and breaks it down to be excreted. And at that
12 process in breakdown is what gives us a product of
13 benzoylecgonine, which is a cocaine metabolite.

14 Q Let me ask you this. If the cocaine has been
15 metabolized, is the person still under the influence of the
16 cocaine?

17 A I would not be able to say.

18 Q Okay. All right. But according to the blood test, it's
19 not just cocaine metabolite, benzoylecgonine, that's in his
20 system, is it?

21 A Correct.

22 Q That actual cocaine is in his system, correct?

23 A Yes.

24 Q And you can't tell if that cocaine is snorted, injected,
25 or smoked, can you?

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1 A I cannot.

2 Q It all -- all delivery systems would put cocaine in the
3 bloodstream, correct?

4 A Yes.

5 Q Okay. And so, cocaine that has not yet been metabolized
6 is in his blood?

7 A Yes.

8 Q All right. And so, would he be under the influence of
9 that cocaine at the time?

10 A I would not be able to say how he would have reacted to
11 that cocaine being present in his system.

12 Q Okay.

13 A But he would've had some cocaine in his body.

14 Q Right. Would you say that his cocaine level was high,
15 low, medium, what?

16 A Any level of cocaine in the body that's not prescribed
17 is generally high.

18 Q Okay. So there's no such thing as just a little bit of
19 cocaine in the system?

20 A No.

21 Q Okay. Are you able to make a comparison on other
22 findings you've made about the 137 concentration?

23 A That's milligrams per milliliter, which is the
24 measurement they're using to quantify the cocaine. I would
25 not be able to tell you anything beyond that that's the

1 amount they quantified in the blood.

2 Q Do you know how long it takes to metabolize cocaine?

3 A It can take anywhere from a half an hour to an hour.

4 It's a very rapid metabolized drug.

5 Q Okay. So if the cocaine is in his system and hasn't

6 been metabolized, it had to have been ingested within --

7 give me the time.

8 A Within hours.

9 Q Okay. Hours?

10 A Hours.

11 Q So are we saying two hours, or are we saying twenty-four

12 hours?

13 A Well, it would depend on the amount of cocaine that the
14 person has ingested.

15 Q Okay.

16 A To have -- you'd have to go back so you can quantify the
17 half-lives, and break down and determine how long that's
18 happened.

19 Q Okay. So you can't give an opinion about how soon
20 before the -- before he died Mr. Atkins ingested the
21 cocaine?

22 A No.

23 Q Okay. Or how much cocaine he ingested?

24 A I cannot say.

25 Q Do you have any information, or do you have any

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Redirect Examination of Dr. Angelina Phillips by Asst. Sol. Legette

1 knowledge about what -- I mean, you know cocaine is a
2 stimulant, correct?

3 A Yes.

4 Q Do you -- can you tell the jury what kind of behavioral
5 effects it has on people?

6 A As a stimulant drug, cocaine can have the effects of
7 making a person more active. They can become more agitated.
8 Depending on their reaction, they may even become violent.

9 Q Okay. And you've -- you've made the opinion as homicide
10 as the manner of death, correct?

11 A Yes.

12 Q But you don't have an opinion about whether or not this
13 was a justifiable homicide or not, do you?

14 A No.

15 Q Okay. That's all I have.

16 THE COURT: Redirect?

17 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

18 REDIRECT EXAMINATION

19 BY ASST. SOLICITOR LEGETTE:

20 Q Dr. Phillips, did you also screen Mr. -- I'm sorry. Did
21 he also have alcohol in his system?

22 A He did.

23 Q And what was the level of alcohol in his system?

24 A 0.069 percent.

25 Q And are you able to say -- are you able to say what

1 reaction a person would have if they had alcohol in their
2 system.

3 A I would not be able to say what sort of reaction this
4 person would've had with the alcohol in his system. In
5 general, a person with a 0.08 is the legal limit, and any
6 level of alcohol can cause some somnia or sleepiness. You
7 can be disoriented, you can be tired. And some people have
8 a lot of alcohol and they're totally fine. So, I cannot be
9 able to say specifically what the reaction was.

10 Q Thank you, Dr. Phillips. I have no further questions.

11 THE COURT: Re-cross, limited to re-direct.

12 RE CROSS EXAMINATION

13 BY MR. DEYSACH:

14 Q Can ingesting alcohol also make you agitated and
15 violent?

16 A Yes.

17 Q Thank you.

18 THE COURT: As to this witness, Solicitor?

19 ASST. SOLICITOR LEGETTE: We ask that she be excused,
20 your Honor.

21 THE COURT: Any objection?

22 MR. DEYSACH: No, your Honor.

23 THE COURT: Dr. Phillips, you may step down. You take
24 your file, leave my exhibits. I've got most of them up
25 here.

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1 DOCTOR ANGELINA PHILLIPS: Thank you, sir.

2 THE COURT: You are excused from the trial of this
3 case. You may leave the courtroom. Drive carefully.

4 DOCTOR ANGELINA PHILLIPS: Thank you.

5 THE COURT: Mr. Foreman, ladies and gentlemen of the
6 jury, I understand from my excellent Clerk of Court of
7 Hampton County that your delicious lunch has arrived. We're
8 going to stop at this point so you can have lunch. I can
9 promise you I'm working to try to conclude this matter as
10 soon as I possibly can.

11 Over the lunch break, please do not discuss this case.
12 You have not heard all of the evidence in this case or
13 received my charge on the law, or heard the arguments of the
14 attorneys. Thank you very much. You may retire to your
15 jury room at this time. Everyone else remain seated while
16 the jury is leaving.

17 (WHEREUPON, JURY EXITS COURTROOM AT 1:00 P.M. AND THE
18 FOLLOWING IS PLACED ON THE RECORD OUTSIDE OF THE PRESENCE OF
19 THE JURY.)

20 THE COURT: All right. Let the record reflect we had a
21 side bar prior to taking the testimony of Dr. Angelina
22 Phillips, who just testified. Mr. Deysach approached the
23 bench and said he had an objection to Photograph 63.
24 Photograph 63 is the only photograph that showed the facial
25 features of the decedent, and for that reason I felt it was

1 admissible, since he had a wound in close proximity to that
2 area.

3 Mr. Deysach also objected to Photograph 66. Photograph
4 66 showed the wound to the abdomen and the exposing of the
5 bowel. It is the only photograph, because I would not allow
6 any cumulative ones, that showed this injury. Because it
7 demonstrated the injury and there has been testimony about
8 this injury from other witnesses. I overruled the objection
9 as to 63 being the only picture of the facial features where
10 there was a wound; and 66, which was the only picture that
11 showed the injury where the bowel extended outside of the
12 body. And I wanted to make a record of that.

13 The other photographs that were admitted with Dr.
14 Phillips' testimony were admitted without objection.
15 There'll be no further argument on that.

16 Now, Solicitor, I need to know from you, we've worked
17 now it's twenty-five 'til 2:00, since 10:00 o'clock this
18 morning, and you have not rested. How much more do you
19 have?

20 ASST. SOLICITOR LEGETTE: The State rests.

21 THE COURT: You're going to rest? Mr. Deysach, I'd
22 like for you and your client to please come forward.

23 (WHEREUPON, THE DEFENDANT IS DULY SWORN, TESTIFIED AS
24 FOLLOWS:)

25 THE COURT: All right. State your full name, for the

1 record.

2 DEFENDANT FLUDD: Daniel Fludd.

3 THE COURT: Mr. Fludd, at this time I'm going to
4 explain to you certain of your rights. If you do not
5 understand anything I say, you let me know. All right?

6 DEFENDANT FLUDD: Yes, sir.

7 THE COURT: If you want me to explain anything in
8 further detail, you let me know. Do you understand?

9 DEFENDANT FLUDD: Yes, sir.

10 THE COURT: We have now reached the stage of the trial
11 where you may present your defense.

12 DEFENDANT FLUDD: Yes, sir.

13 THE COURT: You have the right to testify on your own
14 behalf.

15 DEFENDANT FLUDD: Yes, sir.

16 THE COURT: However, no one can make you testify. In
17 the event you have a criminal record or any conviction
18 involving dishonesty or false statement, or for a crime
19 punishable by imprisonment of more than one year, and this
20 court determines that the probative value of admitted this
21 evidence outweighs its prejudicial effect to you, the
22 Solicitor would be able, if I so ruled as a matter of law,
23 to introduce your record, for impeachment purposes, to
24 attack your credibility or your believability.

25 If you elect not to take the witness stand, I will

1 charge the jury that they are not to give the fact that you
2 did not testify any consideration whatsoever, and there is
3 to be absolutely no prejudice to you because you did not
4 testify. You have the constitutional right to remain
5 silent, and the exercise of that right will not, cannot, be
6 used against you. The decision as to whether or not you
7 testify will be entirely up to you. You can certainly
8 consult with your attorney, but it is not your attorney's
9 decision, only your decision. So the ultimate decision as
10 to whether or not you testify in the trial of this case is
11 yours and yours alone. Have you understood what I've just
12 told you?

13 DEFENDANT FLUDD: Yes, sir.

14 THE COURT: Very well. Do you need a minute to talk to
15 your lawyer, or are you ready to give me your answer is
16 whether you elect to testify in the trial of this case?

17 MR. DEYSACH: I think we do need to discuss it, your
18 Honor.

19 THE COURT: All right. Take a moment; talk to your
20 lawyer.

21 MR. FLUDD: All right.

22 MR. DEYSACH: Your Honor, we haven't done directed
23 verdict motions.

24 THE COURT: I understand that, Mr. Deysach, but I
25 certainly wanted to advise him.

1 MR. DEYSACH: Okay.

2 THE COURT: And we haven't had lunch either yet, Mr.
3 Deysach, and it's still daylight outside. Talk to your
4 client. And thank you so much for reminding me we need to
5 do directed verdict motions. Be seated and talk to your
6 client.

7 (Off the record briefly, while Mr. Deysach and Mr.
8 Fludd talk quietly.)

9 THE COURT: You ready?

10 MR. DEYSACH: Yes, sir.

11 THE COURT: All right. Mr. Fludd, have you had enough
12 time to talk to your lawyer?

13 DEFENDANT FLUDD: Yes, sir.

14 THE COURT: Do you wish to testify in the trial of this
15 case?

16 DEFENDANT FLUDD: No, sir.

17 THE COURT: And is that your decision?

18 DEFENDANT FLUDD: Yes, sir.

19 THE COURT: No one threatened you or promised you in
20 making that decision, did they?

21 DEFENDANT FLUDD: No, sir.

22 THE COURT: And that decision is entirely yours and not
23 anyone else's, including your lawyer's?

24 DEFENDANT FLUDD: Yes, sir.

25 THE COURT: Very well. Thank you very much.

1 DEFENDANT FLUDD: Thank you.

2 THE COURT: You may return to your seat. All right.
3 I'm going to need to see both of my lawyers in chambers,
4 because I'm going to do directed verdict when we come back.
5 I realize you all have to get some lunch and I've worked you
6 for -- now it's twenty to 2:00, and I've worked you since
7 10:00 o'clock this morning. So almost four straight hours
8 of it and the one break we took. The jury's eating lunch
9 right now, and I need to speak to you all real quickly about
10 the order for this afternoon. We'll be in recess now at
11 least until 2:15.

12 (COURT IN RECESS FROM 1:40 TO 2:25 P.M.; WHEREUPON,
13 COURT IS BACK IN SESSION AT 2:25 P.M. AND THE FOLLOWING IS
14 PLACED ON THE RECORD.)

15 THE COURT: Let the record reflect that I met with
16 counsel during our lunch break. They have read over the
17 verdict form. I have also been over with counsel in this
18 case my entire charge and given them copies if they
19 requested it. It's my understanding through Mr. Deysach,
20 during our break, that his client does not wish to testify
21 in the trial of this case. Mr. Deysach has informed the
22 Court that he is not going to present any other evidence on
23 behalf of the defendant; correct, Mr. Deysach?

24 MR. DEYSACH: Correct, Your Honor.

25 THE COURT: Therefore, I'm going to hear motions for

1 directed verdict at this time.

2 MR. DEYSACH: Thank you, Your Honor. We're doing all
3 overruled objections as well as moving for directed verdict
4 as to murder. The State has not put up any evidence of
5 malice aforethought. For that reason, I do not believe
6 there is evidence in the record to support, specifically, as
7 to the element of malice aforethought on murder that we do
8 not have sufficient evidence to go to the jury on the murder
9 charge. So specifically on murder, we ask that you grant a
10 directed verdict on that charge.

11 THE COURT: Thank you. Solicitor?

12 ASST. SOL. LEGETTE: Thank you, Your Honor. Your
13 Honor, we would ask the Court respectfully to deny the
14 motion for directed verdict. We believe the evidence that
15 has been shown in this case, Your Honor, malice aforethought
16 by the defendant, the testimony that came from this witness
17 stand is that the victim and the defendant engaged in an
18 argument. The victim disengaged and left the area and ran
19 to his mother's house in which the defendant pursued him.
20 The defendant became angry about the necklace. He
21 thereafter pursued the victim and the witness through the
22 path of the church to the home of the victim who was then
23 running away, Your Honor. And so, it's the State's belief
24 he expressed an ill will, a malice towards the victim, Bobby
25 Atkins, at which point he came into the yard of the victim,

1 Your Honor, and a fight ensued. Thereafter, the victim
2 himself was disarmed by the defendant escalated the matter
3 and pulled out a weapon and began to stab the victim and
4 stab him some six times suffering numerous and fatal
5 injuries. And so, Your Honor, it is our belief and
6 contention of this Court that we have sustained our burden
7 and that the malice can be proved by express or implied and
8 express from the use of showing force, or implied by actions
9 in disregard for human life, which is ill hatred, Your
10 Honor. We believe we have met our burden in that regard and
11 that his case should be sent to the jury.

12 THE COURT: Mr. Deysach, I'm certainly not concerned
13 with the weight of the testimony at this stage. As you
14 know, the standard that I'm required to apply is I'm
15 concerned with the existence or non-existence. Your motion
16 for directed verdict on the charge of murder is respectfully
17 denied. Are there any other motions from the defendant?

18 MR. DEYSACH: Well, I guess I should have added the
19 motion for the possession of a weapon during the commission
20 of a violent crime. To that charge, contingent upon your
21 ruling, because if you had granted a directed verdict on
22 murder, there wouldn't be the violent crime to support a
23 possession of a weapon during the commission of a violent
24 crime charge.

25 THE COURT: Although I could have just submitted

1 voluntary manslaughter to the jury, which is a violent crime
2 and would support a conviction of possession of a weapon
3 during the commission of a violent crime, would you agree?

4 MR. DEYSACH: Correct, but voluntary is also a violent
5 crime.

6 THE COURT: And Mr. Deysach is well aware of what I'm
7 going to charge, I'm going to charge murder and the lesser
8 included offense of voluntary manslaughter. Now, I'm going
9 to tell the jury that they cannot convict Mr. Fludd of
10 possession of a weapon during the commission of a violent
11 crime unless they also find him guilty of a violent crime.
12 I'm going to charge them that under the law of the State of
13 South Carolina that both murder and voluntary manslaughter
14 are both violent crimes under our law. So it remains to be
15 seen what the jury will do, but as to your motion of
16 directed verdict on possession of a weapon during the
17 commission of a violent crime, that motion is also
18 respectfully denied.

19 All right. Mr. Deysach has said he is not putting up
20 any evidence, and he will get final argument. Both of you
21 have told my law clerk that you can do it within 30 minutes
22 and I expect you to hold to that. When you're at 25
23 minutes, you're going to hear the tap of my pen. That means
24 you have five minutes to wrap it up, because time is
25 precious. We haven't gotten to any Hampton County cases. I

1 plan to do that later this afternoon around 4:30 p.m. Once
2 this jury starts deliberating, I don't want to sit. I want
3 to work. I expect you to have work ready to go, Solicitor's
4 Office.

5 All right. The Solicitor will argue first. The
6 Solicitor has 30 minutes, followed by counsel for the
7 defendant who will argue last. He will have 30 minutes.
8 Solicitor, when the jury comes back, you will rest and I
9 will then ask Mr. Deysach if the defendant has any evidence
10 to present, and he will say that he rests. I will then tell
11 the jury we will go straight into closing arguments. Any
12 questions from the State?

13 ASST. SOL. LEGETTE: No, Your Honor.

14 THE COURT: From the defendant?

15 MR. DEYSACH: No, Your Honor.

16 THE COURT: Very good. Bring in the jury.

17 (JURY ENTERS COURTROOM AT 2:35 P.M.)

18 THE COURT: All right. Ladies and gentlemen of the
19 jury, we will now continue with the testimony in trial of
20 this case. Solicitor, call your next witness.

21 ASST. SOLICITOR LEGETTE: Your Honor, the State rests.

22 THE COURT: Ladies and gentlemen, you've heard the
23 evidence now from the state of South Carolina. We will now
24 hear from the Defendant. Mr. Deysach, you may call your
25 first witness.

1 MR. DEYSACH: Your Honor, at this time the Defense
2 rests.

3 THE COURT: Ladies and gentlemen of the jury, you have
4 now heard all the evidence in this case. We will now hear
5 the closing arguments of the attorneys, followed by my
6 charge to you on the law in the case. I ask that you give
7 the attorneys your careful consideration. No one in and out
8 of the courtroom while the attorneys argue, or while I
9 charge the jury. Either you're in now, or they stay out
10 until there's a break. Do you understand me in the back?
11 Do you understand, Coach?

12 BAILIFF: Yes, sir.

13 THE COURT: Very well. Closing argument, first from
14 the state of South Carolina. Solicitor.

15 CLOSING ARGUMENT

16 BY ASST. SOLICITOR LEGETTE

17 Thank you, your Honor. May it please the Court. Mr.
18 Deysach. Ladies and gentlemen. A deadly necklace. A
19 deadly necklace. That's what this case is about. That is
20 why Bobby Atkins is dead, a deadly necklace. A necklace so
21 precious to Daniel Fludd he was willing to kill Bobby Atkins
22 for it.

23 Now, ladies and gentlemen, I need to apologize to you,
24 because when I first spoke to you yesterday, I said to you,
25 some people may not be so nice. What I should've said was,

1 some people may be imperfect. The judge asked you to open
2 your mind, and I ask you to open your mind and look past the
3 imperfection of the people we brought before you. Look past
4 the imperfection of Bobby Atkins, the crack head, or the man
5 who used cocaine, or the alcoholic that was Bummy. Look
6 past the imperfections of these people and see them as
7 human.

8 See Bobby Atkins as a man. See Daniel Fludd as simply
9 a man wearing a robe of righteousness, someone who has been
10 accused of killing Bobby Atkins. Our burden is beyond a
11 reasonable doubt. It's a burden we intend to meet. We
12 believe we have that.

13 At the end of this case we'll ask you to take off the
14 robe of righteousness and crown him with a verdict of
15 guilty. Guilty of Bobby Atkins, guilty of murder of Bobby
16 Atkins, guilty of possessing a weapon during the commission
17 of killing Bobby Atkins. But before we try this case, we
18 need to know a little bit about the law in this case and
19 what the trial judge will ultimately tell you the law is in
20 this case.

21 You all are the judge of the facts, and so you have to
22 -- you have the unenviable, I will say, unenviable burden,
23 of judging the facts in this case. And as the facts play
24 out, I'm going to give you a little roadmap as to what to
25 look for, because what you'll be looking at is murder,

1 possession of a weapon during the commission of a violent
2 crime, and voluntary manslaughter. You've never heard of
3 that term before until now, and I'll tell you a little bit
4 about what voluntary manslaughter means and what to look
5 for.

6 Now, the judge himself will tell you the law. So, if I
7 make a mistake he will tell you. Listen to what he says
8 about what voluntary manslaughter means. That means you can
9 choose between either a, he's guilty of murder; b, he is
10 guilty of voluntary manslaughter; or c, he's not guilty.
11 And ultimately, ladies and gentlemen, if you do not believe
12 the evidence that was brought before you, then you will find
13 him not guilty, and it's simple as that.

14 We are here for a fair and impartial trial and we thank
15 you. Now, let's get along with it. So, as it relates to
16 murder, we also have to deal with whether it was self-
17 defense. Now, you heard a lot of evidence, a lot of
18 testimony from the witness stand from Zaneh Garvin about
19 where they went.

20 For all the places that they went, it might have seemed
21 like it was just too much to hear. They went all over
22 Estill, started in New Town with Bummy, and went across to
23 Rivy's house. And he didn't want to be called Rivy, and
24 didn't want to be called Rivy, and the money he may have
25 given. Also, when they left Rivy's house, they went down to

1 Travis' house, all to sell the precious necklace. The
2 precious necklace. So, you have them going all around
3 Estill. All of this for Bummy to tell you about how, yes,
4 they were all together. "They were all together at my
5 house." They don't know what time it was. Well, we don't
6 know because like Bummy said, he gets lit, early in the
7 morning.

8 So, anyway, they were all together. They all left his
9 house together. So, let's talk about what happened. Where
10 the rubber really meets the road in this case, and I know
11 you've heard a lot of stuff and you probably biased, I'll
12 tell you in a little while; I promise you.

13 The rubber meets the road. What was always consistent?
14 Always consistent? Always consistent? The yard. If you
15 listen to Zaneh, if you listen -- when you listen to that
16 call, you listen to the body cam in the beginning, Officer
17 Bennett overheard crying. She's in the yard. The yard.
18 The yard. It happened in the yard. The yard. The yard.

19 Now, ladies and gentlemen, let's talk about this yard.
20 You saw the photographs of where the yard is. This is the
21 yard; the yard at his mom and dad's house. The yard. And
22 you also saw the picture of the -- the path. The path. Even
23 Daniel Fludd, when you listen to his testimony and the --
24 and the statement, he's at the path and he's at the church.
25 The church. Everything popped off at the church, and then

1 there was a path. There was a path, ladies and gentlemen.

2 There was a path. I wish I had it on the screen for
3 you to see, but you've got it -- you'll have it in the jury
4 room. There was a path. There was a church path by the
5 church. Ladies and gentlemen, all over a necklace.

6 So, what we have is Champ running away. Now, in some
7 circles you may be called a coward for running away. But
8 no, no, no, no, no! He that fights and runs away lives to
9 fight another day. Champ ran away. He ran away. So, why
10 murder and voluntary manslaughter?

11 We also must consider, did Daniel Fludd act in self-
12 defense. I asked Zaneh, well, Zaneh, who was defending
13 themselves? Champ. Champ. He was -- he ran to his mama's
14 house. Now, ladies and gentlemen, when you run home to
15 mama, when you running home to mama, things has gotten real
16 and real serious if you running home to mama.

17 This boy is running home to his mama. Zaneh said,
18 "Run, Champ, run!" He left the church and ran home to his
19 mama; trying to get away from Daniel Fludd. So, let's
20 discuss it. Because before you can decide if he's guilty of
21 murder, you've got to decide was it self-defense. Was it
22 self-defense? Because guess what? In South Carolina, self-
23 defense is complete. And if you don't believe that he acted
24 in self-defense, then you've got to let him go. That's
25 right.

1 If you think that Daniel Fludd stabbed Bobby Atkins six
2 times, in his left arm, in his right chest, in his center
3 chest, and disemboweled him -- disemboweled him, and his
4 groin. If you think that's self-defense, then you let him
5 go.

6 But let's discuss what self-defense really means. I
7 will bring your attention to the screen and show you, I
8 believe, it will show. Let's talk about what is self-
9 defense in the law. So, self-defense, a complete defense --
10 well, we may have some technical difficulties; but anyway,
11 self-defense. A person who acts in self-defense.

12 Now, Daniel Fludd is guilty of murder. This is not
13 self-defense. What does self-defense require? Be without
14 fault in bringing on the difficulty. Number two, defendant
15 must have been in imminent danger of death or bodily injury,
16 or believe he was in such danger. A reasonable person would
17 have entertained the same belief, and no other means of
18 avoiding the difficulty.

19 So let's go through this, my dad likes math. I wasn't
20 really good at math, but we're just going to try to get to
21 the facts, just kind of like an equation. So, you all stay
22 with me. I'm going to do my best to break it down the best
23 I can.

24 So, when all four are established, the defendant is
25 entitled to self-defense. And basically, that means if we

1 don't estab -- if we don't get disprove it, you can let him
2 go. But guess what, you all? All we need is one. All we
3 need is one, to take one away out of the equation. If we
4 can disprove one, then he doesn't get self-defense; simple
5 as that.

6 Now, being without fault in bringing on the difficulty.
7 Let's discuss that. Let's talk about this. Without fault.
8 The church, you all. The church, this necklace. Zaneh gave
9 the necklace back. Guess what we got, you all? In your
10 jury room, you're going to have it back there; I can't find
11 it right now, but you're going to have this paperwork where
12 he got his necklace back.

13 His necklace was in -- his necklace was actually in the
14 property in the jail. He got the necklace back. Well,
15 guess what? Rather than just walk away when he gets his
16 necklace, he continues to argue with this man. And when
17 they run away, he follows him to his house, in the dark, to
18 his house. Is that not fault in bringing on a difficulty?
19 No, that's bringing on the difficulty. A man is running
20 from you. What does he have to do to let you know, just
21 leave me alone? What do I have to do? He was at fault in
22 bringing on the difficulty.

23 First Estill Church, he runs away. He got his necklace
24 back. Why wasn't the necklace enough? You've got the
25 necklace; why isn't that enough? The man went home to his

1 mama, but that's not enough. Through the path, run, Champ,
2 run. He ran to avoid the difficulty. Now, if anybody could
3 have had a self-defense, you all, it was Champ. I asked
4 Zaneh, "Who was defending themselves?" Champ was defending
5 himself. He ran away to avoid the difficulty.

6 Where does Daniel Fludd live in relationship to this
7 place right here, you all? I gave you all this big, big
8 map, this big map all around Estill, New Town. Well, it's
9 two miles in the country. Two or three miles in the county,
10 Country Craft Road, that's where Daniel Fludd lived. If
11 Daniel Fludd wanted to avoid the difficulty, he could've
12 turned and gone home when he got his necklace back. But
13 guess what? He didn't do it. Out there in Lena. That is
14 where 150 Country Craft Road is, and that's not where he was
15 going. Why is Daniel Fludd going to the back yard of
16 Champ's mama house? Why is he chasing that man?

17 Ladies and gentlemen, he chases him down because he's
18 mad about the necklace that he already got back. His
19 precious necklace. This reminds me of a movie I watched a
20 while back, Lord of the Rings. There was a man in that
21 movie who was obsessed about a piece of jewelry. He was
22 obsessed about it. He called it My Precious and it consumed
23 him. It consumed him to the point where he wanted to kill
24 another man in that movie to get that ring back. Daniel
25 Fludd became consumed by this necklace. You all saw these

1 videos this morning. He was mad then about that necklace.
2 "I'm gonna stab you, man. I'm gonna stab you." And you
3 going to take my necklace? Don't be caught up in the -- in
4 the -- in the middle. Get past the middle. Did Champ steal
5 the necklace? Did Daniel Fludd want him to sell the
6 necklace? What we know is, the necklace was the issue. And
7 I asked Captain Williams, well, if Champ stole the necklace,
8 how much -- what's the penalty for petty larceny? Thirty
9 days. You do not kill people over that. You do not kill
10 people over necklaces.

11 I don't have the right to go and kill you over my
12 necklace. It's thirty days for the penalty, not the rest of
13 your life. Champ was cut down at forty years old, in the
14 prime of his life. He ran from this man. He went home to
15 his mama. His mama house. He was avoiding the difficulty.
16 That was Champ. That was not Daniel Fludd. When he ran
17 into that yard, where he had no right to be, he didn't have
18 any right to be in the yard at 408 Sapp Boulevard.

19 Mr. Deysach has a made a huge issue out of that shovel.
20 Daniel Fludd himself said he left the shovel where it
21 happened. Daniel Fludd himself said he was on Godbold Street
22 that runs right by Sapp Boulevard. They are together. They
23 are connected. This road right here, this dirt, that's
24 Godbold Street. That is Godbold. He was in this yard.

25 Here's the thing. Daniel Fludd talked a lot of stuff

1 about how he stabbed this man with the shovel shard. Was it
2 the shovel shard? The pathologist told you it wasn't a
3 shovel shard. It's hard to believe that he was in the
4 street. He was inside the yard where they found all the
5 stuff, where they found the blood. That's where Daniel
6 Fludd was. That's where he killed Bobby Atkins, who had run
7 home to his mama for sanctuary, to get away from a man who
8 was a killer.

9 Ladies and gentlemen, this is murder. Daniel Fludd is
10 a killer. He told you in an interview, yes, I poked him.
11 I poked him with the shovel. It couldn't be the shovel.
12 The expert pathologist told you, "No, it wasn't the shovel";
13 and no, it wasn't that box cutter that was found. No, it
14 wasn't that. It was a knife that we never got. That's what
15 it was. And he poked him up. And he's talking about how,
16 basically, it's deeper than it is long.

17 Zaneh said how he Champ was fighting with him, and then
18 Champ had to back up because he was -- he was sticking him;
19 he was poking him. How many times do I have to poke you for
20 it to be self-defense? A man who had no weapon. Champ had
21 no weapon. That's the other part, Champ had no weapon. He
22 was disarmed. Zaneh said that he was -- Daniel Fludd had a
23 shovel.

24 Now, he claims he took the shovel shard and stabbed
25 him. Not possible. Not possible. You cannot believe that.

1 He stabbed him with a knife, over and over and over and over
2 again. Did he believe he was in imminent danger of death or
3 bodily harm? No, he didn't believe he was in imminent death
4 of bodily injury or harm. No! If I believe I'm in imminent
5 danger of death or bodily harm, I am not going to your
6 mama's house. I am not chasing you through the path in a
7 different direction than my house, two miles in a different
8 direction; I am not chasing behind you. I will not. I
9 shall not. He was not believing that. It was not
10 reasonable.

11 Daniel Fludd had a knife. Champ had no weapon. No
12 weapon. Now, his actions are frightening. He got his
13 necklace back, but he's still mad. He's still following
14 him, still chasing him. He's mad in the video when he
15 talked. When you listened to the video, he's still mad.
16 Chased him to his mama and daddy's yard, and then cornered
17 him. That's death by this necklace; my precious.

18 Now, ladies and gentlemen, this is not self-defense.
19 I'll tell you what this is. This is murder. Murder is the
20 killing of another person, with malice aforethought, either
21 expressed or implied. The judge himself will tell you what
22 it actually means. Forgive me if I talk a little fast. I
23 sometimes do have a speech impediment. My bad, I'm so
24 sorry. But the judge himself will tell you murder, the
25 killing of another, with malice aforethought, either

1 expressed or implied. What do we have? Killing. Bobby
2 Atkins, Champ, he's a dead man. Dead and gone. He's dead.
3 The pathologist told you it was a homicide, killing at the
4 hands of another person.

5 With malice, what is malice? Malice is reckless
6 disregard for human life. Malice is evil. Wickedness.
7 It's a reckless disregard for life. Well, ladies and
8 gentlemen, when he ran through this path after this man, who
9 had already given him the necklace back, Zaneh, he ran
10 behind them. He had already formed in his mind the wicked,
11 evil intent. And when they got into that yard and he pulled
12 out that knife, each one of those thrusts was more evil and
13 more malice and more wicked intent. "And I poked him, and
14 yet I didn't mean to kill him." Over and over and over
15 again, malice, evil, wicked, reckless disregard for human
16 life, either express or implied. It simply means either I
17 say I'm going to kill you, or either I imply it by whatever
18 my actions are. And my actions are by stabbing you six
19 times in your chest, then disembowel you, and standing in
20 his face. That is malice, express or implied.

21 And let's discuss voluntary manslaughter very briefly.
22 We'll come back to this. What is voluntary manslaughter.
23 Now, voluntary manslaughter, it's a little bit different;
24 just a little bit. What you got to have? Basically,
25 voluntary manslaughter is the unlawful killing of another

1 person without malice, express or implied. But more, let's
2 get to it, it requires the sudden heat of passion upon
3 sufficient legal provocation.

4 Basically, that means you kill somebody, they have made
5 you angry, but you've got to be legally provoked. You can't
6 just kill me because I make you angry. You can't just kill
7 me because I got your necklace and you're just angry about
8 it. You can't just kill me because of that. But if we get
9 into a fight, we get into a fight, you hit me, and now I'm
10 real angry, my sudden heat of passion, I've been legally
11 provoked, that could be voluntary manslaughter. But you got
12 to get past murder first to see if it's voluntary
13 manslaughter.

14 So, is it? Well, you have to decide. You have to
15 decide, because Champ is still dead. It's still unlawful.
16 It's without -- it couldn't be without malice, because when
17 he chases that boy, who was running for his life -- and oh,
18 yeah, he was running for his life, that he lost on March
19 22nd, 2017. That was malice. But if you don't believe it
20 was malice -- because here's the thing, right here there was
21 no fight. Here, he was only angry. He was mad about his
22 necklace that his so-called acquaintance had stolen from
23 him.

24 But if you don't believe that, the legal provocation
25 and the sudden heat of passion when he goes into the yard,

1 because maybe he just wanted to fight with Champ in the
2 yard, maybe, if you believe that. And then Champ runs to
3 his mama's yard, run back in here and get the shovel and it
4 breaks. Champ's got no weapon, they go to fisticuffs, they
5 go to fighting, Kung-Fu fighting, Champ had -- Champ had no
6 weapon. At this point, Daniel Fludd's angry. He's real
7 angry. Pulls out the knife, and he just cut that man up;
8 just like a butcher. He butchered him, disemboweled him.
9 That is voluntary, or it could be, depending on what you
10 see.

11 You are the finder of fact. That could be voluntary
12 manslaughter. So, ladies and gentlemen, at the end of this
13 long week -- and it's been a long week for you all; once you
14 get past those two, when you find him guilty of murder or
15 guilty of voluntary manslaughter, then you get to come to
16 the possession of a weapon during the commission of a
17 violent crime. What does that require? It would require
18 you to possess a weapon, possession of a weapon during the
19 commission of a violent crime violent crime, and murder and
20 manslaughter are both violent crimes. What do we have for
21 evidence? Zane said he had a knife. He draws the knife,
22 he stabs him.

23 Our pathologist said, no, it was not a shovel shard.
24 There is no blood on the shovel shard anywhere. We've had
25 endless -- we've had experts come in and tell you there's no

1 DNA, there's no -- I'm sorry -- there's no blood on the
2 shovel shard. The pathologist told you the shovel could not
3 have -- or I'm sorry, the shovel shard -- did not kill him.
4 It was a knife, she just told you, with a blunt edge and a
5 sharp edge. It was a knife.

6 Ladies and gentlemen, a knife. Possession of a knife
7 during the commission of a violent crime, and that's what it
8 was. And that's our evidence, ladies and gentlemen.

9 Ladies and gentlemen, we submit to you, this was not
10 self-defense. This was murder. He was murdered. Daniel
11 Fludd was not in fear of harm. He was not in fear of
12 anything. He says what he wants to say on the video.
13 Notice he lied several times, and they had to pull it out of
14 him, and pull it out of him, and pull it out of him, to get
15 to it, and then it still isn't finished.

16 And I know Zaneh is full of imperfections, but I go
17 back to the beginning. Go back to the beginning. At the
18 end of the day, it happened in Bobby Atkins' mama's yard.
19 At the end of the day, it was a knife. That is where it all
20 turns. Not all this stuff about Bummy. It turned.

21 The other part of this is, as a person who -- a person
22 who engages in mutual combat, mutual combat, you cannot have
23 self-defense when you have engaged in mutual combat. And
24 mutual combat means the willingness to fight. You have to
25 come together and decide to fight, and that's what Daniel

1 Fludd did when he ran behind Champ. Zaneh said from the
2 street, they were beginning to get into fisticuffs. She got
3 in between them. It was getting ready to come to blows.
4 She told Champ to run. Daniel Fludd began running behind
5 Champ and Zaneh, expressing willingness to engage in mutual
6 combat, which is exactly what happened in the yard. Mutual
7 combat, basically, is you agree to fight. Whether we have
8 our words, I'm getting ready to fight you; or we're just
9 going to start kung-fu fighting. That is mutual combat,
10 ladies and gentlemen. That is mutual combat, and that way,
11 basically, Daniel Fludd cannot have self-defense.

12 I said I only had to remove one. And no other means of
13 avoiding the difficulty. Daniel Fludd had plenty of
14 opportunity to run away; to go home to 150 Country Craft
15 Road. He had plenty of other means of avoiding the
16 difficulty.

17 Not only that, but even after the shovel was broken, he
18 just walked out of the yard. He walked away unmolested.
19 After he stabbed Champ to death and Champ ran away, Zaneh
20 was standing there. She didn't try to harm him. He even
21 told her she was next.

22 Ladies and gentlemen, he had other means. He could
23 have avoided the difficulty had he wanted to. He chose --
24 he chose to murder Bobby Atkins. So, ladies and gentlemen,
25 Daniel Fludd is guilty of murder. Daniel Fludd is guilty of

1 possession of a weapon during the commission of a violent
2 crime. And I'll ask you to find him guilty of the murder of
3 Bobby Atkins, for his actions on March 22nd, 2017. Thank
4 you.

5 THE COURT: Mr. Deysach?

6 MR. DEYSACH: Thank you very much, your Honor.

7 THE COURT: Proceed.

8 MR. DEYSACH: If it pleases the Court; Ms. Legette.

9 CLOSING ARGUMENT

10 BY MR. DEYSACH:

11 I hope you're not going to decide this case based on
12 charisma. That's not what it's about. I mean, I can tell
13 it was a very charismatic presentation. But what I heard
14 her say was, it's murder, but it might be voluntary
15 manslaughter. That there is some mutual combat, but it
16 might be, I believe, admitted to you, and you heard it, too,
17 that it might be voluntary manslaughter.

18 So, all right. We can throw out -- if that's the case,
19 we can throw murder out right now. We can throw murder out
20 right now. If she's asking you to do either murder or
21 voluntary manslaughter, if that's what you felt like she
22 said, let's not even think about murder anymore, because she
23 just -- I mean, presumption of innocence, burden of proof
24 beyond a reasonable doubt, forget about murder. That's
25 gone, based on what she said.

1 Okay. So, it's a case about self-defense. Rules of
2 the game. The State has to prove -- has to disprove self-
3 defense beyond a reasonable doubt. There's four elements of
4 it. She was hitting them. She was hitting them fast.
5 She's right about them, she's right about what the elements
6 are. The judge is going to tell you what those elements
7 are, and -- and so, we've got to kind of go through each
8 one.

9 The thing that's -- that is -- that I want to point out
10 about that presentation is that many of the key facts that
11 she's relying on come from Zaneh Garvin, and Zaneh Garvin
12 only, right?

13 So, she was oh, well, it happened like this, and it
14 happened like that. She's taking Zaneh Garvin's words --
15 you saw Zaneh Garvin. Is Zaneh Garvin somebody that you
16 would trust beyond a reasonable doubt? Would you hesitate
17 to act if Zaneh Garvin told you something? And I think it's
18 an admission from the State that there's something wrong
19 with her when they have to doll her up and give her a place
20 to stay in order to bring her here.

21 There's nothing more ludicrous than somebody who admits
22 to prostitution being given a three-night stay in a hotel
23 room by the State of South Carolina. And that's just a --
24 and then, the -- that's one thing. Okay. Transportation,
25 they can't give her a ride from Hardeeville, I guess. But

1 the -- the new clothes to make her more presentable; that's
2 what she said that had happened. And that -- this is not a
3 performance. This is not a play. This is -- we're not --
4 this is -- this is real. Okay?

5 This is not let's pretend to be somebody that we're
6 not, because that's what that is. Okay? So, if you want to
7 -- you can't take what she says as proof beyond a reasonable
8 doubt. And it seems like there's been a rush by the State
9 to just believe it. Like, oh, she said it. We'll go with
10 it, without really scratching the surface. What she said
11 before, but I kind of want to hit these elements of self-
12 defense.

13 Not at fault in bringing on the difficulty. Okay. All
14 right. So, we've got -- we've got the scenario of the meet
15 back up, you know? We have Mr. Fludd's statement, and he's
16 saying well, I went to go confront him about my stolen
17 necklace. Okay? Officer Williams -- I don't have an issue
18 with that. There's nothing -- it's not your fault if you --
19 in bringing on the difficulty when you walk up to somebody
20 and say, "Hey, you've got my necklace, do you mind giving
21 back my necklace." You know, that's not bringing on the
22 difficulty.

23 What's bringing on the difficulty is, oh, boom, that
24 thing. That thing -- that shovel. It's not a -- it's not a
25 -- this is not a case about a necklace; it's a case about a

1 shovel. You know, it's a shovel case; it's not a necklace
2 case.

3 That's -- that's the problem, is that no shovel is
4 swung. Now, that's the difficulty. That's the serious
5 bodily injury. I guess I'll skip now to serious bodily
6 injury, in fear of serious -- danger of serious bodily
7 injury, a reasonable fear of imminent bodily injury, serious
8 bodily injury.

9 Pick up that shovel, you know, that -- that flat end of
10 that shovel. Don't swing it at anybody back there to test
11 this out, because that will -- you can kill somebody with
12 that. This is a -- it's in pieces now, because it was
13 broken over my client, but a baseball bat, a shovel, I mean
14 it's heavy on that end. It's rusty, it's pointy, it's
15 sharp.

16 I mean, if somebody swings that at you, you're in
17 danger, imminent danger, of serious bodily injury. If
18 somebody's holding a jagged piece of shovel in their hand
19 because the -- they broke the rest of it off over you, and
20 you're just left with a pointy stick, you're also in danger
21 of serious bodily injury.

22 So we've got without fault, we've got serious bodily
23 injury. The -- the no other way to avoid the danger, and
24 you know, a reasonable person has to agree. You hear the
25 statements. He's like, what am I supposed to do? He slams

1 me with the shovel and says he's going to go get a gun, and
2 what am I supposed to do? I don't have a choice, I can't --
3 you can't outrun a bullet. You're not going to, you know,
4 there's nothing you can do. What are you -- I mean, -- and
5 he -- okay. Well, here, let me sit here and think about it.
6 Let me sit here and think about what I'm supposed to do.
7 You just hit me two times with a shovel and broke it, got a
8 pointy thing, says he's going to go get a gun. And well,
9 you know, I'm a pro. I might be able to avoid the danger.
10 That's not how it works in the world. You know, that's not
11 how it works in the world. That's not how it works in the
12 world. And you know, she made the point about, well, you
13 know, the injuries to Mr. Atkins are reflective of evil. Do
14 you know what those injuries are? That kind of -- if
15 there's -- there's the degree to which, you know, deadly
16 force was used in self-defense, that's fear. That is fear.
17 The emotion that drives that is that fight or flight fear
18 reflex that you get. And it comes in an instant, and you
19 don't have time to process it.

20 I mean, like I said, imagine -- I mean, you'll have
21 this shovel -- I'm not going to do a demonstration. I
22 dropped it; that was enough. You know, that's -- oh, snap.
23 You know, and you heard him say it. And so, you know, we do
24 have his statement, and it's at first, you know, not
25 forthcoming. I mean, I was there, and I was there, there,

1 and there; and they're like, "Now, Daniel, now, Daniel, you
2 know, we know that's not right." "Okay, okay, okay, he
3 swung the shovel, I was scared, and I punched him and I
4 ran." And then, it's like, "Okay, Daniel, you know." And
5 then, you just see it spill. It spilled in a flood of,
6 just, emotion.

7 It's just unlocked right there, and it's just all over
8 the table, what he's -- oh, no, I mean, I can't -- I'm --
9 just, this is so crazy. I can't believe this happened.
10 It's -- you know, obviously, ~~malice~~ aforethought is not
11 there, but you can see it. And you know, oh, he -- I
12 thought -- I'm -- you can think what you want, you know.
13 You've got an experience with watching T.V. or whatever, but
14 you know, we hear about these interrogations where they're
15 up on the defendant, and they're just dragging it out of him
16 and all these things. Really, all they're doing is like,
17 now, "Daniel, we're not going to lie to you, but that
18 doesn't make sense." And then, he just comes with it. He
19 just lets it out.

20 So, we've got the -- that statement is back there for
21 you to review. I think we put in a transcript. And so, you
22 can see those parts and the -- and how it changes, you know,
23 where he's like, oh, I don't know what you're talking about.
24 I mean, there's really no evidence in the record that Daniel
25 knew that Mr. Atkins was dead until he visits with the

1 police.

2 So, I mean, when he's -- he's -- I mean, if you look at
3 it in that perspective, how it all went down, there's really
4 not a way for him to have known that Mr. Atkins was dead.
5 And so, all of a sudden, he finds out that the person that
6 he got into the fight with last night is dead. And I mean,
7 we've seen the injuries in there. You know, obviously,
8 they're the type of injuries that -- that could cause death.
9 But it's a quick, chaotic moment, you know. And you know, I
10 think she acted it out, and I'm not going to do it, but it's
11 fast. It's not just okay, one, two. It's just -- it's a
12 reflexive -- that's what it is, it's a reflex. Okay. All
13 right.

14 So, what I've described is a situation where Mr. Fludd
15 -- and I don't believe they've disproven this beyond a
16 reasonable doubt -- where that Mr. Fludd is -- approaches
17 Champ about the necklace, and that Champ is the first one to
18 throw a physical blow. I think that that is not -- I mean,
19 I think Zaneh said maybe they started fighting first, or
20 something like that.

21 Mr. Fludd's statement is, you know, "I was mad that he
22 took my necklace, but not to the point where I wanted to put
23 my hands on him." But then, boom, "He hits me with a
24 shovel, and here we go," right? So, we've got -- like I
25 told you in the beginning, we've got the battling

1 statements.

2 We've got Zaneh Garvin, and we've Daniel Fludd. I
3 mean, they're both in a biased situation. But I mean, to
4 sit here -- they've got the burden here. We're presumed
5 innocent. The -- you know, the bedrock foundation to -- to
6 what we're doing here.

7 The main principles that you have to apply in order for
8 anybody to get a fair trial is the presumption of innocence
9 and proof beyond a reasonable doubt. And so, when you've
10 got these conflicts between what Daniel says and what Zaneh
11 says, and they're the only two people who could know, it
12 can't be proven, you have to resolve that in favor of the
13 defendant. That's just the rule.

14 Listen to the judge as he delivers it. That's just the
15 rule. Okay. So, what led up to this point? Because, you
16 know, is it -- is it this moving fight; or is it something a
17 little bit more like what Daniel describes in his -- in his
18 statement, where, okay -- I mean, I tried to flush out any
19 inconsistencies in what Zaneh had said before. And you
20 know, those will be for you to -- to remember if -- if that
21 was effective or not. But she described this situation
22 where she's -- they're going to Bummy's house for the
23 purpose of her doing prostitution, to get money for -- for
24 Bobby's crack, right? That was -- that was the -- that was
25 the purpose for being there. That her position is that

1 Daniel has given Bobby the necklace to sell for Daniel.

2 Like, what's going to happen is that Bobby's just
3 going to go to some other person, make the transaction, and
4 give Daniel back the money, whether he keeps some for
5 himself, or whatever. All right. What's funny about all
6 those other visits is that the way she set it up. Well, you
7 know -- well, you know, Rivy can't see Daniel because he's
8 just right around the corner, and the drug dealer that they
9 went to, you know, he's not going to be able to see Daniel,
10 either.

11 It's just so convenient that we have to trust Zaneh
12 that Daniel's even tagging along on this -- this walk all
13 over town. You know, like, boom, boom, all over the place.
14 It got kind of confusing. But what they're doing, okay, is
15 they're going from place to place to get money, to sell the
16 necklace, to sell Zaneh's body, to go buy crack. That's why
17 they go to -- I mean, this is what's going on. I mean, I --
18 to pretend like they're just, oh, we're out trying to get a
19 few dollars one night, or whatever.

20 This is a crack hunt, is what it is. And what it looks
21 like is that Champ steals Daniel's necklace and goes to try
22 and sell it for crack. The problem is, Daniel ran back into
23 them at the cut, at the path, before they had a chance to
24 sell it for crack. Okay. All right. And this sounds like
25 reality.

1 I kind of am reminded of the picture that they have
2 that's in evidence of the church. It's like common sense is
3 a flower that doesn't grow -- it's in the evidence -- it
4 doesn't grow and everybody starves, or something like that.
5 I'm like, oh, okay, common sense comes in now. Now we know
6 how crack -- how pimps, I guess, also, he -- I mean, that
7 qualify him as a -- as a pimp/prostitute relationship that's
8 going on here. That how this works -- I mean, they're out
9 at night, trying to get crack. I mean, it's sad. I mean,
10 it is sad, but this is kind of what -- just human nature,
11 and we know how people are when they need that crack; or
12 they've got that crack, or when that crack takes over their
13 life.

14 And I mean, maybe Zaneh's not using crack, and I don't
15 know if she is or if she isn't. It just seems a little
16 weird that you'd be out there, you know, selling your body,
17 giving all the crack to the other -- I mean, all the money
18 for the crack to the other person. It's just, she's broken,
19 at best. It's sad. I mean, it's sad, but, you know, as a
20 result of this lifestyle, she's rendered herself not
21 reliable.

22 I mean, how would you -- I mean, how -- how could
23 anybody be convicted on her word? That -- that -- don't let
24 that happen here. Don't let that happen here, because
25 that's just -- that's not what proof beyond a reasonable

1 doubt is.

2 So, we've got, I think, some behaviors that seem a lot
3 more like reality in that, oh, hey, I got sticky fingers.
4 Champ gets a hold of the necklace, goes all over town to try
5 and sell it and get money. Rivy is even nice enough to give
6 him the twenty dollars, and then where do they go with the
7 twenty dollars? Straight to the drug dealer's house. Oh,
8 we didn't get any drugs, but you know, the -- the
9 pathologist said, you know, the cocaine has not been
10 metabolized yet in his system. So, I mean, it's still kind
11 of right there. And you know, that can make people
12 aggressive, you know. I mean, you know, the guy is -- the
13 guy is -- I mean, you can't count on a crack head, either
14 under the influence, or even in a drug-seeking state, to be
15 -- to be logical.

16 Okay. So, if you listen to the statement or read the
17 transcript of what Daniel says to the police: I caught up to
18 him at the church by the cut. I think she showed you the
19 picture of the cut there. It's like, oh, we're by the brick
20 house. I think the brick house he's describing might even
21 be -- you decide -- might even be the -- the 408 Gordon. I
22 don't -- I mean, there's nothing in evidence that says why
23 Daniel would ever know where Champ's mama lives. You know,
24 it says Gordon on the front. He doesn't even probably know
25 Champ as anything other than Champ. And he goes over, you

1 know -- that's where he sees them. Hey! Do they stop? No.
2 Did he run after them? No. I walked them down. And he
3 says when he walks them down, he's at the "T", and we're
4 talking about Godbold Street, and here we are in the stack.
5 This little "T" right here, dirt road, "T".

6 You know, the State -- I mean, I -- if their -- if
7 their case is built around the fact that this had to happen
8 in Champ's mama's yard, then they've got a real problem.
9 Okay? Because the -- the blood trail, the -- Daniel says
10 it's out in the road -- the blood trail, you know -- but not
11 to say that Champ wouldn't have had a chance to go past
12 where the -- where the shovel is at that point. I mean, he
13 does pass -- would have had to pass the shovel, go in the
14 carport, shovel. Where, in the carport, is the shovel to
15 begin with? You know, nobody's seen it for awhile, but he
16 does come back and could get the shovel at that point. And
17 you know, it doesn't make any sense that somebody who had
18 just had their necklace returned would still be on such a --
19 you know, I got my necklace back, you know, I'm still mad.
20 You know, you just didn't give it back fast enough. Like,
21 that's not really how it is.

22 You know, what it seems like is when they, you know,
23 like what -- you know, the way Zane described it, it didn't
24 make sense, you know. Oh, I'm running faster than Daniel,
25 and Daniel doesn't overtake towards the end. This traveling

1 fight thing is just -- sounds like a lie. It sounds like a
2 lie to me, or hopefully it sounds like a lie to you.

3 That, you know, obviously, you know, I mean, if they
4 keep the necklace, then that's at least one less trick I
5 guess, that Zaneh would have to turn in order to get Bobby
6 his crack money, you know. I mean, that she's oh, just give
7 it to him, Bobby. I tell Bobby what to do. He tells me I,
8 you know -- the -- the -- sort of, the pimp/prostitute
9 relationship doesn't usually include the prostitute telling
10 the pimp what to do. That's usually not how it works.

11 So, at any rate, I think I got waylaid out of did it
12 happen in the yard or not. Okay. A fact I want you to
13 think about on this one. The blood trail, right? You know,
14 when the police get there, they never really look for a
15 blood trail outside of the yard. So, if one existed and
16 it's dark, they didn't see it.

17 But that first spot of blood is right over by the post,
18 right there by the post. And I made the point, and I think
19 -- I mean, hopefully it's a good one, that if that's where
20 the blood hits the ground, that's not where the person is
21 when they start bleeding. That's oh, ah, I can gather, you
22 know, that, you know, there was some testimony from the
23 doctor about how far it could -- how long could somebody
24 make it, or how long could somebody live after that injury
25 and, you know, make it around.

1 So anyway, that's just the start of it. And then, this
2 is the thing that, you know, that bothers me is the shovel
3 issue. Okay. We swing the shovel, it breaks in three
4 places. We've got these pictures in evidence where they put
5 it up on the screen, right? Pictures from that night, and
6 they said, "Well, where did you find the shovel?" He puts
7 his laser pointer right in the spot, and there's no shovel
8 there. Like, you look at these pictures and there's no
9 shovel there that night.

10 You know, the scene gets unsecured. They leave -- you
11 know, they take the tape down and return it to the private
12 owners of the place. You know, not -- not having a problem
13 with that. But you know, then to come back some hours later
14 and find the shovel, a broken shovel, hey! I was like, you
15 thought the headphones were a big deal. What about the
16 broken shovel? So, you look at those pictures and can't
17 look for a broken shovel laying there in the spot where they
18 say that it was. Anyway, it's not anywhere near, really,
19 where the -- it's not really -- because if it had been along
20 the blood trail, they would've found that. I mean, that
21 would've been a little bit more obvious, I guess.

22 It's not anywhere near the blood trail, and you know --
23 and so, it doesn't really make any sense that this -- this
24 shovel -- and you know what? Because Zaneh, you know, when
25 asked, is there anything else that you need to tell me, she

1 doesn't say anything about the shovel to the police. She's
2 hiding the fact that there's a shovel involved. Why is she
3 hiding the fact that there's a shovel involved? Because she
4 knows Bobby did wrong. That's why she won't tell about the
5 shovel. Because she says, "Oh, Daniel just killed Bobby for
6 no reason," over a necklace? No, but they're not talking
7 about the shovel, because otherwise, you know, it doesn't
8 make sense.

9 He hit -- you know -- oh, yeah, there's the shovel. I
10 mean, anybody who, you know -- so, I mean, that's -- that's
11 the problem with the shovel, is that it kind of magically
12 moves, and the -- and sure, it would be nice -- I mean, the
13 State has the burden of proof -- it sure would be nice if
14 there was a picture when they find the shovel; any sort of
15 documentation that says, this is where we find the shovel.
16 I mean, they tell us where they find the crack pipe and the
17 lighter, but we have no idea where they find the shovel.

18 Okay. All right. So, we've got the issue of, you
19 know, okay, well, it doesn't -- I mean, I can look at the --
20 the shovel, and you know, is this -- was the shovel -- did
21 the shovel cause the injuries on Mr. Atkins. And I'm
22 looking at -- I mean, it seems like there would be more
23 blood and -- and whatnot. I mean, I think that the -- the
24 pathologist gave her opinion. It couldn't have been --
25 couldn't have been -- couldn't have been the shovel you

1 would expect to be something on the shovel. I mean,
2 definitely.

3 So, it's as it is. It's as if the solicitor is telling
4 you that you can't defend yourself with a knife? If it's
5 self-defense, it's self-defense, whether it's a shovel or a
6 knife. It's -- it doesn't make a difference. You can
7 defend yourself with a knife, you know?

8 It's just, you know, the fact that -- that, you know --
9 and there's not a rule that says if you defend yourself it
10 has to be with a shovel. You know, if you're -- if there's
11 nothing wrong with carrying a knife when you live in a
12 country town, right? And there's nothing wrong with
13 defending yourself with it when somebody hits you with a
14 shovel. Okay.

15 All right. So, that's where we are with this case.
16 You know, I think I've gone over the evidence as much as I
17 can. I'm not going to keep yelling about it and everything,
18 but I do want you to kind of think about what was described
19 here, and look at it through that lens of what I was
20 proposing, which is okay, that the stolen necklace, you
21 know, from, you know, crack hunt, to I'm -- you know,
22 unpredictable behavior by -- by a crack head, and -- and
23 that whether or not they've proven that Daniel wasn't
24 defending himself beyond a reasonable doubt. Because
25 that's, again, what I'm going to finish with, is that the

1 State has the burden of disproving self-defense beyond a
2 reasonable doubt. And in order for them to do that, they --
3 they've got to take as given things that don't make sense;
4 things that the only source is Zaneh Garvin; and things that
5 don't really match up with -- with, you know, common sense
6 or what we know about human behavior.

7 I asked you in the beginning, let's not decide this on
8 emotion. We've got to be critical, logical; all that talk
9 about emotion. There were some aspects, I think, that did
10 appeal to emotion. I think some aspects of what the
11 solicitor said in her presentation were designed to appeal
12 to emotion. Think about this logically. That's what we
13 want.

14 We want you to decide this case on the evidence and the
15 facts and the law, as the judge gives it to you, and
16 especially, especially, we need you to use that presumption
17 of innocence, and hold the State to their burden of proof
18 beyond a reasonable doubt, because they did not meet it
19 here. They did not meet it here. And so, that's why I'm
20 here, just like I said I would, asking you for that verdict
21 of not guilty.

22 THE COURT: All right. Mr. Foreperson.

23 FOREPERSON: Yes, sir.

24 THE COURT: Ladies and gentlemen of the jury.

25

JURY CHARGE

BY THE COURT:

Ladies and gentlemen of the jury, it's now my duty to charge you on the law of this case. The State of South Carolina has charged the defendant, Daniel Fludd, with two indictments: Indictment Number 2017 at 160, for the offense of murder; and Indictment 2017-GS-25-00161, for possession of a weapon during the commission of a violent crime.

I remind you that the fact that the defendant was arrested, the fact that the defendant was charged, the fact that the defendant was indicted in this case, is not evidence in this case, nor does it create any presumption of innocence or guilt. The indictments are simply for formal written instruments which contain the charges made against the defendant. The indictments are the document by which this case is brought into this court, the Court of General Sessions.

Now, I remind you that during this trial, you and I have had certain duties to perform. As the trial judge, it's been my responsibility to preside over the trial of the case, and I also have the duty to rule on the admissibility of evidence offered during the trial. You are to consider only the competent evidence before you.

If there was any evidence or testimony stricken from the record during this trial, you must disregard that

1 testimony. You are to consider only testimony which has
2 been presented from the witness stand, any exhibits which
3 have been introduced into evidence and made a part of the
4 record in this case, and any stipulations of counsel which
5 may have occurred during the course of the trial of the
6 case.

7 I also, as the trial judge, have the additional duty to
8 charge you the law that applies to this case. As the
9 presiding judge, I'm the sole judge of the law of this case,
10 and it is your duty, as jurors, to accept and to apply the
11 law as I now state it to you.

12 If any of you have any preconceived ideas or opinions
13 about what the law is, or what you think the law ought to
14 be, and it does not agree with what I now tell you the law
15 is, you must put aside any of your preconceived opinions,
16 and decide this case on the law, and accept the law as I
17 give it to you. So, you must abandon any of your
18 preconceived opinions or ideas, because you gave us an oath.
19 And in that oath you said that you would accept the law and
20 apply the law exactly as I now state it to you.

21 In every case tried in this courtroom before a jury,
22 the jury becomes the sole and exclusive judges of the facts
23 in the case, based on evidence introduced during the trial
24 of the case. A trial judge, such as myself, cannot
25 intimate, state, comment on, or make any kind of statement

1 to a trial jury about the facts in a case. Since you, the
2 jury, ladies and gentlemen, are the sole judges of the facts
3 in this case, you are not to infer from what I've said
4 during the progress of this trial in ruling upon the
5 admissibility of evidence, or on an objection, or anything;
6 or anything that I say now during this charge to you on the
7 law, that I have any opinion whatsoever about the facts in
8 this case. The law does not allow me to have an opinion
9 about the facts in the case. This is a matter solely for
10 you, the jury, to determine from evidence introduced during
11 the trial of the case.

12 As jurors, it becomes your duty to determine from the
13 evidence the effect, the value, the weight, and ultimately
14 the truth, of any evidence that's been presenting during the
15 trial of this case.

16 Now, the defendant, Daniel Fludd, has pled not guilty
17 to the indictments in this case, and as I told you at the
18 outset, that plea of not guilty puts the burden on the State
19 of South Carolina to prove the defendant guilty beyond a
20 reasonable doubt. A person charged with committing a
21 criminal offense in South Carolina is never required to
22 prove himself innocent.

23 I charge you, ladies and gentlemen, that it is an
24 important rule of the law that the defendant in a criminal
25 trial in South Carolina, no matter what the seriousness of

1 the charge may be, will always be presumed to be innocent
2 for the crime in which the indictment was issued, unless
3 guilt has been proven by evidence satisfying you of that
4 guilt beyond a reasonable doubt.

5 This presumption of innocence does not end when you
6 begin your deliberations, but it accompanies the defendant
7 throughout the trial until you, as a jury, reach a verdict
8 of guilt based on evidence satisfying you of that guilt
9 beyond a reasonable doubt. The presumption of innocence is
10 not just a legal theory. It is not just a legal phrase. It
11 is a substantial right to which every defendant in this
12 court, every criminal defendant, is entitled to, unless you,
13 the jury, are satisfied from the evidence of the defendant's
14 guilt beyond a reasonable doubt.

15 Now, what is a reasonable doubt in the law? A
16 reasonable doubt, ladies and gentlemen, is the kind of doubt
17 that would cause a reasonable person to hesitate to act.
18 The State has the burden of proving the defendant guilty
19 beyond a reasonable doubt. Some of you may have served in
20 the past in a civil case where you were told that the burden
21 of proof is that -- only necessary to prove that a fact is
22 more likely true than not true. We call that burden of
23 proof in a civil case, like a wreck case or a contracts
24 case, by the greater weight, or preponderance of the
25 evidence.

1 In a criminal case, such as the case here, the State's
2 proof must be more than that. It must be beyond a
3 reasonable doubt. Proof beyond a reasonable doubt, ladies
4 and gentlemen, is proof that leaves you firmly convinced of
5 the defendant's guilt.

6 Now, there are very few things in the world that we
7 know with absolute certainty, and in criminal cases, the law
8 does not require proof that overcomes every possible doubt.
9 If, based on your consideration of the evidence, you are
10 firmly convinced that the defendant is guilty of the crime
11 in the indictments charged, you must find the defendant
12 guilty.

13 On the other hand, if you think there's a real
14 possibility that the defendant is not guilty, you must give
15 the defendant the benefit of the doubt and find the
16 defendant not guilty. Now, there are two types of evidence
17 that are generally presented during a trial, and like many
18 things in the law, we have names for those types of
19 evidence. We call the two general types of evidence direct
20 evidence and circumstantial evidence.

21 Direct evidence is evidence that proves that -- direct
22 evidence directly proves the existence of a fact, such as an
23 eyewitness to an event. It does not require any deduction.
24 Circumstantial evidence is proof of a chain of facts and
25 circumstances indicating the existence of a fact. Crimes

1 may be proven by either direct or circumstantial evidence.
2 The law makes no distinction between the weight or the value
3 to be given to either direct or circumstantial evidence.
4 The State has the burden of proving the defendant guilty
5 beyond a reasonable doubt. This burden rests with the State,
6 regardless of whether the State relies on direct evidence,
7 circumstantial evidence, or a combination of the two.

8 As I told you at outset, part of your job, ladies and
9 gentlemen, necessarily, is going to be that you're going to
10 have to determine the credibility, which means the
11 believability, of the witnesses who have testified during
12 the trial of this case. It becomes your duty as jurors to
13 analyze. It becomes your duty as jurors to evaluate the
14 evidence, and determine which evidence convinces you of its
15 truth.

16 In determining the believability of a witness who has
17 testified in this case, you may believe one witness over
18 several witnesses, or several witnesses over one witness.
19 You may believe a part of the testimony of a witness, and
20 reject the remaining part of the testimony of that same
21 witness. You may believe the testimony of a witness in its
22 entirety, or you may reject the testimony of a witness in
23 its entirety. You may consider, in deciding about the
24 believability or credibility of witness, you may consider
25 whether any witness has exhibited to you any interest in the

1 outcome in the case, any bias, any prejudice, or other
2 motive in the case.

3 I told you earlier, and I repeat, you may also consider
4 the appearance, the manner of the witness while the witness
5 is on the witness stand. We call that the demeanor of the
6 witness. Anything that is in evidence, you, as the jury,
7 have the right to consider in deciding upon the credibility
8 or believability of the witnesses who have testified during
9 the trial of this case.

10 Now, I charge you, ladies and gentlemen, that the fact
11 that the defendant did not testify in this case is not a
12 factor to be considered by you in any way in your
13 deliberations and in your consideration on the question of
14 the guilt or innocence of the defendant. It must not be
15 considered by you in any manner whatsoever. Every criminal
16 defendant has the constitutional right to remain silent, and
17 the assertion of that right must not be considered by you in
18 your deliberations.

19 I repeat, under that oath which each of you took, you
20 are to draw no conclusion as a jury whatsoever from the fact
21 that the defendant in this case did not testify. The fact
22 that the defendant did not testify should not even be
23 discussed by any of you in your jury room. The burden of
24 proof, as I've stated to you, is on the State of South
25 Carolina. The defendant is not required to prove his

1 innocence. The burden of proof remains on the State.

2 I charge you, ladies and gentlemen, that when a witness
3 takes the witness stand, a witness' general reputation for
4 truth and veracity is placed in issue before you, and that
5 decision will be yours, ladies and gentlemen. When the
6 witness takes the witness stand, their reputation for truth
7 and veracity becomes an issue for you.

8 You may consider evidence of a conviction for any crime
9 involving dishonesty or false statement if you conclude from
10 the evidence it is true. But you may only consider that in
11 deciding whether the witness' testimony is believable or
12 not, and for no other purpose.

13 I charge you, ladies and gentlemen, that the Rules of
14 Evidence ordinarily do not permit a witness, as I've told
15 you during the trial, to get on the witness stand and say,
16 let me tell you my opinion. The witnesses are not
17 permitted, normally, to give you a conclusion or opinion,
18 but an exception to that rule exists when witnesses we call
19 expert witnesses, a witness who, by education, training, or
20 experience, claims to have become an expert in some art,
21 science, or profession, may, if qualified by the Court, give
22 an opinion as to the subject in which the witness claims to
23 be an expert; and may also give the reasons for his or her
24 opinion.

25 You should consider any expert opinion given by any

1 expert witness as just like any other witness. You can give
2 it the weight you think it deserves. If you decide that an
3 expert witness' opinion is not based on sufficient
4 education, experience, or training, or if you decide that
5 the reasons given for the opinion are not sound, or that the
6 opinion is outweighed by other evidence in the case, you may
7 disregard the expert opinion entirely.

8 An expert witness' testimony is to be given no greater
9 weight than that of other witnesses, simply because the
10 witness is an expert.

11 I charge you, ladies and gentlemen, and remind you,
12 that the burden of proof in this case, in the trial, is on
13 the State, and the burden of proof beyond a reasonable doubt
14 extends to every element of the crimes charged; and this
15 specifically includes the burden of proving beyond a
16 reasonable doubt the identity of the defendant as the person
17 who committed the crime. Identification testimony is an
18 expression of belief, an expression of impression, by a
19 witness.

20 You, as a jury, must determine the accuracy of the
21 identification of the defendant. You, as a jury, must
22 consider the believability of any identification witness the
23 same way as any other witness. You must be satisfied beyond
24 a reasonable doubt of the accuracy of the identification of
25 the defendant before you may find the defendant guilty.

1 On the other hand, after examining the testimony, if
2 you have a reasonable doubt as to the accuracy of the
3 identification, you must find the defendant not guilty. I
4 charge you, ladies and gentlemen, you've heard the term,
5 stipulation, during this trial.

6 A stipulation is an agreement, an admission, or a
7 concession made in the judicial proceeding by the parties in
8 the proceeding, or by their attorneys. Stipulations, when
9 published and agreed upon by the attorneys or the parties,
10 are binding upon those who make them. A stipulation is an
11 agreement, an understanding. The Court and the jury must
12 accept stipulations as binding upon the parties, and
13 therefore not necessary to be proved.

14 If counsel for the parties in this trial have
15 stipulated to any fact, or if any fact has been admitted by
16 counsel, you must regard that fact, or facts, as having been
17 conclusively proved as to the party or parties making the
18 stipulation.

19 I charge you, ladies and gentlemen, that a statement
20 alleged to have been made by the defendant has been admitted
21 into evidence in this case. While the Court has determined
22 that the statement is admissible as a matter of law, I
23 instruct you, ladies and gentlemen of the jury, that you
24 make the ultimate decision of whether or not the defendant
25 made the statement. If the defendant did make the

1 statement, you must determine whether the statement was made
2 by the defendant voluntarily, and of his own free will.
3 This means that the statement was not caused by pressure,
4 force, fear, threats, coercion, intimidation, or by hope of
5 a promise of leniency, or a reward of any kind.

6 In determining whether the statement was voluntary, you
7 should consider both the characteristics of the defendant
8 and the details of the questioning. Some of the factors you
9 may consider if proved by the evidence are the age of the
10 defendant; the background of the defendant's mental ability
11 or capacity in the background; the defendant's I.Q or
12 intelligence; the defendant's background and environment;
13 the place and length of detention; the nature of the
14 questioning; the advice, or the lack thereof, of the
15 defendant's constitutional rights, including but not limited
16 to the right to remain silent; that any statement could be
17 used against him in a court of law; the right to have a
18 lawyer present; that if he could not afford a lawyer, a
19 lawyer would be appointed to represent him without any cost;
20 and that he could stop making a statement at any time.

21 You, as the jury, must carefully, from the evidence,
22 consider all of the surrounding circumstances before you
23 give any weight to any alleged statement. The State has the
24 burden of proving beyond a reasonable doubt that the alleged
25 statement was voluntary.

1 If you determine the statement was voluntary, you may
2 give to the statement any further consideration you deem
3 proper. You must decide what weight, if any, to be given to
4 the alleged statement.

5 If you determine the alleged statement was not the free
6 and voluntary statement of the defendant, you should not
7 consider the statement at all.

8 I charge you, ladies and gentlemen, that the defendant
9 has raised the issue of self-defense. Self-defense is a
10 complete defense, and if it is established you must find the
11 defendant not guilty. The State has the burden of
12 disproving self-defense by proof beyond a reasonable doubt.

13 If you have a reasonable doubt of the defendant's guilt
14 after considering all of the evidence of self-defense, then
15 you must find the defendant not guilty. On the other hand,
16 if you have no reasonable doubt of the defendant's guilt
17 after considering all the evidence in this case, including
18 the evidence of self-defense, then you must find the
19 defendant guilty. The following elements, ladies and
20 gentlemen, are required to establish self-defense.

21 Number one, first, the defendant must be without fault
22 in bringing on the difficulty. If the defendant's conduct
23 was the type, from the evidence, which was reasonably
24 calculated to and did provoke a deadly assault, the
25 defendant would be at fault for bringing on the difficulty,

1 and would not be entitled to an acquittal based on self-
2 defense.

3 Two, or the second element, and they are all required
4 of self-defense, is that the defendant was actually in
5 imminent danger of death or serious bodily injury; or that
6 the defendant actually believed he was imminent danger of
7 death or serious bodily injury.

8 If the defendant was actually in imminent danger, it
9 must be shown from the circumstances that a person of
10 ordinary firmness and courage would have had to strike the
11 fatal blow to prevent death or serious bodily injury.

12 If the defendant believed he was in imminent danger of
13 death or serious bodily injury, it must be shown that a
14 reasonably prudent person of ordinary firmness and courage
15 would've had the same belief. In deciding whether the
16 defendant actually was or believed he was in imminent danger
17 of serious bodily injury or death, you, as a jury, should
18 consider all the facts and circumstances surrounding the
19 crime, including the physical condition and characteristics
20 of the defendant and the victim, based on evidence
21 introduced during the trial of the case.

22 The defendant does not have to show that he was
23 actually in danger. It is enough if the defendant believed
24 he was in imminent danger, and reasonably prudent person of
25 ordinary firmness and courage would've had the same belief.

1 The defendant has the right to act on appearances, even
2 though the defendant's belief may have been mistaken.

3 It is for you, ladies and gentlemen of the jury, to
4 decide whether the defendant's fear of immediate danger or
5 death or serious bodily injury was reasonable, and would've
6 been felt by an ordinary person if faced with the same or
7 similar circumstances. The third element, and our final
8 element of self-defense is that the defendant had -- well,
9 first of all, let me say this. Words alone are not enough.
10 Words must be accompanied by a hostile act. But if words
11 are accompanied by a hostile act, they may, depending on the
12 evidence, establish self-defense.

13 The final element of self-defense -- I told you that
14 element number one was would be without fault in bringing on
15 the difficulty. Element number two, either the defendant
16 was actually in imminent danger of death or serious bodily
17 injury, or that the defendant actually believed he was in
18 imminent danger of death or serious bodily injury.

19 The final element of self-defense was that the
20 defendant had no other probable way to avoid the danger of
21 death or serious bodily injury, other than to act as the
22 defendant did in this particular instance. A person cannot
23 be required to make an exact calculation as to the degree or
24 manner of force which may be needed to avoid death or
25 serious bodily injury.

1 Therefore, in self-defense, the defendant has the right
2 to use of force, if the elements are present, needed to
3 avoid death or serious bodily injury. The force used in
4 self-defense does not have to be limited to the degree or
5 amount of force used by the victim. The defendant has the
6 right to use so much force as appears to be necessary for
7 complete self-protection, in which a person of ordinary
8 reason and firmness would have believed to be needed to
9 prevent death or serious bodily harm.

10 If the defendant is justified in defending himself,
11 then the defendant is also justified in continuing to fight
12 until it is apparent that the fear or death or serious
13 bodily injury has completely ended. I now have charged you
14 the elements of self-defense.

15 I charge you that when a person voluntarily
16 participates in mutual combat for purposes other than
17 protection, he cannot justify or excuse the killing of his
18 adversary in the course of such conflict on the grounds of
19 self-defense. Regardless of what extremity or imminent
20 peril he may be reduced to in the progress of the combat,
21 unless before the homicide is committed, he withdrew and
22 endeavored in good faith to the decline further conflict,
23 either by words or actions, and made that fact known to the
24 victim, the Mutual Combat Doctrine, ladies and gentlemen of
25 the jury, is triggered when both parties, based on the

1 evidence, contribute to the resulting fight. Self-defense
2 is available only when the defendant is without fault in
3 bringing on the difficulty. Mutual combat acts as a bar to
4 self-defense, because it requires mutual agreement to fight
5 on equal terms, for purposes other than protection. If the
6 defendant is engaged in mutual combat, self-defense is
7 unavailable. Unless the defendant withdraws from the
8 conflict before the killing occurs. If, before the killing
9 occurs, the defendant withdrew and tried, in good faith, to
10 avoid further conflict, either by words or actions, and made
11 that fact known to the victim, he would be without fault in
12 bringing on the difficulty.

13 Thus, if after -- and I'll use this as an example --
14 after commencing an assault or initiating in an encounter,
15 the defendant withdrew in good faith from the conflict, and
16 announced to his adversary his intention to retire and
17 withdraw from the conflict, then he would be restored to his
18 right of self-defense; so that, if his adversary then
19 pursues him, the defendant may, upon a reasonable belief
20 that he is in danger, injure or kill his adversary. Such
21 communication to the adversary or withdrawal by the
22 defendant may be explicit and verbal, where you actually
23 say, I'm withdrawing, I want no more, and such as by use of
24 those words; or it may be implicit in conduct, such as
25 retiring, or attempting to retire from the scene and

1 abandoning the conflict.

2 Now, in this case I told you there were two different
3 offenses charged: murder and possession of a weapon during
4 the commission of a violent crime. Each charge is a
5 separate and distinct offense, and you must decide each
6 charge separately on the evidence and the law that applies
7 to it. And I'm going to explain to you in this case the
8 relationship between the two.

9 You will be charged, though, to either find the
10 defendant guilty or not guilty of the offense of murder; or
11 guilty or not guilty, depending on your finding on murder,
12 of the offense of voluntary manslaughter, and I have
13 prepared a verdict form for you, Mr. Foreman, which I'll go
14 over with you; or guilty or not guilty of possession of a
15 weapon during the commission of a violent crime. I will now
16 define the offenses for you.

17 First of all, you should know this. In order to
18 establish criminal liability, criminal intent is required.
19 Let me give you some examples. That is the mental state
20 required to be proven by the State. And examples of
21 criminal intent would be things like purpose, intent,
22 knowledge, recklessness, and even in some cases criminal
23 negligence. Those are just examples of criminal intent.

24 Criminal intent must be proven by the State beyond a
25 reasonable doubt. Criminal intent is always a matter that

1 has to be determined by the jury from the circumstances
2 surrounding the situation, based on evidence introduced
3 during the trial of the case. Why? There is no way, ladies
4 and gentlemen, that medical science can dissect a person's
5 brain and determine what that person had in mind. So, the
6 law says, ladies and gentlemen, that criminal intent may be
7 inferred from the circumstances shown to have existed. This
8 is how you make the determination of any element required in
9 criminal intent, and whether or not it was present.

10 In other words, it is not necessary to establish
11 criminal intent by direct or positive evidence. But intent
12 may be established by inference in the same way as any other
13 fact, by taking into consideration the acts of the parties
14 and all the facts and circumstances of the case, based on
15 evidence introduced during the trial of the case.

16 Criminal intent is a mental state. It is a conscious
17 wrongdoing. It is up to you, ladies and gentlemen of the
18 jury, from the evidence, to determine what the defendant
19 intended to do, based on the circumstances shown to have
20 existed from evidence introduced during the trial of the
21 case.

22 I charge you, ladies and gentlemen, that the defendant,
23 Daniel Lee Fludd, is charged in one indictment with the
24 offense of murder. For this offense, the State must prove
25 beyond a reasonable doubt that the defendant killed another

1 person with malice aforethought. Malice is a form of
2 criminal intent. Malice is hatred, malice is ill-will,
3 malice is hostility towards another person. It is the
4 intentional doing of a wrongful act, without just cause or
5 excuse, and with an intent to inflict an injury, or serious
6 bodily harm or death.

7 Malice aforethought does not require that malice exist
8 for any particular period of time before the act is
9 committed. But malice, or evilness or wickedness or
10 hostility, must exist in the mind of the defendant just
11 before and at the time the act is being committed.
12 Therefore, there must be a combination of this previous evil
13 intent and the act itself.

14 Malice aforethought may be express or implied. These
15 terms, express or implied, do not mean different kinds of
16 malice, but merely the manner in which malice may be shown
17 to exist. That is either by direct evidence or by inference
18 from the facts and circumstances which are proven, based on
19 evidence introduced during the trial of the case.

20 Express malice is shown when the person speaks words
21 which express hatred, or express hostility or ill will
22 towards another. Malice may be inferred from conduct
23 showing a total disregard for human life.

24 Malice may also be inferred, or may arise, when the
25 deed is done with a deadly weapon. A deadly weapon is any

1 article, instrument, or substance which is likely to cause
2 death or serious bodily harm. Whether an instrument has
3 been used as a deadly weapon depends on the facts and
4 circumstances of each case, based on the evidence.

5 The law says if one intentionally kills another with a
6 deadly weapon, the implication of malice may arise if facts
7 are proven beyond a reasonable doubt sufficient to raise an
8 inference of malice to your satisfaction. This malice would
9 simply be an evidentiary fact to be taken into consideration
10 by you, the jury, along with other evidence in the case.
11 And you may give it such weight as you determine it should
12 receive, and it can be rebutted by evidence in the case,
13 based on your review of the evidence.

14 If you find, ladies and gentlemen, that the State has
15 failed to prove beyond a reasonable doubt that the defendant
16 committed murder, you may consider whether the State has
17 proved beyond a reasonable doubt that the defendant
18 committed the lesser-included offense of voluntary
19 manslaughter. Included within the offense of murder is the
20 lesser offense of voluntary manslaughter. To prove
21 voluntary manslaughter, the State must prove beyond a
22 reasonable doubt that the defendant took the life of another
23 in the sudden heat of passion on sufficient legal
24 provocation. Both heat of passion and sufficient legal
25 provocation must be present at the time of the killing to

1 constitute voluntary manslaughter. Sudden heat of passion
2 may, for a time, affect a person's self-control, and
3 temporarily disturb a person's reason. The sudden heat of
4 passion must be the type that would make an ordinary person
5 unable to coolly reflect on his actions, and would produce
6 an uncontrollable impulse to do violence.

7 Sufficient legal provocation must be the type that
8 would make a person of ordinary reason, ordinary caution, to
9 become enraged and to lose control temporarily. This
10 provocation needed for voluntary manslaughter must come from
11 some act of, or be related to, the victim. Words alone,
12 however vulgar, however insulting, are not enough to be
13 legal provocation. The exercise of a legal right, no matter
14 how offensive it is to another, is never sufficient legal
15 provocation for voluntary manslaughter.

16 I'll also charge you that if the heat of passion had
17 cooled, or if there was enough time between the provocation,
18 if any, and the killing, for the passion of a reasonable
19 person to cool, the killing would not be voluntary
20 manslaughter.

21 In deciding whether a reasonable person would've had
22 enough time to cool off, you should consider all of the
23 circumstances surrounding the killing. You may consider the
24 nature of the provocation, if any; the defendant's mental
25 and physical state; and the circumstances and relationships

1 between the parties, based on evidence introduced during the
2 trial of the case.

3 I charge you, ladies and gentlemen, the defendant is
4 also charged with the possession of a weapon during the
5 commission of a violent crime. The State must prove beyond
6 a reasonable doubt the defendant was in possession of a
7 weapon, or visibly displayed what appeared to be a weapon,
8 during the commission of a violent crime.

9 In order to find the defendant guilty of possession of
10 a weapon during the commission of a violent crime, you must
11 first find the defendant guilty of a violent crime. I
12 charge you, ladies and gentlemen, that under the laws of the
13 State of South Carolina, both murder and voluntary
14 manslaughter are violent crimes, under the laws of the State
15 of South Carolina.

16 The State must prove beyond a reasonable doubt that the
17 weapon furthered, advanced, or helped in the commission of
18 the crime.

19 Now, Mr. Foreman and ladies and gentlemen, I told you I
20 would prepare a verdict form for you. First of all, pay
21 absolutely no attention to the order in which I wrote the
22 forms of verdict. We obviously had to write one before the
23 other, so the order has no significance whatsoever. I have
24 placed the heading of this case at the top of your verdict
25 form. It says, State of South Carolina, County of Hampton,

1 Court of General Sessions. It has the indictment numbers.
2 It says, State of South Carolina versus Daniel Lee Fludd,
3 defendant. It has the words, Verdict Form. You have
4 possibly three questions, you might not have to answer all
5 three, and I've given you instructions, Mr. Foreman, on the
6 verdict form.

7 Question one: we, the jury, by unanimous consent, find
8 Daniel Lee Fludd, on the charge of murder, in Indictment
9 2017-GS-25-00160. The first form of verdict under question
10 one is guilty of murder. If that be your form of verdict,
11 Mr. Foreman, you would check on the line beside that form of
12 verdict. The second form of verdict under question one is
13 not guilty of murder. If that be your form of verdict, Mr.
14 Foreman, you would check on the line beside that form of
15 verdict. You must find for Question One, one form of
16 verdict or the other. You cannot find both. It has to be
17 either guilty or not guilty of murder.

18 Question two -- and I wrote you instruction -- if you
19 find the defendant, Daniel Lee Fludd, guilty of murder, you
20 do not answer Question Two. If you find the defendant,
21 Daniel Lee Fludd, not guilty of murder, you must answer
22 Question Two. Question Two: we, the jury, by unanimous
23 consent, find the defendant, Daniel Lee Fludd; and the first
24 form of verdict under Question Two, if you answer it, guilty
25 of the lesser-included offense of voluntary manslaughter.

1 If that be your form of verdict, you would check on the line
2 beside that form of verdict.

3 The second form of verdict under Question Two is not
4 guilty of the lesser-included offense of voluntary
5 manslaughter. If that be your form of verdict you would
6 check on the line beside that form of verdict. You must, if
7 you answer Question Two, find one or the other, and not
8 both. It's either guilty or not guilty of voluntary
9 manslaughter.

10 And that brings us to your last question. If you find
11 the defendant, Daniel Lee Fludd, guilty of either murder or
12 guilty of voluntary manslaughter -- my law clerk wrote
13 "and", but it's or, and I'm going to change that. You can
14 find him not guilty of murder, but if you find him guilty of
15 voluntary manslaughter, you have to answer Question Three.
16 And I apologize, because he's got it right. If you find the
17 defendant, Daniel Lee Fludd, not guilty of murder and not
18 guilty of voluntary manslaughter -- and I'll put the "and"
19 back in -- you do not answer Question Three, because you
20 have to find the defendant guilty of a violent crime in
21 order to convict the defendant for possession of a weapon
22 during the commission of a violent crime.

23 So if you find him not guilty of both murder and
24 voluntary manslaughter, then you would not answer Question
25 Three. But, as I just told you a minute ago, if you find

1 the defendant, Daniel Lee Fludd, guilty of either murder or
2 voluntary manslaughter, you must answer Question Three,
3 because both murder and voluntary manslaughter are violent
4 crimes under the laws of the State of South Carolina.

5 Question Three: we, the jury, by unanimous consent,
6 find Daniel Lee Fludd, on the charge of possession of a
7 weapon during the commission of a violent crime, in
8 Indictment Number 2017-GS-25-00161, the first form of
9 verdict it guilty of possession of a weapon during the
10 commission of a violent crime. If that be your form of
11 verdict you would check on the line beside that, if you have
12 to answer Question Three.

13 Or the second form of verdict under Question Three is
14 not guilty of possession of a weapon during the commission
15 of a violent crime. If that be your form of verdict, you
16 would check on the line beside that form of verdict.

17 Then, Mr. Foreman, you would sign your name on the line
18 where it says, Foreperson, and you would fill in today's
19 date. I've already written December and 2018, so you only
20 have to write in today's date. Your signature certifies
21 that it is the verdict of the entire jury. Your verdict,
22 ladies and gentlemen, must be unanimous. That is, it must
23 be the verdict of each and every one of you. All twelve of
24 you must agree on a verdict. When you have reached a
25 verdict you will knock on your jury room door, tell the

1 bailiff you have reached a verdict. We will then bring you
2 back out into the courtroom to publish your verdict.

3 Mr. Foreman, do not leave -- whatever you write on the
4 verdict form I prepared, and I scratched through and wrote
5 back, and, for you. If you can't read my writing, that's
6 and, a/n/d. Whatever you write on the verdict form, you're
7 going to write it right here where it says, verdict, before
8 you leave, and sign your name and date it, just like the
9 verdict form on the indictments, both of them. And David
10 will be coming to you for that.

11 Now, Mr. Foreman and ladies and gentlemen of the jury,
12 I've now charged you the law in order to help guide you to a
13 fair and just result in this case. You're the judges of the
14 facts of this case, from the evidence, and based on your
15 determination of the facts in this case and the law as I've
16 just explained it to you, you're going to soon begin your
17 deliberations.

18 Now, each of you were selected as fair and impartial
19 jurors. You have no friends to reward, you have no enemies
20 to punish. You must base your decision solely on the
21 evidence which has been introduced during the trial of this
22 case. We selected you by you telling us, I don't know
23 anything about this case. I hadn't heard about it, I hadn't
24 read about it, I hadn't talked to anybody about it. You
25 took an oath and you swore that you would fairly and

1 impartially try and determine the facts in this case, and
2 when you comply with that oath, no one can criticize your
3 verdict.

4 You are to decide the case based on the evidence you've
5 heard from the witness stand, the exhibits, and any
6 stipulations. You must decide the case, and you must decide
7 it without any bias or prejudice toward either party. You
8 cannot allow yourself to be governed by prejudice for or
9 against any person. You can't allow yourself to be governed
10 by public opinion. You can't allow yourself to be governed
11 by emotion. You must base your decision solely and only on
12 the evidence which has been introduced during the trial of
13 the case.

14 Both the State of South Carolina and the defendant have
15 the absolute right to expect that each of you on this jury
16 will carefully and impartially consider all of the evidence
17 in this case, and that you will follow the law as I have
18 instructed it to you to be in reaching your verdict in this
19 case. All right. Now, ladies and gentlemen of the jury,
20 I'm going to ask you to retire to your jury room. Do not
21 begin your deliberations. I know you're anxious, and I'm
22 going to be right with you. I have to go through -- I might
23 have to charge you some additional law. I don't know yet.
24 If not, I'm going to send in the verdict form and all the
25 exhibits which have been introduced into evidence during the

1 trial of the case, and have the bailiff tell you, you may
2 then commence your deliberations. So, do not begin until I
3 instruct you to do so. Please retire to your jury room.
4 Alternate jurors, remain in the courtroom.

5 (JURY EXITS COURTROOM AT 4:08 P.M.)

6 THE COURT: First of all, to my alternate jurors, I
7 want to thank you. All a judge can ask -- I do this after
8 every case when I keep you for three days -- this concludes
9 your service for the entire week. I send you home with my
10 thanks. All a judge can ask is that you listen. Thank you,
11 very much, ma'am. Thank you, ma'am, very much. Now, you
12 can't go back to the jury room. Does everybody have all of
13 their belongings? You didn't leave anything in there?

14 (ONE JUROR REPLIES.)

15 THE COURT: You left what? What? Your sandwich. You
16 think, Coach, you can find her sandwich?

17 BAILIFF: I'll find it, Judge.

18 THE COURT: Now, Melinda's going to be mailing you a
19 check for -- how much per day?

20 MADAM CLERK: Twenty dollars a day.

21 THE COURT: Twenty dollars a day for your jury service.
22 We thank you. Did we treat you all right?

23 JURORS: Yes, oh, yes.

24 THE COURT: Did we take good care of you? Anybody got
25 -- I'm always looking for a way to make it better. Anything

1 we can do to improve on the way we did it? Did you
2 understand what was going on? Was it clear to you?

3 JURORS: Yes.

4 THE COURT: Well, we appreciate that. Now, I'm going
5 to ask you, if you would -- we're going to get your sandwich
6 and bring it to you, because you can't go back in the jury
7 room -- you're going to get your check where we mail -- here
8 it comes right now.

9 THE COURT: Your check's going to be mailed to the
10 address where your subpoena is. Does anybody need a work
11 excuse from serving on the jury this week? Everybody okay
12 on that? With my thanks, you are now excused from the
13 courtroom. You may leave at this time, or if you wish you
14 can remain with us, and seated in the public area of the
15 courtroom. Whatever you desire, but you're excused.

16 (ALTERNATE JURORS RELEASED.)

17 THE COURT: Time to go now. I've got to go back to
18 work. Any exceptions or additions to the charge from the
19 State of South Carolina?

20 ASST. SOLICITOR LEGETTE: Your Honor, I think we may
21 need to re-charge them on the State v. Belcher.

22 THE COURT: On what?

23 ASST. SOLICITOR LEGETTE: The deadly weapon inference,
24 where -- I think you might need to re-charge them on the
25 deadly weapon inference.

1 THE COURT: I told them it was an evidentiary fact that
2 could be rebutted.

3 ASST. SOLICITOR LEGETTE: Okay. All right. I just
4 wanted to make sure we ---

5 THE COURT: And I -- I've never charged it as an
6 inference just because of the deadly weapon.

7 ASST. SOLICITOR LEGETTE: Okay. Okay. Yes, sir. All
8 right.

9 THE COURT: Yes, I charged them that the fact could be
10 rebutted by the evidence in the case, based on your view of
11 the evidence. The implication is just an evidentiary fact
12 that must be proven beyond a reasonable doubt, and just
13 because it's sufficient to raise an inference of malice, the
14 inference would be simply an evidentiary fact to be taken
15 into consideration by you, along with the other evidence in
16 the case; and you may give it such weight as you determine
17 it should receive, and it can be rebutted by the evidence in
18 the case, based on your view of the evidence.

19 ASST. SOLICITOR LEGETTE: Okay.

20 THE COURT: You satisfied?

21 ASST. SOLICITOR LEGETTE: Yes, your Honor.

22 THE COURT: Anything else?

23 ASST. SOLICITOR LEGETTE: Not from the State.

24 THE COURT: Any exceptions or additions to the charge
25 from the defendant?

1 MR. DEYSACH: No, Your Honor.

2 THE COURT: All right. Now, counsel, this is going to
3 be the hardest thing you do in the trial. You're going to
4 have to come forward with court reporter and I want you to
5 certify that the court reporter has all the exhibits, and
6 that you have -- I want you all to look at what I wrote on
7 the verdict form. I wrote -- where I scratched through
8 because I thought he had made a mistake on the first line.
9 I thought it was "or"; and it is "and" for this. And I
10 wrote "and" and put my initials. Is that okay with you all?

11 MR. DEYSACH: I think you made it clear.

12 ASST. SOLICITOR LEGETTE: I think it's fine.

13 THE COURT: All right. Let the record reflect, Becky,
14 the attorneys are satisfied with my writing on the verdict
15 form. All right. Take a look at the exhibits.

16 THE COURT: All right. Let's come to order. We're on
17 the record. Is the State satisfied that the court reporter
18 has all the exhibits?

19 ASST. SOLICITOR LEGETTE: Yes, Your Honor.

20 THE COURT: State have any objection to the bailiff
21 taking the verdict form and the exhibits in to the jury, and
22 telling the jury they may now commence their deliberations?

23 ASST. SOLICITOR LEGETTE: The State has no objection,
24 your Honor.

25 THE COURT: Is the defendant satisfied that the court

1 reporter has all the exhibits?

2 MR. DEYSACH: Yes, your Honor.

3 THE COURT: Does the defendant have any objection to
4 the bailiff taking the verdict form and the exhibits in to
5 the jury, and telling the jury they may now commence their
6 deliberations?

7 MR. DEYSACH: No, Your Honor.

8 THE COURT: All right, Coach, you get it all. You got
9 the verdict form, get the exhibits. Tell the jury they may
10 commence their deliberations.

11 (VERDICT FORM AND EXHIBITS TO JURY AT 4:20 P.M.)

12 (WHEREUPON, THE COURT TURNS TO OTHER NON-JURY GENERAL
13 SESSIONS MATTERS. THEREFORE, AT 4:25 P.M., A NOTE IS
14 RECEIVED FROM THE JURY AND MADE A COURT'S EXHIBIT AND THE
15 FOLLOWING IS STATED BY THE COURT.)

16 THE COURT: All right. Let the record reflect that at
17 4:20 this afternoon, I received a note from the jury that
18 says, first line says, "Where is the necklace -- question
19 mark." Then, explain the time difference in 9-1-1 call and
20 body cam. I've related both of those questions to counsel
21 for the State and Defendant. They agree the answer to both
22 of those is, you must decide this case based on the evidence
23 presented. I have written that on the note the jury sent
24 me, and signed my name as Perry Buckner, presiding judge.
25 That is, you must decide this case based on the evidence

1 presented. I will tell them that orally when they come out,
2 because this will be made a court's exhibit.

3 The third question is, explain voluntary manslaughter.
4 It is my intention to re-charge the jury on the lesser-
5 included offense of voluntary manslaughter in light of their
6 question. And both counsel for the State and counsel for
7 the defendant agree that that is the appropriate responses.
8 However, I will ask the foreperson, after I have provided
9 the answers and provided the charge, if that answers the
10 jury's question. If they have other questions, they'll have
11 to express them in writing and let us deal with them. Is
12 that correct, from the State?

13 ASST. SOLICITOR LEGETTE: That's correct, from the
14 State, your Honor.

15 THE COURT: Is that correct, from the defendant?

16 MR. DEYSACH: Yes, your Honor.

17 THE COURT: Bring us the jury, please.

18 (WHEREUPON, JURY ENTERS COURTROOM AT 5:10 P.M. AND THE
19 FOLLOWING IS PLACED ON THE RECORD IN THE PRESENCE OF THE
20 JURY.)

21 THE COURT: Mr. Foreman and ladies and gentlemen of the
22 jury, I received your note, and I'm going to deal with it in
23 reverse order. You asked me to explain voluntary
24 manslaughter. I'll ask you to please listen carefully. If
25 you find -- let me get my microphone. Can everybody hear me

1 all right? If you can't I know that I -- I'm so used to
2 talking up in a courtroom -- if you can't hear me, just
3 raise your hand.

4 If you find the State has failed to prove beyond a
5 reasonable doubt that the defendant committed murder, you
6 may consider whether the State has proven beyond a
7 reasonable doubt that the defendant committed voluntary
8 manslaughter. Included within the offense of murder is the
9 lesser-included offense of voluntary manslaughter.

10 Voluntary manslaughter is a lesser-included offense of
11 the offense of murder. To prove voluntary manslaughter, the
12 State must prove beyond a reasonable doubt that the
13 defendant took the life of another in the sudden heat of
14 passion, based on sufficient legal provocation. Both heat
15 of passion and sufficient legal provocation must be present
16 at the time of the killing to constitute voluntary
17 manslaughter.

18 And when we say heat of passion, sudden heat of
19 passion, sudden heat of passion may, for a time, affect a
20 person's self-control and temporarily disturb a person's
21 ability to reason rationally. The sudden heat of passion
22 must be the type that would make an ordinary person unable
23 to coolly reflect on his actions, and would produce an
24 uncontrollable impulse to do violence.

25 Sufficient legal provocation must be the type that

1 would make a person of ordinary reason, ordinary caution,
2 become enraged and lose control temporarily.

3 The provocation that we're talking about here, legal
4 provocation, needed for voluntary manslaughter, must come
5 from some act of, or related to the victim. It can't come
6 from some third party. Words alone, however vulgar, however
7 insulting, are not enough to be legal provocation for
8 voluntary manslaughter.

9 The exercise of a legal right, no matter how offensive
10 it is to another, is never sufficient legal provocation for
11 voluntary manslaughter. If the heat of passion had cooled,
12 or if there was enough time between the provocation, if any,
13 and the killing, for the passion of a reasonable person to
14 cool, the killing would not be voluntary manslaughter.

15 In deciding whether a reasonable person would have
16 enough time to cool off, you should consider all the
17 circumstances surrounding the killing, based on the evidence
18 that's been introduced during the trial of the case.

19 You may consider the nature of the provocation, if any;
20 the defendant's mental and physical state, based on the
21 evidence and the circumstances, and relationships between
22 the parties, based on evidence introduced during the trial
23 of the case.

24 Mr. Foreman, have I now answered the jury's question on
25 voluntary manslaughter?

1 FOREPERSON: Yes, Your Honor.

2 THE COURT: Any other questions, you will have to write
3 down for me and send out to me, if you're going to ask
4 another question. I need to know whether or not I've
5 answered your question on voluntary manslaughter.

6 FOREPERSON: Yes, Your Honor.

7 THE COURT: All right. You also asked me two other
8 questions, and I need to emphasize this. One is, where is
9 the necklace? And the other is, explain the time difference
10 in the 9-1-1 call and the body cam. I charge you, ladies
11 and gentlemen, that you must decide this case based on the
12 evidence presented. I cannot make any comment to you about
13 the evidence.

14 Mr. Foreman, I believe I've answered now all three of
15 the questions you raised on your note to me. I'm going to
16 ask you to retire to your jury room and continue your
17 deliberations.

18 (JURY EXITS COURTROOM AT 5:16 P.M. AND THE FOLLOWING IS
19 PLACED ON THE RECORD.)

20 THE COURT: Any exceptions to the Court's supplemental
21 charge and comments to the jury, from the State?

22 ASST. SOLICITOR LEGETTE: None, your Honor.

23 THE COURT: From the defendant?

24 MR. DEYSACH: No, Your Honor.

25 THE COURT: Any objection to making the jury's notes

1 and my written response on two of the questions and my oral
2 response, which is on the record, to the other question,
3 making the jury's original note a Court's exhibit? Any
4 objection from the State?

5 ASST. SOLICITOR LEGETTE: No, Your Honor.

6 THE COURT: Any objection from the defendant?

7 MR. DEYSACH: No, Your Honor.

8 THE COURT: What number is it, Becky?

9 COURT REPORTER: Two.

10 THE COURT: Court's Exhibit Number 2, without
11 objection.

12 (COURT'S EXHIBIT NUMBER 2, IDENTIFIED AND MARKED,
13 ADMITTED.)

14 THE COURT: All right. Counsel, hopefully we'll be
15 awaiting the jury.

16 (WHEREUPON, THE COURT TURNS ATTENTION BACK TO NON-JURY
17 GENERAL SESSION MATTERS. THEREFORE, AT 5:40 P.M., THE COURT
18 IS INFORMED THAT THE JURY HAS REACHED A VERDICT AND THE
19 FOLLOWING IS PLACED ON THE RECORD.)

20 THE COURT: Ladies and gentlemen, I've just been told
21 that the jury has reached a verdict. Now, I'm happy for all
22 of you to stay in the courtroom when I publish a verdict,
23 but I do not allow any outbursts, any show of emotion. If
24 you cannot control your emotions, step out now, because I'm
25 not going to have this jury embarrassed by your reaction to

1 a verdict. I've kept them working here now for three
2 straight days. It's dark out now and they're going home.
3 They deserve respect for their service. I will enforce that
4 with the contempt powers of this Court. So if you can't
5 control your emotions, no matter how you may feel about this
6 case, step out of the courtroom right now.

7 THE COURT: Is the State of South Carolina ready to
8 proceed?

9 ASST. SOLICITOR LEGETTE: No, your Honor.

10 THE COURT: Is the defendant ready to proceed?

11 MR. DEYSACH: Yes, Your Honor.

12 THE COURT: Bring us the jury, please.

13 (JURY RE-ENTERS THE COURTROOM AT 5:44 P.M.)

14 MADAM CLERK: Mr. Foreman, have you reached a verdict?

15 FOREPERSON: Yes, ma'am, we have.

16 THE COURT: Will the defendant and the defense counsel
17 please rise? On Indictment 2017-GS-25-00160, we, the jury,
18 by unanimous consent, find Daniel Lee Fludd, on the charge
19 of murder, not guilty of murder.

20 On Indictment 2017-GS-25-00160, we, the jury, by
21 unanimous consent, find the defendant, Daniel Lee Fludd,
22 guilty of the lesser-included offense of voluntary
23 manslaughter.

24 On Indictment 2017-GS-25-00161, the offense of
25 possession of a weapon during the commission of a violent

1 crime, we, the jury, by unanimous consent, find the
2 defendant, Daniel Lee Fludd, guilty of possession of a
3 weapon during the commission of a violent crime.

4 Mr. Foreman and ladies and gentlemen of the jury, if
5 that be your verdict, as published by the Court, please
6 raise your right hand at this time. Let the record -- thank
7 you. Let the record reflect, twelve hands were raised. Mr.
8 Deysach, anything further from the jury before I excuse the
9 jury, from the defendant?

10 MR. DEYSACH: I'd ask that the jury be polled, your
11 Honor.

12 THE COURT: Madam Clerk, I'm going to ask you to poll
13 the jury. You may please be seated, Mr. Deysach and Mr.
14 Fludd.

15 The Clerk is going to call your name. As your name is
16 called, you will stand. The Clerk is going to ask you two
17 questions. Was that your verdict, and you say yes or no.
18 And then she's going to ask, is that still your verdict, and
19 you will answer yes or no. Madam Clerk, please poll the
20 jury as requested by Counsel for the defendant.

21 MADAM CLERK: Desmond Elmore. Was this your verdict?

22 JUROR: Yes, ma'am.

23 MADAM CLERK: Is it still your verdict?

24 JUROR: Yes, ma'am.

25 MADAM CLERK: Thaddeus Speaks. Is this your verdict?

1 JUROR: Yes, ma'am.

2 THE COURT: Is it still your verdict?

3 JUROR: Yes, ma'am.

4 MADAM CLERK: Louise Bryant. Is this your verdict?

5 JUROR: Yes, ma'am.

6 MADAM CLERK: Is it still your verdict?

7 JUROR: Yes, ma'am.

8 MADAM CLERK: Sharon Forrester. Is this your verdict?

9 JUROR: Yes, ma'am.

10 MADAM CLERK: Is it still your verdict?

11 JUROR: Yes, ma'am.

12 MADAM CLERK: Jamal Edwards. Is this your verdict?

13 JUROR: Yes.

14 MADAM CLERK: Is it still your verdict?

15 JUROR: Yes, ma'am.

16 MADAM CLERK: Brandy Heape. Is this your verdict?

17 JUROR: Yes, ma'am.

18 MADAM CLERK: Is it still your verdict?

19 JUROR: Yes, ma'am.

20 MADAM CLERK: Sharon Haynes. Is this your verdict?

21 JUROR: Yes, ma'am.

22 MADAM CLERK: Is it still your verdict?

23 JUROR: Yes, ma'am.

24 MADAM CLERK: Amber Gruber. Is this your verdict?

25 JUROR: Yes, ma'am.

1 MADAM CLERK: Is it still your verdict?

2 JUROR NUMBER: Yes, ma'am.

3 MADAM CLERK: Jeanette Dobson. Is this your verdict?

4 JUROR: Yes, ma'am.

5 MADAM CLERK: Is it still your verdict?

6 JUROR: Yes, ma'am.

7 MADAM CLERK: Sheila Anderson. Is this your verdict?

8 JUROR NUMBER: Yes, ma'am.

9 MADAM CLERK: Is it still your verdict?

10 JUROR NUMBER: Yes, ma'am.

11 MADAM CLERK: Melanecia Wright. Is this your verdict?

12 JUROR NUMBER: Yes, ma'am.

13 MADAM CLERK: Is it still your verdict?

14 JUROR NUMBER: Yes, ma'am.

15 MADAM CLERK: Marvin Pyles.

16 JUROR NUMBER: Yes, ma'am.

17 MADAM CLERK: Is this your verdict?

18 JUROR NUMBER: Yes, ma'am.

19 MADAM CLERK: Is it still your verdict?

20 JUROR NUMBER: Yes, ma'am.

21 THE COURT: Mr. Deysach, the jury has been polled, the
22 verdict stands. Anything else from the jury, from the
23 defendant, before I excuse the jury?

24 MR. DEYSACH: No, your Honor.

25 THE COURT: Mr. Foreman and ladies and gentlemen of the

1 jury, first of all, all a judge can ask is that you listen
2 during the trial. And I watched the twelve of you
3 throughout the past three days, and I want to thank you for
4 listening, for observing. That's all a judge can ask of you.
5 There was clear evidence to support your verdict in this
6 case. I don't have a quarrel with the jury's verdict,
7 because I find that juries, because they come from all walks
8 of life, different backgrounds, they usually get it right.
9 So, when people talk to you about the jury system and they
10 say, oh, we ought to change it, I tell you it's the best
11 system in the world. I'm with juries every week of my life.
12 I see what they do, and I'm thankful for them. I'm thankful
13 for your service.

14 Now, we're going to mail you your check, the exorbitant
15 amount of money that we pay, twenty dollars a day, for your
16 jury service. Now, that's not Mylinda's fault, that's set
17 by County Council. We'll blame them since none of them, I
18 don't believe, are in here. I wish it was more. Now, if it
19 -- does anybody need a work excuse from serving on the jury?
20 One, two, three, four, five.

21 MADAM CLERK: They are prepared, and they are at the
22 security desk when they get ready to leave.

23 THE COURT: All right. When you go downstairs to the
24 security desk, we've already prepared them. You can pick up
25 your work excuse from serving on the jury this week down

1 there. We want to make sure your employer knows where you
2 are. Did we treat you okay?

3 JURY: Yes.

4 THE COURT: Anybody got any complaints? I've got thick
5 skin. Believe me, I'm always looking to try to make it
6 better.

7 JUROR: I'm trying to get orange juice and bagels, but
8 it was just ---

9 THE COURT: I understand. Believe me, I'll try -- and
10 let me tell you how good your clerk is here. First of all,
11 the food you got from Coconuts is where I eat every time I
12 come to Hampton.. She knows that. I think it's -- I like it
13 better than any other place in Hampton. We try to be very
14 mindful of your time. We appreciate your time very much,
15 and we hope we treated you fine.

16 Now, sentencing in this case is going to take place in
17 just a moment. You're invited, if you want to, you can stay
18 in the jury box, because I'm going to let you leave, with
19 the assistance from my bailiffs. They'll escort you,
20 because it's dark out there, to your car. Or you can leave
21 and go home, or you can leave, go downstairs, get your work
22 excuse, come back up and sit in the public area of the
23 courtroom. We invite you to stay for sentencing if you
24 would like to. Sentencing in the Court's province; not the
25 jury's province. You've done your job. Your verdict has

1 been polled, and it stands. I thank you for your service to
2 Hampton County and the State of South Carolina. For those
3 people that wish to leave, you may leave the courtroom at
4 this time.

5 (JURY EXITS COURTROOM AT 5:50 P.M.)

6 THE COURT: Mr. Deysach, are there any post-verdict
7 motions from the defendant?

8 MR. DEYSACH: Yes, your Honor. At this time we would
9 renew all objections that were overruled during the course
10 of the trial, and pretrial. We would ask for -- renew our
11 motion for a directed verdict that was made at the end of
12 the State's case. And we would also ask Your Honor to set
13 aside the verdict, and we'd also ask your Honor to consider
14 our motion for a new trial.

15 THE COURT: For the reasons I enunciated on the record
16 pretrial, we had three lengthy pretrial motions. One was
17 protection of property, sometimes known as the Castle
18 Doctrine statute, hearing, in which I found that you had
19 failed to convince me by a preponderance of the evidence
20 that your client was immune to the criminal prosecution.

21 Next, was the Jackson/Denno hearing, and if you recall
22 I ruled in your favor, in part, in the Jackson/Denno
23 hearing, and I overruled your objection, in part, on the
24 Jackson/Denno hearing.

25 Next, was the Neil vs. Biggers hearing, for

1 identification, which I'm not sure you ever enunciated the -
2 - yeah, you did. You objected because of the photo lineup
3 content. And he testified that it could've come from mug
4 shots or a driver's license. He later testified -- another
5 witness testified it came from driver's license. I examined
6 that photo lineup. There was no evidence that I felt
7 indicated a mug shot, and therefore, I found it was
8 admissible; and charged the jury, it was ultimately their
9 decision as to whether or not the State had proven a
10 reasonable doubt about the identity of the defendant,
11 because it's ultimately their decision regardless of whether
12 I admitted it or not.

13 There were numerous objections made during the trial,
14 including a motion for a directed verdict at the close of
15 the State's case. And Mr. Deysach, to protect you, because
16 the way we did it, because of time, we worked straight
17 through, almost, yesterday and today, and took shorter lunch
18 breaks.

19 I'm going to note on the record, and Becky, I want you
20 to put it on it, that Mr. Deysach contacted me during the
21 break, and I told him I would give him an opportunity to
22 renew his motion for directed verdict as if made at the
23 close of all the evidence. We did not put that on the record
24 because we went straight into closing argument after Mr.
25 Deysach rested.

1 I now put on the record that Mr. Deysach timely made a
2 motion on behalf of Mr. Fludd at the close of all the
3 evidence. It is -- and he made it on the same grounds that
4 he made at the close of the State's case, and I respectfully
5 deny that motion. Mr. Deysach, I also respectfully deny
6 your motion for a new trial.

7 Solicitor, I'm going to ask you to come forward. Mr.
8 Deysach, I'm going to ask you and Mr. Fludd to come forward
9 for sentencing. Counsel, approach.

10 (Whereupon, a bench conference is held off the record
11 and out of the hearing of the courtroom.)

12 THE COURT: I realize I have -- I don't know if I've
13 got any jurors in the courtroom. Do I have any jurors in
14 the courtroom?

15 BAILIFF: You have two, Judge.

16 THE COURT: I'm going to explain to you so you have
17 some idea what's going on. We don't talk to juries about
18 sentencing because that's not your province. We don't let
19 lawyers argue about it to the jury. That's the province for
20 the Court.

21 For voluntary manslaughter, the sentence is not less
22 than two years, nor more than thirty years. And the
23 sentence for possession of a weapon during the commission of
24 a violent crime is five years. It's a mandatory five-year
25 sentence, but it can be concurrent or consecutive to the

1 voluntary manslaughter charge. I wanted my jurors to
2 understand what we were checking on.

3 All right, Solicitor. Let me hear from you. I'm very
4 familiar with the evidence in this case, Solicitor, but if I
5 have any member of the family that wishes to address me, or
6 you want to tell me anything else, I'm happy to hear from
7 you.

8 ASST. SOLICITOR LEGETTE: Thank you, your Honor. Your
9 Honor, his prior record, which we discussed in chambers,
10 includes a 2012 shoplifting, a 2014 obstruction of law
11 enforcement officer, as well as a 2012, I believe,
12 defrauding a restaurant. I believe that was in
13 Massachusetts. The victim's family, your Honor, they were
14 here yesterday, but it was just too much, and they became
15 overwhelmed and could not come back today. Ms. Grill, from
16 our office, our victims' advocate, our beloved Ms. Grill,
17 will speak on their behalf, please.

18 THE COURT: Peggy, I'm happy to hear from you.

19 MS. GRILL: Yes, sir. The Gordon's attended Monday and
20 Tuesday, and yesterday was very, very taxing for them. They
21 realize that nobody wins in a murder case. And ---

22 THE COURT: They didn't ask you to take any position on
23 sentencing. Is that correct?

24 MS. GRILL: That's correct.

25 ASST. SOLICITOR LEGETTE: They didn't have a position

1 on sentencing, your Honor. However, the State does ask --
2 we had a plea offer in this case. The original plea offer
3 was twenty-five years. The second plea offer was twenty
4 years, and we discussed some more issues in chambers. We
5 would ask the Court to sentence him to twenty-five years,
6 and to run the weapons charge concurrent, your Honor.

7 THE COURT: Very well. Anything else from the State
8 before I hear from the defendant?

9 ASST. SOLICITOR LEGETTE: No, Your Honor.

10 THE COURT: Mr. Deysach, I'm happy to hear from you.

11 MR. DEYSACH: Thank you very much. Daniel is twenty-
12 four years old. You heard his record, which is certainly
13 minimal, and certainly includes nothing of hurting a fly,
14 really. Just property-types of offenses. And so, does not
15 have a history of any violence that I'm aware of, certainly
16 meeting with him. His sister's been in the courtroom, twin
17 sister, the whole time. Daniel was actually adopted. I've
18 been in contact with his parents, who live in Georgia. You
19 could hear during the trial that there was -- he had -- he
20 had gone to school in Estill as a child, and then moved
21 away. Had been in Georgia before coming back to Estill with
22 his sister, and I think there was evidence in there, if you
23 listen, that he's -- he is -- he was trying to work his way
24 up to living in the projects with his sister, that he was
25 just trying to -- he was -- I think it was a trailer where

1 the lights had been turned off and rent was tough to pay.
2 And you could hear on some of the statement that was
3 admitted this frustration of not being able to -- to just
4 try to better himself in a way.

5 And this, you know, obviously, from what we heard the
6 last few days, this was not something -- and I think the
7 jury's verdict reflects this -- that it was not some sort of
8 a planned attack; that there was the circumstances of the
9 necklace and how that resolved itself. Whether it was a
10 self-defense case or whether it was a fight over the
11 necklace that got more serious than Mr. Fludd ever really
12 would've wanted it to be, you could tell, really, from the
13 emotion that poured out during his statement that -- that
14 Mr. Atkins was not somebody that he had ill-will for, that
15 he had thought -- he thought he was a good guy. That it was
16 -- for him to steal was a surprise to him.

17 And so there was this -- this, you know, the jury found
18 heat of passion. I characterized it as fear in a self-
19 defense type of situation. Obviously, an unfortunate
20 situation, and you know -- you know, here we are, and it's -
21 - it's, like I said, it's unfortunate. I want to see him
22 come back from it, you know? So, that -- that's -- you
23 know, we throw around these years, you know. Let's
24 hopefully be easy -- go easy on him.

25 THE COURT: Mr. Fludd, is there anything you want to

1 tell me prior to sentencing? I'd be happy to hear from you.

2 DEFENDANT FLUDD: Yes, sir. To the family, I apologize
3 to both ---

4 THE COURT: Talk to me, now. They're not here. I'll
5 see to it that they get whatever message you want to convey.

6 DEFENDANT FLUDD: Well, I apologize for taking his
7 life. I didn't -- I was unaware. It wasn't intended. I
8 don't -- I don't want to go away forever.

9 THE COURT: Well, let me -- I'm glad Mr. Pyles is still
10 here and I've got two of my jurors back there. I first want
11 to say this. Clearly, this jury listened. Clearly, this
12 jury deliberated. Clearly, Mr. Deysach, they found your
13 client not guilty of murder, but they found that there was
14 sufficient legal provocation and sudden heat of passion, and
15 found him guilty of voluntary manslaughter, and there was
16 clear evidence in the record to support that verdict, and I
17 want my jurors to know that.

18 I completely understand why the jury reached the
19 verdict that they did in this case. And I'll tell you, I
20 don't fight with juries over verdicts, but I listen to the
21 evidence at the same time the jury does. Mr. Fludd, you do
22 have a little bit of a record. Not -- I mean, your lawyer
23 wants me to say it's not a violent record, but you have a
24 record of some dishonesty, regardless of the severity of the
25 offense. I have to take that into consideration.

1 I also have to take into consideration, not necessarily
2 what the State offered, because I'm sure, just like with
3 many things in life, I don't always agree with the State's
4 offers as to what I think an appropriate sentence is. I
5 take into consideration your age. You're twenty-four years
6 old.

7 DEFENDANT FLUDD: Yes, sir.

8 THE COURT: I take into consideration, however the
9 family is not here, the Gordon family, the loss of the
10 member of their family.

11 DEFENDANT FLUDD: Yes, sir.

12 THE COURT: We cannot restore human life. Anything
13 further from the State?

14 ASST. SOLICITOR LEGETTE: No, Your Honor.

15 THE COURT: Anything further from the Defendant?

16 MR. DEYSACH: No, Your Honor.

17 THE COURT: Mr. Fludd, on Indictment 2017-GS-25-00160,
18 you've been found guilty of the lesser-included offense of
19 voluntary manslaughter. The sentence of this Court is, the
20 defendant is committed to the State Department of
21 Corrections for a term of twenty years.

22 On Indictment 2017-GS-25-00161, possession of a weapon
23 during the commission of a violent crime, sentence of the
24 Court is, defendant is committed to the State Department of
25 Corrections for a term of five years. I will give you

1 credit for the time that you served in jail. That credit is
2 pursuant to South Carolina code section, which is 24-13-40.
3 That is to be calculated and applied by the South Carolina
4 Department of Corrections. Sentences are to run concurrent
5 to each other. Good luck to you, sir.

6 MR. DEYSACH: Thank you, your Honor.

7 ASST. SOLICITOR LEGETTE: Thank you, your Honor.

8 THE COURT: Solicitor, thank you for a job well done.
9 Mr. Deysach, thank you for a job well done. It's a pleasure
10 to have both of you in my courtroom. Solicitor, also, thank
11 law enforcement, and particularly the poor gentleman that
12 you made run all your exhibits during this trial, because
13 you just about ran him completely crazy trying to keep up
14 with you.

15 ASST. SOLICITOR LEGETTE: Yes, Your Honor. I will.

16 THE COURT: Members of my jury, thank you so much for
17 your time and your patience this week.

18 (END OF TRIAL.)

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00:00:03,870 --> 00:00:08,74

Thomas: Alright Mr. Fludd, my name is Lt. Thomas. I'm
an investigator with the Estill Police Department.

2

00:00:08,74 --> 00:00:16,82

This is Lt. Alex Williams. Um, we would like to talk
to you about an incident that occurred, um, in the

3

00:00:16,82 --> 00:00:19,19

latter part of last night.
Fludd: Okay.

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00:00:22,389 --> 00:00:26,92

Thomas: Is there anything off hand that you just
want to tell us?

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00:00:26,92 --> 00:00:29,796

Fludd: No sir.
Thomas: Alright. But you know why you're here?

6

00:00:29,796 --> 00:00:33,466

You know why you're in handcuffs?
Fludd: No they just said I have a warrant for my arrest.

7

00:00:33,466 --> 00:00:37,370

That was it.
Thomas: I'll be, I'll be, um, just straight to the point.

8

00:00:37,370 --> 00:00:40,206

The reason why you're here, you're under arrest for
murder, okay?

9

00:00:40,206 --> 00:00:42,742

That's why you're here for murder.
Fludd: What?

10

00:00:42,742 --> 00:00:50,183

Thomas: Yes sir. Um, do you want to talk to us, and...
You know, tell us your side of the story?

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00:00:50,183 --> 00:00:53,987

Fludd: As far as, what, what's going on? How am I here for murder?

12

00:00:53,987 --> 00:00:57,624

Thomas: We have an arrest warrant for you for murder.
Fludd: Okay.

13

00:00:57,624 --> 00:01:02,996

Thomas: Okay, um... I would like to give you the opportunity to give me your side of the story.

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00:01:02,996 --> 00:01:08,802

I don't want you to be judged just based on eyewitnesses or my story or the Lieutenant's story.

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00:01:08,802 --> 00:01:13,873

I want to give an opportunity to hear your side of the story because we are all aware things happen.

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00:01:13,873 --> 00:01:15,508

You know? Before it escalated.
Fludd: Yeah.

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00:01:15,508 --> 00:01:18,44

Fludd: Okay, well...
Thomas: Well hold on... hold on. Do you want to tell

18

00:01:18,44 --> 00:01:20,780

me your side of the story?
Fludd: If that's the case, yes.

19

00:01:21,81 --> 00:01:24,584

Thomas: First and foremost, so, I want you to understand your rights. Okay?

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00:01:24,584 --> 00:01:26,219

Fludd: Understood.
Thomas: I don't want to cheat anybody their civil

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00:01:26,219 --> 00:01:29,89

rights, their liberties. I don't want to cheat myself and I don't want to cheat you, okay?

22

00:01:29,89 --> 00:01:30,990

Fludd: Understood.

Thomas: So what I'm going to do is I'm going to read

23

00:01:30,990 --> 00:01:36,763

you some rights, okay? Um, after I read you the rights you can say yes or no. No head nods. I need to hear

24

00:01:36,763 --> 00:01:40,934

clearly. Yes I understand. No I don't understand. Okay?

Fludd: Yes sir.

25

00:01:40,934 --> 00:01:44,137

Thomas: The first right, it states you have the right to remain silent. Do you understand?

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00:01:44,337 --> 00:01:47,741

Fludd: Yes.

Thomas: Anything you say can, can and will be used

27

00:01:47,741 --> 00:01:50,110

against you in a court of law. Do you understand?

Fludd: Yes.

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00:01:50,844 --> 00:01:54,214

Thomas: You have the right to speak with an attorney and have him or her present with you while you're

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00:01:54,214 --> 00:01:56,449

being questioned. Do you understand?

Fludd: Yes sir.

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00:01:56,449 --> 00:02:01,54

Thomas: If you cannot afford to hire an attorney, one will be appointed to represent you before any

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00:02:01,54 --> 00:02:03,823

questions if you so wish. Do you understand?

Fludd: Yes sir.

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00:02:03,823 --> 00:02:07,494

Thomas: You may decide at any time to exercise these rights and not answer any questions or make any

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00:02:07,494 --> 00:02:09,396

statements. Do you understand?

Fludd: Yes sir.

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00:02:09,396 --> 00:02:13,967

Thomas: Okay. Having been read your rights you fully understand each of these rights and with these

35

00:02:13,967 --> 00:02:17,737

rights in mind you are willing to waive these rights and you're willing to provide a statement.

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00:02:17,737 --> 00:02:21,775

Fludd: Yes sir.

Thomas: Okay. At this point in time, is your name

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00:02:21,775 --> 00:02:23,977

Daniel Lee Floyd?

Fludd: Fludd.

38

00:02:23,977 --> 00:02:28,948

Thomas: Fludd. I'm sorry, Daniel Lee Fludd? Alright Mr. Fludd I'm going to need you initial each one

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00:02:28,948 --> 00:02:32,452

of these points and initial here.

40

00:02:33,153 --> 00:02:41,695

Thomas: The time now is 9:04. Today's date is 3/23/2017. My name is Lt. Michael Thomas.

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00:02:41,695 --> 00:02:46,499

I'm here with uhh, Lt. Alex Williams and we're here at the Estill Police Department.

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00:02:51,971 --> 00:02:54,674

Fludd: And then right here?

Thomas: Yes sir.

43

00:02:55,775 --> 00:03:01,848

Thomas: Alright. And... (inaudible)

Fludd: Oh I'm sorry.

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00:03:01,848 --> 00:03:08,988

Thomas: It's okay. I'll put the time. Um, I need you to print your name and sign your name.

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00:03:09,255 --> 00:03:11,991

Thomas: Print and sign.

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00:03:33,546 --> 00:03:41,921

Thomas: Okay. Uhh, now I just have to ask you a few questions, umm, are you under the influence of any

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00:03:41,921 --> 00:03:43,223

alcohol?

Fludd: No sir.

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00:03:43,223 --> 00:03:45,191

Thomas: Legal or illegal medications?

Fludd: No sir.

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00:03:45,191 --> 00:03:47,694

Thomas: Narcotics or synthetic substances?

Fludd: No sir.

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00:03:49,562 --> 00:03:57,37

Thomas: I'm going to let Lt. Williams sign as a witness that you signed, then I signed.

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00:04:03,610 --> 00:04:08,515

Thomas: That must be the judge. He'll probably start calling you next.

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00:04:20,160 --> 00:04:22,462

Thomas: Fludd, I'm going to provide you with a copy, okay?

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00:04:22,462 --> 00:04:24,698

Fludd: Yes sir.

54

00:04:26,533 --> 00:04:28,301

Fludd: Thank you.

Thomas: Yes sir.

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00:04:30,870 --> 00:04:39,813

Thomas: Okay Mr. Fludd you are getting ready to um, explain to myself and Lt. Williams... what happened.

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00:04:40,914 --> 00:04:48,888

Fludd: Yeah, I really, like I said. As far as being or having a warrant for murder I have never like...

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00:04:48,888 --> 00:04:55,995

It's kinda scaring me like, and I know exactly where I was last night, you know what I'm saying?

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00:04:55,995 --> 00:05:02,35

Thomas: Let's talk about where you were at.

Fludd: I went to Country Craft Rd. last night

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00:05:02,35 --> 00:05:10,577

to try to get my stuff from 150 Country Craft Rd.

We are, me and my twin sister are currently in the

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00:05:10,577 --> 00:05:11,978

process of moving.

Thomas: Okay.

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00:05:11,978 --> 00:05:18,718

Fludd: She is living with her boyfriend right now at the moment and I'm not too much living with

62

00:05:18,718 --> 00:05:25,625

nobody. I just go stay the night at people's houses until I'm able to get my notarized stamp and get

63

00:05:25,625 --> 00:05:28,762

our two bedroom apartment in the projects.

Thomas: Okay.

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00:05:28,762 --> 00:05:34,734

Fludd: Umm... As far as last night, uhh...

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00:05:37,704 --> 00:05:41,574

I really don't know the story. It's like...

Williams: Walk us through your night then. Tell us

66

00:05:41,574 --> 00:05:43,510

what you did last night. You said you know where you were right?

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00:05:43,510 --> 00:05:45,412

Fludd: Yeah.

Williams: Well walk us through your night.

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00:05:45,412 --> 00:05:52,719

Fludd: Well, my night, like I said, I, after I linked up with my sister which was around three o'clock

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00:05:52,719 --> 00:05:58,692

in the evening. Umm...we went to my homeboys house.

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00:05:58,692 --> 00:06:06,32

we sat and talked for almost four hours. You know what I'm saying? And then I walked her to the top of the

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00:06:06,32 --> 00:06:14,507

road and I left. And I went to the library. After coming from the library, I went and talked to my sister

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00:06:14,507 --> 00:06:24,84

She, we was on uhh, Messenger together. I was talking to her. Umm, I said so what's the word with our close

73

00:06:24,84 --> 00:06:33,560

or moving our close. She said Tia has to call me, she has to call me so she can know what time we're coming

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00:06:33,560 --> 00:06:40,367

in and make sure it's daylight outside so we can see all our stuff because she turned the power off in the trailer

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00:06:40,367 --> 00:06:50,377

So I'm like okay. That's fine. You know what I'm saying?
Then afterwards, she walked home. I walked to....

76

00:06:50,977 --> 00:06:57,417

My homeboys house before I went back to Country
Craft to try to talk to Tia. Tia wasn't there. Umm...

77

00:06:57,417 --> 00:07:02,489

Which is our landlord. Umm... Well was. Umm...

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00:07:04,190 --> 00:07:09,796

Uhh... After that umm...

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00:07:10,497 --> 00:07:16,703

I went to my homeboys house and we stayed for a few.
Thomas: Around what time was that?

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00:07:16,703 --> 00:07:26,913

Fludd: Like 9 to like 12. And then I left his house around
like 1:30 to see if one of the stores was open so I could

81

00:07:26,913 --> 00:07:29,516

get a cigarette or a bootleg.
Thomas: You said you left about 1:30?

82

00:07:29,516 --> 00:07:38,258

Fludd: Mmm hmm. I left about 1:30. And then once I
went to uhh, where did I go? I went to the 3-Way first.

83

00:07:38,725 --> 00:07:46,266

And then I went to uhh, Nicklepumpers to see if they
was still open and they weren't. And then after that

84

00:07:46,266 --> 00:07:51,671

I went to the bootleg which was down the street and I
bought a cigarette. Then I went back to my homeboys

85

00:07:51,671 --> 00:07:53,773

house.

Thomas: Okay. Where does your homeboy stay at?

86

00:07:53,773 --> 00:07:56,509

Fludd: Uhh...

87

00:07:57,110 --> 00:08:04,384

Okay, you know the back side of the school? Like the back, the very ending road? Not, not, umm not that

88

00:08:04,384 --> 00:08:11,391

dirt road, but okay, you know the back side of the school? Where the auditorium is?

89

00:08:11,391 --> 00:08:13,893

Thomas: Right.

Fludd: You know that road? Leading straight up...

90

00:08:13,893 --> 00:08:18,398

He lives straight down on the end on the right.

Thomas: What's his name?

91

00:08:18,398 --> 00:08:20,767

Fludd: Bummy.

Thomas: Okay.

92

00:08:21,668 --> 00:08:24,137

Thomas: On 5th street?

Fludd: Mmm.

93

00:08:25,305 --> 00:08:27,640

Thomas: So you went down to Bummy's house on 5th?

Fludd: Mmm hum.

94

00:08:27,640 --> 00:08:34,280

Thomas: And... How long you stay there?

Fludd: Til one and then after I went to bootleg

95

00:08:34,280 --> 00:08:40,920

and got me a cigarette, I stayed for another, what, two hours and then I went to this girls house and

96

00:08:40,920 --> 00:08:45,759
you know what happened from there.
Thomas: Alright, Mr. Fludd.

97
00:08:45,759 --> 00:08:48,595
Fludd: Mmm hmm.
Thomas: I don't want you to keep sinking yourself,

98
00:08:48,595 --> 00:08:56,336
but your story is not making sense because you told
me that you left to go get a cigarette, or you went

99
00:08:56,336 --> 00:08:59,706
to the 3-Way and the Nicklepumpers at 1:30. That's
why I take notes like that.

100
00:08:59,706 --> 00:09:02,275
Fludd: Yeah I know.
Thomas: That's, that's what you said... So now is we

101
00:09:02,275 --> 00:09:08,148
back to one o'clock. So here's what we can do. I'm only
going to be honest with you. I'm not going to shoot

102
00:09:08,148 --> 00:09:13,787
you any BS cause I wouldn't want anyone to lie to me.
And I'm a man and you're a man and that's a man.

103
00:09:13,787 --> 00:09:19,125
So we're not going to play any games. We're not
going to shoot any BS. We want to get to the point.

104
00:09:19,759 --> 00:09:25,598
Do you know Bobby Atkins?
Thomas: No. I don't know a Bobby Atkins. I know

105
00:09:25,598 --> 00:09:30,370
somebody named Champ.
Thomas: You know Champ? So you don't know Bobby

106
00:09:30,370 --> 00:09:32,72
Atkins, but you know Champ.

Fludd: Mmm hmm.

107

00:09:32,72 --> 00:09:36,843

Thomas: How do you know Champ?

Fludd: Uhh, I met him, I met him through this girl I

108

00:09:36,843 --> 00:09:42,182

went to school with. That's her boyfriend. I believe.

Thomas: Okay. How long ago you met him?

109

00:09:43,83 --> 00:09:46,319

Fludd: Mmm...

110

00:09:48,188 --> 00:09:52,92

I moved down here in November.

Thomas: So you just moved, you just moved to Estill?

111

00:09:52,92 --> 00:10:00,700

Fludd: Yeah. Recently moving. Like, like last November

I had just moved down here. Umm...

112

00:10:02,302 --> 00:10:09,342

When I met Champ. Probably around February. I think it was around February cause...

113

00:10:09,342 --> 00:10:10,944

Thomas: Last month?

Fludd: Mmm hmm.

114

00:10:10,944 --> 00:10:15,148

Thomas: You met him last month.

Fludd: Or either, or...

115

00:10:15,749 --> 00:10:20,820

Fludd: No. No, In December at the ending of December. the beginning of January is when I met Champ.

116

00:10:20,820 --> 00:10:30,96

Thomas: When was the last time you saw him?

Fludd: Umm, when him and Zaneh was going to...

117

00:10:30,96 --> 00:10:33,500
my homeboy Rock house. That was the last time I
seen him.

118
00:10:33,500 --> 00:10:38,238
Thomas: How long ago was that?
Fludd: Wait. That was yesterday. Yeah that was

119
00:10:38,238 --> 00:10:40,974
yesterday.
Thomas: Around what time?

120
00:10:46,680 --> 00:10:55,922
Fludd: I been on my phone, on my phone. Let me
see. I think it was like. Should have been like...

121
00:10:55,922 --> 00:11:00,660
12 something probably. I believe.
Thomas: 12 in the afternoon? 12 in the morning?

122
00:11:00,660 --> 00:11:03,663
Fludd: No, 12 at night.
Thomas: That's the last time you saw him?

123
00:11:03,663 --> 00:11:05,765
Fludd: Mmm hmm.
Thomas: Where were they at?

124
00:11:05,765 --> 00:11:10,303
Fludd: They were going to Rock's house. They passed
Bummy's house and I was sitting on the porch.

125
00:11:10,303 --> 00:11:13,6
And they was going to Rock house.
Thomas: Rock who?

126
00:11:13,907 --> 00:11:18,244
Fludd: I, I don't know his like, his full name. I just
know they call him Rock.

127
00:11:18,244 --> 00:11:19,879
Thomas: Was this on 5th Street?

Fludd: Mmm hmm.

128

00:11:19,879 --> 00:11:21,715

Thomas: That's where you saw him the last time.

Fludd: Mmm hmm.

129

00:11:21,715 --> 00:11:23,583

Thomas: And then you didn't see him anymore that night?

130

00:11:23,583 --> 00:11:27,53

Fludd: No sir.

Thomas: And that's around 12, 12 AM this morning?

131

00:11:27,53 --> 00:11:32,125

Fludd: Mmm hmm.

Thomas: Okay. The problem that we have is that

132

00:11:32,125 --> 00:11:38,765

we have an eyewitness that you had some type of altercation with Champ.

133

00:11:39,666 --> 00:11:43,536

Okay? Like I said I'm going to be straight forward and honest with you and I hope you'd be straight

134

00:11:43,536 --> 00:11:48,608

forth.. Forth and honest with me. Did you get into any type of altercation with Champ?

135

00:11:48,608 --> 00:11:51,911

Fludd: We done argue before, yes.

Thomas: Did you argue last night when you saw him

136

00:11:51,911 --> 00:11:57,50

at 12 o'clock?

Fludd: I can't deny. Yes, we did. We got into a

137

00:11:57,50 --> 00:11:58,918

argument.

Thomas: What did you guys get into an argument

138

00:11:58,918 --> 00:12:00,987

about?

Fludd: Cause he stole my gold chain.

139

00:12:00,987 --> 00:12:05,759

Thomas: How did he... How did he get your chain?

Fludd: Uhh, I left it at Bummy's house on the front

140

00:12:05,759 --> 00:12:10,63

porch. And he took it from his front porch and put it on his neck and never returned it.

141

00:12:10,63 --> 00:12:13,33

Thomas: How long ago was that?

Fludd: That was last night.

142

00:12:13,33 --> 00:12:15,168

Thomas: So he took your chain last night?

Fludd: Last night.

143

00:12:15,168 --> 00:12:19,572

Thomas: And then when you ran back into him...

Fludd: Nah I ain't run back into him after, after

144

00:12:19,572 --> 00:12:25,979

I seen him. I was like bro what's, what's the word you got my chain bro like... You know what I'm saying?

145

00:12:26,479 --> 00:12:32,118

And he came with a shovel and tried to hit me.

Williams: Where was this at?

146

00:12:32,952 --> 00:12:39,592

Fludd: Right there on mother fuckin' uhh... Uhh what's the name of that damn road... He, he...

147

00:12:39,592 --> 00:12:42,128

They... They just had me laying down there.

148

00:12:42,128 --> 00:12:44,230

Umm...

149

00:12:44,230 --> 00:12:49,669

Uhh fuck... Umm

150

00:12:50,670 --> 00:12:53,940

It's Mr. Black's road. I'm trying to think of it.

Williams: Mr. Black?

151

00:12:54,207 --> 00:12:58,645

Fludd: Mr. Black.

Thomas: Mr. Black, umm...

152

00:12:58,645 --> 00:13:02,48

You talking about the little cut by the trailers?

Fludd: Yeah. Yeah.

153

00:13:02,48 --> 00:13:05,185

Thomas: So you ran into them over there?

Fludd: Mmm hmm and I asked him. I'm like bro

154

00:13:05,185 --> 00:13:07,721

You know what I'm saying? All I want is my chain, bro like.

155

00:13:07,721 --> 00:13:10,256

Thomas: Makes sense. That's yours.

Fludd: You know what I'm saying? I, I bought my

156

00:13:10,256 --> 00:13:15,228

chain. You know what I'm saying? You already know.

If you want it you could just ask for it. I'm not tripping

157

00:13:15,228 --> 00:13:21,267

over jewelry. You know what I'm saying? I know I got two jobs bro. I work at Burger King and Nicklepumpers.

158

00:13:21,267 --> 00:13:25,939

So I know I could get another chain. It's just like come on bro. You ain't got to steal from me, bro.

159

00:13:25,939 --> 00:13:29,109

Thomas: So when you asked him for your chain back, man which is normal.

160

00:13:29,109 --> 00:13:32,779

Fludd: Yeah he tried to swing on me with the damn shovel. He had a shovel in his hand.

161

00:13:32,779 --> 00:13:35,548

Thomas: Was he with anyone?

Fludd: He was with Zaneh.

162

00:13:35,548 --> 00:13:38,885

Thomas: He was with Zaneh?

Williams: You said he tried to hit you with a shovel...

163

00:13:38,885 --> 00:13:44,491

Where was he at? Like, you said on that dirt road...

Fludd: Yeah right there, look... Okay, alright...

164

00:13:44,491 --> 00:13:46,493

Williams: Where did he get the shovel from? Out the ditch somewhere?

165

00:13:46,493 --> 00:13:50,630

Fludd: I don't know where he got the shit from.

'Cause when I seen him he didn't have shit in his

166

00:13:50,630 --> 00:13:54,868

hand. When he turned back around, he went like this. He was like whoa... Why you, why you want

167

00:13:54,868 --> 00:14:00,507

this chain? This is my chain. I'm like bro you know that's my damn chain. I told you to fix my chain

168

00:14:00,507 --> 00:14:04,44

and return it back to me. I wanted to pawn my chain because it broke.

169

00:14:04,44 --> 00:14:06,546

Thomas: Okay.

Fludd: You know what I'm saying? So I'm like well...

170

00:14:06,546 --> 00:14:12,52

Shit if you could fix it. You know what I'm saying?
I'll just keep my chain. He like aight. He fixed the

171

00:14:12,52 --> 00:14:18,658

chain, I put it on my neck just to see if it. You know
what I'm saying? Was fully fixed. I put the shit down

172

00:14:18,658 --> 00:14:22,662

on Bummy's porch. Lit my damn cigarette and forgot
I left it there.

173

00:14:22,662 --> 00:14:25,565

Thomas: Okay.

Fludd: When I came back, I'm like damn, where the

174

00:14:25,565 --> 00:14:36,242

fuck my chain at? I seen him... I think he was in uhh...
Uhh.. Uhh a gold shirt. I seen my chain on his damn

175

00:14:36,242 --> 00:14:43,316

neck. I'm like bruh, what's up bruh? You got my damn
chain. What's up man? You, the fuck man, like bruh.

176

00:14:43,316 --> 00:14:45,819

Thomas: That had to piss you off. I know that had to
piss you off.

177

00:14:45,819 --> 00:14:50,724

Fludd: Yes, but it didn't... It didn't frustrate me to the
point where I wanted to put my hands on him.

178

00:14:50,724 --> 00:14:55,829

Like I said he swung. He tried to swing on me. I done
dodged the shit. I'm like bruh, come on now don't

179

00:14:55,829 --> 00:15:01,234

try to swing on me bruh about something that ain't
yours. It's mine bruh. You wore that shit bruh.

180

00:15:01,234 --> 00:15:04,104

I came by here with two chains. You know that.

181

00:15:04,637 --> 00:15:08,241

Thomas: Okay.

Fludd: (Expletive) swung. I went like this... Now

182

00:15:08,241 --> 00:15:11,644

I ain't gonna flex. I punched the shit out of his chin.

Thomas: Okay.

183

00:15:11,644 --> 00:15:15,849

Fludd: I punched the shit out of his ass now. I ain't even gonna flex. I ain't had no damn weapon.

184

00:15:15,849 --> 00:15:21,21

You swinging a big ass shovel, bro. And that's where the fuck this shit come from.

185

00:15:21,21 --> 00:15:25,125

Thomas: That's coming from the shovel?

Fludd: Yeah. That's why my damn, you look at my

186

00:15:25,125 --> 00:15:28,495

damn arm. It looks weird as fuck don't it?

Thomas: Yeah it looks a little swollen now.

187

00:15:28,495 --> 00:15:32,65

Fludd: The (expletive) hit me with the god damn shovel. I went like this, side stepped, and hit

188

00:15:32,65 --> 00:15:33,900

the shit out of his ass.

Thomas: And then what happened?

189

00:15:33,900 --> 00:15:39,539

Fludd: And then afterwards he said he was going to get a gun. So I fucking ran. I ain't even going to flex.

190

00:15:39,539 --> 00:15:45,612

He said he was going to get a gun. I ain't have shit on me bruh, but a damn bookbag filled with chargers.

191

00:15:46,179 --> 00:15:52,252

And my damn work clothes, these, what I got on right now. That's it.

192

00:15:54,621 --> 00:16:00,93

Like I said, when he say he was going to get a damn gun, I ain't even going to lie. I was scared for my

193

00:16:00,93 --> 00:16:07,200

fucking life. I took the fuck off. I took off. And Zaneh was telling me don't run. "Don't run Daniel, don't

194

00:16:07,200 --> 00:16:12,839

run now. You was just so gangster. You wanted to hit him in the face." Yeah I hit him in the face cause the

195

00:16:12,839 --> 00:16:15,575

(expletive) tried to hit me with a god damn shovel.

196

00:16:16,142 --> 00:16:18,311

Thomas: Man, I understand that man.

197

00:16:18,311 --> 00:16:21,848

I'm not going to stand up, I ain't going to stand by nobody hitting me with a shovel, so I would expect

198

00:16:21,848 --> 00:16:25,18

you would do the same either.

Williams: So, so let me ask you something right...

199

00:16:25,18 --> 00:16:27,487

Fludd: Yes sir.

Williams: I get confused you know? I'm slow.

200

00:16:27,487 --> 00:16:32,392

My momma smoked when she was pregnant with me so. I want to make sure, make sure I'm clear on

201

00:16:32,392 --> 00:16:39,232

something now. Okay. You went, you was at Bummy's

house from around 9 'til you say about 12?

202

00:16:39,232 --> 00:16:43,503

Fludd: Mmm hmm.

Williams: You left Bummy's house to go try to find

203

00:16:43,503 --> 00:16:47,273

to see if a store was open. So you went to 3-Way first?

Fludd: Mmm hmm.

204

00:16:47,273 --> 00:16:51,911

Williams: So that would be Bummy's house and 3-Way
you on the north...

205

00:16:51,911 --> 00:16:55,815

Fludd: Yeah the back, that same back road.

Williams: You on the northeastern side of town. Okay.

206

00:16:55,815 --> 00:17:00,653

So, you go to 3-Way. They're not open so that would
mean you walked towards Nicklepumpers.

207

00:17:00,653 --> 00:17:03,156

Fludd: Mmm hmm.

Williams: You're still on the north side, but you

208

00:17:03,156 --> 00:17:08,328

could've... You still on the northeastern side, but you're
coming a little more south. Okay, so then you get to

209

00:17:08,328 --> 00:17:12,132

Nicklepumpers. They're not open. So, then you go
to the bootlegger. Who is the bootlegger? Where's

210

00:17:12,132 --> 00:17:17,637

the bootlegger live?

Fludd: The bootleg is down the street uhh, it's this

211

00:17:17,637 --> 00:17:21,875

dude. It's this old dude. He sits on his porch and shit
and smoke Newports.

212

00:17:21,875 --> 00:17:25,211

Williams: Where, where?

Fludd: Umm, right there on 5th St. On the back road.

213

00:17:25,211 --> 00:17:36,89

Right up, at that damn, at that damn dirt road. At that damn dirt road. It's the uhh, trailer that's all the way

214

00:17:36,89 --> 00:17:38,692

in the corner.

Williams: A fat dude?

215

00:17:38,692 --> 00:17:41,27

Fludd: Yeah, he is sort a kind of fat. No.

Williams: Dark skinned?

216

00:17:41,27 --> 00:17:47,33

Fludd: He ain't, he ain't fat. He ain't fat. I would say he just sorta kinda. Sorta kinda.

217

00:17:47,33 --> 00:17:51,871

Williams: So you go to the bootlegger. We, we back on 5th Street, so you're all the way back on the

218

00:17:51,871 --> 00:17:53,640

northeastern side of town.

Fludd: Mmm hmm.

219

00:17:53,640 --> 00:17:57,277

Williams: Alright, so what time was that cause I mean...

Fludd: Well when I got back.

220

00:17:57,277 --> 00:17:59,479

Williams: Yeah to the, when you got back to the bootlegger so...

221

00:17:59,479 --> 00:18:01,114

Fludd: It was around like 1 o'clock.

Williams: Okay so...

222

00:18:01,114 --> 00:18:06,553

Fludd: I got to the bootlegger at like 1:30, 1:30, 2:00.
Williams: Okay. I got you. I'm tracking. So you got to

223

00:18:06,553 --> 00:18:09,489

the bootlegger 1:30, 2:00?

Fludd: Nah. Not 2:00.

224

00:18:09,489 --> 00:18:19,65

Williams: 1:30 okay so when, when did we make it back
over here to the southeastern side of town where

225

00:18:19,666 --> 00:18:24,671

Champ and Zaneh were at over here on Godbold about
what time was that?

226

00:18:24,671 --> 00:18:28,675

Fludd: That shit was like... I ain't even going to flex. It
was like 2 or 3.

227

00:18:28,675 --> 00:18:31,378

Williams: Okay it was 2 or 3 in the morning?

Fludd: Something like that 2 or 3...

228

00:18:31,378 --> 00:18:34,214

Williams: Okay.

Fludd: Because I know my phone damn it, it already

229

00:18:34,214 --> 00:18:37,183

had damn died in the process.

Williams: Where is your phone now? I mean.

230

00:18:37,183 --> 00:18:39,786

Fludd: That's what the fuck I was looking for.

Thomas: What kind of phone you got?

231

00:18:39,786 --> 00:18:43,590

Fludd: It's a uhh, J1, Galaxy J1.

Thomas: Okay.

232

00:18:43,590 --> 00:18:48,161

Fludd: Ever since, when me and damn Champ got

into that damn altercation, I couldn't find my damn

233

00:18:48,161 --> 00:18:50,463

phone..

Williams: So, you said what about 2 o'clock?

234

00:18:50,463 --> 00:18:54,434

Fludd: 2 or 3.

Williams: So it was about 2 or 3 o'clock? Okay.

235

00:18:54,434 --> 00:19:00,907

So what is, so let me ask you this. So, where were you around 11?

236

00:19:00,907 --> 00:19:03,977

Fludd: 11 o'clock?

Williams: Yeah what were you doing around 11 o'clock?

237

00:19:03,977 --> 00:19:07,313

Fludd: Shit. I was at Bummy's house.

Williams: So you was at Bummy's around 11?

238

00:19:07,313 --> 00:19:13,153

Fludd: 9 to, 9 to 12...

Williams: Okay. So you, who, who would of saw you

239

00:19:13,153 --> 00:19:15,789

there? Who else was there?

Fludd: Bummy was there.

240

00:19:15,789 --> 00:19:18,224

Williams: That was it?

Fludd: Bummy and...

241

00:19:18,224 --> 00:19:20,527

Williams: So he didn't clean up at Felicia's last night or nothing?

242

00:19:20,527 --> 00:19:24,264

Fludd: I don't know. I don't know. That...

Williams: But you said, but I mean he was there?

243

00:19:24,264 --> 00:19:27,167

Fludd: He was there. He was there with us.

Williams: He normally goes and cleans up at Felicia's

244

00:19:27,167 --> 00:19:29,402

right down here?

Fludd: I really don't know who Felicia is.

245

00:19:29,402 --> 00:19:31,905

Williams: The shop down here on 2nd Street.

Fludd: Oh yeah, yeah.

246

00:19:31,905 --> 00:19:34,574

Williams: So he normally goes and cleans up over there.
So did he go over there?

247

00:19:34,574 --> 00:19:37,977

Fludd: The lady that be in that gold car? Little small
little Toyota.

248

00:19:37,977 --> 00:19:41,381

Williams: Oh I don't know. It's a little store down here
at the end of 2nd Street.

249

00:19:41,381 --> 00:19:44,417

Fludd: Okay. Okay.

Williams: Okay so you said it's around 2, 3 o'clock

250

00:19:44,417 --> 00:19:46,386

Fludd: Mmm hmm.

Williams: When you see Bobby?

251

00:19:46,386 --> 00:19:47,921

Williams: Okay.

Fludd: Bo...

252

00:19:47,921 --> 00:19:50,123

Williams: I mean no, I mean Champ. I'm sorry.

Fludd: Oh.

253

00:19:50,123 --> 00:19:52,392

Williams: So y'all get into the altercation around...

Fludd: Mmm hmm.

254

00:19:52,392 --> 00:19:56,663

Williams: You saw him around 12?

Fludd: Mmm hmm. I seen him the first time around 12.

255

00:19:56,663 --> 00:20:01,34

Williams: Around 12 o'clock, but you get, you get in an argument with him about the chain around what

256

00:20:01,34 --> 00:20:02,168

time again?

Fludd: 2.

257

00:20:02,168 --> 00:20:03,937

Williams: About 2 AM?

Fludd: Mmm hmm.

258

00:20:03,937 --> 00:20:06,106

Williams: Okay.

Fludd: Damn near 3. I ain't even gonna...

259

00:20:06,106 --> 00:20:07,407

Williams: 2 AM to 3 AM.

Fludd: 2 to 3 AM...

260

00:20:07,407 --> 00:20:15,615

Williams: Okay. Alright. So, you're there 2 AM to 3 AM and you argue. You say he swings a shovel at you?

261

00:20:15,615 --> 00:20:16,549

Fludd: Mmm hmm.

Williams: Okay.

262

00:20:16,549 --> 00:20:19,185

Fludd: The shovel broke. He hit me with it twice.

Williams: Okay.

263

00:20:19,185 --> 00:20:21,955

Williams: Okay, so...

Fludd: He hit me the first time and I dodged it.

264

00:20:21,955 --> 00:20:29,729

I went like this. I put my arm up like this... and side.
Williams: So... Okay. So you get with the shovel.

265

00:20:29,729 --> 00:20:31,865

Fludd: Mmm hum.

Williams: Okay. Where exactly were y'all at?

266

00:20:31,865 --> 00:20:34,634

Were y'all at...

Fludd: We was at the end of the dirt road directly

267

00:20:34,634 --> 00:20:38,772

in, next to, next to them abandoned trailers.

Williams: So y'all was all the way back here by the

268

00:20:38,772 --> 00:20:42,776

blue house where uhh...

Fludd: Where, where, okay... You know where Tyrell

269

00:20:42,776 --> 00:20:44,77

grandmomma and them?

Williams: Yeah the blue house.

270

00:20:44,77 --> 00:20:47,80

Fludd: Right there. Right there. Right there on that dirt road.

271

00:20:47,80 --> 00:20:50,250

Williams: Y'all were right there on that dirt road...

Fludd: Yeah.

272

00:20:50,617 --> 00:20:53,453

Williams: He comes with a shovel out of nowhere.

Fludd: Out of nowhere.

273

00:20:53,453 --> 00:20:56,56

I don't know where the fuck he got the shovel.

Williams: And y'all were in the middle of the road?

274

00:20:56,56 --> 00:20:57,657

Fludd: Yeah.

Williams: And, and just...

275

00:20:57,657 --> 00:21:02,262

Fludd: And I hollered at him. I'm like bruh, bruh I need my chain, bruh. Bruh.

276

00:21:02,262 --> 00:21:08,34

Williams: So then you, so you hollered at him then you approached him and then you, as you got toward him

277

00:21:08,34 --> 00:21:11,404

Fludd: I seen the shovel.

Williams: So he had the shovel in his hands, you think?

278

00:21:11,404 --> 00:21:15,442

Fludd: I think he had the, the shovel in his hands. From the first beginning. I don't...

279

00:21:15,442 --> 00:21:17,777

Fludd: (Inaudible)

Williams: Okay so what made you go to that side of

280

00:21:17,777 --> 00:21:20,814

town?

Fludd: Because I knew that's where I seen him last.

281

00:21:20,814 --> 00:21:27,153

They was going towards the projects way. So I'm like well shit, the only person that I knew that had my chain

282

00:21:27,153 --> 00:21:34,894

last was Champ.

Williams: Okay. So, so you were the last person around

283

00:21:34,894 --> 00:21:41,634

your chain so you made your way from Nicklepumper, then you went to the bootlegger, then you walked

284

00:21:41,634 --> 00:21:49,109

back over here to try to locate him. So, I mean I understand it's your chain. I, I, I if I lost my watch,

285

00:21:49,109 --> 00:21:54,214

if somebody, I, You know I'm just particular about my stuff that I paid my money for. And I work hard.

286

00:21:54,214 --> 00:21:56,16

Fludd: Yes sir.

Williams: We work a lot of hours. We do a lot of stuff.

287

00:21:56,16 --> 00:22:00,120

So, we just ain't going to let nobody just take our stuff. Especially if we paid our money for it. It's

288

00:22:00,120 --> 00:22:07,260

understandable. I'm not, I'm not, I'm not a... Have an issue with that. Um, so... I mean I was just trying to

289

00:22:07,260 --> 00:22:11,831

figure out why you didn't go straight away when you realized your chain was missing. He was...

290

00:22:11,831 --> 00:22:15,201

Fludd: I didn't know directly.

Williams: No, no, no I mean no I said when you realized

291

00:22:15,201 --> 00:22:20,6

that why didn't you go directly when you realized it. Like wait a minute now my chain is missing off the

292

00:22:20,6 --> 00:22:23,843

porch. You know instead of the cigarette. I guess the cigarette was more important...

293

00:22:23,843 --> 00:22:28,982

Fludd: Oh nah, see what I did like I said I took the chain off my neck and put it right there and picked

294

00:22:28,982 --> 00:22:31,851

up my cigarette.

Williams: So let me... Yeah, so you picked up your

295

00:22:31,851 --> 00:22:38,24

cigarette then you left, then you went... You, you was like man I got to go see the store, so, then you,

296

00:22:38,24 --> 00:22:43,63

when you realize your chain wasn't where you left it or where you remember leaving it, why didn't you go

297

00:22:43,63 --> 00:22:45,965

find him right then?

Fludd: That's what I was trying to do sir.

298

00:22:45,965 --> 00:22:48,201

Williams: Okay.

Fludd: They told me he was going towards the projects

299

00:22:48,201 --> 00:22:50,203

way. That's where he stay.

Williams: Who is they? That's what...

300

00:22:50,203 --> 00:22:51,705

Fludd: (Inaudible) Yeah.

Williams: Bummy or who?

301

00:22:51,705 --> 00:22:52,872

Fludd: Bummy.

Williams: So...

302

00:22:52,872 --> 00:22:56,943

Fludd: He said that the last time he talked to Zaneh they said they was going home towards the projects

303

00:22:56,943 --> 00:22:58,712

way.

Williams: So that, that's what I was asking...

304

00:22:58,712 --> 00:23:02,415

So when you talked to Bummy, was Bummy still at the house or was he by...

305

00:23:02,415 --> 00:23:04,884

Fludd: Yeah he was staying at the house.

Williams: Okay, so that's what I'm asking. Did he go

306

00:23:04,884 --> 00:23:07,287

clean up, did Bummy go clean up last night or you don't know?

307

00:23:07,287 --> 00:23:09,522

Fludd: I don't know.

Williams: Okay, so Felicia's you know closes around

308

00:23:09,522 --> 00:23:12,659

what 2, 1, 2, in the morning?

Fludd: I'm not from here. I don't know.

309

00:23:12,659 --> 00:23:18,698

Williams: Yeah, so, just I am so that's what I'm telling you. Okay. So you say 2 or 3 o'clock in the morning

310

00:23:18,698 --> 00:23:25,138

you walk over there. Y'all are in the middle of the dirt road near his, uhh, Tyrell's 'ma grandmother's house

311

00:23:25,138 --> 00:23:27,307

the blue, but y'all are in the middle of the dirt road.

Fludd: Mmm hmm.

312

00:23:27,307 --> 00:23:30,610

Williams: Which way did you call out from him. Which way, like...

313

00:23:30,610 --> 00:23:32,379

Fludd: Next to that church...

Williams: So we got a T...

314

00:23:32,379 --> 00:23:35,215

Fludd: Next to that church.

Williams: So wait a minute now. What church?

315

00:23:35,615 --> 00:23:39,119

Fludd: That church. That white church.

Williams: Okay so you talking about the one that's

316

00:23:39,119 --> 00:23:43,456

in front of the yellow house?

Fludd: Yeah, yeah not in front of the yellow house.

317

00:23:43,456 --> 00:23:48,728

The one that's right here. It's okay, you walk through, okay it's a brick house right here. And you walk

318

00:23:48,728 --> 00:23:51,97

straight through (inaudible)...

Williams: So you saw them going through the path?

319

00:23:51,97 --> 00:23:54,267

Fludd: Yeah.

Williams: Okay. So you called out to him from the

320

00:23:54,267 --> 00:23:56,236

church...

Fludd: Mmm hmm and I said Champ.

321

00:23:56,236 --> 00:23:57,804

Williams: As they going through the path?

Fludd: Mmm hmm.

322

00:23:57,804 --> 00:24:02,575

Williams: So you, did you, did you run towards them?

Fludd: No I didn't run towards him he seen me,

323

00:24:02,575 --> 00:24:04,744

He seen me, I said Champ...

Williams: Okay, He saw you...

324

00:24:04,744 --> 00:24:08,14

Fludd: Hey Champ let me holla at you about my chain.

Williams: And you say, what you say he had on again?

325

00:24:08,14 --> 00:24:13,286

Fludd: He had on a gold shirt, a gold button up.

Williams: Okay. Gold button up, so, you, you saw

326

00:24:13,286 --> 00:24:16,22

you saw what he had on that's pretty, that's, I mean that's pretty good...

327

00:24:16,22 --> 00:24:22,429

Fludd: He had on go... Well what he had on today, well that day was a gold button up. I think they were

328

00:24:22,429 --> 00:24:24,931

black pants. If not black, they were blue.

Williams: Okay.

329

00:24:24,931 --> 00:24:28,301

Fludd: Umm and some Timberlands. Not Timberlands, but Polo boots.

330

00:24:28,301 --> 00:24:33,573

Williams: Man you, you awesome. You can see that for in the dark. So you called out to him through the

331

00:24:33,573 --> 00:24:36,443

path. You at the church and he at the path.

Fludd: Mmm hmm.

332

00:24:36,443 --> 00:24:39,446

Williams: So does he stop? Does he keep going?

Fludd: They kept going.

333

00:24:39,446 --> 00:24:43,550

Fludd: That's why I approached him. I'm like bruh.

Williams: So you walked briskly or you ran?

334

00:24:43,550 --> 00:24:46,119

Fludd: No. I didn't run. I was walking.

Williams: So you walked him down?

335

00:24:46,119 --> 00:24:48,621

Fludd: Yeah I walked him down.

Williams: So you walked him down and y'all meet

336

00:24:48,621 --> 00:24:50,857

in the middle of the dirt road right here at the T.

Fludd: Mmm hmm and they stop.

337

00:24:50,857 --> 00:24:54,527

Williams: Y'all stop at the T, okay. What was said right there at the T?

338

00:24:54,527 --> 00:25:01,0

Fludd: I said bro, you got my chain? He said no. And I'm like bruh, I can see my chain on your shirt.

339

00:25:01,0 --> 00:25:04,204

Williams: So what you, at which point did the shovel come out? Because...

340

00:25:04,204 --> 00:25:10,43

Fludd: He went like this, when he went like this and I said bruh, I just want my damn chain. That's it.

341

00:25:10,43 --> 00:25:16,483

The (expletive) went like this... He told Zaneh to move, and he swung. Boom. I put my hand up like this to

342

00:25:16,483 --> 00:25:24,491

block. The second time after he fucking broke the shovel on my arm, he fucking swung it again. Boom.

343

00:25:24,491 --> 00:25:27,260

Williams: Okay so, when he said he going to get his gun you run. Poof...

344

00:25:27,260 --> 00:25:29,996

Fludd: Yeah. I took the fuck off.
Williams: Where did you go to?

345

00:25:29,996 --> 00:25:32,599

Fludd: Right into the damn projects.
Williams: Okay. Whose house did you...

346

00:25:32,599 --> 00:25:34,901

Did you go to anybody house in the projects?
Fludd: No. I just stood right there.

347

00:25:34,901 --> 00:25:37,37

Williams: At the corner of the projects?

Fludd: Mmm hmm. Right there at the mother fucking

348

00:25:37,37 --> 00:25:40,240

sign.

Williams: Okay. About what time was that?

349

00:25:40,240 --> 00:25:41,875

Fludd: Around like 3:30.

Williams: That's right.

350

00:25:41,875 --> 00:25:47,113

Williams: Probably like 4.

Williams: Alright, so you went to the projects at...

351

00:25:47,113 --> 00:25:51,584

So why didn't you call the police?

Fludd: Because I didn't see it as really being that

352

00:25:51,584 --> 00:25:56,656

major: I knew I could... (inaudible)

Williams: Did you hear any lights? Did you hear any

353

00:25:56,656 --> 00:26:00,527

sirens? Did you see any lights?

Fludd: I heard a, I heard a umm... Ambulance truck

354

00:26:00,527 --> 00:26:01,161

coming.

Williams: Okay.

355

00:26:01,161 --> 00:26:05,298

Fludd: I thought they was coming for me.

Williams: Okay. You went to Estill Apartments

356

00:26:05,298 --> 00:26:10,403

or projects, okay? And you just stood kinda right at the

Fludd: Right at the door. Like... (inaudible)

357

00:26:10,403 --> 00:26:13,73

Williams: At the gate...

Fludd: Yeah. Where they be having that little, those

358

00:26:13,73 --> 00:26:14,407

bricks, those...

Williams: Okay.

359

00:26:14,407 --> 00:26:18,178

Fludd: Yeah. I sat right on them.

Williams: Okay. Went to Estill Apartments and sat on

360

00:26:18,178 --> 00:26:21,181

the bricks. Okay, umm...

361

00:26:22,182 --> 00:26:23,750

So...

362

00:26:24,484 --> 00:26:25,452

Now...

363

00:26:25,452 --> 00:26:31,825

So after all that 3:30 in the morning, you know you say at 3:30. Okay. We right about 3:30 AM. Correct?

364

00:26:31,825 --> 00:26:35,261

Fludd: Yes sir.

Williams: Okay. From 3:30 AM, you're there

365

00:26:35,261 --> 00:26:41,301

You hear the lights... You see the lights. You hear the sirens. And you don't decide to call the police and

366

00:26:41,301 --> 00:26:46,706

somebody just tried to hit you with a shovel? Or what...

Let's just, let's back up. First he stole your chain, let's

367

00:26:46,706 --> 00:26:49,309

get that out the way. So that's the first (inaudible)

Fludd: Mmm hmm.

368

00:26:49,309 --> 00:26:51,711

Williams: He stole your chain. So that's the first crime.

Fludd: Mmm hmm.

369

00:26:51,711 --> 00:26:56,116

Williams: Then you go confront him about your chain, in which he stole...

370

00:26:56,583 --> 00:27:02,22

He in turn assaults you pretty much and...

Fludd: 'Cause he was (inaudible) and smoking crack.

371

00:27:02,22 --> 00:27:06,126

Fludd: He did that shit for sure. I done seen him do it in front of my face.

372

00:27:06,126 --> 00:27:10,30

Williams: So, him and Zane smoke crack...

Fludd: Yes. And they be popping E.

373

00:27:10,30 --> 00:27:14,501

Williams: Okay. So they... Him and Zane smoke crack pop E... Ernie calling you...

374

00:27:14,501 --> 00:27:18,238

Thomas: Huh?

Williams: Washington calling you... Ernie.

375

00:27:18,238 --> 00:27:19,506

Thomas: Hey.

376

00:27:19,973 --> 00:27:22,8

Somebody's turned in a cell phone...

Fludd: Mmm hmm.

377

00:27:22,8 --> 00:27:26,12

Thomas: Umm, what's your cell phone number? What's the last four? Do you remember?

378

00:27:26,12 --> 00:27:27,480

Fludd: It's not on.

Thomas: It's not on?

379

00:27:27,480 --> 00:27:29,949

Fludd: It's not on.

Williams: What you use the wifi or something?

380

00:27:29,949 --> 00:27:33,219

Fludd: Yeah. I go to the library to use my phone.

Williams: When it was on... I know it was on at

381

00:27:33,219 --> 00:27:35,555

one point. Got to be. So what was the number, what was the phone number?

382

00:27:35,555 --> 00:27:42,529

Fludd: The last numbers I think was like 4052 or either 4553 or something...

383

00:27:42,529 --> 00:27:46,666

Williams: I met you over there in the park one day. Y'all was over there smoking...

384

00:27:46,666 --> 00:27:48,868

Fludd: Where?

Williams: Over there in the park.

385

00:27:48,868 --> 00:27:53,373

So you had a... You had... 'Cause you say y'all just moved down here from...

386

00:27:53,373 --> 00:27:55,608

Fludd: Mmm hmm. Boston.

Williams: So did you have a Boston number or you

387

00:27:55,608 --> 00:27:58,878

got a...?

Fludd: No I had a Georgia number. I had a Georgia

388

00:27:58,878 --> 00:27:59,779

number.

Williams: Okay.

389

00:27:59,779 --> 00:28:04,818

Fludd: 'Cause before, before we moved down here,

me and my si', well, if y'all got my, well if you look

390

00:28:04,818 --> 00:28:08,722

in my wallet you'll see a Georgia permit ID.

Williams: What's your, what, what you got a Georgia

391

00:28:08,722 --> 00:28:10,557

number 706?

Fludd: 706.

392

00:28:10,557 --> 00:28:15,61

Williams: Uhh 9 1, 9 2, 912...

Fludd: No it's not a 912.

393

00:28:15,61 --> 00:28:20,467

Williams: Okay. (Inaudible) Georgia numbers...

Fludd: 706. 7 0. I think it's 7 0, 706...

394

00:28:20,467 --> 00:28:25,772

Thomas: And 404 like Atlanta.

Williams: Yeah. Okay, so 3:30 in the morning you ran

395

00:28:25,772 --> 00:28:27,841

to the Estill Apartments. You sat on the bricks.

Fludd: Mmm hmm.

396

00:28:27,841 --> 00:28:33,46

Williams: This man done stole your chain. Hit your ass with a shovel tried to kill you, you say... And

397

00:28:33,46 --> 00:28:37,684

you hear the siren. You see the lights and you don't call the police?

398

00:28:38,318 --> 00:28:43,490

Fludd: Bruh like I said my phone's off. Who am I gonna call and how am I gonna call?

399

00:28:43,490 --> 00:28:47,694

Williams: I mean you was right like... You could have spit and hit the police department.

400

00:28:48,294 --> 00:28:51,464

Williams: I'm just asking. I'm just trying to understand.

Fludd: You, you, you got a point. You know what I'm

401

00:28:51,464 --> 00:28:56,803

saying? I shoulda did that, but like I said I didn't see it

as too major 'cause I know, I know Champ. You know

402

00:28:56,803 --> 00:29:01,7

what I'm saying? From what I knew him as...

Williams: So, so take... Listen. You say that was caused

403

00:29:01,7 --> 00:29:02,442

by the shovel right? That on your arm.

Fludd: Yeah.

404

00:29:02,442 --> 00:29:05,612

Williams: Alright, so let's just take that scar and move it up a little bit to your neck...

405

00:29:05,612 --> 00:29:09,783

Fludd: If I didn't block, it would have been at my neck.

Williams: Okay. So you don't think, you think he was

406

00:29:09,783 --> 00:29:11,451

aiming for your neck?

Fludd: Yes.

407

00:29:11,451 --> 00:29:13,853

Williams: Okay.

Fludd: Damn, damn sure... If I didn't do this...

408

00:29:13,853 --> 00:29:17,857

Williams: But you didn't think it was serious enough.

This man trying to take your head off essentially.

409

00:29:17,857 --> 00:29:21,628

And you didn't think it was serious enough...

Fludd: Because I know they... He, he at the end of

410

00:29:21,628 --> 00:29:26,733

the day I ain't going to flex. That man has been a good person. You know what I'm saying? Aside

411

00:29:26,733 --> 00:29:31,905

from the mother fucking chain incident, he's been a good person. So that's why I didn't hold the shit

412

00:29:31,905 --> 00:29:37,310

against him. I'm like well shit you know what I'm saying? He, he must like the chain so, well he get

413

00:29:37,310 --> 00:29:43,650

paid Friday. I'm a just pay me then. I only want \$150 for the chain. You could have the chain bruh...

414

00:29:43,650 --> 00:29:46,586

Williams: Okay so you say he... That you done seen him and Zane smoke crack?

415

00:29:46,586 --> 00:29:47,854

Fludd: Yeah.
Williams: Okay.

416

00:29:47,854 --> 00:29:55,695

So, now all these things happen and it's 3:30 in the morning. So, now I'm going to let Lt. Thomas go

417

00:29:55,695 --> 00:30:03,236

with his questions, but, before I, before, my last question is if you didn't see him until 3:30...

418

00:30:04,404 --> 00:30:14,414

Why was my phone called at around 11, after 11 o'clock saying there is a problem with Champ?

419

00:30:15,515 --> 00:30:17,484

Fludd: I don't know.
Thomas: So what that means is...

420

00:30:17,484 --> 00:30:22,856

Fludd: I seen my boy at, at exactly... I know it was like, it had to be at least 2 or 3. That was the last

421

00:30:22,856 --> 00:30:26,659

time I, the last time I checked my phone it was just turning 1.

422

00:30:26,659 --> 00:30:29,295

Thomas: The only problem with that is...

Fludd: Mmm hmn.

423

00:30:29,295 --> 00:30:34,334

Williams: 11:41 PM.

Thomas: I saw, I saw Champ dead at 11:40 PM.

424

00:30:34,334 --> 00:30:42,275

Well I saw him at 12 o'clock dead. I saw him dead. I got the pictures. The coroner saw him dead.

425

00:30:42,275 --> 00:30:47,881

The EMS saw him dead. Other officers saw him dead.

Williams: And I called him. 'Cause the officers that saw

426

00:30:47,881 --> 00:30:55,21

him dead first, called me at 11:41 PM.

Thomas: So, so the problem is your story doesn't

427

00:30:55,21 --> 00:31:03,897

match up. But here's what I'm gonna do. I know shit happens. I know shit happens. You know? Shit done

428

00:31:03,897 --> 00:31:10,804

happened to me. I know tempers flare. Uhh, I know if somebody takes my shit, I want to get my shit back.

429

00:31:10,804 --> 00:31:16,443

It can get to a problem and it can get out of control. Right? I think what happened. The situation got out

430

00:31:16,443 --> 00:31:24,50

of control. Right? Now you a man. Every time I saw you walking down the street you never gave me troubles.

431

00:31:24,50 --> 00:31:28,621

So I don't take you as a bad guy. But I know shit happens. And I don't think truly that you are a bad

432

00:31:28,621 --> 00:31:30,90

guy.

Fludd: I'm not man.

433

00:31:30,90 --> 00:31:35,95

Thomas: I think that you want to tell me the whole story.

434

00:31:35,95 --> 00:31:37,530

Fludd: I do man.

Thomas: I know you want to tell me. You know why?

435

00:31:37,530 --> 00:31:42,502

You know why? I see it in you. Every time I saw you, you was walking with a guy named Terrell Black.

436

00:31:42,502 --> 00:31:44,671

Not a bad dude.

Fludd: Yep. That's my homeboy right there.

437

00:31:44,671 --> 00:31:48,274

We went to school together.

Thomas: Not a bad dude. So I know if he's not a bad

438

00:31:48,274 --> 00:31:54,214

dude, you can't be a bad dude. Alright? Now I know shit happens. Don't get me wrong. I know shit

439

00:31:54,214 --> 00:31:58,685

happens, but I know deep down this shit fucking with you.

440

00:31:58,685 --> 00:32:00,653

Fludd: Yeah it is.

Thomas: It seems like it's fucking with you.

441

00:32:00,653 --> 00:32:03,590

Fludd: It is man.

Thomas: Now is the time for you to give me a

442

00:32:03,590 --> 00:32:07,293

opportunity to help you help yourself.

Fludd: Alright man, I'm about to help y'all all the

443

00:32:07,293 --> 00:32:13,99

fucking way man. We fucking got into our damn altercation man and it fucking went south.

444

00:32:13,99 --> 00:32:18,71

You know what I'm saying? I grabbed what the fuck... I grabbed the damn piece of shovel and I

445

00:32:18,71 --> 00:32:23,209

went. You know what I'm saying? Because you try to, you try to harm me bruh. You try to harm me bruh.

446

00:32:23,510 --> 00:32:28,648

And I knew you as a good dude, bruh. Why would you do that to me, bruh? Why would you even have to steal

447

00:32:28,648 --> 00:32:33,119

from me. You know I would have gave you anything bruh and I don't even got a house right now.

448

00:32:33,319 --> 00:32:38,958

But I done gave this man the last bit of money out my pocket. The last bit of money that was on my card.

449

00:32:38,958 --> 00:32:45,65

I gave it to him so him and his girl got a place to stay knowing that I didn't have a place to stay that night.

450

00:32:45,331 --> 00:32:51,705

And you gonna do that bruh. Come on man. That't not cool bruh. I keep it 100 with everybody that I'm around

451

00:32:51,705 --> 00:32:57,410

because I don't want nobody to keep me in the dark about nothing. I have to keep it that way because I

452

00:32:57,410 --> 00:33:04,317

don't like... I don't like the feeling of okay just like this morning. You have a warrant for your arrest. What the

453

00:33:04,317 --> 00:33:12,325

fuck is going on? How, what, what? And this is what the fuck I'm sitting looking at like god damn (expletive)

454

00:33:12,325 --> 00:33:19,265

The more you try to stay the fuck out of trouble, it seems like the faster that mother fucker finds you.

455

00:33:19,432 --> 00:33:20,533

Thomas: Daniel.

456

00:33:21,201 --> 00:33:26,306

You say you stuck him with the shovel.

Fludd: Yeah. That damn... The broken piece of shovel.

457

00:33:26,306 --> 00:33:27,741

Yes I did.

Thomas: What it was...

458

00:33:27,741 --> 00:33:33,913

Fludd: Yes. I poked his ass up. I will not lie about that shit. Because you try to harm me bruh. You tried to

459

00:33:33,913 --> 00:33:39,486

damn take me out over something that ain't your's bruh. And you know you could of god damn just

460

00:33:39,486 --> 00:33:44,391

You know what I'm saying? You could have easily bruh you know what I'm saying? Im wrong bruh. I'm sorry.

461

00:33:44,391 --> 00:33:49,896

And even then... Even if after that apology I would have been like bruh. You know what man? You such a god

462

00:33:49,896 --> 00:33:54,801

damn good dude bruh. You could have the chain bruh.

And he know that shit bruh. I would have gave him the

463

00:33:54,801 --> 00:33:59,406

chain as many times as he done asked me for that damn chain. I said bruh, when I'm done with it. You know what

464

00:33:59,406 --> 00:34:04,310

I'm saying? That's if it gets fixed. Once he fixed the shit, I was like well, you know what I'm saying? I could still

465

00:34:04,310 --> 00:34:06,146

wear my damn chain.

466

00:34:06,846 --> 00:34:13,553

And after that, like I said everything is true leading up to mother fucking the time that I seen this (expletive)

467

00:34:13,553 --> 00:34:20,93

aside from all that fucking 2:30 bullshit bruh, like, bruh. I keep it 100 man. This shit's fucking with me

468

00:34:20,93 --> 00:34:21,995

man.

Thomas: And I appreciate your honesty.

469

00:34:21,995 --> 00:34:27,567

Fludd: This shit is fucking with me man 'cause it's like yo bruh... As a good dude bruh. As a young man

470

00:34:27,567 --> 00:34:29,836

Fludd: You know what I'm saying? So that's why I'm

471

00:34:29,836 --> 00:34:36,309

like yo. For him to even steal from me bruh. Even go to that extent and then try to god damn kill me at the end

472

00:34:36,309 --> 00:34:39,946

of the day. You talking about you going to get a gun bruh.

473

00:34:39,946 --> 00:34:43,183

Thomas: Yeah that's not cool.

Fludd: What, what, what you expect me to do?

474

00:34:43,583 --> 00:34:48,521

You talking about you going to get a gun. You going

(inaudible) so that mean... So that mean you about

475

00:34:48,521 --> 00:34:52,359

to god damn smoke me man. Over something that

ain't yours.

476

00:34:52,359 --> 00:34:55,929

Williams: So you say you stuck him with the shovel.

Fludd: Yes. I did.

477

00:34:55,929 --> 00:34:58,365

Williams: So what did you do with this piece that you

stuck him with?

478

00:34:58,365 --> 00:35:02,335

Fludd: I left it there. Where he was at.

Williams: Okay.

479

00:35:02,502 --> 00:35:07,807

Fludd: I left it there. Cause it was a broken piece of
shovel. He hit me with the shovel once. After he hit

480

00:35:07,807 --> 00:35:13,346

me and I blocked the shit, he hit me again and I caught
the damn shovel and took it out his damn hand. And

481

00:35:13,346 --> 00:35:17,617

he said I'm about to get a god damn gun. I said
no you not.

482

00:35:19,219 --> 00:35:23,89

I ain't even going to deny bruh. It's, it's real bruh.

Williams: I understand.

483

00:35:23,89 --> 00:35:29,996

Fludd: But I done try to god damn say so... I, I done

try to be such a good damn person down here bruh.

484

00:35:29,996 --> 00:35:36,403

Like I don't give a damn man. I try to stay out of trouble. I try to god damn keep those around me

485

00:35:36,403 --> 00:35:41,141

out of trouble because I don't even like being in damn trouble. I don't even like the feeling of these

486

00:35:41,141 --> 00:35:46,813

damn cuffs, but like I said I'm a man bruh. I'm gonna god damn take what's coming. It's just bruh.

487

00:35:46,813 --> 00:35:53,219

It's a lot of shit bruh. Like man, I work two jobs. Aside from me working two jobs, them jobs ain't doing

488

00:35:53,219 --> 00:35:57,323

shit to pay my bills man.

Williams: I got you. So you um, you were wearing that

489

00:35:57,323 --> 00:35:58,558

last night?

Fludd: No.

490

00:35:58,558 --> 00:36:03,530

Williams: What were you wearing last night?

Fludd: I was wearing my... No actually I was. No, no.

491

00:36:03,530 --> 00:36:11,905

I was wearing my black shirt. I had a black shirt on and I had on my umm, my Boston Red Sox hat. My skully.

492

00:36:11,905 --> 00:36:16,676

Williams: So where are those clothes at now?

Fludd: At my... At Country Craft.

493

00:36:16,676 --> 00:36:18,712

Williams: 150?

Fludd: Yes.

494

00:36:18,712 --> 00:36:22,916

Williams: You said there was no lights out there?

Fludd: No lights.

495

00:36:23,983 --> 00:36:27,754

Like I said, I went there and I was like well... You know what I'm saying? She said we ain't got no

496

00:36:27,754 --> 00:36:33,226

lights out here. I'm just... You know what I'm saying? Get my clothes... You know what I'm saying? So I

497

00:36:33,226 --> 00:36:36,663

could go because I don't want no issues between me and her. Even though like I said.

498

00:36:36,663 --> 00:36:38,665

Williams: What is she to you?

Fludd: My cousin.

499

00:36:38,665 --> 00:36:40,967

Williams: The Tina woman?

Fludd: Tina?

500

00:36:40,967 --> 00:36:42,836

Williams: The woman you say that...

Fludd: Tijuana.

501

00:36:42,836 --> 00:36:45,472

Williams: Tijuana. Okay.

Fludd: Yeah that's my cousin. You know what I'm saying?

502

00:36:45,472 --> 00:36:50,176

We, we you know what I'm saying? We wasn't... We didn't have no issues. It was just like I said,

503

00:36:50,176 --> 00:36:55,648

We, we, we as grown folks... You know what I'm saying? Like I said I tend to slip. You know what

504

00:36:55,648 --> 00:37:00,754

I'm saying? As far as paying rent, that was nothing.
I was paying my rent. It's just... You know what

505

00:37:00,754 --> 00:37:04,591

I'm saying? Everybody have their attitudes and I
was like yo... You know what I'm saying?

506

00:37:04,591 --> 00:37:11,965

Aside from us staying here bruh. I'm gonna try to get
us something else. And that's what I been doing so far.

507

00:37:11,965 --> 00:37:17,804

My sister been staying with her boyfriend and I been
checking up on her day by day. You know what I'm

508

00:37:17,804 --> 00:37:18,705

saying? (Inaudible)

Williams: Who her boyfriend?

509

00:37:18,705 --> 00:37:21,241

Fludd: Huh?

Williams: What is... You said... Who is her boyfriend?

510

00:37:21,508 --> 00:37:23,810

Fludd: Kurt Gadson.

511

00:37:24,844 --> 00:37:27,313

Williams: Oh, okay.

Fludd: You know what I'm saying? They, they...

512

00:37:27,313 --> 00:37:30,917

That, that's her boyfriend. You know what I'm saying?
And they stay with eachother. You know what I'm

513

00:37:30,917 --> 00:37:36,423

saying? So I'm like, that's cool. You know what I'm
saying? Long as she's straight. I don't really...

514

00:37:36,423 --> 00:37:41,961

I ain't gonna say I don't care too much about me, but
that's a female man. You know what I'm saying?

515

00:37:41,961 --> 00:37:43,163

It's different.

Williams: I understand.

516

00:37:43,163 --> 00:37:48,601

Fludd: So, like I said. I just wanted to make sure she's good. After I found out she was good, I been trying

517

00:37:48,601 --> 00:37:54,107

to, you know what I'm saying? Since I got down here. Since I first put my mind to trying to move into them

518

00:37:54,107 --> 00:37:58,578

projects. I've been moving forward ever since.

Williams: I got you.

519

00:37:58,945 --> 00:38:04,484

Fludd: So I'm like man that shit is crazy man. Sorry for cursing so much.

520

00:38:04,484 --> 00:38:11,458

Williams: Man you good, man. That's reality, that's you know those real emotions. You can't change that.

521

00:38:12,325 --> 00:38:18,398

Fludd: Like I said man. I, I want to keep it 100 bruh. I don't want to hide shit from y'all because like I

522

00:38:18,398 --> 00:38:21,601

said if it's going to help me then let it help me. Williams: Yeah.

523

00:38:21,601 --> 00:38:26,206

Fludd: I'm not trying to be fucked up in this shit because like I said if I had a phone the way they

524

00:38:26,206 --> 00:38:29,609

had a damn phone, you damn right I probably would have called the damn cops.

525

00:38:29,609 --> 00:38:32,746

Stand up right in front of him.

Fludd: What, you dropped your phone or something?

526

00:38:32,746 --> 00:38:35,215

Fludd: Yeah. I dropped my phone.

527

00:38:35,982 --> 00:38:40,453

And I can't find that shit. I been looking for it.

528

00:38:42,689 --> 00:38:49,95

Like I said man, if I knew, like I said... If I had a phone, that was on, or at least I could make emergency calls

529

00:38:49,95 --> 00:38:54,67

off of. I promise you y'all wouldn't have got the call from them. Y'all damn sure would have gotten that

530

00:38:54,67 --> 00:38:56,136

bitch from me.

Williams: I got you.

531

00:38:56,403 --> 00:38:58,938

Fludd: Straight like that.

532

00:39:01,641 --> 00:39:08,114

Like I said man last night I slept on the damn floor. You know what I'm saying, like? I don't even have

533

00:39:08,114 --> 00:39:11,651

nowhere to go bruh. I'm, I'm sleeping on the floor right now man.

534

00:39:11,651 --> 00:39:18,258

Williams: I mean and I understand that man. I, I really do. And I'm not... Look I'm not here to judge you.

535

00:39:18,258 --> 00:39:24,30

That's not my job. My job is to find the truth and that's all I'm here to do. Wherever that truth leads

536

00:39:24,30 --> 00:39:30,103

is where it leads. You know? I wasn't there. Only two people, you know truly knows what happened.

537

00:39:30,103 --> 00:39:39,112

That's you and you know, Mr. Atkins who is no longer here. And I, you know, umm...

538

00:39:40,347 --> 00:39:45,985

But all we here to do is find the truth. And wherever that goes, it goes. I don't have no dog in that fight.

539

00:39:45,985 --> 00:39:54,794

I'm just, I'm just here for the truth. I just present the facts and that's all I present. Um, I present what's

540

00:39:54,794 --> 00:40:00,567

given to me, the evidence and what evidence we collect. And we go from there. You know it's an

541

00:40:00,567 --> 00:40:07,7

unfortunate thing for anybody to lose their life, however, it is a fact of life. It does happen.

542

00:40:07,340 --> 00:40:14,781

So, I'm not here to judge you. You felt like you were defending yourself and that's totally your

543

00:40:14,781 --> 00:40:18,551

right. But that's not for me to decide.
Fludd: Understood.

544

00:40:18,551 --> 00:40:20,120

Williams: Alright?
Fludd: Understood.

545

00:40:20,120 --> 00:40:23,556

Williams: I don't, I don't adjudicate that part of the argument.

546

00:40:23,857 --> 00:40:29,796

Umm... But what we have at the time like he explained to you. At this time we are going to charge you with

547

00:40:29,796 --> 00:40:37,637

murder at this time. That's just... That's just the start of the process. Umm...

548

00:40:38,705 --> 00:40:43,743

And wherever it goes from there, that's not in my hands nor it's not in the Estill Police Department's hands.

549

00:40:43,743 --> 00:40:50,150

Based on the facts we have right now, we do have probable cause to... We did have probable cause and

550

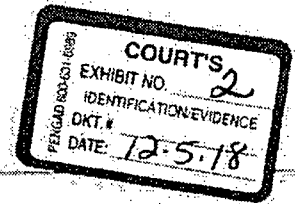
00:40:50,150 --> 00:40:56,890

we do have probable cause to seek an arrest, a warrant for your arrest which we have done. Umm...

551

00:40:57,323 --> 00:41:03,63

When Lt. Thomas returns, we will get those warrants and probably will have to collect some things from you.



Where is the necklace?

Option You must decide this case based on the evidence presented.
Time Difference in 911 Call & Body Cam.

You must decide this case based on the evidence presented.
EXplain voluntary manslaughter

486 WITNESSES

Michael G. Thomas - Estill Police
Department

DOCKET NO. 2017GS2500160

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

August Term 2017

THE STATE

vs.

Daniel Lee Fludd

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

ARREST WARRANT NUMBER

2017A2520200027

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: AUG 17 2017

VERDICT

Voluntary man-slaughter
Guilty

[Signature]
Foreperson of Petit Jury

Date: Dec-5-2018

INDICT

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

COUNTY OF HAMPTON)

INDICTMENT

2017GS2500160

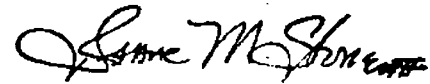
487

At a Court of General Sessions, convened on August 17, 2017, the Grand Jurors of Hampton County present upon their oath:

Murder

That in Hampton County, South Carolina, on or about March 22, 2017, the Defendant, Daniel Lee Fludd, did, with malice aforethought, kill Bobby Atkins and Bobby Atkins did die as a proximate result of Daniel Lee Fludd's actions, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

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



Solicitor

TRUE BILL

488

WITNESSES

DOCKET NO. 2017GS2500161

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Michael G. Thomas - Estill Police Department

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

August Term 2017

THE STATE

vs.

Daniel Lee Fludd

Indictment For

Possession of Weapon During Violent Crime

SC Code: 16-23-490

CDR Code: 0549

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

ARREST WARRANT NUMBER

2017A2520200028

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: Aug 17 2017

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date: Dec-5-2018

INDICT

STATE OF SOUTH CAROLINA)

COUNTY OF HAMPTON)

INDICTMENT

2017GS2500161

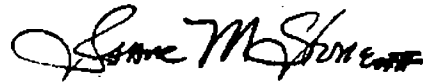
489

At a Court of General Sessions, convened on August 17, 2017, the Grand Jurors of Hampton County present upon their oath:

Possession of Weapon During Violent Crime

That in Hampton County, South Carolina, on or about March 22, 2017, the Defendant, Daniel Lee Fludd, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime and Daniel Lee Fludd was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

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



Solicitor

TRUE BILL

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

Lara M. Caudy for.

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 2nd day of March, 2020.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

Lara M. Canely for: _____

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 2nd day of March, 2020.

RECEIVED
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SC Court of Appeals