

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County

Honorable William A. McKinnon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GREGG PICKRELL,

APPELLANT

APPELLATE CASE NO 2018-001139

RECORD ON APPEAL

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THE FOLLOW DOCUMENTS ARE ON FILE WITH THIS COURT:

FROM THE IMMUNITY HEARING HELD ON JANUARY 26-27, 2017: STATE’S EXHIBIT #2 (AUTOPSY DIAGRAM), STATE’S EXHIBITS #5-43 (PHOTOGRAPHS), AND STATE’S EXHIBIT #44 (RECORDING OF 911 CALL).

FROM THE TRAIL HELD MAY 29-31 AND JUNE 1, 4-5, 2018: STATE’S EXHIBITS #3-9 (PHOTOGRAPHS), STATE’S EXHIBITS #11 AND #12 (RECORDINGS OF 911 CALLS), STATE’S EXHIBITS #14-17 (PHOTOGRAPHS), STATE’S EXHIBIT #20 (AUTOPSY DIAGRAM), STATE’S EXHIBIT #22 (PHOTOGRAPH), STATE’S EXHIBITS #25 AND #26 (PHOTOGRAPHS), STATE’S EXHIBITS #29-61 (PHOTOGRAPHS), STATE’S EXHIBIT #62 (CRIME SCENE SKETCH), STATE’S EXHIBIT #69 (RECORDING OF INTERVIEWS), STATE’S EXHIBIT #70-87 (PHOTOGRAPHS), AND STATE’S EXHIBITS #91-116 (PHOTOGRAPHS).

1 point. So no one had actually been assigned
2 anything. I just knew as an investigator that we
3 needed to secure the crime scene.

4 Q Okay.

5 A Try to find out -- obviously, it came in as a shots
6 fired call. We needed to secure a weapon if there
7 was a weapon involved and then start a crime scene
8 log and try to go from there.

9 Q And while you were there on scene, did you happen
10 to make contact with the Defendant in this case,
11 Ms. Gregg Pickrell?

12 A I did.

13 Q And could you tell the jury how did that come about
14 at least on the scene that you came in contact with
15 her?

16 A I was informed that Ms. Pickrell was actually in
17 the back of one of our marked patrol cars. I just
18 went over to the car at that time, again, not even
19 knowing what her particular part in this incident
20 was. I leaned in the back -- I had the patrol
21 deputy roll down the window. I leaned in the
22 window, I read Ms. Pickrell her Miranda rights.
23 Again, not knowing her role, I just wanted to make
24 sure if anything was said while she was in the
25 vehicle with the deputy that she had been properly

1 Mirandized and advised of her constitutional
2 rights.

3 Q Did you have any conversation with her of any
4 substance at that point?

5 A No. I just asked her if she would be willing to
6 come to the Sheriff's Office and speak with us, and
7 she agreed to do that.

8 Q At that point -- well, was that the end of your
9 conversation with her?

10 A It was. It was.

11 Q Did she complain of any injuries to you at that
12 particular time?

13 A She did not. As a matter of fact, I think I asked
14 her if she needed EMS. I believe EMS may have even
15 been on scene, and we asked her if she wanted
16 medical treatment, and she did not.

17 Q But had she requested medical treatment at that
18 time?

19 A Not to me, she had not.

20 Q Okay. I understand.

21 A I don't know if she had asked of anyone else, but
22 she had not mentioned it to me at all.

23 Q I understand. I understand. But had she done so,
24 asked you, what would you have done?

25 A Oh, I would have gotten her medical treatment.

- 1 Q Now, while there on the scene, there are other
2 investigators on the scene; is that correct?
- 3 A Yes.
- 4 Q Do you recall if Investigator Rick Bailey was on
5 the scene?
- 6 A I believe so, yes.
- 7 Q Investigator Miles Taylor?
- 8 A Yes.
- 9 Q And some other officers as well; is that correct?
- 10 A Like I said, there was quite a number of deputies
11 and investigators that showed up.
- 12 Q Well, did you eventually get assigned this case or
13 who ended up getting this case?
- 14 A I believe Investigator Taylor was assigned that
15 case because that was actually his area. Like I
16 said, I was out of my area, but as law enforcement,
17 I needed to respond just until we got the scene
18 secure.
- 19 Q Okay. Again, you were there to assist in whatever
20 manner?
- 21 A Correct.
- 22 Q Was necessary?
- 23 A Correct.
- 24 Q And do you recall if you stayed on the scene for
25 some length of time or did you go back to the

1 Sheriff's Office or what was --

2 A I was not on the scene very long. I was -- and I
3 can't remember who asked me, but someone asked me
4 to go back to the office and actually begin the
5 interview with Ms. Pickrell. So I went back to the
6 office and met with the deputy that had transported
7 her there and we took her inside to our interview
8 room.

9 Q Okay. And, now, as far as the purpose of your
10 interviewing Ms. Pickrell, had you been provided
11 some information prior to or as far as the
12 background of what the case was about or just
13 trying to get information?

14 A Quite honestly, all I knew was what I saw when I
15 walked into that scene that morning. And when I
16 walked back out, that was about the only
17 information I had at that point other than I knew
18 that she had called 9-1-1. I had been advised she
19 had called 9-1-1 and reported that she had shot
20 someone. I saw someone who was in --

21 Q So you did enter the home --

22 A I did enter the home, yes. I saw someone on the
23 floor of the home and I knew -- that's basically
24 all I knew before I started the interview.

25 Q And you did conduct an interview?

1 A I did.

2 Q And where was it?

3 A This was at the Kershaw County Sheriff's Office in
4 Lugoff in our interview room.

5 Q In your interview room?

6 A Yes.

7 Q And if you could explain to the jury, is it just
8 a -- when I say regular room, is there anything
9 special about that particular room? Is --

10 A It's very plain. There's nothing on the walls.
11 It's just white walls and there's a camera up above
12 us and there's a table and some chairs. And that's
13 purposeful, of course, for everyone's safety so
14 there's no distractions. And, of course, we always
15 advise the people who are coming in that room they
16 are being recorded, both audio and visual.

17 Q And what steps do you go through or what do you do
18 prior to the interview or before you begin any
19 questioning of the individual?

20 A Well, in this particular instance, I had already
21 Mirandized Ms. Pickrell out at the scene, but it's
22 still safer if I do that on video. So when we got
23 into the office, the first thing I did is advise
24 Ms. Pickrell that I wanted to read her her Miranda
25 rights once again. We actually have a form that

1 you would fill out. I actually had that form
2 filled out, checked off that she understood her
3 constitutional rights and then have her sign it and
4 I witnessed it.

5 MR. PAULING: Beg the Court's indulgence.

6 THE COURT: All right.

7 (Pause.)

8 MR. DELGADO: Without objection, Your Honor.

9 MR. PAULING: May I approach the witness, Your
10 Honor?

11 THE COURT: You may.

12 BY MR. PAULING:

13 Q Agent DeVors, I'm going to show you what's been
14 marked State's ID 68. I'm going to ask you if you
15 recognize that particular item?

16 A I do.

17 Q And what is that, sir?

18 A That is a Kershaw County Sheriff's Office Miranda
19 Warnings form. It has been checked off that each
20 individual right was read to the suspect. I signed
21 it. The Waiver of Rights has also been signed by
22 Ms. Pickrell and it was witnessed by then county
23 employee and former wife, Karen DeVors, who was a
24 victim advocate at that time at the Sheriff's
25 Office.

1 Q So your signature is there, Ms. Pickrell's
2 signature is there, as well as a witness to that,
3 Ms. Karen DeVors?

4 A That's correct.

5 Q And what were the rights as you -- would you have
6 read them to her right off the form?

7 A Oh, absolutely. I read everything verbatim and
8 then ask -- turn the form around and ask them to
9 look over it and make sure that they understand
10 their rights. And that's why there's a check mark
11 beside each right because I've asked them if they
12 understood that right specifically.

13 Q And as you were doing that, asking her those
14 particular questions, did she appear to understand
15 her rights?

16 A Yes.

17 Q Did she appear to have any physical or mental
18 issues that was going on that would cause her not
19 to understand it?

20 A No.

21 Q The rights as you read them to her?

22 A No.

23 Q And so she did agree to waive her rights?

24 A She did.

25 MR. PAULING: Your Honor, at this time I would

1 offer State's 68 into evidence, I believe without
2 objection?

3 MR. DELGADO: Without objection.

4 THE COURT: State's 68 is in evidence without
5 objection.

6 (WHEREUPON, State's Exhibit No. 68 was
7 marked for identification and received
8 into evidence.)

9 BY MR. PAULING:

10 Q And you indicated that Karen DeVors was present in
11 the interview room?

12 A Correct.

13 Q And, again, why was that? Why did you make the
14 decision to have her present?

15 A Well, first of all, I typically don't interview
16 females without having someone else present,
17 preferably another female.

18 Q Okay.

19 A And in this particular instance, not knowing
20 exactly what had happened, I felt it was best --
21 she happened to be the only victim advocate in the
22 building at that time and I felt it was best to
23 have a victim advocate present.

24 Q Now -- and at that point after she waived her
25 rights, did you begin the interview?

- 1 A I did.
- 2 Q And, again, you had informed her that the interview
3 is being video and audio recorded; is that correct?
- 4 A I did.
- 5 Q And while you interviewed her -- well, I'll ask you
6 this. Can you tell the jury just the process --
7 when I say the process --
- 8 A Sure.
- 9 Q Was it you just -- you were just asking her
10 questions constantly or how did that go?
- 11 A Well, basically at this point, like I said, you
12 heard how much information I had. I knew I had a
13 body on the floor, I had a person in the back of a
14 patrol car, and I had seen a weapon actually in the
15 house at that point. And so my thought process
16 was, I need Ms. Pickrell to walk me through what's
17 just happened because I have no clue what has
18 happened. And we obviously need all that
19 information so that we can piece together what had
20 happened that morning. So that's basically what I
21 had done, I asked Ms. Pickrell if we could just
22 walk through the story and figure out what had
23 happened that morning.
- 24 Q And were there times when you took breaks?
- 25 A Oh, yes, absolutely.

1 Q Why was that?

2 A Well, for one, I felt like Ms. Pickrell needed
3 breaks. Obviously, this was an emotional and
4 traumatic experience. I wanted her to be able to,
5 you know, get some water or use a tissue or
6 whatever may need be. And also to -- quite
7 honestly, to gather my thoughts and try to piece
8 together what I've already -- information I've
9 already gotten, try to process that and see where I
10 need to go from there with the interview.

11 Q And did she ever ask for an attorney -- ask for an
12 attorney during the interview?

13 A No, sir.

14 Q Had she done so, what would you have done?

15 A I would have stopped the interview and let her
16 contact an attorney.

17 Q Did she ask you to stop the interview?

18 A She did not.

19 Q And if she had done so?

20 A I would have stopped the interview.

21 Q Now, during this -- your interview of her, do you
22 recall about how long it took?

23 A It's been four years. I want to say an hour and a
24 half maybe, hour and 45 minutes, something like
25 that.

1 Q And during that interview, whether it was, you
2 know, at the beginning, the middle or end, did she
3 appear to be fatigued at all?

4 A Not fatigued. Again, emotional a couple of times.
5 And we did take some breaks throughout the
6 interview just to make sure that she was good.

7 Q At some point, though -- and I understand she did
8 not ask for an attorney, but at some point, did an
9 attorney show up?

10 A Yes, he did.

11 Q Okay. Do you recall who that was?

12 A I believe it was Mr. Cox.

13 Q William Cox?

14 A Yes.

15 Q And what happened after he arrived? Did he have an
16 opportunity to speak with her?

17 A He did. I stopped the interview, of course, once I
18 was informed an attorney was there to speak with
19 her. I asked him if he wanted to talk with her in
20 that room, but I advised him, of course, that that
21 was audio and videotaped and it might not be
22 beneficial for him to speak to his client there.
23 So we found another room so that he and his client
24 could speak together in private.

25 Q And after that, did you resume an interview with

1 her?

2 A I did not.

3 Q Okay, you did not?

4 A I did not.

5 Q Do you know if she was interviewed by another
6 investigator at some later time?

7 A She was. Actually, at this point, a lot of people
8 had come back to the office. I spoke to
9 Investigator Rick Bailey. He actually knew
10 Mr. Cox. I believe they had had some kind of
11 relationship in some previous cases or something
12 like that. So at that point, I felt it was best
13 that he go ahead and take over the interview
14 process since he already knew the attorney.

15 Q Now -- so at that point, then, was that the last
16 time that you spoke with Ms. Pickrell about this
17 case?

18 A I believe so. I can't say for sure. I may have
19 been asked to sit in at some point on some
20 interviews, but I don't think it was with
21 Ms. Pickrell. It may have been some other folks.

22 Q All right. Again, as far as the -- you said the
23 interview was video and audio recorded. Do y'all
24 maintain that?

25 A Yes.

1 Q And how do you do that?

2 A I'm not sure how they do it now, but at the time,
3 we would download everything to a CD -- or a DVD,
4 excuse me. And I think it remained on the hard
5 drive for a certain amount of days as well.

6 Q But that interview would have been part of the
7 investigator file?

8 A Correct.

9 Q The lead investigator would be Miles Taylor and he
10 would have been provided that; is that correct?

11 A Absolutely.

12 MR. PAULING: Beg the Court's indulgence.

13 THE COURT: Sure.

14 (Pause.)

15 MR. PAULING: May we approach, Your Honor?

16 THE COURT: You may.

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

20 THE COURT: Ladies and gentlemen, we're about
21 to play -- the State is about to play the video
22 recording of the interview of Ms. Pickrell. You
23 will notice in the video there are cuts or there
24 are parts of the video that are taken out. The
25 reason for those cuts is technical issues and

1 information that is not relevant. This is probably
2 going to be a longer trial. We are trying to --
3 the attorneys are trying to keep it as short as
4 possible. So the reason for those cuts is both
5 attorneys have agreed that those parts are not
6 relevant. So you'll see there will be little jump
7 cuts in the video where it's clear that something
8 has been taken out. That's the reason for it.

9 Are you ready for lights to come off,
10 Mr. Pauling?

11 MR. PAULING: Yes, that's fine.

12 Your Honor, may I approach the witness?

13 THE COURT: You may.

14 BY MR. PAULING:

15 Q Investigator DeVors, you've reviewed the actual
16 interview; is that correct?

17 A Yes.

18 Q And this is a copy of that particular interview?

19 A Correct.

20 MR. PAULING: State's 69, we would offer that
21 without objection?

22 MR. DELGADO: Without objection.

23 THE COURT: Okay. State's 69 in evidence
24 without objection.

25

1 (WHEREUPON, State's Exhibit No. 69 was
2 marked for identification and received
3 into evidence.)

4 (WHEREUPON, State's Exhibit No. 69, was
5 played for the jury.)

6 MR. PAULING: Your Honor, can I pause it for a
7 second to see if we can get the volume?

8 THE COURT: Sure. The Clerk tells me they can
9 play it through the court system and it may work
10 better.

11 (Video continued.)

12 THE COURT: Ms. Sampson, can we pause it for a
13 second?

14 Take the jury to the jury room, please.

15 (WHEREUPON, the jury retires to the jury
16 room at 3:03 p.m.)

17 THE COURT: Ms. Sampson, how much time do we
18 have left in the video?

19 MR. PAULING: Judge, I believe there's a short
20 break in between. I can go up and see exactly how
21 much -- there's probably about 10 more minutes I
22 would think.

23 THE COURT: I'll be honest, I'm having a rough
24 time.

25 MR. PAULING: Yes, sir, I understand.

1 THE COURT: My inclination is to adjourn us
2 until tomorrow. Do you want to do the last bit of
3 the video and then --

4 MS. SAMPSON: It's up to Your Honor.

5 THE COURT: I can make it 10 more minutes, but
6 I'm having a rough time.

7 MR. PAULING: Judge, I -- we can break now.

8 THE COURT: Let's bring the jury back in.

9 MS. SAMPSON: We can just stop it there and
10 we'll have it ready to play.

11 THE COURT: 9:30 tomorrow morning?

12 MS. SAMPSON: Sure.

13 THE COURT: I'm sorry, Counsel, I'm having a
14 rough time.

15 (WHEREUPON, the jury came into open
16 court at 3:04 p.m.)

17 THE COURT: Ladies and gentlemen, you may have
18 noticed, I'm not feeling very well. I'm not sure I
19 can go on anymore today. So it's not the
20 attorneys' fault, but I'm going to adjourn today.
21 I need to get home and get some rest and,
22 hopefully, be back tomorrow at 9:30. So, ladies
23 and gentlemen, I'm sorry, but I'm in rough shape,
24 so court will be adjourned until 9:30 tomorrow
25 morning.

1 MS. SAMPSON: May we approach briefly?

2 THE COURT: Absolutely.

3 Ladies and gentlemen, y'all are excused.

4 MS. SAMPSON: No, it was about --

5 THE COURT: Oh, you're not excused. Sorry.

6 MS. SAMPSON: I'm sorry to the jury.

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

10 THE COURT: And Ms. Sampson has reminded me
11 very kindly to remind you, again, please don't do
12 any research tonight, don't talk amongst
13 yourselves, and don't discuss the case with family
14 or friends tonight.

15 Thank you all very much. I'll see you
16 tomorrow morning at 9:30.

17 (WHEREUPON, the jury was excused for the
18 day at 3:06 p.m.)

19 THE COURT: Court will be in recess until 9:30
20 tomorrow.

21 (WHEREUPON, court adjourned for the day
22 at 3:06 p.m.)

23 JUNE 1, 2018

24 (WHEREUPON, the proceedings resumed at
25 9:43 a.m.)

1 THE COURT: Counsel, anything we need to do
2 before we bring in the jury?

3 MR. PAULING: We need to put on the record as
4 far as the witness change.

5 THE COURT: About what?

6 MR. PAULING: The witness change.

7 THE COURT: Yes. I actually think it would
8 helpful to do it in front of the jury just so the
9 jury -- I'll say a little bit so the jury will
10 understand.

11 Anything from the Defense?

12 MS. ZMROCZEK: Nothing, Your Honor.

13 THE COURT: Let's bring in the jury.

14 (WHEREUPON, the jury came into open
15 court at 9:44 a.m.)

16 THE COURT: Good morning, ladies and
17 gentlemen.

18 Mr. Pauling?

19 MR. PAULING: Your Honor, at this time the
20 State would call Karen DeVors.

21 THE COURT: Recall?

22 MS. SAMPSON: She's never been called.

23 THE COURT: Oh, yes, sir.

24 Ladies and gentlemen. We have a little bit of
25 an unusual procedure right now. As you remember,

1 we were in the middle of a witness, but the State
2 has a witness that has a scheduling issue and must
3 go first thing this morning. So we're going to
4 call -- we're going to take Ms. DeVors out of
5 order, and then go back to the previous witness.

6 (Witness approaches.)

7 THE CLERK: Place your left hand on the Bible,
8 and raise your right hand, please.

9 (Witness complies.)

10 THE CLERK: Do you solemnly swear or affirm
11 the testimony you give in this case will be the
12 truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: State your full name for the
16 record and have a seat in the witness chair.

17 (Witness seated.)

18 THE WITNESS: Karen DeVors.

19 KAREN DEVORS,

20 after being duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. PAULING:

23 Q Good morning, Ms. DeVors. How are you doing?

24 A Good. How are you?

25 Q Doing well. Where are you employed right now?

- 1 A Camden Police Department.
- 2 Q Camden Police Department?
- 3 A Yes.
- 4 Q In what capacity there at the Camden Police
5 Department?
- 6 A Community police officer.
- 7 Q Community police officer. And what does that mean?
- 8 A I'm involved in community events, crime prevention,
9 children, seniors, things like that.
- 10 Q And how long have you been employed with Camden
11 Police Department?
- 12 A Little over a year.
- 13 Q Little over a year?
- 14 A Uh-huh.
- 15 Q And prior to that, where were you employed?
- 16 A Kershaw County Sheriff's Office.
- 17 Q Kershaw County Sheriff's Office?
- 18 A Yes, sir.
- 19 Q How long was your tenure at the Sheriff's Office?
- 20 A How long I was there?
- 21 Q Yes, ma'am.
- 22 A It was approximately six years.
- 23 Q Six years?
- 24 A Uh-huh.
- 25 Q So you were working there back in September of

1 2014?

2 A Correct.

3 Q And in what capacity were you working there in

4 2014?

5 A Victims advocate.

6 Q You were a victims advocate?

7 A Yes, sir.

8 Q And specifically September 11th, 2014, did you come

9 in contact with an individual by the name of Gregg

10 Pickrell?

11 A Yes, sir.

12 Q Do you see her here in the courtroom today?

13 A Yes.

14 Q Where is she exactly in the courtroom?

15 A (Witness indicates.)

16 Q What is she wearing?

17 A Black and white.

18 Q Black and what?

19 A White.

20 Q Black and white?

21 A Uh-huh. Black jacket, white shirt.

22 Q Now, do you recall how you came to come in contact

23 with Ms. Gregg Pickrell as it relates to this?

24 A Yes. Investigator Rick DeVors asked if I could sit

25 in on the interview since she was a female. And he

1 wasn't sure what exactly he had at the time, so.

2 Q So you were present for the interview?

3 A Yes, sir.

4 Q And that interview was video and audio recorded; is
5 that correct?

6 A Yes, sir.

7 Q Now, did you take part in the interview as far as
8 asking questions and that sort of thing or was he
9 conducting the interview?

10 A He conducted the interview.

11 Q And at some point during that interview, did you
12 take photos of -- or when she was there, did you
13 take photos of Ms. Pickrell?

14 A In the interview?

15 Q Yes.

16 A Yes, of her arm.

17 Q All right. And did you take additional photos that
18 particular day too?

19 A Yes, sir.

20 Q And what was the purpose of you taking those photos
21 at that time?

22 A She had indicated some abuse and I had noticed it
23 on her arm, so I photographed it.

24 Q Now, as far as photographing it, did you -- I mean,
25 did you just -- did she tell you about those

1 particular areas or did you just see?

2 A I happened to see them on her arm, yes.

3 Q Okay.

4 A And then she showed me the other areas.

5 Q And after that interview with Investigator DeVors,
6 Rick DeVors, were you present on any other
7 interview with her?

8 A No, sir.

9 Q Now, after that particular interview, did you see
10 her again? What happened later that afternoon?

11 A I believe I had taken her to the hospital.

12 Q You took her to the hospital. Kershaw Health?

13 A Yes, sir.

14 Q And why was that?

15 A Due to her injuries. I didn't know if she had
16 internal injuries or anything further, so I just
17 wanted her to get checked out.

18 Q And you escorted her to the hospital. Now, were
19 you in the examination room with her?

20 A Yes. As far as I can remember, I had went in with
21 her. And I don't know if I stayed in the room or
22 not or right outside the room.

23 Q Okay. And after she was examined, did you have
24 further conversation with her? What did you do at
25 that point?

- 1 A I had taken her home.
- 2 Q You took her home to ■■■ Baynard Boykin Road?
- 3 A Yes, that's correct.
- 4 Q And, now, did you have much of any type of
5 conversation on the way there?
- 6 A No, not that I recall.
- 7 Q Had you been out to that location before?
- 8 A No.
- 9 Q And so that was your first time?
- 10 A That was my first time, yes.
- 11 Q Now, when you took her home, did you make contact
12 with anyone else or?
- 13 A No, sir.
- 14 Q So you just dropped her off at her house?
- 15 A Yes, that's correct.
- 16 Q Was that the last contact that you had with her?
- 17 A She came back for some additional photographs per
18 my request.
- 19 Q Okay. When you say -- what did you ask? When you
20 say "per your request," why did you ask her to come
21 back?
- 22 A In case the bruising or any markings got worse.
- 23 Q Okay. And did she come back?
- 24 A Yes.
- 25 Q And when was that?

1 A I believe that was the following day.

2 Q The following day?

3 A Yes.

4 Q September 12th?

5 A Yes, sir.

6 Q And did you also photograph -- you took more
7 photographs of her; is that correct?

8 A Yes, sir.

9 Q And was that made part of the case file?

10 A Yes, sir.

11 MR. PAULING: May I approach the witness, Your
12 Honor?

13 THE COURT: You may.

14 (Pause.)

15 MR. DELGADO: Without objection.

16 THE COURT: Mr. Pauling, Mr. Delgado said no
17 objection. Are you moving them in evidence?

18 MR. PAULING: Yes, but I wanted to make sure
19 the court reporter -- I know I've got stickers on
20 them. This is 70 through 87.

21 BY MR. PAULING:

22 Q Ms. DeVors, let me show you what has been marked
23 for ID Exhibits 70 through 87 and ask if you
24 recognize those photographs?

25 A Yes, sir, I do.

1 Q And those are the photographs that you mentioned
2 that you took of Ms. Pickrell, first on September
3 11th, and then again on September 12th of 2014?

4 A Yes, sir, that's correct.

5 Q Now, are those photographs time stamped?

6 A They are.

7 Q Okay. Was that your camera that you used?

8 A No, sir.

9 Q Now, is the date correct on the photograph, the
10 time stamp?

11 A No, sir.

12 Q Is it off by one day?

13 A It is.

14 Q So all of the photographs that are labeled
15 September 10th are actually September 11th; is that
16 correct?

17 A That's correct.

18 Q And the ones labeled September 11th are actually
19 September 12th?

20 A That's correct.

21 Q Is that correct?

22 A Yes, sir.

23 Q And, again, those photographs -- those images,
24 that's the way Ms. Pickrell appeared back on
25 September 11th and 12th of 2014?

1 A Yes, sir.

2 MR. PAULING: At this time, Your Honor, yes, I
3 believe without objection, I would offer State's 70
4 through 87 into evidence?

5 MR. DELGADO: Without objection.

6 THE COURT: Into evidence without objection.

7 (WHEREUPON, State's Exhibit Nos. 70 - 87
8 were marked for identification and
9 received into evidence.)

10 MR. PAULING: Beg the Court's indulgence.

11 (Pause.)

12 BY MR. PAULING:

13 Q Now, Ms. DeVors?

14 A Yes.

15 Q Were those all the photos that you took of
16 Ms. Pickrell?

17 A Yes, sir.

18 Q Now, State's 70, 71, 72, and 73, as well as 74,
19 these were all taken on September 11th; is that
20 correct?

21 A Yes.

22 Q State's 70 (showing to jury), State's 71 (showing
23 to jury), State's 72 (showing to jury), State's 73,
24 (showing to jury), as well as State's 74 (showing
25 to jury); is that correct?

1 A Yes, sir.

2 Q And then when she came back the following day at
3 your request; is that correct?

4 A Yes.

5 Q That would be State's 75 (showing to jury)?

6 A Yes.

7 Q State's 76 (showing to jury), State's 77 (showing
8 to jury), 78 (showing to jury), State's 79 (showing
9 to jury), 80 (showing to jury), State's 81 (showing
10 to jury), State's 82 (showing to jury), State's 83
11 (showing to jury), State's 84 (showing to jury),
12 State's 85 (showing to jury), State's 86 (showing
13 to jury), and State's 87 (showing to jury).

14 And, again, that was the extent of any
15 interaction or involvement you had with
16 Ms. Pickrell as it relates to this case; is that
17 correct?

18 A Yes.

19 Q And as far as your interaction with her, as far as
20 taking the photographs and taking her to the
21 hospital, did you document that in any manner?

22 A Yes, I wrote a statement.

23 Q Okay. When you say you wrote a statement, would
24 that be part of the case file?

25 A Yes.

1 Q When you say it was somewhat of a memorandum of
2 what you had done?

3 A Yes, sir.

4 MR. PAULING: Ms. DeVors, I have no further
5 questions. Please answer any questions Mr. Delgado
6 may have.

7 CROSS-EXAMINATION

8 BY MR. DELGADO:

9 Q Ms. DeVors, before we get into the photographs, I'd
10 like to be able to have you discuss with our jury
11 the sorts of training that, not just you, but
12 police officers have in the area of criminal
13 domestic violence. Can you tell us a bit about
14 that?

15 A At that point, I was just a victims advocate, so I
16 can't speak on that behalf. On being a victims
17 advocate?

18 Q Yes, ma'am.

19 A Back then, is that what you want me to discuss?

20 Q Well, here's what I mean. I've seen some diplomas
21 and certificates that you've received as a result
22 of training?

23 A Yes, sir.

24 Q In fact, let me just show them to you.

25 A Yes, those are mine.

1 Q Sure. I guess what I'm saying is, you, as a law
2 enforcement officer, along with all other law
3 enforcement officers, whether you're with the City
4 of Camden or the Kershaw County Sheriff's
5 Department, are trained through law enforcement in
6 the area of criminal domestic violence and sexual
7 assault, would that be fair?

8 A Yes, that's correct.

9 Q All right. And as a result of that, either by
10 going to the Criminal Justice Academy or programs
11 online, they'll give you a certificate just to
12 document what you've been taught?

13 A Yes, sir, that's correct.

14 Q All right. And, ma'am, that would be mandatory for
15 not just you, but for all members, uniform members
16 of the law enforcement agency?

17 A Yes, sir.

18 Q All right. Ms. DeVors, our jury has seen -- we
19 were almost at the end of the audio visual taping
20 of Gregg Pickrell where you and your former
21 husband, Rick, were with Ms. Pickrell on morning,
22 noon, afternoon of September 11th. Have you seen
23 that since that time?

24 A Yes.

25 Q Okay.

- 1 A Portions of it, yes, sir.
- 2 Q So there's Gregg Pickrell sitting at the end of the
3 table?
- 4 A Correct.
- 5 Q You to the left, and with his back to the camera is
6 Rick DeVors; correct?
- 7 A Yes, sir, that's correct.
- 8 Q You then went and took -- yourself took some
9 photographs of Gregg as a result -- when you
10 concluded; is that correct?
- 11 A Yes, sir.
- 12 Q All right. Then you asked her to come back the
13 very next day, which would have been Friday, the
14 12th of September, I think your words were, so that
15 you could see if any of the bruising had become
16 worse?
- 17 A Yes, sir.
- 18 Q All right. Because I think as we know in our human
19 experience, sometimes things tend to age and you
20 can see them better after -- see them better. They
21 can be more visible with a little bit of time;
22 correct?
- 23 A Yes, sir, that's correct.
- 24 Q All right. Ms. DeVors, I want to hand you and then
25 flip it over for you, see if you can identify. Did

1 you take those photographs?

2 A Yes, sir.

3 Q All right. Now, I'm going to turn it over again.

4 Again, did you take those photographs?

5 A Yes, sir.

6 Q Ms. DeVors, I want you to come down here just for a

7 second.

8 (Witness steps down.)

9 Q And with your left hand so we don't turn our back

10 to the jury, but so the court reporter can hear,

11 these three photographs were taken by you on the

12 11th after the video that you and Rick were in;

13 correct?

14 A Yes.

15 Q And what you were showing were some of the things

16 that she either complained about or that you

17 visually saw?

18 A That's correct.

19 Q All right. Point out here what you saw?

20 A (Witness complied.)

21 Q Right here underneath her left cheek. What about

22 here?

23 A I don't recall.

24 THE COURT REPORTER: I'm sorry, I can't hear

25 you.

- 1 A I don't recall.
- 2 Q But, in any event, you took two photographs of
- 3 that?
- 4 A Yes.
- 5 Q The next --
- 6 A I assumed it was the neck area.
- 7 Q Yes, ma'am, that's fine. The next day when she
- 8 came back, you took those photographs; correct,
- 9 ma'am?
- 10 A Yes, sir.
- 11 Q All right. This photograph shows the beginning of
- 12 what looks to be like a black eye?
- 13 A Yes.
- 14 Q That wasn't entirely visible on the 11th?
- 15 A That's correct.
- 16 Q This looks like what, ma'am?
- 17 A Bruising.
- 18 Q Yes. As if she's raising up her arm or --
- 19 MR. PAULING: Objection.
- 20 MR. DELGADO: Okay, fine.
- 21 MR. PAULING: That calls for speculation.
- 22 BY MR. DELGADO:
- 23 Q On the back of the left arm; correct?
- 24 A Yes, sir.
- 25 Q What about here? What does this show?

1 A A scratch.

2 Q And what about here?

3 A I don't recall.

4 THE COURT REPORTER: I'm sorry, you need to
5 speak up.

6 A I don't recall. I don't see anything.

7 Q Just one second.

8 (Pause.)

9 Q All right. Ms. DeVors, I think that's all. If you
10 will just now retake your seat for just a second.

11 A (Witness returns to witness stand.)

12 MS. LI: Your Honor, may I ask if that exhibit
13 was moved in?

14 MR. DELGADO: It was not. I now move it. I'm
15 sorry.

16 THE COURT: Defendant's 7?

17 Mr. Pauling, any objection?

18 MR. PAULING: No objection.

19 THE COURT: Entered into evidence without
20 objection.

21 (WHEREUPON, Defendant's Exhibit No. 7
22 was marked for identification and
23 received into evidence.)

24 BY MR. DELGADO:

25 Q Ms. DeVors, on the afternoon of September 11th, as

1 a result of what had been told to you and what you
2 had seen and to make certain that she, that is
3 Gregg, did not suffer any internal injuries,
4 whatever, you took her to the Kershaw Memorial
5 Hospital; correct, ma'am?

6 A Kershaw County Hospital.

7 Q Kershaw County Hospital?

8 A Yes.

9 Q From the time you arrived there to the time you
10 left, just a general estimate, an hour, three
11 hours, how long, if you recall?

12 A I don't recall.

13 Q Okay. But you were with her the whole time?

14 A Yes, sir, that's correct.

15 Q Including a pelvic examination?

16 A I didn't actually stay in the room, I don't
17 believe.

18 Q Okay. But you drove her there, stayed with her,
19 escorted her back?

20 A Yes.

21 Q You remember, ma'am, at the Kershaw County Hospital
22 that she was prescribed medication? Do you recall
23 that?

24 A I don't recall.

25 Q All right. I want to ask you, ma'am, if you've

1 ever seen any of those three bottles for the
2 prescriptions that -- did she have prescriptions in
3 her hand?

4 A I don't recall.

5 Q You don't recall that? Okay.

6 MR. DELGADO: Your Honor, I'd like to move
7 this for identification at this time only,
8 State's -- Defendant's 8, 9, 10.

9 MR. PAULING: If I understand, it is being
10 marked for ID?

11 MR. DELGADO: Yes, sir, marked for
12 identification. Thank you.

13 (WHEREUPON, Defendant's Exhibit Nos. 8 -
14 10 were marked for identification only.)

15 BY MR. DELGADO:

16 Q Ma'am, do you recall, were you in with Gregg when
17 she was in talking to any of the treating
18 physicians there, either a nurse practitioner or a
19 physician?

20 A Normally I would be.

21 Q Yes, ma'am.

22 A If they want me to be in there, the victim. So I
23 don't recall exactly how long or when.

24 Q Sure.

25 A It has been some time.

1 Q Oh, absolutely.

2 A Yes.

3 Q Do you recall her telling the doctor about a
4 urinary tract infection she was suffering from? Do
5 you recall that?

6 A I believe so, yes.

7 MR. DELGADO: Your Honor, I think that's all
8 the questions I have.

9 Thank you.

10 THE WITNESS: Yes, sir.

11 THE COURT: Mr. Pauling?

12 MR. PAULING: Beg the Court's indulgence.

13 THE COURT: Certainly.

14 (Pause.)

15 REDIRECT EXAMINATION

16 BY MR. PAULING:

17 Q Ms. DeVors, you mentioned that you -- at least, on
18 cross -- that you recall her mentioning to the
19 doctor a urinary tract infection? Is that what you
20 said?

21 A I recall something of that sort, yes.

22 Q You recall her saying something about it?

23 A I can't remember if it was her or the nurse or the
24 doctor that said it.

25 Q But she didn't complain about that during the

1 interview with Mr. DeVors, did she?

2 A I don't remember that.

3 Q You don't remember hearing that?

4 A No. No, sir.

5 Q And, again, you indicated that if she wanted you in
6 there, you would have been in there; is that
7 correct?

8 A Yes, that's correct.

9 Q You don't recall her asking that you be in there
10 with her, Ms. Pickrell ask that you be in the
11 examination with her?

12 A Yes, it's been some time, so I can't remember
13 exactly how long I was in there or -- normally I
14 would not wait in the waiting area, I would be back
15 there with the victim that I bring to the hospital
16 unless they decide they don't want me in the room.
17 And that would be during a physical examination of
18 some sort.

19 Q And, again, that was your last interaction with
20 her?

21 A Other than bringing her home, yes.

22 MR. PAULING: No further questions, Your
23 Honor.

24 MR. DELGADO: I have nothing further,
25 Ms. DeVors. Thank you.

1 THE COURT: Any objection to releasing Ms.
2 DeVors?

3 MR. PAULING: None, Your Honor.

4 THE COURT: Mr. Delgado, any objection to
5 releasing Ms. DeVors?

6 MR. DELGADO: No, sir.

7 THE COURT: Thank you, ma'am. You're excused.

8 THE WITNESS: Thank you.

9 (Witness steps down and is excused.)

10 MR. PAULING: Now, Your Honor, we'd like to
11 resume with the testimony of Rick DeVors.

12 THE COURT: Okay. Recall Rick DeVors.

13 (Witness retakes the stand.)

14 THE COURT: Mr. DeVors, you're still under
15 oath.

16 THE WITNESS: Yes, sir.

17 RICHARD C. DEVORS,
18 after being duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. PAULING:

21 (WHEREUPON, State's Exhibit 69 resumes
22 being played for the jury.)

23 Q Now, Agent DeVors, during the course of that
24 interview that you had with Ms. Pickrell, did you
25 have a difficult time trying to keep things in

1 order or -- how do you usually conduct your
2 interviews? What's the information you like to
3 get?

4 A Who, what, when, where, how. Basics. This
5 particular instance, again, as I stated at the
6 beginning of my testimony, I had absolutely no firm
7 information about what had happened, so my only
8 purpose at this point was to try to find out a
9 sequence of events, find out what had happened, and
10 to be able to relay that information back to the
11 investigators at the scene so that they would have
12 some sort of premise to work from.

13 Q And at least it was your understanding that she was
14 the only other person in the house during the
15 shooting; right?

16 A Correct.

17 Q And so as far as sequence of events, and who, what,
18 where, when, why, you were getting that
19 information -- attempting to get information from
20 her; is that correct?

21 A That is correct.

22 Q And at least it appears you used a more
23 conversational tone. Why was that?

24 A Quite honestly, I didn't know if she was a victim
25 or a suspect at this point.

1 Q Because of the limited information; is that
2 correct?

3 A That's correct.

4 Q And you weren't able to talk with anyone else in
5 the home; is that correct?

6 A That's correct.

7 Q Now, during the course of your interview, was she
8 ever specific about why she pulled the trigger?

9 A I think --

10 Q Or the specific circumstances around what was --

11 A I don't think I ever got a direct answer to why the
12 trigger was pulled at that time.

13 Q But you attempted to do so; is that correct?

14 A I did.

15 Q And she did mention that they had sex; is that
16 correct?

17 A Yes.

18 Q Did she mention that it was forceful or that she
19 was in pain during that?

20 A No.

21 Q You would have noted that if she had done so?

22 A Oh, absolutely.

23 Q And obviously it would have been on the report?

24 A Quite honestly, if she had said it in that -- if
25 she had stated that it was forceful, I would have

1 stopped the interview, taken her to the ER and had
2 a sexual trauma protocol done on her.

3 Q Do you recall if she mentioned anything about a
4 urinary tract infection at that particular point?

5 A No.

6 Q And so at the point where your interview is
7 completed, you didn't interview any further; is
8 that correct?

9 A That's correct.

10 Q And, again, you're trying to relay information to
11 other investigators; is that correct?

12 A Correct.

13 Q Okay. So once your interview --

14 MR. DELGADO: Object, Your Honor, to the
15 leading, please.

16 MR. PAULING: Yes, I apologize.

17 BY MR. PAULING:

18 Q Did you have any further discussion with her?

19 A Not that I recall, no.

20 Q Did you have a clear understanding of what had
21 happened that morning after speaking with her?

22 A I had a better understanding.

23 Q Okay. You had a better understanding?

24 A I don't know that it was absolutely clear, but I
25 had a better understanding of what --

1 Q You had a better understanding, but it wasn't quite
2 clear; is that correct?

3 A That's correct.

4 MR. PAULING: Beg the Court's indulgence.

5 (Pause.)

6 MR. PAULING: Nothing further at this time,
7 Your Honor.

8 THE COURT: Mr. Delgado?

9 MR. DELGADO: Thank you, sir.

10 CROSS-EXAMINATION

11 BY MR. DELGADO:

12 Q Mr. DeVors?

13 A Yes, sir.

14 Q The same way I've asked Ms. DeVors when she was on
15 the stand, you, as a law enforcement officer, have
16 either annual or semi-annual training in all areas
17 of law enforcement, would that be fair?

18 A I wouldn't say all areas, but we have specific
19 training in specific areas on an annual basis,
20 that's correct.

21 Q Okay. And part of that training for you, Rick
22 DeVors, involved criminal domestic violence;
23 correct, sir?

24 A That's every law enforcement officer in the State
25 of South Carolina, correct.

1 Q And there's a reason for that; isn't that right?

2 A The legislature must have felt so, yes.

3 Q Because the legislature wanted to cut down on the
4 number of homicides committed between partners as a
5 result of criminal -- I mean, of domestic
6 situations; isn't that right, sir?

7 A I can't speak to what their intent was, but.

8 Q As a matter of fact, sir, one of the courses that's
9 taught for law enforcement officers is called CDV,
10 and the acronym stands for criminal domestic
11 violence; correct?

12 A Yes, sir. That's the old statute.

13 Q Criminal domestic violence lethality; correct?

14 A Yes, sir.

15 Q That means they're saying we're having a seminar
16 for law enforcement to talk about criminal domestic
17 violence and how that can result in lethal
18 infliction on one of the parties; correct?

19 A Correct. We typically do video training every year
20 on domestic violence.

21 Q One of those courses, sir, that you took? (Hands
22 document to witness.)

23 A Yes, sir.

24 Q As a matter of fact, you took this course on
25 October the 30th, 2014?

1 A Correct.

2 Q Less than two months before the incident that we're
3 talking about here, since that time; correct?

4 A Yes.

5 Q The shooting took place on September the 11th,
6 2014; and on October 30th, 2014, you attend and
7 successfully completed, according to this, a
8 criminal domestic violence seminar called
9 Overcoming Obstacles; right?

10 A Yes, sir, that's correct.

11 Q Mr. DeVors, let me -- interesting that you said
12 what you were trying to get was the who, what,
13 when, where, why. The who involved Robert Demary
14 and Gregg Pickrell; correct?

15 A That's correct.

16 Q Where was at her home on Baynard Boykin Road?

17 A Yes, sir.

18 Q The when relates to that morning, September the
19 11th?

20 A Correct.

21 Q 2014?

22 A Yes, sir.

23 Q The what was to determine, as you've said to our
24 jury, whether or not she was a suspect or she was a
25 victim; right?

1 A That's correct, yes, sir.

2 Q And the why, sir, was what you're here for today;
3 correct? Right?

4 A Yes, sir.

5 Q And that why, according to her statements in her
6 recorded interview with you, were things like: I
7 have come so close to death so many times.
8 Correct?

9 A That was her statement, yes.

10 Q I couldn't leave my mother and the animals.
11 Correct?

12 A Yes. Again, that was her statement.

13 Q I couldn't take the abuse anymore. I couldn't take
14 it anymore. Correct, sir?

15 A Yes, I believe that was her statement.

16 Q Sir, the video that has been shown to our jury
17 shows Ms. Pickrell with long sleeves down to her
18 wrist; correct, sir?

19 A Yes, sir, I believe so.

20 Q Up to her neck. Nothing plunging or revealing at
21 all?

22 A That's correct.

23 Q Long pants; correct?

24 A That is correct.

25 Q So if we're overcoming obstacles, all we have to do

1 is roll up sleeves, pull up pants, take off a
2 shirt, and we're going to see what these
3 photographs show; right?

4 A That was not my place to do that.

5 Q No, no, not you. But I'm saying if we're going to
6 overcome obstacles in our CDV training, that's all
7 we have to do; right?

8 A That's not all we have to do, but that's part of
9 what we have to do, absolutely.

10 Q Yes, sir. And you -- in fact, your colleagues did
11 that on the 11th in the afternoon, with your ex
12 going to the hospital?

13 A Correct.

14 Q And then on the 12th; correct, sir?

15 A Yes, sir, I believe so.

16 Q Sir, I'm just going to show you one -- and this is
17 Defendant's Exhibit Number 5. I'm just going to
18 show you one that's up in the corner, 5G, all
19 right? You want to take a look at it real quick?

20 A Yes, if you don't find.

21 Q Sure. Absolutely.

22 A I'm not getting any younger.

23 Q This one right here.

24 A 5G?

25 Q Yes, sir.

1 A Yes, sir, I see it.

2 Q That would be to her right back area; correct?

3 A Yes.

4 Q All right. Would you expect that bruise to -- I
5 think one of the words from the SLED agent the
6 other day was age, in other words, become more
7 pronounced in its visibility?

8 A Typically, they do, yes.

9 Q As a matter of fact, sir, in this Defendant's
10 Exhibit Number 7 -- look at this picture right
11 here, A; okay?

12 A Yes, sir.

13 Q And look at September the 12th at D; correct, sir?

14 A Yes, sir.

15 Q What it's showing is the starting of what would
16 become a black eye; isn't that right?

17 A It appears so, yes, sir.

18 Q You were told in that conversation with
19 Ms. Pickrell, I think her words were, Write this
20 name down. You remember she wanted to give to you
21 all information about individuals who had seen this
22 sort of thing previous to September the 11th;
23 correct?

24 A Yes, sir.

25 Q Because we don't want to hide this anymore, do we?

1 A No, sir.

2 Q Either by rolling up the sleeve, bringing up the
3 pants, taking off the shirt, we want to identify
4 folks that had seen this sort of activity on her
5 before September the 11th; correct?

6 A Yes.

7 Q And she gave you that individual's name. Do you
8 remember the name?

9 A I do not.

10 Q If I told you the name was Randall Lamont Lee, you
11 remember that, sir?

12 A I don't remember it.

13 Q Okay. Okay. Do you know whether or not you or
14 anyone else has ever talked to Randall Lamont Lee
15 in this investigation?

16 A I did not.

17 Q Yes. Maybe Mr. Taylor would know more about that?

18 A Yes, sir. This -- quite honestly, this was the
19 extent of my involvement in this particular case.

20 Q Let me go back to overcoming obstacles. If an
21 individual wearing long sleeves, long pants, put on
22 a bandanna habitually, you think that might be able
23 to cover up some of the bruising we see here in 17
24 on the neck area? See what I'm saying?

25 MR. PAULING: Objection, Your Honor,

1 speculation.

2 BY MR. DELGADO:

3 Q Would that cover up whatever had been on the neck,
4 Mr. DeVors?

5 MR. PAULING: Again, it's still speculation.

6 THE COURT: I am going to allow it.

7 THE WITNESS: A bandanna would cover that area
8 of the neck, yes.

9 BY MR. DELGADO:

10 Q If you wear sunglasses, like State's -- excuse me,
11 Defendant's Exhibit Number D, if you wore
12 sunglasses, maybe what's coming to the front would
13 be covered up and hidden away; right, sir?

14 A That would be possible, yes, sir.

15 MR. DELGADO: Mr. DeVors, I think that's all
16 the questions I have. Let me check my notes just
17 one second, please.

18 THE WITNESS: Yes, sir.

19 (Pause.)

20 BY MR. DELGADO:

21 Q Do you remember her saying to you -- let me go back
22 to the why business again, the who, the when, the
23 where, the what, and the why. Part of why she has
24 suffered this, she related to you, was she wanted
25 to keep things peaceful; correct, sir?

1 A I believe so, yes, sir.

2 Q And in your criminal domestic violence training,
3 what you and other law enforcement folks have been
4 taught is that victims want to go about and get
5 about and try to make it through an episode like
6 that; correct, sir?

7 A Yes. Every victim wants to survive.

8 Q They don't, and can't, and will not fight back
9 correct, sir?

10 MR. PAULING: Objection.

11 BY MR. DELGADO:

12 Q That's what they've learned? Isn't that what
13 you're taught in your training?

14 A I can't testify to that because that's not what I
15 was trained.

16 Q What were you trained? What were you trained, to
17 fight back?

18 A It's based upon the circumstance.

19 Q Sure.

20 A Every circumstance is not the same, sir.

21 Q Right. And what you know generically is this
22 history of abuse that the General Assembly has
23 tried to stop is as a result of the number of
24 occurrences of lethal interspouse,
25 interrelationship homicides where at least one

1 person's not fighting back; right?

2 A Again, I can't speak to the intent of the
3 legislature.

4 Q And she said to you she had been threatened so many
5 times and that he was beginning to act like a
6 gangster over the last month before September the
7 11th?

8 A I believe she did say that, yes, sir.

9 MR. DELGADO: Thank you, sir.

10 THE WITNESS: Yes, sir.

11 REDIRECT EXAMINATION

12 BY MR. PAULING:

13 Q Now, Mr. DeVors, you didn't speak with anyone else
14 at that home; is that correct?

15 A That's correct.

16 Q Inside -- when I say inside the home, where the
17 shooting occurred; is that correct?

18 A The only people I spoke to there were other law
19 enforcement officers.

20 Q But as it relates to Gregg Pickrell and Robert
21 Lamotte Demary, you weren't able to speak to him;
22 were you?

23 A No, sir, I was not.

24 Q Why was that?

25 A He was deceased.

1 Q Now, were you aware at the time that you spoke with
2 Ms. Pickrell where he had been shot at that point?

3 A I was not.

4 Q Okay. So you weren't aware that he had been shot
5 in the back at that point?

6 A I was not.

7 Q Okay. Now, based on the information that she was
8 giving you -- and, again, are you -- you're getting
9 information and relaying information; is that
10 correct?

11 A Well, obviously, during the interview, we're just
12 gathering information.

13 Q Just gathering information?

14 A Yes, sir.

15 Q And so another investigator at maybe another
16 location --

17 MR. DELGADO: Objection to the leading.

18 MR. PAULING: I'll rephrase.

19 BY MR. PAULING:

20 Q So while you're gathering information, are you
21 aware what the other investigators are doing?

22 A They're collecting evidence and gathering
23 information.

24 Q Had you received any information about where he had
25 been shot?

- 1 A Not during the --
- 2 Q At that point while you were doing the interview?
- 3 A No, sir, I had not.
- 4 Q Had you had that information, would your questions
- 5 have been a little different?
- 6 A Absolutely.
- 7 Q Now, as far as you were asked about a person
- 8 wearing sunglasses and long sleeves and jeans, and
- 9 that sort of thing. I mean, is that the only
- 10 reason a person may put on sunglasses?
- 11 A No, sir.
- 12 Q Wear long sleeves?
- 13 A No, sir.
- 14 Q Wear jeans?
- 15 A No, sir.
- 16 Q Especially a person who works with horses?
- 17 A It could be a myriad of reasons that people would
- 18 dress that way.
- 19 Q And you indicated that you were assisting in this
- 20 investigation; is that correct?
- 21 A I'm sorry?
- 22 Q You were assisting with this investigation --
- 23 A Yes, sir.
- 24 Q -- is that correct? And at that point, were you
- 25 making an ultimate determination of what had

1 happened? Was -- were you making a final decision
2 at that point? Were you the one making the --

3 A Oh, no, sir, this was too preliminary in the
4 investigation.

5 Q And, again, at that point, you did not have a clear
6 understanding of exactly what all had happened; is
7 that correct?

8 A That is correct.

9 Q You were asked about the name of Randall Lee?

10 A Yes, sir.

11 Q Did you have any information of Randall Lee being
12 at that house that day?

13 A No, sir.

14 Q September 10th or September 11th?

15 A No, sir.

16 MR. PAULING: Beg the Court's indulgence.

17 (Pause.)

18 MR. PAULING: No further questions, Your
19 Honor.

20 THE COURT: Mr. Delgado?

21 RECROSS-EXAMINATION

22 BY MR. DELGADO:

23 Q Mr. DeVors, is it your testimony then that she has
24 to wait until he's coming at her and hitting her
25 again before she has a right to pull the trigger?

1 A I made no such testimony.

2 Q No. She has a right to act on what is happening to
3 her and appearances, doesn't she? Doesn't she?

4 A You're going to have to rephrase the question.

5 Q Sure.

6 A I'm not quite sure I understand what you're getting
7 at.

8 MR. PAULING: Your Honor, this line of
9 questioning does go beyond the scope of cross -- or
10 redirect, excuse me, sir.

11 THE COURT: I'm going to sustain the
12 objection.

13 MR. DELGADO: I don't have anything else for
14 the witness.

15 THE WITNESS: Thank you, sir.

16 MR. PAULING: Nothing further, Your Honor.

17 THE COURT: Any objection to excusing Mr.
18 DeVors?

19 MR. PAULING: None, Your Honor.

20 THE COURT: Thank you, sir.

21 THE WITNESS: Thank you, Your Honor.

22 (Witness steps down and is excused.)

23 MS. SAMPSON: May I proceed, Your Honor?

24 THE COURT: Absolutely.

25 MS. SAMPSON: The State would call

1 Investigator Rick Bailey.

2 (Witness approaches.)

3 THE CLERK: Place your left hand on the Bible,
4 and raise your right hand, please.

5 (Witness complies.)

6 THE CLERK: Do you solemnly swear or affirm
7 the testimony you give in this case will be the
8 truth, the whole truth, and nothing but the truth,
9 so help you God?

10 THE WITNESS: Yes, ma'am, I do.

11 THE CLERK: Please have a seat and state your
12 full name for the record.

13 (Witness seated.)

14 THE WITNESS: My full name is Richard R.
15 Bailey, Jr.

16 RICHARD R. BAILEY, JR.,
17 after being duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SAMPSON:

20 Q Good morning. How are you?

21 A Good.

22 Q So can you tell the jury about your educational
23 background?

24 A Civilian or law enforcement or both?

25 Q Start from the beginning and go through law

1 enforcement training.

2 A Wow. I went to a local school here in Kershaw
3 County, North Central High School.

4 Q Speak into the microphone.

5 A I'm sorry. It kind of flip-flops on me here.
6 Graduated from North Central High School in the
7 late '80s, went off in the military, came back.
8 Got into law enforcement a few months after my
9 return from the military service, went through the
10 Criminal Justice Academy. Started out as regular
11 patrol officer, moved my way through the ranks.
12 Went through investigations and then some
13 specialized training in different fields of
14 investigations: Homicide investigations, domestic
15 violence, forensic-type situations. And then
16 recently got into SRT or commonly known as SWAT
17 Team, and I have had a lot of training in that as
18 well.

19 Q So I think you said -- you've got to speak up. I
20 don't know why I'm having to tell you this. Scoot
21 up to the microphone.

22 A Okay.

23 Q You said your last -- what are you currently doing?

24 A I'm now the training officer for Kershaw County
25 Sheriff's Office. I moved out of investigations

1 about six months ago and now conduct all the
2 training for the Sheriff's Office itself:
3 Firearms, in-service training, things of that
4 nature.

5 Q And how long have you been with Kershaw County
6 Sheriff's Department?

7 A I started with the Sheriff's Office in 1998. I had
8 probably three or four years of service with
9 different agencies before that.

10 Q So 20 years?

11 A I've got 23 and a half years of service total.

12 Q And so around the time of September '14 you were --
13 what was your job title at that point?

14 A I was one of the senior investigators with the
15 Kershaw County Sheriff's Office.

16 Q And what is a senior investigator?

17 A I have been around a long time.

18 Q Okay. And as a senior investigator, what are your
19 duties?

20 A Primarily, each investigator is assigned their own
21 area of the county that they patrol. I think in
22 this instance, in particular, myself and
23 Investigator Taylor were working adjoining areas,
24 so a lot of times our cases kind of meshed together
25 because of geographical area, and I was assisting

1 him that day.

2 Q And you said assisting him. Is it normal for the
3 investigators to assist each other or is it normal
4 that just one does everything?

5 A It depends on the situation. More serious cases,
6 the investigators -- we have seven on a good day,
7 investigators, sometimes eight. So on bigger
8 cases, we kind of combine our efforts to try to get
9 everything done.

10 Q And the jury has already heard from Investigator
11 DeVors, I guess, Agent DeVors now?

12 A Correct.

13 Q So then you were also on the case and Investigator
14 Taylor as well; is that correct?

15 A I think so, yes, ma'am.

16 Q Okay. Is that unusual for that to be that many
17 investigators?

18 A No, ma'am. That's a pretty common occurrence on
19 bigger cases.

20 Q And so how did you become involved with this
21 particular case?

22 A To the best of my recollection, I think myself and
23 Investigator Taylor was actually collecting
24 evidence for another case or working on some other
25 cases when this call came out, so we were actually

1 in the same vehicle and responded to the scene
2 together.

3 Q So you went to the scene?

4 A Yes, ma'am.

5 Q And when you arrived, what did you see at the
6 scene?

7 A The best I can recall, I got out of the vehicle,
8 spoke with officers that were already on scene and
9 actually went into the residence itself. I didn't
10 stay long because the captain of investigations
11 tasked me with going back to the office and
12 speaking to Ms. Pickrell.

13 Q And who was the captain of investigations?

14 A Steve Knafelc.

15 Q So you said he told you what to do?

16 A Yes, ma'am.

17 Q Is that standard or is that out of the ordinary?

18 A He's the captain. He tells me what to do.

19 Q So even though there's a lead investigator, the
20 captain can still tell others what to do?

21 A Yes, ma'am.

22 Q So at the time that you're at the incident
23 location, where is the Defendant?

24 A I believe she's --

25 Q Do you know?

1 A I would say outside. She wasn't inside when I
2 stepped inside.

3 Q Was she at the scene? Do you remember?

4 A I cannot tell you one hundred percent, but I
5 believe she was there. I'm not real sure.

6 Q She didn't ride to headquarters with you?

7 A No, ma'am.

8 Q What did you do -- did you do anything at the scene
9 other than go there?

10 A I walked in, walked back out.

11 Q Okay. So you didn't collect evidence or anything
12 like that?

13 A No, ma'am.

14 Q So after leaving the scene, what did you do?

15 A Went back to the Sheriff's Office. I think
16 Ms. Pickrell was already being interviewed by
17 Investigator DeVors. At some point, the request
18 was made for an attorney. They told me who the
19 attorney was. I was familiar with the attorney
20 that was there that day. I called him and he
21 arrived.

22 Q And who was the attorney?

23 A William Cox.

24 Q Okay. And did you participate at all in the
25 interview with Ms. Pickrell with both DeVors at the

- 1 time?
- 2 A No, ma'am.
- 3 Q Did you watch it or in any way deal with that
- 4 interview before going in?
- 5 A No, ma'am.
- 6 Q And so, I believe you've already said, but you
- 7 called Mr. Cox?
- 8 A If I'm not mistaken, yes, ma'am, I was the one that
- 9 called him.
- 10 Q And he came?
- 11 A Yes, ma'am.
- 12 Q Once he's there, what happened?
- 13 A I think he went in and had a discussion with her
- 14 before I actually went into the room. And then at
- 15 the appropriate time, I went in to conduct another
- 16 interview with Ms. Pickrell.
- 17 Q And why did you do that and not -- and Investigator
- 18 DeVors didn't continue the interview?
- 19 A I'm not sure why he didn't continue, but I was
- 20 following what the captain asked me to do.
- 21 Q So you were, again, asked that you do it instead of
- 22 him?
- 23 A Yes -- well --
- 24 Q And that's fine.
- 25 A It was a continuation of the original, Go speak to

1 Ms. Pickrell.

2 Q And were you given any information about what had
3 already transpired between her and Investigator
4 DeVors before you do your interview?

5 A I know they had spoke, but I didn't know the
6 content of what that interview was, so I didn't
7 have a lot of information when I walked in.

8 Q Did he come out and tell you what had already been
9 told to him?

10 A I don't remember -- you're talking about Mr. Cox?

11 Q Investigator DeVors?

12 A DeVors? I don't remember him having an in-depth
13 conversation with me. I don't recall.

14 Q Okay. Did you speak to Karen DeVors before you
15 went into the interview?

16 A I don't remember speaking to her at all.

17 Q What information did you have about -- did you have
18 any information about how Mr. Demary had been shot
19 when you started the interview?

20 A An initial, not a lot of detail, but I had
21 information about the incident itself.

22 Q And what information did you have?

23 A My information was that he had been shot in the
24 back. That he was laying -- he was actually --
25 what I saw when I was actually on the scene was he

- 1 was in a seated position facing towards the door.
- 2 Q So you did go at least far enough in the house --
- 3 A Yes, ma'am, I did see that.
- 4 Q I didn't -- so I know you said you went to the
- 5 home, but you actually went inside the home and
- 6 saw?
- 7 A Yes, ma'am.
- 8 Q Any other information that you had at that time?
- 9 A Very limited. I'm not sure what kind of detail
- 10 you're looking for, but I didn't have a whole lot
- 11 of information when I started the interview.
- 12 Q Did you have any information about what
- 13 Ms. Pickrell had said happened at that point?
- 14 A Just that the point that there was an argument and
- 15 she had shot him and she had called for 9-1-1. I
- 16 knew that information.
- 17 Q So that's all you knew about it?
- 18 A Yes, ma'am, I didn't have a whole lot.
- 19 Q And did you know she had been read her Miranda
- 20 rights prior to talking to you?
- 21 A Yes, ma'am, because we went over that again with
- 22 Mr. Cox, I believe, in the interview.
- 23 Q I'm sorry. You went over her Miranda again with
- 24 her?
- 25 A I didn't actually read the Miranda form that I

1 think Mr. DeVors had done, but I had went over that
2 she was still under her Miranda warning and had
3 that documented with her attorney sitting there
4 present with her.

5 Q So you did that with the attorney?

6 A He was in the room, yes, ma'am.

7 Q And when you interview her, is her attorney
8 present?

9 A Yes, ma'am.

10 Q And does he participate in the interview?

11 A He does. I think during their conversation before
12 I arrived, there was points that she brought out to
13 him that he wanted to make sure that I knew.

14 Q And I just want to make it clear to the jury. You
15 said their meeting. You didn't sit in on their
16 meeting?

17 A No, ma'am.

18 Q So what was your understanding of what happened
19 between when Investigator DeVors stopped his
20 interview and when you stopped your interview?

21 A Evidently --

22 Q Started your interview.

23 A Right. Evidently, she had discussed some things
24 with her attorney that they wanted to bring out to
25 make me aware of.

1 Q But you didn't participate in that at all?

2 A No, ma'am.

3 MS. SAMPSON: Beg the Court's indulgence.

4 THE COURT: Certainly.

5 (Pause.)

6 BY MS. SAMPSON:

7 Q The interview is already in evidence, so I'm just
8 going to play it.

9 A Uh-huh.

10 Q But I'm going to ask a couple of questions before I
11 do.

12 A Sure.

13 Q Did you make her talk to you?

14 A No, ma'am.

15 Q Why were you talking to her?

16 A Just doing a follow-up interview with her to try to
17 get as much information about the incident as I
18 could.

19 Q So you wanted as much information as possible?

20 A Yes, ma'am.

21 (WHEREUPON, interview was played for the
22 jury.)

23 THE COURT: Ladies and gentlemen, we'll take a
24 break. Court will be in recess for 15 minutes.

25 (WHEREUPON, the jury retires to the jury

1 room at 11:38 a.m.)

2 THE COURT: Counsel, anything to take up
3 outside the presence of the jury?

4 MS. ZMROCZEK: He went outside.

5 Are you just going to fast forward through all
6 this --

7 MS. SAMPSON: I think it's almost over, but we
8 could see the jurors talking that they needed a
9 break.

10 THE COURT: I appreciate that. Mr. Bailiff
11 came up and told me the same thing.

12 MS. ZMROCZEK: How long is it?

13 MS. SAMPSON: I don't know. It --

14 MS. ZMROCZEK: It appears -- you know, it's
15 playing while there's nothing going while she's in
16 the restroom or something. Your Honor, I'll
17 stipulate on Mr. Delgado's behalf that we can fast
18 forward through that part.

19 MS. SAMPSON: I'll figure it out. I just
20 didn't want to try to do that --

21 MS. ZMROCZEK: While the jury -- so we can do
22 that so we're not sitting here watching.

23 (WHEREUPON, a short break was taken.)

24 (WHEREUPON, the proceedings resumed at
25 11:56 a.m.)

1 THE COURT: Anything we need to talk about
2 before we bring the jury back in?

3 MS. SAMPSON: Just for the record, Your Honor,
4 I conferred with co-counsel -- I'm sorry,
5 apparently, I made y'all Solicitors -- with the
6 attorneys for the Defendant, and we've got it
7 manipulated to where it starts -- at least she's
8 back in the room. It might still play a couple of
9 seconds before the interview starts back, but I
10 can't get it exactly.

11 THE COURT: Defense?

12 MS. ZMROCZEK: Absolutely, Your Honor. We
13 agreed to that.

14 MS. SAMPSON: Other than that, we are ready.

15 THE COURT: How much more do we have left of
16 the video, do you know?

17 MS. SAMPSON: It looks like per where it
18 stopped, we have about maybe a quarter or a third
19 left.

20 THE COURT: Okay.

21 MS. SAMPSON: I'm just looking at the button
22 where it's paused. This one is not as lengthy as
23 yesterday, but we still have at least probably 15,
24 20 minutes.

25 MS. ZMROCZEK: I'd say 20 minutes, Your Honor.

1 THE COURT: And I assume y'all have questions
2 for the witness directly, so that ought to bring us
3 up to lunch.

4 MS. SAMPSON: That will be perfect.

5 MR. DELGADO: I'm sorry, did you say
6 cross-examine before lunch?

7 THE COURT: Yeah, seems to me if you've got 15
8 or 20 minutes left in the video, we should have
9 enough time for the officer to be examined and then
10 go to lunch.

11 MR. DELGADO: Yes, sir. Okay.

12 THE COURT: Bring the jury back in.

13 (WHEREUPON, the jury came into open
14 court at 11:57 a.m.)

15 (WHEREUPON, the video resumed for the
16 jury.)

17 BY MS. SAMPSON:

18 Q All right. So, Investigator Bailey, other than
19 interview the Defendant, did you do anything else
20 in this case?

21 A No, ma'am. That was my involvement in the case was
22 that interview.

23 Q All right. And I'm going to ask you some questions
24 about the interview.

25 A Okay.

- 1 Q During that interview, either before or after, did
2 she ever tell you about any assault or anything
3 happening outside of the house?
- 4 A Other than the other state, I don't remember any.
- 5 Q Literally, that night, the night of September 10th
6 or 11th, did she say anything happened physically
7 outside?
- 8 A I don't remember having that conversation with her.
- 9 Q And although she said she had been abused all
10 night, correct, is that what she told you?
- 11 A On and off, yes, ma'am.
- 12 Q Did she ever give you any specifics, such as that
13 he hit her?
- 14 A Nothing specifically as far as like strikes and
15 locations of the strikes that I can remember, no,
16 ma'am.
- 17 Q What about pulling her hair?
- 18 A I don't remember any conversation about her hair.
- 19 Q What about pushing her face into anything?
- 20 A I don't remember that.
- 21 Q Did she ever tell you that he kicked her?
- 22 A That he -- I'm sorry?
- 23 Q Kicked her?
- 24 A Kicked her? I don't remember her saying that.
- 25 Q Now, at some point, you say something to the effect

1 of, At this time, we all believe that he physically
2 abused you last night?

3 A Uh-huh.

4 Q Why would you say that?

5 A And that's a good question. I mean, a lot of times
6 on the stand over the past 20 something years, I'm
7 always asked, Did you say, I've never been asked,
8 Why did you say. I've learned through interviewing
9 people over the years, you kind of listen to more
10 experienced investigators from the past that may
11 have been retired or maybe some of the classes
12 you've been through. I try to take the best of
13 what I see from each interview and try to apply it
14 to what I do for the best results. You go in, you
15 don't want to be confrontational. I kind of liken
16 it to talking to your kids. If you come in with a
17 stern face and you're in an accusatory fashion,
18 they're going to lock up on. So what we try to do
19 is be non-confrontational.

20 My job, at least in this position here, was to
21 garner as much information as I could get. If I
22 came in accusatory or non-believable or, you know,
23 more of an adversarial role, a lot of times people
24 won't talk to you. But I try to be fair to both
25 sides. You know, I want to get all the

1 information, whether it be helpful or harmful to
2 the person I'm interviewing. I try to be fair to
3 everybody, get as much information as I can. But
4 if I'm in an adversarial role, I guess the best
5 term I can come up with where I don't believe them
6 or I'm questioning them on their things -- you'll
7 notice a lot of times or most of this interview, I
8 didn't do a whole lot of talking. I learned a long
9 time ago, you can get more information by
10 listening. So I would ask a question and then kind
11 of step back and let her kind of give her account
12 of what happened. That's the only way I know how
13 to get the information because I wasn't there. But
14 I try to be as less confrontational as possible.

15 So if I'm making a statement like that, it's
16 kind of a broad statement, you know. I think later
17 on in the questioning or that part of the
18 interview, I said, you know, It may trigger
19 something, you may want to come talk to me later.

20 Q And I'm going to stop you for just a second.

21 A Sure.

22 Q So I'll just be honest, when you say something
23 like, There's no doubt we believe that you're
24 physically abused, it sounds like you believe her.
25 Is that the truth?

1 A I can't say that I would come right out and say I
2 believe her. You've got to remember, I had very
3 limited information when I was doing this
4 interview. When I'm doing something like that, I
5 have to take somebody at face value. I'm listening
6 to what they're telling me, but, in the meantime,
7 I'm trying to get as much information as I can.

8 Q And has it happened that, perhaps, you believe
9 someone in an interview, but then you get other
10 information that might change your mind?

11 A Happens all the time.

12 Q And did you get any information in this case that
13 did that?

14 A I didn't take any further part than what I did that
15 day.

16 Q And did you make me decisions whether to charge her
17 or not?

18 A It wasn't my case, I didn't make that decision.

19 Q And while we're talking about how you interview
20 people.

21 A Uh-huh.

22 Q Would it be fair to say different investigators
23 have different styles of interviewing?

24 A Absolutely.

25 Q And what would your style be?

1 A If you haven't been able to tell so far, I try to
2 be as laid back as possible. If I'm interviewing
3 an individual, I kind of -- I do my best to find
4 out what their likes are. You heard me talking
5 about the animals. I think y'all were kind of
6 giggling when you heard -- I had a pretty extensive
7 barnyard at one time.

8 Q Goats, horses, pigs?

9 A Yes. I try to link with that person so we can have
10 some kind of common ground so if things start
11 getting kind of off skew, we can kind of just have
12 a conversation. It's easier to talk to people when
13 you got something in common, so I try to find
14 something in common with as many people as I can.

15 Q And there are some ways sometimes that
16 investigators are more confrontational; is that
17 true?

18 A Yes, ma'am.

19 Q But you weren't in this particular interview?

20 A No, ma'am. That's not my style.

21 Q And you asked her a lot about the sexual assault or
22 the sexual encounter. Were you trying to determine
23 if it was an assault?

24 A If there was one, I would want to know that.

25 That's why my questions were kind of open-ended to

1 try to get as much information as I could.

2 Q And did she ever tell you that it hurt while she
3 had sex with him?

4 A I'm sorry?

5 Q Did she ever tell you that it hurt when she had sex
6 with him that night, or that morning?

7 A I don't remember that as part of the conversation.

8 Q If she had told you that, what would you have done?

9 A Well, it would have been on the video and it
10 probably would have been annotated somewhere else
11 by either the lead investigator or somebody that
12 was assisting.

13 Q And you asked her several times why she pulled the
14 trigger?

15 A Uh-huh.

16 Q Correct?

17 A Uh-huh.

18 Q Why did you ask her so many times?

19 A I was trying to determine why she pulled the
20 trigger. What would have made her do that. Was
21 she in fear or was there something going on, was he
22 coming after her. I wanted to know why she pulled
23 the trigger.

24 Q And did she ever at all tell you that she was in
25 the midst of being assaulted when she shot the

1 trigger?

2 A One thing that concerned me, and I wasn't there to
3 make a determination on guilt or innocence, was
4 she, in the video, I think you may have seen, she
5 said, He kind of came at me like that. The thing
6 that kind of bothered me about that was I had
7 already been told the point of impact of the
8 bullet, and it didn't match up.

9 Q What do you mean it didn't match up?

10 A I found it hard to believe if he was coming at her
11 --

12 MR. DELGADO: Objection, Your Honor. Asking
13 for a conclusion.

14 MS. SAMPSON: I'm asking for his conclusion,
15 not an evidentiary --

16 THE COURT: Tell me what your objection is.

17 MR. DELGADO: I'm sorry?

18 THE COURT: Your objection is?

19 MR. DELGADO: He was about ready to give a
20 conclusion about based on what he has heard as to
21 why she may have shot him. We can talk about
22 facts, but now why he's being able to shoot -- or
23 why she, I'm sorry, is being able to shoot. It is
24 a conclusion on his part.

25 THE COURT: Ask the question one more time.

1 MS. SAMPSON: I asked why -- he stated that
2 there was some concern or he kept asking about the
3 trigger. And I asked him why was there a
4 difference -- I think my question, maybe Debbie can
5 tell me. My question was something to the effect
6 of, Why did you -- was that a concern that there
7 was -- what she said about going at him and he was
8 explaining that, why that was a concern to him.
9 That was it.

10 THE COURT: I'm going to allow the question.

11 BY MS. SAMPSON:

12 Q You can go ahead.

13 A I'm sorry. During the interview, I wanted to get
14 as much detail as what happened that led up to the
15 event of actually pulling the trigger. Her
16 response was that he pulled up and he kind of
17 lunged at her. She never said, He came at me, but
18 she motioned that he kind of lunged towards her.

19 Prior to the interview, I had knowledge that
20 the deceased had been -- actually, the point of
21 impact of the bullet was in the back. I had
22 trouble understanding how if he was lunging forward
23 how he was shot in the back.

24 MS. SAMPSON: Beg the Court's indulgence.

25 (Pause.)

1 MS. SAMPSON: At this time that's it from the
2 State. Please answer any questions the Defense may
3 have.

4 THE COURT: Mr. Delgado?

5 CROSS-EXAMINATION

6 BY MR. DELGADO:

7 Q Mr. Bailey?

8 A Yes, sir.

9 Q Is it your contention that he has to be charging at
10 her to shoot him?

11 A That wasn't my contention. I was --

12 Q I'm asking you that question. Give us your opinion
13 on that, sir.

14 A I find it hard to believe that I was told that he
15 was lunging at her, but he was shot in the back.
16 That's where I had the issue.

17 Q Yes, sir. So she also said to you -- first of all,
18 that's a very small confined little space there in
19 that bedroom; correct?

20 A Yes, sir, it's small.

21 Q In fact, I think you used your own word, it's very
22 close; correct?

23 A I don't know the exact terminology, but I'll agree.
24 Yeah, it was a small space.

25 Q Mr. Bailey, you now are the training officer for

1 the Kershaw County Sheriff's Department; correct?

2 A Yes, sir.

3 Q Your office, the headquarters is located over in
4 Ridgeway Road, Highway 34?

5 A 821 Ridgeway Road, yes, sir.

6 Q All right. Just off of?

7 A It's off of Highway 1, soon as turn on 34 towards
8 Winnsboro.

9 Q Exactly. Sir, is your specific office there in
10 that headquarters?

11 A Yes, sir.

12 Q Sir, as the training officer -- there in the lobby
13 of the Sheriff's Department, you ever seen these
14 two folks?

15 A Step back just a little bit. I can see to Lugoff,
16 but I can't see three feet. I'm assuming those are
17 photo copies of some flyers that are out in front.

18 Q Yes, sir.

19 A I'll agree with that.

20 Q Yes, sir. Sir, one of them talks about domestic
21 violence, breaking the silence; right?

22 MS. SAMPSON: Your Honor, I'm not objecting to
23 talking about it, but it has not been introduced
24 and he's showing it to the jury. He just did.

25 MR. DELGADO: It's a demonstrative aid.

1 THE COURT: He can show it to the jury.

2 MS. SAMPSON: I just need that to be said,
3 that's all.

4 MR. DELGADO: Thank you.

5 BY MR. DELGADO:

6 Q Break the silence. That's the word that you all
7 put out to the public; correct?

8 A If it's a flyer out front, it is disseminated to
9 the public if they want it, yes, sir.

10 Q Well, y'all were disseminating, you're putting it
11 in your lobby?

12 A Okay.

13 Q I found it in your lobby, sir.

14 A And I'm not doubting you, sir.

15 Q Can you spot an abuser? Is that right next to it
16 there in the lobby on Ridgeway Road?

17 A I'm sorry?

18 Q This poster?

19 A I didn't understand your question.

20 Q This poster, Can you spot an abuser?

21 A Are you asking me if that poster is there?

22 Q Yes, sir.

23 A If you photographed it, it's there.

24 Q Yes, sir. Does your husband or boyfriend act
25 controlling, putting you down in front of other

1 people? Is that one of the questions on this?

2 A I have not read the poster, sir.

3 Q Does he act extremely jealous of others who pay
4 attention to you, especially men? Remember that?

5 A Do I remember it?

6 Q I'm sorry?

7 A From that poster? Are you asking me the contents
8 of that poster?

9 Q Go ahead and look at it.

10 A Okay.

11 Q The one on the left now.

12 A Uh-huh. What's your question?

13 Q My question, sir, is to spot an abuser, you all put
14 out as public information, Does he act extremely
15 jealous of others who pay attention to you,
16 especially men? Correct, sir?

17 A That's what it says.

18 Q Yes, sir.

19 A Okay.

20 Q The reason it says that is because that's what you
21 all want to guard the public against; right?

22 A Absolutely.

23 Q Exactly. So you want others to spot an abuser, you
24 want to spot abuse in our community; correct, sir?

25 A It would be helpful, yes.

- 1 Q Yes, sir. Because that's what good law enforcement
2 is about; correct, sir?
- 3 A Yes, sir.
- 4 Q Stopping crime before it ever starts; right?
- 5 A That's the way it's supposed to work.
- 6 Q Yes, sir. Good. I'm glad. Does he make you feel
7 uncomfortable, uneasy, afraid of certain gestures?
8 Is that how you spot an abuser?
- 9 A That's one way to spot them.
- 10 Q Yes, sir. Does he call or page you a lot or just
11 show up to, quote, check on you; right, sir?
- 12 A That's what it says on the poster, yes, sir.
- 13 Q Does he blame you for how he feels or what he does?
14 Right?
- 15 A That's what it says there.
- 16 Q Yes, sir. Does he pressure you sexually for
17 practices for which you are uncomfortable? Right?
- 18 A That's what it says.
- 19 Q Does he make you feel there's no way out of the
20 relationship? Right?
- 21 A That's what it says, yes, sir.
- 22 Q Does he use drugs or alcohol as an excuse for
23 hurting you? Right?
- 24 A What it says, yes, sir.
- 25 Q In fact, the bottom line here says, If your answer

1 to any of the above is yes, you're in an abusive
2 relationship. Right, sir?

3 A That is what it says.

4 Q Any of them. That's posted in the lobby of your
5 Sheriff's Department. And, sir, please, I'm not
6 upset with you, I'm simply saying this is what you
7 all do; right?

8 A Right.

9 Q Mr. Bailey, this is -- hold on just one second.
10 I'm going to try to put this up high enough so
11 everyone can see. You need to come down here to
12 see?

13 A If you're going to ask me questions about it, I'd
14 like to.

15 Q Yes, sir.

16 THE WITNESS: Your Honor?

17 THE COURT: Absolutely. Thank you.

18 (Witness steps down.)

19 MR. DELGADO: Ms. Court Reporter, this -- I'm
20 not sure -- State's Exhibit Number 2.

21 BY MR. DELGADO:

22 Q This is a diagram of the farm where Gregg and her
23 mother, Nora, live. All right, sir?

24 A Yes, sir.

25 Q This is Baynard Boykin Road, turns left, goes up to

1 Cantey Road, Cantey Road goes to 521, goes right
2 back into Camden?

3 A All right.

4 Q This is where you came to come to her little house,
5 which is right here?

6 A Uh-huh.

7 Q Right?

8 A Yes.

9 Q All right. This home is where Ms. Nora lived, the
10 elderly mother; correct?

11 A I don't know. If you say so. I don't know. I
12 never made it to that location.

13 Q There's only one way in and one way out back to
14 Cantey Road, isn't it?

15 A Back to Cantey, yes, sir.

16 Q All right.

17 A That I know of.

18 Q That you know of. This house, there's a barn, some
19 paddocks, another barn. Sir, this little house
20 right here, this is where this incident took place.
21 And it's better described with an outline --

22 MR. DELGADO: Ms. Court Reporter, this is
23 State's Exhibit 62.

24 BY MR. DELGADO:

25 Q This is what -- this is a little house. You've

1 been in that house; correct?

2 A Yes, I did go in the house.

3 Q Right. Front door here?

4 A Uh-huh.

5 Q Right?

6 A That's the door I made entry to.

7 Q I'm sorry?

8 A That's the door I made entry to.

9 Q That's right. In fact, the only other door is out
10 here in the back, back where the dog pen is; right?

11 A Yes.

12 Q You come in here, you turn left into the bedroom;
13 correct, sir? Correct, sir?

14 A I know I cut a corner and there was a bookshelf
15 right there, but I know the room where the deceased
16 was laying was a small room.

17 Q Sure.

18 A Right there.

19 Q Right there. Sir, these are the trunks that Gregg
20 says in your interview she used to keep the pit
21 bull from climbing up on her bed so she could
22 sleep; right?

23 A Yes.

24 Q Remember that?

25 A Yes, sir.

1 Q As a matter of fact, there's a dog bowl right here
2 in one of the pictures, remember that, full of
3 water?

4 A I don't remember.

5 Q You don't remember that? All right, sir. And this
6 right here, Number 3, right where the tip of my
7 pointer is, that's where the boom box was located,
8 isn't it?

9 A To my recollection, Mr. Delgado, I thought it went
10 back like -- if I may?

11 Q Sure.

12 A I don't remember the bookshelf being right there.
13 From my recollection, I thought there was like a
14 bureau or something against this wall --

15 Q That bureau is here. See this big thing?

16 A I remember one being on the outside in the living
17 room, but I was wanting to think it made a little
18 lip around. I may be mistaken.

19 Q Well, it did make a lip around and that's the
20 bureau that she talks about where the boom box was
21 located?

22 A Okay.

23 Q All right. So she is in this room and comes back
24 out here when he says what are you going to do to
25 her, This time I'm going to kill you. She steps

1 right here -- she didn't have to go back up here to
2 the kitchen, she didn't have to go outside in the
3 truck, she steps right here and turns around and
4 steps right back to the door.

5 A Okay.

6 Q Right?

7 A That's what she said.

8 Q Yes, sir.

9 A I think I even said in there, yes, it's not a great
10 distance. I know that.

11 Q Absolutely. Will you take the stand again?

12 A (Witness returns to the witness stand.)

13 Q Mr. Bailey, in the same fashion that I asked other
14 members of law enforcement when they came up to
15 testify, not only are you the training officer back
16 in 2014, you also had your own training given to
17 you as a law enforcement officer with Kershaw
18 County. You have training in criminal domestic
19 violence as well; correct?

20 A What we receive online.

21 Q Yes, sir.

22 A Yes, sir.

23 Q Mr. Bailey, it's my recollection, sir, that you
24 completed the course on October the 10th, 2013, CDV
25 lethality; correct, sir?

- 1 A Yes, sir.
- 2 Q That's you? You've got the certificate?
- 3 A That's October 2013, but.
- 4 Q I'm sorry, if I said '14, I meant --
- 5 A That's fine.
- 6 Q Tell these folks why you would have -- why CDV and
7 lethality go together.
- 8 A Because South Carolina has one of highest rates in
9 the nation for death between partner-on-partner
10 violence.
- 11 Q Sir, do you remember how many times Gregg said the
12 word she's been hiding a lot of things? Remember
13 that on the tape?
- 14 A To give a specific number, no, sir, I don't.
- 15 Q I'm sorry?
- 16 A To give a specific number, no, sir, I don't.
- 17 Q Well, It's just, I -- I -- I -- I was hiding. I
18 been in hiding. I been hiding a lot of things.
19 Correct?
- 20 A Uh-huh.
- 21 Q Correct? Those are her words?
- 22 A Yes, sir.
- 23 Q And that's the reason we want to break the silence,
24 isn't it? That's what you all put out, you want to
25 break that silence so people don't have to be in

1 hiding anymore?

2 A Uh-huh.

3 Q Men and women; correct?

4 A Yes, sir.

5 Q She said that he said -- that's Mr. Demary -- I
6 want sex and I don't care what you want. And I
7 want it now. Right?

8 A If that's what was in the interview, yes, sir.

9 Q Could any part of that be interpreted by a
10 reasonable person as being consensual after that?

11 MS. SAMPSON: Objection, Your Honor. He's
12 asking for speculation as to what other people --

13 MR. DELGADO: Let me ask -- I'll rephrase it.

14 BY MR. DELGADO:

15 Q Consent, sir? Consent? Would that mean consent?

16 MS. SAMPSON: It's the same question, Your
17 Honor.

18 BY MR. DELGADO:

19 Q When you said, sir, There's no doubt in my mind or
20 anybody else's mind at this time that he physically
21 abused you last night, that wasn't just a
22 throw-away line now, was it?

23 A I think we discussed that in the past, that I use
24 certain lines with every interview I --

25 Q Lines? Lines?

1 A Or phrases to keep a door open.

2 Q Phrases?

3 A Uh-huh.

4 MS. SAMPSON: Can he complete his answer, Your
5 Honor?

6 THE COURT: Let the witness finish.

7 THE WITNESS: I think we spoke after it before
8 and I spoke about it indirect. Some of the things
9 that we do in interviews are to build a rapport.
10 We don't want to shut that person down. If you
11 appear controversial with them, a lot of times,
12 even children, when you're scolding your children,
13 will do the same thing.

14 BY MR. DELGADO:

15 Q Sure.

16 A So I do try to leave open-ended questions --

17 Q Absolutely.

18 A -- to try to get people to come back to me.

19 Q Absolutely. As a matter of fact, you said, sir --
20 this is your line, your words, And, sweetheart, --
21 you are talking to Gregg -- And, sweetheart, I know
22 today has been very traumatic for you?

23 A Yes, sir.

24 Q No kidding. Absolutely.

25 A Uh-huh.

1 Q And I'm asking you to recount things that, that a
2 day or two later, it may come to you, I really
3 should have told him that. Correct?

4 A That was for the open-lined.

5 Q Exactly. Because you want to say to her, Nobody is
6 taking down exactly in this traumatic horrific
7 experience what you're saying is the complete
8 honest to God truth, never to be changed, is it?
9 Do you understand what I'm saying?

10 A You lost me halfway there.

11 Q Sure. Because if somebody says the truth is the
12 truth is the truth, the truth may be -- in a
13 traumatic experience like this, might be like
14 unpeeling an onion. Would that be fair?

15 A It would be fair. That was the reason for that
16 comment.

17 Q Exactly. And when you use the line sweetheart,
18 that was an open-ended thing, you wanted to build
19 trust and respect with her for you?

20 A Honestly, Mr. Delgado, I call everybody sweetheart,
21 except for men, I don't call men sweetheart, but
22 that is a common term I use.

23 Q I have that same -- I have that same -- I use the
24 same phrase. In the statement, quote -- this is
25 your statement to her -- I know this was a

1 traumatic experience and I know things are all
2 jumbled up. Because at a time like this, our mind
3 is not a computer, it just doesn't reflect
4 everything that happens in such a linear, logical
5 progression and remembrance? Wouldn't that be
6 fair?

7 A That's why I try to keep that line open.

8 Q Yes, sir, exactly.

9 A Yes.

10 Q Just one second.

11 A Sure.

12 (Pause.)

13 MR. DELGADO: I don't think I have any other
14 questions. Thank you.

15 THE WITNESS: Thank you, sir.

16 THE COURT: Ms. Sampson?

17 MS. SAMPSON: Very briefly, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. SAMPSON:

20 Q Mr. Delgado just asked you about using as
21 demonstrative these posters.

22 A Okay.

23 Q What's the purpose of putting things in your lobby
24 at headquarters?

25 A To get the information out to let them know there

1 are options for them.

2 Q So would it be fair to say it's to make it public
3 information?

4 A Yes, ma'am.

5 Q And you quoted a statistic about South Carolina and
6 criminal domestic violence. Is that common
7 knowledge, that we're the highest in the state?

8 A WIS puts it out all the time.

9 Q All right. And he asked you about she said hiding
10 and you couldn't remember how many times she said
11 it?

12 A Yes, ma'am.

13 Q What did she tell you about everyone knowing? Do
14 you remember her saying that everyone knew?

15 A I remember her saying that she had confided with a
16 co-worker or something, if I'm not mistaken.

17 Q She told you about, at least a co-worker, would
18 that be fair to say?

19 A At least a co-worker, maybe more.

20 Q And did she tell you his family knew, do you
21 remember her saying that?

22 A Mr. Demary's family knew. She had made contact
23 with some of his family members.

24 Q And, lastly, he asked you about her saying -- or
25 you saying that it was very traumatic, this day?

1 A I would assume it would be traumatic for anybody.
2 I've read a lot of articles about people defending
3 themselves in their homes and they'd be
4 traumatized. I've done a lot of studies on
5 officer-involved shootings where the officer was
6 justified in the shoot, but he actually ended up
7 retiring or leaving his job because it was so
8 traumatic. So it's a traumatic experience for
9 anybody.

10 Q And what if you shot someone and it was murder,
11 would that be traumatic?

12 A I would think. I've never done it, but I would
13 think.

14 Q So a shooting in itself, would it be fair to say,
15 is traumatic?

16 A Yes, ma'am.

17 MS. SAMPSON: No further questions, Your
18 Honor.

19 THE COURT: Mr. Delgado?

20 MR. DELGADO: Just one more area since Ms.
21 Sampson spoke to that.

22 Your Honor, we move this as Defendant's
23 Exhibit, whatever the next one is.

24 THE COURT: Any objection, Ms. Sampson?

25 MS. SAMPSON: Without objection.

1 THE COURT: Into evidence without objection.
2 (WHEREUPON, Defendant's Exhibit No. 11
3 was marked for identification and
4 received into evidence.)

5 THE COURT: Is that Defendant's 11, Mr.
6 Delgado?

7 MR. DELGADO: I'm sorry?

8 THE COURT: Is that Exhibit 11?

9 MR. DELGADO: It is.

10 BY MR. DELGADO:

11 Q Mr. Bailey?

12 A Yes, sir.

13 Q These things that I found in your lobby, now put on
14 as Defendant Exhibit Number 11, you see the little
15 thing down here that says, Break the silence. Look
16 at it real close.

17 A Not too close, sir.

18 Q Sure. See this right here?

19 A Yes, sir.

20 Q Okay. What that is are these little strip-off
21 things that are attached to that so people can come
22 and not only see the poster, but they can take this
23 and take it home because it's got numbers on it to
24 call to break the silence; isn't that right?

25 A Yes, sir.

1 MR. DELGADO: I move this into evidence.
2 Defendant's Exhibit 13, Your Honor -- excuse me,
3 12.

4 THE COURT: Any objection?

5 MS. SAMPSON: Without objection, Your Honor.
6 (WHEREUPON, Defendant's Exhibit No. 12
7 was marked for identification and
8 received into evidence.)

9 MR. DELGADO: Thank you, Your Honor. That's
10 all the questions I have.

11 THE COURT: Ms. Sampson?

12 MS. SAMPSON: None from me, Your Honor.

13 THE COURT: Any objection to excusing this
14 witness?

15 MS. SAMPSON: Not from the State.

16 MR. DELGADO: None, Your Honor. Thank you.

17 THE COURT: Thank you.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: Thank you. You may be excused. I
20 appreciate it, sir.

21 (Witness steps down and is excused.)

22 THE COURT: We've had a solid morning, so,
23 ladies and gentlemen, court will be in recess until
24 2:30.

25 (WHEREUPON, the jury is excused for

1 lunch at 1:00 p.m.)

2 THE COURT: Counsel, anything else we need to
3 talk about?

4 MS. SAMPSON: I don't think so, not from the
5 State.

6 MR. DELGADO: No, sir.

7 THE COURT: I will see y'all at 2:30.

8 (WHEREUPON, a lunch break was taken.)

9 (WHEREUPON, the proceedings resumed at
10 2:37 p.m.)

11 THE COURT: Anything need to take up before
12 jury comes back?

13 MS. SAMPSON: Beg the Court's indulgence one
14 moment.

15 (Pause.)

16 MR. PAULING: Nothing from the State, Your
17 Honor.

18 THE COURT: Let's bring the jury back in.

19 (WHEREUPON, the jury came into open
20 court at 2:38 p.m.)

21 THE COURT: Mr. Pauling?

22 MR. PAULING: Yes, Your Honor.

23 THE COURT: Ms. Li?

24 MS. LI: Your Honor, the State calls Don
25 Corbett.

1 (Witness approaches.)

2 THE CLERK: Place your left hand on the Bible,
3 and raise your right hand, please.

4 (Witness complies.)

5 THE CLERK: Do you solemnly swear or affirm
6 the testimony you give in this case will be the
7 truth, the whole truth, and nothing but the truth,
8 so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Have a seat and state your full
11 name for the record.

12 (Witness seated.)

13 THE WITNESS: Donald Corbett.

14 DONALD CORBETT,
15 after being duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. LI:

18 Q Mr. Corbett, good afternoon. Can you please spell
19 your last name for the record?

20 A C-O-R-B-E-T-T.

21 Q Thank you. Sir, what do you do for a living?

22 A I'm a paramedic with Kershaw County.

23 Q How long have you been a paramedic?

24 A Three years with the county and 20 years with the
25 hospital prior to the county.

1 Q Okay. So in 2014, specifically September 11, 2014,
2 you were employed by which agency?

3 A Kershaw Health.

4 Q And can you just generally describe for the jury
5 the duties of a paramedic?

6 A The duty of a paramedic is deliver advanced life
7 support care, transport patients to the emergency
8 room to receive additional care.

9 Q All right. Thank you, sir. So on September 11,
10 2014, were you dispatched to [REDACTED] Baynard Boykin
11 Road?

12 A Yes, we were.

13 Q And do you recall your understanding of why you
14 were dispatched out there?

15 A For a shooting, I believe.

16 Q Did you go with anybody?

17 A I went with Leanne Tripper, basic EMTs.

18 Q Can you please tell the jury what did you do when
19 you first arrived on the scene?

20 A When we first arrived on scene, I believe Deputy
21 Taylor pointed me towards the inside where the
22 victim was, and they wanted to confirm death. So I
23 went in with my life pack, which is a cardiac
24 monitor. I placed him on the cardiac monitor and
25 he had no activity. And I unhooked him after that

1 and left out of the house.

2 MS. LI: Your Honor, at this time, we request
3 permission to publish State's Exhibit Number 6,
4 which has already been entered into evidence?

5 THE COURT: You may publish it.

6 BY MS. LI:

7 Q And, Mr. Corbett, if you could please come down
8 here.

9 (Witness steps down.)

10 Q Sir, do you recognize the photo that's depicted --
11 excuse me, the scene that's depicted in this photo?

12 A Yes, ma'am.

13 Q And can you please tell us -- you were talking
14 about a life pack?

15 A Yes.

16 Q Can you describe what is a life pack?

17 A A life pack is a cardiac monitor. It has wires
18 that come out of it, generally four wires. You put
19 the wires on the upper arms and lower legs. And if
20 there's any electrical activity in the heart it
21 will show. In this gentleman's case, there was
22 none.

23 Q And can you please point out to the jury if the
24 life pack or any part of it is shown in this photo?

25 A In this photo, no, but you can see the electrodes

1 where we did have it connected. There's one on his
2 upper arm here and should be -- you can see the
3 edge of one here. And then there should have been
4 two on his lower extremity -- or one on each lower
5 extremity.

6 Q And did say what the results were when you placed
7 the life pack?

8 A He was asystole.

9 Q What does asystole mean?

10 A No cardiac activity at all.

11 Q All right. Thank you. Have a seat.

12 A (Witness returns to the witness stand.)

13 MS. LI: I'm showing the Defense what has been
14 marked as State's Exhibit 88 for identification.

15 MR. DELGADO: Without objection.

16 BY MS. LI:

17 Q Mr. Corbett, I'm handing you State Exhibit 88 for
18 identification. Can you please tell us if you
19 recognize that document?

20 A Yes, ma'am. This is my cardiac strip for that
21 call. It has the call number on it and the
22 patient's name.

23 Q What is a cardiac strip?

24 A It's a printout of the heart activity. Normally,
25 if there's heart activity of any kind, you'll have

1 a line that moves up and down, north to south. On
2 this strip, there was none. It was just flat line.

3 Q Thank you.

4 MS. LI: Your Honor, State moves -- State
5 offers State Exhibit 88 for identification into
6 evidence, I believe without objection?

7 MR. DELGADO: Without objection.

8 THE COURT: In evidence without objection.
9 (WHEREUPON, State's Exhibit No. 88 was
10 marked for identification and received
11 into evidence.)

12 THE COURT: That was Number 88, Ms. Li?

13 MS. LI: Yes, Your Honor.

14 BY MS. LI:

15 Q And, Mr. Corbett, once you were done with the
16 victim and determined there was no cardiac
17 activity, did you then encounter the Defendant in
18 any way?

19 A I believe we had -- she was refusing transport,
20 reported by Leanne. And as the paramedic, I always
21 ask, Are you sure you don't want to go to the
22 hospital? And she said she did not. She signed
23 the refusal form that we do as part of our
24 paperwork. And then we left.

25 Q And that concluded your activity in this case?

1 A Yes, ma'am.

2 MS. LI: Thank you, sir. No further
3 questions.

4 MR. DELGADO: We have no questions of this
5 witness.

6 THE COURT: Any objection to excusing Mr.
7 Corbett?

8 MR. DELGADO: None from the Defense.

9 MR. PAULING: None from the State, Your Honor.

10 THE COURT: Mr. Corbett, you're excused.
11 Thank you, sir.

12 THE WITNESS: Thank you.

13 (Witness steps down and is excused.)

14 THE COURT: Call your next witness.

15 MR. PAULING: Yes, Your Honor. At this time,
16 the State calls Toni Campbell.

17 (Witness approaches.)

18 THE CLERK: Place your left hand on the Bible,
19 and raise your right hand, please.

20 (Witness complies.)

21 THE CLERK: Do you solemnly swear or affirm
22 the testimony you give in this case will be the
23 truth, the whole truth, and nothing but the truth,
24 so help you God?

25 THE WITNESS: I do.

1 THE CLERK: State your full name for the
2 record, please, and have a seat.

3 THE WITNESS: My full name is Toni Campbell.

4 TONI CAMPBELL,
5 after being duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. PAULING:

8 Q Good afternoon, Ms. Campbell. How are you doing?

9 A I'm great. Thank you.

10 Q Ms. Campbell, where are you employed?

11 A I work at Kershaw County Medical Center.

12 Q And how long have you been working at the Medical
13 Center?

14 A I've been at Kershaw Health for approximately
15 eight -- seven, eight years.

16 Q Seven, eight years. And what field -- what is it
17 that you do at Kershaw Health?

18 A I'm a charge nurse.

19 Q Charge nurse?

20 A A charge nurse in the emergency department, yes,
21 sir.

22 Q How long have you been a charge nurse there?

23 A Since I was hired.

24 Q As a charge nurse, I just assume that means you're
25 an R.N.; is that correct?

1 A Yes, sir.

2 Q And what does that mean?

3 A I'm a charge nurse. It essentially means you run
4 the department, or another term in other hospitals,
5 assistant nurse manager.

6 Q As far as a registered nurse --

7 A Yes.

8 Q -- what does that mean?

9 A I'm licensed in the State of South Carolina as a
10 registered nurse.

11 Q So what's your educational background?

12 A I have an Associate Degree in nursing.

13 Q You said you've been an R.N. since 1999?

14 A Yes, sir.

15 Q And you have to have annual training or
16 recertification?

17 A Yes, sir.

18 Q And tell the jury about that. What are you
19 required to do?

20 A In different areas, depending on where you work,
21 you're required to have different certifications.
22 Once you take your NCLEX, you're, of course,
23 certified, but then you have to have so many hours
24 of training as far as education. And then you have
25 to have -- in our area, we have to have more, we

1 have to have advanced life support, pediatric
2 advanced life support, neonatal advanced life
3 support, and TNCC or EMCC, which is Emergency Nurse
4 Core Curriculum and Trauma Nurse Core Curriculum.

5 Q You indicated that you've been at Kershaw Health
6 about eight years; is that correct?

7 A Yes, sir.

8 Q Have you been with any other medical facilities?

9 A Yes, sir, I have.

10 Q And what are those?

11 A Just prior to working at Kershaw Health, I was a
12 nursing supervisor over the entire hospital at the
13 Regional Medical Center in Orangeburg. It's
14 approximately a 300-bed hospital, where I was a
15 supervisor over probably 80 employees on night
16 shift, so I ran the hospital at night. And then
17 traveled for a little while at different hospitals.
18 I was at Orangeburg and that's when they wanted me
19 to become supervisor, so I took that position and
20 became full-time. Before that --

21 Q In Orangeburg?

22 A Yes. And before that, I was at Rock Hill at the
23 Piedmont Medical Center as a traveler. And I was
24 also at -- I began my career at Palmetto Health
25 Richland and was there for 11 years.

1 Q So all total, it has been close to 20 years --

2 A Twenty years.

3 Q -- is that correct?

4 A Yes.

5 Q And been at Kershaw Health since about 2011; is
6 that correct?

7 A Yes, sir.

8 Q And as a charge nurse, as far as the staff, I guess
9 that you're over as such, how many is that -- when
10 I say over those people, what type of staff is
11 that?

12 A I'm over the other registered nurses in the
13 department, over the techs. I handle any
14 interdisciplinary issues. And then, of course,
15 depending on the time of day because of staffing
16 and budgets, we have patients certain portions of
17 the day.

18 Q What would a normal shift be for you as a charge
19 nurse?

20 A I come in at 7:00 o'clock. I would make patient
21 assignments to the other registered nurses that are
22 in the department. I would take my room
23 assignment, which would be a 5-bed room assignment.
24 We have a triage nurse. We have three nurses in
25 the back. We have an express care nurse and we

1 have a float nurse that comes in from 12:00 to
2 12:00. So I make the assignments for the day and
3 then I get report on the patients that are actually
4 in the rooms that I will be taking until the person
5 arrives to take over for me.

6 Q And is there a certain team of doctors you work
7 with or how does that --

8 A Yes, we work with one physician that works 7A to
9 7P, and then we have a physician that works 7P to
10 7A. We have a PA or an NP that works 10:00 to
11 10:00. And a PA or NP works from 2:00 to 1:00,
12 2:00 p.m. to 1:00 a.m.

13 Q And so when a patient is coming in to, say, a room
14 that you're actually assigned to, are you in the
15 room in contact with the patient when the doctors
16 examine them?

17 A Yes.

18 Q And what is your role while the examination is
19 going on?

20 A Usually, in an emergency room situation, the
21 doctor has -- of course, there's 15 rooms in our
22 emergency department. And depending on what
23 facility you're at, it varies. But, usually, the
24 nurse is the first to approach the patient. The
25 nurse does their interviewing, then we usually

1 re-enter the room with the physician. And are just
2 there to observe while they do their exam. We are
3 not involved in their exam. We do our initial exam
4 and then the physician goes in and does an
5 additional exam.

6 Q And while you do your portion of your exam, are
7 there notations that you make?

8 A Yes, sir.

9 Q And how do you make those notations? Are you doing
10 it right there in the room, is it something you put
11 in later in a computer system? How does it work?

12 A I usually will scratch things down on a piece of
13 paper, and then we computer chart. Sometimes, you
14 can do it in the room, depends on how lengthy your
15 notes are, how, you know, detailed they are, what's
16 going on in the situation.

17 A lot of times, like, for instance, when we
18 bring someone in and we triage them in the room,
19 we're, you know, putting in their vital signs and
20 doing their triage while we're actually in the room
21 speaking with them. Other times, when you have
22 more involved cases, sometimes you'll make
23 narrative notes and write down, you know, what
24 you're going to chart and then you go out and chart
25 it more extensively because it can take, you know,

1 some time to make those notes in the computer.

2 Q And I know you said triage. What does that
3 actually mean, triage?

4 A When you triage someone, you basically ask them --
5 you decide what their level of care should be.
6 Whether they're non-emergent, emergent, or they're
7 critical. And so we have an ESI level and we
8 determine what the severity is. And the ESI is
9 based on -- a Level 5 patient would be a person who
10 would require no resources, meaning they would not
11 require any lab work, any X-rays, any medication.
12 It would just be someone who came in and needed a
13 work excuse because they had a cold and they're
14 already treated by their primary doctor, for
15 instance.

16 Q Okay.

17 A A Level 4 would be someone who only requires one
18 resource. That is a person who would come in and
19 they would only need an X-ray or they would only
20 need lab work. If they need X-ray and a lab work,
21 that's two resources and that would require them to
22 be a Level 3.

23 Level 2 is a critical patient. That's what we
24 call a patient who is impending respiratory failure
25 or impending cardiac arrest. A Level 1 is cardiac

1 arrest or respiratory failure.

2 Q And specifically back on September 11th, 2014, were
3 you working as charge nurse at Kershaw Health on
4 that particular day?

5 A Yes, sir, I was.

6 Q Do you recall the shift you were on?

7 A 7A to 7P.

8 Q 7:00 a.m. to 7:00 p.m.?

9 A Yes, sir.

10 Q And during that shift while you were charge nurse,
11 did you come in contact with an individual by the
12 name of Gregg Pickrell?

13 A Yes, sir, I did.

14 Q If you can tell the jury, how did that come about?

15 A I had made the assignments that morning. And it
16 just so happened that another charge nurse that
17 works with us was -- we were crossing over on
18 shifts. She was assigned to triage and got a call
19 from her that they -- police had brought in an
20 individual that was assaulted. And, typically,
21 because I have been trained in -- when we hear the
22 word assault, we don't necessarily what it is yet
23 and we don't really question that over the phone.
24 So I immediately put it into my room because since
25 I had worked at Palmetto Health Richland, I had

1 also been trained in some of the forensic
2 examination of patients when they had come in with
3 trauma. So I put it into my room knowing that it
4 would be easier for me to care for the patient
5 knowing the process of who to call and what to do.

6 Q And you indicated that police had brought that
7 individual in -- law enforcement had brought that
8 individual in; is that correct?

9 A I was under the impression, yes, that it was law
10 enforcement.

11 Q I guess, did you actually meet with that individual
12 who had brought Ms. Pickrell in or were you just
13 told that?

14 A I was told that, I had not seen Ms. Pickrell or the
15 person who brought them in at that point.

16 Q Now, once you saw Ms. Pickrell, did you conduct, I
17 guess, preliminary exam, get a history --

18 A I did.

19 Q -- from her?

20 A I did.

21 Q And how do you go about doing that?

22 A With assaults, you always approach it gingerly. Of
23 course, I walk into the room and I try and sit down
24 and speak with the individual and ask them, you
25 know, what brings them to see us, you know, what

1 occurred. And it's my job to find out if this was
2 a physical assault or a sexual assault, because
3 those are treated in two extremely different splits
4 in the road.

5 Q You have different protocols for physical assaults
6 compared to sexual assaults is what you said?

7 A Yes, sir.

8 Q And, now, were you able to review the records from
9 her?

10 A Yes, sir, I have them.

11 Q And do you recall the history she provided to you?
12 What information did she provide you?

13 A I can read my note if you would like.

14 Q If you can read it, then when you've read over
15 it -- yes.

16 A Okay. Per patient, assaulted last night
17 physically. Patient does know the person. He came
18 by to get money that was in the mailbox. They have
19 had an on-again/off-again relationship that has
20 been violent in the past. Patient stated that she
21 was thrown onto the desk, choked, and thrown into a
22 wall. Patient stated the history of the same with
23 the assailant. This all went on between the hours
24 of midnight and 4:30 to 5:00 a.m. Patient admits
25 to consensual sex or consensual intercourse last

1 night. That the assailant got angry when he could
2 not ejaculate and began to get aggressive leading
3 to battery. Patient admits that both parties had
4 been drinking and that she states she had only one
5 vodka and grapefruit juice herself. Did not
6 question how much she had been drinking -- he had
7 been drinking.

8 Q And you made those notations at the time she
9 provided you that information?

10 A I made those notations on a piece of paper and went
11 back and wrote those, yes, sir.

12 Q Now, at the time that that history is being
13 provided to you, do you recall if law enforcement
14 is in the exam room at that point? Do you recall
15 ever talking to anyone?

16 A I don't believe I ever talked with anyone from law
17 enforcement. When I examined Ms. Pickrell, I was
18 under the impression that she was with a patient
19 advocate, not a law enforcement official. That she
20 was brought from the Sheriff's Department, but that
21 she was not with a law enforcement agent, she was
22 with a patient advocate.

23 Q And when she provided you this information, how was
24 she? What was her demeanor? How was she acting at
25 that point?

1 A She was calm. Did not -- flat affect. I mean, she
2 didn't -- she was very open about the story. She
3 did not -- usually, with like rape victims or
4 someone, they're very emotional, but she was calm
5 and explained to me, you know, what had happened to
6 her.

7 Q Do you recall what time it was that day that she
8 actually came into the ER?

9 A It was around between 2:00 and 3:00 o'clock p.m.

10 Q What did she complain of? I understand she gave
11 you the history of what had happened, but what did
12 she complain of physically?

13 A She complained of, primary pain was in the face and
14 neck, to the left side of her face, and pain in the
15 mid to upper spine.

16 Q Now, did she -- well, based on the history that you
17 got, did you consult with the doctor or did you
18 already determine what level she was, whether it
19 was 2, 3, 4 at that point?

20 A We determined that she was a Level 3, meaning that
21 she would need multiple resources.

22 Q And what resources were those?

23 A At that time, it was labs and X-rays.

24 Q Was she sent to X-ray?

25 A Yes, sir.

1 Q Do you recall if there was any significant
2 findings?

3 A No, sir, there were not. There was soft tissue
4 swelling, but no significant injury.

5 Q Did she complain of any -- a urinary tract
6 infection? Did she have that?

7 A No, sir, she did not. We did a urinalysis because
8 she had complained of the back pain. And with
9 anybody who is assaulted, we typically do do a
10 urinalysis to make sure that there's no blood in
11 the urine that could indicate kidney injury. So
12 she did have an incidental finding of having a
13 urinary tract infection, but there was no complaint
14 of that when she came in.

15 Q Now, was there a rape protocol done?

16 A No, sir.

17 Q And, again, why was that?

18 A Because she was questioned multiple times and she
19 stated adamantly that she was not sexually
20 assaulted, that the sex was consensual with the
21 individual.

22 Q Did you make any additional notations other than
23 the initial history information that you received?

24 A There was a notation made by the physician, a
25 notation made by itself, and a notation made by the

1 triage nurse that she was not sexually assaulted.

2 Q Now, she gave you the history of the assault --
3 regarding the assault. Did she indicate what had
4 happened with the person who she says assaulted
5 her?

6 A No, sir.

7 Q Okay. All right. Now, was there any type of
8 medication that was prescribed to her?

9 A She was given Flexeril, which is a muscle relaxant,
10 Naproxen, which is a anti-inflammatory. A lot of
11 people know it as Aleve or Anaprox. And then she
12 was given Cipro, which is an antibiotic for the
13 urinary tract infection.

14 Q Cipro?

15 A Yes, sir.

16 Q Now, was she given instructions related to whether
17 or not she needed to return to the ER? If at all?

18 A Ice for swelling, heat to neck and back for
19 tightness, medications as prescribed, return for
20 any worsening symptoms, take medications for blood
21 pressure and follow-up with Dr. Alderson. Have
22 your urine rechecked in 10 days.

23 Q Do you know if she returned to the ER as it relates
24 to this particular --

25 A No, sir --

1 Q -- event?

2 A -- she did not.

3 MR. PAULING: Beg the Court's indulgence.

4 (Pause.)

5 MR. PAULING: Thank you, Ms. Campbell. I have
6 no further questions at this time.

7 THE WITNESS: Okay.

8 THE COURT: Mr. Delgado?

9 CROSS-EXAMINATION

10 BY MR. DELGADO:

11 Q Hi.

12 A Hi.

13 Q Ms. Campbell, did you say that there were x-rays of
14 the face or facial --

15 A Yes, sir, there were.

16 Q Would you read those for the jury, please?

17 A Absolutely. That is the one thing I don't have
18 printed. If you have one, I'll be glad to read it.

19 Q I'm sorry?

20 A I do not have a printout of the X-ray, but if you
21 have one, I will be glad to read it.

22 Q All right. Let me -- while Ms. Zmroczek does that,
23 let me ask about something else.

24 A Sure.

25 Q Three medications. And, ma'am, I'm going to hand

1 you what has been marked as Exhibits 8, 9, and 10
2 for identification. I want you to look at these
3 and see if these correspond with what was
4 prescribed?

5 A Yes, sir. Physician notes. Naproxen,
6 550 milligrams, po q 12 hours, dispense 20 tablets.
7 That's correct. This does not match. And then
8 Flexeril, 10 milligrams, one tablet by mouth three
9 times a day, dispense 21 tablets. That is correct.
10 This one is not on there, but it is a narcotic, so
11 it would not be.

12 Q Say that again. I'm sorry.

13 A The Cipro is not in here, which is the antibiotic
14 that she was prescribed.

15 Q All right.

16 A This is a narcotic.

17 Q Yes, ma'am.

18 A It has to have a handwritten prescription because
19 it is a controlled substance.

20 Q Right. That's an Oxycodone --

21 A Yes, sir.

22 Q -- derivative? What is the date on the one that
23 does not match -- well, first of all, when were all
24 of those filled?

25 A May I pull them out?

1 Q Sure. Absolutely. It's hard. I'm sorry.

2 A This one was filled on 9/12, which is the Naproxen.

3 The Oxycodone or hydrocodone was filled on 9/12.

4 And the Flexeril was filled on 9/12, as well.

5 Q All right. And they were all prescribed by the
6 same physician; is that right?

7 A Dr. Ralph Hess, yes.

8 Q Dr. Ralph Hess, H-E-S-S; is that correct?

9 A Yes, sir.

10 Q Let me just keep those. Thank you very much.

11 MR. DELGADO: Your Honor, we now move these
12 into evidence.

13 THE COURT: I thought they were in evidence.

14 MR. DELGADO: No, sir, for identification. I
15 had previously marked them for ID.

16 THE COURT: Any objection?

17 MR. PAULING: Without objection, Your Honor.

18 THE COURT: Still got it as 8, 9 and 10,
19 Exhibits 8, 9 and 10.

20 MR. DELGADO: Thank you.

21 THE COURT: Admitted without objection.

22 (WHEREUPON, Defendant's Exhibit Nos. 8 -
23 10 was marked for identification and
24 received into evidence.)

25

1 THE WITNESS: I do apologize. I'll make a
2 clarification. I do see that on this note as well.

3 BY MR. DELGADO:

4 Q Just one second. All right, Ms. Campbell, tell us
5 again. You made a --

6 A I do see on the first page of the note that I did
7 not see --

8 Q Speak up, I'm sorry.

9 A I did not see it on the first page of this note,
10 but it is here that the hydro -- or Norco was
11 prescribed.

12 Q So she was prescribed four things?

13 A Yes, sir.

14 Q Is that correct, ma'am?

15 A Yes, sir.

16 Q We only have three here?

17 A Right, the Ciprofloxacin is missing.

18 Q Okay.

19 A Yes, sir.

20 Q Now, let me give you something else as well and
21 see, first of all, if you can identify what looks
22 to be like a form or at least typed in the style of
23 the Kershaw Health Medical Center?

24 A Yes.

25 Q Go down to the facial -- excuse me, to the progress

1 notes and read that. And then if you would,
2 explain that for us, please.

3 A Evaluation performed, CTs of the head, face and
4 neck.

5 Q Wait, say that again. BP?

6 A CT.

7 Q CT, which means what, ma'am?

8 A That's a CAT scan.

9 Q CAT scan?

10 A Uh-huh. Of the head, face and neck. Unremarkable,
11 except questionable nasal fracture. T-spine, no
12 fracture. Degenerative changes.

13 Q So in other words, unremarkable except, and a
14 question mark, nasal fracture; is that correct?

15 A Yes, sir.

16 Q Okay. That would be in this area of the face or
17 the head; correct?

18 A At the nose, yes, sir.

19 Q At the nose, okay.

20 MR. DELGADO: Just one second, please, ma'am.

21 (Pause.)

22 MR. PAULING: Without objection.

23 MR. DELGADO: Your Honor, there's a -- we'll
24 reprint this, but without objection to the
25 evaluation performed about the question mark about

1 the facial fracture.

2 THE COURT: Defendant's 24.

3 (WHEREUPON, Defendant's Exhibit No. 24

4 was marked for identification and

5 received into evidence.)

6 BY MR. DELGADO:

7 Q Ms. Campbell, what that means is -- ma'am, when a
8 physician or yourself puts down unremarkable except
9 question mark nasal fracture, that means something
10 is unclear and we've got to do either more testing
11 or more -- got to get more information about
12 whether or not the nose has been broken; is that
13 correct?

14 A It can be multiple things. It could mean that
15 there is an old injury.

16 Q I'm sorry?

17 A It could mean that there's an old injury.

18 Q Yes, ma'am.

19 A It could mean that there's soft tissue swelling and
20 there's an abnormality there in the bone structure.

21 Q That abnormality could come from a constant or a
22 series of assaults to the face?

23 A It can, yes, sir.

24 Q Let me do this, ma'am. When you say you found the
25 fourth prescription, is that reflected here on Page

1 5?

2 A Yes, sir, it is.

3 Q All right.

4 A Yes, sir.

5 MR. PAULING: Without objection, Your Honor.

6 MR. DELGADO: Your Honor, move into evidence
7 Defendant's Exhibit Number 25, please.

8 THE COURT: In evidence without objection.

9 (WHEREUPON, Defendant's Exhibit No. 25
10 was marked for identification and
11 received into evidence.)

12 MR. DELGADO: Ms. Campbell, I think that's
13 all. Thank you very much.

14 THE WITNESS: You're welcome.

15 THE COURT: Mr. Pauling?

16 MR. PAULING: Just briefly.

17 REDIRECT EXAMINATION

18 BY MR. PAULING:

19 Q Ms. Campbell, are there any number of ways a person
20 can get injured in the face?

21 A Absolutely.

22 Q Now, as far as Ms. Pickrell is concerned, does she
23 have a history of other injuries? When I say
24 "history of other injuries," what I'm asking about
25 is family history of injuries?

1 A I would have to look back at her medical history.
2 If you'll give me a moment.

3 Q Yes.

4 (Pause.)

5 A She did not report anything other than
6 hypertension, heart disease, and supraventricular
7 tachycardia as far as her medical history.

8 Q As far as what she provided, was there any history
9 regarding any type of spine disease of any sort?

10 A She did not, but the X-rays read degenerative
11 changes, so. Well, the X-ray that I just read.

12 MR. PAULING: No further questions, Your
13 Honor.

14 THE COURT: Mr. Delgado?

15 RECROSS-EXAMINATION

16 BY MR. DELGADO:

17 Q Ms. Campbell, what my friend just asked you about
18 was if the client, the patient tells the truth.
19 Sometimes folks don't tell everything that's
20 happened to them, wouldn't that be fair too?

21 MR. PAULING: Objection, Your Honor.

22 MR. DELGADO: If they want --

23 THE COURT: Hold on. I'll allow it.

24 MR. DELGADO: Sorry, Judge.

25 THE COURT: Go ahead, Mr. Delgado.

1 BY MR. DELGADO:

2 Q If they want to hide certain things that have
3 happened to them, they wouldn't necessarily tell
4 that family history or history themselves, would
5 they?

6 A That's certainly possible, yes, sir.

7 MR. DELGADO: Thank you, ma'am. That's all.

8 MR. PAULING: Nothing further, Your Honor.

9 THE COURT: Any objection to excusing this
10 witness?

11 MR. PAULING: None from the State, Judge.

12 MR. DELGADO: No, sir.

13 THE COURT: Ms. Campbell, you're excused.

14 THE WITNESS: Thank you.

15 (Witness steps down and is excused.)

16 MS. SAMPSON: Beg the Court's indulgence.

17 (Pause.)

18 MS. SAMPSON: Your Honor, I believe we may
19 have a matter of law before the next witness.

20 THE COURT: Okay.

21 Ladies and gentlemen, we have a matter of law
22 to discuss. I ask the bailiff to take you back to
23 the jury room.

24 (WHEREUPON, the jury retires to the jury
25 room at 3:19 p.m.)

- 1 Q And where do you work?
- 2 A I have been assigned full-time to the United States
3 Secret Service since 2010.
- 4 Q Since 2010. And prior to 2010, what did you do?
5 Were you still in that position or were you with
6 the Sheriff's Department or where were you?
- 7 A No, I was with the Columbia Police Department as a
8 white collar investigator.
- 9 Q And when did you start -- first start working in
10 law enforcement?
- 11 A In 1999.
- 12 Q What did you start as in 1999?
- 13 A Just a patrolman.
- 14 Q And the jury has heard some of this, but you guys
15 go through a training procedure, straight
16 patrolman?
- 17 A Yes. Basic law enforcement academy and then
18 continue in training throughout your career.
- 19 Q And you said that you did white collar at?
- 20 A Columbia Police Department.
- 21 Q What is white collar?
- 22 A It's money laundering, embezzling, bank fraud,
23 things of that nature.
- 24 Q And at some point, did you ever become someone who
25 did a lot with electronic devices and electronic

1 recordings, things of that nature?

2 A Yes, I was approached by the Secret Service to come
3 work for them as a task force agent. Basically,
4 I'm still employed by one agency, but I am
5 full-time assigned to another agency. Columbia
6 pays my -- continues to pay my benefits for my
7 retirement, but Secret Service pays for my travel,
8 training, security clearance, everything else.

9 Q And I think you called it the task force? What is
10 that?

11 A Yes. This particular task force was enacted after
12 9/11, the 9/11 attacks. Basically, in today's
13 technology, everybody uses either a computer or a
14 cell phone. They communicate illegal activities,
15 conduct illegal crime using computers and cell
16 phones. And because it's a plethora of information
17 to go through, they did not have enough people to
18 sift through certain digital data for certain
19 crimes.

20 Q And you said it was after 9/11. Are you
21 investigating federal crimes, local crimes, state
22 crimes, or just whatever happens?

23 A Well, the Secret Service Task Force was initiated
24 after 9/11. I was not brought in -- the South
25 Carolina -- the Secret Service initiated the task

1 force for South Carolina in 2009. And I was one of
2 six original people approached to be on that task
3 force.

4 Q And so as part of that task force, what is your
5 training?

6 A Primarily on the task force, my primary area of
7 responsibility is digital forensics, but I also do
8 some federal financial crimes and some protection
9 detail when called to do so.

10 Q And you may have said this. Did you get any
11 training on how to download phones?

12 A Yes. I received training from Mississippi State
13 University Computer Forensic Research Center, the
14 Federal Law Enforcement Training Center, the
15 National Computer Forensic Institute. And,
16 basically, many of the tools that we use, I take
17 in-depth training for those tools.

18 Q And is this training annual, all the time in other
19 words?

20 A It's continuance training.

21 Q And why does it have to be continuing?

22 A It changes constantly. Technology changes
23 constantly.

24 Q So it'd be fair to say you never call yourself an
25 expert?

1 A No, I do not call myself an expert.

2 Q Because why?

3 A It changes so dramatically. What was appropriate
4 or what was the norm for digital technology six
5 months ago is not acceptable today. Operating
6 systems release new updates yearly. New phones are
7 updated. So what was generally used two years ago,
8 they don't use anymore. So it's continually
9 changing.

10 Q So I want to talk a little bit about technology.
11 In 2014, would you then have been able to download
12 a phone if you didn't know, say, the pass code to
13 the phone?

14 A Yes.

15 Q Would you agree the technology today is better than
16 the technology in 2014?

17 A Yes, it is.

18 Q And as law enforcement, you can download cell
19 phones? You personally can do that?

20 A Yes.

21 Q And how did you become involved in this case?

22 A I was approached by the Kershaw County Sheriff's
23 Department. I do a lot of service for them. As
24 the Secret Service of the Columbia field office, we
25 support other law enforcement agencies. So any

1 agency that requests our assistance, we provide
2 that service.

3 Q And is it true -- well, is it possible for a local
4 agency not to have the same technology as you all
5 have access to in terms of downloading phones?

6 A Yes. Generally, the consensus -- the equipment and
7 training that goes along with it can be upwards
8 close to a million dollars. And a lot of agencies
9 can't afford that, so the federal government
10 provides that service free of charge to those
11 agencies.

12 Q So it's not unusual for you to get, say, a phone
13 from Kershaw or Richland or any other county
14 because they don't have the equipment?

15 A Correct.

16 Q And is that what happened in this case?

17 A Yes.

18 Q So you were provided -- what were you provided?

19 A Before I do any examination, I must either have a
20 legal process, either search warrant or subpoena,
21 or a written consent. In this case, they provided
22 a search warrant.

23 Q And how many phones were you given to download?

24 A In 2014?

25 Q Yes.

1 A In 2014, I was originally given five phones, but I
2 was only able to process -- I'm sorry, I take that
3 back. I was given five pieces of evidence, two
4 phones -- three phones, but only two I was able to
5 process at the time.

6 Q And why couldn't you process the third one?

7 A It was a Motorola at the time and Motorola's
8 encryption was pretty substantial back in 2014.

9 Q And were you ever able to download that phone?

10 A Yes. As technology progresses, I was reissued
11 another search warrant for that Motorola and I
12 processed it in 2018. I was able to break the
13 encryption and also provide the password for that
14 phone.

15 Q I just want to be clear, the phone that you just
16 recently processed could not have been done in
17 2014?

18 A Not without the pass code.

19 Q You tried?

20 A Right.

21 Q And so are you provided information as to the
22 phone, who belongs to what phone?

23 A No.

24 Q Do you have any information when you're provided as
25 to the phone number of each phone?

1 A The more information that I'm given at the time of
2 the extraction or the examination -- you know, the
3 more information I have, the better off it's going
4 to be. If they have the phone number, they can
5 provide it. Usually, it's written in the search
6 warrant. But if they don't have it, generally, I
7 can pull it off the SIM card, or if it's an older
8 phone that doesn't use a SIM card, I can pull it
9 from the MSISDM file.

10 Q In this case, did you know which phone was the
11 Defendant's, which one was the victim's, which one
12 was anybody's?

13 A In 2014?

14 Q Correct. Start there.

15 A At the time, I want to say I didn't know. They're
16 just, Hey, we need this information, can you get it
17 for us?

18 Q Did you ever figure out which phone was which?

19 A Yes.

20 Q And can you tell the jury?

21 A Yes. The Motorola phone that I originally had
22 difficulties with, it apparently belonged to the
23 victim.

24 Q And the other two phones?

25 A The other two phones, I'm assuming belonged to the

1 Defendant.

2 Q Now, as I'm marking these, can you explain how you
3 extract information from the phone?

4 A Yes. There are two primary extractions for phones,
5 computers, all digital items that store digital
6 evidence. Logical extraction and a physical
7 extraction. Logical are the items that you see on
8 your device. When you look at your computer, you
9 look at your phone, you look at your photos, you
10 see your call logs, that is logical information.
11 That is stuff that's readily available and
12 continuously updated. Physical extraction contains
13 not only the logical stuff, but it contains also
14 the stuff you can't see, all your deleted stuff,
15 applications running in the backgrounds, stuff that
16 you really can't see. We prefer to do it physical
17 if we can.

18 Q Now, you said -- you brought up deleted. So if I
19 take my phone out and I look at a text message and
20 then delete it, is it gone from my phone?

21 A No. It will be eventually over time depending on
22 how much use the phone gets and how much time goes
23 by, yes, it could be overwritten.

24 Q But if I were to delete it today and hand you my
25 phone right now, could you still extract that

1 deleted text?

2 A In a matter of seconds.

3 Q And would it read the same in the report or does it
4 read differently if it's been deleted?

5 A If we're just only talking about a phone?

6 Q Yes, just a phone.

7 A If we're talking about a phone, it's going to --
8 depending on the phone itself, depending on the
9 operating system, whether it's an Android system,
10 whether it's an Apple system, whether it's the old
11 Brew system or old Windows phone, it's going to
12 delete differently. So the actual content may
13 still be there, but there may be some question as
14 far as when it was deleted as far as time stamps.
15 And it could be stored two or three different times
16 and two or three different databases, depending on
17 what time of operating system was running at that
18 time.

19 Q And were you able -- I know you said in 2000 --
20 recently, you've been able to extract from the
21 victim's phone. Were you able to extract from the
22 other two phones, do extractions on the other two
23 phones?

24 A Yes. I did extractions on all phones that were
25 provided. In order to break the encryption on the

1 phone I just received, the Motorola, I had to do a
2 physical, there's no way around it.

3 Q And when you extract from the phone, is it a lot of
4 information that's given?

5 A Depending on how much phone gets used.

6 Q It could be hundreds of pages?

7 A Our record for right now just in our lab is 39,000
8 pages.

9 Q And in this case, was it -- did it get to even a
10 thousand pages? Let's start with the two phones
11 that you did in 2014?

12 A Those phones are relatively -- I can't remember how
13 many pages that my report is on that, but those
14 phones are relatively smaller, if I recall, in
15 comparison to the phone I did in 2018.

16 Q And are you able to download, say, pictures?

17 A Yes.

18 Q What about videos or anything like that? Can you
19 download whatever is in the phone, theoretically?

20 A Yes. If we're able to pull a physical extraction,
21 we can get every bit and byte that is on that
22 device. The problem or the trouble that you will
23 run into is we use what's called scripts to go in
24 and try to carve out certain parameters. If I'm
25 looking for text messages, it's going to run that

1 script.

2 Now, there are -- the problem you're going to
3 run into are the applications. Right now, there
4 are tens of thousands of applications. We do not
5 have scripts for every single application out
6 there, but your general --

7 Q When you say -- I'm sorry.

8 A I'm sorry.

9 Q When you say applications, would that be what we
10 normally call apps for all of us?

11 A Yes. But what we generally call your standard call
12 logs. System files is what we're called, call
13 logs, text messages, things that come standard on
14 your phone when you open it up and you start it.

15 Q And, now, I've looked at these reports. I know
16 sometimes things are listed as SMS versus MMS.
17 What is the difference?

18 A SMS is a short messaging service. Our language
19 that we use when we use our computers and our
20 phones is eight bit language. SMS was developed
21 because you cannot sent eight bit over a phone
22 line, so you have to compress the phone and so they
23 shortened it. So that's why when you use standard
24 SMS service on a phone, you're only limited to so
25 many characters and then it cuts off and sends a

1 second text.

2 Q So that's like when sometimes you're texting, it
3 will say one of two?

4 A One of two, if you're using the system file, but if
5 you're using a third-party applications, such as
6 Imessage or, you know, Text Now, these are just
7 examples, you can send unlimited because it's not
8 going through the phone system, it's going through
9 the data plan. And MMS is attachments from
10 multimedia, such as pictures, videos.

11 Q I want to show you what's been marked State's
12 Exhibit 89. Do you recognize that?

13 A Yes. This is a Cellebrite reports. Cellebrite is
14 one of tools that we use.

15 Q You say it's a tool you use? What is it for?

16 A Yes. We have many tools we use, but generally we
17 have one that we normally go to, it's called
18 Cellebrite. It was originally developed by Israeli
19 intelligence. And they are the most prominent in
20 the forensic field as far as phones.

21 Q And you said Cellebrite is what you use?

22 A It's our primary tool that just about every
23 forensic examiner is going to use.

24 Q And is that what you used for these phones?

25 A Yes, sir.

1 Q Did you use it for all three?

2 A Yes, I used it for all three. But let me verify.
3 Yes, I used the Cellebrite for all three. And I
4 used an additional tool on the phone that I just --
5 on the victim's phone as well.

6 Q And the exhibit that I gave you, 89, is that the
7 whole extraction report?

8 A It doesn't appear to be. It does not appear to be
9 the whole extraction.

10 Q But what it is, is that a fair and accurate
11 depiction of that portion the report?

12 A This appears to be text messages.

13 Q And is it a fair and accurate depiction of these
14 text messages?

15 A Yes, this is how we generate a report for the text
16 messages.

17 MS. SAMPSON: At this time, I'd ask to
18 introduce State's Exhibit 89?

19 MS. ZMROCZEK: Without objection.

20 THE COURT: State's 89 in evidence without
21 objection.

22 (WHEREUPON, State's Exhibit No. 89 was
23 marked for identification and received
24 into evidence.)

25 BY MS. SAMPSON:

1 Q And I'm going to ask you -- so I'm going to give
2 this to you and get my copy.

3 THE COURT: Just for my notes, which phone is
4 that from?

5 MS. SAMPSON: This one is from -- that's what
6 I was about to talk about.

7 THE COURT: Sorry.

8 MS. SAMPSON: Sorry.

9 BY MS. SAMPSON:

10 Q And this is from one of the first two phones;
11 correct? It's not the one you did in 2018?

12 A No. I would need the actual first two pages from
13 my report to verify which phone is --

14 Q If I tell you that it's from one of the first two
15 phones, would you doubt me in that?

16 A Yes. I mean, that's fine.

17 MS. ZMROCZEK: Your Honor, we don't contest or
18 object.

19 THE COURT: Okay.

20 BY MS. SAMPSON:

21 Q All right. And I just want to ask you a couple of
22 questions about what the columns mean. Okay, if
23 you'll go to the second page of what I handed you,
24 of 89. So where it says party and then it says
25 from.

- 1 A Uh-huh.
- 2 Q What does that mean? Just so we all are on the
3 same page.
- 4 A This is either the incoming or outgoing call or
5 text message. The party is the originating number.
- 6 Q Okay. So where it says from, it's whoever sent it
7 to that phone?
- 8 A Correct.
- 9 Q And then the next column says time. And it's got a
10 date and a time. Are those accurate?
- 11 A Yes, to a point.
- 12 Q What do you mean by to a point?
- 13 A There again, when it goes back to deleted
14 information, depending on the device, if it was
15 deleted, the time stamp may not be as accurate. If
16 it is -- hasn't been deleted and it's still
17 residing in logical -- the logical section of the
18 drive or the disk, it's accurate.
- 19 Q And is there a way to tell on this record if it was
20 deleted based on this report that you printed out?
- 21 A Yes. If the file, the text message or the call log
22 is listed as intact, that is still residing in
23 logical data, which the time stamps are more
24 accurate.
- 25 Q Okay. So, for example, number one says intact and

1 it has a date and time, you would say that's
2 reliable?

3 A Yes, that is still in logical and is reliable.

4 Q And then there's a column that says status. What
5 is that column?

6 A For this particular phone, in this column where
7 it's status, it depicts -- this phone records
8 whether or not the person opened the text message
9 or did not open the text message. In this case, it
10 would be read.

11 Q It wouldn't tell you, though, if they responded,
12 just if they actually clicked it opened?

13 A Right.

14 Q And then there's a column that says message, what.
15 Does that column have in it?

16 A That is the content of the message.

17 Q And it does that for each text on these particular
18 page that was received by that phone?

19 A Yes.

20 Q And I want you to go to -- if you go to Page 86.
21 It starts at two. You see number one, that says
22 two?

23 A Uh-huh.

24 Q Is that saying that she or whoever the phone sent
25 something somewhere?

- 1 A Which column are you looking at, because there's an
2 outbox and a sent?
- 3 Q I'm sorry. If you go to the --
- 4 A Sent, okay.
- 5 Q And where it says sent, it has 1,007; is that
6 correct?
- 7 A Yes.
- 8 Q And where it has two and then a phone number, is
9 that saying that that phone sent something to
10 someone?
- 11 A Yes, that's the outgoing number it's contacting.
- 12 Q And, again, the same -- kind of reads the same as
13 far as it now has dates and times, then whether it
14 went -- and then had a status of sent?
- 15 A Correct.
- 16 Q What does that mean?
- 17 A Sent -- it was successfully sent. The only way to
18 verify that it was received on the other device is
19 if you pull another extraction from the receiving
20 device and it says received or read or intact.
- 21 Q As far as her phone -- or that phone is concerned,
22 it got sent?
- 23 A Yes.
- 24 Q And then it's got a box for the message?
- 25 A Correct.

1 Q And that would be the message that the person sent
2 to whoever it went to?

3 A Yes.

4 Q And then same with the column about intact?

5 A Yes.

6 Q That means it wasn't deleted?

7 A It was not deleted.

8 Q Now, in looking at these, I see the first page it's
9 all from the first few pages and then the next
10 section is to. Why don't they go back and forth
11 and back and forth so you can see if she's
12 responding to a text?

13 A It's -- depending on when the time that it was
14 sent, some time could go by before the person
15 either sends the message, receives the message.
16 It's going to be in chronological order, but it's
17 not going to be in a timeline format. I do a
18 separate timeline for conversations.

19 Q So this report just shows all that was from and one
20 section and then all that was to, that's how it was
21 broken down?

22 A Right, it's broken down into sections, all sent,
23 all received, all missed.

24 Q But if you looked at her phone -- or the phone, it
25 wouldn't look like this?

1 A It would not look like this. It would be in
2 chronological order based on the conversation
3 itself.

4 Q And you don't -- in any of State's Exhibit 89, you
5 don't have information or were you given
6 information as to the phone numbers, who they
7 belonged to?

8 A No.

9 Q Any of those phone numbers?

10 A No.

11 Q I'm going to show you what's been marked as State's
12 Exhibit 90 and see if you recognize that?

13 A This would be the -- it appears to be my timeline I
14 generated for the Motorola phone.

15 Q So that's for the one that you most recently?

16 A Correct.

17 Q And that would be the victim -- or Mr. Demary's
18 phone?

19 A Yes.

20 Q And --

21 MS. ZMROCZEK: I'm sorry, what number was
22 that?

23 MS. SAMPSON: Ninety.

24 BY MS. SAMPSON:

25 Q And did that seem to be a fair and accurate

1 depiction of what was extracted from his phone?

2 A Yes.

3 MS. SAMPSON: At this time, I'd ask to
4 introduce State's Exhibit 90 into evidence?

5 MS. ZMROCZEK: Without objection.

6 THE COURT: State's 90 in evidence without
7 objection.

8 (WHEREUPON, State's Exhibit No. 90 was
9 marked for identification and received
10 into evidence.)

11 BY MS. SAMPSON:

12 Q Now, this one is in a little different of a format?

13 A Uh-huh.

14 Q Why is that?

15 A This is a timeline.

16 Q Can you explain that to the jury?

17 A When a user is using their phone, when they hit the
18 home button or they send a text or they make a
19 call, any buttons they push, any calls they accept
20 or send, all that, the phone logs it. All the
21 information that we receive, it comes from log
22 files that the phones and computers automatically
23 log. Those are the files that we exploit to get
24 the information. It's -- those logs are created
25 for the manufacturer to debug or find out what

1 problems are going on.

2 Any time a user, like I said, pushes a button
3 or makes a call, it's logged. I pull it out and I
4 will generate a timeline. And it's a sequential
5 timeline of the user data. There are other things
6 that are running in the background, such as apps
7 and stuff that may show up, but I try to do my
8 timelines for the user profile.

9 Q Now, so on this report that we have, it is very
10 lengthy. Just this section is 503 pages; correct?

11 A Yes.

12 Q And would you agree or disagree that this is just
13 one part of what you extracted out of the
14 Defendant's phone?

15 A Oh, yes. No, this is just a timeline that I
16 generated --

17 Q Excuse me, and I said the Defendant's phone, I mean
18 Mr. Demary's phone?

19 A Right. This is the timeline that I generated based
20 on the user data. There are a lot of other
21 information that also comes with this.

22 Q And this one is in a time format where it goes
23 from -- it's in chronological order?

24 A Yes, I put it in chronological order.

25 Q You put it in chronological order?

1 A Well, once I examine the phone, I give a timeline
2 out of courtesy. But, yes, I push the button to
3 make sure that the timeline is generated.

4 Q Although the other one that we've introduced is not
5 that way?

6 A No, this is not.

7 Q And that's fine. I just wanted the jury to
8 understand there's two different ways of doing it.
9 Is that fair?

10 A Yes.

11 Q And so let's go over kind of how this one works?

12 A Okay.

13 Q So it's in the same as far as columns; correct?

14 A Yes.

15 Q And it had -- you already told the jury what SMS
16 message. Then it has the next column direction.

17 A Uh-huh.

18 Q Is that showing how it gets to the phone or who's
19 sending it; is that fair to say?

20 A Yes, and the timeline is going to show incoming or
21 outgoing.

22 Q And then this one says incoming or outgoing?

23 A Yes.

24 Q On the other report, it said to or from?

25 A Correct.

- 1 Q And then it has time stamp?
- 2 A Right.
- 3 Q What is time stamp?
- 4 A Time stamp is at the file table where the message
5 would reside. And that's where we get our time
6 stamp. It would be the time that the user
7 initiated that action, whether it would be to
8 answer a call, send a text message, receive a text
9 message. You know, it's what the user initiated.
- 10 Q And then it has phone numbers; right?
- 11 A Yes.
- 12 Q And then it has in the next column what was either
13 sent or received?
- 14 A Correct.
- 15 Q Is that fair to say? Now, I want to talk to you
16 about on this -- then it has the last column, I'm
17 sorry. In this one, it has deleted. What does
18 that column mean? Is that the same --
- 19 A Yeah, it will say whether -- either it's deleted,
20 yes or no.
- 21 Q Okay. And on this one, sometimes -- I'm going to
22 go with the very first page. It's got three what
23 look to me to be exact same messages in the
24 description box?
- 25 A Right.

1 Q Can you explain why some of these on this set
2 repeat three times?

3 A Yes. Again, it's going to go back to the type of
4 operating system the phone is using. Every phone
5 is different. In this situation, the phone, when
6 the message was deleted or a file was deleted, it
7 will go into a database. And depending on what
8 operating system is, the operating system may, you
9 know, take some information off and store it in
10 another database and make take some information, to
11 clean up space, and store it in another database.
12 So you may have -- on your deleted entries, you may
13 have three entries that say, you know, this date
14 and this time, when there's only actually one. And
15 that's why it's not as reliable -- time stamps with
16 deleted information is not as reliable as logical.

17 Q And so even though it looks like this message was
18 sent -- was received by the phone three times, it
19 really was only received once; is that fair to say?

20 A That is correct.

21 Q And on that first page, almost every single one of
22 those is that way; correct?

23 A Yes.

24 Q And if you want to look through, most of them were
25 that way for the text messages in this report;

- 1 correct?
- 2 A Right.
- 3 Q Whether it's incoming or -- well, mostly on
4 incoming; correct?
- 5 A Yes, incoming or outgoing.
- 6 Q And this starts from what date? What day does the
7 report start? Not when you made it, but on the
8 report, the date on the phone?
- 9 A When did I generate this? I'm sorry.
- 10 Q The first text message, what date is it?
- 11 A Oh, it shows July 5th, 2014.
- 12 Q And it goes through September what? You can look
13 at the very last page?
- 14 A September 11th, 2014.
- 15 Q And this is in chronological order?
- 16 A Yes.
- 17 Q So basically it has everything that phone did from
18 July 5th through September 11th of 2014?
- 19 A User generated, yes.
- 20 Q I want you to look at Page 500 -- I'm sorry, Page
21 501. The second text on that, up at the top, it
22 says text; correct? Can you tell the jury whether
23 it's an outgoing text?
- 24 A Are you referencing -- on these lines --
- 25 Q I'm sorry.

- 1 A -- there are Bates numbers that we assign.
- 2 Q I'll come up there.
- 3 A It's just like a line item.
- 4 Q I mean like starting here.
- 5 A So, 107. All right.
- 6 Q Can you tell the jury, is that an incoming or an
7 outgoing?
- 8 A That's an outgoing text message, SMS message.
- 9 Q And where does it -- what number does it go to?
- 10 A Area code [REDACTED]-5970.
- 11 Q And, now, it has a time. What time?
- 12 A 9/11 -- I'm sorry, September 11th, 2014, at
13 8:28 a.m.
- 14 Q And what is the message in that text?
- 15 A You off?
- 16 Q And is it intact or deleted?
- 17 A It's intact.
- 18 Q So that date and time, is it reliable or not
19 reliable?
- 20 A This is reliable.
- 21 Q So to the best of your knowledge, that is the time
22 that it was sent?
- 23 A Yes.
- 24 Q And what is the next sent message?
- 25 A It's also an outgoing message, dated September

1 11th, 2014, at 8:46 a.m. to the same number. And
2 there's a question mark.

3 Q And if you will look for me at the next two pages,
4 is that the last outgoing text ever sent from that
5 phone?

6 A Yes.

7 Q And that's the last outgoing? There's no calls or
8 anything else from that phone -- made from the
9 phone?

10 A No.

11 Q I'm saying --

12 A I mean, outgoing, as far as outgoing, no.

13 Q There were other texts and calls that the phone
14 received?

15 A Yes, there's incoming, but -- and there may be some
16 applications running in the background, but as far
17 as user generated, outgoing, no.

18 MS. SAMPSON: Beg the Court's indulgence.

19 (Pause.)

20 BY MS. SAMPSON:

21 Q And I just want to be clear because this may be the
22 last time we talk. Were there deleted -- if things
23 are deleted from the phone, you are saying that the
24 date and time -- would the date be correct, though?

25 A Depending on how much time has gone by and

1 depending on how much information has been
2 overwritten, a deleted time stamp could be
3 accurate. It's generally not heavily relied upon,
4 but it could be accurate. The best way to verify
5 is actually from the call records, the call detail
6 records themselves.

7 Q But those last two that we just talked about, the
8 outgoing from --

9 A Yes.

10 Q -- the victim's phone, those were correct?

11 A Yes.

12 MS. SAMPSON: No further questions. Please
13 answer anything the Defense has.

14 THE COURT: Ms. Zmroczek?

15 MS. ZMROCZEK: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. ZMROCZEK:

18 Q Good afternoon, Agent VanHouten.

19 A Afternoon.

20 MS. ZMROCZEK: Before we start, I'm going to
21 mark the two full reports, Your Honor.

22 THE COURT: Okay.

23 MS. ZMROCZEK: Thank you. It's 26 and 27,
24 Your Honor.

25

1 (WHEREUPON, Defendant's Exhibit Nos. 26
2 - 27 were marked for identification
3 only.)

4 BY MS. ZMROCZEK:

5 Q Agent VanHouten, I'm going to show you Defendant's
6 26 and Defendant's 27. When you generate these
7 reports, how do you give them out?

8 A I usually give them on a disk. I'll usually put
9 them on a CD if they'll fit. I'll put them on a
10 DVD if they'll fit. But lately, I've been putting
11 them on blue rays because they are so large.

12 Q Do you recognize 26 and 27?

13 A This is my report. This is one I would be issued.
14 I would issue two disks. They're exactly the same.
15 One would be considered evidence where the agency
16 would use as evidence and the other would be a
17 working file copy. This, this is not mine.

18 Q It's a blue ray DVD?

19 A Okay.

20 Q Why would -- if we were -- when you give things to
21 the State to then give to the Defense?

22 A Yes.

23 Q Why would they have to be put on a blue ray DVD?

24 A Well, generally, my standard and most standards for
25 forensics is to put it on a disk because once it is

1 burned to a disk, we will close the disk where it
2 can't be altered, it can't be changed. And I'm
3 assuming that's a copy that -- as far as discovery
4 was made for you.

5 Q Correct.

6 A Yeah.

7 Q So it had to be put on a blue ray DVD disk, though,
8 because -- what was the reason for that?

9 A Oh, if the file -- if my reports are greater than
10 4.7 gigabytes, I cannot put it on a DVD, I have to
11 put it on something larger. And on blue rays,
12 depending on the type of blue ray, I can store up
13 to 150 gigs of data on a blue ray.

14 MS. ZMROCZEK: Your Honor, at this time, we
15 would move Defendant's 26 and 27 into evidence.

16 THE COURT: Any objection?

17 MS. SAMPSON: No, sir.

18 THE COURT: Defendant's 26 and 27 are in
19 evidence without objection.

20 (WHEREUPON, Defendant's Exhibit Nos. 26
21 - 27 were admitted into evidence.)

22 BY MS. ZMROCZEK:

23 Q Agent VanHouten, I wanted to talk to you about a
24 few things. Ms. Sampson asked you about the phone
25 that you had just dumped, which comes back to

- 1 Demary, and that was just done a few weeks ago;
2 correct?
- 3 A Correct.
- 4 Q And you said that the technology wasn't available
5 in October of 2014 when you initially received that
6 phone; correct?
- 7 A Correct.
- 8 Q Now, was it available in November of 2014?
- 9 A It's possible.
- 10 Q Okay.
- 11 A You've got to understand, our equipment is updated
12 monthly. Just like your phones are updated, your
13 computers, our forensics software is updated
14 monthly. So as far as exactly when it became
15 available, I'd have to go back and look at every
16 month that was released for the past four years.
- 17 Q Right. And so how -- when you receive items, do
18 you receive a request to download or to process
19 them?
- 20 A Yes.
- 21 Q Okay. So you received these requests for all five
22 of the items that you initially received in October
23 of 2014?
- 24 A Correct.
- 25 Q And then the next request that you received to

1 download, which was Demary's phone, when was that
2 request made?

3 A On May 16th, 2018.

4 Q Okay. And that was actually made -- well, you
5 wouldn't know -- you received a search warrant;
6 right?

7 A Yes. Generally, I'll either receive a call -- and
8 it is a common thing for agencies to say, Look, I
9 know you couldn't get into it six months ago or a
10 year ago, can you recheck your files. And if we
11 have an update that we can pop it, we'll do it.

12 Q So -- but in this case when the Defense asked for
13 it, then it was provided to you; correct?

14 A That is correct.

15 Q I want to just clear up a few things about the
16 timeline. And you talked about sometimes they are
17 carved or deleted. There's also -- on the time
18 stamp where it says UTC, explain to the jury what
19 that is and how you made it relevant to today's
20 documents?

21 A Yes. UTC is universal time code. It's also GMT,
22 Greenwich Mean Time, which it's in -- I can't
23 remember the town, but in England is where time
24 starts. That's what we base our clocks on, that's
25 what we base your time settings on. We are --

1 depending on whether we are eastern standard time
2 or in daylight savings time, we are either minus
3 four or minus five hours. What I will do is I will
4 convert the UTC into the correct time where the
5 phone is at or where the incident occurred so the
6 investigator or the agent or whoever is requesting
7 service doesn't have to do time conversions. So
8 you'll either see where it's adjusted or you'll see
9 a minus four or five. The time has already been
10 converted for you.

11 Q So when they go -- when the jury has the
12 opportunity to go through the timelines as we did,
13 we don't have to do any math, thank goodness;
14 right?

15 A Right.

16 Q You've done it all for us?

17 A Yes.

18 Q Additionally, you can filter out certain types of
19 information; right?

20 A Yes.

21 Q Which I just learned recently. If you do that by
22 hand, it takes quite some time; right?

23 A Yes.

24 Q Possibly four days even. But if asked, you can
25 just click a button and it can filter conversations

1 with numbers or things like that; right?

2 A Yes.

3 Q And I'm going to hand you Defendant's 21, 22, and
4 23 and ask you if you recognize those?

5 A These are all identified as the Motorola phone.

6 Q Yes. Are these summaries that were sent to you and
7 generated from the information, but they were hand
8 generated as summaries between two numbers?

9 A Yes. These -- I did not generate these, these were
10 generated, I assume, by the Defense, but they were
11 reflected from my reports.

12 Q But they are accurate summaries from your reports;
13 right?

14 A Yes.

15 Q And so it was something that you could have done if
16 I had just asked?

17 A If you just asked.

18 Q Which I have learned now.

19 MS. ZMROCZEK: Your Honor, at this time, we
20 would move 21, 22, and 23 into evidence?

21 MS. SAMPSON: Your Honor, can we approach?

22 THE COURT: You may.

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

1 use them in summary since she put --

2 THE COURT: You took -- they're all --
3 assuming they're all in evidence --

4 MS. SAMPSON: Since we can't take them, we'll
5 make a copy.

6 (Pause.)

7 MS. ZMROCZEK: I will ask the witness about
8 the timelines.

9 THE COURT: Bring the jury back in.
10 (WHEREUPON, the jury came into open
11 court at 4:29 p.m.)

12 MS. ZMROCZEK: Thank you, Your Honor.

13 **CROSS-EXAMINATION CONTINUED**

14 BY MS. ZMROCZEK:

15 Q Agent, will you please turn on State's 90 to Page
16 489 of the timeline report?

17 A Yes.

18 Q So you've had an opportunity --

19 A Yes, I'm on Page 49.

20 Q So when you generate these timelines, you said it's
21 any activity on the user's phone; correct?

22 A Yes.

23 Q Okay.

24 A And it could include applications running in the
25 background.

1 Q Applications running in the background? Videos?

2 A Yes.

3 Q If someone's looking at a video?

4 A If they're looking at a particular time --

5 Q Sorry. Go ahead.

6 A If they're looking at it or -- no, I can't tell you
7 if they're looking at it. If they're looking at it
8 at a particular time.

9 Q If it's playing or been accessed, that's what you
10 can see?

11 A Right.

12 Q Not if they're looking at it?

13 A Correct.

14 Q And I'm not trying to box you in. For example,
15 when we say Demary's phone, that's the number
16 associated with Mr. Demary. That doesn't mean that
17 you can sit here and say he was holding that phone;
18 right?

19 A That is correct.

20 Q Okay. And that's true with any phone; right?

21 A Right.

22 Q But, generally, what you do is just based on paper
23 facts, information, things that you view from the
24 device?

25 A Correct.

- 1 Q So lawyers oftentimes say Demary's phone or
2 Pickrell's phone or Pickrell or Demary, but it's
3 really their phone; right?
- 4 A Yes.
- 5 Q Okay. So -- and, in fact, you went through --
6 we'll start with Demary's phone. You went through
7 Demary's phone and there were upwards of 28,000
8 photos on there, weren't there?
- 9 A It's possibly that high, yes.
- 10 Q And did you look at those photos?
- 11 A I did not look at every single one, but as far as
12 photos that were taken by the device or sent or
13 received in an SMS message, then, yes, I did lay
14 eyes on it.
- 15 Q Okay. And that was the same with the two phones
16 that are associated with Ms. Pickrell that you
17 received earlier; correct?
- 18 A Yes.
- 19 Q And actually before we get to page 490, I want to
20 go ahead before I forget and talk about some of
21 those photos that you saw on the phone associated
22 with Ms. Pickrell; okay?
- 23 A Okay.
- 24 Q I'm going to show you what's been marked as
25 Defendant's 13 and 14. Have you had an opportunity

1 to review these?

2 A Yes. Those look familiar. They appear to be some
3 of the photos residing on the Defendant's phone.

4 MS. ZMROCZEK: Your Honor, at this time --

5 Q On the Defendant's or Ms. Pickrell's? Oh, yes, she
6 is the Defendant. Hello. I'm sorry.

7 MS. ZMROCZEK: Your Honor, at this time, we
8 would move Defendant's 13 and 14 into evidence?

9 THE COURT: Any objection?

10 MS. SAMPSON: Without objection.

11 THE COURT: In evidence without objection.

12 (WHEREUPON, Defendant's Exhibit Nos. 13
13 - 14 were marked for identification and
14 received into evidence.)

15 BY MS. ZMROCZEK:

16 Q And I'm going to show Defendant's 13. It's a
17 collection of photos; correct?

18 A Yes.

19 Q And the dates that are associated here in orange,
20 September 26th, 2012, to September 29, 2012. How
21 do we look -- when we look at photos on a device or
22 a report, how do we determine or how do you
23 determine the date of when something was captured?

24 A It will be stored in the metadata of the file or
25 photo itself.

1 Q So it will be stored in the metadata?

2 A In the metadata file with the photo itself.

3 Q Okay. And so in this case, when you generated that
4 report for this phone in 2014, October of 2014,
5 that's when you generated these reports; right?

6 A Yes.

7 Q To whom did you turn that over?

8 A The reports?

9 Q Correct.

10 A I turned them back over to the submitting agency,
11 which would be Kershaw County.

12 Q And was there someone in particular that you dealt
13 with?

14 A It would be on the chain.

15 Q Okay. So is it possibly the case agents?

16 A It's possible.

17 Q So any request that you receive, you receive -- you
18 download and then provide them all of this
19 information?

20 A Yes.

21 Q Does your report indicate when you returned this
22 information to the Kershaw County Sheriff's
23 Department?

24 A No. My report will only show the chain when I
25 received it. The actual chain back to the

1 Sheriff's Department, they would retain for their
2 custody.

3 Q And when did do that on the Defendant's phone?

4 A When did I receive it or when did I turn it back
5 over?

6 Q When you return it back?

7 A I don't have that information. It would be on the
8 actual chain that they would have in their case
9 file.

10 Q Okay. You received the phone, though, in 2014?

11 A It's possible, within a couple of weeks.

12 Q Within a couple of weeks. So 2014?

13 A Yes. Oh, yes. Yes.

14 Q I'm sorry, that's what I meant. So this
15 information was provided back to Kershaw County in
16 2014?

17 A Yes.

18 Q Okay. And so all you have to do to look at the
19 images and determine the date that they were
20 actually taken -- because sometimes there can be
21 images that are either cache or they have a
22 different date if you resend it, but in the
23 metadata it will actually show you, if it was taken
24 with that phone, when it was taken; correct?

25 A If the user does not turn off certain features of

1 the phone -- 99.9 percent of all people do not mess
2 with those features. The metadata will be stored
3 with that photo. Now, as you send that -- and if
4 it still resides on the phone, even if it's
5 deleted, we'll still get partial metadata back.
6 But that metadata will stay with that file or photo
7 forever. It's only when you send it to third-party
8 application, such as Facebook or other phones that
9 that metadata may be stripped to save space on the
10 residing -- or the receiver of the photo.

11 Q Okay. And the metadata received was in --
12 encompassed these dates?

13 A Yes.

14 Q On these, I mean, Defendant's 13?

15 A Right.

16 Q And Defendant's 14, the dates are October 26th to
17 November 4th, 2013?

18 A Okay.

19 Q So the metadata -- that, again, the metadata, that
20 would be gathered from the actual photos
21 themselves?

22 A It is embedded in the photos, yes.

23 Q Okay. And that information was provided to either
24 Investigator Taylor or the Sheriff's Department
25 when you returned the initial report?

1 A Yes.

2 Q Okay.

3 MS. ZMROCZEK: Beg the Court's indulgence.

4 (Pause.)

5 BY MS. ZMROCZEK:

6 Q And just to be clear, Defendant's 13 is 2012,

7 Defendant's 14 is 2013?

8 A Based on the metadata, the dates would be correct.

9 Q Based on the metadata. In your -- in the report --
10 I'm sorry, going back to State's 90, beginning at
11 Page -- did I say Page 489?

12 A You did.

13 Q So -- and you corrected all of these dates so they
14 are -- excuse me, you didn't correct the dates, you
15 changed the times so that they're actual not in UTC
16 time, but they're in the current time?

17 A Right. Yes.

18 Q So that means that all of this data, if someone is
19 looking up something or, excuse me, if the phone is
20 connecting to YouTube or some other application,
21 that's the time that's it's occurring?

22 A That would be the time that -- yes, if there's an
23 active program running in the background, it's
24 continually updating. It's called Push. It's
25 continually updating. So you may see more than one

1 entry for the same application running, so, yes.

2 Q And then also phones have contacts, you can put a
3 contact in?

4 A Yes.

5 Q Explain how that works.

6 A If there was a contact associated, let's say, a
7 relative or a friend, you can manually add that
8 contact in and associate it. A prime example would
9 be mom or dad or, you know, Jim. But that would
10 have to be manually entered by the user of the
11 phone.

12 Q Okay. And did this phone with the timeline have
13 some contacts and some without contacts?

14 A If it was -- if the contact was still intact in the
15 phone, it would identify it. It would associate
16 that number with a contact, so it would show up in
17 the list as a contact.

18 Q And if you didn't have it listed as a contact, but
19 maybe had an automatic signature on my text
20 message, would that show up as part of the text
21 message?

22 A Not -- yes, if there was a signature line from the
23 sender or -- yeah, the sender has a signature line,
24 then it should show up in the text message.

25 Q So, for example, 489, if you look at entry number

1 10,507?

2 A Okay.

3 Q And that was an incoming text?

4 A Correct.

5 Q And that was on September 10th at 7:34 a.m.?

6 A Correct.

7 Q And it was from -- and from, if it's contact, it
8 would have the contact name, if it didn't have the
9 contact stored in the phone, it would just have the
10 number; right?

11 A That is correct.

12 Q So that it says from [REDACTED]-5970; correct?

13 A Correct.

14 Q And then the text of that says, Trying to see Tony
15 now, a dash, Stephanie, and a dash; right?

16 A Yes.

17 Q So that would be the entire message?

18 A Yes.

19 Q The signature line would be part of that message?

20 A Yes.

21 Q Okay. Then if you'll look at Page -- let me ask
22 you, when you have -- if you want to call somebody
23 and not let them know the number from which you're
24 calling, is there a process to do that?

25 A Yes.

1 Q How do you do that?

2 A If memory serves me correct, if you put a prefix of
3 star 82 in front of the number, it should block the
4 number.

5 Q What about star 67?

6 A Yes.

7 Q So if I wanted to call you from my cell, but I
8 didn't want you to know I was calling, I could type
9 in star 67 and then put your number in and it would
10 not show that I was calling you; correct?

11 A You should receive either an unavailable or unknown
12 as far as where the calls were coming from.

13 Q And then I want you to turn, if you would, to --
14 you did these in chronological order, so it starts
15 with, I think, July 5th, 2014. And what does that
16 indicate to you as far as like when the phone
17 was -- was that when the phone was activated or
18 what -- how is that important to your analysis?

19 A Well, yes, I mean, it would be from the user
20 profile, when the user first started incoming,
21 outgoing or unless it was specifically requested
22 between two particular dates.

23 Q Okay. And when you look at the contact or the
24 timeline information, if you'll go to the date of
25 September 11th at 2:00 a.m.

1 A Bear with me one second.

2 Q So that's September 11th, 2014?

3 A Do you have a page number or a Bates number?

4 Q It'd be towards the end.

5 A Okay.

6 Q You found it?

7 A Getting close. Okay.

8 Q So September 11th at 2:11 a.m., what kind of
9 activity happened from that phone?

10 A I have incoming call on September 11th at 2:11 a.m.
11 An incoming call from phone number [REDACTED]-0213.

12 Q And is there a contact associated with that number?

13 A There was no contact associated with this number.

14 Q Okay. In the -- a little bit further down, are
15 there any outgoing calls made on September 11th,
16 2014, early in the morning?

17 A How far early do you want me -- all through 2:00
18 o'clock in the morning --

19 Q All through 2:00 o'clock in the morning.

20 A -- there are all kinds of outgoing calls.

21 Q And what are those numbers? Is there an area code
22 (883)?

23 A Yes. There is an area code. There's an outgoing
24 call to area code [REDACTED]-3211 at 2:48 a.m. That
25 has been marked as deleted.

- 1 Q And so at 883 -- it is 3211 were the last --
- 2 A 3211 would be the last four digits.
- 3 Q Were the last four digits of that. And it was a
- 4 deleted call at what time?
- 5 A According to the time stamp on the deleted message
- 6 was 2:48 a.m., 13 seconds.
- 7 Q If someone misdialed because they're inebriated and
- 8 they dialed 883 instead of 803, they're trying to
- 9 call a taxi cab number, whatever number they
- 10 dialed, whatever numbers they push, that's what
- 11 shows up in the outgoing call; correct?
- 12 A Yes. It's possible if you're under stress.
- 13 Q Thank you. I want to go to the -- you received
- 14 five -- initially, you received five devices?
- 15 A Correct.
- 16 Q Two of them were phones?
- 17 A Yes.
- 18 Q Two of them were recorders?
- 19 A Yes.
- 20 Q And then a third was -- the third was a phone that
- 21 we just talked about?
- 22 A Yes.
- 23 Q Okay. The recorders, explain to the jury what
- 24 those are.
- 25 A They're just digital tape recorders for dictation

1 or recording purposes.

2 Q And do you have a copy of the subpoena in front of
3 you, the request that was sent to you?

4 A For the tape recorders, I do not have copy of
5 the -- I mean, yeah, I don't have a copy of the
6 chain or the search warrant.

7 Q Okay.

8 A In this 2014 file, I do not.

9 Q Right. Right. But you were asked in 2014 by
10 someone in Kershaw County --

11 A Yes.

12 Q -- to get that information?

13 A On October 10th, 2014.

14 Q Okay.

15 A And I serviced the phone or all devices on
16 October 14th, 2014.

17 Q Okay. And you returned that information when?

18 A That would be in the original chain.

19 Q In a few days, okay. So you recall there were
20 several recordings made; correct?

21 A Yes.

22 Q I'm going to show you Defendant's 15 through 19.

23 A Okay.

24 Q Do you recognize the identifications on those?

25 A They are identified as recordings.

1 MS. ZMROCZEK: Your Honor, at this time, we
2 would move Defendant's 15 through 19 into evidence?

3 THE COURT: Any objection?

4 MS. SAMPSON: Without objection.

5 THE COURT: In evidence without objection.

6 (WHEREUPON, Defendant's Exhibit Nos. 15
7 - 19 were marked for identification and
8 received into evidence.)

9 MS. ZMROCZEK: And, Your Honor, may I also
10 publish them to the jury?

11 THE COURT: You may.

12 BY MS. ZMROCZEK:

13 Q And while I'm doing that, did you have an
14 opportunity to listen to them?

15 A Yes.

16 Q Explain to the jury what a recording -- what these
17 recordings will reflect. Not the content, but you
18 said they were made from a recorder, so explain to
19 the jury what that means.

20 A The user hit record to record something of interest
21 to them.

22 Q So they had like a little tape recorder, like, say,
23 I wanted to make a memo, I just?

24 A Correct.

25 Q And if I wanted to copy a voicemail and I wanted to

1 record it, I would --

2 A You could use that device, yes.

3 Q I could use that device. Now, when doing that
4 device, is it as clear as it would be in its
5 original format?

6 A It would depend on the environment surrounding the
7 recording itself. A lot of background noise, if
8 it's quiet room, it would be as clear, but if
9 there's a lot of background, it would not be as
10 clear.

11 Q And do you have the technology at the Secret
12 Service to kind of remove that background noise?

13 A We do. We do not have it in our lab. We only have
14 it here in South Carolina.

15 Q We only have it in South Carolina. And what agency
16 in South Carolina has that?

17 A SLED handles most of the audio and video
18 processing.

19 Q It's called scrubbing?

20 A Scrubbing.

21 Q Scrubbing is what takes out the background noise?

22 A Right.

23 Q But that wasn't done here, so there is a little bit
24 of background noise or alternative noise; correct?

25 A Yes.

1 Q I'm going to play Defendant's 15. And, again,
2 these are what you captured off of what you were
3 provided to process; correct?

4 A Correct.

5 (WHEREUPON, Defendant's Exhibit No. 15,
6 a CD, was played for the jury.)

7 MS. ZMROCZEK: That was Defendant's 15.

8 Defendant's 16, Your Honor, may I publish?

9 THE COURT: I'm sorry?

10 MS. ZMROCZEK: This is Defendant's 16. Can I
11 publish?

12 (WHEREUPON, Defendant's Exhibit No. 16,
13 a CD, was played for the jury.)

14 MS. ZMROCZEK: Your Honor, I now publish
15 Defendant's 17.

16 (WHEREUPON, Defendant's Exhibit No. 17,
17 a CD, was played for the jury.)

18 MS. ZMROCZEK: Now, I'll be playing
19 Defendant's 18.

20 (WHEREUPON, Defendant's Exhibit No. 18,
21 a CD, was played for the jury.)

22 MS. ZMROCZEK: And lastly, Your Honor, I'm
23 publishing Defendant's 19.

24 (WHEREUPON, Defendant's Exhibit No. 19,
25 a CD, was played for the jury.)

1 BY MS. ZMROCZEK:

2 Q Agent VanHouten, those were some of the recordings
3 that you recovered off of the devices provided to
4 you?

5 A Yes.

6 Q And you returned these back to Kershaw County
7 Sheriff's Department?

8 A Yes.

9 Q In 2014?

10 A I'm pretty sure, yes, within a couple of weeks from
11 receiving it.

12 MS. ZMROCZEK: Beg the Court's indulgence.

13 (Pause.)

14 MS. ZMROCZEK: Thank you. No further
15 questions, Your Honor.

16 THE COURT: Ms. Sampson?

17 MS. SAMPSON: Beg the Court's indulgence.

18 (Pause.)

19 REDIRECT EXAMINATION

20 BY MS. SAMPSON:

21 Q Just briefly, Investigator VanHouten. Ms. Zmroczek
22 asked you about not downloading some of the
23 information in 2018, or extracting it?

24 A Yes, from the Motorola phone.

25 Q Would that change the information that was in the

1 phone?

2 A The only way -- the only information -- the only
3 way that any information would be changed in the
4 phone is if the phone was turned on, activated and
5 manually gone through.

6 Q But the phone was in custody from 2014 until you
7 were able to use it in 2018; correct?

8 A It was in, I'm assuming, Kershaw County custody,
9 so, yes.

10 Q And so she asked you did you have the technology in
11 2000 -- in November of 2014. And you didn't do it
12 until May of 2018. Either way, the same
13 information would have been in the phone?

14 A Yes. Yes. As long as the phone was off and not
15 hitting a tower, yes.

16 Q And let's be clear. You were given the phone in
17 2014, you just couldn't do it then?

18 A I didn't have the capability to bypass the
19 encryption.

20 Q And those recordings we just heard, all you can do
21 is say they were on the devices you were given; is
22 that fair?

23 A On the two recorders? Yes.

24 Q Right.

25 A Those were not recovered from the phone. They were

1 recovered from the recorders.

2 Q Right, the devices you were given --

3 A Yes.

4 Q -- I didn't mean the phones necessarily?

5 A Yes, sir.

6 Q And as far as what's on them, the who, what, when,
7 where, any of that, you can't do -- you can't tell
8 us anything about that, or can you?

9 A Well, I can't give you specific dates for the
10 device because the dates -- when I received the
11 recorders, the dates -- the date was not set in the
12 recorder itself, so I can't verify the date and
13 time. The only logical solution that I would say
14 would be from the voicemail -- the recordings from
15 the voicemails that list a date and time.

16 Q So that would be the only way to confirm or verify
17 at all the date is to look at the actual phone that
18 the voicemails were left on?

19 A Or the voicemail that she recorded -- or the
20 recorders were recorded from, yeah.

21 Q But as far as who's on the recordings, you wouldn't
22 be able to tell that just because of that?

23 A Yeah, I don't know who.

24 Q And Ms. Zmroczek showed you the photographs. As
25 far as the content of the photographs, you can't

1 say what made those bruises, can you?

2 A Oh, no, I'm not a --

3 Q All you say is that --

4 A -- medical.

5 Q -- those photographs were on the phone?

6 A Yes, those photographs were on the phone and any
7 forensic examiner will recover the exact same
8 information.

9 MS. SAMPSON: Nothing else, Your Honor.

10 MS. ZMROCZEK: Very briefly, Your Honor, very
11 briefly.

12 RECROSS-EXAMINATION

13 BY MS. ZMROCZEK:

14 Q Agent VanHouten, so you had all this information,
15 you gave it back to Kershaw. And so when that
16 phone recording said either October 28th and it
17 didn't say the year; right?

18 A Correct.

19 Q But it did say the phone number?

20 A Yes.

21 Q And then you returned the phone back to Kershaw
22 County that had the metadata with these pictures
23 that had the dates; right?

24 A Yes.

25 Q All an investigator or anybody would have to do is

1 listen to the date of the message, see if it
2 corresponds with the in or outgoing call, missed or
3 not, on the phone; correct?

4 A Yes. It's possible.

5 Q Or line it up with the metadata from the pictures;
6 right?

7 A It's possible. Yes.

8 MS. ZMROCZEK: Thank you.

9 I have no further questions.

10 MS. SAMPSON: No, sir, nothing new.

11 THE COURT: Any objection to excusing
12 Investigator VanHouten?

13 MS. ZMROCZEK: No objection from the Defense.

14 THE COURT: Thank you, sir. You're excused.

15 (Witness steps down and is excused.)

16 THE COURT: Ladies and gentlemen, we are done
17 for the day. So, again, I appreciate your service.
18 Your willingness to serve is very much appreciated
19 by everyone here.

20 We'll be in recess until 9:30 Monday morning.

21 Y'all have a good weekend.

22 Remember the same three rules: Don't discuss
23 the case among yourselves, don't discuss the case
24 with anyone else, and don't do any research. Don't
25 go on the internet or anything like that.

1 Y'all have a good weekend, and we will see you
2 Monday morning.

3 (WHEREUPON, the jury is excused for the
4 day at 5:13 p.m.)

5 THE COURT: Anything else I need to do before
6 we're good for the weekend?

7 MS. SAMPSON: Not from the State.

8 MS. ZMROCZEK: Nothing.

9 THE COURT: Have a good weekend. See you
10 Monday at 9:30.

11 (WHEREUPON, the proceedings were
12 concluded for the day at 5:14 p.m.)

13 **JUNE 4, 2018**

14 (WHEREUPON, the proceedings resumed at
15 9:42 a.m.)

16 THE COURT: Good morning.

17 MR. PAULING: Good morning.

18 MR. DELGADO: Good morning.

19 THE COURT: Counsel, anything we need to
20 discuss before we bring the jury in?

21 MR. PAULING: Nothing from the State, Your
22 Honor.

23 MR. DELGADO: Nothing from the Defense, Your
24 Honor.

25 THE COURT: All right. Let's bring the jury.

1 (WHEREUPON, the jury came into open
2 court at 9:42 a.m.)

3 THE COURT: Good morning, ladies and
4 gentlemen.

5 Ms. Sampson, call your next witness.

6 MR. PAULING: Your Honor, at this time the
7 State would call Jamie Green.

8 (Witness approaches.)

9 THE CLERK: Place your left hand on the Bible,
10 and raise your right hand, please.

11 (Witness complies.)

12 THE CLERK: Do you solemnly swear or affirm
13 the testimony you give in this case will be the
14 truth, the whole truth, and nothing but the truth,
15 so help you God?

16 THE WITNESS: Yes, ma'am.

17 THE CLERK: Thank you. Have a seat in the
18 witness chair and state your full name for the
19 record, please.

20 (Witness seated.)

21 THE WITNESS: My name is James Green.

22 JAMES GREEN,

23 after being duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. PAULING:

1 Q Good morning, Agent Green. How are you doing, sir?

2 A Doing well. How are you?

3 Q Doing well. Please tell the jury where you're
4 employed, sir.

5 A I'm employed by the South Carolina Law Division,
6 commonly referred to as SLED.

7 Q And what capacity are you employed there?

8 A I'm a forensic firearms examiner in the forensics
9 services laboratory.

10 Q And if you would, please, give us a little bit
11 about your educational background and your law
12 enforcement background and training.

13 A I have a Bachelor of Arts and a Masters of Science
14 in criminal justice, both from Charleston Southern
15 University. When I finished Charleston Southern, I
16 worked a few odd jobs, and then I was hired by the
17 Mt. Pleasant Police Department, which is just
18 outside of Charleston. I underwent the South
19 Carolina Criminal Justice Academy training, the Mt.
20 Pleasant field training program. I worked in Mt.
21 Pleasant for roughly three and a half years before
22 I was hired at SLED in June of 2005. I've been at
23 SLED since 2005 in the same capacity, working as a
24 forensics firearms examiner.

25 And when I was first hired, I started the

1 forensic firearms course of tool mark instruction.
2 It's basically a 3- to 3-and-a-half-year course of
3 instruction in apprentice-type fashion studying to
4 do what I do now.

5 Q Okay. And as far as your work in the firearms
6 division there, what type of examinations do you
7 conduct?

8 A We examine firearms and firearms-related evidence,
9 fired bullets, fired cartridge cases. If there's a
10 firearm submitted, we try to see -- like in this
11 case, there's a fired bullet and a fired cartridge
12 case -- if they were fired by the gun that was
13 submitted or not, or sometimes we can't tell.

14 In the instance where there's no firearm
15 submitted, if there's just a bunch of fired
16 cartridge cases and fired bullets, we can give the
17 examiner -- excuse me, the investigators -- you
18 know, a case I just worked, there was 26 cartridge
19 cases and 25 guns. So we can look at the cartridge
20 cases or the bullets, look at the markings left on
21 them by the firearm and determine how many firearms
22 were present in a particular scene.

23 We also examine tools, screw drivers, hammers.
24 A lot of times people don't use tools for the
25 intended purposes. So we can look at the marks

1 left on surfaces by tools to see if they were
2 created by a common source.

3 Q And just approximately how many examinations do you
4 think over the course of your career that you've
5 conducted, ballpark?

6 A It's in the tens of thousands.

7 Q Tens of thousands?

8 A Yes, sir. If you have one bullet that has six
9 lands and grooves -- that's the rifling in the
10 barrel -- then you have a firearm that has six
11 lands and grooves. I look at one versus one, one
12 versus two, one versus three. So in just two
13 bullets with six lands and grooves, you could have
14 12 to 18, even up to 36 examinations you conduct
15 based on how many markings are there.

16 Q And, sir, have you been previously qualified as an
17 expert in state or federal court as it relates to
18 firearm identification and tool mark -- firearm and
19 tool mark identification?

20 A Yes, sir, both state and federal.

21 Q Approximately how many times?

22 A I think I'm up in the mid 60s. It's like 63 state
23 and two federal.

24 Q Do you get continued training as it relates to this
25 particular field?

1 A Yes, sir.

2 MR. PAULING: Your Honor, at this time, I'd
3 offer Agent James Green as an expert in the field
4 of firearms and tool mark identification?

5 MS. ZMROCZEK: Without objection.

6 THE COURT: Agent Green is an expert in tool
7 mark and firearm identification.

8 BY MR. PAULING:

9 Q Agent Green, in this particular case, were items
10 submitted to your division for examination?

11 A Yes, sir.

12 Q And when items are submitted to your division --
13 when items are submitted, are they given a lab
14 number? How does that work? How do you know which
15 case you're working on?

16 A When a submitting agency from throughout the
17 state -- with SLED, we work all 46 counties and all
18 the municipalities in those counties. Whenever
19 they submit evidence to the laboratory, they bring
20 their paperwork in, if they're submitting it in
21 person, or they can fill out the I-lab paperwork
22 online, it's like the pre-login, and they bring it
23 to the laboratory. That case is given an
24 individual laboratory case number. The SLED lab
25 number will start L and then the year. Like this

1 one is L-14. And then five digits after that,
2 anywhere from one to 19,999 or 20,000 or however
3 are submitted in that year. And then each
4 individual piece of evidence in that case is given
5 its own item number.

6 So when something is submitted to the lab, it
7 gets its own lab number and each individual piece
8 of evidence gets its own item number. And then
9 assignments are divvied out to each department.
10 Like, I work in the firearms department. And then
11 I will be notified that I've been given an
12 assignment of what evidence I'm supposed to have.
13 And then we keep a running list and we go down to
14 evidence control and get that evidence whenever
15 they have time.

16 MR. PAULING: Approach the witness, Your
17 Honor?

18 THE COURT: You may.

19 BY MR. PAULING:

20 Q Agent Green, I will show you what's in evidence as
21 State's 66, 64, 21, and 65, and you ask if you
22 recognize those items and how?

23 A State's Exhibit 64 is a fired cartridge case.
24 Whenever evidence is submitted to the laboratory,
25 particularly the firearms department, we use a

1 dremel tool and electric pencil and we'll mark the
2 lab number, the item number and our initials on it.
3 So if you see me rolling around the evidence in my
4 hand, I'm looking for my markings. That way when
5 we get to court, we know that this is the actual
6 evidence that we looked at.

7 State's Exhibit 64 is the SLED Item 2,
8 cartridge case that was submitted in this case.

9 State's Exhibit 21 is the SLED Item 23, bullet
10 that was submitted in this case.

11 State's Exhibit 66 is the Item 1, SLED Item 1,
12 pistol submitted in this case. And it does have a
13 gun lock on it, so I'll try not to point it at
14 anybody, but if I do, it's unloaded and completely
15 harmless.

16 And then State's Exhibit 65 is a magazine and
17 some unfired cartridges that were submitted along
18 with the pistol in this case.

19 Q And once those items were submitted to you, you
20 indicated you get an assignment, so what were you
21 tasked with doing as it relates to those items that
22 were submitted as far as examination is concerned?

23 A I was given a blanket firearms request. A lot of
24 agencies do that. And what they're asking us to do
25 is anything and everything we can do to see if the

1 State's Exhibit 21, bullet, and State's Exhibit 64,
2 cartridge case, were fired by the State's Exhibit
3 66, pistol.

4 Q And what steps do you take or what's the process
5 you go through as its relates to the gun in
6 determining if it was in working order?

7 A The first thing we do when we get the evidence is
8 I'll reconcile what the submitting agency says I'm
9 supposed to have versus what I actually have on
10 hand and see if there's any discrepancy. Sometimes
11 agencies don't list the cartridges submitted with
12 the gun. All that is not really a big deal for
13 them, but for us, we document everything we've been
14 given. So I'll go through all the evidence taking
15 pictures as I go of the packaging so I know how it
16 was packaged so I can repackage it similarly.

17 I like all my fingers, so when I shoot
18 firearms, I make sure they are safe to fire. So
19 I'll do like quick basic function check to make
20 sure there's no glaring defects with the firearm
21 that could injure me or someone else that is being
22 fired. And then I'll start documenting those,
23 packaging, the make, model, caliber, serial number
24 of any firearm I may have on the appropriate
25 departmental worksheets.

1 Q And then after you've done that, what type of
2 examination did you perform on this particular
3 weapon?

4 A It was in working order. As I received it, I did
5 not notice any glaring safety defects. So I set it
6 aside. And I looked at the State's Exhibit 21,
7 bullet, and State's Exhibit 64, cartridge case, to
8 make sure they had similar characteristics as the
9 State's Exhibit 66, pistol. Once I determined that
10 they did, I went ahead and filled out the
11 departmental worksheet for the firearm, chose
12 ammunition similar to that of what was submitted,
13 and then test fired the pistol.

14 The reason why we use ammunition similar to
15 that used in the incident is that different types
16 of ammunition may actually mark differently even
17 though it's fired out of the same gun based on
18 composition of the primer, the powder, how quickly
19 it burns and the pressure created by the cartridge.

20 So once I got similar ammunition, I test fired
21 the State's Exhibit 66, pistol, into our water tank
22 at SLED. It's basically a 3-foot diameter, 2-story
23 water tank. I test fired down into that water. We
24 turn on a pump and it starts cavitating or moving
25 the water around. What that does is when we shoot

1 down into the water, it slows the bullet down and
2 it drops down into a colander at the bottom. We
3 just pick it up and there's our fired bullets.
4 Then we collect our fired cartridge cases. The
5 reason why we do that is so we can say in court or
6 whenever that, I know those test specimens were
7 fired by the State's Exhibit 66, pistol, because I
8 fired them myself.

9 Q And after you've done that, what testing do you do
10 to determine whether or not the fired bullet
11 actually came from that particular weapon?

12 A The first thing I'll do after test firing is I'll
13 use my comparison microscope, which is the main
14 tool of what I do -- or what I use. It's basically
15 two microscopes connected by a single optical
16 bridge that let's us look at two objects
17 simultaneously under different degrees of lighting.
18 Because what we're really looking for is scratches
19 left on the bullet or the cartridge cases left by a
20 firearm.

21 I'll check and see if the firearm is marking
22 consistently shot to shot. And once I did that, I
23 started looking at test specimens I fired from
24 State's Exhibit 66 versus the State's Exhibit 21
25 and 64, the bullet and the cartridge case, to see

1 if they were fired by this pistol.

2 Q And you said you looked under a microscope. Do you
3 take photographs of that?

4 A Yes, sir. We do take photographs of what we see.
5 It's not really to say, Hey, this is a match, it's
6 just to remind us when we get to court of the
7 similarities we saw while looking at the evidence.

8 MR. PAULING: May I approach the witness, Your
9 Honor?

10 (Pause.)

11 MS. ZMROCZEK: Your Honor, those are without
12 objection.

13 THE COURT: Into evidence without objection.

14 BY MR. PAULING:

15 Q State's 91 through 98, are those the photos you
16 mentioned?

17 THE COURT: Mr. Pauling, Ms. Zmroczek said
18 without objection. Are you moving them into
19 evidence?

20 MR. PAULING: Well, I understand it's without
21 objection, I just wanted to make sure those are the
22 ones.

23 THE COURT: Sure.

24 THE WITNESS: They look like the pictures I
25 took. I took the same amount of pictures in my

1 case file, but without the case numbers, the actual
2 information on there. I can't say if they are
3 these or not, but they look exactly like the ones I
4 took in my case file.

5 Q Okay.

6 MR. PAULING: At this time, Your Honor, I
7 believe without objection offer State's 91 through
8 98 into evidence.

9 MS. ZMROCZEK: Without objection.

10 THE COURT: In evidence without objection,
11 State's 91 through 98.

12 (WHEREUPON, State's Exhibit Nos. 91 - 98
13 were marked for identification and
14 received into evidence.)

15 MR. PAULING: May I publish these to the jury
16 on the smart board?

17 THE COURT: You may.

18 BY MR. PAULING:

19 Q Agent Green, as to State's 91, as you were
20 explaining, what do we see there? Can you explain?

21 A May I get up?

22 Q Yes, sir.

23 (Witness steps down.)

24 A First, you'll see this white line going down the
25 middle. That's our hairline or dividing line. So

1 literally what we're looking at is a test fired
2 cartridge case on the right and the evidence
3 cartridge case is on the left. That it is our SLED
4 protocol, our policies. If we're looking at
5 evidence versus test, test always goes on the
6 right, evidence always goes on the left. The few
7 times we can get away from that is if we have no
8 test fires. So both of them would be evidence to
9 evidence.

10 But in this instance, this is a test specimen
11 I fired from State's Exhibit 66, pistol, versus the
12 other cartridge case. And it's just showing
13 similarities that I noted. Once again, this is not
14 a picture of a match. This is something to remind
15 me of what I saw when I was looking at the evidence
16 versus the test to make me come to my conclusion
17 that it was fired by the same gun. We've got some
18 similarities over here.

19 When we pick out test specimens or the
20 ammunition -- we've got a big room of evidence --
21 excuse me, of ammunition to test fire. When I look
22 at it, I looked and none of these marks were on
23 this cartridge case when I test fired. If there
24 were any marks on it whatsoever, I wouldn't use
25 that cartridge because I don't want anything else

1 to show up. So all these marks were left by a
2 firearm, State's Exhibit 66, pistol.

3 There are some similarities here. And I
4 believe the next picture.

5 Q State's 92?

6 A Yes, sir. Shows similarities in the breach face
7 markings. And the breach face of the pistol is the
8 vertical wall that supports the head of the
9 cartridge, so it supports all this. And the firing
10 pin protrudes through the breach face.

11 When a pistol is fired or any firearm is
12 fired, when the firing pin or the striker contacts
13 the primer, it crushes the primer pellet and it
14 basically sends a flash or little explosion through
15 the flash on the cartridge case that burns the gun
16 powder at different rates. As the bullet goes one
17 way, the cartridge case is forced back against the
18 breach face taking on the marks made by the
19 manufacturer. So what you're looking at now is
20 marks left on State's Exhibit 66, pistol, during
21 the manufacturing process. They are unique to that
22 pistol. And one made right after is not going to
23 mark the same. And one made immediately before it
24 will not mark the same. There will be some
25 similarities, but there's enough differences for us

1 to differentiate which was fired by which.

2 Q State's 93?

3 A All right. This is just -- the last picture,
4 State's 92, had some very gross marks and big heavy
5 marks. This is looking at the smaller marks. The
6 more fine marks that are going to be more
7 individual. And without the right lighting, you
8 can't even see it. Our stages on our microscopes
9 are able to move 360 degrees and they can also
10 rotate up or down 90 degrees. So to look at these
11 small scratches, we have to turn the lights -- I
12 have to turn the lights in my office off and the
13 lights on the microscope up and they're slightly
14 angled so you can get the lights of what we're
15 really looking at are shadows and scratches.

16 Q State's 95?

17 A Yes, sir. This is the same thing. I'm showing
18 different tests. You can tell the difference in
19 the primer material. I changed primer material
20 just to see. I got markings on brass primers. I
21 could get markings on nickel primers as well. In
22 this picture, you can see that clearly.

23 Q State's 96?

24 A Same thing, nickel primer. It's a different brand
25 name and it's showing some of the finer markings.

1 I'll move on to the bullets. I believe that
2 was State's Exhibit 21. So State's Exhibit 21 on
3 the left versus a test bullet I fired from State's
4 Exhibit 66.

5 This basically looks like -- we call it a
6 land. It looks like a land in this picture. This
7 is actually a land impression as far as the
8 rifling. When rifling is put into the barrel of a
9 firearm, you have lands and grooves. The
10 manufacturer goes through and cuts the grooves out
11 and leaves the lands untouched.

12 But through the process of reaming the barrel
13 or creating the barrel, tiny scratches or
14 imperfections are left in the barrel, much like the
15 breach faces that differentiate this barrel from
16 the one made before it and one made after it in
17 certain guns.

18 You can see between the evidence and the test,
19 we have the same class characteristics. What I
20 mean by that is the lands are the same width. So
21 that's a positive sign. We know we're on the right
22 track. And then when you fire the bullet, start
23 looking at the individual markings and the land
24 impression. And you can see we've got lines --
25 we've got similarities that match on both sides of

1 the hairline.

2 And this is the same evidence, the test on the
3 same -- this is a higher magnification view of the
4 same evidence bullet and the same test bullet.
5 Just a different face with some more similarities
6 in the lands.

7 Once again, even higher magnification. I like
8 to take a lot of pictures because it's easy to do.
9 I just hit F5 and it takes a snapshot of what I'm
10 looking at. My microscope will go from 6X to 102X.
11 So if there's information on every land, I'll take
12 pictures of every land. So what we're just
13 seeing -- and I don't like having to put different
14 characters behind the numbers to name the pictures,
15 so inside of naming pictures A, B, C, D, I'll just
16 go from 11X to 14X to 18X to 22X, so I don't have
17 to name them different. Same thing, evidence and
18 tests and more similarities, lands and grooves.

19 Q Thank you, Mr. Green.

20 (Witness returns to witness stand.)

21 Q You had mentioned some of the mechanics of the
22 firearm and what happens when -- once the bullet is
23 fired or the gun is fired. As far as that
24 particular weapon, what type of pressure is needed
25 when pulling the trigger for that gun to actually

1 fire?

2 A State's Exhibit 66 is a double action pistol. That
3 means it can be fired in two modes of fire, single
4 action or double action. I'm not going to be able
5 to do it because of the gun lock, but, in single
6 action mode of fire -- if the gun lock weren't on
7 here and I could operate the firearm, you can pull
8 the slide, this part to the rear. And what that
9 would do is it would cock the hammer.

10 Q Just one moment.

11 MR. PAULING: I ask the Court -- Agent Green
12 has already testified the gun is clear, but for
13 these purposes, can we unlock it just so he can
14 explain that to the jury?

15 THE COURT: Agent Green, the gun is unloaded?

16 THE WITNESS: It's got a gun lock on it, so
17 yes, it is unloaded.

18 THE COURT: You can operate it safely?

19 THE WITNESS: Yes, sir.

20 THE COURT: All right.

21 (WHEREUPON, the gun is unlocked.)

22 THE WITNESS: This is actually kind of -- I'm
23 going to show you an interesting pistol because
24 it's got a tip-up barrel. See? It tips up. So
25 everybody can see, you can see me through there,

1 the gun is unloaded. So even though it's a
2 firearm, an unloaded firearm is basically a paper
3 weight, okay?

4 Remember, I was talking about pulling the
5 slide to the rear. When you pull the slide back to
6 the rear, the hammer is cocked, okay? This would
7 be a single action mode of fire. So all I would do
8 to pull -- to get the hammer to fall, in this
9 instance, we'll just pretend I have a loaded
10 magazine inserted into the magazine well, pull the
11 slide back, the gun is -- for this demonstration,
12 the gun is loaded. Single action, to get it to
13 fire, all I would do is pull the trigger. Hammer
14 falls, the cartridge ignites, doing what I talked
15 about earlier.

16 Double action mode of fire is when the hammer
17 is at rest like it is now. You have to manually
18 pull the trigger all the way back. So rather than
19 just pulling the trigger and it causing the hammer
20 to fall, I'm actually cocking the pistol and
21 causing the hammer to fall at the same time. So
22 this is a single action -- excuse me, this is a
23 double action pistol, so it means it can fire in
24 double action or single action mode.

25 Back to your question. May I look at my case

1 file real quick to get the notes?

2 Q Yes, sir.

3 A Part of our examination of firearms is we also test
4 the trigger pull weight. And all that is is an
5 expression of weight in pounds of how much force it
6 takes to cause this pistol to fire. In single
7 action mode, the trigger pull weight was
8 approximately six and three-quarter pounds. So
9 it's roughly about three-quarters of a gallon of
10 milk or gallon of water. Gallon of water, gallon
11 of milk weighs about eight pounds. So it's almost
12 like picking up a gallon of milk with one finger.
13 The double action trigger pull, you know,
14 causing -- doing everything for the pistol, cocking
15 the hammer, releasing the sear and causing it to
16 fire was 17 pounds when I tested it. So it's
17 basically lifting up two gallons of water with one
18 finger.

19 Q And as far as when the gun is fired on that
20 particular firearm, where is the cartridge ejected
21 from?

22 A I'll get back to this. The ejection pattern is
23 what you're asking?

24 Q Yes, sir.

25 A It's not an examination we perform at SLED because

1 of all the variables that are involved. You have
2 to replicate -- basically, we'd have to have the
3 suspect in any instant fire the gun themselves
4 because I can't replicate the force they use, the
5 temperature, humidity, the conditions, all that
6 kind of stuff. There's so many variables, we don't
7 do it.

8 There's a very general rule, ejection for most
9 semi-automatic pistols with an ejector on the left
10 side of the firearm like this one, a very general
11 rule, it will go back and to the right. But since
12 this pistol has a tip-up barrel and the slide is
13 open on both sides, there's no telling where it
14 will go. I've shot a pistol like this personally
15 and I've had them go forward, I've had them go
16 backwards, I've had them go to my left shoulder,
17 I've had them go to my right shoulder. So there is
18 really no way of telling which way it will go once
19 it's fired.

20 Q And, I'm sorry, you can lock the gun.

21 (Witness complies.)

22 Q The process you explained, Agent Green, as far as
23 examining the fired bullet, the test ammunition,
24 the cartridge casing, that process you used, is
25 that widely accepted in your field, that process

1 you used?

2 A Yes, sir. That is the method everyone who does
3 what I do does. It's what we do.

4 Q And what was the result of your examination as it
5 relates to the bullets and the cartridge cases?

6 A Yes, sir. My conclusions were that the State's
7 Exhibit 21, bullet, and the State's Exhibit 64,
8 cartridge case, were both fired by the State's
9 Exhibit 66, pistol.

10 Q And is your examination subject to peer review?

11 A Yes, sir. The firearms department, we have 100
12 percent micro verification policy. That means that
13 before any results are given to anyone, I mean, the
14 chief of police could call or the sheriff could
15 call and say, Jamie, I need to know the answers.
16 I'm sorry, I can't tell you until I get it reviewed
17 by someone else.

18 What they'll do is they'll come in and look at
19 the evidence independently themselves. They'll
20 look at the bullets, the cartridge cases, and my
21 tests, and come to their own conclusions before any
22 results are given.

23 Q And you submit a report as a result of your
24 examination and a result of your findings?

25 A Yes, sir.

1 Q And the items that you tested, what do you do with
2 those after you completed your testing and
3 examination?

4 A I put a test cartridge case from Item 66, pistol,
5 into the integrated ballistics identification
6 system, IBIS. It's a database for fired cartridge
7 cases and fired bullets. It's kind of like AFIS
8 for fingerprints. It can look out and it does
9 really complex mathematical algorithms based on the
10 images it takes searching to see if this pistol or
11 any firearm we enter was used in any other
12 previously thought to be unrelated crimes.

13 And once I did that, I package the evidence,
14 sent it to be returned. Finished my case file,
15 typed up my report, and gave the case file and
16 report to the person who micro verified my case for
17 review, a technical administrative review, look for
18 grammar, simple mistakes. And then I took the
19 evidence down to the evidence control department to
20 be returned to the submitting agency.

21 Q Thank you.

22 MR. PAULING: Beg the Court's indulgence.

23 (Pause.)

24 MR. PAULING: I have no further questions,
25 Your Honor. Thank you, Agent Green.

1 THE COURT: Ms. Zmroczek, Mr. Delgado?

2 CROSS-EXAMINATION

3 BY MS. ZMROCZEK:

4 Q Mr. Green, if a person acting in self-defense calls
5 9-1-1, says, I shot someone, they tell her to put
6 the gun down, the police within 20 minutes retrieve
7 that gun, you would expect the bullet and the gun
8 to match; correct?

9 A Generally, yes, ma'am.

10 MS. ZMROCZEK: No further questions.

11 MR. PAULING: Nothing further, Your Honor.

12 THE COURT: Any objection to excusing Mr.
13 Green?

14 MR. PAULING: None from the State.

15 MS. ZMROCZEK: None from the Defense.

16 THE COURT: Thank you, Mr. Green. You're
17 excused.

18 THE WITNESS: Thank you.

19 (Witness steps down and is excused.)

20 THE COURT: Mr. Pauling?

21 MR. PAULING: The State would call Miles
22 Taylor.

23 (Witness approaches.)

24 THE CLERK: Place your left hand on the Bible,
25 and raise your right hand, please.

1 (Witness complies.)

2 THE CLERK: Do you solemnly swear or affirm
3 the testimony you give in this case will be the
4 truth, the whole truth, and nothing but the truth,
5 so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Have a seat and state your name
8 for the record.

9 (Witness seated.)

10 THE WITNESS: Miles Taylor.

11 MILES TAYLOR,
12 after being duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. PAULING:

15 Q How are you doing, Investigator Taylor?

16 A Good. And yourself?

17 Q Doing well. You're employed with the Sheriff's
18 Office?

19 A Yes, sir.

20 Q How long have you been with Kershaw County
21 Sheriff's Office?

22 A Just over 16 years ago.

23 Q Sixteen years. Have you been with any other
24 agencies prior to that?

25 A Kershaw County is my first law enforcement.

1 Q And currently what division are you assigned to?

2 A Currently, in investigative division.

3 Q And, now, if you could give us a brief history of
4 your time at the Sheriff's Office. Was it always
5 in the investigative unit?

6 A Of course, I started off working the road as a
7 patrolman, moved my way up to a secondary line
8 supervisor for the shifts. From there, I did move
9 into criminal investigations.

10 Q And in the Sheriff's Department, how many
11 investigators are in the Sheriff's Department at
12 this time?

13 A It depends. Right now, we're at seven. I believe
14 full capacity with us is eight.

15 Q And, just generally, what are your duties as an
16 investigator?

17 A General duties, officer, road patrol officer takes
18 a report or either an investigator can take a
19 report, walk-ins with the Sheriff's Office, however
20 it may be. From there, the captain over
21 investigations assigns a case to whatever
22 investigator is in that area. Investigations, we
23 are split in the county. We have our own
24 individual areas we work.

25 Mine particular, most of the time, is the east

1 Camden, lower Cassett, Lake Wateree area is where I
2 normally work. From there, when a case report is
3 transferred over to us for investigations, we go
4 through procedures of making phone calls to the
5 victims, trying to figure out the case and
6 learning -- trying to collect evidence from there.

7 Q Now, you have a particular area, so are there
8 particular crimes that you investigate or it just
9 depends on -- is it just more set to your region,
10 what occurs in your particular area?

11 A Majority of the time, it works that way.
12 Investigations, we are on-call at times. We take
13 one week of call schedule, so depending on the
14 number of investigators we have, most of the time
15 you take a week of call every seven to eight weeks.

16 During those weeks, anything that occurs
17 throughout the night, the evening hours, the
18 investigator will be called in, or if there's a
19 major crime that's called out during that week, you
20 would normally be put over as lead on that case as
21 well.

22 Q I know I asked you about your history at the
23 Sheriff's Office. But as far as your law
24 enforcement education and training, can you explain
25 that to the jury?

1 A Sure. Of course, with education, of course I do
2 have some college. I had to get out of college to
3 get a job for money issues, but from there, when I
4 got hired on with the Sheriff's Office, of course I
5 went through the Criminal Justice Academy for their
6 training there. Training from there is continuous.
7 Every year you're mandated to have so many hours of
8 training through South Carolina law. I've done
9 that.

10 I also -- with the Sheriff's Office, I am one
11 of the K-9 handlers for the tracking unit, so I do
12 that as well. So I've had training there.
13 Evidence collection with that portion of it as well
14 as I've had training since I've been an
15 investigator of interview techniques, interviewing
16 people, evidence collection, anything that involves
17 investigation-type instances, I've had some
18 training in.

19 Q Do you have any specialized training as it relates
20 to violent crimes, such as armed robbery or murder?

21 A I have been to several classes for homicide
22 classes, yes.

23 Q And, in particular, back in September of 2014, were
24 you, at that time, assigned to the investigative
25 unit?

1 A Yes, I was.

2 Q And, more particularly, September 11th of 2014,
3 were you working that particular day?

4 A I was.

5 Q Okay. In fact, were you on-call at that time?

6 A I was the on-call investigator, yes.

7 Q And as it relates to the shooting at [REDACTED] Baynard
8 Boykin Road, how did you become involved in this
9 particular case?

10 A On that particular day, myself and Investigator
11 Bailey were actually leaving the office to go work
12 some other cases that we had together. Our areas
13 kind of butted up together, so we were going to
14 work several cases. And heard the radio traffic of
15 this call come in over the radio and responded from
16 there.

17 Q So you and Investigator Rick Bailey arrived at the
18 scene together?

19 A Yes, sir.

20 Q Do you recall if other law enforcement were already
21 on scene?

22 A Yes, sir, there were.

23 Q And, now, were you briefed on the particular
24 matter? Who did you make contact with once you got
25 to the scene?

1 A Chief Brown, being the first officer on scene, and
2 me knowing that by radio traffic, I went to him to
3 see what his findings were. And he did brief me on
4 what he had found.

5 Q Now, as far as crime scene is concerned, did you
6 all begin collecting evidence or processing
7 evidence, or what happened as far as crime scene
8 goes?

9 A I learned Chief Brown had called for SLED's Crime
10 Scene Unit to come and process the scene. Of
11 course, I did an initial walk-through with Chief as
12 well as Investigator Bailey and Captain Steve
13 Knafelc had made it to the scene by then. From
14 there, while I was doing walk-throughs with them, I
15 was taking some photographs myself.

16 Q Now, at that particular time, had you made contact
17 with the suspect, Gregg Pickrell?

18 A I never spoke with Ms. Pickrell.

19 Q Do you recall if she was still on scene at that
20 time?

21 A I don't recall if she was still there. I believe
22 she was, but I don't recall if she had -- I never
23 saw her.

24 MR. PAULING: Your Honor, State's 99 through
25 116 I would offer, I believe without objection.

1 MR. DELGADO: Without objection.

2 THE COURT: State's 99 through 116 in evidence
3 without objection.

4 (WHEREUPON, State's Exhibit Nos. 99 -
5 116 were marked for identification and
6 received into evidence.)

7 BY MR. PAULING:

8 Q Investigator Taylor, step down.

9 (Witness steps down.)

10 Q And you indicated that you did a walk-through and
11 were looking at State's 99. When you got on
12 scene -- now, when you got on scene, was the crime
13 scene tape already up at that point?

14 A I believe the deputies that had arrived on scene
15 were actually putting up the crime scene tape as I
16 arrived.

17 Q And this being the -- this, on 99, this building to
18 the left, that's the front door; is that correct?

19 A Correct, sir.

20 Q And what is this structure here to the right in
21 State's 99?

22 A This is an exterior shed that was off to the front
23 left of the home, I believe.

24 Q And this table and chair set, was it -- that's the
25 way it was when you had arrived?

1 A When I arrived, that's the way it appeared, yes,
2 sir.

3 Q And that's just another view there, State's 100?

4 A Yes, sir.

5 Q And then 101?

6 A This appears to be the door jamb of the home.

7 Q And looking from the outside; is that correct?

8 A Correct.

9 THE COURT: Mr. Pauling, can you pass me the
10 photos so can I follow along?

11 MR. PAULING: Yes, sir. And, Your Honor, that
12 particular photo is 101.

13 THE COURT: Thank you, sir.

14 BY MR. PAULING:

15 Q And on to 102, where is this?

16 A This is just inside the front door off to the
17 right-hand side.

18 Q Okay. And that chair was there in place as well?

19 A Yes, sir.

20 Q 103?

21 A This is going around the room in a right-hand
22 pattern. This is the couch and two chairs, table
23 and chair. The living room area -- or, excuse me,
24 the kitchen area of the home just off the living
25 area.

1 MR. PAULING: And, Your Honor, I apologize, I
2 lost count. That appears to be -- is that 102?

3 THE COURT: Kitchen photo is 104.

4 BY MR. PAULING:

5 Q Moving on to 105?

6 A This appears to be a photograph of an actual door,
7 I believe, from the outside as it stands open.

8 Q Okay, so the inside -- the door opens -- from the
9 front door, it opens --

10 A Opens inward.

11 Q Inward. And 106?

12 A Again, a photograph of the kitchen area.

13 Q 107?

14 A This is standing from the kitchen area looking
15 across towards the bedroom.

16 Q Is this as you make that left-hand turn?

17 A Yes, sir.

18 Q And what is this looking into right here?

19 A This is looking into the bedroom -- this is the
20 doorway of the bedroom where the Decedent was
21 laying.

22 Q And 108?

23 A This is a photograph -- of course, the bedroom door
24 is here. And this is the radio and the chest of
25 drawers.

- 1 Q The bureau?
- 2 A Bureau that Ms. Pickrell was talking about in her
3 interviews.
- 4 Q 109?
- 5 A This is a table at the -- of course, this being the
6 desk at the front door moving onto a table and
7 continuing out. This being the bedroom door.
- 8 Q And 110, is that just another vantage point there?
- 9 A Yes, sir.
- 10 Q And this is -- this being that same bureau you
11 spoke of; is that correct?
- 12 A Correct.
- 13 Q And this being the doorway to the bedroom?
- 14 A Correct. Again, another vantage point of the
15 doorway looking into the bedroom.
- 16 Q I believe that's 110.
- 17 THE COURT: This is 110.
- 18 Q 111 then.
- 19 MR. PAULING: Thank you, Your Honor.
- 20 Q State's 111, that's looking straight into -- going
21 into the bedroom?
- 22 A Correct.
- 23 Q And 112?
- 24 A Again, from -- just a closer view of the door
25 looking into the bedroom showing the chest in the

1 bedroom.

2 Q And is this -- this blue laundry basket here, what
3 is that?

4 A This is the laundry basket where the spent shell
5 casing was found.

6 Q 113?

7 A This is actually inside the bedroom directly across
8 from the door looking back out into the kitchen
9 area.

10 Q And is this that same bureau there?

11 A Correct. Looking into the bathroom area, the
12 hallway.

13 Q This is 114. Is that looking -- that's looking
14 into the bathroom. Is that across from the
15 bedroom?

16 A Yes, sir -- I'm sorry, I'm trying to get bearings.
17 I believe this was taken from standing just outside
18 the doorway itself. Again, the bedroom showing the
19 chest adjacent to the bed.

20 Q That's 115. And then 116?

21 A This is a cigarette pack actually on the bedspread
22 itself.

23 Q And is that what was recovered from the victim?

24 A Yes, sir.

25 Q As well as the envelope?

- 1 A Yes, sir.
- 2 (Witness returns to witness stand.)
- 3 Q Now, did SLED arrive at some point as well?
- 4 A Yes, sir, they did.
- 5 Q And once SLED arrived, they begin processing the
- 6 scene?
- 7 A Once SLED arrived, they did make contact with
- 8 myself and got an initial rundown of what our
- 9 findings were, and from there did a walk-through
- 10 with them, the two agents that arrived with them.
- 11 I believe, at the time, Coroner Fellers had arrived
- 12 as well. He also did the walk-through with us.
- 13 From there, the SLED agents did start process by
- 14 taking photographs and collecting evidence, yes.
- 15 Q And at the point where you had -- you said you
- 16 initially had done a walk-through. Did you -- were
- 17 you able to see any injury on the Decedent at that
- 18 time, on the victim?
- 19 A Initially, no, no. Not until after his body was
- 20 removed.
- 21 Q This is after SLED gets there, photographs are
- 22 taken, and the coroner is there; is that correct?
- 23 A Correct.
- 24 Q And so where was that injury located?
- 25 A Once the body was manipulated by Coroner Fellers,

1 we did notice there was what was believed to be
2 blood spotting on the back of the T-shirt. His
3 T-shirt was pulled up by Coroner Fellers to where
4 we did find a wound there in the back area. After
5 that wound was found, he was rolled back over again
6 and the chest area was checked to where no exit
7 wound or no wounds on the chest were found.

8 Q And, now, as all this is going on -- you were the
9 on-call investigator; is that correct?

10 A Correct.

11 Q Now, at the point where you arrived on the scene,
12 because you were the on-call investigator, is that
13 case automatically assigned to you, or can you
14 explain that?

15 A Most of the time, it would be automatically
16 assigned to the on-call investigator unless some
17 extenuating circumstances would take place to where
18 the captain would give it to somebody else.

19 Q Okay. But this case was assigned to you; is that
20 correct?

21 A Correct, yes, sir.

22 Q But as you're investigating this case, are you all
23 doing it somewhat as a team? I understand you're
24 the lead investigator, but are you conducting this
25 as a team?

1 A Yes, sir, on all major cases, we all work as a
2 team. Especially murders cases, we try to have at
3 least three, three investigators working on it to
4 conduct tasks sometimes at the same time,
5 multi-tasking-type issues.

6 Q And as far as the crime scene, were there any items
7 that you collected? Or any item that you
8 collected?

9 A I believe the phone that was found by the Decedent
10 was collected by myself and returned to the office.
11 All the other items, the weapons, shell casing,
12 things of that nature, were collected by SLED.

13 Q Okay. As well as the earring?

14 A As well as the earring, correct, yes, sir.

15 Q Now, while you're on scene -- and you said there
16 were other investigators that were working on this
17 as well -- where is Investigator DeVors and Bailey,
18 if you recall?

19 A I actually lost sight of them at the time. I did
20 learn from our captain that Investigator Bailey and
21 Investigator DeVors had returned back to the office
22 to interview Ms. Pickrell as well as obtain a
23 search warrant for the residence because SLED
24 requires a search warrant when they process any
25 type of scene.

1 MR. PAULING: Approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 BY MR. PAULING:

5 Q Investigator Taylor, I'm going to show you what's
6 been marked for ID purposes State's 117 and ask you
7 if you recognize that particular item?

8 A Yes, sir, this is the phone that I retrieved that
9 was lying next to the Decedent.

10 Q The victim's phone?

11 A Yes, sir.

12 MR. PAULING: Your Honor, I would offer
13 State's 117 into evidence, I believe without
14 objection.

15 THE COURT: Any objection?

16 MR. DELGADO: I'm sorry, without objection,
17 yes, sir.

18 THE COURT: State's 117 in evidence without
19 objection.

20 (WHEREUPON, State's Exhibit No. 117 was
21 marked for identification and received
22 into evidence.)

23 BY MR. PAULING:

24 Q Now, do you recall, in relation to that particular
25 day, was there any other media device that you

1 collected at that time, or was it just that
2 particular phone?

3 A Just this particular phone is the only one I
4 collected.

5 Q Now, while you're on the scene, are you
6 communicating at all with Investigator DeVors or
7 Bailey, or were you just primarily there at the
8 scene taking photographs and consulting with SLED
9 at that point, the CSI unit?

10 A Right. I was not personally involved in
11 communication with DeVors or Bailey, but I was told
12 that, I believe it was Investigator DeVors had made
13 contact with Captain Knafelc while he was on scene.

14 Q Now, you made -- or there were pictures taken of
15 the door. Did you note any signs of a forced entry
16 at all?

17 A No, sir, I did not.

18 Q As far as just the general appearance of the house
19 inside -- and I know we went through the
20 pictures -- how would you describe that? How do
21 you describe that, just the general appearance of
22 the home?

23 A The general appearance was disarray.

24 Q In every room?

25 A In every room, yes.

1 Q Now, as far as -- well, after you had cleared the
2 crime scene, what did you do next?

3 A From clearing the crime scene, SLED agents and
4 myself returned to our office to where photographs
5 were taken of Ms. Pickrell then.

6 Q And when you say -- Dawn Claycomb took photos of
7 Ms. Pickrell?

8 A Correct.

9 Q And at that point, you didn't have -- did you speak
10 with her at all, with the Defendant?

11 A No, sir.

12 Q Okay. Now, at a certain point, though, were you
13 provided the information as to -- or provided
14 information or summary of what she had told
15 Investigator DeVors as well as Investigator Bailey?

16 A Yes, sir, I did.

17 Q About what happened that particular morning?

18 A Yes, sir. Both Investigator Bailey and DeVors come
19 to me and stated that they had, of course,
20 interviewed her and was giving me their findings
21 and what their beliefs were of the interview.

22 Q Now, what was your understanding as far as who all
23 was in the home when the shooting occurred?

24 A From what was relayed to me, Ms. Pickrell and the
25 Decedent were the only two in the home.

1 Q Now, while you were on the scene, did you make any
2 contact with her mother, Ms. Nora Keehn?

3 A No, sir, I did not.

4 Q Was it your understanding that she was in the house
5 at all?

6 A She -- my understanding, she was in her own home.

7 Q Okay. Now, did you get any other information from
8 anyone, any member of the public regarding this
9 investigation?

10 A Yes, sir, of course. Ms. Stephanie Owen made
11 contact with me that afternoon about some text
12 messages she had received from the Decedent.

13 Q And did she sit down and talk with you about that?

14 A Yes, sir, on the next day.

15 Q On the next day, on the 12th?

16 A On the 12th. On September 12th, yes, sir.

17 Q And essentially what information did she provide
18 you regarding --

19 MR. DELGADO: Objection to that. I believe
20 that will be hearsay.

21 MR. PAULING: I'll rephrase it.

22 BY MR. PAULING:

23 Q You spoke with Ms. Owen; is that correct?

24 A I did.

25 Q The information that she provided to you, were you

1 able to verify it in some way?

2 A Yes, sir.

3 Q And how was that?

4 A Eventually, through the cell phone of the Decedent
5 when the information was come back off the data
6 dump on it, the corroborating text message that she
7 spoke with me about.

8 Q Now, when you have a case such as this, you have a
9 shooting, did you ever research to see if there
10 were any prior incidents regarding these two
11 individuals?

12 A Yes, I did.

13 Q And did you research the Kershaw County database
14 and such?

15 A Yes, sir, I did.

16 Q And what were the results of your research as
17 relates to that?

18 A There were no reports or any of the CAD,
19 computer-aided dispatch, calls related to
20 Ms. Pickrell or Mr. Demary.

21 Q And when I say related to them, I guess my question
22 was inartful there. Were there any calls wherein
23 those two individuals were the subject of the call?

24 A And let me restate this. The only call that I
25 found was the CAD call where, as seen in the

1 interviews that she spoke of with Mr. Demary coming
2 out with Mr. Kip Elder's truck. That was the only
3 call between the two of them where there were a
4 common ground for the report.

5 Q Okay. Were there other calls that Ms. Pickrell had
6 made to law enforcement for other matters?

7 A Yes, there were several incidents where she called
8 and filed reports.

9 Q And what were the nature of those reports?

10 A Mostly, they were vandalisms to her property. And
11 I believe there was one that was actually a
12 trespassing call.

13 Q But, again, these weren't related to Monty Demary;
14 is that correct?

15 A None were related to Mr. Demary, no, sir.

16 Q Did you get -- as far as your research of this
17 particular case, did you get any information
18 regarding any reports between Ms. Pickrell and
19 Mr. Demary in any other jurisdiction?

20 A Yes, sir, I did.

21 Q And what was that in relation to?

22 A An assault that occurred in another state.

23 Q And when was that?

24 A 2008, if I'm not mistaken.

25 Q 2008. And you mentioned Stephanie Owen. Did

1 anyone else reach out to you as related to this
2 particular shooting or have any information as
3 related to the shooting on September 11th of 2014?

4 A No one else from the public made contact with
5 myself or any -- to my knowledge, any other
6 investigator throughout the Sheriff's Office.

7 Q Were you able to retrieve the 9-1-1 call from this
8 particular case?

9 A Yes, sir, I did.

10 Q Were you able to review that as well?

11 A Yes, sir.

12 Q Now, as far as the autopsy is concerned, did you
13 attend the autopsy?

14 A No, I did not.

15 Q But did you get the autopsy report?

16 A Yes, sir.

17 Q And you recall when the autopsy was when you
18 received the report?

19 A The autopsy was conducted the next morning of the
20 12th, September the 12th. And later that
21 afternoon, I did receive some information about the
22 autopsy.

23 Q And at some point as well, did you actually speak
24 with the cab driver who had actually taken
25 Mr. Demary out to Baynard Boykin Road?

- 1 A Ms. Abstance, yes, sir.
- 2 Q And she sat down with you and provided you
3 information as related to her taking him to that
4 location?
- 5 A Yes, sir, she stated they had a general
6 conversation and give me his demeanor of the cab
7 ride, as to where he was dropped off and the
8 reasoning behind him stating why he wanted to be
9 dropped off in a certain area.
- 10 Q And that, of course, would be part of your case
11 file?
- 12 A Yes, sir.
- 13 Q And was there any other follow-up investigation
14 that you did as you recall?
- 15 A Other than more investigation through the phone.
- 16 Q Well, at some point, were you contacted regarding
17 some information that Ms. Pickrell had as it
18 relates to voice recorders or other cell phones?
- 19 A Yes, sir. Yes, sir, I did. I did receive a call
20 from her attorney stating that there was some voice
21 recorders and phones inside the home that he would
22 like for me to retrieve.
- 23 Q Did you retrieve a search warrant as related to
24 that?
- 25 A Yes, sir, I did.

1 Q Do you recall when that was?

2 A I believe it was October 2nd, if I'm not mistaken.

3 MR. DELGADO: Without objection.

4 MR. PAULING: Approach the witness, Your
5 Honor?

6 THE COURT: You may.

7 MR. PAULING: Your Honor, just for the record
8 this is State's 118, 119, 120, and 121, two cell
9 phones and a voice recorder I would move into
10 evidence, I believe without objection?

11 MR. DELGADO: Without objection.

12 THE COURT: In evidence without objection.

13 (WHEREUPON, State's Exhibit Nos. 118 -
14 121 were marked for identification and
15 received into evidence.)

16 BY MR. PAULING:

17 Q Investigator Taylor, starting with State's 118.

18 And you can take it out, but what is that
19 particular Item?

20 A 118 is a smart phone with a charger.

21 THE COURT: Mr. Pauling, the jury has
22 requested a break. So, counsel, we'll take a break
23 until 11 o'clock, 15-minute recess.

24 MR. PAULING: Yes, sir.

25 THE COURT: Court will be in recess until

1 11 o'clock.

2 (WHEREUPON, the jury retires to the jury
3 room at 10:43 a.m.)

4 THE COURT: Counsel, anything we need to take
5 up before the jury comes back in?

6 MR. DELGADO: Yes, there is, Your Honor.

7 THE COURT: Okay.

8 MR. DELGADO: I didn't want to do this in
9 front of the jury and have to ask you to excuse
10 them again, so possibly we could do this now.

11 THE COURT: Sure.

12 MR. DELGADO: It is my -- I want some
13 clarification and I'd like to maybe ask the court
14 reporter to read back whether or not Mr. Pauling
15 opened the door with his question to Mr. Taylor
16 about, Where did you check and what did you check
17 relating to information on Mr. Demary. It is my
18 recollection -- again, I want to be precise and
19 clear. I'd like to be able to see if the court
20 reporter could read back that portion before I have
21 any argument.

22 THE COURT: Is that possible to read back?

23 THE COURT REPORTER: If you tell me what I'm
24 looking for.

25 THE COURT: Would you mind if counsel

1 approaches and looks over your shoulder?

2 (Pause.)

3 MR. DELGADO: Your Honor, I don't think that's
4 clear enough for me to be able to pose what I
5 wanted or thought maybe I had.

6 THE COURT: Mr. Delgado, I appreciate your
7 candor, sir.

8 Counsel, anything else?

9 MR. PAULING: Nothing from the State, Your
10 Honor.

11 THE COURT: Mr. Delgado?

12 MR. DELGADO: I'm sorry, no, sir.

13 THE COURT: Let's bring them back in.

14 (WHEREUPON, the jury came into open
15 court at 11:07 a.m.)

16 THE COURT: Mr. Pauling?

17 MR. PAULING: Thank you, Your Honor.

18 **DIRECT EXAMINATION CONTINUED**

19 BY MR. PAULING:

20 Q Investigator Taylor, did you retrieve then the cell
21 phones and voice recorders from the residence?

22 A Yes, sir. I believe before the break, you were
23 asking me about this particular one you handed me.

24 Q State's 118?

25 A Yes, sir. 118 is a black LG cell phone smart phone

- 1 with a charger.
- 2 State's 119 is a LG phone with a Sprint LOGO.
- 3 Q This is 119?
- 4 A Correct, 119.
- 5 Q Then 118. Then what's 120?
- 6 A 120 is an Olympus VN7200 voice recorder, this one
- 7 in particular being serial number 100252574.
- 8 Q Okay.
- 9 A And State's 121 is also an identical Olympus voice
- 10 recorder. This one serial number 100234800.
- 11 Q That's 121?
- 12 A That's 121, yes, sir.
- 13 Q So the two cell phones and the two voice recorders,
- 14 where were these located in the home?
- 15 A They were in the desk drawer by the front door.
- 16 Q In the desk drawer by the front door?
- 17 A By the front door, yes.
- 18 Q All four of them?
- 19 A All four of them.
- 20 Q Now, as you recall, were you directed to that
- 21 particular location?
- 22 A Yes, I was.
- 23 Q Now, those particular items, did you submit those
- 24 for analysis?
- 25 A Yes, I did.

1 Q And was there any information on those
2 particular -- these items, the two cell phones and
3 the two voice recorders?

4 A Yes. That would be the information that Special
5 Agent VanHouten testified to.

6 Q And as you recall, what items were on there? I'm
7 not asking -- in general, what items -- were there
8 photos on there?

9 A On the two cells phone, there were photos that was
10 collected. I don't remember exactly if there was
11 text messages pulled from those specific phones,
12 which one. And then the two voice recorders, there
13 was, of course, voice data pulled from them.

14 Q Now, those particular photos, did you review those
15 photos?

16 A Yes, I did.

17 Q And did those -- what did those photos show?

18 A There was numerous photos of different things, but
19 the ones you're speaking of, there was some
20 photographs of Ms. Pickrell taking pictures of
21 herself.

22 Q Were they photos of injuries?

23 A It appeared to be.

24 Q And, again, you retrieved those items in
25 October 2014; is that correct?

- 1 A Yes, approximately, I believe three weeks after the
2 incident date.
- 3 Q Now, as you recall, did Ms. Pickrell mention those
4 particular items prior to, did she mention it
5 during her interview, as far as any voice recorders
6 or these cell phones?
- 7 A During her interview with Investigator Bailey and
8 DeVors, I believe she did mention those.
- 9 Q And that was on September 11th?
- 10 A Correct.
- 11 Q Now, on September 12th, was she at the Sheriff's
12 Office on September 12th?
- 13 A She did return to the Sheriff's Office on the 12th,
14 yes, sir.
- 15 Q What was that for?
- 16 A She did -- she was requested to come back but
17 Ms. Karen DeVors, the VA, to take follow-up photos
18 of her injuries.
- 19 Q And as far as that particular day -- well, let me
20 ask you this. Were you aware of whether or not
21 Ms. Pickrell had been to the hospital?
- 22 A Yes, I was.
- 23 Q How do you know that?
- 24 A On the day of the 11th, we did request that she go
25 to the hospital for an evaluation.

1 Q And do you know how she got to the hospital?

2 A Ms. DeVors.

3 Q Do you know how she got home, how she returned
4 home?

5 A From my understanding, Ms. DeVors took her home as
6 well.

7 Q And then it was requested that she come back to the
8 Sheriff's Office the following day?

9 A Correct.

10 Q What was that for again?

11 A To do follow-up documentation of what she was
12 saying her injuries were.

13 Q To take photos?

14 A Correct.

15 Q Now, Items 118, 119, 120 and 121, you said you
16 located at the front door -- or not at the front
17 door, but --

18 A In the desk drawer at the front door.

19 Q In the desk drawer near the front door?

20 A Yes, sir.

21 Q And that was in October?

22 A Yes.

23 Q Did Ms. Pickrell bring any of those items to y'all
24 on September 12th?

25 A No, sir.

1 Q As far as the interviews, both by Mr. DeVors --
2 Investigator DeVors and Investigator Bailey, did
3 the Defendant provide information of other
4 individuals who may have some information regarding
5 alleged abuse?

6 A Yes, she did.

7 Q And was one of those individuals either Randall Lee
8 or Lamont Lee?

9 A Yes, sir, I believe so.

10 Q Did you follow up and talk with that individual,
11 Randall Lamont Lee?

12 A No, sir.

13 Q Why was that?

14 A I didn't feel it was relevant I talk to him because
15 I was tasked for the shooting incident of Mr.
16 Demary.

17 Q But if the question was why did she do it, why
18 didn't you speak with -- specifically with Randall
19 Lamont Lee?

20 A I didn't -- he didn't have any information of the
21 actual shooting incident itself. He was not there.

22 Q He was not there?

23 A He was not there.

24 Q Have you received any information since then that
25 he was there?

1 A No, sir.

2 Q Has Mr. Lamont Lee approached you about this
3 particular matter?

4 A No, sir.

5 Q Again, you reviewed -- or did you review the
6 photos, the recordings on Items 118 through 121?

7 A Yes, sir.

8 Q Let me ask you this, Investigator Taylor. Once you
9 completed your investigation, did you make a
10 decision to charge?

11 A Yes, sir.

12 MR. DELGADO: Your Honor, this is going to be
13 a conclusion now about what the basis for that was.
14 I believe that's for the jury to decide, is it not?

15 THE COURT: Ladies and gentlemen of the jury,
16 I need to discuss something with the lawyers. I'm
17 going to ask y'all --

18 MR. DELGADO: Your Honor, could we just come
19 to the bench? Maybe that will save some time.

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

23 BY MR. PAULING:

24 Q Investigator Taylor, just to review, as far as your
25 investigation was concerned, what all did you look

- 1 at? What else did you consider?
- 2 A I considered the interviews that were conducted by
3 Investigator Bailey and Investigator DeVors, and
4 considered the autopsy report, the findings there,
5 as well as the information that was given for the
6 trajectory of the bullet as well. With
7 Ms. Pickrell stating that she was the shooter, she
8 was the one that fired the weapon, and the reasons
9 behind it, or the lack of certain things, in my
10 opinion.
- 11 Q Did you take into account the information that you
12 received from Ms. Owen as well?
- 13 A Yes, sir.
- 14 Q At some point, did you seek a warrant?
- 15 A Yes, sir.
- 16 Q What was that for?
- 17 A Murder.
- 18 Q And when was that?
- 19 A On the 12th.
- 20 Q On the 12th. September 12th of '14?
- 21 A Yes, sir.
- 22 Q And was she arrested at that particular time?
- 23 A The afternoon of the 12th, yes, sir.
- 24 Q And where did that occur?
- 25 A At her residence.

1 MR. PAULING: Beg the Court's indulgence.

2 THE COURT: Certainly.

3 (Pause.)

4 MR. PAULING: No further questions at this
5 time.

6 THE COURT: Thank you, Mr. Pauling.

7 Mr. Delgado?

8 CROSS-EXAMINATION

9 BY MR. DELGADO:

10 Q Mr. Taylor, your office is located at the Sheriff's
11 Department headquarters off of Highway 34?

12 A Yes, sir.

13 Q Towards -- in Lugoff; right?

14 A Yes, sir.

15 Q Mr. Taylor, let me just ask you about Defendant's
16 Exhibits 8, 9, 10, these pill bottles?

17 A Yes, sir.

18 Q If I told you, sir, that -- let me back up. You
19 served the arrest warrant on Ms. Pickrell at her
20 home on -- what time was it, I'm sorry? You said
21 it and I didn't hear it.

22 A It was in the afternoon hours, but I did not serve
23 the warrant on her, no, sir.

24 Q But you didn't served the warrant?

25 A No, sir.

1 Q Did you interview her at all or see her before she
2 was put in the jail?

3 A I was present when she was arrested, yes, sir, but
4 I did not serve the warrant.

5 Q Oh, I'm sorry, I apologize. So you had some other
6 officer in your presence serve the arrest warrant
7 on her?

8 A I believe he actually served the arrest warrant at
9 the Detention Center, but he was present with me
10 when we --

11 Q Do you remember her asking you whether she could
12 keep the bottle for the urinary tract infection,
13 the prescription, if she could keep that when she
14 went into the jail? Do you recall her saying that
15 to you?

16 A I don't recall, Mr. Delgado, to be honest with you,
17 no, sir.

18 Q And that's the reason there's only three here
19 today, but she was given four. Would you know
20 that, sir?

21 A No, sir, I did not.

22 Q Sir, you will admit to me or to us that she said
23 that her diagnosis was assault, urinary tract
24 infection, and contusions as found by the Kershaw
25 Health Hospital, Kershaw County Health Hospital?

1 A If that's what's in the report, sir.

2 Q Yes, sir. I'll let you take a look at it. Down
3 here somewhere.

4 A Yes, sir, that's what it says here.

5 Q All right, sir.

6 MR. DELGADO: Your Honor, my colleagues are
7 saying that if it's not already in, they have no
8 objection. If it is already in, then I will
9 withdraw Defendant's whatever our next -- there
10 were several items used in a composite exhibit and
11 I'm not certain this was in.

12 BY MR. DELGADO:

13 Q Mr. Taylor, the same way that I've asked other
14 members of your Sheriff's Department, you too have
15 gone through criminal domestic violence training as
16 part of your requirements on a yearly basis for
17 your certification; is that correct?

18 A Correct.

19 Q Sir, let me just ask this. The photographs --

20 THE COURT: Mr. Delgado, Defendant's 28, is
21 that the medical records you've already asked
22 about?

23 MR. DELGADO: Yes, sir. I think -- I don't
24 know whether I have or have not, but, if so, I will
25 withdraw 28 if it's already into evidence.

1 THE COURT: I just wanted to be sure.

2 MR. DELGADO: Yes, sir.

3 BY MR. DELGADO:

4 Q Mr. Taylor, on the 12th of September, you told our
5 jury that you contacted other law enforcement
6 agencies about occurrences of conflict between the
7 two, that is Ms. Pickrell and Mr. Demary; correct?

8 A Yes, sir.

9 Q What you got back from the Bossier City Police
10 Department was a synopsis of their written report;
11 correct?

12 A Yes, sir.

13 Q And they sent you a CD with photographs they had
14 taken on the scene; correct?

15 A I don't recall any photographs.

16 Q Have you ever seen these before?

17 A No, sir. I can't see them very well from there. I
18 don't recall those photos, no, sir.

19 Q Do you recall ever -- you got the complete file, as
20 you recall it, from the Bossier City Police
21 Department?

22 A What I remember collecting from them was a fax,
23 sir.

24 Q A fax. Okay. Let's go to other photographs that
25 you did see as a result of the downloading of her

1 phone. And let's be candid. You were very
2 discreet in saying that after her arrest for murder
3 on September 12th, you got a phone call from her
4 attorney wanting to make certain that you got the
5 voice recorders; correct, sir?

6 A Yes, sir.

7 Q Well, actually, you probably got more than one and
8 that was from me; right?

9 A Yes, sir, it was you.

10 Q To be candid, I probably dogged you about how many
11 times, When are we going to get out there, when are
12 we going to get out there? Do you remember that?

13 A Some scheduling issues, yes, sir.

14 Q I did. And as a matter of fact, sir, when you went
15 to the scene to seize those items, I don't
16 remember, the ones in the small paper bag -- look
17 at that, sir, and I'll ask a couple of questions
18 about that if you can.

19 A Yes, sir.

20 Q All right. As a matter of fact, sir, on, I think
21 it's Page 3, it's titled at the top, Return?

22 A Yes, sir.

23 Q Explain to our folks what the return signifies to
24 law enforcement or in the prosecution of criminal
25 acts?

- 1 A On a return of a search warrant, you have to
2 document any and all items that are retrieved from
3 the location or what you're searching.
- 4 Q And you said, I left a copy of this warrant with
5 the resident slash John Delgado; correct, sir?
- 6 A Yes, sir.
- 7 Q Sir, in a search warrant, you have to place down
8 before your reason for wanting the items that
9 you're seeking. What you were seeking were the
10 voice recorders and any telephones there in those
11 drawers there at Ms. Pickrell's house; correct,
12 sir?
- 13 A Yes, sir.
- 14 Q And Ms. Pickrell had said exactly in those
15 conversations with DeVors and with Mr. Bailey that
16 there were in the drawer. Do you remember that?
- 17 A Yes, sir.
- 18 Q All right. Sir, look at the reason for Affiant's
19 belief that the property sought is on the subject
20 premises.
- 21 A Yes, sir.
- 22 Q All right. This is a typed out form and then you
23 fill in the reasons that you want to be able to
24 have a magistrate or a judge allow you to search;
25 correct, sir?

1 A Yes, sir.

2 Q Let's read this sentence by sentence and see if you
3 can contend with anything.

4 That on September the 11th, 2014, officers
5 with the Kershaw County Sheriff's Department were
6 dispatched to Far and Away Farms at [REDACTED] Boykin Road
7 in Camden, Kershaw County, South Carolina for
8 someone being shot.

9 Is that true, sir?

10 A With the exception of Boykin Road being Baynard
11 Boykin Road, yes, sir.

12 Q Baynard Boykin Road is what you put in here?

13 A Yes, but you said Boykin.

14 Q I'm sorry. I apologize. So that was true, that
15 sentence is true?

16 A Yes, sir.

17 Q It says, It was related to officers that the female
18 who resides in the residence at the farm had shot
19 her boyfriend and was unsure if he was deceased or
20 not; correct, sir? That was true?

21 A Yes, sir.

22 Q Upon arrival, it was determined that the victim was
23 deceased. That's true; correct, sir?

24 A Yes, sir.

25 Q The female of the residence told officers that the

- 1 gun that was used was still in the home as well as
2 the victim. That's also true?
- 3 A Yes, sir.
- 4 Q Officers entered the home and found the victim in a
5 bedroom of the home unresponsive. Correct, sir?
- 6 A Yes, sir.
- 7 Q While interviewing the female at the Sheriff's
8 Department, she stated she had been in a
9 relationship with the victim for several years.
10 You also found that to be true; correct, sir?
- 11 A Yes, sir.
- 12 Q In fact, you knew that to be true some six years
13 before when he had beat her in Louisiana; correct,
14 sir?
- 15 A I'm going off of her saying that, yes, sir.
- 16 Q No, you're going off Bossier City Police
17 Department?
- 18 A I don't know about the relationship.
- 19 Q Oh, okay. Well, they had to have a relationship
20 before -- they weren't strangers to each other,
21 were they?
- 22 A No, sir.
- 23 Q No. And you know that six years before during the
24 course of their relationship, he had beat her up in
25 Louisiana; correct, sir?

- 1 A Through documentation, yes, sir.
- 2 Q I'm sorry, sir?
- 3 A Through documentation, yes, sir.
- 4 Q Yes, sir. She stated that throughout the
5 relationship the victim would abuse and assault
6 her; correct, sir?
- 7 A That's what it says, sir.
- 8 Q Is that correct, sir?
- 9 A Yes, sir.
- 10 Q You're saying it based on what she told you;
11 correct?
- 12 A Yes, sir.
- 13 Q She said she does have old cell phones with
14 pictures of her beating bruises and marks that the
15 victim caused; correct, sir?
- 16 A Of her bearing bruises.
- 17 Q Of her bearing bruises and marks that the victim
18 caused; is that correct, sir?
- 19 A Yes, sir.
- 20 Q She also stated that she had recordings of voice
21 messages that the victim left her threatening
22 assault; correct, sir?
- 23 A Yes, sir.
- 24 Q So a month, three weeks after you charge her with
25 murder, you're looking for evidence of her abuse;

1 correct, sir?

2 A Yes, sir.

3 Q Yes.

4 MR. DELGADO: Your Honor, we move this in as
5 Defendant's Exhibit 29.

6 THE COURT: Any objection, Mr. Pauling, Ms.
7 Sampson?

8 MR. PAULING: None from the State, Your Honor.

9 THE COURT: Defendant's 29 in evidence without
10 objection.

11 (WHEREUPON, Defendant's Exhibit No. 29
12 was marked for identification and
13 received into evidence.)

14 BY MR. DELGADO:

15 Q In the phones that you found, sir, did you know
16 then, do you know now that you can, through a cell
17 phone, look at what is called the metadata and
18 determine when that phone made that picture? Did
19 you know that?

20 A I do now through the course, yes, sir.

21 Q You do know that now. Well, let me just --
22 (Pause.)

23 BY MR. DELGADO:

24 Q Sir, I'm going to ask you to look with us at
25 Defendant's Exhibit Number 1. That photograph was

1 taken from her cell phone; correct, sir?

2 A I believe so, yes, sir.

3 Q I'm sorry, sir?

4 A I believe so, yes, sir.

5 Q Yes, sir. And that was taken in September -- hold
6 on just one second, September 2012. Do you know
7 that, sir?

8 A I didn't know that, no, sir.

9 MR. DELGADO: Your Honor, we move Defendant's
10 Exhibit for identification into evidence.

11 MR. PAULING: Without objection, Your Honor.

12 THE COURT: Defendant's 1 into evidence
13 without objection.

14 MR. DELGADO: Thank you.

15 (WHEREUPON, Defendant's Exhibit No. 1
16 was marked for identification and
17 received into evidence.)

18 BY MR. DELGADO:

19 Q Sir, we also, as a result of the phone that you
20 found beside Mr. Demary at the residence at Baynard
21 Boykin Road, that was kept -- after it was given to
22 Mr. VanHouten in September was returned to you
23 during that same period of time, in September?

24 A And which phone are you talking about?

25 Q Sure. The phone that was found beside Mr. Demary,

1 his phone, found right beside his body in the
2 bedroom at Baynard Boykin Road?

3 A Yes, sir.

4 Q Was that given to Mr. VanHouten?

5 A Yes, sir, it was.

6 Q And Mr. VanHouten returned it to you?

7 A Yes, sir.

8 Q All right, sir. For some three years and eight
9 months, sir, until I asked my colleagues to ask you
10 to see if we could open it again, that had never
11 been tried to be opened again, had it, sir?

12 A It had not. I was unaware of any further
13 technology that he could open the phone.

14 Q Well, three weeks ago today, I requested of my
15 friends to try again, and the very next day you
16 were able to open it up; correct, sir?

17 A Mr. VanHouten was, yes, sir.

18 Q Yes, sir. But for three years, eight months, if I
19 hadn't asked for it, y'all never would have done
20 that; right? Just because we can't overcome
21 obstacles in criminal domestic violence cases;
22 right? You understand what I'm trying to say, sir?

23 A No, sir.

24 Q If I hadn't asked for it, this jury would have been
25 deprived of the information that's on that cell

1 phone; correct, sir?

2 A All I know is, Mr. Delgado, I received a call from
3 Mr. Pauling.

4 Q Yes. In the cell phone, they would have been
5 deprived of his message line when he talks to
6 Gregg, he calls her -- the message line is, Bitch;
7 right?

8 A Yes, sir.

9 Q There are several conversations, text conversations
10 between himself and Stephanie Owen; correct, sir?

11 A I believe so.

12 Q Yes, sir. And, again, if we hadn't opened that, we
13 would have never heard Ms. Owen ask him in a text
14 whether or not she -- if he wanted her to save her
15 a piece. Do you remember that?

16 A I don't recall that text, no, sir.

17 Q You don't remember us asking her whether or not,
18 I'll save a piece for you, do you remember us
19 asking Ms. Owen that?

20 A I believe so, yes, sir.

21 Q Well, in all due respect, Mr. Taylor, that -- I'm
22 not trying to be flippant, sir, but that's probably
23 not a piece of birthday cake, was it?

24 A I don't know what it's a piece of.

25 Q Well, I'll betcha somebody else in the Sheriff's

1 Department would say that's a piece of crack
2 cocaine.

3 MR. PAULING: Objection, Your Honor.

4 MR. DELGADO: I'll move on.

5 BY MR. DELGADO:

6 Q A piece, sir, did that -- did that interest you at
7 all when you saw that?

8 A I don't know what a piece is, so, no, sir.

9 Q And you didn't even ask; right? You didn't call
10 Ms. Owen back and say, You weren't, along with
11 Mr. Demary, moving drugs, marijuana, and crack
12 cocaine through her taxi cab; right?

13 A No, sir.

14 Q Sir, let me just ask one last little matter. When
15 you said that Lamotte Demary -- excuse me, Lamont,
16 Randall Lamont Lee was not talked to because he
17 wasn't present, the conversations that Ms. Pickrell
18 has with Mr. Bailey, she tells Mr. Bailey, Put this
19 name down. Put this name down. He knows about the
20 history. Do you recall that, sir?

21 A Yes, sir.

22 Q She's not saying he was there, is she?

23 A No, sir.

24 Q She's not saying anybody was there except herself
25 and Demary. But what she was trying to give

1 information to the Sheriff's Department about was
2 he can justify, he can -- I mean, he can -- knows
3 about the relationship of assaultive behavior by
4 Demary against me; right?

5 A Potentially, yes, sir.

6 Q In the same way that we have pictures, we have
7 texts, we have voice recordings; correct, sir?

8 A Yes, sir.

9 MR. DELGADO: That's all. Thank you.

10 THE COURT: Mr. Pauling?

11 MR. PAULING: Thank you, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. PAULING:

14 Q Investigator Taylor, Mr. Delgado asked you about
15 the information that was provided in the search
16 warrant to get those particular items. Again,
17 where Ms. Pickrell stated that she was abused, was
18 that information she provided you?

19 A Provided me, yes, sir.

20 Q Were you able to verify that with the other
21 individuals?

22 A Which individuals are you referring to?

23 Q As far as during the interview?

24 A Correct.

25 Q The statements that she made during the interview,

1 were you able to substantiate her statements based
2 on what you -- what evidence you had?

3 A No, sir.

4 Q Why was that? What concerns did you have with the
5 information that she provided Rick DeVors and Rick
6 Bailey as it relates to the shooting?

7 MR. DELGADO: Your Honor, I believe that would
8 call for a conclusion and evaluation by Mr. Taylor.

9 THE COURT: Counsel, approach the bench,
10 please.

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

14 MR. PAULING: Your Honor, I will withdraw that
15 last question.

16 BY MR. PAULING:

17 Q Investigator Taylor, Mr. Delgado asked you about
18 the cell phone of the victim that was recently
19 analyzed; is that correct?

20 A Correct.

21 Q Okay. Now, the information on that phone, there
22 was other information on the phone as well; isn't
23 that correct?

24 A Yes, sir.

25 Q To include -- would that include text messages

1 between both the Defendant and the victim?

2 A Yes, sir.

3 Q Those text messages on the evening before and the
4 morning -- the evening before the shooting; is that
5 correct?

6 A Yes, sir.

7 Q And the information in those text messages, did
8 that provide you more information as to their
9 communication?

10 A Yes, sir.

11 Q And was that relevant to your investigation?

12 A Yes, sir, it was.

13 Q How so?

14 A Showing that she knew that the Defendant -- or the
15 Decedent was coming to her residence.

16 MR. DELGADO: I'm sorry, I didn't get that.

17 THE WITNESS: Showing that Mr. Demary -- that
18 she knew Mr. Demary was coming to her residence.

19 BY MR. PAULING:

20 Q And that she was aware that he was coming to the
21 residence at that particular time?

22 A Yes, sir.

23 Q Did it also show other communications between them?

24 A Yes, sir.

25 Q Even prior to that day?

1 A Yes, sir.

2 Q And was that significant -- but as far as -- was
3 that significant to you?

4 A Yes, sir.

5 Q Now, Mr. Delgado asked you about an incident or at
6 least a photo from 2012. I believe that was
7 Defendant's 1?

8 A Yes, sir.

9 Q And were you able to track down any information or
10 report as it related to the 2012 incident?

11 A No, sir.

12 Q And she would have been here in Kershaw County at
13 that time; is that correct?

14 A Correct.

15 Q And -- but you did see other reports; is that
16 correct?

17 A Yes.

18 Q And what were those reports in relation to?

19 A Vandalism and a trespass, sir.

20 THE COURT: Without objection?

21 MR. DELGADO: Without objection. Move them
22 in.

23 (WHEREUPON, State's Exhibit Nos. 122 -
24 125 were marked for identification
25 only.)

1 MR. PAULING: May I approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 BY MR. PAULING:

5 Q Investigator Taylor, this is just for ID only, this
6 is State's 122, 123, 124, and 125.

7 A Yes, sir.

8 Q Investigator Taylor, those particular items, are
9 those the reports that you referenced?

10 A Yes, sir.

11 Q Just for the jury's edification, what are the
12 incident dates and just the subject of the report?
13 What was the call for?

14 A State's 122, the incident date is February 18th,
15 2011. And this is for a trespassing incident.

16 State's 123, the date is March the 4th, 2013.
17 This is a vandalism incident.

18 State's 124, August 1st of 2013, is also a
19 vandalism incident.

20 State's 125, March 28th of 2016, this is also
21 a vandalism incident.

22 Q So that's four reports -- or at least, three from
23 2011, March of 2013, and August of 2013; is that
24 correct?

25 A Yes, sir.

- 1 Q Trespassing, vandalism, and another vandalism; is
2 that correct?
- 3 A Yes, sir.
- 4 Q And those are reports that were filed by
5 Ms. Pickrell; is that correct?
- 6 A Yes, sir.
- 7 Q Investigator Taylor, as far as the photos that were
8 on the phone, Mr. Delgado asked you about a
9 follow-up of those particular pictures, what she
10 had stated about the photos. How would you go
11 about trying to verify that information, about who
12 caused those injuries?
- 13 A I would want to speak with the person that she is
14 alleging caused those injuries.
- 15 Q You couldn't do that, could you?
- 16 A No, sir.
- 17 Q Now, as far as the other information on the phone,
18 the texts messages, did it corroborate some of the
19 other information you had as far as him heading out
20 there that night?
- 21 A Yes, sir.
- 22 Q As far as him going to the mailbox?
- 23 A Yes.
- 24 Q Retrieving money from the mailbox?
- 25 A Yes.

1 Q And did that information corroborate that she had
2 knowledge that he was actually coming to the house?

3 MR. DELGADO: Objection to the leading,
4 please. There's absolutely no --

5 THE COURT: I'll sustain the objection.

6 BY MR. PAULING:

7 Q What other information in those text messages, the
8 ones from the night of September 10th, 2014, what
9 else did that corroborate for you?

10 A That she knew he was coming to the residence.

11 Q Now, based on the interviews -- you reviewed those
12 interviews; is that correct?

13 A Yes, sir.

14 Q And while there was information about -- provided
15 information about prior abuse, was she ever
16 specific in any manner about how the abuse
17 occurred?

18 A In these interviews?

19 Q Yes.

20 A No, sir.

21 Q Was she specific about what had taken place prior
22 to her shooting Mr. Demary?

23 A She wasn't specific, no, sir.

24 Q And after receiving the autopsy report --

25 MR. DELGADO: Objection, Your Honor, just

1 conclusory again, please.

2 THE COURT: The objection is what?

3 MR. DELGADO: Conclusory.

4 THE COURT: I'll allow it.

5 BY MR. PAULING:

6 Q After receiving the autopsy report -- after you
7 received the autopsy report and after reviewing the
8 interview, did you have concerns about the
9 information that was provided?

10 MR. DELGADO: Leading, please.

11 THE COURT: I'll allow the question.

12 BY MR. PAULING:

13 Q Did you have any concerns about the information
14 Ms. Pickrell provided to Investigator DeVors,
15 Investigator Bailey?

16 A Yes, sir.

17 Q What were they?

18 A That the Decedent was shot in the back.

19 Q What were your concerns about the information that
20 she provided?

21 A It wasn't -- the information she was providing
22 wasn't consistent as to --

23 MR. DELGADO: Wasn't what, sir?

24 THE WITNESS: Consistent as to what she was
25 telling one investigator versus another one about

1 how this occurred.

2 And then when she finally says to Investigator
3 Bailey, He lunged at me, the autopsy results are
4 totally opposite of what she's stating.

5 MR. PAULING: Beg the Court's indulgence.

6 (Pause.)

7 MR. PAULING: No further questions at this
8 time.

9 THE COURT: Mr. Delgado?

10 RECROSS-EXAMINATION

11 BY MR. DELGADO:

12 Q Mr. Taylor, if I tell you that the word lunge was
13 what Mr. Bailey said and never anything she said,
14 would that be fair, sir?

15 A She agreed with it.

16 Q I'm sorry, sir?

17 A She agreed with it.

18 Q Oh, she agreed with it. And that's the reason we
19 charge her with murder because she's inconsistent
20 at a time like that; is that right?

21 A No, sir.

22 Q That's what you just said. Sir, you're saying that
23 because she knows --

24 I'll let my friend sit down.

25 Because she knows the number of the Kershaw

1 County Sheriff's Department, with that big spread
2 that she had out there, and if somebody was going
3 to come fish in the little pond right out by her
4 mama's house and she called somebody saying,
5 They're trespassing, that's the same thing as not
6 reporting sexual and physical assault to the
7 Sheriff's Department; is that correct?

8 A It can, sure.

9 Q Sure. You are equating vandalism and trespassing
10 with her not calling about her own abuse; correct?

11 A What I'm saying is she knows how to call.

12 Q Oh, well, yes, sir, she certainly does. But isn't
13 that exactly the type of thing that we learned
14 about criminal domestic violence, that sometimes
15 the real victims of it don't report that. Isn't
16 that correct?

17 A Very possible, yes, sir.

18 Q No, sir, that's what you've have been taught; isn't
19 that correct? And I'm not going to say it again,
20 but that's the silence that people like Gregg show.
21 They don't want to have to bring all that on
22 themselves. Scorn, ridicule, embarrassment, all of
23 those things. Lack of self-respect. All of that.
24 That's what you said; correct?

25 (WHEREUPON, there was no response.)

1 MR. DELGADO: That's all.

2 THE COURT: Mr. Pauling?

3 MR. PAULING: Nothing further, Your Honor.

4 THE COURT: You can step down, sir. Thank
5 you.

6 (Witness steps down.)

7 MR. PAULING: Beg the Court's indulgence.

8 (Pause.)

9 MR. PAULING: Nothing further. At this point,
10 the State rests.

11 THE COURT: Any motions, Counsel?

12 MR. DELGADO: We do, yes, sir.

13 THE COURT: Ladies and gentlemen, the State
14 has rested their case. The Prosecution has rested.
15 Therefore, there are legal matters we have to take
16 up during the break. So I'm going to give y'all a
17 longer than normal break for lunch. We will
18 reconvene at 2:00 o'clock.

19 (WHEREUPON, the jury is excused for
20 lunch at 11:59 a.m.)

21 THE COURT: Are you ready for motions now?

22 MR. DELGADO: Yes, sir. Your Honor, the
23 Defendant moves pursuant to South Carolina Rule of
24 Criminal Procedure 19 for directed verdict on the
25 charge of murder. Where is the malice, Judge? If

1 this Court cannot, pursuant to Belcher, charge the
2 jury, isn't that an understatement of the
3 requirement that the Supreme Court is actually
4 saying that trial courts have a responsibility to
5 require the Prosecution at this time as well as
6 directed verdict to show malice. You have to save
7 the now defunct charge on implied malice to the use
8 of a deadly weapon. There's no get-back here.
9 There's no other girlfriend. There's no other
10 motive. Protection of someone else. There's
11 nothing relating to malice. If they say to the
12 Court this is the only charge, does not that
13 require the Court to ask of them, Where is the
14 malice in this matter?

15 Your Honor, I will give this to my friends and
16 ask the Court -- give you two copies and give one
17 to them.

18 THE COURT: Mr. Delgado, my first question is
19 this is a jury charge issue.

20 MR. DELGADO: Yes, sir.

21 THE COURT: So at this point, your client --
22 you've not presented a case.

23 MR. DELGADO: Yes, sir.

24 THE COURT: So for this purpose, am I still
25 allowed to infer malice from the use of a deadly

1 weapon?

2 MR. DELGADO: I had a feeling that's exactly
3 what the Court would respond. May I confer with my
4 colleagues?

5 THE COURT: Certainly.

6 MR. DELGADO: Your Honor, based on the contras
7 of this case, I will say to you right now -- and
8 you may want to inquire with the Defendant about
9 her response or election to take the stand or not.

10 Your Honor, in some research that I --
11 Ms. Zmroczek and I engaged in last night and this
12 morning, we would contend that in our area of
13 practice, Belcher is a red letter decision. What
14 it is saying to trial courts is that malice has
15 been inferred through the use of a deadly weapon to
16 the extent that it became not just an exception, it
17 became the rule. The cases in Belcher start
18 talking about the historical use of it over 100
19 years ago. What they're saying is that is a jury
20 charge. I think what it does underscore at this
21 point is the necessity for the Court to ask the
22 State how do they prove malice for a directed
23 verdict. And if I need to review that again after
24 the Defense rests, I will do that as well. How
25 about that?

1 THE COURT: Well, let me hear from the State
2 on the issue of malice.

3 MR. PAULING: Your Honor, this case, as I
4 understand it, is regarding a particular jury
5 charge. Your Honor, there is other evidence in
6 this case as it relates to malice. As the Court is
7 aware, there's this DV motion.

8 We feel like viewing the evidence in the light
9 most favorable to the State, the testimony, the
10 evidence that is in the record that's sufficient to
11 go forward to the jury for the charge of murder is
12 the fact that Mr. Demary was shot by Ms. Pickrell,
13 was shot in the back. The autopsy results confirm
14 that. There is -- Dr. Ross testified, at least, to
15 two scenarios wherein either the victim was bent
16 over when the shooting occurred or was laying down.
17 There are some inconsistencies in the Defendant's
18 testimony to both Rick DeVors as well as Rick
19 Bailey.

20 The fact that, Judge, that she even -- you
21 know, in the interviews she said, she went and she
22 got the gun and she just shot the damn gun. I just
23 shot the damn gun. I was never clear about what
24 was happening prior to her other than in the video,
25 she says he lunged -- or agreed that he lunged

1 towards her and she made a movement suggesting that
2 he was coming towards her.

3 But Judge, as far as the DV motion is
4 concerned, there is -- all we need is a scintilla
5 of evidence, Judge. And I believe there is
6 substantial -- even circumstantial evidence to go
7 forward to the jury as to charge of murder.

8 For that reason, the State will respectfully
9 request that the DV motion be denied, Your Honor.
10 As it relates to motive, the State doesn't have to
11 prove motive. As it relates to malice, that is a
12 question for the jury.

13 THE COURT: Any response, Mr. Delgado?

14 MR. DELGADO: If there exists any evidence of
15 malice. Everything that Mr. Pauling just said
16 relates to the gun. If they can't -- if the
17 Court -- and we intend to say to the jury, that's
18 not the law, what they're going to say about
19 possible implied malice. We're going to say you're
20 never going to hear that from the Court, because
21 that's not malice. They've got to be able to show
22 at this stage even a scintilla of evidence. They
23 talked about trajectory and in the back, we
24 acknowledge all that. Where is the malice?

25 Thank you.

1 THE COURT: I hear what you're saying, Mr.
2 Delgado, but at this point, I am going to deny your
3 motion, but I will be open to reviewing it after
4 the close of your case.

5 MR. DELGADO: Thank you.

6 THE COURT: Anything else, Counsel, before we
7 break for lunch?

8 MR. PAULING: Not from the State, Judge.

9 MS. ZMROCZEK: Your Honor, just that I did
10 e-mail you, your clerk, the proposed charges. This
11 case continues to go on and on and on. I'd like to
12 be able to at some point, maybe when we come back,
13 discuss those so that as we prepare for the rest of
14 the case that we can have our charges and be ready
15 to go at the appropriate time.

16 THE COURT: Well, why don't we plan then on
17 having a charge conference at the end of the day
18 today whenever we finish court. Is that reasonable
19 to give the State time to look at what you sent?

20 MS. ZMROCZEK: Well, with all -- Your Honor,
21 as I understand it, they had completed their
22 proposed jury charges on Friday. And so, I don't
23 know that any of this is new. We can discuss it
24 when we come back after lunch.

25 THE COURT: My preference on jury charges is

1 (WHEREUPON, the jury came into open
2 court at 1:58 p.m.)

3 THE COURT: Welcome back, ladies and
4 gentlemen.

5 Mr. Delgado?

6 MR. DELGADO: Thank you, Your Honor.

7 Your Honor, at this time, the Defense rests.

8 THE COURT: Ladies and gentlemen, the Defense
9 has rested their case, which means that the
10 evidence in this case has concluded. What is
11 remaining in this case is my charge to you where I
12 will explain the law to you and the closing
13 arguments of the attorneys.

14 So we now need to work on some legal issues
15 before we do those things. So I'm going to send
16 you back to the jury room, but the evidence in this
17 case is concluded. But I still remind you, please
18 do not discuss this case among yourselves yet. I
19 will tell you when you can start deliberating the
20 case. But I will ask you to retire back to the
21 jury room while we prepare for the attorneys'
22 closing arguments and the charge on the law.

23 Thank you.

24 (WHEREUPON, the jury retires to the jury
25 room at 1:59 p.m.)

1 THE COURT: Yes, sir.

2 MR. DELGADO: Your Honor, as I had previously
3 said I would do, I now rise anew for a directed
4 verdict on behalf of the Defendant on the charge of
5 murder.

6 The definition of malice as defined in five of
7 the Belcher case, quote: Malice is a legal term
8 implying wickedness with no just cause or excuse.
9 The term malice indicates a foreign purpose and
10 design to do a wrongful act under the circumstances
11 that exclude any legal right to do it. It is
12 something which streams from wickedness, from
13 depravity, from a heart devoid of social duty and
14 fatally bent on mischief.

15 If the Court is now in the position of having
16 to determine whether there is any evidence of
17 malice, I would like the Prosecution to point that
18 out to the Court. In other words, as I said
19 before, I think Belcher is a red letter case that
20 reemphasizes what our Court is saying about the
21 term malice. Implied, inferred, but at least at a
22 directed verdict phase, what evidence of malice
23 exist herein after all the evidence has concluded.

24 Thank you.

25 THE COURT: Yes, sir.

1 Yes, ma'am?

2 MS. SAMPSON: Your Honor, it's essentially the
3 same argument we made an hour and a half ago, or
4 whenever that was. Nothing has changed from that.
5 Belcher, as Your Honor pointed out, is a case that
6 has to do with the charges and whether malice can
7 be inferred by the use of a weapon, which we
8 weren't asking for anyway, Your Honor.

9 It would be our position that malice can be
10 inferred from the fact that she goes and gets a
11 loaded weapon with the safety off, comes back to
12 the room, and shoots him in the back, which is what
13 some of the evidence that has been presented to the
14 jury would say. It's not that we have to prove it
15 at this point by a preponderance of the evidence --
16 I mean, by a reasonable doubt, but to get past
17 directed verdict, we just have to have a scintilla
18 of evidence. I think we've gotten past scintilla
19 of evidence, but there's at least enough to give
20 this case to the jury, and that's all we have to do
21 at this point.

22 THE COURT: Mr. Delgado, I'm going to agree
23 with the State. There's enough to send it to the
24 jury.

25 MR. DELGADO: All right. If you would just

1 MS. ZMROCZEK: Correct. And I'm doing the
2 closing.

3 THE COURT: Okay.

4 MR. PAULING: Yes, Your Honor.

5 THE COURT: I apologize, Counsel. I just made
6 a decision on that issue and I just wanted to make
7 sure we were all on the same page.

8 (WHEREUPON, the jury came into open
9 court at 3:00 p.m.)

10 THE COURT: Ladies and gentlemen, thank you
11 again. We've reached the point of the trial where
12 the evidence is all in. It's now time for the
13 argument of counsel. I remind you that what you're
14 about to hear is not evidence, rather it's argument
15 of the attorneys to you.

16 Mr. Pauling?

17 MR. PAULING: Thank you, Your Honor. May it
18 please the Court?

19 Mr. Delgado? Ms. Zmroczek?

20 CLOSING ARGUMENT

21 MR. PAULING: The truth is the truth is the
22 truth. That's what Ms. April Sampson told you at
23 the beginning of this trial. The truth doesn't
24 change. The truth is Gregg Pickrell shot Robert
25 Lamotte Demary, Monty Demary, in the back. The

1 truth is her story does not add up. It doesn't
2 make sense.

3 Ladies and gentlemen, we thank you for the
4 attention that you've paid to this trial. This
5 case is very important to the State, it's important
6 to Ms. Pickrell. We thank you for your attention.
7 We thank you for the time that you vested in
8 hearing this particular matter.

9 Now, Ms. Pickrell was arrested and charged,
10 indicted for murder. And although those things
11 happened, as she sits in this courtroom, she is
12 presumed innocent. She's presumed innocent like
13 any other Defendant that comes in the court charged
14 with a crime, because that's the way our criminal
15 justice system works. She doesn't have to prove
16 one thing. The burden is upon the State to prove
17 her guilty beyond a reasonable doubt. That's our
18 burden. That's the burden that we welcome. That's
19 the burden that I submit to you that we have to
20 overcome.

21 So what is murder? Murder is the intentional
22 killing of another with malice aforethought either
23 express or implied.

24 Now, malice indicates an ill-will or hatred
25 towards another individual. I submit to you when a

1 person points a loaded gun at someone, shoots them
2 in the back, that that's malicious.

3 What is your role? You're the jury. You're
4 the fact finders. Only the 12 of you can determine
5 what happened at ■■■ Baynard Boykin Road back on
6 September 11th, 2014. But how do you do that?

7 Well, there were several witnesses that went
8 to the stand and they testified to tell the truth,
9 the whole truth, and nothing but the truth. And so
10 you've got to base a determination on the testimony
11 you heard, the evidence that's been presented.
12 Each one of you in your own right is an expert. We
13 talked about expert testimony. You have heard
14 about -- from several experts. Each one of you is
15 an expert in your own right. Your life experience
16 makes you an expert. Y'all come from different
17 walks of life, different ages. Your life
18 experience makes you an expert.

19 Now, the most important tool I would submit
20 you have as it relates to this case is common
21 sense. And so how do you decide what the truth is?
22 Those witnesses went to that witness stand. You
23 had a chance to observe them, watch them, hear
24 their testimony, see the evidence. The State asked
25 questions, Defense asked questions. What you have

1 to think about is, Were they honest and forthright?
2 Did what they say make sense? Did they have a
3 reason to lie? Was there any type of bias that any
4 of these witnesses would have had for one side or
5 the other? And did the evidence, was it
6 corroborated, did it match up with the testimony?
7 And so, again, only the 12 of you can decide that.

8 So, what do we have? In her interview with
9 law enforcement, Gregg Pickrell indicated that
10 Monty had contacted her about wanting money. He
11 wanted this money. He was always after her about
12 money. And she was supposed to leave it in the
13 mailbox. He was simply supposed to get the money
14 and leave.

15 And you heard from the cab driver. And she
16 indicated to you where she had dropped Monty. The
17 fact that he actually had gone to the mailbox,
18 retrieved an envelope, and paid her the money. The
19 taxi cab manifest is in evidence, and it indicated
20 that the fare was \$22. Twenty-two dollars. Paid
21 her. Then went on to the Defendant's house.

22 I asked Ms. Abstance, Now, but, Ms. Eddings --
23 the cab driver -- I asked her, I said, Well, if it
24 was \$22 and it was supposed to be a round trip, how
25 much would that cost him if it was a round trip?

1 She said, Oh, well, it would be \$44.

2 He paid her \$22. And we know there was only
3 \$18 remaining on his person at the scene. \$18
4 left. I'm not the sharpest, but 22 and 18 equals
5 40. It doesn't make sense, if he was simply
6 supposed to be going to the mailbox, getting the
7 money, then going back home, he didn't have enough
8 money to make a round trip. It doesn't make sense.
9 It doesn't make sense to go get money, go back home
10 and be back at the spot where you were before you
11 started with no money.

12 Now, she indicated, Well, you know, I think I
13 gave him \$80. You know you gave the cab \$22,
14 there's only \$18 left. Doesn't make sense.

15 Now, you couple that with -- and the text
16 messages are in evidence, but you couple that with
17 the text messages on the night of September 10th.
18 And there's communication between Monty and the
19 Defendant. She indicates to him that -- she asked
20 him -- tells him about putting the money in the
21 mailbox. She also indicates that she can meet him
22 halfway. She can meet him halfway up the hill,
23 just let her know when he's got there.

24 In the interview, she says she was not
25 expecting him. And you saw the photos. And the

1 photos will be back with you in evidence. She told
2 law enforcement that she was not expecting him at
3 all. She also mentioned that when he comes over,
4 she puts the dogs up. Dog cage, empty. She
5 described the dog bed in the room. And when she
6 called 9-1-1, she indicated that the dogs were out
7 back. But if she didn't know he was coming to the
8 house, how is it that the dogs are already up?
9 There's no dog in the house. And, of course, she
10 indicated that, Well, you know, he threatened to
11 kill the dogs. One being a pit bull.

12 You heard from the interview that she says
13 when Monty gets there, he's loaded, he's always
14 loaded. He always comes out there loaded. The
15 first thing she does is offer him a drink. She has
16 a drink every night she indicated, vodka and
17 grapefruit. But she was trying to placate the
18 situation. So to have you believe this is an
19 individual who when drinking gets violent, shows up
20 unbeknownst to you, didn't know he was coming, on
21 your doorstep and he's already loaded, but you
22 proceed to invite him in and give him more alcohol.
23 I'm not the sharpest tool, but that doesn't make
24 sense. That doesn't make any sense.

25 She then proceeds to tell law enforcement that

1 they had dinner, had spaghetti, then watched a
2 movie. And at some point he passed out on the
3 couch.

4 Later on, she says that she got beat all night
5 long. If I remember correctly, she told the nurse
6 that from about 11:00 on to 4:30 or 5:00. But they
7 had dinner, at some point they watched a movie, and
8 he passed out. But she says -- and we only have
9 what she says because we can't talk to Monty.
10 Doesn't make sense.

11 Now, she also indicated during her interview
12 that the gun she used to kill Monty was already
13 loaded. She left the safety off and she had never
14 fired that gun before that morning. Now, she did
15 make it clear, she said that Monty had. He's fired
16 the gun. He's fired it several times. He's come
17 to my house and he's fired it. She indicated that
18 she was concerned about where the gun had been.
19 She had it placed in the bureau. Now it was in
20 the -- the bureau in her room, but now it was in
21 the bureau or the desk outside in the hall.

22 And she said the reason she retrieved the
23 gun -- you remember this? The reason she retrieved
24 the gun was to get him to hurry up. Hurry up and
25 let's go. She went and retrieved a loaded gun from

1 her bureau because she just wanted him to hurry up,
2 let's go. But the only person -- and, again, the
3 pictures will be back in evidence with you. The
4 only person, the only person who was ready to go
5 was the victim, Monty. You saw the pictures of
6 him, you've seen several. They'll be back there
7 with you. His shoes were on. You saw the pictures
8 of Ms. Pickrell at the Sheriff's Office when they
9 took the pictures of her feet, barefoot with dirt
10 on them. She wasn't even ready to go.

11 And what we also know -- and this is in the
12 cell phone records -- is that at 8:28 Monty had
13 already called Stephanie Owen. She testified, the
14 text message, You off? You remember she was a cab
15 driver and a friend of his? And she was going to
16 take him the next day to work -- or to look for
17 work, to look for a job. That was at 8:28. At
18 8:46, he sends another text with a question mark
19 because she hadn't responded to him. Then at 8:50,
20 Gregg Pickrell is calling 9-1-1. But, again, the
21 only person who was ready to go was Monty Demary.
22 Doesn't add up. Doesn't make sense.

23 He made a call at 8:28 -- a text at 8:28.
24 Another text at 8:46. Unfortunately for him, at
25 8:53 when Stephanie Owen texted him back, he's

1 unable to answer, because he's laying against a
2 chair with a bullet wound to his back that has run
3 through both of his lungs and his aorta.

4 The 9-1-1 call. We've heard that. She
5 initially told 9-1-1 that she just shot a guy who
6 had come out to her house. Initially, when she was
7 asked if he was breathing, she said that he was and
8 then she went outside the house. And then she
9 asked for 9-1-1 to call her mother. Call her
10 mother to come to the house.

11 And in the interview, she talked about how in
12 the past he has threatened to set the farm on fire.
13 Kill her mother. Said all those things. But at
14 this point, she calls 9-1-1. She's asking 9-1-1 to
15 call her mother.

16 In this very moment when she claims she's been
17 beaten all night, she wants law enforcement to call
18 her mother into a situation that I guess, at least
19 by her explanation, she would want her mother to
20 avoid. It doesn't seem like at this point she's
21 really concerned about these previous threats that
22 he's made to her mother. But I submit to you
23 because at this point when she's calling 9-1-1, she
24 knows he's dead.

25 The other thing that's interesting about that

1 call is when she's asked about the fact that he
2 had -- or when she said he had beat her all night,
3 they asked, Well, did you call 9-1-1? First she
4 said she did, then later said, Well, no, she
5 didn't, she didn't call 9-1-1.

6 And she told law enforcement, You don't call
7 9-1-1 with Monty. You just don't call 9-1-1. But
8 she did. She called 9-1-1 back in 2008. When she
9 called them back in 2008, he was arrested, he was
10 charged. He went to jail. And he was gone for
11 some period of time.

12 She said, you know, You don't call 9-1-1 with
13 Monty, you are worried about retaliation. Why now?
14 Why call now? She's not worried about retaliation
15 at this point because, again, she knows he's dead.

16 She told law enforcement, I couldn't call
17 them. I couldn't call them. She said, We had
18 dinner, watched a movie, he went to sleep. He
19 passed out. You can't know if somebody passed out
20 unless you're the one who's awake. When she calls
21 9-1-1 -- and you can actually hear it -- she has
22 two phones. She has the phone she's making the
23 call on and she has her mother's phone. During the
24 9-1-1 call, in fact, you hear the phone buzz. Her
25 mother was actually calling her at this point. She

1 told law enforcement she's got two phones. Two
2 phones, and you only have to dial three numbers,
3 9-1-1. But she doesn't. She doesn't do that.

4 Now, the Defense is asserting self-defense,
5 and we have the burden of disproving self-defense
6 beyond a reasonable doubt.

7 In this case, the elements of self-defense are
8 the Defendant must be without fault in bringing on
9 the difficulty of the necessity of taking human
10 life. The judge is going to instruct you on the
11 law and the judge will go over the elements of
12 self-defense. So you take the law as the judge
13 instructs you.

14 Also, the Defendant must be in actual imminent
15 danger or believed she was in imminent danger of
16 losing her life or sustaining serious bodily
17 injury. The threat of death or bodily injury must
18 be apparent and actually feared by the Defendant.

19 Now, she can also act on appearances, and the
20 judge will explain that to you.

21 Now, we only have to disprove one of those
22 elements beyond a reasonable doubt.

23 I would submit to you that the Defendant is
24 the one who brought upon the difficulty. She said
25 she was -- she testifies that he was looking for

1 his earring. She was helping him at one point look
2 for the earring and then she decided to go retrieve
3 a loaded handgun and point it at him because that
4 was going to -- in order to try to get him to go
5 with her a little quicker. And then she also said
6 she didn't want to get close to him because he
7 might get the gun from her.

8 It doesn't make sense that you would retrieve
9 this gun -- Investigator Bailey asked, Well, why
10 would you even get a gun and point it at him? You
11 would think if she was being attacked at that time,
12 she would have just told the investigator, I went
13 to get the gun because he was coming after me.
14 That's not what she said. She said, I was just
15 going to get the gun, point it at him, and tell him
16 to come on. Same gun that she said she had never
17 fired before. Same gun that had been loaded. Same
18 gun that had the safety off. She even said, I left
19 it with the safety off. Same gun that she was
20 afraid that he might know where it is, and so
21 that's why she moved it, right outside of the
22 bedroom. And by her own admission, because she had
23 moved it, he wasn't even aware of where the gun
24 was. And if you believe her story, the only time
25 he saw it was when she pointed it at him.

1 And so I submit to you that she was the one
2 who brought the murder weapon into play. She was
3 not in imminent danger of losing her life. Law
4 enforcement told you on Monty Demary what they
5 found, they found a cell phone. She shot a gun.
6 He was just shooting texts. He was just trying to
7 get out of there. Two texts to Stephanie Owen at
8 8:28 and 8:46. The only thing that was near him
9 was his cell phone. He was making a phone call.

10 The other problem, of course, is she said he
11 lunged at her. The question by Investigator Bailey
12 during the interview, she said -- he asked her if
13 he lunged at you, and she said yes. You'll see the
14 interview. She was like, Yeah.

15 Dr. Ross came and testified and she told you
16 about the autopsy and the results of the autopsy.
17 And she explained that that bullet entered his body
18 on the left side, just the midline, and how it
19 traveled. And she indicated bullets go straight.

20 The two scenarios that she gave were the
21 shooter was standing and he was probably bent over
22 just slightly. Or, I asked her about was there
23 another scenario, and she said or that he was
24 laying, actually laying face-down.

25 Now, the Defendant indicates that he was --

1 had been looking for the earring. But then she
2 tried to say that he at some point lunged at her,
3 and that's when she says, I just shot the damn gun.
4 I just shot the damn gun.

5 Dr. Ross didn't espouse any theory or
6 situation where the victim was shot in the back
7 while facing Ms. Pickrell.

8 The Defense may come up and they may indicate
9 that, You know, well, she gave them all this
10 information. She told law enforcement what had
11 happened.

12 Let me ask you this, was there ever a report?
13 Now, she reported a lot of things, vandalism,
14 trespassing in 2011 and two in 2013. She had at
15 least two phones and a voice recorder.

16 Mr. Delgado asked, I believe it was Rick
17 DeVors about the poster in the lobby of the
18 Sheriff's Office. And listed all of these things
19 about, Can you spot an abuser? It states on the
20 poster towards the bottom, If in immediate danger,
21 call 9-1-1. There are a lot of other numbers on
22 here. One, two, three other numbers. If in
23 immediate danger, call 9-1-1.

24 The Defense said there were other individuals
25 who knew about what happened, asked Investigator

1 Taylor about that. And even on the video, even on
2 the video interview, she does mention someone's
3 name. She says, Oh, well, he knows all about it.
4 Not about this. Not about this. But he's known
5 about some other things. Not about this, because
6 he wasn't at the house. Talked about this Lamont
7 Lee. He wasn't at the house. He can't tell you
8 what happened the evening of September 10th onto
9 the morning hours of September 11th because he
10 wasn't there.

11 I asked Investigator Taylor, Has anybody or
12 has he come forward at this point? No. And you
13 didn't hear from them this week or last week
14 either.

15 Ladies and gentlemen, Mr. Delgado said -- and
16 I would tend to agree with him on this. He said if
17 it's foggy in the pulpit, it's going to be foggy in
18 the pew. If it's foggy in the pulpit, it's going
19 to be foggy in the pew.

20 And so I would say, If you can't trust the
21 messenger, how can you trust the message? You saw
22 the interview with Investigator DeVors, as well as
23 with Investigator Rick Bailey. The inconsistencies
24 in Ms. Pickrell's story.

25 Ms. Sampson said the only thing -- the only

1 thing that was consistent (holding gun), that was
2 the only thing that was consistent.

3 At some point, I anticipate the Defense is
4 going to say, Well, you know, self-defense. She
5 doesn't have to wait for him to get the drop on
6 her. And that's correct. But they're trying to
7 have it two ways, because she says he lunged at
8 her. But she shot him in the back. I surmise they
9 will say, Well, okay, that's what happened. She
10 didn't have to wait for him to get the drop on her
11 because he said, As soon as I get this earring, I'm
12 going to kill you, so when he turned his back, she
13 shot him. She doesn't have to wait for him to get
14 the drop on her. But that's not what she said.
15 What she said was, The only reason I got this gun
16 was to get him to hurry up because mama was coming.
17 Because mama was coming. She couldn't risk him
18 simply leaving. Again, 8:28, he's already made a
19 call. 8:46, he's waiting to hear back from that
20 person. She can't risk him leaving. She can't
21 risk him leaving her house, going down past the
22 racetrack and passing mama's house. And the reason
23 she can't risk that is because mama doesn't want
24 him back on her property.

25 And in the text messages, there's a discussion

1 between the Defendant and Monty and she tells him,
2 Mama caught me coming back a couple of days before.

3 Also, in those same text messages, the
4 messages the night of September 10th, the Defendant
5 tells Monty, I'm going to fix mama dinner. She
6 let's him know when she's going to be back. When
7 the Defendant is going to be back to her house. He
8 asked her, Let me know when you want me to come
9 out. He calls the cab company, 432-3211, then
10 let's her know that he's made the call. And then
11 once he gets out there, he's contacting her as
12 well. But she can't -- she can't let mama know
13 that he's back there. She can't let mama know that
14 she invited him back out there.

15 See, she can tell the investigators whatever
16 she wants to tell them. But, guess what? Dead men
17 tell no lies. Monty's not around to say. Luckily,
18 we do have the cell phone records. That's why she
19 had to tell mama, make this excuse, Well, I'm going
20 to go and I'm going to tell mama that I'm going
21 into town to get the Trader -- there's something in
22 the Trader I'm selling. So she has to make up this
23 excuse. If he walks down that driveway past that
24 racetrack, he's going to run into mama. And she
25 can't -- she can't have it. She couldn't even be

1 truthful with her own mama.

2 Ladies and gentlemen, everybody wants to know
3 why. The Defense will tell you -- or wants to tell
4 you that it's because of all this that happened in
5 the past, all this documentation on the voice
6 recorders and the two cell phones that led to this.
7 It's just that couple of things during that
8 interview, Mr. Delgado wants you to break the
9 silence. He wants you to break the silence. Quite
10 honestly, that's not your job. Your role is to
11 decide if we met our burden beyond a reasonable
12 doubt based upon the facts and the evidence that
13 was presented in this courtroom about this
14 particular event.

15 The Defendant says two different things. She
16 says Monty is violent and everybody knows this.
17 Everybody knows it. Everyone. Those are her
18 words. What he's done to her, everybody knows it.
19 She never makes a report here in Kershaw County,
20 but everybody knows it.

21 But then on the interview with her attorney
22 William Cox, she says, Well, you know, William has
23 known me since I pulled into town. I've been in
24 hiding. I've been on this crazy boat, this crazy
25 ship. I've been in hiding for six years. William

1 knows me, and he didn't even have a clue.

2 So which is it? Either everybody knows or
3 you've been in hiding for six years. You can't
4 have it both ways. You may want it both ways, but
5 you can't have it both ways.

6 Again, everybody wants to know why. I submit
7 to you that as far as motive is concerned, we don't
8 have to prove motive, but we do have to prove the
9 elements as charged. And I submit to you that what
10 she did on that morning was, in fact, malicious.

11 It seems that with this particular matter, if
12 she was so concerned about the farm and the dogs
13 and her mother, that she would have recorded it.
14 That she would have even told the very person that
15 knew her since she pulled into town. But she
16 didn't do that.

17 And they want you to believe that she was so
18 afraid of him that she wouldn't even call 9-1-1.
19 But she pulled a gun, her words, just to get him to
20 come on, let's go. Come on, let's go. Doesn't
21 make sense.

22 Ladies and gentlemen, we've come to a point in
23 this trial where you have to make the ultimate
24 decision. You have to decide what happened. You
25 have to decide what the truth is. We've been

1 before you these last few days seeking justice.
2 Nothing more and nothing less.

3 At the end of this, the judge is going to ask
4 you to return a verdict. In Latin, verdict means
5 to speak the truth. I submit to you that we more
6 than met our burden of proof. Gregg Pickrell, on
7 the charge of murder, murder of Monty Demary, is
8 guilty.

9 Thank you.

10 THE COURT: Ms. Zmroczek?

11 MS. ZMROCZEK: Thank you, Your Honor. May it
12 please the Court?

13 CLOSING ARGUMENT

14 MS. ZMROCZEK: It doesn't make sense. What
15 doesn't make sense is that Kershaw County Sheriff's
16 Department can't spot their own warnings of abuse.

17 Gregg Pickrell calls 9-1-1 on the morning of
18 September 11th. She says, I shot and killed
19 someone. Well, why did you do that, honey?

20 Mr. Delgado has asked you and I will ask you
21 again to break the silence. Break the silence is
22 something that Investigator Taylor and all the
23 other investigators couldn't do.

24 There's a reason that they receive so much
25 training on criminal domestic violence. And, in

1 fact, when asked Investigator Training --
2 Investigator Rick Bailey told you, it's because
3 South Carolina has the one of the highest rights of
4 homicides between persons in a relationship.
5 There's a reason. There's a reason for this
6 training. And the reason is Gregg Pickrell.
7 Because not every time that someone is shot is it
8 murder and not every time that someone died is it a
9 crime.

10 The judge is going to charge you on the law.
11 He's going to charge you that you take the law and
12 apply it to the facts. And, ladies and gentlemen,
13 he's going to tell you that you cannot even discuss
14 the fact that Gregg Pickrell did not testify.

15 I suspect the numerous references to, from the
16 witness stand, from the witness stand, from the
17 witness stand was, Well, she didn't get up and tell
18 you her story. Ladies and gentlemen, you sat here
19 for four days, four complete days last week and a
20 full day today. You have the story. You have the
21 9-1-1 call. Sumter County 9-1-1: Why did you
22 shoot the person? I had been beaten all night. He
23 has been beating me all night.

24 They say that her story doesn't add up and it
25 doesn't make sense. You'll get to take it back

1 there with you and you'll get to listen. And you
2 see if you can find the inconsistencies, because
3 there aren't many.

4 Ladies and gentlemen, we could have put her up
5 here and let them abuse her all over again. But we
6 didn't. We could have rolled her 93-now-year-old
7 mother right up here and let her tell you why she
8 didn't want him on her property. Because he tried
9 to kill her three weeks earlier. In front of her
10 mother, slaps her down --

11 MR. PAULING: Your Honor, I'm sorry. I have
12 to object. She's testifying to evidence that is
13 not in the record.

14 THE COURT: Counsel, approach the bench,
15 please.

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

19 THE COURT: Ladies and gentlemen, I ask you to
20 step out just a moment, please. Go to the jury
21 room briefly.

22 (WHEREUPON, the jury retires to the jury
23 room at 3:46 p.m.)

24 THE COURT: Madam Court Reporter, can you read
25 back the last 30 seconds or so of the closing

1 arguments?

2 (WHEREUPON, requested portion is read
3 back for the Court.)

4 MR. PAULING: And, Your Honor, my objection is
5 that there is no evidence in the record of that,
6 that she had threatened to kill her in front of her
7 mother three weeks earlier, or even tried to kill
8 her in front of her mother three weeks earlier.

9 THE COURT: Ms. Zmroczek?

10 MS. ZMROCZEK: In the interview -- in the
11 interviews, Your Honor, she talks extensively about
12 Kip Pelzer and the fact that he, the Defendant --
13 or excuse me, he, the victim, drove the vehicle to
14 there and that -- she said specifically, That's why
15 my mom doesn't want him back, she's afraid. And, I
16 mean, there was -- Your Honor, I could pull out the
17 entire interview if we need to. But, I mean,
18 clearly -- originally at the bench, he said the
19 reference was that -- what I had indicated was that
20 he, Demary, had threatened to kill the mom. And I
21 said, No, that's not what I said. And now the
22 objection is seeming to change, so.

23 MR. PAULING: Well, that's what I heard, said,
24 Drag the mother up there to say that he threatened
25 to kill her. And then she said in front -- then

1 when she said in front --

2 THE COURT: I don't recall that in the
3 interview. But I'll be honest, I had some trouble
4 hearing some of the interview.

5 MR. PAULING: I mean, Judge, we can play the
6 whole interview. I believe we've got a transcript
7 of the interview.

8 MS. ZMROCZEK: I can move on. I mean, if they
9 need me to apologize. I mean --

10 THE COURT: What are you asking for as a
11 remedy, Mr. Pauling?

12 MR. PAULING: Judge, I don't know that -- we
13 can't unring the bell, I guess. Even if you strike
14 it from the record -- strike it from the record,
15 there's a jury instruction. There's no testimony
16 whatsoever as to the statement that Ms. Zmroczek
17 just made. I mean, there's no basis for it.

18 THE COURT: Can we go back to the interview
19 and hear what the basis of the evidence was.

20 Do you have a transcript, Ms. Zmroczek?

21 MS. ZMROCZEK: I do, Your Honor.

22 THE COURT: Mr. Pauling, I assume you're
23 asking me for a mistrial?

24 MR. PAULING: Beg the Court's indulgence.

25 (Pause.)

1 MS. ZMROCZEK: Right here, Your Honor, on Page
2 44 of the transcript. Ms. Pickrell, I mean, you
3 don't -- you don't know. When he's like that, you
4 don't do that. I'm sorry, I'm trying to not speak
5 too fast. He wasn't violent and mean and mad that
6 night. I called my mother because I said, Get out
7 of here, you've got to get this truck out of here.
8 I don't want this truck on my property. So I
9 couldn't deal with him. I couldn't deal with him
10 that night.

11 Your Honor, it's sporadic, so I need to
12 find -- beg the Court's indulgence.

13 THE COURT: Certainly.

14 (Pause.)

15 MS. ZMROCZEK: Here it is, Your Honor, on
16 Page -- beginning on Page 32. And I called my
17 mother and I said, Can you come over? Monty is
18 drunk, we need to get him out of here. I will
19 drive the truck to Kirkwood. Uh-huh.
20 Ms. Pickrell. And bring me home. She was there.
21 She came right over. My mother -- my mom is -- you
22 know, she's 89, but she was one of the first female
23 licensed jockeys in the United States. Oh, well.
24 Yeah, she's still. So she came right over -- and
25 this is, Your Honor, referring to that evening of

1 the truck incident. So we -- Officer Corbett told
2 me at the time the next morning that was the wrong
3 thing to do to get him in the truck and drive it
4 because what did happen is we got to the end of
5 Cantey Road, before -- uh-huh, before 521 and he
6 started slapping me and this and that. And I
7 thought, You know what? This truck -- I cannot be
8 in this truck. And he slapped me and he said, I'll
9 get myself home. Fine. So I opened the door. He
10 came around. He started yelling and threatening
11 me. And I went into my mom's car and he -- we
12 turned back around and went to the farm.

13 Later on, Your Honor, she talks -- and that
14 goes on to Page 33. She talks about the violence
15 in front of her mother that evening.

16 THE COURT: Ms. Zmroczek, I understand, but
17 what you said -- I recall the slapping. But you
18 just characterized that as an attempt to kill her
19 in front of the jury.

20 MS. ZMROCZEK: I will clear that statement up
21 for Your Honor.

22 MR. PAULING: And, Judge, I would ask that it
23 be stricken as well as a curative instruction so
24 the jury understands saying that that statement is
25 nowhere in the testimony or evidence before them

1 and they must disregard it -- they must disregard
2 it and not consider that at all in their
3 deliberations.

4 MS. ZMROCZEK: Your Honor, nothing that I say
5 is evidence.

6 THE COURT: Give me a second to craft a
7 curative instruction.

8 (Pause.)

9 THE COURT: Okay, Counsel, this is what I
10 propose. Ladies and gentlemen, counsel for Ms.
11 Pickrell made a reference just now to an attempt by
12 Mr. Demary to kill her three weeks before his
13 death. There was no such incident in evidence in
14 this case. The evidence reflects there was
15 testimony that he slapped her three weeks prior.
16 You are to disregard any reference to attempt to
17 kill her.

18 Mr. Pauling, this is my first one, so if you
19 want me to say something else, don't be bashful.

20 MR. PAULING: No, Your Honor. I'm thinking
21 about just one addition to what you're saying.

22 Judge, I would only request that there be
23 language that in front of her mother. That she --
24 because at least the suggestion is that her mother
25 witnessed this threat. Not just simply that he --

1 and that -- and that there was a reference to the
2 threat and that he tried to kill her in front of
3 her mother. I mean, that was -- I just want to --

4 THE COURT: Counsel, how about this: Ladies
5 and gentlemen, counsel for Ms. Pickrell just made a
6 reference to an attempt by Mr. Demary to kill her
7 three weeks prior to his death that was witnessed
8 by Ms. Pickrell's mother. There was no such
9 incident in the evidence in this case. The
10 evidence reflects that she claims that he slapped
11 her. You are to disregard the characterization
12 of -- disregard the characterization of this
13 incident as an attempt to kill her witnessed by her
14 mother.

15 MS. ZMROCZEK: That's fine.

16 MR. PAULING: Yes, Your Honor. The State is
17 satisfied with that.

18 THE COURT: Counsel, anything else? I don't
19 want to leave the jury out very long during closing
20 arguments.

21 MR. PAULING: And, Your Honor, and by no means
22 do I want a mistrial. I'm not asking for a
23 mistrial, but just an instruction that because if
24 it happens again, I don't --

25 THE COURT: I understand. You're on the

1 record saying you don't want a mistrial.

2 MR. PAULING: Yes, sir.

3 THE COURT: Let's bring the jury back in.

4 (WHEREUPON, the jury came into open
5 court at 3:57 p.m.)

6 THE COURT: Ladies and gentlemen, the attorney
7 for Ms. Pickrell made a reference, just before I
8 asked you to go, to an incident where she said that
9 Mr. Demary attempted to kill Ms. Pickrell in an
10 incident witnessed by her mother three weeks before
11 his death.

12 I am instructing you there was no such
13 incident in the evidence that you've heard in this
14 case. The evidence reflects that she claimed three
15 weeks before his death, he had slapped her. You
16 are to disregard the characterization of this
17 incident as an attempt to kill her that was
18 witnessed by her mother.

19 MS. ZMROCZEK: Thank you, Your Honor.

20 **CLOSING ARGUMENT CONTINUES**

21 MS. ZMROCZEK: That is correct. What happened
22 was that she was slapped in front of her mother, in
23 front of her 89-year-old mother three weeks before.
24 That's what happened. That's what she said.

25 We don't get to see or talk to Lamotte Demary,

1 but we do get to hear him. You'll get to take
2 those audio recordings back with you. You'll get
3 to hear him say, I got you. What the fuck do you
4 mean to me? You piece of shit. His words. Not
5 mine. And thank goodness, thank goodness after
6 three years and eight months that Mr. Delgado and I
7 decided to ask again for them to download the
8 phones, because you'll get to see the specific
9 threats that he made. I just tried to keep the
10 peace because I didn't want to get hurt.

11 Is that malice? Is that malice? Listen to
12 the emotions of the 9-1-1 call.

13 Their own training officer, Can you spot an
14 abuser? It's hanging on their wall. You'll get to
15 take it back there with you. Listing all of the
16 things. Does your husband or boyfriend act
17 controlling and putting you down in front of other
18 people?

19 You'll get to read the text messages, should
20 you need them. These texts messages, ladies and
21 gentlemen, they start State's 89. You can go
22 through them if you like. They'll give you a great
23 idea of exactly what Gregg was dealing with and why
24 she acted the way that she did defending herself.

25 Are you serious? You just want that shit to

1 start? I keep getting fucking ESP.

2 And the State says, Well, they haven't proved
3 that that's Monty number. They haven't proved that
4 that's Monty's voice on the cell phone.

5 The judge is going to continue to remind you,
6 we don't have to prove anything. They have to
7 disprove. But we have the text messages where it
8 says, Yo, this is Monty. And it's the same number
9 that you'll hear on the recording.

10 Bitch. Fuck you. You worried about a fucking
11 dog and I'm fucking sick? Fuck you. You lifeless
12 piece of shit. Get a fucking life. These are his
13 words.

14 Interestingly, you'll find an entire page that
15 they put in that talks about his aunt, his aunt
16 asking if he's there. Aunt apologizing. Hey,
17 Mont, after all this time, I thought things were
18 okay. Mont, Robert Lamont Lee. But it happened
19 again last weekend. This is dated October 29th,
20 2013. This was the most violent. At one point, he
21 had me in a resting arm hold on the floor and all I
22 could think about is what would happen to my mom
23 and all of these animals if I died. I didn't tell
24 my mom the truth because I didn't want any dealings
25 with the law.

1 Does he put her down? Does he threaten her?
2 Does he tell you that you are nothing and you can't
3 make it alone? Does he grab, push, pinch or, shove
4 or hit you? You'll get this back there. If your
5 answer to any of these is yes, then you're in an
6 abusive relationship. Much less, almost all of
7 them.

8 They want to know what happened. The reason
9 we're here, ladies and gentlemen, is not the who,
10 it's not the what, it's not the when, it's not the
11 where, it's the why. And she told the why to the
12 9-1-1 operator. He threatened to kill me. She
13 told the same thing to Investigator DeVors. She
14 told the same thing to Investigator Bailey.

15 When I sit down, the State is going to have an
16 opportunity to come back up and rebut what I've
17 said, and I don't get to say anything else after
18 that. I submit to you that's the hardest part of
19 being a defense attorney because I can't get back
20 up and say, But what about this? But, ladies and
21 gentlemen, that's what you get to do. There are so
22 many striking inconsistencies, play them for us,
23 show us the page numbers, let us hear. Because,
24 ladies and gentlemen, it's their burden.

25 Why did you have to do this? These are things

1 that you heard, her voice within minutes. Within
2 minutes. I just tried to keep the peace. I didn't
3 want to be hurt. Does that make sense?

4 The judge is going to charge you on the right
5 to act on appearances. Specifically, he's going to
6 charge you that she doesn't have to wait for him to
7 get the drop on her.

8 I can't take it. I can't take it anymore.

9 Self-defense is a complete defense. Ladies
10 and gentlemen, when you go back there and you have
11 the exhibits and you go through the exhibits and
12 you go through the law, I suggest that you focus on
13 self-defense first because it's an absolute
14 defense. And the State must disprove, it says
15 four, but there are three elements. Since she was
16 in her home, she had no duty to retreat. Had to be
17 in actual imminent danger of losing her life or
18 sustaining serious bodily injury. Although we did
19 put in these pictures, we, the Defense, didn't take
20 them. September 11, 2014, we didn't take these
21 pictures.

22 Remember what Dr. Ross described as defensive
23 wounds? That was SLED's -- those are SLED's
24 pictures. This was Kershaw County's own Sheriff's
25 Department. September 11th, 2014.

1 She says, I was poked in the eye so many
2 times. The next day, they go to arrest her, we
3 already see it coming up, getting worse.

4 You know what Dr. Ross calls this, ladies and
5 gentlemen? A defensive wound from being beaten
6 repeatedly for six years.

7 Does it make sense that she didn't call police
8 when she called about a trespasser? Absolutely.
9 That's why they have training classes on it.
10 That's why they have training classes specifically
11 entitled Overcoming Obstacles. Because this is an
12 obstacle, ladies and gentlemen. It is an obstacle
13 that a woman, who calls 9-1-1 immediately -- and
14 you'll see in her interview -- shows up on
15 September 11th in a long-sleeve black shirt and
16 jeans. September in Kershaw County?

17 Right to act on appearances. Dr. Ross'
18 testimony seems to be the focus. The State uses
19 words like corroboration. Let's see if these
20 images corroborate a fight that evening. SLED
21 testified this is what they saw from the outside
22 door. This is what they saw. Items scattered
23 amongst the floor. They specifically took pictures
24 and collected the earrings -- the earring. The
25 reason he got so mad. The reason he got so mad.

1 Well, it doesn't make sense. No, it doesn't make
2 sense. It doesn't make sense why men -- and the
3 State today are telling you it's okay because he
4 wasn't in the midst of beating her. If you can't
5 trust the messenger, don't trust the message.
6 Investigator Bailey, No doubt you were abused. No
7 doubt.

8 The judge is going to instruct you on other
9 things you can consider. The victim's violent
10 reputation if he has one. You can listen to the
11 phone numbers, compare them against the text
12 messages, see if they line up.

13 He's going to instruct you about prior
14 violence by the victim. That goes to
15 reasonableness, ladies and gentlemen.

16 What the State seems to tell you is she wasn't
17 in the middle of getting beat up. They want to say
18 he lunged at her and that doesn't make sense with
19 the evidence.

20 And, ladies and gentlemen, you'll get to take
21 the interview back there. But that's not what she
22 says. She says he wanted money. He came out. I
23 didn't know he was coming in. I mean, he scared
24 me.

25 Even Investigator Bailey says this was a

1 traumatic experience and it's easy to get things
2 jumbled up. But Investigator Bailey is the one who
3 uses the word lunge. Well, she didn't correct him.
4 Correct, she did not correct him. What she said
5 is, Right before he attacked me, like he's done
6 2012, 2013, and now 2014, all of which we have
7 documented, he swells up. He swells up.

8 Dr. Ross says bullets go straight. If she
9 stood and shot him directly in the back, there
10 would be no angle to that bullet. What she
11 testified to in her interview was that he was
12 turning. He was -- I'm going to find that fucking
13 earring and I'm going to fucking kill you.

14 He was found face-up. Does that make sense?
15 Does it make sense that he could be turning towards
16 her and that's why he was found face-up? Does that
17 make sense that she could have been in fear? Or
18 did we need to wait until he got the jump on her
19 again?

20 So he said, You're not shooting, like, you're
21 not fucking shooting me. You're not fucking
22 shooting me. And he started like this. And you'll
23 see her movements. And what she does is raise her
24 arm.

25 And Investigator Bailey says, So he actually

1 lunged at you?

2 Her response, He moved like this to come, but,
3 you know, it's a small space there. Is that
4 acquiescing to him lunging?

5 That's her trying to tell a man who, more than
6 twice said, No judgment, but why did you stay with
7 him? No judgment, but why didn't you call 9-1-1?
8 Because he was judging her.

9 The judge is going to charge you on the degree
10 of force and how they're not required -- the person
11 in fear is not required to know exactly how much
12 force. Was this going to be the time? Why was
13 this time different? We'll get to that in a
14 moment.

15 He's going to charge you about the defense of
16 habitation and how if someone -- someone becomes a
17 trespasser once they've been asked to leave.

18 These, ladies and gentlemen, these text
19 messages, which you would not have had to help make
20 your decision had we not asked for them, this is
21 how Demary has Gregg in his phone: Bitch. That's
22 her contact name. Have me fuck you up. You
23 fucking cunt. That was on July 19th. And, for the
24 record, Bitch, you started this shit. I texted you
25 to say goodnight and you always begin being the

1 real bitch you've always been. That's why I don't
2 want this shit to do with any of you. You will
3 make me fuck you up. You will make me fuck you up.

4 Is it reasonable that when he can't find his
5 earring he says, I'm going to kill you? Does that
6 make her fear reasonable? Because she makes him
7 fuck her up.

8 Listen to the recording. My name is Gregg
9 Pickrell. It's October 27th. She doesn't say the
10 year. But just look at the pictures and see if
11 they line up. Does it add up? Listen to his
12 recordings in November. Just keep on reading his
13 text messages.

14 In August, Who else are you getting involved
15 in this?

16 She replies, In this? There is no this.
17 You've called me every name in the book, knocked me
18 around and hurt me. I've made the mistake of
19 believing you. Your path of destruction has come
20 to an end.

21 August 7th, his words to her: Bitch, you
22 think you can get the last fucking word, you wrong.
23 You will die first.

24 And on September 11th, 2014, a month and three
25 days -- excuse me, on September 11th, 2014, a month

1 and three days after this message, she didn't have
2 to die first.

3 August 20th: Fuck you and your accusations.
4 I don't want to see you. That's why I said mail
5 it. Don't call me anymore, don't text me.

6 She said, Stop with the nasty stuff.

7 I hope you fucking die.

8 I could keep reading these awful words over
9 and over. You can hear them yourself from his
10 mouth.

11 August 23rd, 2014, the phone records will show
12 that she blocked his number.

13 The response to his texts are: The recipient
14 you are sending has chosen not to receive messages.
15 She's trying to take a stand.

16 A few days before that, she had told him,
17 Please stop accusing me of stuff. Kit knows who
18 drove your truck. I don't want any more trouble.

19 Bitch, it's too late for not wanting trouble
20 because you've got it. Don't get caught out of
21 bounds.

22 She says, What are you, gangster now, Monty?
23 This is what changes. As you go through the years
24 of text messages, the C words, the B words, the F
25 word, they all stay the same. What changes is

1 this. Bullets come with this one. Bullets.
2 Twelve days before she ends Monty's life by
3 protecting hers. Bullets come with this one.

4 Notice, the number is different because she's
5 blocked him. You'll see in the text messages. It
6 says, This is my mom's number.

7 Outgoing calls on September 6th, 2014, star
8 67. Because he doesn't want her to know he's
9 calling.

10 September 9th. September 9th, two days
11 before, It's fine. But you let me know from now on
12 when you want me to come out. I felt like I forced
13 my way out last night and you didn't want me there.

14 Because they keep saying that she knew he was
15 coming to the house. No. She was putting money in
16 the mailbox. Taking funds to the box. You might
17 want to walk the hill.

18 She just wanted to keep the peace. Ladies and
19 gentlemen, this is what actually happened on that
20 day.

21 I want to talk briefly about a few things that
22 the State brought up. You'll have a computer, you
23 can look up the metadata. If the State contends
24 these dates are wrong, then Agent VanHouten
25 wouldn't have testified to what the metadata is.

1 All of these defensive wounds. All of the
2 beatings. Just how much, just how much does the
3 State want her to have to take?

4 And on that morning when he couldn't find his
5 earring and he was threatening to kill her, that's
6 when enough is enough. She didn't have to wait to
7 get the drop. He says that we can't ask Monty what
8 happened, but we sure can listen to him.

9 Ladies and gentlemen, common sense is not a
10 substitute for the law. Where is the malice?
11 Well, she's got a loaded gun. The judge will
12 charge you that malice cannot be inferred from a
13 loaded gun. You will not hear him charge malice
14 can be inferred from a loaded gun. He will not
15 charge that. Because that's not the law. Where is
16 her evil intent? Is it on the 9-1-1 call when she
17 said, I just wanted some peace. I just wanted it
18 to stop. Is the malice in, What's going to happen
19 to my mother and these animals? Is that where the
20 malice is? Because without malice, there is no
21 murder.

22 Ladies and gentlemen, I could stand up here
23 all day before you reading text messages, but
24 instead, I'll ask you to do the one civic duty that
25 the constitution requires of you. Justice is

1 always done for the State and for the Defense when
2 the right thing happens.

3 Ladies and gentlemen, it's time for you to
4 break the silence that couldn't be done on October
5 8th, 2008, that couldn't be done in 2012, that
6 couldn't be done in 2013, and that couldn't be done
7 in 2014 when Gregg Pickrell acted in self-defense
8 to protect her life.

9 Thank you.

10 THE COURT: Mr. Pauling? Ms. Sampson?

11 MS. SAMPSON: Beg the Court's indulgence.

12 THE COURT: Certainly.

13 (Pause.)

14 CLOSING ARGUMENT

15 MS. SAMPSON: I find it interesting that the
16 Defense challenged me to tell you line by line
17 where she changed her mind and where her statement
18 changes, because I can.

19 They talk to you about the text messages that
20 she just read you pieces of. And I find that
21 interesting too because she doesn't tell you the
22 whole story. We put in 500 pages of text messages
23 so you would have the whole story.

24 Does he cuss a lot? Yeah, he does. And you
25 want to know what he's cussing about? They say he

1 won't leave her alone. But you can look at those
2 text messages -- I'll even give you the page
3 numbers -- where he asks consistently over and
4 over: Stop texting me. Stop calling me. Leave me
5 alone. Stop fucking texting me. That's what he
6 says to her.

7 You can look at Page 51, Line 1212 of the
8 record we put in. Bitch, stop texting me. She
9 texts him again.

10 He said, Page 51, Line 1220, Stop fucking
11 texting me. He continuously asks her to leave him
12 alone, and she won't. She keeps coming back and
13 coming back. He even says, Please block my number.
14 She keeps coming back and coming back. She won't
15 take no for an answer. Goes so far -- and they're
16 just going back and forth.

17 And, again, it's interesting that she only
18 reads you pieces of it because if you go back to
19 Line 133 of the 500 pages we gave you, it comes
20 back and talks about, I left you a voicemail.
21 Leave me alone.

22 She says, I'm not playing. We're done. Bye.
23 He says, bye. She goes, Okay. He says, Okay. She
24 goes, Okay. It's a back and forth like a little
25 kid. I'm going to get the last word.

1 And, again, he says, Stop texting me. Hers
2 is, Thanks. He again says, You think you're going
3 to get the last word. Stop texting me. Stop
4 texting me. And then she puts, You too. Again,
5 this is the person that they want you to believe
6 she needs to get away from. She's continuously
7 texting him. Won't stop.

8 I could go on and on and actually give you all
9 of the text messages and actually go through them
10 because, as you see, I'm very prepared to do so,
11 but I'm not going to waste your time. What I'm
12 going to tell you is I gave you all the evidence,
13 didn't try to hide any of it. Can you say the same
14 for them or did I just have to highlight it for
15 you? The reason that all that's important is it
16 goes back to if you can't trust the messenger, you
17 can't trust the message. That messenger didn't
18 give you all the information, so you cannot trust
19 that message.

20 You can go and look at that videotape. You'll
21 have it of all the interviews she gave. And, yes,
22 I can point to all her inconsistencies. I can tell
23 you exactly when and where she said this that are
24 inconsistent. She tells them that she told him,
25 I'm just going to put money in the mailbox. That

1 he wasn't supposed to come to her residence.
2 That's on the first one. That's on the first video
3 when she's talking to Investigator DeVors. She
4 never ever, ever, ever once told them, Oh, I knew
5 he was coming. He was coming to my house.

6 The text messages that just read to you, they
7 say, Well, you wouldn't have had them if we hadn't
8 asked for them. Well, great, now you just proved
9 that she's a liar. Thanks for asking. We tried to
10 get them. The technology didn't work. We weren't
11 trying to hide that from you all, they just didn't
12 have it. So upon their request, our investigator
13 did exactly what he is supposed to do. And he got
14 the evidence that showed she knew he was coming.
15 If you look at the rest of those text messages, it
16 also shows that on September the 8th, he did the
17 exact same thing. It said, I'm leaving you money
18 in the mailbox, let me know when you get here. And
19 then that morning when she comes back home, it
20 says, Mama caught me. Does that sound like
21 something where she's getting beat all the time and
22 I don't want him over? Or that she's the only
23 reason he can come. You can't trust the messenger
24 so you can't trust the message.

25 They say that they want you to break the

1 silence and that our investigators didn't find it
2 and she gave you these little things from 2011,
3 '12, '13. Well, it's hard to find something that
4 nobody told you about. Nobody told them. Are they
5 supposed to be psychic? Because when she called
6 about vandalism, he's not around. They tell you
7 it's not the same to call about vandalism as it is
8 to call about abuse. You durn straight it's not.
9 But if somebody is kicking my behind so bad that
10 I'm about to die, don't I tell the police when they
11 show up on my door when I call about him? She
12 called about him; right? She called. But not to
13 tell anybody he had done anything, but that he
14 drank and drove a truck. You can call for that.
15 You can call for that. But you can't call when he
16 shows up unexpectedly to your door? Because it
17 wasn't unexpected. It wasn't unexpected. They
18 want you to believe her message, but you can't
19 trust the messenger. Y'all can watch the tape. If
20 she lies about one thing, she lies about it all.

21 They say we've got to disprove self-defense.
22 We do. But not all of it. Y'all have been seeing
23 us with those easels. An easel has three legs;
24 correct? Self-defense has three legs. We don't
25 have to knock down all three, just one, and it

1 falls. One, she brought about the difficulty. She
2 paid for him to come there that night. She
3 introduced a gun. And she wants you to believe she
4 was getting assaulted all night long, but she's
5 able to get the gun and shoot him.

6 She tells you, He's coming at me. You can
7 watch the video. They try to get it clarified.
8 They even repeat it with her lawyer present. On
9 the second interview, they go over it with her, and
10 she never changes it. It's always, He's coming at
11 me.

12 Well, I don't know how that magic bullet
13 worked to get in the dead middle of his back if
14 he's coming at her. It can't be the defense of
15 habitation. She brought him over and she's the one
16 wanting to take him out. He's the only one ready
17 to go. How was she trying to eject him if he's the
18 one ready to go and she's got no shoes on?

19 I remember there was an old saying about, You
20 have got to look at everything to determine what
21 the full picture is. All right. You can't figure
22 out the picture of a puzzle until you get all the
23 pieces together. At this point, you all have all
24 the pieces. You've got them all. And the pieces
25 point to her not telling the truth.

1 Was she in the midst of getting beaten when
2 she shot him? No. Was he coming at her when she
3 shot him? No. Was she truthful with law
4 enforcement? No. If you can't trust the
5 messenger, you can't trust the message.

6 We can't open her head and tell you why she
7 shot him. We can't open it up and look for the
8 malice, but you can infer it from her actions.
9 Getting a loaded gun with the safety off and
10 bringing it in just to get him out of the room, and
11 shooting him in the back, an unarmed man, simply so
12 that her mama won't show up and see her with that
13 33-year-old black man in her bed.

14 That is murder, ladies and gentlemen, and
15 that's why we're asking you to come back with a
16 verdict that speaks the truth, a verdict of guilty.

17 Thank you.

18 THE COURT: Ladies and gentlemen, the only two
19 things remaining in the case are for me to explain
20 the law to you and then for you, ladies and
21 gentlemen, to deliberate and come back with your
22 verdict.

23 It is now 4:35. I am going to let you go for
24 the day. And the reason for that is, it will take
25 me at least half an hour to explain the law to you,

1 and it is not fair to you to send you back to
2 deliberate at 5:00 o'clock in the afternoon.

3 So I'm going to send you home for the day. Be
4 back at 9:30 tomorrow morning. I will explain the
5 law to you first thing tomorrow morning and you'll
6 be able to deliberate tomorrow morning.

7 Thank you very much.

8 (WHEREUPON, the jury is excused for the
9 day at 4:31 p.m.)

10 THE COURT: Counsel, anything before we head
11 out?

12 MR. PAULING: Nothing from the State, Your
13 Honor.

14 MR. DELGADO: Nothing.

15 THE COURT: I thought there would be
16 significant time pressure on deliberations if I
17 sent them back tonight.

18 So, I will see everyone at 9:30 tomorrow
19 morning. Court will be in recess until 9:30.

20 MR. PAULING: Thank you, Your Honor.

21 (WHEREUPON, court adjourned for the day
22 at 4:32 p.m.)

23 JUNE 5, 2018

24 (WHEREUPON, the proceedings resumed at
25 9:37 a.m.)

1 THE COURT: Counsel, anything to take up
2 before I charge the jury?

3 MR. DELGADO: Nothing from the Defense.

4 MS. SAMPSON: Nothing from the State, Your
5 Honor.

6 THE COURT: Let's bring the jury in.
7 (WHEREUPON, the jury came into open
8 court at 9:38 a.m.)

9 JURY CHARGE

10 THE COURT: Good morning, ladies and
11 gentlemen.

12 As we talked about yesterday, we have now come
13 to the portion of the trial where I will instruct
14 you on the law.

15 If any of you have ever taken a public
16 speaking class or had an English teacher tell you
17 when you are speaking to people, look them in the
18 eye, don't read off a piece of paper. I have to
19 break that rule today. It is very important that
20 what I read you that I not make mistakes and I read
21 it correctly. So I apologize, but I'm basically
22 looking down at my paper so I don't makes mistakes
23 when I'm explaining the law to you. So I apologize
24 in advance.

25 Members of the jury, please turn and give me

1 your attention. Is it now the time of the trial of
2 this case when I instruct you or charge you what
3 the law is as it applies to the facts as you find
4 them to be. I will now charge you on the law
5 applicable to this case. You must consider the
6 charge as a whole and not focus on some portion to
7 the exclusion of others. By the constitution and
8 the laws of the State of South Carolina, you, the
9 jury, are the sole judge of the facts and evidence
10 in this case. I am not permitted to intimate or
11 suggest any opinion that I may have in the case or
12 to show any feeling to you as to what I think about
13 the facts, the evidence, or the guilt or innocence
14 of this Defendant. I am not permitted to indicate
15 to you how I may feel about the testimony and
16 evidence presented. I tell you now, I do not have
17 an opinion in this case, nor am I entitled to have
18 an opinion under the law.

19 The indictment in this matter charges
20 Ms. Pickrell with murder. I remind you that the
21 fact that Ms. Pickrell was arrested, charged and
22 indicted in this case is not evidence in the case
23 and cannot be considered by you as evidence of
24 guilt in this case, nor does it create any
25 presumption or inference of guilt. This document

1 is simply the formal written instrument which
2 contains the charge made against Ms. Pickrell. It
3 is the formal document by which the case is brought
4 into court.

5 Ms. Pickrell has pled not guilty to this
6 indictment, and that plea puts the burden on the
7 State to prove the Defendant guilty. A person
8 charged with committing a criminal offense in South
9 Carolina is never required to prove herself
10 innocent. I charge you it is a vital, important
11 rule of the law that the Defendant in a criminal
12 trial, no matter what the seriousness of the charge
13 may be, must always be presumed to be innocent of
14 the crime for which the indictment was issued
15 unless guilt has been proven by evidence satisfying
16 you of that guilt beyond a reasonable doubt.

17 The presumption of innocence does not end when
18 you begin your deliberations, but it accompanies
19 the Defendant throughout the trial unless you reach
20 a verdict of guilt based on evidence satisfying you
21 of that guilt beyond a reasonable doubt.

22 The presumption of innocence is like a robe of
23 righteousness placed around the shoulders of the
24 Defendant which remains with the Defendant unless
25 it has been stripped from the Defendant by evidence

1 satisfying you of the Defendant's guilt beyond a
2 reasonable doubt. Presumption of innocence is not
3 a mere legal theory. It is not just a legal
4 phrase. It is a substantial right to which every
5 Defendant is entitled unless you, the jury, are
6 satisfied from the evidence of their guilt beyond a
7 reasonable doubt.

8 The State has the burden of proving that
9 Ms. Pickrell is guilty beyond a reasonable doubt.
10 The State is required to prove every element of the
11 charged offense by evidence which satisfies you,
12 the jury, beyond a reasonable doubt. The Defendant
13 is not required to prove her innocence. This
14 burden will always remain with the State of South
15 Carolina to prove guilt beyond a reasonable doubt.

16 Some of you may have been jurors in civil
17 cases where you were told that it's only necessary
18 to prove that a fact is more likely true than not
19 true, such as by the greater weight or the
20 preponderance of the evidence. In criminal cases,
21 the State's proof must be more powerful than that.
22 It must be beyond a reasonable doubt. Proof beyond
23 a reasonable doubt is proof that leaves you firmly
24 convinced of the Defendant's guilt. There are very
25 few things in this world that we know with absolute

1 certainty. In criminal law, it does not require
2 proof that overcomes every possible doubt.

3 Now, a reasonable doubt is the kind of doubt
4 which would cause a reasonable person to hesitate
5 to act. And reasonable doubt may arise from the
6 evidence which is in the case or from the lack of
7 evidence in the case. And you, the jury, must
8 determine whether or not reasonable doubt exists as
9 to the guilt of this Defendant.

10 The State has the burden of proving each and
11 every element of the crime beyond a reasonable
12 doubt. And any reasonable doubt that you may have
13 in your deliberation should be resolved in favor of
14 the Defendant.

15 I remind you that during this trial, you and I
16 have certain duties or jobs to perform. As the
17 trial judge, it is my responsibility to preside
18 over the trial of this case. And I also have the
19 duty to rule on the admissibility of evidence
20 offered during this trial. You are to consider
21 only the competent evidence before you. If there
22 was any testimony ordered stricken from the record
23 in this case during the trial, you must disregard
24 that testimony. You are to consider only the
25 testimony which has been presented from the witness

1 stand, any exhibits which have been made a part of
2 the record in the case, and any stipulations of the
3 attorneys.

4 I have the additional duty to charge you the
5 law applicable to this case, which is what I am
6 doing now. As the presiding judge, I am the sole
7 judge of the law of this case, and it is your duty
8 as jurors to accept and apply the law as I now
9 state it to you. If you already have an idea as to
10 what the law is or what the law ought to be, and it
11 does not agree with what I tell you the law is, you
12 must abandon this idea because you are sworn to
13 accept the law and apply the law exactly as I state
14 it to you.

15 In every case tried in this court before a
16 jury, the jury becomes the sole and exclusive judge
17 of the facts in a case. A trial judge cannot
18 intimate, state, comment on, or make any statement
19 to a trial jury about the facts in the case. Since
20 you, the jury, are the sole judge of the facts in
21 the case, you are not to infer from what I have
22 said during the process of this trial in ruling
23 upon the admissibility of evidence or otherwise or
24 anything that I say now during these instructions
25 that I have an opinion about the facts in this

1 case. The law does not allow me to have an opinion
2 about the facts in this case. This is a matter
3 solely for you, the jury, to determine. As jurors,
4 it is your duty to determine the effect, the value,
5 the weight, and the truth of any evidence presented
6 during this trial.

7 There are two types of evidence which are
8 generally presented during a trial: Direct
9 evidence and circumstantial evidence. Direct
10 evidence directly proves the existence of a fact
11 and does not require deduction. Circumstantial
12 evidence is proof of a chain of facts and
13 circumstances indicating the existence of a fact.
14 There are two types of evidence. Direct evidence,
15 which directly proves the existence -- I apologize.
16 Crimes are to be proven by circumstantial evidence.
17 The law makes no distinction between the weight or
18 value to be given to either direct or
19 circumstantial evidence. However, to the extent
20 the State relies on circumstantial evidence, all of
21 the circumstances must be consistent with each
22 other and when taken together, point conclusively
23 to the guilt of the accused beyond a reasonable
24 doubt.

25 If these circumstances merely portray a

1 Defendant's behavior as suspicious, the
2 Government's proof has failed. The State has the
3 burden of proving the Defendant guilty beyond a
4 reasonable doubt. This burden rests with the State
5 regardless of whether they rely on direct evidence
6 or circumstantial evidence or some combination of
7 the two.

8 In determining what the facts are in this
9 case, you, of necessity, must pass upon the
10 credibility or believability of the witnesses who
11 have testified. You are the sole judge of the
12 credibility of the witnesses who took the witness
13 stand. Credibility means believability. Can I
14 believe this witness? Is this witness credible?
15 The value and the weight to be given to the
16 witnesses' testimony is in your sound discretion.
17 You alone must decide the force and effect and the
18 truth of the testimony.

19 In making a determination as to the
20 credibility of a witness, there are many factors
21 that you may and should take into consideration,
22 such as the appearance or manner of the witness as
23 he or she gave testimony from the stand, known in
24 the law as the demeanor of a witness. Did the
25 witness have an interest in the outcome of the

1 trial? Was the witness forthright or hesitant?
2 Was the witness's testimony consistent or did it
3 contain discrepancies? What was the ability of the
4 witness to know about the facts concerning what he
5 or she gave testimony about? Did the witness have
6 cause or reason to be biased or prejudiced in favor
7 of the testimony that he or she gave? Was the
8 testimony of the witness corroborated and made
9 stronger by other testimony or evidence or was it
10 made weaker and impeached by other testimony and
11 evidence presented?

12 As jurors, you have the right to believe a
13 small portion of a witness's testimony and
14 disregard the larger portion, or you may believe a
15 larger portion of a witness's testimony and
16 disregard the smaller portion. You may believe a
17 witness's testimony in its entirety, or you may
18 completely reject a witness's testimony in
19 totality, not doing that arbitrarily, but if you
20 have a sound reason in the record for doing so.
21 You may believe the testimony of a single witness
22 against that of many witnesses, or the many
23 witnesses against the one. Most certainly, you do
24 not determine the credibility or believability
25 merely by counting the number of witnesses for

1 either side. Throughout this entire process, you
2 have but one single objective, to determine the
3 facts as you see them.

4 I instruct you and emphasize to you that the
5 fact that Ms. Pickrell did not testify in court is
6 not a factor to be considered by you in any way in
7 your deliberation and your consideration on the
8 question of her guilt or innocence. It must not be
9 considered by you in any manner whatsoever. A
10 Defendant in this country has the constitutional
11 right to remain silent and the assertion of this
12 right must not be considered by you in your
13 deliberation. I repeat, under your oath as jurors,
14 you are to draw no conclusion whatsoever from the
15 fact that Ms. Pickrell did not testify in this
16 case. The fact that she did not testify should not
17 even be discussed in the jury room. The burden of
18 proof, as I have stated to you, is on the State.
19 The Defendant is not required to prove her
20 innocence. The burden of proof remains on the
21 State to prove guilt beyond a reasonable doubt.

22 Although lay witnesses or regular witnesses
23 are limited to testifying about facts within their
24 knowledge and are not allowed to give opinions,
25 certain witnesses, who by their training, education

1 or experience, are considered experts in a
2 particular field may give their opinions in that
3 field based upon the facts of the matter and their
4 conclusions. These opinions of experts constitute
5 evidence to be considered by you in connection with
6 all of the other testimony and evidence in the
7 case. You may consider the expert's opinion just
8 as you do all of the other evidence. It is for
9 you, the jury, to give it such weight as you, in
10 your experience and discretion, may determine. You
11 must weigh such evidence and accept or reject it in
12 the same manner that you treat all the other
13 evidence in the case.

14 The testimony of experts in a subject that is
15 little known to the general public is entitled to
16 consideration. Such testimony, however, must be
17 submitted to your judgment and consideration to be
18 weighed by you as a part of the evidence in
19 connection with all the other evidence in the case.
20 The testimony of experts is to aid and assist you
21 as jurors, not to dominate or control you on the
22 question of facts. Their opinions and deductions
23 from the evidence before you and their judgment and
24 opinions do not preclude yours. You are required
25 to decide these questions after comparison and

1 consideration of all the evidence in the case.

2 Normally, a person cannot give opinion
3 testimony. As a general rule, when a person
4 testifies, they must testify as to what they saw,
5 heard, sensed by smell, or something of that
6 nature. However, there is an exception when
7 someone is qualified as an expert because of
8 education or experience. They are permitted to
9 offer their opinion in certain areas that the Court
10 has qualified them as an expert in. Though a
11 witness has been qualified as an expert does not
12 mean you must accept their opinion, but is evidence
13 for you to use in any way you see fit.

14 You should consider any expert opinion in the
15 case and give it such weight as you feel it
16 deserves. An expert witness's testimony is to be
17 given no greater weight than that of other
18 witnesses simply because the person is an expert.
19 You are not required to accept an expert's opinion
20 even though it is not contradicted. If you decide
21 the opinion of an expert is not based upon
22 sufficient education and experience, or if you
23 conclude the reasons given in support of the
24 opinion are not sound, or if you feel it is
25 outweighed by other evidence, you may disregard the

1 expert opinion entirely. Give the testimony of
2 experts the weight, if any, you feel it should
3 receive.

4 A person with a past criminal record is
5 competent and may testify during a trial. A past
6 criminal record does not affect the ability of that
7 witness to testify. The past record may only be
8 considered by you, if at all, in determining the
9 witness's believability. Remember, you are the
10 sole judges of the facts in the case and of the
11 believability of any and all of the witnesses.

12 In order to establish criminal liability,
13 criminal intent is required. For example, the
14 mental state required to be proven by the
15 Government for a particular crime might be purpose,
16 intent, knowledge, recklessness or negligence.
17 Criminal intent must be prove by the State beyond a
18 reasonable doubt. Criminal intent is always a
19 matter that must be determined by the jury from the
20 circumstances surrounding the situation. There is
21 no way to prove intent to a mathematical certainty.
22 There is no way medical science can dissect a
23 person's brain and determine what the person had in
24 their mind. So the law says criminal intent may be
25 inferred from the circumstances shown to have

1 existed. This is how you make a determination of
2 whether or not the element requiring intent was
3 present. It is not necessary to establish intent
4 by direct and positive evidence, but intent may be
5 established by inference in the same way as any
6 other fact by taking into consideration the acts of
7 the parties and all the facts and circumstances in
8 the case.

9 Criminal intent is a mental state, a conscious
10 wrongdoing. It is up to you to determine what the
11 Defendant intended to do based on the circumstances
12 shown to have existed. The offense of murder is a
13 specific intent crime.

14 The Defendant, Ms. Pickrell, in this case is
15 charged with murder. What is murder? Murder is
16 defined as the willful, felonious killing of a
17 human being by a human being with malice
18 aforethought, that malice either being expressed
19 malice or implied malice.

20 Section 16-3-10 of the South Carolina Code of
21 Laws provides: Murder is the killing of any person
22 with malice aforethought, either express or
23 implied. The State must prove beyond a reasonable
24 doubt that the Defendant killed another person with
25 malice aforethought.

1 The presence of malice is a required element
2 of murder. Malice is defined as being hatred or
3 ill-will. Malice, in the legal sense, does not
4 necessarily import ill-will to the individual
5 injured, but signifies, rather, a general malignant
6 recklessness of the lives and safety of others or a
7 condition of the mind which shows a heart
8 regardless of social duty and fatally bent on
9 mischief.

10 Malice is the wrongful intent to injure
11 another person. It indicates a wicked or depraved
12 spirit intent on doing wrong. It is a legal term
13 implying wickedness and excluding a just cause or
14 excuse. It is the doing of a wrongful act
15 intentionally and without just cause or excuse.

16 The term malice indicates a formed purpose and
17 design to do a wrongful act under the circumstances
18 that exclude any legal rights to do it.

19 Malice may be either express or implied.
20 These words, the words express or implied, add
21 nothing to the meaning of the word malice. They do
22 not imply different kinds of malice, but merely the
23 manner in which the only kind known to the law may
24 be shown to exist. That is, either by positive
25 evidence or by inference. Express malice is when

1 there is a deliberate intent to unlawfully take the
2 life of another. Implied malice is when the
3 circumstances demonstrate a wanton or reckless
4 disregard for human life or a reasonably prudent
5 person would have known that according to common
6 experience there was a plain and strong likelihood
7 that death would follow the contemplated act.

8 Although malice must be aforethought, there is
9 no requirement that malice must exist for any
10 appreciable length of time before commission of the
11 act. It may be conceived at the very moment the
12 act occurs. There must be some combination of the
13 evil intent and of the act producing the result.

14 Self-defense in South Carolina is a complete
15 defense. If it is established, you must find Ms.
16 Pickrell not guilty. There are three elements
17 required by law to establish self-defense.

18 First, the Defendant, Ms. Pickrell, must be
19 without fault in bringing on the difficulty.

20 Secondly, the Defendant must -- Ms. Pickrell
21 must have been in actual imminent danger of losing
22 her life or of sustaining serious bodily injury, or
23 she must have actually believed she was in imminent
24 danger of losing her life or sustaining serious
25 bodily injury.

1 Third, if her defense is based upon her belief
2 of imminent danger, a reasonably prudent person of
3 ordinary firmness and courage would have
4 entertained the same belief. If Ms. Pickrell
5 actually was in imminent danger, then the
6 circumstances were such as would warrant a person
7 of ordinary prudence, firmness, and courage to
8 shoot the fatal shot in order to save herself from
9 serious bodily harm of losing her own life.

10 These are the elements of self-defense. There
11 is no burden upon the Defendant to prove
12 self-defense. The Defendant is not required to
13 prove any element of self-defense. The burden is
14 on the State to disprove self-defense beyond a
15 reasonable doubt.

16 The Defendant does not have to show that she
17 was actually in danger. It is enough if the
18 Defendant believed she was in imminent danger and a
19 reasonably prudent person of ordinary firmness and
20 courage would have had the same belief. The
21 Defendant has a right to act on appearances even
22 though the Defendant's beliefs may have been
23 mistaken. It is for you to decide whether the
24 Defendant's fear of immediate danger of death or
25 serious bodily injury was reasonable and would have

1 been felt by an ordinary person in the same
2 situation.

3 The Defendant does not have to wait until the
4 victim gets the drop on the person defending. The
5 Defendant has the right to act under the law of
6 self-preservation to prevent the victim from
7 getting the drop on a person defending.

8 If the victim has a violent -- if the victim
9 has a reputation as a violent person, that may be
10 considered in deciding whether there was a need for
11 force, whether the Defendant had a reason to
12 believe there was a need for force, and whether
13 deadly force was reasonably necessary.

14 Prior instances of violence by Mr. Demary may
15 be considered in determining whether Ms. Pickrell
16 actually believed she was in imminent danger of
17 death or serious bodily injury or whether she was
18 in actually in imminent danger.

19 The intoxication of Mr. Demary may be
20 considered by you in determining -- deciding
21 whether the Defendant's fear of death or bodily
22 harm was reasonable. A person cannot be required
23 to make an exact calculation as to the degree or
24 amount of force which may be needed to avoid death
25 or serious bodily harm. Therefore, in

1 self-defense, a Defendant has the right to use the
2 force needed to avoid death or serious bodily harm.
3 The force used in a self-defense case does not have
4 to be limited to the degree or amount of the force
5 used by the victim. A Defendant has the right to
6 use as much force as appeared to be necessary for
7 complete self-protection and which a person of
8 ordinary reason and firmness would have believed to
9 be needed to prevent death or serious bodily harm.

10 If a trespasser refuses to leave a dwelling
11 house at the request of the householder, the
12 Defendant may use the necessary force necessary to
13 eject the trespasser. If, in the effort to eject
14 the trespasser, the life or safety of the Defendant
15 or a member of their household is jeopardized, the
16 Defendant may kill the trespasser. However, the
17 Defendant may not use more force than is reasonably
18 necessary to eject the person from the premises.
19 The Defendant should not in the first instance
20 resort to immediate force to repel the intruder.
21 The kind and degree of force that are justified
22 depend on the conduct of the intruder.

23 Even though a person has entered the dwelling
24 at the invitation of the Defendant or a member of
25 their household, their subsequent conduct may such

1 as justifying the Defendant ordering their
2 departure. This person becomes a trespasser if
3 they refuse to leave when asked. Upon the person's
4 refusal to leave, the Defendant is not required to
5 yield as a mode of avoiding altercation and
6 violence, but may use force to reasonably or
7 necessarily or apparently necessary to eject him
8 and no more. The Defendant should not in the first
9 instance resort to force to repel an intruder. The
10 kind and degree of force that are justified depend
11 on the conduct of the intruder.

12 An element that is necessary for the defense
13 of habitation is that the Defendant be without
14 fault in bringing on the difficulty. Whether the
15 Defendant was acting in good faith in attempting to
16 eject the Decedent and was attacked in the process
17 is a question for you to determine. The law
18 permits the occupant of a home to use such force
19 even to the taking of human life as may be
20 reasonably necessary to accomplish the expulsion.
21 If engaged in the exercise and in good faith of her
22 right to eject a trespasser, she is without fault
23 in bringing on the difficulty and would not have to
24 retreat.

25 The belief of the necessity of using deadly

1 force in the defense of habitation must be
2 reasonable. This right of occupant to expel a
3 trespasser and to use such force as is necessary,
4 even to killing him, is limited to the place of
5 habitation. There is no duty to retreat where an
6 attack occurs in one's home or place of business.
7 The absence of a duty to retreat also extends to
8 the curtilage of a home. Curtilage is such space
9 as necessary and convenient that is used for family
10 purposes, including adequate yard and garden and
11 need for outbuildings. Curtilage includes
12 outbuildings, the yards around the dwelling or
13 garden. It also includes garages, driveways,
14 courtyards and parking areas, yards, courtyards of
15 apartment homes, condominiums, other complexes with
16 other occupants thereof constitute a part of the
17 curtilage specifically described as apartment or
18 condo or other living area.

19 There are two possible verdicts which you may
20 find in this case: Guilty or not guilty. There is
21 no significance whatsoever in the order which I
22 just stated these possible verdicts. It is simply
23 that one must be stated first.

24 Under the constitution of the state, the jury
25 verdict must be unanimous. The unanimity is

1 mandated. Every single juror must agree on the
2 jury verdict. There cannot be any split or divided
3 vote in any form or fashion, such as 11 to 1, 10 to
4 2, 9 to 3.

5 The foreperson of the jury is required to sign
6 the jury verdict form on the indictment. When the
7 foreman writes the verdict and signs the name as
8 the foreman, that assures the Court that the jury
9 verdict is unanimous. Please do not write the
10 verdict and sign it until every single juror
11 agrees.

12 Mr. Foreman, when the jury agrees on the
13 verdict, you will write the verdict, either guilty
14 or not guilty, on the indictment form and you will
15 sign your name as foreman. Then knock on the jury
16 room door and inform the bailiff you have reached a
17 verdict. At that time, we will take you back into
18 the courtroom.

19 I ask you now to return to your jury room, but
20 do not begin deliberations until you are told by
21 the clerk or the bailiff to do so. I have to
22 discuss some matters with the attorneys. We also
23 have to send the evidence back to you.

24 Thank you very much, ladies and gentlemen.

25 (WHEREUPON, the jury retires to the jury

1 room at 10:05 a.m.)

2 THE COURT: Counsel, any objection to the
3 charge from the Defense?

4 MS. ZMROCZEK: None from the Defense.

5 MR. PAULING: None from State, Your Honor.

6 THE COURT: The next thing, any objection to
7 excusing our alternate juror?

8 MS. ZMROCZEK: I don't have any objection.

9 MR. PAULING: None from the State, Your Honor.

10 THE COURT: Mr. Bailiff, you can bring the
11 alternate back in the courtroom, please.

12 MS. ZMROCZEK: Your Honor, while he's getting
13 the alternate, we went ahead and emptied the
14 medication.

15 THE COURT: Oh, thank you.

16 Madam Clerk, do you have the indictment?

17 THE CLERK: So they write on this; right?

18 THE COURT: Yes, ma'am.

19 (WHEREUPON, the alternate enters the
20 courtroom.)

21 THE COURT: Sir, thank you very much for your
22 service. As you know, you're the alternate juror
23 in this case. So as you can see, this trial is a
24 significant production. All these folks, the
25 attorneys are here, the bailiffs, the court staff,

1 and the presence of an alternate means that if
2 someone had gotten sick or been in a car accident,
3 we would not have had to redo the whole trial. So
4 we are extremely grateful to you for your service,
5 but you are now excused, sir.

6 As I said, once the verdict is released, you
7 can discuss this case with anyone, but until then,
8 until there's a verdict, you can't discuss the
9 case.

10 ALTERNATE: Yes, sir.

11 THE COURT: Thank you very much.

12 (WHEREUPON, the alternate was excused.)

13 THE COURT: If you will ask the bailiff to
14 take all the evidence back.

15 MS. SAMPSON: Your Honor, we have a matter --

16 THE COURT: Okay.

17 MS. SAMPSON: -- about the evidence. Defense
18 Exhibit 24?

19 THE COURT: Yes, ma'am.

20 MS. SAMPSON: We had objected because it's
21 highlighted, and we said we would put -- try to
22 make a copy. We have done so and it won't come
23 unhighlighted. And we did object to this coming in
24 highlighted.

25 THE COURT: Can you approach? I don't

1 remember Exhibit 24.

2 MS. SAMPSON: I'm sorry. And we made several
3 copies trying to make the highlight lighter, but we
4 couldn't. And I don't have a clean copy.

5 THE COURT: You were going to produce a clean
6 copy; right, Ms. Sampson?

7 MS. SAMPSON: That was the agreement. We
8 objected because it was highlighted and they said
9 they would provide an unhighlighted copy. We don't
10 have one.

11 MS. ZMROCZEK: It's got to be one on the
12 computer.

13 THE COURT: Why don't we look?

14 MS. SAMPSON: Other than that, we've done all
15 the other evidence.

16 THE COURT: Mr. Bailiff, do you mind taking
17 all the evidence back, except for 24?

18 MS. SAMPSON: Here's the other thing, Your
19 Honor, I don't want to send it in separately.

20 THE COURT: That is a good point. We won't
21 send it separately.

22 (Pause.)

23 MS. SAMPSON: For the record, Your Honor, both
24 sides have looked at Exhibit 24. We were able to
25 cut and paste and make it so the highlighted copy

1 did not -- the highlighted portion did not show.
2 And both the State and Defense agree on the one
3 that's going back to the jury.

4 THE COURT: Thank you.

5 MS. ZMROCZEK: That's correct. I believe all
6 the evidence has been agreed upon to go back.

7 THE COURT: Ms. Sampson, are you in agreement
8 about the evidence going back?

9 MS. SAMPSON: Yes, sir.

10 THE COURT: Mr. Delgado?

11 MR. DELGADO: Yes, sir.

12 THE COURT: All right. We'll send it all
13 back.

14 (WHEREUPON, the jury began deliberating
15 at 10:22 a.m.)

16 THE COURT: Did you tell them?

17 THE BAILIFF: They were setting up the
18 computer. I'll go ahead and tell them.

19 THE COURT: All right. Counsel, we're all
20 set. Thank you.

21 (WHEREUPON, court was in recess awaiting
22 a verdict.)

23 (WHEREUPON, the following occurred at
24 10:38 a.m.)

25 THE COURT: Counsel, do you want to approach?

1 We have a note from the jury.

2 (WHEREUPON, a bench conference was
3 held.)

4 THE COURT: Okay. Counsel, as we discussed at
5 the bench, I have a note from the jury foreman.
6 The note says, Is it a criminal act to point a
7 loaded firearm at another individual with the
8 intent of getting compliance of something other
9 than effort to protect one's self from bodily harm?
10 Signed the foreman, dated today, 10:35 a.m.

11 That will be Court's Exhibit Number 6.

12 And my proposed answer is: Ladies and
13 gentlemen, only one crime of murder is charged in
14 this case. I am not permitted to discuss the
15 elements of other possible criminal offenses.

16 Any objection to that response from the
17 Defense?

18 MR. DELGADO: Nothing from the Defense.

19 THE COURT: From the State?

20 MR. PAULING: Nothing from the State.

21 THE COURT: Bring the jury back in, please.

22 (WHEREUPON, the jury came into open
23 court at 10:45 a.m.)

24 (WHEREUPON, Court's Exhibit No. 6 was
25 marked for identification only.)

1 THE COURT: Thank you, ladies and gentlemen.
2 I have a note from the foreman. The note says: Is
3 it a criminal act to point a loaded firearm at
4 another individual with the intent of getting
5 compliance of something other than in effort to
6 protect one's self from bodily harm?

7 Ladies and gentlemen, only one crime, murder,
8 has been charged in this case. And I am not
9 permitted to discuss the elements of other possible
10 crimes with you. That's all I can say.

11 Thank you, ladies and gentlemen.

12 (WHEREUPON, the jury retires to the jury
13 room at 10:46 a.m. to continue
14 deliberations.)

15 THE COURT: Counsel, any objection to that
16 answer?

17 MR. DELGADO: No.

18 MR. PAULING: No, Your Honor.

19 THE COURT: Thank you, Counsel. We'll be at
20 ease.

21 (WHEREUPON, court was in recess awaiting
22 a verdict.)

23 (WHEREUPON, the following occurred at
24 1:32 p.m.)

25 THE COURT: Counsel, I have another note. The

1 note says: We need the written instructions that
2 were read to us if possible.

3 I think what they want, they want me to send
4 back the jury charge.

5 MS. ZMROCZEK: Not the form they have.

6 MS. SAMPSON: Not crossed out.

7 THE COURT: I think I can clean it up. I can
8 sit there with a pair of scissors and cut out --

9 MS. ZMROCZEK: Fine.

10 THE COURT: I can always recharge. They are
11 asking for written instructions. My inclination is
12 to give what they are asking for. We can do it
13 without --

14 MR. PAULING: I agree, Judge.

15 THE COURT: I've got it right here.

16 MS. ZMROCZEK: Need to add one from the bench
17 book.

18 THE COURT: Scissors?

19 MS. ZMROCZEK: Get the drop.

20 THE COURT: I will give you what we have so
21 far. Bring the jury out for a second.

22 (WHEREUPON, Court's Exhibit No. 7 was
23 marked for identification only.)

24

25 (WHEREUPON, the jury came into open

1 court at 2:08 p.m.)

2 THE COURT: Ladies and gentlemen, thank you
3 for your note. I just want to let you know what
4 was happening. The jury charge came out of
5 reference books that the court uses, and so there
6 are jury -- we Xerox them and there are charges on
7 the page that are not relevant to this case, and so
8 I didn't read them to you, but if I hand them to
9 you I don't want to confuse you. So what we have
10 done is black out with a marker the ones I didn't
11 read, and now that will be copied to be able to
12 hand you a clean copy on what I read to you. But
13 that is what is taking a little bit of time. Hand
14 notations wasn't the format. I could just hand it
15 right back to you. I wanted to let you know we're
16 working on it. Give us just a few more minutes and
17 it will be ready.

18 Thank you, ladies and gentlemen. You can
19 return back to the jury room.

20 (WHEREUPON, the jury retires to the jury
21 room at 2:09 p.m.)

22 THE COURT: Counsel, any objection to what I
23 told the jury?

24 MR. DELGADO: No, Your Honor.

25 MR. PAULING: None from the State.

1 MR. DELGADO: Just a thought. It would be
2 fine with the Defense, I don't know if the
3 Government would, maybe when they come back after
4 had a chance to look at it, just give to bailiff
5 and let him take it into the room.

6 THE COURT: I don't see a reason to call them
7 back.

8 MR. PAULING: No problem with that.

9 MR. DELGADO: Thank you.

10 (Pause.)

11 MS. ZMROCZEK: This is fine if you want to
12 send it back.

13 THE COURT: Mr. Pauling, you checked it?

14 MR. PAULING: Yes.

15 THE COURT: Counsel, both sides agree that is
16 acceptable to send to the jury room?

17 MR. PAULING: Yes, Your Honor.

18 MS. ZMROCZEK: Yes, Your Honor.

19 THE COURT: Send it on back.

20 (WHEREUPON, Court's Exhibit No. 8 was
21 marked for identification only.)

22 (Court's Exhibit 8 sent into the jury
23 room.)

24 (WHEREUPON, the following occurred at
25 2:35 p.m.)

1 THE COURT: Anything before we bring the jury
2 in?

3 MR. PAULING: Not from the State, Your Honor.

4 MS. ZMROCZEK: Nothing.

5 THE COURT: Bring the jury in.

6 (WHEREUPON, the jury came into open
7 court at 2:36 p.m.)

8 THE COURT: Mr. Foreman, has the jury reached
9 a verdict?

10 THE FOREMAN: Yes, Your Honor.

11 THE COURT: If you would pass it to the
12 bailiff, please.

13 (Court views verdict.)

14 THE COURT: Madam Clerk, publish the verdict,
15 please.

16 VERDICT

17 THE CLERK: State of South Carolina v. Gregg
18 Pickrell, Docket 2015-GS-28-0795. Verdict:
19 Guilty. Signed: Foreperson. 6/5/18 date and
20 2:30 p.m.

21 THE COURT: Mr. Delgado, would you like the
22 jury to be polled?

23 MS. ZMROCZEK: Please.

24 THE COURT: Ladies and gentlemen, the Defense
25 requested that the jury be polled, so the clerk is

1 2:40 p.m.)

2 THE COURT: Yes, sir, Mr. Pauling?

3 MR. PAULING: Your Honor?

4 THE COURT: Yes, sir.

5 MR. PAULING: We are doing the paperwork for
6 sentencing. I also want to discuss with the family
7 if anyone wanted to speak.

8 THE COURT: We will take a 15 minute recess
9 and reconvene around 3:00 o'clock.

10 (Pause.)

11 THE COURT: Mr. Pauling, is the State ready to
12 proceed?

13 MR. PAULING: Yes, Your Honor. I'm just
14 waiting on Mr. Demary's family. They're coming
15 into the courtroom now, Judge.

16 (Pause.)

17 MR. PAULING: Thank you, Your Honor. May it
18 please the Court?

19 THE COURT: Yes.

20 MR. PAULING: Your Honor, you've heard,
21 obviously, all the testimony in this case, so I'm
22 not going to belabor those issues.

23 Judge, Ms. Pickrell has no prior record.

24 Obviously, this carries 30 years to life.

25 Your Honor, present in the courtroom is Monty

1 Demary's family: Ms. Audrey Lyles, his mother;
2 Marjorie Belton, his aunt; Jimmy Belton, his uncle;
3 Moses Lyles, his father. And who's going to speak,
4 Judge, is Ms. Cheryl Brown, who wishes to address
5 you as to victim impact, Your Honor.

6 THE COURT: Okay.

7 MS. BROWN: My name is Cheryl Brown.

8 THE CLERK: If you would, place your left hand
9 on the Bible and raise right hand, please.

10 Do you swear or affirm to tell the truth, the
11 whole truth and nothing but the truth, so help you
12 God.

13 MS. BROWN: Yes, ma'am.

14 THE CLERK: Thank you.

15 THE COURT: Yes, ma'am?

16 MS. BROWN: Hello, Judge. My name is Cheryl
17 Brown, the victim's aunt.

18 THE COURT: Yes, ma'am.

19 MS. BROWN: We appreciate your time and
20 patience -- excuse me. And we know that this has
21 been a hard case for everybody, both sides. Our
22 family would just like to let you know that we've
23 lost a son, a nephew, a father, a brother, an
24 uncle. He's had people born that he's never met.
25 And I know it might not mean anything to some, but

1 he's lost Christmases that he'll never get. His
2 daughter has lost Christmases that she will never
3 get back with her dad. And even given the 30
4 years, he still will never get those Christmases
5 back. When his mother had him, I'm sure she didn't
6 expect that one day this is where she would be. We
7 thank you for your time and your service to make
8 sure that justice was served for our side.
9 Although we might not have agreed with everything
10 that he chose to do with his life, he was raised in
11 a Christian home with Christian parents, Christian
12 grandparents and Christian aunts and uncles. And
13 we never know when we have our children what
14 they'll grow up to do and be, we just hope for the
15 best. But at the end of the day, this is not what
16 we hoped for our child.

17 So we do apologize for any hurt he might have
18 caused to anybody. But on the other side of that,
19 there was much hurt caused to us on a daily basis
20 when we have Fourth of July coming up and Monty's
21 not there with that stupid smile on his face to
22 laugh and crack jokes. When he's not there to see
23 his nephew, who he never saw, doing silly little
24 things that remind you of Monty. And we have to
25 sit back and be sad for a quick moment because he's

1 not here in the flesh.

2 And although we are raised in a Christian home
3 and we know that at the end of the day, God has the
4 final say. Regardless of what you do at this
5 point, he has the final say. We just appreciate
6 everything that has been done speaking on behalf
7 mostly of his mother because she would have been
8 worse standing up here than I would have been
9 truly, but she lost her first born. Not just a
10 child, but her first born. You know, the one that
11 when they are born, you imagine all the wonderful
12 things that they will do with their life. And now,
13 of course, we will probably go to the cemetery
14 sometime this week, you know, just to honor him and
15 let him know that we fought to the very end. And
16 we would just ask that you, if you haven't already,
17 just look in your heart and although you never met
18 him, consider this to be your nephew, your son,
19 your cousin, your brother, and what would you want
20 someone to give. We can -- anything that you give
21 will never bring his life back, but anything that
22 you give will just give us a hope that justice was
23 truly served, not just overlooked or not just
24 rendered, but it was truly served. And I'm sure
25 that when you put on that robe and you sit at that

1 bench that that's what you come to do. And we have
2 the utmost faith that that is what you will do.

3 So at the end of the day, in our hearts
4 because of the God that we serve, we have forgiven,
5 we would just hope that you would grant justice.

6 Thank you.

7 THE COURT: Yes, ma'am.

8 Mr. Pauling, would anybody else like to speak
9 from the family?

10 MR. PAULING: That's all the State would have,
11 Your Honor.

12 THE COURT: What is the State's position on
13 sentence?

14 MR. PAULING: Your Honor, again, you've heard
15 the testimony, you've heard from the family.
16 Judge, it's a mandatory minimum of 30 up to life.
17 Judge, we leave it in the discretion of the Court.

18 THE COURT: Thank you, Mr. Pauling.

19 Mr. Delgado?

20 MR. DELGADO: Your Honor, although the Court
21 is constrained by the statute a minimum of 30 years
22 to life in prison day for day, I'd like to ask the
23 Court, it's not controlling, but it may be
24 persuasive. The domestic abuse statute allows --
25 I'm not saying that it applies, I'm simply saying

1 there are special considerations made for
2 individuals who suffer at the hands of a
3 relationship. This Court has ruled that
4 Ms. Pickrell was not a household member under the
5 statute and therefore would not -- testimony that
6 we would have had relating to that would not be
7 germane or relevant to our trial.

8 What is important in that statute is that the
9 General Assembly saw fit to allow parole
10 consideration at one quarter of whatever an
11 individual was sentenced at if the statute applied.
12 I think what they're saying by that is that women
13 in Gregg's position deserve consideration. I argue
14 that to you. Obviously, the Court ruled on that.
15 What I'm saying is that feeling by the General
16 Assembly might relate to what sentence is necessary
17 in Gregg's case. And I say to the Court that the
18 minimum consideration for a woman that has never
19 had any problems at all, none, complied with every
20 bit of her bond for three years and nine months or
21 eight months, come to every day of this trial on
22 time, that the Court sentence her to the minimum
23 allowed by the statute.

24 Gregg, would you like to address Your Honor?

25 THE CLERK: Would you please your left hand on

1 the Bible and raise your right hand, please.

2 Do you solemnly swear or affirm the testimony
3 you will give will be the truth, the whole truth
4 and nothing but the truth, so help you God?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Yes, ma'am?

7 THE DEFENDANT: Your Honor, I am just very,
8 very sorry, and all I can cry is for my mom. My
9 mom. She just turned 93. She just turned 93. I'm
10 very, very sorry. I just want to be able to see my
11 mom.

12 MR. DELGADO: That's all, Your Honor.

13 THE COURT: Mr. Delgado, anyone else you'd
14 like to have speak?

15 MR. DELGADO: No, sir.

16 THE COURT: I will take a recess and consider
17 the sentence.

18 MR. PAULING: Yes, Your Honor.

19 (Pause.)

20 THE COURT: Yes, sir?

21 MS. ZMROCZEK: Your Honor, under 16-25-90,
22 Your Honor, that's the statute that we were talking
23 about regarding the parole consideration, what we
24 would ask the Court --

25 THE COURT: Hold on one second, let me pull it

1 up. Okay.

2 MS. ZMROCZEK: What we would ask the Court to
3 do is consider the application of that even though
4 she doesn't meet the definition of household
5 member. In the alternative, we would ask the Court
6 to go ahead and make a finding now, that way in
7 case the law does change within the next, you know,
8 small period of time, that it's something that we
9 protected on the record.

10 THE COURT: What is the State's position on
11 that?

12 MR. PAULING: Your Honor, I would respectfully
13 request that that be -- that that request be
14 denied. There was no testimony or evidence as it
15 related to that in this case. While the Defendant
16 obviously doesn't have to testify, they put forth
17 no testimony or no evidence to support that. This
18 is a non-parolable offense, as it is a murder
19 conviction, Judge.

20 For those reasons, I respectfully request that
21 that be denied.

22 THE COURT: Ms. Zmroczek, I'm going to deny
23 the motion. The statute does not apply and I'm not
24 comfortable putting factual findings on the record
25 for a hypothetical statute at some future date.

1 MS. ZMROCZEK: Thank you.

2 THE COURT: Indictment 2015-GS-28-0795, State
3 of South Carolina versus Gregg Pickrell. The
4 charge is murder. The sentence of the Court is
5 Ms. Pickrell is committed to the custody of the
6 South Carolina Department of Corrections for a
7 period of 35 years. Credit for time served.

8 MR. PAULING: Thank you, Your Honor.

9 MS. SAMPSON: Thank you, Your Honor.

10 THE COURT: Court is adjourned.

11 (WHEREUPON, the trial adjourned at 3:28
12 p.m.)

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(END OF TRANSCRIPT)

State of South Carolina) In the Court of General Sessions
County Of Kershaw) Fifth Judicial Circuit
2015-GS-40-0795

The State of South Carolina,)
Plaintiff,)
vs.) Transcript of Record
Gregg Pickrell,)
Defendant.)

May 30, 2018
Camden, South Carolina

B E F O R E:

The Honorable William A. McKinnon, Judge, and a jury

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

Jacqueline Li, Esquire, Assistant Solicitor
Curtis A. Pauling, III, Esquire, Assistant Solicitor
April W. Sampson, Esquire, Assistant Solicitor
Attorneys for the Plaintiff

John D. Delgado, Esquire
Aimee J. Zmroczek, Esquire
Attorneys for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

1 WEDNESDAY, MAY 30, 2018

2 (COURT RESUMES AT 9:39 A.M.)

3 (ENLARGED MAPS INDIVIDUALLY MARKED AS STATE'S EXHIBITS
4 1, 2 FOR IDENTIFICATION.)

5 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBITS
6 3, 4, 5, 6, 7, 8, 9 FOR IDENTIFICATION.)

7 (CAD REPORT MARKED AS STATE'S EXHIBIT NUMBER 10 FOR
8 IDENTIFICATION.)

9 (DVD MARKED AS STATE'S EXHIBIT NUMBER 11 FOR
10 IDENTIFICATION.)

11 THE COURT: Counsel, anything we need to take up
12 before we bring the jury in?

13 MR. DELGADO: Your Honor, there is one matter about
14 some photographs that the solicitor just showed us.
15 There's the gun involved in this is a .32 Beretta. It is
16 found by law enforcement inside the house where Ms.
17 Pickrell had been instructed to leave it after she called
18 911.

19 There are two different photographs of the gun on the
20 same spot. One is a possible enlargement, a little bit of
21 it, and they have the Beretta. I'm just thinking one of
22 the two photographs might be a bit duplicative.

23 THE COURT: Mr. Delgado, I'm reluctant to tell counsel
24 what they can use to prove their case.

25 MR. DELGADO: All right.

1 THE COURT: I mean, is it prejudicial in any way, or
2 is there anything -- I think I'm going to allow that.

3 MR. DELGADO: Your Honor, then there is another matter
4 that we need to be able to bring to the court's attention.
5 It may have -- you may have been able to discern this
6 yesterday.

7 When Gregg and her mother moved to Camden, Kershaw
8 County, from Nogales, Mexico, in 2007, with them came an
9 individual by the name of Dan Figueroa. Mr. Figueroa was
10 Gregg's business partner in the farm; they also had a
11 romantic relationship. February 3, 2008, Mr. Figueroa -- I
12 didn't -- I do now recall saying this to the court -- shot
13 himself there on the farm. There are instances of
14 reference to Dan or Figueroa in the statements that she
15 makes on the 11th to the Kershaw County sheriff's
16 department. It would seem that those are irrelevant to the
17 proof under 401 of anything that's more probable or
18 probable than relating to something involved in the case.

19 I'd like to be able to ask the court to inquire with
20 the solicitors can those matters relating to Mr. Figueroa
21 be excised from the tape. There's no need to have to talk
22 -- the reason for that, Your Honor, is this. That's
23 another individual dead on her property as a result of a
24 gunshot wound.

25 THE COURT: Ms. Sampson, Mr. Delgado was asking about

1 redacting Mr. Figueroa from this. What's your position on
2 that?

3 MS. SAMPSON: Well, Your Honor, the only -- the
4 state's position is there is at least in one part of the
5 audio -- of the interview where she, she says that and the
6 victim in our case dropped like Dan did. She also talks
7 about how that's how she knows Barbara is because Dan died,
8 and Barbara was the victim -- she was considered a victim,
9 and that's how she meets Barbara, who she then leaves
10 photographs with, according to them, in evidence of the
11 abuse with Mr. Demary. So I don't know how we will get --
12 unless they're not going to talk about that either.

13 MR. DELGADO: About what? I'm sorry.

14 MS. SAMPSON: In pretrial yesterday, you all alleged
15 or talked about how Ms. Jones, Barbara Jones ---

16 MR. DELGADO: We're not going to call Ms. Jones.

17 MS. SAMPSON: I know you're not calling her, but that
18 Ms. ---

19 MR. DELGADO: We're not going to talk about Ms. Jones.

20 MS. SAMPSON: But you stated yesterday that part of
21 what you were going to say, whether it be with your expert
22 or with your own client, that she was giving things to
23 Kershaw County sheriff's department through Ms. Jones and
24 that Ms. -- the only reason she knows Ms. Jones is because
25 Ms. Jones was a victim advocate when Mr. Figueroa, or

1 however you say his last name ---

2 MR. DELGADO: And, and ---

3 MS. SAMPSON: --- I'm sorry, died, and ---

4 MR. DELGADO: If she ---

5 MS. SAMPSON: --- she also says that -- dropped, that
6 Mr. Demary, when she shot him, dropped like Dan.

7 MR. DELGADO: First of all, that's extraordinarily
8 irrelevant and prejudicial.

9 THE COURT: Mr. Delgado, are you -- you're not going
10 to call Ms. Jones?

11 MR. DELGADO: No, sir.

12 THE COURT: Is there is any reason in the trial you're
13 going to need to refer to Ms. Jones?

14 MR. DELGADO: Your Honor, I don't think that we are --
15 we're not going to call her. I don't think we're going to
16 mention her. It may be that Gregg says I gave information
17 to the Kershaw County sheriff's department. I'll instruct
18 her not to discuss through whom and how.

19 THE COURT: Ms. Sampson, I'm, I'm -- I think I'm going
20 to exclude any mention. I mean, I think that there is the
21 risk of prejudice, and the probative value of the mention
22 of the suicide seems zero to me.

23 MS. SAMPSON: And here's, here's the problem that
24 we're now stuck with. If they're allowed to say, well, she
25 gave stuff to the sheriff's department, then there's no

1 explanation about that either. The jury's just left
2 thinking she gave it to whoever at the sheriff's department
3 and that the sheriff's department didn't act upon it, when
4 she didn't give it to a -- she gave it to a victim's
5 advocate of the sheriff's department.

6 THE COURT: Okay, Mr. Delgado, do you have any problem
7 with just stating, when you're discussing what she did, she
8 gave the material to a victim advocate at the sheriff's
9 department?

10 MR. DELGADO: Absolutely.

11 MS. SAMPSON: Beg the court's indulgence just...

12 THE COURT: Certainly.

13 (A PAUSE.)

14 MS. SAMPSON: And then -- and now maybe I added a
15 problem that Mr. Pauling is highlighting. If we say that
16 she gave it to a victim's advocate, we're highlighting that
17 she's a victim. Of what? Because they don't know that
18 she's not -- it's not having anything to do with Mr. Demary
19 that she's a victim of.

20 THE COURT: Okay. Well, let's ---

21 MS. SAMPSON: She's a victim of something else.

22 THE COURT: Why don't we refer to her as a friend who
23 worked at a -- as a victim's advocate in the sheriff's
24 office?

25 MS. SAMPSON: I understand what Your Honor is saying,

1 need that on the record since we didn't have a *Denno*.

2 MR. DELGADO: It was a knowing and voluntary statement
3 after signing a *Miranda* warning at the Kershaw County
4 sheriff's department.

5 THE COURT: Thank you, Mr. Delgado.

6 MS. SAMPSON: That would, that would be it, Your
7 Honor.

8 THE COURT: Okay, anything else from the defense?

9 MR. DELGADO: Oh, I'm sorry. No, not from the
10 defense, Your Honor.

11 THE COURT: Okay, let's bring in the jury.

12 (THE JURY ENTERS AT 10:12 A.M.)

13 THE COURT: Ladies and gentlemen, let's swear in the
14 jury.

15 (WHEREUPON, THE JURY IS SWORN.)

16 THE COURT: Mr. Jeffcoat, I've selected you as the
17 foreperson of the jury, sir. So, if you don't mind
18 switching chairs with young woman in the black in the front
19 row?

20 (A PAUSE.)

21 THE COURT: And, Mr. Jeffcoat, and other members of
22 the jury, Mr. Jeffcoat is the foreperson of the jury. His
23 vote does not count any more or less anyone else's. His
24 role is to communicate with the bailiffs and the court. If
25 there's something in the jury room you need to bring to my

1 attention or you need something, just Mr. Jeffcoat can
2 communicate to the bailiffs and then communicate to me.

3 And, Mr. Jeffcoat, your second responsibility is make
4 sure when it's time for the jury to deliberate, kind of
5 make sure everyone a say and manage the deliberations, but
6 your vote is the same as everyone else's.

7 Ladies and gentlemen, we are about to begin. This is
8 the case of the *State vs. Gregg Pickrell*. I want to tell
9 you this experience is probably different from what you may
10 expect. A lot of folks, until they get called for jury
11 duty, have not had a chance to attend court before, and
12 most of your expectations about the process are going to be
13 from movies or TV where -- or legal books that you may have
14 read and those entertainment sources. Trials are always
15 full of high drama and intense action and riveting
16 testimony. And while all these things may be true at
17 different parts of this trial, this trial is not for
18 entertainment. It's a fundamental part of our democracy,
19 and there, there may be times where court is a little slow.
20 There may be repetitive testimony, and so I just ask you to
21 do your very best to maintain your attention during the
22 whole process. It is not going to be one exciting moment
23 after another like if you may have seen movies or trials on
24 TV.

25 The courtroom is a place of honor dedicated to the

1 protection and preservation of the citizens' rights through
2 what many have called the greatest justice system ever
3 created. The attorneys that appear before you are
4 advocates for the parties, but first and foremost they are
5 officers of the court, sworn to uphold the integrity and
6 fairness of our judicial system and to help you do justice.
7 You should expect them to be professional, competent, and
8 ethical in the representation of their clients' interest.

9 Remember that you have taken an oath to try this case
10 and reach a fair verdict, and you are expected to be
11 professional, reasonable, and ethical. Thank you very much
12 for accepting this important responsibility of jury service
13 and for your contributions today to our system of justice.

14 What I'm going to say to you now is intended to
15 service as an introduction to the trial of the case. These
16 remarks are not a charge on the law; I will explain the law
17 to you at the end of this case. This is merely an
18 explanation of what's going to happen during the trial.

19 The defendant, Ms. Pickrell, is charged by indictment
20 with the crime of murder, the elements of which will be
21 explained to you later. The indictment, which will be read
22 to you shortly, is simply the charge by which the case is
23 brought into court. It is not evidence or -- and it's
24 certainly not evidence of the charge it contains.

25 The defendant has pled not guilty to the indictment.

1 The state, the government, the prosecution, therefore, has
2 the burden of preaching -- proving each and every element
3 of the indictment beyond a reasonable doubt, and it will be
4 your duty, ladies and gentlemen, to decide whether the
5 state or the prosecution has met their burden in this case
6 at the end.

7 Your purpose as jurors is to determine the facts in
8 this case; you are the sole judge of the facts. If at any
9 time I make any comment regarding the facts, you must
10 disregard it. I am not allowed to have an opinion on the
11 facts of this case. I'm a human being, and I may scratch
12 my face or I may make a facial expression or something.
13 That's entirely unintentional. I am in no way trying to
14 give an opinion on the facts of this case, and I am not
15 allowed to have one. That is a job for you ladies and
16 gentlemen on the jury.

17 You are to determine the facts from the testimony you
18 hear and the other evidence introduced in court. It is up
19 to you to determine the inferences which you feel may be
20 properly drawn from the evidence. It is especially
21 important that you perform your duty diligently and
22 conscientiously because ordinarily there is no way to
23 correct an erroneous determination of the facts by a jury.

24 On the other hand, with equal emphasis, the same law
25 that makes you, the jury, the judges of the facts makes me

1 the judge of the law in the case. The law as given by the
2 judge, the court, is the only law you may consider. You
3 must accept and follow the law as I explain it to you, even
4 though you may disagree with it. I cannot tell you what
5 the facts are, and you cannot disagree with me about what
6 the law is or what it ought to be. Your job is to take the
7 law as I explain it to you and apply it to the facts as you
8 find them based on the witnesses and the other evidence
9 that is introduced. After doing that, you will render your
10 verdict, a true and just verdict.

11 And I'm going to remind you of a few things I talked
12 to you about yesterday. Until I tell you it's time to
13 begin deliberation, please don't talk about this case.
14 There will be breaks on the case. There would be breaks
15 where you can go back. We'll take a short break just to
16 have a drink or use, use the restroom. There will be a
17 lunch break today. There may be times where I have to
18 discuss matters with the lawyers that we don't have to
19 bother the jury with. We'll send you back to the jury
20 room.

21 During those breaks, you are free to socialize in any
22 way that you want. You can talk about politics, the
23 weather, or sports, anything that you want with one
24 exception. You cannot talk about this case, and the
25 reason, as I explained yesterday, is it's not fair to the

1 lawyers or to the defendant or to the prosecution for you
2 to start deliberating about the case until you have heard
3 all of the evidence in the case. Once you've heard all the
4 evidence, I'll then tell you now it's time to deliberate.
5 Until then, please don't discuss this case even with other
6 jurors.

7 And second thing is as I reminded you yesterday,
8 outside of other jurors, you cannot discuss this case at
9 all, meaning, you know, even during deliberations. Even
10 you know, if you go home at night, you know, or on the
11 weekend if this case goes through Monday, you may not
12 discuss this case with anyone, family, friends. I mean,
13 most people don't get to serve on a -- jurors on a murder
14 trial, so you may get lots of questions from your husband,
15 your wife, your kids, your friends wanting to know what the
16 trial was like, what happened. And once the case is over
17 and you've given a verdict, you can answer all those
18 questions that you want if you choose to.

19 No one can force you to talk to them, but if you want
20 to talk, you can say anything you want after the verdict.
21 Until the verdict, you cannot discuss this case at all.
22 You need to just tell folks I'm on, I'm on a criminal
23 trial. It may be it may go to early next week, and I'll be
24 able to talk to you after the case is over.

25 And then thirdly, as I talked about yesterday, please

1 do not do any internet research. If anyone does that, it
2 may result in me having to call a mistrial, okay? Do not
3 go on Google. Don't look on news reports. Don't listen to
4 -- you know, it's possible that this -- that something
5 about this trial might be on the news during the trial.
6 You may be home tonight and turn on the 6:00 news, and
7 there might be a mention of this trial. Don't watch it.
8 If there's a newspaper article that mentions this trial,
9 don't read it. Don't Google anybody. Don't try to look up
10 police reports on the internet. Don't do, don't do any
11 research like that. Everything you need to make a verdict
12 in this case will be given to you in court. You'll hear
13 the testimony. You'll see the documents. You'll see the
14 other evidence. It will all be here in court.

15 You will see me typing on my computer. As a judge, I
16 have an obligation to make notes on what's going on in the
17 proceeding. And just because I grew up in the computer
18 age, I am much faster making notes on the computers. That,
19 that's what I'll be doing. I'm not on Facebook or, you
20 know, anything. I'm making notes on my computer.

21 That said, you as jurors may not take notes during the
22 trial, and the reason for that is sometimes some folks are
23 very comfortable taking notes. They were note takers in
24 college or whatever. Some folks are not as comfortable
25 taking written notes, and my experience has been if I -- if

1 jurors take notes, then juror deliberations can turn into
2 who was the best note taker, and that's not what I want to
3 happen. So, I want everyone to pay careful attention, but
4 I do not allow jurors to take notes.

5 Once you are deliberating, if you need to hear
6 testimony again, if there's a witness where you want to say
7 I want to hear so-and-so's testimony again, it can be read
8 back to you. So, you have that available to you as jurors.
9 You can -- all of the documents and evidence will be back
10 in the jury room with you for you to look at. So, if you
11 need to hear testimony again, you can hear it again, but I
12 do not allow jurors to take notes for that reason.

13 It is important that you keep an open mind in this
14 case and not decide any issue until all the evidence has
15 been presented, the parties have -- and the parties have
16 made their closing arguments, and I have instructed you on
17 the law. It is your solemn responsibility to determine the
18 guilt or innocence of the defendant, and your, and your
19 verdict must be based solely on the evidence that is
20 presented to you in the, in the trial and the law as I
21 instruct you.

22 In just a moment, we will call the case and, and read
23 the indictment, and the solicitor or the prosecutor will
24 make what is called an opening statement in which the
25 solicitor will explain to you the issues in this case, or

1 at least what the solicitor thinks are the issues in this
2 case. The attorney for the defense may also make an
3 opening statement, although they are not required to do so.

4 What the attorneys tell you during these opening
5 statements are not evidence. It is only attorney argument
6 or what their -- their explanation of what they believe the
7 issues are. The evidence in this case will be presented to
8 you by the testimony of sworn witnesses and/or exhibits
9 that may be introduced into evidence.

10 From time to time during the trial, you may hear one
11 of the lawyers say something like Your Honor, I believe we
12 have a question of law, or may I approach the bench. Or
13 sometimes I might find it necessary to excuse you from the
14 courtroom for a short while so the attorneys can discuss a
15 matter of law with me. The reason for this is because you
16 are the judges of the facts of the case, and sometimes when
17 I'm discussing the matters of law, it may be necessary for
18 me to make some comment on the facts. I'm not supposed to
19 tell you what the facts are, so that's why I may ask you to
20 leave the room.

21 In determining what the true facts are in this case,
22 you must decide whether or not the testimony of the witness
23 is believable. It will be my responsibility to rule as a
24 matter of law whether certain testimony is admissible, but
25 once it's been admitted into court, whether or not you

1 believe it is solely for you as a juror to determine.

2 In deciding whether to believe a witness, you have the
3 right to consider the interest any witness might have, any
4 possible bias, any possible prejudice, whether the witness
5 had an opportunity to see the matters and things about
6 which they're testifying, and the way the witness acts on
7 the witness stand. You have the right, you have the right
8 to consider anything that is in the record or the evidence
9 of the case to help you evaluate the testimony.

10 That means it is your duty to pay close attention, to
11 observe them, to listen. Try not to let your thoughts
12 wander, but give strict attention to the testimony in this
13 case so that after -- at the end of all the testimony,
14 after the arguments of counsel, and my explanation of the
15 law, you will be in a position to determine what the facts
16 are and to apply those facts and render a true and just
17 verdict.

18 Mr. Foreperson, it is your duty to preside in the jury
19 room and to be the jury spokesperson here in court. It
20 will also be your duty to write the verdict, but I will
21 give you further instructions on that at the end of the
22 case.

23 In order to preserve everyone's rights, I'm going to
24 give the attorneys the opportunity to object to anything
25 I've said. Any objections to the general charge from

1 counsel?

2 MR. PAULING: None from the state, Your Honor.

3 MR. DELGADO: None from the defendant.

4 THE COURT: Okay. Thank you. Let's call the case.

5 MR. PAULING: May it please the court, Your Honor? At
6 this time, the state calls the case of *The State vs. Gregg*
7 *Pickrell*. This is indictment number 2015-GS-28-0795. This
8 is an indictment for murder.

9 THE COURT: Counsel, do you want me to read it or ---

10 MR. PAULING: Yes, Your Honor.

11 THE COURT: Okay. Ladies and gentlemen, this is the
12 indictment. As I've said from the general charge, this is
13 not evidence. This is what the prosecution alleges or
14 wants to prove happened; it is not evidence.

15 At a court of general sessions convened on August
16 19, 2015, the grand jurors of Kershaw present
17 upon their oath that Gregg Pickrell did in
18 Kershaw County on or about September 11, 2014,
19 kill the victim, Robert Demary, with malice
20 aforethought, either expressed or implied, by
21 means of shooting the victim with a handgun, and
22 the victim did die as a proximate result thereof,
23 all in violation of Section 16-3-10 of the South
24 Carolina Code of Laws as amended.

25 Any objection?

1 MR. DELGADO: Not from the defendant.

2 MS. SAMPSON: No, sir.

3 MR. PAULING: Thank you, Your Honor.

4 THE COURT: Madame Solicitor.

5 MS. SAMPSON: Thank you, Your Honor. May it please
6 the court?

7 Good morning. The truth is the truth is the truth.
8 It never changes. No matter how many times you tell it, no
9 matter who you tell it to, the truth is the truth. And the
10 truth is that on the early morning of September 11, 2014,
11 the defendant, Gregg Pickrell, shot Robert Demary in the
12 back one time, killing him. That's the simple truth.

13 Over the course of this week, you're going to hear
14 evidence about this case. You're going to hear that Mr.
15 Demary, also known as Monty, was an employee of the victim
16 -- of the defendant, and that during the course of his
17 employment they became sexual partners. That's the truth.
18 During this relationship, it went from 2008 until his death
19 in 2014. You're going to hear that he often went to her
20 home, located in Kershaw County, a farm know as Far and
21 Away Farm. That's where she lived with her mother. He
22 would go over there. They would have sex. He would leave.
23 That's the truth.

24 But on this particular day, she decided it was time
25 for him to go. She decided it was time to end his life.

1 She decided to go take her gun that she kept loaded with
2 the safety off, go from her bedroom to a cabinet where she
3 kept it, a desk, got that gun, returned to the bedroom,
4 fired one shot into his back as he was getting ready to go.
5 That is the definition of murder.

6 Now, she may not look like a murderer sitting over
7 there. I admit that. It's not what you think of when you
8 hear murder. Probably not what you thought when you came
9 into court and heard that you were going to have to sit as
10 a juror in a murder trial. Now, I know that probably
11 wasn't what you expected on Tuesday when you got here, and
12 probably not something you really wanted to do, but I thank
13 you for choosing to do that, for choosing to have to listen
14 to this case. And I ask you listen to all the evidence
15 because this is important, not only to the defendant but
16 also to the victim and to his family. It's important to
17 Kershaw County; it's important to the State of South
18 Carolina.

19 Now, you're going to hear evidence that after she shot
20 the victim, the defendant -- the victim in this case, the
21 defendant called 911, and she did. You're going to hear
22 that. She calls them. They come and within a little over
23 an hour, she is sitting with our Kershaw County sheriff's
24 department giving an interview. She's interviewed by not
25 one but two different investigators. She's even

1 interviewed with her own lawyer there. You're going to get
2 to see that audio and videotape. You're going to get to
3 see exactly what she says. You're going to get to see the
4 way she says it. You're going to get to hear what she
5 said. You're not going to have to rely on me telling you
6 these things. You're going to get to hear them for
7 yourself, and I would ask as you listen to this remember:
8 the truth is always the truth. It never changes.

9 But her truth does change. It changes depending on
10 who's asking her; it changes depending on where she is. Is
11 she with an interview or is she here on the stand? It
12 changes, and I ask that you listen to that. I want you to
13 listen to see does it match the physical evidence that is
14 beyond change?

15 Now, you're going to hear that she's alleging that
16 during this, this years of relationship that he abused her.
17 Tell you that right now. She's going to tell you. She
18 told the interviewers that he beat her and that on this
19 night he was beating her. But I want you to listen to what
20 she doesn't say in that interview an hour after she shot
21 him in the back: that she doesn't give them details of what
22 happened that night; that she doesn't tell them he was
23 beating me when I shot him; doesn't tell them that it was
24 in self-defense. Today they're going to tell you that, and
25 for the rest of this week they're going to tell you that,

1 but when you watch that video, you won't hear it. That's
2 important because again truth doesn't change.

3 You're going to hear from law enforcement how they
4 came and took photographs of the scene, how they took hold
5 of the Beretta you're going to get to see a picture of.
6 You're going to hear about their relationship. What you're
7 going to come and understand, as we all do, is that this
8 whole case boils down to whether you can believe the
9 defendant or not because the only person who was there that
10 night from September 10th through September 11 -- the only
11 two people that were there were the victim and the
12 defendant, and due to her actions, he can't tell you what
13 happened. He can't tell you. So, you're going to have to
14 look at the evidence that we can give you. And when you
15 look at that evidence, you're going to see that her truth
16 does change, that unfortunately you can't rely on her.
17 You're going to hear that, in fact, the morning of this
18 when she was -- they were going to leave, she was about to
19 go tell an untruth to her own mother. She's just not
20 reliable.

21 My mother told me I'm not supposed to call people
22 liars, so I'm not going to do that, but I ask that you
23 think about that as you listen to her testimony. Is she
24 consistently truthful? Is she consistent at all because
25 what you'll find is that the only thing that's consistent

1 is that she tells different stories.

2 At the end of this case, you're going to get charged
3 by the judge, but before you get charged, you're going to
4 hear again from us. The judge is going to charge you that
5 murder is a very simple definition in South Carolina. It's
6 the killing of another with malice aforethought. Now,
7 malice aforethought is a big, old legal term, right? It
8 just means that you think about it one second before you
9 did it. You don't have to plan it. It's not like on TV
10 where they sit around and plot it out and think. It's
11 literally in this case when she leaves the bedroom and goes
12 and grabs that loaded gun with the safety off, when she
13 comes back to the bedroom, when she comes and shoots a man
14 who's bent over a bed dead in the middle of his back. It's
15 that simple. The truth is the truth.

16 We ask that you listen to all of the evidence and at
17 the end of this case, that you return a verdict that speaks
18 the truth: a verdict of guilty. Thank you.

19 THE COURT: Mr. Delgado.

20 MR. DELGADO: Thank you.

21 Good morning. It's all right. We don't usually say
22 that. I'll say it. Good morning.

23 JURY: (EN MASSE) Good morning.

24 MR. DELGADO: One of the things, however, that I must
25 say to you is that might be the only thing you say in this

1 courtroom over the next several days. The way trials are
2 constructed is the prosecution and defense, we do all the
3 talking with a witness from that stand. We don't know when
4 to say all right, folks, have I covered that point enough
5 for you? Do you understand where we're going? How about
6 that? Y'all with us? We can't gauge your temperature.
7 So, please forgive us if we oversell something or we don't
8 make something as clear for you, but you don't get a right
9 to ask us why don't you ask the witness that question.

10 Let me introduce two folks to you that you will hear
11 from.

12 Gregg, stand for just one second.

13 Her name is Gregg, G-r-e-g-g, Pickrell,
14 P-i-c-k-r-e-l-l. She's the defendant, and I say this to
15 you in all candor: she did shoot Monty Demary with a .32
16 caliber Beretta on the morning of September the 11th, 2014.
17 She did. Why is what we will argue to you.

18 Thank you, Gregg.

19 The other lady seated further down the table is my
20 colleague and friend Aimee Zmroczek. There's no way you
21 can spell that last name. It's just Zimmer and Check;
22 that's the easiest phonetic way to be able to get it.

23 Let me start my opening statements to you by saying if
24 this were a cable news program or a printed media
25 publication, this would be the headline for this case: jury

1 ends, jury breaks the silence of abuse. Let me say it to
2 you again. Jury breaks the silence of abuse.

3 Go with me, if you will, on a Thursday morning,
4 September the 11th, 2014, down 521. Do you know where you
5 turn off to go to the McCaskill's farm and the petting zoo?
6 That's Cantey Road. It's just inside Kershaw County. Down
7 Cantey Road, the first paved -- the first dirt road off to
8 the right is Baynard Boykin Road. That's where Gregg and
9 the lady who's seated in the wheelchair at the end of the
10 aisle -- her name is Nora Keehn, K-e-e-h-n -- that's where
11 they've lived. And as you stand outside the house -- this
12 will be in evidence. See this little house? This is where
13 Gregg lived, and if you stand outside that house around
14 8:45 in the morning, 9:00 in the morning, you hear this.

15 Now, please hear me as I say this. This is not the
16 tone that you hear it. I'm going to kill you; if I don't
17 find that earring, I'm going to fucking kill you. And you
18 hear one gunshot and as you stand in that yard, you see
19 Gregg Pickrell run through the front door with that gun and
20 her cell phone.

21 And she then calls 911 and says to them, among other
22 things because it's such a critically traumatized
23 situation, she just -- stuff's all over the place, and she
24 says all I wanted was to keep the peace. Oh my god, oh my
25 god, and then you'll hear it on the 911 call. There is

1 something that's from her voice but something that sounds
2 almost inhuman that comes from the depth of her soul. When
3 I heard that, I said oh my goodness. Just the pure, raw
4 recognition of what had just happened. And together during
5 this case and in your verdict, we'll break the silence.

6 Now, let me say something to you about Robert Lamont
7 Demary. For whatever else Mr. Demary was, he was loved by
8 his family. They are here in the courtroom today. Neither
9 Aimee, myself, or Gregg will say anything to disparage him
10 to their memory. They have an absolute right to continue
11 their memory and remembrances of him because he is their
12 family, as we all would.

13 But we also have a responsibility to you to show
14 another side of Mr. Demary, a side that maybe others in
15 this courtroom have not seen because that quote I just gave
16 to you, that's just one of hundreds, hundreds that you'll
17 hear from the voice of Monty Demary and texts from the
18 phone of Monty Demary threatening to kill her, her mother,
19 burn down the farm and the animals. So, it's our
20 responsibility to you with these poor folks here in the
21 audience to work for you, to show you this whole, complete
22 side of Mr. Demary. And when that is brought to you, I say
23 you'll break the silence of abuse.

24 Let me share with you a couple of fears that I have.
25 I don't know about y'all, but every time I've ever had to

1 go to a funeral, I am just concerned that there is going to
2 be an open casket. There's something about having a family
3 member, a close friend, I don't want to have to see that
4 person outside of how I knew them in life. There's just
5 something difficult for me. Maybe it's just me, but I
6 think it's a human reaction to have to look at a dead body,
7 first of all, that is lying on the floor.

8 This diagram will be shown to you. This is the
9 Baynard Boykin house. It's a real small little place,
10 maybe 800 square feet. Little wooden house, two small
11 bedrooms. This is where Mr. Demary's body was found in the
12 corner bedroom. We'll have this for you; you'll see this.
13 You'll see lots of pictures that show the angles and show
14 Mr. Demary laying with a gunshot wound, but that fear
15 permeates my work for you. Part of my fear is that you
16 will be so upset by judging someone who's charged with
17 murder that what Ms. Sampson just said, you will latch on
18 to that and disregard the real law in the State of South
19 Carolina about the right to self-defense.

20 This book right here, the Bible, chapter 8 of the *Book*
21 *of Esther*, verse 11. Esther, for who the book is named,
22 was Jewish. She was married to a non-Jew who was the king
23 of one of those kingdoms, but because of her love for her
24 people -- she knew that they were going to be attacked by
25 -- I think they were Persians way back thousands of years,

1 I guess, before Christ. And she prevailed upon her husband
2 to allow the Jews to gather together to gain weapons to
3 protect themselves from the threats from the outside.

4 It's as old as our history, and it's right there, and
5 it abides and lives with each of us now because we know
6 that when we are attacked, we have the right to defend
7 ourselves, even to take the life of the person who is
8 attacking us.

9 But especially in this case because the law of the
10 State of South Carolina is Gregg Pickrell had the right to
11 act on appearances as they presented themselves to her in
12 this little bedroom: I'm going to kill you; if I don't find
13 that earring, I'm going to come and fucking kill you. She
14 not only has the right to act on appearances, she doesn't
15 have to wait until he is attacking her to take his life.
16 Let me say that to you again: she has the right not to have
17 to wait, to let him get the drop on her. That's the law.
18 And when you hear that, hopefully then, too, that breaks
19 the silence of hidden abuse.

20 It will become evident in this case that she did not
21 report abuse. She documented it -- wait 'til you see the
22 pictures -- for years. They may attempt to say to you,
23 well, she works on an animal farm. Maybe that bruise on
24 the back of her -- on her back, maybe it wasn't coming from
25 Monty stomping her in that room before that shot was taken.

1 Maybe a horse nudged her; maybe a horse caused that.

2 See that photo? Orient yourself to it.

3 MS. SAMPSON: Your Honor, I hate to interrupt, but I
4 haven't seen what he's showing the jury. So, I don't ---

5 MR. DELGADO: I got it from you, Solicitor.

6 (COUNSELORS CONFER.)

7 MS. SAMPSON: Thank you, Your Honor.

8 MR. DELGADO: See what this is? This is her chin.
9 See those two right here? You see this? Horse didn't do
10 that. May have been a damn human jackass but it wasn't a
11 horse. And her pictures and her testimony will break the
12 silence for you.

13 Let me back up and tell you a very quick story, how
14 they came here. Nora and Gregg came to Camden, Kershaw
15 County, from Nogales, Mexico, in twenty -- 2007. They were
16 horse people down there on the border. They came here to
17 try to continue their operation. The economics of horse
18 training and the depression of 2008 has finally taken its
19 toll. Both of them are now in bankruptcy; that farm is up
20 for sale. Monty Demary in, around 2008 was hired to work
21 on that farm: to muck the stables, exercise the horses,
22 groom the horses, wash the horses, everything. Mowing.
23 It's a large piece of property out there. There is a --
24 yeah, this is the farm.

25 Thank you, Aimee.

1 This is the farm. This is Baynard Boykin Road. Turns
2 into and goes to Cantey Road down to 521. Nora Keehn lives
3 in this little house right here; Gregg lives in this house
4 up here. This is 100 acres or so, but they couldn't make
5 it. Monty Demary would help them, among -- with lots of
6 others fellows. Don't get me wrong. He wasn't their only
7 employee. Was a member of her crew. And I must say to you
8 that she started a relationship with him that was more than
9 just employer, employee, and you know what? The abuse
10 started almost immediately.

11 Oh, they now say he was an abuser, and we'll show you
12 pictures from 2008 and 2012 and 2013 -- that's when this
13 one took place -- and 2014, and on the date of this
14 incident.

15 One other fear I have for you is some of the texts and
16 some of the language, telephone calls, folks, the F word is
17 used almost as an everyday -- you just can't believe it
18 from Monty Demary. I caution you about that because it's
19 going to be hard to hear, but that's how he talked, all
20 right? And what she'll say is to police officers after
21 9/11 or on September the 11th I just wanted to keep the
22 peace. I was afraid. He threatened to kill me. He
23 threatened to kill Mom before. He threatened to kill my
24 pit bull. He threatened to kill the horses.

25 And she'll say this, and this is so interesting.

1 You'll hear all this because they're going to play it on
2 that screen right there. On September the 11th, she has
3 two different interviews about an hour and a half apiece
4 recorded on a camera, and she says the words: I've been in
5 hiding for six years; I've hidden this behind doors. She's
6 not talking about wooden doors. She's talking about the
7 doors to her soul. I'll give you another phrase: I've been
8 hiding a lot of things.

9 Because she wanted not to have to break the silence
10 and on the morning of September the 11th, one of the two
11 investigators that will testify, Mr. Bailey, Mr. Bailey
12 will say to you through his recorded statements, oh,
13 there's no doubt you were abused. No doubt in anybody's
14 mind you were physically abused last night, but you kept it
15 hidden. And you know how you do that, for a woman who has
16 to hide that? Sunglasses even when it's not cloudy and
17 inside, bandanas so that it doesn't show up on your throat,
18 long-sleeve shirts in August. Why?

19 But others did notice. Nora saw it but couldn't get
20 her to end it. Some of the other employees saw it, and she
21 tried to pass it -- well, the horse, the horse hit me. He
22 knew. He knew what that was about; he knew it wasn't a
23 horse.

24 And Gregg's reactions fit facts and a pattern that the
25 sheriff's department is trained in. They're trained to

1 observe abuse, male-female abuse, relationship abusive,
2 spousal abuse, domestic abuse. They're trained in it.
3 Wait 'til you see all the train -- as they should. But
4 sometimes even the sheriff's department doesn't act on its
5 own words and will not break the silence, but we will ask
6 you to do that with your verdict.

7 One last thing. I'll tell you a story. My dad before
8 his passing was a retired Presbyterian minister forty-eight
9 years. Long before I went to law school, he said to me
10 once: if it's a foggy in the pulpit, it's a foggy in the
11 pew. Say that again. If he wasn't clear in his Sunday
12 service to the congregation, then the congregation couldn't
13 follow where he wanted to go with his theme for the day.
14 So, let me not be foggy with you because I don't want there
15 to be any fogginess in this jury.

16 It was an act of self-defense brought on by years of
17 abuse that culminated that morning when he specifically
18 threatened to kill her, and Nora was coming to the house
19 and Nora felt he would kill her, too, and burn the farm and
20 the animals. And that's why I say to you in your verdict,
21 you will break that silence. You will break the silence of
22 violence, and you will find her not guilty. Thank you.
23 Thank you.

24 THE COURT: Ms. Sampson, call your first witness.

25 MR. PAULING: Your Honor, the state would call Marvin

1 Brown.

2 MARVIN L. BROWN, BEING DULY SWORN,

3 TESTIFIES AS FOLLOWS:

4 CLERK OF COURT: State your full name for the record,
5 please.

6 WITNESS: Marvin Lee Brown.

7 DIRECT EXAMINATION BY MR. PAULING:

8 Q. Good morning, Mr. Brown. How are you doing, sir?

9 A. Fine, sir.

10 Q. Mr. Brown, are you currently employed, sir?

11 A. No, sir. I retired December the 31st of 2017.

12 Q. And from where did you retire, sir?

13 A. I retired from the sheriff's, sheriff's office this
14 time. Back 2010, I retired from SLED and then came over as
15 chief deputy with Sheriff Matthews in 2011.

16 Q. And, and while you were at SLED, would you just
17 explain to the jury, what was your role while you were at
18 SLED?

19 A. I first got hired into the -- as an alcohol agent. I
20 worked alcohol enforcement and narcotics. Then I was
21 transferred over as liaison to the Department of
22 Corrections where I worked narcotics from the outside in,
23 and then I was promoted to lieutenant over the Fusion
24 Center, personnel, and that's where I retired from, the
25 Fusion Center at SLED.

M. BROWN - DIRECT EXAMINATION BY MR. PAULING

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1 Q. And then you said you began working at the sheriff's
2 office. When was that?

3 A. Then came to work at the sheriff's office the second
4 time in 2011 under Sheriff Matthews as chief deputy.

5 Q. And what were your role -- what was your role -- what
6 were your duties as chief deputy while you were at the
7 sheriff's office?

8 A. Over the function of the sheriff's office itself.

9 Q. Okay. Were you, I guess for a lack of a better way to
10 say it, like a second in command? Is that ---

11 A. Command in command.

12 Q. Is that what ---

13 A. Yes, sir.

14 Q. And as, as second in command, did you have a region or
15 area that you patrolled or mainly the main office, at least
16 back in 2014?

17 A. I stayed around the office three-fourths of the time.
18 I'd get out every once in a while and ride, but my main
19 function was at the office, to oversee the office
20 functions.

21 Q. And back on September 11th of 2014, do you remember
22 working that particular day?

23 A. Yes, sir.

24 Q. And that day, that morning, do you recall responding
25 to a ■■■ Baynard Boykin Road?

1 A. Yes, sir, I do.

2 Q. And is that in Rembert, South Carolina?

3 A. Yes, sir, it is.

4 Q. Is that in Kershaw County?

5 A. Kershaw County, yes, sir.

6 Q. And if you could tell the jury, sir, how did it come,
7 come about that you even ended up at that location, or why
8 did you go to that location?

9 A. I just happened to be in the Camden area at that time,
10 and I heard over the radio 911 dispatch that we had had a
11 shooting incident at that location. So, I just went ahead
12 and responded that way.

13 Q. Now, were you at least somewhat -- well, somewhat
14 familiar with that area?

15 A. Yes, sir, I'm familiar with the road, yes, sir,
16 Baynard Boykin Road; the sheriff himself lives off Baynard
17 Boykin.

18 Q. Now, you've indicated that it came from dispatch?

19 A. I heard it over the radio from dispatch, yes, sir.

20 Q. Now, it, it came from, from Kershaw County dispatch,
21 what you ---

22 A. The radio that I was listening to was Kershaw County
23 dispatch, but they were speaking to Sumter 911 dispatch.
24 So, I was getting everything as a third-party.

25 Q. Okay, and did you eventually get to that location?

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1 A. Yes, sir.

2 Q. Chief Brown, I'm going to show you what's been marked
3 for ID purposes State's 1.

4 MR. PAULING: May I approach? I'm sorry, Your Honor.

5 THE COURT: Certainly.

6 BY MR. PAULING:

7 Q. As well as State's 2, State's 1 being a tax map and
8 State's 2 also being a tax map. Do you recognize that area
9 or the area outlined there as being the property there at
10 ██████████ Baynard Boykin Road?

11 A. Yes, sir. You got it outlined in red.

12 Q. Okay, and that's on State's 1?

13 A. Yes, sir.

14 Q. And on State's 2, outlined in yellow, is that the same
15 property, just enlarged?

16 A. Yes, sir, it appears to be.

17 Q. Okay. Okay.

18 MR. DELGADO: Without objection.

19 THE COURT: Without objection?

20 MR. PAULING: Your Honor, State's 1 and 2, I believe
21 without objection.

22 THE COURT: Entered into evidence without objection.

23 MR. PAULING: May the witness step down?

24 (ENLARGED MAPS INDIVIDUALLY MARKED AS STATE'S EXHIBITS
25 1, 2.)

1 BY MR. PAULING:

2 Q. Chief Brown, first looking at State's Exhibit 1, which
3 is there, closer to you there, can you explain to the jury,
4 can you explain to the jury which direction or which route
5 you took to actually get to the house there?

6 A. This is Sumter Highway 521 coming from Camden, going
7 toward Sumter. Baynard Boykin Road crosses 521. First
8 thing I did, I took a left -- a right and went the wrong
9 direction on Baynard Boykin. We had some misunderstanding
10 over the radio. Then I came back across 521. This is a
11 dirt road. It comes in and comes around, and you turn back
12 to the left. There's a gate right here, and I went in
13 through the gate to get into the property.

14 Q. Okay. Now on State's 2 -- step this way. Does this,
15 or this highlighted area.

16 A. Yes, sir.

17 Q. Is this the -- looking on State's 2, is this the, the
18 gate down here?

19 A. Yeah, I'm trying to make a -- yeah, I came in ---

20 COURT REPORTER: I can't hear you, please.

21 MR. PAULING: I'm sorry?

22 COURT REPORTER: I can't hear the witness.

23 BY MR. PAULING:

24 A. Came in this direction. Turned at the dirt road. The
25 gate's right here off the, off the main road, and then went

M. BROWN - DIRECT EXAMINATION BY MR. PAULING

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1 in. Come all the way around up to the house.

2 Q. Okay. Which -- do you know what this, this oval shape
3 is here?

4 A. That's a horse track I guess they used for training.

5 Q. It's a racetrack?

6 A. Yes, sir.

7 Q. Okay. So, you went past the racetrack and down here
8 to the left?

9 A. Yes, sir, came up to the left of the house.

10 Q. Okay, and so this is the house at this point?

11 A. Yes, sir.

12 Q. You can take your seat, sir.

13 And once you made your way to the house, who, if
14 anyone, did you see at that point once you got to the
15 house?

16 A. When I pulled up in the yard, there was one vehicle
17 there. The defendant was standing outside of the vehicle,
18 and there was an elderly lady driving -- sitting in the
19 driver's seat, whom I found out later was her mother. She
20 was talking to her at the time.

21 Q. Now when you go on scene, was there any other
22 law-enforcement officer on scene? Were you the first to
23 arrive?

24 A. No, sir. I was the first one there.

25 Q. Okay, and as you're arriving on scene, are you still

1 in contact with dispatch?

2 A. Yes, sir.

3 Q. Okay, and as you're going to that location, is
4 dispatch relating to you information that they received
5 from the caller?

6 A. Yes, sir. I think they were -- at that time, they may
7 have already got her on the phone, or they was still
8 talking to Sumter at the time. I'm not exactly sure how
9 they were getting their information, but they were relating
10 it to me.

11 Q. Okay, and when you say they, you're talking
12 specifically about Kershaw 911?

13 A. Yes, sir.

14 Q. Okay. Now, once you make contact with -- and you said
15 the defendant. Did the person you made contact with at the
16 house, is that person in the courtroom?

17 A. Yes, sir, she is.

18 Q. Okay, and where is she?

19 A. She sitting here. It's the defendant.

20 Q. Okay. Now, what conversation, if any, did you have
21 with her at that point? What was, what was your focus at
22 that particular time?

23 A. Well, soon as I got there, the first thing I wanted to
24 know, if there's anyone, you know, hurt. Are you okay?

25 Are you the victim? Who am I speaking to?

M. BROWN - DIRECT EXAMINATION BY MR. PAULING

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1 Q. Okay.

2 A. At that time.

3 Q. And what information are you provided at that point?

4 A. She may have given me her name. I don't recall that,
5 that, but she said there was -- someone else was in the
6 house, that he was in the house. I told her to go ahead
7 and sit in the car and stay there and let me go check the
8 house, and I went into the house.

9 Q. And when you say sit in the car, which car are you
10 referring to?

11 A. Her mother's.

12 Q. Okay. Now, was her mother in the car, out of the car?

13 A. Her mother was in the car; she was sitting in the
14 driver's seat.

15 Q. So, you told her to go sit in the car with her mother?

16 A. Yes, sir.

17 Q. Okay, and, in fact, did you enter the home?

18 A. Pardon me?

19 Q. In fact, did you enter the home?

20 A. Yes, sir, I did.

21 Q. Okay, and did you locate another individual in the
22 home?

23 A. Yes, sir. It was a male subject in the back bedroom.

24 MR. PAULING: Approach, Your Honor?

25 THE COURT: Certainly.

1 BY MR. PAULING:

2 Q. Show you what's been marked for ID purposes State's 3
3 through 9 and ask you to look at those, those photographs.

4 A. State Exhibit 3 is ---

5 Q. Well, but just, I just need you ---

6 A. Oh, I'm sorry.

7 Q. --- to look at it.

8 (A PAUSE.)

9 Q. Do those photographs, State's Exhibits 3 through 9,
10 fairly and accurately depict the outside of the home as you
11 saw it that day, as well as the inside of the home in the
12 bedroom and, and what you found inside the home?

13 A. Yes, sir, it does.

14 (A PAUSE.)

15 MR. DELGADO: Without objection, Your Honor.

16 THE COURT: Thank you. State's 3 through 9 are into
17 evidence without objection.

18 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
19 STATE'S EXHIBITS 3, 4, 5, 6, 7, 8, 9.)

20 MR. PAULING: Your Honor, if I may publish these?

21 We'll do this through the SmartBoard; these same photos are
22 on the SmartBoard. I don't know if I've discussed that
23 with counsel.

24 THE COURT: Mr. Delgado, any objection to publication
25 of the photos?

M. BROWN - DIRECT EXAMINATION BY MR. PAULING

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1 MR. DELGADO: No, Your Honor.

2 MR. PAULING: Beg the court's indulgence.

3 (A PAUSE.)

4 BY MR. PAULING:

5 Q. Chief Brown, if you'd step down and go through these?

6 Now looking at State's 1, is that the front of the
7 home that you entered there back in September 11, 2014?

8 A. Yes, I did.

9 Q. Okay, and now there's crime scene tape around there.
10 Is that what that is?

11 A. That's -- yes, sir.

12 Q. Okay. Now, that was put up later. Is that correct?

13 A. Put up after some other, other officers got on the
14 scene.

15 Q. That's the front door there?

16 A. Yes, sir.

17 Q. Now, State's, looking at -- excuse me. I said State's
18 1. That's State's 3, this now being State's 4.

19 THE COURT: Mr. Pauling, can you give me the actual
20 photos so I can ---

21 MR. PAULING: Yes, sir.

22 THE COURT: --- follow along?

23 MR. PAULING: Yes, sir.

24 THE COURT: Appreciate it.

25 BY MR. PAULING:

1 Q. Now looking at State's 4, is that as the, as the home
2 looked as you entered?

3 A. Yes, sir, going in the front door.

4 Q. Okay, and looking at State's 5, could you tell the
5 jury? What is that, sir?

6 A. That's the subject is in the bedroom where I went in.
7 That's right at the door of the bedroom.

8 Q. Okay. Now, you indicated when you had gone in, you,
9 you found him. Was he responsive?

10 A. No, sir, he was not.

11 Q. Okay, and now was he in that position as shown there?

12 A. Yes, sir.

13 Q. In State's 4?

14 A. Yes, sir.

15 Q. State's 5, excuse me. Now, once you entered the room,
16 what did you do? Did you check him for a pulse at all?
17 What did you do?

18 A. First thing I did was check for carotid pulse, and
19 then also I checked his wrist for a pulse.

20 Q. Okay.

21 A. And I had no response whatsoever.

22 Q. And now did you find any weapons around him?

23 A. No, sir.

24 Q. Okay. Did you find any weapons in the home at all?

25 A. There was one weapon that I saw. That was a small

M. BROWN - DIRECT EXAMINATION BY MR. PAULING

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1 caliber pistol laying on a counter. When you went in the
2 front door, it would have been on the left-hand side.

3 Q. Now, after you went into the room, you saw the
4 subject, what did you do at that point after, after you
5 checked him?

6 A. I backed out of the room, told them to get -- go ahead
7 and have EMS come in. Located the weapon, and after EMS
8 got through checking him and we found out that he was
9 deceased, we just backed out of the room. At that time, I
10 notified SLED Crime Scene to come over.

11 Q. You contacted SLED?

12 A. Yes, sir.

13 Q. And now again, this is the area, and this is looking
14 at State's 6. Is this the area where you found the
15 decedent?

16 A. Yes, sir.

17 Q. Okay. Now, Chief Brown, in State's 6, there are what
18 appear to be tabs on the victim's arms. I know they
19 weren't there when you got there.

20 A. Oh, no. That's ---

21 Q. Okay. Do you know what that is?

22 A. Yes, sir. That's where EMS checked him.

23 Q. Okay.

24 A. To see if they could find a pulse on him.

25 Q. Okay, and also beside him near the bed, do you know

1 what that item is, that black item beside there?

2 A. It was a cell phone.

3 Q. It was a cell phone?

4 A. Yes, sir.

5 Q. Moving forward to -- that's State's, I believe it's 8.

6 MR. PAULING: Beg the court's indulgence.

7 (A PAUSE.)

8 MR. PAULING: Your Honor, may I approach just to see
9 the numbers on the photos that you have?

10 THE COURT: Certainly.

11 MR. PAULING: I just want to make sure I have the
12 right number, Judge.

13 THE COURT: No problem.

14 MR. PAULING: State's 7, okay.

15 BY MR. PAULING:

16 Q. And State's 8, what is that, sir?

17 A. That was the pistol that was laying on the shelf there
18 on the left-hand side when you came into the front room.

19 Q. Okay, and how did you know to locate it at that
20 particular area?

21 A. When I had spoke to her, I asked her where the weapon
22 was, and she told me it was laying in there on the counter.

23 Q. Okay. It was in that position?

24 A. Yes, sir.

25 Q. And now State's 9, that's the same weapon. Is that

M. BROWN - DIRECT EXAMINATION BY MR. PAULING

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1 correct?

2 A. Yes, sir.

3 Q. Okay. Now on this particular firearm, it being in
4 that position with the red there, what does that indicate
5 to you?

6 A. That the safety is off.

7 Q. Okay.

8 A. That it's in the firing position.

9 Q. And so -- but again, you did not manipulate the, the
10 weapon in ---

11 A. No, sir.

12 Q. --- any way. Is that correct?

13 A. No, sir. I left it where it was.

14 Q. You can take your seat, sir.

15 Now, Chief Brown, you indicated that you'd checked for
16 a pulse, did not get a pulse. Could you tell at that point
17 -- well, could you tell where the victim had been injured?

18 A. No, sir. I saw no wounds at all on him at the time,
19 the way he was laying.

20 Q. And again you did not manipulate his, his body at any
21 point. Is that ---

22 A. No, sir.

23 Q. Okay. Now, you indicated that you called for EMS to
24 come in, that you contacted SLED as far as Crime Scene is
25 concerned. Is that correct?

1 A. Yes, sir.

2 Q. Okay, and did you have a formal interview with the
3 defendant, Ms. Pickrell, or, or her mother, Ms. Keehn?

4 A. I didn't speak to them that much except my initial
5 contact with them whenever I came up.

6 Q. And again the information that you were getting prior
7 to your arrival was coming from dispatch?

8 A. Yes, sir.

9 Q. And they were getting that from -- Kershaw County
10 dispatch was getting that from Sumter County?

11 A. Yes, sir.

12 Q. Is that correct? All right.

13 MR. PAULING: Beg the court's indulgence.

14 (A PAUSE.)

15 MR. PAULING: Chief Brown, I have no further questions
16 at this time. Please answer any questions defense counsel
17 may have for you.

18 CROSS-EXAMINATION BY MR. DELGADO:

19 Q. Chief Brown, good morning, sir.

20 A. Good morning, sir.

21 Q. Chief, just a small number of questions for you, sir.

22 A. All right.

23 Q. Because I've been in that room, as you were on the
24 morning of the 11th of September 2014. Chief, that's a
25 very small, little bedroom, isn't it?

M. BROWN - CROSS-EXAMINATION BY MR. DELGADO

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1 A. Yes, sir.

2 Q. If I told you it was 12 by 12, 144 square feet, would
3 that be approximately what you recall?

4 A. Roughly, yes, sir. I don't remember that ---

5 Q. Yes.

6 A. --- close, but it was a small room.

7 Q. Yes, sir, and you recall, sir, three trunks? By that
8 I mean I guess where you store clothes or anything that
9 kind of thing lining the bed. Do you recall that, sir?

10 A. I know there was something at the foot of the bed, and
11 there was something right there beside the door when you
12 went in, but other than that, I don't recall anything else.

13 Q. All right, sir. Do you remember a dog bowl maybe?

14 A. No, sir.

15 Q. With water?

16 A. No, sir.

17 Q. Okay.

18 A. I don't remember.

19 Q. And this isn't a test. I'm ---

20 A. No.

21 Q. --- not going to grade you.

22 A. No.

23 Q. What I wanted to know, sir, did you see a clothes
24 hamper inside that little -- inside the door to that -- to
25 the bedroom? Do you remember that at all?

1 A. I don't, I don't remember that, no, sir. I wasn't
2 looking that close.

3 Q. Oh, Chief, just for the -- for our purpose with the
4 jury, when someone in that area in south Kershaw County
5 calls 911, where is that call directed, if you know?

6 A. I would, I would hope that it would be directed to our
7 911 system, but I think she was on a cell phone, if I'm not
8 mistaken.

9 Q. Yes, sir.

10 A. And depending on how the phone hits the tower, where
11 it sends it, and it sent it to Sumter County that day.

12 Q. All right, because of her location in the lower
13 part ---

14 A. Yeah. She, she's right there at the Sumter County
15 line, yes, sir.

16 Q. Have you listened to that 911 tape? If you have,
17 fine; if you hadn't, fine.

18 A. I just -- I mean, just a little bit of a portion.
19 You can hear where I'm asking her if she's the victim
20 or ---

21 Q. Yes, sir.

22 A. --- if she's okay or, you know, where the, where the
23 victim is or whatever.

24 Q. Sure.

25 A. Yeah.

M. BROWN - CROSS-EXAMINATION BY MR. DELGADO

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1 Q. Okay. That was recorded on a 911 tape to the Sumter
2 County dispatch, as you recall?

3 A. I'm, I'm thinking that's our dispatch.

4 Q. Okay.

5 A. Yeah. For me to be able to hear it ---

6 Q. Sure.

7 A. --- that would have been our dispatch.

8 MR. DELGADO: Thank you, and that's all the ---

9 WITNESS: Yes, sir.

10 MR. DELGADO: --- questions I have.

11 THE COURT: Any redirect, Mr. Pauling.

12 MR. PAULING: None from the state, Your Honor.

13 THE COURT: Any objection to excusing this witness?

14 MR. DELGADO: None.

15 MR. PAULING: None from the state.

16 THE COURT: Mr. Brown, you're excused. Thank you,
17 sir.

18 WITNESS: Thank you.

19 (THE WITNESS EXITS THE STAND.)

20 MS. LI: Your Honor, the state calls Shirlene Skipper.

21 SHIRLENE SKIPPER, BEING DULY

22 SWORN, TESTIFIES AS FOLLOWS:

23 CLERK OF COURT: State your full name for the record,
24 please.

25 WITNESS: Shirlene Skipper.

1 DIRECT EXAMINATION BY MS. LI:

2 A. Ms. Skipper, good morning.

3 A. Morning.

4 Q. Could you spell your first name for the record?

5 A. It's S-h-i-r-l-e-n-e.

6 Q. Okay. Thank you, and just a couple of things. I'm
7 kind of far away from you.

8 A. Yes.

9 Q. So if you cannot hear me, just please ask me to speak
10 up and I'll repeat the question.

11 A. Okay.

12 Q. And one more thing. You might have been able to tell.
13 My accent is 99 percent American, 1 percent British.

14 A. Okay.

15 Q. I don't know if they noticed, so there are some words
16 I say kind of funny. If you don't understand, please just
17 ask me to repeat the question.

18 A. Yes, ma'am.

19 Q. I'll be happy to do that.

20 All right, Ms. Skipper, are you currently employed?

21 A. Yes, ma'am, I am.

22 Q. Where do you work?

23 A. I work for the City of Sumter.

24 Q. And what is your occupation?

25 A. I'm the 911 director.

S. SKIPPER - DIRECT EXAMINATION BY MS. LI

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1 Q. 911 director. How long have you been the 911
2 director?

3 A. Since 1998.

4 Q. Okay, and can you tell us generally what are the
5 duties of a 911 director?

6 A. I'm the custodian of all the 911 records. I supervise
7 a staff of over thirty 911 dispatchers.

8 Q. Okay. Can you please tell us. When someone calls
9 911, is that call recorded?

10 A. Yes, ma'am. Everything they do is recorded, whether
11 it's 911 or a non-emergency line.

12 Q. Okay. So, every call that ---

13 A. Every.

14 Q. --- comes in is recorded, and can you tell us where or
15 how the call is recorded? Where is it stored?

16 A. We have a server on site that records all the data,
17 and it's maintained there.

18 Q. Okay, and how long are those recordings kept for?

19 A. In Sumter, we record everything and we maintain it as
20 long as the server capacity allows that. Right now I have
21 records currently on the new server from July 2016 through
22 today.

23 Q. Okay. So, in addition to the audio recording of the
24 911 call, are there also any written reports or documents
25 of the 911 call when they come in?

1 A. We use a device called CAD, Computer Aided Dispatch,
2 and so everything is recorded. From the minute the
3 operator answers the phone, she's typing into a data
4 program, a software recording, whatever it is she's doing.

5 Q. Okay. So, what -- can you sort of give us generally
6 what is the dispatcher typing in?

7 A. She's doing the who, what, when, where, weapons,
8 annotating the caller's name if they're willing to give it,
9 the caller's phone number if they're willing to give that
10 information, what the incident is, the incident location,
11 incident type, any dispatcher notes, things that the caller
12 may have disclosed to the dispatcher THAT could be
13 important to the first responders that are being dispatched
14 out on those calls.

15 Q. Okay, and you said all of that is contained in what's
16 called a Computer Aided Dispatch ---

17 A. Or a CAD report, yes.

18 Q. Okay, and how long does Sumter 911 generally keep the
19 CAD reports?

20 A. I have reports going back to 1999.

21 Q. Okay. At this time, I'm retrieving what's been marked
22 as State Exhibit Number 10 for identification, and I'm
23 first showing it to defense.

24 (A PAUSE.)

25 Q. I handing what's been marked as State Exhibit 10 for

S. SKIPPER - DIRECT EXAMINATION BY MS. LI

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1 identification ---

2 MS. LI: May I approach, Your Honor?

3 THE COURT: You may.

4 MS. LI: Thank you.

5 BY MS. LI:

6 Q. Ms. Skipper, do you recognize this document?

7 A. Yes, ma'am. This is a CAD report from Sumter.

8 Q. And can you tell us the date of that document, please?

9 A. The -- this was 9/11 of 2014.

10 Q. And that particular document you have in your hand, is
11 that the same -- is that a fair and accurate representation
12 or copy of what would be kept in the database?

13 A. Yes, ma'am.

14 Q. And that CAD report or that type of record, is that
15 something that Sumter 911 keeps and creates regularly in
16 the course of business?

17 A. Yes, ma'am. We create these every single day. We do
18 probably three to four hundred of these every single day.
19 Every phone call that we answer is recorded in this manner.

20 Q. Thank you.

21 MS. LI: Your Honor, the state offers State Exhibit 10
22 for identification into evidence.

23 THE COURT: Any objection?

24 MR. DELGADO: Without objection.

25 THE COURT: State's exhibit 10 is in evidence without

1 objection.

2 (CAD REPORT MARKED INTO EVIDENCE AS STATE'S EXHIBIT
3 NUMBER 10.)

4 BY MS. LI:

5 Q. And now I'm retrieving what's been marked as State
6 Exhibit 11 for identification, showing this to defense.

7 MR. DELGADO: Without objection. Without objection,
8 Your Honor. Excuse me one second.

9 (A PAUSE.)

10 MR. DELGADO: Thank you, Your Honor.

11 THE COURT: Yes, sir.

12 BY MS. LI:

13 Q. Ms. Skipper, I'm handing you what's been marked as
14 State Exhibit 11 for identification. Do you recognize
15 that?

16 A. Yes, ma'am. This is a copy of the 911 call that was
17 received in Sumter on 9/11 of 2014.

18 Q. And have you previously listened to that audio
19 recording?

20 A. Yes, ma'am.

21 Q. And is that audio recording a fair and accurate rep --
22 accurate representation of what's stored in the database?

23 A. Yes, ma'am, it is.

24 MS. LI: Your Honor, the state offers State Exhibit 11
25 for identification as evidence.

S. SKIPPER - DIRECT EXAMINATION / CROSS-EXAMINATION

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1 MR. DELGADO: Without any objection.

2 THE COURT: Into evidence without objection, State's
3 Exhibit 11.

4 (DVD MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
5 11.)

6 MS. LI: All right, thank you, Ms. Skipper. At this
7 time, I have no further questions.

8 WITNESS: Okay.

9 THE COURT: Mr. Delgado, any cross-examination?

10 MR. DELGADO: Thank you, Your Honor.

11 CROSS-EXAMINATION BY MR. DELGADO:

12 Q. Ms. Skipper, have you listened to that, that 911 call?

13 A. Yes, sir, I did.

14 Q. All right. Again for our jury, the reason on the
15 morning of September 11, 2014, that the call that was just
16 placed onto the CD, that call went to Sumter dispatch?

17 A. Yes, sir. It -- I can only assume that it was a cell
18 phone call.

19 Q. Yes, ma'am. Let's, let's explain what Sumter dispatch
20 means. That's kind of law enforcement talk. What does
21 that mean?

22 A. In Sumter we are a truly consolidated 911 center,
23 meaning we do everything. We do fire, EMS, sheriff's
24 department, police department. Even after 5:00 we do water
25 and sewer.

1 Q. I didn't know that.

2 A. Yes.

3 Q. Okay. Good. I'm sorry to say good for you.

4 The point is, ma'am, is that everything that's related
5 to law enforcement or an emergency nature or sometimes
6 maybe not even of a critical emergency nature comes through
7 dispatch?

8 A. Yes, sir.

9 Q. Right.

10 A. It does.

11 Q. Have you, have you listened to that dispatch call?

12 A. Yes, sir, I have.

13 Q. All right.

14 MR. DELGADO: Your Honor, for the edification of the
15 jury, we'd like to be able to -- Your Honor, we've
16 transcribed that 911 call. We believe that to be a fair
17 and accurate depiction. We're not going to fudge on
18 anything that was or was not in that. I'd like to be able
19 to, just so the jury may be able to have that in their, in
20 their jury room, mark this into evidence.

21 THE COURT: Ms. Li or Ms. Sampson, any objection to a
22 transcript being entered into evidence?

23 MS. SAMPSON: May we approach?

24 THE COURT: You may.

25 MS. SAMPSON: May we approach?

S. SKIPPER - CROSS-EXAMINATION BY MR. DELGADO

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1 (OFF-THE-RECORD BENCH CONFERENCE.)

2 THE COURT: Mr. Delgado, just for the record, are you
3 publishing the audio, or is this a...

4 MR. DELGADO: I'm sorry, Your Honor?

5 THE COURT: Are you publishing the audio or the state,
6 for the record?

7 MR. DELGADO: I think it's the state.

8 MR. PAULING: We're, we're -- yes.

9 MS. LI: Your Honor, we're kind of out of turn, but
10 the state is publishing.

11 THE COURT: Okay.

12 MS. LI: Thank you.

13 MR. DELGADO: Your Honor, subsequent to that, after
14 Ms. Li has a chance to, to see this ---

15 MS. SAMPSON: Sorry. Go ahead. I paused it.

16 (WHEREUPON, STATE'S EXHIBIT NUMBER 11 IS PLAYED FOR
17 THE COURT. AUDIO IS NOT TRANSCRIBED.)

18 THE COURT: Mr. Delgado, do you have any further
19 questions for Ms. Skipper?

20 MR. DELGADO: Yes, sir. Thank you. I'm sorry, Your
21 Honor.

22 BY MR. DELGADO:

23 Q. Ms. Skipper.

24 A. Yes, sir.

25 Q. You and your employees go through training to be able

1 to do the work that you do?

2 A. Yes, sir.

3 Q. I would imagine that's a periodic thing. In other
4 words, since however long you've been there, there's a
5 constant amount of either training or updating that you and
6 your employees will go through to assist individuals that
7 call 911. Would that be fair?

8 A. Yes, sir, they do. They do.

9 Q. You don't answer that yourself anymore. Have you ever
10 done it, had to do that?

11 A. I've done for it forty-one years, sir.

12 Q. You've answered the 911 calls?

13 A. Up until May 9th of this year, I had a 911 phone
14 sitting on my desk.

15 Q. And what you've experienced in your tenure answering
16 911 calls are that individuals, when they're calling for an
17 emergency nature, especially where someone has been shot or
18 a gun has been discharged, they're in an extraordinary
19 state of hyperactivity and/or shock. Wouldn't that be
20 fair?

21 A. Yes, sir, it can be.

22 Q. Yeah.

23 A. Yes, sir.

24 Q. Okay.

25 MR. DELGADO: Thank you. That's all the questions I

1 have.

2 THE COURT: Ms. Li, any redirect?

3 MS. LI: None, Your Honor.

4 THE COURT: Counsel, any objection to excusing Ms.
5 Skipper?

6 MS. LI: No, Your Honor.

7 MR. DELGADO: No, sir.

8 THE COURT: Thank you, ma'am. You are excused.

9 WITNESS: Thank you.

10 (THE WITNESS EXITS THE STAND.)

11 MR. PAULING: At this time, Your Honor, the state
12 would call Emily -- I'm sorry.

13 THE COURT: How long will the next witness take? It's
14 actually five minutes of 12.

15 MR. PAULING: It's, it's another witness such as this
16 one, Your Honor, with an audio file.

17 THE COURT: My question is should we take a lunch
18 break now, or should we take a, take a -- or take a break
19 and then come back?

20 MR. DELGADO: I think the call, Your Honor, is about
21 thirteen minutes long. You know, I don't know what
22 questions may be asked, but it's a bit shorter than this
23 one.

24 MR. PAULING: It is shorter.

25 THE COURT: Okay. Well, we'll take a ten-minute break

1 then, and then we'll resume in ten minutes. Okay, court
2 will be in recess.

3 (THE JURY EXITS AT 11:52 A.M.)

4 (OFF THE RECORD.)

5 (DVD MARKED AS STATE'S EXHIBIT NUMBER 12 FOR
6 IDENTIFICATION.)

7 (CAD REPORT MARKED AS STATE'S EXHIBIT NUMBER 13 FOR
8 IDENTIFICATION.)

9 THE COURT: Okay, Counsel, while we were on break, the
10 bailiff approached me and said one of the jurors had a
11 question for me. I asked the juror to put it in writing.
12 The note I received says:

13 I stated yesterday that my father was an
14 assistant horse trainer, although he never worked
15 for the defendant, nor was he employed there
16 under their ownership. My dad worked for the
17 previous owners of that property. My family and
18 I lived in the home that the murder took place
19 in. I wanted to make that known. Alexander
20 Vegara, Juror 186.

21 Counsel, if y'all -- if counsel wants to approach,
22 I've got -- you can examine the note.

23 (OFF-THE-RECORD BENCH CONFERENCE.)

24 THE COURT: Can we have Juror 186, please, and by
25 herself?

1 (JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT
2 NUMBER 4.)

3 (WHEREUPON, JUROR NUMBER 186 ENTERS THE COURTROOM.)

4 THE COURT: Yes, ma'am, if you don't mind, just go
5 down to the microphone there on the front, please, and is
6 it Ms. Vegara?

7 JUROR 186: Yes, sir.

8 THE COURT: Okay. Thank you, Ms. Vegara. Thank you
9 for your note. I just wanted to ask. We've read your
10 note. Do you think that would affect your ability to be
11 fair and impartial in this case?

12 JUROR 186: Looking at pictures of the home I used to
13 live in, yes.

14 THE COURT: Okay. So, it's your belief that you could
15 not be fair and impartial?

16 JUROR 186: Yes.

17 THE COURT: Can you explain a little bit about why,
18 why that is?

19 JUROR 186: I, I just remember, like, what the carpet
20 looked like and the room setups and everything. So, it's
21 kind of weird to imagine it.

22 THE COURT: Okay. All right.

23 Counsel, is there anything you'd like me to ask Ms.
24 Vegara before I let her go back to the jury room?

25 MR. DELGADO: No.

1 MS. SAMPSON: No, sir.

2 THE COURT: Thank you. You can go back to ---

3 MS. SAMPSON: Oh.

4 THE COURT: Yes, ma'am.

5 MS. SAMPSON: Can you instruct her not to speak about
6 what she said?

7 THE COURT: Yes, ma'am, when you head back to the jury
8 room, you can just say you spoke with the judge, and you're
9 not allowed to discuss what you talked about.

10 JUROR 186: I understand.

11 THE COURT: Okay. Thank you, ma'am.

12 (WHEREUPON, JUROR NUMBER 186 EXITS THE COURTROOM.)

13 THE COURT: Mr. Pauling, Ms. Sampson, Ms. Li, what
14 does, what does the state say?

15 MR. PAULING: Well, Your Honor, I believe her answer
16 and her emotion while she gave that answer tells us all we
17 need to know. I believe she said she would not be able to
18 be fair and impartial. We would respectfully request an
19 alternate, one of the -- I guess we have two left.

20 THE COURT: We do.

21 MR. PAULING: Be put in her place, Judge.

22 THE COURT: Mr. Delgado.

23 MR. DELGADO: Your Honor.

24 THE COURT: Ms. Zmroczek.

25 MR. DELGADO: Her voice was so low. I'm sorry, I did

1 not -- couldn't hear. Could you just tell me what you
2 recall her saying?

3 THE COURT: She said she could not be fair and
4 impartial, and she made a reference to seeing pictures of
5 the rooms in the house.

6 Madame Court Reporter, is it possible to hear, to play
7 that, to read that to Mr. Delgado?

8 COURT REPORTER: Yes, sir.

9 (WHEREUPON, THE REQUESTED PORTION IS PLAYED FOR THE
10 COURT.)

11 THE COURT: The court's view is she's -- she seemed
12 emotional in her -- and, and said that she could not be
13 fair and impartial. So, unless counsel objects, I'm going
14 to excuse her.

15 MR. DELGADO: Yes, sir.

16 THE COURT: And we'll, we'll accept an alternate.

17 MR. DELGADO: Yes, sir.

18 THE COURT: Okay. So, Juror 186 is excused. So,
19 Madame Clerk, if you could choose between our two remaining
20 alternates, please. That would be, let's see, that number
21 is 84 and 177. Am I correct? Okay, okay, and, Madame
22 Clerk, you've, you've drawn this number?

23 CLERK OF COURT: Yes, sir.

24 THE COURT: Okay. Clerk has drawn number 177. That
25 is Mr. Tedder.

E. BASS - DIRECT EXAMINATION BY MR. PAULING

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1 So, Mr. Bailiff, you can bring the jury back out.

2 (THE JURY ENTERS AT 12:14 P.M.)

3 THE COURT: Thank you, ladies and gentlemen.

4 Juror 186, you are excused. Thank you for your
5 service.

6 Mr. Tedder, 177, you are now in the main jury.

7 (WHEREUPON, JUROR NUMBER 186 EXITS THE COURTROOM.)

8 THE COURT: Counsel, any objections to that process?

9 MR. DELGADO: None.

10 MR. PAULING: Not from the state, Your Honor.

11 THE COURT: Thank you.

12 Mr. Pauling, call your next witness, please.

13 MR. PAULING: The state would call Emily Bass.

14 THE COURT: I think the best thing is going to be take
15 a lunch break after this witness.

16 MR. PAULING: Yes, sir.

17 THE COURT: Is that reasonable?

18 MR. PAULING: Yes, sir, Your Honor.

19 EMILY D. BASS, BEING DULY SWORN,

20 TESTIFIES AS FOLLOWS:

21 CLERK OF COURT: Have a seat in the witness stand.

22 State your full name for the record.

23 WITNESS: It's Emily, it's Emily Dawn Bass.

24 DIRECT EXAMINATION BY MR. PAULING:

25 Q. Good afternoon, Ms. Bass. How are you doing?

E. BASS - DIRECT EXAMINATION BY MR. PAULING

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1 A. Good.

2 Q. Ms. Bass, where are you employed, ma'am?

3 A. Kershaw County 911.

4 Q. Kershaw County 911?

5 A. Yes, sir.

6 Q. And you kind of did your head like that. Is it across
7 the street from the courthouse?

8 A. It is. It's right across from the courthouse.

9 Q. Okay, and in what capacity are you employed, employed
10 with Kershaw County 911? What do you do there?

11 A. Answer emergency calls and police, EMS, fire.

12 Q. Okay. You're a dispatcher?

13 A. Dispatcher.

14 Q. Okay, and it looks like you're dressed today, you need
15 to do that. Is that correct?

16 A. Yes. I'm working.

17 Q. Okay. So after you leave here today, you'll go back

18 ---

19 A. Yes.

20 Q. --- to work?

21 A. Yes.

22 Q. Okay, and if you could tell the jury, how long have
23 you been with 911?

24 A. Almost fourteen years.

25 Q. Almost fourteen years?

1 A. Uh-huh.

2 Q. Okay, and prior to that, prior to that, where were you
3 employed prior to, to 911?

4 A. I worked phlebotomy at a doctor's office in Lancaster.

5 Q. Okay, and as far as being a dispatcher, you kind of
6 said, well, answer calls. Are they all the calls? When I
7 say all the calls, are they city, county? How does, how
8 does that work?

9 A. We do city, county. We do fire. We do EMS. Any 911
10 call, emergent or non-emergent, comes through us.

11 Q. Okay, and when you say us, as far as where you're
12 located and where your office as such is, on any regular
13 shift, about how many dispatchers a day?

14 A. Four to five.

15 Q. Okay, and when you say four to five, do you have --
16 are you just answering calls as they come in, or does one
17 dispatcher ---

18 A. We do it all.

19 Q. --- take care of the county, one take care of the
20 city, or how does that work?

21 A. We have a dispatcher that works city, county, fire,
22 and EMS. We all take the calls.

23 Q. And as the calls come in, 911 call, call comes in and
24 you answer that 911 call, what's the process that occurs
25 as, as when you receive a call? What information do you

E. BASS - DIRECT EXAMINATION BY MR. PAULING

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1 get?

2 A. The address, the name, what's the reason for your
3 call.

4 Q. Okay, and when that call begins, is it recorded?

5 A. Yes.

6 Q. Okay. How is it recorded?

7 A. The recorder.

8 Q. Okay. Okay. When the call comes in, you answer the
9 call. How do you answer the call? What do you ---

10 A. Kershaw County 911.

11 Q. Kershaw County 911. Do you then push a button, a
12 little red button and hit record?

13 A. No. It automatically records. Time -- the time you
14 answer, it starts recording.

15 Q. Okay. It automatically records?

16 A. Automatically.

17 Q. So, that's the system.

18 A. Yes.

19 Q. And how long does it record?

20 A. Until you hang up.

21 Q. Until you hang up?

22 A. Uh-huh.

23 Q. Until you actually hang up?

24 A. Yes, until I hang up.

25 Q. Okay. Now, do you stop the call or, or end the call

1 in, in the middle of taking a call? I mean, are you able
2 to do that, or is it once you hang up the phone?

3 A. No, uh-uh. Once we hang up the phone, it's over.

4 Q. Okay, and those particular calls, the calls that come
5 in, that are automatically recorded, what you do you do
6 with those calls?

7 A. If, if law enforcement requests a copy, then they get
8 a copy of that tape.

9 Q. Okay.

10 A. For whatever purposes.

11 Q. All right. How are they maintained, though? Are they
12 on a database, stay in the system?

13 A. They are. They stay for ninety days.

14 Q. Ninety days?

15 A. Uh-huh.

16 Q. What happens after ninety days?

17 A. I think they purge them after ninety days.

18 Q. Okay, and when you say purge, do they automatically do
19 that, or does someone in your office say, okay, it's
20 ninety-one days and they're gone?

21 A. As far as I know, they just go ---

22 Q. Someone automatically purges them?

23 A. Yes.

24 Q. Okay.

25 A. As far as I know.

E. BASS - DIRECT EXAMINATION BY MR. PAULING

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1 Q. But if law enforcement requested within that
2 ninety-day window, then that call ---

3 A. They'll be ---

4 Q. --- there will be copies. Is that correct?

5 A. Correct.

6 Q. Okay, and you said you'd been with 911 about fourteen
7 years. Is that correct?

8 A. Yes, sir.

9 Q. And so back in 2014, and, and specifically September
10 11, 2014, do you recall working that particular morning?

11 A. Yes, sir.

12 Q. Okay, and do you recall receiving a, a, a phone call
13 in reference to a shooting out in Rembert?

14 A. Yes, sir.

15 Q. And I asked you about how the calls are recorded as
16 far when, when the call comes in. You said it's
17 automatically recorded, okay. Now, are you just talking
18 with the person on the phone and getting information, or is
19 there anything else you're doing? Are you, are you, are
20 you putting ---

21 A. Yes.

22 Q. --- in anything?

23 A. Yes. I'm typing it all in a computer.

24 Q. Okay.

25 A. What they're telling me.

1 Q. Okay, and why are you typing it on a computer? I
2 mean, what are you typing?

3 A. Where?

4 Q. What? What are you typing?

5 A. Whatever information they're giving me: the name, the
6 address, what's going on.

7 Q. Okay, and do you put that in some sort of report?

8 A. Just in a CAD call.

9 Q. A CAD call.

10 MR. PAULING: May I approach the witness, Your Honor?

11 THE COURT: You may.

12 BY MR. PAULING:

13 Q. This is State's 13 for ID only. I'm going to show you
14 that. Ms. Bass, I'm going to ask if you recognize that,
15 State's 13.

16 A. I do.

17 Q. Is that the CAD report, specifically the CAD report on
18 September 11, 2014?

19 A. Yes.

20 Q. Now, does that CAD report just help refresh your
21 recollection of, of the call?

22 A. Yes.

23 Q. Okay. Now, typically when a 911 call comes in, that's
24 come in from -- it can come in from any number of places.
25 Is that correct? Come in from a member of the community.

E. BASS - DIRECT EXAMINATION BY MR. PAULING

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1 Is that correct?

2 A. Yes.

3 Q. Can it come in from another, another agency?

4 A. It can.

5 Q. Okay. In this particular case, September 11, 2014, as
6 it relates to this incident, where did the call come from?

7 A. Sumter County.

8 Q. And when you say Sumter County, sheriff's department?
9 EMS?

10 A. Sumter County 911 was who called us.

11 Q. Sumter County 911?

12 A. Uh-huh.

13 Q. Okay, and when you received a call from them, what
14 was, what was your understanding of why Sumter 911 was
15 calling you?

16 A. They were calling us to give the information because
17 it was -- had occurred in our county.

18 Q. Okay. All right. Okay. Now, were you communicating
19 then with Sumter County ---

20 A. I was.

21 Q. --- 911? Okay, and at some point were you getting
22 information about who originally called ---

23 A. Yes.

24 Q. --- Sumter County? Okay, and was that Gregg Pickrell?

25 A. Yes.

1 Q. Okay, and now at some point, though, were they able to
2 transfer you over to ---

3 A. They didn't ever ---

4 Q. --- her?

5 A. --- transfer her over. After a while, I hung up and
6 called her.

7 Q. Okay, and when you, when you say you hung up, you hung
8 up on Sumter County 911?

9 A. I did.

10 Q. Okay, and prior to doing so, did they provide you with
11 information as far as, as far as her phone number?

12 A. They did.

13 Q. How to get in touch with her?

14 A. They did.

15 Q. Okay, and she was made aware that -- was she made
16 aware that you were going to contact her?

17 A. As far as I know. I told them for her to hang up. I
18 was going to call her.

19 Q. Okay, and, in fact, did you call Ms. Pickrell?

20 A. I did.

21 Q. Okay. Now, at the point where you contacted Ms.
22 Pickrell, at the same time are you trying to get
23 information to law enforcement about where she is and where
24 they are to respond to?

25 A. Yes. That was already dispatched prior with the first

E. BASS - DIRECT EXAMINATION BY MR. PAULING

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1 call.

2 Q. Okay. Now, you did make contact with Ms. Pickrell?

3 A. Yes.

4 Q. Okay, and did you stay on the line until ---

5 A. I did.

6 Q. --- law enforcement arrived?

7 A. I did.

8 Q. Do you recall who, who, who arrived at the residence?

9 A. I think it was Marvin Lee Brown arrived first.

10 Q. Okay.

11 A. I believe.

12 MR. PAULING: Your Honor, may I approach the witness?

13 THE COURT: Yes.

14 BY MR. PAULING:

15 Q. Now, Ms. Bass, have you listened to the actual 911
16 recording?

17 A. Yes.

18 Q. Okay, wherein you spoke with Sumter County, then spoke
19 with ---

20 A. Yes.

21 Q. --- Ms. Pickrell?

22 A. Yes.

23 Q. I show you what's marked for ID purposes State's 12.
24 Is that a copy of that recording?

25 A. Yes.

1 MR. PAULING: Your Honor, at this time we offer
2 State's 12 into evidence, I believe...

3 MR. DELGADO: Without objection.

4 THE COURT: State's 12 is in evidence without
5 objection.

6 (DVD MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
7 12.)

8 MR. PAULING: May I publish it at this time, Your
9 Honor?

10 THE COURT: You may.

11 (WHEREUPON, STATE'S EXHIBIT NUMBER 12 IS PLAYED FOR
12 THE COURT. AUDIO IS NOT TRANSCRIBED.)

13 BY MR. PAULING:

14 Q. All right now, Ms. Bass, during that recording, there
15 was some background traffic noise. While that call is
16 taking place, are, are you also in communication with your
17 officer -- that being Marvin Brown -- at that time?

18 A. I wasn't. Another dispatcher was, so I was kind of
19 holding my mic and hollering things to her.

20 Q. Okay.

21 A. That was being passed to me.

22 Q. And she was then relaying that ---

23 A. To him.

24 Q. --- to him?

25 A. Yes.

E. BASS - DIRECT EXAMINATION / CROSS-EXAMINATION

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1 Q. So, that's some of what going on ---

2 A. Yes.

3 Q. --- as the -- as you're talking with Sumter dispatch,
4 Sumter 911? And then you're trying to get information to
5 Marvin Brown, is, is his communication also coming in the,
6 the, the -- I said control room where you all are?

7 A. Yes.

8 Q. So, that's some of what we're hearing in the
9 background ---

10 A. Yes.

11 Q. --- as well? Now, after that particular call, once
12 you were -- once you hung up there, as far as the CAD
13 report is, is concerned, you would have completed that at
14 that point?

15 A. Yes.

16 Q. Okay. Now, was that the extent of your involvement as
17 relates to this call at this particular location that day?

18 A. Yes.

19 Q. Okay.

20 MR. PAULING: Your Honor, at this time, I have no
21 further questions.

22 THE COURT: Mr. Delgado.

23 CROSS-EXAMINATION BY MR. DELGADO:

24 Q. Ms. Bass, my name is John Delgado. Ms. Bass, let me
25 see if I can understand. You get a phone call from Sumter

1 County, correct, ma'am?

2 A. Yes, sir.

3 Q. But the person you were talk -- the person you were
4 talking to in Sumter County is not the person that's
5 talking to Gregg?

6 A. No, sir. It was another dispatcher.

7 Q. That's right. So, Gregg is talking to dispatcher (A).
8 Dispatcher (A) is talking to someone else in 911 in her
9 office in Sumter, correct?

10 A. I, I don't know that.

11 Q. And that person is talking to you in Camden, right?

12 A. They were relaying the, the information, yes.

13 Q. Isn't that right, and you in time also speak to one of
14 your officers by either holding the phone away or talking
15 to them directly, correct, ma'am?

16 A. I didn't speak with an officer, no.

17 Q. I'm sorry. Who did you speak to? I'm sorry.

18 A. A dispatcher sitting in the room with me.

19 Q. A dispatcher, I apologize. So, it's from Gregg to
20 dispatcher in Sumter, Sumter dispatcher to another
21 individual in Sumter 911, who then talks to you, correct?

22 A. I thought it went from her to Sumter, from a
23 dispatcher in Sumter, to me. Is that what you're saying?

24 Q. Yes, ma'am. So, there's two people between what you
25 know and what she said, correct? The reason I say that,

E. BASS - CROSS-EXAMINATION BY MR. DELGADO

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1 ma'am, is the question about she called the police but they
2 never came.

3 If I said to you, ma'am, that she was asked did you
4 call law enforcement before this, before you shot him and
5 she said yes, no, would you know that? Did you hear that?

6 A. No.

7 Q. Okay. That's before you got the phone call, I
8 imagine, from the Sumter people, right?

9 A. Right.

10 Q. Okay.

11 MR. DELGADO: That's all, Your Honor. Thank you.

12 THE COURT: Any redirect?

13 MR. DELGADO: Oh. I'm sorry.

14 MR. PAULING: None, Your Honor.

15 MR. DELGADO: Your Honor, there may be a matter that
16 we want to ask Ms. Bass to stay with us before -- Ms.
17 Zmroczek and I are going to talk during our lunch break.
18 We may want to have Ms. Bass come back right after our
19 lunch break. We'll just put her on for a moment or so.

20 THE COURT: Okay.

21 MR. PAULING: May we approach, Your Honor?

22 THE COURT: You may.

23 (OFF-THE-RECORD BENCH CONFERENCE.)

24 THE COURT: All right, ladies and gentlemen, we're
25 going to take our lunch break. It is now ten minutes to 1.

1 MR. PAULING: And I'd just ask that she be released
2 from her subpoena.

3 THE COURT: Yes, sir.

4 MR. DELGADO: Yes, Your Honor.

5 THE COURT: Any objection?

6 MR. DELGADO: Absolutely. Thank you, Ms. Bass.

7 THE COURT: Thank you. You are excused.

8 (THE WITNESS EXITS THE STAND.)

9 THE COURT: Call your next witness.

10 MS. LI: Thank you, Your Honor. The state calls Tyler
11 Pinkerton.

12 TYLER S. PINKERTON, BEING DULY
13 SWORN, TESTIFIES AS FOLLOWS:

14 CLERK OF COURT: Have a seat in the witness chair and
15 state your full name for the record.

16 WITNESS: Tyler Scott Pinkerton.

17 DIRECT EXAMINATION BY MS. LI:

18 Q. Mr. Pinkerton, good afternoon. If you cannot hear me,
19 just let me know. Are you currently employed, Mr.
20 Pinkerton?

21 A. I am.

22 Q. Where do you work?

23 A. Target.

24 Q. What's your job title?

25 A. Operations manager.

T. PINKERTON - DIRECT EXAMINATION BY MS. LI

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- 1 Q. How long have you worked there?
- 2 A. Two years.
- 3 Q. And then before that, were you working?
- 4 A. I was.
- 5 Q. And where were you working?
- 6 A. Cal-Maine Foods.
- 7 Q. Okay, and for how long, and what was your job title?
- 8 A. I was a compliance manager there for about a year.
- 9 Q. And then before that?
- 10 A. Before that was the Kershaw County Sheriff's Office.
- 11 Q. Okay, and what were you doing at the sheriff's office?
- 12 A. I was a deputy.
- 13 Q. Okay. What was the period of performance?
- 14 A. About three years.
- 15 Q. Okay, and during that three years, what was your job
- 16 title, position?
- 17 A. Deputy sheriff.
- 18 Q. Okay, and as deputy sheriff, generally were you on the
- 19 road? What were your duties?
- 20 A. Yes, I worked the road.
- 21 Q. Okay, and did you have any training officers,
- 22 supervisors?
- 23 A. I did.
- 24 Q. What were their names?
- 25 A. Chris Davis and Chris Boykin.

1 Q. Okay, and generally did you do things with them?

2 A. While training, yes.

3 Q. While training, okay. So, on September 11, 2014, were
4 you on duty as deputy sheriff?

5 A. I was.

6 Q. And on that date, did you go to defendant's residence
7 at [REDACTED] Baynard Boykin Road?

8 A. I did.

9 Q. And what was your understanding of why you were going
10 out there?

11 A. The call came in as a shooting incident.

12 Q. Okay, and did you go there with anybody?

13 A. I believe I followed Lieutenant Boykin.

14 Q. Lieutenant Boykin is one of your supervisors?

15 A. Yes.

16 Q. So, when you first arrived on scene, what did you do?
17 Can you just walk us through step by step?

18 A. Initially when we got there, Chief Brown was already
19 with the suspect at that point. So, we placed her into my
20 patrol car. She was Mirandized by Investigator Rick
21 DeVors. I set up the crime scene log and manned the crime
22 scene log until had Captain Knafelc arrived.

23 Q. Okay, and what's a crime scene log just generally
24 speaking?

25 A. People who were going in and out of the crime scene.

T. PINKERTON - DIRECT EXAMINATION BY MS. LI

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1 So, I log in what times what people, deputies were going in
2 and out of that crime scene.

3 Q. And what interactions, if any, did you have with the
4 defendant?

5 A. She was placed into my car, and I transported her to
6 detention center.

7 Q. Okay, and was it just the two of you that went there?

8 A. It was.

9 Q. During the car ride to the detention center -- I'm
10 sorry, did you say detention center or the ---

11 A. The sheriff's office, I'm sorry.

12 Q. The sheriff's office. During the car ride there, did
13 you have any conversation with the defendant?

14 A. No, we did not.

15 Q. Did she provide any type of information? Ask any
16 questions?

17 A. No.

18 Q. Okay, and did she at any point indicate or request any
19 medical assistance?

20 A. No, she did not.

21 Q. Did you offer any medical assistance?

22 A. No.

23 Q. Had she requested or indicated she needed medical
24 assistance, what kinds of office policies or procedures, if
25 any, would you have followed?

T. PINKERTON - DIRECT EXAMINATION / CROSS-EXAMINATION 100

1 A. Had we still been on the scene, EMS would have been
2 notified. If we were on the way, I would have contacted
3 the supervisors and then we would have taken her to Kershaw
4 County Medical Center for evaluation.

5 Q. And when you arrived at the sheriff's office, did you
6 have any further interaction with her?

7 A. I believe I escorted her to the door, and at that
8 point I handed her off to the investigative team.

9 Q. So, other than completing the crime scene log and
10 transporting the defendant to the sheriff's office, was
11 that -- did that conclude your involvement in this case?

12 A. Yes.

13 MS. LI: Thank you. I have no further questions.

14 MS. ZMROCZEK: Sorry. Just -- I have a few questions.

15 WITNESS: Okay. That's fine.

16 MS. ZMROCZEK: And then -- no, I promise.

17 CROSS-EXAMINATION BY MS. ZMROCZEK:

18 Q. Mr. Pinkerton, you, you said that you were in
19 training?

20 A. I'd just gotten out of training.

21 Q. You had just gotten out of training. So, this was one
22 of your first calls?

23 A. Well, close to it, yeah.

24 Q. And when you, when you go to training, it's not just
25 Kershaw County. To be a deputy, you actually have to go to

T. PINKERTON - CROSS-EXAMINATION BY MS. ZMROCZEK

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1 the academy?

2 A. Correct.

3 Q. And they teach you all sorts of things?

4 A. Correct.

5 Q. You have different classes on protection, how to
6 protect yourselves?

7 A. Correct.

8 Q. You have classes on how to handle crisis or emergency
9 situations?

10 A. Correct.

11 Q. And you have classes on criminal domestic violence?

12 A. Correct.

13 Q. Y'all are taught to, to try to recognize and identify
14 violence amongst or between people that are in either a
15 relationship, that they lived together, or they're just
16 boyfriend and girlfriend, right?

17 A. Correct.

18 Q. And when you were a road deputy, in fact, you made
19 some arrests or you responded to some CDVs, right?

20 A. Yes.

21 Q. And you often -- not often. There were times that the
22 women didn't want to assist you, right?

23 A. Yeah. Absolutely.

24 Q. And that was -- that, that's something that, that --
25 I'm sorry. You've got to speak up a little bit.

1 A. Sorry.

2 Q. And that, and that is something you encountered as an
3 officer, right?

4 A. Right.

5 Q. So, either someone called 911 or, or they called 911
6 but then, but then they didn't always want to cooperate
7 with you, right?

8 A. Yeah.

9 Q. And that's common among ---

10 MS. LI: Objection, Your Honor. Relevance.

11 THE COURT: What's the basis for it?

12 MS. ZMROCZEK: Well, Your Honor, he responded to the
13 scene and transported her, and they said that she didn't
14 ask for medical assistance, so.

15 THE COURT: I'm going to allow it.

16 MS. ZMROCZEK: Thank you.

17 BY MS. ZMROCZEK:

18 Q. And, in fact, you were an officer for three years?

19 A. Right.

20 Q. And in 2014, 2015, and 2016 you actually received
21 special update, special trainings to deal with criminal
22 domestic violence?

23 A. Right.

24 Q. In fact, the 2014 award that -- or certificate that
25 you received was CDV: Overcoming Obstacles?

T. PINKERTON - CROSS-EXAMINATION BY MS. ZMROCZEK

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1 A. Correct.

2 Q. This is something that Kershaw County and the State of
3 South Carolina wants to train officers on, correct?

4 A. Correct.

5 Q. And then while you -- you said she didn't ask for any
6 medical assistance, right?

7 A. Right.

8 Q. And you didn't ask to see any of her injuries?

9 A. No.

10 Q. You didn't lift up her shirt to see the bruises that
11 she had on her body?

12 A. No, ma'am. My interaction was minimal.

13 Q. Very minimal interaction.

14 MS. ZMROCZEK: Thank you so much for answering my
15 questions.

16 THE COURT: Any redirect?

17 MS. LI: None, Your Honor.

18 THE COURT: Any objection to excusing this witness?

19 MS. ZMROCZEK: None from the defense.

20 MS. LI: None from the state.

21 THE COURT: Thank you, sir. You are excused.

22 (THE WITNESS EXITS THE STAND.)

23 MR. PAULING: Your Honor, at this time the state would
24 call Leanne Treiber.

25 LEANNE TREIBER, BEING DULY SWORN,

1 TESTIFIES AS FOLLOWS:

2 CLERK OF COURT: Have a seat in the witness. State
3 your full name for the record.

4 WITNESS: Leanne Mary Treiber.

5 DIRECT EXAMINATION BY MR. PAULING:

6 Q. How are you doing, Ms. Treiber?

7 A. Fine.

8 Q. And what's your full name? I'm sorry.

9 A. Leanne Mary Treiber.

10 Q. Leanne Mary Treiber. Ms. Treiber, where are you
11 employed, ma'am?

12 A. Kershaw County EMS.

13 Q. And how long have you employed with EMS?

14 A. Five years.

15 Q. Five years, okay. In what capacity with EMS?

16 A. Um, I ---

17 Q. What is your job?

18 A. I started off as a EMT, and I'm now a paramedic.

19 Q. And as -- you said started off as an EMT?

20 A. Yes, sir.

21 Q. Okay, and what is an EMT?

22 A. It is just a basic emergency medical technician, just
23 help the paramedic and do basic procedures.

24 Q. And what type of training do you go through to become
25 an EMT?

L. TREIBER - DIRECT EXAMINATION BY MR. PAULING

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1 A. I went through a four-month training course.

2 Q. Okay, but now you're a paramedic. Is that correct?

3 A. Yes, sir.

4 Q. And what is a paramedic?

5 A. We can administer drugs. We can use the cardiac
6 monitor, do a lot more invasive procedures.

7 Q. And what types of training did you go through to
8 become a paramedic?

9 A. I went through a year program.

10 Q. And prior to being a paramedic or EMT, what, what's
11 your educational background?

12 A. I just have some college education.

13 Q. And as far as your, your training is concerned, you
14 have to, I guess, be certified and get recertifications
15 periodically?

16 A. Yes, sir, every two years.

17 Q. Every two years, okay, and, and, and back in 2014,
18 specifically September 2014, were you an EMT or were you a
19 paramedic at the time?

20 A. I was an EMT.

21 Q. Okay, and as far as Kershaw EMS, do y'all have one
22 particular station? Are there several different stations?
23 Explain to the jury. How, how does that work?

24 A. There are several different stations, and we rotate
25 through partners. It's usually an EMT and a paramedic on a

1 truck together.

2 Q. And so back in September, September 11th, actually, of
3 2014, do you recall what station you were working at at
4 that time?

5 A. I, I was at station 1.

6 Q. Station 1, and where is that?

7 A. It was based off the hospital.

8 Q. Say it again?

9 A. At the hospital.

10 Q. Which is located where?

11 A. 1315 Robert Street, Camden.

12 Q. And now what types of shifts would you work? Was this
13 a twelve-hour shift or?

14 A. It's a twenty-four hour shift.

15 Q. Twenty-Four hour shift, okay, and you were an EMT at
16 that time. When calls would come through dispatch, were
17 you -- did you have a regular partner or did you go with a
18 -- did you have a regular partner assigned, or who did you
19 go with on ---

20 A. I went with ---

21 Q. --- on your run?

22 A. --- Don Corbett. He's a paramedic.

23 Q. Okay, and so back on September 11th, Don Corbett was
24 with you on this particular run?

25 A. Yes, sir.

L. TREIBER - DIRECT EXAMINATION BY MR. PAULING

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1 Q. Okay. Do you recall being dispatched to [REDACTED] Baynard
2 Boykin Road?

3 A. Yes, sir.

4 Q. And do you recall what that was in reference to?

5 A. It was in reference to a shooting.

6 Q. And when you all respond to calls, do you record that
7 in any particular way?

8 A. I believe it's recorded through the dispatch line.

9 Q. Okay, the actual call?

10 A. Yes, sir.

11 Q. But as far as your -- what you do at the scene and
12 those sorts of things, do you create a report?

13 A. Yes, sir.

14 Q. Okay, and, and what does that refer to?

15 A. It's a PCR. It's a patient care report.

16 Q. And what does the patient care report -- what
17 information do you put in that?

18 A. We usually put the demographics, the address, names.

19 Q. You indicated you responded to [REDACTED] Baynard Boykin
20 Road. That's here in Kershaw County?

21 A. Yes, sir.

22 Q. In reference to the shooting. When you respond to a
23 scene, whether it's a shooting or an accident, what are the
24 normal steps you go through once you get on scene? What do
25 you do?

1 A. Once we get on the scene, normally we'll discuss with
2 our partners on the way there, you know, who's going to do
3 what. In this case, Don went into the house. I did not.

4 Q. Okay. Where did you remain?

5 A. I remained in the truck.

6 Q. Okay, and now you didn't go into that house?

7 A. No, sir.

8 Q. Is that correct? Now, do you recall if you made
9 contact with anybody else on the scene?

10 A. No, sir.

11 Q. Did you -- you did -- you didn't or you don't recall?

12 A. I don't recall.

13 Q. Okay.

14 (EMS REPORT MARKED AS STATE'S EXHIBIT NUMBER 18 FOR
15 IDENTIFICATION.)

16 Q. Now, Ms. Treiber, would seeing an EMS run report,
17 would that refresh your recollection of events?

18 A. Yes, sir.

19 (A PAUSE.)

20 MR. PAULING: Can I approach the witness, Your Honor?

21 THE COURT: You may.

22 BY MR. PAULING:

23 Q. Ms. Treiber, I'm going to show you what's been marked
24 for ID purposes only as State's 18, State's Number 18. Do
25 you recognize that document?

L. TREIBER - DIRECT EXAMINATION BY MR. PAULING

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1 A. Yes, sir.

2 Q. Okay, and is that a copy of the EMS run report for
3 this particular call back on September 11th of 2014?

4 A. Yes, sir.

5 Q. And if you can review that? Don't read it out loud,
6 but if you could review that and just tell me once your
7 recollection is refreshed.

8 (A PAUSE.)

9 A. That the subject refused EMS.

10 Q. Well, before I get there, has your recollection been
11 refreshed at this point?

12 A. Yes, sir.

13 Q. Okay, and so did you speak with someone on scene?

14 A. Yes, sir.

15 Q. Okay. Was that Gregg Pickrell?

16 A. Yes, sir.

17 Q. Okay, and do you recall where she was when, when you
18 spoke with her?

19 A. I believe she was sitting in the back of a police
20 unit.

21 Q. And what was your purpose in making contact with her?

22 A. To make sure that she did not need medical attention
23 at that time or wanted to be transported to the hospital.

24 Q. Okay, and you had a discussion with her about that?

25 A. Yes, sir.

1 Q. Okay, and did she request to be transported?

2 A. No, sir. She was refused transport, and she also
3 signed a refusal form. That's not in this.

4 Q. Okay. Well, let me back up. Let me kind of just take
5 us through the process. So, you spoke with her about
6 whether or not she needed any medical treatment?

7 A. Yes, sir.

8 Q. Okay, and did you ask her about any injuries, if she
9 was injured at all?

10 A. I asked. She said she was okay and refused transport.

11 Q. And, and you mentioned a form that she filled out. Is
12 that correct?

13 A. Yes, sir.

14 Q. And what is the purpose of the -- this, this
15 particular form?

16 A. It's a refusal form. It's stating that she does not
17 want medical attention at this time, but she can change her
18 mind at any time. It's just releasing us from her at that
19 moment.

20 Q. And is this -- is that form, is that a record EMS
21 keeps in the ordinary course of business?

22 A. It's sign -- it's scanned in with this record here,
23 and it's together.

24 Q. Okay, and but that's, that's part of the EMS records.
25 Is that correct?

L. TREIBER - DIRECT EXAMINATION BY MR. PAULING

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1 A. Yes, sir.

2 (EMS REPORT MARKED AS STATE'S EXHIBIT NUMBER 19 FOR
3 IDENTIFICATION.)

4 MR. PAULING: May I approach the witness, Your Honor?

5 THE COURT: You may.

6 BY MR. PAULING:

7 Q. Ms. Treiber, showing you what's marked as State's, for
8 ID purposes, State's 19. Is that the form that you have
9 been referring to?

10 A. Yes, sir.

11 Q. Okay, and that particular form, did Ms. Pickrell fill
12 that out or did you fill it out? Explain how that form got
13 filled out I guess.

14 A. We fill out the forms, and then she signs them.

15 Q. Okay, and as far as the information at the top of the
16 form, who provided that information?

17 A. She would have provided the information.

18 Q. And did you notate on the form at some point whether
19 or not she was requesting treatment or was refusing
20 treatment and transport?

21 A. No. I have, have not marked that on this copy.

22 Q. Okay.

23 A. Normally would.

24 Q. Okay. So -- but that form that was your documentation
25 that she refused transport. Is that correct?

1 A. Yes.

2 Q. Okay, and now did you sign off on that form, or, or
3 who else -- did anyone else sign off on that form?

4 A. Don signs off on the form.

5 Q. Don Corbett?

6 A. Yes, sir.

7 Q. Okay. All right, and did he sign that particular
8 form?

9 A. Yes, sir.

10 Q. Okay.

11 MR. PAULING: Beg the court's indulgence.

12 (A PAUSE.)

13 MR. PAULING: Your Honor, at this time I'd offer
14 State's 18 and 19 into evidence.

15 THE COURT: Any objection, Ms. Zmroczek?

16 MS. ZMROCZEK: No objection.

17 THE COURT: State's 18 and 19 into evidence without
18 objection.

19 (EMS REPORTS MARKED INDIVIDUALLY INTO EVIDENCE AS
20 STATE'S EXHIBITS 18 AND 19.)

21 BY MR. PAULING:

22 Q. Ms. Treiber, you indicated you did not go into the
23 house. Is that correct?

24 A. Yes.

25 Q. Now, you did not transport Ms. Pickrell. Is that

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1 correct?

2 A. Correct.

3 Q. Okay. Did you transport anyone from that location?

4 A. No, sir.

5 Q. Okay. Was that the extent of your, your involvement
6 there on the scene?

7 A. Yes, sir.

8 Q. Is that correct? Did you have any other contact with
9 Ms. Pickrell that day?

10 A. No.

11 Q. Did you receive a call to return to that residence
12 that day that you went there?

13 A. No.

14 MR. PAULING: Your Honor, I don't have any further
15 questions at this time.

16 THE COURT: Cross-examination?

17 MS. ZMROCZEK: Very briefly. May I approach, Your
18 Honor?

19 THE COURT: You may.

20 MS. ZMROCZEK: As a matter of course, do we need to
21 ask every time or is it...

22 THE COURT: Not to stand there, yeah.

23 MS. ZMROCZEK: Okay. Thank you.

24 CROSS-EXAMINATION BY MS. ZMROCZEK:

25 Q. Ms. Treiber, you said the form, State's 19, you didn't

1 check on here that she refused transport, right?

2 A. Correct.

3 Q. And then also you -- he asked about later contact.

4 So, when she went to the hospital later that afternoon, you
5 weren't involved in that?

6 A. No, ma'am.

7 Q. Okay, and then you also filled out State's 18?

8 A. Yes, ma'am.

9 Q. Okay. I'm going to hand you State's 18, and is there
10 a little -- there's a comment section?

11 A. Yes, ma'am.

12 Q. And, and you filled that out?

13 A. Yes, ma'am.

14 Q. Okay. Can you tell the jury what you put on that
15 second line regarding Ms. Pickrell's state of mind?

16 A. Patient notably upset. Patient stated that she
17 was okay. Patient denies any complaint. Patient
18 refused transport.

19 Q. Patient notably upset?

20 A. Yes.

21 MS. ZMROCZEK: Thank you. I don't have anything
22 further.

23 THE COURT: Any redirect?

24 MR. PAULING: Just briefly.

25 REDIRECT EXAMINATION BY MR. PAULING:

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1 Q. Now, Ms. Treiber, as far as State's 19, the form, the
2 refusal form, okay, do you always have a patient -- when do
3 you need to use that form?

4 A. The refusal form?

5 Q. Yes.

6 A. When we make contact and they're refusing to go to the
7 hospital.

8 Q. Okay. Is it always when you make patient contact, or
9 when you make contact and they refuse to go to the
10 hospital?

11 A. When they -- when we make contact and they refuse.

12 Q. Okay, and they refuse ---

13 A. Yes.

14 Q. --- to actually go to the hospital, refuse treatment.
15 Is that correct?

16 A. Yes.

17 Q. Okay, and that's why that form was used?

18 A. Yes.

19 MR. PAULING: No further questions, Your Honor.

20 THE COURT: Any recross?

21 MS. ZMROCZEK: Nothing further.

22 THE COURT: Any objections to excusing this witness?

23 MS. ZMROCZEK: None from the defense.

24 MR. PAULING: None from the state, Your Honor.

25 THE COURT: Thanks again. You're excused.

1 (THE WITNESS EXITS THE STAND.)

2 MS. LI: The state calls Johnny Fellers.

3 JOHNNY FELLERS, BEING DULY SWORN,
4 TESTIFIES AS FOLLOWS:

5 CLERK OF COURT: Take the witness stand. State your
6 full name for the record.

7 WITNESS: Johnny Fellers.

8 DIRECT EXAMINATION BY MS. LI:

9 Q. Mr. Fellers, good afternoon.

10 A. Good afternoon.

11 Q. If you can't hear me that far away, just let me know.

12 A. Okay.

13 Q. Sir, are you currently working?

14 A. Yes, I am.

15 Q. Where do you work?

16 A. I own a retail business here in Kershaw County.

17 Q. And how long have you been doing that for?

18 A. Sixty-some years.

19 Q. Sixty-some years. Have you done any other type of
20 employment in the past?

21 A. Yes, ma'am. I was the coroner for Kershaw County for
22 twenty-eight years until I retired four years ago.

23 Q. So, four years ago, 2014, 2015 timeframe?

24 A. 2015.

25 Q. 2015.

J. FELLERS - DIRECT EXAMINATION BY MS. LI

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1 A. January 2015, I think it was.

2 Q. Okay, and as the coroner of Kershaw County, what were
3 your duties generally?

4 A. We would be called into any unexpected death:
5 homicides, accidental, and also natural death calls.

6 Q. And when you go out to investigate those scenes, or
7 when you go out to those scenes, generally what -- or
8 what's required of you?

9 A. We go out and take a look and investigate the, the
10 cause and the manner of death for each individual person.

11 Q. On September 11, 2014, were you called out to a
12 residence at [REDACTED] Baynard Boykin Road, also been as Far and
13 Away Farms?

14 A. Yes, ma'am.

15 Q. And who or which agency called you out there?

16 A. The Kershaw County dispatch made the notification to
17 me, so.

18 Q. And what was your understanding from dispatch as to
19 why you were called out there?

20 A. That there was a death at this residence, and they
21 requested my presence.

22 Q. When you first went out there, sir, can you just walk
23 us through step by step what you did?

24 A. When I arrived, I noticed that there was several
25 Kershaw County deputies there. Talked to Chief Deputy

1 Marvin Brown, who informed me that there was a deceased
2 person inside the house. He also informed me that SLED,
3 Law Enforcement Division, had been called and would be
4 present shortly. We waited for the SLED personnel crime
5 scene people to arrive. We went inside, and we found a
6 deceased male in one of the back bedrooms.

7 Q. And the deceased male, your observation of him, he was
8 deceased. So, did you declare him dead? Is that generally
9 what a coroner does?

10 A. Yes, ma'am.

11 Q. Did you do anything else with the decedent? Did you
12 take any photos?

13 A. We did take some photos. Then we removed the body to
14 take him back to the coroner's office to be taken to an
15 autopsy.

16 Q. With respect to those photos, sir, I'm retrieving
17 State Exhibits 14 through 17 for identification.

18 MS. LI: Show those to the defense.

19 (A PAUSE.)

20 BY MS. LI:

21 Q. Mr. Fellers, I'm handing you what's been marked as
22 State Exhibits 14 through 17 for identification. Can you
23 just look through those photos, please?

24 (A PAUSE.)

25 A. Yes, ma'am, they do appear to be some of the photos

J. FELLERS - DIRECT EXAMINATION BY MS. LI

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1 that we did take.

2 Q. Okay. So, you recognized those as photos that you
3 took?

4 A. Yes, ma'am.

5 Q. Okay, and do those particular photos fairly and
6 accurately depict the scene at the time you were there?

7 A. Yes, ma'am.

8 Q. And do they appear to be altered in any way?

9 A. No, ma'am.

10 MS. LI: Your Honor, the state offers Exhibits 14
11 through 17 for identification as evidence.

12 THE COURT: Any objection?

13 MS. ZMROCZEK: No objection.

14 THE COURT: In without objection.

15 MS. LI: Thank you, Your Honor, and so request
16 permission to publish the photos to the jury.

17 THE COURT: You have permission.

18 (PHOTOGRAPHS MARKED INDIVIDUALLY AS STATE'S EXHIBITS
19 14, 15, 16, 17.)

20 MS. LI: And, members of the jury, if you could please
21 just nod once you're done seeing one of the photos.

22 And for the record, I'm showing the jury numbers --
23 State Exhibit 14.

24 BY MS. LI:

25 Q. Sir, can you see these photos?

1 A. No, ma'am, I can't.

2 Q. Would you mind coming up here, please?

3 Okay, so as you can see, this is State Exhibit 14.

4 Can you please just explain what you -- what's depicted in
5 this photograph?

6 A. We were showing the, the facial view of the deceased
7 laying on the floor.

8 MS. LI: Your Honor, State Exhibit 15.

9 Q. Can you please explain what's depicted in this photo?

10 A. It shows the gunshot wound to the back.

11 Q. State Exhibit 16, can you please show what's depicted
12 in this photo?

13 A. It also shows a gunshot wound to the back.

14 Q. And State Exhibit 17, can you please state what's in
15 this photo?

16 A. It shows small amounts of blood spots on the back of
17 the shirt.

18 Q. Okay, thank you, sir. You can be seated again.

19 And, Mr. Fellers, you stated that the body was
20 transported?

21 A. Yes, ma'am. We transported the body from the scene to
22 the Kershaw County coroner's office, arranged for the
23 autopsy, and transported up to the autopsy.

24 Q. And who conducts the autopsy, sir? Is that you or
25 someone else?

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1 A. Dr. Janice Ross, Newberry Pathology in Newberry, South
2 Carolina.

3 Q. Okay. So, were you present for the autopsy?

4 A. No, ma'am, I was not.

5 Q. Did you receive any items taken from the autopsy?

6 A. A member of our office that transported the body to
7 Newberry did bring some specimens back and transported
8 those over to SLED to be analyzed.

9 Q. And what were those specimens?

10 A. Basically blood fluid, ocular fluid, urine, and any
11 other specimens that we brought back from the autopsy.

12 Q. Was a bullet one of the items?

13 A. Yes, ma'am, it was.

14 Q. And what did you do with all those items?

15 A. We logged them into the SLED to have them analyzed.

16 MS. LI: All right, thank you, sir. I have no further
17 questions.

18 THE COURT: Any cross?

19 MS. ZMROCZEK: Very briefly.

20 CROSS-EXAMINATION BY MS. ZMROCZEK:

21 Q. Mr. Fellers, you took those pictures as -- so, 14 was
22 the first picture that you took when you arrived on scene?

23 A. I'm not sure. There were a number of photographs,
24 but...

25 Q. Let me ask it this way. The body -- Mr. Demary was

1 face up and when you got there, right?

2 A. He was sitting on the floor propped up against a --
3 leaning up against a bed.

4 Q. He was ---

5 A. If I'm not mistaken.

6 Q. He was sitting on the floor propped up against the
7 bed?

8 A. Yes.

9 Q. Face up?

10 A. Yes.

11 Q. And, and he had one bullet shot, right?

12 A. Yes.

13 Q. And that was to the back?

14 A. Yes.

15 Q. And you didn't need -- you knew he was dead from that?

16 A. Yes, ma'am.

17 Q. Okay. You said that you collected some items to
18 transport to SLED, right?

19 A. Yes, ma'am.

20 Q. And one of those items was actually a pill.

21 A. I, I don't remember collecting any pills.

22 Q. You don't remember collecting anything?

23 A. No, ma'am.

24 Q. Okay. You did log everything in your chain of
25 custody, and you turned it all over, correct?

J. FELLERS - CROSS-EXAMINATION BY MS. ZMROCZEK

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1 A. We, we packed -- we, we collected the body and
2 transported the body.

3 Q. And who collected the ocular fluids, and was that done
4 at the autopsy?

5 A. Newberry Pathology. Dr. Janice Ross would do all
6 that.

7 Q. She would collect all that, and you transported it to
8 SLED?

9 A. Yes, ma'am.

10 Q. And, and so you recall any other items besides the
11 blood fluids and the bullet?

12 A. I don't recall any other products that...

13 Q. You said that you were inside the house?

14 A. Yes, ma'am.

15 Q. And it was a very small area, correct?

16 A. Yes, ma'am.

17 Q. And, in fact, the room where Monty was sitting, kind
18 of sitting you said face up, right?

19 A. Yes, ma'am.

20 Q. It's about, it's about 6 feet from the door to that
21 room?

22 A. The best I can recollect yes, ma'am.

23 MS. ZMROCZEK: Beg the court's indulgence.

24 (A PAUSE.)

25 MS. ZMROCZEK: Thank you.

1 THE COURT: Any redirect?

2 MS. LI: Nothing from the state, Your Honor.

3 THE COURT: Any objection to excusing this witness?

4 MS. ZMROCZEK: No. No objection.

5 MS. LI: No objection, Your Honor.

6 THE COURT: Thank you, sir. You're excused.

7 (THE WITNESS EXITS THE STAND.)

8 MR. PAULING: State would call Dr. Janice Ross.

9 THE COURT: Okay.

10 JANICE E. ROSS, BEING DULY SWORN,

11 TESTIFIES AS FOLLOWS:

12 CLERK OF COURT: State your full name for the record
13 and have a seat in the witness chair. Thank you.

14 WITNESS: Janice Edwards Ross, R-o-s-s.

15 VOIR DIRE EXAMINATION BY MR. PAULING:

16 Q. Dr. Ross, how are you doing?

17 A. Fine. How are you?

18 Q. Doing well. Dr. Ross, if you could tell the members
19 of the jury, where do you work, ma'am? Where are you
20 employed?

21 A. With Newberry Pathology Associates in South Carolina.

22 Q. And how long have you been employed there with
23 Newberry Pathology?

24 A. For eighteen years.

25 Q. And what is your, what is your profession? What do

J. ROSS - VOIR DIRE EXAMINATION BY MR. PAULING

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1 you do?

2 A. I'm a forensic pathologist.

3 Q. Forensic pathologist?

4 A. Yes.

5 Q. And if you could tell the jury, what's your
6 educational background? What's the training you've had as
7 it relates to that field?

8 A. Sure. A bachelor's degree from the University of
9 South Carolina; and then my MD, doctor of medicine, from
10 Upstate Medical Center in Syracuse, New York; and then five
11 more years of training in the field of pathology.

12 Pathology, as opposed to, like, surgery or pediatric
13 medicine, is a discipline in medicine where we learn how to
14 identify cancers and diagnose diseases such as leukemias
15 and anemias using the microscope using tissue, looking at
16 tissue under the microscope, and using the laboratory,
17 chemistries, and different blood work.

18 We also learn how to do an autopsy to find the cause
19 of death. Now, I did another several years in the field of
20 forensic pathology, which teaches us how to do a forensic
21 autopsy which is more detailed. And we learned how to
22 identify patterns of injury for a court of law and to
23 document those injuries and to get materials for, for
24 instance, toxicology so we can formulate a cause of death
25 and a manner of death.

1 Q. And are you a member of any specialized boards as it
2 relates to pathology or forensic pathology?

3 A. Yes, I'm board certified in three areas of pathology,
4 including forensic pathology.

5 Q. And as far as professional associations, are you a
6 member of any professional associations as relate to that
7 field?

8 A. Yes, the National Association of Medical Examiners and
9 the American Academy of Forensic Sciences.

10 MS. ZMROCZEK: Your Honor, we stipulate to this
11 witness as an expert in forensic pathology.

12 THE COURT: Okay.

13 MR. PAULING: Yes, sir. Therefore, I would offer her
14 as an expert in that field.

15 THE COURT: Okay.

16 MR. PAULING: Forensic pathology.

17 THE COURT: Ladies and gentlemen, normally a witness
18 cannot give opinion testimony. Normally when a witness
19 testifies, they must testify as to something they
20 personally saw, heard, smelled, or something of that
21 nature.

22 However, there is an exception where someone is
23 qualified as an expert by reason of their education or
24 experience. They are permitted to give their opinion in
25 certain areas if the court qualifies them as an expert.

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1 This witness, Dr. Janice Ross, has now been qualified
2 as an expert in the field of forensic pathology, and she
3 may give her opinion testimony in that area. That does not
4 mean you must accept the opinion, but it is evidence for
5 you to use in any way that you see fit and give it the
6 weight and credibility that you as the jury believe is
7 appropriate.

8 DIRECT EXAMINATION BY MR. PAULING:

9 Q. Dr. Ross, you said you've been with Newberry Pathology
10 about eighteen years?

11 A. Yes, sir.

12 Q. And in your time there, just approximately, I guess, a
13 ballpark figure, how many forensic autopsies do you believe
14 you have performed?

15 A. Well, I've been in the business for forty-two years.

16 Q. Yes, ma'am.

17 A. So, I've done over 12,000 cases.

18 Q. And when a body is brought to you for an autopsy, for
19 that purpose, could you kind of take us through the process
20 that you go through once you receive the body and then into
21 performing the actual autopsy?

22 A. Yes. The -- actually the coroner calls us and
23 requests a schedule for the time. We do the autopsies in
24 the morgue at Newberry County Memorial Hospital. They come
25 in in a body bag which we photograph and the seal and open

1 the body, body bag. Take inventory of the clothing, take
2 photographs of the clothed body and the unclothed body. In
3 a case like this where we see a gunshot wound, we'll then
4 do x-rays to see if there's still a bullet inside. So, we
5 externally photograph and document, diagram any injury that
6 we see.

7 Q. And after you photograph the injury, you said diagram?
8 Is that correct?

9 A. Yes.

10 Q. And why do you do a diagram? What's the purpose of
11 doing a diagram?

12 A. For purpose of -- afterwards I, I dictate the autopsy
13 and I describe what kind of -- where injuries were, what
14 kind of injury, like a bruise versus an abrasion versus a
15 stab wound versus a gunshot wound.

16 Q. And when you conducted the autopsy, is there, is there
17 any other, I say, staff with you? Do you have an assistant
18 with you or anything or how...

19 A. Yes. I have an assistant who will do the dissection,
20 and I have someone who will be typing in anything I want
21 into the computer about any organs, whether they're
22 damaged, how much they weigh, et cetera.

23 Q. Okay. Well, the use of the diagram that you referred
24 to, will that aid the jury in understanding what you found?

25 A. Yes.

J. ROSS - DIRECT EXAMINATION BY MR. PAULING

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1 Q. Okay.

2 (DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 20 FOR
3 IDENTIFICATION.)

4 Q. Dr. Ross, I'm going to show you what's an enlarged
5 version, I believe, of a diagram that you referred to,
6 State's 20 for ID purposes. Is that the diagram that
7 you're referring to?

8 A. Yes, it is.

9 Q. Okay.

10 MR. PAULING: Your Honor, at this time I'd offer
11 State's 20 into evidence, I believe without objection.

12 MS. ZMROCZEK: Without objection.

13 THE COURT: State's 20 is in evidence without
14 objection.

15 (DIAGRAM MARKED INTO EVIDENCE AS STATE'S EXHIBIT
16 NUMBER 20.)

17 BY MR. PAULING:

18 Q. Dr. Ross, do you mind coming down?

19 And, Dr. Ross, as far as this diagram is concerned,
20 this is of Robert Demary. Is that correct, and when was
21 the autopsy performed?

22 A. September 12, 2014.

23 Q. Okay, and what's, what's this number here? What's
24 that?

25 A. That's, that's our number. FA is forensic autopsy.

1 14 is the year, and the number of the case 685.

2 Q. Okay, and if you could explain to the jury what these
3 notations are, I guess what they mean? What did you find
4 as you, as you went through?

5 A. Sure. Obviously the front of the body, the back of
6 the body. This is a diagram of -- diagram where the
7 entrance wound was, and this is my scribble. It's 16
8 inches below the top of the head and 3 inches to the left
9 of midline. That's where we measure so that we can go back
10 to the body and, and we do it.

11 This bullet then was found underneath the skin. This
12 is not an exit wound; it's where the bullet was found. It
13 was found underneath the skin here. So, the bullet is
14 going from left to right, from back to front, and slightly
15 upward because the bullet was found 14 inches below the top
16 of the head and 1 and 3 quarters inch to the right of
17 midline.

18 Q. Okay, and, Dr. Ross, as, as, I guess, indicated on
19 this chart, how tall was Mr. Demary?

20 A. I'd have to look at my notes.

21 Q. Okay. Did you, did you notate it on the, on the
22 chart?

23 A. Not on the, not on the chart, no. It's in my notes.

24 Q. Okay. Yes, ma'am.

25 A. Sorry. We measured him at 66 and a half inches tall.

J. ROSS - DIRECT EXAMINATION BY MR. PAULING

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1 We don't have a scale in the morgue, so we estimated he
2 weighed about 180 pounds.

3 Q. Okay, and, Dr. Ross, if you could -- and I know the
4 board is somewhat two-dimensional. When you're talking
5 about the front, the back, and the midline, could you
6 describe even on me where that would be?

7 A. Yes, sir.

8 Q. Okay, and so if you could again, the back where?
9 Where was the entrance wound?

10 A. On the left, 16 inches below the top of the head, and
11 the bullet was found on the right close to, closer to the
12 midline.

13 THE COURT: Mr. Pauling, if you don't mind, why don't
14 you turn around so the jury can see you.

15 MR. PAULING: Yes, sir. Yes, sir.

16 WITNESS: Can you see?

17 MR. PAULING: Can you see?

18 THE COURT: Yeah, the court doesn't need to see it.

19 MR. PAULING: Right. I understand.

20 THE COURT: But the jury needs to see.

21 BY MR. PAULING:

22 A. Yes. Left of the -- the enter -- the entrance was in
23 the left of the back and the exit -- the bullet was found
24 on the right side of the chest underneath the skin, and
25 bullets go straight. So, this bullet went from the back

1 towards the front, from the left towards the right, and
2 slightly upward. It went through the left lung. It went
3 through the heart and through the main artery coming off
4 the heart, which is called the aorta. Caused a lot of
5 internal bleeding.

6 Q. Now, was there any other injury of, of, of significant
7 note that you noticed on the body of Mr. Demary when you
8 performed the autopsy?

9 A. There was none.

10 Q. Okay, Dr. Ross, you can have a seat.

11 Now, Dr. Ross, I know that -- I understand there were
12 no other injuries that you noted. Was there any stippling
13 on the victim?

14 A. No.

15 Q. That you noted, and what is that?

16 A. Well, stippling refers to powder hitting the target.
17 When a bullet is fired, there's soot and also powder that
18 comes out of the gun. But the, the soot and the stippling
19 only go a certain -- the soot and the powder only go a
20 certain distance, whereas the gun -- the bullet of course
21 goes further. So, if you see stippling on the skin -- or
22 in this case there was some; there was a shirt on him --
23 then you can say that the range was -- the bullet -- the
24 gun was somewhat closer to the body than if it's absent.
25 The stippling, the powder will go somewhere between 18 and

J. ROSS - DIRECT EXAMINATION BY MR. PAULING

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1 24 inches, depending on the caliber and the type of weapon,
2 the length of the barrel, a lot of different items.

3 Q. And because you did not notate any stippling, what did
4 that tell you? What did you surmise as far the relation
5 between the victim and the gun that was fired as far as
6 distance was concerned?

7 A. That the end of the gun was 2 feet or further away
8 from the person.

9 Q. 2 feet or further away?

10 A. Yes, sir.

11 Q. From the back of the person. Is that correct?

12 A. Correct.

13 Q. Did you note any type of defensive wounds on Mr.
14 Demary?

15 A. No, I did not.

16 Q. No injuries to his hands?

17 A. No, sir.

18 Q. Now, the way you described the bullet as it entered
19 his body, traveled through his body, based on your training
20 and experience, what did all that that you found, what did
21 that say to you regarding the position of the victim when
22 he was shot?

23 A. Well, it's, it's difficult to put a position when you
24 have two people who can turn and bend and whatever. But,
25 like I say, bullets go straight. So, it was going left to

1 right, back to front, and slightly upward. Now, if they
2 are in a standing position, that might mean that the victim
3 was bent, bent over somewhat. That, that's one scenario.

4 Q. And, and I'm sorry. When you say they're in a
5 standing position, when whom is in a standing position?

6 A. The shooter.

7 Q. Okay. I understand. Okay, and so the shooter is in a
8 standing position. That would indicate that the victim in
9 this case would have been bending over. Is that correct?

10 A. That could -- that's one scenario, yes.

11 Q. Okay, and so I, I -- and I cut you off there. And so
12 what may be another scenario?

13 A. Well, he could be lying down on the ground face down,
14 and the shooter could be above him and shooting.

15 Q. Okay.

16 A. That's another one.

17 Q. All right. Now, you explained how the bullet passed
18 through the body going, you said, the aorta and the lungs
19 and, and through another artery. Is that correct?

20 A. Well, through the left lung, the -- part of the heart,
21 and the, the main artery, the aorta yes, sir.

22 Q. And what was, what was the, the cause of death?

23 A. Exsanguination, which means to bleed out, due to the
24 laceration of the aorta and heart due to the gunshot wound
25 in the back.

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1 Q. Okay, and, and him bleeding out, what, he bled
2 internally and such?

3 A. Internally, yes.

4 Q. Okay. So, most of the blood just pooled inside of
5 him. Is that correct?

6 A. Yes.

7 Q. Now, as far as -- is -- part of your job is to
8 determine also the manner of death?

9 A. Yes.

10 Q. Is that right? Okay. Are there categories?

11 A. Yes. There are five.

12 Q. There are five?

13 A. Yes.

14 Q. Can you explain to the jury what those are, what they
15 mean?

16 A. Yes. There's natural death, like a heart attack.
17 There's suicide where somebody kills themselves by
18 whatever, by whatever means. There's homicide that one
19 person kills another. There's accident, and there's
20 sometimes we can't tell, so we just -- it, it's
21 undetermined.

22 Q. And in this particular case, Dr. Ross, were you able
23 to determine to a reasonable degree of medical certainty
24 what the cause and manner of death were?

25 A. Yes.

1 Q. And what were they now?

2 A. The cause of death is exsanguination due to the
3 laceration of the heart due to the gunshot wound to the
4 back. The manner of death is homicide.

5 Q. Now, Dr. Ross, you have indicated that -- you told the
6 jury where the bullet did not exit his body. Was still
7 found in his body. Is that correct?

8 A. That's correct.

9 Q. But you did, in fact, remove that body -- bullet,
10 excuse me.

11 A. Yes. We removed it, photographed it, and sealed it.

12 (BULLET MARKED AS STATE'S EXHIBIT NUMBER 21 FOR
13 IDENTIFICATION.)

14 Q. Dr. Ross, let me show you what's been marked for ID
15 purposes State's 21 and ask you if you recognize that
16 particular item, ma'am.

17 A. Yes. This is the bullet from Robert Demarrow --
18 Demary.

19 Q. Okay.

20 A. That we took out at the time of the autopsy.

21 Q. And is your, your case number and the date, that's on
22 there as well?

23 A. That's correct.

24 Q. And that's how you recognize it?

25 A. Yes.

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1 Q. Okay.

2 MR. PAULING: Your Honor, at this time the state would
3 offer State's 21 into evidence.

4 THE COURT: Any objection?

5 MS. ZMROCZEK: Without objection and, and, Your Honor,
6 if they're done with that board, it's just blocking my
7 view. Thank you.

8 THE COURT: Thank you, Mr. Pauling.

9 State's Exhibit 21 is in evidence without objection.

10 (BULLET MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
11 21.)

12 BY MR. PAULING:

13 Q. Now, Dr. Ross, as well as at the autopsy, were there
14 other items that were collected? Personal, personal items?

15 A. There was a -- an earring, a stud earring with a clear
16 stone, was an envelope with a cigarette butt, and a total
17 of \$18 other than his clothing.

18 (PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 22 FOR
19 IDENTIFICATION.)

20 Q. Dr. Ross, item marked as State's 22, is that a
21 photograph of the items as far as the money and the
22 cigarette butt that you, that you noted?

23 A. Yes, it is.

24 Q. Okay, and that's what you would have turned over to
25 SLED as well?

1 A. Collect, yes.

2 Q. Or collect?

3 A. Yes.

4 Q. Okay.

5 MR. PAULING: Your Honor, the state would offer
6 State's 22 into evidence, I believe without objection.

7 MS. ZMROCZEK: Without objection, Your Honor.

8 THE COURT: State's 22 is in evidence without
9 objection.

10 (PHOTOGRAPH MARKED INTO EVIDENCE AS STATE'S EXHIBIT
11 NUMBER 22.)

12 (PHOTOGRAPHS MARKED INDIVIDUALLY AS STATE'S EXHIBITS
13 23, 24, 25, 26 FOR IDENTIFICATION.)

14 BY MR. PAULING:

15 Q. Dr. Ross, I show what's been marked State's 23 through
16 26 for ID purposes only, and are those photos of the
17 decedent consistent with what you saw the following day as
18 far as his hands are concerned?

19 A. Yes.

20 Q. Do you note any injuries to his hands?

21 A. No, I do not.

22 MR. PAULING: Your Honor, at this time I'd offer
23 State's 23, 24, 25, and 26 into evidence.

24 MS. ZMROCZEK: Your Honor, we have a matter of law I
25 think we need to discuss outside the presence of the jury.

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1 THE COURT: Okay, ladies and gentlemen, I ask you to
2 retire to the jury room while I discuss a matter with the
3 attorneys.

4 (THE JURY EXITS AT 3:22 P.M.)

5 MS. ZMROCZEK: So, Your Honor, my issue is, so, 23 I
6 understand that they want to show the hands specifically.
7 So, 25 and 26 show each hand up close. 23 is already --
8 it's another picture of, of the -- of Mr. Demary, but it --
9 he -- I mean, you've got four already in through the
10 coroner. So, the probative value of this picture for the
11 hands, Your Honor, I think is prejudicial, and then 24 is
12 just a blurry picture. So, I don't object to 25 and 26 if,
13 if that's what they want to talk about is are the hands,
14 but I would object to 23 and 24 -- of 23 as being
15 duplicative. It doesn't even show both of the hands. And
16 then 24 is a blurry picture, and then there's another one
17 of the same hand closeup. So, I would argue that 23 and 24
18 are duplicative.

19 THE COURT: Mr. Pauling.

20 MR. PAULING: Your Honor, I haven't heard why it's
21 prejudicial, but at any rate, Judge, at least 23 shows
22 where, where both hands are. This is a closer view, but
23 this is the left hand and then this is the, the right hand.

24 MS. ZMROCZEK: And if I may hand up 23, Your Honor,
25 you can't even see one of the hands in that picture, so.

1 THE COURT: Ms. Zmroczek, am I understanding correctly
2 that your client admits that she shot him and she admits
3 that, that she caused his death?

4 MS. ZMROCZEK: Absolutely, but, but just to --
5 continuously putting dead body pictures in -- at the end of
6 the day it's a human being, and at some point when they
7 argue malice and then we're seeing multiple pictures ---

8 THE COURT: I understand. I've got you.

9 Mr. Pauling, I, I am sympathetic to the defense on
10 this. When they've admitted that their client shot Mr.
11 Demary and they admit that they caused his death, I think
12 there's a limit on autopsy photos, you know? The photos of
13 the hands, I'm going to agree with the defense on that.
14 You can show two clear photos of the hands, but at least
15 the additional photo of the torso I think is duplicative.

16 MR. PAULING: Okay.

17 THE COURT: Unless it -- what in particular are you
18 trying to show with that?

19 MR. PAULING: It was just, it was just the location,
20 Judge.

21 THE COURT: I understand.

22 MR. PAULING: I understand the court's ruling. I
23 understand that, and, and just for the record, I'm not
24 talking about autopsy photos.

25 MS. ZMROCZEK: Right.

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1 MR. PAULING: These are the crimes scene photos.

2 THE COURT: No. I'm sorry. I thought they were
3 autopsy room photos. I didn't ---

4 MR. PAULING: No, no, no. So, that's ---

5 MS. ZMROCZEK: No, no. They're just crime scene
6 photos.

7 THE COURT: Okay. I'm sorry. I misunderstood.
8 Okay, so these are additional crime scene photos?

9 MR. PAULING: Yes, sir.

10 THE COURT: Okay. The ruling is still the same. I
11 think ---

12 MR. PAULING: Yes. I understand.

13 THE COURT: --- the hands can come in, the photos ---

14 MR. PAULING: 25 and 26?

15 THE COURT: That's correct.

16 MS. ZMROCZEK: And, Your Honor, in preparation for my
17 cross-examination, I'm just looking for one thing, but I
18 don't want to keep rummaging through all of my stuff while
19 he's cross-examining and the jury's in here. If I may have
20 just five minutes to look through my stuff to look for
21 exactly what I'm looking for?

22 THE COURT: Sure.

23 MS. ZMROCZEK: Okay. Thank you. It probably won't
24 even take five minutes.

25 THE COURT: Okay.

1 25 and 26 are in.

2 (PHOTOGRAPHS MARKED INDIVIDUALLY INTO EVIDENCE AS
3 STATE'S EXHIBITS 25, 26.)

4 (A PAUSE.)

5 MS. ZMROCZEK: Thank you, Your Honor. I found what
6 I'm looking for.

7 THE COURT: All right, anything else before we bring
8 the jury back in?

9 MS. SAMPSON: Just can I tell them something real
10 quick?

11 THE COURT: Certainly.

12 (COUNSELORS CONFER.)

13 THE COURT: Anything else, Counsel?

14 MS. ZMROCZEK: No. No.

15 THE COURT: Anything else before we bring the jury
16 back in?

17 MR. PAULING: No, sir.

18 THE COURT: Okay, let's bring the jury back in,
19 please.

20 (THE JURY ENTERS AT 3:28 P.M.)

21 THE COURT: Yes, sir.

22 MR. PAULING: Just briefly, Your Honor, I'd just like
23 to publish 25 and 26 on the SmartBoard.

24 THE COURT: Okay.

25 BY MR. PAULING:

J. ROSS - DIRECT EXAMINATION BY MR. PAULING

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1 Q. Dr. Ross, can you stand? I guess...

2 MR. PAULING: Am I going to be in the way, Judge?

3 THE COURT: I've actually seen the photos.

4 THE COURT: Okay.

5 THE COURT: So, I don't need to see them as long as
6 the jury can see them.

7 MS. SAMPSON: Before you publish, beg the court's
8 indulgence.

9 (A PAUSE.)

10 MR. PAULING: Your Honor, before I do that, the state
11 would offer 25 and 26 into evidence.

12 THE COURT: Without objection, they're into evidence.

13 BY MR. PAULING:

14 Q. Dr. Ross, State's 25, I'd ask you about defensive
15 wounds or anything of that nature on, on the hands.

16 A. Yes.

17 Q. Okay, and specifically what would you be looking for?

18 A. Be looking for bruises or abrasions if, if -- over the
19 knuckles if something -- somebody hit somebody else hard.

20 Q. And there's nothing there you see there in State's 25.
21 Is that correct?

22 A. Correct.

23 Q. And as to State's 26, that's the right hand of Mr.
24 Demary. Do you see any wounds ---

25 A. No.

1 Q. --- or anything?

2 A. Just an increased pigmentation.

3 Q. Okay, and again, during your autopsy you didn't note
4 any defense wounds. Is that correct?

5 A. That is correct.

6 Q. Okay. Thank you, Dr. Ross. Now, Dr. Ross, was -- you
7 also issued a report. Is that correct?

8 A. Yes.

9 Q. And is that the extent of your involvement as it
10 related to this particular case, the examination Mr. Robert
11 Demary?

12 A. Yes.

13 MR. PAULING: Beg the court's indulgence.

14 (A PAUSE.)

15 MR. PAULING: I have no further questions at this
16 time, Your Honor.

17 THE COURT: Cross-examination?

18 MS. ZMROCZEK: Thank you.

19 CROSS-EXAMINATION BY MS. ZMROCZEK:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Dr. Ross, how long have you been a pathologist?

23 A. For forty-two years.

24 Q. You've seen a lot of different presentations, right?

25 A. Yes.

J. ROSS - CROSS-EXAMINATION BY MS. ZMROCZEK

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1 Q. You've seen people who have been beaten up by other
2 people?

3 A. Yes.

4 Q. You have -- you, you actually described -- when in
5 direct you were asked about -- you, you said when somebody
6 hits somebody else, you'll see what?

7 A. Either a bruise, bruise -- I'm sorry, bruises or
8 abrasions. Abrasion is a surface rubbing of the skin.

9 Q. Sometimes like if somebody scratches somebody or, or,
10 or somebody scratches like an object?

11 A. Yes.

12 Q. And so if you see that, is it generally -- you can
13 generally identify abrasions and, and bruises when people
14 get it, right?

15 A. Yes.

16 Q. And you can sometimes tell the mechanism of that
17 injury. Let's say that someone -- have you, have you ever
18 done an autopsy where someone was -- received injuries from
19 an animal?

20 A. Yes.

21 Q. Have you ever done autopsies where someone received
22 injuries from a horse?

23 A. Yes.

24 Q. And have you ever seen a scratch or just an abrasion
25 from a horse?

1 A. I'm trying to remember. It's more like a kick, but
2 there's a -- sometimes they leave a pattern. It's what we
3 learn, to, to identify a pattern injury. If it, if it was
4 circular or linear or whatever.

5 Q. So, so, if, if you have an abrasion or a bruise from a
6 horse, what pattern would you expect to see as a
7 pathologist?

8 A. Depends what part of the horse hit you.

9 Q. Okay. So, it would, it would just depend on the
10 method?

11 A. Correct.

12 Q. So, if it was, like, a swish of a tail, that would be
13 obviously different than a hoof?

14 A. That's correct.

15 Q. Okay, and certainly hooves can't leave finger-like
16 bruises. Have you seen people who have been strangled
17 before?

18 A. Yes.

19 Q. And when someone is strangled or choked, do you
20 typically see bruising around their trachea?

21 A. You can, yes.

22 Q. Okay. You talked about defensive wounds. His -- when
23 you received the decedent, his hands were bagged, correct?

24 A. Yes.

25 Q. So, had he scratched someone, there would be skin

J. ROSS - CROSS-EXAMINATION BY MS. ZMROCZEK

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1 cells under there, right? There could be?

2 A. There could be, yes.

3 Q. Okay. Those weren't -- that, that wasn't tested or
4 requested in this case?

5 A. We usually send the, the bags back to SLED, and they
6 do that type of testing.

7 Q. So, they do that type of testing?

8 A. Yes.

9 Q. And so in your evaluation, you write a report?

10 A. Yes.

11 Q. And you did that in this case?

12 A. Yes.

13 Q. And you wait -- you write a preliminary report, right?

14 A. Yes.

15 Q. And then why do you wait to write a final report?

16 A. Well, it depends on the case. If I have to wait for a
17 drug analysis, then it'll be -- the cause of death will be
18 pending investigation, but that was not the case in this
19 case.

20 Q. And you did receive a drug analysis in this case,
21 right?

22 A. Yes, I did.

23 Q. Will you tell the jury what the ocular fluid blood
24 alcohol was?

25 A. Yes. The ocular alcohol is .168. The -- that's fluid

1 from the eye. The chemicals there lag behind the amount in
2 the blood by about an hour or so. So, at one point in
3 time, this person had a blood alcohol of .168. When we do
4 the, the actual blood from the autopsy, he had a .1 alcohol
5 percent.

6 Q. And so as time goes on, blood alcohol lowers, correct?

7 A. It is metabolized, yes.

8 Q. Metabolized, thank you, and then also did you find any
9 other chemicals?

10 A. I actually had evidence of -- he had evidence of
11 marijuana.

12 Q. Marijuana use?

13 A. Yes.

14 Q. Okay. THC?

15 A. Yes.

16 Q. Okay, and THC metabolite as well?

17 A. Yes.

18 Q. Okay, and what is the difference between an active and
19 a metabolite?

20 A. Well, the, the active is the initial chemical but when
21 it breaks down, that's what the metabolite is.

22 Q. Okay, and you were asked about -- you said bullets
23 travel straight, correct?

24 A. Yes.

25 Q. So, that's all you can, can, can say. You, you -- we

J. ROSS - CROSS-EXAMINATION BY MS. ZMROCZEK

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1 could come up with several conceivable scenarios as to the
2 -- how the entrance and exit wound occurred, correct?

3 A. That's correct.

4 Q. So, if someone was moving, we wouldn't know. You
5 wouldn't be able to say that, right?

6 A. No.

7 Q. Okay.

8 A. Not -- no.

9 Q. And you, you said there was no soot or stippling?

10 A. Correct.

11 Q. And that means that that person was about 2 feet away.
12 Is that right?

13 A. Yes.

14 MS. ZMROCZEK: Your Honor, may I ask the doctor to
15 step down?

16 THE COURT: Yes.

17 BY MS. ZMROCZEK:

18 A. The clothing went to SLED, so I don't know if they
19 tested for that or not.

20 Q. Okay. So, you didn't see it on ---

21 A. Visibly I did not see it.

22 Q. Visibly you did not see it?

23 A. Yes.

24 Q. Okay, on the, on the body, correct?

25 A. On the body, yes.

1 Q. Okay, and you sent the clothing to SLED?

2 A. Correct.

3 Q. And they would do their own testing if requested,
4 right?

5 A. Yes.

6 Q. And so sometimes if there is clothing or a barrier,
7 it's possible that there may be some sort of stippling on
8 that, but, but -- and that could keep it from the body,
9 correct?

10 A. Correct.

11 Q. Okay.

12 MS. ZMROCZEK: And, Your Honor, if I may ask her now
13 to step down?

14 THE COURT: You may.

15 MS. ZMROCZEK: Thank you.

16 BY MS. ZMROCZEK:

17 Q. I'm going to hold this end, and so 2 feet, can you
18 show the distance? Okay. So, this is 2 feet. So, about
19 the length of my arm, correct?

20 A. Yes.

21 Q. Okay, and that's what would indicate to you no soot or
22 stippling on the body?

23 A. Yes.

24 Q. Okay. Thank you, but again you didn't examine the
25 clothes?

J. ROSS - CROSS-EXAMINATION BY MS. ZMROCZEK

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1 A. Well, I looked at the clothes. I didn't see any by
2 looking at it, but sometimes you can test it for -- test it
3 chemically.

4 Q. And -- but that's something that SLED would do?

5 A. Yes.

6 Q. And there was only one earring that you identified
7 that was collected?

8 A. Only one what? I'm sorry.

9 Q. What earring. I'm sorry.

10 A. Let me make sure.

11 (A PAUSE.)

12 A. Yes.

13 Q. Just one and you were asked about the bleeding out,
14 right?

15 A. Yes.

16 Q. Does that -- how long does that take?

17 A. Depends on what's, what's lacerated. This was the
18 heart and the aorta, aorta. So, that wouldn't, wouldn't
19 take long.

20 Q. In fact, did you put minutes on your report?

21 A. Yes.

22 Q. Okay. Are there, are there times that it can be
23 seconds?

24 A. Yes.

25 Q. Okay, but, but you put minutes, right?

1 A. Correct.

2 Q. And you were asked about manner of death?

3 A. Yes.

4 Q. If I shot someone in self-defense, I shot them in
5 self-defense, what would be the manner of death?

6 A. Homicide.

7 MS. ZMROCZEK: Beg the court's indulgence.

8 THE COURT: Certainly.

9 (A PAUSE.)

10 MS. ZMROCZEK: Your Honor, may we approach?

11 THE COURT: You may.

12 (OFF-THE-RECORD BENCH CONFERENCE.)

13 THE COURT: Ladies and gentlemen, we're going to take
14 our last break of the day, and we're going to take a
15 fifteen-minute recess. There's a technical issue we have
16 to work out with the projector equipment. So, we'll
17 probably end early today around 4:30, so we'll take a break
18 and then we probably won't have much more time when you get
19 back, but I would count on maybe a longer day tomorrow.

20 So, you can take the jury back to the jury room.

21 Court will be in recess until 4:00.

22 (THE JURY EXITS AT 3:42 P.M.)

23 MS. SAMPSON: Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. SAMPSON: In case she needs to, can you tell her

1 she can go down, go to the bathroom?

2 THE COURT: Oh, yes, ma'am.

3 Court is in recess, Dr. Ross, so you're welcome to do
4 whatever you need to do.

5 (OFF THE RECORD.)

6 (PHOTOGRAPH MARKED AS DEFENDANT'S EXHIBIT NUMBER 1 FOR
7 IDENTIFICATION.)

8 THE COURT: All right, Counsel, anything we need to
9 take up before we bring the jury back?

10 MR. PAULING: Yes, Your Honor, I do believe we have a
11 particular matter.

12 THE COURT: Okay.

13 MR. PAULING: I don't mean to be premature, but at
14 least from our bench conference, it appears to be what Ms.
15 Zmroczek may intend to be doing as part of her cross may be
16 related to asking Dr. Ross about injuries or bruises that
17 -- from a photo, a defense photo of Ms. Pickrell. I
18 believe that exceeds the scope of cross. I know I asked
19 Dr. Ross about defensive wounds as it relates to the
20 victim, Mr. Robert Demary in this case. I don't know if
21 that is, in fact, Ms. Zmroczek's intention, but if so, we'd
22 ask that -- well, that the testimony be proffered for one,
23 Judge, but depending on what her question is, I don't feel
24 it's, it's, it's proper or relevant, especially as relates
25 to this particular witness.

1 THE COURT: Ms. Zmroczek, is, is the state correct
2 that you're going to offer -- you're going to show the
3 doctor photos of the defendant and ask her to offer an
4 opinion?

5 MS. ZMROCZEK: Your Honor, I'm just going to -- I'm
6 not -- what I'm going to do is show her Defendant's 1. I'm
7 not moving it into evidence. I'm just going to show her
8 Defendant's 1, ask her as an expert if that is consistent
9 with some -- with, with someone's hands which, I mean,
10 she's already testified to, and then -- and move the photo
11 in later but just for ID purposes. I mean, I think as an
12 expert witness, it's not outside of her realm. She -- he
13 asked about defensive wounds.

14 THE COURT: No, I, I, I, I agree it's in her field of
15 expertise. My concern is outside scope of the direct
16 examination. There are limitations on what you can do on
17 cross. I mean, you can call her in your case in chief if
18 you want.

19 MS. ZMROCZEK: I could.

20 THE COURT: But I, I understand that that's -- Mr.
21 Pauling's objection is that that -- this is not -- that
22 you're exceeding the scope, the permitted scope of
23 cross-examination.

24 MS. ZMROCZEK: Well, and my concern, Your Honor, is
25 they specifically put two pictures in of his hands.