

VOLUME I OF III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Anderson County

Honorable Eugene C. Griffith, Circuit Court Judge

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S.C. SUPREME COURT

BOBBY JOE ARFLIN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2019-001801

APPENDIX

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5 State of South Carolina) 2014-GS-04-00426
6 -vs-) 2014-GS-04-00340
7 Bobby Joe Arflin,) 2014-GS-04-00341
8 Defendant.) 2014-GS-04-00342
9 _____) August 18, 2015
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11 B E F O R E:

12 The Honorable R. Scott Sprouse, Judge
13

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

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1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 10:06 a.m.)

4 MS. PRICE: May it please the Court. This is the
5 State of South Carolina versus Bobby Joe Arflin. Your
6 Honor, he's charged with murder, possession of a weapon
7 during the commission of a violent crime, and three
8 counts of solicitation of a felony. Those are for
9 kidnappings.

10 Your Honor, the State would like to start with the
11 issue of the consolidation of indictments for trial.

12 THE COURT: Okay.

13 MS. PRICE: Your Honor, I presented the Court
14 yesterday with a memorandum in support of my motion.
15 Your Honor, indictments can be joined when they arise
16 out of a single chain of circumstances, when they are
17 proved by the same evidence, when they are of the same
18 general nature, and when no real right of the defendant
19 has been prejudiced.

20 Your Honor, in this instance, they have -- these
21 charges arose out of a single chain of circumstances.
22 I sent the Court a summation of that. This defendant
23 struck a vehicle being driven -- excuse me -- struck a
24 vehicle that -- while he was driving down Williamson
25 Drive within Anderson County. That vehicle belonged to

1 my victim, Mr. Jody Powell. He was at a birthday party
2 at 122 Williamson Drive. He was not a resident of 122
3 Williamson Drive, but the other people who were present
4 at this party are all residents of that road.

5 He and two other individuals, Brenda Masters and
6 James Madison, came out of the home, had an exchange
7 with this defendant. At some point in time this
8 defendant shot my victim not once but twice before
9 retreating to his vehicle. Some time later, after his
10 arrest for murder, the defendant was placed into a cell
11 with an individual by the name of Roy Lawrence. Roy
12 Lawrence was eventually released.

13 At that time he contacted his brother-in-law, Bud
14 Chitwood, who contacted a chief with the Anderson
15 County Sheriff's Office, who then assigned Detective
16 Gebing to investigate some allegations that
17 Mr. Lawrence had made, that he had been solicited to
18 kidnap the two eyewitnesses to the crime, the murder,
19 as well as an individual by the name of Larry
20 Williamson, who is the uncle of the eyewitness, Brenda
21 Masters, who is the neighbor of Mr. Arflin and who had
22 made a prior complaint which was documented in incident
23 reports that were provided to the defense. So
24 Mr. Arflin would have had access to those in jail. And
25 so those are the three individuals that it was alleged

1 he was soliciting Mr. Lawrence to kidnap.

2 The kidnappings, therefore, the solicitation, all
3 arose out of that same incident. It's all a connected
4 chain of events. The witnesses who would be called in
5 the murder case and the possession of a weapon case,
6 Brenda Masters and James Madison, would also have to be
7 called, I submit to the Court, in the case for
8 solicitation of kidnapping to establish the *res gestae*
9 for the solicitation. It wouldn't make any logical
10 sense for us to separate these when it's an entire
11 chain of circumstances and there's all this interplay
12 with the witnesses and testimony. They're common to
13 each.

14 Now, they each have some, obviously, individual
15 characteristics. The charges are not murder and
16 murder. So they have provable elements by different
17 things, but all of the evidence and the witnesses are
18 at interplay here.

19 Your Honor, the standard is also that the charges
20 be of the same general nature. But the Court has ruled
21 that that means that there's interconnectedness. So
22 the same thing we were just talking about, it is what
23 covers that third prong that was laid out in *State v.*
24 *Tucker* and *State v. Caldwell*.

25 As to the evidence coming in from the

1 solicitations into the murder, the court in *State v.*
2 *Edwards* -- I presented the Court with a copy yesterday.
3 I have an additional copy for the Court today and for
4 Ms. White -- held that evidence of witness intimidation
5 is evidence of guilt and can be brought in if it's
6 linked properly to the defendant to show that
7 consciousness of guilt. And the court ruled that
8 establishing that the defendant was the source of the
9 intimidation was sufficient to be the nexus between the
10 crime where the intimidation occurred and the original
11 crime.

12 So here we have a jail phone call with
13 Mr. Arflin's voice acknowledging the crime. That's the
14 State's allegation. We also have a map and a note that
15 were drawn by and written out by Mr. Arflin that were
16 provided to Mr. Lawrence that SLED tested and came back
17 as a 100 percent match. So I think we arguably have
18 the connection to the defendant here that's necessary
19 under that prong.

20 The second part of the court's evaluation under
21 *State v. Edwards* is a 403 analysis, whether it would be
22 overly prejudicial to the defendant or more probative
23 to the State. Judge, I argue that it is not
24 prejudicial to the defendant simply because it's
25 favorable to the State. Certainly it is favorable to

1 the State to try all these things together. It's
2 convenient. It assists us in showing that this is not
3 an individual who is simply running into a situation
4 where he is confronted with somebody on the street and,
5 oops, something happened. No, sir. This is an
6 aggressive individual. This is the kind of individual
7 who would try to kidnap three people who are witnesses
8 in this case. That goes directly to our case against
9 his self-defense, and, therefore, it's extremely
10 probative to the State's case. Again, it's not
11 prejudicial because I believe under *State v. Edwards*
12 standard and with res gestae, all of that's going to
13 come in regardless of whether the charges are joined --
14 at least that's the State's contention -- at the
15 Court's discretion.

16 The court also said, and I'll note in *Edwards* that
17 they said they could envision a litany of witness
18 intimidation scenarios. So in that instance there
19 were -- that was directly conveyed, the threats were
20 directly conveyed to the witness. In this case they
21 were not directly conveyed to the witnesses, but I
22 don't think that that's been excluded by the *Edwards*
23 court.

24 THE COURT: Ms. White.

25 MS. WHITE: Yes, sir. Judge, we would oppose any

1 joinder. If you look at the test, and certainly that
2 test was stated correctly, your Honor. It's a
3 four-prong test. Do they arise out of a single chain
4 of circumstances, are they proved by the same evidence,
5 are they of the same general nature, and no substantive
6 right of the defendant has been prejudiced.

7 Your Honor, if you look at the single chain of
8 circumstances, the indictments for the murder and the
9 malicious injury, first of all, this happened on a road
10 in another part of the county on December 11, 2013.
11 The allegations -- the shooting did.

12 The allegations are that the solicitation, if you
13 look at the State's indictments -- your Honor, do you
14 want me to hand those indictments up? I don't know if
15 you have those in front of you or not.

16 I have a copy. October of 2014, your Honor, so
17 almost a year later. Your Honor, they are not proven
18 by the same evidence. You have witnesses and a whole
19 different investigator from the shooting incident, a
20 whole different investigator and an informant on the
21 other one that wasn't involved at all in the first one.
22 So this is almost a year apart, different witnesses,
23 different evidence. They're alleging that my client
24 gave him a map and a list of names and that that's
25 evidence in the later one, certainly not in the earlier

1 one.

2 Your Honor, also, if you look at are they of the
3 same general nature, all you have to do is look at the
4 elements of solicitation versus the elements of
5 malicious injury to personal property and murder. They
6 are totally different on that as well. And then are
7 they of the same general nature. Your Honor, they're
8 obviously not. And are they prejudicial, unduly
9 prejudicial, of course they're unduly prejudicial. My
10 client is facing a murder charge and they throw in he's
11 trying to hire people to kill the witnesses.

12 Now, your Honor, I would like to preserve the
13 record, and in *State vs. Cutro* in 2005, the court held
14 in South Carolina at that point changed policy a little
15 bit, and they said, as you know, one of the things that
16 they're looking at in here is is it unduly prejudicial.
17 And one of the things you're looking at is is it going
18 to come in anyway under *Lyle*.

19 And so, of course, *Lyle*, you're looking at first
20 you've got to prove by clear and convincing evidence
21 that it occurred, second, you have got to prove that it
22 fit one of those things in 404(b), motive, intent,
23 whatever it is, and third, you do the 40 weighing, is
24 it unduly prejudicial, does the prejudice outweigh the
25 probative value.

1 So what the court said in *Cutro* is okay, you don't
2 have to look for purposes of joinder of charges only --
3 and this is really important to remember. In other
4 words, if there is a *Lyle* analysis, if this is just a
5 *Lyle* motion, no, the State has still got to prove by
6 clear and convincing evidence. But it says for joinder
7 purposes only, the State can skip that because this
8 thing has been indicted and, therefore, there is
9 sufficient evidence because it's been indicted.

10 So, your Honor, I'm going to argue that that
11 precedent, and obviously I have an ethical duty to tell
12 you there is a case, *State vs. Cutro* and some following
13 cases that say that; however, I would like to argue
14 that that should be changed because indictment and
15 preliminary hearing in this state mean nothing. And
16 let me kind of outline that, and then I've got a
17 witness on it.

18 First of all, for indictment, your Honor, hundreds
19 of indictments go in. As a matter of fact, it was
20 funny. When I was preparing for this, I had already
21 prepared this argument, and the Greenville paper had a,
22 I think it was front page the other day about how
23 everybody is raising cane because they do like 400
24 indictments in less than a day over there. Your Honor,
25 I'm going to be submitting evidence from the clerk of

1 court that indictment means nothing in this state. In
2 fact, they do hundreds or a hundred even in one
3 morning. We're not even notified. By we, I mean the
4 defense. We're not allowed to present anything. One
5 officer goes in -- there are no rules of evidence
6 whatsoever -- and presents indictment after indictment
7 after indictment. And I think you're going to hear
8 from Mr. Shirley's testimony at best it's about two
9 minutes per indictment. We're not allowed to be there.
10 We're not allowed to present any evidence. It
11 certainly does not substitute for clear and convincing
12 evidence, which is what would normally be required.

13 Your Honor, preliminary hearing. A preliminary
14 hearing, as you know, is about 15 minutes. Basically
15 no rules of evidence. Hearsay is admissible. Defense
16 is not allowed to present evidence. It's got to be
17 held within ten days of the request, and you've got to
18 request it within ten days. And then even if you file
19 your discovery motion that day, you've got 30 days
20 before you get your discovery. So by the time you go
21 to preliminary hearing, number one, you're not allowed
22 to present anything; number two, you haven't even seen
23 the discovery. All you're allowed to do is
24 cross-examine an officer, and hearsay is admissible.
25 So again -- and -- and I want to point out neither one

1 of those require clear and convincing evidence.

2 THE COURT: But you will agree the preliminary
3 hearing has no bearing on the indictment.

4 MS. WHITE: I think the only reason why I mention
5 the preliminary hearing is that I think it's *Cutro* or
6 one of the following cases says, you know, by then it's
7 been through preliminary hearing and indictment and
8 police investigation. So that's the only reason why I
9 mention that.

10 THE COURT: The State can indict even if there's a
11 dismissal at a preliminary hearing.

12 MS. WHITE: Absolutely. They can direct indict.
13 You don't even need one. But let's say that you've got
14 that. Still, you don't have anywhere that's happened
15 that you have to have clear and convincing evidence,
16 so, therefore, it's not an adequate substitute for a
17 clear and convincing.

18 Now, why is that important in this case? The
19 reason why it's important in this case, your Honor, is
20 my client has been in jail for almost a year and a
21 half. We have one person who says, "Oh, yeah, by the
22 way, he tried to hire me to do this." My client, of
23 course, denies that at all. My client, every time he
24 does something, writes things out, draws things. If
25 he's going to tell you about his case, he's going to

1 draw the whole thing out. That does not mean he hired
2 somebody.

3 Your Honor, the CI in this case has a lengthy
4 record going all the way back to the '80s, crime after
5 crime after crime after crime. He's got pending
6 charges right now for molesting a seven-year-old. He's
7 facing 25 years to life.

8 Your Honor, he talked to my client on the phone
9 and says, "Oh, about that kidnapping." Now, did he try
10 to get my client to do something? We're not going to
11 say he didn't try to. He's been through the system a
12 million times. He knows what it takes to get a deal.
13 My client says on the phone, "Yeah, hold off on that."
14 And then he says, "Well, will you put me on your
15 visitor list?" My client says, "Nope. It's full."
16 And then he says, "Well, will you write me a letter?"
17 He's like, "Yeah, yeah. I'll write you a letter." He
18 never wrote him a letter. My client is in jail. First
19 of all, there was no trial date. Is it really
20 believable? Is it clear and convincing evidence to
21 believe my client is going to have him kidnap a bunch
22 of people, three witnesses -- one wasn't even there --
23 and hold them for some indefinite amount of time. And
24 how's he going to arrange it? He's in jail. The only
25 thing he can do is put him on a visitor list, write

1 him, or talk to him on the phone. He said, "I'm not
2 talking to you on the phone." He said, "I'm not adding
3 you as a visitor." He has said, "Okay. Yeah, yeah,
4 yeah, I'll write," and then never writes. The
5 detective repeatedly calls the CI, "Has he written you
6 yet?" "No." "Has he written you?" My client never
7 wrote him.

8 And so I think that if we had to look at this
9 clear and convincing standard, not only would it not be
10 proven by clear and convincing evidence, it's
11 impossible. My client could not have done it. And so
12 that's why I'm going to argue against precedent.

13 But regardless of that, and then *State vs. Edwards*
14 is quoted. And, yes, certainly it does say
15 intimidation of a witness is admissible in a case if
16 it's proven. First it has to be proven to be reliable.
17 Not only is this not reliable, it's impossible. And
18 so, therefore, your Honor, I think that that's
19 important.

20 Now, regardless of that, and I certainly would
21 like to preserve the record and say 404(b) hasn't been
22 complied with, et cetera. However, let's say that the
23 precedent is not changed. We still have to find it's
24 not unduly prejudicial. We still have to prove these
25 other factors. And by we, I mean the State has got to

1 show those things. And, your Honor, those are not
2 proven in this case. Again, we've got almost a year
3 apart. We've got different elements. We've got
4 different witnesses.

5 THE COURT: Ms. White, let me ask you this.

6 MS. WHITE: Yes, sir.

7 THE COURT: Do you agree or disagree that the
8 State has a witness claiming that your client tried to
9 solicit a kidnapping?

10 MS. WHITE: That's the CI I talked about.

11 THE COURT: And do you agree or disagree that the
12 State has a tape-recording that purports to discuss
13 this kidnapping? That's the tape you're mentioning?

14 MS. WHITE: That's the tape I mentioned where my
15 client says, "Yeah, hold off on that," and says yeah
16 "No, I'm not" --

17 THE COURT: I understand your client's denying it,
18 but how is this not a question of fact? How's this not
19 purely a question of fact for a jury to decide?

20 MS. WHITE: Because initially, before the jury
21 hears anything, it's got to meet this test. You've got
22 to make the -- you're the gatekeeper on it.

23 THE COURT: I mean, okay. Now, I understand you
24 disagree with *Cutro*. I'm noting what you're seeking,
25 and of course, that's at a different level than this

1 court that's going to have to change what's been handed
2 down. But you agree that this court is bound by the
3 law handed down in *Cutro*?

4 MS. WHITE: I do, but that's only one part of the
5 test. I still think it fails other parts of the test.
6 But that portion of the test, I'm just arguing for
7 possible appellate purposes, should be changed. But it
8 still fails because of, again, about a year apart,
9 different elements, different witnesses, et cetera.

10 And, your Honor, I would like to proffer a little
11 bit of testimony for appellate purposes -- it will be
12 very short -- of Richard Shirley.

13 THE COURT: Go ahead. The Court will certainly
14 allow you to do that.

15 MS. WHITE: Do you want him here or there?

16 THE COURT: Mr. Shirley, I'll let you testify
17 right there as long as our court reporter can hear you.

18 **RICHARD A. SHIRLEY,**

19 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

20 THE COURT: State your name for the record.

21 THE WITNESS: I am Richard A. Shirley. I'm the
22 clerk of court for Anderson County.

23 **DIRECT EXAMINATION**

24 **BY MS. WHITE:**

25 Q Mr. Shirley, what's your occupation?

1 A I am the clerk of court for Anderson County.

2 Q And as part of being the clerk of court, are you
3 in charge of indictments from the clerk of court's
4 office and the Grand Jury?

5 A I am -- I would say that I organize the Grand Jury
6 effort.

7 Q All right. And will you please state for the
8 record how often the Grand Jury meets in Anderson,
9 South Carolina on average?

10 A Once a month.

11 Q And is that before the next term of court
12 normally?

13 A Normally.

14 Q And are you normally present when the Grand Jury
15 begins its session that day?

16 A I typically go upstairs to make sure that we have
17 a quorum, and I say good morning and make sure that the
18 room is ready, but that's the extent of my involvement.

19 Q All right. And normally what time do they get
20 there on the day -- wait a minute. Let me clarify
21 something. Do they meet one day or more than one day?

22 A One day.

23 Q And when you go up there and see to them, have
24 they already eaten breakfast, or do you provide
25 breakfast?

1 A We -- there was a tradition started well before I
2 became the clerk to provide them a breakfast snack from
3 a local restaurant.

4 Q So do you have that prepared and waiting for them,
5 or do you take an order and go get it?

6 A We take an order.

7 Q All right. And what time does the Grand Jury
8 report for duty?

9 A 9 o'clock.

10 Q Now, I asked you, I believe, to pull the number of
11 indictments issued from the time that the indictment
12 was issued in this murder case on the original charges
13 to present; is that correct?

14 A Yes.

15 Q And once the Grand Jury indicts, first of all, to
16 your knowledge, have they ever no billed a case, an
17 indictment?

18 A They have no billed very few, but they have no
19 billed.

20 Q Approximately how many? I'm not going to hold you
21 to the exact amount, but approximately how many?

22 A On June -- from the records that you asked me to
23 pull --

24 Q Yes, sir.

25 A -- which was March of 2014 until July of 2015, I

1 have the presentment from each month. They no billed
2 two in June of 2014, they no billed -- with the Court's
3 indulgence -- I apologize. That was the only time they
4 no billed.

5 Q All right. And how many indictments altogether
6 were true billed approximately?

7 A Roughly 150 a month.

8 Q All right.

9 A The total for the time in question -- I just added
10 it up -- was 2,510. 2,510.

11 Q All right. Now, does the jury when the Grand Jury
12 is done with reviewing -- well, first of all, to your
13 knowledge, are defense attorneys notified about the
14 Grand Jury, even notified about it?

15 A No.

16 Q And to your knowledge, are the defendants present?

17 A No.

18 Q And to your knowledge, are they allowed -- by they
19 I mean the defendants or their attorneys -- allowed to
20 present any evidence?

21 A No.

22 Q And so, to your knowledge, does each officer on
23 each indictment come or does one officer from each
24 department come normally?

25 A Normally we have a room full of officers, so I'm

1 assuming that each officer comes and presents their own
2 cases.

3 Q Okay. And when the Grand Jury is done, when they
4 have heard all the indictments for that day, what's the
5 procedure? What happens?

6 A The foreperson prepares this presentment and
7 processes the indictments with the statement saying
8 that it has been returned as a bill, and then this is
9 all presented to a judge.

10 Q All right. Now, to your knowledge, about what
11 time does the Grand Jury normally wrap this up, these
12 150 indictments per session?

13 A I don't know that they have ever gone past lunch.
14 In the five years that I've been the clerk, we have
15 never provided lunch.

16 Q All right. So what do you consider lunch, 12:00
17 or 1:00?

18 A About 12:30, 1 o'clock.

19 Q So you said about 150 indictments per time period.
20 Would you agree, even if they don't eat breakfast, even
21 if they don't order, if they work straight through to
22 you said 12:30, 12:00, 12:30 -- let's give it 12:30 --
23 that would be, what, about 2,100 minutes then?

24 A Yep.

25 Q Okay. So 2,100 minutes divided by 150

1 indictments, what would that be about, do you know?

2 A It's about one and a half.

3 Q Minutes per indictment?

4 A Yep.

5 Q So if a case is indicted, that means no defendant
6 present, no defendant notified, no presentation from
7 the defense, and the Grand Jury spent at most about a
8 minute and a half on the case; is that correct, if you
9 average it out?

10 A If you average it out.

11 Q Just one minute, please.

12 MS. WHITE: Your Honor, that's all I have to
13 proffer.

14 THE COURT: Any cross?

15 MS. PRICE: Please, your Honor.

16 THE COURT: Yes, ma'am.

17 MS. PRICE: Thank you.

18 CROSS-EXAMINATION

19 BY MS. PRICE:

20 Q Mr. Shirley?

21 A Yes, ma'am.

22 Q Does a case start out with an officer making the
23 case, in your experience?

24 A In my limited experience. I would like to remind
25 the Court that I was a banker for 34 years. I'm not a

1 lawyer. I'm not a police office.

2 Q As the clerk of court, with your understanding of
3 court proceedings, an officer, it would be in his
4 discretion to make a case before it even became a case,
5 correct?

6 A Absolutely.

7 Q To issue a warrant, right?

8 A Yes.

9 Q Then he would have to take that to a magistrate;
10 is that correct?

11 A Correct.

12 Q And after he's taken it to a magistrate, at that
13 time it would have to go through a preliminary hearing;
14 is that correct?

15 A Correct.

16 Q Okay. And oftentimes they're dismissed at that
17 preliminary hearing; is that correct?

18 A That's my understanding.

19 Q Okay. And, Mr. Shirley, at that time the case
20 continues on to the prosecutor's office, the
21 solicitor's office, at which time my office,
22 Ms. Chrissy Adams' office, can make discretionary calls
23 about whether or not to go forward on those charges; is
24 that correct?

25 A Absolutely.

1 Q And at that time finally, and only then, is the
2 case sent to a Grand Jury; is that correct?

3 A That's correct.

4 Q Okay. So would you agree, Mr. Shirley, that there
5 is a significant culling of cases prior to the Grand
6 Jury?

7 A That's my assumption, yes, ma'am.

8 Q All right.

9 One moment, please.

10 Mr. Shirley, is this your procedure or is this a
11 procedure for the Grand Jury that is set out by some
12 other entity?

13 A I believe that this procedure was set out
14 originally by the Magna Carta from the 1600s.

15 Q So you belong to a power greater than yourself?

16 A Absolutely.

17 Q Okay. So court administration, this state follows
18 these proceedings?

19 A Yes.

20 Q And, to your knowledge, universally across the
21 state?

22 A Yes, ma'am.

23 Q And, Mr. Shirley, is it your understanding that
24 Grand Jury proceedings are secret?

25 A I think that is probably the most important part

1 of the process of the Grand Jury.

2 Q And nothing further, Mr. Shirley. Thank you very
3 much.

4 REDIRECT EXAMINATION

5 BY MS. WHITE:

6 Q Mr. Shirley, are cases non pros and found not
7 guilty that have been indicted? Y'all ever have non
8 pros or dismissals of cases that have been indicted?

9 A Are you referring to like if somebody has four
10 charges and the solicitor might would negotiate?

11 Q Or dismissing a case, just dismissing it.

12 A I would assume so, yes, ma'am.

13 Q All right. And to your knowledge, do any of the
14 bodies to which we just discussed, does -- is clear and
15 convincing evidence required --

16 MS. PRICE: I'm going to object, your Honor.
17 Mr. Shirley just said he was a banker --

18 THE COURT: I sustain the objection.

19 BY MS. WHITE:

20 Q So are you aware of any standard by anybody who
21 reviews it through Grand Jury that requires clear and
22 convincing evidence before the next step can occur?

23 A No, ma'am.

24 MS. WHITE: No further questions, your Honor.

25 THE COURT: Anything further from this witness?

1 MS. PRICE: Nothing further from this witness,
2 your Honor.

3 THE COURT: Anything further on the State's motion
4 for joinder?

5 MS. WHITE: Your Honor, I would just ask that the
6 witness be excused and be allowed to travel back to
7 Anderson.

8 THE COURT: Well, I will grant that; however,
9 Mr. Shirley, are you going to stay for the remainder of
10 the hearing?

11 THE WITNESS: Yes.

12 MS. WHITE: In that case.

13 THE COURT: The court of Anderson obviously has an
14 interest in seeing that the paperwork gets delivered
15 back to the courthouse in Anderson.

16 MS. WHITE: Yes, sir. And to answer your
17 question, no, sir, we have nothing else.

18 MS. PRICE: Your Honor, I apologize for doing
19 this, but because we're preserving the record for
20 appeal, I would like to put something very briefly on
21 the record concerning what Ms. White has brought up
22 with regard to the Grand Jury process if your Honor
23 will entertain it. We'll be very brief.

24 THE COURT: Yes, ma'am.

25 MS. PRICE: Your Honor, I'm going to pass up to

1 the Court and give to Ms. White several cases: *Evans*
2 *v. State*, 363 S.C. 495; *State v. Sanders*, 251 S.C.
3 431; *State v. Capps*, 276 S.C. 59; *State v. Bradford*,
4 256 S.C. 51; *State v. Williams*, 301 S.C. 369; and *Ex*
5 *Parte McLeod*, 272 S.C. 373.

6 Your Honor, I just wanted to make these part of
7 the record. They stand for the proposition, for the
8 most part, that the Grand Jury's proceedings are
9 secret, that solicitors do not go into the proceedings,
10 defense attorneys do not go into the proceedings, that
11 without a clear showing by the defense that there has
12 been any improper impaneling or prejudice to the
13 defendant specifically, that the Grand Jury proceedings
14 are considered to be aboveboard.

15 Your Honor, particularly, I'd also like to point
16 out and put on the record *Evans v. State* which says
17 that impanelment documents may be released to a
18 defendant after the state Grand Jury has issued a true
19 bill of indictment against that defendant. A
20 defendant's request should be made prior to trial
21 pursuant to Rule 5. If the State should object to
22 releasing all or part of the impanelment documents, a
23 defendant may move to compel discovery of the
24 documents. It also says only the State possesses the
25 necessary information to analyze the issue and to

1 explain to the court why releasing the documents should
2 be prohibited or delayed. Ms. White never requested
3 those documents from my office. This is the first time
4 I've heard of any of this. And so my -- my
5 proposition, for the record, I want to put on the
6 record that any argument she's made is improper because
7 she's gone about it improperly procedurally.

8 MS. WHITE: I don't even know what we're talking
9 about. I'm not making that objection. I'm not making
10 an objection at all as to what happened on his Grand
11 Jury case. What I'm saying is for purposes of joinder,
12 you should not assume something has been proven by
13 clear and convincing because you can't assume that by
14 the Grand Jury process, so I don't even know what we
15 are talking about. I'm not making that objection.

16 THE COURT: I note your motion.

17 MS. PRICE: Thank you, sir.

18 THE COURT: And, Ms. White, I understand. I
19 understand what your argument is.

20 Anything else on the motion for joinder?

21 MS. PRICE: Your Honor, just to be clear that
22 *State v. Cutro* is still good law and that clear and
23 convincing is not the standard as it stands at this
24 time.

25 THE COURT: All right. I will agree that the

1 Cutro case is still the law of South Carolina, and this
2 Court is bound to apply the law as handed down from
3 higher courts.

4 I find that that the solicitation of kidnapping
5 warrants -- solicitation to commit a felony indictments
6 for purposes of this case are interconnected, and I
7 would also find on the record certainly the evidence
8 that the State seeks to admit is prejudicial to the
9 defendant; however, the evidence of witness
10 intimidation as stated in the *Edwards* case is directly
11 probative, if believed. If the evidence is believed,
12 it would show a consciousness of guilt, it would
13 corroborate the State's position, and that is directly
14 probative evidence.

15 Now, the prejudice to the defendant is obvious in
16 that situation. I find that the probative value would
17 outweigh the prejudicial effect. Arguments of defense
18 counsel regarding believability of the informant, the
19 unlikelihood of the circumstances, all that goes toward
20 the weight of the evidence and not the admissibility of
21 the evidence, so, therefore, I'm going to grant the
22 State's motion for joinder of the indictments in this
23 case and allow that.

24 Now, ladies, you mentioned to me once we have that
25 issue out of the way, we have a whole string of other

1 issues that are going to come up, so let's just deal
2 with those one at a time.

3 MS. PRICE: Yes, sir. In that event, I believe
4 that Ms. White probably is the appropriate person to
5 make the next motion pertaining to -- she had alluded
6 that she wanted to suppress some testimony from Roy
7 Lawrence. Is that correct, Ms. White?

8 MS. WHITE: Your Honor, we would move, then -- the
9 informant in this case, your Honor, is planning to
10 testify, obviously, and I believe we met in chambers
11 before this, and we agreed our next motion would be
12 that we should be able to bring up, by impeachment, of
13 course, if he testifies that he's facing CSC with a
14 minor first, it's 25 to life, for molesting a
15 seven-year-old.

16 From what I understand, the State does not have an
17 objection to this. I think the case law is very, very
18 clear. If you care to look at the cases, there are
19 just numerous cases on point on it, and we'll be happy
20 to hand those up, but from what I understand, they're
21 not contesting it.

22 MS. PRICE: Your Honor, may it please the Court.
23 As to what Ms. White just specifically said, I do not
24 have an objection to the actual charge being read out.
25 As to the seven-year-old versus the actual charge,

1 which is CSC with a minor under the age of 11, I
2 believe, that would be, I think, appropriate. The
3 seven-year-old is a specific fact pertaining to the
4 charge, and I think that that -- that could be
5 inappropriate. However, I have no objection to, He is
6 charged with this specific charge and he's facing 25 to
7 life.

8 THE COURT: I think Ms. White is entitled to get
9 some basis of the charge without naming the victim.

10 So, Ms. White, I'm going to grant your motion on
11 that, provided that it sticks to the information you
12 just put on the record.

13 MS. PRICE: Your Honor, may it please the Court.

14 THE COURT: Yes, ma'am.

15 MS. PRICE: And if she gets into or tries to get
16 into additional facts about that, I believe that
17 Mr. Lawrence would be entitled to invoke his Fifth
18 Amendment rights.

19 MS. WHITE: Obviously I don't think the case law
20 allows me to grill him about the facts of his case, but
21 I do think the jury is entitled to see the severity of
22 what he's facing.

23 THE COURT: I'm going to allow you to
24 cross-examine him on what you stated in the record, but
25 we won't go any further.

1 MS. WHITE: That's all I intend to do, your Honor.

2 MS. PRICE: As to the rest of his record, would
3 you like to address that, Ms. White?

4 Before I forget -- I'm sorry to interject this.
5 Ms. White alluded to and I believe you have the
6 indictment for malicious injury. The State is not
7 going forward on that. The docket has been published.
8 That is not a part of this trial.

9 THE COURT: That would be indictment 427,
10 2014-GS-04-0427?

11 MS. PRICE: Yes, sir. We're not going forward on
12 that indictment.

13 MS. WHITE: That's going to be dismissed with
14 prejudice then?

15 MS. PRICE: No, sir. We'll wait until the
16 resolution of the case and we'll handle it at that
17 time. I'm not required to do anything with it prior to
18 the onset of trial, I don't believe, your Honor. I'm
19 just choosing not to try it at this juncture.

20 THE COURT: Well, Ms. Price, I thought the whole
21 point of your joinder motion was judicial economy. You
22 wanted to bring all the charges of the State's case,
23 not --

24 MS. PRICE: Well, I do. That's true. But I
25 wouldn't be dismissing it with prejudice, certainly. I

1 might be dismissing it as a duplicative charge or as
2 under some other code. But I certainly won't be
3 dismissing it with prejudice until the resolution of
4 the case.

5 Allow me to tell the Court why if the Court
6 doesn't already guess. Ms. White is going to try to
7 say that there's no basis for the allegation that
8 Mr. Arflin hit my victim's car if I dismiss that
9 indictment. Now, unless the Court instructs her not to
10 go down that road because of the dismissal of the
11 indictment, in which case I think that's appropriate.
12 I'm not going forward on that indictment because he's
13 facing life on a murder charge. I have other fish to
14 fry. That is not something that I'm seeking to prove.
15 I don't -- in fact, I've got some evidence of that, but
16 that's just not something I'm going forward on.

17 THE COURT: Ms. White.

18 MS. WHITE: Your Honor, I'm just making sure,
19 then, that you don't rule that they cannot try that
20 together, that there's been no ruling that they can't
21 do that.

22 THE COURT: I'm not issuing a ruling on that.
23 Okay.

24 MS. PRICE: Thank you, your Honor.

25 As to the rest of his record, Ms. White provided

1 me with notice that she intends to impeach Mr. Lawrence
2 with a variety of charges stepping back to 1978. I'll
3 read those out to the Court if you allow me.

4 THE COURT: Tell me what they are.

5 MS. PRICE: 1978, larceny; 1979, shoplifting; she
6 listed a 1979 probation violation; 1981, forgery; 1981,
7 petty larceny; 1981, shoplifting; 1982, unlawful use of
8 weapon; 1983, forgery; 1984, carrying a concealed
9 weapon; 1984, grand larceny; 1984, vehicle theft; 1986,
10 grand larceny; 1987, probation violation; 2002, grand
11 larceny; and 2002, armed robbery.

12 Your Honor, under 609, the party seeking admission
13 of a prior conviction has the burden of establishing
14 the basis for admission. So at this time I'll defer to
15 Ms. White.

16 THE COURT: Ms. White.

17 MS. WHITE: Your Honor, the entire case of this
18 solicitation, now that it is before the jury, the
19 joinder has been granted, is based on this person's
20 credibility. Your Honor, I believe that there is
21 several different factors that one must consider. And
22 by the way, we did give notice, written notice, as
23 required by the rule.

24 Your Honor, if you look at the test under 609, and
25 of course the court has held this isn't an exhaustive

1 list of factors, but these are the factors that you
2 consider, and one is the impeachment value of the prior
3 crime, the point in time of the conviction, and the
4 witness' subsequent history, which as you can see, he's
5 very busy, the similarity between the past crime and
6 the charged crime, the importance of the defendant's
7 testimony and the centrality of the credibility issue.

8 Now, I will say, your Honor, most of the cases
9 involving this deal with the State impeaching the
10 defendant with prior things. And I think that
11 definitely bears on the probative value versus the
12 prejudicial effect because in this particular case
13 we're actually not talking about the defendant at all.
14 We're talking about the CI.

15 Your Honor, again, we did give written notice.
16 This has huge impeachment value. Now, as you know, any
17 of us who read the advance sheets, the latest case that
18 came out on armed robbery said -- and I beg to differ
19 on this one, too, so I'm going to preserve my right on
20 this -- that armed robbery is not a crime of
21 dishonesty, which, you know, you look, and I think
22 there was a dissent in there that actually talked about
23 that, that, yeah, you're stealing, actually, so --

24 THE COURT: I believe there was a spirited
25 discussion.

1 MS. WHITE: There was a spirited discussion. So
2 as much as I disagree and I would like to preserve the
3 record in asking that that, too, be changed,
4 nonetheless, in that case it certainly held -- we're
5 not saying that armed robberies can't come in. What
6 we're saying is, judges, you have to do this balancing
7 test before it comes in or is ruled out. So, your
8 Honor --

9 THE COURT: That's the *Broadnax* case.

10 MS. PRICE: Yes, sir. I have a copy of that.

11 MS. WHITE: I do. Hold on.

12 THE COURT: Ms. White, anything further?

13 MS. WHITE: Yes, sir. Just, your Honor, the armed
14 robbery and grand larceny, I think he was released
15 around 2001-ish. However, he was on parole for another
16 nine years thereafter. And, of course, he was arrested
17 again for this CSC with a minor case in 2014. So,
18 therefore, your Honor, on the armed robbery, your
19 Honor, he was -- it says serving parole in South
20 Carolina until 2009. So he was on parole that length
21 of time.

22 MS. PRICE: May it please the Court. Parole does
23 not count for purposes of that rule, as I understand
24 it. There's good federal case law that says that.

25 THE COURT: Okay. Now, all these convictions are

1 over ten years old. Is there any conviction that's
2 under ten years?

3 MS. WHITE: No, sir. And, again, our contention
4 is -- and that goes to whether they should come in. He
5 was on parole. He was being monitored frequently.
6 But, no, sir. The armed robbery is -- well, I mean,
7 there's not a conviction on the CSC at this point, and
8 the armed robbery and grand larceny, that's the last
9 one.

10 THE COURT: The 2002 grand larceny is the last --
11 that and -- was the 2002 grand larceny and the 2002
12 armed robbery simultaneous?

13 MS. PRICE: I believe so.

14 MS. WHITE: All I know is they went to court
15 together. Now whether they were the same incident or
16 not, I don't know, but they went to court together.

17 THE COURT: Ms. White, what is your basis for the
18 convictions going way back until the '70s? You have
19 got some of these that are 30 -- the closest in time is
20 a 1986 grand larceny, which is 29 years old. How do
21 you argue that the remoteness of that should not be
22 considered?

23 MS. WHITE: Because, your Honor, one of the
24 factors is the point in time of the conviction and the
25 witness' subsequent history. And, therefore, you know,

1 back in the '80s he started and went and went and went
2 and went and went and went, and he just continued
3 straight on through. And so that's one of the reasons
4 why, because he had a very continuous history there,
5 and they're asking him on his word to convict my client
6 of solicitation.

7 THE COURT: Okay. Ms. Price.

8 MS. PRICE: Thank you, your Honor. May it please
9 the Court. As your Honor recognized, there are two
10 charges of forgery. Those are the only crimes of
11 dishonesty that I see in the list that Ms. White gave
12 me after the ruling in *State v. Broadnax* where they
13 specifically held convictions for robbery, burglary,
14 theft and drug possession are not probative of
15 truthfulness. So all those larcenies, grand larcenies,
16 petty larcenies don't come in.

17 The probation violations -- and we're talking
18 about parole, but the probation violations are
19 addressed in *Commonwealth v. Dimuro*. It says --

20 THE COURT: I agree. I think -- that's well
21 settled in the law.

22 MS. PRICE: Thank you, your Honor. Then I'll move
23 on.

24 THE COURT: Really, I think, Ms. Price, you're
25 right as far as what the court says in *Broadnax*. We're

1 really dealing with a 1981 forgery conviction and a
2 1983 forgery conviction.

3 MS. PRICE: Yes, sir.

4 MS. WHITE: Well, your Honor, though they're not
5 automatic excluded, all they're saying in *Broadnax* is
6 it doesn't automatically come in and then you go to the
7 weighing test. So all they're saying -- the error in
8 *Broadnax* was the court said this is a crime of
9 dishonesty. I don't have to weigh anything. It
10 automatically comes in. And what the court held is no,
11 we're not saying it comes in or it doesn't come in.
12 What we're saying is, judge, you've got to weigh these
13 factors, and you've got to make a decision. It's
14 not -- there are two ways, in 609, two ways that things
15 come in. Number one, they're a crime of dishonesty.
16 Boom, they come in. The judge doesn't weigh anything.
17 It comes in automatically, or, two, you go to the
18 weighing test. And what the court in *Broadnax* said is
19 this isn't an automatic admission, this is a weighing
20 decision.

21 MS. PRICE: May it please the Court.

22 THE COURT: Yes, ma'am.

23 MS. PRICE: Your Honor, they don't boom, just come
24 in. If they're over ten years old, they still go
25 through the -- they still go through the court's

1 discretion and his analysis of whether or not they're
2 probative. I would say that their remoteness in time
3 is exactly what makes them just completely outside the
4 scope of what would have any bearing on Mr. Lawrence's
5 testimony.

6 Now, certainly, as I already agreed, I conceded
7 that his more recent charge and what he's facing should
8 come in and go towards his credibility. But all of the
9 charges other than the two crimes of dishonesty that I
10 see that are so very remote, one of them was from the
11 year I was born. So I guess I'm calling myself old,
12 but they're so remote, in fact, that I certainly would
13 think that by 30 years, 30-plus years, 34 years passed,
14 you would be able to rehabilitate your credibility if
15 you made an error in judgment.

16 MS. WHITE: Your Honor, what I'm talking about
17 here is, of course, you have to look back at 609(a).
18 And in 609(a) there are two tests. For the purpose of
19 attacking the credibility of a witness, evidence of
20 witness other than the accused has been convicted of a
21 crime shall be admitted subject to Rule 403 if the
22 crime was punishable by death or imprisonment in excess
23 of one year under the law, blah, blah, blah. And then
24 evidence that a witness has been convicted of a crime
25 shall be admitted if it involved dishonesty or false

1 statement regardless. And so there is no weighing test
2 under number two.

3 MS. PRICE: Your Honor --

4 MS. WHITE: And, of course, ten years or more,
5 you've got to do a weighing test. But what I'm saying
6 is it's referring you back to automatic versus not
7 automatic.

8 MS. PRICE: And the only two we have are from ten
9 years or more, your Honor.

10 THE COURT: 2002. All right. The Court is
11 concerned about the remoteness of the forgery
12 convictions. However, in balancing the nature of the
13 case, what the State's proving by their evidence or
14 what the State is attempting to prove by their evidence
15 and the issue of credibility being central to the
16 additional charges, I'm going to allow defense counsel
17 to bring up the forgeries since they are directly
18 crimes of dishonesty or false statement.

19 I am going to -- in reading the *Broadnax* case, it
20 does state explicitly that an armed robbery is not, per
21 se, a crime of dishonesty. However, it does allow that
22 evidence be admitted if the court conducts the test,
23 which, Ms. White, I'm going to let you bring up the
24 2002 grand larceny and the 2002 armed robbery. So I'm
25 going to allow the '81 forgery, the '83 forgery, the

1 2002 grand larceny, the 2002 armed robbery, and then
2 everything else would be excluded.

3 MR. PRICE: May it please the Court.

4 THE COURT: Yes, ma'am.

5 MS. PRICE: Your Honor, I haven't seen copies of
6 those certified prior convictions that Ms. White would
7 be required to provide me with prior to trial, so I
8 would just insist if she plans to use them, that I
9 would be able to have copies of those.

10 MS. WHITE: Actually, I don't need to have a
11 certified conviction. I can ask him about it, and if
12 he denies it, I'm stuck with the denial. But I do have
13 certified convictions, and I'll go through and look --

14 THE COURT: Provide that to Ms. Price. That's an
15 easily resolved issue prior to trial. All right.

16 MS. WHITE: And, your Honor, I want to say we got
17 certified convictions on all sorts of stuff. I don't
18 know if I've got them on there, but certainly the
19 conviction, we would be able to ask him about
20 regardless. They don't say you have to have certified
21 convictions. I do think I have these as well as many,
22 many others, but I'll look.

23 MS. PRICE: Thank you, your Honor.

24 THE COURT: Next.

25 MS. PRICE: Yes, sir. So Mr. Lawrence's record

1 being out of the way, I believe the defense was going
2 to make a motion regarding suppression of
3 Mr. Lawrence's statement or of the jail call? Am I
4 incorrect? You had alluded to that.

5 MS. ASHLEA WHITE: Yes, ma'am.

6 Your Honor, we would argue that --

7 THE COURT: State your name for the court
8 reporter.

9 MS. ASHLEA WHITE: I'm sorry. Ashlea White,
10 A-s-h-l-e-a, White, as in the color.

11 We would argue that the defendant's Sixth
12 Amendment and Fifth Amendment rights were violated when
13 Roy Lawrence acted as a state agent and confronted the
14 defendant and elicited statements about his pending
15 charges and during an investigation for future charges
16 in the solicitation.

17 Of course, his Sixth Amendment rights were
18 attached when he was arrested in 2013 in December. He
19 was immediately read his Miranda rights and invoked his
20 right to counsel at that time, so his Fifth Amendment
21 rights were, you know, applied at that point.

22 We would offer -- yeah, I'm sorry. Did I say
23 both? Fifth and Sixth. We would offer testimony from
24 Roy Lawrence and possibly Rob Gebing. Rob Gebing is
25 the detective who spoke with the criminal informant or

1 agent of the State, however you would like to term him,
2 and elicited or instructed him to speak with the
3 defendant and asked specific questions of him and told
4 him specifically what to say, what to do and how to
5 handle any evidence that he may or may not have been
6 given by the defendant. And certainly that would help
7 prove that he was acting as an agent of the state, if
8 you would like to hear that testimony.

9 And, of course, Mr. Arflin has been in jail since
10 December 2013 and has not had any break in that
11 imprisonment. He was obviously interrogated by this
12 agent of the state, you know, through Rob Gebing and
13 his questioning of the defendant, and we think that
14 that, of course, goes to the violation of his Fifth and
15 Sixth Amendment right to counsel at that time.

16 THE COURT: So your argument is that the informant
17 talking to the defendant via telephone through the
18 detention center constituted a custodial interrogation;
19 is that correct?

20 MS. ASHLEA WHITE: Correct.

21 MS. PRICE: May it please the Court.

22 THE COURT: Ms. Price.

23 MS. PRICE: Yes, sir. Your Honor, before any
24 proffering of testimony, the suspect was admittedly in
25 custody. There's no -- he was in jail, absolutely, and

1 he gave directions to Mr. Lawrence prior to
2 Mr. Lawrence's release, and Mr. Lawrence was in contact
3 with law enforcement. He met with Detective Gebing.
4 At that time Detective Gebing asked him what happened,
5 and he said essentially, "Okay. Mr. Arflin has asked
6 me to kidnap these three individuals. He promised me
7 land. Here it is. This is -- here is a map. Here is
8 a list of names. And this is what he told me to do."
9 Detective Gebing said, Okay.

10 And Detective Gebing, by the way, was assigned the
11 case through three other people. Bud Chitwood, who
12 works for the APD is the brother-in-law of Roy
13 Lawrence. Roy Lawrence told Bud Chitwood, "Hey, when I
14 was in jail, somebody told me to do these things."
15 Mr. Chitwood then got in contact with the sheriff's
16 office, and the sheriff's office then assigned
17 Mr. Gebing to the case. It was not until that point in
18 time, which was months after the initial arrest, that
19 Mr. Gebing was involved in any of this. Mr. Lawrence
20 was not planted in the cell. I don't believe that
21 there's any allegation that he was planted in the cell,
22 but he certainly wasn't planted in the cell, and he
23 approached law enforcement after the fact.

24 So after their initial meeting, Detective Gebing
25 told Mr. Lawrence, "Well, if you talk to him about it

1 again, if he calls you, then ask him about it," knowing
2 that these calls are recorded. He said, "Yeah,
3 absolutely ask him about it. Get him to talk about
4 it." The State concedes that at that point when
5 Detective Gebing says that, he was an agent.
6 Absolutely. No doubt. I absolutely concede that
7 point. Prior to that, he was not an agent. And so the
8 suspect was not interrogated under the Fifth Amendment
9 because at the time he was in jail and he did not
10 realize that he was speaking -- well, first off, when
11 he was in jail and Mr. Lawrence was in jail with him,
12 Mr. Lawrence wasn't an agent at that time, so there's
13 no violation of his Fifth Amendment rights at that
14 time.

15 Afterward, he still doesn't know that he's
16 speaking to any sort of government agent, so I would
17 say it's nonviolative of the Fifth Amendment rights.
18 Plus they don't speak about the murder. That telephone
19 call has nothing to do with the murder and everything
20 to do with the solicitation which are uncharged. And
21 the Sixth Amendment is offense specific.

22 So if it's uncharged, anybody can go talk to them.
23 You know, law enforcement themselves can go talk to
24 them again. And, your Honor, under *Texas v. Cobb* --
25 I'm going to hand it up. The Sixth Amendment right,

1 because it is offense specific, it doesn't extend to
2 offenses that are factually related. So even though
3 they're factually related, it still is not implicated.

4 THE COURT: Let me see that case.

5 MS. PRICE: And, your Honor, I would point out in
6 *Texas v. Cobb*, the factual scenario is that a burglary
7 occurred, the defendant committed a burglary, and
8 individuals who had lived in the home went missing.
9 The defendant in that case confessed to the burglary.
10 He was incarcerated, then he was questioned about the
11 murder. He was represented on the burglary, and then
12 questioned when they found the body about the murder.
13 He eventually confessed to the murder. The Court in
14 that case found that the Sixth Amendment rights did not
15 protect his second statement. And, certainly, there
16 those charges are even more factually interconnected
17 than we have here.

18 One moment, your Honor.

19 Your Honor, also at the beginning of the recording
20 of the jail phone call, they tell Mr. Arflin that there
21 is a statement that says, "You're being recorded." You
22 know, they warn him that he is giving -- that he is
23 being recorded. He knows he's being monitored at that
24 time. So if there was any -- first off, I still don't
25 concede there's any violation of any of those rights.

1 However, I would also say that he knew, he gave a
2 knowing and intelligent waiver if the Court saw there
3 was any violation of his rights.

4 THE COURT: Ms. White -- or Ms. White.

5 MS. ASHLEA WHITE: All right. Your Honor -- I am
6 Ms. White.

7 MS. WHITE: Ms. White works for both.

8 THE COURT: I'm looking at the wrong Ms. White.

9 MS. ASHLEA WHITE: I would just like to read you,
10 if we're not proffering testimony of Rob Gebing and the
11 CI's conversation, I would just like to read you a
12 couple of things.

13 Rob, he meets -- he calls the CI, the criminal
14 informant, Roy. Immediately after talking to him, he
15 sets up a meeting probably 15 minutes later, runs to
16 his house, sits and talks with him. He tells him that
17 if the defendant calls him, ask him about it, see what
18 he says about it. "I'd love to get that conversation,"
19 you know. He says, "I don't know what your plans are
20 about the Pay Tail." They have the phone account.
21 "But if you manage -- if he manages to call you, try to
22 communicate with you, ask him about it. 'Hey, man, you
23 know that thing, you still want me to take them people,
24 take care of, you know, whatever?"

25 MS. PRICE: Judge, that's what Mr. Lawrence says.

1 MS. ASHLEA WHITE: That's what Detective Gebing
2 says. He says specifically, you know, in quotes tells
3 him what to say: "When's your trial coming up? When
4 do you want me to do that, whatever?" And Roy Lawrence
5 says okay. And he continues on to tell him, you know,
6 "Tell him if he's not" -- I'm sorry. There's also Roy
7 Lawrence's wife in the background, and she's talking,
8 and then there's dogs running around. So he says, "I
9 mean, did he put you on his visitation list or
10 anything?" "No, not yet." And then he even goes as
11 far to say -- Roy Lawrence had an ankle monitor on at
12 the time. And he says the wife says, "Why don't you go
13 visit him?" "They're not going to let you do that
14 because of your ankle monitor." And Rob Gebing says,
15 "All things can be arranged," a meeting between the
16 defendant and Roy Lawrence, you know, regardless of his
17 ankle monitor.

18 THE COURT: Let me stop you there. They're
19 conceding that he was an agent of the state.

20 MS. ASHLEA WHITE: Okay.

21 THE COURT: She has conceded that. My question
22 is: Does an agent of the state, if it's not a law
23 enforcement officer, have the same responsibilities
24 under Miranda and the constitutional protections that
25 we mentioned?

1 Now, what I'm specifically interested in hearing
2 from the defense, Ms. White, have you had an
3 opportunity to look at this *Cobb* case that the
4 prosecution has submitted, U.S. Supreme Court case?

5 MS. ASHLEA WHITE: We have, your Honor, and we
6 would argue that it should be overruled.

7 THE COURT: Okay. Well, now, I've already noted
8 for the record that I can't overrule folks in Columbia,
9 and I certainly can't overrule the folks in Washington.
10 So do you have any authority that contradicts this
11 case law that has been handed up to me?

12 MS. ASHLEA WHITE: Your Honor, we would just like
13 to preserve the fact that he had Fifth Amendment right
14 to counsel in those violations.

15 THE COURT: I note your objection for the record.

16 MS. ASHLEA WHITE: Okay.

17 THE COURT: But I will deny your motion to exclude
18 that.

19 MS. PRICE: Thank you, your Honor.

20 All right. In that event, your Honor, then the
21 State has a motion to exclude the use of the term "CI"
22 by the defense. He was not a confidential informant.
23 Mr. Lawrence, his identity was known to the defense at
24 the outset of the State's case. Were he to be a
25 confidential informant, he would have been -- his

1 identity would still potentially arguably be concealed
2 at this point in time. But, in fact, he's been known.

3 I don't have any objection to her referring to him
4 after he met with Detective Gebing as an informant. I
5 do have an objection to any mention or reference to him
6 as an informant prior to that meeting with Detective
7 Gebing.

8 THE COURT: Okay. Ms. White.

9 MS. WHITE: I'm not aware of any rule that would
10 require me not to report -- he is an informant. He was
11 an informant. As a matter of fact, that's our defense,
12 that he would get him to talk about what had happened
13 on his self-defense case, and then he's gathering
14 things and he's trying to make this deal. So as far as
15 I know, anything that's relevant comes in unless there
16 is a rule to keep it out. And I don't know what the
17 rule would be to keep it out, but that's certainly --
18 our defense is he was a confidential informant. He's
19 been through the system a million times. He knew how
20 to work the system.

21 THE COURT: The defendant didn't know he was
22 working for the state at the time.

23 MS. PRICE: No, sir.

24 THE COURT: So I'm going to deny your motion.
25 I'll allow them to use that term.

1 MS. PRICE: Okay. And, your Honor, may it please
2 the Court. Then in addition to that, I have an
3 additional motion which is unfair prejudice and
4 misrepresentation for her to refer to Mr. Lawrence as
5 working for the government while he's in jail. There's
6 no basis for that. It's not grounded in any reality or
7 testimony whatsoever. So unless I would say it's
8 unfairly prejudicial.

9 THE COURT: But there's no -- ladies, we conferred
10 in chambers, but as I understand it, there was no
11 evidence of any deal that was struck or sentence or --

12 MS. PRICE: No, sir.

13 MS. WHITE: Your Honor, of course I'm going to
14 be -- I don't know what this motion is. Of course I'm
15 going to be cross-examining him and say, "Didn't you
16 get him to draw this out? Didn't you talk to him about
17 it? Didn't you plan on him doing this?" I don't
18 understand what this motion is.

19 MS. PRICE: After that meeting, I don't have an
20 issue with that. What I'm saying -- this is a
21 motion -- excuse me, Ms. White. This is my motion.

22 THE COURT: All right. Ladies. Ladies, one at a
23 time.

24 MS. PRICE: Thank you.

25 THE COURT: Ms. Price, state -- what is your

1 motion?

2 MS. PRICE: My motion is now, based on what
3 Ms. White just said, a motion in limine to exclude any
4 testimony with regard to or any reference, because
5 there won't be any testimony, but any reference to
6 Mr. Lawrence working as a government agent at the time
7 he was sharing a cell with Mr. Arflin.

8 THE COURT: Well, now, you stipulated earlier that
9 he was a government agent. Are you saying that took
10 place after the initial meeting with the officer?

11 MS. PRICE: Yes, sir. Yes, sir.

12 THE COURT: All right.

13 Ms. White, are you seeking to admit any evidence
14 that he was a government agent prior to meeting with
15 the law enforcement officer?

16 MS. WHITE: I'm going to be offering
17 cross-examination questions about whether he planned
18 this whole thing and whether he got drawings so that he
19 could go do this. But, I mean, I'm certainly not going
20 to represent he had met with the government until he
21 met with the government, which was after that. So
22 that's why I say I'm not even sure what this motion is.

23 THE COURT: I'm going to deny your motion. I
24 think that's somewhat premature, and certainly
25 objections can be entertained as we get into the trial.

1 MS. PRICE: Yes, sir.

2 THE COURT: But I don't think I can rule
3 definitively on that issue at this time anyway.

4 MS. PRICE: Yes, sir.

5 And, your Honor, so then I'm clear on your prior
6 ruling, you are allowing Ms. White to refer to
7 Mr. Lawrence as an informant or as a confidential
8 informant?

9 THE COURT: I'm going to allow her to say
10 confidential with the informant certainly after such
11 time as he became an agent of the state.

12 MS. PRICE: Okay. Yes, sir.

13 THE COURT: But, no, that's a question of fact
14 that will have to be developed through the testimony.

15 MS. PRICE: Yes, sir.

16 MS. WHITE: Your Honor, I thought, though, that
17 you said because we're maintaining he was confidential
18 to him, he had planned on being an informant the whole
19 time, they just conceded he was an confidential
20 informant.

21 MS. PRICE: No, ma'am.

22 THE COURT: You will be entitled to ask him when
23 he decided to work for the state --

24 MS. WHITE: All right. All right.

25 THE COURT: -- as I understand what you're seeking

1 to ask him. But cross-examination, anything that goes
2 toward his motive, you're certainly going to attempt to
3 pursue that, I would assume.

4 MS. PRICE: Your Honor, unless Ms. White has an
5 additional motion relating towards the solicitation
6 charges, then I would move forward with some other
7 general motions by the State.

8 THE COURT: Okay.

9 MS. PRICE: Okay. Your Honor, I'd like to make a
10 motion to exclude -- and I believe Ms. White conceded
11 in chambers -- make a motion to exclude the pictures
12 that were provided to me by the defense under Rule 403
13 grounds of evidence prejudice, confusion or waste of
14 time.

15 There is one photograph that is particularly
16 irrelevant and prejudicial. It is of the victim in a
17 Zorro mask and hat. It's a Halloween costume. I don't
18 see how it's relevant or probative. Identity is not at
19 issue here.

20 There is a picture of the defendant -- I mean the
21 victim, rather, with children on a soccer field. He's
22 obscured by this young man. And then there is a
23 picture of the defendant -- the victim, I'm sorry, at a
24 mud run, participating in a mud run. And, your Honor,
25 in chambers we discussed that these two pictures were

1 cumulative and prejudicial -- I'm referring to the
2 Zorro picture and the picture of the victim with the
3 child, the football coaching -- but that we would
4 stipulate to the admissibility of the photograph of the
5 victim exercising.

6 MS. WHITE: That's correct, your Honor.

7 THE COURT: The Court recalls that from chambers,
8 the parties would stipulate to the picture of the mud
9 run and the other two pictures would not be admitted.

10 MS. PRICE: Okay. Then next, your Honor, the
11 State would make a motion in limine to exclude any
12 testimony or reference to the civil action that's
13 currently pending concerning the death of the victim in
14 this case.

15 Your Honor, none of the witnesses I'm calling are
16 parties to the civil suit. There's no reason they
17 would have any bias related to that action, so it
18 wouldn't come in under Rule 608(c). It would be
19 irrelevant. It is -- if the Court did find it was
20 relevant, and I submit it's not relevant to these
21 proceedings, it would result in potentially unfair
22 prejudice as the jury could infer from any mention of a
23 civil suit or another action that they don't have to
24 take care of this. I think that it could be
25 dangerously misleading to the jury, that there's

1 something else out there that could make this right or
2 that could somehow address what we're dealing with in
3 court in front of that jury.

4 I would say it's analogous to my mentioning prior
5 plea negotiations or something to that effect. That is
6 ruled to be misleading. And when a witness especially
7 has no stake in the civil outcome, then there's no
8 danger of bias.

9 THE COURT: Ms. White.

10 MS. WHITE: Yes, sir. Your Honor, this does have
11 extreme relevance in this case. In this case, your
12 Honor, one of the reasons why my client felt threatened
13 is he lives at a dead-end. It's called Williamson
14 Drive. There are Williamsons all up and down this,
15 grandparents, children, grandchildren. They own every
16 house up and down this road except for my client who is
17 at the end of the road. They have been extremely
18 hostile to him.

19 What happened is when he accidentally hit this
20 vehicle going -- trying to get to his house, which they
21 would park in the middle of the road. And I'm sure the
22 State did withdraw this other charge because there was
23 nothing intentional at all. The width of the road, you
24 couldn't even get the two trucks by each other. So my
25 client accidentally hit the tip of one of these

1 vehicles.

2 Well, he was very reluctant to get out of this
3 vehicle because of all this crazy stuff that they had
4 threatened and one comes out, they all come out. Okay.
5 So, how does that tie into this? My client, when he
6 first bought his property, the Williamsons wanted it.
7 They were saving up money to buy it. So they bought it
8 first. Ever since then they have been extremely
9 hostile to him.

10 So, your Honor, they filed -- Jody Arflin, the
11 alleged victim in this case was dating a Williamson --

12 MS. PRICE: Jody Powell.

13 MS. WHITE: What did I say?

14 MS. PRICE: Jody Arflin.

15 MS. WHITE: I'm sorry. Jody Powell. And as a
16 matter of fact, if you listen to 911 tapes and stuff,
17 they call him the brother-in-law and all. They have
18 been together quite a while. His family is bringing a
19 lawsuit against my client and his wife. As part of
20 that lawsuit, they did a warrant of attachment on this
21 land.

22 Your Honor, the rules of evidence, and there are
23 lots and lots of rules about cross-examination, our
24 right to thoroughly cross-examine a witness, our Sixth
25 Amendment right. Your Honor, if you look at 40 -- hold

1 on a minute. Let me pull us through here -- if you
2 look at the definition of relevant evidence -- and,
3 your Honor, the reason why this is relevant, my client
4 is -- has a defense of self-defense in this. This
5 happened right in front of a big party all the
6 Williamsons were having. It was pitch dark. He
7 couldn't get to his house. He runs into this car.
8 They come out. He doesn't know which Williamsons are
9 involved in this.

10 And so this is a great way that they can get rid
11 of him and his wife at the end of the street, and they
12 have already put a writ of attachment on this property.
13 So this is what they have got. This shows their bias
14 to help their bias to help this civil lawsuit because
15 they want this house sold so that he's no longer there.

16 THE COURT: When was the civil lawsuit filed?

17 MS. WHITE: Right after this, your Honor. And if
18 you look at Rule 401, relevant evidence means evidence
19 having any tendency to make the existence of a fact
20 that is of consequence to determination of action more
21 probable or less probable. 402, all relevant evidence
22 is admissible unless, of course, it's excluded by
23 another rule.

24 If you look at 401, I believe it is -- let me find
25 it here, Judge. Your Honor, if you look at 608(c),

1 evidence of bias, bias, prejudice or any motive to
2 misrepresent may be shown to impeach the witness either
3 by examination of the witness or by other evidence
4 otherwise adduced.

5 Your Honor, that goes to the core of our defense.
6 And, your Honor, if you look at -- and these are
7 actually the cases on some of that other stuff that we
8 talked about, some prior motions where the cases say
9 all of those cases that talk about our right -- you
10 know, the State opposed and opposed and opposed the
11 defense attorney's right to cross-examine -- to
12 cross-examine a cooperating witness on the prior
13 motion, you know, what his pending charges were, why he
14 had pending charges, what he was facing. And the court
15 in all of those cases goes over and over again you
16 cannot impede the right to cross-examination.

17 I do not know what -- this is relevant. It goes
18 to our defense, and there is a rule that says it comes
19 in unless you can show me some rule that says no.

20 THE COURT: Well, Ms. White, let me ask you this:
21 This wrongful death suit that has been filed by the
22 victim's family, is that not -- of course, I haven't
23 seen the lawsuit. Do you have a copy of the lawsuit?

24 MS. WHITE: Yes, sir, I do. May I.

25 THE COURT: Please hand that up.

1 MS. WHITE: May I mark it, your Honor, actually
2 for identification? Do you mind, or as a court exhibit
3 or something?

4 THE COURT: That's fine.

5 (WHEREUPON, Defendant's Exhibit Number 1
6 was marked for identification.)

7 THE COURT: So you are referring to -- this is
8 civil action 2014-CP-04-00458.

9 MS. WHITE: Yes, sir. And if the Williamsons can
10 convict him of this, then they know the civil suit is
11 won and they are rid of him and his wife, which goes
12 directly to the bias of their testimony.

13 THE COURT: They haven't asked for any relief
14 other than as a result of this incident; is that
15 correct?

16 MS. WHITE: That's correct.

17 THE COURT: And you would agree that this case is
18 not -- they put a warrant of attachment on the
19 property, looks like. Looks like that was filed
20 March 14, 2014.

21 MS. WHITE: It was.

22 THE COURT: But you would agree that pertains to
23 in the event they receive a judgment against the
24 defendant.

25 MS. WHITE: Yes. But if they convict him in this

1 case, they don't even have to go to civil court because
2 that's beyond a reasonable doubt. And if they give
3 testimony saying that he's -- anything that would hurt
4 him in this, that helps in the civil suit which gets
5 rid of him.

6 THE COURT: But this was filed after the incident
7 that took place.

8 MS. WHITE: Yes, sir. They're suing based on this
9 incident. What they're saying is because of this
10 shooting, we should get civil judgment.

11 THE COURT: You would agree there is a different
12 burden of proof and a different relief sought in a
13 civil case than a criminal case.

14 MS. WHITE: It's less in a civil case. So if they
15 can give great testimony in this and get him convicted
16 beyond a reasonable doubt, they walk that into the
17 civil case.

18 THE COURT: How is -- if the defendant -- if the
19 defendant pleads not guilty --

20 MS. WHITE: Yes, sir.

21 THE COURT: -- and is -- let's say he is
22 convicted.

23 MS. WHITE: Yes, sir.

24 THE COURT: Is proof of the criminal conviction
25 admissible in the civil trial?

1 MS. WHITE: As I understand it, it is because it's
2 a higher burden of proof. But let's say he's not
3 convicted. It doesn't matter, conviction or not. The
4 point is if they give testimony that helps to get him
5 convicted or that helps, then that's going to also help
6 potentially in the civil suit regardless of what.
7 They're going to do all they can do to help try to get
8 that conviction.

9 THE COURT: Okay. Thank you, Ms. White.
10 Anything further, Ms. Price?

11 MS. PRICE: Your Honor, do you believe you need to
12 hear further from the State?

13 THE COURT: I don't.

14 I'm going to deny Ms. White's request -- or I'm
15 going to grant your motion in limine that there be no
16 mention of the wrongful death suit. I feel that the
17 issues are different. This is a case that was filed
18 after the incident. It is a different court, different
19 burden of proof, it is -- the odds of a jury being
20 confused by this in deciding the case on some issue
21 other than the guilt or innocence of the defendant are
22 increased if this were allowed into evidence, so,
23 therefore, I'm going to grant the motion.

24 MS. WHITE: Your Honor, I just want to make clear
25 for the record, we're trying to get it in as our right,

1 Sixth Amendment right to confront the witnesses.

2 THE COURT: I understand that. Ms. White,
3 certainly cross-examination, if the witness has a bias
4 against your client that you believe you can
5 cross-examine them on that basis. If there's property
6 disputes, any -- I'm sure from hearing this that there
7 will be issues brought up of the past between these
8 parties, and, of course, the Court will rule on those
9 as they arise during the course of the trial. But we
10 would not have any mention of this lawsuit, this
11 particular lawsuit, during the trial.

12 MS. PRICE: Thank you, sir.

13 Your Honor, at this time the State has a motion in
14 limine to exclude any mention of steroid or human
15 growth hormone use by the victim in this case. And,
16 your Honor, I have a case to hand to the Court as well
17 as to Ms. White. It's *State v. Lyles*, 379 S.C. 328.

18 Your Honor, evidence regarding -- in *State v.*
19 *Lyles*, evidence regarding the victim's drug use is
20 relevant if it's connected to the crime. When such
21 evidence is unconnected to the charges, it's
22 irrelevant.

23 Your Honor, here there's not only no relevance,
24 there's no evidence to substantiate any allegation that
25 the victim in this case ever used steroids. The

1 defense can't show any relevance, nor can it show any
2 grounding of the allegation in fact. It's a
3 fabrication by the defense and an invention, and,
4 therefore, it's absolutely prejudicial and misleading
5 to the jury.

6 Your Honor, in *State v. Lyles*, the court required
7 the defense to proffer testimony at the outset of the
8 trial to establish any probative link between drugs
9 found by the victim at a murder scene of a crime. In
10 that instance there actually were drugs, and the court
11 still found that there was no relevance, that there was
12 no link that was probative.

13 The court also held that even if the testimony
14 were relevant, it was inadmissible as unfairly
15 prejudicial because it stands -- and this is a quote --
16 stands to suggest a decision on an improper basis. By
17 insinuating a key witness in that case and in our case
18 the victim was a drug dealer and drugs were present
19 next to the victim, the evidence would unfairly impune
20 the character of the victim and cloud the issues.

21 That's exactly what would happen in this instance.
22 It is a clouding of the issues. Certainly if Ms. White
23 wants to say that my victim was young and that he liked
24 to work out, that's fine. But an allegation that he
25 was using drugs that has no substantiation is totally

1 clouding, misleading and unfairly prejudicial. And
2 he's not here. Mr. Powell is not here. There's the
3 danger of his -- unfortunately he's deceased. He's not
4 here to defend these allegations, and witnesses
5 shouldn't have to defend his character against
6 fabrications. There is plenty in fact for her to use,
7 but these are fabrications. It would outweigh -- the
8 prejudicial effect would outweigh any value to the
9 defense in this case.

10 And, your Honor, as Ms. White has said, has
11 alluded in chambers to there being a toxicology
12 situation in this case, we got toxicology back on the
13 victim. However, there is a problem with the chain of
14 custody in the toxicology in that Charles Boseman, who
15 works for the medical examiner, FedExed the samples to
16 the SLED for analysis.

17 Now, I will say that the SLED analyst says that
18 during that time period it doesn't appear to be
19 tampered with or anything like that, and there would
20 not have been enough of a delay in arriving for it to
21 affect her results. The results came back as
22 completely negative, no drugs, no alcohol, no nothing.

23 However, Ms. White later asked me to test for
24 steroids. Actually Trevor White, who works with
25 Ms. White, sent me a lengthy e-mail with just a

1 grocery -- a laundry list of different substances that
2 are steroids and HGH to test for. Being that I have
3 nothing to hide in this case and would also like to
4 know the answer to that question, I contacted SLED, and
5 I said, "I would like you to test for these
6 substances." Okay.

7 SLED came back to me and said, "We do not have any
8 urine. There was no urine in the body," and I
9 confirmed that with Dr. Woodard. There was no urine
10 taken because he didn't have any in his bladder. And
11 we have to have that in order to do these tests. So,
12 unfortunately, I don't have any urine to do that with.

13 I met with Dr. Woodard. I asked Dr. Woodard, "Did
14 you see any evidence of any steroid use in the victim
15 in this case?" He said, "Absolutely not. If he was,
16 he certainly wasn't getting any bang for his buck."
17 And he is going to testify to that in court if he needs
18 to.

19 So the only thing that I ever heard or got any
20 evidence of -- and I call it evidence but it's not.
21 It's double hearsay. The ex-wife of this defendant --
22 I mean, excuse me, of the victim says she heard a rumor
23 around the time that he died that maybe he had used
24 steroids. That's it. And, your Honor, that's -- in my
25 opinion, I don't believe that meets the standard.

1 That's double hearsay. First off, she has no personal
2 knowledge of it whatsoever. "Somebody maybe told me,"
3 or, "I heard through the grapevine," you know, I just
4 don't think that meets the standard of evidence that I
5 would hope the Court would require in this case. Thank
6 you.

7 THE COURT: Ms. White.

8 MS. WHITE: Yes, sir. Your Honor, may I mark as
9 an exhibit the Facebook? Would you like a copy?

10 MS. PRICE: I have it.

11 (WHEREUPON, Defendant's Exhibit Number 2
12 was marked for identification.)

13 BY MS. WHITE:

14 Q Your Honor, I'm handing up a picture. This is a
15 41-year-old male. This is the picture we previously
16 discussed of him at a mud run that he posted on his
17 Facebook right before this.

18 Your Honor, in this case they did not take any
19 urine. We were unable to test for steroids. That's
20 not our fault. We didn't have access to any of this.
21 That's a picture of him, your Honor. My client is
22 going to say that he went into a rage, he started
23 threatening him, he did all these things. My client is
24 in his 60s. My client has neuropathy, cancer. He has
25 never been arrested in his life. He's got a laundry

1 list of medical issues.

2 Your Honor, again getting back to my right of
3 cross-examination, my right to confront witnesses based
4 on that picture, and I'm going to be calling the
5 ex-wife in a minute. And actually I can combine her
6 testimony on this with the next motion anyway, Judge,
7 for time sake. But that they didn't test for that,
8 they didn't take urine.

9 Now they're trying to get in a laundry list of
10 things that he tested negative? And I do plan on
11 asking the toxicologist, "If you have taken steroids,
12 what are the effects? When you take it, is it
13 something like cocaine that dissipates in six hours, or
14 is it something that is prolonged?"

15 And, your Honor, I don't believe at all that they
16 should be allowed to crimp my cross-examination on
17 that.

18 MS. PRICE: Your Honor, may it please the Court.
19 I don't plan to introduce toxicology.

20 MS. WHITE: Well, then I'm going to be having fun
21 in cross-examination about how they didn't introduce
22 any test results.

23 THE COURT: Well, Ms. White, I'm going to allow
24 you -- you can question the toxicologist report through
25 the pathologist.

1 MS. WHITE: Yes, sir.

2 THE COURT: Now, hearsay, of course, is not going
3 to be admitted unless it falls under some exception.

4 MS. WHITE: Yes.

5 THE COURT: But certainly you will have the right
6 to cross-examine the pathologist on the issue, and if
7 there's -- but anything about steroids, a proper
8 foundation would have to be laid. Just a hearsay
9 statement is not going to be admissible unless, again,
10 it falls under some exception or the proper foundation
11 is laid.

12 I'm going to reserve judgment on that until we get
13 to trial and see what evidence is being presented.

14 MS. WHITE: Yes, sir.

15 THE COURT: I think it's premature at this
16 juncture.

17 MS. PRICE: Yes, sir.

18 THE COURT: Okay.

19 MS. PRICE: Your Honor, then I think it would be
20 appropriate while it's on both of our minds to call
21 Ms. Kerri Powell, if that's something that Ms. White
22 wants to do. But before we do that, may I ask that we
23 take a brief recess not so that I can speak with her.
24 In fact I will not speak with her. I'll let Ms. White
25 bring her in, but so we may take a restroom break.

1 THE COURT: We'll take about a ten-minute break.

2 MS. PRICE: Okay. Thank you.

3 (WHEREUPON, recess taken from 11:35 a.m.
4 to 11:45 a.m.)

5 THE CLERK: Your Honor, before you get started
6 back, may I ask, when I was giving my testimony, I had
7 copies of the presentments. Do they need to be a part
8 of the record?

9 THE COURT: Ms. White, do you want this made an
10 exhibit? He testified to it.

11 MS. WHITE: I mean, we can mark it as an exhibit.
12 It will save him carrying it on back.

13 THE COURT: That will be Defense Exhibit Number 3.
14 (WHEREUPON, Defendant's Exhibit Number 3
15 was marked for identification.)

16 THE COURT: What's next?

17 MS. PRICE: Thank you, your Honor. May it please
18 the Court. The State is making a motion in limine to
19 exclude testimony concerning a prior CDV arrest of the
20 victim, Jody Powell, in this case.

21 Your Honor, in cases where self-defense is
22 alleged, the defendant can bring up the victim's
23 reputation for violence but not the specifics.
24 Reputation is what others in the community think,
25 obviously, your Honor. But here the reputation of the

1 victim is not at all for violence. In fact, it is
2 pristine. Everyone in the community thinks he's
3 peaceful unless -- until proven otherwise, I guess.

4 But, your Honor, specifically as to the arrest for
5 the CDV, instances of violence by the victim are only
6 admissible if, one, they're directed against the
7 defendant, which it was not; or, two, if directed
8 against others were so closely connected at the point
9 in time or occasion with the homicide as to reasonably
10 indicate the victim's state of mind at the time of the
11 homicide or to produce a reasonable apprehension of
12 great bodily harm. Your Honor, that's *State v. Day*,
13 341 S.C. 410. That's a case from 2000.

14 Your Honor, this instance, this arrest, happened
15 four years four months and 24 days prior to the
16 incident with this defendant. That was an instance
17 where the victim and his wife had an argument. The
18 defendant -- rather the victim slapped his wife. She
19 ran to a neighbor's house. And they, not she, called
20 the police. She declined to prosecute. She didn't
21 seek any medical attention. They had been married for
22 15 years. They stayed together for some time after
23 that, eventually getting divorced.

24 But, your Honor, she's present, and we can proffer
25 her testimony, but I believe she will say this incident

1 was completely out of character and aside from it being
2 completely remote. So, therefore, I don't believe that
3 it comes in as probative.

4 THE COURT: Thank you, Ms. Price.

5 MS. WHITE: Your Honor, I'd like to proffer some
6 testimony, and if you don't mind, I am going to call
7 the ex-wife, but I need to call Brian Lewis. His child
8 has an appointment for tubes in his ears. He's the
9 officer on the case, so I would like to call him first.

10 BRIAN L. LEWIS,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE CLERK: Please state and spell your name for
13 the reporter.

14 THE WITNESS: Brian Lee Lewis, L-e-w-i-s.

15 DIRECT EXAMINATION

16 BY MS. WHITE:

17 Q Actually, if you will spell your first name, too,
18 please.

19 A I'm sorry. B-r-i-a-n, Brian.

20 Q What's your occupation?

21 A Deputy sheriff.

22 Q And where do you work?

23 A Anderson County Sheriff's Office.

24 Q How long have you worked there?

25 A Ten and a half years.

1 Q And were you working on July 18, 2009?

2 A Yes, ma'am.

3 Q And did you receive a call that evening?

4 A Yes, ma'am.

5 Q Where did you go?

6 A I responded to -- I responded to an address. It
7 wasn't the address that the incident occurred at.

8 Q All right. Did you see a Kerri Powell when you
9 were there?

10 A Yes, ma'am, I did.

11 Q And did you discuss anything with her?

12 A Yes, ma'am.

13 Q Please tell the Court what happened.

14 A I spoke with Ms. Kerri Powell at the time. She
15 stated that the altercation had happened between her
16 and her husband.

17 Q Who's her husband?

18 A Jody Adams Powell.

19 Q Go ahead.

20 A She stated that they had a really bad argument the
21 day before and that she left the residence and came
22 back the next day, the day that I was there. And that
23 upon returning they had had another argument over a
24 cell phone, cell phone bill printout, and Mr. Powell
25 had wanted the printout. She stated at that time, she

1 stated that she threw the printout at him on the ground
2 and went in the house. They were outside at the time.

3 Once in the house, an argument ensued over the
4 phone bill and other things she stated. Then at that
5 time she stated that she went into her bedroom to get
6 some more items to leave again, and her husband had
7 followed her at that time into the bedroom. Stated
8 that the argument between them continued in the
9 bedroom, and at this time she left and went into the
10 bathroom and her husband had followed her into the
11 bathroom. Stated that she began to yell as did her
12 husband at this time, and at this time her husband had
13 slapped her on the left side of her face knocking her
14 to the ground.

15 The victim stated at this time she got her stuff
16 and left the house and went to a friend's house and
17 called 911. I explained all the procedures to her as
18 far as victim's forms and everything else and asked her
19 for a written statement. She would not give me a
20 written statement. I took photos of her face, and at
21 that time I responded to the house and I spoke with her
22 husband, and he did admit to striking her at that time
23 and he was placed under arrest.

24 Q This is Mr. Arflin?

25 A No, Mr. Powell.

1 Q I'm sorry. I keep calling him that. Mr. Powell,
2 I'm sorry.

3 A Yes, ma'am, Mr. Jody Powell.

4 MS. WHITE: No further questions.

5 THE COURT: Ms. Price.

6 CROSS-EXAMINATION

7 BY MS. PRICE:

8 Q Deputy Lewis, do you remember that day or are you
9 reading it off of your incident report?

10 A I'm reading it off the incident report.

11 MS. PRICE: Nothing further from the State.

12 REDIRECT EXAMINATION

13 BY MS. WHITE:

14 Q Did you make that incident report right after it
15 happened?

16 A Yes, ma'am.

17 Q Would your memory have been good at that point?

18 A In 2009, yes, ma'am.

19 Q Thank you.

20 MS. PRICE: Okay.

21 THE COURT: All right. Thank you, Officer.

22 Any objection to this witness being excused?

23 MS. WHITE: I would request that, your Honor.

24 THE COURT: Officer, you are excused.

25 THE WITNESS: Thank you. You have a good day.

1 MS. WHITE: Your Honor, we call Kerri Powell.

2 Your Honor, when I excuse a witness, I just want
3 to make sure they understand they're excused from today
4 but not from the trial, depending on how you rule. We
5 subpoenaed both.

6 KERRI POWELL,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE CLERK: If you would take the witness stand.
9 Please state and spell your name for the reporter.

10 THE WITNESS: Kerri Powell, P-o-w-e-l-l.

11 DIRECT EXAMINATION

12 BY MS. WHITE:

13 Q Ms. Powell, will you please spell your first name
14 as well.

15 A K-e-r-r-i.

16 Q Ms. Powell, in 2009, and in particular in July of
17 2009, to whom were you married?

18 A Jody Powell.

19 Q And how long had y'all been married?

20 A We married in '94.

21 Q Now, is he right-handed or left-handed?

22 A He's right-handed.

23 Q And did you receive any injuries that day?

24 A I had just a small place on my face, but.

25 Q Which side of your face, do you recall?

1 A I don't remember. That's what I said. That's
2 been six years ago.

3 Q All right. On July 18, 2009, what happened that
4 day at the residence with your husband?

5 A We had just had an argument over -- he had some
6 issues over some phone records, and we just had a
7 disagreement. And just like any other, you know,
8 married couple that's had problems in their marriage,
9 you know, we both got upset with one another and
10 yelled.

11 Q And what, if any, physical altercation occurred?

12 A We both slapped one another. And that was it.

13 Q Now, did you talk to the police that day?

14 A I did.

15 Q And did you tell the police that you began to
16 yell, as did your husband, and that this time your
17 husband slapped you on the left side of your face
18 knocking you to the ground?

19 A He did, but I also slapped him also. And that
20 was -- the shock of it hurt worse than the actual
21 physical pain because he had never done anything like
22 that to me before.

23 Q And did he hit you first?

24 A He did, but that was very out of character for
25 him.

1 Q And are you aware that he told the police that he
2 did strike you?

3 A Yes. I've seen the report.

4 Q Now, ma'am was he arrested?

5 A He was, but I begged them not to.

6 Q Do you know how tall your husband was?

7 A 5'9".

8 Q And was he using steroids when you two were
9 together?

10 A No.

11 MS. WHITE: Your Honor, may I get the defense
12 Exhibit, I think it's 2, back?

13 BY MS. WHITE:

14 Q I'm handing you --

15 MS. WHITE: If I may approach the witness, your
16 Honor.

17 THE COURT: Yes, ma'am.

18 BY MS. WHITE:

19 Q I'm handing you Defense Exhibit 2. If you will
20 take a look at that. Who is that in the picture in the
21 middle? I'm pointing to the person, the second person
22 back.

23 A It doesn't look like Jody. I don't know who that
24 is. That's his cousin in front of him, but that
25 doesn't look like him.

1 Q This does not look like Jody?

2 A Huh-uh.

3 Q Do you know why he would post it on his Facebook
4 and say that was him in a mud run?

5 A I don't know.

6 Q Ma'am, when you were married to him, was he a
7 fitness buff?

8 A He's always been athletic. In high school he
9 played every sport imaginable, and with our kids he
10 coached and was involved in every -- every athletic
11 event they had. And he was also big. He worked out.

12 Q And he didn't have any kind of physical
13 disability; is that correct?

14 A No, he didn't.

15 Q And as part of his job, was he a UPS driver?

16 A He was.

17 Q Now, what, if any -- what, if anything, have you
18 heard about him using steroids in December of 2013?

19 A All I know is that he -- I mean he worked out a
20 lot, even when we were still married. He worked out at
21 the gym.

22 Q Yes, ma'am, but what have you heard about him
23 using steroids?

24 A I mean, I've heard hearsay, but I've seen no -- no
25 proof of it. And I certainly wouldn't allow him to

1 have my children if I thought that he was a violent
2 person --

3 Q From whom did you --

4 A -- or if he were doing things like that.

5 Q Who told you that he was using steroids?

6 A Probably people -- I mean I can't even recall a
7 certain person. I mean, probably people that were at
8 the gym and, to tell the truth, envious of him.

9 Q What gym did he work out in?

10 A Coops in Anderson.

11 Q And, again, you don't remember how many people
12 told you that they had heard he'd been using steroids?

13 A Maybe one.

14 Q Who was it?

15 A That's why I say, I really don't remember.

16 Q Why does that stand out to you that you remember
17 hearing he'd been using steroids in December of 2013?

18 A I don't remember the exact date. I just -- I
19 mean, I heard that, but I don't remember -- I don't
20 remember a day, and I don't have any proof of it. And
21 like I said, I wouldn't send my children with someone
22 that I thought was doing that either.

23 Q What kind of contact -- when were you divorced --
24 or let me ask this: When did y'all separate?

25 A We separated in 2009, but our divorce was not

1 final until 2012.

2 Q And so from the time that you separated -- did you
3 separate as a result of this incident, right
4 afterwards, before, what?

5 A No, ma'am.

6 Q When did you actually separate?

7 A We probably lived together at least -- I mean, it
8 could have even been 2010 when he moved out. But, no,
9 it was not as a result of this.

10 Q Okay. Regardless, whenever y'all separated, what
11 was your contact with Mr. Powell after that?

12 A We spoke on a daily basis. I mean, we had three
13 kids together, so, I mean, our arrangement, our
14 temporary arrangement was he had them every other
15 weekend and one night during the week. But any time
16 that, you know, he wanted to see the kids -- and he
17 would even come like at Christmas, he still came and
18 had Christmas with us.

19 Q Just one minute, please. How long had he had that
20 truck when this shooting occurred?

21 A He had just bought it.

22 Q Do you know what sports he was playing at the time
23 that this shooting occurred?

24 A I know he would just go occasionally on Sundays
25 and play basketball and softball with friends. I mean,

1 he did enjoy -- had started running because him and my
2 son did that together.

3 MS. WHITE: No further questions, your Honor.

4 THE COURT: Ms. Price.

5 CROSS-EXAMINATION

6 BY MS. PRICE:

7 Q Ms. Powell, I only have one question for you.
8 Other than this incident, was there anything similar
9 that occurred during the course of your 15-year
10 marriage?

11 A No, ma'am. That's why I say the shock of it hurt
12 worse than anything else.

13 MS. PRICE: Okay. Thank you.

14 No further questions.

15 THE COURT: Anything further from this witness?

16 MS. WHITE: Again, if she can be excused today,
17 but I would request that she remain under subpoena for
18 the actual trial.

19 THE COURT: Yes, ma'am. All right. Thank you,
20 ma'am. You are excused for today, but if a subpoena
21 has been issued to you for the trial, you are still
22 subject to that subpoena. Thank you for coming.

23 THE WITNESS: Thank you.

24 MS. WHITE: Your Honor, that's all of the
25 testimony that we have to proffer on this issue.

1 THE COURT: Anything else on the issue of the CDV
2 arrest?

3 MS. WHITE: Your Honor, just that this would go
4 into the whole steroid use, that he does have these
5 rages. Also, your Honor, that this is a close nexus.
6 This does show, when you couple it with the picture and
7 the other things, this does show that he did have an
8 issue and that that is close enough nexus to this
9 incident to admit it.

10 MS. PRICE: Your Honor, may it please the Court.

11 THE COURT: Yes, ma'am.

12 MS. PRICE: With regard to the steroids, you know,
13 we're -- she's alleging that because somebody looks
14 fit, they're on steroids. Just because somebody has a
15 runny nose doesn't mean they're on cocaine. You know,
16 that's not -- I just don't see that as being something
17 that's enough of a basis for that to come in. Of
18 course, it's up to the Court's discretion. But I find
19 that analogous.

20 Your Honor, Ms. Powell testified that this was a
21 one-time incident, that it was absolutely out of
22 character, and it did happen four years, four months
23 and 24 days prior to this incident. And more
24 importantly, this defendant had no way of knowing that
25 that had occurred, so I don't think it goes towards his

1 self-defense argument whatsoever.

2 THE COURT: Okay. I -- this charge was dismissed,
3 ladies; is that correct?

4 MS. PRICE: Yes, sir.

5 THE COURT: Is that what you told me in chambers?

6 MS. WHITE: Yes, sir. But I don't think the rule
7 requires a conviction and he admitted it to the
8 officer.

9 THE COURT: I'll agree, Ms. White, that a bad act
10 doesn't require a conviction. However, the fact that
11 she testified that it was a mutual combat situation,
12 I'm going to grant the State's motion. I'm not going
13 to allow evidence of the CDV charge.

14 Again, on the steroid issue, if there is any
15 evidence that is to be presented, I mean, we'll deal
16 with that at the time. I haven't heard anything thus
17 far that would be admissible regarding steroid use, but
18 certainly, Ms. White, you have, as stated before, the
19 right to cross-examine the pathologist, and if you have
20 any evidence with proper foundation, the Court can deal
21 with that at that time.

22 MS. PRICE: Thank you, your Honor.

23 Your Honor, the State has -- I know there have
24 been a lot of motions in limine, but I believe I have
25 only two left and then I'm done. The State would like

1 to make a motion in limine to exclude a knife that was
2 found in the center console of the victim's vehicle.

3 Your Honor, I'm going to hand -- and I know I've
4 also been handing up a lot of cases, but I'm going to
5 hand the Court a case, *State v. Washington*, 367 S.C.
6 76. The court in that case said the fact that the
7 victim actually had weapons in his trunk is not
8 relevant when there is no evidence that the defendant
9 knew this or that the victim was trying to get into his
10 trunk when killed.

11 Your Honor, in *State v. Washington*, a gun and a
12 knife had later been discovered in a murder victim's
13 vehicle. It was in the trunk. They were deemed
14 inadmissible as irrelevant despite the defendant's
15 claim of self-defense in that case.

16 Your Honor, in that case the defendant's version
17 of the facts said that the victim exited his vehicle,
18 turned on the interior lights and bent over to look
19 under the seats, then opened the back door and looked
20 under the back seats. After the defendant tangled with
21 the victim and stabbed him, the victim walked toward
22 the trunk of the vehicle and fell to the ground.

23 Later an officer found a gun and a knife in the
24 trunk of that vehicle. The gun was issued to the
25 victim in connection with his employment as a security

1 guard. The victim's girlfriend who was present and was
2 an eyewitness was asked if he was armed with a gun at
3 any point in time. She said it was in the trunk of the
4 car, and she never saw the trunk open. She had no
5 knowledge of the knife in the trunk.

6 Your Honor, as to this case, the knife eventually
7 retrieved from the victim's vehicle is also irrelevant
8 to this case. The knife in this instance was retrieved
9 from the center console of the victim's vehicle
10 pursuant to a search warrant executed after the
11 incident on April 21st of 2014. Brenda Masters never
12 saw him with a knife, meaning the victim, nor did James
13 Madison. At no point in time does any witness allege
14 that the knife was a part of this incident. That has
15 never been alleged by Ms. White. Even the defendant
16 who later alleged he may have been hit in bond hearings
17 has never mentioned a knife in this case.

18 Your Honor, if I need to, I can proffer Brent
19 Simpson, who is the lead detective, to talk about this
20 issue specifically. I would not get into the rest of
21 the case. But he can talk about the retrieval of the
22 knife, how it was done at my direction if the Court
23 feels like that's appropriate or necessary. And I have
24 Brenda Masters present who is an eyewitness who would
25 be I would ask limited to this specific issue so we do

1 not get her testimony for other issues, but I can
2 proffer her, if necessary.

3 THE COURT: All right. Let me hear from Ms. White
4 first.

5 MS. WHITE: Yes, sir. Your Honor, in this case,
6 and, you know, I hated that they didn't raise the right
7 objections in that case. But, your Honor, in this
8 particular case -- I keep calling him Mr. Arflin. For
9 some reason I want to take Mr. Powell and put him into
10 Mr. Arflin -- Mr. Powell and the other witness. By the
11 way, with all due respect, these two eyewitnesses have
12 given such different statements, you wouldn't even know
13 they were at the same place. In the background of one
14 witness you hear, "Don't say that. He'll get off."
15 And so, yeah, they have every motive to try to -- it's
16 like a fish story. Their stories have just grown so
17 much every time they give a statement.

18 But, regardless of that, your Honor, in this case
19 my client was out in the dark, didn't know who all was
20 out there, knew there were several. They had
21 threatened him before. Your Honor, they get into
22 Mr. Powell's vehicle and they're murmuring about how
23 they're going to kick his ass. And, your Honor, while
24 they're in there, our theory of the case and what we're
25 going to be putting forward is, yeah, he was looking

1 for the knife. They were in there murmuring about how
2 they were going to get him, they were going to kick his
3 ass. And then keep in mind the truck is like right
4 here. Let's say it's faced right here. And the
5 shooting occurs right here. I mean, we're talking like
6 right there. As a matter of fact, there was a bullet
7 hole in the bed of the truck right there. And so I
8 think this is completely relevant to his defense which
9 is self-defense.

10 MS. PRICE: May it please the Court.

11 THE COURT: Yes, ma'am.

12 MS. PRICE: In that event, this is the first I've
13 heard of any knife, and so I would ask that the
14 testimony of the defendant be proffered if Ms. White is
15 alleging that that occurred.

16 THE COURT: Was -- why don't you go ahead and
17 proffer your witness.

18 MS. WHITE: Your Honor, may I -- I don't know if
19 that was misconstrued. I said he was in there -- our
20 theory of the case is going to be he was in there -- by
21 he, I mean Jody, and this knife was found in his truck,
22 in the front part of his truck -- is that he was
23 searching for that knife, and that's why they were in
24 that vehicle. And so that's why it's relevant. So I
25 don't know if I phrased that correctly or not.

1 THE COURT: I understand your argument.

2 Ms. Price, if you have a witness to proffer on
3 this limited issue, I believe you stated the officer
4 can give the details because I still don't have all the
5 details about this knife, and I think that would be
6 helpful at least knowing what I'm dealing with.

7 MS. PRICE: Yes, sir. The State calls Detective
8 Brent Simpson to the stand.

9 BRENT SIMPSON,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 THE CLERK: Please state and spell your name for
12 the reporter.

13 THE WITNESS: Brent Simpson, S-i-m-p-s-o-n.

14 DIRECT EXAMINATION

15 BY MS. PRICE:

16 Q Thank you. And what is your profession?

17 A I am an investigator for the Anderson County
18 Sheriff's Office.

19 Q Okay and were you an investigator on December 11,
20 2013?

21 A I was.

22 Q And were you assigned to a case that day involving
23 Mr. Bobby Joe Arflin?

24 A That's correct.

25 Q And what was your role in that case?

1 A I was the lead investigator.

2 Q Okay. And did you execute any search warrants at
3 any point in time pertaining to vehicles in this case?

4 A Yes. I executed one.

5 Q Okay. And do you recall what item you were
6 seeking that day?

7 A I believe it was a pocketknife.

8 Q Was that the first search warrant that had been
9 executed on the vehicles?

10 A It would be the second.

11 Q Second, okay. So what day -- do you recall what
12 day you executed the search warrant?

13 A I remember it was April, but I don't remember the
14 exact day.

15 Q Okay.

16 MS. PRICE: I'm marking photographs for
17 identification for this hearing, State's 1 through 21.

18 MS. WHITE: No objection, not that that would
19 matter in a motion hearing anyway.

20 (WHEREUPON, State's Exhibit Numbers 1 - 22 were
21 marked for identification.)

22 MS. PRICE: This is actually State's marked for
23 identification 1 through 22.

24 Q Investigator Simpson, are you familiar with these
25 photographs and what they purport to show?

1 A Yes, I am.

2 Q What are these?

3 A They were photographs of the search warrant as
4 well as the vehicle and where the knife was located
5 when we retrieved it.

6 Q Were they taken contemporaneously with the
7 execution of that search warrant?

8 A Yes.

9 Q Where was the knife found?

10 A It was inside of the center console in the front
11 seat between the passenger seat and the driver's seat.

12 Q Was it underneath anything?

13 A That, I don't remember, but I can tell you. Yes,
14 it looks like it was underneath a few items in there.

15 Q Okay. And you testified this is not the first
16 search warrant that had been executed?

17 A Correct.

18 Q Who directed you to execute the second search
19 warrant?

20 A You did.

21 Q And at the time of the first search warrant being
22 executed, did you have any reason to believe a knife
23 needed to be collected?

24 A Not at that time.

25 Q Okay. And do you still have any reason to believe

1 a knife needed to be collected?

2 A No, ma'am.

3 Q And why didn't you collect it initially?

4 A There was no mention of any knife or anything
5 being used or anybody being inside the vehicle at that
6 time.

7 Q Okay. And as lead investigator, you've reviewed
8 the testimony or the statements given by the witnesses
9 that were taken by members of the Anderson County
10 Sheriff's Office?

11 A Correct.

12 Q In any of those did you see any mention of a
13 knife?

14 A No.

15 Q Okay. And other than my directing you to retrieve
16 that knife, has there been any other directives with
17 regard to the knife? Did I give you an additional
18 directive?

19 A I believe we did try to locate any latent prints
20 on the knife.

21 Q Were any latent prints there?

22 A No.

23 Q And to the best of your knowledge, there has never
24 been any kind of allegation that that knife had any
25 involvement in this case?

1 A No, ma'am.

2 Q Okay.

3 MS. PRICE: No further questions.

4 THE COURT: All right.

5 Ms. White.

6 CROSS-EXAMINATION

7 BY MS. WHITE:

8 Q Detective Simpson, my client wouldn't have had any
9 idea what he was rummaging around for in his truck if
10 it was dark, would he?

11 A I can't say that. I don't know.

12 Q But do you find it interesting that your client
13 or, rather, Jody was rummaging around in his truck
14 right before this in the dark threatening my client and
15 a knife happened to be found in that vicinity? Would
16 that be relevant, do you think?

17 A Explain that question again.

18 Q I said do you think now that it would be relevant
19 if the alleged victim was rummaging around in that area
20 of the truck threatening my client while he was doing
21 it and it turns out a knife was found there and it was
22 dark outside at that time?

23 A I have no knowledge of that happening or any
24 witnesses telling me that.

25 Q Now, let's talk about that night. My client

1 waited at the scene; isn't that correct?

2 A Correct.

3 Q And when the officer got there, he immediately
4 approached my client; is that right?

5 A I wasn't there when they got there. I'm not sure.

6 Q Well, I mean, you've read the reports; is that
7 correct?

8 A There was numerous reports. I can't recall every
9 one of them.

10 Q Are you aware that an officer approached him told
11 him to put his hands behind his back, cuffed him and
12 stuck him in a police car?

13 MS. PRICE: Objection, your Honor. Is this --
14 this is, I think, going outside the scope of what I
15 questioned him about, and this is the --

16 THE COURT: I assume you can tie this into the
17 knife.

18 MS. WHITE: Yes, sir.

19 THE COURT: I'm going to overrule the objection.

20 BY MS. WHITE:

21 Q He was immediately cuffed and placed in a police
22 car alone; is that correct?

23 A Correct.

24 Q And you would agree you've listened to the tapes.
25 Jeremy Garrett says, "We're not going to question him

1 at all until we get him back to the police station and
2 we read him his rights." Did you see that in the
3 transcript of one of the tapes?

4 A I don't recall exact words.

5 Q Okay. Well, okay. So -- so, this knife was found
6 in the center console of Jody's truck; is that correct?

7 A That's correct.

8 Q And it was dark when this happened. It was
9 December, at about 8:30, 9 o'clock at night?

10 A That's correct.

11 Q This is an old country road where there are no
12 streetlights at all?

13 A Somewhat. Only lighting from the houses.

14 Q Okay. And, again, this was found in Jody's truck
15 in the front area of the truck, and it would have been
16 dark at that time; is that correct?

17 A That's correct.

18 Q Now, the shooting occurred, if the truck is faced
19 on the car -- I mean on the -- near Jody's vehicle is
20 parked right there on the road, the shooting actually
21 occurred, according to all the witnesses, right there
22 near the truck; is that correct, just within a few
23 feet?

24 A Right.

25 Q And, in fact, there is a bullet hole through the

1 truck; is that correct?

2 A That's correct.

3 Q Is there anything anywhere in this investigation
4 that leads you to believe that this shooting did not
5 occur anywhere but in close proximity of this truck?

6 A Nothing that I found.

7 Q Just one minute, please.

8 MS. WHITE: Nothing else, your Honor.

9 THE COURT: All right. I have a question. Both
10 sides have referred -- have used the phrase "in the
11 console." By "in the console," Ms. Price, if you want
12 to question the witness, was something open? Was it in
13 a compartment?

14 MS. PRICE: Yes, sir. Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. PRICE:

17 Q Brent -- Detective Simpson, explain to me what
18 this center console is in that truck. Does it have a
19 cover? Was the cover open? Where was the knife found
20 inside the vehicle with a little more specificity this
21 time?

22 A The center console would be -- it was a bench
23 seat, and you would fold down the center armrest. And
24 it does have an opening on it, and at that time it was
25 not open. It was closed.

1 MS. PRICE: Your Honor, would you like to review
2 the photographs?

3 THE COURT: Let me look at the photographs.

4 MS. PRICE: I have no further questions.

5 THE COURT: Ms. White, any response to the Court's
6 question?

7 MS. WHITE: No, sir.

8 THE COURT: I have reviewed the photographs, heard
9 the testimony, also looked at the applicable law and,
10 Ms. Price, I'm going to deny your motion.

11 MS. PRICE: Yes, sir.

12 THE COURT: What's the next one?

13 MS. PRICE: Your Honor, the State and the defense
14 have -- both have some issues with polygraph in this
15 case.

16 Your Honor, my understanding now, after speaking
17 in chambers with Ms. White was that she intends to
18 introduce the nonresult of the polygraph and that would
19 affect my motion in limine. My motion in limine is
20 generally to exclude any reference to the polygraph
21 because we don't have a result that's coming in in this
22 case. There is a -- inconclusive is the result. The
23 State is not intending to introduce -- is not going to
24 introduce the polygraph inconclusivity, and the
25 individual with SLED, Rick Charles, who administered

1 the polygraph to Mr. Lawrence, said that he was moving
2 around, and his medical issues are what caused some
3 inconclusivity with the test. But there is not a
4 positive, there is not a negative, it is simply
5 inconclusive.

6 In a situation where the results are not being
7 admitted, then there is some case law in *Bruno v. State*
8 that says even passing reference to a polygraph can
9 create an impermissible inference.

10 Your Honor, certainly I think that Mr. Lawrence's
11 credibility is at issue. We've gone over that many
12 times. I don't disagree that that is something that is
13 relevant to the case. However, I do believe that there
14 could be a mistaken inference by the jury if a result
15 is not proffered but there are mentions to a polygraph.

16 I have no objection to Ms. White using the
17 statements that he gave to impeach him, to
18 cross-examine him, absolutely not. But I think he
19 could say he gave statements to law enforcement as
20 opposed to the term "polygraph," which I think could be
21 prejudicial. *Bruno v. State* also says a trial judge
22 should be meticulous in ensuring that the jury makes no
23 improper inference from an reference to a polygraph.

24 Your Honor, this is a PCR case, but I am hopeful
25 that we can address this now so that there isn't

1 another issue down the road. I'm going to hand the
2 case up. It's 347 S.C. 446. In that case that I've
3 handed you, there were two references to a polygraph
4 test which were not specifically elicited by the
5 State's questions and not objected to by the defense,
6 and no results were introduced. The State did not,
7 though it could have, heightened the prejudicial effect
8 with additional emphasis. That's what the court found.

9 And, your Honor, while it's true that polygraph
10 results are no longer per se admissible, there aren't
11 any results to be admitted in this case. So in order
12 to avoid any prejudice to the State with the jury
13 making those impermissible inferences about nonexistent
14 test results, I submit there should be an exclusion of
15 any reference to a polygraph with a remedy of a
16 curative instruction if any witness happens to mention
17 it. Roy Lawrence can again be asked if he gave a
18 statement to law enforcement, and Ms. White can ask him
19 about the statement without the possibility of
20 prejudice brought about by any reference to the
21 polygraph without an admission of the result.

22 THE COURT: Thank you.

23 Ms. White.

24 MS. WHITE: Yes, sir. Your Honor, we're not
25 introducing this as any -- I think all of the cases are

1 talking about how you can't mention a polygraph because
2 that implies results. The results here are there
3 aren't any results, so nobody is prejudicing either
4 side, actually, when it comes to the result. There's
5 no result. And that's the whole point. That's why it
6 is relevant in this case, and that's what distinguishes
7 this from the other cases.

8 Your Honor, in the polygraph -- and, you know,
9 when we keep citing all these people who are saying
10 things, keep in mind everything was recorded in this
11 case, and either we or they have hired a court reporter
12 and we have exchanged all this stuff. So that's what
13 I'm talking about when I say "looking at the
14 transcript."

15 Your Honor, the entire interview and the entire
16 polygraph was taped. And, basically, the informant,
17 before he takes the polygraph, the polygraph examiner
18 says, "Put your feet wherever you want to put them. I
19 don't care. I just ask you to keep them still. Don't
20 scoot them around. Like I say, the reason I say that,
21 the computer is real sensitive to movement. If I get a
22 lot of movement, I can't read it."

23 Then they go on and on. He has to give multiple
24 tests, moving, moving, moving. The interesting thing
25 is he interviews Roy Lawrence for, I don't know, like

1 an hour before this. Oh, nobody is noticing any
2 movement at all until we get to the test. And then all
3 of a sudden we have too much movement for the test.

4 Your Honor, we're introducing this or asking to
5 introduce it not because it's a polygraph, not because
6 of any results. We're introducing it to show that's
7 exactly the point. He didn't want any results from the
8 polygraph. He had been told very, very clearly, "If
9 you move, we won't get results." And that's exactly
10 why he moved.

11 MS. PRICE: May it please the Court.

12 THE COURT: Ms. White, by inference you're seeking
13 to admit that he would have failed the polygraph test,
14 and he's refusing to cooperate in the conduct of the
15 test. That's what I'm hearing, that you're saying that
16 the witness refused to cooperate because he didn't want
17 the test to have results.

18 MS. WHITE: That he didn't want any results, yes.
19 That he was defeating the purpose of the test.

20 THE COURT: And, certainly, the subject would have
21 wanted the result if he thought he was going to pass
22 it. That's the inference that I'm drawing from what
23 you're saying.

24 MS. WHITE: Most certainly. But if you look at
25 the cases, all of the cases excluded under 700 rules.

1 You know, it's not scientific enough. It's not
2 definite enough. It's not reliable enough. So we're
3 not touching on that at all. We're not saying this
4 test result is reliable, it's not reliable, polygraphs
5 are reliable. That's irrelevant, honestly, to the
6 argument that we're making.

7 THE COURT: You would agree that the State cannot
8 require the witness to take a polygraph test.

9 MS. WHITE: But when they asked him to and he
10 agrees to and he says, "I'm telling the truth," and
11 then he does everything he can do to defeat reading any
12 results from a test, that is the important thing.
13 Whether it's reliable or not is irrelevant.

14 THE COURT: I understand your argument. I'm going
15 to grant the State's motion. We will not have any
16 reference to the polygraph test. You may certainly
17 bring up what he's told the interviewer substantively
18 about the facts of case, but there will be no mention
19 of a polygraph or polygraph testing or results.

20 MS. WHITE: Your Honor, may I state a basis is
21 Sixth Amendment, again right to cross-examine, right to
22 bring out evidence that impeaches him, et cetera.
23 Those would be my bases.

24 THE COURT: That's noted for the record,
25 Ms. White.

1 MS. WHITE: Thank you.

2 MS. PRICE: May it please the Court.

3 THE COURT: Yes, ma'am.

4 MS. PRICE: Your Honor, the only motion that the
5 State has left after our discussion in chambers is
6 there will be a very brief *Jackson v. Denno* hearing as
7 to two statements made by the defendant at the scene to
8 the responding officers, but we agreed that we would
9 hear that Monday, and so the State has no further
10 motions at this time.

11 THE COURT: Any further motions from the defense
12 at this time?

13 MS. WHITE: Your Honor, we do have a motion to
14 suppress some money that was found in my client's
15 possession. And by possession, I mean in his vehicle.
16 And we would also make a motion to -- in a search of
17 things in his truck, there were some just random
18 rounds. My Marine Corps training won't let me say
19 "bullets." They wouldn't let us say that. So I'm
20 going to say bullets, even though -- anyway. Live
21 rounds. And so we would move to suppress that as well.
22 You've already heard Brent Simpson's testimony that the
23 shooting occurred outside of the vehicle.

24 THE COURT: Ms. Price.

25 MS. PRICE: May it please the Court.

1 Your Honor, I'll cite your own decision moments
2 ago as to the knife. It is relevant because it was
3 there. And it's more probative than prejudicial for
4 the State because it shows that he had something to
5 protect other than his personage. I believe that one
6 of the elements that the defense is going to argue
7 underneath its self-defense umbrella is that this
8 defendant had cancer or has health issues, things of
9 that nature, and was just trying to protect his body
10 and his person.

11 Your Honor, I think the currency goes to show an
12 alternative theory that maybe he actually has some
13 other reason to be acting in an aggressive manner,
14 guarding thousands of dollars in cash.

15 THE COURT: Have there been any allegations that
16 the victim was attempting to steal?

17 MS. PRICE: Absolutely not, your Honor, nor is
18 there, but I can't make guesses as to -- well, I am
19 making guesses as to what one of the motivations could
20 have been, and I think that's something that the jury
21 can consider.

22 THE COURT: How much money was taken into
23 evidence?

24 MS. WHITE: Your Honor, there were thousands of
25 dollars. And we actually have a receipt showing where

1 his mom had to get this other vehicle. Your Honor, and
2 I would certainly say, okay, well, I agree this should
3 be held open, and certainly if they prove some kind of
4 nexus. We submitted a nexus which is he was rummaging
5 right before this saying, "I'm going to kill you."
6 I've heard nothing that would tie this in. And I
7 certainly agree if they can tie it in at some point,
8 but I have heard nothing that would tie it in. He had
9 money in his vehicle, so what.

10 THE COURT: I'm not going to rule on that at this
11 point. If you can lay some foundation on it, then
12 we'll deal with that at the time. The bullets,
13 again -- I'll use the term "bullets," Ms. White. I
14 find that that is relevant. That's a question of fact
15 to be determined at the trial, so, Ms. Price, I'll
16 allow that evidence in.

17 MS. WHITE: Your Honor, I just want to make sure I
18 understand the ruling. So they're going to have to lay
19 some kind of foundation before the mention of the money
20 comes in?

21 THE COURT: That's correct.

22 MS. PRICE: But as to the ammunition, it is
23 admissible.

24 THE COURT: Yes. Yes, ma'am.

25 MS. PRICE: Thank you.

1 THE COURT: And we will conduct the *Jackson v.*
2 *Denno* hearing prior to the beginning of the testimony
3 in the case or prior to the beginning of the case. As
4 we discussed, we will qualify the jury Monday morning,
5 go ahead and select the jury. We will take a lunch
6 break to allow both sides to get their preparations
7 complete, and we'll start the case at 2 o'clock on
8 Monday.

9 MS. WHITE: Your Honor, I brought this up in
10 chambers, and I just kind of want to -- I have got a
11 very, very contentious case Monday morning in family
12 court, and I want to make sure I can in good faith tell
13 a family court judge that a general sessions judge has
14 instructed me that we are starting this case that
15 morning, drawing a jury, and I'm going to have to
16 request a continuance on that.

17 THE COURT: The judge may call me if they have any
18 concerns about that. You are set for trial on Monday.

19 MS. WHITE: My client may kill me too, but there's
20 nothing you can do about that.

21 MS. PRICE: Your Honor, only one thing to put on
22 the record. Ms. White and I have signed a stipulation
23 as to the testimony of Ms. Gale Heath with SLED as to
24 the results and the reports and the handwriting
25 analysis of this case. I just want to put that on the

1 record because we have agreed to her testimony because
2 Ms. Heath is leaving for Europe on the 20th. So if
3 Ms. White has any umbrage or any -- any difficulty with
4 the testimony, speak now or forever hold your peace, I
5 guess. But I believe we have addressed it.

6 MS. WHITE: I made it clear all the way through
7 this we're not saying he didn't do this. We're saying
8 he was talking about the case showing him his case, so
9 that's not even an issue. But to answer the question,
10 we do agree. We both interviewed Gale Heath. We were
11 together. As a matter of fact, we have typed something
12 out. Now, it's not going to be introduced to the jury
13 but read to the jury as a stipulation of testimony.
14 We're not contesting chain of custody or anything of
15 that on the map or the three names or -- is there
16 something else?

17 MS. PRICE: No.

18 MS. WHITE: Standard handwriting. But it will be
19 read as if she were here testifying, this is what she
20 would say.

21 THE COURT: So stipulated.

22 MS. PRICE: Thank you, your Honor.

23 THE COURT: Thank you. Thank you both. We'll see
24 you Monday morning.

25 (WHEREUPON, proceedings adjourned at 12:37 p.m.)

1 MS. PRICE: Mr. Shirley is under subpoena by Ms.
2 White next week. I want to make sure you don't have an
3 issue with Mr. Shirley handling jury qualification.

4 MS. WHITE: I don't think I will need him anyway,
5 but I wouldn't have an issue.

6 THE COURT: I just wanted to put on the record
7 that Ms. Littleton from the solicitor's office is
8 present, the victim advocate. Was the victim family
9 notified of today's hearing?

10 MS. LITTLETON: Yes, sir.

11 THE COURT: We just wanted to note that for the
12 record. Thank you.

13 (WHEREUPON, proceedings adjourned at 12:39 p.m.)
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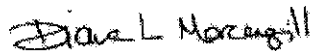
1 Certificate of Reporter

2
3 I, Diane L. Marcengill, Official Court Reporter
4 for the Tenth Judicial Circuit of the State of South
5 Carolina, do hereby certify that the foregoing is a
6 true, accurate, and complete transcript of record of a
7 portion of the proceedings had and evidence introduced
8 in the trial of the captioned case, relative to appeal,
9 in the Circuit Court for Anderson County, South
10 Carolina, on the 18th day of August 2015.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.

13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.

15 November 25, 2015

16 

17 _____
18 Diane L. Marcengill, RPR, CRR
19 Circuit Court Reporter
20
21
22
23
24
25

1 State of South Carolina
2 County of Anderson In the Court of General Sessions

3
4
5 State of South Carolina) 2014-GS-04-00426
6 -vs-) 2014-GS-04-00340
7 Bobby Joe Arflin,) 2014-GS-04-00341
8 Defendant.) 2014-GS-04-00342
9 -----) August 24, 2015
) Transcript of Record
) Volume 2 of 5
) Pages 111-322

10

11

B E F O R E:

12

13 The Honorable R. Scott Sprouse, Judge;
14 and a jury.

15

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

16 Lauren Davis Price, Esquire
17 Catherine Townsend Huey, Esquire
18 Attorneys for the State

19 Druanne Dykes White, Esquire
20 Ashlea Morgan White, Esquire
21 Attorneys for Defendant

22

23

24

25

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

26

27

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E x h i b i t s

For the State:

Marked	Description	I.D.	Evd.
1	CD of 911 call by defendant	192	242
3	Photo - scene (daylight)	267	271
4	Photo - scene (daylight)	267	271
5	Photo - scene (daylight)	267	271
6	Photo - scene (daylight)	267	271
7	Photo - scene (daylight)	267	271
8	Photo - scene (daylight)	267	271
9	Photo - scene (daylight)	267	271
10	Photo - scene (daylight)	267	271
11	Photo - scene (daylight)	267	271
12	Photo - scene (daylight)	267	271
13	Photo - scene (daylight)	267	271
14	Photo - scene (nighttime)	267	271
15	Photo - scene (nighttime)	267	271
16	Photo - scene (nighttime)	267	271
17	Photo - scene (nighttime)	267	271
18	Photo - scene (nighttime)	267	271
19	Photo - scene (nighttime)	267	271
20	Photo - scene (nighttime)	267	271
21	Photo - scene (nighttime)	267	271
22	Photo - front door residence	267	271

For the Defendant:

Marked	Description	I.D.	Evd.
1	Photograph of victim at mud run	302	303

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 2:27 p.m.)

4 THE COURT: Good morning, ladies and gentlemen.
5 I'm Judge Sprouse. I'm one of your resident Tenth
6 Circuit judges. I come from Walhalla. It's always
7 nice to be down here in Anderson. You have good staff,
8 a good courthouse, and hopefully this will be an
9 educational week for you as jurors.

10 First order of business that we have is to
11 determine your qualifications to serve as jurors. This
12 is a term of general sessions court. General sessions
13 means criminal court. Some of you may have been called
14 to serve in common pleas court a previous time. Common
15 pleas is civil. General sessions is criminal. So that
16 means you will hear a criminal case.

17 First order of business, we will determine you're
18 in the right courthouse. Again, this is circuit court.
19 If you have been summoned to appear in magistrate's
20 court, municipal court or federal court, you're in the
21 wrong place. Is there any member of the jury pool who
22 thinks they might be in the wrong courthouse? Good.

23 This term of court is for one week, so I don't
24 anticipate this case running over, but this should be a
25 one-week term of court. Now, we all understand the

1 inconvenience that jury service is for a person to take
2 time out of their daily life to come up here. Winston
3 Churchill once said there is no higher service during
4 peace time than jury service. We thank you for being
5 here. And, certainly, we'll do our best to minimize
6 your inconvenience. We hope this will be an enjoyable
7 and educational week for you.

8 Your clerk has introduced himself to you. His
9 staff is here to help you. They will provide
10 information to you. If you need anything, please let
11 the clerk's office know. They have also given you some
12 basic instructions with numbers for information.

13 Now, the first purpose of our gathering is to
14 determine your qualification to serve as jurors.
15 Second is to determine your eligibility to serve as
16 jurors. As part of this process, it is necessary that
17 you take an oath.

18 So, Mr. Clerk, would you please swear our jury
19 pool in.

20 (WHEREUPON, the prospective jury panel was sworn.)

21 THE COURT: Thank you.

22 Ladies and gentlemen, the clerk of court will now
23 call the roll. When your name is called, please stand,
24 and in a loud, clear and audible voice provide the
25 following information: One, your occupation, if you

1 are employed. If you're self-employed, state the
2 nature of your business. If you are retired or
3 disabled, state your former occupation. Also, whether
4 or not you are married, and if so, your spouse's
5 occupation. And if your spouse is retired or disabled,
6 state their former occupation or nature of business.

7 Mr. Clerk.

8 THE CLERK: Thank you, your Honor.

9 Our first potential juror is Jonathan E. Boggs.

10 POTENTIAL JUROR: Jonathan E. Boggs. I'm a pastor
11 in Anderson, and my wife is the cafeteria manager at
12 Marshal Primary School in Belton.

13 THE CLERK: Thank you, sir.

14 Would the attorneys like me to use the juror
15 number?

16 MS. WHITE: Please.

17 THE CLERK: Juror number 7, Dianne H. Bray.

18 POTENTIAL JUROR: I'm Dianne Bray. I'm a retired
19 graphic artist and I'm a widow.

20 THE CLERK: Juror number 8, William Z. Brewer.

21 POTENTIAL JUROR: William Z. Brewer. I work at
22 Trinity Metal Building, single.

23 THE CLERK: Yes, sir.

24 MS. WHITE: I'm sorry, I didn't hear him.

25 THE CLERK: Could you repeat again where you work?

1 POTENTIAL JUROR: Trinity Metal.

2 THE CLERK: And he's single.

3 Juror number 12, Mark S. Brown.

4 POTENTIAL JUROR: Mark S. Brown. I'm a
5 maintenance technician for Timken. My wife is retired.

6 THE CLERK: Thank you.

7 Juror 17, Stacy N. Cadwick.

8 POTENTIAL JUROR: I'm Stacy Cadwick. I work at --

9 THE CLERK: You need to be a little louder.

10 POTENTIAL JUROR: I work at Kujo (phonetic)
11 warehouse.

12 THE CLERK: If you're wondering why we're jumping
13 numbers like that, there was a gap between 17 -- 12 to
14 17, when we first sent out the jury notices, we use a
15 list of driver's licenses, voter registration or South
16 Carolina I.D. cards. And in the years that have
17 passed, some folks have moved to Georgia or they are
18 deceased or they're over 65 years old. If we call
19 somebody who's over 65, they can elect not to come. So
20 that's why there are gaps.

21 I had a phone call two, three weeks ago because he
22 now lives in Montana. He asked if I was going to send
23 the sheriff to arrest him if he didn't show up. I told
24 him no, we'd let him slide. That's why there are gaps.

25 Juror number 18, James N. Cannon.

1 POTENTIAL JUROR: My name is James N. Cannon. I'm
2 employed at MV Construction, and I'm married. My wife
3 works at Chick-Fil-A.

4 THE CLERK: Thank you, sir.

5 Juror number 19, Crystal P. Carrillo.

6 POTENTIAL JUROR: Crystal Carrillo. I work at
7 Milliken distribution plant.

8 THE CLERK: Are you married?

9 POTENTIAL JUROR: No, I'm single.

10 THE CLERK: Thank you, ma'am.

11 Juror number 20, Rebecca P. Carter.

12 POTENTIAL JUROR: Rebecca Carter. I work for Bon
13 Secours St. Francis in Greenville. I'm a registered
14 nurse, and I work in administration. My husband also
15 works at Bon Secours St. Francis in the registration
16 department.

17 THE CLERK: Thank you, ma'am.

18 Juror 21, Richard R. Cartlidge.

19 POTENTIAL JUROR: Richard R. Cartlidge. I work
20 for CSX in Greenwood as a freight conductor, and my
21 wife is a stay-at-home mom.

22 THE CLERK: Thank you.

23 Juror 23, Lonnie R. Chamblee.

24 THE CLERK: Lonnie R. Chamblee, maintenance worker
25 at Riggins Garment Care. I'm single.

1 THE CLERK: Thank you.

2 Juror 24, Roger D. Chandler.

3 POTENTIAL JUROR: Roger Chandler. I work at Glen
4 Raven, operator, and my wife is unemployed.

5 THE CLERK: Thank you, sir.

6 Juror number 30, Vivian L. Crawford.

7 POTENTIAL JUROR: My name is Vivian Crawford. I
8 work for Bosch and I'm widowed.

9 THE CLERK: Thank you, ma'am.

10 Juror 32, Yolanda L. Cunningham.

11 POTENTIAL JUROR: I'm Yolanda Cunningham. I'm
12 single. I'm a nurse at New Horizon Family Health
13 Services.

14 THE CLERK: Thank you.

15 Juror 34, Charles W. Davis, Jr..

16 POTENTIAL JUROR: My name is Charlie Davis. I've
17 been at Forms and Supply 41 years. My wife is at AnMed
18 Health, radiology department. She is now retired.

19 THE CLERK: Thank you, sir.

20 Juror 41, Cherbriel S. Ellis.

21 POTENTIAL JUROR: Cherbriel Ellis. I'm a line
22 supervisor for BMW, and I am single.

23 THE CLERK: Thank you.

24 Juror 42, William J. Erskine.

25 POTENTIAL JUROR: Yes, sir. I'm William Erskine.

1 I'm an AMR driver for Piedmont Natural Gas, Anderson,
2 and my wife is an SRO at Anderson County Sheriff's
3 Department.

4 THE CLERK: Thank you, sir.

5 Juror 43, Russell Estes.

6 POTENTIAL JUROR: Russell Estes. I work for
7 Ahold. I'm a manager of information security
8 operations, and my wife works for AnMed at Honea Path
9 Family Practice.

10 THE CLERK: Thank you.

11 Juror 44, Terry T. Ford.

12 POTENTIAL JUROR: My name is Terry Ford. I'm a
13 control systems engineer, and my wife is communication
14 director at Anderson Christian School.

15 THE CLERK: Thank you.

16 Juror 45, Jenna B. Fuller.

17 POTENTIAL JUROR: I'm Jenna B. Fuller. I'm a
18 stay-at-home mom, and my husband is a veterinarian at
19 Magnolia.

20 THE CLERK: Thank you.

21 Juror 46, Samuel E. Fuller, Jr..

22 POTENTIAL JUROR: My name is Samuel Fuller, Jr. I
23 work for GNC Distribution as a second shift lead. My
24 wife works for All About Fabrics in Williamston.

25 THE CLERK: Thank you.

1 Juror 49, Lisa H. Granger.

2 POTENTIAL JUROR: Hi. I'm Lisa Granger. I'm a
3 treasury analyst for Southern Management Corporation.
4 My husband is a staff engineer at Group Alpha here in
5 Anderson.

6 THE CLERK: Thank you.

7 Juror 52, Sonja J. Harbin.

8 POTENTIAL JUROR: Sonja Harbin. I work for
9 Steadman Hawkins Clinic. I'm an orthopedic surgeon,
10 and I'm single.

11 THE CLERK: Juror 68, Daniel L. Jachens.

12 POTENTIAL JUROR: Daniel L. Jachens. I'm co-owner
13 of Daniel Builders. My wife is a stay-at-home mom.

14 THE CLERK: Thank you.

15 Juror number 70, Alee S. Jarvis.

16 POTENTIAL JUROR: Alee Jarvis. I'm retired from
17 the school system. My husband retired from Timken.

18 THE CLERK: Thank you, ma'am.

19 Juror 71, Kenneth P. Johnson.

20 POTENTIAL JUROR: Ken Johnson, self-employed as a
21 remodeler. My wife is self-employed as a barber.

22 THE CLERK: Thank you.

23 Juror 73, Richard L. Jones.

24 POTENTIAL JUROR: Richard L. Jones, branch manager
25 for First Franklin Financial. My wife is a

1 stay-at-home mom.

2 THE CLERK: Thank you.

3 Juror 76, Steve T. Lathum.

4 POTENTIAL JUROR: Steve Lathum. I work for
5 Defenders Security Office, and we have a family-owned
6 restaurant in Iva.

7 THE CLERK: Thank you.

8 That's our first page. Any questions?

9 We'll carry on. I thought I heard somebody behind
10 me.

11 Juror 79, Nancy M. Lyons.

12 POTENTIAL JUROR: Nancy Lyons, insurance agent,
13 widow.

14 THE CLERK: Thank you, ma'am.

15 Juror 83, William D. Martin.

16 POTENTIAL JUROR: William D. Martin, Advanced
17 Rigging. My wife works for Captain Dave's Boating
18 World.

19 MS. WHITE: Can you repeat that? I'm sorry.

20 THE CLERK: Could you stand up and talk just a
21 little louder?

22 POTENTIAL JUROR: William D. Martin, Advanced
23 Rigging. Wife works for Captain Dave's Boating World.

24 THE CLERK: Juror 85, Philip T. McAlister, II.

25 POTENTIAL JUROR: Philip McAlister, liability

1 technician, Michelin, single.

2 THE CLERK: Juror 87, Joseph T. McClain.

3 POTENTIAL JUROR: Joseph McClain, single. I'm a
4 cook at Sonny's Barbecue.

5 THE CLERK: Thank you.

6 Juror 88, Aubrey D. McMahan.

7 POTENTIAL JUROR: Aubrey McMahan. I work at
8 Timken as a setter. My wife works at Greenville
9 Hospital Systems.

10 THE CLERK: Thank you, sir.

11 Juror 91, Angelina R. Moon.

12 POTENTIAL JUROR: Angelina Moon. I'm a nursing
13 professor at Anderson University and floor nurse at
14 Greenville Health Systems. And, I'm sorry. I am
15 married. My husband is unemployed.

16 THE CLERK: Thank you.

17 Juror 92, Jessica R. Morris.

18 POTENTIAL JUROR: My name is Jessica Morris. I'm
19 married, and my -- I'm a student, full-time student, at
20 Tri-County, married. My husband owns his own pest
21 control business.

22 THE CLERK: Thank you.

23 Juror 93, Marvin D. Morris, II.

24 POTENTIAL JUROR: I'm Marvin Morris. I work for
25 contract out of Michelin, Sandy Springs, environmental

1 services, single.

2 THE CLERK: Thank you.

3 Juror 94, Sheri A. Moss.

4 POTENTIAL JUROR: I'm Sheri Moss, and I'm a
5 stay-at-home mom, and my husband is currently
6 unemployed.

7 THE CLERK: Thank you.

8 Juror 95, Willie T. Moss, Jr.

9 POTENTIAL JUROR: Willie T. Moss. I work at AnMed
10 Health, LPN. My wife works at AnMed Health, and she's
11 a registered nurse.

12 THE CLERK: Thank you.

13 Juror 100, Valerie M. Peterson.

14 POTENTIAL JUROR: I'm Valerie Peterson. I'm
15 employed part-time as a technical writer and also as a
16 gymnastics coach at Electric City Gymnastics. My
17 husband works at Lake Hartwell. He's a natural
18 resource specialist.

19 THE CLERK: Thank you.

20 Juror 101, Austin T. Porter.

21 POTENTIAL JUROR: Austin Porter. I work assembly
22 at ZF Transmissions, single.

23 THE CLERK: Juror 105, Kimberly B. Pruitt.

24 POTENTIAL JUROR: Kimberly Pruitt. I'm a
25 pharmacist for CVS and I'm single.

1 THE CLERK: Juror 108, Angela H. Ratchford.

2 POTENTIAL JUROR: I'm Angela Ratchford. I'm an
3 accountant for Southeastern Paper Board, and my husband
4 works at Bosch.

5 THE CLERK: Thank you.

6 Juror 111, Marva V. Rich.

7 POTENTIAL JUROR: Marva Rich. I work at AnMed
8 Health, and I'm also retired military.

9 THE CLERK: Thank you, ma'am.

10 Juror 115, Joshua M. Savage.

11 POTENTIAL JUROR: Joshua Savage. I work for
12 Sunland Logistics Solutions, ops supervisor. And my
13 wife is a stay-at-home mom.

14 THE CLERK: Thank you.

15 Juror 116, Charlie J. Scott.

16 POTENTIAL JUROR: Charlie J. Scott, retired from
17 United States Post Office, also disabled veteran. My
18 wife retired from White Consolidated Electrolux.

19 THE CLERK: Thank you, sir.

20 Juror 119, Robert L. Sheppard.

21 POTENTIAL JUROR: I'm Robert Sheppard. I'm a CNC
22 programmer at High Tech Machining here in Anderson. My
23 wife is a registered nurse at AnMed Health.

24 THE CLERK: Thank you, sir.

25 Juror 120, Keri A. Simmons.

1 POTENTIAL JUROR: I'm Keri Simmons. I'm a CNA at
2 NHC, and I'm single.

3 THE CLERK: Thank you.

4 Juror 121, Geraldine W. Sloan.

5 POTENTIAL JUROR: I'm Geraldine W. Sloan, Verizon
6 Wireless customer service. My husband is a truck
7 driver.

8 THE CLERK: Thank you.

9 Juror 122, Ethan S. Smith.

10 POTENTIAL JUROR: I'm Ethan Smith. I'm currently
11 a student at Tri-County Technical College. I'm
12 currently unemployed, and I'm single.

13 THE CLERK: Thank you.

14 Juror 123, Joyce E. Smith.

15 POTENTIAL JUROR: I'm Joyce Elaine Smith. I
16 recently celebrated 15 years at the BMW Corporation in
17 Greer, South Carolina. My husband works at Bosch
18 Corporation here in Anderson.

19 THE CLERK: Thank you, ma'am.

20 Juror 124, Sharon C. Smith.

21 POTENTIAL JUROR: I'm Sharon Smith. I'm a
22 homemaker. My husband is an employee of Lundberg.
23 He's a senior tech.

24 MS. WHITE: I'm sorry. One more time.

25 THE CLERK: She's a homemaker and the husband is

1 an engineer at?

2 POTENTIAL JUROR: Lundberg.

3 THE CLERK: Lundberg.

4 Juror 128, James M. Stancell.

5 POTENTIAL JUROR: James Stancell. I'm a parts
6 manager at Foothills Motorsports. My wife works at
7 Oconee Memorial Hospital.

8 THE CLERK: Thank you.

9 Juror 134, Michael C. Terry.

10 POTENTIAL JUROR: Michael Terry. I'm a lead for
11 the ground crew for the school district. My wife is
12 the director of counseling for Greenville Tech.

13 THE CLERK: Thank you, sir.

14 Juror 136, Joseph M. Tilley.

15 POTENTIAL JUROR: I'm Joseph Tilley, quality
16 assurance technician for Plastic Products. My wife
17 works at AnMed Health campus.

18 THE CLERK: Thank you, sir.

19 Juror 139, Barbara A. Turner.

20 POTENTIAL JUROR: Barbara Turner. I'm employed at
21 Bon Secours St. Francis as a central processing tech,
22 and I'm single.

23 THE CLERK: Thank you, ma'am.

24 That's our second page. Any questions?

25 Juror 142, Eileen M. Walling.

1 POTENTIAL JUROR: Eileen Walling. I'm an RN case
2 manager at Shriner's Hospital for Children in
3 Greenville, and my husband owns his own computer
4 software business.

5 THE CLERK: Thank you.

6 Juror 144, Breanna J. Whitner.

7 POTENTIAL JUROR: Breanna Whitner. I'm assistant
8 manager at Bojangle's, and I'm single.

9 THE CLERK: Okay.

10 Juror 147, Brittani S. Williams.

11 POTENTIAL JUROR: Brittani Williams. I'm a store
12 manager, and I'm single.

13 THE CLERK: Thank you.

14 Juror 149, Daniel K. Woodruff.

15 POTENTIAL JUROR: Dan Woodruff. I'm self-employed
16 at Information Technologies. My wife is a State Farm
17 agent in Williamston. I'm also fully licensed in
18 insurance.

19 THE CLERK: Thank you, sir.

20 Ladies and gentlemen, is there anybody's name I
21 did not call?

22 Your Honor, that's 58 present and accounted for.

23 THE COURT: Thank you. I now have certain
24 questions to ask you to determine your qualifications
25 as jurors in this court. These questions determine

1 your eligibility to serve. State law requires that I
2 ask these questions. If any juror needs to respond to
3 a particular question, you will need to stand, give
4 your juror number first, then your name. It is
5 absolutely essential that we have accurate information.

6 Some of the questions are very personal. If you
7 do not wish to stand and disclose this information
8 openly in the presence of your fellow jurors, I will
9 give you the opportunity to come forward at the end.
10 Just be sure to remember to come forward at the end if
11 you do not stand when a question requiring an
12 affirmative response from you is asked. Please listen
13 carefully to these questions.

14 Is any member of the jury panel not a citizen of
15 the United States of America? If so, please stand.

16 There are none.

17 Is any member of the jury panel not a resident and
18 citizen of Anderson County, South Carolina? If so,
19 please stand.

20 There are none -- we have one.

21 Yes, sir. What's your juror number?

22 POTENTIAL JUROR: 122, Ethan S. Smith. I lived in
23 Wisconsin last year, so I don't know if -- I don't have
24 a full-time job, so I don't believe I'm a resident of
25 South Carolina.

1 THE COURT: Do you have a South Carolina driver's
2 license?

3 POTENTIAL JUROR: I do.

4 THE COURT: And what county is that South Carolina
5 driver's license?

6 POTENTIAL JUROR: It's for Anderson.

7 THE COURT: It's in Anderson County?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: Okay. Do you reside here now?

10 POTENTIAL JUROR: Yes, sir, I do.

11 THE COURT: Okay. All right. I'm going to have
12 you stay.

13 POTENTIAL JUROR: Okay.

14 THE COURT: Is any member of the jury panel unable
15 to read, write, speak or understand the English
16 language? If so, please stand.

17 There are none.

18 Does any member of the jury panel have less than a
19 sixth grade education or its equivalent? If so, please
20 stand.

21 There are none.

22 Is any member of the jury panel unable, because of
23 mental or physical infirmities, to render efficient
24 jury service? For example, does any member of the jury
25 panel have any medical condition that would prevent you

1 from serving on a jury this week? If so, please stand.

2 There are none.

3 Has any member of the jury panel been convicted by
4 guilty plea or trial in a state or federal court of
5 record of a crime punishable by imprisonment for more
6 than one year and your civil rights have not been
7 restored by pardon or amnesty? Punishable by more than
8 one year means that you could have received a sentence
9 of more than one year regardless of what sentence you
10 may have actually received. If so, please stand.

11 Yes, sir. Your juror number?

12 POTENTIAL JUROR: Number 8, William Brewer. I had
13 a drug charge.

14 THE COURT: Okay. I'm going to have you come
15 forward, sir. I can't hear you. Please come forward
16 to right here.

17 Okay. What's your juror number?

18 POTENTIAL JUROR: Number 8.

19 THE COURT: What were you convicted of?

20 POTENTIAL JUROR: Drug charge.

21 THE COURT: What kind of drug charge?

22 POTENTIAL JUROR: Possession of methamphetamine.

23 THE COURT: Possession of methamphetamine, okay.

24 All right. Juror number 8 is excused.

25 All right. There are no others.

1 Is any member of the jury panel a clerk or deputy
2 clerk of court, constable, sheriff or other
3 commissioned law enforcement officer, probate judge,
4 county commissioner, magistrate, or other county
5 officer or employed within the walls of any courthouse?
6 If so, please stand.

7 There are none.

8 Is there any member of the jury panel who has
9 previously served on jury duty in circuit court during
10 this calendar year? Now, again, not municipal court,
11 not magistrate's court, federal court, but circuit
12 court during this calendar year, 2015. If so, please
13 stand.

14 Okay. There are none.

15 Has any member of the jury panel served as a
16 member of the Anderson County Grand Jury during the
17 last several years? If so, please stand.

18 There are none.

19 We now move to jury exemptions. State law
20 requires -- provides for several exemptions for jury
21 service. An exemption does not mean that you are not
22 qualified to serve, it simply means that you have the
23 right to say, "I choose not to serve."

24 The first is those of you who are 65 years of age
25 or older, you may be exempted from jury service. Those

1 of you 65 years of age or older represent a tremendous
2 pool of talent for jury service, and we would urge you
3 to serve this week if you are inclined to do so. But
4 if you wish to be exempted, you may certainly do so.

5 Is there any member of the jury panel who is 65
6 years of age or older and wishes to be exempted from
7 jury service this week? If so, please stand.

8 Yes, sir.

9 POTENTIAL JUROR: Juror 116. I'm a disabled
10 veteran. It's a stressful thing, so I --

11 THE COURT: So you're over 65 years of age?

12 POTENTIAL JUROR: I'm 71 years of age now.

13 THE COURT: And you're number 116?

14 POTENTIAL JUROR: 116, Charlie Scott, yes.

15 THE COURT: Okay. Mr. Scott, we appreciate you
16 coming, and you are excused. Thank you for your
17 appearance this morning.

18 Any further over 65?

19 No others.

20 Another exemption concerns prior jury service. No
21 person is required to serve as a juror more often than
22 once every three calendar years. Therefore, any member
23 of the jury panel who has served on jury duty during
24 the last three calendar years, you may be exempt from
25 service this week if you choose to be exempted. Again,

1 please note that this does not apply if your jury
2 service was in magistrate's court, municipal court, or
3 federal court. This only applies to circuit court. If
4 this exemption applies to any of you and you wish to be
5 exempted, please stand.

6 There are none.

7 Persons who have served as Grand Jurors in the
8 last five calendar years may also be exempted from jury
9 service. If any member of the jury panel has served on
10 a Grand Jury during the last five years, you may be
11 exempt from service this week if you choose to be
12 exempted. If this exemption applies to any member of
13 the jury panel and you wish to be exempted, please
14 stand.

15 There are none.

16 The next exemption deals with those of you who
17 have small children. Please listen very carefully to
18 this exemption. It has several parts, and all of them
19 must apply for you to be exempted on this basis. You
20 may be exempted from jury service if: One, you have a
21 small child or children under the age of seven years;
22 two, you have legal custody of your child or children;
23 three, you have the principal care, custody, and
24 control of your child or children; and, four, you are
25 unable to make arrangements for the adequate care of

1 your child or children while performing jury duty.

2 If all of these requirements apply to you, then
3 you may be exempted on this basis. If this exemption
4 applies to you and you wish to be exempted, please
5 stand at this time and come forward.

6 There are none.

7 The next exemption involves those of you who may
8 be attending school at this time or working in some
9 capacity with a school. If this exemption applies to
10 you and you wish to be exempted, we will transfer your
11 service to another term of court at a time which will
12 not conflict with your school responsibilities.

13 Is there any member of the jury panel who is a
14 full-time student, school teacher, certified personnel,
15 school crossing guard, school bus driver, or who serves
16 in any public or private school-related function
17 including technical colleges who is unable to serve on
18 jury duty this week as a result of that school
19 involvement? If so, please stand.

20 Yes, ma'am.

21 POTENTIAL JUROR: 92, Jessica Morris. I'm a
22 student.

23 THE COURT: You are a full-time student, ma'am?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: Okay. All right. We will -- I'll

1 have the clerk transfer you to another term.

2 POTENTIAL JUROR: All right. Am I dismissed?

3 THE COURT: So that will be juror number 92 will
4 be transferred to another term that doesn't conflict
5 with school.

6 POTENTIAL JUROR: Thank you, sir.

7 THE COURT: Thank you for coming, ma'am.

8 Any others?

9 There are no others.

10 Is there any member of the jury panel who is
11 employed with the Department of Corrections at a
12 penitentiary? Is there any member employed at a
13 penitentiary with the Department of Corrections? If
14 so, please stand.

15 There are none.

16 Is there any juror who performs services for a
17 business, commercial, or agricultural enterprise which
18 are so essential to the operation of that enterprise
19 that if you were required to perform jury duty, the
20 enterprise would have to close or stop functioning? If
21 so, and you wish to be exempted, please stand and come
22 forward.

23 There are none.

24 Is there any juror who is the primary caretaker of
25 a severely disabled person who is unable to care for

1 himself or cannot be left unattended? If so and you
2 wish to be exempted, please stand and come forward.

3 There are none.

4 Finally, is there any juror who is the primary
5 caretaker of a person age 65 or older? If so, please
6 stand.

7 Okay. There are none.

8 Ladies and gentlemen, that concludes the statutory
9 list of qualifications and exemptions to jury service.
10 It may be that you are qualified and no exemption
11 applies to you, but that jury service this week would
12 constitute an extreme hardship on you for some
13 particular reason. I cannot permanently excuse a
14 qualified juror from jury service, but I can, under
15 extreme and compelling circumstances, transfer a juror
16 to another term of court, particularly jurors who have
17 not been previously transferred. Please understand
18 that general inconvenience is not sufficient reason to
19 transfer you to another court. To justify transfer to
20 another term of court, service this week must
21 constitute an extreme hardship to you.

22 I'm going to -- if you seek a transfer, I'm going
23 to allow you to come forward at this time. Also, this
24 is the opportunity for any of you who may not have
25 wished to respond publicly to one of the previous

1 questions to come forward if you need to. Okay.

2 Since there's several, I'm going to come down.

3 Yes, sir. What's your juror number? Come on up
4 here so she can hear you.

5 POTENTIAL JUROR: Joseph McClain. Number is 87.
6 I do not have a driver's license or permit. We only
7 have one car. My dad works full-time. My mother is
8 disabled and cannot drive me here at all. I don't have
9 a way over here.

10 THE COURT: Okay. Have you ever been transferred
11 before?

12 POTENTIAL JUROR: I have not.

13 THE COURT: Okay. All right. I'll transfer you.
14 The clerk will just -- they will be in touch with you.
15 They will transfer you to a later term of court.

16 POTENTIAL JUROR: Okay.

17 THE COURT: Okay. So you are excused for this
18 week.

19 POTENTIAL JUROR: All right. Thank you.

20 THE CLERK: What number was that?

21 THE COURT: That would be 87 will be transferred.
22 Yes, ma'am. Come forward.

23 POTENTIAL JUROR: I'm number 19, Crystal Carrillo.
24 And I don't have a vehicle at this time, and I won't
25 have -- I have a child who is four, and I won't have a

1 baby-sitter Tuesday and Thursday of this week.

2 THE COURT: All right. I'll transfer you to
3 another term.

4 That will be juror number 19 will be transferred.

5 So what will happen is the clerk will transfer you
6 to a later term, and that will give you more
7 opportunity to make arrangements. You have never been
8 transferred before?

9 POTENTIAL JUROR: No.

10 THE COURT: Okay. All right. 19 is transferred.

11 POTENTIAL JUROR: Thank you.

12 THE COURT: Yes, sir. What number are you?

13 POTENTIAL JUROR: 122, Smith. I guess I should --
14 I have a disorder as well as Tourette's Syndrome. I
15 worry that I might be distracting to the rest of the
16 jurors if I were to be selected. I guess I should have
17 said this for transfer.

18 THE COURT: I gave you the opportunity if you
19 didn't want to say that in front of everybody. That's
20 fine.

21 Juror 122 is excused.

22 POTENTIAL JUROR: Thank you, sir.

23 THE COURT: Good luck to you.

24 Yes, ma'am.

25 POTENTIAL JUROR: Sorry, I just didn't -- before I

1 wanted to --

2 THE COURT: What's your number?

3 POTENTIAL JUROR: 94, Sheri Moss.

4 THE COURT: Okay.

5 POTENTIAL JUROR: My situation is that I have four
6 children and my mother is recovering from a massive
7 heart attack. She had stents put in. And I had to
8 take my mother-in-law in this past week. She's had a
9 stroke, and I only have one car, and she needs to get
10 back and forth to doctors.

11 THE COURT: Have you ever been transferred on the
12 jury?

13 POTENTIAL JUROR: Huh-uh.

14 THE COURT: All right. We're going to transfer
15 number 94. They will transfer you to a later term of
16 court where you can make more arrangements.

17 POTENTIAL JUROR: Thank you.

18 THE COURT: Good luck to you. Okay.

19 All right. That concludes our questioning of the
20 panel regarding qualifications and exemptions. I find
21 that the jury panel is qualified to serve in this week
22 of general sessions.

23 Ladies and gentlemen, now that you have been
24 qualified, I'm going to give you some basic guidelines
25 for the week. First is regarding cell phones. If you

1 serve as jurors, you will not be allowed to have cell
2 phones or beepers in court. The clerk of court will
3 assist you in receiving any emergency calls. Again, if
4 you need something, the clerk's staff is here, ready to
5 help you.

6 It is very important that you have no interaction
7 with the attorneys or parties to any of the cases. Be
8 prompt. You're expected to be present at the times
9 court is set. It's not fair to the parties of the
10 cases, your fellow jurors or the court staff if the
11 proceedings must be delayed because someone is late.
12 You will have a notice put on the answering machine by
13 the clerk each night about the status for the next day.
14 If you are serving as a juror, the court will instruct
15 you.

16 Generally, you're going to start at 9 o'clock. If
17 an emergency arises and you are on a jury, again,
18 please notify the clerk of court immediately. Now, the
19 clerk -- your telephone number is on their jury summons
20 and you have given them the contact --

21 THE CLERK: No, sir. We give it to them before
22 they leave today.

23 THE COURT: The clerk has a telephone number that
24 he's going to give you as you leave today.

25 Now, are we ready to draw our first jury?

1 MS. PRICE: Yes, your Honor.

2 THE COURT: Now, do we have copies of the
3 indictments?

4 MS. PRICE: Yes, sir.

5 THE COURT: Ms. White, you have a witness list?

6 MS. WHITE: We do, your Honor.

7 THE COURT: Ms. White and Ms. Price, would y'all
8 approach.

9 (WHEREUPON, a bench conference was held off the
10 record in the presence of the prospective jury
11 panel, but out of the hearing of the jury.)

12 THE COURT: All right. Ladies and gentlemen,
13 before we pick our first jury, I need to confer with
14 the attorneys about a matter, so we're going to take a
15 break for about ten minutes. So do not leave the
16 courthouse. We will reconvene in about ten minutes.
17 The bailiffs will let you in, and we'll draw our first
18 jury.

19 (WHEREUPON, the jury exited open court at
20 10:31 a.m.).

21 (WHEREUPON, recess taken from 10:31 a.m.
22 to 10:42 a.m., and upon the court reporter's
23 return to the courtroom, Juror number 93 is at
24 the bench.)

25 THE COURT: Juror 93 needs to be transferred to

1 another -- he's going to be transferred to another
2 term.

3 Let's go back on the record here.

4 Ladies, I have gone through the witness list. I
5 tried to take out the repetitive names since y'all each
6 list some of the same witnesses on your list. I may
7 have missed one or two, so if I ask the same name
8 twice, that's just my eyesight failing me at this age.

9 But, Ms. Price, do you have any objections to any
10 of the voir dire questions Ms. Druanne White has
11 submitted?

12 MS. PRICE: May it please the Court. Yes, your
13 Honor, I do have a few.

14 THE COURT: State your objections.

15 MS. PRICE: Your Honor, number seven on the first
16 page, I believe that you're going to charge the jury
17 that they are to weigh each witness' credibility as
18 they see fit. So I don't know that that is a necessary
19 or appropriate question. Number eight is a duplicate
20 of questions one and two.

21 THE COURT: Okay.

22 MS. PRICE: Number nine, your Honor, I believe
23 you're also going to be charging the jury that an
24 arrest is not evidence of guilt, so I don't know that
25 that is an appropriate question for voir dire either.

1 Number ten has been answered in roll call, I
2 think.

3 MS. WHITE: We would withdraw that one, Judge,
4 number ten.

5 THE COURT: Ten is withdrawn. All right.

6 MS. PRICE: Sorry. Almost done, your Honor.
7 Number 11, again, that's part of your charge. He's
8 innocent until proven guilty, so I don't know that we
9 need to go over that again, although I definitely
10 concede that's important.

11 Your Honor, as to 13, fine to leave it but add
12 also that same question as it relates to these defense
13 attorneys.

14 MS. WHITE: No objection to that.

15 THE COURT: All right.

16 MS. PRICE: Your Honor, 16 is standard. You're
17 going to ask if they know the witnesses in this case,
18 so I don't know that it needs to be gone over again
19 after you do that. Same with 17 and 18. You're going
20 to ask those questions because they're both listed on
21 our -- I believe they're listed on our witness lists,
22 but just in case, they're standard questions, I
23 believe.

24 THE COURT: Yeah. I've got basic questions about
25 any reason why someone could not be a fair and

1 impartial trier to each side.

2 Okay. Go ahead.

3 MS. PRICE: That's it, your Honor.

4 THE COURT: Okay. Ms. White.

5 MS. WHITE: Your Honor, but the purpose of voir
6 dire, just because you're going to charge something,
7 doesn't mean it doesn't need to be asked in voir dire.
8 And voir dire, we're finding out, can you abide by a
9 judge's instructions, do you have this prejudice, and
10 so just because you're going to charge something
11 doesn't mean we don't need to ask, "Okay. How do you
12 feel about this subject? What are your biases on this
13 subject?" So I would ask your Honor that number seven,
14 number eight, number nine, number 11 -- I understand
15 you're going to charge he's presumed innocent, but the
16 question is on that, the question is do you agree he's
17 presumed innocent when he comes in here or do you think
18 he's guilty to start with.

19 Your Honor, I would ask number 13, we're fine with
20 asking the flip side of that as well. And I agree that
21 I think 16, 17 and 18 you're going to be asking anyway,
22 so certainly, you know, if you're already going to ask
23 that, that's not something we want to argue over.

24 THE COURT: I'm going to read out the witness list
25 and ask the general question regarding all witnesses.

1 All right. This is what we'll do. I'll combine
2 nine and 11 just to ask them does any member of the
3 jury panel not understand the simple fact that a person
4 is arrested does not mean that they are guilty, that
5 they are presumed innocent for trial. I'll combine
6 those two. And then I'll ask seven and eight as
7 stated.

8 So any further requests from the State?

9 MS. PRICE: Nothing further.

10 THE COURT: Anything further from the defense?

11 MS. WHITE: Yes, sir. Your Honor, I would also
12 ask under *Brady* that the State, if the proposed juror
13 has any kind of criminal record -- I don't mean a
14 conviction. I mean an arrest or anything else that
15 they're certainly going to be weighing, that they
16 simply hand the sheet over to us after they have made a
17 decision on it, and we'll hand it straight back to them
18 when it comes to the rap sheets. I think that's *Brady*
19 material that is certainly very important to us to see
20 as well. And we wouldn't keep any of it if. If they
21 can just hand the sheet over, we'll look at it and hand
22 it back.

23 MS. PRICE: Are you referring to the rap sheets
24 for the jurors?

25 MS. WHITE: Yeah.

1 MS. PRICE: Your Honor, I mean, we have access to
2 those. I don't have an objection to that.

3 THE COURT: Provide that information to Ms. White.

4 MS. PRICE: Sure.

5 Your Honor, while we're on the subject of rap
6 sheets, Ms. White has provided me with a list of her
7 potential witnesses. However, she has not provided me
8 with their dates of birth as to the lay witnesses so
9 that we can run rap sheets on these individuals, and
10 I'd ask that she do that prior to the outset of trial.

11 MS. WHITE: Your Honor, the only lay witnesses I'm
12 aware of on here are Helen Arflin, Billy Arflin, and
13 Sheila Arflin. I'm not aware of any others, I don't
14 think. Most of these are just SLED or they were
15 mentioned in the file.

16 Your Honor, a long time ago I learned you write
17 down every single name on the witness list if it's
18 mentioned in the file because you'll get halfway
19 through the trial and some juror will say, I was
20 talking to so-and-so who was peripherally involved. So
21 most of these people are just provided in the State's
22 case to us. I think those are the only three that we
23 added that weren't names that were found somewhere in
24 the case file.

25 THE COURT: Do you have birth dates for those

1 people?

2 MS. WHITE: I can certainly get those.

3 MS. PRICE: Great.

4 THE COURT: Get that information to Ms. Price.

5 MS. PRICE: Thank you, your Honor.

6 THE COURT: Anything further before we bring the
7 pool back in and select our jury?

8 MS. PRICE: Nothing from the State.

9 MS. WHITE: Not for the jury selection.

10 THE COURT: All right.

11 Ms. Bailiff, if you can get our jury panel.

12 MS. WHITE: Your Honor, we are ten and five,
13 right? I just want to make sure there's no
14 misunderstanding.

15 THE COURT: Ten and five, that is correct.

16 (WHEREUPON, the prospective jury panel entered
17 open court at 10:53 a.m.)

18 THE COURT: All right. Ladies and gentlemen, the
19 first case that is being called is the State of South
20 Carolina versus Bobby Joe Arflin. This case is being
21 brought under four indictments: Indictment
22 2014-GS-04-00426, with a charge of murder, and then
23 indictments 2014-GS-04-340, 41 and 42, three counts of
24 solicitation to commit a felony. These indictments
25 are not evidence. They are simply the formal documents

1 through which the case is brought to court. The
2 defendant has pled not guilty to these charges. The
3 State, therefore, has the burden of proving these
4 charges and each element of these charges beyond a
5 reasonable doubt. And it will be your duty, ladies and
6 gentlemen, if you are called to sit on this jury, to
7 determine whether or not the State has met their
8 burden. You are called here to serve as a jury pool,
9 and the parties will select a jury from this pool.

10 Now, I'm going to have to ask you some more
11 questions. Again, like our previous questions, these
12 are not to pry into your personal lives, but they're
13 simply to ensure that each party gets a fair trial.

14 I'm going to have the clerk swear you in again.

15 Mr. Shirley, if you would swear the jurors.

16 THE CLERK: May it please the Court.

17 Need you folks to stand and raise your right hand
18 again, please.

19 (WHEREUPON, the jury was impaneled.)

20 THE COURT: First thing I'll do is have each
21 attorney introduce themselves and the other people
22 sitting at their table or the people that may be
23 assisting them in the trial this week.

24 All right. Ms. Price.

25 MS. PRICE: Thank you, your Honor. May it please

1 the Court. My name is Lauren Price, and I'm an
2 assistant solicitor with the Tenth Judicial Circuit
3 serving Anderson County.

4 MS. HUEY: And I am Catherine Huey, and I'm an
5 assistant solicitor as well for Anderson County.

6 MR. SIMPSON: I'm Brent Simpson. I'm the
7 investigator with the sheriff's office.

8 THE COURT: Ms. White.

9 MS. WHITE: Yes, sir. I'm Druanne White. I'm
10 representing Bobby Arflin.

11 Bobby, if you don't mind standing and face the
12 jury. This is Bobby.

13 This is Shari Jenkins, who is a paralegal in my
14 office. And you probably saw Ashlea White, who is
15 another attorney in my office. We're playing tag in
16 different courtrooms this morning, and she will be back
17 for the trial. She is the one with the long brown
18 hair.

19 THE COURT: Is any member of the jury panel
20 related by blood or marriage or has a close personal or
21 social relationship with either party or one of the
22 attorneys involved in this case?

23 There are no responses.

24 Has any member of the jury panel ever been
25 represented by one of the attorneys involved in this

1 case or their law firm?

2 There are no responses.

3 I'm going to read you the witness list. Now, one
4 thing that the attorneys do before a case gets started
5 is submit witness lists, and the Court goes over that.
6 And there's some repetition because you have some of
7 the same witnesses, so I'm going to read you the list
8 of the witnesses. This is a lengthy list, so pay
9 careful attention to these names.

10 Brent Simpson, Anderson County Sheriff's Office;
11 James Madison; Brenda Masters; Tonya Williamson; Larry
12 Williamson; Pat Williamson; Linda Williamson; George
13 Williamson; Tammy Ables; Pansy Allen, Anderson County
14 Sheriff's Office; Jacob Bowland, Anderson County
15 Sheriff's Office; James Armstrong, Greenville
16 Department of Public Safety; Jennifer Aycock, SLED;
17 Lisa Barfield; A.B. [REDACTED]; Andrew Barr, Williamson
18 EMS; Kara Bennick, Greenville Department of Public
19 Safety; Whitney Berry, SLED; Donny Blassingame,
20 Anderson County Sheriff's Office; Charlie Boseman; Toni
21 Broome, SLED; Tommy Brooks, South Carolina Department
22 of Public Safety; Sheree Brown, SLED; Todd Caron,
23 Anderson County Sheriff's Office; Jared Castellani,
24 SLED; Shane Chandler, Anderson County Sheriff's Office;
25 Rick Charles; Marvin "Bud" Chitwood; Kenta Cowan,

1 Anderson County Sheriff's Office; Patricia Crooks,
2 SLED; Jackie Davis, SLED; Lea Davis, SLED; Ben Dugan,
3 Anderson County Sheriff's Office; Tina Dyches; Jeremy
4 Garrett, Anderson County Sheriff's Office; Rod Gebing,
5 Anderson County Sheriff's Office; Mark Gregory,
6 Anderson County Sheriff's Office; Nikki Gregory,
7 Anderson County Sheriff's Office; D.A. Hammond,
8 Anderson County Sheriff's Office; Brenda Gaile Heath,
9 SLED; Michelle Hendrix, Anderson County Sheriff's
10 Office; Scotty Hill, Anderson County Sheriff's Office;
11 Matthew Holcombe, Belton EMS; Meredith Lanford,
12 Anderson County Sheriff's Office; Roy Lawrence; Sylvia
13 Marshall, Anderson County Sheriff's Office; Clayton
14 Martin, Anderson County Sheriff's Office; Stacey
15 Matthew, SLED; Don McCown, deputy coroner; Dwayne
16 McElrath, Anderson County Sheriff's Office; Steve
17 Melton, Belton EMS; Celia Modell, SLED; Chris
18 Pridemore, Anderson County Sheriff's Office; Keith
19 Rebman, South Carolina Highway Patrol; Justin Richey,
20 Anderson County Sheriff's Office; Christopher Scott,
21 Anderson County Sheriff's Office; Kevin Selinsky, SLED;
22 Keith Smith, Anderson County Sheriff's Office; Shana
23 Sorrells, SLED; Amy Stephens, SLED; Joseph Stone,
24 Anderson County fleet services; Kristopher Vaughn,
25 Belton EMS; Brandon Williams, SLED; Dr. Brett Woodard;

1 Doris Yarbrough, SLED; Chris Beusse, Anderson County
2 Sheriff's Office; D.J. Collins; Kerri Powell; Travis
3 Vickery; and Jonathan Thompson.

4 Danny Barton, Anderson County Sheriff's Office;
5 Justin Richey; Timmy Barnes; Robin Powell; Sheila
6 Arflin; Billy Arflin; Lois Williamson; Kathy Lance,
7 Greenville Department of Public Safety; Tabatha Fricks,
8 Greenville Department of Public Safety; Alice Lawrence;
9 Coroner Don McCown; Roscoe Powell; Helen Arflin.

10 POTENTIAL JUROR: Your Honor, did you say "Ellen"
11 or "Helen"?

12 THE COURT: Helen. I'm going to ask everyone a
13 general question in a minute. So many names are being
14 asked, I'm sure we're going to get some responses, but
15 I'm going to give everyone an opportunity as soon as
16 I'm finished with the list.

17 Belinda Lee; Jim Bolt; Brad Whitefield; Jason
18 Price; Melissa Boggs; Jody Powell; Brian Holmes;
19 Jennifer Clayton; Steven Lawless; Andrew Bannister;
20 Coroner Greg Shore; Leslie Warren Sandoval; Lisa
21 Barfield; Wayne Meals; Steven Melton; Lynn Rollins,
22 SLED; Derrick Horton, SLED; Betty Littlejohn, SLED;
23 Wayne Shepherd, UPS; Lieutenant Bruce S. Brock, South
24 Carolina Highway Patrol; Captain Mike Burgess, South
25 Carolina Highway Patrol; Corporal Al Duncan, South

1 Carolina Highway Patrol; Corporal John L. Craig, South
2 Carolina Highway Patrol; David C. Andes, South Carolina
3 Highway Patrol; Kelly W. Anderson, South Carolina
4 Highway Patrol; Chris Brachard, South Carolina Highway
5 Patrol; Lee Watkins, South Carolina Highway Patrol;
6 Delores Garrett; Mabel Ferguror; Mike Tarduco; Melvin
7 Bailey; Ralph Eugene Wyrick; Roy Garrett; Roy Crawford;
8 Vicki Goldsmith; Delane Garrett; Steven Garrett; Jerry
9 Lecroy; Margaret Vaughn; Linda Pryor; Christopher
10 Broadwell; Robert Gambrell; Bo Barnes; John W. Burch,
11 and John Hurl.

12 Now, ladies and gentlemen, I went through all
13 those names that were submitted as potential witnesses
14 by the two sides.

15 Is there any member of the jury panel who is
16 related by blood or marriage or who has a close
17 personal or social relationship with any of those
18 potential witnesses? If so, please stand and give your
19 juror number and your name.

20 Yes, sir. What's your number?

21 POTENTIAL JUROR: Juror number 5, Jonathan Boggs.
22 I don't know one -- I'm not related, but I do -- I
23 believe I know one of the witnesses. Possible.

24 THE COURT: Which witness?

25 POTENTIAL JUROR: Brenda Masters.

1 THE COURT: Okay. How do you know her?

2 POTENTIAL JUROR: I'm a pastor, so I believe --

3 I'm not real sure if this is the same girl, but
4 somebody was gunned down and she was the girlfriend.

5 And the situation was real bad, so we kind of helped
6 her, gave an offering to help her during that time of
7 her loss. I believe it was her boyfriend that got --

8 THE COURT: Okay. Did this potential knowledge of
9 this individual, do you think it would make it to where
10 you could not be fair and impartial in this trial if
11 you were called as a juror?

12 POTENTIAL JUROR: I don't think it would affect me
13 in any way.

14 THE COURT: Okay. Thank you.

15 Yes, ma'am.

16 POTENTIAL JUROR: Hi. I know four of the officers
17 that were mentioned that are witnesses.

18 THE COURT: Which four are those?

19 POTENTIAL JUROR: Todd Caron, Justin Richey, Donny
20 Blassingame, and Chris Beusse.

21 THE COURT: What's your juror number?

22 POTENTIAL JUROR: 49.

23 THE COURT: Okay. And your knowledge of those
24 four individuals, do you think it would make it to
25 where you could not be fair and impartial as a juror in

1 this case if you were selected?

2 POTENTIAL JUROR: It would not.

3 THE COURT: Okay. Thank you, ma'am.

4 POTENTIAL JUROR: 41.

5 THE COURT: You're number 41?

6 POTENTIAL JUROR: Uh-huh.

7 THE COURT: Which one do you know?

8 POTENTIAL JUROR: Belinda Lee.

9 THE COURT: How do you know her?

10 POTENTIAL JUROR: She's my aunt.

11 THE COURT: I couldn't understand you, ma'am.

12 POTENTIAL JUROR: She's my aunt.

13 THE COURT: You're related to number 41?

14 POTENTIAL JUROR: Uh-huh.

15 THE COURT: Okay. Do you feel that that
16 relationship would make it to where you could not be
17 fair and impartial in the case?

18 POTENTIAL JUROR: Huh-uh. No, sir.

19 THE COURT: Okay. Thank you. You can be seated.

20 POTENTIAL JUROR: 121, related to Belinda Lee.

21 THE COURT: How are you related to her?

22 POTENTIAL JUROR: Just cousins.

23 THE COURT: Okay. Do you feel that that
24 relationship would make it to where you could not be
25 fair and impartial in the case?

1 POTENTIAL JUROR: No, I don't.

2 THE COURT: Okay. Thank you, ma'am.

3 MS. WHITE: Your Honor, I'm sorry. I didn't hear
4 to whom is she related.

5 THE COURT: I'm sorry. Could you stand up and
6 tell us who it is you are related to.

7 POTENTIAL JUROR: Belinda Lee.

8 THE COURT: Yes, sir.

9 POTENTIAL JUROR: Judge, your Honor, I do know the
10 Powells, but not --

11 THE COURT: What's your number?

12 POTENTIAL JUROR: 76.

13 THE COURT: Okay. Who do you know?

14 POTENTIAL JUROR: Sir?

15 THE COURT: Which of these witnesses do you know?

16 POTENTIAL JUROR: The Powells. Didn't you mention
17 Jody Powell, Roscoe Powell?

18 THE COURT: Roscoe Powell and --

19 MS. WHITE: Your Honor, may we approach for one
20 minute, please?

21 THE COURT: Yes.

22 (WHEREUPON, a bench conference was held off the
23 record in the presence of the prospective jury
24 panel, but out of the hearing of the prospective
25 jury panel.)

1 THE COURT: Sir, the fact that you know the
2 Powells, do you feel that that could make it to where
3 you could not be fair and impartial as a juror if you
4 were selected in this case?

5 POTENTIAL JUROR: No, your Honor.

6 THE COURT: Okay. Thank you, sir. You may be
7 seated.

8 Yes, ma'am.

9 POTENTIAL JUROR: Juror number 79, Nancy Lyons.
10 And if you said Helen, H-e-l-e-n, I believe that's the
11 defendant's mother, and I do know her.

12 THE COURT: And do you feel that you knowing her
13 would make it to where you could not be fair and
14 impartial as a juror if you were selected?

15 POTENTIAL JUROR: I cannot say that 100 percent,
16 no.

17 THE COURT: Okay. And what's your number again?

18 POTENTIAL JUROR: 79.

19 THE COURT: Okay, ma'am. Thank you. Just have a
20 seat. I'm going to have you stay.

21 Yes, sir.

22 POTENTIAL JUROR: Juror number 95. I do know
23 Charlie Boseman. He's employed at AnMed Health.

24 THE COURT: The fact that you know this potential
25 witness, does that make it to where you could not be

1 fair and impartial in the case?

2 POTENTIAL JUROR: No. No, sir.

3 THE COURT: Okay. Thank you, sir.

4 Yes, sir.

5 POTENTIAL JUROR: Your Honor, juror 42. I just
6 want to make you aware that I do know several of the
7 names, Justin Richey, McElrath, Jacob Bowland. I don't
8 have a personal relationship with them, but I do know
9 them through my wife.

10 THE COURT: The fact that your wife knows these
11 people, would that make it to where you could not be
12 fair and impartial as a juror?

13 POTENTIAL JUROR: No, your Honor.

14 THE COURT: Okay. Thank you.

15 MS. WHITE: Your Honor, may we approach?

16 THE COURT: Yes, ma'am.

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

21 THE COURT: Okay. Yes, sir.

22 POTENTIAL JUROR: 149, Dan Woodruff. Several of
23 the names sound familiar to me. With my wife being a
24 State Farm agent in Williamston, several of those
25 names, I don't know whether they're clients or not. I

1 just felt they may recognize me, and I have no idea
2 whether I know them or not.

3 THE COURT: Do you feel that with that knowledge
4 you could not be fair and impartial as a juror?

5 POTENTIAL JUROR: No, I don't. That wouldn't make
6 any difference.

7 THE COURT: Thank you, sir.

8 Yes, sir.

9 POTENTIAL JUROR: Juror number 5. After hearing
10 some more of the names, I do know -- knew of Jody
11 Powell. I'm pretty sure that was his name. And the
12 funeral, I did attend, so I'm not real sure. I'd like
13 to go back on what I said before because as it started
14 coming back to me, we were interacting with some of
15 those folks at that time.

16 THE COURT: Do you think that could affect your
17 ability --

18 POTENTIAL JUROR: It could.

19 THE COURT: Thank you for your candor there. I'm
20 going to have you stay seated.

21 Yes, ma'am.

22 POTENTIAL JUROR: Juror 100, Valerie Peterson. I
23 believe I know of Justin Richey. I believe that I
24 volunteered with his wife at our children's school last
25 year. However, that would not affect my objectivity.

1 THE COURT: You think you could be fair and
2 impartial?

3 POTENTIAL JUROR: Yes.

4 THE COURT: Okay. Thank you, ma'am.

5 All right. Any further? Okay.

6 Now, ladies and gentlemen, I neglected to mention
7 when I read the indictments earlier there were actually
8 two charges included in the first indictment. The
9 second charge was possession of a weapon during the
10 commission of a violent crime. That is included. So
11 there's four total indictments. I read the numbers,
12 but there are five total charges. I just wanted to
13 clarify that for the record. Again, the defendant has
14 pled not guilty to all of those indictments.

15 Does any member of the jury panel have any prior
16 knowledge about the facts of this case? If so, please
17 stand.

18 THE COURT: Right.

19 POTENTIAL JUROR: Do you want me to go ahead?

20 THE COURT: I think you're covered. Juror number
21 5.

22 POTENTIAL JUROR: I just want to make sure.

23 THE COURT: Okay.

24 Have you, an immediate family member or a personal
25 friend, been charged with a crime -- with a crime and

1 if so, what was the crime and the result? And I'm
2 going to -- if this is applicable, I'm going to come
3 down front so you don't have to answer in front of
4 everyone.

5 So is there anyone on the jury panel who has been
6 charged with a crime or had an immediate family member
7 or close personal friend charged with a crime, please
8 stand.

9 There's no responses.

10 POTENTIAL JUROR: I'm sorry, your Honor.

11 THE COURT: I'm going to come down front.

12 POTENTIAL JUROR: 42. My brother was charged
13 with, I don't know what the charges were, but he had
14 stole some guns back in the early 2000s. And what
15 would be close family? Would that be --

16 THE COURT: Well, that's immediate family.

17 POTENTIAL JUROR: And I have an uncle who was sent
18 to prison for murder.

19 THE COURT: Do you feel that having those family
20 members involved with the charges would affect your
21 ability to be fair and impartial?

22 POTENTIAL JUROR: I don't, but I think it would
23 affect my ability, but I feel like full disclosure.
24 You were the prosecutor.

25 THE COURT: I'm just trying to make sure that you

1 can be fair and impartial.

2 POTENTIAL JUROR: Yes, sir.

3 THE COURT: If you believe you can. Thank you.

4 MS. WHITE: Your Honor, may I ask a follow-up
5 question? Just if it was my office that prosecuted
6 back then, would that affect --

7 THE COURT: Do you know if Ms. White prosecuted --

8 POTENTIAL JUROR: She did. It was her office. It
9 was Joseph Herron Brown and --

10 THE COURT: Do you feel that would affect you?

11 POTENTIAL JUROR: I don't feel like it would. I
12 just want to make y'all aware.

13 THE COURT: Thank you.

14 POTENTIAL JUROR: No problem.

15 THE COURT: You can go return to your seat.
16 Come on up here so the court reporter can hear
17 you. What's your number?

18 POTENTIAL JUROR: 124.

19 THE COURT: Who got charged?

20 POTENTIAL JUROR: My daughter.

21 THE COURT: What did she get charged with?

22 POTENTIAL JUROR: I think it was grand theft. She
23 stole a vehicle.

24 THE COURT: Was she convicted?

25 POTENTIAL JUROR: She is serving in Greenwood

1 Correction Center right now.

2 THE COURT: Do you feel that that would affect
3 your ability to be fair and impartial as a juror?

4 POTENTIAL JUROR: Well, it probably would.

5 THE COURT: Okay. What was your number again?

6 POTENTIAL JUROR: 124.

7 THE COURT: Okay. Thank you, ma'am.

8 POTENTIAL JUROR: Uh-huh.

9 THE COURT: Yes, ma'am. What's your juror number?

10 POTENTIAL JUROR: 111. I had a nephew that was
11 charged with -- I don't know if it went to trial, but
12 it was here in Anderson County.

13 THE COURT: Would that affect your ability to be
14 fair and impartial?

15 POTENTIAL JUROR: No.

16 THE COURT: Okay. Thank you.

17 POTENTIAL JUROR: Uh-huh.

18 THE COURT: Yes, ma'am. What's your juror number?

19 POTENTIAL JUROR: 142. My daughter was convicted
20 of a DUI. And I also have a friend that -- was cashing
21 checks for somebody she met online that she fell in
22 love with, but I don't know what the charges were.

23 THE COURT: Would those two incidents affect your
24 ability to be fair and impartial?

25 POTENTIAL JUROR: No.

1 THE COURT: Okay. Thank you.

2 I'm going to stand down here for the next question
3 because we may have some more responses.

4 The next question is, has any member of the jury
5 panel or pool, a member of your immediate family or a
6 close personal friend of yours been the victim of a
7 crime? If so, please stand and we'll come forward just
8 in the same procedure.

9 Yes, sir. What was your number again?

10 POTENTIAL JUROR: 149. My house was broke into.
11 Never found out who it was. And my wife was stolen
12 from by someone she trusted, 63,000 plus.

13 THE COURT: Do you feel that those circumstances
14 would affect your ability to be fair and impartial?

15 POTENTIAL JUROR: No.

16 THE COURT: Okay. Thank you.

17 POTENTIAL JUROR: 115.

18 THE COURT: Okay.

19 POTENTIAL JUROR: My wife was in a domestic
20 violence, previous relationship.

21 THE COURT: Do you feel that that would affect
22 your ability to be fair and impartial?

23 POTENTIAL JUROR: No, sir.

24 THE COURT: Okay. Thank you.

25 Yes, ma'am. What's your number?

1 POTENTIAL JUROR: Vivian Crawford, 50 -- 30. I'm
2 sorry.

3 THE COURT: Number 53?

4 POTENTIAL JUROR: 30.

5 THE COURT: Okay.

6 POTENTIAL JUROR: I was sexually assaulted in '85
7 by a serial rapist here in Anderson County, and I don't
8 want no part of this.

9 THE COURT: Do you feel that would affect your
10 ability to be fair and impartial?

11 POTENTIAL JUROR: I have had attacks. I believe
12 in capital punishment.

13 THE COURT: Number 30. Okay. Thank you, ma'am.

14 POTENTIAL JUROR: All right.

15 THE COURT: Yes, ma'am.

16 POTENTIAL JUROR: 121. I had a friend who got
17 killed, but that won't affect anything.

18 THE COURT: You think you can be fair and
19 impartial?

20 POTENTIAL JUROR: I can be fair.

21 THE COURT: Yes, ma'am.

22 POTENTIAL JUROR: My dad --

23 THE COURT: What's your number?

24 POTENTIAL JUROR: 17. I'm not real sure what the
25 charge was, but he burned my cousin's house down and

1 was arrested for it. But I'm not sure what the charge
2 was.

3 THE COURT: Do you think that would affect your
4 ability to be fair and impartial?

5 POTENTIAL JUROR: I don't think it would.

6 THE COURT: Thank you.

7 Yes, sir.

8 POTENTIAL JUROR: Juror number 42. I have one
9 uncle who was shot and I have one uncle who was
10 stabbed. He didn't die. Neither one of them died, but
11 it was family related on the other side of my family.
12 I'm -- just full disclosure.

13 THE COURT: Same question. Do you think it would
14 affect your ability to be fair and impartial?

15 POTENTIAL JUROR: No, sir.

16 THE COURT: Okay. Thank you.

17 Yes, sir. What's your number?

18 POTENTIAL JUROR: 83. Going back to the previous
19 question, I was charged with chop shop and receiving
20 stolen goods.

21 THE COURT: Were you convicted of it?

22 POTENTIAL JUROR: Huh-uh.

23 THE COURT: Do you feel that the fact that you had
24 these two previous charges, do you think it would
25 affect your ability to be fair?

1 POTENTIAL JUROR: Uh-huh.

2 THE COURT: Okay.

3 POTENTIAL JUROR: Because I wasn't in it. It left
4 a very bad taste in my mouth for Anderson County. Cost
5 me a good bit of money.

6 THE COURT: Okay. All right. Thank you.

7 POTENTIAL JUROR: 128. I don't know if this
8 matters. We've had several break-ins. Two years ago
9 my wife's car was stolen. My truck was busted into
10 July 4th, and my wife's car was broken into again in
11 the last week, so I don't know if that matters.

12 THE COURT: Do you feel that those incidents would
13 affect your ability to be fair and impartial?

14 POTENTIAL JUROR: No, sir.

15 THE COURT: Okay. You're 128?

16 POTENTIAL JUROR: Yes, sir.

17 THE COURT: Okay. Thank you.

18 POTENTIAL JUROR: Yes, sir.

19 THE COURT: Any further?

20 Are you or an immediate family member or close
21 personal friend related by blood or marriage to any law
22 enforcement officer, Department of Social Services
23 employee, or solicitor's office employee?

24 State your number.

25 POTENTIAL JUROR: 42, your Honor. My wife is an

1 Anderson County sheriff deputy.

2 THE COURT: Okay. Do you feel that that could
3 affect -- well, this is an Anderson County Sheriff's
4 Office case, so I'm going to have you just stay with us
5 for a moment. Number 42.

6 Okay. Yes, ma'am.

7 POTENTIAL JUROR: Number 52. My brother is a
8 South Carolina highway patrolman.

9 THE COURT: And he was not listed as one of the
10 witnesses?

11 POTENTIAL JUROR: No.

12 THE COURT: Do you feel that that would affect
13 your ability to be fair and impartial?

14 POTENTIAL JUROR: No.

15 THE COURT: Okay. Thank you, ma'am.

16 Yes, ma'am.

17 POTENTIAL JUROR: Number 49. My brother-in-law
18 works for the Anderson County Sheriff's Office.

19 THE COURT: Okay. Do you feel that that would
20 affect your ability to be fair and impartial?

21 POTENTIAL JUROR: No, sir.

22 THE COURT: Okay. Any further? Okay. No
23 further.

24 Are you, an immediate family member or close
25 personal friend a member of any organization which is

1 involved in support of law enforcement efforts? These
2 organizations may include CAV, CADV, MADD, SADD, South
3 Carolina Law Enforcement Officers Association, County
4 Sheriff Association or Fraternal Order of Police. If
5 so, please stand. Number 42.

6 POTENTIAL JUROR: Number 42. Your Honor, it's my
7 wife.

8 THE COURT: I've got your number.

9 Would any member of the jury pool be inclined to
10 believe a police officer's testimony over that of a
11 private citizen merely because he is a police officer
12 or vice versa?

13 No response.

14 Is there any member of the jury pool who does not
15 understand that the simple fact that a person is
16 charged and arrested does not mean they're
17 automatically guilty and that all the defendants in
18 criminal court are presumed innocent? Any member who
19 does not understand that? Okay.

20 Is there any member of the jury panel who believes
21 that deadly force should never be used in any
22 situation?

23 There are no responses.

24 Is there any member of the jury panel who is
25 opposed to possession or use of firearms?

1 No responses.

2 Again I asked this question in a general sense
3 earlier, but specifically, has any member of the jury
4 panel received any information regarding this case from
5 any source in the media?

6 No responses.

7 Is there any member of the jury panel who knows of
8 any reason why he or she could not be fair and
9 impartial in rendering jury service this week? Again,
10 if you have already told me, you don't need to respond
11 again. But is there any other reason why any of you
12 could not be fair and impartial?

13 There are no responses.

14 Any further questions from the State?

15 MS. PRICE: Nothing from the State, your Honor.

16 THE COURT: Any other from the defense?

17 MS. WHITE: No, your Honor.

18 THE COURT: All right. Ladies, if you could
19 approach for a moment.

20 (WHEREUPON, a bench conference was held off the
21 record in the presence of the prospective jury
22 panel, but out of the hearing of the prospective
23 jury panel.)

24 THE COURT: Would the following jurors please
25 stand: Juror 79, juror 5, juror 83, juror 124, juror

1 30, juror 49, juror 42, juror 121, and juror 41.

2 Ladies and gentlemen, all of you would be excused from
3 service in this first case. This does not finish your
4 jury duty for this week, but you would be disqualified
5 from serving in this first case. So y'all will be free
6 to leave now. Call the clerk's number.

7 Mr. Clerk, if you could make sure they have the
8 phone number that you would call that after 6 o'clock
9 tonight. There will be an update on when you're to
10 appear again for jury service. Okay.

11 THE CLERK: Ladies and gentlemen, let me tell you,
12 this number that you're going to be given will be an
13 answering machine. It will be my voice, and it will
14 say it is Monday, August the 24th. Please come back
15 tomorrow morning or come back Wednesday morning or come
16 back -- it will tell you specifically what you need to
17 do. But don't call until after 6 o'clock. Thank you.

18 THE COURT: Are we ready to strike our first jury?

19 MS. PRICE: Yes, your Honor.

20 MS. WHITE: Defense is ready.

21 THE COURT: Ladies and gentlemen of the pool, the
22 way we strike juries is a little bit different than
23 what you may think of when you think of what you have
24 seen in television or in the past. We don't have a big
25 hopper that they draw the number out of anymore. It's

1 all done by computer and it's randomly generated. And
2 what the clerk does is they run a computer list, and
3 each attorney gets a copy of that, and they will call
4 your name if you are selected on that. And each side
5 will have certain strikes. It's a process. And 12
6 jurors sit as the jury. And we will have an alternate
7 in this case as well. An alternate is selected in case
8 one of the jurors were to get sick or have some reason
9 where they couldn't finish service in the case, so we
10 are prepared for that contingency.

11 Mr. Clerk, if you will get them their list and
12 we'll get started.

13 THE CLERK: If it please the court.

14 THE COURT: Yes, sir.

15 THE CLERK: When I call your name, ladies and
16 gentlemen, if you would please come forward and stand
17 here in front of me and turn around and face the
18 gallery, please.

19 Our first potential juror is number 34, Charles W.
20 Davis, Jr.

21 (WHEREUPON, a white male stepped forward.)

22 THE CLERK: What say you for the State?

23 MS. PRICE: Please present the juror.

24 THE CLERK: What say you for the defense?

25 MS. WHITE: Please seat the juror.

1 THE CLERK: Juror number 149, Daniel K. Woodruff.
2 (WHEREUPON, a white male stepped forward.)
3 THE CLERK: What say you for the State?
4 MS. PRICE: Please present the juror.
5 THE CLERK: What say you for the defense?
6 MS. WHITE: Please excuse the juror in this case.
7 THE CLERK: Juror number 71, Kenneth P. Johnson.
8 (WHEREUPON, a white male stepped forward.)
9 THE CLERK: What say you for the State?
10 MS. PRICE: Please present the juror.
11 THE CLERK: What say you for the defense?
12 MS. WHITE: Please seat the juror.
13 THE CLERK: Juror number 119, Robert L. Sheppard.
14 (WHEREUPON, a white male stepped forward.)
15 THE CLERK: What say you for the State?
16 MS. PRICE: Please present the juror.
17 THE CLERK: What say you for the defense?
18 MS. WHITE: Please seat the juror in this case.
19 THE CLERK: Juror number 105, Kimberly B. Pruitt.
20 (WHEREUPON, a white female stepped forward.)
21 THE CLERK: What say you for the State?
22 MS. PRICE: Please present the juror.
23 THE CLERK: What say you for the defense?
24 MS. WHITE: Please seat the juror in this case.
25 THE CLERK: Juror 147, Brittani S. Williams.

1 (WHEREUPON, a black female stepped forward.)

2 THE CLERK: What say you for the State?

3 MS. PRICE: Please present the juror.

4 THE CLERK: What say you for the defense?

5 MS. WHITE: Please seat the juror.

6 THE CLERK: Juror number 68, Daniel L. Jachens.

7 (WHEREUPON, a white male stepped forward.)

8 THE CLERK: What say you for the State?

9 MS. PRICE: Please present the juror.

10 THE CLERK: What say you for the defense?

11 MS. WHITE: Present the juror, please.

12 THE CLERK: Juror number 108, Angela H. Ratchford.

13 (WHEREUPON, a white female stepped forward.)

14 THE CLERK: What say you for the State?

15 MS. PRICE: Please present the juror.

16 THE CLERK: What say you for the defense?

17 MS. WHITE: Please seat the juror.

18 THE CLERK: Juror number 139, Barbara A. Turner.

19 (WHEREUPON, a white female stepped forward.)

20 THE CLERK: What say you for the State?

21 MS. PRICE: Please present the juror.

22 THE CLERK: What say you for the defense?

23 MS. WHITE: Please excuse the juror in this case.

24 THE CLERK: Juror 91, Angelina R. Moon.

25 (WHEREUPON, a white female stepped forward.)

1 THE CLERK: What say you for the State?

2 MS. PRICE: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MS. WHITE: Please excuse the juror in this case.

5 THE CLERK: Juror number 20, Rebecca P. Carter.

6 (WHEREUPON, a white female stepped forward.)

7 THE CLERK: What say you for the State?

8 MS. PRICE: Please present the juror.

9 THE CLERK: What say you for the defense?

10 MS. WHITE: Please excuse the juror in this case.

11 THE CLERK: Juror number 43, Russell M. Estes.

12 (WHEREUPON, a white male stepped forward.)

13 THE CLERK: What say you for the State?

14 MS. PRICE: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MS. WHITE: Please excuse the juror in this case.

17 THE CLERK: Juror number 100, Valerie M. Peterson.

18 (WHEREUPON, a white female stepped forward.)

19 THE CLERK: What say you for the State?

20 MS. PRICE: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MS. WHITE: Please seat the juror.

23 THE CLERK: Juror number 73, Richard L. Jones.

24 (WHEREUPON, a black male stepped forward.)

25 THE CLERK: What say you for the State?

1 MS. PRICE: Please present the juror.

2 THE CLERK: What say you for the defense?

3 MS. WHITE: Please seat the juror.

4 THE CLERK: Juror number 32, Yolanda L.

5 Cunningham.

6 (WHEREUPON, a black female stepped forward.)

7 THE CLERK: What say you for the State?

8 MS. PRICE: Please present the juror.

9 THE CLERK: What say you for the defense?

10 MS. WHITE: Please seat the juror in this case.

11 THE CLERK: Juror number 70, Alee S. Jarvis.

12 (WHEREUPON, a white female stepped forward.)

13 THE CLERK: What say you for the State?

14 MS. PRICE: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MS. WHITE: Please seat the juror.

17 THE CLERK: Juror number 128, James M. Stancell.

18 (WHEREUPON, a white male stepped forward.)

19 THE CLERK: What say you for the State?

20 MS. PRICE: Please seat -- please present the

21 juror.

22 THE CLERK: What say you for the defense?

23 MS. WHITE: Please excuse the juror.

24 THE CLERK: Juror number 7, Dianne H. Bray.

25 (WHEREUPON, a white female stepped forward.)

1 THE CLERK: What say you for the State?

2 MS. PRICE: Please present the juror.

3 THE CLERK: What say you for the defense?

4 MS. WHITE: Please seat the juror in this case.

5 Your Honor, may we approach?

6 THE COURT: Yes, ma'am.

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

11 THE CLERK: Juror number 95, Willie T. Moss, Jr.

12 (WHEREUPON, a black male stepped forward.)

13 THE CLERK: What say you for the State?

14 MS. PRICE: Please present the juror.

15 THE CLERK: What say you for the defense?

16 MS. WHITE: Please seat the juror.

17 THE CLERK: Juror number 24, Roger D. Chandler.

18 (WHEREUPON, a white male stepped forward.)

19 THE CLERK: What say you for the State?

20 MS. PRICE: Please present the juror.

21 THE CLERK: What say you for the defense?

22 MS. WHITE: Please seat the juror.

23 THE CLERK: Your Honor, I believe that's 12 jurors
24 and two alternates.

25 THE COURT: Are there any motions or exceptions to

1 the jury panel from the State?

2 MS. PRICE: Nothing from the State, your Honor.

3 THE COURT: Are there any motions or exceptions to
4 the jury panel from the defense?

5 MS. WHITE: No, your Honor.

6 THE COURT: All right.

7 Mr. Clerk, would you swear our jury.

8 THE CLERK: Ladies and gentlemen, if I could have
9 you stand and raise your right hands, please.

10 Do you and each of you solemnly swear or affirm
11 that you shall well and truly try and a true
12 deliverance make between the State of South Carolina
13 and the defendant, whom you shall have in charge, and a
14 true verdict render according to the law and the
15 evidence? If you will, say "I do" and have a seat.

16 THE COURT: Ladies and gentlemen, before we start,
17 first thing I want to do is dismiss the rest of the
18 panel. The rest of you in the jury panel or jury pool
19 that have not been selected, you are released to go
20 home. Like I told the folks that we dismissed earlier,
21 you're not released from jury service for the week, but
22 you're just not going to serve on this case. So call
23 that telephone number after 6 o'clock tonight, and it
24 will give you further instructions. So thank you for
25 your attendance this morning and you are now dismissed.

1 (WHEREUPON, the remainder of the prospective jury
2 panel exited open court at 11:59 a.m.)

3 THE COURT: All right. Ladies and gentlemen,
4 before we start let me explain our roles in this trial.
5 I am the judge of the law. You must apply the law as I
6 give it to you. You are the judge of the facts. As
7 the judge of the facts, you have the duty to evaluate
8 the evidence that is presented. Evidence is sworn
9 testimony from the witness stand or exhibits that have
10 been entered. You and you alone determine the
11 credibility of witnesses and how much weight to give
12 their testimony.

13 Each attorney will have the opportunity to give an
14 opening statement to outline their positions and the
15 evidence that she intends to present to support those
16 claims. The attorneys will also have the opportunity
17 to make a closing argument after the testimony has
18 concluded. Keep in mind that the statements of the
19 attorneys are not evidence but merely tools that they
20 use to help you understand their respective positions.

21 The State has the burden of proof in this trial.
22 It must prove beyond a reasonable doubt that the
23 defendant is guilty of the offenses charged. If the
24 State fails to meet that burden, then you must find the
25 defendant not guilty. On the other hand, if the State

1 proves its case beyond a reasonable doubt, then you
2 must find the defendant guilty. The defendant is
3 presumed innocent and has no burden of proof in this
4 trial.

5 You're going to hear a lot of discussion about
6 reasonable doubt. I'm going to give you a more
7 detailed definition at the end, but a preliminary
8 definition: A reasonable doubt is simply a doubt that
9 would cause a reasonable person to hesitate to act.
10 Again, you will hear more about that as the case goes
11 on, and I'll give you a detailed instruction on the law
12 at the end.

13 A few more things. This is not going to be a
14 quick trial. As you could probably guess from
15 listening to the witness list, there are a number of
16 witnesses that are going to be called. Some may not
17 be, but you know the potential witnesses. So this case
18 is not going to be one that's tried in an hour. It
19 will take some time to try. And it's not an endurance
20 contest. We will take breaks as we go along. If any
21 juror gets in distress and you need a break, let your
22 bailiff know. The bailiffs and the rest of the clerk's
23 staff, as I stated before, are here to assist you. So
24 let them know. We will take breaks as needed.

25 Now, this is very important. Again, in a case

1 where we have breaks in which you are going to be
2 outside of the courtroom, which you will be during
3 times -- during the course of this trial, you cannot
4 conduct any independent investigation into the case.

5 Now, in our era in which we live with cell phones
6 and computers and instant access to information, that's
7 a very tempting thing to do, but you are not allowed to
8 research the law or the facts of this case. That's
9 very important.

10 You also are not allowed to take notes. Now, the
11 reason for that is simple. Some folks are good
12 note-takers and others are not. The deliberations at
13 the end of the trial should not turn into a contest
14 between notes. Also, as the judges of the facts, you
15 also judge the demeanor of witnesses. That can be an
16 important factor in determining whether or not you
17 believe a witness' testimony. If you are staring at a
18 pad taking notes, you may miss what could be an
19 important part of the trial.

20 This is also very important. When we are taking
21 breaks and you are outside of the courtroom, you cannot
22 discuss the case with anyone. That also includes
23 deliberations amongst yourselves. You may not
24 deliberate on the case until the end when I instruct
25 you to begin your deliberations. If you are outside of

1 this courtroom and someone comes up to you attempting
2 to discuss the case with you, you let the bailiff know
3 and they will let me know and I'll tend to that. But
4 you do not discuss the case with anyone.

5 You may run into one of these attorneys outside.
6 They're not going to speak to you. It's not because
7 they're trying to be rude to you, it's because they
8 know they can't talk to you. Okay? But that's very
9 important that you do not discuss this case.

10 During the course of the trial, there may be times
11 where one side or the other objects to a particular
12 piece of evidence. The fact that I rule one way or the
13 other should not be interpreted to mean that I have an
14 opinion about the facts or that I favor one side or the
15 other, as I do not. My duty as judge is to make sure
16 that each party receives a fair and impartial trial in
17 accordance with the law.

18 There may be times where an issue of law has to be
19 taken up outside of your presence. That's not to hide
20 things from you. It's just, again, to ensure that each
21 party receives a fair trial.

22 I'm going to ask you to retire to the jury room
23 now. Your first order of business will be to elect a
24 foreperson. This will be the juror who presides over
25 the deliberations. This also will be the juror who

1 communicates with the Court. Any questions to the
2 Court should be by written note, signed by the
3 foreperson.

4 Once the foreperson is elected, knock on the door
5 and let the bailiff know that you have reached a
6 decision and write the foreperson's name down on a
7 piece of paper and send it back in, and then we will
8 bring you back in.

9 So, Mr. Bailiff, if you will take our jury to the
10 jury room so they can elect a foreperson.

11 (WHEREUPON, the jury exited open court at
12 12:05 p.m.)

13 THE COURT: Any exception to my preliminary
14 instructions from the State?

15 MS. PRICE: Not from the State, your Honor.

16 THE COURT: Any exception to my preliminary
17 instruction from the defense?

18 MS. WHITE: No, sir.

19 THE COURT: We'll take about a ten-minute break
20 while they elect the foreperson, and I'll bring them
21 back in, then we'll break for lunch.

22 MS. WHITE: Your Honor, I would like at some
23 point, I don't know if you want to do it in chambers or
24 whatever, but I would like to just discuss a couple of
25 things before we get started.

1 THE COURT: Okay. All right. Well, are you
2 prepared to do that now?

3 MS. WHITE: Sure. Sure. Judge, for one thing, as
4 I understand and I told the prosecutor, I don't care if
5 we sequester or not. I'll do whichever way they want
6 to do it, but I would ask one of the witnesses is going
7 to be my client's wife. They have been married
8 40-something years. And I know, of course, the law in
9 sequestration allows the judge to set whatever rules he
10 wants with it, and I would ask -- I know the
11 investigator is going to be in here even though he's a
12 witness. I would just ask that he be allowed to have
13 his wife in here. They have got a witness in, and I
14 just don't think a wife of 40-something years should be
15 excluded.

16 MS. PRICE: May it please the Court.

17 THE COURT: Yes, ma'am.

18 MS. PRICE: Your Honor, normally I would agree
19 with you, but Ms. Arflin was an eyewitness that
20 evening. She was immediately on the scene. And it's
21 my guess -- certainly I don't know that they're going
22 to be putting up a self-defense argument, in which case
23 she would be a key witness for the defense. If she's
24 allowed to listen to the testimony of my witnesses,
25 then she will be able to alter her testimony if she's

1 called. So I have some concerns about that.

2 MS. WHITE: Your Honor, I would like to state for
3 the record that she wasn't an eyewitness. He called
4 her right after this. She came right up to the scene,
5 and they taped -- the police officer taped her
6 statement right when she got there where she said, He
7 called me. He said that the guy was fussing at him and
8 he hit him. And, I mean, they have got the taped
9 statement of what she says.

10 THE COURT: Well, I believe, if she is a fact
11 witness, that she needs to be sequestered with all the
12 rest of the witnesses. The State would be allowed to
13 have the investigator here. Certainly the defense has
14 the defendant, so each party has got one witness
15 present.

16 Now, the defendant has to make a decision whether
17 he testifies. That's something, I'm sure, you will go
18 over with him later. But we'll just sequester all the
19 witnesses other than those people.

20 MS. WHITE: Well, I had one other thing. Judge,
21 the other thing, of course, as you know, pretrial
22 motions are not binding, so, of course, I'm going to
23 have to make all these things as we go in order to have
24 it available for appeal. But the other thing is I --
25 once you ruled that the joinder occurred, I would like

1 to add something to my civil lawsuit.

2 My client, I don't know why this just left my
3 thought when I was arguing the motion, but he had been
4 served with that and he had discussed this with the CI
5 in his cell. And so, you know, they're introducing a
6 map, they're introducing land, they're introducing all
7 this stuff. My client had discussed and sketched out
8 all that because he was talking to him about the
9 criminal suit and the civil suit. And I think that
10 goes directly -- you know, they're trying to say, you
11 know, he sketched all this stuff out because he was
12 trying to hire a hit. That's not true at all. He
13 sketched it on discussing the civil case and the
14 criminal case. That's not going to come up any time
15 soon, but I'm throwing that out there because I will be
16 arguing that later.

17 THE COURT: Well, I understand your argument,
18 Ms. White, and certainly my ruling would be the same.
19 However, if the State opens the door for that evidence
20 through -- I mean, I don't know what the State is going
21 to present in their case. So certainly we will deal
22 with that as it comes up, but --

23 MS. WHITE: And I have to renew all those motions
24 I understand anyway, so we'll cross that bridge when we
25 get to it, but I wanted everybody to be thinking about

1 that because I did forget to say that the other day.

2 THE COURT: Yes, ma'am. I understand that, and my
3 rulings are the same.

4 Anything from the State?

5 MS. PRICE: Your Honor, I noticed that Mr. Roscoe
6 Powell is listed as a one of Ms. White's potential
7 witnesses. He is the father of the deceased. To my
8 knowledge, he has no fact testimony to offer aside from
9 potentially something with the civil suit. I certainly
10 don't have him as a witness to call in the case. So I
11 had planned on having the parents of the deceased
12 present in the courtroom, but if Ms. White has him as a
13 fact witness, then I'll certainly sequester him, but I
14 don't know the basis for her --

15 THE COURT: Ms. White.

16 MS. WHITE: Well, your Honor, I do have him down
17 as a potential witness, and I don't think that I --
18 without going into everything, he would be a potential
19 witness on this civil issue as well as some things that
20 were written in an affidavit. And I will throw out
21 there that we will trade a wife for a father.

22 THE COURT: He's listed as a witness, so,
23 Ms. Price, he'll have to be sequestered again unless
24 y'all come to some agreement on that. But all
25 witnesses need to be sequestered when there's any

1 witnesses sequestered.

2 MS. PRICE: Yes, sir. So we've sequestered all
3 the witnesses in this case as of this morning.

4 THE COURT: Either the witnesses are sequestered
5 or they're not.

6 MS. PRICE: Yes, sir, aside from the defendant.

7 THE COURT: Aside from the defendant.

8 MS. WHITE: Your Honor, I would just request,
9 since it's pretty much impossible for us to try a case
10 and monitor who's coming in and out of the doors, I
11 would just ask if the bailiffs can ask people who come
12 to the door, "Are you a potential witness?" Because
13 there is no way for either one of us to see what's
14 happening behind us. We will tell everybody, of
15 course, that we have contact with. But, for instance,
16 some of our witnesses are actually associated with the
17 other side, and they have chosen not to respond to our
18 subpoenas for calling in. So I just want to make sure
19 we have a little safeguard back behind us.

20 MS. PRICE: Well, I want to be clear. Ms. White
21 called me and said that some of these individuals could
22 be on standby; is that correct?

23 MS. WHITE: Absolutely.

24 MS. PRICE: Okay. So some of the people who are
25 State's witnesses and Ms. White's witnesses are on

1 standby notice. I have already instructed my witnesses
2 that they're sequestered.

3 THE COURT: Okay. If our bailiffs would just --
4 if people come in, just notify the witnesses are not
5 allowed in until they are called. Okay?

6 Anything further until we bring the jury back?

7 MS. PRICE: One other matter, your Honor.

8 THE COURT: Yes, ma'am.

9 MS. PRICE: I sort of observed that there was some
10 discussion concerning the courtrooms this afternoon.
11 We have set up the media, and with the cooperation of
12 the clerk's office, on the third floor for this trial,
13 understanding that we were going to be moved today.
14 And we do have some things that have to be played if we
15 get started with our witnesses this afternoon, so,
16 unfortunately, if we have any input --

17 THE COURT: Well, I was informed this morning that
18 we would be on the third floor. Judge Maddox was to be
19 down here, but now I've been informed, once we started,
20 that Judge Maddox went ahead and started on the third
21 floor, so -- and, Mr. Clerk, is he seeking to stay down
22 there today?

23 THE CLERK: He -- it was just out of convenience,
24 but I told him that I knew that they had taken some of
25 their equipment downstairs, so I think maybe at the

1 lunch break --

2 THE COURT: Wouldn't be a problem to switch.

3 MS. WHITE: Your Honor, may I just be heard on
4 that? We have a huge case file. There is very little
5 room down there, and if it's not a big deal, if we can
6 just move some stuff over lunch. We've got several
7 people at our table. I would just ask if they don't
8 have a big case going, if they're just doing something
9 that does not require big case files and so forth, I
10 would request that we look into that since we do have a
11 brain and we can move whatever we need to move, I would
12 ask that we reconsider that because of the size of
13 where -- your working territory up there.

14 THE COURT: I don't know what Judge Maddox has
15 going on. Let me speak to him. If y'all can hang
16 around just for a minute when I let the jury go, we'll
17 figure that out. If we have got to switch it up, we'll
18 try to accommodate everyone as best we can. And this
19 is a problem you run into when you have multiple
20 courtrooms going at the same time, and I believe he's
21 got a general sessions session as well.

22 So we'll just hang around for just a minute.
23 We'll see what we can figure out with that. I have
24 been notified by the jury that Daniel -- is that
25 Jachens, number 68, has been elected as the foreperson.

1 (WHEREUPON, Court's Exhibit Number 1 was marked
2 for identification.)

3 MS. PRICE: We have a short *Jackson v. Denno*
4 hearing to address before opening statements, which we
5 had earlier said we'd begin at 2:00 p.m. today. But as
6 we're pushing back, I just want to make sure we have
7 enough time to address that before --

8 THE COURT: Well, what we can do, it's 12:15. How
9 long do you think that will take?

10 MS. HUEY: Your Honor, it's just one short witness
11 for *Jackson/Denno*. Not many questions at all.

12 THE COURT: Let's just -- the parties and the
13 witness, let's convene at 1:45 so you can start that.

14 MS. HUEY: Thank you.

15 THE COURT: Mr. Bailiff, if you can get our jury
16 in, please.

17 (WHEREUPON, the jury entered open court at
18 12:17 p.m.)

19 THE COURT: All right. Ladies and gentlemen, I
20 have received your note and you have elected your
21 foreman.

22 Mr. Foreman, you will sit in the same chair each
23 time that you come back, just like our two alternates
24 will always sit in the same chair. It's 12:00, almost
25 12:20. We are going to break now for lunch, and you

1 will need to be back by 2 o'clock.

2 Now, got a lot of things going on at the Anderson
3 courthouse today. There's another term of general
4 sessions going on at the same time. Tomorrow we may be
5 down on the third floor. This afternoon, after talking
6 with the clerk, the other judge has already started on
7 the third floor, so I think we're just going to stay up
8 here today. But as far as tomorrow goes, we will let
9 you know by the end of the day what floor that you will
10 need to report to. Okay? So everyone go to lunch, be
11 back by 2 o'clock. Do not discuss the case with anyone
12 or allow anyone to discuss it with you while you're out
13 having your lunch. Hope everyone has a good lunch, and
14 y'all can take them out.

15 (WHEREUPON, the jury exited open court at
16 12:19 p.m.)

17 THE COURT: After conferring with the clerk,
18 Cordell has already started downstairs, and I don't
19 know. There was an issue, I don't know, about
20 probationers they have got coming in.

21 Ms. Price, I understand it's an inconvenience to
22 get your stuff moved up here.

23 MS. PRICE: It's going to take us some time to
24 re-set up the media today and tomorrow. We're going to
25 need an additional hour to do that. We moved -- and,

1 Judge, you know, Mr. Shirley knows, I set all of this
2 up Friday so we'd be ready downstairs. And that's
3 okay. I'm more than willing to do it, but I don't know
4 if we need to tell the jury to come back later or, you
5 know, I'll get my people on it as quickly as I can.

6 THE COURT: Well, the media, how many media?

7 MS. PRICE: We have an overhead projector that we
8 moved from the fourth floor as well as sound equipment
9 and a laptop which is not a big deal, but the sound
10 equipment has to be re-hooked up to these speakers in
11 this courtroom, and there's some finessing that has to
12 go on with that. And then tomorrow morning we would
13 need additional time to move it back to the third floor
14 in the morning.

15 THE COURT: Again, I understand. I apologize for
16 the inconvenience.

17 MS. PRICE: Yes, sir.

18 THE COURT: And, of course, I didn't know what
19 floor I was going to be on.

20 MS. PRICE: I understand, sir. We've tried to
21 work with the clerk's office, and I'm happy to do it.
22 I just don't want to run into time constraints.

23 THE COURT: Let's just -- well, if you will get
24 them to work on it right now.

25 MS. PRICE: Yes, sir.

1 THE COURT: It's 12:20. I mean, they should have
2 ample time to get the stuff moved by 2:00. And
3 because, Ms. Price, I'm assuming you're not going to be
4 the one to hook it up.

5 MS. PRICE: Well, honestly, sir, I've done it
6 before, so may I make sure that the individual who
7 needs to be present is present before I --

8 THE COURT: Okay. If there is a problem with
9 that, just --

10 MS. PRICE: E-mail or --

11 THE COURT: Yeah. Just let my clerk now and we'll
12 accommodate. Again, having two courts going at the
13 same time, I understand --

14 MS. PRICE: I understand.

15 THE COURT: -- this is confusing, and it won't be
16 a problem tomorrow, I wouldn't think, but today was
17 just an unusual circumstance.

18 MS. PRICE: Yes, sir.

19 THE COURT: Okay? So we'll be in recess.

20 MS. WHITE: Judge, is the courtroom -- I
21 understand they're going to be moving the equipment,
22 but are we going to need to cart everything out or can
23 we leave our stuff here?

24 THE COURT: You should be able to leave all your
25 stuff.

1 MS. PRICE: Your Honor, one additional matter, and
2 I don't mean to belabor it, but since we're
3 anticipating having the one *Jackson v. Denno* hearing,
4 but Ms. White just alluded to the fact that she's going
5 the renew her motions that she made last week that we
6 addressed. I want to make sure that we're in agreement
7 that there's no *Jackson v. Denno* necessary for the
8 statements to Roy Lawrence made by Mr. Arflin by way of
9 telephone call.

10 MS. WHITE: As you know, pretrial motions aren't
11 binding, so I have to renew every single thing during
12 the trial or it's not appealable. So, I mean, I
13 understand your ruling on it. It's probably going to
14 take us ten seconds. I have to protect the record or
15 it's not protected.

16 THE COURT: I will allow you to put into the
17 record what you feel you need to do to renew your
18 motions.

19 MS. PRICE: Yes, sir. Thank you.

20 THE COURT: Okay. We'll be in recess.

21 (WHEREUPON, a recess was taken from 12:23 p.m.
22 to 1:55 p.m.)

23 THE COURT: Let's proceed with the *Jackson v.*
24 *Denno* portion of the trial.

25 MS. HUEY: Your Honor, the State calls Shane

1 Chandler to the stand.

2 SHANE CHANDLER,

3 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

4 THE CLERK: Please state and spell your name for
5 the reporter.

6 THE WITNESS: Deputy Shane Chandler with the
7 Anderson County Sheriff's Office. Last name
8 C-h-a-n-d-l-e-r.

9 DIRECT EXAMINATION

10 BY MS. HUEY:

11 Q Deputy Chandler, you just told us you work for the
12 Anderson County Sheriff's Office?

13 MS. WHITE: Your Honor, may I have just one
14 minute. I'm sorry. I told a couple witnesses to be
15 here for this hearing, and they misunderstood. If
16 before we start the testimony, if we can just step them
17 out. I meant outside the courtroom, not inside the
18 courtroom.

19 THE COURT: We just need to make sure any person
20 that is being called as a witness or has been listed as
21 a witness, they need to be outside the courtroom.

22 MS. WHITE: We're good.

23 THE COURT: Ms. Huey, proceed.

24 MS. HUEY: Yes, sir, your Honor.

25 Q So, Deputy Chandler, you're with the sheriff's

1 office in Anderson?

2 A I am.

3 Q And what are some of your duties and
4 responsibilities as such?

5 A Currently I work for the courthouse division, but
6 previously I worked on Alpha shift, on uniformed road
7 patrol.

8 Q And as such, did you respond to a call on
9 December 11th of 2013?

10 A I did.

11 Q And what was the nature of that call?

12 A It was a shooting.

13 Q And where exactly did you respond?

14 A I think it was 126 Williamson Road in Belton.

15 Q And is that in Anderson County?

16 A That is in Anderson County.

17 Q Was anyone else on scene when you arrived as far
18 as law enforcement goes?

19 A No. I was the first one on scene.

20 Q So you were the first responding officer?

21 A Correct.

22 Q When you first arrived, what, if anything, did you
23 observe?

24 A When I first arrived on the scene, I turned my
25 spotlight on. There was a group of people at the edge

1 of a driveway. There was one man laying on his back,
2 and three people were there that appeared to be
3 rendering aid to him.

4 Q Could you tell the condition of the man laying on
5 his back at that time?

6 A No. I just knew he was on his back.

7 Q Did you speak with any of those people?

8 A Yeah. I pulled up and I asked who had shot, and
9 they all pointed up the street, said, "He's up there."

10 Q Okay. And as a result, what are you now doing
11 once you hear that?

12 A I'm trying to get the suspect in custody, trying
13 to make sure everybody is safe, make sure that nothing
14 else happens.

15 Q And so did you -- they pointed that the shooter
16 was up the street; is that correct?

17 A That's correct.

18 Q And once you -- once you heard that, what did you
19 then do?

20 A I immediately pulled my car over in front of
21 probably about ten feet away from where the person was
22 lying on the ground, got out of my patrol car. I
23 noticed there were two trucks in the roadway. I wasn't
24 sure what was going on. It looked like maybe there was
25 a car accident because there was a lot of debris, like

1 vehicle parts, in the roadway. I saw two people kind
2 of far away up the street. I wasn't sure if he was
3 still armed or not, so I went around the vehicle. I
4 got my pistol out, got the load ready. I walked around
5 and I used the vehicles for cover. I approached the
6 man and a woman standing in the roadway.

7 Q Okay. And as you did, what, if anything, did you
8 ask them?

9 A When I was walking up to them, I asked them if --
10 who shot.

11 Q And did he give you a response?

12 A The gentleman there said that he had shot.

13 Q Did you learn who that gentleman was eventually?

14 A Eventually I did, yes, ma'am.

15 Q What was his name?

16 A Bobby Arflin.

17 Q So he said, "I shot"?

18 A He said he shot.

19 Q And as a result of that, what did you then do?

20 A I told him to put his hands up and to turn around.

21 Q And at that time did you put him in handcuffs?

22 A I walked up to him. He was -- he was doing
23 everything I told him to do. I reholstered my weapon.
24 I grabbed his arm, put his arm behind his back and
25 placed handcuffs on him.

1 Q All right. So after you placed the handcuffs on
2 him, what did you then do?

3 A As soon as the handcuffs were on him?

4 Q Actually, let me back up. Were you still there by
5 yourself at this point?

6 A At this point I was still alone.

7 Q So at any point did any other officers arrive on
8 scene?

9 A Not yet. Right when I was putting the handcuffs
10 on him, my shift supervisor, Sergeant Jacob Bowland,
11 pulled up while I was placing him in handcuffs.

12 Q And when your sergeant pulled up, what then
13 happened?

14 A As soon as my sergeant pulled up, he said, "Do you
15 got him?" I told him I did. He asked me where the
16 weapon was. I had no idea where the weapon was. And I
17 believe Mr. Arflin said that it was in front of his
18 truck. So Sergeant Bowland walked over to the vehicle
19 and secured the revolver.

20 Q So the second question asked, then, was where is
21 the gun?

22 A Correct.

23 Q Okay. And, again, Mr. Arflin responded with near
24 his truck or around his truck?

25 A Yes.

1 Q Now, had you -- after the gun was secured, what
2 did you then do in terms of Mr. Arflin?

3 A I was searching Mr. Arflin for any additional
4 weapons. I recovered four bullets from his pockets.
5 They were 41 magnum bullets. I think I secured those.
6 Sergeant Bowland told me, "Take him to your car," so I
7 walked him to my vehicle, put him in the backseat, went
8 to the trunk, got out an evidence bag, put the bullets
9 in the evidence bag. I grabbed a crime scene log.

10 Q Without getting -- just in terms of what -- you
11 didn't find any other weapons on Mr. Arflin?

12 A No. He had no other weapons.

13 Q Other than just the bullets?

14 A Correct.

15 Q What did you then do with Mr. Arflin?

16 A I placed Mr. Arflin in the backseat of the patrol
17 car.

18 Q And did you ask him any other questions as it
19 relates to the shooting?

20 A As far as the shooting, no. The only thing I
21 asked him was if he was comfortable, if he had enough
22 air back there. And that's the only words I spoke with
23 him.

24 Q And do you have any in-car video?

25 A No, I do not.

1 Q What did you do with Mr. Arflin eventually?

2 A After a while, my sergeant said to just -- we were
3 going to put crime scene tape up. I started getting
4 crime scene tape out. Deputy Cowan showed up.
5 Sergeant Bowland told me, "Hey, stay by the vehicle.
6 Don't leave the vehicle." So I stayed by the vehicle,
7 and eventually Sergeant Bowland said, "Take him to
8 LEC."

9 Q So you were with Mr. Arflin the rest of the time?

10 A Correct.

11 Q Again, did you elicit any other answers or
12 responses from him?

13 A I didn't ask him any additional questions.

14 Q You never personally Mirandized him; is that
15 correct?

16 A I did not.

17 MS. HUEY: That's all I have at this time.

18 CROSS-EXAMINATION

19 BY MS. WHITE:

20 Q In fact, you told him immediately that you were
21 not going to talk to him about the case, that he would
22 be questioned later at the sheriff's department; is
23 that right?

24 A I don't remember exactly telling him that, but
25 that's probably something I would have said.

1 Q All right. So let's back up. So you come to the
2 scene, and you are -- these people point over to Bobby
3 and you basically put the gun on him. I'm not faulting
4 you at all for that, but you put the gun on him. You
5 tell him to put his hands up. He was on the phone at
6 the time. Do you recall that?

7 A As a matter of fact, he was on the telephone.

8 Q And are you aware that his wife was there and he
9 ended up handing the phone to his wife?

10 A Yes. There was a female there. I never spoke
11 with her at all, but she was there.

12 Q And so you immediately cuffed him and you took him
13 to this vehicle; is that correct, and told him you
14 weren't going to be discussing the case, that would
15 happen later at the sheriff's department?

16 A Correct.

17 Q And he was placed in this vehicle alone; is that
18 correct, for the rest of the time you were at the
19 scene, and you were told to kind of guard the vehicle?

20 A Correct. We were -- I put him in the patrol car.
21 I wanted -- I kind of isolate all the witnesses so
22 nobody can talk back and forth.

23 Q Right. And you stood outside the car and guarded
24 it, basically?

25 A I sat in the car some, got outside some.

1 Q All right. And, again, you had told Mr. Arflin
2 very clearly that you were not going to be discussing
3 the case with him, that would happen later at the
4 sheriff's department?

5 A Correct.

6 Q All right. Now, let's talk about your reports.
7 You wrote a report on December 11th of 2013 which is
8 the date that this incident occurred; is that correct?

9 A That's correct.

10 Q And do you recall putting that in your report that
11 you got to the scene and Arflin was arrested and
12 secured in a patrol car?

13 A Correct.

14 Q Do you recall writing, "According to the
15 witnesses, the suspect shot the victim with a large
16 pistol"? Would you like to see it? This isn't a
17 memorization.

18 MS. WHITE: Your Honor, may I approach?

19 THE COURT: Yes.

20 THE WITNESS: I don't believe I had ever put in a
21 report that he had shot him.

22 BY MS. WHITE:

23 Q If you would like to hold that in front of you,
24 you're welcome to.

25 A Okay. Okay. Yes, ma'am.

1 Q All right. Do you want to just read that sentence
2 to the judge?

3 A "According to witnesses, the suspect, Bobby
4 Arflin, shot the victim with a large pistol."

5 Q All right. Now, that report was actually written,
6 if you look down at the bottom, on what day?

7 A 12/11/13.

8 Q So that's the same day that this occurred; is that
9 correct, or same night?

10 A Correct.

11 Q This occurred, for -- the judge knows nothing
12 about this case. This occurred about 8:30 p.m.; is
13 that correct?

14 A Yes, ma'am.

15 Q All right. And so were you -- you didn't write
16 anything in your report that you wrote that day about
17 Bobby Arflin saying anything about "I shot him" or any
18 of that, did you?

19 A I didn't put it in my report that Mr. Arflin
20 stated he had shot him.

21 Q Okay. And you didn't put anything in your report
22 that he said that's where the gun is?

23 A I believe it might have been on my supplemental.
24 I'm not sure.

25 Q I've got your supplemental. We'll address that in

1 a minute. I'm talking about that report you did that
2 day.

3 A I did the supplemental and the report on the same
4 day, I believe.

5 Q We're close to midnight. Probably the second one
6 is dated December 12th, but it could have very well
7 been on the same shift?

8 A It was on the same shift, yes, ma'am.

9 Q So at this point, of course, you had no idea if
10 his defense would be it wasn't me, it was self-defense.
11 I mean, you didn't know anything about this case; is
12 that correct?

13 A No, ma'am. I just knew there was two vehicles,
14 looked like it had been crashed. I was just kind of
15 assuming, I guess.

16 Q And, in fact, you had told him, "We're not going
17 to talk about this case. That's going to be at the
18 sheriff's department." So you didn't know anything
19 about his defense at this point?

20 A Correct. That's an investigator's job.

21 Q All right. And, now, let's go to the other report
22 you were talking about on 12/12 of '13, and in that one
23 did you say, "I asked who shot the victim, and they
24 pointed up the street and stated, 'The man standing
25 next to the Dodge truck.'" Do you recall writing that?

1 A Yes, ma'am.

2 Q Okay. And then you say, "I ordered the man to put
3 his hands in the air and to turn around. The man was
4 identified as Bobby Arflin, raised his hands, complied
5 with all verbal commands. I placed him into custody."
6 Do you recall that?

7 A Correct.

8 Q And will you please check and see if that report,
9 the supplemental report, had any notes in it at all
10 about him saying, "I shot" -- and now you certainly say
11 the witnesses say that he shot, but anything that my
12 client said he shot?

13 A In my report I did not state at all that
14 Mr. Arflin stated he had shot anybody.

15 Q And you're aware that your sergeant, who you
16 talked about who got there right after you, Sergeant
17 Bowland, also made a report; is that correct?

18 A Correct.

19 Q And do you recall that he wrote in his report that
20 night, "I asked Deputy Chandler where the gun was, and
21 he told me there was a large revolver on the hood of
22 the truck that Arflin was standing next to"? Are you
23 aware of that?

24 A That sounds accurate, yes, ma'am.

25 Q And so approximately a week and a half ago the

1 prosecutor contacted us for the first time and said
2 that the client had said he had shot --

3 MS. HUEY: Objection; your Honor.

4 MS. WHITE: I'm asking a question, your Honor.
5 I've got to lay the foundation.

6 THE COURT: Overruled.

7 Go ahead.

8 BY MS. WHITE:

9 Q -- that he had confessed to a shooting and had
10 said where the gun is. We were notified about a week
11 and a half for a year and a half case after discovery
12 was filed in December of 2013; is that correct?

13 A I'm assuming, yes, ma'am.

14 Q Okay. And are you aware that the case file and
15 the discovery is quite voluminous, and not one place
16 out of any officer does anyone say that my client said
17 he shot or that my client said, "There's the gun"?

18 A I assume that he told that to the detective.

19 Q Well -- and, in fact, Sergeant Bowland says that
20 you told him where the gun was; is that correct, in his
21 report?

22 A When it happened, I believe that Sergeant Bowland
23 was in earshot when I said, "Where is the gun," and he
24 said, "It's near the truck."

25 Q All right. But if you will read in Sergeant

1 Bowland's report how he phrases it, if you don't mind.

2 A "The amount of people still walking around the
3 scene, Deputy Chandler" -- excuse me. "I asked Deputy
4 Chandler where the gun was and he told me that there is
5 a large revolver on the hood of the truck that Arflin
6 was standing next to."

7 Q Thank you. May I have this back, please?

8 Would you agree that certainly the words that were
9 spoken, by whom they were spoken, all of that -- and
10 I've known you for a long time. I know you would not
11 lie, so I'm not implying that at all. But would you
12 agree that certainly this stuff was much fresher on
13 your mind a year and eight months ago when it happened
14 than it would be now?

15 A Yes, ma'am. I will agree to that.

16 Q And would you agree that's why you write a report,
17 so that you can take a look at your report and refresh
18 your memory?

19 A Uh-huh.

20 Q So would you agree that these reports would
21 probably be more accurate than something you're trying
22 to remember from a year and eight or nine months ago?

23 A I could agree to that, but I definitely remember
24 him saying that he had shot the subject. That's
25 something you kind of really don't forget. And I

1 believe the only reason that the report is written like
2 that was because of the front page would be out in the
3 media, and I didn't want that to -- you know, I was
4 going to put everything in my supplemental. I was just
5 kind of --

6 Q But the supplemental was written later, and it
7 doesn't have anything about that either, does it?

8 A Correct.

9 Q So the first time that anyone has ever heard of
10 him allegedly confessing at the scene was about a week
11 and a half ago, actually August 16th of this year?

12 A I mean, I told Sergeant Bowland when he came on
13 scene.

14 Q Do you know why Sergeant Bowland would not have
15 put a confession in any of his reports, that there was
16 any kind of confession?

17 A I can't speak for him.

18 MS. WHITE: No further questions.

19 THE COURT: Ms. Huey, any redirect?

20 MS. HUEY: Just a couple on redirect.

21 REDIRECT EXAMINATION

22 BY MS. HUEY:

23 Q So you acknowledge that you did not write these
24 statements in your report?

25 A I did not write that he had -- I did not write

1 that Bobby Arflin stated that he had shot.

2 Q But, nonetheless, your testimony today is that --

3 MS. WHITE: Objection to leading. This is her
4 witness.

5 THE COURT: Rephrase the question.

6 BY MS. HUEY:

7 Q What are the two statements Bobby Joe Arflin told
8 you on December 11th of 2013?

9 A He stated that he had shot, and he stated the gun
10 was near the truck.

11 Q And you remember that clearly?

12 A Crystal clear.

13 THE COURT: Anything further, Ms. White?

14 MS. WHITE: Not on this witness.

15 MS. HUEY: That's all I have, your Honor.

16 THE COURT: Thank you, Officer. You can step
17 down.

18 MS. HUEY: Your Honor, that would be the only
19 witness we have for the *Denno* hearing.

20 MS. WHITE: Your Honor, I do have a couple of
21 witnesses for a couple of quick questions.

22 THE COURT: Okay.

23 MS. WHITE: I would call Sheila Arflin.

24 MS. PRICE: Your Honor, I was never provided with
25 the information that we mentioned earlier today

1 pertaining to her lay witnesses. So before Ms. Arflin
2 takes the stand, I would like that information.

3 MS. WHITE: Your Honor, I don't know her date of
4 birth. I'll ask her when she gets on the stand. That
5 will be my first question.

6 MS. PRICE: Well, your Honor, I'd like to be able
7 to know if she has anything on her prior record before
8 she's on the stand. I think that's appropriate.

9 THE COURT: All right. Let's take five minutes
10 and you get that information up to Ms. Price, and that
11 will give her an opportunity. Five minutes should be
12 long enough to look at the computer. We'll go off the
13 record for five minutes.

14 MS. PRICE: Thank you, sir.

15 (WHEREUPON, a pause in proceedings from 2:14 p.m.
16 to 2:16 p.m.)

17 THE COURT: Would counsel approach.

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

20 MS. PRICE: Your Honor, we're ready to proceed.

21 THE COURT: All right.

22 Ms. White.

23 MS. WHITE: Yes, sir. Call Sheila Arflin.

24 SHEILA ARFLIN,

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 THE CLERK: Please state and spell your name for
2 the reporter.

3 THE WITNESS: My name is Sheila Marie Garrett
4 Arflin.

5 DIRECT EXAMINATION

6 BY MS. WHITE:

7 Q Ma'am, what's your occupation?

8 A Production operator at Nutro.

9 Q To whom are you married?

10 A Bobby Joe Arflin.

11 Q How long have y'all been married?

12 A 43 years.

13 Q On the night that this occurred, December 11,
14 2013, did you receive a call from your husband?

15 A Yes, I did.

16 Q And as a result of -- and I believe that was,
17 phone records show, about 8:42 p.m.; is that correct?

18 A That's correct.

19 Q And as a result of that call, where did you go?

20 A Out my driveway and right up to where --

21 Q Where the shooting occurred?

22 A Yeah.

23 Q And the shooting was on the same road, less than a
24 block up; is that correct?

25 A Yes, it was.

1 Q All right. Now, when you got there, did you see
2 Bobby?

3 A Yes.

4 Q And while you were there, was he on the phone to
5 Billy, his brother?

6 A Yes, he was.

7 Q And were you beside him?

8 A Right out beside him.

9 Q Now, when the officer, the first officer got
10 there, what do you recall that he did about arresting
11 Bobby?

12 A He shined the light in his face and hollered at
13 him to get his hands up and drop the phone.

14 Q Okay. Was he still talking to Billy?

15 A Yeah. He was still on the phone with Billy at the
16 time.

17 Q And how far away were you from Mr. Arflin when
18 this occurred?

19 A I guess three foot.

20 Q Okay. And at that point did Bobby hand you the
21 phone?

22 A I reached out and took it.

23 Q All right. And did he comply with the officer's
24 request?

25 A Yes, he did.

1 Q And did the officer end up cuffing him and sending
2 him away to a vehicle?

3 A Took him right away.

4 Q Now, at any time during that time, did your
5 husband say anything about, "I shot him," or, "The
6 gun's up there," anything else like that?

7 A No, he didn't.

8 Q And would you have heard, given your position next
9 to Bobby?

10 A Yes, I would have.

11 MS. WHITE: No further questions, your Honor.

12 THE COURT: Ms. Huey.

13 CROSS-EXAMINATION

14 BY MS. HUEY:

15 Q All right. Ms. Arflin, you are married to the
16 defendant?

17 A Yes.

18 Q And how long did you say you have been married?

19 A 43 years.

20 Q And, Ms. Arflin, isn't it true that you gave a
21 statement to police wherein you said that the
22 defendant, Bobby Joe Arflin, said that he shot
23 somebody?

24 A That's true.

25 Q And do you remember about what time that was?

1 A That was when he called me on the phone and
2 explained to me to get up there.

3 Q And so he did, in fact, admit to shooting somebody
4 then; is that correct?

5 A After he says someone hit him.

6 Q But, regardless, he admits to shooting someone?

7 A Yes.

8 MS. HUEY: That's all I have, Judge.

9 REDIRECT EXAMINATION

10 BY MS. WHITE:

11 Q And, ma'am, so he said someone hit him and he
12 ended up shooting him; is that correct?

13 A Yes, ma'am.

14 Q But that was on the phone to you that made you
15 come up the road?

16 A Yes.

17 Q So were you there when the first officer arrived?

18 A The first one taking Bobby?

19 Q Yes. Yes, ma'am.

20 A Yes.

21 Q And did he say anything of that sort to the
22 officer?

23 A He didn't say nothing to the officer.

24 Q All right.

25 MS. WHITE: No further questions.

1 MS. HUEY: Nothing further, your Honor.

2 THE COURT: Thank you, ma'am. You can step down.

3 MS. WHITE: Your Honor, I call Billy Arflin.

4 BILLY ARFLIN,

5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 THE CLERK: Please state and spell your name for
7 the reporter.

8 THE WITNESS: My name is Billy G. Arflin,
9 A-r-f-l-i-n.

10 DIRECT EXAMINATION

11 BY MS. WHITE:

12 Q Mr. Arflin, do you know Bobby?

13 A Certainly.

14 Q And how do you know him?

15 A That's my brother.

16 Q And did he make a phone call to you shortly after
17 he called Sheila the night this occurred?

18 A He did.

19 Q And was he still on the phone with you when the
20 officer arrived and put him under arrest?

21 A Yes, ma'am.

22 Q And could you hear what was happening over the
23 phone?

24 A Yes, ma'am.

25 Q You were actively talking?

1 A Yes, ma'am.

2 Q And will you please tell me, did you hear the
3 officer say, "Put your hands up," and did you realize
4 what was happening?

5 A Yes. The last thing I heard was, "Hands up, hands
6 up, hands up."

7 Q All right. And at any time during the time that
8 you were on the phone call with him, did you ever hear
9 Bobby say anything about shooting someone or about the
10 location of a gun?

11 A No, ma'am.

12 Q And was he talking into the phone with you?

13 A Yes, he was.

14 MS. WHITE: No further questions.

15 THE COURT: All right. Ms. Huey.

16 CROSS-EXAMINATION

17 BY MS. HUEY:

18 Q And you are the brother of the defendant; is that
19 correct?

20 A That's correct.

21 Q Okay. And you were on the phone with him just
22 prior to the police getting there?

23 A Yes.

24 Q And but at some point you were off the phone with
25 him, correct?

1 A Not until we lost connection after, "Hands up,
2 hands up."

3 Q Okay. And then you didn't hear another thing
4 after that; is that correct?

5 A I heard him say, "They are up," and that was it.

6 Q And that was the end of that?

7 A Right.

8 Q And he did admit to shooting someone to you; is
9 that correct?

10 A Did he?

11 Q Did Bobby Joe admit to shooting someone to you?

12 A I asked him what had happened.

13 Q Did he say he shot someone?

14 A Yes.

15 MS. HUEY: No further questions.

16 REDIRECT EXAMINATION

17 BY MS. WHITE:

18 Q Did he say why he shot them?

19 A Because he was hit.

20 Q All right.

21 MS. WHITE: No further questions.

22 THE COURT: Anything further for this witness?

23 MS. HUEY: No, sir.

24 THE COURT: Thank you, sir. You can step down.

25 MS. WHITE: That's all we have on this issue,

1 Judge.

2 THE COURT: Anything else on this issue?

3 MS. HUEY: Your Honor, we would just move again to
4 have those two statements admitted through Chandler's
5 testimony. We think it's a public safety exception.
6 He's the only person on scene. He gets there, he knows
7 a shooting has taken place, and it's for officer
8 safety. And I think we're splitting hairs regardless.

9 MS. WHITE: I don't think we're splitting hairs at
10 all because I think it's important to a jury that he
11 says, which he never did, "I shot him," and that's all.
12 I think that's very important in our case, your Honor.
13 And, your Honor, you are the gatekeeper, as you well
14 know in this issue, and they have the burden of showing
15 freely, voluntarily, intelligently gave this statement.

16 Your Honor, what we've got is a report that was
17 made that night. We've got a report that was made
18 later in the shift, a detailed report. We have a
19 report of the sergeant who supposedly was right there
20 who says that the officer told him that the gun was up
21 there. When I asked the witness, "Are you sure you
22 made these statements?" "Well, I'm not sure about the
23 gun statement," and then later we get, "It's crystal
24 clear, yes, he made these statements."

25 Your Honor, we have two witnesses who were there,

1 either on the phone or there. We've got a year and
2 eight months of reports out the wazoo on this case.
3 Not one person mentions that my client said "I shot"
4 or, "The gun is over there," and a week and a half
5 before trial we get notice that he allegedly confessed
6 at the scene. And, you know, it's not harmless error
7 at all because obviously to a jury, that's going to be
8 very important that he said "I shot" and didn't say
9 anything else after that.

10 THE COURT: Let me ask you this: You characterize
11 this as he confessed.

12 MS. WHITE: Yes, sir.

13 THE COURT: But what I'm hearing here is he's
14 telling these people that he shot because he got hit.

15 MS. WHITE: Yes, sir. But that's the entire
16 point. They're going to try to get in that he said "I
17 shot" and he did not say "because I got hit." And
18 that's why it is so very important that it not come in
19 because it isn't true. It's not in any report. It's
20 not in the supervisor's report. It's in no witness
21 report. And we have two witnesses who were right there
22 and know it didn't happen.

23 THE COURT: Okay.

24 MS. WHITE: They have the burden. I don't have
25 the burden.

1 THE COURT: All right.

2 Ms. Huey, let me ask you this: Was this not a
3 custodial interrogation?

4 MS. HUEY: Your Honor, I think the first question
5 was not, considering that he was just getting on scene.
6 He was not in handcuffs or anything at that point. He
7 was literally trying to establish what had happened.
8 He's responding to a shooting call.

9 THE COURT: Did he not have his gun out?

10 MS. HUEY: Because he's alone. There are
11 people -- there's several people, someone is hurt and
12 unresponsive, and it's out for his safety, your Honor,
13 certainly.

14 THE COURT: I'm not questioning the officer's
15 having the gun out as far as procedure, but for
16 purposes of whether or not this was a custodial
17 interrogation, was the gun -- and maybe I misunderstood
18 the testimony, but was the gun not visible?

19 MS. HUEY: He had his gun drawn, and I'm assuming
20 that the defendant, yes, did see that. But, again,
21 this is for safety purposes.

22 THE COURT: Okay.

23 MS. WHITE: And the light shining in his face,
24 your Honor, at the same time. And, again, it's not in
25 any report. And, in fact, in his report, this

1 officer's report, he says, "Those people told me he
2 shot." He doesn't say anything about my client saying
3 that. You're not going to put that in your report?

4 MS. HUEY: Your Honor -- and I'm sorry, I don't
5 mean to interrupt. But we are by no means going to go
6 down the road saying he only said he shot that night.
7 We are just trying to lay the the groundwork for what
8 happened when this first officer got on scene. He just
9 said "I shot."

10 THE COURT: And, Ms. White, I'm concerned that
11 this information was not disclosed. Why wasn't this
12 disclosed? When did the officer remember it?

13 MS. PRICE: Your Honor, that's my fault. And I
14 hate to speak for Ms. Huey, but that is absolutely my
15 fault. When I met with the officer and he gave me his
16 version of the facts and I had read his report, I
17 overlooked completely the fact that he had given me
18 additional phraseology in my next meeting with him.
19 And, because it is absolutely pertinent to this case, I
20 disclosed that to Ms. White in an e-mail and told her,
21 "By the way, this isn't in the officer's report, but
22 here it is and this is what he says," because we as the
23 State do have the burden and we also do disclose
24 everything that we can that's pertinent and relevant.

25 So absolutely she can bring up the fact that it's

1 not in his report, but it was disclosed appropriately
2 once I realized that it had not initially been
3 reported.

4 MS. WHITE: Your Honor, we filed a Rule 5 in
5 December of 2013 and served it in December of 2013.
6 This is right in Rule 5. This is custodial
7 interrogation which must be disclosed. So I want to
8 make the record clear: Number one, I'm objecting there
9 were no Mirandas; number two, I'm objecting that it's a
10 discovery violation; and number three, I'm objecting
11 that they haven't even met their burden that these
12 statements were ever made. In fact, the reports
13 completely contradict that. His own supervisor says
14 that he told him, not my client.

15 THE COURT: Okay. Let me look at something.

16 Okay. I've considered the testimony, considered
17 the arguments of counsel. I'm relying on a USD court
18 case from South Carolina, *U.S. v. Manbeck*, which can be
19 found at 526 F.Supp. 1091, and which is on point
20 regarding displaying a firearm.

21 I find that the actions of the officer in this
22 case were part of the acceptable safety precaution for
23 the incident; therefore, Ms. White, I'm going to
24 overrule your objection, but your objection is noted
25 for the record, so these two statements would be

1 admissible.

2 MS. WHITE: Your Honor, that case addresses one of
3 my grounds, but it does not address the other two
4 grounds which is first they have got to prove that the
5 statement was made, and second of all, a discovery
6 violation.

7 THE COURT: Well, the discovery violation, again,
8 that gives the Court concern that it was not disclosed.
9 However, I'm going to accept Ms. Price's explanation of
10 an oversight on her part. I'll find that while it was
11 late notice, the defense did have an opportunity to
12 obtain the witnesses who would have been able to
13 testify regarding that issue and produce both of them
14 today, and I find the State has met their burden as far
15 as proof with the officer's testimony. But your
16 objection is noted for the record.

17 MS. WHITE: Thank you, your Honor.

18 THE COURT: Now, Ms. White, I understand you have
19 some renewals of your motions from our previous court
20 hearing that we need to take up before we bring the
21 jury in.

22 MS. WHITE: Whenever you want to take it up,
23 Judge. I just was going -- of course, I think this
24 would be still considered pretrial, but I'm not sure,
25 so I may have to wait until it comes up, I'm not sure.

1 But, obviously, I would not do it in front of the jury.
2 I know that.

3 THE COURT: Well, I have already noted you have
4 renewed your objection to the joinder issue. We have
5 already done that on the record.

6 MS. WHITE: Yes, sir.

7 THE COURT: We need to note that. And we can --
8 the other issues, evidentiary issues, we can deal with
9 those as they come up.

10 MS. WHITE: Yes, sir.

11 THE COURT: Okay. Anything further from the State
12 before we bring the jury in?

13 MS. PRICE: Nothing from the State, sir.

14 THE COURT: Anything from the defense?

15 MS. WHITE: No, sir.

16 THE COURT: Mr. Bailiff, if you will bring our
17 jurors. Wait a minute. Does anyone need to take a
18 break before we get started?

19 MS. PRICE: State is good to go.

20 MS. WHITE: (Shaking head).

21 THE COURT: Okay. All right. Let's get our jury
22 in.

23 (WHEREUPON, the jury entered open court at
24 2:37 p.m.)

25 THE COURT: Why don't we have our two alternates

1 sit on the very end.

2 All right. Ladies and gentlemen, I appreciate
3 your patience. We had some matters of law to take up,
4 and we are now ready to begin.

5 Ms. Price.

6 MS. HUEY: May it please the Court.

7 THE COURT: Ms. Huey.

8 MS. HUEY: That's okay, Judge.

9 On December 11th of 2013, Jody Powell, the victim
10 in this case, met his girlfriend, Brenda Masters, at a
11 birthday party for her niece. She was turning 11.
12 They were having a family birthday party. This took
13 place at 122 Williamson Drive here in Anderson County.

14 Now, the victim, Jody Powell, had got to the party
15 a little bit later because he had been at work. He was
16 a UPS driver, and he actually still had his uniform on.
17 He got to the party, met his girlfriend, Brenda
18 Masters, and was there a short while.

19 And then the defendant, Bobby Joe Arflin, drove
20 down Williamson Drive. Now, he also lives on
21 Williamson Drive. And as he was driving down in his
22 red Dodge truck, he clipped Jody Powell's silver GMC
23 truck.

24 Now, as a result of this collision, Jody Powell,
25 Brenda Masters, and then Brenda's brother-in-law, James

1 Madison, came out of the party, came out of the
2 residence, and went to speak with the defendant, Bobby
3 Joe Arflin.

4 During this exchange, and quite quickly, the
5 defendant pulled out a .41 caliber revolver and shot
6 Jody Powell in the right shoulder, lacerating a major
7 artery. Jody Powell turned to run away from this
8 defendant. He fell and the defendant pursued him, shot
9 him again as he lay on the ground face down. Shot him
10 that time in the hip. The bullet traveled through his
11 body lacerating his kidney, his liver, his lung. Jody
12 Powell died as a result of those gunshot wounds. He
13 was 41 years old.

14 It is the State's contention that the defendant,
15 Bobby Joe Arflin, killed Jody Powell with malice
16 aforethought, without just cause or excuse or defense,
17 and for that reason, he was indicted for murder as well
18 as possession of weapon during the commission of a
19 violent crime.

20 Now, in addition to those two charges before you,
21 the defendant has also been charged and indicted for
22 the solicitation to commit a felony, specifically the
23 felony of kidnapping. It is, again, the State's
24 contention that some ten months later the defendant in
25 this case, Bobby Joe Arflin, solicited -- he attempted

1 to hire a one-time cellmate, Roy Lawrence, to kidnap
2 three potential witnesses in the State's case against
3 him in exchange for property, some land. Those three
4 witnesses would be the two eyewitnesses in this case,
5 Brenda Masters as well as James Madison, and also
6 Brenda's uncle who happens to be the defendant's
7 neighbor, Larry Williamson, who also lives on
8 Williamson Drive.

9 Now, it is the State's burden to prove to you
10 beyond a reasonable doubt each and every one of the
11 elements of these crimes: Murder, possession of weapon
12 during the commission of violent crime, and three
13 separate counts of solicitation to commit a felony on
14 Brenda Masters, James Madison, and Larry Williamson.

15 Now, in order to prove that to you, we intend to
16 present evidence, and that evidence will come in the
17 form of 911 calls, eyewitness testimony, testimony from
18 law enforcement as well as various experts,
19 presentation of actual physical evidence that was
20 collected, and, finally, a recording of the defendant
21 himself acknowledging this kidnapping plot.

22 Now, at the close of this case, we'll ask you to
23 convict the defendant of all of these charges. I thank
24 you in advance for your attention this week. I know
25 the judge kind of hinted that it might be a long one,

1 so I appreciate that. It's an important case to
2 everyone involved. Thank you.

3 THE COURT: All right. Ms. White.

4 MS. WHITE: Yes, sir.

5 Ladies and gentlemen, this is a case about a man
6 who tried to avoid confrontation at every turn. He
7 tried repeatedly to avoid confrontation. But, ladies
8 and gentlemen, sometimes trouble follows a man and it
9 corners him despite his best efforts. And that's
10 exactly what happened in this case.

11 My client has been married 43 years to Sheila
12 Arflin. They have never been arrested. They haven't
13 had issues like that. They live a quiet life at the
14 end of a dead-end. Bobby was a mechanic, a diesel
15 mechanic, for 35-plus years. Sheila has worked at, I
16 think it's Nutro, for 15-plus years. They live at the
17 bottom of a dead-end called Williamson Drive. They
18 were just trying to lead their quiet lives when trouble
19 found Bobby even though he tried to avoid it and it
20 cornered him.

21 Bobby worked for about 35 years, but there at the
22 end he couldn't work anymore. He had cancer a few
23 years ago, went through treatment. He's got arthritis
24 pretty much all over his body I guess from lifting
25 engines and transmissions and everything else. He's

1 got kidney issues. He's got diabetes. He has
2 neuropathy, which simply means you don't have good
3 balance. Your feet are pretty much numb. His wife has
4 had a heart attack, cancer. They're just trying to
5 mind their own business, but there was a problem.

6 They live at the bottom of Williamson Drive, a
7 dead-end. In other words, here is a street. You turn
8 onto Williamson Drive, go right down here at the
9 dead-end. This was going to be their dream home. They
10 moved there about 40 years ago. Nice acreage down at
11 the end of the road. They even agreed to name it
12 Williamson Drive because the Willaimsons lived up and
13 down it. They're the only non-Williamsons on the road.
14 Three generations of Williamsons. It turned into a
15 nightmare.

16 The Williamsons wanted this property and did
17 everything they could do to run them out. But my
18 client is not a client of vast means. He can't just
19 pick up and move. He and his wife are working people.
20 There was just problem after problem after problem, and
21 one of the main problems, this road.

22 In 1987 in Anderson the rule changed. You have to
23 have 20-foot wide roads. However, on this road, it's
24 16 feet. The Williamsons just -- you'll hear the
25 testimony -- drove my client and his wife crazy. They

1 couldn't even get to their own home, ladies and
2 gentlemen. They would park these big trucks out in the
3 road. This road has ditches on both sides. The road
4 knocks off like it's eroded inches, so if you go off
5 the road -- as a matter of fact, the ambulance in this
6 case that night that this occurred ended up stuck in
7 the ditch and they had to call a tow truck. So for
8 about 35 years my clients can't even get to their own
9 home because of this kind of activity.

10 So let's talk about what happened that night on
11 December 11, 2013. That afternoon my client got up and
12 did some errands around the house. They have some wild
13 cats out there that, of course, won't get near people.
14 He fed them because they feed them. Those cats have
15 had babies. The cats wouldn't take care of the babies,
16 so the Arflins took them in. He took care of those.
17 Those live in the house. Then he went and ran some
18 errands, and then Bobby met his wife. They went and
19 did some errands together, went and ate at Mama Penns.
20 It was Wednesday, so Bobby went to see his mother who's
21 in her 80s. She's a widow. They spend every Wednesday
22 evening together watching TV, doing some things
23 together like that, and that's exactly what they did
24 that night.

25 Bobby thought it was a completely ordinary day.

1 It was a normal day. At about 8:00, 8:30, he's coming
2 home. Sheila has already gone home. She was driving
3 separately. He went to see his mother alone. About
4 8:30, he turns onto Williamson Drive, and, yep, there
5 is a big truck again, 2011 large truck parked right in
6 front of the Williamson's house. Now, they have all
7 the Williamsons there, and you're going to hear the
8 issues. He did not want to get out of the vehicle. As
9 a matter of fact, it's pitch dark on this road. There
10 are no streetlights whatsoever. It's December. It's
11 8:30.

12 So he is stuck there, can't get to his house. So
13 he's faced with what do I do? Call law enforcement.
14 Will that cause a confrontation? Does he go knock on
15 the door? Will that cause a confrontation? He's
16 alone. Does he beep his horn? Will that cause a
17 confrontation? So he says, you know what, I'm just
18 going to try to go around this thing.

19 Now, remember, this road is 16 feet wide. Very,
20 very narrow. So he picks the option less likely to
21 lead to any kind of confrontation. He goes around this
22 vehicle. And let me just tell you something. There
23 was plenty of room to park at this house. You're going
24 to see pictures. Lots of driveway, all sorts of stuff
25 there. But, no. This is parked -- and not like, oh,

1 okay, I'm going to park so I can make an easy exit.

2 Oh, no. The vehicle was parked to the end of the

3 dead-end.

4 So this car is parked this way. His home is down

5 here at the end of the dead-end. So he goes along and

6 says, you know what, I'm going to try to make it by.

7 When he goes by, you know how trucks are, they have

8 those big mirrors that go out. Well, both of these

9 trucks, of course, had big mirrors going out. So he

10 goes by Jody's truck. And this mirror apparently hits

11 this mirror, of course, there in the front of the

12 vehicles where side mirrors are. So they clip. So

13 it's like, "Oh, my gosh. I can't believe this is

14 happening. I'm alone. It's pitch dark. They have got

15 all these Williamsons at this house." So he doesn't

16 want to get out of the vehicle. So he decides he's

17 going to back up to see, you know how you can kind of

18 hit something and it won't cause damage or you can

19 cause damage. So he decides to back up and take a look

20 and see is this anything to be worried about. And it

21 turned out this part of his vehicle, Bobby's vehicle,

22 hit, as he was backing up, this corner of Jody's truck.

23 So there's no way to avoid anything at this point.

24 So Bobby, in his 60s, poor health, pitch black

25 road, surrounded by Willaimsons, gets out of the

1 vehicle. He immediately calls 911. You're going to
2 hear this tape. He says, "There's been an accident.
3 Can you come?" He gives the directions.

4 And this is very interesting. They say, "Is
5 anyone hurt?" And he says, "No, not yet." Well, at
6 this point people start coming out of the house.
7 Remember, they're younger. You're going the hear Jody
8 was in the gym three times a week, was 41, in great
9 shape. Jamie, behind him, also a young male. Brenda,
10 one of the Williamsons, comes out. Jody is dating
11 Brenda. And they come out of this house.

12 You're going to hear a lot more detail about it,
13 but basically what happens is they come out, and he
14 hears them talking about how they're going to kick his
15 ass. This isn't an accident. There's no way this is
16 an accident. He wouldn't have backed up twice if it
17 had been an accident, and begin cussing at him, calling
18 him names and threatening him. By the end of the 911
19 call, you're going to hear him say, "You better hurry
20 up." Why on earth would he say that? It's a fender
21 bender. He lives right here. Well, you know why.

22 So, he hangs up the call, and at some point on the
23 911 call, the officer said, "Move your vehicle. You
24 need to move your vehicle out of the way." So he
25 went -- you know, he's saying, "Look, guys. It's an

1 accident. I didn't mean to. I don't want to fight
2 you. Let me by. I just want to move my vehicle." He
3 tries to go by them to get to his vehicle to pull his
4 vehicle up. Obviously he's not going to flee the
5 scene. He just called law enforcement. And Jody
6 begins banging into him like this, bumping into him
7 very strong. My client is not in good shape.

8 At some point my client is saying, "I don't want
9 to fight. Stop." At that point Jody ends up
10 uppercutting him on his jaw. Now, my client had a full
11 beard at that time, but he ends up uppercutting him.
12 My client has neuropathy, which means you have numb
13 feet. You don't have good balance. My client, who's
14 in his 60s, falls to the ground.

15 Now, let me back up. When my client, Bobby, got
16 out of the car, he keeps a gun in his car. He has --
17 you know, he's older. He's in bad health. Like a lot
18 of us keep guns in our cars, I don't think I have ever
19 had a car that I didn't have a gun in my glove
20 compartment. He had gotten it out and put it in back
21 of his pants.

22 So at that point he gets knocked down. Jody is
23 furious. He just bought this truck. And, remember, he
24 thinks it's intentional. So he's coming at Bobby.
25 Bobby, from the ground, shoots him. You're going to

1 hear evidence that one of the bullets enters here and
2 comes out here. You're also going to hear from the
3 judge that you are allowed to consider the health, the
4 condition, the age of the people involved when you're
5 deciding is it reasonable to fear on a dark road when
6 you're surrounded by Williamsons and you've got people
7 banging into you and hitting you. And you're alone.

8 At that point Bobby gets up. Jody is not
9 dissuaded from coming toward him. And by the way,
10 Bobby has no idea if he's hit him. He doesn't know.
11 It's dark out there. He has no idea. All he knows is
12 he's not stopping. He comes at him some more. Bobby
13 shoots him one more time right here. Still has no idea
14 if he's hit him or not. Doesn't know. You know,
15 you've heard the term "Monday morning quarterback."
16 Well, it's easy to Monday morning quarterback, but he
17 was faced with that situation.

18 At any rate, the long and short of it is Bobby is
19 locked up. So he's been in jail since then, December
20 of 2013 to now. Now, he had a cellmate at one point
21 about a year into this. And, oh, you're going to hear
22 about this cellmate. You will hear about some things
23 he's been involved in, his pending charges. He was
24 placed for about a month with Bobby in the same cell.
25 But keep in mind, this is a very small cell. It's not

1 with bars. It's all blocked in, and you have a little
2 door that was like a little thing you can talk out of
3 and get food through. Some of the cells out there are
4 like that.

5 So Bobby, I don't know if you can see all this
6 material underneath him, but he keeps all these
7 materials. Of course, that's the only thing on your
8 mind if you're accused of murder. What do you think
9 you're going to be thinking about and talking about and
10 worrying about is your charges. You have nothing else
11 to do.

12 You're in this cell with this other guy named Roy
13 Lawrence 22 hours a day. You have got nothing in
14 common with him. You have never met him before. What
15 are you going to talk about, your vacation last week,
16 your Aunt Mary? No. You have got one thing to talk
17 about and that is your case.

18 Bobby, of course, talked about his case. He
19 writes -- if you ask him if he went to the store, he's
20 going to diagram it as to where he went. He's just
21 that way. It's driven me crazy. Yes, he's writing.
22 Yes, he's talking about his case.

23 At some point during this time his cellmate takes
24 the map where he has drawn the whole thing, shown where
25 all the Williamsons are, shown where they live. You

1 have to to tell what happened. And he also got a list
2 of names with three people, one of whom wasn't even
3 there that night.

4 Now, Roy Lawrence, who has pending charges for
5 criminal sexual conduct with a minor and is facing 25
6 to life, goes to the police when he's bonded out and
7 says, "Oh, by the way, Bobby wanted me to kill these
8 people and/or kidnap them." Three witnesses. Only one
9 is even a witness.

10 So they talk over the phone. And Bobby --
11 actually, what happened is they were in this cell.
12 This guy has been through the loop a few times. Bobby
13 has never been through the loop. And, yeah, he used to
14 talk about, "Let me kill them. Let me kidnap them.
15 Let me do this and that." And, of course, Bobby is
16 stuck with this lunatic in a small cell, and he's not
17 going to say anything confrontational, again avoiding
18 confrontation. So he just lets the guy babble,
19 whatever.

20 So then they talk over the phone. And you're
21 going to, I hope, listen to that tape because on it Roy
22 Lawrence says, "Yeah, about those three people we were
23 going to do this and that," and Bobby was like, "Yeah,
24 we're not going to talk over the phone about that."
25 And then every time he brought it up, he would change

1 the subject.

2 Now, why is this important? Bobby is still in
3 jail. He can't learn anything else. He's not out and
4 about. He has three ways to communicate: Number one,
5 letter; number two, visitation list; and number three,
6 phone. He said, "I'm not talking over the phone." So
7 Roy Lawrence says, "Well, will you put me on your
8 visitation list? Oh, by the way." Let me just tell
9 you, this is last November. There was no trial date.
10 As you know, the trial is now nine months later, so
11 apparently this scheme involved Roy Lawrence getting
12 these three witnesses for some untold amount of time
13 and kidnapping them. So Roy Lawrence says, "Bobby,
14 will you add me to your visitation list?" They are
15 allowed about ten on their visitation list. Bobby
16 again, "No, sorry. It's full." He has already said
17 he's not going to talk over the phone.

18 So Roy Lawrence says, "Well, how about writing me
19 a letter," the only other way he could have
20 communicated with him, and Bobby says, "Yeah, yeah.
21 I'll write you that letter. We'll do that." Of course
22 he never did. So not only did Bobby never plan to do
23 anything to three people, one of whom wasn't even there
24 that night, but, number two, he couldn't have. It was
25 absolutely impossible.

1 You know, you've heard that Bobby was indicted.
2 Don't get too excited about that. I think the average
3 indictment takes about a minute and a half to issue in
4 Anderson County. We're not even allowed to be there or
5 know about it or present any evidence.

6 At the conclusion of this case, ladies and
7 gentlemen, Bobby is going to be requesting a verdict
8 that speaks the truth. That's what the word "verdict"
9 means. And the verdict that speaks the truth in this
10 case is not guilty. Thank you.

11 THE COURT: State, call your first witness.

12 MS. PRICE: Your Honor, the defense and the State
13 have agreed to the authentication of some evidence.
14 One of those things includes the first 911 call that
15 was made. The State would publish it to the jury at
16 this time and move it into evidence as State's
17 Exhibit 1.

18 THE COURT: Is that correct, Ms. White?

19 MS. WHITE: We've done several, so let me just see
20 what she's talking about, Judge.

21 Your Honor, we have no objection.

22 THE COURT: State's Exhibit Number 1 would be
23 admitted without objection.

24 MS. PRICE: Thank you, your Honor.

25 (WHEREUPON, State's Exhibit Number 1 was admitted

1 into evidence.)

2 (WHEREUPON, State's Exhibit 1 is being played
3 for the jury.)

4 MS. PRICE: Your Honor, at this time the State
5 would call James Madison to the stand.

6 JAMES MADISON,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE CLERK: Please state and spell your name for
9 the reporter.

10 THE WITNESS: James Madison, M-a-d-i-s-o-n.

11 DIRECT EXAMINATION

12 BY MS. PRICE:

13 Q Mr. Madison, do you go by any other name?

14 A Jamie.

15 Q Okay. And where do you live?

16 A 126 Williamson Drive.

17 Q How long have you lived there?

18 A Six years.

19 Q And in what county is your home located?

20 A It's in Anderson.

21 Q Can you describe the area where your home is
22 located?

23 A Yes, ma'am. It's a dead-end street.

24 Q Okay. Who lives around you?

25 A My mother-in-law, father-in-law, and Larry across

1 the street.

2 Q Who is Larry, is he related to you?

3 A That's my wife's uncle.

4 Q Okay.

5 A And Brenda lives next door to us, and Bobby lives
6 across the street.

7 Q Brenda who?

8 A Masters.

9 Q Is she related to you as well?

10 A She's my sister-in-law.

11 Q Are you y'all within walking distance of each
12 other?

13 A Yes, ma'am.

14 Q And are you married?

15 A Oh, yes, I am.

16 Q And who is your wife?

17 A Tonya Williamson.

18 Q Do you have any children?

19 A Yes, ma'am. We got five.

20 Q Okay. Do they all live with you?

21 A No, ma'am.

22 Q How many live with you?

23 A Four.

24 Q What are their ages?

25 A One is 15, one is 13, seven, and ten months.

1 Q Okay. And what do you do for a living,
2 Mr. Madison?

3 A I work at Pickens Roofing.

4 Q Do you remember what you were doing on the early
5 evening of December 11th of 2013?

6 A Yes, ma'am.

7 Q Okay. What were you doing?

8 A I was -- actually, I had called in sick to work
9 and I was in the bed, and my wife woke us up, said she
10 was wanting to throw a birthday party for my next
11 oldest daughter.

12 Q What daughter is that?

13 A That's K.B.

14 Q And do you remember, was it her actual birthday
15 that day?

16 A Yes, ma'am.

17 Q And how old was she turning?

18 A She was turning 11.

19 Q Okay. When you say "birthday party," is this a
20 party where you're inviting everybody you know or what
21 type of party?

22 A No, it was just family.

23 Q And where was that party?

24 A It was at my mother and father-in-law's house next
25 door.

1 Q Do you know the address?

2 A It's 122 Williamson Drive.

3 Q And who was at that party?

4 A It was me, my wife, Tony and Linda -- I'm sorry,
5 George and Linda, Brenda. And Jody showed up about
6 20 minutes late, and then all the kids. There was
7 about eight -- about ten kids.

8 Q Okay. And about what time was this occurring, do
9 you remember?

10 A It was right before dark is when we started having
11 the party.

12 Q Okay. And what were you doing at the party?

13 A No, we just -- we had pizza and ice cream.

14 Q Pizza and ice cream?

15 A Yes, ma'am.

16 Q Okay. Any beer or liquor, anything like that?

17 A No, ma'am.

18 Q So a family party?

19 A Yes, ma'am.

20 Q Do you remember what kind of pizza?

21 A We had -- we just had like \$5 pizzas, cheese and
22 pepperoni.

23 Q And at some point you said Mr. Powell came to the
24 party?

25 A Yes, ma'am.

1 Q Was it still light outside when he got to the
2 party?

3 A It was just starting to get dark when he pulled
4 up.

5 Q And how did you know Jody Powell?

6 A He was my sister-in-law's boyfriend.

7 Q How long have you known him?

8 A About two years.

9 Q At that time?

10 A Yes, ma'am.

11 Q And during the party, what, if anything, did you
12 hear outside?

13 A I didn't hear nothing.

14 Q Okay. Were you alerted that something had
15 happened outside?

16 A Yes, ma'am.

17 Q How were you alerted that something had happened
18 outside?

19 A The kids said there was somebody out in front of
20 Jody's truck.

21 Q And where were you when the kids alerted you to
22 that?

23 A We were sitting at the table.

24 Q Who is "we"?

25 A Me, Brenda, my wife, and Jody. And George was

1 standing up in the kitchen.

2 Q And George goes by another name?

3 A Tony.

4 Q Okay. So when you're saying George and Tony,
5 you're talking about the same person?

6 A Yes, ma'am.

7 Q And what did you do after the kids told you
8 someone was outside?

9 A I walked out to -- I walked outside to see what
10 was -- see who was out there, and it was Mr. Arflin.

11 Q Okay. And did anyone walk outside with you at
12 that point?

13 A No, ma'am. I was by myself.

14 Q Okay. And where did you walk as you walked
15 outside?

16 A I walked through the front gate and had to walk
17 around to Mr. Arflin's truck.

18 Q Okay. Did you walk to your right or to your left?

19 A When I walked out the gate, I had to go around to
20 the left.

21 Q Okay. And you saw Mr. Arflin?

22 A Yes, ma'am.

23 Q And did you see anything else?

24 A No, ma'am.

25 Q Okay. Did you see any vehicles?

1 A Yes, ma'am.

2 Q Okay. What vehicles did you see?

3 A I saw Jody's and Mr. Arflin's.

4 Q Okay. Did you notice that anything had happened
5 to those vehicles?

6 A Yes, ma'am.

7 Q What did you see?

8 A I noticed that Mr. Arflin had backed into Jody's
9 truck.

10 Q Okay. And what did you do when you noticed that
11 had happened?

12 A I had hollered back to the house and told them
13 that he had hit his truck.

14 Q Okay. And when you say "hollered," you mean
15 yelled?

16 A Yes, ma'am.

17 Q How far away were you from the front of the house?

18 A Probably about 30 yards.

19 Q So you were hollering back across the about
20 30 yards distance?

21 A Yes, ma'am.

22 Q To let somebody know what had happened?

23 A Yes, ma'am.

24 Q And what, if any, damage do you recall seeing to
25 the trucks specifically?

1 A I noticed that his side mirror had been knocked
2 off.

3 Q Whose?

4 A Jody's.

5 Q Okay.

6 A And his front bumper and his fender and stuff had
7 been caved in.

8 Q Okay. Mr. Madison, had you met Mr. Arflin prior
9 to this encounter?

10 A No, ma'am.

11 Q You had never been face-to-face with him?

12 A No, ma'am.

13 Q Were you familiar with him?

14 A Just seen him and his wife going up and down the
15 road.

16 Q But you had never spoken with him?

17 A No, ma'am.

18 Q Were you aware that this was his truck before you
19 went out there or as you walked out there?

20 A No. No.

21 Q Okay. Did you -- once you got out to the road,
22 did you recognize the truck as being his?

23 A Yes, ma'am.

24 Q Okay. To your knowledge, had Mr. Powell -- had
25 Jody Powell ever met Mr. Arflin before?

1 A No, ma'am, he hadn't.

2 Q Okay. And after you saw Bobby Arflin, what, if
3 anything, did he say to you?

4 A He asked me whose truck it was.

5 Q Okay. And did you reply?

6 A Yes, ma'am.

7 Q What did you say?

8 A I told him it was Jody's.

9 Q Okay. And did he tell you anything at that point?

10 A Yeah. He told me I need to tell him to get out
11 here.

12 Q Tell who?

13 A Jody.

14 Q Okay. So he told you to tell Jody to come
15 outside?

16 A Yes, ma'am.

17 Q Okay. And did you?

18 A Yes, ma'am.

19 Q Okay. So what did you do next?

20 A That's when I walked around the truck and was
21 going back through the gate as Jody was coming out the
22 front door.

23 Q Walked around which truck?

24 A I had to walk around Bobby's.

25 Q Again?

1 A Yes, ma'am.

2 Q Okay. Back the way you came?

3 A Uh-huh.

4 Q And where was Jody?

5 A He was in the house at the time. And he was
6 coming out of the house as I was going through the
7 front gate.

8 Q Okay. To go tell him what happened?

9 A Yes, ma'am.

10 Q Okay. And when you met him, what did y'all do
11 next?

12 A We went back out to his truck.

13 Q Okay. And did you let Jody know what had
14 happened?

15 A Yes, ma'am.

16 Q Okay. And who was outside at that moment in time?

17 A It was just me and Jody and Mr. Arflin.

18 Q And did you walk back up to the trucks?

19 A Yes, ma'am.

20 Q Okay. Do you remember which way you came back up
21 to the trucks?

22 A The same way.

23 Q Okay. And once you came back up to those trucks,
24 what was Bobby doing at that time?

25 A He was on his cell phone.

1 Q He was on his phone, okay. And where was he
2 standing when he was on his cell phone?

3 A He was standing at the back of the truck.

4 Q The back of whose truck?

5 A The back of Jody's.

6 Q Okay. So would it be correct to say that there
7 was Mr. Arflin's truck and then Mr. Powell's truck, and
8 he was at the very end of Mr. Powell's truck?

9 A Yes, ma'am.

10 Q Okay. And what were you and Jody doing while
11 Mr. Arflin was on the phone?

12 A We was just looking at the damage to the truck.

13 Q Okay. And had Mr. Arflin been on the phone when
14 you initially walked outside?

15 A Yeah. He had just got on the phone, I believe.

16 Q So this entire time that we have been talking
17 about, Mr. Arflin was on the phone?

18 A Uh-huh.

19 Q And when he told you to tell Jody that he had hit
20 his truck, he was on the phone at that time, correct?

21 A Uh-huh.

22 Q Okay. And so did Jody say anything to Mr. Arflin
23 while he was on the phone?

24 A He had asked me who done it, and Mr. Arflin
25 replied, "That would be me."

1 Q Okay. So Mr. Arflin is on the phone?

2 A Uh-huh.

3 Q And Jody says, "Who did this?"

4 A Uh-huh.

5 Q And Mr. Arflin replies, "That would be me"?

6 A Yes, ma'am.

7 Q Okay. And he was still on the phone at that time?

8 A Uh-huh.

9 Q Okay. And was Mr. Arflin standing still or was he
10 walking around?

11 A He was just like walking in the middle of the
12 road.

13 Q But all of that was at the end of the truck, or
14 was he walking elsewhere?

15 A Yes, ma'am. No, he was standing at the back of
16 the truck.

17 Q Did Jody do anything else at that time while the
18 two of you were talking?

19 A Yes, ma'am. He had reached in his truck to grab
20 his cell phone.

21 Q Okay. What did he do with his cell phone?

22 A He had just opened it up to -- well, I guess he
23 was checking a text and tossed it back -- I thought he
24 tossed it back in the truck.

25 Q Okay. And did y'all have a discussion while he

1 was standing out there?

2 A No. We was just looking at the damage.

3 Q Okay. Did anyone else come outside?

4 A Well, Brenda.

5 Q Brenda who?

6 A Masters.

7 Q Okay. And that was Jody Powell's girlfriend?

8 A Yes, ma'am.

9 Q And your sister-in-law?

10 A Uh-huh.

11 Q Did Brenda say anything?

12 A She just come out there and said that the cops had
13 been called, let them handle it.

14 Q Okay. What did Jody do at that time? Did Jody
15 ask Mr. Arflin anything after Brenda came outside?

16 A Yes, ma'am.

17 Q What happened?

18 A He asked him why he had done it.

19 Q Why he had done what?

20 A Backed into his truck.

21 Q Okay. Did Mr. Arflin reply?

22 A He told him it was in his way.

23 Q Okay. At this point in time is Mr. Arflin still
24 on the phone or was he off the phone?

25 A No, ma'am. He had done get off the phone.

1 Q He had hung up the phone before this exchange took
2 place?

3 A Yes, ma'am.

4 Q Okay. So Mr. Arflin said he did it because why?

5 A He said it was in his way.

6 Q Okay. And were either of their voices raised at
7 this point in time?

8 A No, ma'am.

9 Q Okay. Were they aggressive to each other?

10 A No, ma'am.

11 Q How close were they to each other at this point in
12 time?

13 A They were about three or four foot apart.

14 Q What happened next?

15 A That's when Jody had replied to him, you know,
16 that he don't understand why he done it, and he replied
17 to Mr. Arflin that he never met him before and he had
18 heard a lot about him and that he was heartless.

19 Q Okay. And what did Mr. Arflin say in response to
20 that?

21 A He said he wasn't heartless, he was ruthless.

22 Q And how close were they to each other when this
23 was taking place?

24 A When Mr. Arflin replied he was ruthless, he got up
25 in Jody's face.

1 Q When you say he got up in Jody's face, can you
2 step down and show me what you mean.

3 Okay. I'm Mr. Powell. You're Mr. Arflin. Show
4 me what you mean.

5 A He just got in his face like this.

6 Q Okay. Thank you.

7 So, Mr. Arflin got in Mr. Powell's face?

8 A Yes, ma'am.

9 Q And what did Mr. Powell do at that moment?

10 A That's when Jody kind of pushed him back.

11 Q Okay. Well, let's have you step back down.

12 Show me how he pushed him back. Now, you be Jody,
13 and I know that's difficult because I'm shorter, but
14 I'll be Mr. Arflin. Show me how he -- how did he push
15 him back?

16 A He just kind of pushed.

17 Q On his chest?

18 A Yes, ma'am. His upper chest.

19 Q He didn't hit him?

20 MS. WHITE: Objection; leading.

21 THE COURT: Sustained.

22 BY MS. PRICE:

23 Q Did he hit him?

24 A No, ma'am.

25 Q What did Mr. Powell do after Mr. Arflin touched

1 his chest -- I mean, excuse me. What did Mr. Powell do
2 after he touched Mr. Arflin's chest?

3 A He just stood there.

4 Q Okay. And what did Mr. Arflin do?

5 A He took a step back. He said, "I got something
6 for you, big boy," and he pulled out a gun and shot.

7 Q Okay. Mr. Arflin took a step back?

8 A Yes, ma'am.

9 Q And pulled out a gun?

10 A Yes, ma'am.

11 Q From where did he pull the gun?

12 A He was -- from his back.

13 Q Okay. From behind his back?

14 A Yes, ma'am.

15 Q Had you seen the gun before this point in time?

16 A No, ma'am.

17 Q Okay. Did Jody have anything in his hands when
18 this was happening?

19 A No, ma'am, he didn't.

20 Q Okay. What did Jody do when Bobby pulled the gun?

21 A He had like raised his hands.

22 Q Where were you standing when Bobby pulled the gun?

23 A I was standing to the right of Jody next to the
24 driver's side door.

25 Q Of what vehicle?

1 A Of Jody's.

2 Q Of Jody's truck?

3 A Yes, ma'am.

4 Q Okay. So Mr. Arflin was still at the end of the
5 truck, in that general area with Jody, and you --

6 A He was standing in front of Jody in the middle of
7 the road.

8 Q Okay. And where was your back facing?

9 A My back was facing Jody's truck.

10 Q Okay. Do you recall how Jody was facing?

11 A He was just facing Bobby.

12 Q Okay. Was his back toward the truck as well --

13 A Yes, ma'am.

14 Q -- or toward the road? Back toward the truck,
15 okay. And do you recall where Brenda was standing at
16 this time?

17 A She was standing to the -- to the left of Jody
18 near the tailgate.

19 Q Okay. And was it just the three of you outside?

20 A It was the four of us.

21 Q Okay. So you and who else?

22 A It was me, Jody, Brenda, and Mr. Arflin.

23 Q That was it?

24 A Yes, ma'am.

25 Q Okay. And when Mr. Arflin pulled the gun out, do

1 you remember anything about what it looked like?

2 A It was just a long pistol.

3 Q Okay. Do you remember what it sounded like?

4 A It was loud.

5 Q Okay. Anything more than that?

6 A Just like a fire shot out.

7 Q Okay. And what did you do after Mr. Arflin pulled
8 the gun on you -- or on Jody and you and Brenda, pulled
9 the gun out?

10 A I -- I had stumbled and I fell to the ground. And
11 as I was getting back up, I saw Jody running around the
12 truck, and he fell in a ditch. And that's when
13 Mr. Arflin had followed him and fired again.

14 Q Okay. Which direction did you run?

15 A I ran to the -- to the right.

16 Q Okay.

17 A Going back around the truck.

18 Q Okay. And which direction did Jody run?

19 A He ran toward the left, toward the tailgate.

20 Q And did you see him in the ditch?

21 A Yes, ma'am, I did.

22 Q Okay. And any parts of him specifically?

23 A You could see his body laying face down and his
24 feet hanging out of the ditch.

25 Q And did you see a second gunshot?

1 A Yes, ma'am.

2 Q Okay. What did you see?

3 A Just saw another flash.

4 Q Okay. Was it dark outside?

5 A Yes, ma'am, it was.

6 Q Okay. And at this point in time you're further
7 away?

8 A Yes, ma'am.

9 Q Okay. And at that time after you had gotten back
10 up, you continued to run?

11 A Yes, ma'am.

12 Q Where do you go and what do you do?

13 A I ran back around Mr. Arflin's truck, and I run
14 across the ditch and jumped the fence and went into the
15 house to tell my wife to call 911.

16 Q Okay. And did she call 911?

17 A She was already -- actually, she was on the phone
18 with them when I walked in.

19 Q She had already called 911?

20 A Yes, ma'am.

21 Q Okay. And what happened after you told Tonya to
22 call 911?

23 A That's when I went back outside, and I was
24 standing beside Brenda's Tahoe.

25 Q So was Brenda's Tahoe also in the street?

1 A No, ma'am. Was in the yard.

2 Q Okay. In the yard. And you were standing at the
3 back?

4 A Yes, ma'am.

5 Q Okay. And what did you observe while you were
6 standing there?

7 A I saw Mr. Arflin still had the gun pointed toward
8 Brenda and Jody.

9 Q Okay. Where was Brenda?

10 A Brenda was actually over the top of Jody.

11 Q Sitting, standing?

12 A She was like -- like kind of kneeling over.

13 Q Okay. And how close was Mr. Arflin to them at
14 that time?

15 A I think he was about four or five foot.

16 Q Okay. And this was in the ditch area?

17 A Yes, ma'am.

18 Q Okay. And what did he do at that time,
19 Mr. Arflin?

20 A He had kind of swatted at Brenda, trying to push
21 her out of the way.

22 Q Okay. And did he say anything else?

23 A Yes, ma'am. He said, "Don't help him. Let him
24 die."

25 Q And what did Brenda say, if anything?

1 A No. She just kept screaming, "Please stop
2 shooting."

3 Q Okay. What happened next?

4 A That's when Mr. Arflin had started walking back to
5 his truck.

6 Q Okay. And did he make it to his truck?

7 A Yes, ma'am.

8 Q Okay. What did he do once he got to his truck?

9 A He just got in and moved it up probably about
10 30 -- about 30 foot.

11 Q After he moved his truck, what did he do?

12 A He just got out and stood and watched.

13 Q Stood where?

14 A He was on his tailgate on his truck.

15 Q Do you remember how he was standing?

16 A Yes, ma'am. He had his elbow leaning on the --
17 the side of his truck.

18 Q Propped up?

19 A Yes, ma'am.

20 Q Watching?

21 A Yes, ma'am.

22 Q Okay. And what were you doing at that time?

23 A At that time, me and Brenda had started giving
24 Jody CPR.

25 Q Okay. And did you have 911 on the phone at that

1 time?

2 A I did. I was on the phone with them.

3 Q Okay. And did you at any point in time see
4 Mr. Arflin on his cell phone again?

5 A Yes, ma'am, I did.

6 Q While he was standing by his truck?

7 A Yes, ma'am.

8 Q Okay. Did he approach you again?

9 A No, ma'am.

10 Q Okay. And did you watch to make sure that that
11 wasn't happening?

12 A Yes, ma'am.

13 Q Okay. Which way was Jody's body facing when you
14 gave him CPR? Did you move it at all?

15 A Yes, ma'am, we did.

16 Q Okay.

17 A He -- when I first got out there, he was facing
18 head down toward -- his head was facing toward our
19 driveway.

20 Q Okay.

21 A And then we spun him where his head was up.

22 Q Why did you do that?

23 A Because we just figured that with him bleeding, we
24 didn't want it to run down, so we spun him so it would
25 run --

1 Q Elevating?

2 A Yes, ma'am.

3 Q Okay. Did law enforcement arrive?

4 A Yes, ma'am, they did.

5 Q Okay. Did you give them a statement?

6 A Yes, ma'am.

7 Q What was going on around you when you gave law
8 enforcement a statement?

9 A At that time there was -- I believe the ambulance
10 and stuff was still out there.

11 Q So you gave them a statement immediately?

12 A Yes, ma'am.

13 Q In fact, as it was still going on?

14 A Yes, ma'am.

15 Q Okay. Did you hear Jody say anything before he
16 died?

17 A No, ma'am, I didn't.

18 Q Okay.

19 A I just heard him hollering, you know, after the
20 first shot, and then I never heard nothing else.

21 Q Were you close to him at any point in time after
22 he was shot?

23 A Other than when I come back out to give CPR.

24 Q So not other than that?

25 A No, ma'am.

1 Q Mr. Madison, do you see the man who shot Jody
2 Powell in the courtroom today?

3 A Yes, ma'am, I do.

4 Q Can you please point him out and describe him for
5 the record?

6 A He's sitting right there in the black suit.

7 Q Do you know what color shirt he has on?

8 A He has a blue shirt on.

9 Q Does he look any different today than he did that
10 evening?

11 A Yes, ma'am, he does.

12 Q Can you describe the difference in his appearance
13 to me?

14 A He just -- he don't have the beard and goatee.

15 Q Was he wearing glasses that night?

16 A No, ma'am, he wasn't.

17 Q At any point in time did you lay hands on
18 Mr. Arflin that night?

19 A No, ma'am.

20 Q Not ever?

21 A No, ma'am.

22 Q Did you threaten him in any way?

23 A No, ma'am.

24 Q And did Jody, other than touching him on the
25 chest, at any point in time touch Mr. Arflin that

1 night?

2 A No, ma'am.

3 Q Did he threaten him in any way?

4 A No, ma'am.

5 Q I'm going to ask you to step down and go through
6 some photographs with me now, Mr. Madison.

7 MS. PRICE: If you will step back on the stand. I
8 believe Ms. White has an objection.

9 MS. WHITE: I would object to State's Exhibit 15.
10 I have no objection to any of the others.

11 THE COURT: Okay.

12 Mr. Bailiff, if you could take our jury out for a
13 moment.

14 (WHEREUPON, the jury exited open court at
15 3:30 p.m.)

16 THE COURT: What exhibits are you admitting?

17 MS. PRICE: Your Honor, these are photographs of
18 the scene from that night of the road itself.

19 THE COURT: What numbers are they?

20 MS. PRICE: They have been marked as State's
21 Exhibit 3 through 22. Would your Honor like to see the
22 exhibit?

23 THE COURT: Let me see the exhibits.

24 Ms. White, which one did you have an objection to?

25 MS. WHITE: Your Honor, I'm objecting to

1 State's -- let me put on my glasses -- I have an
2 objection to State's Exhibit 15. Your Honor, Number 1,
3 I don't think it's relevant. But, more importantly,
4 under 403, we already have multiple photographs of
5 this. Basically this shows blood, and, your Honor, I
6 would object to this on the grounds of the probative
7 value is outweighed by the prejudicial effect. I think
8 some of the other photographs already have had --

9 THE COURT: Are you saying this is cumulative to
10 other evidence?

11 MS. WHITE: Under 403 it's cumulative, it's unduly
12 prejudicial. There's no need for it. We've already
13 got other photographs that show that same area and that
14 is unduly prejudicial.

15 MS. PRICE: May it please the Court.

16 THE COURT: Yes, ma'am.

17 MS. PRICE: Your Honor, in her opening statement,
18 Ms. White gave a very different version of the facts of
19 this case than my witnesses are giving. That
20 photograph substantiates his claims as to where the
21 body wound up at the end of this confrontation. The
22 fact that it is exactly where my witness says it was is
23 extremely probative now that she has put that at issue.

24 MS. WHITE: Your Honor, that's not an issue at
25 all. We totally agree that's where the body was found.

1 Now, the question is which version of this witness'
2 statement does it corroborate because there have been
3 many very different ones. But we're not contesting at
4 all where that body was found.

5 THE COURT: I find that, based on the testimony,
6 there is -- that this does corroborate testimony, so it
7 does have probative value, and I'm going to overrule
8 your objection.

9 So 15 would be admitted with the other
10 photographs, Exhibits 3 through 22, which have been
11 stipulated.

12 MS. PRICE: Thank you, sir.

13 THE COURT: Let's take about a five-minute break.

14 MS. WHITE: Your Honor, may I have the witness
15 instructed not to discuss?

16 THE COURT: Yes. Sir, you're in the midst of your
17 testimony.

18 THE WITNESS: Yes, sir.

19 THE COURT: You're under oath, so you may not
20 discuss the case with anyone while you're under oath
21 and still on the witness stand.

22 THE WITNESS: Okay. Yes, sir.

23 THE COURT: We'll take a short break.

24 (WHEREUPON, a recess was taken from 3:33 p.m.
25 to 3:46 p.m.)

1 THE COURT: Okay. Let's get our jury.

2 (WHEREUPON, the jury entered open court at
3 3:47 p.m.)

4 THE COURT: Okay.

5 MS. PRICE: Thank you, your Honor. May it please
6 the Court.

7 Q Mr. Madison, if you will step back down. Face the
8 jury, please. Don't show them what you're looking at,
9 but will you flip through these very quickly. I'm
10 showing you what's been marked as State's Exhibit 3
11 through 22.

12 A Okay.

13 Q Are you familiar with these?

14 A Yes, ma'am.

15 Q What are they?

16 A Pictures of the crime scene.

17 Q And speak up real loud so the court reporter can
18 hear you because you don't have a mic anymore.

19 A It's pictures of where the shooting took place.

20 Q And these?

21 A That's the actual crime scene.

22 Q And have they been changed or altered in any way?

23 A No, ma'am.

24 Q Okay.

25 MS. PRICE: Your Honor, at this time the State

1 would seek to move into evidence exhibits 3 through 22.

2 THE COURT: So admitted. And Ms. White's
3 objection to Number 15 is noted for the record.

4 (WHEREUPON, State's Exhibit Numbers 3 through 22
5 were admitted into evidence.)

6 BY MS. PRICE:

7 Q Mr. Madison, step right over here with me. We're
8 going to go through some of these. I am showing you
9 State's Exhibit 12. Are you familiar with this?

10 A Yes, ma'am.

11 Q Okay. And what is that?

12 A This right here is a picture of the road where the
13 accident took place.

14 Q And where about did it take place?

15 A Right in front of the mailbox.

16 Q Okay. And so Mr. Powell's car was where?

17 A Just on this side of the mailbox right here.

18 Q And Mr. Arflin's car was where?

19 A On the other side in front of the mailbox.

20 Q Okay. And when you ran after the shooting, which
21 direction did you go?

22 A I had to go around the truck on the ditch on the
23 other side.

24 Q Okay. And through a gate?

25 A Yes, ma'am. The gate is right here just on the

1 other side of that.

2 Q Showing you State's Exhibit 13, same thing?

3 A Yes, ma'am.

4 Q Okay. And where was the Tahoe that you mentioned,
5 Brenda's vehicle?

6 A It was right here where this car is parked.

7 Q Okay. So when you say you came back around the
8 back end of the Tahoe, that's where you're referring?

9 A Yes, ma'am.

10 Q State's Exhibit 22. What is that?

11 A That's the gate and that's the front door that I
12 come out of.

13 Q Okay. The front door. And is this the door where
14 you went into find Tonya?

15 A Yes, ma'am.

16 Q And this is the gate you hopped?

17 A No, ma'am. I actually hopped the fence on this
18 side. This is the gate I come out, I actually come
19 out, when it first happened.

20 Q So you walked out through the gate, then you
21 jumped back over the fence?

22 A Yes, ma'am.

23 Q But further to what would be our left?

24 A Yes, ma'am. It would be further down this way.

25 Q Okay. State's Exhibit 3. Now, where do you live

1 on this road?

2 A Right here, next door.

3 Q So we can actually see your home?

4 A Yes, ma'am.

5 Q Okay. And where is the home where this party was
6 taking place?

7 A Right here, where the car is in the driveway.

8 Q Okay. Next 4. Where were you when you ran, you
9 said you ran back across?

10 A Yes, ma'am. I come this way towards these woods
11 and had to run around.

12 Q And run around this direction?

13 A Yes, ma'am.

14 Q Okay. And then you got back on the pavement; is
15 that correct?

16 A Yes, ma'am, went back across the road, jumped the
17 ditch.

18 Q And State's Exhibit 5. Is that your home that we
19 see in the background?

20 A Yes, ma'am.

21 Q Okay. And you said that the defendant pulled his
22 car up?

23 A Yes, ma'am.

24 Q Where did he pull his car after this occurred?

25 A About right here. Kind of in between this tree,

1 and there is a cedar tree that sits beside it.

2 Q Okay. State's Exhibit 6. Okay. Tell me where
3 you ran in this picture. Can you see where you hopped
4 the fence?

5 A It was about right here, just on the other side of
6 this birdbath.

7 Q And that's the gate?

8 A Yes, ma'am.

9 Q And where were you again when you yelled the first
10 time?

11 A About right here, just in the front of Bobby's
12 truck.

13 Q So out in the roadway?

14 A Yes, ma'am.

15 Q And were you yelling all the way back here?

16 A Uh-huh.

17 Q Okay. And what are we looking at right now?

18 A That's the ditch where Jody fell.

19 Q I'm sorry. That's State's Exhibit 7. That's the
20 ditch where Jody fell?

21 A Yes, ma'am.

22 Q Where did he fall?

23 A Just on the right side of this wagon wheel.

24 Q Okay. And where were his feet facing?

25 A His feet was facing the road. His body was laying

1 down.

2 Q Okay. And where were the cars as we're looking at
3 this photograph? They would have been to what
4 direction?

5 A They would have been facing toward me.

6 Q And on what side of the road? Can you point that
7 out for me?

8 A They were on this side.

9 Q But further off the picture?

10 A Yes, ma'am.

11 Q And which direction did Jody run?

12 A He ran this way.

13 Q Okay.

14 A It would have been to his left.

15 Q To his left?

16 A Yes, ma'am.

17 Q And, again, which way was the car facing that was
18 parked -- Jody's, rather?

19 A Toward the left.

20 Q Toward the left of this picture?

21 A Yes, ma'am.

22 Q Okay. And the end of the GMC landed about where,
23 would you say?

24 A The back of Jody's truck was about right here.

25 Q Okay. And that was State's Exhibit 9. State's

1 Exhibit 10. How far did you run on this side of the
2 road?

3 A Completely into the ditch.

4 Q So you made a very wide loop back around?

5 A Yes, ma'am.

6 Q Why did you have to do that?

7 A Because the truck was parked in the road.

8 Q So you went all the way around both trucks, hopped
9 a fence and ran inside?

10 A Yes, ma'am.

11 Q How is it that you could see what was happening
12 with Brenda and Jody while you were running away?

13 A Because over here in the ditch, you could see
14 Jody's body on the back side of the truck.

15 Q So you were running, but you were in approximately
16 this area?

17 A Yes, ma'am.

18 Q When you turned around and saw the second shot
19 being fired?

20 A Well, actually, the second shot happened getting
21 up, take off running.

22 Q Getting up from where?

23 A The ground.

24 Q Where was the ground?

25 A I was laying just on this side next to Jody's

1 truck.

2 Q Okay. So you tripped, saw the second shot?

3 A Yes, ma'am.

4 Q And then continued running?

5 A Yes, ma'am.

6 Q In this loop?

7 A Uh-huh.

8 Q Okay. State's Exhibit 11. Okay. And so where
9 were you when you came back out? Show me how you came
10 back out of the --

11 A If this was Brenda's car, I was standing about
12 right here at the back of her car.

13 Q Okay. This is State's Exhibit 14. Where was
14 Jody -- is this a photograph from that evening?

15 A Yes, ma'am.

16 Q Okay. And where did Jody's body wind up?

17 A It was laying on this side of the wagon wheel.

18 Q And do you see any evidence of that?

19 A Yes, ma'am. I see that bag laying there.

20 Q Did anything happen to anything around the wagon
21 wheel as he was climbing over?

22 A He just -- his body knocked that light over.

23 Q So that evening, that night -- did you put those
24 lights in?

25 A Like two days before the accident.

1 Q And so when he tripped, he knocked that over?

2 A Yes, ma'am.

3 Q Okay. State's Exhibit 15. Okay. Now, where was
4 Jody's body in this photograph?

5 A This is where we had already turned him, and his
6 head was facing up toward the road.

7 Q So you moved the body. Did you pull it?

8 A No, ma'am. We just kind of picked him up a little
9 bit and spun him around.

10 Q Spun him around. And where was his shoulders in
11 relation to this photograph?

12 A Even with this blood.

13 Q And his feet were facing which direction?

14 A Down toward the driveway.

15 Q But initially they had been facing the opposite
16 direction?

17 A Yes, ma'am.

18 Q And you moved him because you thought it would
19 prevent blood loss?

20 A Yes, ma'am.

21 Q State's Exhibit 16. It's a wider shot?

22 A Yes, ma'am.

23 Q And, again, is this the area where Jody was on the
24 ground?

25 A Yes, ma'am.

1 Q State's Exhibit 17. What is this?

2 A Looks like a piece of plastic off Jody's truck.

3 Q Okay. State's Exhibit 18. What are we looking
4 at?

5 A That's the front of Jody's truck.

6 Q That was Jody's truck?

7 A Yes, ma'am.

8 Q Is there any damage to the truck?

9 A Yes, ma'am. You got the fender caved in, and the
10 bumper was dented.

11 Q Okay. Is that a true and accurate depiction of
12 the way it looked that evening at the scene?

13 A Yes. And the side mirror knocked off.

14 Q Side mirror also gone?

15 A Yes.

16 Q State's Exhibit 19. Additionally, same damage?

17 A Yes, ma'am.

18 Q State's Exhibit 20. Also the GMC?

19 A Yes, ma'am.

20 Q Is this the damage that you saw when you walked
21 outside?

22 A Yes, ma'am.

23 Q And State's Exhibit 21. Is that the GMC?

24 A Yes, ma'am.

25 Q And where is the damage in that photograph?

1 A To his mirror.

2 Q And is that an accurate representation of the
3 damage you saw when you walked outside that night?

4 A Yes, ma'am.

5 Q All right. If you will get back up on the stand
6 for me, please.

7 And all of those photographs are true and accurate
8 representations of the area in which you lived and the
9 scene that evening?

10 A Yes, ma'am.

11 Q Okay. During the evening of December 12th --
12 rather, December 11th, while all of this confrontation
13 and aftermath was taking place, did you ever see
14 Mr. Arflin fall to the ground?

15 A No, ma'am.

16 Q Okay. He was never on the ground at any point in
17 time?

18 A No, ma'am.

19 Q Did you ever see Jody hit him in the face?

20 A No, ma'am.

21 Q Never threw a haymaker, an uppercut?

22 A No, ma'am. All he done was pushed.

23 Q Did you ever see Jody with a weapon that evening?

24 A No, ma'am.

25 MS. PRICE: Nothing further. Please answer any

1 questions that Ms. White has for you at this time.

2 Okay?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Ms. White, your witness.

5 MS. WHITE: Yes, sir.

6 CROSS-EXAMINATION

7 BY MS. WHITE:

8 Q Sir, you would agree that people can lie or be
9 mistaken but physical evidence is what it is?

10 A Yes, ma'am.

11 Q Are you aware there was an autopsy in this case?

12 MS. PRICE: Objection; your Honor. She's going to
13 ask him to testify to facts he's not privy to. He's
14 not a medical expert. The autopsy is not something he
15 has any knowledge of.

16 MS. WHITE: No, sir. He was there, right there,
17 says he was performing CPR.

18 THE COURT: I'm going to overrule the objection as
19 to this question, and then she can move forward.

20 BY MS. WHITE:

21 Q Now, your testimony to this jury was that Bobby
22 Arflin shot him, shot Jody, in the shoulder -- in the
23 chest area; is that correct first?

24 A Yes, ma'am.

25 Q And then your testimony to this jury was that

1 Bobby (sic) ran, he fell in a ditch, and my client,
2 Bobby, shot him in the back standing over his body; is
3 that correct?

4 A Yes, ma'am.

5 Q Are you aware that Jody wasn't shot in the back?

6 A No. He was shot in the lower -- above his butt
7 area.

8 Q Are you aware that he was shot on the side and it
9 came out right here, that angle?

10 A Possibly, yeah.

11 Q So if Jody is on the ground, to get that angle,
12 are you saying that Bobby got down and shot like that;
13 is that how that happened?

14 A No, ma'am.

15 Q Well, I'm just curious. If he stood over him and
16 shot --

17 MS. PRICE: Objection; your Honor. She's
18 testifying. If she wants to put up an expert to talk
19 about directionality, she is certainly welcome to, but
20 this witness can testify as to his knowledge.

21 THE COURT: Ask him about his knowledge and phrase
22 it in the form of a question.

23 MS. WHITE: Yes, sir. But anything -- I have good
24 faith in asking, your Honor. I can't call him back and
25 back after each witness.

1 THE COURT: I'm going to give you some leeway
2 here, but make sure it's in the form of a question.

3 BY MS. WHITE:

4 Q Now, you're married into the Williamson family; is
5 that correct?

6 A Yes, ma'am.

7 Q Were you there when they were taking statements by
8 the Williamsons that night when this happened?

9 A I was outside.

10 Q And were you there for some of the statements?

11 A I gave one.

12 Q And your statement was actually taped as well, was
13 it not?

14 A Yes, ma'am.

15 Q And what did you mean when you said in the
16 background, "He'll get off. Don't say that. He'll get
17 off," when they were taping Ms. Dyches' statement?
18 What did you mean by that?

19 A I was not in there when Ms. Dyches was giving a
20 statement. I stayed outside the whole time.

21 Q Well, then, who was that? Which Williamson was
22 that who said that in the background?

23 A No, ma'am. I was not inside. I was outside.

24 Q Are you aware the tape picked it up?

25 A No, I wasn't.

1 Q Now, let's talk about him standing over. Are you
2 aware that Jody was actually shot once here and once in
3 the side and it came out here?

4 A I am now.

5 Q So if he had been shot this way first and then
6 fell on the ground like you said and Mr. Arflin stood
7 over him, please explain to this jury how that
8 happened.

9 MS. PRICE: Objection; your Honor. Again, he is
10 not a trajectory or directionality expert, and it's
11 inappropriate.

12 THE COURT: I'll sustain the objection.

13 MS. PRICE: Thank you.

14 BY MS. WHITE:

15 Q Are you familiar with firearms?

16 A No. No, ma'am. I don't own one.

17 Q All right. Well, just common sense. If I shot a
18 weapon, a gun, and I shoot the bullet and I shoot
19 straight down, where is that bullet going to go?

20 A On the ground.

21 Q Have you ever heard of a bullet going like this
22 (indicating)?

23 A No.

24 Q All right. So let's go back to that, then. So if
25 I shoot someone and I'm standing over them and I shoot

1 them, where will you find the bullet?

2 A I imagine in the ground.

3 Q Are you aware that the sheriff's department found
4 no bullet in this ground?

5 A No, ma'am.

6 Q Now, you said that you were standing over near
7 Bobby Arflin; is that correct --

8 A Yes, ma'am.

9 Q -- when you yelled back 30 yards and said, "Come
10 out here," to Jody; is that right?

11 A Yes, ma'am.

12 Q And you're aware -- we just heard the 911 tape.
13 Despite the fact that you're standing right there
14 yelling 30 yards, it doesn't show up on the 911 tape,
15 does it?

16 A No -- I don't know. I mean, I heard myself in the
17 background, yeah.

18 Q You can hear y'all in the background -- and I'm
19 not saying you're lying about that at all. I'm just
20 saying the phone wasn't picking up very well what was
21 happening in the background; is that right?

22 A Yes, ma'am.

23 Q You would agree if you were yelling loud enough to
24 go back 30 yards back to the house and the tape didn't
25 pick that up, then it's not picking up much in the

1 background?

2 A Yes, ma'am.

3 Q What's your size?

4 A Ma'am?

5 Q What is your size?

6 A I'm 6'2".

7 Q And what is your weight?

8 A About 230 pounds.

9 Q And how old are you?

10 A I'm 35.

11 Q And let's talk about Jody. Jody was dating a
12 Williamson; is that correct?

13 A Yes, ma'am.

14 Q So if you go down this road of Williamson Drive,
15 you're on it, your in-laws are on it, your wife's on
16 it, your in-laws' brother is on it. In other words,
17 it's Williamsons all up and down this dead-end; is that
18 right?

19 A Yes, ma'am.

20 Q And about how many times have you seen Brenda
21 Masters, who's a Williamson; is that correct?

22 A Yes, ma'am.

23 Q About how many times have you seen her since this
24 shooting occurred?

25 A I don't see her as much as we used to.

1 Q Well, y'all live right there. You're neighbors?

2 A Yes, ma'am.

3 Q Do you have family events?

4 A Yes, sir -- I mean yes, ma'am.

5 Q How many times have you talked to her about this
6 shooting incident between December of 2013 and now?

7 A I mean, we talk about it occasionally.

8 Q Now, you said Jody worked out, what, two or three
9 times a week on average at Gold's Gym?

10 A I don't know about Gold's Gym. I know he worked
11 out at Coops sometimes.

12 Q I'm sorry. Coops. You're right. All right. And
13 do you work out?

14 A No, ma'am.

15 Q How do you stay in shape?

16 A I work for a roofing company.

17 Q That will keep you in good shape.

18 Now, looking at some of these photos, the State's
19 photos, some of these are from that night and some are
20 just -- the daylight photos were taken months later?

21 A Yes, ma'am.

22 Q As a matter of fact, just a few weeks ago; is that
23 right?

24 A Yes, ma'am.

25 Q But State's Exhibit 16 is where this occurred, and

1 it's actually from the scene that night; is that
2 correct?

3 A Yes, ma'am. That's correct.

4 Q What is this area right here?

5 A That's just part of the driveway.

6 Q And is this the actual way the parking area and
7 the availability of parking as it existed that night?

8 A I believe there is another car there earlier, but
9 I think it left before the accident happened.

10 Q So what, if any, problems would there have been to
11 park at the house where this party occurred in the
12 driveway or parking area?

13 A No, there wasn't.

14 Q Now, let's look at State's Exhibit 14. And I'm
15 going to show these pictures because they get a little
16 grainy up there and distorted.

17 Is Jody's truck the silver truck?

18 A Yes, ma'am.

19 Q Again, we're looking at State's Exhibit 14. And
20 was it parked where it's parked right there?

21 A Yes, ma'am.

22 Q So it was not off the road. It was in the road;
23 is that correct?

24 A Yes, ma'am.

25 Q You can actually see the tires?

1 A Yes, ma'am.

2 Q And, again, is that the way that it was parked
3 that night?

4 A Yes, ma'am.

5 Q Now, we're going to look at State's Exhibit 10.
6 Does this photograph show the condition of the side of
7 the road if one had to go off of it?

8 A Yeah. That's about the same.

9 Q Are you aware that it measures somewhere between
10 five and seven inches of a drop from the side of the
11 road to the dirt?

12 A Yes, ma'am.

13 Q Now, will you please describe for this jury how
14 Bobby can get to his house other than down Williamson
15 Road -- Drive?

16 A Where Jody's truck was at, there was room to get
17 around.

18 Q Are you aware that that's actually been measured
19 and the trucks have been measured?

20 A I don't know. I wasn't aware of that.

21 Q How would you like it if, to get to your house,
22 you had to make a decision of whether to go off a road
23 like this in the middle of the night just to get to
24 your house?

25 MS. PRICE: Objection; calls for speculation.

1 MS. WHITE: I'll rephrase.

2 Q Now, you would agree there are no streetlights
3 along this road; is that correct?

4 A No, ma'am.

5 Q It's a country road; is that right?

6 A Yes, ma'am.

7 Q And I believe you've told the prosecutor that
8 after the shooting, you ran around -- the back of the
9 truck is somewhere here. Jody runs this way, and you
10 run around this way and around the other truck; is that
11 correct?

12 A I can't see the photo.

13 Q I'm sorry. I'm looking at State's Exhibit 5.
14 That you run around, in other words, toward this part
15 of the ditch and go around?

16 A Yes, ma'am.

17 Q So you're running this way around the opposite way
18 of the house across the street?

19 A Yes, ma'am.

20 Q Now, you would agree it was very dark out there
21 that night?

22 A Yes, ma'am.

23 Q Who was it that said, "Don't say that. He'll get
24 off?" Who was that, then?

25 A I have no idea, ma'am. I was not in the house.

1 Q Now, you would agree that the Williamsons and
2 Bobby had some issues?

3 A Yes, ma'am.

4 Q And I believe you said that when Jody came out, he
5 had never met my client but he said, "Oh, I heard all
6 about you." Do you recall that?

7 A Yes, ma'am.

8 Q You would agree Jody had just bought this vehicle;
9 is that right?

10 A It wasn't too old.

11 Q And you and Jody were saying, "This was not an
12 accident. This was deliberate. You never would have
13 backed back into this had it not been deliberate,"
14 words to that effect; is that correct?

15 A Yes, ma'am.

16 Q So he had heard at least the Williamsons' version
17 of Bobby many, many times and was very familiar with
18 that; is that correct?

19 A Yes.

20 Q Now, when you all first came out and Brenda came
21 out, you said that Brenda was saying, "The cops have
22 already been called. Let them handle it"; is that
23 correct?

24 A Well, she said, "Let the cops handle it."

25 Q Okay. And the reason why she was saying that was

1 because Jody was confronting my client about this being
2 deliberate; is that correct?

3 A That was when he asked him who done it, and he
4 said, "That would be me."

5 Q And the reason why Brenda, Jody's girlfriend, had
6 to get up next to Jody and say, "Stop. He's already
7 called the cops. Let the cops handle it," she was
8 talking him down, wasn't she?

9 A No, ma'am. She was just -- Jody was just asking
10 him why he done it. And she said, "Just let the cops
11 handle it."

12 Q Now, you said that Jody had nothing in his hands
13 at the time that this shooting occurred; is that right?

14 A Right.

15 Q Are you aware that you've given a previous
16 statement saying he did, he had his phone in his hand?

17 A Well, he had his phone before the shooting
18 happened, yeah, but not as the shooting took place.

19 Q We'll come back to that.

20 Are you aware that Mr. Arflin, on top of his other
21 medical conditions, also has quite a large hernia and
22 had quite a large hernia at that time?

23 A No, ma'am, I didn't.

24 MS. WHITE: Your Honor, I'd like my client --

25 MS. PRICE: Objection; your Honor.

1 THE COURT: Sustained. He said he's not aware of
2 it. Move on.

3 BY MS. WHITE:

4 Q You would agree that if you had a large hernia
5 sticking out of your belly, that that would really hurt
6 if somebody banged into you?

7 A I imagine. I have never had a hernia before.

8 Q Now, I believe you told the jury a few minutes
9 ago -- and I want to make sure I've got this right --
10 you said Jody was face down in the ditch when he was
11 shot the second time; is that right?

12 A He was face down facing the yard, yes, ma'am.

13 Q And you also said the second shot occurred as you
14 were getting up to run; is that right?

15 A Yes, ma'am.

16 Q So, it wasn't as you were running, it was as you
17 got up to run; is that right?

18 A Yes, ma'am.

19 Q Now, sir, you've given several different
20 statements; is that correct?

21 A I talked to investigators the night it happened,
22 maybe about 20, 30 minutes after it happened, and I've
23 gave one, I don't know, a couple months ago maybe.

24 Q All right. Let's kind of go through those. You
25 talked on the 911 tape. You and your wife both talked

1 on that; is that correct?

2 A Yes, ma'am. I got on 911 as I was doing CPR.

3 Q Then the night that this occurred the police took
4 a taped statement from you right there at the scene
5 right after it had happened?

6 A Yes, ma'am.

7 Q And then the police came back to you in March of
8 2015 to take another statement; is that correct, and
9 that was taped as well?

10 A They came where, to my home?

11 Q I have no idea. I don't know. You just gave
12 another statement in March of 2015; is that correct?

13 A Yes, ma'am.

14 Q All right. And are you aware that each one of
15 these was recorded and that they have all been
16 transcribed by a court reporter?

17 A Yes, ma'am.

18 Q Do you recall on 911, the night that this
19 occurred, saying that Jody confronted Bobby on the
20 road? Do you recall that?

21 A Yes, ma'am. He went out and asked him about his
22 truck.

23 Q Yes, sir. But do you recall saying he confronted
24 him?

25 A No, ma'am, I don't.

1 Q All right.

2 A Are you talking about the night it happened?

3 Q Yes, sir.

4 A Okay. Well, I was in shock at the time and I was
5 giving my statement.

6 Q Yes, sir. This was the 911 tape. Do you recall
7 that?

8 A No, ma'am.

9 Q Any of these that you want to ask me about, we've
10 got a court reporter who has transcribed these, so just
11 ask.

12 I'm handing you the 911 tape from that night. And
13 does that say Jody confronted him?

14 A That was when Jody asked him why he done it. I
15 mean, I guess you could say that's confronting.

16 Q Okay. Well, that's what you said, right, Jody
17 confronted him about it?

18 A Yes, ma'am.

19 Q And then in your latest written statement in
20 March, you said that Bobby had walked over and was
21 confronting Jody; is that correct?

22 A I guess. I mean, you know, I mean, it wasn't like
23 they were fighting. They were just talking. Jody
24 asked him why he done it.

25 Q Now --

1 A But Bobby did walk over to him, yeah, because me
2 and Jody was standing beside the truck.

3 Q Now, do you recall the night that this occurred --
4 well, let's back up. So you talked to the 911
5 operator; is that correct?

6 A That's correct.

7 Q Then you gave a statement that night?

8 A Uh-huh.

9 Q Then you gave a statement a few months ago?

10 A Uh-huh.

11 Q And you just now testified that Bobby said, "I've
12 got something for you, Boy," and shot; is that correct?

13 A Yes, ma'am.

14 Q Can you tell why you, on the 911 tape, you failed
15 to mention that?

16 A On the 911?

17 Q Yes, sir.

18 A The 911 call, I was just trying to give him CPR
19 and save his life.

20 Q All right. Well, let's move to the taped
21 statement you gave to the police that night when they
22 interviewed you. Can you explain to the jury why the
23 night this happened, when you were interviewed by the
24 police, given a full interview, you failed to mention
25 that he said, "Boy, I've got something for you"?

1 A I don't know about that.

2 Q So, basically, the first time that this was
3 mentioned by you was March of 2015; is that correct?

4 A I guess so.

5 Q Now, let's talk about your position when this
6 second shot went off. Do you recall in your 911
7 statement saying he shot the first time and then Jody
8 took off running and fell and he shot him again? Do
9 you recall that?

10 A Yes, ma'am.

11 Q All right. And do you recall in your March
12 statement of this year saying that you got up, and as
13 you were going to run around the truck, you had a clear
14 view of Jody and Bobby and Brenda?

15 A Yes, ma'am.

16 Q So you're telling this jury as you ran to the
17 other side of the road past those woods around those
18 vehicles, you had a clear view of Jody running the
19 other way?

20 A Yes, ma'am, I did.

21 Q How many trucks were in between you?

22 A There was none. I had to run around one.

23 Q Okay. And so you said that as you were running
24 around -- again, we're back in March, I think -- as you
25 were running around, you heard another gunshot and

1 turned around. "And when I turned around I saw Jody's
2 feet in the ditch." Do you recall saying that?

3 A I can't --

4 Q Would you like to see it?

5 A Yes, ma'am, if you don't mind.

6 Q Okay. This is page five of your March, latest
7 statement. And see if I'm reading this right. "So as
8 I was running around, I heard another gunshot and I
9 turned around. When I turned around, I saw Jody's feet
10 in the ditch." Do you recall that?

11 A Yes, ma'am.

12 Q And then do you recall saying yet another time,
13 "Bobby walked over there, and, you know, I could see as
14 plain as day he pointed and shot again while he was
15 face first in the ground." Do you recall saying that?

16 A I saw Bobby standing at the back of Jody's truck,
17 yes, ma'am.

18 Q Now, again, will you please tell the jury why in
19 your 911 statement you mention nothing -- well, let me
20 back up.

21 You just testified that after Bobby shot him in
22 the back when he was face down in the ditch, you said
23 that Bobby, if I'm correct -- please correct me if I'm
24 wrong -- said, "Don't help him. Let him die." Is that
25 your testimony?

1 A That's what he told Brenda, yes, ma'am.

2 Q Can you tell this jury why you didn't mention any
3 of that in your 911 call?

4 A Ma'am, I told you. In the 911 call we was more
5 concerned about saving Jody's life.

6 Q All right. Well, let's go then to your taped full
7 interview that night by a detective, the night this
8 happened. Can you tell the jury why you failed to
9 mention that that night?

10 A I mean, there was probably a couple things I
11 failed to tell the investigator the night it happened
12 because, like I say, we was in shock.

13 Q So why is it that the first time you say that is a
14 few months ago right before the trial? Why is that the
15 first time we hear this being said?

16 A That was the last time I gave a statement.

17 Q Do you fish?

18 A No, ma'am.

19 Q Have you ever heard of a fish tale that gets
20 bigger and bigger?

21 Now, you would agree it was pitch dark that night;
22 is that correct? Out there it was very dark?

23 A It was, yes, ma'am. In the road it was.

24 Q In fact, in your 911 tape you talk about how dark
25 it is; is that correct?

1 A Yes, ma'am.

2 Q Do you recall saying that, "It's dark where he's
3 at. I can't see where he's shot"?

4 A I couldn't see the bullet holes, yes, ma'am.

5 Q Do you recall saying on your first statement to
6 the police that night, "He probably done it on purpose
7 the first time, but the second time, that was
8 definitely on purpose"? Do you recall that?

9 A No, ma'am, I don't.

10 Q Would you like to see that?

11 A Yes, ma'am.

12 Q I'm showing you the transcript from that night,
13 page 67. "Mr. Madison: And then the reason he done it
14 the second time" --

15 A Can you bring it closer, please?

16 Q Sure. "And then the reason he done it the second
17 time was, that was definitely on purpose."

18 A I guess I did say it.

19 Q Do you recall talking about the cell phone that
20 Jody had?

21 A Yes, ma'am.

22 Q And, again, on this statement that was made that
23 night, I'm going to show you part of a transcript. I
24 think you told the jury that Jody did not have the
25 phone in his hand anymore; is that correct, when this

1 happened?

2 A No, ma'am, he didn't.

3 Q You would agree that when it's dark and when
4 someone is filching through their truck and they come
5 out with a dark object and they're threatening to harm
6 you that you might not be able to see it very well to
7 tell what it is; would you agree with that?

8 A What do you mean by harm somebody?

9 Q If you have -- in the lighting that was there that
10 night --

11 A Uh-huh.

12 Q -- if there was a dark object in someone's hand,
13 it would be very difficult to be able to tell what it
14 was; is that correct?

15 A Well, he could tell. He lit it up. He cut his
16 phone on.

17 Q Are you aware that Bobby was on the phone talking
18 at that time to 911?

19 A He could have been, yeah.

20 Q You told the jury that he no longer had anything
21 in his hand, though, when the shooting occurred; is
22 that correct?

23 A When the shooting occurred. He didn't shoot when
24 he was on the phone to 911.

25 Q All right. I'm going to show you page 68 of the

1 transcript. This is from your statement that night.

2 "He just pulled out the gun and shot at him."

3 "So he came towards Jody first," the officer
4 asked, "and then Jody pushed him away?"

5 "Yeah."

6 "The Officer: And Jody -- did Jody have anything
7 in his hands?"

8 "You: He didn't have nothing."

9 "Officer: Nothing?"

10 "You: The only thing he had was his cell phone."

11 Do you recall saying that that night?

12 A Yes, ma'am, but I didn't mean he had on it him
13 when the shooting took place. The only thing Jody ever
14 put in his hand was a cell phone.

15 Q You were being asked questions about the shooting;
16 is that right, at the time of the shooting?

17 A Yes, ma'am.

18 Q Now, you've been convicted of two counts of
19 fraudulent check; is that correct?

20 A Yes, ma'am, but they were paid.

21 (WHEREUPON, Defendant's Exhibit Number 1
22 was marked for identification.)

23 BY MS. WHITE:

24 Q I'm handing you Defendant's Exhibit 1 for
25 identification. Is that Jody in a mud run?

1 A It looks like him, yes, ma'am.

2 Q And that's him in the middle there without a shirt
3 on; is that correct?

4 A Yes, ma'am.

5 Q And is that a fair and accurate portrayal of his
6 physique?

7 A Yes, ma'am.

8 MS. WHITE: Your Honor, I'd ask that Defendant's
9 Exhibit 1 be admitted.

10 MS. PRICE: Without objection.

11 THE COURT: The attorneys stipulate; am I correct?

12 MS. PRICE: No, sir. We do not stipulate to this
13 exhibit but without objection.

14 THE COURT: Okay. Without objection, Defendant's
15 Exhibit 1 will be admitted.

16 (WHEREUPON, Defendant's Exhibit Number 1 was
17 admitted into evidence.)

18 BY MS. WHITE:

19 Q So this is Jody?

20 A Yes, ma'am.

21 Q The one without a shirt?

22 A Yes, ma'am.

23 Q I'll let you pass that around.

24 Are you aware that Bobby is in his 60s?

25 A No, ma'am, I wasn't. I mean, I am now.

1 Q Are you aware that he's in very poor health and
2 was in very poor health back then as well?

3 A No, ma'am, I wasn't.

4 Q Were you present when the ambulance had to go off
5 the road a little bit and went into the ditch and got
6 stuck?

7 A Yes, ma'am.

8 Q And they had to pull that ambulance out of the
9 ditch; is that right?

10 A Yes, ma'am.

11 Q Yet, Bobby and Sheila, every time they wanted to
12 go to their house, were confronted with that decision
13 if someone was parked out in the road; is that correct?

14 A Yes, ma'am.

15 Q Who was using Jody's phone after the shooting
16 occurred?

17 A Nobody.

18 Q Are you aware there were phone records?

19 A No, ma'am.

20 Q You're aware this shooting occurred around
21 8:40 p.m.; is that correct?

22 A Yes, ma'am.

23 Q Do you know why phone calls would have been made
24 at 9:14, 9:49, 9:59, 10:23, a little after midnight?

25 Do you know who was making those phone calls on his

1 phone?

2 A No, ma'am. I couldn't tell you.

3 Q Now, at the time that this shooting occurred,
4 Larry was not there; is that correct?

5 A No, ma'am.

6 Q All right. Are you aware of some list with three
7 names on it, allegations of solicitation?

8 A Are you talking about the letter?

9 Q Yes, sir.

10 A Yes, ma'am.

11 Q And was Larry even there at the time this shooting
12 occurred?

13 A No, ma'am.

14 Q In fact, he lives on down the road, right?

15 A He lives in the curve, yes, ma'am.

16 Q What's his last name?

17 A Williamson.

18 Q Are you aware that there was a knife found in
19 Jody's vehicle, inside the front of his vehicle?

20 A No, ma'am.

21 Q But you and Jody, when there was murmuring about
22 kicking Bobby's ass, were looking around in that area
23 of his truck in the dark; is that correct?

24 A No, ma'am.

25 Q Were you all looking for the knife?

1 A I didn't know he had a knife.

2 Q Don't you think it's odd that if Bobby had all
3 these problems with the Williamsons that he wouldn't
4 have shot a Williamson that night? If he was out to
5 get somebody, he would have shot the one person he had
6 never met?

7 A He had never met me either.

8 MS. WHITE: Your Honor, may I have one minute?

9 THE COURT: Yes, ma'am.

10 MS. WHITE: No further questions, your Honor.

11 THE COURT: Any redirect?

12 MS. PRICE: Yes, sir. May it please the Court.

13 REDIRECT EXAMINATION

14 BY MS. PRICE:

15 Q Mr. Madison --

16 A Yes, ma'am.

17 Q -- when you saw Mr. Powell get shot --

18 A Yes, ma'am.

19 Q -- twice, did you see the general direction?

20 A No, ma'am. You couldn't -- you couldn't tell
21 which direction the bullet was going, no, ma'am.

22 Q Okay. Did -- you knew that there was --

23 MS. WHITE: Objection; leading.

24 MS. PRICE: I'll refrain.

25 THE COURT: Rephrase your question.

1 MS. PRICE: Yes, sir.

2 BY MS. PRICE:

3 Q You saw -- did you see the position of Jody's
4 body?

5 A After or before? The second shot?

6 Q Either.

7 A You could see his feet underneath his own truck,
8 yes, ma'am.

9 Q Just his feet?

10 A Yes, ma'am. And you could see his body laying on
11 the ground. And when I ran around the truck to jump
12 the fence, I never looked back until I come back out.

13 Q Okay. Did you see Mr. Arflin aim the gun?

14 A Yes, ma'am.

15 Q Okay. And which direction was he pointing the
16 gun?

17 A He was just pointing like downward.

18 Q Okay. Did you see the bullet enter Jody?

19 A No, ma'am.

20 Q Either time?

21 A No, ma'am.

22 Q Which direction was Mr. Arflin pointing the first
23 time?

24 A He just pulled out and just shot (indicating).

25 Q Did you see where the bullet entered that time?

1 A No, ma'am.

2 Q Have you told the same story throughout this
3 entire ordeal?

4 A The best I could, yes, ma'am.

5 Q Okay. Did you follow a script?

6 A No, ma'am.

7 Q Was this a traumatic event?

8 A Yes, ma'am.

9 Q Okay. The night you gave your first statement,
10 were there still law enforcement and ambulances present
11 at the scene?

12 A Yes, ma'am. They were all up and down the road.

13 Q When you gave your first statement, were you aware
14 that Jody was dead?

15 A No, ma'am.

16 Q So at that point in time you didn't even know he
17 had died?

18 A No, ma'am.

19 Q Where did you go after you gave that first
20 statement?

21 A We went back to the house because where I gave a
22 statement was on down the road. I went back to the
23 house, and me and my father-in-law left to go to the
24 hospital.

25 Q Okay. And what did you find out at the hospital?

1 A Well, as soon as I walked in, my wife come up and
2 told me he was gone.

3 Q Did you and Brenda speak at all about this
4 incident before you gave your statement to law
5 enforcement that night?

6 A No, ma'am. She -- she was in shock.

7 Q Afterwards did you discuss what happened to you
8 both?

9 A No, ma'am, not with Brenda.

10 Q Okay. Do you know -- you mentioned, I believe,
11 what Jody did for a living. Do you know what he did
12 for a living?

13 A Yes, ma'am.

14 Q What did he do?

15 A He worked for UPS.

16 Q Okay. Is that a physical job as well?

17 A Yes, ma'am.

18 Q You said that Jody worked out?

19 A Yes, ma'am.

20 Q Did you ever see him fight someone?

21 A No, ma'am.

22 Q Until he died, did you ever see him fight someone?

23 A No, ma'am.

24 Q Did you say anything about kicking anybody's ass
25 that night?

1 A No, ma'am.

2 Q Did Jody?

3 A I mean, if he did, I didn't hear him.

4 Q Were you with him the entire time he was out there?

5 A Yes, ma'am.

6 Q And did you, during the entire time, hear anything
7 about kicking somebody's ass?

8 A No, ma'am.

9 Q Did you rummage through the truck?

10 A No, ma'am. I didn't. Jody just reached in and
11 grabbed his cell phone.

12 Q Did he rummage through it?

13 A No, ma'am. He just reached in. It was on his
14 console.

15 Q It was where?

16 A In between his seat. He just reached in and
17 grabbed it.

18 Q Okay. Was it in the console or on the console?

19 A No, ma'am. It was on top.

20 Q Okay. So he didn't have to open the console to
21 get it?

22 A No, ma'am.

23 Q You saw the light from his cell phone?

24 A Uh-huh.

25 Q When you saw Mr. Arflin for the first time, where

1 was he standing?

2 A When I first walked out?

3 Q Yes.

4 A He was standing at the back of Jody's truck.

5 Q Okay. Did he ever return to his vehicle at any
6 point to retrieve a gun?

7 A No, ma'am.

8 Q So he never went back to his vehicle to get a gun,
9 he had a gun on his person?

10 A Yes, ma'am.

11 Q Okay. All right. One moment.

12 I have no further questions for you, Mr. Madison.

13 Thank you.

14 THE COURT: Ms. White, any recross on those issues
15 brought up in redirect?

16 MS. WHITE: Yes, sir.

17 RE CROSS-EXAMINATION

18 BY MS. WHITE:

19 Q Do you recall in your interview, your second
20 interview, being asked, "Do you know what happened to
21 him after the shooting happened," and you saying, "He
22 just walked off like nothing never happened"?

23 A Yes, ma'am. Like he was showing no emotion.

24 Q So he said nothing, like, "Don't help him. Let
25 him die"?

1 A He didn't say that as he was walking off. He said
2 that as he was standing over Brenda and Jody.

3 Q Of course, you didn't mention that at all until
4 your third interview; is that right? Is that right?

5 A I thought I only had two interviews.

6 Q Well, you had 911, you had --

7 MS. PRICE: Objection, your Honor. A 911 call is
8 not an interview.

9 THE WITNESS: Yeah, that's not an interview. I
10 mean, that's a 911 call.

11 BY MS. WHITE:

12 Q Okay. You just now told the jury that you didn't
13 know that he had died until later; is that right?

14 A When I arrived at the hospital, yes, ma'am.

15 Q I'm handing you a transcript from the 911 call.
16 I'm on page 100. Do you remember the dispatcher asking
17 you, "Can you tell me if he has a pulse?" You say,
18 "I'm trying to feel."

19 "Does he have a pulse?"

20 And the dispatcher is saying, "Is he breathing?"
21 What was your response, if you will please read it to
22 the jury?

23 A I can't see it. I said, "I don't believe he is."
24 I mean, I'm not a paramedic, so I was just trying to do
25 the best I could.

1 Q Can you be alive if you're not breathing?

2 A No, ma'am.

3 MS. WHITE: Your Honor, I have a matter to take up
4 at the bench, if I may, please.

5 (WHEREUPON, a bench conference was held off the
6 record in the presence of the jury, but out of the
7 hearing of the jury.)

8 THE COURT: Mr. Bailiff, will you take our jury
9 out, please.

10 (WHEREUPON, the jury exited open court at
11 4:42 p.m.)

12 THE COURT: Okay. Ms. White, what question are
13 you seeking to ask the witness?

14 MS. WHITE: Your Honor, the prosecution asked
15 something to the effect of, "Are you aware of whether
16 he's ever been in a fight," or, "Do you know if he has
17 ever been in a fight?" I don't remember the exact
18 wording. It was something along those lines.

19 Your Honor, Jody was arrested for CDV. We had
20 pretrial motions where his ex-wife testified that he
21 slapped her and she slapped him back. Now, charges
22 were later dismissed because she didn't want to
23 prosecute.

24 Your Honor, in *State vs. Outlaw*, which,
25 incidentally, was reversed on other things but not this

1 part. Your Honor, in *State vs. Outlaw*, I was actually
2 a young lawyer. It was probably early '90s, late '80s
3 maybe. The defendant took the stand. I didn't have
4 anywhere near enough evidence to come under common
5 scheme or any of that to ask about or to get in that
6 evidence.

7 However, he said, "I would never do something like
8 this to a child." At that point I was able to say,
9 "Oh, really? What about so-and-so?" And the Court
10 said as long as I had a good faith basis for asking it,
11 they opened the door.

12 Your Honor, the prosecution cannot go in front of
13 a jury and paint this perfect picture of him. He
14 doesn't fight, he doesn't argue, he has no issues, when
15 there has been an arrest for a CDV. Against a woman.

16 MS. PRICE: May it please the Court.

17 THE COURT: Yes, ma'am.

18 MS. PRICE: So, Ms. White was a prosecutor in the
19 1990s. *State v. Day* was decided when I was a
20 prosecutor in 2000, and *State v. Day* says that evidence
21 of specific instances of violence by the victim are
22 only admissible if directed against the defendant or if
23 directed against others were so closely connected at
24 the point in time or occasion with a homicide as
25 reasonably to indicate the victim's state of mind at

1 the time of the homicide or to produce a reasonable
2 apprehension of great bodily harm. Your Honor, that is
3 341 S.C. 410 in the year 2000. So that was decided
4 after Ms. White's case. And, your Honor, that arrest,
5 the arrest she's referring to, happened four years
6 four months and 24 days prior to this incident, so I
7 would argue that it is absolutely remote in time.

8 Also, your Honor, we had pretrial motions on the
9 exclusion of this evidence last week, and the Court
10 ruled that it was not to be brought up. Your Honor, in
11 a case with self-defense, the defendant and the State
12 can talk about the victim's reputation for violence but
13 not the specifics unless it falls under those two
14 exceptions.

15 MS. WHITE: Your Honor, I'm not trying to get it
16 in under character evidence. This is rebutting their
17 opening of the door. I totally agree with her. That
18 is the case law. As a matter of fact, there are about
19 a million cases like that, but that doesn't deal with
20 opening the door.

21 You can't put up evidence and have someone say,
22 "No, he doesn't fight," when you know good and well
23 there's been an arrest for him hitting a woman.

24 MS. PRICE: Your Honor, there's no evidence
25 because he answered no, that he has any knowledge of

1 that incident.

2 MS. WHITE: I haven't even asked.

3 THE COURT: Well, I'm looking back through my
4 notes, and I understand your argument. The Court has
5 already ruled that the CDV charge was inadmissible.
6 Now, the question is has the State opened the door with
7 the questioning, and I want to look back through my
8 notes exactly what was asked. It appears to me that
9 the line of questioning was whether or not he heard any
10 threats or saw him fight.

11 Ms. White, do you have a different recollection of
12 the question?

13 MS. WHITE: I would have to have the question
14 played back, but I think it was words to the effect of,
15 "Are you aware of him ever fighting anybody," something
16 like that. Again, I would -- I was trying to keep up
17 and --

18 MS. PRICE: May it please the Court.

19 THE COURT: Yes, ma'am.

20 MS. PRICE: Your Honor, that question was my
21 redirect after Ms. White said, "You were threatening to
22 kick his ass." I mean, Judge, that is me redirecting
23 on something that she talked about. That is not me
24 opening a different door. I redirected to address
25 something that Ms. White brought up in her cross of

1 this witness, so I did not open an additional door. I
2 dealt with something that she had already brought up.

3 MS. WHITE: That's still opening the door, your
4 Honor. It doesn't matter when you do it.

5 THE COURT: I am going to sustain the State's
6 objection --

7 MS. PRICE: Thank you.

8 THE COURT: -- and maintain my ruling from
9 previously in the case. Your objection is noted for
10 the record.

11 MS. WHITE: Your Honor, may I proffer the evidence
12 or just incorporate the pretrial evidence in this?

13 THE COURT: I'm going to allow you to proffer the
14 question to this witness, if you can ask him if he's
15 aware of any CDV charge.

16 VOIR DIRE EXAMINATION

17 BY MS. WHITE:

18 Q Are you aware that Jody was married to a Kerri
19 Powell?

20 A Yeah, I was. Yeah.

21 Q And are you aware that on July 18, 2009, he was
22 arrested for criminal domestic violence against her
23 after he slapped her in the left side of her face,
24 knocking her to the ground?

25 A No, ma'am, I wasn't aware of that.

1 Q Had you ever discussed that with him at all?

2 A No, ma'am.

3 Q Had you ever heard about it?

4 A No, ma'am.

5 MS. WHITE: No further questions, your Honor.

6 THE COURT: Okay.

7 MS. PRICE: Your Honor, just want to note for the
8 record that was mutual combat, that she hit him as
9 well, so that it's on the record for the court of
10 appeals.

11 THE COURT: The evidence was already proffered at
12 the pretrial motion.

13 MS. WHITE: Your Honor, I've got to clarify that.
14 No. The wife said after he hit her and knocked her to
15 the ground, she smacked him back. That is not mutual
16 combat when a woman is knocked to the ground because
17 she's slapped first. That's self-defense.

18 THE COURT: Your objection is noted. All right.

19 Are we ready to move forward? Anything further?

20 MS. PRICE: Not on this issue.

21 THE COURT: All right. Well, let's -- while we
22 have the jury out, it is ten 'til 5:00. I realize that
23 we haven't gotten very far into this today. Do you
24 have any short witnesses that you would like to call or
25 do you want me to go ahead and break for the evening?

1 MS. PRICE: Yeah. Unfortunately, your Honor, the
2 next witness is likely to be as lengthy, if not
3 lengthier, than this witness.

4 THE COURT: Well, the jurors have schedules. They
5 have childcare issues, school. I mean, I'm sure school
6 is already out, but I'm going to -- we've got all week
7 and I'm certainly not going to pressure either side to
8 hurry up. You take as long as you need to present your
9 case on both sides.

10 MS. PRICE: Yes, sir.

11 THE COURT: So we'll get the jury back in, finish
12 with this witness, and then we'll recess for the day.

13 Get our jury, please, sir.

14 (WHEREUPON, the jury entered open court at
15 4:51 p.m.)

16 THE COURT: Anything further from this witness?

17 MS. WHITE: No, your Honor.

18 MS. PRICE: Nothing further from the State, sir.

19 THE COURT: Thank you, sir. You can step down.

20 All right. Ladies and gentlemen, we have reached
21 a point that is a natural stopping point for the day.
22 It's almost 5 o'clock. I realize all of you have
23 responsibilities at home. I've been informed by the
24 parties that the next witness is going to be a rather
25 lengthy witness, so I'm going to adjourn for the day

1 now.

2 I'm going to instruct you just like I did earlier
3 today. You are not to discuss this case with anyone
4 while you're outside of this courtroom. You are not to
5 deliberate among yourselves or let any third party
6 attempt to discuss it with you. That's tough. You're
7 going to go home to your families. I go home to my
8 family, and I get interrogated about what's happening
9 in here. I understand. But you're just going to have
10 to tell your family that you can't discuss it. You
11 can't discuss it. You are not to do any independent
12 research. Don't look up this case on the Internet or
13 research the law or certainly the facts of the case
14 because you get asked about that each morning, so it's
15 very important.

16 We will reconvene at 9 o'clock tomorrow morning.
17 Be sure to come to this floor. I know we have played
18 musical chairs as far as our courtrooms today. Now,
19 like I stated earlier, the reason is we're having two
20 sessions of general sessions at the same time, and
21 that's a good thing in that a lot of cases are being
22 dealt with this week and the resources of Anderson
23 County are being utilized. But on the other hand, it
24 places a lot of strain on the clerk's office and the
25 solicitor's office and the attorneys involved. The

1 courtroom upstairs is being used for probation hearings
2 and a lot of other things in which a lot of people are
3 coming in, but we have a lot of people here for this
4 case, too. So I apologize for any inconvenience that
5 this has caused for you going up and down, but from
6 here on out, we will be on this floor. So just report
7 to this floor, and we'll see everyone at 9 o'clock in
8 the morning.

9 Mr. Bailiff.

10 (WHEREUPON, the jury exited open court at
11 4:54 p.m.)

12 THE COURT: Okay. Anything from the State before
13 we adjourn for the day?

14 MS. PRICE: Nothing further.

15 THE COURT: Anything from the defense before we
16 adjourn for the day?

17 MS. WHITE: Your Honor, I'm just going to beg and
18 plead that this place is going to be locked up and we
19 don't have to pack all this up and take it.

20 THE COURT: It's my understanding that no one will
21 have access to this courtroom.

22 MS. WHITE: Yes, sir.

23 THE COURT: We'll see everyone at 9 o'clock in the
24 morning.

25 (WHEREUPON, proceedings adjourned at 4:55 p.m.)

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

1 State of South Carolina
2 County of Anderson In the Court of General Sessions

3
4
5 State of South Carolina) 2014-GS-04-00426
6 -vs-) 2014-GS-04-00340
7 Bobby Joe Arflin,) 2014-GS-04-00341
8 Defendant.) 2014-GS-04-00342
9) August 25, 2015
) Transcript of Record
) Volume 3 of 5
) Pages 323-554

10
11 B E F O R E:

12 The Honorable R. Scott Sprouse, Judge;
13 and a jury.

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

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21
22
23 Diane L. Marcengill, RPR, CRR
24 Circuit Court Reporter
25

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10 For the Defendant:

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1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:11 a.m.)

4 THE COURT: First matter before we get started, I
5 had spoken to counsel for both sides in chambers, and I
6 received a note this morning from one of the alternates
7 who informed the Court while he didn't recognize the
8 name at the questioning and voir dire, he recognized
9 the witness yesterday, having worked with him. And my
10 inclination -- he's an alternate -- is to go ahead and
11 dismiss him since he does have knowledge of one of the
12 witnesses in the case. But I've consulted with
13 counsel, and is there any objection to that by the
14 State?

15 MS. PRICE: No objection by the State, your Honor.

16 MS. WHITE: No objection.

17 THE COURT: Okay. All right. If you would have
18 Juror 34 come in.

19 (WHEREUPON, Juror No. 34 entered the courtroom.)

20 THE COURT: Mr. Chandler, I received your note and
21 I appreciate you bringing that to the Court's
22 attention. Sometimes we don't recognize the names, but
23 then when we see the face, we recognize that we
24 actually know the person, and the Court greatly
25 appreciates you bringing that to our attention.

1 You are an alternate, so you will be dismissed
2 from service because of that. We thank you for your
3 service this week. You are free to go. Thank you,
4 sir.

5 Diane, if we can make this a court exhibit.
6 (WHEREUPON, Court's Exhibit Number 7 was marked
7 for identification.)

8 THE COURT: Anything from the State before we
9 bring the jury back in?

10 MR. PRICE: Nothing from the State.

11 THE COURT: Anything from the defense?

12 MS. WHITE: Nothing from the defense.

13 THE COURT: All right. If we can get our jury.
14 (WHEREUPON, the jury entered open court at
15 9:14 a.m.)

16 THE COURT: Good morning, ladies and gentlemen. I
17 hope everyone had good evening. Did anyone have a
18 third party attempt to discuss the facts of the case
19 with you? Did anyone do any independent research on
20 either the law or the facts of the case from any
21 source? Okay. Let the record reflect that there are
22 no positive responses.

23 Ms. Price, is the State ready to proceed?

24 MS. PRICE: Yes, sir, your Honor. May it please
25 the Court. The State calls Brenda Gail Masters.

1 **BRENDA MASTERS,**

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 THE CLERK: Please state and spell your name for
4 the reporter.

5 THE WITNESS: Brenda Masters, M-a-s-t-e-r-s.

6 DIRECT EXAMINATION

7 BY MS. PRICE:

8 Q Thank you, Ms. Masters. Where do you live?

9 A 124 Williamson Drive.

10 Q And how long have you lived there?

11 A All my life, except for just a short period of
12 time when I divorced and moved away and came back.

13 Q You live there now?

14 A Yes, ma'am.

15 Q And in what county is your home located?

16 A Anderson.

17 Q Can you describe the area where you live for me
18 generally?

19 A Dead-end country street.

20 Q A dead-end country street?

21 A (Nodding.)

22 Q Okay. And who lives near you?

23 A My -- my mom, dad, my sisters.

24 Q If you don't mind, tell me their names as well.

25 A George and Linda Williamson.

1 Q Okay. And who else?

2 A Jamie Madison, my sister Tonya, my other sister,
3 one of my uncles and the Arflins.

4 Q And what is the name of your other sister and your
5 uncle?

6 A Larry Williamson and Tonya Williamson or Tina
7 Dyches.

8 Q So you have two sisters?

9 A Uh-huh.

10 Q One by the name of Tonya Williamson?

11 A Tonya Madison. Tonya Madison.

12 Q And the other by the name of?

13 A Tina Dyches.

14 Q And are you married?

15 A No.

16 Q Do you have any children?

17 A Yes, twin girls and a son.

18 Q And what do you do for a living?

19 A I work for Park Sterling Bank.

20 Q And did you have -- were you in a relationship on
21 December 11, 2013?

22 A Yes, ma'am.

23 Q Okay. You had a boyfriend?

24 A Yes.

25 Q What was his name?

1 A Jody Adams Powell.

2 Q How long had you been dating?

3 A February would have been two years, so almost two
4 years.

5 Q Almost two years?

6 A (Nodding.)

7 Q And did he have a vehicle?

8 A Yes.

9 Q What kind of vehicle?

10 A A silver GMC truck.

11 Q Had he had it for a long time?

12 A Not long at all. He just had got it in November.

13 Q He bought it the November of what year, do you
14 remember?

15 A The year he died, the same year. So he hadn't had
16 it a month.

17 Q Do you remember what you were doing on the early
18 evening of December 11, 2013?

19 A We were at my niece's birthday party.

20 Q And where was that?

21 A At my mom and dad's, 122 Williamson Drive.

22 Q Okay. And who was at the party?

23 A My mom and dad, my sister, Tonya and Jamie, my
24 nieces, nephews. Jody was there.

25 Q Okay. What were you doing at that party?

1 A Celebrating my niece's birthday.

2 Q Okay. Were you eating or drinking anything?

3 A Just cake, ice cream, pizza.

4 Q Alcohol?

5 A No.

6 Q Okay. When did Jody arrive at the party?

7 A After he got off of work, early evening. It was
8 dark outside already.

9 Q Who did he work for?

10 A UPS.

11 Q Okay. And what did he do for UPS, do you know?

12 A He was a -- he'd drive a truck, a truck driver.

13 Q Deliver packages?

14 A Uh-huh.

15 Q And how did you -- during the party, did something
16 happen outside?

17 A Yeah. We were told that someone had hit -- his
18 truck had been hit.

19 Q Who told you?

20 A Jamie.

21 Q Jamie?

22 A (Nodding.)

23 Q Okay. Where were you when you found out that
24 someone had hit his truck?

25 A At the kitchen table.

1 Q Okay. Was anybody with you at the kitchen table?

2 A Just me and Jody, my mom and dad.

3 Q Okay. And Jody was with you when you found out
4 that someone had hit the truck?

5 A Yes, ma'am.

6 Q And once you heard the truck had been hit, what
7 did you do?

8 A We got -- we got up and went outside to the truck.

9 Q Okay. When you say "we got up," did you jump up?

10 A No.

11 Q Just got up from the table and walked outside?

12 A Yeah, because at that time we really wasn't sure.
13 Jamie come in saying that he thought that his truck had
14 been hit.

15 Q Okay. And so at that time did Jody appear angry?

16 A No.

17 Q Okay. What did you see once you went outside?

18 A That he had hit his truck.

19 Q He who?

20 A Mr. Arflin.

21 Q Okay. Do you know Mr. Arflin's first name?

22 A Bobby.

23 Q Okay. And you saw that he hit his truck. Tell me
24 how you walked out there, if you remember, and tell me
25 where you were standing when you looked and saw this

1 had happened.

2 A What do you mean, like where we were on the road?

3 We had just walked up there, and we were at the back of
4 his truck, sort of.

5 Q Whose truck?

6 A Jody's.

7 Q Okay. Was there another truck out there?

8 A Yes.

9 Q Okay. Who did that belong to?

10 A Mr. Arflin.

11 Q Do you remember what color it was?

12 A Red.

13 Q Okay. And had you met Mr. Arflin prior to that
14 day?

15 A Yes.

16 Q How did you know him?

17 A He was a neighbor.

18 Q Okay. To the best of your knowledge, had Jody
19 ever met Mr. Arflin prior to that day?

20 A No.

21 Q Had he heard stories about Mr. Arflin?

22 A Yes.

23 Q Okay. So you walked to the back of the truck.

24 What did you do next, just you?

25 A I had asked Mr. Arflin, I saw that he was on the

1 phone, and so I was asking him had he -- was that who
2 he was talking to, was he reporting the accident, and
3 he told me yeah.

4 Q Was who -- who was he talking to?

5 A Was he -- I asked him was he talking to the
6 police, had he reported the accident, and that's who he
7 told me he was on the phone with.

8 Q And once you learned that information, what did
9 you do?

10 A I ran back inside and told nobody else to come
11 out.

12 Q Okay. And did anyone else come out?

13 A No.

14 Q Okay. So after you told everyone to stay put,
15 what did you do next?

16 A I went back out there. I went back outside and
17 went back up there.

18 Q Okay. And what did you see when you went back
19 outside?

20 A Jody and Mr. Arflin in each other's faces.

21 Q Okay. And were their voices raised?

22 A A little.

23 Q What were they saying?

24 A Jody was just asking him, he said he couldn't
25 understand him -- he could understand him knocking the

1 side mirror off, but he couldn't understand him backing
2 back into it and hitting his truck again.

3 Q Okay. You said that they were in each other's
4 faces. How close do you think they were to each other?

5 A They were really close (indicating).

6 Q And where were they standing in relation to the
7 trucks?

8 A At the back and front of the trucks, sort of.

9 Q Were you there also?

10 A Uh-huh.

11 Q Okay. To what side of Jody were you standing?

12 A To the left.

13 Q Okay. And do you remember where Jamie was
14 standing?

15 A To the right (indicating).

16 Q And was your back facing the street, was your back
17 facing the trucks, do you remember?

18 A No, I don't remember. It was -- I mean, our backs
19 were facing like towards my mom and them's house.

20 Q Okay. All right. And so they were close to each
21 other. What did you do at that time when you saw them
22 close together?

23 A I tried to go up in between them and, you know,
24 just calm the situation, tell them that it's okay, that
25 he's -- you know, Mr. Arflin had already called the

1 police. They were on their way.

2 Q Okay. And were you trying to calm Jody and
3 Mr. Arflin or just Jody?

4 A No, I was just -- yeah, just both.

5 Q Okay. And did Jody say anything to Mr. Arflin at
6 that time?

7 A He just -- he just told him he had heard stories
8 about him. He didn't -- he never knew him. He had
9 only heard stories about how mean and hateful he was.
10 And he could see now what a mean person he was.

11 Q Okay. What happened then after Jody said that?

12 A It was like something clicked with Mr. Arflin. I
13 don't -- he just had like this look on his face.

14 Q Did Jody touch Mr. Arflin?

15 A He just barely pushed him.

16 Q Okay. Will you step down and show me what you
17 mean when you say that.

18 A (Witness complies.)

19 Just like that.

20 Q On his chest?

21 A Uh-huh.

22 Q Okay. And how much pressure did he use?

23 A Not a lot. He didn't even fall or go back or
24 anything.

25 Q Okay. And was Mr. Arflin close to Jody?

1 A Uh-huh.

2 Q Okay. Was he getting in his face?

3 A Uh-huh.

4 Q Okay. If you will take the stand again.

5 Okay. So after Jody touched Mr. Arflin, did
6 Mr. Arflin say anything?

7 A As soon as -- as soon as he pushed him like that,
8 he reached behind his back and pulled out his gun and
9 said, "I've got something for you, Boy."

10 Q Okay. And did you ever see Jody punch Mr. Arflin?

11 A No.

12 Q Or hit him at all?

13 A No.

14 Q Did Jody knock Mr. Arflin to the ground?

15 A No.

16 Q Okay. Did Jody have anything in his hands?

17 A No.

18 Q Okay. What did you do when Mr. Arflin pulled the
19 gun?

20 A We -- Jody -- I mean, as soon as he pulled the
21 gun, Jody threw his hands up like that (indicating),
22 and then it just all happened so fast. He just shot.

23 Q Okay.

24 A And we -- we just started running.

25 Q Which direction did you run?

1 A I took off to the left.

2 Q Okay. And do you know which direction Jody went?

3 A No. I mean, I was just looking around trying to
4 find everybody.

5 Q Okay. What happened next? You started running,
6 and what happened at that time?

7 A I -- Jody -- I mean, I like caught sight of him
8 again. It was like he had disappeared, but I don't
9 know if he had fell in the ditch or -- but he got back
10 up. And then when he was shot I guess the second time,
11 he was, um, he just fell.

12 Q Okay. So did you see him get shot the second
13 time?

14 A No.

15 Q Okay. What were you doing when he was shot the
16 second time?

17 A We were running.

18 Q Okay. Which direction were you running again?

19 A I ran to the left.

20 Q Okay. And were you running towards anything?

21 A Just to the house. I mean, we didn't -- huh-uh.

22 Q Okay. And so he fell?

23 A Uh-huh.

24 Q Okay. What, if anything, did he say before he
25 fell or at the time he fell?

1 A He said, "Oh, my God. Oh, my God, I'm going to
2 die."

3 Q Jody said that?

4 A Uh-huh.

5 Q Did you hear him say that?

6 A Uh-huh.

7 Q Okay. What happened next?

8 A That's when he fell and he started convulsing, and
9 it's almost like he was seizing, having a seizure.

10 Q Okay. What did you do?

11 A I was trying to -- I just dropped down to my knees
12 and was trying to figure out where he was shot.

13 Q Okay. Could you tell where he had been shot?

14 A No.

15 Q Okay. What was Mr. Arflin doing?

16 A I had looked behind me, and he was standing to
17 the -- behind us with his gun still pointed.

18 Q Was he standing in the same place he was when he
19 shot the first time?

20 A No.

21 Q Okay. Had he walked behind you?

22 A Uh-huh.

23 Q Okay. So he followed you to where you were on the
24 ground with Jody?

25 A Yeah.

1 Q And did you say anything to Mr. Arflin?

2 A I was just begging him please to stop shooting,
3 don't shoot anymore.

4 Q Okay. Ms. Masters, do you remember what the gun
5 looked like?

6 A It was just long. It was some type of handgun.
7 It had a really long barrel.

8 Q Do you remember what it sounded like?

9 A Just really loud.

10 Q Did you see anything when it fired?

11 A I could -- yeah, I saw the fire and I could feel
12 the heat from it.

13 Q Okay. Do you recall how many shots you heard?

14 A Two or three.

15 Q Okay. Did Mr. Arflin stay above you or did he --

16 A He walked away.

17 Q Okay. Where did he go, do you know?

18 A To his truck.

19 Q Okay. Did he do anything with his truck at that
20 time?

21 A Moved it up.

22 Q Okay. What happened next? What were you doing?

23 A I was out there by myself. It felt like forever,
24 but I was just trying to save him. And then that's
25 when Tonya and Jamie came out, and they were on the

1 phone and they started helping me.

2 Q Do you know who they were on the phone to?

3 A The 911.

4 Q Okay. Did any law enforcement come?

5 A Yes.

6 Q Okay. Did ambulances come?

7 A Yes.

8 Q Okay. What happened to Jody?

9 A He died.

10 Q He died?

11 A (Nodding.)

12 Q Where were you taken?

13 A To the hospital.

14 Q Okay. Is there a reason you were taken to the
15 hospital?

16 A To see if he was going to make it.

17 Q Okay. So at that time you didn't know?

18 A No.

19 Q And once you were at the hospital, that's where
20 you got news?

21 A Yes.

22 Q Okay. Did you give a statement to law enforcement
23 that night?

24 A I did.

25 Q Okay. Where were you when you gave that

1 statement?

2 A In a room in the hospital somewhere. I'm not
3 really sure.

4 Q Were you at the hospital?

5 A Uh-huh.

6 Q Okay. Was this before or after you found out that
7 Jody had died?

8 A After.

9 Q Okay. Did you have anything on you?

10 A I was covered in blood. I just remember being
11 really cold.

12 Q Okay. Ms. Masters, do you see the man who shot
13 Jody Powell in the courtroom today?

14 A I do.

15 Q Okay. Can you point him out and describe what
16 he's wearing for the record?

17 A (Indicating). Right here. Mr. Arflin.

18 Q And can you describe what he's wearing?

19 A A suit.

20 Q Okay.

21 A Red shirt.

22 Q Ma'am?

23 A I just said a suit and a red shirt.

24 Q Okay. Does he look any different than he did that
25 night?

1 A Yes.

2 Q Okay. Can you describe the differences how
3 he's --

4 A His hair.

5 Q His hair. Anything else?

6 A Huh-uh.

7 Q Okay. All right. Just one moment.

8 Ms. Masters, when you say that you were running
9 after the first shot was fired, you say you turned to
10 your left?

11 A Yes.

12 Q And you lost sight of Jody?

13 A Yes.

14 Q Okay. You were running?

15 A Uh-huh.

16 Q At that time did you see Jody?

17 A No.

18 Q Okay. Did you see where Jody was when the second
19 shot was fired?

20 A No.

21 Q Okay. When you turned around, where was Jody?

22 A He was standing right there, right next to me.

23 Q After the second shot was fired?

24 A Yes.

25 Q Okay. So he was standing up after the second shot

1 was fired?

2 A For a second, yeah.

3 Q And then what happened?

4 A That's when he collapsed.

5 Q Okay.

6 A And he said, "Oh, my God. I'm going to die."

7 Q Okay. One moment.

8 MS. PRICE: Thank you, Ms. Masters. Please answer
9 any questions that Ms. White has at this time.

10 CROSS-EXAMINATION

11 BY MS. WHITE:

12 Q Ma'am, now, the witnesses in this case are
13 sequestered; is that right?

14 A Uh-huh.

15 Q So you were not in here to hear Jamie's testimony,
16 and he's not in here to hear yours?

17 A (Shaking head.)

18 Q Now, in March, did the police come back and
19 interview you and interview Jamie?

20 A Yes.

21 Q All right. And were y'all together during that
22 statement or apart?

23 A No, we were apart.

24 Q So if you heard that in March Jamie said that
25 Bobby walked back over while he was in the ditch, while

1 he was face first on the ground and shot him in the
2 back, if that was his statement in March, you're
3 telling this jury that's not correct; is that correct?

4 A I never saw him shot him in the -- shoot him in
5 the back.

6 Q So in your opinion, Jody was not, quote, face
7 first on the ground when he shot him in the back?

8 A I can't say that. I didn't see that.

9 Q Now, Tina Dyches is your sister; is that correct?

10 A Yes.

11 Q She is a Williamson?

12 A Yes.

13 Q Were you -- do you know who -- which Williamson
14 was in the background saying words to the effect of,
15 "Don't say that. He'll get off," the night that this
16 happened at the scene when she gave her statement?

17 A I -- I wasn't in there.

18 Q Had you ever listened to that tape --

19 A No.

20 Q -- of her statement?

21 And it's clear that Bobby was on the phone when
22 you all came out reporting this to law enforcement; is
23 that correct?

24 A I asked him, and that's what he told me.

25 Q Well, later, phone records were recovered and that

1 was exactly true; is that right? You know that at this
2 point, don't you?

3 A I mean, I just know that when I asked him, I took
4 that as his word that that's who he had already called
5 and reported it.

6 Q And you would agree if you do hit somebody, that's
7 the action you're supposed to take is call law
8 enforcement, call the sheriff's department, highway
9 patrol, whatever, so they can come out and issue a
10 report?

11 A Yes.

12 Q And so Bobby had done that; is that right?

13 A I'm assuming. That's what he told me.

14 Q Now, I believe you told this jury that Jody had
15 just gotten this truck and that he had been told
16 stories about how evil Bobby was; is that right?

17 A Yeah, what a mean man he was.

18 Q And that he was -- Jody had come out, and I think
19 you said was about, what, an inch apart in each other's
20 faces?

21 A After I had came back out the second time.

22 Q And you're telling this jury that he just barely
23 pushed him?

24 A Yes.

25 Q Do you remember the night this occurred, when you

1 gave your statement at the hospital, saying that Jody
2 came out and confronted Bobby?

3 A He came out and, yeah, asked him.

4 Q Well, you used the word "confront," though. What
5 does confront mean to you?

6 A Was asking him if he had hit his truck.

7 Q Do you remember saying the night of the statement,
8 the night that this occurred, that Jody was cussing
9 Bobby?

10 A I mean, I don't remember. He never said any -- I
11 don't really -- he never said any -- called him any bad
12 words or anything.

13 Q What's your definition of cussing him? What does
14 cussing mean to you?

15 A They were just fussing. I couldn't even really
16 hear what Bobby was saying.

17 Q Why would you have said that night that Jody was
18 fussing and cussing at Bobby? Why would you have used
19 both of those words?

20 A I -- I don't remember.

21 Q Okay. Now, you also said, didn't you, that you
22 had to get in between them but you weren't talking to
23 Bobby. You just now told the jury and you said that
24 night that you were talking to Jody, saying, "He's
25 already called the police. Let the police handle it";

1 is that right?

2 A I was going in to try to get in between both of
3 them.

4 Q But you were facing Jody trying to talk him down
5 because he kept insisting this was deliberate; is that
6 correct?

7 A He never said that. He just couldn't
8 understand -- he was just trying to understand. It
9 looked deliberate. He was trying to understand. He
10 could see him knocking the mirror off. He didn't
11 understand him backing back into it and hitting it
12 again.

13 Q Now, you testified earlier -- so during this whole
14 thing when he thinks this is deliberate, it's his new
15 truck, as you said before, he's cussing him. You're
16 telling this jury he's this far, about an inch from
17 Bobby's face, and Bobby -- I mean and Jody barely
18 pushes him; is that what you're telling this jury?

19 A He barely pushed him. He did not even fall back.

20 Q Now, you also said, I believe on direct
21 examination, that Bobby did not fall back; is that
22 right?

23 A He didn't. He didn't push him far -- even hard
24 enough for him to fall.

25 Q So he didn't fall back at all?

1 A He just barely pushed him out of his face.

2 Q Are you aware that one of the shots entered Jody
3 somewhere around here and came out here, that it went
4 somewhere like right here across this way?

5 A (Shaking head.)

6 Q How tall was Jody?

7 A 5'9" maybe, 5'10" -- I don't know.

8 Q Would it surprise you to know that in the autopsy
9 they measured him. He's about 5'8". Does that sound
10 right, 5'8", 5'9," somewhere in there?

11 A I just said 5'9".

12 Q And you would agree that if the first shot entered
13 Jody 30 inches below the top of his head, and if he's
14 58 inches tall, how many inches off the ground would
15 that have been?

16 MS. PRICE: Objection, your Honor. This is
17 asking --

18 THE WITNESS: I don't know that.

19 MS. PRICE: Yeah. Objection. This is asking
20 again for directionality. This is asking for
21 measurements.

22 THE COURT: She just testified she didn't know.

23 Ms. White, you can move on.

24 BY MS. WHITE:

25 Q Now, you said that you could see the fire and feel

1 the heat on both shots; is that correct?

2 A The first shot.

3 Q And, clearly, you said even after the second shot,
4 Jody was still up?

5 A No. I was looking around. I didn't see Jody.

6 Q Okay.

7 A I lost sight. I was trying to find all of them.

8 Q Well, sometime between the second shot and the
9 time that you found him in the ditch, he somehow got
10 from the back of the truck over to the ditch; is that
11 right, after that second shot?

12 A I never saw him fall in the ditch.

13 Q I understand that, ma'am. But what I'm saying is
14 after you heard the second shot, he got from the back
15 of that truck over to the ditch; is that correct?

16 A Yes.

17 Q And nobody helped him. I mean, he got there
18 himself?

19 A (Nodding.)

20 Q Is that a "yes"? I'm sorry.

21 A Yes.

22 Q You have got to speak out loud. She's got to take
23 everything down.

24 Now, let's talk a little bit about your statement
25 the night that it happened. Are you aware that that

1 was recorded and it's been transcribed?

2 A Yes. Yes.

3 Q Now, that night right after this happened at the
4 hospital, did you tell the police, "He reached -- He
5 reached around and just shot. It was like it happened
6 so fast, I was confused. I was like, 'Are those
7 blanks'?"

8 A Yes.

9 Q Okay. You said "blanks," not "blank." "Is that a
10 blank?" You said, "Are those blanks"?

11 A "Are those blanks," yes.

12 Q So these two shots happened very quickly then?

13 A Yes.

14 Q They were back to back, weren't they?

15 A I'm assuming yes. Sounded like it.

16 Q And then you say, "Is he just kidding? And then
17 it was like Jody tried to -- tried to run." Is that
18 right? Is that what you told the police at the
19 hospital?

20 A That we instantly took off running.

21 Q So you're telling this jury that both shots were
22 fired, and then Jody took off running and you took off
23 running; is that correct?

24 A The first shot. As soon as the first shot was
25 fired.

1 Q Well, I'm confused about that. Why would you have
2 said, "It happened so fast, I was like, 'Are those
3 blanks,' and then we took off running"?

4 A I never -- I never said that out loud, "Are those
5 blanks?"

6 MS. WHITE: If I may approach the witness.

7 THE COURT: Yes, ma'am.

8 BY MS. WHITE:

9 Q In looking at your statement that night, did you
10 say, "It happened so fast, and I didn't -- I was -- I
11 was confused. I didn't know. I was like, 'Are those
12 blanks? Is he just kidding?' Then Jody said, 'Oh, my
13 God. I'm going to die.' And then it was like he tried
14 to -- tried to run." Do you recall that?

15 A Yeah. Yes.

16 Q So he was clearly at the back of the truck with
17 both shots and then ran to the ditch; is that correct?

18 A After -- after the first shot, I didn't see where
19 he was at or where he ran to.

20 Q Now --

21 A We were all running.

22 Q Now, you also said -- but that night, that's what
23 you said, what we just read; is that correct?

24 A Yes. I never said that part out loud, though.

25 That's what I was thinking in my mind, if that's what

1 you're asking me.

2 Q I understand what you're saying. I'm sorry. In
3 other words, you were telling the officer that's what
4 you were thinking?

5 A Yes.

6 Q I didn't mean you said it out loud.

7 A Okay.

8 Q Do you recall saying that, "Jody went out there,
9 just got out there to confront him about his truck"?

10 A Yes.

11 MS. PRICE: Your Honor, asked and answered.

12 THE COURT: Sustained.

13 BY MS. WHITE:

14 Q All right. Let's go back to the number of shots
15 and where this occurred. Do you recall the officer
16 asking you, "How many times did you hear the gunfire
17 tonight?" You saying, "I don't know. It all happened
18 so fast. Like three, two, three. It was just right
19 there beside me." Do you recall that?

20 A Yes.

21 Q All right. Now, you, I believe, said they were
22 just fussing, not cussing; is that correct?

23 A Yeah.

24 Q Do you recall telling the officer that night, "He
25 just pushed him and was like cussing at him a little

1 bit"? Do you recall that? Using the word "cussing"?

2 A I mean, I don't know.

3 MS. PRICE: Again, your Honor. Asked and answered
4 she's already asked these questions.

5 MS. WHITE: I have not --

6 THE WITNESS: I don't consider it the same thing.

7 THE COURT: Overruled.

8 BY MS. WHITE:

9 Q So that night you used the words, "And cussing at
10 him"; is that correct?

11 A Yes. Correct.

12 Q And then the officer asked you, "Was Bobby
13 confrontational when you walked up there?" And your
14 response was, "When I first walked up there, he was
15 already on the phone"; is that correct?

16 A Yes.

17 Q And during this confrontation, Jody told Bobby, "I
18 didn't even know what kind of person you were, but now
19 I see how hateful you are"; is that correct?

20 A Yes.

21 Q And Bobby was basically on the phone reporting
22 this to the police when this occurred; is that right?

23 A No.

24 Q Now, this was the night that you all were at the
25 hospital and the shooting had just occurred a little

1 bit before this; is that right, when you're giving this
2 statement that we're talking about right now?

3 A Yes.

4 Q And do you recall the doctor saying, "What I'm
5 doing at this point" -- I mean the officer saying,
6 "What this is all about at this point is I'm building
7 the evidence toward the prosecution"? Do you recall
8 that?

9 A No.

10 Q Would you like to see it? Right here.

11 A I never -- that never even crossed my mind.

12 Q Well, that's what the officer says to you, not you
13 to the officer.

14 A Huh-uh.

15 Q Now, you say that after this occurred that Bobby
16 ended up going back to his truck; is that right?

17 A Yes.

18 Q Do you recall testifying at a bond hearing?

19 A Yes.

20 Q And this was after you gave the statement at the
21 emergency room; is that correct?

22 A Yes.

23 Q In fact, it was January 22, 2014?

24 A Yes.

25 Q And you were placed under oath by the judge; is

1 that right?

2 A Yes.

3 Q And you were told by the judge that, "I need you
4 to be absolutely certain to tell me the truth and don't
5 leave anything out"; is that correct?

6 A Yes.

7 Q Do you recall saying essentially that Jody came
8 out, Mr. Arflin was on the phone reporting the
9 accident. Do you remember that?

10 A Yes.

11 Q And do you remember him saying that Mr. Arflin was
12 trying to explain why he hit this truck. He said he
13 didn't have enough room?

14 A Yes.

15 Q And do you remember saying that Jody couldn't
16 understand how he could have backed into it?

17 A Yes.

18 Q Do you remember saying that there was this
19 confrontation and that you tried to squeeze in between
20 them and tell Jody it was okay?

21 A Yes.

22 Q You said, "Mr. Arflin's already called the law.
23 They're on their way." Do you remember that?

24 A Yes.

25 Q And then you started saying that -- at some point

1 you go through some more and you say that, "Mr. Arflin
2 started shooting and just -- we both were just like --
3 and then Jody went like this, and we both tried to
4 start running. And then he shot again and Jody fell."
5 Do you remember that?

6 A (Nodding.)

7 Q Do you remember telling the judge that there was
8 not a second shot while Jody was on the ground?

9 A No. I -- I don't remember.

10 Q Okay. Do you remember the judge asking, "What I'm
11 trying to figure out is whether or not there was a
12 second shot while he was laying down." And then you
13 say, "I don't know. I think the shot -- the other shot
14 happened as he was running, like he had went like and
15 was trying to run." Do you recall that?

16 A Yeah. I couldn't tell the judge whether he had
17 shot him in the back or not because I didn't see that.

18 Q And then do you recall the judge saying, "So to
19 the best of your memory, there was a shot during the
20 confrontation, then there's some moment while there's
21 somebody running, you're running, then there's another
22 shot, but I heard testimony there was a shot while he
23 was laying down prone in the ditch." You don't
24 remember that, do you? I'm talking about somebody
25 standing over and shooting and you shook your head side

1 to side in the negative. Do you recall that?

2 A Yeah. I didn't see that. I didn't see that he
3 shot him in the back the second time.

4 Q And then you say that you went over to that area,
5 "And Bobby just -- he just looked at me and walked
6 away"; is that correct?

7 A Yes.

8 Q Now, let's go to the statement that you made in
9 March of this year, just a few -- few months ago. Now,
10 you say that you went inside the house after this
11 happened to keep your father inside the house because
12 you didn't want any trouble; is that right?

13 A My father, anybody else that was in there, didn't
14 want them coming out.

15 Q So when Bobby says he was afraid of trouble when
16 these people were around, so were you. You went in to
17 make sure nobody came out?

18 A I did. Because I knew of the past experiences
19 that have happened on the road.

20 Q In fact, you say you didn't want anybody to come
21 out; is that right?

22 A (Nodding.)

23 Q I'm sorry. You have to answer out loud.

24 A Yes. Yes.

25 Q And you talked quite a bit about how Jody simply

1 could not understand how the second wreck had occurred
2 and it wasn't deliberate; is that right?

3 A Yes.

4 Q Now, in none of your statements do you say
5 anything about Bobby saying anything about being
6 ruthless or heartless or anything like that; is that
7 correct?

8 A You're asking me if I said that?

9 Q Yeah. You've never said that, have you?

10 A No.

11 Q You never heard any conversation like that, did
12 you?

13 A About him being ruthless or heartless?

14 Q Saying anything about being ruthless or heartless,
15 anything like that?

16 A No.

17 Q Now, you never heard Bobby say anything as he
18 walked away either, did you?

19 A No.

20 Q You never heard him say, "Let him die," or
21 anything like that?

22 A I never did.

23 Q And you were right there beside Jody; is that
24 correct?

25 A Right there beside Jody.

1 Q In none of your statements did you ever say you
2 ever heard anything like that; is that correct?

3 A No, I didn't hear him say that.

4 Q Now, Bobby stayed right there at the scene; is
5 that correct?

6 A Yes.

7 Q He didn't run. He didn't go anywhere. He stayed
8 right there and waited for the police to come; is that
9 right?

10 A Yes.

11 Q And when the police got there, you all -- the
12 police asked who shot and y'all pointed at Bobby and
13 said "him"?

14 A Yes.

15 Q And at that point the police arrested Bobby,
16 immediately put him in cuffs and took him to a car and
17 left him in the car; is that correct?

18 A Yes.

19 Q Where he remained the whole time?

20 A (Nodding.)

21 Q Now, in front of your house where this occurred,
22 there are ditches on each side of the road; is that
23 right?

24 A Yes.

25 Q And Bobby lives where on this road, what part of

1 this road?

2 A Down on around the corner to the left.

3 Q At the end of the dead-end?

4 A Not the end of the dead-end, huh-uh.

5 Q Well, down toward the end of the dead-end?

6 A Yeah.

7 Q In other words, he had to go past this house to
8 get to his; is that correct?

9 A Yes.

10 Q And there is no other road to his house. He's at
11 the end portion of the dead-end?

12 A Yes.

13 Q Were you there when the ambulance, in fact, got
14 into the ditch and got stuck?

15 A I wasn't aware of that. I heard later.

16 Q Do you know who used Jody's phone pretty much the
17 whole evening all the way past midnight?

18 A No.

19 Q In his phone is "Bren has my heart." Is that you,
20 Brenda?

21 A Yes.

22 Q Do you know why his phone would have called out to
23 Bren has my heart, you, at 10:23, and at 14 minutes
24 past midnight?

25 A No.

1 Q Was Jody a hunter?

2 A Was he a hunter?

3 Q Yes, ma'am.

4 A Yes.

5 Q Now, that night that this occurred, your parents
6 have a large driveway, do they not, and a front yard?

7 A Well, I mean, it's not very large but.

8 Q And there was certainly ample room to park there;
9 is that correct?

10 A I can't remember. There was a bunch of cars there
11 that night.

12 Q Have you seen the pictures that were taken that
13 night?

14 A No.

15 Q Well, you would agree that most people were there
16 within walking distance. You certainly wouldn't have
17 driven next door, would you?

18 A He -- are you talking about where Jody was parked?
19 He wasn't --

20 Q No, ma'am. At the party, most of the people who
21 attended were people who lived within walking distance.
22 I mean, they would have just walked a house or two up;
23 is that right?

24 A I'm not sure what you're saying.

25 Q Okay. What I'm asking, you live next door to your

1 parents where this happened; is that correct?

2 A Yes, at the dead-end.

3 Q So you would not have gotten in the car and parked
4 in their driveway. You would have simply walked to
5 their house?

6 A We were all coming home from work. I don't even
7 remember going to my house first before I stopped up
8 there.

9 Q Ma'am, it might be easier if I just show you this.
10 I'm looking at State's Exhibit 16. Is that a picture
11 of your parents' house that night?

12 A Yes.

13 Q And was that the parking condition that night?

14 A Yes.

15 MS. WHITE: Your Honor, if I may have one minute,
16 please.

17 THE COURT: Yes, ma'am.

18 MS. WHITE: No further questions, your Honor.

19 THE COURT: Ms. Price, any redirect?

20 MS. PRICE: Yes, sir, your Honor. May it please
21 the Court.

22 REDIRECT EXAMINATION

23 BY MS. PRICE:

24 Q Ms. Masters?

25 A Yes.

1 Q You didn't see the second shot?

2 MS. WHITE: Objection to leading.

3 BY MS. PRICE:

4 Q Oh, I'm sorry. Did you see the second shot?

5 A No.

6 Q The second shot -- okay. Did you hear the second
7 shot?

8 A Yes.

9 Q Did the second shot happen while you were standing
10 by the truck?

11 A I -- I don't remember.

12 Q Okay. And after the first shot, you ran?

13 A Yes.

14 Q And then you didn't see Jody again until after the
15 second shot?

16 MS. WHITE: Your Honor, I'm going to object to
17 leading. Again, she's on redirect. This is her
18 witness.

19 THE COURT: Sustained.

20 MS. PRICE: Okay.

21 Q Did you see Jody again?

22 A Yes.

23 Q Okay. When did you?

24 A For a second.

25 Q When did you see Jody -- for a second?

1 A Yes.

2 Q Before or after the second shot?

3 A After the second shot.

4 Q Okay. And where was Jody's body when he fell?

5 A On the -- like on the ditch.

6 Q Okay. Is the ditch closer to your house?

7 A Yes.

8 Q Okay. Is it further away from where Mr. Arflin
9 was standing when he fired the first shot?

10 A Yes.

11 Q Okay. Did Mr. Arflin follow you?

12 A Yes.

13 Q Was Jody running away?

14 A Yes.

15 Q When you said "blanks," I know Ms. White is asking
16 you about the "s" on the end of it, but when you say,
17 "I thought he was firing blanks," were you in
18 disbelief?

19 A Yes.

20 Q And who was in whose face when you went outside?

21 A They were both in each other's face.

22 Q Okay. Who's taller? Do you know if Bobby is
23 taller than Jody?

24 A I don't -- I don't know.

25 Q You don't know, okay. Were you outside the entire

1 time?

2 A No.

3 Q Okay. So there could have been --

4 MS. WHITE: Objection to leading, your Honor.

5 THE COURT: Sustained.

6 BY MS. PRICE:

7 Q Could there -- could there have been words said
8 while you were inside?

9 A Yes.

10 Q Speaking to your family?

11 A Yes.

12 Q Between Bobby and Jody that Jamie observed?

13 A Yes.

14 Q That you were not a witness to?

15 A Yes.

16 Q Okay. Again, where were you when you gave your
17 first statement?

18 A In the hospital.

19 Q And that occurred moments after you found out your
20 boyfriend had died?

21 A Yes.

22 Q Okay. When you gave your statement to the court
23 that Ms. White referred to, did you know ahead of time
24 you were going to be speaking to the Court that day?

25 A No.

1 Q Were you crying the entire time you gave that
2 statement?

3 A Yes.

4 Q In fact, sobbing?

5 A Yes.

6 Q When you told people to stay inside the house, is
7 that because you were afraid for them?

8 A Yes.

9 Q What were you focused on when Jody was on the
10 ground?

11 A Trying to save him.

12 Q Tell me a little bit about that. Describe the
13 process you went through trying to save your dying
14 boyfriend's life.

15 A I was first just trying to figure out where he had
16 been shot because I didn't see any blood or anything.
17 And then I was just -- when he stopped breathing,
18 that's when I was trying to give him CPR.

19 Q Okay. And do you remember how you tried to give
20 him CPR, anything specific you did to his body?

21 A I was over the top of him trying to press down.

22 Q Did you and Jamie move the body at all?

23 A Yes.

24 Q Okay. How did you move it?

25 A We turned him around. Jody was laying head down

1 like hill. It was sort of like a hill. So we just
2 turned him. After he had stopped breathing, I got
3 Jamie to help me turn him around.

4 Q Okay. Did you park in the driveway for that
5 party?

6 A Yes.

7 Q Were you coming home from work?

8 A Yes.

9 Q Did you go straight to the party?

10 A I believe so.

11 Q The pictures that Ms. White showed you, were they
12 taken while you were still on the scene that night?

13 A No.

14 Q Had you driven with somebody who was at the party
15 to the hospital?

16 A My sister.

17 Q So is it possible that some of the vehicles that
18 had been in that driveway --

19 A Yes.

20 MS. WHITE: Your Honor, I'm going to object
21 to leading.

22 THE COURT: Overruled. You can ask the question.

23 BY MS. PRICE:

24 Q So is it possible some of the vehicles that had
25 been in the driveway earlier had left by the time these

1 photographs were taken?

2 A Yes.

3 MS. PRICE: One moment.

4 No further questions, your Honor.

5 THE COURT: Anything further?

6 MS. WHITE: Just a couple, your Honor.

7 RECROSS-EXAMINATION

8 BY MS. WHITE:

9 Q And while you were in the house, there could have
10 been threats made toward my client as well; is that
11 correct?

12 A At -- I don't know.

13 Q And you just now said "after he stopped breathing"
14 when you just now testified. He did stop breathing at
15 the scene; is that correct?

16 A Yes.

17 MS. WHITE: No further questions.

18 THE COURT: Anything further for this witness?

19 MS. PRICE: Nothing further, your Honor.

20 THE COURT: All right. Thank you, ma'am. You can
21 step down.

22 Call your next witness.

23 MS. HUEY: Your Honor, the State calls Tonya
24 Williamson.

25 TONYA WILLIAMSON,

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 THE CLERK: Please state and spell your name for
3 the reporter.

4 THE WITNESS: My name is Tonya Williamson,
5 W-i-l-l-i-a-m-s-o-n.

6 DIRECT EXAMINATION

7 BY MS. HUEY:

8 Q Ms. Williamson, where do you live?

9 A 126 Williamson Drive.

10 Q And how long have you lived there?

11 A For about 11 years.

12 Q And what county is your home located in?

13 A Anderson County.

14 Q Can you briefly describe the neighborhood where
15 you live and who lives around you?

16 A We live on a dead-end road. At the stop sign,
17 there's an older couple on the left side, a mid age
18 couple on the left and then on the right-hand side.

19 And then there's my sister, my parents, and mine. And
20 my uncle and aunt live across the street from me.

21 Mr. Arflin's driveway is right across from mine, and my
22 sister lives right behind me.

23 Q When you say Mr. Arflin, are you referring to the
24 defendant in this case, Bobby Joe Arflin?

25 A Yes.

- 1 Q Now, are you married?
- 2 A I am.
- 3 Q And who are you married to?
- 4 A James.
- 5 Q James?
- 6 A Madison.
- 7 Q And how many children do you have altogether?
- 8 A I have four children and a stepdaughter, so I have
- 9 five.
- 10 Q And what do you do for a living?
- 11 A I work at Credit Central.
- 12 Q Do you remember what you were doing on the early
- 13 evening of December 11, 2013?
- 14 A I was having my child's birthday party.
- 15 Q And which child was this?
- 16 A K.B. [REDACTED].
- 17 Q And how old was she on that day?
- 18 A She was turning 11.
- 19 Q Is that her actual birthday, the 11th?
- 20 A Yes.
- 21 Q What kind of birthday party was this?
- 22 A It was just with the cousins, and we just had
- 23 pizza and ice cream cake.
- 24 Q Any alcohol at the party?
- 25 A No.

1 Q And where did the party take place exactly?

2 A It was at my parents' house at 122 Williamson
3 Drive.

4 Q And so you said as far as people that were there,
5 it was for cousins and relatives mainly?

6 A Yes.

7 Q Can you be a little more specific about who
8 actually was there?

9 A My sister Brenda.

10 Q That's Brenda Masters?

11 A Brenda Masters. My husband, James Madison; my
12 parents, Linda and George Williamson; Brenda's
13 children, C.W., K.W.; and my children, A.B.
14 A.B., K.B. and J.B.

15 Q And was Jody Powell eventually at the party as
16 well?

17 A He was there, too, yes.

18 Q And how did you know Jody?

19 A He was Brenda Masters' boyfriend.

20 Q Was Jody there from the beginning of the party or
21 do you know?

22 A No. He got there after we had already sang happy
23 birthday to her, so he got there afterwards.

24 Q And this was a party in the evening; is that
25 correct?

1 A Yes.

2 Q During the birthday party, what, if anything, drew
3 your attention outside of the house?

4 A We, the adults, were in the kitchen sitting at the
5 table, and we saw some taillights through the window in
6 front of the -- we was sitting at the table, and the
7 window is right here on the right.

8 Q So from where you are in the house, you can see
9 the road?

10 A Yes.

11 Q Briefly see the road a little bit?

12 A Yes, ma'am.

13 Q And so what did you notice again, you see
14 taillights?

15 A Taillights.

16 Q And what, if anything, did you do as a result?

17 A James went to the door to see who it was, and
18 we -- he walked outside to see who it was and saw that
19 it was Mr. Arflin. And I walked out, too.

20 Q So you and Jamie walked out together?

21 A He walked out. I walked out right after him, and
22 I stood at the bottom of the steps of the porch.

23 Q And where did Jamie go while you stood at the
24 bottom of the steps?

25 A He walked up further to the gate.

1 Q Did he go all the way to the road or just to the
2 gate?

3 A I think he just went all the way to the gate.

4 Q And at some point could you tell --

5 A The fence.

6 Q -- exactly who those taillights belonged to?

7 A Yes.

8 Q And who was that?

9 A Mr. Bobby Arflin.

10 Q And what kind of vehicle did he have?

11 A It's a Dodge truck with like a camper on the back
12 of it. It was red.

13 Q And, again, how do you know the defendant in this
14 case, Bobby Joe Arflin?

15 A He's lived there. I've known him my whole life.
16 I'm 34.

17 Q All right. So after y'all went outside and
18 determined it was Bobby Arflin out in the street, then
19 what happened?

20 A James came back. I walked back in afterwards, and
21 he told Jody to come outside, that Bobby had hit his
22 truck.

23 Q So when you went out the first time to check to
24 see who it was, did you know that a traffic collision
25 had happened at that point?

1 A I had seen Mr. Arflin on the phone, and I
2 didn't -- I just seen that his car was parked like
3 (indicating).

4 Q So you weren't aware of the collision yet?

5 A No.

6 Q But you did see the defendant on the phone?

7 A I did.

8 Q All right. So you went back inside as did Jamie?

9 A Yes.

10 Q And then what happened? What did Jamie do?

11 A Jamie walked in and said, "Jody, Bobby hit your
12 truck. You might want to come out here."

13 Q And so did Jody then do that?

14 A Yes.

15 Q Did anyone else go outside with Jody at that time?

16 A Yes. James went out, Jody and Brenda went out,
17 and I walked out afterwards, but I walked out to the
18 porch.

19 Q So you just went to the porch?

20 A Yes.

21 Q Which is right off the front door; is that
22 correct?

23 A Yes.

24 Q Okay. So then what happened, once you went back
25 on the porch and Brenda and Jamie and Jody were

1 outside?

2 A I walked back in to check on the kids. And if I'm
3 not mistaken, I went to get my phone so I could call
4 and report it.

5 Q Okay. When you say "it," what are you talking
6 about?

7 A The accident because when I was out there, I know
8 they said he hit his truck.

9 Q So you wanted to make sure law enforcement was on
10 their way?

11 A Yes.

12 Q Okay. So then what happened?

13 Let me ask you this: Were you able to get your
14 phone?

15 A Yes.

16 Q So you had your phone. And were you inside the
17 house?

18 A I was inside the house.

19 Q And then what were you doing?

20 A I turned around to go and walk back outside, and I
21 grabbed the door handle.

22 Q And then what happened?

23 A I saw and heard a gunshot, and I saw fire come out
24 of the barrel and it lit up Bobby's face.

25 Q So you could tell that this defendant, Bobby Joe

1 Arflin --

2 MS. WHITE: Objection; leading.

3 THE COURT: Sustained.

4 BY MS. HUEY:

5 Q What could you tell about this defendant based on
6 what you just said?

7 A Could you explain that?

8 Q What was this defendant doing when you stood at
9 the front door to go back outside?

10 A He was pointing the gun.

11 Q And then you could also -- could you hear him
12 shoot the gun?

13 A I heard the gunshot and saw the fire come out of
14 the barrel.

15 Q Now, could you tell who was shot, though, if
16 anybody?

17 A Huh-uh.

18 Q Now, this was an evening party; is that correct?

19 A Yes, ma'am.

20 Q So was it dark outside?

21 A Yes, ma'am.

22 Q All right. So tell me how you could tell that the
23 defendant was shooting the gun.

24 A When the flame came out, it lit up.

25 Q Lit up what?

1 A His face.

2 Q And you could --

3 A And I could see him pointing the gun.

4 Q And what type of door were you standing at when
5 this took place?

6 A It was a full glass storm door.

7 Q And can you see completely out of it?

8 A You can see completely out.

9 Q Could you tell exactly where the defendant was
10 standing?

11 A He was standing at the end -- like at the end of
12 Jody's tailgate, like his truck.

13 Q All right. So once you saw the defendant shoot,
14 what did you then do?

15 A I immediately called 911.

16 Q And where were you at the time when you called
17 911?

18 A I was standing at the door, and James came running
19 in. And as the phone was ringing, as the phone was
20 ringing, he said, "Call 911. He just shot Jody. Bobby
21 just shot Jody." But the phone was still ringing for
22 911 when he said that.

23 Q Okay. So let me make sure I understand this. You
24 were on the -- trying to call 911?

25 A I was trying to call 911.

1 Q Before he told you to do that?

2 A Yes.

3 Q And when you were first trying to call 911, again,
4 did you know who, if anyone, had been shot?

5 A Not at first.

6 Q But then who came inside to tell you?

7 A James came running in the door, and I was already
8 on the phone calling and it was ringing, and he said,
9 "Call 911. Bobby just shot Jody."

10 Q Okay. So while you were on the phone with 911,
11 what, if anything, are you doing?

12 A I ran to the back of the house because the kids
13 were screaming and crying, and I ran to the back so I
14 could hear when they pick up so I could try to tell
15 them what was happening.

16 Q And while you were on the phone with the
17 dispatcher, what, if anything, did you see or hear?

18 A I heard another -- another gunshot.

19 Q You just heard it?

20 A Yes.

21 Q You did not see it?

22 A I did not see the second.

23 Q And then did you speak with the 911 dispatcher the
24 entire time?

25 A No, not the whole time.

1 Q And why was that?

2 A She was asking me where he had been shot and if he
3 had a pulse. I mean, I couldn't -- I wasn't out there,
4 so I couldn't tell her that.

5 Q And so what did you then do at that time?

6 A James ran back in the house, and I handed the
7 phone to him and I said, "My husband is here. He's
8 been out there," and I gave the phone to him. And
9 that's when he started talking to 911.

10 Q What did you do after y'all got off the phone with
11 911?

12 A After he got off the phone with 911?

13 Q You didn't talk to 911 again after that?

14 A No, ma'am.

15 Q So after he got off the phone with 911, what, if
16 anything, did you do?

17 A I stood in the house and stayed in there with the
18 kids to try to keep them from looking out, trying to
19 keep them from going to the door. And I seen the cop
20 cars come down the road. When I seen the cop cars come
21 down the road, I saw Mr. Arflin leaned against his
22 truck. And then I knew that it was safe to come out,
23 and I went out there trying to help.

24 Q Again, where are you seeing this from?

25 A The front door.

1 Q After the police came, what did you then do?

2 A I ran out, and I got down with Brenda and James
3 and I was trying to help, like I was trying to feel a
4 pulse and trying to see if he had one.

5 Q And who were you trying to help?

6 A Jody.

7 Q What was Brenda's demeanor like at the time?

8 A At the time there?

9 Q While y'all were still working on Jody.

10 A She was just crying, and she didn't know what to
11 do, and, you know, she was -- I'm sorry. She was just
12 crying, and they was just still trying to -- to work on
13 him.

14 Q And did an ambulance eventually make it there?

15 A Yes.

16 Q Okay. And then once the ambulance got there, what
17 did y'all do?

18 A They made me leave. The investigators told me to
19 go and take her to the hospital and they would meet us
20 there.

21 Q Okay. So you and Brenda left the scene together?

22 A Yes, ma'am.

23 Q And who was driving?

24 A I was.

25 Q In whose car?

1 A It was in my car.

2 Q And about how long did it take you to get to the
3 hospital, do you remember?

4 A Maybe ten to 15 minutes.

5 Q And while you were on the way to the hospital,
6 what was Brenda's demeanor like at that time?

7 A It was -- we started praying that he was going to
8 be, you know, he was going to make it and he was going
9 to be okay. And she just stopped, and she just went
10 into like a blank stare. And I was trying to talk to
11 her, and she couldn't say anything. She was just
12 staring and I couldn't get her to say nothing. It's
13 like she went into shock.

14 Q And once y'all made it to the hospital, did her
15 condition change at all?

16 A I pulled up to the front and went around to get
17 her out of the car, and it's just like she broke down
18 again. It was like she started having a really bad
19 panic attack and she couldn't breathe. And I was
20 trying to talk to her and tell her, "It's okay. Just
21 breathe. Just breathe." And it was -- she -- she
22 finally just came out of it when they came in and gave
23 her a paper bag to start breathing in.

24 Q So you saw them give her some medical treatment?

25 A All they did was gave her like a paper bag to

1 breathe in and try to calm her down.

2 Q Did you eventually speak with police on that
3 evening?

4 A At the hospital?

5 Q Yes, ma'am.

6 A Yes, ma'am.

7 Q Okay. And had you learned about Jody's condition?

8 A When I had walked outside and I came back in the
9 hospital, because they had put us in a family room.
10 And when I walked back in the hospital, they told me
11 that he didn't make it.

12 Q So pretty quickly after getting to the hospital
13 did that happen?

14 A (Nodding.)

15 Q And so do you remember about how long thereafter
16 that you gave your statement to police?

17 A I don't remember.

18 Q But it was at the hospital?

19 A It was at the hospital.

20 Q All right. Ms. Williamson, do you see the man who
21 you saw pointing and firing a gun on December 11th of
22 2013?

23 A Yes, ma'am.

24 Q Is he in the courtroom today?

25 A Yes.

1 Q Okay. Could you please point him out to the jury?

2 A (Indicating).

3 Sitting right there.

4 Q Okay. Can you describe what he has on?

5 A He has on a suit, gray suit, with a burgundy shirt
6 and a tie. He's wearing glasses.

7 MS. HUEY: Your Honor, let the record reflect that
8 she's pointed to the defendant.

9 Q Ms. Williamson, does he appear different than he
10 did that night?

11 A He does.

12 Q How so?

13 A He's a little smaller than he was that night.

14 That night he had long hair. And he had a beard and a
15 mustache, and he was a little bigger than he is now.

16 Q I wanted to show you just a couple of photos. I'm
17 going to show you what's been previously admitted as
18 State's 16 and 22. If you can take a look at those two
19 photos for me. Do you recognize those photos?

20 A Yes, ma'am.

21 Q And how are you able to recognize them?

22 A That's my parents' house and that's their front
23 door.

24 Q And do they fairly and accurately depict your
25 parents' home as it looked on December 11th of 2013?

1 A Yes.

2 Q Okay. I'd like you to step down and point out to
3 the jury, if you will. We might just have to do this
4 the old-fashioned way. There is a glare on there. If
5 you can stand in front of the jury. Again, this is
6 State's 16. If you can just point to the jury your
7 parents' front door and where you would have been
8 standing on December 11th.

9 A This is my parents', the storm door where I was at
10 their house.

11 Q If you could just walk down and make sure everyone
12 is seeing it.

13 And does that picture show a view from the street
14 to the front door or the driveway, rather?

15 A Yes.

16 Q And then this is State's 22. Can you tell the
17 jury what that is?

18 A This is my parents' front door. You can see the
19 storm door and the little monogram on it.

20 Q Now, the monogram, what door is the monogram
21 hanging on?

22 A It's hanging on the hard door.

23 Q Not the storm door?

24 A No, ma'am.

25 Q And, again, what door was open on December 11th of

1 2013?

2 A The hard door was open.

3 Q And so it was just the storm door?

4 A It was the storm door that was --

5 MS. WHITE: Your Honor, I'm sorry. I didn't hear
6 that.

7 MS. HUEY: It was just the storm door.

8 MS. WHITE: Just the storm door, okay.

9 MS. HUEY: You can have a seat.

10 That's all I have for this witness at this time,
11 your Honor.

12 THE COURT: All right.

13 Ms. White.

14 MS. WHITE: Yes, sir.

15 THE COURT: Your witness.

16 CROSS-EXAMINATION

17 BY MS. WHITE:

18 Q Ma'am, so your regular door was open, just your
19 storm door was closed; is that what you're saying?

20 A No, ma'am. The storm door -- the hard door was
21 open with the monogram. The monogram was not there at
22 the time, so it was just the storm door.

23 Q Have you ever been in your house and heard a
24 gunshot from down the road or whatever?

25 A Yes.

1 Q They're very, very loud, aren't they?

2 A Uh-huh.

3 Q Ma'am?

4 A Yes, ma'am.

5 Q I'm sorry, you've got to answer out loud so she
6 can take down your answer.

7 A Yes, ma'am.

8 Q Would you agree that if only the storm door was
9 closed, and if a second shot rang out while you were on
10 the phone with 911, that you would definitely hear it
11 on the 911 tape?

12 A No, because all the kids were screaming in the
13 background.

14 Q So you're saying that with a storm door only
15 closed with you being just that far from a gunshot,
16 30 yards from a gunshot, you don't think that would
17 have picked up on the 911 tape?

18 A No, not when you have five or six kids in the
19 house screaming.

20 Q Are you aware that call was recorded?

21 A I do.

22 Q Now, you gave a statement to law enforcement which
23 was taped and is transcribed the night that this
24 occurred; is that right?

25 A Yes, ma'am.

1 Q And do you recall -- well, let's back up. You
2 made a 911 call; is that correct?

3 A Yes, ma'am.

4 Q And on the 911 call, you and your husband are
5 talking, you for part of it, your husband for part of
6 it; is that right?

7 A Yes, ma'am.

8 Q And the dispatcher is asking if you know about his
9 injuries; is that right?

10 A Yes, ma'am.

11 Q And y'all say, "It's too dark. We can't tell"; is
12 that right?

13 A No. I told her that I was not out there.

14 Q All right. And were you there when your husband
15 said, "It's dark where he's at. I can't see"?

16 A I was not out there.

17 Q You would agree it was very dark out there. This
18 is a country road with no lights, right?

19 A There is a light.

20 Q I'm sorry?

21 A There is a light.

22 Q I couldn't understand you.

23 A There is a light.

24 Q I'm talking about out in the road, no streetlight?

25 A No, no streetlight.

1 Q Well, they were out on the road, right?

2 A Uh-huh.

3 Q And I believe that your husband has testified that
4 this was about 30 yards from the front of the house to
5 the street; is that right?

6 A Yes, ma'am.

7 Q And it's December at 8:30; is that right?

8 A It's around -- yeah, around 7:30.

9 Q Or 8:40, somewhere in there?

10 A Yeah.

11 Q Now, at the hospital you're interviewed by an
12 investigator; is that right?

13 A Yes, ma'am.

14 Q And do you remember saying that you went to the
15 porch? Do you remember that?

16 A I do.

17 Q Went out on the porch. "And then as soon as I
18 walked in and turned back around to shut the door, I
19 heard the gun go off." Do you remember that?

20 A I remember saying that I went to open the door.

21 Q And then the officer says, "Did you hear just one
22 gunshot?"

23 You said, "It was like two, I think."

24 "Two gunshots?"

25 "It -- it was just -- I just immediately called

1 911." Do you remember that?

2 A I remember telling him that I heard both of the
3 gunshots.

4 Q Do you remember telling the investigator, "I
5 didn't see where he was standing because it was dark?"
6 Do you remember that?

7 A Yes.

8 Q But you're telling this jury -- now, that night
9 you didn't say anything about seeing Bobby's face, did
10 you, over these 30 yards and this dark out on the road?

11 A I don't remember what I said on my script.

12 Q Well, would you agree that you said, "I couldn't
13 see too good because it was dark"? Do you recall that?

14 A I remember saying that.

15 Q Do you recall being asked, "And we heard two
16 gunshots, right?" And you don't respond. Do you
17 recall that, you didn't answer the officer? You didn't
18 confirm that. Do you recall that? Would you like to
19 see the transcript?

20 A Yes. I remember telling them.

21 Q Did you know that the whole conversation was
22 recorded?

23 A Uh-huh.

24 Q So back then you said nothing about one shot and
25 then going inside and another shot. You didn't say any

1 of that; is that correct? You said you heard two
2 shots, you immediately turned and called 911?

3 A On which statement?

4 Q At the hospital, ma'am, right after it happened
5 when the officer asked you very specific questions.

6 A I mean, I was in shock, first of all, and I -- I
7 can't even tell you what I said, but I can -- I can
8 tell you what I seen.

9 Q And you said nothing in that conversation about
10 seeing the face of the person who shot either, did you?

11 A I think I did.

12 Q Now, law enforcement immediately came to the scene
13 after the 911 call; is that right? I'm sorry. You
14 have got to answer out loud.

15 A I'm sorry. Yes.

16 Q And when law enforcement got there, they
17 immediately secured the scene, put the yellow tape up;
18 is that right?

19 A I didn't see the yellow tape.

20 Q Okay. Who got there first, law enforcement or the
21 ambulance?

22 A The law enforcement.

23 Q All right. And so the ambulance actually came
24 later?

25 A Yes.

1 Q And where were you parked?

2 A I was parked like on the side of the left side of
3 the carport.

4 Q Okay. So let's take a look at -- let's look at
5 State's Exhibit 16. To the left side in here?

6 A No, ma'am, on -- it was on the other side.

7 Q Oh, over on this side?

8 A Yes, ma'am.

9 Q Are you aware of any other cars that were there
10 besides those two and yours?

11 A No, ma'am.

12 Q So, let me just make sure. You were parked over
13 here?

14 A Yes, ma'am.

15 Q All right. Just one minute, please.

16 MS. WHITE: No further questions.

17 MS. PRICE: One moment, your Honor.

18 MS. HUEY: Just a couple on redirect, your Honor.

19 THE COURT: All right, Ms. Huey.

20 REDIRECT EXAMINATION

21 BY MS. HUEY:

22 Q How many shots did you hear in all on December 11,
23 2013?

24 A Two.

25 Q And where were you in or at the house when you

1 heard the first shot?

2 A I was standing at the front door, the storm door.

3 Q Okay. Looking out of the storm door?

4 A Looking out of the storm door.

5 Q Now, where were you in or at your house when you
6 heard the second shot?

7 A When I was -- went to the back door because 911
8 picked up, so I was at the back door when the second
9 shot went off.

10 Q And the back door is at the back of the house?

11 A Yeah.

12 Q Okay.

13 A It not a very big house on the inside, so.

14 Q But it's not in front of the house?

15 A No, ma'am.

16 Q And, again, what were the children doing when this
17 was going on?

18 A They were screaming.

19 Q And at the hospital on December 11th of 2013 when
20 you first spoke with law enforcement, did you tell law
21 enforcement that this defendant, Bobby Joe Arflin, is
22 the one who was shooting on December 11th of 2013?

23 A I did.

24 MS. HUEY: That's all I have, your Honor.

25 THE COURT: Ms. White, anything in recross?

1 RE CROSS-EXAMINATION

2 BY MS. WHITE:

3 Q And that just wasn't in your statement to the
4 police when they asked you specific questions the night
5 that it happened, was it?

6 A Yes. I took two.

7 Q I'll be happy to show you the transcript, ma'am.

8 A I took two statements.

9 Q Another one in March of this year?

10 A Yes.

11 Q Let me ask y'all something. Did y'all know who
12 the investigator was, you and Jamie and Brenda? Did
13 y'all know who the investigator was on this case?

14 A The one that came to the hospital?

15 Q Any of them. The lead investigator sitting right
16 here, Brent Simpson?

17 A I remember him. And I also remember Brent Simpson
18 and Grant -- I can't remember his last name.

19 Q And you can look up the sheriff's department phone
20 number in the phone book, right, or Google it? So why
21 is it that if all of you remembered all this stuff that
22 was so much more incriminating, such a big fish story
23 that got bigger and bigger --

24 MS. HUEY: She's going into questions that were
25 not brought out on redirect.

1 MS. WHITE: No, sir. She brought up that all of a
2 sudden we hear a shot at the front door, now we hear
3 one back here.

4 THE COURT: Overruled.

5 Ms. White, ask the question.

6 BY MS. WHITE:

7 Q Why is it that if all of you remembered this for a
8 year and a half, you never picked up the phone and
9 called law enforcement and told them, "Oh, by the way,
10 we have really important information to tell you. We
11 were all in shock the night that this happened and now
12 we remember all this stuff"? Why didn't that happen?

13 A I don't know.

14 Q Wouldn't you agree your memory is a lot better
15 right after something has happened than a year and a
16 half later?

17 A Not when it's something traumatic.

18 THE COURT: Anything further from this witness?

19 MS. HUEY: No, your Honor. May she be excused?

20 THE COURT: Thank you, ma'am. You can step down.

21 All right. We've been underway for a while.

22 We're going to take our first break for the morning.

23 Mr. Bailiff, you can take our jury to the jury
24 room. We'll take about 15 minutes.

25 (WHEREUPON, the jury exited open court at

1 10:43 a.m.)

2 (WHEREUPON, a recess was taken from 10:44 a.m.

3 to 11:01 a.m.)

4 THE COURT: Anything before we bring the jury in
5 for the State?

6 MS. PRICE: No, sir, your Honor.

7 THE COURT: Anything for the defense before we
8 bring the jury in?

9 MS. WHITE: No, sir.

10 THE COURT: Ms. Price -- let's get the jury in.

11 MS. PRICE: Your Honor, I can prepare, with the
12 Court's permission, prepare the exhibit.

13 THE COURT: Go ahead and get ready.

14 Mr. Bailiff, if we can get our jury.

15 (WHEREUPON, the jury came into open court at
16 approximately 11:03 a.m.)

17 MS. PRICE: May it please the Court. At this time
18 the State seeks to admit State's Exhibit 2 that has
19 already been agreed to as authenticated between the
20 State and the defense pursuant to a stipulation.

21 MS. WHITE: Your Honor, we agree this is the 911
22 call that the witness who just testified made and Jamie
23 is on it as well. It's that 911 call.

24 THE COURT: All right. So admitted.

25 (WHEREUPON, State's Exhibit Number 2 was admitted

1 into evidence.)

2 MS. PRICE: Thank you, your Honor. And, your
3 Honor, we request permission to publish to the jury.

4 THE COURT: Yes, ma'am.

5 (WHEREUPON, State's Exhibit 2 is being played for
6 the jury.)

7 MS. HUEY: Your Honor, the State would like to
8 call Shane Chandler to the stand next.

9 SHANE CHANDLER,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 THE CLERK: Please state and spell your name for
12 the reporter.

13 THE WITNESS: Deputy Shane Chandler with the
14 Anderson County Sheriff's Office. Last name is
15 C-h-a-n-d-l-e-r.

16 DIRECT EXAMINATION

17 BY MS. HUEY:

18 Q Deputy Chandler, as a deputy for the sheriff's
19 office, what are some of your duties and
20 responsibilities?

21 A I work uniformed road patrol. I was basically
22 answering calls for service ranging from alarm calls to
23 burglaries to shootings, all kind of things.

24 Q Was that your position in December of 2013?

25 A It was.

1 Q What's your current position?

2 A I work at the courthouse. I'm courthouse
3 security.

4 Q How long have you been in law enforcement
5 altogether?

6 A Since July of 2006.

7 Q Did you respond to a call on December 11 of 2013
8 that led you to be in court today?

9 A I did.

10 Q And what was the nature of that call?

11 A It was a shooting at 126 Williamson Drive in
12 Belton.

13 Q And what county is that address?

14 A Anderson County.

15 Q Where had you been prior to responding to this
16 location?

17 A Prior to that call, we were at a medical call in
18 the Honey Creek subdivision. It was with a lady with
19 dementia.

20 Q Now, when you were responding to the shooting at
21 Williamson Drive, how did you respond?

22 A We ran what's called emergency response, which is
23 lights and sirens.

24 Q Was anyone else, as far as law enforcement goes,
25 on scene when you first arrived?

1 A No. I was the first deputy on the scene.

2 Q What, if anything, did you observe when you first
3 arrived on the scene?

4 A When I first pulled up into the -- onto the
5 street, I turned my spotlight on and saw a group of
6 people at the corner of a driveway in the road. I saw
7 what appeared to be a male laying on his back. There
8 was three people on top of him like standing and trying
9 to render aid to him.

10 Q And could you tell anything about the male's
11 condition that was on the ground?

12 A I really didn't get a good look at him. I just
13 knew that he was on the ground, and there were -- he
14 was hurt.

15 Q Was he moving at the time?

16 A No, he wasn't.

17 Q Did you speak with any of these people that were
18 around the male on the ground?

19 A When I pulled up, I asked, because I knew it was a
20 shooting, I said -- and I assumed that was the victim.
21 I said, "Who shot?" And they pointed up the road, and
22 they said, "The guy up there by the red truck."

23 Q So as a result of them saying this, what did you
24 then do?

25 A I immediately pulled over to the side of the road.

1 I got out of my vehicle. I got my pistol out, went to
2 approach the man, decided to use the -- there were two
3 trucks on the side -- on the roadway like halfway off,
4 halfway on. Decided to use those for cover in case he
5 decided to shoot at me. So I went around and saw the
6 man standing there with a female and approached him,
7 told him to put his hands up. He put his hands up, and
8 then I asked him, "Did you shoot," and he said he did.
9 So then he listened to everything that I told him to
10 say -- everything I told him to do, he complied. I
11 reholstered my gun, told him to turn around first.
12 Once he turned around, I reholstered my gun, grabbed
13 his arm and placed him in handcuffs.

14 Q And this was after he said that he shot?

15 A Yes.

16 Q Okay. Now, prior to pulling your gun and
17 approaching the shooter, what, if anything, did you
18 notice about the roadway?

19 A When I first pulled in, you could see two pickup
20 trucks kind of like halfway on the road, halfway off,
21 kind of. I saw a lot of road debris or vehicle debris
22 in the roadway. I kind of assumed that maybe this was
23 something to do with a collision, but I wasn't a
24 hundred percent sure.

25 Q Now, once you put the shooter into custody, did

1 you eventually learn his name?

2 A Yeah. He was -- I asked him what his name was.
3 He said his name was Ben (sic) Arflin. I'm pretty sure
4 we ran his I.D. It's standard procedure.

5 Q And once you put him in handcuffs, what did you
6 then do?

7 A As soon as he's in handcuffs, my -- my shift
8 supervisor, Sergeant Jacob Bowland, just pulled up on
9 the scene. He got out of his vehicle, was walking
10 towards me, and he made the statement, "Where is the
11 gun?" And Mr. Arflin stated, "It's by the truck." And
12 while I was putting him in handcuffs, Sergeant Bowland
13 went to secure the firearm. I started searching
14 Mr. Arflin to see if he had any additional weapons, did
15 not find any weapons on him at all. I did find four
16 bullets.

17 Q Before we get to the bullets, could you describe
18 Mr. Arflin's demeanor?

19 A He -- he -- he did everything that I asked him to
20 do. He didn't say anything else. He looked intently
21 down the end of the road --

22 MS. WHITE: Your Honor, may we approach, please?

23 THE COURT: Yes.

24 (WHEREUPON, a bench conference was held off the
25 record in the presence of the jury, but out of

1 the hearing of the jury.)

2 THE COURT: Mr. Bailiff, if you would take the
3 jury out, please.

4 (WHEREUPON, the jury exited open court at
5 11:21 a.m.)

6 THE COURT: Okay. Ms. White.

7 MS. WHITE: Your Honor, I'd like to move for a
8 mistrial. Your Honor, the officer said that what my
9 client said, he was asked his demeanor, which I let
10 that go. And then he said, "He didn't say anything
11 else." Your Honor, this is exactly what I was talking
12 about yesterday in this motion hearing.

13 And, your Honor, we have already heard testimony
14 that he told him, "I'm not going to talk to you about
15 this case. Wait until the sheriff's department." And,
16 your Honor, I'm going to object to -- to any mention of
17 him not saying anything else or not doing anything or
18 any demeanor that would imply that.

19 THE COURT: Ms. Huey.

20 MS. HUEY: Your Honor, I simply think Mr. Chandler
21 was just trying to elicit that's the only thing that he
22 asked of him, was he the shooter. Just, again, for the
23 public safety exception, we can certainly move on from
24 here. I'm not going to elicit any other testimony
25 about what the defendant did or did not say. Strictly

1 going to his demeanor at the time of the incident.

2 This was after he supposedly shot in self-defense, a
3 potential argument, and we'd like to know the demeanor
4 of the defendant at the time.

5 MS. WHITE: Your Honor, I'm also going to object.
6 The whole reason why I -- why I objected yesterday,
7 which is, number one, it was a discovery violation;
8 number two, a possible Miranda violation. But more
9 importantly, not only did the State fail in its burden
10 to show my client even made it, but that he freely and
11 voluntarily made it. His own sergeant says he didn't
12 make it, that this officer made it.

13 THE COURT: Well, Ms. White, I've already ruled
14 after considering the totality of the circumstances
15 that the statement was voluntary and is admissible.

16 MS. WHITE: I have to renew that, your Honor.

17 THE COURT: And I understand that. However, my
18 notes -- and, of course, I'm listening to the evidence,
19 too, as we go along. I think the question was intended
20 here just to establish that this officer did not ask
21 your client any further questions. But, now, you
22 objected before any questions came in, and I don't know
23 what Ms. Huey was going to ask him next, but I'm going
24 to deny your motion for a mistrial. Your objection is
25 noted in the record.

1 If we can get our jury back, please.

2 (WHEREUPON, the jury entered open court at
3 11:25 a.m.)

4 THE COURT: Ms. Huey.

5 MS. HUEY: Thank you.

6 Q Deputy Chandler, I believe you mentioned that you
7 searched the defendant to make sure he didn't have any
8 other weapons?

9 A Correct.

10 Q As such, you did locate four bullets?

11 A I did.

12 Q I'm going to show you what's been marked as
13 State's Exhibit 23. If you could please take a look at
14 that item. Do you recognize that item?

15 A Yes, ma'am.

16 Q Okay. And how are you able to recognize it?

17 A This is the bag that I used to seal it. This is
18 my signature.

19 Q And when you say "it," what are you referring to?

20 A The bullets inside the bag.

21 Q And these are the bullets that you took off
22 Mr. Arflin on December 11th of 2013?

23 A Correct.

24 Q And do they appear to be in substantially the same
25 condition as when you retrieved them from Mr. Arflin

1 and when you put them in that bag?

2 A They do.

3 MS. HUEY: Your Honor, at this time we'd move to
4 admit these bullets as State's Exhibit 23.

5 MS. WHITE: No objection.

6 THE COURT: State's 3 is admitted without
7 objection.

8 MS. HUEY: 23, your Honor.

9 THE COURT: 23. State's 23 is admitted without
10 objection.

11 (WHEREUPON, State's Exhibit Number 23 was admitted
12 into evidence.)

13 BY MS. HUEY:

14 Q All right. And then what, if anything, did you
15 then do with Mr. Arflin?

16 A We immediately took Mr. Arflin to the police -- to
17 my patrol car, placed him in the patrol car, and
18 Sergeant Bowland said, "Stay beside the car," because
19 there was a lot of people on scene and we didn't want
20 anybody to come up to the vehicle and try to cause any
21 further issues.

22 Q And did that happen?

23 A No, it did not.

24 Q And then at some point what did you then do with
25 Mr. Arflin? Did you remove him from the scene?

1 A We were on scene for a little while. Sergeant
2 Bowland came up to me and said, "Go ahead and take him
3 to the LEC."

4 Q And is that what you then did?

5 A I did. We have a holding facility in the
6 sheriff's office, so I took him straight to there.

7 MS. HUEY: That's all I have for this witness,
8 Judge.

9 THE COURT: Ms. White.

10 MS. WHITE: Yes, sir.

11 CROSS-EXAMINATION

12 BY MS. WHITE:

13 Q Deputy Chandler, you actually got a call from your
14 father about this first; is that right or not?

15 A No, ma'am.

16 Q No? That wasn't you? Okay. Well, let me talk to
17 you a minute about gunshots. How loud are gunshots?

18 A How loud are they?

19 Q Yes, sir.

20 A Depending on the gun, they can usually be pretty
21 loud.

22 Q Have you listened to the 911 tape in this case?

23 A No, I have not.

24 Q I'm showing you State's Exhibit 14. And that's a
25 picture of the vehicles as you found them that night

1 that the crime scene people took; is that correct?

2 A Yes, ma'am.

3 Q Is that how you found the vehicles?

4 A Well, you can see a patrol car in front of this
5 one. There wasn't a patrol car when I got there.

6 Q But I'm talking about the two main vehicles. You
7 certainly didn't get in and move anything before the
8 people got there to take pictures?

9 A No. No, ma'am.

10 Q At some point did you actually secure the scene,
11 putting yellow tape around and --

12 A I was -- once we got him in the patrol car, that
13 was to be my next thing to do, but Sergeant Bowland
14 told me to stay by the car. We had actually started
15 getting a crime scene log out. We were kind of
16 scuffling trying to find enough crime scene tape, but I
17 never actually went out.

18 Q Was that done when law enforcement arrived?

19 A To my knowledge, yes, ma'am.

20 Q So this is the way that you found these two
21 vehicles, then, when you arrived; is that correct?

22 A Yes, ma'am.

23 Q Deputy, have you seen the CAD report on this to
24 see what time the call came in?

25 A No, ma'am, I have not.

1 Q The CAD report is issued by the sheriff's
2 department when they get a 911 call; is that correct?

3 A Correct.

4 Q And military time is used on a CAD report?

5 A Yes, ma'am.

6 Q Would it surprise you to know that it came in at
7 2042, which would be 8:42 p.m.?

8 A It was around that time of night. I don't
9 remember exactly.

10 Q And on the CAD report, they also put when y'all
11 arrived on scene; is that correct?

12 A Correct.

13 Q And would 8:51 sound about right, about nine
14 minutes later?

15 A Approximately, yes, ma'am.

16 Q And you would have been the first one on the
17 scene; is that right?

18 A Correct.

19 Q And Bobby was still there?

20 A Yes, ma'am.

21 Q And when you got there, you basically took a
22 flashlight, shined it and said that you could see what
23 was happening with hands and all, pulled a gun and
24 said, "Put your hands above your head"; is that right?

25 A I have a flashlight on my weapon.

1 Q Okay. So it wasn't a separate thing?

2 A No, ma'am.

3 Q All right. And so he immediately complied, put
4 his hands up; is that right?

5 A Yes, ma'am.

6 Q But he was actually on the phone at the time,
7 wasn't he?

8 A Correct.

9 Q And did you have him hand his phone to someone
10 else?

11 A Yes. He had a female standing next to him. He
12 got off the phone immediately and handed it off.

13 Q And are you aware that that was his wife who had
14 come up from the house?

15 A Not at the time.

16 Q Did you find this out later?

17 A Yes, ma'am.

18 Q And once you cuffed him, you took him immediately
19 to the -- you, of course, patted him down before you
20 put him in the car, but you took him to the patrol car
21 and pretty much left him in there; is that right?

22 A I took him to the patrol car, set him in the
23 patrol car and asked if he was comfortable. I believe
24 I cracked the window at one point for him.

25 Q And guarded the car?

1 A Correct. I sat in the car some, I got out some.

2 Q And you told him you were not going to discuss
3 this with him, that this would be taking -- occurring
4 at the sheriff's department; is that correct?

5 A I didn't ask him any questions.

6 Q And I think --

7 A Other than if he was comfortable in the backseat.

8 Q I think you've testified before that you actually
9 said, you know, "I'm not going to ask you anything.
10 That will be handled later by detectives"?

11 A Correct. That's not my job to ask him questions.

12 Q Now, did you prepare a report the night that this
13 occurred?

14 A Yes, ma'am.

15 Q And is the date on the report December 11, 2013?

16 A I believe it is.

17 Q And correct me if I'm wrong, but did you not write
18 that night, "According to witnesses, the suspect shot
19 the victim with a large pistol"; is that correct?

20 A Correct.

21 Q I'll be happy to let you read along with me. And
22 then the next sentence, "I observed the suspect, Bobby
23 Arflin, standing next to the vehicle. He was arrested
24 and secured in the patrol vehicle"; is that right?

25 A Yes, ma'am.

1 Q And there's nowhere in your report that you wrote
2 that night that said that Bobby made the statement that
3 he shot him or that the weapon was over there; is that
4 right?

5 A Correct. When I wrote the report, the media
6 usually gets the front page, and I was wary of putting
7 that information on the front page of the report. And
8 when I did my supplemental, I guess I kind of did the
9 same thing.

10 Q All right. And then that's why you write
11 supplemental reports because that part is not released
12 to the public; is that right?

13 A Correct.

14 Q So later that night you wrote a supplemental
15 report; is that correct?

16 A That's correct.

17 Q And this was right after this? The same shift,
18 actually?

19 A Yes, ma'am, it was the same shift.

20 Q And you put in here, "I asked who shot the victim,
21 and they pointed up the street and stated, 'The man
22 standing there.' I ordered the man to put his hands
23 up, turn around. He raised his hands, complied with
24 all verbal commands. I placed him into custody"; is
25 that correct?

1 A That's correct.

2 Q So in the supplemental report, you didn't put that
3 Bobby said he shot or that he told you the gun is over
4 there; is that right?

5 A Correct.

6 Q And we filed discovery motions in December of
7 2013; is that right?

8 A If you say so. I have no idea.

9 MS. HUEY: Objection, your Honor. How's he
10 supposed to know?

11 THE COURT: Well, he just answered he didn't know.

12 Overrule the objection.

13 BY MS. WHITE:

14 Q As part of discovery, the State must give the
15 defense any statements that they say a defendant made;
16 is that right? Within 30 days, actually, of the
17 request.

18 A To my knowledge, yes, ma'am.

19 Q Okay. And are you aware that that was not in
20 either of your reports that night, and it was first
21 disclosed on August 16th, 2015?

22 A If you say so. All I know is it wasn't in my
23 report.

24 Q Now, your report is -- a supervising officer has
25 to sign off on your report; is that right?

1 A Yes, ma'am, a shift supervisor.

2 Q And that shift supervisor is Sergeant Bowland?

3 A Correct.

4 Q And he's the one who you said asked where the gun
5 was, and Bobby said, "It's over there"; is that right?

6 A Yes, ma'am.

7 Q Are you aware that he prepared a report the night
8 that this happened?

9 A I'm sure he did. Usually any deputy that's on
10 scene or had anything to do with it would write a
11 supplemental.

12 Q Are you aware he wrote, "I observed Deputy
13 Chandler placing handcuffs on the suspect. I asked
14 Deputy Chandler where the gun was, and he told me that
15 there was a large revolver on the hood of the truck."
16 Are you aware that that's what the sergeant put in his
17 report that night?

18 A If that's what he wrote. I believe at the time
19 when he showed up, Sergeant Bowland asked, "Where is
20 the gun at?" And Mr. Arflin stated, "It's in front of
21 the truck," as he was walking by. I'm sure that I
22 said, "Sergeant, he said it's in the front of the
23 truck."

24 Q And Sergeant Bowland puts nowhere in his report
25 from that night that Bobby made any statements like

1 that either, did he?

2 A The report doesn't say that. I don't know. I
3 haven't really read his report.

4 Q So, in fact, for a year and a half there's been no
5 mention of Bobby saying, "I shot, or, "The gun is over
6 there," actually for a year and eight months; is that
7 correct? And that's -- the first is in August 16th of
8 this year?

9 A All I really know is what I wrote. I can't state
10 what anybody else wrote, what the detectives wrote,
11 just what I wrote.

12 Q And again, it's not in the investigation anywhere;
13 is that correct?

14 A I have no idea. I haven't gone through their --
15 their reports.

16 Q Now, you saw damage to these vehicles; is that
17 right?

18 A I -- all I really noticed was the debris. There
19 was some debris in the road. That's the only thing
20 that jumps out to me.

21 Q And the debris kind of indicated that the mirror
22 of one vehicle had been damaged and the front of that
23 vehicle had been damaged, I'm talking about on the
24 silver truck?

25 A To be a hundred percent honest, I wasn't worried

1 about the vehicles.

2 Q Okay.

3 A I wasn't doing a wreck report.

4 Q Now, to your knowledge, was the clothing taken of
5 both parties involved in this, Jody and Bobby?

6 A Not that I know of. I don't know what they did
7 outside my vision of where I was at.

8 Q So you had nothing to do with gathering the
9 physical evidence; is that right?

10 A The only evidence that I secured were the actual
11 bullets that Mr. Arflin had, and I personally put those
12 into the evidence bag. And when I took Mr. Arflin to
13 the LEC, as soon as I put him into one of the cells and
14 informed the desk officer, I immediately drove straight
15 from there to the -- right next door is where our
16 evidence is kept, and dropped the evidence right
17 afterwards. Any other evidence collected I don't have
18 a clue about.

19 MS. WHITE: Just one minute, please.

20 No further questions.

21 THE COURT: Anything further for this witness?

22 MS. HUEY: Nothing from the State, your Honor.

23 THE COURT: Thank you, Officer. You can step
24 down.

25 Call your next witness.

1 MS. HUEY: Your Honor, the state Calls Kenta
2 Cowan.

3 KENTA COWAN,
4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 THE CLERK: Please state and spell your name for
6 the reporter.

7 THE WITNESS: Kenta Cowan, C-o-w-a-n.

8 DIRECT EXAMINATION

9 BY MS. HUEY:

10 Q Deputy Cowan, who do you work for and in what
11 capacity?

12 A Anderson County Sheriff's Office. I work in the
13 traffic division.

14 Q And were you in that position December 11th of
15 2013?

16 A No, ma'am. I was actually assigned to the road
17 patrol division at that time.

18 Q And while you were in the road patrol division,
19 what were some of your duties and responsibilities?

20 A Respond to calls for service, calls in progress,
21 larceny reports, what have you.

22 Q And did you respond to a call on December 11th of
23 2013 that led you to be in court today?

24 A Yes, ma'am.

25 Q What was the nature of that call?

1 A We got a call for a possible shooting.

2 Q And as such, where did you respond?

3 A Responded to -- I can't remember the exact
4 numeric, but I remember it being Williamson Road in
5 Belton.

6 Q Is that in Anderson County?

7 A Yes, ma'am, it is.

8 Q Where had you been prior to responding to
9 Williamson Road?

10 A Just out on regular routine patrol in the area.

11 Q Was anyone else on scene as far as law enforcement
12 goes when you first arrived?

13 A Deputy Chandler had gotten there just a few
14 minutes before I did.

15 Q What did you observe when you first arrived on
16 scene?

17 A When I pulled on scene, I recall seeing a male
18 laying on the ground, and there was a female and a male
19 hovered over him attempting to do CPR.

20 Q Could you tell the condition of the male at that
21 time?

22 A I walked over. And when I walked over, I could
23 tell that they -- a male appeared to be deceased. He
24 had vomit around his mouth from where the female was
25 attempting to do CPR but was doing it incorrectly. I

1 think she was doing more abdominal compressions which
2 caused the victim to regurgitate.

3 Q Now, what did you do as a result of seeing what
4 was going on on the ground there?

5 A I responded back to my vehicle and grabbed my EMS
6 bag out of the patrol vehicle, went back over to the
7 victim and tried to provide first aid assistance.

8 Q Now, why do you have an EMS bag in your patrol
9 car?

10 A I worked EMS for over 12 years.

11 Q What was the demeanor or appearance or the man and
12 woman helping the victim?

13 A The female, she was hysterical, screaming, crying,
14 shouting, asking for help, pulling on the victim,
15 saying, "Don't die. Don't die." The male, I think he
16 was hysterical as well, but I think he was trying to
17 hold the female -- trying to hold her together a little
18 more.

19 Q So once you got your bag and went over to the
20 unresponsive male, what did you then do?

21 A Actually rolled him on his side to clear out his
22 airway, again because there was throwup or vomit
23 everywhere. So I had cleared his airway so we can
24 start trying to provide some ventilation and continue
25 the CPR process.

1 Q And at that time did you see any signs of life?

2 A No, ma'am.

3 Q But, regardless, what is the procedure typically?

4 A To continue until EMS arrives on scene to run what
5 they call an EKG or hook him up to a monitor.

6 Q When rendering aid to the victim, did the man and
7 woman say anything to you?

8 A They were both screaming and shouting for help.

9 At one point the male pointed towards the patrol
10 vehicle and said, "He shot him for nothing."

11 Q Did EMS eventually arrive on scene?

12 A Yes, ma'am, they did.

13 Q And once they arrived on scene, what did you then
14 do?

15 A I transferred treatment over to them and just
16 spoke to some of the family members or friends that
17 were on the scene to kind of gather information for the
18 investigators when they arrived.

19 Q Now, when you pulled in to Williamson Drive, where
20 did you park your patrol car, do you remember?

21 A If I remember correctly, it was just before the
22 driveway.

23 Q And when EMS pulled in, where did they pull in, do
24 you know, when they drove down Williamson Road?

25 A Shortly just past my vehicle, just kind of like in

1 the middle of the road.

2 Q Did they have trouble getting by your vehicle?

3 A No, ma'am.

4 Q All right. So after EMS took over, then, what was
5 your next role?

6 A Just to help to secure the scene. Again, just
7 gather information as far as maybe who possibly saw
8 anything or heard anything, to get their information to
9 the investigators.

10 Q Okay. And so when you're doing this, do you
11 actually take statements from these people?

12 A No, ma'am.

13 Q You just do this to convey the information to the
14 investigators?

15 A To the investigators, that's correct.

16 Q And so what else did you do in terms of this case?

17 A After the investigators were out on scene, I was
18 advised by my supervisor to follow I believe it's the
19 victim's vehicle to the armory to ensure -- to kind of
20 maintain chain of custody. And I followed them to the
21 armory to take the vehicle.

22 Q And did you have -- who did you hand it off to at
23 that point?

24 A I believe it was Investigator Pridemore.

25 Q And did you have any other involvement in this

1 case after that?

2 A No, ma'am.

3 Q I neglected to ask, where -- when you arrived on
4 scene, you said you parked just before the driveway.
5 Where was the victim lying, do you know?

6 A Almost actually in the driveway. There were two
7 vehicles past the driveway, the driveway where the
8 victim was laying, and I parked on the opposite side of
9 the driveway just before you get to the driveway. But
10 he was laying in the driveway kind of close to a ditch.

11 Q And we touched on the ambulance coming through --

12 A Yes, ma'am.

13 Q -- initially. Did you witness anything else with
14 the ambulance on that night?

15 A As they were attempting to turn around, I remember
16 the ambulance kind of slid off the side of the road,
17 and it was wet and there was a ditch there and it got
18 stuck.

19 Q And were you there for that whole process?

20 A Yes, ma'am.

21 Q Okay. And what happened to get it unstuck?

22 A Just kind of some repositioning, just to try to
23 get traction of the tires again because the roadway was
24 wet, and it was kind of bogged down in mud, so I think
25 a couple of us actually stood on the back of the

1 ambulance just to provide weight just to get it out of
2 the ditch.

3 Q Then it got out just fine?

4 A That's correct.

5 Q And went past your patrol car again?

6 A Yes, ma'am.

7 Q Did another ambulance come to the scene?

8 A Yes, ma'am. If I remember correctly, they were
9 concerned at the time so they called in a second
10 transport unit, transported the victim to that unit to
11 respond to the hospital while we tried get the other
12 vehicle out.

13 Q I see what you're saying. So because the first
14 one was stuck --

15 A Yes, ma'am.

16 Q -- another one was called out?

17 A Yes, ma'am.

18 Q And then that one got out no problem?

19 A That's correct.

20 Q With the victim in the back?

21 A That's correct.

22 MS. HUEY: That's all I have of this witness,
23 Judge.

24 THE COURT: Ms. White.

25 MS. WHITE: Yes, sir.

1 CROSS-EXAMINATION

2 BY MS. WHITE:

3 Q Deputy, are you aware or were you there when the
4 tow truck had an issue with Jody's vehicle and it ended
5 up getting damaged on the front from the tow truck?
6 Have you read reports of people who witnessed that?

7 A Are you talking about at the armory?

8 Q You know, I'm not sure from the reports where it
9 was, just that it was damaged in the towing process.
10 There was an issue and the front of it was damaged by
11 the tow?

12 A I do recall at the armory, as I was getting ready
13 to leave, they were backing the truck off the tow
14 truck, and it seems something with the bed itself
15 shifted or something as the truck was coming off, and I
16 remember the front of the truck tapping the bumper, but
17 I can't say there was any damage to it because I didn't
18 assess it. I was leaving at that time.

19 Q Have you read any of the other officers' reports
20 who were there at the time?

21 A No, ma'am.

22 Q It's legal to have a gun in one's glove box; is
23 that correct? In a vehicle, that's not against the
24 law?

25 A No, ma'am.

1 Q In fact, if you had to estimate, about how many
2 officers in their personal vehicles would have guns in
3 their glove compartments?

4 A I couldn't answer that for sure.

5 Q Were you involved at all in gathering the evidence
6 and processing the evidence in the case, the physical
7 evidence?

8 A No, ma'am.

9 Q Would you agree that people can be wrong and/or
10 lie, but physical evidence is what it is?

11 A Correct.

12 Q It doesn't have a bias, does it?

13 A I'm sorry?

14 Q It doesn't have a bias or motive to lie; is that
15 right?

16 A Yes, ma'am.

17 MS. WHITE: No further questions, your Honor.

18 THE COURT: Anything further from this witness?

19 MS. HUEY: No, sir, your Honor. May he be
20 excused?

21 THE COURT: Thank you, Officer. You can step
22 down.

23 Call your next witness.

24 MS. HUEY: Your Honor, the State calls Sergeant
25 Jacob Bowland to the stand.

1 JACOB BOWLAND,

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 THE CLERK: Please state and spell your name for
4 the reporter.

5 THE WITNESS: My name is Jacob Bowland,
6 B-o-w-l-a-n-d.

7 DIRECT EXAMINATION

8 BY MS. HUEY:

9 Q Sergeant Bowland, where do you work?

10 A I work at the Anderson County Sheriff's Office.

11 Q And how long have you been employed there?

12 A I've been at the sheriff's office for seven years.

13 Q And what is your position there?

14 A I'm a road -- a uniformed patrol sergeant.

15 Q And as such, what does that mean?

16 A In a nutshell, my job is to supervise the
17 day-to-day patrol operations of the sheriff's office.

18 Q And were you working in this capacity on
19 December 11th of 2013?

20 A Yes, ma'am, I was.

21 Q Did you have occasion to respond to 122 Williamson
22 Drive?

23 A Yes, ma'am, I did.

24 Q And is that in Anderson County?

25 A Yes, ma'am.

1 Q What was the nature of that call?

2 A The original call that we were responding to was a
3 shooting incident.

4 Q And so when you arrived, who all was on scene in
5 terms of law enforcement?

6 A The only deputy that was on scene when I arrived
7 was Deputy Shane Chandler.

8 Q And then who arrived shortly after you?

9 A Deputy Kenta Cowan actually arrived pretty much at
10 the exact same time I did. He was right behind me when
11 we pulled in.

12 Q All right. So when you first arrived, what did
13 you observe, if anything?

14 A When had I first got out of my patrol car, I had
15 parked maybe a house away from where the incident
16 occurred. As I was walking towards the house that the
17 incident happened at, I noticed a male victim laying on
18 the ground. He obviously had injuries, and there was
19 some blood around, and there were two people that
20 appeared to be doing CPR to the victim. Because of
21 Deputy Cowan's background, I knew that he had a lot
22 more EMS experience than I do, and so I asked him to
23 help the victims that were dealing with -- or the folks
24 that were dealing with the victim on the ground,
25 assisting with medical aid. And I looked forward, and

1 maybe 20 yards in front of where the victim was laying,
2 I saw Deputy Chandler taking a male subject into
3 custody.

4 Q Okay. So prior to that, though, what could you
5 tell about the location of the victim? Do you have an
6 idea of exactly where he was?

7 A He was at the end of the driveway of the
8 residence. I don't know the exact number of the house,
9 but he was like at the end of the driveway close to the
10 road.

11 Q Generally speaking -- so you let Deputy Cowan
12 handle them, so to speak. And then what was your next
13 step?

14 A At that point, well, Deputy Chandler, trying to
15 take somebody into custody, I walked over to him to see
16 if he needed any assistance. He seemed like the person
17 he was taking into custody wasn't giving him any
18 problem. At that point I asked him if there was a
19 weapon involved, and he told me that it was on the
20 front of the truck. And so at that point I walked up
21 to the truck to see if I could find the weapon.

22 Q And did you, in fact, find a weapon?

23 A Yes, ma'am. It was laying on the hood of the
24 pickup truck, a red Dodge truck.

25 Q Who did that truck belong to?

1 A I believe it was the defendant.

2 Q Your Honor, at this time I'd like to show
3 Deputy -- or, excuse me, Sergeant Bowland State's
4 Exhibit 24. Can you take a look inside there and see
5 if you recognize that?

6 A Yes, ma'am. That appears to be the same weapon
7 that I encountered that evening.

8 Q And how are you able to recognize it?

9 A Actually a gun like this is kind of, it's not so
10 common in my business. We don't normally see large
11 caliber revolvers like that. I'm familiar with
12 firearms pretty well, so I know that it's consistent
13 with the same type of weapon we seized that evening.

14 Q Is that the weapon that you did, in fact, secure?

15 A Yes, ma'am.

16 Q And let's talk about how you secured that, then.

17 A Basically, at that point, when I -- when I saw
18 that the weapon was laying on the hood of the car, the
19 scene was starting to get a little chaotic because we
20 had first responders that were coming, and other police
21 officers were coming to assist with the investigation.
22 And I believe the defendant's wife was standing close
23 to the truck at the time. So it would be unsafe and
24 impractical to leave the weapon where it was. So at
25 that point I grabbed the handle of the gun, and I

1 carried it back to my patrol car and locked it into my
2 patrol car until an evidence technician could come
3 collect it from me.

4 Q What kind of gun was it?

5 A It's a Smith & Wesson .41 magnum. And I don't
6 know the model number right offhand.

7 Q When you secured it in your patrol car, did you
8 check to see if it was loaded or unloaded at the time?

9 A No, ma'am.

10 Q Once you put it in your patrol car, who, if
11 anyone, did you then hand over custody of it to?

12 A From the backseat of my patrol car, it went
13 directly into our evidence technician, Deputy Pridemore
14 or Forensic Investigator Pridemore's custody.

15 Q Is it in substantially the same condition as when
16 you retrieved it from the hood of Mr. Arflin's vehicle?

17 A Yes, ma'am.

18 Q When you went to retrieve the gun from
19 Mr. Arflin's truck, what, if anything, did you notice
20 about the truck itself?

21 A When I first approached the truck and retrieved
22 the gun, I noticed that the truck was still running or
23 that the engine was still running. At that point,
24 because the scene was chaotic, the truck, from what I
25 could tell, had been involved in some type of

1 collision, so I knew that the truck wasn't going to be
2 able to go anywhere. It was part of the incident. At
3 that point I reached in and turned the truck off to
4 make sure, you know, somebody didn't jump in it or
5 left.

6 Q And so while you were turning the vehicle off,
7 what, if anything, did you notice in the vehicle?

8 A I noticed that there were two spent shell casings
9 that were consistent with the .41 magnum in the
10 driver's seat of the car, and they were in plain view.

11 Q Now, did you collect those?

12 A No.

13 Q And why not?

14 A Normally, if I'm on a scene, my job isn't to
15 collect it. My job is more to secure the scene and
16 keep all evidence where it is for an evidence
17 technician to collect it. And like I explained, the
18 only reason why I even collected the firearm is it was
19 more of a safety issue than anything.

20 Q So you talk about securing the scene. What did
21 you then do to secure the scene additionally?

22 A At that point, once we had the defendant in
23 custody and there was no longer any danger to any
24 police officers or anybody else that were responding to
25 the scene, our normal protocol would be to secure the

1 scene by putting crime scene tape around it. And
2 normally what we try to do on an incident of this
3 magnitude would be to establish a crime scene by
4 putting crime scene tape around it so nobody can walk
5 into that crime scene. And normally as the incident
6 grows more and more, people come to assist with the
7 investigation, we'll actually expand that crime scene a
8 little bit further to keep random folks out like
9 reporters or possibly neighbors or onlookers.

10 Q And did you do so in this case?

11 A Yes, ma'am.

12 Q What, if anything, did you observe about the
13 vehicles on scene?

14 A From what I could tell, it looked like the Dodge
15 truck had damage to the rear taillight on the passenger
16 side.

17 Q This is the red Dodge truck?

18 A Yes, ma'am.

19 Q Belonging to the defendant?

20 A Yes, ma'am. And then there was another truck
21 there. And if memory serves me correct, I believe it
22 was a GMC, and it had damage on the driver's side front
23 headlight, and I believe the mirror was knocked off.

24 Q What happened to these vehicles on scene?

25 A They were towed to a secure facility. We use the

1 old armory as part of our facilities. It's a county
2 owned secure place that is locked and has a fence
3 around it.

4 Q And were you present for the vehicles being towed?

5 A I was still on scene when the vehicles were towed,
6 but normal protocol is that we send a deputy with those
7 cars as they're being towed so that nobody can
8 interfere with the vehicle as they're being towed. I
9 stayed on scene, and a few other deputies went with the
10 vehicles.

11 Q So you were there to get them towed and see them
12 towed off but you did not follow them?

13 A That's correct.

14 Q Another deputy was assigned to do that?

15 A Yes, ma'am.

16 Q For each of the vehicles?

17 A Yes, ma'am.

18 Q And did you get any additional information about
19 the status of the victim while you were on scene?

20 A While I was on scene, I was notified that the
21 victim had been pronounced dead at the hospital.

22 Q And did you ascertain identities of the victim and
23 the suspect in this case?

24 A Yes, ma'am. After investigations got there, we
25 started getting into the specifics of the case. I did

1 learn that the victim was Jody Powell and the defendant
2 was Mr. Arflin.

3 Q Thank you, sir.

4 MS. HUEY: That's all I have for this witness,
5 Judge.

6 THE COURT: All right.

7 Ms. White.

8 MS. WHITE: Yes, sir.

9 CROSS-EXAMINATION

10 BY MS. WHITE:

11 Q Sergeant, so when you got there, Deputy Chandler,
12 who just testified, actually had him in cuffs and you
13 said, Take him to the vehicle and basically guard the
14 vehicle; is that right, in so many words?

15 A Yes, ma'am. I believe Deputy Chandler was
16 actually effecting the custody at that point. I mean,
17 he was actually putting handcuffs on him as I was
18 getting out of the vehicle, yes, ma'am.

19 Q And you prepared a report that day; is that
20 correct? Or night, I should say.

21 A I'm not the actual reporting deputy, but I did a
22 supplement to the report that was on file, yes, ma'am.

23 Q And a supplemental, let's just talk about this a
24 minute. You have an incident report which is public;
25 is that correct? You can pay three bucks, five bucks,

1 whatever to get it if you're the public; is that
2 correct?

3 A Yes, ma'am.

4 Q Then y'all provide supplemental reports, which are
5 not public, and that's just part of the investigation;
6 is that correct?

7 A I think we can get into semantics about what the
8 different pages of a report are called, but we have an
9 investigative narrative that would be something that
10 the public has no access to, that's correct. But a
11 supplemental, the public should have access to that
12 also, I think, in some circumstances.

13 Q Do you know that for sure or not?

14 A I don't work in the records division, so.

15 Q Sergeant, you prepared a report on December 12,
16 '13 actually after midnight on that same shift; is that
17 correct?

18 A Yes, ma'am.

19 Q And do you recall writing in your report --

20 MS. WHITE: Your Honor, may I approach?

21 THE COURT: Yes, ma'am.

22 BY MS. WHITE:

23 Q Do you recall writing in your report, "I observed
24 Deputy Chandler placing handcuffs on the suspect, Bobby
25 Arflin. I asked Deputy Chandler where the gun was, and

1 he told me there was a large revolver on the hood of
2 the truck that Arflin was standing next to." Do you
3 recall that?

4 A Yes, ma'am.

5 Q So Deputy Chandler told you that?

6 A I believe he told me that there was a gun on the
7 truck. I don't know that he said it was on the hood,
8 but I believe he either told me it was on the truck or
9 on the hood. I apologize, but it's been a couple
10 years, so I don't know the specifics of that.

11 Q And you also signed off as the supervisor on
12 Deputy Chandler's reports to make sure they were
13 accurate; is that correct?

14 A Yes, ma'am.

15 Q Now, let's talk a minute about the firearm in this
16 case. A revolver does not have a magazine or a clip
17 that you push into the weapon; is that correct?

18 A Yes, ma'am.

19 Q And so it actually has a little cylinder kind of
20 in the center of the weapon that has the live rounds in
21 it?

22 A That's correct.

23 Q Okay. And so with a semiautomatic pistol that has
24 the clip, when you fire it, each time you fire it, a
25 spent shell casing, in other words, the outside of the

1 bullet, falls to the ground or wherever, flies out of
2 the gun?

3 A On a semiautomatic, that would be correct, yes,
4 ma'am.

5 Q And the difference is in a revolver, there's a
6 little cylinder in the middle and nothing flies out.
7 Each time you fire the weapon, it simply rotates and
8 keeps that spent shell casing in the cylinder; is that
9 correct?

10 A Other than the projectile that it was meant to
11 fire, that's correct.

12 Q And so if you're going to a scene where there is a
13 semiautomatic that is used, you're looking around at
14 the scene to try to find this spent shell casing that
15 has flown out of the weapon or two or three or however
16 many were shot; is that right?

17 A Under normal circumstances, yes, ma'am.

18 Q But if you suspect a revolver is used, that would
19 not be important because the spent shell casings would
20 not have flown out of the weapon with each shot?

21 A Yes, ma'am.

22 Q So for each shot that is fired, there is one spent
23 shell casing; is that correct?

24 A Yes, ma'am.

25 Q So if the only -- this scene was roped off and

1 certainly searched; is that correct?

2 A That's correct.

3 Q And there were two spent shell casings found; is
4 that right?

5 A Other than the shell casings that I observed in
6 the car --

7 Q Yes, sir.

8 A -- honestly, I don't know if any other evidence
9 was located.

10 Q All right. Well, if you heard no other --

11 A I didn't hear.

12 Q -- there were no others --

13 A That's correct, I didn't hear it.

14 Q -- that would indicate to you, then, how many
15 shots were fired?

16 A Yeah. I mean, I can assume that, but I don't know
17 how many shots were fired.

18 Q No. I understand, but what I'm saying is if there
19 were only -- anywhere, not just this scene, anywhere.
20 If there were only two spent shell casings, that would
21 indicate how many shots were fired?

22 A Yes, ma'am.

23 Q Two, right?

24 A Yes, ma'am.

25 Q In other words, you can't fire a shot without

1 there being a spent shell casing; is that right?

2 A That's correct.

3 Q Do you know who obtained Jody's phone or where it
4 was obtained?

5 A No, ma'am. I don't recall ever even seeing his
6 phone.

7 Q And it was dark out there that night; is that
8 right? It was like 8:30, 9:00 by the time you got
9 there, somewhere in that time period?

10 A Yes, ma'am, it was dark.

11 Q And it was December?

12 A Yes.

13 Q Do you recall that Bobby's truck had a camper back
14 on it? Do you remember? If you don't remember, that's
15 fine.

16 A No, I don't remember that.

17 Q And you would agree that pictures were taken of
18 the vehicles before they were moved by your scene
19 people?

20 A That's correct.

21 Q And it's perfectly legal to have a weapon in your
22 glove box in the state of South Carolina; is that
23 right?

24 A Yes, ma'am.

25 Q As a matter of fact, it can be fully loaded, no

1 safety, unlocked. It's perfectly legal?

2 A As long as you are legally allowed to have that
3 firearm, yes, ma'am.

4 Q Well, I mean, if you're not a felon, you can have
5 it, basically?

6 A That's correct.

7 Q If you have never been arrested before in your
8 life, you legally can carry it; is that right?

9 A Yes, ma'am.

10 MS. WHITE: No further questions, your Honor.

11 THE COURT: Any redirect?

12 MS. HUEY: Just a couple.

13 REDIRECT EXAMINATION

14 BY MS. HUEY:

15 Q So you were allowed to have a gun in your glove
16 box of your car if you're not a felon?

17 A That's correct. Our state statute allows that.

18 Q And are you allowed to walk around with a gun?

19 A No.

20 MS. WHITE: Your Honor, I'm going to object to
21 that. The case law is clear if you're acting in
22 self-defense, it is legal to have a gun.

23 THE COURT: Sustained.

24 MS. HUEY: That's all I have, your Honor.

25 THE COURT: Anything further from this witness?

1 Thank you, Officer. You can step down.

2 MS. PRICE: May it please the Court. Your Honor,
3 if we can break now, I know we're a little bit early.
4 The next witness is going to take some additional time.
5 We have some evidence to move in with him, and I know
6 our goal --

7 THE COURT: It is almost 12:15. We'll go ahead
8 and break for lunch now, and we will reconvene at 1:45.
9 So, ladies and gentlemen, we're going to let you go to
10 lunch now. You have an hour and a half. Be back at
11 1:45.

12 We'll give you the same instruction: Don't
13 discuss the case with anyone. Do not deliberate while
14 you're out. Have a good lunch.

15 (Whereupon, the jury exited the courtroom
16 at 12:15 p.m.)

17 (Lunch recess was taken from 12:15 p.m.
18 to 1:51 p.m.)

19 THE COURT: Anything from the State before we
20 bring the jury in?

21 MS. PRICE: Nothing.

22 THE COURT: Anything from the defense before we
23 bring the jury in?

24 MS. WHITE: No, sir.

25 THE COURT: Mr. Bailiff, if you could get our jury

1 for us, please, sir.

2 (WHEREUPON, the jury entered open court at
3 1:52 p.m.)

4 THE COURT: Ms. Price.

5 MS. PRICE: At this time, the State calls forensic
6 investigator Chris Pridemore to the stand.

7 CHRIS PRIDEMORE,

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 THE CLERK: Please state and spell your name for
10 the reporter.

11 THE WITNESS: Chris Pridemore, P-r-i-d-e-m-o-r-e.

12 DIRECT EXAMINATION

13 BY MS. PRICE:

14 Q Investigator Pridemore, who do you work for and in
15 what capacity?

16 A Anderson County Sheriff's Office. I'm a forensic
17 investigator.

18 Q Okay. And what sort of duties and
19 responsibilities are associated with being a forensic
20 investigator?

21 A I locate, photograph and collect evidence on crime
22 scenes.

23 Q Do you occasionally process crime scenes?

24 A Yes.

25 Q How long have you been in law enforcement?

1 A Going on 11 years.

2 Q How many in forensics?

3 A Going on six years.

4 Q Did you respond to a call on December 11, 2013?

5 A I did.

6 Q And were you in forensics at that time?

7 A I was.

8 Q And has that call led you to be in court today?

9 A It has.

10 Q What was the nature of that call?

11 A It was a shooting investigation.

12 Q And where did you respond?

13 A Williamson Road -- Williamson Drive in Belton,
14 which is in Anderson County.

15 Q Okay. What did you do when you arrived on scene?

16 A When I first arrived on scene, I met with Sergeant
17 Bowland, Investigators Garrett, Hill and Simpson. They
18 debriefed me, pretty much gave me what they had
19 gathered information-wise about the incident.

20 Q And why did they debrief you as a forensic
21 investigator?

22 A Well, I have to know what happened generally so I
23 know what I'm looking for in regards to evidence.

24 Q For the collection?

25 A Yes.

1 Q Okay. What did you do after they debriefed you?

2 A I got with Sergeant Bowland and took possession of
3 a Smith & Wesson .41 caliber Magnum revolver.

4 Q What did you do once you were in possession of
5 that revolver?

6 A I cleared the weapon.

7 Q And what do you mean by "cleared the weapon"?

8 A Well, I open up the cylinder and make it safe,
9 took the rounds out of it.

10 Q There were rounds in the cylinder?

11 A There were six live rounds in the cylinder.

12 Q How many rounds does this revolver carry?

13 A It holds six.

14 Q So it was fully loaded?

15 A It was fully loaded, correct.

16 Q Okay. Did you fill out an evidence sheet for the
17 revolver or did Sergeant --

18 A Sergeant Bowland did.

19 Q For what purpose?

20 A To keep the chain of evidence intact, chain of
21 custody.

22 Q Investigator Pridemore, I'm showing you what's
23 been marked as State's Exhibit 24 and 25. Without
24 showing this to the jury, are you familiar with what's
25 contained herein?

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1 A Yes.

2 Q And what are we looking at?

3 A We're looking at the revolver that I collected
4 from Sergeant Bowland that night along with the six
5 live rounds.

6 Q Are you certain?

7 A Yes.

8 Q How are you certain?

9 A Well, because that's my writing. The serial
10 number, all of it matches up.

11 Q The serial number on what?

12 A On the weapon.

13 Q And your writing is on what?

14 A It's on the packaging.

15 Q For?

16 A The sealed up rounds, live rounds.

17 Q Okay. All right. Investigator Pridemore, I'm
18 going to show you what's been marked as State's
19 Exhibits 26 through 31.

20 Would you flip through those real quickly and tell
21 me if you're familiar with what's represented in those
22 exhibits.

23 A Yes. This is the revolver that I collected that
24 night.

25 Q Okay. Photographs of the revolver?

1 A Yes.

2 Q Okay.

3 A These are photographs of the revolver that I
4 collected that night.

5 Q Okay. And it is an accurate depiction of what the
6 revolver looked like when you collected it?

7 A Yes.

8 Q And also does it depict the six live rounds?

9 A Yes, it does.

10 Q Is the depiction of the gun while they were still
11 in the chamber?

12 A Yes.

13 Q So you documented that before you unloaded it for
14 safety reasons?

15 A Yes.

16 Q Okay. And did you make note of the serial number
17 and model number for the revolver?

18 A I did.

19 Q Okay. And what are those?

20 A It's AYU1199 and the model number is 57-1.

21 Q Are those unique to the weapon?

22 A Yes, they are.

23 Q So are those represented in the photographs?

24 A They are.

25 Q And when I showed you State's Exhibit 24, was that

1 the same serial number?

2 A Yes.

3 MS. PRICE: Your Honor, at this time the State
4 would move to admit State's Exhibits 26 through 31 into
5 evidence.

6 MS. WHITE: No objection.

7 THE COURT: State's Exhibits 26 through 31 will be
8 admitted without objection.

9 (WHEREUPON, State's Exhibit Numbers 26 through 31
10 were admitted into evidence.)

11 MS. PRICE: I request permission to publish to the
12 jury.

13 THE COURT: Yes, ma'am.

14 BY MS. PRICE:

15 Q Can you tell me, Investigator Pridemore, what this
16 photograph depicts?

17 A Okay. This is the cylinder from a revolver. I
18 don't know how many of you are familiar with a
19 revolver, okay, the Old West style of guns. You pull
20 it out, okay, and inside of it you will see the serial
21 number of the weapon, which is kind of hard to see in
22 that picture. And underneath it you see the 57-1.
23 That's the model number. So the serial number and the
24 model number will be inside that.

25 Q Is this an additional photograph?

1 A Yeah. This one is a little better. You might be
2 able to see it better in this one. It's the same.
3 It's the same shot. It's just closer up.

4 Q And would you go through these with the jury,
5 please.

6 A Okay. This is just a look through.

7 Q What number is that, Investigator Pridemore?

8 A This one is --

9 Q 30?

10 A Exhibit 30. Okay. And it shows the cylinder with
11 the live rounds. Notice none of the primers have been
12 struck. All of the rounds in the cylinder are live.

13 31 is just a blown up version where you can
14 actually see that none of the primers on these
15 cartridges have been struck or fired, and that there
16 are six -- six live rounds in the cylinder of the same
17 gun.

18 A This is 26, which is basically just a shot of the
19 handgun itself. And this is 27, which is just another
20 shot of the same gun.

21 Q Thank you, Investigator Pridemore. And did you
22 document the crime scene that evening?

23 A Yes. Yes. I took digital photographs of the
24 scene, the vehicles. It was dark. I took the
25 photographs the best I could, and Mr. Powell was not on

1 scene. He had already been transported.

2 Q Okay. So you documented it to the extent that you
3 could with the limitations you had in place that
4 evening?

5 A Right. Correct.

6 Q Okay. I'm showing you what's been marked as
7 State's Exhibits 32 through 39. What are we looking
8 at?

9 A These are the photographs that I took of the crime
10 scene on Williamson Drive.

11 Q Okay. And are they true and accurate
12 representations of the scene as it occurred that
13 evening?

14 A Yes, ma'am.

15 Q Okay. I'm also going to show you what's been
16 previously admitted as State's Exhibits 14 through 21.
17 And what are those, sir?

18 A More of my photographs from the crime scene.

19 Q Okay. And can you tell me -- step down again, if
20 you will, as we go through these very briefly with the
21 jury.

22 MS. WHITE: Your Honor, may I get where I can see
23 what they're doing?

24 THE COURT: Yes, ma'am.

25 MS. WHITE: Thank you.

1 BY MS. PRICE:

2 Q If you will, briefly go through each exhibit and
3 explain what you're documenting in that photograph,
4 please.

5 A On number 21, on Exhibit 21, what I was
6 documenting was the fact that the -- the side mirror on
7 the GMC, which is Mr. Powell's vehicle, has been
8 busted. And if you will look down here by the tire,
9 you will also see parts of what looks like a taillight.

10 This is Exhibit 20, which basically is focusing
11 more on the road around the tire. You will see the
12 busted plastic pieces. Exhibit 19, pay particular
13 attention to the front corner up here of the GMC, which
14 is Mr. Powell's vehicle.

15 18, we're looking at the same thing, just a little
16 more straight-on of the damage. 17, this is kind of
17 between the vehicles. This is at the mailbox. And you
18 will see pieces of plastic. This is Exhibit 16. This
19 is a shot of the driveway area. This is 15. This is
20 pretty much just a close-up. This is where EMS was
21 working on Mr. Powell in the driveway area.

22 And this is 14, and this shot is where I am
23 standing where I just showed you the last photograph.
24 I'm standing at that point looking out at the road at
25 the vehicles.

1 Q Okay. Let's go through the additional exhibits
2 now as well, Investigator.

3 A This is Exhibit 32. This is Mr. Arflin's vehicle.
4 If you will pay attention to the passenger side mirror,
5 it's got damage to it, and it's pushed back towards the
6 glass. Anybody that's bumped a tree knows that if you
7 hit something going forward, it slaps back.

8 Exhibit 33, just a close-up of the side mirror.
9 This is Exhibit 34, which was focusing in on the
10 passenger rear of Mr. Arflin's vehicle. You can see
11 damage to that. This is Exhibit 35, which is just a
12 closer view of the damage to the back of Mr. Arflin's
13 truck. Exhibit 36 is a close-up of more of a side
14 angle of the same damage spot on Mr. Arflin's vehicle.

15 This is Exhibit 37. What we're looking at in this
16 picture is the back of Mr. Powell's vehicle, the
17 driver's side rear. It's hard to see. I'm going to
18 try to get as close as I can, but that's a bullet hole
19 right above the tire right here. And it goes all the
20 way through and strikes the back of the cab. Y'all can
21 see it right in here.

22 Exhibit 38, this is just a side shot so that you
23 can see the first strike that's above the tire on
24 Mr. Powell's vehicle. Exhibit 39, from the driver's
25 rear tire, I just took a photograph back towards the

1 driveway.

2 Q Thank you, Investigator. Are these true and
3 accurate depictions of the scene as it occurred that
4 evening?

5 A They are.

6 MS. PRICE: Your Honor, at this time the State
7 would seek to admit Exhibits 32 through 39.

8 THE COURT: Ms. White, any objection?

9 MS. WHITE: Are those the ones we just saw?

10 MS. PRICE: Yes.

11 MS. WHITE: No objection.

12 THE COURT: State's Exhibits 32 through 39 will be
13 admitted without objection.

14 (WHEREUPON, State's Exhibit Numbers 32 through 39
15 were admitted into evidence.)

16 BY MS. PRICE:

17 Q Did you collect anything else from the scene,
18 anything physical?

19 A I did. I collected pieces of the plastic from
20 both vehicles. I also collected a Nokia cell phone. I
21 believe it belonged to Mr. Arflin. It was given to me
22 by Investigator Garrett. I did get that with an
23 evidence sheet.

24 Q Okay. And where did you proceed -- well, was that
25 the totality of what you did at the scene?

1 A Well, I also looked around the roadway, make sure
2 there was no evidence that I missed. I also marked
3 with a nail, I put a nail beside the driver front tire
4 on each vehicle in case we had to go back out and get
5 any kind of measurements.

6 Q Okay. And was that the totality of your
7 involvement at the scene?

8 A Yes.

9 Q Okay. Where did you proceed next?

10 A From that point, I went to the Anderson County
11 Sheriff's Office armory to store the two vehicles
12 pending search warrants.

13 Q And what is the armory?

14 A It's just a secure building with bays. Half of it
15 belongs to fleet services that does our maintenance on
16 our patrol vehicles. The other half is secured with
17 locked doors, and we keep our vehicles in there or
18 stuff that we need to do processing on for search
19 warrants and such.

20 Q Is there a limited number of people that have
21 access to it?

22 A Yes. Yes. Only forensic personnel can access
23 where the vehicles are stored.

24 Q So it can't be tampered with once it's there?

25 A No.

1 Q And how did the vehicles get to the armory?

2 A Well, they're escorted. The -- Mr. Arflin's
3 pickup was escorted by Investigator Hill. And
4 Mr. Powell's GMC was escorted by Deputy Cowan.

5 Q And you met them at the armory?

6 A Yes.

7 Q You had to unlock it?

8 A Yes.

9 Q Did anything notable happen once you got to the
10 armory?

11 A While the tow company was putting Mr. Powell's
12 vehicle in the bay, the vehicle -- the tow truck
13 actually rolled forward, and Mr. Powell's truck rolled
14 off and slammed down, the front of the vehicle slammed
15 onto the concrete.

16 Q Was there damage to the vehicle?

17 A There was damage underneath the front bumper in
18 the tag area, the trim and the plastic.

19 Q So those photographs show the damage as it was
20 after the incident at issue, correct?

21 A Yes.

22 Q Anything afterwards, after it was towed, has been
23 altered; is that correct?

24 A Right.

25 Q Okay. And did you secure those vehicles after you

1 dealt with that situation?

2 A Yes.

3 Q Did you secure the vehicles at the armory?

4 A Yes. They were locked up in the armory, like I
5 said, pending search warrants the next day.

6 Q And where did you proceed next from?

7 A That point, I went to the sheriff's office.

8 Q Okay. Did you meet anybody there?

9 A On arrival at the sheriff's office, I met with
10 Investigator Simpson, Investigator Garrett and Hill.
11 Also investigator Dugan.

12 Q Okay. And what did you do once you were at the
13 sheriff's office?

14 A Assisted Investigator Dugan. He was collecting
15 GSR from Mr. Arflin as well as a buccal swab. I did
16 photograph Mr. Arflin. It was inside the holding cell.

17 Q Did you observe any physical injury to Mr. Arflin?

18 A No, I did not.

19 Q If you had, would you have documented it?

20 A Yes.

21 Q In your photographs?

22 A Yes.

23 Q You said you took the photographs where?

24 A It was inside the holding cell at the sheriff's
25 office.

1 Q What cell would that be?

2 A Cell one. It's the very first cell when you go
3 into the bay.

4 Q Can you describe it for me?

5 A Roughly an eight-by-ten.

6 Q Okay.

7 A Has a bunk in the very back, toilet/sink on the
8 other end of it.

9 Q Working toilet and sink,

10 A I would say.

11 Q Okay. But it has a toilet and a sink?

12 A Yes.

13 Q Okay. All right. I'm showing you what's been
14 marked State's Exhibit 40 through 47. Are you familiar
15 with what is depicted in those photographs?

16 A I am.

17 Q And what is that?

18 A This is my photographs of Mr. Arflin in the
19 holding cell.

20 Q And, once again, I'm sorry. Do you believe that
21 they are true and accurate representations of
22 Mr. Arflin as he appeared that night?

23 A Yes.

24 Q Okay. Have they been altered in any way?

25 A No.

1 MS. PRICE: Your Honor, at this time the State
2 would move to admit State's Exhibits 40 through 47 into
3 evidence.

4 MS. WHITE: No objection.

5 THE COURT: 40?

6 MS. PRICE: 40 to 47, yes, sir.

7 THE COURT: State's Exhibits 40 through 47 will be
8 admitted without objection.

9 (WHEREUPON, State's Exhibit Numbers 40 through 47
10 were admitted into evidence.)

11 BY MS. PRICE:

12 Q Investigator Pridemore, would you just again step
13 down and go through these with the jury.

14 A This is Exhibit 40. This is just a picture,
15 close-up front shot of Mr. Arflin in the holding cell.
16 Exhibit 41 is another front shot, paying attention to
17 the arms and the back of the hands for any kind of
18 marks, injuries.

19 Q And did you see any marks or injuries on his
20 hands?

21 A No.

22 Q No scrapes?

23 A No. And here is a close-up, it's Exhibit 42, of
24 his hands, hands only, the back of the hands. No
25 marks. This is Exhibit 43. It's another frontal, but

1 his arms are turned in so you see the underside of his
2 arms and hands.

3 This is Exhibit 44, just a close-up of the same
4 shot. Exhibit 45, it's a right-side profile of
5 Mr. Arflin. Exhibit 46. This is just the back, a view
6 from the back. And Exhibit 47, which is the left side.

7 Q Thank you, Investigator. You may take the stand.

8 Did you observe any physical injury to his face
9 that evening?

10 A I did not.

11 Q If you had, would you have documented it?

12 A Yes.

13 Q Is that part of your job as the forensic
14 investigator?

15 A Yes.

16 Q Do you see the man you photographed that night in
17 the courtroom today?

18 A I do.

19 Q Can you please point him out and state what he's
20 wearing for the record.

21 A Mr. Arflin is sitting in the middle of the table.
22 He is wearing a red shirt and black jacket.

23 Q Do you note any differences in his appearance
24 today than you did that night?

25 A He's clean shaven and his hair is cut.

1 Q And what did you do after taking photographs of
2 Mr. Arflin?

3 A At that point I couldn't get his clothes because
4 we were waiting on a jumpsuit to come from the jail, so
5 I took the evidence that we had collected over and put
6 it in the secure intake area at the office.

7 Q What secure intake area?

8 A It's an area in evidence that can only be accessed
9 by a forensic investigator or an evidence tech.

10 Q And what is evidence? What is property in
11 evidence at the sheriff's office?

12 A Well, it's either -- evidence is something of a
13 crime, stuff that we store from crimes, or property,
14 property being someone's property, recovered property,
15 whatever. It's just a secure area where we keep all of
16 our stuff.

17 Q Okay. Limited access to that location?

18 A Yes.

19 Q Much like we discussed with the armory?

20 A Right. Right.

21 Q Do you keep a log of people who come in and out?

22 A Yes. There are only outer doors.

23 Q Okay. And is the evidence maintained for each
24 case?

25 A Yes.

1 Q Given bar codes?

2 A Yes.

3 Q And so once you stored the items that you had
4 retrieved to that point, where did you respond?

5 A I proceeded back to the sheriff's office, which is
6 just the next building over, in regards to getting
7 Mr. Arflin's clothing.

8 Q And who did you meet?

9 A I met with Don McCown, deputy coroner Don McCown
10 and Investigator Simpson.

11 Q And what did you do once you got to the sheriff's
12 office?

13 A At that point, I collected from the coroner, Don
14 McCown, two blood samples that he had gotten from
15 Mr. Arflin, and I collected Mr. Arflin's clothing.

16 Q What items of clothing did you collect from
17 Mr. Arflin?

18 A I collected from Mr. Arflin a pair of black
19 Velcro-top shoes, size 12. I collected a short-sleeved
20 striped shirt, green in color, size 2XL. I collected a
21 green pair of jogging pants, size large, and a green
22 ball cap. And his personal effects in his pants at
23 that time were a red tape measure, a small black
24 container with a single pill in it, some lip balm and a
25 blue credit card case.

1 Q And what did you do with all those items?

2 A All of those items were taken over and placed into
3 evidence.

4 Q Okay. When you collected his clothing, do you
5 recall seeing any debris on the clothing?

6 A No.

7 Q Dirt?

8 A No.

9 Q Leaves?

10 A Nothing.

11 Q Grass? Nothing?

12 A Nothing.

13 Q And so you took the clothing and the blood samples
14 and put them where?

15 A The clothing was put into evidence, and the
16 samples were put in the evidence refrigerator so they
17 don't go bad.

18 Q What did you do with the photographs from that
19 night?

20 A They're put in the evidence photo computer.

21 Q So also secure?

22 A Yes.

23 Q Aside from testifying today, did you have any
24 further involvement in this case after that?

25 A No.

1 Q One moment.

2 Thank you, Investigator. Please answer any
3 questions that Ms. White has for you at this time.

4 THE COURT: Ms. White.

5 MS. WHITE: Yes, sir.

6 CROSS-EXAMINATION

7 BY MS. WHITE:

8 Q You said that you took photographs of Mr. Arflin;
9 is that correct, that night?

10 A Yes, ma'am.

11 Q And did you examine his body or did you just take
12 photos?

13 A No. We looked at the extremities, but that's
14 about it. As far as like lifting up the shirt and
15 everything, I didn't go into detail as far as looking
16 underneath his shirt or pants.

17 Q Didn't comb through any hair, no beards, nothing
18 like that?

19 A No.

20 Q Did you play sports growing up?

21 A I did.

22 Q And did you ever not realize you were injured, and
23 then the next day you realized you were injured,
24 something came up?

25 A Oh, sure. Absolutely.

1 Q And injuries aren't always apparent right when
2 they occur, are they?

3 A Exactly.

4 Q In fact, that's pretty common; is that right?

5 A Right.

6 Q Especially when you got adrenaline going like with
7 sports or some traumatic incident?

8 A That's true.

9 Q All right. Now, you said that you didn't see any
10 injuries; is that correct?

11 A Correct.

12 Q Did you see any abnormalities on him?

13 A Abnormalities?

14 Q Yes, sir, any kind of abnormalities?

15 A As in -- I didn't see anything out of the normal
16 for a gentleman of his age.

17 Q Are you aware -- again, looking at your pictures,
18 let's just pick one or two. Do you know why this is
19 poking out of his stomach here? Did you ever examine
20 that? Did you ever look at him to see what that was?

21 A No. No, I did not.

22 Q Did you ever ask him why that was that way?

23 A Why his stomach was bulging?

24 Q Yes, sir, why that was poking out of that area.

25 A No.

1 MS. WHITE: Your Honor, I'm going to ask that my
2 client stand up.

3 MS. PRICE: Your Honor, I'm going to object
4 because if she's asking him about his appearance that
5 night, I've already asked him if he sees any
6 differences.

7 MS. WHITE: Your Honor, the law certainly
8 permits --

9 THE COURT: It's in response to your direct
10 examination. I'm going to allow the question.
11 Overruled.

12 MS. WHITE: If you will please stand up,
13 Mr. Arflin, and unbutton your jacket and pull up your
14 shirt, and if you will face the jury.

15 Sir, what is that?

16 THE DEFENDANT: It's a hernia.

17 BY MS. WHITE:

18 Q So, sir, you're telling this jury that you
19 examined him for injuries after this and were
20 documenting whether or not he had an injury, and you
21 didn't notice that?

22 MS. WHITE: Please sit.

23 THE WITNESS: No.

24 BY MS. WHITE:

25 Q Now, you said that a pill was recovered from

1 Mr. Arflin; is that correct?

2 A It was a pill inside of a container that was in
3 his clothing, yes.

4 Q And are you aware that that pill was tested and
5 it's blood thinner. Are you aware of that?

6 A No.

7 Q Are you aware that blood thinner, if you get hit
8 or get any kind of injury, you can bleed to death?

9 MS. PRICE: I'm going to object, your Honor.
10 That's medical testimony.

11 THE COURT: I'll sustain the objection. Limit
12 your questions to the witness' knowledge.

13 BY MS. WHITE:

14 Q So, let's back up to that night. So you went to
15 Mr. Arflin and you requested him to allow you to swab
16 his hands for gunshot residue; is that correct?

17 A I did not. Investigator Dugan did.

18 Q And you were there?

19 A Yes.

20 Q All right. And he agreed?

21 A Yes.

22 Q And what you're looking at on the hands is you're
23 looking at whether there's lead, antimony and barium,
24 which are some of the components of gunshot; is that
25 correct?

1 A Yes.

2 Q So if I fire a gun, then I may have these elements
3 on my hands?

4 A Correct.

5 Q Now, you also asked Mr. Arflin if he would give a
6 buccal swab; is that correct?

7 A I did not.

8 Q Again, I'm sorry. Let me rephrase. I'm not
9 meaning to mislead you at all.

10 Were you there and were you part of the consent?

11 Were you there?

12 A Yes.

13 Q And, again, Mr. Arflin agreed to give you a buccal
14 swab, which is simply a swab of the mouth, so you can
15 do DNA or whatever tests you need to do on it?

16 A Correct.

17 Q All right. And the coroner requested that
18 Mr. Arflin give blood, and he agreed to give blood. In
19 fact, y'all got it; is that correct?

20 A Correct.

21 Q And you all requested Mr. Arflin to allow you to
22 take pictures, and you agreed to that -- and he agreed
23 to that as well; is that right?

24 A Yes. Yes.

25 Q Now, did you also take pictures of his shoes?

1 A I did.

2 Q I'm sorry, sir?

3 A I did.

4 Q Okay. I'm handing you Defendant's Exhibit 2 for
5 identification. Will you please look at that and see
6 if that's a picture you took.

7 A Absolutely, it is.

8 Q And is that a fair and accurate presentation of
9 what you saw that night when you took his shoes?

10 A Yes.

11 Q Are you a --

12 MS. WHITE: Your Honor, I'd ask that Defense
13 Exhibit 2 be admitted.

14 THE COURT: Any objection?

15 MS. PRICE: Without objection.

16 THE COURT: Okay. Defendant's Exhibit 2 will be
17 admitted without objection.

18 (WHEREUPON, Defendant's Exhibit Number 2 was
19 admitted into evidence.)

20 BY MS. WHITE:

21 Q Sir, are you aware of what these blue things are
22 in his shoes?

23 A No, ma'am. I have no idea.

24 Q Are you aware they help him stabilize because of
25 his neuropathy?

1 A No, ma'am, I do not.

2 Q Now, you said that you -- let's kind of go through
3 the items that you took. You're aware that if someone
4 is shot lying on the ground, that the bullet would be
5 underneath them; is that correct?

6 A If it come out of him, yes.

7 Q Okay. And if it did exit, if there is an exit
8 wound, then, of course, your normal course is you all
9 take pictures as you cut through the ground, and you
10 can see the column go all the way down until you find
11 the bullet --

12 MS. PRICE: Your Honor, I'm going to object again.
13 He's not a directionality expert. He's not -- he can't
14 deal with directionality --

15 MS. WHITE: He's a crime scene expert.

16 THE COURT: Overruled.

17 MS. PRICE: I didn't declare him an expert.

18 THE COURT: Ladies, overruled.

19 Proceed.

20 BY MS. WHITE:

21 Q And when you're processing a scene where you
22 suspect that has occurred, of course you dig through
23 the ground and you recover the bullet; is that correct?

24 A Yes.

25 Q And you photograph it as you go?

1 A Yes.

2 Q You would agree that if you have people buzzing in
3 and out of a house and you're scared that it might be
4 reasonable to reload a gun and wait for the police just
5 in case you needed it because if you fired two, you
6 only have four left; is that right, in this gun?

7 A Yes. You have six rounds. If you fire two, there
8 would be four left.

9 Q And you would agree that if this gun was loaded
10 when you got it, let's suppose two shots had been
11 fired, then it had to be reloaded before law
12 enforcement got there; is that right?

13 A Correct.

14 Q And you would want to keep this gun, and when law
15 enforcement came up, you would want to put it on the
16 hood so that you don't get shot?

17 A Well, I would make sure they knew where the weapon
18 was when they pulled up, yeah, absolutely.

19 Q You showed a picture of the parking area when you
20 got there that night. Was that a fair and accurate
21 portrayal of the parking area at the scene, the
22 picture -- do you want me to refresh your memory?

23 A You mean the driveway?

24 Q Yes.

25 A Yes, that's the exact way the driveway looked when

1 I got on scene.

2 Q Now, would you agree that -- did you know that my
3 client is basically on disability now but was a
4 mechanic, and his wife works at Nutro, they're working
5 people, working class?

6 A No. I know nothing about them.

7 Q Are you aware that my client was originally
8 charged and arrested --

9 MS. PRICE: Objection, your Honor.

10 THE COURT: Okay. Mr. Bailiff, if you can have
11 our jury go out for a minute.

12 (WHEREUPON, the jury exited open court at
13 2:31 p.m.)

14 THE COURT: Ms. Price, state your objection.

15 MS. PRICE: Yes, sir. I believe that she's about
16 to discuss charges that are not before this jury.
17 There is evidence before this jury, but other charges
18 that have not been brought before this jury with a
19 forensic investigator. Number one, she's been
20 testifying for the past five minutes which I object to
21 across the board. But secondarily, your Honor, the
22 charge that I think that she's about to bring up is a
23 malicious injury to personal property which is not
24 before this jury. And it doesn't have to be before
25 this jury. It is my discretion as the prosecutor

1 whether to go forward on that charge or not. And she's
2 already gotten into discovery between the parties. You
3 know, she's one step away from getting into plea
4 negotiations, and I have got a major problem with that
5 because under the rules of South Carolina evidence,
6 it's objectionable. It's prejudicial.

7 MS. WHITE: Your Honor, I'm not about to get into
8 plea negotiations. However, I don't know -- I never
9 heard a grounds. Why on earth could I not ask him if,
10 in fact, that night he had been arrested for malicious
11 injury to personal property --

12 MS. PRICE: It's misleading. How about it's
13 misleading to the jury.

14 THE COURT: Let her finish her argument before you
15 respond. I will give you ample opportunity to respond,
16 but I am getting tired of people talking at the same
17 time.

18 MS. PRICE: Yes, sir.

19 THE COURT: All right.

20 Ms. White, finish your response.

21 MS. WHITE: Yes, sir. Your Honor, I'm aware of no
22 rule that prohibits me from asking if he was charged
23 that night with malicious injury to personal property
24 and if the State has decided not to proceed today with
25 it. I don't know what the objection would be. This is

1 my client I'm bringing up.

2 And, your Honor, the second thing is I'm not
3 testifying. I'm on cross-examination. The rules
4 permit me to ask direct questions. Not that that's
5 before you right now, but regardless.

6 THE COURT: So you're seeking just to ask if he's
7 aware that the defendant was charged with malicious
8 injury to personal property?

9 MS. WHITE: Yes, sir, was arrested that night.

10 THE COURT: And that case has not been brought?

11 MS. PRICE: No, sir.

12 THE COURT: And there's no disposition to that
13 case at this time?

14 MS. PRICE: No, sir.

15 THE COURT: Okay. I'm going to overrule the
16 objection. I'm going to allow that question.

17 Anything further before I bring the jury back in?

18 MS. PRICE: Yes, sir, your Honor. With regard to
19 her testifying and, again, since I'm not interrupting
20 at this point in time, Ms. White has gone through this
21 stuff and said, you know, "Do you fish? Well, have you
22 ever heard of a big fish story?" Things like that are
23 outright objectionable testifying. So if she could
24 just play by her own rules that she's just laid out,
25 that would keep me from having to object so often.

1 THE COURT: Well, Ms. Price, whenever you feel the
2 need to object, just like Ms. White, when either one of
3 you feel the need to object, that's something that I'm
4 here for.

5 MS. PRICE: Yes, sir.

6 THE COURT: Something that -- I will deal with
7 those as they arise. And let me make everyone rest
8 assured that the rules of evidence are going to be
9 followed in this case. But as objections arise, we
10 will deal with them.

11 MS. PRICE: Yes, sir.

12 THE COURT: Okay. Let's get our jury back in and
13 we will proceed.

14 (WHEREUPON, the jury entered open court at
15 2:37 p.m.)

16 THE COURT: Ms. White.

17 MS. WHITE: Thank you, your Honor.

18 Q Now, Bobby was arrested that night for malicious
19 injury to personal property for the wreck; is that
20 correct, a crime that requires intent?

21 A I do not know what he was arrested for that night.

22 Q Are you aware we're not going forward on those in
23 this trial?

24 A I'm sorry. Could you repeat the question?

25 Q Are you aware that the State has not gone forward

1 with that charge in this trial?

2 A No, ma'am. I did not even know about that charge.

3 Q Now, there's no question that before you arrived
4 to take these pictures, the witnesses say that Bobby
5 pulled his vehicle up, so this isn't the way it was
6 during the shooting; is that correct, from your
7 understanding of your briefing?

8 A No.

9 Q You don't know, or I'm sorry?

10 A I don't know.

11 Q You don't know. Would you agree that if a person
12 wants to intentionally damage another vehicle out of
13 rage or whatever, that the thing you would probably do
14 is slam into it, front, back, whatever, full on?

15 A Once again, I don't know. I've never -- I've
16 never slammed into anybody's vehicle intentionally.

17 Q Well, do you think that if you intentionally did
18 that, you would then pick up the phone and call law
19 enforcement to come immediately?

20 A I wouldn't do that if I hit somebody's vehicle.

21 Q All right. The injuries or damages, I should say,
22 that you saw on these vehicles would be consistent
23 with, say, someone parallel parking and kind of
24 misjudging; is that correct?

25 A My opinion, which is just my opinion, would be

1 doing a lot more than parallel parking to cause that
2 kind of damage to both vehicles. There would have to
3 be some speed in that.

4 Q Are you at all a reconstructionist?

5 A No.

6 Q All right. And did you call the MAIT team out
7 that night?

8 A No, I did not.

9 Q And MAIT is a special team that you can call that
10 will come out for law enforcement that does a complete
11 accident reconstruction; is that correct?

12 A Yes.

13 Q They measure the roads, they look at the vehicles,
14 they document everything, and then they reconstruct.
15 But to your knowledge, MAIT was not called that night,
16 was it?

17 A Not that night, I do not believe so.

18 Q Now, you talked about -- you talked about the
19 gunshot in the vehicle. And this is Jody's vehicle; is
20 that correct?

21 A Yes.

22 Q And you said that it went in and then it kind of
23 went straight across and kind of went into the cab; is
24 that right, kind of in the back of the driver's side?

25 A Right. It's kind of angled. Angled. If this

1 is --

2 Q Look at my picture and tell me if I'm doing it
3 right.

4 A Well, you're laying your arm straight across it.
5 I'm sorry.

6 Q You do that. It might be better if you do it.

7 A Yeah. Kind of like going corner to corner of the
8 vehicle.

9 Q Here?

10 A (Indicating). Kind of like that right there, but
11 once again, my fingers are blocking it. If we had it
12 up on the screen. May I?

13 MS. PRICE: No, sir. Objection. I'm sorry, you
14 can't write on a State's exhibit.

15 MS. WHITE: He's not.

16 THE COURT: State your objection, Ms. Price.

17 MS. PRICE: I'm sorry. I thought he had the
18 exhibit and he was going to draw on it. I can't see
19 over the bench.

20 THE COURT: Do not address the witness while the
21 witness is being questioned by the other attorney.

22 MS. PRICE: Yes, sir.

23 THE COURT: Don't draw on the exhibit.

24 BY MS. WHITE:

25 Q Your Honor, in his defense, he was looking at a

1 plain pad of paper.

2 (Witness drawing on a piece of paper.)

3 A Now, this roughly is going to be looking down at
4 the top of it.

5 Q And if you will just lay -- just draw a dotted
6 line. How about that?

7 A (Witness complies.)

8 Now, obviously it's not to scale.

9 Q I understand. So that's the angle; is that
10 correct?

11 A Roughly.

12 Q And it's pretty much a level shot; is that right?

13 A Yes.

14 Q Okay. It's not angled way up, not angled down,
15 pretty much level?

16 A (Nodding.)

17 Q Now, sir, if you heard that one of the shots went
18 through Jody from approximately here and out here
19 (indicating), and then another one went in here
20 (indicating) and came out about three inches lower in
21 the back, let's assume that that's true. But this shot
22 wasn't way up and it wasn't down, was it? It was
23 pretty even?

24 A Yes. Basically, yes.

25 Q So you would get a downward -- if your position

1 was like this (indicating) when you were shot in this
2 arm, then that would give it a downward angle, wouldn't
3 it, but it would be an even shot. My body would make
4 it a downward shot, but, in fact, the shot itself would
5 be even, would it not?

6 A Well, once again, I'm not a specialist on this,
7 but a lot of it depends on the path that the bullet
8 goes through the body.

9 Q You would agree that Bobby's vehicle had a camper
10 back on it; is that right? Here. This isn't a test.

11 A You're correct. It had a little shell on it.

12 Q If you need to look at pictures, that's why you
13 take pictures.

14 A You still got this one.

15 Q Okay. And it had a camper back, and the mirror
16 that you would look at if you were backing up, one of
17 the side mirrors was damaged and was knocked in so it
18 was not functioning anymore; is that correct?

19 A That's correct.

20 Q Now, you said that you took the clothing of Bobby
21 and Jody; is that correct?

22 A No. No, ma'am.

23 Q Which individual did you take the clothing?

24 A Mr. Arflin.

25 Q And clothing is collected from a gunshot victim

1 and from the suspected shooter in pretty much all
2 homicide cases; is that right?

3 A Right.

4 Q And there's some reasons for that; is that right?

5 A Yes.

6 Q For instance, blood spatter tests can be conducted
7 on clothing. That's one reason why you take it; is
8 that correct?

9 A Yes.

10 Q You can verify if a person's standing, bending,
11 running, whatever, perhaps through some of the blood
12 spatter evidence?

13 A Yes.

14 Q Do you know why the State did no blood spatter
15 evidence tests in this case?

16 A I don't.

17 Q Also, you can do tests called distance
18 determination tests; is that correct?

19 A (Nodding.)

20 Q You've got my pen. Let me get my pen back.

21 When a shot is fired, out the end of the weapon
22 comes the projectile as well as barium, antimony and
23 lead, the cloud that is invisible but comes out with
24 the round; is that correct?

25 A Yes.

1 Q So a lab can actually take the alleged victim's
2 clothes, look around the gunshot and look at the
3 pattern, take a plain cloth and shoot it at different
4 things and be able to tell how far the end of the
5 weapon was from the clothing by matching this pattern
6 to that pattern; is that correct?

7 A If there is any on there, yes.

8 Q And if there isn't, then that tells you something,
9 too, about distance, doesn't it?

10 A Far off.

11 Q Are you aware the State ran no distance tests in
12 this case? Are you aware of that?

13 A No.

14 Q Are you aware of Mr. Arflin's extensive health
15 issues?

16 A No, ma'am, I'm not.

17 Q Did you have anything to do with the phone records
18 showing when phone calls were made?

19 A No, ma'am, I was not.

20 Q Are you aware that MAIT was called this year to
21 this scene?

22 A Yes.

23 Q And are you aware that the actual vehicles that
24 were involved in this were not towed back to the scene
25 to put in the scene to figure out how everything fit?

1 A I'm not aware of that.

2 Q Now, a knife was found in this vehicle; is that
3 correct?

4 A I have no idea about that. I know nothing of a
5 knife.

6 Q Are you aware that toxicology was run on Bobby's
7 blood and he was clean -- no drugs, no alcohol, none of
8 that when this occurred?

9 A No.

10 Q Are you aware of something called touch DNA?

11 A Yes.

12 Q Will you please tell the jury what is touch DNA.

13 A Touch DNA is anything from skin cells, can be
14 anything from fabric, anything that you leave behind
15 when you touch something. If I touch this, I can leave
16 it on there, so.

17 Q And, certainly, if I punch something, then if the
18 State swabs it, they may be able to get a transfer of
19 skin cells; is that correct?

20 A Correct.

21 Q Do you know if any touch DNA was done in this
22 case?

23 A No, I do not.

24 Q Did you ever have possession of Jody's phone?

25 A No, ma'am.

1 Q Do you know who ended up finding that phone or
2 getting it and who might have been using it that night?
3 You don't know -- what I'm asking is: Do you know
4 anything about the phone?

5 A No, I don't.

6 Q Just one minute, please.

7 Sir, I believe you had testified earlier, if I'm
8 not mistaken -- I may have misunderstood this, but I
9 think you said that you got Bobby's phone, Bobby
10 Arflin's phone, from Mr. Garrett; is that right?

11 A Investigator Garrett, correct.

12 Q And that's so that tests could be run on it; is
13 that right?

14 A If the lead investigator wishes, then yes.

15 Q And, in fact, all they have to do is they send it
16 to a lab, they get into it and they show what phone
17 calls were made, when they were made and so forth?

18 A I don't do that, so I don't know about that.

19 Q Fair enough.

20 MS. WHITE: No further questions.

21 THE COURT: Ms. Price, any redirect?

22 MS. PRICE: Briefly.

23 REDIRECT EXAMINATION

24 BY MS. PRICE:

25 Q Investigator Pridemore, did you see any evidence

1 of blood on this defendant's clothing?

2 A No. No, I did not.

3 Q Okay. And Defense Exhibit 2, did you see any
4 evidence of dirt or scuffs or anything like he was
5 dragged on the ground or anything of that nature on
6 those shoes?

7 A No. Not at all.

8 MS. PRICE: No further questions.

9 RECROSS-EXAMINATION

10 BY MS. WHITE:

11 Q But, sir, there are different sizes of blood
12 spatter depending on whether it's a knife wound or a
13 gunshot wound; is that correct?

14 A Yes.

15 Q And, in fact, you can have a very fine spray with
16 a gunshot that doesn't show up at all visually. One
17 has to test for it; is that correct?

18 A Correct.

19 Q And Jody's clothing can be tested as well to see
20 how the blood went, those sort of things, by a blood
21 spatter expert; is that correct?

22 A Yes.

23 Q But if no one ever does the test to look to see
24 blood spatter and to see all of this, then we don't
25 know, do we?

1 A No.

2 Q How many resources does the State of South
3 Carolina have --

4 MS. PRICE: Objection, your Honor.

5 MS. WHITE: -- compared to --

6 MS. PRICE: Calls for speculation.

7 THE COURT: You can ask him if he's aware.

8 BY MS. WHITE:

9 Q Are you aware of the State of South Carolina, who
10 brought these charges, having more or less financial
11 resources to be able to pay for these tests than
12 Mr. Arflin, who is on disability from cancer
13 neuropathy, and all these other things?

14 A No, ma'am.

15 MS. WHITE: No further questions.

16 THE COURT: Any response in redirect?

17 MS. PRICE: Nothing from the State.

18 THE COURT: Okay. Thank you, Officer. You can
19 step down.

20 Call your next witness.

21 MS. PRICE: The State calls Investigator Ben Dugan
22 to the stand.

23 **THOMAS DUGAN,**

24 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

25 THE CLERK: Please state and spell your name for

1 the reporter.

2 THE WITNESS: Thomas Dugan, D-u-g-a-n.

3 DIRECT EXAMINATION

4 BY MS. PRICE:

5 Q Investigator Dugan, who do you work for and in
6 what capacity?

7 A Anderson County Sheriff's Office as a forensics
8 investigator.

9 Q Okay. What sort of duties and responsibilities
10 are associated with that position?

11 A We respond and process crime scenes, collect
12 evidence.

13 Q And how long have you been in law enforcement?

14 A 14 years.

15 Q Did you respond to a call on December 11, 2013?

16 A I did.

17 Q Has that led you to be in court today?

18 A It has.

19 Q What was the nature of the call?

20 A It was a shooting investigation.

21 Q And where did you respond, sir?

22 A I responded to the Anderson Area Medical Center,
23 the ER.

24 Q And what did you observe when you arrived there?

25 A The medical staff was attending to the victim,

1 Jody Powell.

2 Q And once you were there and they were attending,
3 at some point were they not attending?

4 A Yes. They pronounced him dead.

5 Q And what did you do at that time?

6 A Mr. Powell was moved to a private room, and I
7 began my investigation by taking digital photographs of
8 the victim.

9 Q Okay. And did you collect anything?

10 A I did. I collected GSR, his clothes and
11 photographs.

12 Q Okay. What items of clothing did you collect from
13 Mr. Powell?

14 A A brown UPS shirt, a black undershirt, brown UPS
15 pants, brown shoes, brown socks, and I believe yellow
16 underwear.

17 Q Anything else?

18 A There was -- inside his pocket was a cell phone,
19 some keys and a little bit of money. I didn't find
20 that until I was putting the evidence away, the clothes
21 at the office.

22 Q Do you recall the sizes of any of that clothing?

23 A The shirt, the black shirt, was a medium. Oh, and
24 I collected a vest also, a camo vest, and it was a
25 large. It was like a brown camo vest jacket and it was

1 a large. The UPS shirt didn't have a size in it. I
2 think it was a Twin Hill brand. And the pants, the
3 bullet hole actually went through the tag.

4 Q Do you remember the size shoes that you collected?

5 A I believe they were size ten.

6 Q Investigator, I'm showing you what's been marked
7 as State's Exhibit 48. If you would, please, open the
8 exhibit, look inside without showing it to the jury
9 first and tell me if you recognize what's inside.

10 A (Witness complies.)

11 I just broke your scissors.

12 MS. WHITE: I'll take the job back, your Honor.

13 BY MS. PRICE:

14 Q Do you recognize that item?

15 A I do.

16 Q And what is it?

17 A It's the UPS shorts that I collected from the
18 victim.

19 Q Do they appear to be in substantially the same
20 condition as when you retrieved them from the emergency
21 room?

22 A Yes.

23 Q Okay. Any differences?

24 A They're dry. They were wet when I collected them.

25 MS. PRICE: Your Honor, at this time the State

1 would move to admit State's Exhibit 48 into evidence.

2 MS. WHITE: Object, your Honor.

3 THE COURT: Okay. Will you take the jury out,
4 please.

5 (WHEREUPON, the jury exited open court at
6 2:58 p.m.)

7 THE COURT: State your objection.

8 MS. WHITE: Yes, sir. Your Honor, my objection is
9 that, number one, they are not in the same condition.
10 They have obviously been put in a bag and folded up
11 which would perhaps skew some of this blood evidence,
12 but, number two, and more importantly, the -- the
13 prejudicial effect of blood on clothing far outweighs
14 any probative value.

15 Now, certainly if they had an expert who was going
16 to stand up, hang up the clothing and say, "Look at
17 this blood spatter here, this is here, this is here,"
18 then certainly that would be something that would
19 demonstrate some point in this case besides he had
20 blood on him. And, therefore, your Honor, I would
21 object under 403. I would object under relevance.
22 There is absolutely no reason to introduce these other
23 than to have the jury say, "Oh, gosh, they're all
24 bloody." And, again, they're not hung up and preserved
25 that way so that everything stays the same.

1 THE COURT: Ms. Price.

2 MS. PRICE: Thank you, your Honor. I'm certainly
3 not introducing it to show the blood evidence, nor will
4 I ask anyone about blood spatter or blood patterns. I
5 do plan to ask the investigator about the bullet hole
6 that is in the shorts.

7 Ms. White has been discussing the directionality,
8 the trajectory, placement of the body throughout the
9 trial up to this point. I think it's extremely
10 probative to show this evidence to the jury.

11 THE COURT: I think the probative value outweighs
12 the prejudicial effect.

13 Ms. White, your arguments go more towards the
14 weight of the evidence than admissibility of it, so I'm
15 going to overrule your objection, allow the State to
16 put in this evidence.

17 MS. PRICE: Thank you, your Honor.

18 THE COURT: If you will bring our jury back.

19 MS. PRICE: Your Honor, may I hand the witness an
20 additional pair of scissors? We have some additional
21 evidence.

22 THE COURT: Yes.

23 (WHEREUPON, the jury entered open court at
24 3:03 p.m.)

25 THE COURT: Ms. Price.

1 MS. PRICE: Thank you, your Honor. At this time,
2 again I move that State's Exhibit 48 be admitted into
3 evidence.

4 THE COURT: So admitted.

5 (WHEREUPON, State's Exhibit Number 48 was admitted
6 into evidence.)

7 BY MS. PRICE:

8 Q Investigator Dugan, would you remove the item from
9 the bag, please, and would you step down and hold those
10 up. Would you step all the way down, please, sir. Do
11 you notice any holes?

12 A Yes. Right here above the left pocket just below
13 the belt there is a hole here and a hole right here.
14 It goes through this side where the tag was.

15 Q Thank you, Investigator. If you could just put
16 those back in the bag.

17 Investigator, I'm handing you what's been marked
18 as State's Exhibit 49. Would you please open that
19 exhibit and tell me if you're familiar with the item
20 that's inside.

21 A Yes, ma'am.

22 Q And what is it?

23 A It's a brown UPS shirt.

24 Q And how are you familiar with that item?

25 A It's the shirt that I collected from the hospital.

1 It's got my name on the label where I printed it off
2 and where I sealed it.

3 MS. PRICE: Your Honor, at this time the State
4 would move to admit State's Exhibit 49 into evidence.

5 MS. WHITE: Objection. 403.

6 THE COURT: Overruled.

7 (WHEREUPON, State's Exhibit Number 49 was admitted
8 into evidence.)

9 BY MS. PRICE:

10 Q Would you please remove the item.

11 And, once again, will you step down and unfold the
12 item.

13 Investigator, do you notice any holes in that
14 item?

15 A I do. There's one right here in the back.
16 There's actually two.

17 Q Will you grab the ends of the piece of clothing
18 and hold that up and sort of walk it down for me,
19 please, sir.

20 A (Witness complies.)

21 Q Thank you, Investigator. Can you put that back
22 for me as well.

23 Investigator, you said you also collected a GSR
24 kit?

25 A Yes, ma'am.

1 Q What is a GSR kit, sir?

2 A It is a gunshot residue kit.

3 Q And what is gunshot residue?

4 A It's the residue that gets on people's hands,
5 clothing from gunshots.

6 Q Okay. And how do you collect GSR with a kit?
7 What is that process?

8 A It's a little packet, and you unseal the packet,
9 pull it out. It's got a data sheet. You fill out the
10 data sheet. And it's got four little stubs in there,
11 little vials. You pop off the top of the vial, and
12 it's got a sticky -- almost looks like a stamper but
13 it's sticky -- and you go around the hands. And
14 they're marked right palm, right back, left palm, left
15 back. So you do four samples. When you do the sample,
16 then you put it back in the vial, then you put it back
17 in the bag along with the data sheet and seal it with
18 the evidence tape.

19 Q Did you perform that process on Mr. Powell?

20 A I did.

21 Q And did you fill out a data sheet?

22 A I did.

23 Q Investigator, I'm showing you what's been marked
24 as State's Exhibit 50. Are you familiar with that?

25 A I am.

1 Q Okay. And what is it, sir?

2 A It's a gunshot residue analysis data sheet.

3 Q Okay. And do you know for whom that data sheet
4 was filled?

5 A This one was for Jody Powell.

6 Q And is your handwriting on that?

7 A It is.

8 Q Okay. You filled that out?

9 A I did.

10 MS. PRICE: Your Honor, at this time the State
11 would move to admit State's Exhibit 50 into evidence.

12 THE COURT: Any objection?

13 MS. WHITE: No objection.

14 THE COURT: State's Exhibit Number 50 will be
15 admitted without objection.

16 (WHEREUPON, State's Exhibit Number 50 was admitted
17 into evidence.)

18 BY MS. PRICE:

19 Q Does that paperwork indicate what time you took
20 your samples, sir?

21 A It does. 2200 hours.

22 Q What's 2200 hours?

23 A 10:00 p.m.

24 Q And what's the standard for how long after a
25 shooting for collecting gunshot residue on?

1 A On a living subject, it's six hours. On a
2 deceased subject, it's indefinite until it's wiped
3 away.

4 Q And did you do anything else while you were at the
5 emergency room?

6 A Collected those clothes, did the GSR, photographs.
7 I believe that was it.

8 Q Okay. And what did you do after the ER?

9 A Took the evidence back to the office, left it at
10 the office and went to -- dropped it off at the
11 forensics building next door to the office where I met
12 with the other investigators.

13 Q What investigators?

14 A Pridemore. Investigator Pridemore.

15 Q And what did you do there?

16 A I did another gunshot residue kit this time on the
17 defendant.

18 Q Okay. Did you do anything else with the
19 defendant?

20 A Buccal swab.

21 Q What is a buccal swab?

22 A It's a -- I guess the best way, it's like a
23 noninvasive DNA test. You just stick a cotton swab in
24 the subject's mouth and you scrape the cheeks for DNA
25 cells.

1 Q For identity purposes?

2 A Yes.

3 Q Where was Mr. Arflin at the time you collected the
4 gunshot residue and buccal swab from him?

5 A He was at the sheriff's office in holding cell
6 number one, I believe.

7 Q Can you describe that room for me?

8 A It's just a small little cinderblock cell with a
9 bed, toilet and a sink, running water.

10 Q And did you fill out paperwork when you collected
11 gunshot residue from Mr. Arflin?

12 A I did.

13 Q Did you follow the same process that you just
14 described that you used on Mr. Powell?

15 A I did.

16 Q Okay. I'm showing you what's been marked as
17 State's Exhibit 51. Are you familiar with that
18 exhibit, sir?

19 A I am.

20 Q And what is it?

21 A It is a gunshot residue analysis data sheet.

22 Q Does it contain your handwriting?

23 A It does.

24 Q Okay. For whom was that sheet filled out?

25 A Bobby Joe Arflin.

1 MS. PRICE: Your Honor, at this time the State
2 would move to admit Exhibit 51 into evidence.

3 THE COURT: Any objection?

4 MS. WHITE: I'm sorry, your Honor. I was talking
5 to my client. I'm sorry.

6 MS. PRICE: Moving State's Exhibit 51.

7 MS. WHITE: I have no objection to the form coming
8 in.

9 THE COURT: All right. State's Exhibit 51 would
10 be admitted without objection.

11 (WHEREUPON, State's Exhibit Number 51 was admitted
12 into evidence.)

13 BY MS. PRICE:

14 Q And does that paperwork indicate what time you
15 took the samples from Mr. Arflin?

16 A 2328, which would be 11:28 p.m.

17 Q Okay. And what did you do after completing the
18 buccal swab and GSR kit with Mr. Arflin?

19 A I went back to the office where I stored the
20 evidence.

21 Q What is "the office"?

22 A I'm sorry, the forensics building.

23 Q Is the forensics building located in your property
24 and evidence area?

25 A It is.

1 Q Is that a safe and secure location?

2 A It is.

3 Q Limited access?

4 A Yes, just to the fellow forensics officers and the
5 evidence personnel.

6 Q And are there guarantees so the evidence isn't
7 tampered with there?

8 A Yes.

9 Q When you got back, did you do anything
10 additionally to the clothing that you had collected?

11 A I would have hung them up in our dry room, which
12 is just a big room with a fan so it allows the blood or
13 whatever would be wet on the clothing -- because you
14 can't seal them up wet.

15 Q So you wait until biological material is dry
16 before storage?

17 A Yes. Yes, ma'am.

18 Q Okay. While hanging the clothes to dry, did you
19 collect anything from the victim's pocket?

20 A I did. A cell phone, a little bit of cash and
21 some keys.

22 Q Okay. And did you do anything -- did you take any
23 photographs? You said you maybe took some photographs
24 earlier in the evening?

25 A I took photographs of the -- at the hospital. I

1 would have put those on our server, our computer, a
2 secured computer.

3 Q All right. Did you process a firearm in this
4 case?

5 A I did.

6 Q Did you process any ammunition in this case?

7 A I did and some shell casings.

8 Q First I'm showing you State's Exhibit 24 and 25.
9 Please open the exhibits but don't show them to the
10 jury and tell me if you're familiar with that item and
11 if that's what you processed, sir.

12 A Yes.

13 Q Will you open these up for me but without emptying
14 the envelopes, look inside and tell me if you also
15 processed what's inside and what they are, please, sir.

16 A Yes, ma'am. That's what I processed.

17 Q And what are those exhibits marked? Are those
18 Exhibits 60 and 61, sir?

19 A Yes, ma'am.

20 Q Okay. And you processed both of those?

21 A I did.

22 Q And you processed a revolver?

23 A I did.

24 Q And you processed some ammunition as well?

25 A Yes, ma'am.

1 Q And that would have been State's Exhibits 24 and
2 25. How did you process these items?

3 A In our fuming chamber -- fuming chamber is just a
4 big chamber that you heat Super Glue or cyanoacrylate.
5 It takes the fumes and it adheres to fingerprints.

6 Q And would you have taken any measures with the gun
7 to ensure that ballistics testing would be accurate
8 following your testing?

9 A Yeah. You just want to plug the barrel from both
10 ends using -- I think I used paper towels, just where
11 it was tight-fitting so the fumes wouldn't get inside
12 the chamber.

13 Q And did you get any fingerprints from any of these
14 items?

15 A I did not.

16 Q Did you do anything else in this case?

17 A I did. I did a search warrant on Mr. Powell's
18 vehicle.

19 Q Okay.

20 MS. PRICE: Your Honor, I just want to renew my
21 motion to admit State's Exhibits 48 through 51, the
22 shorts, the shirt, and the two data sheets.

23 THE COURT: Those are already into evidence.

24 MS. PRICE: Yes, sir. Just out of an abundance of
25 caution, I wanted to make sure we have moved those into

1 evidence.

2 THE COURT: Those are already in evidence.

3 MS. PRICE: Thank you, sir.

4 No further questions.

5 Please answer any questions Ms. White has for you.

6 THE COURT: Before we begin cross-examination,
7 we're going to take a short break.

8 Officer, you're under oath so you can't discuss
9 the case with anybody.

10 THE WITNESS: Yes, sir.

11 THE COURT: Mr. Bailiff, if you will take our jury
12 out. We'll take a short break, stretch our legs.

13 (WHEREUPON, the jury exited open court at
14 3:18 p.m.)

15 (WHEREUPON, a recess was taken from 3:18 p.m.
16 to 3:40 p.m.)

17 THE COURT: Anything from the State before we
18 bring the jury back?

19 MS. PRICE: Nothing from the State.

20 THE COURT: Anything from the defense before we
21 bring our jury back?

22 MS. WHITE: No, sir.

23 THE COURT: Mr. Bailiff, if you will get our jury
24 for us, please, sir.

25 (WHEREUPON, the jury entered open court at