

VOLUME II 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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Jun 19 2020

S.C. SUPREME COURT

BOBBY JOE ARFLIN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2019-001801

APPENDIX

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1 3:40 p.m.)

2 THE COURT: Ms. White, you ready?

3 MS. WHITE: Yes, sir.

4 CROSS-EXAMINATION

5 BY MS. WHITE:

6 Q You said that you found Jody's phone in his
7 pocket; is that correct?

8 A Yes. It came in the -- the hospital put all the
9 clothes in a bag together, and when I was taking them
10 out to hang the clothes, that's when I found the --

11 Q Do you recall what time you found his phone in his
12 pocket?

13 A I don't. It would have been later on in the
14 evening.

15 Q I'm sorry?

16 A It would have been later on in the evening. I
17 don't -- I don't know exactly what time it was.

18 Q I'm old and I'm half deaf, sorry. I'm not meaning
19 to make you say things twice.

20 So there's no question you all did not find the
21 phone in Jody's truck. It wasn't in there, it was in
22 his pants?

23 A I believe that is correct. I believe I took
24 possession of it when I got it from the hospital.

25 Q Now, are you aware that the phone call to 911 was

1 approximately 8:40 that evening?

2 A Sometime around then, yes, ma'am.

3 Q And are you aware that the State, y'all actually
4 had Jody's phone examined?

5 A Yes, ma'am.

6 Q And are you aware that his phone made an outgoing
7 call at 9:14, another one at 9:49, another one at 9:55,
8 all outgoing, another at 10:23 to Brenda, that's
9 incoming -- oh, an incoming came in and lasted seven
10 minutes and 28 seconds from Mike Hicks. Another
11 outgoing at 10:39 for another seven minutes and
12 something to Brenda, another outgoing at 14 minutes
13 after midnight to Brenda, another outgoing at
14 35 minutes after midnight to Brenda for two minutes
15 plus. And, finally, the last outgoing at 38 minutes
16 past midnight to Brenda that lasted over 15 minutes?

17 A What was the question?

18 Q Are you aware of those? Have you seen that
19 report?

20 A I have not seen the report.

21 Q You have not seen it?

22 Let me mark it. I'm sorry.

23 (WHEREUPON, Defendant's Exhibit Number 3
24 was marked for identification.)

25 MS. PRICE: No objection.

1 MS. WHITE: Your Honor, I'd ask that Defendant's
2 Exhibit 3 be admitted.

3 THE COURT: Defense Exhibit 3 would be admitted
4 without objection.

5 (WHEREUPON, Defendant's Exhibit Number 3 was
6 admitted into evidence.)

7 BY MS. WHITE:

8 Q How did that happen? Or do you know?

9 A Well, I mean, I can't explain why they were going
10 out. You know, I don't know what time he got to the
11 hospital. When I got there, everything was in a
12 hospital bag, so I took possession of it. So, I mean,
13 the only explanation I could possibly come up with is,
14 I mean, if it was -- if he still had his pants on when
15 they were doing CPR, they could have mashed buttons or
16 if they had it all clumped up and they were stepping on
17 the clothes. I mean, they were in a bag when I grabbed
18 the bag, like a hospital bag. What time they put them
19 in the bag, I don't know. I collected them from the
20 hospital staff after I completed the GSR and the
21 photographs.

22 Q Now, is there any reason that a GSR kit was not
23 done on Bobby's hands before he ever left the scene
24 while he was there?

25 A I can't explain why it wasn't done. I don't know.

1 Q Well, typically that's done right at the scene so
2 there won't be a question later did somebody wash
3 hands, did somebody go to the bathroom, something like
4 that. And that's why it's done at the scene normally;
5 is that correct?

6 A Yes, ma'am, if we have time. Sometimes there's
7 other evidence that's pressing to get. I mean, I can't
8 explain why it wasn't done at the scene. I wasn't at
9 the scene. I don't know.

10 Q Well, you're aware there were multiple officers at
11 the scene, right?

12 A Yes, ma'am.

13 Q Now, GSR is -- gunshot residue is actually kind of
14 the consistency of a light flour-type, almost like
15 cooking flour, very light on your hands; is that right?

16 A I don't know the consistency. I know it's just
17 basic residue from an explosion that occurs when you
18 fire a gun.

19 Q And that's why they say if you're alive, you must
20 take the GSR within six hours because just normal --
21 just even if you don't wash your hands, it will just
22 come off just because of your metabolism and just daily
23 wear?

24 A Or as you shed dead skin cells, yes, ma'am.

25 Q And are you aware that the ground was wet that

1 night?

2 A I don't recall.

3 Q All right. And certainly if somebody is on the
4 ground, especially if they're moved and their hands are
5 touching wet things, especially if something is going
6 through their fingers, then that could very -- as a
7 matter of fact, you can get it off just by brushing; is
8 that right?

9 A I was going to say it doesn't have to be wet. You
10 can just brush it on your clothes and get rid of a lot
11 of it.

12 Q Now, you talked about testing some of these items
13 for fingerprints, and you said you did not find any
14 fingerprints on any of the firearms, any of the ammo,
15 any of that?

16 A That's correct.

17 Q And that doesn't mean you're incompetent at
18 fingerprints, but contrary to TV, you rarely find
19 fingerprints, do you?

20 A Yeah. On shell casings, it's very rare because of
21 the heat from the gun just burns off the fingerprints.

22 Q All right. And let's just talk about regular
23 objects, a gun or anything else. In fact, you have to
24 have just the right surface; is that correct? Like if
25 I touch something very granular, I might not leave it,

1 but if I touch something like glass, I have a much
2 better chance of leaving a print; is that right?

3 A Yeah. I mean, the surface has a lot to do with
4 it, the size of the surface, the humidity has got a lot
5 to do with it.

6 Q Speaking of which, the second thing is I have to
7 have just the right amount of moisture on my fingers.
8 If they're bone dry, I won't leave it. If they're wet,
9 I won't leave it. It has to be just the right amount;
10 is that correct?

11 A That's correct.

12 Q And, finally, the third factor depends on how I
13 touch an item. If I touch go like this, I'm not going
14 to leave it. However, if I go like that, I may leave
15 it. If I have the right surface, the right amount of
16 oil, and the right way of touching it; is that right?

17 A Well, like if you did like that, you would leave a
18 smear mark, and maybe where you first began, there
19 might be a little bit of ridge detail but most of it
20 would be smeared.

21 Q So, in fact, it doesn't mean anything has been
22 wiped down, it doesn't mean any of that. It simply
23 isn't very common to find prints, especially on ammo
24 little bits of ammo?

25 A On shell casings, it's very, very rare. On ammo,

1 it's a little bit more common in guns. It's probably
2 about 50/50.

3 Q We do an autopsy for a reason, and that is to look
4 at entrance wounds and exit wounds; is that correct?

5 A Yes, ma'am.

6 Q For instance, if I got my skirt and I'm going like
7 this when I'm shot, this might -- this clothing might
8 show an entirely different place than the autopsy where
9 an entrance wound is; is that correct?

10 A I'm not sure of the question. Say that again.

11 Q A pathologist is trained to show exactly where the
12 entrance wound is and where the exit wound is; is that
13 correct?

14 A Yes.

15 Q And, in fact, that was done in this case, was it
16 not, an autopsy?

17 A Yes. Yes, ma'am.

18 Q Would you agree that if you had a rather large
19 hernia that you would be wearing rather large clothes
20 so that it wasn't pushed against it?

21 A I've never had a hernia. I don't know.

22 Q Now, let's talk a minute about this clothing that
23 was introduced. You would agree that SLED has experts
24 named blood spatter experts; is that correct?

25 A Yes.

1 Q And blood spatter experts have years of training,
2 lots of experience in looking at the size of the
3 directionality depending on where the tail is, they
4 illuminate things, find stuff that we can't even see
5 with the naked eye; is that correct?

6 A Yes, ma'am.

7 Q And you would agree that without a blood spatter
8 expert doing all the testing and coming in and
9 interpreting it for a jury, there is no possible way
10 any of us can try to interpret anything on this
11 clothing? We don't even know if there's microscopic
12 stuff that might be important on there. Would you
13 agree with that?

14 A I'm not sure. I'm not following your line of
15 questioning. I'm not sure.

16 Q All right. Let me rephrase. Fair enough. My
17 question is: Without a blood spatter expert doing all
18 the tests, without all of their expertise, without all
19 of their knowledge, there's no way you can interpret
20 blood spatter on those clothes and nor can I or anybody
21 else without an expert running all the tests and their
22 expertise?

23 A Blood spatter, you're correct.

24 Q And these clothes at this point have been curled
25 up in bags for year and eight months, nine months,

1 something like that?

2 A Yes, ma'am.

3 Q With sides rubbing on each other and whatever in
4 the bags?

5 A In fact, when I got them, they were folded up, so.

6 Q You would agree that if I am shot on my side and
7 it comes out under my arm, that there should be an
8 entrance wound, if my arm is down, in my arm. It
9 should go in, out, in, out?

10 A Yes, ma'am.

11 Q Especially with a larger caliber weapon; is that
12 right?

13 A There's lots of factors that can play into where a
14 bullet ends up.

15 Q However, if I have my arm up anywhere on the
16 spectrum up, it would go on out, it wouldn't go into my
17 arm, would it?

18 A It would depend on the trajectory.

19 Q I'm sorry?

20 A It would depend on the trajectory.

21 Q Well, if you heard the trajectory is here going
22 straight up and out right here, would you agree that if
23 my arm is down, it must enter my arm?

24 A Yes. If it went through and through, then yes,
25 ma'am.

1 Q If my arm is down?

2 A Yeah, depending on where your arm is at.

3 Q Are you aware that there have been no DNA tests in
4 this case?

5 A I'm not aware of what's been tested or what
6 hasn't.

7 Q Will you please tell the jury where you found --
8 you said that you processed Jody's truck; is that
9 correct?

10 A Mr. Powell, yes.

11 Q And what, if any, knives did you find in the
12 truck?

13 A There was a 14-inch pocketknife in the console.

14 Q And tell me a little bit about the console. What
15 does that mean?

16 A It's the center console where you rest your arm.
17 Inside of it there was other stuff around it like there
18 was some pliers and some epoxy glue, sunglass cover. I
19 mean, you know, sunglass straps, so.

20 Q So what you're saying, there is a driver's seat.
21 There is a center console. There is a passenger seat,
22 and this center console can pull up and down. It's got
23 like one of those covers?

24 A Yes, ma'am.

25 Q And it had all sorts of stuff in it?

1 A Yes, ma'am.

2 Q And that knife was in that; is that correct?

3 A Yes, ma'am.

4 Q Are you aware of the width of that road where this
5 happened?

6 A No, ma'am. I didn't go to the scene.

7 Q Are you aware of the width of each of these
8 vehicles?

9 A I didn't measure the vehicles, no, ma'am.

10 Q Are you aware of the width of the mirrors?

11 A No, ma'am. I didn't measure the vehicles.

12 Q To your knowledge, were these vehicles ever taken
13 back out to the scene or that night placed side by side
14 since he was arrested for malicious injury to personal
15 property?

16 A To my knowledge, were they taken back out to the
17 scene?

18 Q Yes, sir.

19 A To my knowledge, no.

20 Q I'm sorry, did you tell me you had not -- you
21 didn't go to the scene or you did go to the scene?

22 A I did not go to the scene. I went to the
23 hospital.

24 Q Are you aware that Mr. Arflin's phone was taken
25 that night into custody?

1 A I would assume they got it off of him when they
2 made the arrest.

3 Q And are you aware that it was taken a couple of
4 different places and actually lost for a few months?

5 A No, ma'am, I'm not aware.

6 Q You would agree -- I'll rephrase.
7 Just one minute, please.

8 MS. WHITE: No further questions.

9 THE COURT: Any redirect, Ms. Price?

10 MS. PRICE: Yes, sir, your Honor, briefly.

11 REDIRECT EXAMINATION

12 BY MS. PRICE:

13 Q Investigator Dugan, you said that you found a
14 knife?

15 A Yes, ma'am.

16 Q In the center console of Mr. Powell's vehicle?

17 A Yes, ma'am.

18 Q And you said there was some other item around it?

19 A Yes, ma'am.

20 Q Okay. When you executed the search warrant to
21 find the -- this knife, was the console closed?

22 A It was.

23 Q Okay. Was the knife in any sort of sheath?

24 A It was folded down, closed.

25 Q So was it an exposed blade, then?

1 A No, ma'am.

2 Q Is there a mechanism to open the knife?

3 A There is a little notch on the back of the blade
4 that you have to flick your finger to.

5 Q Was there any blood on the knife?

6 A I didn't see any.

7 Q And you processed it for prints?

8 A I did.

9 Q You found none?

10 A I found none.

11 Q Okay. And there were other tools in that console
12 with the knife?

13 A Yeah. There was a pair of like needle nose
14 pliers, some sort of epoxy glue like maybe a Super Glue
15 or something.

16 Q So kind of like a kitchen drawer-type situation?

17 A Yeah, like a little junk drawer, I guess, where
18 you put --

19 Q Do you still have Ms. White's exhibit, the phone?

20 A I do.

21 Q Okay. I'm showing you Defendant's Exhibit 3.

22 Now, Ms. White showed you a bunch of times or asked you
23 about a bunch of times; is that right?

24 A Yes, ma'am.

25 Q Next to every single one of those times, is there

1 a negative 400?

2 A There is.

3 Q Next to every single one of those?

4 A Yes, ma'am.

5 Q Okay.

6 A Yes, ma'am.

7 Q Every single time?

8 A Every single time.

9 Q Okay. No further questions.

10 THE COURT: Anything further?

11 MS. WHITE: No, sir.

12 THE COURT: Thank you, Officer. You may step
13 down.

14 Call your next witness.

15 MS. PRICE: Yes, your Honor. The State calls
16 Corporal Travis Vickery to the stand.

17 **TRAVIS VICKERY,**

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

19 THE CLERK: Please state and spell your name for
20 the reporter.

21 THE WITNESS: My name is Travis Vickery. Last
22 name is V-i-c-k-e-r-y.

23 **DIRECT EXAMINATION**

24 **BY MS. PRICE:**

25 Q Who do you work for and in what capacity?

1 A I work for the Anderson County Sheriff's Office
2 detention center.

3 Q Detention center?

4 A Yes, ma'am.

5 Q What sort of duties and responsibilities are
6 associated with your position, Corporal Vickery?

7 A Intake of new detainees and releasing of
8 detainees.

9 Q How long have you been with law enforcement?

10 A Five and a half years.

11 Q Were you working the night of December 11, 2013 --

12 A Yes, ma'am.

13 Q -- the early morning hours, meaning midnight and
14 past of December 12, 2013?

15 A Yes, ma'am.

16 Q Did you book an individual into the detention
17 center by the name of Bobby Joe Arflin?

18 A Yes, ma'am, I did.

19 Q Okay. When you book someone in, what's your
20 process?

21 A We receive all -- ask them all the pertinent
22 information -- name, age, address, telephone number,
23 height, weight and the location where they were picked
24 up. That's all done at the window. Then we go back
25 over that information at the actual booking counter,

1 and then we take the picture, fingerprint them and ask
2 them medical questions and deal with all the property
3 that they come in with.

4 Q Do you do that every time you book someone in the
5 detention center?

6 A Yes, ma'am. We do that with every single person.

7 Q Did you fill out a report every time you book
8 someone into the detention center?

9 A Yes, ma'am, facility admission form.

10 Q Facility admission form?

11 A (Nodding.)

12 Q And you filled it out based on information
13 provided to you by that individual?

14 A Yes, ma'am. I ask every one of the questions.

15 Q And that report includes standard medical
16 questions?

17 A It does. It includes our observations plus
18 questions we ask the detainee.

19 Q Did you go through that process you just described
20 with Mr. Arflin?

21 A Yes, ma'am, I did.

22 Q And would you have filled out a facility admission
23 report?

24 A Yes, ma'am.

25 Q Corporal Vickery, I'm showing you State's

1 Exhibit 52. Are you familiar with this exhibit?

2 A Yes, ma'am.

3 Q Okay. And can you tell me what that is, sir?

4 A It's the facility admissions report for Bobby Joe
5 Arflin.

6 Q Okay. And is it a true and accurate
7 representation of the report as you filled it out that
8 evening?

9 A Yes, ma'am.

10 Q Okay.

11 MS. PRICE: Your Honor, at this time the State
12 moves to admit Exhibit 52 into evidence.

13 MS. WHITE: No objection.

14 THE COURT: State's 52 will be admitted without
15 objection.

16 (WHEREUPON, State's Exhibit Number 52 was admitted
17 into evidence.)

18 BY MS. PRICE:

19 Q Did you get the standard information from
20 Mr. Arflin?

21 A Yes, ma'am.

22 Q What was his height that evening?

23 A 5'11".

24 Q And his weight?

25 A 247 pounds.

1 Q His age?

2 A I believe at that night it was 61.

3 Q 61?

4 A Yes, ma'am.

5 Q And would you have had Mr. Arflin sign a copy of
6 the sheet acknowledging that these were his answers?

7 A Yes, ma'am.

8 Q Okay. And did you go through standard medical
9 questions with Mr. Arflin?

10 A Yes, ma'am.

11 Q Okay. Please read the questions that you went
12 through with Mr. Arflin and his responses.

13 A The questions started: "Do you have any medical
14 problems we need to know about: Heart disease,
15 diabetes, kidney problems, venereal disease, hepatitis,
16 ulcers, seizures, high blood pressure, cancer,
17 tuberculosis or any other medical questions that we --
18 or medical problems we need to know about? If female,
19 are you pregnant?"

20 Do you want me to read his answer?

21 Q Yes.

22 A All right. His answer was, "Head cancer, hernia,
23 high cholesterol and mood issues."

24 Q Okay.

25 A Next question is: "Are you on any medication or

1 are you supposed to be on any medication?" He said,
2 "No, at this time." "Are you allergic to any
3 medications?" "No." "Do you have any special needs or
4 problems with diet, dentist, glasses, contact lenses,
5 or ostomy?" He said, "Glasses and upper and lower
6 dentures."

7 "Have you recently been hospitalized? Do you take
8 any street drugs? Have you ever attempted suicide? Do
9 you have any sexual deviation? Do you have any cuts,
10 bruises or sores on you that need medical attention at
11 this time?"

12 Q And what did he say to those?

13 A Nothing to the ones at the end.

14 Q He said no to, "Do you have any cuts, bruises or
15 sores you on"?

16 A Yes, ma'am.

17 Q And you signed no, "Does the new inmate any have
18 obvious pain or bleeding or other symptoms suggesting
19 need for emergency services?"

20 A Is that the last one?

21 Q That's the first question.

22 A Yes. "Obvious pain, bleeding," yeah. That's
23 actually not a question. That's just an observation --

24 Q Okay.

25 A -- by us.

1 Q Did you observe any pain, bleeding?

2 A No, ma'am.

3 Q Okay. Any symptoms suggesting the need for
4 emergency services?

5 A No, ma'am.

6 Q Okay. No visible signs of trauma or illness?

7 A No, ma'am.

8 Q Okay. And to the questions you asked him about
9 medical problems that you needed to know about, he
10 said, "Head cancer, hernia, high cholesterol and mood
11 issues"?

12 A Yes, ma'am. That was his words.

13 Q Those are his words?

14 A Yes, ma'am. I write it down just as they say it.

15 Q And he would have signed a form acknowledging
16 these answers?

17 A Yes, ma'am, and these questions, yes, ma'am.

18 Q Would he have looked at the form that you're
19 looking at right now?

20 A He wouldn't have seen the form because we don't
21 give them a copy, but he signs it on like an electrical
22 pad.

23 Q Okay. After you go through all of this
24 information with him?

25 A Yes, ma'am.

1 Q Okay. I'm showing you State's Exhibit 53. Are
2 you familiar with that?

3 A Yes, ma'am.

4 Q Okay. And what does it show?

5 A It shows all the questions we just went through
6 and my observations from that night he got brought in.

7 Q Are there signatures?

8 A Yes, ma'am, mine and his.

9 Q Yours and whose?

10 A And Bobby Joe Arflin's.

11 Q Okay.

12 MS. PRICE: Your Honor, at this time the State
13 would seek to admit Exhibit Number 53.

14 MS. WHITE: No objection.

15 THE COURT: State's Exhibit 53 will be admitted
16 without objection.

17 (WHEREUPON, State's Exhibit Number 53 was admitted
18 into evidence.)

19 BY MS. PRICE:

20 Q Corporal Vickery, do you see the man you booked
21 into the detention center on December 12, 2013, in the
22 courtroom today?

23 A Yes, ma'am.

24 Q Would you please point him out and describe what
25 he's wearing?

1 A He's wearing a black -- gray or black suit and a
2 red shirt.

3 Q Okay. Thank you. Please answer any questions
4 that Ms. White has for you at this time.

5 A Yes, ma'am.

6 THE COURT: Ms. White.

7 CROSS-EXAMINATION

8 BY MS. WHITE:

9 Q Sir, would you say it would be normal to have some
10 depression if you had cancer?

11 A Yes, ma'am.

12 Q Would you say it would be normal to have a little
13 bit of depression if you had diabetes, neuropathy,
14 cancer, arthritis and you could no longer work after
15 35 years of working?

16 A Yes, ma'am.

17 Q Now, you all have a nurse on staff at the jail; is
18 that correct?

19 A Yes, ma'am, we do.

20 Q And you keep records in the normal course of
21 business out there regarding whether or not someone is
22 seen; is that right?

23 A I'm guessing that the medical staff documents
24 that.

25 Q And did you know that Mr. Arflin had almost a

1 complete denture. It's called a partial denture
2 because I think there were two or three teeth that were
3 there, but the rest was a denture in the bottom of his
4 jaw. Were you aware of that?

5 A He told me he had dentures, but I didn't know
6 exactly what kind, partial or full dentures.

7 Q And are you aware that after this he requested a
8 medical visit because of the mouth and the clinical
9 data, "Swelling, yes; redness, yes." Are you aware of
10 that?

11 A No, ma'am.

12 Q Well, that would have been filled out by your
13 medical people at the jail; is that right --

14 A Yes, ma'am.

15 Q -- a few days after this?

16 A Our nursing staff, yes, ma'am.

17 Q And you would agree clinical data would be what
18 they observed?

19 A Yes, ma'am.

20 Q Now, are you aware that the injury was primarily
21 inside the mouth, not outside?

22 MS. PRICE: Objection, your Honor. That's
23 hearsay.

24 THE COURT: You need to lay some foundation for
25 that question, Ms. White.

1 BY MS. WHITE:

2 Q Is it possible, if you have a partial denture
3 which is essentially almost all your bottom teeth, and
4 if you were knocked in the bottom of your jaw and you
5 have a beard --

6 MS. PRICE: Objection, your Honor. He's not a
7 medical witness.

8 MS. WHITE: Your Honor, he just testified about
9 what he observed. My question is going to be would you
10 observe it necessarily.

11 THE COURT: Rephrase your question pertaining to
12 what he observed.

13 MS. WHITE: Yes, sir.

14 Q You said that you did not observe any injury; is
15 that correct?

16 A Yes, ma'am.

17 Q And would it be possible for you not to observe it
18 if, in fact, it were inside the mouth because of
19 dentures?

20 A It is possible.

21 MS. WHITE: No further questions.

22 THE COURT: Anything further from this witness?

23 MS. PRICE: No, sir, nothing from this witness.

24 THE COURT: Thank you, Officer. You can step
25 down.

1 THE WITNESS: Thank you.

2 THE COURT: Call your next witness.

3 MS. HUEY: Your Honor, the State calls Justin
4 Richey to the stand.

5 JUSTIN RICHEY,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE CLERK: Please state and spell your name for
8 the reporter.

9 THE WITNESS: My name is Justin Richey,
10 R-i-c-h-e-y.

11 DIRECT EXAMINATION

12 BY MS. HUEY:

13 Q Investigator Richey, where do you work?

14 A I work for the Anderson County Sheriff's Office.

15 Q And in what department?

16 A Forensic investigator.

17 Q As such, what are some of your duties and
18 responsibilities with that position?

19 A We respond to calls for forensics, take
20 photographs, locate evidence and collect evidence.

21 Q And how long have you been in forensics now?

22 A For four years.

23 Q And how long in law enforcement altogether?

24 A 15 and a half years.

25 Q What, if any, involvement did you have in this

1 case, State vs. Bobby Joe Arflin?

2 A I executed search warrants on the defendant's
3 vehicle as well as the victim's vehicle.

4 Q In order to do that, where did you respond?

5 A The Anderson County Sheriff's Office armory.

6 Q And what is the armory again?

7 A The armory is a building that the sheriff's office
8 uses to execute search warrants on vehicles that we
9 have towed back there, and we secure those vehicles
10 inside the armory.

11 Q And it remains secured at all times?

12 A Yes, ma'am.

13 Q What kind of vehicle did you search in reference
14 to the defendant in this case?

15 A The defendant's vehicle was a red-in-color Dodge
16 truck.

17 Q And when you were searching the defendant's truck
18 what, if anything, did you find in his vehicle?

19 A During the course of searching his vehicle, we
20 located 12 .41 Magnum bullets, and we also located two
21 fired or spent cartridge casings that were also .41
22 Magnum.

23 Q And did you document this by taking photos?

24 A Yes, ma'am.

25 Q Mr. Richey, I'm going to show you what's been

1 marked as State's 54 through 59. If you could please
2 take a look at all of these. Do you recognize all
3 those?

4 A Yes, ma'am.

5 Q How are you able to recognize them?

6 A These are photographs that I took during the
7 course of executing the search warrant on the
8 defendant's vehicle.

9 Q Do they fairly and accurately depict what you
10 observed when you executed that search warrant?

11 A Yes, ma'am.

12 MS. HUEY: At this time, your Honor, we'd move
13 State's 54 through 59 in evidence.

14 MS. WHITE: No objection.

15 THE COURT: State's 54 through 59 will be admitted
16 without objection.

17 (WHEREUPON, State's Exhibit Numbers 54 through 59
18 were admitted into evidence.)

19 BY MS. HUEY:

20 Q Mr. Richey, if you don't mind stepping down with
21 those photos. If you will just say the State's exhibit
22 number and tell the jury what each of these photos
23 depict.

24 A This is State's Exhibit 54, and this is a view
25 from the driver's side of the detective's truck looking

1 into the driver's area. There is a black bag right
2 here, and then this is the steering wheel and the
3 driver's seat.

4 Q Make sure he sees it. And this is State's 55.

5 A State's 55, this is a photograph of the actual
6 driver's seat inside the truck where we located two
7 spent shell casings or fired cartridge casings.

8 Q And this is State's 56.

9 A This is -- State's 56 is just a closer photograph
10 of the shell casings that were located in the driver's
11 seat.

12 Q And this is State's 57.

13 A State's 57 is the same photograph, basically, of
14 the spent shell casing, but I had to put evidence
15 markers beside them and marked them with the evidence
16 marker, this one being number one and this one being
17 number two.

18 Q What's the purpose of that?

19 A The reason that I did it that way was that so I
20 would have photographs to show me which one was where
21 in the driver's seat and I could enter them into
22 evidence as markers number one and number two.

23 Q And this is State 58.

24 A State's 58 is a photograph of bullets that were
25 located inside the black bag. One of these pictures

1 had the driver's side, the vehicle, the black bag in
2 front of the driver's seat, and these .41 Magnum
3 bullets were located inside the black bag.

4 Q And does the photo you speak of, State's 54, that
5 shows the black bag?

6 A Yes, ma'am. This is the black bag in front of the
7 seat, and this was the bullets that we removed from
8 inside that black bag.

9 Q And then this is State's 59.

10 A State's 59 is a photograph that I took of the
11 bullets. We removed them from the black bag, and I
12 just took a picture of the bullets.

13 Q You can have a seat. Thank you. '

14 A Thank you.

15 Q So you photographed these items, Investigator
16 Richey, and then did you also collect these items?

17 A Yes, ma'am.

18 Q I believe you testified that you marked the
19 casings as one and two; is that correct?

20 A Yes, ma'am.

21 Q I'm going to show you what's been marked as
22 State's Exhibits 60 and 61. If you could take a look
23 at both of those items.

24 A Okay.

25 Q Do you recognize those items?

1 A Yes, ma'am.

2 Q And how are you able to recognize them?

3 A These are the shell casings that were collected
4 from the driver's seat. And when we entered it into
5 evidence, I created a bar code that's got my name and
6 markers one and two in the description and then put
7 them on their respective packaging.

8 Q And that matches up with the one and two in the
9 photograph of the casings in the driver's side seat in
10 the defendant's vehicle?

11 A Yes, ma'am.

12 Q And what did you then do with these casings that
13 you collected?

14 A After we collected them or after I collected them,
15 I took them back to the sheriff's office, sealed the
16 packaging, initialed and dated it and created this bar
17 code label to put on it and submitted it to the
18 evidence division.

19 Q And are they in substantially the same condition
20 as when you last collected them?

21 A Yes, ma'am.

22 Q I'm showing you what's been marked as State's 62.
23 If you could please take a look at this and see if you
24 recognize it.

25 A Yes, ma'am.

1 Q All right. And how are you able to recognize that
2 item?

3 A This packaging also has the bar code that I
4 created and the description of 12 .41 Magnum bullets.

5 Q So are those the 12 bullets that you found in the
6 black bag that was located in the defendant's truck?

7 A Yes, ma'am.

8 Q And are they in substantially the same condition
9 as when you collected them?

10 A Yes, ma'am. They appear to be.

11 Q And; again, once you collected those, you put them
12 into evidence?

13 A Yes, ma'am. I collect them and put them in the
14 packaging, seal them with evidence tape, initial and
15 date the evidence tape, apply this bar code label
16 that's unique to this item and submit it to evidence.

17 MS. HUEY: Your Honor, at this time, we move
18 State's 62 into evidence.

19 MS. WHITE: No objection.

20 THE COURT: State's Exhibit 62 will be admitted
21 without objection.

22 (WHEREUPON, State's Exhibit Number 62 was admitted
23 into evidence.)

24 BY MS. HUEY:

25 Q Now what, if anything, can you tell me about these

1 unfired bullets that you collected, the 12
2 specifically, Exhibit 62?

3 A These 12 bullets that we collected were all .41
4 Magnum. Some were different manufacturers, but they
5 were all .41 Magnum bullets.

6 Q Okay. And did they all appear to be the same?

7 A No. Some are what I would call just a lead
8 bullet, and then some appear to have been like a
9 defensive round.

10 Q Regardless, they all would fit a .41 caliber?

11 A I believe so, yes, ma'am.

12 Q Now, what kind of vehicle did you search as it
13 relates to the victim in this case, Jody Powell?

14 A Mr. Powell had a silver GMC truck that we
15 searched.

16 Q And what, if anything, did you locate as it
17 relates to the victim's vehicle initially?

18 A Initially, during the course of that search, we
19 located a bullet hole on the outside of the driver's
20 side exterior of the bed and another bullet hole at the
21 back of the bed like it was going toward the cab of the
22 truck.

23 Q Could you locate the bullet?

24 A Not at that time.

25 Q And so what did you then do as a result?

1 A To try to locate the actual projectile, we needed
2 to remove the bed of the truck, so I contacted Joe
3 Stone with Anderson County fleet services and asked him
4 to come to the armory and remove the bed of the truck
5 so that we could see if the projectile had actually
6 entered the cab.

7 Q When you say "projectile," what does that mean?

8 A The projectile is the part of the bullet that
9 actually comes down the barrel of the gun and is fired
10 from the firearm.

11 Q So did Joe Stone, in fact, come and meet with you?

12 A He told me he couldn't come that day and that he
13 would come the next morning and meet us at the armory.

14 Q And did he do that?

15 A Yes, ma'am.

16 Q And were you present the entire time that Joe
17 Stone was in the armory?

18 A Yes, ma'am.

19 Q So what did Mr. Stone do in your presence at the
20 armory the next day?

21 A Well, initially Mr. Stone removed the bed of the
22 truck, set it back so we could see if there was an
23 actual bullet hole going toward the cab of the truck.
24 We noticed that there was one there. We had searched
25 the interior of the cab of the truck and could not

1 locate the projectile, so then he removed the backseat
2 that was in the cab of the truck so that we could try
3 to locate a projectile.

4 Q So you had to take the truck apart?

5 A Basically. We removed the bed and took the
6 backseat out.

7 Q And was the bullet, in fact, eventually retrieved?

8 A Eventually, yes.

9 Q And did you collect that item as well?

10 A Yes, ma'am.

11 Q Did Joe Stone ever touch it?

12 A Not that I know of, no, ma'am.

13 Q All right. And did you also take photos of this
14 process?

15 A Yes, ma'am.

16 Q As well as the projectile?

17 A Yes, ma'am.

18 Q All right. Investigator Richey, I'm going to show
19 you what's been marked as State's 64 through 75, if you
20 will take a look at all these photos.

21 A Okay.

22 Q Do you recognize those photos?

23 A Yes. Yes, ma'am.

24 Q And how are you able to do so?

25 A I took these photographs.

1 Q And what do they depict?

2 A These depict the bullet hole or bullet holes that
3 were located in the victim's truck as well as the
4 projectile once it was recovered.

5 Q Okay. And do they fairly and accurately depict
6 the truck when you executed the search warrant and then
7 additionally when Joe Stone came to help with locating
8 the projectile?

9 A Yes, ma'am.

10 Q All right.

11 MS. HUEY: At this time we'd like to admit State's
12 Exhibits 64 through 75, your Honor.

13 THE COURT: Ms. White, is there any objection?

14 MS. WHITE: No, sir.

15 THE COURT: Okay. State's Exhibits 64 through 75
16 will be admitted without objection.

17 (WHEREUPON, State's Exhibit Numbers 64 through 75
18 were admitted into evidence.)

19 MS. HUEY: Mr. Richey, if you don't mind stepping
20 down again.

21 Q Once again, can you tell the jury what State's 64
22 is?

23 A State's 64 is the bullet hole that was located on
24 the driver's side of the victim's truck that we
25 initially found.

1 Q Is that a close-up of the bullet hole?

2 A Yes, ma'am.

3 Q And this is State's 65.

4 A State's 65 is a picture from inside the bed of the
5 truck that shows the bullet hole that is in the bed of
6 the truck leaning toward the cab.

7 Q And this is State's 66.

8 A State's 66, what we did here, I ran a trajectory
9 rod through the hole to line up the hole on the outside
10 of the bed of the truck with this hole so it would show
11 which way the bullet traveled through the bed of the
12 truck.

13 Q And what is a trajectory rod?

14 A It's a rod that we can run through -- like if I
15 need to see if this hole lines up to that one, we can
16 run a trajectory rod through those holes to see that it
17 is a straight line.

18 Q And you were able to do that in this case?

19 A Yes, ma'am.

20 Q And this is State's 67.

21 A This is another photograph of the trajectory rod
22 from outside the truck leading into this hole in the
23 bed toward the cab of the truck.

24 Q And this is State's 68.

25 A This is a picture of the back of the cab of the

1 victim's truck after the bed had been slid back so that
2 we could see the projectile did actually travel all the
3 way through the bed and into the exterior wall on the
4 back of the cab which is -- I don't know if you can see
5 it. Yes, that's the bullet hole. You can see that.

6 Q And is that what Joseph Stone did when he arrived
7 the next day?

8 A Yes, ma'am. He removed the bed of the truck so
9 that we could see that bullet hole, because with the
10 bed in place, I couldn't tell if there was a hole in
11 the back wall of the cab or not.

12 Q And this is 69.

13 A 69. This is just a picture of the inside of the
14 victim's truck after we were moved the backseat or
15 Mr. Stone removed the backseat and set it out of the
16 cab.

17 Q And what is that blue material?

18 A That's behind the seat?

19 Q Uh-huh.

20 A I don't know exactly what it is. It's some kind
21 of -- I don't know if it was insulation or what, but it
22 was behind the backseat, against the metal wall inside
23 the cab of the truck against that back wall.

24 Q State's 70.

25 A That's when you remove the the backseat from the

1 truck, this is what's against the metal wall behind the
2 backseat, and we just photographed it.

3 Q At this point have you found the projectile yet?

4 A No, ma'am, we have not located the projectile at
5 this time. Right here we cut out a section of this
6 material, this green material. And I don't know if you
7 can see it or not, but there is a dent in the metal.
8 That dent is on the interior wall of the cab where the
9 projectile entered the exterior wall and hit this
10 interior wall and caused this dent.

11 Q This is State's 71. A close-up?

12 A Yes, ma'am. State's 71 is just a close-up of the
13 dent that was made by the projectile.

14 Q And State's 72?

15 A This is a photograph of the inside of the vehicle
16 after Mr. Stone pried that piece of metal away and it
17 about fell out into the cab. This is where the
18 projectile fell to, and then I photographed an overall
19 picture of the projectile. It's very small, right here
20 where it fell out of that piece of metal.

21 Q And State's 73?

22 A 73. This is a close-up of the metal, I think
23 where Mr. Stone pried the metal back where the bullet
24 had entered the cab. It came into this channel, this
25 metal here. The dent would be down here. He pried

1 this up, and that's where the projectile fell out, and
2 that's just showing the piece of metal that he pried
3 up.

4 Q And then State's 70.

5 A This is a close-up photograph of the projectile
6 that was recovered in place where it fell inside the
7 truck.

8 Q So Mr. Stone had pulled that metal back, and then
9 the projectile dropped out?

10 A Yes, ma'am. It was in like a -- there is a piece
11 of metal on the inside of the truck that he pried this
12 one little piece back where the actual bullet was, and
13 it ran down this way and stopped. So when we pried the
14 metal back, the projectile fell out and onto the
15 bottom, and that's when he said, "Hey, the projectile
16 just fell out," and I came over and photographed it in
17 place.

18 Q And then, finally, State's 75.

19 A State's 75 is an up-close photograph of the
20 projectile. I placed a scale beside it just to show
21 its size.

22 Q And that was the projectile recovered from the
23 victim's truck, then?

24 A Yes, ma'am.

25 Q You can have a seat. So once that projectile was

1 finally located, did you collect that item as well?

2 A Yes, ma'am.

3 Q All right. Mr. Richey, I'm going to show you
4 what's been marked as State's 76. If you will take a
5 look at this item, please.

6 A Okay.

7 Q Do you recognize that item?

8 A Yes, ma'am. That's the projectile I collected.

9 Q And how are you able to tell that?

10 A Again, it has the bar code that I put on the
11 packaging when I submitted it to evidence. It says,
12 "Projectile removed from cavity in the back of the GMC
13 truck."

14 Q Okay. And is it in substantially the same
15 condition as when you collected it?

16 A Yes, ma'am.

17 Q And what did you then do with that?

18 A After I collected it, I placed it into the
19 packaging, sealed it with evidence tape, dated,
20 initialed it, and submitted it to the evidence section.

21 MS. HUEY: That's all I have for this witness,
22 your Honor.

23 THE COURT: Ms. White.

24 MS. WHITE: Yes, sir.

25 CROSS-EXAMINATION

1 BY MS. WHITE:

2 Q So you would agree that law enforcement would have
3 thoroughly searched both vehicles after towing them to
4 the sheriff's department; is that correct?

5 A Yes, ma'am.

6 Q You would agree that they would have thoroughly
7 searched the scene?

8 A I didn't go to the scene.

9 Q I mean, would you agree that that's what they
10 would do at a scene?

11 A Yes, ma'am, I would say that was.

12 Q And you would agree, of course, before my client
13 was transported in any way, they would have searched
14 him pretty thoroughly, too?

15 A Yes, ma'am.

16 Q And only two spent shell casings were found; is
17 that correct?

18 A Yes, ma'am.

19 Q Which would indicate, if those are the only ones
20 that were there, that two shots were fired; is that
21 right?

22 A Yes, ma'am.

23 Q Now, Jody worked for UPS; is that correct?

24 A I don't know.

25 Q You don't know, okay. But this was certainly his

1 personal vehicle, not the vehicle he could have
2 transported packages in; is that right? This wasn't a
3 work vehicle?

4 A If he worked for UPS, no, ma'am, it was not a UPS
5 truck.

6 Q Hand you you Defendant's Exhibit 4 for
7 identification. Do you recognize that?

8 A Yes, ma'am.

9 Q What is that?

10 A That is a pocketknife.

11 Q And is that the knife that you found in Jody's
12 vehicle in the console, the one between the two seats
13 that we talked about?

14 A Yes, ma'am.

15 MS. WHITE: Your Honor, I'd ask that Defendant's
16 Exhibit 4 be admitted.

17 THE COURT: Any objection?

18 MS. HUEY: No, sir, your Honor.

19 THE COURT: All right. Defendant's 4 is admitted
20 without objection.

21 (WHEREUPON, Defendant's Exhibit Number 4 was
22 admitted into evidence.)

23 BY MS. WHITE:

24 Q And, Investigator Richey, you would agree that the
25 pictures you took of the bullet, y'all had already

1 processed some stuff out of the backseat of Jody's car
2 when you took those pictures; is that right?

3 A I'm not sure what you mean.

4 Q Okay. Well, what I mean, when y'all originally
5 took pictures, the backseat had all sorts of sports
6 equipment?

7 A Oh, yes, ma'am.

8 Q Had cleats, had a sports bag, gym bag, that sort
9 of thing?

10 A Yes, ma'am. We removed things to remove the
11 backseat.

12 Q And I want to make sure we're understanding each
13 other. The bullet came in this portion -- can you see
14 that far? Am I giving you way too much credit for your
15 eyes?

16 A You may be giving me a little more credit than I
17 deserve.

18 Q How about there? Can we just get the general idea
19 from here? I want the jury to see.

20 A Yes, ma'am.

21 Q All right. You would agree that the bullet came
22 in the bed of the truck and then entered this portion
23 of the metal?

24 A Yes, ma'am.

25 Q And then it went in that metal, and there is

1 another piece of metal on the other side of it that's
2 before you get to the seat; is that right?

3 A Yes, ma'am.

4 Q And so it went in this outside piece of metal, hit
5 the other piece of metal and fell down to here; is that
6 what happened?

7 A No, ma'am.

8 Q Okay. I'm confused, then.

9 A Okay.

10 Q I thought there were two things of metal it went
11 through, one hit the other one, dented it out and fell
12 to the ground. Did I misunderstand something?

13 A It did dent it out, yes. But after it dented the
14 metal --

15 Q Uh-huh.

16 A -- it traveled a short distance which is where
17 Mr. Stone pried the metal back and then it fell out.
18 But, yes, it was in between the exterior wall and the
19 interior wall.

20 Q Okay. And are you a gun enthusiast, in other
21 words, you collect -- not collect, but you have
22 weapons, you shoot weapons, et cetera?

23 A Yes, ma'am.

24 Q And would you agree that it's not unusual for any
25 of us who have firearms, especially if you have one

1 firearm, to use some ammo, have three or four left
2 over, go to the target another time, you have another
3 box, and you end up with kind of a variety of live
4 rounds for the same weapon?

5 A Yes, ma'am.

6 Q That's not unusual and it doesn't mean a thing,
7 does it?

8 A No, ma'am.

9 Q And everything you found in this vehicle in the
10 way of live ammo was completely legal; you're allowed
11 to have it in your vehicle?

12 A Yes, ma'am.

13 Q And it all matched this weapon; is that correct?

14 A Yes, ma'am.

15 Q Just making sure I'm not taking any of the Court's
16 exhibits. I want to make sure.

17 If I may have one minute.

18 THE COURT: Yes, ma'am.

19 MS. WHITE: No further questions.

20 THE COURT: Any redirect for this witness?

21 MS. HUEY: Just a couple on redirect.

22 REDIRECT EXAMINATION

23 BY MS. HUEY:

24 Q Mr. Richey, I'm going to show you what I need to
25 mark, actually.

1 (WHEREUPON, State's Exhibit Numbers 77 through 80
2 were marked for identification.)

3 BY MS. HUEY:

4 Q I'm going to show you what's been marked as 77
5 through 80. If you can take a look at those photos.

6 A Okay.

7 Q Do you recognize those photos?

8 A Yes, ma'am.

9 Q And how are you able to recognize those?

10 A I believe these are photographs that I took of the
11 center console area of the victim's truck.

12 Q And, again, where did that -- when did you take
13 photos of that vehicle?

14 A When we did the search warrant at the armory.

15 Q And the armory is a secured location?

16 A Yes, ma'am.

17 Q And to your knowledge, you were the first person
18 that executed the search warrant on that vehicle to
19 take the photographs?

20 A Yes, ma'am.

21 Q Okay.

22 MS. HUEY: Your Honor, at this time we'd admit 77
23 through 80.

24 MS. WHITE: No objection.

25 THE COURT: All right. State's Exhibits 77

1 through 80 are admitted without objection.

2 (WHEREUPON, State's Exhibit Numbers 77 through 80
3 were admitted into evidence.)

4 BY MS. HUEY:

5 Q If you will tell the jury what State's 77 is.

6 A This is State's 77. It's a photograph of the
7 interior of the victim's truck as I found it at the
8 armory when I conducted the search warrant. It just
9 shows the center console. There is a drink bottle in
10 the cup holder.

11 Q And it was closed when you found it?

12 A Yes, ma'am.

13 Q All right. So then State's 78?

14 A State's 78 is a photograph I took after I raised
15 the center console of the victim's truck.

16 Q And State's 79?

17 A State's 79 is a photograph that I took of the
18 victim's console. Again, this is actually showing the
19 contents of the console. That is a photograph of the
20 pocketknife that we saw earlier. It was in the closed
21 position when I saw it the first time inside the truck.

22 Q And then State's 80?

23 A Again, this is another photograph of the inside
24 contents of that console of the truck.

25 Q Is that just a closer view of the pocketknife?

1 A Yes, ma'am.

2 Q You can have a seat.

3 MS. HUEY: That's all I have for this witness,
4 Judge.

5 THE COURT: Anything further?

6 MS. WHITE: No, sir.

7 THE COURT: Thank you, Officer. You can step
8 down.

9 THE WITNESS: Thank you.

10 THE COURT: Would counsel approach very briefly.

11 (WHEREUPON, a bench conference was held off the
12 record in the presence of the jury, but out of the
13 hearing of the jury.)

14 THE COURT: Call your next witness.

15 MS. HUEY: Thank you, your Honor.

16 The State calls Joseph Stone.

17 **JOSEPH STONE,**

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE CLERK: Please state and spell your name for
20 the reporter.

21 THE WITNESS: My name is Joe Stone, last name
22 S-t-o-n-e.

23 **DIRECT EXAMINATION**

24 BY MS. HUEY:

25 Q Mr. Stone, where do you work?

1 A Anderson County fleet services.

2 Q And what is fleet services?

3 A Fleet services is the entity within the county
4 that we maintain all of the equipment, vehicles and
5 things like that.

6 Q And at one time was it connected with the
7 sheriff's office?

8 A It was.

9 Q And was it connected in December of 2013?

10 A It was.

11 Q And so were you called on from time to time or
12 fleet services, for that matter, to assist the
13 sheriff's office?

14 A Quite often, yes, ma'am.

15 Q And what kind of things would you have to assist
16 in?

17 A All kinds of things. We've done searches for
18 drugs, paraphernalia, hidden compartments. In this
19 case, projectile.

20 Q So it wasn't uncommon for you to get a call from a
21 forensics investigator?

22 A It was not. We did it quite often.

23 Q All right. So did you get a call in December of
24 2013 to help out in this case, State versus Bobby
25 Arflin?

1 A We did.

2 Q All right. And do you know where this took place?

3 A Where I did the search? Yes, at the armory.

4 Q Okay. And was an investigator present with you
5 when you did this?

6 A Yes, they were.

7 Q And do you remember what kind of vehicle that was?

8 A It was a GMC truck, if I recall correctly.

9 Q And what were you trying to do in this particular
10 case?

11 A They contacted us because they needed some
12 assistance in the removal of the bed on the back of the
13 vehicle for trying to find the trajectory of the bullet
14 that went through, so we went out there to assist with
15 that. And in that case we just removed the bed. Once
16 we removed the bed, we realized that it had went
17 through the bed and into the cabin. It did not come
18 out of the cabin, so we then removed the backseat, and
19 that's when we noticed that it had ricocheted on the
20 inside and got caught in the cab, on the inside of the
21 cab.

22 Q How could you tell that?

23 A It was pretty obvious. You could see where the
24 penetration went through the backside of the cab and
25 into the cabin. And on the inside of the cabin there

1 is a channel that we use for reinforcement. It had hit
2 the inside and ricocheted off. You can see that. And
3 then we realized it didn't come out, and you could tap
4 it and hear it rattle inside.

5 Q So you could hear it inside. So you knew
6 something was in there?

7 A We did.

8 Q What did you do as a result of that?

9 A Trying to find a way of removing it without
10 damaging or anything. And what we ended up doing
11 because of where it had fallen inside there, we were
12 able to take a pry bar and create a little bit of a
13 hole down at the bottom side, and we just tapped it a
14 little bit and she fell right out.

15 Q Did you ever touch the bullet?

16 A No.

17 Q You left that to the investigator?

18 A As soon as it came out, he was standing right
19 there. I said, "There it is." We got up and left.

20 Q So can you, based on what you had to do to locate
21 the bullet, how many layers of metal or material do you
22 think you had to go through?

23 A I would say at least four and ricocheted off the
24 fifth or went through five and ricocheted off the six.
25 I'm not sure how much members of material it went

1 through on the back side of the cab. I know for a fact
2 at least four. It penetrated at least four layers.

3 Q Why are there so many layers?

4 A It's due to the construction of the truck because
5 the material they make the trucks out of nowadays are
6 so thin, most people don't realize it. But they layer
7 them on the inside to give them strength and rigidity
8 due to the thinness of the material.

9 MS. HUEY: That's all I have for this witness,
10 Judge.

11 THE COURT: Anything, Ms. White?

12 MS. WHITE: I'm happy to announce I have no
13 questions, your Honor.

14 THE COURT: Thank you. You can step down.

15 Okay. Ladies and gentlemen, it is almost
16 5 o'clock and you have all worked very hard today, and
17 you've heard a lot of testimony. It's been a long day,
18 so I'm going to adjourn court at this time, let you go
19 home. We will reconvene again tomorrow at 9 o'clock.

20 Give you the same instruction I gave you
21 yesterday: Do not discuss this case with anyone. Do
22 not do independent investigation or media, Internet,
23 library, from whatever source. Do not deliberate
24 amongst yourselves until I instruct you to do so at the
25 end.

1 I hope everyone has a good evening, and you are
2 dismissed. We'll see you at 9 o'clock in the morning.

3 (WHEREUPON, the jury exited open court at
4 4:51 p.m.)

5 THE COURT: Anything from the State before we
6 adjourn for the day?

7 MS. PRICE: Nothing further, sir.

8 THE COURT: Anything from the defense before we
9 adjourn for the day?

10 MS. WHITE: I'm sorry, your Honor?

11 THE COURT: Is there anything from the defense
12 before we adjourn?

13 MS. WHITE: No, sir.

14 THE COURT: We are now in recess. We will
15 reconvene at 9 o'clock tomorrow morning.

16 (WHEREUPON, proceedings adjourned at 4:52 p.m.)
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Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 25th day of August 2015.

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

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

November 25, 2015

Diane L. Marcengill

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 26, 2015
) Transcript of Record
) Volume 4 of 5
) Pages 555-814

10
11 B E F O R E:

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

14
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 Diane L. Marcengill, RPR, CRR
24 Circuit Court Reporter
25

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1 E x h i b i t s

2 For the State:

3	Marked	Description	I. D.	Evd.
4	24	Box and firearm		567
	25	Loose rounds		567
5	60	Shell casing marker #1		567
	61	Shell casing marker #2		567
6	63	Photo-victim's truck		558
	76	Projectile recovered from		567
7		victim's truck		
	82	Photo-cell	684	691
8	83	Photo-cell	684	691
	84	Photo-cell	684	691
9	85	Photo-cell	684	691
	86	Handwritten note		769
10	87	Handwritten map		769

11 For the Defendant:

12	Marked	Description	I. D.	Evd.
13	5	Photo-roadway at scene	622	623
14	6	Photo-roadway at scene	622	623
	7	Photo-roadway at scene	622	623
15	8	Photo-roadway at scene	622	623
	9	Photo-roadway at scene	622	623
16	10	Phone extraction report		709
	11	CAD report	710	710
17	12	Civil complaint	749	
	13	Writ of attachment	781	798

18 For the Court:

20	Marked	Description	I. D.	Evd.
21	2	Stipulation	559	

22

23

24

25

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:01 a.m.)

4 THE COURT: Anything from the State before we
5 bring the jury in?

6 MS. PRICE: Just that State's Exhibit 63, it was
7 brought to my attention by our court reporter that
8 Ms. Huey said 64 through the following number. This is
9 the defendant's vehicle. I believe this was a
10 misspeak. They were shown to the jury. She had them
11 last evening. Then we would make sure that State's
12 Exhibit 63 is also moved into evidence.

13 MS. WHITE: No objection.

14 THE COURT: All right. That would be without
15 objection.

16 (WHEREUPON, State's Exhibit Number 63 was admitted
17 into evidence.)

18 THE COURT: Anything from the defense before we
19 bring in the jury?

20 MS. WHITE: No, your Honor.

21 THE COURT: Bring the jury for us, please, sir.

22 (WHEREUPON, the jury entered open court at
23 9:03 a.m.)

24 THE COURT: Good morning, ladies and gentlemen. I
25 hope everyone had a good evening. We're back for the

1 next day of our trial. Before we get started, I know
2 there is some concern about the length of the trial.

3 Certainly when we qualified you as a juror and you
4 were selected as a jury on Monday, a large number of
5 witnesses were read out in the voir dire questions. I
6 believe there were over one hundred witnesses
7 potentially listed. Please note those are potential
8 witnesses, people that might have some knowledge about
9 the facts of the case.

10 I have conferred with the attorneys, and it
11 appears that we're going to be able to finish this case
12 this week. So I know your families are concerned about
13 that. I know your employers are concerned about that.
14 But it's the Court's belief, after conferring with the
15 attorneys, that this case certainly will be able to be
16 finished this week.

17 So is the State ready to proceed?

18 MS. PRICE: Yes, sir, your Honor.

19 THE COURT: Call your next witness.

20 MS. PRICE: Your Honor, at this time, the State
21 would like to publish a stipulation signed by Ms. White
22 and myself.

23 THE COURT: Okay.

24 (WHEREUPON, Court's Exhibit Number 2 was marked
25 for identification.)

1 MS. PRICE: Your Honor, this is Court's Exhibit
2 Number 2. This is a stipulation to testimony of Kara
3 Bennick and Todd Caron by the parties in this case. It
4 reads: "The State, through Assistant Solicitor Lauren
5 Davis Price, and the defendant, through his attorney,
6 Druanne D. White, hereby agree that Todd Caron works
7 for the Anderson County Sheriff's Office supervising
8 property and evidence, and Kara Bennick works for the
9 Greenville County Department of Public Safety, and
10 their testimony would be as follows: That a Smith &
11 Wesson .41 Magnum revolver and six live rounds from the
12 cylinder, two fired .41 Magnum shell casings and one
13 projectile recovered from a cavity in the back of a GMC
14 truck belonging to Jody Powell were taken from Todd
15 Caron from property and evidence at the Anderson County
16 Sheriff's Office on March 7, 2014, where they had been
17 safely and securely stored since December 11, 2013, to
18 property and evidence at the Greenville County
19 Department of Public Safety.

20 "All items were properly sealed when he obtained
21 them. He did not tamper with them or alter them in any
22 manner while he had them in his possession. While at
23 the Greenville County Department of Public Safety,
24 which is a safe and secure location, they were under
25 the supervision and control of Kara Bennick, who is the

1 supervisor of property and evidence at the Greenville
2 County Department of Public Safety.

3 "At no time when they were at the Greenville
4 County Department of Public Safety and under the
5 custody and control of Kara Bennick were they tampered
6 with or altered in any way except for any necessary
7 testing."

8 That is the stipulation, your Honor.

9 MS. WHITE: Stipulation of testimony, yes, your
10 Honor. If they had been here to testify, that's what
11 they would have said.

12 THE COURT: Thank you.

13 MS. PRICE: Your Honor, at this time the State is
14 calling James Armstrong to the stand.

15 **JAMES ARMSTRONG,**

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

17 THE CLERK: Please state and spell your name for
18 the reporter.

19 THE WITNESS: James Armstrong, A-r-m-s-t-r-o-n-g.

20 **DIRECT EXAMINATION**

21 **BY MS. PRICE:**

22 Q Thank you. Mr. Armstrong. What's your occupation
23 or profession?

24 A I'm employed with the Greenville County Department
25 of Public Safety and Forensics Division Crime

1 Laboratory as a forensic chemist and a firearms
2 examiner.

3 Q And how long have you been employed there?

4 A Been employed there a little over 19 and a half
5 years.

6 Q And what are some of your duties and
7 responsibilities?

8 A One of my main duties is as a forensic chemist
9 where I actually test controlled substances, and my
10 second duty is as a firearms examiner where I examine
11 firearms and firearm-related evidence and compare them
12 to each other.

13 Q Okay. And what is firearms identification and
14 ballistics?

15 A Firearms identification and ballistics is where
16 we're actually comparing firearms or fired evidence to
17 determine the originality of the evidence as left
18 behind from a scene or connect cases to each other by
19 their markings based on the fired cartridge casings and
20 fired bullet specimens.

21 Q What makes the identification possible in those
22 cases?

23 A There are striations or imperfections that are in
24 the firearm when it's actually made by another tool,
25 and those imperfections are transferred to the fired

1 cartridge casings or projectiles, which are just like a
2 fingerprint of that firearm where it's then transferred
3 to those evidence pieces, then we can link them back by
4 the use of a microscope.

5 Q And what's your educational background,
6 Mr. Armstrong?

7 A I have a bachelor of science degree in chemistry
8 from Erskine College. I trained in the area of
9 firearms identification under the direction of a
10 retired firearms examiner approximately two years of an
11 apprenticeship training. I have attended numerous
12 classes sponsored by the Bureau of Alcohol, Tobacco,
13 and Firearms in identification of firearms and tool
14 markings. I have attended five different armor schools
15 to learn how to actually work and repair firearms. I
16 have been through 14 different factory tours to
17 actually watch the manufacturing of firearms from raw
18 materials through finished products. I've been through
19 four different ammunition manufacturing or assembly
20 plants, and I am a member of the Association of Firearm
21 and Tool Mark Examiners in the area of firearms
22 examinations. I've also testified in federal and state
23 court at least 41 times as an expert.

24 MS. PRICE: Your Honor, at this time the State
25 moves that Mr. Armstrong be declared an expert in the

1 field of firearms identification and ballistics.

2 MS. WHITE: No objection, your Honor.

3 THE COURT: Okay. Mr. Armstrong would be admitted
4 as an expert in the field of firearms identification
5 and ballistics.

6 Ladies and gentlemen of the jury, ordinarily a
7 witness in a case is limited to what they have
8 knowledge of in a case, that they're not ordinarily
9 allowed to give opinions. However, certain witnesses,
10 because of their education and experience, have
11 specific knowledge about a scientific or technical
12 field to be able to assist you as the trier of fact.
13 An expert witness is like any other witness. They are
14 not to be believed simply because they're an expert,
15 but you, as the trier of fact, evaluate their testimony
16 and place whatever weight on that testimony that you,
17 as the jury, determine is appropriate.

18 Thank you.

19 MS. PRICE: Thank you, your Honor. May it please
20 the Court.

21 BY MS. PRICE:

22 Q Mr. James -- Mr. Armstrong, were you asked to
23 analyze evidence in this case?

24 A Yes, sir -- yes, ma'am, I was.

25 Q Okay. Mr. Armstrong, I'm going to present you

1 with several items. I want you to look at them without
2 showing them to the jury -- I have some gloves here for
3 you as well, sir -- and tell me if you recognize these
4 exhibits as I'm presenting them to you, sir.

5 That's State's Exhibit 24 and 25.

6 A Yes, ma'am, I do.

7 Q Okay. And what are they?

8 A My -- what I actually have on my report is item
9 1135452, the Smith & Wesson model 57-1 revolver, serial
10 number AYU1199, caliber .41 Magnum. And it was
11 submitted with six cartridges and caliber .41 Magnum.

12 Q Okay. I'm presenting you with State's Exhibit 60
13 and 61. Again, if you can look at those and tell me if
14 you're familiar with those items.

15 A I am.

16 Q Okay. And how is it you're familiar with those
17 items?

18 A The envelope itself actually has my initials and
19 the date which I had sealed it. And on Item State's
20 Exhibit Number 60, on the fired cartridge case, I
21 actually have my initials engraved with an item number
22 inside the cartridge case.

23 Q And I'm showing you what's been marked as State's
24 Exhibit 76. If you will take a look at this item and
25 also tell me if you recognize it.

1 A Yes, ma'am, I do.

2 Q And how is it you recognize that item?

3 A Once again, my initials and the date which I had
4 sealed on the outer part of the envelope matches the
5 case number that was assigned to it by Greenville
6 County.

7 Q What is that item, sir?

8 A This item is a -- let me open it up.

9 Q I didn't realize it was sealed, sir.

10 A That's okay. That's okay. This is actually a
11 fired bullet specimen, which has my item number
12 1135487. It's a .41 caliber fired bullet specimen.

13 Q And were those items in your possession for the
14 purpose of analysis?

15 A Yes, ma'am, they were.

16 Q All of them?

17 A Yes, ma'am, they were.

18 Q And where did you get those items?

19 A Received them from the property and evidence room,
20 which is located in the basement of the law enforcement
21 center at Greenville County.

22 Q Is that a safe and secure location?

23 A Yes, ma'am, it is.

24 Q And when did you receive those items?

25 A I received them on March the 7, 2014.

1 Q And how long were they in your possession?

2 A Right at a week.

3 Q Okay. So you returned them on what date, sir?

4 A March the 14th.

5 Q Okay. And where were they placed when you were
6 finished?

7 A When I finished my examination, they were returned
8 to property and evidence.

9 MS. PRICE: Your Honor, at this time the State
10 would move to have Exhibits 24, 25, 60, 61 and 76
11 admitted into evidence.

12 THE COURT: Any objection?

13 MS. WHITE: No objection, your Honor.

14 THE COURT: All right. State's Exhibits 24, 25,
15 60, 61 and 76 will be admitted without objection.

16 (WHEREUPON, State's Exhibit Number 24 was admitted
17 into evidence.)

18 (WHEREUPON, State's Exhibit Number 25 was admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit Number 60 was admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit Number 61 was admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit Number 76 was admitted
25 into evidence.)

1 MS. PRICE: Thank you, your Honor.

2 Q Mr. Armstrong, if you would, let's bring those
3 exhibits down to this table and talk about them a
4 little bit more, sir.

5 Let's look at State's Exhibit 24 and 25. Could
6 you show that to the jury, please, sir.

7 A Yes, ma'am.

8 Q And what type of gun is this?

9 A It's a Smith & Wesson model 57-1 revolver.

10 Q And the serial number again?

11 A It is AYU1190.

12 Q Okay. And what kind --

13 A 99, excuse me.

14 Q 99? Okay. And for a revolver, you're familiar
15 with firearms. What kind of a size of a revolver is
16 that?

17 A This is considered a large frame revolver.

18 Q Okay. Is it heavy?

19 A It's substantially with its size.

20 Q And what kind of a shot would it pack?

21 A This is -- when this caliber, when it was created,
22 it was made to bridge the gap between the .357 Magnum
23 and a .44 Magnum. It was originally designed for like
24 hunting and law enforcement-type needs. It will have a
25 good bit of recoil with it.

1 Q Is this a gun that you see regularly?

2 A Not this particular caliber, no.

3 Q Okay. So would you call it rare?

4 A This one is relatively rare. I've only seen two
5 in my 19 and a half years.

6 Q Can you tell me what sort of tests you performed
7 on this weapon?

8 A I examined it, test fired it, found to be
9 operable, and then did the comparisons with the
10 evidence that was generated.

11 Q Okay. And from your analysis, were you able to
12 form an expert opinion as to the results of your
13 examination as to this revolver?

14 A Yes, ma'am.

15 Q And what were your results?

16 A I found the revolver to be operable.

17 Q Operable?

18 A Yes, ma'am.

19 Q Fires properly?

20 A Yes, ma'am.

21 Q No technical issues with it whatsoever?

22 A None at all.

23 Q And State's Exhibit 25 is made up of six items.

24 A Yes, ma'am.

25 Q Could you show those to the jury, please, sir.

1 A These are the cartridges that were submitted with
2 the revolver.

3 Q And are those spent cartridges?

4 A No, ma'am. They are live.

5 Q Live rounds, okay. And what type of analysis did
6 you perform on those, if any?

7 A I just identified them as the caliber and that
8 they were consistent with being reloaded ammunition.

9 Q So you believe that they are reloaded ammunition
10 for that gun?

11 A Yes, ma'am.

12 Q And that they're all .41 caliber?

13 A Yes, ma'am, they are.

14 Q So they would be able to be fired from that
15 weapon?

16 A Yes, ma'am.

17 Q Okay. Mr. Armstrong, let's look at State's
18 Exhibits 60 and 61.

19 A Yes, ma'am.

20 Q If you will show those to the jury as well,
21 please, sir.

22 A (Witness complies.)

23 Q And what are we looking at?

24 A These are two fired cartridge cases.

25 Q And how can you tell they have been fired?

1 A Well, for one, the firing pin impression is on the
2 primer, and it's also missing the projectile and the
3 powder charge.

4 Q What is a firing pin impression?

5 A A firing pin impression is when the firing pin of
6 the actual firearm strikes the primer. That's where it
7 actually causes a spark which then burns the powder
8 inside causing the projectile to go down the barrel.

9 Q So you can tell that those have been fired?

10 A Yes, ma'am, they have been.

11 Q And from your analysis -- what exactly was your
12 analysis?

13 A I compared the fired -- the firing pin
14 impressions, what we call breach face impressions, that
15 are left behind on the fired cartridge cases to each
16 other and determined that these were fired in the same
17 firearm. And then when I had done my test fires with
18 the revolver, it was determined that these two were
19 fired in this revolver.

20 Q And was there -- are there markings on the casings
21 that indicate that?

22 A Just the markings that are left behind from the
23 firing of the firearm.

24 Q And those would be unique to that firearm?

25 A Yes, ma'am, they would.

1 Q And did you reach any other results with regard to
2 the fired shell casings?

3 A No, ma'am.

4 Q Okay. Now, let's look at State's Exhibit 76, sir.
5 If you would, please show that to the jury.

6 A It is a fired bullet specimen, caliber .41.

7 Q Okay. What type of analysis was performed on this
8 item?

9 A Identified it and then compared it to the evidence
10 or test fires I generated from the revolver.

11 Q And from your analysis, were you able to form an
12 expert opinion after your examination as to this item?

13 A They were .41 caliber and that it bears similar
14 but insufficient microscopic marks to prevent a
15 positive identification to the revolver.

16 Q You have to have a certain number of marks to make
17 a positive identification?

18 A Don't make a certain number of marks. You
19 actually have to have the totality of the entire
20 projectile to make sure the markings are the same on
21 the firearm. And by looking at this one, I could not
22 see enough details to say it was fired from that gun.
23 It bears a lot of similarities to that particular
24 firearm.

25 Q Now, is there any, anything unusual about the

1 presentation of that projectile?

2 A The projectile has been deformed a little bit.
3 The base of it is deformed, and it's deformed on the
4 side which is consistent with hitting a hard surface.
5 And that alone and the deformity on another part of it,
6 that can interfere with some of the actual
7 identification parts. But that's one reason it became
8 a similarity.

9 Q Okay. So if a bullet had traveled through several
10 layers of metal before being collected, could that
11 explain the effect that we're seeing?

12 A It definitely could.

13 Q Now, I'm going to show you what's been marked
14 previously as State's Exhibit 62. And that has already
15 been admitted into evidence. Can you remove those
16 items.

17 Mr. Armstrong, can you tell me if these are also
18 consistent with what would be able to be fired from a
19 .41 caliber revolver?

20 A Yes, ma'am, they could.

21 Q All of them?

22 A All of them.

23 Q Is there anything unique about any of those
24 rounds?

25 A The majority of the rounds appear to be -- are

1 consistent with reloads. This one here appears to be a
2 factory loaded on first examination.

3 Q Are there any defense rounds?

4 A These are -- all of these are potentially used for
5 either hunting or defense-type rounds, even the lead is
6 typically used for target practicing. It leaves nice
7 little holes in the paper. However, being lead, it's
8 often the case it can still be used for hunting and/or
9 personal defense.

10 Q Okay. Mr. Armstrong, if you will take the stand
11 again, please.

12 As part of your ballistics testing, you said you
13 fired this revolver?

14 A Yes, ma'am.

15 Q And is that something that you do when you test
16 firearms?

17 A Yes, ma'am.

18 Q Every time?

19 A Every time.

20 Q Okay. So are you familiar with trajectory of
21 bullets?

22 A Yes, ma'am.

23 Q Generally speaking?

24 A Generally speaking.

25 Q Okay. And can you tell me, if a bullet hits an

1 object, does it ever change pathways?

2 A It definitely can. It's real similar to if you're
3 throwing a ball and it hits a tree limb or something in
4 the way, you may see the projectile or the ball kind of
5 go off to the side or even hit something and stop.
6 Same concept is in play with a projectile being fired
7 from a gun. It can hit an object and still either
8 deflect it a little bit, slow it down, basically where
9 we hear the term "ricochet" may come in.

10 Q Does it have to be a hard surface for something to
11 be deflected?

12 A Not necessarily. Anything that can actually slow
13 down the projectile on one side or even flat-on, it can
14 actually deflect it just enough.

15 Q So, for example, body?

16 A A body could definitely do it.

17 Q A moving target?

18 A Anything that can actually strike the projectile
19 can misdirect it or redirect the projectile.

20 Q Redirect, okay. All right. One moment, please.

21 Mr. Armstrong, I don't have any further questions.
22 Please answer any questions that Ms. White has for you
23 at this time, sir.

24 THE COURT: Ms. White.

25 MS. WHITE: Yes, sir.

1 CROSS-EXAMINATION

2 BY MS. WHITE:

3 Q Mr. Armstrong, how much do you charge the
4 prosecution for running these tests or law enforcement
5 for running these tests?

6 A Everything is free from the firearms lab.

7 Q And, generally, there are a variety of tests that
8 can be run on every item in a murder case, an arson
9 case, burglary case, whatever, right?

10 A That's correct.

11 Q However, once you run certain tests on an item,
12 you prohibit other tests from being run because you may
13 be eradicating some of the evidence that could have
14 been gathered had that test been run first; is that
15 correct?

16 A That's a possibility, yes, ma'am.

17 Q And, generally, the firearms test would be the
18 last test you would run; is that correct?

19 A Typically, yes, ma'am.

20 Q So, for instance, you wouldn't be able to handle a
21 weapon and start shooting it and all, and then give it
22 back to the fingerprints person; is that correct?

23 A That's typically the process. It goes to everyone
24 before it comes to me.

25 Q And you're aware that a gunshot causes high

1 velocity blood spatter that is very, very often not
2 visible by the human eye; is that correct?

3 A It is possible. Depends on the firearm and the
4 velocity of the projectile.

5 Q And that test is one of those tests that we would
6 want to run before people handle it, shoot it, do all
7 of these other things; is that correct?

8 A That is -- yes, ma'am.

9 Q Do you know why that wasn't done in this case?

10 A I have no idea.

11 Q And you can tell quite a few things about distance
12 if that test is run; is that right?

13 A That is a possibility, yes, ma'am.

14 Q In fact, that's one of the main purposes for that
15 test is to say, Okay. We can show how far this firearm
16 was from this person if we run this test, depending on
17 the amount of spatter?

18 A Well, not necessarily with blood spatter, but also
19 you can do a test known as gunshot residue testing to
20 determine if there's unburnt shot particles on clothing
21 or whatnot, so.

22 Q All right. I was going there next. All right.
23 And very often the clothing is gathered in a case; is
24 that correct, of the person who shot as well as the
25 other person?

1 A Yes, ma'am.

2 Q And the reason is, again, you can look at blood
3 spatter on sleeves, you can look at blood spatter on
4 shirts, various things like that and see, perhaps, some
5 distance issues can be answered?

6 A Yes, ma'am.

7 Q Likewise, there is a test that you can run called
8 a distance determination that firearms can look at; is
9 that correct?

10 A That's correct.

11 Q For instance, we can put the person who was shot,
12 his shirt here, we can process it and see where the gun
13 powder is on it. We can put a blank shirt here -- I
14 know you don't use shirts -- piece of material, and you
15 can shoot it here. Okay. Does that pattern match?
16 No. Go back. Okay. Does that pattern match? No.
17 Does that? And you can figure out how far the end of
18 the barrel of the weapon was from this person who was
19 shot when the shot occurred; is that correct?

20 A Within a certain distance, yes, ma'am.

21 Q Now, there are tests offered at SLED that are free
22 to all of law enforcement and all the prosecutors in
23 the state as well; is that correct?

24 A That's correct.

25 Q Blood spatter?

1 A As far as I know there is.

2 Q DNA?

3 A Yes, ma'am.

4 Q All of these things are free; is that right?

5 A That's correct.

6 Q But to a defendant, it costs thousands and
7 thousands of dollars for every expert, to pay them to
8 get the stuff down, to pay them by the hour to pay them
9 to come in and testify. They charge by the hour; is
10 that correct?

11 A I'm not positive. I really don't know on that
12 one.

13 Q So the only test that SLED does not now offer out
14 of all the tests that we've discussed for free is the
15 distance determination test; is that correct?

16 A I'm not positive.

17 Q But, certainly, you could go to another lab. It's
18 a well known test that's been used for, what, 50 years?

19 A At least.

20 Q Are you aware of the MAIT team?

21 A Excuse me?

22 Q MAIT, Multidisciplinary Accident Investigation
23 Team, with the highway patrol?

24 A No, ma'am.

25 Q Okay. You don't know whether or not the highway

1 patrol has a free team that can do accident
2 reconstructions?

3 A I have no idea.

4 Q Were you aware that about a year after this or
5 more after he was arrested for malicious injury, MAIT
6 team did an investigation --

7 MS. PRICE: Objection, your Honor.

8 THE COURT: Sustained.

9 MS. PRICE: Thank you.

10 BY MS. WHITE:

11 Q Are you aware that the State has not proceeded
12 with the malicious injury warrant to bring before this
13 jury?

14 A I have no idea what is going on with the case
15 except for what I was asked to examine.

16 Q Are you aware of whether SLED offers touch DNA
17 testing for free?

18 A As far as I know, yes, ma'am.

19 Q And that's where if I touch somebody or if I bang
20 against somebody, if my skin cells can be transferred
21 over, I may be able to pick that up; is that correct?

22 A That is a possibility, yes, ma'am.

23 Q But if that evidence is not collected and
24 processed immediately, it goes, does it not?

25 A It depends on the surface. I'm really not a

1 hundred percent familiar with all the DNA procedures.

2 Q Have you seen the trajectory of the bullet in the
3 vehicle? Has the prosecution shown you that?

4 Just one minute. I'm handing you State's
5 Exhibit 67. And just for background, that's a picture
6 of the vehicle, the bullet hole going through and then
7 here. And that's the bullet you tested, the one that
8 was found right down here.

9 A Okay.

10 Q So this is the first time you have seen this?

11 A First time, yes, ma'am.

12 Q All right. And what does that show about the
13 trajectory of the round?

14 A It's hard to say specifically, but it appears to
15 be a fairly flat trajectory with horizontal with the
16 ground. It did go in at an angle on the side of the
17 truck, actually hit the bed of the truck.

18 Q Let me show you State's Exhibit 63, too, which is
19 a good picture, I think, of the hole going in the bed
20 of the truck, a little better than that one. Does it
21 look like that bullet entered about the same angle that
22 you noticed that rod going through?

23 A By looking at the actual deformation of the hole
24 in the side of the truck, it appears that the
25 projectile was either tumbling or had been misdirected

1 just a little bit because it actually hit and formed
2 more of a -- instead of a straight-on shot, kind of
3 like an oblong or angled area, and then it goes through
4 and then striking the other part of the truck.

5 Q All right. So that looks pretty consistent with
6 the rod, then?

7 A Yes, ma'am.

8 Q Okay. And the rod is quite flat; is that correct?

9 A It appears to be, yes, ma'am.

10 Q So it doesn't look like it deviates up or down?

11 A If it does, it's very little. I mean, it's kind
12 of hard to tell just by the photos, but it appears to
13 be fairly level.

14 Q And again, looking at State's Exhibit 63, which is
15 the hole on the side of the truck, it looks like it
16 comes in at an angle kind of like this, it comes in at
17 an angle?

18 A Comes in at an angle.

19 Q So it look likes this plane is pretty accurate all
20 the way out, doesn't it?

21 A Yes, ma'am.

22 Q This hole matches up with that plane?

23 A That's correct.

24 Q So would you agree that that's a pretty flat
25 plane, then?

1 A Apparently, yes, ma'am, it appears to be.

2 Q And it's flat all the way out. It looks like that
3 would be about the angle the bullet came in and
4 continued on?

5 A That's what it appears to be, yes.

6 Q And I think this is kind of self-explanatory, but
7 if you have two shell casings, that means the gun has
8 been shot how many times? If you've got all the shell
9 casings from the scene, how many times has the gun been
10 shot?

11 A Well, if the firearm has actually been fired twice
12 at the location, there would be two fired cartridge
13 casings and two projectiles in the location. With a
14 revolver, you could actually fire it just one time and
15 still leave a fired one there and fire it another time.
16 I'm not positive of the timing of that sequence.

17 Q Yeah. I'm not talking about the timing. That
18 firearm has been fired two times, though, to get two
19 shell casings; is that correct?

20 A That's correct. That's correct.

21 Q And, basically, what happens is --

22 MS. WHITE: I'm not going to point it anywhere,
23 Judge. I'm pointing it up.

24 Q And what happens is the cartridge is fed into this
25 firearm. When I pull the trigger, the cartridge case

1 comes out into the cylinder and the live round comes
2 out the end of the barrel; is that right? It's just
3 the cartridge case is kind of stripped from the live
4 round?

5 A Well, the cartridge case actually stays inside the
6 cylinder of the revolver. It does not go. The only
7 thing that leaves the revolver is the projectile.

8 Q And that's what we've got is the outside of that
9 live round that's still stuck in that cylinder?

10 A That's correct.

11 Q Just one minute, please.

12 One thing. I may have missed it. Maybe you
13 explained this. If so, I'm sorry I missed it. A
14 reload means what?

15 A That the -- that someone had actually been
16 shooting and collected their fired cartridge casings,
17 then they were able to remove the old primer, add a new
18 primer, add more powder and put a new projectile on it.

19 Q And that's much less expensive to get a reload
20 than it is to buy brand-new ammo; is that right?

21 A It used to be.

22 Q Okay. Well, there is a price difference, shall I
23 say. So if you're a thrifty gun enthusiast --

24 MS. PRICE: Your Honor, may we approach? I
25 object.

1 (WHEREUPON, a bench conference was held off the
2 record in the presence of the jury, but out of the
3 hearing of the jury.)

4 BY MS. WHITE:

5 Q Now, you talked about defensive. You talked about
6 some defensive things. People own firearms for a
7 variety of reasons; is that correct?

8 A That's correct.

9 Q Some like to target practice. Probably not going
10 to hunt with a firearm like this, don't you agree?

11 A That is actually used for hunting in some areas.
12 I know guys, like I say, hunt with a .41 Magnum for
13 deer hunting.

14 Q All right. That's impressive. But also another
15 reason for owning a firearm, of course, is
16 self-defense; is that correct?

17 A That's correct.

18 MS. WHITE: Just one minute, please.

19 No further questions.

20 THE COURT: Anything further?

21 MS. PRICE: Yes, your Honor, briefly.

22 REDIRECT EXAMINATION

23 BY MS. PRICE:

24 Q Mr. Armstrong, if two cylinders are found but
25 they're not still in the revolver, fired casings --

1 A Uh-huh.

2 Q -- what does that indicate to you?

3 A If they were not inside the cylinder when the
4 firearm was found, that means they were removed after
5 being fired. And then if all six were in the cylinder
6 that were live, then someone actually reloaded or
7 filled up the cylinder completely.

8 Q Mr. Armstrong, just to make sure I'm clear on your
9 testimony, when Ms. White showed you State's Exhibit 63
10 and asked you about the entry into that vehicle?

11 A Yes, ma'am.

12 Q Was it your testimony that there was a change in
13 trajectory before?

14 A It appears by looking at the actual hole, which is
15 here at an angle going down -- going from my left to
16 the right going down, there's actually an oblong angle
17 here that shows an angle going in, plus instead of
18 being straight, perpendicular with or parallel with the
19 parallel lines, it actually kind of sloped down, which
20 shows me it looks like the bullet had either been
21 angled or hit or something and allowed it or called
22 tumbling. It may not have been perfectly thrown like a
23 football, not spiraling anymore when it hit.

24 MS. PRICE: Thank you, Mr. Armstrong. No further
25 questions.

1 RECCROSS-EXAMINATION

2 BY MS. WHITE:

3 Q But spiraling on the trajectory of that rod; is
4 that right?

5 A Correct.

6 Q Like a football, as you say, not a fine spiral,
7 still along the same plane but tumbling a bit?

8 A Still going on the same plane, yes.

9 THE COURT: Anything further for this witness?

10 MS. PRICE: Nothing further, sir.

11 THE COURT: Thank you, Officer. You may step
12 down.

13 I've been informed that we have someone that needs
14 to take a break, so we're going to take an early break
15 here for about ten minutes.

16 MS. PRICE: Yes, sir.

17 THE COURT: Okay.

18 (WHEREUPON, the jury exited open court at
19 9:40 a.m.)

20 (WHEREUPON, a recess was taken from 9:40 a.m. to
21 9:49 a.m.)

22 THE COURT: Anything from the State before we
23 bring our jury back in?

24 MS. PRICE: No, sir, your Honor.

25 THE COURT: Anything from the defense before we

1 bring our jury back in?

2 MS. WHITE: No, sir.

3 THE COURT: Mr. Bailiff, if you will get our jury
4 for us, please, sir.

5 (WHEREUPON, the jury entered open court at
6 9:51 a.m.)

7 THE COURT: Ms. Price.

8 MS. PRICE: Thank you, your Honor. The State
9 calls Whitney Berry to the stand.

10 WHITNEY BERRY,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

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

14 THE WITNESS: My name is Whitney Berry, B-e-r-r-y.

15 DIRECT EXAMINATION

16 BY MS. PRICE:

17 Q Thank you, Ms. Berry. And by whom are you
18 employed?

19 A I'm employed with the South Carolina Law
20 Enforcement Division, also known as SLED.

21 Q And where is that located?

22 A That is located in Columbia, South Carolina.

23 Q And what is your position with SLED?

24 A I'm the gunshot residue analyst in the trace
25 evidence department.

1 Q What is trace evidence?

2 A Trace evidence is a broad term that refers to all
3 of the tiny microanalysis that can be done such as
4 paint analysis on a hit and run, fiber analysis,
5 gunshot residue, bank dye analysis, glass and physical
6 fit or fracture analysis.

7 Q And what do you do as a forensic scientist?

8 A As a forensic scientist at SLED, I'm responsible
9 for the preparation -- the preparation of samples for
10 gunshot residue analysis as well as analyzing them on a
11 scanning electron microscope and then taking the data
12 that is generated by the computer and compiling it into
13 a report.

14 Q Do you analyze the results?

15 A I do.

16 Q How long have you been a forensic scientist?

17 A I have been a forensic scientist for about two and
18 a half years.

19 Q And do you keep records as to how many times you
20 perform GSR analysis?

21 A Our computer system or laboratory management
22 system does.

23 Q Do you know how many cases you've done
24 approximately since you began working with SLED?

25 A I've done approximately or I did approximately

1 150 cases during my training working under a qualified
2 analyst, and I've done probably 250 or so since then.

3 Q What's your education and training for your
4 position?

5 A I have a bachelor's of science in chemistry from
6 the University of South Carolina, and then once I began
7 working at SLED, I started their nine-month in-house
8 training program for gunshot residue analysis that
9 included reading different journal articles and books
10 about the theory of gunshot residue, deposition and
11 scanning electron microscopy. I've also done hands-on
12 practical exams and written exams on the theory and
13 practice of analyzing gunshot residue. I also did a
14 mock court in which I had to defend results as though I
15 were in a situation like this, on trial. And in
16 addition to all that, I'm -- I've actually taken
17 classes at Hook College of Applied Science in scanning
18 electron microscopy.

19 MS. WHITE: Your Honor, we'll certainly stipulate
20 she's an expert, trace analyst in GSR kits or however
21 she wants to phrase that.

22 MS. PRICE: Certainly. Your Honor, that she is an
23 expert in trace analysis.

24 THE COURT: Okay. So she will be admitted as an
25 expert in trace analysis.

1 Ladies and gentlemen of the jury, the same
2 instruction that I give for any expert. Expert opinion
3 testimony should be judged as any other testimony.
4 You, as a jury, give it whatever weight that you, as
5 the trier of fact, deem appropriate.

6 Okay. Ms. Price.

7 MS. PRICE: Thank you, your Honor.

8 Q Ms. Berry, what is gunshot residue?

9 A Gunshot residue is a term we use for everything
10 that comes out of the barrel end of the gun when it is
11 fired. This can include dirt, debris, rust, any kind
12 of lubricant that was put in the gun as well as the
13 primer residue particles from the ammunition.

14 What we're actually looking for when we're
15 analyzing for gunshot residue are these prime
16 particles. They're unique to ammunition. They're
17 composed of three materials which is lead, barium and
18 antimony. And in addition to looking for those
19 elements, we also look at the shape of these
20 microscopic particles.

21 Gunshot residue is very small. If you pull a hair
22 out of your head, about 100 particles will fit across
23 the diameter of your hair. So it's very tiny, and we
24 use an electron microscope to look for these.

25 Q And what are you looking for when you do an

1 analysis of a GSR kit?

2 A We're looking for the presence of these primer
3 particles. So we're looking for round or molten
4 three-component particles. That's what we call them.
5 Meaning they contain the lead, barium and antimony.
6 But while we're doing that, we also look for particles
7 that could support those such as consistent particles,
8 which are two-component particles, or associated
9 particles which would be your single-component
10 particles.

11 Q And what are you able to determine when you do
12 your analysis?

13 A We're able to determine whether or not there's
14 gunshot residue present or was it present on someone's
15 hands or clothing. We're also able to tell that that
16 person may have been in the vicinity to the discharge
17 of a firearm or come into contact with something that
18 was in the vicinity to the discharge of a firearm.

19 Q Where is gunshot residue most commonly found?

20 A What we give out to all the agencies free of
21 charge are called gunshot residue collection kits, and
22 these kits are four vials like this. They're labeled
23 for the different areas of the hand that the directions
24 want you to collect from. So that would be the right
25 palm of the hand, the right back of the hand, the left

1 palm of the hand, and the left back of the hand.

2 And inside one of these vials, that black dot is
3 tape. It's carbon coated tape. And you just depress
4 it on the hand in the different areas, and it will pick
5 up any particulate that is on the hands.

6 Q And so most commonly you would find it on the
7 hands when you do a kit?

8 A Most commonly the hands are sampled by officers in
9 the field. There is a six-hour window for a living
10 person to get that gunshot residue kit collected.
11 After six hours, it's accepted in the scientific
12 community that you're probably not going to find any
13 gunshot residue on someone's hands just because it's
14 very fragile.

15 If you think about having flour on your hands in
16 your kitchen, every time you touch something or clap
17 your hands, even if you put your hand in your pocket, a
18 little bit of that flour comes off. And that's the
19 same way gunshot residue can come off someone's hands.

20 Q It's extremely fragile?

21 A Yes.

22 Q How far does gunshot residue normally travel?

23 MS. WHITE: Your Honor, I'm going to object to any
24 testimony on this. The test was not done with this
25 gun. It could have been done and it wasn't.

1 THE COURT: Counsel, approach.

2 MS. PRICE: Yes, sir.

3 (WHEREUPON, a bench conference was held off the
4 record in the presence of the jury, but out of the
5 hearing of the jury.)

6 MS. WHITE: Your Honor, I'm going to object as to
7 the relevance of some general thing when there are
8 exact tests that could have been run on this exact
9 weapon to tell us exactly how far it goes.

10 THE COURT: I overruled the objection. You may
11 ask the question.

12 MS. PRICE: Thank you, your Honor.

13 BY MS. PRICE:

14 Q Ms. Berry, again, how far would GSR normally
15 travel and would it depend on certain factors?

16 A Yes, ma'am. Gunshot residue comes out in two
17 places on a gun. First place is from the ejection port
18 of a semiautomatic or the cylinder gap on a revolver.
19 So if you think to any western movie you may have seen,
20 when they go and pull the trigger, you see a poof of
21 smoke around their hands. So that would be how someone
22 who is firing a gun could potentially get on it their
23 hands.

24 The majority of the gunshot residue is going to go
25 out the barrel or out the muzzle of the gun, and it's

1 going to follow the projectile to its target. So if
2 someone is being shot at, more often than not we find
3 gunshot residue on a victim.

4 Q What about for a .41 caliber revolver?

5 A Different factors could affect how far gunshot
6 residue is going to travel such as the condition of the
7 gun, how well has it been maintained, what kind it is,
8 different ammunition. Obviously, the larger calibers
9 have more powder in them, so you can expect the primer
10 to go a little bit farther. We have a chart. It's
11 very general. It's not based on specific makes or
12 models that --

13 MS. WHITE: Your Honor, I'm going to renew my
14 objection to this entire line of testimony.

15 THE COURT: Okay. So noted. Overruled.

16 THE WITNESS: -- that gives estimates as to how
17 far gunshot residue may travel depending on different
18 calibers. For a larger caliber gun -- I believe you
19 said it was a .41 caliber?

20 Q Yes, ma'am.

21 A We would expect to see it travel about five or
22 six feet. It doesn't mean it's always going to go that
23 far. It could go shorter or longer, but that's about
24 the average.

25 Q That can depend on the condition of the gun?

1 A Yes, ma'am.

2 Q Can that also depend on some environmental
3 conditions?

4 A It can. It can depend on, for example, if you're
5 outside on a windy day, you know, obviously the wind is
6 going to be a factor. Rain can be a factor. Different
7 environmental things like that can always be factors.

8 Q Okay. And we talked about where GSR would be on a
9 person who had been shot at. Where would it most
10 commonly be found on somebody who fired a gun?

11 A On somebody who fired a gun, we would expect to
12 find on it their hands. We would also expect to find
13 it on their clothes, if they had been wearing clothing.
14 We sample clothes at SLED quite often, and we sample
15 specific areas on shirts and pants where it's most
16 likely to be deposited.

17 Q Do you always find it on someone who's fired a
18 weapon?

19 A No, we do not.

20 Q Okay. Did you receive evidence in this case?

21 A Yes, I did.

22 Q What did you examine, ma'am?

23 A I examined two gunshot residue kits. One was from
24 Jody Adams Powell and the other was from Bobby Joe
25 Arflin.

1 Q Okay. And from your analysis, were you able to
2 form an expert opinion as to the results of your
3 testing?

4 A Yes, I was.

5 Q What were those results as to -- first as to
6 Mr. Powell?

7 A The results from Mr. Powell's GSR kit were
8 negative, so that means the right palm, right back,
9 left palm, and left back areas were all negative. They
10 didn't contain any three-component gunshot residue
11 particles, they didn't contain any two- or
12 single-component particles that could be consistent or
13 associated with gunshot residue. They were completely
14 negative.

15 Q Okay. And as to Mr. Arflin?

16 A For Mr. Arflin, his GSR kit was also negative in
17 all four areas. So, again, that means there was no GSR
18 on the back palm of the right hand or back and palm of
19 the left hand.

20 Q What are the possible reasons for absence of GSR
21 on a person?

22 A Well, you can have a negative results from gunshot
23 residue not being deposited from the gun in the first
24 place. It can be from washing your hands, wiping your
25 hands. If you were wearing gloves at the time. If you

1 sweat a lot, sweat can remove GSR. Some GSR can be
2 absorbed through the skin through your pores. Then
3 there's also environmental factors such as the wind and
4 the rain if you're outside. Excessive debris on the
5 sample. So if the sample was taken off somebody whose
6 hands were covered in blood or dirt, those different
7 things could affect being able to see what was on the
8 particle lift. And just normal physical activity
9 between the four- to six-hour period after or any
10 period up to six hours after the shooting. It could
11 also mean that, you know, the person didn't fire a gun.
12 That's always an option, too.

13 Q Would it be possible that somebody who had been
14 worked on by EMS who had gunshot residue on their
15 hands, that if that had happened, it could have
16 contributed to the removal?

17 A It could have. It's definitely possible.

18 Q Is it also possible that that individual would
19 have been more than five or six feet away from the
20 weapon when it was fired?

21 A It's -- it could be possible, yes.

22 Q And you said that washing hands could result in
23 removal of GSR?

24 A Yes, it can.

25 Q Okay. One moment please.

1 Ms. Berry, I don't have any further questions for
2 you at this time. Please answer any questions that
3 Ms. White has for you.

4 THE COURT: Ms. White.

5 MS. WHITE: Yes, sir.

6 CROSS-EXAMINATION

7 BY MS. WHITE:

8 Q So, ma'am, the GSR kits, then, for Jody and for
9 Bobby were both negative; is that correct?

10 A Yes, ma'am.

11 Q Now, you said -- you were using the terms "chart,"
12 "estimates," et cetera. But there are tests that one
13 can actually run on the exact weapon in a case and find
14 out exactly how far this gunshot residue goes; is that
15 correct?

16 A No, ma'am. You cannot get an exact determination.
17 You can get a range which, again, would be a broad
18 term.

19 Q Yes. But you can find out with that weapon what
20 the range -- I don't mean exact. You can't get to the
21 exact inch, but you can get a range for this gun; is
22 that correct?

23 A SLED doesn't do analysis for that anymore.
24 However, the FBI does, and they could potentially do
25 it. However, they would need the firearm used, most

1 likely an entire box of unused ammunition from the
2 scene, and they would need the clothing from the victim
3 as well.

4 Q All right. So let's talk about that a minute. So
5 you said since we only have kind of a general chart,
6 you said the average is it would go five or six feet;
7 is that correct?

8 A Yes, ma'am.

9 Q And, of course, there would be very little -- you
10 would have much more here, and you would have much less
11 out here; is that right? It kind of falls -- it's a
12 fine flour and it kind of falls to the ground?

13 A It's actually a mist because these metal elements
14 get superheated during the explosive reaction of the
15 hammer hitting the primer capsule, and they vaporize,
16 so it's a metallic vapor. You have these tiny
17 particles. With the majority of them following the
18 projectile out of the muzzle of the gun, they're coming
19 out in a cone pattern. So they don't just go straight,
20 they go out in a cone. So everything potentially in
21 that cone shape could have gunshot residue on it.

22 Q And as it goes into -- as it gets bigger and
23 expands in this cone, that's when it begins dissipating
24 even more; is that correct? It's less concentrated?

25 A Yes, ma'am.

1 Q Now, you said that we would need the clothing.
2 For instance, if I'm shot in my pants, in my leg, and I
3 have a bare leg, that's different than if I have pants
4 on because the pants can be compared with this pattern,
5 this cone pattern; is that correct?

6 A From what I understand. However, I'm not trained
7 nor have I done a bullet hole analysis.

8 Q And there are labs that do it, FBI lab as well as
9 many others that do that; is that correct?

10 A I can't testify to other labs other than the FBI
11 that does it. I don't know of any others personally.

12 Q Now, if you heard that Jody had been on wet grass
13 and, in fact -- do you advise -- let's back up. Do you
14 advise that a person's hands be bagged at the scene to
15 preserve this?

16 A SLED does not have a policy about that. That's up
17 to the individual jurisdiction working the case.

18 Q Are you aware that that very often happens, that
19 the hands will be bagged at the scene so that this
20 fragile evidence doesn't fall off?

21 A In some cases it is. I would say in about 50 to
22 60 percent of cases I have, there is no notation
23 whatsoever to let me know whether they were bagged or
24 not.

25 Q Well, let me ask you this: If you want a more

1 accurate test, would you prefer the hands be bagged so
2 you don't lose this fragile evidence?

3 A In the case of a victim, because a victim is no
4 longer -- I don't know how to say this -- no longer a
5 living person, in most cases we don't have to worry
6 about sweat or about them wiping their hands or any
7 physical activity, so in the majority of cases, I would
8 say it would probably have a negligible effect.

9 Q Yes, ma'am. But if EMS is working on them and
10 they're being picked up by EMS and they're being
11 transported and they're having these things done to
12 them, then that would not apply, would it?

13 A No, ma'am.

14 Q And so if you heard that Jody had been moved
15 around on wet ground, his hands had not been bagged,
16 his hands were muddy, at least one of them in
17 particular and some blood, how, if at all, would you
18 expect that to potentially affect any GSR results?

19 A I mean, that would definitely have the potential
20 to remove GSR if it was there.

21 Q Now, let's talk about the five feet. When you say
22 the chart shows an average of five to six feet, that
23 means a particular weapon could be much shorter or
24 could be longer; is that correct?

25 A Yes, ma'am.

1 Q And it could be very different from what the
2 average on the chart is?

3 A Yes, ma'am.

4 Q And what you're measuring there is you're
5 measuring from the end of the barrel of the weapon to
6 the area that's being tested; is that correct?

7 A Yes, ma'am.

8 Q So, in other words, if I'm testing somebody's hand
9 and their hand is back, then you're going from the end
10 of the barrel to where the hand is; is that correct?

11 A Yes, ma'am.

12 Q Now, there can be intervening things that
13 intercept this gunshot residue; is that right?

14 A Yes, they can.

15 Q For instance, again, if I've got my body here and
16 my hand is back behind, my body will actually catch a
17 good bit of this gunshot residue; is that correct? Or
18 I can block it with various things, vehicles, body,
19 whatever, depending on the angle of these things?

20 A Yes, ma'am.

21 Q But the only way to know, if somebody is clothed,
22 is to do the distance determination test and test the
23 clothing; is that right?

24 A Yes, ma'am. And from what I understand about
25 that -- and, again, this is just my understanding -- is

1 that they're actually testing for the powder when they
2 do that, not the primer residue. And the extinction
3 point of most powders is about three feet.

4 Q And that will help determine a distance; is that
5 correct?

6 A Up to three feet, potentially.

7 Q And that's why SLED tested for it for 20 or more
8 years in every single case where it was requested; is
9 that right?

10 MS. PRICE: Objection, your Honor.

11 THE COURT: Overruled.

12 THE WITNESS: I can't testify to why the SLED
13 laboratory may have done it in the past. I can only
14 say that it was an administrative decision to move away
15 from doing that and to look for the actual primer
16 particles because you can physically see them and give
17 more definite information.

18 BY MS. WHITE:

19 Q But the bottom line is the clothing, nobody looked
20 for anything on this clothing; is that right?

21 A We do not analyze victim clothing at SLED.

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

23 MS. PRICE: One moment, your Honor.

24 REDIRECT EXAMINATION

25 BY MS. PRICE:

1 Q Ms. Berry, if an individual -- let's say you do
2 have clothes, which you don't test for victims?

3 A No, we do not.

4 Q But you could potentially test for a defendant or
5 for a shooter?

6 A If we had the shooter's clothes, then we could
7 potentially test it, had they not been shot, yes.

8 Q If a shooter were to wipe their hands on their
9 clothing, put their hands in their pockets, otherwise
10 move about with their clothing, could that affect your
11 ability to accurately test the GSR in the clothing?

12 A For clothing, we don't typically test areas where
13 we would expect someone to wipe their hands. Most
14 people would wipe their hands on their stomach. What
15 we actually test when we're doing clothing, depending
16 on the shirt, for a short-sleeved shirt we test the
17 sleeve and the chest area for each side of the front of
18 the shirt. We also test on a long-sleeved garment the
19 cuff and the forearm. And for pants we do the right
20 and left groin area which goes from the waistband to
21 about mid thigh.

22 Q So you try to stay away from those areas?

23 A We just -- the majority of gunshot residue
24 probably isn't going to be deposited in those areas, so
25 we focus on areas where we think it's most likely going

1 to be deposited. There are some cases where we get a
2 call and we're told a specific fact about the case such
3 as, you know, they put the gun right in their pocket
4 but they weren't around for the shooting. Then, of
5 course, we would check the inside of the pocket. But
6 for the majority of the time we just stick to what the
7 scientific working group recommends.

8 Q One moment, please.

9 Nothing further, Ms. Berry. Thank you.

10 MS. WHITE: Just one more question.

11 RE CROSS-EXAMINATION

12 BY MS. WHITE:

13 Q But it's impossible to get a test result if a test
14 is not run; is that correct?

15 A Yes, ma'am.

16 MS. WHITE: No further questions.

17 THE COURT: Anything further from this witness?

18 MS. PRICE: No, sir.

19 THE COURT: Thank you, ma'am. You can step down.

20 Call your next witness.

21 MS. PRICE: Yes, sir. Thank you, your Honor. The

22 State calls Corporal Tommy Brooks.

23 TOMMY BROOKS,

24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

25 THE CLERK: Please state and spell your name for

1 the reporter.

2 THE WITNESS: My name is Tommy James Brooks. Last
3 name is B-r-o-o-k-s.

4 DIRECT EXAMINATION

5 BY MS. PRICE:

6 Q Thank you, Corporal Brooks. Where are you
7 employed?

8 A South Carolina Highway Patrol.

9 Q Okay. And any specific division?

10 A I'm with the accident reconstruction team for the
11 patrol.

12 Q And how long have you been employed there?

13 A With the reconstruction team?

14 Q Well, with -- I'm sorry, with the highway patrol
15 and then additionally with the reconstruction team?

16 A With the highway patrol, I've been employed for
17 19 years. Reconstruction team, I actually started in
18 2008 as a permanent member.

19 Q Permanent member?

20 A Yes.

21 Q And what are some of your duties and
22 responsibilities with MAIT?

23 A With MAIT, we actually -- MAIT is the
24 Multidisciplinary Accident Reconstruction Team, and we
25 can do anything from airplane crashes, train wrecks.

1 We do it all. But basically what our main focus is is
2 for complex motor vehicle collisions. We put cars back
3 together. When you see the wrecks on the news and you
4 have got cars and debris everywhere, we go back in and
5 we document evidence through forensic mapping, and we
6 take them back and get on the computers and we try to,
7 you know, figure out what happened during a collision
8 event.

9 Q And what's your educational background?

10 A As far as the patrol itself? I've had over
11 1,000 hours of advanced training in traffic accident
12 reconstruction.

13 Q And are you a member of professional organizations
14 as it pertains to accident reconstruction?

15 A I am actually ACTAR certified. That's the
16 Association for the Accreditation for Traffic Accident
17 Reconstructionists. And I'm also a member of the South
18 Carolina Accident Reconstruction Group. So it's kind
19 of -- it's a strange group of people. They're all
20 wreck nerds, basically.

21 Q And do you attend conferences, go to training?

22 A Yes, we do. Typically we go to a conference -- we
23 try to get one at least once a year. We go to advanced
24 training twice a year. That's where I was Monday and
25 Tuesday, for some advanced training.

1 Q So this very week you're getting additional
2 training?

3 A Yes.

4 Q Do you keep up with the publications, any new
5 developments in the area of reconstruction?

6 A Yes, we do. Any time a new publication or a new
7 study comes out, our guys at headquarters usually get
8 copies of those papers. And typically what it is is
9 it's highway engineers that are coming up with stuff or
10 guys that are engineers that focus mainly on accident
11 reconstruction, whether it's with cars or bikes or
12 pedestrians or motorcycles, whatever. And then our
13 guys at headquarters go through those papers, and if
14 there's any additional training that we don't have that
15 we need, we get that.

16 Q Have you testified in court before?

17 A Yes, I have.

18 Q Have you testified as an expert?

19 A Yes, I have.

20 Q And how many times approximately, if you recall?

21 A Five times. Twice in Pickens, the rest in
22 Greenville, Spartanburg.

23 MS. PRICE: Your Honor, at this time, the State
24 moves that Corporal Tommy Brooks be declared an expert
25 in accident reconstruction.

1 MS. WHITE: No objection.

2 THE COURT: Trooper Brooks will be admitted as an
3 expert in accident reconstruction.

4 Ladies and gentlemen, I give you the same charge:
5 Expert opinion testimony should be judged as any other
6 witness' testimony, and you may give it whatever weight
7 you deem appropriate as the trier of fact.

8 Ms. Price.

9 MS. PRICE: Thank you, your Honor. May it please
10 the Court.

11 Q Corporal Brooks, were you asked to review some
12 evidence in this case?

13 A Yes, I was.

14 Q What were you asked to review in this case?

15 A We were actually asked to look at the roadway
16 widths as they relate to an incident that occurred on,
17 I believe it was Williamson Road -- I'd have to look at
18 the document to give the exact road -- in respect to if
19 there was enough distance that two vehicles could pass
20 without making contact with each other.

21 Q Okay.

22 MS. PRICE: Well, let me ask Ms. White: Do you
23 have any objection to me showing Corporal Brooks his
24 report?

25 MS. WHITE: Not a bit.

1 (Document handed to witness.)

2 BY MS. PRICE:

3 Q And so what was that roadway, then, sir?

4 A The distance, the roadway width?

5 Q No, sir, the name --

6 A It was actually Williamson Drive.

7 Q Okay. And in what county, do you recall?

8 A Anderson County.

9 Q And what was the limited question you were asked?

10 A We were just basically asked if the roadway was
11 wide enough that two vehicles could pass without making
12 contact.

13 Q Specific vehicles?

14 A Yes.

15 Q What were those specific vehicles?

16 A Vehicles in question was a full-size Dodge pickup
17 truck and a full-size GMC pickup truck.

18 Q Any particular years on those?

19 A I can dig it out for you. It's in the middle of
20 this somewhere. Take my glasses off. I can't see with
21 them on. Takes me a moment to go through all this
22 paperwork. One was a 2011 GMC pickup truck. The other
23 was a 2005 Dodge 2500 or a three-quarter-ton truck.

24 Q Okay. And were you asked to do an entire
25 reconstruction in this case?

1 A No, we were not.

2 Q Okay. Could you have done one if you had been
3 asked to do one?

4 A In this case, no. And typically what happens when
5 we have an incident that involves vehicles, the traffic
6 officers or the guys that work the wrecks or the road
7 troopers that work the wrecks, when they go out to
8 document the scene of a collision, they will actually
9 document evidence as it appears on the roadway, if it's
10 skid marks, if it's debris from vehicles, that will be
11 marked. And more importantly is the final rest of the
12 vehicles is what helps us out also.

13 In this case we were called in after the fact.
14 There is no final rest mark. The debris from the
15 incident itself with the mirrors bumping was not
16 marked, so we could not do that.

17 Q And if you had one rest mark that was just
18 generally marked, that would not be sufficient for
19 purposes for your reconstruction?

20 A No, it would not.

21 Q To be -- is it because MAIT tries to be very
22 accurate?

23 A We try to be as accurate as possible. And
24 sometimes it makes it hard when vehicles are moved
25 after events take place. And then if they're not

1 marked and they're moved, you can't get them back in
2 the same place, so we really try to stay away from
3 that.

4 Q If a vehicle had been moved and sustained
5 additional damage, would that also affect your ability
6 to do an accurate reconstruction?

7 A Yes, it would.

8 Q Okay. And so you were asked the very limited
9 question, then, of whether these two vehicles had ample
10 room to pass each other on that roadway, Williamson
11 Drive?

12 A That's correct.

13 Q And did you reach a conclusion?

14 A I did. You know, we did some measurements on the
15 vehicles. We use a program called Expert Auto Stats.
16 We go out and map the road. And what we do when we map
17 it, we actually use a station like you see surveyors
18 using when they are going out and mapping points. The
19 only difference in theirs and ours is our data
20 collector is actually made for forensic mapping. It
21 has stuff for evidence in there. So when we go back
22 out and we map this stuff, we're actually telling
23 it what we -- you know, if we're measuring point A to
24 point B, we say this is the edge of the roadway, this
25 is the edge of the roadway. We did that. And once we

1 got it back into CAD, we were able to take the vehicles
2 for their specific year and makeup, go into Expert Auto
3 Stats where I am actually able to adjust the dimensions
4 on the vehicles on the CAD to get them to the exact
5 dimensions of the cars, or the trucks in this case.

6 Expert Auto Stats is a company out of California.
7 That's all this guy does is auto stats. Our drawing
8 program, however, is out of Canada. So what they do
9 with the drawing program, Expert Auto Stats has the
10 vehicle width. In this case both the vehicles were
11 6.67 feet wide. Expert Auto Stats says, if they go
12 through Ford or GMC or Dodge, they get the exact
13 measurements. It's maximum width of the body, not for
14 the mirrors. The Canadian group that makes the drawing
15 program actually uses the outside mirror to outside
16 mirror widths when they put the scale of cars in for
17 us. So we go in and we readjust.

18 In this case, most of the vehicles that are in the
19 CAD program have 12-inch mirrors. They make them
20 standard 12-inch mirrors. So you have to adjust the
21 cars for each of those. In this case I went back out
22 to the armory where the vehicles were stored and
23 measured the mirrors that were on the trucks
24 themselves. Where the 12-inch mirrors on the CAD
25 drawing, we had to adjust our clearance widths for the

1 measurements that we already had on the road.

2 The Dodge truck had mirrors that were 14 and a
3 half inches wide. Because it's a big truck, it's got
4 wider mirrors on it. And the GMC, instead of having a
5 12-inch mirror on it, actually in real life it's got an
6 11-and-a-half-inch mirror, so we had to make
7 adjustments.

8 Once those adjustments were made, the drawing that
9 we did prior to making those measurements of the
10 physical mirrors themselves had a clearance, maximum
11 clearance on one side of the pavement -- this is while
12 the vehicles were still on pavement -- of 2.86 feet,
13 which is really close to three feet. But adjusting for
14 the mirror widths for the trucks, it actually kicks it
15 back to 2.7 feet of pavement. So when you think about
16 it, if you got the vehicles that are actually -- if
17 there are vehicles passing each other, you can throw
18 out whichever sides are opposed. They're on the
19 opposite sides of the cars because they're not going to
20 make contact anyway.

21 But with that being said, once the adjustments
22 were made, we had 2.86 feet of clearance, you know,
23 that they could have messed with. And I know one of
24 the vehicles was parked. But it's still going to be
25 2.7 feet of clearance. This does not include the

1 shoulders, though.

2 Q So what would it be with the shoulders?

3 A The shoulder on the --

4 Q Define shoulder, just so we know exactly what
5 we're talking about.

6 A The shoulder is the edge of the roadway between
7 the edge of the pavement and the ditches. You know,
8 where you see people walking or you see people run off
9 the side of the road or whatever.

10 In this case, the vehicle, both of the vehicles
11 were traveling inbound towards the cul-de-sac or back
12 into the neighborhood. The left-hand-side of the road,
13 which would have been the left -- the driver's side of
14 the red truck was actually 3.81 feet of shoulder. The
15 other side of the road really didn't play a part
16 because it was -- the vehicle was parked. But there
17 was 6.05 feet and it actually went off into a little
18 ditch over there towards a fence.

19 Q So in your analysis, you were already presupposing
20 based on reviewing the reports, I assume, that --

21 A That's correct.

22 Q -- that the GMC was on the pavement?

23 A That's correct.

24 Q Okay. So you didn't have the GMC off the road at
25 all --

1 A No, ma'am.

2 Q -- in your analysis?

3 A No.

4 Q In your analysis, the GMC is parked squarely on
5 the roadway?

6 A Yes, ma'am.

7 Q And then you have the Dodge next to it. And if
8 the Dodge is touching the GMC, you would have had an
9 additional three feet?

10 A 2.7. Close to three.

11 Q 2.7, okay. And then an additional three feet of
12 shoulder approximately?

13 A Yes.

14 Q Three -- how much?

15 A 3.81.

16 Q 3.81. So potentially six feet or almost six feet
17 to work with?

18 A Yes.

19 Q In terms of the vehicles passing each other?

20 A Yes.

21 Q Okay. So what is your expert opinion, then, as to
22 whether or not these two vehicles had room to pass each
23 other the day of the incident?

24 A It is my opinion that both vehicles should have
25 been able to clear each other, so they should have been

1 able to pass without making contact with the mirrors.

2 Q One moment, please.

3 A Yes.

4 MS. PRICE: Corporal Brooks, I don't have any
5 further questions at this time. Please answer any
6 questions that Ms. White has for you.

7 A Yes, ma'am.

8 THE COURT: Ms. White.

9 CROSS-EXAMINATION

10 BY MS. WHITE:

11 Q All right, Corporal. So when you pulled the
12 manufacturer's specs for these vehicles, they're each
13 80 inches wide without mirrors; is that correct?

14 A That's correct. From the group that makes that,
15 yes, ma'am.

16 Q And so that would be 160 inches; is that correct?

17 A Yes, ma'am.

18 Q And then you said that the mirror on one of the
19 vehicles was 11 and a half, but the manufacturer's
20 specs actually say 12; is that correct?

21 A No, ma'am. Actually, the manufacturer's specs
22 just use body widths themselves. The Canadians that
23 make our drawing program, they just assume that
24 everything apparently in America is 12 inches, so they
25 put everything in 12 inches. So we have to go back in

1 and actually scale the cars to make them the exact
2 dimensions to include those mirrors.

3 Q And you said, I believe, that one of the vehicles
4 had 11.5?

5 A Yes, ma'am.

6 Q And what did you measure the other vehicle's
7 mirror?

8 A The Dodge truck mirror was 14 and a half inches.

9 Q And, sir, will you just give a very brief
10 description -- I know this could go for an hour -- just
11 a very brief description of perception-reaction time.

12 A Perception-reaction time?

13 Q Yes, sir.

14 A Perception-reaction time, basically, in a
15 nutshell, is the time that you have to perceive that
16 there is a hazard. Like say if you're driving down the
17 road and you see a vehicle cross over the center line,
18 you have a distance that the vehicle is traveling at
19 whatever speed, but you actually have a time that you
20 could actually react. Most of the time it's -- for
21 somebody that's in fine feather, it's about two and a
22 half seconds.

23 Q So, in other words, let's say I see a branch
24 hanging out over the road. It's going to take me two
25 and a half seconds to see it and for my body to react,

1 to put on the brakes or swerve or do whatever I need?

2 A Yes, ma'am.

3 Q So I'm still traveling during at that time it
4 takes me to perceive and react; is that correct?

5 A You are, yes, ma'am.

6 Q Now, does perception-reaction time differ perhaps
7 depending on the age of the person?

8 A It can, yes, ma'am.

9 Q How does that affect it?

10 A Well, you know, professional drivers, it usually
11 remains the same. Somebody that's not a professional
12 driver, it could go up.

13 Q Let's not go with a professional driver. Let's go
14 with an older person who's not in the greatest of
15 health. How does it -- does it make it less or does it
16 make it more, this perception-reaction time?

17 A It depends on the lighting and how attentive they
18 are, but it can go up as high as three and a half
19 seconds.

20 Q All right. You just led me right into my next
21 area which is: Let's say it's very dark. Does dark
22 let you perceive and react faster or slower?

23 A It is slower.

24 Q And let's say that your eyesight isn't good. Does
25 that increase or decrease your perception-reaction

1 time?

2 A It increases.

3 Q All right. So, in other words, would you say
4 you're a much safer driver if you have a very low
5 perception-reaction time? If I can see something and
6 I'm in good shape and I've got good eyesight, it's nice
7 and light and I can react in one to 1.5 seconds, is
8 that preferable or is it better to be 3.5?

9 A I would go with the lower number on that, I
10 believe.

11 Q Would you agree that age, darkness, that sort of
12 thing decreases your ability to perceive things and
13 react to things?

14 A Yes, ma'am.

15 Q Now, let's take your figures that you just gave.
16 First, I want to -- you measured that road at what
17 width?

18 A 16.88 feet.

19 Q Are you aware Anderson County, since 1987, I
20 think, requires 20-foot roads now?

21 A No, ma'am, I did not know that.

22 Q Have you been by the road department at all to see
23 what's going on with them in Anderson?

24 A No, ma'am.

25 Q And you would agree there was no -- you would

1 agree there's no streetlights out there? You didn't
2 see any streetlights, did you?

3 A I did not see any, no, ma'am.

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

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

8 (WHEREUPON, Defendant's Exhibit Number 7
9 was marked for identification.)

10 (WHEREUPON, Defendant's Exhibit Number 8
11 was marked for identification.)

12 (WHEREUPON, Defendant's Exhibit Number 9
13 was marked for identification.)

14 BY MS. WHITE:

15 Q I'm handing you Defendant's Exhibit 5, 6, 7, 8,
16 and 9. You talked about the shoulder of the road, sir?

17 A Yes.

18 Q We're not really concerned about the other
19 shoulder, are we? That has nothing to do with
20 anything?

21 A Correct.

22 Q We're worried about the shoulder that he would
23 have had to go down?

24 A That's correct.

25 Q I'm going to show you those pictures of the

1 shoulder of the road. Did you all measure the drop-off
2 from the pavement onto the ground?

3 A No, ma'am.

4 Q All right. If you will just take a look at those
5 and see if that's been done in those pictures.

6 A It appears to have been, yes.

7 Q And would it surprise you to know that the
8 pavement down to the actual ground is four inches or
9 more?

10 A Four inches. Well, the angle of the camera is
11 off, but it looks about four inches, yes.

12 MS. WHITE: Your Honor, I'd ask that these
13 exhibits be admitted.

14 THE COURT: Any objection?

15 MS. PRICE: Without objection.

16 THE COURT: All right. Defendant's Exhibits 5, 6,
17 7, 8 and 9 will be admitted without objection.

18 (WHEREUPON, Defendant's Exhibit Numbers 5 through
19 9 were admitted into evidence.)

20 BY MS. WHITE:

21 Q So when you're talking about the shoulder of the
22 road, this is the shoulder we're concerned about right
23 here; is that correct?

24 A That's correct. Well, not more in lines of the
25 shoulder of the asphalt, but the shoulder that's -- the

1 portion between the edge of the roadway and the deepest
2 part of that ditch.

3 Q Now, this night this vehicle was parked there.
4 But are you aware other times other vehicles of other
5 sizes have been parked at various places in the road?

6 A No, ma'am. I did not know that.

7 Q I'm probably going to break my husband's measuring
8 tape, but I'm going to measure out. And, basically,
9 what you're saying is that would be the potential; is
10 that correct?

11 A Potential for passing, yes, ma'am.

12 Q For passing, using y'all's figures?

13 A Yes, ma'am.

14 Q Have you seen the damage on these vehicles?

15 A I saw -- I went out to the armory and actually
16 looked at it, yes, ma'am.

17 Q And would you agree that it looks like the
18 silver -- I'll use silver and red -- the silver truck
19 could have been parked here, this one came by and the
20 mirrors clipped; would you agree with that?

21 A I do agree with that.

22 Q And then would you agree the damage is also
23 consistent with the red one backing up and clipping the
24 top of this car, the front of this car?

25 A It does appear that. As far as that goes, the

1 damage from the back of the vehicle, we didn't look in
2 that other than making sure the road was wide enough
3 for vehicles to pass. But it does look consistent with
4 that.

5 Q And how often would you say does the highway
6 patrol go to accidents involving this very kind of
7 thing, one vehicle clipping, mirrors clipping, that
8 sort of thing?

9 A That happens a lot. I don't have an exact figure,
10 but I do know it happens a lot.

11 Q Now, let me ask you about the scene that night.
12 If you all had been called to the scene that night, you
13 could have actually measured how many inches in the
14 silver truck was, you could have actually marked at
15 least that truck very well with tires and position and
16 measured over to the other side of the road; you would
17 have been very accurate, is that right?

18 A Yes, ma'am.

19 Q Were you called to the scene that night?

20 A No, ma'am.

21 Q Are you aware that my client was actually charged
22 at that point with malicious injury to personal
23 property on this silver car or truck, I'm sorry?

24 A No, ma'am.

25 Q How many times would you say that you've answered

1 accidents with damage like this or greater that have
2 been accidents?

3 A Many times. I couldn't put a number on it.

4 Q Are you familiar with the term "road rage"?

5 A I've heard that, yes, ma'am.

6 Q Have you dealt with times where somebody has an
7 accident and the person whose vehicle is damaged has
8 road rage?

9 A As far as MAIT goes, as far as the accident
10 reconstruction team, typically we don't get into the
11 charging side of that as far as the charges go, but I
12 have -- I haven't dealt with that specifically myself,
13 no.

14 Q Would you agree that you could have done an
15 accident reconstruction, you could have pieced all this
16 back together, seen the debris in the road if you would
17 have been called to the scene that night?

18 A Yes, ma'am.

19 Q And once you map it out and you simply put your
20 paint, your orange paint, your various things y'all
21 put, you could have moved everything off and that would
22 have been that?

23 A Yes, ma'am.

24 Q Did you take a look at all and measure at all a
25 gunshot, gunshot damage to the side of the silver

1 truck?

2 A No, ma'am.

3 Q So you weren't asked to measure the height off the
4 ground of the gunshot?

5 A No, ma'am.

6 Q And when were y'all called out?

7 A Let's see here. Give you the date. Just a
8 moment. We were actually notified on April 1st of this
9 year and actually went out -- let's see when we arrived
10 on scene. We actually arrived on the scene on 7th,
11 April 7th this year at noon.

12 Q And, sir, y'all issued a supplemental report in
13 this case, too. Why did you do that?

14 A The supplemental?

15 Q Yes, sir.

16 A Can I see the supplemental?

17 Q Sure.

18 A I did that because I wanted to make the
19 adjustments to the actual physical mirrors themselves.

20 Q So the first report did not consider the mirrors;
21 is that what you're saying?

22 A Well, you know, we actually did consider the
23 mirrors, we just didn't consider there was a
24 two-and-a-half-inch difference on one as opposed to,
25 you know, take a half an inch for the other.

1 Q Again, on a dark road with an older person driving
2 with no streetlights, is this kind of thing at all
3 unusual to see?

4 A No, ma'am.

5 Q And do you have any idea on previous days whether
6 other people would park in this road with different
7 sized vehicles in different areas of the road?

8 A I'm not sure about that.

9 Q Would you agree that -- well, just one minute,
10 please.

11 MS. WHITE: No further questions.

12 THE COURT: Ms. Price, any redirect?

13 MS. PRICE: Yes, sir.

14 REDIRECT EXAMINATION

15 BY MS. PRICE:

16 Q Corporal Brooks, if someone has said that they
17 made a conscious decision, recognized a vehicle and
18 made a conscious decision to pass it, would
19 perception-reaction time have anything to do with that
20 then?

21 A In that case, it depends on highway speeds, but
22 no.

23 Q Okay. So it would be a nonissue if somebody had
24 said that they made a conscious decision, once they saw
25 a vehicle, to pass it?

1 A That's correct.

2 Q And in this case there is a Dodge pickup, a red
3 Dodge pickup. Would you say that the red Dodge pickup
4 is a, what, three-quarter-ton pickup?

5 A It's a three-quarter-ton, big truck.

6 Q Can handle a four-inch drop?

7 A Yes, ma'am.

8 Q Would you say it would handle it with any problem
9 at all?

10 A It shouldn't have any trouble. My wife runs off
11 the side of the road in our little car all the time.
12 But, no, that truck is actually -- they're specifically
13 designed for weight, for hauling stuff and pulling
14 stuff, so they have heavier suspension. You wouldn't
15 have the same problem as you would if you ran off with
16 a smaller car.

17 Q So, again, a nonissue in that truck?

18 A Yes, ma'am.

19 Q Okay. And when Ms. White held up that tape
20 measure to you, she was talking about the amount of
21 room that would be left on the road, not the additional
22 room that would be on the shoulder, then?

23 A That's correct.

24 Q And she talked about you're called to accident
25 scenes all the time?

1 A Yes, ma'am.

2 Q And that's part of what you do?

3 A Yes, ma'am.

4 Q Are you often called to murder scenes?

5 A We go to murder scenes from time to time, not
6 much. Most of the time if we do, it is -- the last one
7 I think we got other than having to map the road on
8 this one was the double homicide in Pickens County
9 where the mother killed her children. But other than
10 that, we typically -- if we go, it's just to map
11 roadways or document maybe the dimensions of the home
12 or the driveway or siding issues with hedge bushes, but
13 other than that.

14 Q Is it unusual for you to be called back after the
15 fact?

16 A No, we do go out a great deal. I mean, we do
17 everything. As a matter of fact, we do CDV cases. We
18 do everything when it doesn't involve death. So we
19 just go around the world with some of this stuff.

20 Q And sometimes contemporaneously with the incident
21 itself?

22 A Yes.

23 Q And sometimes after the fact?

24 MS. WHITE: Objection; leading.

25 BY MS. PRICE:

1 Q Is it sometimes that you respond later?

2 A Yes, that's correct.

3 Q Is it unusual for you to respond later?

4 A No, it's not.

5 Q Okay.

6 MS. PRICE: No further questions.

7 RECCROSS-EXAMINATION

8 BY MS. WHITE:

9 Q All right, Corporal. Just keep in mind I took one
10 math class in college and it was the lowest one
11 possible.

12 A It was probably more than I had.

13 Q I'm terrible at that, but let me just show you.
14 I'm confused. The manufacturer says the vehicle is 80
15 inches wide?

16 A Yes.

17 Q And the other vehicle is 80 inches wide. Am I
18 right in saying that's 160 inches?

19 A You're correct.

20 Q All right. And then you said one of the mirrors
21 is 14.5 inches wide?

22 A Yes.

23 Q And then one is 11.5 inches, so that would be
24 adding 26 inches to 160; is that correct? 80, 80, and
25 then 26 for the two mirrors?

1 A Yeah.

2 Q Would that not equal 186? I'm going to --

3 A Let's go through this. We'll go through it
4 because I'm from Walhalla, so I'm simple. So let's do
5 this.

6 Q I'm the worst at math, and I may be way off on
7 this, but okay. 80 plus 80?

8 A Let's go 6.67. Plus 6.67.

9 Q But the manufacturers say it's 80 inches.

10 A At it's widest point. And another thing, if you
11 will look at an automobile door, you got a widest part
12 of the door. Then what happens to the door as you get
13 closer to the top where the window is, the door goes
14 in. Giving the benefit of the doubt, I measure from
15 the inside underneath portion all the way up against
16 the door. And instead of going out to the edge of the
17 door where it actually came out, I measured the mirror
18 itself.

19 Q We're going to do it both ways. I want the
20 manufacturer's specs of 80 plus 80. We'll do it that
21 way first.

22 A I got 6.67 and 6.67 is 13.34.

23 Q Turn it into inches for me, if you don't mind.

24 A Okay. Clear this out. This is a weird
25 calculator.

1 Q I can't do point something and point something.

2 A Well, we've got to get you back in math class.

3 Q That wouldn't do any good.

4 A All right.

5 Q How many inches is that?

6 A We have 160 inches.

7 Q Okay. Now, let's add the 14.5 inches of the one
8 mirror. And you said the other one is 11.5. Let's add
9 that.

10 A Uh-huh.

11 Q Doesn't that add up to 186 inches?

12 A Let me clear this out. Yours keeps clearing out.
13 I'm not used to this calculator.

14 Q See, my calculator doesn't even work. Maybe
15 that's why I can't do math.

16 A It's from Staples. You're supposed to have the
17 easy button and we'd be able to do this thing.

18 MS. WHITE: Judge, do you mind if I give him my
19 phone? My ringer is off.

20 THE COURT: The clerk is prepared.

21 THE WITNESS: We're good. I got it going now. I
22 found the easy button.

23 BY MS. WHITE:

24 Q 186 inches all together, right?

25 A Yes.

1 Q And then we divide 186 inches by 12, which is a
2 foot?

3 A Yes.

4 Q Okay. What do we end up with?

5 A 15.5.

6 Q Okay. So 15 feet five inches?

7 A Correct.

8 Q And you measured six feet eight inches?

9 A For?

10 Q I mean 16 feet eight inches, right?

11 A For the roadway, yes.

12 Q For the roadway. So it's one foot three inches
13 difference, right? It's not 2.7, it's 1.3?

14 A Well, I had -- let's look back at the report. You
15 may be trying to pull a fast one. I'm just kidding.
16 I'm teasing. I've worked with Druanne before. Many
17 times.

18 Q We've got way too many years, haven't we?

19 A Let's look back at our thing here. All right.

20 Q I'm surprised you didn't just say, "You don't know
21 how to add, be quiet."

22 A We wouldn't do that. Let's see here. That is
23 accurate.

24 Q Okay. So it's 1.3?

25 A Correct.

1 Q Okay. I'm going to remember this. So let's do
2 this again. So then that means if one had been on the
3 complete edge of the road, not an inch or two in,
4 that's the clearance?

5 A Between the mirrors.

6 Q Yes, sir. Well, the mirrors are what hits, so
7 that would have been the best you could possibly do?

8 A Yes.

9 Q Now, you said you measured.

10 A We measured in CAD. Actually, I didn't actually
11 draw the CAD, but I went out for the measurement. I
12 was actually the architect, so I went out on a prism
13 pole and measured the stuff.

14 Q Can you convert yours into inches and tell me if
15 it still comes up to this?

16 A I can do the best I can. Hold on just a minute.
17 We're going back to this calculator here. It's not
18 like an adding machine. You've got to keep remembering
19 what you're doing.

20 Q If you need another calculator --

21 A We're getting through it.

22 Q Okay.

23 A So the roadway width is 16.06 feet converted from
24 the 16.88. So it's just almost 17 feet wide.

25 Q I think y'all measured 16.8. Are you aware we

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Tommy Brooks - Redirect by Ms. Price/Recross by Ms. White

1 went out and measured and actually took pictures, and
2 it was 16 feet two inches and 16.8 four inches in this
3 area?

4 A We try to go -- we don't know -- like I said, I
5 didn't know exactly where the vehicles were placed, so
6 we go down the road to start measuring. We will
7 measure a point here and measure a point there.
8 Sometimes you have overflow of asphalt and it might
9 make a minor difference but not much.

10 Q If it is 16 feet two inches, then that would be
11 actually seven inches difference from the 15 feet
12 five inches, which would be -- that would be your
13 clearance; is that right?

14 A It could be, yes.

15 Q All right. That's all the math I'm doing.

16 A Do you want your calculator back?

17 Q I don't know. Do I?

18 A It should be fine. There you are, Druanne.

19 Q Thank you.

20 A You're welcome.

21 MS. PRICE: May I, your Honor? May I?

22 THE COURT: Yes.

23 MS. PRICE: Redirect?

24 THE COURT: Okay.

25 MS. PRICE: Thank you.

1 REDIRECT EXAMINATION

2 BY MS. PRICE:

3 Q Giving Ms. White every benefit of her own personal
4 measurements on the scene, which were not done --

5 MS. WHITE: I object, your Honor. Those actually
6 weren't my own personal. I had staff out there with a
7 measuring tape.

8 THE COURT: Overruled. You can ask the question.

9 BY MS. PRICE:

10 Q Ms. White's measurements, giving her every benefit
11 of her measurements, was there still room for the
12 trucks to pass by each other?

13 A Yes, ma'am.

14 Q Okay. And, again, there was additional room on
15 the shoulder?

16 A That is correct.

17 Q A truck -- would a truck have had any problem
18 using that shoulder?

19 A No, ma'am.

20 MS. PRICE: No further questions.

21 THE COURT: Anything further?

22 RECROSS-EXAMINATION

23 BY MS. WHITE:

24 Q You're aware an ambulance had to get pulled out of
25 there because it slid into the ditch that night because

1 it was wet?

2 A No, ma'am.

3 MS. WHITE: No further questions.

4 THE COURT: Anything further?

5 MS. PRICE: Nothing further.

6 THE COURT: Trooper, thank you.

7 MS. PRICE: Your Honor, may Corporal Brooks be
8 released from his subpoena?

9 MS. WHITE: No objection.

10 THE COURT: Trooper Brooks, you're excused.

11 THE WITNESS: Thank you, Judge.

12 THE COURT: Call your next witness.

13 MS. PRICE: Your Honor, may I approach?

14 THE COURT: Yes, ma'am.

15 (WHEREUPON, a bench conference was held off the
16 record in the presence of the jury, but out of the
17 hearing of the jury.)

18 THE COURT: Ladies and gentlemen, I've been
19 informed the next witness is going to be somewhat
20 lengthy, so since we took an early break, I was going
21 to take one a little bit later, but we're going to
22 break again now to make sure no one has any personal
23 issues during a lengthy testimony of the next witness.

24 Mr. Bailiff, if you will take our jury out.

25 (WHEREUPON, the jury exited open court at

1 10:57 a.m.)

2 (WHEREUPON, a recess was taken from 10:58 a.m.

3 to 11:14 a.m.)

4 THE COURT: All right. Anything from the State
5 before we bring the jury back in?

6 MS. PRICE: No, sir, your Honor.

7 THE COURT: Anything from the defense?

8 MS. WHITE: No.

9 THE COURT: Ms. Price -- let's get our jury.

10 (WHEREUPON, the jury entered open court at
11 11:15 a.m.)

12 THE COURT: Ms. Price, call your next witness.

13 MS. PRICE: Yes, sir. May it please the Court.

14 The State calls Dr. Brett Woodard to the stand.

15 **BRETT WOODARD, M.D.,**

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

17 THE CLERK: Please state and spell your name for
18 the reporter.

19 THE WITNESS: I'm Brett Houghton Woodard,
20 W-o-o-d-a-r-d.

21 **DIRECT EXAMINATION**

22 **BY MS. PRICE:**

23 Q Thank you, Dr. Woodard. What's your occupation,
24 sir?

25 A I'm a medical doctor, a pathologist by special

1 training.

2 Q And what is a pathologist?

3 A A pathologist is someone who studies disease and
4 injury in the human body, its causation and its effects
5 and how to diagnose that through the tools of
6 observation or chemical testing.

7 MS. WHITE: Your Honor, I would stipulate that
8 Dr. Woodard is an expert in forensic -- sorry to make
9 him a toxicologist -- pathologist.

10 THE COURT: He'll be admitted as an expert in
11 pathology.

12 MS. PRICE: Forensic pathologist.

13 THE COURT: Forensic pathology.

14 Ladies and Gentlemen, I give you the same
15 instruction for all experts. He is like any other
16 witness. You place whatever weight on the testimony
17 that you deem appropriate as the trier of fact.

18 Ms. Price, proceed.

19 MS. PRICE: Thank you, your Honor.

20 Q Dr. Woodard, what was your occupation on
21 December 13th of 2013?

22 A I was working as a pathologist with Piedmont
23 Pathology Associates, and I was the member of the group
24 who had speciality training in forensic pathology.

25 Q Did you perform an autopsy on Jody Powell on that

1 date?

2 A Yes, I did.

3 Q What procedure is generally followed in an
4 autopsy?

5 A The deceased is observed as we receive them. In
6 this particular case, he had been taken by LifePoint.
7 LifePoint donations had been done before the procedure.
8 They removed the long bones and some skin for
9 transplantation. So he did not have any clothing with
10 him at the time, but we would examine any clothing that
11 would be associated with the deceased, examine the
12 external surfaces of the deceased for any signs of
13 injury and then look on the internal organs of the
14 deceased to see what those injury paths produced and
15 how that may have caused inability to function and
16 ultimately death.

17 Q What are some general characteristics of
18 Mr. Powell?

19 A He was 68 inches, 5 foot 8 inches, weighed
20 approximately 170 pounds. So he was pretty much my
21 size.

22 Q Did you know his age, sir?

23 A Yes. He was 41.

24 Q And did you notice any wounds to his body?

25 A He had two gunshot wounds. One was in his

1 anterior right shoulder, and the other was in his left
2 hip, toward the back of his left hip.

3 Q And can you tell me a little bit more about the
4 first wound that you just mentioned?

5 A There was a gunshot wound that passed through his
6 right shoulder down on this big muscle on his right
7 shoulder. It passed into the axilla and then passed
8 out to the back. It didn't hit the scapula on the way
9 out, but it did hit the brachial plexus and the
10 brachial artery. The brachial artery is the artery
11 that leaves the chest and goes down into the arm. The
12 brachial plexus is the nerves that give you function to
13 your hand and arm, allow you to move it and do things
14 with it.

15 Q And what directionality was there?

16 A This was from his front right to his back left.
17 And at the time of the wound, while I would not know
18 what his lower arm and hand were doing, his arm had to
19 be up somewhat similar to the position I'm showing
20 (indicating) so that the path would be straight and the
21 scapula would be rotated out of the way.

22 Q And so would this be consistent (indicating)?

23 A Yes, something along those lines, though, again, I
24 don't know what happened --

25 Q Sure.

1 A -- below the elbow.

2 Q Sure. But that would not be inconsistent with
3 what you're describing?

4 A That's correct.

5 Q And what would have happened to his right arm as a
6 result of that shot?

7 A After the bullet passes through, he would lose
8 function in his right arm. He would eventually, if
9 that was the only injury and it was unattended to, he
10 would bleed to death.

11 Q And, now, let's talk a little bit about this
12 second wound. Could you describe it in more detail for
13 me, please, sir?

14 A Yes. The second wound was in his buttocks around
15 on his hip side toward the back. It was an oval-shaped
16 wound, which tells us it's going from -- and had an
17 abrasion or scuffing on the skin on its lower aspect,
18 which tells us it's coming from below going upward.
19 That wound passed through the large muscles on the
20 internal surface of your back known as the psoas
21 muscles. It broke the pelvic bone on its way in. It
22 then went through the right kidney as it crossed from
23 the left to the right side. It then went through the
24 right side of the liver, through the right lung, and
25 then ultimately exited right about at the back of the

1 axilla. If you put your hand just at the back of your
2 armpit, approximately in that position.

3 Q So would it be accurate to say it went sort of
4 catty-corner through the body cavity?

5 A Catty-corner or obliquely through the body, that's
6 correct.

7 Q Did you recover any projectiles?

8 A No. Both projectiles exited the body.

9 Q Did you observe any bruising to Mr. Powell?

10 A He had a small bruise on what we call the
11 hypothenar eminence. That's your little finger side of
12 the hand. There was a small bruise in this location
13 that was of an age or a time period that could have
14 occurred with this event or shortly before this event
15 but less than 18 hours before this event.

16 He also had some scrapes on his side which were
17 what we like to refer to as ground contact scrapes.
18 These may have been produced by him having motion on
19 the ground or when emergency medical services come to
20 evaluate him and roll him into a position that's better
21 for their evaluation.

22 Q Dr. Woodard -- one moment, please. Dr. Woodard, I
23 have a diagram that's been marked as State's Exhibit 81
24 for identification purposes only. Would you mind
25 stepping down and going through what we just discussed

1 and showing it to me on this screen, sir.

2 THE COURT: Can we get the lights so we can see
3 better.

4 BY MS. PRICE:

5 Q Let's go through the first shot, please, sir.

6 A The first shot that I described -- and I
7 only state this, that I don't know which shot was
8 first. I just described it this way -- occurred in his
9 right arm out here on this muscle, the deltoid muscle,
10 the big muscle that makes the ball in your arm, and
11 passed -- I'm going to draw an arrow on his front
12 here -- passed from his front toward his back.

13 This is your scapula right here. Remember, we're
14 looking at the right side from the back. It came out
15 slightly lower than the place it went in. And as I
16 said, some action of the arm to lift that arm or rotate
17 it had to occur in order to move the scapula out of
18 position when the bullet passed through the body. So
19 the bullet would be coming out.

20 The second gunshot wound went in his left hip. It
21 was an oval-shape wound which tells us with the scrape
22 of the skin in the lower portion which tells us the
23 direction it came from and that it's going at an angle
24 up through the body. It passed up through the body in
25 this general path that I'm going to draw right here and

1 came out right there at the edge of his armpit. You
2 wouldn't be able to see that exit wound from the front.

3 As it passed through this area, this is where it
4 did its damage on the right side where it hits the
5 kidney, the liver, the right lung before it ultimately
6 exits the body.

7 Q Thank you, Dr. Woodard. You can take the stand
8 back.

9 Would you describe either of those wounds as being
10 received in a confrontational position?

11 A The wound to the front of the body would have
12 shown that the deceased was presenting his front right
13 side, the right side to the shooter at the time, so he
14 would have been slightly angled to the front. And as I
15 said, he wouldn't have necessarily had his hands in an
16 aggressive position, more -- it would be more probable
17 that it was in a defensive posture.

18 Q Okay. And slightly turned, then, to that
19 individual's --

20 A Yes, slightly --

21 Q -- left?

22 A -- turned so that if the individual would be off
23 to their right so that we get an angle through the body
24 rather than just from front to back.

25 Q And you said that the exit wound is slightly lower

1 than the entrance wound?

2 A Slightly lower and it's drifted to the left.

3 Q Okay. And, Dr. Woodard, from your examination,
4 can you give an approximation of the distance between
5 these individuals?

6 A No. There was no clothing present at the time
7 that I did this. The clothing could be studied for
8 distance. When the gun is extremely close, even with
9 clothing, there can be signatures on the skin, but
10 there was none of those signatures on the skin that
11 told me the gun was in close range.

12 Q Okay. And so no stippling?

13 A No, no stippling, no powder debris.

14 Q Okay. Are the wounds you observed consistent with
15 having been shot by a .41 Magnum revolver?

16 A Yes, they would be.

17 Q Okay. And in your expert opinion, what was the
18 cause of Mr. Powell's death?

19 A The gunshot wounds with resultant hemorrhage and
20 ultimately death from hemorrhage.

21 Q And when you say death from hemorrhage, would that
22 have been a slow process, fast process?

23 A No. About ten percent of each ejection of your
24 heart is going to run down your arm, so he's losing a
25 significant amount of blood into the soft tissues where

1 he's torn the brachial artery. But even more
2 important, the kidney is getting about 20 percent of
3 the blood for each ejection, so he's bleeding a little
4 faster through the kidney, a little slower through the
5 lung, a little faster -- excuse me, slower through the
6 liver, a little faster through the lung.

7 Q Are either of these fatal wounds or both fatal
8 wounds?

9 A The arm wound is potentially fatal. There could
10 be medical help, a tourniquet could have saved his
11 life. But the internal wound from the buttocks
12 criss-crossing his body was a fatal wound.

13 Q From the positioning of the wounds, can you tell
14 me anything about the directionality of the bullets and
15 how you would potentially get that shot? We talked a
16 little bit about the first shot. But the second shot
17 that you're talking about, the second wound, how would
18 his body have to have been facing?

19 A His body would -- there are a couple potential
20 scenarios. He could have been standing over the
21 shooter with the shooter lying on the ground and
22 shooting up at him, though I would anticipate at that
23 distance, a man 5'8", the gun would be close enough to
24 leave signature on the skin. But it's theoretically
25 possible he would have his back facing the shooter,

1 shooter would have to be laying on the ground or have
2 climbed down someplace far below him and shoot in an
3 upward angle, or we can begin to move his body, and if
4 we lay his body down on the ground, we could achieve
5 that kind of angle with basically an erect shooter.

6 Q So his body could have been on the ground --

7 A Yes, could have been.

8 Q -- to achieve that or falling down?

9 A It could be falling down or have fallen down.

10 Q And that would be consistent with the wounds
11 you're seeing?

12 A With the second wound I described.

13 Q And once again, what you just described as an
14 additional scenario, in order to effectuate that, he
15 would have to be facing away from the shooter; is that
16 correct?

17 A That's correct.

18 Q Not standing over him?

19 A If he's standing over the shooter, the shooter's
20 head would be behind him so that his arm --

21 Q He would have to be actually over the shooter?

22 A Yes, he would have to be almost be --

23 Q Straddling him?

24 A Straddling him.

25 Q Okay. But facing away from the shooter's face?

1 A That's correct.

2 Q And the other scenario is he's tripped and fallen,
3 potentially on the ground?

4 A That's correct.

5 Q And is being shot from behind?

6 A That's correct.

7 Q Would the marks that you observed on Mr. Powell's
8 palm and elbow be consistent with him falling?

9 A They would be consistent with him falling and
10 attempting to use that arm to move himself. If the
11 first shot that I described was the first shot, he
12 would have lost function in the right arm and he
13 wouldn't be able to use the right arm, so he would only
14 be able to use his left arm.

15 Q So he would have braced him potentially with his
16 left arm?

17 A He would have had no choice if he didn't want to
18 just fall flat on his face.

19 Q And again, the bruising could have occurred
20 contemporaneous with this event or up to 18 hours
21 beforehand?

22 A That's correct.

23 Q Okay. But that day?

24 A Essentially that day.

25 Q Okay. Dr. Woodard, what kind of death would this

1 be?

2 A He would have gone into shock, ultimately lost
3 consciousness and then died. The gunshot wound
4 themselves initially are not really painful but then
5 become painful very quickly, much like when you cut
6 yourself with a kitchen knife and you don't quite feel
7 it, and then all of a sudden it hurts. Especially the
8 wound that went through his pelvis. Any time you break
9 a bone, that's a very painful wound.

10 Q Is it your opinion that he would have had time to
11 register what was happening?

12 A Yes. He would have realized that he was losing
13 control of himself and may have felt that he was going
14 to die.

15 Q Could have said something before he died, in fact?

16 A Absolutely.

17 Q Dr. Woodard, in your examination, do you
18 specifically look for any additional cuts or bruises to
19 the knuckle area, the hands of the deceased?

20 A Yes. We look for typical contact injuries that
21 might be seen on the fingers, the knuckle pads or the
22 back of the hands, and we record those photographically
23 if they're there or if they're not there. In this
24 particular case, there were no bruises.

25 We also looked for contact injuries that might

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1 occur if there had been a fist fight first, even if the
2 deceased hadn't struck the perpetrator --

3 (Defendant vomiting into a trash can.)

4 THE WITNESS: Even if the deceased hadn't struck
5 the perpetrator, maybe the perpetrator struck the
6 deceased, so we look for bruises around the face, lips,
7 mouth --

8 MS. PRICE: Your Honor, do we need to take a
9 break?

10 THE COURT: Let's take a break.

11 (WHEREUPON, the jury exited open court at
12 11:34 a.m.)

13 THE COURT: Ms. White, does your client need any
14 kind of medication or anything? Has he had his
15 medication today?

16 MS. WHITE: I can only speak for myself. When I'm
17 throwing up, I can't move, so can we let him get his
18 bearings.

19 THE COURT: Take as long as he needs. If he needs
20 any medication, staff will assist you.

21 MS. PRICE: Your Honor, may we take a 15-minute
22 recess?

23 THE COURT: Let's just go into recess.

24 MS. PRICE: Thank you.

25 THE COURT: We're taking a 15-minute recess,

1 Doctor. You're still under oath so you can't discuss
2 your testimony with anyone while we're taking a break.

3 (WHEREUPON, a recess was taken from 11:39 a.m.
4 to 11:58 a.m.)

5 THE COURT: Are we ready to proceed?

6 MS. WHITE: Your Honor, I don't know what's going
7 to happen. I just got a trash can here, we've got
8 tissue here, and that's all we can do. I don't know
9 what else to do. He is stabilized for now, but he has
10 told me probably when he hears some more, he's probably
11 going to start throwing up more, so. I have to have
12 him in here.

13 MS. PRICE: Well, Judge, at that time it's a
14 distraction to the testimony. I know he has a right to
15 confrontation attention, but we're going to have to
16 strike a balance.

17 THE COURT: Well, we'll evaluate that if further
18 issues arise.

19 If your client gets in distress, please call that
20 to the Court's attention if I haven't noticed it.

21 MS. WHITE: I think you'll hear it.

22 THE COURT: We'll proceed.

23 Get our jury.

24 (WHEREUPON, the jury entered open court at
25 11:59 a.m.)

1 THE COURT: Okay. Ms. Price.

2 MS. PRICE: Yes, sir. May it please the Court.

3 Q Dr. Woodard, I'm going to ask you the question
4 again that I had asked you which was: Did you
5 specifically look for any bruising, scrapes, any
6 contact injury to the hands of the decedent?

7 A Yes. We specifically look at it and we
8 photographed it, even though it was negative.

9 Q It was negative?

10 A There was no evidence of impact injuries on his
11 hands.

12 Q If someone -- if the decedent had struck someone,
13 let's say, with an uppercut, would you expect to see
14 evidence of that?

15 A It would depend on where the individual was
16 struck. If they're struck in soft tissue, it may not,
17 but if they're struck against the bone, when you have
18 two layers of bone crushing against each other, the
19 skin in between gets injured.

20 Q So, for example, if someone had thrown a punch to
21 a jaw, would you expect to see evidence of that on a
22 hand?

23 A On a hand and on the individual that was struck.

24 Q So you saw no evidence of that on the decedent?

25 A That's correct.

1 MS. PRICE: Thank you, Dr. Woodard. Please answer
2 any questions that Ms. White may have for you at this
3 time.

4 THE COURT: All right.

5 Ms. White.

6 MS. WHITE: Yes, sir.

7 CROSS-EXAMINATION

8 BY MS. WHITE:

9 Q Dr. Woodard, now, you weren't able to examine any
10 of the clothing in this case; is that right?

11 A I was not able to. I don't know if the police
12 sent it to SLED or not.

13 Q And, certainly, the police would send clothing
14 off, and they can test and find out pretty closely to
15 what the distance was on things; is that right?

16 A That's correct.

17 Q And the reason why that's necessary in a case like
18 this is because there's clothing on the intervening,
19 between the shooter and the skin; is that right, of the
20 person who is shot?

21 A That's correct.

22 Q And so the things that you would normally look
23 at -- let's say I get shot in the face. You would be
24 looking for stippling and those other little particles
25 we have already heard about might have tattooed around

1 the wound; is that right?

2 A That's correct.

3 Q And then you could come in and tell this jury,
4 Yeah, I saw this tattooing around and it showed the gun
5 was maybe an inch back or a contact wound or something
6 like that; is that right?

7 A That's correct.

8 Q But when there's clothing intervening, the tests
9 that you run is you send it to SLED or to some other
10 lab and they run the test; is that right?

11 A A police forensic lab runs the test.

12 Q And that's done in millions of cases; is that
13 right?

14 A That's correct.

15 Q All right. And so in this case you would agree
16 that there was clothing between -- in other words, the
17 wounds that you saw were clothed, they had clothing
18 over them?

19 A That's correct. They would be clothed areas.

20 Q Now, Doctor, when you say how much he weighed,
21 y'all don't actually weigh them there, you estimate?

22 A That's correct. We estimate.

23 Q So you didn't actually weigh Jody?

24 A No, we did not.

25 Q But you did measure his height?

1 A That's correct.

2 Q And he is 68 inches tall; is that correct?

3 A That's correct.

4 Q All right. Now, let's look over here at the
5 diagram that you drew. When you say first wound,
6 second wound, you have no idea which order these
7 happened in?

8 A That's correct.

9 Q But we're going to call the shoulder wound the
10 first wound because that's what you did in your autopsy
11 report; is that okay?

12 A That's fair.

13 Q All right. So let's talk first about this wound
14 to the shoulder. How many inches down from the top of
15 the head did it enter the shoulder?

16 A That was 11 inches down from the top of the head.

17 Q So that means 68 -- 57 inches off the ground, if
18 he's erect?

19 A That's correct. If he's standing.

20 Q And we're assuming in all this he's standing
21 erectly, but that may not be the case; is that right?

22 A That's correct.

23 Q Okay. And then it exits where in the back, how
24 many inches below the head?

25 A It exits 14 inches below the top of the head in

1 the back, and so it's dropped three inches.

2 Q And that would be 68 minus 14 would be 54 inches;
3 is that correct?

4 A If you did the math right.

5 Q And, again, if he's standing completely -- well,
6 don't trust me on math. We've been through that this
7 morning. We're 54 inches off the ground, then, if he's
8 standing erect?

9 A That's correct.

10 Q Now, when we look at the angles and we say, Okay,
11 then this shot is at this angle, kind of downward, that
12 assumes he's standing completely straight up, though,
13 right?

14 A That's correct. But he has the ability to go in
15 three dimensions.

16 Q He could go down. That would mean it would be an
17 even shot, wouldn't it? The further down he goes --

18 A The more he bends himself at the waist, the more
19 it would be a level shot.

20 Q Okay. So, in other words, this might not be a
21 downward shot at all. If he's bent forward, it
22 actually was a level shot and it just looks that way on
23 his body because he leaned forward?

24 A That's correct.

25 Q All right. Now, let's keep talking about this

1 one. You said the arm was up; is that correct, but you
2 don't know what this part of the arm --

3 A Relative to the shooter. If you were the shooter,
4 his arm had to be so the elbow was rotated toward you,
5 and then the arm was pulled just a little bit so it was
6 crossing the chest because we moved the scapula out of
7 the way.

8 Q Okay. And you said you don't know what to do with
9 this part of the arm; is that right?

10 A I don't know --

11 Q You have no idea what's happening with this?

12 A I don't know what's happening with his hand or
13 that part of the arm.

14 Q So the arm was definitely up some, though; is that
15 right, and then this was somewhere along that plane?

16 A That's correct.

17 Q All right. And, Doctor, are you aware that he had
18 on a shirt?

19 A I would assume that he was dressed in at least a
20 shirt, if not a shirt and a T-shirt.

21 Q And, to your knowledge, was anything done with
22 that shirt in the way of testing to look at distance
23 things?

24 A I have no idea.

25 Q So all we know -- and, of course, if he's bent

1 over, then it would not be 54 inches off the ground,
2 the entrance shot, it would be --

3 A Depending on how much he bends at the waist, it
4 would lower it closer to the ground.

5 Q All right. Now, let's look at -- assume for me,
6 Doctor, that -- have you been shown any of the pictures
7 of the vehicles in this case?

8 A No.

9 Q All right. Assume that a gunshot, a spent round,
10 went through the back of a truck. They're standing on
11 a road, and it went through 49 inches and remained
12 steady. I mean, it didn't really go up, it didn't go
13 down, it just kind of -- and we have already had the
14 ballistics expert say, yeah, the shooting would have
15 occurred along that plane, too.

16 If this is the shot that led to that, what would
17 that tell you about whether or not Jody had to be down
18 in a crouched position?

19 A You could take his body, reapply the gunshot wound
20 to that line. If you knew approximately where he was,
21 you would -- you figuratively move his body up and down
22 and come up with the exact measurement.

23 Q And that would make this a much more level shot or
24 even maybe an upper shot, wouldn't it, depending on how
25 bent he was?

1 A It would make it more level -- no, I don't think
2 it ever gets to be an upward shot.

3 Q Well, the reason why I'm asking that -- and,
4 again, correct me if I'm wrong, but if we're saying if
5 he's standing erect and it's 14 inches out, that would
6 be 64 -- wait a minute. 68 minus 14 would be 54 inches
7 if he were standing erect and it went out at 14 inches;
8 is that right?

9 A That's correct.

10 Q But it would certainly be downward?

11 A That's correct.

12 Q Okay. So what I'm saying is if you go down from
13 54 inches to 49 inches, that takes off five inches; is
14 that correct?

15 A Yes, that's correct.

16 Q Okay. So that would put him down, and that would
17 make the shot perhaps even a slight upward shot when it
18 was made?

19 A Well --

20 Q Or could?

21 A In your scenario, you told me that it passed
22 through the truck at a constant 49 inches, so it can't
23 be going upward.

24 Q Well, now, let me just say the truck has several
25 layers of metal on it when it goes in, so be aware of

1 that.

2 A Oh.

3 Q But the bottom line is probably this wasn't
4 somebody standing up shooting somebody erect if you've
5 got these inches on this truck; would you agree with
6 that?

7 A I would agree that you could take the distances on
8 the truck at both -- you said there was one in the
9 front and the back. You could draw a line and put his
10 body on the line from the measurements that I made.
11 That would be done by --

12 Q We have that picture. I have just got to find it.
13 I'm handing you State's Exhibit 67. Is that what
14 you're talking about?

15 A Yes. You would -- can I show them?

16 Q Oh, sure. Yeah. Would you like to step down?

17 A All right.

18 Q And, Doctor, if you do that, just be sure you show
19 this side of the jury just like you do this side.

20 A You could take this line and you could project it
21 out to where he was, and then you could know exactly --
22 you could then align his wound up to his exact posture.
23 Obviously you couldn't do it with that small of a rod.
24 You would have to do what we call string it out so you
25 could carry it as far as away as the range of the gun.

1 Q Doctor, if you don't mind, this side.

2 A You can take this line that they have done here,
3 you can project it out. They use a little level
4 gadget. Cell phones have it inside and project it out
5 to as far as you need to. And you can take the wound
6 we measured and actually come up with the exact amount
7 of flexion that had to have been in his waist at the
8 time the discharge occurred.

9 Q Thank you, Doctor. If you will go on back up.

10 So you would agree that if, in fact, he's
11 68 inches tall, if this is 49 inches off the ground,
12 that there had to be some kind of flexion going on when
13 this occurred, when this shot occurred. There's no
14 other way it would match up?

15 A If the ground is level.

16 Q If the ground is level. We're on a flat surface.

17 A Yeah, if the ground is level.

18 Q And, again, the arm's in front; is that correct?

19 A The arm is pulled around so that it lines up with
20 the exit. We don't know where this elbow and hand is,
21 so it's brought around. And it has to be brought
22 around so that we move that scapula out of the way.

23 Q It could be out, it could be in, it could be up?

24 A It could be up, over.

25 Q Reaching, whatever?

1 A Yeah.

2 Q Okay. Now, again, let's look at the other one. I
3 want you -- if you don't feel comfortable, let me know,
4 but I'm okay with it. Can you point on my body, and
5 you can use a pen or something if you want to, where --
6 I want the jury to see where this second entrance wound
7 is.

8 A Okay. This entrance wound would be right here in
9 the buttocks crossing up through the back, going
10 internally. Your psoas muscles are on the inside.
11 They're not on the outside. They are not these muscles
12 on the outside. It misses the spine, but it fractures
13 this wing of the pelvis as it goes and it comes up,
14 goes through the kidney here, goes through the liver
15 there, goes through the right lung here, then it comes
16 out approximately right here at the edge of the armpit.
17 The other one came out approximately here, the edge of
18 the scapula.

19 Q So, Doctor, if my arm is down, what's going to
20 happen to that round that comes out under my arm if
21 it's down? What are you going to see in the inside of
22 this arm?

23 A It didn't go through the arm. It comes out right
24 at the crease.

25 Q No, sir. What I'm saying is if my arm is down

1 against that when it exits, will it enter my arm if my
2 arm is covering that area?

3 A No. Because it was coming at an angle, it would
4 go outside that area. As long as your arm -- if your
5 arm was down -- if we assume the first shot was the
6 first shot, then the arm is down because it can't move,
7 that arm would be standing sort of at the attention
8 position of a soldier and it would miss that arm on its
9 way out.

10 Q Well, let's assume that isn't the first shot and
11 the arm still is mobile. Let's say that.

12 A Then the arm could be anywhere.

13 Q All right.

14 Now, again, let's look at that angle. I was
15 standing completely upright. So that means the shooter
16 has to be, again, just like you said, on the plane; is
17 that correct?

18 A That's right. We have to either move the shooter
19 down, if we're going to have him be erect, move the
20 shooter down so the shooter is laying on his back
21 beneath him looking at his buttocks when he discharges
22 the weapon.

23 Q All right. Now, let's say that's not the case.
24 Let's say he's in a position where he's down and he's
25 assaulting him or charging him or doing something like

1 that, bent over. We don't know. I mean, however the
2 body position is. Do you find most people are like
3 this (indicating) when they're involved in
4 altercations?

5 A No, but they don't lead with their butt either.

6 Q I'm sorry?

7 A They don't lead with their butt either.

8 Q Well, but that depends, doesn't it, on what's
9 happening?

10 A If -- yes. If he made some wild gestures where he
11 throws his -- misses the guy entirely and throws his
12 butt so it's facing the man at the time he
13 discharges --

14 Q But, Doctor --

15 A -- wow, that's a wild scenario.

16 Huh?

17 Q You're assuming there's one assailant. If there
18 are two people that are a threat or three people that
19 are a threat out there, then you're not necessarily
20 going to be facing one in particular; isn't that true?
21 It's kind of a rotating scene?

22 A Absolutely. If there were three people attacking
23 him. But, again, we still have to have the deceased
24 attacking him butt-first with your scenario.

25 Q Let's talk about that, then, because you're saying

1 right here; is that correct? That's what we're talking
2 about?

3 A That's correct.

4 Q All right. What if there is a leg that's up or
5 rotated? What if the body is twisted in a different
6 manner? Will that affect the plane of this rod just
7 like we talked about on this?

8 A It really won't in this particular gunshot because
9 our ability to rotate is somewhat limited compared to
10 around -- our spinal axis is controlled, so we don't
11 really have the ability to do it. If the leg was up,
12 then I would anticipate that the abrasion collar would
13 then begin to slide around more toward the 3 o'clock
14 position as we lift that leg and bring that buttocks
15 area more perpendicular to the ground surface.

16 Q Okay. And you're talking about twisting, but I'm
17 talking about bending. If there's some bending in
18 this, what I'm saying is this -- I wish I had one of
19 those rods that we have. The rod that would make it go
20 in a shot like this, if I'm bent over, just like if I
21 bend over this one, it may not be as sharp and upward.
22 That's what I'm talking about. I'm talking about
23 bending. I'm sorry, I'm not talking about twisting.
24 I'm talking about bending.

25 A If he bends sharply at his waist to present his

1 butt in a more absolute presentation of his butt to the
2 man, you could bend over so far with your waist to
3 achieve that angle, yes.

4 Q Okay. In fact, it could have been a flat shot if
5 you're bent all the way over; is that correct?

6 A If you're bent all the way over with your butt
7 sticking up in the air, yeah.

8 Q Fair enough. Now, let's talk about that. But
9 does it also depend on where the gun is? We're
10 assuming there is a straight shooter as well; is that
11 right?

12 A Well --

13 Q Does it --

14 A -- are you suggesting there's multiple shooters?

15 Q No, sir. What I'm saying is not everybody shoots
16 like this, especially if there's some falling back,
17 some issues like that that could change where your gun
18 is. In other words, you're not going to have the
19 firearm directly in front of you. You could be at an
20 angle yourself; is that correct?

21 A Yeah. The individual would have the ability to
22 rotate their arm in any direction that allowed them to
23 meaningfully point the weapon.

24 Q Now, I don't think we talked about this, but what
25 is the -- you said that the second -- what we'll call

1 the second wound, that that gunshot wound came out
2 here. How far was that from the top of the head?

3 A It was 14 and a half inches below the top of the
4 head.

5 Q So essentially the same as the other shot, of
6 exit?

7 A Half an inch difference.

8 Q Now, Doctor, you said there were no projectiles in
9 the body; is that correct?

10 A That's correct.

11 Q And so that means they had to exit the body.
12 We've got one in evidence, but there actually had to be
13 two that exited; is that correct?

14 A That's correct.

15 Q And, Doctor, if you're on the ground, if you heard
16 that a witness testified that there was a shot in the
17 back while he was flat on the ground, face down, where
18 would you expect that projectile to be?

19 A Somewhere in the ground area where the body had
20 laid at the time it was shot.

21 Q And, again, that's because of what we talked about
22 with the plane of the bullet; is that correct?

23 A That's correct.

24 Q All right. And, in fact, there have been many
25 cases where it's suspected that somebody was shot on

1 the ground, and you dig through the ground and you take
2 pictures, show the nice tunnel down, and you retrieve
3 the spent round; is that correct?

4 A That's correct.

5 Q Are you aware of any spent round that was
6 recovered in this case?

7 A I don't know what they recovered or didn't
8 recover.

9 Q So, Doctor, you're unable to tell the jury
10 anything definitive about any kind of distance without
11 getting these tests done on the clothing, having the
12 weapon tested to determine the cloud or whatever you
13 want to call it. Until those things are done, it's
14 very difficult to tell anything definitive about
15 distances; is that correct?

16 A That's correct.

17 Q Let's talk a minute about the -- about any
18 injuries to the hand. You said there was an injury to
19 the left hand; is that correct?

20 A That's correct, on what we call the hypothenar
21 eminence. That's the little finger side of the hand.

22 Q And, Doctor, does a person always have injuries to
23 their hand if they punch someone?

24 A If you punch bone on bone, yes. If you punch bone
25 on soft tissue, no.

1 Q What if you punch bone on a bearded area and the
2 head goes back? This isn't a person who's got a lot of
3 strength and the head moves with the hand, what then?

4 A I would still anticipate, especially with a rough
5 surface like a beard, that there would be some
6 translation of evidence.

7 Q Can you say that for sure depending on how much
8 the head goes back?

9 A No. I'd say it's likely.

10 Q All right. So you can't say that that would be
11 there for sure?

12 A Not absolute.

13 Q Now, Doctor, did you take any bodily fluids for
14 testing to see if anybody was under the influence of
15 anything during this time?

16 A Yes. We took blood and vitreous humour. He --

17 Q Stop there, Judge -- Judge. Doctor. Vitreous
18 humour, will you tell the jury --

19 A That's the fluid around the eye. He did not have
20 any urine in his bladder, so we didn't take urine.
21 Then we saved hair and nails, nails for any trace
22 evidence that might pass between the contact between
23 two individuals.

24 Q Okay. And was urine taken?

25 A He had no urine in his bladder.

1 Q Are there certain tests for drugs that cannot be
2 performed without urine?

3 A All tests for drugs can be performed on blood.
4 Certain agencies don't want to perform them on blood.

5 Q So could there have been testing on several drugs
6 at SLED?

7 A Well, SLED did do testing for several drugs.

8 Q Let's talk about that. Have you seen the test
9 results, Doctor?

10 A I do not have any test results from the drugs in
11 my information.

12 Q Do you feel comfortable with me handing you these
13 tests and asking you what the results are?

14 A So long as we put them in evidence.

15 Q If you will just take a look at those, please.
16 And you said that y'all got vitreous humour and blood;
17 is that correct?

18 A That's correct. They use the term "ocular
19 fluid," but it's vitreous humour. It means the same
20 thing.

21 Q And will you please tell the jury what was
22 tested -- which one are you looking at now, Jody or
23 Bobby?

24 A Jody Powell is the one I have.

25 Q Let's start with Jody. What was tested, what

1 drugs were tested for?

2 A They tested for all the alcohols -- ethyl, methyl,
3 acetone and isopropyl. They tested for amphetamine,
4 benzodiazepines, carisoprodol, cocaine, methadone,
5 methamphetamine, opiates, oxycodone, tramadol,
6 zolpidem, cannabinoids, and then on the vitreous humour
7 they, again, tested for all the alcohols, the same I
8 mentioned before.

9 Q And that was all negative; is that correct?

10 A That's correct.

11 Q And will you please look at Bobby's and tell us
12 the same thing.

13 A Here they didn't have vitreous humour. They just
14 tested blood, and they were all negative, same tests.

15 Q Same tests, okay. Doctor, what is blood thinner?

16 A Well, there's several brands of blood thinner.
17 The most common one is Coumadin. What it does is
18 suppress the synthesis in your liver proteins that make
19 coagulation factors. And we follow that by blood
20 testing to make sure we get in a range where you're
21 less likely to clot, but if there was a serious injury,
22 you would clot.

23 Q And, Doctor, warfarin, is that one of the terms
24 for blood thinner?

25 A Yeah. Warfarin and Coumadin are the same agent.

1 Q So what, if any, difficulties might you face if
2 you're on blood thinner and you get some kind of, I
3 don't know, internal injury, cut, something like that?

4 A You're likely to bruise more easily, bleed more
5 freely, and if you had to have major surgery especially
6 in contained areas, eye surgery, brain surgery where
7 there is a small additional space, they would have to
8 reverse it before they can do it.

9 Q So is there a greater danger or a lesser danger if
10 you're injured to bleeding excessively if you're on a
11 blood thinner?

12 A You're more likely to bleed excessively.

13 Q Doctor, when you were saying that the shooter or
14 the -- or that Jody would have been having to stand
15 over someone who was shooting, that assumes he's erect;
16 is that correct?

17 A That would assume he was erect.

18 Q And that assumes the shooter is in front, not to
19 the side?

20 A No. The shooter would have to be -- if the
21 shooter was on the ground, you would have to be looking
22 at his butt at the time he discharged the weapon.

23 Q Right. The shooter would actually have been
24 pushed to the side; is that correct?

25 A To the ground, and then he would have to step over

1 him.

2 Q Thank you.

3 THE COURT: Ms. Price, any redirect?

4 MS. PRICE: Yes, sir.

5 REDIRECT EXAMINATION

6 BY MS. PRICE:

7 Q Dr. Woodard, would the entrance wound on an
8 individual depend also somewhat if they're being fired
9 at on how far away they are potentially from the
10 shooter?

11 A I don't quite understand your question.

12 Q If you have a wound like you did in this case that
13 you're examining, Ms. White was talking about the
14 trajectory of the bullet, and we looked at the vehicle.
15 I don't remember what exhibit she used, but let's say,
16 for example, 67. If the decedent in this case was
17 further away from the truck and had been shot, the
18 body -- the bullet had entered the body, would it be
19 natural to see, in your opinion, not as a ballistics
20 expert, but would it be natural to see the bullet go
21 down some as it loses momentum?

22 A As it goes through the body, even talking about
23 the first gunshot wound as I numbered them, the one to
24 the right shoulder?

25 Q Yes. Yes.

1 A It hits muscle and other tissues, and that slows
2 the bullet down. It also does a secondary phenomena to
3 the bullet. The bullet is in a gyroscopic spin because
4 of the nature of the rifling in the gun barrel, and it
5 begins to lose that spin so the bullet begins to wobble
6 more. And in wobbling, it becomes more -- it uses up
7 its kinetic energy and causes it to fall.

8 Q So that could affect the trajectory as you would
9 see it in a body versus as you would see it in an
10 object after it had passed through a body?

11 A That's correct.

12 Q Dr. Woodard, Ms. White asked you about crouching
13 down also with regard to the first shot. And by that I
14 mean the first wound that we discussed, the shot to the
15 shoulder area. When an individual is running, are they
16 also crouching?

17 A They usually are flexed at the waist --

18 Q Usually flexed at the waist?

19 A -- in the direction they are going.

20 Q In the direction they're going. For example, this
21 direction, if I was trying to turn and run to my left?

22 A Yes.

23 Q Okay. Potentially?

24 A Potentially.

25 Q Okay. That would be consistent with the wound as

1 well?

2 A That -- the wound through the shoulder.

3 Q Yes, the first -- the wound through the shoulder.

4 Dr. Woodard, referring to the second wound, the
5 butt wound now that we've been calling it that, the
6 wound to the hip area in the back, you said that that
7 gunshot wound fractured this individual's pelvis?

8 A That's correct.

9 Q Would that make it difficult to run?

10 A Yes. It would make it extremely painful to take
11 another step.

12 Q So it would be -- would it be consistent that
13 after that wound was received, the individual would not
14 be able to continue forward?

15 A That's correct.

16 Q Dr. Woodard, Ms. White also asked you about the
17 positioning of the arm on this second wound that we
18 were discussing to the hip. She was saying that, I
19 believe, that it would need to be a certain direction.
20 What direction would it need to be to have achieved
21 that exit?

22 A Anywhere from straight down like a soldier at
23 attention to anything else you can do keeping the arm
24 in that plane. Obviously I can lift my arm to the side
25 and achieve that plane or lift it to the front and

1 achieve it.

2 Q And we're talking about the right arm?

3 A The right arm.

4 Q That was no longer working?

5 A Well, once that shoulder shot occurs.

6 Q Okay. Dr. Woodard, if an individual is falling,
7 can gravity affect their movement, their body?

8 A Yeah. The body organs, if we assume the first
9 shot occurred first, that arm is just going to be
10 flail, and it's going to just basically be carried
11 along like a backpack and go wherever the momentum of
12 the arm carries it.

13 Q One moment, Dr. Woodard.

14 I'm showing you what's been previously admitted as
15 State's Exhibit 14. Now, Dr. Woodard, do you see an
16 indentation here in the land?

17 A Yeah. There's like a wagon wheel decoration, and
18 then there appears to be some sort of small drainage
19 ditch.

20 Q Okay. So, Dr. Woodard, with regard to that second
21 wound, if an individual, hypothetically speaking, had
22 been running across that ditch and leaning forward, as
23 the individual is running, would that have lowered his
24 body also?

25 A Yes, it would.

1 Q To effectuate that wound?

2 A Again, he could flex at the waist presenting his
3 rear end to the gun barrel.

4 Q So that would be consistent with your findings?

5 A That's correct.

6 Q Okay. Dr. Woodard, we were talking about blood
7 thinner with Ms. White just a moment ago, and along
8 with making an individual bleed more easily during
9 surgery, if an individual had been struck, what would
10 the effect be as far as bruising goes on an individual
11 with blood thinners? Would that be different than you
12 would see in a normal bruising situation?

13 A Yeah. An individual on blood thinners will bruise
14 more easily and more significantly. So if we take an
15 impact of any kind, they're more likely to have a
16 bruise from it, and they're more likely to have a
17 larger bruise from it. Even simple pressure impacts
18 such as someone trying to help by pulling on your arm
19 can produce significant bruises.

20 Q Would that bruising manifest itself earlier than
21 it would in a normal individual?

22 A It would be a little more quickly, and, again, it
23 would be more dramatic.

24 Q So just out of curiosity, if someone had received
25 an uppercut with some amount of reasonable force,

1 hypothetically speaking, and they were on blood
2 thinners, would you expect to see a manifestation of
3 injury in that individual?

4 A Yes. And you would -- you would have a bruise, a
5 significant bruise associated with the site of impact.
6 And depending on exactly where they were with their
7 blood thinners, the whole inside of the mouth, the gum
8 surfaces, may also look bruised.

9 Q And did you have an opportunity to review some
10 medical records in this case?

11 A Yes. Your office faxed me some medical records.

12 Q And did you -- were these records pertaining to
13 the defendant?

14 A Yes, they were related to Bobby Joe Arflin.

15 Q And the defendant did complain of -- did the
16 defendant complain of some internal swelling at some
17 point in time?

18 A Yes. In the inmate call slip medical request, he
19 complained of, "Gums swelled on the left side and
20 bleeding when I brush. Also lower plate cutting gum
21 making it painful to try to," and then he stops.

22 Q Okay. And is there an indication when you
23 reviewed that of the onset of that symptom?

24 A He says the problem has been present for five days
25 and the form was filled out on the 15th of December.

1 Q Which means that it manifested initially when?

2 A The 10th of December.

3 Q The 10th of December. So if this incident
4 happened the 11th of December, would you expect that
5 symptom to be connected in any way to these events?

6 A Not based upon this statement.

7 Q Okay.

8 MS. PRICE: Nothing further at this time,
9 Dr. Woodard.

10 THE COURT: All right. Ms. White, anything in
11 response to the redirect?

12 MS. WHITE: Yes, sir.

13 RECCROSS-EXAMINATION

14 BY MS. WHITE:

15 Q Doctor, you were talking about the shot that went
16 up -- well, maybe upward. Your shot number two. Let's
17 talk about that a minute. Are you aware that Jody's
18 girlfriend was right there with him when this occurred?

19 A I knew that his female companion and perhaps two
20 other adults were present.

21 Q Are you aware that she gave sworn testimony in a
22 bond hearing saying he was shot on the second time and
23 then started to run -- as he was starting to run.
24 That's what she said. Are you aware of that?

25 A No.

1 Q And are you aware that this ditch is just a few
2 feet away from where this supposedly happened, maybe, I
3 don't know, six feet, ten feet, something like that?

4 A If the cars were in their position as they were at
5 the time of the incident, that's what it looks like.

6 Q Especially with adrenaline going and things like
7 that, is it certainly possible for him to have run a
8 few feet?

9 A A few steps.

10 Q And, Doctor, you said that Bobby said that this
11 had been present for five days; is that correct?

12 A That's what the form says.

13 Q Are you aware of anybody who sits in jail all day
14 and has appointments or places to go, things to do that
15 they have got a calendar so they're keeping up with the
16 exact number of days?

17 A Only about movies about the Mafia.

18 Q So it might very well be -- have you ever been on
19 vacation and you totally forget which day it is because
20 you have got nothing to keep up with?

21 A Yeah.

22 Q Just one minute, please.

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

24 THE COURT: Anything further from this witness?

25 MS. PRICE: Only one question.

1 FURTHER REDIRECT EXAMINATION

2 BY MS. PRICE:

3 Q Dr. Woodard, would you remember the date you
4 killed someone?

5 A I would think you would.

6 MS. PRICE: Thank you.

7 No further questions.

8 THE COURT: Anything further?

9 MS. WHITE: No, sir.

10 THE COURT: Any objection to this witness being
11 excused?

12 MS. WHITE: No, sir.

13 MS. PRICE: Not from the State.

14 THE COURT: Thank you, Doctor. You are excused.

15 All right. Ladies and gentlemen, we're going to
16 break for lunch right now. We're going to reconvene at
17 2 o'clock. So your lunch is going to be about ten
18 minutes shorter than it's been the first two days since
19 we had some unexpected delays today. We want to keep
20 moving, so be back here by 2 o'clock and we will resume
21 the trial.

22 Do not discuss the case with any third party. Do
23 not deliberate amongst yourselves. Do not do any
24 independent research while you're outside at lunch. I
25 hope everyone has a good lunch.

1 (WHEREUPON, the jury exited open court at
2 12:39 p.m.)

3 THE COURT: We will be in recess until 2 o'clock.
4 (Lunch recess was taken from 12:40 p.m.
5 to 1:56 p.m.)

6 (WHEREUPON, State's Exhibit Number 82 was marked
7 for identification.)

8 (WHEREUPON, State's Exhibit Number 83 was marked
9 for identification.)

10 (WHEREUPON, State's Exhibit Number 84 was marked
11 for identification.)

12 (WHEREUPON, State's Exhibit Number 85 was marked
13 for identification.)

14 THE COURT: Before we bring the jury out, to the
15 attorneys I will address this. In response to our
16 issue this morning about one of the juror's employer,
17 the clerk typed a letter to the employer, and I
18 instructed him to give each of you a copy of it.

19 Do either of you have any objection to that being
20 sent to that juror?

21 MS. WHITE: None.

22 MS. PRICE: None from the State.

23 THE COURT: Anything from the State before we
24 bring the jury back?

25 MS. PRICE: Nothing from the State.

1 THE COURT: Anything from the defense?

2 MS. WHITE: Yes, your Honor. Judge, I just want
3 to make sure that when the CI gets called, I'm going to
4 have to proffer some testimony. I want him to be
5 called, but I'm going to have to proffer some testimony
6 regarding some prior motions to renew and proffer
7 testimony. So I just want to make sure. It shouldn't
8 be long. I'm going to ask him about his rap sheet and
9 whether he wiggled, and that's about it. But I
10 understand I have to do it again here. I just wanted
11 to give you a little bit of a heads-up here.

12 THE COURT: We'll take the necessary time to do
13 that when it becomes an issue.

14 Let's get our jury.

15 MS. WHITE: And, your Honor, the next witness is
16 Deputy Martin, and I do want to say I'm going to object
17 to any hearsay whatsoever that he tries to get in.

18 THE COURT: We will deal with objections as they
19 arise.

20 MS. PRICE: May it please the Court. The next
21 witness is not Deputy Martin.

22 MS. WHITE: In that case, I withdraw that.

23 THE COURT: All right. Let's get our jury.

24 (WHEREUPON, a note was received from the jury.)

25 THE CLERK: She's wanting a letter saying how long

1 she was here and how much she's getting paid.

2 THE COURT: So another juror needs a letter for
3 their employer?

4 THE CLERK: It says, "Please provide documentation
5 from the Court, written statement from Clerk of Court
6 showing length of service" --

7 THE COURT: Okay. We'll deal with that.

8 THE CLERK: We'll deal with that.

9 (WHEREUPON, the jury entered open court at
10 1:58 p.m.)

11 THE COURT: All right.

12 Ms. Price, call your next witness.

13 MS. HUEY: Your Honor, the State calls Brent
14 Simpson to the stand.

15 **BRENT SIMPSON,**

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

17 THE CLERK: Please state and spell your name for
18 the reporter.

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

20 **DIRECT EXAMINATION**

21 **BY MS. HUEY:**

22 Q Investigator Simpson, where do you work?

23 A I work for the Anderson County Sheriff's Office.

24 Q And in what capacity?

25 A I'm an investigator.

1 Q How long have you been an investigator with the
2 sheriff's office?

3 A Since 2008.

4 Q All right. And what, generally speaking, are your
5 duties as an investigator?

6 A My duties are to investigate crimes, homicides, be
7 it sexual assaults, several different things.

8 Q And were you working in this capacity in December
9 of 2013?

10 A Yes.

11 Q And as such, did you become involved in the case
12 of State versus Bobby Joe Arflin?

13 A I did.

14 Q And how did that come about?

15 A I happened be the on-call that week and was called
16 out by uniformed patrol.

17 Q Okay. And so as a result, where did you go when
18 you were called out?

19 A I believe the address was 122 Williamson Drive,
20 Belton.

21 Q And that's in Anderson County?

22 A That's correct.

23 Q Do you remember about what time you got to the
24 scene?

25 A I don't know exactly the time. I know it was

1 between 8:30 and 9:00.

2 Q Was it dark outside?

3 A Yes.

4 Q All right. Now, when you first arrived on scene,
5 who all was there as far as law enforcement goes, if
6 anybody?

7 A I believe Sergeant Bowland, Kenta Cowan, and Shane
8 Chandler.

9 Q And then what, if anything, did you observe in
10 terms of non-law enforcement people at the scene?

11 A I observed a white male laying in the roadway,
12 kind of in the driveway, and he was being rendered aid.

13 Q And did you determine eventually who that white
14 male was?

15 A Yes, ma'am. It was Jody Powell.

16 Q And who was rendering aid to Jody Powell?

17 A That was Brenda Masters, his girlfriend, was
18 attempting CPR at that time.

19 Q Now, while you were on scene, did Mr. Powell stay
20 there for long? What happened next?

21 A No. He was taken away in an ambulance.

22 Q All right. And then did you eventually learn the
23 condition of Mr. Powell once he was taken away by
24 ambulance?

25 A I did. I believe it was Investigator Garrett

1 contacted me to let me know he was deceased.

2 Q So in terms of your being on scene that night,
3 once you learned of Mr. Powell's death, what kind of
4 investigation did this become?

5 A At that point in time it was a homicide
6 investigation.

7 Q And so what was your role?

8 A As lead detective, I kind of step back and gather
9 all the information that I can and direct the rest of
10 the investigators to start taking statements from
11 witnesses, contacting forensics, things of that nature.

12 Q And did you do so in this case?

13 A I did.

14 Q All right. So you delegated certain investigators
15 to go speak with witnesses from the scene?

16 A Correct.

17 Q And then you also called for forensics to come out
18 to process the scene?

19 A That's correct.

20 Q How about the vehicles that were damaged at the
21 scene?

22 A Also I instructed road patrol to have those towed
23 back to the armory.

24 Q And those would be dealt with later?

25 A Correct.

1 Q And, now, was the defendant already in custody at
2 that point when you arrived on scene?

3 A He was. He was being taken from the scene, so I
4 instructed them to take him to the sheriff's office
5 holding cell.

6 Q All right. And was that to be tested for the
7 gunshot residue?

8 A That's correct.

9 Q Can you describe that holding cell to the jury?

10 A It's probably an eight-by-ten or so brick room
11 with a like a concrete bunk in the back, and also it
12 had a sink and a toilet in it.

13 Q Investigator Simpson, I'm going to show you what's
14 been marked as State's 82, 83, 84 and 85. If would you
15 please take a look at these, sir. And do you recognize
16 those?

17 A I do.

18 Q And how are you able to recognize those?

19 A It's the holding cell that Mr. Arflin was placed
20 in that night.

21 Q And does that fairly and accurately depict the
22 holding cell he was placed in on December 11th of 2013?

23 A Correct.

24 MS. HUEY: Your Honor, at this time we'd move to
25 admit State's 82 through 85.

1 MS. WHITE: No objection.

2 THE COURT: State's 82 through 85 will be admitted
3 without objection.

4 (WHEREUPON, State's Exhibit Number 82 was admitted
5 into evidence.)

6 (WHEREUPON, State's Exhibit Number 83 was admitted
7 into evidence.)

8 (WHEREUPON, State's Exhibit Number 84 was admitted
9 into evidence.)

10 (WHEREUPON, State's Exhibit Number 85 was admitted
11 into evidence.)

12 BY MS. HUEY:

13 Q And Investigator Simpson, starting with 82, if you
14 could just step down and show those to the jury.

15 A This is the actual door to the holding cell where
16 he was placed that night.

17 Q State's 83?

18 A And this is the bunk that's inside the cell.

19 Q And State's 84?

20 A And this is the toilet/sink combo.

21 Q And State's 85, what does that picture depict?

22 A This is just showing that it actually had running
23 water on the sink.

24 Q Thank you, sir. You may have a seat.

25 So, Investigator Simpson, you previously testified

1 that you had the vehicles involved in this case
2 transported and secured at the armory?

3 A Correct.

4 Q Correct? Okay. And then what, if anything,
5 happened with the vehicles once they were at the armory
6 under your direction?

7 A I directed investigators to do search warrants on
8 those vehicles to recover any items out of them.

9 Q And was that, in fact, done?

10 A Yes.

11 Q And there's been mention of a knife being located
12 in the victim's truck in this case. Was that collected
13 initially?

14 A Not initially, no.

15 Q And why was that?

16 A At that point in time I had no reason to think the
17 knife was in play in this.

18 Q Did you also attend the autopsy of the victim in
19 this case?

20 A I did.

21 Q And for what purpose do you attend the autopsy?

22 A That's to determine the cause of the death.

23 Q Okay. And were you able to get those results?

24 A Yes.

25 Q And what were those results?

1 A He died from gunshot wounds.

2 Q And what was it ruled as a result?

3 A Homicide.

4 Q And now, additionally, are you there as the
5 pathologist is going through the wounds?

6 A Yes.

7 Q All right. And based on the evidence you had at
8 hand, did the autopsy results corroborate the witness
9 testimony you had at the time?

10 MS. WHITE: Your Honor, I'm going to object to
11 that. What are we talking about? I'm sorry.

12 THE COURT: Sustained.

13 You can rephrase your question.

14 BY MS. HUEY:

15 Q Based on your investigation, Investigator Simpson,
16 you were aware of eyewitness testimony or eyewitness
17 statements, rather, from the night of the incident?

18 A Yes.

19 Q Okay. And then you attended the autopsy --

20 A Correct.

21 Q -- after that? Based on your observations at the
22 autopsy, the results from the autopsy, was that
23 consistent with what you had heard at the scene?

24 MS. WHITE: Objection, your Honor. Hearsay. And
25 I believe there was a recent advance sheet on this, and

1 I'm going to move for a mistrial if we keep going into
2 this --

3 THE COURT: Ms. --

4 MS. WHITE: -- hearsay.

5 THE COURT: Counsel, approach.

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

9 BY MS. HUEY:

10 Q All right. Investigator Simpson, were you aware
11 of items collected from the investigation in this case?

12 A Yes, ma'am.

13 Q Okay. Now, let's talk about some of the items,
14 specifically gunshot residue kits. Who were those
15 obtained on?

16 A On the victim, Mr. Powell, and also the defendant,
17 Mr. Arflin.

18 Q And those are collected and then sent on to SLED;
19 is that correct?

20 A Correct.

21 Q At your direction?

22 A That's correct.

23 Q Now, was the clothing tested in terms of the
24 victim for gunshot residue?

25 A No.

1 Q And why was that?

2 A SLED doesn't do any kind of testing on the
3 victim's clothing.

4 Q And how about in terms of the defendant?

5 A No, it was not sent either.

6 Q And why not?

7 A We knew at that point in time that the defendant
8 had fired a gun.

9 Q And so what would you expect to find on his
10 clothes?

11 A Gunshot residue.

12 Q Now, additionally, was the gun collected as well
13 as casings and just a single projectile; is that
14 correct?

15 A Correct.

16 Q Now, you were on the scene that night of the
17 incident, December 11th of 2013. Are you aware of any
18 other projectile that was collected that evening?

19 A No, it wasn't.

20 Q Okay. And is that unusual?

21 A No, it's not unusual at all. There's several
22 different variables why it wouldn't be.

23 Q And what are some of those variables?

24 A We don't know the projection of where the bullet
25 went to. It could have ricocheted off of anything.

1 There's just several different reasons we wouldn't find
2 it.

3 Q Now, you also directed that certain things be
4 fingerprinted; is that correct?

5 A Yes.

6 Q Okay. And what things were those?

7 A The shell casings and the gun.

8 Q And there were no results on that; is that
9 correct?

10 A No, ma'am.

11 Q Now, did you have, though, any items tested for
12 DNA purposes?

13 A No.

14 Q And why was that?

15 A We either had the option of testing it with DNA or
16 doing the fingerprints, and throughout our
17 investigations in the past, we've always had more
18 results with the fingerprinting than DNA.

19 Q So when you say -- when we're talking about the
20 casings and the gun in particular --

21 A Correct.

22 Q -- if you send it to DNA, then you can't test it
23 for fingerprints and vice versa?

24 A Right.

25 Q And it's been your experience that you're more

1 likely to get a result with a fingerprint test?

2 A That's correct.

3 Q And how about a blood spatter test in this
4 situation?

5 A No, we didn't do any kind of blood spatter.

6 Q And why not?

7 A We didn't see any blood on the clothing or
8 anything like that to do any sort of spatter.

9 Q During the course of your investigation, were you
10 able to establish where Jody Powell worked?

11 A I did. He worked at UPS.

12 Q And did you establish whether he was working on
13 December 11th of 2013?

14 A Yes, ma'am.

15 Q And were you able to establish a time frame as far
16 as when he got off of work?

17 MS. WHITE: Your Honor, I'm going to object to
18 hearsay. There would be no way to know that except for
19 hearsay.

20 THE COURT: Lay a foundation, Ms. Huey.

21 BY MS. HUEY:

22 Q During the course of your investigation,
23 Investigator Simpson, was it important for you to get a
24 timeline to help you with the investigation that night
25 on December 11th?

1 A Yes, ma'am.

2 Q And as such, did you -- did you try to establish
3 what time Mr. Powell left work?

4 A I did.

5 Q Okay. And were you able to do that?

6 A Yes, ma'am.

7 Q And what time was that?

8 MS. WHITE: Your Honor, again I'm going to renew
9 my objection. You can't get around hearsay by saying,
10 "During your investigation, did you discover
11 something."

12 THE COURT: All right. Sustained. Sustained.

13 BY MS. HUEY:

14 Q All right. The witnesses talked a lot about phone
15 records. I'm going to show you what's been marked as
16 Defense -- and admitted, I believe, as Defense
17 Exhibit 3. If you could take a look at that, please.

18 Now, during the course of your investigation, did
19 you obtain these phone records?

20 A Yes, I did.

21 Q From the victim's cell phone; is that correct?

22 A That's correct.

23 Q And, again, where was the victim's cell phone
24 located?

25 A It was taken from his pocket at the hospital, I

1 believe.

2 Q And so there's been talk or testimony about some
3 phone calls possibly taking place after we know that he
4 died; is that correct?

5 A Yes.

6 Q All right. And I believe there's testimony
7 that -- and you can verify that beside each of those
8 times, what is written out beside each of those call
9 times?

10 A Minus 0400.

11 Q Okay. And in your experience, what do you
12 understand that to mean?

13 A When we get phone records, there's -- phone
14 companies do weird things with them. There's a thing
15 called Greenwich Mean Time, and that's kind of a
16 standard for cell phone companies. And out beside the
17 times, normally you have either a plus or a minus one,
18 two, three, four, five hours. You either have to
19 subtract to get to your time or add to get to your
20 time. And on this occasion would you subtract the four
21 hours to get to our time but also you have to take into
22 account that back in December of 2013, you would have
23 to have added an extra hour due to daylight savings
24 time, so it actually would be five hours prior to the
25 times listed on this paper.

1 Q So the Greenwich Mean Time doesn't take into
2 consideration daylight savings?

3 A Does not.

4 Q So you have to -- rather than minus four, it's
5 really minus five is your understanding?

6 A Correct.

7 Q So then what would that last phone call time then
8 translate to?

9 A The last phone call would be 7:38 p.m. in the
10 evening.

11 Q Just a minute.

12 To whom was that call made?

13 A It has on here "Bren has my heart."

14 MS. HUEY: That's all I have at this time, Judge.

15 THE COURT: Ms. White.

16 MS. WHITE: Yes, sir.

17 CROSS-EXAMINATION

18 BY MS. WHITE:

19 Q Detective, you said, I think, to the prosecutor
20 that when you got there, you observed Jody and he was
21 half on the road and half in the driveway or part one
22 or part the other. Can you tell us a little more about
23 that?

24 A He was more laying on the driveway.

25 Q Okay. Were his feet still in the road or his head

1 in the road? I know there has been some talk about
2 moving the body around, but do you recall the position
3 when you got there? If you don't, that's fine.

4 A I believe his head was up and his feet was down
5 the driveway.

6 Q Okay. And you interviewed or delegated to
7 interview some of the people who were there; is that
8 correct?

9 A Correct.

10 Q And as police arrived, the other Williamsons
11 arrived, too, or were they already there. I'm talking
12 about the ones up and down the road were there already
13 there when you got there or did they come later?

14 A I'm not sure if they were already there, and I
15 don't know exactly how many people were there. I was
16 kind of in the middle of delegating at that time, so I
17 didn't have a count on people.

18 Q Well, at this point you know that you delegated
19 and you all recorded interviews from various
20 Williamsons up and down the road who had migrated to
21 the scene; is that correct?

22 A Correct.

23 Q As far as you know, of the Williamsons who were at
24 this scene when the shooting occurred, they were all
25 there except for Tonya and Brenda; is that right? They

1 went to the hospital. The others were there and were
2 actually interviewed there?

3 A I believe that's correct.

4 Q Now, you said that you instructed the deputy to
5 take Bobby to the sheriff's department or detention
6 center or something and have him held there later; is
7 that right, for the GSR?

8 A Correct.

9 Q Is there a reason why y'all didn't just do the GSR
10 at the scene like usual?

11 A He was being taken away from the scene. I didn't
12 want to call him back to the scene, so I had -- instead
13 of taking him to the detention center, I had them take
14 him to the sheriff's office holding cell.

15 Q And you would agree that GSR, I mean, in all
16 fairness to your side, perhaps, GSR, I mean, messing
17 with the hands at all, rubbing hands, any of that can
18 knock this GSR off; is that correct?

19 A That's correct.

20 Q And that applies as well to Jody, you know, being
21 EMS --

22 A Correct.

23 Q -- and grass and various things like that, this is
24 very delicate material, isn't it?

25 A Right.

1 Q And why weren't Jody's hands bagged at the scene,
2 do you know?

3 A That, I do not believe I had any bags to do that,
4 and I don't know if anyone else did at that point in
5 time.

6 Q Okay. And we were asking about MAIT, and MAIT
7 said -- I think your witness said, you know, "We don't
8 work many murder scenes." Well, that's because not
9 many homicide scenes have vehicles involved, do they?
10 That's very unusual.

11 A Not very many.

12 Q And MAIT was not called to the scene that night;
13 is that right?

14 A That's correct.

15 Q Wouldn't it have been helpful to be able to mark
16 everything before it was moved so an accident
17 reconstruction could be done in retrospect?

18 A Monday morning quarterbacking, possibly could have
19 been. At this point I was more worried about the
20 shooting.

21 Q All right. And let's talk about Monday morning
22 quarterbacking. It is easy to Monday morning
23 quarterback a situation where someone is in under
24 stress and time limits, isn't it?

25 A True.

1 Q But it's a lot more difficult when you're trying
2 to make a decision right there in the stress of a
3 moment; isn't that correct?

4 A I agree with that.

5 Q And it's very easy for people to sit back and
6 question what somebody did back in the spur of the
7 moment when they had to make a snap decision, isn't it?

8 A True.

9 Q All right. You said -- so the bottom line is the
10 GSR tests don't really mean anything on Jody and they
11 don't really mean anything on Bobby in this case?

12 A No. They came back negative.

13 Q But, I mean, that doesn't mean anything because
14 both of their hands could have lost this stuff anyway?

15 A That's true.

16 Q Now, let's go to -- you said that there was no
17 clothing tested because SLED doesn't do testing, but
18 there are many other labs that do. And, certainly, the
19 State could have sent this evidence to another lab,
20 could they not?

21 A That's not our policy to do that.

22 Q Well, sir, my client, no disrespect intended, is
23 facing murder charges. Could you not have broken the
24 policy considering that is a big factor in this case
25 and pay a little bit of money to send this stuff to a

1 lab?

2 A I don't make that decision.

3 Q You said that the clothing, my client's clothing
4 was not tested because you already knew he had fired a
5 shot; is that correct?

6 A Correct.

7 Q But are you aware that you could do distance
8 determinations, you can do blood spatter
9 determinations, and with a firearm, you can't see blood
10 spatter with the naked eye? Are you aware of that?

11 A Yes.

12 Q And both of these tests would help us determine
13 distances. Are you aware of that?

14 A I'm not aware of everything that you can test, no,
15 ma'am.

16 Q All right. Well, let's go back to you interviewed
17 Jamie; is that correct, in, I think, March of this
18 year?

19 A Correct.

20 Q And he said that Jody was face down on the ground
21 when Bobby shot him through the back; is that correct?
22 I'll be happy to show you a transcript if you need to
23 refresh your memory.

24 A Yes, ma'am, because I don't remember word for word
25 all these statements.

1 Q Let me get the transcript for you. If you don't
2 mind taking a look at page eight, and I'm going to read
3 it. You tell me if I'm correct. "I thought maybe, you
4 know, when you took off to run, maybe just tripped and
5 fell in the ditch. But Bobby walked over there, and,
6 you know, you could see him plain as day. He pointed
7 and shot again when he was -- while he was face down on
8 the ground.

9 "Shot him in the back?

10 "Yes, sir."

11 Do you recall that?

12 A Yes.

13 Q Did y'all find any projectiles in the ground?

14 A No, ma'am, not at that point in time. As I
15 stated --

16 Q Had you at any point in time?

17 A I didn't finish. They could have -- the bullet
18 could have went anywhere. Somebody could have stepped
19 on it on the ground. I don't know where it went to.

20 Q You all are telling the jury that this is a -- not
21 a small, it's a high-caliber pistol. And you're saying
22 if it shot right here through the back, that the
23 bullet, you're not going to look -- I mean, the bullet
24 can go anywhere; is that what you're saying, when the
25 body is on top of it?

1 A I don't know what's under it. It could have hit a
2 rock. It could have hit anything. I'm not sure.

3 Q Well --

4 A I'm not a gun expert.

5 Q Well, let me just ask you: Did y'all find a
6 bullet under that body?

7 A No.

8 Q Now, you said that you have to make a choice of
9 DNA or prints. And that takes us back to what we were
10 talking about you have to do things in a certain order;
11 is that correct?

12 A Correct.

13 Q All right. And you said you didn't test Bobby's
14 clothing because you already knew he was the shooter;
15 is that right?

16 A Correct.

17 Q So why out of the two tests of blood spatter or
18 fingerprints would you pick fingerprints on the pistol
19 that Bobby, according to y'all's evidence, said is
20 right there, "That's mine"?

21 A Again, that's something we can do rather fastly
22 and find out the results.

23 Q And, in fact, you can do different tests on one
24 item; isn't that true? You can partial -- for
25 instance, I can test this part of the weapon for

1 fingerprints, down in here, and I can test this part
2 for blood spatter. I can do both tests. I just do
3 tests on different areas of the weapon; is that right?

4 A I'm sure you probably could.

5 Q And, again, blood spatter can help determine
6 distance, angle, all of that; is that right?

7 A I'm not a chemist. I don't know how that works.

8 Q Now, you all also took Bobby's phone, did you not?

9 A Yes.

10 Q And will you please tell the jury what you all did
11 with that?

12 A I placed it into evidence.

13 Q I mean, what your department did with it after
14 that?

15 A It was transferred to Anderson City Police
16 Department to be examined.

17 Q And did it ultimately get lost for a few months
18 but then get located again?

19 A According to Anderson City, yes, ma'am.

20 Q And did law enforcement end up issuing what's
21 called an extraction report?

22 A Yes.

23 Q And that's simply where they go in and they
24 extract the information from the phone; is that
25 correct?

1 A Correct.

2 MS. WHITE: Your Honor, I move Defendant's
3 Exhibit 10 be admitted.

4 THE COURT: Any objection?

5 MS. PRICE: No objection.

6 THE COURT: Defendant's Exhibit 10 will be
7 admitted without objection.

8 (WHEREUPON, Defendant's Exhibit Number 10 was
9 admitted into evidence.)

10 BY MS. WHITE:

11 Q All right, Officer. I'm going to hand you
12 Defendant's Exhibit 10. And if you will just look at
13 the last two pages. Those are the ones involving this
14 day -- or night, I should say.

15 A Yes, I'm assuming so.

16 Q And there is no Greenwich -- thank you for
17 answering that. I was very confused about how that
18 phone got used, by the way. But, anyway, we don't have
19 any of this on this, do we? This is data taken
20 directly from the phone?

21 A Right.

22 Q All right. Let's go to again December 11, 2013.
23 What time does Bobby's phone call 911?

24 A 8:36 p.m.

25 Q And you later determined that that was the first

1 call regarding the accident; is that correct?

2 A Correct.

3 Q The vehicle accident. And, again, that was
4 8:36 p.m.; is that right?

5 A That's correct.

6 Q All right. And you, your agency, promulgates
7 something called a CAD report; is that right?

8 A That's right.

9 Q And the CAD report is the report that tells what
10 time the other 911 call came in; is that right?

11 A Should.

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

14 BY MS. WHITE:

15 Q All right. And I'm handing you Defendant's
16 Exhibit --

17 MS. WHITE: Your Honor, I'd ask that Defendant's
18 Exhibit 11 be admitted.

19 MS. HUEY: Without objection.

20 THE COURT: Defendant's Exhibit 11 will be
21 admitted without objection.

22 (WHEREUPON, Defendant's Exhibit Number 11 was
23 admitted into evidence.)

24 BY MS. WHITE:

25 Q Handing you Defendant's Exhibit 11, which is this

1 CAD report promulgated by your agency regarding the 911
2 call that came in from Tonya; is that right?

3 A Yes.

4 Q All right. And what time did that come in?

5 A 8:42.

6 Q And on there military time is used. It says
7 20-something, but that is the equivalent of 8:42; is
8 that right?

9 A That's correct.

10 Q So we know the wreck call came in at 8:36 we know
11 the other 911 call came in 8:42; is that right?

12 A That's correct.

13 Q How many minutes' difference between those two?

14 A Oh, I would say six.

15 Q Approximately. All right. And, of course, the
16 clocks could have been different in the two phones --

17 A Right.

18 Q -- or the phone and the other system, but that
19 would be approximately the right amount of time
20 between, right?

21 A Close.

22 Q May I have this back, please? No, no, no. Keep
23 them in front of you. I have got one more question on
24 those.

25 Now, the next call -- let's go back to Bobby's,

1 Bobby's phone. So we know that on the CAD report,
2 approximately 8:40 you said that -- I'm sorry.

3 A 8:42.

4 Q 8:42. All right. If you will go back to Bobby's
5 phone, I believe we've heard testimony that after the
6 shooting, he got on the phone. Can you tell this jury
7 who he called at 8:42? In other words, while this
8 other call was going into 911, who did his phone show
9 he was calling at 8:42 on his phone?

10 A Says "Sheila Arflin."

11 Q And that's his wife; is that right?

12 A That's correct.

13 Q And then the next call from his phone is what
14 time?

15 A 8:48.

16 Q And that is to whom?

17 A Billy Arflin.

18 Q And that is his brother; is that right?

19 A That's correct.

20 Q So 8:36 he's calling 911 about the traffic
21 incident. 8:42 the 911 call comes in on the shooting,
22 and there is a call to Sheila, and 8:48 there is a call
23 from Bobby's phone to Billy, his brother?

24 A Correct.

25 Q And did you hear the testimony that he was on the

1 phone when the officer arrived?

2 A I don't recall exactly when he was on the phone.
3 I just know he was on the phone somewhere around that
4 time.

5 Q You remember Deputy Chandler said, "I said, 'Put
6 your hands up,' and he was on the phone and he had to
7 hand it to his wife"; do you remember that?

8 A I believe so, yes.

9 Q And I believe Deputy Chandler said it took him
10 about nine minutes to get to the scene from the time
11 that 8:42 call came in to him on the CAD report?

12 A That's fairly close.

13 Q So that means that Bobby would have been talking
14 to Billy -- to Sheila when he was on the phone right
15 after the shooting and to Billy at the time the police
16 got there; is that correct?

17 A Well, it goes back to what you said about the
18 clocks being different --

19 Q If the clocks --

20 A I don't know.

21 Q Yeah. If these times are approximately right?

22 A Either or, we don't know exactly the times.

23 Q All right. Okay. So let's talk about what
24 happened at the scene, then. Now, when you all got to
25 the scene, Sheila was at the scene with my client; is

1 that right?

2 A Yes, I believe so.

3 Q And you heard Deputy Chandler say, you know,
4 "We're going to take you to the sheriff's department,"
5 and they took him to a car and guarded the car; is that
6 right?

7 A Right.

8 Q Now, at that point you all -- you assigned an
9 officer to talk to Sheila and to talk to Billy; is that
10 right? And you, in fact, taped statements from both of
11 them?

12 A Yes.

13 Q And on those taped statements where Billy and
14 Sheila are talking, they tell you --

15 MS. HUEY: Objection, your Honor. Hearsay.

16 THE COURT: Sustained.

17 BY MS. WHITE:

18 Q Did they talk on these taped statements about
19 these phone calls?

20 MS. HUEY: Objection.

21 THE COURT: Sustained.

22 MS. WHITE: I'll move on.

23 Q Did you provide taped statements of Billy and
24 Sheila within minutes after this shooting to us in
25 discovery?

1 A Yes.

2 Q And do you all still have those tape recordings?

3 A Yes.

4 Q And have they, in fact, been transcribed?

5 A That part I don't know. I'm assuming they have.

6 Q And there's no question from the phone records
7 that Bobby talked to them immediately after the
8 shooting?

9 A Yes.

10 Q Now, if you have been in a wreck or had some kind
11 of traumatic incident like that and you know 911 has
12 been called because somebody was already screaming
13 about 911, who would you pick up the phone and call?

14 A I don't know. I have never been in a wreck.

15 Q Would it be natural to pick up the phone and call
16 your husband or your wife?

17 A Could be.

18 Q Bobby was charged with malicious injury to
19 personal property on the silver truck that night; is
20 that correct?

21 A Correct.

22 Q And MAIT came out in March of 2015 or whatever he
23 said, April I think it was; is that right?

24 A Right.

25 Q And you all are not proceeding on those charges

1 today; is that correct?

2 A That's out of my hands.

3 Q Well, I mean, the jury -- the indictment was not
4 presented to the jury on that; is that correct?

5 A I don't think so.

6 Q You ended up going back to the sheriff's
7 department at some point that evening; is that right?

8 A Correct.

9 Q And Bobby provided gun, blood, buccal swab, GSR,
10 pictures, et cetera?

11 A Right.

12 Q If someone has accidentally hit a car, would you
13 expect them to pick up the phone and call 911 or some
14 law enforcement agency?

15 A Certainly.

16 Q And that's called doing the right thing because,
17 actually, if you leave the scene, you could be charged
18 with a crime; is that right?

19 A Right.

20 Q And so that would be the appropriate way to handle
21 it?

22 A Correct.

23 Q Do you think it's odd that at the end of a 911
24 call for virtually a fender bender that someone says,
25 "You better hurry"?

1 A Yes, I do think it's odd.

2 Q Just one minute, please.

3 MS. WHITE: No further questions.

4 THE COURT: Ms. Huey, any redirect?

5 MS. HUEY: No, sir, your Honor.

6 May he be excused?

7 THE COURT: Thank you, Officer. You can step
8 down.

9 Call your next witness.

10 MS. PRICE: Your Honor, at this time the State
11 calls Deputy Clayton Martin to the stand.

12 **CLAYTON MARTIN,**

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

14 THE CLERK: Please state and spell your name for
15 the reporter.

16 THE WITNESS: My name is Clayton Martin. Last
17 name spelled M-a-r-t-i-n.

18 **DIRECT EXAMINATION**

19 **BY MS. PRICE:**

20 Q Deputy Martin, who do you work for and in what
21 capacity?

22 A I work for the Anderson County Sheriff's Office
23 assigned to the canine unit.

24 Q What sort of duties and responsibilities are
25 associated with that position?

1 A I serve as a support unit for road patrol and also
2 handle canine calls such as narcotics in vehicles,
3 clearing buildings, tracking suspects, things of that
4 nature.

5 Q And how long have you been in enforcement today,
6 in law enforcement today?

7 A Right around six years.

8 Q And were you in the canine unit on August 26th of
9 2013?

10 A I was not.

11 Q What was your area at that time?

12 A Road patrol.

13 Q You were on road patrol. What did road patrol do?
14 What did you do when you were on it?

15 A Answer 911 calls was our primary duty.

16 Q And on October 26th -- excuse me -- August 26th of
17 2013, did you respond to call?

18 A I did.

19 Q Where did you respond?

20 A It was on Williamson Drive in Belton. I can't
21 remember the exact address. I believe 135
22 approximately.

23 Q What was the nature of the call?

24 A It was a call for a dispute between neighbors.

25 Q Okay. Who was the person that called to request

1 law enforcement assistance?

2 A Larry Williamson.

3 Q Okay. And who was he calling to report?

4 MS. WHITE: Objection. Hearsay, your Honor.

5 THE COURT: Sustained.

6 BY MS. PRICE:

7 Q How was Larry Williamson acting when you arrived?

8 A He was calm. He was a little aggravated about the
9 situation at hand, but he did not seem violent in any
10 way.

11 Q And, again, the nature of this call?

12 A A dispute between neighbors.

13 Q Okay.

14 MS. PRICE: One moment.

15 I have no further questions at this time. Please
16 answer any questions that Ms. White has for you.

17 CROSS-EXAMINATION

18 BY MS. WHITE:

19 Q Deputy Martin, in your years of law enforcement
20 experience, have you investigated or gone to or been
21 called to various assaults, various criminal domestic
22 violences, things like that?

23 A I have.

24 Q And is it -- have you been on many cases where
25 someone has reported that somebody has hit them in the

1 face or hit them in the jaw or hit them in the head or
2 something else?

3 A I have.

4 Q And is it common or uncommon for there to be no
5 injury?

6 A That has happened on occasion, yes, ma'am.

7 Q And that isn't that infrequent, is it, that there
8 may be no injury?

9 A No, ma'am.

10 Q And especially when you go to CDVs but assaults,
11 too, you're going to look at the hands of the person
12 who supposedly did the hitting. You're going to look
13 at the other person, and, in fact, it's your job to
14 photograph any issues, isn't it?

15 A Yes, ma'am.

16 Q So you look in those cases?

17 A Yes, ma'am.

18 Q And, again, very often the hands of the person who
19 has done the assault, there is no injury at all; is
20 that correct?

21 A That's common, yes, ma'am.

22 THE COURT: Anything further?

23 MS. WHITE: No, sir.

24 THE COURT: Any redirect?

25 MS. PRICE: Yes.

1 REDIRECT EXAMINATION

2 BY MS. PRICE:

3 Q Was there any allegation of assault that day to
4 the incident that you responded?

5 A No, ma'am.

6 MS. PRICE: Thank you. No further questions.

7 THE COURT: Anything further from this witness?

8 MS. PRICE: No, sir.

9 THE COURT: Any objection to this witness being
10 excused?

11 MS. PRICE: None from the State.

12 MS. WHITE: No, your Honor.

13 THE COURT: Thank you, Officer. You are excused.

14 MS. PRICE: Your Honor, may we approach?

15 THE COURT: Yes, ma'am.

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

19 THE COURT: Ladies and gentlemen, we're going to
20 take our first break of the afternoon. We're going to
21 take about 15 minutes and then we'll resume.

22 Mr. Bailiff, you can take our jury to the jury
23 room.

24 (WHEREUPON, the jury exited open court at
25 2:46 p.m.)

1 THE COURT: We'll be in recess until 3 o'clock.

2 (WHEREUPON, a recess was taken from 2:47 p.m.

3 to 3:05 p.m.)

4 THE COURT: Okay. Anything from the State before
5 we bring the jury back?

6 MS. PRICE: Your Honor, the State is ready to call
7 Mr. Roy Lawrence. I believe Ms. White has indicated
8 for some reason she wants to proffer something with
9 him.

10 THE COURT: Okay.

11 Ms. White.

12 MS. WHITE: Yes, sir. Well, they haven't called
13 him yet, your Honor, but rather than having the jury
14 come in and go back out, it might be easier to just
15 take care of it now.

16 THE COURT: Go ahead and call Mr. Lawrence.

17 MS. PRICE: Your Honor, I don't need to proffer
18 him until --

19 THE COURT: Ms. White, what's the nature of the
20 matter that you wish to proffer?

21 MS. WHITE: Your Honor, I'm going to be renewing
22 my objection to Fifth Amendment and Sixth Amendment,
23 that he's acting as an agent and it's custodian
24 interrogation. I'm going to be asking that his rap
25 sheet come in. We had been over that before. It

1 starts in the '70s and goes on all the way.

2 THE COURT: We had a hearing on that, and my
3 ruling does not change.

4 MS. WHITE: As long as I can renew it and you
5 accept what we did there, I'm good with that.

6 THE COURT: You are -- your objection is noted to
7 protect you on the record.

8 MS. WHITE: And, your Honor, I also would ask
9 that, you know, he was given a polygraph and was told
10 repeatedly, "Don't wiggle or we can't get a result. We
11 can't get a result. We can't get a result." I'm
12 asking again that my request to get in that to show
13 that he deliberately evaded a polygraph result come in.

14 THE COURT: Okay. My ruling remains the same. We
15 will not have polygraph result evidence or mention of
16 polygraph in the case. Your objection is noted for the
17 record.

18 MS. WHITE: If I'm completely covered, I do not
19 need to ask any questions then.

20 THE COURT: Your objection is noted for the
21 record.

22 MS. WHITE: Yes, sir. Thank you.

23 MS. PRICE: Yes, sir. Then I believe we can bring
24 the jury in and I'll call my witness.

25 THE COURT: Bring our jury in.

1 (WHEREUPON, the jury entered open court at
2 3:07 p.m.)

3 THE COURT: Ms. Price.

4 MS. PRICE: Yes, sir. Your Honor, at this time
5 the State calls Roy Lawrence.

6 ROY LAWRENCE,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE CLERK: Please state and spell your name for
9 the reporter.

10 THE WITNESS: Roy Edward Lawrence,
11 L-a-w-r-e-n-c-e.

12 DIRECT EXAMINATION

13 BY MS. PRICE:

14 Q Mr. Lawrence, do you have a nickname?

15 A Wolf.

16 Q Wolf?

17 A (Nodding.)

18 Q And, Mr. Lawrence, where do you live?

19 A Anderson.

20 Q Okay. Where were you living last year?

21 A Anderson.

22 Q Okay. Can you give me your address?

23 A It was 4013 South 81.

24 Q Okay. Do you remember the zip code?

25 A 29624.

1 Q 29624?

2 A Yeah.

3 Q Okay. And where were you from October 6th through
4 November 4th of 2014?

5 A In the county jail.

6 Q In the jail, okay. And did you have a cellmate
7 during that period of time?

8 A Yeah.

9 Q Okay. Who was that cellmate?

10 A Named Bobby.

11 Q Do you know his last name?

12 A Arflin.

13 Q Do you see him in the courtroom today?

14 A Yeah.

15 Q Okay. Can you point him out and describe what
16 he's wearing for the record?

17 A Yeah. He's wearing a black jacket, purple shirt.

18 Q Okay. And when you had him as a cellmate, did you
19 get to know him during that time?

20 A I did.

21 Q Would you do things together?

22 A We played cards and talked.

23 Q Played cards and talked?

24 A Yeah.

25 Q What kind of cards?

1 A We played rummy, 500, and he liked blackjack, you
2 know, 21.

3 Q Did you talk about your home life?

4 A Yeah.

5 Q Did you do anything with regard to the canteen?

6 A Yeah. My wife, I had a problem for about three to
7 four weeks on getting my phone calls, my glasses, and
8 my canteen, so my wife was putting money on his account
9 so he would split his canteen. You can only get up to
10 \$50, so he gave me 25 and him 25 to get to the canteen.

11 Q In the canteen?

12 A Yeah.

13 Q So you would help each other out?

14 A Yeah.

15 Q Okay. Did Bobby ever write anything out for you?

16 A Yeah. My medical, yeah, request, stuff like that.
17 I was having problems with my medical. They wasn't
18 giving me my right medicine. I'm a diabetic and I am,
19 you know, at night I can't breathe. They wouldn't give
20 me my inhalers and stuff, so.

21 Q And why would he write them for you?

22 A I didn't have my glasses.

23 Q Are you good at spelling?

24 A Not really, but, you know, he's helped me on that.

25 Q Okay. But y'all are friendly with each other?

1 A Right.

2 Q Did he ever talk to you about this case?

3 A Yeah.

4 Q Okay. Did he tell you what he said happened?

5 A Yeah.

6 Q What did he say?

7 A He ran into somebody's car or vehicle and seemed
8 like the whole neighborhood came after him, and he had
9 a confrontation with the guy, the guy pushed him in the
10 chest and he shot him.

11 Q Pushed him in the chest?

12 A Yeah. That's what he said.

13 Q Okay. Did he say anything to you about the
14 witnesses in this case?

15 A Explain yourself on that.

16 Q Rephrase my question?

17 A Yeah.

18 Q Did he talk to you about the witnesses in this
19 case?

20 A He talked about three homes. He drew a map out
21 for me.

22 Q Okay. Three homes of what?

23 A Of witnesses.

24 Q He -- okay. Tell me more about that.

25 A Well, he -- we got to talking about the witnesses,

1 and he said that if they can disappear, you know,
2 wouldn't be at trial, that, you know, it would be a
3 mistrial.

4 Q Okay.

5 A He drew a map. He showed me exactly how to go in
6 from the back side, the front side. He showed me
7 exactly each trailer they lived in and who they were.

8 Q Okay. Who were they, do you remember?

9 A I remember the 34-year-old on his side of the
10 road, and then there was an elder gentleman that
11 lived -- they lived together on the same land. And the
12 lady's trailer was right here, and she was only
13 supposed to have a son there.

14 Q Okay. And so he talked to you about making them
15 disappear?

16 A He asked me to -- yeah, kill them. But I told him
17 I ain't into that, and then it came up to kidnapping
18 them.

19 Q He asked you to kidnap them?

20 A Yes, ma'am.

21 Q Okay. And you said he drew out a map and gave you
22 instructions on how to get there?

23 A Yes, ma'am.

24 Q Okay.

25 MS. WHITE: Your Honor, my only objection to any

1 of the exhibits or any of the testimony I've already
2 put on the record earlier, and that would continue.

3 THE COURT: Objection is noted.

4 BY MS. PRICE:

5 Q Mr. Lawrence, I'm showing you what's been marked
6 as State's 86 and 87. Can you look at those items for
7 me, please.

8 A Can I get my glasses?

9 Q Absolutely. Okay. Are you familiar with those
10 items?

11 A Yeah. Bobby drew it out for me, and that's the
12 request on the back that he helped me -- he wrote out
13 for me so I could put it on a request.

14 Q What do you mean, "request"?

15 A An inmate request to the medical people.

16 Q So on one side there is a map, and on the other
17 side there is a medical request?

18 A Exactly.

19 Q And the medical request is something he had done
20 for you?

21 A Yeah. He wrote it out so I could put it on an
22 inmate request.

23 Q Okay.

24 A I couldn't send this out.

25 Q Right. And the other side is a map?

1 A It's a map he drew where he lived and where the
2 defendants, you know, live.

3 Q Okay. And did you draw out that map?

4 A No.

5 Q Did you write out those names?

6 A No.

7 Q Okay. Now, with the map and the note you have up
8 there?

9 A Uh-huh.

10 Q Now, do you still have the -- would you pick that
11 up for me, sir. Okay. Can you read out those three
12 names for me?

13 A Brenda Williamson Masters, Larry Williamson, and
14 James Paul Madison, I think. Yeah, 34-year-old.

15 Q 34-year-old?

16 A Yeah.

17 Q Those three names are the three names that he gave
18 you?

19 A Yes, ma'am.

20 Q And asked you to kidnap?

21 A Yes, ma'am.

22 Q Okay. Was he going to give you anything for doing
23 this for him?

24 A He said he had three -- he had three and a half
25 acres besides his acres on one side where the house was

1 that I was supposed to come across with a trailer
2 sitting on it, old trailer.

3 Q A trailer?

4 A Yeah.

5 Q Would you have been interested in a trailer?

6 A The land, the trailer was optional if you're
7 asking me that, to consider just taking it. You know,
8 I mean, the thought came in to me. I mean, I'm human.

9 Q So you considered doing this?

10 A Yes, ma'am.

11 Q Okay. And do you do things with trailers?

12 A Yes, ma'am.

13 Q Okay. So that would have sweetened the pot?

14 A Yes, ma'am.

15 Q Okay. What do you do with trailers?

16 A I contract for Clayton Homes remodeling homes and
17 re-setting them up for storage or resale.

18 Q When did he bring this plot up with you?

19 A About a week before I was getting out. He found
20 out I was getting out of jail, bonding out.

21 Q So he found out you were going to be released?

22 A Right.

23 Q And that's when he brought this up?

24 A Yes, ma'am.

25 Q So he knew you would be able to work on it?

1 A Yes, ma'am.

2 Q Okay. So were you released?

3 A Yes, ma'am.

4 Q You were let out of jail, okay. And what did you
5 do about this after you were released?

6 A Went home and I called my brother-in-law. He's a
7 state constable and city inspector for Anderson.

8 Q Who's your brother-in-law?

9 A Bud Chitwood.

10 Q And what did you do after you called Bud?

11 A I talked to him about it.

12 Q Okay. And --

13 A He asked me, "Are you serious?" I said, "Yeah."
14 He said, "Don't do it. Let me let you talk with
15 somebody." So he went and called one of his friends,
16 and his friend's, within about two hours, knocking on
17 my door at my house.

18 Q Okay. Someone with the sheriff's office was
19 knocking on the door of your house?

20 A Yes, ma'am, a detective.

21 Q Why did you tell somebody about this?

22 A I was taking into consideration it could have been
23 my family or a family member, and it just didn't seem
24 right, you know what I'm saying. I mean, I just had a
25 guilty conscience, I guess.

1 Q The detective that came to meet with you?

2 A Uh-huh.

3 Q Had you ever met him?

4 A Never in my life.

5 Q Had he talked to you before you went to jail?

6 A No.

7 Q Okay. He didn't put you in that cell to talk to
8 Mr. Arflin?

9 A No, ma'am.

10 Q Okay. So you had never, ever met with anybody
11 about this case prior to being in jail?

12 A No, ma'am.

13 Q And Mr. Arflin approached you?

14 A Yes, ma'am.

15 Q Okay. When the detective came to meet with you,
16 did you talk to him about what Mr. Arflin had asked you
17 about?

18 A Rephrase the question again.

19 Q Yes, sir. That was a little bit confusing.

20 A Uh-huh.

21 Q Did you tell the detective what you're telling us
22 today?

23 A Yes, ma'am.

24 Q Did you give him the map and that list of names?

25 A Yes, ma'am.

1 Q And was -- were you going to get some additional
2 instructions from Mr. Arflin?

3 A Yes, ma'am.

4 Q Okay. How was he going to give you those
5 additional instructions at first?

6 A Phone call.

7 Q He was going to call you?

8 A Yes, ma'am.

9 Q Did you wind up getting some calls from the jail?

10 A Yes, ma'am. I got one from -- he was a convicted
11 murderer, too. The one over there on -- close to the
12 Cab Light, old Cab Light. I can't remember his name.
13 I mean, I go through a thousand names. I was a cab
14 driver. That's how I knew who he was. And he called
15 my house. He was wanting me, I guess, going up to
16 sentence and wanted some money on his account. Then I
17 did another -- I was doing something for Jason -- I
18 think his name was Jason -- about his truck. He wanted
19 us to help his wife sell the truck. So I called Will
20 Dorsey. Will Dorsey went down on 29 and looked at the
21 truck, tried to get their people to bring the title up
22 there and nothing happened. So when I got off the
23 phone with that, I asked them about having Mr. Arflin
24 call me. And that's when he called me.

25 Q Okay. So you were on the phone with another

1 inmate?

2 A Right.

3 Q Because you were doing favors for people you had
4 met?

5 A Thank you.

6 Q Is that you made friends --

7 A Yes, ma'am.

8 Q -- when you're behind bars?

9 A Well, they knew me.

10 Q So you were doing favors outside for some folks?

11 A Right.

12 Q But not kidnapping anybody?

13 A No.

14 Q Okay. And you asked -- you asked that individual
15 to have Mr. Arflin call you?

16 A Yes, ma'am.

17 Q Is this after you met with the detective?

18 A Yes.

19 Q Okay. Had the detective told you that if
20 Mr. Arflin calls you, to talk to him about this
21 situation?

22 A Not in those exact words, but he said, "If he
23 calls, contact me," and I did.

24 Q And did the defendant call you?

25 A Yes, ma'am.

1 Q Okay. And did you talk to Mr. Arflin about the
2 plan?

3 A Yes, ma'am. I led Mr. Arflin into believing that
4 I went out to the place and scoped it all out and told
5 him everybody was home but the 34-year-old. He was
6 supposed to be out of town for a week and what did he
7 want me to do. Do you want me to hold off? And his
8 statement was, "Yeah, hold off."

9 Q Okay. Had you ever actually gone out there?

10 A No, ma'am.

11 Q Have you ever been out there?

12 A No, ma'am. Eagle Eye can verify that. I got a
13 brace on my leg since I've been out of jail and they
14 know everywhere I go.

15 Q Okay. And were you going to get additional
16 instructions from Mr. Arflin after that phone call?

17 A I was supposed to in a letter, but he didn't feel
18 comfortable talking on the phone. But my problem was I
19 gave him the wrong zip code. I gave him 296201, and my
20 zip code is 29620 -- 24.

21 Q Okay. So you gave -- you were supposed to get a
22 letter but you gave him the wrong zip code?

23 A Yes, ma'am.

24 Q Okay. So you don't know if a letter was actually
25 sent?

1 A No, ma'am. I mean, I looked for it, but it never
2 came.

3 Q But you never got a letter?

4 A No, ma'am.

5 MS. WHITE: Your Honor, again, I'm going to object
6 on the same grounds that I objected to before.

7 THE COURT: Objection is overruled but noted for
8 the record.

9 BY MS. PRICE:

10 Q Mr. Lawrence, I'm showing you -- you need your
11 glasses again, I'm sorry -- what's been marked as
12 State's Exhibit 88. Are you familiar with this item?

13 A The -- yes, ma'am.

14 Q Okay. What is it?

15 A It's a recording of the phone call of me and
16 Arflin.

17 Q How can you tell?

18 A Because it says "recorded call."

19 Q Okay. At any point did you listen to this?

20 A I think I did, yeah.

21 Q Okay. And did you potentially sign it?

22 A Yes, ma'am, and dated it in your office.

23 Q That's your signature?

24 A Yes, ma'am.

25 Q Okay. And when you listened to it, was it a true

1 and accurate recording of the conversation you had with
2 him?

3 A Yes, ma'am.

4 Q Okay. And there had not been any edits to it
5 whatsoever?

6 A No, ma'am.

7 Q Okay.

8 MS. PRICE: Your Honor, at this time the State
9 would seek to admit Exhibit 88 into evidence and
10 publish it to the jury.

11 THE COURT: So admitted. Ms. White's objection is
12 noted.

13 (State's Exhibit 88 is being played for the jury.)

14 BY MS. PRICE:

15 Q Was what we just heard a true and accurate
16 depiction of your conversation with Mr. Arflin?

17 A Yes, ma'am.

18 Q It was. And did you give a statement to law
19 enforcement about all of this?

20 A Yes, ma'am.

21 Q Did you -- you told me you didn't go out to the
22 area at all?

23 A No, ma'am.

24 Q Okay. Have you been telling the truth today?

25 A Yes, ma'am.

1 Q Did I promise you anything in exchange for your
2 testimony?

3 A No, ma'am.

4 Q Did the detective promise you anything in exchange
5 for your testimony?

6 A No, ma'am.

7 Q Mr. Lawrence, you have a serious pending charge,
8 correct?

9 A Yes, ma'am.

10 Q You're facing some substantial time, correct?

11 A I'm facing it but I'm not guilty, so I'm not
12 facing it.

13 Q Fair enough. We're not talking about that case
14 today.

15 A Right.

16 Q Have you and I talked about that case at all?

17 A No, ma'am.

18 Q Have I offered you anything in exchange for your
19 testimony?

20 A No, ma'am.

21 Q Are you talking today in the hopes of getting --

22 MS. WHITE: Objection; leading.

23 THE COURT: Sustained.

24 Rephrase your question.

25 BY MS. PRICE:

1 Q Do you hope to get a benefit from cooperating
2 today?

3 A No, ma'am. Like I said, my case is going to a
4 jury trial regardless. I'm not guilty, so, you know,
5 that's the system. I know how the system works. I
6 don't play with the system.

7 Q And do you see the man who asked you to kidnap the
8 witnesses in this case in the courtroom today?

9 A Sitting right there.

10 MS. PRICE: Let the record reflect he pointed to
11 the defendant, please.

12 One moment.

13 Q Mr. Lawrence, you have a prior record also?

14 A Oh, yeah. I ain't -- I was a demon when I was a
15 young kid, so yeah.

16 Q But your current charges, your past charges don't
17 have anything to do with this case?

18 A No. I don't think so. I hope not.

19 Q And, again, you're cooperating just because it was
20 the right thing to do?

21 A Like I said, I had a guilty part, plus my wife led
22 me on, said, you know, think about that could have been
23 your family, so.

24 Q Yes, sir. Thank you.

25 MS. PRICE: No further questions.

1 THE COURT: All right. Ms. White, your witness.

2 MS. WHITE: Yes, sir.

3 CROSS-EXAMINATION

4 BY MS. WHITE:

5 Q You go by Wolf; is that correct?

6 A Yes, ma'am. My company's name is Wolf. When I
7 was a cab driver for eight years, I was Wolf. When I
8 was born, I was Wolf.

9 Q And you've been convicted of several charges; is
10 that correct?

11 A Yes, ma'am.

12 Q All right. Forgery in the 1980s?

13 A Yes, ma'am.

14 Q Another forgery in the 1980s?

15 A Yes, ma'am.

16 Q Armed robbery a few years ago?

17 A A few years ago?

18 Q 2002.

19 A Excuse me?

20 Q Armed robbery and grand larceny, 2002?

21 A No, ma'am. No, ma'am. 1989 I did an armed
22 robbery and did 20 years in prison. I got out in 2002,
23 did nine years parole here in Anderson clean.

24 Q Okay. And now you're facing charges of criminal
25 sexual conduct with a seven-year-old; is that correct?

1 A Yes, ma'am, I am.

2 Q And that holds a mandatory 25 years to life; is
3 that right?

4 A That's what it holds.

5 Q And also if you're convicted, you're mandatorily
6 placed on the sex offender registry for life; is that
7 right?

8 A That's what the law says.

9 Q And the same sheriff's department who is in charge
10 of your charges is also bringing this case; is that
11 right? Anderson County Sheriff's Department charged
12 you, Anderson County Sheriff's Department is dealing
13 with this case; is that right?

14 A They're not the same detectives. The detective
15 that called me --

16 Q I didn't ask that, sir.

17 A Well, I turned myself in. So I guess Anderson
18 County is Anderson County, but that's not the
19 detective. They're two different detectives.

20 Q Are they both in the same department?

21 A Yes, ma'am. I guess. Warrants division.

22 Q Now, the same prosecutor's office that is
23 prosecuting you on that is also prosecuting this case;
24 is that correct?

25 A I think so. They're in the same office.

1 Q And I believe you told the jury, "I know how the
2 system works"?

3 A Yes, ma'am.

4 Q Do you recall telling the jury that a few minutes
5 ago?

6 A Yes, ma'am, I did.

7 Q Okay. And you know how the system works that if
8 you rub my back here, I'll rub your back there?

9 A That ain't how the system works, ma'am.

10 Q So you don't expect to get anything out of this
11 whatsoever?

12 A No, ma'am.

13 Q Now, let's talk about your relative, the state
14 constable.

15 A Bud Chitwood, yes, ma'am.

16 Q As a state constable, does he deal with law
17 enforcement here and know them?

18 A Yes, ma'am.

19 Q In fact, I believe you said on one of the tapes
20 that he's good friends with maybe a captain or
21 something at the sheriff's department; is that right?

22 A Yes, ma'am.

23 Q Do you think he knows how the system works?

24 A Yeah. He's a Christian, and he goes by the book.

25 Q I noticed you limping when you came in. Why is

1 that?

2 A Well, close to a year I had this brace on. I'm a
3 diabetic anyway. They're talking about cutting my feet
4 off.

5 Q I believe you've got some other health issues,
6 too. What are those?

7 A Breathing problems at night, acid reflux.

8 Q Don't you have some others, too, that you have had
9 in the past?

10 A Okay. Evidently you know more than I do. I mean,
11 I'm trying to follow what you're saying. I got acid
12 reflux. I have diabetes. I lost this arm. They put
13 it back together. I mean, I'm not knowing where you're
14 going.

15 Q Well --

16 A I had a heart attack. Yeah. That was in -- about
17 a year ago.

18 Q Have you had a stroke?

19 A I had a stroke. That was at a stop sign up here
20 on 418. I was stopped with my foot on the brake and I
21 had a stroke.

22 Q And so how exactly were you going to get three
23 people in good health? How was that exactly going to
24 work?

25 THE WITNESS: Judge, do I have to answer that

1 question?

2 THE COURT: Yes, sir.

3 THE WITNESS: In my past, as you brought up
4 earlier, in my past I'm well educated on how to deal
5 with a situation like that.

6 BY MS. WHITE:

7 Q And do you have money?

8 A Do I have money?

9 Q Yes, sir.

10 A I got a few dollars. I work hard for my money.

11 Q So this happened in November of 2014; is that
12 right, what we just heard, the phone call?

13 A Yes, ma'am.

14 Q And no trial date had been set at all; is that
15 right?

16 A On what? On my case or his?

17 Q No, on this case.

18 A On this case, I don't know. You'd have to ask
19 Mr. Arflin that.

20 Q Okay. Well, let's say it had been set for now,
21 for August.

22 A Okay.

23 Q So you were talking about holding off a week in
24 November for a trial that was going to happen -- either
25 hadn't been set at all or in August of the next year?

1 A The thing was to keep an eye on them, and a week
2 before the trial, get them. You know, that was the
3 agreement.

4 Q Is that what you said on the tape?

5 A No, ma'am. That's what was said personally
6 between me and him.

7 Q Now, Bobby didn't call you. You called
8 Mr. Sandoval and told him, "Have Bobby call me"?

9 A Exactly.

10 Q So Bobby didn't just call you. You said, "Have
11 him call me"; is that right?

12 A Exactly.

13 Q How many visitors are you allowed to have on your
14 visitor list at the sheriff's department detention
15 center?

16 A I don't know.

17 Q Is it ten?

18 A I don't know. I just have my wife visit me, so.

19 Q Are you aware --

20 A And my mother.

21 Q I'm sorry?

22 A And my mother.

23 Q Are you aware that the same Anderson County
24 Sheriff's Department who has brought these charges also
25 runs the jail? Those are the deputies who run the

1 jail?

2 A Yes, ma'am.

3 Q So you're not trying to tell this jury that the
4 deputies aren't monitoring the mail? The same deputies
5 who are running this case are not monitoring the
6 letters that are going in and out of the jail, are you?

7 A I can't even state on that. That's their job, but
8 to say that they do their job, some people sleep on the
9 job, so I don't know. By law they're supposed to read
10 letters. I mean, I know when I was in prison they read
11 letters going out.

12 Q So if a letter had gone out or come back, the
13 sheriff's department would know about it; is that
14 right?

15 A Possibility, yes, ma'am.

16 Q And no letter was ever written, was it?

17 A That I can't verify. Like I said, I never
18 received a letter.

19 Q Now, did you ask Mr. Arflin to write you a letter
20 or did he say, "I need your address. Let me write you
21 a letter"?

22 A No. I asked him. I offered my address and asked
23 him to write a letter because he didn't feel
24 comfortable talking on the phone.

25 Q So he wasn't going to talk to you over the phone?

1 A No.

2 Q You didn't get a letter?

3 A No.

4 Q And what was his response when you asked, "Put me
5 on the visitor list"?

6 A He said it was full.

7 Q And, again, who's in charge of the visitor list?
8 Which department out there who runs the jail?

9 A The captain, I guess.

10 Q So they would certainly know if he had added you
11 to the jail list?

12 A Exactly.

13 MS. WHITE: Your Honor, may we approach?

14 THE COURT: Yes, ma'am.

15 MS. WHITE: Do you have that map up there?

16 THE WITNESS: I got everything she give me.

17 MS. WHITE: Thank you.

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

21 THE COURT: Mr. Bailiff, if you can take our jury
22 out.

23 (WHEREUPON, the jury exited open court at
24 3:47 p.m.)

25 THE COURT: Okay. As I understand it from the

1 conference with the attorneys at the bench, Ms. White,
2 you are seeking to ask this witness whether he had
3 knowledge of a civil suit filed by Roscoe Powell as
4 personal representative for the estate of Jody Adams
5 Powell; is that correct?

6 MS. WHITE: Your Honor, may I mark the complaint
7 for identification, of course?

8 THE COURT: For identification, yes, ma'am.
9 (WHEREUPON, Defendant's Exhibit Number 12
10 was marked for identification.)

11 THE COURT: The state renews its objection to
12 this?

13 MS. PRICE: Yes, your Honor, the State does under
14 403.

15 THE COURT: Ms. White.

16 MS. WHITE: Yes, sir, your Honor.

17 THE COURT: Any additional reasons that you would
18 have for me to change my ruling?

19 MS. WHITE: Your Honor, in this case they have
20 submitted a map that allegedly involves him making a
21 hit map or something so that he'd know where to hit
22 some people. Your Honor, you will notice the map,
23 that's all the Williamsons who are right around his
24 property.

25 Your Honor, number one, my client will certainly

1 testify he was using this map to do two things. Number
2 one, he was drawing out what happened in this case, the
3 criminal case. But, number two, there had been a
4 complaint which had been filed in March of 2014, had
5 been served on him shortly thereafter, and he also had
6 this. And in this they had put a writ of attachment on
7 Mr. Arflin's property. And what that means is they
8 have said, You can't sell your land. You can't do
9 anything with your land, blah, blah, blah. So this
10 witness told just now on direct testimony, told the
11 jury, "Oh, okay. Well, he was going to give me some
12 property and give me a trailer." He can't do that.
13 He's got a writ of attachment on it. He's not allowed
14 to do anything with it. And he knew that for six
15 months before he supposedly made this statement, number
16 one.

17 Number two, it depicts the land and all involved
18 in the civil case. He was in the jail cell with this
19 man for 22 hours a day, and, yes, they talked about his
20 criminal case, his civil case. They don't have
21 anything else to talk about. And this goes directly
22 they're saying, Oh, no. He did all of this because he
23 was trying to do a hit. My hands are tied behind my
24 back if I can't say, No, the real reason is because of
25 this. And, furthermore, not only did he not put him on

1 the jail list, he couldn't have given him this
2 property.

3 THE COURT: So you're seeking to admit the writ of
4 attachment to show impossibility of the scheme that the
5 witness claims took place?

6 MS. WHITE: And, again, the civil case showing the
7 land. It's all about the land, and we've got -- and,
8 Judge, let me just say I would love to get in the
9 complaint and the writ of attachment. That's what I
10 would ask to be able to get in. But, certainly, if you
11 don't do that, and I would continue my objection
12 because I think it actually needs to come in to explain
13 this, but if not, I would at least ask to be able to
14 cross-examine him on it. But I don't understand how my
15 hands can be tied on the defense which is my client
16 didn't intend to do anything. They have to show he
17 intended to have this done. That's part of the jury
18 instruction.

19 THE COURT: The complaint regards wrongful death.

20 MS. WHITE: Yes, sir.

21 THE COURT: The complaint does not have anything
22 to do with the land. Apparently the plaintiff's
23 attorney believes that he is entitled to attach the
24 property in anticipation of obtaining a judgment and
25 then put that in the affidavit. Now, of course, that

1 goes to the civil case, and that's an issue that can be
2 dealt with in the civil case, but there's no claim.
3 And, furthermore, this is filed by the victim's family
4 and not anyone on behalf of the Williamsons. So what's
5 the connection to the Williamsons? This map deals with
6 the Williamsons.

7 MS. WHITE: No. It deals with my client's intent
8 to have a hit put on people, Judge. And that's his
9 defense is I didn't intend anything. We were talking
10 about this and, furthermore, I can't do it. And, your
11 Honor, it doesn't make any sense to talk about the writ
12 of attachment. The attachment goes with the civil
13 suit, which is why all of this is on one map. I don't
14 care who filed the complaint. The point is he said,
15 "I'm getting land. I'm getting a trailer." You will
16 notice there was a writ of attachment on both of those.
17 And that's why he maps out all of this land and the
18 plots and the addresses and everything else.

19 THE COURT: All right. Ms. Price.

20 MS. PRICE: Thank you, your Honor. May it please
21 the Court.

22 THE COURT: Yes, ma'am.

23 MS. PRICE: Your Honor, as to any admission of the
24 civil filings, I submit to the Court that that is
25 absolutely more prejudicial than probative. When I

1 addressed the Court last week and we had a lengthy
2 pretrial motion hearing on this very issue, I stated to
3 the Court just what the Court was saying, which is that
4 none of the parties to this civil suit are the folks
5 that are at issue in this case.

6 In addition to that, the unavailability of land is
7 something that certainly she could bring out with her
8 client. She just said a minute ago that he's going to
9 testify to that. That's great. And that's something
10 that she can bring out with him if she would like to
11 introduce additional evidence in her case-in-chief.

12 However, your Honor, even if she chooses to do
13 that, I'm going to object to it as being more
14 prejudicial than probative under a 403 analysis. I
15 think there is a danger of misleading this jury into
16 thinking that there is some other action that is
17 existing that is going to resolve what's happening here
18 today. And I think that that's a real danger to the
19 process that we're going through right now.

20 MS. WHITE: That can be handled with a jury
21 instruction. The real prejudice -- how is it not
22 relevant? Relevant is it makes something more
23 probative than not.

24 MS. PRICE: Your Honor, I'm not saying it's not
25 relevant. I'm saying it's prejudicial.

1 THE COURT: One at a time. One at a time. All
2 right.

3 Ms. White.

4 MS. WHITE: What's prejudicial is for the jury to
5 hear their side of the story and not hear my client's
6 side of the story. That's what's prejudicial.

7 THE COURT: But this complaint is not your
8 client's side of the story. This is a complaint filed
9 by a third party that's not a part of this action
10 today.

11 MS. WHITE: Your Honor, that has no relevance
12 because the relevance is not who filed the action. The
13 relevance is one of the elements of solicitation is
14 that Bobby Arflin, with intent to have it done,
15 solicited a crime with intent to have it done. This
16 goes directly to intent because they're saying -- your
17 Honor, may I see the map?

18 THE COURT: Yes, ma'am.

19 MS. WHITE: I don't want to get in your space up
20 here. Because they're saying, "Look. He drafted all
21 of this so that he could do a hit." We're saying he
22 didn't intend that at all. In fact, what he intended
23 to do was not intend to have a hit, he intended to
24 explain this and to explain the criminal action and to
25 show all the property and to show who's down there

1 around the property. That was his intent. And so
2 basically what happens is we're extremely prejudiced
3 because they hear this side and they never hear what
4 his true intent was.

5 MS. PRICE: May it please the Court.

6 THE COURT: Yes, ma'am.

7 MS. PRICE: Your Honor, under the charge of
8 solicitation of a felony, the State is not required to
9 prove that there was the payment of any money or the
10 conveyance of any property. That's actually not
11 something that we have to prove.

12 MS. WHITE: Your Honor, I never said that had to
13 be proved. If you look at the jury instruction, I will
14 read it from the judge's charge book. And it most
15 certainly does not require money to be passed or
16 anything else. However, a critical element of that
17 is -- and this is the judge's bench book --
18 "Solicitation: The defendant is charged with
19 solicitation to commit kidnapping. The State must
20 prove beyond a reasonable doubt that the defendant
21 asked, enticed, advised, invited, ordered, counseled,
22 persuaded, or otherwise encouraged another person to
23 commit kidnapping. It must be shown that the defendant
24 intended that the other person commit the kidnapping,"
25 blah, blah, blah. It goes on, but intent is absolutely

1 an element of solicitation.

2 THE COURT: All right. Thank you. Thank you,
3 ladies.

4 I have considered arguments of counsel, just as I
5 did last week when we had this issue before the Court.
6 I looked at the exhibits, and I don't see any evidence
7 that has been presented that would cause me to change
8 my ruling.

9 Ms. White, your objection is noted for the record.
10 Okay. Let's get our jury back in.

11 THE WITNESS: Your Honor, I need some water. I'm
12 a diabetic.

13 THE COURT: We'll have the bailiff get you some.
14 (WHEREUPON, the jury entered open court at
15 3:57 p.m.)

16 THE COURT: Ms. White.

17 MS. WHITE: Thank you, your Honor.

18 Q Now, Mr. Arflin and you were in a cell together
19 22 hours a day; is that correct? Two hours of rec
20 time. And this cell was a basically a cement -- it
21 wasn't like bars. It was a closed-in tiny cement room
22 with a toilet, a sink, and a little slot in the door,
23 in a solid door; is that right?

24 A Yes, ma'am.

25 Q So you couldn't even talk, you know, to other

1 people in adjoining cells. It's all concrete block; is
2 that correct?

3 A Yes, ma'am.

4 Q And you all don't have mutual relatives, you
5 haven't had mutual past experiences, none of that; is
6 that right?

7 A No, ma'am.

8 Q So pretty much the thing that you have in common
9 in this little cell for 22 hours a day is your cases?

10 A Yes, ma'am.

11 Q And, of course, Bobby keeps up all the materials
12 that he gets from us and all the materials that he gets
13 from the State and keeps all the reports, all of those
14 are sent to him, and you discussed all of this with
15 him; is that correct?

16 A Rephrase that again.

17 Q You all would discuss the case?

18 A Yes, ma'am. His case?

19 Q Yeah.

20 A Yes, ma'am.

21 Q And when Bobby discusses things, he loves to
22 write, doesn't he?

23 A Not necessarily. I mean, we set and talked about
24 his case and being laying on this bunk and he be laying
25 on that bunk.

1 Q Sir, he likes to write down, take notes, draw out
2 things; isn't that what he does?

3 A An everyday thing, no, ma'am. That ain't what he
4 does, but he did draw a map out for me. He did write
5 my requests for me.

6 Q And --

7 A But to do that every day, he don't do that every
8 day.

9 Q And he writes down things to remind himself to ask
10 his lawyer about, too, doesn't he?

11 A That I don't know because, like I said, there's
12 some -- we're in a cell together. We try to show each
13 other, you know, some privacy. He has set on his bed
14 and wrote his wife, you know. I'll read a book or I
15 get up and watch television while he's doing that.

16 Q And did y'all always have the same rec time?

17 A Yes, ma'am.

18 Q Okay. Did you always have the same visitation
19 time?

20 A No, ma'am.

21 Q So when he was at visitation, you were completely
22 alone in this blocked-in cell with all of his stuff; is
23 that right?

24 A Yes, ma'am.

25 Q Now, you talked to Detective Gebing to get all

1 this set up; is that right, all this set up for you to
2 come in and testify and cooperate and all of that?

3 MS. PRICE: Objection, your Honor.

4 MS. WHITE: Your Honor, there are taped calls and
5 meetings.

6 THE COURT: State your objection.

7 MS. PRICE: She's implying that he set up all of
8 this --

9 THE COURT: Stand when you address the Court.

10 MS. PRICE: I'm sorry, your Honor.

11 THE COURT: What is your objection?

12 MS. PRICE: Your Honor, my objection is it's
13 misleading to the jury.

14 THE COURT: Rephrase your question, Ms. White.

15 BY MS. WHITE:

16 Q You met with Investigator Gebing from the Anderson
17 County Sheriff's Department plenty of times, lots of
18 times, didn't you?

19 A No, ma'am. I met at my house, all right, and then
20 he called me in for a polygraph test.

21 Q And he talked to you over the phone -- I'm sorry,
22 what did you just say?

23 A I said he called me in for a polygraph --

24 MS. PRICE: Objection.

25 THE COURT: Sustained.

1 MS. WHITE: Your Honor, he's opened the door. He
2 has opened the door.

3 THE COURT: Please take the jury out.

4 (WHEREUPON, the jury exited open court at
5 4:02 p.m.)

6 THE COURT: Okay. State your objection.

7 MS. PRICE: Yes, sir. My objection is that she
8 was re-eliciting the statement that Mr. Lawrence made
9 referring to a polygraph, which he had been -- he had
10 been told to refer to those as statements, not as
11 polygraphs by the State, as the Court had ruled last
12 week that it was prejudicial for that to come out.

13 Your Honor, I believe either a curative
14 instruction or moving on would be appropriate.

15 THE COURT: We're not going -- I'm going to give a
16 curative instruction to the jury. My ruling stays the
17 same. There will be no mention of polygraph. There
18 will be no questions about polygraphs, no answers
19 regarding polygraphs. Is that understood by all
20 parties?

21 MS. PRICE: Yes, sir.

22 MS. WHITE: Your Honor, I had no idea he was going
23 to say anything --

24 THE COURT: Ms. White, I'm not accusing you of
25 that. I understand that was inadvertent. But we are

1 not going to discuss the polygraph. Okay?

2 Get our jury back in.

3 (WHEREUPON, the jury entered open court at
4 4:03 p.m.)

5 THE COURT: Ladies and gentlemen of the jury, you
6 will disregard the last question asked and the answer
7 that was given. You are to give no weight whatsoever
8 to the question or the answer when you have your
9 deliberations at the end of the trial. Okay.

10 Ms. White, proceed.

11 BY MS. WHITE:

12 Q Now, you talked to Investigator Gebing quite a bit
13 about this case, and you talked to him quite a bit
14 about your pending charges; isn't that true?

15 A I've never talked to the man about my charges.

16 Q Sir, did you know that all of that was recorded
17 and it's all been transcribed? Did you know that every
18 word you have had with Dr. -- with Investigator Gebing
19 has been recorded? Are you aware of that?

20 A No.

21 Q Would you like to reconsider that answer and tell
22 us: Have you discussed your charges with Detective
23 Gebing as well as these?

24 A Is this the detective -- I got two detectives I've
25 talked to, and you're confusing me of which detective.

1 I don't know them by name. I know the detective that
2 charged me called me because I was in North Carolina
3 and said, "Mr. Lawrence, would you please come back to
4 South Carolina and turn yourself in." That's what I
5 did on my charge. That was the detective. Then I got
6 the detective with Mr. Arflin that came to my house.
7 Now, who's who? I don't know them by name. I'm not
8 good with names. I just, you know.

9 Q Mr. Lawrence, you have never talked about this
10 case with the other investigator. You just testified
11 to the jury that you had never talked to him about it,
12 your other one; isn't that correct? So how can you get
13 them confused?

14 Now, do you remember telling Detective Gebing, and
15 I'll be happy to show you the transcript if you'd like
16 on page 41, that your charges -- your charges are BS,
17 "But I'm just trying to get rid of this. I can't
18 afford it." Do you recall saying that?

19 A Yes, ma'am. I remember saying that to him. I
20 told him this monitor that's on my leg is BS because I
21 got to pay \$400 a month for something I didn't do.

22 Q Why did your wife in the background say, "Roy has
23 always helped the police whenever he could"?

24 MS. PRICE: Objection, your Honor. Hearsay.

25 THE WITNESS: Can I answer that question?

1 THE COURT: Overruled.

2 THE WITNESS: Since I've been out of prison, which
3 the system works. I did 20 years. I have been nine
4 years parole here. Perfect person. Paid my dues, paid
5 my money, and I have been wonderful for nine years for
6 my community. I changed.

7 Q Until the CSC with a minor case first degree?

8 A Ma'am, you're bringing that up continuously and
9 don't know the situation of it. You follow what I'm
10 trying to tell you? You know, you're sitting there
11 throwing it in my face on that charge, and I'm not
12 guilty. I'm going to trial, to a jury trial, to prove
13 that I'm not guilty. You don't know nothing about the
14 situation or you wouldn't be commenting to me on it.

15 Q You don't think that I've researched that, sir?

16 A Ma'am, you can research all you want, but not even
17 the court realizes what I'm up against until my lawyer
18 brings it to court.

19 Q Now, so what you're telling this jury is
20 Mr. Arflin refused to talk to you over the phone,
21 didn't even initiate the call, you initiated the call
22 to him, he never sent you a letter and he never put you
23 on the visitation list; is that correct?

24 A What I'm saying is Mr. Arflin was not comfortable
25 talking about it on the phone, and he -- I suggested to

1 him to write me a letter. Yes, ma'am, I did.

2 Q Are people who are in jail who do not have a bond,
3 are they permitted to come and go and set up stuff any
4 other way?

5 A I'm not following your question, ma'am. Bring it
6 down to my level.

7 MS. WHITE: No further questions.

8 THE COURT: Any further questions of this witness?

9 MS. PRICE: No. Thank you, your Honor.

10 THE COURT: Thank you, Mr. Lawrence. You can step
11 down.

12 Call your next witness.

13 MS. PRICE: Thank you, your Honor. At this time
14 the State calls Detective Robert Gebing to the stand.

15 **ROBERT GEBING,**

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

17 THE CLERK: Please state and spell your name for
18 the reporter.

19 THE WITNESS: My name is Robert Gebing,
20 G-e-b-i-n-g.

21 **DIRECT EXAMINATION**

22 **BY MS. PRICE:**

23 Q Thank you, Sergeant Gebing. Who do you work for?

24 A I work for the Anderson County Sheriff's Office.

25 Q And what sort of duties and responsibilities are

1 associated with your position with them?

2 A Currently, as of May, I transferred. I am now an
3 investigator with gang unit. I also work on the bomb
4 squad.

5 Q Where were you prior to that?

6 A I spent just under ten years in criminal
7 investigations division, the last four of which I was a
8 sergeant. I was a supervisor.

9 Q And were you assigned to follow up on a matter
10 that has led you to be in court today?

11 A I was.

12 Q What was the nature of that matter?

13 A My then lieutenant Mills tasked me with following
14 up on what was presented to me as something akin to
15 like a murder-for-hire type of case.

16 Q When did your involvement begin?

17 A November 5th, if I recall.

18 Q Of what year, sir?

19 A 2014.

20 Q Okay. And Lieutenant Mills, had he received a
21 call from an individual?

22 A No. He had gotten this thirdhand. Chief Deputy
23 Keith Smith had handed off a name and number to
24 Lieutenant Mills, Lieutenant Mills handed it to me and,
25 thus, my involvement. So Lieutenant Mills had never

1 actually spoken to anybody other than the deputy.

2 Q What was the name and number?

3 A Bud Chitwood. Unfortunately, I don't remember the
4 number off the top of my head.

5 Q Did you contact Bud Chitwood?

6 A I did, by phone.

7 Q Okay. And once you contacted him, were you given
8 an additional name and number?

9 A I was. Everything he had to offer was third-party
10 as well, so he referred me to Roy Lawrence, his
11 brother-in-law.

12 Q And did you meet with Roy Lawrence?

13 A I did. I called Mr. Lawrence that day and
14 arranged to meet. In fact, I met him probably
15 20 minutes after the initial phone call and went to his
16 residence and met him there.

17 Q What day was that?

18 A The same day, November 5th, 2014.

19 Q Had you ever met Mr. Lawrence prior to this date?

20 A No.

21 Q Never met with him on any of his other charges?

22 A No.

23 Q And, generally, what did he discuss with you that
24 day?

25 MS. WHITE: Your Honor, may I renew my motions?

1 THE COURT: Yes, ma'am.

2 MS. WHITE: For the record.

3 THE COURT: Yes, ma'am.

4 MS. WHITE: Thank you.

5 THE COURT: Counsel, approach.

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

9 MS. WHITE: Yes, sir. My objection is Fifth and
10 Sixth Amendment as we discussed before.

11 THE COURT: Noted. Overruled.

12 BY MS. PRICE:

13 Q Detective?

14 A Yes.

15 Q What did he discuss with you generally?

16 A In essence, he said that a cellmate of his had
17 approached him or spoken to him about killing and/or
18 kidnapping some witnesses in a case that was pending in
19 exchange for some land.

20 Q Okay. Did he provide you with any physical
21 materials when you met?

22 A He did. I had been made aware by Mr. Chitwood
23 initially, and then that there was a map that had been
24 allegedly hand drawn, given to Mr. Lawrence along with
25 some names of the targeted persons. Upon arrival at

1 the house, he turned those over to me.

2 Q And what did you do with those materials?

3 A Those, later that day, were transported to the
4 Anderson County Sheriff's Office, placed in evidence,
5 and I submitted a request to have them fingerprinted.

6 Q Okay. Detective, I'm showing you what's been
7 previously marked as State's Exhibit 86 and 87. Are
8 you familiar with these items?

9 A I am. Yes, I am.

10 Q And what are they, sir?

11 A These two smaller items, the small slip of paper,
12 is the names that, according to Mr. Lawrence, were
13 provided to him. These are the targeted individuals.
14 This second smaller piece of paper is the hand drawn
15 map, and on the back is some medical complaints and
16 terminologies. These were the items that were given to
17 me by Mr. Lawrence but not quite in this condition.
18 The pink tone is due to the processing for
19 fingerprints. These are the originals. They're not
20 just as they appeared that day.

21 Q So they have a pinkish tone now?

22 A They do.

23 MS. PRICE: Your Honor, at this time the State
24 seeks to admit Exhibits 86 and 87 into evidence.

25 MS. WHITE: Your Honor, my continuing objection is

1 Fifth and Sixth Amendment.

2 THE COURT: Continuing objection is noted for the
3 record. Overruled. So admitted as State's Exhibit 86
4 and 87.

5 (WHEREUPON, State's Exhibit Number 86 was admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit Number 87 was admitted
8 into evidence.)

9 BY MS. PRICE:

10 Q And you said that those were printed. Were there
11 sufficient prints for comparison purposes?

12 A According to our forensics commander, Lieutenant
13 Scott, he said there were not sufficient prints for
14 comparison.

15 Q What else was done with that note and map?

16 A I mean, I made photocopies of it. And later on,
17 as a continuing follow-up investigation, I did send a
18 request down to SLED to their questioned documents
19 department with something to compare them to to try to
20 authenticate that Mr. Arflin was or was not the author.

21 Q Okay.

22 MS. WHITE: Your Honor, if this will expedite the
23 trial at all, my client has never and is still not
24 denying that he wrote that map. Now, we're going to
25 have a different explanation, but if that expedites

1 things at all.

2 MS. PRICE: Okay. Well, this is State's
3 Exhibit 89.

4 THE COURT: Show her the exhibit.

5 BY MS. PRICE:

6 Q Showing you State's Exhibit 89. Are you familiar
7 with that item?

8 A I am.

9 Q Okay. And what is it?

10 A This is an inmate sick call request slip. This is
11 what I obtained from the nursing staff at the jail to
12 use as a standard to compare to the writing on the
13 questioned documents. Without alerting Mr. Arflin to
14 my investigation, I needed something to compare, and
15 this is the nearest thing that I could obtain.

16 Q And was there a comparison?

17 A There was. Based on this, it was not definitive.
18 We then, as this case progressed, later on got further
19 actual known handwriting samples in accordance with the
20 SLED analyst instructions. Those were again sent and
21 compared to the original, and that yielded an actual
22 match.

23 Q One moment.

24 MS. WHITE: Your Honor, my same objection, but,
25 again, we're stipulating that he wrote these.

1 THE COURT: So noted. That would be?

2 BY MS. PRICE:

3 Q Showing you State's Exhibit 90, are you familiar
4 with these, sir?

5 A I am.

6 Q Okay. And those had previously been stipulated to
7 as authenticated by the parties. What are they?

8 A Following the instructions given me by the SLED
9 analyst, she asked that the actual standards taken from
10 Mr. Arflin. She wanted them on just standard index
11 cards. She even told me black ballpoint pen so she
12 could better judge the striations. She asked me to,
13 you know, have him write word for word what I wanted to
14 compare to. Mr. Arflin complied, and she wanted 25 of
15 this, so I have 25 cards bearing that portion, 25 of
16 the street names that were listed in the map, so I have
17 25 individual cards, and then she said for the other
18 portions that were a little bit longer, just to pick
19 out several sentences and have him write that out on
20 regular paper. So there's three of one portion and
21 three of another. These all bear my initials and
22 dates. I'm certain these are the ones we did back in
23 May.

24 Q Okay. Now, as a result of your conversation with
25 Mr. Lawrence, did you develop a suspect in your

1 investigation?

2 A We did. He identified who was then his cellmate,
3 Mr. Arflin, as the one who had approached him about
4 this plot.

5 Q Okay. And did you verify additional information
6 that Mr. Lawrence gave you?

7 A I did. During the course of that conversation, he
8 had obviously mentioned that they had been housed
9 together. I verified it with records from the jail
10 that they had shared a cell together. He had mentioned
11 that at one point something was wrong with his
12 purchasing account, and he had to have his wife put
13 money on Mr. Arflin's books to make purchases for him.
14 And I did verify that it appeared five times, if I
15 recall, that his wife, Alice Lawrence, did put those
16 payments on Mr. Arflin's books.

17 With regard to the addresses and the map itself
18 and the names, I spoke to Detective Simpson and
19 verified that these were, in fact, people who had been
20 involved in the prior case. I used satellite imagery
21 from the computer from the Internet and tax records to
22 kind of just note that, you know, the way that the
23 streets were and the positioning of the lots and the
24 houses, they were lining up with what Mr. Lawrence had
25 been told. Those were the steps I took just to kind of

1 authenticate what I was being told.

2 MS. WHITE: Your Honor, I renew my motion for the
3 defense exhibit for identification to be admitted.

4 THE COURT: Would you take the jury out, please.
5 (WHEREUPON, the jury exited open court at
6 4:21 p.m.)

7 THE COURT: All right. Ms. White.

8 MS. WHITE: Your Honor, she's getting ready now to
9 put in not just the map but the plats of the land.

10 THE COURT: Well, as I understand the testimony,
11 the officer just testified that he verified the land
12 with county records.

13 MS. PRICE: Yes, sir, records that Ms. White has
14 that we previously stipulated to as authenticated.

15 THE COURT: I -- Ms. Price, I think the door is
16 firmly open by introducing that evidence. I think the
17 defense is entitled to put the writ of attachment into
18 evidence since it is an official record of Anderson
19 County as well and that's an issue. Again, the State
20 has brought that up.

21 Ms. White, I'm going to allow you to ask your
22 client if a writ of attachment has been placed on his
23 property. I will not allow any particulars or details
24 about the wrongful death lawsuit.

25 MS. PRICE: May it please the Court, your Honor.

1 THE COURT: Yes, ma'am.

2 MS. PRICE: I haven't moved this into evidence
3 yet, nor have I attempted to, so I will refrain from
4 doing so.

5 MS. WHITE: His testimony --

6 THE COURT: Well, the horse is out of barn now,
7 Ms. Price. The witness has testified under oath.

8 MS. PRICE: May it please the Court.

9 THE COURT: Yes, ma'am.

10 MS. PRICE: I would ask, then, that she be limited
11 to asking or eliciting from whatever witness or from
12 her client simply what she has already asked, not
13 necessarily that the civil suit come in, but if she is
14 seeking to say that the land was unavailable, that she
15 be allowed to elicit testimony that there is a writ of
16 attachment.

17 THE COURT: This is what I will allow: I will
18 allow her to ask her client a question if a writ of
19 attachment has been placed on the property as a result
20 of a civil suit. I will not allow any details about
21 the wrongful death lawsuit.

22 MS. WHITE: Your Honor, I understand no details,
23 but a writ of attachment, I want to make sure a civil
24 suit in this case. I don't want it to sound like he's
25 cheating people out of stuff and all. I mean, I have

1 to explain why. That's bad character evidence if I
2 don't. They're the ones that are introducing all of
3 this, Judge. It just can't go on and on and on without
4 me being able to give an explanation.

5 THE COURT: I will allow you to say that he is
6 contesting the civil suit, but we are not getting into
7 the details of the wrongful death suit. I have already
8 ruled on that. It's a different court, a different
9 burden of proof, different evidence. The parties to
10 that case are different than the parties today, so --
11 but I will allow you, as I stated, to put in the writ
12 of attachment explaining that it is part of the civil
13 suit and that he is contesting that civil suit.

14 MS. WHITE: Yes, sir. And, your Honor, I want to
15 make sure that I can ask Mr. Gebing if, during his
16 investigation, he discovered that he can't get rid of
17 this property, because of this civil suit he can't.

18 THE COURT: I will allow that question.

19 MS. WHITE: All right. So, Judge, wait a minute.
20 I just want to make sure. I don't want to put anything
21 in that I'm not supposed to put in.

22 So, Judge, what you're saying is I take off the
23 complaint and just do the writ of attachment, and are
24 you saying I just -- I'm not sure -- I want to make
25 sure I comply -- may I hand this up, Judge, and you

1 tell me what to do? I just don't want to do anything
2 I'm not supposed to do.

3 THE COURT: Actually, the writ of statement has a
4 warrant of attachment attached to it which actually
5 provides the description of the property.

6 MS. WHITE: Yes, sir.

7 THE COURT: This is what I want. I want the writ
8 of attachment. I'll allow you to put that in. I'll
9 allow you to put the warrant of attachment in. I would
10 like --

11 MS. WHITE: Judge, can you tell me what to tear
12 off? I'm going to leave that marked for I.D., then
13 I'll tear off sheets as you tell me what to tear off
14 and I'll mark this as an exhibit.

15 THE COURT: Warrant of attachment.

16 MS. WHITE: So take off the first three pages.

17 THE COURT: Take off the complaint, all three
18 pages of the complaint. Take off the -- and then I
19 will allow the warrant of attachment. I will allow the
20 writ of attachment, and then take off the plaintiff's
21 affidavit.

22 MS. WHITE: So, in other words, Judge, I want to
23 make sure I'm right. I've got three pages is what I'm
24 submitting.

25 THE COURT: And I would like the caption, "As

1 personal representative for the estate of Jody Adams
2 Powell" redacted.

3 MS. WHITE: I don't know what that means. You
4 mean just the plaintiff's name redacted?

5 THE COURT: The plaintiff's name redacted.

6 MS. WHITE: But I am allowed to say it's a civil
7 case in this case, per your previous ruling. Otherwise
8 it's just bad character evidence of my client.

9 THE COURT: All right. I'll allow you to do that.
10 I'll allow you to do that. Redact the plaintiff's
11 name.

12 Are we understood?

13 MS. WHITE: Your Honor, I'm going to need one
14 minute because I've got to get it redacted. I want to
15 hand it in so everybody okays it.

16 MS. PRICE: Your Honor, we can take a break before
17 she begins her direct of my witness for her to do that,
18 if I can continue.

19 THE COURT: Let's do that and finish up. How many
20 more witnesses do you have?

21 MS. PRICE: This is it.

22 THE COURT: Okay.

23 MS. PRICE: And, your Honor, I am planning to
24 introduce also, if this is happening, then I have
25 public access Anderson County assessor's office records

1 pertaining to the property, and I plan to introduce
2 those as well.

3 THE COURT: What records?

4 MS. PRICE: Your Honor, the tax records that show
5 that he has nine acres, which is what Mr. Lawrence told
6 Detective Gebing, as well as a trailer which was the
7 inducement.

8 THE COURT: All right. Okay. Okay.

9 MS. WHITE: Then after that I'm going to ask that
10 the whole complaint come in again based on even more
11 evidence coming in.

12 THE COURT: Well, the property that -- the
13 warrants of attachment describes the property, has a
14 legal description with tax map numbers, okay. It also
15 describes the acreage of the property. And I believe
16 it looks like there are two parts that also
17 describes -- well, okay. It also has the mobile home
18 on it, Ms. Price.

19 MS. WHITE: Yes, it does.

20 MS. PRICE: You've already ruled that that's
21 coming in. Right?

22 THE COURT: Right. So what do the tax records
23 have that's different than what's in here?

24 MS. PRICE: By Ms. White or by myself?

25 THE COURT: The warrant of attachment that was

1 prepared for the civil case has both tracts of
2 property, the legal description and the mobile home.
3 So you're just seeking the tax records?

4 MS. PRICE: Your Honor, I'm not seeking to admit
5 anything with the civil suit.

6 THE COURT: I understand --

7 MS. PRICE: Yes, sir.

8 THE COURT: I understand.

9 MS. PRICE: Yes, sir. It is the -- may it please
10 the Court. May I approach?

11 THE COURT: Let me see what you've got.

12 MS. PRICE: Yes, sir. And the tax assessor's
13 office records are the official records, as your Honor
14 is aware, from the tax assessor's office. Detective
15 Gebing first pulled that information by way of the
16 public access, which is there. Ms. White, again, and I
17 have already agreed to the authentication of these
18 items.

19 THE COURT: Okay.

20 Ms. White, it looks like it's just a different
21 document of the same thing.

22 MS. WHITE: I was about to say I think it is
23 cumulative and certainly it adds even more reason why I
24 should be getting in this other stuff, but that would
25 be the basis of my objection.

1 THE COURT: If I allow you to put it in, warrant
2 of attachment, writ of attachment, I'm going to allow
3 her to put the tax records in and with the instructions
4 that was stated. So finish with this witness --

5 MS. PRICE: Yes, sir.

6 THE COURT: -- and then we can take a break and we
7 can do cross-examination, and then you will be finished
8 for the day; is that correct?

9 MS. PRICE: Yes, sir. May --

10 MS. WHITE: Your Honor -- go ahead.

11 MS. PRICE: For clarification purposes so I don't
12 object to something that's already been ruled on, sir.

13 THE COURT: Yes, ma'am.

14 MS. PRICE: Ms. White is going to be allowed to
15 elicit testimony from her client or whoever that there
16 is a writ of attachment and a warrant of attachment on
17 the nine acres of property and the trailer that are at
18 issue, correct?

19 THE COURT: Yes.

20 MS. PRICE: And has the Court ruled that she is
21 also going to be allowed to say that those are a result
22 of a wrongful death lawsuit filed by victim's family in
23 this case?

24 THE COURT: I want it just said "a civil suit."

25 MS. PRICE: Okay.

1 THE COURT: "A civil suit." I don't want any
2 particulars about the lawsuit put into the record.

3 MS. WHITE: Your Honor, we found a pen to redact,
4 so I know you probably don't want to take a break and
5 let the jury out right before 5:00. I can just
6 approach and show it to both of you.

7 THE COURT: While we got them out, take a minute
8 and do it now, then we can finish up. This will be a
9 natural stopping point if the State is ready to rest,
10 and then we can start anew in the morning with
11 Ms. White's case.

12 MS. PRICE: Yes, sir.

13 Your Honor, we do have a stipulation to publish
14 after this witness that was signed by the parties just
15 for full disclosure, but it's a page and a half
16 pertaining to the handwriting analysis.

17 THE COURT: That's fine.

18 MS. WHITE: Judge, I'd like to hand it up.

19 THE COURT: Go ahead and have it marked.

20 (WHEREUPON, Defendant's Exhibit Number 13
21 was marked for identification.)

22 THE COURT: Are we ready to proceed?

23 MS. PRICE: Yes, your Honor.

24 THE COURT: Mr. Bailiff, get our jury, please.

25 (WHEREUPON, the jury entered open court at

1 4:35 p.m.)

2 THE COURT: All right. Ms. Price.

3 MS. PRICE: Thank you, your Honor.

4 Q Detective, you were saying that you had confirmed
5 some of the details provided by Mr. Lawrence?

6 A Yes, I did.

7 Q And did you confirm the areas of land that he had
8 been instructed were occupied by these witnesses?

9 A Yes.

10 Q How did you do that?

11 A Open sources, through the county's public access
12 system, through the tax maps and such.

13 Q I'm showing you what's been marked as State's
14 Exhibit 91 through 94. Are you familiar with those
15 items?

16 A I am.

17 Q And what are they?

18 A These are basically the parcel map from the public
19 access system, just an open source, go to county
20 website, public access, and you can search by street or
21 by taxpayer. I was just trying verify where in
22 relation to Mr. Arflin's property these folks were said
23 to have lived and so could you line up -- you know,
24 pick an address, and it would highlight it. In this
25 particular case, this is 124 Williamson, which is the

1 home of Brenda Masters. And, additionally, this is a
2 photocopy of the original. It's got my handwriting
3 down here at the bottom. But, basically, I did that
4 just to ensure that the depiction on the map was
5 consistent with the actual -- the actual layout of the
6 area.

7 Q Detective, would you bring those exhibits as well
8 as the photocopy of the map that you have as part of
9 State's Exhibit 86 down with me and we'll look at it
10 for a minute.

11 Let's start with the map. Detective, please show
12 me what each area is that we're looking at the map
13 here.

14 A As oriented, this is Williamson Drive. You will
15 note the heavy curve here and it kind of dead-ends. As
16 it was explained to me, this was 139 Williamson Drive,
17 and this is Mr. Arflin's property. It was also
18 explained to me that here, here, and here were the
19 potential targets. The numerics that were wrote on the
20 map do not necessarily depict the actual street
21 addresses, but they're close as far as where they are
22 actually at on the map, on the tax records. This one
23 here is actually 124 Williamson Drive, which is the
24 home of Brenda Masters. This one here, though marked
25 128, is actually 126 Williamson Drive, which is the

1 home of James Madison. And then this one here is 135,
2 which is the home of Larry Williamson, and then this
3 property here is 139 Williamson Drive.

4 Q Let's look at each of those pieces of property as
5 they compare to this map.

6 A Sure.

7 Again, if you orient it in somewhat the same way,
8 this is Lamar Mitchell Road, which you will notice is
9 marked here. Here's Williamson, a heavy curve ending
10 at the dead-end and then kind of a distinct looking
11 plot of land and a distinct looking plot of land. This
12 particular document here is the one that when I pulled
13 the records was for 139 Williamson Drive, the residence
14 of Mr. Arflin.

15 So that, to me, again, not being to scale, but all
16 things being equal, it very closely resembles the hand
17 drawn map, what's actually -- what was provided to me
18 through the public access system did very much resemble
19 the hand drawn map.

20 Q Okay. The next piece is State's Exhibit what?
21 And that was State's Exhibit 94.

22 A Yes.

23 Q Okay.

24 A This is State's Exhibit 93, which actually it
25 depicts -- it depicts the property listed as 126

1 Williamson Drive, which is the home of James Madison.
2 Now, he actually physically lives here, and as you can
3 see, using this for reference, this is Mr. Arflin's
4 portion and this one is drawn a little bit closer in,
5 kind of zooming in on the detail and giving me a little
6 more room to work with. This is the home of Mr. Arflin
7 here, and you notice the curve in Williamson Drive. As
8 indicated on the map right here, this is one of the
9 target houses. And in all actuality, the residence
10 sits on this corner here, though this entire shaded
11 part of the property is all part of the same plot at
12 126 Williamson Drive.

13 Q And Mr. Lawrence indicated to you that that
14 square, 128, was a target location?

15 A It's a target location. When we finally sat down,
16 he tried to determine who lived where, he actually had
17 the two male targets crossed. He had those at the
18 wrong houses, though he did have the houses correct.

19 State's Exhibit 91 depicts property located at 124
20 Williamson, which is the home of Brenda Masters. It's,
21 in my estimation, depicted here on the hand drawn map.
22 And for reference, this portion here ending in 5012 is
23 Mr. Arflin 's property. It's kind of inset in the lot
24 for 126, but according to records, Ms. Masters and
25 Christopher Masters do pay taxes on a single-wide

1 mobile home on this lot. And, again, the hand drawn
2 map not being to scale, it is very close. It does very
3 closely resemble hand drawn versus real according to
4 tax records.

5 Q And when you asked Mr. Lawrence about Ms. Masters,
6 did he indicate that was the home?

7 A He did.

8 Q Okay.

9 A And he was -- he did correctly indicate her at
10 that particular home. Like I said, the two males were
11 the ones that he had crossed.

12 Q Okay.

13 A The last one, which will be State's Exhibit 92,
14 depicts 135 Williamson Drive, which is the home of
15 Larry Williamson. And, again, using this unusual
16 shaped plot and ending the numbers 5012, which is the
17 home of Mr. Arflin as indicated here, this is 135, and
18 it correlates to this, which is again a lot that
19 Mr. Lawrence indicated one of the targets was on.

20 Q Thank you, Detective. You can take the stand.

21 Now, aside from confirming the property was
22 similar to that which was reflected in the map,
23 Mr. Lawrence, did he tell you what he had been promised
24 in payment?

25 A He said he was promised a portion of a

1 nine-acre -- 9.9, I think it was he told me, parcel of
2 land that Mr. Arflin owned, that he was to receive a
3 portion of that.

4 Q The parcel that we just looked at?

5 A Yes.

6 Q And did you in some way confirm that Mr. Arflin
7 owned about that amount of property?

8 A Again, using the public access system and open
9 sources, I did confirm that Mr. Arflin does own or pay
10 taxes on a 9.08, I believe, acre portion of land at 139
11 Williamson Drive.

12 Q And was there also a trailer involved?

13 A There is.

14 Q Was that part of the inducement to Mr. Lawrence?

15 A According to Mr. Lawrence, there's some sort of a
16 separate trailer on the property that was to go with
17 it, to -- you know, the portion of land and the
18 trailer.

19 Q Yes.

20 A But not the main residence that Mr. Arflin resides
21 in, or at least that was my understanding of it.

22 Q Did you verify there was a trailer on the
23 property?

24 A There is the one. The only thing I could find is
25 that Mr. Arflin pays tax on a trailer which it's my

1 understanding is the one that he physically lives in.
2 And speaking to Detective Simpson, he mentioned that
3 there was a secondary structure off to the right on
4 that property as well, which could be believed it could
5 be possibly what he was referring to.

6 Q So this may or may not be the trailer but the
7 records indicate that there is a trailer on the
8 property, and the records also indicate to you that the
9 acreage was approximately correct?

10 A It's close, yes.

11 MS. WHITE: Your Honor, I would renew my
12 objection. If this comes in, the full exhibit should
13 come in on our side.

14 THE COURT: So noted.

15 BY MS. PRICE:

16 Q Detective, I'm showing you State's Exhibits 95
17 through 98. What are these, sir?

18 A 95 is, again, is from the Anderson County public
19 access system, just an open source, the tax records for
20 139 Williamson Drive, which does indicate that as far
21 apparently he pays taxes on a 9.08-acre plot of land.
22 Exhibit 96 is the tax record for a 1985 Brigadier
23 28-by-64 mobile home.

24 97 and 98 are records pretty much of the same
25 thing, but actually from the assessor's office, so they

1 bear similar markings, the 9.08-acre plot of land and a
2 mobile home, so they -- they further reiterate what I
3 found in open sources is apparently accurate.

4 Q After verifying some of the information that
5 Mr. Lawrence had given you -- well, actually, let me
6 back up. Did you give Mr. Lawrence some directions
7 after your meeting with him?

8 A During the conversation I had with him, I did ask
9 whether he was anticipating any calls from Mr. Arflin,
10 and I told him if Mr. Arflin were to call, just strike
11 up a conversation and see what was said. I told him
12 I'd like to hear any further talking or further comment
13 about it, so I did ask him to be mindful about that if
14 he did, in fact, receive a call.

15 Q And did you instruct him at all to speak to
16 Mr. Arflin about his pending charges?

17 A No. No.

18 Q Okay. Simply to the plot?

19 A Yes.

20 Q Okay. Did you give him any instruction at all
21 about specifically obtaining information pertaining to
22 the charges you were investigating?

23 A My instructions were basically just, you know,
24 strike -- I even said to him, "Just ask him when he
25 calls, if he calls, 'Hey, remember that thing we talked

1 about?' " So I was very leery of steering clear of the
2 original case, but my instructions and my intent was to
3 have him ask solely on these new set of circumstances.

4 Q And were you contacted again by Mr. Lawrence?

5 A I was.

6 Q Do you remember what date?

7 A He called my office, and my receptionist called me
8 on November 7th but I was away. I actually spoke to
9 Mr. Lawrence again on November 10th, 2014.

10 Q And what did you do after that meeting?

11 A Well, that wasn't a meeting. That was a phone
12 call.

13 Q Oh, okay. What did you do after that phone call?

14 A Well, I called him back, and he told me that the
15 call had taken place and that there was some
16 conversation that had taken place regarding this
17 matter.

18 Q And did you verify that was the case?

19 A I did. We -- at the jail here, we have access to
20 inmate phone calls, outgoing phone calls through two
21 systems, one called PayTel and one called Investigator
22 Pro. And I signed on to that. I have a user name and
23 password. I signed on to that and verified that a call
24 had taken place, and I was able to listen to that call.

25 Q How were you able to verify that it was Mr. Arflin

1 that made that call?

2 A The system -- and, again, in layman's terms. I'm
3 not the administrator over it, but inmates are required
4 to enter a PIN number to make a call. The Investigator
5 Pro of it uses voice biometrics to match what it knows
6 to be that PIN number's voice to the call itself. It
7 doesn't necessarily always stop the call, but it will
8 send a flag or something you can kind of search to
9 indicate that the PIN number didn't match the known
10 noise. This particular call, it was in the green, so
11 it did match.

12 Q Is that why we hear Mr. Arflin say "United
13 States"?

14 A Yes.

15 Q And did you listen to the call?

16 A I did.

17 Q What did you determine by listening to the call?

18 A I determined that, in my opinion, that --

19 MS. WHITE: Your Honor, I'm going to object. The
20 jury has listened to --

21 THE COURT: Sustained.

22 BY MS. PRICE:

23 Q Did you make some charges as a result of that
24 call?

25 A I did. The call provided enough corroboration at

1 that point that I no longer thought that I was looking
2 at one person's word against the other, provided what I
3 thought was additional evidence to support my charge,
4 so I delayed briefly. There was mention of a letter,
5 and I wanted to wait on that. But we did at that point
6 feel that we had sufficient probable cause to move
7 forward.

8 Q Were there statements by Mr. Arflin that were made
9 during that call, any specific statements that led you
10 to make these charges?

11 MS. WHITE: Your Honor, I'm going to object. The
12 jury has --

13 MS. PRICE: May we approach?

14 MS. WHITE: The jury is the fact-finder here.

15 MS. PRICE: 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 jury, but out of the
19 hearing of the jury.)

20 BY MS. PRICE:

21 Q Are there portions of the phone call where the
22 defendant and Mr. Lawrence speak over each other?

23 A There are.

24 Q Okay. Were there statements -- without telling me
25 what statements, were there statements made during

1 those phone calls that led you to believe making
2 charges were appropriate in this case?

3 A Yes, there were.

4 MS. WHITE: Your Honor, again, objection;
5 relevance, and the jury is the fact-finder.

6 THE COURT: I'll sustain the objection. He
7 already testified that he sought charges in the matter.

8 BY MS. PRICE:

9 Q So you sought charges. What were those charges,
10 sir?

11 A Three counts of solicitation of a felony.

12 Q And did you determine who the victims were
13 supposed to be?

14 A I did. Again, Brenda Masters, James Madison and
15 Larry Williamson.

16 Q And did you verify that they had some relationship
17 to the case at hand?

18 A In speaking to Detective Simpson, yes, he verified
19 that they had been part of the original case. I had
20 nothing do with that, so I had to go to him for that
21 information.

22 Q Detective, do you see the man you charged with
23 three counts of solicitation of felony in the courtroom
24 today?

25 A I do.

1 Q Would you point him out and describe what he's
2 wearing for the record, please, sir?

3 A He's wearing a black jacket, purple shirt, purple
4 tie and glasses, seated beside the defense counsel.

5 Q One moment, sir.

6 Detective Gebing, does the jail monitor outgoing
7 and incoming mail, do you know?

8 A I don't know.

9 Q Okay.

10 A I don't.

11 Q Okay. Detective Gebing, is there a creek behind
12 the property at issue?

13 A Again, I've not physically been onto his property
14 to see it, but according to open source, Google Maps,
15 tax records, it does appear that the back portion of
16 his property is bordered by a creek. I think it was
17 listed as Cupboard Creek is what it was called.

18 Q Okay. No further questions. Please answer any
19 questions Ms. White has for you.

20 THE COURT: Ms. White.

21 MS. WHITE: Yes, sir.

22 CROSS-EXAMINATION

23 BY MS. WHITE:

24 Q Are you aware that during the time that Bobby was
25 in a cell with Roy, that they were in a cinderblock

1 cell, very small -- you know how small the cells are
2 out there -- and it didn't have -- a jail, they were
3 just together alone. Are you aware of that?

4 A Not knowing the layout of the cell, I can't speak
5 to that, but it is my understanding it was just the two
6 of them sharing that cell.

7 Q And you would agree that they have two hours of
8 rec time which means they have 22 hours together in the
9 cell?

10 A I don't know that I can agree to that. I don't
11 know what their schedule is, I'm sorry.

12 Q Would you disagree with that if Roy has already
13 testified to it?

14 A I wouldn't disagree with it. I personally don't
15 know what their schedule is.

16 Q And you would agree that a trial attorney is in
17 trial a lot, and if their client is in jail, the client
18 can't just drop by the office anytime, and the attorney
19 may not be there anyway, so they only meet once in a
20 while?

21 A I would concede to that, yes.

22 Q And you would agree when things are sent to the
23 defendant, to the client, that they have got to make
24 lists, they have got to make notes about what they want
25 to talk to their attorney about next time?

1 A Sure.

2 Q And that would be normal to review the
3 investigation, to review this stuff as it's sent and
4 then make notes, talk to this witness, these three
5 witnesses, talk about these three and look at this,
6 describe this map. Those would be things that, of
7 course, you would want to explain, would you not?

8 A Yes, it's plausible.

9 Q And if you're talking to your cellmate about your
10 pending charges and you're describing, "Okay. This is
11 where this happened. This is my house. These are the
12 houses in between. This is the area," that that would
13 be normal to do that?

14 A Possible.

15 Q Now, sir, when you were researching before you
16 made these charges, did you happen to research whether
17 my client even has the ability to sell or transfer this
18 property?

19 A No. I mean, other than open source, just
20 verifying approximate boundary lines and what he had
21 available to. That was the extent of my research on
22 it.

23 Q Sir, would it surprise you to know there was a
24 civil case against my client dealing with this incident
25 and that it was filed in March of 2014 --

1 MS. PRICE: Your Honor, may we approach?

2 THE COURT: Yes, ma'am.

3 (WHEREUPON, a bench conference was held off the
4 record in the presence of the jury, but out of the
5 hearing of the jury.)

6 BY MS. WHITE:

7 Q And are you aware that this was filed in March,
8 approximately six, seven months before this supposed
9 phone call and your investigation?

10 A I am now.

11 Q All right. And are you aware that the civil suit
12 put a warrant of attachment on all of this property
13 that you're talking about of my client's and a writ of
14 attachment on the mobile home on it?

15 A Civil is not my thing. I'm not arguing, but I
16 think you have handed me documents that apparently do
17 describe the land, the land in question titled "warrant
18 of attachment," so -- or "writ of attachment."

19 Q So are you aware that, in fact, my client did not
20 have the ability to transfer one square foot of any of
21 this property much less the whole tract or three acres
22 or whatever it was you said and had not for months
23 before this because of the writ of attachment that
24 prohibited either one of those things from being
25 transferred in any manner?

1 A That was a long question. Start over, please.

2 Q So are you aware that months before your
3 investigation even began, these documents prevented my
4 client from transferring a square foot of any of this
5 property?

6 A Right. But they don't prevent your client from
7 telling Mr. Lawrence whatever he wants to. I don't
8 know that I would be enticed into committing a crime if
9 I said, "Hey, I got this land, but I can't do anything
10 with it."

11 Q Did you discover this in this your investigation?

12 A I told you I didn't.

13 Q Okay.

14 MS. WHITE: Your Honor, I would ask that
15 Defendant's Exhibit 13 be admitted.

16 MS. PRICE: Without objection.

17 THE COURT: Okay. Defendant's Exhibit 13 will be
18 admitted.

19 (WHEREUPON, Defendant's Exhibit Number 13 was
20 admitted into evidence.)

21 MS. PRICE: And you're publishing it then?

22 MS. WHITE: Yes.

23 BY MS. WHITE:

24 Q Now, in November of 2014 when this phone call
25 occurred, there had been no trial date set for this

1 case, had there?

2 A A trial date? No, ma'am.

3 Q And, in fact, we're having trial eight or
4 nine months later; is that right?

5 A Yes, ma'am.

6 Q How free is Mr. Arflin to drop by my office and
7 see me any time he wants to?

8 A Well, currently he's not. I guess the burden is
9 on you or your staff to get out to him.

10 Q And, again, if he wants -- this Larry Williamson
11 on the list of three?

12 A Yes, ma'am.

13 Q One is a neighbor beside him, one is a neighbor
14 across from him, and one is the other neighbor in
15 between his house where he was going that night, to try
16 to get to his house, the incident location, and there;
17 is that correct?

18 A That is, yes, ma'am.

19 Q Now we have Larry Williamson, who was not there
20 that night; is that correct?

21 A Well, I don't -- the facts of the initial case, I
22 have no knowledge of who was where. I just know that
23 they were somehow or another spoken to and their names
24 were familiar in the case.

25 Q Would it surprise you to know that Larry

1 Williamson came over there after the police got there
2 and gave about a five-minute statement to police
3 basically saying he wasn't there?

4 A Again, I don't know what was or was not said.

5 Q Now, you're aware that the sheriff's department
6 runs the jail?

7 A Yes.

8 Q And, to your knowledge, did a letter ever go out
9 from Mr. Arflin regarding this matter?

10 A Are you referring to the one that Mr. Lawrence had
11 asked him to send?

12 Q Yes.

13 A To my knowledge, it has not. I have checked with
14 Mr. Lawrence several times and in the week or week and
15 a half or so before I made charges he -- and I asked
16 him. He said it never arrived.

17 Q All right. To your knowledge, did my client ever
18 add Mr. Lawrence onto the visitor list?

19 A I don't believe he did.

20 Q And, to your knowledge, were there any other phone
21 calls between the two?

22 A Between him and -- no.

23 Q Yes, sir.

24 A I don't believe so.

25 Q And are you aware of a phone call that Roy

1 Lawrence made to Mr. Sandoval, who was in jail, asking
2 him to have Bobby call Roy?

3 A That's not possible.

4 Q I've got the transcript, sir. Would you like to
5 read it.

6 A Mr. Lawrence can't call the jail.

7 Q Sorry. Let me rephrase that. Are you aware of a
8 conversation between Sandoval and Roy Lawrence where
9 Roy Lawrence says, "You've got to get Bobby Arflin to
10 call me"?

11 A Yes.

12 Q They're talking about selling a car for Travis or
13 something.

14 A Yes. I'm familiar with that call.

15 Q So even the phone call that we've had that we've
16 heard the recording on, my client did not originally
17 initiate. That he was told to call; is that right?

18 A Yes.

19 Q Just one minute, please.

20 MS. WHITE: No further questions.

21 THE COURT: Anything further from this witness?

22 MS. PRICE: Briefly. One moment, your Honor.

23 REDIRECT EXAMINATION

24 BY MS. PRICE:

25 Q Detective?

1 A Ma'am.

2 Q He was -- he, meaning this defendant, may have
3 been told to call by Leslie Sandoval, who is also an
4 inmate, correct?

5 A He's not an inmate there anymore.

6 Q Not anymore, but at some point he was?

7 A Yes.

8 Q He could have been told to call, but did he have a
9 choice as to whether to make that call?

10 A Yes. He's under no obligation to call just
11 because another inmate tells him to call.

12 Q And if somebody like Larry Williamson had given a
13 five-minute statement to the police the evening of this
14 incident, would his name come up in all of the
15 documents that Ms. White was referring to that we send
16 to her and she gives to her client?

17 A Certainly. Even if somebody just came forward and
18 say, "Hey, I really didn't see anything," if it was
19 noted in this report that this person was interviewed,
20 didn't see anything, that would still come over to the
21 defense as part of the discovery.

22 Q So he would have been a witness in the case?

23 A Potentially, yes.

24 Q One moment.

25 Detective if -- you're a supervisor correct?

1 A Yes.

2 Q And so when one of the deputies that's working
3 road patrol, something like that, responds to a dispute
4 between neighbors, would he make a report?

5 A Potentially. Just depends on the severity of it.
6 If it's nothing more than a dog running wild or a loud
7 noise, he very well might not. But typically if they
8 get beyond that, something physical, something where
9 there is an allegation that a crime has been committed,
10 yes, a report would more than likely be generated.

11 Q If somebody asked him to make a report, would he
12 make a report?

13 A More often than not, yes.

14 MS. PRICE: No further questions. Thank you very
15 much.

16 RECCROSS-EXAMINATION

17 BY MS. WHITE:

18 Q And every officer kind of has a different standard
19 for when they write a report or when they don't, don't
20 they? It's discretionary pretty much?

21 A Yeah. I wouldn't necessarily argue that
22 statement.

23 THE COURT: Anything further from this witness?

24 MS. PRICE: Nothing further for this witness, sir.

25 THE COURT: Any objection to this witness being

1 excused?

2 MS. PRICE: Not from the State.

3 MS. WHITE: No, sir.

4 THE COURT: Thank you, Officer. You are excused.

5 MS. WHITE: Your Honor, I don't know if I've
6 gotten that exhibit.

7 THE COURT: Yes.

8 MS. PRICE: May it please the Court..

9 THE COURT: Yes, ma'am.

10 MS. PRICE: Your Honor, the State would like to
11 publish an additional stipulation between the defense
12 and the State.

13 THE COURT: Yes, ma'am.

14 MS. PRICE: Your Honor, this is a stipulation of
15 testimony by the parties.

16 "The State, through Assistant Solicitor, Lauren
17 Davis Price, and the defendant, through his attorney,
18 Druanne D. White, hereby agree to stipulate to chain of
19 custody testimony concerning the following pieces of
20 evidence, stipulate as to the admissibility of these
21 items and their accompanying reports and stipulate to
22 the testimony of Ms. Brenda Gail Heath and the
23 following statements below and agree they are to be
24 read into the record.

25 "Item 1.1 is a hand drawn map which has been

1 processed for latent prints. Item 1.1.1 is a machine
2 copy of item 1.1. Item 1.2 is the reverse side of item
3 1.1, which is a hand printed note which has been
4 processed for latent prints. Item 1.2.1 is a machine
5 copy of item 1.2. Item 2 is a hand printed note
6 containing names which has been processed for latent
7 prints. Item 2.1 is a machine copy of item 2. Item 3
8 is a machine copy of known writing of Bobby Joe Arflin
9 on a sick slip. Item 4, 4.1 through 4.56, are
10 standards submitted as known writing of Bobby Joe
11 Arflin.

12 "The above items were provided to Brenda Gail
13 Heath, a forensic scientist with the SLED, South
14 Carolina Law Enforcement Division. Brenda Gail Heath
15 is assigned to SLED laboratory in the questioned
16 documents department and is a forensic questioned
17 documents examiner, more commonly referred to as a
18 handwriting or hand printing examiner. Due to her
19 training, education, 31 years of experience and prior
20 courtroom qualifications and testimony, Brenda Gail
21 Heath is an expert in the field of questioned
22 documents.

23 "The above items were provided to Ms. Heath for
24 examination and comparison by Detective Robert Gebing
25 with the Anderson County Sheriff's Office to match

1 known samples to unknown samples. Items 1.1, 1.1.1,
2 1.2, 1.2.1, 2 and 2.1 were unknown questioned samples.
3 Items 3 and 4, 4.1 through 4.56, were known samples.

4 "As a result of her examination and comparison of
5 the handwriting, it is the expert opinion of Ms. Brenda
6 Gail Heath that the writer of items 3 and 4, 4.1
7 through 4.56, known to be Bobby Joe Arflin, is also the
8 writer of items 1.1, 1.1.1, 1.2, 1.2.1, 2 and 2.1,
9 excluding the entries of, quote, Bobby Joe Arflin, end
10 quote, and, quote, 109 Helena Road, end quote, on item
11 1.2.1 for which there is no conclusion.

12 "It is further the opinion of Ms. Brenda Gail
13 Heath that the range of variation exhibited in the
14 questioned entries and in the known entries contained
15 substantial significant similarities with no
16 significant dissimilarities. It is further the opinion
17 of Ms. Brenda Gail Heath that there was no evidence of
18 disguise, variation or simulation in the writing she
19 examined.

20 "In addition, it would be her testimony that there
21 were no limitations in her assessment of the writings
22 due to absent characters or quantity of writing.

23 "I so stipulate, Lauren Davis Price. I so
24 stipulate, Druanne D. White."

25 Your Honor, at this time the State rests its case.

1 THE COURT: Ladies and gentlemen of the jury, you
2 have had another long day, and we have reached a
3 natural stopping point, so I'm going to let you go home
4 now. And you know what instruction I'm getting ready
5 to give you. Do not discuss the case with any third
6 parties. Do not deliberate among yourselves. Do not
7 do any independent research through any source --
8 Internet, media, third parties, whatever. Same
9 instructions we have given you all week.

10 I hope everyone has a good evening, and we will
11 see you at 9 o'clock in the morning, same time.

12 (WHEREUPON, the jury exited open court at
13 5:09 p.m.)

14 THE COURT: Any motions?

15 MS. WHITE: Yes, sir. Your Honor, I'd like to
16 make a directed verdict motion on the murder, the
17 firearms charge and the three solicitations, your
18 Honor.

19 Your Honor, as to the murder charge and the
20 firearms, the State, even if you believe what they say,
21 it is not sufficient to prove murder. Your Honor, as
22 to the solicitation charges, it was impossible for my
23 client to commit those. He was in jail. He didn't
24 write any letters. They have got to show he intended
25 to do it. Discussing something with somebody is not

1 enough if you don't have intent.

2 You know, and Mr. Gebing, he's a very good
3 investigator, but, you know, he said, "Well, who cares
4 if they knew it or not." What? He was going to have
5 this guy kidnap people nine months in advance and then
6 say, "Oh, sorry, I'm not signing over the property."
7 At some point that was going to come out in nine
8 months. He had no way of paying for this. They have
9 shown none of that.

10 Your Honor, as to the communication, he didn't
11 call, he didn't send a letter, he didn't write, he
12 didn't do any of this. It was impossible for him to do
13 this.

14 THE COURT: Ms. White, I have heard the evidence
15 in the case, and I think your arguments go toward the
16 weight of the evidence rather than the existence of the
17 evidence, so, therefore, I'm going to deny your motions
18 for directed verdict. I believe this is a jury
19 question.

20 MS. WHITE: Yes, sir. Your Honor, I'd also like
21 to renew all my motions I made about Fifth Amendment,
22 Sixth Amendment, polygraph, complaint, CI record, and
23 any of those others that I made before.

24 THE COURT: Yes, ma'am. That will be noted for
25 the record.

1 MS. WHITE: Thank you, your Honor.

2 THE COURT: Anything further from the State before
3 we adjourn for the evening?

4 MS. PRICE: Your Honor, only that State's
5 Exhibits 1 through 98, with the exception of the, I
6 believe, two that were marked for identification
7 purposes only, be, out of an abundance of caution, be
8 moved into evidence.

9 THE COURT: The clerk of court -- okay. I
10 understand what you're saying. We just need to make
11 sure we separate the two that were not actually
12 admitted into evidence before we leave today, the court
13 reporter and the clerk will account for all the
14 exhibits. I would ask the attorneys just to hang
15 around until all the exhibits are accounted for.

16 Anything further before we adjourn?

17 MS. PRICE: Nothing from the State, sir.

18 MS. WHITE: Did you say 9 o'clock tomorrow?

19 THE COURT: 9 o'clock tomorrow. Same time. Now,
20 tomorrow will be Thursday, and I don't know how long
21 the defense's case will be, but anticipate tomorrow we
22 may go a little later. We'll just have to look at it
23 at the time, but we are going to make an effort to get
24 this thing finished this week. Of course, the
25 attorneys don't need to feel pressure not to present

1 anything that they feel is necessary for their case.
2 Take the time that you need, but we will -- we may
3 shorten lunch or we have some ways of getting the thing
4 moved along, but we are going to be finished this week.

5 MS. WHITE: Your Honor, I really don't see any
6 problem in finishing by Friday.

7 MS. PRICE: May it please the Court. One other
8 item of business. As Ms. White's case progresses
9 tomorrow, if we can talk about potential jury charges,
10 et cetera, so that we can be adequately preparing our
11 closings.

12 THE COURT: Let me go ahead and do this as the
13 jury is gone, and this will save us some time tomorrow.

14 Mr. Arflin, would you please stand.

15 Mr. Arflin -- Mr. Clerk, would you put Mr. Arflin
16 under oath, please.

17 (WHEREUPON, the defendant was sworn.)

18 THE COURT: Mr. Arflin, at this time I'm going to
19 explain to you some of your rights. If you do not
20 understand anything that I say, please let me know and
21 I will explain it in more detail. If you answer the
22 question, I will assume that you understood the
23 question.

24 Do you understand?

25 THE DEFENDANT: Yes.

1 THE COURT: We've reached the stage in the trial,
2 with the prosecution having rested, where you may
3 present your defense. You have the right to claim the
4 protections given to you by the Fifth Amendment to the
5 Constitution of the United States. This amendment
6 states in part, No person shall be compelled in any
7 criminal case to be a witness against himself. This
8 means that you cannot be required to testify in this
9 case.

10 On the other hand, you have the right to testify
11 on your own behalf should you choose to do so.
12 However, no one can make you testify. This is a
13 personal right, and no one can waive this right except
14 you. If you decide to testify, you will be subject to
15 the same rules that govern other witnesses, and you may
16 be examined and cross-examined on any relevant issue in
17 this case.

18 In addition, if you have any convictions involving
19 dishonesty or false statements or for crimes punishable
20 by imprisonment for more than one year and this Court
21 determines that the probative value of admitting this
22 evidence outweighs its prejudicial effect to you, the
23 solicitor will be able to introduce your record to
24 attack your credibility.

25 If you decide to testify, this decision on your

1 part must be freely, voluntarily and intelligently made
2 with knowledge of the protections given to you by the
3 Fifth Amendment and the consequences of your decision
4 to testify. If you decide not to testify, I will
5 instruct the jurors that they cannot give the fact that
6 you did not testify any consideration whatsoever and
7 that there is to be absolutely no prejudice to you
8 because you did not testify. It is left entirely up to
9 you whether or not to testify. You may talk to your
10 attorney, your family, friends or anyone else, but the
11 final decision will be left entirely up to you.

12 Do you understand what I have explained to you?

13 THE DEFENDANT: Yes, I do, your Honor.

14 THE COURT: Do you have any questions about what I
15 explained to you?

16 THE DEFENDANT: No, sir, your Honor.

17 THE COURT: Okay. Thank you, sir. You may be
18 seated and we will be adjourned, and we will reconvene
19 at 9 o'clock in the morning to begin the defense case.

20 MS. WHITE: Yes, sir. And, your Honor, I never
21 have any problem getting in and out of the jail, but,
22 obviously, I'm going to have to discuss those rights
23 with my client tonight. I have never been turned down,
24 but I just want to make sure that I do have an order
25 saying I am allowed to meet with him tonight to go over

1 all that so we'll be ready by 9:00 tomorrow. There
2 shouldn't be any problem.

3 THE COURT: There should be no issue at all with
4 an attorney accessing her client.

5 (WHEREUPON, proceedings adjourned at 5:17 p.m.)

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Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 26th day of August 2015.

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

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

November 25, 2015

Diane L. Marcengill

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

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

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 27, 2015
) Transcript of Record
) Volume 5 of 5
) Pages 815-1017

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:

15 Lauren Davis Price, Esquire
16 Catherine Townsend Huey, Esquire
Attorneys for the State
17
18 Druanne Dykes White, Esquire
Ashlea Morgan White, Esquire
Attorneys for Defendant
19

20

21

22

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

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E x h i b i t s

For the State:

Marked	Description	I.D.	Evd.
99	Sick slip	894	
100	Sick slip	895	

For the Defendant:

Marked	Description	I.D.	Evd.
14	Photo-scene at night	848	915
15	Photo-scene at night	848	915

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:02 a.m.)

4 THE COURT: Anything from either party before we
5 bring the jury in?

6 MS. PRICE: Nothing from the State

7 MS. WHITE: Nothing, your Honor.

8 THE COURT: All right. Mr. Bailiff, you can bring
9 our jury in.

10 (WHEREUPON, the jury entered open court at
11 9:03 a.m.)

12 THE COURT: Good morning, ladies and gentlemen. I
13 hope everyone had a good evening. Before we get
14 started, has any member of the jury panel consulted
15 third parties or talked to third parties about the
16 facts of this case, done independent research or
17 deliberated among themselves?

18 Let the record reflect that there are no positive
19 responses.

20 Defense ready?

21 MS. WHITE: Yes, sir.

22 THE COURT: All right.

23 MS. WHITE: Your Honor, the defense would call
24 Sheila Arflin.

25 SHEILA ARFLIN,

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 Sheila Marie Garrett
5 Arflin, A-r-f-l-i-n.

6 DIRECT EXAMINATION

7 BY MS. WHITE:

8 Q Ms. Arflin, how old are you?

9 A 61.

10 Q And to whom are you married?

11 A Bobby Joe Arflin.

12 Q And what do you do for a living?

13 A I work at Nutro Manufacturing Production.

14 Q And how long have you worked there?

15 A 15 years.

16 Q Now, when did you and Bobby get married?

17 A 1972.

18 Q So you've been married how many years?

19 A 43.

20 Q And you were how old when you got married and he
21 was how old when he got married?

22 A I was 18, he was 19 fixing to turn 20.

23 Q Now, in about 1975, where did you and Bobby start
24 living?

25 A On Williamson Drive, except it didn't have a name

1 then, at the end.

2 Q And shortly thereafter, what did you and Bobby
3 agree to do about the name of the road?

4 A They brought a petition around and wanted us to
5 sign it that they could name it that.

6 Q Williamson Drive?

7 A Yes.

8 Q Okay. And did y'all sign to petition to allow
9 that?

10 A Yes, we did.

11 Q Now, after a short while of being down there
12 living -- you live at the end of the dead-end, I
13 believe we've heard. Let me back up a little bit.
14 Along the road, up at the top of the road -- you're
15 down at the dead-end. If you go to the top where you
16 turn onto your road, are there some people who are not
17 Williamsons who live up there?

18 A Yes, ma'am.

19 Q And have you ever had any issues or problems with
20 them?

21 A Never.

22 Q And then on down this road, who lives along the
23 road in particular down near your house?

24 A Tony Williamson and his daughters and their
25 husbands and boyfriends and Tony, his wife, and then

1 Larry and Pat Williamson.

2 Q And so without going into a lot of detail, what,
3 if any, or have y'all had issues with the Williamsons?

4 A Yes, we have.

5 Q Would you consider your relationship with the
6 Williamsons harmonious or not?

7 A Harmonious?

8 Q Yeah.

9 A (Shaking head.)

10 Q You're shaking your head. Just remember you've
11 got to talk out loud so the court reporter can pick up
12 what you say.

13 Is it fair to say y'all have called law
14 enforcement on them, they have called law enforcement
15 on you, nobody has ever been arrested, but that's kind
16 of the relationship?

17 A Yes, ma'am.

18 Q Now, what did your husband do for approximately
19 35 years?

20 A He was a diesel truck mechanic.

21 Q And what happened to his health the last few
22 years?

23 A Well, where he used the big tools on the big
24 trucks, it just wore his muscles and bones and stuff
25 out. He got arthritis.

1 Q And in 2012 did he receive a diagnosis for
2 anything besides arthritis?

3 MS. PRICE: Objection. Your Honor, it's medical
4 testimony.

5 MS. WHITE: Your Honor, she's his wife. She knows
6 if he suffers from something.

7 THE COURT: I'll overrule the objection.

8 BY MS. WHITE:

9 Q What, if any, health issues did he have in 2012?

10 A He was diagnosed with colon cancer. They took out
11 a foot of his colon.

12 Q And what, if any, treatment did you have to help
13 him through during that time?

14 A Chemo. He had a port that we had to clean out
15 every night after his chemo treatments.

16 Q I believe the jury has already seen this, but did
17 he have any issues in his abdominal area? And, again,
18 all of this I'm asking about, December of 2013. I know
19 you gave a little history about the cancer, but in 2013
20 December, what, if any, issues did he have in his
21 abdominal area?

22 A It got herniated. It just started to bulge out.

23 Q And what, if any, issues with neuropathy does he
24 have or did he have in December?

25 A His feet and legs just tingle and burn all the

1 time.

2 Q So, ma'am, in December of 2013, how would you
3 characterize Bobby's health?

4 A In 2013?

5 Q Yes, ma'am, when this happened. Was it good or
6 bad?

7 A It was still bad. He was still down from the
8 chemo.

9 Q Now, have either you or your husband ever been
10 arrested for anything?

11 A No, ma'am.

12 Q And let's move a little bit forward now. Let's
13 move to the date that this happened. On December 11,
14 2013, what did you do that day?

15 A I worked, and I called him when I get off work
16 like we always do on Wednesdays.

17 Q And what time do you get off work approximately?

18 A 3 o'clock.

19 Q 3 o'clock. All right. So what did you do at that
20 point?

21 A We always -- we meet and wash our clothes. We go
22 eat, and then we go to AnMed and walk, and then he goes
23 to his mom's on Wednesdays and check on her, and I go
24 home.

25 Q Why were y'all walking at AnMed?

1 A Because I had had a heart attack that November
2 before this happened, and his sugar was high, so we
3 decided to walk to try to straighten things out.

4 Q Now, where did y'all eat dinner that night, do you
5 recall?

6 A Mama Penn's.

7 Q And you said on Wednesdays. What happens after
8 that? What -- y'all do the laundry, you do errands --

9 A It's a cheaper day at the laundromat.

10 Q Okay. So after that, what did you do? After the
11 laundry and the eating out and the errands and walking,
12 what did you do?

13 A Walking, I went home. He went to his mom's.

14 Q And how old is his mother?

15 A 80 -- she was born in '27.

16 Q And you said it was Wednesday, so he went to his
17 mom's. Was this a routine?

18 A Yes, it was.

19 Q And while you were with Bobby that evening, what
20 kind of mood was he in?

21 A He was in a pretty good mood.

22 Q To your knowledge, were there any issues with
23 hostility or anger or anything else?

24 A No.

25 Q Now, after you went home and Bobby went to his

1 mother's, what did you do at home?

2 A I get things ready for work the next morning and
3 watch TV and wait on him.

4 Q And I believe the phone records show at 8:42 you
5 received a call that evening, that night. This was
6 December of 2013, so was it light or was it dark at
7 this time?

8 A It was dark.

9 Q And does this dead-end road that y'all live on
10 have any streetlights on it?

11 A Not on the road, no.

12 Q So you got the call. And who was calling you?

13 A Bobby was calling me.

14 Q How did he act?

15 A Upset.

16 Q And what did he say to you?

17 MS. PRICE: Objection, your Honor. Hearsay.

18 MS. WHITE: Your Honor, this is clearly res gestae
19 and excited utterance. This is within one minute.

20 THE COURT: Take our jury out, please.

21 (WHEREUPON, the jury exited open court at
22 9:12 a.m.)

23 THE COURT: Ms. Price, state your objection.

24 MS. PRICE: May it please the Court, your Honor.

25 That's self-serving hearsay that she's about to elicit

1 from this individual.

2 THE COURT: Okay.

3 Ms. White.

4 MS. WHITE: Your Honor, self-serving has nothing
5 to do with it. If it's excited utterance or res
6 gestae, it's actually an exception to the hearsay rule,
7 so even if it is hearsay, it still comes in. Your
8 Honor, the 911 call, we have already had testimony came
9 in at this exact same time on another phone. We have
10 got evidence that he was walking right after the
11 shooting, was walking, calling his wife. You can't get
12 any more res gestae and excited utterance than this.

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

14 Get the jury back in.

15 (WHEREUPON, the jury entered open court at
16 9:14 a.m.)

17 THE COURT: Ms. White, proceed.

18 BY MS. WHITE:

19 Q All right. You said that you received a call from
20 Bobby at 8:42 p.m.; is that correct?

21 A That's what it showed on my phone.

22 Q And as a result of that phone call, you said that
23 Bobby was acting how?

24 A Upset.

25 Q And what did he tell you had just happened?

1 A He said he was trying to get home and he hit the
2 neighbor's truck. And he -- the neighbor come out
3 hollering at him and hit him.

4 Q Where did he say he hit him?

5 A In the jaw.

6 Q And what did he say he did?

7 A He said he shot him.

8 Q Now, as a result of this phone call, where did you
9 go?

10 A The result -- I went out there.

11 Q And how did you get to the scene?

12 A I drove my car out to the end of my driveway and
13 then walked around the curve up to where it was.

14 Q And when you got there, had the police arrived
15 yet?

16 A They was just coming to get him as I walked up.

17 Q And did you ever even get a chance to talk to him
18 when you got up there?

19 A No.

20 Q What was he doing when you got there? What was he
21 doing when you got there?

22 A Bobby?

23 Q Yes.

24 A He was on the phone.

25 Q And what did the officer do in your presence when

1 he came up?

2 A He just shined the light in his face and told him
3 to get his hands up and drop the phone, so Bobby
4 reached the phone out and I got it.

5 Q Now, to your knowledge, did Bobby try to flee the
6 scene?

7 A No.

8 Q Let me back up a minute. What -- right before
9 this phone call, what were you doing right before the
10 phone call?

11 A At home?

12 Q Yes, ma'am.

13 A I was watching TV.

14 Q All right. Do you recall what you were watching
15 or not?

16 A X Factor. I had always watched it on Wednesday
17 nights.

18 Q And you're on around the curve down the hill and
19 to the left; is that right?

20 A At the back, yeah.

21 Q What, if any, gunshots did you hear while you were
22 watching TV in your house?

23 A I didn't hear any.

24 Q Now, after they told Bobby to put down the phone
25 and put his hands up and they cuffed him, what happened

1 to Bobby? Where did he go?

2 A They took him away.

3 Q Okay. And so did you ever get to say a word to
4 him at the scene you got to say out loud?

5 A No, ma'am.

6 Q And after they took him away, did you talk to an
7 officer at the scene?

8 A Yes, I did.

9 Q And are you aware that was recorded?

10 A Not at the time.

11 Q Are you aware now that that was recorded?

12 A Yes, I am.

13 Q Have you, in any event, listened to the tape and
14 read the transcript?

15 A Yes, I have.

16 Q And what did you tell the officer about what Bobby
17 said on that phone call?

18 A That he had hit the truck and the neighbor come
19 out hollering at him and hit him, and he shot him.

20 Q And is there a recording of you telling the
21 officer that within minutes of this thing occurring?

22 A Yes, ma'am.

23 Q And that's a police recording; is that correct?

24 A Yes, ma'am.

25 Q Now, did you end up at some point later that night

1 giving Bobby's phone to the police?

2 A Yes, ma'am.

3 Q All right. And I believe we've heard that they
4 forensically reviewed it. You're aware of that?

5 A Yes.

6 Q At the time that this occurred, what kind of
7 facial hair did Bobby have?

8 A He had a full beard.

9 Q And after he was arrested, were you able to visit
10 him?

11 A Yes, ma'am.

12 Q Okay. Not that night, though; is that correct?

13 A No. It was a few days.

14 Q And when you visited him, what, if any, pain was
15 he having?

16 A His hernia was hurting him. His jaw was hurting.

17 Q And are you aware of whether or not he sought any
18 treatment?

19 A He kept asking them to look at it, look at it.
20 And it took a while, but they finally did.

21 Q And what did they prescribe?

22 A Antibiotics.

23 Q Just one minute, please.

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

25 THE COURT: Ms. Price.

1 MS. PRICE: Yes, sir. May it please the Court.

2 THE COURT: Yes, ma'am.

3 CROSS-EXAMINATION

4 BY MS. PRICE:

5 Q Ms. Arflin?

6 A Yes, ma'am.

7 Q You've been married for years?

8 A Yes, ma'am.

9 Q To this individual?

10 A Yes, ma'am.

11 Q Okay. So you don't want to see him come to any
12 harm; is that right?

13 A No, ma'am.

14 Q Okay. You'd probably do anything for him,
15 wouldn't you?

16 A I wouldn't lie for a murder, no, I wouldn't. I
17 know that's what you're trying to say.

18 Q Are you saying he's a murderer?

19 A No, he's not.

20 Q All right. When you talked to police, as
21 Ms. White said, the night of this incident, didn't you?

22 A Ma'am?

23 Q You talked to the police the night of this
24 incident?

25 A Yeah.

1 Q Okay. And isn't it true that you gave them a
2 recorded statement?

3 A Yes, ma'am.

4 Q Okay. And isn't it true that the first thing you
5 said to them was, "I just know he called me and said,
6 'Sheila, one of the neighbors just come out. I hit his
7 truck. He was mouthing off at me, and I just shot
8 him.' That's all I know."

9 A That's all I could think of at the time.

10 Q Okay. But you said that?

11 A I was a nervous wreck.

12 Q You admit you said that?

13 A Yeah.

14 Q That was the first thing that you said to the
15 officers?

16 A Yes, but in the same few minutes --

17 Q All right. That's my question. Thank you.

18 At some point that evening the phone was handed to
19 you when your husband was talking to Billy; isn't that
20 correct?

21 A Yes, ma'am.

22 Q Okay. Isn't it true that Billy is the person that
23 gave you the idea that he had been hit in the face?

24 A No, ma'am.

25 Q You said that your husband was prescribed

1 antibiotics?

2 A Yes, ma'am.

3 Q Aren't antibiotics prescribed for infections?

4 A Yes, ma'am.

5 Q And you said that you have visited your husband
6 while he's been incarcerated?

7 A Yes, ma'am.

8 Q Multiple times?

9 A Yes, ma'am.

10 Q In fact, you've spoken with him on the phone many,
11 many times?

12 A Yes, ma'am.

13 Q So you have had multiple opportunities to confer
14 with him since this event; is that correct?

15 A Yes, ma'am.

16 Q Okay.

17 MS. PRICE: No further questions.

18 THE COURT: Ms. White, any redirect?

19 MS. WHITE: Yes, sir.

20 REDIRECT EXAMINATION

21 BY MS. WHITE:

22 Q Now, in this same conversation, did you talk to
23 the police officer for a little while that night?

24 A Yes, ma'am. He never left.

25 Q All right. And let's talk about what you said.

1 All right. If you don't mind reading --

2 MS. WHITE: Your Honor, may I approach the
3 witness?

4 THE COURT: Yes, ma'am.

5 BY MS. WHITE:

6 Q All right. If you don't mind --

7 MS. WHITE: I'm sorry, your Honor?

8 THE COURT: I said, "Yes, ma'am."

9 MS. WHITE: Sorry.

10 Q All right. If you will read from the transcript
11 of what you told the police that night. Go ahead.
12 When you're talking to the officer, what did you say
13 about the conversation?

14 A "He said, 'Sheila, I just hit the neighbor's truck
15 and he come out' --

16 Q Read it word for word.

17 A I can't see it.

18 Q I'm sorry.

19 A "He came out mouthing off."

20 Q Read this word for word.

21 A "He said, 'Sheila, I just hit the neighbor's
22 truck, and he come out mouthing off at me and hit me.'"

23 Q The officer said, "He said he hit you, he said?"
24 And you say?

25 A "He hit him in the jaw."

1 Q "Hit him in the jaw? And then what else did he
2 say?"

3 A "He just told me he shot him. That's all I know."

4 Q And is that an exact transcript of what you said
5 that night to the officer?

6 A Yes, ma'am.

7 Q All right. Now, let's go on into the
8 conversation. And then the officer says, "And when he
9 called you, he told you, 'I just hit the neighbor's
10 truck. He came out of the house and hit me, and I shot
11 him.'" You said what?

12 A "He said he was hollering."

13 Q "He was hollering?"

14 A "He was hollering at him."

15 Q Okay. And, "But he" --

16 A "I don't know what happened out there, why he hit
17 him."

18 Q And then we keep going. The officer, "He said
19 that he hit the neighbor's truck and then?"

20 A "The neighbor came out hollering."

21 Q "The neighbor came out hollering and the neighbor
22 hit him?"

23 A "That's what he said."

24 Q "And then he shot him?"

25 A "I don't" --

1 Q "Okay. Is -- did he call you after he hit the
2 truck and you were on the phone with him when all that
3 happened?"

4 A "Right after."

5 MS. WHITE: No further questions.

6 THE COURT: Anything further?

7 MS. PRICE: Yes, sir, briefly.

8 RECROSS-EXAMINATION

9 BY MS. PRICE:

10 Q Ms. Arflin, the portion that you just went through
11 with Ms. White --

12 A Yes, ma'am.

13 Q -- came after the portion that I asked you about;
14 is that correct?

15 A He kept asking me and I kept remembering.

16 Q Yes, you kept remembering. And he kept asking you
17 more detail, did he not?

18 A He wanted more detail.

19 Q Okay. And he asked you and you remembered more as
20 he asked you more; is that what you're telling me?

21 A Yes, because I was panicked when I first got
22 there.

23 Q And can you tell me, did you tell the officer, "I
24 just know that he -- he just gets something on his
25 nerves so bad sometimes"?

1 A He asked me has he had any problems.

2 Q You said that?

3 A Yes.

4 Q About your husband?

5 A Yes.

6 Q Okay.

7 A When I said --

8 Q And, again, this statement was taken after you had
9 spoken with Billy; is that correct?

10 A I hadn't spoken to Billy at that time.

11 Q Well, isn't it true that your husband handed the
12 phone to you?

13 A Yes, but the police was right there with me, and
14 he handed it to me.

15 Q And then you got on the phone and spoke with
16 Billy; isn't that right?

17 A No, ma'am.

18 Q Is that not what you told the police that night?

19 A I called -- Bobby got me to call Billy when he
20 called me and tell him to come over.

21 Q So you had spoken with Billy?

22 A Yeah. Billy hadn't got there yet.

23 Q Had Billy spoken with Bobby?

24 A Not at that time.

25 Q Had Billy spoken with Bobby before you gave your

1 statement?

2 A That I don't know because he didn't come out
3 there.

4 Q Okay. Was Billy with you when you gave one of
5 your statements?

6 A My -- he come out there at the end of them.

7 Q Billy was out there, was he not?

8 A He came out at the end because he was on the other
9 end. He got somebody to transport him down to where I
10 was.

11 MS. PRICE: No further questions.

12 THE COURT: Anything further from this witness?

13 MS. WHITE: No, sir.

14 THE COURT: All right. Thank you, ma'am. You can
15 step down.

16 Call your next witness.

17 MS. WHITE: Your Honor, we call Billy Arflin.

18 **BILLY ARFLIN,**

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

20 THE CLERK: Please state and spell your name for
21 the reporter.

22 THE WITNESS: My name is Billy Dean Arflin,
23 A-r-f-l-i-n.

24 **DIRECT EXAMINATION**

25 **BY MS. WHITE:**

State of South Carolina vs. Bobby Joe Arflin 2014-GS-04-00426; 2014-GS-04-00340-342
Billy Arflin - Direct by Ms. White

1 Q Mr. Arflin, do you know Bobby and Sheila?

2 A Yes, ma'am.

3 Q How do you know them?

4 A Bobby is my brother. And Sheila is my
5 sister-in-law.

6 Q And how old are you?

7 A I'll be 66 in a few days.

8 Q And have you ever been arrested?

9 A No, ma'am.

10 Q Are you married?

11 A Yes, ma'am.

12 Q To whom are you married?

13 A Helen Crow Arflin.

14 Q And how long have y'all been married?

15 A 47 years.

16 Q Now, let's talk a little bit about your brother's
17 health. In December of 2013, what, if any, health
18 issues was he battling?

19 A In what year, ma'am?

20 Q When this happened.

21 A He had been taking chemo. He was taking shots.

22 Q And that was in 2012, right? That finished right
23 before this?

24 A Right. That's correct. And he has arthritis
25 problems, neuropathy problems from many, many years of

1 pulling wrenches. Shoulders, knees, elbows.

2 Q So at that point in time, what kind of health was
3 your brother in then?

4 A He was not in good health.

5 Q And do you know whether or not he had any issues
6 in his midsection?

7 A He had a huge, huge hernia. As a matter of fact,
8 it wasn't pleasant even to look at.

9 Q And let's talk a little bit about that day. On
10 the day that this happened, did you receive a phone
11 call, and as a result of that phone -- well, did you
12 receive a phone call from Sheila first?

13 A Yes, I did.

14 Q And where did she ask you to go?

15 A She asked me to come as quick as I could.

16 Q And after you got a phone call from Sheila, to
17 whom did you speak on the phone?

18 A I spoke to Bobby.

19 Q And I believe the phone records show this is
20 approximately 8:48; is that correct?

21 A Yes, ma'am, in there.

22 Q And how was Bobby acting when he talked to you?

23 A He was upset, yes.

24 Q And when you talked to him, did you talk to him
25 about what had just happened?

1 A Yes.

2 Q What did he tell you had just happened?

3 A He told me that he had accidentally hit a truck,
4 that he had called the police and overheard somebody
5 say, "I'm going to knock the piss out of you," in the
6 conversation and said that immediately when he hung up
7 the phone from calling the police, they hit him or he
8 was hit.

9 Q Now, did you get to the scene that evening?

10 A Yes, sir -- yes, ma'am.

11 Q And once you -- about how long did it take you to
12 get to the scene, do you think?

13 A I'd say eight to ten minutes.

14 Q And when you got there, was the scene kind of
15 roped off?

16 A Yes. They was -- they were pulling the tape at
17 the time I pulled up. By the time I got out, it was
18 pulled across.

19 Q And did you see Sheila at that point?

20 A No, ma'am.

21 Q Okay. Were you on one side, this side of the road
22 scene and she was on the other side of the road scene?

23 A Yes, ma'am. I was at the side where they had
24 pulled the tape across. But from the other side, I
25 didn't know who all was standing there.

1 Q And were you able to talk to Bobby when you got to
2 the scene?

3 A No, ma'am.

4 Q In fact, did you ever have any contact with him at
5 the scene?

6 A No, ma'am.

7 Q Now, when you got there, at some point did you
8 talk to an officer?

9 A Yes, I did.

10 Q And did you give a recorded statement?

11 A At the time I didn't know that it was.

12 Q Well, later did you find out when the State --

13 A Yes, ma'am.

14 Q And as a result of that, was that recording by the
15 police officer transcribed?

16 A Yes, ma'am.

17 Q And, again, had you had any contact with Bobby at
18 all at the scene?

19 A No, ma'am.

20 Q And what did you tell the officer in so many
21 words, paraphrasing at the scene that night soon after
22 you got there?

23 A I told them I felt like Bobby was in imminent
24 danger when this happened, that I would bet my life on
25 it.

1 Q What did you tell him that Bobby told you?

2 A Bobby told me that he was hit as soon as --

3 Q Basically what you just --

4 A What I just testified to, yes, ma'am.

5 Q And, again, did you even have any idea you were
6 being recorded at this point?

7 A At that time, no.

8 Q Were you there at all when Bobby was arrested, or
9 had that already happened?

10 A I was there until everyone, most everyone, had
11 left. I was probably there for over an hour, but I
12 never got to see him, and I was concerned about the way
13 it was going to be handled. That was my biggest --

14 Q He had some very serious health concerns; is that
15 right?

16 A Yes, ma'am. I was concerned.

17 Q Now, let's talk about an ambulance that got there.
18 At some point did an ambulance come to the scene while
19 you were there?

20 A Yes, ma'am.

21 Q And what happened to the ambulance?

22 A The ambulance was attempting to make a three-point
23 turn and ended up stuck in the ditch on the side of the
24 road.

25 Q Now, did you and I go out to this road shortly

1 after this arrest to look at the measurements and to
2 look at the side of the road and things like that?

3 A Yes, ma'am.

4 Q And do you recall looking at the side of the road
5 that Bobby would have had to go off on to get around
6 this other vehicle?

7 A Yes, ma'am.

8 Q And tell me a little bit about that.

9 A Well, there's where the road goes to the edge. It
10 drops off, I'd say, three to five inches.

11 Q In fact, did you even have a tape measure where
12 you were showing that?

13 A Yes, ma'am.

14 Q Did we also measure the road in a couple of
15 different locations right there where he would have had
16 to go around?

17 A Yes, ma'am.

18 Q And will you please tell the jury what measurement
19 the width of the road at those points were?

20 A Around 16'2", in that neighborhood.

21 Q 16 feet, 2 inches?

22 A Yes.

23 Q And, in fairness, I think in another spot it was
24 16 feet, 4 inches; is that correct?

25 A Yes.

1 Q Is it fair to say the edge is kind of jagged,
2 depending on where you measure. It's not nice and
3 pristine and clean like a new road?

4 A Yes, that's correct.

5 Q Just one minute, please.

6 MS. WHITE: No further questions.

7 THE COURT: Ms. Price.

8 MS. PRICE: Yes, sir. Thank you. May it please
9 the Court.

10 CROSS-EXAMINATION

11 BY MS. PRICE:

12 Q Just so I'm clear on the chronology, Sheila called
13 you; is that correct?

14 A That's correct.

15 Q Then you called Bobby; is that correct?

16 A No, ma'am.

17 Q Bobby called you?

18 A Bobby called me.

19 Q Okay. And so you spoke to Bobby after you had
20 spoken with Sheila?

21 A Correct. I was on the way to the scene.

22 Q Okay. But you spoke with Bobby before he was
23 taken away? You had a phone, so --

24 A I was talking to him right before the police came,
25 yes.

1 Q Right. Okay. Before the police came. Do you
2 recall what kind of a phone you had at that time?

3 A I'm an old man. I like flip phones.

4 Q Do you have a computer at your house?

5 A Yes.

6 Q You do, okay. Are you an attorney?

7 A No.

8 Q Rather odd that you used the word "imminent
9 danger," don't you think, sir?

10 A No.

11 Q In your statement, isn't it true that you say,
12 "Well, I bet my life that he felt like he was in
13 imminent danger. As a matter of fact, he told me on
14 the phone that they hit him"? Isn't that true?

15 A That's true.

16 Q Those are your words? Okay.

17 A And I -- yes, ma'am.

18 Q And, now, when you gave this statement, you say
19 you didn't know you were being recorded?

20 A No.

21 Q But you knew you were talking to a detective? You
22 knew that the person you were talking to was with law
23 enforcement, correct?

24 A Correct.

25 Q Okay. One moment, please.

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Billy Arflin - Cross by Ms. Price

1 MS. PRICE: No further questions.

2 THE COURT: Any redirect?

3 MS. WHITE: No, sir.

4 THE COURT: Thank you, sir. You can step down.

5 MS. WHITE: 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 jury, but out of the
9 hearing of the jury.)

10 THE COURT: Mr. Bailiff, you can take our jury out
11 for just a moment, please.

12 (WHEREUPON, the jury exited open court at
13 9:40 a.m.)

14 THE COURT: Mr. Arflin, would you stand, please,
15 sir.

16 Your attorney has informed me that we're at the
17 stage where she may present you as the next witness.
18 Have you had enough time to discuss with your lawyer
19 your Fifth Amendment rights as they were instructed to
20 you yesterday?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you need any more time to talk to
23 your lawyer, or do you have any questions about
24 anything that I explained to you yesterday?

25 THE DEFENDANT: No, your Honor.

1 THE COURT: And do you wish to testify in this
2 case?

3 THE DEFENDANT: I do, your Honor.

4 THE COURT: Thank you.

5 Anything, Ms. White?

6 MS. WHITE: Not with that, your Honor, but I have
7 two pictures I'm going to have to use, and I think
8 they're already in evidence. May I just have one
9 minute to see if I'm going to need to mark these or
10 not?

11 THE COURT: That's fine.

12 MS. PRICE: May we take a five-minute break then?

13 THE COURT: Let's just go ahead and -- it's a
14 little bit early, but it's at a good stopping point.
15 We'll just take our first break of the morning right
16 now so everyone can get ready for the next phase.

17 MS. PRICE: Thank you, your Honor.

18 (WHEREUPON, a recess was taken from 9:41 a.m.
19 to 9:57 a.m.)

20 THE COURT: All right. Anything from the State
21 before we bring our jury back?

22 MS. PRICE: No, sir, your Honor.

23 THE COURT: Anything from the defense?

24 MS. WHITE: No, sir.

25 THE COURT: All right.

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Bobby Arflin - Direct by Ms. White

1 Mr. Bailiff, you can get our jury for us, please,
2 sir.

3 THE BAILIFF: Yes, sir.

4 (WHEREUPON, Defendant's Exhibit Number 14
5 was marked for identification.)

6 (WHEREUPON, Defendant's Exhibit Number 15
7 was marked for identification.)

8 (WHEREUPON, the jury entered open court at
9 9:58 a.m.)

10 THE COURT: All right. Ms. White, call your next
11 witness.

12 MS. WHITE: Yes, sir. Your Honor, I'd call Bobby
13 Arflin.

14 **BOBBY ARFLIN,**

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

16 THE CLERK: Please state and spell your name for
17 the reporter.

18 THE WITNESS: My name is Bobby Joe Arflin,
19 A-r-f-l-i-n.

20 **DIRECT EXAMINATION**

21 **BY MS. WHITE:**

22 Q Mr. Arflin, what is your date of birth?

23 A [REDACTED]

24 Q And so in December of 2013, how old were you?

25 A 61.

1 Q And, Mr. Arflin, what is your educational
2 background?

3 A I have a GED.

4 Q Are you married?

5 A I am.

6 Q To whom?

7 A Sheila G. Arflin.

8 Q And how long have you and Sheila been married?

9 A 43 years.

10 Q And have you and your wife -- I should say you or
11 your wife ever been arrested?

12 A No.

13 Q This was the first time?

14 A Yes.

15 Q For about 35 years, what did you do for a living?

16 A I was a diesel mechanic, worked on semis.

17 Q And don't tell us all of your job, but what kind
18 of lifting did that involve?

19 A It's repetitious lifting, climbing, bending,
20 twisting. Just continuous, repetitious work, climbing,
21 lifting.

22 Q All right. Now, in December of 2013, will you
23 please talk to the jury about your health.

24 A Okay. In 2013 I had cancer, I had diabetes, I had
25 kidney disease, I had neuropathy in my feet, both feet,

1 front portion of my lower legs, and I have busted
2 cartilages in my both knees. I have arthritis in my
3 knees and my ankles. I have arthritis in my hips. I
4 have arthritis in mid, lower and upper back, arthritis
5 in my shoulder, elbows and wrists. My eyesight is
6 going bad partially because of the diabetes and the
7 other part because of getting stuff in my eyes over the
8 years. My eyesight is going bad because of that.

9 Q Now, sir, did you and your wife have a home in
10 December of 2013?

11 A We did.

12 Q And do you recall when y'all moved into that home?

13 A We actually moved over there in a single-wide in
14 1975.

15 Q And do you own the property there?

16 A We do.

17 Q Now, the jury has already heard a lot about this,
18 but just briefly tell the jury what kind of road you
19 live on and where you live on that road.

20 A The road is a dead-end street, and I live at the
21 dead-end on the left-hand side as you go down the road.

22 Q And are there Williamsons who live up at the top
23 of the road?

24 A Yes, there are.

25 Q At the very top I'm talking about.

1 A Are you talking about the very end?

2 Q The other end from you, sorry.

3 A No. No.

4 Q And have you had any issues with those people at
5 all in your 40 years or however many years you have
6 been there?

7 A No, I have not.

8 Q Now, as you get past those people and you get on
9 down, again like we're driving down the road toward the
10 dead-end, what family lives along that road?

11 A The Williamson family.

12 Q And do you know how many generations live there?

13 A Approximately three to four generations.

14 Q Now, is it fair to say there have been issues
15 between you and Sheila and the Williamsons?

16 A Yes.

17 Q In particular, the Williamsons who live down near
18 you?

19 A Yes.

20 Q Is it fair to say there have been many issues, but
21 one of which is parking in the road so that you can't
22 get to your house?

23 A Yes.

24 Q All right. Let's move forward to the day that
25 this happened.

1 A Okay.

2 Q On December 11, 2013, that afternoon, I think it
3 was a Wednesday; is that correct?

4 A It was.

5 Q That afternoon, what did you do?

6 A I fed the cats in the afternoon. I fed the cats
7 inside and outside, cleaned the litter boxes, fed the
8 outside cats because you can't catch them to bring them
9 in.

10 Q Are they wild?

11 A They're wild and run. And the cats that I have
12 inside are actually offspring from the ones on the
13 outside that I raised from babies because the mothers
14 wouldn't raise them. I gathered up my clothes and got
15 my trash gathered up and just left to go wash clothes
16 and dump the trash and do some errands.

17 Q And at some point did you meet up with your wife?

18 A I did.

19 Q Tell me about that. What did y'all do?

20 A We finished the clothes washing, and then we went
21 to Mama Penn's to eat down there. And then we left
22 from there and went to AnMed, walked a few laps around
23 the track.

24 Q After y'all walked, where did Sheila go and where
25 did you go?

1 A Sheila left to go home, and I left to go over to
2 see my mom.

3 Q What did you and your mom do that evening?

4 A We watched a little TV and talked about what had
5 went on in her day and her week and just to see if she
6 had anything that needed repair or took care of at that
7 time.

8 Q Now, about 8:00, 8:30, somewhere in there, what
9 did you do?

10 A Well, I left mom's somewhere after 8:00 and went
11 to the post office and got my mail, and then was on my
12 way home around 8:30.

13 Q Now, had you had any issues, were you angry, or
14 was it just kind of a pleasant normal day?

15 A Just a pleasant normal day.

16 Q About what time would you say did you turn -- and
17 I know you weren't looking at your watch, so just
18 estimate when you turned onto Williamson Drive?

19 A I'm going to estimate somewhere between 8:30,
20 8:25, 8:30.

21 Q And let's talk about that road that night. Was it
22 light outside or was it dark?

23 A It was dark.

24 Q And are there any streetlights on that road?

25 A No streetlights.

1 Q Is this like a downtown subdivision or is this
2 like a country area?

3 A It's a country area.

4 Q Now, when you got down in front of George and
5 Linda Williamson's house where this thing occurred,
6 what did you see in the road?

7 A A GMC pickup truck setting in the road.

8 Q Is that a small pickup truck or a full-size pickup
9 truck?

10 A It was a large four-wheel-drive pickup truck.

11 Q And what were you driving?

12 A I was driving a full-size Dodge pickup truck.

13 Q Now, was the ground at that point wet or dry? Had
14 it been raining?

15 A It had rained a little earlier and the ground was
16 wet.

17 Q At that point what did you do when you got there
18 and saw the truck in the road?

19 A I was looking to see if I could get around it
20 because either I had to go around it or I could, you
21 know, stop and call the police and cause an issue, or I
22 could blow the horn and cause an issue or just try to
23 ease around it without causing any problems.

24 Q So did you think that you could do that?

25 A I did think that I could do it, yes.

1 Q And were you able to do that?

2 A No, I was not.

3 Q All right. Please tell the jury what happened as
4 you attempted to go around this truck.

5 A As I attempted to go around the truck, I heard
6 something hit the side of my truck. And just as I went
7 past the front of it, I stopped, looked back through my
8 mirror, and then I was afraid to get out because I
9 didn't want to cause any issues, and I didn't know what
10 had happened, so I started easing back. And when I was
11 backing up, I was turning to go right back around the
12 front of that truck, and I was checking my mirror on
13 the left side. I looked over to the right side to
14 check the mirror on the right side, and I didn't see
15 anything at that point --

16 Q Stop there a minute. Okay. So you're talking
17 about the mirror on your passenger side?

18 A Yes, I am.

19 Q I'm handing you State's Exhibit 33. Did you later
20 determine why you weren't able to use that mirror?

21 A Yes.

22 Q Why?

23 A It had been knocked in.

24 Q And had that been done on the original passing on
25 the road?

1 A It had.

2 Q All right. And so at this point did you look in
3 your rearview mirror?

4 A The rearview mirror, I have a full-size camper
5 cover on the back of the truck, and the rearview
6 mirror, you can't see out of it to see anything because
7 of the full-size camper cover I have on the back.

8 Q So as you back up, what happened?

9 A As I -- just about the time I looked to the right
10 or passenger side mirror, I felt a bump. And I already
11 had my foot on the brake anyway, so I stopped. And at
12 that point I couldn't see, but I realized that I had
13 hit something. And since I knew I was trying to back
14 back around the front of that pickup truck, I figured I
15 just bumped into the front bumper on his with the back
16 bumper on mine, so I stopped and at that point was
17 trying to decide what to do because, you know, I didn't
18 want to -- I knew I was going to have to get out and
19 face what I had done, you know, bumped into the truck,
20 and I was going to have to get somebody to come out
21 there and tell them, you know, that I had hit -- hit
22 their truck --

23 Q All right. Stop there a minute. You're going too
24 fast. Okay. So at that point did you stay at the
25 scene or did you leave?

1 A I stayed at the scene.

2 Q And do you have a cell phone?

3 A I do.

4 Q And did you have it with you?

5 A I did.

6 Q Do you carry any kind of weapon in your car -- I
7 mean your vehicle?

8 A I do.

9 Q And what do you carry in your vehicle?

10 A A pistol.

11 Q And why do you carry it other than the normal
12 reasons that everybody carries it, but why do you carry
13 it?

14 A I carry it because the truck that I drive is a
15 high mileage vehicle and subject to break down at any
16 time, and I have poor health. You know, if I broke
17 down and somebody stopped for whatever reason other
18 than to help me, I would need something to protect
19 myself with, so.

20 Q So what did you do when you realized you were
21 going to have to get out of this vehicle in the dark on
22 that road at that location?

23 A I got my cell phone and I took my pistol out of
24 the dash and stuck it in the back of my pants.

25 Q Now, when you got out of the vehicle, what were

1 you looking for? Why did you get out?

2 A I was looking to see mostly the damage and if
3 anybody else was out in the road or had come out
4 because usually that's what happens.

5 Q What does that mean, "that's what happens"?

6 A Usually, if something like that happens, you have
7 a lot of those people that come out to see what's going
8 on.

9 Q So, anyway, so you're there. You're looking?

10 A Yeah.

11 Q What did you do with your phone?

12 A I dial 911.

13 Q And what did you report?

14 A I reported an automobile accident.

15 Q And is that the 911 call that the jury heard, I
16 think the first day?

17 A Yes.

18 Q And, again, were you having any kind of anger or
19 any other issues at that point?

20 A No.

21 Q What did you mean when you told the operator,
22 "There's been an accident"?

23 A I meant that I had hit the mirror, and then trying
24 to see what kind of damage, I had backed back into the
25 truck by accident.

1 Q Now, as you were on the phone, as you were calling
2 911, what happened in regard to the house right there,
3 the Williamsons' house?

4 A People come to the door and had come out on the
5 porch.

6 Q And at some point who came down to your area?

7 A Actually, Jamie and Teresa had come up to the gate
8 where I had walked down to the back end of the truck.

9 Q And then what?

10 A I asked him if that was his truck. And he said,
11 "No, it wasn't." And I said, "Well, whoever's truck
12 this is needs to come out because I've hit their
13 truck," and I need -- you know.

14 Q All right. And so what happened then?

15 A He hollered. Teresa went back in, and he hollered
16 for somebody to tell Jody. At that time I didn't know
17 who he was, but called him to come outside, and he came
18 out.

19 Q Now, where did -- did he have anybody with him?

20 A He didn't have anybody with him at the time.

21 Q All right. And so at some point did you call 911?

22 A I was already on the phone with 911.

23 Q All right. And, in fact, I believe we hear you
24 talking to somebody in the background now and then
25 answering questions. To whom are you speaking on that

1 911 tape?

2 A On the 911 tape, I'm speaking with Mr. Powell.

3 Q That's who you're talking to in the background,
4 sometimes sounds like you're asking questions?

5 A Yes. He's ask -- he's questioning, too.

6 Q All right. Now did anybody at any time, while you
7 were talking, go to the cab of the silver vehicle?

8 A Yes.

9 Q And who went to the cab of the silver vehicle?

10 A Mr. Powell and Mr. Madison.

11 Q Were you still on the phone?

12 A I was.

13 Q And while you were on the phone, where were you
14 compared to where they were?

15 A I was at the rear of the truck and they were at
16 the driver's door.

17 Q And you're talking about both -- the silver truck
18 is what you're talking about?

19 A Yes.

20 Q I neglected to do something. You said if this is
21 the silver truck, you tried to go around it and hit it;
22 is that right? And then you backed up. At the time
23 everybody is coming out and you're making the 911 call,
24 are the vehicles kind of like this?

25 A They are still together, yes.

1 Q So you said you were at the back of the silver
2 vehicle?

3 A Yes.

4 Q They were in the door of the silver vehicle?

5 A Yes.

6 Q Did anyone get in that silver vehicle?

7 A Yes. Mr. Powell got in, in the driver's seat.

8 Q And what, if anything, did you hear them kind of
9 discussing in there when you were standing right there?

10 A I was -- I overheard them murmuring that they were
11 going to -- he was going to kick my ass.

12 Q And during the phone call, you say -- they asked,
13 "Is anybody hurt?" And you respond, I think words to
14 the effect of, "Not yet"?

15 A Yes.

16 Q Why did you say that on the 911 call?

17 A I had heard what they was saying, overheard the
18 murmuring that they had said. And I just told them
19 that, you know, I didn't expect anybody to get hurt,
20 but at that point in time there was nobody hurt at that
21 point in time.

22 Q All right. Was it dark or light out there?

23 A It was dark.

24 Q Were you the only person there who wasn't a
25 Williamson or associated with them?

1 A I was. I was.

2 Q And, again, had there been previous issues?

3 A Yes.

4 Q So how comfortable were you being alone in that
5 situation?

6 A Not at all comfortable, and I was actually afraid.

7 Q Now, as they were up at the front of the truck,
8 what, if anything, while you were talking did you --
9 and let me ask you this because -- of course say, "I
10 don't know" or "I don't remember" if I ask you
11 something you don't know. Were you solely looking one
12 direction or were you having to kind of multitask with
13 your attention at this point?

14 A At that point I was -- I was multitasking, I guess
15 you would say, because I was watching -- trying to
16 watch them and watch beside me, in front of me, all
17 directions that I could see.

18 Q Did you notice whether or not anything was removed
19 from the truck?

20 A I saw him rummage through the console or the edge
21 of the console, and I seen him hand something to
22 Mr. Madison and he had -- he got something. I don't
23 know what it was.

24 Q Okay. And what were they saying, what were they
25 murmuring when this was going on?

1 A They were still murmuring about kicking my butt.

2 Q Now, at the end of the night -- this was a fender
3 bender; is that right?

4 A It was.

5 Q And you lived just a little ways down the road?

6 A Yes.

7 Q Why at the end of the phone call did you tell them
8 on a fender bender case, "You might want to hurry"?

9 A I was afraid that something bad was fixing to
10 happen. I could -- you know, I could tell that the
11 owner of the pickup truck, Mr. Powell, was agitated,
12 seriously agitated, and he had already come back
13 towards me. I had already heard him and if you listen
14 to the 911 tape, you hear me say, "That would be me."
15 He was asking me if I was the SOB the lived down at the
16 end in that doublewide and was that the truck that
17 belonged to the SOB that lived there in that
18 doublewide. I once said, "That would be me," and the
19 second time I said, "Yes, that's me."

20 Q All right. And so after you hang up the phone,
21 who is out there at that point? Tell us who's there
22 and who's in this vicinity that you know of.

23 A Well, before I hung up the phone, Ms. Masters had
24 come out, and she had told -- she asked me was I on the
25 phone with the police, and I said, Yes, I've already

1 got 911 on the phone and I have called them and told
2 them, you know, about the accident and everything. And
3 at that point she was telling Jody that just, you know,
4 the police have been called, just let it go at that
5 because he was -- you could tell he was agitated.

6 Q Did you find out later that this was a new truck
7 to him?

8 A I did.

9 Q Now, what, if anything, were you trying to explain
10 to Jody and Jamie about what happened?

11 A I was trying to explain to them that it was an
12 accident. You know, I come down the road. I didn't
13 have -- I thought I had enough room, but I didn't have
14 enough room to get by. Then I backed up thinking I
15 could get back beside the truck, and I run into it by
16 accident.

17 Q So did this seem to have -- what, if any, effect
18 did this seem to have on Jody?

19 A I didn't seem to have any effect. It just -- he
20 seemed more agitated about it.

21 Q And what, if any, indication did he give that he
22 was believing that this wasn't deliberate?

23 A None.

24 Q What did he say in that respect?

25 A He -- you know, he told me that -- well, he called

1 me an SOB and called me a stupid bastard and an
2 ignorant bastard. And this was after I had
3 disconnected the call from 911. And he told -- you
4 know, he told me he was going to whoop my ass.

5 Q What did he say about anything that he had heard
6 about you? Did he mention --

7 A He did -- he did say that everybody on that street
8 hated me, and he didn't know me but now he understood
9 why they hated me.

10 Q And your response was what?

11 A I -- you know, wasn't nothing I could say. I
12 mean --

13 Q Did you try to explain the accident?

14 A I tried to tell him that it was an accident. I
15 had already called 911, the police would be out there
16 to take care of it.

17 Q Now, at some point did Brenda go back in the
18 house?

19 A She did go back in the house.

20 Q Okay. And so when she went back in the house, who
21 was left out there?

22 A Just me, Jamie and Jody.

23 Q When you were on the 911 tape, I noticed that the
24 operator told you to try to move your vehicle out of
25 the roadway?

1 A Yes.

2 Q At around this point -- well, let me ask you this:
3 You told us what Jamie -- I mean what Jody was saying,
4 but how was he acting?

5 A Aggressive. Thoroughly aggressive.

6 Q And what was his strength and size and Jamie's, I
7 think we saw Jamie --

8 A Uh-huh.

9 Q -- compared to yours?

10 A They were more massive than me. One was taller
11 than me. One might have been a little shorter than me,
12 but he was still -- heavily built.

13 Q Do you go to the gym several times a week?

14 A Me?

15 Q Yes, sir.

16 A No. I don't go to the gym at all.

17 Q And is this the one we're talking about? I'm
18 showing you defense Exhibit 1. Is that Jody?

19 A That is Jody, yes.

20 Q And are Jamie and Jody younger than you or older
21 than you?

22 A They're much younger than me.

23 Q How secure were you feeling at this point?

24 A Not secure at all. I was totally afraid of what
25 could possibly happen.

1 Q Now, did Jody continue to say anything in the way
2 of threats?

3 A He did tell me, just as he -- just after I hung --
4 disconnected the call, I tried to go to the left of him
5 to go move my truck because the operator had told me my
6 truck was blocking the road and I needed to move it. I
7 tried to go to the left. When I tried to go to the
8 left, he stepped in front of me and told me, he says,
9 you know, just, "I'm going to whoop your ass."

10 Q Now, where are y'all at some point in this --
11 where did y'all end up at some point in this
12 altercation?

13 A At the rear driver's side of his pickup.

14 Q And I know it was dark and you had a lot going on.
15 Do you know exactly where you were or can you just say
16 you were back in that area?

17 A Back in that area.

18 Q Where was Jamie compared to Jody?

19 A Jamie was behind Jody, a foot or so behind him.

20 Q And did you ever figure out what this object was
21 that they had gotten from the vehicle?

22 A No, I did not.

23 Q Now, at some point did Jody come in your direction
24 and was there actually some physical contact?

25 A Yes. When I tried to go to the left of him, he

1 jumped in front of me and actually crossed his arms and
2 thrust into my chest (indicating).

3 Q And were you able to get past him?

4 A No, I was not. I could not get by him or I
5 couldn't -- even though I would try to back up, he was
6 steady (indicating).

7 Q Why were you wanting to go to your truck?

8 A I wanted to go to the truck to move it out of the
9 way because the patrolman had told me I needed to get
10 it out of the street.

11 Q When he pushed you or thrust against you,
12 whatever, however that is, you said y'all were back
13 there at the rear of the truck; is that correct?

14 A Yes.

15 Q Was Brenda there or did she come out in the middle
16 or later, or when does Brenda come back?

17 A Brenda came out just as he had knocked me
18 backwards and hit me like this and then uppercut me.
19 She came out to the rear of the truck telling him, you
20 know, "Let the police handle it. The police have
21 already been called. Let the police handle it."
22 Because just after he hit me, she was trying to calm
23 him down or get between us, and that's when she came
24 back out.

25 Q All right. And you said he uppercut you. Where

1 did he uppercut you?

2 A Into the lower jaw.

3 Q What kind of teeth do you have on the lower jaw?

4 A I have false teeth.

5 Q What do you do about -- what does that mean, false
6 teeth? Are they dentures, are they --

7 A Dentures. I have dentures.

8 Q And is this the kind of denture you can remove the
9 whole bottom and put in?

10 A Yes.

11 Q Now, at this point how many of them are out there
12 compared to you?

13 A There's three of them out there compared to one of
14 me.

15 Q At this point have you made any threats?

16 A I have not.

17 Q Have they made threats?

18 A They have.

19 Q At this point is it light or dark?

20 A It's dark.

21 Q At this point are you being allowed to go to your
22 truck to try to --

23 A No. I'm being blocked from going to my truck.

24 Q All right. After Jody kind of uppercut you with
25 his hand, what happened?

1 A At some point after that, I told him to, "Stay
2 away from me, Boy," and --

3 Q Did you ever say, "I got something for you, Boy"?

4 A No, I did not.

5 Q And so what ended up happening when you said,
6 "Stay away from me"?

7 A He come towards me again.

8 Q Now, did you ever discuss whether or not you would
9 fight him?

10 A I did. I kept telling him when he was thrusting
11 me and calling me names, I said, "I'm not going to
12 fight you." I said that about three or four times.

13 Q Mr. Arflin, are you in any condition to fight
14 anybody but especially somebody like the picture we
15 just saw this like?

16 A No -- no.

17 Q All right. So what ends up happening?

18 A He hit -- he hit me, and everything at that point
19 started going so fast. And the only thing that -- I
20 don't remember where I ended up at. All I remember is
21 he come back by, was coming towards me, and I fired,
22 and he went by me. And when I finally got up, he was
23 in the -- on the other side of the gutter.

24 Q All right. Now, again, I'm not expecting you to
25 know exact locations, but I'm going to show you some of

1 the police photos from that night, Defendant's
2 Exhibit 14 and 15. Will you take a look at those.

3 Do those look like -- these are the pictures the
4 police took. Are those accurate from the scene?

5 A Yes.

6 Q All right. And, again, I'm not asking you for an
7 exact location, but let's look at Defense Exhibit 14.
8 When you fell back onto the ground, where were you?

9 A Just in this area right here.

10 Q Somewhere back in here?

11 A Yes.

12 Q And I believe that we have heard testimony that
13 Jamie ran from Brenda and them, that Jamie ran around
14 this way and ended up right here in the ditch; is that
15 correct? Went from the side of the truck to the ditch?

16 A That wasn't Jamie. That would be Jody.

17 Q I'm sorry. I do that all the time. That Jody --
18 Jamie runs this way; is that correct?

19 A Yes.

20 Q And that Jody ran this way to the ditch; is that
21 correct?

22 A Yes.

23 Q And you said you were somewhere down here on the
24 ground; is that right?

25 A I was.

1 Q Do you ever remember -- you know we've heard about
2 a shot here?

3 A Yes.

4 Q Do you even remember firing two shots?

5 A I don't remember. I just know that I had two
6 empty cartridges.

7 Q All right. Do you remember firing one when you
8 had gone -- stumbled down onto the ground?

9 A Yes, I remember firing that.

10 Q Now, I believe we've heard testimony now that Jody
11 had been hit once. Did you have any idea when he came
12 running towards you as you had been knocked to the
13 ground that he had been hit?

14 A No, I did not.

15 Q Did you have any idea whether he was coming
16 towards you or whether he was coming toward the ditch?

17 A No, I didn't.

18 Q So at the point that you fired the shot that you
19 know you fired, were you upright or were you down?

20 A I was down.

21 Q So you're down on the ground; is that correct?

22 A Yes.

23 Q And you said Jody ran by you; is that right?

24 A Yes.

25 Q And do you remember firing a shot up?

1 A I do.

2 Q When did that other shot occur, do you know?

3 A No, I don't know.

4 Q Well, do you acknowledge there had to be another
5 shot at some point?

6 A There had to be another shot, yes.

7 Q How fast did this happen when it started
8 happening?

9 A It was, from start to finish, in seconds. I would
10 say somewhere around five, six seconds is all it
11 lasted.

12 Q Now, when this happened, again, how many people
13 were out there compared to you?

14 A Three.

15 Q Were you putting your -- especially once people
16 ran, were you putting your sole attention in one place,
17 or were you monitoring the whole area?

18 A I was trying to watch the whole area because I
19 didn't know where people might be coming from.

20 Q Now, you understand that if that first shot was
21 fired -- I'm showing you -- well, let's do it this way.
22 I'm showing you Defendant's Exhibit 15. If there is a
23 gunshot hole in that truck, then it had to be fired
24 from somewhere back in here; is that right?

25 A True. Yes.

1 Q Had to be fired somewhere back in here, you said,
2 obviously?

3 A Yes.

4 Q Y'all were pretty much to the rear area of the
5 truck most of the time?

6 A Yes.

7 Q Now, you said that you were trying to come forward
8 to your truck; is that correct?

9 A That is correct.

10 Q And is that why the bullet is apparently going
11 this way?

12 A Yes.

13 Q After you got up, what happened?

14 A When I got up?

15 Q Wait a minute. Let me ask you this: Did you even
16 know then whether or not Jody had been hit?

17 A No, I did not.

18 Q And so after you got up, what happened?

19 A After I got up, I stepped over to the edge of the
20 road and looked at where he was laying, and Brenda was
21 over there screaming, you know, "Please don't shoot.
22 Please don't shoot." And the only thing I told her
23 was, you know, "Tell him to stay away from me."

24 Q Okay. And, again, did you know for sure whether
25 he had been hit by a bullet at all at that point?

1 A No, I could not. I couldn't see that he had been
2 hit at all.

3 Q So where did you go after that?

4 A After that I went back to -- I was going back to
5 my truck to move it.

6 Q And what did you do?

7 A On the way to my truck, I heard them talking about
8 they had called 911, so I pulled my phone out of my
9 pocket and called, dialed my wife. I don't remember if
10 I dialed it or if I used the one key dial or what. I
11 don't remember dialing the number.

12 Q Now, did you ever say, I believe for the first
13 time in Jamie's March 2015 statement, that he says that
14 you said something about, "Let him die" or something
15 like that. Did that ever happen?

16 A No, it did not.

17 Q When you got back to your truck, did you move it?

18 A I did move it.

19 Q And I believe the police said that you had left it
20 running; is that correct?

21 A I don't remember leaving it running, but they did
22 say I left it running.

23 Q And what did you do with this pistol?

24 A I took out the two empty cartridges and laid them
25 on the front seat and put two more rounds in it, two

1 more cartridges in it.

2 Q Why did you do that?

3 A Because I didn't know when somebody else might
4 come out or what they might come out with. There was a
5 lot of people at the house, and I didn't know how many
6 might have decided they wanted to come out and attack
7 me again.

8 Q So, let me ask you something. Other than Jody,
9 did you have any kind of physical altercation, did you
10 shoot at anybody, anybody else?

11 A No.

12 Q Did you flee after this happened?

13 A No.

14 Q What did you do?

15 A I stayed beside my truck between the cab and the
16 door so if somebody tries to come up behind me, the
17 door would be open. And I stayed there until I seen
18 the police cars coming down Williamson Road. And at
19 that time I had already called -- I did call my
20 brother, Billy.

21 Q And when you saw the blue lights, what did you do
22 with the gun?

23 A When I saw the blue lights, I closed the door and
24 laid the gun up on the hood of the truck.

25 Q Now, sir, would you call this a shooting that

1 occurred in heat of passion or that occurred because
2 you were defending yourself?

3 A It occurred because I was defending myself.

4 Q When you talked to your wife and then talked to
5 your brother, I know you didn't have long to talk, but
6 what did you say to them?

7 A The call I made to my wife, I told her that I had
8 hit the neighbor's truck and they come out fussing and
9 cussing me and hit me and I had shot him.

10 Q Now, let's look at -- I'm trying to find -- in
11 looking at Defense Exhibit 15 -- let's look at 14.
12 There's a little better light there. How big is this
13 area right here behind the truck to the ditch?

14 A I'd say approximately -- to the ditch would
15 probably be eight to ten feet.

16 Q All right. From over here where I was pointing?

17 A Yes.

18 Q But we know the width of the truck is how long?

19 A Width of the truck is 80 inches.

20 Q And at the point that you fell on the ground, were
21 you behind the truck actually at that point?

22 A Yes.

23 Q So are we talking about a big area here or are we
24 talking about a small area here?

25 A It would be a small area.

1 Q That night did the police arrive there pretty
2 quickly after this?

3 A Yes.

4 Q I think it was eight minutes, ten minutes,
5 somewhere in there. Does that sound about right?

6 A That sounds about right.

7 Q And did you comply with the officer's request?

8 A I did.

9 Q Did you submit to GSR testing?

10 A I did.

11 Q Did you submit to photographs?

12 A I did.

13 Q Did you submit blood?

14 A I did.

15 Q Did you submit to buccal swabbing?

16 A I did.

17 Q Mr. Arflin, you went to jail that night; is that
18 right?

19 A I did.

20 Q And when you went to jail, I believe you filled
21 out some kind of form about injuries; is that right?

22 A I did.

23 Q And you had a beard until, what, just a few days
24 ago? I noticed your face was all scratched up the
25 first day.

1 A Yeah.

2 Q And you put on there that you did not have any
3 injuries. Were you actually booked in that night to
4 the jail?

5 A I was.

6 Q Were you extremely concerned about any mouth
7 injuries after being arrested for murder and put in
8 jail and shooting somebody and having all these crazy
9 things happen?

10 A No, I was not.

11 Q At some point in jail did you begin requesting to
12 have a medical visit?

13 A I did, yes.

14 Q And why is that?

15 A Because my gums on the inside of my mouth had
16 swelled up and I was having problems eating.

17 Q We heard something about you requested it and it
18 was four days instead of five or something?

19 A Well, it took me -- it took me over a day just to
20 figure out what I needed to do because you had to fill
21 out paperwork and then turn in the paperwork, and that
22 had to go to the nurse before you could get a -- get
23 checked by the nurse.

24 Q They have some kind of procedure?

25 A They do have procedures that I didn't know

1 anything about.

2 Q Because you had never been to jail before?

3 A No.

4 Q All right. So at some point do you end up
5 submitting a form?

6 A I do.

7 Q And at the jail, have you found that the
8 procedures are you can just go straight to the doctor
9 or do you have to fill out a form and get an
10 examination from the nurse first and then go to the
11 doctor?

12 A You have to fill out a form, get an examination
13 from the nurse, then she will put you on the list to
14 see the doctor if you need to.

15 Q So is it like when you're out of jail where you
16 can call your doctor and say, "I'm having real issues.
17 I need to come in today"?

18 A No, it's not.

19 Q Now, did you go through that procedure, and were
20 you seen by a nurse?

21 A I did and I was.

22 Q And I believe we've already had testimony that
23 this was a few days later redness, swelling, et cetera,
24 was noted; is that right?

25 A Yes.

1 Q And did the nurse okay you to go on then at that
2 point and see a doctor?

3 A Yes.

4 Q And what, if anything, those days later was
5 prescribed for your injury?

6 A Antibiotics.

7 Q All right. You've been in jail for a year and
8 eight months at this point; is that right, nine months
9 eight months?

10 A I think it's -- somewhere in there, yes.

11 Q I believe we heard from a man named Roy Lawrence
12 yesterday?

13 A Yes.

14 Q Did you share a cell with him in October of 2014?

15 A I did.

16 Q And let's talk about that. Have you had many
17 cellmates through your time there?

18 A I have.

19 Q Have many of them made bond?

20 A Yes.

21 Q Have you had anyone come forward besides Roy
22 Lawrence and say you tried to solicit something to be
23 done to witnesses?

24 A No.

25 Q Did that ever happen?

1 A Excuse me?

2 Q Did you ever try to solicit Roy Lawrence to do
3 anything?

4 A No, I did not.

5 Q What kind of cell were you and Roy Lawrence in?

6 A The cell is about 16 feet long and about six to
7 eight feet wide.

8 Q Is it bars and concrete?

9 A Concrete walls with a steel door and about a
10 four-inch strip about 33 inches tall in the door to
11 look through.

12 Q And how many hours of rec do you get every day?

13 A We get two hours of rec.

14 Q So you're essentially in this cell with Roy
15 Lawrence for how many hours a day?

16 A 22 hours a day.

17 Q And did you know him ahead of time?

18 A No, I did not know him.

19 Q So what did you and Mr. Lawrence -- well, I think
20 we heard yesterday that Mr. Lawrence is, as he put it,
21 knows the system well or something. Would that be
22 pretty accurate?

23 A Yes.

24 Q And what did you and Mr. Lawrence talk about most
25 of the time while you were in there?

1 A Most of the time we talked about our cases, or
2 most of the time he wanted to talk about my case.

3 Q And did you talk to him?

4 A Yes.

5 Q When you talked to him, did you also have a packet
6 in your jail -- do you have like a personal locker when
7 you're in jail, or do you have to keep your stuff in
8 your cell?

9 A You have to keep your stuff in your cell, and it's
10 pretty much open to anybody that wants to get to it,
11 but I tried to keep mine in a plastic bag under the
12 bed.

13 Q Now, do y'all have visitation when you're at the
14 detention center?

15 A Yes.

16 Q And do y'all have the same visitation?

17 A No, we do not. We had different visitations.

18 Q Do you know how long your visits were when you had
19 visitation?

20 A 30 minutes.

21 Q And did you also have to get taken to a doctor at
22 least once a month?

23 A I did. I had to go to the doctor once a month for
24 blood work and a shot.

25 Q For your cancer?

1 A Yes.

2 Q And, again, was he there during those times?

3 A Yes, he was.

4 Q When you had rec were -- were you permitted to
5 come and go from the cell, in other words, one of you
6 could go, one could stay in the cell?

7 A Yes.

8 Q Now, I believe we said yesterday that you never
9 contested that those names or that that map were things
10 that you did; is that right?

11 A That's correct.

12 Q Will you tell the jury -- let's talk about the map
13 first. Have you been served with a civil suit dealing
14 with this incident several months before this?

15 A I had.

16 Q And did you have a copy of that paperwork?

17 A I did have a copy of the paperwork, yes.

18 Q And did you talk to him about this?

19 A I did.

20 Q And did you talk about this case?

21 A I did.

22 Q Tell the jury why that map was done.

23 A The map was -- I drew the map -- as a matter of
24 fact, I drew the entire area, not just the area where I
25 live, but the area around where I live to show him

1 where my case had happened, the areas that it had
2 happened in.

3 Also I drew out the property on mine to show him
4 what property that they had attached in the civil suit
5 and explained to him, you know, who lives closest to me
6 and the property lines of my property and all the way
7 back up to the end of the street. I had drew the
8 houses at the end of the street, across the road. Up
9 the road used to be the old Haven of Rest Children's
10 Home. It is now -- I think it's Haven of Rest, it's
11 just Haven of Rest. They put people that went through
12 or doing drug rehabilitation, stuff like that, in
13 there.

14 Q Did you ever give that map to him?

15 A I did not.

16 Q Now, let's talk about this list of three names.
17 Larry Williamson is on that; is that correct?

18 A Yes.

19 Q Was he there that night?

20 A No, he was not.

21 Q Did he give a short statement with a taped
22 interview in this case?

23 A He did.

24 Q How often -- when you're in jail, can you visit
25 your attorney any time you want?

1 A No, I cannot.

2 Q About how often would you get an attorney visit
3 from my office?

4 A About once every two weeks.

5 Q And would stuff be sent to you as it came in?

6 A Yes.

7 Q What would you do in order to prepare for the next
8 visit, which could be two weeks away, a week away, or a
9 few days away?

10 A Most of the time I would go through my discovery
11 that had just come in. I would read it and take my
12 notebook, make notes on my legal pad and make notes of
13 any questions that I had, and I would write down, you
14 know, what the question was, the person's name that
15 made the statement.

16 Q Something to jog your memory when I came to see
17 you?

18 A Yes, something I do to keep my memory going.

19 Q Are you familiar with what Mr. Lawrence's pending
20 charges were?

21 A He did -- he told me that his charges were because
22 of his sister-in-law --

23 MS. PRICE: Objection.

24 THE COURT: Sustained.

25 MS. WHITE: I'll move on.

1 Q Now, at some point did Roy Lawrence talk about the
2 things that we heard on the tape the other day?

3 A Yes.

4 Q And when you were locked in this cell with him for
5 22 hours a day, what, if any, need did you see to
6 confront him about it?

7 A I didn't confront him about it simply because it
8 would have caused problems inside the cell, and they
9 wasn't going to move either one of us unless we got
10 into a fight or something, and I'm not -- I'm not a
11 fighter. I'm not capable of fighting.

12 Q So did you ever instigate anything about witnesses
13 or anything else?

14 A No.

15 Q Did you have a trial date in November of 2014?

16 A I did not.

17 Q Did you have any idea if your trial was going to
18 be in a year, five years or several months?

19 A I didn't have any -- I had no knowledge of when it
20 might be.

21 Q Now, did you get a message from someone to call
22 Mr. Lawrence once he got out?

23 A I did.

24 Q And did you call him?

25 A I did.

1 Q When he brings up the subject -- and did this
2 subject surprise you at all?

3 A It did surprise me somewhat, but he had talked
4 about it in the cell.

5 Q Did you stay on subject or did you try to change
6 the subject?

7 A I tried to change the subject.

8 Q When you're in jail, are you allowed to go talk to
9 people, make arrangements, do things like that?

10 A No.

11 Q So were you free to go to his house and say, "This
12 is what we're going to do. We're going to get them
13 this way. We're going to house them this way. We're
14 going to do it this way"? You would agree this plot
15 would have to have a whole lot of planning?

16 A Yes, it would have.

17 Q And was that ever done?

18 A No.

19 Q When he asked to be put on your visitation list,
20 how many people are you allowed to have on your
21 visitation list?

22 A I'm allowed to have ten.

23 Q And what did you tell him?

24 A My visitation list was full.

25 Q Did you have any desire or intention for him to

1 come visit you?

2 A No, I did not.

3 Q When he tried to bring up a subject on the phone,
4 this subject on the phone, did you agree to talk to him
5 on the phone about it?

6 A No.

7 Q When he asked you to write him a letter, did you
8 ever write him a letter?

9 A No.

10 Q Who runs the detention center, which law
11 enforcement agency?

12 A Anderson County.

13 Q And would they have been free to intercept any
14 mail that went out or in from that facility?

15 A Yes.

16 Q So is there any way that a complex event like
17 taking people, housing them for God only knows how
18 long, et cetera, is there any way that could have even
19 been -- is it impossible to have done that?

20 A It is.

21 Q Did my office request that the prosecution run
22 distance trace reports in your case so that when we
23 came to trial, we would have those reports?

24 A Yes.

25 Q And was that done?

1 A No, it was not.

2 Q Did my office request complete DNA reports?

3 A Yes.

4 Q And was that done?

5 A No.

6 Q Did you want it done?

7 A Yes.

8 Q Was that why it was requested?

9 A Yes.

10 Q Bobby, I know it is -- we've used the term Monday
11 morning quarterbacking to try to re-create in this
12 environment the few minutes or seconds that you were
13 out there that night. But can you just tell this jury
14 why -- you obviously fired two shots -- why you fired
15 that gun out at that scene at that time?

16 A I was afraid that I was going to be killed, and
17 that's the reason that I fired, to keep from being
18 killed, to save my life because I was under full
19 impression that this guy was going beat me to death
20 from the anger and everything on his face.

21 Q Just give me one minute, please.

22 MS. WHITE: Your Honor, I have nothing further.

23 THE COURT: Ms. Price.

24 MS. PRICE: Yes, sir. May it please the Court.

25

CROSS-EXAMINATION

1 BY MS. PRICE:

2 Q You were under no obligation to call Roy Lawrence
3 back, right? You called him?

4 A I was told to call him.

5 Q By somebody that had some authority over you?

6 A Well, he had a simple request for me to call him.

7 Q Simple request. Nobody forced you to call
8 Mr. Lawrence?

9 A Nobody twisted my arm, no.

10 Q Right. And when you called him, you were quite
11 friendly with him?

12 A Yes, that's --

13 Q Yes. Okay. So you didn't indicate on that phone
14 call that you had any prior issue with Mr. Lawrence,
15 did you?

16 A No.

17 Q No. And on that phone call when he asked you if
18 he should hold off or not, you say, "Hold off," don't
19 you?

20 A I do.

21 Q You do. Okay. And when he asked you about
22 stashing them away as it gets further into the phone
23 call, he asked you about stashing them away, and you at
24 first say, "Oh, my mind went blank," and then you say,
25 "But, anyway, I'll pay for that," don't you?

1 A No.

2 Q You talk over each other, and that's what you say,
3 isn't it, sir?

4 A No.

5 Q Okay. And at the end of the call, he asks you
6 about his visitation list, things of that nature --
7 your visitation list, things of that nature, and you
8 get a little squirrely, don't you, sir? You were
9 beginning to get suspicious; isn't that right?

10 A No.

11 Q No? Okay. And he gave you an address, but it had
12 the wrong zip code, and that's why he didn't get a
13 letter; isn't that the case?

14 A No.

15 Q So this note with three names in your case?

16 A Yes.

17 Q That was to jog your memory?

18 A Yes.

19 Q You had trouble remembering Brenda Masters' name,
20 the girl who lived down the street from you for years?
21 You had trouble remembering that name for a meeting
22 with Ms. White?

23 A I had three names wrote down and what I was going
24 to talk to her about under those names.

25 Q Well, I don't remember seeing anything about what

1 you were going to talk about on that note, do you?

2 A That part was taken off.

3 Q Oh, it was taken off.

4 A I didn't take it off, but it was taken off.

5 Q I see. So you're not capable of fighting. That's
6 what you said?

7 A No, I'm not capable of fighting. I couldn't -- I
8 couldn't hold up to it. I couldn't hold up to a hard
9 punch.

10 Q You couldn't hold up to a hard punch. But you're
11 capable of firing a gun; is that right?

12 A Yes.

13 Q Okay. You're capable of tucking this in your back
14 pocket, your back shorts, correct?

15 A Yes.

16 Q And pulling it out?

17 A Yes.

18 Q And firing it?

19 A Yes.

20 Q Okay. This has some pretty hard recoil on it,
21 doesn't it, sir?

22 A It does not. It's a heavy gun.

23 Q It is a heavy gun, isn't it?

24 A That's why there's no recoil.

25 Q So it would take some effort to pull that up,

1 wouldn't it, sir?

2 A Yes.

3 Q Yes. Some thought and some effort; isn't that
4 right?

5 A Some effort. The thought, (shaking head).

6 Q All right. Are you aware that the State has the
7 medical forms that Ms. White was referring to?

8 A Yes.

9 Q Okay. Are you aware that you checked off that you
10 had no jaw or mouth injuries on that form, sir?

11 A That was the intake form?

12 Q No, sir, a sick slip, the one that you were
13 discussing with Ms. White. Would you like to see it?

14 A I don't remember.

15 Q Okay. Well, let's show it.

16 MS. WHITE: Your Honor, I'd like to look at
17 whatever she's --

18 MS. PRICE: Oh, you gave it to me.

19 Oh, I'll put that one in too. Do you have any
20 objection to this?

21 THE COURT: If it's two documents, mark them
22 separately.

23 MS. PRICE: Yes, sir.

24 (WHEREUPON, State's Exhibit Number 99 was marked.
25 for identification.)

1 (WHEREUPON, State's Exhibit Number 100 was marked
2 for identification.)

3 BY MS. PRICE:

4 Q I'm showing you State's Exhibit 99 and 100.

5 MS. PRICE: May I approach?

6 THE COURT: Yes, ma'am.

7 MS. PRICE: Okay.

8 Q Now, sir, are you familiar with this?

9 A I have seen it, yes.

10 Q Okay. And on that form is there a space that
11 says, "Do you have any recent injury to your mouth?"

12 A Yes. Okay.

13 Q And it says "no," does it not?

14 A It does.

15 Q And is there also a space that says, "Do you have
16 any recent injury to your jaw?" I believe it's almost
17 next to that. Would you like me to point it out to
18 you, sir?

19 A Yes. I can't -- I can't find it.

20 Q Sure. Right here it says, "Recent injury to
21 mouth?" "No." "To jaw?" "No."

22 A Okay.

23 Q Okay? And this form was actually filled out by
24 you; is that correct, sir?

25 A Yes.

1 Q Okay. And tell me what it says about how long
2 have you had this problem?

3 A It says I had this problem for five days.

4 Q Okay. And what was the date on that form?

5 A 12/15.

6 Q So you would have had that problem for -- since
7 the 10th; is that correct, sir?

8 A By those numbers, yes.

9 Q Okay. You said as you walked down the road after
10 this event, the incident had occurred, right, that you
11 heard somebody talking about 911. In fact, you heard
12 people screaming to call 911; is that correct?

13 A I heard them screaming they were on 911.

14 Q We glossed over the shooting a little bit, didn't
15 we, Mr. Arflin, when you were speaking with your
16 attorney just now?

17 A No.

18 Q I want to talk about that. Okay?

19 A Okay.

20 Q You say that Mr. Powell threatened you?

21 A Yes.

22 Q You say that he said what exactly? Specifically,
23 you said what?

24 A At which point?

25 Q Tell me both times.

1 A Okay. When he was hitting me, he called me a
2 stupid son of a bitch.

3 Q Uh-huh.

4 A Second time, a stupid bastard.

5 Q Uh-huh.

6 A And the third time, he told me he was going to
7 whoop my ass.

8 Q Uh-huh. Okay. Are you aware that none of those
9 phrases are the phrases that your brother told us that
10 was said earlier today?

11 A Yes.

12 Q Okay. Because you were present in the courtroom?

13 A Yes.

14 Q So you know that your brother said something else
15 entirely, right?

16 A Right.

17 Q Okay. So he says these phrases to you?

18 A Yes.

19 Q Okay. And you said that he -- well, I'm a little
20 confused. Did he give you an uppercut; is that your
21 testimony?

22 A Yes.

23 Q So the testimony is that he actually punched you
24 in your jaw?

25 A He come up (indicating) and punched me.

1 Q He come up and punched you. He crossed his hands
2 across his own chest?

3 A He had his arms crossed.

4 Q And punched you?

5 A (Indicating). Yes.

6 Q You say that after that happened, Brenda came out;
7 is that right?

8 A Yes.

9 Q So after that happened, Brenda came out and said,
10 "Let the police be called. Let's let the police handle
11 it"?

12 A Yes.

13 Q That's what you recall happening?

14 A Yes.

15 Q Okay. And you say so that after if -- if this
16 happened -- after that happened, she broke you up; is
17 that right?

18 A No, she didn't break us up.

19 Q Well, that's what you just said.

20 A No. I said she came out and tried to stop him.

21 Q You said, "After he hit me, she broke us up." You
22 just said that in this courtroom.

23 A Not that I remember.

24 Q Well, you did. So, okay. So you hadn't been
25 broken up; is that right?

1 A Yes.

2 Q Now your testimony is that you hadn't been broken
3 up?

4 A I'm separated from him because he's already
5 knocked me backwards.

6 Q He's knocked you backwards, okay. But are you
7 still standing?

8 A I don't know. I don't remember.

9 Q You don't remember. It's very hard to make your
10 testimony fit medical evidence that exactly contradicts
11 your case, isn't it, sir?

12 MS. WHITE: Your Honor, I'm going to object.

13 THE COURT: Overruled.

14 BY MS. PRICE:

15 Q It's difficult, isn't it?

16 A I don't know. Medical evidence, I'm not a doctor.

17 Q You've had some time to come up with a defense,
18 haven't you?

19 A I had a year and nine months in jail, if that's
20 what you're saying.

21 Q And you're telling me that you don't remember
22 anything about the actual moments that you fired this
23 weapon?

24 A I do the last shot, yes.

25 Q You do remember the last shot?

1 A I was down and fired.

2 Q Down how, sir?

3 A Just down towards -- on the ground, towards on the
4 ground.

5 Q Were you on your belly? Were you on your back?
6 How were you positioned?

7 A Actually, it was -- it happened so fast, I
8 couldn't tell you exactly how I was positioned.

9 Q You can't remember if you were on your front or
10 your back when you fired the gun?

11 A I was on my -- I fired the gun up, so I was on --
12 probably on my back.

13 Q Probably on your back. Okay. When you fired the
14 first shot, how were you positioned?

15 A I don't remember firing that shot.

16 Q Okay. Did you fire that from the ground as well?

17 A No, I don't think so.

18 Q You did not fire that from the ground, okay. So
19 now your testimony -- now your testimony -- is that you
20 fired it while you were standing up?

21 A I don't know when I fired it.

22 Q Wait a minute. The first shot that you fired --

23 A Yes.

24 Q -- into Mr. Powell's body, where were you -- how
25 were you positioned when you fired that shot, sir?

1 A I do not remember. I don't know.

2 Q How did you get on the ground after someone --
3 after you had already fired a shot?

4 A My -- I tripped over -- I tripped over my own
5 feet, I guess, because I can't feel my feet. They're
6 numb on the sides.

7 Q Well, you didn't have any trouble walking up to
8 the stand today, did you, sir?

9 A No, but I hadn't been hit neither.

10 Q You were wearing inserts to help with that
11 problem, weren't you?

12 A I was wearing inserts.

13 Q So you corrected that issue?

14 A No, they didn't correct the issues, they just
15 helped it.

16 Q So you tripped on your own feet now is your
17 testimony? You weren't knocked to the ground? Because
18 initially, and you were present in the courtroom,
19 Ms. White said you were knocked to the ground.

20 A I was knocked to the ground.

21 Q You were knocked to the ground? Okay. You just
22 testified that you tripped on your own feet, sir.

23 A I was knocked to the ground which caused me to
24 catch my own feet. I mean, when I was -- when I was
25 hit, I backed, my feet caught under me, and I went down

1 because I couldn't tell exactly where they were. I
2 mean, they were numb. And that's what neuropathy does.

3 Q So then is it your testimony that you were on the
4 ground after he knocked you?

5 A Yes.

6 Q So then you would have been on the ground when you
7 fired the first shot according to your own statement
8 just now; is that right, sir? But that's impossible,
9 isn't it, because Dr. Woodard testified that that could
10 not have come at an upward angle. You were present in
11 the courtroom for that, weren't you, sir?

12 A I was.

13 Q One moment.

14 Mr. Arflin, isn't it true that you and Jody Powell
15 were speaking to each other, and he said to you that
16 you were heartless, and you said, "I'm not heartless,
17 I'm ruthless"?

18 A No, I did not.

19 Q No, sir, okay. And then isn't it true that right
20 after that happened he touched you on your chest
21 because you were in his face; isn't that the case, sir?

22 A No. I did not get in his face.

23 Q Well, you told that to Roy Lawrence, didn't you?

24 A No, I didn't.

25 Q Okay. So you were close together. You admit that

1 you were close together?

2 A Yes, we were.

3 Q And at that time he pushed you on the chest; is
4 that right?

5 A No. At that time he crossed arms and thrust me in
6 the chest.

7 Q And at that time you pulled out a gun and you shot
8 him once after saying, "I've got something for you,
9 Boy"; isn't that correct?

10 A No, it is not.

11 Q Isn't it true that after you fired that shot,
12 Mr. Powell turned to run, and he ran from you?

13 A No.

14 Q Isn't it true that Mr. Powell tripped and fell and
15 you shot him again?

16 A No.

17 Q Isn't it true that you said to Brenda Masters,
18 "Don't help him. Let him die"?

19 A No. I never said that.

20 Q Isn't it true that you were angry that this young
21 buck was confronting you?

22 A No.

23 Q You weren't angry about that?

24 A No.

25 Q Really?

1 A I was afraid.

2 Q You were afraid?

3 A Yes.

4 Q You had that (indicating) in your body, you had
5 this, and you were afraid?

6 A I was still afraid, yes.

7 Q Really?

8 A Yeah.

9 Q You followed him.

10 A I did not follow him.

11 Q You followed him, didn't you, sir?

12 A No, I did not.

13 Q You pursued him with that.

14 A No.

15 Q Who's afraid of who, sir?

16 One moment.

17 Mr. Arflin, you shot Jody Powell twice, didn't
18 you, sir?

19 A Yes. There were two empty cartridges.

20 Q You did it intentionally, didn't you, sir?

21 A I did not.

22 MS. PRICE: No further questions.

23 THE COURT: Ms. White, any redirect?

24 MS. WHITE: No, sir.

25 THE COURT: All right. Thank you. You can step

1 down.

2 Call your next witness.

3 MS. WHITE: May we approach?

4 THE COURT: Yes, ma'am.

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: Ladies and gentlemen of the jury, I
9 have had a conference at the bench with the attorneys,
10 and we have reached a natural stopping point in the
11 case. There are a number of matters of law that I need
12 to take up with the attorneys before we proceed, so
13 we're going to have a little bit longer lunch today.

14 I'm going to go ahead and let you break for lunch.
15 You're going to have a little bit more time today
16 because, like I said, we have several issues that we're
17 going to have to deal with before we resume.

18 So be back here shortly before 2 o'clock. We will
19 recommence the case at 2 o'clock. And while you're
20 out, you know my instruction: Don't discuss with third
21 parties, no independent research, no deliberations.

22 (WHEREUPON, the jury exited open court at
23 11:14 a.m.)

24 THE COURT: Anything from the State?

25 MS. PRICE: Nothing from the State.

1 THE COURT: Anything from the defense at this
2 point?

3 MS. WHITE: No, sir.

4 THE COURT: All right. Let's do this.

5 MS. WHITE: Your Honor, I would like to move for a
6 directed verdict again -- oh, well, I haven't
7 officially rested.

8 THE COURT: Yeah, you haven't rested yet.

9 Let's go ahead and break. And the attorneys, you
10 be back at 1:30 and then we will go over potential jury
11 charges.

12 MS. WHITE: Judge, we kind of have to know for
13 preparing our argument.

14 THE COURT: Do you have your submissions? Does
15 each side have specific submissions that I could look
16 at now?

17 MS. WHITE: I haven't numbered them. I will
18 number them.

19 THE COURT: If you want to do that. I can tell
20 you -- we can go ahead and do it now.

21 The charges that we will do in any criminal case,
22 I mean, I have a general charge. I have a charge on
23 direct and circumstantial evidence. I have a charge on
24 credibility of witnesses, presumption of innocence,
25 reasonable doubt, criminal intent, the standard charge

1 on the charge, indictment not being evidence. We have
2 a standard charge on expert witnesses. I have already
3 given an abbreviated version of that with each expert,
4 but I plan to give it again.

5 I have the standard self-defense that's been put
6 into the record. I have a self-defense charge. I also
7 have a standard charge on the statement of the
8 defendant since there was a statement of the defendant
9 admitted into evidence. We will have standard charges
10 on murder, possession of weapon during the commission
11 of a violent crime, and then a charge on solicitation
12 to commit a felony. Those are case-specific charges
13 that we would have.

14 The question that I have is, does the defense seek
15 a charge of voluntary manslaughter?

16 MS. WHITE: No, sir. He ruled it out from his
17 testimony.

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

19 THE COURT: Yes, ma'am.

20 MS. PRICE: I don't know that he did rule it out
21 from his testimony. Just out of an abundance of
22 caution, I'm not opposed to a voluntary charge. There
23 has been testimony about a push and the cussing and the
24 fussing. I don't want this coming back on any
25 technicalities, and so I don't intend to really beat

1 that horse in my closing. However, I think that out of
2 an abundance of caution, the jury should have that
3 option.

4 THE COURT: Well, the defense is saying they don't
5 want the charge, and he's charged with murder. And I
6 think the defense is entitled to a charge on the
7 offense charged, and I'm not going to charge voluntary
8 manslaughter.

9 MS. PRICE: Okay.

10 THE COURT: The defense is requesting. I call
11 this an all-or-nothing case.

12 MS. PRICE: Yes, sir.

13 THE COURT: That's -- if there is evidence in the
14 record that the defense requested that charge, then I
15 would give it, but they are saying they don't want that
16 charge, so I'm going to honor the defense's request to
17 not charge voluntary manslaughter.

18 MS. PRICE: Yes, sir.

19 MS. WHITE: Your Honor, I have gone over that
20 extensively with my client, all the ramifications, the
21 various sentences, his age, all of these other things,
22 and actually my client has made that decision in this
23 case.

24 And I would like to point out the latest case law
25 actually says that if they testify that there is no

1 heat of passion, in fact, they were only acting in
2 self-defense, that that could very well rule out
3 voluntary manslaughter, and that's exactly what he
4 testified to.

5 THE COURT: Thank you, Ms. White.

6 Okay. Now, other than the charges that I have
7 mentioned, are there other specific charges that State
8 requests?

9 MS. PRICE: Your Honor, from the State, and I'm
10 sorry, I haven't typed it out but I will during the
11 break, but I do have the cases to cite.

12 Your Honor, the charge from *State v. Edwards*, I
13 submitted that to the Court during our pretrial
14 motions, that evidence of witness intimidation is also
15 evidence of guilt in the primary charge, sir. And
16 that's it from the State in terms of specific requests.

17 May I hand this to the Court, your Honor?

18 THE COURT: Yes, ma'am.

19 MS. PRICE: Again, I apologize.

20 THE COURT: Please provide Ms. White a copy.

21 MS. PRICE: I will.

22 MS. WHITE: Your Honor, I'm just putting numbers
23 on mine so that -- I couldn't number them until I was
24 sure what all the testimony showed. But I'm putting
25 numbers on them so we'll know what we're talking about

1 when we come back.

2 Your Honor, may I approach?

3 THE COURT: Yes, ma'am.

4 MS. WHITE: And I'll look over lunch, too, and see
5 if anything in the testimony came up that I didn't
6 anticipate, but this is what I anticipate, your Honor.

7 THE COURT: Okay.

8 MS. PRICE: May it please the Court.

9 THE COURT: Yes, ma'am.

10 MS. PRICE: For these, some of these charges that
11 are standard, like expert witness and murder that
12 Ms. White is just handing you, I just ask the Court use
13 the bench book.

14 MS. WHITE: That is bench book.

15 THE COURT: Looks like these are straight out of
16 the bench book. I haven't read all of them yet. I'm
17 going to go over them at lunch. But it certainly looks
18 like one, that's right out of the bench book.

19 Solicitation, number two; number three, self-defense;
20 act on appearances, number four; expert witness, number
21 five; size and age, number six; seven and eight, those
22 are both being incorporated into my standard charge.
23 Possession of weapon during the commission of a violent
24 crime, number nine. Again that's right out. Multiple
25 charges. Number ten is different, and that looks like

1 that is a standard charge. Credibility of witnesses is
2 covered. Direct and circumstantial evidence is
3 covered. Charge, arrest, indictment is not evidence.
4 That's covered.

5 MS. WHITE: Your Honor, I think I have two copies
6 of 14 and 15, and I think they're the same thing. I
7 just noticed there are two copies.

8 THE COURT: Let me read.

9 MS. WHITE: We'll take out 15 and leave 14.
10 They're the same.

11 THE COURT: Number 14. Ms. Price, it appears that
12 Ms. White is requested *State v. Frazier* charge. Have
13 you read number 14?

14 MS. PRICE: I'm reading it right now, sir.

15 MS. WHITE: Your Honor, I attached the case.

16 MS. PRICE: I see it. No objection.

17 THE COURT: Okay. And, Ms. White, do you have any
18 objection to the *State v. Edwards* charge?

19 MS. WHITE: May I be directed to the area that
20 we're going to be charging?

21 THE COURT: That was going to be my next question.

22 MS. PRICE: Well, I gave you both my copies.

23 MS. WHITE: I'm sorry.

24 MS. PRICE: And I haven't gone through it yet.

25 THE COURT: The case basically addresses the

1 admissibility of witness intimidation evidence to show
2 consciousness of guilt.

3 MS. PRICE: Sir, page -- it is -- and we have a
4 different copy than you do, unfortunately, but they
5 quote -- it's under subsection B, "Our approach follows
6 the majority of jurisdictions that have addressed the
7 issue. For example, in the *United States v. Hayden*,
8 the court noted that evidence of witness intimidation
9 is admissible to prove consciousness of guilt and
10 criminal intent if the evidence related to the offense
11 charged and is reliable."

12 THE COURT: I've read that, but my question is
13 what do you want charged to the jury since --

14 MS. PRICE: The jury may consider the evidence of
15 witness intimidation as evidence of guilt.

16 MS. WHITE: I'm going to object to that, your
17 Honor. I mean, obviously it's in evidence. Why would
18 we highlight that?

19 MS. PRICE: Why are we highlighting *State v.*
20 *Frazier*?

21 MS. WHITE: Well, we're highlighting the others
22 because the court has said it must be done.

23 THE COURT: . Hold on. One at a time.

24 Ms. White, you object -- because that's my
25 question. This case goes directly towards

1 admissibility. Since I'm going to be charging them the
2 law on the solicitation charge, I feel this -- the
3 possibility of confusion to the jury, and I'm not going
4 to charge the *State v. Edwards* charge. That goes
5 toward the admissibility of the evidence and the
6 evidence was admitted. And I'm going to give them the
7 charge on the solicitation of a felony, so I'm not
8 going to charge that.

9 Ms. White, what about your statement -- now,
10 you're objecting to the *State v. Frazier* charge?

11 MS. PRICE: No, your Honor. I'm not.

12 THE COURT: All right. Well, then, are there any
13 further charges requested from either side?

14 MS. WHITE: Your Honor, I want to go back and look
15 over the testimony. I can't anticipate any at all, but
16 I want to go back quick and look quickly. I may have
17 one or two, but I can't anticipate it.

18 THE COURT: Attorneys, be here early. We're going
19 to start back at 2 o'clock. Be here at 1:30 and any
20 other issues that could be brought up we can deal with
21 at that time.

22 Now, certainly, again back to the *State v.*
23 *Edwards*, Ms. Price, what I'm not doing is charging it
24 as law. Certainly that's a factual question that
25 you're certainly going to comment in your closing

1 argument on the facts just like Ms. White is going to
2 comment on her version of the facts, and what this
3 evidence shows is a factual dispute between the two of
4 you.

5 MS. PRICE: Yes, sir.

6 THE COURT: So I just don't -- I don't see this
7 case as a jury instruction. This case goes toward
8 whether or not the Court can admit the evidence and the
9 evidence was admitted, so I think the evidence speaks
10 for itself. And you can -- each attorney can argue
11 that evidence as they see fit.

12 MS. PRICE: May it please the Court.

13 THE COURT: Yes, ma'am.

14 MS. PRICE: Just not to run afoul of the Court's
15 instruction, then, is it appropriate -- would the Court
16 have a problem with me instructing the jury that under
17 the law, they can consider evidence of witness
18 intimidation as evidence of guilt of the primary charge
19 since it is --

20 THE COURT: I'm not charging it as the law. That
21 is a factual question, and how you interpret those
22 facts I'm sure is going to be radically different than
23 how Ms. White interprets those facts.

24 MS. PRICE: Yes, sir.

25 THE COURT: And each of you will be able to argue

1 your interpretation of those facts to the jury.

2 MS. PRICE: Yes, sir.

3 THE COURT: Anything further before we break?

4 MS. PRICE: Nothing from the State.

5 THE COURT: I'll see y'all back at 1:30.

6 (WHEREUPON, lunch recess was taken from
7 11:28 a.m. to 1:50 p.m.)

8 THE COURT: Is there anything from the State
9 before we bring our jury back?

10 MS. PRICE: Nothing from the State.

11 THE COURT: Anything from the defense?

12 MS. WHITE: No, sir. Oh, yes there is. Your
13 Honor, I think I moved to get in Defense Exhibit 14 and
14 15, but if I did not, I'm moving to introduce those.

15 MS. PRICE: Without objection.

16 THE COURT: So Defendant's Exhibit 14 and 15 would
17 be admitted without objection.

18 (WHEREUPON, Defendant's Exhibit Number 14 was
19 admitted into evidence.)

20 (WHEREUPON, Defendant's Exhibit Number 15 was
21 admitted into evidence.)

22 MS. WHITE: Your Honor, the defense rests, and I
23 would like to renew my motions for directed verdict and
24 renew all of my objections I made throughout the trial.

25 THE COURT: So noted, and they are still denied.

1 So, okay. Let's get our jury.

2 I'd like you to rest on the record in front of the
3 jury. I'll note for the record at that time that your
4 motions are renewed.

5 THE BAILIFF: We're missing one juror.

6 MS. PRICE: May it please the Court.

7 THE COURT: Yes, ma'am.

8 MS. PRICE: Your Honor, I believe that the
9 defendant's wife and the husband of the victim's
10 wife (sic) -- are both on our witness list and have
11 been excluded from the trial up to this point. If
12 there's not any objection by Ms. White to letting them
13 both come into the courtroom at this time.

14 MS. WHITE: I've rested, so we're done, so.

15 THE COURT: And there's no reply?

16 MS. PRICE: No reply.

17 THE COURT: So, well, that's fine. Once testimony
18 is finished, all witnesses can come back in.

19 (WHEREUPON, the jury entered open court at
20 1:54 p.m.)

21 THE COURT: Ladies and gentlemen, I hope everyone
22 had a good lunch, and we are ready to proceed.

23 MS. WHITE: Your Honor, the defense rests.

24 THE COURT: And the defense -- is there any reply
25 testimony?

1 MS. PRICE: No reply by the State, sir.

2 THE COURT: Okay. And as mentioned during the
3 break, the defense plans to renew all its motions?

4 MS. WHITE: Yes, your Honor.

5 THE COURT: And those are noted for the record and
6 the Court's ruling is unchanged.

7 MS. WHITE: Thank you.

8 THE COURT: Ladies and gentlemen of the jury, we
9 have reached the point in the case where the evidence
10 is concluded. This is the point in the case where the
11 attorneys will be able to make closing arguments to you
12 about the case. The defense will go first, make their
13 closing argument, then the State will go last. The
14 State has the burden of proof, so they go in the
15 concluding argument. We will begin with Ms. White.

16 MS. WHITE: Thank you, your Honor.

17 Ladies and gentlemen, we'd like to thank you for
18 sitting here for four days. That's a long time to take
19 out of your schedules, and we appreciate that.

20 At this time I'm going to talk to you a little bit
21 about the law in the case because you are actually what
22 we call the fact-finders. In other words, you've seen
23 all the evidence. The judge is going to say, "Now,
24 this is the law." You look at the facts and see
25 whether it violates the law or not. So nobody has told

1 you the law yet. So you know that there is an
2 indictment for murder. On that indictment there will
3 be a possession of firearm during the commission of a
4 violent crime, and, of course, three indictments for
5 solicitation of kidnapping.

6 So what does that mean? What do those things
7 mean? Murder is the following: The killing of another
8 person with malice aforethought. Malice is hatred or
9 ill will, an intent to do evil. So the killing of
10 another with malice aforethought.

11 Now, you're going to have a choice on some
12 verdicts. For instance, there's several defenses to
13 murder. One would be insanity. Obviously that's not
14 here. One would be I didn't do it. I wasn't there.
15 That's alibi. That's not here. One is self-defense.
16 And that's the defense that the -- that we have
17 presented to you as to why Bobby should be found not
18 guilty in this case.

19 So what's self-defense? In self-defense, the
20 person has got to be without fault in bringing about
21 the difficulty. In other words, if I do something that
22 should make somebody fight me, I can't then kill them
23 and say, "Oops, self-defense." No. I started it. I
24 robbed you. I did an armed robbery, and you pull out a
25 gun and I shoot you and say, "I was just defending

1 myself." No. So without fault in bringing about the
2 difficulty. That doesn't mean a wreck. If you get in
3 a wreck or traffic accident, no, that's not asking for
4 something -- that would not be at fault in bringing
5 about the difficulty.

6 The second element is that, and I'm going to read
7 you this one because this is pretty important. "The
8 second element of self-defense is that the defendant
9 was actually in imminent danger of death or serious
10 bodily injury, or that the defendant actually believed
11 he was in imminent danger of death or serious bodily
12 injury."

13 Now, the judge is going to tell you, and I'm going
14 to read you a little bit of the law so you will know
15 where the facts fit in the law. "You should consider
16 all of the facts and circumstances surrounding the
17 crime including the physical condition and
18 characteristics of the victim and the defendant." The
19 judge is going to tell you that the defendant does
20 not -- not -- have to show he was actually in danger.
21 "It is enough that the defendant" -- and I'm reading
22 you the law -- "it is enough if the defendant believed
23 he was in imminent danger and a reasonably prudent
24 person of ordinary, firmness in courage would have had
25 the same belief. The defendant has the right to act on

1 appearances, even though his beliefs may have been
2 mistaken."

3 Now, when you're determining, well, was it
4 reasonable for him to think that he was in imminent
5 danger, what can you consider? You can consider words
6 accompanied by hostile acts. Those may be enough for
7 self-defense. You may consider the relative sizes,
8 ages, weights, et cetera, those factors, all of those
9 factors, when you decide was there actual or
10 apparent -- either one is fine -- danger. Threats made
11 by the victim may be considered.

12 And I want to read you this language because it's
13 very important. "Once the right to fire in
14 self-defense arises, a person is not required to wait
15 until the adversary is on equal terms in order to
16 defend themselves. He is not required to risk serious
17 injury." A person does not have to wait until his
18 assailant gets the drop on him. He has the right to
19 act under law of self-preservation and prevent his
20 assailant from getting the drop on him.

21 And then, finally, so in other words, without
22 fault in bringing about the difficulty. I didn't rob
23 somebody or try to stab them, something like that.
24 Number two, there was imminent danger or it was
25 perceived to be and that's reasonable. And the last

1 thing that the -- that the portion -- and by the way,
2 let me make this clear. The defense does not have to
3 prove self-defense. The burden is not on us to prove
4 this. The State must prove beyond a reasonable
5 doubt -- it is their burden to prove there was no
6 self-defense.

7 By the way, what is a reasonable doubt? Because I
8 think you all probably know from watching TV, that's
9 your burden of proof. A reasonable doubt is defined
10 as: A doubt that would make a reasonable person
11 hesitate to act. So if you go back to the jury room
12 and you say, "Well, I really hesitate about whether or
13 not there was an apparent or perceived reasonable fear
14 here," then you must find the defendant not guilty.

15 Now, the last -- the last element of self-defense
16 which the State must prove, the defendant has a duty to
17 retreat if by doing so the danger of being killed or
18 harmed is -- would not increase. So in other words, I
19 have no duty to retreat if that increases the danger to
20 me. So that's murder, self-defense, which is the
21 defense.

22 Then we go to the next charge which is in that
23 indictment. Let me show you. And, normally, you will
24 all deliberate, and then the foreman will actually sign
25 on the back the verdict. See, this is the murder

1 indictment. And by the way, again, the defense isn't
2 even allowed to be here. In Anderson County each
3 indictment takes the Grand Jury a minute and a half to
4 look at that case. That's how much they know about it.

5 But you will notice there is a second one under
6 here, possession of a weapon during the commission of a
7 violent crime. If you find that the defendant has
8 committed murder, that is a violent crime. So if you
9 find he possessed a firearm -- and, let's face it, this
10 is going to qualify as a firearm (indicating). If you
11 find that he possessed a firearm at the time that he
12 committed murder, then he would be guilty of that.

13 Now, we also have solicitation to commit a felony.
14 Let's look at the law on that a little bit. You are
15 going to be instructed that the State must prove beyond
16 a reasonable doubt -- they have got to prove beyond a
17 reasonable doubt everything in the case -- that the
18 defendant asked, enticed, advised, invited, ordered,
19 counseled, persuaded, or otherwise encouraged another
20 person to commit the kidnapping. It must be shown that
21 the defendant intended -- intended -- intended that the
22 other person commit the kidnapping. There has to be
23 intent.

24 All right. So I think, let me just look through
25 here -- I think that's about all the law that you're

1 going to hear. I'm going to talk about when I get to
2 Dr. Woodard, who will -- some of his opinions and how
3 the other evidence and all completely contradicts what
4 he said, but at any rate, I'll talk to you about the
5 law on expert testimony at this point because certainly
6 you do not have to believe any of it if other evidence
7 prevents it.

8 All right. So, let's talk, then, about the facts
9 in this case. Ladies and gentlemen, Bobby had no idea
10 that December 11, 2013, was going to change his life
11 forever. He's just doing his little hum-drum life like
12 the rest of us, going through the motions with his wife
13 of a long time. He had a long career. He's got health
14 issues. You know, they're living this quiet life at
15 the end of a road, never been arrested, no problems.

16 Now, they have got issues with the Williamsons.
17 Not with any of the other neighbors, but with the
18 Williamsons. But it's pretty much a quiet life. So
19 he's minding his own business, go to see his mom, comes
20 and turns down the road.

21 Now, I'm going to go through what he told you, and
22 I want you to act as a detective. You know, let's look
23 at this evidence. Let's see, does this support it or
24 does it not, what he told you. So let's go through
25 that and look.

1 For instance, Dr. Woodard, he had to be
2 straddling. Oh, really? Was he shot in the crotch,
3 Dr. Woodard? Because that's the angle of the bullet
4 that would have been required if he was standing over
5 him spread-eagle like he had him. So we're going to go
6 through this evidence and we're going to take a look.

7 All right. Bobby says, "I turned down the road."
8 Bobby says, "When I get down there, it's dark." Bobby
9 says, "When I get down there, there is a truck that is
10 in the road and I don't know if I can get by it."
11 Okay. We have pictures. Everything is corroborated.
12 It's there.

13 Bobby then says there was an accident. How do we
14 know this was an accident? We have a very narrow road
15 compared to what they require today, especially. It is
16 very dark. There was a drop-off. You have got a
17 picture in there. It's like four to five inches of a
18 drop-off. The ground is wet. An ambulance spun out in
19 it, too. There are no streetlights. And look at the
20 damage on the vehicle. If I'm intending to ram into
21 your vehicle, do you think I'm going to hit your mirror
22 and then barely hit your bumper? And look at his
23 actions afterwards. He calls 911. He doesn't run. He
24 doesn't leave, even though he really doesn't want to
25 stay where he is, in the midst of all the Williamsons,

1 but he does.

2 Now, he has a camper back. His mirror is broken,
3 as you see. Everything he says pans out. You know,
4 had the State called MAIT out that night and they said,
5 "MAIT, you don't come to murder scenes, do you?" Well,
6 duh, because vehicles are hardly ever involved in
7 killings, in shootings. So of course you're going to
8 call MAIT this night.

9 Anyway, MAIT gets called about a year or so later.
10 And once they do their report, of course, he was, you
11 know, charged with malicious injury to personal
12 property and intentional doing this to the vehicles,
13 and, of course, they're not proceeding on that. That's
14 because there's nothing to it. Bobby was telling the
15 truth. This was an accident.

16 Now, Bobby says there's been prior hostility.
17 "I'm not comfortable getting out in this area."
18 There's been hostility. We know that's true. Law
19 enforcement has been called by both sides in this area.
20 We know, too, that this is a completely legitimate
21 fear. And how do we know this? What is the first
22 thing Brenda does when Brenda goes outside and sees the
23 damage? The very first thing she does is run back
24 inside. Why? Because her parents are in there. And
25 remember what she said in her first statement? She ran

1 back into the house and told them all to stay in and
2 not let her dad out because her dad and Bobby had had
3 words before. In her courtroom testimony a month
4 later, she went inside and made sure no one came out
5 because of the bad history between the parties. Now,
6 if she was that concerned, why on earth wouldn't Bobby
7 be that concerned? But he was out there alone. They
8 had their whole family there. He had no one.

9 All right. Bobby then tells you, "I wasn't in a
10 bad mood. I wasn't hostile. I wasn't doing anything
11 like that." And what do we know? We heard this 911
12 tape. Did he seem angry or hostile or upset on that
13 911 tape? No. He called to report an accident.
14 That's exactly what he said.

15 Look at Brenda's first conversation that night
16 with police. When she's asked was Bobby
17 confrontational and she says, "No, he was on the phone.
18 He was reporting the accident." Bobby did nothing to
19 agitate this at all. If everybody would have just let
20 the police come and take care of it, we wouldn't be
21 here today.

22 Bobby tells that you Jody's demeanor was extremely
23 hostile. He was angry. Okay. What did we find out?
24 This is his new truck. It's not brand-new, obviously,
25 because it's a 2011, but it's new to him. And what did

1 we find out? We know from Jamie's 911 call when he
2 gets on the call with his wife, he says that Bobby ran
3 into Jody's truck and then Jody, quote, confronted him
4 about it, unquote. Who confronted him about it? Jody
5 confronted him about it.

6 Why did he use that word? Words matter. And the
7 interesting thing is that same night when Brenda gave
8 her taped statement, she said Jody confronted,
9 quote/unquote, Bobby about his truck. Now, of course,
10 we're hearing, Oh, no, no, no. That night they both
11 said he came out and confronted. All right.

12 Next thing is was Jody primed for confrontation?
13 How do we know he was? How do we know he did come out
14 hostile? Remember what Brenda said in their first
15 statement, Jody and Bobby had never met before. Quote,
16 he just only heard stories we told him about things
17 that Bobby has done, unquote. Brenda, in that same
18 statement, Jody told Bobby he didn't know him, but they
19 told him about Bobby and now he sees what a hateful
20 person he is.

21 Bobby tells us that Jamie and Jody end up getting
22 into the truck, the silver truck, and there's some
23 activity there in the front driver's door. How do we
24 know that's true? He says, "It's dark. They're
25 confrontational. I'm trying to call in this 911, and

1 they're getting something out of that truck. All I
2 know is it's dark. I don't know what it is, what the
3 object is. I couldn't see." How do we know that's
4 true? Remember, Jamie said in one statement, "Yeah, he
5 got his phone and he had his phone in his hand." He
6 didn't have his phone. And then when he came in here
7 and testified, if I'm not mistaken, I thought I was
8 hearing things but I don't think I was, he said that
9 Jamie came and got in the truck and checked his text
10 messages or something like that and then put his phone
11 back in. Well, we know that's not true. The phone was
12 found in his pocket.

13 Next thing he said is Bobby told you the threats
14 were made. There was cussing. What do we have to
15 verify this? First of all, the 911 tape that Bobby
16 made. Remember how the 911 operator asked him, Is
17 there any injury or something like that, words to that
18 effect? And he said, "No, not yet." And then remember
19 how he told you this conversation was happening here at
20 the truck about wanting to beat him up and things like
21 that? And by the end of this conversation, when it's
22 just a simple fender bender, he ends up saying, "You
23 better hurry." Why would he say that? That confirms
24 what he said. Remember how Brenda said in her first
25 taped statement that night, quote, It was like dark.

1 Jody just pushed Bobby and, quote, was like cussing
2 him. Now, of course, he's cussing. That was the word
3 used that night.

4 Bobby tells you he felt threatened. What do we
5 know about the environment? We know it's a very
6 hostile environment. It's dark. He's in poor health.
7 There are people in and out of this house. He doesn't
8 know how many are in there. There are being threats
9 made. They're thinking it was deliberate.

10 Remember, Jody never got over, according to all
11 the witnesses. He said, Huh-uh. The first time could
12 have been an accident, not the second time. He never
13 thought anything but this was deliberate. It was three
14 outside at one point compared to one. God only knows
15 how many others in the house.

16 And let's look at the condition of Jamie and Jody.
17 As you know, from the law I read you, you are allowed
18 to look at the physical conditions and ages of the
19 parties. Why? Because if Bobby goes up to Jody and
20 says, "I want to fight," Jody ain't going to be worried
21 about that. He's going to kick his rear end. It's not
22 so true the opposite way. Remember, we aren't talking
23 equal in size and age and physical condition. That's
24 not what we're talking about. And you are allowed to
25 consider this. Is that a match?

1 Now, let's throw Jamie in the mix because Jamie is
2 right there behind him. Remember, he moves packages
3 for a living. I'll say he's 41 years old. Is that
4 even normal? Jamie is right there with him. Jamie is
5 a roofer. You saw his size, over six feet, in good
6 shape. They're both young. You know, it's really,
7 really easy for us to Monday morning quarterback in a
8 courtroom, isn't it? But imagine being there that
9 night under those circumstances. How would it be to
10 have somebody a year and a half later examine
11 everything when you had about six seconds to do it all?

12 Now, the next thing is Bobby says that Jody got in
13 his face, got up on him. Remember how Brenda
14 demonstrated. Even closer. Brenda demonstrated like
15 (indicating). And this is the interesting thing. She
16 says she tried to squeeze between them. But let's look
17 at what she said. Let's look at what Jamie said. Who
18 were they trying to talk down? Do you ever hear them
19 talking about talking Bobby down? No. What we have is
20 Jamie, even in his March statement, Brenda said just
21 drop it. The cops were called. Let them handle it.
22 At the bond hearing what does Brenda say one month
23 after this occurred? "I tried to squeeze between them
24 and, quote, tell Jody it was okay, unquote. Bobby
25 said, quote, he had already called the law, so they

1 were on their way." They're not talking Bobby down.
2 They're talking Jody down.

3 And then even March of 2015 Brenda, she tried to
4 get between them. She was saying to Jody, "The police
5 have been called. Everything is okay." What did Bobby
6 tell you about his reaction? He didn't want to fight.
7 He'd be an idiot to fight. Are you crazy? In his
8 condition, do you think he's going to want to fight
9 Jamie and Jody? He's not crazy. He says, "I don't
10 want to fight. Leave me alone."

11 Now, of course, we hear, "Oh, I got something for
12 you, Boy." Well, let's see. Jamie must be a fisherman
13 because his story gets bigger and bigger and bigger,
14 and I think we heard that, what, a few months ago from
15 him. Why didn't he say it that whole first time. He
16 was standing right there? Because they didn't think
17 about it. They were nervous. They didn't want to pick
18 up the phone and call the sheriff's department and say,
19 "Oh, by the way, I got some critical information I need
20 to give you." All right.

21 So Bobby says Jody becomes physically aggressive.
22 He's bumping into him. He says, you know, he's pushing
23 against me, he's getting in my space now. Every one of
24 them say that. But they try to minimize it. How
25 realistic do you think it is that this man, who thinks

1 somebody has deliberately ran into his brand-new car
2 and who can't be talked down and who is in someone's
3 face, how do you really think that he says, "Will you
4 please step aside," and tapped him back like was
5 demonstrated in here. That's ridiculous. Everybody in
6 this courtroom knows that's not a reasonable amount of
7 force. It's not realistic.

8 Bobby tells you, "I was trying to get to my
9 truck." We know from the angle in the back of this
10 that there had to be a shot that was fired, and Jody
11 had to be somewhere in this plane, and the shooter had
12 to be back here, and we know Bobby's truck is this way.
13 So that matches up.

14 Bobby says, "He's going into me and he uppercuts
15 me." How do we know that's true? Ladies and
16 gentlemen, on the way back to his vehicle -- think
17 about it. If something terrible happens to you, and
18 you have got a good marriage -- he's been married
19 40-something years -- who's the first person you're
20 going to pick up? If it's not your mama, it's your
21 spouse probably. And that's who you're going to call.
22 And that's exactly what he did.

23 Now, Sheila comes up there. This is within one
24 minute. He's actually calling at the same time the 911
25 is being called. And what does he say to Sheila? He

1 tells her what happened. He was mouthing at him and he
2 shot. He talks to Billy within, what, six minutes was
3 it, I guess, and same thing.

4 Now, how do we know that he said that? Bobby
5 never got to talk to Sheila once she got up to the
6 scene. This isn't her word today telling you, "Oh,
7 yeah, that's what I said back then." The police
8 recorded her within five minutes or so of this
9 happening, and she was saying this is it. This wasn't
10 waiting to see medical evidence or waiting to hear
11 stuff. That was said that night. Billy came to the
12 scene. He's on the one end of the scene. They have
13 got it taped off. He's coming from this area, and
14 she's coming from the bottom and they're both saying
15 it.

16 You know, it's interesting to me. I don't even
17 want to tell you how many years I've been doing this,
18 but it's a lot of decades. And it's interesting to me
19 that people actually expect someone who is in what
20 they're perceiving as a fight for their life can
21 actually tell you everything that happened
22 step-by-step. It's crazy.

23 I will tell you this. If you get someone who can
24 come in and do that, they're lying because there's no
25 way when chaos breaks out, especially when it's dark,

1 not anybody can do that. This took, what, five,
2 ten seconds maybe altogether in the dark.

3 You know, we had stick figures up there standing
4 like this with rods through them. That's not how this
5 happens. People are twisting, they are running,
6 they're hitting, they're bending. That's what really
7 happens in real life.

8 Look at what Bobby was dealing with at that point.
9 He was dealing with it being very dark. He was dealing
10 with lots of different people, not just the three he
11 was dealing with. He's worried about other stuff, too.
12 He was dealing with listening to what they're saying.
13 It's a pretty crazy place. And I'm going to tell you
14 right now, he doesn't have any memory of this first
15 shot, but you and I both know he made the shot. He
16 knows that. There were two shell casings. Probably
17 what happened is he pulled out that pistol and shot
18 before he fell. That has to be what happened.
19 Because, otherwise, you would never get that angle.
20 But that would match up with everything that everybody
21 is saying where everybody was standing. Remember
22 Brenda testified if this is the vehicle, remember she
23 said that it was Jamie here, the house is back there,
24 it was Jody here, and she was here against the vehicle.
25 That was the order that they were standing in. That's

1 what she said. That would make sense. And she said he
2 was back here.

3 The bullet hole in the truck would go with that
4 because it's 49 inches up. It should have been 54 or
5 55, bending down a little bit. Exactly what he said.
6 He was being aggressive at that point. And we have
7 Brenda's testimony again about the position.

8 Now, the defense (sic) made a big issue about,
9 "Oh, what about the injuries?" He had a beard. He had
10 dentures. And inside, actually, on both sides were
11 hurting because it pinched. Where is our touch DNA?
12 Where is it? Why are we speculating? All you got to
13 do is shave that part of the beard. Sheila said within
14 five minutes of this he said he was hit in the jaw.
15 Right there at the scene. What on earth -- why would
16 you not shave that beard and send it in to DNA and say,
17 Okay. Let's compare. Is any of the touch DNA, the
18 skin cells, from this? Remember we heard it was going
19 to make this tremendous terrible thing. Why didn't you
20 do it? But my client didn't know that was a test. How
21 would he know? He's facing murder. And they don't do
22 a simple test that is done free down at SLED. Now they
23 want y'all to figure it out. They say, Well, you know,
24 we have some days waiting here when he comes in, he
25 doesn't write down that his mouth hurts. Do you think

1 he cares? He's got a hernia out to here, he's had
2 cancer, he's had all this stuff, he's been arrested for
3 murder, he's in jail, he's never been arrested before,
4 and you really think he's concerned about his mouth at
5 this point? And, besides, if it had happened the day
6 before, he would have put that down on his intake form.
7 Because he would have known it. But this is something
8 that kind of came up later. You're not thinking about
9 it when all of this happens. And there is a, surprise,
10 surprise, bureaucracy at the detention center. You
11 can't just go ask for the doctor. You got to go
12 through the nurse, you got to fill out forms, you got
13 to figure out how if you have never been in jail, you
14 have got to figure it all out because that's the way it
15 works at the detention center. And we know from the
16 clinical notes days later he still had swelling and
17 redness in his mouth.

18 All right. Why didn't Jamie and Brenda say that
19 there was a hit? Okay. Well, I think there are lots
20 of different reasons. Number one, they're biased.
21 Number two, they tried to minimize everything. I mean,
22 they got a nice tap on the chest when they're having
23 this huge argument. And, number three, it's dark.
24 This wasn't a punch like this (indicating). It's dark
25 outside. What's their angle? Do they even see? This

1 is this (indicating). So, I don't know. There are
2 lots of explanations, but sure if they saw him get
3 pummeled, I don't think they would say anything. They
4 had very, very, very changing stories. We went through
5 some of that with you the first day or two.

6 All right. So then Bobby tells you, "Next thing
7 that happens is I stumbled. I'm stumbling." What does
8 Brenda say in her initial statement the night that this
9 happens? She says, "Bobby stumbled back after Jody
10 pushed him." That's what she said that night.

11 Okay. So this brings us to the part that is
12 essential. So we have the back of the truck. We have
13 Brenda, we have Jody, and we have Jamie. And we have
14 our -- Bobby somewhere in here. Remember, it's a small
15 area. Let me show you this area again. This is
16 somebody standing, obviously, at the back of the truck
17 looking there. That's the angle, obviously, of who
18 took this picture. We're not talking about a big area
19 at all. It's very small, very, actually.

20 So, at this point, they're standing there at the
21 back. Bobby is stumbling, and what happens? We know
22 from Jamie and Brenda and Bobby that Jamie heads this
23 way. Jamie runs out this way to this side and runs
24 around. So he's out of it. He doesn't see anything at
25 that point, although later he does says from over here

1 he sees Bobby standing directly over him, shooting him
2 in the back in the ditch and there's no bullet
3 underneath him, and nothing goes with that, and Brenda
4 says that never happened and she was there, whatever.

5 Okay. Where does Brenda go? This is very
6 important. Brenda, remember Bobby has stumbled back
7 and is somewhere in the falling down. I don't even
8 know if he's down yet. She says she runs this way and
9 goes over here to the ditch. Obviously, she's first
10 because Jody is over here on this side. Jody has been
11 shot. Nobody knows that at that point. Remember,
12 Bobby had no idea if he had been shot, had no idea at
13 this point.

14 So she runs this way over to the ditch, according
15 to her. She says as she's going, she hears another
16 shot. Remember this is not a long distance at all.
17 And she says that then Jody comes this way. Ladies and
18 gentlemen, Bobby is on the ground right here. I don't
19 know if Jody was coming to him. I don't know. He
20 might have just been following Brenda. I don't know.
21 But everybody says that's what happened. Everybody
22 says that's where he goes. Bobby is down. He has no
23 idea he's going to run by him. He has no idea if he's
24 going to loop around. He has no idea about any of
25 that, given his threats. And he shoots.

1 Now, let's talk a little bit about this. Brenda
2 says she doesn't see him fall all the way. She sees
3 him stumble. Of course not. She's running. She's
4 already gone by. She doesn't see a thing. Jamie, of
5 course, you know, has a whole different scenario
6 including, "Let him die," at the end, which, again,
7 March of 2015 was the first time that was ever
8 mentioned. And then we have got Tonya Williamson.
9 Thank goodness the police took statements that night
10 because you heard, you know, "Oh, yeah, there was one
11 shot, and then I ran to the back of the house and this
12 happened and that happened."

13 Well, let's look at the 911 tape from that night.
14 "As soon as I walked in and turned back around to shut
15 the door, I heard -- heard a gun go off. I heard two
16 shots. I immediately called 911." Oh, and, "Ma'am,
17 why don't we hear that shot on the 911 tape?" "Oh,
18 it's because the kids were crying." Kids don't even
19 cry for the first half of that thing.

20 Okay. So how does Bobby act after the shots were
21 fired? Is he crazy? Is he hostile? Don't forget he's
22 armed with a big weapon. Remember the Williamsons are
23 the enemy and he's the enemy. So does he run from the
24 scene? No. Does he shoot anybody else? No. He gets
25 on the phone so he'll have someone who he can talk to

1 who's kind of monitoring things. He goes to his truck,
2 and given the fact that there were people pouring out
3 all over the place at this point, he reloads. He
4 doesn't hide his spent shell casing. He sits them
5 right there. He starts his car up just in case and he
6 stands right there. And then when the blue lights
7 comes down, very smartly, he puts the gun on the hood
8 of the car so he doesn't get shot. Does that sound
9 crazy? Does that sound wild or mean or vengeful? All
10 right.

11 So what happens when an officer gets there? Is he
12 still crazy? No, complies immediately. Take my GSR.
13 Take my picture. Swab my hands. Take my buccal swab
14 for DNA. Take my blood for toxicology. Did you ever
15 hear an officer say he was hard to deal with? No. He
16 complied with everything.

17 So, that takes us to Dr. Woodard. I want to talk
18 to you a little bit about Dr. Woodard. Wow. That was
19 stunning. And I'm going to talk to you about how the
20 other evidence completely contradicts and common sense
21 completely contradicts the State's expert witness.
22 Make no mistake about that. He testifies for the State
23 in cases. He is a State expert witness. The judge is
24 going to tell you, "You should consider any" -- and
25 this is the law that he'll be charging you. "You

1 should consider any expert opinion received in evidence
2 in this case, and like any other evidence, give it the
3 weight you think it deserves. If you decide that the
4 opinion of an expert witness is not based on sufficient
5 education or experience or if you conclude the reasons
6 given in support of the opinion are not sound, or that
7 the opinion is outweighed by other evidence, you may
8 disregard the opinion entirely. An expert witness'
9 testimony is to be given no greater weight than that of
10 any other witness simply because the witness is an
11 expert. Further, you're not required to accept an
12 expert's opinion even though it's not contradicted."

13 Okay. So how do we know that Dr. Woodard was
14 fully on the State's cord? Well, let's start with
15 this. "Yeah, I weigh him when I did the autopsy."
16 Now, he had no idea you had this picture. No idea. He
17 wasn't here. "Yeah, he's about my size." Uh-huh.
18 Yeah. He's about my size. Okay. That's how we start.

19 You think that's accurate testimony? Did you see
20 Dr. Woodard? Do you think that's fair testimony?
21 That's what he sat here and told you. I said, "Well
22 Dr. Woodard, did you weigh him?" "No." That's what
23 the State's expert said. What did you believe? He
24 still to this day probably has no idea you have seen
25 that picture. From May, by the way -- I mean 2013, by

1 the way, the same year this happened. That's what
2 their expert said.

3 What else does he say? He says, in his initial
4 statement with the prosecution, doesn't mention the
5 fact that he's got these -- he doesn't mention the fact
6 that bodies move, bodies bend, bodies run, bodies
7 pivot. Doesn't say a word of that until I get up. Oh,
8 and the other thing is, "Oh, yeah, because it's like
9 this," and he has no idea where this part of the arm
10 is, "it's defensive." Really? Because I thought if
11 you punched or if you went like this or if you jabbed,
12 I mean, he doesn't know the facts of this case. He did
13 the autopsy. And you're going to come in here and tell
14 a jury that's defensive when you don't even know where
15 this part of the arm is? Bam. Are you kidding?

16 Let's say it was defensive. Let's just say it
17 was. So what? If he had just pushed Bobby and hit him
18 and knocked Bobby back, who cares if he saw Bobby pull
19 a gun if he put his arm up in the dark. Who cares.
20 There's still a threat to Bobby. That doesn't
21 alleviate a threat to Bobby.

22 Okay. Where does he go next? And most of this is
23 just common sense, but also there are other experts who
24 contradict him, too. Distances. That was great. Oh,
25 yeah, yeah. "The distances, I can give you these

1 estimates of distances." When I got up, I said, Well,
2 wait a minute. Don't you have to have clothing? These
3 weren't contact or skin shots, right, because if it's a
4 skin shot, remember, you can tell from stippling.
5 Remember we heard about that cloud that comes out and
6 imbeds itself and you can kind of look at -- the
7 pattern I'm talking to you about on clothing that is
8 microscopic, you can see some of that on skin. "Oh,
9 well, yeah. You really do have to do tests on
10 clothing, yeah." "So to be accurate at all,
11 Dr. Woodard, on anything with these distances, we would
12 have had to test the clothes?" "Well, yeah, turns out
13 that's true too." Now, he wasn't going to mention that
14 to you either during his testimony.

15 And then the next thing. "Well, did he shoot his
16 butt in his face?" That was professional. That was
17 very professional for a pathologist. Only there is a
18 problem with that. And he's straddling him. Okay. Do
19 you remember their other expert, the ballistics expert?
20 Do you remember him when he talked about the angle in
21 the truck and how he said, Yes, he can show where a
22 shooter is and you can follow it back from this truck
23 because you just follow that plane of the two. You add
24 this entrance, this entrance hole, and remember how you
25 just saw the line and, of course, the shooter is back

1 in here. That's exactly what he said. Duh. You know,
2 I was in the Marine Corps many years ago, JAG. And we
3 all had to train, of course, in the Marine Corps, so I
4 shot about everything that's ever been shot. I have
5 never seen a bullet yet that doesn't go straight. They
6 don't go like this. And if somebody is on top of me,
7 that bullet is not going to go around and hit them in
8 the butt. And if they're facing me, it's not going to
9 go around and go this way.

10 Why wouldn't he ever mention to you -- remember
11 what the ballistics expert said. Look at the
12 trajectory. That's how it works. That's how a bullet
13 goes. They don't go around the moon get to the sun.
14 That's not what happens. That's ridiculous. And the
15 trajectory here is like this. Sorry. Other way.

16 Finally, he says that if you hit a fist against a
17 face, the fist -- now keep in mind it's this so your
18 head goes back. We're not slamming into a door or
19 wall. We're talking about this (indicating). What
20 does your head do if you're hit? He doesn't need to
21 know any of that. He never asked, you know, "Where was
22 he hit? How was he hit? Which part of the face?"
23 "No, no. You're always injured on the knuckles.
24 Always." Okay. He is a forensic pathologist. He
25 deals with dead bodies. He doesn't go see live fights

1 ever like police do. Two police officers said, No, no.
2 We do calls. We do domestic violence, and, yeah, you
3 can hit and get hit with a fist and not have any
4 injuries. But, again, it sure would have been nice to
5 have that touch DNA, wouldn't it? Oh, and the beard
6 would scratch. It would scratch. It's not stubble,
7 people. You don't have to put your common sense aside.
8 It's not stubble. It's a beard. It's a buffer.

9 And then, finally, the pelvis fracture. "Oh, he
10 couldn't run." Well, Doctor, would it interest you to
11 know that their witness Brenda said she was running
12 ahead and hears another shot and then he comes and he
13 falls into the ditch? "Oh, well. Well, yeah, yeah.
14 You could take a few steps."

15 Why? Why? Why is the prosecution doing this?
16 You remember when I asked Brenda about that taped
17 conversation at the hospital, and I said, Do you
18 remember the officer there right after this happened
19 before any investigation whatsoever said, "What this is
20 about at this point in time is building the evidence
21 toward prosecution." Nice to be investigated for
22 murder with that attitude, isn't it?

23 So they had an opportunity to get real physical
24 evidence. We asked them. We begged them, Please, send
25 this evidence to SLED. Get DNA. Get distance

1 determinations. These are tests that are done every
2 day. No, not going to do it. Instead they're going to
3 base their prosecution on biased witnesses who shape
4 and change their testimony as the wind blows. All
5 right.

6 So now let's go to the solicitation. All right.
7 So we go to solicitation, and Wolf comes in to tell
8 y'all about what's happened at the detention center.
9 Now, he's reliable. So if he told you he had a used
10 car that was reliable, would you get it checked out?
11 Probably. He has a nice little record. He served
12 20 years for armed robbery, grand larceny, forgeries.

13 Oh, by the way, "I know how the system works," he
14 says. We know that. Now, just so happens that Wolf is
15 facing some serious charges right now. And,
16 fortunately for him, the sheriff's department and this
17 solicitor's office are prosecuting them. So he knows
18 how the system works. He's facing 25 to life, no
19 parole, and he's facing sex offender registry,
20 electronic monitoring, a few other things that go along
21 with sex offenses, and he's not trying to get a deal?
22 Are you kidding me? He's not trying to curry favor?
23 Now, when he gets out, his relative is a constable who
24 apparently has a good relationship with the chief out
25 at the sheriff's department, and he's not trying to

1 curry favor? Ridiculous notion.

2 So, anyway, he says a bunch of stuff up there, and
3 finally I say, "Yeah, Roy, are you aware that all of
4 your conversations and all of your meetings were taped
5 and they have been transcribed?" He -- doesn't miss a
6 beat. It doesn't matter that he was caught in a lie.
7 "Oh, yeah, you're right," and switches over here. You
8 can't believe a word that man says.

9 So, anyway, Roy gets in the cell with Bobby.
10 Bobby has never been locked up in his life, never been
11 arrested. They spend 22 hours a day in this little
12 cell, and he is easy pickins. Easy pickins. So what
13 do they talk about? The case, the civil case, the
14 criminal case, et cetera. That's all they have to talk
15 about. They don't have anything in common.

16 And by the way, Larry Williamson, why is he on the
17 witness list? He wasn't even there that night. He is
18 not a witness. Did you see Larry Williamson? Did you
19 see him up here? Did he talk to you? No, he wasn't
20 even there. But he's in the hit list, too.

21 Anyway, Bobby goes to doctors appointments and
22 visits and other things, and he's got this huge stash
23 of stuff, and it doesn't take much to grab the stuff
24 out of there. Now, let's talk about the tape.
25 Remember that Roy tells inmate Sandoval to tell Bobby

1 to call him. So Bobby calls him. And he starts
2 talking about all this. This isn't anything new to
3 Bobby. This guy has been saying stuff like this. He's
4 not the most valid individual, if you can't tell that
5 from what you saw. So Bobby just kind of changes the
6 subject. He's not going to say anything. Why should
7 he confront? Then, though, this is important. You
8 have to have intent to commit the crime. Do you think
9 this kind of crime would not take planning, details,
10 money, all these other things? A tremendous amount.
11 He says, "Well, put me on the visitor list." He says,
12 "No." "Well, can we talk on the phone?" "No, I'm not
13 talking on the phone." "Will you write me?" "Never."
14 The sheriff's department is trying to tell you they may
15 have written. The sheriff's department runs the jail.
16 They monitor everything that goes out and everything
17 that comes in. That's ridiculous. So somehow this was
18 all going to get worked out in November of last year
19 and these people disappear for, what, eight, nine
20 months and it was all just going to happen? That's
21 ridiculous.

22 All right. So, that's it. Bobby is in your
23 hands. Murder, possession of a firearm during the
24 commission of a crime and solicitation. Ladies and
25 gentlemen, if you look at the evidence that is

1 reliable, don't put your common sense aside. Don't put
2 it aside. You know the deal with people like Roy
3 Lawrence. I mean, don't put your common sense aside.
4 You need to be looking at this evidence. You need to
5 be saying is this reasonable? Is that reasonable?
6 Does this fit? Does that fit? Have these people kept
7 the same testimony or have they switched all over the
8 place? This is is stuff why we have you here because
9 you're normal people who have been in the world.

10 And, ladies and gentlemen, at the conclusion of
11 this case, which is now, Bobby would like to ask you
12 for a verdict of not guilty because we can Monday
13 morning quarterback him all day long, but every piece
14 of evidence supports his testimony. Thank you.

15 THE COURT: Ms. Price.

16 MS. PRICE: Thank you, your Honor. May it please
17 the Court. Ms. White.

18 Ladies and gentlemen of the jury, I appreciate
19 your patience and attention as well. I promise to be
20 as brief as I can be. I promise to be as concise as I
21 can be, but as you're aware, this is important so I do
22 want to briefly go over some of the testimony that we
23 heard this week. There may be a little bit of overlap
24 on instruction on the law with what Ms. White told you,
25 so beg your indulgence on that. However, what

1 Ms. White just told you and what I'm about to tell you
2 is argument. It is not the law. What the judge is
3 going to tell you after we're both finished is the law.
4 That is what you're to use when you make your decision
5 when you begin your deliberations. So anything that
6 Ms. White just told you or anything that I'm about to
7 tell you differs in any way from what the judge tells
8 you, you have to go with what the judge is going to
9 tell you.

10 Now, you've heard a number of times and you'll
11 hear it again that this defendant comes into the
12 courtroom innocent. It's the State's burden of proof
13 to prove these charges beyond a reasonable doubt
14 against this defendant. Ladies and gentlemen of the
15 jury, the State embraces that burden. It's a
16 fundamental concept of American law, and we wouldn't
17 have it any other way. But I submit to you that we
18 have met that burden this week.

19 And, ladies and gentlemen of the jury, I also
20 would like to point out that every criminal charge from
21 seemingly the most insignificant charge of speeding to
22 the most serious crime of murder that you're looking at
23 today has the same burden. So if any jury has ever
24 convicted anyone of a crime, then the State has met
25 that burden. If it was an insurmountable burden, we

1 would never have any convictions.

2 So what's proof beyond a reasonable doubt? It's a
3 doubt that would cause a reasonably prudent person to
4 hesitate to act. It doesn't mean beyond all doubt. It
5 simply means that you're firmly convinced. There are
6 very few things in life we know with utmost certainty.

7 Now, ladies and gentlemen, in order to convict the
8 defendant, as Ms. White told you, it's the State's
9 burden to prove every element of the crime that he's
10 been charged with beyond a reasonable doubt. And as
11 Ms. White told you, and she's correct, it's the State's
12 burden to disprove self-defense in this case.

13 So let's begin with solicitation of a felony.
14 Ladies and gentlemen, a solicitation of a felony is the
15 defendant asking someone else to commit a felony on
16 their behalf. In this instance it was a kidnapping.
17 In fact, it was three.

18 Now, the request must be real. So the defendant
19 can't actually be joking about it. It has to be a
20 legitimate request to do this action. There has to be
21 some conduct that is in conjunction with the
22 invitation. So there has to be some kind of conduct on
23 the part of the defendant that solidifies that
24 invitation.

25 Now, it's not actually necessary that the crime be

1 committed. And it's not necessary to prove that any
2 payment was ever made to the individual who was
3 supposed to commit the crime. It's not also -- it's
4 also not required that we prove that the individual who
5 was asked ever intended to commit the crime. You heard
6 testimony from Roy Lawrence, Wolf, that Bobby Arflin
7 asked him first to kill and then to kidnap Brenda
8 Masters, Larry Williamson and James Madison. He
9 provided Roy with a map, and he provided him with a
10 list of those three names. The map showed the homes
11 that these individuals lived in and the surrounding
12 areas.

13 Roy testified that in exchange for kidnapping
14 those witnesses and keeping them a week prior to trial
15 so that we wouldn't be able to do what we've been doing
16 this week, he would get paid in property. He would get
17 paid in some acreage and a trailer. And you heard
18 testimony from Mr. Lawrence that the trailer was
19 particularly enticing to him because what he does for a
20 living is refurbish trailers for Clayton Homes.

21 Detective Gebing, after he was contacted by
22 Mr. Lawrence, confirmed the information he received
23 from Mr. Lawrence. He told you that the property
24 description was accurate. He told you that he
25 confirmed that the material that had been promised to

1 Mr. Lawrence was real. And he had the map and the list
2 of names tested for handwriting to make sure that it
3 was Mr. Arflin's handwriting. In fact, it is. Now
4 we're being told that potentially it was a stolen item,
5 so I believe that's not a contested issue that he wrote
6 these materials.

7 Ladies and gentlemen, also I want to clear up just
8 because the property couldn't be transferred in this
9 case doesn't mean that Mr. Arflin didn't make that
10 promise to Mr. Lawrence. Make no mistake about it,
11 when things like this happen, when crimes of this
12 nature are occurring, promises like this are made.
13 They're not done in any kind of formal contractual
14 setting. There's no obligation on either part of the
15 parties.

16 Now, you heard that Roy was asked how he would
17 have accomplished this. Ms. White asked him how he
18 would accomplish getting three three people. And if
19 you recall, on the stand, he looked ashamed for a
20 minute and then said, "I know how to deal with that"
21 and basically alluded to his past history. And he is.
22 You would go to Wolf. You would go to somebody with a
23 nickname Wolf if you wanted to kidnap some folks. You
24 would go to somebody with a prior record. You would go
25 to somebody who had become friendly with you, who had

1 already done favors for you and vice versa.

2 Now, Roy also told you he knows how the system
3 works. He doesn't expect anything in return for his
4 testimony. So why would he make something up like
5 this? If he says that and you believe it, and
6 certainly his credibility is up to you, but if you
7 believe his testimony that he hasn't been promised
8 anything in exchange for his testimony, why on earth if
9 he had been friendly with Mr. Arflin before would he
10 make something up like this? How much would you have
11 to detest someone? How much would you have to hate
12 someone to invent a crime like this and accuse them of
13 it? You didn't hear any testimony that there was any
14 ill will between these two people, and in fact, on the
15 phone call, they're very friendly. Immediately
16 Mr. Arflin's, you know, "How you doing, Buddy?" It's a
17 very friendly relationship.

18 Now, you heard Roy Lawrence's version of events
19 completely checks out with law enforcement. You heard
20 during that phone call them being very friendly to each
21 other. In no way was Mr. Arflin acting like he was
22 opposed to having this conversation with Mr. Lawrence.
23 At no point in time did he say, "I don't want to talk
24 to you anymore," click. In fact, he made that phone
25 call. And I asked him, "Were you required to make this

1 phone call?" Absolutely not. He called of his own
2 free will.

3 Straight out of his own mouth, Mr. Arflin
4 immediately acknowledges on that tape that he knows
5 what Roy Lawrence is referring to when he says two of
6 the three are there, and does he want him to wait or go
7 ahead. They even specifically talk about the
8 34-year-old. It's on the list. 34-year-old is on that
9 list. So if that was a stolen thing, what's he talking
10 about?

11 Mr. Arflin, I submit to you, that throughout that
12 conversation Mr. Arflin realizes that something is
13 afoot. I believe that throughout that conversation he
14 gets suspicion and starts to dial it back. But if this
15 were innocent talk, why would Mr. Arflin even be
16 engaging -- or why would Mr. Arflin not engage in the
17 conversation? Why would he say, "While we're on this
18 thing, we can't really talk about it right now. We
19 can't really talk about this. We're being recorded."

20 Now, Roy was supposed to get a letter in the mail.
21 I don't know if a letter was ever sent. I do know that
22 Roy gave him the wrong zip code. So it's potentially
23 out there, but I don't believe you need that letter.
24 You have a map, you have the list of names, and you
25 have a recorded phone call from this defendant to

1 Mr. Lawrence, and that satisfies the necessary element
2 of additional conduct.

3 Now, ladies and gentlemen, there are portions of
4 that recorded call where Wolf and Mr. Arflin talk over
5 each other. The call is in evidence. You can listen
6 to it again during your deliberations. And when you
7 do, I ask that you pay particular attention to those
8 portions.

9 It's the State's contention that the only reason
10 that Mr. Arflin would have tried to have these
11 witnesses kidnapped is because they were so damaging to
12 his self-defense case. And we argue that that's
13 additional evidence of malice.

14 I don't believe for one second, ladies and
15 gentlemen, that Mr. Arflin was threatened by Jody
16 Powell, but I absolutely do believe he felt threatened
17 by the testimony of Brenda Masters and the testimony of
18 James Madison. I also believe that Larry's potential
19 testimony about their prior encounter is the reason
20 that he was going to have Larry kidnapped. If Larry
21 wasn't a potential witness also because we have had a
22 lot of contradictions from the defense, if Larry wasn't
23 a potential witness as you just heard all of a sudden,
24 then why was he on the reminder note? Remember
25 Mr. Arflin testified, "Oh, no, no, no. That's my

1 reminder note." Well, we just heard, "Wait. Larry's
2 not important. We don't care about Larry." "No, no.
3 That's my reminder note of people who are important in
4 my case to talk about with my attorney." Which is it?

5 Now, I one hundred percent agree with Ms. White
6 that possession of a weapon during commission of a
7 violent crime is a very easy offense to sort of go
8 through. If you believe that a violent crime was
9 committed in this case, the murder, and if you believe
10 that the revolver was used, then you have found him
11 guilty of possession of a weapon during the commission
12 of a violent crime. He possessed a weapon. Murder is
13 a violent crime. It's very simple. That's all I'm
14 going to say about that.

15 Murder is another matter entirely. I do have a
16 little bit to say on the murder, as you might imagine.
17 Murder is the killing of another person with malice
18 aforethought either express or implied. So the key to
19 the crime is malice.

20 What do we mean by malice? Well, let's talk about
21 what it doesn't mean first. Malice aforethought does
22 not mean that the crime had to be planned ahead of
23 time. You don't have to have somebody in a castle, you
24 know, then go, "Ha, ha, ha," you know, thinking,
25 plotting away. In fact, it doesn't have to be thought

1 about at all ahead of time. The necessary malice for
2 murder in the state of South Carolina can be conceived
3 at the very instance of the assault, at that very
4 moment.

5 What is malice, then? Malice is a legal term, and
6 it means hatred or ill will. It can be also described
7 as the intentional wrongdoing -- or the intentional
8 doing of a wrongful act without just cause or excuse.
9 So as the jury, how do you determine that a person has
10 malice? It's a state of mind. So how can you be
11 expected to read someone's mind, you may ask.

12 Well, the law specifies, as I just said, that
13 malice can be either expressed or it can be implied.
14 What are those two things? Express malice is direct
15 evidence that the defendant had ill will or hatred
16 toward the victim. So in some situations, the
17 defendant may say something that would be what we would
18 consider express malice because it's expressed. Then
19 you have what's called implied malice. The law doesn't
20 require you to read a person's mind. You can infer
21 implied malice from surrounding circumstances. As the
22 jury, you can find that both express malice and implied
23 malice are present and use that in your consideration.

24 Now, ladies and gentlemen, I submit to you that
25 Mr. Arflin is guilty of murder because he killed

1 Mr. Powell with malice aforethought. You have both
2 evidence of express malice and implied malice in the
3 case before you. You have testimony from Jamie Madison
4 that Mr. Arflin was already at the back of Jody's truck
5 when he got outside and that he did not return to his
6 own vehicle at any point during this encounter. That
7 means that he had the gun on his person before anyone
8 even came out of the house. That is evidence of
9 planning. Which is evidence of malice aforethought.
10 He knew something that Brenda, Jody and Jamie didn't
11 know. He was armed.

12 I submit to you, ladies and gentlemen, in fact,
13 that he was itching to use that gun. He even says to
14 the 911 dispatcher when asked if anyone is hurt, "Not
15 at this time, no." And he says, as we talked about
16 multiple times, "You better hurry." Brent Simpson says
17 he finds that odd. And I find it odd. What did
18 Mr. Arflin know that nobody else knew? He knew that he
19 was about to blow over.

20 You heard testimony from Brenda that the wreck
21 looked deliberate. Perhaps Mr. Arflin was upset about
22 the parking. His attorney has said that he was
23 frustrated by that situation in times past. Whatever
24 his motivation, ladies and gentlemen, I submit to you
25 that the malice was already forming in his mind before

1 he even encountered Jody.

2 Once Jody and Mr. Arflin were face-to-face, you
3 have additional evidence of malice, both express and
4 implied. You have the exchange that there was
5 testimony about from the State's witnesses between
6 Mr. Arflin And Jody Powell. James Madison told you
7 that Jody Powell said, "I don't know you, but now I can
8 see you're heartless." He testified this defendant
9 said, "I'm not heartless, I'm ruthless." This man is
10 self-described as ruthless. That's evidence of malice.

11 Then when Jody pushes Mr. Arflin, you heard
12 testimony from Brenda Masters that there was a change
13 in Mr. Arflin. She said it was like something flipped
14 with him. Right? She described a physical change in
15 him. And at that point in time Mr. Arflin took this,
16 and, ladies and gentlemen, you will be able to review
17 the evidence with you when you have it in your jury
18 room. This is a heavy gun. I'd ask that you feel the
19 weight of this weapon. Ladies and gentlemen, this is
20 not something you can pull out easily or I certainly
21 couldn't. He pulled out this weapon and he -- and I'm
22 not going to point the weapon, but he says, "I've got
23 something for you, Boy."

24 So what do we know is express malice? Words.
25 Words qualify as express malice. Aforethought. How

1 long did it take him to do that, even if he did it
2 quickly? "I've got something for you, Boy." That's
3 time. That's time to think about what you're doing.
4 It's time to make that decision before a trigger is
5 pulled. The time is there for him to conceive of this
6 crime, for there to be malice. The words indicate that
7 he's got a message and he's about to send it. And then
8 he shoots. And Jody runs.

9 And what happens next? The State submits to you
10 that Mr. Arflin pursued Jody and shot him again from
11 behind. Everyone was running, but Mr. Arflin followed
12 Jody. He didn't follow Jamie. He followed Jody. Why?
13 He's driven. His malice is fueling him. He wants to
14 finish the job. And why is he angry? Where is this
15 malice coming from? I submit to you there are
16 contributing factors from earlier certainly, but ladies
17 and gentlemen, it's retaliation for touching him. It's
18 retaliation for the parking situation. And for who
19 knows what else. You heard his wife. Her statement
20 was, "Things just get on his nerves so bad sometimes."
21 So it's for whatever was getting on his nerves that
22 day. But I submit to you that when they testified that
23 there was a change in his demeanor after he was
24 touched, "I've got something for you, Boy," is
25 retaliation. How dare you touch me, Boy? You also

1 have testimony from James Madison after Jody is on the
2 ground, "Let him die." Words. Express malice.

3 Now, self-defense is an issue in this case, folks.
4 And when self-defense becomes an issue in a case like
5 this one, I have to prove to you that the killing
6 didn't happen in self-defense. Again, that's my
7 burden. We're not shirking it. We embrace it in this
8 case. And as Ms. White alluded, there has to be four
9 elements present for self-defense to apply. But I want
10 to make it very clear all four elements have to be
11 present for self-defense to apply. If you don't have
12 one, then self-defense isn't here.

13 So, what are the four elements? And, again, this
14 is important, so even though they were talked about by
15 Ms. White, I'm going to go through them with you, so
16 beg your indulgence.

17 First, the defendant must be without fault in
18 bringing on the difficulty. Second, the defendant was
19 actually in imminent danger of serious bodily harm or
20 death or believed that he was. Third, a reasonably
21 prudent person of ordinary firmness and courage in like
22 or similar circumstances would also have struck the
23 final blow in order to save themselves from the danger.
24 And, finally, the defendant had no other probable means
25 of avoiding the danger. All four have to be there for

1 self-defense to apply.

2 Let's look at each of them. The defendant must be
3 without fault in bringing on the difficulty.

4 Mr. Arflin set this whole thing in motion. His actions
5 are what started this exchange in the first place. You
6 heard there was ample room on the road for him to pass.
7 He had been driving down this road for decades. We
8 keep hearing, "Oh, it was dark. It was wet. It was
9 dark and wet." This is where he lived for 40 years.
10 And any weather condition imaginable under any lighting
11 circumstances, I would expect if I had lived on a
12 street for 40 years I'd know it fairly well.

13 Mr. Arflin barreled through and clipped Jody's car.
14 That was his decision. He told you he made that
15 decision. He was conscious of that decision.

16 And then what did he do? He drew Jody Powell out
17 to him. You can hear it on the 911 call. You can hear
18 him tell Jamie, "Tell him to come outside." He got out
19 of his truck with an enormous gun. He got in Jody's
20 face. So how, folks, can it be said that he was
21 without fault in bringing on the difficulty when his
22 actions are the genesis of this entire incident?

23 Second element, the defendant was actually in
24 imminent danger of death or serious bodily injury or
25 believed that he was. Jody and Mr. Arflin were

1 exchanging words. Of course Jody was agitated. I
2 absolutely think that there was some heated words. He
3 had a brand-new truck. If somebody hit a car and it
4 was brand-new, you might be a little heated or
5 agitated, certainly. But what Jody couldn't understand
6 is why it had been thrown in reverse and backed into.
7 There is a history of parking issues. There is a
8 history of problems. Perhaps it was the point of
9 frustration that this defendant had reached that day,
10 was tired of it. He didn't want to deal with it
11 anymore. And after that, he was so mad he threw it in
12 reverse. It's up to you to decide. You're the triers
13 of fact.

14 But if you've already struck an object and you
15 stop, why would you reverse back into it? Why wouldn't
16 you pull over to the side of the road, ladies and
17 gentlemen? He says, "Oh, I didn't have a side mirror.
18 I didn't have a rearview mirror." But you could see
19 forward. There's nothing stopping you from pulling
20 forward at that moment.

21 So he drew Jody out of house. They're exchanging
22 words. And Mr. Arflin, according to witness
23 testimony -- and, again, it's up to you to decide
24 whether it's credible or not -- was in Jody's face. So
25 Jody pushed him out of his face.

1 The testimony you heard from Ms. Masters and the
2 testimony you saw from Jamie was that it was not a lot
3 of force used, that it was, "Get out of my personal
4 space." Again, it's up to you to determine if that's
5 accurate or not. But he pushed him back. Now, if
6 Mr. Arflin believed that he was actually in danger, why
7 would he have brought people out of the house? Why
8 would he have summoned anyone from the inside of the
9 house if he was concerned? He had called the police.
10 Lock your car door. Wait. Why bring people to you?
11 Why would you be at the back of this individual's
12 truck, walking toward them?

13 Ladies and gentlemen, he wasn't afraid of serious
14 bodily injury or death. He was the aggressor. Sure,
15 as it was testified, he was on blood thinners and he
16 had medical issues. Does a medical issue give an
17 individual a license to kill? I certainly hope not.
18 Does having cancer mean that you can pull a gun and
19 shoot whoever you feel like any day of the week? I
20 should say not. And if the medical condition is so
21 sensitive and you had just been in a wreck, if the
22 threat of bleeding is so intense, when you're asking if
23 anyone is hurt, would you not give more information to
24 the dispatcher? You'd want to get yourself checked out
25 if your situation is so precarious, wouldn't you?

1 Now, you heard, despite what Ms. White said,
2 testimony that Mr. Arflin was larger than Jody. His
3 clothing sizes are all bigger. He has at least two
4 inches in additional height. He was substantially
5 heavier than Mr. Powell. He had the size advantage.
6 Now, he also had the advantage of being armed, which is
7 a real advantage.

8 Mr. Arflin wasn't scared. Mr. Arflin didn't
9 believe he was in danger. Mr. Arflin was retaliating
10 with this comment, "I've got something for you, Boy."
11 How dare the boy touch him. How dare these people park
12 in the roadway. If he was afraid of Jamie, Jamie is a
13 factor, why didn't you shoot him, too? Didn't shoot
14 Jamie. Chased the man that touched him. Didn't
15 neutralize the threats.

16 And why not shoot Brenda? She's right there.
17 Because he was taking out his frustration on that
18 person who dared to touch him. And you have evidence
19 from the booking material that he has mood issues.
20 That's for what it's worth. And the words of Jamie
21 that night, "He shot him for nothing." So who was
22 scared, Mr. Arflin or Brenda? I agree with Ms. White
23 Brenda was scared. Brenda was scared of Mr. Arflin.
24 Who's scared of who? She ran inside and told everyone
25 to stay put. He's pulling people out of the house.

1 She's going, "Oh, no. This is a situation." If
2 someone was afraid, it wasn't Mr. Arflin.

3 Now, in order for you to believe that there was
4 self-defense, you would have to have, again, all four
5 elements, and the third element is a reasonably prudent
6 person of ordinary firmness and courage would have
7 entertained the same belief and would have struck the
8 fatal blow to save his own life. Has to be reasonable.
9 Right? Is it? Would a reasonable person believe they
10 could get in someone's face, and when that person says,
11 "Excuse me," pushes them without much pressure out of
12 their personal space, that, "Oh, it's reasonable.
13 Well, I have no choice but to shoot to kill." Whoa.
14 You have a gun. They don't. You can't take the gun
15 out and say, "You better back away"? No. Boom. Shot
16 not once, but twice. As the person is running away
17 from you towards their house, fleeing. Is that
18 reasonable?

19 Defendant had no other probable means of avoiding
20 the danger. This is the fourth element of
21 self-defense. Mr. Arflin had a lot of options. He
22 could have stayed inside and locked the doors in the
23 car. He could have waited for the police. He could
24 have driven home. He was close. He could have called
25 the police again and told them to meet him there for

1 safety reasons. That's reasonable behavior. He had a
2 phone. You know he had a phone. It was on his person.
3 He had already called for help. If he felt threatened,
4 the rational, reasonable thing to do would be to say,
5 "I'm leaving this area. Please come meet me at X
6 location." He had probable means of avoiding the
7 danger.

8 He had an opportunity to call other people as
9 well. He called Sheila and Billy right after this. He
10 could have called them then. He could have called his
11 big brother and said, "Billy, can you come on over
12 here?" He could have called for additional help.
13 Could have done a lot of things other than shoot to
14 kill.

15 Mr. Arflin didn't shoot Jody once. He shot him
16 twice. You heard testimony that Jody ran towards the
17 house to his left, that Brenda also ran, turned to the
18 left and that Jamie turned to the right. At that
19 point, certainly if there had been any threat, which I
20 don't believe there was, even if there was a
21 misperceived threat, that was neutralized. Boom.
22 First shot. Scattered. Threat neutralized, if there
23 was one. I submit there wasn't. But let's say there
24 was. Let's give him the benefit. I'm a generous
25 person. Threat neutralized. Whoa. What's the second

1 shot? At that time if Mr. Arflin had been afraid for
2 his life, genuinely afraid for his life, he would have
3 high-tailed it the other direction. That's not what he
4 did. He didn't run. He followed. He pursued. He was
5 the aggressor. He chased Jody Powell and he shot him
6 while he was fleeing. The fatal blow wasn't struck to
7 save this man from harm. Under any circumstance.

8 Under any -- any of the scenarios that you've seen.

9 Dr. Woodard told you the second shot was the fatal
10 blow, didn't he, ladies and gentlemen, right? So the
11 first shot, under any scenario, I submit again is
12 unjustified, but the second shot, fatal blow, is struck
13 to prove a point. The threat had been neutralized if
14 there ever was one, and I believe there wasn't, but
15 that second shot was unnecessary pursuit and kill.

16 Mr. Arflin never retreated or tried to avoid this
17 situation in any way the entire time. You have heard
18 no testimony about that whatsoever. He was advancing
19 the entire time, whereas Jody retreated as soon as he
20 saw the gun. How could there be any justification for
21 the second shot? A ruthless man is the kind of man who
22 would shoot someone twice without flinching, who would
23 say, "I've got something for you, Boy," and would
24 snatch a life in its prime.

25 And, by the way, this photograph is a photo of a

1 man who's taking care of himself because he wants to
2 live. Someone who's running, who's exercising. He
3 wanted to live, and someone took that from him. A
4 ruthless man is the kind of man who would callously
5 stand over a man as his girlfriend sobs and tries
6 desperately to save him. That's the very definition of
7 ruthlessness, showing no pity, showing no compassion,
8 then coldly and without any emotion moving his car and
9 reloading his gun. Propping his elbow up to wait.
10 Boy, that is ruthless, I agree with this defendant.

11 You heard Brenda and Jamie and Tonya describe this
12 man's demeanor. Who was scared for their lives? He
13 wasn't upset. He didn't show emotion. Ladies and
14 gentlemen, Jody Powell was retreating. He was running
15 away. So were Brenda and Jamie. And you heard
16 testimony from Dr. Woodard, and unlike Ms. White, I
17 believe that this evidence is valuable and corroborates
18 the testimony that you heard this week. Dr. Woodard
19 talked about how the first shot he examined would be
20 consistent with a turn to the left and with a raising
21 of the arms. Matches up exactly. He talked about how
22 the second shot he examined would be consistent with
23 someone falling and being lower to the ground. I
24 showed him a picture of the ditch where Jamie testified
25 he saw Jody when the second shot occurred. He

1 corroborated the positioning of the body would be
2 consistent with his finding.

3 Ms. White said physical evidence doesn't lie.
4 Well, all of the physical evidence in this case
5 supports the State's version of events. So if it
6 doesn't lie, then who's telling the truth? How can it
7 be possible that Jamie and Brenda could come up with
8 the exact same story which matches the forensics in
9 this case when they were separated from each other
10 almost immediately after the shooting. They didn't
11 have time to concoct an alternate version of the facts.
12 They have been telling the same story since that night.
13 They didn't have an opportunity to conspire with each
14 other because, quite frankly, they were trying to save
15 Jody Powell's life. Law enforcement got there while
16 they were still working on the body. Brenda went to
17 the hospital. Jamie stayed. Jamie gave a statement to
18 the police that night. At the scene. Brenda was
19 already at the hospital where she gave her statement.
20 There's no conspiracy here, people. There's only
21 grief.

22 Who had time to concoct a version of events?
23 Mr. Arflin had time to try to concoct a version of
24 events in this case. Dr. Woodard told you that there's
25 no way that the first shot occurred in an upward angle.

1 He also told you that there were no signs of bruising
2 or other evidence that Jody Powell had struck any sort
3 of blow the night of this incident. He told you that
4 if Mr. Arflin had been on blood thinners and had
5 received a blow, there would be evidence of bruising to
6 Mr. Arflin's jaw. And he told you that any bleeding
7 gums were reported as beginning before this incident
8 even took place, and I corroborated that with
9 Mr. Arflin himself. You heard he was prescribed
10 antibiotics. Antibiotics are for infection, not
11 trauma.

12 Dr. Woodard also told you that for Mr. Arflin to
13 have been under attack when the second shot occurred,
14 Jody Powell would have been coming at him butt first.
15 Unprofessional, maybe. Accurate, yes. None of what
16 Mr. Arflin has tried to tell you has made any sense or
17 has matched anything that was found at the scene. Why
18 would you then concoct a story like this? Why would
19 you kidnap the witnesses? You do it because you want
20 to cover up the truth. And you heard a witness -- and
21 I'm sorry, I can't remember which one -- refer to the
22 weapon as a Wild West-style gun. Anderson County isn't
23 the Wild West. You can't shoot someone down like a dog
24 in the middle of the highway.

25 The defense has been talking about initial

1 statements and how they're the most accurate because
2 they're contemporaneous with the event. The medical
3 records of the defendant have no mention of injury to
4 the mouth or jaw nor do the booking records.

5 Mr. Arflin was asked on at least two occasions almost
6 immediately after this event if anything had happened
7 to that area of his body. You can see that in the
8 records. He said no, and, yet, he had allegedly just
9 been assaulted and that's why he allegedly had no
10 choice but to shoot to kill somebody.

11 Listen to the most contemporaneous statements of
12 the event, those that are on the 911 call made by Tonya
13 when Jamie gets on the phone. Jamie says
14 contemporaneous with this event, Jamie says, "Yes,
15 ma'am. He shot. He shot him the first time and then
16 he -- and Jody took off running and fell and he shot at
17 him again." He also says, "He -- he run into the side
18 of his truck and then Jody confront -- Jody confronted
19 him about it, and he just pulled out a gun and shot
20 him." Contemporaneous with this event.

21 It's possible that this wreck was an accident.
22 What wasn't an accident was this defendant pulling out
23 a gun and shooting someone twice. What was intentional
24 was the ending of Jody Powell's life. That was a
25 decision made by this man, a decision full of malice

1 and hatred. The last words Jody said were, "Oh, my
2 God, I'm going to die." You heard that. Dr. Woodard
3 testified that Jody Powell would have enough time to
4 register what was happening to his body, to understand
5 that he was going to die because he had been shot after
6 a minor traffic incident. Jody Powell knew he was
7 going to die. What do you know? You're the deciders
8 of fact. What do you know now? What do you, as the
9 jury, believe now that you've seen all the testimony
10 and the evidence in this case? Focus on what you know
11 as you deliberate. Focus on what you saw this week.

12 Now, defense has tried to distract you from the
13 real evidence that's in front of you. To talk about
14 additional testing is smoke and mirrors. Keep your eye
15 on what's actually been put before you, and I believe
16 that you'll find we have proven every element of each
17 crime the defendant was charged with. And I submit to
18 you, ladies and gentlemen, that we've proven all these
19 charges beyond a reasonable doubt.

20 You've heard the term "Monday morning
21 quarterbacking" how many times throughout this case?
22 Too many, I wager. But I'm going to stick with the
23 football analogy. This is a Hail Mary pass by the
24 defense. We live in a country that's built on ideals
25 of fairness and justice. What happened on Williamson

1 Drive the night of December, 11, 2013, was not justice.
2 Mr. Arflin lost a side mirror. Jody Powell lost his
3 life. There was no justice that day. But you can make
4 sure that there's justice today. I submit to you we've
5 proven this case beyond a reasonable doubt and I ask
6 that you bring back the verdict that justice deserves,
7 a verdict of guilty. Thank you for your time and your
8 attention, ladies and gentlemen.

9 THE COURT: All right. Ladies and gentlemen, the
10 next phase will be the Court's instructions to you on
11 the law. This will be somewhat lengthy, so we're going
12 to take a short break. You have been sitting now for
13 an hour and a half. We're going to take about ten
14 minutes and give you a chance to stretch your legs,
15 then we'll do the instruction on the law.

16 So, Mr. Bailiff, if you will take the jury out.
17 (WHEREUPON, the jury exited open court at
18 3:29 p.m.)

19 THE COURT: Ladies, before we break, I want you to
20 review the verdict form I have prepared. It's a simple
21 format. I want you to look at it.

22 THE COURT: All right. Has each side been able to
23 review the verdict form as prepared by my law clerk?

24 MS. PRICE: Yes, sir, your Honor.

25 THE COURT: Any objection from the State?

1 MS. PRICE: Not from the State.

2 THE COURT: Any from the defense?

3 MS. WHITE: None as long as you're sending the
4 indictments back.

5 THE COURT: I intend to send the indictments back
6 since they have to be conformed by the foreman of the
7 jury.

8 Anything from the State before I bring the jury
9 back?

10 MS. PRICE: Nothing from the State.

11 THE COURT: Anything for the defense?

12 MS. WHITE: No, sir.

13 THE COURT: Mr. Bailiff, bring our jury back,
14 please.

15 (WHEREUPON, the jury entered open court at
16 3:50 p.m.)

17 THE COURT: All right. Ladies and gentlemen, we
18 have come to the point in the trial where I instruct
19 you on the law. My instructions will be somewhat
20 lengthy. They will be in three parts. First, the
21 instructions that govern your general rules that define
22 and control the jury's duties. Secondly, the
23 instructions that state the rules of law that you must
24 apply, what the State must prove to prove its case.
25 Third, there will be some rules for your deliberations.

1 The general rules begin with your duties as
2 jurors. It is your duty to find the facts from all the
3 evidence in the case. To those facts you must apply
4 the law as I give it to you. You shall not be
5 concerned with what the law should be but what it is,
6 and you must not be influenced by any personal likes or
7 dislikes, opinions, prejudices or undue sympathy. That
8 means you must decide the case solely on the evidence
9 before you in accordance with the law, the very thing
10 that you took an oath to do at the beginning of the
11 trial.

12 It is your responsibility and yours alone to
13 determine the facts of this case. I would, therefore,
14 charge you that if during the course of this trial or
15 during this charge you have been given or left with the
16 impression or feeling that I have a personal feeling
17 about the facts of the case or that I favor one side or
18 the other, I would specifically instruct you to
19 disregard that impression. Under our Constitution I am
20 not allowed to have an opinion about the facts of the
21 case. You should not be influenced by any objections
22 or the Court's ruling on them. You and you alone are
23 the judges of the facts. You determine the facts by
24 evaluating or weighing the evidence that you have heard
25 during the trial.

1 The evidence is defined as the sworn testimony
2 from witnesses and any exhibits that have been entered
3 into evidence. The statements by the attorneys are not
4 evidence. What they have said in opening statements,
5 closing arguments and at other times is intended to
6 help you interpret the evidence, but it is not
7 evidence.

8 There are two types of evidence which are
9 generally presented during a trial: Direct evidence
10 and circumstantial evidence. Direct evidence directly
11 proves the existence of a fact and does not require
12 deduction. Circumstantial evidence is proof of a chain
13 of facts and circumstances indicating the existence of
14 a fact. Crimes may be proven by circumstantial
15 evidence. The law makes no distinction between the
16 weight or value to be given to either direct or
17 circumstantial evidence. However, to the extent the
18 State relies on circumstantial evidence, all the
19 circumstances must be consistent with each other, and
20 when taken together, point conclusively to the guilt of
21 the accused beyond a reasonable doubt. If the
22 circumstances merely portray the defendant's behavior
23 as suspicious, the proof has failed.

24 The State has the burden of proving the defendant
25 guilty beyond a reasonable doubt. The burden rests

1 with the State regardless of whether the State relies
2 on direct evidence, circumstantial evidence or some
3 combination of the two. As judges of the facts, you
4 are the sole judges of the credibility, that is the
5 believability, of the witnesses who have testified in
6 this case.

7 In determining their credibility, you may take
8 into consideration many things such as the appearance
9 and manner of the witness on the stand sometimes
10 referred to as the demeanor of the witness, was the
11 witness able to see, hear or know the things about
12 which the witness testified, how well was the witness
13 able to recall and describe those things, did the
14 witness have a cause or reason to be biased and
15 prejudiced in favor of the testimony he or she gave,
16 how reasonable was the witness' testimony considered in
17 light of all the evidence in the case, was the witness'
18 testimony contradicted by what the witness had said or
19 done at another time or by the testimony of other
20 witnesses or by other evidence? These are just some of
21 the factors you may consider in deciding whether to
22 believe testimony.

23 As jurors, you have a right to believe all of the
24 testimony of a witness or none of the testimony of a
25 witness. You have a right to believe a portion of the

1 testimony of a witness and discard the rest. You may
2 believe the testimony of one witness over the many or
3 the many over the one. Most certainly you do not
4 determine the matter of credibility or believability by
5 counting up the number of witnesses who may have
6 testified on behalf of the parties in this case. Your
7 sole objective is to find the truth. It does not
8 matter whether the truth comes from a witness from the
9 State or a witness for the defendant.

10 The rules of evidence ordinarily do not permit
11 witnesses to testify to opinions or conclusions. An
12 exception to this rule exists for witnesses we call
13 expert witnesses. A witness who, by education and
14 experience, has become expert in some art, science,
15 profession or calling may state an opinion as to
16 relevant and material matter in which the witness
17 claims to be an expert and may also state the reasons
18 for the opinion. You should consider any expert
19 opinion received in evidence in this case, and like any
20 other evidence, give it the weight you think it
21 deserves.

22 If you decide that the opinion of an expert
23 witness is not based on sufficient education and
24 experience, or if you conclude that the reasons given
25 in support of the opinion are not sound or that the

1 opinion is outweighed by other evidence, you may
2 disregard the opinion entirely. An expert witness'
3 testimony is to be given no greater weight than that of
4 other witnesses simply because the witness is an
5 expert. Further, you are not required to accept an
6 expert opinion even though it is not contradicted.

7 A statement alleged to have been made by the
8 defendant has been admitted into evidence in this case.
9 While the Court has determined that the statement is
10 admissible, I instruct you that you make the ultimate
11 decision of whether or not the defendant made the
12 statement.

13 If the defendant did make the statement, you must
14 determine whether the statement was made by the
15 defendant voluntarily and of his own free will. This
16 means that the statement was not caused by pressure,
17 force, fear, threats, coercion or intimidation or by
18 hope or promise of leniency or a reward of any kind.

19 In determining whether the statement was
20 voluntary, you should consider both the characteristics
21 of the defendant and the details of the questioning.
22 Some of the factors you must consider are: The age of
23 the defendant, the defendant's education or lack of
24 education, the defendant's mental ability or capacity,
25 the defendant's IQ or intelligence, the defendant's

1 background and environment, the place and length of
2 detention, the nature of the questioning and the advice
3 or lack thereof to the defendant of his constitutional
4 rights including but not limited to the right to remain
5 silent, that any statement could be used against him in
6 a court of law, the right to have a lawyer present,
7 that if he could not afford a lawyer, a lawyer would be
8 appointed to represent him without any cost and that he
9 could stop making a statement at any time. You must
10 carefully consider all of the surrounding circumstances
11 before you give any weight to an alleged statement.

12 The State has the burden of proving beyond a
13 reasonable doubt that the alleged statement was
14 voluntary. If you determine it was, you may give the
15 statement any further consideration that you deem
16 proper. You must decide what weight, if any, should be
17 given to the alleged statement. If you determine the
18 alleged statement was not free and voluntary, you
19 should not consider the statement at all.

20 The defendant has pled not guilty to these
21 indictments, and that plea puts the burden on the State
22 to prove the defendant guilty. A person charged with
23 committing a criminal offense is never required to
24 prove himself innocent. I charge you that it is an
25 important rule of the law that a defendant in a

1 criminal trial, no matter what the seriousness of the
2 charge may be, will always be presumed innocent of the
3 crime for which the indictment was issued unless guilt
4 has been proven by evidence satisfying you of that
5 guilt beyond a reasonable doubt.

6 The presumption of innocence does not end when you
7 begin your deliberations, but it accompanies the
8 defendant throughout the trial until you reach a
9 verdict of guilt based on evidence satisfying you of
10 that guilt beyond a reasonable doubt. The presumption
11 of innocence is like a robe of righteousness placed
12 about the shoulders of the defendant which remains with
13 the defendant until it is stripped from the defendant
14 by evidence satisfying you of the defendant's guilt
15 beyond a reasonable doubt.

16 The presumption of innocence is not mere legal
17 theory. It is not just a legal phrase. It is a
18 substantial right to which every defendant is entitled
19 unless you, the jury, are satisfied from the evidence
20 of the defendant's guilt beyond a reasonable doubt.

21 What is a reasonable doubt under the law? A
22 reasonable doubt is the kind of doubt that would cause
23 a reasonable person to hesitate to act. Some of you
24 may have served as jurors in civil cases where you were
25 told that it is only necessary to prove that a fact is

1 more likely true than not true, such as by the greater
2 weight or preponderance of the evidence. In criminal
3 cases, the State's proof must be more powerful than
4 that. It must be beyond a reasonable doubt.

5 Proof beyond a reasonable doubt is proof that
6 leaves you firmly convinced of the defendant's guilt.
7 There are very few things in this world that we know
8 with absolute certainty. In criminal cases the law
9 does not require proof that overcomes every possible
10 doubt. If, based on your consideration of the
11 evidence, you are firmly convinced that the defendant
12 is guilty of the crime charged, then you must find the
13 defendant guilty. If, on the other hand, you think
14 there is a real possibility that the defendant is not
15 guilty, you must give the defendant the benefit of the
16 doubt and find him not guilty.

17 A reasonable doubt may arise from the evidence or
18 from a lack of evidence. The defendant is entitled to
19 every reasonable doubt that may arise in the case. If,
20 upon any issue of fact essential to a conviction and a
21 verdict of guilty of an offense, if you have any
22 reasonable doubt as to how that issue should be
23 resolved, it is your duty to resolve that doubt in
24 favor of the defendant. Suspicion, however strong, is
25 not enough to sustain a conviction. The evidence

1 presented by the State must be substantial evidence
2 that tends to prove the guilt of the defendant beyond a
3 reasonable doubt.

4 In order to establish criminal liability, criminal
5 intent is required. For example, the mental state
6 required to be proven by the state for a particular
7 crime might be purpose, intent, knowledge, recklessness
8 or criminal negligence. Criminal intent must be proven
9 by the State beyond a reasonable doubt. Criminal
10 intent is always a matter that must be determined by
11 the jury from the circumstances surrounding the
12 situation.

13 There's no way to prove intent to a mathematical
14 certainty. There's no way medical science can dissect
15 a person's brain and determine what the person had in
16 mind, so the law says that criminal intent may be
17 inferred from the circumstances shown to have existed.
18 This is how you make a determination of whether or not
19 the element requiring intent was present. It is not
20 necessary to establish intent by direct and positive
21 evidence, but intent may be established by inference in
22 the same way as any other fact, by taking into
23 consideration the acts of the parties and all the facts
24 and circumstances of the case.

25 Criminal intent is a mental state, a conscious

1 wrongdoing. It is up to you to determine what the
2 defendant intended to do based on the circumstances
3 shown to have existed. Criminal intent can arise from
4 action or a failure to act. It may arise from
5 negligence, recklessness, or an indifference to duty or
6 to consequences that is considered by law to be the
7 equivalent of criminal intent.

8 The indictments charge the defendant with murder,
9 possession of a weapon during the commission of a
10 violent crime, and solicitation of a felony. I remind
11 you that that the fact that the defendant was arrested,
12 charged and indicted in this case is not evidence in
13 this case and cannot be considered by you as evidence
14 of guilt in this case, nor does it create any
15 presumption or inference of guilt. The indictment is
16 simply the formal written instrument which contains the
17 charge made against the defendant. It is the formal
18 document by which the case is brought to court.

19 The indictment in this case alleges several
20 different offenses against the defendant as stated:
21 Murder, possession of a weapon during the commission of
22 a violent crime, and three charges of solicitation to
23 commit a felony, kidnapping. Each indictment charges a
24 separate and distinct offense. You must decide each
25 indictment separately on the evidence and the law

1 applicable to it uninfluenced by your decision to any
2 other indictment. The defendant may be convicted or
3 acquitted on any or all of the offenses charged with
4 the exception of a possession of a weapon during the
5 commission of a violent claim charge. You must find
6 the defendant guilty of murder before you could find
7 him guilty of possession of a weapon during the
8 commission of a violent crime.

9 You will be asked to write a separate verdict of
10 guilty or not guilty for each indictment on the verdict
11 form, which I'm going to go over with you in just a
12 minute.

13 The defendant is charged with murder. The State
14 must prove beyond a reasonable doubt that the defendant
15 killed another person with malice aforethought. Malice
16 is hatred, ill will or hostility toward another person.
17 It is the intentional doing of a wrongful act without
18 just cause or excuse and with an intent to inflict an
19 injury or under circumstances that the law will infer
20 as evil intent.

21 Malice aforethought does not require that malice
22 exist for any particular time before the act is
23 committed, but malice must exist in the mind of the
24 defendant just before and at the time of the act that
25 he's committed. Therefore, there must be a combination

1 of previous evil intent and the act.

2 Malice aforethought may be express or inferred.
3 The terms "express" and "inferred" do not mean
4 different kinds of malice but merely the manner in
5 which malice may be shown to exist, that is, either by
6 direct evidence or by inference from facts and
7 circumstances which are proved.

8 Express malice is shown when a person speaks words
9 which express hatred or ill will for another or when
10 the person prepared beforehand to do the act which was
11 later accomplished. For example, lying in wait for a
12 person or any other acts of preparation going to show
13 that the deed was within the defendant's mind would
14 express -- would be express malice. Malice may be
15 inferred from conduct showing a total -- malice may be
16 inferred from conduct showing a total disregard for
17 human life.

18 The defendant is charged with solicitation to
19 commit kidnapping. The State must prove beyond a
20 reasonable doubt that the defendant asked, enticed,
21 advised, invited, ordered, counseled, persuaded or
22 otherwise encouraged another person to commit the
23 kidnapping. It must be shown that the defendant
24 intended that the other person committed the
25 kidnapping.

1 In order to prove solicitation, it is not
2 necessary that the State prove that money was actually
3 paid by the defendant, that the person asked to commit
4 the crime actually intended to carry out the crime,
5 that the person asked to commit the crime agreed to do
6 so, or that the crime was ever committed. Solicitation
7 requires only that the defendant had the intent to have
8 someone else commit the crime and that the defendant do
9 an act which is a step toward the commission of that
10 crime. This step may be any conduct such as giving the
11 other person the means to commit the crime or words
12 which communicate to another person the idea to commit
13 the crime. Intent means a purpose or aim or the state
14 of a person's mind which directs the person's actions
15 toward a specific object.

16 The defendant is charged with possession of a
17 weapon during the commission of or attempt to commit a
18 violent crime. The State must prove beyond a
19 reasonable doubt that the defendant was in possession
20 of a firearm or visibly displayed what to be a firearm
21 during the commission of a violent crime. A firearm
22 means any machine gun, automatic rifle, revolver,
23 pistol or any weapon which will, is designed to, or may
24 be readily converted to expel a projectile.

25 In order to find the defendant guilty of

1 possession of a weapon during the commission of a
2 violent crime, you must first find the defendant guilty
3 of either committing a violent crime or attempting to
4 commit a violent crime. Murder is a violent crime.
5 The State must prove beyond a reasonable doubt that the
6 weapon further advanced or helped in the commission of
7 that crime.

8 The defendant has raised self-defense -- has
9 raised the defense of self-defense. Self-defense is a
10 complete defense, and if it is established, you must
11 find the defendant not guilty. The State has the
12 burden of disproving self-defense by proof beyond a
13 reasonable doubt.

14 If you have a reasonable doubt of the defendant's
15 guilt after considering all of the evidence including
16 the evidence of self-defense, then you must find the
17 defendant not guilty. On the other hand, if you have
18 no reasonable doubt of the defendant's guilt after
19 considering all the evidence including the evidence of
20 self-defense, then you must find the defendant guilty.

21 The following elements are required to establish
22 self-defense: First, the defendant must be without
23 fault in bringing on the difficulty. If the
24 defendant's conduct was the type which was reasonably
25 calculated to and did provoke a deadly assault, the

1 defendant would be at fault in bringing on the
2 difficulty and would not be entitled to an acquittal
3 based on self-defense.

4 The second element of self-defense is that the
5 defendant was actually in imminent danger of death or
6 serious bodily injury or that the defendant actually
7 believed he was in imminent danger of death or serious
8 bodily injury.

9 If the defendant was actually in imminent danger,
10 it must be shown that the circumstances would have
11 warranted a person of ordinary firmness and courage to
12 strike the fatal blow to prevent death or serious
13 bodily injury. If the defendant believed he was in
14 imminent danger of death or serious bodily injury, it
15 must be shown that a reasonable, prudent person of
16 ordinary firmness and courage would have had the same
17 belief.

18 In deciding whether the defendant actually was or
19 believed he was in imminent danger of death or serious
20 bodily injury, you should consider all the facts and
21 circumstances surrounding the crime including the
22 physical condition and characteristics of the defendant
23 and the victim. The defendant does not have to show
24 that he was actually in danger. It is enough if the
25 defendant believed he was in imminent danger and a

1 reasonably prudent person of ordinary firmness and
2 courage would have had the same belief.

3 The defendant has the right to act on appearances
4 even though the defendant's beliefs may have been
5 mistaken. It is for you to decide whether the
6 defendant's fear of immediate danger or death or
7 serious bodily injury was reasonable and would have
8 been felt by an ordinary person in the same situation.

9 Words accompanied by hostile acts may, depending
10 on the circumstances, establish self-defense. The
11 relative sizes, ages and weights of the defendant and
12 the victim may be considered in deciding the apparent
13 or actual need for force in self-defense and the amount
14 of force needed. Threats made by the victim may be
15 considered in determining whether the defendant
16 actually was or believed he was in imminent danger.

17 The final element of self-defense is that the
18 defendant had no other probable way to avoid the danger
19 or death -- danger of death or serious bodily injury
20 than to act as the defendant did in this particular
21 instance. The defendant had no duty to retreat if, by
22 doing so, the danger of being killed or suffering
23 serious bodily injury would increase.

24 Once the right to fire in self-defense arises, a
25 person is not required to wait until his adversary is

1 on equal terms in order to defend himself. He is not
2 required to risk serious injury. A person does not
3 have to wait until his assailant gets the drop on him.
4 He has the right to act under the law of
5 self-preservation and prevent his assailant from
6 getting the drop on him.

7 Ladies and gentlemen, we're almost to the point
8 where I will send you to the jury room to begin your
9 deliberations. This has been a long instruction on the
10 law, but I want to leave you with some final thoughts.
11 You were chosen as jurors because both sides believed
12 that you could be fair and impartial in deciding this
13 case. I instruct you to make use of your life
14 experiences, your good common sense and your sense of
15 logic and reason in evaluating the evidence in this
16 case. You are not partisans or advocates for either
17 side. You have no friends to reward nor enemies to
18 punish. You are the judges of the facts. Your sole
19 interest is to find the truth from the evidence
20 presented in the case. Be courteous with one another,
21 listen to the views of your fellow jurors, take the
22 amount of time necessary for you to thoroughly evaluate
23 the evidence. This case is important to both sides,
24 and this is their only day in court.

25 All right. Mr. Foreman, I'm going to go over the

1 verdict form with you. Now, the actual indictments
2 will be sent back with the verdict form. The verdict
3 form has the indictment listed, and it has it broken
4 down. Indictment Number 426 says, "We, the jury,
5 unanimously find on Indictment Number 2014-GS-04-00426
6 that the defendant, Bobby Joe Arflin, is," and it gives
7 you two options, "guilty of murder or not guilty of
8 murder."

9 Then you go to the second page, and it lists the
10 next charge -- now, the first indictment has two
11 charges. It has murder and possession of a weapon
12 during the commission of a violent crime. You have the
13 same choices, guilty or not guilty. Again, as I've
14 stated before, you have to have found him guilty of
15 murder in order to be able to find him guilty of
16 possession of a weapon during the commission of a
17 violent crime.

18 The next three indictments are solicitation to
19 commit a felony. You have the same options, guilty or
20 not guilty. You are to place no significance on the
21 order in which the choices are placed on the paper.
22 One simply had to go on the page before the other.
23 Whether to find him guilty or not guilty is solely up
24 to you as the jury based on your evaluation of the case
25 and what the State has proven or not proven in your

1 eyes. You evaluate the facts.

2 But what I'm going to have you do is go to the
3 jury room now. I'm going do make sure all the exhibits
4 are gathered up. We will send the verdict form back.
5 Do not begin your deliberations until I send the
6 verdict form, the indictments and the exhibits back to
7 the jury room.

8 So, Mr. Bailiff, if you will take our jury back.
9 And, Mr. Alternate -- send him back with them right now
10 because they're not going to start deliberating.

11 (WHEREUPON, the jury exited open court at
12 4:15 p.m.)

13 THE COURT: Any exceptions to the jury charge from
14 the State?

15 MS. PRICE: Not from the State, your Honor.

16 THE COURT: Any exceptions from the defense?

17 MS. WHITE: Your Honor, maybe I just didn't hear
18 it, but I didn't hear our Defense Exhibit 6 charge.
19 Did I miss that?

20 THE COURT: Which one was that?

21 MS. WHITE: It's self-defense, size and age. I
22 know you did size and age.

23 THE COURT: All right. That is included -- it is
24 actually in the self-defense charge.

25 MS. WHITE: Judge, did you know that one of our

1 jurors is out here? Is that okay, our alternate?

2 THE BAILIFF: This is our alternate.

3 THE COURT: Well, I was getting ready to release
4 him.

5 If you could take him back right now.

6 MS. WHITE: Judge, as you know, the case law holds
7 that, you know, if there are certain facts in a certain
8 case, those should be added as well. And I had just
9 added the ones that were pertinent in this case, and I
10 would ask that this one -- I think it was, what was it,
11 four, is that the one that said each case, their
12 individual facts should be added in?

13 THE COURT: Well, your proposed jury charge six --

14 MS. WHITE: It's similar, but it adds --

15 THE COURT: It says relative size, ages and
16 weights, health, number of potential adversaries,
17 lighting conditions, prior difficulty of the defendant
18 and the victim may be considered in deciding the
19 apparent need for force -- need for force in
20 self-defense and the amount of force needed. The
21 actual charge said the relative sizes, ages and weights
22 of the defendant and the victim may be considered in
23 deciding the apparent or actual need for force in
24 self-defense and the amount of force needed.

25 MS. WHITE: I had added the others in accordance

1 with the case law that, you know, were particular to
2 this case, so I would would ask that those be --

3 THE COURT: Just let me look that case up.

4 All right. Ms. White.

5 MS. WHITE: Yes, sir.

6 THE COURT: I am looking at the case you cited,
7 *State vs. Dickey*, and I think the language that you're
8 wanting charged as an offense is lighting conditions,
9 potential adversaries and prior difficulties. And just
10 if you could expedite this, where in that case does
11 that provide that?

12 MS. WHITE: Your Honor, that -- I added into your
13 standard charge those things. I think -- isn't it four
14 that said that each self-defense case, you've got to
15 put the individual facts in? And I do have -- I'm not
16 positive that it's four, but I know the law changed in
17 the cases after that, said, no, the individual things
18 have got to be put in. But I've got four actually
19 cited in here somewhere.

20 Let me see where this is because I think that's
21 the one. Four would be -- and I may be mistaken on it,
22 Judge. I know it was a case a while back that changed
23 it from henceforth. It's *Fuller*, F-u-l-l-e-r, 1989
24 case. It's 297 S.C. 440. I hope I'm citing the right
25 case. I'm doing that from memory.

1 You know, Judge, I think it's in the judge's
2 instructions as well, jury instructions. I think there
3 is a little note in there that says to add that and it
4 cites the case, if I'm not mistaken.

5 THE COURT: All right. Ms. White, out of -- in
6 reading this case, out of an abundance of caution, I
7 will give your charge six. If we can get the jury back
8 in. I think -- the case does say, you are correct, in
9 what *Fuller* says, that when defense counsel requests
10 specific elements. Just out of an abundance of
11 caution, I will charge that.

12 MS. WHITE: Thank you.

13 THE COURT: Any other exceptions by either party?

14 MS. PRICE: Not from the State.

15 MS. WHITE: No, sir.

16 (WHEREUPON, the jury entered open court at
17 4:22 p.m.)

18 THE COURT: Ladies and gentlemen, I'm going to
19 give you one additional jury charge. The relative
20 sizes, ages and weights, health, number of potential
21 adversaries, lighting conditions and prior difficulties
22 of the defendant and the victim may be considered in
23 deciding the apparent or actual need for force and
24 self-defense and the amount of force needed. So that
25 would be the final jury instruction.

1 So, Mr. Bailiff, you can take our jury back to the
2 jury room.

3 (WHEREUPON, the jury exited open court at
4 4:23 p.m.)

5 THE COURT: Any further exceptions?

6 MS. PRICE: No, sir, your Honor.

7 MS. WHITE: No, sir, your Honor.

8 THE COURT: All right. Let's gather up -- go get
9 our alternate now.

10 Get the alternate now.

11 Let's gather up -- well, before we do that, I want
12 to commend each side for working very hard this week.
13 I know this has been a stressful week, and the Court
14 appreciates the hard work and the efforts of the
15 attorneys involved. This has been a lot of witnesses,
16 a lot of material to get through, and, ladies, you have
17 gotten through it in a very competent professional
18 manner, and the Court appreciates that.

19 So let's get our exhibits and make sure all the
20 exhibits are ready, and then we will send it back to
21 the jury room.

22 You have to listen to this stuff all week and then
23 you don't get to make a decision, so you will not be
24 able to participate in the deliberations since all of
25 the 12 were able to make it through trial, but if you

1 wish to stay just to find out what happens, I mean,
2 that's up to you. If you want to, you would be
3 dismissed. So that's entirely up to you.

4 ALTERNATE JUROR: Okay.

5 THE COURT: But we thank you for your service. I
6 know it's been a long week.

7 ALTERNATE JUROR: Yes, sir.

8 (WHEREUPON, the alternate juror left the
9 courtroom.)

10 THE COURT: Are all the exhibits there? All
11 right. Clerk, you may instruct the jury they can begin
12 their deliberations.

13 THE CLERK: Thank you, your Honor.

14 THE COURT: We will now be in recess.

15 (Court in recess, pending verdict, from
16 4:26 p.m. until 4:37 p.m.)

17 THE COURT: We have received a question from the
18 jury which states, "Can we have a list of the four
19 self-defense stipulations?"

20 My thought is just I can recharge them the law of
21 self-defense.

22 MS. PRICE: Sure.

23 THE COURT: Does either side have any objection to
24 that course?

25 MS. PRICE: No objection, sir.