

24358

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County
Honorable Doyet A. Early, Circuit Court Judge

RECEIVED

FEB 19 2019

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

COLETTE COLLINS

APPELLANT

APPELLATE CASE NO. 2018-000449

RECORD ON APPEAL

LARA M. CAUDY
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

JOSHUA A. EDWARDS

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ISAAC MCDUFFIE STONE, III.
Solicitor, Fourteenth Judicial Circuit

Post Office Box 1880
Bluffton, SC 29910
(843) 255-5880

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JANUARY 22-24, 2018.....	1
OPENING STATEMENT BY MS. SMITH	3
OPENING STATEMENT BY MR. STEPHENS.....	8
TESTIMONY	
CHARYL HANSON	
Direct Examination by Ms. Smith	16
JEFFREY DICKSON	
Direct Examination by Ms. Smith	17
Cross-Examination by Mr. Stephens	27
JOHN IRELAND	
Direct Examination by Ms. Smith	29
ROBERT VAUX	
Direct Examination by Ms. Smith	36
Cross-Examination by Mr. Stephens	44
JOSEPH RUEBY	
Direct Examination by Ms. Smith	45
Cross-Examination by Mr. Stephens	51
JAMIE JOHNSON	
Direct Examination by Ms. Smith	52
Cross-Examination by Mr. Stephens	63
BAKER ODOM	
Direct Examination by Ms. Smith	66
Cross-Examination by Mr. Stephens	75
DAVID MURPHY	
Direct Examination by Ms. Smith	76
Cross-Examination by Mr. Stephens	86
Re-Direct Examination by Ms. Smith.....	88
KAREN MILBRODT	
Direct Examination by Ms. Smith	89

CODY BROWN	
Direct Examination by Ms. Smith	93
Cross-Examination by Mr. Stephens	101
BRIAN GLASER	
Direct Examination by Ms. Smith	104
Cross-Examination by Mr. Stephens	107
JOSPEH BABKIEWICZ	
Direct Examination by Ms. Smith	109
Cross Examination by Mr. Stephens.....	126
COLLOQUY.....	130
TESTIMONY	
SAMUEL COLLINS	
Direct Examination by Ms. Smith	132
Cross-Examination by Mr. Stephens	154
Re-Direct Examination by Ms. Smith.....	167
JENNIFER NATES	
Direct Examination by Ms. Smith	168
ANDREW GARINGER	
Direct Examination by Ms. Smith	175
Cross-Examination by Mr. Stephens	188
JOHN DONAHUE	
Direct Examination by Ms. Smith	191
COLLOQUY.....	196
TESTIMONY	
MICHELLE EICHENMILLER	
Direct Examination by Ms. Smith	208
NICK BATALIS	
Direct Examination by Ms. Smith	216
STATE RESTS	223
MOTION FOR DIRECTED VERDICT.....	224
RULING BY THE COURT.....	225

RIGHTS GIVEN BY THE COURT TO COLETTE COLLINS	227
TESTIMONY	
MICHELLE ALLEN	
Direct Examination by Mr. Stephens	230
RICKY ALLEN	
Direct Examination by Mr. Stephens	237
COLETTE COLLINS	
Direct Examination by Mr. Stephens	243
Cross-Examination by Ms. Smith	260
Re-Direct Examination by Mr. Stephens	276
DEFENSE RESTS	278
COLLOQUY REARDING JAIL TAPE.....	278
RULING BY THE COURT.....	290
TESTIMONY	
JEFFREY MAXWELL	
Direct Examination by Ms. Smith	292
Cross-Examination by Mr. Stephens	294
RENEWED MOTION FOR DIRECTED VERDICT	295
RULING BY THE COURT.....	295
CLOSING ARGUMENT BY MR. STEPHENS	297
CLOSING ARGUMENT BY MS. SMITH.....	308
CHARGE ON THE LAW	318
OBJECTION TO STATE'S CLOSING ARGUMENT	327
RULING BY THE COURT.....	331
ADDITIONAL CHARGE ON THE LAW	332
VERDICT	335
SENTENCING	343

INDICTMENT.....	346
SENTENCE SHEET.....	348
CERTIFICATE OF COUNSEL	349

THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE'S EXHIBIT NO. 67 (CD OF JAIL CALL)

1 In the Court of General Sessions for the
2 State of South Carolina, County of Beaufort
3
4 Case No.: 2017GS0701941
5 State of South Carolina,
6 Plaintiff(s),
7 vs. Transcript of Record
8 Colette Collins,
9 Defendant(s).

10
11
12 TRIAL TRANSCRIPT

13
14
15 January 22-24, 2018
16 Beaufort, South Carolina

17
18
19
20
21 BEFORE:
22 The Honorable Doyet A. Early, III

23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

REPRESENTING DEFENDANT COLLINS:

Jeffrey Scott Stephens, Esquire

Quindlen Law Firm

PO Box 2450

Beaufort, SC 29901-2450

843-379-2660

REPRESENTING THE STATE:

Kimberly L. Smith, Assistant Solicitor

Mary Jones, Assistant Solicitor

14th Judicial Circuit Solicitor's Office

39 Sheridan Park Circle, Suite 2

Bluffton, SC 29910

843-909-0172

OPENING REMARKS BY THE COURT

1 (The jury exits the courtroom.)

2 THE COURT: All right. We will take about a
3 ten-minute break so we can relocate.

4 THE COURT: Any things for the record before we
5 proceed, by the State?

6 MS. SMITH: Nothing from the State.

7 THE COURT: By the Defendant?

8 MR. STEPHENS: Nothing from the Defendant, Your
9 Honor.

10 THE COURT: Please bring in the jury, please.
11 (Whereupon, the jury entered the courtroom.)

12 THE BAILIFF: The jury is in the courtroom.

13 THE COURT: Congratulations. Is this the first
14 election that you have won?

15 THE JUROR: It is.

16 THE COURT: Congratulations. Now, you can get
17 into politics.

18 Okay. You may start with the opening
19 statements.

20 OPENING STATEMENT BY THE STATE

21 MS. SMITH: May it please the Court.

22 Good afternoon, ladies and gentlemen. My name
23 is Kimberly Smith. I'm an Assistant Solicitor here
24 in Beaufort County. Sitting with me is Mary Jones,
25 who is also an Assistant Solicitor in our office.

OPENING STATEMENT BY THE STATE

1 We are here today in State versus Colette
2 Collins. She's charged with accessory after the fact
3 to murder, and I'll tell you a little bit about John
4 Cherol, the victim in this case.

5 He lives in Bluffton in the Pinecrest
6 subdivision. Some of you may be familiar with it.
7 He was at home on the night of October 27th, 2015
8 when he was shot and killed on his back porch.

9 John was at home, had been at home all evening.
10 He was sitting on the back patio after midnight
11 talking to a friend of his, Joe Rueby -- he will be
12 here this week -- when all of a sudden someone was
13 standing in the bushes off to the side of the
14 residence, on a patio, in the darkness, and then shot
15 onto the patio, one shot to the head that killed
16 John.

17 Nobody -- the only witness out there was
18 Mr. Rueby. Nobody saw who shot John, but fortunately
19 through DNA that was left behind, video surveillance
20 cameras in the Pinecrest subdivision, and cell phone
21 records and text messages, we were able -- law
22 enforcement was able to determine the individuals
23 that were responsible for John's death.

24 Colette Collins, the Defendant here, and her
25 husband, Samuel Collins, were friends of John's.

OPENING STATEMENT BY THE STATE

1 Samuel talked to John pretty frequently, and he --
2 John actually went to their home on a regular basis.
3 They visited John at his home a couple of times.

4 In fact, the night of the murder, Ms. Collins
5 got off of work at Secession Golf Club here in
6 Beaufort, drove home to Bluffton, where she lived
7 with her husband, Samuel Collins, and she decided to
8 stop by her friend John's house after work, before
9 going home. And she stayed there approximately an
10 hour.

11 And we know this because of the surveillance
12 video footage from the neighborhood. Security
13 cameras all throughout show that.

14 Ms. Collins then went home, and her husband was
15 there. And she picked him up, he got in her car, the
16 same one that we saw earlier, and rode with her. She
17 took him back to John Cherol's house, and he had a
18 loaded shotgun that you will see this week.

19 Took him to John's house in the Pinecrest
20 neighborhood. Again, we have that same surveillance
21 video you will be able to see. She dropped him off.
22 And there was a wooded path by the house, and he
23 walked up to the side to the back yard, off to the
24 side of the bushes where no one could see, with the
25 loaded shotgun.

OPENING STATEMENT BY THE STATE

1 John and his friend, Joe, were sitting on the
2 patio. Samuel walks up, and Colette drops him off
3 and then circles around the neighborhood and the
4 surrounding area. You will see that because there
5 are cameras at every turn in that neighborhood, and
6 we see where she travels, the loops that she makes
7 before she comes back. And we see her sit at the
8 stop sign, just past John Cherol's house. Wait there
9 about 20, 23 seconds, when she pulled up back to the
10 wooded path and picked up Mr. Collins, who has just
11 shot John in the head.

12 But doesn't stop there. She picks him up, and
13 he hops in the passenger seat, and they leave. And
14 she takes him to get rid of the gun. He borrowed the
15 gun from a friend's house, and he dropped it back off
16 in the back of the truck at the friend's house which
17 was about just a couple miles away in The Farm
18 neighborhood near there.

19 Went home, and Mr. Collins texted his friend at
20 2:00 a.m. and said, "I dropped off the gun. You
21 haven't seen me."

22 They go home, go to sleep. Her family is there,
23 and that's it.

24 Ms. Collins is charged with accessory after the
25 fact to murder, and the Judge will tell you about the

OPENING STATEMENT BY THE STATE

1 law in this case, as he said earlier. But the
2 elements of accessory after the fact are fairly
3 simple.

4 One, a felony has to have been completed, which
5 in this case was the murder of John Cherol.

6 The second thing is the accused, Colette
7 Collins, must have knowledge of the principal, Samuel
8 Collins, in this case, committed the felony. We will
9 present testimony that she did, in fact, know that
10 Samuel had killed John.

11 And, third, the accused must harbor or assist
12 the principal felon. And we will show you evidence
13 that she did just, in fact, that when she took him to
14 dispose of the gun and took him home and kept his
15 secret safe.

16 As the prosecutor in the case, I have the burden
17 of proof that the Judge mentioned briefly, and that's
18 beyond a reasonable doubt in criminal cases.

19 Proof beyond a reasonable doubt is when we have
20 proven our case not beyond every doubt, not beyond a
21 shadow of a doubt, but beyond a reasonable doubt.
22 And that's that I must leave you firmly convinced of
23 Colette Collins' guilt.

24 I have given you a basic understanding, a kind
25 of glimpse, of what happened that night. But there

OPENING STATEMENT BY THE STATE

1 is much more that you will hear this week, and the
2 evidence will be presented to you. This was a very
3 thorough investigation. It took quite some time to
4 come to the conclusion as to what happened that
5 night. Law enforcement conducted interviews,
6 collected DNA, subpoenaed phone records, and so you
7 will hear all of that. So be patient, don't get
8 bogged down in it, because it's quite simple as to
9 what Mrs. Collins' involvement was that night. And
10 at the end of this case, I'll come back to you, after
11 you have heard all the testimony and seen all the
12 evidence, and ask that you find her guilty of
13 accessory after the fact to the murder of John
14 Cherol.

15 Thank you.

16 OPENING STATEMENT BY THE DEFENSE

17 MR. STEPHENS: I used to be able to do these
18 kinds of openings without any kind of notes or note
19 pads, but the brain is one of the first things to go.
20 So pardon me if I pause and refer to my notes upon
21 occasion.

22 As we introduced ourselves this morning, I'm
23 Jeffrey Stephens. I represent Colette Collins,
24 sitting over there.

25 As you heard in the opening from the prosecutor

" OPENING STATEMENT BY THE DEFENSE

1 for the State, Ms. Smith, Ms. Collins is accused of
2 being an accessory after the fact to murder, and she
3 is alleged to have assisted her husband after he
4 committed the murder of John Cherol.

5 When I first started getting involved in the
6 case, talking with Colette about her marriage and the
7 charge, I reflected on the kind of traditional
8 wedding vow that the bride says: Love, honor, and
9 obey. That's certainly gone out of vogue. So there
10 wasn't a vow I said when I married my wife. We were
11 both Marine Corps officers, and she outranked me. So
12 I was the person who was obliged to obey in that
13 case.

14 But it does reflect, even though that -- part of
15 that was gone out of vogue, it reflects a traditional
16 idea of women related to men, wives related to
17 husbands, wife is subservient to the husband, and she
18 doesn't question the husband, she obeys.

19 And while it would be nice to think that our
20 views on the role of women and the wives is changing
21 in our society. If it had changed completely we
22 wouldn't need movements like the Me Too movement, the
23 Times Up movement, the March on Washington that just
24 took place last week.

25 The fact is, there are parts of our society

OPENING STATEMENT BY THE DEFENSE

1 where women are still subservient to men, where they
2 still can't question what men tell them. And that's
3 certainly true in Colette Collins' case in the
4 marriage to her husband, Sam Collins.

5 As you see, Ms. Collins is a very petite woman.
6 She's about 5'1", 120 pounds. You may see her
7 husband, Sam Collins, later this week. He's about
8 6'4", about 250 pounds.

9 You may hear testimony that he is a forceful and
10 aggressive person, whereas Ms. Collins, you may hear
11 testimony that she's not as aggressive. She is a
12 cervical cancer survivor, who is frail from the
13 ongoing treatment and medication she's had to take as
14 a result of her cervical cancer.

15 You are going to hear testimony that her
16 husband, Sam Collins, had been shot in the leg in
17 2014. And at the time of this incident he had
18 developed a pretty significant addiction to
19 prescription pain medications, and this had changed
20 his personality some, and he had become more manic.

21 You will hear testimony about a degree of
22 paranoia that he had. You may hear testimony that
23 the Defendant's parents, Ricky and Michelle Allen,
24 who you will see later this week, they had been
25 living with Colette and her husband Sam. They became

OPENING STATEMENT BY THE DEFENSE

1 so concerned about Sam's paranoia, his concerns, that
2 they had taken their grandson and stayed in a hotel
3 for a number of days, worried that he was not in
4 control of himself at the time.

5 You may hear testimony that Sam Collins and
6 Colette experienced a home invasion. On a series of
7 nights, they believed that some individuals had tried
8 to break into their home. And Sam Collins began to
9 believe that John Cherol was involved in that.

10 You will hear that Sam and John had been friends
11 for a number of months, that John came over to the
12 Collins' home regularly and hung out with Sam, hung
13 out with their young son, Chase. He even came to
14 Chase's birthday party that year.

15 But despite this friendship, Sam and John had a
16 darker side. They were involved in the distribution,
17 to each other, at least, of some prescription
18 medications, and Sam began to become concerned that
19 John was involved in his home break-in, had sent
20 people to his home to try to rob him.

21 Colette Collins knew that Sam was getting more,
22 I guess, in fear, concern, about John Cherol. And
23 she tried to work things out between them, as you may
24 hear later this week, that she went to try to work
25 things out with John, then went back and told her

OPENING STATEMENT BY THE DEFENSE

1 husband that she went to see John and tried to work
2 things out and ask him if he had anything to do with
3 that home invasion.

4 This infuriated Sam. He wanted to confront John
5 himself right away about the home invasion, about
6 whether he had done anything inappropriate with
7 Colette. And so he told her to drive him over to
8 John's neighborhood.

9 But most importantly, you will hear that Sam
10 told Colette that he wasn't going to hurt John
11 Cherol. He went over there with a shotgun and he
12 said that he had gotten it for self-protection.

13 You may hear testimony from other people, like
14 Cody Brown, a friend of Sam's, will tell you that he
15 gave a shotgun to Sam for self-protection.

16 He took that shotgun with him and he told
17 Colette to drop him off, that he didn't want her
18 anywhere near where there were going to be guns, that
19 he had got a shotgun and was going to try to confront
20 John, intimidate him, if need be, to try to get him
21 to tell him if he had been involved in that home
22 invasion, and what the deal was with it. But he told
23 Colette he was not going to hurt her -- he was not
24 going to hurt John Cherol.

25 She did pick him up a short while later after

OPENING STATEMENT BY THE DEFENSE

1 circling the neighborhood. He had her drive him to
2 another friend's house where he dropped off that
3 shotgun that he borrowed. He dropped it off to the
4 person he borrowed it from, and then she drove him
5 home.

6 You will hear testimony that she didn't even
7 find out that John Cherol had been shot until the
8 next day, later in the day when she saw news reports
9 about what happened.

10 What's more, there's no reason to think that she
11 did know that Sam had shot John. While she should
12 have questioned why Sam needed a shotgun in the first
13 place, you won't hear any testimony that she heard
14 the shotgun, that she knew at the time she picked Sam
15 up that he had shot his friend, John -- the family's
16 friend, John.

17 You will hear testimony that he told her to
18 drive, and she drove. She didn't question him, and
19 perhaps she should have. The law doesn't require for
20 an accessory charge that you knew or should have
21 known that a felony murder had been committed, the
22 law requires that you knew.

23 And the State has the burden, as Ms. Smith has
24 told you, to prove beyond reasonable doubt that
25 Colette Collins knew at the time her husband got in

OPENING STATEMENT BY THE DEFENSE

1 the car and she drove him home -- not later -- that
2 he had shot John Cherol.

3 Now, Ms. Smith has told you that Sam approached
4 the home, and John was sitting on the back porch.
5 And he was shot there.

6 And as you hear these witnesses, ask yourselves
7 this: Does it make sense that Colette would have
8 known that John Cherol would have been sitting on the
9 back porch of his home? Does it make sense that she
10 would have known that her husband would have shot his
11 friend, and then got in the car and told her to drive
12 away?

13 Our spouse is someone that we trust the most, we
14 trust implicitly. And in this case, even if that
15 trust was misplaced, when Colette Collins trusted her
16 husband when he said he wasn't going to hurt John
17 Cherol. That is not the crime here.

18 The crime alleged is that she knew when he got
19 in the car that he had done this, he had murdered.
20 And then, nevertheless she drove him away to try to
21 keep him from getting caught, trying to keep him from
22 getting arrested.

23 We don't believe at the end of this case that
24 the State will be able to prove that "knowing"
25 requirement, that Colette Collins knew at the time

OPENING STATEMENT BY THE DEFENSE

1 that she drove her husband home that he had committed
2 felony murder.

3 Ladies and gentlemen, you may feel like this is
4 a heinous crime, the murder of John Cherol, and it
5 was. You may feel like the person who killed John
6 Cherol needs to be punished. That is not the duty of
7 the jury here today. It is to determine whether
8 Colette Collins voluntarily acted with knowledge that
9 her husband committed a murder, when she drove him
10 home that night.

11 And you were convinced at the end of the case,
12 when you consider the evidence you have heard and the
13 testimony of the witnesses, you will have to come to
14 the conclusion that she didn't -- the State has not
15 proven beyond a reasonable doubt that the elements of
16 this charge have been met. And you'll have to follow
17 your duty as jurors and return a unanimous verdict of
18 not guilty.

19 Thank you.

20 THE COURT: You may call your first witness.

21 MS. SMITH: The State calls Cheryl Hanson.

22 Thereupon,

23 CHARYL HANSON

24 was called as a witness, having been first duly sworn,
25 was examined and testified as follows:

DIRECT EXAMINATION OF CHERYL HANSON BY MS. SMITH

1 DIRECT EXAMINATION

2 BY MS. SMITH:

3 Q Ms. Hanson, where do you work?

4 A For the Beaufort County Sheriff's Office.

5 Q And in what capacity do you work there?

6 A I'm a background specialist, and I also assist
7 in making 911 tapes.

8 Q Okay. And have you reviewed the 911 tape that
9 we have marked as Exhibit -- State's Exhibit No. 1?

10 A Yes, ma'am.

11 Q I'm going to hand you what's been marked as
12 State's Exhibit No. 1, and ask you to take a look at that.

13 Did you -- is that the copy that you
14 reviewed today?

15 A Yes, ma'am.

16 Q And how do you know that?

17 A Because I initialed it and dated it.

18 Q And, Ms. Hanson, is this the 911 calls, the two
19 different calls from the incident on October 28th, 2015?

20 A Yes, I listened to the calls.

21 Q And were these kept in the regular record
22 keeping for 911 calls?

23 A Yes, ma'am.

24 Q Okay.

25 MS. SMITH: Judge, at this time, we would like

DIRECT EXAMINATION OF CHERYL HANSON BY MS. SMITH

1 to enter State's No. 1 into evidence and publish it
2 to the jury.

3 THE COURT: Any objection?

4 MR. STEPHENS: No objection, Your Honor. Thank
5 you.

6 THE COURT: Okay. You may.

7 *(Whereupon, STtae's Exhibit No(s). 1 marked for*
8 *identification and received in evidence.)*

9 (Audio of 911 calls being played.)

10 MS. SMITH: Judge, that is all I have for this
11 witness.

12 THE COURT: Any questions, sir?

13 MR. STEPHENS: No cross examination. Thank you,
14 sir.

15 THE COURT: You may step down. May she be
16 released from her subpoena?

17 MS. SMITH: No objection, Judge.

18 MR. STEPHENS: No objection, Your Honor.

19 THE COURT: Ms. Hanson, you may step down.

20 Next witness, please.

21 MS. SMITH: State would call Jeffrey Dickson.

22 Thereupon,

23 JEFFREY DICKSON

24 was called as a witness, having been first duly sworn,

25 was examined and testified as follows:

DIRECT EXAMINATION OF JEFFREY DICKSON

1 DIRECT EXAMINATION

2 BY MS. SMITH:

3 Q Mr. Dickson, State your name for the record.

4 A Jeff Dickson.

5 Q Where do you work, Mr. Dickson?

6 A Bluffton police department.

7 Q How long have you been with Bluffton?

8 A Going on 13 years now.

9 Q How long have you been in law enforcement?

10 A Twenty-two years.

11 Q Where were you on the night of October 28, 2015?

12 A Myself and Officer Whetsel were sitting at the
13 Low Country Church, which is down at the end of Masters
14 Way in the town of Bluffton. We were actually car to car
15 talking.

16 Q And did you respond to ■ Pinecrest Way that
17 evening?

18 A Yes, we did.

19 Q Around what time?

20 A Approximately 0048 hours.

21 Q Okay. Why were you responding there?

22 A It came across the MBC. We looked at the MBC
23 before we were -- dispatch gave us a call. It was in
24 reference to a gunshot victim.

25 Q What is MBC, for those who don't know?

DIRECT EXAMINATION OF JEFFREY DICKSON

1 A MBC is your onboard computer system.

2 Q And did you go to the scene at that point?

3 A Yes. Myself and Officer Whetsel did.

4 Q And is ■ Pinecrest Way in Beaufort County?

5 A Correct.

6 Q And I believe that's in the town of Bluffton?

7 A Yes, it is.

8 Q Approximately what time did you arrive on the
9 scene?

10 A It had to have been probably maybe a minute
11 later, two minutes later.

12 Q What happened when you got to ■ Pinecrest Way?

13 A We got to ■ Pinecrest Way, we noticed that
14 there was nobody outside the residence. There were lights
15 on inside the residence that we could see.

16 We actually made the approach to the door --

17 Q Is that the front door?

18 A The front door --

19 Q Okay.

20 A -- to the residence. We noticed the door was
21 locked.

22 Q Okay.

23 A We banged on the door, announced ourself,
24 announced our presence as police.

25 Q Okay. Who answered the door?

DIRECT EXAMINATION OF JEFFREY DICKSON

1 A A Roberts Vaux answered the door.

2 Q Okay. Was he the owner of the home?

3 A Yes, he was.

4 MS. SMITH: Judge, if I may approach the
5 witness?

6 THE COURT: You may.

7 BY MS. SMITH:

8 Q I'm going to show you what's been marked for
9 identification as State's Exhibit No. 2 and ask you to
10 take a look at that. Is that a fair and accurate
11 depiction --

12 A Yes, ma'am, it is.

13 Q -- of [REDACTED] Pinecrest Way?

14 A Yes, ma'am.

15 MS. SMITH: Judge, at this time, I would enter
16 No. 2 into evidence and ask to publish.

17 MR. STEPHENS: No objection, Your Honor. Thank
18 you.

19 *(Whereupon, State's Exhibit No(s). 2 marked for*
20 *identification and received in evidence.)*

21 BY MS. SMITH:

22 Q Is that the front door to the left there that
23 you approached?

24 A Yes, ma'am.

25 Q Who was in the house when you got there?

DIRECT EXAMINATION OF JEFFREY DICKSON

1 A Again, it was Roberts Vaux in the house and
2 another gentleman, Mr. Rueby.

3 THE COURT: Mr. who?

4 THE WITNESS: Rueby.

5 BY MS. SMITH:

6 Q What did you do after they opened the door?

7 A When Mr. Vaux answered the door, I had Mr. Vaux
8 step outside. We then conducted a Terry frisk on Mr. Vaux
9 to make sure that he didn't have any weapons on him.
10 Officer Whetsel did the same with Mr. Rueby,
11 and had them stay out front. Mr. Vaux kept advising us, and
12 Mr. Rueby did, that there was a gunshot victim on the back
13 porch.

14 Q What did you do at that point?

15 A Once we had them stay out front, we then
16 conducted a sweep of the inside of the residence to make
17 sure that nobody else was inside the house. Once we
18 conducted a sweep, which met with negative results as far
19 as finding anybody else inside the house, we then went to
20 the back porch.

21 Q I'm going to show you what's been marked for
22 identification as State's Exhibit No. 3 and No. 4, and ask
23 you to take a look at those.

24 Officer, is that a fair and accurate
25 depiction of the patio from the back yard?

DIRECT EXAMINATION OF JEFFREY DICKSON

1 A Yes, ma'am, it is.

2 MS. SMITH: Judge, at this time, I would move
3 No. 3 and No. 4 into evidence and for permission to
4 publish.

5 MR. STEPHENS: No objection, Your Honor. Thank
6 you.

7 *(Whereupon, State's Exhibit No(s). 3 and 4*
8 *marked for identification and received in evidence.)*

9

10 BY MS. SMITH:

11 Q All right. Looking at No. 3, tell us, is that
12 the victim on the couch?

13 A Yes, ma'am.

14 Q And is that how he was when you walked up,
15 walked to the back?

16 A Yes, ma'am.

17 Q Okay. And No. 4, is that just another picture
18 of the patio in the other direction?

19 A Yes, ma'am, in the other direction.

20 Q And did you find anything or collect anything in
21 the back yard?

22 A Yes, ma'am. Once we conducted a sweep of the
23 back yard and the surrounding area to make sure that
24 nobody else was on the scene, Officer Whetsel returned to
25 the front of the house to have Mr. Vaux and Mr. Rueby

DIRECT EXAMINATION OF JEFFREY DICKSON

1 actually start statements.

2 I then conducted a sweep of the back yard and
3 actually found two shell casings in the back yard.

4 Q Okay. And what did you do when you found those?

5 A At the time, I had my notebook on me. I
6 actually put a piece of paper over each shell casing.

7 Q And I'm going to show you what's been marked for
8 identification as State's No. 7, No. 8, and No. 9. If you
9 will take a look at all three of those.

10 Is that a fair and accurate depiction of
11 each of those photos of the shotgun shells that was laying
12 in the yard?

13 A Yes, ma'am. Yes, ma'am.

14 MS. SMITH: At this time, we'd enter State's 7,
15 8, and 9 into evidence.

16 MR. STEPHENS: No objection, Your Honor. Thank
17 you.

18 *(Whereupon, State's Exhibit No(s). 7-9 marked*
19 *for identification and received in evidence.)*

20 MS. SMITH: Permission to publish?

21 BY MS. SMITH:

22 Q All right. And No. 7, where -- and I know you
23 said you put papers over the shells. Were those your
24 markers that are in the pictures?

25 A No, ma'am. Those are the investigator's

DIRECT EXAMINATION OF JEFFREY DICKSON

1 markers.

2 Q But those were the shells that you were
3 referring to?

4 A Yes, ma'am.

5 Q And what are one and two?

6 A Both are actual .12 gauge shotgun shells.

7 Q And then No. 8, is that just a close-up of the
8 shell?

9 A Yes, ma'am.

10 Q And No. 9. And that's the other shell?

11 A Yes, ma'am.

12 Q Okay. Did you see anybody in the back yard when
13 you went back there?

14 A No, ma'am. We didn't see anybody.

15 Q Okay. What else did you observe in the back
16 yard?

17 A I noticed that the shotgun shell casings, that
18 one was spent. In other words, used, and the other one
19 was still live, as a live round.

20 Q And did you tell the officers that came on the
21 scene after you what you had found and showed them?

22 A The investigators, yes, ma'am.

23 Q Did you talk to anyone from SLED that night, or
24 just from the Bluffton police department?

25 A Just from our department.

DIRECT EXAMINATION OF JEFFREY DICKSON

1 Q Okay. Did you observe anything else in the back
2 yard next door to that residence?

3 A Yes, ma'am. I noticed, compared to where the
4 shotgun shells were actually found, and compared to where
5 the victim was actually sitting at, I actually observed
6 penetration marks on the house next door to the victim's
7 residence.

8 Q And would that have been behind the victim?

9 A Yes, ma'am.

10 Q Where the victim was sitting?

11 A Yes.

12 Q Let me show you what we marked as State's
13 Exhibit No. 5 and 6, and ask if this is what you are
14 referring to.

15 A Yes, ma'am. That is correct.

16 Q That is a fair and accurate depiction of the
17 home next door?

18 A Yes, it is.

19 Q All right. And No. 5 --

20 MS. SMITH: At this time, I would like to move
21 Nos. 5 and 6 into evidence.

22 MR. STEPHENS: No objection, Your Honor. Thank
23 you.

24 *(Whereupon, State's Exhibit No(s). 5 and 6*
25 *marked for identification and received in evidence.)*

DIRECT EXAMINATION OF JEFFREY DICKSON

1

2 BY MS. SMITH:

3 Q And No. 5, is that the residence that you are
4 referring to?

5 A Yes, ma'am.

6 Q And if you look to the far left of that picture,
7 is that the couch that Mr. Cherol was sitting on?

8 A Yes, it was.

9 Q So his head would have been facing -- the back
10 of his head would have been facing the residence?

11 A Correct.

12 Q And then No. 6. Are those the holes that you
13 were talking about?

14 A Yes, ma'am.

15 Q Did you advise the officers that came on after
16 you of that as well?

17 A Yes. Once we advised them of the shell casings,
18 we advised the investigators also of the penetration marks
19 on the house next door.

20 Q Did you do anything else while you were there?

21 A Pretty much stayed in the back and secured the
22 area.

23 Q When you say "secured the area," what does that
24 mean?

25 A Did not allow anybody else to have access there

DIRECT EXAMINATION OF JEFFREY DICKSON

1 unless they were an investigator.

2 Q Okay.

3 MS. SMITH: I have nothing further for you.

4 Thank you.

5 THE COURT: Any questions?

6 MR. STEPHENS: Yes, Your Honor. Just a few.

7 CROSS EXAMINATION

8 BY MR. STEPHENS:

9 Q Can't get the thing to come up.

10 Officer Dickson, I'm handing you what was,
11 just a minute, State's Exhibit No. 3. Take a look at
12 that.

13 That has got the location where the victim
14 is sitting on the couch, on the back porch of the
15 residence.

16 A Yes, sir.

17 Q Now, your angle to take this picture, would it
18 be fair to say that he is in a recessed location that's
19 not where you can't observe that couch unless you move to
20 the side, where you were standing to take that picture,
21 correct?

22 A Just to let you know, sir, I didn't take this
23 picture.

24 Q I'm sorry.

25 A The investigators took the picture.

CROSS EXAMINATION OF JEFFREY DICKSON BY MR. STEPHENS

1 Q Okay. Well, you observed that -- that scene,
2 though, where Mr. Cherol was found, correct?

3 A Correct.

4 Q All right. And would it be fair to say that
5 this picture was taken at an angle behind the residence,
6 correct?

7 A That's correct.

8 Q All right. Now, showing you State's Exhibit No.
9 4, State's Exhibit No. 3. And that is a picture looking
10 from the other direction, correct?

11 A Yes, sir.

12 Q And in that shot, you can't see that couch at
13 all, correct?

14 A That's correct.

15 Q I'm retrieving State's Exhibit No. 4.

16 MR. STEPHENS: I don't believe I have any
17 further questions for Officer Dickson. Thank you.

18 THE COURT: Redirect?

19 MS. SMITH: Nothing for this witness.

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

21 MS. SMITH: May he be excused?

22 MR. STEPHENS: No objection. Thank you.

23 THE COURT: Thank you, Officer.

24 Next witness, please.

25 MS. SMITH: State calls John Ireland.

CROSS EXAMINATION OF JEFFREY DICKSON BY MR. STEPHENS

1 THE COURT: Come around, please.

2 Thereupon,

3 JOHN IRELAND

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows.

6 DIRECT EXAMINATION

7 BY MS. SMITH:

8 Q Mr. Ireland, State your name for the record for
9 us.

10 A My name is John Ireland.

11 Q Where do you work?

12 A I currently work at Bluffton Township fire
13 district.

14 Q Where have you worked in the past?

15 A I used to work for Burton fire district and
16 Beaufort County EMS.

17 Q Were you working on the night of October 28,
18 2015?

19 A I was.

20 Q And who were you working for then?

21 A Beaufort County EMS.

22 Q Were you the lead paramedic that night?

23 A I was.

24 Q Did you respond to a 911 call of a gunshot with
25 a victim at ■ Pinecrest Way in Bluffton?

DIRECT EXAMINATION OF JOHN IRELAND BY MS. SMITH

1 A Yes.

2 Q Who else was with you that evening, or riding
3 with you?

4 A I had an EMT partner named London Connell.

5 Q What was your role as lead paramedic? Tell us.

6 A As the paramedic, I provide general care if
7 anybody calls for service.

8 Q And what was Mr. Connell's role that evening?
9 Was he just riding with you?

10 A Her role was to be my partner, to help me
11 provide care.

12 Q What happened when you arrived at ■ Pinecrest
13 Way?

14 A Well, we arrived. If I remember correctly, PD
15 was on scene already.

16 Q When you say "PD," who was that?

17 A Bluffton police department was on scene already.

18 Q Okay.

19 A And they were directing us to the back of the
20 house. And we came to the back of the house and found the
21 victim.

22 Q Where was -- how was he positioned? Where was
23 he in the back of the house?

24 A He was on a couch. If I remember correctly, he
25 had his legs crossed on the couch.

DIRECT EXAMINATION OF JOHN IRELAND BY MS. SMITH

1 Q Okay. If I can, if I can approach and show you
2 what's been entered into evidence as State's Exhibit No.
3 3, and ask you if that's a fair and accurate depiction of
4 the way you found the victim when you arrived on scene?

5 A Yes.

6 Q Okay. Did you administer any life-saving
7 measures, Mr. Ireland?

8 A No. What we found when we arrived were injuries
9 incompatible with life.

10 Q When you say "incompatible with life," does that
11 mean death?

12 A Yes.

13 MS. SMITH: Okay. I have nothing further for
14 this witness.

15 MR. STEPHENS: No questions, Your Honor. Thank
16 you.

17 THE COURT: You may step down.

18 MS. SMITH: Judge, may this witness be excused?

19 THE COURT: He may. Next witness.

20 MS. SMITH: Judge, may we approach?

21 THE COURT: Yes, ma'am.

22 (Off-the-record discussion held.)

23 THE COURT: Madam Forelady, ladies and
24 gentlemen, normally, we go at 5 o'clock. Since I'm a
25 new guy in town, I do things a little different than

END OF DAY REMARKS BY THE COURT

1 some of the other judges. So they thought that we
2 were going to start this case tomorrow, so they only
3 had three witnesses for this afternoon. And so we
4 have a witness. I told Ms. Smith that I certainly
5 understood that. So we're going to stop for the
6 evening.

7 Please do not discuss the case with anyone,
8 don't let anybody discuss it with you.

9 If you would leave your note pads in your seats.
10 Make sure your name is on them, we will secure those
11 tonight.

12 Is 9:30 an imposition to any of y'all in the
13 morning? Everybody got to rise, everybody be here by
14 9:30?

15 We'll plan to start, I'll just leave early,
16 early. We'll plan to start at 9:30. They will have
17 all their witnesses ready, willing, and able to go
18 tomorrow, so we will probably go as close to 1:00 as
19 we can. So, you know, somebody stops at one -- ten
20 till one or something, we will stop a little early.
21 But go close to one, take about an hour and 15
22 minutes for lunch, unless you need longer. We will
23 discuss that. Then come back and try to put in a
24 full afternoon tomorrow until five. So be sure and
25 have everybody lined up and ready to go tomorrow.

END OF DAY REMARKS BY THE COURT

1 And we'll get way down the road with that.

2 That suits everybody?

3 (No response.)

4 THE COURT: Thank y'all very much. Looking
5 forward to working with you. Have a pleasant
6 evening. I think it's real nice outside. And have a
7 pleasant evening, leave your note pads there, and I
8 will see you -- we'll start bright and early, right
9 at 9:30. Thank you.

10 Everyone else remain seated, please.

11 (Whereupon, the jury exited the courtroom.)

12 THE COURT: Anything for the record before we
13 break for the evening, by the State?

14 MS. SMITH: Nothing from the State.

15 THE COURT: By the Defendant?

16 MR. STEPHENS: No, Judge. Thank you.

17 THE COURT: Anything that y'all need to discuss
18 with me in chambers? If not, I'm going to ease on
19 out.

20 Okay. We'll be here hopefully about 9:15 in the
21 morning, but we gonna start right at 9:30, unless
22 something happens. And if it does, I'll call.

23 Have a pleasant evening.

24 I assume she's in custody?

25 MR. STEPHENS: She is, Your Honor. We're just

END OF DAY REMARKS BY THE COURT

1 going to wait on them to collect her.

2 THE COURT: Do we have any problems with the

3 victim's family? Are we okay with everybody?

4 Security-wise, good?

5 THE DEPUTY: Yes, sir.

6 THE COURT: Thank you.

7 (Whereupon the trial adjourned for the day.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1-23-2018 PROCEEDINGS

1 In the Court of General Sessions for the
2 State of South Carolina, County of Beaufort
3
4 Case No.: 2017GS0701941
5 State of South Carolina,
6 Plaintiff(s),
7 vs. Transcript of Record
8 Colette Collins,
9 Defendant(s).

10

11

12 TRIAL TRANSCRIPT

13

14

15 January 22-24, 2018

16 Beaufort, South Carolina

17

18

19

20

21 BEFORE:

22 The Honorable Doyet A. Early, III

23

24

25

1-23-2018 PROCEEDINGS

1 1-23-2018 PROCEEDINGS

2 THE COURT: Anything for the record from the
3 State before we proceed?

4 MS. SMITH: No, Judge.

5 THE COURT: By the Defendant?

6 MR. STEPHENS: No, Your Honor. Thank you.

7 THE COURT: All right. Bring the jury in,
8 please, sir.

9 (Whereupon, the jury entered the courtroom.)

10 THE COURT: You may call your next witness.

11 MS. SMITH: State calls Roberts Vaux.

12 Thereupon,

13 ROBERTS VAUX

14 was called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. SMITH:

18 Q Good morning, Mr. Vaux.

19 A Good morning.

20 Q Where you from?

21 A Bluffton, South Carolina.

22 Q How long have you been in Bluffton?

23 A Close to 72 years.

24 Q Where are you living in Bluffton?

25 A I live -- presently live at ■ Pinecrest Way.

DIRECT EXAMINATION OF ROBERTS VAUX BY MS. SMITH

1 Q I'm going to show you what has already been
2 admitted as State's No. 2 and 3 and ask you to take a look
3 at those. Is that the home where you are currently
4 living?

5 A Yes, ma'am.

6 Q Mr. Vaux, did you know John Cherol?

7 A Yes, ma'am, I do.

8 Q How long had you known Mr. Cherol?

9 A Two years, two and a half years.

10 Q How did you meet him?

11 A Mr. Cherol, a business partner, leased some
12 space from a partner of mine, Rick Marscher, known as
13 Pepper's Porch.

14 Q And at some point, did John come to live with
15 you?

16 A Well, John and his partner operated the
17 restaurant, had a disagreement, and then John bought her
18 out and went into business with my daughter.

19 He was driving from Beaufort everyday, living
20 with his parents, which didn't make a lot of sense owning a
21 restaurant in Bluffton. So he was a guest on my property,
22 which is different from where I live now.

23 Q Did he go to live with you at ■ Pinecrest Way?

24 A After a period of time, I moved from Bluffton to
25 ■ Pinecrest Way. John lived with me for a month or so

DIRECT EXAMINATION OF ROBERTS VAUX BY MS. SMITH

1 until he could move in with a friend of his named Joe
2 Rueby.

3 Q Okay. Let's go back to October 27, 2015. Do
4 you recall what time you got home that day?

5 A It was getting late in the afternoon, typically
6 between four and six.

7 Q Was John there when you got home?

8 A He was home when I got there.

9 Q Can you kind of tell us what happened the rest
10 of the evening?

11 A We had dinner. I went to bed somewhere around
12 8:30 or 9:00, read for a while, went to sleep.

13 Approximately 12 -- between 12:15 and 12:30 I
14 heard -- it was a night where I had the two windows up in my
15 bedroom. I heard what sounded like two gunshots.

16 Joe had been out on the porch with John. He
17 ran in the house. As a result of what he said to me, I
18 called 911. And that is essentially it.

19 Q Prior to you hearing the gunshots, did you get
20 up at any time that night?

21 A Yes, ma'am. Like I said, I'm 72, I got up in
22 the middle of the night, had to go to the bathroom. I
23 heard voices on the porch. The windows were open. I went
24 out to see who was there. John was sitting out there
25 talking with Joe, and they were within a week or two weeks

DIRECT EXAMINATION OF ROBERTS VAUX BY MS. SMITH

1 or so of moving in together.

2 I talked to them for a minute, went to the
3 bathroom, and went back to bed.

4 Q I'm going to show you what's been marked for
5 identification purposes as State's No. 13, 14, and 15.

6 And can you --

7 THE COURT: 13, 14, and --

8 BY MS. SMITH:

9 Q 13, 14, and 15. And ask you to take a look at
10 those.

11 A Yes, ma'am.

12 Q Are those fair and accurate depictions of the
13 inside of your house?

14 A Yes, ma'am.

15 Q As well as the back door leading out?

16 A Yes, ma'am.

17 MS. SMITH: Judge, at this time, I would move
18 13, 14, and 15 into evidence.

19 THE COURT: Any objection?

20 MR. STEPHENS: No objection, Your Honor.

21 THE COURT: All right. Thank you.

22 *(Whereupon, State's Exhibit No(s). 13-15 marked*
23 *for identification and received in evidence.)*

24 BY MS. SMITH:

25 Q All right. Starting with No. 13, explain to us,

DIRECT EXAMINATION OF ROBERTS VAUX BY MS. SMITH

1 is that the back door going outside?

2 A That's the door from the living room onto the
3 back porch.

4 Q And where is your bedroom in relation to that?

5 A You see where it says Exhibit 13, going that
6 way, that first door on the right.

7 Q Okay. What about No. 14, is that room that you
8 see there, is that --

9 A That's the same room, and then you can see it
10 angles into the master bedroom. It's got a -- it looks
11 like a red circle around it.

12 Q And what about No. 15?

13 A No. 15 is my bedroom.

14 Q Okay. And can you see that the windows -- are
15 the windows up in that picture?

16 A Yes, ma'am. You can see, if you look at the top
17 up here, you can see the two windows where they're raised.

18 Q All right. I'm going to show you also what's
19 been marked as State's Exhibit No. 11 for identification,
20 and ask if you will take a look at that.

21 A Yes, ma'am.

22 Q Okay. Is that a fair and accurate depiction of
23 the back of your house and the patio?

24 A Yes, ma'am.

25 Q Okay.

DIRECT EXAMINATION OF ROBERTS VAUX BY MS. SMITH

1 MS. SMITH: At this time, I would move No. 11
2 into evidence.

3 THE COURT: Any objection?

4 MR. STEPHENS: No objection, Your Honor. Thank
5 you.

6 THE COURT: Thank you.

7 *(Whereupon, State's Exhibit No(s). 11 marked for*
8 *identification and received in evidence.)*

9 BY MS. SMITH:

10 Q All right. And No. 11, was this picture, was
11 this taken after October 27, 2015?

12 A Yes, ma'am. After -- sometime after John's
13 death, I screened in the porch. You can see it now, it's
14 screened in, but it was not screened in at the time of
15 John's death.

16 As a matter of fact, you can also see the
17 brown sort of rectangular thing to the left of the tree. I
18 believe that's the garden I put in.

19 Q And tell us, you see the arrow, Master's Way,
20 that's the road that runs perpendicular to north and
21 south.

22 A It runs north and south to the Bluffton Parkway
23 to the high school.

24 Q Okay. And what's directly in front of your
25 house?

DIRECT EXAMINATION OF ROBERTS VAUX BY MS. SMITH

1 A You see the left, that's the practice range for
2 the golf course.

3 Q Okay. All right. After -- let me ask you this:
4 After you heard the gunshots, what did you do?

5 A I ran to the door that leads from the bed,
6 master bedroom to the living room, because it was shut. I
7 opened it. Joe ran in from the porch. As a result of
8 what he said, I closed the bedroom door, grabbed my cell
9 phone, went into the bathroom, and then into the master
10 bedroom closet and called 911.

11 Q Do you know approximately around what time that
12 was?

13 A It was after 12:30. I don't remember exactly.

14 Q And did you remain in the closet until law
15 enforcement got there?

16 A No, ma'am. At some point I came out of the
17 closet, after talking to the 911 operator, and went into
18 the living room towards the front door because I had to
19 let the police in. I mean, the door, the front door, was
20 locked.

21 Q Okay. Did you see anything that night?

22 A No, ma'am. I never went out on the porch, and I
23 don't know if you're going to play the 911 tape, but if
24 you do, my voice is on it, and I apologize for my language
25 ahead of time.

DIRECT EXAMINATION OF ROBERTS VAUX BY MS. SMITH

1 Q Mr. Vaux, what type of gun did it sound like?

2 A A shotgun.

3 Q How do you know that?

4 A I grew up in Beaufort County. I have lived here
5 all my life. I have hunted deer, hunted ducks, hunted
6 birds. I know what a shotgun sounds like.

7 Q Okay. And you say you heard two shots; is that
8 correct?

9 A Yes, ma'am.

10 Q And what happened when law enforcement arrived?

11 A They interviewed me. They separated Joe and I.
12 They bagged my hands, took me down to the police station,
13 removed all my clothes. They swabbed my hands. They
14 fingerprinted me. They interviewed me. And somewhere
15 around, I don't know, four, five, 6 o'clock in the morning
16 they let me go.

17 Q Okay. Mr. Vaux, did you -- do you know Colette
18 Collins?

19 A No, ma'am.

20 Q Did you know Samuel Collins?

21 A No, ma'am.

22 Q I have nothing else for you. Thank you.

23 THE COURT: Cross examination.

24 MR. STEPHENS: Thank you.

25 CROSS EXAMINATION

CROSS EXAMINATION OF ROBERTS VAUX BY MR. STEPHENS

1 BY MR. STEPHENS:

2 Q Mr. Vaux, how long did you say that Mr. Cherol
3 had been living at your home?

4 A I moved in in the end of July, and I think he
5 moved in, I don't know, a matter of ten days or so after I
6 did.

7 Q All right. Had you been in his room before, in
8 the home?

9 A Had I ever been in his bedroom?

10 Q Yes, sir.

11 A Yes, sir.

12 Q And do you know if he had a number of
13 prescription medicine bottles around his room?

14 A I can't say that I saw them beforehand. I
15 found, I think, either one or two when I was cleaning out
16 his room after he was killed.

17 Q Do you know if he possessed a .9 millimeter
18 pistol in his room?

19 A Did he?

20 Q Do you know if he had one?

21 A He had a pistol in his room, yes, sir.

22 Q Do you know the type of pistol it was?

23 A No, sir.

24 Q Mr. Vaux, you said you don't know Sam Collins or
25 Ms. Colette Collins. Do you know if Mr. Cherol had ever

CROSS EXAMINATION OF ROBERTS VAUX BY MR. STEPHENS

1 mentioned them to you before?

2 A I can't say, Mr. Stephens, that I ever recall
3 him mentioning them to me. No, sir.

4 MR. STEPHENS: Thank you, Mr. Vaux. I don't
5 believe I have any further questions for this witness
6 at this time.

7 THE COURT: Any redirect?

8 MS. SMITH: No, sir. May this witness be
9 excused?

10 THE COURT: Any objection?

11 MR. STEPHENS: No, sir.

12 THE COURT: Thank you. You're excused.
13 Next witness, please.

14 MS. SMITH: Joe Rueby.

15 Thereupon,

16 JOSEPH RUEBY

17 was called as a witness, having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. SMITH:

21 Q Good morning, Mr. Rueby. Can you spell your
22 last name for the court reporter. I know it's spelled
23 differently.

24 A R-U-E-B-Y.

25 Q Sir, how old are you?

DIRECT EXAMINATION OF JOSEPH RUEBY BY MS. SMITH

- 1 A Thirty.
- 2 Q Where do you live?
- 3 A In Bluffton.
- 4 Q Have you been in the military before?
- 5 A Yes.
- 6 Q What branch?
- 7 A Navy.
- 8 Q How long were you in the military?
- 9 A Four years.
- 10 Q What are you doing now for work?
- 11 A I am a cook.
- 12 Q Where?
- 13 A Calhoun's and Longhorn.
- 14 Q Did you know John Cherol?
- 15 A Yes.
- 16 Q How long did you know him?
- 17 A I think a couple of years, maybe.
- 18 Q How did you meet him?
- 19 A At work.
- 20 Q Where were you working in October of 2015?
- 21 A At R Bar.
- 22 Q And October 27th, 2015, did you go to the John's
- 23 house?
- 24 A Yes.
- 25 Q Do you remember approximately what time you went

DIRECT EXAMINATION OF JOSEPH RUEBY BY MS. SMITH

1 over there?

2 A It was before midnight.

3 Q Where had you been before that?

4 A At work at R Bar.

5 Q Had you talked to John earlier in the evening?

6 A Oh, yes. He texted me.

7 Q And did you tell him you were coming over?

8 A Yeah. He asked me to come over, and I came
9 over.

10 Q What did you do when you got to John's house?

11 A We just started talking and hanging out.

12 Q Who was at the house when you got there?

13 A Just John and Roberts.

14 Q Where was Roberts?

15 A He was in his room.

16 Q Were you and John inside or outside of the home?

17 A Inside first, and then outside.

18 Q I'm going to show you -- where were you sitting
19 when you were outside?

20 A On the couch, against the house wall.

21 Q I'm going to show you a photo that's been marked
22 State's Exhibit No. 3, and ask you to take a look at that.

23 Does that depict the area that you're
24 talking about, where y'all were sitting that night?

25 A Yes, the back patio.

DIRECT EXAMINATION OF JOSEPH RUEBY BY MS. SMITH

1 Q And where John is in that picture, is that where
2 he was sitting that night?

3 A Yes.

4 Q And where were you sitting?

5 A Against the house.

6 Q Okay. Was there another -- across that wall
7 there, was there another chair or couch there where you
8 were sitting?

9 A Yes.

10 Q Okay. Were you and John planning on moving in
11 together?

12 A We were talking about it.

13 Q Okay. Were you buying a house, or was he buying
14 a house?

15 A At that point, I was trying to.

16 Q Okay. Are you aware that anyone else came over
17 that night to the house prior to you being there?

18 A When I got there he said someone had came over.

19 Q Man or woman?

20 A Woman.

21 Q Okay. Did he tell you who?

22 A He said he didn't know who it was.

23 Q Okay. Did Mr. Vaux come out while you were
24 there?

25 A Yes.

DIRECT EXAMINATION OF JOSEPH RUEBY BY MS. SMITH

1 Q Did you talk to him that night?

2 A Yes.

3 Q How long was he out there?

4 A Not too long. Five, ten, 15 minutes.

5 Q I want you to tell me what you heard that night
6 while y'all were sitting out there talking.

7 A We heard what sounded like a gun racking, and
8 then there was a couple of shots.

9 Q Okay. Did you see anyone shoot the gun?

10 A No.

11 Q What were you looking at when John was shot?

12 A John.

13 Q You said how many shots were there?

14 A Two.

15 Q Okay. What happened when -- where did that shot
16 hit John?

17 A In his head.

18 Q Do you remember what kind of gun it sounded
19 like?

20 A Maybe like a shotgun.

21 Q Why do you say that? How did it sound?

22 A It just sounded like it. It was loud.

23 Q Did y'all have the lights on on the patio?

24 A There was one shining towards the neighbor's
25 house.

DIRECT EXAMINATION OF JOSEPH RUEBY BY MS. SMITH

1 Q And you will look at State's No. 3 is the
2 neighbor's house to the right, is that the light you are
3 talking about?

4 A Yes, the house that it's shining on.

5 Q Where did the shot come from, or where did you
6 hear them come from?

7 A The other direction, where it was dark.

8 Q What did you do after you heard the shots?

9 A I went inside and told Roberts, and called 911.

10 Q And where did you wait until 911 got there?

11 A The front of the house, inside.

12 Q Were you scared?

13 A Yes.

14 Q Were you aware that John had used drugs before?

15 A Yes.

16 Q Okay. Did you know who he bought drugs from?

17 A No.

18 Q Did you talk to law enforcement when they got to
19 the scene?

20 A Yes.

21 Q Okay. Did they bag your hands?

22 A Yes.

23 Q Okay. Did you give a written statement?

24 A Yes.

25 Q Did they interview you?

DIRECT EXAMINATION OF JOSEPH RUEBY BY MS. SMITH

1 A Yes, a couple times.

2 Q Okay. Did you -- did they perform a gunshot
3 residue kit on your hands, that you recall?

4 A Yes.

5 Q And did you voluntarily give your DNA to them?

6 A Yes.

7 MS. SMITH: That is all I have for you,

8 Mr. Rueby. Thank you.

9 THE COURT: Cross.

10 MR. STEPHENS: Yes, Your Honor.

11 CROSS EXAMINATION

12 BY MR. STEPHENS:

13 Q Mr. Rueby, you mentioned that Mr. Cherol had
14 told you that a young Caucasian female had come to the
15 house earlier in the evening?

16 A Correct.

17 Q And he said he didn't know her?

18 A Yes.

19 Q He said that she came over because she was
20 having vehicle problems?

21 A Yes.

22 Q And he never mentioned the name Colette Collins
23 to you when he was talking about that female?

24 A He didn't say a name.

25 Q Do you know Sam and Colette Collins?

CROSS EXAMINATION OF JOSEPH RUEBY BY MR. STEPHENS

1 A No.

2 Q Thank you, Mr. Rueby.

3 Just one other question. To the best of
4 your recollection, was it raining some that evening?

5 A I don't remember.

6 Q Thank you, Mr. Rueby. No further questions.

7 THE COURT: All right. Redirect?

8 MS. SMITH: Nothing further. May he be excused?

9 THE COURT: Any objection?

10 MR. STEPHENS: No objection, Your Honor.

11 THE COURT: Okay. You are excused and released
12 from your subpoena. Thank you for coming.

13 MS. SMITH: State calls Jamie Johnson.

14 Thereupon,

15 JAMIE JOHNSON

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SMITH:

20 Q Good morning, Ms. Johnson. How are you feeling
21 today?

22 A A little bit better.

23 Q We appreciate you coming, Ms. Johnson. I know
24 you've been under the weather.

25 THE COURT: Give me the witness's again.

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 MS. SMITH: Jamie Johnson.

2 THE COURT: Okay.

3 BY MS. SMITH:

4 Q Ms. Johnson, where do you work?

5 A I currently work for the Lexington County
6 Sheriff's Department.

7 Q How long have you been there?

8 A Approximately four months.

9 Q Where did you work prior to that?

10 A South Carolina Law Enforcement Division,
11 commonly known as SLED.

12 Q And where did you -- what department did you
13 work?

14 A I was a special agent in the crime scene unit.

15 Q How long were you there?

16 A I was there for close to five years.

17 Q And do you -- what kind of degree do you have?

18 A I have a bachelor's degree in forensic science,
19 and a master's degree in forensic science as well.

20 Q Were you called to respond to [REDACTED] Pinecrest Way
21 in Bluffton on October 28th, 2015?

22 A Yes, I was.

23 Q And what -- why were you requested to be there?

24 A I received a call from our operations desk,
25 which we refer to as OD, and they had notified us of a

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 crime scene request from Bluffton police department.

2 Q Okay. Approximately when did you arrive on the
3 scene there?

4 A I arrived at approximately 4:18 a.m.

5 Q Okay. And did anyone respond with you from
6 SLED?

7 A Yes. I was partnered with another female agent
8 at the time, by the name of Brandy Burke.

9 Q Upon arriving on the scene, who did you meet
10 with? What did you do?

11 A I met with Lieutenant Babkiewicz, Babkiewicz,
12 excuse me, with Bluffton police department. And after
13 that, we did an initial walk-through of the crime scene.

14 Q Okay. Did you take photographs at the scene?

15 A We did, yes.

16 Q Okay. What did you notice when you walked to
17 the back of the house -- or outside of the patio, off the
18 patio?

19 A The back patio area was where the victim was
20 located, Jonathan Cherol. And the first thing our
21 attention was kind of drawn to was the fact that he seemed
22 to be in the middle of sending a text message or in a text
23 conversation with somebody at the time that he was killed.

24 Q I'm going to show you what's previously been
25 marked and admitted as State's No. 3, 5, and 6.

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 Well, actually, let me show you No. 3
2 first. State's No. 3.

3 Is that how you found John Cherol when you
4 got there?

5 A That is correct.

6 Q Okay. Did you find any shells or collect
7 anything in the backyard?

8 A We did. Prior to our arrival, there were two
9 pieces of evidence that were marked with white pieces of
10 paper, which you can see in the bottom left-hand of the
11 photograph.

12 We replaced those pieces of paper with
13 Markers 1 and 2, the yellow crime scene markers that
14 everybody is fairly familiar with.

15 Marker 1 was a misfired shotgun shell, and
16 Marker 2 was a fired shotgun shell. Both of those were
17 collected.

18 Q And I'm going to show you what's been marked as
19 State's 8 and 9 and entered into evidence.

20 Number 8, is that the Marker 1 you were
21 just talking about?

22 A That is correct. That is going to be the
23 misfired shotgun shell.

24 Q Okay. And what about No. 9?

25 A State's Exhibit 9 is Marker 2, which is going to

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 be a fired shotgun shell.

2 Q Okay. And I'm going to show you what's been
3 marked for identification purposes as State's Exhibit No.
4 3 (SIC). Can you tell us what this is?

5 A State's exhibit --

6 Q State's Exhibit No. 10. Sorry.

7 THE COURT: Ten?

8 MS. SMITH: Ten, yes, sir.

9 BY MS. SMITH:

10 Q Marker No. 10.

11 A State's Exhibit 10 is Marker No. 3, which is a
12 footwear impression in the soil that we located, that was
13 in close proximity to Markers 1 and 2.

14 MS. SMITH: Judge, at this time, I would move 10
15 into evidence.

16 MR. STEPHENS: No objection, Your Honor. Thank
17 you.

18 THE COURT: Okay.

19 *(Whereupon, State's Exhibit No(s). 10 marked for*
20 *identification and received in evidence.)*

21 BY MS. SMITH:

22 Q Did you find -- I mean, were you able to do
23 anything with this footwear impression, Ms. Johnson?

24 A The only thing we did was photograph it. We
25 took what's called examination quality photographs, which

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 is a way to photographically preserve the footwear
2 impression in case we have a known footwear to compare it
3 to at a later point in time.

4 Q Ms. Johnson, did y'all observe anything -- the
5 residence next door to ■ Pinecrest Way?

6 A Yes, we did.

7 Q I'm going to show you what's been marked as
8 State's Exhibit No. 6.

9 State's Exhibit 6, this is going to be the
10 shotgun pellet defects at the exterior of the residence,
11 which is what results -- what comes out of a shotgun when
12 it's fired.

13 And did y'all do anything with these
14 pellets? Did you collect anything?

15 A We did not collect these. There had been a
16 discussion on scene between myself and Lieutenant
17 Babkiewicz about whether or not we were going to collect
18 the shotgun pellets. We didn't have a way to get into the
19 residence next door, it was abandoned. And from a
20 firearms standpoint, there's nothing really that a
21 firearms examiner can do with the individual pellets. So
22 a joint decision was made to leave them embedded in the
23 residence next door.

24 Q Did you find anything else in the back of the
25 yard, in the backyard?

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 A We did not.

2 Q Okay. What else did you do from there,
3 Ms. Johnson?

4 A After we finished with the exterior of the
5 residence, the interior of the residence was photographed.
6 We also obtained a set of post mortem major case prints,
7 which is fingerprints to include palm prints, from
8 Jonathan Cherol.

9 Q I'm going to hand you what's been marked for
10 identification as State's Exhibit No. 12 and 16, and ask
11 you to take a look at these.

12 A State's Exhibit 12 is showing a grassy area that
13 is going to be adjacent to Masters Way. Masters Way runs
14 perpendicular to Pinecrest Way, and there were some tire
15 impressions that we had noticed in the grass that we
16 photographed.

17 And State's Exhibit 16 is going to be a
18 photograph showing kind of the cut-through area from Masters
19 Way through a wooded area that actually ends up at the rear
20 of the residence at ■ Pinecrest Way.

21 Q And just to stop you, 12 and 16, are those fair
22 and accurate depictions of what you saw that night, as far
23 as the tire impressions and the path you are talking
24 about?

25 A Yes, ma'am.

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 MS. SMITH: At this time, I admit 12 and 16.

2 MR. STEPHENS: No objection Your Honor. Thank
3 you.

4 *(Whereupon, State's Exhibit No(s). 12 and 16*
5 *marked for identification and received in evidence.)*
6

7 BY MS. SMITH:

8 Q So the jury can see, No. 12, those are the tire
9 impressions you were just talking about?

10 A Yes, ma'am. Those are the tire impressions on
11 the street. And on the left is going to be Masters Way.
12 And if you follow that up, it actually intersects
13 Pinecrest Way on the right.

14 Q Okay. Were you able to do anything with these
15 tire impressions?

16 A We were not. We just photographed them. From
17 looking at them, there was not any detail, anything we
18 could use at a later point in time. So they were just
19 photographed and deemed no value.

20 Q Okay.

21 A And on Number 16, this is looking at Masters
22 Way. And if you come off of Masters Way and continue what
23 would be this way in the photograph, you actually end up
24 running behind the residence at ■ Pinecrest Way.

25 Q Is it safe to say that you would walk from those

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 tire impressions down that path to ■ Pinecrest Way?

2 A Yes, ma'am.

3 Q Did you, in fact, do that walk-through?

4 A We did.

5 Q All right. I'm going to hand you what's been
6 marked as State's No. 49, and ask if you can identify
7 that.

8 A State's 49 is going to be the fired shot shell
9 from Marker 2 that was collected on scene that night.

10 Q Okay. And is that the fired shell or the
11 misfired shell?

12 A This is the fired shell.

13 Q Did you collect that item?

14 A Yes, I did.

15 Q And what did you do after you collected it?

16 A It was collected, and it would have been
17 packaged in the manila coin envelope, and then transported
18 back to the SLED forensics services laboratory.

19 MS. SMITH: Judge, at this point, I would move
20 49 into evidence.

21 MR. STEPHENS: No objection, Your Honor. Thank
22 you.

23 *(Whereupon, State's Exhibit No(s). 49 marked for*
24 *identification and received in evidence.)*

25 BY MS. SMITH:

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 Q I am going to hand you what's been marked as
2 State's No. 48, and ask you to identify that.

3 A Forty-eight is going to be the misfired shot
4 shell that was collected on scene that night.

5 Q Okay. And what did you do once you collected
6 it?

7 A It would have been placed and packaged into the
8 coin envelope and then, again, transported back to the
9 SLED forensics services laboratory.

10 MS. SMITH: Judge, at this time, I move 48 into
11 evidence.

12 MR. STEPHENS: No objection.

13 *(Whereupon, State's Exhibit No(s). 48 marked for*
14 *identification and received in evidence.)*

15 BY MS. SMITH:

16 Q All right. Ms. Johnson, I'm going to hand you
17 what's been marked as State's No. 47, and ask you to tell
18 us what that is.

19 A This is DNA swabs, and I believe this is going
20 to be the DNA swabs that I took on scene from both of the
21 shot shells that we just saw, and then turned over to
22 Bluffton police department.

23 Q And how did you collect DNA from the shotgun
24 shells?

25 A For this scenario, we are going for touch DNA.

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 So I would have two sterile swabs. I wet one of them, with
2 deionized water and then take both swabs over the surface
3 of the object, over the entire exterior surface of each
4 shot shell in this case. And just gently swab the entire
5 exterior in an attempt to get any touch DNA off of that
6 item.

7 Q And you said at that point you sealed the
8 package and then turned it over to Bluffton police
9 department?

10 A That's correct.

11 Q Do you recall who you turned it over to?

12 A I believe it was Detective Odom.

13 MS. SMITH: At this time, we would move No. 47
14 into evidence.

15 MR. STEPHENS: No objection, Your Honor. Thank
16 you.

17 *(Whereupon, State's Exhibit No(s). 47 marked for*
18 *identification and received in evidence.)*

19 MS. SMITH: Judge, that is all that I have for
20 this witness. Thank you.

21 THE COURT: Any cross?

22 MR. STEPHENS: Yes, sir. Beg the Court's
23 indulgence, I just need to make sure that the camera
24 is set up.

25 (Pause.)

DIRECT EXAMINATION OF JAMIE JOHNSON BY MS. SMITH

1 MR. STEPHENS: Your Honor, I just want to
2 retrieve the State's exhibits from the witness.

3 Thank you, ma'am.

4 CROSS EXAMINATION

5 BY MR. STEPHENS:

6 Q Ms. Johnson, you testified just a moment ago
7 about this photo from --

8 THE COURT: Which exhibit, please?

9 MR. STEPHENS: I'm sorry, Your Honor. This is
10 State's Exhibit 12.

11 BY MR. STEPHENS:

12 Q You testified just a moment ago about State's
13 Exhibit 12, which you said was a photograph off the edge
14 of Masters Way; is that correct?

15 A That's correct.

16 Q All right. And it looks like there's some water
17 and some -- some, what looked like, rail on the road. Is
18 that also fair and accurate for the time that you took --
19 this photograph was taken?

20 A Yes.

21 Q Now, there is a picture -- now, there is a house
22 down in the distance. That is not the home where this
23 crime happened, correct?

24 A That's correct.

25 Q And there's actually a number of houses down

CROSS EXAMINATION OF JAMIE JOHNSON BY MR. STEPHENS

1 that way before you get to the house where this happened,
2 correct?

3 A Correct.

4 Q Now, I'm showing you State's Exhibit 16. You
5 just testified to this path through the woods. This
6 photograph of the path through the woods.

7 They said that path leads to No. [REDACTED]
8 Pinecrest, the home where this incident happened. That is
9 not a trail that leads directly to that home, is it,
10 ma'am?

11 A I wouldn't say it leads directly there, but
12 there's an obvious path through the woods, and if you
13 follow it, it comes out behind [REDACTED] Pinecrest Way.

14 Q All right. Now, ma'am, I'm showing you --

15 MR. STEPHENS: Beg the Court's indulgence for a
16 moment.

17 BY MR. STEPHENS:

18 Q Ma'am, I'm showing you what's been marked as
19 State's Exhibit 11. Is that the same location that the
20 home centered in the photograph, where this incident
21 happened?

22 A Yes.

23 Q Would it be fair to say that the path you
24 indicated is somewhere at the top of that photograph,
25 where those trees are?

CROSS EXAMINATION OF JAMIE JOHNSON BY MR. STEPHENS

1 A That's correct.

2 Q And prior to this incident happening, that tree
3 just behind the house where the shooting happened, that
4 was full in bloom, correct? It wasn't -- it wasn't
5 leafless like it is there?

6 A I couldn't tell you.

7 Q All right. Well, let me show you a different
8 picture then.

9 THE COURT: Exhibit number?

10 MR. STEPHENS: Thank you, Your Honor.

11 BY MR. STEPHENS:

12 Q Ms. Johnson, I'm showing you State's Exhibit
13 No 4. Is that also the back of the home on the night that
14 you responded to this incident?

15 A Yes, it is.

16 Q All right. And that tree in the upper left-hand
17 side of the photograph, that is looking towards Masters
18 Way, where this happened?

19 A That's correct.

20 Q Okay. Now, did you look for Masters Way back
21 towards the scene, where the shooting happened?

22 A We did.

23 Q Could you see that area right there that is
24 depicted in the photograph?

25 A I believe we could.

CROSS EXAMINATION OF JAMIE JOHNSON BY MR. STEPHENS

1 Q There's no photographs of that though, correct?

2 A That's correct.

3 MR. STEPHENS: Thank you, Ms. Johnson. I don't
4 have any further questions for you at this time.

5 MS. SMITH: Nothing further for Ms. Johnson.
6 May she be excused?

7 THE COURT: Ms. Johnson, you may step down. May
8 she be excused?

9 MS. SMITH: She's excused.

10 MR. STEPHENS: No objection, Your Honor. Thank
11 you.

12 THE COURT: You may be excused. Next witness.

13 MS. SMITH: The State calls Baker Odom.

14 Thereupon,

15 BAKER ODOM

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SMITH:

20 Q Sir, where do you work?

21 A I work for the Bluffton police department.

22 Q How long have you been there?

23 A Been there almost six years. It will be in
24 April.

25 Q And what is your current duties there?

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 A Currently, I am a patrolman.

2 Q What about in October of 2015?

3 A At that time, I was a detective with the
4 criminal investigations division.

5 Q And did you respond to ■ Pinecrest Way on
6 October 28, 2015?

7 A I did.

8 Q And were you the lead investigator on this case?

9 A Yes, ma'am, I was.

10 Q Approximately when did you respond that night?

11 A Approximately 12:30 a.m.

12 Q What did you observe when you got there?

13 A When I arrived at ■ Pinecrest Way, I first
14 observed Mr. Roberts Vaux and Joe Rueby out in the front
15 area of the residence. Both already had their hands
16 bagged by previous officers who arrived on scene.

17 Q Just for a second, tell us what that means, when
18 you bag someone's hands.

19 A The general idea behind bagging someone's hands
20 at a crime scene would be to preserve any evidence on
21 their hands, such as gunshot residue if they had fired a
22 gun.

23 Q And what did you do after that?

24 A I also noticed the area was taped up with police
25 tape. And so then I did a brief walk-through of the area

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 just to get the general idea of what we had there.

2 I located the victim, Jonathan Cherol on the
3 back porch. He was sitting on a couch facing the direction
4 of Masters Way, which y'all have seen on the screen so far.

5 His legs were still crossed, he was slumped
6 over slightly to his right, and there was a cell phone next
7 to him as well.

8 Q Did you interview Joe Rueby that night?

9 A I did.

10 Q Did you conduct a gunshot residue kit on
11 Mr. Rueby?

12 A I did.

13 Q Tell us what that is and how you do it.

14 A A gunshot residue kit comes in a sealed package.
15 Each one is one use only. You open the kit up, it has
16 paper there with specific instructions, and no matter how
17 many times I do one of those, I look at the instructions,
18 follow it in order because it's important you do it
19 exactly as instructed.

20 I follow the instructions on there. It
21 involves basically using different items that are in the
22 kit, pat on their hands, various parts of the hands, each --
23 there are specific places depending on which piece you are
24 using at the time. And then you seal all that back up in
25 the gunshot residue kit, and then submit it to evidence for

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 processing.

2 Q Did you collect any items from Jamie Johnson,
3 who just testified?

4 A I did.

5 Q I'm going to show you what's been marked as
6 State's No. 47, 48, and 49. Do you recognize those?

7 A Yes, I do.

8 Q What did you do with those items?

9 A I took these items from Agent Johnson and
10 submitted them to evidence at the Bluffton police
11 department.

12 Q And were they sealed when you submitted them?

13 A They were.

14 Q Did you attend the autopsy of John Cherol?

15 A Yes, I did.

16 Q And what did you -- did you collect anything
17 from that?

18 A Yes, I did.

19 Q I'm going to hand you what's been marked as
20 State's Exhibit No. 50, and ask if you can tell us what
21 that is.

22 A I used -- this is a number of different items
23 collected from the autopsy.

24 MS. SMITH: Judge, at this time, I move Number
25 50.

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 MR. STEPHENS: No objection, Your Honor. Thank
2 you.

3 *(Whereupon, State's Exhibit No(s). 50 marked for*
4 *identification and received in evidence.)*

5 BY MS. SMITH:

6 Q Mr. Odom, what did you collect from the autopsy?
7 I know you said a couple things, but what is in that bag?

8 A This bag is labeled as containing a blood
9 standard from the victim. Pulled scalp hair from the
10 victim, combed pubic hair from the victim, pulled pubic
11 hair from the victim, gunshot fragments that were located
12 inside the victim's head, and general swabs from the
13 victim as well.

14 Q And what did you do with that once you collected
15 it?

16 A I brought it back to Bluffton, to the Bluffton
17 police department, and submitted it into evidence.

18 Q Did you interview Samuel Collins in connection
19 with this case?

20 A I did.

21 Q Do you recall when you interviewed Mr. Collins?

22 A It was on October 30th, 2015, at approximately
23 9:08 in the morning.

24 Q During that interview, did you collect his DNA?

25 A Yes, I did.

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 Q Did he voluntarily provide you with that DNA?

2 A Yes, he did.

3 Q And how did you -- how did you collect it from
4 him?

5 A With a buccal swab, which is essentially a long
6 Q tip that we collect DNA from inside his cheek.

7 Q I'm going to hand you what's been marked as
8 State's Exhibit No. 51 for identification only. Can you
9 explain to us what that is?

10 A This is the DNA sample that we obtained from
11 Mr. Collins during that -- at the end of that interview.

12 Q What was Mr. Collins's demeanor like, in
13 general, in the interview?

14 A He was very calm. Didn't seem very worried
15 about much of anything at the time.

16 Q What did -- can you give us a description of
17 what Mr. Collins looked like back on this date?

18 A I'm sorry?

19 Q Back on this date in October.

20 A Yes. On the day that we interviewed
21 Mr. Collins, he's a pretty tall man, but he was also very,
22 very -- I wouldn't say necessarily slender, but he was
23 fairly thin, and walked with a very pronounced limp.

24 Q As a result of your interview, did you obtain a
25 search warrant for a 2007 Toyota Camry?

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 A Yes.

2 Q And did you ultimately obtain a search warrant
3 for Samuel Collins' residence at ■ Buck Point Road?

4 A Yes, we did.

5 Q What did y'all find there during that search
6 warrant?

7 A On the day of that search warrant at 15 Buck
8 Point Road, we seized numerous items, including a video
9 camera, several cell phones, some loose rounds of Telsa
10 ammunition, a DVR, and some other items.

11 Q I'm going to hand you what's previously been
12 marked as State's Exhibits No. 37, 38, 39, 40, and 41.

13 Is that a fair and accurate depiction,
14 those pictures, of the items you found in the residence?

15 A Yes, it is.

16 MS. SMITH: Judge, at this time, I would move
17 State's 37 through 41 into evidence.

18 MR. STEPHENS: No objection, Your Honor. Thank
19 you.

20 *(Whereupon, State's Exhibit No(s). 37-41 marked*
21 *for identification and received in evidence.)*

22 BY MS. SMITH:

23 Q That's one of the cell phones you found?

24 A Yes, it is.

25 THE COURT: What part of the exhibit, please?

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 MS. SMITH: No. 36, No. 37.

2 THE COURT: Thank you.

3 BY MS. SMITH:

4 Q Okay. What about State's No. 38? Another cell
5 phone?

6 A Another cell phone.

7 Q State's No. 39?

8 A It appears to be a box that one of the cell
9 phones came in.

10 Q And No. 40?

11 A Some more cell phones.

12 Q And 41?

13 A Again, more cell phones.

14 Q Okay. How many -- approximately how many did
15 you find there?

16 A Actually -- excuse me, 41 actually appears to
17 just be a different shot and angle of the same cell phones
18 from 40.

19 THE COURT: Did he answer that last question?

20 How many?

21 BY MS. SMITH:

22 Q How many did you find?

23 A Actually, I'm not sure of the exact number.
24 There were multiple people collecting cell phones there
25 that day, and there were a number of them though.

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 Q As a result of your interview, did you get a
2 search warrant for [REDACTED] Hitching Post, the residence of Mr.
3 Cody Brown?

4 A The interviews played a part in that, however,
5 also that was a result of cell phone records.

6 Q And did you interview Mr. Brown?

7 A Yes, I did.

8 Q And did you collect DNA from him?

9 A Yes, I did.

10 Q And how did you collect his DNA?

11 A Same method as before, a buccal swab inside his
12 cheek.

13 Q I'm going to show you what's been marked for
14 identification as State's No. 52, and ask if you recognize
15 this.

16 A Yes, I do.

17 Q And what is that?

18 A That's the DNA swab from Mr. Brown.

19 Q The items that were found in Mr. Brown's house,
20 what did you do with those after they were collected?

21 A They were collected and placed into evidence
22 with the Bluffton police department.

23 Q And did you subsequently turn them over to the
24 DNA lab at the Beaufort County Sheriff's Office?

25 A Yes, we did.

DIRECT EXAMINATION OF BAKER ODOM BY MS. SMITH

1 MS. SMITH: That is all I have for this witness.

2 THE COURT: Cross examination of this witness?

3 MR. STEPHENS: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. STEPHENS:

6 Q Officer, you also did an interview of Colette
7 Collins as part of your investigation, correct?

8 A Yes, sir.

9 Q And she had also consented to have a DNA swab
10 taken from her, correct?

11 A She did.

12 Q And so that was collected and also submitted for
13 DNA testing?

14 A Yes, sir, it was.

15 Q And after her arrest, she also gave you an
16 interview and a statement, correct?

17 A That's correct, she did..

18 MR. STEPHENS: I don't have any further
19 questions for Officer Odom at this time. Thank you.

20 MS. SMITH: That's all I have for him.

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

22 Next witness.

23 MS. SMITH: State calls David Murphy.

24 Thereupon,

25 DAVID MURPHY

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SMITH:

5 Q Good morning.

6 A Good morning.

7 Q Where do you work, Mr. Murphy?

8 A Currently work for the Beaufort County Sheriff's
9 Office.

10 Q Where were you working on October 27th, 2015?

11 A The Bluffton police department.

12 Q And how long have you been in law enforcement?

13 A Coming up on ten years.

14 Q Did you respond to [REDACTED] Pinecrest Way on
15 October 28th, 2015?

16 A Yes, I did. Yes, I did, ma'am.

17 Q And what did you do when you got there?

18 A At the time I was with the Bluffton police
19 department that evening, I was assigned to the criminal
20 investigation division as a detective. Upon my arrival, I
21 did a preliminary walk-through, the same as Detective Odom
22 did, to observe the scene.

23 I took some preliminary photographs and then,
24 obviously, met back up front with the other detectives and
25 Detective Odom, who was with Roberts Vaux and Joe Rueby, at

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 which time I conducted a -- Roberts Vaux's hands were
2 already bagged as described before, where I conducted a
3 gunshot residue on him, kit.

4 Q And explain to us how you did that.

5 A In the exact same process that Detective Odom
6 explained earlier, his hands were bagged with paper bags.
7 With gloved hands, my hands gloved, I removed those bags,
8 used a gunshot residue kit that was provided from SLED
9 that we have.

10 Followed the procedures according to the
11 instructions of the bag, using each marker accordingly, per
12 finger, per thumb. And I placed those back into the bag and
13 then submitted those to evidence.

14 Q Did you interview Mr. Vaux that morning?

15 A Yes, I did.

16 Q Did you obtain his DNA?

17 A Yes, I did.

18 Q And did he voluntarily provide it to you?

19 A Yes, he did. Yes, ma'am, he did.

20 Q I'm going to hand you what's been marked as
21 State's Exhibit No. 54, and ask if you can identify that
22 for us.

23 A This is indicated as two buccal swabs of known
24 provider, which would be Roberts Vaux.

25 Q What did you do after you collected that?

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 A It was the bag -- I placed it in the bag, sealed
2 it in the bag, marked it with my initials, and submitted
3 it to evidence.

4 Q Mr. Murphy, did you review any surveillance
5 video from the Pinecrest subdivision?

6 A Yes, I did.

7 Q Can you tell me what -- what you saw from that
8 video?

9 A From the brief -- from the video that I
10 observed, was of the front door of the -- of [REDACTED] Pinecrest,
11 the incident location, which showed the Defendant there at
12 the house earlier that evening, as well as a Toyota Camry
13 passing by the house.

14 Q Okay. And did you determine who the Toyota
15 Camry belonged to?

16 A I believe another investigator or officer ran
17 the plate, which identified it, if I recall correctly.

18 Q And as a result of reviewing that information,
19 did you obtain cell phone records for the individual?

20 A Yes, I did.

21 Q Did you obtain cell phone records for Colette
22 Collins?

23 A Yes, I did, I secured it. Once she was
24 identified as the young lady on the video, I secured a
25 search warrant, which was then forwarded to the phone

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 company, which was Verizon Wireless, and those records
2 were then forwarded to me.

3 Q Okay. Did you determine anyone else's number in
4 looking through her telephone records?

5 A Yes. Through the course of examining those, I
6 determined that one of the main numbers that was contacted
7 often was that of Sam Collins.

8 Q Okay. And was that number, (912) 659-4048?

9 A Yes, ma'am.

10 Q Did you assist in the search warrant of Colette
11 Collins' residence at [REDACTED] Buck Moore Road?

12 A Yes, I did.

13 Q Do you recall what was collected there?

14 A Several cell phones, as Detective Odom
15 indicated. The DVR system, as well as various other
16 items.

17 Q Mr. Murphy, once you received the phone records
18 and the text messages, did you review all the records?

19 A Yes, ma'am, I did.

20 Q And what did you find?

21 A I found several text messages, obviously between
22 Ms. Collins and her husband. But I also found text
23 messages indicating that Mr. Collins had texted a friend
24 indicating where the weapon -- where a weapon was located.

25 Q Who was that friend?

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 A His name, I believe, was Cody Brown.

2 Q Did you obtain a search warrant for his phone
3 records?

4 A Yes, I did.

5 Q Did you obtain a search warrant for his
6 residence?

7 A Either I did or Detective Odom did.

8 Q Did you interview Mr. Brown and confirm that was
9 his telephone number on the text messages you found?

10 A Again, it would have been -- either I would
11 either confirmed or Detective Odom did. I don't recall
12 exactly which one of us talked to him after we obtained
13 the search warrant.

14 Q Okay. And, Mr. Murphy, do you recall that
15 number being (843)368-7597?

16 A Yes, ma'am.

17 Q Belonging to Cody Brown?

18 A Yes, ma'am.

19 Q Now, you collected evidence from Cody Brown's
20 house; is that correct?

21 A Yes, I did.

22 Q Okay. I'm going to show you what's been marked
23 as State's No. 59, and ask if you can identify that.

24 A According to the description, this is a set of
25 camo pants and what is known as a ghille style shirt,

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 which was also located in the garage of Mr. Brown's home.

2 And if anybody doesn't know what a ghille
3 style shirt is, it's a camouflage shirt. It's designed to
4 look like weeds, brush.

5 THE COURT: And that's G-I-L-L-E-Y, gilley
6 style?

7 THE WITNESS: Ghille is spelled G-H-I-L-L-E.

8 BY MS. SMITH:

9 Q And what did you do with those items once you
10 collected them?

11 A They were collected, placed in this exact paper
12 bag here, sealed, and I initialed it and then submitted
13 into the Bluffton police department evidence.

14 MS. SMITH: Judge, at this time, I would move 59
15 into evidence.

16 THE COURT: Fifty-nine, camo pants and ghille
17 style shirt. Any objection?

18 MR. STEPHENS: No objection, Your Honor.

19 THE COURT: Thank you.

20 *(Whereupon, State's Exhibit No(s). 59 marked for*
21 *identification and received in evidence.)*

22 BY MS. SMITH:

23 Q Mr. Murphy, I'm going to hand you what's been
24 marked as State's Exhibit No. 57, and ask you to identify
25 that.

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 A This is an iPhone 6 with case, belonging -- it
2 actually does not say who it belongs to, but it is an
3 iPhone 6 with a speckled case.

4 Q Did you collect that from Cody Brown's
5 residence?

6 A Yes, I did.

7 Q And what did you do with it?

8 A Same thing. My procedures were pretty standard,
9 placed it in the bag, sealed the bag and submitted it into
10 evidence.

11 MS. SMITH: All right. At this time, I move 57
12 into evidence.

13 MR. STEPHENS: No objection, Your Honor. Thank
14 you.

15 *(Whereupon, State's Exhibit No(s). 57 marked for*
16 *identification and received in evidence.)*

17 BY MS. SMITH:

18 Q Mr. Murphy, I'm going to hand you State's
19 Exhibit No. 56 and 57.

20 A No. 56 and 57?

21 Q Excuse me. 55 and 56, and ask you to identify
22 these.

23 A State's Exhibit No. 56 is a Super X spent, or
24 shot, shell casing from a shotgun. And exhibit -- State's
25 Exhibit No. 55 is a -- appears to be a cut or examined

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 shotgun shell, same brand, a Super X shotgun shell.

2 Q And what did you -- where did you collect these
3 items from?

4 A These would have been collected from [REDACTED]
5 Hitching Post Crescent, and which was Cody Brown's home.

6 Q And do you know where at [REDACTED] Hitching Post you
7 collected them?

8 A From the garage.

9 MS. SMITH: At this time, we move 55 and 56 into
10 evidence.

11 MR. STEPHENS: No objection, Your Honor. Thank
12 you.

13 *(Whereupon, State's Exhibit No(s). 55-56 marked*
14 *for identification and received in evidence.)*

15 BY MS. SMITH:

16 Q Mr. Murphy, I'm going to show you what's been
17 marked as State's Exhibit 58, and ask if you will identify
18 that.

19 A This is going to be a black baseball cap from --
20 identified as a Masters hat with a yellow logo, which was
21 found in the garage of Mr. Cody's home.

22 Q And what did you --

23 A Or, excuse me, Mr. Brown's home.

24 Q Mr. Brown.

25 A Bagged it in the same evidence bag, sealed it,

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 and then submitted it into evidence.

2 MS. SMITH: At this time, I move 58 into
3 evidence.

4 MR. STEPHENS: No objection, Your Honor. Thank
5 you.

6 *(Whereupon, State's Exhibit No(s). 58 marked for*
7 *identification and received in evidence.)*

8 BY MS. SMITH:

9 Q At this time, I'm going to show you what's been
10 marked as State's Exhibit No. 60.

11 THE COURT: Fifty-what?

12 MS. SMITH: Sixty.

13 BY MS. SMITH:

14 Q And ask if you can identify that.

15 A Yes. This is one camouflage shotgun with a
16 scope and, you know, a style scope which was collected
17 from the gun cabinet inside of Mr. Brown's home.

18 Q And what did you do once you collected that?

19 A Upon collecting it, removing it from the gun
20 safe -- the gun cabinet in his home, obviously I cleared
21 it and secured it to make sure that it was safe to handle.
22 Secured it in this evidence box, and then submitted it
23 into evidence.

24 Q Is it secured right now?

25 A Yes, it is. It's still secured with what

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 appears to be two white zip ties, which are commonly used
2 to secure weapons before placing them into evidence.

3 MS. SMITH: Judge, at this time, we move 60 into
4 evidence.

5 MR. STEPHENS: No objection.

6 *(Whereupon, State's Exhibit No(s). 60 marked for*
7 *identification and received in evidence.)*

8 MS. SMITH: Judge, can I publish Exhibit 60 to
9 the jury?

10 THE COURT: Yes. Just don't point it at anyone.

11 THE WITNESS: Absolutely, sir. It is secure.

12 MS. SMITH: And if you can just show the jury.

13 THE WITNESS: (Witness complies.)

14 BY MS. SMITH:

15 Q Mr. Murphy, I'm going to hand you State's
16 Exhibit No. 53, and ask you to identify that.

17 A This is two buccal swabs that were collected by
18 -- that I collected from Joe Rueby.

19 Q And what did you do once you collected those?

20 A Once collected, they would have been placed in
21 the bag and sealed, and then submitted into evidence as
22 well.

23 MS. SMITH: That is all I have for you. Thank
24 you.

25 THE COURT: Those from Brown, did you say?

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 THE WITNESS: These would be from Joe Rueby,
2 Your Honor.

3 THE COURT: Joe Rueby. Okay.

4 THE WITNESS: Yes, sir.

5 BY MR. STEPHENS:

6 Q Officer Murphy, you say that you reviewed the
7 cell phone records for Sam Collins and Colette Collins,
8 correct?

9 A Yes, I did.

10 Q And after reviewing Samuel Collins' cell phone
11 records, you saw text messages that he had sent back and
12 forth to Cody Brown, the person whose home you retrieved
13 that shotgun from, correct?

14 A That is correct.

15 Q Now, it's correct to say that you did not see
16 any text messages from Colette Collins to Cody Brown,
17 correct?

18 A That is correct.

19 Q You also said that -- that after reviewing
20 Colette Collins' cell phone records, you saw that she had
21 called a number that you linked to Samuel Collins' cell
22 phone quite often, correct?

23 A That is correct.

24 Q And that would be before the shooting incident,
25 correct, not afterwards?

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 A It was during the course -- it was -- those --
2 that phone number was an often called number.

3 Yes, before, but also a number that she would
4 call after the shooting as well, if I recall.

5 Q All right. But you didn't keep track to look at
6 the number of phone calls or text messages that happened
7 before the shooting and after the shooting from
8 Ms. Collins?

9 A When I examined them, I examined them
10 throughout. They were pulled for a time frame.

11 Q All right.

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

13 (Pause.)

14 BY MR. STEPHENS:

15 Q Now, you said that you retrieved that shotgun
16 from Mr. Brown's gun cabinet that was locked up?

17 A Yes, I did.

18 Q He didn't take it out and present it or tell you
19 that this is the gun that Sam Collins borrowed from him?

20 A He did. After we -- the search warrant
21 indicated what we were looking for, which one was
22 firearms, to include a shotgun. And when we retrieved it,
23 I believe during an interview with Detective Odom, later
24 on during the course of our investigation, he did indicate
25 that that was the shotgun that he had borrowed from Sam

DIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 Collins.

2 Q And that was after you had showed up and seized
3 the weapon, correct?

4 A I don't recall.

5 Q He certainly never called the Bluffton police
6 department and said, "I have a shotgun that I think might
7 have been used in a crime."

8 A No, sir, he did not.

9 MR. STEPHENS: Thank you, Officer. I don't have
10 any further questions for you at this time.

11 MS. SMITH: Briefly.

12 REDIRECT EXAMINATION

13 BY MS. SMITH:

14 Q Mr. Murphy, were you aware that Colette Collins'
15 cell phone service got cut off shortly after the shooting?

16 A No, I was not.

17 MS. SMITH: Thank you.

18 THE COURT: You may step down.

19 Next witness.

20 Hold on, sir. Go back and sit down.

21 One more witness. Everybody in the jury okay?

22 Next witness, please.

23 Well, let me ask this. Lawyers, court
24 personnel, everybody okay?

25 Next witness.

REDIRECT EXAMINATION OF DAVID MURPHY BY MS. SMITH

1 MS. SMITH: State calls Karen Milbrodt.

2 Thereupon,

3 KAREN MILBRODT

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. SMITH:

8 Q Good morning. Can you state your name for us?

9 A Yes, ma'am. Karen Milbrodt. And Milbrodt is
10 M-I-L-B-R-O-D-T.

11 Q Good morning. Where do you work?

12 A I work for Verizon Wireless.

13 Q Okay. And what is your job there?

14 A I am -- my title is I'm a senior analyst in
15 executive relations, and one of my responsibilities is I'm
16 a records custodian.

17 Q Okay. And did you receive a subpoena from the
18 Bluffton police department for cell phone records in the
19 case you are here about today?

20 A Yes, my company did.

21 Q Okay. I'm going to hand you what's been marked
22 as State's Exhibit No. 44 and State's No. 45.

23 A Yes, ma'am.

24 Q Are these the records that your company provided
25 to the Bluffton police department?

DIRECT EXAMINATION OF KAREN MILBRODT BY MS. SMITH

1 A They are a part of the records that we sent.

2 They are.

3 Q Okay. And were these records kept in the
4 regular course of business?

5 A They are.

6 Q Are they fair and accurate depictions of the --
7 of copies from the records that they received?

8 A Yes, ma'am.

9 Q For those telephone numbers?

10 A For one set of telephone numbers. We received a
11 request for, I believe, three numbers. This is records
12 for one of those three.

13 Q And what number would that be?

14 A (912) 659-4048.

15 THE COURT: Four zero what?

16 A 4048.

17 MS. SMITH: Judge, at this time, I would move
18 State's No. 44 and 45 into evidence.

19 THE COURT: Those are both for the same number?

20 MS. SMITH: Yes, sir.

21 THE COURT: Any objection?

22 MR. STEPHENS: No objection, Your Honor.

23 THE COURT: Thank you.

24 *(Whereupon, State's Exhibit No(s). 44-45 marked*
25 *for identification and received in evidence.)*

DIRECT EXAMINATION OF KAREN MILBRODT BY MS. SMITH

1 MS. SMITH: That's all I have for this witness.

2 THE COURT: Any examination of her?

3 MR. STEPHENS: No cross examination, Your Honor.

4 Thank you.

5 THE COURT: Ma'am, you're released from your
6 subpoena.

7 THE WITNESS: Thank you, Your Honor. Thank you,
8 Jury.

9 THE COURT: Next witness, please.

10 MS. SMITH: Judge, at this time, could we take a
11 quick break just to make sure the other witnesses are
12 here?

13 THE COURT: This seems like a good time.

14 MR. STEPHENS: No objection from the Defense.
15 We would also like a break.

16 THE COURT: Well, I asked you a while ago if you
17 wanted one. You said no. Didn't I?

18 MR. STEPHENS: Yes, sir, you did.

19 THE COURT: Just kidding, lawyers.

20 Don't discuss the case when you go back to the
21 jury room, and don't deliberate.

22 Ma'am, see how long you want for lunch because
23 you all are the boss. I'm not sure where all of the
24 restaurants are located and so forth and so on.

25 Some counties I go to, they furnish lunch, but

DIRECT EXAMINATION OF KAREN MILBRODT BY MS. SMITH

1 not Beaufort. We will talk about that later.

2 See you back in about ten minutes.

3 Everybody else remain seated.

4 In fact, in all counties I go to, except
5 Beaufort, they furnish lunch.

6 (Whereupon, the jury exits the courtroom at
7 10:50 a.m.)

8 THE COURT: The jury is clear.

9 Anything from the State for the record before we
10 break?

11 MS. SMITH: No, sir.

12 THE COURT: Anything from the Defense?

13 MR. STEPHENS: No, sir. Thank you.

14 THE COURT: Make sure the Defendant has access
15 to the restrooms, and we will be back in about ten
16 minutes.

17 (Whereupon, the Court was in recess.)

18 THE COURT: Anything for the record?

19 MS. SMITH: No, Your Honor.

20 MR. STEPHENS: No, thank you, Your Honor.

21 THE COURT: All right. Bring the jury in.

22 (Whereupon, the jury enters the courtroom at
23 11:05 a.m.)

24 Thereupon,

25 CODY BROWN

DIRECT EXAMINATION OF CODY BROWN BY MS. SMITH

1 was called as a witness, having been first duly sworn,

2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SMITH:

5 Q Good morning, Mr. Brown.

6 A Good morning.

7 Q Where do you live?

8 A [REDACTED] Bakers Court in Bluffton, South Carolina.

9 Q And what do you do for a living?

10 A Construction.

11 Q Did you know -- do you know Sam, Sam Collins?

12 A Yes, ma'am.

13 Q When did you meet Mr. Collins?

14 A I would say 2007, somewhere around there.

15 Q And how did you meet him?

16 A It was in construction.

17 Q Okay. Did you meet his wife, Colette Collins?

18 A Yes, ma'am.

19 Q Is that her in the courtroom today?

20 A Yes.

21 Q Did y'all go through a period of time where you
22 didn't see Mr. Collins?

23 A Yes.

24 Q Why was that?

25 A It was just he got a little wild for my taste,

DIRECT EXAMINATION OF CODY BROWN BY MS. SMITH

1 and just didn't want really to hang out with him, that is
2 all.

3 Q Did you move back to Bluffton, or did he move
4 back to Bluffton at some point?

5 A I did. I was back and forth from Hilton Head to
6 Bluffton.

7 Q Okay. And at that point, did you start
8 communicating with him again?

9 A Uh-huh, yes, ma'am.

10 Q Did you ever go over to his house?

11 A Yes.

12 Q Was his wife there?

13 A Sometimes, yes.

14 Q Back in 2015, were you talking to him?

15 A Uh-huh, yes.

16 Q On a regular basis?

17 A Not so much regular. I had just moved back to
18 Bluffton and we had just got recently just kind of got
19 back into contact with each other.

20 Q Do you recall talking with him in September of
21 2015?

22 A Yes.

23 Q Or October?

24 A Yes.

25 Q Okay. Did he get in touch with you for any

DIRECT EXAMINATION OF CODY BROWN BY MS. SMITH

1 specific reason?

2 A Not -- specific reason was he had just moved to
3 a new place and was wanting me to come see his new house.
4 That is the only reason I started going there.

5 Q Who was he living with then?

6 A Colette was there, and I believe her parents
7 possibly.

8 Q Did he ever tell you at any point in time he was
9 having any trouble?

10 A Yes.

11 Q What -- why did he tell you that?

12 A He said there was money owed to him, and he had
13 threatened them, and they had actually come back and
14 threatened him instead.

15 Q Did he borrow a gun from you?

16 A Yes.

17 Q What kind of gun did he borrow from you?

18 A It's a .12 gauge shotgun.

19 Q And do you remember about when that was?

20 A I would say September, sometime in September.
21 Late September.

22 Q And did you give him anything else with the gun?

23 A I give him some bird shot, and some -- just some
24 loose shells that I had laying around.

25 Q And I'm going to show you what's been marked and

DIRECT EXAMINATION OF CODY BROWN BY MS. SMITH

1 entered as State's No. 60, and ask you if this is, in
2 fact, the gun that you let him borrow?

3 A Yes, ma'am.

4 THE COURT: Point it up. Thank you.

5 BY MS. SMITH:

6 Q Is that the gun?

7 A Yes, ma'am.

8 Q Thank you.

9 And why did you think that you were letting
10 him borrow the gun?

11 A He told me he was -- he was worried about people
12 coming after him because he had threatened them, and they
13 were threatening him, and he just felt -- he didn't feel
14 safe at home.

15 Q Mr. Brown, do you recall receiving a text
16 message from Samuel Collins shortly after, around the
17 murder of John Cherol?

18 A Yes.

19 Q What was your number at the time?

20 A It was (843)368-7957.

21 Q And do you recall what those text messages said?

22 A He text'd that he would put my shotgun in the
23 back of my truck, and it was real late at night. And I --
24 that's about all I remember.

25 Q I'm going to hand you what's been marked and

DIRECT EXAMINATION OF CODY BROWN BY MS. SMITH

1 entered as State's No. 44 and 45, and ask you to take a
2 look at those.

3 MS. SMITH: May I publish these to the jury,
4 Judge?

5 THE COURT: Yes, ma'am.

6 BY MS. SMITH:

7 Q Mr. Brown, looking at No. 44, is that a text
8 message to you?

9 THE COURT: You have to blow that up, I can't
10 see it. Blow it up and enlarge it, however you do
11 it.

12 BY MS. SMITH:

13 Q Is that a text message to you, Mr. Brown?

14 A Yes, ma'am.

15 Q Okay. And that number, (912) 659-4048, is that
16 John -- excuse me, Samuel Collins' number?

17 A I do not recall.

18 Q Do you recall when you got that text message
19 that you thought it was from Samuel Collins?

20 A Yes, ma'am. Yes, ma'am.

21 Q Okay. And what does that text message say?

22 A It says, "I hope you don't wake up from this
23 text. I put the gun back of truck, was gonna wrap it in
24 that camo gloves in there. The two had a little late
25 night ride, just between us.

DIRECT EXAMINATION OF CODY BROWN BY MS. SMITH

1 Q And about what time was that?

2 A I was asleep, I'm -- I'm assuming around
3 midnight.

4 Q If you look at No. 44, is there a date and time
5 stamp on it?

6 A Yes, it says --

7 Q I need you to speak up for us.

8 A Ten -- it says, 10-28-2015 at 2:14:59.

9 Q Okay. And did you receive another text message
10 from him?

11 A Yes.

12 Q And when was that?

13 A 10:30 -- 2:15.

14 Q Are you referring to the message in State's No.
15 45?

16 A Yes.

17 Q And what does that message say?

18 A - "You haven't seen me. I haven't seen you."

19 Q And that's approximately two days after the
20 first text message?

21 A Yes.

22 Q Okay. Where -- were you asleep when you got the
23 text message contained in Exhibit No. 44?

24 A Yes.

25 Q Okay. When did you see that text message?

DIRECT EXAMINATION OF CODY BROWN BY MS. SMITH

1 A In the middle of the night. I looked at the
2 text, but just went back to sleep.

3 Q Okay. What did you do the next morning?

4 A I went straight out to my truck and found the
5 gun in the back of the truck and was bringing it into my
6 garage. Noticed it was off safety, and I unloaded the gun
7 then. It was loaded with one spent round and two -- two
8 extra rounds in it.

9 Q What kind of -- it wasn't the birdshot, was it?

10 A No, it was buckshot.

11 Q Did you give him any buckshot?

12 A No, ma'am.

13 Q What did you do with the gun after that, after
14 you unloaded it?

15 A Put it back in my gun cabinet.

16 Q Why did you put it there?

17 A That's just where I keep it.

18 Q Do you have children in your house?

19 A Yes.

20 Q Was the gun wrapped in anything?

21 A It seemed like it was wrapped in more of like a
22 jacket, a camouflage jacket.

23 Q Do you recall him leaving anything else, like a
24 hat or anything like that with it?

25 A No:

DIRECT EXAMINATION OF CODY BROWN BY MS. SMITH

1 Q Were you contacted by the Bluffton police?

2 A Yes.

3 Q Okay. And what did you do when they contacted
4 you? Did you talk to them?

5 A Uh-huh, yes, ma'am.

6 Q Okay. Did you provide a written statement?

7 A Yes.

8 Q Did they -- did you give your DNA to them?

9 A Yes.

10 Q Did you tell them everything you knew about
11 Samuel Collins and him having your gun?

12 A Yes.

13 Q Let me show you what's been marked as State's
14 No. 57 and entered, and ask you to take a look in there.

15 A Okay.

16 Q Was that your cell phone at the time?

17 A Yes.

18 Q And is that the one the police collected from
19 your home?

20 A Yes, ma'am.

21 Q Is that the phone that you received the text
22 message on?

23 A Yes, ma'am.

24 MS. SMITH: I have nothing further.

25 CROSS EXAMINATION

CROSS EXAMINATION OF CODY BROWN BY MR. STEPHENS

1 BY MR. STEPHENS:

2 Q Mr. Brown, you said that you had known Mr. Sam
3 Collins since about 2007?

4 A I believe so. Yes, sir.

5 Q And when he contacted you and asked to borrow a
6 shotgun, he said that it was for self-protection because
7 he was worried somebody was going to try to hurt him?

8 A Yes, sir.

9 Q Would it be fair to say that you felt okay in
10 giving the shotgun to him because you didn't think Sam
11 Collins was a violent person who would shoot someone?

12 A That's correct.

13 Q And when you heard the allegations that he had
14 shot someone, that was a surprise to you?

15 A Yes, sir.

16 Q Out of character for what you knew of Sam
17 Collins, right?

18 A Yes, sir.

19 Q Okay. Now, when you found that -- those text
20 messages the day after John Cherol was shot, and you saw
21 that the shotgun was returned with a different kind of
22 ammunition and off safe, you didn't contact law
23 enforcement to tell them that you think this thing had
24 been used in a crime, did you?

25 A No, sir.

CROSS EXAMINATION OF CODY BROWN BY MR. STEPHENS

1 Q At that time, you didn't know that the shotgun
2 had been used to commit a crime, correct?

3 A Correct.

4 Q Now, you said that you had communicated with Sam
5 Collins off and on since 2007. You stated that you knew
6 Colette Collins, correct?

7 A Yes, sir.

8 Q But you didn't communicate with her, correct?

9 A That's correct.

10 Q She didn't text you or call you or things,
11 correct?

12 A Correct.

13 Q And when Mr. Collins was sending you text
14 messages, you don't recall ever seeing that as any kind of
15 group text including Ms. Collins?

16 A Correct.

17 Q Thank you, Mr. Brown.

18 Just one last question. Even though the
19 shotgun was found at your home, you were not charged with
20 anything in connection with this crime, were you?

21 A No, sir.

22 MR. STEPHENS: Thank you. No further questions.

23 THE COURT: Ma'am.

24 MS. SMITH: Nothing further for this witness.

25 THE COURT: You may step down.

CROSS EXAMINATION OF CODY BROWN BY MR. STEPHENS

1 MS. SMITH: May he be excused?

2 MR. STEPHENS: No objection, Your Honor.

3 THE COURT: You may be excused from your
4 subpoena, Mr. Brown.

5 Next witness.

6 MS. SMITH: Judge, may we approach?

7 (Discussion at the Bench.)

8 THE COURT: You get a reputation of being a mean
9 Judge when you come into a new county. Obviously,
10 I've got that reputation. They need a two-minute
11 delay and they were worried about me giving it to
12 them.

13 So we'll just sit tight for two minutes. The
14 clock is on.

15 You know, when I practiced law, trying a case is
16 like putting together a play. I mean, you have to
17 get so many people together, and it's a difficult,
18 logistical exercise. So we will wait a second for
19 the next witness.

20 Have y'all decided how long you need for lunch?

21 THE FOREPERSON: An hour, if you don't mind,
22 please.

23 THE COURT: Probably give you an hour and 15
24 minutes. I like to give you an hour and 15, at
25 least.

CROSS EXAMINATION OF CODY BROWN BY MR. STEPHENS

1 Go ahead and get it ready to go.

2 MS. SMITH: Yes, sir.

3 The State would call Dan Glaser.

4 THE COURT: Give us your full name, please, and
5 spell your last.

6 Thereupon,

7 BRIAN GLASER

8 was called as a witness, having been first duly sworn,
9 was examined and testified as follows:

10 THE WITNESS: It's Brian Daniel Glaser. Last
11 name is G-L-A-S-E-R.

12 DIRECT EXAMINATION

13 BY MS. SMITH:

14 Q Mr. Glaser, where do you work?

15 A Convergent Tech Homes.

16 Q And what do you do there?

17 A I'm in surveillance and access control.

18 Q Were you contacted by Coastal Security in
19 Bluffton in October of 2015?

20 A Yes, I was.

21 Q And why did they contact you?

22 A To download and -- well, copy and secure a copy
23 of the -- some security footage from Pinecrest community
24 in Bluffton.

25 Q Okay. And did you, in fact, download the

DIRECT EXAMINATION OF BRIAN GLASER BY MS. SMITH

1 surveillance video for them?

2 A Yes.

3 Q I'm going to hand you what's been marked as
4 State's Exhibit No. 61, have you look at that.

5 A All right.

6 Q Is that the hard drive that you downloaded?

7 A Yes, it is.

8 Q Okay. And what -- what did you do once you
9 downloaded that footage?

10 A I gave this copy to a detective.

11 Q With the Bluffton police department?

12 A Yes.

13 MS. SMITH: Judge, at this time, I would move 61
14 into evidence.

15 MR. STEPHENS: No objection, Your Honor.

16 *(Whereupon, State's Exhibit No(s). 61 marked for*
17 *identification and received in evidence.)*

18 BY MS. SMITH:

19 Q Mr. Glaser, you reviewed a CD which is marked as
20 State's Exhibit No. 46 that contained footage from the
21 surveillance video contained on that hard drive; is that
22 correct?

23 A Yes, I did. That's correct.

24 Q And if I could hand that to you.

25 A Sure.

DIRECT EXAMINATION OF BRIAN GLASER BY MS. SMITH

1 Q Do you know when you reviewed it?

2 A Well, according to this, it was 10-17-17, and
3 that is my handwriting.

4 Q Okay. And those are your initials by it?

5 A Yes, it is.

6 Q Is that a fair and accurate depiction of the
7 portions of the footage extracted from No. 61?

8 A Yes, it is.

9 MS. SMITH: Judge, at this time we move No. 46
10 into evidence.

11 MR. STEPHENS: No objection, Your Honor. Thank
12 you.

13 *(Whereupon, State's Exhibit No(s). 46 marked for*
14 *identification and received in evidence.)*

15 BY MS. SMITH:

16 Q Mr. Glaser, there was some time discrepancies on
17 that footage; is that correct?

18 A Yes, I believe so.

19 Q Can you explain why there would be those
20 discrepancies?

21 A Sure. So there were -- footage was pulled from
22 two separate recorders, and there's a number of reasons
23 why they could be. But most likely, when something goes
24 offline for a few minutes, the clock hasn't reset yet. So
25 even though it's still recording, it can lose its network

DIRECT EXAMINATION OF BRIAN GLASER BY MS. SMITH

1 connection. And if it doesn't have the network to time
2 stamp it with, just like a clock in your house, one can
3 fall a few minutes behind. And that's -- I mean, that's
4 what happened.

5 Q So the discrepancies wasn't between the cameras,
6 it was more between the servers?

7 A Between the servers, right. Between two
8 different servers.

9 MS. SMITH: That's all I have for this witness.

10 CROSS EXAMINATION

11 BY MR. STEPHENS:

12 Q Mr. Glaser, I just had a question about the time
13 discrepancies that you indicated.

14 So if there are time discrepancies, the
15 time stamps that are going to be on the videos, those are
16 trustworthy?

17 A Yes. So -- I'm sorry.

18 To best answer your question is just
19 consistency. So there may be a few minutes discrepancy, but
20 they are so close together that you could follow the same
21 vehicle and see it show up at exactly the same time. So if
22 it's five minutes off here, throughout the day, or probably
23 several days, it'll be five minutes off. And I think that
24 you will find that that's consistent.

25 Q All right. So with respect to these specific

CROSS EXAMINATION OF BRIAN GLASER BY MR. STEPHENS

1 videos, you are saying that the time stamps may be off,
2 but you would be able to tell from watching the videos how
3 a certain scene is progressing or a certain vehicle is
4 traveling?

5 A Right. Once you determine how far apart they
6 are, you could say, okay, well, at this end of the street,
7 I see, Vehicle A, and then five minutes later I see
8 Vehicle A. So you can pretty quickly determine they're
9 five minutes apart, and that inconsistency would be
10 consistent on the other machine. You know what I'm
11 saying?

12 Q Yes. But you have to make certain assumptions
13 about what you are seeing to be able to make that
14 determination, correct?

15 A Right. Well, it's just, you know, trial and
16 error. If I see the same thing over and over, I am going
17 to think it's the same.

18 MR. STEPHENS: All right. Thank you,
19 Mr. Glaser. I don't have any further questions for
20 you.

21 MS. SMITH: Nothing further of this witness.
22 May he be excused?

23 MR. STEPHENS: No objection, Your Honor.

24 THE COURT: Yep.

25 Next witness, please.

CROSS EXAMINATION OF BRIAN GLASER BY MR. STEPHENS

1 MS. SMITH: Captain Babkiewicz.

2 Thereupon,

3 JOSEPH BABKIEWICZ

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. SMITH:

8 Q Captain Babkiewicz, will you state your name and
9 spell your last name for the record?

10 A Captain Joseph Babkiewicz. B-A-B-K-I-E-W-I-C-Z.

11 Q Captain Babkiewicz, where do you work?

12 A I work with the Bluffton police department.

13 Q How long have you been there?

14 A I have been there for approximately ten years.

15 Q How long have you been in law enforcement?

16 A Sixteen years, total.

17 Q In October of 2015, what were you doing for
18 Bluffton police department?

19 A I was a lieutenant in charge of the criminal
20 investigations division, responsible for investigating all
21 criminal offenses reported to us.

22 Q Were you -- did you respond to [REDACTED] Pinecrest Way
23 on October 28, 2015?

24 A Yes, ma'am, I did.

25 Q Okay. What brought you there? Who were you

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 contacted by?

2 A I was contacted by the patrol supervisor,
3 Sergeant Matt Farelli (phonetic). He informed me -- this
4 was around 12:30 in the morning -- he informed me that
5 there was a victim over at ■■■ (sic) Pinecrest Way who
6 suffered a shotgun wound to his head. So I responded out
7 there. I contacted my entire investigative team to come
8 and to assist with the investigation.

9 Q How did you process the scene? What did you do
10 once you got there?

11 A When I got to the scene, I saw that it was
12 already -- crime scene tape was up. So the scene was
13 already preserved. We had an officer in the front and an
14 officer in the back to make sure nobody came into the
15 crime scene.

16 I stepped -- I took a quick walk around the
17 perimeter of the crime scene to figure out what we needed to
18 do, and I set up an incident command post in the front of
19 the house.

20 Essentially, what incident command post does
21 is I just kind of keep everybody accountable, assign people
22 tasks as we go along to make sure we don't miss anything.
23 And to make sure I have all my team there doing what they
24 need to be doing.

25 Q You said you assign tasks. Did you assign any

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 tasks to Michelle Mayers with your office?

2 A Yes, ma'am. Detective Michelle Mayers was
3 assigned to a neighborhood canvas. While she was
4 conducting her neighborhood canvas, she noticed that there
5 was surveillance cameras at the end of the street, which
6 was about three houses down from where we were at, the
7 crime scene.

8 Q And did you -- did she obtain the surveillance
9 videos or footage from these cameras?

10 A Yes, ma'am, she did.

11 Q Okay. And did you review that footage?

12 A Yes, ma'am, I did.

13 Q I'm going to show you what's been marked as
14 State's No. 66 for identification purposes.

15 MS. SMITH: And, Judge, if the witness may come
16 down off of the stand.

17 THE COURT: He may.

18 Are you marking it for ID and are you showing it
19 to the jury?

20 MS. SMITH: For identification only. State's
21 Exhibit 66.

22 *(Whereupon, State's Exhibit No(s). 66 marked for*
23 *identification.)*

24 THE COURT: Well, is it going to be admitted
25 somewhere along the way? Or is it just for

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 demonstrative purposes?

2 MS. SMITH: Just for demonstrative purposes. We
3 just marked it.

4 BY MS. SMITH:

5 Q All right. Captain Babkiewicz, what does --
6 explain to us what -- explain to us what is depicted as
7 far as -- you spoke about the different cameras. Is that
8 Pinecrest subdivision?

9 A Yes, ma'am. This entire area that you see here,
10 you see H. E. McCracken Circle, which is where the school
11 complex is at. Anywhere from H.E. McCracken Circle to
12 Pinecrest Drive, Pinecrest Circle, this is the entire
13 subdivision of where the crime had occurred.

14 This in particular, ■ Pinecrest Way was
15 where the crime was at, and the first cameras that I
16 mentioned before -- we had two cameras. One camera covers
17 the roadway and vehicles coming in, and the other camera
18 covers vehicles exiting at the same time.

19 In addition to that, every entrance at
20 Pinecrest subdivision has cameras. So they record vehicles
21 coming in and out. That includes two cameras up here at
22 Bluffton Parkway, at Pinecrest Circle, Pinecrest Drive, down
23 here H.E. McCracken Circle, and there's also a camera over
24 at the pool house, which is almost directly across the way
25 from ■ Pinecrest Way, as you can see here. And there's one

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 more camera over at the golf clubhouse.

2 Q How many total cameras are in the subdivision?

3 A I believe that there were eight.

4 Q You can sit back down.

5 A Thank you.

6 Q Captain Babkiewicz, I'm going to show you what's
7 been marked as State's Nos. 18 through 29, and ask you to
8 take a look at these.

9 Do you recognize those photographs?

10 A Yes, ma'am, I do. Those are still photographs
11 from the video.

12 Q Are those fair and accurate depictions of the
13 still shots taken from the video surveillance footage?

14 A Yes, ma'am, they are.

15 MS. SMITH: Judge, at this time, I would move
16 State's No. 18 through 29 into evidence.

17 THE COURT: Any objection?

18 MR. STEPHENS: Your Honor, I just have an issue
19 about authentication.

20 If the Solicitor can just ask about the time
21 stamp and the identification that is on the bottom of
22 the pictures, whether those are directly from the
23 video or if that's been changed at all.

24 THE COURT: I mean, is that an objection?

25 MR. STEPHENS: It's an objection on

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 authentication, Your Honor. I don't know if this is
2 originally as it appeared on camera, or it's been
3 altered by adding that kind of identification.

4 THE COURT: Ask that question.

5 MS. SMITH: Sure.

6 BY MS. SMITH:

7 Q I believe I asked you, these are still photos
8 taken directly from the video, correct?

9 A Yes, ma'am, they were.

10 Q Okay. And on the video, is the camera -- the
11 location of the camera on the bottom of the picture; is
12 that on the video?

13 A Yes, ma'am.

14 Q Okay. And is the time stamp at the top?

15 A Yes, ma'am, it is.

16 Q Okay. And that wasn't placed in there by
17 Bluffton police department?

18 A Not at all.

19 Q That's how you viewed it when you looked at the
20 camera?

21 A Yes, ma'am, it is.

22 MR. STEPHENS: I withdraw the objection, Your
23 Honor.

24 MS. SMITH: Okay.

25 MR. STEPHENS: Thank you.

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 *(Whereupon, State's Exhibit No(s). 18-29 marked*
2 *for identification and received in evidence.)*

3 BY MS. SMITH:

4 Q Looking at first at No. 18, I'm going to ask you
5 what does this video -- what does this picture show?

6 A This picture shows a vehicle that's Collette's
7 vehicle driving in at 2251. That's 10:51 p.m., and that's
8 coming in from Bluffton Parkway into Pinecrest Circle.

9 MR. STEPHENS: Your Honor, object. I think the
10 answer has facts not in evidence that this is
11 Defendant's vehicle.

12 THE WITNESS: Yeah, I said that.

13 MR. STEPHENS: You didn't say Collette's -- or
14 he said Collette's vehicle.

15 THE COURT: What did you say?

16 THE WITNESS: I believe I said Collette's
17 vehicle.

18 THE COURT: You get to cross-examine.

19 MR. STEPHENS: Thank you, Your Honor.

20 BY MS. SMITH:

21 Q All right. No. 19.

22 A That is the same vehicle that was entering, that
23 we just saw, is now pulling into ■ Pinecrest Way. That
24 is his driveway off in the corner on the right side of the
25 screen.

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 Q You say, "his driveway." You're referring to
2 John Cherol?

3 A John Cherol, our victim's.

4 Q All right. What about No. 20?

5 A That is approximately one hour later, about 50
6 minutes later, that same vehicle is backing out of the
7 driveway and leaving John Cherol's house.

8 Q And approximately what time is that?

9 A That was at 2343, so 11:43 p.m.

10 Q Okay. What about No. 21?

11 A That is --

12 Q What does that depict?

13 A That is the same vehicle that we just saw
14 backing out. It is now leaving Pinecrest Circle onto
15 Bluffton Parkway.

16 Q Okay.

17 A That is at -- I'm sorry. That's coming back in
18 from Bluffton Parkway, and that is at 12:42 a.m.

19 Q Okay. No. 22.

20 A Approximately one minute later that same vehicle
21 drives by ■ Pinecrest Way. Again, John Cherol's house.

22 Q No. 23. Where is that vehicle? Where is that
23 stop sign?

24 A That is the stop sign at Pinecrest Drive and
25 Masters Way. The vehicle comes to a stop at that

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 intersection and then makes a left-hand turn.

2 Q And 24?

3 A That is H.E. McCracken Circle. That is the
4 vehicle driving by. That is the southern entrance into
5 Pinecrest, and that is at 12:32. There, I think, is an
6 offset in time.

7 Q And is that the only camera -- or those cameras
8 that are off?

9 A Yes, ma'am.

10 Q Okay. And what about 25?

11 A The vehicle goes down H.E. McCracken Circle,
12 turns around somewhere out of the sight of the camera, and
13 comes back down the roadway, and that is the vehicle
14 pulling now back into -- back into the Pinecrest
15 subdivision.

16 Q Okay. 26?

17 A That is the same camera, just the opposite way.
18 That is the vehicle pulling into Pinecrest subdivision.
19 At that point in time, it says 12:34. But, again, those
20 times are off.

21 Q Okay. Number 27?

22 A That is the Pinecrest club entrance. That's the
23 vehicle made its way through the Pinecrest subdivision;
24 it's now back up towards the entrance. As you can see,
25 that time is 12:52 a.m.

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 Q No. 28?

2 A That is a vehicle preparing to drive by the
3 victim's house again. This is at 12:53 a.m.

4 Q And 29?

5 A And that is the same intersection, right by the
6 victim's house. Comes to a stop at that stop sign, and he
7 actually -- the person actually stops at that stop sign
8 for 23 seconds before it makes a left-hand turn onto
9 Masters Way.

10 Q And for reviewing the video, did you come to any
11 conclusions about who this vehicle belonged to?

12 A Yes, ma'am, I did.

13 Q Okay. I'm going to show you what's been marked
14 for identification as State's Nos. 32 through 36.

15 What are those pictures of, Captain
16 Babkiewicz?

17 A Those are photos of Colette Collins' vehicle.

18 Q Are those fair and accurate depictions of her
19 vehicle?

20 A Yes, they are.

21 Q When were those photos taken, or do you recall
22 who -- when -- during the investigation, how did you get
23 to take those photos?

24 A I believe we took those pictures the day we went
25 to serve the warrant out at their house at Buck Point

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 Road, and the investigators took pictures of the vehicle
2 at that point in time.

3 MS. SMITH: At this time, I move 32 through 36
4 into evidence.

5 MR. STEPHENS: No objection, Your Honor.

6 *(Whereupon, State's Exhibit No(s). 32-36 marked*
7 *for identification and received in evidence.)*

8 BY MS. SMITH:

9 Q Looking at No. 32, assuming that's how you
10 identified this -- you ran that license plate and
11 identified it as Colette Collins' vehicle?

12 A Yes, ma'am. [REDACTED] came back with a 2007
13 Toyota Camry registered to Colette Collins.

14 Q And No. 33?

15 A This is what helped us identify the vehicle.
16 What they tell us in basic police academy is if a suspect
17 runs from you, the first thing you want to look at is
18 their shoes. The reason being is because when they go
19 into the woods, they always can change something, but they
20 always forget to change their shoes.

21 Well, same thing for a vehicle. A vehicle,
22 we look at the tires. In this case, we got very lucky with
23 the tires, in that if you see the back hub caps and the hub
24 caps on the other side of the vehicle, there are six -- six
25 open holes in the hub cap.

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 The front right tire, we noticed when we
2 freeze the video, had seven openings. We don't know if that
3 was a manufacturer defect or what, but that was a way for us
4 to identify the vehicle.

5 Q Okay. That shows both hub caps, correct?

6 A Yes, ma'am. If you look on the front right
7 tire, it's got seven holes as opposed to the six holes in
8 the back tire.

9 Q And that's a close-up of the back right hub cap;
10 is that correct?

11 A Yes, ma'am. And all the other hub caps had six.

12 Q Once you observed that, as far as the hub caps,
13 is that what led you to believe that the vehicle in the
14 still shots belonged to Colette Collins?

15 A Yes, ma'am, it is.

16 Q Okay.

17 MS. SMITH: Judge, at this time, we would like
18 to publish State's No. 46 to the jury. Just the
19 video.

20 MR. STEPHENS: No objection, Your Honor. Thank
21 you.

22 A This is at 2251, Collette's vehicle comes into
23 the Pinecrest Way from Bluffton Parkway and makes a
24 right-hand turn.

25 This is the image you're looking at from the

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 pool. You can see the vehicle coming down the street. The
2 street that the vehicle is coming down is the victim's
3 house, the same street that the victim's house is on, which
4 is Pinecrest Way.

5 That's the second camera from the pool.

6 Q Is that car slowing down going towards Pinecrest
7 Way?

8 A It is slowing down. Yes, ma'am.

9 And you will see the reason for it to slow
10 down. You see the vehicle make a left-hand turn into the
11 driveway at ■ Pinecrest Way, which, again, is John Cherol's
12 house.

13 At this point in time, you're going to see
14 the victim, John Cherol, and Colette come out. They are
15 having -- they are talking out in the front yard.

16 At one point, John's dog was running across
17 the street, and Colette goes chasing after it, or the dog
18 comes back to Colette. And then they go out of view of the
19 camera again.

20 And there goes the dog. That is the victim,
21 John, and that is Collette.

22 So 11:43 p.m. Colette leaves the house, backs
23 out of the driveway, turns left and comes back the way she
24 came into the subdivision.

25 This is her turning left, and this is the

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 exit onto Bluffton Parkway from the subdivision.

2 THE COURT: All right. Ladies, please have a
3 seat. Thank you.

4 You know my rules, nobody in and out while we
5 are doing business. Thank you.

6 Go ahead.

7 A This was approximately an hour later at
8 12:42 a.m. The same vehicle, Colette driving in from
9 Bluffton Parkway and making a right-hand turn, going down
10 Pinecrest Way.

11 Again, this is the view of the pool, pool and
12 clubhouse. This covers a good portion of the roadway.

13 Q Is this the same path that she took before?

14 A Yes, ma'am, it is.

15 With the exception of this time, she doesn't
16 stop at the house. She doesn't pull into the driveway, she
17 goes up to the intersection.

18 If you watch, she does slow down as she
19 passes ■ Pinecrest Way. This is the video of her driving
20 by. This is the intersection at the end of that street,
21 which is about three houses down. That's Masters Way.

22 If you watch, she will make a left-hand turn,
23 and then as soon as she goes out of the spot of the camera,
24 you will see brake lights come on. There's no traffic,
25 there's reason for those brake lights to come on. Right

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 there.

2 MR. STEPHENS: Objection, Your Honor. The
3 officer is giving opinion testimony at that point.

4 THE COURT: All right. Let's just disregard
5 that last statement, ladies and gentlemen. He can
6 testify about as to what he sees, but not why,
7 please.

8 A Okay. This is H.E. McCracken Circle, the
9 entrance to Pinecrest in the southern part. She goes down
10 out of view of the camera, and a short time later you will
11 see her come back in.

12 Q And, again, this is where the time stamp is off?

13 A Yes, ma'am. This time stamp is off.

14 This was the vehicle coming back into the
15 picture, and she is going to make a right-hand turn into the
16 Pinecrest subdivision.

17 As she drives by, she has her window down,
18 and you'll be able to get a decent view of the side of
19 her -- her face and her hair. Right there.

20 Now, this is her exiting the Pinecrest
21 subdivision. That is real time, that is around 12:51 a.m.
22 And at 12:52, she comes back in.

23 Q Back into Pinecrest?

24 A Back into Pinecrest, and makes a right-hand turn
25 onto Pinecrest Way.

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 As you can see, she slows -- she slows down.
2 That is right in the area of ■ Pinecrest Way, and she makes
3 her way to the intersection again on Masters Way and
4 Pinecrest.

5 This is her driving by the house and, again,
6 you will see the speed slow down as it approaches ■
7 Pinecrest Way.

8 This is the intersection where she comes to a
9 stop. She stopped for approximately 23 seconds. She makes
10 a left-hand turn and, again, when she goes out of the
11 picture and the screen, you will see brake lights. Right
12 there.

13 MR. STEPHENS: Your Honor, I just have the same
14 objection. I think the officer is making a
15 conclusion to what the lights that you are seeing are
16 brake lights.

17 THE COURT: Overruled.

18 MR. STEPHENS: Thank you.

19 BY MS. SMITH:

20 Q Captain Babkiewicz, did you interview Sam
21 Collins after this accident?

22 A Yes, ma'am, I did.

23 Q Did you interview him on October 30th, 2015?

24 A Yes, I did.

25 Q Did he voluntarily speak to you?

DIRECT EXAMINATION OF J. BABKEIWICZ BY MS. SMITH

1 A Yes, he did.

2 Q Was he under arrest at that time?

3 A No, he was not.

4 Q Did he know John Cherol?

5 A Yes, he did.

6 Q What did he tell you about their relationship?

7 A He informed me that him and John were friends.

8 MR. STEPHENS: Your Honor, objection. This is
9 hearsay. I think the Defendant may appear as a
10 witness later, but at this point it's hearsay
11 statement.

12 THE COURT: Sustained.

13 MR. STEPHENS: Okay.

14 BY MS. SMITH:

15 Q After the interview, and some weeks after, was
16 he subsequently arrested for the murder of John Cherol?

17 A Yes, ma'am, he sure was.

18 Q Okay. And was Ms. Collins subsequently
19 arrested?

20 A Yes, she was.

21 MS. SMITH: I have nothing further of this
22 witness.

23 THE COURT: Cross examination.

24 MR. STEPHENS: Thank you, Your Honor.

25 CROSS EXAMINATION

CROSS EXAMINATION OF

1 BY MR. STEPHENS:

2 Q Captain Babkiewicz, throughout the
3 identification of those photographs and your narrative of
4 the surveillance footage, you kept saying that was Colette
5 Collins and Colette Collins' vehicle. That is a
6 conclusion on your part, correct, that that is Colette
7 Collins in that vehicle?

8 A It is actually a gathering of the facts of our
9 entire investigation to make that determination.

10 Q Well, would it be fair to say that that
11 conclusion was validated because Ms. Collins was
12 interviewed and said it was her driving the vehicle?

13 A Yes.

14 THE COURT: Hold on. Because what?

15 MR. STEPHENS: Ms. Collins was interviewed by
16 law enforcement and said that was her driving that
17 vehicle.

18 A Yes, he did.

19 BY MR. STEPHENS:

20 Q Now, the exact time of the shooting of Mr. John
21 Cherol, is that something that the Bluffton police
22 department has identified to pinpoint when that takes
23 place in relationship to that surveillance footage?

24 A We don't have an exact time of when the shots
25 were fired, but we do have an exact time when the call was .

CROSS EXAMINATION OF

1 made to 911 from Roberts Vaux, which was shortly after the
2 shots were fired.

3 Q Now, did the Bluffton police department receive
4 information that the shots may have been received up to
5 ten minutes before the co-Defendant was picked up by
6 another person in that vehicle?

7 MS. SMITH: Objection. Hearsay, Judge.

8 THE COURT: What is the objection?

9 MS. SMITH: Hearsay.

10 MR. STEPHENS: Your Honor, I'm just asking if
11 they received information about any source of --

12 THE COURT: Just ask it another way.

13 MR. STEPHENS: Very well, Your Honor.

14 BY MR. STEPHENS:

15 Q That video lasted over ten minutes long,
16 correct?

17 A Yes, approximately.

18 Q So you can't say if there was a shooting and
19 then another ten minutes before that -- before the
20 co-Defendant was picked up by Ms. Collins, correct?

21 A Just based upon when the 911 phone call was
22 made, shortly after the shots were fired.

23 Q All right. And when you see the surveillance
24 footage of them driving by the front of Mr. Cherol's home,
25 you can't identify where the house is in relationship with

CROSS EXAMINATION OF

1 the rest of those streets, from the surveillance footage,
2 correct?

3 A That house is out of view of the camera. The
4 only thing that we were able to see was his front yard.

5 Q Okay.

6 MR. STEPHENS: Beg the Court's indulgence.

7 I don't have any other questions for Captain
8 Babkiewicz at this time.

9 THE COURT: Okay. Ma'am?

10 MS. SMITH: Nothing further of this witness.

11 THE COURT: You may step down.

12 THE WITNESS: Thank you.

13 THE COURT: Next witness, please.

14 MS. SMITH: The next witness is Samuel Collins,
15 and they just need to go get him.

16 THE COURT: Where is he?

17 MS. SMITH: He's in the cell. Can the detention
18 center go get him now?

19 THE COURT: Certainly. Somebody go get him.

20 MR. STEPHENS: Your Honor, could we take a brief
21 recess? I think Mr. Collins may be testifying for a
22 while.

23 THE COURT: I told you all I was going to stop
24 about 1:30 or a quarter to one. We will stop in the
25 middle of his testimony.

CROSS EXAMINATION OF

1 Are you suggesting we stop and eat lunch and
2 then come back and do it?

3 MR. STEPHENS: No, Your Honor. I was just
4 talking about a bathroom break.

5 THE COURT: Just tell me you need to go to the
6 bathroom.

7 MR. STEPHENS: I was trying to be discrete Your
8 Honor, but the defense would like a quick rest break.

9 THE COURT: Do you need a break?

10 MR. STEPHENS: Yes, Your Honor.

11 THE COURT: All right. That's fine.

12 Let me ask you this, how long is Mr. Collins
13 going to be? A while?

14 MS. SMITH: Yes, sir.

15 THE COURT: Would you all rather eat lunch now,
16 take a lunch break now, then come back or go after
17 lunch for the rest of the testimony, or would you
18 rather let's get another 45 minutes in and then take
19 a break around quarter to one or one, come back
20 around two or 2:15.

21 MR. STEPHENS: Your pleasure, your Honor.

22 THE COURT: Yes, ma'am. Which one?

23 Do all of y'all need a bathroom break? All
24 right. While they are going to get him, you can step
25 out.

CROSS EXAMINATION OF

1 MR. STEPHENS: Thank you, Your Honor.

2 THE COURT: Anyone else needs to step out?

3 MS. JONES: Me.

4 THE COURT: Thank you. Any of my jurors need to
5 step out? Go ahead.

6 Let's just take a ten-minute break. We will
7 come right back. Don't discuss the case. Don't
8 deliberate. If you don't need to go, y'all are
9 welcome to sit in here, or you're welcome to go out.

10 (Whereupon, there was a short recess from [] to
11 [].)

12 THE COURT: State ready?

13 MS. SMITH: Yes, sir.

14 THE COURT: Defense ready?

15 MR. STEPHENS: Yes, Your Honor. Thank you.

16 MS. SMITH: Judge, Mitch Farley represents
17 Mr. Collins, who is getting ready to testify,
18 representing him. And if we could just put something
19 in the record real quick about his testifying today.

20 Do you want me to do that now?

21 THE COURT: Yes, ma'am.

22 MS. SMITH: Judge, I went and met Mr. Collins in
23 October of 2017. I went and spoke with him at the
24 detention center after he was incarcerated, and we
25 have agreed and --

CROSS EXAMINATION OF

1 MR. FARLEY: The basic agreement is, is that
2 Mr. Collins is going to testify against his wife
3 today in exchange for a guarantee of a re-sentencing
4 hearing, The Solicitor's office is not going to make
5 any recommendations at that hearing, it's just for
6 the guarantee of the hearing.

7 In addition, should his appeal be successful,
8 any testimony today will not be allowed to be used in
9 their case-in-chief, but will be able to impeach his
10 testimony should he testify.

11 THE COURT: Is that correct, ma'am?

12 MS. SMITH: Yes, sir, it is.

13 THE COURT: Any other agreements?

14 MR. FARLEY: No, Your Honor.

15 MS. SMITH: And the State is required to make
16 that motion for the reason given, and we will do so
17 after he testifies.

18 THE COURT: I'll assume you will make the motion
19 regardless how he testifies?

20 MS. SMITH: Yes, sir.

21 THE COURT: Thank you.

22 All right. Let's bring the jury in, please.
23 Where is the Defendant? They got him?

24 MS. SMITH: They do, Judge. They have to bring
25 him in through the back door. So if the jury can be

CROSS EXAMINATION OF

1 brought in, and then they can bring him in the back
2 hallway.

3 (Whereupon, the jury entered the courtroom.)

4 THE BAILIFF: The jury is in the courtroom.

5 THE COURT: Thank you.

6 Ladies and gentlemen of the jury, the plans are
7 we're going to go until about 1 o'clock, then we'll
8 take our lunch break, and part at that time. Fair
9 enough?

10 You may call your next witness.

11 MS. SMITH: The State calls Samuel Collins.

12 Thereupon,

13 SAMUEL COLLINS

14 was called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. SMITH:

18 Q Good afternoon, Mr. Collins.

19 A Good afternoon.

20 Q Speak up for us, if you can. Speak into that
21 mic.

22 A Okay.

23 Q Pull it towards you.

24 Mr. Collins, were you convicted of the
25 murder of John Cherol on October 18th, 2017?

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 A Yes.

2 Q And where are you currently been held?

3 A Kirkland Correction.

4 Q And what sentence did you receive for that
5 murder?

6 A Fifty years, plus five years concurrent.

7 Q Mr. Collins, did you and I meet on November
8 30th, 2017?

9 A Yes.

10 Q At Kirkland Correctional?

11 A Uh-huh. (Indicating affirmatively.)

12 Q And please say yes or no for the court reporter,
13 just so she can take it down.

14 A Yes.

15 Q Did you, in fact, tell me that you wanted to
16 speak with me while you were incarcerated?

17 A Yes.

18 Q And you met with me freely and voluntarily; is
19 that correct?

20 A Yes.

21 Q And why are you testifying today?

22 A For a couple of reasons. One reason is for a
23 possible reduction in my sentence, and another reason is
24 because I wanted to tell the truth, and so the family
25 would know what really happened and know that, although

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 they may not accept my apology, that I really am sorry for
2 what I did.

3 Q Mr. Collins, you mentioned a reduction in
4 sentence. Did I promise you any specific reduction?

5 A No.

6 Q And are you here today to do the right thing?

7 A Yes.

8 Q Mr. Collins, I'm going to start -- tell me about
9 your relationship with Colette Collins. When did you meet
10 her?

11 A I believe it was 2001.

12 Q Where were you living back then?

13 A North Augusta.

14 Q And did you ultimately get married?

15 A Yes.

16 Q When was that?

17 A 2004.

18 Q When did you move to Bluffton?

19 A 2008.

20 Q And do you and Ms. Collins have any children?

21 A Yes.

22 Q Okay. How many children?

23 A One.

24 Q Okay. Is it a boy or girl?

25 A Boy.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 Q And how old is he?

2 A Ten.

3 Q Where were you living prior to your
4 incarceration in Bluffton?

5 A [REDACTED] Buck Point Road.

6 Q When did you move there?

7 A I believe we've been there for about two years.

8 Q And who was living in that house with you at
9 that time?

10 A Colette and her mother, and her father -- or
11 stepfather, rather, and my son.

12 Q Did you know John Cherol?

13 A Yes.

14 Q When did you meet John?

15 A I believe it was in May or June of 2015.

16 Q How did you come to know John?

17 A Just through mutual acquaintance.

18 Q Okay. How often did you see John?

19 A Fairly often during the summer of 2015.

20 Probably four or five times a week or so.

21 Q Okay. Did he come over to your house?

22 A Yes.

23 Q Did he interact with your wife, Colette?

24 A A little bit.

25 Q Were they friends? What did you know about

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 their relationship?

2 A I guess you could say that.

3 Q Was she there when he came over?

4 A Yeah.

5 Q Did he interact with your son?

6 A Yes.

7 Q Did he come over for a birthday party for your
8 son prior to this?

9 A Yeah.

10 Q What other kind of relationship did you have
11 with John?

12 A Could you be more specific?

13 Q Sure. Other than just being friends, did
14 y'all -- did he have any -- did he have a drug problem
15 that you were aware of?

16 A Yes.

17 Q And was he -- did he try to buy pills from you?

18 A Yes.

19 Q And did he, in fact, buy pills from you?

20 A Yes.

21 Q Okay. How often was he -- did he want pills
22 from you?

23 A I mean, very -- very often. I mean, either he
24 was getting them from somebody else or from me. I mean,
25 almost everyday, I guess.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 Q Did John owe you money before he passed away?

2 A Yes.

3 Q Okay. How much money did he owe you?

4 A About a thousand dollars.

5 Q Okay. Prior to October 27th, 2015, did you have
6 someone try to break into your home?

7 A Yes.

8 Q And can you tell us about that, and the weeks
9 that led up to that?

10 A Just that some people attempted to break into my
11 house, probably during the week before the 27th of
12 September, and I had told John about it. And he came over
13 to my house the day of the 27th. And prior to that, I had
14 fired a shot outside at some people that were attempting
15 to break into my house. And my in-laws expressed their
16 concern for the fact that they said that, you know, they
17 didn't know what was going on, or what I was doing, but it
18 was dangerous, and they wanted to put the guns away or
19 they were going to call the police.

20 And I asked them to take my child and go to a
21 hotel somewhere and go take him somewhere to stay, because I
22 was afraid the people were going to come back, you know,
23 whoever was coming to my house.

24 And basically John was there at this time.
25 This is the next day after I fired the shot outside and --

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 Q Okay. Let me stop you real quick. This is
2 prior to October 27th. This is some weeks before.
3 October 27th is the day of the incident.

4 A Right, this is September 27th.

5 Q Okay.

6 A And he witnesses my wife, Colette, put the guns
7 out into our storage building and lock them away, and her
8 parents leave with my child, and she leaves to go to work,
9 she says, and --

10 Q Do you know if she was supposed to work that
11 day?

12 A Not that I know of. I think maybe she was
13 called in or said she was called in.

14 Q Okay.

15 A So then I realized, and I told John that I
16 didn't have -- I didn't have any protection there in the
17 house, and I was worried about what was going to happen.
18 And I called my wife and asked her if she left one gun in
19 the house, she said she did, that she left it in her
20 bedside table.

21 So I went into the bedroom to look for it,
22 and I couldn't find it. And John is there with me the whole
23 time and realizes that I don't have a weapon. So then he
24 tells me that he wants to leave, and he's going to leave,
25 and I said, okay. And he leaves, and shortly after I go

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 into her closet and I find the firearm.

2 And that is when shortly after that, I hear
3 some guys outside my house, and they kick my door in and
4 yell "freeze," and then they come in my bedroom. And I had
5 my firearm pointed towards the door, and they see and they
6 fire a shot into the ceiling, and I fired four shots at them
7 and told them my firearm was empty.

8 So I hid in the closet until it was over
9 with, and I heard a car come, and I assume that I heard them
10 leave. I heard somebody in the house. And very shortly
11 after that, I hear my wife calling my name, Colette, asking
12 for me, if I'm all right, and this is immediately after it
13 happens.

14 Q And just for time frame wise, so John -- Colette
15 went to work, and then John was there, and then John left.
16 About how long after John left did this happen?

17 A Probably 30 minutes.

18 Q Okay. And then would you say that Mrs. Collins
19 got there about five minutes after the guys that broke in
20 left; is that correct?

21 A Uh-huh. (Indicating affirmatively.)

22 Q Yes or no.

23 A Yes.

24 Q And so what happened once Colette got home?

25 A I called 911 and then hung up.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 Q Why did you hang up?

2 A Well, I wanted to avoid the police coming there
3 because I did have a firearm, and I was a convicted felon.
4 And I think I had some marijuana in the house.

5 Q Ms. Collins didn't call the police?

6 A No.

7 Q What did y'all do after that?

8 A We left and went to Hardeeville, to a hotel.

9 Q And how long did you stay away from home?

10 A We stayed there one night, and then stayed
11 another week, probably, away from the house, with friends.

12 Q And who -- you said y'all went to a hotel. Who
13 is "we"?

14 A My wife and I.

15 Q Your son was with the grandparents?

16 A Uh-huh (indicating affirmatively).

17 Q Is that correct?

18 A Yes.

19 Q Did you talk to John while you were gone?

20 A No.

21 Q What happened after you came back to the house?
22 Did you have any more incidents there?

23 A No.

24 Q Did you -- who did you -- did you have any
25 suspicions about who set up the home invasion or the

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 break-in?

2 A Yeah. I was a little suspicious of John at that
3 point.

4 Q Okay. Why were you suspicious of John?

5 A Because of the way that he was acting before he
6 left that day, and it just really made me think that those
7 guys really knew that I didn't have protection in the
8 house after they already knew that I fired a weapon at
9 them, that they must have known. Somebody must have told
10 them that I was vulnerable, because they really put
11 themselves in danger at that point.

12 Q Did John owe you money at this point?

13 A Yeah.

14 Q Had you asked John for that money?

15 A Yeah.

16 Q Did he pay you?

17 A No.

18 Q Did you talk to John after you had these
19 suspicions that he was involved?

20 A Yeah.

21 Q Okay. And what happened as a result of those
22 conversations?

23 A He was just evasive of really -- beating around
24 the bush, I guess, about telling me any information about
25 the incident. But sort of hinted at that he knew

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 something about it, that he had talked to these guys at
2 the bar, and they told him about it.

3 But a mutual friend of ours told me that he
4 confided in him and told him that he had set it up. That he
5 owed the other guys money, and told them that they could rob
6 me -- possibly rob me and -- and get money from me because I
7 was an easy mark because I had been injured and --

8 Q Just back up a little bit.

9 Prior to the night where the guys came in
10 and shot at you, when you were hearing these other people
11 you thought were breaking in, did you tell Colette and her
12 parents?

13 A Yeah -- yes.

14 Q Did they take these -- your concerns seriously,
15 or at all?

16 A No. They thought maybe I was making it up or --

17 Q But you continued to tell them --

18 A Yeah.

19 Q -- you thought they were in danger; is that
20 correct?

21 A Yes.

22 Q All right. Sam, I want to take you to
23 September -- I mean, excuse me, October 27th, 2015, the
24 day of the incident that we are here about.

25 What happened that day? What do you recall

- DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 about that day?

2 A Not very much. It was a fairly uneventful day.
3 But the same individual that told me the information about
4 John before, called me that day and we were talking and he
5 told me that John told him that he wanted to put two
6 bullets in me, and that he had the gun that he had
7 purchased to do it with.

8 Q And why did you think that John wanted to put
9 two bullets in you?

10 A At the time, I think that the way that I had
11 approached him about the money and pressuring him, and I
12 had embarrassed him in front of some of his friends before
13 that, I don't know, but he had just been talking that way
14 about other people, too.

15 I don't know what it was about what was going
16 on in his life at the time. But, I mean, he talked about
17 shooting other people, too. I mean, I don't know if he was
18 just blowing smoke or what, but that is what he told me he
19 said that day.

20 Q During that time, were you suspicious of his
21 relationship with Colette?

22 A Not at that time, no, not really.

23 Q Okay. So after you were told that he
24 potentially wanted to kill you, what -- what happened the
25 rest of the day? Where was Colette?

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 A At work.

2 Q Okay. And were you home that night?

3 A Yes.

4 Q Okay. And tell me what happened later in that
5 evening.

6 A Basically I was just at home watching TV with my
7 son and her mother and her stepfather. He was also
8 working, I believe, and -- yeah, he was.

9 And basically I figured that she would be
10 home at about 10:30 that night, like she normally was, and
11 she wasn't. And time kept going by, and she wasn't home
12 until probably a little after 12:30.

13 Q Did you try to call her?

14 A Yeah.

15 Q And what happened when she got home?

16 A I noticed that she was slurring her speech
17 really badly, like she had been intoxicated.

18 Q Did you ask her where she had been?

19 A Yeah, I did. At first, she said she had just
20 been riding around. Then, as I questioned her some more,
21 she told me that she had been at John's house.

22 Q Did she tell you why she was there?

23 A She claimed that she was there to ask him who it
24 was that had invaded our home, and to ask him for the
25 money that he owed me.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 Q And so prior to this, you had shared your
2 suspicion with her that John was possibly responsible for
3 the invasion?

4 A Yeah -- yes.

5 Q And did she think he was, too?

6 A I don't recall if she ever said one way or the
7 other.

8 Q Okay. So what happened after -- did she -- did
9 she get your money?

10 A No or -- no.

11 Q And you said she claimed that she was there to
12 talk to him about the home invasion. Did you have a
13 reason to believe that there was something more going on?

14 A I mean, naturally your wife comes home two hours
15 late and she's heavily intoxicated and been at another
16 man's house, you kind of wonder. Yes.

17 Q What did you do then?

18 A I became very angry, and that is when I grabbed
19 the gun.

20 Q When you say "the gun," you are talking about
21 the camouflage shotgun that you borrowed from Cody Brown?

22 A Yes, yeah.

23 Q And was it wrapped in any clothing or --

24 A Yes.

25 Q And then what did you do?

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 A I told her that I wanted her to drive me over
2 there to his house.

3 Q Okay. And did she do that?

4 A Yes.

5 Q Did you tell her why you wanted to go over
6 there?

7 A That I wanted to -- I told her I wanted to talk
8 to him as to why she was there, ask him why she was over
9 there, and to possibly scare him.

10 Q And when you got in her car, you had the shotgun
11 in your hand?

12 A Yes.

13 Q Did you threaten her, Colette, that night?

14 A No.

15 Q You never told her you would kill her if she
16 didn't take you over there?

17 A No, no.

18 Q So what happened? You get in the car, she
19 drives you to John's house -- or to the neighborhood; is
20 that correct?

21 A Yes.

22 Q And where did she take you?

23 A We passed by the house first and noticed Joe
24 Rueby's truck there. I didn't know whose it was at first,
25 but we just noticed it was there. And then she turned the

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 corner and dropped me off on Masters Way.

2 Q And on Masters Way, why did she drop you off
3 there?

4 A Because I was going to approach the back of the
5 house.

6 Q Okay. Why were you going to approach the back
7 of the house?

8 A At the time, I don't know, I wasn't thinking
9 very clearly or what I was thinking. I didn't have it
10 directly in my mind that I'm going to kill him, I had it
11 in my mind that I'm going to go there and maybe fire a
12 couple shots possibly at the house. I had shots fired at
13 me, I was angry, maybe I would scare him, and I don't
14 know. I just didn't know at that point, I just was going
15 to approach the house and see, I guess.

16 Q And did you do that? Did you go through the
17 woods and approach the back of ■ Pinecrest?

18 A Yes. (Nods in the affirmative.)

19 Q What happened next? Where was Colette going?
20 Where did you think she was going? What --

21 A Well, first, when I first got out of the
22 vehicle, another truck pulled on to Masters Way. So I
23 told her to leave and come back, so that they wouldn't see
24 the car sitting there, maybe remember it or something, and
25 that's when she drove around and came by again.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 And then after she stopped at the stop sign
2 for some time, and then she came over and stopped again,
3 then I approached the house.

4 Q And what happened then?

5 A I saw John and I could -- well, I couldn't see
6 Joe, but I could see he was talking to somebody on the
7 porch, as I approached.

8 Q And what did you go?

9 A I pointed the shotgun over towards him and I
10 fired. And then I -- well, I eject -- I pumped the
11 shotgun first, and I pointed it over and I fired, and then
12 pumped it again and aimed away from him and fired again,
13 and I realized when Joe started screaming, that I had hit
14 him. And I panicked, and I left as soon as I -- as fast
15 as I could, I guess.

16 Q Where did Colette -- where did you -- you said
17 you ran as fast as you could. Where did you do?

18 A Well, I didn't really run because of my leg.

19 Q Right.

20 A Back to the vehicle.

21 Q Same path you went down before?

22 A Essentially, I guess, I don't -- yeah.

23 Q Did she pick you up on Masters Way?

24 A Well, the car was still there and I got in,
25 yeah.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 Q And what happened; you got in the passenger's
2 seat?

3 A Yeah.

4 Q You had the gun in your hand, correct?

5 A Yeah, in my lap and the floor.

6 Q And what did you tell her?

7 A I said, "I shot him, let's go."

8 Q And what did she do?

9 A She just looked at me really confused. I think
10 she was kind of asleep at first when I got in the car,
11 because she was drunk. She looked at me a little confused
12 and she said, "What?"

13 And I said, "I shot him. Let's go."

14 She still acted like she didn't comprehend
15 what was going on. So I grabbed the wheel with my
16 left-hand, and when I put the car in drive first and grabbed
17 the wheel with my left hand and stomped on the gas, and
18 started driving the car out to the street.

19 Q Then did she start driving?

20 A Yeah, then she started driving then.

21 Q Okay. And what -- then what happened? What did
22 you -- where did you go?

23 A I directed her to drive me to Cody's house,
24 which way to turn to take me to his house. I put the gun
25 in the back of his truck and clothes.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 Q And she witnessed you do that?

2 A It was dark outside. As far as I know, she did.
3 I mean, I don't -- I don't know.

4 Q But she was in the car when you got out with the
5 gun, correct?

6 A Yes.

7 Q And then when you got back in the car, you
8 didn't have a gun in your hand?

9 A No, I didn't.

10 Q Okay. And she was sitting right there?

11 A Yes, in the driver's seat.

12 Q Then what happened?

13 A Then we went home.

14 Q Did y'all talk about it that night? Were you
15 upset?

16 A Yes. I was very anxious, and, I guess, nervous
17 about what had happened, what I did, and just kind of
18 pacing around. And we were trying to be very quiet
19 because there was -- my son and her mother were sleeping
20 in the house.

21 Q Did Colette try to calm you down that night, or
22 after you got back?

23 A I believe she told me to calm down one time.

24 Q And so the next day, what do y'all do?

25 A I stayed home, she went to work.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 Q Did you threaten to hurt Colette that night, or
2 that morning?

3 A No.

4 Q Did you threaten her with any harm?

5 A No.

6 Q Did you, in fact, harm Colette, physically hurt
7 her that morning?

8 A No.

9 Q Mr. Collins, you were arrested a few days after;
10 is that correct?

11 A Yes.

12 Q Were you arrested on other charges?

13 A Yes.

14 Q Okay. Were you in jail on November 7th, 2015?

15 A Yes.

16 Q And after you were arrested, were you still with
17 Ms. Collins? Were y'all still together?

18 A As far as I know, yes. Yes.

19 Q Did she come visit you in jail?

20 A Yes.

21 Q And was she trying to get you a bond and get you
22 out of jail?

23 A I think so.

24 Q And up until you were arrested for murder, did
25 she cut off any communication with you during that time

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 when you were in jail?

2 A No.

3 Q Did you have any reason to believe that you
4 weren't together then?

5 A No.

6 Q Did she appear scared of you?

7 A No.

8 Q When is the last time you talked to her?

9 A I'm not sure when it was. It was probably about
10 a year and a half ago, briefly, on the telephone.

11 MS. SMITH: Judge, that is all that I have for
12 this witness.

13 THE COURT: Okay. Would you like to do cross
14 after lunch?

15 MR. STEPHENS: Judge, I would like to wait and
16 begin the cross after lunch so I don't have to stop
17 after a few minutes after I start.

18 THE COURT: All right. Ladies and gentlemen of
19 the jury panel, we're going to break now. We'll
20 start back at 2:15, that is an hour and a half. And
21 we will be prepared to go however long it takes us
22 this afternoon, up till five.

23 And don't discuss the case, don't deliberate.
24 Leave your pads in your seat, they will collect
25 those.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 And everybody else remain seated, please. 2:15.

2 (Whereupon, the jury exits the courtroom at
3 12:48 p.m.)

4 THE COURT: Keep the jury in the jury room.
5 Anything from the State before we break for
6 lunch?

7 MS. SMITH: Nothing from the State.

8 MR. STEPHENS: Nothing from the Defense, Your
9 Honor.

10 THE COURT: We will break until -- did I say
11 2:15? 2:15. Let me see you all in the chambers just
12 a second.

13 (Lunch recess.)

14 THE COURT: Ms. Smith, anything for the record
15 before we start back?

16 MS. SMITH: No, sir.

17 THE COURT: Defense?

18 MR. STEPHENS: No, Your Honor. Thank you.

19 THE COURT: Ready to start the cross
20 examination?

21 MR. STEPHENS: Yes, Your Honor. Thank you.

22 THE COURT: All right. Bring the jury in,
23 please, sir.

24 (Whereupon, the jury entered the courtroom.)

25 THE BAILIFF: The jury is in the courtroom.

DIRECT EXAMINATION OF SAMUEL COLLINS BY MS. SMITH

1 THE COURT: You may cross examine.

2 MR. STEPHENS: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MR. STEPHENS:

5 Q Mr. Collins, just wanted to confirm first, while
6 we were on break for lunch you didn't speak with counsel
7 for either side about your testimony here?

8 A No.

9 Q Before we took a break for lunch, you were
10 testifying -- first, you gave a little bit of your
11 background and the background of your marriage. Just to
12 kind of go over a little bit of that again, you moved to
13 the Bluffton area sometime around 2007 or 2008?

14 A Yes.

15 Q And at that time you were doing some
16 construction work building docks and decks?

17 A Yes.

18 Q And your wife, Colette, was working in retail?

19 A Yes.

20 Q Later you started a landscaping company out of
21 Bluffton; is that true?

22 A Yes.

23 Q And at some point down the road Colette got a
24 job as a server at Secession, the golf plantation,
25 correct?

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 A Yes.

2 Q In 2012 she got sick with a diagnosis of
3 cervical cancer, correct?

4 A Yes.

5 Q And she had some ongoing chemo and treatment for
6 that?

7 A Yes.

8 Q Now, are you aware of any medical problems that
9 she had as a result of her chemo treatment with early
10 onset of menopause?

11 A Yes.

12 Q Isn't it true this caused and that caused some
13 problems with the marriage because she wasn't able to be
14 as physical with you as she was before she started the
15 treatment?

16 A I don't think it really caused any problems. I
17 mean, it was different.

18 Q Now, in 2013, Mr. Collins, you filed for divorce
19 from Ms. Collins alleging adultery; isn't that true?

20 A Yeah.

21 Q And she left the state and moved, and you had
22 some custody of your son for that period of time?

23 A Yes.

24 Q And at some point, you let her move back in and
25 you reconciled with her?

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 A Yes.

2 Q And in 2014, towards the end of the year, you
3 were shot in some incident and -- was it Allendale County?

4 A Yes.

5 Q As a result, you were shot in one of your legs,
6 correct?

7 A Yes.

8 Q And as a result of that injury, you were -- you
9 were kind of homebound for a period of time?

10 A Yes.

11 Q And during that period of time your in-laws,
12 Ricky Allen and Michelle Allen, had moved into the home
13 with you?

14 A Yes. Actually right before that happened.

15 Q Okay. Now, isn't it true that Ricky Allen was
16 helping with the landscaping company while you were kind
17 of laid up in bed?

18 A He did help some, yes.

19 Q And Michelle Collins -- excuse me, Michelle
20 Allen was helping to look after you based on your medical
21 situation?

22 A Yes.

23 Q And during that period of time you were
24 prescribed a number of pain killing medications because of
25 your injury?

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 A Yes.

2 Q And, Mr. Collins, did you develop some kind of
3 addiction to any of those painkillers?

4 A Yes.

5 Q What painkillers were you using at that time?

6 A Oxycodone and Oxycontin.

7 Q And did your addiction to Oxycodone and
8 Oxycontin, did that continue up to the time of this
9 shooting of John Cherol?

10 A Yes.

11 Q Now, you stated earlier, going to the -- this
12 shooting incident, you said that you don't recall much
13 about that day the shooting happened; is that correct?

14 A I guess so. It was a fairly uneventful day, I
15 know that. But I don't recall anything specific.

16 Q Mr. Collins, had you taken a number of
17 prescription medications that you were addicted to on that
18 day?

19 A I don't recall.

20 Q Do you recall an earlier interview that you had
21 with the Solicitor at the Kirkland detention facility?

22 A Excuse me?

23 Q You were interviewed by the Solicitor --

24 A Yes.

25 Q -- Ms. Smith, at the Kirkland facility. Do you

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 recall stating to her at that time that -- that you
2 were -- you were taking a lot of drugs at the time this
3 happened?

4 A No, I don't remember saying that.

5 Q All right. Now, based on what you do recall of
6 this shooting, you said that prior to the shooting you had
7 begun to suspect that John Cherol had been behind some
8 attempted break-ins at your home, correct?

9 A Yes.

10 Q And on at least one of these break-ins, were
11 there shots exchanged and -- shots fired at the people who
12 were trying to break into the home?

13 A Yes.

14 Q And on that occasion, you didn't attempt to hit
15 them, you were shooting over their heads, correct?

16 A No, I was aiming at them.

17 Q Do you recall telling your wife, Colette, that
18 you were not attempting to hit anybody when they tried to
19 break in your home?

20 A No.

21 Q Now, other than this incident, had you ever told
22 Colette that you had shot at anybody in anger?

23 A No.

24 Q Now, you said that you had noticed to suspect
25 that John Cherol was behind the break-in at your home. An

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 on -- and that you had been told by a friend that he
2 wanted to put two rounds in you; is that correct?

3 A Yes.

4 Q You said that when Colette came home after work
5 that evening, that you could tell she was highly
6 intoxicated?

7 A Yes.

8 Q That she was slurring her words?

9 A Yes.

10 Q Was she also stumbling at all when she was in
11 the home?

12 A I don't recall.

13 Q Okay. She indicated to you that she had stopped
14 by John Cherol's home and confronted him about that
15 break-in, correct?

16 A Yes.

17 Q And you didn't believe her at that time?

18 A I don't know. I wasn't sure if I believed her
19 or not. Maybe. It's been a long time ago, and I can't
20 remember specifically.

21 I mean, I did think that maybe something else
22 was going on, but whether she asked that question or not
23 when she was there, I wasn't sure.

24 Q You said on direct examination that the two of
25 you went to John Cherol's house, correct -- that evening,

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 when the shooting happened. The two of you drove to his
2 neighborhood place?

3 A Right.

4 Q Now, Mr. Collins, isn't it true that you were
5 very forceful in telling Ms. Collins that she was going to
6 take you over to John's house?

7 A Yeah. I was somewhat persistent, yes.

8 Q And you said that you were very angry at the
9 time?

10 A Yeah.

11 Q Mr. Collins, Ms. Collins asked you what you were
12 going to do when you got to John Cherol's home; isn't that
13 true?

14 A Yes.

15 Q And didn't you tell her that you were not going
16 to hurt John Cherol?

17 A That's right.

18 Q You said that you were going to confront him --

19 A I said, "I'm not going to shoot him," is what I
20 said.

21 Q Did you tell her that you were going to confront
22 him or do anything to threaten him?

23 A I think I said, "I may fire a couple of shots,
24 but I'm not going to shoot him."

25 I don't know, I think I told her, "I don't

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 know what I'm going to do, but I'm not going to shoot him."

2 Q And would it be fair to say that in your mind,
3 at the time you left to drive over there, you thought you
4 might shoot something at the house, or shoot his car to
5 get your anger out, correct?

6 A Right. Yeah.

7 Q At the time that you had Colette drive you over
8 to his neighborhood, you didn't know that John Cherol was
9 actually going to be in the back of his house, did you?

10 A No.

11 Q When you drove to that neighborhood and you had
12 her drop you off, did you tell her that you didn't want
13 her to be anywhere near that confrontation because you
14 believed John Cherol had a gun and you had a gun?

15 A I believe I said something to that effect, to
16 stay here or stay out of the way. I don't remember
17 anything more specific than that.

18 Q You didn't indicate to her that you wanted her
19 to drop you off so you could sneak over to the home,
20 correct?

21 A Not specifically, no.

22 Q All right. You said that when -- that she
23 circled a few times, and at some point you ambled up to
24 where her car was, correct?

25 A I don't know if I follow what you're saying.

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 Q Is it fair to say, Mr. Collins, that after
2 Colette dropped you off, she circled the neighborhood a
3 few times -- excuse me. She circled the neighborhood a
4 few times.

5 A I believe it was just one time. When I first
6 spoke with them, I thought that maybe it was twice, but
7 then after they left and I got to thinking about it, I
8 remembered that I was in the vehicle the first time, and
9 was dropped off.

10 Q And this is over two years ago, correct?

11 A Yeah. And I'm trying not to -- it's something I
12 don't like to think about, so I haven't been thinking
13 about it a lot until, you know, one day when I was in
14 Kirkland and suddenly they called me up there and they
15 were questioning me about it. And I told them what came
16 to my mind then, but as soon as they left, I remembered
17 that part of it.

18 And that's why when they asked me today, I
19 told them exactly what I remember.

20 Q All right. At some point after you shot Mr.
21 Cherol, you made your way to where you saw Colette Collins
22 in the car, correct?

23 A Yeah.

24 Q You got in the car with her?

25 A Uh-huh, yes.

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 Q Did you have to go around the car to get in the
2 passenger side, or was she facing the other direction?

3 A I believe I approached from the rear of the
4 vehicle.

5 Q Okay. And you said when you got in the car that
6 she was so intoxicated that she appeared like she might be
7 asleep?

8 A Yes.

9 Q You said that you told her, "I shot him," and
10 that she didn't appear to understand what you were saying.

11 A Right.

12 Q So you said something like that again, and she
13 was still in a dazed state, where she wasn't driving?

14 A Right.

15 Q Such that you had to basically take the wheel
16 and force her to start driving?

17 A Yes.

18 Q Now, isn't it true, Mr. Collins, that you didn't
19 have any other discussions about what happened during that
20 drive?

21 A That's -- that's correct.

22 Q You told -- you gave her directions to drive
23 over to Cody Brown's house, and then you got out and put
24 the shotgun in the back of his truck and got in the car to
25 leave with her, correct?

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 A Yeah.

2 Q Now, did she appear to be kind of wandering
3 around in the vehicle when she dropped you off at Cody
4 Brown's home?

5 A "Wandering around"?

6 Q Was she -- did she park, or was she kind of
7 driving in circles, or how was she doing?

8 A I believe she just stopped the car.

9 Q Did she still seem kind of out of it, based on
10 her level of intoxication?

11 A I don't recall specifically, no.

12 Q All right. Now, you drove back home, she had to
13 be at work the next day around 7:00 a.m.; is that true?

14 A That sounds about right.

15 Q Do you recall her sleeping on the couch that
16 night?

17 A No.

18 Q Did she ever confront you about the shooting
19 after that night?

20 A "Confront" me? Could you be -- specify what you
21 mean by that?

22 Q Did she ever try to talk to you about the
23 shooting after that night?

24 A What, like ask me questions about what actually
25 happened or what?

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 Q Or get angry at you or anything like that?

2 A Not that I recall.

3 Q All right. Now, after you were placed under
4 arrest, you found out from your lawyer that she had made
5 statements implicating you and having dropped you off in
6 the neighborhood and pick you up after John Cherol was
7 shot; is that true?

8 A Yes.

9 Q And at some point, you began to suspect that
10 maybe she actually was having an adulterous relationship
11 with John Cherol; is that true?

12 A It's crossed my mind.

13 Q Also, since your arrest, it's true that you have
14 written her a number of letters, she hasn't been writing
15 you back?

16 A Right. It was my understanding that she was
17 under some sort of no contact during her bond, as a
18 condition of bond, I was told.

19 Q She also hasn't come to see you in the -- in
20 over a year and a half; is that correct?

21 A That's correct.

22 Q She hasn't brought your ten-year-old son to see
23 you?

24 A No.

25 Q And lastly, Mr. Collins, you were convicted for

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 the murder for John Cherol just a few months ago, correct?

2 A Yes.

3 Q You received a sentence of 50 years for that
4 murder, and another five years for an associated charge,
5 for a total sentence of 55 years confinement; is that
6 true?

7 A Yes.

8 Q As part of the deal that you made to provide
9 testimony here today, you are going to get a new
10 sentencing hearing in front of a judge, who is potentially
11 going to give you credit for taking responsibility and for
12 assisting the State in this case; is that true?

13 A Yes.

14 Q In your first statement to law enforcement, you
15 didn't mention that you had any involvement in the
16 shooting of John Cherol, correct?

17 A Correct.

18 Q But as in you're here testifying today, you are
19 here to do the right thing so the family can get closure
20 for John's shooting, correct?

21 A Yes.

22 Q And that requires you to recall about any
23 medications you have had, exactly what you said the
24 evening of October 28th, 2015, when you were driving home
25 with Colette Collins. Would that be fair to say?

CROSS EXAMINATION OF SAMUEL COLLINS BY MR. STEPHENS

1 A Could you repeat that, please?

2 Q Actually, I withdraw the question, Mr. Collins.

3 MR. STEPHENS: I don't believe I have any

4 further questions for Mr. Collins at this time.

5 MS. SMITH: Just briefly, Judge.

6 REDIRECT EXAMINATION

7 BY MS. SMITH:

8 Q Mr. Collins, you told her that you killed John
9 Cherol, correct?

10 A Yes.

11 Q And you told her more than once; is that
12 correct?

13 A Yes.

14 Q And then she drove you to Cody Brown's house to
15 get rid of the gun that you used to kill John Cherol; is
16 that correct?

17 A Yes.

18 Q And she never called 911, did she?

19 A Not that I know of, no.

20 Q And she never told the police you killed John
21 Cherol, did she?

22 A No.

23 MS. SMITH: Thank you. That is all I have.

24 MR. STEPHENS: Your Honor, I don't believe I
25 have any recross.

REDIRECT EXAMINATION OF S. COLLINS BY MS. SMITH

1 THE COURT: Oh, that is discretionary with the
2 Court. I don't allow it.

3 MR. STEPHENS: Okay.

4 THE COURT: Oh, you said you didn't have any.

5 MR. STEPHENS: Yes, Your Honor. I was stating I
6 didn't have any recross.

7 THE COURT: Thank you.

8 MR. STEPHENS: I would just ask for Mr. Collins
9 to be subject to recall since he's also a defense
10 witness.

11 THE COURT: Don't send him back yet.

12 MS. SMITH: State calls Jennifer Nates.

13 Thereupon,

14 JENNIFER NATES

15 was called as a witness, having been first duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SMITH:

19 Q Good afternoon, Ms. Nates.

20 A Hello.

21 Q Where do you work?

22 A I work for the South Carolina Law Enforcement
23 Division, in the trace evidence section.

24 Q Can you tell us a little bit about your
25 education and employment history.

DIRECT EXAMINATION OF J. NATES BY MS. SMITH

1 A I received a Bachelor of Science degree in
2 chemistry in 1997 from a small state school in
3 Pennsylvania called California University of Pennsylvania.

4 Once I received that degree, I formed an
5 internship at SLED and was subsequently hired in the drug
6 analysis department. I worked one year in drug analysis and
7 then transferred to trace evidence?

8 So I've been in trace evidence since 1998,
9 where I began a in-house training program with the
10 lieutenant of the department and the other senior analyst.
11 This includes hands-on training and additional classes and
12 courses outside of the agency.

13 Once I completed that training, I began doing
14 casework and testifying in court. And I took over the
15 department in 2010 as a lieutenant.

16 Q Can you describe your job as a forensic
17 scientist in the trace department.

18 A The trace department is a very unique
19 department. We analyze many different types of evidence.
20 On a day-to-day basis, we will receive evidence from a
21 case. Usually we contact the investigator so that we are
22 certain what they are wanting us to do with that case.

23 Since we analyze paint, fibers, glass,
24 explosives, gunshot residue, tape, fracture match
25 examinations, and different chemical identifications, we

DIRECT EXAMINATION OF J. NATES BY MS. SMITH

1 usually have to contact them so that we know exactly what
2 they want on a case.

3 Once we determine that, we sort through the
4 evidence and follow our procedure and protocol to determine
5 the best route to analyze the evidence for what they are
6 looking for.

7 Once we analyze the evidence, we will write
8 up a case file and send that for a technical review. The
9 case file will include all of our data that was generated,
10 notes that were taken, or pictures that were taken.

11 The other analysts have to agree with our
12 findings, and then we are able to issue the report. Once
13 the report is issued, we will then testify in court, if
14 asked.

15 Q How many times have you testified in court?

16 A Approximately, I think 117 or 118.

17 Q How many times have you been declared as an
18 expert?

19 A Every time.

20 MS. SMITH: Judge, at this time I would offer
21 Ms. Nates as an expert in trace evidence analysis.

22 THE COURT: Any cross examination on the
23 qualifications?

24 MR. STEPHENS: No, Your Honor. Thank you.

25 THE COURT: Madam Forelady, ladies and

DIRECT EXAMINATION OF J. NATES BY MS. SMITH

1 gentlemen, what that means simply, she'll be
2 qualified as an expert in trace evidence. Normally
3 witnesses are not allowed to give opinion testimony.
4 There's an exception to the rule if someone is
5 qualified by education and/or experience, or allow --
6 will be allowed to give opinion testimony.

7 So she will be allowed to give opinion
8 testimony, I assume dealing with the evidence that
9 she analyzed.

10 BY MS. SMITH:

11 Q Did you analyze the gunshot residue kit in this
12 case?

13 A In the case, L1514383, I did analyze gunshot
14 residue.

15 Q And that was the murder of John Cherol?

16 A I have a -- I don't know a lot about the case.
17 When we receive a case, we receive paperwork and the
18 evidence, but I have a victim listed as Jonathan Cherol.

19 Q And I'm going to show you what's been marked as
20 State's Exhibit No. 62, and just ask that you identify
21 that.

22 A This is a box -- a lot of our evidence is
23 submitted in either boxes or manila envelopes. In this
24 case it came in as a box, so it would have went through
25 our log-in partners, where they assigned it -- right here

DIRECT EXAMINATION OF J. NATES BY MS. SMITH

1 is a lab number. It's a unique number for each case.

2 So this box is considered Container A, which
3 means it contains more than one item of evidence. And my
4 initials are on this box for when I opened it, so that I
5 know when I received this evidence.

6 So these are the GSR kits from the case I'm
7 here testifying on.

8 Q And which GSR kits are they? Who are they for?

9 A There was one from Joseph Rueby, and one from
10 Roberts Vaux.

11 Q And did you test those kits?

12 A I did.

13 Q And what did you find?

14 A On the kit from Joseph Rueby, I did not find any
15 fiber of gunshot residue on the samples.

16 Would you like me to read the results or --

17 Q Sure.

18 A Usually, we have a barrier after our negative
19 results for gunshot residue to explain why the gunshot
20 residue kit could be negative. Instead of just stating it
21 was negative, we put different scenarios.

22 So the scenarios are, "The absence of primer
23 residue on the hands is consistent with an individual not
24 having discharged a firearm. A negative result could also
25 occur from circumstances such as four to six hours passing

DIRECT EXAMINATION OF J. NATES BY MS. SMITH

1 between firing and sampling, washing the hands, wiping the
2 hands, wearing gloves, sweating profusely, environmental
3 factors, including wind and rain, bloody hands, excessive
4 debris on the sample, normal physical activities when firing
5 a sample, or the firearm not producing primer residue on the
6 hands when discharged."

7 Q And let me back up a second. Can you tell the
8 jury what gunshot residue is?

9 A Gunshot residue is a term used to describe any
10 of the residue that is produced when a firearm is
11 discharged.

12 Our laboratory specifically analyzes for
13 primer gunshot residue, which is the components of the
14 primer cap on the cartridge of -- on the cartridge that is
15 put into the firearm.

16 We are not looking for the lead or the
17 organic GSR or any of the stippling or tattooing, or any of
18 those other elements that can be produced when a firearm is
19 discharged. We are specifically looking for three elements,
20 which are barium, antimony, and lead, which are from that
21 primer composition specifically.

22 Q Can you explain, tell us your findings on the
23 second GSR kit.

24 A The second GSR kit was the same as the first, no
25 primer gunshot residue was found. And it also includes

DIRECT EXAMINATION OF J. NATES BY MS. SMITH

1 the same disclaimer explaining the reasons it could be
2 negative.

3 Q Were -- did you -- were you requested to test a
4 kit, or was a kit performed on Samuel Collins?

5 A I only received the two GSR kits from the two
6 that I spoke of.

7 Q And just for the record, you didn't receive a
8 kit on Colette Collins?

9 A I did not.

10 Q Can you explain, I think you said you can read
11 in your results, what the SLED policy is on as far as the
12 time requirement after the shooting occurs, as to when you
13 can get GSR?

14 A Gunshot residue is very fragile evidence. And
15 it is limited by a time frame.

16 If I fire a weapon, six hours after I fire
17 it, I'm more than likely not going to find any residue on my
18 hands from that discharge.

19 Due to in-house testing and to testing
20 outside of SLED, in different agencies, the majority of
21 gunshot residue is gone from a person's hands three to four
22 hours after a shooting.

23 Therefore, after six hours, if someone is
24 thought to have been involved in a shooting and a GSR kit is
25 collected, we do not analyze it.

DIRECT EXAMINATION OF J. NATES BY MS. SMITH

1 MS. SMITH: That is all I have for this witness.

2 Thank you.

3 THE COURT: Cross. Any cross examination?

4 MR. STEPHENS: No, Your Honor. No cross
5 examination questions. Thank you.

6 THE COURT: Thank you.

7 Next witness.

8 MS. SMITH: Judge, the State calls Andrew
9 Garinger.

10 Thereupon,

11 ANDREW GARINGER

12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. SMITH:

16 Q Mr. Garinger, where do you work?

17 A I work for the Beaufort County Sheriff's Office,
18 forensic services laboratory.

19 Q How long have you been at the Beaufort County
20 sheriff's office?

21 A Just over three years now.

22 Q What are your duties there? Explain to us what
23 your job is.

24 A Take in evidence that's submitted in cases,
25 analyze it, and write reports on what we find. And then

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 sometimes, we come and testify in court.

2 Q What is your educational and training
3 background?

4 A I've got a bachelor's accounting that isn't
5 really relevant, a Bachelor of Science in biochemistry and
6 molecular biology, and a Master of Science in forensic
7 science.

8 Q Do you have any special training in DNA testing?

9 A I do. I was trained for a year and a half by
10 the Illinois state police, and then I underwent another
11 three to four months of training when I got hired by the
12 Beaufort County Sheriff's Office.

13 Q Have you ever testified in court?

14 A Yes.

15 Q How many times?

16 A I might be off by one or two, but I believe I
17 testified 12 times in Cook County, Illinois, and I believe
18 I have testified five times here in Beaufort County now.

19 Q And were you qualified as expert?

20 A Yes.

21 Q How many times were you qualified as an expert?

22 A Every one of those times.

23 Q Okay.

24 MS. SMITH: Judge, at this time, I'd offer him
25 as an expert in forensic DNA analysis.

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 THE COURT: Any cross examination?

2 MR. STEPHENS: No, Your Honor. Thank you.

3 THE COURT: All right. Madam Forelady, ladies
4 and gentlemen, Mr. Garinger, likewise, will be
5 allowed to give opinion testimony on DNA analysis.

6 BY MS. SMITH:

7 Q Can you tell us a basic understanding of what a
8 DNA -- I know that's a loaded question -- but just a basic
9 understanding for the jury, please.

10 A There's a lot to it. It's essentially the
11 blueprint for how your body functions. It is present in
12 every cell of your body, with the exception of red blood
13 cells, and it is also unique to each individual, with the
14 exception of identical twins.

15 And what we're able to do is we are able to
16 analyze that and develop that into a unique profile that we
17 can use to give us information about who left cellular
18 material of some sort behind on items of interest.

19 Q Tell us a little bit about your specific lab
20 standards and procedures, what measures y'all take when
21 testing.

22 A Well, so, we take a lot of different measures to
23 prevent any kind of external or internal contamination.
24 We wear all sorts of protective equipment. We only open
25 one item and analyze it at a time. We seal it back up and

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 then move on to the next.

2 We use reagent blanks in batches of cases in
3 order to show that the reagents that we're using at each
4 point aren't contaminated themselves. We use a number of
5 controls to make sure that the processes that we are doing
6 are functioning properly.

7 Put something in through the system with
8 everything else, where you know what the output should look
9 like. You will know that it worked.

10 We are also accredited by an organization
11 called SQFI, which is an accrediting body which operates
12 under an international forensic testing standard. They come
13 in every two to three years to make sure that we are
14 following our own rules, to make sure that we are following
15 guidelines that have been established for the country as a
16 whole. We follow standards that are set by the FBI in order
17 to have access to the CODIS database. And there are a lot
18 more than that.

19 Q Did you have a chance to test several items in
20 evidence in this case?

21 A I did.

22 Q Back in November of 2015?

23 A That sounds right.

24 Q And did all those items, when they came to your
25 lab, were they sealed and adulterated?

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 A They were all sealed when we received them, or
2 we wouldn't have accepted them in the first place.

3 Q I'm going to hand you what is State's No. 51 and
4 ask you to identify that.

5 A Okay. So this was submitted as a buccal
6 standard for Samuel Collins.

7 Q Okay.

8 A It is a standard that is collected to be used as
9 a known sample for comparison against unknown items of
10 evidence in a case.

11 Q Were you able to develop a DNA profile for that?

12 A I was.

13 MS. SMITH: At this time, I move 51 into
14 evidence.

15 THE COURT: Objection?

16 MR. STEPHENS: No objection, Your Honor. Thank
17 you.

18 *(Whereupon, State's Exhibit No(s). 51 marked for*
19 *identification and received in evidence.)*

20 BY MS. SMITH:

21 Q I will hand you what's been marked as No. 52.
22 Will you tell me what that is?

23 A This is a -- another buccal standard from
24 someone named William Brown.

25 Q And were you able to develop a DNA profile for

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 that?

2 A I was.

3 MS. SMITH: At this time, I move 52 into
4 evidence.

5 MR. STEPHENS: No objection, Your Honor. Thank
6 you.

7 *(Whereupon, State's Exhibit No(s). 52 marked for*
8 *identification and received in evidence.)*

9 BY MS. SMITH:

10 Q I'll hand you what's been marked as State's 53.

11 A This is a buccal standard from someone named
12 Joseph Rueby.

13 Q And were you able to develop a profile for that?

14 A Yes, I was.

15 Q Handing you No. 54.

16 A It's a standard from someone named Roberts Vaux.

17 Q Did you develop a DNA profile for him?

18 A Yes.

19 MS. SMITH: At this time, I would move 54 into
20 evidence.

21 MR. STEPHENS: No objection, Your Honor. Thank
22 you.

23 MS. SMITH: And I think I have moved 53 into
24 evidence already.

25 THE COURT: Yes. 53, 56, 51, and 54. They're

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 all in.

2 BY MS. SMITH:

3 Q All right. I'm going to hand you No. 64.

4 THE COURT: Which number?

5 MS. SMITH: 64.

6 BY MS. SMITH:

7 Q And ask you to identify that.

8 A So that's another buccal standard from someone
9 named Clay McCarter.

10 Q Did you develop a DNA profile for that?

11 A Yes.

12 MS. SMITH: At this time, I move 64 into
13 evidence.

14 MR. STEPHENS: No objection. Thank you.

15 *(Whereupon, State's Exhibit No(s). 64 marked for*
16 *identification and received in evidence.)*

17 BY MS. SMITH:

18 Q And I'm going to hand you No. 65 and ask you to
19 identify that.

20 A So this one is a soda can that was submitted as,
21 what we call, an alternate reference standard from Colette
22 Collins.

23 Q Did you develop a DNA profile for Ms. Collins?

24 A Yes.

25 MS. SMITH: At this time, I move 65 into

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 evidence.

2 MR. STEPHENS: No objection. Thank you, Your
3 Honor.

4 *(Whereupon, State's Exhibit No(s). 65 marked for*
5 *identification and received in evidence.)*

6 BY MS. SMITH:

7 Q All right. You tested a number of items in this
8 case.

9 A A large number of items, yes.

10 Q I'm going to direct you to -- the first three
11 I'm going to direct you to, I believe that you tested
12 three different shotgun shells; is that correct?

13 A That sounds correct, yes.

14 Q Do you have your report?

15 A I do. So it looks like there were three
16 different shotgun shells.

17 Q I believe that would be 1, 2, and 25; is that
18 correct?

19 A Correct.

20 Q And tell us what your testing or what your
21 findings were with regards to those three items.

22 A So for all three of those, I was unable to get a
23 sufficient amount of DNA for me to continue with my
24 testing. There was some small amount of DNA present
25 there, but it was such a low level that I knew I was not

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 going to get usable results out of them.

2 Q Is that unusual when dealing with touch DNA?

3 A It's not unusual with touch DNA, depending on
4 what kind of evidence we are talking about. But it's
5 especially not unusual with ammunition, shell casings,
6 fired ammunition cartridges, things like that, that just
7 don't get handled that frequently. And in the process of
8 firing them, they get a little heated and left out in the
9 -- exposed to the elements. Not unusual, no.

10 Q All right. I believe you tested several areas
11 on the gun in this case.

12 A Yes.

13 Q No. 26 on this board.

14 A I did.

15 Q You took four swabs; is that correct?

16 A Yes.

17 Q Can you explain how you did that, and what areas
18 you tested?

19 A Sure. So it's a long gun, a shotgun. Opened it
20 up and I examined it.

21 Initially, when I looked at it, the magazine
22 cap, so -- sort of under the barrel and towards the front of
23 the weapon, there looked like there was some red stain
24 there, and so I swabbed that, thinking that it could
25 potentially be blood.

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 When I did do the presumptive testing on
2 that, it turned out to be not blood, it was probably some
3 rusty material. But I was able to develop a profile from
4 that.

5 I also swabbed the trigger and the grip
6 areas. I swabbed the stock and the butt areas in the back,
7 and I also swabbed the fore stock, what you think of when
8 people cock the shotgun.

9 And I was able to develop some sort of DNA
10 profile from all four of those sets of swabs that I
11 collected.

12 Q And what -- did you have any matches to those
13 profiles?

14 A I did have. Let's see.

15 In this case, the magazine cap, the swab that
16 I took from the magazine cap, I got a single source DNA
17 profile, meaning from what I saw there, it appeared that
18 only one person had left their DNA there, and that profile
19 was a match to Samuel Collins.

20 THE COURT: I'm sorry, to who?

21 THE WITNESS: I'm sorry, sir?

22 THE COURT: Who did you match with?

23 THE WITNESS: Samuel Collins.

24 With the other swabs, they were mixtures,
25 meaning more than one person had left their DNA in

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 those locations.

2 Some of those, I was able to separate the
3 contributors into single source profiles that I could
4 easily compare the standards, and some of them, I was
5 not.

6 The swab from the triggering grip area, I was
7 able to separate that into a major contributor, and I
8 was able to make a comparison to that major
9 contributor. In that case, the major contributor was
10 a match to Samuel Collins.

11 The swab from the stock and butt area, again,
12 was a mixture of DNA profiles, where I was able to
13 get a major contributor for comparison, and that one
14 was -- the major contributor was also a match to
15 Samuel Collins.

16 And the swab from the fore stock, again, a
17 mixture of DNA profiles from multiple people. I was
18 able to determine a major contributor from that, and
19 in that case the major -- the major contributor
20 matched William Brown. And I stated that Samuel
21 Collins was included as a possible minor contributor
22 to that mixture.

23 BY MS. SMITH:

24 Q I believe you also tested items of clothing that
25 were submitted.

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 A Yes.

2 Q Okay. Can you tell us about your findings on
3 those?

4 A So I -- can I just look?

5 There was submitted along with the shotgun,
6 there was submitted a -- an adjustable black baseball style
7 hat, some camouflage pants, and a top that were sort of
8 mesh -- camouflage mesh material. And so I was able to
9 analyze those.

10 In that case, I took the hat and swabbed
11 around the inner brim, looking for where it would rest
12 against someone's forehead.

13 With the jacket, I swabbed around the neck
14 and the cuff areas, because it had elasticized cuffs, so it
15 would be tight against the skin there. And with the pants,
16 I swabbed around the waistband of the pants.

17 As far as the hat goes, I again got a mixture
18 of profiles with a major contributor, and the major
19 contributor on the hat matched to Samuel Collins.

20 With the pants, I was unable to get enough
21 DNA from those. They either didn't collect enough DNA or
22 they were not riding up against the skin close enough for me
23 to get anything usable there.

24 The jacket, I was able to get another mixture
25 of DNA profiles from the neck area of the jacket, and that

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 had a major contributor again, which matched Samuel Collins.

2 The cuffs of the jacket, I got a mixture of
3 DNA profiles, but I was unable to separate out any of the
4 contributors to that mixture.

5 Q What did you do with your results, Mr. Garinger?

6 A I wrote them up into a report.

7 Q Did you ultimately produce electronic files for
8 this testing?

9 A Yes.

10 Q Why would you do that, or where did you submit
11 them after you were done?

12 A We have an internal system that saves all of our
13 files for us.

14 Q Okay. And I believe -- and here is my question.

15 At the time when you tested these items,
16 y'all didn't have a specific program that you do now; is
17 that correct? Your new program?

18 A Correct. So I'm trying to think of how detailed
19 to get with this. At the time, we had all of our methods
20 of interpreting mixtures of DNA profiles were strictly
21 manual. We would have to examine it, and given certain
22 assumptions, we would have to make -- draw our conclusions
23 based on what we were able to see in the data ourselves.

24 Since then we have implemented a computer
25 program that can do a lot of that work for us, especially

DIRECT EXAMINATION OF ANDREW GARINGER BY MS. SMITH

1 with the more complex mixtures where you are not able to
2 manually identify a major contributor.

3 Q And did you, once that program came into being
4 at the Beaufort County Sheriff's Office, did you submit
5 some of the items you tested that you didn't have strong
6 matches on to that department?

7 A Correct, yeah. So the program is Trulia and
8 they brought it online, apparently soon after this. I
9 believe it was January of 2016.

10 I'm still not fully trained in it, although I
11 should be wrapping that up soon. So I had to submit them to
12 one of the other analysts, who was fully trained at that
13 time.

14 MS. SMITH: Thank you. I have no further
15 questions for you.

16 THE WITNESS: Okay.

17 MR. STEPHENS: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MR. STEPHENS:

20 Q Mr. Garinger, good to see you again.

21 You were talking a little bit about your --
22 the testing of that DNA. And I know from prior testimony
23 by you that you can't say definitively if the presence --
24 or the absence of detectable contact DNA, or touch DNA, on
25 an item means that a person had ever touched that item or

CROSS EXAMINATION OF GARINGER BY MR. STEPHENS

1 not. Just whether or not there was detectable amounts of
2 DNA that were positive on the item; is that correct?

3 A Let me see if I'm understanding you.

4 Q I ask bad questions. Sorry.

5 A Well, no. It's a weird concept.

6 So the fact that there -- that I wasn't able
7 to develop a DNA profile off something doesn't mean anything
8 specific. It could mean a lot of different things, and I
9 can't really narrow it down further than that.

10 Does that answer what you are trying to get
11 at?

12 Q I hope so. Let's draw on it a little bit.

13 Now, in the items you were describing that
14 you tested, mainly the shotgun that you said you took
15 swabs from three different locations, I believe, on the
16 shotgun.

17 A Four different, yeah.

18 Q Four different. Sorry.

19 And then the camouflage clothing. With
20 respect to the shotgun, you said that one area had DNA
21 that was matched with DNA profile for Samuel Collins,
22 correct?

23 A Yes.

24 Q The other three areas had a mixture of DNA that
25 you were able to separate and confirm the contributors,

CROSS EXAMINATION OF GARINGER BY MR. STEPHENS

1 based on their DNA profiles, correct?

2 A Yeah.

3 Q So for all those areas you swabbed on the
4 shotgun, it's correct to say that you were able to exclude
5 Colette Collins as a contributor to the DNA mixtures?

6 A That is correct, yes.

7 Q And for that camouflage clothing as well, you
8 were able to exclude Ms. Collins as a contributor to any
9 of the DNA found on that clothing, correct?

10 A That's correct.

11 Q So at least in terms of touch or contact DNA,
12 there's no evidence that Ms. Collins had ever touched
13 those items?

14 A Not that I was able to find, no.

15 MR. STEPHENS: Thank you, Mr. Garinger. No
16 further questions.

17 THE COURT: Redirect?

18 MS. SMITH: No, sir. That is all for this
19 witness.

20 THE COURT: You may step down.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: May he be released?

23 MS. SMITH: Yes, sir.

24 MR. STEPHENS: No objection, Your Honor. Thank
25 you.

CROSS EXAMINATION OF GARINGER BY MR. STEPHENS

1 THE COURT: You may be released.

2 Next witness.

3 MS. SMITH: State calls John Donahue.

4 Thereupon,

5 JOHN DONAHUE

6 was called as a witness, having been first duly sworn,

7 was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SMITH:

10 Q Mr. Donahue, where do you work?

11 A I work at Beaufort County Sheriff's Office
12 Forensics Services Laboratory.

13 Q And what is your job there?

14 A I am a DNA technical leader for that.

15 Q How long have you been with the Sheriff's
16 Office?

17 A I have been with the Sheriff's Office for ten
18 years.

19 Q And what is your background in -- educational
20 background and training?

21 A I have a bachelor's degree from the University
22 at SC, with a major in zoology. Have a Master's degree
23 from Indiana University, with a major in microbiology. I
24 have been employed in this field since October of 1997,
25 first with the Texas Department of Public Safety Crime

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 Laboratory, regional lab in Garland, Texas, where I was a
2 serology DNA analyst.

3 I then moved to Charlotte, North Carolina in
4 2002 to take the position as a DNA technical leader in
5 Charlotte, the police department laboratory. And I moved
6 here in 2008 to serve as a DNA technical leader, and I've
7 been here ever since.

8 Q Have you testified in court before?

9 A I have.

10 Q How many times, approximately?

11 A Getting close to a hundred, if not over a
12 hundred times.

13 Q Have you been qualified as an expert?

14 A Yes.

15 Q How many times?

16 A Every time.

17 MS. SMITH: Judge, I would move to have
18 Mr. Donahue qualified as an expert in forensic DNA
19 analysis.

20 MR. STEPHENS: No cross examination. No
21 objection, Your Honor. Thank you.

22 THE COURT: Mr. Donahue, likewise, will be
23 allowed to give opinion testimony in the forensic
24 area.

25 BY MS. SMITH:

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 Q Mr. Donahue, did you analyze some items of
2 evidence in this case?

3 A I examined electronic data that was generated
4 and produced by Andrew Garinger.

5 Q And why -- why did you analyze that data after
6 Mr. Garinger?

7 A The items that I assessed were too complex for
8 him to calculate match statistics on. So we needed to
9 utilize the use of a computer software program to look at
10 those, and he was not trained in that computer software at
11 the time of this report.

12 Q What is that computer software?

13 A The computer software that we used is called
14 Trulia.

15 Q And what is Trulia, much as you can explain it
16 to us.

17 A Basically what it does is, it looks at the
18 electronic DNA data that's collected during a DNA test.
19 And for mixtures, it tries to sort out who the particular
20 contributors to a mixture might be.

21 When you have mixture data, sometimes it's
22 too complicated for you to look at by yourself and try to
23 sort everything out. So what the computer does is, it helps
24 us, tries to pick out what the DNA types might be that are
25 in the mixture, and then compare them to known DNA from

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 reference samples from known individuals.

2 Q Did you test the data based on the weak
3 associations on the gun in this case?

4 A I did. There were three mixtures from a shotgun
5 that I examined. There was a mixture from the cuffs of a
6 jacket, and there was a mixture from a prescription
7 bottle.

8 Q Can you tell us about your findings?

9 A Yes. So judging the shotgun, I tested three
10 areas -- or tested. I assessed a different three areas.
11 The first was the item -- our laboratory item 26.2, which
12 was a mixture from the trigger and the grip area of the
13 shotgun.

14 Previously, when Andrew had assessed this, he
15 excluded most of the individuals that had been submitted.
16 He couldn't really tell too much about the other ones, so I
17 compared to William Cody Brown and found that a match to
18 him, to a portion of the mixture, was about 138,000 times
19 more likely than coincidence.

20 What that means is the computer looks at the
21 data. It doesn't -- as it sorts out the data from the
22 evidence, it doesn't compare to any knowns at all. It just
23 looks completely at the evidence profile, and when it's all
24 done it looks at somebody else and makes a comparison of the
25 data after it's run versus who this person is.

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 And so the computer assessed him a match of
2 about 138,000 times more likely than a coincidence to
3 another living person.

4 And then, using that and the information that
5 was provided about the origin of the shotgun, I assumed him
6 as a known contributor. So I ran the test again and said,
7 okay, let's say that Brown is present in this mixture, and
8 ran that, and found a match to Samuel Collins that was
9 approximately five quadrillion times more likely than
10 coincidence, and everybody else was excluded.

11 Q What about the next area of the gun?

12 A The next one that I assessed that Andrew
13 couldn't do anything with was the mixture from the stock
14 and the butt area. Performed the same process there.
15 Andrew had already reported a match to Samuel Collins, so
16 I didn't look at him any further.

17 And I looked at Brown, and I could not report
18 a conclusive statistic on that one. One of the great things
19 about the software is that it can tell us, yes, a match is
20 very likely; no, a match is highly unlikely; or it can tell
21 us there is a gray area where there's just not enough
22 information there to do anything with.

23 In this case, for comparison to Brown, there
24 just wasn't enough information.

25 Q And the third area of the gun, or stock?

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 A That was from the fore stock, which is on Lab
2 No. Item 26.4. He found a match to Brown was roughly 1.25
3 quadrillion times more likely than coincidental match. He
4 did the same process again that I did for the trigger grip
5 area, and assumed Brown as a known contributor. Went back
6 and assessed it again and found that a match to Samuel
7 Collins was about 88.9 billion times more likely than
8 coincidence. And again, everyone else was -- in this case
9 was excluded.

10 So the only people that I could find matches
11 to for this case were Brown and Samuel Collins.

12 Q And then 29.2, the DNA mixture from the jacket.

13 A Yes. In this case, I found a match to Samuel
14 Collins of about 725 trillion times more likely than
15 coincidence. Andrew had reported previously that
16 everybody else was excluded.

17 MS. SMITH: That is all that I have for this
18 witness. Thank you, Judge.

19 MR. STEPHENS: No cross examination, Your Honor.
20 Thank you.

21 THE COURT: You may step down.

22 MS. SMITH: Judge, I have two remaining
23 witnesses from out of town that will be here in the
24 morning.

25 Would you like for us to approach?

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 THE COURT: Madam Forelady, ladies and
2 gentlemen, how about stepping back to the jury room
3 just a second. Let me assess where we are.

4 Let me tell you before you go back there,
5 there's one problem we got with a pathologist.

6 MR. STEPHENS: A pathologist?

7 MS. SMITH: Yes, sir.

8 MR. STEPHENS: Dr. who?

9 MS. SMITH: Batalis.

10 THE COURT: Pathologist?

11 MS. SMITH: Pathologist, Dr. Batalis.

12 THE COURT: A pathologist is a witness --
13 sorry. We've got a doctor left. Obviously we're
14 trying to get doctors and their schedules, so they're
15 scheduled to be here early in the morning.

16 Let me see if I can try to keep going in some
17 fashion. And if not, I'll get you all back out here
18 and talk to you some more. Okay.

19 When you step in the jury room, don't discuss
20 anything. I'll have you right back out.

21 (Whereupon, the jury exited the courtroom.)

22 THE COURT: Ms. Smith, you informed me as well
23 as Defense counsel earlier that you had a scheduling
24 problem with the pathologist, who is -- I guess
25 that's Dr. Batalis?

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 MS. SMITH: Batalis, yes, sir.

2 THE COURT: And who else do you have?

3 MS. SMITH: Michelle Eichenmiller.

4 THE COURT: And who is she?

5 MS. SMITH: She's a SLED agent from Columbia.

6 She is firearms.

7 THE COURT: And what have you got, you think
8 you're going to have someone from Defense side?

9 Well, only if y'all will agree to take some
10 witnesses out of turn. But if you don't agree, I
11 won't do it. But if you got some --

12 MR. STEPHENS: Your Honor, I only have -- other
13 than the proffered testimony of Ms. Collins, and I
14 still need to speak with her briefly before she goes
15 on the record.

16 THE COURT: You probably don't want to take her
17 out of order, but I thought maybe you had some
18 character type witnesses or something like that.

19 MR. STEPHENS: Unfortunately, Your Honor, I only
20 have two other witnesses, who are her mother and
21 stepfather, and I had previously told them they
22 wouldn't be called before Wednesday. They didn't try
23 to take time off for that.

24 I can just assure the Court they are going to be
25 short witnesses.

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 THE COURT: I'm not holding you to short, long,
2 or indifferent. I was just seeing if there was any
3 possibility to try to get some additional witnesses
4 this afternoon. I understand it's probably not.

5 I'm going to bring the jury back, so I can
6 better inform them.

7 It looks like -- sort of short -- pathologist
8 would be short.

9 MS. SMITH: Yes, sir.

10 THE COURT: I don't know what the pathologist
11 can say.

12 MS. SMITH: Not more than 45 minutes for both of
13 them -- not the pathologist, both of them.

14 Michelle Eichenmiller, my firearms person.

15 THE COURT: She won't be long, I wouldn't think.

16 MS. SMITH: No. I mean, I wouldn't -- maybe
17 not.

18 THE COURT: So if we start at 9:30, she ought to
19 be through by 9:35 -- 10 o'clock.

20 And your parents should not be very long.

21 MR. STEPHENS: And, Your Honor, I still believe
22 we can --

23 THE COURT: We're going to be through with
24 testifying by -- before lunch.

25 MR. STEPHENS: Yes, Your Honor. That's what we

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 believe.

2 THE COURT: Well, would it be an imposition if I
3 let the jury go, and let's stay and just go over any
4 jury charges that you -- are you prepared to do that?

5 MR. STEPHENS: I am, Your Honor, except with a
6 short restroom break first. I apologize for that,
7 but I will need a quick restroom break.

8 I do think that Ms. Collins' testimony has
9 potential to raise new issues if the duress gets
10 potentially raised. But at this point, I don't think
11 it's been raised by the --

12 THE COURT: Well, let's do this. Let's go over
13 what we can.

14 MR. STEPHENS: Yes, Your Honor.

15 THE COURT: And then at the conclusion of
16 everything, if we need to discuss it further, we can.

17 If we go over the jury verdict form and all that
18 sort of thing. Have all of that out of the way, with
19 the understanding if you have anything else to add to
20 it or delete from it, we will do that. Is that fair?

21 MR. STEPHENS: Yes, Your Honor. As long as I
22 get a bathroom break, I'll be perfectly happy to.

23 THE COURT: You don't need that, do you?

24 I had a judge one time refuse to give -- I'll
25 tell you that story later.

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 MR. STEPHENS: That's familiar, Your Honor.

2 THE COURT: Boy, that was a very uncomfortable
3 situation. I'd never ever deny anybody a bathroom
4 break. So let's take it.

5 (Whereupon, there was a recess.)

6 THE COURT: I'll bring the jury back in, and we
7 will start at 9:30 in the morning. What time do you
8 got the pathologist coming?

9 MS. SMITH: Be here at nine.

10 THE COURT: Okay. And you'll have your
11 witnesses here ready to go?

12 MR. STEPHENS: Yes, Your Honor.

13 THE COURT: We should not have long for that.
14 I'll go ahead and excuse the jury. Bring them in,
15 tell them where we are. And I've made arrangements,
16 we're going to feed them lunch tomorrow.

17 So what I anticipate doing, as soon as we finish
18 with testimony, we will do motions and then we will
19 go right into your closing arguments. So be prepared
20 to do that. And I'll feed the jury so we don't have
21 to let them leave the courthouse, and they can eat
22 while they deliberate.

23 And then when I release them in just a few
24 minutes, we will stay and do what we can with the
25 jury charge and anything else we can deal with

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 tomorrow, to speed matters along.

2 (Whereupon, the jury entered the courtroom at
3 3:33 p.m.)

4 THE COURT: Madam Forelady, ladies and gentlemen
5 of the jury, here is where we are. The State has two
6 more witnesses. I anticipate being able to do those
7 within 30 minutes. The pathologist just cannot get
8 here until 9 o'clock in the morning, 9:15 in the
9 morning.

10 The Defendant has three witnesses, at the most,
11 perhaps less than that, but that is -- but they will
12 make that decision. Two of them will be relatively
13 short, one may be a little longer. But we
14 anticipate, if we start at 9:30, we will be -- should
15 be pushing finishing the testimony, 11, 11:15, 11:30
16 at the latest.

17 And then, what I want to do is go ahead and -- I
18 have told the lawyers, go ahead and do the argument
19 and charge immediately following the testimony.

20 I will make arrangements to have lunch brought
21 in. And I will try to get you the best I can get
22 you.

23 But anyway, we can order that and bring that in
24 so you don't have to be out and back and all of that.
25 That will make it flow evenly, and it should be in

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 your hands by the time they get your lunch. So
2 that's where we are.

3 I'm going to stay with them here when you leave.
4 There are things that we have to do at the conclusion
5 of each stage of the trial. I'm going to go ahead
6 and do that this afternoon, so we won't have to send
7 you out and do that tomorrow at the conclusion of the
8 case, so we can move it right on time.

9 So if you would, please, leave your pads in your
10 chair. We'll collect those. Please do not do any
11 independent research tonight. Don't discuss the case
12 with anyone.

13 Y'all have been great, paid close attention. I
14 thank you. We should be finished by tomorrow. Or
15 it'll be in your hands by tomorrow.

16 It is very nice outside, pleasant afternoon.
17 Supposed to get cold tonight, from what I understand.
18 But we will start at 9:30. I'll be here at about
19 nine to make sure we are on time.

20 Have a wonderful evening. Thank you. Leave
21 your pads, we will pick those up and put them back
22 there.

23 Thank you.

24 (Whereupon, the jury exited the courtroom.)

25 THE COURT: So we will finish the testimony,

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 opportunity to do motions at the conclusion of the
2 testimony, and when we're ruling on the motions, we
3 will go right into the defense, and then we will take
4 a quick break and do motions, and do the arguments,
5 and I'll charge and be ready to go.

6 My charge is very generic. Functions of the
7 judge and the jury. Reasonable doubt. Frivolity of
8 witnesses.

9 I don't know whether she's going to testify or
10 not. If she doesn't testify, failure of the
11 Defendant to testify.

12 MS. SMITH: Circumstantial?

13 THE COURT: Sometimes I do circumstantial. I
14 may or may not. I probably will. And then just the
15 offense itself, of the felony, absolute commission --
16 what else are you thinking about? I don't have my
17 book right now.

18 MR. STEPHENS: Your Honor, I think we might want
19 prior inconsistent statements, and that is it. I
20 don't think that we actually entered any of those
21 statements, just that there were some.

22 MS. SMITH: I think so.

23 MR. STEPHENS: It wouldn't break my heart if you
24 didn't give that instruction, but I'll take a look at
25 it.

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 THE COURT: Well, look at it tonight and I'll be
2 here in the morning early, and then obviously we will
3 take time at the conclusion of the case. And you are
4 welcome to come back and look at my charge book back
5 here. You can read exactly what I'm going to do.

6 But that is where we are with it. And the
7 verdict form is very easy. We find the Defendant not
8 guilty, we find the Defendant guilty.

9 MS. SMITH: I think the only additions we will
10 have just depends on whether Ms. Collins testifies.

11 THE COURT: And I think I'll wait until tomorrow
12 to go over that with her.

13 That's your right to testify, or your right to
14 remain silent. If you exercise your right to remain
15 silent, what I'd do we will talk about that tomorrow.
16 Answer any other question you may have.

17 Do you have any questions?

18 THE DEFENDANT: No, sir.

19 THE COURT: We will go over that, give you time
20 to make that decision.

21 Does she have a record that could be used for
22 impeachment?

23 MS. SMITH: No, sir.

24 THE COURT: Well, that is a fairly easy inquiry.

25 Well, everyone have a pleasant evening, and we

DIRECT EXAMINATION OF DONAHUE BY MS. SMITH

1 will see y'all. I'll be back here no later than
2 9:15, probably around nine, depending on what my
3 situation is. Get all that cleared out. I won't be
4 able to drive quite as fast as I have been coming
5 down, which is good advice.

6 Thank all of you. You've been wonderful.
7 You've gotten along well, you've been prepared and
8 moved along. We will finish up tomorrow and see
9 where we are.

10 Thank y'all. If you will go ahead and make
11 arrangements to feed them.

12 (Whereupon, the court recessed for the day.)

13

14

15

16

17

18

19

20

21

22

23

24

25

1-24-2018 PROCEEDINGS

1 In the Court of General Sessions for the
2 State of South Carolina, County of Beaufort

3

4 Case No.: 2017GS0701941

5 State of South Carolina,

6 Plaintiff(s),

7 vs. Transcript of Record

8 Colette Collins,

9 Defendant(s).

10

11

12 TRIAL TRANSCRIPT

13

14

15 January 22-24, 2018

16 Beaufort, South Carolina

17

18

19

20

21 BEFORE:

22 The Honorable Doyet A. Early, III

23

24

25

1-24-2018 PROCEEDINGS

1 1-24-2018 PROCEEDINGS

2 THE COURT: Ms. Smith, anything for the record
3 before we start?

4 MS. SMITH: No, sir.

5 THE COURT: From the Defendant, Mr. Stephens?

6 MR. STEPHENS: No, Your Honor. Thank you.

7 THE COURT: Bring the jury in, please.

8 (Whereupon, the jury entered the courtroom.)

9 THE COURT: You may call your next witness.

10 MS. SMITH: State calls Michelle Eichenmiller.

11 Thereupon,

12 MICHELLE EICHENMILLER

13 was called as a witness, having been first duly sworn,

14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. SMITH:

17 Q Good morning, Ms. Eichenmiller.

18 A Good morning.

19 Q Where do you work?

20 A I work at South Carolina Law Enforcement
21 Division in a forensic laboratory as a firearms examiner.

22 Q Explain what your job is there.

23 A My job as a firearms examiner is to evaluate any
24 fired evidence or firearms that are found at the scene of
25 a crime, or seized in port, comparisons, and brought to

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MS.
SMITH

1 the SLED lab by any independent agency.

2 Q Can you tell us what kind of training you have
3 in firearms and tool marks?

4 A I have a bachelor's degree in biology, I have a
5 master's degree in forensic science. But to be a firearm
6 examiner, you can't go to school for it, you have to do an
7 apprenticeship like program.

8 So I learned -- the first three years I was
9 at SLED I learned with the firearm examiners that are there.
10 I sat in their offices, I did a lot of reading on my own. I
11 saw how they do case work. I did a lot of examinations on
12 my own. Then after three years I was finished and they gave
13 me a competency test, and then I was able to do casework on
14 my own.

15 Q How long have you been there?

16 A Twelve years in April.

17 Q Have you testified in court before?

18 A I have.

19 Q How many times have you testified?

20 A Approximately 60 times.

21 Q And have you been qualified as an expert?

22 A Yes.

23 Q How many times?

24 A All the times.

25 MS. SMITH: Judge, at this time we would offer

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MS.
SMITH

1 Ms. Eichenmiller as an expert in firearms and tool
2 marks.

3 THE COURT: Any cross examination on her
4 qualifications?

5 MR. STEPHENS: No cross examination, no
6 objection to qualification. Thank you.

7 BY MS. SMITH:

8 Q Did your department analyze items in this case
9 that we are here about today?

10 A We did.

11 Q Okay. And who specifically tested the items
12 that were sent to SLED by the Bluffton police department?

13 A Lieutenant Tracy Brewer is the examiner that was
14 assigned to this case.

15 Q And does he have the same position as you, or
16 does he have the same training as you do?

17 A Yes.

18 Q He could not be here today. Did you have a
19 chance to review his testimony?

20 A I did.

21 Q Okay. And let's start with, do you have a copy
22 of his report?

23 A I do.

24 Q Let's start with the first item that you -- that
25 y'all tested, being the, I believe, your Item 8. Excuse

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MS.
SMITH

1 me, your item -- yeah, your Item 8, our State's
2 Exhibit No. 60, the shotgun.

3 THE COURT: 60?

4 MS. SMITH: Yes, sir.

5 BY MS. SMITH:

6 Q I'll show you what's been marked as State's No.
7 60. Is this the item that y'all tested?

8 And I'll hand you the box that will show.

9 A Whenever we receive evidence in the lab it is
10 our practice to ascribe with an electric pencil, the case
11 number, the item number, and our initials on the items of
12 evidence. So this is the item we examined in this case.

13 Q And what did you do -- how did you test that
14 gun? What would you do first?

15 A When we receive a firearm in evidence, we will
16 take pictures, we will document the condition we received
17 it in. We will write a worksheet up, just saying
18 caliber -- you know, if we found any trace, if it had any
19 accessories on it, if we found anything wrong with it.

20 And then we will test fire it. In this case
21 since it is a shotgun, we can't shoot into our bullet
22 recovery tank, we shoot at our -- we have a range. And so
23 we will take it down there, test it for function, and then
24 we would have test specimens that we would be able to
25 compare to any test -- to any fired evidence that was

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MS.
SMITH

1 received in the case.

2 Q And was this firearm in good working order?

3 A It was.

4 Q Were there any problems with it or anything that
5 was not working on it?

6 A Other than the lense was cracked, but that
7 didn't affect how the firing.

8 Q Can you explain to the jury what kind of gun
9 this is and how it works.

10 A It's a Mossberg Model 500A shotgun. It's a pump
11 action shotgun. In other words, when you -- you have to
12 pull the --

13 Q If you could step down and just show the jury.

14 A (Witness complies.)

15 You have to rack it, so you pull this back.
16 Pull it forward, and then it'll be loaded with a shotgun
17 shell in the chamber. That's how it operates.

18 Q And when it ejects the shells, where do they
19 typically go?

20 A It'll come out the ejection port here, which
21 would be to the right.

22 Q How many shells would that gun hold?

23 A If I may check my notes.

24 Q Sure.

25 A The magazine will hold five, and then one in the

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MS.
SMITH

1 chamber. So the firearm will hold six all together.

2 Q I'm going to go next to your Item 5 that has
3 been marked as State's 48 and show you that. And ask you
4 if you could identify that.

5 A Yes. This is the Item 5 that I examined first
6 -- that we examined in this case. It is a misfired shot
7 shell, which means it has a slight primer strike on the
8 primer area.

9 Q And what is -- what does that mean? Can you
10 tell us why that would have happened?

11 A For a variety of reasons. If for some reason,
12 it was just loaded into the chamber and maybe the firing
13 pin was sticking out, so it hit it slightly. It wasn't
14 enough to cause it to go off, because, it still -- as you
15 can see, it's still whole. But just a slight strike with
16 it, you know, locked.

17 Q Does that happen frequently?

18 A I have seen it before.

19 Q All right. I'm going to go to Item No. 6,
20 State's No. 49. And what is that item?

21 A This is our Item 6 is a fired .12 gauge shot
22 shell that we examined for this case.

23 Q And where was that collected from? Do you have
24 that?

25 A According to the packing slip, it was from the

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MS.
SMITH

1 crime scene.

2 Q And what is that? What kind of -- you may have
3 said it, what kind of shell is that?

4 A It is a .12 gauge three-inch shot shell.

5 Q And is that double ought buckshot?

6 A Yes.

7 Q And how many pellets would that have in it?

8 A According to what's written on the side, 15.

9 Q All right. Going to Item No. 9, I'm going to
10 show you what's been marked as State's No. 56.

11 A This is another fired shot shell, .12 gauge.
12 It's marked the same as the first. It's three-inch,
13 double ought buck, containing 15 pellets.

14 Q And where was that recovered from? Does it say
15 on there?

16 A It doesn't say.

17 Q What was y'all's conclusion with regard to Item
18 6 that we just showed you, State's No. 49, and Item No. 9,
19 State's No. 56?

20 A After we examined the evidence and compared it
21 to test specimens from the shotgun, we concluded that
22 Items 6 and 9, State's Exhibit 49 and 56, were fired by
23 the shotgun.

24 Q And you are referring to State's No. 60?

25 A Yes.

DIRECT EXAMINATION OF MICHELLE EICHENMILLER BY MS.
SMITH

1 Q I'm going to show you Item No. 10, which is
2 State's No. 55 and ask you if y'all tested this.

3 A When we received this, this was an unfired shot
4 shell. We took it apart to examine the internal
5 components. This is an item we examined in this case as
6 well.

7 Q What did you find when you took that one apart?

8 A We found that it had plastic wad in it, it had
9 powder in it, and it had no pellets.

10 Q Did you have any -- did you know any reason for
11 that or why?

12 A No, I don't.

13 MS. SMITH: That is all that I have for this
14 witness. Thank you.

15 THE COURT: Cross.

16 MR. STEPHENS: No cross examination, Your Honor.
17 Thank you.

18 THE COURT: You may step down.

19 MS. SMITH: May this witness be excused, Judge?

20 THE COURT: Ma'am?

21 MS. SMITH: May this witness be excused?

22 THE COURT: Yes, ma'am.

23 MS. SMITH: Judge, the State would call Dr. Nick
24 Batalis.

25 Thereupon,

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 DR. NICK BATALIS

2 was called as a witness, having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. SMITH:

6 Q Good morning, Dr. Batalis.

7 A Good morning.

8 Q Where are you employed?

9 A I'm employed at the Medical University of South
10 Carolina in Charleston.

11 Q And what is your job?

12 A I'm employed there as a professor in the
13 Department of Pathology, with my main role as being a
14 forensic pathologist.

15 Q And tell us what is a forensic pathologist?

16 A Sure. Forensic pathology is a subspecialty of
17 medicine that deals with the legal aspects of the law.
18 Stepping back a bit, pathology or -- sorry, legal aspects
19 of medicine.

20 Stepping back a bit, pathology is a more
21 general field, with a specialty of medicine that involves
22 the study and diagnosis of disease. So a general
23 pathologist would look at a tumor that a surgeon takes out,
24 or biopsied to determine if it's cancer or not.

25 Now, we also oversee clinical laboratories,

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 so if you have blood work done the pathologist would be the
2 one overseeing that.

3 Forensic pathology is then a subspecialty
4 where, again, it involves the legal aspects, predominantly
5 performing autopsies to determine a cause and manner of
6 death.

7 Q Tell us about your educational and employment
8 background.

9 A Sure. I went to Butler University for my
10 undergraduate degree, and graduated and went to Indiana
11 University School of Medicine for medical school.

12 Upon graduating medical school, I came to
13 MUSC in Charleston, where I did a four-year general
14 residency training program in general pathology. After
15 that, I passed a national examination to become certified in
16 anatomic and clinical pathology, so the general pathology.

17 Then went on to do a one-year specialized
18 fellowship training in forensic pathology in Dallas, Texas.
19 So for that year, just focused on the forensic pathology
20 aspects of things. After that, again, passed another test
21 to become certified.

22 At that point, just about ten years ago, I
23 took my current position at MUSC.

24 Q How many times have you testified, Dr. Batalis?

25 A More than 50.

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 Q Have you been qualified as an expert?

2 A In each of the cases, yes.

3 MS. SMITH: Judge, at this time I'd move
4 Dr. Batalis as an expert in forensic pathology.

5 THE COURT: Cross examination?

6 MR. STEPHENS: No cross examination, Your Honor,
7 and objection to qualification. Thank you.

8 THE COURT: I'll designate him as an expert in
9 the field of forensic pathology. He will be allowed
10 to give opinion testimony.

11 BY MS. SMITH:

12 Q Dr. Batalis, did you conduct the autopsy on John
13 Cherol on October 29th, 2015?

14 A Yes, I did.

15 Q Tell us a little bit about how the victim in
16 this case, what his general health was.

17 A Sure. So he was a 33-year-old individual. He
18 was 6-foot tall, 180 pounds. So seemingly in good health
19 externally. And then internally as well, there was no
20 significant disease. So he appeared to be a, you know, a
21 relatively healthy 33-year-old.

22 Q All right. Tell us about your examination and
23 what you found with regards to this case.

24 A Sure. The major findings in this case was
25 abundant trauma to the head, predominantly to the right

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 side of the face, and the right side of the scalp.

2 And we start off by examining the body. We
3 take photographs before we perform any exams. Take the
4 photograph, we clean the body, then we examine things in
5 closer detail.

6 What we found was 11 different defects
7 predominantly clustered around the right eye and the right
8 side of the head that were consistent with injuries due to a
9 shotgun, due to a shotgun injury.

10 Because of the nature of the shotgun shell,
11 where there are multiple pellets kind of spreading apart
12 from a single cartridge, it's impossible to tell exactly how
13 many shots would have been fired. And even in this case the
14 defects appeared similar from the front and the side,
15 because they are almost traveling kind of tangentially from
16 front to back. So impossible to tell exactly of these 11,
17 how many were entrance wounds and how many were exit wounds.
18 But clearly there was a path that was traveling from the
19 front towards the back and right side of the head.

20 Internally, we recovered six of these pellets
21 that were shot, and we were -- they were transferred as
22 evidence.

23 Also, internally the shot, as they moved
24 again from the front of the head towards the right side it
25 caused extensive trauma to the skull, including numerous

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 skull fractures. The brain, basically the entire right side
2 of the brain, was shredded as those pellets moved through
3 it.

4 Q Dr. Batalis, I'm going to show you what's been
5 marked -- previously marked as State's No. 43 and ask you
6 if this is -- if you can identify that.

7 A Yes, I can.

8 Q Is that a fair and accurate depiction of the
9 x-ray of the skull of Jonathan Cherol?

10 A Yes. After receiving the body prior to doing
11 any sort of dissections or anything we obtained x-rays of
12 the head, and this is a copy of that x-ray.

13 MS. SMITH: Judge, at this time, we'd move
14 No. 43 into evidence.

15 MR. STEPHENS: No objection, Your Honor. Thank
16 you.

17 *(Whereupon, State's Exhibit No(s). 43 marked for*
18 *identification and received in evidence.)*

19 MS. SMITH: Judge, may I publish to the jury?

20 THE COURT: Yes.

21 BY MS. SMITH:

22 Q Dr. Batalis, you were talking about the
23 different projectiles that were recovered. Can you kind
24 of explain that again, looking at this photo for the jury.

25 A Sure. So the way this x-ray is oriented,

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 essentially you are looking at the decedent. So what is
2 on the left side of the image is actually going to be the
3 right side of the face, if you are looking at me now.

4 And what you can see, and that would --
5 zooming in the right side of the face, what's on the very
6 right side of the image is going to be the nose, kind of
7 that little bit of a hollow area. And then to our left,
8 which is going to be the descendant's right-hand side, you
9 can see numerous really bright white fragments. Some are a
10 little bit larger, those are going to be the shot or pellets
11 that we recovered from the shotgun.

12 There are a lot of smaller slivers in there.
13 Some of those may represent bone fragments. You can also
14 see kind of towards the top of the image there is a white
15 line that starts moving across the screen, then there is a
16 gap, and that represents where there would have been loss of
17 the skull, the top right side of the head.

18 So some of the smaller fragments in there may
19 represent, again, skull fragments. But the bigger bright
20 white ones are shotgun pellets that we recovered.

21 Q Dr. Batalis, did the projections kill him
22 immediately?

23 A I can't say that it would have been immediately,
24 but with this sort of trauma we'd expect it to be within
25 seconds to a couple of minutes at the most.

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 Q Was there anything else in Jonathan's system
2 that night?

3 A Yes. On each of our cases, or the vast majority
4 of our cases, I should say, we perform toxicology testing
5 as well to see if there are medications or drugs on board.
6 We test for, I believe, three or four hundred different
7 elicit and prescription drugs. And his toxicology was
8 positive for Alprazolam, which is Xanax, as well as
9 oxycodone, which is an opiate pain medicine, and then
10 oxymorphone, which can be a different opiate pain
11 medicine. But in this case, it was most likely a
12 breakdown product of the oxycodone. So it appears he had
13 two different medications in his system.

14 Q Dr. Batalis, what did you deem the cause of
15 death in this case?

16 A The cause of death was the shotgun to the head.

17 Q And what about the manner of death?

18 A The manner of death was due definitely to the
19 hands of another. It is homicide.

20 MS. SMITH: Thank you. I have nothing further
21 for this witness.

22 MR. STEPHENS: No questions, Your Honor. Thank
23 you.

24 THE COURT: Thank you, Doctor, for coming. I'm
25 going to release you from your subpoena.

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 THE WITNESS: Thank you, Your Honor.

2 MS. SMITH: Judge, the State rests.

3 THE COURT: Madam Forelady, ladies and
4 gentlemen, as I said, we had two witnesses by the
5 State this morning. I expected them to be about 30
6 minutes, and sure enough, they were a little less
7 than that.

8 That concludes the presentation of evidence by
9 the State. Unless they have something in reply, I
10 need to spend about ten minutes with the lawyers. We
11 did a lot of stuff yesterday, but this requires that
12 at the end of their case. So I'm going to let you go
13 back to your jury room.

14 What are the choices?

15 THE BAILIFF: Pizza, Chick-Fil-A, Jimmy Johns.

16 THE COURT: Pizza, Chick-Fil-A, Jimmy Johns.
17 Anyway, make your choice. It has to be a unanimous
18 choice between restaurants. And then I'm going to
19 let the bailiff place your order, so we will have all
20 that behind us. They can put the order in and we
21 won't waste any time. Thank you.

22 Do not discuss the case, leave your pads out
23 here, and I will be right back with you.

24 (Whereupon, the jury exited the courtroom at
25 10:04 a.m.)

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 THE BAILIFF: The jury is clear, Your Honor.

2 THE COURT: Thank you. Anything by the State at
3 the conclusion of the case?

4 MS. SMITH: Nothing from the State.

5 THE COURT: By the Defendant?

6 MR. STEPHENS: Yes, Your Honor. We have a
7 motion for directed verdict.

8 THE COURT: Glad to hear you.

9 MR. STEPHENS: Your Honor, I understand that the
10 State did put on some evidence in the testimony of
11 Sam Collins about the -- about the knowledge element
12 to the charge of accessory after the fact.

13 However, and I understand that the credibility
14 of that witness is something that is a matter for the
15 jury to consider.

16 However, even in Mr. Collins' testimony, we
17 indicated that when he got in Ms. Collins' vehicle
18 and informed her that he shot him, were the words
19 that Mr. Collins said on the stand, he said that she
20 didn't seem to understand what he was saying, that
21 she was unresponsive, and he had to initially drive
22 away from the location, Your Honor.

23 I don't believe that there's been sufficient
24 evidence on that element that the State has proven,
25 even for the purposes of directed verdict and

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 considering the evidence in the light most favorable
2 to the State, that they have proven that Ms. Collins,
3 at the time that she assisted in driving him to Cody
4 Brown's home and back to their home, that she knew
5 that he had committed that felony murder, or that she
6 drove him with the intent to -- for him to escape
7 detection or arrest.

8 And that is the summary of the argument, Your
9 Honor.

10 THE COURT: Thank you. Any response?

11 MS. SMITH: Just murder was committed, Judge.
12 As far as the elements, she did have knowledge. He
13 told her. She did drive him to Cody Brown's. He had
14 testified that she stopped the car in front, he
15 hopped out, put the gun up.

16 She clearly knew what happened. He got out with
17 the gun, shot John Cherol, got back in the car with
18 the gun, and then they dropped it off. I think the
19 knowledge element is an issue of fact for the jury.

20 THE COURT: I respectfully decline to grant your
21 Motion for Summary Judgment. My notes reflect that
22 Mr. Collins says, "I told her I killed John."

23 She then took him to dispose of the gun, and did
24 not alert the police or anyone else after the fact.
25 So that becomes a question of fact for the jury to

DIRECT EXAMINATION OF DR. NICK BATALIS BY MS. SMITH

1 determine, whether or not she understood him, whether
2 or not she, in fact, was told. So it is a matter for
3 them to decide.

4 So this, obviously at this stage of the game, is
5 not a judgment on the weight of the evidence, it is a
6 judgment on the existence of the evidence. And there
7 is evidence in the record that the Court finds to be
8 credible and believable, and find that it supports
9 the State meeting their burden of proof beyond a
10 reasonable doubt, and it would support a verdict.

11 So I respectfully deny your motion. Anything
12 else?

13 MR. STEPHENS: Not at this time, Your Honor. We
14 do have our two defense witnesses who are present in
15 the courtroom, I discussed with Ms. Smith. She
16 indicated she is not asking for them to be
17 sequestered outside the courtroom. So they are
18 present, ready to testify when called.

19 I also discussed -- discussed with the Defendant
20 her testifying in her own defense. She's indicated
21 to me that she does wish to testify in her defense,
22 and that she understands she's going to be questioned
23 by the Court as well on her right to remain silent.

24 THE COURT: Ms. Collins, good morning. If you
25 would raise your hand, please.

RIGHTS GIVEN BY THE COURT TO COLETTE COLLINS

1 Thereupon,

2 COLETTE COLLINS

3 was called as a witness, having been first duly sworn,
4 was examined and testified as follows:

5 THE COURT: Ms. Collins, we have reached the
6 stage of the trial now where you can put up your
7 defense, which means you can tell your side of the
8 story, so to speak.

9 You can do that by introducing relevant exhibits
10 and having people testify on your behalf, as long as
11 it's relevant to the case here.

12 You also have the right to take the witness
13 stand and testify. If you choose to do so, obviously
14 you will be subjected to cross examination, just like
15 anyone else who testifies in this courtroom, subject
16 to the compliance with the rules of evidence.

17 And as I understand, she has no prior record for
18 impeachment purposes; is that correct?

19 MS. SMITH: That is correct, Judge.

20 THE COURT: So you would be cross-examined on
21 any relative subject.

22 On the other side of that coin, you have the
23 constitutional right, under the United States
24 Constitution and the South Carolina Constitution, to
25 remain silent. You do not have to testify. You have

RIGHTS GIVEN BY THE COURT TO COLETTE COLLINS

1 absolutely no burden of proof in this case,
2 therefore, you don't have to prove anything.

3 The burden of proof is on the State. So if you
4 exercise your constitutional right to remain silent,
5 then I would inform the jury when I instruct or
6 charge them that they could not hold the fact that
7 you did not testify against you in any manner
8 whatsoever. And I would instruct them that they
9 cannot even consider the fact that you did not
10 testify when they deliberate your guilt or innocence.

11 I would inform the foreperson that is a subject
12 that is not to be discussed at all. You have the
13 constitutional right to remain silent, and they are
14 to infer nothing from the fact that you did not
15 testify. You have no burden of proof.

16 So my question to you, ma'am is, do you
17 understand your constitutional right to remain
18 silent?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And you understand that that is your
21 right and your right only. Obviously you can get
22 advice, answer questions by your lawyer or your
23 family who is present with you today, but ultimately
24 it becomes your decision.

25 And if you are -- and if you do testify,

RIGHTS GIVEN BY THE COURT TO COLETTE COLLINS

1 obviously the State has the right to cross-examine
2 you and ask you certain pointed questions, as long as
3 they are relevant.

4 So understanding all of that, I need to know
5 whether or not you intend to testify.

6 THE DEFENDANT: Yes, I do, Your Honor.

7 THE COURT: Do you have any questions you would
8 like to ask me or your lawyer before you make that
9 decision?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay. So you do intend to testify.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Any additional questions I should
14 address to her, sir?

15 MR. STEPHENS: No, Your Honor. Thank you.

16 THE COURT: All right. Bring the jury back.

17 (Whereupon, the jury entered the courtroom.)

18 THE BAILIFF: The jury is in the court, Your
19 Honor.

20 THE COURT: Thank you.

21 Mr. Stephens, you may call your first witness.

22 MR. STEPHENS: Thank you, Your Honor. Defense
23 calls Ms. Michelle Allen.

24 Thereupon,

25 MICHELLE ALLEN

DIRECT EXAMINATION OF MICHELLE ALLEN BY MR. STEPHENS

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. STEPHENS:

5 Q Ms. Allen, could you please state your full name
6 and spell your last name for the record.

7 A April Michelle Allen, A-L-L-E-N.

8 Q Thank you, Ms. Allen. I understand you are a
9 little nervous testifying. You had asked for some water.

10 MR. STEPHENS: Your Honor, may I approach?

11 THE WITNESS: Yes. Thank you.

12 THE COURT: Just take a deep breath, ma'am. If
13 you need a break, you let me know.

14 THE WITNESS: Okay.

15 BY MR. STEPHENS:

16 Q Ms. Allen, are you all right?

17 A Uh-huh. (Indicating affirmatively.)

18 Q Okay. Ma'am, do you know the Defendant in the
19 case, Colette Collins?

20 A Yes.

21 Q And how do you know Ms. Collins?

22 A She is my daughter.

23 Q Ma'am, you just got to --

24 THE COURT: Pull that mike closer for her.

25 Just speak into the mike.

DIRECT EXAMINATION OF MICHELLE ALLEN BY MR. STEPHENS

1 THE WITNESS: Okay.

2 BY MR. STEPHENS:

3 Q And we have already asked you, the Judge or
4 myself or other counsel may ask you to speak up. That's
5 just so the court reporter can hear what you are saying so
6 she can take all this down.

7 A Okay.

8 THE COURT: And the jury has to hear all the way
9 back to the back.

10 THE WITNESS: Okay. Sorry.

11 BY MR. STEPHENS:

12 Q You said that Ms. Collins is your daughter?

13 A Yes.

14 Q And I understand that you and Ms. Collins'
15 husband were divorced more than 25 years ago; is that
16 correct?

17 A Yes.

18 Q You had custody of Ms. Collins growing up
19 though?

20 A Yes.

21 Q And do you know her co-Defendant in this case,
22 Sam Collins?

23 A Yes.

24 Q And how long have you known Sam Collins, ma'am?

25 A Probably 15 years or more.

DIRECT EXAMINATION OF MICHELLE ALLEN BY MR. STEPHENS

1 Q And do you recall when Sam and Colette moved to
2 Bluffton, South Carolina?

3 A Yes.

4 Q After they moved to Bluffton, did you have
5 occasion to spend more time with them at their home in
6 Bluffton?

7 A Yes.

8 Q And do you recall when that was, ma'am?

9 A Oh, that was a few years back.

10 Q And did you actually move in with Sam and
11 Colette?

12 A Yes.

13 Q Do you recall why you moved in with them?

14 A I stayed to help my daughter with my grandson
15 and her husband.

16 Q Was there anything in particular that happened
17 that prompted you to move in to help Colette with Sam and
18 your grandson?

19 A Yeah, Sam -- yes.

20 Q And what was that, ma'am?

21 A Sam was shot in the leg.

22 Q Do you recall when that happened?

23 A Probably shortly after I had come -- initially,
24 I came to visit them. Shortly after I was there at home,
25 a couple years back. I'm not quite certain of all the

DIRECT EXAMINATION OF MICHELLE ALLEN BY MR. STEPHENS

1 dates.

2 Q And do you know about how long you were living
3 with Sam and Colette?

4 A Probably about a year.

5 Q And at that time, did you have an opportunity to
6 form an opinion about Sam's temper or temperament?

7 MS. SMITH: Objection.

8 THE COURT: Sustained.

9 BY MR. STEPHENS:

10 Q While you were living with Sam and Colette, did
11 you ever encounter a man named John Cherol?

12 A Yes.

13 Q And how did you meet Mr. Cherol?

14 A He was a friend of Sam's.

15 Q And how frequently do you believe that you saw
16 Mr. Cherol while you were living with Sam and Colette?

17 A He came over a good bit, in the afternoon,
18 before he went to work.

19 Q What did you observe him doing when he would
20 come over to the home?

21 A They would hang out outside, or he would run
22 errands with Sam or play video games with my grandson.

23 Q Did you ever see him hanging out with Colette
24 when he came to visit?

25 A No. She was usually at work in the day.

DIRECT EXAMINATION OF MICHELLE ALLEN BY MR. STEPHENS

1 Q Now, after Sam was shot, did you observe if he
2 had a number of medications in the home that he was taking
3 as a result of having been shot in the leg?

4 A Yes.

5 Q Just in general terms, how many medications
6 would you see around the home?

7 A Oh, my gosh, I don't know. He had them in the
8 -- you know, sometimes in the kitchen and in his bedroom.
9 I'm not sure.

10 Q Now, focusing on a time period of September to
11 October of 2015, did you notice any changes in Sam's
12 behavior around the house?

13 A He just -- he was getting very paranoid.

14 Q Did he say anything to you that made you think
15 he was getting paranoid, ma'am?

16 MS. SMITH: Just objection.

17 THE COURT: Sustained.

18 BY MR. STEPHENS:

19 Q Now, did you and your husband, Ricky, do
20 anything as a result of your concerns that Sam was getting
21 paranoid?

22 A We went to the Hampton Inn in Bluffton for three
23 nights with my grandson.

24 Q Now, do you recall a period of time right
25 around the -- when it was in the news that John Cherol had

DIRECT EXAMINATION OF MICHELLE ALLEN BY MR. STEPHENS

1 been shot and killed?

2 A No.

3 Q Do you recall any occasion in October of 2015
4 where you found Colette sitting on the couch in the home
5 when you were getting --

6 MS. SMITH: Leading, Judge.

7 THE COURT: Sustained. Rephrase your question.

8 BY MR. STEPHENS:

9 Q Ma'am, who normally got your grandson, Chase,
10 ready for school in the morning?

11 A Myself.

12 Q When you were getting Chase ready for school in
13 October 2015, did you ever see anything unusual again in
14 that October time frame that stuck out in your mind?

15 A Yes.

16 Q And what was that, ma'am?

17 A My daughter just sitting on the couch. Like it
18 was six or seven in the morning, just sitting there, just
19 kind of looking off in a daze.

20 Q And did you smell anything unusual when she was
21 sitting there on the couch?

22 A Alcohol.

23 Q Do you know when she had to go to work that
24 morning?

25 A It was probably eight or nine, I'm not sure.

DIRECT EXAMINATION OF MICHELLE ALLEN BY MR. STEPHENS

1 Q And did you have any discussions with her about
2 what was going on?

3 A I said, "Are you okay?" And she said yes, and I
4 went to get Chase. The next thing I knew, she was going
5 to work. She was gone.

6 Q Ma'am, did you ever have any discussions with
7 Colette about the accusations that Sam had shot John
8 Cherol?

9 A She wouldn't talk about it.

10 Q And did -- did she appear upset at all about
11 those accusations?

12 A Certainly.

13 MR. STEPHENS: Your Honor, we don't have any
14 further questions for Ms. Allen at this time.

15 You might have some cross examination questions
16 from Ms. Smith.

17 THE COURT: Any questions?

18 MS. SMITH: Judge, I have nothing for this
19 witness.

20 THE COURT: Ms. Allen, thank you. You may step
21 down.

22 Next witness.

23 MR. STEPHENS: Your Honor, Defense calls Ricky
24 Allen.

25 Thereupon,

DIRECT EXAMINATION OF RICKY ALLEN BY MR. STEPHENS

1 RICKY ALLEN

2 was called as a witness, having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. STEPHENS:

6 Q Mr. Allen, can you please state your full name,
7 spelling your last name for the record.

8 A Ricky Lee Allen, A-L-L-E-N.

9 Q And, Mr. Allen, do you know the Defendant in the
10 case, Colette Collins?

11 A Yes, sir, I do.

12 Q And how do you know Ms. Collins?

13 A She is my stepdaughter.

14 Q When were you -- when did you marry her mother,
15 Michelle Allen?

16 A April 2002.

17 Q I know you didn't expect this to be a quiz about
18 your anniversary.

19 And when you got married to Ms. Allen,
20 where was Colette living?

21 A She was living with us.

22 Q And at some point she moved out?

23 A Yes, sir.

24 Q And do you recall when you met her husband, Sam
25 Collins?

DIRECT EXAMINATION OF RICKY ALLEN BY MR. STEPHENS

1 A Probably the latter part of '01 or first part of
2 '02, right -- you know, within four or five months of
3 Michelle and I getting married.

4 Q And Sam and Michelle (sic) moved to Bluffton,
5 South Carolina at some point?

6 A Yes, sir.

7 Q Did you and your wife also move to Bluffton at
8 some point?

9 A Yes, sir.

10 Q And do you recall when you moved to Bluffton?

11 A Gosh. I think it would have been the latter
12 part of 2014, I believe.

13 Q Where were you living when you moved to
14 Bluffton?

15 A Before we moved here? We are from Augusta.

16 Q All right. Now, when you moved to Bluffton,
17 where were you living?

18 A Oh, with Sam and Colette.

19 Q And why did you move in with Sam and Colette?

20 A Colette is -- she had gone through some
21 treatments. She is a cancer survivor. She had gone
22 through a lot of treatments, and her mother had come down
23 to support her, and I came down to be with my wife,
24 naturally. And we figured out a way to stay.

25 Q Did anything else happen during that time period

DIRECT EXAMINATION OF RICKY ALLEN BY MR. STEPHENS

1 that made you stay with Sam and Colette?

2 A Yes, sir. Sam was shot in the leg, and he had a
3 landscaping business and I tried to help him keep that
4 afloat while he was on the mend.

5 Q And after he was shot in the leg -- do you
6 recall when that happened?

7 A That would have been the latter part of '14
8 also, I believe, around -- sometime around -- right before
9 Christmas. Between Thanksgiving and Christmas, I believe.

10 Q After he was shot in the leg, did you observe a
11 number of prescription medications around the home that
12 Sam was prescribed?

13 A Yes, sir.

14 Q Did you ever see him under the effects of what
15 you thought were his medications?

16 A Yes, sir.

17 Q How frequently would you see him noticeably
18 under the effects of strong painkillers?

19 A A lot of the time he had this --

20 MS. SMITH: Judge, I object. Speculation.

21 THE COURT: Well, he can describe his actions,
22 he's not qualified to say whether or not he was under
23 the influence of it, but he can describe how he
24 acted. He can't give opinions, he's not an expert
25 witness. He can describe what he saw.

DIRECT EXAMINATION OF RICKY ALLEN BY MR. STEPHENS

1 BY MR. STEPHENS:

2 Q Mr. Allen, did you ever see -- during that
3 period of time that you were living with Sam and Colette,
4 did you observe Mr. Collins act any way unusual?

5 A He had this giant contraption on his leg to hold
6 his leg while it was healing. The bones were broken, I
7 guess, and it was to hold it all together, and he would
8 nod out. I know it had to hurt. But, you know, he would
9 nod out and be incoherent sometimes.

10 Q Did you notice any changes in his behavior in
11 2015, the latter part of 2015?

12 MS. SMITH: Judge, leading. Objection.

13 MR. STEPHENS: It is not a leading question,
14 Your Honor.

15 THE COURT: Hold on. Hold on. Hold on.

16 Leading?

17 MS. SMITH: Yes, sir.

18 THE COURT: All right. I'll overrule that.

19 Just ask him to -- if he knows and saw any
20 observations of anything. Don't lead him.

21 MR. STEPHENS: Thank you, Your Honor.

22 BY MR. STEPHENS:

23 Q Mr. Allen, did you observe any changes in Sam's
24 behavior in the latter part of 2015?

25 A Yes, sir.

DIRECT EXAMINATION OF RICKY ALLEN BY MR. STEPHENS

1 Q And what kind of changes in his behavior did you
2 observe?

3 A Again, he was nodding out, he was getting
4 erratic. He -- he -- he always -- he thought people were
5 looking in the windows at him and stuff. It was just odd
6 behavior.

7 Q Now, in this time period, where were you
8 working?

9 A At Secession Golf Club over on Lady's Island.

10 Q And do you know where Colette was working?

11 A She was working there as well.

12 Q The two of you worked the same shifts?

13 A For a time. But because we are family and I am
14 a bartender -- you don't really need a bartender in the
15 daytime -- and she is a waitress, so she worked breakfast
16 and lunch. So we would kind of high five in the hall. As
17 I was coming, she would be leaving.

18 Q Do you recall discovering -- well, first, let me
19 ask, do you know who John Cherol is?

20 A Yes, sir.

21 Q And how do you know John Cherol?

22 A He is also a bar owner. He owns F & B in
23 Bluffton. It is a small town, you know, we had passed and
24 re-pass, and I'd see him at our house as well.

25 Q Do you know why he was coming to your house?

DIRECT EXAMINATION OF RICKY ALLEN BY MR. STEPHENS

1 A He and Sam were acquaintances, friends, and you
2 know, just guys hanging out.

3 Q Did you ever see him hang out alone with Colette
4 at the home?

5 A No, sir.

6 Q And other than hanging out with Sam, did you see
7 John hang out with anyone else or arrive with anyone else?

8 A He's kind of a video gamer, as is my grandson.
9 So they would get on the Play Station or XBox or whatever
10 and play together. And other than that, you know, just
11 Sam.

12 Q Do you recall when you found out that John
13 Cherol had been killed?

14 A I don't know the exact dates, but I remember the
15 circumstance.

16 Q Do you recall if you had seen Colette the day
17 you found out that John Cherol had been killed?

18 A No, sir.

19 Q Again, you said you were working opposite shifts
20 at Secession at the time.

21 A Yes, sir.

22 Q Did you ever have any discussions with Colette
23 about the allegations that Sam had shot John?

24 A It came up one time, and I told her that I
25 didn't want to know anything about it, you know. I said

DIRECT EXAMINATION OF RICKY ALLEN BY MR. STEPHENS

1 under no circumstance will I put my hand on the Bible and
2 lie for anybody. I don't want to know. And that was the
3 end of that.

4 Q Did you ever have any discussions with Sam about
5 the shooting?

6 A No, sir. None.

7 MR. STEPHENS: Thank you, Mr. Allen. I don't
8 believe that I have any further questions for you at
9 this time.

10 MS. SMITH: Judge, I have nothing for this
11 witness.

12 THE COURT: Mr. Allen, thank you, sir.

13 THE WITNESS: Thank you sir.

14 THE COURT: Next witness, please.

15 MR. STEPHENS: Your Honor, Defense calls the
16 Defendant, Colette Collins.

17 Thereupon,

18 COLETTE COLLINS

19 was called as a witness, having been first duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. STEPHENS:

23 Q Good morning.

24 A Good morning.

25 Q Colette, you are the defendant in this case,

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 correct?

2 A Yes, sir.

3 THE COURT: Ms. Collins, please speak up.

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: Pull that microphone to you so all
6 my jurors can hear, please.

7 THE WITNESS: Okay.

8 BY MR. STEPHENS:

9 Q And I believe you got some water, so if you need
10 a moment at any point, just let me know. I understand you
11 may be a little nervous.

12 THE COURT: Move along, please.

13 MS. SMITH: Thank you, Your Honor.

14 BY MR. STEPHENS:

15 Q Colette, can you tell me where you grew up?

16 A I grew up in Augusta, Georgia.

17 Q And you were raised by your -- pretty much by
18 your mom?

19 A Yes, sir.

20 Q When did you meet Sam Collins?

21 A I met Sam whenever I was around 19 years old.

22 Q Do you recall when the two of you got married?

23 A We got married October of 2004 in Augusta.

24 Q Do you have any children?

25 A We have one son. He's ten years old.

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 Q Now, after your son was born, did you relocate
2 to the South Carolina area?

3 A Yes, we did. We relocated to Bluffton.

4 Q Do you recall when you moved to Bluffton?

5 A It was probably the summer of 2008.

6 Q What were you doing for work when you moved to
7 Bluffton?

8 A I was a retail management.

9 Q Do you -- do you recall what Sam was doing?

10 A Sam was building decks for a company down here
11 that we had some family in the area. That is why we
12 decided to move to Bluffton.

13 Q And at some point, did he -- did he have any
14 other kind of business or employment?

15 A He picked up and started doing more landscaping,
16 and started his own landscaping company in the area.

17 Q Now, Ms. Collins, did you have any -- after
18 moving to Bluffton, did you ever have any kind of medical
19 problems?

20 A I did. In 2011, I was diagnosed with cervical
21 cancer.

22 Q And did you receive any kind of treatment for
23 that?

24 A I did. I received chemo and radiation at the
25 beginning of 2012, throughout the end of 2012, and then

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 hormone treatments after that.

2 Q Did that have any kind of ongoing effect on you
3 and your health?

4 A Still to this day.

5 Q Did that have any effects on your marriage with
6 Sam?

7 A It did. It took a toll on our marriage.

8 Q Did you and Sam ever separate?

9 A We did. We filed for a separation in June of
10 2013.

11 Q Did you stay separated, or at any point did you
12 get back together?

13 A We reconciled over a year later.

14 Q Now, you mentioned your diagnosis, your health
15 problems with the cervical cancer. Did Sam ever have any
16 kind of health issue?

17 A Sam didn't have any health issues, just whenever
18 he was shot in 2014. That was a big blow to him. It took
19 him out of work for a very long time.

20 Q After Sam was shot, who took care of him in the
21 home?

22 A Myself and my mother.

23 Q That was when your folks moved into the home
24 with you?

25 A Yes, sir.

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 Q Do you know what kind of medications, if any,
2 Sam was taking after he was shot?

3 A They were prescription pain pills. Oxycodone,
4 Oxycontin, that is all I can remember.

5 Q Did you observe anything about the number of
6 prescription medications he had around the house?

7 A There were quite a few around the house.

8 Q Did you know if Sam was giving anyone else his
9 prescription pain medication?

10 A Not that I know of. I mean, they were all over
11 the place. I couldn't really keep up with all of them.

12 Q Now, did you observe Sam taking any of these
13 medications throughout the day?

14 A Yes, sir.

15 Q Did you observe any changes in his behavior
16 after he took these medications?

17 A Whenever he was on his medication, he was, you
18 know, feeling good and he was in a good mood. And
19 whenever he was getting low on his medication, he was very
20 angry. He would get upset, and sometimes I think he was
21 taking more than he was prescribed.

22 Q And what was your marriage like during this
23 period of time after he was shot?

24 A It was rough. It was rocky. It was like a
25 roller coaster, constant back and forth, not knowing what

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 kind of mood he was going to be in on a day-to-day basis.

2 Q Do you know the victim in this case, John
3 Cherol?

4 A Yes, sir.

5 Q How do you know John?

6 A I met him through Sam. He would come over and
7 hang out with us, and he owned F & B, you know, we talked
8 about me potentially working at his restaurant right down
9 the road from our house. And he hung out, him and Chase,
10 on the XBox.

11 Q Did Sam and John remain friends through 2015, or
12 did they have any kind of falling out?

13 A They were good friends up until our home was
14 broken into, and Sam was suspecting that he had something
15 to do with it. There was people talking, and rumors going
16 around that he set it up against Sam.

17 Q What did you think about this home break-in and
18 Sam's belief that John might have been involved in it?

19 A It made me very nervous, you know, my family
20 being there, myself being there. I didn't want to be
21 around this kind of activity, and I wanted -- you know, I
22 wanted to go get them into a hotel room and just make sure
23 everyone was safe. I was scared. I didn't -- it was very
24 stressful.

25 Q Did you ever talk to John about Sam's

DIRECT EXAMINATION OF COLETTE COLLINS BY MR. .
STEPHENS

1 suspicions?

2 A I did.

3 Q When was that?

4 A That was in October of 2015, after work one
5 night.

6 Q And where did you talk to John?

7 A At his home in Pinecrest.

8 Q Now, prior to going over to his home, did you do
9 anything else?

10 A No. I had gotten off of work, I had a few
11 drinks and went to his house on the way home.

12 Q Was there any particular reason that you were --
13 now, when you say "drinks," do you mean alcoholic drinks,
14 ma'am?

15 A Yes, sir.

16 Q And is there any reason why you had some
17 alcoholic drinks that night?

18 A I was just very stressed out about this whole
19 situation that was going on. It seemed like everyday
20 there was something that was just going to happen. It was
21 escalating quickly, the tension between the two, and I
22 felt that I could help sort out the situation.

23 Q Do you recall how much you had to drink that
24 night?

25 A I don't recall.

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 Q Now, you went over to John's house, and do you
2 recall what time of the evening you went over there?

3 A Between 10:30, 11:30, somewhere around there.

4 Q Other than the break-in, did you talk to John
5 about anything else?

6 A We talked about just some of his personal
7 things. He was going through a lot of legal issues
8 himself. The restaurant had closed, he had a DUI, that
9 sort of stuff.

10 Q Were you having any kind of romantic
11 relationship with John Cherol at the time?

12 A No, sir.

13 Q Now, after -- you recall what time you finished
14 talking to John?

15 A I'm not -- not sure what time it was. I was
16 there maybe 30, 45 minutes.

17 Q What did you do after you were done talking to
18 John?

19 A I went home.

20 Q Did you talk to your husband, Sam, at any point
21 that evening?

22 A Whenever I got home, Sam was there. He was
23 awake, and we talked.

24 Q What did you talk about?

25 A He was questioning where I was. I told him I

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 went to John's house to talk to him about the situation
2 that had been going on with everything and the break-in.
3 And whenever he found out I was at John's house, he was
4 getting angry, upset with me, and asking me if I had a
5 relationship with him.

6 And I assured him that I didn't have -- there
7 was nothing romantically involved going on with him like
8 that. And he wanted to, you know, confront John and ask him
9 what was going on, if there was anything going on between
10 the two of us.

11 Q Did you and Sam leave home that night?

12 A Yes, sir.

13 Q Why did you leave home?

14 A He wanted me to take him to John's house to ask
15 him why I was over there earlier that night.

16 Q How did he ask you to go over to John's house?

17 A He really didn't ask. He said, "Let's go. I
18 want to go over there now," and get down to, you know, the
19 bottom of this issue. He is pretty forceful and demanding
20 in that sort of respect.

21 Q Do you recall if he told you what he was going
22 to do when he got to John's house?

23 A Oh, he was still talking about the break-in, and
24 he was scared. And he wanted to scare John because he was
25 pretty certain that John had something to do with it, so

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 he wanted to go over there and intimidate him and scare
2 him, and then ask him about why I was there.

3 Q Did Sam take anything with him when he went with
4 you over to John's house?

5 A I mean, I don't remember. I don't remember
6 exactly what was taken.

7 Q Do you recall if Sam had a shotgun in the home
8 at that time?

9 A He did. He had it, you know, for maybe a month.

10 Q Where did he get the shotgun?

11 A He borrowed it from Cody Brown.

12 Q Did he tell you why he was getting a shotgun?

13 A He wanted it for protection.

14 Q And was that before or after the break-in
15 happened at the house?

16 A That was after the break-in happened.

17 Q Now, do you recall if Sam took that shotgun with
18 you, when he went over to John's neighborhood with you?

19 A I -- I mean, I don't recall. It's kind of still
20 a blurry evening.

21 Q Do you recall if Sam said whether or not he was
22 going to try to hurt John?

23 A I know he said that he wasn't going to hurt
24 anybody that night. I don't see why he would hurt anyone.
25 I -- we had talked about him being -- you know,

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 intimidating him, but no harm being done.

2 Q What happened after you left your home with Sam
3 to go over to John's neighborhood?

4 A He told me just go and drop him off over on that
5 -- on a side street. He didn't want to -- he didn't want
6 me to go in with him because he didn't know what was going
7 to happen, because he thought John had guns also, and he
8 didn't want me around anything like that.

9 Q Did Sam tell you that he was trying to sneak up
10 on John's house?

11 A No.

12 Q Do you recall if Sam told you to circle the
13 neighborhood or anything like that?

14 A I -- I don't recall.

15 Q Do you remember how long you were in the
16 neighborhood?

17 A I -- no, I don't recall how long, no.

18 Q Do you recall all the events of that evening
19 equally clear or --

20 A No. It's -- there's, you know, bits and pieces
21 that I remember, and some that's just very blurry and
22 vague.

23 Q That was over two years ago, correct?

24 A That was over two years ago, and I have tried to
25 block a lot of it out.

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 Q Now, at some point, you and John drove away from
2 the neighborhood, correct?

3 A Me and Sam.

4 Q Oh, sorry. I apologize.

5 At some point, you and Sam left John's
6 neighborhood, correct?

7 A Yes.

8 Q And do you remember when Sam got in back in the
9 car with you?

10 A That was about -- I remember when he got in the
11 car, but I don't -- that is about it. I don't remember
12 what time it was or -- it was dark. It was raining. I
13 was tired, and I was just ready to go home.

14 Q Do you recall if Sam told you anything about the
15 confrontation he had with John?

16 A No. We didn't talk about it.

17 Q Did you have any kind of conversations on the
18 way back home?

19 A No, sir.

20 Q Did you stop anywhere on the way back home?

21 A We stopped at Cody's house, which was maybe a
22 mile around the corner, on the way to the house. On the
23 way home.

24 Q Do you recall why you stopped at Cody Brown's
25 house?

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1. A He didn't tell me why. He just told me to go
2 that way, on the way home. It was not out of the way.

3 Q Did you know that the place you stopped was Cody
4 Brown's house?

5 A No, I did not.

6 Q Had you been to Cody Brown's house before?

7 A No, I haven't.

8 Q Did you or Sam speak to anybody at the home?

9 A No, sir.

10 Q Do you recall if Sam had a shotgun with him
11 after you stopped at Cody Brown's house?

12 A As far as I remember, he didn't -- he didn't
13 have it anymore, but I wasn't paying that much attention
14 to him.

15 Q Now, when you left John's neighborhood, did you
16 see any flashing lights from a police car, or flashing
17 lights for an ambulance, anything like that?

18 A No, sir.

19 Q When you drove to Cody Brown's house, did you
20 see any -- any emergency vehicles like that?

21 A No, sir.

22 Q When you were driving around the neighborhood,
23 John's neighborhood, did you -- could you see the back of
24 John's house?

25 A Not at all, no.

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 Q Do you recall driving by the front of John's
2 house?

3 A Vaguely.

4 Q Did you see anything there that caught your
5 attention?

6 A No, sir.

7 Q After you left Cody Brown's house, where did you
8 go?

9 A We went directly home.

10 Q To the best of your recollection, when you drove
11 to John Cherol's neighborhood, did you have any idea that
12 Sam was going to do anything to hurt John Cherol?

13 A Not at all. I didn't think he would hurt anyone
14 like that.

15 Q When you left John Cherol's neighborhood, do you
16 recall any reason to believe that Sam done anything to
17 John Cherol?

18 A No, not -- not at all.

19 Q Did you ever find out that John had been killed?

20 A Yes, sir.

21 Q What's the answer?

22 A Yes, sir.

23 Q How did you find out that John had been killed?

24 A I found out the next day at work, on my phone,
25 on a break.

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 Q When did you go to work the next day?

2 A We have breakfast service at 7:00 a.m., so I
3 left around 6:00 a.m., my house.

4 Q And that was just a few hours after having gone
5 to John's neighborhood?

6 A Yes, sir.

7 Q Do you recall whether you still felt the effects
8 of the alcohol you had the night before?

9 A I believe so, yes, sir.

10 Q And you said that you found out while you were
11 at work that John had been killed. How did you find out
12 again?

13 A I found out on my -- on the news feed on my
14 phone.

15 Q Well, when did you see Sam again, after you
16 found out that John had been killed?

17 A It was that evening after work.

18 Q Did you have any discussions with Sam about John
19 being killed?

20 A I did. I asked him about it.

21 Q Do you recall what he told you?

22 MS. SMITH: Objection, Judge. Hearsay.

23 MR. STEPHENS: Your Honor, this would be a
24 statement against -- clearly against his criminal
25 interest.

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 THE COURT: Against whose criminal interest?

2 MR. STEPHENS: Against Mr. Collins' interest, if
3 he made any statement about I killed the victim in
4 the case.

5 THE COURT: I'll allow it. What did he say?

6 THE WITNESS: He admitted that he had shot John,
7 and he didn't want me to tell anyone about what had
8 happened or talk about it to anyone.

9 BY MR. STEPHENS:

10 Q Do you recall if Sam had directly threatened you
11 in any way if you told anyone?

12 A He was very threatening and intimidating and
13 didn't want me to discuss it, especially with my family or
14 the police, and I really didn't know what to do. I didn't
15 know what to do. I was -- I was very scared. I didn't --
16 if he was capable of doing something like that to John,
17 then I didn't know what was going to happen to myself or
18 my family and --

19 Q Well, I know you say that John -- or excuse me,
20 that Sam was a threatening person. Did you still care for
21 him at that point?

22 A I mean, he is the father of my only son, uh-huh
23 (indicating affirmatively).

24 Q And you did talk to him after he was arrested?

25 A Yes, sir.

DIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 Q Now, when you drove home that night, drove Sam
2 to Cody Brown's house and back to your home, did you have
3 any intent to try to help Sam to escape from being
4 arrested by the police?

5 A No, not at all.

6 Q Do you know if the police had been called for
7 anything?

8 A No, not at all.

9 Q Were you taking -- driving Sam with the
10 intention of -- to avoid him being convicted of some kind
11 of crime?

12 A No. I had no idea there was anything that
13 happened.

14 Q Were you taking Sam -- driving Sam with the
15 intention to help him avoid some kind of punishment?

16 A No, sir.

17 Q When you drove Sam home that night, what was
18 your intention?

19 A To go home and get ready for work the next day.

20 Q You just wanted to go home?

21 A Yes, sir.

22 MR. STEPHENS: Your Honor, I don't believe that
23 I have any further questions for Ms. Collins.

24 Thank you, Ms. Collins.

25 CROSS EXAMINATION

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 BY MS., SMITH:

2 Q Ms. Collins, let's go back to that night, about
3 what you remember and don't remember. And let me just --
4 let's start first with -- you stated you did not remember
5 Mr. Collins having a shotgun in his hands when he got in
6 the car, when you took him to John Cherol's?

7 A Correct.

8 Q Was that your testimony?

9 Okay. Do you recall talking to the police
10 on two separate occasions?

11 MR. STEPHENS: Objection, Your Honor. There's
12 been no -- may we approach?

13 (Off-the-record discussion held.)

14 MS. SMITH: Ms. Collins --

15 THE COURT: Hold on a second. Mr. Stephens,
16 remind me when we take a break to preserve that,
17 please.

18 MR. STEPHENS: Absolutely, Your Honor. Thank
19 you.

20 BY MR. STEPHENS:

21 Q Do you recall talking to law enforcement,
22 Bluffton police department, on October 29th, 2015?

23 A Yes.

24 Q Okay. And you recall talking to them on
25 December 2nd -- excuse me, December 3rd, 2015?

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 A Yes, I do.

2 Q Okay. And do you recall -- just kind of start
3 in order.

4 Do you recall telling the officers that you
5 flirted with John?

6 A No.

7 Q Okay. Do you recall telling the officers that
8 your husband didn't know that you went over to John's?

9 A He didn't know I was there when I was there.

10 Q And that was -- this is the first interview we
11 are talking about, October 29th?

12 A I'm not certain about the first. I don't
13 remember exactly.

14 Q Do you recall telling law enforcement that your
15 husband hadn't drank in over a year?

16 A No, I don't.

17 Q And do you recall telling them again that he had
18 quit drinking and dealing a year prior to that?

19 A No, I don't remember.

20 Q But you remember talking to them; is that
21 correct?

22 A I remember being there.

23 Q And you talked to Detective Babkiewicz, Baker
24 Odom, and Angela Viens. Do you recall them being in the
25 room?

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 A I remember Baker.

2 Q And he was the individual in this chair,

3 correct?

4 A Yes.

5 Q And they gave you your Miranda rights?

6 A Yes.

7 Q They gave you drinks?

8 A I assume. I guess.

9 Q Sodas. You were allowed to smoke cigarettes,
10 take breaks. Do you remember that?

11 A Yeah.

12 Q Okay. Do you recall telling officers that, "We
13 don't operate with guns, we don't have guns in the house."

14 A No.

15 Q You don't? You don't remember telling them that
16 we can't have guns in the house because of my dad?

17 A No.

18 Q No. Okay.

19 Do you recall telling officers that
20 Mr. Collins never fired back at anyone during this home
21 invasion in your home?

22 A No.

23 Q Do you recall telling them about five minutes in
24 that you never talked to John about the home invasion that
25 occurred prior to the night of this incident?

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 A No, I don't recall.

2 Q So you deny that. Is that correct?

3 A I don't recall. I don't remember that.

4 Q And let me ask you this: Do you recall this
5 interview being recorded, and you giving a statement, a
6 written statement as well?

7 A I don't remember doing a written statement.

8 Q You don't?

9 A No.

10 Q Okay.

11 A Not in October.

12 Q You remember giving some statements?

13 A Right.

14 Q Right.

15 A I remember they came to my house and picked me
16 up and took me back to Bluffton.

17 Q Okay. Do you remember telling them that Sam was
18 home all the night of this incident?

19 A I don't remember.

20 Q No. Okay.

21 Do you remember telling them, yet again,
22 that your husband had been sober for over a year from
23 drugs and alcohol?

24 A I don't know. I don't remember.

25 Q Do you recall telling them that he had never

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 abused you?

2 A No.

3 Q You didn't say that either?

4 A No.

5 Q Okay.

6 MR. STEPHENS: Your Honor, I believe she said
7 that she didn't recall was the answer.

8 THE COURT: You can ask her on redirect. This
9 is cross examination.

10 BY MS. SMITH:

11 Q Do you recall telling them, yet again, Sam never
12 told you about John setting up the home invasion?

13 A I don't recall that, no.

14 Q Don't recall. Okay.

15 And then you get a second interview in
16 December after you were arrested; do you recall that?

17 A Yes.

18 Q Okay. And there were some officers back in the
19 room again. I believe it was Mr. Odom, who you remember,
20 and Detective Murphy. Do you remember him?

21 A No.

22 Q No. Okay.

23 And they read you your Miranda rights
24 again, right?

25 A Yes.

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 Q Okay. And do you recall if you changed your
2 story on the second interview?

3 A I told them what I -- what I remembered. It had
4 been a couple of months but --

5 Q It had been about one month?

6 A Yeah, one month.

7 Q And at that point, do you recall telling them
8 that your husband, in fact, was abusive?

9 A I think. I mean, he has been always abusive, so
10 ...

11 Q Do you recall telling them that, is my question?

12 A I do believe so, yeah.

13 Q Do you remember this interview?

14 A Yeah. It was a longer interview. We went into
15 great detail.

16 Q Okay. Because the first interview was
17 approximately three hours; is that correct?

18 A That I don't --

19 Q You don't remember?

20 A No, I don't remember how long it was.

21 Q Did you tell them why you lied to them in the
22 first interview, that he was not abusive?

23 A No, I don't recall that.

24 Q You testified in that interview shortly close
25 then that you didn't know what was going to happen when he

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 got the gun. Do you remember that?

2 A I -- I don't recall that, no.

3 Q Did you say that?

4 A Not to my recollection. I don't remember.

5 Q And then you told them, "We left the house and
6 then I drove him back to get the gun."

7 Does that ring any bells?

8 A No. I don't -- I mean, that doesn't sound like
9 what happened, going back, leaving and going back or
10 anything.

11 Q And I know you don't remember much from that
12 night, but do you remember saying that to the officers in
13 the recorded audio and video interview room?

14 A No, I don't recall saying it.

15 Q Do you recall telling the officers that you took
16 him to John's that night?

17 A I remember, yes.

18 Q You do remember telling them that?

19 A I do remember that, yes.

20 Q And do you remember admitting that he was on
21 Masters Way when you picked him up?

22 A I remember picking him up at the same place I
23 dropped him off. I didn't really know the name of that
24 road or ...

25 Q Do you remember telling the police that in

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 December of 2015?

2 A That I picked him up on Masters Way?

3 Q Right.

4 A Yeah, I picked him up there. .

5 Q Do you remember telling the police that you
6 told -- or do you remember telling them that you took him
7 to Cody Brown's house after that?

8 A Yes, I do remember that.

9 Q Do you remember telling them that?

10 A Yes, ma'am.

11 Q And you, in fact, remember driving him there; is
12 that correct?

13 A Vaguely.

14 Q Vaguely. Okay.

15 Do you remember telling the police that you
16 thought Sam did it to scare him. "When he got in the car,
17 I heard it, and started freaking out."

18 Do you remember that?

19 A I heard -- I -- I don't know. I heard what?

20 Q Shots that night?

21 A No, I don't remember hearing shots.

22 Q Okay. Do you remember telling the police, "He
23 told me he shot the gun and was freaking out."

24 A I don't remember telling them that.

25 Q You don't remember telling the police that

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 either?

2 A No.

3 Q Okay. And I would say that was probably about
4 an hour into the interview. You don't remember that?

5 A No. I mean, I don't remember verbatim. It was
6 a long interview. I couldn't tell you.

7 Q You don't remember telling the police what
8 happened the night of October 27th and 28th?

9 A I remember telling them then, yes.

10 Q But not now?

11 A I'm trying the hardest, the best I can. It's
12 been -- it's very stressful, over two years.

13 Q I'm sure. You then told the police about one
14 minute after the statement about, "He told me he shot the
15 gun."

16 You said, "The plan was for me to drop him
17 off and he would scare him and come back and pick him up."

18 And that's why you drove slowly past
19 John's, which was seen in the video. Is that the
20 statement you made?

21 A I don't know that we had a plan of anything. I
22 just did whatever he told me to do.

23 Q You don't remember, again, telling the police
24 that that was the plan, those were your words?

25 MR. STEPHENS: Objection, Your Honor. Asked and

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 answered.

2 THE COURT: Overruled.

3 BY MS. SMITH:

4 Q Ma'am?

5 A I don't remember verbatim, no.

6 Q Do you recall telling the police again towards
7 the end of the interview that Sam was going to threaten
8 John and intimidate him with the gun?

9 A Say that one more time.

10 Q You told police that Sam was going to threaten
11 him, was going to intimidate him with the gun?

12 A We had discussed that before.

13 Q I'm asking you, did you tell the police that?

14 A I did.

15 Q So, now, you do remember him having a gun in the
16 car?

17 A I mean, it is vague. He had that gun with him
18 virtually every day for a month.

19 Q Okay. Did he have the gun with him when he got
20 in your car that night to go to John's?

21 A I believe so.

22 Q Okay. So your testimony a little while ago --
23 let me make sure that I get this right.

24 "I don't remember what he took. I don't
25 recall him taking the gun."

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 But now you do remember it?

2 A It is still -- it is very blurry.

3 Q Do you remember him having a gun in the car?

4 A Maybe.

5 Q Okay.

6 THE COURT: What is the answer?

7 THE WITNESS: I said, "maybe."

8 THE COURT: Maybe?

9 THE WITNESS: Yes, sir.

10 BY MS. SMITH:

11 Q And specifically, do you remember him having
12 State's Exhibit No. 60 in the car, this gun?

13 A I remember that gun.

14 Q So this gun was in the car with you when y'all
15 left your house, correct?

16 A I guess. Yeah, it was.

17 Q Okay. Did he have it in his hands when he got
18 out of the car to go to John's house?

19 A As far as I know. And it was completely dark.

20 Q Okay. And then when he got back in the car, did
21 he have it in his hands?

22 A Yeah.

23 Q Okay. And then when you took him to Cody's, did
24 he get out with the gun?

25 A That, I don't know. I wasn't looking at where

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 he was, what he was doing.

2 Q And when he got back in the car, did you see him
3 with anything in his hands?

4 A Not that I remember.

5 Q Do you remember taking this gun home with you
6 that night?

7 A No, I don't remember that.

8 Q So you remember him getting in the car with the
9 gun, but you don't remember -- it just miraculously
10 disappeared after that?

11 A I wasn't paying too much attention to it. I
12 mean ...

13 Q And what size car were you in that night?

14 A A Camry.

15 Q Okay. Is there a lot of room for two people in
16 the front and this gun?

17 A It is a sedan, so it is a larger vehicle.

18 Q Okay. Do you recall testifying just a minute
19 ago when Mr. Stephens was questioning you, that you
20 stopped at Cody's but you didn't know why. Correct?

21 A Yes.

22 Q You hadn't been there before?

23 A No.

24 Q But you knew Cody?

25 A Yes.

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 Q And when he got back in the car, you testified,
2 "He didn't have it anymore."

3 Do you recall making that statement to
4 Mr. Stephens just a couple of minutes ago?

5 A Yeah, just -- yeah.

6 Q Did he have the gun when he got back in the car?

7 A No, he didn't. It wasn't that I was paying
8 attention to what he had when he got back in the car, it
9 was after we had already left, drove off, that I asked him
10 where it was.

11 Q You stated that y'all had no discussions in the
12 car on the way to Cody's; is that correct?

13 A Correct.

14 Q How did you know to go to Cody's house?

15 A Well, he told me which way to just drive and
16 which way to go. That was just directions.

17 Q You state in your testimony you didn't recall
18 how much you had to drink; is that correct?

19 A Correct.

20 Q Okay. Did you go directly home after you went
21 to John's that night?

22 A I believe so, yeah.

23 Q Do you recall telling the police in your
24 interview, the first interview in October, you drove
25 around for a while, through different neighborhoods, The

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 Farm, Pinecrest. Do you recall that statement?

2 A Sometimes I take a longer way home.

3 Q You don't recall telling them you drove around
4 that night?

5 A Vaguely.

6 Q Okay. You testified you were dazed on the
7 couch. Is that because you knew what Mr. Collins had done
8 the night before?

9 A No, ma'am.

10 Q It was not.

11 Did you go and visit Mr. Collins after he
12 was arrested?

13 A Yes, ma'am.

14 Q Okay. Did you try to get him out on bond?

15 A No, ma'am.

16 Q You didn't. Did you want him to come home after
17 he was arrested?

18 A No, ma'am. No, ma'am.

19 Q You did not.

20 Were y'all still together at that time?

21 A Yes. We had -- we had been reconciled by then;
22 we were still talking.

23 Q Okay. And I'm talking specifically on
24 November 7th, 2015.

25 A We talked about what his bond potentially was.

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 He wanted me to contact his family, but I wasn't
2 attempting.

3 Q You weren't?

4 A (Nods in the negative.)

5 Q Did you still love Mr. Collins then?

6 A I loved him, yeah.

7 MS. SMITH: Just a minute, Judge. Court's
8 indulgence?

9 BY MS. SMITH:

10 Q Ms. Collins, did you ever call the police about
11 this?

12 A No.

13 Q And you said you went to work at Secession six
14 or seven the morning after John was killed -- or the
15 morning that John was killed; is that correct?

16 A Correct.

17 Q And you saw on the app on your phone, listened
18 to the WTOC app, that John was killed; is that correct?

19 A It was a news app.

20 Q And you were at work over here in Beaufort when
21 you found out; is that correct?

22 A Uh-huh, yes.

23 Q And then you went home, correct?

24 A Yes.

25 Q And your husband told you that night he had

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 killed John?

2 A Yes.

3 Q Did you call the police then?

4 A No.

5 Q So, just briefly, you admit now that you did
6 drive him over to John Cherol's, correct?

7 A Correct.

8 Q And he did have that big shotgun with him when
9 y'all left the house, correct?

10 A Yes.

11 Q And you knew he was going to scare or confront
12 John, correct?

13 A Yes.

14 Q Okay. And you knew that you dropped him off on
15 Masters Way and he got out with the gun; is that correct?

16 A Yes.

17 Q And you circled around the neighborhood and came
18 back to that same spot to pick him up; is that correct?

19 A Yes.

20 Q And when he got back in the car, he had the gun
21 in his hand; is that correct?

22 A Yes.

23 Q Okay. And then you drove him to Cody Brown's
24 with the gun, correct?

25 A Correct.

CROSS EXAMINATION OF COLETTE COLLINS BY MS. SMITH

1 Q And he got out of the car with the gun, correct?

2 A Yes.

3 Q And then he got back in the car without the gun;
4 is that correct?

5 A Yes.

6 Q And then you drove him home; is that correct?

7 A Yes.

8 MS. SMITH: Judge, I don't think that I have
9 anything further.

10 REDIRECT EXAMINATION

11 BY MR. STEPHENS:

12 Q Colette, Ms. Smith was asking you about your
13 first interview with law enforcement in October. Do you
14 remember being interviewed at that time?

15 A I remember being interviewed.

16 Q And where was Sam living when you were
17 interviewed by law enforcement?

18 A He was living with -- we were living together on
19 Buck Point Road.

20 Q When you were interviewed, did you have to speak
21 to law enforcement?

22 A No.

23 Q Were you under oath, like you are here in court
24 today?

25 A Yes, sir.

REDIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 Q So they had you put your hand on a Bible and
2 swear?

3 A Yes, sir.

4 Q Did you -- were you worried about anything that
5 would happen if you told the police what happened the
6 night that you went to John's neighborhood?

7 A I was -- yeah, I was worried. I was worried
8 that Sam would be upset, and no one would believe what
9 really happened, you know. And it was very stressful
10 and -- it was very stressful.

11 Q When you were interviewed in December by law
12 enforcement, did you have to speak to them?

13 A No, I did not.

14 Q But you agreed to cooperate with them?

15 A I did, yes.

16 Q And when you were interviewed in December, you
17 told them about driving Sam to John's neighborhood?

18 A Yes, I did.

19 Q And you told them that you picked him up and
20 took him home?

21 A Yes, I did.

22 Q You didn't have to tell them that, did you?

23 A No, I didn't.

24 Q Why did you tell them then what had happened?

25 A Sam was already in jail at that point, and I

REDIRECT EXAMINATION OF COLETTE COLLINS BY MR.
STEPHENS

1 felt safe that I could, you know, tell them what happened.

2 MR. STEPHENS: Thank you, Ms. Collins. No
3 further questions.

4 MS. SMITH: I have nothing further for this
5 witness, Judge.

6 THE COURT: Ma'am, you may step down. Thank
7 you.

8 Any additional witnesses by the Defense?

9 MR. STEPHENS: Beg the Court's indulgence.
10 No additional witnesses, Your Honor. The
11 Defense is about to rest.

12 THE COURT: Anything in reply?

13 MS. SMITH: Judge, we will have brief testimony
14 in reply.

15 MR. STEPHENS: Well, the Defense rests.

16 MS. SMITH: Jeffrey Maxwell.

17 Judge, this witness will take about 30 minutes.
18 It's a recording.

19 THE COURT: Hold on a second.

20 This witness is going to be a little bit longer
21 than I anticipated, so let's take a bathroom break,
22 come back and finish up the testimony, and we will
23 assess the lunch situation and go from there.

24 Don't deliberate, don't discuss, please leave
25 your notebooks in your chair. Everyone else remain

DEFENSE RESTS

1 seated, please.

2 (Whereupon, the jury exited the courtroom.)

3 THE COURT: Let's take a quick bathroom break.

4 My plans are to come back, complete the testimony,

5 any motions, and then hopefully do at least final

6 arguments before lunch.

7 How long are your arguments? About like

8 opening?

9 MS. SMITH: It will be just a little bit longer,

10 but not much.

11 THE COURT: Okay. I'll be prepared for that.

12 (Whereupon, a brief recess was taken.)

13 THE COURT: Everyone ready to proceed?

14 MR. STEPHENS: Your Honor, I believe there's an
15 issue, at least with the Defense, that the -- I think
16 the State is calling a rebuttal witness to put in
17 evidence, a recorded visitation between the Defendant
18 and her husband.

19 We have a number of objections to that, that we
20 would like to have heard before the jury comes back
21 in, so as not to delay when they get to that point.
22 I don't know if the State needs to do a proffer of
23 that or what, but we would like to place some
24 objections to that before going on the record.

25 THE COURT: What is your next witness going to

COLLOQUY

1 testify about?

2 MS. SMITH: Judge, I've got a recording that was
3 made at the Beaufort County Detention Center. This
4 is a disc, audio recording, of a jail visit between
5 Colette Collins and Samuel Collins on November 7th,
6 2015. He was incarcerated on other charges, and she
7 went to see him.

8 And the purpose of putting it in is to show that
9 she was not scared, intimidated, that she actually
10 was still very much in love with him and was trying
11 to post bond with him at that time.

12 THE COURT: Objections are?

13 MR. STEPHENS: Your Honor, objections are, one,
14 that this was a delayed disclosure by the State.
15 They had this recording for two years, it was given
16 to me last -- I think that she told me about it on
17 Thursday. I got a copy of it to review on Friday.

18 The second is that I believe that it's marital
19 communication that is completely unrelated to this
20 case, Your Honor, and that there's no discussion on
21 any of the facts of this case.

22 I couldn't find any case law examining a
23 recording of marital communications, but the third
24 issue, again, would be relevance. There's no
25 discussion of this case, the facts of this case, any

COLLOQUY

1 of the facts regarding the killing of John Cherol in
2 the recording.

3 Last -- next, Your Honor, even if the Court
4 determines that there is some relevance to the
5 recording, we would ask the Court to do a balancing
6 test, under the South Carolina Rules of Evidence 403,
7 that there's a number of things about the recording
8 that raise the danger of unfair prejudice compared to
9 any minor relevance, and that includes the fact that
10 there's a discussion, that there are obscene comments
11 about law enforcement officers. There is lots of
12 cursing and other things going on in the call, Your
13 Honor.

14 Also, next, we believe that it's improper
15 impeachment evidence because it's not evidence of
16 character or bias, and it's not evidence of
17 inconsistency of prior inconsistent statements since
18 Ms. Collins was asked on the witness stand, on cross
19 examination, if she still -- I asked her if she still
20 cared for Mr. Collins, she said she did.

21 She was asked by Ms. Smith if she visited him in
22 jail, and she said she did.

23 She was asked if there were discussions about
24 his bond, and she said there were. I don't believe
25 that there's anything that is a prior inconsistent

COLLOQUY

1 statement in this that should be shown, and that it's
2 not -- that it's extrinsic evidence, when she's
3 already admitted that she had these conversations
4 with Mr. Collins.

5 THE COURT: Ms. Smith.

6 MS. SMITH: Judge, first and foremost, I found
7 this recording. The same day that I found it, I let
8 Mr. Stephens know. We have access to the jail calls,
9 as you know, everywhere in the state. The calls are
10 recorded, and it tells them during the visits when
11 they are on the telephone, the jail here in Beaufort,
12 it tells you before you get started the calls are
13 recorded.

14 I got this case last summer, summer of 2016,
15 because I have only been with the office since
16 February. Prosecuted the Defendant. And then when I
17 was preparing for Ms. Collins' case, I went back to
18 look at the jail calls right after she was arrested
19 in preparation for this duress, potential duress
20 defense. I found this call.

21 As soon as I found it, I immediately told
22 Mr. Stephens, had my investigator take a subpoena
23 about 4:45 to the jail on Thursday. He got the disc,
24 we recorded it, he rode back to Beaufort on Friday
25 and provided it to Mr. Stephens.

COLLOQUY

1 No one in my office had listened to this call.
2 The officers actually, we were discussing the case
3 and it just came up in conversation. So I went back
4 and looked to see if something like that was there.

5 Second of all, she does make prior inconsistent
6 statements. She testified she didn't try to bond him
7 out. She had a conversation with him about bond.
8 They're going to try to get him out. She would have
9 actually had him out if he only had the two charges,
10 the next day.

11 She also testified about telling -- she tells
12 him about the police searching the house. They are
13 talking about this case. Kind of laughing about what
14 they found and didn't find.

15 And then another inconsistent statement that she
16 made is she told him, she told Sam, they told the
17 police they were all -- she told the police they were
18 all at the house that night. That he was at the time
19 house all night, and she testified today that she
20 didn't recall telling anybody that.

21 She continues to go on and on about how much she
22 loves him. I think it is detrimental, if he is going
23 to potentially argue duress and coercion, to show
24 that her state of mind to make decisions after this
25 murder. She wasn't scared of him, and he was in a

COLLOQUY

1 place where she could be away from him.

2 It's not like she didn't have family support and
3 different things like that to, you know -- anyway,
4 that's beside the point. But it really does show her
5 demeanor at that time.

6 THE COURT: How long is it?

7 MS. SMITH: It's 30 minutes.

8 And one more thing, Judge, in talking about her
9 character. He brought her character in to play when
10 he put her on the stand. And while there is cursing,
11 it just kind of shows -- it's totally in support of
12 her character.

13 MR. STEPHENS: May I be heard, Your Honor?

14 Your Honor, as Ms. Smith stated, there's a
15 discussion about a search warrant executed. There
16 were drugs located as part of that search warrant.

17 Ms. Collins also has a drug charge for
18 possession with intent to distribute drugs that were
19 found as a result of that search. And that's just
20 one other bit of prejudice that might befall her.

21 Your Honor, we are also not asking for a duress
22 charge. We don't believe that her -- any fear she
23 had after this case affects the accessory after the
24 fact charge, which is about driving Mr. Collins home.
25 This isn't -- she hasn't been charged with this

COLLOQUY

1 prisonable offense.

2 The Court may certainly find that the duress
3 charge is warranted, but we haven't asked for that at
4 this point, Your Honor.

5 THE COURT: Ms. Smith.

6 MS. SMITH: Judge, even if you don't charge
7 duress, if Mr. Stephens is going to argue it in his
8 closing, because in his opening he brought up that
9 Ms. Collins was threatened by Mr. Collins. So if
10 he's going to be allowed to argue that --

11 THE COURT: Well, I don't know what he's going
12 to argue, obviously. There's been some indication
13 that she was scared of him. Doing what she was told
14 to do, but she was obeying him, so to speak, as he
15 opened in his opening remarks, because she was under
16 a marital oath to obey him.

17 But to do a 403 analysis, obviously I have to
18 look at it, don't I? Before it goes before the jury.

19 MS. SMITH: Yes, sir.

20 THE COURT: What is -- what is in it that would
21 be prejudicial, Mr. Stephens, if I allowed it other
22 than the -- other than the tape itself? I mean, is
23 there stuff said in it that would be -- is there
24 mention of her other charges? Is there mention of --
25 I mean, other than cursing.

COLLOQUY

1 MR. STEPHENS: I believe --

2 THE COURT: Unfortunately, we're all pretty
3 immune to cursing anymore.

4 MR. STEPHENS: Your Honor, I believe there's a
5 discussion about drugs located in the home. There's
6 also a comment about Ms. Collins' mother. Since she
7 is also a witness in the case, that might be held
8 against -- a weight against her credibility as a
9 witness. I think it was about her drinking or
10 something like that, Your Honor.

11 And, again, I don't believe that there's any
12 relevance to it, but if there is, we certainly think
13 that just the fact that the conversation uses very
14 incendiary terms about law enforcement officers, and
15 comments about Ms. Collins' mother.

16 THE COURT: Who is making the comments,
17 Mr. Collins or Ms. Collins?

18 MR. STEPHENS: I think both of them, Your Honor.

19 MS. SMITH: Judge, and just for the record, she
20 had not been arrested yet or charged with anything
21 during this conversation, Ms. Collins hadn't.
22 Neither had her mother.

23 THE COURT: All right. Well, I suspect I need
24 to look at it to make that analysis. So what is the
25 deal on the lunch for them?

COLLOQUY

1 THE BAILIFF: I think it's supposed to be here
2 about noon.

3 THE COURT: At noon?

4 THE BAILIFF: I can go check on that.

5 THE COURT: Bring them out here first for me.
6 Just bring the jury back.

7 Ms. Smith, you got it so I can look at it in
8 chambers, or do I have to look at it out here?

9 MS. SMITH: You can look at it in chambers.

10 THE COURT: Any objection to looking at it in
11 chambers?

12 MR. STEPHENS: Oh, certainly not, Your Honor.
13 Thank you.

14 THE COURT: Any change in positions, Ms. Smith?

15 MS. SMITH: No, sir, no change.

16 THE BAILIFF: The jury is entering the
17 courtroom, Your Honor.

18 THE COURT: Thank you.

19 (Whereupon the jury entered the courtroom at
20 11:40 a.m.)

21 THE COURT: All right. Madam Forelady, ladies
22 and gentlemen, I think I made some mention yesterday,
23 trying a case is sort of like putting on a play,
24 trying to get everything together.

25 I thought I had that all right down the road,

COLLOQUY

1 but a small snag has come up. I have got to review a
2 piece of evidence before I can make a ruling as to
3 whether or not it's admissible. It'll take about 30
4 minutes.

5 Your lunch has been sent for, on the way. So I
6 don't know what it's like outside, but it should be
7 here in just a few minutes.

8 Where is it coming from? Jimmy Johns?

9 THE BAILIFF: Ten or 15 minutes.

10 THE COURT: Ten or 15. I'm going to go
11 immediately and start reviewing it, and I should be
12 through in 30 minutes. You should have your lunch
13 and have been able to eat within that 30 minutes or a
14 few minutes beyond, other than the fact I got to give
15 court personnel a minute -- more than a minute -- but
16 a few minutes to eat.

17 So if it takes 30 minutes to review, that's ten
18 after 12. Everybody can eat their lunch by 12:30?
19 Anybody got a problem with that?

20 All right. We will plan to reconvene at 12:30.

21 You may stay here and eat your lunch in the jury
22 room. And after you finish, you can go out and get
23 some fresh air. I'm going to start back at -- what
24 time did I say -- 12:30. Be ready to go at 12:30.
25 But we are still moving pretty good.

COLLOQUY

1 Thank you very much. Everybody else remain
2 seated. Don't -- leave your pads and don't
3 deliberate.

4 (Whereupon, the jury exited the courtroom at
5 11:42 a.m.)

6 THE BAILIFF: The jury is clear, Your Honor.

7 THE COURT: Without objection from the Defense,
8 do y'all want to sit in there while I watch it? You
9 don't have to, you may, you are welcome. I'm just
10 going to look at it, with my clerk and I -- and my
11 friend.

12 MR. STEPHENS: Judge, the Defense doesn't feel
13 that we need to sit in there. We certainly don't
14 need to babysit the Court, Your Honor, so we're
15 happy.

16 THE COURT: All right. I'm going to go ahead
17 and start looking at it, and let's start back at
18 12:30, if that's okay with y'all.

19 MS. SMITH: Judge, may I approach? I have the
20 disc and the directions on how to play it.

21 THE COURT: You have to send somebody back
22 there -- I don't have a computer. You have to bring
23 a computer.

24 MS. SMITH: We have don't have a disc player.
25 We got it -- he can do it.

COLLOQUY

1 THE COURT: Any objection for them to set it up,
2 start it, and then leave?

3 MR. STEPHENS: No objection, Your Honor. I
4 trust Mr. Hightower.

5 THE COURT: All right. Thank you. Thank
6 everyone.

7 (Brief recess.)

8 THE COURT: All right. I have had an
9 opportunity to review -- not review, to listen to the
10 tape in its entirety of the conversation between the
11 defendant and her husband. I have made an analysis
12 under 403 and I am going to allow it into evidence.
13 This case, obviously, is one where the credibility of
14 the witnesses is a key issue in the case as to who
15 they believe.

16 Now we have heard one version by the husband who
17 is the convicted murderer. We have heard several
18 inconsistent statements by the defendant, her
19 testimony in direct examination and her testimony in
20 cross examination and her statements that she was
21 impeached on. Her demeanor on the stand puts
22 credibility at issue in this case probably as much as
23 any case I have seen in a while.

24 Now we have got a tape that gives another whole
25 sort of different light on the situation, not only

COLLOQUY

1 the substance of the tape but the banter between the
2 defendant and her husband has been -- there's been
3 testimony about her being scared, there's testimony
4 about not repeating what happened after he told her
5 because she was afraid.

6 So, credibility is just a huge issue. And I
7 find that this tape will be another piece of evidence
8 for the jury to judge the credibility for all who
9 have testified in the case, and I find it relevant.
10 And I find that the relevance outweighs any
11 prejudicial effect under 403, so I'll allow it in.
12 As far as the profanity or cursing or whatever you
13 want to call it, it seems like to me that was their
14 everyday language, so you know, if you are going to
15 talk like that obviously people will hear it, so I
16 find that to be not a grounds to exclude it. So I'm
17 letting it in. So, anything else for the jury before
18 I bring the jury in?

19 MS. SMITH: Not from the State.

20 MR. STEPHENS: Not from the defense. Thank you.

21 THE COURT: Yes, sir.

22 MS. SMITH: The State calls Jeffrey Maxwell.

23 THE COURT: Ladies and gentlemen of the jury, so
24 you know where we are after all of that, the last
25 witness's testimony will be an introduction of a tape

COLLOQUY

1 recording that will last about 25 or 30 minutes, and
2 I am informed that will be the last witness. So once
3 we do that, with a very very short break, we will go
4 right into closing arguments and then I'll instruct
5 you and we will be right back on track.

6 Thereupon,

7 JEFFREY MAXWELL

8 was called as a witness, having been first duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SMITH:

12 Q Mr. Maxwell, where do you work?

13 A I work for the Beaufort County Department of
14 Social Services.

15 Q What do' you do there?

16 A I'm assigned as the intelligence officer where I
17 do the inmate phone calls and stuff like that.

18 Q Okay. Did my office send you a subpoena for a
19 copy of a jail visit between Sam column Collins and
20 Colette Collins on November 7, 2015?

21 A Yes, ma'am.

22 Q Okay. And was that visit recorded?

23 A Yes, ma'am.

24 Q Okay. And how is that -- how are those visits
25 recorded?

COLLOQUY

1 A When somebody is booked into the facility they
2 are enrolled into the IC Solutions phone system, which is
3 our contract phone system. They do a voice verification
4 and they are assigned a separate pin number and each time
5 they use the phone for an outside call or visitation they
6 have to enter it into the system and it attaches to them.

7 Q So the inmate, Samuel Collins, will be talking
8 on the telephone through a glass with the visitor, Colette
9 Collins; is that correct?

10 A Yes.

11 BY MS. SMITH:

12 Q Okay. I'll hand you what's been marked as
13 State's number 67 and ask you if you recognize that?

14 A Yes, ma'am.

15 Q Is that an authentic copy of what you provided
16 to my office of the recording that happened that day?

17 A Yes, ma'am, this is my handing. This is the one
18 that I did.

19 Q Is that kept in the normal course of business?

20 A Yes, ma'am.

21 MS. SMITH: Judge, at this time we move 67 into
22 evidence.

23 THE COURT: You are protected on all of your
24 objections.

25 MR. STEPHENS: Yes, sir, I'm just renewing the

COLLOQUY

1 objections.

2 THE COURT: Certainly.

3 MS. SMITH: May we publish it to the jury?

4 THE COURT: You may.

5 *(Whereupon, State's Exhibit No(s). 67 marked for*
6 *identification and received in evidence.)*

7 (Audio played until 1:08 p.m.)

8 MS. SMITH: No further questions.

9 CROSS EXAMINATION

10 BY MR. STEPHENS:

11 Q Do you know what he was in the Detention Center
12 for at the time that this recording was made?

13 A No.

14 Q So you don't know his charges?

15 A No.

16 MR. STEPHENS: That is all I have.

17 THE COURT: Anything else?

18 MS. SMITH: No, Your Honor.

19 THE COURT: Anything else in reply?

20 MS. SMITH: No, Your Honor.

21 THE COURT: That does conclude all of the
22 evidence. I need about five minutes with the lawyers
23 and we will come back in here and then we will step
24 back in and hear closing arguments and charges.

25 So, step out and don't discuss the case.

COLLOQUY

1 (The jury exits the courtroom at 1:11 p.m.)

2 THE BAILIFF: The jury is clear, Your Honor.

3 THE COURT: All right. Anything for the record
4 before we do final arguments? From the State?

5 MS. SMITH: Nothing from the State.

6 THE COURT: By the Defendant?

7 MR. STEPHENS: Your Honor, at this time we are
8 just going to renew all prior objections for the
9 record and renew my motion for directed verdict,
10 although I have nothing further to offer on that
11 motion at this time.

12 THE COURT: My ruling remains the same.
13 Obviously it is a question of fact for the jury to
14 determine whether or not the State has proven their
15 case beyond a reasonable doubt.

16 All right. Anything else other than what we
17 talked about yesterday as far as jury charges go?

18 MS. SMITH: Nothing from the State.

19 THE COURT: Mr. Stephens?

20 MR. STEPHENS: Nothing from the Defense, Your
21 Honor.

22 THE COURT: All right. Please come look, I have
23 got two verdict forms, see which one y'all want to
24 see?

25 (Off-the-record discussion held.)

COLLOQUY

1 MS. SMITH: Your Honor, I'm just going to ask
2 for one quick break to think about it before we do
3 closings?

4 THE COURT: Guess what. I was getting ready to
5 give you one. Take a last one before we move into
6 the final rows.

7 (Whereupon, a brief recess was taken.)

8 THE COURT: Anything before final arguments?

9 MS. SMITH: Nothing from the State.

10 THE COURT: You're going to waive opening?

11 MS. SMITH: Yes, sir.

12 THE COURT: Ready to go?

13 MR. STEPHENS: Yes, Your Honor. Nothing from
14 the Defense.

15 THE COURT: Bring the jury in, please.

16 Mr. Bailiff, on the back, please make sure no
17 one comes in and out.

18 THE DEPUTY: Yes, sir. The doors are secure.

19 (The jury entered the courtroom.)

20 THE BAILIFF: Ready for the jury, Your Honor?

21 THE COURT: Yes, please.

22 THE BAILIFF: The jury is in the courtroom, Your
23 Honor.

24 THE COURT: Madam Forelady, ladies and gentlemen
25 of the jury, we have heard now all the evidence we

COLLOQUY

1 are going to hear, so that will be what you will make
2 your decision from.

3 The lawyers now have an opportunity to do their
4 final closing arguments. That is not evidence in the
5 case, that's obviously how they are arguing evidence
6 in the light most favorable to their clients. But,
7 please, listen and pay close attention. Once they
8 complete their arguments, my charge is not very long,
9 and I'll be instructing you, and then you will be
10 able to begin your deliberations in the jury room.

11 Mr. Stephens.

12 CLOSING ARGUMENT BY THE DEFENSE

13 MR. STEPHENS: Good afternoon, ladies and
14 gentlemen. Thanks for sticking with us. I know it's
15 been a lot of witnesses in just a couple of days.

16 Whenever some kind of gruesome crime occurs
17 around the home, where there's a husband and a wife,
18 it is only human to ask, how did the wife not know?
19 How did she not know what was going on?

20 You don't always have a good answer for that.
21 Sometimes it may be misplaced trust, it may be self
22 delusion in not asking the right questions, not
23 looking out to see what maybe is right in front of
24 your face.

25 It's hard when there's someone that you love who

CLOSING ARGUMENT BY THE DEFENSE

1 may be doing something that is unspeakable. You
2 don't always ask the right questions.

3 Well, there's this expression -- there's not an
4 absence of lack of love in the world, but enough
5 suitable vessels in which to place it. I said at the
6 beginning of this case that Colette Collins had the
7 kind of relationship with her husband that maybe she
8 had misplaced trust in him, that she did not ask the
9 right questions.

10 And you heard her husband testify, you heard her
11 testify that sometimes he can be very forceful. And
12 she goes along with it, does what he tells her to do.
13 And she did not ask the right questions that night.

14 She told you how she had worked a double shift,
15 how she had a great amount of alcohol that night.
16 Perhaps she should have asked questions of
17 Mr. Collins, but she didn't.

18 I told you at the beginning of this case that
19 the law as the Judge is going to instruct you doesn't
20 ask if an accessory after the fact to a charge knew
21 or should have known that they were helping out a
22 person who had committed a felony.

23 It asks if they knew the person had committed a
24 felony, and they acted voluntarily and with the
25 intention to assist that person in avoiding arrest,

CLOSING ARGUMENT BY THE DEFENSE

1 prosecution, or punishment.

2 You heard Ms. Collins tell you of what she
3 recalled that night. And you heard Mr. Collins tell
4 you his version of what happened that night. Most
5 importantly, you heard a lot of testimony about the
6 murder of John Cherol.

7 The Solicitor's office went into meticulous
8 detail to prove the murder of John Cherol by
9 Sam Collins, but that's not the charge that we're
10 here to consider. I told you that you are here about
11 a gruesome murder, and it was gruesome. But the law
12 requires you to put aside your feelings about that
13 murder, how you may feel about Sam Collins having
14 committed the murder, how you may feel about
15 Colette Collins in staying with a man who is capable
16 of committing an act like that.

17 The law makes very specific requirements of you,
18 and it is very difficult to follow those requirements
19 sometimes. This is one afternoon of your life where
20 your decision here will affect the rest of
21 Colette Collins' life.

22 The Judge will surely instruct you on the law.
23 As I told you, the elements are parts of the law of
24 accessory after the fact. And as the Judge
25 instructed you at the beginning of the case, and as I

CLOSING ARGUMENT BY THE DEFENSE

1 believe he will instruct you again shortly, the
2 State, being the prosecutor, Ms. Smith, has the
3 burden that stays with her all throughout the trial
4 to the end to prove beyond a reasonable doubt every
5 portion of that charge of accessory after the fact to
6 murder.

7 As I said, the first portion of that is that the
8 Defendant knew that a person had committed a felony
9 murder.

10 You have been proven, or you have seen that
11 Sam Collins murdered John Cherol. You have seen far
12 too many details, if you pardon me, about that. But,
13 again, that is not what you are here to consider.

14 Did Colette Collins know that Sam Collins had
15 murdered John Cherol? And this is a snapshot in
16 time. For a particular period of time, was she
17 acting with knowledge? That goes to the second
18 element of the charge.

19 Acting with knowledge that a murder had been
20 committed, if you believe she did have that
21 knowledge, did she voluntarily assist Sam Collins to
22 avoid prosecution, arrest, or some other form of
23 punishment?

24 Now, you heard testimony that when this happened
25 there was some confusion. I would like to focus

CLOSING ARGUMENT BY THE DEFENSE

1 first on the -- the stories, the two versions of
2 events from Sam Collins and Colette Collins, what
3 they had in common. Because, really, this comes down
4 to the testimony of Sam Collins and the testimony of
5 Colette Collins.

6 Both versions from Colette and Sam agree that
7 Colette had gone to John Cherol's home earlier that
8 evening, that she had had some alcohol to drink prior
9 to going. She doesn't know how much.

10 Sam Collins said it was enough alcohol such that
11 she was slurring her words, and she may have been
12 feeling the effects of alcohol in other ways. Both
13 versions agree that Sam got angry because he believed
14 that John Cherol had been behind the break-in of his
15 home, and that he was angry that -- that -- excuse me
16 -- that John had been with his wife perhaps
17 inappropriately.

18 They argued, and Sam admitted that he was
19 forceful when he told Colette that she was taking him
20 back over to John's neighborhood. Sam admitted when
21 I talked to him that he told her to drop him off, and
22 that he may have said he was concerned about her
23 being in the way, being there when he had a gun, and
24 when John Cherol may have also had guns.

25 Colette circled the neighborhood. Sam got in

CLOSING ARGUMENT BY THE DEFENSE

1 her car that they drove home by way of Cody Brown's
2 house. They both also agree there was no
3 conversation other than giving directions to
4 Cody Brown's house on the way home. Now, this is the
5 things they agreed on.

6 Sam Collins' version of events also includes a
7 statement that he got in the car and that he told
8 Colette, "I shot him." He says that she didn't seem
9 to understand what he was saying; she appeared to be
10 asleep. Such that he had to take control of the car
11 and drive away. And then she seemed to recover and
12 took over driving, driving the vehicle.

13 And as the Judge said, our arguments are just
14 arguments. If ever I recount the testimony, as I
15 remember it, and you disagree or your notes show
16 something different, or if Ms. Smith tells you how
17 she believes the testimony went, I urge you to go
18 with your own memories and your own notes.

19 As I recall, Mr. Collins stated that he took
20 control of the car as it was driving away.
21 Eventually Ms. Collins kind of came to and took over
22 driving, but there was no conversation on the way
23 home.

24 In Colette Collins' version she said she didn't
25 hear anything. Sam got in the car, she didn't see

CLOSING ARGUMENT BY THE DEFENSE

1 anything. They drove away. He told her how to drive
2 over to Cody Brown's home, where he got out of the
3 car, got back in the car without a shotgun, and they
4 drove home.

5 She said that she discovered later that
6 John Cherol had been shot, and she confronted Sam
7 about it. That's outside this time line. What we
8 are focused on is the period of time when she may
9 have assisted Sam in getting away.

10 Now, one of the instructions you are going to
11 receive from the Judge is, if someone assists a
12 person who has committed a felony murder, but does
13 not act with the intention of trying to help them
14 avoid prosecution, arrest, or punishment, that that
15 doesn't violate this statute.

16 And you heard the testimony of Cody Brown. He
17 provided a shotgun to Sam, that Sam said he was going
18 to use for self-defense. Then when it was returned
19 he -- it had a different type of ammunition in it and
20 a spent round, and he was told not to tell anyone.
21 He locked that shotgun up. He has assisted
22 Sam Collins after the fact.

23 But he said he wasn't -- he didn't believe Sam
24 was the kind of person who would have done anything
25 like hurt John Cherol. So he wasn't acting with the

CLOSING ARGUMENT BY THE DEFENSE

1 intent to try to help him avoid prosecution.

2 Colette told you when she was driving Sam home
3 she was drunk. It was a little hazy. She was just
4 trying to go home. If she confronted him later and
5 he told her what had happened, that is not part of
6 the accessory charge.

7 Maybe she should have left then. Maybe she
8 shouldn't have stayed with her husband, the father of
9 her son. But, again, that is not what we are here to
10 consider, as to whether she had assisted Sam Collins
11 in getting away with this voluntarily.

12 And there was some corroboration for
13 Ms. Collins' statement and the testimony of her
14 mother said that she saw -- that she saw Colette that
15 morning reeking of alcohol, seeming a little dazed
16 and confused and out of it. But Colette got up and
17 then went to work.

18 I would like you to consider Sam Collins'
19 testimony, a very important part, where he gets in
20 the car and he told you that he said, "I shot him."

21 Ladies and gentlemen, that was only about ten
22 seconds of silence. "I shot him," and you can feel
23 how awkward it is. There has to be something that
24 follows on that, "I shot him," and then nothing.
25 That just doesn't make sense, ladies and gentlemen.

CLOSING ARGUMENT BY THE DEFENSE

1 A person gets in the car and they say they shot
2 someone, and there's no conversation. Not for a
3 period of ten seconds, but judging by the time stamp
4 on the text message to Cody Brown it could have been
5 an hour or more. I believe that time stamp was 2:24
6 in the morning.

7 So a huge period of time Mr. Collins is in the
8 car with his wife. He claims he said, "I shot him,"
9 and there's absolutely no conversation about this.
10 Ladies and gentlemen, that is just not credible.

11 So why would Sam say something like that,
12 especially about his wife?

13 Well, I asked him a number of questions about
14 his reasons for testifying, and his relationship with
15 Colette. He told you he'd suspected her of adultery.
16 He's told you that he's gone a year and a half with
17 no contact with his wife. He may be bitter about
18 that.

19 But most importantly, he told you that he has a
20 50-year sentence for murder. And by virtue of
21 testifying and saying, "I told her I shot him," he
22 gets a whole new sentencing hearing. It may take
23 years or decades off of his sentence for murder by
24 appearing and saying that.

25 Ladies and gentlemen, that is just not credible.

CLOSING ARGUMENT BY THE DEFENSE

1 In the end, I believe that you are left with three
2 possibilities for what actually happened in that
3 vehicle.

4 One is that Mr. Collins said, "I shot him."
5 Ms. Collins was awake enough, alert enough to
6 understand what he was saying to know that she had
7 knowledge that he killed someone when they drove
8 away. But, again, that doesn't make sense because
9 there's no conversation the entire ride home about
10 that.

11 Option two, he said, "I shot him." Ms. Collins
12 is still not conscious. He said he thought she might
13 be asleep. She was out of it. He had to drive away
14 before she was able to take over driving, in which
15 case she was not acting with knowledge that he had
16 shot anyone, but she was just on auto pilot trying to
17 drive home when she comes to her senses.

18 Option three is Sam Collins is just lying about
19 that. He's making it up because he gets an
20 opportunity to roll back the clock and erase his
21 sentence and get a new sentencing hearing.

22 Ladies and gentlemen, you are the judges of the
23 credibility of witnesses. The Judge is going to tell
24 you that you can consider all their testimony, none
25 of their testimony, some of their testimony. You can

CLOSING ARGUMENT BY THE DEFENSE

1 consider all the reasons they might have to testify
2 in a certain way or not.

3 But at the end of this case if you are uncertain
4 which version may be the correct one, the State has
5 not met its burden of proof beyond a reasonable
6 doubt.

7 Proof beyond a reasonable doubt is proof that
8 leaves you firmly convinced of a Defendant's guilt.
9 If you have any lingering questions of whether she
10 was acting knowingly that her husband had killed
11 Sam Cherol (sic), whether or not she was acting with
12 the intent to help him avoid arrest or prosecution,
13 then they have not met the burden of proof beyond a
14 reasonable doubt.

15 It has to be proof that leaves you firmly
16 convinced of her guilt. And although you may have
17 strong feelings about this case, and about the murder
18 of John Cherol, you have to resolve any doubt like
19 that in Ms. Collins' favor, and you must return a
20 verdict of not guilty.

21 I believe that when you retire for your
22 deliberations shortly and consider the evidence, the
23 pictures of the home, they clearly show on that
24 night, with the rain and where the house was
25 positioned in relation to the streets, Ms. Collins

CLOSING ARGUMENT BY THE DEFENSE

1 couldn't have seen what happened on that recessed
2 porch. There's been no testimony that anyone around
3 other than the folks on that porch and in the home
4 could hear what happened.

5 And the only two people who were in Ms. Collins'
6 car both testified that she was drunk and that she
7 was -- and that there was no conversation between
8 these two about what happened.

9 When you consider all that evidence I believe
10 that you will return a verdict of not guilty, because
11 it's your duty, and it is what Ms. Collins deserves.

12 She chose poorly in her husband, she chose
13 poorly in placing her trust in him, she chose poorly
14 in not asking him enough questions about what he
15 intended to do with John Cherol, not asking him about
16 what happened with John Cherol. But that is not the
17 crime of accessory after the fact.

18 When you consider the offense, the elements of
19 the offense and the evidence that has been presented,
20 you must return a verdict of not guilty.

21 Thank you.

22 CLOSING ARGUMENT BY THE STATE

23 MS. SMITH: May it please the Court.

24 Ladies and gentlemen, Mr. Stephens and I agree
25 on one thing, Mrs. Collins has made poor choices.

CLOSING ARGUMENT BY THE STATE

1 There's no question.

2 John Cherol was brutally murdered on
3 October 28th, 2015, and this woman, Colette Collins,
4 has gone on with her life, business as usual.

5 Defense counsel told you in his opening
6 statement, he said Colette didn't question him. She
7 had no reason to know John shot -- that Sam shot John
8 Cherol. And then he said, again in his closing, she
9 didn't ask the right questions. She didn't ask
10 enough questions.

11 Ladies and gentlemen, of course she didn't ask
12 questions because she knew the answer. Her husband
13 told her that he shot John Cherol, and he told her
14 twice. She knew Sam shot John. She could judge his
15 demeanor that evening. She knew how he was acting
16 when she got home two hours late from work, after
17 being at her friend's house, their friend, John's
18 house -- a man that Sam thought tried to have him
19 killed. And also a man that he thought his wife may
20 be having an affair with. And she comes home and
21 says that she's two hours late and not answering her
22 telephone because she's been at that man's house.

23 He told her to take him to John Cherol's house,
24 and he had a shotgun in his hand, which I'm not going
25 to get back out and handle awkwardly, but you have

CLOSING ARGUMENT BY THE STATE

1 seen the gun in this case. He had that in his hand
2 when he got in her car.

3 And she took him over to John's house, and she
4 dropped him off. You heard her admit to that, on
5 Masters Way. He got out of the car with that gun and
6 walked through the woods in the back of John's house.

7 She circled the neighborhood, she picked him
8 back up. He got back in the car with that gun.

9 Now, at first, she didn't remember, but she did
10 ultimately admit that she did remember he was
11 carrying that big shotgun around. She knew from his
12 actions when he got in the car that he was freaked
13 out, that he had just killed a man. He was upset
14 because he had killed their friend, John Cherol.

15 She took him over to Cody's house to drop the
16 murder weapon off. He had the gun in his hand. She
17 immediately left John's neighborhood, took him to
18 Cody's, he got out of the car, got back in, and no
19 gun, and they drove home.

20 And she didn't have to ask any questions because
21 she knew that her husband just killed their friend,
22 John.

23 Colette's mother testified today that Colette
24 was on the couch at six or 7 o'clock the morning of
25 that murder in a daze. Didn't want to talk.

CLOSING ARGUMENT BY THE STATE

1 Well, ladies and gentlemen, why was she in a
2 daze? Because she knew that her husband had just
3 killed John Cherol. Colette didn't call the police,
4 she didn't tell anyone. And she didn't call her
5 friend John to see about his well being. She didn't
6 call him to check on him after Sam had gone to scare
7 him.

8 And the reason she didn't, because she knew he
9 was dead. She didn't tell anyone, not because she
10 didn't know, but because she knew her husband killed
11 her friend. And she didn't want to get caught. And
12 she didn't want him to get caught.

13 You heard Ricky Allen, her stepfather, testify
14 that she didn't tell him anything about it. He
15 didn't want to discuss it with her. He didn't want
16 to discuss it with her because he already knew.

17 Ladies and gentlemen, she did not want anyone to
18 know that Sam killed John because she helped him
19 cover it up. And she has continued to cover it up.
20 She continues to lie, and has since October 27th,
21 2015.

22 This is quite possibly, it would be for me, and
23 I would think most people, the most traumatic event
24 that she has ever witnessed. Yet today she tells
25 y'all that she can't remember her conversation with

CLOSING ARGUMENT BY THE STATE

1 the police approximately 36 hours later.

2 Who doesn't remember that event? You don't just
3 block that out.

4 She continues to lie to this day about her --
5 testifying about the gun. She says first she doesn't
6 remember him having that big shotgun in the car. And
7 not even two minutes later admits, yeah, he had a
8 gun.

9 She lied about her interview in November 2015,
10 her interview in December of 2015. She lied ten
11 minutes from the time Mr. Stephens was questioning
12 her until I questioned her about her story. It
13 changed throughout her entire time on that witness
14 stand.

15 Mr. Stephens said that there were two versions
16 of this story. Well, Ms. Collins gave about five or
17 six since November, and I would say she gave probably
18 three or four a day.

19 Defense counsel stated in his opening that
20 Ms. Collins, that Sam Collins told Ms. Collins he was
21 not going to hurt John. He was going to confront
22 him, he was going to scare him, he was going to
23 intimidate him. He was going to confront him about
24 potential of them having an affair, what she was over
25 there for that night.

CLOSING ARGUMENT BY THE STATE

1 Ladies and gentlemen, this is the part that I
2 believe that the Judge will tell you, or has told you
3 that you have to use your good common sense. And
4 think about those statements that he made.

5 Common sense would dictate if someone gets in
6 your car with a loaded gun, and they are mad and they
7 are angry, and you are taking them to confront
8 someone who they think has tried to kill them and who
9 has been messing around with their wife, that that
10 would not be a good idea, that good things were not
11 going to come from that.

12 Common sense will tell you that Colette Collins
13 knew exactly what Samuel Collins was going to do that
14 night when she took him over there with a gun and
15 dropped him off.

16 Ladies and gentlemen, Mr. Stephens commented
17 that there are far too many details actually
18 presented in the murder of John Cherol. Well, you
19 need to have a complete picture of the crime because
20 one of the elements is that a murder was committed.
21 And you heard Samuel Collins testify, he told you
22 about all the details of this murder.

23 But I don't want you to just believe his
24 testimony, which is why I put up the officers, the
25 forensic scientist, and presented the evidence to you

CLOSING ARGUMENT BY THE STATE

1 which corroborates his story.

2 Specifically, you saw a video with the infamous
3 Toyota Camry that we ultimately traced back to
4 Ms. Collins. You see Ms. Collins with Mr. Cherol
5 before the murder. You get a picture of her. She's
6 right over there hanging out in that same car.

7 Law enforcement spent weeks trying to trace down
8 what exactly happened that night, and you need to
9 know about it. We have DNA, we have ballistics, we
10 have the gun, the shotgun shells that were recovered
11 from the scene that matched the gun. So we knew we
12 had the murder weapon, we had the DNA of the shooter
13 on it. Those are all important aspects of the murder
14 of John Cherol.

15 We had text messages from Sam to Cody that show
16 that they took the gun over there after the murder.
17 This further corroborates the fact that Ms. Collins
18 drove him over to Cody's house that night to drop off
19 the gun. It's in writing that the gun was dropped
20 off that night. And she admitted that she drove him
21 to Cody's house.

22 Samuel and Colette Collins were not arrested for
23 this murder until about a month after it happened, a
24 little over a month after it happened. And the
25 reason being, because law enforcement completed a

CLOSING ARGUMENT BY THE STATE

1 very thorough investigation.

2 They interviewed a lot of witnesses, they did a
3 lot of work before they arrested these two
4 individuals in connection with this murder.

5 I told you about the forensic testimony and the
6 scientific evidence in this case. And unfortunately
7 we don't have scientific evidence that explains
8 Ms. Collins' actions that night, because all you need
9 is your common sense to find her guilty.

10 Colette Collins is guilty of accessory after the
11 fact to a murder, because a murder was committed.
12 And like I said, I showed you the evidence, you know
13 the hows and whys.

14 Colette Collins had knowledge that her husband
15 committed this murder. He told her. And you heard
16 the testimony of the Defendant's own witnesses
17 comment about her behavior just a few hours later
18 that support the facts that she had knowledge of what
19 had happened that night.

20 And Colette harbored and assisted Sam after the
21 murder by helping him cover it up, by not calling the
22 police. And after that, she went on with her normal
23 life.

24 The testimony is, she got up the next morning,
25 she went to work, and she worked in Beaufort, a

CLOSING ARGUMENT BY THE STATE

1 little distance from her home in Bluffton. And she
2 was there for, we assume, the whole work day, let's
3 say eight hours.

4 And the entire time, she's about 45 minutes away
5 from her husband. She didn't once call the police
6 and say, you know, now that I'm in a safe place away
7 from him, I'm about five minutes from the sheriff's
8 office, let me call the police and tell them what he
9 did last night. She didn't do that. She goes on
10 home, watches TV, goes to bed.

11 Parents live with her, and her son. She never
12 tells them. She acted like she did nothing wrong,
13 and she acted like Samuel did nothing wrong. I think
14 you could tell that from her demeanor on the jail
15 visit a few days later. Sam had just committed the
16 most heinous act that you can commit. He killed
17 someone in cold blood, and it is disturbing.

18 How Joe Rueby felt that night watching that,
19 none of us will ever know. And that will never be
20 undone for him.

21 She continued to help him and acted like nothing
22 is wrong, and she continues to do so today. She acts
23 like she did nothing wrong when she testified today.
24 But she did something wrong, and it's time for her
25 lies to stop.

CLOSING ARGUMENT BY THE STATE

1 Ms. Collins probably summarized this better than
2 I ever could in that jail call. One of the last
3 things she said to Mr. Collins was, "I've got you,
4 babe."

5 Well, that's exactly what she did -- has done
6 since that night. Since she took him over to
7 John Cherol's house, and he got out and shot him, and
8 she picked him up and took him to get rid of the
9 murder weapon and never told the police about it.

10 She had him, all right. She had his back. I
11 want you to think about that.

12 Thank you.

13 MR. STEPHENS: May I approach briefly -- or may
14 we approach briefly?

15 (Off-the-record discussion held.)

16 THE COURT: Mr. Stephens, I'm going to go ahead
17 and charge my general propositions of law. While I'm
18 doing that, you can look, and if at the conclusion we
19 need to add it, we'll do so when I ask if there are
20 any additions to the charge.

21 MR. STEPHENS: Thank you, Your Honor.

22 THE COURT: We've had a charge conference.

23 All right. Ladies and gentlemen, let me -- this
24 portion of the trial is called the judge charging the
25 jury. It simply means I'm going to instruct you on

CLOSING ARGUMENT BY THE STATE

1 the law that we're dealing with here in this
2 particular case. And I've been trying cases as a
3 judge 14 years, and I'm not going to tell you how
4 long as a lawyer -- 30 years.

5 So when we try criminal cases, not withstanding
6 whether it's a murder trial or a simple bad check
7 charge, we charge general propositions of law, and
8 then I'll charge you specifically with what we are
9 dealing with here today on the indictment that we
10 have in this case.

11 So the first part of the charge and instructions
12 is general propositions of law. Let me just go ahead
13 and go through those.

14 Let me remind you once again, and I told you
15 earlier, the fact that the Defendant was arrested,
16 charged, and indicted in this case is not evidence in
17 the case and cannot be considered by you as evidence
18 of guilt in the case, nor does it create any
19 inference or presumption of guilt.

20 The indictment is simply the legal document by
21 way this case comes into the courtroom and informs
22 the Defendant of the charges that are against her.

23 Now, to this indictment, Ms. Collins has pled
24 not guilty. And that plea puts the burden on the
25 State of South Carolina to prove the Defendant guilty

CLOSING ARGUMENT BY THE STATE

1 beyond a reasonable doubt.

2 A person charged with committing a criminal
3 offense is never required to prove herself innocent.
4 I instruct and charge you that it is an important
5 constitutional rule of law that a Defendant in a
6 criminal trial, no matter how serious the crime may
7 be, will always be presumed to be innocent of the
8 crime for which the indictment was issued, unless
9 guilt has been proven by the State, by evidence,
10 satisfying you of that guilt beyond a reasonable
11 doubt.

12 The presumption of innocence does not end when
13 you start your deliberations, but it stays with the
14 Defendant throughout the trial until you reach a
15 verdict of guilt based on evidence satisfying you of
16 that guilt beyond a reasonable doubt.

17 The presumption of innocence is not a mere legal
18 phrase or theory, it is a substantial constitutional
19 right to which every defendant is entitled unless
20 you, the jury, are satisfied from the evidence of the
21 Defendant's guilt beyond a reasonable doubt.

22 Our appellate courts, the Supreme Court has
23 defined reasonable doubt simply by saying it is the
24 kind of doubt that would cause a reasonable person to
25 hesitate to act. It is the kind of doubt that would

CLOSING ARGUMENT BY THE STATE

1 cause a reasonable person to hesitate to act.

2 It's also been said that proof beyond a
3 reasonable doubt is proof that leaves you firmly
4 convinced of the Defendant's guilt. There are very
5 few things in this world that we know with absolute
6 certainty, and in criminal cases, the law does not
7 require proof that overcomes every possible doubt.

8 If, based on your consideration of the evidence,
9 you are firmly convinced that the Defendant is guilty
10 of the crime charged, you must find the Defendant
11 guilty.

12 If, on the other hand, you think there's a real
13 possibility that the Defendant is not guilty, you
14 must give the Defendant the benefit of the doubt and
15 find her not guilty.

16 I remind you again, when I selected the jury
17 yesterday, or day before yesterday, I told you that
18 there were two judges in the trial of the case. My
19 position makes me the judge of the law; you are the
20 judges of the facts.

21 As the judge of the law, I instruct you on what
22 the law is, and I make sure the lawyers ask questions
23 that comply with the rules of evidence. That's what
24 my role is.

25 Your role is much more important. You are the

CLOSING ARGUMENT BY THE STATE

1 judges of the facts. You determine what the true
2 facts are in the case.

3 Now, having said that, if at any time during the
4 trial of the case, you've looked over here and I've
5 been smiling or frowning or raising my eyebrows or
6 acting happy or disgusted or whatever, and you think
7 I have an opinion about the facts, I do not. I
8 cannot. The law does not allow me to.

9 I try cases all over the state, and I just
10 cannot have any opinion about any fact of the case.
11 That is your job and your job only.

12 So please do not think, if I have done anything,
13 that I have an opinion about facts. I cannot. That
14 is your province and your duty and your
15 responsibility.

16 Now, as being the judges of the facts, obviously
17 you must determine the credibility of the witnesses
18 who have testified in this case.

19 Credibility simply means believability. It
20 becomes your duty as jurors to analyze and evaluate
21 the evidence and determine which evidence convinces
22 you of its truth.

23 In doing this, you have the right to believe one
24 witness over several, several over one. You can
25 disbelieve everything a witness says. You can

CLOSING ARGUMENT BY THE STATE

1 believe a part and disbelieve the other part.

2 You may consider whether any witness has
3 exhibited to you any interest, bias, prejudice, or
4 other motive in the case. You can consider the
5 appearance and manner of the witness while
6 testifying.

7 Each of you have reached a stage in life, I
8 would assume, that you have been dealing with
9 husbands, wives, boyfriends, girlfriends, children,
10 employees, employers, and you know how to judge
11 people when they're telling the truth, how to
12 determine if they are telling the truth.

13 So please use that skill that you have developed
14 over the years, common sense, in determining what the
15 true facts are in this case and determining what the
16 true facts are, and applying those true facts to the
17 law as I give it to you.

18 So that is the way it works. You determine what
19 the true facts are. You apply it to the law as I
20 give it to you, and then you will be in a position to
21 determine whether or not the State has met its burden
22 of proving the Defendant guilty beyond a reasonable
23 doubt.

24 During the trial of the case -- in any case, not
25 just necessarily this one -- there are two types of

CLOSING ARGUMENT BY THE STATE

1 evidence that can be presented to the jury. One is
2 called direct evidence and the other one is called
3 circumstantial evidence. The law makes absolutely no
4 distinction between the weight or the value to be
5 given to either direct or circumstantial evidence.
6 Nor is there any greater degree of certainty required
7 of circumstantial evidence than direct evidence.

8 And it is easy to determine which one is
9 circumstantial and which one is direct. If you go
10 outside this afternoon and it's raining, you have to
11 put your umbrella up, if you don't you're going to
12 get soaking wet, that's pretty direct evidence it's
13 raining.

14 If you go outside this afternoon and it's cloudy
15 and there's mud puddles everywhere, but it's not
16 raining, that's circumstantial evidence that it has
17 just rained. So it's not a whole big distinction in
18 there, but those are the two types of evidence, and
19 to give them the same weight that they deserve.
20 Neither one has any more importance than the other.

21 Now, that is the general propositions of law
22 that we deal with. Let's go to the offense in this
23 case.

24 I was real proud of myself with my iPad, but
25 apparently I'm not so good.

CLOSING ARGUMENT BY THE STATE

1 All right. In this indictment the Defendant has
2 been indicted for the offense of accessory after the
3 fact to murder. And that is codified in our
4 Section 16-1-55 of our South Carolina code of laws.

5 In order to prove this crime the State must
6 prove beyond a reasonable doubt that the Defendant
7 knew that another person committed the crime, and
8 after the crime intentionally helped that person to
9 escape from arrest, conviction, or punishment.

10 The word "intentionally" means willfully,
11 intending the result which actually occurs, not
12 accidentally or involuntarily.

13 Intent may be shown by acts of conduct of the
14 Defendant and other circumstances from which you may
15 naturally and reasonably infer intent.

16 If you find that the Defendant was merely
17 present at the scene of the crime and did not
18 participate, but became involved after the commission
19 of the crime, you may find the Defendant guilty of
20 being an accessory after the fact.

21 Although the actions of the Defendant may have
22 helped the principal to escape detection or arrest,
23 this is not enough to be an accessory after the fact.

24 The State must also prove that the Defendant
25 acted with the intention or with the purpose of

CLOSING ARGUMENT BY THE STATE

1 helping the principal -- that's the person who
2 committed the murder in this case -- to escape
3 detection or arrest.

4 So if a person charged with being an accessory
5 after the fact did not intend that his act should
6 help the principal escape detection or arrest, then
7 he is not an accessory after the fact, even though
8 his acts, in fact, may have resulted in helping the
9 principal escape arrest.

10 It must be some affirmative act tending toward
11 concealment of the commission of the crime. Silence
12 alone is not sufficient to make the person accessory
13 after the fact to a felony. That's the law on
14 accessory after the fact.

15 In order to prove the crime, the State must
16 prove beyond a reasonable doubt that the Defendant
17 knew that the other person committed the murder, in
18 this case, and intentionally helped him escape from
19 arrest, conviction, or punishment.

20 Madam Forelady, when you go back to your jury
21 room you will have a verdict form. There's two
22 choices. You find the Defendant not guilty, or you
23 find Defendant guilty. Don't place any emphasis on
24 the order in which I have them. Obviously one has to
25 come before the other.

CLOSING ARGUMENT BY THE STATE

1 We are not here to reward anyone, punish anyone,
2 we are here to make a careful and deliberate
3 consideration of all the elements, all the testimony
4 that you have heard, determine what the true facts
5 are, and then apply those facts to the law as I give
6 it to you.

7 Your verdict must be unanimous, all 12 of you
8 must agree. Once you have received -- once you have
9 reached a verdict, then you can fill it out, sign it,
10 and knock on the door, and the bailiff will bring you
11 back into the courtroom.

12 I will ask you in just a few minutes to retire
13 to your jury room. Please do not yet start
14 deliberating. I have to go through all the evidence
15 to make sure we have it all accounted for, and then
16 the bailiff will bring it back to you with the
17 verdict form.

18 If, during your deliberation, you have any
19 questions, the protocol on that is to write it out on
20 your pad, or on a piece of paper, and give it to the
21 bailiff, he will give it to me. Sometimes I can
22 answer it, sometimes I can't, but I'll send you back
23 a response.

24 So I'm going to let you be go back to your jury
25 rooms, you can take your notebooks with you. You can

CLOSING ARGUMENT BY THE STATE

1 use your notes in your deliberations, like you use
2 anything else. Just look at your notes if you need
3 to.

4 So you go back and I'll send everything back to
5 you in just a minute. Don't start until we send
6 everything back.

7 And if I have to add something, I will bring you
8 back real quick, but if it is, it'll be very short.

9 (Whereupon, the jury exited the courtroom at
10 2:08 p.m.)

11 THE BAILIFF: Jury is clear, Your Honor.

12 THE COURT: Thank you. Are there any requested
13 deletions, objections, additions, amendments to the
14 charge given by the State?

15 MS. SMITH: No, sir.

16 THE COURT: By the Defendant?

17 MR. STEPHENS: Yes, Your Honor.

18 Your Honor, I had an objection to a portion of
19 Ms. Smith's closing. I think -- and this is pursuant
20 to State V Smith.

21 THE COURT: An objection to her closing?

22 MR. STEPHENS: A portion of her closing,
23 Your Honor. I believe that a jury charge is
24 warranted because she mentioned that Ms. Collins'
25 concealment of Mr. Collins' offense from police may

CLOSING ARGUMENT BY THE STATE

1 have been -- it sounds like she was arguing that was
2 part of the offense, Your Honor. And the instruction
3 on accessory after the fact does talk about
4 concealment, Your Honor.

5 However, the case of State V Smith, 357 South
6 Carolina 182, a Supreme Court case from 2005, they're
7 holding that --

8 THE COURT: Hand me your case.

9 MR. STEPHENS: Yes, Your Honor. Your clerk has
10 got a copy.

11 The holding, I believe, Your Honor is that --

12 THE COURT: Direct me to where you want me to
13 look.

14 MR. STEPHENS: Two portions, Your Honor. First
15 on Page 2, on the right-hand side, there's a long
16 paragraph that starts with "The State," and it says
17 that "The State contends that because Petitioner did
18 not invoke her Fifth Amendment right to remain
19 silent, the --

20 THE COURT: Hold on a second.

21 MR. STEPHENS: Sorry, Your Honor.

22 THE COURT: This is State versus Smith?

23 MR. STEPHENS: Yes, Your Honor.

24 THE COURT: It's on Page 2?

25 MR. STEPHENS: Yes, Your Honor. They are front

CLOSING ARGUMENT BY THE STATE

1 and back. It should be front and back, so ...

2 THE COURT: Analysis, issue, fact.

3 MR. STEPHENS: It says, "analysis portion" on
4 the right-hand side.

5 THE COURT: All right. I got, "The State
6 contends," is that where we are?

7 MR. STEPHENS: Yes, Your Honor.

8 THE COURT: Go ahead. I'm not sure that I
9 understand what you are saying.

10 MR. STEPHENS: Your Honor, the holding in that
11 case, is that a Defendant's concealment of
12 incriminating or inculcating information is protected
13 by her privilege against self-incrimination, when if
14 she reasonably believes that she may be prosecuted as
15 an accessory or imprisoned for an offense. That is
16 even if she waives her Fifth Amendment right to speak
17 with officers.

18 That misleading officers is still within her
19 Fifth Amendment rights against self-incrimination if
20 she reasonably believes that she may be prosecuted
21 with the charge.

22 And I did question Ms. Collins on the witness
23 stand about not telling officers, and she indicated
24 that she was concerned about getting in trouble and
25 concerned about Sam Collins.

CLOSING ARGUMENT BY THE STATE

1 THE COURT: Ms. Smith.

2 MS. SMITH: Judge, I don't think this is
3 applicable. Even first and foremost, you tell the
4 jury that what I say is not evidence. It is merely
5 my opinion.

6 But secondly, I guess my understanding of this
7 is, I wasn't -- the closing wasn't -- when talked
8 about her lying, you know, in her interview and her
9 different inconsistent statements. But as far as her
10 calling the police, I didn't -- I said after the
11 crime. And when I said the third element I said that
12 she actually helped her husband cover it up.

13 So I don't believe this is applicable in this
14 case. I don't see where anything I said violated
15 this or even invoked this.

16 MR. STEPHENS: Your Honor, may I speak?

17 THE COURT: Certainly.

18 MR. STEPHENS: My concern is that the juror
19 members will be left with the impression that her
20 failing to tell police honestly what happened in her
21 first -- in her first interview may be found by the
22 jury members to be part of that accessory charge.

23 And I believe the holding in State V Smith
24 implies that there is not -- that she had a Fifth
25 Amendment right not to -- not to detail all the acts

CLOSING ARGUMENT BY THE STATE

1 that happened by herself and Mr. Collins, since she
2 might also have been incriminated by that.

3 MS. SMITH: And actually, in her first
4 interview, she hadn't been arrested yet.

5 THE COURT: That's correct.

6 MS. SMITH: So I don't think that's applicable.

7 THE COURT: All right. I'm going to stand by my
8 charge. You are protected on the record.

9 MR. STEPHENS: Thank you, Your Honor.

10 THE COURT: Come up and go through the evidence,
11 please, quickly. Review the verdict form so I can
12 give it to the jury.

13 (Attorneys comply.)

14 THE COURT: Are y'all ready?

15 Let the record reflect both defense counsel and
16 the State have reviewed all the exhibits and find
17 them to be in order and accounted for, and reviewed
18 the verdict form and are in agreement. And the case
19 is going to the jury at 2:20 -- 2:18.

20 Correct, ma'am?

21 MS. SMITH: Yes, sir.

22 THE COURT: Correct, sir?

23 MR. STEPHENS: Yes, Your Honor.

24 THE COURT: All right. We will stand at ease.

25 I think we are starting at 2:30 taking pleas. So if

CLOSING ARGUMENT BY THE STATE

1 you will let them know.

2 (Jury begins deliberations at 2:20 p.m.)

3 THE COURT: The jury wants me to re-read the
4 statute for felony accessory after the fact.

5 Please bring them in, please.

6 THE BAILIFF: Yes, sir.

7 (Whereupon, the jury entered the courtroom.)

8 THE BAILIFF: The jury is in the courtroom, Your
9 Honor.

10 THE COURT: I have been asked to re-read,
11 re-charge accessory after the fact to murder.

12 Is that correct?

13 THE FOREPERSON: Yes, please.

14 THE COURT: In order to prove accessory after
15 the fact to murder, the State must prove beyond a
16 reasonable doubt that the Defendant knew that the --
17 that another person committed a felony; i.e., murder,
18 and after the crime, intentionally helped the person
19 to escape from arrest or conviction and/or
20 punishment.

21 The word "intentionally" means what it means --
22 willfully intending the result which actually occurs.
23 Not accidentally or involuntarily.

24 Intent may be shown by acts and conduct of the
25 Defendant and other circumstances from which you may

JURY DELIBERATIONS

1 naturally and reasonably infer intent. Absence is
2 not an element of the crime of accessory after the
3 fact.

4 If you find that the Defendant was merely
5 present at the scene of the crime and did not
6 participate in the crime, but became involved after
7 the commission of the crime, you may find the
8 Defendant guilty of being an accessory after the
9 fact.

10 Although the actions of the Defendant may have
11 helped the person to escape detection or arrest, this
12 is not enough to be an accessory after the fact. The
13 State must prove beyond a reasonable doubt that the
14 Defendant acted with the intention or with the
15 purpose of helping the person who committed the crime
16 to escape detection or arrest.

17 If the person charged with being an accessory
18 after the fact did not intend that her act should
19 help the person escape detection or arrest, then she
20 is not an accessory after the fact even though her
21 act, in fact, may have resulted in helping him escape
22 detection or arrest.

23 There must be some affirmative act tending
24 toward concealment of the commission of the crime.
25 Silence alone is not enough sufficient to make a

JURY DELIBERATIONS

1 person an accessory after the fact to a felony.

2 That is a mouthful. Do you want me to read it
3 again?

4 If I can help you in any way, I'm right here.
5 We are getting ready to do some other work. We are
6 not going to go anywhere until y'all get through.

7 Anything else I can help you with, just send me
8 a note. Thank you.

9 (Whereupon the jury exited the courtroom at 2:57
10 p.m.)

11 THE COURT: Any exceptions or additions to the
12 charge from the State or Defendant in connection with,
13 the re-charge?

14 MS. SMITH: Nothing from the State.

15 MR. STEPHENS: Nothing from the Defense on that,
16 Your Honor. Thank you.

17 THE COURT: Okay. We will stand at ease.

18 (Deliberations continue by the jury.)

19 THE COURT: State ready to receive the verdict?

20 MS. SMITH: Yes, sir.

21 THE COURT: Defendant?

22 MR. STEPHENS: Yes, sir.

23 THE COURT: If there's anyone in the courtroom
24 who is not law enforcement or court personnel, raise
25 your hand.

JURY VERDICT

1 All right. I'm not sure what y'all's
2 relationship to anybody is, but you've been wonderful
3 in the audience all week, and I don't know what the
4 verdict is. But, please, I do not allow any
5 outbursts of whatever it may be. I say this to
6 everybody, I'm not singling you out.

7 But if you can't hold your emotions, I'm going
8 to ask that you leave now. If you have an outburst,
9 then I have to deal with it. Please don't make me do
10 that.

11 THE BAILIFF: The jury is entering the
12 courtroom, Your Honor.

13 (Whereupon, the jury entered the courtroom at
14 4:27 p.m.)

15 THE BAILIFF: Ready for the jury, Your Honor?

16 THE COURT: I am.

17 THE BAILIFF: The jury's in the courtroom, Your
18 Honor.

19 THE COURT: Have y'all reached a verdict, ma'am?

20 THE FORELADY: Yeah, we have, Your Honor.

21 THE COURT: Go ahead and hand it to the bailiff.

22 THE CLERK: The State of South Carolina versus
23 Colette Collins on Indictment Number 2017GS070194.
24 We find the Defendant guilty of accessory after the
25 fact of murder, signed by the foreperson.

JURY VERDICT

1 THE COURT: Is there anything further for the
2 jury before I dismiss them, by the State?

3 MS. SMITH: No, sir.

4 THE COURT: By the Defendant?

5 MR. STEPHENS: No, Your Honor. Thank you.

6 THE COURT: Madam Forelady, ladies and
7 gentlemen, you have done a wonderful job. I
8 appreciate your close attention. That's all we can
9 ask, and y'all have done it. It's not fun to sit on
10 a jury, but it is a significant civic duty, and I do
11 appreciate it. And this has been a very difficult
12 case and a very difficult situation. And I know I'm
13 not supposed to have any opinion about the facts, but
14 I do have sometimes opinions about the verdict, and I
15 do agree with your verdict. So I thank you.

16 What is left now, we will impose sentence in
17 just a few minutes. You are welcome to stay for
18 that. Obviously, you don't have to. You are welcome
19 to leave. You will be excused now and exempted for a
20 few years, and the County will be sending you a
21 check. If anyone needs a work excuse, it is in the
22 jury room.

23 THE BAILIFF: We have them, sir.

24 THE COURT: We have them out there for anyone.
25 So you are welcome to leave, and we are going to

RELEASE OF THE JURY BY THE COURT

1 impose sentence here in just about ten minutes, five
2 minutes. So you're welcome to stay. I'll give you
3 an opportunity to leave or stay. Your choice.

4 If you want to leave, go ahead. And as I
5 stated, you're welcome to stay. It won't take -- the
6 proceedings is very short.

7 Thank y'all. Thank you. Thank you, sir.
8 Ma'am, sir, thank y'all.

9 (Five jurors remained in the courtroom.)

10 MR. STEPHENS: And, Your Honor, just for the
11 record, I just wanted to move for a new trial, so I
12 can preserve that issue on the record.

13 THE COURT: You know, I can give you a few days
14 if you want to file something written, or if you want
15 -- however you want to do it.

16 MR. STEPHENS: I'll discuss it with my client.
17 I'll reserve entry of that.

18 THE COURT: Thank you.

19 MS. SMITH: Judge, it'll take us just a second
20 to print the sentencing sheet.

21 THE COURT: All right. Would you approach the
22 Bench, please?

23 (Off-the-record discussion held.)

24 THE COURT: Ms. Smith, as I understand, the
25 range of sentence is zero to 15; is that correct?

MOTION BY THE DEFENSE

1 MS. SMITH: Yes, sir, that is correct.

2 THE COURT: Non violent?

3 MS. SMITH: Yes, sir.

4 THE COURT: And first of all, does she have any
5 prior record?

6 MS. SMITH: She does not.

7 THE COURT: Does she have any other current
8 pending charges?

9 MS. SMITH: She has another drug charge pending.
10 That is it.

11 THE COURT: Well, I'm going to sentence her this
12 afternoon but --

13 MS. SMITH: I'll do the paperwork to --

14 THE COURT: If you talk to her about getting rid
15 of all the rest of them tomorrow, maybe running it
16 all together, it's a possibility.

17 MR. STEPHENS: We will have that discussion, Ms.
18 Smith and I.

19 THE COURT: And I will be back tomorrow.

20 MR. STEPHENS: Thank you, Your Honor.

21 THE COURT: So no prior record, and there's a
22 couple other charges pending that we --

23 MR. STEPHENS: Just one other charge pending,
24 Your Honor.

25 MS. SMITH: One charge.

SENTENCING BY THE COURT

1 THE COURT: And I'm amenable to trying to handle
2 it tomorrow, if y'all would like it.

3 Anything the State would like to present other
4 than what has already been done so in the trial?

5 MS. SMITH: Judge, the only thing I would ask,
6 you heard the facts of this case. It's a horrible
7 case, we would ask for the maximum. It's 15, non
8 violent, and I think that is more than adequate
9 sentence for Ms. Collins and her involvement in this
10 matter.

11 Thank you.

12 Also, I would like to say, the victim's family
13 was here all week. They left just prior to the
14 verdict. The father has health problems. So they
15 are not here, but there's no one that wishes to speak
16 for them.

17 THE COURT: Anybody else from the victim's
18 family here?

19 (No response.)

20 MR. STEPHENS: Your Honor, may it please the
21 Court. I know that the Court has heard a lot of
22 information about the case.

23 With respect to Ms. Collins' background, as you
24 are aware, she is a cancer survivor. She still gets
25 some ongoing treatment at MUSC. I'm sure that's

SENTENCING BY THE COURT

1 going to be taken care of through the Department of
2 Corrections with whatever sentence the Court imposes,
3 but it is something that she's conscious of.

4 She has a ten-year-old son, Chase. He's
5 currently in the care of her parents. I was able to
6 execute a special health care power -- in loco
7 parentis, special power of attorney, for them, but
8 they don't have legal custody. That's something I'm
9 sure they're going to work on.

10 I'm sure Ms. Collins is going to want to get
11 back to her son and try to rebuild her life as soon
12 as she can.

13 She was employed as a server at various
14 locations while she was out on bond, and I believe
15 she also worked at a housekeeping company. I believe
16 that once she is released she will be able to get new
17 gainful employment as a server, and possibly also
18 with doing housekeeping.

19 I'm trying to get her exact amount of pretrial
20 confinement right now, but it's about six months of
21 jail time, Your Honor, plus she was on -- originally
22 from house arrest and then modified house arrest that
23 let her go to work for a period of about a year and a
24 half, Your Honor. I know that's at the Court's
25 discretion whether she gets any credit for that or

SENTENCING BY THE COURT

1 not.

2 And, again, as soon as I can get the exact
3 number of days of pretrial credit, I will make that
4 available to the Court.

5 Her parents informed me that as soon as she's
6 released they are going to help get her kind of
7 reoriented and get her back together with her son.
8 And we would just ask the Court to consider the
9 factors in mitigation in this case that were raised
10 during the trial.

11 Ms. Collins' degree of intoxication when all
12 this happened, and some of the assurances from her
13 husband that it wasn't going to be this kind of
14 violence with the victim in the case.

15 She did in her last interview tell law
16 enforcement about her involvement, that she had
17 driven the co-Defendant to the place where this
18 happened. And again, Your Honor, I understand
19 that -- that the Court is going to be inclined to
20 give her a significant sentence, but we would just
21 hope that you take that into account when arriving at
22 the appropriate sentence for this offender, and what
23 she's been convicted of.

24 And, again, if you give me a moment, Your Honor,
25 I'll find out the exact amount of pretrial

SENTENCING BY THE COURT

1 confinement she's had.

2 (Pause.)

3 Your Honor, I only know about the 95 days that
4 she's served since her bond was revoked, and she had
5 about three months before that. So I only know that
6 it's roughly six months of pre-trial.

7 THE COURT: So pre-trial is 95 days?

8 MR. STEPHENS: 95 days since her bond was
9 revoked last October, but she had been in jail
10 originally for about three months before we had a
11 bond reassessment, and she was released February of
12 2016.

13 So it's a total of about six months, I just
14 don't have the exact dates.

15 THE COURT: Well, I will leave that. I will not
16 put it on the sentence sheet, I will give you the
17 opportunity to get with the Solicitor and do me an
18 amended sentence sheet so we will know the exact
19 amount of credit given. I'll be here tomorrow, if we
20 can agree on that, we can put it on there tomorrow.
21 If not, I'll give you a reasonable amount of time to
22 discuss it with the Solicitor's office. If there's
23 any disagreement, I'll be glad to hear it and try to
24 resolve the disagreement.

25 Fair enough?

SENTENCING BY THE COURT

1 MR. STEPHENS: Yes, Your Honor.

2 THE COURT: So I'll just leave that open.
3 Obviously she will be given all the credit she is
4 entitled to under the statute, and then if there's
5 some house arrest, we'll have to deal with that,
6 maybe have to even have to have a little quick
7 hearing on it. I'm not sure.

8 MS. SMITH: Judge, I'll go ahead and tell you,
9 we are not going to agree to any house arrest time.
10 So -- maybe that has to be heard. But, yes, of
11 course, whatever she's served in the detention
12 center.

13 THE COURT: Okay. She will definitely get what
14 she's served, we maybe have to have a hearing on the
15 house arrest. But you can just do a motion, and I'll
16 give ten days to file that.

17 MR. STEPHENS: Thank you, Your Honor.

18 THE COURT: Ms. Collins, anything you want to
19 tell me?

20 THE DEFENDANT: I just wanted to apologize to
21 the victim's family. I did not want any of this to
22 happen.

23 THE COURT: I'm sure you didn't want it to
24 happen.

25 This is a very difficult situation, a young lady

SENTENCING BY THE COURT

1 36 years of age, like you are, raised by your mom
2 back there. I don't know how the train got off the
3 track, but it certainly did. And it didn't just
4 derail, it was a horrible, horrible derailment, with
5 a man's brains being blown out, literally. Total
6 horrible, horrible murder.

7 And I'm sure you didn't intend it to happen, but
8 your actions and your behavior subsequent to the
9 killing, just listening to you on the phone call was
10 almost cavalier. And, in fact, going over with the
11 gun, secreting the gun afterwards, your husband
12 telling you about it. Even if that was the first
13 time you knew about it, and still not doing anything,
14 I'm surprised that you weren't charged with the hand
15 of one is the hand of all, for the actual murder
16 itself.

17 Not surprised, but it certainly could have been
18 a possibility.

19 You are young. This sentence, this is a
20 non-violent sentence under the Department of
21 Corrections rules and the statute. It's not an 85
22 percent sentence. You are eligible for release
23 quicker than if it were a violent sentence, and
24 you'll be getting some credit for some time served.
25 But it is a very, very, very horrible crime.

SENTENCING BY THE COURT

1 The sentence of the Court is that you are to be
2 committed to the State Department of Corrections for
3 a period of 15 years.

4 MR. STEPHENS: Thank you.

5 THE COURT: If y'all will step back into the
6 jury room, I need you to sign something for me, and I
7 can give y'all a little explanation what it's about.

8 We will stand at ease until tomorrow at 9:30
9 a.m.

10 (Whereupon, the court adjourned for the day.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

346

WITNESSES

Baker Odom, Bluffton Police Department

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

True Bill

Holly B. Bosworth
Foreperson of Grand Jury

Date: *Dec 14 2017*

VERDICT

Guilty

Harry Russell
Foreperson of Petit Jury

Date: *1/24/18*

INDICT

DOCKET NO. 2017GS0701941

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

December Term 2017

THE STATE

vs.

Colette Adrienne Collins

Indictment For

Accessory After the Fact to Felony
A, B, C or Murder

SC Code: 16-1-55

CDR Code: 2413

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2017GS0701941

At a Court of General Sessions, convened on December 14, 2017, the Grand Jurors of Beaufort County present upon their oath:

Accessory After the Fact to Felony A, B, C or Murder

That in Beaufort County, South Carolina, on or about October 28, 2015, the Defendant, Colette Adrienne Collins, did commit the offense of accessory after the fact to a Felony, Class A, B, C, or Murder, all in violation of Section 16-1-55, et al. of the Codes of Law of South Carolina.

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

Solicitor

True Bill

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Beaufort

STATE

Colette Collins VS

AKA:

Race:

W

Sex:

F

Age:

36

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

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

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or PLEADS

TO:

Accessory After Fact to Murder

In violation of §

16-1-155

of the S.C. Code of Laws, bearing CDR Code #

2413

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

The charge is:

☒ As Indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury,

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,

Recommendation by the State.

ATTEST:

Lily S. 70464

70464

J. M. 72418

72418

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections☐ County Detention Center,

for a determinate term of

15

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

§14-1-211 (A)(2)(DUI Surcharge)

\$100

§56-5-2995 (DUI Assessment)

\$12

§56-1-286 (DUI Breath Test)

\$25

Proviso 61.6 (Public Def/Probation)

\$500

§14-1-212 (Law Enforce. Funding)

\$25

§14-1-213 (Drug Court Surcharge)

\$150

§50-21-114 (BUI Breath Test Fee)

\$50

§56-5-2942(J) (Vehicle Assessment)

\$40/ea

3% to County (if paid in installments)

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter:

Pam Bui
Mona ManleyRandom Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

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

Presiding Judge

Judge Code:

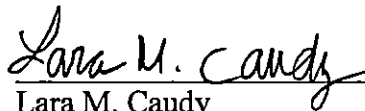
Sentence Date

J. M. 72418
2136
Jan 24, 2018

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 19th day of February, 2019.

RECEIVED
FEB 19 2019
SC Court of Appeals