

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Perry H. Gravely, Circuit Judge

Appellate Case No. 2017-002539

The State.....Respondent,

v.

John Michael Hughes.....Appellant.

RECORD ON APPEAL – VOLUME II

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1 you, then these people on the jury can hear you as well.

2 So I want to make sure you speak into that microphone so

3 everyone can hear you well, okay?

4 A Yes, sir.

5 Q How old are you?

6 A I am 40 years old.

7 Q Are you from the Greenville area?

8 A I am.

9 Q Finish high school?

10 A I did.

11 Q Where did you go to high school?

12 A Travelers Rest.

13 Q And when did you graduate?

14 A '95.

15 Q Actually, move a little bit to your right.

16 A '95.

17 Q Okay. There you go.

18 All right. And you have some college.

19 A I attended Furman University for a little over a
20 year.

21 Q Okay. You are married or single?

22 A I am single.

23 Q Children?

24 A I do not.

25 Q Okay. Who are you living with right now?

1 A Sandra Croft.

2 Q Okay. And these are your parents back here?

3 A My folks are in the courtroom, correct.

4 Q Okay. Now, before I get on to asking you questions
5 that are pertinent to this case, you were actually
6 arrested for murder in this case as well, weren't you?

7 A I was.

8 Q Okay. And that charge is still pending?

9 A It is.

10 Q Okay. Now, you know the defendant, John Hughes, and
11 his family.

12 A I do.

13 Q How do you know him?

14 A I lived there with them for a number of months.

15 Q And what led you to live with him?

16 A Relationship with Jane.

17 Q Tell us about the relationship. You were in a dating
18 relationship?

19 A Yes, sir.

20 Q Now, this incident happened January the 24th of 2015.
21 How long had you known Jane Hughes prior to that, would
22 you say?

23 A 18 months, give or take, I think.

24 Q Okay. And how long were you in a dating
25 relationship? The entire time?

- 1 A Yes, sir.
- 2 Q How long did you live there in the home?
- 3 A I don't recall exactly. Maybe six months.
- 4 Q Did you and Jane stay in the same room?
- 5 A We did.
- 6 Q What room of the house did you stay in?
- 7 A The back bedroom on the rear of the house.
- 8 Q Okay. Going down the hallway, it would be on the
- 9 right-hand side?
- 10 A Correct.
- 11 Q All right. So did you know John Hughes before you
- 12 moved in?
- 13 A No, sir. Not really.
- 14 Q Okay. Did Jacob live there?
- 15 A From time to time.
- 16 Q Was he living there all -- was he living there when
- 17 you moved in?
- 18 A Yes, sir.
- 19 Q And then he ended up moving out?
- 20 A Yes, sir.
- 21 Q But he would stay there occasionally?
- 22 A Yes, sir.
- 23 Q Who else lived in the house?
- 24 A Jane, her two children, John and his wife.
- 25 Q Where would the two children stay?

1 A Usually in the grandparents' bedroom opposite the
2 hall from the bedroom I stayed in.

3 Q If not there, where would they?

4 A Sometimes in Jane's room. Sometimes they would sleep
5 in the living room. It was not structured.

6 Q Okay. Now, when Jacob moved out, did the kids stay
7 in the room he had been in some?

8 A [REDACTED] inherited that room as hers, sort of.

9 Q But when Jacob was over, he would stay in that room?

10 A Yes, sir. I think so.

11 Q All right. Now, did you know John Ferrell?

12 A No, sir.

13 Q And other than seeing him a couple times during
14 visitation times, had you ever met him?

15 A No, sir.

16 Q All right. Now, were you aware that there were
17 Family Court proceedings about the custody of the
18 children?

19 A Vaguely, yes.

20 Q Was the family pleased with the way the court
21 proceedings were going?

22 A It didn't seem to me so.

23 Q What led you to believe that?

24 A They seemed desperate. Everybody was worried about
25 losing the kids.

1 MR. ADDUCCI: Objection, Your Honor, as to a third
2 party state of mind.

3 THE COURT: Sustained.

4 BY MR. MOYER:

5 Q Okay. Well, was anything ever said by this defendant
6 that led you to believe that he was not happy with the way
7 that proceedings were going?

8 A I can't remember anything specific.

9 Q Okay. Now, let me take you to the night this
10 happened, January the 24th of 2015. Were you home on that
11 night?

12 A I was on the property, yes.

13 Q Okay. Let's talk about what led up to it. At any
14 point prior to the incident, were you made aware that John
15 Ferrell might be coming over to the house?

16 A I was made aware it was a possibility.

17 Q And by whom?

18 A By John Hughes.

19 Q What time -- when during the day did that come up and
20 how did it come up?

21 A Evening, and I don't remember any more specifically
22 than that.

23 Q But it was during the day?

24 A It was in the evening.

25 Q It was in the evening?

1 A I recall best it was in the evening sometime. I
2 don't know specific.

3 Q Now, what did he tell you about John Ferrell coming
4 over that night?

5 A That they were hoping he would come over and talk
6 about the upcoming custody case and resolve it out of
7 court.

8 Q Do you remember if it was during the daytime that he
9 told you this or was it already evening? Or do you ---

10 MR. ADDUCCI: Objection, Your Honor. Asked and
11 answered twice before.

12 MR. MOYER: Your Honor, we're looking for
13 clarification.

14 THE COURT: I'm going to allow him to ask him for
15 clarification. Go ahead.

16 BY MR. MOYER:

17 Q Do you remember if it was during the daytime or in
18 the evening?

19 A I don't.

20 Q Were you asked or told to be in any specific
21 location?

22 A It was a consensus that I would be outside and not
23 present because my presence, unfortunately for Jane's
24 case, would have been very detrimental in a custody case.

25 Q Because you were a paramour?

1 A Unfortunately, yes.

2 Q Okay. So did you go outside?

3 A I did.

4 Q Did you stay outside?

5 A I did.

6 Q What were you doing outside?

7 A Smoking cigarettes and cigars and playing on my
8 phone.

9 Q So where outside would you have been?

10 A In the backyard.

11 Q How far from the house would you have been?

12 A Between 6 and 30 feet.

13 Q Okay. And so you say you had a motorcycle you were
14 working on?

15 A I did that earlier in the day, yes.

16 Q Now, were you aware that Jacob and John Ferrell used
17 to spend some time together?

18 A I was.

19 Q Like doing what? What sort of things would they do?

20 A From what I was told, Jacob would occasionally work
21 for John, and they were also drinking buddies.

22 Q Okay. So it wasn't too unusual that they would get
23 together.

24 A It hadn't not happened before. It was all very
25 unusual to me.

1 Q Okay. Oh, you had not seen them get together before,
2 Jacob and John?

3 A (Shakes head negatively) I didn't see John Ferrell
4 ever.

5 Q Okay. Were you told by the defendant about any calls
6 or text messages that were going back and forth between
7 him and Jacob?

8 A None specifically.

9 Q None that you recall. Okay.

10 Now, so you were outside then. And tell us if
11 anything happened while you were outside that alerted you
12 to anything going on inside.

13 A The -- the loud noise that alerted me to go inside is
14 what alerted me to go inside.

15 Q Okay. Tell us about the noise you heard.

16 A I had taken my headphones out, was getting frustrated
17 about being outside. I assumed that nobody had come to
18 the house. I hadn't been made aware that anybody was at
19 the house. And heard a loud crash, and that's when I
20 opened the door to investigate and walked into a
21 nightmare.

22 Q Okay. Well, what door did you go in?

23 A The sliding glass back door.

24 Q So the sliding glass back door. What room does that
25 lead into?

1 A Into the living room.

2 Q Okay. So when you went inside, tell us what it was
3 that you saw taking place.

4 A I saw John Ferrell cowering under Jane and she was
5 assaulting him with a hammer. I saw John Hughes in a
6 crouched position beside her facing him with a gun. And I
7 saw Jacob behind him standing there in the kitchen and the
8 table upside down.

9 Q Okay. And you said Jane Hughes had a hammer?

10 A Uh-huh.

11 Q Okay. What was she doing with the hammer?

12 A She had just hit him in the head with it.

13 Q Okay. Was John Ferrell saying anything?

14 A He was saying kind of incongruous things about
15 bleeding from his head and later said something odd like
16 he was prepared to die.

17 Q And who did he say that to?

18 A John, who was holding a gun on him.

19 Q We have a diagram of the inside of the house. I'm
20 going to ask you to show to the jury some of the things
21 that you have just described. So I'm going to ask you to
22 step down, please.

23 So if you take just a minute to familiarize yourself
24 with the layout.

25 A This (indicating) is the backyard?

1 Q Yes. So this would be the outline of the house, this
2 being the kitchen, this being the front door.

3 So you were outside back here (indicating
4 throughout)?

5 A Uh-huh.

6 Q Can you show us where the sliding glass door was that
7 you entered?

8 A I don't know where on the wall, but it's on this
9 wall, and probably this side of it, maybe mostly in line
10 with the doorway and into the kitchen (indicating
11 throughout).

12 Q Somewhere along this (indicating) back wall?

13 A Uh-huh.

14 Q So if that offset line were the window, would you
15 dispute that -- I'm sorry, the door, would you dispute
16 that being it?

17 A (No verbal answer.)

18 Q Okay so this (indicating) is the door you came in?

19 A Yes, sir.

20 Q Okay. Now, what room of the house was the scene that
21 you just described?

22 A I witnessed that scene through the archway. John was
23 here crouched down, Jane was right here, John Ferrell on
24 his knees here, Jacob and I believe his mother over here
25 on the side (indicating throughout).

1 Q Okay. And so John Ferrell was in this (indicating)
2 area right here?

3 A Yes.

4 Q And which way was he facing?

5 A He was actually facing this way-ish, and the table
6 was upside down in that (indicating) general area.

7 Q And where was Jane?

8 A She was standing here (indicating) having -- looming
9 above him.

10 Q And that's where she was hitting him with a hammer.
11 Okay. And you saw her hit him with a hammer?

12 A I saw the actions. I didn't understand them at the
13 time. So yes.

14 Q Okay. Have a seat.

15 So what did you -- when you saw this scene taking
16 place, what did you do?

17 A Freaked out, froze like a deer in the headlights. I
18 wished immediately that someone was there to make it stop.

19 Q Okay. Did you stay where you were or did you do
20 anything?

21 A I eased my way into the area, because it was
22 obviously something going wrong, and moved Jane back away
23 as much as I could and began convincing her to get on the
24 phone with 9-1-1, get the police there.

25 Q Okay. Did you do anything with the hammer?

1 A I snatched it from her hand and threw it on the
2 ground so I didn't get hit and so she could use her phone.

3 Q Okay. Why? Was she still swinging the hammer?

4 A She didn't seem to be lucid with me completely. She
5 wasn't paying me any attention and I didn't know what to
6 do. I was freaked out.

7 Q Okay. And you say you saw this defendant, John
8 Hughes, with a gun?

9 A I did.

10 Q And what was he doing with the gun?

11 A He was pointing it at Ferrell, and that's all.

12 Q And you said -- was -- Ferrell, you said, was down.
13 Was he on his hands and knees?

14 A He was on his knees, yes.

15 Q On his knees. Were his hands up or were his
16 hands ---

17 A To the best of my knowledge, he was -- his hands were
18 around his head and face.

19 Q Okay. Do you remember the defendant, John Hughes, if
20 he said anything or not?

21 A I -- I do not remember him saying a thing, no.

22 Q Or Jacob or Margaret? Because you pulled Jane away.
23 And what happened after you pulled Jane Hughes away?

24 A I had her get on the phone to 9-1-1.

25 Q Okay. Then what happened in the kitchen?

1 A John Ferrell tried to make an escape through the
2 kitchen window. Jacob and Renee attempted to stop him
3 from going out the kitchen window.

4 Q And how did they attempt to stop him?

5 A I didn't see much of that, but they were around that
6 corner, grabbing, I guess, trying to keep him inside the
7 house from going out through that window.

8 Q Okay. And so did he actually make it out through the
9 window?

10 A Yes, sir.

11 Q Okay.

12 A I assume so.

13 Q Okay. But you saw him at the window and in the
14 window?

15 A I saw him in the window, yes.

16 Q Okay. And then did you -- could you tell anything
17 about the state of his clothing?

18 A It seemed that it was very, very disheveled from the
19 physical fight.

20 Q Okay. So they were pulling at him then?

21 A Trying to keep him from going out that window. Yes,
22 sir.

23 Q Jane and Jacob?

24 A No. Renee and Jacob.

25 Q I'm sorry. Renee and -- and when you say Renee,

1 you're talking about this defendant's wife, Margaret
2 Renee?

3 A Correct. Correct.

4 Q Okay. Now, did you remember Jacob doing anything
5 prior?

6 A Jacob tased or attempted to tase Ferrell in the neck
7 or something, that general area, while he was on his
8 knees. I just remember hearing the sound of the Taser. I
9 don't know anything beyond. He tried that. Obviously, it
10 didn't work because he made his attempted escape out that
11 window.

12 Q Okay. And so what happened then after you saw them
13 at the window?

14 A John Hughes ran by me and Jane out the front door,
15 and that's when I heard yelling and gunshots.

16 Q Okay. Do you remember if Jacob or Margaret or anyone
17 did anything?

18 A Margaret cleaned in the kitchen and went outside. I
19 don't remember in what order. Jacob went outside, came
20 back inside and went back to the back of the house and I
21 think got in the shower or laid down in the bedroom or
22 something. I don't know. I didn't see him for a long
23 time after that.

24 Q Okay. So after the shots -- or was it during the
25 shots you remember Jacob going outside as well?

1 A I think he was outside during the shooting. I don't
2 know that for sure.

3 Q But at some point, he went outside?

4 A Uh-huh.

5 Q Okay. So what were you -- when this happened, when
6 John went through the window and the defendant went
7 outside, what were you doing?

8 A I was backed up making sure that Jane was on the
9 phone with 9-1-1 and trying to be between all that mess
10 and the two children in the back.

11 Q And she did call 9-1-1?

12 A She did.

13 Q Okay. All right. And then do you remember the
14 police coming?

15 A Yes, I do.

16 Q Okay. What did you do -- where did you stay or what
17 did you do?

18 A I sat down on that bench in the foyer hallway and
19 stayed there until they told us to evacuate the house.

20 Q And you said you saw Margaret Renee cleaning the
21 kitchen.

22 A Uh-huh.

23 Q Tell us about that. What was she doing?

24 A There was blood and mess everywhere, and she was --
25 she had a bottle of cleaning and a rag or a sponge or

1 something and was . . .

2 Q Wiping and ---

3 A Right.

4 Q Okay. And so police were there pretty quickly?

5 A Yes, sir.

6 Q Did you stay seated there in the kitchen waiting --
7 or in the foyer?

8 A In the foyer ---

9 Q In the foyer.

10 A --- to the best of my knowledge.

11 Q Now, did you say -- did you say anything to Jane to
12 try to find out why she hit him with a hammer?

13 A I did. I don't remember her answering me while in
14 the house, but I was just very confused about what
15 happened.

16 MR. MOYER: Okay. And I believe I see an objection
17 coming to the response.

18 MR. ADDUCCI: Yes.

19 MR. MOYER: Outside the presence?

20 MR. ADDUCCI: Yes, Your Honor. I do believe if we're
21 going to get into these sorts of things, we should
22 probably get into it outside the presence of the jury.

23 MR. MOYER: And we're going to view this as a
24 co-conspirator statement, so not hearsay.

25 THE COURT: Hold on. I guess we need to -- all

1 right. Ladies and gentlemen, if you'll proceed to your
2 jury room and not discuss the case.

3 (WHEREUPON, the jury exits the courtroom at 12:01 p.m.)

4 MR. MOYER: Okay. We're just going to proffer this
5 testimony.

6 BY MR. MOYER:

7 Q So you asked Jane why she hit John Ferrell with the
8 hammer?

9 A Yes.

10 Q Do you remember when you asked her?

11 A I asked her in the house right then and again at the
12 hospital.

13 Q Okay. And what did she tell you?

14 A She answered me I believe at the hospital, because
15 her dad hesitated.

16 Q She said who hesitated?

17 A Because dad hesitated.

18 MR. MOYER: Because dad hesitated.

19 Your Honor, that's just -- we would argue that that
20 is the co-conspirator's statement and would come in under
21 Rule 801.

22 THE COURT: Well, what prima facie evidence do you
23 have that he's involved in conspiracy with them?

24 MR. MOYER: That he is?

25 THE COURT: Yes.

1 MR. MOYER: Well, no. Not him. The other four were
2 charged with conspiracy.

3 So the hearsay is that John, the defendant,
4 hesitated. She said, He hesitated. My dad hesitated.
5 The conspiracy is between John Hughes, Margaret Hughes,
6 Jane Hughes and Jacob Hughes. So any statements that any
7 of those four make we would argue under ---

8 THE COURT: All right. It's the exception. . .

9 But was that made during the pendency of the
10 conspiracy and in the furtherance thereof? It's just an
11 after-the-fact-type statement, isn't it?

12 MR. MOYER: Well, I -- you know, I think our argument
13 would be that the conspiracy, you know, is still ongoing.
14 Just because the actual shooting may have happened at that
15 point, their conspiracy about what happened and about
16 keeping it silent and by keeping this from the police
17 would all still be part of the conspiracy.

18 THE COURT: I don't think that -- I mean, I don't
19 think why did you do it is in the furtherance of the
20 conspiracy, not at the time he asked it. Now, if it had
21 been at the -- you know, why are you going to do that are
22 more in the conspiracy, so I'm going to sustain the
23 objection that was coming.

24 MR. MOYER: Okay.

25 MR. ADDUCCI: Thank you, Your Honor.

1 THE COURT: Are we ready?

2 MR. MOYER: We're ready, Your Honor.

3 THE COURT: All right. Bring the jury back in.

4 (WHEREUPON, the jury entered the courtroom at 12:07 p.m.)

5 THE COURT: All right. You may proceed.

6 BY MR. MOYER:

7 Q Okay. Now, after John Ferrell got outside through
8 the window and John Hughes ran outside, could you hear any
9 voices or anything outside?

10 A I heard John Ferrell beg for his life and then I
11 heard gunshots.

12 Q Okay. Now, you went with Jane to the hospital.

13 A I did.

14 Q She had a sore wrist; is that right?

15 A She complained of her arm, wrist hurting, yes.

16 Q You were there when the officer came and collected
17 her clothes?

18 A I was.

19 Q Now, the stun gun that you saw Jacob with, had you
20 ever seen it before that night?

21 A I believe so or one like it just randomly shown off
22 in the house like a new toy.

23 Q Shown off by who?

24 A John Hughes.

25 Q Do you know where he kept it?

1 A I do not.

2 Q Had you ever seen the pistol that he had that night
3 before?

4 A I don't think I had ever seen it. No, sir.

5 Q Had you ever seen the pistol, the bag he kept it in
6 or anything like that?

7 A Yes, sir.

8 Q So you knew he had a pistol.

9 A Yes, sir.

10 Q Okay. Had you ever seen the hammer before?

11 A Probably I had used the hammer to hang pictures on
12 the wall before.

13 Q Okay. So you had seen it?

14 A Uh-huh.

15 Q Do you know whose it was?

16 A Jane's.

17 Q Okay. And do you know where she kept it?

18 A Usually in the closet in a toolbox.

19 Q In a closet in the room back there (indicating)?

20 A Yes.

21 Q In the back room?

22 A Uh-huh.

23 Q Now, was there any discussion after the shooting by
24 the defendant about -- after this happened, was there any
25 discussion that night amongst them talking about what

1 happened like outside the presence of the police?

2 A I don't recall any, no. I was lost as a ball in high
3 weeds.

4 Q Were there any later discussion on other days?

5 A I mean, I was told ---

6 MR. ADDUCCI: Objection, Your Honor.

7 MR. MOYER: We're going to talk about the defendant,
8 what the defendant said.

9 THE WITNESS: I was told ---

10 THE COURT: Hold on.

11 MR. ADDUCCI: I think we need to clarify, if
12 anything, it would be just what the defendant said to the
13 witness, not what he had heard the defendant maybe said at
14 some other point.

15 THE COURT: Right.

16 BY MR. MOYER:

17 Q Okay. We're just going to talk about what you heard
18 John Hughes say.

19 Let me back up. So you went to the hospital that
20 night with Jane.

21 A Uh-huh.

22 Q Now, how long did y'all stay there?

23 A I don't recall. It was probably an hour.

24 Q Okay. And you went from -- where did you go when you
25 left there?

1 A To the police station, eventually.

2 Q Okay.

3 A I don't recall if we waited outside the house for
4 transport or if we went straight to the police station. I
5 don't recall.

6 Q So you went to the hospital, then you came back to
7 the house, then you went to the police station.

8 A I believe that's the way it occurred.

9 Q Okay. And when you left there, did you go back to
10 the house or did you go somewhere else?

11 A Yeah. We were all deposited back at the house.

12 Q Okay. And over the next few days before you got
13 arrested, did you stay there at the house or did you go
14 elsewhere?

15 A I did not.

16 Q Where did you go?

17 A That first night, Jane and I stayed at a family
18 friend's house who offered us a little sanctuary there,
19 and then at a hotel in Greenville.

20 Q Okay. Did you come back to the house at any point
21 during the next couple days, back to 106?

22 A Only on -- only on the way to the Simpsonville police
23 station to answer their questions.

24 Q Okay. Did you have any phone conversations with the
25 defendant?

1 A I believe John called me once.

2 Q Do you remember the contents of that conversation?

3 A I was told the police can't know about what went on
4 inside.

5 Q That's what he told you?

6 A (Nods head affirmatively.)

7 Q Okay. Do you remember what day that was?

8 A It may have been that Wednesday. It was either
9 Tuesday or Wednesday, I believe.

10 Q Okay. And then on -- Wednesday is the day you went
11 back to the police station and you were arrested.

12 A Yes, sir.

13 Q And you stopped off at the house ---

14 A I did.

15 Q --- before you went over there?

16 A (Nods head affirmatively.)

17 Q Okay. Did the defendant say anything to you or did
18 you hear him talking?

19 A A repetition of the police can't know what went on
20 inside this house. If they don't know, they can't prove
21 anything.

22 Q And he knew you were about to go over to the police
23 station?

24 A He did.

25 Q Okay. And that's when he was telling you the police

1 can't know about what happened inside.

2 A Correct.

3 MR. MOYER: One moment please.

4 BY MR. MOYER:

5 Q Without going -- well, did you hear the defendant
6 saying anything to any of the other family members, either
7 Jane or Margaret or Jacob, about the incident?

8 A Nothing comes to mind.

9 Q So you don't recall anything he may have said to
10 them.

11 MR. ADDUCCI: Objection, Your Honor. Asked and
12 answered.

13 THE COURT: Sustained.

14 BY MR. MOYER:

15 Q Okay. Now, prior to this incident, did you -- was
16 there ever any times you heard the defendant speak about
17 John Ferrell?

18 A Yes.

19 Q Okay. Was it many times?

20 A Yes.

21 Q And was it more or did it happen less as the custody
22 battle progressed?

23 A I'm sure it escalated.

24 Q And would he speak positive or negatively about him?

25 A Negatively.

1 Q Did you ever hear him make any comments about doing
2 anything to John Ferrell?

3 A None that I took seriously.

4 THE COURT: Hold on just a minute. We're having --
5 we request there be no more distractions. Please,
6 bailiff, if you could take care of the situation.

7 All right. Please ask your question again. I'm
8 sorry.

9 BY MR. MOYER:

10 Q Okay. Now, you said in general you heard him say
11 negative things about John Ferrell.

12 A Yes, sir.

13 Q Do you remember him ever making any more specific
14 comments or threats or anything of that nature?

15 A He was viewed very negatively, and as a -- described
16 to me as a threat to the children, drug user, degenerate.
17 All that.

18 Q Did you ever hear him make any comments about
19 something called a Castle Doctrine?

20 A He talked about the rules regarding self-defense
21 often.

22 Q In relation to John Ferrell?

23 A In relationship to every aspect of life.

24 MR. MOYER: One moment, please.

25 Okay. I have no further questions at this time.

1 Please answer any questions defense may have.

2 THE COURT: Cross-examination?

3 MR. ADDUCCI: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. ADDUCCI:

6 Q All right. Now, you went to school at Furman, right?

7 A I did.

8 Q It's a pretty good school.

9 A Yes, sir.

10 Q So you're not a slack-jawed dummy or anything, right?

11 A Most of the time.

12 Q Okay. So you gave, from my understanding, three
13 statements to police, correct?

14 A Probably. I think so.

15 Q Yeah. I think once was the early morning of
16 January 25th, immediately after the shooting, a second on
17 January 28th, after which you were arrested, right?

18 A I believe so.

19 Q And then finally a third statement on March 20th of
20 2015, right?

21 A I believe so.

22 Q Okay. Now, how long have you known the Hughes family
23 again?

24 A I had known Jane for probably almost two years by
25 then.

1 Q Okay. And you've been living in the house, right?

2 A I had been. Yes, sir.

3 Q I'm going to show you a couple of pictures. I'm
4 going to show you Defendant's Exhibit Number 1.

5 A Okay.

6 Q Do you recognize who is in that photograph?

7 A It appears to be Jane's youngest.

8 Q And what's his name?

9 A

10 Q And about how old is there?

11 A

12 Q And is there a cake in front of him?

13 A It appears so.

14 Q Does it look like a birthday cake?

15 A It looks like a child celebratory cake of some sort.

16 Q Do you remember what his birthday was or around when
17 his birthday was?

18 A I don't.

19 Q Okay. But there's a photograph that has the kitchen
20 in it, right?

21 A Correct.

22 Q Is that substantially the same way the kitchen was
23 laid out on January 24th?

24 A It appears so, yes.

25 Q Okay. I'm going to show you, again, Defendant's

1 Number 2. Is that that same kitchen?

2 A I believe so.

3 Q And if you would note, this was right above the sink.

4 A Yes, sir.

5 Q And what is that?

6 A I window with a fan in it.

7 Q Okay. Is that fan always in the window there?

8 A I can't recall a time when it wasn't.

9 Q Okay. Now let me show you what is Defendant's
10 Number 11. Does this appear substantially similar to the
11 fan that was in that window when you lived at the Hughes
12 house?

13 A I guess.

14 Q About the same size.

15 A Sure.

16 Q Possibly the same.

17 A Possibly.

18 Q Yeah. Thank you.

19 MR. MOYER: Your Honor, I have no objections to
20 State's [sic] Exhibit Number 1 and 2. I do have an
21 objection to -- I'm not sure what number it is.

22 MR. ADDUCCI: 11.

23 MR. MOYER: 11. It's not the same fan, and I don't
24 believe there's been any foundation laid that would render
25 its relevance to this proceeding.

1 THE COURT: Can I see the picture we're talking about
2 in issue?

3 Now, which one do you object to?

4 MR. MOYER: I object to this fan. I don't object to
5 the photographs.

6 THE COURT: Oh, okay. The fan.

7 I'm assuming you used it for illustrative purposes.

8 MR. ADDUCCI: Exactly, Your Honor.

9 THE COURT: I'll allow him some leeway there.

10 MR. MOYER: Okay. So it's not in evidence then.

11 It's being used for demonstrative purposes.

12 THE COURT: Let's use it for illustrative purposes
13 now. It's not the fan in question.

14 MR. ADDUCCI: Correct. I'm not alleging that, by any
15 means.

16 THE COURT: All right.

17 BY MR. ADDUCCI:

18 Q All right. So, again, you indicated that you never
19 had seen that kitchen without a fan in the window, right?

20 A Correct.

21 Q And the way it was held in was the window was pushed
22 down on top of the fan, correct?

23 A I don't know how it was fastened or fixed.

24 Q Okay. All right. Now, you were spending a lot of
25 time at the Hughes residence back then, right? You were

1 living there.

2 A Yes, sir.

3 Q And who was living there when you moved in?

4 A Jane, her two children, her brother Jacob and the two
5 grandparents.

6 Q Okay. And so you're familiar with Jacob, right?

7 A Yes, sir.

8 Q About how old was he? 29? 30? Something like that?

9 A I think he was in his upper 20s.

10 Q Okay. And he's a pretty big dude, right?

11 A Gigantic.

12 Q Like I'm pretty tall. Probably taller than me?

13 A He's very tall, very large.

14 Q Very large. Like probably 300 pounds?

15 A Probably.

16 Q Okay. And so you knew him from living there with
17 him, right?

18 A Uh-huh.

19 Q And you indicated that it wasn't uncommon for Jacob
20 and Mr. Ferrell to hang out from time to time, correct?

21 A Correct. I was aware that they did.

22 Q Yeah. And you called them drinking buddies, right?

23 A Correct.

24 Q All right. And you were there, and you describe
25 yourself as a paramour, right?

1 A That's the way the law would define it at that time.

2 Q Okay. Helping out taking care of Jane's kids as
3 well, right?

4 A I was trying to be the best partner I could be.

5 Q Helping around the house, right?

6 A (Nods head affirmatively.)

7 Q Picking up groceries?

8 A (Nods head affirmatively.)

9 Q Going to family supper, right?

10 A Yes, sir.

11 Q All right. So you were basically acting almost like
12 a surrogate father for these kids.

13 A I was trying to be as good to them as I could be. It
14 was an odd position for me.

15 Q And you knew that Jane was in the middle of this
16 custody issue, correct?

17 A I was made aware of it, yes.

18 Q And you told police on more than one occasion that
19 you had never heard of any conspiracy among the family to
20 kill Mr. Ferrell the evening of January 24th, correct?

21 A Correct.

22 Q And, in fact, in your second interview you were asked
23 that, correct?

24 A Correct. I believe so.

25 Q And if I recall, you said, I do not know of any whole

1 premeditated plan, sir, correct?

2 A I believe so.

3 Q All right. And in your third interview, you also
4 indicated you thought that Mr. Ferrell was just coming
5 over to discuss custody issues, right?

6 A Correct.

7 Q All right. Now, when did you and Jane first meet?

8 A Late summer about 18 months before the incident.

9 Q Okay. And you identified yourself as a paramour,
10 right?

11 A Uh-huh.

12 Q Which means somebody in a sexual relationship with
13 somebody who's married.

14 A Correct.

15 Q Okay. And you loved Jane, didn't you?

16 A I did.

17 Q And you were the nice guy, right?

18 A I tried to be.

19 Q You comforted her through all this. You took her to
20 counseling, right?

21 A I did.

22 Q Told her that you loved her, right?

23 A I did.

24 Q And you were listening to her when she would talk
25 about how stressed out she was, right?

1 A Sure.

2 Q You let her lean on you like you were her rock,
3 right?

4 A I suppose.

5 Q But all this time when you were making these
6 sacrifices for the family, putting her needs ahead of
7 yours, taking care of somebody else's children, she was
8 stepping out on you, wasn't she?

9 A I've been made aware that's a good possibility.

10 Q Because -- and you had suspected this, hadn't you?

11 A I had.

12 Q Because she'd go missing for a day where you'd try
13 texting her and you couldn't get ahold of her.

14 A That happened on more than one occasion.

15 Q Yes. But you didn't know at the time that it was
16 somebody else for sure. You just had your suspicions.

17 A Correct.

18 Q But you didn't want to believe that Jane would do
19 that to you, did you?

20 A No.

21 Q Now, you knew about Jeff Lockaby [phonetic].

22 A I was aware of him, yes.

23 Q But you didn't want to believe that Jane would do
24 that, right, step out on you with Mr. Lockaby?

25 A Absolutely.

1 Q While you were sending lovey-dovey text messages back
2 and forth.

3 A (Gesturing.)

4 Q Right?

5 A Say again?

6 Q You didn't want to believe that, did you?

7 A I answered. No. I don't want to believe that.

8 Q Okay. Now, you felt betrayed when you found out
9 about Mr. Lockaby, didn't you?

10 A Yes.

11 Q Now let's fast-forward to February of 2015. You're
12 sitting in jail, right?

13 A (Nods head affirmatively.)

14 Q You'd been in solitary confinement for a week, right?

15 A Yes, sir.

16 Q You're charged with murder, right?

17 A Yes, sir.

18 Q You get a phone call from your mother.

19 A I may have made a phone call to my mother.

20 Q I'm sorry. You were on the phone with your mother.

21 A Okay.

22 Q And she told you that Simpsonville police wanted to
23 let you know that she'd been blowing up the phone lines
24 with this Jeffrey Lockaby, right?

25 A Yeah.

1 Q Telling him about how much she loves him.

2 A Uh-huh.

3 Q And she's telling you this while you're sitting in a
4 concrete box, right?

5 A I was in jail, yes.

6 Q And that Simpsonville wanted you to know this, right?

7 A That's what she said.

8 Q And, in fact, in your third statement, you said, My
9 mother told me the police had told her that Jane had been
10 in contact with an old flame of hers, right?

11 A Yes, sir.

12 Q And you said that you've already been told through
13 the grapevine that she'd been on the phone with Lockaby
14 all lovey-dovey confirming suspicions that you had, you
15 know, that you weren't the only person in her life
16 romantically, right?

17 A Yes, sir.

18 Q And, in fact, in your third statement, you told
19 Simpsonville PD it would probably help motivate you not to
20 be as friendly towards the Hugheses or Jane; isn't that
21 right?

22 A I'm sure it affected me on many emotional levels.

23 Q Did you say that?

24 A If it's in my statement. I don't recall specifically
25 at this time.

1 Q If I showed you a transcript of your statement, would
2 that refresh your recollection?

3 A It certainly would.

4 Q All right. Draw your attention to this page. Review
5 the highlighted portion.

6 A Yeah. That's -- that's it.

7 Q So you do recall stating that?

8 A I do.

9 Q All right. Now, you were charged with murder on
10 January 28th, correct?

11 A Yes, sir.

12 Q All right. Immediately after your second statement,
13 correct?

14 A Yes, sir.

15 Q And murder carries a minimum mandatory of 30 years,
16 right?

17 A I don't know.

18 Q Nobody informed you of that?

19 A If they did, I don't recall.

20 Q Okay. And up to life, right?

21 A I'm aware that it is a capital sentence, yes.

22 Q So you're looking at, best case scenario, if
23 convicted of murder, 30 years, possibility of life,
24 correct?

25 A Sure.

1 Q And you know in South Carolina we have no-parole
2 life, right?

3 A I do not.

4 Q Okay. And after you were arrested, you were denied
5 bond; isn't that right?

6 A I believe all of the arrests were made under the
7 condition of no bond.

8 Q So basically, Bill Gates and Warren Buffett couldn't
9 get you out of jail at that point, right?

10 A I could not get out of jail at that point, correct.

11 Q So there you were 37 years old, right?

12 A (Nods head affirmatively.)

13 Q Full life ahead of you, right?

14 A (Nods head affirmatively.)

15 Q Sitting in a concrete box, right?

16 A (Nods head affirmatively.)

17 Q Charged with murder, right?

18 A (Nods head affirmatively.)

19 Q No bond, correct?

20 A (Nods head affirmatively.)

21 Q And your suspicions about Jeffrey Lockaby have been
22 confirmed about how Jane betrayed you, right?

23 A Yes.

24 Q And you need to save your own skin, right?

25 A I needed to be out of jail because I didn't belong

1 there in the first place.

2 Q Because you didn't hit anybody with a hammer.

3 A Correct.

4 Q Heck, you never even met Mr. Ferrell before, right?

5 A That is correct.

6 Q And then you realized that Jane never really loved
7 you, right?

8 A I don't know how you came to that conclusion. I
9 think she loved me as best she knew how.

10 Q Okay. And after that, that's when you gave your
11 third statement, correct?

12 A I suppose so.

13 Q On March 20, 2015, right?

14 A (Nods head affirmatively.)

15 Q Now, were you promised anything for giving that
16 statement?

17 A No, sir. A ride back to jail.

18 Q But it's probably a coincidence that you went from no
19 bond to a much lower bond, correct?

20 A I don't know how that happened.

21 Q Okay. Because you're a free man now, right?

22 A No, sir. I'm out on bond.

23 Q You're out on bond, yes. You're not in jail, though,
24 are you?

25 A Correct.

1 Q Living your life?

2 A Doing the best I can with the troubles hanging over
3 me.

4 Q Just like you said in that third statement: And
5 honestly, I would love to be able to go home to my family,
6 heal from this, go back to my AA meetings, try to rebuild
7 my life, go home to work and live like normal people.
8 That's what I would like, right?

9 A Yes, sir.

10 Q And you came to court to testify at this trial,
11 right?

12 A I was summoned to do so.

13 Q And you weren't promised anything in exchange for
14 this testimony, were you?

15 A No, sir.

16 Q But you're still charged with murder.

17 A It's as confusing to me as it is to you.

18 Q But you told them you had nothing to do with this.

19 A I did.

20 Q That you were just outside.

21 A Yes, sir.

22 Q And you know that the only man who can drop that
23 charge against you is standing right there, right?

24 A I'm unaware of how that works.

25 Q Okay. In fact, you knew that giving a statement

1 could be beneficial to you, correct?

2 A I had hoped that the truth would be beneficial, yes.

3 Q And in your third interview after you gave this
4 story, you said, How soon can I know if I can get out,
5 what I can do to be helpful further, if anything, correct?

6 A Correct.

7 Q So you're sitting here testifying, and you have 30 to
8 life hanging over you.

9 A Whatever the -- yeah.

10 Q The State hasn't dismissed its case.

11 A Not to my knowledge.

12 Q They haven't made you any deals in exchange for this
13 testimony, right?

14 A Nothing.

15 Q So they hold all the cards?

16 A I suppose so.

17 Q They need to know -- need you to know who's in
18 control, right?

19 A I don't understand that question.

20 Q The State has the control of whether they offer you a
21 deal or not.

22 A The State's been in control of this since they put
23 cuffs on me.

24 Q Okay. So basically, you're earning your deal here
25 today, right?

1 A Earning what deal?

2 Q Earning a deal in the future.

3 A I'm not promised anything. I'm here telling what I
4 saw and being a good witness.

5 Q Now, after today, you know the State could just
6 dismiss this case against you, right?

7 A I have no idea how any of that works.

8 Q Or they could continue to prosecute you for murder.

9 MR. MOYER: Your Honor, I'm going to object to this.
10 This is getting to the point of badgering the witness.
11 All of this has been ---

12 THE COURT: It's asked and answered, so move on,
13 Counselor.

14 MR. ADDUCCI: Thank you, Your Honor.

15 BY MR. ADDUCCI:

16 Q And in your third statement, you said, I hope my
17 willingness to be helpful in prosecuting this case against
18 the Hugheses results in my freedom; isn't that correct?

19 A I'm sure I did.

20 Q Okay. But in your first two statements to police,
21 you never mentioned anything about Jane with a hammer, did
22 you?

23 A I don't know if I did specifically or not.

24 Q Okay. You didn't mention anything about Mr. Hughes
25 drawing down on him in the kitchen, did you?

1 A I may have. I don't remember. I don't have those
2 statements in front of me.

3 Q If I were to show you a transcript of your interview,
4 would that refresh your recollection?

5 A It certainly would.

6 (Reviews document) Yeah. When I said, I went inside
7 and saw that there were people scrapping in the kitchen.

8 Q Okay. You didn't say anything about a gun drawn down
9 on him, did you?

10 A I did not.

11 Q Okay. Didn't mention anything about him jumping
12 through a window, did you?

13 A Not at that time, no.

14 Q And during these interviews, police repeatedly asked
15 you if there was anything else you had to give, correct?

16 A I'm sure they did.

17 Q And you told them that you didn't, right?

18 A I couldn't recall at that time.

19 Q And after you didn't give them what they wanted, on
20 January 28th, they told you what they wanted; isn't that
21 right?

22 A I don't know.

23 Q Were you told, So he was attacked in the house, had
24 no way to get out, had to dive through the window as his
25 only escape route?

1 A You say they told that to me?

2 Q Yes.

3 A They may have said so.

4 Q If I showed you a transcript of your interview, would
5 that refresh your recollection?

6 A I'm sure it would. (Reviews document) Okay.

7 Q Does that refresh your recollection?

8 A It does.

9 Q Do you recall being told that?

10 A I do.

11 Q And then they told you they've got arrest warrants
12 for the whole family, correct?

13 A They did.

14 Q That they're holding off on you in hopes that you see
15 the light and come to be honest with them, right?

16 A They -- they did say that.

17 Q And they said, You can tell me what you didn't see
18 this -- I'm sorry. You can tell me that you didn't see
19 any of this or didn't hear any of this, right?

20 A I didn't understand you.

21 Q Strike that. And then they told you that you had a
22 choice to make, correct?

23 A I'm sure they did.

24 Q You're either a codefendant, meaning you're charged
25 with murder, or you're a cooperating witness, right?

1 A Probably, yeah.

2 Q But the only person that can make that determination
3 is you, right?

4 A Sure.

5 Q So they told you you could go to prison, you can sit
6 there because you wanted to keep whatever relationship you
7 had with this family, with Jane, and that's your decision
8 to make, right?

9 A Yes.

10 Q And they told you, You have to give us something,
11 right?

12 A They did.

13 Q To show, yeah, I know what happened. I just -- but I
14 didn't have anything to do with it, right?

15 A Correct.

16 Q And they told you that claiming ignorance isn't going
17 to work, right?

18 A I'm sure.

19 Q And they told you, So now's the time for you to
20 decide how you want to play this, correct?

21 A Probably even with that inflection, sir.

22 Q If you want to stick to your story, they can already
23 tell you what they've decided to do to you, right?

24 A I guess.

25 Q And they told you, Just because you didn't pull the

1 trigger, doesn't mean you can't be held responsible for
2 this murder, right?

3 A Yes, sir.

4 Q And they told you what they wanted to hear, right?

5 A They told me what they told me, yeah.

6 Q They told you that they believe Mr. Ferrell was
7 attacked by Jane in the kitchen, correct?

8 A They did.

9 Q And they told you that they believe Mr. Ferrell dove
10 out the window, right?

11 A They did.

12 Q And they told you you had a choice, right?

13 A I'm sure.

14 Q To be a defendant or be a witness, right?

15 A They may have used those exact words. I don't know.

16 Q And here you are as a cooperating witness, correct?

17 A I'm here because I was subpoenaed to be here.

18 Q And then on your third statement, that's when you
19 remember the hammer, right?

20 A That's when I gave them the most detailed
21 recollection I could of the events of the evening, yes.

22 Q And that's, of course, when you remembered that
23 Mr. Ferrell dove out the window, right?

24 A I had recalled that before, yes.

25 Q That they told you about that theory in the previous

1 interview, right?

2 A Okay.

3 Q Now, from what you said today, you were outside
4 playing games on your cell phone, right?

5 A Yes, sir.

6 Q Smoking Black and Milds.

7 A Yes, sir.

8 Q Do you remember how many you smoked?

9 A Maybe four.

10 Q Okay. So you were out there for a while?

11 A I was out there most of the evening.

12 Q Okay. So then you hear a ruckus in the house, right?

13 A Yes, sir.

14 Q And then you walk in and it's absolute mayhem.

15 A Yes, sir.

16 Q And Jane is standing over Mr. Ferrell smashing him in
17 the head with a hammer, right?

18 A (Nods head affirmatively.)

19 Q Right?

20 A Yes, sir.

21 Q And you said his hands were up on his head, right?

22 A Best I can recall.

23 Q Blood everywhere.

24 A I saw it.

25 Q Right?

1 In addition to that, Jacob's behind him with a Taser,
2 right?

3 A I saw the Taser at some point, yeah.

4 Q And he stuck him on the neck.

5 A Yeah.

6 Q And Mr. Hughes is right there with a gun pointed at
7 him.

8 A Yes, sir.

9 Q In this small kitchen.

10 A (Nods head affirmatively.)

11 Q And there was rugs in that kitchen?

12 A Yeah. There were rugs.

13 Q Okay. So what you do is you get Jane, right?

14 A Yes, sir.

15 Q And you pull her, and then you get her on 9-1-1.

16 A Yes, sir.

17 Q And she calls 9-1-1.

18 A She does.

19 Q At that point, that's when you see Mr. Ferrell make a
20 break for it, right?

21 A I heard the Taser going off on his neck, and it was
22 after that that he dove through the window, yes.

23 Q Okay. And you're back in the hallway with Jane at
24 this point.

25 A I am.

1 Q He's diving through the window, right?

2 A He's going for the window. I don't ---

3 Q But Jacob's there, right?

4 A Uh-huh.

5 Q This big giant of a man, right?

6 A (Nods head affirmatively.)

7 Q And he's pulling on him, right?

8 A Uh-huh.

9 Q Trying to prevent him from getting through the
10 window.

11 A Yes, sir.

12 Q In addition to Renee, right?

13 A Yes, sir.

14 Q And she's not necessarily a small woman, is she?

15 A No, sir.

16 Q And they're grabbing at his pants, right?

17 A I would assume so.

18 Q And you hear gunshots, correct?

19 A That was after he had gone through the window, but
20 yes.

21 Q And that's when you were in the hallway with Jane on
22 the phone?

23 A Uh-huh.

24 Q And do you recall the series of gunshots?

25 A I don't.

1 Q Were they quick?

2 A I don't recall.

3 Q Okay. How long after the first gunshot do you recall
4 police arriving?

5 A Moments.

6 Q Moments?

7 A (Nods head affirmatively.)

8 Q And they were pretty loud gunshots, weren't they?

9 A Yes, sir.

10 Q Okay. And this story lines up pretty well with what
11 the police told you on January 28th, doesn't it?

12 A It's what I witnessed.

13 Q They told you you had a choice to make, right?

14 A I'm sure.

15 Q Be a witness or a defendant, right?

16 A Sure.

17 Q Here you are, correct?

18 A I am here.

19 MR. ADDUCCI: Nothing further, Your Honor.

20 THE COURT: Any redirect?

21 MR. MOYER: No redirect. Thank you, Your Honor.

22 THE COURT: You may step down.

23 All right. Ladies and gentlemen, I think it's 15
24 till one, so this is a good time for us to break for
25 lunch. If you'll be back in your jury room at 2:15, then

1 we'll proceed with the testimony.

2 Again, do not discuss the case. Don't do any type of
3 independent research. Do not pay attention to any media.
4 If anybody contacts you, please let the bailiffs know.
5 Otherwise, y'all have a good lunch, and we'll see you back
6 at 2:15.

7 (WHEREUPON, the jury exits the courtroom at 12:42 p.m.,
8 and a recess is taken.)

9 (WHEREUPON, proceedings reconvened at 2:21 p.m.)

10 THE COURT: You look poised for something.

11 MR. ADDUCCI: Your Honor, if I may.

12 THE COURT: You may.

13 MR. ADDUCCI: This is completely unexpected. I was
14 sitting here in the gallery, and Mr. Martin's attorney was
15 chatting with somebody behind me. And I could have
16 misheard. I don't know. But I thought I heard him say
17 that because Mr. Martin is a testifying, cooperating
18 witness, that his charge was going to be dismissed. If
19 that's the case, I believe that would be Brady material.
20 And, again, I just happen to be sitting here and heard
21 this, and I believe that others in the courtroom did hear
22 that.

23 MR. MOYER: I heard something about that. All I can
24 say is I heard him say something. I didn't hear the whole
25 conversation. All I can say is, yes, it would be Brady if

1 that had been promised, but it has not been.

2 As Mr. Martin testified to, there have been no
3 promises made to him neither by law enforcement nor by me.
4 I'm sure he has hopes that is what is going to happen at
5 the end of this case, but we have just told him there are
6 no promises, and we will revisit his charges after all the
7 codefendants' cases have been disposed of. So that is the
8 status of Mr. Andrew Martin and our posture towards his
9 charges.

10 THE COURT: I mean, are you -- and you're the lead
11 counsel on that charge as well?

12 MR. MOYER: I am, Your Honor. And in all the cases.

13 THE COURT: All right. I accept his word. I mean,
14 it sounds like it was wishful thinking or maybe
15 prediction, but I think other than that ---

16 MR. ADDUCCI: That may have been, but I felt like I
17 needed to bring that to the Court's attention.

18 THE COURT: No. I understand. I thought that the
19 front row, that we had eliminated all of the front row
20 distractions, but evidently not.

21 All right. Bring the jury.

22 MR. MOYER: Just real quick, just a housekeeping
23 matter. Your Honor, State's Exhibit Number 58, I think I
24 thought it said 50 when I initially put it into evidence,
25 but it's 8. So I just want to make clear that State's

1 Exhibit 58 is in evidence.

2 MR. ADDUCCI: I believe this is one of those that was
3 without objection.

4 THE COURT: Okay. All right. It has already been --
5 okay. Then State's Exhibit 58 is in without objection ---

6 MR. ADDUCCI: Correct.

7 THE COURT: --- regardless of whatever you called it
8 before. All right.

9 (WHEREUPON, State's Exhibit Number 58 was admitted into
10 evidence.)

11 MS. JOHNSON: In anticipation of Mr. Moyer's next
12 witness, I just want to renew my motion, Your Honor.

13 THE COURT: Okay. And I think you -- yeah. I'd like
14 to renew my decision.

15 MS. JOHNSON: We understand. Thank you, Your Honor.

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

17 (WHEREUPON, the jury entered the courtroom at 2:25 p.m.)

18 THE COURT: All right. Ladies and gentlemen, I hope
19 everybody had a good lunch. We will now proceed with the
20 State's case.

21 You may call your next witness.

22 MR. MOYER: Your Honor, may it please the Court. The
23 State calls Christine Boisher.

24 THE CLERK: Ms. Boisher, please come forward. Place
25 your left hand on the Bible and raise your right hand.

1 WHEREUPON,

2 CHRISTINE BOISHER

3 After having been duly sworn, testified as follows:

4 THE CLERK: Please be seated and state your name for
5 the record.

6 THE WITNESS: Christine Lynn Boisher.

7 DIRECT EXAMINATION

8 BY MR. MOYER:

9 Q All right. Ms. Boisher let me ask you first, how old
10 are you?

11 A I'm 53.

12 Q Are you married?

13 A Yes.

14 Q And you have three children?

15 A Yes.

16 Q Is that right?

17 A Yes.

18 Q You have grandchildren also?

19 A I do.

20 Q How many?

21 A Three.

22 Q Okay. Now, let me ask you first off a little bit
23 about the defendant in this case and his family. Did you
24 know them prior to January the 24th of 2015?

25 A I had met them like a month prior to that day.

1 Q About a month prior.

2 A (Nods head affirmatively.)

3 Q Okay. Now, and you -- tell us how you met them.
4 What brought about your meeting them?

5 A The bishop of our church had called me and asked me
6 -- he had known that my family had went through a child
7 custody case with one of my grandchildren, and he knew
8 that I was familiar with the court system and stuff, so he
9 asked me if I could just, you know, talk with the Hugheses
10 and kind of, you know, just let them know what we went
11 through and stuff. So he asked if it was okay if he gave
12 my phone number to Mr. Hughes, and I agreed to that.

13 Q Okay. And did he call you or did you call him first?

14 A No. He called me first.

15 Q Okay. Now, you also did some guardian ad litem work
16 yourself; isn't that right?

17 A Yes.

18 Q Okay. So you were somewhat familiar with custody
19 matters and Family Court proceedings?

20 A Yes.

21 Q All right. Now let me ask you a little bit about
22 your bishop of the church. So did the defendant, John
23 Hughes, and his family, did they go to your church?

24 A Yes. They were members of our church.

25 Q Okay. And is the church in Simpsonville?

1 A There is wards. Our ward was in -- off of Boiling
2 Springs there outside of Greenville, so that was the ward
3 that we were assigned.

4 Q Okay. And they went to your ward?

5 A Yes, sir.

6 Q Did you know them at church before your meeting them
7 over this Family Court matter?

8 A No. I had never met them.

9 Q Okay. Had you seen them around church or anything
10 like that?

11 A I recall seeing Mr. Hughes one time.

12 Q Okay. So when -- so how did you view your role in
13 your communication and your dealings with the family then
14 going into this?

15 A I think just to be supportive, help in any way that I
16 could. I think just being supportive.

17 Q Okay. Were you providing any counseling or religious
18 instruction of any sort?

19 A No, sir.

20 Q Now, were you acting on behalf of the church?

21 A No. He had just -- the bishop had just asked me.

22 Q Okay. And so what -- did you have a role or a
23 function with the church?

24 A No.

25 Q Okay. Is there something called a Relief Society or

1 something like that?

2 A Yes, sir.

3 Q What is that?

4 A It is a gathering of the women. It's kind of like a
5 Sunday school for the women.

6 Q Okay. I'm sorry. I didn't mean to cut you off.

7 A It's there to support members. The women of the
8 church support the other women, the families. They're
9 kind of like in charge of like meals being brought in,
10 church welfare, that kinds of stuff.

11 Q Are all the women in the church in that or just
12 certain women? Or ---

13 A No. All the -- all the members are in -- all the
14 women are in that Relief Society, but we do have a
15 president and first and second counselor that oversee.

16 Q Overseer.

17 A Uh-huh.

18 Q Were you the president or an official in that relief
19 organization?

20 A No, sir.

21 Q Did you have any function with the church?

22 A No, sir. Just a member.

23 Q Okay. So you're not ordained? You're not an
24 official of any kind?

25 A No.

1 Q Okay. Now, did you meet with the family? Did you go
2 to their house?

3 A Yes.

4 Q Okay. And about how long before the incident where
5 John Ferrell was killed was it, would you say, that you
6 met with them?

7 A I would say probably about a month prior.

8 Q Okay. Now, did you know John Ferrell, the man who
9 was killed?

10 A No, sir.

11 Q You never met him?

12 A No, sir.

13 Q Okay. So let's talk about that first time you were
14 there. Did you go to their house at 106 Stonegate Road?

15 A Yes, sir.

16 Q And who all was there?

17 A My husband, Bradley Boisher, went with me, and
18 Mr. Hughes, Mrs. Hughes, Jane Hughes and Andrew Martin.

19 Q Had you ever met Andrew Martin before that day?

20 A No, sir.

21 Q Okay. Now, while you were there, did you read the
22 guardian report?

23 A Yes.

24 Q Now, had the defendant read it or did he read it?

25 A Yes.

1 MS. JOHNSON: Judge, I'm objecting to this line of
2 testimony.

3 THE COURT: On what grounds?

4 MS. JOHNSON: As to what she knows about this report,
5 this guardian report.

6 MR. MOYER: Well, I'm not going to go into the
7 contents of it at this time.

8 MS. JOHNSON: Okay.

9 THE COURT: I think all he said was did they read it.
10 So I'll let it go along that lines, but be glad to hear
11 from you on the hearsay issues if that comes into play.

12 BY MR. MOYER:

13 Q Okay. So did the defendant read it?

14 A Yes, sir.

15 Q Okay. Did he read it and talk about it in your
16 presence?

17 A Yes, sir.

18 Q And what was he saying about it and what was his
19 reaction to it?

20 A He was very upset with the report. He was asking
21 just exactly what a guardian ad litem's role was in Family
22 Court. He addressed several issues in the guardian ad
23 litem's report.

24 MS. JOHNSON: Judge, I'm objecting to any reference
25 to this report or any interpretation. That document is

1 clearly hearsay.

2 THE COURT: The document is, but I believe she can
3 testify to what he said, and that's what -- is my
4 understanding.

5 MS. JOHNSON: It's going to what the report says.

6 THE COURT: Well, I think -- I'm going to allow him
7 to testify what he said about it.

8 BY MR. MOYER:

9 Q Continue on, please.

10 A He was very upset about the report. He voiced --
11 different parts of the report, he was asking questions
12 about what they meant, if they had to have a guardian ad
13 litem, if they could request a new guardian ad litem
14 because he didn't like this one and was having problems
15 with it. And that was basically what he was asking.

16 Q Okay. So did he show concern? Or how would you
17 express his emotional reaction to it, his emotional
18 reaction while you were talking to him?

19 A He was very upset, very angry. He wasn't happy with
20 it, very stern.

21 Q Okay. Now, did he make any comments while you were
22 there ---

23 MS. JOHNSON: I'm objecting to this line of
24 questioning as it's leading.

25 THE COURT: All right. Rephrase your question.

1 BY MR. MOYER:

2 Q Okay. Now, regarding the children and John Ferrell,
3 what comments, if any, did he have about that?

4 A He stated to me that there was no way that
5 Mr. Ferrell was going to get custody of those children,
6 and he was going to do whatever he could to make sure that
7 that did not happen.

8 Q Now, did he say anything -- do you remember anything
9 about a stand your ground law coming up in conversation?

10 A The first meeting, yeah, he talked about it. He
11 asked if I knew what it was, and I said I didn't. I
12 wasn't familiar with it. But he did, for probably a good
13 bit of time, kind of focus in on that, and because I
14 wasn't familiar with it, I just listened.

15 Q Okay. Now, after that meeting with him at his house,
16 did you speak to him on the telephone at any points?

17 A Yes. He called me multiple times.

18 Q Okay. And what was the purpose and the content of
19 those phone calls?

20 A A couple of them were prior to going to meet with the
21 guardian ad litem. Most of it was just anger. He was
22 just angry at the system for doing this. Some
23 conversations he would go on in anger for maybe an hour to
24 maybe an hour and a half just ranting about the system and
25 how they had done the kids wrong. Basically, I just

1 listened. That's all I could do.

2 Q Okay. Now, you went over there again?

3 A Yes.

4 Q And when was that?

5 A It was Friday night before the incident. I think
6 that was the 26th or 25th.

7 Q Okay. But you remember it was a Friday night?

8 A Yes. It was a Friday night.

9 Q And if -- so it would be the date ---

10 A Or no. Yeah. It was a Friday night.

11 Q Okay. So if the incident happened on Saturday, it
12 would have been the day before?

13 A Yeah, yes.

14 Q Okay. And who all was there on that occasion?

15 A That night it was Mr. Hughes, Mrs. Hughes, Jane
16 Hughes, Andrew Martin, and my husband, Bradley.

17 Q Okay. And once again, were you going over the Family
18 Court documents, the guardian reports and documents like
19 that?

20 A Yes. And we had taken some food that evening also.

21 Q Okay. And was there any talk about a hearing coming
22 up?

23 A Yes.

24 Q And the hearing coming up that following Tuesday?

25 A Yes.

1 Q Okay. Now, how was his -- how was John Hughes, the
2 defendant? How was his -- how was his reaction? How was
3 his conduct and demeanor on that night?

4 A Angry most of the time, just very angry at the
5 system, distraught. It was different the second time we
6 met because he was just -- he was just a little -- I mean,
7 he just seemed to be more tense.

8 Q Okay. Was there any more talk about the stand your
9 ground law?

10 A A lot more. He kept coming back to it. I would try
11 to change the subject, and he kept coming back to it.

12 Q Okay. And do you remember what he was saying about
13 it?

14 A He had researched it, he said, and he was reading it.
15 And at one point, he went to the computer and he pulled it
16 up and asked me to come over and read it. So I did. I
17 went over and I read what he had pulled up. And he had
18 pulled up some other incidences where people had used
19 stand your ground as a defense.

20 Q Now, did he have any more talk about John Ferrell or
21 any intentions towards John Ferrell?

22 A He was very angry, and once again, he said he was not
23 getting those kids no matter what.

24 Q Okay. Did you stay there late?

25 A I think we left between 1:30 and 2:00 in the morning.

1 Q Okay. And did you yourself -- after you found out
2 about this happening, did you go to law enforcement and
3 tell them what you knew?

4 A Not right after because I didn't -- I mean, I really
5 didn't know the whole thing of it, but I think I went
6 Tuesday. I think I called.

7 Q But they didn't come to you. You went to law
8 enforcement to tell them?

9 A No. I went to them.

10 Q You went to them.

11 A Yes, sir.

12 MR. MOYER: And then you -- okay. Please answer any
13 questions defense may have.

14 MS. JOHNSON: Beg the Court's indulgence.

15 THE COURT: Yes.

16 CROSS EXAMINATION

17 BY MS. JOHNSON:

18 Q Ms. Boisher, when you met with law enforcement after
19 the incident, you said he pulled up the stand your ground
20 Castle Doctrine stuff on the computer?

21 A Yes.

22 Q You did?

23 A Yes, ma'am.

24 Q And you told that to law enforcement?

25 A Yes, ma'am.

1 MS. JOHNSON: Okay. Thank you.

2 THE COURT: Any redirect?

3 MR. MOYER: No redirect, Your Honor.

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

5 MR. MOYER: The State calls Cheryl Manley.

6 WHEREUPON,

7 CHERYL MANLEY

8 After having been duly sworn, testified as follows:

9 THE CLERK: Please be seated and state your name for
10 the record.

11 THE WITNESS: Cheryl Manley.

12 DIRECT EXAMINATION

13 BY MR. MOYER:

14 Q Where are you employed?

15 A Simpsonville Police Department.

16 Q How long have you been in law enforcement?

17 A Almost 11 years.

18 Q Has it all been with Simpsonville?

19 A I did a year at Greenville County. The rest has been
20 with Simpsonville.

21 Q Okay. What is your position with Simpsonville PD?

22 A I'm currently a captain.

23 Q How long have you been a captain?

24 A Since July.

25 Q What are you captain over?

1 A Investigations and school resource officers.

2 Q Okay. What was your position back in 2015?

3 A I was an investigator.

4 Q Okay. And were you in the, I don't know what you
5 call it, violent crimes or homicide or that division?

6 A That wasn't what I focused in on, but when we have
7 major crimes, all of the investigators help.

8 Q Okay. So you were called out then initially when
9 this incident happened on January -- early morning hours
10 of January 25th of 2015?

11 A Yes, sir. I was on-call investigator, so I was their
12 first point of contact.

13 Q Okay. And when you arrived -- when you arrived on
14 scene, there were other officers and investigators there
15 at that time?

16 A There was other road officers. There was no other
17 investigator besides myself. The other investigators
18 showed up after.

19 Q Okay. Now, do you remember, was the defendant there
20 on scene when you got there?

21 A Yes. Yes, sir.

22 Q Okay. Do you remember where he was?

23 A He was already in handcuffs on the driveway along
24 with other occupants of the house and a road officer.

25 Q Okay. And you had -- you remember seeing Margaret

1 Hughes?

2 A Yes, sir.

3 Q Okay. And that would be this defendant's wife?

4 A That's correct.

5 Q Okay. Not asking what the conversation was about,
6 but you had a conversation with her?

7 A I did.

8 Q And as a result of that, were you going to get
9 something for her to drink?

10 A I was.

11 Q Okay. And did you do so?

12 A I actually had another officer get the cup, and it
13 was actually a drink for the children that were also
14 present.

15 Q Okay. And what, if anything, did you notice about
16 this cup?

17 A There was a red substance on the cup. The cup was
18 actually outside the residence I believe on the driveway
19 or on the front porch. And when I went to go and retrieve
20 it for the children at the request of Margaret Hughes, I
21 noticed that there was some red substance on it. So I had
22 asked one of the other officers, Officer Edwards, who had
23 gloves on, to retrieve the drink.

24 Q Okay. Now, did you also -- was the victim still on
25 scene?

1 A Yes.

2 Q And you approached the victim at some point while you
3 were there?

4 A Yes, sir.

5 Q You've been here throughout the whole trial. You've
6 seen the photographs that we've displayed. Was that the
7 position he was in when you saw him?

8 A Yes, sir. It was.

9 Q Okay. And did you witness the area underneath the
10 window and the trail of blood that went to his body?

11 A Yes, sir. I did.

12 Q Now, were you able to locate the victim's vehicle?

13 A Yes, I was.

14 Q Okay. And what was it and where was it?

15 A It was a white Town & Country. It was parked right
16 in front of the residence. It was driven past the actual
17 driveway, parking in front of the grass area of the front
18 yard but right directly in front of the residence.

19 Q Okay. Now, was it visible from the house?

20 A Yes, sir.

21 Q Given a rough idea of distances, do you have an
22 estimate as to how far it may have been?

23 A It was the length of the front yard, so maybe
24 30 feet, 30, 45 feet. Somewhere in there.

25 Q Okay. Now, you got search warrants for the victim's

1 vehicle?

2 A Yes, sir. I did.

3 Q Okay. Was anything of any evidentiary value found in
4 it?

5 A No, sir.

6 Q Okay. I'm going to skip ahead now to the autopsy,
7 which was January the 26th of 2015. Did you go to it?

8 A Yes, sir. I did.

9 Q And just one question about it. Did you observe the
10 victim's clothes while you were there?

11 A Yes, sir. I did.

12 Q Okay. Was there anything of note to any of the
13 clothes that you made notice of and a picture was taken
14 of?

15 A Yes, sir. There were several things that I noted.
16 If I can refer to my notes.

17 The victim had on a black what appeared to be a
18 leather jacket and a shirt underneath. There were bullet
19 holes, sort of holes in the clothing in the shirt and in
20 the jacket. The pants were wrapped around the victim's
21 feet. Both feet and his underwear was wrapped around his
22 left foot but not his right, and those seemed to be
23 intact.

24 Q Okay. So the pants then were around both feet, but
25 the underwear was around just one; is that correct?

1 A Yes.

2 Q Okay.

3 A And I also noticed that there was a rip in the
4 victim's shirt. It appeared that the bottom part of his
5 shirt had been about two thirds of the way ripped off of
6 his shirt.

7 Q Okay. In some of these photographs, we'll start off
8 with State's Exhibit Number 1, there is a black line that
9 we can see just around his upper legs.

10 A Yes, sir.

11 Q Okay. And is that the part of the shirt that was
12 ripped ---

13 A Yes, sir.

14 Q --- that you were talking about?

15 Okay. And a photograph was taken there at the
16 autopsy of the shirt?

17 A Yes, sir. I believe so.

18 Q I'm going to show you State's Exhibit 93.

19 (WHEREUPON, State's Exhibit Numbers 91 through 93 were
20 marked for identification.)

21 BY MR. MOYER:

22 Q Is that a true and accurate representation of the way
23 the shirt looked when you saw it at the autopsy on January
24 the 26th of 2015?

25 A Yes, sir. Yes, sir.

1 MR. MOYER: I move to have State's Exhibit 93 entered
2 into evidence.

3 MR. ADDUCCI: Without objection.

4 THE COURT: All right. In without objection.

5 (WHEREUPON, State's Exhibit Number 93 was admitted into
6 evidence.)

7 BY MR. MOYER:

8 Q Okay. Now, did your investigation lead you to a
9 Waffle House?

10 A Yes, sir. It did.

11 Q Did you go to that Waffle House?

12 A I did.

13 Q And when did you do that?

14 A I did so on January 27, 2015.

15 Q And what led you to go there?

16 A Through the course of the investigation, it was
17 learned that both Mr. Jacob Hughes and the victim,
18 Mr. Ferrell, had gone to several places that evening.
19 One, in fact, was the Waffle House.

20 Q Okay. And where was that Waffle House located?

21 A The address is 3845 Grandview Drive in Simpsonville.

22 Q Okay. And where is that in relation to 106 Stonegate
23 where the defendant lived?

24 A It's approximately 2.1 miles.

25 Q Okay. And like how long of a drive would that be?

1 A While I was in the parking lot of the Waffle House, I
2 did use a Google map on my phone to indicate the distance
3 and approximately how long it would take to drive there,
4 and it said that it would be ---

5 MR. ADDUCCI: I'm going to object, Your Honor.
6 Hearsay.

7 THE COURT: Well, she talks about what she marked?

8 MR. MOYER: Well, she's talking about she just did a
9 Google search on distance from -- driving distance from
10 3845 Grandview Drive to where the defendant lived.

11 THE COURT: And I think the Court can accept that as
12 -- give notice that that's an appropriate way to do that.
13 So denied.

14 MR. ADDUCCI: Thank you, Your Honor.

15 BY MR. MOYER:

16 Q And about how long a distance of driving is that?

17 A It's approximately eight minutes.

18 Q Okay. Now, when -- you went to the Waffle House on
19 January the 27th, you said?

20 A Yes, sir.

21 Q Okay. What did you do there?

22 A I spoke with one of the managers that was there and
23 was given access to the video camera system.

24 Q Okay. And did you view the videos from the time
25 frame from that -- the night of January the 24th?

1 A Yes, sir.

2 Q Okay. And were you able to see Jacob Hughes and John
3 Ferrell on the video?

4 A Yes, sir. I was.

5 MR. ADDUCCI: Objection, Your Honor. If we could
6 have this outside the presence of the jury.

7 THE COURT: All right. Go back to your jury room but
8 do not discuss the case. We'll bring you right back out.

9 (WHEREUPON, the jury exits the courtroom at 2:48 p.m.)

10 THE COURT: Yes?

11 MR. ADDUCCI: Thank you, Your Honor.

12 So I believe the State is going to try to introduce a
13 video or a time stamp or something from this. Sort of
14 with videos and the like, there's sort of two ways to get
15 them into evidence. One is having somebody go up in front
16 of you and say, I saw, I viewed this, and whatever I see
17 is a fair and accurate representation of what I saw that
18 day.

19 The other way is sort of like what's called like a
20 silent witness. For a silent witness, it's my
21 understanding that the State has to establish the
22 accuracy, the -- sort of the way the visuals were made in
23 order to establish that it is reliable. Because at this
24 point, the investigator can just testify that she saw a
25 video of some sort, she's relying upon information that

1 she was given by another person as to what that -- the
2 time, place, when it was made, how it was recorded, how it
3 was displayed on this screen.

4 THE COURT: And where are you going with this?

5 MR. MOYER: Well, Your Honor, what she did was she
6 viewed the video. The video is self-manifestly reliable
7 in that it has time stamps and date stamps on it. And she
8 put up her own phone and she recorded on her phone what
9 was displayed.

10 THE COURT: Well, how do we know that the time -- I
11 mean, it's the time that's going to be an issue. How do
12 we know that that time was accurate or anything like that?

13 MR. MOYER: Well, Your Honor, I would just say that
14 would go to the weight of the evidence as opposed to its
15 admissibility. I mean, I think you have that question in
16 any scenario, and that's something defense can certainly
17 question.

18 THE COURT: No. You usually have the person from the
19 Waffle House say, yeah, this is what we kept, and this was
20 -- no problems with it, no issues and stuff like that.
21 But for her to go in and say -- I mean, she can say, yeah,
22 I mean, she saw the video, but, I mean, if you're going to
23 bring in the time that they were there at that particular
24 time, I don't -- I kind of agree with him. I'm not sure
25 she can testify on that based on her viewing of the video.

1 MR. MOYER: Okay. Well, then she can testify about
2 what she saw on the video then ---

3 THE COURT: Yeah. But, I mean ---

4 MR. MOYER: --- taking the time stamp -- taking the
5 time frames away from it.

6 THE COURT: I mean, I guess . . .

7 MR. MOYER: The fact that she was able -- she knows
8 who the victim is, she knows who Jacob Hughes is, she saw
9 them on the video, she can talk about what they were doing
10 and what she saw them doing on the video.

11 THE COURT: And we've got -- I mean, and I guess she
12 found out through independent -- you already testified
13 that she knew they were there. Right. Okay. I'll allow
14 her to do that, but I'm not going to allow her to put --
15 I'm not going to allow you to put the video -- do you have
16 the video to put in? Was that what you were going to do?

17 MR. MOYER: I was.

18 THE COURT: All right. I'm going to sustain.

19 MR. ADDUCCI: And, Your Honor, I would say even that,
20 so we have -- apparently we have a camera that has
21 recorded something, created a digital image that has been,
22 you know, stored on some other item, and then through that
23 item, we are then displaying it onto a screen, which is
24 what she is viewing. Without -- so I think that in order
25 to properly establish the reliability of what she sees on

1 the screen, you have to be able to establish a chain of
2 reliability from the camera lens to the viewing later,
3 again, under this sort of silent witness issue.

4 In addition to that, even without time stamp, date or
5 anything like that, we don't have any relevance. Because
6 what the State could possibly say is there -- at some
7 point, that we don't know when, we cannot say when, where,
8 how, anything like that, these two individuals are at
9 Waffle House.

10 MR. MOYER: But she's already testified she's
11 established that they were there that night through her
12 investigation, which came ---

13 THE COURT: I guess then what he's saying is but can
14 you establish that that video was based on that night
15 through her.

16 MR. MOYER: Well, I -- I mean, this gets back to what
17 I was saying earlier. I think the -- okay. Well, backing
18 up even further, she was able to send a subpoena off to
19 Waffle House corporate and get -- and ask for video for
20 that date and time, and that -- and she was sent a
21 corporate video for the requested date and time that she
22 asked about. That matches what she viewed when she went
23 on the 27th and watched the video. So there is an indicia
24 of reliability there.

25 THE COURT: But, I mean, I just don't think you can

1 establish that through this witness.

2 So I think I'm going to kind of backtrack what I told
3 you. You know, I think she can testify that -- I mean,
4 what she's already done, that she tracked them going to
5 this Waffle House, but without further, I'm not sure you
6 can get anything that she saw on the video at all from
7 there without someone to tie in.

8 MR. MOYER: Okay.

9 THE COURT: So therefore, I will sustain your
10 objection in total.

11 MR. ADDUCCI: Thank you, Your Honor.

12 THE COURT: Are we ready for the jury?

13 MR. MOYER: Yes, Your Honor.

14 THE COURT: All right. Bring the jury back in.

15 (WHEREUPON, the jury entered the courtroom at 2:55 p.m.)

16 THE COURT: That's good exercise for you.

17 All right. You may proceed, Mr. Moyer.

18 BY MR. MOYER:

19 Q Okay. Now let me move forward now to January the
20 28th of 2015. You served the arrest warrants on the
21 defendants in this case?

22 A Yes, sir.

23 Q Okay. And did you collect the buccal swabs that were
24 used for DNA testing?

25 A Yes, sir. I did.

1 Q Okay. And after you collected those buccal swabs,
2 what did you do with that?

3 A They were placed into our Property and Evidence.

4 Q Okay. And did you go to the coroner's office on
5 January the 29th of 2015?

6 A Yes, sir. I did.

7 Q And what was the purpose of doing that?

8 A The coroner's office had a standard -- a DNA standard
9 for the victim. They call it a blood spot. It's dried
10 blood on a card that I was able to obtain and bring back
11 to the Simpsonville Police Department and put in our
12 Property and Evidence.

13 Q Okay. All right. Now let me move forward. Did you,
14 at some point, get ahold of John Hughes' cell phone, what
15 has been entered into evidence as State's Exhibit
16 Number 82?

17 A Yes, sir.

18 Q Okay. And where did you get it from and what did you
19 do with it?

20 A I got it from the Greenville County Sheriff's Office,
21 their Property and Evidence, and I brought it to
22 Investigator Rainey who previously testified that I
23 dropped it off into his possession in order to conduct an
24 analysis of the cell phone.

25 Q Okay. And were you present when the analysis was

1 done?

2 A I gave him the cell phone. He took possession of the
3 cell phone. I don't remember if I stayed there the entire
4 time. Sometimes, depending on the amount of data on the
5 phone, it could take hours to days, so I don't remember.
6 I remember I got the cell phone analysis on February 2nd.

7 Q Okay. And that was the analysis that has been
8 entered into evidence through Investigator Rainey?

9 A Yes.

10 Q Okay. All right. Now, after you got that, did you
11 go through that and look for anything of significance to
12 this case?

13 A Yes, sir. I did.

14 Q And when you did so, did you find anything?

15 A Yes, sir. I did.

16 Q What did you find?

17 MR. ADDUCCI: Your Honor, just I'm objecting based on
18 my previous motion.

19 THE COURT: Okay. And your objection's continuing.

20 MR. ADDUCCI: Thank you.

21 THE COURT: It is noted previously overruled.

22 BY MR. MOYER:

23 Q What did you find?

24 A I found text messages and phone calls between the
25 defendant and his son, Jacob Hughes.

1 Q Okay. And Jacob Hughes, the phone number for Jacob
2 Hughes, are they the ones that have the initials JCH as we
3 saw them earlier displayed?

4 A Yes, sir.

5 Q Okay. And what are -- are those the initials for
6 Jacob Hughes?

7 A Yes. Jacob Cody Hughes, I believe.

8 Q Okay. We're going to take a few minutes to go
9 through some of those records.

10 So did you find any text messages that took place
11 between the defendant and Jacob Hughes on the night of
12 January the 24th, 2015?

13 A Yes, sir. I did.

14 Q Okay. Now, what is displayed on the screen
15 currently, are these the text messages between the
16 defendant and Jacob Hughes ---

17 A Yes, sir.

18 Q --- from that day?

19 I'm going to go back to the day before. Okay. Now,
20 looking at the text messages displayed now, can you tell
21 us, we've already had some testimony about the time
22 difference, but can you tell us what it is that we see in
23 the time for those text messages?

24 A You want me to read what they say?

25 Q Yes, please.

1 A On the 23rd of January 2015 with the time difference
2 as explained before, it would have been 14:04:57, it says:
3 Stop on way home. Need to discuss dessert, period, and
4 then, quotation marks, revolution is the solution.

5 Q Okay. And so that is -- it says "outgoing" there.
6 So that would be from John Hughes' phone to Jacob's phone?

7 A Yes.

8 Q And then right above that?

9 A This was -- based on the time difference, this would
10 have been at 10:03:29 p.m. on January 24, 2015. It is
11 from Jacob to the defendant, Mr. Hughes. It says: Call
12 when you're ready for pie.

13 Q Okay. And then there are more text messages that
14 come next from the defendant's phone to Jacob. And tell
15 us the times and please read what they say.

16 A The next one was also on January 24, 2015, at
17 10:04:19 p.m. And it says: Will do, dot, dot, dot, with,
18 in quotation, green dragons and elm trees.

19 And then the next text message from the defendant was
20 at -- also on the 24th of January 2015 at 10:41:35 p.m.
21 And it said: Almost, and then in quotation marks, green
22 dragons and elms trees -- elm trees. Excuse me.

23 The next text message was at 10:55:35 p.m. on
24 January 24, 2015, from the defendant. And it said: Just
25 a few more minutes, and then period, and then quotation

1 marks, green dragons and elm trees.

2 The next text message was at 11:03:52 p.m. on
3 January 24, 2015, from the defendant. And it said: Call
4 me, period, with green dragons and elm trees in quotation
5 marks.

6 And the next text message was at 11:10:06 p.m. on
7 January 24th. And it said: Call me, and then in
8 quotation marks, green dragons and elm trees.

9 Q Okay. So the last one from the defendant to Jacob
10 saying call me was at 11:10.

11 A 11:10 p.m. Yes, sir.

12 Q Okay. Now, were there telephone calls after that ---

13 A Yes, sir.

14 Q --- between the two?

15 And when were the telephone calls?

16 A There were several telephone calls after that
17 specific text message, which was at 11:10 p.m. There was
18 a phone call at 11:24 p.m., and -- excuse me --
19 11:24:04 p.m., and then another one that was outgoing to
20 Mr. Jacob Hughes at 11:27:15 p.m.

21 Q Okay. So the last call then was 11:27?

22 A Yes, sir.

23 Q Okay. And they are reflected in these records?

24 A Yes.

25 Q Okay. Now if we can just take a look, I believe

1 these are the phone calls you just referred to.

2 So starting at the bottom, that would be 11:27:15,
3 and that would be an outgoing to JCH for 38 seconds?

4 A Yes, sir.

5 Q Okay. And so that would be the last phone call that
6 was made.

7 A That's correct.

8 MR. MOYER: Okay. One moment, please.

9 Okay. That's all the questions I have at this time.
10 Please answer any questions defense has.

11 THE COURT: Cross-examination?

12 CROSS EXAMINATION

13 BY MR. ADDUCCI:

14 Q Just briefly, that cup that you mentioned, did you
15 ever collect that?

16 A No, sir.

17 Q Was it ever collected by anybody?

18 A No, sir.

19 Q It wasn't ever sent out for analysis?

20 A No, sir.

21 Q Okay. When you did the search warrant at
22 106 Stonegate, do you recall recovering a number of
23 computers and the like?

24 A Are you referring to the one that was completed on
25 January 30th?

1 Q Yes.

2 A Yes, sir.

3 Q You recovered it looks like a Samsung tablet,
4 correct?

5 A Yes.

6 Q Do you want me to show you your inventory?

7 A Yeah. I don't have a copy of the search warrants.

8 Q Okay. Sorry. Can you list the electronic items that
9 you seized that day?

10 A A Samsung tablet, an HP Pavilion laptop computer, a
11 red zip drive, a silver zip drive, and an E machine
12 computer, and also a Toshiba Satellite laptop computer.

13 Q And those were all sent off for analysis, correct?

14 A Correct.

15 MR. ADDUCCI: The Court's indulgence.

16 Nothing further from this witness, Your Honor.

17 THE COURT: Any redirect?

18 MR. MOYER: No redirect..

19 THE COURT: All right. You may step down.

20 MR. MOYER: The State calls Tirissa Johnson.

21 THE CLERK: Please place your left hand on the Bible,
22 raise your right hand.

23 WHEREUPON,

24 TIRISSA JOHNSON

25 After having been duly sworn, testified as follows:

1 THE CLERK: Please be seated and state your name for
2 the record.

3 THE WITNESS: Tirissa Johnson.

4 (WHEREUPON, State's Exhibit Number 94 was marked for
5 identification.)

6 DIRECT EXAMINATION

7 BY MR. MOYER:

8 Q Okay. Ms. Johnson, where are you employed?

9 A At the Greenville County Sheriff's Office.

10 Q What do you do with the Sheriff's Office?

11 A My primary job is 9-1-1 research, pulling recordings
12 for various court cases, FOIA requests, the Freedom of
13 Information Act.

14 Q Okay. Do you have -- well, how long have you been
15 doing that?

16 A Steadily since -- well, I'm sorry. I was doing it
17 for a while from 2005 until 2010, and then I recently
18 moved back into that position.

19 Q Okay. So how long have you been with the Sheriff's
20 Office?

21 A In total since 1998.

22 Q All right. Now let me ask you a little bit about --
23 well, what do you call the area where calls come into
24 9-1-1?

25 A It would be Communications Center.

1 Q Okay. What are the people who work in the
2 Communications Center, what are they called?

3 A Well, we have positions that are just call takers and
4 then we also have dispatchers.

5 Q Okay. And what do call takers and dispatchers do?

6 A The call takers take in all the nonemergency in-house
7 calls and 9-1-1 calls.

8 Q Okay. When a 9-1-1 call comes in, what sort of
9 information is the call taker trying to get?

10 A The first most important thing is location. We need
11 to verify the location. But it's who, what, where, how,
12 why and weapons.

13 Q Okay. So that's the information they're trying to
14 get out?

15 A Yes.

16 Q And that information then is given to the officers
17 and EMS, if they're applicable, who are responding to the
18 scene?

19 A Well, if it's for EMS, typically we transfer to EMS
20 so that EMS can directly get that information.

21 Q Okay. Now, are all calls that are received there,
22 are they all recorded?

23 A Yes, they are.

24 Q And how are they recorded?

25 A They are recorded electronically and digitally

1 simultaneously.

2 Q Okay. Explain what that means.

3 A So when the call comes in and as soon as it hits the
4 switching station, it begins recording, and then it
5 continues the recording as the call is answered.

6 Q Okay. Now, back in 2015, if someone made a 9-1-1
7 call, when would it begin recording?

8 A As soon as that connection is made going into the
9 switching station.

10 Q Okay. So even before the person picks up?

11 A That's correct.

12 Q Okay. So someone could actually be -- the phone
13 could be dialing and that phone is actually -- call still
14 being recorded?

15 A Well, not necessarily dialing ---

16 Q Okay.

17 A --- but as soon as that last 1 would be pressed and
18 the connection was going through.

19 Q Okay. As soon as the last 9-1-1 ---

20 A So the caller could be hearing the phone ringing, but
21 it's recording.

22 Q It is recording ---

23 A Uh-huh.

24 Q --- even though in their mind it's still ringing, it
25 hasn't been picked up on yet.

1 A Correct.

2 Q Is it still that way?

3 A Unfortunately, no, since they changed the systems.

4 Q But back in 2015, that's the way it was?

5 A Yes.

6 Q Now, can a recording be stopped at any time during
7 the recording process?

8 A It can be paused.

9 Q Okay. And at what point does ---

10 A I'm sorry. During the recording process in and of
11 itself?

12 Q Yes.

13 A No.

14 Q Okay. So once it's recorded, the dispatcher or the
15 person taking the call can't pause it or stop it or ---

16 A No.

17 Q --- or take anything away?

18 A No.

19 Q Okay. Now, does the dispatcher or the person
20 receiving the call or anyone else have any control over
21 how the call is recorded or what part is recorded as it's
22 happening?

23 A No, they do not.

24 Q Okay. So the call, do they accurately reflect the
25 conversations that are taking place between the 9-1-1

1 caller and the dispatcher?

2 A Yes, they do.

3 Q Okay. And how are those calls and those recordings
4 kept?

5 A They are stored on a computer-based storage system,
6 and then there are backups in place.

7 Q Okay. How long are they kept?

8 A Right now they're kept as far back as three years.

9 Q Okay. And are they kept in the ordinary course of
10 your operations ---

11 A Yes.

12 Q --- at the call center?

13 Okay. Now, do your personal duties include the
14 responsibility for maintaining the records and --
15 concerning those calls to 9-1-1?

16 A Yes, they do.

17 Q Okay. And do they also include your coming to
18 court and bringing copies of those 9-1-1 calls to court
19 for the purpose of introducing them into a court of
20 record?

21 A Yes.

22 Q And you've done this before?

23 A Yes.

24 Q You do this regularly as part of your job?

25 A I do.

1 Q Okay. I'm going to hand you State's Exhibit
2 Number 44 -- 94. I'm sorry. Just take a look at that and
3 see if you can recognize what I just handed you.

4 A Yes, I do.

5 Q Okay. And what is that?

6 A That is a -- the recordings of the 9-1-1 call that
7 came in.

8 Q Okay. Came in on the night of January 24, 2015?

9 A Yes.

10 Q Now, was the recording system working properly on
11 that date?

12 A Yes, it was.

13 Q And you've had the opportunity to review that
14 call ---

15 A Yes.

16 Q --- and make sure that is a true and accurate
17 recording of the one that was made on January the 24th of
18 2015?

19 A Yes, I have.

20 MR. MOYER: Okay. Your Honor, at this time, I would
21 move to have State's Exhibit 94 entered into evidence.

22 MR. ADDUCCI: Subject to my previous objections, Your
23 Honor.

24 THE COURT: Right. Okay. I'm going to allow it in
25 subject to his objection.

1 (WHEREUPON, State's Exhibit Number 94 was admitted into
2 evidence.)

3 BY MR. MOYER:

4 Q Okay. Now, before we get to the actual recording,
5 let me ask you this. Does a call that's made from the
6 city limits in Greenville county, say, Greer,
7 Simpsonville or Mauldin, do they normally go to Greenville
8 County?

9 A Not normally.

10 Q Okay. Now, what can lead to one going to Greenville
11 County?

12 A It depends on the cell tower that that cell phone
13 hits.

14 Q So if someone is calling from a landline, would you
15 expect it to go to the Simpsonville 9-1-1?

16 A If they live within Simpsonville city limits, yes.

17 Q And so if someone's calling from a cell phone, it
18 could just happen to hit a cell phone tower that's outside
19 the city limits?

20 A Yes. Depending on how close, you know, the address
21 of the person's calling from to where they are on the city
22 limits on the boundary line.

23 Q Now, a dispatcher, are they trained to look out for
24 that possible scenario?

25 A Oh, yes.

1 Q Okay.

2 A That's the reason for the first question always being
3 what is the location.

4 Q And if that happens, what does the dispatcher do?

5 A Depending on what our computer system shows that the
6 address being located in, whether it be Greenville city,
7 Simpsonville city, et cetera, that we would transfer to
8 that agency because they have their own call centers.

9 Q Okay. And is that what happened in this case?

10 A It is.

11 Q Did the dispatcher transfer it to Simpsonville Police
12 Department?

13 A Yes, she did.

14 MR. MOYER: Okay. One moment.

15 Your Honor, at this time, we would move to publish
16 State's Exhibit 94 to the jury.

17 THE COURT: Subject to your objection.

18 (WHEREUPON, State's Exhibit 94, an audio recording, was
19 played in open court.)

20 MR. MOYER: Okay. Nothing further for this witness.

21 THE COURT: Cross-examination?

22 MR. ADDUCCI: Nothing for this witness, Your Honor.

23 THE COURT: All right. You may step down.

24 MR. MOYER: If it please the Court, I believe I have
25 just one more witness, and I need just a couple of minutes

1 to set something up. If it please the Court, can we take
2 a brief break and then ---

3 THE COURT: Can you do it in two minutes?

4 MR. MOYER: I think two or three minutes.

5 THE COURT: I'm trying to hold him to it.

6 All right. If y'all just go to your jury room. Do
7 not discuss the case. We'll bring you right back out as
8 soon as he's got whatever he's got to set up, set up.

9 (WHEREUPON, the jury exits the courtroom at 3:24 p.m. and
10 a recess is taken.)

11 (WHEREUPON, proceedings reconvened at 3:37 p.m.)

12 THE COURT: All right. Are we ready for the jury?

13 MR. MOYER: We're ready.

14 THE COURT: Is the defense ready?

15 MR. ADDUCCI: Yes, Your Honor.

16 THE COURT: Bring them in.

17 (WHEREUPON, the jury entered the courtroom at 3:39 p.m.)

18 THE COURT: All right. Ladies and gentlemen, we will
19 now proceed.

20 Call your next witness.

21 MR. MOYER: Thank you, Your Honor. May it please the
22 Court.

23 The State calls Dr. James Fulcher.

24 THE CLERK: Dr. Fulcher, please just place your left
25 hand on the Bible and raise your right hand.

1 WHEREUPON,

2 DR. JAMES FULCHER

3 After first having been duly sworn, testified as follows:

4 THE CLERK: Please be seated and state your name for
5 the record.

6 THE COURT: Dr. James William Fulcher.

7 DIRECT EXAMINATION

8 BY MR. MOYER:

9 Q Okay. And where are you employed, sir?

10 A I'm a pathologist with Pathology Associates of
11 Greenville, South Carolina.

12 Q Okay. What does Pathology Associates of Greenville,
13 South Carolina do?

14 A They do surgical pathology work at GHS Hospital
15 System, run the labs in that system, and they also are the
16 employers of the medical examiners of this county, myself
17 and the chief medical examiner, Dr. Mike Ward.

18 Q Okay. So you and Dr. Ward are the two medical
19 examiners for Greenville County?

20 A Yes, sir. We do 100 percent of the autopsies in this
21 county, Pickens county, Laurens county, and all hospital
22 autopsies with the GHS Health System, approximately 700 a
23 year.

24 Q How long have you been with Pathology Associates?

25 A Approximately nine years.

1 Q And how long have you been working as a medical
2 examiner in Greenville county?

3 A Same time. Nine years.

4 Q And you also do some teaching as well.

5 A Yes. I'm an educator as well. I'm an assistant
6 clinical professor of pathology at the medical school that
7 they opened at GHS. I teach dermatology,
8 gastrointestinal, rheumatology and pathology for the
9 second year students.

10 Q Okay. So what is forensic pathology and what does a
11 forensic pathologist do?

12 A A forensic pathologist is a specially trained
13 physician to do autopsies, in particular in fatalities
14 that are unexplained, violence related, trauma related.
15 They essentially examine the body and produce a report
16 that details all of the findings of that decedent's body.

17 Q Okay. Tell the jury about your education and your
18 training. Begin with college and ---

19 A Sure. I went to college at the University of
20 Virginia. I'm originally from Virginia. I went to
21 medical school at the Medical College of Virginia. I did
22 anatomic and clinical pathology residency for four years
23 at the Medical College of Virginia, same place, and I did
24 a one-year fellowship in forensic pathology at the Medical
25 College of Virginia in Richmond, Virginia at the Chief

1 Medical Examiner's Office. After that, I came here, and
2 this is my first and, hopefully, forever job after
3 training.

4 Q Okay. And you're certified by any boards and you
5 have a medical license?

6 A Sure. I carry a medical license in North Carolina,
7 South Carolina. I'm board certified in anatomic
8 pathology, clinical pathology and, more importantly in
9 this case, forensic pathology.

10 Q Tell us about your workload as it relates to forensic
11 autopsies.

12 A Sure.

13 Q How many would you say you do and have done?

14 A I have done approximately 3,000 autopsies in my
15 career. We average about 350 per pathologist per year.
16 It varies per year and caseload, of course.

17 Q Okay. And you've testified in court.

18 A Yes, sir.

19 Q Have you been qualified as an expert in forensic
20 pathology?

21 A Yes, sir.

22 Q How many times?

23 A Approximately 25 to 30.

24 MR. MOYER: Okay. Your Honor, at this time, I would
25 offer Dr. Fulcher as an expert in forensic pathology.

1 THE COURT: All right. Any objection?

2 MR. ADDUCCI: No, Your Honor.

3 THE COURT: All right. And, ladies and gentlemen,
4 just to remind you that when somebody normally testifies,
5 they can only testify to what they observe through their
6 own senses except if somebody is qualified as an expert,
7 then they can testify about their conclusions based on
8 their experience and training, and you're to give that the
9 weight which you feel is appropriate.

10 All right. You may proceed.

11 BY MR. MOYER:

12 Q Now, did you perform an autopsy for this case?

13 A I did. Yes, sir.

14 Q And on whom was that autopsy done?

15 A John Ferrell.

16 Q When was this done?

17 A January -- the autopsy was done January 26, 2015, at
18 9 a.m.

19 Q And where was it done?

20 A We perform all autopsies for this county and others
21 at the morgue at the Greenville Memorial Health System.

22 Q When had Mr. Ferrell been pronounced deceased?

23 A He had been pronounced deceased the night before,
24 January 25, 2015, at 12:15 a.m.

25 Q Now, how was Mr. Ferrell dressed when he arrived?

1 A I will refer to my notes here. He was dressed in a
2 jacket, jeans, boxer shorts, shoes, socks.

3 Interesting, this case, when I opened the body bag,
4 the jeans were around his ankles.

5 Q Okay. Now, did you look at the jacket?

6 A I did examine the jacket. There were multiple holes
7 in the jacket which corresponded with the gunshot wounds
8 that I found on the body.

9 Q Okay. There was blood?

10 A Yes. Copious blood on the jacket.

11 Q Now, did you look at the pants?

12 A I did.

13 Q And what, if anything, did you determine about --
14 other than them being down around his ankles?

15 A There were no defects on the pants. That is to say,
16 there were no bullet holes in the pants despite the fact
17 the decedent had been shot in the leg.

18 Q Okay. Were there any weapons either in pockets or
19 with Mr. Ferrell?

20 A Personal effects only included cell phone, money,
21 personal papers, three quarters and a penny.

22 Q How old was Mr. Ferrell?

23 A He was 51 years of age.

24 Q Do you measure and weigh a body when you do an
25 autopsy?

1 A We do. Mr. Ferrell was 67 inches in length, or 5'7",
2 and quite heavy at 286 pounds. I reviewed the records of
3 his body. He had a lot of weight in his neck and upper
4 body, actually fairly muscular upper body.

5 Q Now, did your examination include his entire body and
6 organ functions, even those not affected by the trauma?

7 A Yes. Part of a forensic autopsy is complete
8 dissection of all organ systems to include me actually
9 cutting up all the organs in the body and putting select
10 organs under the microscope and look at them under the
11 microscope for more detailed analysis.

12 Q Okay. Let me ask you about some of your findings.
13 What did you learn from your examination of his lungs?

14 A He had significant to severe emphysematous disease.
15 My autopsy report describes the lungs as having loss of
16 architecture and tissue, significant fibrosis. These are
17 all good signs of emphysema.

18 Q Okay. What is emphysema?

19 A Emphysema is loss of lung tissue, in this country,
20 usually due from smoking. It makes it hard to breathe.

21 Q Okay. Was this -- for Mr. Ferrell, how would you
22 consider his emphysema? Was it severe or moderate?

23 A Oh, it was. It was -- it was significant. I would
24 think that he would have had trouble running, moving
25 around significantly. Any sort of exercise would have

1 been very fatiguing for him given the damage to his lungs.

2 Q And what about his cardiovascular health?

3 A His heart was enlarged. It weighed 500 grams. A man
4 his size should have a 400 gram heart or less. It's
5 thickened. Having a big heart is not a good thing
6 medically. It's a bad thing. It increases your chance of
7 a heart attack.

8 He also -- the reason his heart is probably enlarged
9 is he also has stenosis or blockage of one of the vessels
10 in his heart, particularly the right coronary artery, a
11 large vessel that feeds blood to a large portion of the
12 heart.

13 Q Okay. And so would a condition like that, could or
14 would it have any effect on his day-to-day living?

15 A I would think the combination of his enlarged heart,
16 his emphysema and his coronary artery disease would have
17 limited his mobility and, certainly, his energy level and
18 his stamina.

19 Q And he also has a fatty liver I believe you noted; is
20 that correct?

21 A Yes. His liver is fatty and enlarged. Hepatic
22 steatosis, or fat deposition microscopically in the liver,
23 in this country is almost always secondary to alcohol use.

24 Q Now let me ask you about cause of death. From your
25 examination of Mr. Ferrell's body, were you able to form

1 an opinion within a reasonable degree of medical certainty
2 as to his cause of death?

3 A Yes, I was.

4 Q And what was it?

5 A His cause of death was gunshot wounds to the torso.

6 Q Now, did you -- and we'll talk about details later,
7 but in addition to those signs of trauma from the gunshot
8 wounds, did he have additional signs of trauma?

9 A He did. He had very prominent blunt force trauma to
10 the head, that is, trauma that's inflicted with a blunt
11 object, not a sharp object.

12 Q Okay. Let's start with the gunshot wounds.

13 A Sure.

14 Q So how many gunshot wounds did you find on
15 Mr. Ferrell's body?

16 A I numbered gunshot wounds 1 through 6, although in
17 additional examination, it was my opinion that one of the
18 gunshot wounds which passed through his chest probably
19 re-entered his leg. That would be a total of five.

20 Q Okay. So you numbered six, but it's likely or
21 possible that one or two of those shots came from the same
22 bullet?

23 A Correct. It passes through the body, then hits
24 another part of the body.

25 Q Okay. Now, did you number these gunshot wounds in

1 your report?

2 A I do. Yes, sir.

3 Q Is there any significance to the sequence that you
4 gave them?

5 A There is not. These are numbered for my convenience
6 only and the sake of the report. I can never tell you
7 which shot came first.

8 Q Now, was a computerized diagram also done for
9 demonstrative purposes in this case?

10 A It was. It was made by myself and forensics using my
11 body diagram to detail where the bullets came in and out.

12 Q Okay. All right. So before we get to that
13 demonstrative evidence, let's just talk about the
14 different wounds.

15 A Sure.

16 Q And let's go through them -- let's start off with the
17 one you labeled as Gunshot Wound Number 1.

18 A Sure.

19 Q If you would, just tell the jury about where that
20 gunshot wound was and ended up.

21 A I will point to my own body to make this easier for
22 you. This was a gunshot wound to the head which enters on
23 the right temple above the eye, perforates through the
24 zygomatic arch, the bone above the eye, and actually
25 perforates the globe, the actual eyeball, exits through

1 the eyeball. So straight down like that, if you're
2 looking at my finger.

3 It wounds only the eye. It does not penetrate into
4 the cranial vault, although there is a small contusion on
5 the brain probably secondary to trauma and the local
6 effect of the bullet going through (indicating
7 throughout).

8 Q Now, had that been the only gunshot wound, would
9 Mr. Ferrell have died?

10 A No. He would not have. He certainly would have been
11 blind in that eye, would have been in significant pain,
12 but that would not have been immediately life-threatening.

13 Q Okay. Now, when you do an autopsy, is one of the
14 things that you do, do you try to see if there's any way
15 to determine distance of gunshots fired?

16 A We do. We look at the skin surface. And when you
17 fire a gun, multiple things come out of the barrel, not
18 just the bullet. You have soot, you have fragments of
19 powder. If those are present on the skin, that means the
20 end of the barrel, the muzzle, is very close to the skin.
21 In this case, there were no -- there was no debris. That
22 means that this gun was at least several feet away from
23 the body when it was shot.

24 Q Okay. I'm sorry. Go ahead.

25 A That is to say it was not a contact wound or a close

1 contact wound. It was a distance away.

2 Q Okay. And so once you get past that several foot
3 period, you can't say -- you can't narrow it down any
4 better than that?

5 A Unfortunately, once it gets to distance, it could be
6 2 feet to 800 feet. I can't tell you because at that
7 point, it's just the lead flying through the air and makes
8 a hole. So there's no evidence on the skin surface at
9 that point.

10 Q All right. Let's move on now to what you labeled
11 Gunshot Wound Number 2. Would you tell the jury about
12 where that entered Mr. Ferrell and where it went?

13 A Gunshot Wound Number 2 enters on the posterior neck
14 to the left side, penetrates into the body cavity wounding
15 the left lung lobes, goes through the diaphragm, stomach,
16 several loops of bowel -- and I will stand down -- and
17 ends up actually in his bladder region. Near his bladder,
18 not in his bladder. So from here straight down to the
19 groin, passing through the left lungs and various
20 abdominal organs (indicating throughout).

21 Q Okay. Would that have been considered a mortal wound
22 or one that would have ---

23 A He would have bled out from this one. The wounding
24 to the lungs, particularly that left-sided upper and lower
25 lung lobes was very significantly hemorrhagic. So, yes,

1 he would have bled out from that wound. It would not have
2 been instantaneously fatal, though.

3 Q And would you have been able to make any
4 determinations as to the distance of that shot?

5 A Also on that shot, I did not see soot or stipple,
6 therefore, I described it as a distant-range wound.

7 Q Okay. And all the shots we're going to talk about,
8 are they all -- would they all be considered distant?

9 A Yes. The only caveat there is, of course, if the
10 bullet passed through clothing, which we think it did in
11 several, I would defer to a firearms examiner to describe
12 any soot or debris on the clothing for that range.

13 Q But the ones that you were able to determine, again,
14 for the ones that entered his skin before clothing, there
15 was no soot?

16 A That is correct. Everything was distant that I
17 examined.

18 Q Okay. Now, did you -- were you able to collect that
19 projectile?

20 A I was, yes. I collected a minimally deformed, hollow
21 point, large caliber jacketed projectile near the bladder,
22 loose in a pool of blood.

23 Q Okay. Did you turn that over to law enforcement?

24 A Yes. Forensics was there and received the bullet.

25 Q Let's move on now to Gunshot Wound number 3.

1 A .Okay.

2 Q Tell the jury about the path of that bullet.

3 A This one is interesting because it enters the body at
4 the anterior shoulder, then exits for just a little bit
5 and comes right back into the meat of the pec, the breast
6 muscle, exits again, and then ends up in the leg. So it
7 goes in, and this is all soft tissue wounding. It doesn't
8 affect any vital structures. The meat of the shoulder,
9 the meat of the pec, the chest muscle, and then into the
10 meat of the leg (indicating throughout).

11 Q Okay. And the one that was into the leg, that's the
12 one you referred to as Gunshot Wound Number 6?

13 A Correct. I describe that as 6. At the time, I
14 didn't know the scenario and I was under the impression it
15 may have been a separate wound. It makes more sense now
16 that it's probably just a continuation of this wound.

17 Q Okay. So the one that hits his leg, where does it
18 hit the leg and where does it end up?

19 A It ends up buried in the muscles of the leg. It
20 enters on the anterior right thigh, makes a rectilinear
21 abrasion, tracks through the musculature, and I recover a
22 minimally deformed, hollow point, large caliber jacketed
23 projectile loose in a pool of blood in the muscle of the
24 leg (indicating throughout).

25 Q Okay. And on that wound, I guess going back to

1 Number 3 a little bit, can you see some tracking that goes
2 down his body somewhere where the bullet ---

3 A You can. So when the bullet grazes the skin, if the
4 bullet comes in -- I'll use my hand as an example and this
5 pointer -- straight in, it leaves mostly a round hole. If
6 it comes in at a hard angle, it leaves more of an oval.
7 And in this case, we have much more oval looking holes
8 even with abrasions as it skims the surface before it
9 tunnels under the skin.

10 Remember, bullets aren't sharp. They're blunt, so
11 they have to push through things, so they cause a lot of
12 trauma as they go through and make very rounded or ovoid
13 holes based on the wound pattern (indicating throughout).

14 Q I'm going to show you State's Exhibit Number 12.
15 This is a photograph that was taken at the scene, and
16 Mr. Ferrell's shirt has been pulled up. And we can see
17 some tracking. Is that the tracking that went down
18 his ---

19 A Yes. Those all correspond -- what we're seeing there
20 is the initial exit, re-entry, then the final exit of the
21 chest before it tunnels into the leg.

22 Q Okay. Now let's go to Gunshot Wound Number 4.

23 A Gunshot Wound Number 4 is on the anterior left
24 shoulder near the clavicle. I see no skin surface soot or
25 stipple, although it likely passed through clothing. It

1 passes behind the clavicle, the collarbone, into the chest
2 cavity between the second and third ribs before creating a
3 large hemorrhagic wound through the pulmonary artery,
4 aorta, and portions of the heart including the left atria.
5 That is to say that this bullet damages the two large
6 vessels that feed blood to the body, the aorta, and then
7 the vessel that takes blood from the heart to the lungs,
8 the pulmonary artery. These vessels are the size of a
9 garden hose. They have 100 percent of your cardiac
10 output. All the heart, all the blood that your heart
11 pumps goes through these large vessels first, and these
12 are destroyed in this wound path.

13 At that point, the projectile then -- hemorrhage,
14 obviously, there's a lot of blood in the chest from this
15 wound. And I recover this projectile entwined in the soft
16 tissue of the pericardial sac, that is, the heart that
17 surrounds the sac. So it's caught up in that.

18 Q Okay. Now, that projectile, and also the one from
19 the leg, you turned those both over to law enforcement as
20 well?

21 A Yes, sir. I recovered those projectiles. They're
22 all described as minimally deformed, hollow point, large
23 caliber jacketed projectiles.

24 Q Okay. Now let's move onto the final one, Gunshot
25 Wound Number 5.

1 A Gunshot Wound Number 5 enters the posterior right
2 shoulder, tracks through skin. Only soft tissue is
3 wounded. It's basically straight down right shoulder. No
4 vital injuries there (indicating throughout).

5 Q So that just passes through his body?

6 A Correct. It does not actually enter the chest
7 cavity.

8 Q Okay. Can you just clarify a couple of terms that
9 you used? You talked about both 5 and 2 being posterior
10 and the others being anterior. Let's make sure we
11 understand those words. Define anterior and ---

12 A Anterior means the front of the body, posterior
13 means the back of the body. That is generally defined as
14 the midpoint of the shoulder, in forensic pathology, on
15 the torso. It's just kind of common sense, the front and
16 the back of the body, to be honest (indicating
17 throughout).

18 Q Okay. Now, just so the jury can get a visual
19 understanding of what you were just talking about, would
20 you come and show on the diagram that?

21 A This was produced by forensics for us to show. The
22 wound paths are labeled here. And I am not maybe the best
23 to drive this, but we're going to try.

24 You can see Gunshot Wound Number 1 coming in, exiting
25 the eye.

1 These arrows show the directionality so you can get
2 an idea of where the bullet passes through.

3 Gunshot Wound Number 2 was that one to the neck, and
4 I'm going to try to spin around. There we go. Right
5 there. Back of the neck straight in, and that's the one
6 that ends up wounding the left lung and ends up in the
7 bladder. So straight down through the body to the back
8 towards from back to front downwards, ends up near the
9 bladder. Fatal wounding on that one to the lungs.

10 Gunshot Wound Number 3, which I'm going to spin
11 around again. Sorry about this. This is surprisingly
12 harder to drive than I thought it would be.

13 This one I think is best illustrated from this view.
14 This is the one that tracks through the chest, enters,
15 exit and then ends up in the leg. I might be able to come
16 down a bit. There we go. Ends up in the leg. That's
17 nice. Our arrow is missing an entry. He couldn't get it
18 to affect both the arm and the chest at that point.

19 On 4 -- remind myself what color 4 is. 4 is -- 4 is
20 the posterior shoulder, isn't it? This one comes in at
21 that neck, goes downward. And I'll point out on this one,
22 sorry, if we go to the heart section, which is somewhere
23 here, the pink -- the pink arrow intersects both the
24 pulmonary artery and aorta. It actually ligates these
25 large vessels.

1 And these are approximately the size. This is a
2 fairly large vessel. In this man, this is going to have a
3 diameter of about three quarters to an inch. So these are
4 big vessels, the size of a garden hose.

5 So this is really a significant injury. It affects
6 both these, ends up damaging the left atria, and then ends
7 up caught behind the heart in the pericardial sac over
8 there.

9 And then finally, Gunshot Wound Number 5 is soft
10 tissue wounding straight through the back. Just soft
11 tissue. There it is. Come in and exits straight out soft
12 tissue with no significant wounding.

13 What I would point out is the general direction of
14 the wounds as we look at the body are downwards, that is,
15 they're coming from the top of the head towards the center
16 of the body. The angles after that go all different ways,
17 but a general conclusion is this man's head and upper
18 torso was facing that gun when it was fired for all five
19 shots.

20 The reason some of these don't line up necessarily is
21 people, when they're being shot, don't stand perfectly
22 still, not surprisingly. So this man may have very well
23 had his leg cocked up which is why it entered where it
24 did. You can move your limbs in space. I can't tell you
25 from an autopsy how the person had their extremities at

1 the exact instant they were shot.

2 Q Thank you.

3 A No problem.

4 Q Okay. Now let's move on to what you described as
5 some blunt force trauma.

6 A Sure.

7 Q Would you tell the jury where that blunt force trauma
8 was and describe that?

9 A The blunt force trauma on Mr. Ferrell was located at
10 the top of his head. It's really at the superior vertex,
11 which is -- which is really up -- up at the top. There
12 are multiple contusions and lacerations.

13 There are two populations or types of injuries,
14 shapes of injuries on his head. Some of them are
15 circular, and some of them consist of two small rectangles
16 that have a space between them. And on his scalp, they
17 come in pairs, two with a space, two with a space, two
18 with a space. You do not see them individually. The
19 rectangles are all the same size, and most importantly,
20 the space between the rectangles is always the same.

21 Q And what is that consistent with? Any particular
22 instrument?

23 A Yes, sir. In forensic pathology, that constellation
24 of injury pattern, and it's reproduced on the actual bone,
25 that is to say the instrument damages the bone underlying

1 the skin in the same pattern, this is consistent with a
2 carpentry hammer with a claw end. If you think about a
3 hammer, you have both a circular head and then the
4 nail-removing claw. And those two metal spikes on the end
5 are always the same size and always have the same distance
6 between them because they're metal, of course.

7 Q Okay. And there were multiple wounds like that?

8 A Yes. They overlap significantly. I describe
9 multiple rectilinear abrasions having a diameter
10 approximately one and a half inches, and then those paired
11 rectilinear lacerations with the 3/16 inch sparing in
12 between, so a large group of them overlapping
13 significantly.

14 They occur on the head. There are also some
15 rectangular abrasions that are on the face as well.

16 Q Okay. And did he have any more severe damage to any
17 part of his face or jaw area?

18 A Yeah. So the mandibular angle on the right side,
19 that is, the angle of the jaw, the jaw bone is actually
20 fractured underlying one of those, let's see, laceration.
21 It's actually one of the rectilinear ones, so more likely
22 the claw than the head of the hammer.

23 Q It actually broke his jaw?

24 A Yes, sir.

25 Q All right. Now let me ask you about a couple other

1 issues. Is it standard to do a toxicology?

2 A Yes, it is. We would not sign out a forensic case
3 without doing toxicology on the decedent.

4 Q And what is toxicology? And tell us the results of
5 Mr. Ferrell.

6 A The toxicology in this case would be recovering the
7 blood from the body. We also send vitreous humor. It
8 didn't need to be tested in this case. And I take
9 possession of it. No one else handles it. I package it
10 up, seal it up, sign it and put it actually in a Fed Ex,
11 goes up to Philadelphia, Pennsylvania to National Medical
12 Services, which is a large send-out laboratory. Several
13 weeks later I get results mailed back to me, actually,
14 e-mailed in a secure way back to me.

15 Q And what were the results of Mr. Ferrell's alcohol?

16 A Mr. Ferrell, this is a fairly complete toxicology
17 screen. So the only thing we found was ethanol, grain
18 alcohol, what's in beer and wine, and that was at a
19 concentration of 166 milligrams per deciliter, or .116
20 grams per 100 mls. If you think about your DUI thing,
21 the .08, he's at -- equivalent numbers, he's at a .116.
22 So he is over the legal limit to operate a motor vehicle,
23 but minimally so.

24 Q Yeah. I was going to say, you talk a little bit more
25 about that. So the effects of alcohol on a person's

1 system, does it vary based on gender, weight and, more
2 importantly, on how much alcohol you consume?

3 A That is correct. People that drink significantly
4 repeatedly obviously have higher tolerances of the
5 intoxicant effects of alcohol, therefore, they are
6 essentially less intoxicated drinking the same amount of
7 alcohol.

8 Q So someone with a -- take two people, say, a
9 nondrinker -- a very skinny nondrinker who has a .11 and a
10 more hefty person who is a very regular drinker, you would
11 see different results in how that alcohol would affect
12 them?

13 A Yes, sir. I would expect that the thinner nondrinker
14 would be more impaired if you did field sobriety tests and
15 such with that concentration.

16 Q Okay. There were no drugs, legal or illegal, in his
17 system?

18 A Just the alcohol.

19 MR. MOYER: One moment please.

20 Okay. Please answer any questions defense may have.

21 THE COURT: Cross-examination?

22 MR. ADDUCCI: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. ADDUCCI:

25 Q He's 5'6" and 286 pounds, right?

1 A Yes, sir. That's correct.

2 Q And you indicated that he carries a lot of his weight
3 up in his chest, so kind of like a barrel-chested man?

4 A Yes. Absolutely. That's actually consistent with
5 emphysematous damage, too. Those people tend to have
6 large chests.

7 Q Did you take a measurement around his chest or around
8 his arms and chest?

9 A I did not, unfortunately.

10 Q Okay. And you noted a number of injuries to the top
11 of his head. You called it blunt-force trauma; that's
12 correct?

13 A Yes, sir.

14 Q And you did note an amount of blood on top of that,
15 right?

16 A Yeah. There is -- there is blood on the top of the
17 head. I didn't quantify it. Obviously, there are
18 photographs showing the blood on the top of head, but
19 there's definitely blood on the top of the head. There's
20 also prominent hemorrhage under the scalp as well. Yes,
21 sir.

22 Q And you mean hemorrhage under the scalp, that is, he
23 had like a bruise on his cranium, his bone -- his skull,
24 correct?

25 A The tissue overlying the skull is injured, yes.

1 Q Okay. And additionally, you noted that he had like
2 chips out of his skull, correct?

3 A That's correct.

4 Q And you also noted what you called a brain anterior
5 temporal lobe contusion, correct?

6 A That's correct. Yes, sir.

7 Q And that is a bruise or bleeding on the brain, right?

8 A That is correct. Yes, sir.

9 Q Which corresponded with the blunt-force trauma to his
10 head?

11 A Most likely. Yes, sir.

12 Q And a contusion, that's a result of like a traumatic
13 brain injury, right?

14 A Yes. It would be trauma related.

15 Q Okay. Now, in your testimony, you also noted that
16 the stippling and the soot, and you didn't note any
17 stippling or soot, right?

18 A No, sir.

19 Q And you said without that on skin, the firearm could
20 be a few feet up to 800?

21 A Yeah. Exactly.

22 Q So just you can only say that it was not a
23 close-range shot.

24 A That is correct.

25 MR. ADDUCCI: Okay. The Court's indulgence, Your

1 Honor.

2 Nothing further for this witness, Your Honor.

3 THE COURT: Any redirect?

4 MR. MOYER: No, Your Honor.

5 THE COURT: All right. Thank you. You may step
6 down.

7 MR. MOYER: Your Honor, at this time, the State
8 rests.

9 THE COURT: All right. Ladies and gentlemen, the
10 State has rested their case in chief which means that's
11 the evidence which they plan to put forward at this time.
12 I'm going to ask you to go back to your jury room. I'll
13 talk with the attorneys and see whether we're going to
14 have another witness, what our schedule is going to be.
15 But I'll let y'all know. But at this time, go back to
16 your jury room. Do not discuss the case.

17 (WHEREUPON, the jury exits the courtroom at 4:11 p.m.)

18 MR. ADDUCCI: Your Honor, defense would move for a
19 directed verdict on the conspiracy. Even in the light
20 most favorable to the State, I don't believe the State has
21 carried its burden that there is an agreement to
22 participate in a crime. I think that the State has shown
23 that, you know, Mr. Hughes shot Mr. Ferrell, but as to a
24 conspiracy prior to, I -- I don't think that the Court has
25 any evidence to that specific to his family members.

1 THE COURT: I believe taking all the circumstances, I
2 think they have established that there was a joint effort
3 possibly to do away with Mr. Ferrell in light of the
4 custody issue. I think there's enough evidence for that
5 matter to go to the jury.

6 MR. ADDUCCI: Thank you, Your Honor.

7 THE COURT: Anything else?

8 I'm trying to think here. I'm just wondering if we
9 shouldn't just start back in the morning. Because, you
10 know, I think it's ---

11 MR. MOYER: It's going to be more than 45 minutes,
12 Judge.

13 THE COURT: Yeah. I think so.

14 MR. ADDUCCI: It is.

15 THE COURT: And I'm sure you probably want some time
16 to talk with your client in light of this. So, I mean,
17 right now do you anticipate presenting --

18 MR. ADDUCCI: I do anticipate him testifying, Your
19 Honor. yes.

20 THE COURT: Okay. And then I'll just talk to him in
21 the morning about, you know, his rights and stuff like
22 that, advise him before we go on there.

23 So anybody have any jury charge? I mean, I've got
24 some started, some charges.

25 MR. ADDUCCI: I don't have them with me right now,

1 but I can bring them tomorrow, yeah.

2 THE COURT: Yeah. I want to -- okay. Let's do --
3 y'all want to meet about 9:00 and kind of go over
4 potential jury charge? I know it wouldn't be final until
5 afterwards, but how many witnesses do you anticipate?

6 MR. ADDUCCI: Just one, Your Honor.

7 THE COURT: Okay. Well, let me bring the jury out so
8 I can tell them that we'll start back at 9:30 in the
9 morning. And then that way, like I say, we should be able
10 to argue and charge and have it to them by lunchtime
11 without any problem.

12 So all right. Bring the jury in.

13 (WHEREUPON, the jury entered the courtroom at 4:15 p.m.)

14 THE COURT: All right. Ladies and gentlemen, it
15 looks like in light of the time, it might make more sense
16 for us to go ahead and break for the day. If we have any
17 additional testimony, we shouldn't -- we should -- we
18 anticipate that we will be able to have this matter to you
19 before lunch tomorrow. So -- but it's just a good
20 breaking time right now, beat all the traffic. So we'll
21 go ahead and break for the day, again.

22 I know y'all get tired of hearing it, but I've got to
23 tell you these rules. Don't talk about the case, don't do
24 any type of research about the case, do not pay any
25 attention to any media coverage. If anybody contacts you,

1 please let the bailiff know.

2 We'll let you -- if you can be back in your jury room
3 at 9:30, we should be able to have you about that time.

4 So thank you. Y'all have a good evening, and we'll
5 see you in the morning.

6 (WHEREUPON, the jury exits the courtroom at 4:17 p.m.)

7 THE COURT: All right. Anything else before we
8 break?

9 MR. ADDUCCI: No, Your Honor.

10 MR. MOYER: No, Your Honor.

11 (WHEREUPON, proceedings recessed at 4:18 p.m., to be
12 reconvened Thursday, December 7, 2017.)

13 * * * * *

1 THURSDAY, DECEMBER 7, 2017

2
3 (WHEREUPON, proceedings reconvened at 9:31 a.m.)

4 THE COURT: Good morning.

5 DEFENDANT HUGHES: Good morning.

6 THE COURT: All right. A couple things I need to go
7 over with you, Mr. Hughes. If you will -- and I'm sure,
8 as your attorneys have told you, I'm just going to go with
9 you -- go over your right to testify and make sure you
10 understand your rights and then ask you how you wish to --
11 first, if you'll raise your right hand.

12 WHEREUPON,

13 JOHN MICHAEL HUGHES

14 After having been duly sworn, testified as follows:

15 THE COURT: All right. Now, the State has rested and
16 it is now we're at the stage of the trial where you have
17 the right to present any evidence and testimony which you
18 think is appropriate. And first of all, just make sure
19 you understand, under the Fifth Amendment of our
20 Constitution, it says that no person shall be compelled in
21 any criminal case to be a witness against themselves. So
22 you understand you have the absolute right not to testify,
23 but you also have the absolute right to testify. This has
24 to be a decision that you make after careful consideration
25 and after you have talked with your attorneys about that.

1 One of the things, if you do testify, then you have
2 the same rights and the same -- as any person testifying,
3 and you're subject to cross-examination based on prior
4 statements, based on your criminal record.

5 And what -- is there a criminal record? What
6 criminal record, if any ---

7 MR. MOYER: He has nothing that we would impeach.

8 THE COURT: All right. So there's no criminal record
9 that he could be impeached by based on what the solicitor
10 tells me.

11 So have you had sufficient time to talk with your
12 attorneys about whether you need to testify or not?

13 DEFENDANT HUGHES: Yes, sir.

14 THE COURT: All right. Do you need any additional
15 time to talk with him, with either attorney?

16 DEFENDANT HUGHES: No, sir.

17 THE COURT: Okay. Now, you realize that if you
18 decide it's not in your best interest to testify, that I
19 will instruct the jury that you have the absolute right to
20 remain silent and that they cannot consider that in any
21 way against you because the State would still have the
22 burden to prove you guilty beyond a reasonable doubt.

23 But, again, as I'm sure your attorneys have told you,
24 in addition to your rights, there's also some strategic
25 value in not testifying in getting the last argument, but

1 those are things that I'm sure y'all have discussed as
2 well.

3 But do you understand your rights to testify and not
4 to testify?

5 DEFENDANT HUGHES: Yes, sir.

6 THE COURT: Do you understand everything that I have
7 told you?

8 DEFENDANT HUGHES: Yes, sir.

9 THE COURT: And has anyone -- do you need any
10 additional time to discuss with your attorneys or anybody
11 else about whether you should testify or not?

12 DEFENDANT HUGHES: No, sir.

13 THE COURT: All right. And has anybody coerced you
14 or forced you to make this decision?

15 DEFENDANT HUGHES: No, sir.

16 THE COURT: This decision is solely your decision.

17 DEFENDANT HUGHES: Yes, sir.

18 THE COURT: Okay. And based on everything that I've
19 told you, do you wish to testify?

20 DEFENDANT HUGHES: Yes, sir.

21 THE COURT: All right. Okay. Anything else that
22 y'all want to put on the record?

23 MR. ADDUCCI: No, Your Honor.

24 THE COURT: All right. We'll bring the jury and then
25 proceed accordingly.

1 All right. Anything before we bring the jury in from
2 the State?

3 MR. MOYER: One moment. Can I have a word with ---

4 THE COURT: Yes.

5 (Pause in proceedings.)

6 MR. MOYER: We're ready, Your Honor.

7 THE COURT: All right. Is defense ready?

8 MR. ADDUCCI: Yes, Your Honor.

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

10 (WHEREUPON, the jury entered the courtroom at 9:36 a.m.)

11 THE COURT: Good morning, ladies and gentlemen. I
12 hope everybody had a good evening.

13 As you will recall yesterday, the State rested which
14 means they put all their evidence in they wanted to put
15 in, their case in chief, and now the defense is ready to
16 proceed.

17 All right. You may proceed, Mr. Adducci.

18 MR. ADDUCCI: Thank you, Your Honor. The defense
19 calls the defendant, Mr. John Michael Hughes.

20 THE CLERK: Mr. Hughes, please come forward. Place
21 your left hand on the Bible and raise your right hand.

22 WHEREUPON,

23 JOHN MICHAEL HUGHES

24 After having been duly sworn, testified as follows:

25 THE CLERK: Please be seated and state your name for

1 the record.

2 THE WITNESS: John Michael Hughes.

3 (WHEREUPON, Defendant's Exhibit Number 16 was marked for
4 identification.)

5 DIRECT EXAMINATION

6 BY MR. ADDUCCI:

7 Q All right. Mr. Hughes, can you please give the names
8 of your immediate family members.

9 A My wife's Margaret Renee Hughes, my daughter is Jane
10 Katherine Hughes, my son is Jacob Cody Hughes, my
11 granddaughter is [REDACTED] and my
12 grandson is [REDACTED].

13 Q All right. I'm going to show you what's marked as
14 Defendant's Exhibit Number 16. This is a photograph.
15 Now, can you tell me about when that photograph was taken?

16 A That was my grandson [REDACTED] birthday.

17 Q Okay. So do you know what year that was?

18 A 2013.

19 Q Okay. And who is in that photograph?

20 A My grandson, my granddaughter, my wife, my daughter,
21 my son, a friend of my son's, myself and my son-in-law ---

22 Q Okay.

23 A --- Mr. John Ferrell.

24 Q And the tall guy in the back right, who is that?

25 A That's my son, Jacob.

1 Q Okay. And then the gentleman standing in the front
2 holding the child, who is that?

3 A That's my son-in-law, Mr. Ferrell.

4 Q All right. Is that a fair and accurate
5 representation of what everybody looked like at that time?

6 A Yes, sir.

7 MR. ADDUCCI: Thank you.

8 Your Honor, I move Defendant's 16 ---

9 THE COURT: All right. Any objection?

10 MR. MOYER: No. No objection.

11 THE COURT: All right. Defense Exhibit 16; is that
12 right?

13 MR. ADDUCCI: Yes, Your Honor.

14 THE COURT: All right. That's in without objection.

15 (WHEREUPON, Defendant's Exhibit Number 16 was admitted
16 into evidence.)

17 BY MR. ADDUCCI:

18 Q All right. Now, back in January of 2015, where were
19 you living?

20 A 106 Stonegate Road in Simpsonville.

21 Q Okay. And who was living there with you?

22 A My son, my daughter, my grandchildren, my wife and
23 myself and a friend of my daughter's named Andrew Martin.

24 Q Okay. Now, was your son living there full time with
25 you?

1 A In the beginning, but he was easing out to move in
2 with his girlfriend.

3 Q Okay. So he would stay with his girlfriend and then
4 he would also stay with you?

5 A Yes, sir.

6 Q Okay. And, again, what was your relationship to
7 Mr. Andrew Martin?

8 A He was my daughter's boyfriend.

9 Q Okay. Now, you mentioned earlier that the prior
10 photo was of [REDACTED] birthday. When is his birthday?

11 A [REDACTED]

12 Q Okay. I'm going to show you Defendant's Number 1.
13 Do you recognize that photograph?

14 A Yes, sir.

15 Q And what is that a photograph of?

16 A That's [REDACTED] birthday.

17 Q From what year? Do you remember?

18 A That would be the [REDACTED] birthday.

19 Q And so that was what year?

20 A 2014.

21 Q So sometime in December of 2014?

22 A [REDACTED] We had two parties for him that
23 year.

24 Q Okay. Can you see the kitchen of your residence in
25 that photograph?

1 A Yes, sir.

2 Q Okay. Do you note a fan above the kitchen sink?

3 A Yes, sir.

4 Q Is that fan always in the window?

5 A Yes, sir.

6 Q Is it ever removed?

7 A I never remove it. No, sir.

8 Q All right. On the evening of January 24th, would
9 that fan have been in the window?

10 A Of course.

11 Q Okay. I'm going to show you now Defendant's
12 Number 11. Can you describe what you see there?

13 A It's a two-blade window fan.

14 Q Is that substantially similar to the fan that was in
15 your kitchen window on the evening of January 24th?

16 A It's not exact, but it's close.

17 Q Close in size?

18 A Yes, sir. Close in size, both has two fans in it,
19 not one. And it's pretty close. Same color.

20 Q Thank you. Now, with that fan, how was it made to
21 stay in the window?

22 A There's a trough in the top -- there's a trough in
23 the top of the fan, and when you open the window and put
24 the fan in it, you pull the top part of the window back
25 down on it and it fits in a groove.

1 Q Okay. So in order for the fan to stand in, you have
2 to kind of close the window partially onto it?

3 A Yes, sir. And you have to expand the size into the
4 window track.

5 Q Okay. Now let's get to the day of January 24, 2015,
6 okay?

7 A Yes, sir.

8 Q Do you recall what day of the week it was?

9 A I think it was Saturday.

10 Q Okay. Do you recall if Renee worked that day?

11 A Yes.

12 Q Okay. How did she get to work?

13 A I took her to work.

14 Q Okay. About what time did she go to work?

15 A We left around 7 a.m.

16 Q Okay. What time did you pick her up from work?

17 A Between 7:15 and a quarter to 8:00.

18 Q Okay. At some point, Jacob was out with Mr. Ferrell.
19 Are you aware of that?

20 A Yes, sir.

21 Q About what time did you find out that Jacob was going
22 out with Mr. Ferrell that evening?

23 A I can't recall exactly what time it was. It was
24 dark, I'm pretty sure.

25 Q Okay. Now, was it unusual for Jacob to go out and

1 see Mr. Ferrell?

2 A No. Not at all.

3 Q Okay. Then at some point, they came back to the
4 house.

5 A Yes, sir.

6 Q Do you remember about what time that was?

7 A It was after 10:00, 10:30, but probably before
8 midnight.

9 Q And were you aware of why they were coming back to
10 the house?

11 A Yes, sir.

12 Q And what was that?

13 A My son had called me earlier in the evening and asked
14 me if John and he could come over to the house, that John
15 wanted to talk to me.

16 Q And what would he be talking to you about?

17 A He said that there was a Family Court hearing on
18 Tuesday and he wanted to talk about the children and the
19 custody and so on.

20 Q Okay. And at some point, the two of them arrived at
21 the house, right?

22 A Yes, sir.

23 Q And when they arrived, who was at the house in
24 addition to the three of you?

25 A My wife, my daughter, my grandson, my granddaughter

1 and Andrew Martin.

2 Q Okay. Where was Mr. Martin?

3 A He was in the backyard.

4 Q And why was Mr. Martin in the backyard?

5 A When my son had called me and asked me if John could
6 come over, when we decided that it might not be -- we
7 decided it might not be a good idea for Andy to be at the
8 house at all. He didn't want to leave, so I told him he'd
9 have to go out in the backyard because we didn't want to
10 have any kind of a problem.

11 Q Now, when Jacob and Mr. Ferrell arrived, could you
12 tell if they had been drinking?

13 A Not really. I mean, they said they were out at a bar
14 so I had to assume they had a drink or two.

15 Q But they weren't falling over or anything like that?

16 A Oh, no, sir. Not at all.

17 Q All right. When they arrived, where did you all go?

18 A Into the kitchen.

19 Q Okay. And who was in the kitchen at this point?

20 A Before we went into it?

21 Q When you guys went in.

22 A Oh, my son and myself and Mr. Ferrell.

23 Q Okay. Now, once you got into the kitchen, what
24 happened?

25 A I said hello. I asked John what he wanted to talk

1 about. He said the children and the thing coming up on
2 Tuesday in Family Court.

3 And I said, Okay. What is it that you want? And
4 then I asked him if he wanted something to drink, and he
5 said yeah. And I got the three of us a glass of water.
6 Not one glass, but three glasses.

7 Q All right. Let me show you what is marked as
8 Defendant's Exhibit Number 4.

9 A Yes, sir.

10 Q Can you take a look at that?

11 A (Reviews exhibit) Yes.

12 Q Now, is that a photograph of your kitchen?

13 A Yes, sir.

14 Q Are there glasses there?

15 A Yes, sir. They're on top of the chest freezer.

16 Q Are those the glasses that you had water in that
17 evening?

18 A Yes, sir. There's still water in them.

19 Q All right. That's a fair and accurate representation
20 of how the kitchen looked on January 24th?

21 A Yes, sir.

22 MR. ADDUCCI: All right. Your Honor, we'd ask to
23 move Defendant Number 4.

24 MR. MOYER: No objection.

25 THE COURT: All right. In without objection.

1 (WHEREUPON, Defendant's Exhibit Number 4 was admitted into
2 evidence.)

3 BY MR. ADDUCCI:

4 Q All right. After you got these three glasses of
5 water, then what did you do?

6 A We sat down and talked.

7 Q Okay. And then what happened?

8 A I asked Mr. Ferrell what he wanted, and he didn't
9 really have much of an answer. We talked back and forth a
10 little bit. I asked him where they'd been, what they'd
11 been doing and so on. And finally I got out of him that
12 he wanted to, you know, make sure that -- I asked him, I
13 said, John, what do you want for the children? And he
14 didn't really have an answer. And I said to him, I said,
15 You know, the Court's going to decide on Tuesday. I can't
16 make the decision. You can't make the decision. Jane
17 can't make the decision. The decision will be made by the
18 Family Court judge. And he was visibly upset by the fact
19 that we didn't have any input anymore. But other than
20 that, nothing much. I told him I had to use the restroom,
21 and I got up and I went down the hall into the back
22 bathroom to use the restroom.

23 Q And what did you see when you got back from the
24 restroom?

25 A My son was standing up, Mr. Ferrell was standing in

- 1 front of him but facing him. And they were close
2 together, and they looked like they were in sort of a
3 low-voiced, heated discussion.
- 4 Q Were they yelling?
- 5 A Not really, no.
- 6 Q Okay. And then what happened?
- 7 A I walked over and I asked John to turn around. He
8 did. And I turned him around and I said, Let's don't have
9 any problems here. Let's sit down and finish this
10 discussion. If not, then, you know, you need to go home
11 and we'll do this later, another time.
- 12 Q Okay. And did anybody else enter the kitchen?
- 13 A My wife came in.
- 14 Q Okay. And then what did she do?
- 15 A She I guess had heard us talking, and she went to
16 John and she asked him what he was doing, what he wanted
17 and to not make any more noise so that they didn't wake up
18 the children.
- 19 Q Okay.
- 20 A She pointed at him with her finger, and when she did,
21 he pushed her hands down.
- 22 Q What did you do in response to that?
- 23 A Nothing.
- 24 Q Okay.
- 25 A She wasn't -- she wasn't hurt and that was the end of

1 it.

2 Q And then what happened after that?

3 A I can't remember whether it was me or my son said to
4 John that it might not be time to finish this
5 conversation. It might be time for him to go home.

6 Q Okay. And did he leave?

7 A Yes.

8 Q Do you recall what door he left out of?

9 A The front door.

10 Q Okay. Do you remember how long he was in the kitchen
11 from the time he arrived until the time that he left?

12 A No, sir. I mean, it wasn't a long time, but it
13 wasn't a short time either.

14 Q Okay.

15 A I wasn't keeping track of it.

16 Q Okay. After he left out the front door, then what
17 did you do?

18 A Locked the front door, turned off the kitchen light
19 and sort of like what you do when you go to -- you know,
20 when you're done, you go to bed, you sort of button up the
21 house, make sure the doors are locked, lights are off and
22 so on, and then I went back to the back bedroom, our
23 bedroom.

24 Q Okay. Then what did you do?

25 A I was in the bedroom for a little while, it wasn't

1 very long, and [REDACTED] woke up and wanted something to
2 drink. So I said I'd go get it.

3 Q Okay.

4 A Then I went -- proceeded out the bedroom and went to
5 the kitchen to get [REDACTED] something to drink.

6 Q Okay. Then what did you do?

7 A On the way to the kitchen, I heard a noise.

8 Q Okay.

9 A It was on the -- looking at the house from the road,
10 it would have been on the right side of the house.

11 Q And do you know what kind of noise it was?

12 A It wasn't real loud, but it sounded like something up
13 against the side of the house.

14 Q Okay. What did you do after you heard that noise?

15 A Sat still and listened for a second, and then I heard
16 another noise. It sounded like it was on the same side of
17 the house but further down.

18 Q Okay. And then what did you do?

19 A I heard the last noise, and I figured that there was
20 something out there that shouldn't be out there. So I
21 went to my desk and retrieved my pistol and went to the
22 hallway. It goes out the front door. And I spoke down
23 the hallway, I said, Someone needs to call 9-1-1. There's
24 somebody or something outside.

25 Q Okay. You indicated that you went to your desk to

1 get your pistol. I'm going to show you Defendant's
2 Number 6.

3 A Yes, sir.

4 Q Do you recognize what's in that photograph?

5 A Yes, sir.

6 Q Okay. And what is in that photograph?

7 A It's my pistol bag and the pistol rug that the pistol
8 is in inside the bag.

9 Q Okay. So when you store the pistol, how is the
10 pistol stored?

11 A It's stored in a pistol rug with an extra magazine,
12 and then that's zipped up, and then it's put in the pistol
13 bag and the pistol bag is zipped up.

14 Q Okay. And do you recall where your pistol bag was
15 that evening?

16 A If I'm not mistaken, it was under my desk.

17 MR. ADDUCCI: Okay. Your Honor, I move
18 Defendant's 6.

19 MR. MOYER: No objection.

20 THE COURT: Okay. No objection. Without objection,
21 Defendant's 6.

22 (WHEREUPON, Defendant's Exhibit Number 6 was admitted into
23 evidence.)

24 BY MR. ADDUCCI:

25 Q So you got your pistol, and you said that you

1 hollered down the hall?

2 A Yes, sir.

3 Q Do you remember what you hollered?

4 A Yes. Somebody -- someone needs to call 9-1-1.

5 Q Okay. And then what did you do after that?

6 A I went out the door, locked it behind me.

7 Q Okay. I'm going to show you Defendant's Number 8
8 that's already in evidence. Can you describe what you see
9 in that photograph?

10 A That's the front of my house from the street.

11 Q Okay. And but for the flash, are the lighting
12 conditions similar to the lighting conditions on the
13 evening of January 24, 2015?

14 A Yes, sir.

15 Q Okay. And this little light right here (indicating),
16 what is that?

17 A That's the entrance to the house. It's a little
18 porch that you walk up three or four stairs to get to.

19 Q So that's the door that you walked out of?

20 A Yes, sir.

21 Q Okay. After walking out of that door, where did you
22 go?

23 A Into the front yard.

24 Q Okay. And what were you looking for in the front
25 yard?

1 A Whatever was making a noise. If someone was there as
2 well.

3 Q Did you see anybody in your front yard?

4 A No.

5 Q Okay. Then where did you go after that?

6 A I went around the front of my vehicle. It's in the
7 picture.

8 Q Okay.

9 A Looked to the side of the vehicle because there's an
10 empty spot in the carport there. There was no one there.
11 And then I moved to the side of the carport where the
12 fence is that blocks the view of the side of the yard.

13 Q Okay. So you indicate you have a carport. And on
14 the side of the carport extending from your residence, you
15 said there's a fence?

16 A Yes, sir.

17 Q So if you're in the carport, can you see what is to
18 the right of your house?

19 A On the other side of the fence, no.

20 Q Okay. So then where did you go after going around
21 the carport?

22 A I went around the outside of the carport and looked
23 down the side of the house and saw someone at the window.

24 Q When you say saw somebody at the window, what do you
25 mean by that?

1 A There's a kitchen window on the -- it's the first
2 window on that side of the house going toward the back of
3 it, and there was someone partly in and partly out of the
4 window.

5 Q Okay. And let me show you what is Defendant's
6 Number 9. Is that a view of your carport and the right
7 side of your house?

8 A It was a light shining on it.

9 Q Okay. But is that going down that side of the house?

10 A Yes, sir.

11 Q Okay. And are there any security lights on that
12 right side of your house?

13 A No, sir.

14 Q No floodlights or anything like that?

15 A No, sir.

16 Q Okay. Now, upon seeing this person in your window,
17 what did you do?

18 A I yelled at him.

19 Q Do you remember what you yelled out?

20 A It was probably something that's not very polite,
21 like, What the bleep are you doing in my window and why
22 are you there?

23 Q Okay. Then what did you do and what did you see?

24 A The person that was in the window dropped down out of
25 the window behind -- there's a trash can there and air

1 conditioning condenser, and they went down behind it.

2 Q Okay. And then what did you do after that?

3 A Well, they stood up, and I told them not to move.

4 Q And then did that person move?

5 A Yes.

6 Q Where did they go?

7 A Came toward me.

8 Q Okay. And what did you do in response to that?

9 A Well, I had told him previously not to move when they
10 stood up. And I said, The police have been called. They
11 should be here shortly. And when they came toward me, I
12 shot at him.

13 Q Do you recall how many shots you fired?

14 A I fired one shot at the beginning.

15 Q And then what happened?

16 A There was a slight hesitation, and then he came
17 toward me again, and I shot more times.

18 Q What did you think he was going to do?

19 A And I told him not to move. When he came toward me,
20 I figured he was going to hurt me in some fashion. And I
21 also didn't want him to get past me and get to my family.

22 Q After you shot, do you recall where you went?

23 A I stood there for a minute because I wanted to make
24 sure there was no movement and I couldn't hear anything.

25 And I had already told someone to call the police, and the

1 police weren't there and I wanted them to be there. So I
2 went to -- I went back to the -- where the concrete
3 walkway starts up to the porch and yelled toward the house
4 that I needed help, I needed somebody to call the police
5 or bring me my phone.

6 Q And did somebody do that?

7 A Yes. Brought my phone and my flashlight out.

8 Q Okay. And then what did you do?

9 A I called the police.

10 Q And how long after you calling the police did the
11 police arrive?

12 A Oh, it wasn't very long at all.

13 Q Okay.

14 A I mean, I don't -- maybe a minute. Maybe two
15 minutes, at the most.

16 Q But the police station is just right down the street.

17 A Oh, you can stand on my roof and throw a rock and hit
18 it.

19 Q Do you recall about how far this person was from you
20 when you started shooting?

21 A Well, you have the length of the carport and probably
22 another ten feet.

23 Q Okay.

24 A Carport was probably 20, 21 feet long.

25 Q Okay. And do you recall how far you were from this

1 individual when you stopped shooting?

2 A About half that.

3 Q So were you going towards him or was he coming
4 towards you?

5 A I took a step or so back, but not much.

6 Q Okay. And was this individual coming towards you?

7 A Always.

8 MR. ADDUCCI: Okay. The Court's indulgence.

9 Nothing further from this witness.

10 THE COURT: Cross-examination?

11 MR. MOYER: Thank you, Your Honor. May it please the
12 Court.

13 CROSS EXAMINATION

14 BY MR. MOYER:

15 Q I just have a few questions I want to go over with
16 you. Let me start off by just a couple questions about
17 this fan. So you're not saying that's the same fan that
18 was in the window that night?

19 A The exact fan?

20 Q Correct.

21 A No, sir.

22 Q And do you even know if it's the same model or
23 anything like that?

24 A I -- it's just similar.

25 Q It's similar. In what way? I mean, is it ---

1 A It works the same way, and it's about the same size.

2 Q About the same size, but you can't say it is the same
3 size.

4 A It's not much different.

5 Q Okay. I mean, you haven't done measurements or
6 anything like that?

7 A Oh, no, sir.

8 Q So you don't know if that's -- you don't know what
9 similarities or dissimilarities there could be other than
10 it has the same general appearance; is that right?

11 A Yes, sir.

12 Q Okay. Let me also ask you about something in your
13 house. When the police came out on January the 30th to
14 your house, which I think that's the date after you -- a
15 day or two after you'd been arrested, they came back out
16 to your house, okay?

17 A I don't know that.

18 Q They found your kitchen -- your kitchen table was out
19 back.

20 A Yes, sir.

21 Q Okay. So you -- the table was broken. There was a
22 leg broken. I assume that's why you took it out back.

23 A All the legs were off the table when I took it out
24 back. I took them off.

25 Q Yeah. But one of them was broken.

1 A I can't answer that.

2 Q Do you want to take a look at the pictures?

3 A Sure.

4 Q Let me show you that picture.

5 A Yeah. I took the -- I took the legs off.

6 Q Well, you took them off, but you didn't break that
7 one leg.

8 A I just pulled it off the table. I pulled all the
9 legs off, if I'm not mistaken.

10 Q Okay. I mean, they, I assume -- do they screw out?

11 A It looks like it's got a bolt through it, yes.

12 Q Okay. So -- but -- so all right. So three of them,
13 yeah, look like, yeah, they may have been taken out in a
14 normal fashion, but that one leg is broken.

15 A I can't answer that.

16 Q I mean, so is that why you took it out back, because
17 that leg was broken?

18 A No. There was a bit of blood on that table, and my
19 wife and daughter asked me to take the table out. And I
20 did.

21 Q Because there was a little bit of blood on it.

22 A Yes, sir.

23 Q Okay. So you're telling me -- explain to me about
24 the broken leg.

25 A I can't explain the broken leg other than when I took

1 it out, I took the legs off of it. I just -- I had to
2 take the legs off to get it out the door.

3 Q Did you break that one leg?

4 A I could have. Yes, sir.

5 Q And so you're telling me the only reason you took the
6 table out of the house was because of the -- was because
7 there was a little bit of blood on it?

8 A It was a traumatic time. There was blood on the
9 table. Yes, sir.

10 Q There wasn't a whole lot of blood. You've seen the
11 pictures, haven't you?

12 A I think so. Yes, sir.

13 Q Okay. All right. Isn't the reason the table was out
14 back is because it was broken from the altercation that
15 took place in the kitchen?

16 A No, sir.

17 Q Like Andrew Martin talked about, it was knocked over
18 and broken and then it had been set back up?

19 A No, sir.

20 Q Okay. But there's no question it was taken out back.

21 A No, sir.

22 Q Did you have to put another table in its place?

23 A I think we put a folding table in its place.

24 Q Okay. Now let me go back over a little bit leading
25 up to that night. All right. So that Saturday you knew

1 -- you knew that John Ferrell was going to be coming over.
2 Jacob told you he was going to be coming over.

3 A Yes, sir.

4 Q Okay. And you knew -- you knew Ms. Boisher who
5 testified yesterday. Or maybe Boisher, I think, is how
6 you pronounce it.

7 A Yes, sir.

8 Q Okay. She's somebody who went to your church.

9 A Yes, sir.

10 Q And she used to, on occasion, bring food and things
11 to the family; isn't that right?

12 A Yes, sir.

13 Q And she was part of some sort of charitable arm of
14 the church?

15 A It's called the Relief Society. Yes, sir.

16 Q The Relief Society.

17 And she showed you kindness; isn't that right?

18 A I mean, she wasn't there very much. But yeah. She
19 wasn't mean.

20 Q She did. She came over to talk about the Family
21 Court proceedings.

22 A Yes, sir.

23 Q And, in fact, she came over after the incident too
24 and brought some food?

25 A She and many members of the church and several other

1 people. Yes, sir.

2 Q Okay. And the night prior to that when she came
3 over, that Friday night, Jacob wasn't there that night,
4 was he?

5 A I don't recall.

6 Q Okay. So Jacob -- I mean, Jacob didn't -- Jacob
7 wasn't living there at the time.

8 A Off and on. More -- more with his girlfriend than at
9 the house.

10 Q Right. So he'd be there sometimes. I think in one
11 of your statements you said he stayed there about
12 10 percent of the time. Does that sound right?

13 A It was a guess, but it was off and on.

14 Q Okay. All right. Now -- all right. Going to that
15 Saturday, then you knew -- you knew John Ferrell would be
16 coming over with Jacob at some point. And in the home was
17 you, your wife, Jane, the children, Andrew Martin.

18 A Andrew was out back, but he was there, yes.

19 Q Right. He was home.

20 And so Jacob and John, they went out. They told you
21 they're going to a bar.

22 A Well, I didn't talk with Jacob and John about where
23 they were going. I didn't talk to John at all that night
24 until he came to the house.

25 Q But Jacob told you that they decided to go to a bar.

1 A Well, he said he was going to go out with John. He
2 didn't give specifics.

3 Q And one -- well, I mean, you knew he was going to a
4 bar because, at one point, there was texting because you
5 said he thought it was too loud at the bar.

6 A After they were out, I knew that -- that he was at a
7 bar, yes.

8 Q Right. And then Waffle House after that.

9 A I don't know if I knew they went to a Waffle House or
10 not.

11 Q Well, didn't you say you fussed at him because he
12 didn't bring you some coffee back or something like that?

13 A That was -- yeah. After he got to the house, he told
14 me that's where they had been. But I didn't know they
15 were going there.

16 Q Okay. So they went out there, too.

17 And so you and your wife and Jane, the children, had
18 dinner that night.

19 A My wife and I stopped at McDonald's that night on the
20 way home from picking her up from work.

21 Q Okay. And that would have been around?

22 A Between 8:00 and 8:30, maybe 8:45 at the latest. I
23 mean, I can't be specific that long ago.

24 Q And you brought some food back for the children?

25 Or ---

1 A Everybody.

2 Q For every -- for Jane ---

3 A Everybody in the house, yes.

4 Q --- the children and Andrew.

5 A Yes.

6 Q Okay. And then I guess after dinner, you guys went
7 to bed and you were watching a movie.

8 A Yes, sir.

9 Q And I think you called it Happy Feet?

10 A I think that's what it was. Yes, sir.

11 Q Okay. And you all were in your room, and you said
12 Jane was coming back and forth a little bit.

13 A Yes, sir.

14 Q But she stayed in the room across the hall ---

15 A Yes, sir.

16 Q --- from you?

17 A Directly.

18 Q Okay. And then everybody was asleep, close to it.

19 A The children were asleep. I'm not -- I can't -- you
20 know, it was a long time ago.

21 Q Okay. All right. And then so, according to your
22 testimony, Jacob and John came over, and you talked about
23 what you say happened in the house.

24 A Yes, sir.

25 Q Now, I mean, there's no question there wasn't a

1 physical fight. There was not a physical fight in the
2 house.

3 A Are you saying that there was or there wasn't?

4 Q No. I'm saying according to your testimony, there
5 was not.

6 A Correct.

7 Q Correct. And no one had weapons.

8 A Not that I saw.

9 Q And no one punched or cut or did anything like that
10 to anyone else.

11 A When I was in the house, no, sir.

12 Q The extent of the altercation that you're saying you
13 saw was when John Ferrell pushed your wife's hands down.

14 A Yes.

15 Q And when the time John left, no one had been cut, no
16 one was bleeding, there wasn't blood anywhere. He walked
17 out of the house without any problems or issues like that.

18 A Yes, sir.

19 Q Okay. And after he left, then you say, I think the
20 word you used was button up the house. You were going
21 around turning off computers and shutting doors and so
22 forth, correct?

23 A Yes, sir.

24 Q And you talk -- one thing about the kitchen in -- on
25 Monday and in a lot of your statements, you talk about the

1 lights that were usually on in the kitchen and were on
2 that night. And there's one above the sink and there's
3 one over the stove.

4 A Yes, sir.

5 Q And those lights always stayed on.

6 A Pretty much. Yes, sir.

7 Q So those lights were on.

8 A They're little like 15, 20 watt, 25 watt bulbs.

9 They're not bright lights.

10 Q Okay. Those lights were on in the kitchen.

11 A Yes, sir.

12 Q Okay. And then you went to bed. And that's when you
13 said you heard the -- or [REDACTED] wanted water or whatever.

14 A I went to the bedroom. I didn't actually go to bed,
15 but I went to the back bedroom, yes.

16 Q Okay. And that's when you knew [REDACTED] wanted some
17 water, so you ---

18 A It was sometime after that. It wasn't right away,
19 but it wasn't a long time.

20 Q Okay. And then that's when, at some point around
21 that time, you heard the noise as you were going towards
22 the kitchen.

23 A Yes.

24 Q Now, you talked today about you heard something like
25 a scrape on the wall.

1 A It was something on the side of the house. I didn't
2 know what it was.

3 Q All right. And so going back to -- you gave -- you
4 talked to the police officers for quite a bit back when
5 this first happened, didn't you?

6 A Yes.

7 Q You went to the police station, and you gave
8 interviews with them that were recorded.

9 A Anytime they called me, I went to see them.

10 Q You were there. This Investigator Manley with
11 Investigator Morecraft back there and I think Investigator
12 Donnelly.

13 A Yes, sir.

14 Q And in those interviews, when talking about the
15 noise, the -- if you recall, the ---

16 A It was a long time ago.

17 Q It was.

18 The sound that you said it made was -- the example
19 you used was like a water bottle like kind of crinkles.

20 A Yeah. We have -- above the kitchen there's a gutter,
21 and it's kind of loose. And occasionally, a tree limb
22 would hit that, and it would scrape against it like
23 scraping your fingernails against a blackboard or metal.
24 Something scraping. Something that makes an echo.

25 Q Okay. Well that's not the way you described it then.

1 You described it like a water bottle. Do you remember?

2 A Well, I mean, it's a different description, but it's
3 a different time, too.

4 Q Okay.

5 A It's still -- it sounded like something against that
6 metal on the side of the house.

7 Q All right. Well, I guess what I'm trying to --
8 trying to understand from you is, is that when you were
9 talking to those officers and giving statements, the sound
10 that you described it as was like that crinkling noise of
11 a bottle.

12 A Okay.

13 Q Does that sound right?

14 A I can't say I didn't say it.

15 Q Okay. And then so you hear this noise as you're
16 going down the hallway, and you say sometimes you have
17 trees or whatever that scrape on the ---

18 A That happens occasionally, yes.

19 Q So it wasn't I guess too alarming of a noise, I guess
20 is what I'm trying to ask you.

21 A It was a noise I wasn't used to hearing all the time.

22 Q Okay. Now, you talked about where your home is in
23 relation to the police department. I mean, it's close.

24 A Very close.

25 Q Very close. I mean, and that's a very nice little

1 neighborhood where you lived, isn't it?

2 A It is. It started back in the late '60s. It's been
3 there quite a long time.

4 Q Right. A lot of people who have lived there for a
5 long time.

6 A Some. Not many as used to.

7 Q It's not a high crime neighborhood.

8 A I mean, we hadn't been there that long. I don't know
9 the answer to that question.

10 Q Well, you'd been there a couple years, hadn't you?

11 A It was a little over a year, I think. Maybe -- maybe
12 longer.

13 Q Okay. But it's a nice residential neighborhood.
14 There are families.

15 A There -- there was a cut-through there. There was a
16 cut-through, and I think I mentioned this that people
17 would walk through. And they'd go over, there was a
18 church on the other side of the house across the street,
19 and there's a pathway. You can see it out there. They'll
20 cut through. That's why we put the fence up on the side
21 of the carport.

22 Q Okay. So all right. So you hear this noise, and it
23 could be something, it might not be something. You yell
24 down the hallway to no one in particular, I assume, just
25 call 9-1-1?

1 A Well, my interest was getting outside to find out
2 what it was and keeping it from getting in the house if it
3 was something wrong.

4 Q Sure.

5 A But I certainly didn't go out the side of the house
6 hoping that it was something wrong.

7 Q Right.

8 A I was hoping that it was a tree or something else
9 making the noise.

10 Q Sure. I understand. But what I'm asking you is you
11 didn't call out Margaret's name or Jane's name or
12 something. You just say, Someone call 9-1-1.

13 A To be perfectly honest with you, I could have said
14 somebody's name.

15 Q Okay.

16 A It was a long time ago. I think more along the lines
17 of somebody call 9-1-1.

18 Q Okay. And so you, quote, unquote, buttoned up the
19 house. Now, having done that, you had not gone out and
20 gotten Andrew Martin to come back in the house. Why is
21 that?

22 A I would assume that he may have been in the house or
23 he may be outside still smoking a cigar. I wasn't
24 concerned about Andy.

25 Q Well, the reason he was out there was because John

1 Ferrell was coming over.

2 A Correct.

3 Q John Ferrell has left. So at this point, why had you
4 not just gone out there and said, Hey, Andrew. Come on
5 in. It's midnight. Let's go to bed.

6 A Andrew was my daughter's friend. I didn't tend to
7 Andy.

8 Q Well, he was living there with you.

9 A Of course.

10 Q Yeah. He was -- I mean, he was ---

11 A But he's a grown man. I didn't have to tell him when
12 to or when not to come in the house.

13 Q I mean, I'm not saying you had to tell him what to
14 do, but maybe just let him know what's going on in the
15 house, that it's safe to come and go to bed.

16 A My mind wasn't on that. My mind was going on back to
17 the bedroom and going to bed. He could have come in the
18 house when he wanted to. He has a key.

19 Q But he hadn't -- he hadn't gone in the house.

20 A Not that I know of. No, sir.

21 Q And the only way to lock that back door that he had
22 gone out was to put that -- was to put that piece of wood
23 in the track so it wouldn't open from the outside.

24 A It's like a safety lock. Yes, sir.

25 Q So you locked him outside?

1 A Yes, sir.

2 Q Why did you lock him outside?

3 A Because I didn't want him to come in when John was
4 there.

5 Q No, no, no, no. You locked that back door after John
6 had left. That's what you said in your statements.

7 A I don't recall.

8 Q Okay.

9 A I mean, I ---

10 Q So ---

11 A Go ahead.

12 Q So you hear this noise. And didn't it occur to you,
13 well, Andrew's outside, maybe it's Andrew?

14 A Well, you've got to -- got to understand that there's
15 a chain-link fence on the side of the house. Andrew would
16 have had to walk all the way around and go to the gate on
17 the opposite side of the house and then come back to that
18 side.

19 Q Well, maybe he would have.

20 A It's possible.

21 Q Did you ever think you might be going out there to
22 shoot Andrew?

23 A I wasn't going out there to shoot anyone. I went out
24 there to see what the noise was hoping that it wasn't
25 anything.

1 Q Right. Well, let's talk about that. Why in the
2 world, help me understand why you would go out there to
3 address this noise that may be something, may not be
4 something, and you don't take a flashlight?

5 A I had my gun in my hand. My gun doesn't have a
6 flashlight attached to it.

7 Q Well, what good ---

8 A I don't have a little tiny flashlight.

9 Q What good is -- you brought -- you ended up with a
10 flashlight.

11 A It was a big flashlight.

12 Q Okay.

13 A Well, not great big, but enough it would have taken
14 the hand you hold it.

15 Q Right. And in your statements, you talk about having
16 brought the flashlight and your phone outside with you but
17 in your pocket.

18 A I didn't have pockets. I wouldn't have had pockets
19 to put it in.

20 Q Well, why would you have said that?

21 A I have no idea. I didn't have pockets on, and I
22 didn't take the flashlight or the cell phone in the
23 beginning. I went back to get it.

24 Q Okay. Well, let's go back to when you were giving
25 these statements, which was within a day or two of the

1 incident.

2 A Correct.

3 Q Okay. And when doing that, do you -- and we can take
4 a minute and go back and listen to your recording if you
5 -- would you like to do that?

6 A Don't need to.

7 Q Okay. So do you -- so you don't dispute the fact
8 that you told these officers that when you went outside,
9 you had the flashlight and your phone in your pocket?

10 A I don't recall telling them I took that out with me
11 in the beginning, no.

12 Q Well, why would you -- well, I mean, like I said, I
13 don't want to put words in your mouth. We can take a
14 minute and listen to that, if you'd like.

15 A I can't answer that.

16 Q You can't answer why you said that?

17 A I mean, I went -- there was a lot going on that
18 night, an awful lot after -- after the shooting. Not in
19 the beginning.

20 Q Yeah. There was a lot going on. But when you --
21 when a person hears a noise that may or may not be
22 something, if it's a reason you're going to take a gun out
23 with you ---

24 A Yes.

25 Q --- you're not going to bring a flashlight?

1 A I turned the lights off. I know my house and the
2 area around it. I wouldn't want to have lights on me.

3 Q Lights on you? The reason for a flashlight is so
4 lights are shining on whatever is out there.

5 A Correct. I understand that.

6 Q So you knew that side of the house was very dark.

7 A Yes, sir.

8 Q You knew there wasn't floodlights out there.

9 A Yes, sir.

10 Q You knew that's where the sound was coming from.

11 A Yes, sir.

12 Q You're going out there to investigate a sound.

13 A Yes, sir.

14 Q And why in the world are you not going to take an
15 implement out there that would help you understand what is
16 going on outside?

17 A I had the most important implement with me. I
18 couldn't do anything with a flashlight if it was something
19 or somebody that wasn't supposed to be there.

20 Q Okay. Now, you go outside, and then you tell us
21 about -- you told us about what happened when you got
22 outside.

23 A Yes, sir.

24 Q And you saw what you say is something or someone in
25 the window, and you -- you have this series -- I won't say

1 a conversation because it's all one way. It's you
2 speaking to this person that is in the window, correct?

3 A Yes.

4 Q The person never spoke back to you.

5 A Yes, sir.

6 Q Okay. And the first thing you say is, you know, What
7 the bleep are you doing in my window?

8 A Yes, sir.

9 Q And you agree, you testified here now you hollered
10 it.

11 A Yes, sir.

12 Q I mean, why wouldn't you? If someone's breaking in
13 your window, why ---

14 A I wasn't screaming, but I did -- I was very loud,
15 yes.

16 Q Sure. You want to make sure they hear you.

17 A Of course.

18 Q So -- and there's no reason not to be loud.

19 A Absolutely none.

20 Q Sure. Okay. And there's also, you know, again,
21 looking back at the series of statements that you gave,
22 once you said that, the person dropped ---

23 A Yes, sir.

24 Q --- and then started coming at you.

25 A Yes, sir.

1 Q And you mentioned that you yelled, Stop.

2 A Yes, sir.

3 Q Okay. The person didn't stop. The person's coming
4 towards you, and you fired.

5 A Yes, sir.

6 Q Fired once.

7 A Yes, sir.

8 Q And then you made other comments, and, again, you
9 made sure the officers knew that you were saying it loud
10 so he could hear it. You're saying, Stop, stop, stop.
11 The police are on the way. And you're making sure that
12 person hears what you're saying so that person would not
13 come at you; isn't that right?

14 A Yes, sir.

15 Q Okay. And you say the person kept coming towards
16 you.

17 A Yes, sir.

18 Q And you said he wasn't running.

19 A Not at first, no.

20 Q Right. But is accelerating.

21 A Correct.

22 Q In other words, getting -- the closer he got to you,
23 the faster he got.

24 A After the first shot.

25 Q After the first shot. And then you kept shooting

1 until he went down.

2 A Well, until I didn't hear anything else. Yes, sir.

3 Q Okay. And your testimony is it was not until that
4 point that you went and got your flashlight.

5 A I'm pretty sure that's when it was. Yes, sir.

6 Q And your phone.

7 And you stayed there for the police to come.

8 A Yes, sir.

9 Q And, according to your testimony, it wasn't until the
10 police arrived and an officer talked to you and an officer
11 shined a light up ---

12 A There were several flashlights being shown then.

13 Q Right. On the man who was down on the ground.

14 A Correct.

15 Q It wasn't until that point that you knew it was John
16 Ferrell.

17 A Correct.

18 Q Up until that point, you didn't know that. That's
19 your testimony.

20 A Yes, sir.

21 Q And so it's your testimony that John Ferrell was
22 trying to break into your kitchen window?

23 A I didn't know who it was.

24 Q Well, we know now, right?

25 A Of course, of course.

1 Q So John Ferrell was trying to break into your kitchen
2 -- into your kitchen.

3 A Yes, sir.

4 Q He's trying to break into your house. Is that what
5 you're saying?

6 A Yes, sir.

7 Q Two days before this hearing where he is going to
8 address this issue of getting visitation with your
9 children.

10 A Well, he already had supervised visitation.

11 Q He did, but he wasn't getting it, was he?

12 A As far as I know, he got all but one.

13 Q It had stopped.

14 A It didn't stop. It was paused.

15 Q And in two days from that day that you killed him, he
16 was going to be back in front of a judge with ---

17 A We all were.

18 Q You all were. And he was going to be there as well.

19 A Correct.

20 Q And he, two days before, is going to break into the
21 home where these children were living, and then he's going
22 to have to go back into that judge and say, Oh, by the
23 way, I know I just broke into their house the other day,
24 but I want visitation with the children.

25 A Well, I don't think he would have said that. I think

1 that if he had stopped and the police had gotten there,
2 they would have arrested him for attempting to break in
3 the house.

4 MR. MOYER: I have no further questions. Thank you.

5 THE COURT: Any redirect?

6 MR. ADDUCCI: No, Your Honor.

7 THE COURT: All right. You may step down.

8 MR. ADDUCCI: That's our case, Your Honor.

9 THE COURT: All right. Any additional ---

10 MR. MOYER: I do not, Your Honor.

11 THE COURT: All right. Ladies and gentlemen, that
12 concludes all of the evidentiary portion of the trial, so
13 that's all of the information that y'all will have before
14 you when you begin your deliberations.

15 At this point, we need to -- I need to meet with the
16 attorneys and we need to finalize the charge, the law that
17 I will charge you with. So what we have left now is the
18 attorneys will have their closing arguments, then I will
19 charge you on the law. And at that point, I will be able
20 to finally tell you you can start discussing the case.
21 But not yet.

22 So if you go back to your jury room, we'll bring you
23 back as soon as we have -- we're ready for you.

24 (WHEREUPON, the jury exits the courtroom at 10:25 a.m.)

25 THE COURT: All right. We'll be at ease. Let me

1 work on the charge, and then I'll let y'all know and then
2 we can discuss the final version.

3 (WHEREUPON, a recess is taken at 10:26 a.m.)

4 (WHEREUPON, proceedings reconvened at 11:00 a.m.)

5 THE COURT: All right. Before we bring the jury in,
6 in discussing with counsel, first of all, any objection to
7 the verdict form from the State?

8 MR. MOYER: No, Your Honor.

9 THE COURT: And from the defense?

10 MR. ADDUCCI: No, Your Honor.

11 THE COURT: All right. And I believe that the
12 defense wanted to put something on the record about not
13 charging the Castle Doctrine.

14 MR. ADDUCCI: Yes, Your Honor. We requested that the
15 Court instruct the jury on 16-11-440, that a person is
16 presumed to have a reasonable fear of eminent peril of
17 death or great bodily injury to himself or another person
18 when using deadly force that is intended or likely to
19 cause death or great bodily injury to another person if
20 the person against whom deadly force is used is in the
21 process of unlawfully and forcibly entering or has
22 unlawfully and forcibly entered a dwelling, residence or
23 occupied vehicle. That's from the Protection of Persons
24 and Property Act, colloquially known as the Stand Your
25 Ground Act. I believe that if there is a vagueness to the

1 law, it should be decided in favor of the defendant.

2 This court, I understand the State's position is that
3 that presumption only applies during the immunity hearing.
4 Again, the statute isn't clear that the immunity hearing
5 is the only time when that presumption applies, therefore
6 creating some vagueness and belief that the vagueness
7 should be decided in favor of the defendant. It just
8 seems odd that the legislature would create a system where
9 a person who is in the moment has different presumptions
10 based upon who is deciding the facts. The presumption in
11 front of a judge is one thing. The presumption in front
12 of a jury is a different thing. We just believe that that
13 creates a vagueness and that that vagueness should be
14 decided in favor of the defendant and he should be granted
15 that presumption in front of the jury.

16 THE COURT: Okay. And I think that, you know, based
17 on the case law that has interpreted it, that that would
18 not apply. I think it may be a question whether the facts
19 actually fit in there, too, but -- since it was outside in
20 the front yard or in the yard. But I think, basically,
21 because of the way the Court has interpreted that, that it
22 would not be charged. So therefore, your request is
23 denied as indicated.

24 MR. ADDUCCI: Thank you, Your Honor.

25 MR. MOYER: The only thing I would add is I can't

1 remember what the defense exhibit is, but the fan that's
2 been used a few times, that's not in evidence.

3 THE COURT: It's just for kind of demonstrative
4 purposes only. I don't think it was actually ever
5 admitted, was it?

6 MR. ADDUCCI: Correct.

7 MR. MOYER: All right. I mean, it was used for
8 demonstrative purposes with several witnesses, but I would
9 argue that it should not be able to be used during closing
10 arguments. First off, like I said, it's not in evidence.
11 Secondly, there is no testimony about it other than it's
12 kind of similar to the fan that was in there. We have
13 photographs of the actual fan. It would be misleading to
14 have some other implement being used with this jury that's
15 not the actual fan. So I would object to that being used.

16 MR. ADDUCCI: Your Honor, we're just -- you know, if
17 we're using it in closing, just for demonstrative
18 purposes, again, to get an idea of the physical space.

19 MR. MOYER: And that's the problem. I mean, there's
20 no testimony that it is the same size or it would just
21 guesstimate. Yeah, it looks about the same.

22 THE COURT: I think he can show them on the
23 photographs. I mean, I'm not sure that's ---

24 MR. ADDUCCI: I believe the testimony was it was
25 substantially similar, which is sort of like when

1 introducing a photograph that is substantially similar to
2 what I saw that day.

3 MR. MOYER: Well, the difference with a photograph is
4 we're using the actual -- a photograph is of the actual
5 evidence, and we're saying, yes, this photograph shows it
6 in substantially the same condition as it was, the actual
7 evidence.

8 THE COURT: That gives you a little more argument.
9 You can say, look, they're trying to put this in. It's
10 not even the same one. I mean, I'm not -- he can refer to
11 it. I mean, it's already been -- I mean, the jury has
12 already seen it. You've got the pictures to show it
13 wasn't the same. I think you've established that. So I'm
14 going -- he can refer to it.

15 All right. Anything else before we bring the jury in
16 from the State?

17 MR. MOYER: No, Your Honor.

18 THE COURT: Anything else from the defendant?

19 MR. ADDUCCI: No, Your Honor.

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

21 (WHEREUPON, the jury entered the courtroom at 11:06 a.m.)

22 THE COURT: All right. Ladies and gentlemen, as I
23 told you previously, we have concluded the evidentiary
24 stage of the trial, and now we're going to have closing
25 arguments. I remind you that this is not evidence. This

1 is the attorneys' summary, their argument about the case.
2 And then when they conclude, then I will charge you on the
3 law, and at that point, you'll go back to your jury room.
4 I believe everybody made their selection for lunch so that
5 you can begin deliberation during your lunch. You can eat
6 during deliberations so that we can be efficient.

7 All right. Mr. Moyer?

8 CLOSING ARGUMENTS

9 MR. MOYER: Thank you, Your Honor. May it please the
10 Court.

11 Madam Forelady, ladies and gentlemen, good morning.
12 As I told you at the beginning of my -- beginning of the
13 case when we did the opening arguments I would have this
14 last opportunity to speak to you. And what I am going to
15 do during these few moments is I am going to go back over
16 the evidence that we have heard in this case, talk about
17 it a little bit, remind you of it. Although it was a
18 two-day trial, we heard from quite a number of witnesses,
19 we heard a lot of testimony, we have over 100 exhibits, so
20 I'm going to do a little bit of just refreshing your
21 memory, and then it's also my opportunity to argue to you
22 about the significance of this testimony.

23 This would probably be a good time to remind you or
24 to reiterate something the judge has said as you've heard
25 about how trials work. We are finished with the

1 evidentiary phase of the trial, so all of the testimony,
2 all the evidence that you are going to have to consider
3 this case is now before you. Every once in a while we
4 have jurors send back a question while they're
5 deliberating saying, oh, we'd like to look at, you know,
6 this police report, or we'd like to look at this
7 statement, or we -- you know, that part of it is over.
8 Except in rare situations, things like police reports and
9 witness statements are not allowed to be admitted into
10 court. So at this point, you have what you're going to
11 have to make your decision in this case. And you have
12 plenty of it, and you have sufficient evidence to be able
13 to make a decision in this case.

14 So what I want to do now is talk a little bit about
15 what we have heard in this case. I want you to go back
16 with me now to January the 24th of 2015. 106 Stonegate
17 Road in Simpsonville, what do we have? What is that
18 initial snapshot of this case? We had an officer who was
19 out on another call who gets a call from his dispatch
20 saying you need to respond to 106. This is urgent. There
21 are gunshots. This is something he had to drop what he
22 was doing and he got there, and he got there quickly.

23 And what do we find? We find this defendant standing
24 out by the road, walking from the house towards the road
25 with a gun. Very soon thereafter, flashlights are shined

1 by the officers up towards the house and there is a man,
2 later we find out is John Ferrell. He is face down, his
3 arms are outstretched up around his head, he is unarmed,
4 and he is dying. That's the initial picture that we have
5 in this case. That's a snapshot. There's a window open
6 on the side of the house. The homeowner is there with a
7 gun.

8 Now maybe, just maybe if that is all we had in this
9 case, just that initial snapshot, you might go back in
10 your jury room and say, well, you know what? I'm not sure
11 that this convinces me beyond a reasonable doubt that this
12 defendant is guilty of murder. We know he shot him, but
13 I'm not sure this would be -- convince me beyond a
14 reasonable doubt of murder.

15 Then we move forward in this case. And what I want
16 you to do now is to go with me and walk with me through
17 this case like this investigator did and Investigator
18 Morecraft did, and we're going to lift the blanket of this
19 case and we are going to look at what is underneath that
20 blanket.

21 So start with me by going to John Ferrell. Who is
22 John Ferrell? John Ferrell was a 51-year-old man, as you
23 have heard, who came across the country to try to get with
24 his children. He came across the country from California,
25 and after having already gotten custody of one of his

1 children, and he wants to actually have real custody of
2 the children. He wants at least visitation.

3 And he is doing what he thinks is doing it the right
4 way. He's fighting, but he is fighting the right way.
5 What does he do? He hires an attorney. He goes to court
6 and he makes a complaint over a year prior to this
7 incident. He gets in front of a judge one time, then a
8 guardian is appointed, and he gets in front of a judge
9 again, and the judge says, You can have visitation with
10 your children, and you can have visitation several times a
11 month. And we're going to start off with supervised
12 visitation, and then it's going to move on beyond that to
13 unsupervised visitation. But what happens? It's stopped.
14 He's not allowed to.

15 And so what does he do then? He is going to go back
16 in front of that judge again. He is going to go before
17 the Court. He's going to have another hearing where he is
18 going to be able to address the issue of getting his
19 children in just two days, in just two days from the day
20 he was killed.

21 And so at this point, I want you to ask yourselves, I
22 want you to ask yourselves this question: Why in the
23 world would this man, who has been doing everything right
24 up until this point, why in the world would he do what
25 this defendant is saying that he did? Why would he try to

1 break into the home? For what reason? He is about to get
2 those children, or he is at least allowed to have the
3 opportunity to tell a judge why he should get more access
4 to the children. He's already had some. Why would he
5 break into the home? What possible reason would he have
6 to commit a crime of this type against the people who have
7 custody of his children? It makes absolutely no sense.
8 It makes no sense.

9 And while we are asking why he would do this, I think
10 this is a good time to ask how he could have done this.
11 The defendant wants you to believe that a man who is 5'7",
12 286 pounds would go to the side of this house and would go
13 to a window that is almost six feet in the air and be able
14 to not only get up to that window, pull the fan out and
15 not push it in, which you'd think if he's doing that, that
16 would be the logical thing to do, and shimmy his way up
17 this window and try to break into the window that way.
18 How is that possible? This is a man who is obese, his
19 lung -- he has emphysema, he has cardiovascular disease.
20 That man would not be able to even if he wanted to.

21 And I want you to think about something else. Let's
22 say there is some possible reason he wanted to get in that
23 house. What else do we know about the side of that house?
24 There are windows that are four foot high. If he is going
25 to break into that house, why is he going to go into the

1 kitchen where this defendant had just been, have to jump
2 to something six feet in the air, pull himself up when
3 there's another window that's just right next to it that's
4 lower? There is no reason why he would do it and there's
5 no reason how he could do it.

6 Now I want you to look back at the defendant with me.
7 What was his attitude towards these proceedings? And at
8 this point, I think we need to bring a witness named
9 Christine Boisher into focus. Do you remember her? She's
10 the lady who went to this defendant's church.

11 Now, His Honor is going to instruct you about
12 evaluating the testimony of the witnesses. Okay. You've
13 heard a lot of witnesses take the stand, and the judge is
14 going to give you some help and some tools that you can
15 have in weighing the testimony of witnesses. And he's
16 going to say, well, consider the degree of attention that
17 the witness displayed, you know. Consider whether the
18 person has some stake in the outcome. Also, just that.
19 Consider what stake, if any, that witness would have in
20 the outcome of this case.

21 Think about Ms. Boisher. She had no dog in this
22 fight. If anything, one would think she would be
23 sympathetic to him. She had been up until this point.
24 She had been displaying great kindness towards him. She
25 would bring food to his house at his behest. She went

1 over to his house and spoke to the family and said, Yes,
2 let me take a look at this guardian report. I used to be
3 a guardian. Let me see if there's anything I can do, or
4 at least maybe try to put your mind at ease a little bit.
5 So she was there out of her kindness, out of someone who
6 went to the same church as him, trying to display goodwill
7 towards him. She has no reason not to tell the truth.

8 And what did she tell you? That she went over to
9 this defendant's house on two occasions, once about a
10 month prior and then once the day before the incident
11 happened. And she also fielded numerous phone calls from
12 this defendant where he would call her.

13 And what was the common theme with these
14 conversations? He's worried. He's worried about what's
15 going to come, what is going to happen. How much weight
16 is the judge going to give this guardian ad litem report?
17 And it builds.

18 And the day before this happens, what does she say
19 that this defendant said? He's angry, he's upset, he is
20 not happy about the upcoming hearing, and he makes a
21 quote. She said that he said that he would do whatever it
22 took to keep John Ferrell from having the kids. He is not
23 getting the kids no matter what. That's what Ms. Boisher
24 said that this defendant told her the day before John
25 Ferrell was killed.

1 Let's look back now at John Ferrell. Let's look at
2 John Ferrell now as he lie on the ground on January the
3 24th into the 25th of 2015. And we have some pictures
4 about it, and you've heard a lot of testimony about it.

5 And what do we know about the way Mr. Ferrell looked
6 as he lie there? And let's consider his clothing. Start
7 off with the clothing on his upper body. He has a jacket
8 on. It has copious amounts of blood all over it. There
9 are bullet holes in that jacket that correspond to the
10 bullet holes in his body.

11 We know that he had a shirt on. And what do we know
12 about that shirt? It had been ripped two-thirds of the
13 way around, this T-shirt like shirt two-thirds of the way
14 around his body. And you can see in the pictures where
15 the part, the hem that has been ripped is down below his
16 backside.

17 What do we know about the clothes from his waist
18 down? And there are several things that are very
19 important. They are down around his ankles. They're down
20 around his ankles. What does all of this tell you? How
21 in the world could that possibly happen? There's no other
22 way that could happen other than what we have heard
23 testified about and what makes sense, it is that John
24 Ferrell was attempting to get away from this family who
25 was trying to kill him, desperately trying, goes to that

1 window, the only way out of the house as the people around
2 have doors blocked, and that is the closest escape at all.
3 Out of desperation he goes to that window, lunges his way
4 through it, and those people came and grabbed him to pull
5 him back in. And they grabbed, and they grabbed at his
6 shirt which is what ripped it, they grabbed at his pants
7 which is what pulls them down, and that is how they got
8 around his ankles. There's no other possible explanation.

9 And what else do we know about the clothing that are
10 down around his ankles? Remember this. There was
11 testimony given both by Dr. Fulcher and by Investigator
12 Manley, and you can even see in the photographs his
13 underwear is around only one leg, although the pants are
14 around both. What does that tell you? One leg the
15 clothing came all the way off. There's no other way. The
16 underwear aren't ripped. So when he was going out that
17 window and the clothes are being pulled off his body, they
18 actually came all the way off one leg. And when he got to
19 the ground and he's desperately trying to get away and he
20 grabs at his clothes, he misses the underwear and gets the
21 pant leg back on his leg, and as he desperately wants to
22 get away, that's when John Hughes, this defendant, has
23 come around to end his life.

24 Let's think about the defendant's hastily
25 put-together story. And I say hastily because I would

1 argue to you that they had a story, they had a plan. They
2 had a plan in that the plan was to get John Ferrell over
3 there and kill him, but the plan went slightly awry. John
4 Ferrell started to get away and so it had to change. The
5 story had to change. The story had to change to not that
6 he had broken in and was trying to kill us, but that he
7 was running at me and he tried to kill me. That's how it
8 changed. And that's why his story now does not fit the
9 facts of what we know about John Ferrell.

10 There's no way what this defendant just testified to
11 you could have happened when you consider John Ferrell's
12 clothing. How can you run towards another person if your
13 clothes are around your ankles? It's impossible. It's
14 impossible. He said he shot the man who later turned out
15 to be John Ferrell, told him to stop, and the man kept
16 accelerating towards him until he finally fell and died.
17 How is that possible?

18 So let's look back at John Ferrell again as he lay on
19 the ground and as we later found out what his condition
20 was from Dr. Fulcher. What do we know about that? We
21 know about the gunshot wounds, and there are several
22 things about the gunshot wounds that are very significant.
23 One of the aspects of those gunshot wounds is the
24 closeness of those shots. Now, think about it. And you
25 saw the diagram that we used in court which I think

1 highlighted it well, and we used that and put that
2 together because this is very significant and we wouldn't
3 have to show you those disturbing photographs. You could
4 see it on the diagram.

5 What do we know about that grouping of shots? One is
6 here (indicating), on this shoulder or maybe slightly
7 above it. One is behind his head. One is behind this
8 (indicating) shoulder, his right shoulder. One is just in
9 front of his shoulder, and one is in this (indicating)
10 eye.

11 And if you consider that tight grouping, think about
12 what it would take to shoot someone in that fashion. One
13 of the other possibilities, is it as he says, that he is
14 being attacked by another man? How would you feel if you
15 were being attacked? Would you not be ducking? Would you
16 not be running? Would you not be upset and nervous and
17 shooting all around? Or does this look like someone
18 taking careful aim and shooting exactly at his head? All
19 those shots are grouped right around his head. Which one?

20 What also do we know about the shots? What do we
21 know about the direction of those shots? Each one is
22 going towards his feet. This (indicating) shot, the one
23 on his left shoulder ends up in his bladder straight down.
24 The one behind his neck ends up going down into his body.
25 The one behind his right shoulder actually comes out the

1 front.

2 The one here (indicating) right above -- right in
3 front of his right shoulder, where does that go? That's
4 the one that, if you recall, Dr. Fulcher talks about that
5 came out, went back into his chest muscle, came out again,
6 scrapes down the side of his body, enters his right leg
7 and ends up right above his right knee. What does this
8 tell you? That person is -- if this is his body, that is
9 the direction he was, and that is exactly corresponding to
10 somebody being on the ground as we know Mr. Ferrell would
11 be after he just jumped out of that window, this defendant
12 coming around, and, as Mr. Ferrell was probably getting up
13 on his hands and knees, gets shot like that
14 (demonstrating). Again, what other possibility could
15 there be for those shots?

16 And then the house. What do we know about the house?
17 We know there was blood inside that kitchen, and not just
18 the kitchen, but in some other places as well. You've
19 seen the pictures and you'll be able to look at them
20 again.

21 We have blood around the blinds. We have blood in
22 that spatula or whatever, that kitchen implement that was
23 in the sink, that wooden implement. We have some droplets
24 of blood underneath the cabinet, underneath the sink on
25 the drawers that are there. We have blood over here

1 (indicating) on this blanket that's on the other side of
2 the room. The officers testified that there was some
3 blood on the wall where the forensics officer ended up
4 spraying that chemical that shows up where blood has been.
5 There's blood. Whose blood is that? Well, we know it's
6 the victim's. It's John Ferrell's. We know from DNA
7 evidence that that's whose blood it was.

8 How in the world did that get there? How in the
9 world, based on what this defendant told you? This
10 defendant told you when John Ferrell left his house, there
11 had not been a fight, there had not been a weapon, there
12 had not been any cuts, there had not been any bleeding.
13 He walked out unscathed. The blood wasn't there then.
14 How, from the moment John Ferrell supposedly walks out of
15 his house and then in whatever moments it would take after
16 he hears the supposed noise and walks outside, how, in
17 those brief moments, do we end up with John Ferrell's
18 blood being all over that kitchen? How? There's no
19 explanation.

20 What else do we know about the inside of that
21 kitchen? There's evidence of a cleanup. Now, I asked him
22 about this table. He says -- he gives you an innocent
23 explanation for it. It's up for you to decide. But we
24 know that kitchen table that Andrew Martin said had been
25 knocked over, when these officers went back a few days

1 later, that table was out back. He took it out back.
2 Why? I would argue to you because it had been broken and
3 they had just propped it up. While the police were on the
4 way, they had propped it up while they were cleaning up,
5 while they were cleaning up the blood that they could see
6 really quickly. Remember, they only had about 15 minutes
7 after the shot before the police -- maybe 15 or 20 minutes
8 before the police were inside that house. Andrew Martin
9 told you that Margaret was cleaning it up, was cleaning
10 up. She had a spray bottle, she had a rag.

11 What do we know? There was a rag in that kitchen
12 trash can. What do we know about the rag in the kitchen
13 trash can, that blue rag? It had John Ferrell's DNA on
14 it. She was cleaning up. Why? If there's an innocent
15 explanation for this, if they are truly defending
16 themselves from the attacker, why in the world are you
17 cleaning up? What possible explanation is there for that?
18 Does the phrase "the guilty flee when no one's chasing," I
19 believe is how it goes. That's why. Because they're
20 guilty. That's why they're trying to clean it up, because
21 this was a conspiracy.

22 All right. Let's go back outside the house and back
23 up in time just a little bit, and let's look at two
24 neighbors. Let's look at two neighbors who testified in
25 this case, and let's consider what these people had to

1 tell you. Let's also think about the nature of their
2 testimony as well. The same thing applies to them as
3 applied to Christine Boisher. These people have no dog in
4 the fight. They don't know the defendant, they don't know
5 his family, they don't know John Ferrell. They're just
6 neighbors.

7 Isaac Mintz, remember Mr. Mintz? I believe he was
8 about the third or fourth witness yesterday. He said he
9 was sitting at home, he had a friend over, he hears a
10 shot, there's a long pause, he hears more shots. That's
11 when he knows, all right, this is gunfire. He goes
12 outside.

13 And what does he see? Two people. He sees two
14 people, this defendant who he recognized because of his
15 beard and somebody else. He's not sure who the other
16 person was, not sure if it's a man or woman, but there's
17 another person there.

18 What are they doing? Their flashlights, they are
19 standing he said later where he found out the body had
20 been. They were standing over the body. They were
21 looking at the body. Ladies and gentlemen, I would argue
22 that the testimony and evidence would show to you those
23 two people were this defendant and Jacob Hughes. Andrew
24 Martin said Jacob ran out right around the time the shots
25 were fired, too. He was out there as well. This

1 defendant said he didn't know who it was that was breaking
2 into his house until after the police showed up. That's
3 not what Andrew [sic] Mintz's testimony was. He was
4 standing over the body. I'll argue to you, ladies and
5 gentlemen, they were standing over there looking to see if
6 they had actually killed him or not. That's what they
7 were doing. That's what Isaac Mintz told you.

8 Who's the other witness, the neighbor who testified
9 to you? That would have been Richard Scott Coleman.

10 Remember Mr. Coleman. He testified. He seemed a little
11 more nervous than Mr. Mintz. Remember what his testimony
12 was. He was outside. He actually was outside of his
13 house when this happened, smoking a cigarette, not
14 supposed to smoke in the house, on his phone. He hears a
15 shot, there's a long pause, and then there's a bunch more
16 shots.

17 What's significant about what Mr. Coleman says? What
18 did he hear between the two shots? He heard somebody
19 saying, Oh, God. Please help me. Please help me, begging
20 for his life and then came the other series of shots. He
21 didn't hear someone saying, Stop. Don't come towards me.
22 Police are coming. That's not what he heard. He heard a
23 man begging for his life.

24 Now let's look back at Jane. What do we know about
25 Jane? Well, we know that Jane ended up going to the

1 hospital right after. Sore wrist, she says. We don't
2 know how much of that was just her wanting to get away
3 from the scene so she didn't have to talk to the police.
4 I'll argue to you if that wrist was sore, it's because she
5 had just been hitting somebody with a hammer. That's why
6 that wrist was sore.

7 What else do we know about Jane? We know that the
8 police went over there to the hospital and they took her
9 clothes. And she had blood all over her clothes, and that
10 blood matched John Ferrell. We know the hammer that was
11 found in the kitchen, the DNA on the handle of that hammer
12 matched Jane Ferrell and that the blood on the other end
13 matched -- I'm sorry the DNA on the handle matched Jane
14 and the blood on the end of the hammer matched John
15 Ferrell.

16 What do we also know about Jane as she called 9-1-1?
17 I beg your indulgence for one minute. I'm not going to
18 play the whole thing, but I want to play a little bit of
19 this 9-1-1 tape to refresh your memory about that.

20 (WHEREUPON, a portion of State's Exhibit Number 94, an
21 audio recording, was played in open court.)

22 MR. MOYER: He escaped out the kitchen window.

23 Several things that we need to note about her 9-1-1
24 call. Remember, when the 9-1-1 operator testified the
25 other day, she said that the 9-1-1 begins recording once

1 that last 1 is hit, at least that's the way it used to be.
2 Apparently it doesn't work that way now, but back when
3 this happened, that's the way it was.

4 And so we hear Jane Hughes doing two different things
5 in this 9-1-1 call. When she's speaking to an operator, I
6 would argue to you she's sticking to script. He's trying
7 to kill me. He broke in. He didn't break in. Even if
8 you believe their story, he didn't break in, and he wasn't
9 trying to kill her. He didn't have a gun. He didn't have
10 a weapon. John Hughes never heard John Ferrell making
11 threats. He never testified about anything like that.
12 She's sticking to script, which was if the plan had gone
13 as it was supposed to and that they had killed him in the
14 house, that was what she was going to talk about when she
15 called 9-1-1 or when whoever called 9-1-1.

16 But then she also goes off script. When she gets
17 transferred and she's not talking to somebody, what does
18 she say? She says, Where is he? Go get him. You can
19 hear her say that. Go get him. That's because he had
20 just gone out the window and she's saying, Don't let him
21 get away. Go get him.

22 You also heard the very beginning of the tape. You
23 can hear her say something about a hammer. And then she
24 slips up and says, He escaped out the window.

25 Ladies and gentlemen, I'm just going to close with

1 this. What happened on January the 24th of 2015 is that
2 it was a plan that went awry. The plan was that John
3 Ferrell was not going to get the children, and they were
4 going to do and he was going to do whatever it took, just
5 like he told Ms. Boisher, to make sure he did not get the
6 children.

7 How do we get John Ferrell over to the house? Well,
8 Jacob used to drink beer with him occasionally, would help
9 him out with work. They apparently got along at least
10 somewhat. We'll send them out, let them have a beer or
11 two, and then let's have him bring him over, have him
12 bring him over.

13 And I would argue to you this plan, and if it had
14 gone the way they wanted to, we may not be here today.
15 Maybe it would have worked. Who knows? But it was a
16 plan, and you can even see it in the text messages that
17 they used. Dessert, pie, really? Maybe if this had gone
18 the way that they had hoped, maybe that would have -- it
19 looks silly and suspicious now, but maybe the time, if
20 there were no suspicions and someone just happens to look
21 at their cell phone records, it would look innocuous. But
22 think about it now. 2:00 in the afternoon the day before,
23 why don't you come over and talk about dessert. Really?
24 Someone texts that to their son? Then at 10:00 at night,
25 or 10:10 or whenever that was right before this happened,

1 Call me when you're ready for pie.

2 Where's this pie? There's no pie. Everyone was in
3 bed. No one was coming over for pie. They were just out
4 drinking beer. That is what they thought would perhaps
5 look innocuous on these text messages.

6 That was the plan, and the plan was to get him over
7 there and kill him and then let's make it look like a
8 break-in because we have this Castle Doctrine that someone
9 -- your home is your castle, someone breaks in, you can
10 kill him, and then we're going to make it look like a
11 break-in. But it didn't work. It didn't work. Maybe it
12 was because of Andrew Martin walking in on it, or maybe it
13 was just some little hesitancy on their part.

14 I'm sure talking about killing somebody and actually
15 doing it has to be two very, very different things, and
16 maybe when John Hughes was about to shoot him, he couldn't
17 quite bring himself to do it. And John Ferrell was able
18 to get away, and in desperation, saw the only avenue of
19 escape which was that window. And he jumped through it
20 and he fell on the ground, and he went out in that cold
21 night. And he's lying there alone and naked and cold, and
22 this defendant comes around the house and guns him down.

23 Ladies and gentlemen, I ask you to hold him
24 responsible and to find him guilty of these charges.

25 Thank you.

1 THE COURT: Mr. Adducci?

2 MR. ADDUCCI: May it please the Court, Your Honor.

3 Good morning. Thomas Adducci, again. I'm the tall,
4 lanky guy that was walking around having his arms flail
5 everywhere.

6 I want to thank you again for all of your attention.
7 I know that it was a long couple days, and I really
8 appreciate you taking the time to listen to everything
9 that we've been presenting to you.

10 First, I want to talk a little bit about the law,
11 then we'll talk about the facts in the case and how, when
12 you apply the law to the facts of the case, we'll see that
13 Mr. Hughes was absolutely justified in shooting
14 Mr. Ferrell that day.

15 First is the presumption of innocence. Mr. Hughes is
16 presumed innocent. The Court has said that defendants are
17 cloaked in innocence and that the State must bring forth
18 evidence in such a quantity and quality to prove their
19 case beyond a reasonable doubt. What does that mean?
20 It's sort of a strange phrase that lawyers use all the
21 time, and we don't necessarily have a good way of
22 describing it to laypeople. So I like to say there's a
23 sort of continuum of evidence, right, from zero all the
24 way to 100 percent mathematical certainty. You sort of
25 travel along this line, and say you get to the point where

1 you're 50/50, it's a coin flip. That's not proof beyond a
2 reasonable doubt. The Court is going to instruct you that
3 that is insufficient and that you are required to find the
4 defendant not guilty in that situation.

5 So you go a little bit further, you know, 50 percent
6 plus 1, like what it takes to win an election. Again,
7 that's not proof beyond a reasonable doubt. You're
8 required to find the defendant not guilty.

9 Let's go further and further. Say that you are here
10 and you're like, you know what? I'm pretty sure that the
11 State's version is correct. That's not enough. That is
12 not guilty. You have to go all the way down here to where
13 a reasonable person would not hesitate to act upon the
14 information.

15 So you take the information, you think about
16 something that's important in your personal or business
17 life, and you think with the information that I'm having,
18 would I hesitate to make the decision. If you hesitate,
19 that's what reasonable doubt is.

20 So those are the burdens that we're working with.
21 That's the standard that we're working with.

22 And let's talk about self-defense. The Court is
23 going to instruct you on what self-defense is, and they'll
24 say that self-defense is a complete defense, and if it's
25 established, you must find the defendant not guilty. And

1 the State has the burden of disproving self-defense by
2 proof beyond a reasonable doubt. If you have a reasonable
3 doubt of the defendant's guilt after seeing all the
4 evidence, including the evidence of self-defense, then you
5 must find the defendant not guilty.

6 A couple elements to self-defense: one, the
7 individual is without fault. So you can't bring about the
8 difficulty. You heard from Mr. Hughes. He didn't ask for
9 this. He came outside, he saw somebody charging towards
10 him and he reacted.

11 You also will have to show he was in imminent danger
12 of death or serious bodily injury. It was night, it was
13 dark, somebody was in a black jacket coming down from his
14 window trying to break into his house, comes down, he's
15 yelled at, doesn't do anything, starts charging towards
16 him, and he fires.

17 Now, the State is going to talk about or has
18 mentioned that Mr. Ferrell didn't have any weapons. And
19 that's correct. But a defendant has a right to act upon
20 appearances. So if he has a reasonable belief that
21 somebody in the dark who had just tried to break into his
22 home and is charging at him was going to place him in
23 peril, he absolutely has the right to react on that
24 regardless of whether Mr. Ferrell had a handgun in his
25 pockets or did not.

1 And finally, when you are on your own property, you
2 do not have the requirement to retreat. So when using
3 deadly force in other scenarios, people would have to --
4 they have to try to get away first. However, when you're
5 on your own property, you do not. If somebody's coming
6 towards you, if you're in fear of great bodily injury and
7 somebody's coming towards you, you have the right to
8 shoot. And the State must disprove this beyond a
9 reasonable doubt.

10 And we can't ask somebody to, in a split second
11 decision, make the perfect precise amount of force
12 required. You're allowed to continue using that force
13 until the harm is ended, and the Court is going to
14 instruct you on that.

15 So that is what we're dealing with as far as the law
16 to begin with. Now let's get a little bit to the facts.

17 Now, the State's theory is that this is some grand
18 conspiracy, and it's all this plan to use these laws in
19 order to get away with murder. Now, the way they try to
20 do this is they're sort of looking at an end result, and
21 then they're trying to go back in time and play kind of
22 scary music behind it, sort of the use of ending in a
23 movie.

24 Have you ever seen where they take trailers of normal
25 movies like Forest Gump and they can cut them in a certain

1 way in order to make you think that Forest Gump was about
2 Forest who went to war, came back damaged and now was
3 Jenny's stalker? The way they do it is they take little
4 pieces of information, they put it together, they play
5 some eerie music behind it in order to get you to think
6 something that isn't actually true.

7 And that's the State's version right now. They're
8 looking at the end. There's somebody dead. They've
9 developed a theory in their mind as to what happened, and
10 now they're trying to couch everything that happened
11 before. It is, oh, this spooky thing that's happening,
12 it's this conspiracy. The reason why it looks like it's a
13 break-in is because, oh, because they planned it. That's
14 why. Any evidence that shows that Mr. Hughes' version is
15 correct is only evidence that he is that dastardly, right?
16 And any evidence that goes against the State's theory is
17 just, again, more evidence that Mr. Hughes is so dastardly
18 in having this magnificent plan.

19 So how do they plant that seed in your brain that
20 this is some grand plan, that he was going to use these
21 laws in order to get away with murder? They talk about
22 Christine Boisher and that they elicited testimony from
23 her that he was there ranting and raving about stand your
24 ground, stand your ground. And he went there and he went
25 to his computer and said, See, see, see. Stand your

1 ground. But you also heard from the State's witnesses
2 that they seized every single piece of electronic
3 equipment in that house and they sent it off for analysis.
4 If there was anything to corroborate her story, wouldn't
5 you have seen it? So you can just take her testimony and
6 throw it out. The one way to objectively determine what
7 she said was true isn't here. What she was saying has no
8 value. She was brought over because she had some
9 information about the process.

10 And why are they coming and talk to her? Because she
11 has experience. It's a custody hearing. I can't imagine
12 any custody hearing isn't a bit contentious. I can't
13 imagine that people aren't upset. So, again, the State is
14 going back and saying, oh, there's a custody hearing.
15 Play some spooky music behind it, and now, all of a
16 sudden, it's a murder. Again, that just doesn't show --
17 the State hasn't shown that that is true.

18 Now, you've seen a bunch of photographs. You will
19 see how dark it is outside there, so anybody coming around
20 that corner, you couldn't tell who, what, where, why and
21 when, basically, what was going on on that side. In
22 addition to that, Mr. Ferrell was wearing a black leather
23 jacket. Everybody who was there at the beginning of the
24 scene mentioned how dark it was, there was only a
25 streetlight kind of down there, there weren't any

1 floodlights on the side.

2 Now let's talk about the kitchen. The kitchen is
3 fairly small. There's rugs all over the floor. And this
4 is where the State I think gets in their head and the
5 investigators get in their head that there must be
6 something to this. This must be nefarious because of this
7 blood inside the kitchen.

8 Now, you heard from a couple of experts when it came
9 to the blood. You had Dr. Kandala talking about DNA. He
10 knew what he was talking about. You heard from the other
11 gentleman from his lab talking about the incredible amount
12 of training that they do before they can offer any sort of
13 opinions, the test that they do to make sure that what the
14 chemicals that they're using are proper. They do blanks,
15 right? He talked about how before he would use a
16 phenolphthalein test, he would check a known standard in
17 order to make sure that his chemicals are correct.

18 So you have those folks, and then you have the
19 forensic examiner from the Department of Public Safety
20 here in Greenville who it seemed like his qualification is
21 that he had sprayed something before and he didn't know
22 how it worked, what it did, how long it had been there,
23 what the expiration date was, when the stuff was made, how
24 it was made, anything, and, I guess that that's -- you can
25 take that for what it's worth. But what he told you also

1 is that LCV doesn't give you any sort of time frame.
2 Anything that it reacts to could be there for a day, a
3 week, a month, a year, two years, five years. Whatever.
4 So any reaction that they had doesn't say that that
5 suspected blood came from that day or that week or that
6 month but could have possibly been from years ago.

7 And on blood, we had a number of witnesses talk about
8 how they saw Mr. Ferrell [sic] on that evening. Not a
9 single person indicated that he had any blood on him. And
10 if he would have had blood, they would have taken his
11 clothing and they would have tested it. They did not,
12 because there was no blood on it.

13 Additionally where was there not blood? There wasn't
14 blood on that fan, the fan that was in the window over the
15 sink where the State's version is that Mr. Ferrell made
16 his escape.

17 And there's blood on Jane's shirt and pants, that
18 those are the only people that had -- she's the only one
19 that has blood on it. Mr. Hughes' DNA isn't on anybody.

20 And let's talk about Mr. Ferrell. They test
21 Mr. Ferrell. The State is very, very focused on
22 Mr. Ferrell's clothing, and while the State thinks that it
23 proves his theory, I think that if you look at it, it
24 actually disproves their theory.

25 They took his pants. They specifically swab his

1 waistband of his jeans and his underwear to see if there
2 was any other touch DNA. We talked about touch DNA,
3 right? There is you can get DNA off of blood but also
4 from skin cells coming off of things, right? And they
5 also talk about, okay, if you lightly graze this, maybe
6 that won't happen. But if you're on a rough surface like
7 jeans or clothing and you are in a rough scenario, it is
8 so much more likely that skin cells will come off and they
9 will be collected and you will find DNA. Jacob's DNA is
10 not on Mr. Ferrell's clothing. Renee's DNA is not on
11 Mr. Ferrell's clothing on the exact spots where, if the
12 State's theory was correct, it would be.

13 Now, also, the State is focused on the height of this
14 window, and they talk about how it's 5'10". But what the
15 State is kind of skipping over is that there was that air
16 conditioning unit right next to it. So it's 5'10",
17 however, there was one of the State's own witnesses said
18 the air conditioning unit was about 3, 4 feet tall. So
19 step up on that and then from the corner of the air
20 conditioning unit to the corner of the window was 30 some
21 inches diagonally. That's not very far. It's very easy
22 to get to that window.

23 And then the State has also talked about why would he
24 choose that window. There's other windows that are
25 shorter, other windows that are shorter that are closed

1 that are presumably locked. This is the only access that
2 he can have because of that fan. It is unlocked in order
3 to have that fan.

4 So how does he get in? He gets up on the air
5 conditioning unit, he grabs it, rips it and throws it
6 down. Is that where the noise came from? I would posit
7 yes, that is where those noises came from. Then standing
8 on this air conditioning unit, and that's how he tries to
9 get in.

10 Now, you heard Mr. Hughes' story. Mr. Hughes told
11 you about how he asked Mr. Ferrell to leave because things
12 were getting heated, things weren't going anywhere, and he
13 did. He was putzing around, taking care of things. Then
14 he came outside. He went -- when he heard that noise
15 outside, he hollered to people, Call 9-1-1, alerting
16 everybody that something was amiss. And then he went back
17 outside with his pistol with him, scanned the front of the
18 house, didn't see anything, and probably couldn't see much
19 simply because of lighting conditions. I encourage you to
20 look over the photographs to show you how dark it was
21 outside. There's no lights. The only way you can see
22 anything is with a flash from the camera.

23 He then comes around, sees this person coming down in
24 the window. He yells at that person, sees him coming
25 down, continues to yell at him. The person charges at him

1 and he fires. He sees somebody trying to break into his
2 home. It's almost midnight, just thereabout. The person
3 is coming at him. He reacted with the force necessary to
4 protect himself and his family. Absolutely justified.

5 Now let's talk about Mr. Martin. He is charged in
6 this crime facing 30 to life. And he's still facing 30 to
7 life despite his cooperation with the State in giving them
8 what they want. So it's one of two things is going on
9 here. Either, one, they don't believe him, or, two, they
10 want to hang the sword over him, make sure he knows who's
11 boss, make sure he knows that he needs to do what he needs
12 to do or else he's facing 30 to life.

13 He told you he's out on bond. He wasn't out on bond
14 before his final statement, gave his final statement, then
15 he's out on bond shortly thereafter. I'm sure it's just a
16 coincidence. I'm sure that there is no deal. I'm sure
17 that he is just doing this and has just remembered this
18 ridiculous story because he just finally remembered it.

19 What are his various incentives to lie? The
20 incentive to lie is saving his own life. His incentive to
21 lie is that the woman that he thought he loved had
22 betrayed him. He was taking care of these children, and
23 this woman was stepping out on him, and he finds out about
24 it after he's sitting in jail. In Simpsonville he was
25 told that Simpsonville police wanted him to know about

1 that.

2 What else did Simpsonville police want him to know?
3 Their theory of the case. When they aren't getting what
4 they want out of him, they tell him, Well, here's what
5 actually happened. And they lay it all out for him. And
6 at that time, what does he say? No. I don't know. And
7 they give him a choice: be a defendant or be a witness.
8 Make your decision. And ignorance isn't going to help.
9 So if he goes up there and says, I don't -- I don't know
10 what happened. I was outside, he knows what the State's
11 going to do to him, so he has to save his own skin. So he
12 has been told the story that he wants, and then when he
13 repeats it back, he gets what he wants.

14 So let's talk about that story. He's outside smoking
15 Black and Milds, playing video games because he doesn't
16 want to be a bother for when Mr. Ferrell comes over. And
17 then he walks into what he called a nightmare. Blood
18 everywhere, Mr. Ferrell on his knees, hands up here,
19 getting bashed in the head with a hammer. And what is he?
20 He's the hero. He comes in there, he grabs Jane, takes
21 the hammer, throws it on the ground, gets her on 9-1-1,
22 gets her on the phone, sees Jacob ripping people --
23 ripping Mr. Ferrell out of the window.

24 You heard from the medical examiner he had traumatic
25 brain injury from this. He's an unhealthy man. He has

1 emphysema. And the State wants you to believe that while
2 Jacob, who -- and he described as a giant, was unable to
3 stop him from getting out that window. You'll see
4 photographs of that window, and you'll see just how
5 unbelievable it is.

6 The investigators talk about how tall the window was
7 when it was entirely open. About 15 inches. However, you
8 all saw photographs from prior to this day and heard
9 testimony from Mr. Martin that there was a small double
10 fan inside of that window. So now we have a 5'7" man, who
11 is 286 pounds, who the medical examiner called had a
12 barrel chest so carried all of his weight up here, who has
13 been smashed in the head with a hammer, bleeding
14 everywhere, has the wherewithal to get up, get past Renee,
15 get past Jacob, and then somehow dive through that window,
16 right? The window that is closed down upon the fan. And
17 then he's able to, while all this is going on, prevent
18 Jacob and Renee from getting him outside. He gets
19 outside, and is then approached and shot.

20 So why does this story not make any sense? First,
21 the State's theory is that this is -- that there was a
22 massive cleanup operation going on while the police are
23 outside. You've got 15 or 20 minutes. Renee and Jane are
24 there cleaning up everything. What does Jane forget to
25 do? Take off her bloody clothing? What do they forget to

1 clean? This hammer that she used? What -- they forget to
2 clean the spatula right in front of the window? The
3 reason why it's there is because there really wasn't a
4 massive cleanup operation. If there was, wouldn't those
5 be the first things you'd take care of, the blood on you
6 and this hammer? Yes.

7 Now, if you look at the LCV, this blue stuff that
8 doesn't show any time period or anything, it doesn't show
9 this massive bloody scene that Mr. Martin is describing.
10 There's a few speckles here and there. That's it.

11 And what also you don't see is even if you think that
12 they have done a cleanup job, there are rugs everywhere.
13 You can't just wipe up blood off of a rug. Where is that
14 blood? There is no blood because there wasn't a beating
15 of him with a hammer, standing over him. When he was hit
16 with a hammer was when he was coming into the window. He
17 was hit with the hammer when he was coming because Jane
18 was alerted to something going on outside. She ran to the
19 window, hit him with that hammer. She then is obviously
20 distraught and is upset, throws the hammer down, and is
21 wiping her hand on her pants. That's how the blood gets
22 there.

23 That's how -- it's on the quilt. It is either
24 cast-off, the small bits around the sink, or transferred
25 from Jane. If Mr. Hughes was standing there drawn down on

1 Mr. Ferrell in the kitchen, why does he not have any blood
2 on him while Jane is bludgeoning him right next to him in
3 that same kitchen where Mr. Martin says this is a
4 nightmare, there's blood everywhere?

5 And that fan. That is the key piece of evidence in
6 this entire case, and that is where the State's case
7 completely falls apart. This was the doorway by which the
8 State says that Mr. Ferrell got out of the kitchen. You
9 heard from Mr. Martin that he was bludgeoned, he was
10 having his hands up on his head like this (demonstrating).
11 How was he going to dive through that window, push out
12 that fan without getting a single speck of blood on it?

13 You heard from the police. If there was anything of
14 evidentiary value on that fan, they would have collected
15 it. They took pictures of everything. You can look at
16 the photographs. There's nothing on it. This bloodied
17 nightmare of a scene, the one place where there would have
18 to be blood for the State's theory to make any sense,
19 there is none. And the reason why there is none is
20 because Mr. Ferrell took that fan, ripped it out, threw it
21 on the ground and tried to dive in that window. When he
22 got there, Jane was there with the hammer. That's why
23 Jane's the only one with blood on her, and that's why
24 there's no blood on that fan.

25 And with Mr. Martin, he's the State's star witness.

1 For his version to make any sense, you have to have sort
2 of objective evidence to support it. He repeatedly said
3 that he was on the phone while Mr. Ferrell was trying to
4 get out of the window. Why are there no gunshots on that
5 9-1-1 tape? Because there are no gunshots on that 9-1-1
6 tape, you know that Mr. Martin is lying.

7 And how does -- also the State is pointing to his
8 pants. How do his pants fall down? He's a big guy. And
9 if you're a big guy and was not wearing a belt and you put
10 your hands up like this (demonstrating) because you're
11 trying to dive into a window and you're getting hit in the
12 head with a hammer, you sort of make yourself longer and
13 your pants start falling down like plumbers, or Donop's
14 [phonetic] disease, I guess people refer to it. So that's
15 how.

16 A scenario in which Jane approaches him at the window
17 explains every single piece of physical evidence that the
18 State has brought out. It explains for why there's no
19 blood on the fan, explains for why there's blood on Jane,
20 explains for why there's blood on the hammer. A scenario
21 in which Mr. Ferrell is attacked on top of these rugs by
22 everybody and dives through the window doesn't explain all
23 of that evidence. It doesn't explain why there isn't
24 blood on the rug. It doesn't explain why there isn't any
25 blood on this fan. And surely it doesn't explain why

1 there's no DNA on his pants. The reason why there's no
2 DNA on his pants is because nobody pulled his pants down.
3 They just fell down.

4 So when you look at the burden, proof beyond a
5 reasonable doubt, and you look at the facts, the evidence
6 that you have and the evidence that you don't have, the
7 answer is clear. Mr. Hughes was absolutely justified in
8 firing upon a man who was trying to break into his house
9 and then tried to charge at him. What he was thinking
10 that day, what Mr. Ferrell wanted to do when he got in, I
11 don't know. He'd been out and had a couple drinks, had a
12 little liquid courage. Maybe he wanted to give the family
13 a piece of his mind about what he was going to do. We
14 don't know. But we do know that the State's theory simply
15 doesn't make sense, and that Mr. Hughes was absolutely
16 justified in shooting that evening.

17 Thank you very much.

18 THE COURT: Mr. Moyer?

19 MR. MOYER: Thank you, Your Honor. Very brief.

20 Ladies and gentlemen, this is my opportunity to
21 address you one more time to respond to what the defense
22 has said, and I'm just going to make this very short.

23 My dad wasn't much of an athlete, but like most dads,
24 one of the things he did when I was very young was teach
25 me how to play Little League baseball. And one thing that

1 sticks out from what he used to tell me while he was
2 teaching me how to hit a baseball was this, it was keep
3 your eye on the ball. Keep your eye on the ball. And
4 that's what I'm going to ask you to do right now, ladies
5 and gentlemen, is to keep your eye on the ball.

6 What is the ball? It is the facts and it is the
7 evidence. What the defendant, I would argue to you, wants
8 you to speculate, wants you to focus on is misdirection
9 and speculation, misdirection about Andrew Martin. Ladies
10 and gentlemen, we would be here in this courtroom today
11 and yesterday and all this week whether Andrew Martin
12 wanted to testify or not.

13 We heard a little bit about what brought him to
14 court, and I'm sure as he was sitting in that jail cell
15 and he started thinking what in the world am I doing here,
16 why am I sticking up for these people, yes, I love Jane
17 Hughes, and initially I'm going to try to help them out
18 and I'm not going to give the police all they want to
19 know, but what am I doing? Why am I sitting here? No.
20 I'm going to tell what really happened. But if he had
21 kept his mouth shut, was still sitting in that jail cell,
22 and we would be here in this courtroom today, and I would
23 be making the same arguments today and saying with the
24 same amount of assurance and confidence in asking you to
25 find this defendant guilty.

1 Mis-speculation, well why wasn't the blood on this?
2 Why wasn't the blood on that? We know DNA is not an
3 absolute perfect scenario, why the agents testified that
4 this gun this defendant admits he was holding, they
5 weren't able to get DNA off of that.

6 I was curious how the defense was going to try to
7 explain to you about the blood in the house. And we just
8 heard what they said, that Jane was hitting him in the
9 head with a hammer as he was trying to come through. I'm
10 going to address that for just a moment.

11 First off, what evidence came out in this trial that
12 that is what happened? Zero. It was zero evidence. One
13 would think if that -- what we know about what this
14 defendant told you is that when he got up and he hears
15 this noise, he walks out to the kitchen, the lights are
16 on, nothing is going on in this kitchen. And so he wants
17 you to believe that in the matter of moments from when he
18 hears this noise to when he goes around outside to
19 confront this intruder, in that short period of time, Jane
20 Hughes, who's in the back bedroom asleep, gets up, is
21 alerted to a noise, is alerted to someone coming in the
22 kitchen, gets a hammer, goes to the kitchen window, starts
23 beating him on the head with the hammer, and gets blood
24 all over everything in that period of time. All the
25 while, this defendant never hears a single thing. Never

1 heard a single thing. That's what he wants you to
2 believe.

3 And about the clothes, I don't know what exactly that
4 explanation was. And the reason is because there's no
5 other explanation. And that's what I'm asking you to do
6 is keep your eyes on the evidence. When you consider
7 those clothes around his ankles, he was shot while those
8 clothes were around his ankles. How do we know? Because
9 there's no bullet hole in those pants. There's a bullet
10 wound in his leg, but there's not a bullet hole in the
11 pants. When he was shot, his clothes were around his
12 ankles. It's impossible for him to move.

13 So, ladies and gentlemen, what I ask you to do is
14 keep your eye on the evidence when you go back to
15 deliberate.

16 Thank you.

17 THE COURT: All right. Ladies and gentlemen, before
18 I start my job, I want just everybody to stand up for a
19 second, just stretch a minute before we get going.

20 All right. You may sit back down.

21 CHARGE ON THE LAW

22 THE COURT: All right. It is now my duty to charge
23 you on the law of this case. There are three separate
24 indictments in this matter or three separate charges.
25 They're for murder, possession of a weapon during the

1 commission of a violent crime, and conspiracy in this case
2 to commit murder. I remind you the fact that the
3 defendant was arrested, charged and indicted with these
4 events are not to be considered by you as evidence in the
5 case. The fact the indictment, again, as I said, these
6 are merely formal matters which brings this case to the
7 Court. Nor does it create any type of presumption or
8 inference of guilt. These documents are simply the formal
9 written instruments. Nothing more.

10 Now, there's three separate indictments, and they all
11 allege three separate offenses against the defendant.
12 Each indictment charges a separate and distinct offense.
13 You must decide each indictment separately on the evidence
14 of the law applicable to it and uninfluenced by your
15 decision as to your decision on the other indictments.
16 The defendant may be convicted or acquitted on any or all
17 of the charges or none of them. You'll be asked to write
18 a separate verdict of guilty or not guilty for each
19 indictment, and I'm going to go through the verdict form
20 with you before I send you back.

21 The defendant has pled not guilty to these
22 indictments, and that plea puts the burden on the State to
23 prove the defendant guilty. A person charged with
24 committing a criminal offense in this state is never
25 required to prove himself innocent. I charge you there's

1 an important rule of law that the defendant in a criminal
2 trial, no matter what the seriousness of the charge may
3 be, will always be presumed to be innocent of the crime
4 for which the indictment was issued unless guilt has been
5 proven by evidence satisfying you of that guilt beyond a
6 reasonable doubt. This presumption of innocence does not
7 end when you begin your deliberations, but it accompanies
8 the defendant throughout the trial until you reach a
9 verdict of guilt based on evidence satisfying you of that
10 guilt beyond a reasonable doubt.

11 The presumption of innocence is not a mere legal
12 theory. It is not just a legal phrase that lawyers like
13 to use or judges like to use. It is a substantial right
14 to which every defendant is entitled to unless you the
15 jury are satisfied from the evidence of the defendant's
16 guilt beyond a reasonable doubt.

17 As I told you in the beginning of this trial, you and
18 I each have separate duties. As the trial judge, it's my
19 responsibility to preside over the trial of the case, and
20 I also have the duty to rule on the admissibility of
21 evidence during the case.

22 You are to only consider the competent evidence
23 before you by way of either testimony or by way of the
24 evidence that was presented. If there was any testimony
25 ordered stricken from the record in the case during the

1 trial, you must disregard that testimony. You are to
2 consider only testimony which has been presented from the
3 witness stand and any exhibits which have been made part
4 of the record and any stipulations of counsel.

5 I have the additional duty to charge you on the law
6 which applies in this case. As the presiding judge, I'm
7 the sole judge of the law, and it's your duty to accept
8 and apply the law as I state it to you. If you already
9 have an idea of what you think the law is or what it
10 should be or anything to the contrary, you must disregard
11 that and you must apply the law that I'm giving to you at
12 this time. That's part of your oath when you took your
13 oath is that you would apply the law as stated.

14 In every case tried in this court before a jury, the
15 jury becomes the sole and exclusive judge of the facts in
16 the case. As a judge, I cannot intimate, state, comment
17 or make any statement to a jury about the facts of the
18 case because that's your job. And if anything I've done
19 throughout this trial may have indicated that I have an
20 opinion of the facts or if I made a reference or an
21 inference that makes you think I had an opinion of the
22 facts, you're to disregard those because that would be
23 invading your duties, and that's your duty to do that.

24 The law does not allow me to have an opinion about
25 the facts in the case. It's your duty to determine as

1 jurors the effect, the value, the weight, the truth of the
2 evidence presented during this trial.

3 Now, we've used the term reasonable doubt. What is
4 reasonable doubt? Reasonable doubt, first, is the
5 standard that the State has to prove the defendant guilty
6 beyond a reasonable doubt as to each element of the
7 charges to which he's indicted. Some of you may have
8 served as jurors in civil cases, and I need to make sure
9 that you realize there's a different standard in a civil
10 case. That's by a preponderance of the evidence. That is
11 a much higher burden than that applied in a civil matter.
12 In criminal cases, the State must be more powerful than
13 that.

14 Reasonable doubt is the kind of doubt that would make
15 a reasonable person hesitate to act. Proof beyond a
16 reasonable doubt is proof that leaves you firmly convinced
17 of the defendant's guilt.

18 There are very few things in this world that we know
19 with absolute certainty, and in criminal cases, the State
20 is not required to prove and overcome every possible
21 doubt. But if, based on your consideration of the
22 evidence, you are firmly convinced that the defendant is
23 guilty of the crimes charged, then you must find the
24 defendant guilty of those charges. On the other hand, if
25 you think there's a possibility that the defendant is not

1 guilty, you must give the defendant the benefit of that
2 doubt and find him not guilty. Facts and circumstances
3 that merely place upon the defendant a grave suspicion of
4 the crime charged or that merely raises a speculation or
5 a conjecture of the defendant's guilt are not sufficient
6 to authorize the conviction of the accused.

7 Now, there are two types of evidence which are
8 generally presented during a trial. There's direct
9 evidence and there's circumstantial evidence. Now, the
10 law does not require any particular -- more of a proof of
11 one over the other. The same burden of proof is required
12 of both. So let me make sure you understand the
13 difference between those.

14 Direct evidence is the testimony of a person who
15 claims to have actual knowledge of a fact such as an
16 eyewitness. It is evidence which immediately establishes
17 the main facts to be proved.

18 Circumstantial evidence is proof of a chain of facts
19 and circumstances indicating the existence of a fact. It
20 is evidence which immediately establishes collateral facts
21 from which the main fact may be inferred. Circumstantial
22 evidence is based on inference and not on personal
23 knowledge or observation.

24 Again, the law makes no distinction between the
25 weight or value to be given to either direct or

1 circumstantial evidence, nor is a greater degree of
2 certainty required of circumstantial evidence than of
3 direct evidence. You should weigh all the evidence in the
4 case, and if, after considering the weight of each piece
5 of evidence, you are not convinced of the guilt of the
6 defendant beyond that reasonable doubt that I mentioned,
7 then you must find that defendant not guilty.

8 One of the things that you must evaluate in your
9 deliberation is the credibility of the witnesses who have
10 testified in the case. Credibility simply means
11 believability. It becomes your duty as jurors to analyze
12 and to evaluate the evidence and determine which evidence
13 convinces you of its truth.

14 In determining the believability of witnesses who
15 have testified in this case, you may believe one witness
16 over several witnesses, or several witnesses over one
17 witness. You may believe part of the testimony of a
18 witness and reject the remaining part of the testimony.
19 You may believe the testimony of a witness in its entirety
20 or reject it in its entirety. You may consider whether
21 any witness has exhibited to you any interest, bias,
22 prejudice or other motive in the case. You may also
23 consider the appearance and the manner of a witness while
24 on the witness stand. In other words, you're to give the
25 weight and value of each testimony and each part of the

1 testimony the weight that you feel is appropriate.

2 In this matter, there's been a statement alleged to
3 have been made by the defendant which has been admitted in
4 evidence prior to trial. While the Court has determined
5 that this statement is admissible, I instruct you that you
6 make the ultimate decision of whether or not the defendant
7 made this statement. If the defendant did make the
8 statement, you must determine whether the statement was
9 made by the defendant voluntarily and of his own free
10 will. This means that this statement was not caused by
11 pressure, force, fear, threats, coercion or intimidation
12 or by hope or promise of leniency or a reward of any kind.

13 In determining whether this statement was voluntary,
14 you should consider both the characteristics of the
15 defendant and the details of the questioning. Some of the
16 factors that you may consider are the age of the
17 defendant, the defendant's education or lack of education,
18 the defendant's mental ability or capacity, the
19 defendant's IQ or intelligence, the defendant's background
20 or environment, the place and length of the detention, the
21 nature of the questioning, and the advice or lack thereof
22 to the defendant of his constitutional rights, including
23 but not limited to the right to remain silent, and this
24 statement can be used against him in a court of law, the
25 right to have a lawyer present, that if he could not

1 afford a lawyer, a lawyer would be appointed to represent
2 him without any cost, and that he can stop making the
3 statement at any time. You must consider -- carefully
4 consider all the surrounding circumstances before you give
5 any weight to an alleged statement previously made.

6 The State has the burden of proving beyond a
7 reasonable doubt that the alleged statement was voluntary.
8 If you determine it was, you may give the statement any
9 further consideration that you deem proper. You must
10 decide what weight, if any, should be given to the alleged
11 statement. If you determine that the alleged statement
12 was not a free and voluntary statement of the defendant,
13 then you should not consider that statement.

14 There's been evidence presented that witnesses have
15 made prior statements which are not consistent with the
16 witnesses' present statement from the present testimony
17 from the stand. You may use the evidence to decide
18 whether to believe the witness. You may also use evidence
19 of the earlier contradictory statements to determine the
20 truth of those statements. It is up to you to decide
21 whether to believe the earlier statements of the testimony
22 given at trial.

23 If a witness is shown to have knowingly testified
24 untruthfully concerning any material matter, you may
25 consider this in determining whether to trust the witness'

1 testimony as to other matters.. You may reject all
2 testimony of that witness, or give all or a part of the
3 testimony the weight that you think it deserves.

4 Now, there were several individuals that testified as
5 expert witnesses. And as I told you at that time, the
6 rules of evidence ordinarily do not permit a witness to
7 testify to opinions or conclusions. An exception to this
8 rule exists for witnesses we call expert witnesses. A
9 witness who, by education and experience, has become
10 expert in some art, science, profession or calling may
11 state an opinion as to relevant and material matters in
12 which the witness claims to be an expert. He may also
13 state the reasons for the opinion.

14 You should consider any expert opinion received in
15 evidence in this case, and like any other evidence give it
16 the weight you think it deserves. If you decide that the
17 opinion of an expert witness is not based on sufficient
18 education and experience or if you conclude that the
19 reasons given in support of the opinion are not sound or
20 that the opinion is outweighed by other evidence, you may
21 disregard the opinion in its entirety. An expert
22 witness's testimony is to be given no greater weight than
23 that of other witnesses simply because the witness is an
24 expert. Further, you're not required to accept an
25 expert's opinion even though it may not be contradicted.

1 All right. In order to establish criminal liability,
2 criminal intent is required. For example, the mental
3 state required to be proven by the State for a particular
4 crime must be purpose, intent, knowledge, recklessness or
5 criminal negligence. Criminal intent must be proven by
6 the State beyond a reasonable doubt. Criminal intent is
7 always a matter that must be determined by the jury from
8 the circumstances surrounding the situation.

9 There's no way to prove intent to a mathematical
10 certainty. There's no way medical science can dissect a
11 person's brain and determine what the person had in mind,
12 so the law says that criminal intent may be inferred from
13 the circumstances shown to have existed. This is how you
14 make a determination of whether or not the element
15 requiring intent was present. It is not necessary to
16 establish intent by direct and positive evidence, but
17 intent may be established by inference in the same way as
18 any other fact by taking into consideration the acts of
19 the parties and all the facts and circumstances of the
20 case.

21 Criminal intent is a mental state, a conscious
22 wrongdoing. It is up to you the jury to determine what
23 the defendant intended to do based on the circumstances
24 shown to have existed at the time. Criminal intent can
25 arise from action or a failure to act. It may arise from

1 negligence, recklessness or an indifference to duty or the
2 consequences that is considered by the law to be the
3 equivalent of criminal intent.

4 All right. The defendant is charged with murder, and
5 the State must prove beyond a reasonable doubt that the
6 defendant killed another person with malice aforethought.

7 And now let me define what the elements of murder
8 are. One, it's killing of another person with malice
9 aforethought. Malice is hatred, ill will or hostility
10 towards another person. It is the intentional doing of a
11 wrongful act without just cause or excuse and with an
12 intent to inflict an injury or under circumstances that
13 the law will infer an evil intent.

14 Malice aforethought does not require that malice
15 exists for any particular length of time before the act is
16 committed, but malice must exist in the mind of the
17 defendant just before and at the time the act was
18 committed. Therefore, there must be a combination of the
19 previous evil intent in the act.

20 Malice aforethought might be either express or
21 inferred. These terms, express and inferred, do not mean
22 different kinds of malice, but merely the manner in which
23 malice may be shown to exist, that it's either by direct
24 evidence or from inference from the facts and
25 circumstances which are proved.

1 Express malice is shown when a person speaks words
2 which express hatred or ill will for another, or when the
3 person prepared beforehand to do the act which was later
4 accomplished.

5 The second charge which was mentioned in the
6 indictments was possession of a weapon during the
7 commission of or attempt to commit a violent crime. The
8 State must prove beyond a reasonable doubt that the
9 defendant was in possession of a firearm or visibly
10 displayed what appeared to be a firearm during the
11 commission of a violent crime. A firearm means any
12 machine gun, automatic rifle, revolver, pistol or any
13 weapon which will -- is designed to or may be readily
14 converted to expel a projectile.

15 In order to find the defendant guilty of possession
16 of a weapon during the commission of a violent crime, you
17 must find the defendant guilty of either committing a
18 violent crime or attempting to commit a violent crime.
19 Murder is a violent crime. The State must prove beyond a
20 reasonable doubt that the weapon further advanced or
21 helped in the commission of the crime.

22 Also, the third charge that was mentioned in the
23 indictment is conspiracy. The State must prove beyond a
24 reasonable doubt that the defendant combined with one or
25 more persons for the purposes of committing an unlawful

1 act or committing a lawful act by unlawful means, in this
2 case, the act of murder. There must be a mutual
3 understanding, agreement or common intention and plan.
4 Mere passive knowledge or consent to the criminal conduct
5 of another is not enough to make a person a conspirator.
6 There must be guilty knowledge and participation.

7 Similarly, the mere fact that the defendant may have
8 associated with another person or met with another person
9 and discussed common aims and interest does not
10 necessarily establish the proof of the existence of a
11 conspiracy or that the defendant was involved in the
12 conspiracy.

13 On the other hand, it's not necessary that the
14 agreement be a formal one, that is, that it be in writing,
15 that the person's holding meeting and expressly state the
16 terms of the common plan, or that the agreement be stated
17 in words between them. The agreement of a criminal
18 conspiracy may come into being through an implied mutual
19 understanding. The willful, intentional and knowing
20 adoption by two or more persons of a common plan is
21 sufficient.

22 No overt acts need to be shown to establish a
23 conspiracy. A conspiracy may be shown by circumstantial
24 evidence and the conduct of the other parties.

25 In order to convict the defendant of conspiracy, the

1 State must prove beyond a reasonable doubt not only that
2 the defendant knew of the unlawful conduct, but that the
3 defendant agreed to combine with the other person or
4 persons for the purpose of accomplishing the unlawful
5 conduct.

6 All right. There's -- also must discuss with you the
7 theory of hand of one. If a crime is committed by two or
8 more people who are acting together and committing a
9 crime, the act of one is the act of all. A person who
10 joins with another to commit an unlawful act is criminally
11 responsible for everything done by the other person which
12 happens as a probable or natural consequences of the acts
13 done in carrying out the common plan and purpose. For
14 example, two people can be guilty of killing another
15 person when only one of the two had a gun, there was only
16 one bullet, and only one of the two fired the shot that
17 caused the death. If two or more people are together,
18 acting together, assisting each other in committing the
19 offense, the act of one is the act of all, or as it is
20 sometimes said, the hand of one is the hand of all.

21 Prior knowledge that a crime is going to be committed
22 without more is not sufficient to make a person guilty of
23 the crime. Mere knowledge that another person is going to
24 commit a crime, even if the defendant is present when the
25 crime is committed, is not sufficient to convict the

1 defendant as a principal.

2 Guilt as a principle is shown by actual or
3 constructive presence at the scene as a result of prior
4 arrangement, therefore, a finding of a prior arranged plan
5 or common scheme is necessary for a finding of guilt as
6 the principle.

7 The State must prove beyond a reasonable doubt by
8 competent evidence the theory of the hand of one is the
9 hand of all. A principal in a crime is one who either
10 actually commits the crime or who is present aiding,
11 abetting or assisting in committing the crime.

12 When a person does an act in the presence of and with
13 the assistance of another, the act is done by both. Where
14 two or more acting with a common plan or intent are
15 present at the commission of a crime, it does not matter
16 who actually commits the crime. All are guilty. The hand
17 of one is the hand of all.

18 Present at the commission of a crime means to be
19 sufficiently near to aid and abet and assist in the
20 commission of the crime. However, mere presence at the
21 scene of a crime is not sufficient to convict one as a
22 principal on the theory of aiding and abetting. Intent is
23 also a necessary element, for there must have been a
24 common design or intent to commit the crime, and the crime
25 must have been committed pursuant thereto with persons

1 aiding and abetting by some overt act.

2 Intent means intending the result which actually
3 occurs, not accidental or involuntarily. Intent may be
4 shown by acts and conduct of the defendant and other
5 circumstances from which you may naturally and reasonably
6 infer intent. The State must prove these elements beyond
7 a reasonable doubt.

8 Now I must also charge you about the defense of
9 self-defense which has been asserted in this matter by the
10 defendant. Self-defense is a complete defense, and if it
11 is established, you must find the defendant not guilty.

12 Now, the State has the burden of disproving the
13 self-defense by proof beyond a reasonable doubt. In other
14 words, the defendant has no burden in this matter. It's
15 up to the State to disprove this defense of self-defense.

16 If you have reasonable doubt of the defendant's guilt
17 after considering all the evidence including the evidence
18 of self-defense, then you must find the defendant not
19 guilty. On the other hand, if you have no reasonable
20 doubt of the defendant's guilt after considering all of
21 the evidence including the evidence of self-defense, then
22 you must find the defendant guilty.

23 Now, here are the elements which are required for
24 self-defense. Number 1, without fault. The defendant
25 must be without fault in bringing about the difficulty.

1 If the defendant's conduct was the type which was
2 reasonably calculated to and did provoke a deadly assault,
3 the defendant would be at fault in bringing on the
4 difficulty and would not be entitled to an acquittal based
5 on self-defense.

6 The second element, imminent danger. The second
7 element of self-defense is the defendant was actually in
8 imminent danger of death or serious bodily injury, or that
9 the defendant actually believed he was in imminent danger
10 of death or serious bodily injury. If the defendant was
11 actually in imminent danger, it must be shown that the
12 circumstances would have warranted a person of ordinary
13 firmness and courage to strike the fatal blow to prevent
14 death or serious bodily injury from occurring to himself.
15 If the defendant believed he was in imminent danger of
16 death or serious bodily injury, it must be shown that a
17 reasonably prudent person of ordinary firmness and courage
18 would have had the same belief.

19 In deciding whether the defendant was or believed he
20 was in imminent danger of death or serious bodily injury,
21 you should consider all the facts and circumstances
22 surrounding the crime including the physical condition and
23 characteristics of the defendant and the victim.

24 The defendant does not have to show that he was
25 actually in danger. It is enough if the defendant

1 believed he was in imminent danger and a reasonably
2 prudent person of ordinary firmness and courage would have
3 had the same belief. The defendant has the right to act
4 on appearances, even though the defendant's belief may
5 have been mistaken. It is for you the jury to decide
6 whether the defendant's fear of immediate danger of death
7 or serious bodily injury was reasonable and would have
8 been felt by an ordinary person in the same situation.

9 The third element of self-defense is no other way to
10 avoid danger, that is, the defendant had no other probable
11 way to avoid the danger of death or serious bodily injury
12 than to act as the defendant did in this particular
13 instance.

14 Now, there are several things that you need to
15 consider when evaluating self-defense. These are as
16 follows: that the defendant was on his own premises; the
17 defendant had no duty to retreat before acting in
18 self-defense. Another one is the defendant had no duty to
19 retreat if, by doing so, the danger of being killed or
20 suffering serious bodily injury would increase.

21 Now let me talk about the degree of force. A person
22 cannot be required to make an exact calculation as to
23 degree or amount of force which may be needed to avoid
24 death or serious bodily injury; therefore, in self-defense
25 the defendant has the right to use the force needed to

1 avoid death or serious bodily injury. The force used in
2 self-defense does not have to be limited to the degree or
3 amount of force used by the victim. The defendant has a
4 right to use so much force as appeared to be necessary for
5 complete self-protection in which a person of ordinary
6 reason and firmness would have believed to be needed to
7 prevent death or serious bodily injury.

8 And finally, if the defendant is justified in
9 defending himself or others in firing the first shot, then
10 the defendant is also justified in continuing to shoot
11 until it's apparent that the danger of death or serious
12 bodily injury has been ended.

13 All right. Madam Forelady, at this point, I'm going
14 to go through the verdict form with you. If you'll hand
15 this to her.

16 All right. This is the verdict form that you'll have
17 back in your jury room. First of all, let me explain, the
18 top part of this is just the caption, okay? That just
19 says the State of South Carolina vs. John Michael Hughes,
20 defendant and indictment numbers, okay? It also -- and it
21 says, Please answer the following questions.

22 Now, I would remind you, ladies and gentlemen of the
23 jury, that your decision on each of these must be
24 unanimous. All 12 of you must agree on each part of this
25 verdict.

1 The first one -- again, there's no reason -- the fact
2 that one, guilty or not guilty, you know, the order of
3 that is not relevant. We have to put one first over the
4 second one. So that's just kind of random selection.

5 But as to the charge of murder, Indictment
6 2015-GS-23-3344, we the jury unanimously find the
7 defendant, John Michael Hughes, and you must check one.
8 If you find that the State has met its burden beyond a
9 reasonable doubt on that charge, then you would check
10 "guilty." If you find the State has not met its burden
11 after considering all the evidence, then you would check
12 "not guilty."

13 Then you would go to the second one. You have to
14 consider each one of these. As to the charge of
15 possession of a weapon during the commission of or attempt
16 to commit a violent crime, the same analysis. If you find
17 the State has met its burden, then you would check
18 "guilty." If you find the State has not met its burden,
19 then you would find -- you would check "not guilty."

20 And the same as to the third one as to conspiracy
21 with the indictment number listed: we the jury
22 unanimously find the defendant, John Michael Hughes,
23 again, the same analysis. If you find the State has met
24 its burden on that one, then you would check "guilty." If
25 you find that the State has not met its burden, then you

1 would find not guilty.

2 When you complete all three of those questions, you
3 would sign where it says foreperson, and date it, and you
4 would let the bailiff know that you have reached a
5 verdict.

6 Now let me explain a couple other things about this.
7 Again, all 12 must agree on each one of these. Your
8 verdict cannot be based on sympathy, passion, prejudice,
9 emotion or any consideration other than what's in the
10 evidence.

11 Now let me also go through some other things. I know
12 a lot of times when juries get back there, they have
13 certain questions. Well, as foreperson, your job is to
14 write that question on a piece of paper, give it to the
15 bailiff, and the bailiff will present it to me, and I will
16 decide whether it's something that I can respond in
17 writing back to you after discussion with the attorneys or
18 if it's something I need to bring you back out and give
19 you further instructions. But anyway, write your
20 question, sign your name and date it and give it to the
21 bailiff.

22 Now, routinely you get questions, well, we've heard a
23 reference to some other document. We'd like to see that
24 document. You cannot see -- all the evidence that's been
25 placed into evidence is the only thing that you can

1 consider. No additional matters can be considered. We
2 cannot respond to specific questions about facts because
3 that's what your job is as the jury is to determine what
4 those facts are.

5 Also, let me just explain one thing. Our law does
6 not allow us to send -- in this case, there's been
7 evidence that's been placed in evidence, a weapon and also
8 ammunition. Our law does not allow us to send both of
9 those, for obvious reasons, back to the jury room, but we
10 can send one of them back. If you'd like to review the
11 other one, then -- like, for instance, we can send the gun
12 back. If you need to see -- you'd like to review the
13 ammunition, then we can get the gun and then send the
14 ammunition back. So whatever you need on there. But I'm
15 just saying we can't send both of those back at the same
16 time.

17 As indicated, once you've reached your verdict, you
18 will let the bailiff know. I think y'all -- he'll show
19 you how to instruct the Court by turning on the light, and
20 then we'll bring you back out at that point.

21 All right. Now, if you'll put that verdict form on
22 the bar there. Okay.

23 Now, and also, it's my understanding that you will
24 have -- your lunch should be there or soon thereafter. If
25 it's already back there, don't start eating it yet because

1 we may not be totally finished with instructing you.

2 I'm going to send you back to your jury room at this
3 point, all of you including the alternates, but you cannot
4 begin deliberation because I have to, at this point, check
5 with the attorneys, make sure I have not missed something,
6 or if I've stated something incorrectly, then I may have
7 to bring you back out and give you further instructions.

8 All right. If there is no additional instruction to
9 give you, then your signal that you can begin deliberation
10 is we will send the verdict form back with all the
11 evidence, okay? And we will exchange those for the
12 alternates.

13 Unfortunately, the alternates, as alternates, y'all
14 cannot participate in the deliberation, but I want to tell
15 you, your role in this matter is very, very important.
16 Because in the event with a multi-day trial like this, if
17 there had been one of the jurors could not continue
18 deliberations or were sick or were not able to make it
19 back in, then y'all would immediately have to step into
20 their place. And that's happened. And sometimes we don't
21 have alternates. Then you can have a mistrial, so -- and
22 you'd have to start all over because you have to have
23 12 people. So just because you don't deliberate does not
24 mean that you have not played a very important role in
25 this matter, so -- but you cannot be in the room when they

1 begin deliberation.

2 But at this time, go back to your jury room. I'll
3 either give you the signal that you can begin
4 deliberations by removing the alternates, or I'll bring
5 you back in for additional instructions.

6 So at this time, if you will, follow the bailiff.

7 (WHEREUPON, the jury exits the courtroom at 12:49 p.m.)

8 THE COURT: All right. Any exception or objection
9 from the State?

10 MR. MOYER: No, Your Honor.

11 THE COURT: From the defense?

12 MR. ADDUCCI: Your Honor, just, again, we re-raise,
13 we would ask the Court to instruct on 16-11-440.

14 THE COURT: Okay. The ones that had made mention
15 before.

16 MR. ADDUCCI: Yes.

17 THE COURT: All right. Well, make sure all the
18 evidence is in place.

19 (WHEREUPON, all admitted exhibits are sent back to the
20 jury room, the jury begins deliberations and a recess is
21 taken at 12:53 p.m.)

22 (WHEREUPON, proceedings reconvened at 1:48 p.m.)

23 THE COURT: All right. We've got a question from the
24 jury. This will be designated as Court Exhibit Number 2.
25 It says with reference to Indictment Number

1 2017-GS-23-4936A, conspiracy, comma or period, we would
2 like clarification on this charge. Conspiracy to do
3 something specific, question mark.

4 I talked with the attorneys, and I propose that I
5 put, as stated in that indictment, and this is, quote, for
6 the purpose of accomplishing an unlawful object or lawful
7 object by unlawful means, comma, to wit, colon, murder,
8 end of quote.

9 Is that sufficient for the State?

10 MR. MOYER: It is for the State.

11 THE COURT: Any objection from the State or
12 defendant?

13 MR. ADDUCCI: No objections, Your Honor.

14 (WHEREUPON, Court's Exhibit Number 2 was marked for
15 identification.)

16 THE COURT: All right. Does anybody want to look at
17 that?

18 MR. ADDUCCI: Looks good.

19 THE COURT: All right. I'll let you know when we
20 hear anything further.

21 (WHEREUPON, a recess was taken at 1:51 p.m.)

22 (WHEREUPON, proceedings reconvened at 2:08 p.m.)

23 THE COURT: All right. It's my understand we have a
24 verdict. I would caution everybody that we will not
25 tolerate any type of response to the verdict. We have

1 officers here to take everybody that does respond.

2 All right. Anything from the State before we bring
3 the jury in?

4 MR. MOYER: No, Your Honor.

5 MR. ADDUCCI: No, Your Honor.

6 THE COURT: All right. Bring them in.

7 (WHEREUPON, the jury entered the courtroom at 2:10 p.m.)

8 THE COURT: All right. Madam Forelady, it's my
9 understanding you've reached a verdict?

10 JURY FOREPERSON: Yes, sir.

11 THE COURT: All right. If you will, hand it to the
12 bailiff.

13 Looks like it's in proper form.

14 If you'll publish the verdict.

15 VERDICT

16 THE CLERK: In the State of South Carolina vs. John
17 Michael Hughes, as to the charge of murder, Indictment
18 Number 2015-GS-23-3344, we the jury unanimously find the
19 defendant, John Michael Hughes, guilty.

20 As to the charge of possession of a weapon during the
21 commission of or attempt to commit a violent crime,
22 Indictment Number 2015-GS-23-3344, we the jury unanimously
23 find the defendant, John Michael Hughes, guilty.

24 As to conspiracy, Indictment Number 2017-GS-23-4936A,
25 we the jury unanimously find the defendant, John Michael

1 Hughes, guilty.

2 Ladies and gentlemen, if this is your verdict, please
3 raise your right hand.

4 (WHEREUPON, all jurors raised their right hands.)

5 THE CLERK: Thank you.

6 THE COURT: All right. Anything else from the jury
7 on behalf of the State?

8 MR. MOYER: No, Your Honor.

9 THE COURT: Anything else from the jury on behalf of
10 the defendant?

11 MR. ADDUCCI: Would the Court please poll the jury,
12 Your Honor.

13 THE CLERK: The verdict I have published was the
14 verdict reached in the jury room. I ask you, was it your
15 verdict then and is it your verdict now? When I call your
16 name, please answer yes or no.

17 Vanessa Mills.

18 JUROR NUMBER 114: Yes.

19 THE CLERK: Mark Bishop.

20 JUROR NUMBER 16: Yes.

21 THE CLERK: Howard Bowens.

22 JUROR NUMBER 18: Yes.

23 THE CLERK: Malcolm Pulley.

24 JUROR NUMBER 139: Yes.

25 THE CLERK: Lucinda Poston.

1 JUROR NUMBER 137: Yes.

2 THE CLERK: Patsy Berardi.

3 JUROR NUMBER 14: Yes.

4 THE CLERK: Margaret Yonally.

5 JUROR NUMBER 180: Yes.

6 THE CLERK: Susan Hunter.

7 JUROR NUMBER 77: Yes.

8 THE CLERK: Lisa Creech.

9 JUROR NUMBER 31: Yes.

10 THE CLERK: Cathy Enslin.

11 JUROR NUMBER 41: Yes.

12 THE CLERK: Carla Fulton.

13 JUROR NUMBER 51: Yes.

14 THE CLERK: Brenda Garbo.

15 JUROR NUMBER 53: Yes.

16 THE COURT: All right. Anything else from the
17 defendant?

18 MR. ADDUCCI: With regard to the jury, no, Your
19 Honor.

20 THE COURT: All right. From the State?

21 MR. MOYER: No.

22 THE COURT: All right. Ladies and gentlemen, I want
23 to thank you for your service this week. And, you know,
24 it's a very important service that you have done this
25 week, and I know it was a little bit longer week than

1 maybe you expected.

2 But at this point, you are free to go. You go back
3 in your jury room. I will step back there if anybody has
4 any questions or needs anything further. I'll step back
5 there in just a few minutes. So at this time, you can
6 retire back to your jury room.

7 Now, did you put the note, the last note, did you put
8 that in the box as well?

9 JURY FOREPERSON: Maybe.

10 THE COURT: All right. If not, then we need to get
11 that back.

12 JURY FOREPERSON: Yes, sir.

13 (WHEREUPON, the jury exits the courtroom at 2:13 p.m.)

14 THE COURT: Are you prepared for the sentencing?

15 MR. MOYER: I am, Your Honor.

16 Will the jury be told that they are allowed to come
17 in for sentencing if they choose to, especially since the
18 week is over?

19 THE COURT: I'll advise them if they want to ---

20 MR. MOYER: Thank you.

21 THE COURT: --- since she's back there anyway.

22 (Pause in proceedings.)

23 THE COURT: All right. Ready to proceed with
24 sentencing?

25 MR. MOYER: We are, Your Honor.

1 THE COURT: You have sentencing sheets?

2 (Pause in proceedings.)

3 THE COURT: All right. Let's proceed with
4 sentencing.

5 Mr. Adducci and Mr. Hughes, Ms. Johnson, however you
6 want to . . .

7 All right. Mr. Hughes, the jury has found you guilty
8 on all three charges. I'll hear from the State. I'll be
9 glad to hear from you all.

10 MR. MOYER: Thank you, Your Honor. May it please the
11 Court.

12 First off, I want to note that the victim's brother
13 David Ferrell and sister Shirley Varner both came from
14 California to attend this trial, and I believe both would
15 like to address the Court.

16 THE COURT: Okay. All right. I'll be glad to hear
17 from you.

18 MS. VARNER: I'm Shirley Varner, John's sister, older
19 sister, and I have a letter that my brother wrote before
20 he died to his children that I'd like to read. It says:
21 Just a note to my son [REDACTED] and daughter [REDACTED]. I think
22 of you every day. I hear your voices in my sleep. There
23 are no words to describe how much I miss you. I have
24 traveled thousands of miles and spent thousands of dollars
25 to find you. It's been since fall since we have been

1 apart. I pray every day that you are safe and that we can
2 be together again. I don't understand why we are being
3 kept apart, but I do know I will never give up trying to
4 be there for you. I love you both and will always be
5 standing strong, looking and waiting for you. Love you
6 always, your daddy.

7 Thank you.

8 MR. FERRELL: Your Honor, my name is Dave Ferrell,
9 brother of John Ferrell. I wanted to ask -- I wrote my
10 statement on my phone but I want to ask permission to get
11 my phone out so the bailiff doesn't take it from me.

12 THE COURT: It's appropriate now, but not previously.

13 MR. FERRELL: My name is David Ferrell. I'm the
14 younger brother of John Ferrell. We have over 30 family
15 members in Southern California that all knew and cared
16 about John, and every single one of those family members
17 was aware of how much John cared for his children [REDACTED]
18 and [REDACTED]. You heard the testimony that John stated
19 that he was prepared to die as he was being beaten in the
20 head with a hammer by Jane Hughes, and I have no doubt
21 that he was prepared to die for his children.

22 Immediately upon the news of John's death, Shirley
23 and I went to be with our mother. We quickly agreed that
24 we needed to get to Simpsonville to find out what
25 happened. With help of many amazing public servants in

1 Simpsonville and Greenville, we were able to quickly
2 gather the children and get them into a safe environment
3 resulting in them living with our family. And I have many
4 professional people told me that what the people here
5 accomplished for the sake of those children just simply
6 doesn't happen.

7 These children have fallen in deeply with my own
8 children, with Shirley's adult-age children and with
9 Shirley's grandchildren over the last few years, and [REDACTED]
10 and [REDACTED] have amazing opportunities in front of them
11 for a loving home, a great education and support from
12 their family to be the best that they can be.

13 For the end result of this horrific tragedy I'll be
14 eternally grateful, and my family would like to thank
15 everyone who even played the tiniest role over the last
16 few years. To -- sorry. I've got a list here. I'll try
17 to go fast. Keith Morehouse, Cheryl Manley, Timmy
18 Williams, Jim Donnelly, Robert Parker and the entire
19 Simpsonville Police Department, Angela Hill, Lisa Mobley
20 and Andy, and the people over at DSS, to Mark Moyer,
21 Andrea, I listed Cheryl twice, and the entire staff of the
22 Solicitor's Office, especially Joelle. You've been
23 amazing while we've been here having to deal with this.
24 To everybody that testified and to everyone on the jury,
25 Judge Gravely and your entire staff, thank you for

1 ensuring justice has been served and will be served on
2 those yet to be tried for their crimes.

3 THE COURT: Thank you. I'm sorry for your loss. I
4 know this has been a very difficult ordeal for y'all for
5 many years now. So thank you for coming and speaking for
6 us.

7 MR. MOYER: Your Honor, their mother also wrote a
8 letter. She didn't come from California, but she wrote a
9 letter that she would like you to see as well.

10 THE COURT: Have you seen this?

11 MR. ADDUCCI: Yes, I have, Your Honor.

12 THE COURT: All right.

13 (Pause in proceedings.)

14 THE COURT: This is actually a letter to Mr. Hughes
15 and not to the Court. All right.

16 MR. MOYER: And finally, Your Honor, I would just
17 want to make a personal remark, and that is that I realize
18 whatever sentence you give, he's looking at 30 years
19 minimum up to life is a life sentence for him based on his
20 age. He has 1,044 days of jail time. That being the
21 case, the State would ask the judge to -- ask Your Honor
22 to give a sentence of life without imprisonment [sic] to
23 send a statement in this case. This was premeditated, it
24 was planned, it was thought out, and in our opinion, it
25 was particularly callous and heinous. This arguably could

1 have been a death penalty case based on the premeditation
2 aspect of it and the planning that was involved. So, Your
3 Honor, we would ask the Court to impose a sentence that
4 reflects that. Thank you.

5 THE COURT: All right. And before I hear from them,
6 though, the minor charges of possession of a weapon is
7 five years. Is conspiracy also ---

8 MR. MOYER: Five.

9 THE COURT: Five years as well.

10 All right. Mr. Adducci, Ms. Johnson and Mr. Hughes,
11 I'll be glad to hear from you.

12 MR. ADDUCCI: Thank you, Your Honor. Mr. Hughes
13 maintained his innocence from the moment this happened and
14 continues to this day.

15 As the State indicated, he's 60 years old. Even with
16 the minimum, this is likely a life sentence. We'd ask the
17 Court to consider the minimum to give him hope and to give
18 him incentive to continue on and to continue to behave. I
19 think that if you remove hope from people at SCDC, they
20 tend to act out. Just by offering a glimmer of hope by
21 imposing the minimum, I think that you could give
22 Mr. Hughes that hope that one day, maybe if he lives to be
23 an old, old, old man, he could breathe free air again.
24 And we just ask the Court to consider that in passing your
25 sentence.

1 Mr. Hughes, it's my understanding you do not wish to
2 address the Court; is that correct?

3 DEFENDANT HUGHES: Yes, sir.

4 THE COURT: All right. Anything further?

5 MR. MOYER: No, Your Honor.

6 MR. ADDUCCI: With regards to sentencing, no, your
7 Honor.

8 SENTENCING

9 THE COURT: All right. The sentence for the murder
10 charge is 45 years through the State Department of
11 Corrections, credit for the time served. For the
12 possession of a weapon during a violent crime, that's five
13 years to be consecutive. Conspiracy, that's five years to
14 be consecutive.

15 Good luck to you, Mr. Hughes.

16 MR. MOYER: Thank you, Your Honor.

17 MR. ADDUCCI: And, Your Honor, just we move for a new
18 trial and renewing all of our previous objections.

19 THE COURT: Right. And those are denied.

20 MR. ADDUCCI: Thank you, Your Honor.

21 (WHEREUPON, proceedings concluded at 2:35 p.m.)

22 * * * * *

1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)
4 COUNTY OF GREENVILLE)
5
6

7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Greenville County, South Carolina, on
14 the 4th, 5th, 6th and 7th day of December, 2017.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.
17

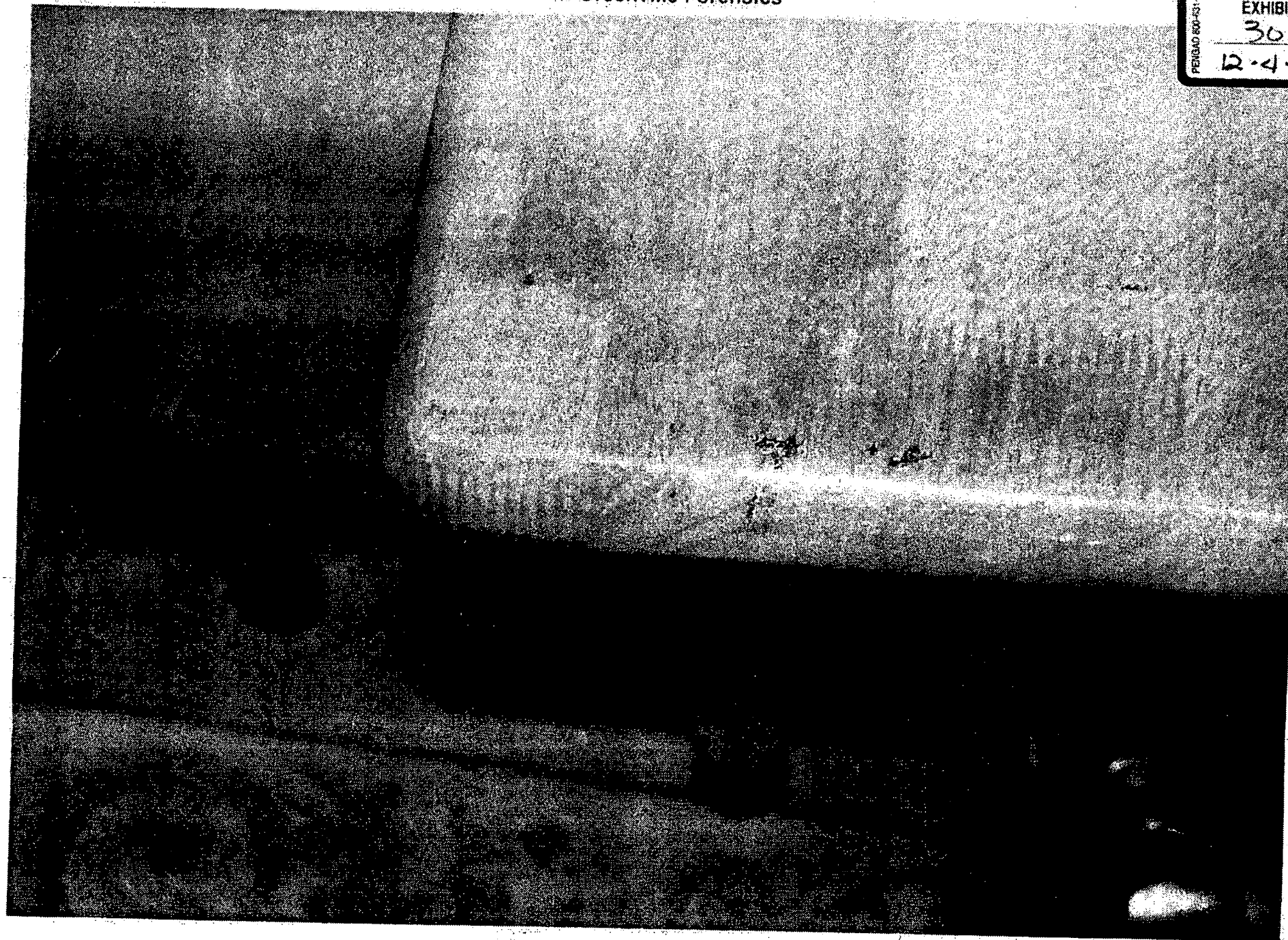
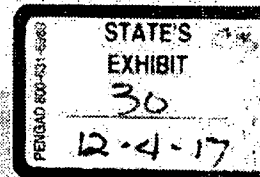
18 February 22, 2018
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22 Cheryl A. Smith, CVR-M

23 Court Reporter
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1. Greenville Forensics



1. Greenville Forensics



1. Greenville Forensics

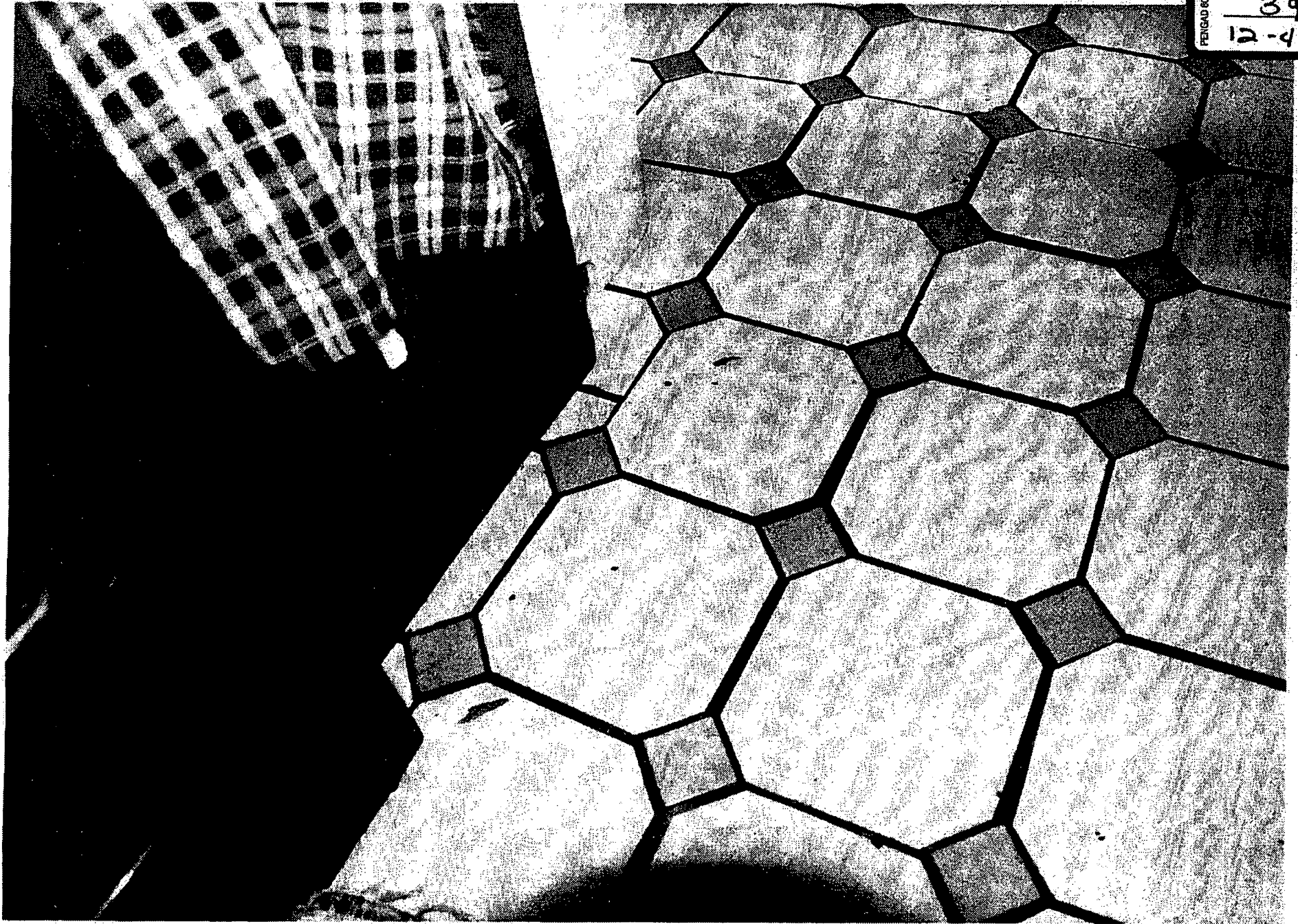


State v. John Michael Hughes - Record on Appeal p. 733

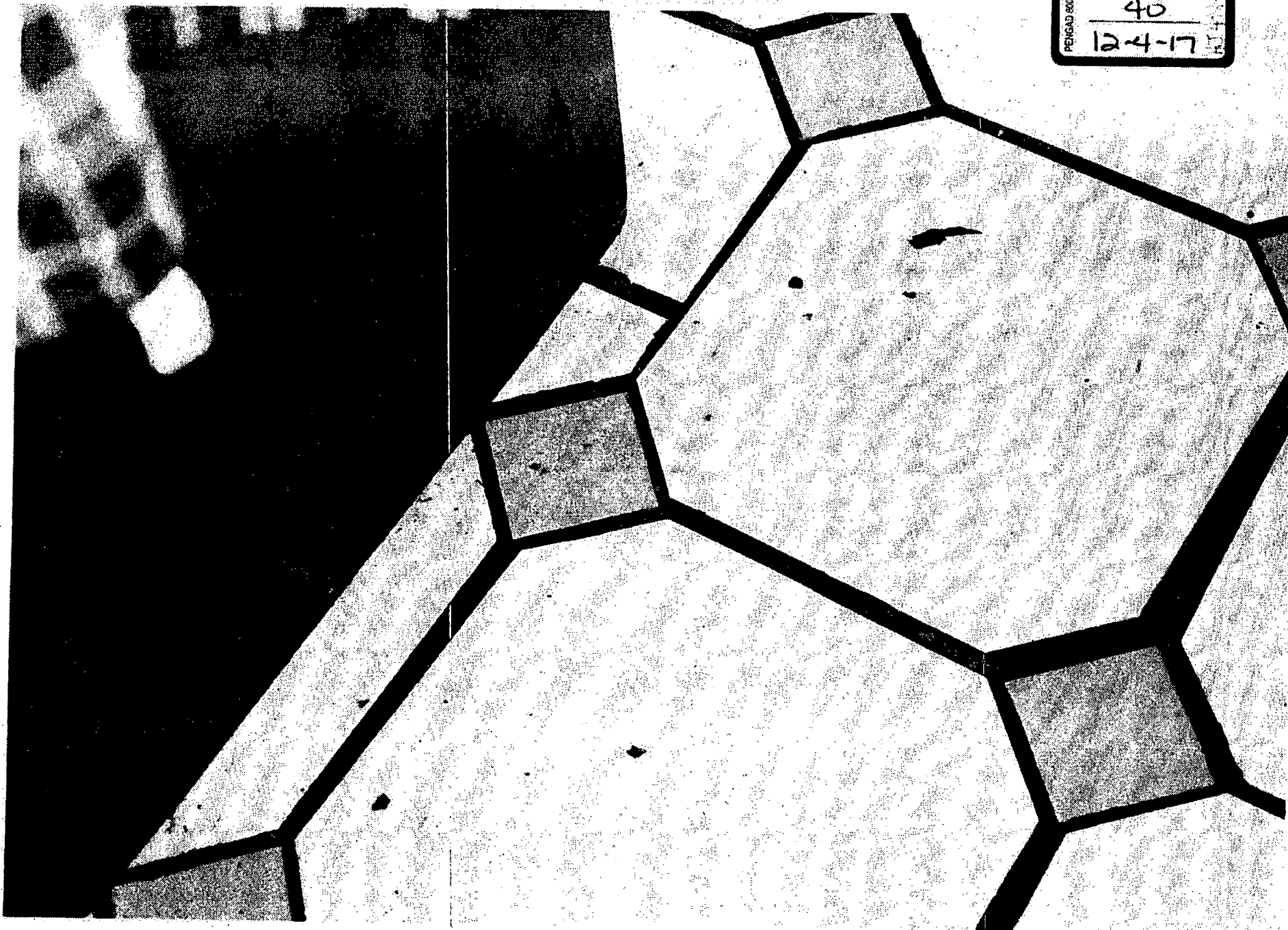
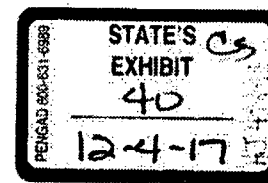
STATE'S
EXHIBIT
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12-4-17

1. Greenville Forensics

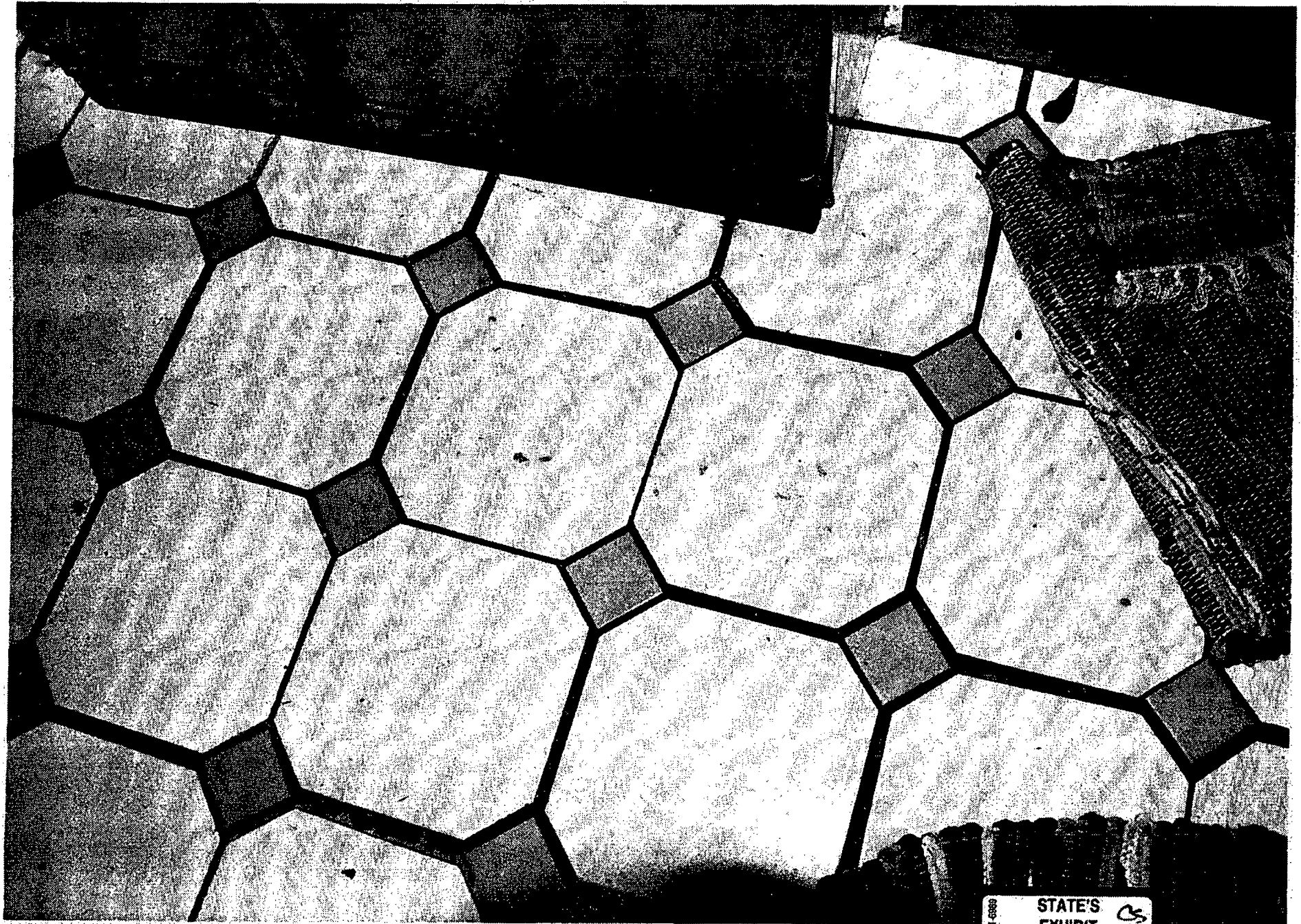
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1. Greenville Forensics



1. Greenville Forensics



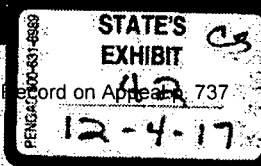
State v. John Michael Hughes - Record on Appeal p. 736



1. Greenville Forensics

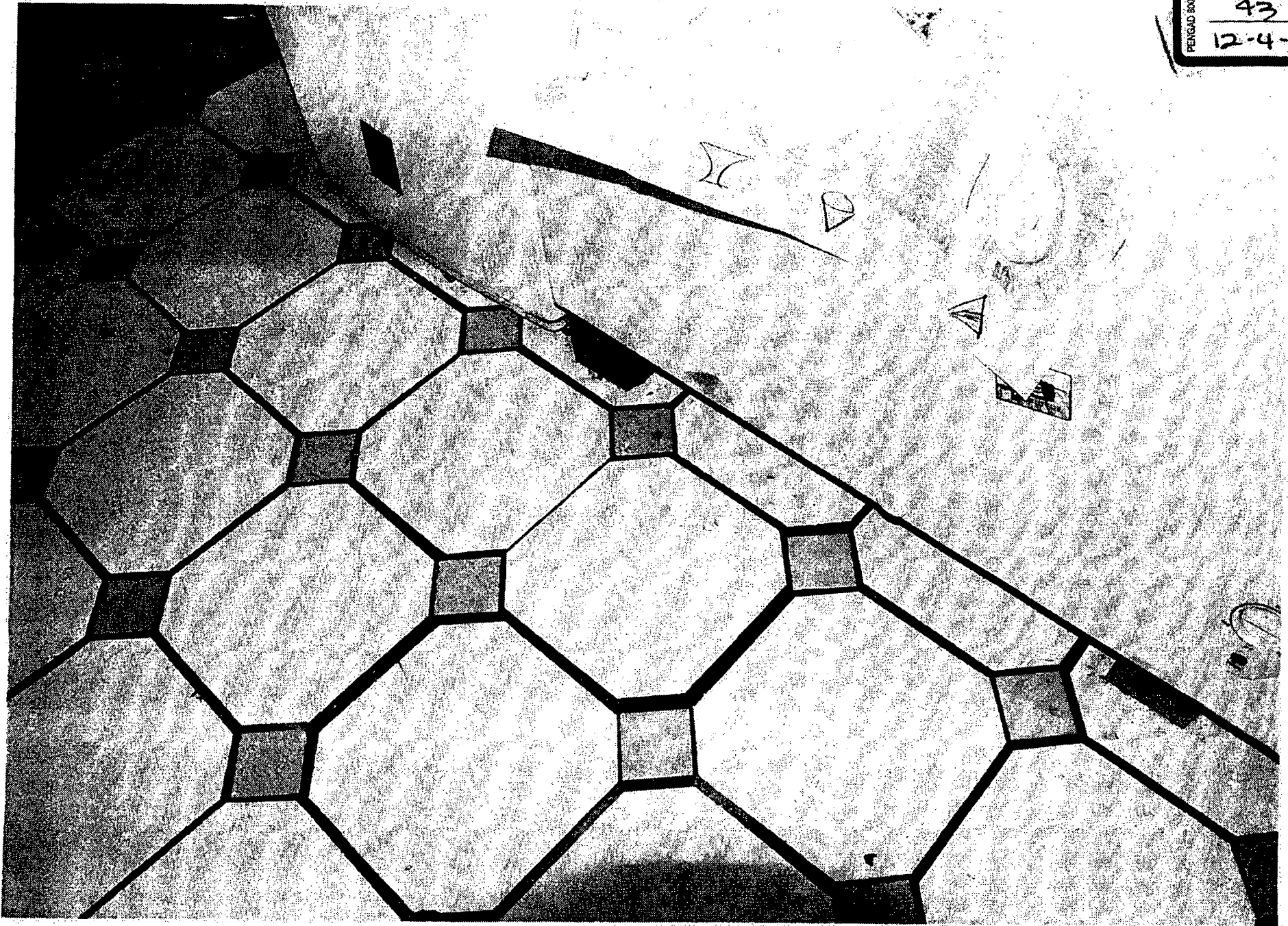


State v. John Michael Hughes - Record on Appeal 737



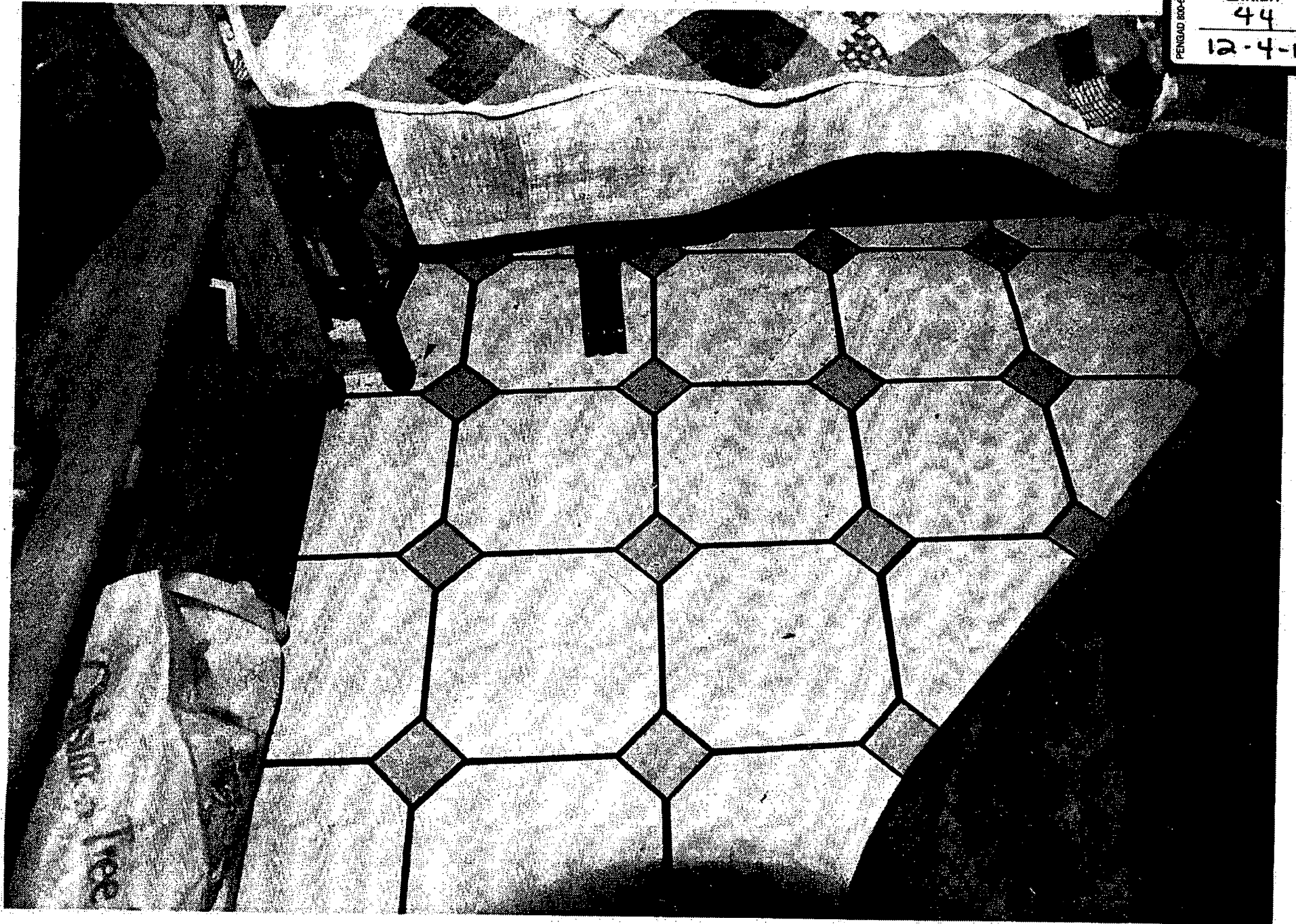
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12-4-17
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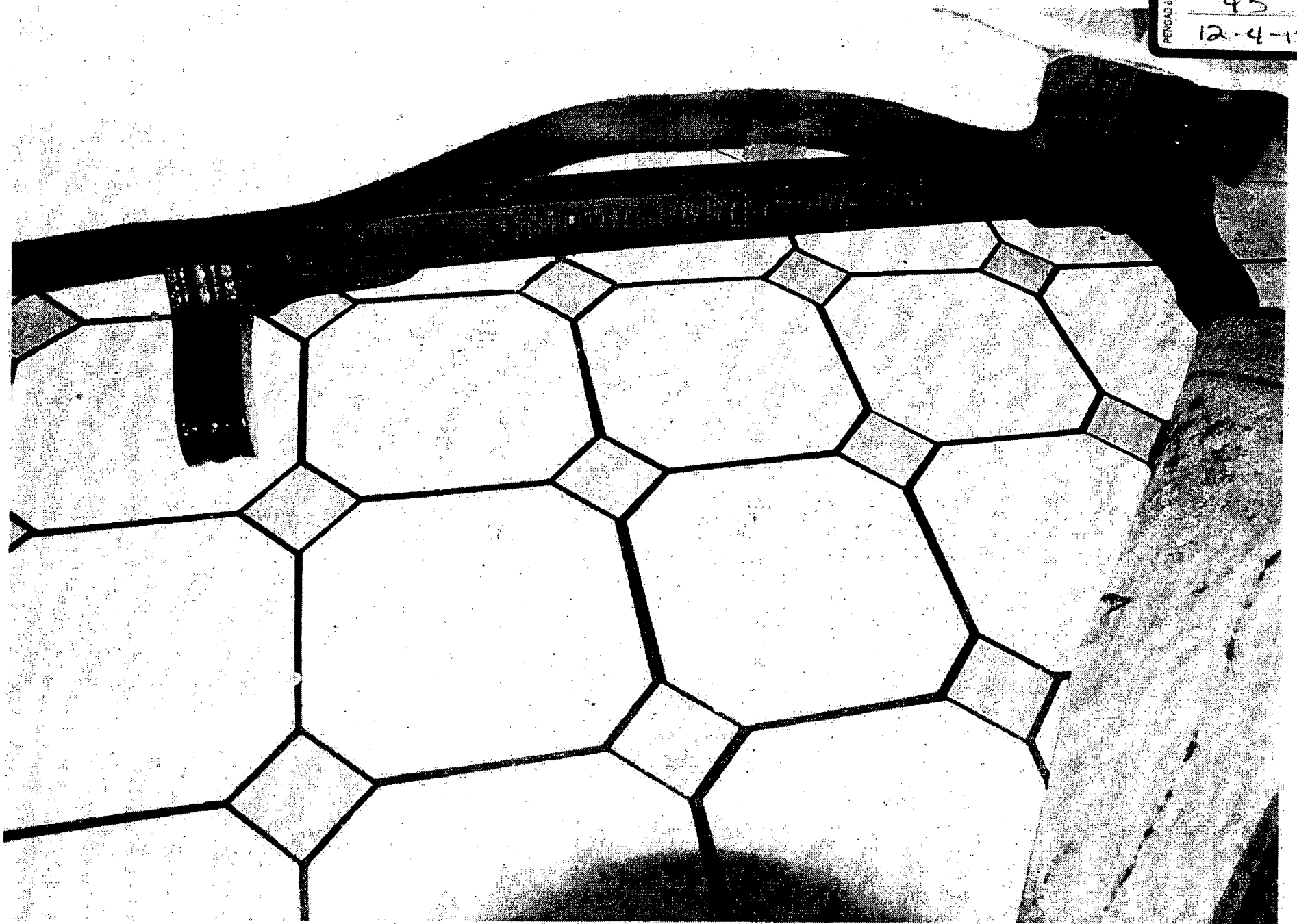
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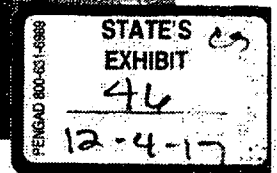
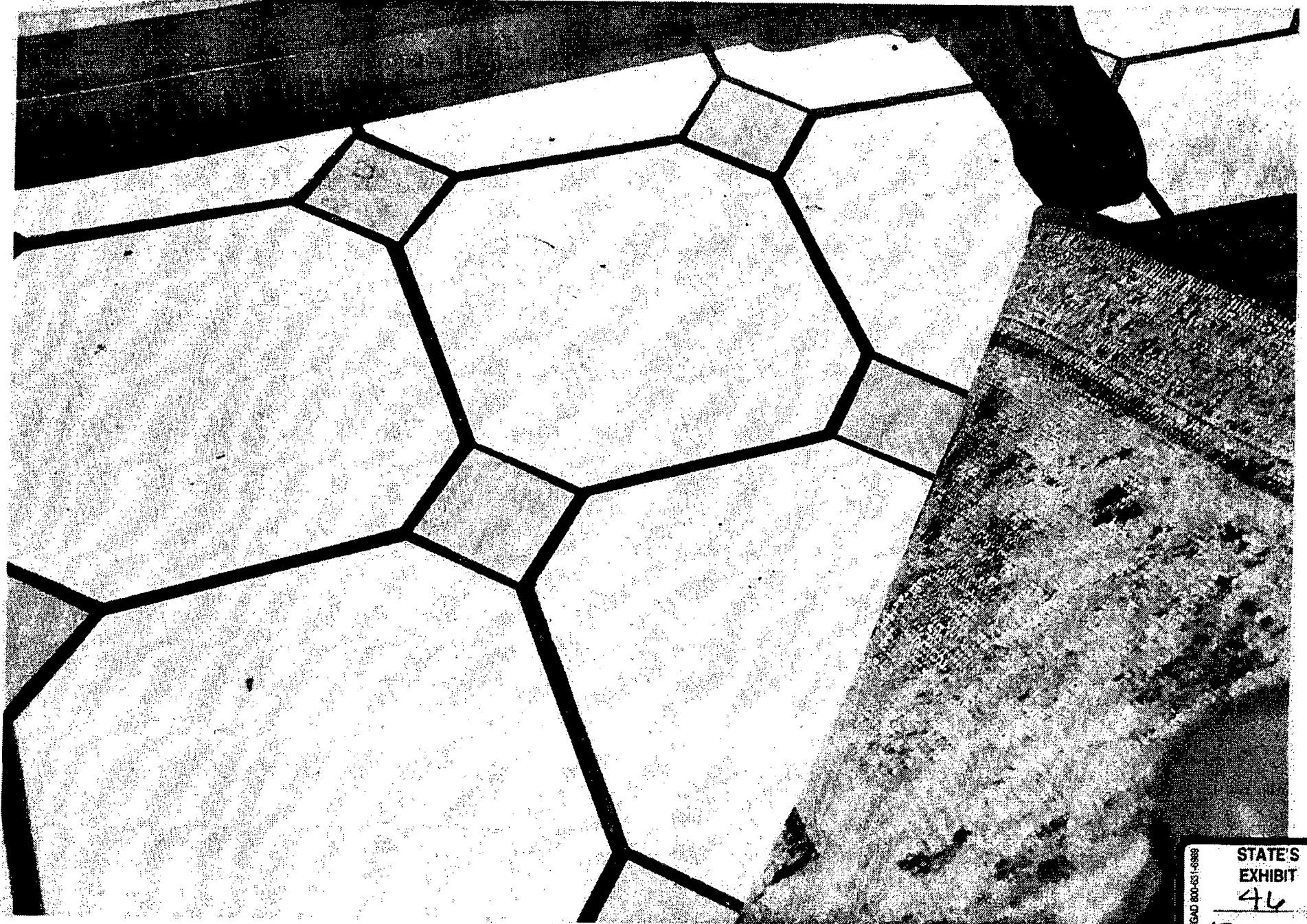


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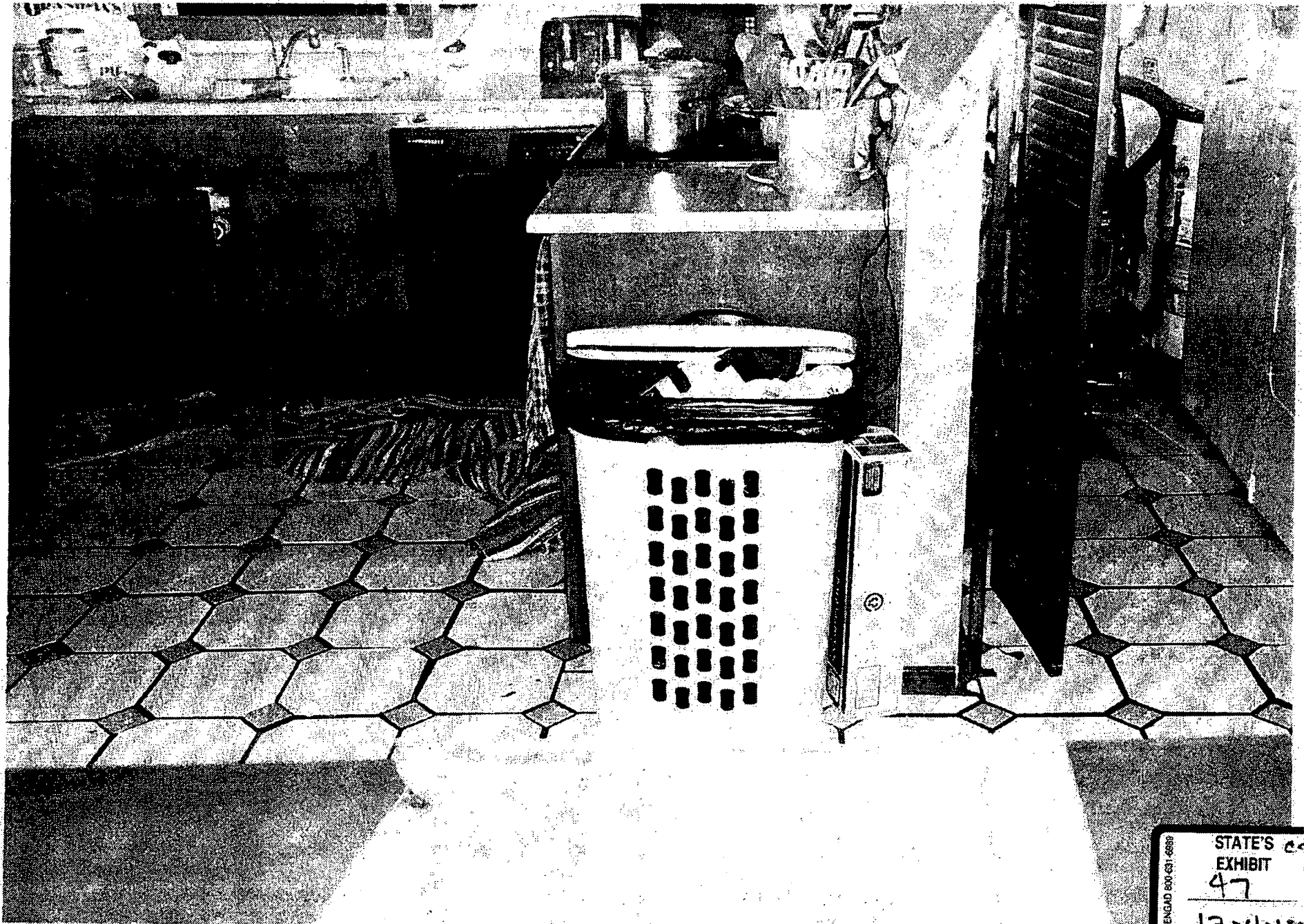
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1. Greenville Forensics



1. Greenville Forensics



STATE'S EXHIBIT
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12-4-17
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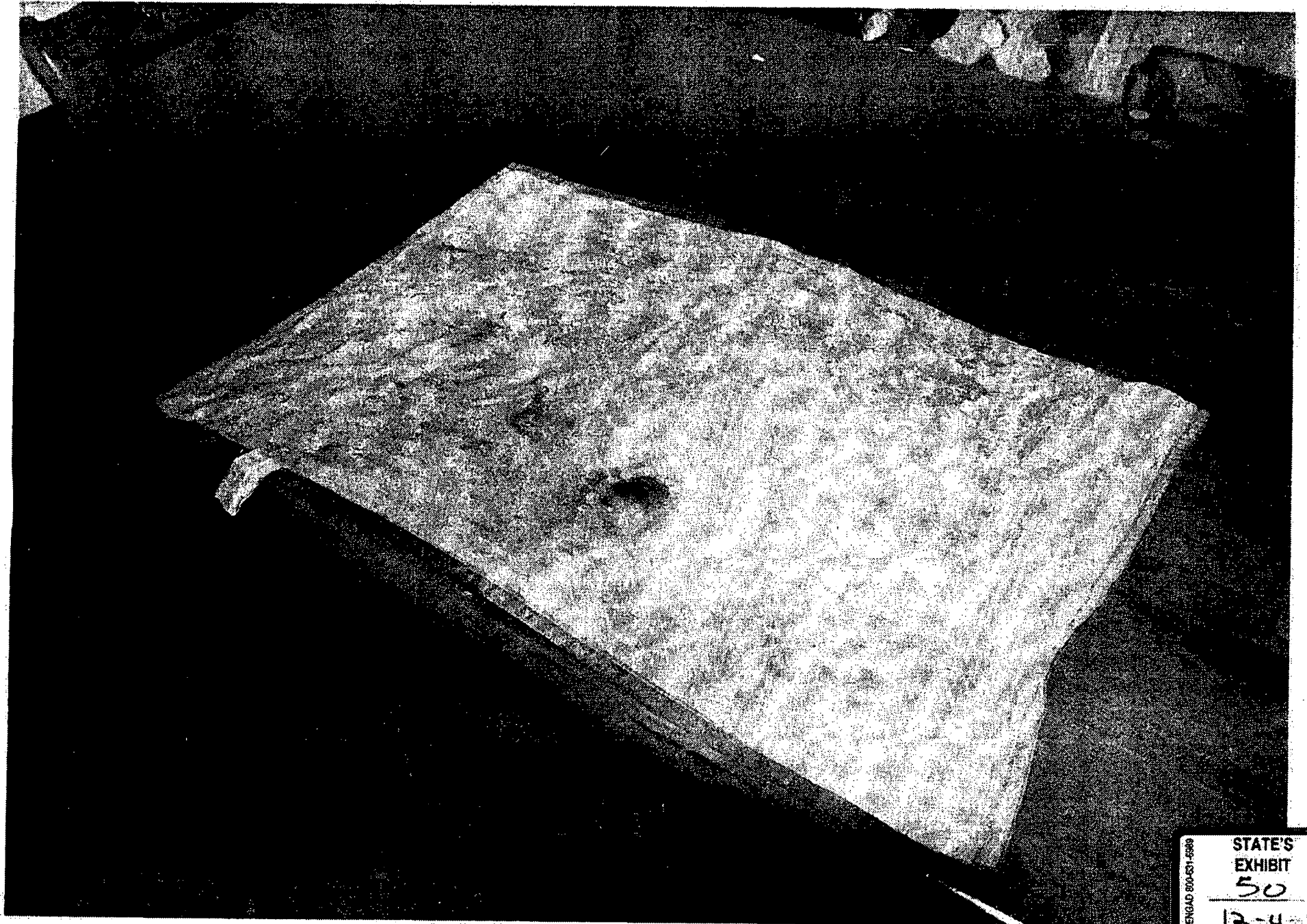
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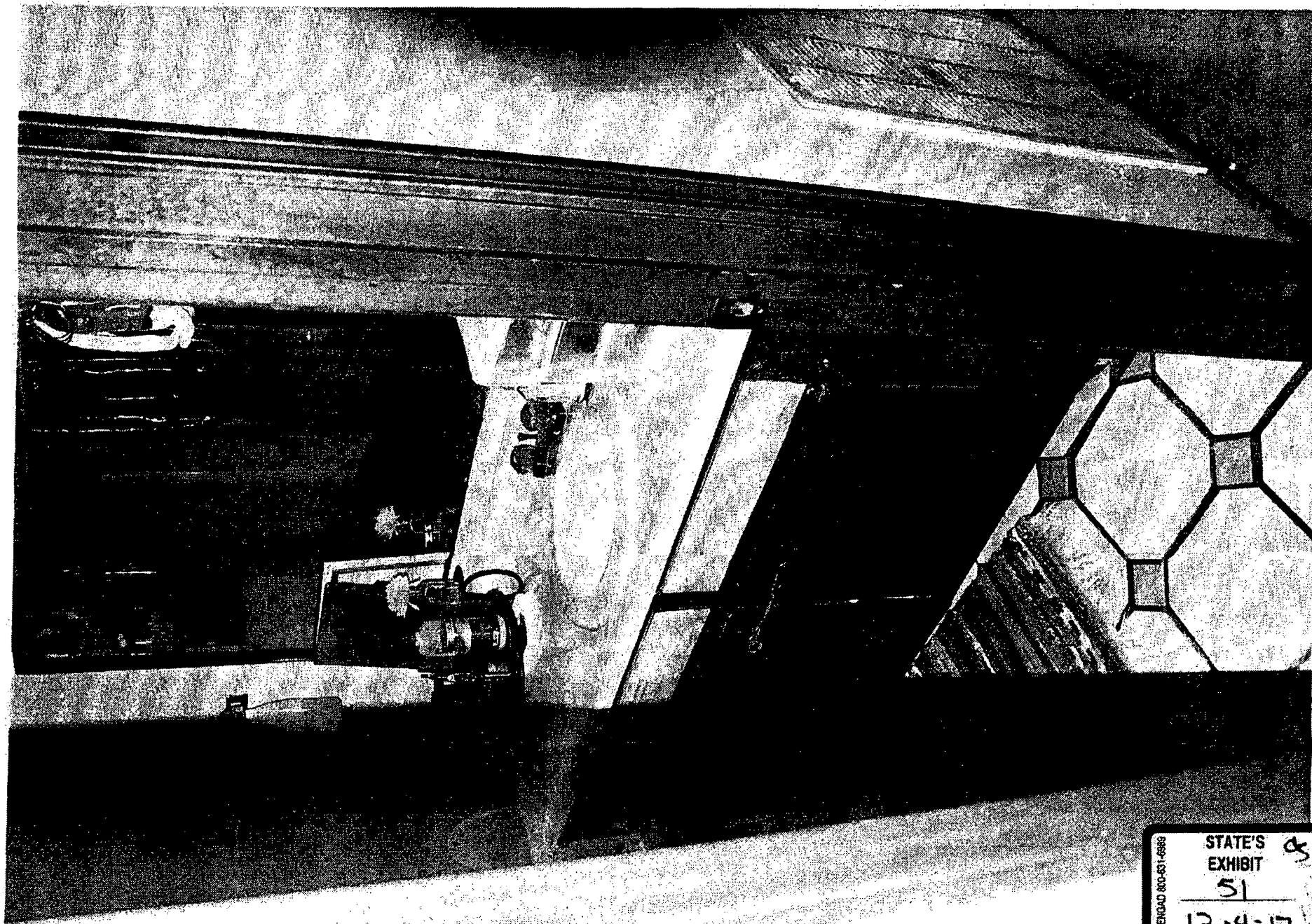
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1. Greenville Forensics



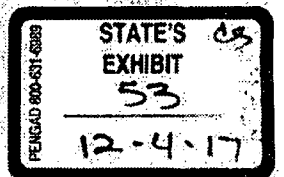
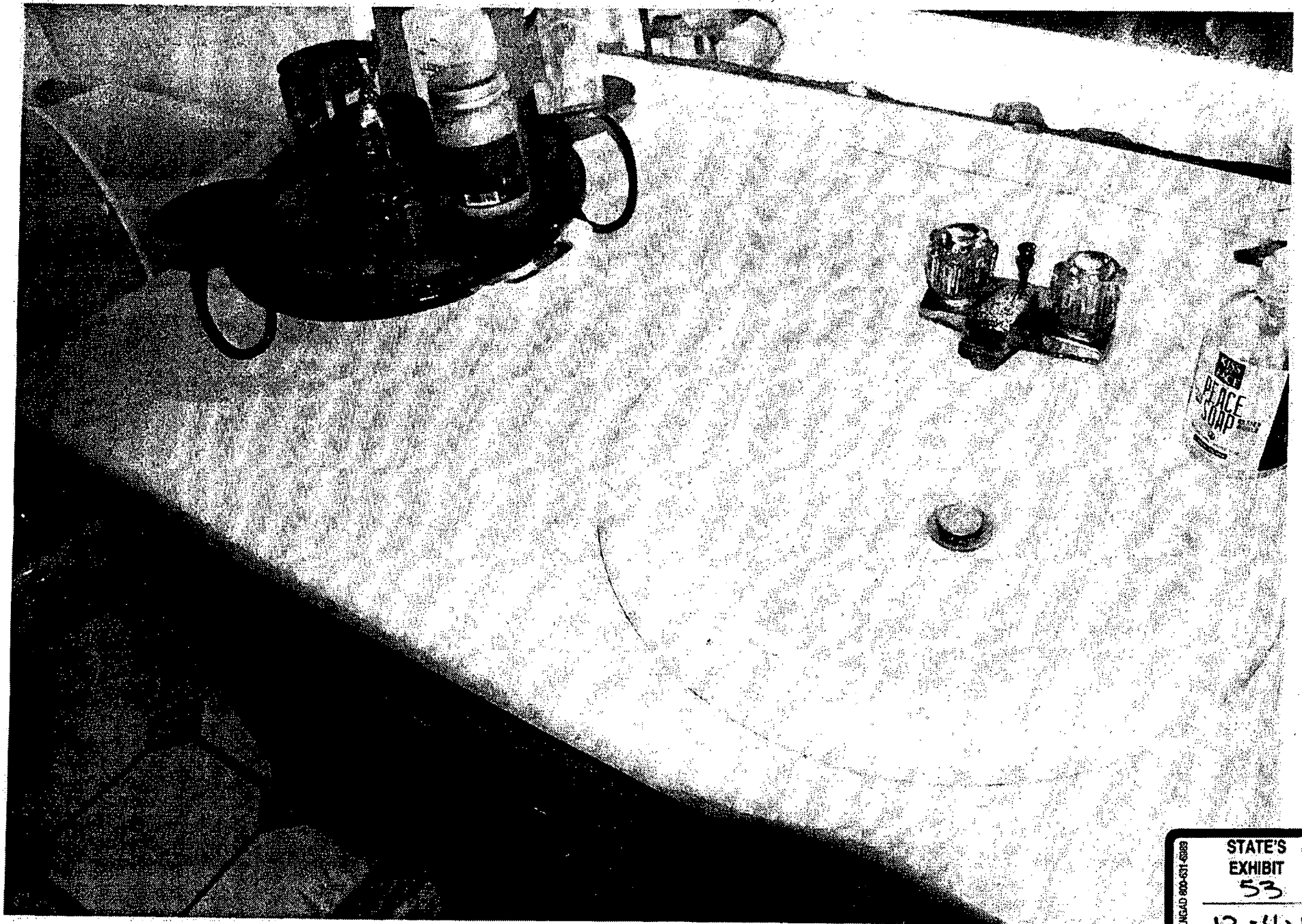
STATE'S EXHIBIT
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12-4-17



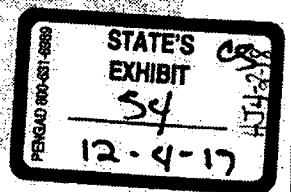
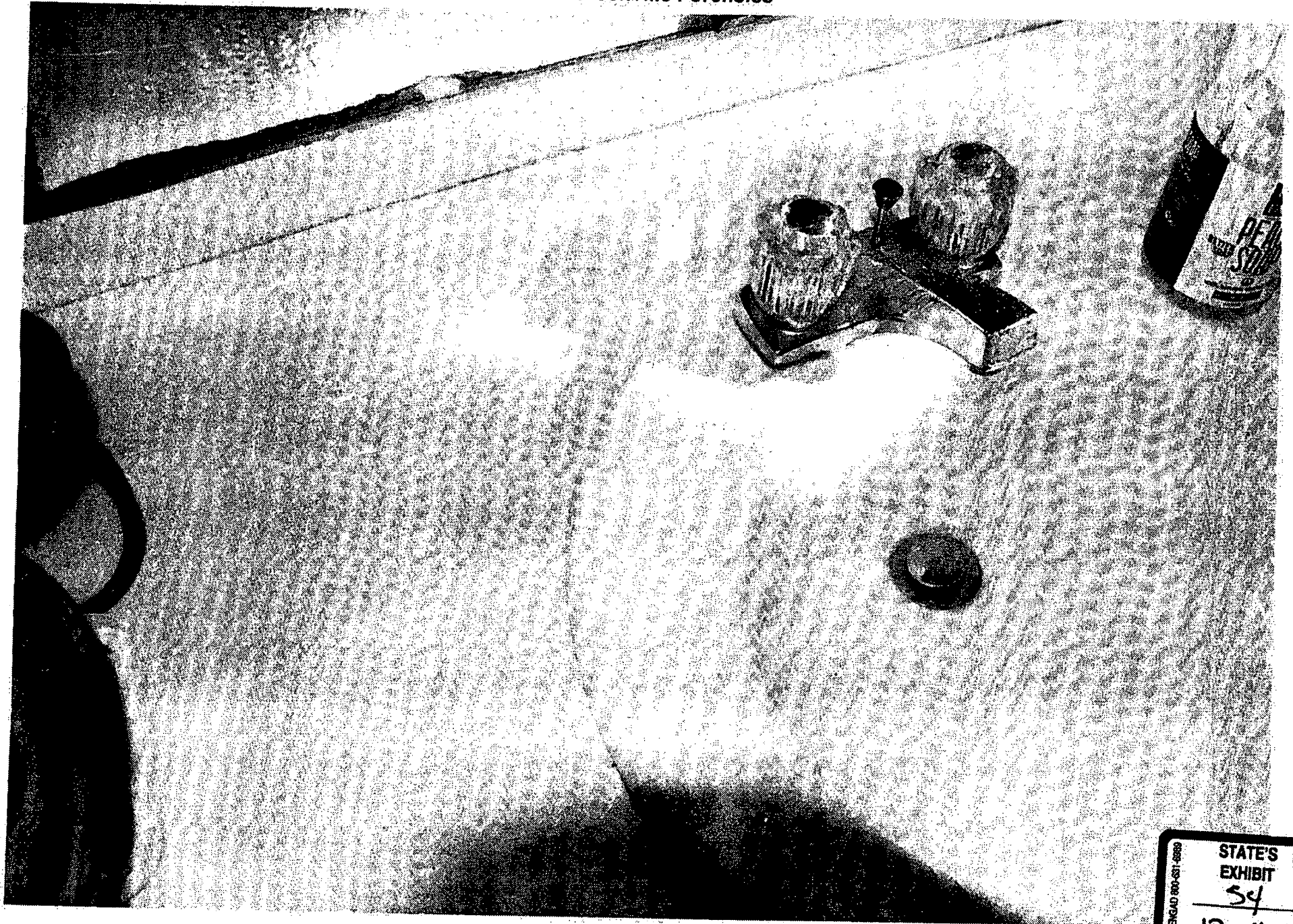
1. Greenville Forensics



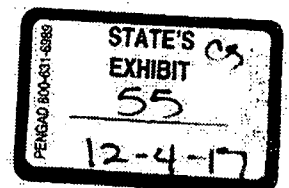
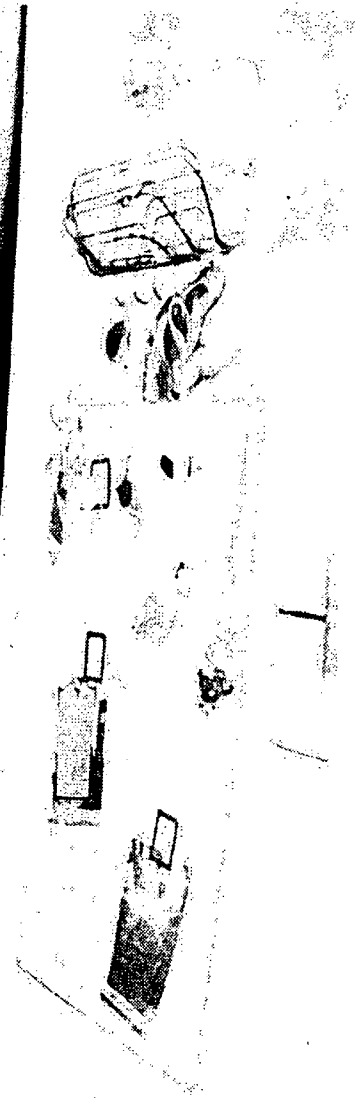
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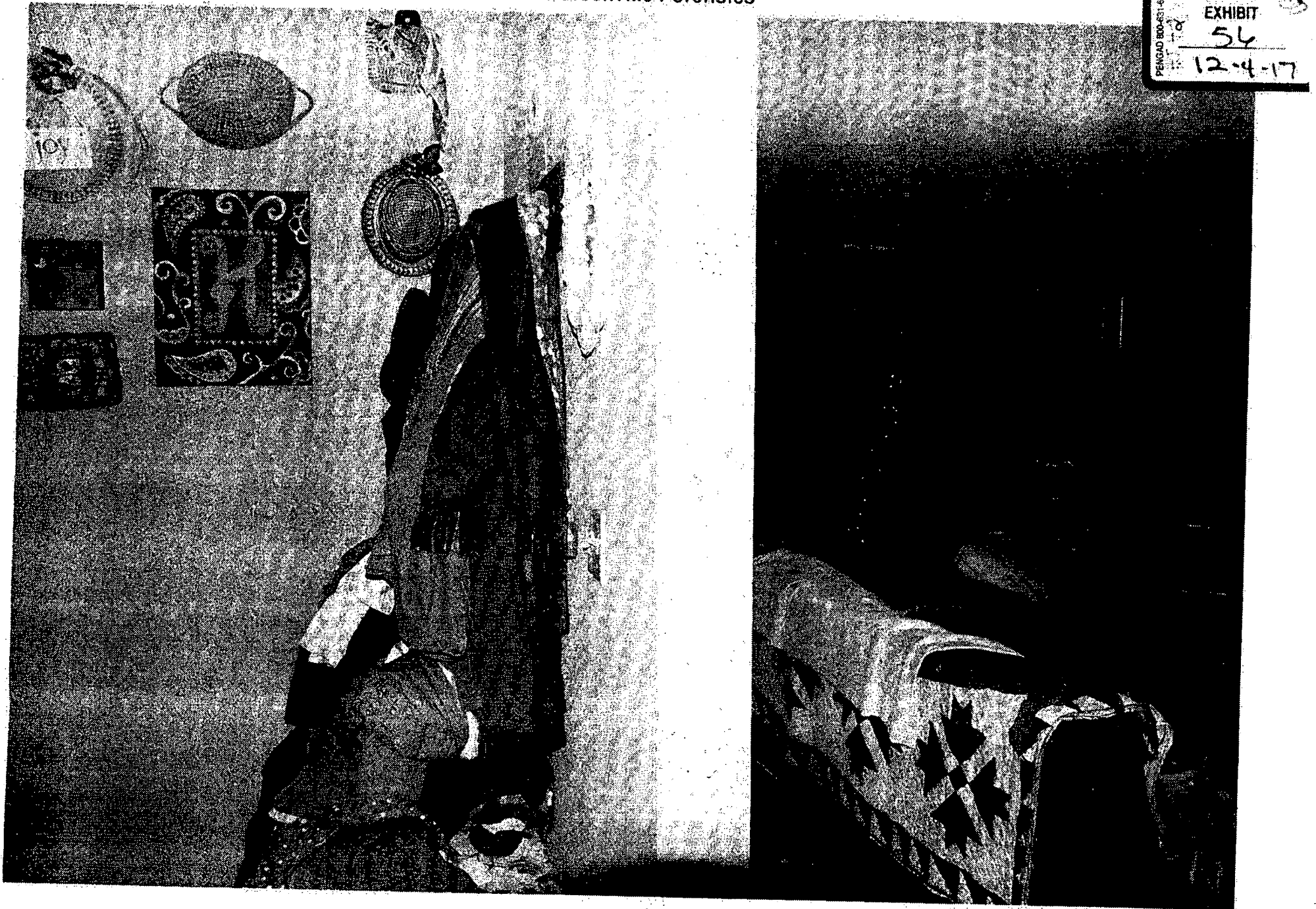
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1. Greenville Forensics



1. Greenville Forensics



1. Greenville Forensics

PENGAD 800-431-5989

STATE'S
EXHIBIT

57

12-4-17



County of Greenville

"...At Your Service"

DEPARTMENT OF PUBLIC SAFETY

DNA REPORT

Department: Simpsonville Police Department
Officer: Manley, C.
Victim: Ferrell, John Michael

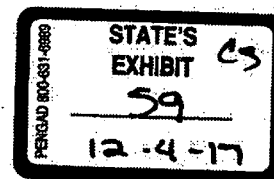
Case Number: 05-2015-001482
Lab Number: G15-0079
Case Type: Murder
Incident Date: 01/24/2015
Received From: Property & Evidence
Received Date: 07/15/2015

Suspects: Hughes, John Michael
Hughes, Jane Katherine
Martin, Andrew
Hughes, Jacob Cody
Hughes, Margaret

The following items were prepared and sealed in yellow coin envelopes by Tim Nafziger of the DNA Lab (see DNA Report 1) and were taken from the DNA freezer 1 by J. Kandala on 08/11/2015 for DNA analysis.

Questioned Samples:

- Item 1-1: Suspected blood swab sample from exterior of kitchen window blinds
- Item 2-1: Suspected blood swab sample from multicolored blanket
- Item 3-1: Suspected blood swab sample from hammer with black handle
- Item 4-1: Swab sample from black handle of hammer
- Item 5-2: Cutting of reddish brown stain on hand towel
- Item 6-1-1: Cutting of reddish brown stain on and above the right pocket of tan pants of Jane Hughes
- Item 6-2: Cutting of small smeared stains on middle back of right leg of tan pants of Jane Hughes
- Item 7-1: Cutout of dark stain of blood from the right sleeve of dark grey shirt of Jane Hughes
- Item 7-2: Cutting of large dark stain on lower right hem of dark grey shirt of Jane Hughes
- Item 8-1: Swab sample from grip of Glock 0.45 caliber gun
- Item 9-1: Swab sample from trigger of Glock 0.45 caliber gun
- Item 10-1: Swab sample of reddish brown stain on middle front of left leg of jeans
- Item 10-2: Swab sample of small reddish brown stain on the side of left leg of jeans
- Item 10-3: Swab sample of reddish brown stain on upper front of right leg of jeans
- Item 10-4: Swab sample of reddish brown stain on seat area of jeans
- Item 10-5: Swab sample of reddish brown stain on back of right leg of jeans
- Item 10-6: Swab sample of inside and outside of rear part of waist of jeans
- Item 11-1: Cutting of reddish brown stain on right front of boxers of the victim
- Item 11-2: Swab of outside of rear waist of the boxers
- Item 11-3: Swab of inside of rear waist of the boxers
- Item 12-1: Swab sample of torn portion of bottom hem of black shirt
- Item 12-2: Swab sample of dried material on left shoulder of black shirt
- Item 12-3: Swab sample of dried material on right shoulder of black shirt
- Item 13-1: Fingernails from left hand of John Michael Ferrell
- Item 14-1: Fingernails from right hand of John Michael Ferrell



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Greenville County DPS Forensic DNA Laboratory, 23 Winterberry Court, SC 29607 - (864) 250-5550

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9/17/15

Reference Samples:

- Item 15-1: Blood sample of John Michael Ferrell
- Item 16-1: Buccal swab sample of Andrew Martin
- Item 17-1: Buccal swab sample of Jane Hughes
- Item 18-1: Buccal swab sample of Margaret Hughes
- Item 19-1: Buccal swab sample of Jacob Hughes
- Item 20-1: Buccal swab sample of John Hughes

DNA Extraction and Human DNA quantification

DNA was extracted from all the above questioned items 1-1, 2-1, 3-1, 4-1, 5-2, 6-1-1, 6-2, 7-1, 7-2, 8-1, 9-1, 10-1, 10-2, 10-3, 10-4, 10-5, 10-6, 11-1, 11-2, 11-3, 12-1, 12-2, 12-3, 13-1, 14-1 and reference items 15-1, 16-1, 17-1, 18-1, 19-1 and 20-1. Extracted DNA was measured using the ABI 7500 Human Quantifiler System. Human DNA was not detected in items 8-1, 9-1 and 10-2 only.

Disposition: Envelopes with remaining material of items 6-1-1 and 7-2 were sealed and placed back in DNA freezer 1. Empty envelopes with all sample consumed were discarded. For original sample disposition see Report 1.

DNA Analysis

Sufficient DNA was not obtained from item 7-2 and so no further analysis was done on this item.

Even though no DNA was recovered from the grip and trigger of the Glock items 8-1 and 9-1, further DNA analysis was performed on these along with others.

Using polymerase chain reaction (PCR) on the DNA from items 1-1, 2-1, 3-1, 4-1, 5-2, 6-1-1, 6-2, 7-1, 8-1, 9-1, 10-1, 10-3, 10-4, 10-5, 10-6, 11-1, 11-2, 11-3, 12-1, 12-2, 12-3, 13-1, 14-1, 15-1, 16-1, 17-1, 18-1, 19-1 and 20-1, DNA typing was performed at the D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, D5S818 and FGA STR loci and Amelogenin.

Results and Conclusions

- Item 1-1: Suspected blood swab sample from exterior of kitchen window blinds
- Item 2-1: Suspected blood swab sample from multicolored blanket
- Item 3-1: Suspected blood swab sample from hammer with black handle
- Item 10-1: Swab sample of reddish brown stain on middle front of left leg of jeans
- Item 10-3: Swab sample of reddish brown stain on upper front of right leg of jeans
- Item 10-4: Swab sample of reddish brown stain on seat area of jeans
- Item 10-5: Swab sample of reddish brown stain on back of right leg of jeans
- Item 10-6: Swab sample of inside and outside of rear part of waist of jeans
- Item 11-1: Cutting of reddish brown stain on right front of boxers of the victim
- Item 11-2: Swab of outside of rear waist of the boxers

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- Item 12-1: Swab sample of torn portion of bottom hem of black shirt
- Item 12-2: Swab sample of dried material on left shoulder of black shirt
- Item 12-3: Swab sample of dried material on right shoulder of black shirt
- Item 13-1: Fingernails from left hand of John Michael Ferrell
- Item 14-1: Fingernails from right hand of John Michael Ferrell

The DNA profile obtained from each of these items is same and is from a single male individual. This DNA matches the DNA of John Michael Ferrell and excluding an identical twin, John Michael Ferrell is the source of this DNA to a reasonable degree of scientific certainty.

Andrew Martin, Jane Hughes, Margaret Hughes, John Hughes and Jacob Hughes are not contributors to this DNA.

Item 4-1: Swab sample from black handle of hammer

The DNA results obtained from this item are consistent with a mixture of DNA from two individuals, a major male and a minor female contributor. **This DNA is a true allelic mixture of John Michael Ferrell and Jane Hughes.** DNA from the major male contributor could be separated from the minor at D8S1179, D21S11, D7S820, CSF1PO, TH01, D13S317, D2S1338, D19S433, vWA, TPOX and FGA STR loci and matches the DNA of John Michael Ferrell at these Loci (At D3S1358 minor contributor is John Michael Ferrell and major contributor is Jane Hughes). Excluding an identical twin, John Michael Ferrell is the source of this DNA to a reasonable degree of scientific certainty.

The minor female contributor at the above mentioned loci matches the DNA of Jane Hughes. Excluding an identical twin, Jane Hughes is the source of this DNA to a reasonable degree of scientific certainty.

Andrew Martin, Margaret Hughes, John Hughes and Jacob Hughes are not contributors to this DNA.

Item 5-2: Cutting of reddish brown stain on hand towel

The DNA results obtained from this swab are consistent with the DNA of John Michael Ferrell and an unknown trace contributor at D8S1179 and D3S1358. Excluding an identical twin, John Michael Ferrell is the source of this major DNA to a reasonable degree of scientific certainty.

Andrew Martin, Jane Hughes, Margaret Hughes, John Hughes and Jacob Hughes are not contributors to this DNA.

- Item 6-1-1: Cutting of reddish brown stain on and above the right pocket of tan pants of Jane Hughes
- Item 6-2: Cutting of small smeared stains on middle back of right leg of tan pants of Jane Hughes
- Item 7-1: Cutout of dark stain of blood from the right sleeve of dark grey shirt of Jane Hughes

The DNA results obtained from this item are consistent with a mixture of DNA from two individuals, a major male and a trace contributor. The major contributor matches John Michael Ferrell and excluding an identical twin, John Michael Ferrell is the source of this DNA to a reasonable degree of scientific certainty.

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For the trace contributor allele drop out was observed at different loci in these three items. **Trace alleles detected** at different loci in each of these items **include the alleles of Jane Hughes and Jacob Hughes.**

Andrew Martin, Margaret Hughes and John Hughes are not contributors to this DNA.

Item 8-1: Swab sample from grip of Glock 0.45 caliber gun

Item 9-1: Swab sample from trigger of Glock 0.45 caliber gun

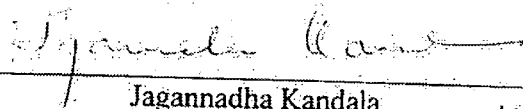
No DNA profile was detected from any of these items, so no conclusions can be drawn from the items.

Item 11-3: Swab of inside of rear waist of the boxers

The DNA profile obtained from this item is from a single male individual and **matches the DNA of John Michael Ferrell** at all the loci except for drop out of one of the alleles at D18S51. **Excluding an identical twin, John Michael Ferrell is the source of this DNA to a reasonable degree of scientific certainty.**

Partial DNA profile of the minor contributor from the item **G15-0079-4-1** is entered into **CODIS** as **G15-0079-4-1 minor.**

Enough material from the items **6-1-1, 7-2** and enough DNA from items **1-1, 2-1, 3-1, 4-1, 5-2, 6-1-1, 6-2, 7-1, 10-1, 10-2, 10-3, 10-4, 10-5, 10-6, 11-1, 11-2, 11-3, 12-1, 12-2, 12-3, 13-1 and 14-1** are available for testing if necessary.



Jagannadha Kandala
DNA Technical Leader

The DNA analyst and the reviewer are employed by Greenville County to perform biological screening and Forensic DNA analysis on evidence submitted by law enforcement agencies in criminal cases, and to testify in courts of record in the state of South Carolina on such examinations. This screening and analysis is accredited under the laboratory's ISO/IEC 17025 accreditation issued by ANSI-ASQ National Accreditation Board/FQS. Refer to certificate and scope of accreditation AT-1643.

This is an official report of the Greenville County Department of Public Safety DNA Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no examinations of evidence submitted in this case have been or will be conducted by any other laboratory or agency.

John Vandermosten, Assistant County Administrator
Department of Public Safety

Report Date: 09/17/2015
Report Number: 2

Lab Number: G15-0079
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15A
JMS

Specimen	Identifier Loci															
	D8S1179	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	vWA	TPOX	D18S51	AMEL	D5S818	FGA
1-1: Suspected blood from kitchen window blinds	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
2-1: Suspected blood from blanket	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
3-1: Suspected blood from hammer with black handle	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
4-1: Swab from black handle of hammer	14 12,13	28,29	8,10,11	11 9	16 15,17	9,3 6,8	11 12,14	9,10,12	17,20, 24*,25	13 14	15,16, 17,18	8 9,11	14,15 16*	X Y	9,11,12, 14	21,27 24
5-2: Cutting of brown stain from hand towel	14 13*	28,29	10,11	11	16,17 15*	9,3	11,12	9,10	20*,25*, 27*	13,14	17,18	8	14,15	X,Y	9,14	21,27, 51,2
6-1-1: Cutting of stain from right pocket of tan pants	14 12*	28,29	10,11	11	16,17	9,3	11,12 14*	9,10 12*	20,25	13,14	17,18 15	8	14,15	X,Y	9,14 11*,12*	21,27
6-2: Cutting of stain from right leg of tan pants	14 12	28,29	10,11 8	11 9*	16,17	9,3 6*,8	11,12 14*	9,10 12*	20,25 17*,24*	13,14	17,18 15	8 9*,11*	14,15	X,Y	9,14 11,12*	21,27 24*
7-1: Cutting of dark stain on right sleeve of grey shirt	14 12*	28,29	10,11	11	16,17	9,3 6*	11,12	9,10 12*	20,25	13,14	17,18	8 11*	14,15	X,Y	9,14 11*	21,27

Minor peaks italicized

* Peaks below 100 RFU with asterisk

Heterozygote below approved ratio in parenthesis

ND=Not Detected

Report Date: 09/17/2015

Report Number: 2

Lab Number: G15-0079

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Specimen	Identifier Loci															
	D8S1179	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	vWA	TPOX	D18S51	AMEL	D5S818	FGA
8-1: Swab from the grip of Glock	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND
9-1: Swab from trigger of Glock	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND
10-1: Stain swab from left leg of jeans	14	28,29	10,11	11	16,17	9,3	11,12	(9,10)	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
10-3: Stain swab from right leg of jeans	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	(9,14)	21,27
10-4: Swab of stains from seat area of jeans	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
10-5: Swab of stains from back of right leg of jeans	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
10-6: Swab from back of waist inside and outside of jeans	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25*	13,14	17,18	8	14*,15	X,Y	9,14	21,27
11-1: Cutting of stain on right front of boxers	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
11-2: Swab of outside of rear waist of boxers	14	28,29	10,11	11	16,17	9,3	11,12	9,10	(20,25)	13,14	17,18	8	14,15	X,Y	9,14	21,27

Minor peaks italicized

* Peaks below 100 RFU with asterisk

Heterozygote below approved ratio in parenthesis

ND=Not Detected

Report Date: 09/17/2015

Report Number: 2

Lab Number: G15-0079

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Specimen	Identifier Loci															
	D8S1179	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	vWA	TPOX	D18S51	AMEL	D5S818	FGA
11-3: Swab of inside of rear waist of boxers	14	28,29	10*,11*	11	16,17	9,3	11,12	10*	20*,25*	13,14	17*,18	8	14*	X,Y	9,14	21*,27*
12-1: Swab of torn bottom hem of black shirt	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
12-2: Swab of dried material on black shirt left shoulder	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
12-3: Swab of dried material on black shirt right shoulder	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
13-1: Finger nails of John Ferrell's left hand	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
14-1: Finger nails of John Ferrell's right hand	14	28,29	10,11	11	16,17	9,3	11,12	9,10	(20,25)	13,14	17,18	8	14,15	X,Y	9,14	21,27
15-1: Blood sample of John Ferrell	14	28,29	10,11	11	16,17	9,3	11,12	9,10	20,25	13,14	17,18	8	14,15	X,Y	9,14	21,27
16-1: Buccal sample of Andrew Martin	12,14	28,33,2	11	10	16	6,9,3	12,13	11,12	19,20	14	16,18	8	12	X,Y	11	24

Minor peaks italicized

* Peaks below 100 RFU with asterisk

Heterozygote below approved ratio in parenthesis

ND=Not Detected

Report Date: 09/17/2015

Report Number: 2

Lab Number: G15-0079

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KA
09/17/15

Case Number: 05-2015-001482

Specimen	Case Number: 05-2015-001482															
	Identifier Loci															
	D8S1179	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	vWA	TPOX	D18S51	AMEL	D5S818	FGA
17-1: Buccal sample of Jane Hughes	12,13	28,29	8,10	9,11	15,16	6,8	11,14	12	17,24	13	15,16	9,11	15,16	X	11,12	21,24
18-1: Buccal sample of Margaret Hughes	11,12	28,31.2	9,10	9,11	15,19	6	12,14	12	20,24	13,14	15,17	9	12,16	X	10,12	20,24
19-1: Buccal sample of Jacob Hughes	12,13	29,31.2	8,10	9,11	15,19	6,8	12,14	12	17,20	13,14	15,16	9,11	15,16	X,Y	11,12	20,21
20-1: Buccal sample of John Hughes	13	29,31.2	8,11	10,11	15,16	8,9.3	11,12	12,13	17	13	15,16	8,11	15,16	X,Y	11,12	21,22

Minor peaks italicized * Peaks below 100 RFU with asterisk Heterozygote below approved ratio in parenthesis

Minor peaks italicized

* Peaks below 100 RFU with asterisk

Heterozygote below approved ratio in parenthesis

ND=Not Detected

Report Date: 09/17/2015

Report Number: 2

Lab Number: G15-0079

Page 8 of 8

Greenville County DPS Forensic DNA Laboratory, 23 Wisterberry Court, Suite 29607 - (864) 250-5550

State v. John Michael Hughes - Record on Appeal p. 96029607 - (864) 250-5550

State's Exhibit 83
Compact Disc – Cell Phone Data
Being filed separately per Rule 210(F), SCACR

State's Exhibit 94
Compact Disc – 911 Call

Being filed separately per Rule 210(F), SCACR

STATE OF SOUTH CAROLINA

County/Municipality of SIMPSONVILLE

05-15-001482

SEARCH WARRANT

Date 01/29/2015

Officer INV C L MANLEY

000000000323

Date Printed: 01/29/2015 09:16:21 AM

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-160
March 15, 1978

ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF SIMPSONVILLE

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

VERIZON GZONE CELL PHONE SN: CVKZ0379568 SAID TO BELONG TO JOHN HUGHES

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

ANY AND ALL COMPUTER SYSTEMS, INCLUDING ANY ELECTRONIC, MAGNETIC, OPTICAL, OR OTHER HIGH SPEED DATA PROCESSING DEVICE PERFORMING LOGICAL, ARITHMETIC, OR STORAGE FUNCTIONS; DATA STORAGE FACILITIES SUCH AS MAGNETIC TAPE, HARD DISK, FLOPPY DISK OR DRUM, OR CD ROM OR SCANNER; COMMUNICATIONS FACILITIES DIRECTLY RELATED TO OR IN CONJUNCTION WITH SUCH DEVICE; CELLULAR WIRELESS TELEPHONES, DEVICES FOR PRINTING RECORDS OF DATA; AND SUCH RECORDS OR DATA STORED IN VARIOUS FORMS; MANUALS, DOCUMENTS OR INSTRUCTIONAL MATERIAL RELATING TO SUCH DEVICE PRINTERS. AS A RESULT OF THE EXECUTION OF THIS SEARCH WARRANT, A SEARCH FOR ANY AND ALL SAVED, ARCHIVED, OR DELETED DATA INCLUDING BUT NOT LIMITED TO, EMAIL, LEDGERS, LISTS, RECORDS, DOCUMENTS OR PHOTOGRAPHS TAKEN FROM, DERIVED FROM OR CONTAINED IN THE COMPUTER COMPONENTS AND STORAGE MEDIA DERIVED IN THE ABOVE LISTED DEVICE.

ANY AND ALL INFORMATION RELATED TO THE OWNER / USER OF THE VERIZON WIRELESS CELLULAR PHONE. THIS IS TO INCLUDE, BUT NOT LIMITED TO NAME, ADDRESS, PHOTOS, INTERNET BROWSING HISTORY, VIDEOS, AND TEXT MESSAGES.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

118 N.E. MAIN ST. Simpsonville SC 29681, S.C.

5th JANUARY 2015

Don L. H. Shen / 5 6807

Signature of Judge

(L.S.)

SCAA/513
(3-78)

Date Printed: 01/29/2015 09:16:21 AM

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

AFFIDAVIT

Personally appeared before me, one C. MANLEY
 ..., being duly sworn, says that there is probably cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

ANY AND ALL COMPUTER SYSTEMS, INCLUDING ANY ELECTRONIC, MAGNETIC, OPTICAL, OR OTHER HIGH SPEED DATA PROCESSING DEVICE PERFORMING LOGICAL, ARITHMETIC, OR STORAGE FUNCTIONS; DATA STORAGE FACILITIES SUCH AS MAGNETIC TAPE, HARD DISK, FLOPPY DISK OR DRUM, OR CD ROM OR SCANNER; COMMUNICATIONS FACILITIES DIRECTLY RELATED TO OR IN CONJUNCTION WITH SUCH DEVICE; CELLULAR WIRELESS TELEPHONES, DEVICES FOR PRINTING RECORDS OF DATA; AND SUCH RECORDS OR DATA PRODUCED IN VARIOUS FORMS; MANUALS, DOCUMENTS OR INSTRUCTIONAL MATERIAL RELATING TO SUCH DEVICE PRINTERS. AS A RESULT OF THE EXECUTION OF THIS SEARCH WARRANT, A SEARCH FOR ANY AND ALL SAVED, ARCHIVED, OR DELETED DATA INCLUDING

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

VERIZON GZONE CELL PHONE SN: CVKZ0379568 SAID TO BELONG TO JOHN HUGHES

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

ON 24, 2015 THE SIMPSONVILLE POLICE DEPARTMENT RESPONDED TO A SHOTS FIRED CALL THAT WAS INITIALLY REPORTED TO BE AN INCIDENT WHERE A SUSPECT, JOHN FERRELL, WAS SHOT AND KILLED DURING THE ATTEMPTED BURGLARY OF THE RESIDENCE WHERE HIS ESTRANGED WIFE, JANE HUGHES, RESIDES. DURING THE INVESTIGATION EVIDENCE OBTAINED THROUGH THE ISSUANCE OF A VALID SEARCH WARRANT OF THE RESIDENCE PLUS THE INCONSISTENT STATEMENTS BY THE OCCUPANTS OF THE RESIDENCE BROUGHT TO LIGHT THERE WAS SOME TYPE OF ASSAULT THAT OCCURRED AND COVERED UP IN THE RESIDENCE. BASED ON THIS INFORMATION THIS OFFICER BELIEVES THAT THERE MAY BE EVIDENCE WHICH EXISTS ON THE DECEDENT'S'S PHONE THAT WOULD HELP CLARIFY INCONSISTENCIES IN THE INFORMATION PROVIDED AND COLLECTED AND ALSO PROVIDE THE DEPARTMENT WITH A CLEARER PICTURE OF THE DECEDENT'S'S ACTIVITIES LEADING UP TO HIS DEATH.

Sworn to and Subscribed before me

this 29th day of January, 2015.

Don L. H. Shaw, Jr. 6807 (L.S.)
 Signature of Judge

George L. Manley 4017814
 Affiant

Address 405 E. CURTIS STREETSIMPSONVILLE SC 29681Phone 864-967-9536

Date Printed: 01/29/2015 09:16:21 AM

RETURN

I received the attached Search Warrant # 323, and have executed it as follows:

On JAN 30, 2015 at 02:30 o'clock pm, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with CELL PHONE

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

[Empty lines for inventory]

This inventory was made in the presence of INV. C. MANLEY
AND LT. J. DONNELLY

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 2nd day of February 2015
on L. N. Shew (S. 6807 (L.S.))
Signature of Judge

[Signature] 105/163
(Signature of Officer Executing Warrant)

Date Printed: 01/29/2015 09:16:21 AM

8

**THE STATE OF SOUTH CAROLINA
In the Appellate Court**

**APPEAL FROM GREENVILLE COUNTY
Court of General Sessions**

Perry H. Gravely, Circuit Court Judge

Case No(s): 2015-GS-23-03344 & 2017-GS-23-04936A

MA The State,

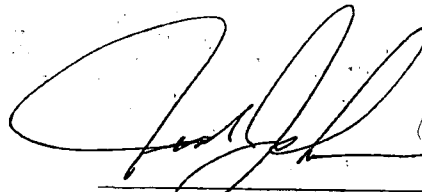
John Michael Hughes,

v.

NOTICE OF APPEAL

John Michael Hughes appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Perry H. Gravely on December 7, 2017.

Date: December 07, 2017



Thomas Adducci
Teal Johnson
Assistant Public Defender
305 E. North Street
Suite 123
Greenville, SC 29601
Trial Attorney for Appellant

Other Counsel of Record:
Mark Moyer, Esq.
Assistant Solicitor
13th Circuit Solicitor's Office
305 E. North Street, Suite 325
Greenville, SC 29601
Attorney for Respondent

RECEIVED
DEC 13 2017
SC Court of Appeals

Respondent.
2017 DEC -7 PM 4:22
FILED CLERK OF COURT
PAUL B WICKENS
GREENVILLE CO. SC
Appellant.

THE STATE OF SOUTH CAROLINA
In the Appellate Court

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Perry H. Gravely, Circuit Court Judge

RECEIVED
DEC 13 2017
SC Court of Appeals

Case No(s): 2015-GS-23-03344 & 2017-GS-23-04936A

The State,

Respondent.

v.

John Michael Hughes,

Appellant.

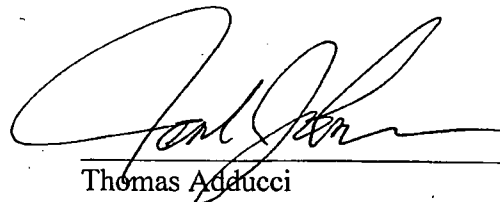
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the below listed respondents by depositing a copy of it in the United States Mail, postage prepaid, on December 8, 2017, addressed to:

Mark Moyer, Esq.
Assistant Solicitor
13th Circuit Solicitor's Office
305 E. North Street, Suite 325
Greenville, SC 29601

Alan Wilson, Esq.
Attorney General
P.O. Box 11549
Columbia, SC 29211

Date: December 8, 2017



Thomas Adducci
Teal Johnson
Assistant Public Defender
305 E. North Street
Suite 123
Greenville, SC 29601
Trial Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
Perry H. Gravely, Circuit Judge

Appellate Case No. 2017-002539

RECEIVED
SEP 27 2019
SC Court of Appeals

The State..... Respondent
v.
John Michael Hughes..... Appellant

CERTIFICATE OF COUNSEL

I certify that the Record on Appeal contains all material proposed to be included
by any of the parties and not any other material.

Respectfully submitted,



Andrew S. Radeker
S.C. Bar No. 73743
Harrison, Radeker & Smith, P.A.
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Attorney for Appellant

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Columbia, South Carolina 29211
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Attorney for Appellant