

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM LEXINGTON COUNTY

COURT OF COMMON PLEAS

WILLIAM A. MCKINNON CIRCUIT COURT JUDGE

CASE NO. 2014-CP-32-02548

APPELLATE CASE NO. 2019-000031

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S.C. SUPREME COURT

ANDRA B. JAMISON, PRO SE LITIGANT.....PETITIONER

V

STATE OF SOUTH CAROLINA.....RESPONDENT

AMENDED APPENDIX (PART 1 OF 3)

ANDRA B. JAMISON, PRO SE LITIGANT
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STATE OF SOUTH CAROLINA		COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON		
STATE OF SOUTH CAROLINA	)	
-vs-	)	TRANSCRIPT OF RECORD
ANDRA BYRON JAMISON,	)	09-GS-32-5283
	)	
Defendant.	)	

October 12-15, 2009
Lexington, South Carolina

B E F O R E:

HONORABLE R. KNOX MCMAHON, Judge; and a jury.

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

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STEPHEN C. BURN, JR., Asst. Solicitor
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Circuit Court Reporter

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1 (The following proceedings are reported on
2 October 12, 2009.)

3 THE COURT: Solicitor, you may call your first
4 case for trial.

5 MR. MOBLEY: Thank you, Your Honor. May it
6 please the Court. Indictment Number 2009-GS-32-5283,
7 the State of South Carolina, County of Lexington, versus
8 Andra Byron Jamison, indicted for felony D.U.I.
9 involving death.

10 (Hands to Court.)

11 THE COURT: Ladies and gentlemen of the jury
12 panel, if you would please give me your complete and
13 undivided attention. I would ask you to please consider
14 yourselves still under oath.

15 We are now going to begin a process whereby we
16 select the trial jury for the first case that has been
17 called for trial by the State of South Carolina. The
18 docket number is 2009-GS-32-5283. It's the State versus
19 Andra Byron Jamison. It's an indictment for felony
20 driving under the influence involving a death.

21 I am going to read or publish the indictment
22 to you. The reason I do this is because during this
23 process of jury selection, I will ask you certain
24 questions concerning the alleged incident. But the
25 indictment, ladies and gentlemen, is not evidence.

1 The indictment is the formal document by which
2 an individual is placed on notice of the charges that
3 have been brought against him or her. It is the notice
4 document that brings the case before the Court. It
5 contains allegations. They are mere allegations
6 concerning the events that are alleged to have occurred.

7 The indictment reads that Andra Byron Jamison
8 did in Lexington County, South Carolina, on or about
9 August 1, 2008, while driving a vehicle under the
10 influence of drugs or both alcohol and drugs the
11 Defendant, Andra Byron Jamison, did an act forbidden by
12 law or neglected a duty imposed by law in driving of
13 said vehicle, to wit: Failed to exercise due care and
14 struck a bicycle driven by Jesse Gamble, and such act
15 proximately caused the death to Jesse Gamble all in
16 violation of 56-5-2945 of the Code of Laws of South
17 Carolina 1976, as amended.

18 The State in this case is represented by
19 Assistant Solicitor Derrick Mobley and Chip Burn.
20 Solicitor, if you would please stand and introduce
21 yourself and any other members of the Solicitor's Office
22 staff that will assist you in this prosecution.

23 MR. MOBLEY: Thank you, Your Honor. May it
24 please the Court. My name is Derrick Mobley. I am an
25 assistant solicitor here in Lexington. I will be

1 assisted today -- who is not seated here. They are
2 doing some duties -- by Assistant Solicitor Chip Burn,
3 as well as Investigator Kevin Wilson.

4 THE COURT: Thank you. Thank you very much,
5 Solicitor. The Defendant in the case is represented by
6 Mr. Theo Williams of the Lexington County bar.
7 Mr. Williams, if you would please stand and introduce
8 yourself and your client to the jury.

9 MR. WILLIAMS: I'm Theo Williams. I practice
10 law here in Lexington right across the street with the
11 firm of Williams, Hendrix, Steigner, and Brink.
12 Assisting me potentially is a young associate in my
13 office by the name of Ben Stitley, who is -- he is doing
14 something else right now. This is my client, Andra
15 Jamison.

16 THE COURT: Thank you, Mr. Williams. Thank
17 you, Mr. Jamison.

18 Is any member of the jury panel related by
19 blood or marriage or close personal friends of either
20 Assistant Solicitor Mobley, Burn or any member of the
21 Lexington County Solicitor's Office? If so, please
22 stand.

23 (Juror stands.)

24 THE COURT: Yes, ma'am, your number and name,
25 please?

1 PROSPECTIVE JUROR: Number 32, Della Case.

2 THE COURT: Are you related or friends?

3 PROSPECTIVE JUROR: Friends with Mr. Burn.

4 THE COURT: With Mr. Burn. How long have you
5 held that friendship?

6 PROSPECTIVE JUROR: Three years.

7 THE COURT: Three years. The fact that you
8 have been friends with Mr. Burn for three years, could
9 you still be a fair and impartial juror to both the
10 State and the defense in this case?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Tell me your number again, ma'am.
13 I didn't have my little judge's speaker turned up here.
14 I couldn't hear.

15 PROSPECTIVE JUROR: Thirty-two.

16 THE COURT: Thank you very much, Ms. Case.
17 Has any member of the jury panel or any member of your
18 immediate family ever been represented by or prosecuted
19 by Assistant Solicitor Mobley, Burn or any member of the
20 Lexington County Solicitor's Office? If so, please
21 stand.

22 (There is no response.)

23 THE COURT: Is any member of the jury panel
24 related by blood or marriage or close personal friends
25 of either Mr. Theo Williams, Mr. Ben Stitley or any

1 member of Mr. Williams' firm, which is Williams,
2 Hendrix, Steigner, and Brink? If so, please stand.

3 (Juror stands.)

4 THE COURT: Yes, sir, your number and name,
5 please?

6 PROSPECTIVE JUROR: My name is Mike Crapps.
7 I'm number 40.

8 THE COURT: Are you friends or?

9 PROSPECTIVE JUROR: I would say that we are
10 friends with Theo Williams and his law firm through a
11 very longstanding banking relationship.

12 THE COURT: His law firm banks with your
13 employer?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: The fact that his law firm banks
16 with your employer, can you still be a fair and
17 impartial juror to both the State and the defense in
18 this case?

19 PROSPECTIVE JUROR: I will do my best to do
20 that.

21 THE COURT: Thank you. You may stay with us.
22 Has any member of the jury panel or any member of your
23 immediate family ever been represented by Mr. Williams
24 or any member of his law firm or have you been a party
25 to a lawsuit in which Mr. Williams or any member of his

1 law firm represented the opposing party? If so, please
2 stand.

3 (Jurors stand.)

4 THE COURT: Yes, sir, your number and name,
5 please?

6 PROSPECTIVE JUROR: Thomas Ketchen, 101.

7 THE COURT: Represented by or opposing?

8 PROSPECTIVE JUROR: My ex-wife was represented
9 by Mr. Williams.

10 THE COURT: By Mr. Williams?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: The fact that your ex-wife was
13 represented by Mr. Williams, could you still be a fair
14 and impartial juror to both the State and the defense in
15 this case?

16 PROSPECTIVE JUROR: I certainly could.

17 THE COURT: Sir?

18 PROSPECTIVE JUROR: I certainly could.

19 THE COURT: Thank you very much. I just
20 couldn't quite hear you. Thank you, sir. You may be
21 seated.

22 Yes, ma'am in the stripe, your number and
23 name, please?

24 PROSPECTIVE JUROR: One-sixty-four, Mary Teal,
25 and Ms. Steigner represented me in my divorce.

1 THE COURT: The fact that you were represented
2 by Ms. Steigner, a member of Mr. Williams' law firm,
3 could you still be a fair and impartial juror to both
4 the State and the defense in this case?

5 PROSPECTIVE JUROR: Yes, I believe so.

6 THE COURT: Thank you. You may be seated.

7 Yes, sir, in the black shirt, your number and
8 name, please?

9 PROSPECTIVE JUROR: Your Honor, my name is
10 Thomas Trent, 167, not represented, but I represented
11 somebody -- a couple of people -- that have been on the
12 other side that Mr. Williams' law firm has represented.

13 THE COURT: You are with legal services?

14 PROSPECTIVE JUROR: Yes, Your Honor.

15 THE COURT: So you have been on the opposing
16 side of some lawsuits with Mr. Williams?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: And other members of his firm?

19 PROSPECTIVE JUROR: Yes, Your Honor.

20 THE COURT: Considering that fact could you
21 still be a fair and impartial juror to both the State
22 and the defense in this case?

23 PROSPECTIVE JUROR: Yes, Your Honor.

24 THE COURT: Thank you very much. You may be
25 seated. You may stay with us.

1 Yes, ma'am, your number and name, please?

2 PROSPECTIVE JUROR: Number 178, Marilyn
3 Williams. The law firm represented my son some years
4 ago.

5 THE COURT: The fact that Mr. Williams' law
6 firm represented your son, I believe you said, many
7 years ago, could you still be a fair and impartial juror
8 to both the State and the defense in this case?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Thank you. You may be seated.
11 Yes, sir, your number and name, please?

12 PROSPECTIVE JUROR: Fifty-five, William K.
13 Durst. I have been represented by Mr. Williams' firm
14 myself.

15 THE COURT: And the fact that you have been
16 represented by Mr. Williams' law firm, could you still
17 be a fair and impartial juror to both the State and the
18 defense in this case?

19 PROSPECTIVE JUROR: Yes, Your Honor.

20 THE COURT: Thank you. You may be seated.
21 Any others?

22 (There is no response.)

23 MR. MOBLEY: Your Honor, what was that last
24 number?

25 THE COURT: I think it was 55. Was that last

1 number 55, sir?

2 PROSPECTIVE JUROR: Yes, Your Honor.

3 THE COURT: Thank you.

4 MR. MOBLEY: Thank you, Your Honor.

5 THE COURT: You are much younger than me,
6 Solicitor. You need to be able to hear. I hope you are
7 not catching up with me that rapidly.

8 MR. MOBLEY: No, sir, I hope not.

9 THE COURT: Also stood before you was
10 Mr. Jamison, the Defendant in this case. Is any member
11 of the jury panel related by blood or marriage or close
12 personal friends of the Defendant in the case, Mr. Andra
13 Byron Jamison? If so, please stand.

14 (There is no response.)

15 THE COURT: I read the indictment. It alleges
16 an incident which occurred in Lexington County on or
17 about August 1st of 2008, alleging Mr. Jamison was
18 operating a motor vehicle while under the influence and
19 struck a bicycle being ridden by Jesse Gamble.

20 What area of the county did this occur in,
21 Solicitor.

22 MR. MOBLEY: It was in the Cayce area of
23 Lexington County.

24 THE COURT: In the Cayce area of Lexington
25 County. Does any member of the jury panel have any

1 knowledge about the case? If so, please stand.

2 (There is no response.)

3 THE COURT: Does any member of the jury panel
4 have any bias or any prejudice towards the parties, that
5 being the State or the defense or towards the subject
6 matter involved in the case? If so, please stand.

7 (There is no response.)

8 THE COURT: Has any member of the jury panel
9 heard or know anything about the case from any source
10 whatsoever? If so, please stand.

11 (There is no response.)

12 THE COURT: Solicitor, as far as question
13 number four in the requested voir dire, wouldn't you
14 already have knowledge of that?

15 MR. MOBLEY: Yes, that's correct, Your Honor,
16 I do.

17 THE COURT: Does any member of the jury panel
18 own or work for any business that derives a significant
19 amount of its income from the sale of alcoholic
20 beverages? If so, please stand.

21 (Juror stands.)

22 PROSPECTIVE JUROR: Your Honor?

23 THE COURT: Yes, sir.

24 PROSPECTIVE JUROR: I work for a wine
25 distributor.

1 THE COURT: Your number and name, please?

2 PROSPECTIVE JUROR: My number is 81. My name
3 is Timothy Haynes.

4 THE COURT: Mr. Haynes, given the fact of your
5 employment, could you still be a fair and impartial
6 juror to both the State and the defense in this case?

7 PROSPECTIVE JUROR: Yes, sir, I believe so.

8 THE COURT: When you say I believe so, that's
9 a matter of semantics. You could listen to the
10 evidence, listen to the witnesses testifying under oath,
11 listen to the instructions on the law as I give it to
12 you, and decide the case based on what you hear in the
13 courtroom and the law as I tell you the law is?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you, sir. You may be
16 seated.

17 Ladies and gentlemen, I am going to call a
18 list of names of potential witnesses in the trial of
19 this case. I would ask if any of the witnesses are
20 present at the time I call your name, if you would
21 please stand and face the jury panel.

22 I would advise the jury panel that the
23 witnesses are not required to be present during this
24 proceeding, so you may hear names called and no one
25 stands.

1 The question, of course, is: Is any member of
2 the jury panel related by blood or marriage or close
3 personal friends with any of these individuals whose
4 names I call and/or who stand before you.

5 Joseph Chase Durney, D-U-R-N-E-Y. Shonda L.
6 Cheeks, C-H-E-E-K-S. Randall T. Fitzgerald. P.S.O.
7 M. Stone, Cayce Police Department. This is Officer
8 Stone to my front right. Thank you. You may be seated.
9 Sergeant R. Marzol. Did I pronounce that correctly?

10 MR. MOBLEY: That's correct, Your Honor.

11 THE COURT: M-A-R-Z-O-L, Cayce Police
12 Department. The next five names: Detective J. Reese,
13 Cayce Police Department. Officer A. Smith. This is
14 Officer Smith to my front right with the Cayce Police
15 Department. Barrett Raymond, Lexington County Emergency
16 Medical Services. Daniel Boyce, Lexington County E.M.S.
17 Craig Johnson, Lexington County E.M.S.

18 The next five names: Steve Wilkers, Lexington
19 County Medical Center. Dr. Steven Hayes, H-A-Y-E-S,
20 Lexington County Medical Center. Sergeant Weaver, Cayce
21 Police Department. Lance Corporal C.M. Coates of the
22 M.A.I.T. team, which I believe is with the Highway
23 Patrol; is that correct?

24 MR. MOBLEY: That is correct, Your Honor.

25 THE COURT: Lieutenant J.D. Day with the

1 M.A.I.T. team, Highway Patrol. Again, the question is:
2 Is any member of the jury panel related by blood or
3 marriage or close personal friends with any of those
4 individuals whose names I called and/or who stood before
5 you? If so, please stand.

6 (Jurors stand.)

7 THE COURT: Yes, ma'am, your number and name,
8 please?

9 PROSPECTIVE JUROR: Number 123, Janet
10 Meredith. I was a coworker with Officer Stone.

11 THE COURT: Give me just a moment, please.
12 Ms. Meredith, tell me again, are you related or
13 friends?

14 PROSPECTIVE JUROR: I'm friends with Officer
15 Stone and a coworker.

16 THE COURT: The fact that you are a friend
17 with Officer Stone, could you still be a fair and
18 impartial juror -- friend and coworker with Officer
19 Stone -- could you still be a fair and impartial juror
20 to both the State and the defense in this case?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Thank you. You may be seated. I
23 believe this is Mr. Banco?

24 PROSPECTIVE JUROR: That's correct, sir,
25 number 7.

1 THE COURT: Mr. Banco.

2 PROSPECTIVE JUROR: I work with Lexington
3 County E.M.S. as well. I cross trained with them. I
4 trained with those guys that were listed.

5 THE COURT: That would be Mr. Raymond,
6 Mr. Boyce, Mr. Johnson?

7 MR. MOBLEY: That is correct.

8 THE COURT: You are with our fire service,
9 correct?

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: The fact that you are with our
12 fire service and the fact that you train with those
13 individuals that are listed as potential witnesses in
14 the trial of this case, could you still be a fair and
15 impartial juror to both the State and the defense in
16 this case?

17 PROSPECTIVE JUROR: Absolutely.

18 THE COURT: Thank you. You may be seated.
19 Yes, ma'am, your number and name, please?

20 PROSPECTIVE JUROR: One-thirty, Nancy Oyler.

21 THE COURT: Friends or relation?

22 PROSPECTIVE JUROR: I think the first name you
23 called out was Joey Durney.

24 THE COURT: Joseph Chase Durney.

25 PROSPECTIVE JUROR: I know a Joey Durney. I

1 worked with him at a restaurant.

2 THE COURT: I don't know him. Let me see.

3 All right, Solicitor?

4 MR. MOBLEY: Not that I'm aware of, Your
5 Honor.

6 THE COURT: How old?

7 PROSPECTIVE JUROR: Fifty-five years old.

8 MR. MOBLEY: No, that's not the right one.

9 THE COURT: They say that's not the one,
10 Ms. Oiler. Thank you very much.

11 Yes, ma'am, your number and name, please?

12 PROSPECTIVE JUROR: Thirty-six, Natalie
13 Copeland.

14 THE COURT: Friends, relations, coworkers?

15 PROSPECTIVE JUROR: Friends with Officer
16 Stone.

17 THE COURT: And the fact that you are a friend
18 with Officer Stone, could you still be a fair and
19 impartial juror to both the State and the defense in
20 this case?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Thank you. You may be seated.

23 The next five names, the same question, of
24 course, if you are related by blood or marriage or close
25 personal friends with any of these individuals:

1 Corporal M.B Cauthen the M.A.I.T. team of the
2 Highway Patrol. Corporal S.L. Farmer also with the
3 M.A.I.T. team of the Highway Patrol. Sergeant S. R.
4 Breland with the M.A.I.T. team of the Highway Patrol.
5 The next two names are with the State Law Enforcement
6 Division: Selena Kinard, K-I-N-A-R-D, and Amy
7 Stephens.

8 The next five names -- the first three of the
9 next five names are also with S.L.E.D.: Brandon A.
10 Williams, Brandon J. Landrum, L-A-N-D-R-U-M, and
11 Kimberly Davis, all with S.L.E.D.

12 Then Dr. Raymond C. Sweet, U.S.C. School of
13 Medicine, Department of Neurosurgery, Palmetto Health
14 Richland. Dr. David Kee, K-E-E, U.S.C. School of
15 Medicine, Department of Neurosurgery, Palmetto Health
16 Richland.

17 The next three names: Todd Caughman, Deputy
18 Coroner, Lexington County. Kristen Marzol, M-A-R-Z-O-L,
19 Lexington County Detention Center. Detective Jason
20 Merrill, M-E-R-R-I-L-L, Cayce Police Department.

21 Again, is any member of the jury panel related
22 by blood or marriage or close personal friends with any
23 of those individuals whose names I called and/or who
24 stood before you? If so, please stand.

25 (There is no response.)

1 THE COURT: Any additional potential witnesses
2 from the State?

3 MR. MOBLEY: None, Your Honor.

4 THE COURT: From the defense?

5 MR. WILLIAMS: May we approach, Your Honor?

6 THE COURT: Yes, sir.

7 (Whereupon there was a bench conference off
8 the record in the presence of the jury panel but out of
9 the hearing of the jury panel.)

10 THE COURT: Another name for a potential
11 witness in the trial of the case is Kristy Jamison.
12 This is Ms. Jamison to the very far right rear. Is any
13 member of the jury panel related by blood or marriage or
14 close personal friends of Kristy Jamison? If so, please
15 stand.

16 (There is no response.)

17 THE COURT: The victim in the case whose name
18 I read out previously was Jesse Gamble. Is any member
19 of the jury panel or was any member of the jury panel
20 related by blood or marriage or close personal friends
21 of Jesse Gamble? If so, please stand.

22 (There is no response.)

23 THE COURT: Is any member of the jury panel
24 related by blood or close personal friends of the family
25 of Jesse Gamble? If so, please stand.

1 (There is no response.)

2 THE COURT: Finally, ladies and gentlemen,
3 does any member of the jury panel know any reason
4 whatsoever where you feel like you could not be a fair
5 and impartial juror in the trial of this case for both
6 the State and the defense? If so, please stand.

7 (There is no response.)

8 THE COURT: Thank you thank you very much.
9 Any additional requested voir dire from the State.

10 MR. MOBLEY: None, Your Honor.

11 THE COURT: From the defense?

12 MR. WILLIAMS: None from the defense, Your
13 Honor.

14 THE COURT: I find our panel is qualified.
15 Madame Clerk, if you would give us a panel,
16 please. What are the strikes, gentlemen?

17 MR. MOBLEY: It is five and five, Your Honor.

18 THE COURT: Is that correct, Mr. Williams?

19 MR. WILLIAMS: Yes, sir.

20 THE COURT: The strikes are five and five.

21 CLERK: It will take just a second, Your
22 Honor.

23 THE COURT: All right.

24 (Pause.)

25 CLERK: Number 167, Thomas Trent.

1 (The juror, a white male, comes forward.)
2 CLERK: What say you for the State?
3 MR. MOBLEY: Please present the juror.
4 CLERK: What say you for the defense?
5 MR. WILLIAMS: Please swear the juror.
6 CLERK: Have a seat in the jury box, please,
7 sir.
8 Number 25 Marvin Bull.
9 (The juror, a white male, comes forward.)
10 CLERK: What say you for the State?
11 MR. MOBLEY: Please present the juror.
12 CLERK: What say you for the defense?
13 MR. WILLIAMS: Please swear the juror.
14 CLERK: Have a seat in the jury box, sir.
15 Number 110, Dianne Larose.
16 (The juror, a white female, comes forward.)
17 CLERK: What say you for the State?
18 MR. MOBLEY: Please present the juror.
19 CLERK: What say you for the defense?
20 MR. WILLIAMS: Please swear the juror.
21 CLERK: Have a seat in the jury box, ma'am.
22 Number 81, Timothy Haynes.
23 (The juror, a white male, comes forward.)
24 CLERK: What say you for the State?
25 MR. MOBLEY: Please excuse the juror.

1 CLERK: Return to your seat, please, sir.
2 Forty-nine, Sandra Dickson.
3 (The juror, a white female, comes forward.)
4 CLERK: What say you for the State?
5 MR. MOBLEY: Please present the juror.
6 CLERK: What say you for the defense?
7 MR. WILLIAMS: Please excuse the juror from
8 the trial of this case.
9 CLERK: Return to your seat, please, ma'am.
10 Number 100, Rhonda Kelly.
11 (The juror, a white female, comes forward.)
12 CLERK: What say you for the State?
13 MR. MOBLEY: Please present the juror.
14 CLERK: What say you for the defense?
15 MR. WILLIAMS: Please present the juror.
16 CLERK: Have a seat in the jury box, ma'am.
17 Number 142, Roger Sipe.
18 (The juror, a white male, comes forward.)
19 CLERK: What say you for the State?
20 MR. MOBLEY: Please excuse the juror.
21 CLERK: Return to your seat, please, sir.
22 Number 93, Cynthia Johnson.
23 (The juror, a black female, comes forward.)
24 CLERK: What say you for the State?
25 MR. MOBLEY: Please present the juror.

1 CLERK: What say you for the defense?

2 MR. WILLIAMS: Please present the juror.

3 CLERK: Have a seat in the jury box, please,
4 ma'am.

5 Number 156, Robert Stevens.

6 (The juror, a white male, comes forward.)

7 CLERK: What say you for the State?

8 MR. MOBLEY: Please excuse the juror.

9 CLERK: Return to your seat, please, sir.

10 Number 10, William Beaver.

11 (The juror, a white male, comes forward.)

12 CLERK: What say you for the State?

13 MR. MOBLEY: Please present the juror.

14 CLERK: What say you for the defense?

15 MR. WILLIAMS: Please swear the juror.

16 CLERK: Have a seat in the jury box, sir.

17 Number 136, Roy Sargent.

18 (The juror, a white male, comes forward.)

19 CLERK: What say you for the State?

20 MR. MOBLEY: Please present the juror.

21 CLERK: What say you for the defense?

22 MR. WILLIAMS: Please excuse the juror from
23 the trial of this case.

24 CLERK: Return to your seat, please, sir.

25 Number 123, Janet Meredith.

1 (The juror, a white female, comes forward.)

2 CLERK: What say you for the State?

3 MR. MOBLEY: Please present the juror.

4 CLERK: What say you for the defense?

5 MR. WILLIAMS: Please excuse the juror from

6 the trial of this case.

7 CLERK: Return to your seat, please, ma'am.

8 Number 28, William Bush.

9 (The juror, a white male, comes forward.)

10 CLERK: What say you for the State?

11 MR. MOBLEY: Please present the juror.

12 CLERK: What say you for the defense?

13 MR. WILLIAMS: Please excuse the juror from

14 the trial of this case.

15 CLERK: Return to your seat, please, sir.

16 Number 92, James Johnson.

17 (The juror, a white male, comes forward.)

18 CLERK: What say you for the State?

19 MR. MOBLEY: Please present the juror.

20 CLERK: What say you for the defense?

21 MR. WILLIAMS: Please swear the juror.

22 CLERK: Have a seat in the jury box, please,

23 sir.

24 Number 170, Natalie Umbarger.

25 (The juror, a white female, comes forward.)

1 CLERK: What say you for the State?

2 MR. MOBLEY: Please present the juror.

3 CLERK: What say you for the defense?

4 MR. WILLIAMS: Please swear the juror.

5 CLERK: Have a seat in the jury box, please,

6 ma'am.

7 Number 19, Brian Brown.

8 (The juror, a white male, comes forward.)

9 CLERK: What say you for the State?

10 MR. MOBLEY: Please excuse the juror.

11 CLERK: Return to your seat, please, sir.

12 Number 174, Evelyn Way.

13 (The juror, a white female, comes forward.)

14 CLERK: What say you for the State?

15 MR. MOBLEY: Please present the juror.

16 CLERK: What say you for the defense?

17 MR. WILLIAMS: Please excuse the juror from

18 the trial of this case.

19 CLERK: Return to your seat, please, ma'am.

20 Number 34, Meredith Cleland.

21 (The juror, a white male, comes forward.)

22 CLERK: What say you for the State?

23 MR. MOBLEY: Please present the juror.

24 CLERK: What say you for the defense?

25 MR. WILLIAMS: Please swear the juror.

1 CLERK: Have a seat in the jury box, sir.
2 Eighty-five, Faye Hightower.
3 (The juror, a white female, comes forward.)
4 CLERK: What say you for the State?
5 MR. MOBLEY: Please present the juror.
6 CLERK: What say you for the defense?
7 MR. WILLIAMS: Please swear the juror.
8 CLERK: Have a seat in the jury box, ma'am.
9 Number 45, Brian Bebauche.
10 (The juror, a white male, comes forward)?
11 CLERK: What say you for the State?
12 MR. MOBLEY: Please present the juror.
13 CLERK: What say you for the defense?
14 MR. WILLIAMS: Please excuse the juror.
15 CLERK: Return to your seat, please, sir.
16 Number 181, Norman Wilson.
17 (The juror, a white male, comes forward.)
18 CLERK: What say you for the State?
19 MR. MOBLEY: Please present the juror.
20 CLERK: What say you for the defense?
21 MR. WILLIAMS: Please swear the juror.
22 CLERK: Have a seat in the jury box.
23 Number 164, Mary Teal.
24 (The juror, a white female, comes forward.)
25 CLERK: What say you for the State?

1 MR. MOBLEY: Please present the juror.

2 CLERK: What say you for the defense?

3 MR. WILLIAMS: Please swear the juror.

4 CLERK: Have a seat in the jury box, ma'am.

5 Alternates, Your Honor?

6 THE COURT: Two alternates. The strikes are
7 one and two.

8 CLERK: Number 96, Deborah Jones.

9 (The juror, a white female, comes forward.)

10 CLERK: What say you for the State?

11 MR. MOBLEY: Please present the juror.

12 CLERK: What say you for the defense?

13 MR. WILLIAMS: Please excuse the juror from
14 the trial of this case.

15 CLERK: Return to your seat, please, ma'am.

16 Number 121, Harold McGee.

17 (The juror, a white male, comes forward.)

18 CLERK: What say you for the State?

19 MR. MOBLEY: Please excuse the juror.

20 CLERK: Return to your seat, please, sir.

21 Number 76, Martha Habermehl.

22 (The juror, a white female, comes forward.)

23 CLERK: What say you for the State?

24 MR. MOBLEY: Please present the juror.

25 CLERK: What say you for the defense?

1 MR. WILLIAMS: Please swear the juror.

2 CLERK: Have a seat in the jury box. That is
3 alternate number one.

4 Number 94, Gregory Johnson.

5 (The juror, a white male, comes forward.)

6 CLERK: What say you for the State?

7 MR. MOBLEY: Please present the juror.

8 CLERK: What say you for the defense?

9 MR. WILLIAMS: Please swear the juror.

10 CLERK: Have a seat in the jury box. That is
11 alternate number two, Your Honor.

12 (The jury is impaneled at 11:42 a.m.)

13 THE COURT: Any motions regarding the jury
14 selection process from the State?

15 MR. MOBLEY: None, Your Honor.

16 THE COURT: From the defense?

17 MR. WILLIAMS: None from the defense, Your
18 Honor.

19 THE COURT: Thank you.

20 Ladies and gentlemen of the jury panel,
21 momentarily I will ask you to step to your new temporary
22 home, your jury room. The bailiff will show you there.
23 During your recess in your jury room, I will ask you to
24 fulfill your first responsibilities as a juror, as a
25 jury, and to select among one of your number a

1 foreperson of this jury panel.

2 That can be anyone but Ms. Habermehl or
3 Mr. Johnson -- this other Mr. Johnson, our alternate.
4 That can be anyone but the two alternates. I'm sure
5 either one of those alternates would make a fine jury
6 foreperson, but right now they are in the status of an
7 alternate juror and would not be authorized to be
8 selected as the foreperson of that jury. As I say, it
9 can be any one of the number of the 12 of the primary
10 jury.

11 During this brief recess, do not discuss the
12 case with anyone. That includes your fellow jurors or
13 anyone else. Remember to keep an open mind about the
14 case, and do not begin any deliberations until you have
15 heard all the evidence, all the testimony, closing
16 arguments by the attorney, the instructions on the law
17 by the Court, and been instructed by the Court to begin
18 your deliberations.

19 Once you have selected your jury foreperson,
20 if you would write that name down on a piece of paper,
21 knock on the jury room. Your bailiff will be outside of
22 the door. He will give that to me, and we will try to
23 have you back in the courtroom as soon as possible. I
24 will give y'all about a 15-minute recess. With that
25 being said, if you would please go with your bailiff.

1 (The jury retires to the jury room.)

2 (The jury panel is excused.)

3 THE COURT: Y'all have motions; is that
4 correct , Solicitor?

5 MR. MOBLEY: That is correct, Your Honor.

6 THE COURT: Is that correct, Mr. Williams?

7 MR. WILLIAMS: Yes, Your Honor.

8 THE COURT: How long do you think these
9 motions will take?

10 MR. MOBLEY: Well, Your Honor, for all intents
11 and purposes, it appears that the State, on account of
12 the suppression hearing that the defense has, we have
13 approximately six witnesses that we will have to place
14 up for that particular motion, the suppression hearing.
15 We may be able to stipulate to some of it, but Theo and
16 I are going to discuss it.

17 Additionally, Your Honor, we will have to
18 review the roadside, as well as the B.A. room video.
19 That is basically out of precaution, so that we will
20 have not have to break during the middle of testimony to
21 have Your Honor view the actual videotape itself, both
22 at the roadside and the B.A. room.

23 There are statements that are made within
24 those two videos that we want to make sure we get in
25 under Jackson v. Denno and things of that nature. So we

1 are looking at approximately -- the first video is at
2 least 20 minutes, and the second video, Your Honor, is
3 approximately 35 minutes or so. Those are just
4 approximate times, Your Honor.

5 MR. WILLIAMS: Judge, may we approach?

6 THE COURT: Yes, sir.

7 (Whereupon there is a bench conference off the
8 record.)

9 THE COURT: Bring us our jury, please.

10 (The jury returns to the courtroom.)

11 THE COURT: Welcome back. I see we have the
12 results of our election. Thank you very much, Mr. Trent
13 for agreeing to serve as the foreperson of this jury
14 panel.

15 Momentarily I am going to release you for
16 somewhat of an extended luncheon recess. I have certain
17 motions to take up with the attorneys, which is not
18 unusual that there are pretrial matters. We will get
19 those out of way and hopefully be in a position to
20 proceed more efficiently upon your return.

21 As I say I will release you and ask you to
22 please be back in your jury room at 3:30, at 3:30 this
23 afternoon. That is somewhat of an extended time, but I
24 will hope we will accomplish what we need to accomplish
25 by the time of your return.

1 I would remind you during this break, you are
2 not to discuss the case with anyone. This includes your
3 fellow jurors, friends, lunch mates, family or anyone
4 else. If anyone tries to talk with you about the case,
5 please let me know immediately.

6 I am further charged with the duty of advising
7 you of the following. You are not to discuss this case
8 with others, except as authorized by the Court. You are
9 not to read or listen to any news reports about the
10 case, should there be any.

11 You may not use a computer, cellular phone or
12 other electronic device with communication capabilities
13 while in attendance at trial or during deliberations.
14 These devices may be used during your lunch break but
15 may not be used to obtain or disclose information which
16 is prohibited.

17 Prohibited information includes but is not
18 limited to the following: Information about a party,
19 witness, attorney or court officer, news accounts of the
20 case. Information collected through juror research on
21 any topics raised or testimony offered by any witness or
22 information collected through juror research on any
23 other topic which the juror might think would be helpful
24 in deciding the case.

25 You must decide the case based on the evidence

1 and testimony that is presented in this courtroom by the
2 witnesses testifying under oath from this witness stand
3 and the reasonable inferences that you may draw as a
4 jury from the testimony of the sworn witnesses.

5 Then once you determine what the facts are,
6 you would apply those facts to the instructions on the
7 law as I give them to you, and you can reach your
8 verdict, a verdict that speaks the truth.

9 Basically these instructions have come about,
10 not so much from South Carolina. I'm not aware quite
11 frankly of any cases in South Carolina that have caused
12 these particular instructions concerning electronic
13 communication devices.

14 But in the information age there have been in
15 other states, jurors that will go out and get on their
16 computer and get on their internet and Google a name or
17 Google a particular word or law or Google if there's any
18 news reports about the case. They will go outside of
19 the record and find this information, and you can't do
20 that. It's commonsensical.

21 Also, there have been jurors that have done
22 independent research. They have gone to locations on
23 their own and taken measurements on their own, such as
24 that. You can't do that. Again, it's common sense.
25 You will hear that term at least from me quite

1 frequently throughout the trial of the case about using
2 your good judgment and common sense. That is what jury
3 duty is about, listening and using your good judgment
4 and common sense.

5 Again, do not discuss this case with anyone.
6 Please be back promptly at 3:30. I realize that's an
7 extended period of time, but I hope we will be in a
8 better position to start more efficiently at that time,
9 rather than holding you captive back there in your jury
10 room for two, two and a half hours.

11 With that being said, you are now excused for
12 your luncheon recess. Remember to be back promptly and,
13 I hope y'all have a pleasant lunch. Thank you very
14 much.

15 (The jury is excused for lunch at 12:00 p.m.)

16 THE COURT: Solicitor, it is my understanding
17 y'all, you and Mr. Williams, want to break now and start
18 back at 1:00 o'clock. Your witnesses will be available
19 then?

20 MR. MOBLEY: That is correct, Your Honor.

21 THE COURT: Is there any research either one
22 of you would like for me to look at during this recess?

23 MR. MOBLEY: Your Honor, Theo states that he
24 is not ready to hand you up anything at this moment. I
25 do have something, but we will agree that we can hand

1 both of them up at the same time, Your Honor.

2 THE COURT: All right. Thank you very much.

3 Court will be in recess until 1:00 o'clock.

4 MR. MOBLEY: Thank you, Your Honor.

5 THE COURT: One further thing. Mr. Jamison,
6 you do realize your case has now been called for trial.
7 The jury has not yet been sworn. I will allow you to
8 remain on your bond until such time as the jury is
9 sworn. However, should you fail to return at
10 1:00 o'clock, the trial will proceed in your absence.
11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Thank you. Thank you very much.

14 MR. MOBLEY: Thank you, Your Honor.

15 (Whereupon there is a luncheon recess.)

16 THE COURT: Solicitor.

17 MR. MOBLEY: Thank you, Your Honor. I think
18 that the defense has a motion to suppress regarding the
19 blood withdrawn itself under the implied consent
20 statute, Your Honor.

21 MR. WILLIAMS: Your Honor, actually I have one
22 motion before that. I have already talked to the
23 solicitor about it, and that is the motion for
24 sequestration of witnesses, which he consents to.

25 It would be my understanding that would leave

1 Stone, who was the arresting officer in the courtroom,
2 and my client, and my witnesses, as well as the
3 solicitor's witnesses would have to be out of the
4 courtroom.

5 THE COURT: Is that correct, Solicitor?

6 MR. MOBLEY: It is, Your Honor.

7 THE COURT: Is there an evidence custodian?

8 MR. MOBLEY: Not present at this moment, Your
9 Honor.

10 THE COURT: If there is an evidence custodian
11 when we start the trial, I don't want the evidence
12 custodian outside the courtroom because you need all the
13 materials in here.

14 MR. MOBLEY: No, Your Honor, we do not have
15 any that need to stand in at this time. I have all the
16 relevant documents here.

17 THE COURT: I will leave that up to y'all to
18 police the sequestration order that you have consented
19 to.

20 MR. WILLIAMS: Your Honor, I will start off
21 with all the stuff that we can agree, too. That might
22 shorten this trial a good little bit.

23 THE COURT: Of course, the victim's family is
24 exuded from the sequestration order. I don't know if
25 they were on the witness list.

1 MR. MOBLEY: No, they are not, Your Honor.

2 THE COURT: What is next, Mr. Williams?

3 MR. WILLIAMS: Your Honor, there are a list of
4 photographs which the solicitor and I have gone through,
5 which we have no objection to them being marked as
6 exhibits and placed into -- I guess marked as exhibits
7 with the corresponding witness to place them into
8 evidence whenever that witness gets here. I guess the
9 solicitor can just go through those photographs.

10 THE COURT: All right.

11 MR. MOBLEY: That is correct, Your Honor.

12 THE COURT: If you want to mark them, you may.
13 (State's Exhibits Number 1-56 are marked for
14 identification.)

15 THE COURT: Ready, Solicitor, Mr. Williams?

16 MR. WILLIAMS: We are, Your Honor.

17 MR. MOBLEY: Yes, Your Honor.

18 THE COURT: Can you tell me where we are at
19 then, please.

20 MR. WILLIAMS: Your Honor, the solicitor and I
21 have agreed to the introduction of many photographs,
22 probably around 40.

23 MR. MOBLEY: Yes, 40 or so, Your Honor.

24 MR. WILLIAMS: They were photographs of the
25 scene, Your Honor, showing the location of the wreck,

1 the location of the vehicle, location of the body. They
2 are all marked. We have also agreed to the introduction
3 of two videos, one which was taken at the scene, one
4 which was in the Datamaster room.

5 We've also agreed to introduce into evidence a
6 booking report, Your Honor, with attached receipt items
7 showing that there were certain items that were received
8 off of Mr. Jamison and showing the items that were
9 picked up from the jail.

10 For purposes of this hearing, dealing with the
11 blood, we can stipulate to the facts with the exception
12 of two witnesses which will need to be called. One is
13 Ms. Marzol, who is the witness -- who is the solicitor's
14 witness who was in charge of the blood at the Lexington
15 County Sheriff's Department.

16 MR. MOBLEY: Basically, Your Honor, she is in
17 a managerial position, supervisory position there. At
18 the time the blood was deposited into the refrigerator,
19 we will have her testify as to the detention center
20 policies and procedures in regarding to taking custody
21 of such items when someone is booked in.

22 MR. WILLIAMS: Kristy Jamison, who is the wife
23 of Mr. Jamison, both he and she will testify in regards
24 to the receipt of the items from the jail.

25 Your Honor, it's a big mystery. The whole

1 issue here is the extra vial of blood which was placed
2 at the jail. We can stipulate to all the facts leading
3 up to the blood going to the jail and to some of the
4 facts after the jail.

5 THE COURT: Could I see the photographs,
6 please.

7 MR. MOBLEY: Yes, Your Honor.

8 (Hands to Court.)

9 MR. WILLIAMS: Your Honor, one other
10 stipulation that the solicitor wants to place on the
11 record. Back when this wreck occurred, there was a
12 videotaping requirement for all D.U.I.s.

13 The patrol car which arrived at the scene did
14 not have a camera. The solicitor has shown us a copy of
15 an affidavit which is filled out by that officer saying
16 he was not equipped with videotape.

17 A responding officer came to the scene after
18 that particular officer, and he did show or execute a
19 video camera or show a videotape. For the solicitor's
20 benefit, we are not contesting the issue about the
21 videotaping by the second police car which appeared.

22 MR. MOBLEY: And that the affidavit cures any
23 requirement under 56-5-2953, Subsection (b), any lack
24 thereof of a video by the arresting officer. Because he
25 did not have -- his car was not equipped with a video at

1 the time, and the affidavit does state that. We want to
2 make sure we have that on the record and cured under
3 Subsection (b), Your Honor.

4 THE COURT: You are going to introduce the
5 affidavit into evidence?

6 MR. MOBLEY: Yes, I am, Your Honor.

7 THE COURT: If you would have it marked.

8 (State's Exhibit Number 57 is marked for
9 identification.)

10 THE COURT: The photographs appears to me, 1
11 through 23, appear to be photographs taken at the scene
12 at the time of the incident or shortly thereafter.
13 Photographs 24 through 48 appear to be taken at some
14 time after the accident because that appears to be
15 daylight.

16 It also appears to be a location where the van
17 was towed to. The bicycle appears in these photographs
18 in a garage type setting. That is 24 through 48.
19 Number 1 through 23, again, shows the scene. There are
20 also photographs of the damage to both the van and the
21 bicycle.

22 There are photographs of various items of
23 clothing on the roadway, including a sock or socks and
24 shoes, various items of debris on the roadway from one
25 or other of the vehicles.

1 There is also photograph State's 23 of the
2 victim's body in the roadway. You stipulate to those,
3 provided the proper foundation is laid; correct,
4 Mr. Williams.

5 MR. WILLIAMS: That is correct, Your Honor.

6 THE COURT: What is 49? Is 49 and 50, the two
7 videos? Forty-nine is the scene video. Fifty is the
8 Datamaster video, correct?

9 MR. MOBLEY: That is correct, Your Honor.

10 THE COURT: And 51 is the booking report?

11 MR. MOBLEY: Your Honor, if I may approach, we
12 can hand it to you. It's numerous things.

13 (Hands to Court.)

14 THE COURT: Number 51 appears to be the
15 progress notes from Correct Care Solutions dated
16 8/1/08 concerning inmate treatment. Fifty-two appears
17 to be a Lexington County Sheriff's Department property
18 release form on the Defendant.

19 Fifty-three appears to be property received at
20 booking from the Sheriff's Office on the Defendant.
21 Fifty-four appears to be a receipt for personal
22 property, Lexington County Detention Center, on the
23 Defendant.

24 Fifty-five appears to be a property release
25 form from the Sheriff's Department on the Defendant.

1 Fifty-six appears to be the booking photograph form and
2 booking sheet. Do you have the affidavit marked now,
3 Solicitor?

4 MR. MOBLEY: I do, Your Honor. May I
5 approach?

6 THE COURT: Yes, sir.

7 (Hands to Court.)

8 THE COURT: That appears to be -- 57 appears
9 to be the Cayce Public Safety affidavit for failure to
10 produce videotape. It's signed. I don't know by what
11 officer. I can't read it.

12 MR. MOBLEY: That would be Officer Michael
13 Stone, Your Honor.

14 THE COURT: By Officer Stone, 8/4/08, and it
15 is also notarized. Now, you said you stipulate to all
16 of that, Mr. Williams; correct?

17 MR. WILLIAMS: Yes, sir.

18 THE COURT: And, Solicitor?

19 MR. MOBLEY: That is correct, Your Honor.

20 THE COURT: You also said you stipulate to
21 certain facts up to Officer Marzol of the Lexington
22 County Sheriff's Department. What facts are y'all
23 stipulating?

24 MR. WILLIAMS: For purposes of this hearing
25 only, which is a motion to suppress the blood analysis,

1 we would stipulate to certain facts so that certain
2 witnesses wouldn't have to be called, Your Honor.

3 That is -- and my associate is actually going
4 to argue the law on this issue, but I will try to say it
5 with the solicitor so we don't disagree on this. That
6 Andra Jamison was arrested and charged with a felony
7 D.U.I.

8 That he was taken to the Lexington County
9 Hospital pursuant to the felony D.U.I. statute to have
10 blood drawn. I am just going through what we can agree
11 on. That blood was drawn. That there were two vials of
12 blood which were taken from the arm of Mr. Jamison.

13 One vial of blood was taken to S.L.E.D. for an
14 analysis, and one vial of blood was deposited with the
15 Lexington County Sheriff's Department. I think that's
16 all we can stipulate to. We can stipulate that the
17 Defendant never received his vial of blood from the
18 Lexington County Sheriff's Department.

19 MR. MOBLEY: Before we get there, Your Honor,
20 I think what we can stipulate is that the second vial of
21 the blood was given to the Defendant and was
22 subsequently placed at the Lexington County Detention
23 Center.

24 MR. WILLIAMS: Well, I don't think we can
25 stipulate to that, Your Honor. I think we can stipulate

1 that it was placed at the Lexington County Sheriff's
2 Department Detention Center.

3 MR. MOBLEY: That's the second vial of blood?

4 MR. WILLIAMS: That's the second vial of
5 blood.

6 THE COURT: All right. Y'all have witnesses
7 to call?

8 MR. MOBLEY: We do, Your Honor.

9 THE COURT: Solicitor, you may call your first
10 witness.

11 MR. STITELY: Your Honor, I think it may be
12 more appropriate if I can kind of direct the motion so
13 Your Honor knows where we are going before he calls the
14 witness if that's acceptable.

15 THE COURT: I'm sorry?

16 MR. STITELY: It may be more appropriate to
17 explain the motion exactly before he calls the witness
18 so you will know what we will be asking of the witnesses
19 who are called, if that's okay with the Court.

20 THE COURT: All right.

21 MR. STITELY: Your Honor, the first part of
22 the motion is actually a motion to suppress any findings
23 from S.L.E.D. regarding the alcohol concentration in the
24 blood as a failing of the State to provide the Defendant
25 with affirmative assistance in having additional testing

1 conducted.

2 The first part of this motion, Your Honor,
3 deals specifically with the fact when my client was
4 taken to the hospital -- and we can put testimony up for
5 this -- he asked the officer to have independent testing
6 done.

7 He was instructed that his only right was to
8 have this second vial, and he would be able to test
9 that. Your Honor the first motion would be that is not
10 affirmative assistance as required.

11 Under 56-5-2950, subpart (d)(3). It says he
12 has a right to have a qualified person of his own
13 choosing conduct additional, independent tests. Further
14 down in Subsection (e), it talks about what affirmative
15 assistance is.

16 It says at a minimum, including transportation
17 for the person to the nearest medical facility which
18 performs blood test to determine blood alcohol content.
19 The last sentence of that paragraph, your Honor:

20 Failure to provide further assistance upon
21 request to obtain additional tests bars admissibility of
22 the breath test in any judicial or administrative
23 proceeding.

24 Your Honor, it's our first position that by
25 not allowing him to have independent blood drawn, they

1 violated the statute. Even if we were to assume the two
2 vials were taken, that is insufficient when he asked for
3 additional testing.

4 THE COURT: All right. Is that the basis of
5 your motion?

6 MR. STITLEY: Of the first one, yes, sir, Your
7 Honor. We can put up Mr. Jamison or Officer Stone to
8 testify as to their conversation regarding what he asked
9 to have done.

10 I don't know if the State is in a position to
11 stipulate that that is what the officer told him: The
12 drawing of these two vials is all you get. I don't
13 think that is sufficient under the statute.

14 THE COURT: I still thought we had to call or
15 somebody had to call Officer Marzol because I understood
16 you only stipulated up to Officer Marzol. You backed
17 up, Mr. Stitley?

18 MR. STITLEY: Yes, sir, I apologize. Before
19 we even get to the blood taken to the jail, this is that
20 he wasn't provided any opportunity to have any other
21 blood drawn even though he asked.

22 THE COURT: All right. So who is going to
23 call the witness?

24 MR. STITLEY: I will call Mr. Jamison to this
25 specific point.

1 THE COURT: Who has the burden of proof on
2 this?

3 MR. STITELY: I believe the State does, Your
4 Honor.

5 MR. MOBLEY: Your Honor, it does shift. Once
6 he has made the actual motion, it does shift to me to
7 provide the burden of proof in this, Your Honor.

8 What we are going to have to do, I did not
9 realize that with this particular motion, I thought we
10 had stipulated to it up to a certain point. It seems
11 like we are backing up.

12 We will have to call more witnesses than we
13 initially indicated to the court. So we would like to
14 begin calling the witnesses so we can go ahead and begin
15 the process, Your Honor.

16 THE COURT: All right. You may call your
17 first witness.

18 MR. MOBLEY: Your Honor, the State would call
19 Officer Stone of the Cayce Police Department.

20 MICHAEL RYAN STONE, being
21 first duly sworn, testifies as follows:

22 CLERK: Once you are seated, state your full
23 name on the record, please.

24 THE WITNESS: My name is Michael Ryan Stone.

25 THE COURT: Solicitor.

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 MR. MOBLEY: Beg the Court's indulgence.

2 (Pause.)

3 IN CAMERA EXAMINATION

4 BY MR. MOBLEY:

5 Q Officer Stone, where do you currently work?

6 A Cayce Police Department.

7 Q And how long have you been employed there?

8 A About a year and a couple of months.

9 Q Now, what is your current duty? What is your
10 position at the Cayce Police Department?

11 A Patrolman.

12 Q Patrolman. What are some of your duties within
13 that position itself?

14 A Responding to calls, doing traffic.

15 Q Doing traffic?

16 A Uh-huh. (Indicating affirmative response.)

17 Q And as far as doing traffic, what do you mean by
18 doing traffic?

19 A Run our radars, just regular basic traffic, issuing
20 out citations for any violations on vehicles and
21 such.

22 Q Are you certified to enforce the laws of South
23 Carolina?

24 A Yes, I am.

25 Q How so?

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 A Through the Criminal Justice Academy. I completed
2 the nine-week course and graduated.

3 Q And doing that nine-week course, what are some of
4 the actual courses you took to become certified as
5 an officer for the Cayce Police Department?

6 A You do your two week legals, a week of criminal
7 domestic violence. They do a couple of days for
8 D.U.I. detection. It's been a while. I can't
9 really remember everything that we do at the
10 academy. Throughout the nine weeks, they do a lot
11 of scenarios and basically they focus on legal.

12 Q Have you ever had D.U.I. detection as a course
13 requirement in the academy, training?

14 A Training. I have had training for D.U.I. detection
15 as a part of the curriculum for the South Carolina
16 Academy.

17 Q Officer Stone, I will take you back to July 31,
18 2008. Were you on patrol on that night?

19 A Yes, I was.

20 Q You were. That night did you come in contact with
21 the Defendant, Mr. Andra Jamison?

22 A Yes, I did.

23 Q Was he subsequently -- well, based off your
24 observations at the scene, was he subsequently
25 arrested?

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 A Yes.

2 Q What was he arrested for?

3 A Felony D.U.I.

4 Q Why is that?

5 A Because of the individual that was -- or the
6 victim. When I arrived on the scene, the victim
7 was lying on the ground, and I had several
8 witnesses pointing to the Defendant, stating that
9 he was the driver of the vehicle who struck the
10 victim.

11 He was placed at first into investigative
12 detention. I did observe a strong odor of
13 alcoholic beverage about his breath and person. He
14 did have slurred speech and was unsteady on his
15 feet. He was placed in investigative detention,
16 and after refusing the field sobriety tests, he was
17 placed under arrest for felony D.U.I.

18 Q Now, Officer Stone, when you arrived upon the
19 scene, did you have a camcorder within your car,
20 in-dash camera?

21 A Not in my car.

22 Q Did you submit an affidavit to attest to not having
23 one at the time?

24 A Yes, I did.

25 Q Was there another officer who actually came upon

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 the scene and records the events of that night?

2 A Yes, there was.

3 Q Who was that at that time?

4 A Adam Smith.

5 Q Through the use of his in-dash video, was all the
6 events of that night recorded pertaining --

7 THE COURT: I thought we stipulated to all of
8 this. All I'm interested in, I thought, was the issue
9 of the blood draw at the Lexington Medical Center and
10 any conversations the officer may have had with the
11 Defendant concerning reasonable assistance. I thought
12 we stipulated to the on-the-scene video in the car.

13 MR. MOBLEY: That is correct, Your Honor.
14 However, under this, the way we are trying to prove it,
15 Your Honor, is that when the Defendant refused the
16 breathalyzer test, he is not afforded the actual
17 affirmative assistance. He's only afforded reasonable
18 assistance.

19 So with the officer testifying that everything
20 was recorded, we are able to get there. Because on the
21 video itself, it does state that -- you are going to see
22 that the Defendant refuse at the scene -- excuse me --
23 at the B.A. room itself.

24 Then we are going to be able to move to the
25 actual hospital and talk about the events that occurred

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 at the hospital, Your Honor. So it will kind of be
2 brief.

3 THE COURT: All right.

4 MR. MOBLEY: Thank you, Your Honor.

5 BY MR. MOBLEY:

6 Q So, Officer Stone, everything was recorded at the
7 scene through Officer Smith; correct?

8 A Yes, sir.

9 Q Then you took him to the B.A. room?

10 A That is correct.

11 Q Those events were recorded at the B.A. room,
12 correct?

13 A Yes.

14 Q Did you offer a breathalyzer test to the Defendant?

15 A I did.

16 Q Did you wait the allotted 20-minute waiting
17 period --

18 A Yes, we did.

19 Q -- before administering the test?

20 A Yes.

21 Q Who else was in the room with you at the time?

22 A Sergeant Marzol, who was conducting the test.

23 Q Now, you were able to hear and observe everything
24 that was being said between you, the Defendant, as
25 well as Sergeant Marzol; correct?

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 A Yes, I was.

2 Q At any time did you offer the breathalyzer analysis
3 test to the Defendant?

4 A Sergeant Marzol did several times.

5 Q Did the Defendant take the actual test?

6 A No, he did not.

7 Q Why didn't he take the test at the time?

8 A Because the machine only allows a certain amount
9 of time after the 20-minute observation in order
10 for the subject to blow into the breathalyzer
11 machine.

12 After asking the Defendant several times if he
13 would take the test, he kept stating he didn't know
14 what was going on, that he wanted to talk to an
15 attorney.

16 And during that time, the time ran out on the
17 machine, and the machine actually kicked it as a
18 refusal because he never actually directly said yes
19 or no.

20 Q So he never said yes, he wants to go ahead and take
21 the test?

22 A Correct.

23 Q Did he say no?

24 A No, he did not.

25 Q Did he take the test within the allotted time frame

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 before the test kicks him back as an automatic
2 refusal?

3 A No, he didn't.

4 Q Is that typical of the actual Datamaster machine
5 working in compliance with the S.L.E.D. policies
6 and regulations for the machine to stop after the
7 20-minute waiting period?

8 A Yes.

9 Q Once he refused what did you do then?

10 A We then took him to the hospital.

11 Q Who is we?

12 A Well, I took him to the hospital.

13 Q Okay.

14 A Transported him to Lexington Medical Center where a
15 blood analysis form was filled out and signed by
16 Dr. Hayes. The lab technician, Mr. Wilkers, came
17 in and withdrew two vials of blood, one which was
18 later placed into our evidence refrigerator, and I
19 placed the other vial in his pocket.

20 Q You place a vial into?

21 A Into Mr. Jamison's shirt pocket.

22 Q Is that a requirement that you give a vial of blood
23 to the Defendant?

24 A Yes.

25 Q Why is that a requirement? Is that a statutory

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 requirement?

2 A Yes, it is.

3 Q At any time during this particular process, did
4 Mr. Jamison ask for or request an independent blood
5 test, outside of those two vials of blood?

6 A Not to my knowledge he didn't, not to me.

7 Q So when you were there in the actual room with the
8 phlebotomist, Mr. Steven Wilkers, you never heard
9 the Defendant request a second vial of blood?

10 A Not that I can recall.

11 Q Was there anyone else in the room with you and
12 Mr. Jamison when this was occurring?

13 A Yes, there was, Sergeant Marzol.

14 Q Was Sergeant Marzol able to witness any of this
15 information or these conversations at the time?

16 A Yes, he would have been.

17 Q He would have been. So once the two vials of blood
18 were taken, one was taken for your custody and the
19 other one for Mr. Jamison's, what happened next?

20 A After that my vial of blood was sealed in an
21 evidence bag. A chain of custody form was filled
22 out. We then transported -- I then transported
23 Mr. Jamison to the Lexington County Detention
24 Center for booking.

25 Q Once you transported Mr. Jamison back to the

MICHAEL STONE -- IN CAMERA -- MR. MOBLEY

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1 Lexington County Detention Center, was there any
2 request made by Mr. Jamison at all during that ride
3 back to the Lexington County Detention Center for
4 an additional, independent blood test?

5 A No.

6 Q Once you arrived at the Lexington County Detention
7 Center, what happened?

8 A Once I arrived there, I took him inside where the
9 corrections officer patted him down and got his
10 belongings, inventoried them, and took him in the
11 back. I was free to go after that.

12 Q Okay. Now, during the actual booking, did you do
13 anything to indicate a blood vial on the Defendant?

14 A I did advise the C.O. that he did have a vial of
15 blood, and the only reason why I advised that he
16 had a vial of blood was due to any kind of -- if
17 anything had leaked out, you know what I'm saying.

18 Q So to your knowledge, did the booking officer take
19 custody of that blood or if you don't know or do
20 you know?

21 A I don't know. I wasn't watching the C.O. while he
22 was taking -- I assume that he had taken everything
23 out of the Defendant's pockets and inventoried
24 everything.

25 Q Officer Stone, at any point during this booking

MICHAEL STONE -- IN CAMERA -- MR. STITELY

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1 process, did you hear Mr. Jamison request an
2 additional vial of blood, additional, independent
3 test for any of the blood samples that were
4 withdrawn or to be withdrawn at the time?

5 A No, I did not.

6 Q Did you see Mr. Jamison anymore that night after
7 booking?

8 A No, none.

9 Q Thank you.

10 MR. MOBLEY: Nothing further.

11 THE COURT: Thank you. Thank you very much,
12 Solicitor.

13 Mr. Stitley.

14 **IN CAMERA EXAMINATION**

15 BY MR. STITELY:

16 Q Officer Stone, when did you start with the Cayce
17 Police Department?

18 A I can't remember the exact date when I started with
19 them. I want to say it was either June or July,
20 maybe May -- May, June or July.

21 Q And this happened in July of that summer?

22 A Yes.

23 Q So you had been with Cayce for a month, maybe two
24 months tops?

25 A Maybe.

MICHAEL STONE -- IN CAMERA -- MR. STITELY

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1 Q I will skip kind of forward at the Datamaster room.
2 Do you recall having conversations with my client
3 as you were in the room observing everything,
4 conversations that my client had with maybe
5 Sergeant Marzol where he asked if he would be
6 allowed to have someone do some testing for him
7 when you read him the implied consent form?

8 A Not that I can recall.

9 Q Do you recall a number of conversations, by chance,
10 where he is asking about: What is going to happen
11 if you take this Datamaster sample? Will I get a
12 chance to have my own test done?

13 A I can't recall that conversation.

14 Q What is on the video will be on the video. We will
15 be able to see that?

16 A Right.

17 Q You transported him to the hospital. Was there
18 anyone else with you at the hospital -- in the
19 transport or did you take him separately?

20 A I took him separately.

21 Q When you got there, did you explain to him or any
22 time prior, did you explain to him that he will get
23 a separate vial to be tested?

24 A I'm sure that I did.

25 Q And at that time did you tell him that would be the

MICHAEL STONE -- IN CAMERA -- MR. STITELY

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1 only opportunity he would have to get his blood
2 tested?

3 A I'm sorry?

4 Q Did you ever inform him that that second vial would
5 be his only opportunity to have blood testing?

6 A I believe we did. I believe me or Sergeant Marzol
7 did tell him that he would be able to have his own
8 testing.

9 Q Did you say specifically that the second vial would
10 be the one he could use or did you offer him the
11 ability to have some other doctor draw his blood?

12 A I don't know if I offered him -- I don't remember
13 offering him another doctor to draw blood.

14 Q Do you recall him making inquiries whether or not
15 he could have someone do additional testing for
16 him?

17 A No, I do not.

18 Q I will ask you next and if you don't know, that's
19 fine because you are not jail personnel. Is it
20 standard practice to allow someone from when you
21 book them to take personal effects back into the
22 cell or anything like that with them? When you
23 drop someone off at the jail, is their personal
24 property usually taken at that time from them?

25 A Yes, it is normally.

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1 Q You said that you put blood in his pocket. Was it
2 your anticipation that he would keep that blood in
3 his pocket while he was in jail and wait until he
4 got out?

5 A No, I would assume they would have taken (sic) it
6 from him.

7 Q And you actually told them that you were bringing
8 someone who had blood with them?

9 A Once we got there, I informed the C.O. during the
10 booking process. I didn't call ahead and let them
11 know.

12 Q Do you remember who the C.O. was in the booking
13 process by chance?

14 A No, I do not.

15 Q Male or female?

16 A I couldn't even tell you.

17 MR. STITELY: Nothing else for the officer.

18 THE COURT: Redirect, Solicitor?

19 MR. MOBLEY: None, Your Honor.

20 THE COURT: Thank you, Officer Stone. You may
21 step down.

22 (Witness leaves the witness stand.)

23 THE COURT: Solicitor, you may call your next
24 witness.

25 MR. MOBLEY: The State calls Officer Marzol to

ROBERT MARZOL -- IN CAMERA -- MR. MOBLEY

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1 the stand, Your Honor.

2 THE COURT: Come around and be sworn, please.

3 ROBERT MARZOL, being
4 first duly sworn, testifies as follows:

5 CLERK: Once you are seated, state your full
6 name on the record, please.

7 THE WITNESS: Robert Marzol.

8 IN CAMERA EXAMINATION

9 BY MR. MOBLEY:

10 Q Sergeant Marzol, where do you currently work?

11 A The Cayce Police Department.

12 Q How long have you worked there?

13 A Eight and a half years, going on nine.

14 Q What's your current position there?

15 A Sergeant.

16 Q Sergeant. What are some of your general duties in
17 that position?

18 A I'm a road supervisor. I supervise a road shift of
19 five to six people and answer routine calls,
20 service calls, while on patrol and, of course, I
21 assist members of my shift while on duty.

22 Q When you say that you are a supervisor, what does
23 that entail, supervising a staff of four or five?

24 A Make sure all the proper paperwork is completed
25 throughout the 12-hour shift, as well as assisting

ROBERT MARZOL -- IN CAMERA -- MR. MOBLEY

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1 them on the calls that they might have to answer or
2 questions or any complaints that come in, I would
3 be the one they would come to.

4 Q Now, Sergeant Marzol, have you had any D.U.I.
5 training?

6 A Yes, I have.

7 Q What does that entail?

8 A I have had advanced D.U.I. detection three, four
9 years ago. I'm not sure on the exact date, maybe
10 five years ago. Time flies.

11 Q Now, do you stay current with the current law as it
12 is?

13 A Yes, I do. We have legal refreshers about every
14 year with new updates, legal up dates.

15 Q Sergeant Marzol, I will take you back to around
16 about the time of July 31, going over into
17 August 1, 2008, do you recall that night?

18 A Yes, I do.

19 Q What were you doing?

20 A That particular night I happened to be at the
21 office when the call came in.

22 Q Were you on duty?

23 A Yes, I was.

24 Q That night were you called out to a scene?

25 A I wasn't directly called out. I heard the radio

ROBERT MARZOL -- IN CAMERA -- MR. MOBLEY

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1 transmission by Officer Stone calling for help at
2 that time. With hearing the radio transmission, I
3 responded to the scene.

4 Q When you responded to the scene, you encountered
5 the Defendant at that time; correct?

6 A Yes, I did.

7 Q Once you arrived on the scene and encountered the
8 Defendant, what was happening at the time?

9 A He was at that time sitting on the curb when I got
10 there. Officer Stone, of course, was the first
11 officer there, and Officer Smith was already there.
12 I pulled up with Detective Reese. We left the
13 department at the same time. I observed, you know,
14 what appeared to be a vehicle versus a bicycle,
15 pedestrian and I observed the Defendant, of course,
16 sitting on the curb. I tried to gather what was
17 going on at that time.

18 Q Now, was the Defendant subsequently arrested?

19 A Yes, he was.

20 Q He was. Where was he taken?

21 A He was taken to the Cayce Police Department for a
22 Datamaster breath test.

23 Q Were the appropriate warnings provided to
24 Mr. Jamison at that time?

25 A Yes, sir.

ROBERT MARZOL -- IN CAMERA -- MR. MOBLEY

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1 Q I will hand you a piece of paper. Do you recognize
2 what that is?

3 A Yes, sir.

4 Q What is it?

5 A That is the implied consent form from S.L.E.D.

6 Q Now, does it have a signature at the bottom?

7 A Yes, sir.

8 Q Whose signature is it?

9 A My signature.

10 Q What is the date located on that form?

11 A On the bottom right-hand corner.

12 Q What is that date?

13 A I'm sorry, I didn't hear.

14 Q What is the date that is indicated there?

15 A 8/1/2008.

16 Q Did you utilize that form the night with this
17 particular Defendant, Andra Jamison?

18 A Yes, I did.

19 Q How do you know so?

20 A Because it has my signature, the date, and at
21 12:33 hours, and it has his name on the top.

22 Q Did you read that to the Defendant?

23 A Yes, I did.

24 Q Can you read to the Court the specific section that
25 you read to the Defendant at the time?

ROBERT MARZOL -- IN CAMERA -- MR. MOBLEY

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1 A You are under arrest for felony driving under the
2 influence, felony D.U.I., Section 56-5-2945, South
3 Carolina Code of Laws, 1976 as amended or a law
4 enforcement has probable cause to believe that you
5 have violated this section.

6 The officer has directed that samples be taken
7 for alcohol and for drug testing. The samples will
8 be taken and tested according to Section 56-5-2950
9 and S.L.E.D. policies.

10 Pursuant to Section 56-5-2926, you must submit
11 to either submit one or a combination of chemical
12 tests for purpose of determining the presence of
13 alcohol, drugs or a combination of alcohol and
14 drugs.

15 The resistance, obstruction or opposition to
16 testing pursuant to section 56-29 -- sorry --
17 56-5-2926 is evidence admissible at trial. It
18 is -- if your test or samples have an alcohol
19 concentration of 15 one-hundredths of one percent,
20 which is .15 percent or more, your privilege to
21 drive in South Carolina must be suspended for at
22 least 30 days.

23 You have the right to have a qualified person
24 of your own choosing conduct additional,
25 independent tests at your own expense, and the

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1 officer upon request must provide affirmative
2 assistance.

3 You have the right to request an
4 administrative hearing within 30 days of the
5 issuance of the notice of suspension. If you do
6 not request an administrative hearing or if your
7 suspension is upheld at the administrative hearing,
8 you must enroll in an alcohol drug safety action
9 program.

10 Q So that is the relevant portion that you read to
11 the Defendant on that date?

12 A Yes, sir.

13 Q Was a breath analysis actually offered to the
14 Defendant?

15 A Yes, it was.

16 Q Did he refuse at the time?

17 A He stated -- it was written up as refusal, yes,
18 sir.

19 Q Why was it written up as a refusal?

20 A Because he timed out on the machine. He was
21 explained that he was going to be given the
22 opportunity to take this test. I was going to
23 offer him the test.

24 He continued to say he doesn't understand
25 what was going on, and that was pretty much the

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1 duration of the whole 20 minutes. That's what he
2 continued saying.

3 Q Did it appear to you at the time the Defendant was
4 hesitating to take the test?

5 A I wouldn't say hesitating. He was explained what
6 was the outcome. You have got 20 minutes. After
7 20 minutes you've got two minutes to take the test,
8 and he continued that he didn't understand what was
9 going on, and he never took the test.

10 Q So at that time it was subsequently placed as a
11 refusal by the machine?

12 A Right.

13 Q The machine is set and regulated by S.L.E.D.,
14 correct?

15 A Right. For two minutes you have got the
16 opportunity.

17 Q At that point what happened?

18 A After the two minutes?

19 Q Yes.

20 A The machine timed out, and it gives me on the
21 screen the subject refused. Of course, I hit yes
22 on the machine.

23 Q Once you hit yes on the machine -- were the events
24 of that night recorded on a video?

25 A Yes, they were.

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1 Q Once someone refuses in a felony D.U.I., what is
2 the next step?

3 A We are going to go ahead and transport him to the
4 hospital to get blood.

5 Q Is that mandatory?

6 A That's mandatory.

7 Q Is that written by the statute itself?

8 A Correct.

9 Q So you determined that the felony D.U.I. was a
10 refusal at the time, and you transported him to the
11 hospital to get the blood?

12 A Right. Even if he didn't refuse, we would still
13 have to get blood on a felony D.U.I.

14 Q During any of this time, did he indicate that he
15 wanted his own additional testing?

16 A I don't recall him saying that.

17 Q You do not recall?

18 A Huh-uh. (Indicating negative response.)

19 Q We are speaking of in the B.A. room, correct?

20 A Correct.

21 Q Who transported the Defendant to Lexington County
22 Medical Center?

23 A Officer Stone.

24 Q You were not in the car at the time?

25 A No, sir.

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1 Q Did you subsequently arrive at Lexington Medical
2 Hospital?

3 A Yes, sir.

4 Q What happened then?

5 A At that time I arrived, due to the fact I went to
6 provide assistance to Officer Stone with the
7 paperwork, and as well as the Defendant was a
8 little bit agitated and not being compliant, just
9 in case -- of course, we are going to draw blood.
10 We will take the blood per se law. We have to get
11 the blood. So just in case he needed another hand
12 helping the phlebotomist or whatever to get the
13 blood.

14 Q Now, did either of you direct the phlebotomist to
15 draw the blood from the Defendant per the statute?

16 A Yes, we filled out the paperwork.

17 Q And the phlebotomist, did he come in to withdraw
18 the blood?

19 A Yes.

20 Q Was he examined by a doctor before the withdrawal
21 of the blood?

22 A I don't recall if before or after. I know he was
23 seen, but I don't recall that.

24 Q Were you able to witness the actual withdrawing of
25 those tubes of blood?

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1 A Yes, sir.

2 Q How many vials of blood were withdrawn?

3 A Two.

4 Q Where were the vials placed at that time?

5 A We kept one and the Defendant, Mr. Jamison, was
6 given one.

7 Q Were they properly labeled with the Defendant's
8 name and information?

9 A Yes, sir, they were sealed and labeled by the
10 phlebotomist.

11 Q You stated that you kept one. What was the purpose
12 of that?

13 A One is for us for evidence to send to S.L.E.D. for
14 proper testing and analysis.

15 Q And the other was given where?

16 A To Mr. Jamison.

17 Q What is that for?

18 A That is his property. That is for him to do
19 whatever he wishes to, whether he wants to have it
20 tested himself, whatever. It's his property.

21 Q At any time during the withdrawal of the blood, did
22 Mr. Jamison request any additional, independent
23 blood test?

24 A I do not recall Mr. Jamison asking for any
25 independent test at the hospital or at any time.

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1 Q When you say at any time, are you referring to just
2 the hospital?

3 A Prior to the hospital, at the hospital or at any
4 time that I had contact with Mr. Jamison, I don't
5 recall him stating that he wanted an independent
6 test. The only thing I recall him saying was he
7 didn't understand what was going on.

8 Q So there was no indication he asked for any
9 independent blood test at all?

10 A No, sir.

11 Q At what point did you lose contact with the
12 Defendant?

13 A After I left the hospital.

14 Q After you left the hospital?

15 A Right, Lexington Medical Center.

16 Q Where did you go?

17 A I at that time left and responded to Richland
18 Memorial Hospital to check the status on the
19 victim.

20 Q Did you come in contact with Mr. Jamison at any
21 point thereafter?

22 A No, sir.

23 Q You did not?

24 A I don't recall. I left there and went to Richland.

25 MR. MOBLEY: Thank you, Your Honor. Nothing

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1 further for this witness.

2 THE COURT: Thank you, Solicitor.

3 Mr. Stitley?

4 MR. STITLEY: May it please the Court.

5 IN CAMERA EXAMINATION

6 BY MR. STITLEY:

7 Q Sergeant Marzol, how long have you been an officer,
8 police officer?

9 A Right at going on 14 years.

10 Q Not your first case?

11 A No, sir.

12 Q Your first real contact with Mr. Jamison, serious
13 contact, was actually at the Datamaster room; is
14 that correct?

15 A No.

16 Q When did you first meet up with him?

17 A I met up with him on the road side at the incident.

18 Q But that wasn't your scene, per se, that was
19 Officer Stone's?

20 A Correct.

21 Q At the Datamaster room, how many times did you
22 recall Mr. Jamison asking for an attorney or asking
23 to have advice from his counsel, do you remember?
24 Several?

25 A A couple.

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1 Q Do you remember saying to him specifically: That's
2 not how it works?

3 A I'm sorry?

4 Q Do you specifically recall answering his request
5 for an attorney saying: That's not how it works?

6 A I might have said that. I don't recall for sure.

7 Q Do you remember talking to him about how you would
8 take this sample and go get a blood sample? After
9 you do the Datamaster thing, you would go and get a
10 blood sample?

11 A Did I say that?

12 Q Yes.

13 A I don't recall. I think I said we were going to
14 the hospital.

15 Q Because you read him the statute that says --

16 A Right.

17 Q -- that you are going to take blood?

18 A Correct.

19 Q At that time do you recall a conversation with him
20 whether he would have the opportunity to examine
21 the blood or have his own testing on the blood?

22 A I don't recall.

23 Q Why were you the one on the Datamaster room, not
24 Officer Stone? He was the original officer.

25 A I don't know if Officer Stone was Datamaster

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1 certified at that time. I was.

2 Q I will ask -- and if you don't know, please say
3 so -- your understanding as a police officer, you
4 said that Mr. Jamison was given a vial on his
5 person. How did that transpire?

6 A At the hospital.

7 Q Correct. How did that happen?

8 A Officer Stone placed it in his pocket.

9 Q Was it your understanding that he would be allowed
10 to keep that blood with him when he went back
11 inside the jail and have it on him when he came
12 out?

13 A When we transport them to the hospital -- of
14 course, I wasn't there -- but they go through a
15 receiving area, which is the booking area. They
16 are not allowed to go inside the jail. The
17 correctional officer steps out. He takes
18 everything out of his pocket, puts it on a bench
19 like this, and does all the property.

20 Q There was no way that Mr. Jamison was able to
21 maintain custody of that vial? There was no way
22 that Mr. Jamison could have maintained custody of
23 the blood while being booked into the jail; is that
24 fair?

25 A I wouldn't say there is no way. I mean, if

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1 somebody wasn't doing their job, it went in the
2 back. It would be best to say that I wouldn't
3 think so.

4 Q It wouldn't have been your anticipation that he
5 would have had his sample with him in the back, and
6 then when he was booked out, he would have still
7 had it on him?

8 A Right.

9 Q That's all the questions I have thank you.

10 THE COURT: Redirect, Solicitor?

11 MR. MOBLEY: Yes, Your Honor, briefly.

12 **IN CAMERA EXAMINATION**

13 BY MR. MOBLEY:

14 Q Sergeant Marzol at the B.A. room, the actual --
15 were the events of that day recorded?

16 A Yes, sir.

17 Q Have you been able to review that video?

18 A I have.

19 Q Does it accurately depict the events as they were
20 that day?

21 A Yes, sir.

22 MR. MOBLEY: Your Honor, at this time we would
23 like to view the actual B.A. room video because it goes
24 to the refusal itself.

25 THE COURT: All right.

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1 (State's Exhibit Number 50 is played for the
2 Court.)

3 THE COURT: Any further redirect, Solicitor?

4 MR. MOBLEY: Your Honor, just briefly.

5 BY MR. MOBLEY:

6 Q Sergeant Marzol, we just reviewed the actual
7 videotape from the B.A. room. At any point did you
8 hear him state he wanted an additional test for the
9 blood draw itself?

10 A No, sir.

11 Q Did you explain to Mr. Jamison what would happen if
12 he did not submit to the breath test within the
13 allotted two minutes?

14 A Yes, sir.

15 Q You provided him with a consequences thereof by
16 taking him to the hospital?

17 A I'm sorry?

18 Q Did you explain to him if he refused or did not
19 take it within the allotted time period, he would
20 be taken to the hospital for a blood withdrawal?

21 A Yes, sir.

22 Q Now, when you arrived at the Lexington County
23 Medical Center, at any point did Mr. Jamison
24 request an additional blood test?

25 A No, sir.

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1 Q Are you aware of any camera recording systems
2 within that particular building at the time?

3 A No, sir, not at the hospital.

4 Q Thank you.

5 MR. MOBLEY: Nothing further for this witness,
6 Your Honor.

7 THE COURT: Officer, you may step down. You
8 are subject to recross examination. We will take a few
9 minutes. You may not discuss your case during this
10 brief recess.

11 (Whereupon there is a recess.)

12 THE COURT: Recross?

13 MR. STITELY: Very briefly.

14 **IN CAMERA EXAMINATION**

15 BY MR. STITELY:

16 Q Officer Marzol, were you the one who instructed,
17 after what we saw on the video, Mr. Jamison what
18 would be happening at the hospital or was that the
19 other officer?

20 A I believe I made a statement.

21 Q After we had turned it off?

22 A No, no, during the thing, I made a statement.

23 Q You told him specifically what for. Was there any
24 other conversation that you had with him about the
25 drawing of blood, number of vials, anything like

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1 that?

2 A Huh-uh. (Indicating negative response.) After?

3 Q After what we saw?

4 A Not to my recollection.

5 MR. STITELY: No further questions for the
6 sergeant.

7 THE COURT: You may step down, Sergeant.

8 (Witness leaves the witness stand.)

9 THE COURT: You may call your next witness.

10 MR. MOBLEY: Thank you, Your Honor. The State
11 calls Kristen Marzol to the stand, please.

12 KRISTEN MARZOL, being
13 first duly sworn, testifies as follows:

14 CLERK: Once you are seated, state your full
15 name, please.

16 THE WITNESS: Kristen Marzol.

17 THE COURT: Solicitor.

18 MR. MOBLEY: Thank you, Your Honor.

19 **IN CAMERA EXAMINATION**

20 BY MR. MOBLEY:

21 Q Ms. Marzol, where do you currently work?

22 A At Lexington County Detention Center.

23 Q What is your position there?

24 A I'm a clinic coordinator.

25 Q Clinic coordinator, what does that entail?

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1 A It's a management position. I manage the clinic
2 nurses, that they go through policy and procedure,
3 the way they conduct themselves through the day.

4 Q How long have you been in that position?

5 A I have been in this position since 2006.

6 Q 2006. Were you currently at the Lexington
7 Detention Center back in July 31, August 1, 2008?

8 A Yes, I was.

9 Q Were you an actual clinical coordinator at the
10 time?

11 A Yes, I was.

12 Q Did you have subordinates at the time that reported
13 back to you?

14 A I did.

15 Q In addition to your supervisory responsibilities,
16 were there any other things that you were
17 responsible for, such as recordkeeping, anything of
18 that nature?

19 A I do. I go through every day to make sure that the
20 notes that we notate are correct, that things are
21 followed through by policy.

22 Q So you are familiar with the policy and procedures
23 of the jail at the time?

24 A I am pretty familiar with the jail policies. I am
25 more familiar with our medical policies. We are a

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1 contract company, so we have our own policies.

2 Q Okay. Now does those policies mesh with the
3 detention center's --

4 A They do.

5 Q -- policy?

6 A They do, they have to correlate together.

7 Q You state you are a contract company. What exactly
8 do you mean by that?

9 A We are paid by the county. We are not county
10 employees. Our company is paid by the county to
11 provide medical services to the inmates.

12 Q Now, Ms. Marzol, I am going to ask you, at one
13 point did you have a nurse by the name of Cheryl
14 Smith that worked as subordinate to you?

15 A Yes, I did.

16 Q Was she working under you or for you at the
17 detention center on August 1, 2008?

18 A Yes, she was.

19 Q Do you know if she was on duty at the time?

20 A She was.

21 Q And do you recall the shift approximately? Was it
22 a nighttime, daytime shift?

23 A It was an 11:00 p.m. to 7:00 a.m. shift.

24 Q Okay. Now, does Ms. Cheryl Smith currently work
25 there at this time?

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1 A She does not.

2 Q She does not. Are you familiar with where she is
3 currently located?

4 A I am not.

5 Q You are not. Now, you are aware of where -- excuse
6 me. Let me rephrase this. Are you familiar with
7 the policies in regards to obtaining property from
8 inmates that are placed into intake at the
9 detention center?

10 A I am.

11 Q You are. What do they entail?

12 A Well, we are usually called out to the receiving
13 area where they find either medications on the
14 inmate or -- usually it's medication, medical
15 devices, blood, and they turn that over to the
16 medical personnel.

17 Q Let me ask you, you mentioned blood. When a person
18 who is being detained and placed into the detention
19 center, what are the normal policies and procedures
20 with your company in the detention center?
21 Specifically, what are the procedures as far as
22 collecting that blood?

23 A Right now our policy is that we take the blood in.
24 We have a locked refrigerator. We label the blood
25 bag. The blood comes to us already labeled. We

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1 label a biohazard bag and place it in the locked
2 refrigerator, and we log it in.

3 Q Now, whoever logs in that particular blood sample,
4 would they sign a sheet or anything of that nature?

5 A We have a book that we log it in, the date, the
6 arresting agency, the inmate's name, and the
7 accepting nurse of that blood.

8 Q I am taking you back to the date of August 1, 2008.
9 I want to hand you a sheet of paper. Do you
10 recognize what that is?

11 A This is a nurse's progress note.

12 Q And who is that from?

13 A The nurse was Cheryl Smith.

14 Q Is that the same Cheryl Smith that was your
15 subordinate at one point?

16 A Yes.

17 Q And how do you recognize it as her note? Are you
18 able -- have you ever seen her handwriting before?

19 A Yes, I am very familiar with her handwriting.

20 Q Is that a common practice to place a note in the
21 log book itself, progress report, whenever someone
22 goes in and places something in the refrigerator?

23 A The progress note was actually placed in the chart.

24 Q In the chart?

25 A Right. She was a very thorough nurse. She always

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1 wrote notes according to what she did at intake,
2 and that's what this is.

3 Q So you do recognize that as her handwriting?

4 A Uh-huh. (Indicating affirmative response.)

5 MR. MOBLEY: Your Honor, we are referring to
6 State's Exhibit Number 51.

7 BY MR. MOBLEY:

8 Q Can you read what that actually states.

9 A The date is 8/1/08. Inmate treated and cleared per
10 L.M.C. for bronchitis, prescription for doxycycline
11 from L.M.C. Blood sample from inmate in fridge for
12 felony D.U.I. Placed on N.D. list for follow up
13 after E.R. visit. Then it was signed S. Smith,
14 L.P.N.

15 Q Were there any other notes pertaining to the
16 deposit of that blood in the refrigerator there?

17 A No, sir, that was it.

18 Q That was it. Were you able to, in a managerial
19 role, are you able to inspect the actual
20 refrigerator and look and see what is there?

21 A Yes, sir, we have a key.

22 Q Did you go back and look in this refrigerator, your
23 refrigerator where you store the evidence, and see
24 if a vial of blood was there labeled with
25 Mr. Jamison's name on it?

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1 A Not on that exact date, no, I did not.

2 Q But you have gone?

3 A I have recently.

4 Q Did you see the blood there?

5 A No.

6 Q Let me ask you this, Ms. Marzol. Do we know what
7 happened to the blood?

8 A I do not.

9 Q Were there any notes left by the prior nurse,
10 Ms. Cheryl Smith?

11 A No, there was not.

12 Q So you don't know -- there were no notes left, and
13 we simply do not know what happened to the second
14 vial of blood?

15 A Correct.

16 Q Let me ask about your policies and procedures. If
17 a defendant is checked in with a vial of blood,
18 when are they able to obtain that blood from the
19 storage area?

20 A Upon A.T.W. and that's for all the way. When they
21 are released from jail, they let the officer know
22 that they have medication, medical devices or blood
23 that needs to be picked up.

24 Q Who lets the officer know?

25 A The inmate would let the officer know that they

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1 have something that medical has. They would let
2 the officer know they had blood or medication that
3 is left in medical.

4 Q So the inmate would have to actually request
5 separately the actual blood that is in storage at
6 the time?

7 A Correct.

8 Q If that defendant -- excuse me -- that individual
9 does not request the blood, what would happen then?

10 A By policy after 48 hours, two nurses can discard of
11 it.

12 Q Two nurses can discard of it?

13 A Yes, sir.

14 Q And that is 48 hours after?

15 A Release from the jail.

16 Q Release?

17 A Yes, sir.

18 Q If that individual does not pick it up within the
19 48 hours, it is discarded?

20 A It could be.

21 Q It could be?

22 A Uh-huh. (Indicating affirmative response.)

23 Q So it's not set in stone at that point?

24 A Correct.

25 Q Let me ask you this. Would a family member of an

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1 inmate be able to pick up the vial of blood and be
2 released?

3 A No.

4 Q Is that due to policy and procedure of the jail and
5 your company itself?

6 A It is. Per the H.I.P.P.A. law, we cannot release
7 medication or blood. Anything that belongs to an
8 individual, we can't release it.

9 Q Not even to a spouse?

10 A No.

11 Q And that's due to H.I.P.P.A. and your policies and
12 procedures?

13 A Correct.

14 MR. MOBLEY: Nothing further for this witness,
15 Your Honor.

16 THE COURT: Thank you. Mr. Stitley.

17 MR. STITELY: May it please the Court.

18 IN CAMERA EXAMINATION

19 BY MR. STITELY:

20 Q Ms. Marzol, are you sure that Mr. Jamison's blood
21 was taken to the jail that day from that note. At
22 least as sure as you can be?

23 A Yes, sir.

24 Q You talked about State's Exhibit 51, which would
25 give you some kind of assurances?

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1 A Yes, sir.

2 Q Do you keep logs of what goes in and out of that
3 refrigerator you have under lock and key?

4 A We do.

5 Q Did you bring the log to court so we can see what
6 happened to that sample?

7 A I did not. The log was, in policy, started
8 sometime between the months of March, April or May
9 of this year.

10 Q So what was the policy before that regarding
11 custody of evidence?

12 A At that time we didn't have any issues with it, and
13 it was just placed in the locked refrigerator and
14 then made a nurse's note.

15 Q Did you give any forms to people saying that they
16 have items they can recover from medical when they
17 go back into the jail?

18 A They did not have a form. They are told that in
19 the receiving area.

20 Q You don't work for the jail. Are you familiar with
21 their property forms and how they book people in
22 and keep lists of what is booked into evidence?

23 A I am.

24 Q I will show up a couple of things and ask you a few
25 questions if you don't mind. I will show you what

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1 has been entered as State's 52 and 53. Could you
2 tell me what those are and if you are familiar with
3 them?

4 A State's Exhibit Number 52 is part of one of their
5 property release sheets. I'm not real familiar
6 with that one that they release the property with.

7 Q If you are not familiar with it, don't worry about
8 it. What about Number 53?

9 A They are both the same. They look the same, maybe
10 not.

11 Q They are the same?

12 A They look similar.

13 Q It looks like one has a -- if you don't know, I
14 won't ask you about it. On these did you see the
15 blood? Would it have shown up on here if he had
16 blood when he was booked into the jail?

17 A If the correctional officer logged it on their
18 original sheet.

19 Q Would it be standard policy to log things like
20 evidence in when someone is brought into the jail?

21 A I'm not familiar with that on their behalf.

22 Q Are you familiar with the blood we are talking
23 about in this case, aside from what you have
24 testified? Have you been asked to look into it
25 more than what we have heard so far?

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1 A Yes, I have checked in the refrigerator.

2 Q And it's not there now?

3 A It is not.

4 Q Are you aware of any inquiries made by Mr. Jamison
5 or his wife Kristy Jamison regarding picking up the
6 blood?

7 A No.

8 Q I will show you another form. If you don't know
9 what it is once again -- it's marked as State's 55.
10 Are you familiar with that form?

11 A I have seen these, but I'm not real familiar with
12 them.

13 Q It talks about being a property release form.

14 A Right.

15 Q It looks like Mr. Jamison signed for his wife to
16 pick up everything from his...

17 A I am a little familiar with these. It's from the
18 booking officers. If the wife wants to come pick
19 up car keys and money, things like that, then they
20 can release it through that sheet.

21 Q Had someone came up to ask for blood, who in your
22 department would have been notified about it?

23 A One of the nurses would have received the phone
24 call or been called by the visitation detention
25 officer, and of course, let them know that we do

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1 not do that.

2 Q And they would have went up front to physically
3 speak to someone and tell they could not collect
4 evidence?

5 A Not necessarily gone up front. They would have at
6 least let the other officer know to let the family
7 member know that.

8 Q Are you aware of a time sometime within the last
9 year when Mr. Jamison went up to the jail to
10 specifically ask for his blood?

11 A No, I'm not.

12 Q Are there any records in any of your logs that
13 would indicate there was a request or an inquiry
14 made regarding the blood?

15 A No.

16 Q Is it standard procedure of y'all just to discard
17 it without checking with anybody at the jail,
18 discard any blood, evidence or anything like that
19 without verifying with anybody at the jail if any
20 inquiries have been made?

21 A No, we don't notate inquiries.

22 Q How would the medical staff know if someone was
23 released?

24 A We get a sheet at the end of every shift that --
25 I'm sorry -- at the end of every day that says who

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1 was released the prior day, and we can check on
2 that or we can check with the booking officers.

3 Q Is there a log somewhere that shows when
4 Mr. Jamison was released and/or what property y'all
5 still had in possession at that time?

6 A I'm not familiar as far as medical is concerned.

7 Q Is there any way that we can obtain Mr. Jamison's
8 sample at all that you are aware of, any way to
9 track it whatsoever?

10 A No, not at this time.

11 Q Is there any way your records would indicate it
12 could ever been given back to him?

13 A If it was given back to him, it would probably have
14 a note.

15 Q And there is no note?

16 A Right.

17 Q Are you a nurse as well?

18 A I am.

19 Q Would it be possible to obtain independent testing
20 on your blood if you never got your sample? Is
21 there any way we could do that?

22 A I'm sorry?

23 Q Is there any way today we can go back and find out
24 what Mr. Jamison's B.A.C. would have been without
25 that sample?

KRISTEN MARZOL -- IN CAMERA -- MR. STITELY

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1 A No.

2 MR. STITELY: No other questions at this time.

3 THE COURT: Redirect?

4 MR. MOBLEY: None, Your Honor.

5 THE COURT: When you said probably have a
6 note, what are you talking about, having a note?

7 THE WITNESS: I'm sorry?

8 THE COURT: You said it would probably have a
9 note.

10 THE WITNESS: In the progress note, there
11 should be a nurse's note.

12 THE COURT: So there is more of the file of
13 Mr. Jamison besides State's Exhibit Number 51?

14 THE WITNESS: No, sir.

15 THE COURT: That's the only progress note that
16 exists?

17 THE WITNESS: Yes, sir.

18 THE COURT: Is Ms. Smith's progress note?

19 THE WITNESS: Correct.

20 THE COURT: There is no other progress note?

21 THE WITNESS: Correct.

22 THE COURT: I just didn't understand. Thank
23 you. You may step down.

24 (Witness leaves the witness stand.)

25 THE COURT: Solicitor, you may call your next

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1 witness.

2 MR. MOBLEY: Your Honor, we do not have any
3 additional witnesses to present at this time.

4 THE COURT: Mr. Williams, Mr. Stitley, do you
5 have witnesses?

6 MR. STITELY: I do.

7 THE COURT: How much longer will this take? I
8 just want to let the jury know something.

9 MR. WILLIAMS: I don't think I have more than
10 ten questions for Mr. Jamison and probably five or six
11 for Ms. Jamison.

12 THE COURT: All right. Thank you. You may
13 call your first witness.

14 MR. STITELY: Mr. Jamison.

15 THE COURT: If you would come around and be
16 sworn, please.

17 ANDRA JAMISON, being
18 first duly sworn, testifies as follows:

19 CLERK: Once you are seated, state your name
20 on the record.

21 THE WITNESS: My name is Andra Jamison.

22 **IN CAMERA EXAMINATION**

23 BY MR. STITELY:

24 Q Mr. Jamison, what do you do for a living?

25 A I'm a merchant marine.

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1 Q How long have you done that?

2 A Twenty years.

3 Q What is a merchant marine?

4 A Well, my actual position is I'm an officer, a
5 senior officer. I pilot tug boats, 1600-ton
6 vessels.

7 Q And you say you have been doing it 20 years?

8 A I haven't been an officer for 20 years, but I have
9 been in the trade for 20 years, yes.

10 Q What did you do before that to get your experience
11 necessary to become an officer?

12 A I went to an merchant marine institution, of
13 course, to become an officer, but before that I was
14 in the Navy.

15 Q How long were you in the Navy?

16 A I was in the Navy four years.

17 Q I will ask you some specific questions about the
18 night of July 31 and August 1, 2008, specifically
19 dealing with what we have been talking about today.
20 I will start right after you were taken from the
21 Cayce Datamaster room to the hospital.

22 A Yes.

23 Q What were you told was going to happen at the
24 hospital?

25 A I was told that I could have an independent study

ANDRA JAMISON -- IN CAMERA -- MR. STITELY

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1 because I asked for it by Mr. Stone. I, of course,
2 asked for it, and I was told I was going to get my
3 blood taken.

4 Q Were you told how many vials of blood would be
5 drawn?

6 A Yes.

7 Q What was the answer to that?

8 A Two.

9 Q What were you told regarding your ability to
10 acquire testing on that?

11 A I was told that I could have independent studies
12 done, and he told me that he was going to take --
13 have the blood taken for me, so I had two vials.

14 Q Were you ever offered the opportunity to go to a
15 different hospital or doctor to take additional
16 samples?

17 A No.

18 Q It was your understanding that you would be able to
19 test them with the vial you were to be given?

20 A Yes.

21 Q What happened to that vial when you arrived at the
22 jail?

23 A I was told that it was going to be placed --

24 THE COURT: That wasn't the question. The
25 question was what happened to that vial, not what you

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1 were told. Answer the question what happened to that
2 vial, if you know, when you got to the jail.

3 THE WITNESS: It was given to the officer.

4 BY MR. STITELY:

5 Q It was given to Officer Stone or to like a jail
6 officer?

7 A Officer Stone gave it to the jailer.

8 Q And then you obviously didn't have anymore contact
9 with it that night as you were taken somewhere
10 else; is that correct?

11 A That's correct.

12 Q At any point in time, did you sign a property
13 release form from the jail? I will show it to you
14 and ask real quick. Number 55, do you recall
15 signing that form?

16 A Yes, sir.

17 Q What did you instruct the jail to release to Kristy
18 Jamison, who is your wife?

19 A I instructed -- I wanted them to release
20 everything, except money for canteen.

21 Q I will show you two other documents. They appear
22 to be -- or they are Number 52 and 53. They appear
23 to be inventory sheets. That appears to be your
24 signature on those. What is your understanding
25 what those documents were to do?

ANDRA JAMISON -- IN CAMERA -- MR. STITELY

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1 THE COURT: What numbers?

2 MR. STITELY: Fifty-two and 53, Your Honor, I
3 apologize.

4 THE COURT: That's all right. thank you.

5 A One is an inventory of -- I think it's an inventory
6 of the things I came in with, and the other is an
7 inventory of the things that I left with.

8 Q On there does it indicate your blood sample by
9 chance?

10 A On neither.

11 Q Was your wife able to pick up these goods when you
12 signed these release forms, do you know, some of
13 them?

14 A Some of them, yes.

15 Q At any point in time to your knowledge -- and if
16 you don't know, say you don't know -- did your wife
17 go up and ask the jail for your blood sample?

18 A Yes.

19 Q Was it you who asked her to go up and ask for the
20 blood sample?

21 A That's correct.

22 Q What was the result of that endeavor to your
23 understanding? Not what she was told, but was she
24 able to recover a sample from the jail at that
25 time?

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1 A No.

2 Q Did you personally at some time later go up to the
3 Lexington County jail facility and ask for your
4 blood sample?

5 A I asked the day that I left, I was released. I
6 asked for my cell phone because I thought my cell
7 phone was on my person, which it wasn't. It was in
8 the van. I asked for the blood because I found out
9 that she couldn't -- she didn't get it.

10 Q What was the result of that request?

11 A I don't know what you are talking about.

12 Q Did you get the blood?

13 A No.

14 Q Were you told anything regarding where it was or
15 why you weren't able to have it?

16 A No. They just said that this should be everything.
17 We don't have your blood.

18 MR. STITLEY: No other questions at this time.

19 THE COURT: Thank you, Mr. Stitley.

20 Solicitor.

21 MR. MOBLEY: Thank you, Your Honor.

22 **IN CAMERA EXAMINATION**

23 BY MR. MOBLEY:

24 Q Mr. Jamison, so you agree that you did receive two
25 vials of blood, correct?

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1 A From?

2 Q From the Lexington County Medical Center?

3 A Officer Stone did.

4 Q But there were two withdrawn?

5 A Yes.

6 Q Were your hands in handcuffs at the time?

7 A No.

8 Q Your hands were not in handcuffs at the time? When
9 the blood was withdrawn, were both hands in
10 handcuffs at the time?

11 A I don't remember my hands being in handcuffs at
12 that time, no.

13 Q Did Officer Stone hand you one of the vials of
14 blood?

15 A No.

16 Q Once you got to the detention center, you stated
17 during this ride you requested an independent test;
18 correct?

19 A Yes, sir.

20 Q How did you know to ask about an independent test?

21 A How did I know to ask about an independent test?

22 Q Yes, sir.

23 A First of all, he read that information to me in the
24 Datamaster room, and I asked Officer Stone if I
25 could have my blood taken. He said that's where we

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1 are going right now, to the Lexington Medical
2 Center. He didn't offer any other place.

3 Q So you understood what this actual form meant at
4 the time, correct?

5 A No. I understood that I could have my blood drawn.

6 Q But you didn't understand the other portion of that
7 document itself?

8 A Yeah. There was a whole bunch of things going on
9 at that time. And, no, I wasn't familiar with any
10 of it. That's why I kept asking for someone that
11 could explain it to me or have someone there on my
12 behalf.

13 Q You were given a copy of it also, correct?

14 A No, I wasn't, no. He kept all of the copies
15 until -- I didn't receive copies until I was
16 released from jail.

17 Q Mr. Jamison, let me ask you this. Where were you
18 when you asked for the independent test?

19 A We were on our way to the medical center.

20 Q Who was present at that time?

21 A Officer Stone was driving.

22 Q Was there anyone else present?

23 A No.

24 Q So you had not made it to the detention center yet
25 when this was asked?

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1 A I asked a lot of times. I mean, he ignored me the
2 whole time, just as he did in the Datamaster room.
3 So I just wanted to make sure that he knew what I
4 was saying.

5 Q Since you understood this document, why didn't you
6 ask when you were in the B.A. room when you were
7 being recorded?

8 A I said I understood that I could have my blood
9 drawn.

10 Q Did you request it during this B.A. room video?

11 A No, in the car going to the medical center I did.

12 Q Now, you state that your wife came up. You
13 authorized your wife to actually ask for a blood --
14 ask for your blood to be released to her; correct?

15 A Say that one more time. I can't hear you.

16 Q At one point you stated that you sent your wife to
17 pick up your blood vial?

18 A Yes, I asked -- when I was able to use the phone,
19 that was one of the first things I asked my wife to
20 do.

21 Q Okay. So that was the same morning of August 1st,
22 2008?

23 A I don't remember exactly when I used it or what
24 time it was when I used the phone. It was
25 somewhere around there, may be 4:00 o'clock in the

ANDRA JAMISON -- IN CAMERA -- MR. MOBLEY

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1 morning. I don't really know, but, yes, it was
2 around that time.

3 Q So you had access to a phone to make any pertinent
4 calls that you needed at the time, correct?

5 A No, not until I was released from Officer Stone's
6 custody. I was locked away in a holding cell for
7 some period of time. Like I said, I don't know
8 exactly how long, but not until Officer Stone had
9 released me and I went through a little -- I went
10 through or I think I talked to a nurse and just the
11 proceedings. Hours later I had contact with a
12 phone.

13 Q But that was before you were released, and you were
14 still in the detention center; correct?

15 A Released from Officer Stone?

16 Q From the detention center. So you were still
17 incarcerated at the Lexington County Detention
18 Center?

19 A Yes.

20 Q You had access to a phone, correct?

21 A Not when I needed it.

22 Q But at one point you had access to a phone,
23 correct?

24 A I did use the phone.

25 Q And you called your wife?

ANDRA JAMISON -- IN CAMERA -- MR. MOBLEY

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1 A Yes.

2 Q Now, you asked her to come and pick up the blood;
3 correct?

4 A I told her I needed -- I told her what had happened
5 first. I told her I needed an attorney, and I told
6 her that, yeah, I needed her to come pick up my
7 blood.

8 Q Do you know what time she came to try to pick up
9 the blood of your own personal knowledge?

10 A Right off the top of my head, no, I know she came.
11 I think it was the following day, and they told her
12 they didn't release anything until a certain time,
13 and she came back promptly at that time.

14 Q Came back where?

15 A To the jail.

16 Q Okay. So once they didn't release it to her, were
17 you out on bail at this time?

18 A Negative, no.

19 Q So you are still incarcerated?

20 A Yes.

21 Q Now, you state that you went back and actually
22 requested the blood as well?

23 A Sure, yes.

24 Q When exactly was that?

25 A It's on -- I have it recorded. I don't know right

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1 off the top of my head. It's written down.

2 Q Just approximately. Was it the next day, the same
3 day?

4 A Well, I asked for it --

5 Q Two days?

6 A I asked for it when I left, when I was released.

7 Q And why wasn't it given to you?

8 A They didn't know what I was talking about. They
9 said: You don't have any blood.

10 Q Do you recall who you were speaking to at that
11 time?

12 A No.

13 Q Was it a male, female? Can you describe them?

14 A It was a male.

15 Q It was a male?

16 A Yes.

17 Q Can you describe him at all?

18 A No, I don't remember.

19 Q Was it staff?

20 A Staff, as in a jailer?

21 Q Yes, sir, a jailer?

22 A It was a jailer, whoever is at property release or
23 release where you get your property once you are
24 released.

25 Q So what time were you released?

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1 A It was that Monday. I don't know the exact time.

2 It was afternoon.

3 Q So you requested it when you were released, and you
4 didn't receive it, you stated?

5 A Yes.

6 Q Is that correct?

7 A Yes.

8 Q You state you came back at a later point to request
9 the blood as well, correct?

10 A Yeah, I think I came back a total of three times or
11 my wife and I requested it a total of three times.

12 Q Can you recall any of those dates?

13 A They are all written down. My attorney has all
14 that information.

15 MR. MOBLEY: Beg the Court's indulgence,
16 please, Your Honor.

17 (Pause.)

18 BY MR. MOBLEY:

19 Q You have turned over those documents to your
20 attorneys there?

21 A Maybe I don't understand what you are saying. What
22 are you asking me for.

23 Q What I'm asking you is when are those dates that
24 you returned to get the blood from the detention
25 center that was in holding in the nurse's station?

ANDRA JAMISON -- IN CAMERA -- MR. MOBLEY

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1 A Yes, he has that information. He has that
2 information. We have copies of it.

3 (Attorneys confer.)

4 MR. MOBLEY: Now, may I approach the
5 Defendant, Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. MOBLEY:

8 Q Mr. Jamison?

9 A Yes, sir.

10 Q I am going to hand you these documents that are
11 marked as State's Exhibit 52, State's Exhibit 53,
12 and State's Exhibit 55. These are documents that
13 your attorney has consented to and stated that they
14 are part of your file for your property release.
15 On those documents is there a date that is
16 indicated there?

17 A Yes, sir.

18 Q What are those documents for? Did you sign those
19 documents?

20 A Yeah, there's two that I signed.

21 Q What are the dates on that?

22 A I think it's August 1st and August 4th.

23 Q And what date were you released on, Mr. Jamison?

24 A That would have been the 4th.

25 Q Are there some other documents that we are not

ANDRA JAMISON -- IN CAMERA -- MR. MOBLEY

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1 aware of? You stated you went there three times to
2 retrieve property?

3 A Yes. Yes, there is one. I paid \$3 for it as a
4 matter of fact. I had to -- the detention center
5 sent me to the Sheriff's Department next door. A
6 lady came from out one of the offices, and I spoke
7 with her twice. On the second time, she said she
8 was going to have to charge me for them. These
9 were two different occasions, and I thought we had
10 that.

11 Q So the first document, which is State's Exhibit 53,
12 that shows August the 1st?

13 A Yes.

14 Q State's Exhibit 52 shows August the 4th?

15 A Yes.

16 Q Correct. Do you know when that third encounter
17 took place?

18 A I'm sure he has it. I gave the information to my
19 lawyer.

20 Q So Mr. Jamison you never received the blood?

21 A The blood, no.

22 MR. MOBLEY: Thank you, Your Honor. Nothing
23 further for this witness.

24 THE COURT: Redirect?

25 MR. STITELY: Nothing, Your Honor.

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1 THE COURT: Thank you, Mr. Jamison. You may
2 step down.

3 (Witness leaves the witness stand.)

4 THE COURT: You may call your next witness.

5 MR. STITLEY: Your Honor, we call Ms. Kristy
6 Jamison.

7 THE COURT: Ms. Jamison, if you would come
8 around and be sworn.

9 MR. STITLEY: Mr. Williams has gone to get
10 her. She is outside because of the sequestration.

11 KRISTY LEIGH JAMISON, being
12 first duly sworn, testifies as follows:

13 CLERK: Have a seat, please, ma'am. Once you
14 are seated, state your name on the record, please.

15 THE WITNESS: My name is Kristy Leigh Jamison.

16 IN CAMERA EXAMINATION

17 BY MR. STITLEY:

18 Q Ms. Jamison, what do you do for a living?

19 A I'm am licensed phlebotomist, and I also work as a
20 certified nurse's assistant, and I do cardiac
21 stenography as well.

22 THE COURT: You are a phlebotomist and what
23 was the second thing?

24 THE WITNESS: Certified nurse's assistant and
25 cardiac stenography.

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1 THE COURT: You may continue.

2 BY MR. STITLEY:

3 Q What is a licensed phlebotomist?

4 A That means I am licensed by the State of South
5 Carolina to administer -- well, I draw blood, do
6 all types of labs, throat swabs, mainly draw blood.

7 Q What do you draw blood for? What kind of
8 situations?

9 A I do routine tests. I work at a skilled nursing
10 facility, and we also have a primary care office.
11 I do routine blood work, C.V.C.s and P.T.D.s and
12 stuff like that.

13 Q In your profession, obviously I will ask you a
14 couple of questions about blood. Is it standard
15 policy in what you do to keep records of when you
16 draw blood? Do you take notes, label vials?

17 A I do. Actually the labeling of the vials is what
18 they stress in school. That's the big thing is to
19 verify the person and the tube.

20 Q I didn't ask you. What is your relationship to
21 Andra Jamison?

22 A He is my husband.

23 Q How long have y'all been married?

24 A Twelve years.

25 Q I apologize for not asking that earlier. I will

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1 direct you back to July 31, August 1st, 2008.

2 A Uh-huh. (Indicating affirmative response.)

3 Q At some point in time, were you made aware that
4 your husband had been arrested and transported to
5 the Lexington County Detention Center?

6 A Yes.

7 Q When did you find out? How did you find out?

8 A I was called by an officer, and it was, I think,
9 about 20 to 3 or 10 to 3 in the morning. He called
10 me to tell me what my husband was arrested for and
11 to ask me did I know was he by his self that night.

12 Q When did you first hear from Mr. Jamison after he
13 was arrested?

14 A It was about 5:00 o'clock Friday morning.

15 Q And what was your understanding as to where he was
16 located when you spoke to him?

17 A At the Lexington County Detention Center in jail.

18 Q Without talking about what he said specifically,
19 what was your next course of action after speaking
20 to him? What did you do next regarding his case?
21 What did you do next?

22 A I went to your office at 8:00 o'clock in the
23 morning.

24 Q That was on Monday?

25 A No, it was Friday morning. I went straight to

KRISTY JAMISON -- IN CAMERA -- MR. STITELY

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1 y'all's office to retain you, and then after that I
2 went -- I think it was right about 8:00 o'clock
3 because it was supposed to be a bond hearing. I
4 thought I was going to be here there. When I found
5 out he wasn't going up at that time, I went
6 directly over to the jail. I was supposed to pick
7 up a vial of blood.

8 Q Why did you think you were supposed to go pick up a
9 vial of blood?

10 A Because he asked me to. He told me that I needed
11 to go get to the jail as soon as I could and pick
12 it up.

13 Q And in your experience, what you do, is it common
14 to make multiple samples so if people need
15 different testing, that is how it would be done?

16 A Yes, especially depending on the type of test.

17 Q Are you involved at all in the actual testing of
18 blood or you just draw it and send it to someone
19 else?

20 A I draw it and send to someone else. I'm not a med
21 tech.

22 Q When you went to the jail, you said it was shortly
23 after when you thought bond court was. Were you
24 able to request the blood sample that they had in
25 their custody?

KRISTY JAMISON -- IN CAMERA -- MR. STITELY

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1 A When I asked then, they told me on Fridays they
2 only release property at 9:00 p.m. They told me to
3 come back at 9:00 p.m.

4 Q What did you do?

5 A I went back at 9:00 p.m.

6 Q At that time did you request your husband's
7 property?

8 A I did.

9 Q Did you have to sign any forms or did they have to
10 bring any forms up for you to look at regarding the
11 release of his property?

12 A Yes.

13 Q I will show you a couple of documents and ask if
14 you recognize them. I will show what is marked as
15 State's Exhibit 55. Do you remember that document,
16 and is that your signature on it?

17 A Yes.

18 Q And what was your goal when you went back that day?
19 What were you trying to collect?

20 A He wanted me to collect the vial of blood.

21 Q Were you given the vial of blood?

22 A No.

23 Q Were you told anything about the vial of blood as
24 to why you couldn't have it?

25 A The gentleman that I talked to, when I asked him

KRISTY JAMISON -- IN CAMERA -- MR. STITELY

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1 about the blood -- because I asked him about two
2 things. First I asked him about the blood and my
3 husband also was supposed to release money to me
4 because he had money on him. He said neither one
5 of those things listed is what he said.

6 I told him that my husband stressed that he
7 had a vial of blood and that I needed to pick it
8 up. So he went to -- I assume he had checked
9 because he left the desk, and he came back I know
10 20 minutes later and told me there is no blood.

11 Q That was that Friday at 9:00 p.m.?

12 A At 9:00 p.m. He was really nice. He went back
13 like two more times. He checked a total of three
14 time, and he said he checked in all the places it
15 could possibly be. Then he also double checked
16 against the things. He said there is just no blood
17 is what he told me.

18 Q Do you remember who he was, what he looks like?

19 A Yeah, I don't remember his name. He was a tall --
20 well, not older. I will not say older, in his 50s,
21 black gentleman with a bald head, really nice.

22 Q Was he wearing a uniform?

23 A Yes, he was in uniform.

24 Q Like a police officer uniform?

25 A Yes.

KRISTY JAMISON -- IN CAMERA -- MR. STITELY

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1 Q But you don't recall his name?

2 A No. There was so much going on. I know he told
3 me. I could see it on his badge. I remember him
4 because he was one of the nice people. He was
5 really nice.

6 Q At any point subsequent did you go back to the jail
7 and request to collect the blood sample?

8 A Whenever I was waiting for him Monday when he was
9 getting out of jail. He got his property. I don't
10 know if he had much left, but then we got home and
11 he realized that they hadn't released the money to
12 me.

13 So we went back down there because they
14 wouldn't release it to him without his I.D., which
15 I had his wallet. We went back down there. When
16 they were releasing him or getting a check for him,
17 he asked for it again, and he was told there was no
18 blood for him.

19 Q You actually witnessed this transaction?

20 A I was standing right there with him.

21 Q Were y'all told anything about where the blood was
22 or why you couldn't have it?

23 A No, they just said there was none.

24 Q Were you ever instructed that H.I.P.P.A. or
25 something wouldn't allow you to get the blood, only

KRISTY JAMISON -- IN CAMERA -- MR. MOBLEY

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1 he could have it?

2 A No, no. No one ever mentioned H.I.P.P.A.
3 throughout this.

4 Q Were you in any way able to obtain the sample of
5 blood that was kept at the Lexington County
6 Detention Center?

7 A Never.

8 Q To this day?

9 A Never. We were told there wasn't one.

10 MR. STITLEY: No other questions.

11 THE COURT: Any cross examination?

12 MR. MOBLEY: Briefly, Your Honor.

13 **IN CAMERA EXAMINATION**

14 BY MR. MOBLEY:

15 Q Ms. Jamison, on August the 1st, you went to the
16 detention center to get a vial of blood?

17 A Uh-huh. (Indicating affirmative response.)

18 Q That was at the direction of your husband?

19 A Uh-huh. (Indicating affirmative response.)

20 THE COURT: Can you say yes or no for our
21 court reporter.

22 THE WITNESS: I'm sorry, yes, yes.

23 BY MR. MOBLEY:

24 Q Approximately what time was that?

25 A No later than 8:30 a.m.

KRISTY JAMISON -- IN CAMERA -- MR. MOBLEY

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1 Q 8:30 a.m.?

2 A Yeah, because I went to the bond hearing. I think
3 the first one is at 8:00 o'clock in the morning.
4 And because he wasn't there, I went directly over
5 because they are right there side by side. I went
6 straight over there to see if there was blood.

7 Q Okay.

8 A And that's when they told me I had to come back at
9 9:00 o'clock at night.

10 Q So you weren't able to obtain it at that time. You
11 came back at 9:00 p.m.?

12 A 9:00 p.m.

13 Q That was still on the 1st, correct?

14 A Absolutely.

15 Q Was Mr. Jamison out at that time? Had he been
16 bailed out?

17 A No, he was still incarcerated.

18 Q Still incarcerated. That's 9:00 p.m. on the 1st.
19 Is that a Friday --

20 A Yes.

21 Q -- night?

22 A It is.

23 Q When is the next time you go?

24 A Monday when he actually bonded out. I bonded him
25 out Monday. I think I waited, I know, for two

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1 hours. I got there probably around noon.

2 Q This is on Monday?

3 A Monday, that following Monday. Then whenever he
4 got out, he -- we asked actually twice that day.
5 When he gets out, he requested it. Then because,
6 like I said, I had his wallet at home, he had to
7 go -- he needed to get his I.D. to get his money
8 released. When we went back to have the money
9 released, we asked again for blood.

10 Q So let me be sure I am following you correctly.

11 A Yes, sir.

12 Q Monday, would that be the date of August the 4th,
13 2008?

14 A Let's see. Friday was the 1st, Saturday, the 2nd,
15 Sunday 3rd, Monday 4th.

16 Q Okay. So you went there for the bond hearing a
17 little before 12, a little before 12 to bond him
18 out?

19 A I went to pick him up.

20 Q So he was released by that time?

21 A No, he was still incarcerated. The bondsman
22 actually was there. He came earlier. He was from
23 Orangeburg. The bondsman came Monday morning, did
24 the bond, and then I went at about noon. I got to
25 the jail I would say about noon.

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1 Q Okay.

2 A Because I actually left work to go there, and I
3 ended up waiting like two hours.

4 Q So when your husband was released, he asked for a
5 vial of the blood?

6 A He did.

7 Q And he was told what?

8 A There is no blood. I mean, that's verbatim. There
9 is no blood.

10 Q You subsequently went back to the jail, correct?

11 A Yeah. We went home. We don't live but ten minutes
12 from there. Went home, got his wallet, came back,
13 and was told again. So about 30 minutes later, the
14 same thing.

15 Q So around 1:00 o'clock, 1:30 or so?

16 A Yeah.

17 Q This is all occurring on the 4th of August?

18 A Monday.

19 Q Monday. So you never received the vial of blood at
20 all?

21 A Never, never.

22 MR. MOBLEY: Your Honor, we have no further
23 questions.

24 THE COURT: Redirect?

25 MR. STITLEY: I do not have anything.

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1 THE COURT: Thank you. Thank you very much,
2 Ms. Jamison. You may step down.

3 (Witness leaves the witness stand.)

4 THE COURT: You may call your next witness.

5 MR. STITLEY: Your Honor, there are no further
6 witnesses. We do have argument.

7 THE COURT: Anything in reply, Solicitor?

8 MR. MOBLEY: Your Honor, we do have one thing
9 that is very brief.

10 THE COURT: You may call your witness.

11 MR. MOBLEY: It would be Kristen Marzol.

12 THE COURT: If you would come back around,
13 please. You are still under oath.

14 KRISTEN MARZOL,
15 having being previously duly sworn, resumes the witness
16 stand and testifies as follows:

17 **IN CAMERA EXAMINATION**

18 BY MR. MOBLEY:

19 Q Ms. Marzol, briefly. Does anyone have access to
20 the refrigerator where vials of blood or evidence
21 is located, other than the nursing staff at the
22 detention center?

23 A No.

24 Q So you all are the only ones that have access to
25 it?

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1 A Yes.

2 Q Would a jailer have access to that particular
3 section for the evidence with a vial of blood
4 without the assistance of someone from your staff?

5 A No.

6 MR. MOBLEY: Thank you. Nothing further, Your
7 Honor.

8 MR. STITLEY: Nothing on cross.

9 THE COURT: Thank you very much. You may step
10 down.

11 (Witness leaves the witness stand.)

12 THE COURT: Mr. Stitley, tell me what the
13 issues are.

14 MR. STITLEY: Your Honor, the first one deals
15 with the lack of affirmative assistance to receive some
16 kind of independent testing. I think there has been
17 testimony, one says there wasn't, one says there was.
18 So we would rely on that. The second one I haven't
19 really addressed with Your Honor. You can see where we
20 are going. I will detail it right now if you like.

21 THE COURT: The first is lack of affirmative
22 assistance, which the State is not required to provide
23 if he refused the test; correct?

24 MR. STITLEY: Your Honor, I would disagree
25 because the officer testified --

1 THE COURT: Tell me the case that says he is
2 entitled to affirmative assistance if he refused the
3 test.

4 MR. STITLEY: The officer testified that he
5 was taking him for the blood test regardless.

6 THE COURT: My question is tell me the case
7 that says he is entitled to affirmative assistance if he
8 refused the breathalyzer test.

9 MR. STITLEY: Your Honor, I will pass these up
10 in a second. It's State v. Long. It's 363 S.C. 360,
11 610 S.E.2d 809. I do have copies for the Court.

12 THE COURT: All right.

13 MR. STITLEY: Your Honor, at this time I will
14 hand up all the cases we will be talking about to make
15 life easier. If I can approach.

16 (Hands to Court.)

17 MR. STITLEY: The Long case is the one on top,
18 Your Honor.

19 THE COURT: Thank you.

20 MR. STITLEY: In Long the State -- it's pretty
21 much a similar issue. It's talking about in the
22 paragraph -- it's the one tagged on top, page 3 of 4,
23 page 2 as it prints out.

24 It talks about 56-5-2946. This is the last
25 full paragraph on the page on the right-hand column. It

1 talks about submission of testing. It says:
2 Notwithstanding any other provisions of law, a person
3 must submit to tests to determine alcohol concentration
4 if he is suspected of felony D.U.I.

5 In this case, Your Honor, he was taken to the
6 hospital and did submit to a blood sample. I think
7 there has been ample testimony that he submitted to it
8 and it was taken.

9 It continues. The second paragraph provides:
10 The test may be administered at the discretion of the
11 law enforcement officer -- dot, dot, dot -- a person who
12 is tested or gives samples must be notified of his right
13 to independent tests.

14 THE COURT: That's not my question,
15 Mr. Stitley. My question is if he refused the
16 breathalyzer, he was given -- independent of what the
17 officer says. I don't care what the officer says the
18 law is. I care about what the law is.

19 If he was offered a breathalyzer and he
20 refused the breathalyzer, is there a case that says the
21 State must afford him affirmative assistance or just
22 reasonable assistance? That's all I'm trying to do is
23 what standard am I applying.

24 MR. STITLEY: I would say since this case says
25 as long as he provides a chemical sample, be it blood,

1 be it breath, be it anything. In this case he
2 definitely provides a sample. They took the sample.
3 There has been no question about that.

4 THE COURT: He refused the breathalyzer test.
5 My ruling is in refusing the breathalyzer test, he is
6 only entitled to reasonable assistance. He would have
7 had to submit to the breathalyzer test for the standard
8 of affirmative assistance to be applied.

9 MR. STITLEY: Thank you, Your Honor.

10 THE COURT: All right.

11 MR. STITLEY: The second part of the motion,
12 which I think is the one that we have heard a lot of
13 testimony about, would follow like this. Your Honor, in
14 this situation my client was taken to Lexington County
15 Hospital in accordance with the statute.

16 At that time they drew a blood sample. There
17 were two vials taken. I think it has been stipulated
18 and agreed to through the witnesses, two vials were
19 taken.

20 However we get there, one vial goes to
21 S.L.E.D. -- and there has been some slight
22 differences -- but one vial goes with Officer Stone and
23 Mr. Jamison to the Lexington County Detention Center.

24 At the detention center, there has been
25 testimony that it is not that he would have taken it

1 back into custody with him. In fact, there is a note
2 from a Cheryl Smith that says she physically took it
3 into her custody and placed it in some kind of locker.

4 Your Honor, he has a right to that sample.
5 That is how he can provide his own testing. The statute
6 does say he is allowed to have his own independent
7 testing of his sample.

8 Beyond the idea of affirmative assistance and
9 getting someone else, he has the right to test his own
10 sample, the same sample that was taken to S.L.E.D. In
11 this case he requested it. His wife requested it.

12 The jail, be it they lost it, whatever they
13 did with it, they refused to provide it for him. He was
14 denied his equal protection, his opportunity to have a
15 test done as required by the statute.

16 As I read to you earlier, the statute does
17 clearly state that failure to provide the ability to do
18 so would bar the admissibility of the actual results of
19 the blood test.

20 The lack of a policy by the jail to guarantee
21 the protection of the evidence or by the people in
22 charge of custody is insufficient to protect his due
23 process rights, Your Honor.

24 He has an absolute right to have his blood
25 tested, and they denied him that right. I think the

1 testimony has shown that they took custody of it, and
2 upon numerous requests of both him and his wife -- we
3 showed you the booking sheets that are in evidence, the
4 request for the property is in evidence.

5 Everything indicates they made every single
6 effort possible to get his sample back, and the jail
7 denied that right. Be it by choice or their failure to
8 implement proper policies, he has been denied his right
9 requires under the statute. The statute says when he is
10 denied that right, the admissibility is not allowed.
11 It's barred from admission.

12 THE COURT: What statute?

13 MR. STITLEY: That's 56-5-2950, Your Honor,
14 and I will read that paragraph again to you. I
15 apologize. It's in Subsection (e). It talks about
16 doing the testing, and then Subsection (b)(2) or (b)
17 talks about having someone -- it's 56-5-2950(b)(3). He
18 has the right to have a qualified person of his own
19 choosing conduct additional independent tests at his
20 expense.

21 THE COURT: Where is there any evidence or
22 testimony that he, prior to getting to the jail, prior
23 to asking for his blood, he never voiced any concern
24 about going to Lexington Medical Center.

25 MR. STITLEY: I don't believe that has been

1 evidenced.

2 THE COURT: It just goes to what happened to
3 vial two, we will say.

4 MR. STITELY: Correct, Your Honor. You denied
5 my first argument. My second argument would be the
6 denial of allowing him access to vial two, which the
7 statute says he needs to have, is the problem and why we
8 have to bar admissibility.

9 There has been plenty of testimony it was
10 taken. It was taken from him and held in the custody of
11 the State of South Carolina. The State of South
12 Carolina did away with it without allowing him his
13 opportunity to get a test.

14 THE COURT: And given the fact he never
15 objected to going to Lexington Medical Center, that I
16 know of, although I think he's only afforded reasonable
17 assistance.

18 Even if you look at 56-5-2950(b) -- or excuse
19 me (e) -- concerning the affirmative assistance, which
20 at a minimum includes providing transportation to the
21 nearest medical facility which performs blood tests to
22 determine a person's alcohol concentration.

23 If the medical facility obtains the blood
24 sample but refuses or fails to test the blood sample to
25 determine the person's alcohol concentration, S.L.E.D.

1 must test the blood sample and provide the result to the
2 person and to the arresting officer.

3 Failure to provide affirmative assistance upon
4 request to obtain additional tests bars the admission of
5 the breath test result in any judicial or administrative
6 proceeding.

7 At a certain level, he received affirmative
8 assistance. He never asked to go anywhere else. His
9 complaint is: I want my blood. I want vial two to have
10 tested.

11 MR. STITELY: Which I think he is afforded the
12 right, and it was pretty much denied, Your Honor. I
13 wasn't going to get into yet, but I can get into the
14 destruction of evidence.

15 That is the case of State versus Cheseboro. I
16 don't know if we are yet there. It talks about the
17 State's failure to maintain evidence properly, making it
18 inadmissible at trial.

19 It think it's a further blow that the State,
20 if they didn't maintain what he is entitled to -- and in
21 that statute, whether we agree he went to the hospital
22 on his own choice or whatnot, they took his sample and
23 gave him one for his independent testing, which he has
24 an absolute right to do. It wasn't a situation where
25 the hospital refused to test it. They refused to give

1 it to him.

2 THE COURT: He has got an absolute statutory
3 right to do it.

4 MR. STITLEY: I think he does, Your Honor.

5 THE COURT: But Cheseboro relied on Arizona
6 versus Youngblood. I am very familiar with Cheseboro.
7 It relied on Arizona versus Youngblood and that line of
8 cases, I think, as opposed to any statutory right that
9 Cheseboro may have had to the murder weapon.

10 MR. STITLEY: I agree, Your Honor. I was
11 using it as reference to what we do when sometimes
12 evidence is destroyed without access to the Defendant.

13 THE COURT: It's very different than -- not
14 only Cheseboro -- but it's different, this case, is
15 different from the drug cases, for example. Because
16 there is no statutory authority for the drug defendant
17 to have access to independent tests.

18 MR. STITLEY: Yes, sir.

19 THE COURT: Whereas here there is the
20 statutory foundation for the Defendant to have access to
21 that.

22 MR. STITLEY: That is correct, Your Honor.

23 THE COURT: That would be your position?

24 MR. STITLEY: That would be my position.

25 THE COURT: Solicitor.

1 MR. MOBLEY: Well, Your Honor, I do not
2 pretend to know as much about Cheseboro as Your Honor.
3 I understand that you were actually involved in that
4 case. I do not want to entertain the Court with such
5 frivolous arguments where it may not be appropriate in
6 this particular case itself.

7 But, Your Honor, I think the case on point in
8 regards to obtaining the second vial of blood and the
9 possible destruction thereof comes from State versus
10 Wickenhouser. That is going to be 309 S.C. 377.

11 In that particular case, Your Honor, it has a
12 holding there that basically addresses this, our set of
13 facts, on point. With this particular one, the holding
14 ended up being, the Defendant received aid in obtaining
15 an independent blood test sufficient to constitute
16 reasonable assistance under 56-5-2950(a), even though
17 the blood sample he had been given could not be located
18 after he was booked into the jail.

19 The issue of whether the assistance was
20 subsequently negated by the acts of the law enforcement
21 personnel, merely presents an issue of fact for a
22 determination by the jury, Your Honor.

23 Once again, that is 309 S.C. 377. That is
24 State v. Wickenhouser. That actually addresses our set
25 of facts here today, Your Honor. So basically what we

1 would rely upon is that the motion should be denied on
2 all grounds.

3 For the first ground that the Defendant
4 raised, you have already basically stated that, you
5 know, he is only afforded reasonable assistance. We
6 agree with that.

7 Because under State v. Degnan, if a defendant
8 refuses a breathalyzer test, he is not afforded
9 affirmative assistance. He is only afforded reasonable
10 assistance, Your Honor.

11 At the jail he was afforded the opportunity to
12 use an actual phone. There is case law that actually
13 states just by providing a person with the right to use
14 a phone, then that is enough to satisfy that standard
15 itself.

16 The second point about the second vial of
17 blood denied him the right under statutory law. That
18 has been addressed, Your Honor, by the statute itself.
19 That would be 56-5-2950, Subsection (e) -- excuse me,
20 Your Honor. I'm sorry -- Subsection (d).

21 Here it states the failure or inability of the
22 person tested to obtain additional tests does not
23 preclude the admission of evidence relating to the tests
24 or samples obtained at the direction of the law
25 enforcement officer, Your Honor. So as the defense

1 actually cited Subsection (e), it is not even applicable
2 to the set of facts that we have here today.

3 Lastly, Your Honor, as stated before,
4 Wickenhouser actually addresses the inability of the
5 Defendant to actually obtain the second vial of blood.
6 It's a fact for the jury to consider during their
7 deliberations, but that should not be premised on
8 granting a suppression of evidence here today. Thank
9 you, Your Honor.

10 THE COURT: Mr. Stitley.

11 MR. STITELY: Your Honor, I guess -- I think
12 you already ruled on the first argument about the
13 affirmative assistance. So I think you already said we
14 were denied on that. I will not touch that one.

15 Your Honor, the Wickenhouser case once again
16 is talking about affirmative assistance. I think Your
17 Honor already ruled on affirmative assistance. That's
18 no longer an issue. The issue is dealing with the
19 independent testing.

20 Specifically Subsection (d) under 56-5-2950
21 referenced by the solicitor: Failure or inability of
22 the person to obtain additional testing does not
23 preclude admissibility, it simply goes to weight.

24 This isn't a situation where his actions led
25 him to not receive independent testing. It's not that

1 he was given his sample and didn't bother before trial
2 or that he was given his sample and waited six months to
3 go get it tested, and the lab said, We are not going to
4 test the sample six months later.

5 They went three times the day he was booked,
6 as well as the day he was released, and asked for the
7 sample and were denied the opportunity. That is a
8 violation of the statute because he couldn't even
9 attempt to obtain it as required by the statute.

10 The State has the burden to protect his rights
11 according to the statute, protect the evidence and not
12 destroy it without due process. I think that's the
13 problem here, Your Honor.

14 THE COURT: Solicitor, can you tell me how the
15 statute, 56-5-2950(a) has changed from 1992 to 2008.

16 MR. MOBLEY: I'm sorry, Your Honor, someone
17 was coughing.

18 THE COURT: Can you tell me how 56-5-2950(a)
19 has changed from 1992, which was the statute that was in
20 effect in Wickenhouser, as opposed to 56-5-2950(a) in
21 2008.

22 MR. MOBLEY: Your Honor, not off the top of my
23 head, but I can get that information for you if the
24 Court will grant me the indulgence to do so.

25 THE COURT: Based on sheperdizing

1 Wickenhouser, it appears there was no negative treatment
2 of that case. The facts seem very similar.

3 Wickenhouser was booked at the jail. Actually this case
4 is a Lexington County case.

5 It appears he was arrested for D.U.I. A
6 breathalyzer was administered with a certain result.
7 Wickenhouser requested an independent blood test. He
8 was taken to Lexington Medical Center.

9 After blood samples were drawn, Wickenhouser
10 received one vial of blood, and the police officer took
11 possession of a second blood sample before transporting
12 Wickenhouser to jail.

13 Wickenhouser was booked at the jail and
14 relinquished custody of his personal belongings to jail
15 personnel. The itemized receipt for his personal
16 effects did not contain any reference to a vial of
17 blood, which is the same in this case.

18 He was released the following day and received
19 his personal items, which did not include the vial of
20 blood. Wickenhouser signed the receipt and left without
21 inquiring about the blood sample.

22 When he went back to the jail two days later
23 seeking the vial, Wickenhouser was advised by jail
24 personnel that they had no record of receiving a blood
25 sample from him and were unable to locate such a vial.

1 It was uncontroverted that he underwent a
2 independent blood alcohol test in compliance with the
3 statute and undisputed that he took custody of a blood
4 sample.

5 The Court concluded that Wickenhouser received
6 aid sufficient to constitute reasonable assistance under
7 56-5-2950(a). Whether this assistance was subsequently
8 negated by the acts of the law enforcement personnel
9 presented an issue of fact for the determination of the
10 jury.

11 Do you care to respond to that, Mr. Stitley?

12 MR. STITLEY: Briefly, Your Honor, if Your
13 Honor will hear it. Your Honor, I think there are
14 couple of differences we just heard when you were going
15 through that.

16 In that one there was a breath sample that
17 they were able to go on, not just the blood sample. I
18 think a difference back then is they talk about the
19 affirmative assistance. Your Honor already ruled that
20 affirmative assistance isn't at issue.

21 THE COURT: They talk about reasonable
22 assistance in here.

23 MR. STITLEY: I apologize, reasonable
24 assistance. What they don't seem to reference is the
25 right under the new statute that you have to get

1 independent testing on the blood samples taken in a
2 felony D.U.I. case. I don't think Wickenhouser
3 mentioned that.

4 The last thing, Your Honor, is it says there
5 was no record. Here there is a record that the jail has
6 his blood. The nurse wrote it into files they had his
7 blood. They did away with it without providing it to
8 him.

9 I think that is a lot different in the
10 Wickenhouser case. Your Honor, we weren't there, of
11 course, so we don't know. We don't know if it was ever
12 even taken into custody at the jail or it was left with
13 Wickenhouser's person or whatever.

14 In this the jail clearly took custody. There
15 is a note in the file that they took the blood, and I
16 think they have a responsibility to maintain it where my
17 client makes a reasonable effort to get it so he can
18 comply with his part of the statute and get independent
19 testing.

20 THE COURT: I am going to deny the motion to
21 suppress both the breathalyzer. Of course, that tape
22 has already been stipulated to as far as the refusal is
23 concerned.

24 There is one part of the statute under
25 56-5-2946: A person's request or failure to request

1 additional blood or urine tests is not admissible
2 against the person in the criminal trial. How does that
3 come into play, if at all?

4 MR. STITLEY: I don't think that will come
5 into issue at this trial. Honestly from everything I
6 have heard so far, I don't know that will become an
7 issue.

8 MR. MOBLEY: Your Honor, I don't see it will
9 be an issue either. I don't foresee it being, unless
10 they raise it as an issue. We will be showing the
11 videotape. Unless they can anticipate the refusal as an
12 issue, we don't have one. The State does not.

13 THE COURT: You don't have one either with it,
14 Mr. Stitley, Mr. Williams?

15 MR. STITLEY: I think the video is coming in.
16 They will get to see what happened, and we will work
17 with it from there.

18 THE COURT: I understand you don't want
19 anything in beyond the Datamaster.

20 MR. STITLEY: Your Honor, they would be our --
21 I think we would agree that the video can come in. I
22 think there is nothing wrong with it statutorily. Our
23 problem mainly stems with the blood. That was our major
24 issue, not what happened in the Datamaster room.

25 THE COURT: Based on my ruling just now

1 denying your motion, you want all of it to come in then
2 for the jury to determine, as Wickenhouser said, whether
3 or not there was a violation of reasonable assistance.

4 MR. STITLEY: Correct. We want to be able to
5 make the argument to the jury.

6 THE COURT: That's correct. That's correct.
7 I wasn't trying to pin you down on that. That preserves
8 your motion.

9 MR. STITLEY: Yes, sir. Thank you.

10 THE COURT: Any other motions?

11 MR. MOBLEY: Not from the State, Your Honor.

12 MR. WILLIAMS: Your Honor, did the Court ever
13 rule on the sequestration motion?

14 THE COURT: I thought y'all agreed on
15 sequestration.

16 MR. WILLIAMS: We did. I just wanted to kind
17 of say it again.

18 THE COURT: My ruling on it is y'all agreed on
19 it, so it's an order of the Court. It's up to y'all to
20 police it because I don't know the witnesses.

21 MR. MOBLEY: Yes, Your Honor.

22 MR. WILLIAMS: Thank you.

23 THE COURT: We will take about ten minutes.
24 Plan on working a little late tonight.

25 (Whereupon there is a recess.)

1 THE COURT: Anything from the State before we
2 bring in our jury?

3 MR. BURN: Your Honor, we are still waiting
4 for Assistant Solicitor Mobley.

5 THE COURT: Anything from the defense?

6 MR. WILLIAMS: Nothing from the defense, Your
7 Honor.

8 (Pause.)

9 MR. MOBLEY: I apologize, Your Honor.

10 THE COURT: Solicitor, anything from the State
11 before we bring in our jury?

12 MR. MOBLEY: Nothing, Your Honor.

13 THE COURT: If you would bring us our jury,
14 please.

15 (The jury returns to the courtroom at
16 4:44 p.m.)

17 THE COURT: Welcome back. At 3:30, right?
18 Madame Clerk, if would you swear our jury.

19 (The jury is duly sworn.)

20 THE COURT: Was there any member of the jury
21 panel unable to take the oath? If so, please stand.

22 (There is no response.)

23 THE COURT: Ladies and gentlemen, I apologize
24 for this delay in getting you back out here. A wise
25 judge told me one time as far as when I was sitting out

1 there where these gentlemen are, as opposed to up here,
2 that good trial lawyers can't estimate time. I hope
3 that is true with good trial judges also.

4 It is very difficult to estimate how long a
5 particular witness may take. It is not any fault of the
6 parties -- if you would have those individuals come in,
7 Sheriff. You can let them come on in, please.

8 It's no fault of the parties. They have been
9 out here diligently working since 1:00 o'clock. I think
10 they probably have taken two ten-minute breaks during
11 that period of time.

12 Mr. Foreman, ladies and gentlemen of the jury
13 panel, the case we are about to try is the case of the
14 State versus Andra Byron Jamison, the Defendant. What I
15 will now say is intended to serve as an introduction to
16 the trial of this case.

17 These remarks are not a charge on the law of
18 the case. I will instruct you on the law that applies
19 at the end of the trial before you retire to consider
20 your verdict. This is merely an explanation of the
21 procedure that we will follow in the trial so that you
22 may better understand what may be happening.

23 The Defendant is charged by an indictment
24 filed in this court with the crime of felony D.U.I.
25 death, the elements of which will be explained to you

1 later.

2 This indictment, this document, is simply the
3 charge by which the case is brought into court, and it
4 is not in any sense evidence of any of the allegations
5 it contains.

6 The Defendant has pled not guilty to this
7 indictment. The State therefore has the burden of
8 proving each and every element of the indictment beyond
9 a reasonable doubt. It will be your duty, ladies and
10 gentlemen, to decide whether the State has met that
11 burden.

12 Your purpose as jurors is to find and
13 determine the facts. You are the sole judge of the
14 facts. If at any time I make any comment regarding the
15 facts, you must disregard it.

16 You are to determine the facts from the
17 testimony you hear and the other evidence introduced
18 into court. It is up to you to determine the inferences
19 which you feel may properly be drawn from the evidence.

20 It is especially important that you perform
21 your duty of determining the facts diligently and
22 conscientiously because ordinarily there is no way to
23 correct an erroneous determination of the facts by a
24 jury.

25 On the other hand and with equal emphasis, the

1 law that makes you the judge of the facts makes me the
2 judge of the law. The law as given by this Court is the
3 only law you may consider.

4 You must accept and follow it even though you
5 may disagree with it. I cannot tell you what the facts
6 are, and you cannot disagree with me about what the law
7 is or should be.

8 Your job is to take the law as I give it to
9 you and apply it to the facts as you find them from the
10 testimony of the witnesses and any other evidence that
11 is introduced. After doing that you will render your
12 verdict, a true and just verdict under the solemn oath
13 that you just taken as jurors.

14 Please remember until I advise you to begin
15 your deliberations, you must not discuss this case with
16 anyone. That includes your fellow jurors, friends
17 family members or anyone involved in this case. After
18 the case is submitted to you, you must discuss it only
19 in the jury room with your fellow jurors.

20 As I have told you previously, the attorneys
21 and parties in the case have been advised that they are
22 not to talk to you at all. So if you do see anyone
23 involved in the case and they do not even say hello,
24 they are not being unfriendly. They are merely
25 following my instructions.

1 During the trial do not read, listen to or
2 watch any news reports about the case. This includes
3 anything that you may see in the newspapers on or the
4 internet, radio or television. You must not consider
5 anything that you may have read or heard about the case
6 outside of the courtroom whether before or during the
7 trial.

8 It is important that you keep an open mind and
9 not decide any issue in the case until all of the
10 evidence has been presented, the parties have made their
11 closing arguments, and I have instructed you on the law.

12 It is your solemn responsibility to determine
13 the guilt or innocence of the Defendant, and your
14 verdict must be based solely on the evidence as it is
15 presented to you in this courtroom and on the law as I
16 instruct you during and at the close of the trial.

17 In just a moment, the solicitor will make what
18 is called an opening statement in which the solicitor
19 will explain to you the issues in the case or at least
20 what the solicitor thinks the issues are in the case.
21 The attorney for the Defendant, Mr. Williams or
22 Mr. Stitley, may also make an opening statement,
23 although they are not required to do so.

24 What the attorneys tell you during their
25 openings is not evidence in the case. It is only their

1 contention as to what the issues are. The evidence will
2 be presented to you by way of testimony of sworn
3 witnesses from this witness stand and/or by any exhibits
4 that may be introduced into evidence.

5 From time to time during the trial, you may
6 hear one of the attorneys say something like, Your
7 Honor, I believe we have a question of law or a matter
8 of law to discuss with you or, Your Honor, may we
9 approach the bench or sometime I myself might find it
10 necessary to excuse you from the courtroom for a short
11 while so the attorneys and I can discuss a matter of
12 law.

13 The reason for this is because you are the
14 judges of the facts in this case. And sometimes when I
15 am discussing matters of law with the attorneys, it may
16 be necessary for me to make some comment as to the facts
17 in connection with ruling whether or not a particular
18 law applies.

19 I am not supposed to tell you what I think the
20 facts are. So I will excuse you from the courtroom
21 while these discussions take place so that in no way
22 will you be influenced by anything I might say or do in
23 connection with the facts.

24 In determining what the true facts are, you
25 must decide whether or not the testimony of the

1 witnesses is believable. It will be my responsibility
2 to rule as a matter of law as to whether certain
3 testimony is admissible at all or not, but once the
4 testimony is admitted, whether or not you believe it is
5 solely for you to determine.

6 In deciding whether to believe a witness in
7 using your good judgment and common sense, you have the
8 right to consider the interest of any witness, the bias
9 of any witness, the prejudice of any witness, the
10 opportunity for the witness to have seen the matters and
11 things about which the witness may testify, and the way
12 the witness acts on the witness stand.

13 You have a right to consider anything that is
14 in the record that will help you evaluate the testimony
15 of the witnesses. That means it will be your duty to
16 pay close attention to these witnesses, to observe the
17 witnesses, to listen to the witnesses, and to pay close
18 attention to the attorneys and to the Court.

19 Don't let your thoughts wander but give strict
20 attention to the testimony in this case so that at the
21 end of all the testimony, after the arguments of the
22 attorneys and the charge on the law by the Court, you
23 will then be in a position to determine what the true
24 facts are and to apply the law to those facts and render
25 a true and just verdict.

1 It will be your added duty, Mr. Foreman, to
2 preside in the jury room and to be the jury's
3 spokesperson here in court. It will also be your duty
4 to write the verdict, but I will give you further
5 instructions about that at the conclusion of the case.

6 A couple of housekeeping issues, ladies and
7 gentlemen. As you can tell, there is a speaker system
8 in the courtroom. However, if a witness is testifying
9 and you cannot hear the witness, particularly those of
10 you further away from the witness stand, please raise
11 your hand, cup your ear, let me know, let one of the
12 bailiffs know somehow, and we will have the witness
13 speak up. If you can't hear the testimony, you won't be
14 able to determine what the true facts are.

15 Also from time to time during the trial, there
16 may be photographs or documents introduced into
17 evidence. They may be handed to our foreperson and
18 passed among the jurors while you are out here in the
19 courtroom in your jury box.

20 You may look at those items all you want to
21 look at them out here in the courtroom. Keep in mind
22 that will not be the last opportunity you get to see
23 those items.

24 If they are offered into evidence they are
25 accepted into evidence you will also have those items

1 with you in your jury room at the time of your
2 deliberations.

3 Again, take all the time you want to look at
4 any item while you are out here in the courtroom, but
5 just keep in mind that won't be the only or last
6 opportunity you will get to view those items.

7 Lastly or next, I should say, I tell jurors
8 week to week, whenever I want to take break, we take a
9 break. It's that simple. Well, it's not some type of
10 judicial marathon.

11 If you sit out here too long, if you need a
12 break, any of your number, please raise your hand.
13 Y'all will take your break, and we will take our break.
14 The parties will have adequate time to present their
15 cases. Again, it's not any type of marathon. If anyone
16 needs a break, if you sit out here too long, you need to
17 have a refreshment break, please let me know, and we
18 will do so.

19 So really your duty is to relax and listen.
20 Focus on the evidence. Focus on the testimony. Pay
21 strict attention to it so that at the conclusion of the
22 testimony, after you have heard everything, heard the
23 charge on the law, you will be able to determine what
24 the true facts are and render that true and just
25 verdict.

1 I plan on running until about 6:30 tonight.
2 If anyone has any commitments otherwise, raise your hand
3 and let me know. I will certainly try to respond to
4 those.

5 Seeing none, any objections from the State to
6 anything I have told the jury, Solicitor?

7 MR. MOBLEY: Nothing, Your Honor.

8 THE COURT: Mr. Williams?

9 MR. WILLIAMS: Nothing, Your Honor.

10 THE COURT: Thank you. Solicitor, you may
11 address the jury.

12 MR. MOBLEY: Thank you, Your Honor. May it
13 please the Court.

14 THE COURT: Yes, sir.

15 **OPENING STATEMENT**

16 MR. MOBLEY: Counsel. Ladies and gentlemen of
17 the jury, all last night and today I have been wracking
18 my brain trying to figure out a theme to this particular
19 case, some type of something that will weave this case
20 and make it a theory so we can look at and say, it's all
21 interconnected, and I could not do so.

22 What I did while I was analyzing the facts of
23 this case, I truly thought: It is what it is. That's
24 one of those new clichés that this younger crowd and
25 generation, they apply to things that seem blatant on

1 its face. They tend to utilize that a lot, it is what
2 it is.

3 That's how I am going to approach presenting
4 this case to you today and the rest of this week,
5 however long it takes. I will provide you with the
6 facts, the circumstances behind the actual facts that we
7 currently have at this time, and let you all be the
8 judge and jury on it. That's what you are.

9 Now, this incident occurred or began on
10 August 31 (sic), 2008. On that date at that late night,
11 right before 12:00 o'clock, in the 100 block of Knox
12 Abbott Drive in the Cayce area of Lexington County,
13 that's when the victim, Mr. Jesse Gamble, only 19 years
14 old at the time, was riding his bike home from work.

15 He was a young man trying to make a living for
16 himself, had to ride a bike home from work that day,
17 that night right before 12. He was driving his bike,
18 and he was where he needed to be when riding his bike,
19 in the bicycle lane, when all of a sudden a van comes up
20 and hits him from the back.

21 He did not know what hit him at that time. It
22 came from the back. He could not have known it. It was
23 senseless and it was needless, but it all occurred
24 because that Defendant was careless in his operation of
25 his vehicle, not because of the fact that it was dark or

1 anything of that nature, but he was careless because of
2 the fact that he got behind the wheel after consuming
3 alcohol to the point that his abilities to drive were
4 materially and appreciably impaired.

5 He did not know what he was doing at the time.
6 You are going to see through testimony, looking at the
7 actual video, he has a number of questions about that
8 night. He has a number of questions about what
9 happened, what transpired. He seems to get a little
10 amnesia at times.

11 We will have the answers for those. We will
12 put up a number of witnesses, and I beg you to be very
13 diligent in listening and meticulous in listening to the
14 evidence as we put it up.

15 We will put up pictures and photos of the
16 actual scene itself. We will put up the doctor who
17 actually examined the victim. We will put up an
18 accident reconstructionist that will basically do a
19 reconstruction of the evidence that was found at the
20 scene.

21 We are going to put up the Cayce Police
22 Department who actually were the first to respond to the
23 scene. So it's rare that you actually get the
24 opportunity to see evidence that is documented the way
25 it is.

1 You will have a rolling video of it, of the
2 scene from roadside, as well as the B.A. room, pictures
3 that were taken. So you are going to have the full
4 plethora of evidence to look and view to decide whether
5 this guy is guilty or not.

6 We submit to you, ladies and gentlemen, that
7 this guy, Mr. Andra Jamison, he is guilty of felony
8 D.U.I. because, one, he was driving in Lexington County.
9 He was driving under the influence of alcohol.

10 He hit Mr. Jesse Gamble while he was riding
11 his bike and in his rightful lane, a bicycle lane right
12 across the Blossom Street Bridge. The injuries that
13 Mr. Jesse Gamble received at that time, that was the
14 proximate cause of his death.

15 It's going to be a little long trial, ladies
16 and gentlemen, but the evidence is going to be clear as
17 day. I just ask that you look at all of it and just
18 view it and come back with a verdict of guilty against
19 Mr. Andra Jamison. Thank you.

20 THE COURT: Thank you, Solicitor.
21 Mr. Williams.

22 MR. WILLIAMS: May it please the Court.

23 THE COURT: Yes, sir.

24 **OPENING STATEMENT**

25 MR. WILLIAMS: Solicitor. Mr. Foreman, ladies

1 and gentlemen of the jury, I want to apologize for y'all
2 sitting back there so long. The judge has already
3 addressed that. Unfortunately when lawyers sit down and
4 argue about stuff, it does take too long.

5 But what we have been able to do is shorten
6 the amount of time you will actually spend because we
7 were able to have certain exhibits that are going to be
8 introduced in this case that both sides would agree on
9 or things that you can look at.

10 Now, to a certain extent, the solicitor, I
11 guess, is indicating to you that what you see is what
12 you get. It is what it is. Well, you know, this is
13 kind of an unusual day to begin with. It's a day, a
14 holiday, for some people. It's not a holiday for me.
15 It's not a holiday for you.

16 But it's supposedly Columbus Day, and we are
17 beginning a voyage just like Christopher Columbus
18 supposedly began a voyage. What we are on is we are on
19 a voyage for the truth. We are looking for the truth in
20 this case and looking for the truth in regards to Andra
21 Jamison.

22 But you remember the story about Christopher
23 Columbus, I know, and what Christopher Columbus was
24 looking for is he was looking for India. Instead of
25 hitting India, he ran into Hispania or Cuba.

1 So when you go on this search, what it is is
2 not always what it is. You have to know what it is.
3 That's why we have jurors. We have jurors to analyze
4 the evidence, to pay close attention to the evidence,
5 and determine what it is.

6 Now, there will be a number of items
7 introduced today, and I want you to keep this in the
8 back of your head. It doesn't matter how much evidence
9 is presented in a trial against the Defendant. It
10 matters what the evidence says.

11 You don't decide cases upon the number of
12 witnesses that are called. You have to look at the
13 evidence and see what it is, and look at the witnesses
14 and see what you believe to be the truth in their
15 testimony.

16 To a certain extent, it's going to be a little
17 hard for you because you probably are not used to being
18 professional jurors. You may be professionals in
19 whatever your job is, but you are not professional
20 jurors.

21 It doesn't require a lot of expertise to be a
22 juror because His Honor has already talked to you about
23 that. You just have to use your common sense. So when
24 you look at these items, determine what you believe.

25 Does it point in a direction? And at the end

1 of this case are you totally convinced that my client
2 is, beyond a reasonable doubt -- put it that way -- that
3 my client is guilty. Because if it doesn't indicate
4 that to you, then you are to find my client not guilty.

5 His Honor will instruct you later on there is
6 no burden of proof on the Defendant. In addition, which
7 is probably going to be the hardest part for you because
8 of what we are dealing with, we are dwelling with the
9 death of a human being.

10 There is a normal reason why human beings are
11 sympathetic for the death of a human being. You have to
12 separate that emotion and be analytical. You have to
13 look at the facts and make sure that there are not two
14 items that go wrong here.

15 You have to be analytical and not let that
16 cover your mind so that you feel like: Well, somebody,
17 has got to suffer. What you will determine or what I
18 hope that you will determine is that indeed there was a
19 wreck or a wreck or collision or some sort of incident
20 which occurred on that day, but that incident was not
21 caused by my client.

22 It was an accident. There was an accident
23 because this bicycle just pulled in front of my client
24 as he was going down the road. Now, you don't know what
25 to think yet because you haven't heard anything. So I

1 would ask that you sit back, listen to the witnesses,
2 pay very close attention to the videos which are going
3 to be introduced when the State starts trying this case
4 because the videos are not capable of change.

5 When we try to remember things and try to
6 remember what happened a year ago or two years ago, we
7 might not recall it exactly right. But you will be able
8 to see my client on that particular night, and you will
9 able to look at the evidence and see where the evidence
10 is.

11 So I would ask that you pay close attention to
12 that physical evidence. If you do that, then I believe
13 you will return a verdict of not guilty, but not guilty
14 by a long shot.

15 Most times most people come up here and say
16 not guilty. It's not guilty by a long shot. Because
17 there will be many issues in your mind. I thank you.
18 If I stand up to object periodically, I hope you don't
19 hold it against me -- I mean, hold it against my client
20 that is.

21 Sometime as lawyers, we object to things.
22 It's because we have a different viewpoint of whether or
23 not evidence should be presented or not. The judge will
24 instruct us as to whether it comes in or doesn't come
25 in. Thank you so very much.

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1 THE COURT: Thank you, Mr. Williams.

2 Solicitor, Mr. Williams, is there compliance
3 with Rule 615, my Rule 615 order? Is there compliance?
4 Thank you. Thank you very much. Is that correct?

5 MR. MOBLEY: That's correct, Your Honor.

6 THE COURT: Mr. Williams?

7 MR. WILLIAMS: Yes, Your Honor.

8 THE COURT: Thank you. Solicitor, you may
9 call your first witness.

10 MR. MOBLEY: Thank you, Your Honor. May it
11 please the Court. The State calls Officer Michael
12 Stone.

13 MICHAEL RYAN STONE, being
14 first duly sworn, testifies as follows:

15 CLERK: Once you are seated, state your full
16 name on the record, please.

17 THE WITNESS: My name is Michael Ryan Stone.

18 **DIRECT EXAMINATION**

19 BY MR. MOBLEY:

20 Q Officer Stone, where are you currently employed?

21 A Cayce Police Department.

22 Q And how long have you been employed there?

23 A About a year and a couple of months.

24 Q Before working at the Cayce Police Department,
25 where were you employed?

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1 A Lexington Medical Center.

2 Q How long were you employed there?

3 A About five years.

4 Q In what position were you employed there?

5 A Public safety officer.

6 Q Now, within that position of a public safety
7 officer, what were some of your duties?

8 A To oversee the observation of mental health
9 patients and deal with complaints from other
10 patients that came in from our staff as far as that
11 goes.

12 Q Did that deal with law enforcement on that
13 particular property?

14 A Yes, it did.

15 Q Now, before you obtained that position, did you
16 have to go for any type of certification or
17 anything of that nature?

18 A Not until they became a public safety department.
19 Once they became a public safety department, the
20 hospital sent me to the police academy or the
21 Criminal Justice Academy.

22 Q And what was the purpose of going to the Criminal
23 Justice Academy?

24 A The director at the time wanted to have certified
25 law enforcement officers at that facility just in

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1 case there was some type of response that needed
2 law enforcement in the immediate capacity.

3 Q As a certified law enforcement officer, are you
4 able to arrest individuals that break the statutory
5 laws of South Carolina?

6 A Yes.

7 Q Now, that was at the hospital; correct?

8 A Correct.

9 Q Are you still currently certified at this point?

10 A Yes, I am.

11 Q And you state that you began working at the Cayce
12 Police Department how long ago?

13 A It's been about a year and a couple of months ago
14 since I've worked there. I want to say it was back
15 in May, June or July.

16 Q What exactly is your position there? What position
17 do you have there?

18 A Public safety officer, police officer.

19 Q What are some of your duties, general duties, that
20 you have there?

21 A We deal with routine calls, such as domestics,
22 disturbances. We also do traffic, as far as any
23 violations on vehicles, and that sort of thing.

24 Q Now, let me take you -- well, excuse me. When you
25 were at the Criminal Justice Academy, as well as

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1 the Cayce Police Department, did you have the
2 opportunity to have any D.U.I. enforcement
3 training?

4 A Yes, through the South Carolina Criminal Justice
5 Academy. In their curriculum they do go over
6 D.U.I. detection, as well as we do yearly updates
7 on legals.

8 Q Okay. So you are familiar with the D.U.I. laws as
9 they are at this time?

10 A Yes, I am.

11 Q Since you have been employed with the Cayce Police
12 Department?

13 A Yes.

14 Q Let me take you back to the date of July 31, 2008.
15 Were you working that day?

16 A Yes, I was.

17 Q And what exactly were you doing that day when you
18 stated that you were working?

19 A I was on patrol and on Knox Abbott when I was
20 driving by and came up to the 100 block of Knox
21 Abbott, which is approaching the Blossom Street
22 Bridge.

23 Q Excuse me for me a moment, Officer Stone. Were you
24 coming into Columbia or going away from Columbia?

25 A I was approaching Columbia. I was going towards

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1 Columbia on Knox Abbott Drive, approaching the
2 Blossom Street Bridge. As I was approaching the
3 Blossom Street Bridge, I noticed several vehicles
4 had their brake lights on and at a dead stop, and
5 there was traffic starting to build up.

6 I assumed it was a collision of some sort. I
7 activated my blue lights to get around traffic, and
8 as I cleared -- as the view started to clear, I
9 observed a white male laying --

10 Q Before we get there, Officer Stone, where this
11 commotion was going on, was that Lexington County?

12 A Yes, it was in Cayce, Lexington County.

13 Q So it was in Cayce, Lexington County?

14 A Yes, it was.

15 Q Approximately what time was it when you actually
16 came upon the commotion in the road?

17 A It was around 11:25, 11:26 when I came up on scene.
18 I maneuvered around the cars and at the view of the
19 collision, I observed a white male laying in the
20 number one lane, which would be, I guess you would
21 say, the fast lane if you want to call it that.

22 I observed a lot of blood coming from the
23 subject. At the time I couldn't see where it was
24 coming from because I wasn't out of my vehicle yet,
25 but I could see blood surrounding his head going

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1 down towards his body or shoulder area.

2 I got out of my vehicle and approached. There
3 was several people standing around him. I kind of
4 cleared the crowd away. I got on my radio and
5 asked for other units to respond, as well as the
6 first responders, fire department and E.M.S.

7 I let them know. I let them know the
8 situation, as far as the victim that was laying on
9 the ground. After that the other officer, Officer
10 Adam Smith, he came to assist me with traffic and
11 with getting everybody around.

12 Once we got the traffic around, my supervisor,
13 along with a detective showed up. Several
14 witnesses pointed out that the Defendant sitting
15 here today was the individual that was driving the
16 vehicle which struck the bicyclist, Mr. Gamble.

17 Once they pointed him out, I walked over. He
18 was standing on the sidewalk at the Blossom Street
19 Bridge. I walked over and asked him if he knew
20 what happened.

21 He said that he didn't know what happened. He
22 said he didn't mean to hurt anybody. I then
23 observed his demeanor. He was very --

24 Q Before we get there, Officer Stone, did you have a
25 opportunity to see a bicycle anywhere in this

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1 vicinity?

2 A Yes, I did. The bicycle was -- I can't remember
3 offhand what lane it was in, but it was in one of
4 the two lanes, one or two lane. But I know it was
5 there.

6 Q Was it at the beginning of bridge as you are
7 leaving from Cayce going towards Columbia?

8 A Yes, it was.

9 Q Did you have the opportunity to actually view the
10 Defendant's van at that time?

11 A Not right off, not at the time that I pulled up
12 because the Defendant's van was about to the middle
13 of the bridge. At first I didn't know where his
14 van was because I didn't see a car around until my
15 supervisor got there and noticed that his van was
16 at the middle. That's when he told me.

17 Q So you began to investigate. You got some
18 statements from the scene, and you come into
19 contact with the Defendant?

20 A That's correct.

21 Q Tell me what happened.

22 A After I came in contact with the Defendant and
23 started talking to him, I noticed that he was very
24 unsteady on his feet. He also had slurred speech,
25 and I could also smell an alcoholic beverage about

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1 his breath and person. At that time I then placed
2 him in handcuffs under investigative detention. He
3 was not under arrest at that time. He was under
4 investigative detention.

5 Q And did you tell him that?

6 A Yes, I did. I let him know he was not under
7 arrest, that he was placed in investigative
8 detention. At that time my sergeant who was on
9 scene there read him his Miranda rights, his
10 Miranda warnings, and --

11 Q Before we get to that point, I want to take you
12 back to you made observations of the Defendant who
13 you stated appeared he seemed impaired?

14 A Correct.

15 Q Tell us how you came to that conclusion. Let us
16 know exactly how you came to that conclusion. What
17 were your specific observations at that time?

18 A Of him being impaired?

19 Q Yes.

20 A Well, I could smell a strong odor of an alcoholic
21 beverage about his breath and person. I could tell
22 the way his demeanor was. He was very unsteady on
23 his feet, as well as he had a slurred speech.
24 Those were three of my observations from the
25 Defendant that I gathered.

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1 Q So now you have a second officer there with you at
2 that point, correct?

3 A Right, my supervisor.

4 Q Who is your supervisor?

5 A Robert Marzol.

6 Q And what exactly does Sergeant Marzol begin to do
7 at this time?

8 A At that time he had read his -- he had read the
9 Miranda warnings to the Defendant and asked the
10 Defendant if he was willing to take any field
11 sobriety tests.

12 The Defendant stated he didn't know what was
13 going on, and at that time my vehicle, my patrol
14 vehicle that I was driving, did not have an in-car
15 video, so we had to position another vehicle that
16 was equipped with the in-car video.

17 Q You state that your car was not equipped with a
18 video this entire time?

19 A No, it was not. It was a spare car.

20 Q It was a spare care. Are you aware of any time
21 that it was actually equipped with a video?

22 A Not since I had been working there.

23 Q Now, another officer came on the scene so you could
24 use the in-dash video camera?

25 A Officer Smith that was already on scene, his

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1 vehicle at the time was equipped with an in-car
2 video.

3 Q Now, Officer Stone, due to the fact your car was
4 not equipped with an in-dash video, did you fill
5 out any paperwork attesting to that information?

6 A Yes, I did. I filled out an affidavit that says
7 that my car was not equipped with an in-car video
8 at the time of the incident.

9 Q Now, is that a requirement of individuals that are
10 in law enforcement that they actually do an
11 affidavit?

12 A Yes, if that videotape is being submitted.

13 MR. MOBLEY: May I approach the witness, Your
14 Honor?

15 THE COURT: Certainly, yes, sir.

16 MR. MOBLEY: Thank you, Your Honor.

17 BY MR. MOBLEY:

18 Q I want to hand you a document. It's State's
19 Exhibit Number 57. Do you mind telling us what
20 that document is?

21 A Of course. It's an affidavit for failure to
22 produce a videotape.

23 Q What is that used for?

24 A It's used for any officer that is -- that their
25 vehicle is not equipped with a video recording

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1 system whenever we don't have videotape to provide
2 from our in-car for evidence purposes.

3 Q Is that the form that you utilized that night?

4 A Yes, it is.

5 Q How do you know?

6 A Because my signature is on the back and the date of
7 August 4th, 2008.

8 Q That signature is your signature, correct?

9 A Yes, it is.

10 Q There is a box that is checked on one side of that
11 form, correct?

12 A That's correct.

13 Q What does that box state?

14 A It says: At the time of the Defendant's arrest,
15 the vehicle I was operating had not yet been
16 equipped with a videotaping device. Therefore
17 pursuant to Section 18 of Senate bill 174 of 1998,
18 videotaping requirement regarding vehicles is not
19 applicable.

20 MR. MOBLEY: Your Honor, the State moves to
21 have that document, State's Exhibit Number 57, moved
22 into evidence.

23 MR. WILLIAMS: It was my understanding, Your
24 Honor, that it was already in evidence. We have no
25 objection to that.

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1 THE COURT: Number 57 is in evidence without
2 objection.

3 MR. MOBLEY: Thank you, Your Honor.

4 (State's Exhibit Number 57 is received into
5 evidence.)

6 MR. MOBLEY: Thank you, Your Honor.

7 BY MR. MOBLEY:

8 Q So you have now filled out the affidavit, but we
9 are still at the scene. You all begin to record
10 using Officer Smith's in-dash camera correct?

11 A Correct.

12 Q Tell me what happens while you are there. Who is
13 actually present during the time?

14 A Sergeant Marzol and myself are present with the
15 Defendant at the time. Like I said, the vehicle
16 was positioned in front of the Defendant to be able
17 to video record any field sobriety testing he might
18 have been submitted to.

19 I had taken the handcuffs off of him at this
20 time just in case he was going to perform the field
21 sobriety tests. Once Sergeant Marzol read his
22 Miranda rights again to him and asked him if he was
23 willing to take any field sobriety tests, the
24 Defendant refused on the roadside for the field
25 sobriety tests.

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1 At that time once he was refused, he was then
2 placed under arrest for felony D.U.I. After he was
3 placed under arrest, I put him in the back of my
4 patrol car, and I took him to the Cayce Police
5 Department.

6 Q Why did you place him in your patrol car and take
7 him to the Cayce Police Department?

8 A Because that was the car I was driving that night.

9 Q And you were going to Cayce Police Department for
10 what reason?

11 A To administer or to allow the Defendant an
12 opportunity to take a breathalyzer test.

13 Q Is that a requirement you have to do?

14 A It's a requirement, yes, it is by S.L.E.D.

15 Q Once you arrived -- well, in between the time of
16 going from the incident location to the Cayce
17 Police Department, did you and the Defendant have
18 any conversations?

19 A I didn't say anything to him. The Defendant made
20 several comments that he didn't know what was going
21 on. He asked why he was under arrest, and he
22 didn't mean to hurt anybody. Those were several
23 statements that he made in the back of my car on
24 the way to the police department.

25 Q At any time during this ride, did you ask him any

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1 questions specifically about that?

2 A No, I did not.

3 Q Did it appear that statement he was making at the
4 time was free and voluntary?

5 A Yes, it did.

6 Q You never responded to Mr. Jamison?

7 A No, I did not.

8 Q You arrived at the police station, the Cayce Police
9 Department?

10 A Correct.

11 Q Then what happens next?

12 A After we arrived at the Cayce Police Department, we
13 took Mr. Jamison into the breathalyzer room where
14 Sergeant Marzol conducted -- started conducting the
15 test.

16 It was about -- it was around about 12:30 when
17 we got in the breathalyzer room, from the time that
18 we left to the breathalyzer room. Sergeant Marzol
19 was conducting the test at that time. I was not
20 certified to conduct or to operate the breathalyzer
21 machine.

22 Sergeant Marzol then began to read his Miranda
23 rights to him again. During that time Mr. Jamison
24 continued to make statements he didn't know what
25 was going on.

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1 After his Miranda rights were read to him
2 again, Sergeant Marzol started to type in the
3 information into the machine. Once the information
4 was typed in the machine, Sergeant Marzol went over
5 his implied consent form which is also required by
6 S.L.E.D.

7 After going over his implied consent form, he
8 asked the Defendant, Mr. Jamison, to sign if he was
9 willing to sign saying that he received a copy of
10 that form. The Defendant said that he didn't know
11 what was going on, and he wanted to talk to an
12 attorney.

13 Sergeant Marzol at that time had to write down
14 a refusal for receiving a copy of the implied
15 consent. After the implied consent form was gone
16 over with, Sergeant Marzol made sure there was no
17 foreign objects in the Defendant's mouth.

18 The reason for that is to make sure that
19 nothing is going to be able to tamper with the
20 machine if you have anything in your mouth. Once
21 that was done, we had a 20-minute observation
22 period where we sat there and watched the Defendant
23 for 20 minutes.

24 Q Officer Stone, is that actually required, that
25 20-minute observation period is observed?

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1 A Yes, it is. It's required by S.L.E.D.

2 Q So you all were observing that at that particular
3 time?

4 A Right.

5 Q Now, Officer Stone, the information that you were
6 just testifying to, were you present during the
7 entire time with the advisement of implied consent
8 rights, as well as the information that was being
9 provided to the Defendant?

10 A Yes, I was.

11 Q You were. So you were able to hear those?

12 A I was. I was in the room.

13 Q You can proceed.

14 A After the 20-minute observation, which is required
15 by S.L.E.D., the Defendant, Mr. Jamison, was then
16 given an opportunity to take the breathalyzer test.
17 Once we presented the tube for the Defendant to
18 blow into, the Defendant kept making statements:

19 He wanted his attorney, he wanted somebody
20 there to explain things to him. He said he didn't
21 know what was going on. He didn't mean to hurt
22 anybody. He never gave us a yes or no whether or
23 not he was going to blow into the tube and provide
24 a breath sample.

25 The breathalyzer machine only allows two

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1 minutes for an individual to blow into the machine.
2 Once that two-minute period has eliminated, then
3 the machine automatically kicks it out as a
4 refusal.

5 During that time we were waiting on the
6 Defendant, Mr. Jamison, to blow, the two-minute
7 time had elapsed, and the machine automatically
8 threw it out and kicked it out as a refusal.

9 Once the breathalyzer machine printed out the
10 ticket, the report, Mr. Jamison was given an
11 opportunity to sign the ticket saying that he
12 received a copy and was advised that it was a
13 refusal.

14 Mr. Jamison then refused or did not give us a
15 straight answer of whether or not he wanted to sign
16 the ticket or not. So Sergeant Marzol at that time
17 then wrote refused on the bottom of the ticket
18 where Mr. Jamison was supposed to sign.

19 Q Now, Officer Stone, you speak about this machine
20 that if you do not blow within specific -- specific
21 time, it prints out a document; correct?

22 A Yes.

23 Q What is that document? What does it -- what is it
24 utilized for basically?

25 A The document is utilized if somebody was to blow,

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1 then it you would print out an alcohol level
2 concentration on the ticket. It would let you know
3 what their level of alcohol was at the time.

4 Q Now, Officer Stone, you state there was one that
5 was printed out that night?

6 A Yes.

7 Q I want to hand you a document.

8 MR. MOBLEY: If I may approach, Your Honor?

9 THE COURT: Yes, sir.

10 BY MR. MOBLEY:

11 Q Do you recognize what that document is?

12 A Yes, I do.

13 Q Can you tell us what that document is?

14 A It's a breath alcohol analysis test report.

15 Q Is that the document that was utilized that night
16 or printed out that night?

17 A Yes, it was.

18 Q How do you know, sir?

19 A Because the date is -- correction -- it's
20 August 1st, 2008, and the observation time is
21 12:36.

22 Q Are there any other indicators? Is there a name, a
23 subject's name, indicated on the ticket?

24 A Yes, there is. The subject's name is Andra
25 Jamison.

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1 Q Does it have your name listed as the arresting
2 officer's name?

3 A Yes, it does.

4 Q Whose signature is at the bottom?

5 A At the very bottom?

6 Q Yes.

7 A It's supposed to be the subject's signature, but
8 it's refused.

9 Q Is your name indicated and signed there?

10 A Yes, my name is indicated, Michael Stone.

11 Q Is there anyone else's name that is indicated as
12 signing there?

13 A Yes, it is, Robert Marzol.

14 Q Did you witness Sergeant Marzol sign that
15 particular document?

16 A Yes, I did.

17 Q Do you recognize that handwriting as his?

18 A Yes, I do.

19 Q Has it been altered or amended in any way?

20 A No, it has not.

21 Q At the bottom of that particular ticket, is there a
22 subject I.D. number?

23 A Yes, it is.

24 Q What is that?

25 A It is 002D8C8FC2.

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1 Q And the subject password?

2 A Subject's password is D8EC6.

3 Q Now, in the middle of that document, it states the
4 subject's sample. Beside that what does it say?

5 A It says refused.

6 MR. WILLIAMS: Your Honor?

7 THE COURT: Is there an objection?

8 MR. WILLIAMS: I don't believe the document is
9 in evidence yet. We would have no objection to the
10 introduction of this under evidence. We are publishing
11 it all over the place, and I didn't think it was in
12 evidence yet.

13 MR. MOBLEY: That's what we are going to do,
14 Your Honor.

15 THE COURT: You are offering it into evidence?

16 MR. MOBLEY: Yes, Your Honor.

17 THE COURT: No objection?

18 MR. WILLIAMS: No objection, Your Honor.

19 THE COURT: State's 58 without objection.

20 (State's Exhibit Number 58 is received into
21 evidence.)

22 BY MR. MOBLEY:

23 Q So, Officer Stone, we have a refusal at the time.
24 What happens then?

25 A After he refused, the Defendant, Mr. Jamison, was

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1 then placed back in handcuffs and put in the back
2 of my patrol car and transported to Lexington
3 Medical Center which was required by statute to
4 obtain blood. He was then taken to Lexington
5 Medical Center where he was signed in. I want to
6 say it was around 1:30, 1:38, if I remember
7 correctly.

8 At the time he was registered in, Dr. Hayes,
9 the physician came in and signed the urine/blood
10 collection form which is required by S.L.E.D. that
11 we fill out. I filled it out. Dr. Hayes signed
12 off on it, and I, through that form, ordered for
13 blood to be taken from the Defendant.

14 Q And that was filled out at the actual?

15 A Hospital.

16 Q Hospital?

17 A Yes.

18 Q I want to hand you a form. Do you recognize what
19 it is?

20 A Yes, I do. It's the South Carolina Law Enforcement
21 Division urine/blood collection report.

22 Q Whose names are indicated on that?

23 A Mr. Andra Jamison, Dr. Steven Hayes --

24 MR. WILLIAMS: Your Honor, we do object to
25 this item coming into evidence without having all the

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1 necessary witnesses here who can authenticate the
2 signatures and their actions involved in this case.

3 MR. MOBLEY: Your Honor, we are going to have
4 the officer testify to his signature, if he recognizes
5 the document. We are not going to enter it into
6 evidence at this time.

7 THE COURT: That would be State's 59 for
8 identification purposes only?

9 MR. MOBLEY: That's correct, Your Honor.

10 THE COURT: Would you hand it to our court
11 reporter, Officer, for it to be marked.

12 (State's Exhibit Number 59 is marked for
13 identification.)

14 BY MR. MOBLEY:

15 Q Officer Stone, does your name appear on that
16 document?

17 A Yes, my name is down at the bottom of the document,
18 my signature.

19 Q That's your signature?

20 A Yes, it is.

21 Q Is the Defendant's name indicated anywhere on that
22 particular form?

23 A Yes, up at the top, Andra Byron Jamison.

24 Q Why did you utilize that form that day at the
25 hospital?

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1 A To order blood collected from the Defendant.

2 Q And you were ordering blood for what reason?

3 A For a felony D.U.I. case.

4 Q Is that mandatory?

5 A Yes it is.

6 Q Why is it mandatory?

7 A It mandatory from statute saying that we are
8 required to take blood in this case.

9 Q Did you direct anyone to actually take the blood at
10 that particular time?

11 A Yes I did. I directed the lab technician, Steve
12 Wickers to -- well, I directed the doctor and the
13 lab to take the blood or get blood taken.

14 Q And then what happened?

15 A After that the doctor ordered for a lab technician
16 to come in and take blood from the Defendant,
17 Mr. Jamison. After waiting the lab technician came
18 in, who was Mr. Wickers, and withdrew two vials of
19 blood from the Defendant, one vial of which was
20 given to me and was placed in an evidence bag and
21 sealed.

22 The other vial was placed in Mr. Jamison's
23 shirt pocket. After that he was discharged from
24 the hospital, and I placed him back in handcuffs
25 and took him to Lexington Detention Center.

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1 Q Officer Stone, during this entire time when the
2 blood was being withdrawn, was there anyone else
3 present within that room?

4 A Yes, Sergeant Marzol was.

5 Q So can you name the individuals that were present
6 in that room that day?

7 A It was myself, Sergeant Marzol, the Defendant,
8 Andra Jamison, and the lab technician was in the
9 room.

10 Q So you got two vials of blood, correct?

11 A Correct.

12 Q You took custody of one?

13 A I did.

14 Q And who took custody of the other blood?

15 A Mr. Jamison did.

16 Q Once you gave Mr. Jamison his vial of blood, what
17 happened next?

18 A He was then, like I said, placed back into
19 handcuffs and put in the back of my patrol car and
20 transported from the Lexington Medical Center to
21 Lexington County Detention Center.

22 Once he arrived at Lexington County Detention
23 Center, Mr. Jamison was brought into the booking
24 area where he was booked in by a corrections
25 officer and then escorted to the back of the jail.

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1 After he was booked in, I was free to go from the
2 jail.

3 Q Did you have occasion to see him anymore that
4 night?

5 A No, I did not.

6 Q Where did you go from there?

7 A After I left from Lexington County Detention
8 Center, I went back to our headquarters in Cayce
9 and began working on my paperwork with Sergeant
10 Marzol.

11 Q Now, your vial of blood, what did you do at that
12 particular time? What did you do with it?

13 A I placed the vial of blood -- once back at our
14 headquarters, I took the vial of blood to our lab
15 and place it in a locked refrigerator.

16 Q Now, Officer Stone, was that vial of blood
17 contained in anything?

18 A I'm sorry?

19 Q Was it contained in any type -- anything at all,
20 evidence bag or anything?

21 A Yes, it was in an evidence bag. I sealed the
22 evidence bag in the hospital.

23 Q So you sealed the evidence bag at the hospital and
24 then what happened?

25 A After I sealed it at the hospital?

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1 Q Yes.

2 A After I sealed it at the hospital, the evidence bag
3 was put in my patrol car until we got to the jail,
4 and after the jail, I got back to our headquarters
5 where I then deposited it in the lab refrigerator.

6 Q When you deposited it into the lab refrigerator --
7 before you even got there, Officer Stone, let me
8 show you a document. I want you to tell me what
9 it's utilized for. Tell me what it is first and
10 foremost.

11 A It's an evidence property custody report. What
12 it's utilized for is any time we receive evidence
13 or drop evidence off, we have to do a chain of
14 custody. All this is is stating that while I was
15 at the hospital, I filled out the evidence report,
16 and it stated I had one vial of the subject's blood
17 that was released --

18 MR. WILLIAMS: Objection to the publishing of
19 the document, Your Honor.

20 BY MR. MOBLEY:

21 Q Just tell us what it's utilized, for the document
22 itself.

23 A It's just utilized for evidence purposes, the
24 release and taking of evidence.

25 Q Did you utilize that document that night?

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1 A Yes, I did.

2 Q How do you know?

3 A Because of my signature.

4 Q Is there a date indicated there?

5 A Yes, it is. It's August 1, 2008.

6 Q How do you know that it pertains to Mr. Andra
7 Jamison?

8 A His name is at the top, Andra B. Jamison.

9 MR. MOBLEY: The State would move to have this
10 marked as State's Exhibit Number 60 for identification
11 purposes only.

12 THE COURT: All right. State's 60 for I.D.
13 only. That is the evidence form?

14 MR. MOBLEY: Yes, Your Honor.

15 (State's Exhibit Number 60 is marked for
16 identification.)

17 BY MR. MOBLEY:

18 Q Officer Stone; you filled out that form. What
19 happens next?

20 A After the form was filled out, of course, the blood
21 was then taken to the lab and dropped off in the
22 refrigerator, along with the evidence form attached
23 to it. After that I began, myself and Sergeant
24 Marzol, began to work on all the paperwork.

25 Q All the paperwork pertaining to this case?

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1 A Correct, the incident report that pertained to this
2 case, as well as the other documentation.

3 Q Once you deposited that blood into your
4 refrigerator, is there a form that you actually
5 filled out for depositing the blood into your
6 evidence refrigerator?

7 A Yes, there is an evidence release form that is by
8 the refrigerator. I believe that's what they call
9 it.

10 MR. MOBLEY: Beg the Court's indulgence,
11 please, Your Honor.

12 THE COURT: Yes, sir.

13 (Pause.)

14 (Attorneys confers.)

15 BY MR. MOBLEY:

16 Q Officer Stone, I am going to hand you a document.
17 What is that document?

18 A It's a document for the evidence custodian. That's
19 what it is.

20 Q What is it utilized for?

21 A Any time anything is dropped off into the
22 refrigerator, this form is filled out.

23 Q Now, is that one of the forms that you actually
24 utilized that night?

25 A Yes, it is.

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1 Q How do you know so?

2 A Because of my name and the date reads August 1,
3 2008.

4 Q Was that used for the blood, Andra Jamison's blood,
5 and deposited into the refrigerator?

6 A Yes, it is. Out to the side where it says type of
7 evidence, it says blood dash felony D.U.I., and it
8 states received on August 1, 2008.

9 MR. WILLIAMS: Objection to publishing the
10 document, Your Honor.

11 THE COURT: I sustain the objection.
12 Solicitor, you may ask your next question.

13 MR. MOBLEY: Your Honor, we would like to have
14 this document marked as State's Number 61 for
15 identification purposes only.

16 THE COURT: All right.

17 (State's Exhibit Number 61 is marked for
18 identification.)

19 BY MR. MOBLEY:

20 Q Now that you filled out that form to deposit the
21 blood, what happens next?

22 A After I filled out the document?

23 Q Yes, and deposited the blood.

24 A Like I said, after we deposited the blood and
25 filled out that document, myself and Sergeant

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1 Marzoli began to work on the incident report for
2 this case and putting all the paperwork together in
3 a packet.

4 Q So you all worked on this particular case and came
5 up with the synopsis of what happened that night?

6 A Yes.

7 Q Did you come into contact with the Defendant at any
8 other time during this particular period?

9 A No, I did not.

10 MR. MOBLEY: Nothing further for this witness,
11 Your Honor.

12 THE COURT: Thank you, Solicitor.
13 Mr. Williams.

14 MR. WILLIAMS: May it please the Court.

15 **CROSS EXAMINATION**

16 BY MR. WILLIAMS:

17 Q Officer Stone, as I understand your testimony, you
18 were, I guess, new to Cayce on July 31, 2008?

19 A If that was my -- I don't recall my exact date of
20 hire.

21 Q How long had you been working with the City of
22 Cayce before this incident of July 31, 2008?

23 A A couple of months. It wasn't too long.

24 Q And during those two months, is that why your
25 car -- is that why you got a car without video

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1 because essentially you were a new hire?

2 A No. Actually the car I was driving was in the
3 shop. The one that I was assigned was in the shop,
4 and I was driving a spare car that night.

5 Q Now, as I understand your testimony, what drew your
6 attention -- what drew your attention to this
7 scene -- is that you were headed towards the bridge
8 from Cayce?

9 A That's correct.

10 Q And you observed a lot of traffic which was on the
11 bridge which was stopped?

12 A It was before the bridge.

13 Q Before the bridge?

14 A It was in the roadway right before the bridge right
15 there at the line.

16 Q For the jury's edification, what do you mean when
17 you say at the line?

18 A The line that goes across that separates the road
19 from the bridge. You know what I'm talking about?

20 Q Right at the beginning of the bridge?

21 A Right.

22 Q And how close is it to the bridge?

23 A From where the traffic was at a dead stop?

24 Q Yes.

25 A From the first car to the bridge, I would probably

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1 say 10, 15, maybe 20 feet.

2 Q Now, you are indicating there were a bunch of
3 vehicles that were stopped. Were the vehicles all
4 in your lane of traffic?

5 A They were in both lanes.

6 Q So you had vehicles stopped on the lane coming into
7 Cayce. You had vehicles which were stopped on the
8 lanes exiting Cayce going to Columbia?

9 A Vehicles that were stopped were the ones going into
10 Columbia. The ones that were coming out of
11 Columbia into Cayce were still traveling.

12 Q So there was no problems with the flow of traffic
13 coming this way, meaning coming towards Cayce,
14 coming in your direction?

15 A Not as far as I know.

16 Q The vehicles which were stopped, do you recall how
17 many vehicle were actually stopped in front of you?

18 A I don't.

19 Q An estimate?

20 A I mean, several.

21 Q Several?

22 A There was. If I had to guesstimate, I would say
23 six or seven. It could have been less.

24 Q And when you attempted to go see what was going on,
25 did you remain in your patrol car the entire time

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1 period?

2 A Moving around the vehicles I did until I came onto
3 the scene.

4 Q When you say moved around the vehicles, did you
5 move into the ongoing traffic or how did you
6 execute this maneuver?

7 A There is a median. As I was approaching, I moved
8 into the median and came around the vehicles until
9 I got to the Blossom Street Bridge, to the
10 beginning of the Blossom Street Bridge.

11 Q So there is actually a median between the four
12 lanes of traffic that you are talking about on Knox
13 Abbott Drive?

14 A Right, before the Blossom Street Bridge.

15 Q How wide is the median?

16 A It's a car length.

17 Q When you got to the Blossom Street Bridge, you
18 observed a white male figure in the fast lane of
19 the road; is that correct?

20 A Yes.

21 Q When you are talking about the fast lane of the
22 road, you are talking about the left-hand lane, is
23 that correct, the hammer lane?

24 A Yes. He was more on the fast lane. He was more on
25 the fast lane than he was on the slow. It wasn't

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1 in the middle. It was kind of borderline middle,
2 but we utilized it as the fast lane.

3 Q So most of his torso was in the fast lane?

4 A Correct.

5 Q That particular area when you talk about the
6 bicycle lane, the bicycle lane is about a
7 three-foot area of lane, painted off area, on the
8 roadway and the bridge; isn't it?

9 A Correct.

10 Q And when we say three feet, we mean three feet;
11 don't we?

12 A Yes.

13 Q It's a narrow area?

14 A Right.

15 Q As a matter of fact, a lot of bicyclists don't use
16 that lane because it's so skinny, and they actually
17 ride on the sidewalk; don't they?

18 A Correct.

19 Q Now, when you observed the white male figure on the
20 fast lane or the hammer lane, the left lane, where
21 was the bicycle? Because there was a bicycle out
22 there. Where did you observe the bicycle at?

23 A The bicycle was -- I can't remember if it was in
24 front or behind him. It was in the roadway and I
25 cannot remember. I cannot recall which lane the

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1 bicycle was in off the top of my head.

2 Q And you don't know if it's in front of him or
3 behind him?

4 A I want to say it was behind him, but I'm not for
5 certain.

6 Q Do you know what lane of traffic the bicycle is
7 located in?

8 A When he was driving it?

9 Q When you came there. All I want to know is what
10 you observed, Officer?

11 A Okay. I really cannot recall what lane the bicycle
12 was in.

13 Q Now, you said that there were individuals standing
14 out there, and they were pointing to you or talking
15 to you indicating who the driver of the vehicle
16 that was involved in this collision was?

17 A Yes.

18 Q What type of vehicle was he driving?

19 A The victim or the Defendant?

20 Q The Defendant.

21 A The Defendant was driving a van.

22 Q It's safe to assume the victim was on a bicycle,
23 right?

24 A Right.

25 Q So the Defendant was driving a what?

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1 A A van.

2 Q Do you remember what color?

3 A I want to say it was blue.

4 Q Do you remember if it was light blue or dark blue?

5 A Dark blue, I think.

6 Q Where was the location of the dark blue van that
7 the Defendant was driving?

8 A It was about to the middle of the bridge.

9 Q And which direction was that van pointed?

10 A It was pointed towards Columbia, like it was going
11 into Columbia.

12 Q So from your observations the bicycle was -- was
13 the bicycle on the bridge?

14 A Yes, the bicycle was on the bridge.

15 Q Was the victim on the bridge?

16 A Yes, he was.

17 Q So all three items that we have talked about so far
18 are actually on the bridge?

19 A Correct.

20 Q None of them are actually on the land, correct?

21 A Correct.

22 Q Now, the dark blue van which you have talked about,
23 is that in the hammer lane, the fast lane, or is it
24 in the slow lane or the right-hand lane?

25 A I believe it was in the slow lane.

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1 Q And was the vehicle stopped?

2 A Yes, it was stopped.

3 Q And was the Defendant standing by the blue van?

4 A No, he was not.

5 Q Where was the Defendant standing?

6 A He was down at the beginning of the Blossom Street
7 Bridge.

8 Q So he had walked from where his van was back to the
9 location where you found the bicycle and you found
10 the victim?

11 A I would assume he walked, yes.

12 Q Now, you were the first officer on the scene?

13 A Correct.

14 Q And as the first officer on the scene, is it your
15 job to secure the evidence?

16 A Yes, it is.

17 Q In this case what did you do to secure the
18 evidence?

19 A Nothing.

20 Q Were you present when any of the evidence was
21 secured?

22 A Yes, I was.

23 Q And who was the individual who actually secured the
24 evidence?

25 A Detective Reese.

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1 Q Reese?

2 A Reese.

3 Q And what evidence did he secure?

4 A He secured the bike, and I want to say there was
5 some open containers out of the vehicle, out of the
6 Defendant's vehicle, that he took.

7 Q In that you were present when Officer Reese got
8 there -- and you have already described what you
9 did that night. Correct me if I'm wrong, you took
10 the Defendant to the Cayce jail, the Cayce jail
11 Police Department. From the Cayce Police
12 Department, y'all went to the Lexington County
13 Hospital. From the Lexington County Hospital, you
14 when to the Lexington County Detention Center. And
15 then you went back to Cayce Police Department where
16 you talked about securing blood and working on
17 paperwork?

18 A That's correct.

19 Q Exactly when was it that you were out on the scene
20 with Officer Reese observing him secure the
21 evidence?

22 A When we went over to look at the van.

23 Q All right.

24 A It was before we had placed Andra Jamison in
25 investigative detention, and assisted by

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1 Mr. Jamison, myself and Detective Reese walked down
2 to verify any damage from the van to make sure
3 before any allegation was made.

4 Q So you and Officer Reese were on the scene. He
5 secured the bicycle. He secured the van?

6 A Yes.

7 Q And after he did that, then you went back and
8 talked to Jamison, along with Sergeant Marzol?

9 A That's correct.

10 Q Now, the vehicle which -- since your car did not
11 have a video camera, whose vehicle did you use to
12 secure for the videotaping of the Defendant?

13 A Officer Smith's.

14 Q Not Officer Reese. Was he a detective?

15 A Detective.

16 Q And since he is a detective, he is in an unmarked
17 car maybe?

18 A Yes.

19 Q While all this was going on, who was attending to
20 the victim who was laying in the middle of the
21 road?

22 A We had E.M.S. and fire on the scene at that time.

23 Q And when was it that the E.M.S. and fire arrived on
24 the scene?

25 A It was about two or three, maybe four minutes after

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1 Adam Smith arrived on the scene. The fire
2 department arrived shortly after he did.

3 Q Now, were you present when or have you -- let me
4 ask you to look at --

5 MR. WILLIAMS: Your Honor, I believe all of
6 these items, these photographs have been placed into
7 evidence prior to now.

8 THE COURT: Well, they are not in evidence
9 until they are introduced to a witness. Y'all agreed to
10 it, but they have got to be introduced through a witness
11 and to the jury.

12 MR. MOBLEY: That's what I was saying as well.

13 THE COURT: They have been stipulated to. If
14 he can identify them, they can certainly come in.

15 BY MR. WILLIAMS:

16 Q Let me ask you if you would look at all of those
17 items, those photographs. I'm simply asking were
18 you present when the photographs were taken?

19 A I was not with the individual taking the
20 photographs, but I was on scene. I mean, I saw the
21 flashes of light from the camera, but I wasn't with
22 Detective Reese as he was taking them.

23 Q So Detective Reese, even though you were with
24 Detective Reese on securing the bicycle and
25 securing the van, you were not with Detective Reese

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1 when it came to the photographs and securing what
2 other evidence that might be revealed?

3 A Right.

4 Q Okay. Now, after you came back to the Cayce Police
5 Department, I think you said you brought some blood
6 and put it in a refrigerated area at the Cayce
7 Police Department; is that correct?

8 A Yes, I did.

9 Q The blood vial which you have indicated you gave to
10 my client -- you said there were two blood vials or
11 two vials of blood which were drawn at the
12 Lexington County Hospital?

13 A Correct.

14 Q I assume my client is down there handcuffed at that
15 time?

16 A At the hospital?

17 Q Yes.

18 A No, he was not.

19 Q You had taken the handcuffs off of him?

20 A Correct, for them to examine him.

21 Q And when you say examine him, did they do more than
22 simply draw his blood?

23 A For the doctor to come in to look at him and for
24 them to draw his blood, yes.

25 Q Was there anything wrong with him that they

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1 examined him for?

2 A Not that I know of.

3 Q Did they place him -- you said that he was released
4 from the hospital. Did they fill out any type of
5 admission for him? Did they indicate there was
6 something wrong with him that they would admit him
7 for?

8 A No.

9 Q After the blood was drawn, you say you handed it to
10 my client, the second vial of blood, and you kept a
11 vial of blood?

12 A I kept a vial of blood and placed it in the
13 evidence bag. The other vial of blood was placed
14 in Mr. Jamison's pocket, shirt pocket.

15 Q You used the word was placed in his pocket, did you
16 place the vial of blood in his shirt pocket?

17 A Yes, I placed it in his shirt pocket.

18 Q Why would you place it in his shirt pocket if he
19 wasn't handcuffed?

20 A He had one hand cuffed to the bench, but he was not
21 handcuffed together, but one handcuff was placed on
22 the wheelchair that he was sitting in.

23 Q So he was sitting in a wheelchair and one hand was
24 cuffed and one hand was used to draw blood out of,
25 and you didn't hand it to him, you actually took

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1 the vial of blood and put it in his shirt pocket?

2 A That's correct.

3 Q You then left the Lexington County Hospital, put
4 him in your patrol car?

5 A Correct.

6 Q Took him to Lexington County Detention Center,
7 correct?

8 A Correct.

9 Q And turned him over to the Lexington County
10 jailers; is that right?

11 A Yes.

12 MR. WILLIAMS: Your Honor, may we approach a
13 second?

14 THE COURT: Certainly.

15 (Whereupon there is a bench conference off the
16 record in the presence of the jury but out of the
17 hearing of the jury.)

18 BY MR. WILLIAMS:

19 Q Officer, let me ask you to look at these items here
20 and tell me if you are familiar with these types of
21 items?

22 A The only one I'm familiar with is the receipt of
23 personal property, Lexington County Detention
24 Center.

25 Q So you are not familiar with those other items?

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1 A No, not offhand. I don't use them.

2 Q Well, you have talked about the blood which you
3 gave to my client, the vial of blood. Do you know
4 who was in charge of maintaining the vials of blood
5 at the Lexington County jail?

6 A I don't.

7 Q Do you know where Sergeant Marzol's wife works?

8 A I do.

9 Q Where does she work?

10 A The Lexington County Detention Center.

11 Q Do you know what her job is at the Lexington County
12 Detention Center?

13 A At the time the only thing I knew, she was a nurse.

14 Q At the Lexington County Detention Center?

15 A Yes.

16 Q And do you now know what she does at the Lexington
17 County Detention Center?

18 A Yes, I do know now.

19 Q What does she do?

20 A She is a clinical coordinator for the nursing staff
21 over at the Lexington County Detention Center.

22 Q What is she in charge of keeping at the Lexington
23 County jail?

24 A Records of any type of blood, urine, any medicine
25 that comes in.

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1 Q So any blood that the Defendant would have been in
2 possession of when he was taken to the Lexington
3 County jail, she would be in charge of how that
4 blood was kept at the Lexington County jail?

5 A I would say so.

6 Q Now, are you certain that you maintained possession
7 of your blood, your vial of blood, in a safe
8 location throughout this entire night?

9 A Yes, I am.

10 Q Well, you indicated that once you got it from the
11 Lexington County jail, that you drove the
12 Defendant -- I'm sorry -- the Lexington County
13 Hospital, you drove the Defendant to the Lexington
14 County Detention Center. I assume you got out?

15 A Yes, I did.

16 Q And walked him inside?

17 A Correct.

18 Q Now, you didn't maintain that vial of blood with
19 you when you went inside the detention center; did
20 you?

21 A No, I didn't.

22 Q Did you put it in the trunk of your car?

23 A No, I didn't.

24 Q Did you keep it in some other secure environment?

25 A I kept it in my patrol car which was locked.

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1 Q Have you ever had problem with maintaining evidence
2 before?

3 A Not to my knowledge.

4 Q So it would be your testimony that you have never
5 been in trouble for mishandling of evidence at the
6 Cayce Police Department?

7 A Not of any evidence, not that I know of.

8 Q Let me ask you if you will look at this D-shift
9 incident documentation and tell me if you can
10 identify that.

11 A Yes, I can.

12 Q Would you like to change your statement now about
13 whether or not you have gotten in trouble about
14 maintaining evidence?

15 A Yes.

16 Q What statement would you like to use now?

17 A I have been in trouble for that.

18 Q How long was it before Reese got to the scene?

19 A He arrived when Sergeant Marzol did.

20 Q How long after you were on the scene, from the time
21 you were on the scene, was it that Officer Reese
22 arrived on the scene?

23 A Ten minutes, maybe a little longer.

24 Q Did you move any of the evidence on the highway or
25 the bridge prior to Officer Reese arriving on the

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1 scene.

2 A No, I did not.

3 MR. WILLIAMS: That's all I have at this time,
4 Your Honor.

5 THE COURT: Redirect, Solicitor?

6 MR. MOBLEY: Briefly, Your Honor.

7 **REDIRECT EXAMINATION**

8 BY MR. MOBLEY:

9 Q Officer Stone, you were just asked about any
10 mishandling of evidence that may have occurred;
11 correct?

12 A Correct.

13 Q And you made a statement, yes, at a point in time?

14 A Correct.

15 Q Did you mishandle any evidence in this case?

16 A No, I did not.

17 Q Were you ever disciplined in regards to this case
18 itself?

19 A No, I was not.

20 Q Has there been any superior that came to you and
21 inquired about any problems with this case on your
22 handling?

23 A No, they haven't.

24 Q Thank you. Officer Stone, I want to hand you an
25 exhibit here.

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1 MR. MOBLEY: Beg the Court's indulgence, Your
2 Honor.

3 THE COURT: Yes, sir.

4 (Pause.)

5 BY MR. MOBLEY:

6 Q It's going to be State's Exhibit Number 23. You
7 were asked about the placement of where Mr. Jesse
8 Gamble finally came to rest at?

9 A Correct.

10 Q You stated that it appeared that the way his body
11 was positioned that it was more so in the fast
12 lane?

13 A Yes.

14 Q When you state fast lane, which lane are you
15 referring to, the inside lane or the outside lane?

16 A The outside lane.

17 Q After looking at the State's Exhibit there -- and
18 what number is that?

19 A Twenty-three.

20 Q Does that fairly and accurately depict --

21 MR. WILLIAMS: Your Honor, objection to this
22 question because the item is not in evidence yet.

23 THE COURT: I assume he is trying to lay a
24 foundation for it, Mr. Williams.

25 MR. WILLIAMS: All right, sir.

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1 BY MR. MOBLEY:

2 Q Does that photo fairly and accurately depict the
3 conditions as they were that night when you came
4 upon the scene?

5 A Yes, it does.

6 Q And you were able to see Mr. Gamble laying there?

7 A Yes.

8 MR. MOBLEY: Your Honor, the State would like
9 to have this admitted into evidence as State's Exhibit
10 Number 23.

11 MR. WILLIAMS: We now have no objection, Your
12 Honor.

13 THE COURT: State's 23 is in evidence without
14 objection.

15 (State's Exhibit Number 23 is received into
16 evidence).

17 BY MR. MOBLEY:

18 Q Now, Officer Stone, can you describe the position
19 of Mr. Jesse Gamble. After looking at that photo
20 and your earlier testimony, can you tell us the
21 difference between your earlier testimony and what
22 the actual photo depicts there.

23 A The actual photo depicts the victim, Mr. Gamble, in
24 the number two lane, which would be -- he was more
25 in the number two lane, the slow lane.

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1 Q Okay. So he was more so in the slow lane. Would
2 that be closest to the curb?

3 A Yes, it would.

4 Q So only a portion of him was --

5 MR. WILLIAMS: Objection to leading.

6 THE COURT: Yes, sir. You may ask your next
7 question, Solicitor. The officer has explained it, and
8 the jury will have the photograph in evidence.

9 BY MR. MOBLEY:

10 Q Thank you, Officer Stone. Now, Officer Stone, you
11 were asked a question earlier about a biking lane?

12 A Correct.

13 Q You were asked was it a small biking lane?

14 A Right.

15 Q But there is one there present, correct?

16 A There is a bicycle lane, yes.

17 Q Are you aware of any time when you were on duty
18 during your normal duties of actually anyone having
19 problems riding in that bicycle lane?

20 A Nobody has ever had a problem with riding in it.

21 Q So was it sufficient amount of space to ride
22 bicycles in that particular lane?

23 A Yes.

24 Q You are not aware of any problems, correct?

25 A Correct.

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1 Q Now, Officer Stone, when you were on the scene, you
2 were asked about the location of the van,
3 Mr. Gamble, as well as the bicycle. Did any of
4 that from the van, Mr. Gamble, as well as the
5 bicycle carry over into Richland County?

6 A I believe the van somewhat did because the van was
7 almost to the middle of the bridge into Columbia.
8 So I believe the van was going into that county,
9 but I don't know exactly where the cutoff line is.

10 Q So how do you determine where the cutoff line is
11 located to determine what is Lexington County and
12 what is Richland County?

13 A We usually use the middle of the bridge. The
14 middle separates Lexington County from Columbia,
15 Richland County. That's what we normally use, but
16 without surveillance of the land, I don't know
17 exactly which would be Lexington and which would be
18 Richland County.

19 Q Now, Officer Stone, we have come down this road and
20 you were asked earlier by Mr. Theo Williams about
21 this incident here, mishandling of evidence.

22 A Uh-huh. (Indicating affirmative response.)

23 Q Can you explain to us the date and time and
24 circumstances surrounding that so that we would
25 know exactly what you were referring to at the

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1 time?

2 A The date on it was November 1st, 2008, and it has a
3 slash, November 28, 2008. The time is 03:14 a.m.
4 to 1:00 o'clock p.m. Do you want me to read the
5 narrative?

6 Q No, you don't have to.

7 A Okay.

8 Q But can you briefly explain what the circumstances
9 were from your recollection of what happened that
10 night -- excuse me -- that day, excuse me.

11 A It was for a knife that was taken off a subject
12 that I had left in the back of my trunk without
13 securing it in evidence when it was supposed to be.

14 Q Was it subsequently secured into evidence?

15 A Yes, it was.

16 Q You just did not do it in a timely manner?

17 A Right.

18 Q Did you do anything of that nature in this
19 particular case --

20 A No, I did not.

21 Q -- that we have here today?

22 A No, I did not.

23 MR. MOBLEY: Nothing further, Your Honor.

24 MR. WILLIAMS: A couple of questions, Your
25 Honor.

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1 THE COURT: All right, Mr. Williams. Recross.

2 RECROSS EXAMINATION

3 BY MR. WILLIAMS:

4 Q You said not in a timely manner. How many days
5 went by before you secured that piece of evidence
6 that was sitting in the back of your vehicle?

7 THE COURT: Didn't he say the 1st to the 28th,
8 27 days?

9 BY MR. WILLIAMS:

10 Q Twenty-seven days?

11 A That's correct.

12 Q Now, you testified on direct -- I'm sorry, on cross
13 examination -- that the victim was in the fast
14 lane?

15 A Correct.

16 Q And after Sergeant Reese or Detective Reese took
17 his pictures and the solicitor handed you a
18 picture, you are now saying that he wasn't in the
19 fast lane, but he is in the slow lane?

20 A Correct.

21 Q And as I understand your testimony, Sergeant Reese
22 appeared to take pictures after the ambulance and
23 the paramedics were there; right?

24 A No, he was there before the ambulance got there.

25 Q All right. So he's taking pictures of the guy

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1 lying in the road before the ambulance gets there?

2 A Correct.

3 Q Who is the gentleman in the picture next to him?

4 A I have no idea who that is.

5 Q You don't know who this person is next to the
6 person that was hit in the middle of the bridge?

7 A No, I don't.

8 Q Is anybody performing any type of first aid on this
9 gentleman lying in the middle of the bridge?

10 A No, they are not.

11 Q How long did he lay in the middle of the bridge
12 before first aid was done?

13 A He was probably there for a good bit.

14 Q Before anybody did anything for him, the police or
15 that witness or anybody else?

16 A That's correct.

17 Q And now you are certain he was in the slow lane and
18 not the fast lane?

19 A That's correct?

20 Q And you are sure that no one moved him?

21 A No.

22 Q You are not sure?

23 A No, no one moved him.

24 Q How do you know that if you left and went back with
25 Andra Jamison, and Officer Reese was there taking

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1 pictures?

2 A Adam Smith was on scene with me as well. So
3 whenever I left Adam Smith was with the victim
4 while I was with Mr. Jamison, myself and Sergeant
5 Marzol.

6 THE COURT: He can only testify to what he
7 knows during the period of time he was on the roadway or
8 on the bridge. He can't testify to what happened before
9 or after.

10 MR. WILLIAMS: Right.

11 BY MR. WILLIAMS:

12 Q You weren't there when that picture was taken or
13 you didn't observe anyone take that picture, did
14 you?

15 A No, I did not.

16 MR. WILLIAMS: That's all the questions I
17 have, Your Honor.

18 THE COURT: Thank you. Thank you very much,
19 Officer Stone, you may step down.

20 (Witness leaves the witness stand).

21 THE COURT: Solicitor, I assume you don't have
22 a ten-minute witness.

23 MR. MOBLEY: I do not, Your Honor.

24 THE COURT: Well, we will break early tonight
25 then, Solicitor.

1 Mr. Foreman, ladies and gentlemen of the jury,
2 I think now would be a good time for us to take our
3 evening recess. I, of course, would remind you during
4 this recess, you are not to discuss this case with
5 anyone. That includes your fellow jurors, your family
6 members friends or anyone else.

7 If anyone tries to talk with you about the
8 case, please let me know. Please remember, do not read
9 or listen to any news reports about the case, should
10 there be any.

11 Do not use a computer or cellular phone or
12 other electronic device with communication capabilities
13 to obtain or disclose any information which is
14 prohibited, which includes information about a party,
15 witness, attorney, court officer, news accounts of the
16 case, information collected through jury research on any
17 topic raised or testimony offered by any witness or
18 information collected through juror research on any
19 other topic the juror might think would be helpful in
20 deciding the case.

21 In other words, don't do any research on the
22 internet or any independent research. Remember to keep
23 an open mind about the case until I instruct you to
24 begin your deliberations.

25 I would ask you to please back promptly at

1 9:00 a.m. If you would please be back in your jury room
2 at 9:00 a.m. I hope you all have a pleasant evening.
3 Thank you very much.

4 (The jury is excused for the day at 6:21 p.m.)

5 THE COURT: Anything further from the State?

6 MR. MOBLEY: Nothing, Your Honor.

7 THE COURT: From the defense?

8 MR. STITLEY: Your Honor, nothing directly.

9 We do have a question about the bond we would like to
10 address in a moment.

11 THE COURT: I would be glad to hear from you.

12 MR. STITLEY: Your Honor, Mr. Jamison has
13 obviously been out on bond in this case, Your Honor.
14 His entire family is here. He lives with his four
15 children. He has shown up for trial. I don't envision
16 him going anywhere. We would ask Your Honor to consider
17 extending him out. He will be here.

18 He obviously has a vested interest in the
19 disposition of this case. We would ask that he be able
20 to stay out and prepare for trial and show up tomorrow.
21 He understands and we have already talked to him, as we
22 did at lunch time, if he doesn't show up, the Court will
23 be prepared to proceed forward without him.

24 THE COURT: Solicitor, do you have any
25 position in that matter?

1 MR. MOBLEY: Your Honor, of course, we are
2 going to defer to your judgment. However, I would like
3 to place on the record we do oppose that. We would like
4 for him to be placed -- the bond revoked and place him
5 into the Lexington County Detention Center until
6 tomorrow when the trial starts back, Your Honor.

7 THE COURT: Yes, the Defendant's bond is
8 revoked. He is placed into the custody of the Lexington
9 County Detention Center. Several things. Do you need
10 him early in the morning, Mr. Williams, Mr. Stitley?
11 What time?

12 MR. WILLIAMS: By 8:30, Your Honor.

13 THE COURT: At 8:30. Sheriff, can you arrange
14 that for me?

15 DEPUTY: Yes, sir.

16 THE COURT: Would you have clothes for him
17 over here.

18 MR. WILLIAMS: We will bring the clothes here.
19 I will have his family, his wife, see that the clothes
20 are brought here.

21 THE COURT: That's not trying to be draconian
22 or anything of that nature, Mr. Stitley. As y'all know,
23 it is generally my practice I think when the case is
24 called and the jury is sworn, the bond is ended.

25 I have left one or two out on bond under

1 extreme circumstances. I believe that may have been
2 even one of Mr. Williams' clients in the past. I'm not
3 certain about that.

4 Please have him early, by 8:30 in the morning
5 so we can get started promptly. He can meet with his
6 attorneys. Court will be in recess until 9:00 a.m.

7 (Whereupon the proceedings are concluded for
8 October 12, 2009.)

9 (The following proceedings are reported on
10 October 13, 2009.)

11 THE COURT: It appears all the parties are
12 present, the solicitor, Mr. Williams, and his client.

13 Mr. Williams, where is your Defendant's
14 family?

15 MR. WILLIAMS: They are not here yet, Your
16 Honor. They live in Orangeburg. His wife, who is a
17 potential witness, had to go back home to check on the
18 children, but she is not scheduled to be called any time
19 soon.

20 THE COURT: Anything further before we bring
21 in our jury, Solicitor?

22 MR. MOBLEY: Not at this moment, Your Honor.

23 THE COURT: Mr. Williams?

24 MR. WILLIAMS: Nothing from the Defendant.

25 THE COURT: Bring us our jury, please.

1 (The jury returns to the courtroom at
2 9:36 a.m.)

3 THE COURT: I think one on the back row needs
4 to move up to the front row. I need to keep up with the
5 numbers and keep up with our foreperson and two
6 alternates. Everybody else, can -- I keep saying I'm
7 doing a study about jurors and where they like to sit.

8 I find on many jurors, they can be very
9 territorial. They like to sit in the same place each
10 time, which is fine. I don't see how they are able to
11 get in and out every time in the same order. You can
12 sit wherever you would like, except I need to keep up
13 with the foreperson and two alternates.

14 Good morning, ladies and gentlemen of the jury
15 panel, I hope y'all had a pleasant evening. I
16 appreciate your promptness this morning. We are
17 continuing the trial of the case by the presentation of
18 testimony by the State in its case in chief. I would
19 ask you to please give the witness and parties your
20 undivided attention.

21 Solicitor, before we start, are we going to
22 use the television with the first witness?

23 MR. MOBLEY: Not with the first witness, Your
24 Honor. I can turn it off.

25 THE COURT: Thank you, Solicitor. You may

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1 call your first witness.

2 MR. MOBLEY: Your Honor, the State calls
3 Dr. Raymond Sweet.

4 THE COURT: Doctor, if you would please come
5 forward and be sworn for us, please.

6 RAYMOND CHARLES SWEET, being
7 first duly sworn, testifies as follows:

8 CLERK: Have a seat, please, sir. Once you
9 are seated, state your full name on the record.

10 THE WITNESS: Raymond Charles Sweet.

11 **DIRECT EXAMINATION**

12 BY MR. BURN:

13 Q Dr. Sweet, where are you employed?

14 A I'm at the University of South Carolina School of
15 Medicine, Department of Neurosurgery. We primarily
16 practice at Richland Palmetto.

17 Q And what is your position there?

18 A I'm an attending neurosurgeon.

19 Q And how long have you been in that position?

20 A Well, I started as a locum, which is a temporary
21 neurosurgeon, in April of 2006, and I have been
22 full-time for a year and a half.

23 Q And obviously as a requirement of this, you are
24 licensed in this State; is that correct?

25 A Yes, I'm licensed to practice medicine in the State

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1 of South Carolina.

2 Q And how long have you held a license?

3 A I obtained that license when I was still in
4 Charlotte. I believe I have had that license at
5 least ten years.

6 Q What medical college did you attend?

7 A I attended the Medical College of Virginia in
8 Richmond, Virginia, which is part of the Virginia
9 Commonwealth University.

10 Q And where did you intern?

11 A I did my internship, a straight surgical
12 internship, at the same place.

13 Q And since that time, where have you practiced?

14 A I did my residency in Richmond, and then I
15 practiced in the Richmond area until 1988. Then
16 from '89 to 2004, I practiced in the Charlotte,
17 North Carolina area. Then I thought I would
18 retire, and I decided that retirement wasn't for
19 me, so I came back to work.

20 Q And this entire time did you specialize in
21 neurosurgery?

22 A Yes.

23 Q So how many years of practice do you have total?

24 A Thirty.

25 Q About 30. And in that period of time, have you had

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1 occasion to treat many personal injury cases?

2 A Yes, I have.

3 Q Could you put even a ballpark number on that?

4 A Well, including spine injuries and head injuries,
5 hundreds of cases, if not over a thousand.

6 Q Now, on or about August 1, 2008, were you consulted
7 regarding a patient by the name of Jesse Gamble?

8 A Yes, I was.

9 Q And where did that occur?

10 A That occurred in the Palmetto Richland Hospital.

11 Q And about what time were you first consulted?

12 A It was early in the morning. Our midlevel or our
13 nurse practitioner saw the patient at 20 minutes
14 after midnight on August 1, 2008. It looks like I
15 am writing my note at 1:45 a.m. in the morning.

16 Q And you, in fact, examined Mr. Gamble?

17 A Yes, I did.

18 Q And as part of the treatment, did you also review
19 any medical records?

20 A Yes, I did.

21 Q What kind of medical records were you reviewing?

22 A Well, the patients, when they come to the emergency
23 room, are you usually brought by the rescue squad.
24 The emergency room physician sees the patient first
25 and stabilizes them.

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1 Then they call -- they have a trauma team with
2 trauma surgeons that take care of all the patients
3 with multiple trauma. Then once they stabilize and
4 got the initial X-rays, C.A.T. scans, and blood
5 work, they call various specialists as indicated.

6 So I came in after the E.R., the trauma
7 doctors, had seen the patient. As I recall, he was
8 in the trauma intensive care unit when I examined
9 the patient.

10 Q What was Jesse's condition?

11 A I will refer to my notes to give an exact
12 description. At that time the patient was in a
13 deep coma. He had a breathing tube in place.
14 Obviously, he wasn't able to give a history of what
15 happened, and we got the history from the other
16 doctors and the rescue squad.

17 I described him as an approximately
18 25-year-old male, and sticking mainly to the
19 neurological exam at that point, which is what I
20 was interested in, the left pupil was fixed and
21 dilated at 7-millimeters.

22 In other words, when I shine a light, your
23 pupil and mine might be 2 or 3-millimeters,
24 depending on the amount of light. If I shine a
25 light, it will react. His pupil was non-reactive.

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1 The right pupil was 3-millimeters and
2 non-reactive. He had a breathing tube in place and
3 was on a ventilator. He was bilaterally
4 decerebrate, and he had no eye opening.

5 Q Dr. Sweet, what does that mean bilaterally?

6 A I'm sorry, both sides. On either side if I pinched
7 him, he would move in an abnormal fashion,
8 consistent with deep coma. He didn't have any
9 verbal response. He couldn't because the breathing
10 tube was in place. He didn't open eyes.

11 These four things together give us an idea of
12 how bad the coma is and how deep the coma is.
13 Pupils, when you have fixed and dilated pupils, it
14 usually means that he had some sort of a severe
15 brain injury.

16 The other three things we are talking, ability
17 to speak, open your eyes, and movement, part of
18 what we call the Glasgow Coma Scale, which has been
19 around for the last 30 years, it gives us an idea
20 how deep in coma the patient is.

21 It is used by the rescue squad, the nurses,
22 the E.R. doctors, and us. You can tell if people
23 are getting better or worse. The worst score is 3.
24 The normal score would be like 15. His Glasgow
25 coma was 4, just one number above the worse

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1 possible score. Along with the pupil changes
2 mentioned, he was in a very deep, deep coma.

3 Q Now, Doctor, were there any other symptoms that
4 indicated severe brain injury?

5 A Those would be the main ones that I would be
6 concerned with.

7 Q Was there any swelling?

8 A That would be on a C.A.T. scan. That would be one
9 of the X-ray studies. But if you are talking about
10 the imaging studies, the C.T. scan is a specialized
11 form of X-ray where we can see the brain in a black
12 and white picture.

13 His showed difused edema or diffused brain
14 swelling with lesions of water in the brain. The
15 significance of this is that I don't really see
16 like a blood clot on the brain or in the brain that
17 we can take out and reverse his condition. It
18 means the injury has been so severe that the whole
19 brain has been shaken up so to speak.

20 Q And based on your observations and review of the
21 record, what was your initial prognosis?

22 A One other thing I might add. He did have evidence
23 of spine fractures which indicate the severity of
24 the injury. I state that my impression was severe,
25 traumatic brain injury. That was my diagnosis at

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1 that point.

2 Q And what was your understanding from the records
3 was the cause of this injury?

4 A Well, as far as I could tell -- and this is
5 secondhand. I was not able to get this from the
6 patient or anybody else -- he had been riding a
7 bicycle and had been struck by a car.

8 Q What treatment plans, if any, were implemented to
9 try to aid Mr. Gamble?

10 A Well, the trauma service did what you all would
11 know as your basic A.B.C.s. They had control of
12 his airway, make sure his ventilator is working,
13 and his oxygen is up, make sure he has blood
14 pressure and circulation.

15 Our job was to try and figure out if there was
16 anything we could do. From the C.T. scan, it did
17 not appear to me that there was something
18 surgically to be done.

19 Sometimes we can treat the elevated pressure
20 with some medications that will dry the brain out a
21 little bit. So we put in what is called an
22 intercranial pressure monitor or I.C.P. monitor,
23 which is done in the intensive care unit.

24 It involves shaving part of the hair in front
25 of the head, making a small incision. We have a

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1 small drill that drills threw the skull, and a
2 little device that goes about maybe an inch into
3 the brain substance.

4 Then we can monitor the brain pressure and
5 decide if there is any treatment that can be done
6 to manage that, along with the blood pressure and
7 the control of the oxygen and those types of
8 things.

9 Q So surgery was not performed on Mr. Gamble?

10 A No.

11 Q Why not?

12 A Well, because he had such a diffused injury, there
13 really wouldn't be an operation. You can't go in
14 and just remove somebody's brain obviously. If
15 there is not blood clot on the brain to take out or
16 a blood clot in the brain, sometimes a swelling in
17 one part of the brain, we can take the bone out and
18 try to relieve the pressure and that way leave the
19 bone out and put it back a later day. His injury
20 was so diffused and overwhelming that it didn't
21 appear that that was a viable treatment option at
22 that time.

23 Q Now, with the treatment that Mr. Gamble was
24 getting, was his -- did his condition improve at
25 all?

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1 A No, it did not. When I did put in the inter
2 cranial pressure monitor, it was 65-millimeters of
3 mercury. Normally it would be between 15 and 20.
4 So all these things went together.

5 The fact of his clinical or the physical exam,
6 what I see when I examine the patient, plus what we
7 see on the imagining studies, which are X-rays and
8 C.A.T. scans and M.R.I.s, plus what we would see on
9 the physiological monitor, the I.C.P. monitor, they
10 all showed a severe overwhelming brain injury
11 occurring right at the instant of the injury.

12 Q And was that Mr. Gamble's condition as of
13 approximately 8:10 a.m. on August 1, 2008?

14 A My note here states this was the first one, 01:45,
15 I think you are correct, his condition did not
16 really change in that period of time.

17 Q What did you do at that time, approximately
18 8:10 a.m. on that date?

19 A Let me see. If I can read these times here. Here
20 is my note at 8:10 at that time. I reexamined the
21 patient. Pupils were fixed and dilated. He had no
22 movement. As you remember before, he had
23 decerebrate movement, which is an abnormal movement
24 where you extend your arms and legs. Now he has no
25 movement. So his Glasgow Coma Scale is 3, which is

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1 the lowest score possible. I wrote that we would
2 plan a brain death exam later during the day.

3 Q Dr. Sweet, why was this exam not performed
4 immediately?

5 A Usually we wait a few hours. I did a brief exam.
6 Then usually we will wait another six to eight
7 hours or sometimes longer to confirm the first
8 finding. Because when we are pronouncing brain
9 death. We really have certain criteria that are a
10 little more complicated than our regular
11 examination.

12 We didn't do all the things at that point. He
13 was probably still breathing on his own. I didn't
14 write that down, but part of the form of brain
15 death exam includes the patient doesn't breathe on
16 his own.

17 What we do with that, we take him off the
18 ventilator for a certain period of time, give him
19 oxygen through the tube. We measure some what we
20 call blood gases, which is the state of your oxygen
21 and C.O.2. when we start.

22 Then we measure them at a predetermined period
23 of time, say, eight minutes. If the patient
24 doesn't breathe we, of course, are watching his
25 chest and his C.O.2 goes up more than 20, and then

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1 he has the other criteria the pupils don't work, he
2 doesn't open his eyes, he doesn't move to pain or
3 gag or cough by law, we are able to pronounce the
4 patient brain dead. This is equal to cardiac
5 death, and it's recognized as a form of death.

6 It's important in transplantation of organs.

7 Q Dr. Sweet, when was Jesse Gamble, in fact,
8 pronounced dead, pronounced brain dead?

9 A This occurred on 8/1/08 at 15:20 by Dr. Kee, one of
10 our attending neurosurgeons at that time, one of my
11 partners.

12 Q That would be 3:20 p.m.?

13 A Right, 3:20 p.m. on August 1st.

14 Q Dr. Sweet, based upon your examination and
15 treatment of Jesse Gamble, as well as your review
16 of the medical records, were you able to perform
17 any conclusions to a professional medical certainty
18 regarding Mr. Gamble's death?

19 A Yes.

20 Q Were you able to conclude to a professional medical
21 certainty what caused Mr. Gamble's death.

22 A Yes.

23 Q And what was that call?

24 A That he had severe traumatic blunt injury to the
25 brain.

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1 MR. BURN: Your Honor, if I may approach?

2 THE COURT: Yes, sir.

3 BY MR. BURN:

4 Q Dr. Sweet, do you recognize this document?

5 A I have not seen it before but it is a death
6 certificate for Jesse Miller Gamble.

7 Q You are familiar with that type document?

8 A Yes.

9 MR. BURN: Your Honor, this is indeed a
10 certified copy of the death certificate for Mr. Jesse
11 Gamble. It is dated -- date of death, August 1st, 2008,
12 and the State would move that this be placed into
13 evidence, Your Honor.

14 THE COURT: Mr. Williams?

15 MR. WILLIAMS: Your Honor, we would object.
16 The proper party to introduce that would be, we would
17 think, would be someone else other than the surgeon.
18 That would be the person whose name appeared on the
19 document and signed it.

20 THE COURT: Would you please have it marked
21 for identification purposes, Solicitor, and may I see it
22 after you have marked it.

23 (State's Exhibit Number 62 is marked for
24 identification.)

25 THE COURT: That would be 62 for

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1 identification purposes only.

2 BY MR. BURN:

3 Q And, Dr. Sweet, again what is the name on that
4 document?

5 MR. WILLIAMS: Your Honor, objection. It's my
6 understanding the Court ruled for identification only.
7 He is now attempting to elicit a question which would
8 require publication of the document.

9 THE COURT: Let me see the document again,
10 Solicitor.

11 (Hands to Court.)

12 THE COURT: I would sustain the objection. I
13 think you have to comply with 803(8) prior to
14 introduction of the publication of any part of the
15 document, unless you care to be heard otherwise,
16 Solicitor.

17 MR. BURN: Your Honor, the State's position is
18 that a --

19 THE COURT: Wait just a minute. Mr. Foreman,
20 and ladies and gentlemen, if you would step out to your
21 jury room momentarily. Do not discuss the case during
22 this brief recess.

23 (The jury retires to the jury room.)

24 THE COURT: Solicitor, I would be glad to hear
25 from you.

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1 MR. BURN: Thank you, Your Honor. The State's
2 position is that a certified copy of this death
3 certificate is a self-authenticating document under
4 Rule 902, Subsection (4), and therefore any extrinsic
5 evidence of its authenticity would be unnecessary.

6 THE COURT: What about that, Mr. Williams?

7 MR. WILLIAMS: Your Honor, there has been no
8 testimony still laying a foundation of it even
9 underneath that rule.

10 MR. BURN: Your Honor, I think a foundation
11 would necessitate that extrinsic evidence that the rule
12 actually applies to.

13 THE COURT: Well, I was actually looking -- my
14 law clerk drew it to my attention 902(1) and (2). I
15 didn't look at 4. Under self-authentication it states:
16 A copy of an official record certified as correct by the
17 custodian or other person authorized to make
18 certification.

19 I take that if this document -- the document
20 does read: This is a true certification of the facts on
21 file in the Division of Vital Records, South Carolina
22 Department of Health and Environmental Control.

23 It is signed by C. Earl Hunter, the District
24 and State Registrar, and also Wang Zow (phonetic),
25 Assistant State Registrar. This copy is not valid

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1 unless prepared on engraved boarder displaying the State
2 seal and issuing agency logo, which it does appear on
3 engraved boarder displaying the State seal and issuing
4 agency logo.

5 Is your position then, Solicitor, that that
6 certification signed by the Registrar and the Assistant
7 State Registrar complies with, "Certified as correct by
8 the custodian or other person authorized by law to make
9 the certification."

10 MR. BURN: That is correct, Your Honor, yes.

11 THE COURT: Mr. Williams?

12 MR. WILLIAMS: Your Honor, we would say that
13 the person who would be the records keeper would have to
14 testify before that would be able to be introduced.

15 THE COURT: Well, 902 says: Extrinsic
16 evidence or authenticity as a condition precedent to
17 admissibility is not required with respect to the
18 following documents, and it lists 1 through 10. I will
19 allow it. State's 62 is in evidence subject to defense
20 objections.

21 MR. BURN: Thank you, Your Honor.

22 (State's Exhibit Number 62 is received into
23 evidence.)

24 THE COURT: Bring us our jury, please.

25 (The jury returns to the courtroom.)

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1 THE COURT: Solicitor, you may proceed.

2 MR. BURN: Thank you, Your Honor.

3 BY MR. BURN:

4 Q Dr. Sweet, that certified copy of a death
5 certificate, what name is on that?

6 A Jesse Miller Gamble.

7 Q What date is on there?

8 A August 1, 2008.

9 Q And what is given as the cause of death?

10 A Massive cerebral trauma.

11 Q Do you agree with the facts, those facts as put
12 forth on the death certificate?

13 A Yes.

14 Q Was Jesse Gamble -- did he die as a result of his
15 massive head injuries?

16 A Yes.

17 Q Were the head injuries then the proximate cause of
18 his death?

19 A Yes.

20 MR. BURN: I have no further questions, Your
21 Honor.

22 THE COURT: Thank you, Solicitor.

23 Mr. Williams.

24 MR. WILLIAMS: May it please the Court.

25 THE COURT: Yes, sir.

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1 CROSS EXAMINATION

2 BY MR. WILLIAMS:

3 Q Dr. Sweet.

4 A Yes.

5 Q I am Theo Williams. I know we met earlier. Can I
6 borrow that a second?

7 A Sure.

8 Q Now, as I understand your qualifications, you are a
9 board certified neurologist?

10 A Neurosurgeon.

11 Q Neurosurgeon. For the jury's edification, what is
12 the difference between neurosurgeon and a
13 neurologist?

14 A Obviously as a neurosurgeon, we perform surgery.

15 Q And have you been doing that for how many years?

16 A Thirty years.

17 Q Which hospitals are you allowed to practice
18 medicine in?

19 A Palmetto Richland.

20 Q Do you have any other hospitals that you practice
21 in?

22 A Not at the present time.

23 Q And you work at the University of South Carolina?

24 A Yes.

25 Q And do you teach at the University of South

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1 Carolina School of Medicine?

2 A Yes.

3 Q And, Dr. Sweet, the document which you were just
4 looking at, is a Bureau of Vital Statistics form
5 from the State government; isn't it?

6 A I guess that's what it is. It appears to be an
7 official certification to me.

8 Q Right. And it's a compilation, isn't it, of facts
9 about the deceased and how the accident occurred?

10 A Well, it just states the cause of death is massive
11 cerebral trauma. I don't know that it really
12 states -- yes, how the injury occurred, bicycle
13 versus car accident. That is correct.

14 Q It provides information about the deceased, who he
15 is, how old he was?

16 A Yes.

17 Q Where he lived?

18 A Yes.

19 Q Where did he live?

20 A 233 Winterbury, Lexington, Lexington County, South
21 Carolina.

22 Q So he was living in -- we know that he was living
23 in Lexington County. We know his name by that,
24 don't we?

25 A Yes.

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1 Q And his age. How old was he?

2 A Nineteen years.

3 Q And it indicates that what he died with, which
4 would have been trauma to the brain; correct?

5 A Massive cerebral trauma.

6 Q Provides how it happened, says that there was an
7 accident between a car and a bicycle; correct?

8 A Yes.

9 Q What does it not include? What question is asked
10 on the form that it does not include the answer to?
11 Let me give you a heads-up, location of the
12 accident?

13 A Place of injury not listed, thank you.

14 Q So that particular document doesn't indicate where
15 the accident occurred, whether it be Lexington
16 County or Richland County; does it?

17 A That is correct.

18 Q Now, do you know -- I think in your testimony you
19 have indicated that your nurse practitioner, was
20 she on call or was she at the hospital when the
21 decedent appeared at the hospital?

22 A It was a he, and he -- they are on call 24 hours a
23 day. They are in the hospital.

24 Q So when you say on call --

25 A No, they are in the hospital.

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1 Q They are in the hospital?

2 A In the hospital

3 Q So the nurse practitioner would have been checking
4 the person out. Is there a treating physician
5 which is assigned when the person gets to the
6 hospital?

7 A You mean like there is a treating physician in the
8 emergency room, and then there will be a treating
9 physician for the trauma surgeon that admits the
10 patient.

11 Q Are you the trauma surgeon who admits the patient?

12 A No, I'm the neurosurgical consultant.

13 Q Who was the trauma surgeon who admitted the
14 patient?

15 A I'm not sure. I think it was Dr. Knottingham was
16 the trauma surgeon on that call.

17 Q And did you consult -- did you look at
18 Dr. Knottingham's notes and consult with
19 Dr. Knottingham insofar as this particular patient
20 is concerned?

21 A We would have looked at their notes and talked with
22 the trauma, probably the trauma fellow or the
23 trauma resident. Dr. Knottingham may have been in
24 a surgery on another case. I can't recall. We
25 talk with a representative from the trauma service.

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1 Q Essentially, correct me if I'm wrong, when you have
2 several doctors who specialize in different
3 matters, such as the neurosurgeon, the E.R. doctor,
4 the trauma doctor, maybe an anesthesiologist, you
5 all work as a team; don't you?

6 A We try to, that's correct.

7 Q And by working as a team, you would look at each
8 other's notes and consult with each other because
9 everyone has a different kind of specialty
10 sometimes?

11 A We consult with each other, that is correct.

12 Q The word specialist bothers you because you know
13 that you are a neurosurgeon, and some people might
14 just be a doctor. Is that why you hesitated?

15 A Can you read back what I said, I'm sorry.

16 Q It's not that important. Let me ask you this.
17 Insofar as your concern, because you are a
18 neurosurgeon, meaning not only are you a
19 neurologist -- because you are a neurologist first,
20 and you are a surgeon second -- you have special
21 skills that allow you to operate on the brain; is
22 that a fair statement?

23 A That's incorrect. We are surgeons first. We are
24 not neurologists. Our basis is we come up the
25 surgical side. We are trained as surgical interns,

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1 trained in general trauma. We rotate through
2 orthopedics, facial. So we don't come up the
3 medical limb, we come up the surgical side of the
4 tree.

5 Q You come up the surgery side, and then you become
6 proficient in the brain area?

7 A Correct. We do a residency for neurosurgery after
8 the surgical training.

9 Q Now, clearly at the time that you examined the
10 patient, he was having significant problems with
11 swelling on the brain; is that correct?

12 A Right. He had a severe traumatic brain injury.

13 Q Is time a factor in regards to how severe or
14 whether or not the trauma can be treated?

15 A I think the most important part is the severity of
16 the injury at the time that it occurred. The time
17 is always important in trauma. We always try and
18 get things taken care of, get the diagnosis made.
19 Because the sooner we diagnose, the sooner we can
20 treat, but some injuries are so overwhelming that
21 we are not going to be able to do but so much.

22 Q And in terms of the early treatment, can you stave
23 off some problems if you have -- if you are able to
24 treat earlier, meaning if you get someone who has
25 got like a concussion, and it develops into a

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1 closed head injury or you have got a closed head
2 injury. It's always better to get a hold of the
3 guy first because you relieve the pressure; isn't
4 that correct?

5 A There are a lot of different factors that go into
6 that, but some of the things don't require
7 relieving the pressure. Most concussions, say,
8 require observation and C.A.T. scan. A lot of how
9 the patients do is very dependent upon their
10 examination when we see them.

11 In other words, somebody can come in a deep,
12 deep coma. The chances of treatment being
13 successful is much, much less than if the coma is
14 less deep, and it also depends on what we see on
15 the C.A.T. scan, what other injuries are involved.
16 So there is no single answer that can be given to
17 that question.

18 Q What is the difference between a closed head
19 injury -- or would you say this patient had a
20 closed head injury that turned into a coma, a coma
21 being, I guess, the condition of the brain. Would
22 you say that is what happened here?

23 A Well, I think we are mixing apples and oranges.
24 The closed head injury is a definition of the
25 trauma. In other words, closed head injury is what

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1 occurs, say, most of the time in car accidents.

2 The other type of head injury we see
3 unfortunately in the Columbia area are the gunshot
4 wounds to the head. Closed head injury, when we
5 talk about it, we mean blunt trauma, not a hole in
6 the head from a knife or gun. That is kind of the
7 division we are taking there.

8 Q So this situation we are talking about here would
9 be classified as a closed head injury?

10 A Right.

11 Q Resulting in a coma for the patient?

12 A Well, you could say it that way.

13 Q How would you say it?

14 A We would say severe traumatic brain injury. That's
15 why we have a Glasgow Coma Score. The technical
16 way of saying it by Glasgow Coma Score of 8 or
17 less, you are by definition in a coma. That's how
18 we would say it.

19 Q By the time which you actually saw the patient,
20 there was nothing you could do except to monitor
21 the pressure; is that correct?

22 A We needed to examine the patient, physically review
23 his imaging studies, the C.A.T. scan, the I.C.P.
24 monitor, come to a diagnosis. Once we have a
25 diagnosis, formulate the treatment plan.

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1 Q So the only thing you were able to do was to
2 monitor the pressure of the decedent; is that
3 correct?

4 A As I recall, he had probably -- I think he had some
5 agents to try to decrease the pressure. There is
6 some chemicals we can use that will cause urine
7 output to go up. The idea is to get some water out
8 of the brain and hopefully make the pressure go
9 down. He did not respond to that.

10 Q So you did do that?

11 A Yes.

12 Q What you are saying is that surgery was not a
13 option, but medication was something you could do
14 in hopes of lessening the pressure?

15 A Right. To be honest, I think the chance of being
16 that effective at that point was extremely,
17 extremely small. Somebody his age or anybody, we
18 want to give every chance possible.

19 Q Now, insofar as your follow-up or your treatment of
20 this patient, I assume you knew when he passed on;
21 is that correct? Someone in your practice told you
22 when he passed on?

23 A Dr. Kee was -- we take call 24 hours at a time.
24 Dr. Kee was the physician coming up. So he passed
25 the information on, that is correct.

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1 Q When someone dies in the hospital in a situation
2 like this, are there other steps which normally are
3 done, such as inviting a coroner, doing an autopsy,
4 things of that nature?

5 A The Coroner's Office is notified by the trauma
6 service, and then they decide whether they want to
7 do an autopsy or how they want to handle it.

8 Q Let me ask, if you will, if you will look at some
9 documents. Do you know an Edward Catalano?

10 A I'm not sure.

11 Q Let me ask you to look at these documents and tell
12 me if you recognize the name of Dr. Edward
13 Catalano.

14 THE COURT: Catalano.

15 MR. WILLIAMS: Catalano, I'm sorry, Your
16 Honor. That must be my southern accent, Your Honor.

17 THE COURT: Dr. Catalano is from Columbia,
18 Mr. Williams.

19 A I do not know him personally.

20 Q Do you recognize these documents?

21 A Yes, these are the documents from the hospital.

22 Q Who do they involve?

23 A You mean the patient?

24 Q Yes.

25 A Jesse Miller Gamble.

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1 Q And what do they represent?

2 A Lab work that was obtained when he was in the
3 hospital.

4 MR. WILLIAMS: Your Honor, we would move to
5 introduce these documents as Defense Exhibit Number 1.

6 THE COURT: Solicitor?

7 MR. MOBLEY: Your Honor, the State would
8 object to the admission of this being moved into
9 evidence.

10 THE COURT: Step out for me, please. Do not
11 discuss the case during this brief recess.

12 (The jury retires to the jury room.)

13 THE COURT: Whatever attorneys is handling the
14 witness must handle the objection. Solicitor Burn.

15 MR. BURN: Your Honor, the State would object
16 based on the fact that the doctor who authored them is
17 not available, presumably not available to authentic and
18 lay a foundation.

19 MR. WILLIAMS: I believe he has testified he
20 is familiar with these reports. He works together with
21 these various doctors in term of the treatment of this
22 particular person. They are simply the blood analysis
23 reports and chemical analysis of the decedent when he
24 dies. He has essentially said he is familiar with these
25 reports.

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1 THE COURT: Would you please mark them and
2 allow me to look at them, Mr. Williams.

3 MR. WILLIAMS: Yes, Your Honor.

4 MR. BURN: As I understand, Dr. Sweet did not
5 use these in the treatment of Mr. Gamble. Now, I mean
6 Dr. Sweet could obviously correct me if I'm wrong on
7 that.

8 THE COURT: Let's have them marked.

9 (Defendant's Exhibit Number 1 is marked for
10 identification.)

11 THE COURT: Mr. Williams, your position is the
12 doctor, Dr. Sweet, used these or reviewed these in his
13 treatment of Mr. Gamble?

14 MR. WILLIAMS: He said he was actually
15 familiar with them.

16 THE COURT: He may be familiar with them from
17 being a 30-year neurosurgeon because they are Palmetto
18 Health Richland pathology reports from Dr. Edward W.
19 Catalano. But my question is whether or not he used
20 these documents or reviewed these documents in his
21 treatment of Mr. Gamble.

22 MR. WILLIAMS: I think that applies also.
23 Because he testified that he he reviews the documents of
24 other doctors and consulted with other doctors in
25 regards to the treatment of the decedent.

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1 THE COURT: Did he review these is my
2 question? Can you ask him.

3 MR. WILLIAMS: I guess I can ask him now.

4 THE COURT: Thank you.

5 IN CAMERA EXAMINATION

6 BY MR. WILLIAMS:

7 Q Did you review these at any point in time up until
8 today's date?

9 A I would say I didn't review every single lab test
10 that was done, but I reviewed -- typically we would
11 look at drug screening, the hemoglobin, the
12 chemistry, and the blood gases because these all
13 effect the patient's neurosurgical condition. Did
14 I see every single blood gas drawn or every single
15 lab work, no.

16 MR. WILLIAMS: Your Honor, I think that is
17 sufficient when he says he did see the drug screens, and
18 I think he explained why, too.

19 THE COURT: Solicitor.

20 IN CAMERA EXAMINATION

21 BY MR. BURN:

22 Q Dr. Sweet, did you see these particular records
23 during the treatment of Jesse Gamble?

24 THE COURT: Do you need to look back at them?

25 THE WITNESS: I have got a copy here.

RAYMOND SWEET -- IN CAMERA -- MR. BURN

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1 A That has been over a year ago. I mean, I can't
2 tell you which records I looked at a year ago. I'm
3 telling you what I typically look at in trauma
4 cases. It's the imagining study, the C.A.T. scan
5 of the head and neck, the C.P.C., the blood gases,
6 the chemistry and drug screens. That's what we
7 typically look at. Do I remember what I looked at
8 exactly a year ago, no.

9 Q Do those records have any kind of a time indicated
10 on them, time and date?

11 A You mean the lab work?

12 Q Yes, yes.

13 THE COURT: I can answer that.

14 A Yes, it is.

15 THE COURT: Yes, they do. The answer is yes,
16 they do.

17 BY MR. BURN:

18 Q And what are they?

19 A The drug screen looks like it's 7/31, 23:55, and
20 the blood work looks like it's 8/1. I can't real
21 see. They have different dates and times. They
22 are all dated and timed.

23 Q But the actual toxicology screen, does that have a
24 time on it?

25 A It says 23:55.

RAYMOND SWEET -- IN CAMERA -- MR. BURN

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1 Q And what time of day would that be?

2 A That's almost midnight.

3 Q On?

4 A On 7/31.

5 Q On 7/31.

6 MR. BURN: No further questions, Your Honor.

7 MR. WILLIAMS: Your Honor, I think it's clear
8 that based on that earlier review, he would have seen
9 this before he actually did any type of work on the
10 patient.

11 THE COURT: What specifically are y'all
12 fighting over? I know you are not fighting over this
13 16-page document or 17-page document, 1 through 17.
14 There is a particular area y'all are obviously arguing
15 about.

16 MR. WILLIAMS: I'm just trying to get the
17 record in. I'm not arguing, Your Honor. I guess it's
18 up to the solicitor.

19 THE COURT: Is there a particular area of
20 concern, Solicitor -- I'm on page 12 -- that is of
21 concern to either you or Mr. Williams? I am on page 12,
22 urine drug screen, alcohol drug screen, urine drug
23 screen. It appears to me to all be negative.

24 MR. BURN: Your Honor, I believe what
25 Mr. Williams is getting at, I believe there is a T.H.C.

1 positive in there.

2 THE COURT: Can you point that out for me?
3 Where I see is cannabinoids or whatever.

4 MR. WILLIAMS: It's the first sheet, Your
5 Honor.

6 THE COURT: The first sheet my court reporter
7 marked was page 12. I know that's how they gave it to
8 you.

9 MR. WILLIAMS: It's right here in the middle,
10 Your Honor. Where it says cannabinoids, it says
11 positive. Underneath that negative typing, it says
12 positive.

13 THE COURT: Doctor, this page 12 --

14 THE WITNESS: I have mine.

15 THE COURT: -- page 12 of Defense Exhibit
16 Number 1 for identification where it has positive with
17 an asterisk, do you know what that asterisk means?

18 THE WITNESS: No, unless it's just showing
19 it's abnormal. Sometime on the computer they will show
20 up with a color or asterisk. I am sure it's pointing to
21 an abnormal value if I had to make an educated guess.
22 If it was on the computer, it might show up as red,
23 blue, green or something like that.

24 THE COURT: With it low/high and you see just
25 above each of those, like benzoid, cannabinoids,

1 cocaine, barbituates, opiates, all of that is negative,
2 correct, this first line?

3 THE WITNESS: Yes, sir, I have got all
4 negatives on here.

5 THE COURT: Then below it's got negative and
6 positive and negative, negative, negative. Do you know
7 how that positive relates to that negative?

8 THE WITNESS: Well, no, I don't, unless it's
9 checking their reagents to make sure, checking -- what
10 do I want to say -- their normals. I don't know unless
11 they are checking the normals up there. I'm not sure
12 exactly. Obviously looking at it, I would say that
13 looks like it's positive for cannabinoids, marijuana.

14 THE COURT: Of all these reports, that's the
15 focus of your inquiry?

16 MR. WILLIAMS: It is, Your Honor.

17 THE COURT: How is that relevant?

18 MR. WILLIAMS: It is only relevant, not in
19 regard to the cause of -- not in regards to why he died
20 or anything, but it's relevant in regards that it
21 indicates that the person, the decedent, had traces of
22 marijuana in his system when the accident occurred.

23 THE COURT: How is that relevant?

24 MR. WILLIAMS: We don't know yet until the
25 case is over, until after all the witnesses have

1 testified.

2 THE COURT: Well, we have to know before the
3 case is over with. You can't put in evidence after the
4 case is over with. There has to be some relevancy to
5 that test.

6 MR. WILLIAMS: There was early testimony by
7 the first witness that the bicyclist was actually in the
8 hammer lane or the fast lane. Then there was testimony,
9 once the picture was shown, that he may have been in the
10 right-hand lane.

11 So arguably the bicyclist was not in the
12 bicycle lane, which is their theory. Their whole theory
13 is that he was in the bicycle lane and he was struck.
14 If he wasn't in the bicycle lane, if he was in a
15 different lane, then maybe one of the causes -- we don't
16 know about proximate cause or not because the jury has
17 to decide it -- but the proximate cause could have been
18 of his own making, and that is not being in the bicycle
19 lane. So it's relevant to that issue.

20 THE COURT: Solicitor.

21 MR. BURN: Your Honor, I fail to see how a
22 positive showing of T.H.C. that goes no further than
23 that. It doesn't say whether it's active in his system
24 or not. I'm not sure exactly what the threshold is for
25 that.

1 I fail to see how that puts him out in the
2 lane of travel for motor vehicles. It seems like a leap
3 to me as far as relevancy is concerned. Like I say, it
4 just seems like we are fishing here a little bit.

5 THE COURT: Thank you. Mr. Williams, I will
6 allow you to make a record with this caveat. Well, let
7 me hear the record you want to make first before I rule.

8 MR. WILLIAMS: Your Honor, when you say make a
9 record, are you anticipating ruling against me, and you
10 want me to go through it?

11 THE COURT: No, I am not anticipating ruling
12 against you. I just want to hear what you want to bring
13 out, what you are going to bring out in front of the
14 jury, if I were to let Defense 1 in evidence at this
15 time.

16 MR. WILLIAMS: I don't think he probably has
17 the qualifications to go any further, other than to say
18 that this report is a report which was used on Jesse
19 Gamble and that the analysis indicates that he had
20 cannabinoids in his system.

21 He is probably not qualified to say how high
22 that level was or how low that level was. It's only for
23 that purpose only. We are not getting involved into it
24 deeply in any way whatsoever.

25 We are not using it for purposes of saying:

1 Well, perhaps the marijuana contributed to his -- he
2 shouldn't have given him the medicines that he gave him
3 because that may have brought about his death or some
4 way like that. No one knows that.

5 THE COURT: My question is as far as
6 Dr. Sweet, whether or not that positive test, whatever
7 that positive test means from the pathology department
8 for cannabinoids, had any impact on the medical
9 observations or the medical treatments he gave to
10 Mr. Gamble.

11 MR. WILLIAMS: Isn't that a question for the
12 solicitor to ask, Your Honor, in regards -- it's like a
13 jury question. The solicitor can say, What does that
14 mean? He says nothing. Does it have any impact on your
15 treatment? No.

16 THE COURT: As far as it coming in right
17 now -- right now -- it's got to be relevant now. Of
18 course, we both remember very well, Mr. Williams, Judge
19 Timmerman saying everything can't be proved on a pencil
20 point. I understand that.

21 But as you go down the line in the evidence
22 with the witnesses, if I let this in now and then later
23 on through the offer of another witness, I determine in
24 my opinion it was not relevant, then you have to extract
25 that.

1 I am trying to get to a point to where if it
2 becomes relevant, I am not going to require the doctor
3 to be subject to recall or require some other custodial
4 type of witness to come to testify that those are the
5 records.

6 The solicitor asked him in direct did he rely
7 on the records as far as medical history, and these are
8 part of Jesse's records, I take it.

9 MR. WILLIAMS: They are.

10 MR. BURN: Your Honor, the State's position is
11 how much probative value does this have, with this
12 witness especially? By defense counsel's own admission,
13 he is not going to be able to say anything about what
14 this showing on this document means, anything beyond
15 being able to bring up the issue of marijuana.

16 Certainly this witness cannot make any kind of
17 leap between the presence of marijuana in Mr. Gamble's
18 system and his propensity to be out in the lane of
19 travel of motor vehicles, and that's by defense
20 counsel's own admission.

21 This really lacks any kind of real probative
22 value. It's simply an attempt to inject this particular
23 issue and just hope to make a connection. I don't
24 believe that connection can be made.

25 THE COURT: Well, that's kind of -- that's

1 kind of a cousin to the point I am trying to make, that
2 there could be down the line witnesses whereby this
3 testimony or the results of that test would be
4 admissible if those dots can be connected.

5 I don't know what the witnesses may testify
6 to. I don't know what the witnesses may testify to as
7 far as observations, if any, of Mr. Gamble operating a
8 bicycle or Mr. Jamison operating the van. So it
9 potentially could become admissible.

10 It could become admissible as part of the res
11 gestae. It could become admissible based on the
12 testimony of eye witnesses, if there are any
13 eyewitnesses. I don't know. I don't know.

14 I don't think it is admissible through this
15 witness. However, if it becomes admissible, I will
16 allow Mr. Williams to recall this witness if that is
17 part of the records. All right.

18 MR. BURN: Thank you, Your Honor.

19 THE COURT: Anything further, Mr. Williams,
20 before we bring in our jury?

21 MR. WILLIAMS: Nothing further on argument. I
22 have more questions for the witness.

23 THE COURT: Certainly, yes, sir. As I say,
24 this is page 1 through 17, but the way it was handed up
25 page 12 is the top page that got marked. Bring us our

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1 jury, please.

2 (The jury returns to the courtroom.)

3 THE COURT: Welcome back. Thank you for your
4 continued focus and attention in the trial of the case.

5 We are continuing with the cross examination of

6 Dr. Sweet by Mr. Williams. Mr. Williams.

7 **CROSS EXAMINATION**

8 BY MR. WILLIAMS:

9 Q Dr. Sweet, as I understand your testimony, the
10 nurse practitioner was the first person on the
11 scene and examined the decedent. Then you came in
12 and you examined the decedent; is that correct?

13 A What do you mean, the first person on the scene?

14 Q At the hospital --

15 A No. It was the emergency room physician and then
16 the trauma team. They have several people. They
17 have nurse practitioners and residents and fellows.
18 Then once they have done their thing, then we get
19 involved. He was the first representative of the
20 neurosurgery department.

21 Q And when did you observe the decedent?

22 A Shortly after he did. I have my first note at
23 1:45. So typically I have would have seen him
24 about 20 to 30 minutes prior to writing the note.

25 Q Did you observe the overall body of the decedent?

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1 A Yes.

2 Q Meaning from head to toe?

3 A I didn't do a thorough examination of the rest of
4 the body. We were called in as neurosurgical
5 consultants, but I took a general look.

6 Q Did you make any notations in regards to any
7 particular smells that you may have smelled about,
8 if any, of the decedent?

9 A No.

10 Q Does that mean you didn't smell anything about the
11 decedent or that you just didn't make any notation?

12 A Well, if there would have been a smell that I
13 noticed, I would have made a notation, so both.

14 Q And in regards to your authorization of drugs or
15 medications to treat the decedent, did you require
16 any steps to be done before you medicated the
17 decedent?

18 A The patient was already medicated when I saw him.
19 In order to maintain on the ventilator, the trauma
20 team usually uses pain medications, muscle
21 relaxants, and sedatives. And if the blood
22 pressure is low, they prescribe blood pressure
23 medication. So those things would all be in place
24 when I saw the patient.

25 Q Did you check any urine samples or any blood

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1 analysis to determine whether or not there was
2 anything in the decedent's body before you treated
3 the decedent?

4 A I mean, other than what is in this -- all of this
5 stuff ordered, and we check it before we do the
6 I.C.P. monitor. I didn't mention that a lot of
7 these patients have bleeding disorders.

8 We will also check whether their bleeding
9 studies are okay. So all of these thing are
10 ordered before I get there, and a lot of this we
11 are reviewing the things.

12 Q So the answer to my question is you did check the
13 urine and blood samples of the decedent before you
14 started any treatment?

15 A Yes, sir.

16 Q And what did you determine from the urine samples
17 and from the blood samples about the decedent's
18 blood before you began your treatment?

19 A What specifically are you asking me for? There's a
20 lot of things that can be seen: The level of
21 hemoglobin, whether clotting studies are okay,
22 whether there is any drugs or alcohol on board. I
23 mean, we have to refer to the notes on that. I
24 can't recall all of those things off the top of my
25 head.

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1 Q Look at your notes and tell me if there was any
2 alcohol or illegal drugs in the decedent.

3 MR. BURN: Objection, Your Honor.

4 THE COURT: What is your objection, Solicitor?

5 MR. BURN: We have a motion that needs to be
6 taken up outside the presence of the jury.

7 THE COURT: Ladies and gentlemen, y'all will
8 get your exercise this morning. If you would step to
9 your jury room. Do not discuss the case during this
10 brief recess.

11 (The jury retires to the jury room.)

12 THE COURT: Your objection, Solicitor?

13 MR. BURN: Your Honor, defense counsel is
14 trying to get in evidence what you have already ruled
15 on. He's trying to circumvent that. You have already
16 ruled, I believe based on 403, that we are not getting
17 into this particular evidence in this particular area.
18 That is the position of the State. He is simply trying
19 to get into that information that Your Honor has already
20 ruled on.

21 THE COURT: Mr. Williams.

22 MR. WILLIAMS: Your Honor, I think it's a
23 little different now. We are talking to him about the
24 treatment he performed on the decedent. If they are
25 able to talk about the treatment and what procedures

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1 they did, then I am entitled to ask him about the
2 condition of the person, what type of medicines he had
3 inside him, and anything in regards to that.

4 Now we are talking about treatment, and we are
5 not talking about the introduction of the document. We
6 are talking about what this doctor knows.

7 MR. BURN: Your Honor, the basis of the ruling
8 is 403, which is evidence otherwise admissible, using
9 the balance test to say this is more prejudicial than
10 probative in this case.

11 If I am understanding Your Honor's ruling, it
12 was based on 403, which although Mr. Williams may be
13 correct to that point, that it would be admissible to
14 that point, if I understand Your Honor's ruling is that
15 despite the fact that it would otherwise be admissible,
16 it is not admissible at this time because its probative
17 value has not been shown to outweigh its prejudicial
18 value in this case.

19 THE COURT: I took the question differently
20 than either one of y'all just explained it to me. He
21 asked the doctor what was indicated on his, the
22 doctor's, notes if I recall the question correctly. We
23 can go back to that.

24 The answer to that may be nothing. That was
25 the question I believe that Mr. Williams stated to the

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1 witness, and that's why I thought it was a different
2 question. He was not going to Defense 1 for
3 identification.

4 However, in looking at the cases, I did not do
5 a 403 analysis. Your objection was not based on 403. I
6 did an analysis based strictly on relevancy at the time.
7 Nobody brought up 403 in my prior analysis.

8 I understood the law is that where drug use is
9 unrelated to the crime at issue, evidence of drug use
10 should be excluded. My point is that -- and most of
11 these cases come up on the defendant's drug use, when a
12 defendant is using drugs and goes out and commits an
13 armed robbery unrelated to the use of the drugs or
14 steals an automobile unrelated to the use of drugs.
15 That's where most of these cases come up.

16 All I have said is I did not think it was
17 relevant to the crime at issue and what Mr. Williams is
18 trying to connect those dots because those dots may not
19 be able to be connected. They may be able to be
20 connected.

21 Someone may be able to come in here and
22 testify -- I don't know -- to the manner in which
23 Mr. Gamble was operating the bicycle. It may become --
24 hypothetically, by example. I'm not saying it will or
25 won't. I don't know -- that may then become relevant.

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1 Your argument now is on a 403 analysis of the
2 prejudicial effect. Although relevant evidence may be
3 excluded if its probative value is substantially
4 outweighed by the danger of unfair prejudice, confusion
5 of the issues or misleading the jury or by
6 considerations of undue delay, waste of time or needless
7 presentation of cumulative evidence.

8 What is your question now, Mr. Williams?

9 MR. WILLIAMS: Your Honor, my question is:
10 Dr. Sweet, did you determine the condition of the
11 decedent insofar as his blood, his urine, insofar as
12 whether or not there was any type of, I guess,
13 substances in the urine or the body before giving
14 treatment to him, which he says he has to do before he
15 performs treatment.

16 THE COURT: What is his answer?

17 MR. WILLIAMS: I don't know. We were cut off.
18 I don't know.

19 THE COURT: Ask him the question.

20 MR. WILLIAMS: Did you perform any analysis --
21 I think he has answered that, Your Honor. I take it
22 back. He said he did. He did check the blood screens
23 and the urinalysis to determine what his condition was
24 before he --

25 MR. BURN: Your Honor, I don't believe he

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1 actually did answer that question.

2 THE COURT: Do what, Solicitor?

3 MR. BURN: I don't believe he did give a
4 complete answer to that question.

5 THE COURT: Ask him the question,
6 Mr. Williams.

7 IN CAMERA EXAMINATION

8 BY MR. WILLIAMS:

9 Q Dr. Sweet, did you refer to his urinalysis and his
10 blood screens before you began treatment, before
11 you began treatment of the decedent?

12 A Yes. Not all tests may have been available to do
13 the tests that we did. Since this was a surgical
14 procedure, I would have had -- we would have had
15 the C.B.C., the blood gases, the chemistry,
16 especially the clotting studies.

17 The full report on the urine drug screen may
18 or may have been back before we put the monitoring.
19 I can't say for sure. Sometimes those results are
20 back.

21 The treatment is so acute that it require us
22 to do the treatment while some tests are pending.
23 I can't say whether that test was back before I put
24 the bolt in or after I put the bolt in.

25 Q And to make a determination whether or not those

RAYMOND SWEET -- IN CAMERA -- MR. WILLIAMS

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1 test results are back, would you need to refer to
2 the date and time of the test which are in his
3 medical records?

4 A Yes. But those are the times I think that they are
5 collected, not necessarily the time that it's
6 available for looking. I'm sure it's somewhere in
7 somebody's computer.

8 I'm just saying that in the emergency
9 situation, we may or may not have seen that. In
10 other words, if someone needs an emergency
11 breathing tube, we won't wait to get the lab back
12 on certain things. They may or may not have been
13 available. It's a year later. I can't say for
14 sure.

15 Q Would the notes that you have in front of you
16 assist you to make that determination?

17 A No.

18 Q They wouldn't?

19 A I don't think so. I see the nurse practitioner's
20 note. The hemoglobin is there, the alcohol is
21 there, and the coags are there, but I don't see any
22 mention of the drug screen. It's noted 00:20.

23 Q You are referring to the nurse's notes?

24 A This note by the nurse practitioner on the first
25 thing. In the margin he is talking about the

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1 hemoglobin, the alcohol, and the coags. The coags
2 we would want to know before we put a bolt in.
3 Because if they are abnormal, we won't want to take
4 the chance of inter cranial bleeding. So I'm just
5 saying I can't recall if these were seen before
6 after the bolt. Irregardless we needed to do what
7 we needed to do.

8 THE COURT: Anything further? Anything at
9 this point? Again, at this point I believe that it is
10 not admissible. It's not relevant.

11 MR. WILLIAMS: I don't have any other
12 questions for him, Your Honor.

13 THE COURT: Do you have anymore questions in
14 front of the jury, Mr. Williams?

15 MR. WILLIAMS: No, Your Honor.

16 THE COURT: Bring us our jury, please.

17 (The jury returns to the courtroom.)

18 THE COURT: Any further questions,
19 Mr. Williams?

20 MR. WILLIAMS: No, Your Honor.

21 THE COURT: Thank you. Redirect, Solicitor?

22 MR. BURN: Thank you. Just one question.

23 **REDIRECT EXAMINATION**

24 BY MR. BURN:

25 Q Dr. Sweet, given your review of the medical records

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1 and your examination of Mr. Gamble, was everything
2 reasonably possibly done by medical personnel to
3 save this young man's life?

4 A Yes.

5 Q Thank you.

6 MR. BURN: No further questions, Your Honor.

7 THE COURT: Recross, Mr. Williams?

8 MR. WILLIAMS: No, Your Honor.

9 THE COURT: Thank you. Thank you very much,
10 Doctor. You may step down.

11 (Witness leaves the witness stand.)

12 THE COURT: Solicitor, how long will your next
13 witness be?

14 MR. BURN: The next witness will be
15 approximately 20 minutes or so.

16 THE COURT: Twenty minutes.

17 MR. MOBLEY: Yes, Your Honor.

18 THE COURT: Call the next witness.

19 MR. MOBLEY: The State calls Officer Adam
20 Smith.

21 THE COURT: If you would come around and be
22 sworn for us, Officer Smith.

23 ADAM SMITH, being
24 first duly sworn, testifies as follows:

25 CLERK: Have a seat please, sir. Once you are

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1 seated, state your full name on the record.

2 THE WITNESS: Adam Smith.

3 DIRECT EXAMINATION

4 BY MR. MOBLEY:

5 Q Officer Smith, where do you currently work?

6 A The City of Cayce Police Department.

7 Q How long have you been working there?

8 A A little over three years.

9 Q What is your current position there?

10 A Police officer.

11 Q And as a police officer, what are some of your
12 general duties?

13 A Just basic answering citizen complaints, enforcing
14 local, State and Federal laws, traffic enforcement,
15 stuff like that.

16 Q Now, Officer Smith, I would like for you to provide
17 the jury and the Court with the information about
18 some of your training and experience and employment
19 history if you would.

20 A Basically I was hired in 2006 by the City of Cayce,
21 went to the South Carolina Criminal Justice Academy
22 just for basic law enforcement training. Of
23 course, we do fire and police things like that. I
24 have had Datamaster, radar certifications, several
25 different things.

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1 Q So have you gone -- you have gone through the
2 Criminal Justice Academy?

3 A Yes, sir, I have.

4 Q Are you currently certified as a police officer?

5 A Yes.

6 Q You have been certified since?

7 A 2006.

8 Q 2006. Have you ever had -- has your certification
9 ever lapsed?

10 A No.

11 Q Have you ever been decertified?

12 A No.

13 Q Officer Smith, you state that some of your general
14 duties with Cayce is traffic enforcement; correct?

15 A Yes, sir.

16 Q And now during your traffic enforcement, have you
17 ever had to deal with any type collisions or D.U.I.
18 enforcement, anything of that nature?

19 A Yes.

20 Q Can you place a ballpark figure upon that?

21 A Just for like D.U.I. type enforcement or anything
22 specifically?

23 Q D.U.I. enforcement, let's say.

24 A Just ballpark, maybe a handful, ten, maybe a few
25 more, few less. I'm not exactly sure.

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1 Q Now, during your employment with Cayce as well,
2 have you had an opportunity to investigate or come
3 upon the scene of vehicle accidents?

4 A Yes.

5 Q Have you had to go and secure scenes there before?

6 A Yes.

7 Q How many times?

8 A Numerous times. I mean, we work a lot of accidents
9 during the course of the day.

10 Q So you are familiar with the operation of the area
11 of that nature?

12 A Yes.

13 Q I am going to take you back to the night of
14 July 31, 2008, the early morning of August 1, 2008.

15 A Okay.

16 Q Were you currently on duty at the time?

17 A Yes, I was.

18 Q What shift were you on?

19 A I was on the night shift. Our shift that we work
20 on is the delta shift, the ones that were currently
21 on duty at the time.

22 Q When you say night shift, what do you mean by that?

23 A I work from seven in the evening until seven in the
24 morning.

25 Q Late night July 31, 2008, were you called out to

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1 the scene of an accident?

2 A Officer Stone requested assistance down right there
3 at the Blossom Street Bridge on Knox Abbott Drive,
4 which is right there inside of our city. It's
5 still in Lexington County. Whenever he called for
6 assistance, I responded down there.

7 Q Where were you before you actually received the
8 call for assistance?

9 A I was actually -- me and Officer Stone had just
10 passed each other in the area of State Street and
11 Knox Abbott. I ended up going the other way, back
12 away from Columbia. He was traveling towards
13 Columbia.

14 Q So by the time you received that call for
15 assistance, how far away were you from the 100
16 block of Knox Abbott Drive.

17 A I might have been maybe in the thousand block or
18 so. I'm not exactly sure. It wasn't far.

19 Q How long did it take you to get there?

20 A A minute or two tops.

21 Q So you immediately turned around and came back to
22 the scene?

23 A Yes.

24 Q Once you got to the scene, what did you observe?

25 A What I initially observed was a bunch of cars

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1 stopped on the roadway. Of course, Officer Stone
2 had his car stopped in the number two lane. I
3 believe it was the number two. Don't hold me to it
4 because I'm not exactly sure.

5 I saw him with his blue lights activated. Of
6 course, I saw multiple vehicles stopped right there
7 at the very edge of the bridge. That's when I
8 heard Officer Stone on the radio call out that
9 there had been a collision between a bicyclist and
10 some type of vehicle. We weren't sure at that
11 point.

12 Q Did you get out of your car at any point once you
13 arrived there?

14 A Yes, sir.

15 Q What did you do?

16 A Basically I walked up and tried to assess what we
17 had on the scene. That's when I observed the
18 victim, Mr. Gamble. He was in the number two lane.
19 His foot was hanging over into the number one lane
20 a little bit. We just basically looked at him and
21 saw that he had very bad type trauma to the body.

22 Q Why do you say it looked like he had very bad
23 trauma?

24 A His head was bleeding. I know he had a -- of
25 course, I'm not a doctor, but his leg looked like

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1 to me it was broken, just real bad trauma to the
2 body, cuts and scrapes and things.

3 Q Now, Officer Smith, when you saw Mr. Gamble laying
4 in that number two lane?

5 A Uh-huh. (Indicating affirmative response.)

6 Q How far from the end of the road before it gets to
7 the bridge was Mr. Gamble laying?

8 A From the end of the road to the bridge, I
9 wouldn't -- I'm just guesstimating here because I
10 don't know exactly. I would guess maybe 30 feet or
11 so. It was pretty close.

12 Q Now, are you familiar with the Lexington/Richland
13 County cutoff there?

14 A Yes, sir.

15 Q Where is that located?

16 A Basically the county line runs right down the
17 middle of the river. It divides the bridge in
18 half.

19 Q Were your observations that Mr. Gamble was in
20 Lexington County at the time?

21 A Yes.

22 Q When you were assessing the scene, did you observe
23 a bicycle there.

24 A Yes, I did.

25 Q Where was that located?

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1 A What now?

2 Q Where was that located?

3 A I can't remember right off the top of my head.

4 Q Was it there on the scene?

5 A Yes, it was there --

6 MR. WILLIAMS: Objection to leading, Your
7 Honor.

8 THE COURT: Don't lead, Solicitor. He has
9 already answered the question. He said he observed it.
10 He can't remember exactly where. You may ask your next
11 question, Solicitor.

12 MR. MOBLEY: Yes, Your Honor.

13 BY MR. MOBLEY:

14 Q Was there any other individuals that were there on
15 the scene?

16 A Yes, sir.

17 Q Who were they?

18 A Multiple witnesses and Mr. Jamison was standing on
19 the sidewalk, of course, on the right-hand side of
20 the road.

21 Q Now, did you observe Mr. Jamison's car there?

22 A It was way on down the bridge. That was after a
23 little bit of further investigation where we
24 determined that was his vehicle down there, but I
25 could observe it from the scene.

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1 Q What was your purpose while you were there on the
2 scene?

3 A Initially I was there to just to assist Officer
4 Stone and to, you know, of course, try to get the
5 traffic out of there, get it straightened up so we
6 could get first responders and E.M.S. there to
7 render assistance to Mr. Gamble.

8 Q At any point did you talk to any other witnesses
9 that were there on the scene?

10 A I spoke to a couple of them just trying to figure
11 out exactly what had happened. Basically did
12 anybody see what happened, who hit who or did
13 anybody see who you hit the gentleman.

14 At that point nobody could really give me a
15 direct answer because it was just fresh, and I
16 think the set of panic was in pretty much
17 everybody's mind at that point.

18 Q Did you ever take any statements from anyone?

19 A I did not.

20 Q Now, from speaking with the eyewitnesses that were
21 there and your assessment from Officer Stone, you
22 came to the conclusion that there was a bike
23 accident?

24 A Yes.

25 Q Now, did you see any debris laying around at the

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1 time?

2 A I saw mainly the debris from Mr. Gamble's bike that
3 was there on the scene and his shoes and socks and
4 stuff like that.

5 Q Officer Smith, at any point did you move or tamper
6 with any of that?

7 A No.

8 Q You left that there for someone else to do?

9 A Yes.

10 Q From that point what did you do?

11 A Basically while I was sitting there getting the
12 information from Officer Stone, I could hear
13 Mr. Jamison just asking questions. He was asking
14 us questions, asking the witnesses there questions,
15 just basic things like: Did I hurt somebody? Did
16 I do something wrong?

17 That's the two that stand out most in my mind.
18 The rest of them, it gets kind of fuzzy. I can't
19 remember exactly, but those are the two that stand
20 out in my mind.

21 Q When Mr. Jamison was making these statements, was
22 he under custody at this time or under arrest?

23 A No.

24 Q So you all were still doing the investigation?

25 A Yes.

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1 Q Now, Officer Smith, at this point were you near
2 Officer Stone talking to Mr. Jamison?

3 A At one point I went by there or I was standing in
4 the vicinity of them, but I don't really recall the
5 exact statements and everything that were made
6 between Officer Stone and everything like that.

7 Q And at any point did you hear Mr. Jamison state
8 that --

9 MR. WILLIAMS: Objection to leading. It's got
10 to be leading, Your Honor.

11 THE COURT: Yes, sir, restate the question.

12 BY MR. MOBLEY:

13 Q Are there any other statements from Mr. Jamison
14 that you heard, other than the ones you have
15 already testified to?

16 A Again, the only ones I remember, Did I hurt
17 somebody? Did I do something wrong? And going
18 back to Mr. Jamison, just from what I observed, you
19 know, there -- and, of course, I didn't really
20 speak to him a whole lot, but I was there in the
21 area of Mr. Jamison. Listening to his speech I
22 observed --

23 MR. WILLIAMS: I move to strike, unresponsive.

24 THE COURT: Yes, sir. You need to ask the
25 question, Solicitor, that the officer can respond to.

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1 BY MR. MOBLEY:

2 Q Were there any statements by Mr. Gamble?

3 A I don't remember any.

4 Q Officer Stone (sic), that night was your car
5 equipped with video/audio equipment?

6 A I'm Officer Smith.

7 Q Officer Smith, I apologize.

8 A My car, yes.

9 Q That night did you utilize that video?

10 A Yes, I did.

11 Q Why did you do so?

12 A Basically I just left it on. Once I activated my
13 blue lights, it came on and I just left it going.

14 Q Did it record the events of that night?

15 A Yes.

16 Q Have you been able to actually review that video?

17 A Yes.

18 Q Does it fairly and accurately depict the scene as
19 it was that night?

20 A Yes.

21 Q Is the Defendant on that actual video?

22 A Yes.

23 MR. MOBLEY: Your Honor, the State would move
24 to have State's Exhibit Number 49 admitted into
25 evidence.

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1 MR. WILLIAMS: Your Honor, we don't have any
2 objection to that.

3 THE COURT: State's 49 is in evidence without
4 objection.

5 (State's Exhibit Number 49 is received into
6 evidence.)

7 BY MR. MOBLEY:

8 Q So the scene was recorded at that time, correct?

9 A Yes.

10 Q What did you do from there?

11 A Basically at that point I remember Sergeant Marzol
12 and Detective Reese arriving. After that basically
13 just some conversations while we were conducting
14 the investigation of the accident.

15 Officer Stone at one point approached me and
16 basically through his investigations had reasonable
17 enough suspicious to believe Mr. Jamison had
18 possibly been involved in the accident.

19 That's when he came to me. At that point I
20 then instructed him to go look at Mr. Jamison's car
21 which had been identified as the van parked right
22 down the bridge. I instructed him to go look for
23 any kind of damage.

24 If no damage was located, then he would have
25 placed him under arrest for public intoxication.

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1 But, again, that's when I was notified by
2 patrolman -- I'm sorry -- by Officer Stone that
3 there was damage to the vehicle.

4 At that point we then -- I'm sorry -- Sergeant
5 Marzol and Officer Stone then started to conduct
6 the field sobriety tests, things like that. I went
7 and took over clean up at the scene, traffic,
8 trying to get the cars through, helping E.M.S.,
9 helping the fire house, just doing other little
10 things I could do to help on the scene.

11 Q Now, Officer Smith, I understand you were able to
12 observe the Defendant some on the scene; correct?

13 A Yes, yes.

14 Q Are you able to state any observations that you
15 made about the Defendant?

16 A Yes, just a few observations. Like I said, it was
17 just brief. But the few observations that I did
18 observe, his speech was slurred in some of the
19 statements he was making.

20 While he was speaking, of course, I said I was
21 there close. I could detect a strong odor of
22 alcohol of alcoholic beverage on his breath and
23 person. He appeared to be somewhat unsteady on his
24 feet.

25 Q Now, you were there when the field sobriety tests

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1 were conducted; correct?

2 A I was but I really wasn't pay attention to them.

3 Q Once you cleared the scene, what did you do?

4 A Basically once I cleared the scene, once Mr. Gamble
5 had been taken to the hospital, and Officer Stone
6 and Sergeant Marzol had basically handled their end
7 of the investigation, I basically had our wrecker
8 service -- I believe they were towing Mr. Jamison's
9 vehicle and loading Mr. Gamble's bike onto the
10 wrecker. Then we brought it back to Cayce Police
11 Department.

12 Q So you observed the actual bicycle being placed on
13 the wrecker service?

14 A Yes, I did.

15 Q As well as Mr. Jamison's van?

16 A Yes.

17 Q What wrecker service? Where was it towed to?

18 A Where was what, the bicycle?

19 Q First, the van.

20 A The van. The van, I believe, was towed to
21 Tillman's towing, which would be the wrecker
22 service.

23 Q Where was the bicycle towed to?

24 A To Cayce Police Department.

25 Q During this particular towing, did you follow them?

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1 A Yes.

2 Q Did you keep an eye on the tow truck?

3 A I was driving right behind the vehicle or right
4 behind the tow truck.

5 Q Never lost sight of him?

6 A No.

7 Q Once the bicycle was taken to Cayce Police
8 Department, what happened then?

9 A Basically we unloaded it and put it into evidence.

10 Q Who is we that you are referring to?

11 A I had assistance from the wrecker driver unloading
12 the bicycle, but after that it was all in my hands.

13 Q And once you were there, what did you do with the
14 bicycle?

15 A Placed it in our evidence area, filled out the
16 custody sheet, and just again like I said, secured
17 it into evidence.

18 Q Was the bicycle at the time of the deposit, was it
19 within the same condition as it was when it was at
20 the scene of the incident?

21 A Yes, it had not been messed with.

22 Q It hadn't been tampered with.

23 A No.

24 Q You didn't do anything with it?

25 A No.

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1 Q I want to hand you a document. Do you recognize
2 what that document is?

3 A Yes, sir.

4 Q What is it?

5 A It's an evidence property custody report basically
6 for our evidence custodian.

7 Q Is that the form you used that night?

8 A Yes.

9 Q How do you know so?

10 A It's got the date and the time on there. It's got
11 my name and of course my signature on it.

12 Q Is that your signature?

13 A Yes, that is.

14 Q Is that the one you wrote?

15 A Yes.

16 Q What is the date on there?

17 A The date it was entered was August 1, 2008.

18 Q Thank you.

19 MR. MOBLEY: Your Honor, the State would move
20 to have this admitted into evidence as State's Exhibit
21 Number 64, I think -- 63, excuse me, Your Honor.

22 THE COURT: Mr. Williams.

23 (Pause.)

24 MR. WILLIAMS: We have no objection, Your
25 Honor.

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1 THE COURT: State's 63 is in evidence without
2 objection.

3 (State's Exhibit Number 63 is received into
4 evidence.)

5 BY MR. MOBLEY:

6 Q Officer Smith, looking at the contents of that
7 particular document, which is State's Exhibit
8 Number 63?

9 A Uh-huh. (Indicating affirmative response.)

10 Q What is indicated in those boxes there?

11 A Basically you have different item numbers,
12 different quantities of -- let's say you have two
13 tapes or something like that. Basically what we
14 have there is an item number C., quantity one,
15 being a red in color bicycle.

16 Q What is quantity number two?

17 A What we have is item number B. which would be the
18 in-car V.H.S. tape that came out of my in-car
19 camera.

20 Q Okay. So that was the video that was utilized that
21 night?

22 A Yes.

23 Q Now, Officer Smith, once that bicycle -- where was
24 it deposited at the Cayce Department of Public
25 Safety?

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1 A In our jail area. They secure all of the large
2 pieces of evidence. Basically we stick it in
3 there, lock it up. Our evidence custodian can come
4 in there and do whatever he does to inventory it
5 and everything like that.

6 Q Is that a secure location?

7 A Yes.

8 Q Who is allowed access to that particular location?

9 A Only officers who are entering evidence and the
10 evidence custodian.

11 Q Since this point in time when the bicycle was
12 placed into evidence there, has it been tampered
13 with?

14 A To the best of my knowledge, no.

15 Q Are officers the only ones that have access to it?

16 A Yes.

17 MR. MOBLEY: Beg the Court's indulgence,
18 please, Your Honor.

19 THE COURT: Yes, sir.

20 (Pause.)

21 MR. MOBLEY: Your Honor, nothing further for
22 this witness.

23 THE COURT: Mr. Williams.

24 MR. WILLIAMS: May it please the Court.

25 THE COURT: Yes, sir.

ADAM SMITH -- CROSS -- MR. WILLIAMS

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1 CROSS EXAMINATION

2 BY MR. WILLIAMS:

3 Q Officer Smith?

4 A Yes, sir.

5 Q As I understand it, you work for the City of Cayce
6 Police Department and have since 2000 what?

7 A Six.

8 Q And you are on delta shift; is that right?

9 A Yes, sir.

10 Q Would your supervisor be?

11 A Sergeant Marzol.

12 Q Sergeant Marzol. So you and Stone both work under
13 the supervision of Sergeant Marzol?

14 A At that time we did, yes, sir.

15 Q And as I recall your testimony, you overheard Stone
16 indicate that there had been a collision or you
17 actually saw the cars piling up first?18 A He called me to it. He called me to it, and he
19 advised me I needed to come down there.20 Q So you were near the area when you got the radio
21 call, you went to specifically that area on Knox
22 Abbott or where the bridge is?

23 A He called me down to the bridge.

24 Q When you got down there, you observed the patrol
25 car sitting there with the blue lights going and

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1 was, when you arrived there, was Stone in the car
2 or was he out of the car?

3 A I believe he was out of the car, but again I didn't
4 see him get out of the car. So everything I could
5 see, he was out of the car.

6 Q What were your first actions when you got there?

7 A My first actions, of course, to get out of the car
8 and size up the scene, get the vehicles out the way
9 and cleared and get an ambulance there.

10 Q Where did you put your car?

11 A I parked it behind Stone's.

12 Q Where was his car located?

13 A I'm not exactly -- I can't remember if it was in
14 the number one or number two lane, but it was right
15 there on the scene.

16 Q So you either parked it behind Stone in the number
17 one or number two lane?

18 A I believe actually I parked right across into both
19 lanes, but I believe that's what it was.

20 Q He was in lane one or lane two, and you straddled
21 lane one and lane two?

22 A Yes, and I had my blue lights activated, of course.

23 Q Which way was your car pointed?

24 A Towards Columbia.

25 Q You turned your blue lights on. Did you turn your

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1 camera on at that time?

2 A It came on when I cut my blue lights on while
3 responding.

4 Q So as soon as you arrived at the scene, your camera
5 is going to come on, and it's going to show the
6 location of your car and Stone's car?

7 A Yeah.

8 Q And the location of the other vehicles which are in
9 front of you?

10 A Yeah.

11 Q And essentially the camera will show as far out as
12 the camera can show?

13 A Yes.

14 Q When you got out there, what did you do?

15 A Basically walked up and ask Officer Stone what we
16 had, observed Mr. Gamble laying there on the
17 ground.

18 Q Where was he?

19 A He was laying there in the number one lane -- I'm
20 sorry -- the number two lane, the right-hand lane.

21 Q So the number two lane is the right-hand lane?

22 A Basically it's the slow lane.

23 Q Did you misspeak when you said the number one lane
24 just a second ago?

25 A Yes, I did.

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1 Q Then what did you do?

2 A Basically tried to find out what had happened and
3 locate the person who had hit Mr. Gamble.

4 Q What did you physically do? Did you walk down
5 somewhere?

6 A Yes. I walked down to where Mr. Gamble was. Of
7 course, I was parked behind a couple of other
8 vehicles and walked down there and spoke with
9 Officer Stone.

10 Q You have referred to the decedent as Mr. Gamble?

11 A Yes.

12 Q Did you know at that time what his name was?

13 A No.

14 Q How long was it before you found out what his name
15 was?

16 A It was a while. I didn't know his name the entire
17 time we were there on the scene.

18 Q When you say a while, how long is a while, an hour?

19 A I think it was a little longer than that. I'm not
20 exactly sure.

21 Q Did you check his belongings to see if he had a
22 driver's license in his wallet to identify who he
23 was?

24 A When E.M.S. got there once they had him secured, of
25 course, we tried to identify him.

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1 Q And did you check his wallet to see if he had a
2 driver's license?

3 A We couldn't locate a wallet.

4 Q So it's your testimony he had no wallet?

5 A I don't remember seeing one.

6 Q Describe if you will what he had on him when you
7 got there?

8 A Besides his regular clothes, I believe he had maybe
9 a book bag with him. That was about it.

10 Q Was anything in the book bag?

11 A I don't remember. I never really looked.

12 Q You didn't search the book bag to see what was in
13 the book bag.

14 A Not me.

15 Q Who would have done that?

16 A Another officer and an E.M.S. worker.

17 Q Who was the officer in charge of the scene?

18 A Officer Stone.

19 Q So Officer Stone would have done that?

20 A Possibly. We all try to assist each other, but, of
21 course, we couldn't locate anything.

22 Q Does the police department have rules, policies
23 insofar as when you arrive at the scene, who is in
24 charge of the evidence, who is in charge of the
25 scene itself?

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1 A Typically the first responding officer.

2 Q So Officer Stone, since he was the first responding
3 officer, would have been the person in charge of
4 all the evidence?

5 A To a degree, yes.

6 Q What does that mean?

7 A Basically, like I said, we assist each other
8 because we don't want to shove all this work onto
9 one person. So we do assist our officers.

10 Q And he would have directed you and said, How about
11 doing that for me. How about doing that for me.

12 A He could have.

13 Q Is he supposed to?

14 A He could have done it. There is no real -- it's
15 not really written in stone that somebody gives
16 orders or not. I know Sergeant Marzol typically,
17 because he is a high-ranking officer, he will
18 typically take the scene.

19 Q Do you recall what happened that night?

20 A Yes, sir, I do.

21 Q So who was directing the people that night?

22 A I was there. Of course, I was helping Officer
23 Stone, assisting him, giving some directions and
24 guidance until Sergeant Marzol got there.

25 Q On that night who was directing preservation of the

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1 evidence?

2 A I don't remember if we assigned a certain
3 individual to do it.

4 Q When you walked -- I assume you went and examined
5 the vehicle that my client owned and was driving;
6 is that right?

7 A I never did, no.

8 Q You never looked at his vehicle?

9 A I didn't personally. I instructed Officer Stone to
10 do that.

11 Q So on this situation you were partially in charge?

12 A I guess partially. I mean, it was kind of
13 flexible. We all were working together. All of us
14 were basically in charge. I mean, that's the
15 thought that basically crossed my mind.

16 Q Who took all the pictures at the scene?

17 A I remember seeing Officer Reese and Sergeant
18 Marzol. They were both taking photos, but I wasn't
19 standing right there when they were taking them.

20 Q So Reese and Marzol took the photos?

21 A Yes, sir.

22 Q And where was the bicycle located?

23 A It was there on the scene. Again, like I testified
24 earlier, I don't recall the exact location.

25 Q You don't know if it was in the other lane of

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1 traffic?

2 A I know it wasn't over there. I know it was there
3 on the scene. I am trying to think if it was in
4 the number one or number two lane exactly. I don't
5 recall that. I know it was there on the scene.

6 Q Was it before you found the person? Was it after
7 you the found the person?

8 A I can't recall.

9 Q Who secured the bicycle?

10 A I secured the bicycle and put it up on the wrecker.

11 Q Where did you get it from?

12 A Out of the roadway.

13 Q But you don't remember where in the roadway you got
14 it from?

15 A Like I said, I don't remember the exact location,
16 but I remember it was there on the scene, there in
17 the roadway.

18 Q Was anybody performing any type of emergency
19 medical care for the decedent?

20 A When we first arrived, no.

21 Q How long was it before anyone did anything for him?

22 A It was until E.M.S. arrived.

23 Q How long was that?

24 A Five, ten minutes, tops. I wouldn't even say ten
25 minutes.

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1 Q Did anyone else go over to the decedent besides you
2 and Officer Stone?

3 A I believe there was a victim standing there trying
4 to comfort Mr. Gamble.

5 Q A victim?

6 A I'm sorry, a witness. I'm sorry, a witness. I
7 misspoke.

8 Q What was the witness doing?

9 A He was kneeling down beside him talking to him.

10 Q Was Mr. Gamble saying anything back to him?

11 A No, he was unresponsive.

12 Q What's the name of this witness?

13 A I have no idea. I never got his name.

14 Q Did you put the video in a different location from
15 where you put the bicycle at the Cayce Police
16 Department?

17 A We have smaller lockers for smaller pieces of
18 evidence. They were in the same area for the
19 evidence holding area, but, of course, I secured
20 the video in one of these locker things that we
21 have got. It was right next to where I put the
22 bike.

23 Q Did you put the bike in a room? Is that what you
24 did with the bike?

25 A No, I put it back in our secure jail area where we

ADAM SMITH -- CROSS -- MR. WILLIAMS

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1 put our evidence.

2 Q Is that the holding facility?

3 A Sir?

4 Q Is that the holding facility? You put it like in
5 one of those little rooms where you keep inmates
6 and stuff like that?

7 A We don't keep inmates there.

8 Q You used to keep inmates there?

9 A That's where we are instructed to put evidence.

10 Q Essentially what you did was you put the bicycle in
11 a holding cell where you used to keep inmates at
12 the Cayce Police Department?

13 A I never put it in a cell. I put it in a hallway.
14 I stuck it back there in the evidence area.

15 Q So it wasn't actually in a locked area?

16 A We have a door that you have to go through to get
17 to that area. That's secured.

18 Q Is that door normally closed?

19 A Yeah.

20 Q How close did you get to the victim?

21 A I knelt down beside him.

22 Q Did you notice any smells about him, anything that
23 was unique about him?

24 A We are speaking about Mr. Gamble?

25 Q Yes.

ADAM SMITH -- CROSS -- MR. WILLIAMS

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1 A No.

2 Q Did you search his pockets?

3 A No, I did not.

4 Q Do you know who did?

5 A I have no earthly idea.

6 MR. WILLIAMS: That's all I have.

7 THE COURT: Redirect, Solicitor?

8 MR. MOBLEY: Nothing, Your Honor.

9 THE COURT: Thank you. Thank you very much
10 very much, Officer Smith. You may step down.

11 (Witness leaves the witness stand.)

12 THE COURT: Perhaps now would be a good time
13 to take our morning recess.

14 Ladies and gentlemen, during this recess do
15 not discuss the case with anyone, including your fellow
16 jurors. Remember to keep an open mind and not begin
17 your deliberations until you have been instructed to do
18 so by the Court. We will take about a 15-minute recess.
19 You may now go with your bailiff.

20 (The jury retires to the jury room.)

21 THE COURT: Court will be in recess 15
22 minutes. Thank you very much.

23 (Whereupon there is a recess.)

24 THE COURT: Anything before we bring in our
25 jury, Solicitor?

ROBERT MARZOL -- DIRECT -- MR. MOBLEY

1 MR. MOBLEY: Nothing, Your Honor.

2 THE COURT: Mr. Williams?

3 MR. WILLIAMS: Nothing from the Defendant,
4 Your Honor.

5 THE COURT: All right.

6 (The jury returns to the courtroom.)

7 THE COURT: Welcome back. We are continuing
8 with the trial of the case by the presentation of
9 evidence by the State in its case in chief.

10 Solicitor, you may call your next witness.

11 MR. MOBLEY: Thank you, Your Honor. The State
12 calls Sergeant Robert Marzol.

13 THE COURT: Sergeant, If you would come around
14 and be sworn, please.

15 ROBERT MARZOL, being
16 first duly sworn, testifies as follows:

17 CLERK: Once you are seated, state your full
18 name for the record.

19 THE WITNESS: Robert Marzol.

20 **DIRECT EXAMINATION**

21 BY MR. MOBLEY:

22 Q Sergeant Marzol, where do you currently work?

23 A Cayce Police Department.

24 Q How long have you been working there?

25 A Right at nine years.

ROBERT MARZOL -- DIRECT -- MR. MOBLEY

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1 Q Nine years. What is your current position there?

2 A I'm a sergeant.

3 Q And as a sergeant what are some of your general
4 duties at the Cayce Police Department?

5 A I am a road sergeant, a supervisor. I supervise a
6 shift of five to six patrolmen.

7 Q When you say supervise five or six patrolmen, what
8 do you exactly mean by that?

9 A Any questions that they might have on a call,
10 basically a shift leader. They are given guidance
11 and support with anything that they might need. I
12 also answer to citizen's complaints on officers or
13 any type of problem they might want to talk to a
14 supervisor, as well as I do my general police
15 duties as well.

16 Q So you do respond to scenes?

17 A Correct.

18 Q You don't just supervise?

19 A Correct.

20 Q Sergeant Marzol, can you give us a brief summary of
21 your training and experience in law enforcement,
22 please?

23 A Of course, I've had my basic law enforcement
24 through the South Carolina Criminal Justice
25 Academy. I have had advanced D.U.I. detection,

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1 radar certification, lidar certification, laser,
2 and speed enforcement.

3 Q Were you previously employed as a law enforcement
4 officer before coming to Cayce?

5 A Yes, sir.

6 Q What were some of those positions?

7 A I was a patrolman with West Columbia and Springdale
8 Police Departments.

9 Q And in those positions at those various
10 departments, what were some of your duties there?

11 A Enforce state and local laws for the State of South
12 Carolina, as well as answer to citizen's complaints
13 in reference to any type of complaint that they
14 would have on a call.

15 Q Now, you testified earlier that you had advanced
16 D.U.I. training?

17 A Correct.

18 Q Where did that occur and what is it?

19 A I was trained with advanced D.U.I. detection, a
20 course which was offered through the South Carolina
21 Criminal Justice Academy. The class was offered at
22 the Lexington Police Department. It's just an
23 upgrade class from your basic law enforcement
24 training that teaches you on what indicators to
25 look for in advanced D.U.I. detection.

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1 Q Does it also provide you with how to process a
2 scene?

3 A Somewhat, but what indicators to look for when
4 dealing with people that are under the influence of
5 stuff.

6 Q How about filling out the appropriate paperwork?

7 A Correct.

8 Q Now, Sergeant Marzol, I am going to take you back
9 to the night, late night, July 31, 2008, early
10 morning August 1, 2008. Do you recall that day?

11 A Yes, sir.

12 Q Can you tell me exactly -- were you working that
13 night?

14 A Yes, sir, I was.

15 Q Were you called out to the scene?

16 A I wasn't directly called out. I remember hearing
17 the radio traffic. I was actually at the police
18 department doing some paperwork when I heard
19 Officer Stone call on the radio that he had just
20 encountered some type of accident or something
21 going on on the Blossom Street Bridge.

22 At that time due to the severity of what he
23 had stated, possibly a vehicle versus pedestrian,
24 of course, I automatically began to respond to the
25 scene.

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1 Q Is that normally what you do as a sergeant? You
2 will respond to a scene of other deputies?

3 A Yes, sir.

4 Q So you respond to the scene. How long did it take
5 you from the time you get the call to the time you
6 get there?

7 A Maybe a minute, minute and a half. I was running
8 lights and siren.

9 Q Once you get there, what do you observe?

10 A Once I got there, I observed Officer Stone's
11 vehicle, as well as Officer Smith's vehicle. They
12 were trying to get everything taken care of. The
13 victim was laying on the roadway.

14 So, of course, Officer Stone had his vehicle
15 positioned to block any traffic, of course, from
16 further coming into that scene. At that time I
17 went ahead and exited my vehicle and walked up to
18 the scene. I did observe the victim lying on the
19 ground.

20 Q Sergeant Marzol, what did you observe about the
21 victim as he was laying there?

22 A That he had a lot of major body trauma.

23 Q Where was he located when you observed him there?

24 A He was on the slow lane, which would be the
25 right-hand lane.

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1 Q The right-hand lane?

2 A Closest to the bicycle lane, closest to the
3 sidewalk.

4 Q I want to show you a picture that has been admitted
5 as State's Exhibit Number 23. Does this accurately
6 depict the victim as he lay there that night when
7 you arrived?

8 A Yes, sir.

9 Q It does?

10 A Yes, sir.

11 Q Nothing has been changed as far as his position?

12 A No, sir.

13 Q Now, Officer Stone, once you observed the victim
14 there, what did you do then?

15 A First thing I did as I went back to my car, due to
16 what I observed to be a severe injury on the
17 victim, I went back to my car and got my camera. I
18 started taking pictures myself just to document the
19 scene prior to E.M.S. getting there. I knew E.M.S.
20 was on their way at that time. Prior to them even
21 touching anything, I took pictures of the scene
22 prior to them.

23 Q When you say took pictures, what do you mean, took
24 pictures of what?

25 A Of the victim.

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1 Q Of the victim. Did you take pictures of anything
2 else?

3 A I believe I took picture of the bicycle, as well as
4 where the victim was laying.

5 Q Sergeant Marzol, is this a picture that you
6 actually took?

7 A I believe it is.

8 Q That is State's Exhibit Number 23?

9 A Yes, sir.

10 MR. MOBLEY: Your Honor, the State would move
11 to have this published to the jury using the overhead
12 projector.

13 THE COURT: Certainly.

14 MR. MOBLEY: Beg the Court's indulgence
15 please.

16 THE COURT: Yes, sir.

17 (Pause.)

18 THE COURT: Solicitor, you and Mr. Williams,
19 step up here just a minute.

20 MR. MOBLEY: Yes, Your Honor.

21 (Whereupon there is a bench conference off the
22 record in the presence of the jury but out of the
23 hearing of the jury.)

24 THE COURT: You may continue.

25 MR. MOBLEY: Thank you, Your Honor.

ROBERT MARZOL -- DIRECT -- MR. MOBLEY

1 BY MR. MOBLEY:

2 Q Sergeant Marzol, can you describe what we are
3 seeing here.

4 A That is a picture of the victim laying on the
5 roadway. Like I said, that would be facing towards
6 Columbia right on the Blossom Street Bridge.

7 Q When you say facing, are you referring to the
8 actual victim here or are you referring towards the
9 camera view?

10 A The camera view. I'm standing taking that picture
11 facing towards Columbia.

12 Q Is this the victim here (indicating)?

13 A Yes, sir.

14 Q Do we know who the gentleman is that is standing
15 there kneeling beside him?

16 A I don't know who he is.

17 Q Did you take a name or anything from that
18 individual?

19 A I didn't speak -- I believe I told the people just
20 to stand back. I wasn't sure at that time what we
21 had. I just started snapping pictures. I think I
22 told him to stand back, and I didn't know if he was
23 a friend. Detective Reese arrived right when I got
24 there. So I believe that they had talked to them.

25 Q When you looked at this picture -- excuse me --

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1 when you looked at Mr. Gamble laying there
2 obviously this is blood near his head, correct?

3 A Correct.

4 Q Were there are other injuries that you saw?

5 A Yes, sir, visibly.

6 Q Visibly, yes, sir. What were they?

7 A On his leg I could obviously tell that he had what
8 looked like a fracture. His leg was obviously
9 deformed.

10 Q Now, at this point what do you begin to do?

11 A Again, I took pictures. Detective Reese, I know,
12 arrived and was also snapping pictures and
13 processing the scene. He was the on-call
14 Investigator. Medical personnel arrived shortly
15 after, maybe within two to three minutes after I
16 had gotten there, and they started doing their
17 medical treatment on the victim.

18 Q Was there any debris laying in this general
19 vicinity that you are aware of?

20 A He was missing a shoe, his shoe and sock, as well
21 as the debris from his bicycle.

22 Q At any time did you move any of that evidence?

23 A No, we didn't move anything. Not to my
24 recollection, no, sir.

25 Q Sergeant Marzol, do you recall where the bicycle

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1 was located at this time?

2 A I want to say the bicycle was somewhere back this
3 way (indicating). I don't particularly recall. I
4 want to say somewhere back this way (indicating).

5 Q Was there a vehicle involved in this?

6 A Yes, sir.

7 Q How do you know?

8 A After the victim was transported, Officer Stone
9 went and took a look at the vehicle that was
10 already identified as possibly having been
11 involved, which was a van which was maybe parked on
12 the side of the road midway on the bridge. He
13 walked up to the vehicle and confirmed that there
14 was damage consistent to damage on the bicycle.

15 Q At any time did you walk up to the van itself?

16 A I don't recall walking up to the van at that point.
17 I was pretty much tied up with the scene, trying to
18 make sure everything was being handled properly and
19 doing what I needed to do as well.

20 Q Now, you were a little concerned to make sure
21 everything was done properly at that time; correct?

22 A Correct.

23 Q Why is that?

24 A Making sure nobody tampers with evidence or touches
25 anything, keeping people back. I was also trying

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1 to make contact with the highway patrol supervisor
2 to see about getting the M.A.I.T. team out there to
3 help us.

4 Q At this time was Officer Stone relatively new on
5 the force?

6 A Yes, sir.

7 Q Did you go there to provide him with assistance in
8 doing --

9 MR. WILLIAMS: May we approach the bench a
10 second?

11 THE COURT: Yes, sir.

12 (Whereupon there is a bench conference off the
13 record in the presence of the jury but out of the
14 hearing of the jury.)

15 BY MR. MOBLEY:

16 Q Sergeant Marzol, the question was were you there to
17 help Officer Stone?

18 A Yes, sir.

19 Q Was he relatively new on the scene?

20 A Yes, sir.

21 Q At this point did you decide to go ahead and take
22 over the investigation?

23 A Yes, sir -- I'm not quite understanding.

24 Q As the sergeant are you the one who is going to
25 direct Officer Stone as well as yourself to make

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1 sure that things are --

2 MR. WILLIAMS: Objection to leading and
3 suggesting an answer.

4 MR. MOBLEY: Withdrawn, Your Honor.

5 THE COURT: All right.

6 BY MR. MOBLEY:

7 Q Officer Stone, what did you do then after viewing
8 Jesse laying there?

9 A Again, I protected the crime scene and assisted
10 Officer Stone and gave guidance to the officer,
11 what needed to be done and all that.

12 Q What was one of the first things you began to do
13 after that?

14 A Once the victim was transported, I went ahead and,
15 of course, asked Officer Stone, you know, who was
16 possibly driving the vehicle. They said that they
17 had a gentleman detained. I went ahead and
18 observed the gentleman that was being detained
19 sitting on the ground.

20 I advised them to go ahead and stand by him
21 until we get everything taken care of with the
22 victim being transported, and then we would deal
23 with him and go on with our investigation.

24 Q Now, did you ever come in contact with the
25 Defendant, Mr. Jamison?

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- 1 A Yes, I did.
- 2 Q When was that?
- 3 A On the scene.
- 4 Q Where exactly was that located?
- 5 A The 100 block of Knox Abbott Drive in Cayce.
- 6 Q Was it on the curb?
- 7 A On the curb.
- 8 Q Once you came in contact with him, what happened?
- 9 A I believe I asked him a couple questions, and I
- 10 advised Officer Stone to stay with the Defendant.
- 11 Of course, now he was being detained until we,
- 12 again, cleared up the scene. We proceeded, you
- 13 know, with the other parts of the investigation
- 14 that we had to do.
- 15 Q When you state that he was being detained, was he
- 16 under arrest?
- 17 A He was being detained at that time. We weren't
- 18 sure what had happened yet. So he wasn't under
- 19 arrest.
- 20 Q Was it an ongoing investigation at this time?
- 21 A Correct.
- 22 Q Did you read him Miranda warnings at some point?
- 23 A Yes, sir.
- 24 Q When did that happen?
- 25 A After we determined that he was the driver of the

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1 vehicle and he was being investigated for driving
2 under the influence, I went ahead and placed him in
3 front of the vehicle, patrol vehicle, which was
4 Adam Smiths, and at that time under the video I
5 read him his Miranda rights and explained to him
6 what I was going to do.

7 Q Okay. Now, this sequence of events was being
8 recorded at the scene; correct?

9 A Correct.

10 Q By in-dash camera?

11 A Correct.

12 Q Officer Smith's car?

13 A Correct.

14 Q I want to hand you a card here.

15 MR. MOBLEY: If I may approach, Your Honor?

16 THE COURT: Certainly.

17 BY MR. MOBLEY:

18 Q What is that card?

19 A This is my D.U.I. warning and Miranda warning card.

20 Q Is that the card that you used that night?

21 A Yes, sir.

22 Q I want to hand you these two documents here. Can
23 you look at those.

24 A Yes, sir.

25 Q What are those two documents?

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1 A A copy of the card that I just handed you back, my
2 D.U.I. warnings and Miranda warnings card.

3 Q Have they been substantially altered or amended in
4 any way?

5 A No, sir.

6 Q Is it in substantially the same condition as this
7 card was the night you read it?

8 A Yes, sir.

9 MR. MOBLEY: Your Honor, the State would move
10 to have these two documents moved into evidence as
11 State's Exhibits Number 64 and 65.

12 MR. WILLIAMS: Without objection, Your Honor.

13 THE COURT: State's 64 and 65 are in evidence
14 without objection.

15 (State's Exhibits Number 64-65 are received
16 into evidence.)

17 BY MR. MOBLEY:

18 Q Sergeant Marzol, you stated that you read the
19 Defendant his Miranda warnings; correct?

20 A Correct.

21 Q Can you read them as you read them that night?

22 A You have the right to remain silent. Anything you
23 say can be used against you in a court of law. You
24 have the right to talk to an attorney and have him
25 present with you while you are being questioned.

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1 If you cannot afford to hire an attorney, one
2 will be appointed to represent you before any
3 questioning if you wish. You can decide at any
4 time to exercise these rights and not answer any
5 questions or make any statements. Do you
6 understand each of these rights I have explained to
7 you? Do you wish to talk to us now?

8 Q After reading Mr. Jamison those Miranda warnings,
9 did he indicate he understood his rights?

10 A I don't recall. I believe he did, but I can't say
11 for sure.

12 Q How close were you when you actually read him the
13 Miranda warnings?

14 A Standing right in front of him, right beside him.

15 Q Do you have any reason to believe he did not hear
16 those Miranda warnings?

17 A No.

18 Q Did he indicate that he did not understand his
19 rights?

20 A No.

21 Q After reading his Miranda warnings, what happened
22 next?

23 A I advised him I was going to offer him some field
24 sobriety tests, which at that time he stated he
25 wasn't going to do anything, not until he talked to

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1 an attorney.

2 Q He indicated that immediately?

3 A Pretty much immediately.

4 Q Sergeant Marzol, while you were standing there
5 roadside with him, can you describe the Defendant's
6 general demeanor?

7 A He was calm, had a strong odor of an alcoholic
8 beverage. He was unsteady on his feet, calm. He
9 stated he -- I want to say not quote -- but he
10 stated something to the effect, I didn't mean to
11 hurt anybody. I am a good guy or something to that
12 effect.

13 Q Did you elicit those statements from this
14 Defendant?

15 A I'm not following you.

16 Q Did you ask him a question to get those statements
17 from him?

18 A No, sir.

19 Q At any time after he refused any field sobriety
20 tests, did you ask him anymore questions?

21 A No, sir.

22 Q What happened next after he refused the field
23 sobriety tests?

24 A After he refused I advised him that he was under
25 arrest. Officer Stone at that time placed him

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1 under arrest, and I read him his D.U.I. warnings.

2 Q What are those D.U.I. warnings?

3 A The warnings that are on my card.

4 Q I apologize. That is State's Exhibit 65 you are
5 referring to?

6 A Correct.

7 Q Can you read those warnings to us as you read them
8 that night?

9 A You are under arrest for felony D.U.I. You will be
10 offered a breath or blood test for the purpose of
11 determining alcohol concentration. You have the
12 right to refuse this test.

13 However, if you refuse to take this test or if
14 you take this test and give a reading of .15
15 percent of greater, your driver's license will be
16 suspended.

17 You have the right to an administrative
18 hearing if your license is suspended, and you have
19 the right to a trial for any criminal charge
20 brought against you as a result of this test.

21 Q After you read those D.U.I. warnings to
22 Mr. Jamison, what happened next?

23 A I want to say I advised Officer Stone to go ahead
24 and placed him in the patrol vehicle and go ahead
25 and have him transported to Cayce, the Cayce Police

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1 Department, for the breath test.

2 Q Is that a normal procedure?

3 A Yes, sir.

4 Q Who was -- did you ride with the Defendant to the
5 Cayce Police Department?

6 A No, I didn't.

7 Q You were in your own separate car?

8 A Correct, yes, sir.

9 Q The events that we were speaking of previously, you
10 state that they were recorded; correct?

11 A Yes, sir.

12 Q You have had an opportunity to review that video,
13 correct?

14 A Yes, sir.

15 Q Has it changed in any way?

16 A No, sir.

17 Q Does it accurately depict the events as they
18 occurred that night?

19 A Yes, sir.

20 MR. MOBLEY: Your Honor, the States requests
21 permission to publish State's Exhibit Number 49 that is
22 already admitted into evidence.

23 THE COURT: All right.

24 MR. MOBLEY: To the jury.

25 THE COURT: Yes, sir.

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1 MR. MOBLEY: Thank you, Your Honor. Beg the
2 Court's indulgence.

3 THE COURT: How long is this?

4 MR. MOBLEY: This is approximately 25 minutes,
5 Your Honor.

6 THE COURT: Twenty-five or 35?

7 MR. MOBLEY: It's 25. This one is 25, yes,
8 sir.

9 THE COURT: Thank you very much, Solicitor.

10 MR. MOBLEY: Your Honor, I have been
11 corrected. It's only several minutes, only five. I
12 apologize to the Court.

13 THE COURT: I wouldn't have walked down here.

14 MR. MOBLEY: I apologize.

15 THE COURT: That's all right, Solicitor.

16 (State's Exhibit Number 49 is played for the
17 jury.)

18 BY MR. MOBLEY:

19 Q Sergeant Marzol, was that you reading those Miranda
20 warnings to the Defendant at the time?

21 A Yes, it was.

22 Q Who else was in that video that I saw?

23 A I'm sorry. I didn't hear you.

24 Q Who else was that in the video that I saw, beside
25 the Defendant?

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1 A Officer Stone was standing right there, and I
2 believe Officer Smith was further back directing
3 traffic.

4 Q Sergeant Marzol, do you know why the actual
5 Defendant was smiling at the time?

6 MR. WILLIAMS: Objection to that, Your Honor,
7 I have a matter of law to take up outside the presence
8 of the jury.

9 THE COURT: All right. Mr. Foreman, ladies
10 and gentlemen, if you would please step to your jury
11 room. Do not discuss the case or the testimony during
12 this brief recess.

13 (The jury retires to the jury room.)

14 THE COURT: Mr. Williams.

15 MR. WILLIAMS: Your Honor, we would move for a
16 mistrial. That type of question to a witness clearly is
17 meant to indicate the Defendant had no remorse or didn't
18 care about his actions on that particular night.

19 There has been no testimony to this stage that
20 he did anything but be remorseful. He came back to
21 check on the alleged victim who was there. He kept
22 asking, Did I hit somebody?

23 It's an improper question and by merely asking
24 that question, we believe the jury may be tainted and
25 not be able to give a fair verdict based on this type of

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1 question, whether or not he was smiling.

2 It's throwing something before the jury --
3 yes, before the jury that shouldn't be considered. They
4 are indicating he was malicious and evil and smiling as
5 a result of this accident that occurred.

6 THE COURT: Solicitor.

7 MR. MOBLEY: Your Honor, the State was simply
8 asking the question in regards to the actual video that
9 the jury was seeing at the same time, Your Honor. The
10 Defendant is clearly shown there smiling.

11 It was no malicious intent. We simply wanted
12 to know what the questioning was and why was he smiling.
13 There was no malicious intent to infer anything to the
14 jury at all in regards to that, Your Honor.

15 Additionally, Your Honor, there has been
16 testimony previously about the Defendant stating he did
17 not know what was going on. He seemed to be as if he
18 was confused.

19 It can be argued in the alternative, Your
20 Honor, that this could show his impairment at that
21 particular time. He wasn't aware of what was going on.
22 He did not know the severity of what was going on, Your
23 Honor.

24 The State is in no shape, form or manner at
25 all attempting to persuade the jury. We simply want to

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1 know the facts and have them laid before the jury. We
2 do not have to resort to actually inferring any intent,
3 malicious intent, before the jury at all, Your Honor.

4 THE COURT: I am going to deny the motion for
5 mistrial. However, I will be glad to give any curative
6 instruction you would request, Mr. Williams.

7 MR. WILLIAMS: I know of no way to cure that,
8 Your Honor.

9 THE COURT: Did you have any other motions in
10 regard to that question?

11 MR. WILLIAMS: Your Honor, the second motion
12 is an objection in that it's leading.

13 THE COURT: Objection to what?

14 MR. WILLIAMS: It's leading.

15 THE COURT: Well, I would agree it's leading.
16 Plus, what would be the basis of his personal knowledge
17 to know why another person was smiling?

18 MR. MOBLEY: Your Honor, just to be respectful
19 to the Court, the State's position is that he was within
20 earshot and obviously was only within two or three feet
21 from the Defendant. He would know what was being
22 transpired right around that area. We want to know.

23 Because the shot that is being seen there is
24 such a close caption showing the Defendant's face. We
25 are not able to see all the surroundings. We would like

ROBERT MARZOL -- IN CAMERA -- MR. MOBLEY

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1 to know what is there, and we can ask the direct witness
2 who was there to witness it and provide us with an
3 account of who was there, what conversations are going
4 on.

5 THE COURT: Ask him what he knows, what the
6 answer to that question is. Ask him.

7 IN CAMERA EXAMINATION

8 BY MR. MOBLEY:

9 Q Sergeant Marzol, do you know what type of
10 conversation was going on --

11 THE COURT: That wasn't the question. The
12 question was: Do you know why the Defendant was smiling
13 at the time?

14 MR. MOBLEY: Yes, Your Honor.

15 BY MR. MOBLEY:

16 Q Sergeant Marzol, do you know why the Defendant was
17 smiling at the time?

18 A No, I don't.

19 THE COURT: He doesn't know. He doesn't have
20 any basis of knowledge for that. It might have been an
21 inappropriate comment. That may be a habit that
22 Mr. Jamison has under times of stress. I don't know.

23 Do you have any other motions, Mr. Williams?

24 MR. WILLIAMS: No, Your Honor. Based on that
25 I assume the Court is directing him not to ask the

1 question.

2 MR. MOBLEY: The question is withdrawn, Your
3 Honor.

4 THE COURT: My question specifically,
5 Mr. Williams, do you want me to inform the jury that
6 that question has been struck? That's my point.

7 MR. WILLIAMS: I would ask the Court to
8 instruct the jury as to that.

9 THE COURT: Thank you. Bring us our jury,
10 please.

11 (The jury returns to the courtroom.)

12 THE COURT: Ladies and gentlemen, the last
13 question that was asked by the solicitor was such that
14 he asked if the officer knew why the Defendant was
15 smiling at the time in regards to the tape that was
16 previously published to you.

17 I have ruled that that is not a proper
18 question. I further rule that that question should be
19 stricken from the record. There was no response by this
20 officer to that question. So obviously I'm not striking
21 a response that does not exist.

22 What that means for you the jury is you are
23 not to consider that question as part of your
24 deliberations and your consideration of the guilt or
25 innocence of the Defendant in this case.

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1 As a matter of fact, the questions are not
2 evidence. The responses to the questions are evidence,
3 not the questions themselves. However, you should not
4 consider that question, nor should that question even be
5 discussed in the jury room.

6 Thank you. Thank you very much Solicitor,
7 Mr. Williams. You may ask your next question,
8 Solicitor.

9 MR. MOBLEY: Thank you, Your Honor. May it
10 please the Court.

11 THE COURT: Yes, sir.

12 **DIRECT EXAMINATION**

13 BY MR. MOBLEY:

14 Q Sergeant Marzol, at this point you all detain and
15 arrest Mr. Jamison; correct?

16 A Correct.

17 Q What happens next?

18 A He is then placed in Officer Stone's vehicle and
19 transported to the Cayce Police Department.

20 Q While he is being transport by Officer Stone, what
21 are you doing?

22 A I'm still on the scene assisting Detective Reese,
23 as well as I'm pretty much on the phone trying to
24 make contact with the highway patrol supervisor for
25 the M.A.I.T. team to come out there seeing about

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1 helping us out with the accident part of it.

2 Q You stay out there for how long?

3 A Fifteen to 30 minutes tops at the most.

4 Q Then from there where do you go?

5 A Then I go to the police department.

6 Q Once you arrive at the police department, who is
7 there?

8 A Officer Stone and the Defendant in the booking
9 area.

10 Q What happens next?

11 A At that time I go ahead and advise Officer Stone to
12 go ahead and bring the Defendant in for the
13 Datamaster breath test.

14 Q Is that particular area recorded?

15 A The booking area?

16 Q Well...

17 A The Datamaster room?

18 Q The Datamaster room.

19 A Yes, it is.

20 Q Was the camera working properly that night?

21 A Yes. After I cut it on, everything was working.

22 Q Have you been able to view that recording since
23 that date?

24 A Yes, sir.

25 Q Has it been materially altered or amended in any

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1 way?

2 A No.

3 MR. MOBLEY: Your Honor, the State would like
4 to move State's Exhibit Number 50 into evidence.

5 THE COURT: That's the -- what is that?

6 MR. MOBLEY: That's the B.A. room video, Your
7 Honor.

8 MR. WILLIAMS: Without objection, Your Honor.

9 THE COURT: State's 50 is in evidence without
10 objection.

11 (State's Exhibit Number 50 is received into
12 evidence.)

13 BY MR. MOBLEY:

14 Q Sergeant Marzol, you state you began to read
15 Mr. Jamison his rights?

16 A Right, inside the B.A. room.

17 Q What rights are you referring to?

18 A The Miranda rights.

19 Q You are reading to him off the same card that you
20 read to him on the roadside?

21 A Yes.

22 Q What happens next?

23 A Then I read him his implied consent form.

24 Q What is an implied consent form?

25 A It's a form that has the implied consent on it that

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1 comes from S.L.E.D., the per se law.

2 Q What is it used for?

3 A The form is used to be read to a person that is
4 either placed under arrest for D.U.I. or felony
5 D.U.I. It advises them of their rights.

6 Q Is that a requirement?

7 A Yes, it is.

8 Q If I may approach, I want to hand you a document.

9 Do you recognize this document?

10 A Yes, I do.

11 Q What is it?

12 A It's the advisement of implied consent rights.

13 Q Was that used that night?

14 A Yes, sir.

15 Q How do you know?

16 A Because it has my name, my signature, as well as
17 the Defendant's name on the form.

18 Q What is the date indicated on that form?

19 A 8/1/08.

20 MR. MOBLEY: Your Honor, the State would like
21 to have this document marked as State's Exhibit
22 Number 66 and moved into evidence.

23 MR. WILLIAMS: Without objection, Your Honor.

24 THE COURT: State's 66 is in evidence without
25 objection.

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1 (State's Exhibit Number 66 is received into
2 evidence.)

3 BY MR. MOBLEY:

4 Q Sergeant Marzol, looking at that form, can you read
5 to the Court and the jury exactly what you read to
6 the Defendant that night.

7 A Yes, sir. You are under arrest for felony driving
8 under the influence, felony D.U.I., Section
9 56-5-2945, South Carolina Code of Laws of laws,
10 1976 as amended or a law enforcement officer has
11 probable cause to believe that you have violated
12 this section.

13 The officer has directed that samples be taken
14 for alcohol and/or drug testing. The samples will
15 be used -- correction -- the samples will be taken
16 and tested according to Section 56-5-2950 and
17 S.L.E.D. policies.

18 Pursuant to 56-5-2946, you must submit to
19 either one or a combination of chemical tests for
20 the purpose of determining the presence of alcohol
21 or drugs or a combination of alcohol and drugs.

22 The resistance, obstruction or opposition to
23 testing pursuant to Section 56-5-2946 is evidence
24 admissible at trial. If your tests or samples have
25 an alcohol concentration of 15 one-hundredths of

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1 1 percent, .15 percent or more, your privilege to
2 drive in South Carolina must be suspended for at
3 least 30 days.

4 You have the right to have a qualified person
5 of your own choosing to conduct additional
6 independent tests at your own expense, and the
7 officer upon request must provide affirmative
8 assistance.

9 You have the right to request an
10 administrative hearing within 30 days of the
11 issuance of notice of suspension. If you do not
12 request an administrative hearing or your
13 suspension is upheld with the administrative
14 hearing, you must enroll in an alcohol and drug
15 safety action program.

16 Q So that is all the pertinent parts that you read
17 that night to the Defendant?

18 A Yes, sir.

19 Q Who else was present when you were reading this to
20 the Defendant?

21 A Officer Stone, as well as the Defendant.

22 Q Did the Defendant indicate that he understood his
23 rights as given?

24 A He stated pretty much the whole time he didn't know
25 what was going on.

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1 Q Now, as you were reading him this, did you hand him
2 a copy?

3 A I always hand anybody that goes in there, I hand
4 them a copy of what I'm reading them. I tell them
5 I am starting on this bullet or so. I always put a
6 blank form. That way they can follow along where I
7 am reading at.

8 Q At the time was he following along?

9 A I wouldn't say he was following along, no, sir.

10 Q Now, after you read the Miranda warnings, you have
11 given him a copy, what happens next?

12 A We waited the 20-minute observation period.

13 Q Now, during this 20-minute objection period, can
14 you give us some general observations about
15 Mr. Jamison's demeanor?

16 A Calm at first. He made a statement that he didn't
17 know what was going on. If he hurt anybody, he
18 didn't mean to, something to that effect, not a
19 quote. He continued to ask repetitive questions:
20 I want an attorney. I don't know what is going on.

21 I tried to explain to him I was there to offer
22 him a test, per se law. That is all I was there to
23 do. I explained to him and I referred back to the
24 form. He wouldn't let me explain anything. It got
25 to the point he kept on asking me the same

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1 questions, asking me what my name was, what Officer
2 Stone's name was.

3 After we told him who we were, it just kept on
4 going in a big circle. I couldn't explain it to
5 him any clearer, what we were there for and what
6 the form was for, and all that.

7 Q Did you attempt to try to explain it any clearer?

8 A I tried and I was cut off, basically we didn't know
9 what we were doing. So I pretty much just stopped
10 trying to even attempt to try to make it any
11 clearer.

12 Q During this 20-minute observation period, did you
13 smell any odor of alcohol about Mr. Jamison?

14 A Yes, I did.

15 Q Did he have any slurred speech?

16 A Yes, he did.

17 Q Did you have the opportunity to observe him
18 standing any time?

19 A While in the booking area, as well as him walking
20 into the Datamaster, I noticed he was unsteady on
21 his feet. As well as when he got up after sitting
22 down, after the test, he got up and he was kind of
23 unsteady.

24 Q You state those events were recorded on video,
25 correct?

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1 A Him getting up after the test.

2 Q And you reviewed that?

3 A Yes, sir.

4 Q In the B.A. room. You reviewed that tape?

5 A Yes, sir.

6 Q Has it been changed or altered?

7 A No, sir.

8 MR. MOBLEY: Your Honor, the State would like
9 to publish State's Number 50 to the jury.

10 THE COURT: Mr. Williams, any objection?

11 MR. WILLIAMS: No objection, Your Honor.

12 THE COURT: You may publish it. This is how
13 long?

14 MR. MOBLEY: This one is approximately 25
15 minutes.

16 THE COURT: Thank you.

17 (State's Exhibit Number 50 is played for the
18 jury.)

19 BY MR. MOBLEY:

20 Q Sergeant Marzol, are you certified to operate a
21 Datamaster machine?

22 A Yes, sir.

23 Q How did you become certified?

24 A Through the South Carolina Criminal Justice
25 Academy.

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1 Q When were you certified?

2 A The exact date, I don't know, several years ago.

3 Q Are you currently certified as a Datamaster
4 operator?

5 A They actually changed. I am T.M.T. certified now.
6 I believe my card still is up to date though.

7 Q On this particular date, which was August 1st or
8 July 31st, were you certified as a Datamaster
9 operator?

10 A Yes, sir.

11 Q What were you certified to do with the Datamaster?

12 A To operate the machine, the Datamaster.

13 Q Is that a requirement of S.L.E.D. standards?

14 A Yes, sir.

15 Q I want to hand you a document. Do you know what
16 that is?

17 A Yes, sir.

18 Q What is it?

19 A It's a copy of my Datamaster card for the old
20 Datamaster machine.

21 Q Repeat yourself, please.

22 A It's my Datamaster certification card for the
23 machine that I was operating on the video, which my
24 card is still up to date until 2010.

25 Q That is your card?

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1 A Yes, sir.

2 Q How do you know it's your card?

3 A It's got my name on it, as well as a certificate
4 number on there.

5 Q Has it been altered or amended in any way?

6 A No, sir.

7 MR. MOBLEY: Your Honor, the State would like
8 to have this document moved into evidence as State's
9 Exhibit Number 67. It's a duplicate copy of the
10 Datamaster certification.

11 MR. WILLIAMS: No objection, Your Honor.

12 THE COURT: State's 67 is in evidence without
13 objection.

14 (State's Exhibit Number 67 is received into
15 evidence.)

16 BY MR. MOBLEY:

17 Q Sergeant, I am going to hand you State's Exhibit
18 67. Is there a date indicated there that you
19 actually were certified to operate the Datamaster
20 on?

21 A Yes, it is.

22 Q What is that date?

23 A From April 10th of 2008, and it expires April 10th
24 of 2010.

25 Q So according to that particular document, were you

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1 certified on this particular date to operate the
2 Datamaster machine?

3 A Yes, I was.

4 Q Now, at the end of the video here, we heard a
5 sound. What was that from the machine?

6 A What sound, the beeping sound?

7 Q Yes.

8 A When it beeps that is approximately when the test
9 starts for the machine to be able to accept a
10 subject's sample. It will last about approximately
11 two minutes.

12 Q Before that occurs, is there an observation period
13 you have to adhere to?

14 A Yes, it is.

15 Q What is that period?

16 A Twenty minutes.

17 Q Excuse me?

18 A Twenty minutes.

19 Q Why do you have to do that observation period?

20 A It's S.L.E.D. policy. That way if there is any
21 type of residual stuff in the subject's mouth,
22 alcohol or anything, it gives it time to dissipate
23 in the mouth. That way when the subject takes a
24 sample or gives a sample, there is nothing in the
25 mouth.

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1 Q In that 20-minute observation period, what happened
2 then?

3 A The machine does its self test internally. At that
4 time I start entering the biographical information,
5 and then we start hearing the beeping sound, which
6 at that time it says -- it's a two-minute period
7 for the subject to give his sample.

8 Q Now, did Mr. Jamison take the actual sample or give
9 a breath test?

10 A No, he didn't.

11 Q Now, once that two-minute period was over, what
12 happened?

13 A The machine stops, the beeping stops, and it will
14 ask you: Did subject refuse? Yes or no. Of
15 course, if he did you enter yes.

16 Q And then once you enter yes, what happens?

17 A The machine will time stamp, and it will go ahead
18 and print the ticket out and kick out the ticket.

19 Q I want to hand you a document that is listed as
20 State's Exhibit Number 58. What is that document
21 there?

22 A This is the Datamaster ticket that was used on that
23 night.

24 Q How do you know?

25 A It's got a date recorded of 8/1/2008, as well as it

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1 has the Defendant's name, as well as my name, my
2 signature on the ticket.

3 Q Is there anyone else's name on there?

4 A Officer Stone's name.

5 Q Did the Defendant sign his name?

6 A No, he did not.

7 MR. MOBLEY: Your Honor, the State would move
8 to have State's Exhibit 58 entered into evidence.

9 MR. WILLIAMS: Without objection.

10 THE COURT: I believe State's 58 is already in
11 evidence. You may proceed.

12 BY MR. MOBLEY:

13 Q Sergeant Stone -- excuse me -- Sergeant Marzol, I
14 apologize. What is the time on that particular
15 ticket there?

16 A The time?

17 Q Yes.

18 A Midnight-36.

19 Q Is there a ticket number indicated there as well?

20 A Yes, it is.

21 Q What is that?

22 A 57107E., as in echo, L. as in lima.

23 Q Does it indicate on that ticket whether the
24 Defendant refused or gave a sample?

25 A Yes, sir.

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1 Q Where is that, sir?

2 A Right here on the bottom.

3 Q What does it say?

4 A It says he refused at 1:07 a.m.

5 Q Thank you. Now, once this was printed and you all
6 handcuffed Mr. Jamison, what happened next?

7 A He was taken back out and subsequently transported
8 to the hospital at that time.

9 Q Were you -- did you accompany Mr. Jamison to the
10 hospital?

11 A Not in the vehicle, no.

12 Q Did you follow behind?

13 A I responded shortly after.

14 Q What did you respond to?

15 A Lexington Medical Center.

16 Q Once you got there, what happened next?

17 A He then met with the doctor and, of course, blood
18 was taken from him after the proper paperwork was
19 signed.

20 Q Why was he taken to the hospital after refusing the
21 breathalyzer?

22 A Per State law.

23 Q Per State law?

24 A Due to the nature of the charge.

25 Q Was it mandatory?

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1 A Mandatory, yes, sir.

2 Q Once you got there, had he been -- had anyone
3 directed the doctor to withdraw blood from the
4 Defendant?

5 MR. WILLIAMS: Objection, calling for hearsay.

6 MR. MOBLEY: Withdrawn, Your Honor.

7 BY MR. MOBLEY:

8 Q Sergeant Marzol, did you direct the doctor to
9 withdraw blood from the Defendant?

10 A Officer Stone did and I was there present.

11 Q You were present at the time when it was directed?

12 A Yes.

13 Q So what happened next?

14 A Blood was taken. He was given a vial and then
15 transported to Lexington County Detention Center.

16 Q Okay. Now how many vials of blood were withdrawn
17 at the time?

18 A Two vials.

19 Q Did you witness that?

20 A Yes, sir.

21 Q Who took possession of those vials of blood?

22 A We took possession of one -- we took possession of
23 two. Then, of course, Officer Stone placed the one
24 vial in the Defendant's shirt pocket.

25 Q And you witnessed that yourself?

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1 A Yes, sir.

2 Q What happened to the other vial of blood?

3 A We kept it and, of course, it was entered into
4 evidence for analysis through S.L.E.D.

5 Q You said entered into evidence. Where?

6 A At our police department.

7 Q Did you enter that into evidence?

8 A I did not.

9 Q What else happened after the blood was taken there?

10 A After that then I left and I responded to Richland
11 Memorial Hospital to check on the status of the
12 victim.

13 Q Were you able to observe the victim there?

14 A Yes, and I took pictures.

15 MR. MOBLEY: Beg the Court's indulgence,
16 please, Your Honor.

17 THE COURT: Yes, sir.

18 (Pause.)

19 MR. MOBLEY: Nothing further for this witness,
20 Your Honor.

21 THE COURT: All right. Perhaps it would be a
22 good time to take our luncheon recess. You may remain
23 right there, Sergeant.

24 Mr. Foreman, ladies and gentlemen of the jury,
25 we are now going to take our luncheon recess. I would

1 remind you again during this recess you are not to
2 discuss the case with anyone. That includes your fellow
3 jurors, your lunch mates, family, friends, anyone else.

4 If anyone tries to talk with you about the
5 case, please let me know immediately. Remember to keep
6 an open mind and not begin your deliberations until I
7 direct you to do so.

8 Why don't we start back about 2:20. That
9 gives us an hour and 15 minutes. You will have 15 extra
10 minutes to sit in Lexington lunchtime traffic. If you
11 would be back at 2:20, we will start promptly
12 thereafter. I hope y'all have a pleasant lunch. You
13 are now excused for lunch. Everyone remain seated until
14 the jury retires.

15 (The jury is excused for lunch at 1:05 p.m.)

16 THE COURT: Anything further from the State
17 before we break for lunch?

18 MR. MOBLEY: Nothing from the State.

19 THE COURT: The Defendant?

20 MR. WILLIAMS: Not from the Defendant.

21 THE COURT: Thank you. We will be in recess
22 until 2:20.

23 (Whereupon there is a luncheon recess.)

24 THE COURT: Anything before we bring in the
25 jury, Solicitor?

1 MR. MOBLEY: Your Honor, may we approach for
2 logistical scheduling reasons today?

3 THE COURT: Yes, sir.

4 (Whereupon there is a bench conference off the
5 record.)

6 THE COURT: Did you have anything,
7 Mr. Williams?

8 MR. WILLIAMS: No, sir.

9 THE COURT: Before we bring in the jury?

10 MR. WILLIAMS: No, sir.

11 THE COURT: We are still waiting on one juror.
12 (Pause.)

13 THE COURT: If you would bring us our jury.
14 We had Sergeant Marzol. If you would come back around
15 to the witness stand. You had not finished direct?

16 MR. MOBLEY: I have finished direct.

17 THE COURT: We are going straight to cross.

18 MR. MOBLEY: Yes, sir.

19 THE COURT: Thank you.

20 (The jury return to the courtroom at
21 2:22 p.m.)

22 THE COURT: Welcome back. I hope y'all had a
23 pleasant lunch. We are continuing the trial of case.
24 As you may recall, the solicitor had finished the direct
25 examination of Sergeant Marzol, we are now on cross

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1 examination by Mr. Williams. If you will please give
2 the parties your complete and undivided attention.

3 MR. WILLIAMS: May it please the Court.

4 CROSS EXAMINATION

5 BY MR. WILLIAMS:

6 Q Officer Marzol, good afternoon. How are you?

7 A Doing good.

8 Q Officer Marzol, you have been with Cayce, what, ten
9 years, eleven years?

10 A Going on nine years.

11 Q Nine years. In that capacity you have already
12 testified that you are now a sergeant?

13 A Correct.

14 Q That you are a supervisor and you are in charge of
15 a shift. I assume that is delta shift that works
16 at night, right?

17 A Yes, sir.

18 Q On July 31, 2008, you were at the Cayce Police
19 Department when you heard the call; is that
20 correct?

21 A Yes, sir.

22 Q And hearing the call it's my understanding you left
23 immediately and came down to the scene?

24 A Yes, sir.

25 Q Now, let me start you, if I can, on what you first

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1 observed at soon as you got to the scene. What
2 patrol cars were there at the scene?

3 A Officer Stone's vehicle, as well as Officer Smith's
4 vehicle.

5 Q Where were they located?

6 A Knox Abbott Drive.

7 Q Where on Knox Abbott Drive?

8 A The 100 block of Knox Abbott, being right there at
9 the beginning of the bridge, Blossom Street Bridge.

10 Q In relationship to each other, which patrol car was
11 located where at that location?

12 A Officer Stone's was on the right-hand lane, being
13 the slow lane, right where the victim was laying.
14 He was parked in front of the vehicle -- not in
15 front, but, you know, securing the victim from any
16 vehicles, of course, hitting the victim. Officer
17 Smith's vehicle, I want to say, it was on lane
18 number one, the fast lane, the lane closest to the
19 center of the roadway.

20 Q One is the fast lane and two is the slow lane?

21 A Correct.

22 Q Stone is in lane two and Smith is in lane one?

23 A Correct.

24 Q Are they staggered or side by side?

25 A I want to say they were staggered. I don't

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1 remember the exact positions.

2 Q Were there any vehicles between the victim and
3 Stone when you arrived there? Any cars between the
4 victim and Stone when you arrived there?

5 A I don't think so. There was some vehicles behind
6 Officer Stone's. I want to say there was some
7 vehicles in front, but not, you know, having the
8 victim sandwiched.

9 Q Are you saying that there was cars on the same side
10 in the same lane as the victim was laying but on
11 the other side of him?

12 A I know there was a truck, I want to say, that was
13 parked -- people, I guess, saw the accident, had
14 stopped and pulled over onto the side of the road.
15 There is a raised curb for the sidewalk. So a lot
16 of cars didn't jump the curb, just kind of pulled
17 over.

18 Q Was the victim laying on the bridge or was he
19 laying before the bridge?

20 A On the bridge.

21 Q So the victim was laying on the bridge?

22 A Right.

23 Q You had the two patrol cars which were on the
24 bridge or on the land?

25 A On the bridge.

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1 Q So the patrol cars were on the bridge. The victim
2 was on the bridge. You had some vehicle on the
3 other side of the victim on the bridge; is that
4 correct?

5 A Right, that had stopped, from my memory and
6 recollection.

7 Q In the same lanes of traffic as the two patrol
8 cars?

9 A Yes, sir.

10 Q Then you had vehicles going the opposite direction
11 on the bridge that were stopped, is that correct,
12 or were they moving?

13 A No, they were flowing. They were moving.

14 Q You say there was a truck which was stopped?

15 A Pickup truck.

16 Q And did you go over and talk to the gentleman who
17 was driving the pickup truck?

18 A I don't recall talking to anybody and specifically
19 as far as what vehicle they were driving. I talked
20 to some people, you know, advising them to stand
21 back. I was securing the scene and, like I said
22 taking pictures of the scene.

23 Q There was some questions -- you were outside the
24 courtroom, I guess. Are you a -- I know you are a
25 supervisor. Is there a policy dealing with who is

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1 in charge of securing the scene with Cayce Police
2 Department?

3 A Well, the first responding officer, whoever is on
4 scene, the primary officer, should secure the scene
5 and everything. We all come in and, of course,
6 help each other out.

7 Q On the documents that have been introduced, like
8 the Datamaster slip and things of that nature, they
9 actually list two arresting officers in this
10 particular case?

11 A Correct.

12 Q They are listing you, as well as Officer Stone, as
13 being the arresting officers; is that correct?

14 A Correct.

15 Q Is there some reason why you became an arresting
16 officer along with Officer Stone, in that Officer
17 Stone was the first person on the scene and was the
18 person who, I guess, arrested the Defendant?

19 A Right. I made myself an officer, involving myself
20 in the case. There was testimony before that, you
21 know, he was only on the force at that time on my
22 shift for a little over a month.

23 So I wasn't quite sure what his level of
24 experience is on a call like this. So, of course,
25 I am going, as the shift leader, I am going to be

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1 there to involve myself in that case and, of
2 course, guide him through it.

3 Q Okay. And when you arrived on the scene, Stone was
4 talking to the Defendant at that time?

5 A I'm not sure who he was talking to. I remember I
6 got there and kind of -- I believe he said what had
7 happened. I knew we had a victim down. It was
8 obvious some type of accident occurred. I wasn't
9 sure who was driving the vehicle. Our main
10 priority was securing the scene make sure the
11 E.M.S. got there to treat the victim.

12 Q Officer, would it help in any way if I gave you
13 your incident report? An incident report is
14 something where you record notes and stuff like
15 that?

16 A Yes, sir.

17 Q Would that help you?

18 A Yes, sir. Thank you.

19 Q You're welcome. Now, when you got to the scene, I
20 assume you went over and checked the victim; is
21 that correct?

22 A Yes, sir, I did go over to the victim.

23 Q And in your incident report you do certain
24 determinations in regards to the use of alcohol or
25 drugs in a particular incident, and you have

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1 indicated or you have already testified you thought
2 perhaps the Defendant may have been using alcohol?

3 A Correct, yes, sir.

4 Q And that's affirmed by your incident report, isn't
5 it?

6 A By Officer Stone's incident report.

7 Q Now, it's your incident report, too, isn't it?
8 Doesn't it have your name also?

9 A Yes, sir.

10 Q You are the approving officer, aren't you?

11 A Yes, sir.

12 Q Was there any kind of determination in regards to
13 the decedent, whether or not there was any drug use
14 or alcohol involved with the decedent?

15 A No, sir, I was unable to talk to the victim.

16 Q So you simply checked off unknown?

17 A Yes, sir, it is checked off unknown.

18 Q Not yes, not no?

19 A Unknown.

20 Q When you got to the scene, you were pointed,
21 someone pointed you over to Mr. Jamison as being
22 the person who was involved in the collision; is
23 that correct?

24 A Right. I believe I had asked what had happened,
25 who was driving the vehicle, and they had suspicion

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1 that the Defendant was the driver.

2 Q The video we saw, the five-minute video, that's a
3 video recording from the car in which -- Officer
4 Smith?

5 A Correct.

6 Q Has and the Defendant was brought in front of the
7 vehicle where Officer Smith was; isn't that
8 correct?

9 A Right.

10 Q So you could ask him questions and do any field
11 sobriety tests?

12 A Yes, sir.

13 Q In that video that didn't show any vehicles in
14 front of him, did it?

15 A That was after the victim was -- the victim was
16 already transported. The fire truck was leaving.
17 I mean, you know, that scene had already been
18 washed away. I believe Detective Reese had already
19 pretty much spoke with the victim (sic). He had
20 already cleared the roadway.

21 Q Is there another video where Officer Smith arrives
22 on the scene and his video camera is cut on that
23 would show the victim laying in the road and the
24 area as you observed it when you came there?

25 A Yes, sir.

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1 Q Do you know who has custody of that video?

2 A Officer Smith had custody of the video.

3 Q And that particular video shows the location of the
4 body, the various vehicles there, everything that
5 you would have seen when you arrived at the scene?

6 A Yes, sir.

7 Q So now the video which we looked at in court was
8 only like the end of a video maybe or the last five
9 minutes of a video?

10 A Towards the end, yes, sir.

11 Q To your knowledge does that other video still
12 exist?

13 A Yes, sir.

14 Q After you got to the scene and you were talking to
15 my client, he didn't perform any field sobriety
16 tests. We have seen that.

17 A Right.

18 Q You arrested him or did Stone arrest him?

19 A Stone arrested him. We both placed him under
20 arrest. I advised him he was under arrest.

21 Q Cuffed him, put him in Stone's car?

22 A Correct, yes, sir.

23 Q And then Stone took him to the Cayce Police
24 Department?

25 A Yes.

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1 Q Did you remain on scene?

2 A I did remain on scene after they left, yes.

3 Q Who else showed up on the scene?

4 A I don't recall.

5 Q Well, did Detective Reese show up on scene?

6 A I've already answered that. Myself and Detective
7 Reese responded together, not in the same vehicle,
8 but, you know, he was already there.

9 Q Reese was there before you got there?

10 A We both got there at the same time. He was at the
11 police department when I was at the police
12 department. He left in his vehicle and I left in
13 mine. We arrived together.

14 Q And who did he park behind and who did you park
15 behind?

16 A I don't know. I know I parked behind the officers
17 that were already there. I believe there was a
18 civilian vehicle in front of my vehicle if I recall
19 correctly.

20 Q He doesn't have a video camera in his car, does he,
21 Reese?

22 A No. He drives an unmarked blazer is what he had.
23 No, they are not equipped.

24 Q Because he is a Detective, kind of undercover or
25 whatever?

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1 A Right.

2 Q When you and Reese both got there, you took your
3 camera, as I understand your testimony, you
4 immediately took your camera out and went to the
5 victim's area and took a picture of the victim?

6 A Correct.

7 Q Now, Reese, who is a detective, does he have a
8 special function in the Cayce Police Department?

9 A As an investigator?

10 Q Yes.

11 A He was the on-call investigator that night.

12 Q What's the difference between an on-call
13 investigator and a sergeant with the traffic
14 division?

15 A One is an investigator and one is assigned to
16 traffic.

17 Q What does an investigator do?

18 A Investigate.

19 Q So was it principally his job to be in charge of
20 taking pictures and securing the evidence for
21 future reference?

22 A I mean, yeah, he is processing the scene if that's
23 what you are asking. Yes.

24 Q When you say processing the scene, there is a
25 special -- is there a special qualification, such

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1 as a crime scene investigator?

2 A There is but I'm not sure what training he has if
3 that's what you are asking.

4 Q But that would be normally on the Sheriff's
5 Department level maybe, dealing with crime scenes?

6 A Correct.

7 Q Processing maybe latent prints?

8 A Correct.

9 Q Footprints, things of that nature?

10 A Which they do do that too.

11 Q But he is an investigator for the Cayce Police
12 Department?

13 A Yes, sir.

14 Q And in that job did he secure, to your knowledge
15 when you were there, did he secure various items on
16 the roadway and bridge referring to -- well, the
17 roadway covers the bridge, doesn't it?

18 A Correct.

19 Q Did he secure various items and take pictures of
20 them?

21 A To my knowledge, yes, sir.

22 Q Do you know how many pictures he took?

23 A At that time I don't know. I know it was somewhere
24 around 50, I believe it was.

25 Q Now, one picture which has been introduced by the

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1 State is one which you say that you took, which is
2 State's Exhibit Number 23?

3 A I believe I took that picture. I can't say for
4 sure.

5 Q You don't know? You don't remember taking this
6 picture or you think somebody else might have?

7 A I took similar pictures. I can't remember. I know
8 Reese was taking pictures and I was taking
9 pictures. I can't tell you exactly if that's the
10 exact picture I took. It looks like it.

11 Q Did you take pictures of where the bicycle was
12 located?

13 A I want to say I did.

14 Q Okay. Where was the bicycle located?

15 A On the roadway.

16 Q On the bridge or?

17 A On the bridge. Everything was on the bridge.

18 Q Everything was on the bridge?

19 A Right.

20 Q Do you know where on the roadway it was located?

21 A To my recollection it was still on the slow lane,
22 which is the number two lane.

23 Q Number one is always the fast lane, right?

24 A Right.

25 Q It's hard to remember sometimes. And did you take

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1 pictures of any other evidence?

2 A I took maybe about nine to ten pictures.

3 Q What pieces of evidence did you take pictures of?

4 A I took several pictures of the victim. I want to
5 say I took pictures of the bike and whatever was
6 around in the immediate area and stuff.

7 Q Did you mark the bridge with any type of paint or
8 any type of, I guess, permanent thing where --

9 A I did not do any marking.

10 Q Did Officer Reese come later on? I mean, did
11 Officer Reese do that at some point in time when
12 you were there or later on that you are aware of?

13 A After the fact. I was contacting the Highway
14 Patrol M.A.I.T. team like I testified earlier to
15 see if the M.A.I.T. team was going to come out that
16 night.

17 They advised me that they weren't going to be
18 able to and just go ahead and mark the scene. I
19 then gave instructions, I believe it was to Reese,
20 to go ahead and mark the scene. That happened
21 after I left.

22 Q So for purposes of, I guess, edification of the
23 jury, the M.A.I.T. team, do you know what their
24 function is in the criminal justice system? What
25 do they do?

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1 A They investigate highway traffic fatalities.

2 Q They are employed with?

3 A The Highway Patrol.

4 Q So it's your testimony that there were no markings
5 on the road by anyone with the location of evidence
6 at the time that you left?

7 A Correct.

8 Q At some point in time, officer Reese -- you didn't
9 see him do it -- but you suspect that he is the one
10 that marked the roadway?

11 A Right.

12 Q When you got to the Cayce Police Department, we
13 have seen obviously Mr. Jamison talking about or
14 asking, perhaps maybe too many times, asking you
15 about what those implied consent warnings meant?

16 A Right.

17 Q Would you read the section of the implied consent
18 warnings which deals with felony driving under the
19 influence, and read it slowly.

20 A You are under arrest for felony driving under the
21 influence, felony D.U.I., Section 56-5-2945, South
22 Carolina Code of Laws, 1976 as amended, or a law
23 enforcement officer has probable cause to believe
24 that you have violated this section.

25 The officer has directed that samples be taken

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1 for alcohol and/or drug testing. The samples will
2 be taken and tested according to Section 56-2950
3 and S.L.E.D. policies.

4 Pursuant to Section 56-5-2946, you must submit
5 to either one or a combination of chemist tests for
6 the purpose of determining the presence of alcohol,
7 drugs or a combination of alcohol and drugs.

8 The resistance, obstruction or opposition to
9 testing pursuant to Section 56-5-2946 is evidence
10 admissible at trial. If your test or samples have
11 an alcohol concentration of 15 one-hundredths of
12 1 percent, .15 percent or more, your privilege to
13 drive in South Carolina must be suspended for at
14 least 30 days.

15 You have the right to have a qualified person
16 of your own choosing to conduct additional
17 independent tests at your expense. The officer,
18 upon request, must provide you affirmative
19 insistence.

20 You have the right to request an
21 administrative hearing or if your suspension is
22 upheld at an administrative hearing, you must
23 enroll in -- I'm sorry. I believe I skipped a
24 space.

25 You have the right to request an

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1 administrative hearing within 30 days of the
2 issuance of notice of suspension. If you do not
3 request an administrative hearing or if your
4 suspension is upheld at the administrative hearing,
5 you must enroll in an alcohol and drug safety
6 action program.

7 Q And that's what we heard you reading him that
8 night, right?

9 A Correct.

10 Q This implied consent warning?

11 A Yes, sir.

12 Q Well, you have been -- you have been taking -- how
13 can I say this? You have been doing D.U.I. work
14 for years and years, correct?

15 A Yes, sir.

16 Q You are well certified in regards to giving the
17 Datamaster test and everything regarding D.U.I.s?

18 A Yes, sir.

19 Q Did you explain to him that he had to blow in the
20 Datamaster or did you tell him he was going to have
21 a blood test?

22 A I explained to him that I was going to offer him a
23 breath test.

24 Q Did you ever mention anything about a blood test?

25 A I don't remember. I believe I said something if he

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1 refused, we are still going to the hospital and
2 taking a blood test. It's per se law.

3 Q So he was going to get a blood test anyway?

4 A Correct.

5 Q Pursuant to statute he is required to have the
6 blood test anyway; is that right?

7 A Correct.

8 Q Can you explain why it doesn't say that in the
9 implied consent warnings?

10 A I can't answer something I didn't write.

11 Q It's hard to explain, isn't it?

12 A I can't explain that.

13 Q There is something about an independent test in
14 here. Does that mean it's another Datamaster test
15 or does that mean it's a blood test?

16 A It would be an independent test. I would gather it
17 would be a blood test.

18 Q And are you certain it would be a Datamaster --

19 A No, it wouldn't be a Datamaster test.

20 Q It would be a blood test?

21 A A blood test.

22 Q So he is going to the hospital pursuant to law to
23 have a blood test done, regardless of whether or
24 not he blows on the Datamaster or not; right?

25 A Correct.

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1 Q He has got to do that?

2 A Correct.

3 Q It doesn't say that in the implied consent
4 warnings, does it?

5 A (Witness shakes head.) (Indicating negative
6 response.)

7 Q When he gets to the hospital, do you tell him that
8 he can go have another blood -- he can have blood
9 drawn from another area, like from, I don't know,
10 Columbia Hospital is closed, Richland Memorial
11 Hospital?

12 A No, I did not.

13 Q So it's your understanding that his independent
14 test would be giving him two vials and having an
15 independent source test them?

16 A No.

17 Q What is your understanding?

18 A He's going to get a vial. If he asks for an
19 independent test, at that time he would be given
20 the opportunity, and I would assist him to take him
21 somewhere for an independent test. Being that we
22 were at the hospital, he could have his independent
23 test there or somewhere within a reasonable range
24 of where we are at.

25 Q Why did you take two vials of blood then?

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- 1 A Per se law.
- 2 Q What was going to happen with the other vial of
- 3 blood that you didn't take?
- 4 A That vial was given to him.
- 5 Q What is that for?
- 6 A For him to do whatever he feels he wants to do it
- 7 with it.
- 8 Q For him to have it tested?
- 9 A Tested.
- 10 Q In the event he doesn't trust what your test shows?
- 11 A Correct.
- 12 Q You were there when they drew the blood from my
- 13 client, weren't you?
- 14 A Correct.
- 15 Q You saw my client receive two vials of blood?
- 16 A He never received two vials of blood.
- 17 Q Strike that. You saw the person who drew his blood
- 18 draw two vials of blood?
- 19 A Correct.
- 20 Q And where did one vial of blood go?
- 21 A One vial of blood went in the Defendant's shirt
- 22 pocket.
- 23 Q Who put it there?
- 24 A Officer Stone.
- 25 Q The other vial of blood went where?

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1 A It went in Officer Stone's custody.

2 Q If Mr. Jamison -- you don't transport persons under
3 arrest without being cuffed, do you?

4 A Yes.

5 Q Are they cuffed in front or cuffed behind?

6 A Cuffed behind.

7 Q So he is cuffed behind and escorted out of the
8 hospital?

9 A Correct.

10 Q Was his blood vial in his front pocket?

11 A Yes, sir.

12 Q You are not a rookie in terms of drawing blood and
13 taking people to the Sheriff's Department, are you?

14 A No.

15 Q You know the procedure, don't you?

16 A Yes, sir.

17 Q And when he gets to the Lexington County Detention
18 Center, what does the Cayce police officer do in
19 terms of the blood vial and in terms of the jail?
20 He doesn't take it back in his room with him, does
21 he?

22 A No.

23 Q What happens to him?

24 A The officer transports the subject under arrest
25 into a receiving area, and a correctional officer

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1 will then meet the officer and the subject under
2 arrest.

3 At that time the correctional officer will
4 start taking stuff out of their pockets, pat them
5 down, everything to prevent contraband from going
6 inside the facility.

7 Q And makes a list of everything that comes off the
8 Defendant, doesn't he?

9 A Supposedly that's what they do.

10 Q What happens to blood?

11 A It goes with the correctional officer. After that
12 I can't answer. I don't work for the Sheriff's
13 Department.

14 Q Well, you might have some inside knowledge, don't
15 you think about what happens to blood?

16 A I would think it goes into the nurse's facility
17 like it's supposed to or however their policy is.

18 Q Well, your wife works for the Sheriff's Department;
19 doesn't she?

20 A Yes, sir.

21 Q Tell the jury what your wife does with the
22 Lexington County Sheriff's Department?

23 A She is a nurse. She's an administrative
24 coordinator. She is a supervisor for C.C.S.,
25 Correct Care Solutions.

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1 Q And she was back on July 31, 2008; wasn't she?

2 A Yes, sir.

3 Q And her job with the Sheriff's Department was to
4 secure the blood, to be the supervisor over the
5 blood at the jail; wasn't it?

6 A I can't answer something that, you know -- she
7 wasn't there, and I'm not sure what exactly her
8 duties are there. You would have to -- if you are
9 asking me did she receive the blood or is she in
10 charge of getting that blood, I can't answer that.
11 She's a supervisor there.

12 Q Do you know if she plans to testify in this trial?

13 A Yes, sir.

14 Q She is?

15 A Yes, sir.

16 Q Let me ask you this. I will ask you and see if you
17 are familiar with this. When you check somebody
18 into the jail, since you have been involved with it
19 before, I assume they keep numbers of the person
20 going into the jail, just like when you check
21 somebody in at -- you don't have anybody at the
22 Cayce jail anymore; do you?

23 A No, we stopped that a while ago.

24 Q You would give a booking number if you were running
25 your Cayce jail?

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1 A Correct.

2 Q Let me ask you to look at this Lexington County
3 Sheriff's Department booking and tell me if you are
4 familiar with the booking reports with the
5 Lexington County jail.

6 A Yes, sir, I have seen these forms before.

7 Q And that is a booking report for who?

8 A Yes, sir.

9 Q For who?

10 A For the Defendant, Mr. Jamison.

11 Q Is that the booking report that identifies the date
12 that he was booked on this charge?

13 A Yes, sir.

14 Q Does it give -- is there a booking number for the
15 inmate?

16 A There is a jail I.D. I guess that's their booking
17 number.

18 Q Right. Look at the document which is behind it.
19 Tell me if you can identify that.

20 A It's a property receipt, property received at
21 booking form.

22 Q Does it have a booking number?

23 A Yes, sir, it matches.

24 Q The booking number matches. So you have got a
25 receipt where the jail receives the items that come

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1 from the Defendant with the same booking number as
2 the booking sheet for the Defendant who is being
3 arrested; is that correct?

4 A Correct.

5 Q Let me ask you -- I want to make sure I am not
6 confusing you -- look at these other two. Is that
7 the same? No, they are different. I ask you to
8 look at these three exhibits and tell me if you
9 recognize those.

10 A Yes, sir.

11 Q What are those items you are looking at?

12 A One is an intake form. One is a property release
13 form, I guess when he was released on the 4th, and
14 a property release form apparently where property
15 was released to his wife while he was in jail.

16 Q And does that maintain the same booking number
17 that -- it's consistent with his initial booking
18 report?

19 A Yes, sir.

20 Q So basically you have like a history of the inmate
21 from the time he was introduced in the jail, the
22 stuff that was taken off of him, to the stuff that
23 he gets back at the time that he leave the jail?

24 A Correct, yes, sir.

25 MR. WILLIAMS: Your Honor, we would move to

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1 introduce those forms from the Lexington County
2 Sheriff's Department into evidence.

3 MR. MOBLEY: The State would object to moving
4 such documents into evidence. We have a matter of law
5 to take up outside the presence of the jury as well,
6 Your Honor.

7 THE COURT: Mr. Foreman, ladies and gentlemen,
8 step momentarily to your jury room. Do not discuss the
9 case amongst yourselves.

10 (The jury retires to the jury room.)

11 THE COURT: May I see them, Sergeant.

12 THE WITNESS: Yes, sir.

13 (Hands to Court.)

14 THE COURT: Solicitor.

15 MR. MOBLEY: Your Honor, the State opposes the
16 introduction of those documents based off the fact that,
17 first and foremost, the officer is not the author of
18 such documents. They have been signed by another
19 individual at the jail.

20 Sergeant Marzol does not have any knowledge of
21 those at all, other than actually reviewing them after
22 the fact and reviewing them with the case before the
23 actual case proceeded to trial. There is no foundation
24 to be laid through this particular witness to have those
25 documents introduced into evidence as well.

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1 Additionally, we are of the contention they
2 are hearsay basically. He is reading something someone
3 else typed up and attested to by signing their name at
4 the bottom.

5 THE COURT: Mr. Williams.

6 MR. WILLIAMS: Your Honor, he testified that
7 he is familiar with the documents and is able to look at
8 them. It has the same document numbers, Your Honor.
9 There is a protection here. It has the same inmate
10 numbers throughout, which is consistent throughout the
11 entire procedure.

12 It's the same thing we argued about earlier
13 prior to the jury being here. There was testimony, I
14 think prior to, at least from his wife, that the blood
15 was never given to by client. I mean the client can
16 testify later on that he signed the documents, and he
17 has already identified it. So, Your Honor, it seems
18 like it should go in.

19 MR. MOBLEY: If I may, Your Honor. If the
20 Defendant can testify that he actually signed those
21 documents at a later time to authentic those, he is
22 certainly more than welcome to do so. Now is not the
23 time to do it.

24 In addition, Sergeant Marzol is not a records
25 custodian. He is not qualified to testify to those

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1 documents that were provided at a detention center that
2 is separate from his agency, Your Honor.

3 THE COURT: They are not admissible. I am not
4 going to allow them to be admitted unless every person
5 that signed these documents testifies. Y'all consented
6 to these. Y'all stipulated to these documents.

7 I realize I have held the position that you
8 have to have a foundation for them to come in. You have
9 a nine-year veteran, more than a nine-year veteran, in
10 law enforcement. I think he said about 15 years?

11 THE WITNESS: Yes, sir.

12 THE COURT: A 15-year veteran with law
13 enforcement is familiar with them. It's like your
14 opening, Solicitor. The document is going to say what
15 they say.

16 There will either be a blood vial on there or
17 not a blood vial on there, which may prove to a jury
18 that he or his wife did not get that blood vial back and
19 may not prove anything.

20 Whatever weight and value the jury wants to
21 give to these documents is up to the jury, but I'm not
22 allowing them into evidence now, but Sergeant Marzol
23 will be subject to recall by the defense to cross
24 examine him concerning those documents.

25 MR. WILLIAMS: Your Honor, in that regard I am

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1 somewhat confused. I thought when defense counsel
2 stipulated with the State to the introduction of these
3 documents, there would be no problem with them coming
4 in, just as Your Honor has reiterated.

5 THE COURT: I still think you have to lay a
6 foundation in front of the jury, Mr. Williams. I don't
7 think the proper foundation has been laid. Bring us our
8 jury, please.

9 (The jury returns to the courtroom.)

10 THE COURT: State's Exhibits 52, 53, 54, 55,
11 and 56 are not in evidence. They are marked for
12 identification purposes only. Mr. Williams, you may
13 continue.

14 BY MR. WILLIAMS:

15 Q Sergeant Marzol, as I understand your relationship
16 to this case, are you the officer in charge of the
17 case or is it Officer Stone?

18 A Officer Stone.

19 Q And even though it has got your name as the
20 arresting officer along with Stone, that doesn't
21 mean that the two of y'all share that
22 responsibility?

23 A Explain the question again.

24 Q It doesn't mean that you are also in charge of his
25 case, being his supervisor, the approving officer.

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1 A Well, I mean, I have responsibility in it but, you
2 know, there is a primary officer. I am also the
3 arresting officer. I am kind of there to help him
4 out through the duration. I kind of left him as
5 the primary officer.

6 Q All right sir. Now, the last thing that you saw
7 personally when my client was being driven to the
8 Lexington County Sheriff's Department was him in a
9 patrol car with a vial of blood sitting in his
10 pocket; is that correct?

11 A No, sir.

12 Q What was the last thing you saw?

13 A Him sitting in the triage room with the vial of
14 blood in his pocket, and I left.

15 Q To your knowledge do you know or maybe your wife
16 can answer the question, do you know what happened
17 to that blood, that vial of blood, which my client
18 was supposed to have to have tested?

19 A No, sir, I left the hospital and never saw him
20 again until today or yesterday.

21 Q You haven't even talked to your wife about the vial
22 of blood?

23 A Have I talked to her about it?

24 Q Yes.

25 A Prior to this case, no. Other than what we talked

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1 about here in court and stuff.

2 Q You haven't talked to her about it?

3 A I mean, I have talked to her about it. I asked her
4 about the form, but she can't answer what happened
5 to the blood. So the only thing I got was the form
6 from her note part of the case. She can't answer
7 what happened to the blood.

8 Q Is she coming later on to testify?

9 A She is here.

10 Q In regards to any follow-up, did you go back out to
11 the scene?

12 A No, sir, I don't recall going back out to the
13 scene.

14 Q So you didn't go back out when the M.A.I.T. team
15 got there or you didn't go back out when Reese was
16 taking pictures?

17 A No, sir. Once I left there and I left the scene,
18 and we left the Datamaster room, we went to the
19 hospital. I left the hospital and I went to
20 Richland E.R.

21 I was at Richland E.R. and I took some
22 pictures there. I think the family was already
23 there. I spoke with them and I believe it was
24 close to 6:00 o'clock in the morning by the time I
25 got back to the police department.

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1 Q At the time that you went to Richland Memorial
2 Hospital, did you know the name of the person who
3 was the victim?

4 A I don't -- there was a problem. We didn't know who
5 he was on scene. I want to say maybe the hospital
6 had called and said they had confirmed it, but we
7 weren't sure. I can't say exactly for sure.

8 I know he had already been -- it took a while,
9 a couple of hours. By the time I got to Richland,
10 I think it might have been about four. There was a
11 time span. He had already been identified. I
12 think Lexington called Richland, something to that
13 effect.

14 Q So nobody with the Cayce Police Department was able
15 to identify this individual until somebody from the
16 hospital told y'all who he was.

17 A Right. He had no wallet. I believe his wallet was
18 somehow taken from the scene by someone and taken
19 to the hospital.

20 Q Do you know who it was taken by?

21 A I have no clue.

22 Q Was it taken by an officer?

23 A No.

24 Q Was it on the scene?

25 A It was, if someone took it, but I don't know who

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1 took it.

2 Q Do you know that it was on the scene?

3 A His I.D. was on scene, and his wallet was on scene,
4 yes, sir.

5 Q You saw his wallet on the scene?

6 A I never saw his wallet on the scene. I never knew
7 he had a wallet until someone took his wallet to
8 the hospital. We couldn't identify the victim.
9 Someone prior to our arrival must have taken the
10 victim's wallet. We have no clue.

11 Q So there was somebody on the bridge who was
12 frisking the decedent or something like that,
13 somebody not a police officer?

14 A I guess when the victim got struck, there were
15 witnesses. The witnesses, prior to our arrival,
16 someone had taken his wallet. And that's why we
17 didn't know who he was. Now, who that person was,
18 I don't know.

19 Q Is there any other evidence that might have
20 disappeared or been changed in any way that you are
21 aware of?

22 A No, sir.

23 Q Did you search the victim yourself?

24 A No, sir.

25 Q So you don't know what was on him?

ROBERT MARZOL -- REDIRECT -- MR. MOBLEY

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1 A I didn't search him.

2 Q Did you search the bag that he had on him?

3 A I don't recall.

4 Q You don't recall if he had a bag?

5 A I don't recall searching the bag.

6 Q Do you know if he had a bag?

7 A I don't remember.

8 Q If he had a bag would you have seen it?

9 A It's possible. I wasn't -- I don't remember.

10 MR. WILLIAMS: That's all the questions I
11 have.

12 THE COURT: Redirect?

13 MR. MOBLEY: Two questions, Your Honor.

14 THE COURT: Yes, sir.

15 **REDIRECT EXAMINATION**

16 BY MR. MOBLEY:

17 Q Sergeant Marzol, during the time period that you
18 were in contact with Mr. Jamison, did he ever
19 mention anything about Mr. Jesse Gamble on the
20 roadside that day, specifically about him riding
21 his bicycle?

22 A No.

23 Q Sergeant Marzol, at any time do you recall
24 Mr. Jamison requesting an independent blood test?

25 A At no time whatsoever.

ROBERT MARZOL -- RECROSS -- MR. WILLIAMS

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1 Q Thank you.

2 MR. MOBLEY: Nothing further, Your Honor.

3 THE COURT: Recross, Mr. Williams.

4 MR. WILLIAMS: One question.

5 **RECROSS EXAMINATION**

6 BY MR. WILLIAMS:

7 Q And what was your understanding of the second vial
8 of blood which is drawn from my client?

9 A What was my understanding? That was his vial of
10 blood.

11 Q To do what with?

12 A To have it tested or whatever he wished to do with
13 it.

14 MR. WILLIAMS: That's all I have, Your Honor.

15 THE COURT: You may step down.

16 (Witness leaves the witness stand.)

17 THE COURT: Solicitor, you may call your next
18 witness.

19 MR. MOBLEY: The State calls Detective Reese
20 to the stand.

21 JOHN ROBERT REESE, being
22 first duly sworn, testifies as follows:

23 CLERK: Once you are seated, state your full
24 name on the record, please.

25 THE WITNESS: John Robert Reese.

JOHN REESE -- DIRECT -- MR. MOBLEY

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DIRECT EXAMINATION

BY MR. MOBLEY:

Q Detective Reese, where are you currently employed?

A City of Cayce.

Q How long have you been employed there?

A Since April of '04.

Q '04. What is your current position there?

A Detective.

Q What does that entail as a detective?

A Generally just investigating crimes. Sometimes I will just get a report, and I have to investigate the allegations in the report. Sometimes I will actually respond to a scene, collect evidence, follow-up with the evidence, prosecute cases, a lot of things, help out other investigators. We type warrants, do all kind of things.

Q Have you had any training to help you actually conduct your duties as a detective?

A Yes, sir. Along with just basic law enforcement, class one certification. I've been to basic detective. I've been to crime scene detective. I have also been to several supervisory type classes, fingerprint identification. There's a lot of specific classes that I could talk about for a few minutes.

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1 Q Prior to coming to Cayce, were you involved in any
2 other law enforcement?

3 A Yes, sir, I worked in the West Columbia Police
4 Department. I worked there two and a half years,
5 and I worked in Lexington County Detention Center
6 for eight and a half years.

7 Q Now, Detective Reese, I want to take you back to
8 July 31st, late night, early morning, August 1,
9 2008. Were you on duty at that time?

10 A Yes, sir.

11 Q What shift were you working?

12 A I was actually the on-call investigator. At the
13 time of this call, I was sitting in my office
14 speaking to Sergeant Marzol when the call came out
15 that someone had possibly been hit by a vehicle,
16 struck by a vehicle.

17 Q And around about what time was that when you
18 received that call?

19 A I have in my notes it was around 23:40, which is
20 11:40 p.m.

21 Q That's when you received the call?

22 A That's when I heard the call go out on the radio.
23 I responded there knowing that I would probably be
24 needed.

25 Q As the on-call investigator, is that -- when you

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1 receive a call like that, do you immediately
2 respond?

3 A If I'm on duty, I will respond out just to see if
4 they need me. Normally our shift is until 11:00
5 o'clock at night. Then we will go home and sleep
6 and then be called out or we are subject to being
7 called out until 7:00 a.m.

8 On that night I had come in late because I had
9 some stuff to do at S.L.E.D. So I was working over
10 until about 12:00 o'clock when the call came out.
11 After 11:00 o'clock generally speaking, we are just
12 on call.

13 We will get a call at home. They will say,
14 Hey, I need you. This is what I have got, but on
15 this particular occasion, I was actually at the
16 police department.

17 Q So once you received the call, how long did it take
18 to respond to the scene?

19 A I would say less than two minutes. It's about two
20 miles from the police department.

21 Q You arrive on the scene?

22 A Yes, sir.

23 Q Can you describe to the jury what you saw as you
24 approached.

25 A When I arrived on scene, as far as I can recollect,

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1 I was the last car on scene, like to the initial
2 scene. Sergeant Marzol, like I said, we were
3 talking at headquarters, and I pulled up right
4 behind him.

5 I just kind of saw a bunch of blue lights. I
6 could see a bicycle in the roadway from where I was
7 parked, kind of just part of the bicycle. As I
8 walked through the police cars and all the blue
9 lights flashing and everything, that's when I saw
10 some stuff in the roadway, the bicycle, and then
11 the victim laying in the roadway.

12 Q You state you saw the bicycle. Was that on the
13 bridge at the time?

14 A It was.

15 Q Did you see the victim at any point?

16 A Yes, sir.

17 Q You did. Now, are you familiar with the Richland
18 County/Lexington County line?

19 A Yes, sir. It's about halfway across the bridge,
20 kind of right in the center of the Congaree River
21 is that the side that says Richland County.

22 Q Now, the location of Mr. Gamble, as well as the
23 bicycle, where was it located?

24 A It was on our side of the bridge prior to the sign,
25 a fairly decent distance.

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1 Q So describe what else you saw.

2 A I knew we were on our side of the bridge because
3 there was a book bag laying there. As we were
4 trying to prepare the scene for E.M.S. to come in,
5 I looked over the side of the bridge.

6 I saw the river walk on our side of the
7 bridge. It's underneath where we were at. We were
8 up off the ground, but there was still earth
9 underneath us. So I know we hadn't even gotten to
10 the water portion of the bridge or where the water
11 runs under the bridge.

12 Q You saw some debris there, correct?

13 A Yes, sir.

14 Q Describe the debris that you actually saw.

15 A I believe the first thing I saw was a sock. It was
16 not far in front of my car. As a matter of fact,
17 some police cars had driven past it on the way in.
18 Then I saw a shoe just in front of that.

19 Then just past that I saw a lens to some type
20 of light on a vehicle. I just notated that, went
21 forward and I saw the bike, and then I saw the
22 victim further down from there.

23 Q What happened next after you see all the debris
24 there?

25 A I got my camera. I took a couple of shots of the

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1 victim. He had what I noticed to be like a severe
2 head injury on the back side of his head. He had a
3 double fracture to, I believe it was his right leg,
4 lower leg.

5 He had -- I didn't know what it was at the
6 time. He had some striping across his neck, which
7 appeared he might have had some type of injury to
8 his neck.

9 Q Now, were you able to get close to Mr. Gamble?

10 A Yes, sir. I actually took a couple of pictures. I
11 took a picture of the bike as I was walking past,
12 took a picture of Mr. Gamble, just a couple of
13 different angles, kind of a general picture.

14 I took a picture of his leg. I took a picture
15 of his head and then kind of like a closeup of the
16 fracture that I could view on the back side of
17 his -- it was like oozing blood.

18 Q Why were you taking all these pictures at the time?

19 A I knew E.M.S. was right behind me. If I'm not
20 mistaken they were in-house when we left out. So I
21 knew I was going to try to preserve the evidence as
22 we found it when we got there.

23 Q At any point did you touch or move any of the
24 evidence?

25 A No, sir.

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1 Q While you were surveying the scene and documenting
2 evidence and taking pictures, did you have an
3 opportunity to see the Defendant's vehicle?

4 A Yes, sir.

5 Q Where was that located?

6 A It was on down the bridge. I'm not sure how close
7 it was to the county line sign there, but I did
8 take pictures and observe several things at the
9 vehicle.

10 Q Now, what are some of your general observations
11 about that vehicle?

12 A I just noticed that the vehicle still had its
13 headlights on. I took a couple of general pictures
14 at the beginning. The front hood -- it's a van --
15 the front hood of the van was dented in, and there
16 was like spider webbing on the windshield. As the
17 hood would come over the top and meet the
18 windshield, there was a big, I guess, looked like
19 where a head had hit the windshield.

20 MR. WILLIAMS: Objection to speculation on
21 that, Your Honor.

22 THE COURT: I would overrule the objection.
23 You may ask your next question.

24 BY MR. MOBLEY:

25 Q What other damage did you see to the van?

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1 A There was under the right, I guess, passenger side
2 front end, I noticed there was a lens that had been
3 broken out of the van. Then there was some
4 damage -- I didn't notice it at that time.

5 That was just a general observation coming up
6 to the van. I noticed those type of things. It
7 had damage. There was a long scratch down the
8 side, I believe the passenger's side, fairly long
9 scratch down the side.

10 Q Were you able to take pictures of the inside of
11 that van?

12 A Yes, sir.

13 Q And were you ever able to take pictures of the
14 actual bicycle?

15 A Yes, sir. I believe the very first picture that I
16 took was of the bicycle because it was the first,
17 what I would consider major piece of evidence, that
18 was at the scene.

19 I saw the bicycle laying there and then
20 Mr. Gamble was laying further down the bridge, but
21 the bicycle had some severe damage. So I just took
22 one quick snapshot of the bicycle.

23 Then that's when I walked over and took a
24 couple of pictures of Mr. Gamble. I went on down,
25 took just a few quick pictures of the van because I

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1 wasn't sure how fast E.M.S. would have him out of
2 there and that kind of thing.

3 Q Now, after taking the pictures of the van, did you
4 do anything else to help preserve the actual
5 evidence?

6 A Yes, sir. I walked back to my car and I just took
7 a general, from my vehicle, shot down towards
8 Columbia, of the bridge. Then what I did was I
9 walked with my flashlight, and anything that I
10 found that I thought might be evidence I
11 photographed it.

12 The first thing I saw was a sock and then a
13 shoe. Somewhere in there there was what I thought
14 to be a scuff from hair. There was a scuff mark on
15 the roadway, and if you got down and looked at it
16 at an angle, you could see that it had hair
17 material in it.

18 There was another spot where I saw the lens
19 and then like the cap to the lens or another piece
20 of the light and then on further down was the
21 bicycle, the victim, Mr. Gamble, and then on
22 further down the bridge was the vehicle or the
23 van.

24 Q Now, all of these items that you are speaking of,
25 did you ever mark those in any way?

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1 A Yes, sir. I am by no means an accident
2 reconstructionist specialist. I've never been to
3 any type of class for accident reconstruction or
4 anything. I have worked accidents. But what I did
5 was I knew that we would probably have someone come
6 in. I believe Sergeant Marzol told me at some
7 point in time that the M.A.I.T. team was going to
8 come in and do an accident reconstruction.

9 So what I did was I took orange paint and
10 basically circled every item as I found them, from
11 the very first piece that I found, which was the
12 sock, all the way down to van which was the last
13 item that I found.

14 Q So you marked it with a red paint spray?

15 A It was orange, like fluorescent, like safety paint.

16 Q Why did you feel it was important to do that at
17 that particular moment?

18 A I wanted to document where those items were and how
19 I found them when I got there. I knew that my
20 first observation from the sock to the victim was
21 quite some distance. So I figured the sock was the
22 very first - somewhere around the point of impact,
23 what I thought at that time.

24 Then where the victim was laying, I knew that
25 distance would have to be documented. So I circled

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1 everything that I found or I could find I thought
2 might be evidence.

3 Q To your personal knowledge, are you aware of any of
4 your department's vehicles going through that
5 particular incident scene?

6 A Not that I'm aware of. I know that where I parked
7 was behind the sock. There were vehicles parked
8 kind of all through the scene. Where the bridge
9 begins was where the first patrol car on the scene
10 was. So if anybody would have driven across any of
11 that particular evidence, it would have had to have
12 pushed it closer to the actual victim.

13 Q Do you have any reason to believe that any of the
14 evidence had been moved or tampered with?

15 A No, sir. There was no -- I guess if you look at a
16 sock that has been rolled up, if a vehicle was to
17 have rolled over a sock, you could kind of tell
18 that it kind of crushed it down a little bit. It
19 appeared that it was puffed up.

20 If the shoe had been run over, I figure it
21 would have left some type of marking on the shoe,
22 tire tread or something. No vehicles were where
23 the bicycle was. No vehicles were over where the
24 lens were. They were actually on the side of the
25 bridge.

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1 There were no vehicles up around the bicycle
2 or the victim, and there were no vehicles, as far
3 as I can remember, I don't believe there were any
4 vehicles between the van and the victim.

5 Q Now, from my understanding you took a quite of
6 number of pictures; correct?

7 A Yes, sir.

8 Q Have you had an opportunity to review those
9 pictures?

10 A Yes, sir.

11 Q Was your camera working properly that night?

12 A Yes, sir.

13 Q Were you able to reproduce those for prints?

14 A Yes, sir.

15 Q I want to hand you a few documents here. They are
16 labeled State's Exhibit Number 1 through 22. Can
17 you look at this and tell me what they are.

18 A Yes, sir. Exhibit 1 appears to be the bicycle --

19 Q I don't want you to testify to what is in the
20 actual photos, but I ask you, do you recognize
21 those?

22 A (Pause.) Yes, sir. These appear to be pictures
23 that I took on the night of the incident. There
24 are some duplicated pictures that Sergeant Marzoli
25 took. Without looking at my camera, I can't

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1 absolutely say that that's the picture I took
2 because there were some that we are standing side
3 by side like taking pictures.

4 So the angle, I can't absolutely testify that
5 I took that picture. All the ones with the orange
6 around them, I believe I took those pictures. Most
7 of the other ones of the vehicle, I believe I took
8 all those as well.

9 Q Do you have your camera available today?

10 A Yes, sir, I brought it with me. The camera is in
11 the exact state it was the night I took the
12 pictures. They have been unaltered. They are
13 still saved on a memory card in my camera which I
14 brought.

15 Q Would you like to look at the camera to compare
16 them to these particular pictures?

17 A I can.

18 MR. WILLIAMS: Your Honor, we don't object to
19 introduction of these picture if he is trying to lay a
20 foundation.

21 THE COURT: All right.

22 MR. MOBLEY: Your Honor, the State would move
23 to have 1 through 22 entered into evidence.

24 THE COURT: State's 1 through 22 in evidence
25 without objection.

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1 (State's Exhibits Number 1-22 are received
2 into evidence.)

3 BY MR. MOBLEY:

4 Q Detective Reese, these are not all of the photos,
5 these are some of them; correct?

6 A Correct.

7 MR. MOBLEY: If I may, Your Honor, publish
8 these photos to the jury and have the detective testify
9 to them, what they are.

10 THE COURT: Yes, sir.

11 BY MR. MOBLEY:

12 Q As I place the exhibits here, I am going to
13 announce the number. I want you to tell the jury
14 what we are seeing; okay?

15 A Yes, sir.

16 Q This is State's Exhibit Number 1. Can you tell the
17 jury what that is.

18 A That's the picture of the bike. Again, I don't
19 know I took that exact picture. That is the first
20 picture on my camera. That appears to be the
21 pictures that I took of the bike just as I found it
22 when I walked up to the scene. The very first --
23 that would have been the very first picture that I
24 took.

25 Q Is this in the fast lane or slow lane?

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1 A That is in the outmost lane. In other words, if
2 you were walking off, you would walk off the
3 roadway. The lane you see, that white solid line
4 on the other side of that, is the bicycle lane.
5 It's all the way to the right of the roadway.

6 Q So are you saying this is a bicycle lane here
7 (indicating)?

8 A Yes, sir. I'm not sure the bicycle lane is on the
9 bridge. All the way down Knox Abbott, there is a
10 bicycle lane that runs on the inside of the
11 curbing. I guess it's about two and a half to
12 three feet wide. I'm not 100 percent on that. The
13 white line is what separates the bicycle lane from
14 the curb.

15 Q State's Exhibit Number 2, can you tell us what we
16 are looking at here.

17 A Yes, sir. That is a picture that I took looking
18 from the driver's side doorway where the side view
19 mirror is just across the hood or across the
20 windshield, and that's the indentation that I noted.

21 Q State's Exhibit Number 3?

22 A That's me standing in the exact same area on the
23 driver's side of the vehicle. That is the
24 indentation I saw on the hood of the van.

25 Q State's Exhibit Number 4?

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1 A Yes, sir. This is a later picture. That shoe and
2 that sock are actually the shoe and sock that were
3 closer to my vehicle. This picture was taken
4 obviously after Mr. Gamble had been transported to
5 the emergency room.

6 Q State's Exhibit 5?

7 A Yes, sir. It's going to be hard to tell exactly
8 what is depicted in this picture. This is me
9 standing in the driver's side doorway shooting a
10 picture across into the passenger side of the
11 doorway.

12 The things that I noted about this picture
13 were that the glass was evenly distributed across
14 the passenger side seat and that the door is still
15 in the locked position.

16 Q Why is that important?

17 A It's just means that no one had exited that side of
18 the vehicle. If the door was still locked,
19 obviously if you get out of the car and close the
20 door behind you, the door would remain unlocked.

21 The even pattern of glass on the passenger
22 side seat meant to me nobody had been sitting in
23 that seat. Whenever the window shattered and
24 through glass back, there was an even pattern
25 across the street.

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1 Q State's Exhibit Number 6?

2 A That appears to be me taking a picture standing at
3 the front of the vehicle. The dent you see -- it's
4 hard to see from this angle because of the
5 lighting -- but there is a dent, the same dent that
6 you just, just from a front shot back towards where
7 the driver and passenger would have been sitting in
8 the vehicle.

9 Q State's Exhibit Number 7?

10 A That's just a closer picture of the damage to the
11 glass to the van.

12 Q State's Exhibit Number 8?

13 A That appears to be me standing in front of my
14 vehicle taking a shot just down the bridge. That
15 would be looking down the bridge into Columbia.
16 That was after the sock had been circled with the
17 paint.

18 Q State's Exhibit Number 9?

19 A That's just a closeup, the same shot that you saw.
20 It's the sock.

21 Q State's Exhibit Number 10?

22 A That's a closeup of the shoe. That was the next
23 item down the roadway towards the bridge.

24 Q State's Exhibit Number 11?

25 A That's one of the lens pieces that I explained that

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1 I found to the vehicle, what I thought would be to
2 the vehicle. When I took photographs of the
3 vehicle, it's to a lens that's on the bottom
4 passenger side of the van. It's on the passenger
5 side bottom of the front bumper. That's the lens
6 that goes to that.

7 Q Was a lens missing from the bottom side of that
8 bumper?

9 A Yes, sir. There should be a picture of that as
10 well.

11 Q State's Exhibit Number 12?

12 A That is the reflective piece of the lens. The bulb
13 comes out of that piece, and that's how it reflects
14 the light out. That was found -- actually where
15 it's at, that is the bridge.

16 Where the sidewalk is on the bridge, there is
17 a little sidewalk. Like the part that you see at
18 the very top of the picture, that is the railing
19 that goes up. It was up on the bridge.

20 Q Number 13?

21 A That's a picture of the bike after sitting just as
22 I described it earlier, just with the paint around
23 it so it would be marked so the bike could be
24 removed.

25 Q Number 14?

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1 A This is a picture of that lens, where the lens was
2 at on the vehicle. Then if you can see right
3 underneath there, there is also a bottle that was
4 right underneath the vehicle. That bottle is a
5 bottle that is the same type of beer that was --
6 the bottle is the same type of bottle of beer that
7 was inside the vehicle.

8 Q Detective Reese, we are going to move to State's
9 Exhibit Number 15.

10 A Yes, sir. That is a shot that I took -- I'm not
11 sure if I took this or Sergeant Marzol took this
12 picture. I'm not 100 percent sure. But what it's
13 depicting is from the Columbia side of the bridge
14 shooting back into the City of Cayce. This is
15 basically standing in the center of the roadway of
16 traffic traveling out of the city.

17 Q Now, earlier you referred to a bicycle lane. You
18 wasn't sure whether it proceeded across the bridge,
19 correct?

20 A Right.

21 Q Is this (indicating) what you are referring to
22 here?

23 A That's the sidewalk area. I believe where that --
24 the bicycle lane kinds of ends at the bridge. It
25 becomes like up raised curbing on the bridge, and

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1 then the roadway is like a step down. That's what
2 you see in that picture, the little step down right
3 there.

4 Q Right here (indicating)?

5 A If you go down to where the brightest part of the
6 light is, that the step from -- that's after we had
7 sprayed water off the crime scene, the blood that
8 was there. That's why you see that it's wet, damp
9 in that picture, but the brightest part of that
10 light is the step down from the actual sidewalk on
11 the bridge to the roadway.

12 Q You mentioned that you sprayed down the scene. Was
13 that after evidence had been marked?

14 A Yes, sir.

15 Q This one here, State's Exhibit 16.

16 A That actual picture was taken before they sprayed
17 everything down. I had circled some areas. They
18 had sprayed everything down. That was my best
19 recollection of where the body -- I didn't spray,
20 obviously I didn't spray paint while he was laying
21 there. So once they got him up and moved him,
22 that's when I painted that space on there.

23 Q State's Exhibits 17?

24 A That's a closeup shot of where Mr. Gamble's head
25 was, the circle being the head. The rest of the

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1 block was my best recollection of where he had been
2 laying.

3 Q This picture was after you all had sprayed?

4 A Yes, sir.

5 Q So this was remaining blood there?

6 A Yes, sir, after we sprayed it off.

7 Q State's Exhibit 18?

8 A I can't really see. It appears to be a sock rolled
9 up. It appears to be a sock rolled up that I
10 circled.

11 Q State's Exhibit Number 19?

12 A That's just me standing out in the roadway taking a
13 picture of the van where it was parked.

14 Q It's a little difficult to see here on the
15 projector. Do you see these orange marks?

16 A Yes, sir.

17 Q Did you mark that?

18 A I did.

19 Q Had that vehicle been moved before the vehicle was
20 marked?

21 A No, sir. I believe at the time I marked it, it
22 was -- the lights were still on on the vehicle. I
23 don't know if that's a reflection. The light you
24 see there, I don't know if that's a reflection from
25 the camera. It appears that's the lights still

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1 vibrating on the vehicle.

2 Q State's Exhibit Number 20, what is the significance
3 of this?

4 A I took that picture because the tire is actually up
5 on the curb. You see how there is a distinct line
6 across there. That tire is actually up on the
7 curbing. So whoever was driving actually had to
8 jump the vehicle up onto the curb.

9 Q State's Exhibit Number 21, what is the significance
10 of this?

11 A That's the same thing. The first one was either
12 the front or rear tire. I would have to look at my
13 camera to remember how I took the photo. I
14 believe, if I'm not mistaken, that's the front tire
15 up on the curbing as well as. You can see that
16 distinct line. That's the curbing.

17 Q Now, State's Exhibit Number 22, you may not be able
18 to see it here and if you need to step down, you
19 can do so to explain.

20 A I can see what I took a picture of. If you look at
21 the top, just down on the right-hand side of that
22 rim, you can see there is a dent or some damage.
23 It's real clear on this picture right here. There
24 is some damage just to the right top corner.

25 Q And are you referring to this here (indicating)?

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1 A Yes, sir. I just thought that would be
2 significant. It appeared it had hit something. I
3 didn't know if it was the curbing there where it
4 had jumped up on the curb. I saw damage and I
5 photographed it.

6 Q Okay. Now, you have documented the scene. You
7 have taken photos of the scene. What happened
8 next?

9 A The next thing we did, after I had taken the photos
10 and everything, everyone had been -- Mr. Jamison
11 had been transported from the scene. We had
12 cleaned up as much of the blood as we could get up.
13 We had Tillman's Towing come and tow the vehicle,
14 and he also brought the bicycle back from the scene
15 to Cayce headquarters where it could be logged into
16 evidence.

17 Q Did you accompany the bike or anything?

18 A Yes, sir. I was with -- from the time I arrived on
19 scene, I was there until Cecil, who is the driver
20 that night, he is the owner of Tillman's Towing, he
21 came, loaded up the van. Then I asked him, if he
22 had room on the truck for the bicycle, I asked him
23 if he could transport it back to Cayce. We didn't
24 have a truck to transport it.

25 Q From your knowledge was the bicycle ever placed

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1 into your evidence?

2 A Yes, it was.

3 Q Has it been removed or tampered with since then?

4 A No, sir. The only thing that had been done with
5 the bicycle was the M.A.I.T. team took photographs
6 of it when they came out to do their investigation
7 the next morning.

8 Q Is that area secure from other non-personnel?

9 A I believe it was brought out from a secured area to
10 the sallyport at the jail. Because this is other
11 evidence in our evidence room, I believe they
12 brought it out into the sallyport where they took
13 pictures, and it was taken back to a secured area.

14 Q Is there anything else that you did in relation to
15 this case that particular night?

16 A The only thing of note was that I collected three
17 statements from three witnesses. I also spent
18 quite some time after we had -- I had done
19 everything I could do at the scene -- trying to
20 identify who our subject was that was on the
21 bridge.

22 We didn't have an I.D. or we didn't know who
23 he was when he was transported. There was a book
24 bag that we collected at the scene that had like a
25 jump drive on it. I tried to get information off

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1 the jump drive to identify who he was.

2 I thought it might have a paper or something
3 like that that would have his name on it. That
4 memory card was damaged. I used my pocket knife to
5 try to pry open the end of that you slide into your
6 computer, your U.S.B. port.

7 It was damaged. I pried that where it was
8 basically flat. When I got it to actually go into
9 the computer, it would malfunction. So there was
10 nothing I could get off of it that would help us
11 out.

12 Q You stated you took three statements out. How did
13 you determine to get statements from those
14 individuals?

15 A They were there on the scene. They actually gave
16 me the statements. They wrote their statements on
17 the back of a patrol car right there on the scene.
18 They were identified as witnesses there, and I took
19 their statements.

20 Q Who were those individuals that you got statements
21 from?

22 A I don't have their names written in my notes. I
23 just put I was able to identify three witnesses at
24 the accident. All three witnesses were able to
25 provide written statements on the scene. At the

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1 time that I typed in my notes that night, I didn't
2 have their names because the officers who were
3 originally on the scene took all of that statements
4 and stuff to put in their case jacket.

5 Q You included those statements within your incident
6 report?

7 A Within my investigative notes, yes, sir.

8 Q Now, at the time were you aware of Mr. Gamble's
9 name?

10 A No, sir.

11 Q When did you find that out?

12 A I wrote in my notes that Sergeant Marzol called me
13 the next morning, which would have been August the
14 1st about 8:35. I put that the hospital had
15 identified the victim as Jesse Miller Gamble, 19
16 years of age. I put Sergeant Marzol was also
17 informed, also informed me that someone --

18 MR. WILLIAMS: Objection to hearsay, Your
19 Honor, in regards to that.

20 THE COURT: Yes, that would be hearsay.

21 MR. MOBLEY: Withdrawn, Your Honor.

22 THE COURT: He stated how he found out. You
23 may ask your next question, Solicitor. Sustained.

24 MR. MOBLEY: Nothing further for the witness.

25 THE COURT: Perhaps now would be a good time

1 to take a recess, Mr. Williams, before we go to cross
2 examination.

3 Mr. Foreman, and ladies and gentlemen of the
4 jury, we will take about a 15-minute recess. Do not
5 discuss the case during this recess. Remember to keep
6 an open mind. Thank you.

7 (The jury retires to the jury room.)

8 THE COURT: Detective Reese, you may certainly
9 step down and refresh yourself during this recess.
10 However, you are subject to cross examination and
11 redirect. You may not discuss your testimony with
12 anyone during the recess.

13 THE WITNESS: Yes, sir.

14 THE COURT: Thank you very much. Court will
15 be in recess 15 minutes.

16 (Whereupon there is a recess.)

17 THE COURT: Anything before we bring in our
18 jury, Solicitor.

19 MR. MOBLEY: Nothing, Your Honor.

20 THE COURT: Mr. Williams?

21 MR. WILLIAMS: Nothing, Your Honor.

22 (The jury returns to the courtroom.)

23 THE COURT: Welcome back. We are continuing
24 the trial of the case by the cross examination of
25 Detective Reese by Mr. Williams. Mr. Williams.

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 MR. WILLIAMS: May it please the Court.

2 CROSS EXAMINATION

3 BY MR. WILLIAMS:

4 Q Investigator Reese -- and it's investigator not
5 detective, right?

6 A I guess it depends on your choice, sir.

7 Q What is your choice?

8 A Detective is fine.

9 Q Detective Reese. How long have you been at the
10 Cayce Police Department?

11 A I started at the Cayce Police Department April of
12 2007, I believe.

13 Q April of 2007?

14 A Yes, sir.

15 Q And I am trying to find out how you became
16 detective. We have heard from various other
17 things. Did you go to special schools and that
18 helped you or assisted you to become an
19 investigator and a detective?

20 A Yes, sir. When I was working with the West
21 Columbia Police Department, I was promoted to
22 detective. They sent me through the basic
23 detective class at the Criminal Justice Academy.

24 Q And in that detective class, is that a class which
25 deals with crime scene investigation, things of

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 that nature?

2 A No, sir, it's basic detective 101, just the
3 introductory detective class. I think they
4 actually give you more C.D.s to research then they
5 do actual practical investigative work.

6 Q How did you learn about crime scene investigation
7 and crime scene preservation?

8 A I have been to a crime scene class, but most of my
9 learning, actual training in the field, was with
10 other detectives. There was a field training
11 program for detectives at Columbia which I went
12 through. Basically you have several weeks of
13 on-call with detectives that actually go out and
14 process crime scenes.

15 The fingerprint class I went to was actually a
16 hands-on fingerprint class, which that is not
17 really pertinent to this case, but I have been to a
18 fingerprint class.

19 But actual crime scene, going out and
20 processing a crime scene, I learned that hands-on
21 by other detectives.

22 Q Did you have to take some class or course or test
23 so you could be qualified as a detective or is it
24 something which your superiors have decided to
25 bestow upon you because of their knowledge, I

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 guess, that you are a good police officer?

2 A When I worked in West Columbia, there was like a
3 board you had to go through. I made Detective
4 there. There were two or three other applicants.
5 I don't really remember. But then I was put with
6 seasoned detectives.

7 At the Criminal Justice Academy, there is a
8 test at the end of the basic detective class that
9 you have to take. I passed that test. Then with
10 the Cayce I put in, and I think the reason I was
11 promoted there to detective was I just had more
12 experience than the other applicants.

13 Q Now, as I understand it, you actually arrived at
14 the scene shortly after Marzol got there; is that
15 correct?

16 A Yes, sir, we left the police department at the same
17 time. I my vehicle is equipped with blue lights
18 and siren, but if it's not a substantial emergency,
19 we kind of get in trouble if we shoot down the
20 streets of the City of Cayce with blue lights and
21 siren flashing.

22 I believe on this occasion I did have my blue
23 lights and sirens on because of the severity of
24 this incident, but Marzol was in front of me
25 arriving at the scene.

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 Q But you arrived just staggered, one, two, like
2 that?

3 A Very close, yes, sir.

4 Q When you got to the scene, it's my understanding
5 you went and surveyed the area first thing maybe?

6 A Yes, sir. I kind of got out, did the best I could
7 looking through all the blue lights and stuff to
8 try to see what was going on. As I walked from my
9 vehicle, not knowing what was there, I just kind of
10 looked side to side down the roadway as I walked up
11 to the victim.

12 Q You say you walked to the victim. After looking at
13 the victim, then did you walk further up the road
14 to locate the person who was driving the vehicle
15 which supposedly caused the incident?

16 A If I'm not mistaken, by the time I had arrived
17 there, they were -- I believe Officer Stone was
18 already speaking, just from hearing what was going
19 on around me, I thought he was speaking to the guy
20 that he thought had done it. I never spoke to
21 Mr. Jamison so I don't know.

22 Q From your testimony you have indicated that you
23 actually started taking pictures before E.M.S.
24 arrived to preserve the scene?

25 A Just prior to them. I think, if I'm not mistaken,

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 I believe when I got out of my truck, I grabbed my
2 camera just because I didn't know how fast they
3 were going to remove anyone. You figure in your
4 mind someone has been hit by a car, you figure
5 there will be substantial injuries, and I wanted to
6 document what was there at the time.

7 Q As you were walking up, I think you gave an
8 indication of the items which you found first, and
9 I think you said you found a sock first?

10 A Yes, sir.

11 Q As you were walking up onto the bridge. And the
12 sock was actually before the bridge? Is that what
13 you said?

14 A Yes, sir.

15 Q Then as you went further, the next item you found
16 was what?

17 A A shoe.

18 Q A shoe. So you find a sock, then you find a shoe,
19 and all of this is before you get to the bridge?

20 A Yes, sir.

21 Q It's your testimony that there was no patrol cars
22 that might have ridden over it because you said it
23 was fluffy. There was nothing to indicate it had
24 been moved around by virtue of the police cars
25 coming up there; is that right?

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 A It didn't appear to me that that had occurred.

2 Q We see the sock, we see the shoe, then we come up
3 on the bridge; is that correct?

4 A Yes, sir.

5 Q And on the bridge the first thing you see is the
6 bicycle?

7 A On the bridge right where the bridge met, there is
8 a little metal piece that connects the bridge to
9 the roadway. I don't know if it allows the bridge
10 to move or something, but just on the other side of
11 that were the lenses right there on the bridge,
12 then the bicycle, and the victim.

13 Q Lenses?

14 A Two pieces of a lens. One was the reflector and
15 the cap piece that goes behind it.

16 Q From the vehicle?

17 A From the vehicle, yes, sir. Then the bicycle and
18 then the victim.

19 Q Was there anything beyond the victim?

20 A To the best of my recollection, the only thing
21 beyond the victim was the vehicle.

22 Q What is the importance for your taking the
23 photographs and taking this orange paint and
24 documenting their location on the roadway? Why is
25 that important?

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 A I was told by Sergeant Marzol that the M.A.I.T.
2 team would be coming to do an accident
3 reconstruction. That's not something that I -- I
4 don't have accident reconstruction knowledge. So
5 my specific reason for painting was to preserve the
6 spot where I found those items.

7 Q It's sophisticated procedure, isn't it, that the
8 M.A.I.T. team uses?

9 A I know they say there is a lot of math involved. I
10 have seen them actually marking the spot with like
11 surveying equipment, but like I said, that is way
12 beyond my knowledge of what the M.A.I.T. team does.
13 They are specialists in their field.

14 Q Now, the photographs which you have identified,
15 which are State's Exhibit 1 through 23, you have
16 identified those as being, I guess, how the scene
17 was on that particular night?

18 A Yes, sir.

19 Q I am getting ready to show you State's Exhibit
20 Number 1.

21 A Yes, sir.

22 Q Your particular picture doesn't show the exact
23 location in terms of the bridge itself. This
24 picture --

25 A It's a closeup of the bike, yes, sir.

JOHN REESE -- CROSS -- MR. WILLIAMS

415

1 Q So there is nothing here to detail exactly where it
2 is on the bridge, is there?

3 A Not in that picture.

4 Q Is it on the bridge?

5 A Yes, sir. To the best of my recollection, the bike
6 is on the bridge. There should be a picture in
7 there where it's circled with the paint. There
8 should be a better shot showing that.

9 Q Now, on State's Exhibit Number 2, this is the
10 exhibit which you say which is indicative of -- I
11 think you said there was a head which appeared to
12 have struck the windshield of the passenger side of
13 this van; is that correct?

14 A If you look to the top, very top of that picture,
15 there is a circular pattern that I believe is
16 consistent with the head. The lower part I believe
17 would be consistent with the body.

18 Q You actually made a picture of an area on the
19 roadway where you said that you found some sort of
20 hair material on the roadway; is that correct?

21 A Yes, sir.

22 Q Did you find any hair material on the passenger
23 side on the windshield that confirmed your theory
24 that the head actually hit at that location?

25 A I believe there was hair material in that area.

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 Q Did you secure that evidence for presentation
2 today?

3 A I did not take any evidence from the van itself,
4 like collecting any evidence from the van, no, I
5 did not, other than photographs.

6 Q Is there some reason why you didn't testify on
7 direct examination that you found hair material on
8 the passenger front window windshield when your
9 direct testimony was initially taken?

10 A Yes, sir, because he asked me what the picture
11 depicted. That's what I answered the question to.

12 Q You did not secure this by plastic bag or anything
13 like that?

14 A I did not collect the hair sample or tissue sample
15 from the window of the vehicle.

16 Q So there is nothing that would have been tested to
17 indicate whether or not?

18 A I believe there are some photographs in all the
19 photographs that were taken, but they weren't -- I
20 wasn't shown those photographs. I didn't testify
21 to that.

22 Q Now, as I understand your testimony on State's
23 Exhibit number 4?

24 A Yes, sir.

25 Q That's a picture of what?

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 A That is a picture of a shoe and a sock.

2 Q Is that the sock which you first saw when you came
3 upon the bridge?

4 A No, sir. If I'm not mistaken, that was the sock on
5 the victim. If you see in the background there is
6 the blood from his head, and I believe his shoe and
7 sock was removed right there at the scene from his
8 other foot.

9 Q So did you remove the shoe and the sock from the
10 victim?

11 A I did not.

12 Q Did you see them remove the shoe and sock from the
13 victim?

14 A I did not.

15 Q Now, looking at the shoe...

16 A It would be the left shoe.

17 Q It's a left shoe?

18 A Yes, sir.

19 Q And did you talk to anyone about whether or not
20 they removed any article of clothing from the
21 decedent and placed it there?

22 A No, sir, I didn't speak with E.M.S. I was taking
23 pictures. I never spoke to E.M.S. personnel that
24 was on scene.

25 Q The victim was already gone when you came there to

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 take the pictures?

2 A To be honest with you, I will have to look at my
3 camera. I don't know that I took that particular
4 picture. I have every picture that I took at the
5 scene on my camera. I can't answer whether or not
6 I took that picture or not. I know what it is a
7 picture of.

8 Q So someone else may have taken that picture?

9 A I know Sergeant Marzol was taking pictures at the
10 scene as well.

11 Q Let me show you State's Exhibit Number 8. That
12 shows what?

13 A That is standing in front of my car taking a
14 picture just kind of down the bridge. It's hard to
15 see in the lighting. But if I'm not mistaken, that
16 picture you can see the shoe just down to the left.
17 But like I said, it's dark. I believe the shoe is
18 right there by that first reflector. If you are
19 looking at the lines going down the center, if you
20 look right beside that reflector, I believe that is
21 the right shoe.

22 Q So the first item there is obviously a sock,
23 correct?

24 A Yes, sir.

25 Q What is the second item which is circled?

JOHN REESE -- CROSS -- MR. WILLIAMS

419

1 A That is -- there are two items actually circled on
2 down the roadway. I'm not sure if that is the hair
3 scuff that I mentioned or if there was a little
4 small piece, like a tuft of hair, that I also found
5 when the vehicles were moved. Those closeup
6 pictures weren't shown to me to testify to. So I
7 can only testify to what I remember being there.

8 Q So the next item that you actually found in going
9 down the roadway would not have been the shoe after
10 finding the sock. You found some other items which
11 you marked before you got to the shoe?

12 A After I started painting and like documenting what
13 I found. If you will look, there is obviously
14 other pictures that I took. There's patrol cars
15 sitting in some of these areas on my initial
16 picture before I photographed with paint around
17 them.

18 When those vehicles were removed, I did
19 another walk-through. That's when I found the hair
20 scuff. It was very hard to see. I found it with
21 my flashlight. Then there was a tuft of hair that
22 I also found, and when I started circling items,
23 that's when I circled those and took closeup
24 pictures of them as well. They are not depicted in
25 the pictures I was asked to testify to.

JOHN REESE -- CROSS -- MR. WILLIAMS

420

1 Q Let me ask you to look at State's Exhibit
2 Number 15.

3 A Yes, sir.

4 Q Which way is that picture going?

5 A That is a picture from the Columbia side of the
6 bridge looking back towards the City of Cayce.

7 Q And what is that item which is circled the first
8 item which is circled with the orange paint around
9 it?

10 A It appears from this angle to be a sock.

11 Q Now, in this picture since you are taking it from
12 the Columbia side, that would mean that the bicycle
13 would be found before the sock was found?

14 A No, sir. That's from Columbia. If you look, the
15 light that you see, the bright light, if I'm not
16 mistaken, that's my patrol car. It's a black
17 Impala facing the camera in the view that you see.

18 You can see the bicycle sitting right there.
19 That is actually, walking from my vehicle, would be
20 before the victim which was laying where you see
21 that. Everybody picked on me that looks like a
22 Sponge Bob. The big square right there.

23 Q So that would be the sock which is reflected in
24 State's Exhibit Number 4?

25 A I believe so.

JOHN REESE -- CROSS -- MR. WILLIAMS

421

1 Q Can you explain why you have two exhibits which
2 reportedly is the same sock, and in one exhibit you
3 have got the picture of the sock and a shoe, and in
4 one exhibit you have simply got the sock?

5 A Well, I guess that could easily be explained
6 because if you look in that picture right there,
7 you see the blood from the victim's head, the
8 amount of blood that is there. In the picture that
9 you look at, the closeup of the sock, I believe you
10 will see the blood has been washed away.

11 Q Where is the shoe?

12 A I can't answer that, sir. Like I said, I don't
13 know that I took this picture. You can obviously
14 see there is no paint around the sock.

15 Q Well, let's see if we can show these two items
16 together. Clearly those are supposed to be the
17 same sock, right?

18 A I imagine they are. I can't answer that question.

19 Q You are the person who is the crime scene
20 investigator, right?

21 A Yes, sir.

22 Q Who is documenting the evidence and taking the
23 pictures?

24 A Yes, sir.

25 Q And you know it's not the other sock on the other

JOHN REESE -- CROSS -- MR. WILLIAMS

422

1 end of the bridge?

2 A That's correct.

3 Q So you have got one picture showing the sock, and
4 then you have got another picture showing the same
5 sock and a shoe?

6 A Yes, sir.

7 Q And unless -- unless -- there was manipulation or
8 movement of those items, how is that possible?

9 A I believe if you look at my original picture, I
10 believed they were moved when the fire department
11 was spraying the blood off. If you look at my
12 first picture, which hasn't been shown of the
13 victim, that sock and shoe is actually on his foot.

14 Q Why wouldn't they move the sock?

15 A Sir, I can't answer that. I didn't spray the
16 bridge.

17 Q But you took the pictures?

18 A I don't know that I took the picture with the sock
19 and shoe. I can check my camera if you would like.
20 I don't believe I took that picture.

21 Q Now, when you were talking about -- let me ask you
22 this, State's Exhibit Number 16.

23 A Yes, sir.

24 Q That's an indication of the position of the head of
25 the victim, as well as the body?

JOHN REESE -- CROSS -- MR. WILLIAMS

423

1 A Yes, sir.

2 Q And there appears to be some sort of trash next to
3 it. Is that from the E.R. people or the emergency
4 people?

5 A The emergency people, yes, sir.

6 Q And whatever items they used to treat the decedent,
7 they just tore it open and left it on the roadway?
8 That has no significance in terms of the items you
9 found?

10 A It was not there when I arrived on scene. I
11 believe it was left by medical personnel.

12 Q The van which you secured pictures of?

13 A Yes, sir.

14 Q Did you do any measurements to determine the height
15 of the van from the ground to the top of the van?

16 A No, sir.

17 Q Do you know whether or not anyone did?

18 A I do not know. My job, after I found out the
19 M.A.I.T. team was going to be doing their
20 investigation, I documented where everything was,
21 and that was my responsibility at that time.

22 Q You testified on direct that there was a long
23 scratch down the side of the vehicle?

24 A The picture is not depicted. He asked me if I
25 noticed any damage to the vehicle. He asked me was

JOHN REESE -- CROSS -- MR. WILLIAMS

424

1 there anything I noted about the vehicle. There
2 was a scratch.

3 The car, if you look at the desk here, the
4 desk is down here. The curb would be up here. The
5 van was pulled up on an angle. On the passenger
6 side there was a scratch which I have on a
7 photograph that I took down the side of the van. I
8 don't know that it was fresh.

9 Q Where is that photograph?

10 A I was not given that photograph to testify to.

11 Q How high up the van was the scratch?

12 A About middle ways. A van has a door that opens and
13 rolls down the side of the vehicle. It was about
14 middle ways. It's not up in the glass and it's not
15 down around the bottom. It was about middle ways,
16 about three quarters of the length.

17 Q So you have a scratch on the door?

18 A The rear door going backwards. I didn't know if
19 that was significant and didn't know if it was
20 prior damage.

21 Q Rear passenger door?

22 A Yes, sir. Like if you are walking up as a
23 passenger to get in the van door, it would open up
24 and roll back and close back forward. It's about
25 middle ways of that door back.

JOHN REESE -- CROSS -- MR. WILLIAMS

425

1 Q It runs all the way from the rear back passenger,
2 all the way to the front of the vehicle?

3 A It's runs to the back of the vehicle about halfway
4 down the quarter-panel, the rear quarter panel
5 where the third row seat would be.

6 Q It runs on the back half?

7 A Right.

8 Q Can you show the jury by how tall that would be on
9 me if I would stand here. Tell me where it would
10 be in terms of height on the -- is it here
11 (indicating)?

12 A I would say it would probably be lower than that.
13 I believe that would be to glass level, maybe lower
14 than that, around the edge of your coat.

15 Q Down here (indicating)?

16 A Around there. Like I said, it's below the glass
17 above the bottom.

18 Q Is that almost three feet, not quite three feet?

19 A Somewhere around there.

20 Q Did you draw any samples from that part of the car
21 to match it up to anything, to include the bicycle?

22 A No, sir. I took photographs where that lens, that
23 one picture that had a lens, and I explained the
24 bottle on the bottom. There was some red paint
25 that matched the color of the bicycle right there

JOHN REESE -- CROSS -- MR. WILLIAMS

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1 on the front bumper of the van.

2 Q You took a picture of a bottle that was next to the
3 tire of the van; is that correct?

4 A Yes, sir, that's the picture of the lens I just
5 described.

6 Q Did you secure the bottle?

7 A Yes, sir, I secured it and brought it back to
8 headquarters.

9 Q And did you perform any fingerprints on the bottle
10 to determine who had been drinking that bottle?

11 A No, sir.

12 Q Well, where is this bottle located in reference to
13 the van?

14 A If you are standing up on the curb, as you can see
15 that's the curbing I was talking about earlier.
16 You can see the corner of the picture where I had
17 marked the tire. That's just under the passenger
18 side front tire on the van. If you are standing up
19 on the curb looking down, like underneath the van,
20 that's where the bottle is located.

21 Q That is the passenger front tire?

22 A Yes, sir. If you look, that lens right there is
23 the one where -- I don't know if that is a blinker
24 or a fog light, but that is on the bottom of the
25 bumper on the passenger side.

JOHN REESE -- CROSS -- MR. WILLIAMS

427

1 Q Was the bottle broken in any way?

2 A No, sir. The reason I photographed the bottle --
3 well, that would be hearsay, I guess.

4 Q But you didn't do any testing on that bottle?

5 A No, sir.

6 Q Were you the only one to see the bottle out there
7 that night?

8 A No, sir, I was told that the bottle was there by
9 someone who had walked up to the van.

10 Q It wasn't an officer who was on the scene, was it?

11 A No, sir, it was one of the witnesses.

12 Q An individual. So a witness pointed that out to
13 you; is that right?

14 A That's correct. The witness said they saw him put
15 it there.

16 Q Is that witness coming to testify?

17 A I don't remember which witness told me if it's not
18 in their statement.

19 Q So you don't know the names of the witnesses who
20 were there, and you don't know the name of some
21 witness who made some statement to you about a
22 bottle?

23 A I believe if you look at the bottom of the
24 statements, they should bear my signature as the
25 witness to the statement. I cannot testify who

JOHN REESE -- CROSS -- MR. WILLIAMS

428

1 told me about the bottle. There was one individual
2 on the scene that was depicted in some of the
3 pictures that did not provide a written statement,
4 nor did he stay around to give his name.

5 Q He didn't stick around to give his name?

6 A No, sir.

7 Q So you have a phantom witness that comes by and
8 says there is a bottle under there?

9 A I didn't say that's who said it. I'm saying there
10 was another witness who didn't provide a statement.

11 Q So you didn't get a statement from this witness?

12 A There is a witness there that I did not get a
13 statement from, yes, sir.

14 Q And that is the witness who supposedly told you
15 about the bottle supposedly placed underneath the
16 tire?

17 A That's not what I testified to.

18 Q What did you testify to?

19 A I said there was another witness there. I don't
20 know if that's who told me that the bottle was
21 there. I was told if you look under the front
22 passenger side of the vehicle, there will be a
23 bottle there. When I took a picture of that, I
24 noted it was the same bottles that were in the back
25 of the van. There was no testing down on the

JOHN REESE -- REDIRECT -- MR. MOBLEY

429

1 bottle.

2 MR. WILLIAMS: I don't have any other
3 questions.

4 THE COURT: Redirect?

5 MR. MOBLEY: Briefly Your Honor.

6 **REDIRECT EXAMINATION**

7 BY MR. MOBLEY:

8 Q Detective Reese, you were asked the question
9 about -- and bear with me a moment. Beg the
10 Court's indulgence. You were just asked a line of
11 questioning about a witness providing you
12 information about a bottle being placed under the
13 van, correct?

14 A Yes, sir.

15 Q That witness did not provide you with a written
16 statement?

17 A There was a witness that didn't provide a written
18 statement. Whether that is the individual, I don't
19 believe that is the individual that told me about
20 the bottle. I believe it was one of the witnesses
21 who wrote a statement, but I didn't note in my
22 notes who provided that information to me, but I
23 did go up there and find the bottle.

24 Q Were there witnesses there that simply did not
25 provide --

JOHN REESE -- REDIRECT -- MR. MOBLEY

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1 MR. WILLIAMS: Objection to calling for
2 hearsay.

3 THE COURT: Repeat the question, please.
4 BY MR. MOBLEY:

5 Q Were there other witnesses there that did not
6 provide you with a statement?

7 MR. WILLIAMS: No objection to that question.

8 A Yes, there were.

9 Q Now, I'm going to show you a picture of State's
10 Exhibit Number 23. Let me know if this person
11 provided you with a statement.

12 THE COURT: Which person? Show him what
13 person you are talking about.

14 A That is the person who I do not know his name and
15 did not provide a statement.

16 THE COURT: You may publish that, Solicitor.
17 BY MR. MOBLEY:

18 Q I am going to publish this to the jury, and you let
19 us know if you did not take a statement from this
20 particular witness on the scene.

21 A Yes, sir. That gentleman that's crouching down
22 beside Mr. Gamble, that is an initial picture that
23 someone took. I believe I took that picture from
24 the angle that it is. Sergeant Marzol was right
25 beside me and took a similar picture.

JOHN REESE -- REDIRECT -- MR. MOBLEY

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1 I believe when he snapped his picture, the
2 gentleman was found leaning over instead of
3 crouching down like that. But that gentleman right
4 there, I never spoke to that night, and I never --
5 he never provided a statement. When I got
6 witnesses together to provide statements, he was
7 nowhere to be found.

8 Q Just an additional note while we are on this
9 particular exhibit, State's Exhibit Number 23, you
10 were testifying earlier about a line of questioning
11 about socks and shoes; correct?

12 A Yes, sir.

13 Q Correct me if I'm wrong, you were asked about
14 whether there was a sock on the left foot, as well
15 as a shoe; correct?

16 A (Witness nods.) (Indicating affirmative response.)

17 Q In this photo what foot is that?

18 A I can't see it because of the glare. I apologize.
19 It's kind of dark.

20 THE COURT: You can see it from here,
21 Solicitor. You need to show it to the witness.

22 MR. MOBLEY: May I approach, Your Honor?

23 THE COURT: Certainly.

24 BY MR. MOBLEY:

25 Q In this photo does Mr. Gamble appear to have a sock

JOHN REESE -- REDIRECT -- MR. MOBLEY

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1 and shoe on at the time?

2 A Yes, sir, he clearly has a sock and shoe on his
3 left foot.

4 Q What about his right foot?

5 A His right foot is bare. He doesn't have a sock or
6 a shoe.

7 Q He doesn't have a sock nor a shoe?

8 A That is correct.

9 Q The photo that you were being asked about, State's
10 Exhibit Number 4?

11 A Yes, sir, that is the shoe and sock that was on his
12 foot. You can see right in the background -- it's
13 hard to see on that picture -- but the blood from
14 Mr. Gamble's head is still just right behind the
15 sock and shoe in proximity of where he would have
16 been laying.

17 Q So does that answer the question?

18 A Like I testified on cross, I took pictures of the
19 shoe and sock on his foot.

20 Q Thank you.

21 MR. MOBLEY: Beg the Court's indulgence, Your
22 Honor.

23 (Pause.)

24 BY MR. MOBLEY:

25 Q There was a photo that you were asked about

JOHN REESE -- REDIRECT -- MR. MOBLEY

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1 involving the actual lens and what was beneath it,
2 the bottle; correct?

3 A (Witness nods.) (Indicating affirmative response.)

4 Q Do you recall that particular photo?

5 A Yes, sir.

6 Q Do you recall what type of beer label was imprinted
7 on that bottle?

8 A Killian's Red.

9 Q At any other time was that --

10 THE COURT: Wait just a minute. I didn't hear
11 you.

12 THE WITNESS: Killian's Red.

13 MR. MOBLEY: We located the photo, State's
14 Exhibit Number 14.

15 THE COURT: Thank you.

16 BY MR. MOBLEY:

17 Q This is what we were referring to, that bottle you
18 were being asked about on cross is here?

19 A That's correct.

20 Q Were you able to get close to see what that label
21 was?

22 A Yes, sir. I collected the bottle. The camera, my
23 camera angle, would not get a clear picture of the
24 label. That was my attempt there. But what kept
25 happening, it would zoom in on the bigger part of

JOHN REESE -- REDIRECT -- MR. MOBLEY

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1 the picture, which is the lens that's missing and
2 wouldn't give me a clear picture of the label of
3 the bottle.

4 Q Now, I want to hand you another photo. Do you
5 recognize what that photo is?

6 A Yes, sir, this is a photograph that I took from the
7 driver's side of the vehicle. There were --

8 MR. WILLIAMS: Objection to the publishing
9 until it is placed into evidence.

10 BY MR. MOBLEY:

11 Q Do you recognize what it is?

12 A Yes, sir.

13 Q Did you take that photo?

14 A Yes.

15 Q Has it been altered or amended in any way?

16 A No, sir.

17 Q Doesn't it accurately depict the scene as it was
18 that particular time?

19 A Yes, sir.

20 MR. MOBLEY: The State would move to have this
21 document, this picture, entered into evidence as State's
22 Exhibit Number 68, I believe.

23 MR. WILLIAMS: Without objection, Your Honor.

24 THE COURT: State's 68 is in evidence without
25 objection.

JOHN REESE -- REDIRECT -- MR. MOBLEY

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1 (State's Exhibit Number 68 is received into
2 evidence.)

3 BY MR. MOBLEY:

4 Q Detective Reese, can you tell us what that is a
5 photo of?

6 A This is a photograph I took from the passenger side
7 of the driver's side rear door inside the vehicle
8 looking across to the passenger side. There's two
9 12-packs of Killian's Irish Red.

10 Q Do you mind if I publish that so the jury can see
11 it?

12 A Absolutely.

13 MR. MOBLEY: Your Honor, if I may publish it
14 to the jury using the overhead projector.

15 THE COURT: Yes, sir.

16 BY MR. MOBLEY:

17 Q Can you let us know what we have here.

18 A Yes, sir. If you look at the first 12-pack, you
19 can see the top has been torn, the one that is
20 closest to you at this time.

21 Q Here (indicating)?

22 A The top is torn open. You can see obviously the
23 background of the box where there is some
24 containers of alcohol missing. Then you see the
25 secondary container -- it's hard to see from this

JOHN REESE -- RECROSS -- MR. WILLIAMS

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1 view -- but it also had the handle where you carry,
2 it was also torn where you could reach back.

3 Q You are speaking of here (indicating)?

4 A Yes, sir.

5 MR. MOBLEY: Nothing further for this witness,
6 Your Honor.

7 THE COURT: Recross, Mr. Williams.

8 **RECROSS EXAMINATION**

9 BY MR. WILLIAMS:

10 Q Detective Reese, exactly how many of these beer
11 bottles did you find in the Defendant's vehicle?

12 A I didn't count them. I took the picture just as
13 you see it. I never touched the inside of the
14 vehicle.

15 Q Are you saying there were beer bottles inside the
16 vehicle?

17 A Yes, sir.

18 Q And were the beer bottles without a top on them or
19 did they have a top on them?

20 A The beer bottles are just as you see them right
21 there. There were clearly beer bottles in there.
22 From what I could tell that night, they all had
23 tops on them.

24 Q So the beer bottles that you took a picture of are
25 beer bottles that have tops on them?

JOHN REESE -- RECROSS -- MR. WILLIAMS

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1 A That is correct.

2 Q Which means they are not open, right?

3 A Correct.

4 Q Did you even touch the beer bottles to see if they
5 were cold?

6 A No, sir.

7 Q Did you touch the beer bottle which was laying on
8 the bridge to see if it was cold?

9 A No, sir, I picked it up with a pen. It did have
10 moisture on the outside of it. I picked it up with
11 my pen.

12 Q Why were you being so careful that you picked it up
13 with the pen?

14 A I just didn't want to grab it with my hand. I
15 didn't have rubber gloves on as I was taking
16 pictures with my camera.

17 Q And you were planning on testing that bottle at
18 some subsequent time?

19 A I didn't know if it would need to be tested or not.

20 Q You did not test it?

21 A I did not test it.

22 Q Exactly how many socks and shoes -- you were asked
23 about the socks and shoes -- how many socks and
24 shoes did you seize that night.

25 A As far as I recollect, there was two socks and two

JOHN REESE -- RECROSS -- MR. WILLIAMS

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1 shoes.

2 Q Can I ask you to look at your investigative notes.

3 A Yes, sir.

4 Q You have got them right there with you?

5 A Yes, sir, I sure do.

6 Q About halfway down the middle of your investigative
7 notes.

8 A Yes, sir.

9 Q I ask you again, how many socks and shoes did you
10 take?

11 A This is talking about taking photos. I don't know
12 which specific sentence that you are talking about.

13 Q May I point it out to you.

14 A Absolutely.

15 Q Right here (indicating).

16 A It says, I then asked Tillman's towing --

17 Q No, the paragraph above.

18 A I collected the personal effects of the victim.
19 One gray -- excuse me -- one white and gray sock,
20 one brown and yellow shoe, one Jurassic Park book
21 bag, the contents -- oh, that contained a book, key
22 ring, a yellow necklace, one orange pencil, and
23 loose change and miscellaneous papers.

24 Q So you did not collect two shoes and two socks?

25 A Everything that I collected of his personal effects

STEVEN HAYES -- DIRECT -- MR. MOBLEY

1 was given back to the family. It says here I
2 collected one of each.

3 MR. WILLIAMS: That's all I have, Your Honor.

4 THE COURT: Thank you, Detective Reese. You
5 may step down.

6 (Witness leaves the witness stand.)

7 THE COURT: Solicitor, you may call your next
8 witness.

9 MR. MOBLEY: The State calls Dr. Hayes.

10 STEVEN HAYES, being
11 first duly sworn, testifies as follows:

12 CLERK: Have seat, Doctor. Once you are
13 seated, please state your full name on the record.

14 THE WITNESS: Steven Hayes.

15 **DIRECT EXAMINATION**

16 BY MR. MOBLEY:

17 Q Dr. Hayes, where are you currently employed?

18 A Lexington Medical Center.

19 Q How long have you been employed there?

20 A Almost four years.

21 Q Four years. Can you give us a brief overview of
22 your educational background and your training and
23 experience.

24 A I trained at Albany Medical Center in New York, did
25 four years of med school, three years of residency

STEVEN HAYES -- DIRECT -- MR. MOBLEY

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1 in emergency medicine.

2 Q Before coming to your current position at Lexington
3 Medical Center, were you employed somewhere else?

4 A Yeah, I worked down at the beach, Conway Hospital,
5 for nine years.

6 Q Now, are you currently board certified in South
7 Carolina?

8 A Yes, I am.

9 Q In what specialty area?

10 A I am boarded in emergency medicine.

11 Q And when you are boarded in emergency medicine,
12 what exactly does that mean?

13 A You have to go through the training program, the
14 residency training. Then you have to take tests.
15 The initial test is an oral test, as well as
16 written and recertification after ten years. It's
17 just a written test.

18 Q Now, are you currently certified at this moment?

19 A Yes, I am.

20 Q I want to take you back to the date of July 31,
21 late night, early morning August 1st, 2008. Were
22 you on shift at that time?

23 A Yes, I was.

24 Q And were you called to the triage to treat a
25 patient by the name of Andra Jamison?

STEVEN HAYES -- DIRECT -- MR. MOBLEY

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1 A He was placed in the room that I covered, not to
2 triage, but just to his room.

3 Q It was a room?

4 A Yes.

5 Q Can you tell us what happened and transpired that
6 night?

7 A I went in to see him. I asked why he was there.
8 He said he was there for a blood test. I asked
9 basically if there was any accident or trauma. I
10 asked him if he was sick in any other way and that
11 was basically it.

12 Q Now, did you have to examine Mr. Jamison?

13 A Yes, I did.

14 Q When you examined him, what exactly did you do?

15 A I did a head to toe exam. He had complained of
16 some cold symptoms. So I looked in his ears, nose,
17 throat, listened to his lungs, heart.

18 MR. WILLIAMS: Your Honor, I have a matter of
19 law to take up with the Court outside the presence of
20 the jury.

21 THE COURT: Please step to your jury room
22 momentarily. Do not discuss the case during this brief
23 recess.

24 (The jury retires to the jury room.)

25 THE COURT: All right.

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1 MR. WILLIAMS: Your Honor, as I understand the
2 law dealing with felony D.U.I.s, once you are charged
3 with a felony D.U.I., then you can be made to provide a
4 blood sample of your body for testing for S.L.E.D. to
5 test for whatever purpose they want to use to indicate
6 alcohol levels.

7 I don't believe that that code section
8 authorizes any further examination of the alleged
9 defendant, meaning they can't be made to waive those
10 privacy rights which are established by the Constitution
11 and I guess that H.I.P.P.A. protects.

12 The only thing that this doctor can testify to
13 would be as to the drawing of the blood, and any other
14 examination is really a violation of his constitutional
15 rights.

16 THE COURT: What constitutional right would
17 you be referring to?

18 MR. WILLIAMS: He is in custody with the
19 police department. If there is any testimony that is to
20 be used, such as -- I don't know what he's going to say.
21 That's probably the problem here. If we knew what he
22 was going to say, none of this may be objectionable.

23 THE COURT: What is he going to say,
24 Solicitor?

25 MR. MOBLEY: Your Honor, we are not trying to

STEVEN HAYES -- IN CAMERA -- MR. MOBLEY

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1 go down the road to get into a medical history. It's
2 just for the sake of a general overview. If I may, Your
3 Honor.

4 THE COURT: Yes, sir.

5 IN CAMERA EXAMINATION

6 BY MR. MOBLEY:

7 Q Dr. Hayes, did you examine the Defendant?

8 A Yes.

9 Q Did he seem -- was he able to provide a blood
10 sample at the time?

11 A Yes.

12 Q Did you direct your phlebotomist to draw a blood
13 sample?

14 A Yes.

15 Q What was the phlebotomist's name?

16 A I don't know his name.

17 Q But you directed one that night to do so?

18 A Yes.

19 Q I want to hand you a document. Is your name --
20 that is State's Exhibit 59 -- does your name appear
21 there?

22 A Yes, sir.

23 Q As a signature. At the top of that, what does that
24 form state?

25 A South Carolina Law Enforcement Division, urine

STEVEN HAYES -- DIRECT -- MR. MOBLEY

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1 blood collection report.

2 Q Thank you.

3 MR. MOBLEY: Your Honor, we are simply trying
4 to lay the foundation.

5 MR. WILLIAMS: I don't have a problem with
6 that. With what just happened, I don't have a problem.

7 THE COURT: Bring us our jury, please.

8 (The jury returns to the courtroom.)

9 THE COURT: Our jury is back present in the
10 courtroom. Solicitor, you may continue.

11 MR. MOBLEY: Thank you, Your Honor.

12 **DIRECT EXAMINATION**

13 BY MR. MOBLEY:

14 Q Dr. Hayes, the night of July 31, 2008, early
15 morning August 1st, 2008, you had an opportunity to
16 examine Mr. Andra Jamison?

17 A Yes.

18 Q That night did you authorize a blood withdrawal by
19 a phlebotomist from Mr. Jamison?

20 A Yes.

21 Q Was he able to provide a blood withdrawal that
22 night?

23 A Yes.

24 Q I want to hand you a document, Doctor. It State's
25 Exhibit Number 59. Do you see your name appearing

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1 anywhere on that document?

2 A Yes.

3 Q And at the very top what does that State?

4 A It says South Carolina Law Enforcement Division,
5 urine slash blood collection report.

6 Q Is that a form that you would have signed that
7 night?

8 A Yes.

9 Q Did you sign that form that night?

10 A Yes.

11 MR. MOBLEY: Your Honor, the State would move
12 to have this introduced into evidence as State's Exhibit
13 Number 59.

14 MR. WILLIAMS: Your Honor, we would object
15 because it doesn't include the rest of the persons
16 involved.

17 THE COURT: Let me see it, Solicitor.

18 (Hands to Court.)

19 THE COURT: It would still be 59 for
20 identification purposes only at this time.

21 MR. MOBLEY: Thank you, Your Honor.

22 BY MR. MOBLEY:

23 Q So once again, Doctor, that is your signature;
24 correct?

25 A Yes, it is.

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1 Q Did you have any other dealings with the Defendant
2 anymore that night?

3 A No, I did not.

4 MR. MOBLEY: Nothing further for this witness,
5 Your Honor.

6 THE COURT: Mr. Williams.

7 MR. WILLIAMS: Just briefly.

8 **CROSS EXAMINATION**

9 BY MR. WILLIAMS:

10 Q Doctor, as I understand your testimony, some law
11 enforcement personnel brought my client into the
12 emergency room and asked that you would see that a
13 blood vial was taken?

14 A Yes.

15 Q And based on the police officer asking you to see
16 that a blood vial was taken, you then directed some
17 member of your staff, a phlebotomist, or who did
18 you direct?

19 A We have lab techs that draw.

20 Q So you ordered a lab tech to draw the blood from my
21 client?

22 A Yes.

23 Q Do you know the lab tech that drew the blood from
24 my client?

25 A No.

STEVEN HAYES -- CROSS -- MR. WILLIAMS

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1 Q Did you stay there and observe the drawing of the
2 blood from my client?

3 A I did not.

4 Q So your knowledge in regards to how the blood was
5 drawn is negligible. The only thing you know is
6 that you directed a lab tech to draw the blood?

7 A Correct.

8 MR. WILLIAMS: That's all I have, Your Honor.

9 THE COURT: Redirect, Solicitor?

10 MR. MOBLEY: Nothing, Your Honor.

11 THE COURT: Thank you very much, Doctor. You
12 may step down. May he be excused?

13 (Witness leaves the witness stand.)

14 MR. MOBLEY: Yes, Your Honor.

15 MR. WILLIAMS: Without objection, Your Honor.

16 MR. MOBLEY: The State calls Steven Wilkers.

17 STEVEN JAMES WICKERS, being
18 first duly sworn, testifies as follows:

19 CLERK: Have a seat, please, sir. Once you
20 are seated, state your full name on the record, please.

21 THE WITNESS: Steven James Wickers,
22 W-I-C-K-E-R-S.

23 THE COURT: You may have to speak up for us a
24 little bit. Solicitor.

25 MR. MOBLEY: Thank you, Your Honor.

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DIRECT EXAMINATION

1
2 BY MR. MOBLEY:

3 Q Mr. Wickers, where do you currently work?

4 A I work at Lexington Medical Center.

5 Q And how long have you been employed there?

6 A I've been employed there approximately a year and a
7 half to two years.

8 Q What is your current position there?

9 A I'm a phlebotomist working in the lab.

10 Q And what does a phlebotomist do?

11 A We draw blood specimens and submit them for testing
12 into the lab. On occasion if we are working in the
13 emergency room, we draw blood alcohol levels and we
14 also do M.R.S.A. swabs.

15 Q How did you become -- how did you get to become a
16 phlebotomist? What type of training and experience
17 do you have?

18 A Starting in 2004 I joined the United States Army as
19 a combat medic, went through their course. Since
20 then I have also had additional training in combat
21 medic advanced skills training, and I served with
22 the 47th combat support hospital in the operating
23 room and the emergency room.

24 Q Have you had many occasions to have to withdraw
25 blood during these particular experiences?

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1 A Yes, many.

2 Q Many. Now, in South Carolina do you have to
3 actually be certified as a phlebotomist with the
4 Department of Labor, Licensing, and Regulations?

5 A No, you do not.

6 Q I want to take you back to the date of July 31,
7 2008, August 1st, 2008, early morning. Did you
8 have occasion to actually come in contact with
9 Mr. Andra Jamison?

10 A In the morning. I was working the third shift
11 around, I would say, 1:00 a.m., and he came into
12 the emergency room.

13 Q And who was he accompanied by at that time when he
14 came into the emergency room?

15 A He was accompanied by a couple of police officers.

16 Q What was your understanding of why he was coming
17 there with those officers?

18 A They had told me that I needed to do a blood
19 alcohol draw. No one said exactly why he was
20 there, but they called for blood alcohol draws.
21 Once we get that call, we go and do the draws.

22 Q So one of the officers directed you to do a blood
23 alcohol draw?

24 A Yes. When I showed up at the room where he was
25 being held, I was told that I needed to draw the

STEVEN HAYES -- CROSS -- MR. WILLIAMS

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1 blood --

2 MR. WILLIAMS: Objection to hearsay, Your
3 Honor.

4 THE COURT: Who is telling him this? Who is
5 in the room.

6 BY MR. MOBLEY:

7 Q Mr. Wickers, who is in the room with you at that
8 time?

9 A I went to the room and there was two police
10 officers and the Defendant.

11 Q Who was actually speaking to you at that particular
12 time?

13 A The police officer.

14 Q Do you know their names?

15 A I do not remember exactly who was in that room.

16 Q Let's not get into the content of what was said at
17 that time. Were you directed to actually withdraw
18 blood?

19 A Yes, I was.

20 Q Did that seem normal to you at that time?

21 A At the time I said that I needed to ask the person
22 if I could draw the blood, which is a common
23 practice for us. Because normally with a felony
24 D.U.I., we need permission from the person to draw.

25 Q So then what happened?

STEVEN HAYES -- CROSS -- MR. WILLIAMS

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1 A However, the police officer instructed me that I
2 was going to draw --

3 MR. WILLIAMS: Objection to hearsay again,
4 Your Honor.

5 THE COURT: I don't think it's being offered
6 for the truth of the matter asserted. I think it's
7 being offered for why Mr. Wickers took the action he
8 took. I will allow him some leeway in that regard. You
9 may ask your next question, Solicitor.

10 BY MR. MOBLEY:

11 Q So at some point did you simply withdraw the blood?

12 A Yes, I did withdraw the blood.

13 Q Can you describe the method of what you use to
14 withdraw that blood?

15 A Yes. Before I do the draw, I tell the officers and
16 I told the Defendant that I would be drawing two
17 vials of blood. I explained to them the purpose
18 was to give one for the officers and one was to be
19 given to the Defendant for his own personal
20 whatever, testing.

21 I explained to both of them I would be using a
22 iodine prep pad, and I would not be using an
23 alcohol prep pad, which normally I would do on the
24 floor, but for these cases we are instructed not
25 to.

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1 I used the iodine prep pad. I went in,
2 withdrew the two vials that were given to me by the
3 police officers. I drew the blood. Shook them up
4 and down a little bit. The Defendant was
5 handcuffed so I said to the officer that one of
6 these is for him, but I handed over the vials to
7 the officer, and then we did the chain of custody.

8 Q So there was a form that was filled out?

9 A Yes.

10 Q Now, all the procedures that you are speaking of,
11 are those the correct procedures that you should
12 utilize every time you do a blood draw?

13 A Yes.

14 Q You didn't have any error that you are aware of,
15 correct?

16 A No.

17 Q You stated that you filled out a chain of custody
18 form?

19 A Yes.

20 Q I am going to hand you a document which is listed
21 as State's Exhibit Number 59. Do you see your name
22 indicated anywhere on that document?

23 A Yes.

24 Q Is that your signature?

25 A Yes, it is.

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1 Q Did you write that signature?

2 A Yes, I did.

3 Q What is that at the top of that document?

4 A The very top?

5 Q Yes.

6 A South Carolina Law Enforcement Division urine blood
7 collection report.

8 MR. MOBLEY: Now, Your Honor, the State would
9 move to have State's Exhibit 59 moved into evidence.

10 MR. WILLIAMS: If I could see it. Your Honor,
11 we don't have any objection to this document coming in.

12 THE COURT: State's 59 in evidence without
13 objection.

14 (State's Exhibit Number 59 is received into
15 evidence.)

16 BY MR. MOBLEY:

17 Q I am going to hand State's Exhibit Number 59 back
18 to you, Mr. Wickers. In the section that is
19 indicated there with your name and signature by,
20 can you read that portion that is checked in that
21 particular section of that form?

22 A Using a non-ethanol prep, a blood sample was
23 collected into an unused, uncontaminated vial and
24 given directly to the arresting officer or to the
25 subject requesting sample for his or her

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1 independent test after the collection.

2 Q Mr. Wickers, after filling out that particular
3 form, you state that you provided the two vials to
4 one of the officers; correct?

5 A Yes.

6 Q What else happened after that?

7 A After that I left the room. My job was complete
8 after I filed out the paperwork.

9 Q Are you certain that you withdrew two vials of
10 blood?

11 A Positive.

12 Q Were the vials of blood properly labeled?

13 A Yes.

14 Q Were they properly sealed and contained?

15 A Yes.

16 Q Before they left your custody and went to the
17 custody of the other officer, had they been
18 tampered with in any way?

19 A No, they weren't tampered with.

20 Q Are you aware of them being switched in any type
21 way?

22 A No.

23 MR. MOBLEY: Your Honor, we have nothing
24 further for this witness.

25 THE COURT: Thank you. Mr. Williams.

STEVEN HAYES -- CROSS -- MR. WILLIAMS

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1 MR. WILLIAMS: Very briefly.

2 CROSS EXAMINATION

3 BY MR. WILLIAMS:

4 Q You are a phlebotomist. The question was asked
5 about certification. You are not certified in
6 phlebotomy?

7 A There is a state certification exam and usually
8 state by state -- state by state regulates it.
9 Some states require you to have a licensure for the
10 state to practice phlebotomy. There is a licensure
11 in the State of South Carolina, but it's not
12 required to practice.

13 Q Do you have independent recall of seeing Andra
14 Jamison on that particular night? Do you recognize
15 him from that night?

16 A I do recognize him.

17 Q From the form which we have observed, it appears
18 that there was a signature of a doctor further up
19 in the form before you signed it?

20 A Yes.

21 Q Did you meet with the doctor?

22 A Prior to drawing the blood?

23 Q Yes.

24 A I did not see -- I didn't talk to the doctor right
25 before.

STEVEN HAYES -- CROSS -- MR. WILLIAMS

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1 Q So did you see the doctor in the presence of my
2 client or shortly before the blood was drawn?

3 A No.

4 Q Well, I'm trying to figure out how this form works.
5 You've got a form which is signed referring to
6 State's Exhibit Number 59. You have got a form
7 which is signed by the doctor, and you are not in
8 the room with the doctor when he signs that. You
9 don't talk to the doctor. Who maintains that form?

10 A I was given this by the police officer.

11 Q So the police officer has the form and he secures
12 the signature from a doctor, some doctor at the
13 hospital?

14 A I assume so.

15 Q And then once that is done, who told you to come to
16 the room to draw the blood?

17 A At the time -- we have a different system in place
18 now -- but at the time the way the hospital works
19 is every phlebotomist has a phone. The emergency
20 department has a specific phone and I am called
21 from the emergency department to come draw blood.

22 Q So you don't know who really called you to come
23 there and draw blood?

24 A No.

25 Q When you walked into the room, there were two

STEVEN HAYES -- CROSS -- MR. WILLIAMS

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1 police officers there?

2 A Yes.

3 Q And there was Mr. Jamison there?

4 A Yes.

5 Q And some police officer said, Draw the blood?

6 A Yes.

7 Q Which was a little different from what you are used
8 to doing?

9 A Not necessarily. The order came in not from a
10 police officer on my phone. It comes from the
11 emergency department, usually from the secretary.
12 I go in and normally I will ask the person if they
13 want their blood drawn.

14 Q But not in this situation?

15 A In this situation I was instructed that it was a
16 felony D.U.I. and that in these cases they don't
17 have a choice.

18 Q So you drew the blood?

19 A I did.

20 Q When you drew the blood, you drew two vials of
21 blood; correct?

22 A Yes.

23 Q And your purpose in doing that was to make sure
24 that the Defendant had a tube of blood to be
25 tested?

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1 A Yes.

2 Q So that in case something was wrong with the other
3 vial that the police had, he would have some
4 defense to whatever the police's tube of blood
5 said?

6 A It's for his own use, whatever he needs to do with
7 it.

8 Q What do you think would be the reason to give him a
9 tube of blood if not to test it?

10 A That's correct.

11 Q And use it as part of his defense?

12 A Yes.

13 Q And when you left the room, he didn't even have his
14 blood. He didn't have his vial of blood at that
15 time, did he?

16 A I gave it to the police officer that was standing
17 in the room.

18 Q Was he cuffed?

19 A Yes.

20 Q So there is no way in which any individual could
21 have seen you in the room when the blood was
22 transferred to the Defendant in his pocket, could
23 there?

24 A I'm sorry. I don't understand.

25 Q You weren't there when it was given to the

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1 Defendant. So you don't know anything about it
2 after that?

3 A I do not know what happened after I gave it to the
4 police officer.

5 Q Let me see the form one more second. There is a
6 box there that says something about a blood test is
7 requested by the Defendant. Do you see that on
8 there?

9 A Is it at the bottom?

10 Q It's in the middle where the doctor has signed, an
11 independent test. It's right next to the one which
12 is checked.

13 A The bottom one says: A blood sample is requested
14 by the subject for his or her own independent test.

15 Q Did you hear any police officer or doctor indicate
16 to the Defendant that he could have an independent
17 test besides the one you were drawing?

18 A I indicated it to him.

19 Q You told him he could have one?

20 A I said this blood vial was for him and I told the
21 officer that.

22 Q So it's your understanding that the blood vial
23 which he received from the second vial was his
24 independent test?

25 A Yes.

1 MR. WILLIAMS: That's all I have, Your Honor.

2 THE COURT: Redirect?

3 MR. MOBLEY: Nothing Your Honor.

4 THE COURT: Thank you very much for being with
5 us today. May he be excused?

6 MR. MOBLEY: Yes.

7 MR. WILLIAMS: Without objection, Your Honor.

8 THE COURT: How long is your next witness,
9 Solicitor?

10 MR. MOBLEY: Your Honor, we would not be able
11 to proceed the remaining of the day. We have our next
12 witness that is coming in early tomorrow morning to
13 finish up.

14 THE COURT: What do you call early, 06:00?

15 MR. MOBLEY: At 8:30, Your Honor.

16 THE COURT: All right. Mr. Foreman, and
17 ladies and gentlemen of the jury, perhaps now would be a
18 good time to take our evening recess. Again, I would
19 remind you during this recess you are not to discuss
20 this case with anyone. That includes your fellow
21 jurors, family, friends or anyone else.

22 If anyone tries to talk with you about the
23 case please let me know. Remember, do not listen or
24 read any news reports about the case should there be
25 any. Do not do any research by computer or cellular

1 phone or any other electronic device or otherwise.

2 I will release you for the day and ask you to
3 please be back in your jury room promptly at 8:30 in the
4 morning. Thank you very much. I hope y'all have a
5 pleasant evening.

6 (The jury is excused for the day at 5:10 p.m.)

7 THE COURT: Yes, sir.

8 MR. MOBLEY: Your Honor the only thing the
9 State wants to clarify is whether 59 was placed into
10 evidence. I don't know if it was marked.

11 THE COURT: I believe 59 went into evidence
12 without objection.

13 MR. MOBLEY: Okay. I just wanted to see that
14 it was marked.

15 THE COURT: Anything further, Mr. Williams?

16 MR. WILLIAMS: Yes, Your Honor. Could you
17 direct the Sheriff's Department to have my client here
18 at 8:00 o'clock.

19 THE COURT: Sheriff, 08:00. Thank you very
20 much. Y'all have a pleasant evening.

21 (Whereupon the proceedings are concluded for
22 October 13, 2008.)

23 (The following proceeding are reported on
24 October 14, 2008.)

25 THE COURT: Anything before we bring in our

1 jury from the State?

2 MR. MOBLEY: Yes, Your Honor. We have one
3 thing quickly. We would ask the permission of the
4 Court, and we understand it's in the discretion of Your
5 Honor, to recall the last witness.

6 In my haste I failed to actually recognize a
7 document that had been attested to that's involved in
8 the chain of custody for the Cayce Police Department.
9 The witness that we are speaking of is the phlebotomist.

10 He has testified to the collection of the
11 blood itself. It has been admitted into evidence.
12 However, Exhibit Number 60 has his signature as well. I
13 failed to have him acknowledge his signature there, and
14 that is going to be the purpose of trying to recall him
15 under Rule 611.

16 We do understand that it is in the discretion
17 of the Court to actually do so. That is the purpose of
18 us trying to have him recalled, to simply acknowledge
19 that document itself. There are other names that have
20 already testified to that document, which is Exhibit 60.

21 THE COURT: Mr. Williams.

22 MR. WILLIAMS: On behalf of the Defendant, of
23 course, we would have to oppose that motion in that he
24 had his chance at the time of the examination to bring
25 it out.

1 THE COURT: I would allow it under Rule
2 611(b). Anything further, Solicitor?

3 MR. MOBLEY: No, Your Honor.

4 THE COURT: Anything from the defense,
5 Mr. Williams?

6 MR. WILLIAMS: No, Your Honor.

7 THE COURT: Bring us our jury, please.

8 (The jury returns to the courtroom at
9 8:33 p.m.)

10 THE COURT: Good morning, Mr. Foreman, ladies
11 and gentlemen of the jury panel. I hope you had a
12 pleasant evening and a nice commute to the courthouse
13 this morning.

14 We are continuing the trial of the case with
15 the presentation of testimony by the State in its case
16 in chief. Please continue to give the parties your
17 complete and undivided attention.

18 With that being said, Solicitor, you may call
19 your witness.

20 MR. MOBLEY: Thank you, Your Honor. May it
21 please the Court. The State would like to recall
22 Mr. Steve Wickers.

23 CLERK: Still under oath, Your Honor?

24 THE COURT: Yes, he is still under oath.

25 STEVEN JAMES WICKERS, having

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1 been previously duly sworn, resumes the witness stand
2 and testifies as follows:

3 **DIRECT EXAMINATION**

4 BY MR. MOBLEY:

5 Q Mr. Wickers, good morning.

6 A Good morning.

7 Q Now, yesterday you were testifying to the fact that
8 you signed a document, which is State's Exhibit
9 Number 59, in regards to the collection of blood
10 from Mr. Andra Jamison; correct?

11 A Yes.

12 Q Now, there was some additional paperwork that was
13 signed, and I want to hand you a document. I want
14 to see if you actually recognize this document.
15 That is going to be State's Exhibit Number 60. Do
16 you recognize that document?

17 A Yes, I do.

18 Q What is that document?

19 A It's a chain of custody report.

20 Q Did you fill out that form that night of the
21 incident that we are referring to?

22 A Yes, I did.

23 Q How do you know so?

24 A My signature and name is on this.

25 Q Did you write that signature?

STEVEN HAYES -- IN CAMERA -- MR. MOBLEY

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1 A I did.

2 Q Has it been altered or amended in any type way?

3 A No.

4 MR. MOBLEY: Your Honor, the State would move
5 to have State's Exhibit Number 60 admitted into
6 evidence -- for I.D. purposes only. I apologize.

7 Q Now, at the top of that document. I don't want to
8 read anything else, but is there a case number
9 associated with that document?

10 A Yes.

11 Q What is that number?

12 MR. WILLIAMS: Your Honor, we would object if
13 it's not in evidence to publishing what is on the
14 document.

15 THE COURT: I will allow him to testify to
16 that. You may continue.

17 BY MR. MOBLEY:

18 Q Just the number, Mr. Wickers.

19 A 08-05439.

20 Q Thank you.

21 MR. MOBLEY: Nothing further for this witness,
22 Your Honor.

23 THE COURT: Thank you, Solicitor.

24 Mr. Williams.

25 MR. WILLIAMS: Yes, sir.

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1 CROSS EXAMINATION

2 BY MR. WILLIAMS:

3 Q Mr. Wiggins?

4 A Wickers.

5 Q Mr. Wilkerson --

6 THE COURT: I don't think you have got it
7 right. I probably started that off.

8 THE WITNESS: Wickers.

9 BY MR. WILLIAMS:

10 Q Wickers. The reference to the vial of blood in
11 this document, when you drew those two vials, did
12 you designate on those two vials the name of the
13 Defendant on both vials?

14 A Yes, I did.

15 Q So there is something on both vials that has got
16 the name of the Defendant?

17 A Yes.

18 MR. WILLIAMS: Thank you, Your Honor.

19 THE COURT: Redirect, Solicitor?

20 MR. MOBLEY: Nothing, Your Honor.

21 THE COURT: Thank you for being back with us
22 this morning. You may step down. May this gentleman be
23 excused?24 MR. MOBLEY: Yes, he may with the Court's
25 permission.

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1 MR. WILLIAMS: Without objection.

2 (Witness leaves the witness stand.)

3 THE COURT: You may call your next witness,
4 Solicitor?

5 MR. MOBLEY: The State calls Detective Jason
6 Merrill.

7 JASON ROBERT MERRILL, being
8 first duly sworn, testifies as follows:

9 CLERK: State your full name on the record,
10 please.

11 THE WITNESS: My name is Jason Robert Merrill.

12 **DIRECT EXAMINATION**

13 BY MR. MOBLEY:

14 Q Detective Merrill, where are you currently
15 employed?

16 A I am currently employed with the Cayce Department
17 of Public Safety.

18 Q How long have you been employed there?

19 A Approximately five years.

20 Q And what is your current position there?

21 A I'm a detective and part of my duties as a
22 detective, I'm the evidence custodian.

23 Q When you state you are the evidence custodian, what
24 does that mean?

25 A It means I am responsible for storing and securing

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1 evidence in any case that we have.

2 Q Now, I want to briefly go over your prior
3 employment history, as well as your training
4 qualifications. Can you provide the jury and the
5 Court with that information.

6 A Yes. I began my law enforcement career in 2001
7 after attending the University of South Carolina.
8 I started with the University of South Carolina
9 Police Department. I did attend the State Criminal
10 Justice Academy, graduated from there.

11 I received advanced training in many areas
12 pertaining to investigation and law enforcement.
13 In January of 2004, I left the U.S.C. Police
14 Department and took a job with Cayce.

15 Q Now, when you state that you are an evidence
16 custodian, can you tell us what are some of your
17 general duties in regards to that?

18 A Yes. Basically what it boils down to is officers,
19 patrol officers and other detectives, as they
20 develop evidence in cases, they turn it into me. I
21 secure it and make sure to take precautions to make
22 sure it doesn't get tampered with or lost or
23 anything along those lines, make sure it's readily
24 available for court for the case as it's
25 prosecuted.

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1 Q Now, Detective Merrill, I want to you take you back
2 to the morning of August 1, 2008, late night
3 July 31, 2008. Was there any time some evidence
4 that was logged into the Cayce Police Department
5 concerning Mr. Andra Jamison?

6 A Yes. According to my recollection approximately
7 1:00 o'clock in the morning, a bicycle was turned
8 into the evidence room.

9 Q And who was that turned in by?

10 A I believe it was Officer Smith. I would have to
11 maybe look at the sheet to recall exactly, but I
12 believe it was Officer Smith.

13 Q To refresh your memory, I want to point you to
14 State's Exhibit Number 63 which has been admitted
15 into evidence. On that form does it mention --
16 what items are mentioned there?

17 A There's two items. Number item Number B. is an
18 in-car V.H.S. tape is what the sheet indicates, and
19 the second item would be under item Number C. It
20 indicates a bicycle, red in color, that was
21 submitted to evidence.

22 Q Now, of those two items, were you responsible for
23 securing and making sure those items were not
24 tampered with?

25 A Yes, I was.

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1 Q Which of those items would that be?

2 A Both of those items.

3 Q Particularly did you have to secure the bicycle?

4 A Yes, that was secured. It was turned into the
5 evidence area of our department which is a secure
6 area. Only law enforcement personnel have access
7 to that area.

8 The next morning when I arrived at
9 headquarters for my duties, I secured that bicycle
10 in a more permanent storage location which is even
11 more secure. Only myself and another assistant
12 evidence custodian have access to it.

13 Q Has this bicycle been stored there ever since that
14 particular date?

15 A Yes, it has been in my custody and control since
16 that date, until the present.

17 Q I understand -- answer this. I apologize. Was the
18 bicycle ever brought to the Lexington County
19 courthouse?

20 A Yes, it was. On at least one prior occasion to
21 today, but it was in my care and custody the entire
22 time.

23 Q During the time it was in your care and custody,
24 had it ever been tampered with or altered or
25 amended or changed form in any type way at all?

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1 A Not that I can account for. It seems to be in
2 substantially the same condition as it was when I
3 it came in the night of August 1st the best as I
4 can tell.

5 MR. MOBLEY: Your Honor, the State would move
6 to have the bicycle as a non-fungible item admitted into
7 evidence for view by the jury.

8 THE COURT: Mr. Williams.

9 MR. WILLIAMS: Your Honor, I don't think he
10 has completed the chain up until the day.

11 THE COURT: Step up here for me.

12 (Whereupon there is a bench conference off the
13 record in the presence of the jury but out of the
14 hearing of the jury.)

15 THE COURT: Solicitor, you may continue.

16 MR. MOBLEY: Thank you, Your Honor.

17 BY MR. MOBLEY:

18 Q Detective Merrill, you mentioned earlier that the
19 bicycle was brought on one prior occasion up here
20 before. Was that in your care and custody at the
21 time?

22 A Yes, it was. And after, when it was determined it
23 was not needed that day, it was brought back to
24 headquarters by myself and another detective, again
25 in my custody the whole time and placed back into

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1 secure evidence.

2 Q Was it in substantially the same condition when you
3 left the courthouse as when you deposited it back
4 into Cayce Police Department?

5 A Yes, it appeared to be.

6 Q When it was brought up here, was it place into a
7 secure location?

8 A Yes, it was.

9 Q Where would that be?

10 A In the conference room slash file room for lack of
11 a better term where other law enforcement officers
12 awaiting to give testimony in cases are waiting,
13 and I was with it the whole time.

14 Q And during that particular time, were there any
15 other personnel, other than law enforcement, that
16 was there?

17 A Not that I was aware of, no.

18 Q Were you there to witness that the bicycle had not
19 been tampered with?

20 A Yes, I was.

21 Q The entire time?

22 A I believe so, yes. I may have stepped out to use
23 the rest room for a few minutes. When I came back,
24 it didn't appear to be tampered with. It was in
25 the same position as when I left it.

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1 Q When you went to use the rest room, were other law
2 enforcement still there?

3 A Yes.

4 MR. MOBLEY: Your Honor, the State would move
5 to have the bicycle admitted into evidence.

6 MR. WILLIAMS: I do have one matter, Your
7 Honor, to take up outside the presence of the jury.

8 THE COURT: Please step to your jury room
9 momentarily. Please do not discuss the case during this
10 brief recess.

11 (The jury retires to the jury room.)

12 THE COURT: Yes, sir, Mr. Williams.

13 MR. WILLIAMS: It's very simple, Your Honor.
14 The defense was not notified that there was a bicycle
15 that we would be able to look at prior to its being
16 introduced here this morning. My simple request is that
17 we be allowed to look at the bicycle if we haven't been
18 able to see it yet.

19 THE COURT: He has to identify it also. He
20 has to identify the item as the bicycle that he
21 maintained custody of it prior to it being introduced
22 into the jury. If you would bring it in now and see if
23 he can identify it and then allow Mr. Williams the
24 opportunity to view the bicycle.

25 MR. MOBLEY: Your Honor, if the detective may

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1 actually gain custody of it so it doesn't change custody
2 again and step off the stand and go retrieve it?

3 THE COURT: Yes, sir.

4 MR. MOBLEY: Thank you, Your Honor.

5 THE COURT: As long as I don't have to carry
6 it over here, Solicitor, that would be fine.

7 You didn't have any objection to that, of
8 course, Mr. Williams?

9 MR. WILLIAMS: No, sir. About you having to
10 carry it, Your Honor?

11 (Pause.)

12 MR. MOBLEY: Your Honor, if we may prop it up
13 against the stand here.

14 MR. WILLIAMS: This will take me two seconds.
15 I just want to look at it.

16 (Pause.)

17 MR. WILLIAMS: No problems now, Your Honor.

18 THE COURT: You need to ask him a question.
19 Leave it in here now. You need to ask him a question if
20 that is the bicycle he maintained custody of.

21 MR. MOBLEY: Yes, Your Honor. Before the
22 jury?

23 THE COURT: Both now and before the jury
24 because I don't want it to be two different answers.

25 MR. MOBLEY: Yes, Your Honor.

JASON MERRILL -- IN CAMERA -- MR. MOBLEY

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IN CAMERA EXAMINATION

BY MR. MOBLEY:

Q Detective Merrill, the bicycle that you had come in contact with that night, do you mind describing the particular bicycle. And that's without even looking at what we have before us today.

A Yes. It appeared to be a red-framed, ten-speed type bicycle, commonly referred to as a ten-speed bicycle. I don't know if it exactly has ten speeds, but that's a common term used to describe a thin-tired bike, as opposed to a mountain bike type.

Q Was there any damage sustained to that particular item?

A Yes, there did appear to be.

THE COURT: Let me stop you a minute.

Solicitor, you can ask all that in front of the jury. Ask him if the item he just brought in, the bicycle, if it has been in his custody since 8/1/08.

BY MR. MOBLEY:

Q Is this the bicycle that was in your custody since that particular date?

A Yes.

Q It is?

A Yes.

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1 THE COURT: Has it been marked?

2 MR. MOBLEY: No, it has not marked.

3 THE COURT: Mark it, Madame Court Reporter.

4 Do you have any objections, Mr. Williams?

5 MR. WILLIAMS: No, Your Honor.

6 (State's Exhibit Number 69 is marked for
7 identification.)

8 THE COURT: Bring us our jury, please.

9 (The jury returns to the courtroom.)

10 THE COURT: Our jury is back present in the
11 courtroom.

12 Solicitor, you may proceed.

13 MR. MOBLEY: Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 BY MR. MOBLEY:

16 Q Detective Merrill, the item that was deposited back
17 on August 1, 2008, can you describe that particular
18 item for the jury?

19 A Yes, it was a red-framed bicycle, what is commonly
20 referred to as a ten-speed type bicycle, as opposed
21 to a mountain type bicycle. It did have damage to
22 it.

23 Q From the date of August 1, 2008, up until this
24 time, has it been in your care or custody?

25 A Yes, it has.

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1 Q It has. Has it been tampered with in any way that
2 you are aware of?

3 A No, not that I'm aware of.

4 Q Has it been secured during the entire time?

5 A Yes, it has.

6 Q That particular bicycle, you state there was some
7 damage?

8 A Yes, sir.

9 Q Let me ask you this. Is this the actual item that
10 you had in your care and custody the entire time?

11 A Yes, it is.

12 Q Has it been substantially changed in any way,
13 shape, form or matter?

14 A No, not that I can tell.

15 MR. MOBLEY: The State would move to have
16 State's Exhibit 69 admitted into evidence.

17 MR. WILLIAMS: Without objection, Your Honor.

18 THE COURT: State's 69 is in evidence without
19 objection.

20 (State's Exhibit Number 69 is received into
21 evidence.)

22 BY MR. MOBLEY:

23 Q Now, Detective Merrill, we have the bicycle here
24 before you today. Has anything changed since you
25 brought it up here for this Court proceeding?

JASON MERRILL -- CROSS -- MR. WILLIAMS

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1 MR. WILLIAMS: Objection, asked and answered.

2 THE COURT: I will allow him to ask that
3 question.

4 A No, not that I can tell. I'm sure some of the
5 parts are a little bit loose, such as the bumper
6 and the rear rubber tire. I'm sure that has moved
7 somewhat a little bit, but it's essentially the
8 same as when I brought it up.

9 Q Thank you.

10 MR. MOBLEY: Nothing further for this witness,
11 Your Honor.

12 MR. WILLIAMS: May it please the Court.

13 THE COURT: Mr. Williams.

14 **CROSS EXAMINATION**

15 BY MR. WILLIAMS:

16 Q Detective, was any type of analysis done on the
17 bike, other than simply to secure the bike, put it
18 in the police department, and bring it up here?

19 A Not that I'm aware of, no.

20 Q Well, you would know; right?

21 A The only thing I can think of is I understand --
22 and this is purely an assumption on my part -- but
23 the M.A.I.T. team did take pictures and
24 measurements, possibly measurements. I know they
25 at least took pictures. I did bring it out of the

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1 evidence room for them and was with it the whole
2 time while they took pictures of it.

3 Q So it has been moved around from the evidence room
4 for other people to view it and deal with it?

5 A Just the M.A.I.T. team. Aside from coming to court
6 here, yes.

7 Q When that was done?

8 A I believe it was later on in the same day
9 August 1st, during the daylight hours, and I
10 couldn't give you an exact time.

11 Q So you were on during the daylight hours of
12 August 1st and the early morning hours?

13 A No, I was not present during the early morning
14 hours.

15 Q That's right. You said you got it when you came on
16 that day?

17 A Yes.

18 MR. WILLIAMS: Your Honor, I think that's all
19 the questions we have.

20 THE COURT: Redirect, Solicitor?

21 MR. MOBLEY: Nothing, Your Honor.

22 THE COURT: Thank you, Detective Merrill. You
23 may step down.

24 (Witness leaves the witness stand.)

25 THE COURT: Solicitor, you may call your next

KRISTEN MARZOL -- DIRECT -- MR. MOBLEY

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1 witness.

2 MR. MOBLEY: Your Honor, the State requests
3 Kristen Marzol.

4 KRISTEN MARZOL, being
5 first duly sworn, testifies as follows:

6 CLERK: Have a seat and state your full name
7 on the record.

8 THE WITNESS: Kristen Marzol.

9 **DIRECT EXAMINATION**

10 BY MR. MOBLEY:

11 Q Good morning, Ms. Marzol.

12 A Good morning.

13 Q Where are you currently employed?

14 A At the Lexington County Detention Center.

15 Q And how long have you been employed there?

16 A I have been there since 2004.

17 Q And what is your position there?

18 A I'm a clinic coordinator.

19 Q What you say clinic coordinator, what does that
20 mean?

21 A I'm supervisor of the nurses. I manage their daily
22 duties, assure that things are done by policy and
23 procedure.

24 Q Are you familiar with the policies and procedures?

25 A I am.

KRISTEN MARZOL -- DIRECT -- MR. MOBLEY

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1 Q Are you familiar with the policies and procedures
2 of the Lexington County Detention Center?

3 A I'm fairly familiar with them, yes.

4 Q The company that you work for, what is the name of
5 that company?

6 A Correct Care Solutions.

7 Q Are you familiar with your company's policies and
8 procedures?

9 A I am.

10 Q Now, when you supervise individuals -- how many
11 individuals do you currently supervise?

12 A I don't know the exact number. I would say 20.

13 Q Twenty?

14 A Uh-huh. (Indicating affirmative response.)

15 Q We are going to step back for a moment. Can you
16 provide us with a little bit of your employment
17 history and training.

18 A I started there in 2004 as a medication nurse. We
19 give medication and medical care to the inmates of
20 the detention center. In 2006 I became charge
21 nurse, and in 2007 I became pharmacy manager. In
22 2008 my title changed to clinic coordinator.

23 Q As the clinic coordinator, are you tasked with
24 checking paperwork?

25 A Yes.

KRISTEN MARZOL -- DIRECT -- MR. MOBLEY

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1 Q What do you mean by that?

2 A I go behind the nurses on different occasions to
3 assure that things were properly taken care of,
4 notated correctly, followed through properly.

5 Q So is there any type of data log or anything that
6 you regularly have to check?

7 A We have plenty of logs. We have almost a log for
8 everything.

9 Q Let me ask you about the deposit of evidence at the
10 Lexington County Detention Center. Can you give us
11 a little brief overview of what happens to evidence
12 that is logged there, that you are aware of and
13 have personal knowledge of.

14 A The only evidence that we would generally have is
15 either urine or blood vials that come in. When
16 they come in, they come in with the officer, and
17 the nurse is called out to the receiving area at
18 booking and we accept the blood.

19 It's generally labeled already from the
20 hospital, and we label the bag. We log it into a
21 log book, the date, the officer or the arresting
22 agency and the nurse's signature and the arrestee's
23 name. It is placed in a locked refrigerator.

24 Q The locked refrigerator does anyone else have
25 access to that refrigerator?

KRISTEN MARZOL -- DIRECT -- MR. MOBLEY

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1 A No.

2 Q Who all has access to it?

3 A Medical only, medical personnel.

4 Q Only medical personnel has access to it?

5 A Yes.

6 Q Can you let us know what the procedure would be if
7 a vial of blood is deposited in the nurse's
8 station?

9 A In the nurse's station?

10 Q Yes, deposited in evidence for you all to handle.
11 What is the procedure? Where would it be stored
12 and things of that nature?

13 A It would be stored into the lab refrigerator that
14 is locked. It's not in the clinic. It's in one of
15 the exam rooms that we don't utilize.

16 Q Would there be documentation to the State or a
17 document that that was logged into the actual
18 refrigerator?

19 A This isn't a document per se. We have the log
20 book. The nurses are encouraged to write a nurse's
21 note, a progress note, that they have accepted it.

22 Q I want to take you back to the month of August
23 2008. Were you in the same position that you are
24 in at this moment as a clinic coordinator?

25 A Yes.

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1 Q You had supervisory duties at that time?

2 A Yes.

3 Q You had a number of subordinates?

4 A Yes.

5 Q Are you aware of a lady by the name of Cheryl

6 Smith?

7 A Yes.

8 Q Who is that?

9 A She was the night shift nurse.

10 Q The night shift nurse?

11 A Yes, 11:00 p.m. to 7:00 a.m.

12 Q Is she currently employed there now?

13 A She is not.

14 Q Are you aware of where she is employed now?

15 A No.

16 Q You have no contact with her at all?

17 A I do not.

18 Q I want to hand you a document. It's State's

19 Exhibit Number 51. Do you recognize what that
20 document is?

21 A Yes, this is a progress note that the nurses write
22 their notes on for the chart.

23 Q Without reading any of the contents there, are you
24 able to recognize who that document --

25 MR. WILLIAMS: Your Honor, I have no objection

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1 if he wants to introduce that document.

2 MR. MOBLEY: Your Honor, the State would move
3 to have -- well, let me do this first.

4 BY MR. MOBLEY:

5 Q First and foremost, do you recognize that document
6 as Cheryl Smith's document?

7 A Yes.

8 Q How do you recognize that?

9 A I recognize her handwriting.

10 Q It is her name assigned there?

11 A It is.

12 MR. MOBLEY: The State would have move to have
13 document number 51 admitted into evidence.

14 MR. WILLIAMS: Without objection, Your Honor.

15 THE COURT: State's 51 is in evidence without
16 objection.

17 (State's Exhibit Number 51 is received into
18 evidence.)

19 BY MR. MOBLEY:

20 Q Ms. Marzol, we are looking at State's Exhibit
21 Number 51. Do you mind reading to the jury what is
22 exactly stated there.

23 A It has inmate name, date of birth. It's dated
24 8/1/08. It states inmate treated and cleared per
25 L.M.C. for bronchitis, prescription for doxycycline

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1 from L.M.C. Blood sample from inmate in fridge for
2 felony D.U.I., placed on M.D. list for follow up
3 after E.R. visit and signed Cheryl Smith, L.P.N.

4 Q Now, the vial of blood -- well, let me ask you
5 this. Was this document meant for Andra Jamison?

6 A Yes, it was.

7 Q How do you know?

8 A It has his name.

9 Q Have you been able to look at that particular vial
10 of blood?

11 A No, I have not.

12 Q Why is that?

13 A It's no longer in the refrigerator.

14 Q You state it's no longer in the refrigerator. Do
15 you know where it is located?

16 A I do not.

17 Q Does any of your nursing staff know where it would
18 be located?

19 A No.

20 Q Do you mind letting us know why you all would not
21 have access or not know where a vial of blood is
22 that was deposited within your area?

23 A At this specific time in August of '08, we did not
24 have a policy in place at that time. The policy
25 came into place around March of this year. That's

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1 when we started logging the blood samples in.

2 We didn't have a lot coming in at that time,
3 so we didn't have a policy. It was just taken and
4 placed in the same locked refrigerator just for
5 safe keeping until the person came back or the
6 officer let us know that they were being released.

7 Q Back in August 2008, was there a policy if the
8 inmate did not pick up their vial of blood?

9 A No.

10 Q There was not. In a situation of that nature, how
11 long would the blood stay in custody of your
12 nurses?

13 A At that time it was unlimited. The policy now says
14 that within 48 hours of their release from jail, it
15 could be destroyed and notated by two nurses. The
16 same that we would disregard narcotics, two nurses
17 have to witness it, but generally that is not the
18 case.

19 Q As the clinical coordinator, do you have any
20 personal knowledge of what happened with that vial
21 of blood?

22 A No, I don't.

23 Q You do not. Was anyone ever able to ask Ms. Smith
24 what happened to that vial of blood?

25 A No.

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1 Q Have you checked for the vial of blood in that
2 particular refrigerator since then?

3 A I did last week and I double-checked Monday, Monday
4 of this week.

5 Q I'm sorry?

6 A Monday of this week I double-checked.

7 Q So we simply do not know where the vial of blood is
8 located?

9 A Correct.

10 Q Thank you.

11 MR. MOBLEY: Nothing further for this witness,
12 Your Honor.

13 THE COURT: Mr. Williams.

14 MR. WILLIAMS: May it please the Court.

15 **CROSS EXAMINATION**

16 BY MR. WILLIAMS:

17 Q Ms. Marzol, as I understand your position now and
18 as it was on July 31, 2008, and August 1, 2008, you
19 are the person in charge of all blood which inmates
20 have delivered to the jail for their testing later
21 on?

22 A I wouldn't say that I'm per se in charge of the
23 their blood. I'm in charge of the nurses to assure
24 that they have done it correctly, accepting it into
25 the clinic, and placing it into a refrigerator.

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1 Q Now, have you had the chance to review the
2 Sheriff's Department's paperwork dealing with
3 whether or not there was a vial of blood which was
4 delivered to -- I guess delivered to the jail --
5 and whether or not Mr. Jamison or anyone on his
6 behalf ever was able to receive the vial of blood?

7 A I just want to make sure that I understand.

8 Q You want me to clean the question up a little bit?

9 A A little bit, please.

10 Q Okay. It's my understanding that you are an
11 independent, like an independent contractor?

12 A Correct.

13 Q Employed by the jail to handle those medical needs
14 of the inmates to include securing biohazardous
15 material?

16 A Correct.

17 Q In that position you have had to coordinate your
18 policies and your plans with the jail's policies
19 and plans so that you had to become familiar with
20 their paperwork to maintain the evidence or the
21 items that you are in charge of?

22 A Yes.

23 Q In that regard those documents which I have in
24 front of you now, have you looked at those?

25 A You want me to look at them?

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1 Q Would you please look at them.

2 A (Pause.) The first sheet, the booking sheet and
3 this receipt of personal property, that is
4 generally in the chart. The other sheets are just
5 sheets with the booking desk. I have seen these as
6 of the other day.

7 Q So you have reviewed all of those documents that
8 you have. And when you said something about being
9 in the chart, what are you talking about being in
10 the chart?

11 A Being in the medical chart. Each inmate as they
12 come in will eventually have a chart if they have
13 medical conditions or such as that.

14 Q Having looked at those documents that you have, as
15 well as your investigation, were you able to
16 determine whether or not anyone -- whether or not
17 Mr. Jamison on anyone of his behalf received that
18 vial of blood from the Sheriff's Department?

19 A No.

20 Q No, meaning that no one was able to receive it?

21 A No, I do not know.

22 Q Let me ask you this. You said that you identified
23 which documents as being in your packet?

24 A This first one.

25 Q The booking sheet?

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1 A And this one, being receipt of personal property.
2 Sometimes they will replace the second sheet with
3 the booking sheet because it's the same
4 information. Because this part medical doesn't
5 need to know per se.

6 Q So you are saying that those two documents are what
7 you maintain in your medical packet?

8 A Yes.

9 Q The other documents which are release forms? What
10 would you classify those as?

11 A This is something that the booking officers would
12 have. This is when property is released, I'm
13 assuming when they are released from jail or if
14 they sign out their property to a family member.

15 Q It's my understanding that you have seen the other
16 types of documents, and on each one of those other
17 types of documents, they maintain the same
18 information in regards to the inmate is; don't
19 they? I mean, they have the inmate's name?

20 A Yes.

21 MR. WILLIAMS: Your Honor, we would move to
22 introduce those documents into evidence.

23 MR. MOBLEY: Without objection, Your Honor.

24 THE COURT: Show me what you are talking
25 about. I don't even know the numbers.

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1 MR. WILLIAMS: It was all marked at one time.

2 THE COURT: Y'all approach the bench please.

3 (Whereupon there is a bench conference off the
4 record in the presence of the jury but out of the
5 hearing of the jury.)

6 THE COURT: State's 52, 53, 54, 55, and 56 are
7 now in evidence without objection; is that correct?

8 MR. MOBLEY: That is correct, Your Honor.

9 (State's Exhibits Number 52-56 are received
10 into evidence.)

11 THE COURT: Mr. Williams.

12 MR. WILLIAMS: Thank you, Your Honor.

13 BY MR. WILLIAMS:

14 Q Let me hand you what has been introduced. It's
15 marked as State's Exhibit Number 56. Tell me if
16 you can identify what that document is.

17 A This is their booking sheet.

18 Q And the booking sheet is what?

19 A It's a demographic sheet. It just has address,
20 phone number, what they look like, markings.

21 Q It's the initial sheet that begins the paperwork on
22 the inmate?

23 A Yes.

24 Q Now, if you will, if you will look at State's
25 Exhibit Number 54, which I believe you said was

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1 normally in your packet?

2 A Yes. But the way it works out, they fill out this
3 sheet in the receiving area. We can get this
4 sheet, but we might not always get this sheet if we
5 have a booking sheet. We have to have one of the
6 two sheets.

7 Q What does it indicate that the jail received when
8 he was booked? Does it include that?

9 A Correct. I mean, they notate what they were
10 wearing.

11 Q Tell the jury what it says.

12 A One white watch, one yellow ring, black wallet,
13 \$339 paper money, tan hat, plaid pants, green shirt
14 brown shoes.

15 Q Let me ask you to look at State's Exhibit
16 Number 53, which is another document kept by the
17 jail, which is signed by the inmate when those
18 items are taken from him; isn't that correct?

19 A Yes.

20 Q What is the date and time of that document?

21 A August 1, 2008, at 04:35.

22 Q So that's when he's first arrested, and the jail is
23 taking possession of those items, and he is signing
24 saying the jail took them?

25 A Yes.

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1 Q What are the items listed on that sheet?

2 A Green shirt, brown shoes, tan shorts, tan hat,
3 black wallet, yellow ring, and the bag number that
4 it was placed in.

5 Q The bag number being the plastic bag which those
6 items are secured in?

7 A It's a green zipper bag.

8 Q That has nothing to do with the blood that we have
9 been talking about, does it?

10 A Correct.

11 Q Let me ask you to look at State's Exhibit Number 55
12 and tell me what that is.

13 A This is a property release form.

14 Q And it's an indication of what was released on
15 whose behalf?

16 A It looks like Andra Jamison released it to Kristy
17 Jamison.

18 Q What was released to Kristy Jamison?

19 A It says everything but \$40.

20 Q And to look at State's Exhibit Number 52, what is
21 that?

22 A This says property release.

23 Q And what was released?

24 A One green shirt, brown shoes, tan shorts, tan hat,
25 one black wallet, one yellow ring, and the bag

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1 number again, and the amount of money was on there.

2 Q Do any of those release documents provide that
3 blood was released to either Ms. Jamison or
4 Mr. Jamison?

5 A No.

6 Q Let me ask you about your internal controls which
7 you have.

8 A Okay.

9 Q You said now y'all have a log-in system?

10 A Yes.

11 Q You did not have any type of log-in system back on
12 July 31, 2008?

13 A Correct.

14 Q How would you know that you had blood in the
15 refrigerator?

16 A If we were asked, then we would go to the
17 refrigerator and look and retrieve it.

18 Q Why wouldn't there be some designation on the
19 booking sheet or on the item which the intake
20 officer receives to indicate that there was blood
21 in the vial and that it was in the refrigerator?

22 A I'm not sure. My assumption would be that if the
23 booking officer didn't log it in --

24 MR. MOBLEY: Objection, Your Honor. This
25 calls for speculation on her part. She does not have

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1 knowledge of what those procedures would be in booking.

2 THE COURT: Reask that question, Mr. Williams.

3 MR. WILLIAMS: I asked why was there not a
4 policy that it would be noted on the booking sheet.

5 THE COURT: If she knows the answer, she can
6 answer it. If she doesn't, she can't answer it.

7 THE WITNESS: I don't know why they wouldn't
8 log it.

9 BY MR. WILLIAMS:

10 Q Clearly it's not logged, is it?

11 A On their information it's not.

12 Q And clearly when Mr. Jamison is arrested and taken
13 into the jail, it's not listed as being one of the
14 items taken from him; is it?

15 A It is not.

16 Q So how do he know that the blood ever got to your
17 refrigerator?

18 A Because of the nurse's note.

19 Q And that nurse's note is from someone that we don't
20 even know where they are, right?

21 A Correct.

22 Q And that nurse's note is not filed with the jail's
23 documents at the booking, is it?

24 A No, it's not.

25 Q Now, according to what this nurse's note says,

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1 there is an indication that Mr. Jamison was ill;
2 isn't there?

3 A I am sorry.

4 Q What does the nurse's note say?

5 A That he was treated and cleared by Lexington
6 Medical Center.

7 Q Well, that's not all it says; is it?

8 A And treated for bronchitis.

9 Q And treated for bronchitis?

10 A Yes, sir.

11 Q So that's an indication that he was at the hospital
12 and some doctor treated him for bronchitis; isn't
13 that correct?

14 A That's what it says, yes.

15 Q So there should be some record from a doctor,
16 medical report, to indicate Mr. Jamison was seen
17 for bronchitis and given some sort of medicine;
18 isn't that correct?

19 A Correct.

20 Q What about your medicines? The inmate can't just
21 have medicine with him back in the cell, can he?

22 A Generally no.

23 Q Because that is your job. Y'all are in charge of
24 keeping up with the medicines, aren't you?

25 A Correct.

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1 Q Wouldn't there be a medicine log that you would
2 keep at the jail to indicate there was doxycycline
3 and that that doxycycline was dispensed to
4 Mr. Jamison?

5 A Correct, and there is.

6 Q And where is that log?

7 A In his chart.

8 Q Do you have that here?

9 A I believe Mr. Mobley has the medical chart.

10 Q Let me hand you this. This is a medication
11 administration record; is that correct?

12 A It is.

13 Q Is that something which you keep in your normal
14 course and scope of your -- I guess of your
15 business?

16 A Yes.

17 Q And is that the medicine dispensal chart on Andra
18 Jamison?

19 A Yes, it is.

20 MR. WILLIAMS: Your Honor, we would move to
21 introduce that into evidence.

22 MR. MOBLEY: Can we see the document first,
23 Your Honor.

24 (Pause.)

25 MR. WILLIAMS: Your Honor, we withdraw that.

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1 MR. MOBLEY: No objection, Your Honor.

2 MR. WILLIAMS: Okay. Well, we move to
3 introduce it then.

4 THE COURT: May I see it.

5 (Hands to Court.)

6 THE COURT: Defense 2; is that correct?

7 COURT REPORTER: Yes, sir.

8 (Defendant's Exhibit Number 2 is received into
9 evidence.)

10 BY MR. WILLIAMS:

11 Q Ms. Marzol, can you explain to me why there would
12 be so much attention to keeping up with the
13 medication that someone takes, and there would be
14 not some type of care taken to ensure that everyone
15 knows that there is a vial of blood in the
16 refrigerator?

17 A The nurses know where it is. I can't answer why
18 there wasn't a policy in place at that time.

19 Q And it's clear from the records that we have that
20 Mr. Jamison and his wife didn't get it, isn't it?

21 A It's not documented. I don't know what happened to
22 it.

23 Q It would be documented if they had received it,
24 wouldn't it?

25 A It should be, yes.

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1 Q Shouldn't it also be documented by the signing of
2 two nurses when it was destroyed?

3 A I don't know that it was destroyed.

4 Q You said it's not there?

5 A It's not.

6 Q What happened to it?

7 A I don't know.

8 THE COURT: I believe the question is if it
9 were destroyed. I think it's the form of the question,
10 Mr. Williams.

11 BY MR. WILLIAMS:

12 Q Could it be possibly still be at the jail, hidden
13 away at the jail?

14 A I suppose anything could be possible.

15 Q Could it be possible it never got to the jail?

16 A Not with a nurse's note saying that it was.

17 Q And that would be the lady who is not available to
18 testify?

19 A Correct.

20 Q What is your relationship to Sergeant Marzol with
21 the Cayce Police Department?

22 A He is my husband.

23 MR. WILLIAMS: That's all the questions I
24 have, Your Honor.

25 THE COURT: Redirect, Solicitor?